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HOUSE OF REPRESENTATIVES—*Friday, October 28, 1977*

The House met at 10 o'clock a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Be not comformed to this world, but be ye transformed by the renewing of your mind, that ye may prove what is that good and acceptable and perfect will of God.—Romans 12: 2.

"Come, O Lord, like morning sunlight,
Making all life new and free;
For the daily task and challenge,
May we rise renewed in Thee.
Come, O Lord, like ocean floodtides,
Flowing inland from the sea;
As the waters fill the shallows,
May our souls be filled with Thee.
Come, O Lord, like mountain breezes,
Freshening life in vale and lea;
In the heat and stress of duty,
May our souls find strength in Thee."

—MILTON LITTLEFIELD.

Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

On October 20, 1977:

H.R. 1934. An act for the relief of Dr. Lawrence C. B. Chan.

On October 25, 1977:

H.R. 3. An act to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes; and

H.R. 1613. An act for the relief of certain postmasters charged with postal deficiencies.

On October 26, 1977:

H.R. 6415. An act to extend and amend the Export-Import Bank Act of 1945.

On October 28, 1977:

H.R. 7769. An act to authorize the creation of a record of admission for permanent residence in the cases of certain refugees from Vietnam, Laos, or Cambodia, and to amend the Indochina Migration and Refugee Assistance Act of 1975 to extend the period during which refugee assistance may be provided, and for other purposes.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 6693. An act to amend the Child Abuse Prevention and Treatment Act to extend the authorization of appropriations contained in such act, and for other purposes.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate numbered 7 to a bill of the House of the following title:

H.R. 2849. An act to suspend until July 1, 1978, the rate of duty on mattress blanks of rubber latex.

The message also announced that the Senate receded from its amendment numbered 6 and that it agreed to the House amendment to the Senate amendment numbered 7 to a bill of the House of the following title:

H.R. 3373. An act to extend for an additional temporary period the existing suspension of duties on certain classifications of yarns of silk.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to the text of the bill:

H.R. 3387. An act to continue until the close of June 30, 1979, the existing suspension of duty on synthetic rutile.

The message also announced that the Senate had passed bills and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 791. An act to authorize additional appropriations for the acquisition of lands and interests in lands within the Sawtooth National Recreation Area in Idaho;

S. 917. An act to provide for conveyance of certain lands adjacent to the Gund Ranch, Grass Valley, Nev., to the University of Nevada; and

S. Con. Res. 44. Concurrent resolution to authorize the Secretary of the Interior to accept donations of suitable markers recognizing the contributions of General Thaddeus Kosciuszko.

The message also announced that the Senate requested the return of the bill, S. 1528, and the resolution, Senate Resolution 310.

PERMISSION FOR COMMITTEE ON AGRICULTURE TO FILE REPORT ON HOUSE RESOLUTION 784

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture may have until midnight tonight, Friday, October 28, 1977, to file a report on House Resolution 784.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, will the gentleman explain to us why this is necessary?

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I will be delighted to yield to the chairman of the Committee on Agriculture.

Mr. FOLEY. Mr. Speaker, this is a resolution reported by the Committee on Agriculture. It calls for recommending to the President the establishment of a commission on hunger.

Mr. ROUSSELOT. Did the gentleman say a commission on hunger?

Mr. FOLEY. A commission on hunger, yes.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, the President has stated that he cannot think of any new problems we have. I am quoting the President from his press conference yesterday. This is what he said:

I think we have addressed all of the major problems already.

Is hunger on the list of problems?

Mr. FOLEY. Mr. Speaker, I think the President stated further, if the gentleman will yield, that he could not think of any matters relating to major innovative proposals that he planned to present to the Congress, but I am sure the President and the gentleman from California (Mr. ROUSSELOT) are both concerned about the presence of malnutrition and hunger in the United States and around the world.

This is not a resolution that has any binding effect. It is merely a resolution calling on the President to consider the establishment of such a commission. It is expected that the resolution will come up for consideration in the House next week.

Mr. ROUSSELOT. The gentleman plans to bring it up next week?

Mr. FOLEY. Yes.

Mr. ROUSSELOT. How many members would be on the commission?

Mr. FOLEY. Fifteen members would be appointed.

Mr. ROUSSELOT. Does it provide that they would all be appointed by the President?

Mr. FOLEY. They would all be appointed by the President. The resolution specifies that the President should appoint persons of diverse backgrounds and experience.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

U.S. EFFORTS TO PROMOTE A SETTLEMENT ON CYPRUS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95–250)

The SPEAKER laid before the House the following message from the President of the United States; which was read and referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

Pursuant to Public Law 94–104, this report describes the efforts that the United States has made over the past sixty days to promote a settlement on Cyprus.

There have been no further intercommunal talks under U.N. auspices since the submission of my last report to the Congress in August, and none are presently scheduled. This negotiating pause could easily last for several months more, through the forthcoming Greek elections in November and the Cyprus Presidential elections in February. However, we have not allowed ourselves to proceed on this assumption. Instead, we have continued actively to encourage a resumption of the intercommunal talks and, more importantly, have sought to ensure that, once these do reconvene, there will be meaningful discussion of the major unresolved issues.

We directed our attention to this goal during the special U.N. Security Council consideration of the Cyprus issue requested by the Government of Cyprus in late August and early September. A consensus resolution eventually emerged that was both equitable and nonpolemical, which called upon the parties to avoid provocative acts and resume intercommunal negotiations.

At the same time, we consulted with the Greek and Turkish governments to set the stage for a series of meetings in New York in which Secretary Vance and my Special Representative, Clark Clifford, met with President Kyprianou and Foreign Minister Christofides of Cyprus and with Foreign Ministers Bitsios and Caglayangil of Greece and Turkey. These New York meetings have encouraged us to believe that progress on Cyprus may be possible in the months ahead. We noted a growing recognition in the region that a just solution to the Cyprus issue will serve the long-term interests of all the nations in the Eastern Mediterranean.

Secretary Vance also met in New York with U.N. Secretary General Waldheim and with the Foreign Ministers of Great Britain, the Federal Republic of Germany, and other interested Western allies. All view the situation in the Eastern Mediterranean much as we do, and urgently wish to see progress toward a Cyprus settlement.

So too do the Cypriots. While in New York for the U.N. General Assembly, I had a useful discussion with Cyprus President Spyros Kyprianou. I assured him that the United States sincerely wishes to help the people of Cyprus find a just and lasting settlement, and that we stand ready, as in the past, to support the current U.N. negotiating effort in anyway we can. President Kyprianou in turn assured me of his people's earnest desire for a settlement and of their hope that the United States can help bring this about.

In sum, therefore, I believe that I can record here—as I have not been able to do in the last two such reports—a cautious anticipation that movement toward meaningful Cyprus negotiations may soon be possible.

JIMMY CARTER.

THE WHITE HOUSE, *October 28, 1977.*

FRANK Y. MAYFIELD

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HUBBARD. Mr. Speaker, it is with sadness that I speak today in the House of Representatives regarding a friend of many years, Frank Y. Mayfield.

Mr. Mayfield, age 52, died Tuesday, August 9 at Baptist Hospital in Nashville, Tenn., following a lengthy illness.

He was a complete neighbor. His interests and activities in the city of Russellville, where he lived, were a complement to the best around him. He was an outstanding family man, a faithful churchman, and a stalwart citizen.

Mr. Mayfield was born in Daviess County, Ky., on February 11, 1925, a son of the late J. T. and Katie B. Yeiser Mayfield.

After several years of training and experience, he came to Russellville in 1959 and purchased a funeral home renaming it the Mayfield and Son Funeral Home. He sold the business in 1975 and remained in the employment of the new owner-manager.

Mr. Mayfield, a veteran of World War II in the European Theater, was an enthusiastic collector of antique autos. He shared his interest in cars with all around him. He provided a constructive mood for parades and car shows all over Kentucky.

Surviving are his widow, Mrs. Mary West Mayfield; one son, Barry Mayfield of Frankfort; three daughters, Mrs. Sherry Hardin of Russellville, Miss Kathy Mayfield of Bowling Green, and Miss Cindy Mayfield, at home; one sister, Mrs. Cora Anna Kirk of Owensboro; and three grandchildren.

The family of Frank Y. Mayfield should be proud of this outstanding patriot, churchman, parent and unselfish friend whose devotion to good causes will inspire those who knew him for years to come.

A FISHY STORY

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, I want to protest an editorial appearing in today's Wall Street Journal. The editorial "Czardine O'Neill" suggests that although the Speaker was once called the Czar of the House, his performance on the energy bill reduced him in stature—figuratively speaking, needless to say—and he is now a "Czardine," which the Journal says is what one wisecracker holds is diminutive for Czar.

Czardine? There is something fishy in all this. Did the Journal use this word on porpoise? If so, this is a whale of a story. Yet, there is salmon wrong with all this. Unless the Journal retracts what it said, its editors will soon be singing a different tuna. Trout history such journalism has been deplored. It is bass. As for the speaker, eel have to defend himself. This strikes to the very sole of the House. For too long there have been charges that we flounder. So I say to the Speaker: Where there's a gill there's a way!

BANKRUPTCY LAW REVISION

Mr. EDWARDS of California. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 8200) to establish a uniform law on the subject of bankruptcies.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. EDWARDS).

The question was taken.

Mr. CHARLES H. WILSON of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 329, nays 2, not voting 103, as follows:

[Roll No. 711]

YEAS—329

Abdnor	Baucus	Broomfield
Addabbo	Bauman	Brown, Mich.
Akaka	Beard, R.I.	Brown, Ohio
Alexander	Beard, Tenn.	Broyhill
Allen	Bedell	Buchanan
Ammerman	Beilenson	Burke, Fla.
Anderson, Calif.	Benjamin	Burke, Mass.
	Bennett	Burleson, Tex.
Anderson, Ill.	Bevill	Burlison, Mo.
Andrews, N. Dak.	Bingham	Burton, Phillip
	Blanchard	Butler
Applegate	Blouin	Byron
Archer	Boggs	Carney
Armstrong	Boland	Carr
Ashbrook	Bowen	Cederberg
Ashley	Brademas	Cleveland
Aspin	Breaux	Cochran
Badham	Breckinridge	Cohen
Bafalis	Brodhead	Coleman
Baldus	Brooks	Collins, Tex.

Conable	Hughes	Poage
Conte	Hyde	Pressler
Corcoran	Ichord	Preyer
Corman	Ireland	Price
Cornell	Jacobs	Pritchard
Cornwell	Jeffords	Quayle
Coughlin	Jenkins	Quillen
Cunningham	Jenrette	Rahall
D'Amours	Johnson, Colo.	Railsback
Daniel, Dan	Jones, N.C.	Rangel
Daniel, R. W.	Jones, Okla.	Regula
Danielson	Jones, Tenn.	Rhodes
de la Garza	Jordan	Rinaldo
Delaney	Kasten	Risenhoover
Dellums	Kastenmeier	Roberts
Dent	Kazen	Robinson
Derwinski	Kelly	Rodino
Devine	Kemp	Roe
Dickinson	Ketchum	Roncalio
Dingell	Kildee	Rooney
Dornan	Kindness	Rose
Downey	Krebs	Rosenthal
Drinan	LaFalce	Rostenkowski
Duncan, Oreg.	Lagomarsino	Rousselot
Duncan, Tenn.	Latta	Roybal
Eckhardt	Le Fante	Rudd
Edgar	Leach	Runnels
Edwards, Ala.	Lehman	Russo
Edwards, Calif.	Levitas	Ryan
Eilberg	Livingston	Sarasin
Emery	Lloyd, Tenn.	Satterfield
English	Long, La.	Sawyer
Erlenborn	Lott	Scheuer
Ertel	Luken	Schroeder
Evans, Colo.	Lundine	Schulze
Evans, Del.	McClory	Sebelius
Evans, Ga.	McCloskey	Seiberling
Evans, Ind.	McEwen	Sharp
Fary	McFall	Shuster
Fascell	McKay	Simon
Fenwick	McKinney	Skubitz
Findley	Maguire	Slack
Fish	Mahon	Smith, Iowa
Fisher	Mann	Smith, Nebr.
Fithian	Markey	Snyder
Flippo	Marks	Solarz
Florio	Mathis	Spence
Flowers	Meyner	St Germain
Foley	Michel	Staggers
Ford, Mich.	Mikulski	Stangeland
Ford, Tenn.	Mikva	Stanton
Forsythe	Milford	Stark
Fountain	Miller, Calif.	Steed
Fowler	Miller, Ohio	Steers
Frenzel	Mineta	Steiger
Frey	Minish	Stockman
Fuqua	Moakley	Stratton
Gaydos	Moffett	Studds
Giaimo	Mollohan	Stump
Gibbons	Montgomery	Taylor
Gilman	Moore	Thompson
Ginn	Moorhead, Calif.	Thone
Glickman	Moorhead, Pa.	Thornton
Goldwater	Moss	Traxler
Gonzalez	Mottl	Treen
Goodling	Murphy, Ill.	Trible
Gore	Murphy, N.Y.	Udall
Gradison	Murphy, Pa.	Ullman
Grassley	Murtha	Van Deerlin
Gudger	Myers, Gary	Vanik
Guyer	Myers, John	Vento
Hagedorn	Myers, Michael	Volkmer
Hall	Natcher	Walgren
Hamilton	Neal	Wampler
Hammer-schmidt	Nedzi	Waxman
Hannaford	Nix	Weaver
Hansen	Nowak	White
Harkin	O'Brien	Whitehurst
Harris	Oakar	Whitley
Harsha	Oberstar	Whitten
Hefner	Obey	Wilson, C. H.
Heftel	Ottinger	Winn
Hightower	Panetta	Wolff
Hillis	Patten	Wydler
Hollenbeck	Patterson	Wylie
Holt	Pease	Yates
Holtzman	Pepper	Young, Alaska
Horton	Perkins	Young, Fla.
Hubbard	Pettis	Young, Mo.
Huckaby	Pike	Zablocki
		Zeferetti

NAYS—2

Lloyd, Calif.	Mitchell, Md.

NOT VOTING—103

Ambro	Biaggi	Burgener
Andrews, N.C.	Bolling	Burke, Calif.
Annunzio	Bonior	Burton, John
AuCoin	Bonker	Caputo
Badillo	Brinkley	Carter
Barnard	Brown, Calif.	Cavanaugh
Chappell	Keys	Richmond
Chisholm	Koch	Rogers
Clausen, Don H.	Kostmayer	Ruppe
Clawson, Del	Krueger	Santini
Clay	Lederer	Shipley
Collins, Ill.	Leggett	Sikes
Conyers	Lent	Sisk
Cotter	Long, Md.	Skelton
Crane	Lujan	Spellman
Davis	McCormack	Stokes
Derrick	McDade	Symms
Dicks	McDonald	Teague
Diggs	McHugh	Tsongas
Dodd	Madigan	Tucker
Early	Marlenee	Vander Jagt
Edwards, Okla.	Marriott	Waggonner
Flood	Martin	Walker
Flynt	Mattox	Walsh
Fraser	Mazzoli	Watkins
Gammage	Meeds	Weiss
Gephardt	Metcalfe	Whalen
Hanley	Mitchell, N.Y.	Wiggins
Harrington	Nichols	Wilson, Bob
Hawkins	Nolan	Wilson, Tex.
Heckler	Pattison	Wirth
Holland	Pickle	Wright
Howard	Pursell	Yatron
Johnson, Calif.	Quie	Young, Tex.
	Reuss	

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 8200, with Mr. SIMON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Thursday, October 27, 1977, all time for general debate had expired.

LEGISLATIVE PROGRAM FOR BALANCE OF TODAY

Mr. RHODES. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time to inquire of the gentleman from Washington as to the program for the balance of the day.

Mr. FOLEY. Mr. Chairman, will the distinguished minority leader yield?

Mr. RHODES. I yield to my friend, the gentleman from Washington.

Mr. FOLEY. It is the intention of the leadership after the conclusion of the bankruptcy bill now before the House to adjourn to Monday next.

Mr. RHODES. May I ask the gentleman if there is any time constraint, if the proceedings on the bankruptcy bill go beyond 3 o'clock, would it still be the purpose of the majority leadership to continue the bill until completion?

Mr. FOLEY. It is my understanding that the Committee will rise at approximately 3 o'clock regardless of the action on the bill at that time.

Mr. RHODES. I see.

Mr. FOLEY. The House will adjourn shortly after 3 o'clock in order to allow the Members to have some certainty as to the schedule.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, will the distinguished acting majority leader, the gentleman from Washington, tell us whether we are still planning to recess on November 4?

Mr. RHODES. I yield to the gentleman from Washington.

Mr. FOLEY. In reply to the gentleman from California, I would say to my knowledge the plan of the leadership is still to go into a recess at the conclusion of business on Friday, the 4th of November.

Mr. ROUSSELOT. So we will finish everything except the energy legislation by that time?

Mr. FOLEY. We hope to finish as much as possible. We do not expect to have a conference report on energy ready for action until a week or two after November 4, and the House will be in recess until that accord is reached.

Mr. ROUSSELOT. I thank the gentleman.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read, by titles, the committee amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the reported bill as an original bill for the purpose of amendment.

Mr. FLORIO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise for the purpose of directing a question to the distinguished gentleman from California (Mr. EDWARDS). The question is with regard to a provision in the bill that I understand the subcommittee adopted on the so-called "Consumer Priority" measure proposed by the gentleman from Massachusetts (Mr. DRINAN). As I understand it, this provision would give certain deposits made by individuals for personal, family, or household purposes a priority in the distribution of the assets of the estate of a bankrupt. I applaud the efforts of the subcommittee for working closely with the staff of the subcommittee to insure that security deposits of tenants will be included in this provision. I have their assurance, but I would like some representation from the gentleman that this is, in fact, the case.

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. Certainly, I yield.

Mr. EDWARDS of California. Mr. Chairman, I am glad to respond to the gentleman. I appreciate the gentleman's interest in this important question. I, too, would like to commend the gentleman from Massachusetts (Mr. DRINAN) for offering this in the subcommittee and especially the gentlewoman from New Jersey (Mrs. FENWICK) for bringing the problem that this provision solves to the attention of the subcommittee. Without it, many individuals that make layaway payments could be left holding the bag if the merchant they make the deposit with files under the bankruptcy laws. That is the situation today, and I am pleased that we are able to correct it.

Now in reference to tenant security deposits, I realize that the drafting of the provision is not explicit on that matter, and that is why I am glad that you have raised it. We would be remiss in the reform the provision is intended to accomplish if it did not include those security deposits, because the relation between the tenant and the landlord in those situations is the same as the relation between the customer and the merchant. We do intend the provision to cover security deposits as well.

Mr. FLORIO. Mr. Chairman, I thank the gentleman for that response and would just indicate that in my own area, and I would suspect it has happened throughout the country, we have numerous examples of people going into bankruptcy as a result of this gap in the law with these deposits. I am pleased to receive the reassurance that my reading of the provision was correct.

Mr. DRINAN. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from Massachusetts.

Mr. DRINAN. Mr. Chairman, I thank the gentleman for yielding. I am pleased to have this clarification of the situation. If we had not had the consumer protected, an entire class of people might not have had the benefit of this protection. I thank the gentleman.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—ENACTMENT OF TITLE II OF THE UNITED STATES CODE

SEC. 101. The law relating to bankruptcy is codified and enacted as title 11 of the United States Code, entitled "Bankruptcy", and may be cited as 11 U.S.C. § , as follows:

TITLE II—BANKRUPTCY

Chapter

1. General Provisions.
3. Case Administration.
5. Creditors, the Debtor, and the Estate.
7. Liquidation.
9. Adjustment of Debts of a Municipality.
11. Reorganization.
13. Adjustment of Debts of an Individual With Regular Income.

Chapter 1—GENERAL PROVISIONS

Sec.

101. Definitions.
102. Rules of construction.
103. Applicability of chapters.
104. Adjustment of dollar amounts.
105. Power of court.
106. Waiver of sovereign immunity.
107. Public access to papers.
108. Extension of time.
109. Who may be a debtor.

§ 101. Definitions

In this title—

(1) "accountant" means accountant authorized under applicable law to practice public accounting, and includes professional accounting association, corporation, or partnership, if so authorized;

(2) "affiliate" means—

(A) entity that directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the debtor;

(B) corporation 20 percent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the debtor, or by an entity that directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the debtors;

(C) person whose business or substantially all of whose property is operated under a lease or operating agreement by a debtor; or

(D) entity that operates the business or all or substantially all of the property of the debtor under a lease or operating agreement;

(3) "attorney" means attorney, professional law association, corporation, or partnership, authorized under applicable law to practice law;

(4) "claim" means—

(A) right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured; or

(B) right to an equitable remedy for breach of performance if such breach does not give rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured;

(5) "commodity broker" means futures commission merchant, foreign futures commission merchant, clearing organization, leverage transaction merchant, or commodity options dealer, as defined in section 761 of this title, with respect to which there is a customer, as defined in section 761(a) of this title;

(6) "community claim" means claim that arose before the commencement of the case concerning the debtor for which property of the kind specified in section 541(a)(2) of this title is liable;

(7) "consumer debt" means debt incurred by an individual primarily for a personal, family, or household purpose;

(8) "corporation"—

(A) includes—

(i) association having a power or privilege that a private corporation, but not an individual or a partnership, possesses;

(ii) partnership association organized under a law that makes only the capital subscribed responsible for the debts of such association;

(iii) joint-stock company;

(iv) unincorporated company or association; or

(v) business trust; but

(B) does not include limited partnership;

(9) "creditor" means—

(A) entity that has a claim against the debtor that arose at the time of or before the order for relief concerning the debtor;

(B) entity that has a claim against the estate of a kind specified in section 502(f), 502(g), 502(h), 502(i), or 502(j) of this title; or

(C) entity that has a community claim;

(10) "custodian" means—

(A) receiver or trustee of any of the property of the debtor, appointed in a case or proceeding not under this title;

(B) assignee under a general assignment for the benefit of the debtor's creditors; or

(C) trustee, receiver, or agent under applicable law, or under a contract, that is appointed or authorized to take charge of property of the debtor for the purpose of enforcing a lien against such property, or for the purpose of general administration of such property or the benefit of the debtor's creditors;

(11) "debt" means liability on a claim;

(12) "debtor" means person or municipality concerning which a case under this title has been commenced;

(13) "disinterested person" means person that—

(A) is not a creditor, an equity security holder, or an insider;

(B) is not and was not an investment banker for any outstanding security of the debtor;

(C) has not been, within three years before the date of the filing of the petition, an investment banker for a security of the debtor, or an attorney for such an investment banker in connection with the offer, sale, or issuance of a security of the debtor;

(D) is not and was not, within two years before the date of the filing of the petition, a director, officer, or employee of the debtor or of an investment banker specified in subparagraph (B) or (C) of this paragraph; and

(E) does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the debtor or an investment banker specified in subparagraph (B) or (C) of this paragraph, or for any other reason;

(14) "entity" includes person, estate, trust, governmental unit, and United States trustee;

(15) "equity security" means—

(A) share in a corporation, whether or not transferable or denominated "stock", or similar security;

(B) interest of a limited partner in a limited partnership; or

(C) warrant or right, other than a right to convert, to purchase, sell, or subscribe to a share, security, or interest of the kind specified in subparagraph (A) or (B) of this paragraph;

(16) "equity security holder" means holder of an equity security of the debtor;

(17) "farmer" means person that received more than 75 percent of such person's gross income during the taxable year of such person immediately preceding the taxable year of such person during which the case under this title concerning such person was commenced from a farming operation owned or operated by such person that had gross income of less than $275,000 during the taxable year of such farming operation immediately preceding the taxable year of such farming operation during which the case under this title concerning such person was commenced;

(18) "foreign proceeding" means proceeding, whether judicial or administrative and whether or not under bankruptcy law, in a foreign country in which the debtor's domicile, residence, principal place of business, or principal assets were located at the commencement of such proceeding, for the purpose of liquidating an estate, adjusting debts by composition, extension, or discharge, or effecting a reorganization;

(19) "foreign representative" means trustee, administrator, or other representative of an estate in a foreign proceeding;

(20) "governmental unit" means United States; State; Commonwealth; District; Territory; municipality; foreign state; department, agency, or instrumentality of the United States, a State, a Commonwealth, a District, a Territory, a municipality, or a foreign state; or other foreign or domestic government; but does not include a United States trustee while serving as trustee in a case under this title;

(21) "indenture" means mortgage, deed of trust, or indenture, under which there is outstanding a security, other than a voting-trust certificate, constituting a claim against the debtor, a claim secured by a lien on any of the debtor's property, or an equity security of the debtor;

(22) "indenture trustee" means trustee under an indenture;

(23) "individual with regular income" means individual whose income is sufficiently stable and regular to enable such individual to make payments under a plan under chapter 13 of this title, other than a stockbroker or a commodity broker;

(24) "insider" includes—

(A) if the debtor is an individual—

(i) relative of the debtor or of a general partner of the debtor;

(ii) partnership in which the debtor is a general partner;

(iii) general partner of the debtor; or

(iv) corporation of which the debtor is a director, officer, or person in control;

(B) if the debtor is a corporation—
(i) director of the debtor;
(ii) officer of the debtor;
(iii) person in control of the debtor;
(iv) partnership in which the debtor is a general partner;
(v) general partner of the debtor; or
(vi) relative of a general partner, director, officer, or person in control of the debtor;
(C) if the debtor is a partnership—
(i) general partner in the debtor;
(ii) relative of a general partner in, general partner of, or person in control of the debtor;
(iii) partnership in which the debtor is a general partner;
(iv) general partner of the debtor; or
(v) person in control of the debtor;
(D) if the debtor is a municipality, elected official of the debtor of relative of an elected official of the debtor;
(E) affiliate, or insider of an affiliate as if such affiliate were the debtor; and
(F) managing agent of the debtor;
(25) "insolvent" means—
(A) with reference to an entity other than a partnership, financial condition such that the sum of such entity's debts is greater than all of such entity's property, at a fair valuation, exclusive of—
(i) property transferred, concealed, or removed with intent to hinder, delay, or defraud such entity's creditors; and
(ii) property that may be exempted from property of the estate under section 522 of this title; and
(B) with reference to a partnership, financial condition such that the sum of such partnership's debts is greater than the aggregate of, at a fair valuation—
(i) all of such partnership's property, exclusive of property of the kind specified in subparagraph (A)(i) of this paragraph; and
(ii) the sum of the excesses of the value of each general partner's separate property, exclusive of property of the kind specified in subparagraph (A)(ii) of this paragraph, over such partner's separate debts;
(26) "judicial lien" means lien obtained by judgment, levy, sequestration, or other legal or equitable process or proceeding;
(27) "lien" means charge against or interest in property to secure payment of a debt or performance of an obligation;
(28) "municipality" means political subdivision or public agency or instrumentality of a State;
(29) "person" includes individual, partnership, and corporation, but does not include governmental unit;
(30) "petition" means petition filed under section 301, 302, 303, or 304 of this title, as the case may be, commencing a case under this title;
(31) "purchaser" means transferee of a voluntary transfer, and includes immediate or mediate transferee of such a transferee;
(32) "railroad" means common carrier by railroad engaged in the transportation of individuals, or property, or owner of trackage facilities leased by such a common carrier;
(33) "relative" means individual related by affinity or consanguinity within the third degree as determined by the common law, or individual in a step or adoptive relationship within such third degree;
(34) "security"—
(A) includes—
(i) note, other than a commercial note;
(ii) stock;
(iii) treasury stock;
(iv) bond;
(v) debenture;
(vi) collateral trust certificate;
(vii) pre-organization certificate or subscription;
(viii) transferable share;
(ix) voting-trust certificate;
(x) certificate of deposit;
(xi) certificate of deposit for security;
(xii) investment contract or certificate of interest or participation in a profit-sharing agreement or in an oil, gas, or mineral royalty or lease, if such contract or interest is the subject of a registration statement filed with the Securities and Exchange Commission under the provisions of the Securities Act of 1933 (15 U.S.C. 77a et seq.), or is exempt under section 3(b) of such Act (15 U.S.C. 77c(b)) from the requirement to file such a statement;
(xiii) interest of a limited partner in a limited partnership;
(xiv) other claim or interest commonly known as "security"; and
(xv) certificate of interest or participation in, temporary or interim certificate for, receipt for, or warrant or right to subscribe to or purchase or sell, a security; but
(B) does not include—
(i) currency, check, draft, bill of exchange, or bank letter of credit;
(ii) leverage transaction, as defined in section 761(12) of this title;
(iii) commodity futures contract or forward commodity contract;
(iv) option, warrant, or right to subscribe to or purchase or sell a commodity futures contract;
(v) option to purchase or sell a commodity;
(vi) contract or certificate specified in clause (xii) of subparagraph (A) of this paragraph that is not the subject of such a registration statement filed with the Securities and Exchange Commission and is not exempt under section 3(b) of the Securities Act of 1933 (15 U.S.C. 77c(b)) from the requirement to file such a statement; or
(vii) debt or evidence of indebtedness for goods sold and delivered or services rendered;
(35) "security agreement" means agreement that creates or provides for a security interest;
(36) "security interest" means lien created by an agreement;
(37) "statutory lien" means lien arising solely by force of a statute on specified circumstances or conditions, or lien of distress for rent, whether or not statutory, but does not include security interest or judicial lien, whether or not such interest or lien is provided by or is dependent on a statute and whether or not such interest or lien is made fully effective by statute;
(38) "stockbroker" means person with respect to which there is a customer, as defined in section 741(2) of this title, engaged in the business of effecting transactions in securities—
(A) for the account of others; or
(B) with members of the general public, from or for such person's own account; and
(39) "transfer" means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest, and setoff.

§ 102. Rules of construction

In this title—
(1) "after notice and a hearing", or a similar phrase, means after such notice as is appropriate in the particular circumstances, and such opportunity for a hearing as is appropriate in the particular circumstances;
(2) "claim against the debtor" includes claim against property of the debtor;
(3) "includes" and "including" are not limiting;
(4) "may not" is prohibitive, and not permissive;
(5) "or" is not exclusive;
(6) "order for relief" means entry of an order for relief; and
(7) the singular includes the plural.

§ 103. Applicability of chapters

(a) Except as provided in section 1161 of this title, chapters 1, 3, and 5 of this title apply in a case under chapter 7, 11, or 13 of this title.

(b) Subchapters I and II of chapter 7 of this title apply only in a case under such chapter.

(c) Subchapter III of chapter 7 of this title applies only in a case under such chapter concerning a stockbroker.

(d) Subchapter IV of chapter 7 of this title applies only in a case under such chapter concerning a commodity broker.

(e) Except as provided in section 901 of this title only chapters 1 and 9 of this title apply in a case under such chapter 9.

(f) Except as provided in section 901 of this title, subchapters I, II, and III of chapter 11 of this title apply only in a case under such chapter.

(g) Subchapter IV of chapter 11 of this title applies only in a case under such chapter concerning a railroad.

(h) Chapter 13 of this title applies only in a case under such chapter.

§ 104. Adjustment of dollar amounts

The Judicial Conference of the United States shall transmit to the Congress and to the President before May 1, 1981, and before May 1 of every fourth year after May 1, 1981, a recommendation for the uniform percentage adjustment of each dollar amount in this title. Each such recommendation shall be based only on any change in the cost of living during the four-year period immediately preceding such recommendation.

§ 105. Power of court

(a) The bankruptcy court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.

(b) Notwithstanding subsection (a) of this section, a bankruptcy court may not appoint a receiver in a case under this title.

§ 106. Waiver of sovereign immunity

(a) A governmental unit that files a proof of claim under section 501 of this title is deemed to have waived sovereign immunity with respect to any claim against such governmental unit that is property of the estate and that arose out of the same transaction or occurrence out of which such governmental unit's claim arose.

(b) There shall be offset against an allowed claim or interest of a governmental unit for which such governmental unit filed a proof of claim or interest under section 501 of this title any claim against such governmental unit that is property of the estate.

§ 107. Public access to papers

(a) Except as provided in subsection (b) of this section, a paper filed in a case under this title and the dockets of a bankruptcy court are public records and open to examination by an entity at reasonable times without charge.

(b) On request of a party in interest, the bankruptcy court shall, and on the bankruptcy court's own motion, the bankruptcy court may—

(1) protect an entity with respect to a trade secret or confidential research, development, or commercial information; or

(2) protect a person with respect to scandalous or defamatory matter contained in a paper filed in a case under this title.

§ 108. Extension of time

(a) If applicable law, an order entered in a proceeding, or an agreement fixes a period within which the debtor may commence an action, and such period has not expired before the date of the filing of the petition, the

trustee may only commence such action before the later of—

(1) the end of such period; and

(2) two years after the order for relief.

(b) Except as provided in subsection (a) of this section, if applicable law, an order entered in a proceeding, or an agreement fixes a period within which the debtor or an individual protected under section 1301 of this title may file any pleading, demand, notice, or proof of claim or loss, cure a default, or perform any other similar act, and such period has not expired before the date of the filing of the petition, the trustee may only file, cure, or perform, as the case may be, before the later of—

(1) the end of such period; and

(2) 60 days after the other for relief.

(c) Except as provided in section 524 of this title, if applicable law, an order entered in a proceeding, or an agreement fixes a period for commencing or continuing a civil action in a court other than a bankruptcy court on a claim against the debtor, or against an individual with respect to which such individual is protected under section 1301 of this title, and such period has not expired before the date of the filing of the petition, then such period does not expire until the later of—

(1) the end of such period; and

(2) 30 days after notice of the termination or expiration of the stay under section 362 or 1301 of this title, as the case may be, with respect to such claim.

§ 109. Who may be a debtor

(a) Notwithstanding any other provision of this section, only a person that resides in the United States, or has a domicile, a place of business, or property in the United States, or a municipality, may be a debtor under this title.

(b) A person may be a debtor under chapter 7 of this title only if such person is not—

(1) a railroad;

(2) a domestic insurance company, bank, savings bank, cooperative bank, savings and loan association, building and loan association, homestead association, or credit union; or

(3) a foreign insurance company, bank, savings bank, cooperative bank, savings and loan association, building and loan association, homestead association, or credit union, engaged in such business in the United States.

(c) Only a municipality that is generally unable to pay such municipality's debts as such debts mature, and that is not prohibited by State law from proceeding under chapter 9 of this title, may be a debtor under such chapter.

(d) Only a person that may be a debtor under chapter 7 of this title, except a stockbroker or a commodity broker, and a railroad may be a debtor under chapter 11 of this title.

(e) Only an individual with regular income that owes, on the date of the filing of the petition, noncontingent, liquidated, unsecured debts of less than $100,000 and noncontingent, liquidated, secured debts of less than $500,000, or an individual with regular income and such individual's spouse, except a stockbroker or a commodity broker, that owe, on the date of the filing of the petition, noncontingent, liquidated, unsecured debts that aggregate less than $100,000 and noncontingent, liquidated, secured debts of less than $500,000 may be a debtor under chapter 13 of this title.

Chapter 3—CASE ADMINISTRATION

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Subchapter I—Commencement of a Case

§ 301. Voluntary cases

A voluntary case under a chapter of this title is commenced by the filing of a petition under such chapter by an entity that may be a debtor under such chapter. The commencement of a voluntary case under a chapter of this title constitutes an order for relief under such chapter.

§ 302. Joint cases

(a) A joint case under a chapter of this title is commenced by the filing of a single petition under such chapter by an individual that may be a debtor under such chapter and such individual's spouse. The commencement of a joint case under a chapter of this title constitutes an order for relief under such chapter.

(b) After the commencement of a joint case, the court shall determine the extent, if any, to which the debtors' estates shall be consolidated.

§ 303. Involuntary cases

(a) An involuntary case may be commenced only under chapter 7 or 11 of this title, and only against a person, except a farmer or a corporation that is not a moneyed, business, or commercial corporation, that may be a debtor under the chapter under which such case is commenced.

(b) An involuntary case against a person is commenced by the filing of a petition under chapter 7 or 11 of this title—

(1) by three or more entities, each of which is either a holder of a claim against such person that is not contingent as to liability or an indenture trustee representing such a holder, if such claims aggregate at least $5,000 more than the value of any lien securing such claims held by the holders of such claims;

(2) if there are fewer than 12 such holders, excluding any employee or insider of such person and any transferee of a transfer that is voidable under section 544, 545, 547, 548, 549, or 724(a) of this title, by one or more of such holders that hold in the aggregate at least $5,000 of such claims;

(3) if such person is a partnership and if relief has been ordered with respect to all of the general partners in such partnership, by such a general partner, the trustee of such a general partner, or a holder of a claim against such partnership; or

(4) by a foreign representative of the estate in a foreign proceeding concerning such person.

(c) After the filing of a petition under this section but before the case is dismissed or relief is ordered, a creditor holding a claim that is unsecured and not contingent, other than a creditor filing under subsection (b) of this section, may join in the petition with the same effect as if such joining creditor were a petitioning creditor under subsection (b) of this section.

(d) The debtor, or a general partner in a partnership debtor that did not join in the petition, may file an answer to a petition under this section.

(e) After notice and a hearing, and for cause, the court may require the petitioners under this section to file a bond to indemnify the debtor for such amounts as the court may later allow under subsection (i) of this section.

(f) Notwithstanding section 363 of this title, except to the extent that the court orders otherwise, and until an order for relief in the case, any business of the debtor may continue to operate, and the debtor may continue to use, acquire, or dispose of property as if an involuntary case concerning the debtor had not been commenced.

(g) At any time after the commencement of an involuntary case under chapter 7 of this title but before an order for relief in the case, the court, on request of a party in interest, after notice to the debtor and a hearing, and if necessary to preserve the property of the estate or to prevent loss to the estate, may order the United States trustee to appoint an interim trustee under section 701 of this title to take possession of the property of the estate and to operate any business of the debtor. Before an order for relief, the debtor may regain possession of property in the possession of a trustee ordered appointed under this subsection if the debtor files such bond as the court requires, conditioned on the debtor's accounting for and delivering to the trustee, if there is an order for relief in the case, such property, or the value, as of the date the debtor regains possession, of such property.

(h) If the petition is not timely controverted, the court shall order relief against the debtor in an involuntary case under the chapter under which the petition was filed. Otherwise, after trial, the court shall order relief against the debtor in an involuntary case under the chapter under which the petition was filed, only if—

(1) the debtor is generally unable to pay such debtor's debts as such debts become due; or

(2) within 90 days before the date of the filing of the petition, a custodian, other than a trustee, receiver, or agent appointed or authorized to take charge of less than substantially all of the property of the debtor for the purpose of enforcing a lien against such property, was appointed or took possession.

(i) If the court dismisses a petition under this section other than on consent of all petitioners and the debtor, and if the debtor does not waive the right to judgment under this subsection, the court may grant judgment—

(1) against the petitioners and in favor of the debtor for—

(A) costs;

(B) a reasonable attorney's fee; or

(C) any damages proximately caused by the taking of possession of the debtor's property by a trustee appointed under subsection (g) of this section or section 1104 of this title; or

(2) against any petitioner that filed the petition in bad faith, for—

(A) any damages proximately caused by such filing; or

(B) punitive damages.

(j) Only after notice to all creditors and

a hearing may the court dismiss a petition filed under this section—

(1) on the motion of a petitioner;

(2) on consent of all petitioners and the debtor; or

(3) for want of prosecution.

(k) Notwithstanding subsection (a) of this section, an involuntary case may be commenced against a foreign bank that is not engaged in such business in the United States only under chapter 7 of this title and only if a foreign proceeding concerning such bank is pending.

§ 304. Cases ancillary to foreign proceedings

(a) A case ancillary to a foreign proceeding is commenced by the filing of a petition under this section by a foreign representative.

(b) Subject to the provisions of subsection (c) of this section, if the debtor does not timely controvert the petition, or after trial, the court may—

(1) enjoin the commencement or continuation of any action against the estate represented by such foreign representative, the enforcement of any judgment against such estate, or any act or the commencement or continuation of any judicial proceeding to create or enforce a lien against the property of such estate;

(2) order turnover of the property of such estate, or the proceeds of such property, to such foreign representatives; or

(3) order other appropriate relief.

(c) In determining whether to grant relief under subsection (b) of this section, the court shall be guided by what will best assure an economical and expeditious administration of such estate, consistent with—

(1) just treatment of all holders of claims against or interests in such estate;

(2) protection of claim holders in the United States against prejudice and inconvenience in the processing of claims in such foreign proceeding;

(3) prevention of preferential or fraudulent dispositions of property of such estate;

(4) distribution of proceeds of such estate substantially in accordance with the order prescribed by this title; and

(5) if appropriate, the provision of an opportunity for a fresh start for the individual that such foreign proceeding concerns.

§ 305. Abstention

(a) The court may dismiss a case under this title, or may suspend all proceedings in a case under this title, at any time if—

(1) the interests of creditors and the debtor would be better served by such dismissal or suspension; or

(2)(A) there is pending a foreign proceeding; and

(B) the factors specified in section 304(c) of this title warrant such dismissal or suspension.

(b) A foreign representative may seek dismissal or suspension under subsection (a)(2) of this section.

(c) An order under subsection (a) of this section dismissing a case or suspending all proceedings in a case, or a decision not so to dismiss or suspend, is not reviewable on appeal or otherwise.

§ 306. Limited appearance

An appearance in a bankruptcy court by a foreign representative in connection with a petition or request under section 303, 304, or 305 of this title does not submit such foreign representative to the jurisdiction of any court in the United States for any other purpose, but the bankruptcy court may condition any order under section 303, 304, or 305 of this title on compliance by such foreign representative with the orders of such bankruptcy court.

Subchapter II—Officers

§ 321. Eligibility to serve as trustee

A person may serve as trustee in a case under this title only if such person is—

(1) an individual that is competent to perform the duties of trustee and, in a case under chapter 7 or 13 of this title, resides or has an office in the judicial district within which the case is pending, or in any judicial district adjacent to such district;

(2) a corporation authorized by such corporation's charter or bylaws to act as trustee, and, in a case under chapter 7 or 13 of this title, having an office in at least one of such districts; or

(3) the United States trustee for the judicial district in which the case is pending.

§ 322. Qualification of trustee

(a) A person, other than a United States trustee, selected under section 701, 702, 703, 1104, or 1302 of this title to serve as trustee in a case under this title qualifies if before five days after such selection, and before beginning official duties, such person has filed with the court a bond in favor of the United States conditioned on the faithful performance of such official duties.

(b) The court shall determine—

(1) the amount of a bond filed under subsection (a)(2) of this section; and

(2) the sufficiency of the surety on such bond.

(c) A trustee is not liable personally or on such trustee's bond in favor of the United States for any penalty or forfeiture incurred by the debtor.

(d) A proceeding on a trustee's bond may not be commenced after two years after the date on which such trustee was discharged.

(e) A United States trustee qualifies whenever such trustee serves as trustee in a case under this title.

§ 323. Role and capacity of trustee

(a) The trustee in a case under this title is the representative of the estate.

(b) The trustee in a case under this title has capacity to sue and be sued.

§ 324. Removal of trustee on examiner

The court, after notice and a hearing, may remove a trustee other than a United States trustee, or an examiner, for cause.

§ 325. Effect of vacancy

A vacancy in the office of trustee during a case does not abate any pending action or proceeding, and the successor trustee shall be substituted as a party in such action or proceeding.

§ 326. Limitation on compensation of trustee

(a) In a case under chapter 7 or 11 of this title in which the trustee does not operate the business of the debtor, the court may allow reasonable compensation under section 330 of this title of the trustee for the trustee's services, payable after the trustee renders such services, not to exceed fifteen percent on the first $1,000 or less, six percent on any amount in excess of $1,000 but not in excess of $3,000, three percent on any amount in excess of $3,000 but not in excess of $20,000, two percent on any amount in excess of $20,000 but not in excess of $50,000, and one percent on any amount in excess of $50,000, upon all moneys disbursed or turned over in the case by the trustee to parties in interest, excluding the debtor, but including holders of secured claims.

(b) In a case under chapter 7 or 11 of this title in which a trustee operates the business of the debtor, under section 721 or 1108 of this title, the court may allow reasonable compensation under section 330 of this title of the trustee for the trustee's services, payable after the trustee renders such services, not to exceed twice the maximum allowance permitted under subsection (a) of this section.

(c) In a case under chapter 13 of this title, the court may not allow compensation for services or reimbursement of expenses of the United States trustee or of a standing trustee appointed under section 586(b) of title 28, but may allow reasonable compensation under section 330 of this title of a trustee elected under section 1302(a) of this title for the trustee's services, payable after the trustee renders such services, not to exceed five percent upon all payments under the plan.

(d) If more than one person serves as trustee in the case, the aggregate compensation of such persons for such service may not exceed the maximium compensation prescribed for a single trustee by subsection (a), (b), or (c) of this section, as the case may be.

(e) The court may deny allowance of compensation for services and reimbursement of expenses of the trustee if the trustee—

(1) failed to make diligent inquiry into facts that would permit denial of allowance under section 328(c) of this title; or

(2) with knowledge of such facts, employed a professional person under section 327 of this title.

§ 327. Employment of professional persons

(a) Except as otherwise provided in this section, the trustee, with the court's approval, may employ one or more attorneys, accountants, appraisers, auctioneers, or other professional persons, that do not hold or represent an interest adverse to the estate, and that are disinterested persons, to assist the trustee in carrying out the trustee's duties under this title.

(b) If the trustee is authorized to operate the business of the debtor under section 721 or 1108 of this title, and if the debtor has regularly employed attorneys, accountants, or other professional persons on salary, the trustee may retain or replace such professional persons if necessary in the operation of such business.

(c) In a case under chapter 7 or 11 of this title, a person is not disqualified for employment under this section solely because of such person's employment by or representation of a creditor holding an unsecured claim.

(d) The court may authorize the trustee to act as attorney or accountant for the estate if such authorization is in the best interest of the estate.

(e) The trustee, with the court's approval, may employ, for a specified special purpose, other than to represent the trustee in conducting the case, an attorney that has represented the debtor, if in the best interest of the estate, and if such attorney does not represent or hold any interest adverse to the debtor or to the estate with respect to the matter on which such attorney is to be employed.

§ 328. Limitation on compensation of professional persons

(a) The trustee, or a committee appointed under section 1102 of this title, with the court's approval, may employ or authorize the employment of a professional person under section 327 or 1103 of this title, as the case may be, on any reasonable terms and conditions of employment, including on a retainer, on an hourly basis, or on a contingent fee basis. Notwithstanding such terms and conditions, the court may allow compensation different from the compensation provided under such terms and conditions after the conclusion of such employment, if such terms and conditions prove to have been improvident in light of developments unanticipatable at the time of the fixing of such terms and conditions.

(b) If the court has authorized a trustee to serve as an attorney or accountant for the estate under section 327(d) of this title, the court may allow compensation for the trustee's services as such attorney or accountant only to the extent that the trustee performed services as attorney or accountant for the estate and not for performance of any of the trustee's duties that are generally performed by a trustee without the assistance of an attorney or accountant for the estate.

(c) Except as provided in section 327 (c) or (e) of this title, the court may deny allowance of compensation for services and reimbursement of expenses of a professional person employed under section 327 or 1103 of this title if, at any time during such professional person's employment under section 327 or 1103 of this title, such professional person is not a disinterested person, or represents or holds an interest adverse to the interest of the estate with respect to the matter on which such professional person is employed.

§ 329. Debtor's transactions with attorneys

(a) Any attorney representing a debtor in a case under this title, or in connection with such a case, whether or not such attorney applies for compensation under this title, shall file with the court a statement of the compensation paid or agreed to be paid, if such payment or agreement was made after one year before the date of the filing of the petition, for services rendered or to be rendered in contemplation of and in connection with the case by such attorney, and the source of such compensation.

(b) If such compensation exceeds the reasonable value of any such services, the court may cancel any such agreement, or order the return of any such payment, to the extent excessive, to—

(1) the trustee, if the property transferred—

(A) would have been property of the estate; or

(B) was to be paid by or on behalf of the debtor under a plan under chapter 11 or 13 of this title; or

(2) the entity that made such payment.

§ 330. Compensation of officers

(a) After notice to any parties in interest and to the United States trustee and a hearing, and subject to sections 326, 328, and 329 of this title, the court may award to a trustee, to an examiner, to a professional person employed under section 327 or 1103 of this title, or to the debtor's attorney—

(1) reasonable compensation for actual, necessary services rendered by such trustee, examiner, professional person, or attorney, as the case may be, and by any paraprofessional persons employed by such trustee, professional person, or attorney, as the case may be, based on the time, the nature, the extent, and the value of such services, and the cost of comparable services other than in a case under this title; and

(2) reimbursement for actual, necessary expenses.

(b) In a case in which the United States trustee serves as trustee, the compensation of the trustee, under this section shall be paid to the clerk of the bankruptcy court, and by the clerk, into the Treasury.

§ 331. Interim compensation

A trustee, an examiner, a debtor's attorney, or any professional person employed under section 327 or 1103 of this title may apply to the court not more than once every 120 days after an order for relief in a case under this title, or more often if the court permits, for such compensation for services rendered before the date of such an application or reimbursement for expenses incurred before such date as is provided under section 330 of this title. After notice and a hearing, the court may allow and disburse to such applicant such compensation or reimbursement.

Subchapter III—Administration

§ 341. Meetings of creditors and equity security holders

(a) Within a reasonable time after the order for relief in a case under this title, there shall be a meeting of creditors.

(b) The court may order a meeting of any equity security holders.

§ 342. Notice

(a) The clerk shall give such notice as is appropriate of an order for relief in a case under this title.

(b) The filing of a copy of the petition in a case under this title in the office where conveyances of real property are recorded in a county in which is located real property in which the estate has an interest is constructive notice of the commencement of such case with respect to transfers of real property located in such county. A judicial sale of real property in which the estate has an interest, located other than in the county in which such case is commenced, is not affected by the commencement of such case unless such constructive notice has been given as provided in this subsection in the county in which such real property is located.

(c) After the commencement of a case under this title concerning an individual debtor, the clerk shall give written notice to such debtor indicating each chapter of this title under which such debtor may proceed.

§ 343. Examination of the debtor

The debtor shall appear and submit to examination under oath at the meeting of creditors under section 3441(a) of this title. Creditors, any indenture trustee, any trustee or examiner in the case, or the United States trustee may examine the debtor.

§ 344. Self-incrimination; immunity

Immunity for persons required to submit to examination, to testify, or to provide information in a case under this title may be granted under part V of title 18.

§ 345. Money of estates

(a) A trustee in a case under this title may make such deposit or investment of the money of the estate for which such trustee serves as will yield the maximum reasonable net return on such money, taking into account the safety of such deposit or investment.

(b) Except with respect to a deposit or investment that is insured or guaranteed by the United States or by a department, agency, or instrumentality of the United States or backed by the full faith and credit of the United States, the trustee shall require from an entity with which such money is deposited or invested—

(1) a bond—

(A) in favor of the United States;

(B) secured by the undertaking of a corporate surety approved by the United States trustee for the district in which the case is pending; and

(C) conditioned on—

(i) a proper accounting for all money so deposited or invested and for any return on such money;

(ii) prompt repayment of such money and return; and

(iii) faithful performance of duties as a depository; or

(2) the deposit of securities of the kind specified in section 15 of title 6.

(c) The United States trustee may aggregate money of estates for which such United States trustee serves as trustee for deposit or investment under this section in order to increase the return on such money, taking into account the safety of such deposit or investment. The United States trustee shall maintain complete records identifying separately the money of each estate included in such an aggregation. Any return on any such deposit or investment shall be paid by the United States trustee into the Treasury.

§ 346. Special tax provisions

(a) Except to the extent otherwise provided in this section, subsections (b), (c), (d), (e), (g), (h), (i), and (j) of this section apply notwithstanding any State or local law imposing a tax, but subject to the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.).

(b)(1) In a case under chapter 7 or 11 of this title concerning an individual, any income of the estate may be taxed under a State or local law imposing a tax on or measured by income only to the estate, and may not be taxed to such individual. Except as provided in section 728 of this title, if such individual is a partner in a partnership, any gain or loss resulting from a distribution of property from such partnership, or any distributive share of income, gain, loss, deduction, or credit of such individual that is distributed, or considered distributed, from such partnership, after the commencement of the case is gain, loss, income, deduction, or credit, as the case may be, of the estate.

(2) Except as otherwise provided in this section and in section 728 of this title, any income of the estate in such a case, and any State or local tax on or measured by such income, shall be computed in the same manner as the income and the tax on an estate.

(3) The estate in such a case shall use the same accounting method as the debtor used immediately before the commencement of the case.

(c)(1) The commencement of a case under this title concerning a corporation or a partnership does not effect a change in the status of such corporation or partnership for the purposes of any State or local law imposing a tax on or measured by income. Except as otherwise provided in this section and in section 728 of this title, any income of the estate in such case may be taxed only as though such case had not been commenced.

(2) In such a case, except as provided in section 728 of this title, the trustee shall make any tax return otherwise required by State or local law to be filed by or on behalf of such corporation or partnership in the same manner and form as such corporation or partnership, as the case may be, is required to make such return.

(d) In a case under chapter 13 of this title, any income of the estate or the debtor may be taxed under a State or local law imposing a tax on or measured by income only to the debtor, and may not be taxed to the estate.

(e) A claim allowed under section 502(f) or 503 of this title, other than a claim for a tax that is not otherwise deductible or a capital expenditure that is not otherwise deductible, is deductible by the entity to which income of the estate is taxed unless such claim was deducted by another entity, and a deduction for such a claim is deemed to be a deduction attributable to a business.

(f) The trustee shall withhold from any payment of claims for wages, salaries, commissions, dividends, interest, or other payments, or collect, any amount required to be withheld or collected under applicable State or local tax law, and shall pay such withheld or collected amount to the appropriate governmental unit at the same time and with the same priority as the claim from which such amount was withheld was paid.

(g)(1) Neither gain nor loss shall be recognized on a transfer—

(A) by operation of law, of property to the estate;

(B) other than a sale, of property from the estate to the debtor; or

(C) in a case under chapter 11 of this title concerning a corporation, of property from the estate to a corporation that is an affiliate participating in a joint plan with the debtor, or that is a successor to the debtor under the plan, except that gain or loss may be recognized to the same extent that such transfer results in the recognition of gain or loss under section 371 of the Internal Revenue Code of 1954 (26 U.S.C. 371).

(2) The transferee of a transfer of a kind specified in this subsection shall take the property transferred with the same character, and with the transferor's basis, as adjusted under subsection (j)(5) of this section, and holding period.

(h) Notwithstanding sections 728(a) and 1146(a) of this title, for the purpose of determining the number of taxable periods during which the debtor or the estate may use a loss carryover or a loss carryback, the taxable period of the debtor during which the

case is commenced is deemed not to have been terminated by such commencement.

(i)(1) In a case under chapter 7 or 11 of this title concerning an individual, the estate shall succeed to the debtor's tax attributes, including—

(A) any investment credit carryover;

(B) any recovery exclusion;

(C) any loss carryover;

(D) any foreign tax credit carryover;

(E) any capital loss carryover; and

(F) any claim of right.

(2) After such a case is closed or dismissed, the debtor shall succeed to any tax attribute to which the estate succeeded under paragraph (1) of this subsection but that was not utilized by the estate. The debtor may utilize such tax attributes as though any applicable time limitations on such utilization by the debtor were suspended during the time during which the case was pending.

(3) In such a case, the estate may carry back any loss of the estate to a taxable period of the debtor that ended before the order for relief under such chapter the same as the debtor could have carried back such loss had the debtor incurred such loss and the case under this title had not been commenced, but the debtor may not carry back any loss of the debtor from a taxable period that ends after such order to any taxable period of the debtor that ended before such order until after the case is closed.

(j)(1) Except as otherwise provided in this subsection, income is not realized by the estate, the debtor, or a successor to the debtor by reason of forgiveness or discharge of indebtedness in a case under this title.

(2) For the purposes of any State or local law imposing a tax on or measured by income, a deduction with respect to a liability may not be allowed for any taxable period during or after which such liability is forgiven or discharged under this title. In this paragraph, "a deduction with respect to a liability" includes a capital loss incurred on the disposition of a capital asset with respect to a liability that was incurred in connection with the acquisition of such asset.

(3) Except as provided in paragraph (4) of this subsection, for the purpose of any State or local law imposing a tax on or measured by income, any net operating loss of an individual or corporate debtor, including a net operating loss carryover of such debtor, shall be reduced by the amount of indebtedness forgiven or discharged in a case under this title, except to the extent that such forgiveness or discharge resulted in a disallowance under paragraph (2) of this subsection.

(4) A reduction of a net operating loss or a net operating loss caryover under paragraph (3) of this subsection or of basis under paragraph (5) of this subsection is not required to the extent that the indebtedness of an individual or corporate debtor forgiven or discharged—

(A) consisted of items of a deductible nature that were not deducted by such debtor; or

(B) resulted in an expired net operating loss carryover or other deduction that—

(i) did not offset income for any taxable period; and

(ii) did not contribute to a net operating loss in or a net operating loss carryover to the taxable period during or after which such indebtedness was discharged.

(5) For the purposes of a State or local law imposing a tax on or measured by income, the basis of the debtor's property or of property transferred to an entity required to use the debtor's basis in whole or in part shall be reduced by the lesser of—

(A)(i) the amount by which the indebtedness of the debtor has been forgiven or discharged in a case under this title; minus

(ii) the total amount of adjustments made under paragraphs (2) and (3) of this subsection; and

(B) the amount by which the total basis of the debtor's assets that were property of the estate before such forgiveness or discharge exceeds the debtor's total liabilities that were liabilities both before and after such forgiveness or discharge.

(6) Notwithstanding paragraph (5) of this subsection, basis is not required to be reduced to the extent that the debtor elects to treat as taxable income, of the taxable period in which indebtedness is forgiven or discharged, the amount of indebtedness forgiven or discharged that otherwise would be applied in reduction of basis under paragraph (5) of this subsection.

(7) For the purposes of this subsection, indebtedness with respect to which an equity security, other than an interest of a limited partner in a limited partnership, is issued to the creditor to whom such indebtedness was owned, or that is forgiven as a contribution to capital by an equity security holder other than a limited partner in the debtor, is not forgiven or discharged in a case under this title—

(A) to any extent that such indebtedness did not consist of items of a deductible nature; or

(B) if the issuance of such equity security has the same consequences under a law imposing a tax on or measured by income to such creditor as a payment in cash to such creditor in an amount equal to the fair market value of such security, then to the lesser of—

(i) the extent that such issuance has the same such consequences; and

(ii) the extent of such fair market value.

§ 347. Unclaimed property

(a) Sixty days after the final distribution under section 726 or 1326 of this title in a case under chapter 7 or 13 of this title, as the case may be, the trustee shall stop payment on any check remaining unpaid, and any remaining property of the estate shall be paid into the court and disposed of under chapter 129 of title 28.

(b) Any security, money, or other property remaining unclaimed at the expiration of the time allowed in a case under chapter 9 or 11 of this title for the presentation of a security or the performance of any other act as a condition to participation in the distribution under any plan confirmed under section 943 or 1129 of this title, as the case may be, becomes the property of the debtor or of the entity acquiring the assets of the debtor under the plan, as the case may be.

§ 348. Effect of conversion

(a) Conversion of a case from a case under one chapter of this title to a case under another chapter of this title constitutes an order for relief under the chapter to which the case is converted, but, except as provided in subsections (b) and (c) of this section, does not effect a change in the date of the filing of the petition, the commencement of the case, or the order for relief.

(b) Unless the court for cause orders otherwise, in sections 701(a), 728(a), 1102(a), 1110(a), 1121(b), 1121(c), 1141(d), 1146(a), 1146(b), 1301(a), and 1305(a) of this title, "the order for relief under this chapter" in a chapter to which a case has been converted under section 706, 1112, or 1307 of this title means the conversion of such case to such chapter.

(c) Sections 342(a) and 365(d) of this title apply in a case that has been converted under section 706, 1112, or 1307 of this title, as if the conversion order were the order for relief.

(d) A claim against the estate or the debtor that arises after the order for relief but before conversion in a case that is converted under section 1112 or 1307 of this title, other than a claim specified in section 503(b) of this title, shall be treated for all purposes as if such claim had arisen immediately before the date of the filing of the petition.

(e) Conversion of a case from a case under one chapter of this title to a case under another chapter of this title terminates the service of any trustee or examiner that is servicing in the case before such conversion.

§ 349. Effect of dismissal

(a) Unless the court, for cause, orders otherwise, the dismissal of a case under this title does not bar the discharge, in a later case under this title, of debts that were dischargeable in the case dismissed.

(b) Unless the court, for cause, orders otherwise, a dismissal of a case other than under section 742 of this title—

(1) reinstates—

(A) any proceeding or custodianship superseded under section 543 of this title;

(B) any transfer avoided under section 522, 544, 545, 547, 548, 549, or 724(a) of this title, or preserved under section 510(b)(2), 522(i)(2), or 551 of this title; and

(C) any lien under section 506(d) of this title;

(2) vacates any order, judgment, or transfer ordered, under section 522(i)(1), 542, or 550 of this title; and

(3) revests the property of the estate in the entity in which such property was vested immediately before the commencement of the cause under this title.

§ 350. Closing and reopening cases.

(a) After an estate is fully administered and the court has discharged the trustee, the court shall close the case.

(b) A case may be reopened in the court in which such case was closed to administer assets, to accord relief to the debtor, or for other cause.

Subchapter IV—Administrative Powers

§ 361. Adequate protection

When adequate protection is required under section 362, 363, or 364 of this title of an interest of an entity in property, such adequate protection may be provided by—

(1) requring the trustee to make periodic cash payments to such entity, to the extent that the stay under section 362 of this title, use, sale, or lease under section 363 of this title, or any grant of a lien under section 364 of this title results in a decrease in the value of such entity's interest in such property;

(2) providing to such entity an additional or replacement lien to the extent that such stay, use, sale, lease, or grant results in a decrease in the value of such entity's interest in such property;

(3) entitling such entity to compensation allowable under section 503(b)(1) of this title as an administrative expense, to the extent that such stay, use, sale, lease, or grant results in a decrease in the value of such entity's interest in such property, if the estate will contain sufficient assets to pay such administrative expense in the event of liquidation of the debtor; or

(4) granting such other relief as will result in the realization by such entity of the value of such entity's interest in such property.

§ 362. Automatic stay

(a) Except as provided in subsection (b) of this section, a petition filed under section 301, 302, or 303 of this title operates as a stay, applicable to all entities, of—

(1) the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other proceeding against the debtor that was or could have been commenced before the commencement of the case under this title;

(2) the enforcement, against the debtor or against property of the estate, of a judgment obtained before the commencement of the case under this title;

(3) any act to obtain possession of property of the estate or of property from the estate;

(4) any act to create, perfect, or enforce any lien against property of the estate;

(5) any act to create, perfect, or enforce against property of the debtor any lien to the extent that such lien secures a claim that arose before the commencement of the case under this title;

(6) any act to collect or recover a claim against the debtor that arose before the commencement of the case under this title; and

(7) the setoff of any debt owing to the debtor that arose before the commencement of the case under this title against any claim against the debtor.

(b) The filing of a petition section 301, 302, or 303 of this title does not operate as a stay—

(1) under subsection (a) of this section, of the commencement or continuation of a criminal action or proceeding against the debtor;

(2) under subsection (a) of this section, of the collection of alimony, maintenance, or support from property that is not property of the estate;

(3) under subsection (a) of this section, of any act to perfect an interest in property to the extent that the trustee's rights and powers are subject to such perfection under section 546(a) of this title;

(4) under subsection (a)(1) of this section, of the commencement or continuation of an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power;

(5) under subsection (a)(2) of this section, of the enforcement of a judgment, other than a money judgment, obtained in an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power; or

(6) under subsection (a)(7) of this section, of the setoff of any debt and claim that are commodity futures contracts, forward commodity contracts, leverage transactions, options, warrants, or rights to purchase or sell commodity futures contracts, or options to purchase or sell commodities.

(c) Except as provided in subsections (d), (e), and (f) of this section—

(1) the stay of an act against property of the estate under subsection (a) of this section continues until such property is no longer property of the estate; and

(2) the stay of any other act under subsection (a) of this section continues until the earliest of—

(A) the time the case is closed;

(B) the time the case is dismissed; and

(C) if the case is a case under chapter 7 of this title concerning an individual or a case under chapter 9, 11, or 13 of this title, the time a discharge is granted or denied.

(d) On request of a party in interest, after notice and a hearing, and for cause, including the lack of adequate protection of an interest in property of such party in interest, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay.

(e) Thirty days after a request under subsection (d) of this section for relief from the stay of any act against property of the estate under subsection (a) of this section, such stay is terminated with respect to the party in interest making such request, unless the court, after notice and a hearing, orders such stay continued in effect pending, or as a result of, a final hearing and determination under subsection (d) of this section. A hearing under this subsection may be a preliminary hearing, or may be consolidated with the final hearing under subsection (d) of this section. If the hearing under this subsection is a preliminary hearing, the court shall order such stay so continued if there is a reasonable likelihood that the party opposing relief from such stay will prevail at the final hearing under subsection (d) of this section.

(f) The court, without a hearing, shall grant such relief from the stay provided under subsection (a) of this section as is necessary to prevent irreparable damage to the interest of an entity in property, if such interest will suffer such damage before there is an opportunity for notice and a hearing under subsection (d) or (e) of this section.

(g) In any hearing under subsection (d) or (e) of this section concerning relief from the stay of any act under subsection (a) of this section, the party opposing such relief has the burden of proof on the issue of adequate protection.

§ 363. Use, sale, or lease of property

(a) In this section, "soft collateral" means inventory, farm products, accounts, contract rights, general intangibles, cash, negotiable instruments, documents of title, securities, or chattel paper in which the estate and an entity other than the estate have an interest.

(b) The trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate.

(c)(1) If the business of the debtor is authorized to be operated under section 721, 1108, or 1304 of this title and unless the court orders otherwise, the trustee may enter into transactions, including the sale or lease of property of the estate, in the ordinary course of business, without notice or a hearing, and may use property of the estate in the ordinary course of business without notice or a hearing.

(2) Before the trustee may use, sell, or lease soft collateral under paragraph (1) of this subsection, the trustee shall notify each entity that has an interest in such soft collateral of such use, sale, or lease. The trustee may not so use, sell, or lease such soft collateral more than five days after such notification, unless the court, after notice and a hearing, authorizes such use, sale, or lease in accordance with the provisions of this section. A hearing under this paragraph may be a preliminary hearing, or may be consolidated with a hearing under subsection (e) of this section. If the hearing under this paragraph is a preliminary hearing, the court may authorize such use, sale, or lease only if there is a reasonable likelihood that the trustee will prevail at the final hearing under subsection (e) of this section.

(d) The trustee may use, sell, or lease property under subsection (b) or (c) of this section only to the extent not inconsistent with any relief granted under section 362(c), 362(d), 362(e), or 362(f) of this title.

(e) Notwithstanding any other provision of this section, at any time, on request of an entity that has an interest in property used, sold, or leased, or proposed to be used, sold, or leased, by the trustee, the court shall prohibit or condition such use, sale, or lease as is necessary to provide adequate protection of such interest. In any hearing under this section, the trustee has the burden of proof on the issue of adequate protection.

(f) The trustee may sell property under subsection (b) or (c) of this section free and clear of any interest in such property of an entity other than the estate, only if—

(1) applicable nonbankruptcy law permits sale of such property free and clear of such interest;

(2) such entity consents;

(3) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of such interest;

(4) such interest is a bona fide dispute; or

(5) such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest.

(g) Notwithstanding subsection (f) of this section, the trustee may sell property under subsection (b) or (c) of this section free and clear of any vested or contingent right in the nature of dower or curtsey.

(h) Notwithstanding subsection (f) of this section, the trustee may sell, under subsection (b) or (c) of this section, both the estate's interest and the interest of any co-owner in property in which the debtor had, immediately before the commencement of the case, an undivided interest as a tenant in common, joint tenant, or tenant by the entirety, only if—

(1) partition in kind of such property among the estate and such co-owners is impracticable;

(2) sale of the estate's undivided interest in such property would realize significantly less for the estate than sale of such property free of the interests of such co-owners; and

(3) the benefit to the estate of a sale of such property free of interests of co-owners outweighs the detriment, if any, to such co-owners.

(i) Before the consummation of a sale of property to which subsection (g) or (h) of this section applies, or of property of the estate that was community property of the debtor and the debtor's spouse immediately before the commencement of the case, the debor's spouse, or a co-owner of such property, as the case may be, may purchase such property at the price at which such sale is to be consummated.

(j) After a sale of property to which subsection (g) or (h) of this section applies, the trustee shall distribute to the debtor's spouse or the co-owners of such property, as the case may be, and to the estate, the proceeds of such sale, less the costs and expenses, not including any compensation of the trustee, of such sale, according to the interests of such spouse or co-owners, and of the estate.

(k) The trustee may use, sell, or lease property under subsection (b) or (c) of this section, and a plan under chapter 11 or 13 of this title may provide for the use, sale, or lease of property, notwithstanding any provision in a contract, a lease, or applicable law that is conditioned on the insolvency or financial condition of the debtor, on the commencement of a case under this title concerning the debtor, or on the appointment of or taking possession by a trustee in a case under this title or a custodian, and that effects, or gives an option to effect, a forfeiture, modification, or termination of the debtor's interest in such property.

(l) The reversal or modification on appeal of an authorization under subsection (b) or (c) of this section of a sale or lease of property does not affect the validity of a sale or lease under such authorization to an entity that purchased or leased such property in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and such sale or lease were stayed pending appeal.

(m) The trustee may void a sale under this section if the sale price was controlled by an agreement among potential bidders at such sale, or may recover from a party to such agreement any amount by which the value of the property sold exceeds the price at which such sale was consummated, and may recover any costs, attorneys' fees, or expenses incurred in voiding such sale or recovering such amount. The court may grant judgment in favor of the estate and against any such

party that entered into such agreement in willful disregard of this subsection for punitive damages in addition to any recovery under the preceding sentence.

§ 364. Obtaining credit

(a) If the trustee is authorized to operate the business of the debtor under section 721, 1108, or 1304 of this title, unless the court orders otherwise, the trustee may obtain unsecured credit and incur unsecured debt in the ordinary course of business allowable under section 503(b)(1) of this title as an administrative expense.

(b) The court, after notice and a hearing, may authorize the trustee to obtain unsecured credit or to incur unsecured debt other than under subsection (a) of this section, allowable under section 503(b)(1) of this title as an administrative expense.

(c) If the trustee is unable to obtain unsecured credit allowable under section 503(b)(1) of this title as an administrative expense, the court, after notice and a hearing, may authorize the obtaining of credit or the incurring of debt—

(1) with priority over any or all administrative expenses of the kind specified in section 503(b) of this title;

(2) secured by a lien on property of the estate that is not otherwise subject to a lien; or

(3) secured by a junior lien on property of the estate that is subject to a lien.

(d)(1) The court, after notice and a hearing, may authorize the obtaining of credit or the incurring of debt secured by a senior or equal lien on property of the estate that is subject to a lien only if—

(A) the trustee is unable to obtain such credit otherwise; and

(B) there is adequate protection of the interest of the holder of the lien on the property of the estate on which such senior or equal lien is proposed to be granted.

(2) In any hearing under this subsection, the trustee has the burden of proof on the issue of adequate protection.

(e) The reversal or modification on appeal of an authorization under this section to obtain credit or incur debt, or of a grant under this section of a priority or a lien, does not affect the validity of any debt so incurred, or any priority or lien so granted, to an entity that extended such credit in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and the incurring of such debt, or the granting of such priority or lien, were stayed pending appeal.

§ 365. Executory contracts and unexpired leases

(a) Except as provided in section 765 of this title and in subsections (b), (c), and (d) of this section, the trustee, subject to the court's approval, may assume or reject any executory contract or unexpired lease of the debtor.

(b)(1) If there has been a default in an executory contract or unexpired lease of the debtor, the trustee may not assume such contract or lease unless, at the time of assumption of such contract or lease, the trustee—

(A) cures, or provides adequate assurance that the trustee will promptly cure, such default;

(B) compensates, or provides adequate assurance that the trustee will promptly compensate, a party other than the debtor to such contract or lease, for any actual pecuniary loss to such party resulting from such default; and

(C) provides adequate assurance of future performance under such contract or lease.

(2) Paragraph (1) of this subsection does not apply to a default that is a breach of a provision relating to—

(A) the insolvency or financial condition of the debtor at any time before the closing of the case;

(B) the commencement of the case under this title; or

(C) the appointment of or taking possession by a trustee in a case under this title or a custodian before such commencement.

(c) The trustee may assume or assign an executory contract or unexpired lease of the debtor, whether or not such contract or lease prohibits or restricts assignment of rights or delegation of duties, unless—

(1) applicable law excuses a party, other than the debtor, to such contract or lease from accepting performance from or rendering performance to the trustee or an assignee of such contract or lease, whether or not such contract or lease prohibits or restricts assignment of rights or delegation of duties; and

(2) such party does not consent to such assumption or assignment.

(d)(1) In a case under chapter 7 of this title, if the trustee does not assume or reject an executory contract or unexpired lease of the debtor within 60 days after the order for relief, or within such additional time as the court, for cause, within such 60-day period, fixes, then such contract or lease is deemed rejected.

(2) In a case under chapter 9, 11, or 13 of this title, the trustee may assume or reject an executory contract or unexpired lease of the debtor at any time before the confirmation of a plan, but the court, on request of any party to such contract or lease, may order the trustee to determine within a specified period of time whether to assume or reject such contract or lease.

(e) Notwithstanding a provision in an executory contract or unexpired lease, or in applicable law, an executory contract or unexpired lease of the debtor, other than a contract or lease of the kind specified in subsection (c) of this section, may not be terminated or modified, and any right or obligation under such an executory contract or unexpired lease, other than a contract or lease of the kind specified in subsection (c) of this section, may not be terminated or modified, at any time after the commencement of the case solely because of a default of a kind specified in subsection (b)(2) of this section.

(f)(1) Except as provided in subsection (c) of this section, notwithstanding a provision in an executory contract or unexpired lease of the debtor, or in applicable law, that prohibits, restricts, or conditions the assignment of such contract or lease, the trustee may assign such contractor or lease under paragraph 2 of this subsection.

(2) The trustee may assign an executory contract or unexpired lease of the debtor only if—

(A) the trustee assumes such contract or lease in accordance with the provisions of this section; and

(B) adequate assurance of future performance by the assignee of such contract or lease is provided, whether or not there has been a default in such contract or lease.

(3) Notwithstanding a provision in an executory contract or unexpired lease of the debtor, or in applicable law, that terminates or modifies, or permits a party other than the debtor to terminate or modify, such contract or lease or a right or obligation under such contract or lease on account of an assignment of such contract or lease, such contract, lease, right, or obligation may not be terminated or modified under such provision because of the assumption or assignment of such contract or lease by the trustee.

(g) Except as provided in subsection (h)(2) and (i)(2) of this section, the rejection of an executory contract or unexpired lease of the debtor constitutes a breach of such contract or lease—

(1) if such contract or lease has not been assumed under this section or under a plan confirmed under chapter 9, 11, or 13 of this title, immediately before the date of the filing of the petition; or

(2) if such contract or lease has been assumed under this section or under a plan confirmed under chapter 9, 11, or 13 of this title—

(A) if before such rejection the case has not been converted under section 1112 or 1307 of this title, at the time of such rejection; or

(B) if before such rejection the case has been converted under section 1112 or 1307 of this title—

(i) immediately before the date of such conversion, if such contract or lease was assumed before such conversion; or

(ii) at the time of such rejection, if such contract or lease was assumed after such conversion.

(h)(1) If the trustee rejects an unexpired lease of real property of the debtor under which the debtor is the lessor, the lessee under such lease may treat the lease as terminated by such rejection, or, in the alternative, may remain in possession for the balance of the term of such lease.

(2) If such lessee remains in possession, such lessee may offset against the rent reserved under such lease for the balance of the term after the date of the rejection of such lease any damages occurring after such date caused by the nonperformance of any obligation of the debtor after such date, but such lessee does not have any rights against the estate on account of any damages arising after such date from such rejection, other than such offset.

(i)(1) If the trustee rejects an executory contract of the debtor for the sale of real property under which the purchaser is in possession, such purchaser may treat such contract as terminated, or, in the alternative, may remain in possession of such real property.

(2) If such purchaser remains in possession—

(A) such purchaser shall continue to make all payments due under such contract, but may offset against such payments any damages occurring after the date of the rejection of such contract caused by the nonperformance of any obligation of the debtor after such date, but such purchaser does not have any rights against the estate on account of any damages arising after such date from such rejection, other than such offset; and

(B) the trustee shall deliver title to such purchaser in accordance with the provisions of such contract, but is relieved of all other obligations to perform under such contract.

(j) A purchaser that treats an executory contract as terminated under subsection (i) of this section, or a party whose executory contract to purchase real property from the debtor is rejected and under which such party is not in possession, has a lien on the interest of the debtor in such property for the recovery of any portion of the purchase price that such purchaser or party has paid.

(k) Assignment by the trustee to an entity of a contract or lease assumed under this section relieves the trustee and the estate from any liability for any breach of such contract or lease occurring after such assignment.

§ 366. Utility service.

(a) Except as provided in subsection (b) of this section, a utility may not alter, refuse, or discontinue service to, or discriminate against, the trustee or the debtor solely on the basis that a debt owed by the debtor to such utility for service rendered before the order for relief was not paid when due.

(b) Such utility may alter, refuse, or discontinue service if neither the trustee nor the debtor provides such adequate assur-

ance of payment for service after the order for relief as the court, as soon as practicable after such date but before 30 days after the date of the order for relief, and after notice and a hearing, orders.

Chapter 5—CREDITORS, THE DEBTOR, AND THE ESTATE

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Subchapter I—Credits and Claims

§ 501. Filing of proofs of claims or interests

(a) A creditor or an indenture trustee may file a proof of claim. An equity security holder may file a proof of interest.

(b) If a creditor does not timely file a proof of such creditor's claim, an entity that is liable to such creditor with the debtor, or that has secured such creditor, may file a proof of such claim with the court.

(c) In a case under chapter 7 or 13 of this title, if a creditor does not timely file a proof of such creditor's claim, the debtor or the trustee may file a proof of such claim.

(d) A claim of a kind specified in section 502(f), 502(g), 502(h), 502(i), or 502(j) of this title may be filed under subsection (a), (b), or (c) of this section the same as if such claim were a claim against the debtor and had arisen before the date of the filing of the petition.

§ 502. Allowance of claims or interests

(a) A claim or interest, proof of which is filed under section 501 of this title, is deemed allowed, unless a party in interest objects.

(b) Except as provided in subsections (f), (g), (h), (i), and (j), of this section, if such objection to a claim is made, the court, after notice and a hearing, shall determine the amount of such claim as of the date of the filing of the petition, and shall allow such claim in such amount, except to the extent that—

(1) such claim is unenforceable against the debtor, and unenforceable against property of the debtor, under any applicable law for a reason other than because such claim is contingent or unmatured;

(2) such claim is for unmatured interest;

(3) such claim may be offset under section 553 of this title against a debt owing to the debtor;

(4) if such claim is for a tax assessed against property of the estate, such claim exceeds value of the interest of the estate in such property;

(5) if such claim is for services of an insider or attorney of the debtor, such claim exceeds the reasonable value of such services;

(6) the claim is for a debt that is unmatured on the date of the filing of the petition, and that is excepted from discharge under section 523(a)(5) of this title;

(7) if such claim is the claim of a lessor for damages resulting from the termination of a lease of real property, such claim exceeds—

(A) the rent reserved by such lease, without acceleration, for the greater of one year, or ten percent, not to exceed three years, of the remaining term of such lease, following the earlier of—

(i) the date of the filing of the petition; and

(ii) the date on which such lessor repossessed, or the lessee surrendered, the leased property; plus

(B) any unpaid rent due under such lease, without acceleration, on the earlier of such dates;

(8) if such claim is for damages resulting from the termination of an employment contract, such claim exceeds—

(A) the compensation provided by such contract, without acceleration, for one year following the earlier of—

(i) the date of the filing of the petition; and

(ii) the date on which the employer directed the employee to terminate, or such employee terminated, performance under such contract; plus

(B) the unpaid compensation due under such contract without acceleration, on the earlier of such dates; or

(9) such claim results from a reduction, due to late payment, in the amount of an otherwise applicable credit available to the debtor in connection with an employment tax on wages, salaries, or commissions earned from the debtor.

(c) Any contingent or unliquidated claim, liquidation of which would unduly delay the closing of the case, or any claim for which applicable law provides only an equitable remedy, shall be estimated for the purpose of allowance under this section.

(d) Notwithstanding subsections (a) and (b) of this section, the court shall disallow any claim of any entity from which property is recoverable under section 542, 543, or 550 of this title or that is a transferee of a transfer avoidable under section 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of this title, unless such transferee has paid the amount, or turned over any such property, for which such transferee is liable under section 542, 543, or 550 of this title.

(e) Notwithstanding subsections (a) and (b) of this section, the court shall disallow any claim for reimbursement or contribution of an entity that is liable with the debtor on, or has secured, the claim of a creditor, until such creditor's claim is paid in full. A claim for reimbursement or contribution of such an entity that becomes fixed after the commencement of the case shall be determined, and shall be allowed under subsection (a), (b), or (c) of this section, or disallowed under subsectionn (d) of this section, the same as if such claim had become fixed before the date of the filing of the petition, unless such entity requests subrogation under section 509 of this title to the rights of such creditor.

(f) In an involuntary case, a claim arising in the ordinary course of the debtor's business or financial affairs after the commencement of the case but before the earlier of the appointment of a trustee and the order for relief shall be determined as of the date such claim arises, and shall be allowed under subsection (a), (b), or (c) of this section, or disallowed under subsection (d) or (e) of this section, the same as if such claim had arisen before the date of the filing of the petition.

(g) A claim arising from the rejection, under section 365 of this title or under a plan under chapter 9, 11, or 13 of this title, of an executory contract or unexpired lease of the debtor that has not been assumed shall be determined, and shall be allowed under subsection (a), (b), or (c) of this section or disallowed under subsection (d) or (e) of this section, the same as if such claim had arisen before the date of the filing of the petition.

(h) A claim arising from the recovery of property under section 550 of this title as a result of the avoidance under section 547 of this title of a setoff shall be determined, and shall be allowed under subsection (a), (b), or (c) of this section, or disallowed under subsection (d) or (e) of this section, the same as if such claim had arisen before the date of the filing of the petition.

(i) A claim arising from the recapture, in connection with a transfer of property in a case under this title, of an investment credit under a law that imposes a tax on or measured by income shall be determined, and shall be allowed under subsection (a), (b), or (c) of this section, or disallowed under subsection (d) or (e) of this section, the same as if such claim had arisen before the date of the filing of the petition.

(j) A claim that does not arise until after the commencement of the case for a tax entitled to priority under section 507(6) of this title shall be determined, and shall be allowed under subsection (a), (b), or (c) of this section, or disallowed under subsection (d) or (e) of this section, the same as if such claim had arisen before the date of the filing of the petition.

§ 503. Allowance of administartive expenses

(a) An entity may file, with the court and with the United States trustee, a reqeust for payment of an administrative expense.

(b) After notice and a hearing, the court shall allow administrative expenses, other than claims allowed under section 502(f) of this title, including—

(1) the actual, necessary costs and expenses of preserving the estate, including wages, salaries, or commissions for services rendered after the order for relief, and any taxes on, measured by, or withheld from such wages, salaries, or commissions;

(2) compensation and reimbursement awarded under section 330 of this title;

(3) the actual, necessary expenses other than compensation and reimbursement specified in paragraph (4) of this subsection, incurred by—

(A) a creditor that files a petition under section 303 of this title;

(B) a creditor that recovers, after the court's approval, for the benefit of the estate any property transferred or concealed by the debtor;

(C) a creditor in connection with the prosecution of a criminal offense relating to the case, or to the business or property of the debtor;

(D) a creditor, an indenture trustee, and equity security holder, or a committee representing creditors or equity security holders other than a committee appointed under section 1102 of this title, in making a substantial contribution in a case under chapter 9 or 11 of this title; or

(E) a custodian superseded under section 543 of this title, and compensation for the services of such custodian;

(4) reasonable compensation for professional services rendered by an attorney or an accountant of an entity whose expense is allowable under paragraph (3) of this subsection, based on the time, the nature, the extent, and the value of such services, and

the cost of comparable services other than in a case under this title, and reimbursement for actual, necessary expenses incurred by attorney or accountant;

(5) reasonable compensation for services rendered by an indenture trustee in making a substantial contribution in a case under chapter 9 or 11 of this title, based on the time, the nature, the extent, and the value of such services, and the cost of comparable services other than in a case under this title; and

(6) the fees and mileage payable under chapter 119 of title 28.

§ 504. Sharing of compensation

(a) Except as provided in subsection (b) of this section, a person receiving compensation or reimbursement under section 503(b)(2) or 503(b)(4) of this title may not share or agree to share—

(1) any such compensation or reimbursement with another person; or

(2) any compensation or reimbursement received by another person under such sections.

(b)(1) A member, partner, or regular associate in a professional association, corporation, or partnership may share compensation or reimbursement received under section 503(b)(2) or 503((b)(4) of this title with another member, partner, or regular associate in such association, corporation, or partnership, and may share in any compensation or reimbursement received under such section by another member, partner, or regular associate in such association, corporation, or partnership.

(2) An attorney for a creditor that files a petition under section 303 of this title may share compensation and reimbursement received under section 503(b)(4) of this title with any other attorney contributing to the services rendered or expenses incurred by such creditor's attorney.

§ 505. Determination of tax liability

(a) The court may determine the amount or legality of any unpaid tax, whether or not previously assessed, that has not been contested before and adjudicated by a judicial or administrative tribunal of competent jurisdiction before the commencement of the case under this ttile.

(b) The trustee may prosecute an appeal or review of an adjudication by a judicial or administrative tribunal of competent jurisdiction of any tax, whether or not paid, if the time for appeal or review, as the case may be, of such adjudication has not expired before the date of the filing of the petition.

(c) A trustee that is in doubt concerning any unpaid liability of the estate for any tax incurred during the administration of the case may request the court to determine the amount of such liability If such determination is necessary to permit expeditious closing of the case, the court shall order the governmental unit charged with responsibility for collection or determination of such tax, whether or not such governmental unit or the government of which such governmental unit is a part is otherwise a party to the case, to appear and show cause why such tax, if any, computed by the trustee and revised to reflect any events occurring before the closing of the case under section 350 of this title, should not be approved. The final order of the court determining the liability of the estate with respect to such tax under this section binds the governmental unit imposing such tax, and payment of such tax discharges the trustee, the debtor, and any successor to the debtor from any liability for such tax.

§ 506. Determination of secured status.

(a) An allowed claim of a creditor secured by a lien on property in which the estate has an interest is a secured claim to the extent of the value of such creditor's interest in the estate's interest in such property, and is an unsecured claim to the extent that such value is less than the amount of such allowed claim.

(b) To the extent that an allowed secured claim is securied by proprety the value of which, after any recovery under subsection (c) of this section is greater than the amount of such claim, there shall be allowed to the holder of such claim, to the extent collectible under applicable law interest on such claim, and any reasonable fees, costs, or charges provided under the agreement under which such claim arose.

(c) The trustee may recover from property securing an allowed secured claim the reasonable, necessary costs and expenses of preserving, or disposing of, such property to the extent of any benefit to the holder of such claim.

(d) To the extent that a lien secures a claim against the debtor that is not an allowed secured claim, such lien is void, unless—

(1) a party in interest has not requested that the court determine and allow or disallow such claim under section 502 of this title; or

(2) such claim was disallowed only under section 502(e) of this title.

§ 507. Priorities

The following expenses and claims have priority in the following order:

(1) First administrative expenses allowed under section 503(b) of this title, and any fees and charges assessed against the estate under chapter 123 of title 28.

(2) Second, unsecured claims under section 502(f) of this title.

(3) Third, allowed unsecured claims for wages, salaries, or commissions, including vacation, severance, and sick leave pay—

(A) earned by an individual within 90 days before the date of the filing of the petition or the date of the cessation of the debtor's business, whichever occurs first; but only

(B) to the extent of $2,400 for each such individual.

(4) Fourth, allowed unsecured claims for contributions to employee benefit plans—

(A) arising from services rendered within one year before the date of the filing of the petition or the date of the cessation of the debtor's business, whichever occurs first; but only

(B) for each such plan, to the extent of—

(i) the number of employees covered by such plan multiplied by $2,400; less

(ii) the aggregate amount paid to such employees under paragraph (3) of this section, plus the aggregate amount paid by the estate on behalf of such employees to any other employee benefit plan.

(5) Fifth, allowed unsecured claims of individuals, to the extent of $2,400 for each such individual, arising from the deposit, before the commencement of the case, of money in connection with the purchase, lease, or rental of property, or the purchase of services, for the personal, family, or household use of such individuals, that were not delivered or provided.

(6) Sixth, allowed unsecured tax claims, other than claims for fines or penalties not in compensation for actual pecuniary loss, of governmental units, to the extent that such claims are for—

(A) taxes on or measured by income that is taxable before the date of the filing of the petition—

(i) for which a return is last due, under applicable law or under any extension, after three years before the date of the filing of the petition; or

(ii) collection or assessment of which was, pending the exhaustion of administrative or judicial remedies, prohibited before three years after the return for such tax was last due, under applicable law or under any extension, and remained so prohibited at any time during the 90 days immediately preceding the date of the filing of the petition;

(B) property taxes assessed before the date of the filing of the petition and last payable without penalty after one year before the date of the filing of the petition;

(C) taxes required to be withheld from wages, salaries, commissions, dividends, interest, or other payments that were paid by the debtor, or by a corporation or partnership that is an insider if the debtor is liable for such taxes, before the date of the filing of the petition, for which a return is last due, under applicable law or under any extension, after two years before the date of the filing of the petition;

(D) employment taxes on wages, salaries, or commissions earned from the debtor before the date of the filing of the petition, whether or not actually paid before such date, for which a return is last due, under applicable law or under any extension, after two years before the date of the filing of the petition;

(E) excise taxes on—

(i) a transaction occurring before the date of the filing of the petition for which a return, if required, is last due, under applicable law or under any extension, after one year before the date of the filing of the petition; or

(ii) if a return is not required, a transaction occurring during the one year immediately preceding the date of the filing of the petition;

(F) custom duties on a transaction occurring during the one year immediately preceding the date of the filing of the petition; or

(G) taxes not included under the preceding subparagraphs of this paragraph for which an extension of time for payment was granted, to the extent of any payments first due after one year before the date of the filing of the petition, if such taxes would have been included under one of such subparagraphs if a case under this title concerning the debtor had been commenced on the date such extension was granted.

§ 508. Effect of distribution in a foreign proceeding

If a creditor receives, in a foreign proceeding, payment of, or a transfer of property on account of, a claim that is allowed under this title, such creditor may not receive any payment under this title on account of such claim until each of the other holders of claims on account of which such holders are entitled to share equally with such creditor under this title has received payment under this title equal in value to the consideration received by such creditor in such foreign proceeding.

§ 509. Claims of codebtors

(a) Except as provided in subsections (b) and (c) of this section, an entity that is liable with the debtor on, or that has secured, a claim of a creditor, and that pays such creditor on such claim after the commencement of the case, is subrogated to the rights of such creditor to the extent of such payment.

(b) Such entity is not subrogated to the rights of such creditor to the extent that—

(1) a claim of such enity for reimbursement or contribution on account of a payment to such creditor by such entity after the commencement of the case is allowed under section 502 of this title; or

(2) as between the debtor and such entity, such entity received the consideration for the claim held by such creditor.

(c) An entity subrogated under subsection (a) of this section may receive payments under this title on such entity's claim by way of such subrogation only if the claim with respect to which such entity is subrogated is paid in full, either through payments under this title, or otherwise.

§ 510. Subordination of claims

(a) After notice and a hearing, the court shall—

(1) enforce any subordination agreement to the same extent that such agreement is enforceable under applicable nonbankruptcy law; and

(2) subordinate for purposes of distribution any claim for rescission of a purchase or sale of a security of the debtor or of an affiliate or for damages arising from the purchase or sale of such a security to all claims and interests that are senior or equal to the claim or interest represented by such security.

(b) Notwithstanding subsection (a) of this section, after notice and a hearing, the court may, on equitable grounds—

(1) subordinate for purposes of distribution all or any part of an allowed claim or interest to all or any part of another allowed claim or interest; or

(2) order that any lien securing such a subordinated claim be transferred to the estate.

Subchapter II—Debtor's Duties and Benefits

§ 521. Debtor's duties

The debtor shall—

(1) file with the court a list of creditors, and unless the court orders otherwise, a schedule of assets and liabilities, and a statement of the debtor's financial affairs;

(2) if a trustee is serving in the case, cooperate with the trustee as necessary to enable the trustee to perform the trustee's duties under this title; and

(3) if a trustee is serving in the case, surrender to the trustee all property of the estate and any recorded information, including books, documents, records, and papers, relating to property of the estate.

§522. Exemptions

(a) In this section—

(1) "dependent" includes spouse, whether or not actually dependent; and

(2) "value" means fair market value as of the date of the filing of the petition.

(b) Notwithstanding section 541 of this title, an individual debtor may exempt from property of the estate either—

(1) property that is specified under subsection (d) of this section; or, in the alternative,

(2) (A) any property that is exempt under Federal, State, or local law, other than subsection (d) of this section, that is applicable on the date of the filing of the petition at the place in which the debtor's domicile has been located for the 180 days immediately preceding the date of the filing of the petition, or for a longer portion of such 180-day period than in any other place; and

(B) any interest in property in which the debtor had, immediately before the commencement of the case, an interest as a tenant by the entirety or joint tenant to the extent that such interest as a tenant by the entirety or joint tenant would have been exempt from process under applicable nonbankruptcy law.

(c) Unless the case is dismissed, property exempted under this section is not liable during or after the case for any debt of the debtor that arose, or that is determined under section 502 of this title as if such claim had arisen, before the commencement of the case, except—

(1) a debt of a kind specified in section 523(a)(1) or 523(a)(5) of this title; or

(2) a lien that is—

(A) not avoided under section 544, 545, 547, 548, 549, or 724(a) of this title;

(B) not voided under section 506(d) of this title; or

(C)(i) a tax lien, notice of which is properly filed; and

(ii) avoided under section 545(2) of this title.

(d) The following property may be exempted under subsection (b)(1) of this section:

(1) The debtor's aggregate interest, not to exceed $10,000 in value, in real property or personal property that the debtor or a dependent of the debtor uses as a residence, in a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence, or in a burial plot for the debtor or a dependent of the debtor.

(2) The debtor's interest, not to exceed $1,500 in value, in one motor vehicle.

(3) The debtor's interest, not to exceed $300 in value in any particular item, in household furnishings, household goods, wearing apparel, appliances, books, animals, crops, or musical instruments, that are held primarily for the personal, family, or household use of the debtor or a dependent of the debtor.

(4) The debtors' aggregate interest, not to exceed $750 in value, in jewelry held primarily for the personal, family, or household use of the debtor or a dependent of the debtor.

(5) The debtor's aggregate interest, not to exceed in value $500 plus any unused amount of the exemption provided under paragraph (1) of this subsection, in any property.

(6) The debtor's aggregate interest, not to exceed $1,000 in value, in any implements, professional books, or tools, of the trade of the debtor or the trade of a dependent of the debtor.

(7) Any unmatured life insurance contract owned by the debtor, other than a credit life insurance contract.

(8) The debtor's aggregate interest, not to exceed in value $5,000 less any amount of property of the estate transferred in the manner specified in section 542(d) of this title, in any accrued dividend or interest under, or loan value of, any unmatured life insurance contract owned by the debtor under which the insured is the debtor or an individual of whom the debtor is a dependent.

(9) Professionally prescribed health aids for the debtor or a dependent of the debtor.

(10) The debtor's right to receive—

(A) a social security benefit unemployment compensation, or a local public assistance benefit;

(B) a veterans' benefit;

(C) a disability, illness, or unemployment benefit;

(D) alimony, support, or separate maintenance, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

(E) a payment under a stock bonus, pension, profitsharing, annuity, or similar plan or contract on account of illness, disability, death, age, or length of service, unless—

(i) such plan or contract was established by or under the auspices of an insider that employed the debtor at the time the debtor's rights under such plan or contract arose;

(ii) such payment is on account of age or length of service; and

(iii) such plan or contract does not qualify under section 401(a) 403(a), 403(b), 408, or 409 of the Internal Revenue Code of 1954 (26 U.S.C. 401(a), 403(a), 403(b), 408, or 409).

(11) The debtor's right to receive, or property that is traceable to—

(A) an award under a crime victims' reparation law;

(B) a payment on account of the wrongful death of an individual of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

(C) a payment under a life insurance contract that insured the life of an individual of whom the debtor was a dependent on the date of such individual's death, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

(D) a payment, not to exceed $10,000, on account of personal bodily injury, not including pain and suffering or compensation for actual pecuniary loss, of the debtor or an individual of whom the debtor is a dependent; or

(E) a payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

(e) A waiver of exemptions executed in favor of a creditor that holds an unsecured claim against the debtor is unenforceable in a case under this title with respect to such claim against property that the debtor may exempt under subsection (b) of this section. A waiver by the debtor of a power under subsection (f) or (h) of this section to avoid a transfer, under subsection (g) or (i) of this section to exempt property, or under subsection (i) of this section to recover property or to preserve a transfer, is unenforceable in a case under this title.

(f) The debtor may avoid the fixing of lien on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor, notwithstanding any waiver of exemptions, would have been entitled under subsection (b) of this section, if such lien is—

(1) a judicial lien; or

(2) a nonpurchase-money security interest in any—

(A) household furnishings, household goods, wearing apparel, appliances, books, animals, crops, musical instruments, or jewelry that are held primarily for the personal, family, or household use of the debtor or a dependent of the debtor;

(B) implements, professional books, or tools, of the trade of the debtor or the trade of a dependent of the debtor; or

(C) professionally prescribed health aids for the debtor or a dependent of the debtor.

(g) Notwithstanding section 550 of this title, the debtor may exempt under subsection (b) of this section property that the trustee recovers under section 510(b)(2), 542, 543, 550, or 551 of this title, to the extent that the debtor could have exempted such property under subsection (b) of this section if such property had not been transferred, if—

(1)(A) such transfer was not a volunary transfer of such property by the debtor; and

(B) the debtor did not conceal such property; or

(2) the debtor could have avoided such transfer under subsection (f)(2) of this section.

(h) The debtor may avoid a transfer of property of the debtor to the extent that the debtor could have exempted such property under subsection (g)(1) of this section if the trustee had avoided such transfer, if—

(1) such transfer is avoidable by the trustee under section 544, 545, 547, 548, 549, or 724(a) of this title; and

(2) the trustee does not attempt to avoid such transfer.

(i)(1) If the debtor avoids a transfer under subsection (f) or (h) of this section, the debtor may recover in the manner prescribed by, and subject to the limitations of, section 550 of this title, the same as if the trustee had avoided such transfer, and may exempt any property so recovered under subsection (b) of this section.

(2) Notwithstanding section 551 of this title, a transfer avoided under section 544, 545, 547, 548, 549, or 724(a) of this title, or under subsection (f) or (h) of this section, may be preserved for the benefit of the debtor to the extent that the debtor may exempt such property under subsection (g) of this section or paragraph (1) of this subsection.

(j) Notwithstanding subsections (g) and (i) of this section, the debtor may exempt a particular kind of property under subsections

(g) and (i) of this section only to the extent that the debtor has exempted less property in value of such kind than that to which the debtor is entitled under subsection (b) of this section.

(k) Property that the debtor exempts under this section is not liable for payment of any administrative expense except—

(1) the aliquot share of the costs and expenses of avoiding a transfer of property that the debtor exempts under subsection (g) of this section, or of recovery of such property, that is attributable to the value of the portion of such property exempted in relation to the value of the property recovered; and

(2) any costs and expenses of avoiding a transfer under subsection (f) or (h) of this section, or of recovery of property under subsection (i)(1) of this section, that the debtor has not paid.

(l) The debtor shall file a list of property that the debtor claims as exempt under subsection (b) of this section. If the debtor does not file such a list, a dependent of the debtor may file such a list, or may claim property as exempt from property of the estate on behalf of the debtor. Unless a party in interest objects, the property claimed as exempt on such list is exempt.

(m) The clerk shall give notice of any exemptions claimed by the debtor or by a department of the debtor under subsection (l) of this section.

(n) This section shall apply with respect to each debtor in a joint case.

§ 523. Exceptions to discharge

(a) A discharge under section 727, 1141, or 1328(b) of this title does not discharge an individual debtor from any debt—

(1) for a tax—

(A) of the kind and for the periods specified in section 507(6) of this title, whether or not a claim for such tax was allowed;

(B) with respect to which a return, if required—

(i) was not filed; or

(ii) was filed after the date on which such return was last due, under applicable law or under any extension, and after one year before the date of the filing of the petition; or

(C) with respect to which the debtor made a fraudulent return or willfully attempted in any manner to evade or defeat;

(2) for obtaining money, property, services, or an extension or renewal of credit, by—

(A) false pretenses, a false representation, or actual fraud, other than by use of a statement in writing respecting the debtor's financial condition; or

(B) use of a statement in writing—

(i) that is materially false;

(ii) respecting the debtor's financial condition;

(iii) on which the creditor to whom the debtor is liable for obtaining such money, property, services, or credit reasonably relied; and

(iv) that the debtor made or published with intent to deceive;

(3) neither listed nor scheduled under section 521 (1) of this title with the name, if known to the debtor, of the creditor to whom such debt is owed, in time to permit—

(A) if such debt is not of a kind specified in paragraph (2), (4), or (6) of this subsection, timely filing of a proof of claim, unless such creditor had notice or actual knowledge of the case in time for such timely filing; or

(B) if such debt is of a kind specified in paragraph (2), (4), or (6) of this subsection, timely filing of a proof of claim and timely request for a determination of dischargeability of such debt under one of such paragraphs, unless such creditor had notice or actual knowledge of the case in time for such timely filing and request;

(4) for embezzlement or larceny;

(5) to a spouse, former spouse, or child of the debtor, for alimony to, maintenance for, or support of such spouse or child;

(6) for willful and malicious injury by the debtor to another entity or to the property of another entity;

(7) to the extent such debt is for a fine, penalty, or forfeiture payable to and for the benefit of a governmental unit, and is not compensation for actual pecuniary loss; or

(8) that was or could have been listed or scheduled by the debtor in a prior case concerning the debtor under this title or under the Bankruptcy Act in which the debtor waived discharge, or was denied a discharge under section 727(a) (2), (3), (4), (5), (6), or (7) of this title, or under section 14c (1), (2), (3), (4), (6), or (7) of such Act.

(b) Notwithstanding subsection (a) of this section, a debt that was excepted from discharge under subsection (a)(3) of this section or under section 17a(3) of the Bankruptcy Act in a prior case concerning the debtor under this title or under such Act, is dischargeable in a case under this title.

(c) Except as provided in subsection (a)(3)(B) of this section, the debtor shall be discharged from a debt specified in paragraph (2), (4), or (6) of subsection (a) of this section, unless, on request of the creditor to whom such debt is owed, and after notice and a hearing, the court determines such debt to be excepted from discharge under paragraph (2), (4), or (6), as the case may be, of subsection (a) of this section.

(d) If a creditor requests a determination of dischargeability of a consumer debt under subsection (a)(2) of this section, and such debt is discharged, the court shall grant judgment against such creditor and in favor of the debtor for the costs of, and a reasonable attorney's fee for, the proceeding to determine dischargeability, and may grant judgment against such creditor and in favor of the debtor for any actual pecuniary damages to the debtor resulting from such proceeding.

§ 524. Effect of discharge

(a) A discharge in a case under this title—

(1) voids any judgment at any time obtained, to the extent that such judgment is a determination of the personal liability of the debtor with respect to any debt that arose, or that is determined under section 502 of this title as if such claim had arisen, before the commencement of the case and that is not excepted from discharge under section 523, 944, 1141, or 1328 of this title, as the case may be, whether or not discharge of such debt is waived;

(2) operates as an injunction against the commencement or continuation of an action the employment of process, or any act, to collect, recover or offset any such debt as a personal liability of the debtor, or from property of the debtor, whether or not discharge of such debt is waived; and

(3) if there is property of the kind specified in section 541(a)(2) of this title in the estate, operates as an injunction against the commencement or continuation of an action, the employment of process, or any act, to collect or recover from, or offset against, property of the debtor of the kind specified in section 541(a)(2) of this title that is acquired after the commencement of the case, on account of any allowable community claim, except a community claim that is excepted from discharge under section 523 of this title, or that would be so excepted in a case concerning the debtor's spouse commenced on the date of the filing of the petition in the case concerning the debtor, whether or not discharge of the debt based on such community claim is waived.

(b) After the commencement of a case under this title, a creditor may not enter into an agreement with the debtor the consideration for which in whole or in part is based on a debt of the debtor that is dischargeable in a case under this title, whether or not discharge of such debt is waived. Any such agreement is void.

(c) Notwithstanding subsection (b) of this section and sections 727, 1141, and 1328 of this title an agreement of the kind specified in subsection (b) of this section that is entered into a good faith and that is approved by the court is enforceable only if such agreement is—

(1) in settlement of litigation under section 523 of this title; or

(2) an agreement providing for redemption under section 722 of this title.

(d) Except as provided in subsection (a)(3) of this section, discharge of a debt of the debtor does not affect the liability of any other entity on, or the property of any other entity for, such debt.

§ 525. Protection against discriminatory treatment

A governmental unit may not deny, revoke, suspend, or refuse to renew a license, permit, charter, franchise, or other similar grant to, condition such a grant to, discriminate with respect to such a grant against, deny employment to, terminate the employment of, or discriminate with respect to employment against, a person that is or has been a debtor under this title or a bankrupt or a debtor under the Bankruptcy Act, or another person with whom such bankrupt or debtor has been associated, solely because such bankrupt or debtor is or has been a debtor under this title or a bankrupt or debtor under the Bankruptcy Act, has been insolvent before the commencement of the case under this title, or during the case but before the debtor is granted or denied a discharge, or has not paid a debt that is dischargeable in the case under this title or that was discharged under the Bankruptcy Act.

Subchapter III—The Estate

§ 541. Property of the estate

(a) The commencement of a case under section 301, 302, or 303 of this title creates an estate. Such estate is comprised of the following property, wherever located:

(1) Except as provided in subsections (b) and (c)(2) of this section, all legal or equitable interests of the debtor in property as of the commencement of the case.

(2) All interests of the debtor and the debtor's spouse in community property as of the commencement of the case that is—

(A) under the sole, equal, or joint management and control of the debtor; or

(B) liable for an allowable claim against the debtor, or for both an allowable claim against the debtor and an allowable claim against the debtor's spouse, to the extent that such interest is so liable.

(3) Any interest in property that the trustee recovers under section 543, 550, or 723 of this title.

(4) Any interest in property preserved for the benefit of or ordered transferred to the estate under section 510(b) or 551 of this title.

(5) An interest in property that would have been property of the estate if such interest had been an interest of the debtor on the date of the filing of the petition, and that the debtor acquires or becomes entitled to acquire within 180 days after such date—

(A) by bequest, devise, or inheritance;

(B) as a result of a property settlement agreement with the debtor's spouse, or of an interlocutory or final divorce decree; or

(C) as a beneficiary of a life insurance policy, or of a death benefit plan; and

(6) proceeds, product, offspring, rents, and profits of or from property of the estate, except such as are earnings from services performed by an individual debtor after the commencement of the case.

(b) Property of the estate does not include any power that the debtor may only exercise solely for the benefit of an entity other than the debtor.

(c)(1) Except as provided in paragraph (2) of this subsection, an interest of the debtor in property becomes property of the estate under subsection (a) (1), (2), or (5) of this section notwithstanding any provision—

(A) that restricts or conditions transfer of such interest by the debtor; or

(B) that is conditioned on the insolvency or financial condition of the debtor, on the commencement of a case under this title, or on the appointment of or the taking possession by a trustee in a case under this title or a custodian, and that effects or gives an option to effect a forfeiture, modification, or termination of the debtor's interest in property.

(2) A restriction on the transfer of a beneficial interest of the debtor in a trust that is enforceable under applicable nonbankruptcy law is enforceable in a case under this title.

(d) The estate shall have the benefit of any defense available to the debtor as against an entity other than the estate, including statutes of limitation, statutes of frauds, usury, and other personal defenses. A waiver of any such defense by the debtor after the commencement of the case does not bind the estate.

§ 542. Turnover of property to the estate

(a) Except as provided in subsection (c) or (d) of this section, an entity, other than a custodian, in possession, custody, or control, on the date of the filing of the petition, of property that the trustee may use, sell, or lease under section 363 of this title, shall deliver to the trustee, and account for, such property or the value of such property, unless such property is of inconsequential value to the estate.

(b) Except as provided in subsection (c) or (d) of this section, an entity that owes a debt that is property of the estate and that is matured, payable on demand, or payable on order, shall pay such debt to, or on the order of, the trustee, except to the extent that such debt may be offset under section 553 of this title against a claim against the debtor.

(c) Except as provided in section 362(a)(7) of this title, an entity that has neither actual notice nor actual knowledge of the commencement of the case concerning the debtor may transfer property of the estate, or pay a debt owing to the debtor, in good faith and other than in the manner specified in subsection (d) of this section, to an entity other than the trustee, with the same effect to the entity making such transfer or payment as if the case under this title concerning the debtor had not been commenced.

(d) A life insurance company may transfer property of the estate or property of the debtor to such company in good faith, with the same effect with respect to such company as if the case under this title concerning the debtor had not been commenced, if such transfer is to pay a premium or to carry out a nonforfeiture insurance option, and is required to be made automatically, under a life insurance contract with such company that was entered into before the date of the filing of the petition and that is property of the estate.

(e) Subject to any applicable privilege, after notice and a hearing, the court may order an attorney, accountant, or other person that holds recorded information, including books, documents, records, and papers, relating to the debtor's property or financial affairs, to disclose such recorded information to the trustee.

§ 543. Turnover of property by a custodian

(a) A custodian with knowledge of the commencement of a case under this title concerning the debtor may not make any disbursement from, or take any action in the administration of, property of the debtor, proceeds of such property, or property of the estate, in the possession, custody, or control of such custodian.

(b) A custodian shall—

(1) deliver to the trustee any property of the debtor transferred to such custodian, or proceeds of such property, that is, in such custodian's possession, custody, or control on the date that such custodian acquires knowledge of the commencement of the case; and

(2) file an accounting of any property of the debtor, or proceeds of such property, that, at any time, came into the possession, custody, or control of such custodian.

(c) The court, after notice and a hearing, shall—

(1) protect all entities to which a custodian has become obligated with respect to such property;

(2) provide for the payment of reasonable compensation for services rendered and costs and expenses incurred by such custodian; and

(3) surcharge such custodian for any improper or excessive disbursement, other than a disbursement that has been approved, after notice and a hearing, by a court of competent jurisdiction before the commencement of the case under this title.

(d) Notwithstanding any other provision of this section, the bankruptcy court may, after notice and a hearing, excuse compliance with subsection (a), (b), or (c) of this section, if the interests of creditors, and, if the debtor is not insolvent, of equity security holders, would be better served by permitting a custodian to continue in possession, custody, or control of such property.

§ 544. Trustee as lien creditor and as successor to certain creditors and purchasers

(a) The trustee shall have, as of the commencement of the case, and without regard to any knowledge of the trustee or of any creditors, the rights and powers of, and may avoid any transfer of property of the debtor or any obligation incurred by the debtor that is voidable by—

(1) a creditor that extends credit to the debtor at the time of the commencement of the case, and that obtains, at such time and with respect to such credit, a judicial lien on all property on which a creditor on a simple contract could have obtained a judicial lien, whether or not such a creditor exists;

(2) a creditor that extends credit to the debtor at the time of the commencement of the case, and obtains, at such time and with respect to such credit, an execution against the debtor that is returned unsatisfied at such time, whether or not such a creditor exists; and

(3) a bona fide purchaser of all of the real property of the debtor, that obtains the status of a bona fide purchaser at the time of the commencement of the case, whether or not such a purchaser exists.

(b) The trustee may avoid any transfer of an interest of the debtor in property or any obligation incurred by the debtor that is voidable under applicable law by a creditor holding an unsecured claim that is allowable under section 502 of this title or that is not allowable only under section 502(e) of this title.

(c)(1) The trustee may enforce any cause of action that a creditor, a class of creditors, an equity security holder, or a class of equity security holders has against any person, if—

(A) the trustee could not recover against such person on such cause of action other than under this subsection;

(B) recovery by the trustee for the benefit of such creditor or equity security holder or the members of such class will reduce the claim or interest of such creditor or equity security holder or of such members, as the case may be, against or in the estate;

(C) there is a reasonable likelihood that recovery against such person will not create an allowable claim in favor of such person against the estate; and

(D) enforcement of such cause of action is in the best interest of the estate.

(2) If the trustee brings an action on such cause of action—

(A) the court, after notice and a hearing, may stay the commencement or continuation of any other action on such cause of action; and

(B) the clerk shall give notice to all creditors or equity security holders that could have brought an action on such cause of action if the trustee had not done so.

(3) A judgment in any such action brought by the trustee binds all creditors or equity security holders that could have brought an action on such cause of action. Any recovery by the trustee, less any expense incurred by the trustee in effecting such recovery, shall be for the benefit only of such creditors or equity security holders.

§ 545. Statutory liens

The trustee may avoid the fixing of a statutory lien on property of the debtor that—

(1) first becomes effective against the debtor—

(A) when a case under this title concerning the debtor is commenced;

(B) when an insolvency proceeding other than under this title concerning the debtor is initiated;

(C) when a custodian is appointed or takes possession;

(D) when the debtor becomes insolvent;

(E) when the debtor's financial condition fails to meet a specified standard; or

(F) at the time of an execution against property of the debtor levied at the instance of an entity other than the holder of such statutory lien;

(2) is not perfected or enforceable on the date of the filing of the petition against a bona fide purchaser that purchases such property on the date of the filing of the petition, whether or not such a purchase exists;

(3) is for rent; or

(4) is a lien of distress for rent.

§ 546. Limitations on avoiding powers

(a) The rights and powers of the trustee under section 544 or 545 of this title are subject to any generally applicable law that permits perfection of an interest in property to be effective against an entity that acquires rights in such property before the date of such perfection. If such law requires seizure of such property or commencement of an action to accomplish such perfection, and such property has not been seized or such action has not been commenced before the date of the filing of the petition, such interest in such property shall be perfected by notice within the time fixed by such law for such seizure or commencement.

(b) The rights and powers of the trustee under sections 544, 545, 547, and 549 of this title are subject to any statutory right or common-law right of a seller, in the ordinary course of such seller's business, of goods to the debtor to reclaim such goods if the debtor has received such goods on credit while insolvent, but—

(1) such a seller may not reclaim any such goods unless such seller demands reclamation of such goods ten days after receipt of such goods by the debtor; and

(2) the court may grant the claim of a seller with such a right of reclamation that has made such a demand priority as an administrative expense and deny reclamation.

§ 547. Preferences

(a) In this section—

(1) "inventory" means personal property leased or furnished, held for sale or lease,

or to be furnished under a contract for service, raw materials, work in process, or materials used or consumed in a business, including farm products such as crops or livestock, held for sale or lease;

(2) "new value" means money or money's worth in goods, services, or new credit, or release by a transferee of property previously transferred to such transferee in a transaction that is neither void nor voidable by the debtor or the trustee under any applicable law, but does not include an obligation substituted for an existing obligation; and

(3) "receivable" means right to payment, whether or not such right has been earned by performance.

(b) Except as provided in subsection (c) in this section, the trustee may avoid any transfer of property of the debtor—

(1) to or for the benefit of a creditor;

(2) for or on account of an antecedent debt owed by the debtor before such transfer was made;

(3) made while the debtor was insolvent;

(4) made—

(A) on or within 90 days before the date of the filing of the petiton; or

(B) between 90 days and one year before the date of the filing of the petition, if such creditor, at the time of such transfer—

(i) was an insider; and

(ii) had reasonable cause to believe the debtor was insolvent at the time of such transfer; and

(5) that enables such creditor to receive more than such creditor would receive if—

(A) the case were a case under chapter 7 of this title;

(B) the transfer had not been made; and

(C) such creditor received payment of such debt to the extent provided by the provisions of this title.

(c) The trustee may not avoid under this section a transfer—

(1) to the extent that such transfer was—

(A) intended by the debtor and the creditor to or for whose benefit such transfer was made to be a contemporaneous exchange for new value given to the debtor; and

(B) in fact a substantially contemporaneous exchange;

(2) to the extent that such transfer was—

(A) in payment of a debt incurred in the ordinary course of business or financial affairs of the debtor and the transferee;

(B) made not later than 45 days after such debt was incurred;

(C) made in the ordinary course of business or financial affairs of the debtor and the transferee; and

(D) made according to ordinary business terms;

(3) of a security interest in property acquired by the debtor—

(A) to the extent such security interest secures new value that was—

(i) given at or after the signing of a security agreement that contains a description of such property as collateral;

(ii) given by or on behalf of the secured party under such agreement;

(iii) given to enable the debtor to acquire such property; and

(iv) in fact used by the debtor to acquire such property; and

(B) that is perfected before 10 days after such security interest attaches;

(4) to or for the benefit of a creditor, to the extent that, after such transfer, such creditor gave new value to or for the benefit of the debtor—

(A) not secured by an otherwise unavoidable security interest; and

(B) on account of which new value the debtor did not make an otherwise unavoidable transfer to or for the benefit of such creditor;

(5) of a perfected security interest in inventory or a receivable or the proceeds of either, except to the extent that the aggregate of all such transfers to the transferee caused a reduction, as of the date of the filing of the petition and to the prejudice of other creditors holding unsecured claims, of any amount by which the debt secured by such security interest exceeded the value of all security interests for such debt on the later of—

(A)(i) with respect to a transfer to which subsection (b)(4)(B) of this section applies, 90 days before the date of the filing of the petition; or

(ii) with respect to a transfer to which subsection (b)(4)(B) of this section applies, one year before the date of the filing of the petition; and

(B) the date on which new value was first given under the security agreement creating such security interest;

(6) to the extent that—

(A) such transfer was a setoff of a debt owing to the debtor against a claim against the debtor;

(B) any right to offset such debt against such claim would not have been affected by section 553 of this title if such setoff occurred after the commencement of the case; and

(C)(i) such transfer was made before five days before the date of the filing of the petition; or

(ii) the trustee may not use, sell or lease, under section 363 of this title, any property recovered as a result of the avoidance of such transfer; or

(7) that is—

(A) the fixing of a statutory lien that is not avoidable under section 545 of this title;

(B) in satisfaction of such a lien; or

(C) the fixing of a lien under section 365(j) of this title.

(d) A trustee may avoid a transfer of property of the debtor transferred to secure reimbursement of a surety that furnished a bond or other obligation to dissolve a judicial lien that would have been avoidable by the trustee under subsection (b) of this section. The liability of such surety under such bond or obligation shall be discharged to the extent of the value of such property recovered by the trustee or the amount paid to the trustee.

(e)(1) For the purposes of this section—

(A) a transfer of real property other than fixtures, but including the interest of a seller or purchaser under a contract for the sale of real property, is perfected when a bona fide purchaser of such property from the debtor against whom applicable law permits such transfer to be perfected cannot acquire an interest that is superior to the interest of the transferee; and

(B) a transfer of a fixture or property other than real property is perfected when a creditor on a simple contract cannot acquire a judicial lien that is superior to the interest of the transferee.

(2) For the purposes of this section, except as provided in paragraph (3) of this subsection, a transfer is made—

(A) at the time such transfer takes effect between the transferor and the transferee, if such transfer is perfected at or within 10 days after such time;

(B) at the time such transfer is perfected, if such transfer is perfected after such 10 days; or

(C) immediately before the date of the filing of the petition, if such transfer is not perfected at the later of—

(i) the commencement of the case; and

(ii) 10 days after such transfer takes effect between the transferor and the transferee.

(3) For the purposes of this section, a transfer is not made until the debtor has acquired rights in the property transferred.

(f) For the purposes of this section, the debtor is presumed to have been insolvent on and during the 90 days immediately preceding the date of the filing of the petition.

§ 548. Fraudulent transfers and obligations

(a) The trustee may avoid any transfer of an interest of the debtor in property, or any obligation incurred by the debtor, that was made or incurred on or within one year before the date of the filing of the petition, if the debtor—

(1) made such transfer or incurred such obligation with actual intent to hinder, delay, or defraud any entity to which the debtor was or became, on or after the date that such transfer occurred or such obligation was incurred, indebted; or

(2)(A) received less than a reasonably equivalent value in exchange for such transfer or obligation; and

(B)(i) was insolvent on the date that such transfer was made or such obligation was incurred, or became insolvent as a result of such transfer or obligation;

(ii) was engaged in business, or was about to engage in business or a transaction, for which any property remaining with the debtor was an unreasonably small capital; or

(iii) intended to incur, or believed that the debtor would incur, debts that would be beyond the debtor's ability to pay as such debts matured.

(b) The trustee of a partnership debtor may avoid any transfer of an interest of the debtor in property, or any obligation incurred by the debtor, that was made or incurred on or within one year before the date of the filing of the petition, to a general partner in the debtor, if the debtor was insolvent on the date such transfer was made or such obligation was incurred, or became insolvent as a result of such transfer or obligation.

(c) Except to the extent that a transfer or obligation voidable under this section is voidable under section 544, 545, or 547 of this title, a transferee or obligee of such a transfer or obligation that takes for value and in good faith has a lien on any interest transferred, may retain any lien transferred, or may enforce any obligation incurred, as the case may be, to the extent that such transferee or obligee gave value to the debtor in exchange for such transfer or obligation.

(d)(1) For the purposes of this section, a transfer is made when such transfer becomes so far perfected that a bona fide purchaser from the debtor against whom such transfer could have been perfected cannot acquire an interest in the property transferred that is superior to the interest in such property of the transferee, but if such transfer is not so perfected before the commencement of the case, such transfer occurs immediately before the date of the filing of the petition.

(2) In this section "value" means property, or satisfaction or securing of a present or antecedent debt of the debtor, but does not include an unperformed promise to furnish support to the debtor or to a relative of the debtor.

§ 549. Postpetition transactions

(a) Except as provided in section 342(b) of this title and in subsection (b) of this section, the trustee may avoid a transfer of property of the estate—

(1) that occurs after the commencement of the case; and

(2)(A) that is authorized under section 303(f) or 542(c) of this title; or

(B) that is not authorized under this title or by the court.

(b) In an involuntary case, a transfer that occurs after the commencement of such case but before the order for relief is valid against the trustee to the extent of any value, including services, but not including satisfaction or securing of a debt that arose before the commencement of the case, given after the commencement of the case in exchange for such transfer, notwithstanding any notice or knowledge of the case that the transfereo has.

§ 550. Liability of transferee of avoided transfer

(a) Except as otherwise provided in this section, to the extent that a transfer is avoided under section 544, 545, 547, 548, 549, or 724(a) of this title, the trustee may recover, for the benefit of the estate, the property transferred, or, if the court so orders, the value of such property, from—

(1) the initial transferee of such transfer; or

(2) any immediate or mediate transferee of such initial transferee.

(b) The trustee may not recover under subsection (a)(2) of this section from—

(1) a transferee that takes for value, in good faith, and without knowledge of the voidability of the transfer avoided; or

(2) any immediate or mediate good faith transferee of such transferee.

(c) The trustee is entitled to only a single satisfaction under subsection (a) of this section.

(d)(1) A good faith transferee from whom the trustee may recover under subsection (a) of this section is entitled to a lien on the property recovered to secure the lesser of—

(A) the cost, to such transferee, of any improvement made after the transfer, less the amount of any profit realized by such transferee from such property; and

(B) any increase in value, as a result of such improvement, of the property transferred.

(2) In this subsection, "improvement" includes—

(A) physical additions or changes to the property transferred;

(B) repairs to such property;

(C) payment of any tax on such property;

(D) payment of any debt secured by a lien on such property;

(E) discharge of any lien against such property that is superior or equal to the rights of the trustee; and

(F) preservation of such property.

§ 551. Automatic preservation of avoided transfer

Any transfer avoided under section 522, 544, 545, 547, 548, 549, or 724(a) of this title, or any lien void under section 506(d) of this title, is preserved for the benefit of the estate.

§ 552. Postpetition effect of security interest

(a) Except as provided in subsection (b) of this section, property acquired by the estate or by the debtor after the commencement of the case is not subject to any lien resulting from any security agreement entered into by the debtor before the commencement of the case.

(b) Except as provided in sections 544, 545, 547, and 548 of this title, if the debtor and a secured party enter into a security agreement before the commencement of the case, if the security interest created by such security agreement extends to proceeds, product, offspring, rents, or profits of property that the debtor acquired before the commencement of the case, and if such property is subject to a security interest of the same secured party, then any such proceeds, product, offspring, rents, or profits, acquired by the estate after the commencement of the case are subject to the security interest created by such security agreement, except to the extent that the estate acquired such proceeds, product, offspring, rents, or profits to the prejudice of other creditors holding unsecured claims.

§ 553. Setoff

(a) Except as provided in section 362 and 363 of this title, this title does not affect any right of a creditor to offset, after the commencement of the case, a debt owing by such creditor to the debtor that arose before the commencement of the case under this title against the claim of such creditor against the debtor that arose before the commencement of the case, except to the extent that—

(1) the claim of such creditor against the debtor is disallowed other than under section 502(b)(3) of this title;

(2) such claim was transferred, by an entity other than the debtor, to such creditor—

(A) after the commencement of the case; or

(B)(i) after 90 days before the date of the filing of the petition; and

(ii) while the debtor was insolvent;

(3) the debt owed to the debtor by such creditor was incurred by such creditor—

(A) after 90 days before the date of the filing of the petition;

(B) while the debtor was insolvent; and

(C) for the purpose of obtaining a right of setoff against the debtor; or

(4) the amount that may be offset under this section on the date of the filing of the petition exceeds the amount that may have been offset if the case had been commenced on the later of—

(A) 90 days before the date of the filing of the petition; and

(B) the first date on which both such debt and such claim were owing.

(b) For the purposes of this section, the debtor is presumed to have been insolvent on and during the 90 days immediately preceding the date of the filing of the petition.

§ 554. Abandonment of property of the estate

(a) The court may authorize the trustee to abandon any property of the estate that is burdensome to the estate or that is of inconsequential value to the estate.

(b) Unless the court orders otherwise, the court is deemed to have approved the abandonment of any property that is scheduled under section 521(1) of this title and that is not administered before a case is closed under section 350 of this title, and such property is deemed abandoned to the debtor.

(c) Unless the court orders otherwise, property of the estate that is not abandoned under subsection (a) or (b) of this section and that is not administered in the case remains property of the estate.

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Subchapter I—Officers and Administration

§ 701. Interim trustee

(a) Promptly after the order for relief under this chapter, the United States trustee shall appoint one disinterested person that is a member of the panel of private trustees established under section 586(a)(1) of title 28 or that was serving as trustee in the case immediately before the order for relief under this chapter to serve as interim trustee in the case.

(b) If none of such persons is willing to serve as interim trustee in the case, then the United States trustee shall serve as interim trustee in the case.

(c) The appointment of an interim trustee under this section expires when a trustee elected or designated under section 702 of this title to serve as trustee in the case qualifies under section 322 of this title.

(d) An interim trustee appointed under this section is a trustee in a case under this title.

§ 702. Election of trustee

(a) A creditor may vote for a candidate for trustee only if such creditor—

(1) holds an allowable, undisputed, fixed, liquidated, unsecured claim of a kind entitled to distribution under section 726(a)(2), 726(a)(3), or 726(a)(4) of this title;

(2) does not have an interest materially adverse to the interest of creditors entitled to such distribution; and

(3) is not an insider.

(b) At the meeting of creditors under section 341 of this title, creditors may elect one person to serve as trustee in the case if election of a trustee is requested by creditors that may vote under subsection (a) of this section, and that hold at least 20 percent in amount of the claims specified in subsection (a)(1) of this section that are held by creditors that may vote under subsection (a) of this section.

(c) A candidate for trustee is elected trustee if—

(1) creditors holding at least 20 percent in amount of the claims specified in subsection (a)(1) of this section that are held by creditors that may vote under subsection (a) of this section vote; and

(2) such candidate receives the votes of creditors holding a majority in amount of claims specified in subsection (a)(1) of this section that are held by creditors that vote for trustee.

(d) If a trustee is not elected under subsection (c) of this section, then the interim trustee shall serve as trustee in the case.

§ 703. Successor trustee

(a) If a trustee dies or resigns during a case, fails to qualify under section 322 of this title, or is removed under section 324 of this title, creditors may elect, in the manner specified in section 702 of this title, a person to fill the vacancy in the office of trustee.

(b) Pending election of a trustee under subsection (a) of this section, if necessary to preserve or prevent loss to the estate, the United States trustee may appoint an interim trustee in the manner specified in section 701(a) of this title. Sections 701(c) and 701(d) of this title apply to such interim trustee.

(c) If creditors do not elect a successor trustee under subsection (a) of this section, or if a trustee is needed in a case reopened under section 350 of this title, then the United States trustee shall serve, or shall appoint one disinterested person that is a member of the panel of private trustees es-

tablished under section 586(a)(1) of title 28 to serve, as trustee in the case.

§ 704. Duties of trustee

The trustee shall—

(1) collect and reduce to money the property of the estate for which such trustee serves, and close up such estate as expeditiously as is compatible with the best interests of parties in interest;

(2) be accountable for all property received;

(3) investigate the financial affairs of the debtor;

(4) if a purpose would be served, examine proofs of claims and object to the allowance of any claim that is improper;

(5) if advisable, oppose the discharge of the debtor;

(6) unless the court orders otherwise, furnish such information concerning the estate and the estate's administration as is requested by a party in interest;

(7) if the business of the debtor is authorized to be operated, file with the court and with any governmental unit charged with responsibility for collection or determination of any tax arising out of such operation, periodic reports and summaries of the operation of such business, including a statement of receipts and disbursements, and such other information as the court requires; and

(8) make a final report and file a final account of the administration of the estate with the court and with the United States trustee.

§ 705. Creditors' committee

(a) At the meeting under section 341(a) of this title, creditors that may vote for a trustee under section 702(a) of this title may elect a committee of not fewer than three creditors each of whom holds an allowable unsecured claim of the kind specified in section 726(a)(2) of this title.

(b) A committee elected under subsection (a) of this section may consult with the trustee in connection with the administration of the estate, make recommendations to the trustee respecting the performance of the trustee's duties, and submit to the court any question affecting the administration of the estate.

§ 706. Conversion

(a) The debtor may convert a case under this chapter to a case under chapter 11 or 13 of this title at any time, if the case has not been converted under section 1112 or 1307 of this title.

(b) On request of a party in interest and after notice and a hearing, the court may convert a case under this chapter to a case under chapter 11 of this title at any time.

(c) The court may not convert a case under this chapter to a case under chapter 13 of this title unless the debtor requests such conversion.

(d) Notwithstanding any other provision of this section, a case may not be converted to a case under another chapter of this title unless the debtor may be a debtor under such chapter.

§ 707. Dismissal

The court may dismiss a case under this chapter only for cause, including—

(1) unreasonable delay by the debtor that is prejudicial to creditors; and

(2) nonpayment of any fees and charges required under chapter 123 of title 28.

Subchapter II—Collection, Liquidation, and Distribution of the Estate

§ 721. Authorization to operate business

The court may authorize the trustee to operate the business of the debtor for a limited period, if such operation is in the best interest of the estate and consistent with the orderly liquidation of the estate.

§ 722. Redemption

An individual debtor may, whether or not the debtor has waived the right to redeem under this section, redeem tangible personal property intended primarily for personal, family, or household use, from a lien securing a dischargeable consumer debt, if such property is exempted under section 522 of this title or has been abandoned under section 554 of this title by the trustee, by paying the holder of such lien the amount of the allowed secured claim of such holder that is secured by such lien.

§ 723. Rights of partnership trustee against general partners

(a) If there is a deficiency of property of the estate to pay in full all claims allowed in a case under this title concerning a partnership, then each general partner in such partnership is liable to the trustee for the full amount of such deficiency.

(b) To the extent practicable, the trustee shall first seek recovery of such deficiency from any general partner in such partnership that is not a debtor in a case under this title. Pending determination of such deficiency, the court may order any such partner to provide the estate with indemnity for, or assurance of payment of, any deficiency recoverable from such partner, or not to dispose of property.

(c) Notwithstanding section 728(c) of this title, the trustee has a claim against the estate of each general partner in such partnership that is a debtor in a case under this title for the full amount of all claims allowed in the case concerning such partnership. Notwithstanding section 502 of this title, there shall not be allowed in such case a claim against such partner on which both such partner and such partnership are liable. The claim of the trustee under this subsection is entitled to distribution in such case under section 726(a) of this title the same as any other claim of the kind specified in such section.

(d) If the aggregate that the trustee recovers from the estates of general partners under subsection (c) of this section is greater than any deficiency not recovered under subsection (b) of this section, the court, after notice and a hearing, shall determine an equitable distribution of the surplus so recovered, and the trustee shall distribute such surplus to the estates of the general partners in such partnership according to such determination.

§ 724. Treatment of certain liens

(a) The trustee may avoid a lien that secures a claim of the kind specified in section 726(a)(4) of this title.

(b) Property in which the estate has an interest and that is subject to a lien that is not avoidable under this title and that secures an allowed claim for taxes, or proceeds of such property, shall be distributed—

(1) first, to any holder of an allowed claim secured by a lien on such property that is not avoidable under this title and that is senior to such tax lien;

(2) second, to claims specified in sections 507(1), 507(2), 507(3), 507(4), and 507(5) of this title, to the extent of the amount of such allowed tax claim that is secured by such tax lien;

(3) third, to the holder of such tax lien, to any extent that such holder's allowed claim that is secured by such tax lien exceeds any amount distributed under paragraph (2) of this subsection;

(4) fourth, to any holder of an allowed claim secured by a lien on such property that is not avoidable under this title and that is junior to such tax lien;

(5) fifth, to the holder of such tax lien, to the extent that such holder's allowed claim secured by such tax lien is not paid under paragraph (3) of this subsection; and

(6) sixth, to the estate.

(c) If more than one creditor is entitled to distribution under a particular paragraph of subsection (b) of this section, distribution to such creditors under such paragraph shall be in the same order as distribution to such creditors would have been other than under this section.

(d) A statutory lien whose priority is determined in the same manner as under section 6323 of the Internal Revenue Code of 1954 (26 U.S.C. 6323) shall be treated under subsection (b) of this section the same as a tax lien.

§ 725. Disposition of certain property

After the commencement of a case under this chapter, but before final distribution under section 726 of this title, the court, after notice and a hearing, shall determine the appropriate disposition of any property in which an entity other than the estate has an interest, such as a lien, and that has not been disposed of under another section of this title. The trustee shall dispose of such property in accordance with such determination.

§ 726. Distribution of property of the estate

(a) Except as provided in section 510 of this title, property of the estate shall be distributed—

(1) first, in payment of claims of the kind specified in, and in the order specified in, section 507 of this title;

(2) second, in payment of any allowed unsecured claim, other than a claim of a kind specified in paragraph (1), (3), or (4) of this subsection, proof of which is—

(A) timely filed under section 501(a) of this title;

(B) filed under section 501(b) or 501(c) of this title; or

(C) tardily filed under section 501(a) of this title, if—

(i) The creditor that holds such claim did not have notice or actual knowledge of the case in time for timely filing of a proof of such claim under section 501(a) of this title; and

(ii) proof of such claim is filed in time to permit payments of such claim;

(3) third, in payment of any allowed unsecured claim proof of which is tardily filed under section 501(a) of this title, other than a claim of the kind specified in paragraph (2)(C) of this subsection;

(4) fourth, in payment of any allowed claim, whether secured or unsecured, for any fine, penalty, or forfeiture, or for multiple, exemplary, or punitive damages, to the extent that such fine, penalty, forfeiture, or damages are not compensation for actual pecuniary loss suffered by the holder of such claim;

(5) fifth, in payment of interest at the legal rate from the date of the filing of the petition, on any claim paid under paragraph (1), (2), (3), or (4) of this subsection; and

(6) sixth, to the debtor.

(b) Payment on claims of the kind specified in paragraph (1), (2), (3), (4), (5), or (6) of section 507 of this title, or in paragraph (2), (3), (4), or (5) of subsection (a) of this section, shall be made pro rata among claims of the kind specified in a particular paragraph, except that in a case that has been converted to this chapter under section 1112 or 1307 of this title, administrative expenses incurred under this chapter after such conversion have priority over administrative expenses incurred under any other chapter of this title or under this chapter before such conversion and over any expenses of a custodian superseded under section 543 of this title.

(c) Notwithstanding subsections (a) and (b) of this section, if there is property of the kind specified in section 541(a)(2) of this

title, or proceeds of such property, in the estate, such property or proceeds shall be segregated from other property of the estate, and such property or proceeds and other property of the estate shall be distributed as follows:

(1) Administrative expenses shall be paid either from property of the kind specified in section 541(a)(2) of this title, or from other property of the estate, as the interest of justice requires.

(2) Claims other than for administrative expenses shall be paid in the order specified in subsection (a) of this section, and, with respect to claims of a kind specified in a particular paragraph of section 507 of this title or subsection (a) of this section, in the following order and manner:

(A) First, community claims against the debtor or the debtor's spouse shall be paid from property of the kind specified in section 541(a)(2) of this title, except to the extent that such property is solely liable for debts of the debtor.

(B) Second, to the extent that community claims against the debtor are not paid under subparagraph (A) of this paragraph, such community claims shall be paid from property of the kind specified in section 541(a)(2) of this title that is solely liable for debts of the debtor.

(C) Third, to the extent that all claims against the debtor, including community claims against the debtor, are not paid under subparagraph (A) or (B) of this paragraph, such claims shall be paid from property of the estate other than property of the kind specified in section 541(a)(2) of this title.

(D) Fourth, to the extent that community claims against the debtor or the debtor's spouse are not paid under subparagraph (A), (B), or (C) of this paragraph, such claims shall be paid from all remaining property of the estate.

§ 727. Discharge.

(a) The court shall grant the debtor a discharge unless—

(1) the debtor is not an individual;

(2) the debtor, with intent to hinder, delay, or defraud a creditor or an officer of the estate charged with custody of property under this title, has transferred, removed, destroyed, mutilated, or concealed, or has permitted to be transferred, removed, destroyed, mutilated, or concealed—

(A) property of the debtor, within one year before the date of the filing of the petition; or

(B) property of the estate, after the date of the filing of the petition;

(3) the debtor has concealed, destroyed, mutilated, falsified, or failed to keep or preserve any recorded information, including books, documents, records, and papers, from which the debtor's financial condition or business transactions might be ascertained, unless such act or failure to act was justified under all of the circumstances of the case;

(4) the debtor knowingly and fraudulently, in or in connection with the case—

(A) made a false oath or account;

(B) presented or used a false claim;

(C) gave, offered, received, or attempted to obtain money, property, or advantage, or a promise of money, property, or advantage, for acting or forbearing to act; or

(D) withheld from an officer of the estate entitled to possession under this title, any recorded information, including books, documents, records, and papers, relating to the debtor's property or financial affairs;

(5) the debtor has failed to explain satisfactorily, before determination of denial of discharge under this paragraph any loss of assets or deficiency or assets to meet the debtor's liabilities.

(6) the debtor has refused, in the case—

(A) to obey any lawful order of the court, other than an order to respond to a material question or to testify;

(B) on the ground of privilege against self-incrimination, to respond to a material question approved by the court or to testify, after the debtor has been granted immunity with respect to the matter concerning which such privilege was invoked; or

(C) on a ground other than the properly invoked privilege against self-incrimination, to respond to a material question approved by the court or to testify;

(7) the debtor has committed any act specified in paragraph (2), (3), (4), (5), or (6) of this subsection, on or within one year before the date of the filing of the petition, or during the case, in connection with another case concerning an insider;

(8) the debtor has been granted a discharge under this section, under section 1141 of this title, or under section 14, 371, or 476 of the Bankruptcy Act, in a case commenced within six years before the date of the filing of the petition; or

(9) the court approves a waiver by the debtor of discharge.

(b) Except as provided in section 523(a) of this title, a discharge under subsection (a) of this section discharges the debtor from all debts that arose before the date of the order for relief, whether or not a proof of claim based on any such debt is filed under section 501 of this title, and whether or not a claim based on any such debt is allowed under section 502 of this title.

(c)(1) The trustee, a creditor, or the United States trustee may object to discharge under subsection (a) of this section.

(2) On request of a party in interest, the court may order the United States trustee to examine the acts and conduct of the debtor to determine whether a ground exists for denial of discharge.

(d) On request of the trustee, a creditor, or the United States trustee, and after notice and a hearing, the court shall revoke a discharge granted under subsection (a) of this section if—

(1) such discharge was obtained through the fraud of the debtor, and the requesting party did not know of such fraud until after the granting of such discharge;

(2) the debtor acquired property that is property of the estate, or became entitled to acquire property that would be property of the estate, and knowingly and fraudulently failed to report the acquisition of, or entitlement to, such property, or to deliver or surrender such property to the trustee; or

(3) the debtor committed an act specified in subsection (a)(6) of this section.

(e) The trustee, a creditor, or the United States trustee may request a revocation of a discharge—

(1) under subsection (d)(1) of this section, within one year after such discharge was granted; or

(2) under subsection (d)(2) or (d)(3) of this section, before the later of—

(A) one year after the granting of such discharge; and

(B) the date the case is closed.

§ 728. Special tax provisions

(a) For the purposes of any State or local law imposing a tax on or measured by income, the taxable period of debtor that is an individual shall terminate on the date of the order for relief under this chapter, unless the case was converted under section 1112 of this title.

(b) Notwithstanding any State or local law imposing a tax on or measured by income, the trustee shall make tax returns of income for the estate of an individual debtor in a case under this chapter or for a debtor that is a corporation in a case under this chapter only if such estate or corporation has net taxable income for the entire period after the order for relief under this chapter during which the case is pending. If such entity has such income, or if the debtor is a partnership, then the trustee shall make and file a return of income for each taxable period during which the case was pending after the order for relief under this chapter.

(c) If there are pending a case under this chapter concerning a partnership and a case under this chapter concerning a partner in such partnership, a governmental unit's claim for any unpaid liability of such partner for a State or local tax on or measured by income, to the extent that such liability arose from the inclusion in such partner's taxable income, of earnings of such partnership that were not withdrawn by such partner, is a claim only against such partnership.

(d) Notwithstanding section 541 of this title, if there are pending a case under this chapter concerning a partnership and a case under this chapter concerning a partner in such partnership, then any State or local tax refund or reduction of tax of such partner that would have otherwise been property of the estate of such partner under section 541 of this title—

(1) is property of the estate of such partnership to the extent that such tax refund or reduction of tax is fairly apportionable to losses sustained by such partnership and not reimbursed by such partner; and

(2) is property of the estate of such partner otherwise.

Subchapter III—Stockbroker Liquidation

§ 741. Definitions for this subchapter

In this subchapter—

(1) "Commission" means Securities and Exchange Commission;

(2) "customer" includes—

(A) entity with whom the debtor deals as principal or agent and that holds a claim against the debtor on account of a security received, acquired, or held by the debtor in the ordinary course of business as a stockbroker from or for the securities account or accounts of such entity—

(i) for safekeeping;

(ii) with a view to sale;

(iii) to cover a consummated sale;

(iv) pursuant to a purchase;

(v) as collateral under a security agreement; or

(vi) for the purpose of effecting registration of transfer; and

(B) entity that holds a claim against the debtor arising out of—

(i) a sale or conversion of a security received, acquired, or held as specified in subparagraph (A) of this paragraph; or

(ii) a deposit of cash, a security, or other property with the debtor for the purpose of purchasing or selling a security;

(3) "customer name security" means security—

(A) held for the account of a customer on the date of the filing of the petition by or on behalf of the debtor;

(B) registered in such customer's name on such date or in the process of being so registered under instructions from the debtor; and

(C) not in a form transferable by delivery on such date;

(4) "customer property" means cash, security, or other property, and proceeds of such cash, security, or property, at any time received, acquired, or held by or for the account of the debtor, from or for the securities account of a customer—

(A) including—

(i) property that was unlawfully converted and that is property of the estate;

(ii) a security held as property of the debtor to the extent such security is necessary to meet a net equity claim based on a security of the same class and series of an issuer;

(iii) resources provided through the use or

realization of a customer's debit cash balance or a debit item includible in the Formula for Determination of Reserve Requirement for Brokers and Dealers as promulgated by the Commission under the 1934 Act; and

(iv) other property of the debtor that any applicable law, rule, or regulation requires to be set aside or held for the benefit of a customer, unless including such property as customer property would not significantly increase customer property; but

(B) not including—

(i) a customer name security delivered to or reclaimed by a customer under section 751 of this title; or

(ii) property to the extent that a customer does not have a claim against the debtor based on such property;

(5) "net equity" means, with respect to the aggregate of all of a customer's accounts that such customer holds in the same capacity—

(A)(i) aggregate dollar balance that would remain in such accounts after the liquidation, by sale or purchase, at the time of the filing of the petition, of all securities positions in all such accounts, except customer name securities of such customers; minus

(ii) any claim of the debtor against such customer that would have been owing immediately after such liquidation; plus

(B) any payment by such customer to the trustee, within 60 days after notice under section 342(a) of this title, of any business related claim of the debtor against such customer;

(6) "1934 Act" means Securities Exchange Act of 1934 (15 U.S.C. 77a et seq.); and

(7) "SIPC" means Securities Investor Protection Corporation.

§ 742. Effect of section 362 of this title in this subchapter

Notwithstanding section 362 of this title, SIPC may file an application for a protective decree under the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.). After the filing of such application, the bankruptcy court shall stay all proceedings in the case under this chapter, unless and until such application is dismissed. If SIPC completes the liquidation of the debtor, then the court shall dismiss the case.

§ 743. Notice

The clerk shall give the notice required by section 342(a) of this title to SIPC and to the Commission.

§ 744. Executory contracts

Notwithstanding section 365(d)(1) of this title, the trustee shall assume or reject, under section 365 of this title, any executory contract of the debtor for the purchase or sale of a security in the ordinary course of the debtor's business, within a reasonable time after the date of the order for relief, not to exceed 30 days, fixed by the court. If the trustee does not assume such a contract within such time, such contract shall be deemed rejected.

§ 745. Treatment of accounts

(a) Accounts held by a particular customer in separate capacities shall be deemed to be accounts of separate customers.

(b) If a stockbroker or a bank holds a customer net equity claim against the debtor that arose out of a transaction for a customer of such stockbroker or bank, each such customer of such stockholder or bank shall be deemed a separate customer of the debtor.

(c) A trustee's account specified as such on the debtor's books, and supported by a trust deed filed with, and qualified as such by, the Internal Revenue Service, and under the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.), shall be treated as a separate customer account for each beneficiary under such trustee account.

§ 746. Extent of customer claim

(a) If, after the date of the filing of the petition, an entity effects, with respect to cash or a security, a transaction with the debtor, in a manner that would have made such entity a customer with respect to such cash or security had such transaction occurred before such date, and such transaction was effected by such entity in good faith and before the qualification under section 322 of this title of a trustee, such entity shall be deemed a customer, and the date of such transaction shall be deemed to be the date of the filing of the petition for the purpose of determining such entity's net equity with respect to such cash or security.

(b) An entity does not have a claim as a customer to the extent that such entity has a claim for cash or a security that, by contract, agreement, understanding, or operation of law, is—

(1) part of the capital of the debtor; or

(2) is subordinated to the claims of any or all creditors.

§ 747. Subordination of certain customer claims

Except as provided in section 510 of this title, unless all other customer net equity claims have been paid in full, the trustee may not pay in full or pay in part, directly or indirectly, any net equity claim of a customer that was, on the date such claim arose—

(1) an insider;

(2) a beneficial owner of at least five percent of any class of equity securities of the debtor, other than—

(A) nonconvertible stock having fixed preferential dividend and liquidation rights; or

(B) interests of limited partners in a limited partnership;

(3) a limited partner with a participation of at least five percent in the net assets or net profits of the debtor; or

(4) an entity that, directly or indirectly, through agreement or otherwise, exercised or had the power to exercise control over the management or policies of the debtor.

§ 748. Reduction of securities to money

As soon as practicable after the date of the order for relief, the trustee shall reduce to money, consistent with good market practice, all securities held as property of the estate, except for customer name securities delivered or reclaimed under section 751 of this title.

§ 749. Voidable transfers

Any transfer of property that, except for such transfer, would have been customer property, may be avoided by the trustee, and shall be treated as customer property, if and to the extent that the trustee avoids such transfer under section 544, 545, 547, 548, 549, or 724(a) of this title. For the purpose of such sections, the property so transferred shall be deemed to have been property of the debtor and, if such transfer was made to a customer or for a customer's benefit, such customer shall be deemed, for the purposes of this section, to have been a creditor.

§ 750. Distribution of securities

The trustee may not distribute a security except under section 751 of this title.

§ 751. Customer name securities

The trustee shall deliver any customer name security to or on behalf of the customer entitled to such security, unless such customer has a negative net equity. With the approval of the trustee, a customer may reclaim a customer name security after payment to the trustee, within such period as the trustee allows, of any claim of the debtor against such customer to the extent that such customer will not have a negative net equity after such payment.

§ 752. Customer property

(a) The trustee shall distribute customer property ratably to customers on the basis and to the extent of such customers' allowed net equity claims, and in priority to all other claims, except claims specified in section 507(1) of this title.

(b)(1) The trustee shall distribute customer property in excess of that distributed under subsection (a) of this section in accordance with section 726 of this title.

(2) Except as provided in section 510 of this title, if a customer is not paid the full amount of such customer's allowed net equity claim from customer property, the unpaid portion of such claim is a claim entitled to distribution under section 726(a)(2) of this title.

(c) Subject to section 741(4)(B) of this title, any cash or security remaining after the liquidation of a security interest created under a security agreement made by the debtor shall be apportioned between the general estate and customer property in the proportion that the general property of the debtor and the cash or securities of customers were subject to such security interest.

Subchapter IV—Commodity Broker Liquidation

§ 761. Definitions for this subchapter

In this subchapter—

(1) "Act" means Commodity Exchange Act (7 U.S.C. 1 et seq.);

(2) "clearing organization" means organization that clears commodity futures contracts for a contract market;

(3) "Commission" means Commodity Futures Trading Commission;

(4) "commodity option" means agreement or transaction subject to regulation under the Act that is of the character of, or is commonly known to the commodities trade as, an option, privilege, indemnity, bid, offer, put, call, advance guaranty, or decline guaranty, involving a commodity other than wheat, cotton, rice, corn, oats, barley, rye, flaxseed, grain sorghums, mill feeds, butter, egg, onions, Solanum tubersum (Irish potatoes), wool, wool tops, fats and oils (including lard, tallow, cottonseed oil, peanut oil, soybean oil and all other fats and oils), cottonseed meal, cottonseed, peanuts, soybeans, soybean meal, livestock, livestock products, or frozen concentrated orange juice;

(5) "commodity options dealer" means person that extends credit to, or that accepts cash, a security, or other property from, a customer of such person for the purchase or sale of an interest in a commodity option;

(6) "contract market" means board of trade designated as a contract market by the Commission under the Act;

(7) "contract of sale", "commodity", "future delivery", "board of trade ', and "futures commission merchant" have the meanings assigned to those terms in the Act;

(8) "contractual commitment" means—

(A) if the debtor is a futures commission merchant, contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market;

(B) if the debtor is a foreign futures commission merchant, foreign future;

(C) if the debtor is a leverage transaction merchant, leverage transaction;

(D) if the debtor is a clearing organization, contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market that is cleared by the debtor; or

(E) if the debtor is a commodity options dealer, commodity option;

(9) "customer" means—

(A) if the debtor is a futures commission merchant—

(i) entity with whom the debtor deals as principal or agent and that holds a claim

against the debtor on account of a contractual commitment made, received, acquired, or held by or through the debtor in the ordinary course of the debtor's business as a futures commission merchant from or for the commodity futures account of such entity; or

(ii) entity that holds a claim against the debtor arising out of—

(I) the making of, liquidation of, or change in the value of, a contractual commitment of a kind specified in clause (i) of this subparagraph; or

(II) a deposit or payment of cash, a security, or other property with the debtor for the purpose of making or margining such a contractual commitment;

(B) if the debtor is a foreign futures commission merchant—

(i) entity with whom the debtor deals as principal or agent and that holds a claim against the debtor on account of a contractual commitment made, received, acquired, or held by or through the debtor in the ordinary course of the debtor's business as a foreign futures commission merchant from or for the foreign futures account of such entity; or

(ii) entity that holds a claim against the debtor arising out of—

(I) the making of, liquidation of, or change in value of, a contractual commitment of a kind specified in clause (i) of this subparagraph; or

(II) a deposit or payment of cash, a security, or other property with the debtor for the purpose of making or margining such a contractual commitment;

(C) if the debtor is a leverage transaction merchant—

(i) entity with whom the debtor deals as principal or agent and that holds a claim against the debtor on account of a contractual commitment engaged in by or with the debtor in the ordinary course of the debtor's business as a leverage transaction merchant from or for the leverage account of such entity; or

(ii) entity that holds a claim against the debtor arising out of—

(I) a contractual commitment of a kind specified in clause (i) of this subparagraph; or

(II) a deposit or payment of cash, a security, or other property with the debtor for the purpose of engaging in such a contractual commitment;

(D) if the debtor is a clearing organization, clearing member of the debtor with whom the debtor deals and that holds a claim against the debtor on account of cash, a security, or other property received by the debtor to margin, guarantee, or secure a contractual commitment in such clearing member's proprietary account or customers' account; or

(E) if the debtor is a commodity options dealer—

(i) entity with whom the debtor deals as principal or agent and that holds a claim on account of a contractual commitment made, received, acquired, or held by or through the debtor in the ordinary course of the debtor's business as a commodity options dealer from or for the commodity options account of such entity; or

(ii) entity that holds a claim against the debtor arising out of—

(I) the making of, liquidation of, exercise of, or a change in value of, a contractual commitment of a kind specified in clause (i) of this subparagraph; or

(II) a deposit or payment of cash, a security, or other property with the debtor for the purpose of making, exercising, or margining such a contractual commitment;

(10) "customer property" means cash, a security, or other property, or proceeds of such cash, security, or property, at any time received, acquired, or held by or for the account of the debtor, from or for the account of a customer—

(A) including—

(i) property that was unlawfully converted and that is property of the estate;

(ii) a security held as property of the debtor to the extent such security is necessary to meet a net equity claim based on a security of the same class and series of an issuer;

(iii) property received, acquired, or held to margin, guarantee, secure, purchase or sell a contractual commitment;

(iv) profits or contractual or other rights accruing to a customer as the result of a contractual commitment;

(v) an open contractual commitment;

(vi) specifically identifiable customer property;

(vii) other property of the debtor that any applicable law, rule, or regulation requires to be set aside or held for the benefit of a customer, unless including such property as customer property would not significantly increase customer property; but

(B) not including property to the extent that a customer does not have a claim against the debtor based on such property;

(11) "foreign future" means contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a board of trade outside the United States;

(12) "leverage transaction" means agreement for the delivery of silver bullion, gold bullion, bulk silver coins, or bulk gold coins, under a standardized contract that is subject to regulation under section 217 of the Commodity Futures Trading Commission Act of 1974 (7 U.S.C. 15a), and that is commonly known to the commodities trade as a margin account, margin contract, leverage account, or leverage contract;

(13) "leverage transaction merchant" means person that is engaged in the business of engaging in leverage transactions;

(14) "member property" means customer property at any time received, acquired, or held by or for the account of a debtor that is a clearing organization, from or for the proprietary account of a customer that is a clearing member of the debtor; and

(15) "net equity" means, subject to such rules and regulations as the Commission promulgates under the Act, with respect to the aggregate of all of a customer's accounts that such customer holds in the same capacity—

(A) balance remaining in such customer's accounts immediately after—

(i) all open contractual commitments of such customer have been transferred, liquidated, or become identified for delivery; and

(ii) all obligations of such customer to the debtor have been offset; plus

(B) the value, as of the date of return under section 768 of this title, of any specifically identifiable customer property actually returned to such customer before the date specified in subparagraph (A) of this paragraph; plus

(C) the value, as of the date of transfer, of—

(i) any open contractual commitment to which such customer is entitled that is transferred to another person under section 768 of this title; and

(ii) any cash, security, or other property of such customer transferred to such other person under section 768 of this title to margin or secure such transferred contractual commitment.

§ 762. Notice to and intervention by the Commission

(a) The clerk shall give the notice required by section 342(a) of this title to the Commission.

(b) The Commission may rise and may appear and be heard on any issue in a case under this chapter.

§ 763. Treatment of accounts

(a) Accounts held by a particular customer in separate capacities shall be deemed to be accounts of separate customers.

(b) member of a clearing organization shall be deemed to hold such member's proprietary account in a separate capacity from such member's customers' account.

(c) The net equity in a customer's account may not be offset against the net equity in the account of any other customer.

§ 764. Voidable transfers

(a) Except as otherwise provided in this section, any transfer of property that, except for such transfer, would have been customer property, may be avoided by the trustee, and shall be treated as customer property, if and to the extent that the trustee avoids such transfer under section 544, 545, 547, 548, 549, r 724(a) of this title. For the purpose of such sections the property so transferred is deemed to have been property of the debtor and, if such transfer was made to a customer or for a customer's benefit, such customer is deemed, for the purposes of this section, to have been a creditor.

(b) Notwithstanding sections 544, 545, 547, 548, 549, and 724(a) of this title the trustee may not avoid a transfer made before five days after the date of the filing of the petition if such transfer is approved by the Commission and if such transfer is—

(1) a transfer of an open contractual commitment entered into or carried by or through the debtor on behalf of a customer, and of any cash, securities, or other property margining or securing such contractual commitment; or

(2) the liquidation of an open contractual commitment entered into or carried by or through the debtor on behalf of a customer.

(c) Notwithstanding sections 544, 545, 547, 548, 549, and 724(a) of this title the trustee may not avoid a transfer that is a margin payment to or deposit with a commodity broker, except under section 548(a)(1) of this title.

§ 765. Disposition of customer accounts

(a) A customer shall, within the time fixed by the court, file a proof of such customer's claim with the court, including any claim to a specifically identifiable security, property, or open contractual commitment.

(b) A customer may, within the time fixed by the court, instruct the trustee whether to transfer or to liquidate any open contractual commitment specifically identified to such customer.

(c) Subject to subsections (d) and (e) of this section, the trustee shall liquidate any open contractual commitment that—

(1) is identified to a particular customer and with respect to which such customer has not instructed the trustee as to the disposition of such contractual commitment under subsection (b) of this section; or

(2) cannot be identified to a particular customer.

(d) The trustee shall prevent any open contractual commitment that is being actively traded as of the date of the filing of the petition from remaining open after the last day of trading in such contractual commitment, or into the first day on which notice of intent to deliver on such contractual commitment may be tendered, whichever occurs first, by liquidating any such contractual commitment if transfer of such contractual commitment cannot be accomplished before the last such trading day or the first such notice day, whichever occurs first.

(e) With respect to any open contractual commitment that has remained open after the last day of trading in such contractual commitment or with respect to which delivery must be made cr accepted under the

rules of the contract market on which such contractual commitment was made, the trustee may operate the business of the debtor for the purpose of accepting or making tender of notice of intent to deliver the physical commodity underlying such contractual commitment and facilitating delivery of such commodity.

§ 766. Disposition of securities and other property

(a) The trustee may not distribute a security or other property concept under section 768 of this title.

(b) As soon as practicable after the commencement of the case, the trustee shall reduce to money, consistent with good market practice, all securities and other property held as property of the estate, except for specifically identifiable securities or property distributable under section 768 of this title.

§ 767. Customer property

(a) Except as provided in subsection (b) of this section, the trustee shall distribute customer property ratably to customers on the basis and to the extent of such customers' allowed net equity claims, and in priority to all other claims, except claims specified in section 507(1) of this title. Such distribution shall be in the form of—

(1) cash;

(2) the return or transfer, under section 768 (a) or (b) of this title, of specifically identifiable customer securities, property, or open contractual commitments; or

(3) payment of margin calls under section 768(c) of this title.

(b) If the debtor is a clearing organization, the trustee shall distribute—

(1) customer property, other than member property, ratably to customers on the basis and to the extent of such customers' allowed net equity claims based on such customers' accounts, and in priority to all other claims, except claims of the kind specified in section 507(1) of this title; and

(2) member property ratably to customers on the basis and to the extent of such customers' allowed net equity claims based on such customers' proprietary accounts, and in priority to all other claims, except claims of the kind specified in section 507(1) of this title or in paragraph (1) of this subsection.

(c)(1) The trustee shall distribute customer property in excess of that distributed under subsection (a) of this section in accordance with section 726 of this title.

(2) Except as provided in section 510 of this title, if a customer is not paid the full amount of such customer's allowed net equity claim from customer property, the unpaid portion of such claim is a claim entitled to distribution under section 726(a)(2) of this title.

§ 768. Specifically identifiable securities, property, and open contractual commitments

(a) The trustee shall return promptly to a customer any specifically identifiable security, property, or open contractual commitment to which such customer is entitled, or shall transfer such security, property, or contractual commitment to such person as the Commission provides by rule or regulation, on such customer's behalf, to the extent that the value of such security, property, or contractual commitment does not exceed the amount to which such customer would be entitled under section 767 (a) or (b) of this title if such security, property, or contractual commitment were not returned or transferred under this subsection.

(b) If the value of a specifically identifiable security, property, or open contractual commitment exceeds such amount, then the customer to whom such security, property, or contractual commitment is specifically identified may deposit cash with the trustee equal to the difference between the value of such security, property, or contractual commitment and such amount, and the trustee shall—

(1) return promptly such security, property, or contractual commitment to such customer; or

(2) transfer, on such customer's behalf, such security, property, or contractual commitment to such person as the Commission provides by rule or regulation.

(c) The trustee shall answer all margin calls with respect to a specifically identifiable open contractual commitment of a customer until such time as the trustee returns or transfers such contractual commitment, but the trustee may not make a margin payment that has the effect of a distribution of more than that to which such customer is entitled under section 767 of this title.

Chapter 9—ADJUSTMENT OF DEBTS OF A MUNICIPALITY

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Subchapter I—General Provisions

§ 901. Applicability of other sections of this title

(a) Sections 301, 344, 347(b), 349, 361, 362, 364(c), 364(d), 364(e), 365, 366, 501, 502, 503, 504, 506, 507(1), 509, 510, 547, 550, 551, 552, 553, 1122 1123(a)(1), 1123(a)(2), 1123(a)(3), 1123(a)(4), 1123(b), 1124, 1125, 1126(a), 1126(b), 1126(c), 1126(e), 1126(f), 1126(g), 1127(d), 1128, 1129(a)(2), 1129(a)(3), 1129(a)(8), 1129(b)(1), 1129(b)(2), 1142(b), 1143, and 1144 of this title apply in a case under this chapter.

(b) A term used in a section made applicable in a case under this chapter by subsection (a) of this section or section 103(e) of this title has the meaning defined for such term for the purpose of such applicable section, unless such term is otherwise defined in section 902 of this title.

(c) A section made applicable in a case under this chapter by subsection (a) of this section that is operative if the business of the debtor is authorized to be operated is operative in a case under this chapter.

§ 902. Definitions for this chapter

In this chapter—

(1) "property of the estate", when used in a section that is made applicable in a case under this chapter by section 103(e) or 901 of this title, means property of the debtor;

(2) "special taxpayer" means record owner or holder of title, legal or equitable, to real estate against which has been levied a special assessment or special tax the proceeds of which are the sole source of payment of obligations issued by the debtor to defray the costs of local improvements;

(3) "special taxpayer affected by the plan" means special taxpayer with respect to whose real estate the plan proposes to increase the proportion of special assessments or special taxes referred to in paragraph (2) of this section assessed against such real estate; and

(4) "trustee", when used in a section that is made applicable in a case under this chapter by section 103(e) or 901 of this title, means debtor.

§ 903. Reservation of State power to control municipalities

This chapter does not limit or impair the power of a State to control, by legislation or otherwise, a municipality of or in such State in the exercise of the political or governmental powers of such municipality, including expenditures for such exercise.

§ 904. Limitation on jurisdiction and powers of court

Notwithstanding any power of the court, unless the debtor consents or the plan so provides, the court may not, by any stay, order, or decree, in the case or otherwise, interfere with—

(1) any of the political or governmental powers of the debtor;

(2) any of the property or revenues of the debtor; or

(3) the debtor's use or enjoyment of any income-producing property.

Subchapter II—Administration

§ 921. Petition and proceedings relating to petition

(a) Notwithstanding sections 109(c) and 301 of this title, a case under this chapter concerning an unincorporated tax or special assessment district that does not have such district's own officials is commenced by the filing under section 301 of this title of a petition under this chapter by such district's governing authority or the board or body having authority to levy taxes or assessments to meet the obligations of such district.

(b) A party in interest may object to the petition not later than 15 days after notice of the commencement of the case under section 923 of this title.

(c) After such an objection, the court after notice and a hearing, may dismiss the petition, if the debtor did not file the petition in good faith, or if the petition does not meet the requirements of this title.

(d) If the petition is not dismissed under subsection (c) of this section, the court shall order relief under this chapter.

(e) The court may not, on account of an appeal from an order for relief, delay any proceeding under this chapter in the case in which the appeal is being taken; nor shall any court order a stay of such proceeding pending such appeal. The reversal on appeal of a finding of jurisdiction does not affect the validity of any debt incurred that is authorized by the court under section 364(c) or 364(d) of this title.

§ 922. Automatic stay of enforcement of claims against the debtor

(a) A petition filed under this chapter operates as a stay of—

(1) the commencement or continuation, including the issuance of process, of any judicial, administrative, or other action or proceeding against an officer or inhabitant of the debtor that seeks to enforce a claim against the debtor; and

(2) the enforcement of a lien on or arising out of taxes or assessments owed to the debtor.

(b) Subsections (c), (d), (e), (f), and (g) of section 362 of this title apply to a stay under subsection (a) of this section the same as such subsections apply to a stay under section 362(a) of this title.

§ 923. Notice

The clerk shall give notice of the commencement of a case under this chapter, notice of an order for relief under this chapter,

and notice of the dismissal of a case under this chapter.

§ 924. List of creditors

The debtor shall file with the court a list of creditors.

§ 925. Effect of list of claims

A proof of claim is deemed filed under section 501 of this title for any claim that appears in the list filed under section 924 of this title, except a claim that is listed as disputed, contingent, or unliquidated.

§ 926. Dismissal

After notice and a hearing, the court may dismiss a case under this chapter for cause, including—

(1) unreasonable delay by the debtor that is prejudicial to creditors;

(2) failure to propose a plan within the time fixed under section 941 of this title;

(3) denial of confirmation of a plan under section 943 of this title and denial of additional time for filing another plan or a modification of a plan; or

(4) if the court has retained jurisdiction after confirmation of a plan—

(A) material default by the debtor with respect to a term of such plan; or

(B) termination of such plan by reason of the occurrence of a condition specified in such plan.

Subchapter III—The Plan

§ 941. Filing of plan

The debtor shall file a plan for the adjustment of the debtor's debts. If such plan is not filed with the petition, the debtor shall file such a plan at such later time as the court fixes.

§ 942. Modification of plan

The debtor may modify the plan at any time before confirmation, but may not modify the plan so that the plan as modified fails to meet the requirements of this chapter. After the debtor files a modification with the court, the plan as modified becomes the plan.

§ 943. Confirmation

The court shall confirm the plan if—

(1) the plan complies with the provisions of this title made applicable by sections 103(e) and 901 of this title;

(2) the plan complies with the provisions of this chapter;

(3) all amounts to be paid by the debtor or by any person for services or expenses in the case or incident to the plan have been fully disclosed and are reasonable;

(4) the debtor is not prohibited by law from taking any action necessary to be taken to carry out the plan;

(5) the plan provides that each holder of a claim of the kind specified in section 507 (1) of this title will receive, on account of such claim, property of a value, as of the effective date of the plan, equal to the allowed amount of such claim, except to the extent that the holder of a particular claim of such kind has waived such payment on such claim; and

(6) the plan is in the best interests of creditors and is feasible.

§ 944. Effect of confirmation

(a) The provisions of a confirmed plan bind the debtor and any creditor, whether or not such creditor's claim has been allowed under section 502 of this title, and whether or not such creditor has accepted the plan.

(b) Except as provided in subsection (c) of this section, the debtor is discharged from all debts as of the time when—

(1) the plan is confirmed;

(2) the debtor deposits any consideration to be distributed under the plan with a disbursing agent appointed by the court; and

(3) the court has determined—

(A) that any security so deposited will constitute, after distribution, a valid legal obligation of the debtor; and

(B) that any provision made to pay or secure payment of such obligation is valid.

(c) The debtor is not discharged under subsection (b) of this section from any debt—

(1) excepted from discharge by the plan or order confirming the plan; or

(2) owed to an entity that, before confirmation of the plan, had neither notice nor actual knowledge of the case.

§ 945. Continuing jurisdiction

The court may retain jurisdiction over the case for such period of time as is necessary for the successful execution of the plan.

§ 946. Effect of exchange of securities before the date of the filing of the petition

The exchange of a new security under the plan for a claim covered by the plan, whether such exchange occurred before or after the date of the filing of the petition, does not limit or impair the effectiveness of the plan or of any provision of this chapter. The amount and number specified in section 1126(c) of this title include the amount and number of claims formerly held by a creditor that has participated in any such exchange.

Chapter 11—REORGANIZATION

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Subchapter I—Officers and administration

§ 1101. Definitions for this chapter

In this chapter—

(1) "debtor in possession" means debtor except when a person that has qualified under section 322 of this title is serving as trustee in the case;

(2) "substantial consummation" means—

(A) transfer of all or substantially all of the property proposed by the plan to be transferred;

(B) assumption by the debtor or by the successor to the debtor under the plan of the business or of the management of all or substantially all of the property dealt with by the plan; and

(C) commencement of distribution under the plan.

§ 1102. Creditors' and equity security holders' committees

(a)(1) As soon as practicable after the order for relief under this chapter, the court shall appoint a committee of creditors holding unsecured claims.

(2) The court may appoint additional committees of creditors or of equity security holders if necessary to assure adequate representation of creditors or of equity security holders.

(b)(1) A committee of creditors appointed under subsection (a) of this section shall ordinarily consist of the persons that hold the seven largest claims against the debtor of the kinds represented on such committee, or of the members of a committee organized by creditors before the order for relief under this chapter, if such committee was fairly chosen and is representative of the different kinds of claims to be represented.

(2) A committee of equity security holders appointed under subsection (a)(2) of this section shall ordinarily consist of the persons that hold the seven largest amounts of equity securities of the debtor of the kinds represented on such committee.

(c) On request of a party in interest and after notice and a hearing, the court may change the membership or the size of a committee appointed under subsection (a) of this section if the membership of such committee is not representative of the different kinds of claims or interests to be represented.

§ 1103. Powers and duties of committees

(a) At a scheduled meeting of a committee appointed under section 1102 of this title, at which a majority of the members of such committee are present, and subject to the approval of the court, such committee may select and authorize the employment by such committee of one or more attorneys, accountants, or other agents, to represent or perform services for such committee.

(b) A person employed to represent a committee appointed under section 1102 of this title may not, while employed by such committee, represent any other entity in connection with the case.

(c) A committee appointed under section 1102 of this title may—

(1) consult with the trustee or debtor in possession concerning the administration of the case;

(2) investigate the acts, conduct, assets, liabilities, and financial condition of the debtor, the operation of the debtor's business and the desirability of the continuance of such business, and any other matter relevant to the case or to the formulation of a plan;

(3) participate in the formulation of a plan, advise those represented by such committee of such committee's recommendations as to any plan formulated, and collect and file with the court acceptance of a plan;

(4) determine the need for the appointment of a trustee, if a trustee has not previously been appointed under this chapter in the case; and

(5) perform such other services as are in the interest of those represented.

(d) As soon as practicable after the appointment of a committee under section 1102 of this title, the trustee shall meet

with such committee to transact such business as may be necessary and proper.

§ 1104. Appointment of trustee or examiner

(a) At any time after the commencement of the case but before confirmation of a plan, on request of a party in interest or the United States trustee, and after notice and a hearing, the court may order the appointment of a trustee only if—

(1) the protection afforded by a trustee is needed; and

(2) the costs and expenses of a trustee would not be disproportionately higher than the value of the protection afforded.

(b) If the court does not order the appointment of a trustee under this section, then at any time before the confirmation of a plan, on request of a party in interest or the United States trustee, and after notice and a hearing, the court may order the appointment of an examiner to conduct such an investigation of the debtor as is appropriate, including an investigation of any allegations of fraud, dishonesty, incompetence, or gross mismanagement of the debtor of or by current or former management of the debtor, if—

(1) the protection afforded by an examiner is needed; and

(2) the costs and expenses of an examiner would not be disproportionately higher than the value of the protection afforded.

(c) If the court orders the appointment of a trustee or an examiner, if a trustee or an examiner dies or resigns during the case or is removed under section 324 of this title, or if a trustee fails to qualify under section 322 of this title, then the United States trustee, after consultation with parties in interest, shall appoint, subject to the court's approval, one disinterested person other than the United States trustee to serve as trustee or examiner, as the case may be, in the case.

§ 1105. Termination of trustee's appointment

At any time before confirmation of a plan, on request of a party in interest or the United States trustee, and after notice and a hearing, the court may terminate the trustee's appointment and restore the debtor to possession and management of the property of the estate, and operation of the debtor's business.

§ 1106. Duties of trustee and examiner

(a) A trustee shall—

(1) perform the duties of a trustee specified in sections 704(2), 704(4), 704(6), 704(7), and 704(8) of this title;

(2) if the debtor has not done so, file with the court, within the time fixed by the court, the list, schedule, and statement required under section 521(1) of this title;

(3) except to the extent that the court orders otherwise, investigate the acts, conduct, assets, liabilities, and financial condition of the debtor, the operation of the debtor's business and the desirability of the continuance of such business, and any other matter relevant to the case or to the formulation of a plan;

(4) as soon as practicable—

(A) file with the court a statement of any investigation conducted under paragraph (3) of this subsection, including any fact ascertained pertaining to fraud, misconduct, mismanagement, or irregularity in the management of the affairs of the debtor, or to a cause of action available to the estate; and

(B) transmit a copy or a summary of any such statement to any creditors' committee or equity security holders' committee, to any indenture trustee, and to such other entity as the court designates;

(5) as soon as practicable, file a plan under section 1121 of this title, file a report of why the trustee will not file a plan, or recommend conversion of the case to a case under chapter 7 or 13 of this title or dismissal of the case;

(6) after confirmation of a plan, file such reports as are necessary or as the court orders.

(b) An examiner appointed under section 1104(c) of this title shall perform the duties specified in paragraphs (3) and (4) of subsection (a) of this section, and any other duties of the trustee that the court orders the debtor in possession not to perform.

§ 1107. Rights, powers, and duties of debtor in possession

Subject to any limitations on a trustee under this chapter, and to such limitations and conditions as the court prescribes, a debtor in possession shall have all the rights, other than the right to compensation under section 330 of this title, and powers, and shall perform all the functions and duties, except the duties specified in sections 1106(a) (2), (3), and (4) of this title, of a trustee serving in a case under this chapter.

§ 1108. Authorization to operate business

Unless the court orders otherwise, the trustee may operate the debtor's business.

§ 1109. Intervention

The Securities and Exchange Commission or an indenture trustee may raise and may appear and be heard on any issue in a case under this chapter, but the Securities and Exchange Commission may not appeal from any judgment, order, or decree entered in the case.

§ 1110. Aircraft equipment and vessels

(a) The right of a secured party with a purchase-money equipment security interest in, or of a lessor or conditional vendor of, whether as trustee or otherwise, aircraft, aircraft engines, propellers, appliances, or spare parts, as defined in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301), or vessels of the United States, as defined in subsection B(4) of the Ship Mortgage Act, 1920 (46 U.S.C. 911(4)), that are subject to a purchase-money equipment security interest granted by, leased to, or conditionally sold to, a debtor that is an air carrier operating under a certificate of convenience and necessity issued by the Civil Aeronautics Board, or a water carrier that holds a certificate of public convenience and necessity or permit issued by the Interstate Commerce Commission, as the case may be, to take possession of such equipment in compliance with the provisions of a purchase-money equipment security agreement, lease, or conditional sale contract, as the case may be, is not affected by section 362 or 363 of this title or by any power of the court to enjoin such taking of possession, unless—

(1) before 60 days after the date of the order for relief under this chapter, the trustee, subject to the court's approval, agrees to perform all obligations of the debtor that become due on or after such date under such security agreement, lease, or conditional sale contract, as the case may be; and

(2) any default, other than a default of a kind specified in section 365(b)(2) of this title, under such security agreement, lease, or conditional sale contract, as the case may be—

(A) that occurred before such date is cured before the expiration of such 60-day period; and

(B) that occurs after such date is cured before the later of—

(i) 30 days after the date of such default; and

(ii) the expiration of such 60-day period.

(b) The trustee and the secured party, lessor, or conditional vendor, as the case may be, whose right to take possession is protected under subsection (a) of this section, may agree, subject to the court's approval, to extend the 60-day period specified in subsection (a)(1) of this section.

§ 1111. Effect of schedule of claims and interests

A proof of claim or interest is deemed filed under section 501 of this title for any claim or interest that appears in the schedules filed under section 521(1) or 1106(a)(2) of this title, except a claim or interest that is scheduled as disputed contingent, or unliquidated.

§ 1112. Conversion or dismissal

(a) The debtor may convert a case under this chapter to a case under chapter 7 of this title unless—

(1) the debtor is not a debtor in possession;

(2) the case is an involuntary case originally commenced under this chapter; or

(3) the case was converted to a case under this chapter on other than the debtor's request.

(b) Except as provided in subsection (c) of this section, on request of a party in interest, and after notice and a hearing, the court may convert a case under this chapter to a case under chapter 7 of this title or may dismiss a case under this chapter, whichever is in the best interest of creditors and the estate, only for cause, including—

(1) inability to effectuate a plan;

(2) unreasonable delay by the debtor that is prejudicial to creditors;

(3) failure to propose a plan within the times fixed under section 1121 of this title;

(4) denial of confirmation of every proposed plan and denial of additional time for filing another plan or a modification of a plan;

(5) revocation of an order of confirmation under section 1144 of this title, and denial of confirmation of another plan or a modified plan under section 1129 of this title;

(6) inability to effectuate substantial consummation of a confirmed plan;

(7) material default by the debtor with respect to a confirmed plan; and

(8) termination of a plan by reason of the occurrence of a condition specified in the plan.

(c) The court may not convert a case under this chapter to a case under chapter 7 of this title if the debtor is a farmer or a corporation that is not a moneyed, business, or commercial corporation, unless the debtor requests such conversion.

(d) The court may convert a case under this chapter to a case under chapter 13 of this title only if—

(1) the debtor requests such conversion; and

(2) the debtor has not been discharged under section 1141(d) of this title.

(e) Notwithstanding any other provision of this section, a case may not be converted to a case under another chapter of this title unless the debtor may be a debtor under such chapter.

Subchapter II—The Plan

§ 1121. Who may file a plan

(a) The debtor may file a plan with a petition commencing a voluntary case, or at any time in a voluntary case or an involuntary case.

(b) Except as otherwise provided in this section, only the debtor may file a plan until after 120 days after the date of the order for relief under this chapter.

(c) Any party in interest, including the debtor, the trustee, a creditors' committee, an equity security holders' committee, a creditor, an equity security holder, or any indenture trustee, may file a plan if—

(1) a trustee has been appointed under this chapter;

(2) the debtor has not filed a plan before 120 days after the date of the order for relief under this chapter; or

(3) the debtor has not filed a plan that has been accepted, before 180 days after the date of the order for relief under this chapter, by each class the claims or interests of which are impaired under the plan.

(d) On request of a party in interest and after notice and a hearing, the court may for cause reduce or increase the 120-day period or the 180-day period referred to in this section.

§ 1122. Classification of claims or interests

(a) Except as provided in subsection (b) of this section, a plan may place a claim or an interest in a particular class only if such claim or interest is substantially similar to the other claims or interests of such class.

(b) A plan may designate a separate class of claims consisting only of every unsecured claim that is less than or reduced to an amount that the court approves as reasonable and necessary for administrative convenience.

§ 1123. Contents of plan

(a) A plan shall—

(1) designate, subject to section 1122 of this title, classes of claims other than claims of the kind specified in section 507 of this title and classes of interests;

(2) specify by class the claims or interests that are unimpaired under the plan;

(3) provide the same treatment for each claim or interest of a particular class, unless the holder of a particular claim or interest agrees to a different treatment of such claim or interest;

(4) provide adequate means for the plan's execution, such as—

(A) retention by the debtor of all or any part of the property of the estate;

(B) transfer of all or any part of the property of the estate to one or more entities, whether organized before or after the confirmation of such plan;

(C) merger or consolidation of the debtor with one or more persons;

(D) sale of all or any part of the property of the estate, either subject to or free of any lien, at not less than a fair upset price, or the distribution of all or any part of the property of the estate among those having an interest in such property of the estate;

(E) satisfaction or modification of any lien;

(F) cancellation or modification of any indenture or similar instrument;

(G) curing or waiving any default;

(H) extension of a maturity date or a change in an interest rate or other term of outstanding securities;

(I) amendment of the debtor's charter; or

(J) issuance of securities of the debtor, or of any entity referred to in subparagraph (B) or (C) of this paragraph, for cash, for property, for existing securities, or in exchange for claims or interests, or for any other appropriate purpose;

(5) provide for the inclusion in the charter of the debtor, if the debtor is a corporation, or of any corporation referred to in paragraph (4) (B) or (C) of this subsection, of a provision prohibiting the issuance of nonvoting equity securities, and providing, as to the several classes of securities possessing voting power, an appropriate distribution of such power among such classes, including, in the case of any class of equity securities having a preference over another class of equity securities with respect to dividends, adequate provisions for the election of directors representing such preferred class in the event of default in the payment of such dividends; and

(6) contain only provisions that are consistent with the interests of creditors and equity security holders and with public policy with respect to the manner of selection of the estate appointed for such purpose, of plan and any successor to such officer, director, or trustee.

(b) Subject to subsection (a) of this section, a plan may—

(1) impair or leave unimpaired any claim or interest;

(2) provide for the assumption or rejection of any executory contract or unexpired lease of the debtor not previously rejected under section 365 of this title;

(3) provide for—

(A) the settlement or adjustment of any claim or interest belonging to the debtor or to the estate; or

(B) the retention and enforcement by the debtor, by the trustee, or by a representative of the estate appointed for such purpose, of any such claim or interest;

(4) provide for the sale of all or substantially all of the property of the estate, and the distribution of the proceeds of such sale among holders of claims or interests; and

(5) include any other appropriate provision not inconsistent with the applicable provisions of this title.

(c) In a case concerning an individual, a plan proposed by an entity other than the debtor may not provide for the use, sale, or lease of property exempted under section 522 of this title, unless the debtor consents to such use, sale, or lease.

§ 1124. Impairment of claims or interests

A claim or interest is unimpaired under a plan if such plan—

(1) leaves unaltered the legal, equitable, and contractual rights to which such claim or interest entitles the holder of such claim or interest;

(2) notwithstanding any contractual provision or applicable law that entitles the holder of such claim or interest to demand or receive accelerated payment of such claim or interest after the occurrence of a default, and unless such holder has reasonably relied, to the detriment of such holder, on such contractual provision or such applicable law—

(A) cures any such default, other than a default of the kind specified in section 365 (b) (2) of this title, that occurred before or after the commencement of the case under this title;

(B) reinstates the maturity of such claim or interest as such maturity existed before such default; and

(C) does not otherwise alter the legal, equitable, or contractual rights to which such claim or interest entitles the holder of such claim or interest; or

(3) provides that the holder of such claim or interest shall receive, on account of such claim or interest, cash payments in an amount, or property, other than a security of the debtor, an affiliate participating in a joint plan with the debtor, or a successor to the debtor under the plan, of a value, as of the effective date of the plan, equal to—

(A) with respect to a claim, the allowed amount of such claim; or

(B) with respect to an interest, the greatest of—

(i) any fixed liquidation preference to which the terms of any equity security representing such interest entitle the holder of such interest;

(ii) any fixed price at which the debtor, under the terms of such equity security, may redeem such equity security from such holder; and

(iii) the value of such holder's interest in the debtor.

§ 1125. Postpetition disclosure and solicitation

(a) In this section—

(1) "adequate information" means information of a kind, and in sufficient detail, as far as is reasonably practicable in light of the nature and history of the debtor and the condition of the debtor's books and records, that would enable a hypothetical reasonable investor typical of holders of claims or interests of the relevant class to make an informed judgment about the plan; and

(2) "investor typical of holders of claims or interests of the relevant class" means investor having—

(A) a claim or interest of the relevant class;

(B) such a relationship with debtor as the holders of other claims or interests of such class generally have; and

(C) such ability to obtain such information from sources other than the disclosure required by this section as holders of claims or interests in such class generally have.

(b) An acceptance or rejection of a plan may not be solicited after the commencement of the case under this title from a holder of a claim or interest with respect to such claim or interest, unless, at the time of or before such solicitation, there is transmitted to such holder the plan or a summary of the plan, and a written disclosure statement approved, after notice and a hearing, by the court as containing adequate information. The court may approve a disclosure statement without a valuation of the debtor or an appraisal of the debtor's assets.

(c) The same disclosure statement shall be transmitted to each holder of a claim or interest of a particular class, but there may be transmitted different disclosure statements, differing in amount, detail, or kind of information, as between classes.

(d) Whether a disclosure statement contains adequate information is not governed by any otherwise applicable nonbankruptcy law, rule, or regulation, but an agency or official whose duty is to administer or enforce such a law, rule, or regulation may be heard on the issue of whether a disclosure statement contains adequate information. Such an agency or official may not appeal from an order approving a disclosure statement.

(e) A person that solicits, in good faith and in compliance with the applicable provisions of this title, or that participates, in good faith and in compliance with the applicable provisions of this title, in the offer, issuance, sale, or purchase of a security, offered or sold under the plan, of the debtor, of an affiliate participating in a joint plan with the debtor, or of a newly organized successor to the debtor under the plan, is not liable, on account of such solicitation or participation, for violation of any applicable law, rule, or regulation governing the offer, issuance, sale, or purchase of securities.

§ 1126. Acceptance of plan

(a) The holder of a claim or interest allowed under section 502 of this title may accept or reject a plan. If the United States is a creditor or equity security holder, the Secretary of the Treasury may accept or reject the plan on behalf of the United States.

(b) For the purposes of subsections (c) and (d) of this section, a holder of a claim or interest that has accepted or rejected the plan before the commencement of the case under this title is deemed to have accepted or rejected such plan, as the case may be, if—

(1) the solicitation of such acceptance or rejection was in compliance with any applicable nonbankruptcy law, rule, or regulation governing the adequacy of disclosure in connection with such solicitation; or

(2) if there is not any such law, rule, or regulation, such acceptance or rejection was solicited after disclosure to such holder of adequate information, as defined in section 1125(a) (1) of this title.

(c) A class of claims has accepted a plan if such plan has been accepted by creditors, other than any entity designated under subsection (e) or (f) of this section, that hold at least two-thirds in amount and more than one-half in number of the allowed claims of such class held by creditors, other than any entity designated under subsection (e) or (f) of this section, that have accepted or rejected such plan.

(d) A class of interests has accepted a plan if such plan has been accepted by holders of such interests other than any entity designated under subsection (e) or (f) of this section, that hold at least two-thirds in amount of the allowed interests of such class held by holders of such interests, other than any entity designated under subsection (e) or (f) of this section, that have accepted or rejected such plan.

(e) On request of a party in interest, and after notice and a hearing, the court may designate for any class of claims or interests any entity that has, with respect to such class, a conflict of interest that is of such nature as would justify exclusion of such entity's claim or interest from the amounts and number specified in subsections (c) and (d) of this section.

(f) On request of a party in interest, and after notice and a hearing, the court may designate any entity whose acceptance or rejection of such plan was not in good faith, or was not solicited or procured in good faith or in accordance with the provisions of this title.

(g) Notwithstanding any other provision of this section, a class is deemed to have rejected a plan if such plan provides that the claims or interests of such class do not entitle the holders of such claims or interests to payment or compensation under the plan on account of such claims or interests.

§ 1127. Modification of plan

(a) The proponent of a plan may modify such plan at any time before confirmation, but may not modify such plan so that such plan as modified fails to meet the requirements of sections 1122 and 1123 of this title. After the proponent files a modification with the court, the plan as modified becomes the plan.

(b) The proponent of a plan or the reorganized debtor may modify such plan at any time after confirmation of such plan and before substantial consummation of such plan, but may not modify such plan so that such plan as modified fails to meet the requirements of sections 1122 and 1123 of this title. Such plan as modified under this subsection becomes the plan only if the court confirms such plan, as modified, under section 1129 of this title, and circumstances warrant such modification.

(c) The proponent of a modification shall comply with section 1125 of this title with respect to the plan as modified.

(d) Any holder of a claim or interest that has accepted or rejected a plan is deemed to have accepted or rejected, as the case may be, such plan as modified, unless, within the time fixed by the court, such holder changes such holder's previous acceptance or rejection.

§ 1128. Confirmation hearing

(a) The court, after notice, shall hold a hearing on confirmation of a plan.

(b) A party in interest may object to confirmation of the plan.

§ 1129. Confirmation of plan

(a) The court shall confirm a plan only if all of the following requirements are met:

(1) The plan complies with the applicable provisions of this chapter.

(2) The proponent of the plan complies with the applicable provisions of this chapter.

(3) The proponent of the plan has proposed the plan in good faith, and not by any means forbidden by law.

(4)(A) Any payment made or promised by the proponent, by the debtor, or by a person issuing securities or acquiring property under the plan, for services or for costs and expenses in, or in connection with, the case, or in connection with the plan and incident to the case, has been disclosed to the court; and

(B)(i) any such payment made before confirmation of the plan is reasonable; or

(ii) if such payment is to be fixed after confirmation of the plan, such payment is subject to the approval of the court as reasonable.

(5)(A)(i) The proponent of the plan has disclosed the identity and affiliations of any individual proposed to serve, after confirmation of the plan, as a director, officer, or voting trustee of the debtor, an affiliate of the debtor participating in a joint plan, or a successor to the debtor under the plan; and

(ii) the appointment to, or continuance in, such office of such individual, is consistent with the interests of creditors and equity security holders and with public policy.

(B) The proponent of the plan has disclosed the identity of any insider that will be employed or retained by the reorganized debtor, and the nature of any compensation for such insider.

(6) Any regulatory commission with jurisdiction, after confirmation of the plan, over the rates of the debtor has approved any rate change provided for in the plan, or such rate change is expressly conditioned on such approval.

(7) With respect to each class, each holder of a claim or interest of such class—

(A) has accepted the plan; or

(B) will receive or retain under the plan on account of such claim or interest property of a value, as of the effective date of the plan, that is not less than the amount that such holder would so receive or retain if the debtor were liquidated under chapter 7 of this title on such date.

(8) With respect to each class—

(A) such class has accepted the plan; or

(B) the claims or interests of such class are unimpaired under the plan.

(9 The plan provides that each holder of a claim of a kind specified in section 507 of this title will receive, on account of such claim, property, other than a security of the debtor, an affiliate participating in a joint plan with the debtor, or a successor to the debtor under the plan, of a value, as of the effective date of the plan, equal to the allowed amount of such claim, except to the extent that the holder of a particular claim of such kind has agreed to a different settlement of such claim.

(10) Confirmation of the plan is not likely to be followed by the liquidation, or the need for further financial reorganization of the debtor or any successor to the debtor under the plan, unless such liquidation or reorganization is proposed in the plan.

(b) Notwithstanding section 510(a)(1) of this title, if all of the applicable requirements of subsection (a) of this section other than paragraph (8) are met with respect to a plan, the court, on request of the proponent of such plan, shall confirm such plan notwithstanding the requirements of such paragraph if—

(1) with respect to each class of secured claims—

(A) each holder of a claim of such class will not receive or retain under the plan on account of such claim property of a value, as of the effective date of the plan, greater than the allowed amount of such claim; and

(B)(i) such class has accepted the plan;

(ii) the claims of such class are unimpaired; or

(iii) each holder of a claim of such class will receive or retain under the plan on account of such claim property of a value as of the effective date of the plan, equal to the allowed amount of such claim, unless such holder has agreed to a different treatment of such claim;

(2) with respect to each class of unsecured claims—

(A) each holder of a claim of such class will not receive or retain under the plan on account of such claim property of a value, as of the effective date of the plan, greater than the allowed amount of such claim; and

(B)(i) such class has accepted the plan;

(ii) the claims of such class are unimpaired;

(iii) each holder of a claim of such class will receive or retain under the plan on account of such claim property of a value, as of the effective date of the plan, equal to the allowed amount of such claim, unless such holder has agreed to a different treatment of such claim; or

(iv) the plan does not discriminate unfairly against such class, and the holders of claims or interests of any class of claims or interests, as the case may be, that is junior to such class will not receive or retain under the plan on account of such junior claims or interests any property; and

(3) with respect to each class of equity securities—

(A) if, under the terms of such equity securities, the holders of the interests of such class are entitled to a fixed liquidation preference, or the debtor may redeem such equity securities at a fixed price, then each such holder will not receive or retain under the plan on account of such interest property of a value, as of the effective date of the plan, greater than the greater of—

(i) the amount of any such liquidation preference; and

(ii) the amount of any such fixed price; and

(B)(i) such class has accepted the plan;

(ii) the interests of such class are unimpaired;

(iii) if, under the terms of such equity securities, the holders of such interests are entitled to a fixed liquidation preference, or the debtor may redeem such equity securities at a fixed price, then each such holder will receive or retain under the plan on account of such interest property of a value, as of the effective date of the plan, equal to the greater of the amount of any such liquidation preference and the amount of any such fixed price;

(iv) the holders of any interests that are junior to the interests of such class will not receive or retain under the plan on account of such junior interests any property; or

(v) there are not any interests junior to the interests of such class.

(c) Notwithstanding subsections (a) and (b) of this section and except as provided in section 1127(b) of this title, the court may confirm only one plan, unless the order of confirmation in the case has been revoked under section 1144 of this title. If the requirements of subsections (a) and (b) of this section are met with respect to more than one plan, the court shall consider the preferences of creditors and equity security holders in determining which plan to confirm.

(d) Notwithstanding any other provision of this section, the court may not confirm a plan if the principal purpose of the plan is the avoidance of taxes or the avoidance of section 5 of the Securities Act of 1933 (15 U.S.C. 77e).

Subchapter III—Postconfirmation Matters

§ 1141. Effect of confirmation

(a) Except as provided in subsections (d)(2) and (d)(3) of this section, the provisions of a confirmed plan bind the debtor, any entity issuing securities under the plan, any entity acquiring property under the plan, and any creditor, equity security holder, or general partner in the debtor, whether or not the claim or interest of such creditor, equity security holder, or general partner is impaired under the plan and whether or not such creditor, equity security holder, or general partner has accepted the plan.

(b) Except as otherwise provided in the plan or the order confirming the plan, the confirmation of a plan vests all of the property of the estate in the debtor.

(c) After confirmation of a plan, the property dealt with by the plan is free and clear of all claims and interests of creditors, of equity security holders, and of general partners in the debtor, except as otherwise provided in the plan or in the order confirming the plan.

(d) (1) Except as otherwise provided in this subsection, in the plan, or in the order confirming the plan, the confirmation of a plan—

(A) discharges the debtor from any debt that arose before the date of the order for relief under this chapter, whether or not—

(i) a proof of the claim based on such debt is filed or deemed filed under section 501 of this title; or

(ii) such claim is allowed under section 502 of this title; and

(B) terminates all rights and interests of equity security holders and general partners provided for by the plan.

(2) The confirmation of a plan does not discharge an individual debtor from any debt excepted from discharge under section 523 of this title.

(3) The confirmation of a plan does not discharge a debtor if—

(A) all or substantially all of the distribution under the plan is of all or substantially all of the property of the estate;

(B) the business, if any, of the debtor does not continue; and

(C) the debtor would be denied a discharge under section 727(a) of this title if the case were a case under chapter 7 of this title.

§ 1142. Execution of plan

(a) Notwithstanding any otherwise applicable nonbankruptcy law, rule, or regulation relating to financial condition, the debtor and any entity organized or to be organized for the purpose of carrying out the plan shall carry out the plan, and shall comply with any orders of the court.

(b) The court may direct the debtor and any other necessary party to execute or deliver or to join in the execution or delivery of any instrument required to effect a transfer of property dealt with by a confirmed plan, and to perform any other act, including the satisfaction of any lien, that is necessary for the consummation of the plan.

§ 1143. Distribution

If a plan require presentment or surrender of a security or the performance of any other act as a condition to participation in distribution under the plan, such action shall be taken not later than five years after the date of the entry of the order of confirmation. Any entity that has not within such time presented or surrendered such entity's security or taken any such other action that the plan requires may not participate in distribution under the plan.

§ 1144. Revocation of an order of confirmation

On request of a party in interest at any time before 180 days after the date of the entry of the order of confirmation, and after notice and a hearing, the court may revoke such order if such order was procured by fraud. An order under this section revoking an order of confirmation shall—

(1) contain such provisions as are necessary to protect any entity acquiring rights in good faith reliance on the order of confirmation; and

(2) revoke the discharge of the debtor.

§ 1145. Exemption from securities laws

(a) Except with respect to an entity that is an underwriter as defined in subsection (b) of this section, section 5 of the Securities Act of 1933 (15 U.S.C. 77e) and any State or local law requiring registration for offer or sale of a security or registration or licensing of an issuer of, underwriter of, or broker or dealer in, a security does not apply to—

(1) the offer or sale under section 364 of this title of a security that is not an equity security or convertible into an equity security;

(2) the offer or sale under a plan of a security of the debtor, of an affiliate participating in a joint plan with the debtor, or of a successor to the debtor under the plan—

(A) in exchange for a claim against, an interest in, or a claim for an administrative expense in the case concerning, the debtor or such affiliate; or

(B) principally in such exchange and partly for cash or property;

(3) the offer of a security through any warrant, option, right to subscribe, or conversion privilege that was sold in the manner specified in paragraph (2) of this subsection, or the sale of a security upon the exercise of such a warrant, option, right, or privilege;

(4) the offer or sale, other than under a plan, of a security of an issuer other than the debtor or an affiliate, if—

(A) such security was owned by the debtor on the date of the filing of the petition;

(B) the issuer of such security is—

(i) required to file reports under section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m); and

(ii) in compliance with all applicable requirements for the continuance of trading in such security on the date of such offer or sale; and

(C) such offer or sale is of securities that do not exceed—

(i) during the two-year period immediately following the date of the filing of the petition, four percent of the securities of such class outstanding on such date; and

(ii) during any 180-day period following such two-year period, one percent of the securities outstanding at the beginning of such 180-day period; or

(5) a transaction by a stockholder in a security that is executed after a transaction of a kind specified in paragraph (2) or (3) of this subsection in such security and before the expiration of 40 days after the first date on which such security was bona fide offered to the public by the issuer or by or through an underwriter, if such stockbroker provides, at the time of or before such transaction by such stockholder, a disclosure statement approved under section 1125 of this title, and, if the court orders, information supplementing such disclosure statement.

(b) (1) Except as provided in paragraph (2) of this subsection, an entity is an underwriter under section 2(11) of the Securities Act of 1933 (15 U.S.C. 77b(11)), if such entity—

(A) purchases a claim against, interest in, or claim for an administrative expense in the case concerning, the debtor, if such purchase is with a view to distribution of any security received or to be received in exchange for such a claim or interest;

(B) offers to sell securities offered or sold under the plan for the holders of such securities;

(C) offers to buy securities offered or sold under the plan from the holders of such securities, if such offer to buy is—

(i) with a view to distribution of such securities; and

(ii) under an agreement made in connection with the plan, with the consummation of the plan, or with the offer or sale of securities under the plan; or

(D) is an issuer, as used in such section 2(11), with respect to such securities.

(2) An entity is not an underwriter under section 2(11) of the Securities Act of 1933 or under paragraph (1) of this subsection with respect to an agreement that provides only for—

(A) (i) the matching combination of fractional interests in securities offered or sold under the plan into whole interests; or

(ii) the purchase or sale of such fractional interests among entities receiving such factional interests under the plan; or

(B) the purchase or sale for such entities of such fractional or whole interests as are necessary to adjust for any remaining fractional interests after such matching.

(3) An entity other than an entity of the kind specified in paragraph (1) of this subsection is not an underwriter under section 2(11) of the Securities Act of 1933 with respect to any securities offered or sold to such entity in the manner specified in subsection (a)(2) of this section.

(c) An offer or sale of securities of the kind and in the manner specified under subsection (a)(2) of this section is deemed to be a public offering.

§ 1146. Special tax provisions

(a) For the purposes of any State or local law imposing a tax on or measured by income, the taxable period of a debtor that is an individual shall terminate on the date of the order for relief under this chapter, unless the case was converted under section 706 of this title.

(b) The trustee shall make a State or local tax return of income for the estate of an individual debtor in a case under this chapter for each taxable period after the order for relief under this chapter during which the case is pending.

(c) The issuance, transfer, or exchange of a security, or the making or delivery of an instrument of transfer under a plan confirmed under section 1129 of this title, may not be taxed under any State or local law imposing a stamp tax or similar tax.

(d) The court may authorize the proponent of a plan to request a determination, by a State or local governmental unit charged with responsibility for collection or determination of a tax on or measured by income, of the tax effects, under section 346 of this title and under the law imposing such tax, of the plan. In the event of an actual controversy, the court may declare such effects after the earlier of—

(1) the date on which such governmental unit responds to the request under this subsection; and

(2) 270 days after such request.

(e) Except as provided in section 505(c) of this title, any State or local tax entitled to priority under section 507(6) of this title that is assessed after confirmation of a plan under section 1129 of this title but before one year after the date of the filing of the petition, or any State or local tax payable by the estate that arises out of a taxable event that occurs after the commencement of the case, may be assessed against and collected from the debtor or from a successor to the debtor under the plan, but the governmental unit to which such tax is owing may accept the provisions of such plan dealing with the assumption, settlement, or payment of any such tax.

Subchapter IV—Railroad Reorganization

§ 1161. Inapplicability of other sections

Sections 341, 343, 1104, 1105, 1129(a)(7), and 1144 of this title do not apply in a case concerning a railroad.

§ 1162. Appointment of trustee

As soon as practicable after the order for relief, the court shall appoint one or more disinterested persons to serve as trustee in the case.

§ 1163. Intervention by certain regulatory commissions

The Interstate Commerce Commission, the Department of Transportation, and any State or local commission having regulatory juris-

diction over the debtor may raise and may appear and be heard on any issue in a case under this chapter, but may not appeal from any judgment, order, or decree entered in the case.

§ 1164. Effect of Interstate Commerce Act

Except with respect to abandonment under section 1169 of this title, or merger, modification of the financial structure of the debtor, or issuance or sale of securities under a plan, the debtor is subject to the provisions of the Interstate Commerce Act (49 U.S.C. 1 et seq.) that are applicable to railroads, and the trustee is subject to orders of the Interstate Commerce Commission to the same extent as the debtor would be if a petition commencing the case under this chapter had not been filed, except that—

(1) any such order that would require the expenditure, or the incurring of an obligation for the expenditure, of money from the estate is not effective unless approved by the court; and

(2) the provisions of this chapter are subject to section 601(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 791 (b)).

§ 1165. Effect of Federal, State, or local regulations

Except as provided in section 1164 of this title, the trustee is subject to orders of a Federal, State, or local regulatory body to the same extent as the debtor would be if a petition commencing a case under this chapter had not been filed, except that any such order that would require the expenditure, or the incurring of an obligation for the expenditure, of money from the estate is not effective unless approved by the court.

§ 1166. Rolling stock equipment

(a) The right of a secured party with a purchase-money equipment security interest in, or of a lessor or conditional vendor of, whether as trustee or otherwise, rolling stock equipment or accessories used on such equipment, including superstructures and racks, that are subject to a purchase-money equipment security interest granted by, leased to, or conditionally sold to, the debtor to take possession of such equipment in compliance with the provisions of a purchase-money equipment security agreement, lease, or conditional sale contract, as the case may be, is not affected by section 362 or 363 of this title or by any power of the court to enjoin such taking of possession, unless—

(1) before 60 days after the date of the order for relief, the trustee, subject to the court's approval, agrees to perform all obligations of the debtor that become due on or after such date under such security agreement, lease, or conditional sale contract, as the case may be; and

(2) any default, other than a default of a kind specified in section 365(b)(2) of this title, under such security agreement, lease, or conditional sale contract, as the case may be—

(A) that occurred before such date is cured before the expiration of such 60-day period; and

(B) that occurs after such date is cured before the later of—

(i) 30 days after date of such default; and

(ii) the expiration of such 60-day period.

(b) The trustee and the secured party, lessor, or conditional vendor, as the case may be, whose right to take possession is protected under subsection (a) of this section, may agree, subject to the court's approval, to extend the 60-day period specified in subsection (a)(1) of this section.

§ 1167. Collective bargaining agreements

Notwithstanding section 365 of this title, neither the court nor the trustee may change the wages or working conditions of employees of the debtor established by a collective bargaining agreement that is subject to the Railway Labor Act (45 U.S.C. 151 et seq.) except in accordance with section 6 of such Act (45 U.S.C. 156).

§ 1168. Effect of rejection of lease of railroad line

(a) Except as provided in subsection (b) of this section, if a lease of a line of railroad under which the debtor is the lessee is rejected under section 365 of this title, and if the trustee, within such time as the court fixes, and with the approval of the court, elects not to operate the leased line, the lessor under such lease, after such approval, shall operate the line.

(b) If operation of such line by such lessor is impracticable or contrary to the public interest, the court, on request of such lessor, and after notice and a hearing, shall order the trustee to continue operation of such line for the account of such lessor until abandonment is ordered under section 1169 of this title, or until such operation is otherwise lawfully terminated, whichever occurs first.

(c) During any such operation, such lessor is deemed a carrier subject to the provisions of the Interstate Commerce Act (49 U.S.C. 1 et seq.) that are applicable to railroads.

§ 1169. Abandonment of railroad line

(a) The court may authorize the abandonment of a railroad line if such abandonment is—

(1)(A) in the best interest of the estate; or

(B) essential to the formulation of a plan; and

(2) consistent with the public interest.

(b) If, except for the pendency of the case under this chapter, such abandonment would require approval by the Interstate Commerce Commission under a law of the United States, the trustee, with the approval of the court, shall initiate an application for such abandonment with the Interstate Commerce Commission. The court may fix a time within which the Interstate Commerce Commission shall report to the court on such application.

(c) After the court receives the report of the Interstate Commerce Commission, or the expiration of the time fixed under subsection (b) of this section, whichever occurs first, the court may authorize such abandonment after notice to the Interstate Commerce Commission, the Secretary of Transportation, the trustee, any party in interest that has requested notice, any affected shipper or community, and any other entity prescribed by the court, and a hearing.

(d)(1) Enforcement of an order authorizing such abandonment shall be stayed until the time for taking an appeal has expired, or, if an appeal is timely taken, until such order has become final.

(2) If an order authorizing the abandonment of a railroad line is appealed, the court, on request of a party in interest, may authorize termination of service on a line or a portion of a line pending the determination of such appeal, after notice to the Interstate Commerce Commission, the Secretary of Transportation, the trustee, any party in interest that has requested notice, any affected shipper or community, and any other entity prescribed by the court, and a hearing. An appellant may not obtain a stay of the enforcement of an order authorizing such termination by the giving of a supersedeas bond or otherwise, during the pendency of such appeal.

§ 1170. Priority claims

(a) There shall be paid as an administrative expense any claim of an individual or of the personal representative of a deceased individual, against the debtor or the estate, for personal injury to or death of such individual arising out of the operation of the debtor or the estate, whether such claim arose before or after the commencement of the case.

(b) Any unsecured claim against the debtor that would have been entitled to priority if a receiver in equity of the property of the debtor had been appointed by a Federal court on the date of the order for relief under this title shall be entitled to such priority in the case under this chapter.

§ 1171. Contents of plan

A plan may include, in addition to the provisions required or permitted under section 1123 of this title, a provision for—

(1) the transfer of any or all of the operating railroad lines of the debtor to another operating railroad; or

(2) abandonment of any railroad line in accordance with section 1169 of this title.

§ 1172. Confirmation of plan

The court shall confirm a plan if—

(1) the applicable requirements of section 1129 of this title have been met;

(2) each creditor or equity security holder will receive or retain under the plan property of a value, as of the effective date of the plan, that is not less than the value of property that each such creditor or equity security holder would so receive or retain if all of the operating railroad lines of the debtor were sold, and the proceeds of such sale, and the other property of the estate, were distributed under chapter 7 of this title on such date; and

(3) the plan is compatible with the public interest.

Chapter 13—ADJUSTMENT OF DEBTS OF AN INDIVIDUAL WITH REGULAR INCOME

Subchapter I—Officers, Administration, and the Estate

Sec.
1301. Stay of action against codebtor.
1302. Trustee.
1303. Rights and powers of debtor.
1304. Debtor engaged in business.
1305. Filing and allowance of post petition claims.
1306. Property of the estate.
1307. Conversion or dismissal.

Subchapter II—The Plan

1321. Filing of plan.
1322. Provisions of plan.
1323. Modification of plan before confirmation.
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1325. Confirmation of plan.
1326. Payments.
1327. Effect of confirmation.
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1329. Modification of plan after confirmation.
1330. Revocation of an order of confirmation.
1331. Special tax provision.

Subchapter I—Officers, Administration, and the Estate

§ 1301. Stay of action against codebtor

(a) Except as provided in subsections (b) and (c) of this section, after the order for relief under this chapter, a creditor may not act, or commence or continue any civil action, to collect all or any part of a consumer debt of the debtor from any individual that is liable on such debt with the debtor, or that secured debt, unless—

(1) such individual became liable on or secured such debt in the ordinary course of such individual's business; or

(2) the case is closed, dismissed, or converted to a case under chapter 7 or 11 of this title.

(b) A creditor may present a negotiable instrument, and may give notice of dishonor of such an instrument.

(c) On request of a creditor, the court shall grant relief from the stay provided by subsection (a) of this section with respect to such creditor, to the extent that—

(1) as between the debtor and the individual protected under subsection (a) of

this section, such individual received the consideration for the claim held by such creditor;

(2) the plan filed by the debtor proposes not to pay such claim; or

(3) such creditor's interest would be irreparably harmed by such stay.

§ 1302. Trustee

(a) Creditors may elect, in the manner prescribed by and subject to the provisions of section 702(a), 702(b), and 702(c) of this title, a person to serve as trustee in a case under this title. If creditors do not elect a trustee under this subsection—

(1) if the United States trustee has appointed an individual under section 586(b) of title 28 to serve as standing trustee in cases under this chapter and if such individual qualifies under section 322 of this title, then such individual shall serve as trustee in the case; and

(2) the United States trustee shall serve as trustee in the case otherwise.

(b) The trustee shall—

(1) perform the duties specified in section 704(2), 704(3), 704(4), 704(5), 704(6), and 704(8) of this title; and

(2) appear and be heard at any hearing that concerns—

(A) the value of property subject to a lien;

(B) confirmation of a plan; or

(C) modification of the plan after confirmation.

(c) If an individual appointed under section 586(b) of title 28 to serve as standing trustee in cases under this chapter is serving as trustee in the case, then such individual shall advise, other than on legal matters, and assist the debtor in performance under the plan. If such an individual is not serving as trustee in the case, then the United States trustees shall so advise and assist the debtor.

(d) If the debtor is engaged in business, then in addtion to the duties specified in subsection (b) of this section, the trustee shall perform the duties specified in sections 1106(a)(3) and 1106(a)(4) of this title.

§ 1303. Rights and powers of debtor

Subject to any limitations on a trustee under this chapter, the debtor shall have, exclusive of the trustee, the rights and powers of a trustee, under section 363(b), 363(d), 363(e), 363(f), and 363(k) of this title.

§ 1304. Debtor engaged in business

(a) A debtor that is self-employed and incurs trade credit in the production of income from such employment is engaged in business.

(b) Unless the court orders otherwise, a debtor engaged in business may operate the business of the debtor, and shall have the rights and powers of the trustee under sections 363(c) and 364 of this title, exclusive of the trustee.

(c) A debtor engaged in business shall perform the duties of the trustee specified in section 704(7) of this title.

§ 1305. Filing and allowance of postpetition claims

(a) A proof of claim may be filed by any entity that holds a claim against the debtor—

(1) for taxes that become payable to a governmental unit while the case is pending; or

(2) arising after the date of the order for relief under this chapter for property or services necessary for the debtor's performance under the plan.

(b) Except as provided in subsection (c) of this section, a claim filed under subsection (a) of this section shall be allowed or disallowed under section 502 of this title, but shall be determined as of the date of allowance of such claim.

(c) A claim filed under subsection (a)(2) of this section shall be disallowed if the holder of such claim knew or should have known that prior approval by the trustee of the debtor's incurring the obligation was practicable and was not obtained.

§ 1306. Property of the estate

(a) Property of the estate includes, in addition to the property specified in section 541 of this title—

(1) all property of the kind specified in such section that the debtor acquires after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7 or 11 of this title, whichever occurs first; and

(2) earnings from services performed by the debtor after the commencement of the case.

(b) Except as provided in a confirmed plan or order confirming a plan, the debtor shall remain in possession of all property of the estate.

§ 1307. Conversion or dismissal

(a) The debtor may convert a case under this chapter to a case under chapter 7 of this title at any time.

(b) On request of the debtor at any time if the case has not been converted under section 706 or 1112 of this title, the court shall dismiss a case under this chapter.

(c) Except as provided in subsection (e) of this section, the court may convert a case under this chapter to a case under chapter 7 of this title, or may dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause, including—

(1) unreasonable delay by the debtor that is prejudicial to creditors;

(2) nonpayment of any fees and charges required under chapter 123 of title 28;

(3) failure to file a plan timely under section 1321 of this title;

(4) denial of confirmation of a plan under section 1325 of this title and denial of additional time for filing another plan or a modification of a plan;

(5) material default by the debtor with respect to a term of a confirmed plan;

(6) revocation of the order of confirmation under section 1330 of this title, and denial of confirmation of a modified plan under section 1329 of this title; and

(7) termination of a confirmed plan by reason of the occurrence of a condition specified in the plan.

(d) Except as provided in subsection (e) of this section, at any time before the confirmation of a plan under section 1325 of this title, the court, on request of a party in interest, may convert a case under this chapter to a case under chapter 11 of this title.

(e) The court may not convert a case under this chapter to a case under chapter 7 or 11 of this title if the debtor is a farmer, unless the debtor requests such conversion.

(f) Notwithstanding any other provision of this section, a case may not be converted to a case under another chapter of this title unless the debtor may be a debtor under such chapter.

Subchapter II—The Plan

§ 1321. Filing of plan

The debtor shall file a plan.

§ 1322. Provisions of plan

(a) The plan shall—

(1) provide for the submission of all or such portion of future earnings or other future income of the debtor to the supervision and control of the trustee as is necessary for the execution of the plan;

(2) provide for the full payment of all claims entitled to priority under section 507 of this title; and

(3) if the plan classifies claims, provide the same treatment for each claim within a particular class.

(b) Subject to subsections (a) and (c) of this section, the plan may—

(1) designate a class or classes of unsecured claims other than claims of the kind specified in section 507 of this title, as provided in section 1122 of this title, but may not discriminate unfairly against any class so designated;

(2) modify the rights of holders of secured claims or of holders of unsecured claims;

(3) provide for the curing or waiving of any default;

(4) provide for payments on any unsecured claim to be made concurrently with payments on any secured claim or any unsecured claim;

(5) provide for the curing of any default within a reasonable time and maintenance of payments while the case is pending on any unsecured claim or secured claim on which the last payment is due after the date on which the final payment under the plan is due;

(6) provide for the payment of all or any part of any claim allowed under section 1305 of this title;

(7) provide for the assumption or rejection of any executory contract or unexpired lease of the debtor not previously rejected under section 365 of this title;

(8) provide for the payment of all or any part of a claim against the debtor from property of the estate or property of the debtor;

(9) provide for the vesting of property of the estate, on confirmation of the plan or at a later time, in the debtor or in any other entity; and

(10) include any other appropriate provision not inconsistent with this title.

(c) The plan may not provide for payments over a period that is longer than three years, unless the court, for cause, approves a longer period, but the court may not approve a period that is longer than five years.

§ 1323. Modification of plan before confirmation

(a) The debtor may modify the plan at any time before confirmation, but may not modify the plan so that the plan as modified fails to meet the requirements of section 1322 of this title.

(b) After the debtor files a modification under this section, the plan as modified becomes the plan.

(c) Any holder of a secured claim that has accepted or rejected the plan is deemed to have accepted or rejected, as the case may be, the plan as modified, unless the modification provides for a change in the rights of such holder from what such rights were under the plan before modification, and such holder changes such holder's previous acceptance or rejection.

§ 1324. Confirmation hearing

After notice to all parties in interest, the court shall hold a hearing on the confirmation of the plan. A party in interest may object to the confirmation of the plan.

§ 1325. Confirmation of plan

(a) The court shall confirm a plan if—

(1) the plan complies with the provisions of this chapter and with other applicable provisions of this title;

(2) any fee, charge, or amount required under chapter 123 of title 28, or by the plan, to be paid before confirmation, has been paid;

(3) the plan has been proposed in good faith and not by any means forbidden by law;

(4) the value, as of the effective date of the plan, of property to be distributed under the plan on account of each allowed unsecured claim is not less than the amount that would be paid on such claim if the estate of the debtor were liquidated under chapter 7 of this title on such date;

(5) with respect to each allowed secured claim provided for by the plan—

(A) the holder of such claim has accepted the plan;

(B) the value, as of the effective date of the plan, of property to be distributed under the plan on account of such claim is not less than the allowed amount of such claim; or

(C) the debtor surrenders the property securing such claim to such holder; and

(6) the debtor will be able to make all payments under the plan and to comply with the plan.

(b) After confirmation of a plan, the court may order any entity from whom the debtor receives income to pay all or any part of such income to the trustee.

§ 1326. Payments

(a) Before or at the time of each payment to creditors under the plan there shall be paid—

(1) any unpaid claim of the kind specified in section 507(1) of this title; and

(2) if a standing trustee appointed under section 586(b) of title 28 is serving in the case, the percentage fee fixed for such standing trustee under section 586(e)(1)(B) of title 28.

(b) Except as otherwise provided in the plan or in the order confirming the plan, the trustee shall make payments to creditors under the plan.

§ 1327. Effect of confirmation

(a) The provisions of a confirmed plan bind the debtor and each creditor, whether or not the claim of such creditor is provided for by the plan, and whether or not such creditor has objected to, has accepted, or has rejected the plan.

(b) Except as otherwise provided in the plan or the order confirming the plan, the confirmation of a plan vests all of the property of the estate in the debtor.

(c) Except as otherwise provided in the plan or in the order confirming the plan, the property vesting in the debtor under subsection (b) of this section is free and clear of any claim or interest of any creditor provided for by the plan.

§ 1328. Discharge

(a) As soon as practicable after completion by the debtor of all payments under the plan, the court shall grant the debtor a discharge of all debts provided for by the plan or disallowed under section 502 of this title, except any debt—

(1) provided for under section 1322(b)(5) of this title; or

(2) of the kind specified in section 523(a)(5) of this title.

(b) At any time after the confirmation of the plan and after notice and a hearing, the court may grant a discharge to a debtor that has not completed payments under the plan only if—

(1) the debtor's failure to complete such payments is due to circumstances for which the debtor should not justly be held accountable;

(2) the value, as of the effective date of the plan, of property actually distributed under the plan on account of each allowed unsecured claim is not less than the amount that would have been paid on such claim if the estate of the debtor had been liquidated under chapter 7 of this title on such date; and

(3) modification of the plan under section 1329 of this title is not practicable.

(c) A discharge granted under subsection (b) of this section discharges the debtor from all unsecured debts provided for by the plan or disallowed under section 502 of this title, except any debt—

(1) provided for under section 1322(b)(5) of this title; or

(2) of a kind specified in section 523(a) of this title.

(d) Notwithstanding any other provision of this section, a discharge granted under this section does not discharge the debtor from any debt based on an allowed claim filed under section 1305(a)(2) of this title if prior approval by the trustee of the debtor's incurring such debt was practicable and was not obtained.

(e) On request of a party in interest before one year after a discharge under this section is granted, and after notice and a hearing, the court may revoke such discharge only if—

(1) such discharge was obtained through fraud; and

(2) knowledge of such fraud came to the requesting party after such discharge was granted.

§ 1329. Modification of plan after confirmation

(a) At any time after confirmation but before the completion of payments under a plan, the plan may be modified, after notice and a hearing, to—

(1) increase or reduce the amount of payments on claims of a particular class provided for by the plan;

(2) extend or reduce the time for such payments; or

(3) alter the amount of the distribution to a creditor whose claim is provided for by the plan, to the extent necessary to take account of any payment of such claim other than under the plan.

(b)(1) Sections 1322(a), 1322(b), and 1323(c) of this title and the requirements of section 1325(a) of this title apply to any modification under subsection (a) of this section.

(2) The plan as modified becomes the plan unless such modification is disapproved.

(c) A plan modified under this section may not provide for payments over a period that expires after three years after the time that the first payment under the original confirmed plan was due, unless the court, for cause, approves a longer period, but the court may not approve a period that expires after five years after such time.

§ 1330. Revocation of an order of confirmation

(a) On request of a party in interest at any time within 180 days after the date of the entry of an order of confirmation under section 1325 of this title, and after notice and a hearing, the court may revoke such order if such order was procured by fraud.

(b) If the court revokes an order of confirmation under subsection (a) of this section, the court shall dispose of the case under section 1307 of this title, unless, within the time fixed by the court, the debtor proposes and the court confirms a modification of the plan under section 1329 of this title.

§ 1331. Special tax provision

Any State or local tax entitled to priority under section 507(6) of this title that is assessed after confirmation of a plan under section 1325 of this title but before one year after the date of the filing of the petition, or any State or local tax payable by the debtor that arises out of a taxable event that occurs after the commencement of the case, may be assessed against and collected from the debtor, but the government unit to which such tax is owing may accept the provisions of such plan dealing with the assumption, settlement, or payment of any such tax.

Mr. EDWARDS of California (during the reading). Mr. Chairman, I ask unanimous consent that title I be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

AMENDMENT OFFERED BY MR. FOLEY

Mr. FOLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered By Mr. FOLEY: On page 409, line 2, delete the word "A" and insert in lieu thereof the following: "Except as provided in the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a–499s), the Packers and Stockyards Act, 1921 (7 U.S.C. 181–229), and section 1 of the act entitled 'An act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1944, and for other purposes,' approved July 12, 1943 (57 Stat. 422; 7 U.S.C. 204), a".

PARLIAMENTARY INQUIRY

Mr. DANIELSON. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. DANIELSON. Mr. Chairman, I have an amendment which is lodged with the Clerk. I intend to bring it up a little later. It has an impact upon all four titles, at least titles I, II, III, and IV, of the bill.

Would the fact that the gentleman from Washington has an amendment that the gentleman is about to raise bar me later from bringing up my amendment now lodged with the Clerk, which would be a rewrite of title II of the bill with corresponding technical amendments to titles I, III, and IV?

The CHAIRMAN. It would not preclude the gentleman.

Mr. DANIELSON. I thank the Chair.

Mr. FOLEY. Mr. Chairman, section 525 of proposed new title II of the United States Code dealing with bankruptcy forbids any governmental unit at any level from denying a license to, discriminate against, or denying employment to a person solely because he has been a bankrupt, or has been insolvent, or has failed to pay a debt that is dischargeable in a case under title II. The Agriculture Committee has no quarrel with the basic philosophy underlying this provision which is to prevent discrimination against a person solely—and I emphasize the word "solely"—because that person has undergone bankruptcy. However, I am concerned that, without clarification, the section might be interpreted in such a way as to prevent the Secretary of Agriculture from carrying out his statutory responsibilities under the Perishable Agricultural Commodities Act, the Packers and Stockyards Act, and the supplementary packers and stockyards legislation contained in the Act of July 12, 1943, 7 U.S.C. 204. This amendment is simply designed to clarify the fact that section 525 does not in any way interfere with administration by the Secretary of Agriculture of these statutes.

Under the Packers and Stockyards Act and the act of July 12, 1943, persons purchasing livestock in commerce are required to conduct their businesses in a financially responsible manner, and market agencies and dealers must be licenses of market agencies and dealers dealers are required to have a bond and to pay for all livestock purchased. The licenses of market agencies and leaders may be suspended if they become insolvent. Packers may be ordered to cease and desist from failing to pay for live-

stock and packers who become insolvent may be ordered to cease and desist from operating except under such conditions as the Secretary may impose.

Under the Perishable Agricultural Commodities Act, commission merchants, dealers, and brokers are required to be licensed and to account and pay promptly for all commodities purchased. Failure to pay can result in suspension of a license, and flagrant and repeated failure may result in revocation of a license. Licensees may in certain circumstances be required by the Secretary to post a bond as evidence of financial responsibility. And the Secretary may refuse to issue licenses to persons who have violated the act or have been convicted of a felony.

The Committee on Agriculture has no quarrel with the "fresh-start" philosophy underlying this bill. However, that philosophy is not new and has heretofore been one of the principal purposes of the bankruptcy laws. Because of the peculiar vulnerability of producers of perishable agricultural commodities and livestock, Congress has seen fit, notwithstanding this philosophy, to enact and from time to time amend the perishable Agricultural Commodities Act, the Packers and Stockyards Act, and the Act of July 12, 1943.

The Committee on Agriculture conducted oversight hearings on the PACA program twice in the 94th Congress and found that the program is generally operating well and is serving its purpose in protecting the producers of perishable agricultural commodities and the public. Last year, after extensive hearings, Congress enacted Public Law 94–410 which made extensive amendments to the Packers and Stockyards Act and the act of July 12, 1943, to assist the Secretary to prevent recurrence of the catastrophic losses to livestock producers which attended the bankruptcies of several large packers in the past few years. Both of these programs must be continued if this Nation is to continue to have a ready source of nutritious food at prices which are reasonable to both the producer and the consumer.

This amendment and the amendment to section 303, which will be offered on behalf of Mr. SISK by Mr. PANETTA, have the support both of the administration and of the Farm Bureau.

I should like to read briefly to the Members a letter dated October 26, 1977, addressed to me by Deputy Secretary of Agriculture John White, and I quote:

DEPARTMENT OF AGRICULTURE,
Washington, D.C., October 26, 1977.

Hon. THOMAS S. FOLEY,
Chairman, Committee on Agriculture, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for the Department's comments on proposed amendments (copy attached) to H.R. 8200, a bill to establish a uniform law on the subject of bankruptcies. These amendments relate to the Perishable Agricultural Commodities Act and the Packers and Stockyards Act.

The Department recommends enactment of the proposed amendments to Section 525 and 303 as they would rectify the concerns which we raised in our letter of April 21, 1977, to the House Judiciary Subcommittee on Civil and Constitutional Rights.

The proposed amendments would (1) make it clear that the Perishable Agricultural Commodities Act, 1930, the Packers and Stockyards Act, 1921, and Section 1 of the Department of Agriculture Appropriation Act of 1944 are exempted from the provisions of Section 525; and (2) amend Section 303(a) of the bill by inserting new wording which would give the Secretary the authority under Section 4(a) of the Perishable Agricultural Commodities Act to examine the circumstances of bankruptcy, if requested by the licensee and if warranted, find that the license should not terminate on discharge.

Inclusion of these amendments will enable the Department to continue the meaningful protection of the PACA and P&S Acts for farmers, ranchers, and licensees. The amendments would also insure the treatment of bankrupts the same as others in similar situations.

There would be no additional cost to administering the Perishable Agricultural Commodities Act or Packers and Stockyards Act if Sections 525 and 303 of H.R. 8200 are enacted with the attached proposed amendments.

In accordance with the provisions of Public Law 91–190. Section 102(C), this legislation would have no significant impact on the quality of the environment.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

JOHN C. WHITE,
Acting Secretary.

Enclosure.

PROPOSED AMENDMENTS TO H.R. 8200

Amendment to section 525: Insert at the beginning of Section 525, page 409, line 2, the following language: "Except as provided in the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a–499s), the Packers and Stockyards Act, 1921 (7 U.S.C. 181–229), and section 1 of the Act entitled 'An Act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1944, and for other purposes,' approved July 12, 1943 (57 Stat. 422; 7 U.S.C. 204),"

Amendment to section 303: Page 583, strike out lines 1 through 5 and insert in lieu thereof the following:

"SEC. 303(a) Subsection (a) of section 4 of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499d(a)) is amended by inserting immediately before the semicolon at the end thereof the following: 'unless the Secretary finds after examining the circumstances of the bankruptcy, which the Secretary shall examine if requested by the licensee, that the license should not terminate' ".

Mr. Chairman, I understand also that this amendment is acceptable to the authors of this bill.

I should note that while all three of the statutes cited in my amendment have been amended. I have adhered to the style in which H.R. 8200 is drafted which eliminates all references to amendments on the understanding that all amendments to cited legislation up to the date of enactment of the bill are automatically included.

I understand that this bill has no effect on the trust provision for the protection of cash sellers of livestock which was enacted last year as part of Public Law 94–410. This subject was touched on by Mr. THONE during general debate. I also understand that the authors of this bill will accept an amendment to title III of the bill to be offered by Mr. PANETTA of California which is similar to an amendment offered by Mr. VOLKMER and agreed to by the Judiciary Committee. Mr. PANETTA's amendment will accommodate the Judiciary Committee by modifying a provision in the Perishable Agricultural Commodities Act which would otherwise terminate the license of a person discharged as a bankrupt.

I should like to express my appreciation to Mr. RODINO and to the chairman of the Subcommittee on Civil and Constitutional Rights, the gentleman from California (Mr. EDWARDS) for their cooperation in working out these amendments. I should also like to commend subcommittee counsel, Richard Levin and Kenneth N. Klee, for their assistance to my staff.

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the distinguished chairman of the subcommittee.

Mr. EDWARDS of California. Mr. Chairman, we have consulted in depth with the gentleman from Washington, the chairman of the House Agriculture Committee, on this amendment. We did consider the entire issue and all the issues involved in the subcommittee markup. This is an area that we overlooked, and I appreciate the gentleman's bringing the matter to our attention and cooperating with us in the formulation of the amendment. On this side of the aisle, we have no objection to the amendment.

Mr. FOLEY. I would like to thank the distinguished subcommittee chairman and his staff for their cooperation in this discussion regarding this amendment.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from California.

Mr. PANETTA. Mr. Chairman, I thank the gentleman for yielding.

I commend the gentleman from Washington (Mr. FOLEY), the distinguished chairman of the Committee on Agriculture, for offering this amendment. As the gentleman knows, I will be offering a complementary amendment with regard to section 303 that will in effect carry on the basic thrust of the gentleman's amendment.

The Perishable Agricultural Commodities Act is the mainstay of the fresh fruit and vegetable market. What these amendments attempt to do is to restore the authority of the Secretary of Agriculture under that law.

Mr. Chairman, I commend the gentleman, and I urge adoption of the amendment.

Mr. THONE. Mr. Chairman, will the distinguished committee chairman yield to me?

Mr. FOLEY. I yield to the gentleman from Nebraska.

Mr. THONE. Mr. Chairman, I strongly support this amendment.

The CHAIRMAN. The time of the gentleman from Washington (Mr. FOLEY) has expired.

(By unanimous consent, Mr. FOLEY was allowed to proceed for 1 additional minute.)

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Virginia.

Mr. BUTLER. Mr. Chairman, I would like to note that section 525 of the new Bankruptcy Code by its very terms applies only in situations in which governmental units, either in hiring or in administering licensing programs, discriminate solely on the basis of whether a person is, or has been, a bankrupt. The gentleman from Washington (Mr. FOLEY) correctly points out that the section applies only where the discrimination is practiced "solely" on that basis.

I am told that lawyers at the Agriculture Committee and in the General Counsel's Office at the Department of Agriculture are nevertheless of the opinion that, without clarification, section 525 might be interpreted to prevent the Secretary from taking necessary regulatory actions under the Perishable Agricultural Commodities Act, the Packers and Stockyards Act, and the act of July 12, 1943, 7 U.S.C. 204. It is difficult for me to understand this interpretation. As noted in our report, it was never the intention of the Judiciary Committee to interfere with legitimate regulatory objectives. However, if section 525 is susceptible to such interpretations, I am glad of this clarification.

It should, however, be pointed out that there are provisions in subsections (a) and (e) of section 4 of the Perishable Agricultural Commodities Act which do terminate, or permit the Secretary of Agriculture to refuse to issue, a license solely because a licensee or license applicant has been discharged as a bankrupt. Those provisions are repugnant to the concept of a fresh start which is a prime purpose of bankruptcy. The bill, H.R. 8200, repeals that provision of subsection (a) and modifies subsection (e) of section 4 to require the Secretary to examine the circumstances of the bankruptcy to determine whether refusal to issue a license would further the regulatory objectives of the act. I understand that an amendment will be offered to restore the provision in subsection (a), subject to a similar requirement that the Secretary examine the circumstances before a license is terminated. That amendment is acceptable, but only on the clear understanding that the Secretary's action will be predicated upon legitimate regulatory objectives and not solely upon the fact that the licensee has been discharged as a bankrupt.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. FOLEY).

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. DANIELSON

Mr. DANIELSON. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. DANIELSON: page 309, immediately after line 18, insert the following new paragraph and redesignate the subsequent paragraphs accordingly:

(4) "bankruptcy court" means United States district court for each judicial district;

Page 339, line 2, strike out "586(b)" and insert in lieu thereof "906(b)".

Page 434, line 9, strike out "586(a)(1)" and insert in lieu thereof "906(a)(1)".

Page 437, line 2, strike out "586(a)(1)" and insert in lieu thereof "906(a)(1)".

Page 531, line 25, strike out "586(b)" and insert in lieu thereof "906(b)".

Page 532, line 15, strike out "586(b)" and insert in lieu thereof "906(b)".

Page 545, strike out line 3 and all that follows through line 16 on page 581, and insert in lieu thereof the following:

TITLE II—AMENDMENTS TO TITLE 28 OF THE UNITED STATES CODE AND TO THE FEDERAL RULES OF EVIDENCE

SEC. 201. (a) Sections 455(a) and 455(e) of title 28 of the United States Code are each amended by striking out "referee in bankruptcy" each place it appears and inserting in lieu thereof "bankruptcy judge".

(b) The heading for section 455 of title 28 of the United States Code is amended by striking out "referee in bankruptcy" and inserting in lieu thereof "bankruptcy judge".

(c) The item relating to section 455 in the table of sections of chapter 21 of title 28 of the United States Code is amended by striking out "referee in bankruptcy" and inserting in lieu thereof "bankruptcy judge".

SEC. 202. (a) The heading for section 460 of title 28 of the United States Code is amended by striking out "Alaska,".

(b) The item relating to section 460 in the table of sections of chapter 21 of title 28 of the United States Code is amended by striking out "Alaska,".

SEC. 203. Section 526(a)(2) of title 28 of the United States Code is amended—

(1) by striking out "referees" and inserting in lieu thereof "bankruptcy judges";

(2) by striking out "and receivers in bankruptcy" and inserting in lieu thereof "in cases under title 11"; and

(3) by striking out "United States commissioners" and inserting in lieu thereof "magistrates".

SEC. 204. Section 571(b) of title 28 of the United States Code is amended by inserting immediately after "judges," the following: "bankruptcy judges, United States trustees and their assistants, staff, and other employees,".

SEC. 205. Section 604(a) of title 28 of the United States Code is amended—

(1) by redesignating paragraph (13) as paragraph (14); and

(2) by inserting immediately after paragraph (12) the following:

"(13) Lay before Congress, annually, statistical tables that will accurately reflect the bankruptcy business transacted by the several district courts, and all pertinent data with respect to bankruptcy matters relating to such courts;".

SEC. 206. Section 620(b)(3) of title 28 of the United States Code is amended by striking out "referees,".

SEC. 207. Section 621(b)(1) of title 28 of the United States Code is amended by striking out ": *Provided, however*" and all that follows through "a member" and inserting in lieu thereof ". A member".

SEC. 208. Chapter 42 of title 28 of the United States Code is amended—

(1) by striking out section 629; and

(2) by striking out the item relating to section 629 in the table of sections.

SEC. 209. Section 631(c) of title 28 of the United States Code is amended—

(1) by striking out "of the conference, a part-time referee in bankruptcy or" and inserting in lieu thereof "of the conference,"; and

(2) by striking out "magistrate and part-time referee in bankruptcy," and inserting in lieu thereof "magistrate and".

SEC. 210. Section 634(a) of title 28 of the United States Code is amended by striking out "for full-time and part-time United States magistrates not to exceed the rates now or hereafter provided for full-time and part-time referees in bankruptcy, respectively, referred to in section 40a of the Bankruptcy Act (11 U.S.C. 68(a)), as amended" and inserting in lieu thereof "not to exceed $48,500 per annum, subject to adjustment in accordance with section 225 of the Federal Salary Act of 1967 and section 461 of this title".

SEC. 211. (a) Title 28 of the United States Code is amended by inserting immediately after chapter 49 thereof the following:

"Chapter 50—BANKRUPTCY JUDGES

"Sec.
"771. Creation; appointment; tenure.
"772. Qualifications; removal.
"773. Oath of office; compensation; benefits; expenses.
"774. Number and locations.
"775. Vacancies; temporary assignments.
"776. Powers.
"777. Duties.
"778. Training.
"779. Dockets.

"§ 771. Creation; appointment; tenure

"(a) There is created in each judicial district the office of bankruptcy judge.

"(b) The judicial council of each circuit shall appoint bankruptcy judges to serve in each district court of the circuit, including territorial district courts, in such numbers and at such locations within each district as the Judicial Conference of the United States may determine pursuant to this chapter. The appointment, whether an original appointment or a reappointment, shall be by the concurrence of a majority of all the judges of the judicial council of the circuit. Whenever there is no such concurrence, appointment shall be by the chief judge of the circuit. In making appointments under this subsection, the judicial council of the circuit may consider any recommendations of the district courts within the circuit, the organized bar within the circuit, and any association or committee for merit selection of judicial officers then in existence in the circuit.

"(c) Each bankruptcy judge shall be appointed for a term of 15 years. An individual appointed as a bankruptcy judge may not serve under this chapter after having attained the age of 70 years, except that, upon the unanimous vote of all the judges of the judicial council of the circuit, a bankruptcy judge who has attained the age of 70 years may continue to serve for the remainder of his term, or for such portion thereof as such judicial council considers appropriate, and may be reappointed under this chapter. Upon the expiration of his term of office, a bankruptcy judge shall continue to perform the duties of the office until a successor is appointed and qualified.

"§ 772. Qualifications; removal

"(a) No individual may be appointed or reappointed to serve as a bankruptcy judge unless such individual—

"(1) has been a member or the bar for at least five years and is currently a member in good standing of the bar of the highest court of the State in which he is to serve, or, in the case of an individual appointed to serve—

"(A) in the District of Columbia, a member in good standing of the bar of the United States District Court for the District of Columbia;

"(B) in the Commonwealth of Puerto Rico, a member in good standing of the bar of the Supreme Court of Puerto Rico, and in territorial district courts, a member in good standing of the bar of the district court of the territory; or

"(C) in two or more districts extending into two or more States, a member in good standing of the bar of the highest court of one of such States;

"(2) is determined by the judicial council of the circuit to be competent to perform the duties of the office;

"(3) is not related by blood or marriage to a judge of the court of appeals of the circuit, or to a judge of the district court in which he is appointed to serve;

"(4) is not holding any office of profit or emolument under the laws of the United States or of any State or political subdivision thereof, except that nothing in this paragraph shall be construed to prohibit the appointment of an individual acting as referee in bankruptcy under the Bankruptcy Act nor to prohibit the appointment of any retired officer or retired enlisted personnel of the Regular and Reserve components of the Army, Navy, Marine Corps, and Coast Guard, or member of the National Guard of the United States or of the National Guard of a State, territory, or the District of Columbia, except National Guard disbursing officers who are on a full-tme salary basis; and

"(5) is a resident of, and has an office within, the judicial district of the district court or one of the district courts under which such individual is to hold appointment, except that—

"(A) whenever a bankruptcy judge is temporarily transferred or permanently appointed to another judicial district, residence or office in such other district shall not be required for eligibility; and

"(B) bankruptcy judges serving the District of Columbia shall reside in the District of Columbia or within 20 miles thereof.

"(b) Removal of a bankruptcy judge during the term for which he is appointed shall be only for incompetency, misconduct, neglect, of duty, or physical or mental disability. Removal shall be by the judicial council of the circuit in which the bankruptcy judge serves, but shall not occur unless a majority of all the judges of such judicial council concur in the order of removal. Any cause for removal of any bankruptcy judge coming to the knowledge of the Director of the Administrative Office of the United States Courts shall be reported by him to the chief judge of the circuit in which such bankruptcy judge serves, and a copy of the report shall at the same time be transmitted to the judicial council of the circuit, to the judges of the district court concerned, and to such bankruptcy judge. Before any order of removal may be entered with respect to a bankruptcy judge, a full specification of the charges shall be furnished to such bankruptcy judge, and he shall be accorded an opportunity to be heard on such charges.

"§ 773. Oath of office; compensation; benefits

"(a) Each individual appointed as a bankruptcy judge under this chapter shall, before performing the duties of his office, take the same oath as that prescribed for judges of the district courts of the United States. The appointment of a bankruptcy judge shall be entered of record in the appropriate district court, and notice of such appointment shall be given to the Director of the Administrative Office of the United States Courts by the clerk of such court.

"(b) Each bankruptcy judge shall receive as full compensation for his services a salary of $48,500 per annum, subject to adjustment in accordance with section 225 of the Federal Salary Act of 1967 and section 461 of this title.

"(c) All bankruptcy judges, and all clerical and secretarial assistants employed in the office of a bankruptcy judge, shall be deemed to be officers and employees in the judicial branch of the United States Government within the meaning of subchapter III of chapter 83 of title 5 (relating to civil service retirement), chapter 87 of such title (relating to Federal employee's group life insurance), and chapter 89 of such title (relating to Federal employee's health benefits program).

"(d) A bankruptcy judge serving under this chapter shall be allowed actual and necessary expenses incurred in the performance of his duties, including compensation for necessary secretarial and other necessary supporting personnel. Such expenses and compensation shall be determined and paid by the Director of the Administrative Office, under such regulations as he shall prescribe with the approval of the Judicial Conference. The Administrator of General Services shall provide bankruptcy judges with necessary courtrooms, office space, furniture, and facilities in buildings owned or occupied by departments and agencies of the United States. If suitable courtroom and office space is not available in such buildings, the Administrator of General Services, at the request of the Director of the Administrative Office, shall procure and pay for suitable courtrooms, office space, furniture, and facilities in other buildings, but only if such request has been approved as necessary by the judicial council of the appropriate circuit.

"§ 774. Number and locations

"(a) The Director of the Administrative Office of the United States Courts shall make continuing studies and surveys of conditions in the judicial districts to determine the number of bankruptcy judges needed for the expeditious and effective administration of justice and the locations at which such bankruptcy judges should serve.

"(b) In conducting any survey under subsection (a) of this section, the Director of the Administrative Office shall take into account local conditions in each judicial district, including the areas and the population to be served, the transportation and communications facilities available, the numbers and types of bankruptcy cases filed, and any other material factor. The Director of the Administrative Office shall give consideration to suggestions from any interested party.

"(c) Upon completion of the surveys conducted under subsection (a) of this section, the Director of the Administrative Office shall report his recommendations concerning the number of bankruptcy judges needed and their suggested locations to the district courts, the judicial councils of the circuits, and the Judicial Conference of the United States. The district courts shall advise the judicial councils of their respective circuits, stating their recommendations and the reasons therefor. The judicial council of each circuit shall advise the Judicial Conference, stating its recommendations and the reasons therefor, and shall also report to the Judicial Conference the recommendations of the district courts within its circuit. The Judicial Conference shall, in light of the recommendations required by this subsection, determine the number of bankruptcy judges to be appointed and the locations at which they shall serve.

"(d) Whenever the Judicial Conference considers it desirable for the expeditious and effective administration of the bankruptcy laws, a bankruptcy judge may be appointed to serve in more than one judicial district within a circuit.

"(e) Except as otherwise provided in this chapter, the Judicial Conference may, from time to time, in light of the recommendations of the Director of the Administrative Office, the district courts, and the judicial councils of the circuits, change the number of bankruptcy judges and the locations at which they shall serve.

"§ 775. Vacancies; temporary assignments

"(a) Whenever the office of bankruptcy judge is vacant, the clerk of the district court in which the territory or any part of the territory served by such bankruptcy judge is located shall immediately give notice of such vacancy to the Director of the Administrative Office of the United States Courts. Upon the recommendation of the Director of the Administrative Office, the district court, and the judicial council of the circuit that the office be continued without change, the vacancy may be filled. If a change in the office is recommended by the Director of the Administrative Office, the district court, or the judicial council of the circuit, the vacancy shall not be filled until the Judicial Conference has acted thereon.

"(b)(1) Whenever the office of a bankruptcy judges is vacant or whenever the expeditious transaction of the bankruptcy business of the district court or courts requires—

"(A) the judge or any one of the judges of the district court may act;

"(B) the judge or the chief judge of the district court may designate and assign temporarily any bankruptcy judge of the district to act;

"(C) the chief judge of the circuit may designate and temporarily assign one or more bankruptcy judges within the circuit to act in any district within the circuit;

"(D) the chief judge of the circuit may, with the consent of the chief judge of any other circuit, designate and temporarily assign a bankruptcy judge from such other circuit to act in any district within the circuit;

"(E) the chief judge of the circuit may order that pending cases be rereferred and future cases referred to one or more bankruptcy judges within the circuit; or

"(F) the chief judge of the circuit may, with the approval of the Director of the Administrative Office, designate and temporarily assign a retired bankruptcy judge to act in any district within the circuit, and such retired bankruptcy judge shall be deemed to be a reemployed annuitant within the meaning of the civil service laws.

"(2) All designations and assignments made pursuant to paragraph (1) of this subsection shall be entered of record in the office of the clerk of the district court to which the bankruptcy judge is assigned. A bankruptcy judge designated and assigned pursuant to such paragraph shall discharge all judicial duties for which he is designated and assigned, and shall have all the powers of a bankruptcy judge for the district to which he is assigned for the period of such assignment.

"(3) The chief judge of a circuit or a judge or chief judge of a district court may make new designations and assignments in accordance with the provisions of this subsection, and may revoke designations and assignments previously made by him.

"§ 776. Powers

"(a) Each bankruptcy judge serving under this chapter shall have—

"(1) the power to conduct all proceedings under title 11;

"(2) to the extent authorized by rule or order of the district court, the power to conduct trials and other proceedings in actions under section 1334(b) of this title; and

"(3) the power to administer oaths and affirmations.

"(b) A person aggrieved by an order of a bankruptcy judge in a case or proceeding under title 11 or aggrieved by a judgment entered in a case heard by a bankruptcy judge under subsection (a)(2) of this section, may, within ten days after the entry thereof or within such extended time as the court may allow for good cause shown upon petition filed within such ten-day period, file with the bankruptcy judge a petition for

review or appeal of such order or judgment by a judge of the district court and serve a copy of such petition upon the adverse parties who were represented at the hearing or trial. Such petition shall set forth the order or judgment complained of and the alleged errors with respect to such order or judgment. Unless the person aggrieved petitions for review of such order or judgment within such ten-day period, or any extension thereof, the order of the bankruptcy judge shall become final. Upon application of any party in interest, the execution or enforcement of the order or judgment complained of may be suspended by the court upon such terms as will protect the rights of all parties in interest.

"(c) Notwithstanding any other provision of law (other than section 362 of title 11), a bankruptcy judge may not enjoin a proceeding in any State or Federal court.

"(d) In a proceeding before a bankruptcy judge, any of the following acts or conduct shall constitute a contempt of a district court for the district in which such bankruptcy judge is serving:

"(1) disobedience or resistance to any lawful order, process, or writ;

"(2) misbehavior at a hearing or other proceeding, or so near the place thereof as to obstruct such hearing or proceeding;

"(3) failure to produce, after having been ordered to do so, any pertinent document;

"(4) refusal to appear after having been subpoenaed or, upon appearing, refusal to take the oath or affirmation as a witness, or, having taken the oath or affirmation, refusal to be examined according to law; or

"(5) any other act or conduct which, if committed before a judge of the district court, would constitute contempt of the court.

A bankruptcy judge may impose a fine not in excess of $1,000 for contempt of court. Upon the commission by any person of any act warranting imprisonment or a fine in excess of $1,000, the bankruptcy judge shall forthwith certify the facts to a judge of the district court. The judge of the district court shall serve or cause to be served upon such person an order to appear before such judge to show cause why such person should not be adjudged in contempt by reason of the facts so certified. The judge of the district court shall thereupon hear the evidence of the act or conduct complained of and, if warranted, punish such person in the same manner and to the same extent as for a contempt committed before a judge of such court, or commit such person upon the conditions applicable in the case of defiance of the process of such court or misconduct in the presence of a judge of such court.

"§ 777. Duties

"(a) A bankruptcy judge shall—

"(1) furnish or cause to be furnished such information with respect to cases or proceedings before such bankruptcy judge as may be requested by a party in interest;

"(2) transmit to the clerk of the district court such papers as may be on file before such bankruptcy judge whenever such papers are needed in any proceeding in court, and secure the return of such papers after they have been used, or, if it is impractical to transmit the original papers, transmit certified copies thereof by mail;

"(3) on request of a party in interest, preserve the evidence taken, or the substance thereof as agreed upon by the parties when a reporter is not in attendance;

"(4) prepare promptly and transmit to the clerk of the district court certificates on petitions for review of orders made by such bankruptcy judge, together with a statement of the questions presented, the findings and orders thereon, the petition for review, a transcript of the evidence or a summary thereof, and all exhibits; and

"(5) safely keep, perfect, and transmit to the clerk of the district court, at the conclusion of a case, the records required to be kept by this title.

"(b) A bankruptcy judge shall not engage in the practice of law or any other business, occupation, employment, or activity inconsistent with the expeditious, proper, and impartial performance of the duties of his office

"§ 778. Training

"The Federal Judicial Center shall conduct periodic training programs and seminars for bankruptcy judges, including an introductory training program for new bankruptcy judges.

"§ 779. Dockets

"The Director of the Administrative Office of the United States Courts shall furnish bankruptcy judges adequate docket books and forms prescribed by the Director.".

(b) The table of chapters of part III of title 28 of the United States Code is amended by inserting immediately after the item relating to chapter 49 the following:

"50. Bankruptcy judges..... 771".

SEC. 212. (a) Title 28 of the United States Code is amended by inserting immediately after chapter 55 thereof the following:

"Chapter 56—UNITED STATES TRUSTEES

"Sec.
"901. United States trustees.
"902. Assistant United States trustees.
"903. Oath of office.
"904. Official stations.
"905. Vacancies.
"906. Duties; standing trustees; supervision.
"907. Salaries.
"908. Expenses.

"§ 901. United States trustees

"(a) There is created in each judicial district the office of United States trustee.

"(b) The district court for each judicial district shall appoint a United States trustee by the concurrence of a majority of all the judges of the district. Whenever there is no such concurrence, such appointment shall be by the chief judge of the district. The same individual may be appointed to serve as United States trustee for more than one judicial district.

"(c) Each United States trustee shall be appointed for a term of seven years. On the expiration of his term of office, a United States trustee shall continue to perform the duties of the office until a successor is appointed and qualifies.

"(d) Each United States trustee is subject to removal for cause by the concurrence of a majority of all the judges of the judicial district in which such trustee is serving.

"§ 902. Assistant United States trustees

"(a) The district court for each judicial district shall, subject to the approval of the Judicial Conference, appoint one or more assistant United States trustees by the concurrence of a majority of all the judges of the district. Whenever there is no such concurrence, such appointment shall be by the chief judge of the district.

"(b) Each assistant United States trustee is subject to removal for cause by the concurrence of a majority of all the judges of the judicial district in which such trustee is serving.

"§ 903. Oath of office

"Each United States trustee and assistant United States trustee, before taking office, shall take an oath to execute faithfully the duties of the office.

"§ 904. Official stations

"The Judicial Conference may determine the official stations of the United States trustee and any assistant United States trustees within the judicial districts for which such trustees are appointed.

"§ 905. Vacancies

"The chief judge for a judicial district may appoint an acting United States trustee whenever the office of United States trustee in such district is vacant. The individual so appointed may serve until the earlier of 90 days after such appointment or the date on which the vacancy is filed by appointment under section 901 of this title.

"§ 906. Duties; standing trustees; supervision

"(a) Each United States trustee, within his district, shall—

"(1) establish, maintain, and supervise a panel of private trustees that are eligible and available to serve as trustees in cases under chapter 7 of title 11;

"(2) serve as and perform the duties of a trustee in a case under this title when required under title 11 to serve as trustee in such a case;

"(3) deposit or invest, under section 345 of title 11, money received as trustee in cases under title 11;

"(4) perform the duties prescribed for the United States trustee under title 11; and

"(5) make such reports as the Judicial Conference directs.

"(b) If the number of cases under chapter 13 of title 11 commenced in a particular judicial district so warrant, the United States trustee for such district may, subject to the approval of the Judicial Conference, appoint one or more individuals to serve as standing trustee, or designate one or more assistant United States trustees for such district to perform the duties of the United States trustee, in cases under such chapter. The United States trustee for such district shall supervise any such individual appointed as standing trustee in the performance of the duties of standing trustee.

"(c) Each United States trustee shall be under the general supervision of the Judicial Conference. The Director of the Administrative Office of the United States Courts shall provide general coordination and assistance to the United States trustees.

"(d) The Judicial Conference shall prescribe by rule qualifications for membership on the panels established by the United States trustee under subsection (a)(1) of this section, and qualifications for appointment under subsection (b) of this section to serve as standing trustee in cases under chapter 13 of title 11. The Judicial Conference may not require that an individual be an attorney in order to qualify for appointment under subsection (b) of this section to serve as standing trustee in cases under such chapter 13.

"(e)(1) A United States trustee who has appointed an individual under subsection (b) of this section to serve as standing trustee in cases under chapter 13 of title 11 shall, pursuant to guidelines promulgated by the Judicial Conference, fix—

"(A) a maximum annual compensation for such individual, not to exceed the lowest annual rate of basic pay in effect for grade GS–16 of the General Schedule prescribed under section 5332 of title 5; and

"(B) a percentage fee, not to exceed ten percent, based on such maximum annual compensation and the actual, necessary expenses incurred by such individual as standing trustee.

"(2) An individual appointed to serve as standing trustee shall collect the percentage fee fixed under paragraph (1)(B) of this subsection from all payments under plans in the cases under chapter 13 of title 11 for which such individual serves as standing trustee. Such individual shall pay annually to the United States trustee, and the United States trustee shall pay to the Treasury—

"(A) any amount by which the actual compensation of such individual exceeds five percent upon all payments under plans in cases under chapter 13 of title 11 for which such individual serves as standing trustee; and

"(B) any amount by which the percentage fee fixed under paragraph (1)(B) of this subsection for all such cases exceeds—

"(i) such individual's actual compensation for such cases, as adjusted under subparagraph (A) of this paragraph; plus

"(ii) the actual, necessary expenses incurred by such individual as standing trustee in such cases.

"§ 907. Salaries

"The Judicial Conference shall fix the annual salaries of the United States trustee and any assistant United States trustees at rates of compensation not to exceed the lowest annual rate of basic pay in effect for grade GS–16 of the General Schedule prescribed under section 5332 of title 5.

"§ 908. Expenses

"Each United States trustee serving under this chapter shall be allowed actual and necessary expenses incurred in the performance of his duties, including compensation for necessary secretarial and other necessary supporting personnel. Such expenses and compensation shall be determined and paid by the Director of the Administrative Office of the United States Courts, under such regulations as he shall prescribe with the approval of the Judicial Conference. The Administrator of General Services shall provide United States trustees with necessary office space, furniture, and facilities in buildings owned or occupied by departments and agencies of the United States. If suitable office space is not available in such buildings, the Administrator of General Services, at the request of the Director of the Administrative Office, shall procure and pay for suitable office space, furniture, and facilities in other buildings.".

(b) The table of chapters of part III of title 28 of the United States Code is amended by inserting immediately after the item relating to chapter 55 the following:

"56. United States trustees.....901".

SEC. 213. Section 959(b) of title 28 of the United States Code is amended by striking out "A" and inserting in lieu thereof "Except as provided in section 1165 of title 11, a".

SEC. 214. (a) Section 1334 of title 28 of the United States Code is amended to read as follows:

"§ 1334. Proceedings under title 11; related cases

"(a) The district courts shall have original jurisdiction, exclusive of the courts of the States, of all cases or proceedings under title 11.

"(b) Subject to subsection (c) of this section, the district courts shall have original, but not exclusive, jurisdiction of all civil proceedings by or against a debtor in possession, a trustee, or other representative of the estate of a debtor appointed under title 11 to administer the debtor's estate.

"(c) An original action under subsection (b) of this section may be filed only with the consent of the district court, upon a showing of need to have the case heard in a district court to prevent a potential loss of assets or to avoid other adverse effects on the administration of the estate of the debtor. The decision of a district court denying consent to the filing of such an original action shall not be reviewable by appeal or otherwise.".

(b) The item relating to section 1334 in the table of sections of chapter 85 of title 28 of the United States Code is amended by striking out "Bankruptcy matters and proceedings" and inserting in lieu thereof "Proceedings under title 11; related cases".

SEC. 215. Section 1360(a) of title 28 of the United States Code is amended by striking out "within the Territory" and inserting in lieu thereof "within the State".

SEC. 216. Section 1391 of title 28 of the United States Code is amended by adding at the end thereof the following:

"(g) Except as provided in subsection (i) of this section, a case or proceeding under section 1334(a) of this title may be brought only in the judicial district—

"(1) in which the debtor has resided or has had his domicile or principal place of business, or in which his principal assets have been located, for the longest portion of the 180-day period immediately preceding the commencement of the case or proceeding; or

"(2) in which there is pending a case under title 11 concerning such debtor's affiliate, general partner, or partnership.

"(h) A case or proceeding under section 1334(b) of this title may be brought only in accordance with the provisions of subsections (b) through (f) of this section.

"(i) A case under section 304 of title 11 may be brought only in the judicial district in which the principal place of business of the debtor in the United States is located, or the principal assets of the estate in the United States are found, except that—

"(1) a case to enjoin the commencement or continuation of an action or proceeding in a State court, or the enforcement of a judgment, may be brought only in the judicial district embracing the court in which is pending the action against which the injunction is sought; and

"(2) a case to enjoin the enforcement of a lien against property or to require the turnover of property of the estate, may be brought only in the judicial district in which such property is found.".

SEC. 217. Section 1441 of title 28 of the United States Code is amended by adding at the end thereof the following:

"(e) Any party may, in accordance with subsection (b) of this section, remove a civil action of which the district courts have original jurisdiction under subsection 1334(b) of this title brought in a State court to the district court embracing the place where such action is pending upon a showing that such removal would prevent a potential loss of assets or avoid other adverse effects on the administration of the estate of the debtor, except that no civil action by a governmental unit to enforce such governmental unit's police or regulatory power may be removed under this subsection. A petition for removal under this subsection shall be filed in accordance with the requirements of section 1446(b) of this title.".

SEC. 218. Section 2075 of title 28 of the United States Code is amended by—

(1) striking out "under the Bankruptcy Act" and inserting in lieu thereof "in cases under title 11"; and

(2) by striking out the last sentence thereof.

SEC. 219. Section 2201 of title 28 of the United States Code is amended by inserting "or a proceeding under section 505(c) or 1146(d) of title 11" immediately after "the Internal Revenue Code of 1954".

SEC. 220. (a) Rule 1101(a) of the Federal Rules of Evidence is amended by striking out "referees in bankruptcy" and inserting "bankruptcy judges" in lieu thereof.

(b) Rule 1101(b) of the Federal Rules of Evidence is amended by striking out "the Bankruptcy Act" and inserting in lieu thereof "title 11, United States Code".

Page 581, strike out lines 22 and 23 and insert in lieu thereof the following:

(2) by inserting ", bankruptcy judges, and magistrates" immediately before the semicolon.

Page 590, strike out lines 19 through 22 and insert in lieu thereof the following:

(A) by striking out "referee" each place it appears and inserting "bankruptcy judge" in lieu thereof; and

(B) by striking out "receiver,".

Page 592, strike out lines 11 through 14.

Page 599, strike out lines 9 through 12.

Page 599, line 13, strike out "(b)" and insert in lieu thereof "Sec. 334.".

Page 599, line 13, strike out "such Act" and insert in lieu thereof "the Organic Act of Guam".

Page 599, strike out lines 19 through 22.

Page 599, line 23, strike out "(b)" and insert in lieu thereof "Sec. 335.".

Page 599, line 23, strike out "such Act" and insert in lieu thereof "the Revised Organic Act of the Virgin Islands".

Page 600, line 17, strike out "TITLE IV—TRANSITION" and insert in lieu thereof "TITLE IV—GENERAL PROVISIONS".

Page 602, strike out lines 3 through 16 and insert in lieu thereof the following:

EFFECTIVE DATE

SEC. 402. This Act shall take effect 180 days after the date of enactment of this Act.

Page 603, line 2 and line 4, strike out "United States".

Page 603, immediately after line 17, insert the following new subsections:

(e) Any individual serving as a referee in bankruptcy on the date of enactment of this Act shall continue to serve until the expiration of his term of office and until his successor is appointed and qualified.

(f) The rules of bankruptcy procedure in effect on the date of enactment of this Act shall remain in effect until amended or repealed by the Supreme Court pursuant to section 2075 of title 28 of the United States Code.

Page 603, strike out line 18 and all that follows through line 23 on page 611.

Mr. DANIELSON (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. BUTLER. Mr. Chairman, reserving the right to object, I do not intend to object but I will take this time to clarify for myself and for the record just which one of the drafts of the amendments we have received over the last week or two we are dealing with at this moment.

So I will ask the gentleman, specifically, is this the draft that deals with the jurisdiction by detriment? I ask that question because jurisdiction by detriment did not appear in any of the drafts until it was set forth in the one we received yesterday morning.

Mr. DANIELSON. Mr. Chairman, if the gentleman will yield, will the gentleman repeat that term again?

Mr. BUTLER. Jurisdiction by detriment.

Mr. Chairman, I do not want to embarrass the gentleman, but I will ask him, has he read the amendments?

Mr. DANIELSON. Mr. Chairman, the gentleman is asking me if I have read the amendments. That is a pregnant question, and I will confess that I have read the amendments.

Mr. BUTLER. Mr. Chairman, I am asking the gentleman if the language which appears on page 29 of the amend-

ment, of which I have a copy, dealing with section 1334 is the version with which we are dealing.

Mr. DANIELSON. Mr. Chairman, in my copy of the amendments, which I have lodged with the Clerk of the House and which are now pending before the Committee of the Whole House, I do have on page 29 a section 214(a).

Mr. BUTLER. Is there a subsection (c)?

Mr. DANIELSON. There is a subsection (c).

Mr. BUTLER. And does that read:

An original action under section (b) of this section may be filed only with the consent of the district court, upon a showing of need to have the case heard in a district court....

Mr. DANIELSON. That is correct.

Mr. BUTLER. That is what we call jurisdiction by detriment.

Mr. DANIELSON. Mr. Chairman, I appreciate the gentleman's christening this section. I did not give it a name. If the gentleman had not given it this name, the "poor fellow" would probably have had to go through its legal life without a name.

That is not my name for the section. I do not name it. However, it is subsection (c) of section 214 on page 29 of the amendments pending before the Committee of the Whole House on the State of the Union.

Mr. BUTLER. Mr. Chairman, further reserving the right to object, I do not wish to take up much more time, but let me ask, are these amendments offered with all four titles involved in them?

Mr. DANIELSON. Yes; Mr. Chairman, I was about to make a unanimous consent request which would relate to that. That is my goal, and I will later ask unanimous consent to consider the amendments en bloc.

Mr. BUTLER. Mr. Chairman, I thank the gentleman, and I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. ROUSSELOT. Mr. Chairman, reserving the right to object, I am not sure that I understand the answer. Which version is this: version 1, 2, 3, or 4?

Mr. DANIELSON. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. Yes, I would be delighted to yield to my distinguished colleague.

Mr. DANIELSON. Mr. Chairman, there is only one version of the amendments pending before the Committee of the Whole House. That was lodged with the Clerk yesterday, and copies have been supplied to the ranking minority member of the subcommittee, the gentleman from Virginia (Mr. BUTLER). If I could return to my desk, I would be happy to supply my colleague, the gentleman from California (Mr. ROUSSELOT), with a copy.

Mr. ROUSSELOT. I would be glad to have a copy.

Still reserving the right to object, did the gentleman put his amendment in the RECORD?

Mr. DANIELSON. If the gentleman will yield, it was in the RECORD the day before yesterday, printed in yesterday's RECORD.

Mr. ROUSSELOT. It was in yesterday's RECORD?

Mr. DANIELSON. That is correct.

Mr. ROUSSELOT. We can see it on what page?

Mr. DANIELSON. It is in awfully fine print, but if the gentleman will give me a moment, I will tell him what page it is on. It is, I believe, three pages.

Mr. ROUSSELOT. It took up three pages of the CONGRESSIONAL RECORD?

Mr. DANIELSON. It is $200 and something a page, too, as I recall it.

Mr. ROUSSELOT. It certainly must be an expensive amendment.

Mr. DANIELSON. It is.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. Mr. Chairman, I am still reserving the right to object.

Mr. DANIELSON. As I understand, Mr. Chairman, under the reservation of the right to object, the gentleman from California (Mr. ROUSSELOT) has the time.

Mr. ROUSSELOT. Yes. I will yield for a further answer.

What page was it?

Mr. DANIELSON. I am trying to find it.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I will yield to the gentleman from Illinois briefly because the gentleman from California (Mr. DANIELSON) is looking for the page number.

Mr. DANIELSON. Mr. Chairman, if the gentleman will yield further, it is on page 35342 and following.

Mr. ROUSSELOT. And it is three pages?

Mr. DANIELSON. I am incorrect. It is more than three pages. It goes to the top of page 35346.

Mr. ROUSSELOT. It is a little longer than we thought it was.

Mr. DANIELSON. A little bit longer, yes.

Mr. ROUSSELOT. Mr. Chairman, I appreciate the gentleman's telling us where we can see a copy of this amendment.

Is this the current version of the amendment?

Mr. DANIELSON. This is the only version of the amendment. I imagine we could say the current version.

Mr. ROUSSELOT. I have had so many "Dear Colleague" letters that I wanted to be sure we had the right language and that we were all looking at the same thing.

I appreciate the fact that my very distinguished colleague, the gentleman from California, has set the record straight.

Mr. DANIELSON. I appreciate the compliment.

Mr. ROUSSELOT. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DANIELSON. Mr. Chairman, I ask unanimous consent that the matter in the amendment which has now been read in part by the Clerk be treated as amendments en bloc. It reaches four different titles of the bill.

However, the matter which is of substance reaches only two. The matters which are found in titles I, III, and IV are simply corrective and technical language which would become necessary in the event the amendment to title II is adopted, so they should be treated, for convenient reference, en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DANIELSON. Mr. Chairman, 5 minutes is obviously a very short time in which to try to point out the total impact of an amendment to title II of this bill. However, I am going to go over it briefly, if I am able to restrain myself, and I hope the Members will bear with me for the 4 minutes and about 30 seconds which remain.

This amendment has two points only, regardless of the fact that there are many pages involved. I want the Members to understand that only two issues are involved in this amendment.

First. Shall we have a new, complete hierarchy of article III courts set up for the purpose of handling bankruptcy cases? I say no.

Second. Shall the U.S. trustee, who, by operation of law, takes title to all of the assets of a bankrupt estate, shall he an arm of the court, be appointed by the judicial branch, which has the judicial function under our Constitution, or shall he be appointed by the executive branch, which is oftentimes a litigant before the bankruptcy court and a claimant against the bankrupt's estate? Again, I say no.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from Illinois, but I hope he will reserve a couple of minutes for me.

Mr. RAILSBACK. Mr. Chairman, I am going to save the gentleman from California (Mr. DANIELSON) plenty of time.

However, I think that just referring to an article III judge does not mean a lot to many Members.

Mr. DANIELSON. Mr. Chairman, I hope to expand on that, if I may do so.

As to the first point, the article III judge, under our Constitution, article I provides for a Congress, the legislative branch of the Government.

Article II provides for a President to run the executive branch of Government. As the Members know, article III provides for a judicial branch of Government. This is the basis of our long-tested separation of powers. One branch is the executive, another branch is the legislative, and the third branch is the judicial. We must not mix these three branches. They have separate functions.

An article III court is a court provided for by article III of the Constitution. It provides that there shall be a Supreme Court and such other courts as the Congress shall create. Article III courts have judges who have lifetime

tenure. I want to repeat that—lifetime tenure. They serve, during good behavior—and there are some words for the Members. Good behavior. Impeachment is almost never invoked in removing a judge from our courts. There have been, I think, 11 cases in the 200 years that we have been in existence, but it is a very rare situation. Once they are appointed, it is a lifetime job.

No. 2, they have a general type of jurisdiction. As lifetime judges, they have many perquisites others do not have. They do not contribute to their retirement system, as you and I do. Every month when we get our pay checks, there is a deduction for retirement. That is true for everybody in the land except our article III judges. Under this bill bankruptcy courts would become article III courts. That would mean that we are going to have an absolute minimum of 94 bankruptcy courts which would be article III courts, but as a practical matter we would have something over 200. The reason is simply this. In every judicial district there would have to be at least one bankruptcy judge, article III, but in districts that have an extensive amount of business, such as my own where I think we have 12 referees in bankruptcy today, we would probably have 12. They would all be article III's.

Under the present structure of the bankruptcy law there are, as I recall it, 237, more or less, bankruptcy referrees. It is reasonable to estimate that if we adopt this bill, we are going to have 237 article III bankruptcy judges. The Budget Office takes a kindly look, and they think, maybe, the number will shrink down to about 200. Maybe they will, but I ask, Mr. Chairman, how often in the history of our experience in Government has anyone seen an agency shrink down 10 percent? Do not answer that.

We do not need the article III judge. We already have a court of general jurisdiction—the U.S. district court.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. ROUSSELOT, and by unanimous consent, Mr. DANIELSON was allowed to proceed for 5 additional minutes.)

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from Virginia.

Mr. BUTLER. I thank the gentleman for yielding.

It was my understanding that when we dispensed with the reading, the gentleman was going to explain the amendment. I congratulate the gentleman on his oratory and his eloquence, but I fail to hear him explain the amendment. Now tell us in the time remaining what happens to the jurisdiction of the bankruptcy courts under this bill under the gentleman's amendment. Under H.R. 8200, we put pervasive jurisdiction in the bankruptcy court so we can solve those problems that come before the bankruptcy court. In the time that remains will the gentleman tell us what happens to the jurisdiction of the bankruptcy court if we throw ourselves back to the Danielson position?

Mr. DANIELSON. That is an excellent question. May I recapture my time so I can answer the question. I thank the gentleman very much.

Under the Constitution of the United States, which is doing very well in its 200th year, the bankruptcy court is the U.S. district court sitting in bankruptcy. There is nothing unique about it. We talk about general jurisdiction. The U.S. district court has jurisdiction over all of these matters.

And the U.S. district court is the bankruptcy court sitting in bankruptcy. There is nothing that happens under my amendment to the bill H.R. 8200 which would destroy that jurisdiction.

There is one thing that would happen. We would not set up a special, separate, article III court and say: "Now, here you have all the bankruptcy jurisdiction."

As a matter of fact, as our Attorney General, the Honorable Griffin Bell has said: If you set up this article III court, then you would set up courts which "have broader jurisdiction than our Federal courts of general jurisdiction, the district courts." And the reason would simply be this. The U.S. district courts would have general jurisdiction except for bankruptcy, but under this bill the bankruptcy courts would have bankruptcy plus general jurisdiction. We would be setting up a super court, one that has greater jurisdiction than the U.S. district court, and for that I have the word of the Honorable Griffin Bell, the Attorney General of the United States.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Is it not true that the jurisdiction under the amendment offered by the gentleman from California would be about exactly the same as it would be under the committee bill during the interim period particularly; in other words they get the same expanded jurisdiction that the gentleman's amendment would give?

Mr. DANIELSON. Yes. This bill also, incidentally, calls for an interim period of 5 years for transition from the present situation to the proposed situation. During that time the bankruptcy court, the article III court, would have the same jurisdiction as they would have under my amendment.

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from Virginia.

Mr. BUTLER. Mr. Chairman, my friendship for the gentleman from California has no limits and I hope he will not think I am harassing him just because he has an amendment here that creates havoc with the bill we have been working on for 6 years. But my information here is with reference to the response to the gentleman's question, which was fed to the gentleman from California by the gentleman from Illinois (Mr. RAILSBACK); the gentleman was telling us about the interim jurisdiction being identical to that. Can the gentleman tell us in fact that it does that, because my information from my lawyer here is different. I seek the gentleman's advice.

Mr. DANIELSON. The reason that it would have the same jurisdiction is this: If the Danielson-Railsback amendment is adopted, we do not set up separate article III courts for bankruptcy, and the U.S. district court, which today has general jurisdiction, would continue to have general jurisdiction, and the referee in bankruptcy, who for purposes of euphemism we are now going to call a bankruptcy judge—but the new bankruptcy judge, which is simply a new name for the referee in bankruptcy, would continue to exercise the jurisdiction of the U.S. district court in matters of bankruptcy. He would have plenary jurisdiction. That is a good word, too, sir.

Mr. BUTLER. Would the gentleman explain to me what "plenary jurisdiction" is? Do the referees today have plenary jurisdiction?

Mr. DANIELSON. According to Webster, plenary jurisdiction is full jurisdiction, complete jurisdiction, leaving nothing to be desired. That is a lot.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. ROUSSELOT. Mr. Chairman, I ask unanimous consent that the gentleman from California may proceed for 5 additional minutes because I am still waiting for an explanation.

The CHAIRMAN. Is there objection to the request of the gentleman from California (Mr. ROUSSELOT)?

There was no objection.

Mr. DANIELSON. Mr. Chairman, if I may, I yield to the gentleman from New Jersey (Mr. PATTEN).

Mr. PATTEN. Mr. Chairman, I thank my colleagues for yielding.

If we make this court part of the district court instead of just being the clerk operation which it is, we are going to build it up, and will this bankruptcy judge be able to issue injunctions?

Mr. DANIELSON. If this bill comes through, of course he can issue injunctions. If this bill comes through, he will have full jurisdiction.

Mr. PATTEN. Not under the present bill.

Mr. DANIELSON. Yes, under H.R. 8200 he has everything. He has all of the jurisdiction, all that a U.S. district court judge has, plus he will have bankruptcy jurisdiction which is taken away from the district jurisdiction.

Mr. PATTEN. Under this bill?

Mr. DANIELSON. Under H.R. 8200, which I am seeking to amend.

Mr. RAILSBACK. Mr. Chairman, if the gentleman will yield, my understanding is that there would be two primary areas where an adjunct—as under the current system, we have an adjunct system right now—may be limited. One would be with respect to providing injunctive relief, and the gentleman asked a very relevant question. The other would be ability to hold in contempt, and that would be a limited ability to hold in contempt, which we tried to expand under the gentleman's amendment.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield first to the gentleman from Missouri (Mr. VOLKMER).

Mr. VOLKMER. Mr. Chairman, I would just like to inquire precisely as to the two separate provisions on page 35343 of the RECORD, which is about on the third or fourth page of the gentleman's amendment. He has referred there to referees in bankruptcy. I was just wondering what that reference referred to, since the rest of the amendment the gentleman provides only for bankruptcy judges, and supposedly we have done away with referees in bankruptcy.

Mr. DANIELSON. I understand the question. As I pointed out when I asked unanimous consent to consider the amendments en bloc, the principal amendment is the amendment to title II.

Let me just conclude the answer, because I think I know full well what the question is. We do have amendments to titles, I, III and IV, and the purpose of them is to change nomenclature, and the like.

Mr. VOLKMER. Mr. Chairman, if the gentleman will yield further, I must say no, this leaves it in. It says for full-time and part-time U.S. magistrates not exceeding the rates now provided for full-time and part-time referees in bankruptcy.

Now, we are not going to have any more referees in bankruptcy.

Mr. DANIELSON. We are changing their names to bankruptcy judges.

Mr. VOLKMER. I agree, but in the other provision it is left and referred to referee in bankruptcy.

Mr. DANIELSON. Tell me where the gentleman finds that?

Mr. VOLKMER. On page 35342 printed in the RECORD.

Mr. DANIELSON. Just about where is that? Where on the page?

Mr. VOLKMER. I misunderstood. It is a strikeout. That is right.

Mr. DANIELSON. I appreciate that. Of course, we might have made an error and, if so, I would like to correct it.

Mr. VOLKMER. Mr. Chairman, if the gentleman will yield further, the other thing I would like to ask about is on the office of the bankruptcy judge, which I understand under the gentleman's amendment to be appointed by circuit courts, which is the appellate division under the gentleman's circuit court; is that correct?

Mr. DANIELSON. The U.S. judicial system has a set of appellate courts. There are 10 circuits.

Mr. VOLKMER. That is right.

Mr. DANIELSON. The circuit court judges are known, ex officio, as I understand it, as the judicial council of the circuit court.

Mr. VOLKMER. That is correct.

Mr. DANIELSON. The judicial council is composed of all the circuit court judges in a circuit.

Mr. VOLKMER. That is correct, so the circuit court judges, which are the gentleman's appellate judge level under the Supreme Court?

Mr. DANIELSON. That is correct.

Mr. VOLKMER. They would be the ones to appoint the bankruptcy judges.

Mr. DANIELSON. That is right.

Mr. VOLKMER. How many Members would have to agree to this appointment before the bankruptcy judge would be appointed?

Mr. DANIELSON. If the gentleman will just bear with me a moment, it is on page 6 of the typewritten form of the amendment.

Mr. VOLKMER. Is it unanimous or is it a majority?

Mr. DANIELSON. The appointment shall be by the concurrence of a majority of all the judges of the judicial council of the circuit court.

Witness: If you have 11 judges, then 6 of the 11, assuming they were split, 6 of the 11 would be a majority and they could make the appointment.

Mr. VOLKMER. All right; the senior judges are not included in that council, are they?

Mr. DANIELSON. Oh, yes; they are. The senior judge is known as the chief judge. If there should be, for whatever reason, suppose you have 11 judges and you have a vacancy, now you have 10.

The CHAIRMAN. The time of the gentleman from California has expired.

(At the request of Mr. KAZEN, and by unanimous consent, Mr. DANIELSON was allowed to proceed for an additional 3 minutes.)

Mr. DANIELSON. Mr. Chairman, let me finish the answer.

If there should by happenstance be only 10 members voting, you could have a 5 to 5 split. In that instance, the chief judge makes the decision.

Mr. VOLKMER. Right, that person decides on one. What is the limitation on the number of bankruptcy judges that the gentleman has in the amendment?

Mr. DANIELSON. That provision is almost exactly the same as present law. There is no limitation, except the act of Congress in making appropriations and the like. It is the duty of the judicial council to decide.

Mr. VOLKMER. The council could appoint as many as they wanted to?

Mr. DANIELSON. That is what we have today. Somebody has to make the decision. That should be done, I believe by the judicial council.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. Mr. Chairman, since I had earlier promised to yield to the gentleman from Illinois, I now yield to the gentleman from Illinois (Mr. McCLORY).

Mr. McCLORY. Mr. Chairman, I thank the gentleman for yielding.

I wanted to respond to the question posed by the gentleman from New Jersey (Mr. PATTEN), because the entire purpose of this legislation is to provide an opportunity in the bankruptcy court, which handles more business than the Federal courts handle in any other type of cases, to provide the entire service necessary to the administration of the bankruptcy court, to provide injunctions and so on.

Mr. DANIELSON. Mr. Chairman, I must recapture my time.

I yield to the gentleman from Texas (Mr. KAZEN).

Mr. KAZEN. Mr. Chairman, I would like to ask, what positions has the administration taken on the gentleman's amendment?

Mr. DANIELSON. The administration supports or favors my amendment. I have a letter from the Attorney General.

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. Of course, I yield to the distinguished gentleman from California.

Mr. EDWARDS of California. Mr. Chairman, the administration takes no position. The Attorney General has written a letter.

Mr. DANIELSON. I was just about to state that it is the Attorney General of the United States, the Honorable Griffin Bell.

Let me read the letter:

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., October 11, 1977.

Hon. GEORGE E. DANIELSON,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN DANIELSON: I understand that you and Congressman Railsback intend to offer two floor amendments to H.R. 8200, the proposed bankruptcy reform legislation, which would strike from the bill provisions which would create an Article III bankruptcy court and which would establish within the Department of Justice the Office of U.S. Trustee. Both of these amendments are consistent with the position taken by this Department in its March 16th letter to the Subcommittee and its July 14th letter to the full Committee.

The Department of Justice has consistently opposed the creation of a separate Article III bankruptcy court which, in this case, would have broader jurisdiction than our Federal courts of general jurisdiction, the district courts. We have likewise opposed the placement of the proposed U.S. Trustees within the Department of Justice. This Department, which is a major litigant in many bankruptcies, should not be placed in the incongruous position of supervising bankrupt estates. Deletion of these two provisions will enable this Department to withdraw its objectives to this most important legislation.

I hope that this statement of our views will be helpful.

Sincerely,

GRIFFIN B. BELL,
Attorney General.

Mr. KAZEN. The administration favors the gentleman's amendment?

Mr. DANIELSON. Yes.

The CHAIRMAN. The time of the gentleman from California has again expired.

(On request of Mr. ERTEL and by unanimous consent Mr. DANIELSON was allowed to proceed for 2 additional minutes.)

Mr. ERTEL. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield.

Mr. ERTEL. I would ask the gentleman, when he was asked if the administration supports his position, who speaks for the administration when it comes to

the court system other than the Attorney General?

Mr. DANIELSON. Well, the Attorney General does so far as the Justice Department is concerned. I will predict that if and when my colleague, Mr. RAILSBACK, reaches the floor, he will be able to show that the Chief Justice of the United States supports the position of this amendment as well.

Mr. ERTEL. The administration is represented by the Attorney General as the legal officer for the administration?

Mr. DANIELSON. That is correct.

Mr. ERTEL. So it is true to say, then, the administration does support it?

Mr. DANIELSON. That was my intent.

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from Virginia.

Mr. BUTLER. The gentleman was reading a letter from the Attorney General of the United States. Would he tell us the date of that letter?

Mr. DANIELSON. The letter is dated October 11, 1977, and it reflects an oral conversation I had with the honorable Attorney General many weeks earlier.

Mr. BUTLER. The gentleman recalls an earlier colloquy in which he identified a number of drafts which were submitted, the most recent of which, of course, is the one he brings before us today. One of the major changes in that discussion was this jurisdiction by detriment, which was in the other earlier drafts. Did the Attorney General of the United States know about that crazy provision when he wrote the letter of October 11, and did the gentleman sit on that for the 10 days which have expired before he let us have the benefit of it?

Mr. DANIELSON. I thank the gentleman for his very colorful characterizations for some of these provisions. In the warmth of debate I think they are very interesting. I will say this: The thrust of the amendment which I have before the committee is to delete the provision which would create a brand-new federal hierarchy of article III courts, the judges of which are here for life, and heaven knows how much longer, and that is what the Attorney General supports.

Mr. DRINAN. Mr. Chairman, I rise in opposition to the amendment.

There are so many inherent confusions and ambiguities in the Danielson amendment that one hardly knows where to begin. The referees currently now have very limited jurisdiction in a bankruptcy case. In the event that there is a dispute, they have to take the question of whether this should go into chapter 10 or chapter 11 or chapter 13 to the tenured Federal district court judge. This brings about a delay.

They have no right to cite for contempt. They have no right to bring a matter to a jury trial. This is one of the inherent reasons why the bankruptcy court is now and has been for many years in disrepute. The architecture of the bill before the House sets forth a bankruptcy judge who can settle all of the issues.

He is really a judge. He is not a referee or a magistrate or an arm of the district court judge. He is not the appointee of the judge who is going to reverse or affirm his rulings.

We want to create tenured judges under article III of the Constitution so that the thousands of people who come to the bankruptcy court will not find there a stepchild of the Federal district court. They will find a situation where they can litigate rapidly and expeditiously all the issues that are paramount in their case.

The Danielson amendment also contains an unrelated error of great proportions. We now have people who are called trustees in the bankruptcy court. They are appointed by the referee. They have a built-in, inherent conflict of interest, because they are beholden to the referee for their appointment and the referee in turn performs both judicial acts and administrative acts.

We set up in this bill bankruptcy judges who are real judges. They are not administrators. They will no longer be burdened with this inherent conflict of interest.

The Danielson amendment will complicate all of that and will really reverse the procedure, and we would go back to the chaos we now have.

Why must these judges be tenured judges with no diminution of compensation possible? Because they are more than judges in the tax court, they are more than judges in the Court of Patent Appeals. They deal with issues that go to every aspect of the law.

It would be ridiculous to have them appointed by the Circuit Courts of Appeal. There is a basic constitutional question involved, because those entities are not "courts of law," as required by the Constitution.

We took, in the appointment of the trustees, the analogy of the U.S. attorney. Here we have people appointed by the Attorney General, by the President, outside of the judicial system. The U.S. attorney is not an arm of the court. Likewise, the U.S. bankruptcy trustee is not an arm of the court, nor should he be. He is a representative of the people. He is involved in law enforcement, in issues on bankruptcy, and he can be analogized to the U.S. attorney.

Those Members who vote for the Danielson amendments would go back to the present chaos which this bill and this committee seek to convert and correct. In the present system the referee appoints the trustee, and the trustee and the referee are in charge of the case. The litigant has no access to an independent court.

If the Members of this House want to go back to the chaos we seek to correct, they should vote for the Danielson amendments. If they want to have a new system that gives dignity to the litigants, that gives independence to the court, then they should vote against the Danielson amendments.

Mr. Chairman, I could speak about all of the other ambiguities and confusions in the 32 pages of the Danielson-Railsback amendments. The authors of the amendments want to go back to a system that is filled with abuses and delay and confusion, bringing disrepute on the Federal courts. We want to go into a new day, where finally, after 50 years, the bankruptcy courts would become real, independent courts where people can go and have their day in court expeditiously and finally, where they can trust justice because judges are appointed by the President of the United States with life tenure and with no threat of diminution of compensation.

That is the point we will come to with H.R. 8200, and I am sure the Members of the House are going to reject the Danielson-Railsback amendments.

Mr. JACOBS. Mr. Chairman, I move to strike the last word.

(By unanimous consent, Mr. JACOBS was allowed to proceed out of order.)

RALPH NADER: "UNSAFE AT ANY SPEED" (OR WEED?)

Mr. JACOBS. Mr. Chairman, the Committee may recall that a few years ago a public-spirited individual named Ralph Nader wrote a book entitled "Unsafe at Any Speed."

It is with humble pride and a dash of satisfied curiosity that I hold the distinction of being the personal target of a Ralph Nader name-calling campaign. He began in Washington a couple of weeks ago by calling me a "mushy liberal."

After having changed his mind in Indianapolis, he decided I was somewhat firmer, and he called me a "reactionary."

Why me? I asked my sympathetic self. Was it possible that Mr. Nader, like Mr. Meany on Vietnam, had become a one-issue person? Surely he had not been consumed by his own "Consumer Protection Agency" which to the naked eye looks more like a potential antibuyer's bureaucracy.

Surely Mr. Nader knew that his own organization gave me an "A to A-plus" on consumer questions before the Committee on Ways and Means. Surely Mr. Nader knew that the Consumer Federation of America gave me a 79 percent on consumer issues generally before the Congress.

What could the trouble be?

Suddenly it dawned on me. He must have found out that I am a former Corvair owner, and that I liked it.

Mushy liberal? Reactionary? Mr. Nader has become a tad reckless; one might even say driven to extremes. I do not know whether he has been smoking something or perhaps suffers from "overbeer." In any event, he is beginning to sound unsafe at any weed.

Mr. RAILSBACK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I support the amendment offered by my colleague, the gentleman from California (Mr. DANIELSON).

I would like to just very briefly try to

relate what I believe the amendment does, and I will be happy to respond to questions, if there are any.

Mr. Chairman, I think that the basic thrust of the amendment is to try to preserve the structure of the bankruptcy court just about as it is now, while at the same time trying to create under the amendment a degree of independence between the bankruptcy judge or what used to be called a bankruptcy referee and the district court judge.

One of the things that is done under the amendment is to have the Judicial Council of the Court of Appeals do the appointing.

Recommendations can be received and considered from the organized bar within the circuit, by any kind of merit selection committee within the circuit, or from the district judges within the circuit.

Mr. Chairman, we would actually extend the term of the bankruptcy judge under the amendment from 6 to 15 years, which is a proposal of the Bankruptcy Commission. We would expand the jurisdiction within what we believe to be constitutional limits, a concept that is endorsed by all of the interested groups.

More specifically, Mr. Chairman, the existing district courts would continue in their role as the courts of bankruptcy, with bankruptcy judges attached thereto as adjuncts. Jurisdiction in district courts sitting in bankruptcy would be extended to plenary proceedings where detriment to the bankrupt's estate can be shown. The plenary jurisdiction will be exercised by the bankruptcy judges to the extent authorized by rule or order of the district court.

Additionally, the amendment will also modify that section of title II creating the Office of U.S. Trustee by removing it from the Department of Justice and placing it under the supervision of the Judicial Conference.

Let me just say a word about this provision to make it very clear. Under the committee bill that particular supervisory jurisdiction would be placed in the hands of the Attorney General.

Mr. Chairman, I have a letter from Attorney General Griffin Bell, which I think is very important for all of us to consider. The letter is dated October 11, 1977, and it says this:

DEAR CONGRESSMAN RAILSBACK: I understand that you and Congressman DANIELSON intend to offer two floor amendments to H.R. 8200, the proposed bankruptcy reform legislation, which would strike from the bill provisions which would create an Article III bankruptcy court and which would establish within the Department of Justice the Office of U.S. Trustee. Both of these amendments are consistent with the position taken by this Department in its March 16th letter to the Subcommittee and its July 14th letter to the full Committee.

The Department of Justice has consistently opposed the creation of a separate Article III bankruptcy court which, in this case, would have broader jurisdiction than our Federal courts of general jurisdiction, the district courts. We have likewise opposed the placement of the proposed U.S. Trustees within the Department of Justice. This Department, which is a major litigant in many bankruptcies, should not be placed in the incongruous position of supervising bankrupt estates. Deletion of these two provisions will enable this Department to withdraw its objectives to this most important legislation.

The purpose of the Danielson amendment, which I worked on with him, is not in my opinion, to gut the bill. The rumors that I have heard, that if the amendment passes the bill is going to be recommitted, are very disturbing. I would just say to my friend, whom I greatly respect, that I have the highest regard for the chairman of the subcommittee, the gentleman from California, (Mr. EDWARDS) and the ranking minority member, the gentleman from Virginia (Mr. BUTLER).

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. RAILSBACK was allowed to proceed for 3 additional minutes.)

Mr. RAILSBACK. I know how hard they have worked, but I think it is not fair to characterize the Danielson amendment as a gutting amendment. There are a very great number of substantive reforms in H.R. 8200. Let me just read some of the improvements that are contained in the bill that would not be touched by this amendment:

The reform provisions relating to reaffirmations of debts.

They reform the substantive law relating to redemptions.

They reform the law relating to false financial statements.

They reform the law relating to exemptions.

They reform the law relating to consumer priorities.

They reform the law relating to soft collateral.

We do not touch these very basic, meaningful, constructive reforms.

What the purpose of the Danielson amendment is, is to recognize that we do not want—at least I do not want—to see us take bankruptcy referees on salary with a 6-year term and then over a 6-year period change their status to that of article III lifetime tenured judges. Right now bankruptcy judges have a contributory retirement system, like we do. They have a pension level that is not nearly as high as that of the Federal district court judges with their full salary retirement which is available at age 70 after working 10 years or after 15 years of work at age 65. I do not think we want that.

Mr. DRINAN. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from Massachusetts.

Mr. DRINAN. I thank the gentleman for yielding.

Under the Danielson-Railsback amendment, the bankruptcy judge would in fact be an inferior officer, because he would be appointed by a judge or several judges.

Mr. RAILSBACK. There is no doubt about that. That is what is called an adjunct system, which is what we have right now.

Mr. DRINAN. Has the system proposed in the Railsback-Danielson amendment for the appointment of bankruptcy judges ever been used in the 200 years of the republic?

Mr. RAILSBACK. No. It has always been district judges who have done the appointing, as far as I know. I am not certain of that, but under the current adjunct system, the district judges have done the appointing, and there have been some objections raised about that procedure because there is a feeling that they are too close to the referee. We would give the appointment power to the court of appeals and let the court of appeals do it.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. DRINAN, and by unanimous consent, Mr. RAILSBACK was allowed to proceed for 2 additional minutes.)

Mr. DRINAN. If the gentleman will yield further, I would suggest to the gentleman that the system of appointment proposed in the Railsback-Danielson amendment has never been used in the 200 years of our Nation's life, because it goes specifically contrary to the Constitution. The Constitution says that the appointment of inferior officers in the judicial branch must be made by "courts of law." The Judicial Council is not a court of law, obviously. It is a group of individuals who gather themselves together. Consequently, the Constitution being very precise says that courts of law, and courts of law alone, may appoint inferior officers, and it does not say that the judges acting as individuals or in a collegiate body other than a court may make such appointments.

Mr. RAILSBACK. May I just respond so that there is no misunderstanding. Judicial councils are defined under the law. A Judicial council in a circuit is composed of all of the judges of the court of appeals in the circuit.

We could argue the constitutional problem. I think the gentleman is wrong.

Mr. DRINAN. If I may just conclude, I would say that the vice of this provision lies not only in the fact that it is so novel but also that it is demonstrably contrary to the specific provision of the Constitution.

Mr. RAILSBACK. May I just reply by saying in my opinion what the gentleman is attempting to do here is what Judge Shirley Hufstedler in California said, and I am paraphrasing: What possible rationale is there to set up something like 200 Federal courts equivalent to district courts to specialize in bankruptcies? At what expense to civil rights? At what expense to criminal cases? We have a tremendous backlog of criminal cases. It does not make sense to set up 200 lifetime-tenured judges to deal with bankruptcy.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(On request of Mr. BUTLER, and by unanimous consent, Mr. RAILBACK was allowed to proceed for 5 additional minutes.)

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. RAILBACK. I yield to the gentleman from Virginia.

Mr. BUTLER. Mr. Chairman, the gentleman has alluded to the number of

judges and the relationship of the judges to the bill. We are of course quite sure that the gentleman is familiar with the fact that the number of the new bankruptcy judges under H.R. 8200 is not established by this legislation. Is that a fair statement?

Mr. RAILSBACK. I beg the gentleman's pardon.

Mr. BUTLER. It is fair to state that the number of judges is not established by this legislation?

Mr. RAILSBACK. I believe that is a fair statement.

Mr. BUTLER. And the gentleman is also aware we have a 5-year transition period at the end of which we will have some experience with the new jurisdiction and then we can make a further determination.

Mr. RAILSBACK. That is a fair and accurate statement also.

Mr. BUTLER. So when the gentleman talks about 200 judges, he is pulling that figure out of the air, perhaps?

Mr. RAILSBACK. Let me just say where I am pulling that figure from. We have a report. The report is from the Committee on the Judiciary dealing with the bankruptcy law revisions. On page 463, at the top of the page, the committee says this:

> The Committee adopts as an estimate of the cost of the bill the estimate prepared by the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974, and set out below.

Then we go over to page 465 of that report, and about the middle of the page it says this:

> It is assumed that approximately 200 full-time bankruptcy judges will be appointed to the new bankruptcy courts, which is a reduction from the current authorized 211 full-time and 26 part-time bankruptcy judgeships. This is due to two reasons. First, many of the administrative and supervisory functions performed by past bankruptcy judges will be handled by the new United States Trustees, therefore reducing the judges' workload. Second, while there will be a decrease in administrative duties of the bankruptcy judge, it is estimated that the total number of bankruptcy cases filed will continue to increase at an average annual rate of approximately 6 percent, and that relatively complex business cases which demand more of the bankruptcy judges' time will continue to become a greater percentage of the total bankrupty cases filed.

I happen to think that this is probably a pretty reliable estimate, and I think if the Members had a chance to read it they would probably agree that it is a fairly accurate assessment.

Mr. BUTLER. If the gentleman will yield further, I will state to him I think that is an extremely liberal view of how many judges will be established from the report the gentleman read. Of course the Congressional Budget Office is guessing, and of course we all have to guess, but let us recognize we are taking a lot of administrative burden off of the bankruptcy court judges and we are creating new judges who are going to be real judges, and whose responsibilities will be to adjudicate and not to administer.

I would say the workload in that regard is reduced by as much as half. We are also going to provide better facilities for the judge. We are going to provide for assistants to the judge. All those things are going to cut down on the responsibility of the judge.

So is it not fair to say that the number of judges we are talking about under H.R. 8200 is closer to 150 than 200?

Mr. RAILSBACK. May I say to my friend that in the committee report the committee said that it adopted the report of the Congressional Budget Office.

The gentleman may be right, but it is my feeling that the gentleman is probably wrong. I would guess it is more likely to be higher than 200 than lower than 200.

Old judges never fade away, they just——

Mr. BUTLER. Like Congressmen.

We will turn to the question of existing judges. We have 211 judges now authorized. There are 209 now serving, but it is still in that neighborhood, plus 26 part-time judges.

Those are the judges we have now.

Mr. RAILSBACK. Two hundred eleven full-time and 26 part-time.

Mr. BUTLER. Does the Danielson amendment expand their jurisdiction?

The CHAIRMAN. The time of the gentleman from Illinois (Mr. RAILSBACK) has again expired.

(At the request of Mr. BUTLER, and by unanimous consent, Mr. RAILSBACK was allowed to proceed for an additional 3 minutes.)

Mr. BUTLER. Mr. Chairman, if the gentleman will yield further, does the Danielson amendment expand the jurisdiction of the bankruptcy judges under existing law?

Mr. RAILSBACK. It does to an extent, but I think that perhaps I misspoke when I answered the gentleman earlier. Yes, there is an expansion over certain plenary proceedings where you can show, for instance, that there is going to be a detriment to the bankrupt's estate. That is a qualification.

I must just add that that particular provision was originally proposed by the U.S. Judicial Conference.

Mr. BUTLER. Mr. Chairman, will the gentleman yield further?

Mr. RAILSBACK. Yes.

Mr. BUTLER. We can reasonably anticipate that the 211 judges we have now, plus the 26 part-time judges, with their increased jurisdiction which the gentleman represents that they possibly have, will be insufficient. We can expect the number of those judges to increase under the Danielson amendment. The gentleman does not take that into consideration when the gentleman tells us about the cost.

Mr. RAILSBACK. My feeling is that either under the Danielson-Railsback amendment or under the committee amendment in all likelihood the number of bankruptcy judges is going to increase. Yes, I agree with that.

Mr. BUTLER. Mr. Chairman, if the gentleman will yield further, the gentleman agrees that under the existing legislation which the Danielson amendment brings us back to in many ways, the number of bankruptcy judges is going to increase at a substantial cost?

Mr. RAILSBACK. I would say that the answer is yes. I would say with this difference: The difference is that under current law you have bankruptcy judges with 6-year terms, but our amendment would increase it to 15-year terms. Under our amendment they would not have lifetime tenure. They would not have noncontributory pensions. They would not have full-time salary benefits when they retire.

Mr. ALLEN. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from Tennessee.

Mr. ALLEN. Mr. Chairman, first, let me say that I am inclined to vote in support of the Railsback-Danielson amendment; but I am a bit concerned about the remarks of the gentleman from Massachusetts, in which the gentleman undertakes to characterize what would follow the adoption of this amendment.

I think one of the questions that may be in the minds of many, I know it is in my mind, is exactly what powers would a bankruptcy judge have that a present referee in bankruptcy does not have?

Mr. RAILSBACK. Let me refer the gentleman to page 29, section 1334.

The CHAIRMAN. The time of the gentleman from Illinois has again expired.

(At the request of Mr. ALLEN, and by unanimous consent, Mr. RAILSBACK was allowed to proceed for an additional 3 minutes.)

Mr. RAILSBACK. Mr. Chairman, the next two subsections really are the jurisdictional authorizations.

Now, it is true that there would be an expanded jurisdiction to hear some cases that now cannot be heard today.

It would not expand it quite as far as the committee bill, because we would require that there be a showing of detriment; there be a showing of need to have a case heard in a district court to prevent a potential loss of assets, to avoid other adverse effects on the administration of the estate of the debtor. With that caveat, it is true that there would be a slightly expanded jurisdiction of some plenary suits, but there would have to be a showing of need.

Mr. ALLEN. That is exactly what I meant. Will it be a court that has the power to deal more effectively with the entire problems presented by a bankruptcy case than a referee of bankruptcy now has?

Mr. RAILSBACK. In fairness—I am going to be very careful—our amendment would not give—would not give the complete independence that would be given under H.R. 8200. Our amendment would go further than what existing laws now permit. In other words, ours is also an expansion, and in my opinion a rather substantial expansion, but it would not be as independent; it would not be a separate court. What it would mean is that we are, under that particular section, giving expanded authority with a limitation there that they have to show need.

Mr. ALLEN. I thank the gentleman.

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from Virginia.

Mr. BUTLER. The gentleman from Tennessee, it seems to me, has put his finger on a very critical part of this issue.

What the amendment does, if I understand the gentleman's explanation, is to continue the jurisdictional problems under the amendment that we have under current law.

One of the big problems with existing bankruptcy courts is that all the resources of the court are wasted in determining whether they have jurisdiction to resolve the problems. They dissipate their time and assets in fighting over jurisdiction. When they finally reach a decision, it does not make any difference because the assets are not worth anything anymore.

What we do in H.R. 8200 is to give the bankruptcy court pervasive jurisdiction to resolve the controversies surrounding the bankruptcy estate. That is a real big step forward, but I congratulate the gentleman from California (Mr. DANIELSON) and the gentleman from Illinois (Mr. RAILSBACK) because they have taken that step backward. Not only have they covered the present jurisdictional disputes involved in the law——

Mr. RAILSBACK. The gentleman knows that is not correct. In other words, we expand the jurisdiction.

The CHAIRMAN. The time of the gentleman from Illinois has again expired.

(On request of Mr. BUTLER and by unanimous consent Mr. RAILSBACK was allowed to proceed for 2 additional minutes.)

Mr. BUTLER. I am not misrepresenting, I may assure the gentleman, when I say present summary jurisdiction is pretty much like the jurisdiction in the Danielson amendment. Is the gentleman changing that?

Mr. RAILSBACK. If the gentleman wants me to read the whole section 1334, I will get existing law and I will read that.

Mr. BUTLER. Is the gentleman changing existing jurisdiction in any other way, than the provision in section 1334 (c) on page 29?

Mr. RAILSBACK. I would say, to try to be responsive, I would say that the jurisdiction of the court and how it is expanded can best be understood by reading on page 29, section 1334, and then relating that to the existing law. I concede to the gentleman that it does not go as far as H.R. 8200.

I would like to add one other thing: We are not claiming any kind of a savings in respect to the establishment of a new kind of U.S. trustee. We, in effect, are recognizing that it may be a matter to have a new, separate U.S. trustee not on a fee system. That is another degree of independence that I think that is new. They are going to be operating on a salary, no fees.

Mr. ALLEN. Mr. Chairman, will the gentleman yield for a question?

Mr. RAILSBACK. I yield to the gentleman from Tennessee.

Mr. ALLEN. Mr. Chairman, the gentleman has mentioned the fact that the Justice Department, speaking through Attorney General Bell, has recommended this type of amendment to the bill.

Can the gentleman name for us some other organizations or people who have endorsed this proposal?

Mr. RAILSBACK. My understanding is that there have been several endorsements. I put in the RECORD a statement from the Chief Justice of the Supreme Court on this subject. The Judicial Conference of the United States also supports the concepts of this amendment.

Mr. ALLEN. The Chief Justice recommends it?

Mr. RAILSBACK. The Chief Justice is very strongly opposed to creating article III courts.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. RAILSBACK) has expired.

(On request of Mr. ALLEN and by unanimous consent, Mr. RAILSBACK was allowed to proceed for 1 additional minute.)

Mr. RAILSBACK. Mr. Chairman, in further answer to the gentleman's question, it is my understanding that the American College of Trial Lawyers also endorses what we are trying to do.

Mr. COHEN. Mr. Chairman, if the gentleman will yield, how about the American Bar Association?

Mr. RAILSBACK. Mr. Chairman, I have a statement from them, and we tried to get their position. I understand the gentleman from Maine (Mr. COHEN) has a statement from them. We talked to Mr. Herb Hoffman, and we understand the ABA has not taken a position. It is my understanding they are meeting in December, and they may take a position on this in December.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. RAILSBACK) has again expired.

(On request of Mr. LEVITAS and by unanimous consent, Mr. RAILSBACK was allowed to proceed for 2 additional minutes.)

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I have a couple of questions to ask in order to clarify some concerns I have. The first question is this:

Do the amendments offered by the gentleman from California (Mr. DANIELSON) in any way change the merger into a new chapter XI of the present chapter X, XI, and XII entities? Does it affect that in any way?

Mr. RAILSBACK. My understanding is that it does not.

Mr. LEVITAS. Mr. Chairman, I thank the gentleman.

Mr. RAILSBACK. We tried to stay away from the substantive reforms.

Mr. LEVITAS. Mr. Chairman, I think the proposal in the committee's bill on that point is a very excellent one, and I would not want to see that disturbed.

The second question I have goes to the practical impact of this. One of the problems with the present bankruptcy system, particularly for small debtors, is that it takes so long to provide them with relief. With the backlog of cases and with the difficulty of administering the bankrupt's estate, particularly in small matters, people cannot gain the relief to which they are entitled under the bankruptcy law.

Is it the gentleman's opinion that the plenary jurisdiction which would be given to the article III judges would increase their workload to such an extent that it would further impede the processing of cases, or is it his opinion that these amendments would expedite the processing of cases?

Mr. RAILSBACK. Mr. Chairman, may I just say that under the Danielson amendments there are provisions also for appointing additional staff. In addition to that, I believe there is an item in the committee report—I do not mean this committee report; I mean the one that is available in the front—that indicates that compared to other pending Federal legislation, the bankruptcy courts are doing a pretty good job of keeping abreast of their caseload. The gentleman may come from an area where that is not true.

Mr. McCLORY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to the Danielson-Railsback amendment.

It has been described before that this amendment would gut the bill. It certainly would distort the bill and convert it into something quite contrary to what the subcommittee and the committee have undertaken to recommend here.

It has been misrepresented—that somehow or other the bankruptcy referees, who are sort of clerks and appointees of the judges, are suddenly going to be augmented to life tenure, with all the emoluments of a Federal district judge.

That is simply not true. The referees in bankruptcy will go out of business. They will not be there any more. They are now called bankruptcy judges, but they are not in the true sense bankruptcy judges; they are appointees of district judges, and they will cease to exist. They will have no jobs at the end of the transition period. We will have no more referees in bankruptcy.

Under this bill we will have a bankruptcy court, and we establish this bankruptcy court because this branch of the Federal judiciary has more business than any other part of the Federal judicial system. Consequently, we want to empower them with authority to handle the bankruptcy business, and that is why we require that they should be so-called article III judges, because we cannot have judges who are going to have this kind of authority without their having the constitutional backup, which is required.

The Attorney General recognizes that. He has written to the committee and the supporters of this amendment, saying that if we clothe the bankruptcy judges with authority to administer a bankrupt estate, they have to be article III judges under the Constitution. If the newly created bankruptcy judges are going to enjoin actions which are interfering with the bankruptcy estate, they have to have that authority under article III of the Constitution. The Attorney General acknowledges this. It is just so many words, and it should be recognized and acknowledged here.

Mr. Chairman, the question of the number of judges has been discussed here, and it is true that in the committee report we suggested 200 district or bankruptcy judges. Maybe that is how many will be needed, but that is some years down the line. The bill does not provide for any particular number of district judges. It says that the President shall be authorized to appoint district judges to handle bankruptcies, but it does not say how many, and everyone should know that. We can determine later how many are needed. It is possible for one bankruptcy judge to handle the business in more than one district; and if he is not working on bankruptcy, he can be designated to work on something else. A district judge who is not working on something else at the time can be designated to work on bankruptcy. It is just as simple as that and just as straightforward as that.

Mr. Chairman, the committee has tried to present it in that way. I might say that I had serious doubts about this, having had a little experience in the bankruptcy court and knowing what bankruptcy referees were like. I recognize we are going into a new system and that we are bringing the bankruptcy business up to modern times, and we are empowering them to handle the kind of work we want them to handle. It cannot be done with the old machinery. We cannot handle the new business in the old way. Consequently, it seems to me that what we need here is to back up the committee, to back up the Bankruptcy Commission, which consisted of our colleague, the gentleman from California (Mr. WIGGINS), who happens to be in the hospital today, unfortunately. Otherwise, he would be here speaking more eloquently than I in support of the article III judge and against the Danielson-Railsback amendment.

Mr. Chairman, our colleague, the chairman of the subcommittee, the gentleman from California (Mr. EDWARDS), also served on that Commission. The subcommittee unanimously recommended this; and when it came up for a vote in the committee, we voted out this bill by a vote of 26 to 3.

Mr. DRINAN. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Massachusetts.

Mr. DRINAN. Mr. Chairman, I commend the gentleman for his eloquent statement, and I too lament the absence of our colleague, the gentleman from California (Mr. WIGGINS) who, hopefully, only temporarily is in the hospital.

Mr. Chairman, would the gentleman state again how the gentleman from California (Mr. WIGGINS) has always felt about this article and why he is opposed to the Danielson-Railsback amendment.

Mr. McCLORY. I am sure he opposes the amendment.

Mr. DRINAN. He does not support the amendment.

Mr. McCLORY. He wants the bankruptcy judge to do the complete job of enjoining outside actions and of considering equitable actions.

Mr. DRINAN. If the gentleman from California (Mr. WIGGINS) had been here, he would have been strongly opposed as is the gentleman in the well to the Danielson-Railsback amendment; is that correct?

Mr. McCLORY. Exactly.

Mr. COHEN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I think after listening to the debate I now know what inspired Shakespeare in "King Henry VI" to say that the first thing we do is let's kill all the lawyers.

Mr. Chairman, that thought was inspired by the gentleman from California (Mr. ROUSSELOT).

I will try to see whether I can simplify this measure, which seems to be bogged down in a great deal of confusion this morning.

Mr. Chairman, when I was an attorney practicing law, I attempted to be a specialist by trying criminal cases, civil cases, doing a lot of appellate work, and I also had occasion to serve as trustee in several hundred bankruptcy cases, although I would not say that that was my specialty. When I came to Congress, I achieved that status known as a generalist, and that is someone whom I have heard described as a person who gets to know less and less about more and more until he gets to the point where he knows absolutely nothing about absolutely everything. I would be loathe to suggest that the courts have reached this point of judicial future shock or informational overload. But surely it is staggering under its current workload with the explosion of pretrial and post-trial motions, both civil and criminal, with complex antitrust litigation, with class actions, and with very complicated Indian lawsuits now coming into the forefront.

We have heard it said quite often there are too many lawyers in Congress. I would not venture to debate that issue this morning, but I would ask all those attorneys who are here today to consider the existing realities of modern day practice. How many attorneys does anyone know coming out of law school, or coming out of Congress for that matter, who would seek to go into solo practice today? I would suggest to the Members the answer would be very few of them. It simply would be against good judgment to try and develop an expertise in all areas of the law today. So most attorneys go into some form of specialty.

That is exactly what is involved here—the need for specialty. When we finally vote either for or against the Railsback-Danielson amendment—or the Danielson-Railsback amendment as it is probably known in California—I would suggest to the Members that they keep this in mind, that we have a conflict here, a jurisdictional or a territorial conflict.

The present judges do not want to see their jurisdiction eroded in any degree. This is what we have to decide, as to whether or not it is essential or necessary.

I would suggest to the Members that the evidence that has been developed over the past 6 years would indicate that, indeed, we do need an independent and specialized bankruptcy court.

I would like to ask, who supports this bill? The gentleman from Illinois (Mr. RAILSBACK) suggested that the Attorney General was opposed to it. Let me list a few who are in favor of it: The Commercial Law League of America, the American Bankers Association, the National Bankruptcy Conference, the National Conference of Bankruptcy Judges. The American Bar Association has indicated its support for an independent bankruptcy court. Those are but a few, as well as many of the State bar associations: Michigan, Florida, Kentucky, Maine, Arizona, Georgia, Minnesota, the Boston Bar Association, and many others. So I indicate to the Members here there is strong support for what the committee has done.

Finally, I would ask about efficiency. The gentleman from Illinois (Mr. RAILSBACK) said—and he was paraphrasing Judge Hufstedler, as I recall—what possible rationale can we give to elevating referees to article III status, when there are so many criminal cases and there are so many civil cases to be tried? The question answers itself. The reason why we are doing it is to give the current courts the time and the ability to deal with the civil and criminal cases that have to be disposed of, which currently are so backlogged. So I would say to the gentleman from Illinois that his suggestion, if we adopt it, would be to return to an archaic and unworkable system, and it ought to be defeated overwhelmingly by this body.

Mr. GUDGER. Mr. Chairman, I move to strike the requisite number of words and to speak in support of the amendment.

Mr. Chairman, I think in some small degree we may overlook one thrust of the bill pending, and that is that if enacted without this amendment, we are not only creating a parallel judicial system to that now in existence, but we are giving to these new judges, these bankruptcy judges, a hierarchy of special status where they will have jurisdiction beyond that of existing district court judges in that they will have jurisdiction of bankruptcy matters and all other Federal matters. They may have a chief bankruptcy judge in any district having more than one bankruptcy judge. That is provided on page 547 of the act. And they may employ, in each district, a separate clerk and an entire separate clerk-supporting staff, and an entire separate office management system.

So it appears that we would have in each judicial district two entire judicial systems, if the bill without this amendment is enacted.

If the Danielson-Railsback amendment is enacted, we do not see a big radical change in the present system, but we do not revert back. We do have a change going forward in that there will be bankruptcy judges, and these bankruptcy judges will have slightly in-

creased jurisdiction over existing referees if we understand the terms of this amendment.

Furthermore, it seems to me we are creating here not only 96 to 211 new lifetime judges with these very broad and very plenary powers, but also we are impeaching a system which has worked satisfactorily in every State from which I have had a report in the course of my inquiry here. I have talked with lawyers practicing in at least 8 or 10 States, and I find generally that the judicial system of the Federal courts in bankruptcy matters is working efficiently and working effectively.

I do not mean to deprecate the substantial work done by the gentleman from California (Mr. EDWARDS) or his subcommittee in making substantive changes, and I commend the gentleman from Illinois (Mr. RAILSBACK) for pointing out the substantial substantive changes all of which remain if we adopt the Danielson-Railsback amendment.

One final word. The Attorney General has said he does not want to appoint a 7-year trustee. He has pointed out to us in his correspondence the fact that he not only is granted by this bill, as it stands, the authority to appoint these trustees, but he has authority to approve their salaries and approve their staffs and maintain direct and continuing supervision over them. And he points out in his letter to us that the United States may well be the principal creditor in a vast number of these bankruptcy matters, thereby bringing about a direct conflict of interest between his office and the appointee that his office has made and which it continues to supervise and continues to manage.

For this reason I strongly support the amendment, feeling that it makes no substantive changes in the thrust of this legislation, but changes only the judicial administration of the law and provides how the courts are to function and how the trustee is to function hereafter in a system which will be much improved if this amendment is adopted.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. GUDGER. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, there are two points that bothered me a little bit during the gentleman's discussion of the amendment. One of those is to characterize the bill's provisions in regard to the article III judges as a parallel system and a system that would be only parallel with the present district court system.

I believe it is my understanding of everything that I worked with on this bill and the provisions of the bill that provide there will be article III judges, and as such they would have just as much authority as the district judge and they could integrate within that system, and so to the extent there would not be a sufficient load of cases in the bankruptcy areas as in other civil cases, they could do that work as well. Is that the gentleman's understanding?

Mr. GUDGER. It is.

Mr. VOLKMER. Then it is not a parallel system. It is an integrated system.

Mr. GUDGER. It is my understanding that this new judge will have bankruptcy jurisdiction and general jurisdiction.

The CHAIRMAN. The time of the gentleman from North Carolina has expired.

(On request of Mr. VOLKMER, and by unanimous consent, Mr. GUDGER was allowed to proceed for 3 additional minutes.)

Mr. GUDGER. If I may complete my answer to the question just posed, as I understand it the bankruptcy appointee will have bankruptcy jurisdiction to the exclusion of the present district court judge.

Mr. VOLKMER. That is correct.

Mr. GUDGER. And he can also exercise the jurisdiction of the present district court judges. Therefore, he will have a greater jurisdiction than the existing chief judge of his district. He will be operating a whole new judicial system out of offices with clerks and staff of his own appointment and therefore a completely parallel structure. He will have or could have, where there is more than one bankruptcy judge in a district, a chief bankruptcy judge and subordinate bankruptcy judges. There could be a chief bankruptcy judge and subordinate bankruptcy judges. I think the use of the term "parallel" is appropriate. I refer the gentleman to section 547 of the act.

Mr. VOLKMER. I beg to differ. We do not take away from the existing court judges the power they have over bankruptcy at the present time and therefore they can continue to consider bankruptcy cases, and therefore the gentleman's "parallel" is wrong.

The other thing that bothers me in the gentleman's presentation is that on the trusteeship—and we looked at this very thoroughly and tried to find an area where appointment and authority over the trustees should reside—one of the things we rejected is what is in the Danielson amendment, and we then rejected that because right now the Conference itself is not a governing body as such on anything.

As the gentleman knows right now there are major disagreements as to how well the Judicial Conference operates. We see it right now. There is serious disagreement among Members as to its operations, and to put that Judicial Conference as head of the trusteeship bankruptcy proceedings is I think absurd.

I will admit maybe it is not 100 percent to put it into the Attorney General's office. Maybe that is not the exact place for it, but we cannot put it in the district court, for sure. We cannot put it there because we have the same problems we have now.

Mr. GUDGER. The gentleman referred to acts of the Judicial Conference. The only understanding I have as to any act of the Judicial Conference vis-a-vis of this bill, is its almost unanimous opposition to this bill, without the Danielson-Railsback amendment; the appointive power is placed in the judicial council of the circuit court, not in the Judicial Conference of the United States.

Mr. SAWYER. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, I have been listening to this argument as it progressed. While I do not pretend to be an expert in bankruptcy, up to about 15 years ago I used to do some reasonable amount of bankruptcy work. I want to correct one or two comments that have seeped into this discussion. One is that the committee bill would some way limit the existing powers of the U.S. district courts, which have full power over all aspects of bankruptcy and could, if they wanted to and did not need referees, handle it entirely themselves within their own power. The committee bill does not in any way create a class of judges with greater powers than the existing district judges who have now and will retain full power over bankruptcy.

There is one other thing I want to correct before I make another comment or two. The gentleman from Illinois (Mr. RAILSBACK) said that the American College of Trial Lawyers was opposed to this provision of the bill. I happen to be a fellow of that college and I was a former regent. If the college did that, they had no business doing it, because very, very few of the fellows of that college have any knowledge of bankruptcy procedure as such. They are essentially a group of well-recognized trial lawyers in the United States. Only a few of those may have had some real experience in bankruptcy, but they certainly are not well informed on the subject. If they did take such a position, they were certainly out of their field. I can say that as a fellow and a former regent.

The big problem as it operates in bankruptcy today is that it really benefits only one group, that is the trustees and the attorneys that are involved. The proceeds to creditors out of bankrupt estates is virtually nil, certainly compared to the assets that go in. The only other group that benefits are the debtors, because they get discharges; but it is an exceedingly inefficient functioning system. Part of the reason is this limitation on the power of the referee. If you want to pursue a claim that the debtor has against some third party, and very often that may be the only significant asset of the estate, you must get authority to conduct a plenary action and then go out to some other jurisdiction, to an entirely different court at sometimes very high expense and wage your action in that other court, because the referee has no authority to hear and dispose of those kinds of claims.

Also, you have this peculiar relationship between the trustees and the referees, so that it becomes pretty much a game that they play together to a large degree.

As a matter of fact, it was not in the too long distant past when the referees worked on fees out of the estates and were paid only nominal salaries. They have only been on a full salary status in the last 25 years. Before that, they pulled their chair up to the table, along with

the trustees and the attorneys and took their whack out of an estate, too. They usually rented their own courtrooms to conduct their business as referees. While the system was improved by putting them on salary and providing them with Federal quarters, the basic operation and the basic thrust of it has not changed.

I am not a member of the subcommittee that worked on this bill. I feel that the subcommittee really ought to be complimented for this major work they have produced. I think, if I can use the expression of the speaker when he was talking about the crude oil equalization tax, that this is really the centerpiece that is being attacked by this amendment.

This is the major accomplishment that perhaps may get bankruptcy proceedings back to where they are furnishing what they are supposed to do; in addition to the relief of the debtor, the relief of the creditor.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(On request of Mr. RAILSBACK and by unanimous consent Mr. SAWYER was allowed to proceed for 3 additional minutes.)

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. SAWYER. I yield to the gentleman from Illinois.

Mr. RAILSBACK. May I just say at the outset that the Member in the well, the gentleman from Michigan, has had, in my opinion, probably as much trial experience as any Member of the House of Representatives. However, in respect to the position of the American College of Trial Lawyers, I have here a letter dated October 7, 1977, signed by Thomas E. Deacy, Jr., the chairman of the Pound Revisited Committee.

It says:

AMERICAN COLLEGE
OF TRIAL LAWYERS,
Los Angeles, Calif., October 7, 1977.

Congressman TOM RAILSBACK,
House of Representatives, Rayburn HOB, Washington, D.C.

DEAR CONGRESSMAN RAILSBACK: Pursuant to the recommendation of its Pound Revisited Committee, on August 5, 1977, the Board of Regents of the American College of Trial Lawyers adopted the position of the College in opposition to those proposals incorporated in H.R. 8200, 95th Congress, which would convert bankruptcy courts into separate, specialized courts under Article III of the United States Constitution and convert referees in bankruptcy to bankruptcy judges with tenure and status of United States district judges.

We oppose the creation of separate bankruptcy courts for the reasons that such specialized courts are unnecessary, would create additional unwarranted expense and would be contrary to sound court organization, as found and recommended by the American Bar Association Commission on Standards of Judicial Administration, Standards Relating to Court Organization (1974). See Standard 1.10, Unified Court System: General Principle, and Standard 1.11, Unified Court Structure.

We oppose the conversion of referees in bankruptcy to Article III tenure and status as the unnecessary creation of specialized judges when, as now, there is pressing need for the authorization of additional district judgeships to provide for increased general case loads, both civil and criminal, in the respective federal districts. The conversion of referees in bankruptcy to Article III judges would only multiply the number of persons entitled to be addressed as federal judge. We also oppose wholesale appointments which would certainly short-circuit the existing machinery for selection of federal judges, including the review by the American Bar Association of persons under consideration for such appointment.

Accordingly, the American College of Trial Lawyers urges that those aspects of H.R. 8200 not be enacted into law.

Respectfully submitted,
THOMAS E. DEACY, Jr.,
Chairman,
Pound Revisited Committee.

Mr. SAWYER. I may say that I reiterate what I said previously. I did not question the fact, when the gentleman made the statement, that the regents of the American College of Trial Lawyers did send such a letter. I merely commented that they are a very inexperienced group in this field to be issuing such a letter, because it is not in their ball park.

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr. SAWYER. I yield to the gentleman from California.

Mr. EDWARDS of California. I thank the gentleman for his observation. I would like to put in my three-page response to Thomas E. Deacy, Jr., the chairman of the Pound Revisited Committee of the American College of Trial Lawyers.

His letter was riddled with misconceptions about the bill. He obviously had not even read the bill. For example, he said in his letter that the bill converts referees in bankruptcy to bankruptcy judges with article III tenure. It does not do that at all. I pointed out in my letter what it does do.

I thank the gentleman for his comments. They are inexperienced people in this area. However, they work under district court judges every day, and I am sure they are very interested in complying with the wishes, the political things that district judges like to have done. So, I ask unanimous consent to include this letter in the RECORD.

COMMITTEE ON THE JUDICIARY,
Washington, D.C., October 18, 1977.

THOMAS E. DEACY, Jr., Esq.,
Chairman, Pound Revisited Committee, American College of Trial Lawyers, Los Angeles, Calif.

DEAR MR. DEACY: Thank you for your letter expressing the views of the American College of Trial Lawyers on H.R. 8200, the bankruptcy revision bill.

As I noted in my letter to you of May 24, 1977, I believe that the recommendations of the Pound Revisited Committee were based on an incomplete knowledge of the contents of the bill. I am sorry that your letter reflecting the more recent resolution of the Board of Regents of the College does not correct the misunderstandings in your earlier statement.

Specifically, the bill does not "convert bankruptcy courts into separate, specialized courts under Article III of the United States Constitution and convert referees in bankruptcy to bankruptcy judges with tenure and status of United States district judges." The bill retires existing bankruptcy judges, and leaves the President, with the advice and consent of the Senate, full authority to appoint the bankruptcy judges of the new, not converted, Article III courts that the bill establishes as of October 1, 1983.

Second, the bill does not "short-circuit the existing machinery for selection of federal judges, including review by the American Bar Association of persons under consideration for such appointment." The bill provides for a five-year transition period to the new court system, during which the President, the Senate, and all interested groups, such as the American Bar Association, will have ample opportunity to review qualifications of potential nominees to the new court system. The appointment of a large number of judges over a short period of time, which you apparently oppose in the bankruptcy context, is a process you favor enthusiastically in calling "for the authorization of additional district judgeships." The process, I am sure, will be no different in either instance.

Third, you "oppose the creation of separate bankruptcy courts." Bankruptcy courts already exist as separate, specialized courts. All bankruptcy cases are heard before bankruptcy judges, not before trial courts of general jurisdiction. You seem to favor retention of the present system, which has separate, specialized courts. Thus, I must assume that your objection is not to separateness, but rather to the status of the proposed courts.

Your next objection sheds light on that issue: "The conversion of referees in bankruptcy to Article III judges would only multiply the number of persons entitled to be addressed as federal judge." That objection seems petty at best, clubby at worst. It surely cannot be a basis on which to determine policy as important as the status of the bankruptcy courts. Further, the omnibus judgeship bill which you favor would also increase the number of persons entitled to be addressed as federal judges. Is that grounds for opposition?

Let me emphasize that the bankruptcy bill is in no way intended to detract attention from what you rightly recognize as the need for additional judges in the federal district courts. As one concerned about over-crowding in the district courts, however, your opposition to removal of bankruptcy cases from the dockets of district courts seems disingenuous.

Finally, you note that the H.R. 8200 is contrary to the *Standards Relating to Court Organization* of the American Bar Association. It is not. The intent of those Standards in large part was to discourage forum-shopping. The current court system and the current jurisdictional rules in bankruptcy cases actually encourage forum-shopping. H.R. 8200 is designed to stop that practice. Cutting the tie between the bankruptcy courts and the district courts, as H.R. 8200 does, will not further that goal, nor will leaving the two separate courts attached further it. However, other provisions in the bill, such as the improved jurisdiction of the bankruptcy courts, will decrease the incentive for and the availability of forum-shopping.

I am familiar with the membership of your Committee. As well-respected and knowledgeable as the members are, I am sure they will appreciate the constitutional issues involved in attempting to give "the judicial Power of the United States" as defined in Article III of the Constitution to any other than an Article III judge. The powers that bankruptcy judges exercise today already intrude into the exclusive province of the federal judicial power. It is time to correct this erosion of the intent of the Framers of the Constitution, and provide that those that exercise that power are appointed in accordance with grant of power in Article III.

With kind regards,
Sincerely,
DON EDWARDS,
Chairman, Subcommittee on Civil and Constitutional Rights.

Mr. SAWYER. I did not mean to deprecate the American College of Trial Lawyers. They are the finest and most select group of trial lawyers in the United States, but their comments on bankruptcy would be about as relevant as those of the Probate Judges Association.

The CHAIRMAN. The time of the gentleman from Michigan has again expired.

(On request of Mr. COHEN and by unanimous consent Mr. SAWYER was allowed to proceed for 1 additional minute.)

Mr. COHEN. Mr. Chairman, will the gentleman yield?

Mr. SAWYER. I yield to the gentleman from Maine.

Mr. COHEN. I would like to propound a question to the chairman of the subcommittee. As I read the report, it seems to me that during the 35 days of hearings in the House and the 20 days of hearings in the Senate, not one witness reached the conclusion that the present bankruptcy court should be retained. The only opposition to separation of bankruptcy and district courts has come from the Judicial Conference, and that came rather belatedly.

Mr. EDWARDS of California. That is correct. The Commission traveled all over the United States, and held hearings. The subcommittee also held hearings and had at least 100 witnesses. Not one single witness ever said that there should not be a separate court. That was the key point that every witness made.

Mr. COHEN. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. SAWYER) has expired.

(On request of Mr. SANTINI and by unanimous consent, Mr. SAWYER was allowed to proceed for 2 additional minutes.)

Mr. SANTINI. Mr. Chairman, will the gentleman yield?

Mr. SAWYER. I will be glad to yield to the gentleman from Nevada.

Mr. SANTINI. Mr. Chairman, in the 7-year legislative history of the consideration of the merits of this issue, not one witness came forward, absent the Attorney General, in opposition to the committee position or in support of the position that is suggested by the gentleman from California (Mr. DANIELSON) in his amendments.

I, too, am troubled by aspects of the present committee bill, but I am persuaded by the overwhelming weight of the absence of any other witnesses advocating the position suggested by the gentleman from California in the 7-year history of the bill.

I think there is some merit in what the gentleman proposes, but I am not sure that is the merit we want to cut at this time and place in the absence of any supporting testimony to reinforce it.

Mr. DANIELSON. Mr. Chairman, will the gentleman yield?

Mr. SAWYER. I yield to the gentleman from California.

Mr. DANIELSON. Mr. Chairman, I would like to respond to my distinguished colleague, the gentleman from Nevada (Mr. SANTINI), and say that there is some rather respectable support. I would say that the Attorney General of the United States is respectable support. We have his support here in writing.

I would say that the Judicial Conference of the United States appointed by the Chief Justice is very substantial and respectable authority and should carry a good deal of weight.

My colleague, the gentleman from Illinois (Mr. RAILSBACK), pointed out—although I do not have the material at hand myself—that the Chief Justice of the United States, to whom I give great credence, supports the position taken in the amendments. And I would state also that the resolutions of the 10 circuit courts of the United States supporting the position of these amendments are credible and worthy of a great deal of weight. I also believe that the support of the American College of Trial Lawyers is very important.

So, Mr. Chairman, I will say this: We do not stand here naked of support from respectable quarters. I would say that we are fully clothed with support for these amendments.

Mr. KASTENMEIER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, it is with great reluctance that I rise on this issue, because I have the greatest admiration for the gentleman from California (Mr. EDWARDS) and his work with the subcommittee over 6 years on this issue. I know how difficult it is to achieve reform of this consequence.

Yet from the perspective of the chairman of the Subcommittee on Courts, Civil Liberties, and the Administration of Justice of the Committee on the Judiciary, I have lately come to the conclusion that indeed the bankruptcy reform ought not include the creation of additional article III courts, that is, independent constitutional courts.

Of course, if the amendments offered by the gentleman from California (Mr. DANIELSON) and supported by the gentleman from Illinois (Mr. RAILSBACK) are adopted, I will certainly support the bill. The bill needs the support of this House.

But on this point I think the House ought to be well aware that at this very time the gentleman from New Jersey (Mr. RODINO) and the full Committee on the Judiciary are taking up the question of judgeships and whether to include 80 or more district judges for the Federal judiciary system. We presently have—and the Members ought to know this—399 Federal judges.

What is proposed to be done here is to create individuals of equal status, at least in terms of perquisites, salary, tenure, and constitutional protection, and they would number some 200 or 234, or whatever number may be subsequently agreed to.

One of the problems is that this does not limit the number of judges that may be authorized under the bill. Actually, as I understand it, as a result of the work of the Commission on Reform of Bankruptcy and of a number of people, including my good friend, the gentleman from California (Mr. EDWARDS), who served on the Commission, they had recommended a change in status, to be sure, but it was a change in status to article I. They did not, as I recall, recommend that these be article III judges, as are provided by the Constitution, and the cost of which, I might say, would be enormous.

I would wonder myself how it came about that so many Members whom I regard so highly, including members of my own subcommittee, the gentleman from Virginia (Mr. BUTLER), the gentleman from Massachusetts (Mr. DRINAN), and the gentleman from California (Mr. WIGGINS), who served on the subcommittee, as well as other members, should have reached an agreement that the bankruptcy courts should be article III courts.

I can only conclude that it is a view from the inside. That is, if one views the world as a bankruptcy world from the inside, he will justify that these ought to be Federal judges. If the universe, presumably, were also viewed as a bankruptcy universe from the inside, one might well justify the U.S. Supreme Court for bankruptcy and other matters; but from the outside, from the perspective of the Attorney General or the Chief Justice of the United States, with whom I am on this issue inclined to agree, I think this is a mistake.

What sort of precedent does it set? Will we find other areas such as in civil rights or criminal areas where we will need specialty courts in the future? How many article III judges do we really want to create?

Mr. Chairman, I think the wisdom there is not to go quite so far as the committee would wish while there are, I think, four options.

One is to stand precisely where we are. I think that what the gentleman from California (Mr. DANIELSON) and the gentleman from Illinois (Mr. RAILSBACK) propose is that certain modifications, certain reforms be included in this proposal. The other question is whether article I status is not the most far-reaching of all or should article III status be conferred on these judges.

Mr. Chairman, I think the amendment before us is the best answer. I, for that reason, Mr. Chairman, will support the amendment.

Mr. EVANS of Georgia. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman and Members of the House, it is with some reluctance that I rise because I am generally opposed to the creation of any new judgeships. However, I am convinced, after viewing the bankruptcy law as proposed and the increased jurisdiction needed, that the only way we can deal with this subject matter properly is to have article III judges.

Under the present law, continued under the Railsback amendment, we have a duplication of efforts. We have the district judge under the present law and

under the Railsback amendment, who has jurisdiction over bankruptcy matters. The amendment would not change that. The district judge would still have jurisdiction over bankruptcy matters; but what it does is have a referee who has some office staff under the present law now and has none under the amendment; and this is a general criticism of the amendment. He may have his clerks, he has his own staff, and yet what he does is administer cases and rule on those cases. He is in conflict with himself constantly because he has both administrative duties and judicial duties.

Not only does he have this conflict, but when he makes his decision and it is appealed, it is appealed to the district court. Consequently, the district court is constantly having to rule on the decision of the referee whom he has appointed to handle the bankruptcy cases. Therefore, in order to get rid of the duplication of efforts which we have under the present law, we have to appoint article III judges so that they can deal with these matters in a judicial manner.

Mr. Chairman, I would like to further point out that by creating article III judges, we do away with a lot of the delay that is brought about because people are always arguing about the jurisdiction of the bankruptcy judge, about whether or not he has plenary jurisdiction in this matter or in that matter. Mr. Chairman, I think we make it clear that he does have jurisdiction and that he can deal with these cases.

I would also like to point out that the increase will be less, in my opinion—after having spent a number of years in practice before the bankruptcy courts—the increase in the cost of article III judges will be less than it will be if we were to continue the present referee-type system.

For those reasons, Mr. Chairman and Members of the House, I urge support of the bill, and I urge opposition to the amendment proposed by the gentleman from Illinois (Mr. RAILSBACK) and the gentleman from California (Mr. DANIELSON).

Mr. KINDNESS. Mr. Chairman, I move to strike the last word and speak against the amendment.

Mr. Chairman, I do not know how someone who is not a lawyer could stand the debate we have been having for the last hour. I see the gentleman from California (Mr. ROUSSELOT), our colleague, has returned to the Chamber. For that reason, I would like to direct some remarks that are not in legalistic terms or language to those who may have been completely bored with what the lawyers have been talking about for a while.

Our present setup for the administration of bankrupt estates and bankruptcy law is inadequate, and I think everyone is pretty much in agreement with that. H.R. 8200 would put things in the kind of a context where the job could be done.

The amendment proffered by the gentleman from California (Mr. DANIELSON) and the gentleman from Illinois (Mr. RAILSBACK) would take away part of the tools, much of the set of tools with which the job can be done properly. To adopt the Danielson amendment would do the same sort of thing as sending a carpenter out on the job with the nails but saying he cannot use his hammer and saw. It would be like sending a soldier out without any weapon to use to fight a war. It would be like giving the truck driver a truck with a transmission but no engine. It would be like the plumber who comes to your house to do a repair job when he does not have the tools with him, or he does not have the part with him. It would be like having the surgeon in the operating room without a scalpel, and it would be like sending the politician out to do his thing when he had no hot air. Simply stated, those are the elements of controversy here.

Shall we put all of the tools in the chest of the carpenter to work with or not? H.R. 8200 would put all the tools in the chest to do the job. It would give the plumber his parts and his tools as well. It would give the soldier his weapon, so to speak. It would give the preacher his Bible to work with. That is what we are talking about here, simply stated to those nonlawyers who have borne with us throughout this debate.

There are different ways of stating the different elements involved. We can talk about the technicalities of it, but remember one thing, and that is that there are more—almost twice as many—bankruptcy cases filed as all of the other civil and criminal cases in the Federal district courts combined. We have got to have some tools to work with that. We need all of the tools, and that is what the establishment of article III bankruptcy courts would do—give all the tools with which to work.

I strongly support H.R. 8200 without the Danielson amendment. I think I would support the bill even if the Danielson amendment were adopted, but I think we would not be putting all the tools in the carpenter's box, or the plumber's truck, and we would be doing less than the proper job with something that has been in the process for 6 years.

I served on the subcommittee in the 94th Congress with the gentleman from California (Mr. EDWARDS) as chairman. I do not claim the credit for any contribution to this bill because I heard a lot, but I did not participate in the 95th Congress when all the writing was really done. That is when all of this was put together, and I think it was put together very well. I started out 2 years ago, or 1½ years ago, with the same notion that the gentleman from California (Mr. DANIELSON) and the gentleman from Illinois (Mr. RAILSBACK) have now, that we ought not to have Article III courts established in the bill. I have firmly reached the conclusion that we should have all the tools, to have the engine in the truck and not just the transmission to work with. We need H.R. 8200 as it is and without the Danielson amendment.

I would urge the Members' defeat of the amendment and support of H.R. 8200.

MOTION OFFERED BY MR. ERTEL

Mr. ERTEL. Mr. Chairman, I move that all debate on the Danielson amendments and all amendments thereto end at 12:35 o'clock.

The CHAIRMAN. The question is on the motion offered by the gentleman from Pennsylvania (Mr. ERTEL).

The question was taken; and on a division (demanded by Mr. ROUSSELOT) there were—ayes 19, noes 15.

So the motion was agreed to.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Chairman, I know my very distinguished colleague, the gentleman from California (Mr. WIGGINS), was very, very disappointed to not be here. He had hoped to participate in this discussion on the Danielson-Railsback amendment. As Members all know, he opposes it. He was, along with the gentleman from California (Mr. EDWARDS), one of the prime members of the committee to work long and hard on this legislation.

I had wanted to discuss some of the points that had been outlined by Mr. WIGGINS, Mr. EDWARDS, and others in a thoughtful letter on this issue. I regret that we put a time limitation on so I was not able to do it, but we have been discussing it for an hour. I will just say very quickly that I will refer to the final paragraph in his letter.

The CHAIRMAN. The time of the gentleman from California (Mr. ROUSSELOT) has expired.

(By unanimous consent, Mr. BUTLER yielded his time to Mr. ROUSSELOT.)

Mr. ROUSSELOT. Mr. Chairman, the gentleman from California (Mr. WIGGINS) and Mr. EDWARDS said in that letter to all of us dated October 24, 1977, this:

> The bankruptcy revision bill, H.R. 8200, is the culmination of over 6 years of bipartisan effort, beginning in 1971 with the Commission on the Bankruptcy Laws of the United States, and continuing through 35 days and 2,700 pages of testimony before the Subcommittee on Civil and Constitutional Rights, and 22 days and 42 hours of mark-up. It comes before the House this week.
>
> The most significant change the bill makes is in the administrative structure for handling bankruptcy cases. There are nearly a quarter of a million bankruptcy cases each year—more than the total number of Federal civil and criminal cases combined. Yet the bankruptcy laws were not designed to handle the enormous volume or the complexity of the cases that now reach the bankruptcy courts, such as Penn Central and W. T. Grant.
>
> The bankruptcy system has not been changed substantially since it was first established in 1898. Bankruptcy judges, who are subordinate adjuncts of the district courts, are hampered by a lack of adequate powers to carry out the bankruptcy laws. Their jurisdiction is limited. Bankruptcy judges must often wait interminably for other courts, Federal and State, to decide issues that could better be handled in the bankruptcy courts, relieving overcrowded Federal and State courts and preventing the enormous waste of judicial time now spent on jurisdictional issues alone. Finally, bankruptcy judges are required to supervise the administration of estates, creating an inherent conflict of interest and pro-estate bias that the bankruptcy judge brings with him

when he must rule in litigation against the estate.

H.R. 8200 solves these problems. It replaces the existing inadequate bankruptcy courts with an upgraded court system. It expands the jurisdiction of the bankruptcy courts so that all matters in a case may be disposed of expeditiously and in one place. It creates United States trustees to supervise the administration of bankruptcy cases and removes all administrative functions from the bankruptcy judges. It places the United States trustees out of the control of the courts, in order to prevent the uncomfortably close relationship between bankruptcy judges and trustees that frequently discredits the bankruptcy system today. H.R. 8200 takes these steps as required by the Constitution: it gives bankruptcy judges full constitutional status, and places the administrative branch of the bankruptcy system in the Executive Branch, where it belongs.

These are important changes, and are the heart of the structural revisions of the bill. An amendment may be offered to undo the necessary reforms that the bill proposes, and to return to the current unworkable, archaic, and unfair system. The effort completely ignores the lengthy examination into the problems of the current bankruptcy system and the enormous effort that has gone into constructing a new system that will solve those problems. We urge you to reject this proposal, and to support the bipartisan effort that the Subcommittee reported by a vote of 7–0 and the full Committee reported by a vote of 23–8.

Sincerely yours,

Peter W. Rodino, Jr., Chairman; Robert McClory, Ranking Republican; Don Edwards, Chairman, Subcommittee on Civil and Constitutional Rights; M. Caldwell Butler, Ranking Republican, Subcommittee on Civil and Constitutional Rights; John F. Seiberling; Robert F. Drinan; Harold L. Volkmer; Anthony C. Beilenson, Charles E. Wiggins.

SUPPORTERS OF COURT SYSTEM IN H.R. 8200

Michigan State Bar.
Florida State Bar.
Kentucky State Bar.
Maine State Bar.
Arizona State Bar.
Indiana State Bar Executive Committee.
Georgia State Bar Section on Bankruptcy Law.
Minnesota State Bar Bankruptcy Committee.
Boston Bar Association.
Fort Worth-Tarrant County Bar Association.
Atlanta Bar Association.
Dallas Bar Association.
Orange County, California, Bar Association.
Lake County (Gary, Indiana) Bar Association.
Smith County (Tyler, Texas) Bar Association.
Commercial Law League of America.
American Bankers Association.
National Bankruptcy Conference.
National Conference of Bankruptcy Judges.
Harold Marsh, Chairman, Commission on the Bankruptcy Laws of the United States.
American Bar Association (supports bankruptcy courts that are independent of the district courts).

As the gentleman from California (Mr. WIGGINS) has been heavily involved in the drafting of this legislation, I think we should pay attention to his input on this issue. On the basis of that statement to all of us I think we should turn down the Danielson-Railsback amendment.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. PANETTA).

Mr. PANETTA. Mr. Chairman, we are talking about reform of a system that has not been reformed or revised since 1938. The testimony presented before the subcommittee involves 35 days of testimony, and involves 100 witnesses, and involves 3,000 pages of testimony, all supporting the need for reform in this system.

Anybody who has practiced in the bankruptcy court system knows that there is a tremendous backlog and a need for a separate, total system. If a Member wants to throw all that evidence out the window, then he should support the Danielson amendment, but if he agrees there is need for reform, then he should support the committee on this change.

(By unanimous consent, Mr. DRINAN and Mr. COHEN yielded their time to Mr. EDWARDS of California.)

The CHAIRMAN. The Chair recognizes the gentlewoman from Texas (Miss JORDAN).

Miss JORDAN. Mr. Chairman, I rise in support of H.R. 8200 and in opposition to the Railsback-Danielson amendment.

I know that we have heard a lot of legalese as this amendment has been discussed; but no one has really said in a forthright manner what some of the underlying problem is.

What Federal judge have you ever heard say, "I would like my powers diluted just a little bit, that I will agree to have someone as great and as forceful as I am on the bench"?

When have you ever heard a Chief Justice of the United States talk about curtailing jurisdiction of the various courts and restricting it in some way and not really having the Federal judges have as much say as they should have?

The authorities presented to us in support of the Danielson-Railsback amendment really are not persuasive when we look at the self-interest evidenced by both.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. KREBS).

Mr. KREBS. Mr. Chairman, I very reluctantly rise in opposition to the committee version of this particular point, however, it seems to me on the basis of the evidence we have heard and the testimony, that the persuasive part of the Danielson amendment, I think, really cannot be overlooked. Obviously, time does not permit me to go into some of the other points; but I would like to rebutt one point made by a very eloquent speaker earlier; that has to do with the question of specialty. I think from a practical standpoint, those of us who have practiced law for some time will remember when you have someone in a specialized field like bankruptcy and transfer a person who has been spending nine-tenths of his time in bankruptcy and then you send him over to hear a personal injury or a civil case, you are not being very fair to the litigant.

The CHAIRMAN. The Chair recognizes the gentleman from Tennessee (Mr. ALLEN).

Mr. ALLEN. Mr. Chairman, who knows better the need for such legislation than the trial lawyers who practice before the courts? They have taken a position and the judicial conference has taken a position in favor of this amendment.

It has been said that any decision by such a judge created by the Danielson amendment would be subject to review by the lower district judge. The alternative to this without this amendment, is that any poor litigant would have to go all the way to the circuit court of appeals at a much greater, and in many cases, prohibitive expense.

I am not for creating 200 more lifetime judges with no contribution to their pension funds and their lifetime incomes assured in order to bring about this reform. We can do it with the Railsback-Danielson amendment.

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey (Mr. HUGHES).

Mr. HUGHES. Mr. Chairman, I rise in support of the committee position and against the Danielson-Railsback amendment very reluctantly. I think that their amendment is clearly a step backward. I did practice somewhat in the bankruptcy courts and it is, indeed, an archaic system. I am not so sure the committee has the perfect solution, but it is the only one available at this time.

Frankly, I would like to see us appoint Federal judges and assign them to bankruptcy, where they have that expertise. Instead we are setting up a separate system for bankruptcy. Unfortunately we are not ready to fully integrate our Federal district court system. Perhaps it will come in time, but certainly the Danielson-Railsback approach is not the right approach. That is the old system and it is obsolete and ineffective.

Mr. RODINO. Mr. Chairman, I rise in opposition to this amendment. The amendment goes to the heart of the bill. The issue here is whether we are going to have innovative bankruptcy reform that will solve the serious problems confronting the bankruptcy system today or whether we are simply going to make a few cosmetic changes and let it go at that. The amendment takes the latter choice. It does nothing to solve the problems we have, and completely negates the effective solutions proposed by the very able work of the subcommittee chairman, Mr. EDWARDS, and the ranking Republican, Mr. BUTLER.

I think that we have to examine the various groups that have been involved in the attempts for a new bankruptcy system. This has been under study for a long time, and I think it is of tremendous significance that the groups that have been working on this legislation are in unanimous agreement about the court system proposed by the bill.

These groups are composed of the people that have to work with the bankruptcy system every day. They include

the bankruptcy judges. Through their conference, they have expressed their strong support for the court system proposed here. They know the failings of the present bankruptcy system, because they must live with them every day. I should point out that the bankruptcy judges are not supporting this bill out of selfish motives. They stand to lose their jobs to Presidentially appointed article III judges if this bill becomes law. I think that speaks eloquently to the need for the solutions proposed in H.R. 8200.

The National Bankruptcy Conference has also supported this bill. It is composed of bankruptcy practitioners from around the country. They appear in the bankruptcy courts continually, and are very aware of the problems plaguing the courts. These are both debtors' and creditors' lawyers. They are not just on one side. They favor the bill as written.

The American Bankers Association and the Commercial Law League of America both favor the independent article III bankruptcy courts created by the bill. Again, these are people that are continually involved in bankruptcy cases, usually on the creditors' side. They know of the need for a new bankruptcy court from personal experience.

On the other side, we have some theory. The Judicial Conference, which has not done any examination of the bankruptcy system even though it is charged with the responsibility of overseeing it, wants to retain the current system. The bankruptcy judges have tried unsuccessfully for 5 years to begin a dialog on the problems in the bankruptcy courts with the Judicial Conference. The Judicial Conference refused, and they oppose H.R. 8200 on some theoretical ground that the proposal is inconsistent with their notion of the Federal judiciary.

The Justice Department objection is on a similar ground. In both these cases, the objections are not from people who are involved day to day in the bankruptcy courts. I do not believe that they can overcome the strong evidence that has been advanced by all these people who have studied the system for years and who have agreed upon the solution proposed in H.R. 8200. The theory that the Judicial Conference has proposed just does not account for the practical realities of the conduct of the bankruptcy courts. The courts are not working properly and need the solution in H.R. 8200.

There is a great irony here as well. During the past few decades, the Federal courts have served as instruments of tremendous and important changes in our public and private institutions. They have ordered reform in schools, in legislatures, and in prisons. They have directed changes in housing, in transportation, in recreational facilities, in employer-employee relations, and with the help of the Congress, even in restaurant facilities. Their basis for ordering these major changes has been the dictates of the Constitution. The Federal courts have discounted the effects of these changes on the status of administrators, boards of directors, and others.

The Federal judges who oversaw these many drastic changes are the ones resisting the efforts in H.R. 8200 to revamp the Federal judicial system. They say the proposed changes are "too drastic."

Well, the proposed change in the Federal judicial system is hardly drastic by those standards. The bankruptcy courts have functioned as independent courts within the district courts for nearly 40 years. It is time to cut the umbilical cord that keeps the bankruptcy courts under the district courts. H.R. 8200 does that, and it does that in a way that satisfies all the constitutional requirements.

For these reasons, I urge the defeat of this amendment.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. EDWARDS).

Mr. DANIELSON. Mr. Chairman, I ask unanimous consent that the gentleman from California (Mr. EDWARDS) be entitled to speak for 10 minutes, in addition to the time allotted. I do that, because as chairman of the subcommittee and manager of the bill at the time the request was made, I do not think any of us realize the gentleman had not had a change to present his case.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. RODINO. Mr. Chairman, I rise in opposition to this amendment. The amendment goes to the heart of the bill. The issue here is whether we are going to have innovative bankruptcy reform that will solve the serious problems confronting the bankruptcy system today or whether we are simply going to make a few cosmetic changes and let it go at that. The amendment takes the latter choice. It does nothing to solve the problems we have and completely negates the effective solutions proposed by the very able work of the subcommittee chairman, Mr. EDWARDS, and the ranking Republican, Mr. BUTLER.

I think that we have to examine the various groups that have been involved in the attempts for a new bankruptcy system. This has been under study for a long time, and I think it is of tremendous significance that the groups that have been working on this legislation are in unanimous agreement about the court system proposed by the bill.

These groups are composed of the people that have to work with the bankruptcy system every day. They include the bankruptcy judges. Through their conference, they have expressed their strong support for the court system proposed here. They know the failings of the present bankruptcy system, because they must live with them every day. I should point out that the bankruptcy judges are not supporting this bill out of selfish motives. They stand to lose their jobs to Presidentially appointed article III judges if this bill becomes law. I think that speaks eloquently to the need for the solutions proposed in H.R. 8200.

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the district courts. H.R. 8200 does that, and it does that in a way that satisfies all the constitutional requirements.

For these reasons, I urge the defeat of this amendment.

Mr. EDWARDS of California. Mr. Chairman, I thank the gentleman from California (Mr. DANIELSON) very much for the gentleman's kind unanimous-consent request. It was very gracious of the gentleman.

I might say, I want to compliment the people who have participated in the debate on this very important amendment. We have been discussing it for more than 2 hours. It has been a good discussion. I think all the points have been made.

It is the heart of the bill. We are not going to have much of a bill if the amendment offered by Mr. DANIELSON and Mr. RAILSBACK carries, and so I am going to urge a no vote.

Mr. Chairman, I also speak for the distinguished chairman of the House Judiciary Committee, the gentleman from New Jersey (Mr. RODINO), who is ill at the moment and cannot make the speech himself. I am going to ask to insert his remarks in the RECORD just before my own.

It has been mentioned, Mr. Chairman, that CHUCK WIGGINS and I were on the Commission. Yes, we were on the Commission. We traveled all over the country with the Commission, to different cities, and had open hearings. Any expert who wanted to come, came, and everybody agreed—every witness agreed—that there must be an independent court. It cannot continue the way it is.

The current system was designed many, many years ago, when there were just a very few thousand bankruptcy cases. Now, there are 250,000 a year; 9 million creditors; 30 billions of dollars in assets; 40 billions of dollars in claims; hundred of thousands of jobs involved. Just think of the jobs involved in Penn Central, W. T. Grant, Robert Hall, Railway Express. These bankruptcy judges must decide contract, property, torts, tax, and constitutional law—you name it, they have to decide everything.

It is not working. It is not working. The 230-odd bankruptcy judges that have been appointed by the district courts in the United States today for a term of 6 years, this system is not working because their work has to be reviewed by the very judges who appoint them. Talk about conflict of interest, their work is reviewed by the judges who appoint them. The trustees are appointed by the same district judges, and their work is reviewed by the judges. It is a discredited system. There is partiality and unfairness built into it, and every day, in every city in the United States, this is evident.

Now, H.R. 8200 resolves it. The President appoints the judges. The decisions are reviewed by the court of appeals. The Attorney General appoints the trustees, which are reviewed by the bankruptcy judges. So, we do not have the same appointees being reviewed by the people who appoint them.

The Danielson amendment resolves nothing. There is no real change in the present system. It is total control—total control by the district judges and the circuit judges. This amendment is sponsored and approved by district judges—yes, we understand that. That is practically the total support, and it is a very strong lobby. The amendment is supported by Judge Bell, the Attorney General. Judge Bell is a former circuit judge. But, I assure the Members that there are many, many people in the Justice Department who support the bill and are very much against the Danielson proposal.

It is natural, as the distinguished gentlewoman from Texas points out, it is natural for the Federal judges to object to the new article III court. Today, they have the appointing power of 230 bankruptcy judges, and they in turn appoint hundreds of private trustees. This is an immense power for the Federal judges. They not only appoint the bankruptcy judges, but then they review their work. They control their salaries; their secretaries and clerks. They dictate the space where the bankruptcy judges' offices are to be. They decide what furniture they will have and where the offices are going to be; where the parking lot is going to be, if any, or if the bankruptcy judge is going to have to park down the street at his own expense.

This is a huge power that they have, and it exerts immense pressures on the bankruptcy judges. It is not right. There are talented lawyers all over the United States who will just not serve under this type of unsatisfactory conditions.

But the Federal judges are not about to give up this power and the prestige it brings. Did we ever see anyone give up power voluntarily? The last one I remember was King Lear, and we know how that worked out.

The amendments offered by the gentleman from California (Mr. DANIELSON) confront the present system with only one or two minor changes, and that is what our friends on the Federal bench want. They are the only key opposition to this bill.

I am not going to get into the costs, because I think we have been debating these amendments long enough. I just want to point out that these are modest costs in return for such huge benefits. This is less than a $15-million-a-year increase after an initial startup of $8 million. The Federal judiciary system today costs $440 million a year, and we are going to add to it a 3½-percent increase. With the trustees, the Justice Department now spends $2.35 billion a year. The new trustee system will increase that by three-quarters of 1 percent.

Mr. Chairman, I really find that the position of the judges in their opposition to the bill is unbelievable when we examine what is going on in the Federal district courts today.

Miss JORDAN. Mr. Chairman, will the gentleman yield to me for a question?

Mr. EDWARDS of California. Yes; I yield to the gentlewoman from Texas.

Miss JORDAN. Mr. Chairman, it appears there is one argument we have not yet defused, and that is the one which raises the specter of conflict of interest between the Justice Department as supervisor of the trustees and the Justice Department as litigant.

Would the gentleman deal with that issue and point out how this is probably a phantom argument because of the high unlikelihood that this would occur?

Mr. EDWARDS of California. Mr. Chairman, this is a phantom argument. The subcommittee had a great deal of difficulty in determining where and under whose supervision and in which department the trustee should be.

One thing we were all agreed upon was that it should not be in the judiciary. It must not be the way it is now, because of the conflict of interest and the fact that decisions are reviewed by somebody that appointed the person whose decision is being reviewed. That is the whole point of taking it out of the judiciary. The Danielson proposal puts it right back in where there is a huge conflict of interest.

Actually we would not be disturbed if it were put in the Department of Commerce or if it were put in some other department, but the Department of Justice seems to us to be the best place for it.

The Department of Justice is not particularly happy about it, though. A lot of people in Justice think they can handle it very nicely. There will not be any major conflict of interest. Of course, any department would have minor conflicts of interest here and there, but in the bankruptcy cases that will be litigated, Justice will not have that much involvement.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman for yielding.

I want to congratulate the gentleman from California (Mr. EDWARDS) on his statement. I would like to associate myself with it. I would also congratulate the subcommittee and the committee here for bringing out a fine bill.

Mr. Chairman, I urge the defeat of the pending amendment.

Mr. EDWARDS of California. Mr. Chairman, I thank the gentleman.

Mr. Chairman, I would like to summarize and reiterate the serious problems with the amendment. It is simply unworkable.

The Railsback-Danielson amendment, as far as the court system goes, is simply a restatement of current law, with minor changes. The Bankruptcy Commission, the Subcommittee on Civil and Constitutional Rights, the National Bankruptcy Conference, the National Conference of Bankruptcy Judges, the American Bar Association, the American Bankers Association, the Commercial Law League, and innumerable private groups across the country have studied the bankruptcy laws and the bankruptcy system for over 6 years to arrive at H.R. 8200. The one issue on which they all agreed was the need for a change in the structure of the bankruptcy courts. The Railsback amendment ignores all of this effort, and proposes to throw it out the

window in favor of the thoroughly discredited current court system.

Ignoring the widely recognized problems in the bankruptcy courts will not make them go away. The amendment does nothing to solve the lack of independence of the bankruptcy court; the low stature of bankruptcy judges and bankruptcy courts; the inability of the system to attract qualified judges to the bench; the resulting second-rate justice meted out to bankruptcy litigants, both debtors and creditors; the lack of administrative control over the bankruptcy courts by the bankruptcy judges; the inadequate control over the clerks of the bankruptcy courts by the bankruptcy judges; the inadequate authority that bankruptcy judges have to enforce their orders through the contempt power; the absence of law clerks to aid bankruptcy courts to settle all disputes that arise in a bankruptcy case; or the statutory requirement that bankruptcy judges play a role in bankruptcy cases that is in direct conflict with impartial adjudication of bankruptcy disputes.

The fundamental problems in the bankruptcy courts today are caused by their lack of independence from the district courts. Not only does the amendment fail to solve, or even address, any of these problems, it makes matters worse. The amendment would remove what limited control bankruptcy judges currently have over their clerks, and would permit all district court judges and clerks to give bankruptcy cases the lowest priority consideration and administrative processing, as is done in some districts today. The amendment would further complicate the jurisdictional morass in which bankruptcy judges now find themselves. More time is spent in bankruptcy courts today determining whether the bankruptcy courts have jurisdiction than is spent in deciding actual cases over which they do have jurisdiction. The Railsback amendment would provide an additional ground on which to litigate the issue of jurisdiction and would place the question in the district courts: "detriment to the estate." The litigation would be enormous because the standard is so vague. The district courts would be swamped with litigation.

The amendment makes only two favorable changes in the bankruptcy court system. It increases the terms of bankruptcy judges from 6 to 15 years, and it permits debtors to file bankruptcy without paying the required filing fee of $50 if they are unable to pay it. If that is all that can come of 6 years of study, then we have wasted enormous amounts of taxpayers' money and countless hours of time, both in Congress and in the private sector. That is simply unacceptable, because the facts demand a change in the current bankruptcy courts. They do not work well and must be repaired.

The amendment as it concerns the U.S. trustee system is equally lacking. The numerious groups that have studied the bankruptcy system for the past 6 years have all concluded that one of its worst features is the combination of both administrative and judicial responsibility for each bankruptcy case in the same individual—the bankruptcy judge. In addition, the relationship between bankruptcy judges and the trustees that they appoint has become scandalous. There is little faith in a system that requires one that will contest the action of a bankruptcy trustee to come for a ruling on the trustee's action before the bankruptcy judge who appointed that trustee. There is not even the appearance of impartiality in such an arrangement. It must be changed.

The U.S. trustee system proposed in H.R. 8200 is designed to solve both of those problems. Nearly all of the organizations that have been working on solutions to the administrative problems in bankruptcy cases have supported the U.S. trustee system. The amendment, while keeping the system in name, decimates it. It places the U.S. trustees right back where trustees have been causing the most problems—under day-to-day supervision of the bankruptcy judges. Worse, it institutionalizes the relationship to the point where little challenge from adverse parties is possible. It will create an even more insidious relationship than exists today.

A primary purpose of this bankruptcy law revision is to separate the administrative and judicial functions in bankruptcy cases. The amendment ignores that goal and calls all functions, both administrative and judicial, judicial functions, and places them both back under the supervision of the bankruptcy judges and the judicial branch.

As with the court structure, the amendment would negate 6 years of effort to improve the bankruptcy system and in fact worsen the very problems that H.R. 8200 is designed to solve.

I hope we can vote now on the amendments. I urge a no vote on the Danielson amendments, and I thank the Members for their full attention.

The CHAIRMAN. The question is on the amendments offered by the gentleman from California (Mr. DANIELSON).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. DANIELSON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 183, noes 158, answer "present" 1, not voting 92, as follows:

[Roll No. 712]

AYES—183

Abdnor	Bevill	Corcoran
Allen	Blouin	Cornell
Anderson, Ill.	Boggs	Coughlin
Andrews, N.C.	Bowen	Cunningham
Andrews, N. Dak.	Breaux	D'Amours
	Breckinridge	Daniel, Dan
Applegate	Brown, Mich.	Danielson
Archer	Brown, Ohio	de la Garza
Ashbrook	Broyhill	Delaney
Aspin	Buchanan	Dent
Badham	Burke, Fla.	Derwinski
Bafalis	Burleson, Tex.	Devine
Baldus	Byron	Dingell
Bauman	Caputo	Dornan
Beard, R.I.	Cederberg	Duncan, Oreg.
Beard, Tenn.	Cleveland	Duncan, Tenn.
Bedell	Coleman	Edwards, Ala.
Benjamin	Collins, Tex.	Edwards, Okla.
Bennett	Conable	Eilberg
English	Kemp	Preyer
Erlenborn	Ketchum	Quayle
Ertel	LaFalce	Quillen
Evans, Del.	Lagomarsino	Rahall
Findley	Latta	Railsback
Flippo	Leach	Risenhoover
Flowers	Levitas	Roberts
Fountain	Livingston	Roncalio
Fowler	Lott	Rooney
Frey	Luken	Rose
Fuqua	Lundine	Runnels
Gammage	McDade	Satterfield
Gaydos	McDonald	Schulze
Glickman	McEwen	Sebelius
Goldwater	McKay	Shuster
Gonzalez	Madigan	Simon
Goodling	Mahon	Skubitz
Gradison	Mann	Slack
Grassley	Marlenee	Smith, Iowa
Gudger	Martin	Smith, Nebr.
Guyer	Mathis	Snyder
Hagedorn	Milford	Spellman
Hall	Miller, Ohio	Spence
Hammer-schmidt	Mollohan	Stanton
	Montgomery	Steed
Hansen	Moore	Steiger
Harkin	Moorhead, Calif.	Stockman
Harsha		Stratton
Hefner	Moorhead, Pa.	Stump
Heftel	Mottl	Taylor
Hightower	Murphy, Ill.	Thone
Holt	Murphy, Pa.	Thornton
Horton	Myers, John	Traxler
Huckaby	Natcher	Treen
Hyde	Neal	Udall
Ichord	Nedzi	Walgren
Jenkins	Nichols	White
Jenrette	Nix	Whitley
Jones, N.C.	Oakar	Whitten
Kasten	Obey	Wilson, Tex.
Kastenmeier	Pattison	Winn
Kazen	Pike	Young, Alaska
Kelly	Poage	Young, Fla.

NOES—158

Addabbo	Forsythe	Patten
Akaka	Frenzel	Patterson
Ambro	Gibbons	Pease
Ammerman	Gilman	Pepper
Anderson, Calif.	Ginn	Perkins
	Gore	Pettis
Armstrong	Hamilton	Price
Ashley	Hannaford	Pritchard
Badillo	Harris	Rangel
Bellenson	Heckler	Regula
Bingham	Hillis	Rhodes
Blanchard	Hollenbeck	Rinaldo
Boland	Holtzman	Robinson
Bonior	Hubbard	Rodino
Brademas	Hughes	Roe
Brodhead	Ireland	Rosenthal
Brooks	Jeffords	Rostenkowski
Broomfield	Johnson, Calif.	Rousselot
Burke, Mass.	Johnson, Colo.	Roybal
Burlison, Mo.	Jones, Okla.	Ruppe
Burton, John	Jones, Tenn.	Russo
Burton, Phillip	Jordan	Ryan
Butler	Kildee	Santini
Carney	Kindness	Sarasin
Carr	Le Fante	Sawyer
Cavanaugh	Lehman	Scheuer
Cochran	Lloyd, Calif.	Schroeder
Cohen	Lloyd, Tenn.	Seiberling
Conte	Long, La.	Sharp
Cornwell	Long, Md.	Solarz
Daniel, R. W.	McClory	St Germain
Dellums	McCloskey	Staggers
Dickinson	McCormack	Stangeland
Diggs	McFall	Stark
Downey	McKinney	Steers
Drinan	Maguire	Studds
Eckhardt	Markey	Trible
Edgar	Marks	Ullman
Edwards, Calif.	Meyner	Van Deerlin
Emery	Mikulski	Vanik
Evans, Colo.	Mikva	Vento
Evans, Ga.	Miller, Calif.	Volkmer
Evans, Ind.	Mineta	Wampler
Fary	Minish	Waxman
Fascell	Mitchell, N.Y.	Weaver
Fenwick	Moffett	Whitehurst
Fish	Murphy, N.Y.	Wilson, C. H.
Fisher	Myers, Gary	Wydler
Fithian	Nowak	Wylie
Florio	O'Brien	Yates
Foley	Oberstar	Young, Mo.
Ford, Mich.	Ottinger	Zablocki
Ford, Tenn.	Panetta	Zeferetti

ANSWERED "PRESENT"—1

Krebs

NOT VOTING—92

Alexander	AuCoin	Baucus
Annunzio	Barnard	Biaggi

Bolling	Harrington	Quie
Bonker	Hawkins	Reuss
Brinkley	Holland	Richmond
Brown, Calif.	Howard	Rogers
Burgener	Jacobs	Rudd
Burke, Calif.	Keys	Shipley
Carter	Koch	Sikes
Chappell	Kostmayer	Sisk
Chisholm	Krueger	Skelton
Clausen, Don H.	Lederer	Stokes
	Leggett	Symms
Clawson, Del	Lent	Teague
Clay	Lujan	Thompson
Collins, Ill.	McHugh	Tsongas
Conyers	Marriott	Tucker
Corman	Mattox	Vander Jagt
Cotter	Mazzoli	Waggonner
Crane	Meeds	Walker
Davis	Metcalfe	Walsh
Derrick	Michel	Watkins
Dicks	Mitchell, Md.	Weiss
Dodd	Moakley	Whalen
Early	Moss	Wiggins
Flood	Murtha	Wilson, Bob
Flynt	Myers, Michael	Wirth
Fraser	Nolan	Wolff
Gephardt	Pickle	Wright
Giaimo	Pressler	Yatron
Hanley	Pursell	Young, Tex.

The Clerk announced the following pairs:

On this vote:

Mr. Krebs for, with Mr. Corman against.

Mr. Waggonner for, with Mr. Annunzio against.

Mr. Sikes for, with Mr. Wiggins against.

Mr. Wirth for, with Mr. Richmond against.

Mr. Davis for, with Mr. Dodd against.

Mr. Carter for, with Mr. Flood against.

Mr. Marriott for, with Mr. Cotter against.

Mr. Rudd for, with Mr. Mitchell of Maryland against.

Mr. Symms for, with Mr. Moss against.

Mr. Chappell for, with Mr. Shipley against.

Mr. Hawkins for, with Mr. Thompson against.

Mr. Reuss for, with Mr. Weiss against.

Mr. Hanley for, with Mr. Biaggi against.

Mr. Kostmayer for, with Mr. Stokes against.

Mr. Teague for, with Mr. Rogers against.

Mr. Flynt for, with Mr. Harrington against.

Mr. MURPHY of Illinois and Mr. TRAXLER changed their vote from "no" to "aye."

Messrs. SCHEUER, OBERSTAR, LLOYD of California, and PEASE changed their vote from "aye" to "no."

Mr. KREBS. Mr. Chairman, I have a live pair with the gentleman from California (Mr. CORMAN). If he were present, he would have voted "no." I voted "aye." I withdraw my vote and vote "present."

Mr. KREBS changed his vote from "aye" to "present."

So the amendments were agreed to.

The result of the vote was announced as above recorded.

Mr. EDWARDS of California. Mr. Chairman, I move that the Committee do now rise.

The CHAIRMAN. The question is on the motion offered by the gentleman from California (Mr. EDWARDS).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MOTTL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 268, noes 62, not voting 104, as follows:

[Roll No. 713]

AYES—268

Addabbo	Fowler	Nedzi
Akaka	Frenzel	Nichols
Ambro	Gammage	Nix
Ammerman	Gaydos	O'Brien
Anderson, Calif.	Gilman	Oberstar
	Ginn	Obey
Anderson, Ill.	Glickman	Ottinger
Andrews, N. Dak.	Goldwater	Panetta
	Gonzalez	Patten
Applegate	Goodling	Patterson
Armstrong	Gore	Pattison
Ashley	Gradison	Pease
Aspin	Guyer	Pepper
Badham	Hagedorn	Perkins
Badillo	Hall	Pettis
Baldus	Hamilton	Pike
Beard, R.I.	Hannaford	Poage
Bedell	Hansen	Preyer
Beilenson	Harkin	Price
Benjamin	Harris	Pritchard
Bennett	Harsha	Quillen
Bevill	Heckler	Railsback
Bingham	Heftel	Rangel
Blanchard	Hightower	Regula
Blouin	Hillis	Rhodes
Boggs	Hollenbeck	Risenhoover
Boland	Holtzman	Roberts
Bonior	Hubbard	Robinson
Bowen	Huckaby	Rodino
Brademas	Hughes	Roe
Breaux	Ichord	Roncalio
Breckinridge	Ireland	Rooney
Brodhead	Jenkins	Rose
Brooks	Johnson, Calif.	Rosenthal
Broomfield	Johnson, Colo.	Rostenkowski
Broyhill	Jones, N.C.	Rousselot
Burke, Fla.	Jones, Okla.	Roybal
Burke, Mass.	Jones, Tenn.	Runnels
Burleson, Tex.	Jordan	Russo
Burlison, Mo.	Kasten	Ryan
Burton, John	Kastenmeier	Santini
Burton, Phillip	Kazen	Satterfield
Butler	Ketchum	Sawyer
Caputo	Kildee	Scheuer
Carney	Kindness	Schroeder
Carr	Krebs	Schulze
Cavanaugh	Latta	Seiberling
Cleveland	Le Fante	Sharp
Cochran	Leach	Shuster
Cohen	Lehman	Simon
Coleman	Levitas	Slack
Collins, Tex.	Livingston	Smith, Iowa
Conte	Lloyd, Calif.	Smith, Nebr.
Cornell	Lloyd, Tenn.	Solarz
Coughlin	Long, La.	Spellman
Cunningham	Long, Md.	Staggers
D'Amours	McClory	Stangeland
Daniel, Dan	McCloskey	Stanton
Daniel, R. W.	McCormack	Stark
Danielson	McDade	Steed
de la Garza	McEwen	Steers
Delaney	McFall	Steiger
Dellums	McKay	Stockman
Derwinski	McKinney	Studds
Diggs	Maguire	Stump
Dingell	Mahon	Taylor
Dornan	Mann	Thone
Downey	Markey	Thornton
Drinan	Marks	Traxler
Duncan, Oreg.	Marlenee	Trible
Duncan, Tenn.	Mathis	Udall
Eckhardt	Mikulski	Ullman
Edgar	Mikva	Vanik
Edwards, Ala.	Milford	Vento
Edwards, Calif.	Miller, Calif.	Volkmer
Emery	Miller, Ohio	Walgren
Erlenborn	Mineta	Waxman
Ertel	Minish	Weaver
Evans, Colo.	Mitchell, N.Y.	White
Evans, Ga.	Moakley	Whitehurst
Fary	Moffett	Whitley
Fascell	Mollohan	Whitten
Fish	Montgomery	Wilson, Tex.
Fisher	Moore	Wydler
Fithian	Moorhead, Calif.	Wylie
Flippo		Yates
Flowers	Moorhead, Pa.	Young, Mo.
Foley	Murphy, Ill.	Zablocki
Ford, Mich.	Murphy, N.Y.	Zeferetti
Ford, Tenn.	Murphy, Pa.	
Forsythe	Natcher	

NOES—62

Abdnor	Archer	Bauman
Allen	Ashbrook	Brown, Mich.
Andrews, N.C.	Bafalis	Brown, Ohio
Buchanan	Hammer-schmidt	Neal
Conable	Hefner	Nowak
Corcoran	Holt	Oakar
Cornwell	Hyde	Quayle
Devine	Jenrette	Rahall
Dickinson	Kelly	Rinaldo
Edwards, Okla.	LaFalce	Ruppe
Eilberg	Lagomarsino	Sarasin
English	Lott	Sebelius
Evans, Del.	Luken	Snyder
Evans, Ind.	Lundine	Spence
Fenwick	McDonald	Stratton
Findley	Madigan	Treen
Fountain	Martin	Van Deerlin
Frey	Mottl	Wampler
Gibbons	Myers, Gary	Winn
Grassley	Myers, John	Young, Alaska
Gudger		Young, Fla.

NOT VOTING—104

Alexander	Flynt	Pickle
Annunzio	Fraser	Pressler
AuCoin	Fuqua	Pursell
Barnard	Gephardt	Quie
Baucus	Giaimo	Reuss
Beard, Tenn.	Hanley	Richmond
Biaggi	Harrington	Rogers
Bolling	Hawkins	Rudd
Bonker	Holland	Shipley
Brinkley	Horton	Sikes
Brown, Calif.	Howard	Sisk
Burgener	Jacobs	Skelton
Burke, Calif.	Jeffords	Skubitz
Byron	Kemp	St Germain
Carter	Keys	Stokes
Cederberg	Koch	Symms
Chappell	Kostmayer	Teague
Chisholm	Krueger	Thompson
Clausen, Don H.	Lederer	Tsongas
	Leggett	Tucker
Clawson, Del	Lent	Vander Jagt
Clay	Lujan	Waggonner
Collins, Ill.	McHugh	Walker
Conyers	Marriott	Walsh
Corman	Mattox	Watkins
Cotter	Mazzoli	Weiss
Crane	Meeds	Whalen
Davis	Metcalfe	Wiggins
Dent	Meyner	Wilson, Bob
Derrick	Michel	Wilson, C. H.
Dicks	Mitchell, Md.	Wirth
Dodd	Moss	Wolff
Early	Murtha	Wright
Flood	Myers, Michael	Yatron
Florio	Nolan	Young, Tex.

So the motion was agreed to.

The result of the vote was announced as above recorded.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. FOLEY) having assumed the chair, Mr. SIMON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 8200) to establish a uniform law on the subject of bankruptcies, had come to no resolution thereon.

CONFERENCE REPORT ON S. 1339, ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION AUTHORIZATION ACT OF 1977 AND 1978—MILITARY APPLICATIONS

Mr. PRICE submitted the following conference report and statement on the Senate bill (S. 1339) to authorize appropriations to the Energy Research and Development Administration for national defense programs for the fiscal years 1977 and 1978, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 95-775)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1339) to authorize appropriations to the Energy Research and Development Administration

for national defense programs for the fiscal years 1977 and 1978, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Energy Research and Development Administration Authorization Act of 1977 and 1978—Military Applications".

TITLE I—NATIONAL SECURITY PROGRAMS—FISCAL YEAR 1977

AUTHORIZATION OF FUNDS

SEC. 101. Funds heretofore appropriated by Public Law 94-355 (90 Stat. 889) for the national security programs of the Energy Research and Development Administration for operating expenses and for plant and capital equipment, including construction, acquisition, or modification of facilities (including land acquisition), and for acquisition and fabrication of capital equipment not related to construction, are hereby authorized to be appropriated.

TITLE II—NATIONAL SECURITY PROGRAMS—FISCAL YEAR 1978

OPERATING EXPENSES

SEC. 201. Funds are hereby authorized to be appropriated to the Energy Research and Development Administration for fiscal year 1978 for operating expenses, incurred in carrying out national security programs, as follows:

(1) For weapons activities, $1,181,000,000.

(2) For special materials production, $416,400,000.

(3) For laser fusion, $116,200,000.

(4) For naval reactor development, $211,700,000.

(5) For program management and support, $40,800,000.

PLANT AND CAPITAL EQUIPMENT

SEC. 202. Funds are hereby authorized to be appropriated to the Energy Research and Development Administration for fiscal year 1978 for plant and capital equipment, including planning, construction, acquisition, or modification of facilities (including land acquisition), and for acquisition and fabrication of capital equipment not related to construction, necessary for national security programs, as follows:

(1) For laser fusion:

Project 78-4-a, high energy laser facility, (NOVA), Lawrence Livermore Laboratory, California, $8,000,000.

(2) For weapons activities:

Project 78-16-a, cruise missile production facilities, various locations, $18,100,000.

Project 78-16-b, full fuzing option (FUFO) bomb production facilities, various locations, $43,000,000.

Project 78-16-c, high explosive flash radiography facility, Lawrence Livermore Laboratory, California, $5,000,000.

Project 78-16-d, weapons safeguards, various locations, $17,000,000.

Project 78-16-e, new weapons production installations, various locations, $2,000,000.

Project 78-16-f, replace 10-inch water main, Bendix Plant, Kansas City, Missouri, $2,000,000.

Project 78-16-g, radioactive liquid waste improvement, Los Alamos Scientific Laboratory, New Mexico (A-E only), $600,000.

Project 78-16-h, Tonopah Test Range upgrade, Sandia Laboratory, Albuquerque, New Mexico, $4,000,000.

Project 78-16-1, laboratory support complex Los Alamos Scientific Laboratory, New Mexico (A-E only), $2,000,000.

Project 78-17-a, production component warehouse, Pantex Plant, Amarillo, Texas (A-E only), $250,000.

Project 78-17-b, surface water control system, Rocky Flats Plant, Colorado, $2,800,000.

Project 78-17-c, core facilities office building, utilities and roads, Lawrence Livermore Laboratory, California (A-E only), $1,300,000.

Project 78-17-d, steam plant improvements, Y-12 Plant, Oak Ridge, Tennessee (A-E and long lead procurement only), $3,000,000.

Project 78-17-e, high explosive machining facility, Pantex Plant, Amarillo, Texas, $5,000,000.

(3) For special materials production:

Project 78-18-a, high level waste storage and waste management facilities, Richland, Washington, $18,000,000.

Project 78-18-b, high level waste storage facilities, Savannah River, South Carolina, $42,000,000.

Project 78-18-c, fifth set of calcined solids storage bins, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, $12,500,000.

Project 78-18-d, new hydrofracture facility, Oak Ridge National Laboratory, Oak Ridge, Tennessee, $5,400,000.

Project 78-18-e, environmental, safety and security improvements to waste management and materials processing facilities, Richland, Washington, $15,500,000.

Project 78-18-f, powerhouse emission control improvements, Richland, Washington, $6,500,000.

Project 78-18-g, fanhouse and increased fan capacity, II chemical separations area, Savannah River, South Carolina, $3,400,000.

Project 78-18-h, plantwide fire protection, Savannah River, South Carolina, $6,300,000.

Project 78-18-i, improved emergency coolant supply in reactor areas, Savannah River, South Carolina, $3,500,000.

Project 78-18-j, N-reactor environmental improvements, Richland, Washington, $7,500,000.

(4) For project 78-21, General Plant Projects—

(A) for weapons activities, $24,000,000,

(B) for special materials production, $12,000,000, and

(C) for naval reactor development, $2,800,000.

(5) For project 78-22, construction planning and design, $5,000,000.

(6) For capital equipment not related to construction—

(A) for weapons activities, $79,000,000,

(B) for special materials production, $36,700,000,

(C) for laser fusion, $13,200,000,

(D) for naval reactor development, $15,150,000, and

(E) for program management and support, $300,000.

ADDITIONAL AUTHORIZATIONS FOR PREVIOUSLY AUTHORIZED PROJECTS

SEC. 203. Funds are hereby authorized to be appropriated to the Energy Research and Development Administration for fiscal year 1978, for projects previously authorized, as follows:

(1) For project 71-9, fire, safety, and adequacy of operating conditions projects, various locations, $40,000,000, for a total authorization of $280,000,000.

(2) For project 75-1-c, new waste calcining facility, Idaho Chemical Processing Plant, National Reactor Testing Station, Idaho, $28,500,000, for a total authorization of $65,000,000.

(3) For project 75-3-b, high energy laser facility, Los Alamos Scientific Laboratory, New Mexico, $31,900,000, for a total authorization of $54,500,000.

(4) For project 77-3-a, electron beam fusion facilities, Sandia Laboratories, Albuquerque, New Mexico, $4,400,000, for a total authorization of $13,500,000.

(5) For project 77-11-a, safeguards and research and development laboratory facility, Sandia Laboratories, Albuquerque, New Mexico, $4,300,000, for a total authorization of $8,300,000.

(6) For project 77-11-b, safeguards and site security improvements, various locations, $7,800,000 for a total authorization of $13,500,000.

(7) For project 77-11-c, 8-inch artillery fired atomic projectile production facilities, various locations, $12,600,000, for a total authorization of $22,600,000.

(8) For project 77-13-a, fluorinel dissolution process and fuel receiving improvements, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho (A-E and long-lead procurement), $5,000,000, for a total authorization of $15,000,000.

(9) For project 77-13-d, high level waste storage and waste management facilities, Savannah River, South Carolina, $31,000,000, for a total authorization of $56,000,000.

(10) For project 77-13-e, high level waste storage and handling facilities, Richland, Washington, $22,000,000, for a total authorization of $40,000,000.

(11) For project 77-13-f, waste isolation pilot plant (A-E, land acquisition, and long-lead procurement), Delaware Basin, southeast New Mexico, $22,000,000, for a total authorization of $28,000,000.

(12) For project 77-13-g, safeguards and security upgrading production facilities, multiple sites, $8,700,000, for a total authorization of $16,400,000.

TITLE III—GENERAL PROVISIONS

REPROGRAMMING

SEC. 301. Except as otherwise provided in this Act—

(1) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by this Act, and

(2) no amount appropriated pursuant to this Act may be used for any program which has not been presented to, or requested of, the Congress,

unless a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after the receipt by the Committees on Armed Services and on Appropriations of the House of Representatives and the Senate of notice given by the Administrator of Energy Research and Development (hereinafter in this title referred to as the "Administrator") containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or unless each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

PROJECT COST VARIATION PROVISIONS

SEC. 302. (a) No project for which appropriations are authorized in section 202 (1), (2), or (3) may be started if the current estimated cost of such project exceeds by more than 25 percent the amount authorized for such project.

(b) At any time the current estimated cost of any such project under construction exceeds by more than 25 percent the total amount authorized by law for such project, the Administrator shall (1) promptly notify the appropriate committees of the Congress of such fact and include in the notification an explanation for the increased cost of the project and the revised current estimated cost figures for such project, and (2) not proceed with such project unless and until additional funds for such project are authorized by law.

(c) The provisions of this section shall not apply to any project which has a current estimated cost of less than $5,000,000.

LIMITS ON GENERAL PLANT PROJECTS

SEC. 303. The Administrator is authorized to start any project set forth under section 202(4) only if—

(1) the then maximum currently estimated cost of such project does not exceed $750,000 and the then maximum currently estimated cost of any building included in such project does not exceed $300,000, except that the building cost limitation may be exceeded if the Administrator determines that it is necessary to do so in the interest of efficiency and economy; and

(2) the total cost of all projects undertaken under such section does not exceed the estimated cost set forth in such section by more than 25 percent.

AUTHORITY TO MERGE FUNDS

SEC. 304. Subject to the applicable requirements and limitations of this Act and to the extent specified in appropriation Acts, amounts appropriated to the Energy Research and Development Administration pursuant to this Act for operating expenses or for plant and capital equipment may be merged with any other amounts appropriated for operating expenses or for plant and capital equipment, respectively, pursuant to any other Act authorizing appropriations for the Energy Research and Development Administration.

FUNDS TO REMAIN AVAILABLE UNTIL EXPENDED

SEC. 305. To the extent specified in appropriation Acts, amounts appropriated pursuant to this Act for operating expenses or plant and capital equipment may remain available until expended.

AVAILABILITY OF FUNDS

SEC. 306. Subject to the provisions of section 301(2), amounts appropriated pursuant to this Act for activities under sections 202 (4) and 202(5) are available for use, when necessary, in connection with all national security programs of the Energy Research and Development Administration.

AUTHORIZATION TO PERFORM CONSTRUCTION DESIGN SERVICES

SEC. 307. The Administrator is authorized to perform construction design services for any construction project of the Energy Research and Development Administration in support of national security programs in amounts not in excess of the amount specified in section 202(5).

AUTHORITY TO USE CERTAIN MONEYS AND FEES

SEC. 308. To the extent specified in appropriation Acts, any moneys received by the Energy Research and Development Administration (except sums received from disposal of property under the Atomic Energy Community Act of 1955 (42 U.S.C. 2301) and the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98) and fees received for tests or investigations under the Act of May 16, 1910 (30 U.S.C. 7)), may be retained and used for operating expenses, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), and may remain available until expended.

AUTHORITY TO TRANSFER FUNDS TO OTHER AGENCIES

SEC. 309. To the extent specified in appropriation Acts, funds appropriated to the Energy Research and Development Administration for operating expenses may be transferred to other agencies of the Government for the performance of work for which such funds were appropriated, and funds so transferred may be merged with the appropriations of the agency to which transferred.

REFERENCES

SEC. 310. All references in this Act to the Energy Research and Development Administration and the Administrator of Energy Research and Development shall be deemed to be references to the Department of Energy and the Secretary of Energy, respectively.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House to the title of the bill, insert the following: "An Act to authorize appropriations for the Energy Research and Development Administration for national security programs for fiscal years 1977 and 1978, and for other purposes".

And the House agree to the same.

MELVIN PRICE,
CHAS. H. WILSON,
JACK BRINKLEY,
DAN DANIEL,
G. V. MONTGOMERY,
BOB WILSON,
WILLIAM L. DICKINSON,
Managers on the Part of the House.

JOHN C. STENNIS,
HENRY M. JACKSON,
HOWARD W. CANNON,
THOMAS J. MCINTYRE,
SAM NUNN,
GARY HART,
JOHN TOWER,
STROM THURMOND,
DEWEY F. BARTLETT,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1339) to authorize appropriations to the Energy Research and Development Administration for national defense programs for the fiscal years 1977 and 1978, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

DISCUSSION OF MATTERS BEFORE THE CONFERENCE COMMITTEE

Legislation to authorize appropriations for the national security functions of the Energy Research and Development Administration (ERDA) for fiscal year 1978 was contained in a single House bill, H.R. 6566; and in two Senate bills, S. 1339 and S. 1341. Both Senate bills were passed by the Senate and sent to the House. After passage of the House bill (H.R. 6566), the bill S. 1339 was called up and amended by striking all language after the enacting clause and by substituting the language of the bill H.R. 6566 as passed by the House. The Senate bill (S. 1339), prior to amendment, contained only the weapons activities, nuclear explosives applications, and special nuclear materials production functions of ERDA. The House amendment (formerly H.R. 6566) included those same functions, with the exception of nuclear explosives applications, and also included the laser fusion, naval reactor development, and program management and support functions. The Senate positions with respect to the laser fusion and naval reactor development functions were expressed in S. 1341, which was not a matter before the conferees. While the matters before the conferees were the disagreeing votes of the two Houses on S. 1339 and the House amendment (H.R. 6566), the conferees considered the provisions of S. 1341 as representing the position of the Senate with respect to the authorization levels for the laser fusion and naval reactor development programs.

TITLE I—NATIONAL SECURITY PROGRAMS—FISCAL YEAR 1977

AUTHORIZATION OF FUNDS

Title I of the Senate bill contained line item authorizations for appropriations for operating expenses and plant and capital equipment expenses for fiscal year 1977 in the amounts appropriated by Public Law 94–355.[1] The House amendment deleted all of the language contained in Title I.

The conferees concurred with the Senate rationale that authorizing legislation for the funds appropriated for national security programs by Public Law 94–355 should be enacted in the interest of legislative completeness. In lieu of detailed line item authorizations for fiscal year 1977 appropriations, the conferees agreed to general authorizing language. The substitute language is contained in Title I of the Conference Report.

The Senate recedes with an amendment.

TITLE II—NATIONAL SECURITY PROGRAMS—FISCAL YEAR 1978

SUMMARY OF CONFERENCE ACTION

Title II authorizes the appropriation of funds for operating expenses and for plant and capital equipment expenses for fiscal year 1978.

Operating expenses

The Senate bill (S. 1339) contained $1,578.8 million for operating expenses for weapons activities, nuclear explosives applications, and special nuclear materials production. The bill S. 1341, which has been passed by the Senate but which was not before the conferees, contained $349.5 million for operating expenses for laser fusion, naval reactor development, and space nuclear systems programs. Since the space nuclear systems program was not a matter under consideration in the conference, the authorization for that program has been included in S. 1811, the ERDA Authorization Act of 1978 for civilian programs.

The House amendment would authorize $1,990.1 million for operating expenses for weapons activities, special nuclear materials production, laser fusion, and the naval reactor development programs. The House amendment also included $40.8 million for program management and support.

The conferees agreed to a total authorization of $1,966.1 million for operating expenses for fiscal year 1978. Programs which were in disagreement are discussed in detail subsequently in this statement.

Plant and capital equipment

The President requested $485.85 million in authorization for new plant and capital equipment projects for fiscal year 1978. The Senate bill (S. 1339) contained an authorization for $411.344 million for projects involving weapons activities and special materials production. The Senate position with respect to laser fusion and naval reactor development construction projects was expressed in the bill S. 1341, which was not before the conferees. The House amendment contained $458.35 million for plant and capital equipment projects for fiscal year 1978. The conferees agreed to an authorization of $422.8 million for new plant and capital equipment projects.

[1] The Public Works for Water and Power Development and Energy Research Appropriation Act, 1977.

In addition to the new plant and capital equipment request, the President requested a total of $225.2 million in additional authorizations for prior year projects. The Senate bill (S. 1339) provided for $181.9 million in additional authorizations for these projects. The House amendment provided an authorization of $225.2 million. The conferees agreed to an authorization of $218.2 million in additional authorizations for prior year projects.

Totals

The President's request, which was acted on by the Senate and the House of Representatives, was for a total of $2,662.95 million in new authorizations for fiscal year 1978. The Senate bill (S. 1339) contained a total authorization of $2,172.044 million for weapons activities and special materials production. The Senate position with respect to the laser fusion and naval reactor development programs, as expressed in the bill S. 1341, supported authorizations totaling $356.95 million for those programs. The two Senate bills combined totaled $2,528.994 million.

The House amendment provided $2,673.65 million in total authorizations for fiscal year 1978.

The conferees agreed to a total authorization in the amount of $2,607.1 million. The conference action is set forth in the following tables.

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION, NATIONAL SECURITY PROGRAMS, RECONCILIATION OF REQUEST TO CONFERENCE ACTION: TITLE II—OPERATING EXPENSES

[In thousands of dollars]

Item	ERDA authorization request	Conference action
Weapons activities:		
Research and development	367,600	----------
Testing of atomic weapons	229,100	----------
Special test detection	17,700	----------
Production and surveillance	566,600	----------
Total, operating expenses	1,181,100	1,181,000
Nuclear explosives applications	1,000	0
Special materials production:		
Production	288,900	----------
Process development	11,800	----------
Waste management (defense)	115,700	----------
Total, operating expenses	416,400	416,400
Laser fusion program:		
Laser-induced implosion fusion	87,840	----------
Electron beam-induced implosion fusion	13,160	----------
Total, operating expenses	101,000	116,200
Naval reactor development:		
Submarine propulsion reactors	144,081	----------
Surface ship propulsion reactors	51,481	----------
Supporting research and development	16,138	----------
Total, operating expenses	211,700	211,700
Program management and support	40,800	40,800
Total	1,951,900	1,966,100

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION, NATIONAL SECURITY PROGRAMS: PLANT AND CAPITAL EQUIPMENT

[In thousands of dollars]

Project No.	Item	ERDA authorization request	Conference action
	TITLE II—PLANT AND CAPITAL EQUIPMENT		
78-4-a	High energy laser facility (NOVA), Lawrence Livermore Laboratory, California.	3,000	8,000
78-16-a	Cruise missile production facilities, various locations	18,100	18,100
78-16-b	Full fuzing option (FUFO) bomb production facilities, various locations.	43,000	43,000
78-16-c	High explosive flash radiography facility, Lawrence Livermore Laboratory, California.	10,900	5,000
78-16-d	Weapons safeguards, various locations	28,000	17,000
78-16-e	New weapons production installations, various locations.	5,000	2,000
78-16-f	Replace 10-in water main, Bendix Plant, Kansas City, Mo.	2,000	2,000
78-16-g	Radioactive liquid waste improvement, Los Alamos Scientific Laboratory, New Mexico.	12,500	600
78-16-h	Tonopah Test Range upgrade, Sandia Laboratories, Albuquerque, N. Mex.	4,000	4,000
78-16-i	Laboratory support complex, Los Alamos Scientific Laboratory, New Mexico (A-E only).	2,000	2,000
78-17-a	Production component warehouse, Pantex Plant, Amarillo, Tex.	4,000	250
78-17-b	Surface water control system, Rocky Flats Plant, Colorado.	2,800	2,800
78-17-c	Core facilities office building, utilities and roads, Lawrence Livermore Laboratory, California.	12,300	1,300
78-17-d	Steam plant improvements, Y-12 Plant, Oak Ridge, Tenn.	18,500	3,000
78-17-e	High explosive machining facility, Pantex Plant, Amarillo, Tex.	0	5,000
78-18-a	High level waste storage and waste management facilities, Richland, Wash.	27,000	18,000
78-18-b	High level waste storage facilities, Savannah River, S.C.	42,000	42,000
78-18-c	5th set of calcined solids storage bins, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho.	12,500	12,500
78-18-d	New hydrofracture facility, Oak Ridge National Laboratory, Oak Ridge, Tenn.	5,400	5,400
78-18-e	Environmental, safety and security improvements to waste management and materials processing facilities, Richland, Wash.	15,500	15,500
78-18-f	Powerhouse emission control improvements, Richland, Wash.	6,500	6,500
78-18-g	Fanhouse and increased fan capacity, H chemical separations area, Savannah River, S.C.	3,400	3,400
78-18-h	Plantwide fire protection, Savannah River, S.C.	6,300	6,300
78-18-i	Improved emergency coolant supply in reactor areas, Savannah River, S.C.	3,500	3,500
78-18-j	N-reactor environmental improvements, Richland, Wash.	7,500	7,500
78-21	General plant projects	37,800	38,080
	Weapons activities	24,000	----------
	Special materials production	12,000	----------
	Naval reactor development	2,800	----------
78-22	Construction planning and design	5,000	5,000
	Capital equipment not related to construction:		
	National security	117,700	----------
	Weapons activities	81,000	79,000
	Special materials production	36,700	36,700
	Laser fusion	13,200	13,200
	Naval reactor development	15,150	15,150
	Program management and support	300	300
	Total, capital equipment not related to construction.	146,350	144,350
	Transfer to plant from operating expenses	0	----------
	Sum of plant and capital equipment	485,850	422,800
	ADDITIONAL AUTHORIZATION FOR PRIOR-YEAR PROJECTS		
77-3-a	Electron beam fusion facilities, Sandia Laboratories, Albuquerque, N. Mex.	4,400	4,400
77-11-a	Safeguards, and research and development laboratory facility, Sandia Laboratories, Albuquerque, N. Mex.	4,300	4,300
77-11-b	Safeguards and site security improvements, various locations.	7,800	7,800
77-11-c	8-in artillery fired atomic projectile production facilities, various locations.	12,600	12,600
77-13-a	Fluorinel dissolution process and fuel recieving improvements, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho (AE and long-lead procurement).	5,000	5,000
77-13-d	High level waste storage and waste management facilities, Savannah River, S.C.	31,000	31,000
77-13-e	High level waste storage and handling facilities, Richland, Wash.	22,000	22,000
77-13-f	Waste isolation pilot plant, Delaware Basin, southeast New Mexico (AE, land acquisition, and long-lead procurement).	22,000	22,000
77-13-g	Safeguards and security upgrading, production facilities, multiple sites.	8,700	8,700
75-1-c	New waste calcining facility, Idaho Chemical Processing Plant, National Reactor Testing Station, Idaho.	28,500	28,500
75-3-b	High-energy laser facility, Los Alamos Scientific Laboratory, New Mexico.	31,900	31,900
71-9	Fire, safety, and adequacy of operating conditions projects, various locations.	47,000	40,000
	Total, additional authorization for prior year projects.	225,200	218,200
	Total, plant and capital equipment, fiscal year 1978, title I.	711,050	641,000
	Total, operating expenses fiscal year 1978	1,951,900	1,966,100
	Total, ERDA request	2,662,950	2,607,100

OPERATING EXPENSES

Weapons activities

The Senate bill contained $1,161.4 million for weapons activities operating expenses which was $19.6 million less than the President's original request of $1,181 million.[2] The House amendment contained $1,205 million for this purpose, including $24 million for advanced research at the three weapons laboratories. While the Senate adjusted the weapons activities authorization as a result of certain changes in Department of Defense schedules, the conferees found that these reductions will be offset by cost increases in other weapons programs. The conferees agreed to authorize $1,181 million, the amount originally requested.

The House recedes with an amendment.

Nuclear explosives applications

The Senate bill contained $1 million for operating expenses for nuclear explosives applications. The House amendment deleted these funds based upon the President's withdrawal of the request for appropriations for this item.

The Senate recedes.

Laser fusion

The President's request included $101 million for operating expenses for the laser

[2] The President submitted a budget amendment dated May 16, 1977 which was received too late for consideration in connection with S. 1339 and H.R. 6566.

fusion program. The Senate bill (S. 1339) provided no authorization for this program; however, $106.1 million for this purpose was included in S. 1341. The House amendment contained $116.2 million for the laser fusion program, including $6 million for the purpose of expediting the carbon dioxide laser fusion experiments at the Los Alamos Scientific Laboratory. The House amendment also added $9.2 million above the request as a partial restoration of the $20 million reduction in the laser fusion program which was made during the budget review process.

In recognition of the great importance of the laser fusion research program in the nuclear weapons area, and its potential applications in the civilian areas if planned experiments are successful, the conferees believe that this program should be expedited. Reductions in the funding for the program can only increase the program costs and delay the time when it can be determined whether this approach to fusion applications is scientifically feasible.

The conferees agreed to authorize $116.2 million in operating expenses for this program.

The Senate recedes.

Naval reactor development

The President requested $211.7 million for operating expenses for the naval reactor development program. The Senate bill (S. 1339) contained no funds for this purpose; however, S. 1341 contained an authorization for the full amount. The House amendment authorized the full amount of the request.

The Senate recedes.

Program management and support

The President's request included $40.8 million for program management and support items which are attributed to national security programs. The Senate bill contained no funds for this purpose. The House amendment contains an authorization for the entire amount requested.

The Senate recedes.

PLANT AND CAPITAL EQUIPMENT

Laser fusion

Project No. 78–4–a: High energy laser facility (NOVA), Lawrence Livermore Laboratory, California

The President's budget contained a request of $3 million for this project for architectural and engineering services (AE) only. The Senate bill (S. 1339) contained no funds for this item; however, S. 1341 contained an authorization of $8 million in order to accelerate the completion of this project by 8 months. The House amendment contained an authorization of $9 million for the project which the House conferees believe will accelerate the completion of the project by 1 year.

The high energy laser facility (NOVA) is simply a mirror image of an existing facility (SHIVA). The NOVA facility will be constructed adjacent to the existing facility. The conferees found that the additional $3 million cannot be profitably spent for AE purposes since the plans for the facility are now essentially complete. The conferees agreed to authorize $8 million for long lead procurement items and for the start of construction of the NOVA facility.

The Senate recedes with an amendment.

Weapons activities

Project No. 78–16–c: High explosive flash radiography facility, Lawrence Livermore Laboratory, California.

The Senate bill contained $5 million for this project which is $5.9 million less than the request. The House amendment contained an authorization of $10.9 million for the project. The conferees agreed to authorize $5 million and direct that the funds authorized be used for long lead procurement and the start of construction of this project.

The House recedes.

Project No. 78–16–d: Weapons safeguards, various locations

The Senate bill contained an authorization of $28 million for this project, the amount of the President's request. The House amendment reduced the authorization to $14 million. The conferees agreed to authorize $17 million.

The Senate recedes with an amendment.

Project No. 78–16–e: New weapons productions installations, various locations

The Senate bill authorized $2 million for this project, which is $3 million less than the request. The House amendment contained an authorization for $5 million. The conferees agreed to an authorization of $2 million.

The House recedes.

Project No. 78–16–f: Replace 10-inch water main, Bendix Plant, Kansas City, Mo.

The President's request contained $2 million for this project. The Senate bill eliminated the item and provided for design funds only. The House amendment contained an authorization for $2 million. The conferees agreed to an authorization in the amount of $2 million; however, the Secretary of Energy is directed to provide the Committees on Armed Services of the Senate and House with a letter report concerning contributions toward the cost of this project to be made by the General Services Administration which shares this facility.

The Senate recedes.

Project No. 78–16–g: Radioactive liquid waste improvement, Los Alamos Scientific Laboratory, New Mexico

The Senate bill contained no funds for this project. The House amendment contained an authorization for $12.5 million, the amount of the President's request. The conferees found that design work only will be done in fiscal year 1978. Accordingly, the conferees agreed to authorize $600,000 for architectural and engineering design purposes only. The conferees believe that the design work will provide the Congress with a more refined estimate of the cost of this project.

The House recedes with an amendment.

Project No. 78–16–i: Laboratory support complex, Los Alamos Scientific Laboratory, New Mexico (AE only)

The Senate bill contained no funds for this project. The House amendment included an authorization of $2 million, the amount of the request.

The Senate recedes.

Project No. 78–17–a: Production component warehouse, Pantex Plant, Amarillo, Tex.

The Senate bill contained no funds for this project. The House amendment authorized $4 million, the amount contained in the request. The conferees found that design work only will be done in fiscal year 1978 and agreed to an authorization of $250,000 for architectural and engineering design work.

The Senate recedes with an amendment.

Project No. 78–17–b: Surface water control system, Rocky Flats Plant, Colorado

The Senate bill contained no funds for this project. The House amendment provided an authorization of $2.8 million, the full amount of the request. The conferees agreed to an authorization of $2.8 million.

The Senate recedes.

Project No. 78–17–c: Core facilities office building, utilities and roads, Lawrence Livermore Laboratory, California

The Senate bill contained no funds for this project. The House amendment contained an authorization of $12.3 million, the full amount of the request. The conferees found that a requirement existed for only $1.3 million in fiscal year 1978 for architectural and engineering design work and agreed to an authorization in that amount.

The House recedes with an amendment.

Project No. 78–17–d: Steam plant improvements, Y–12 Plant, Oak Ridge, Tenn.

The President's request contained $18.5 million for this project. The Senate bill reduced the requested amount to $2 million. The House amendment contained an authorization in the amount of $10 million. The conferees agreed to authorize $3 million for this project and direct that the funds authorized be used for architectural and engineering design work and for long lead procurement items only.

The House recedes with an amendment.

Project No. 78–17–e: High explosive machining facility, Pantex, Plant, Amarillo, Tex.

The Senate bill provided no authorization for this project. The House amendment provided an authorization in the amount of $5 million for the purpose of replacing a high explosive machining facility which was destroyed by an explosion in March of 1977 subsequent to the submission of the President's budget. The conferees agreed to an authorization of $5 million for this project.

The Senate recedes.

Special materials production

Project No. 78–18–a: High level waste storage and waste management facilities, Richland, Wash.

The Senate bill contained an authorization of $27 million for this project, the full amount requested. The House amendment provided for an authorization of $17 million on the basis that a smaller number of waste storage tanks might be required. The conferees agreed to authorize $18 million for this project.

The Senate recedes with an amendment.

Project No. 78–18–f: Powerhouse emission control improvements, Richland, Wash.

The Senate bill contained an authorization of $6.5 million for this project, the full amount requested. The House amendment provided an authorization of $500,000 to permit the completion of concept studies. The conferees agreed to an authorization in the amount of $6.5 million.

The House recedes.

General plant projects

Project No. 78–21: General Plant Projects

The Senate bill (S. 1339) contained an authorization of $36 million for general plant projects. An additional authorization of $2.8 million was contained in the bill S. 1341 for the naval reactor development program. The House amendment contained an authorization for $38.8 million, the amount requested. The conferees agreed to an authorization of $38.8 million.

The Senate recedes.

Construction planning and design

Project No. 78–22:

The President requested an authorization of $5 million for construction planning and design work. The Senate bill deleted the authorization of several line item construction projects and included $5.52 million for the design of fiscal year 1978 projects within a newly created Capital Improvement Planning Program. The Senate also included within that program $10 million for the design of fiscal year 1979 projects and $15 million for the design of projects for fiscal years beyond fiscal year 1979. The Senate bill would authorize a total of $30.520 million for the Capital Improvement Planning Program.

The House amendment contained an authorization in the amount of $5 million.

The conferees noted that implementation of the Capital Improvement Planning Program in fiscal year 1978 would be very difficult since the fiscal year has already begun, and since organizational perturbations incident to the transfer of ERDA's functions to the Department of Energy will exist.

Accordingly, the conferees agreed to an authorization in the amount of $5 million.

The Senate recedes.

Capital equipment not related to construction

The President's request included $146.35 million for capital equipment not related to construction in connection with ERDA's national security programs. The Senate bill (S. 1339) included an authorization of $113.124 million for this purpose, while the bill S. 1341 contained $28.35 million for national security programs. The House amendment would authorize $146.35 million.

The conferees agreed to an authorization in the amount of $144.35 million to be distributed as follows:

	Million
For weapons activities	$79.0
For special materials production	36.7
For laser fusion	13.2
For naval reactor development	15.15
For program management and support	0.3

The Senate recedes with an amendment.

PLANT AND CAPITAL EQUIPMENT, ADDITIONAL AUTHORIZATIONS FOR PREVIOUSLY AUTHORIZED PROJECTS

Laser fusion

Project No. 77-3-a: Electron beam fusion facilities, Sandia Laboratories, Albuquerque, N. Mex.

The President requested an additional authorization of $4.4 million for this project. The Senate bill (S. 1339) contained no authorization for the project. The House amendment contained an authorization for the entire amount of the request. The conferees agreed to an authorization in the amount of $4.4 million.

The Senate recedes.

Project No. 75-3-b: High energy laser facility, Los Alamos Scientific Laboratory, N. Mex.

The President's budget request included $31.9 million additional authorization for this project. The Senate bill (S. 1339) contained no additional authorization. The House amendment included an authorization for the entire amount requested. The conferees agreed to an authorization in the amount of $31.9 million.

The Senate recedes.

Weapons activities

The President's budget request included a request for additional authorizations totaling $71.7 million for four previously authorized projects involving weapons activities. The Senate bill (S. 1339) contained an authorization totaling $84.4 million, which amount included sums which had been previously appropriated for those projects. The House amendment contained an authorization for $71.7 million, the amount requested. The conferees agreed to additional authorizations as follows:

Project number and name	*Million*
77-1-a—Safeguards and research development laboratory facilities, Sandia Laboratories, Albuquerque, N. Mex	$4.3
77-b—Safeguards and site security improvements, various locations	7.8
77-c—8-inch artillery fired atomic projectile production facilities, various locations	12.6
71-9—Fire, safety, and adequacy of operating conditions projects, various locations	40.0
Total	64.7

The Senate recedes with an amendment.

Special materials production

The President's budget request included a request for additional authorizations totaling $117.2 million for six previously authorized projects involving special materials production. The Senate bill (S. 1339) contained an authorization totaling $220.4 million, which amount included sums which had been previously appropriated for those projects. The House amendment contained an authorization for $117.2 million, the amount requested. The conferees agreed to additional authorizations as follows:

Project number and name	*Million*
77-13-a—Fluorinel dissolution process and fuel receiving improvements, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho (AE and long-lead procurement)	$5.0
77-13-d—High level waste storage and waste management facilities, Savannah River, South Carolina	31.0
77-13-e—High level waste storage and handling facilities, Richland, Wash.	22.0
77-13-f—Waste isolation pilot plant, Delaware Basin, southeast New Mexico (AE, land acquisition, and long-lead procurement)	22.0
77-13-g—Safeguards and security upgrading, production facilities, multiple sites	8.7
75-1-c—New waste calcining facility, Idaho Chemical Processing Plant, National Reactor Testing Station, Idaho	28.5
Total	117.2

The Senate recedes.

TITLE III—GENERAL PROVISIONS

Reprogramming of funds

Section 201 of the House amendment contained provisions prohibiting the use of funds authorized to be appropriated for any program in excess of the amounts actually authorized for a particular program, or for programs which have not been presented to or requested of the Congress, unless the Committees on Armed Services and Appropriations of the Senate and House of Representatives have been fully notified of such action and thirty days during which the Congress is in session have passed. The Senate bill (S. 1339) contained no such language; however, S. 1341 contained a similar provision.

The Senate recedes with an amendment.

Project cost variation provisions

Section 301 of the Senate bill contained a provision which would prohibit the start of any new construction project if the current estimated cost exceeds the amount authorized for such project by more than 25 percent unless the appropriate committees of Congress are notified and additional funds are authorized by law. Section 202 of the House amendment contained a similar provision.

The House recedes with an amendment.

Limits on general plant projects

Section 203 of the House amendment contained a provision which restricts the start of any general plant project which exceeds an estimated cost of $750,000 for the project or which exceeds $300,000 for any building. The section also would restrict the total cost of all general plant projects to not more than 25 percent in excess of the amount authorized. The Senate bill contained no comparable provision.

The Senate recedes with an amendment.

Authority to merge funds

Section 302 of the Senate bill contained a provision which permits the merger of funds authorized to be appropriated by the Act with other amounts appropriated pursuant to other authorization Acts to the extent specified in appropriations Acts. Section 204 of the House amendment contained a similar provision.

The House recedes.

Funds to remain available until expended

Section 303 of the Senate bill provides that amounts authorized to be appropriated pursuant to the Act may remain available until expended to the extent specified in appropriations Acts. Section 205 of the House amendment contained a similar provision.

The House recedes.

Availability of funds

Section 206 of the House amendment provided that amounts appropriated pursuant to the Act for general plant projects and for construction planning and design purposes may be available for use, when necessary, in connection with all national security programs within ERDA. The Senate bill contained no comparable provision.

The Senate recedes with an amendment.

Authorization to perform construction design services

Section 304 of the Senate bill authorizes the performance of construction design services for any ERDA national security construction project providing that the cost of such services does not exceed the amount authorized to be appropriated for construction planning and design. Section 207 of the House amendment contained a similar provision.

The House recedes with an amendment.

Authority to use certain moneys and fees

Section 305 of the Senate bill provided that any moneys and fees received by ERDA for tests or investigations may be retained and used for operating expenses, and may remain available until expended, to the extent specified in appropriations Acts. Section 208 of the House amendment contained a similar provision.

The House recedes.

Authority to transfer funds to other agencies

Section 306 of the Senate bill provided that, to the extent specified in appropriations Acts, funds appropriated to ERDA for operating expenses may be transferred to other agencies of the Government for the performance of work for which such funds were appropriated and that any funds so transferred may be merged with the appropriations of the agency to which they are transferred. Section 209 of the House amendment contained a similar provision.

The House recedes.

AMENDMENT OF THE TITLE OF THE BILL

The House bill contained language which amended the title of the bill.

The Senate recedes with an amendment.

ITEMS OF SPECIAL INTEREST

Submission of future authorization requests

In view of the distribution of the jurisdiction of nuclear energy matters which was formerly exercised by the Joint Committee on Atomic Energy, the conferees direct that the Department of Energy shall separate out and send to the Congress, for fiscal year 1979 and subsequent fiscal years, a single request for authorizing legislation containing all programs involving scientific research and development in support of the armed services, military applications of nuclear energy, strategic and critical materials necessary for the common defense, and programs which involve the common defense and security of the United States.

Procedures for planning for construction projects

Current procedures in the Energy Research and Development Administration for the programming of national security capital investment projects are essentially as follows:

(1) Once a project need is recognized, operating funds are used to accomplish "concept studies" which will generally define the scope of the project and produce a rough cost estimate.

(2) These concept studies are used as the basis for internal budget decisions. If a project survives internal budget reviews, concept studies provide the basis for the preparation of budget justification documents that are presented to Congress.

(3) Typically concept studies are finished 9–12 months before the budget is submitted to Congress. This means that concept studies are 18–24 months old by the time authorizing legislation is enacted.

(4) Architect-engineer designs (Title I and Title II) are generally not started until the project is authorized by Congress.

The Senate in S. 1339 revised this procedure to permit architect-engineer services to proceed immediately upon completion of concept studies using Capital Planning and Design authority and funds. The Senate position was that this approach, which is now used in the Defense Department's capital investment program, has important advantages over current ERDA procedures, in that:

(1) It would accelerate completion of new facilities by 18–24 months—the time now lost between the completion of concept studies and the start of architect-engineer planning. (This will amount to savings in construction costs of 10–15 percent based on current rates of inflation in the construction industry versus architect-engineer costs which are usually 7–10 percent of construction costs.)

(2) It would result in a much more reliable cost estimate being available to the Congress when the budget is presented.

The only disadvantage in permitting architect-engineer services to proceed prior to congressional authorization is that there may be some lost design effort if Congress does not authorize or fund the completion of a requested project. This is commonly referred to as "design breakage." The Senate felt that the advantages set forth above far outweighed the risk of "design breakage" and directed in their bill that this approach be adopted.

The House conferees, after lengthy dicussion on the implementation of this programing procedure, agreed that effective with the fiscal year 1979 program:

(1) The Department of Energy national security projects can proceed from concept studies (using operating funds) to architect-engineer design (Title I and Title II using Capital Planning and Design funds) prior to formal congressional authorization of the project.

(2) The budget justification for the Capital Planning and Design item must identify a tentative list with associated design costs of projects that will be put under design in the budget fiscal year. This is not a binding list, but the Armed Services Committees of Congress would expect to be notified of significant departures from that list that might occur during the budget fiscal year.

(3) The Armed Services Committees of Congress will require notification of every architect-engineer contract (title I and title II) with an estimated cost in excess of $250,000 at least 30 days prior to the award of such contract.

(4) Congressional authorization of a project will not be sought until the budget fiscal year in which construction would physically start or contracts would be let for long lead procurement items. Final design should be well under way (35 to 50 percent) at the time of budget submittal and the budget authorization request should be for the complete project cost (less concept study and design costs which are considered sunk costs).

In order to implement this procedure, the conferees direct that the Secretary of Energy's budget and legislative proposal for fiscal year 1979 be prepared to accommodate this revised programming procedure.

Closer coordination between the Department of Defense and the Department of Energy

During the review of Department of Defense and ERDA (now the Department of Energy) national security programs for fiscal year 1978, the conferees found that differences exist between current program schedules of the Department of Defense and those provided to the Congress by ERDA. The conferees believe that, in the future, closer coordination between the Department of Energy and its customer agency, the Department of Defense, should be sought to insure that programs submitted to the Congress are properly coordinated.

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DEWEY F. BARTLETT,
Managers on the Part of the Senate.

PERMISSION FOR COMMITTEE ON ARMED SERVICES TO FILE REPORTS ON S. 1339 AND S. 1863

Mr. PRICE. Mr. Speaker, I ask unanimous consent that the Committee on Armed Services may have until midnight tonight, October 28, 1977, to file reports on the Senate bills S. 1339 and S. 1863.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. RHODES asked and was given permission to address the House for 1 minute.)

Mr. RHODES. Mr. Speaker, I take this time to ask the distinguished majority leader if the gentleman is in a position to inform the House as to the program for the balance of the day, if any, and for next week.

Mr. DANIELSON. Mr. Speaker, will the distinguished minority leader yield?

Mr. RHODES. I am happy to yield to the distinguished gentleman from California.

Mr. DANIELSON. Mr. Speaker, I would like to inform the distinguished minority leader and the Members that on conclusion of the work now pending before us, there will be no further work for this week and we will be adjourning for the weekend.

Next week, the House meets on Monday at noon. The first item will be to call the Consent Calendar, and we will consider nine bills under suspension, as follows:

H.R. 6782, raisin marketing provisions;

H.R. 9710, regulation Q extension;

H.J. Res. 611, Federal Reserve Bank authority extension;

H. Res. 871, Select Committee on Ethics extension;

H.R. 2203, Great Lakes Fishery Act amendments;

H.R. 8331, Securities Investor Protection Act amendments;

H. Res. 868, urging Korean Government cooperation;

H. Con. Res. 388, South African repression; and

H.R. 4458, changes in excise taxes on distilled spirits.

Votes on suspensions will be postponed until the end of all suspensions.

On completion of that work we will take up continued work with H.R. 7073, the Federal Insecticide, Fungicide, and Rodenticide Act, known as FIFRA, with votes on amendments and the bill.

On Tuesday, the House will meet at noon. We will first call the Private Calendar, with 10 bills under suspension. Votes on these suspensions will likewise be postponed until the end of all suspensions. They are as follows:

H.R. 3384, National Labor Relations Board Act extension;

H.R. 7259, Siletz Indians restoration (Oregon);

H.R. 8777, child development amendments to Appalachian Development Act;

H.R. 7320, Federal tax laws timing revision;

H.R. 9704, Federal crop insurance amendments;

S. 1306, Small Business Drought Disaster Loan Act;

H. Res. 315, House beauty shop employee benefits;

H.R. 3815, Unlawful Corporate Payments Act of 1977;

H.R. 9378, ERISA amendment; and

H.R. 9282, deferral of future congressional pay raises.

These will be followed by House Joint Resolution 621, Alaska natural gas pipeline bill. Also, there may be some appropriation measures.

On Wednesday, the House will meet at noon. The bills to be considered will be H.R. 6805, Consumer Representation Act, under an open rule, with 1 hour of debate. This is depending upon whether or not the parliamentary situation indicates there may be the necessary forthcoming votes.

The other bill is H.R. 9179, Overseas Private Investment Corporation amendment, under an open rule, with 1 hour of debate.

On Thursday and Friday, the House will meet at 10 o'clock a.m.

The bills are H.R. 5646, ConRail medical payments, with an open rule and 1 hour of debate;

H.R. 5798, Office of Rail Public Counsel authorization, with an open rule and 1 hour of debate.

The House will adjourn by 3 p.m. on Friday and by 7 p.m. on all other days except Wednesdays. I wish to reiterate, 7 p.m. on all other days except Wednesdays. We propose to recess by Friday.

Conference reports, of course, can be brought up at any time, and any further program will be announced later.

Mr. RHODES. It is my understanding, and the gentleman has just confirmed it,

that the House will recess on Friday, being in session only in a pro forma fashion for the next several weeks.

Mr. DANIELSON. Will the gentleman yield further?

Mr. RHODES. Yes.

Mr. DANIELSON. I would like to hedge that slightly and say that we will recess by Friday. We will not be here Saturday.

Mr. RHODES. I understand that, and I also wish to congratulate the gentleman from California on his usual candor concerning the conditions under which H.R. 6805 might or might not be brought up.

Mr. DANIELSON. I thank the gentleman.

Mr. ERLENBORN. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Speaker, I ask for this time to direct a question to the gentleman from California. After his observation concerning H.R. 6805, the problematical condition as to whether it might be scheduled or actually heard on the floor next Wednesday, there has been a rumor that the House, if it does not bring up H.R. 6805—and I understand that decision will be made on Tuesday—there has been a rumor that we might not have any additional business on the floor after Tuesday night.

Can the gentleman tell me if that current rumor has any validity?

Mr. DANIELSON. Will the gentleman yield?

Mr. RHODES. I yield.

Mr. DANIELSON. I can neither verify nor deny the gentleman's rumor. I thank the gentleman for the information. We should all bear in mind that rumors are worth their weight in rumors.

Mr. ERLENBORN. I thank the gentleman for yielding, and I thank the gentleman from California.

Mr. RHODES. I thank the gentleman from California.

REQUESTING THAT BUSINESS IN ORDER UNDER CLAUSE 8, RULE XXIV, REPORTS FROM COMMITTEE ON DISTRICT OF COLUMBIA, BE IN ORDER ON MONDAY, OCTOBER 31

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that business in order under clause 8, rule XXIV, reports from the Committee on the District of Columbia, be in order on Monday, October 31, 1977.

The SPEAKER pro tempore (Mr. FOLEY). Is there objection to the request of the gentleman from California?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I wonder if the gentleman could explain exactly what the necessity for this request is. I notice that there are two District of Columbia bills listed, but I am not aware of the content of the bills and what the rush is to get them through.

If they are anything like the District of Columbia Civic Center bill, they probably should wait until next year.

Mr. DANIELSON. Will the gentleman yield?

Mr. BAUMAN. Yes, of course.

Mr. DANIELSON. The reason is that there will be no more Mondays in this session after next Monday, October 31. There are, I understand, two bills which will be eligible for consideration. To have them taken up this year would require that they be taken up at that time.

Mr. BAUMAN. Let me ask the gentleman, is this second bill, H.R. 9544, allowing the District to pledge its credit so that private colleges can receive bond issue benefits?

Mr. DANIELSON. I would like, if I may, to yield to the gentleman from Michigan (Mr. DIGGS), chairman of the committee.

Mr. BAUMAN. I will yield to him, since it is my time.

Mr. DIGGS. Mr. Speaker, I think I can assure the gentleman that neither of these bills are controversial in any fashion. The only reason they have not been scheduled at a different time is because of the calendar situation to date, and the calendar situation subsequent to this time. Any further delay in terms of the impact upon, for example, the second item—its impact upon private colleges in the District of Columbia—would be rather considerable.

As a matter of fact, it is costing them somewhere in the neighborhood of several thousands of dollars a month under the present constraints, and it has nothing to do with pledging the faith and credit of the Government.

Mr. BAUMAN. What does the legislation further provide?

Mr. DIGGS. I am afraid I cannot answer that in more specific terms at the present time. I can merely give the gentleman these kinds of assurances and give him further assurances that I am unaware of any objections to this legislation from any source.

Mr. BAUMAN. Mr. Speaker, the gentleman would not be aware of any objection until I object.

If the gentleman cannot give me any explanation for the legislation, I would be constrained to object, and I do object.

The SPEAKER pro tempore (Mr. FOLEY). Objection is heard.

REQUEST TO MAKE IN ORDER CALL OF THE CONSENT CALENDAR ON MONDAY, OCTOBER 31, 1977

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that the call of the Consent Calendar, under clause 4, rule XIII, be made in order on Monday, October 31, 1977.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, why do we need a unanimous-consent request for this? What is so special about the call of the Consent Calendar on Monday?

Mr. DANIELSON. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from California.

Mr. DANIELSON. Mr. Speaker, Monday is not a regularly scheduled Consent Calendar day, but it is the last Monday and the last date on which we can take up the very few items that are pending on the Consent Calendar before the House.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, how many bills are there on the Consent Calendar that would come up?

Mr. DANIELSON. There are two such bills.

Mr. ROUSSELOT. Can the gentleman tell us what those bills are?

Mr. DANIELSON. Mr. Speaker, if the gentleman will defer for a moment on that, I will be able to supply the information for him.

Mr. ROUSSELOT. I will be glad to do that.

Mr. DANIELSON. Mr. Speaker, I will for the moment withdraw my unanimous-consent request, and I will renew it in a few moments.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday of next week.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ADJOURNMENT TO MONDAY, OCTOBER 31, 1977

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

MAKING IN ORDER CALL OF THE CONSENT CALENDAR ON MONDAY, OCTOBER 31, 1977

Mr. DANIELSON. Mr. Speaker, I renew my unanimous consent that the call of the Consent Calendar, under clause 4, rule XIII, be made in order on Monday, October 31, 1977.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, does the gentleman now have the bills and the numbers of the bills so he can give us the information we asked?

Mr. DANIELSON. Yes, I do.

Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. Yes, I would be delighted to yield to the gentleman from California.

Mr. DANIELSON. Mr. Speaker, the bills are as follows:

H.R. 8499, from the Committee on Interior and Insular Affairs, and that is a bill to amend section 16(b) of the Alaska Native Claims Settlement Act; it is a bill

authored by the gentleman from Alaska (Mr. YOUNG).

The other item is H.R. 7249, and that is a bill introduced by myself, the gentleman from California (Mr. DANIELSON). It is a bill to amend the Federal charter of the Big Brothers of America to include Big Sisters International, Inc.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, my colleague, the gentlewoman from New Jersey (Mrs. FENWICK), may want to comment on the Big Sisters group. She is standing right here.

I can only say it sounds all right to me.

Mr. DANIELSON. Mr. Speaker, does the gentleman from California withdraw his reservation of objection?

Mr. ROUSSELOT. Yes, I do, Mr. Speaker.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REQUEST FOR PERMISSION FOR COMMITTEE ON INTERNATIONAL RELATIONS TO FILE REPORT ON HOUSE CONCURRENT RESOLUTION 388, DENOUNCING SOUTH AFRICAN REPRESSION

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that the Committee on International Relations may have until midnight tonight to file a report on House Concurrent Resolution 388, expressing concern about the recent acts of repression by the Government of South Africa.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

PERMISSION FOR COMMITTEE ON INTERNATIONAL RELATIONS TO FILE A REPORT ON HOUSE CONCURRENT RESOLUTION 388 DENOUNCING SOUTH AFRICAN REPRESSION

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that the Committee on International Relations may have until midnight tonight to file a report on House Concurrent Resolution 388, expressing concern about the recent acts of repression by the Government of South Africa.

The SPEAKER pro tempore (Mr. FOLEY). Is there objection to the request of the gentleman from Wisconsin?

Mr. BAUMAN. Reserving the right to object, Mr. Speaker, I just want to note for the record that upon the assurance of the gentleman from Wisconsin (Mr. ZABLOCKI) that the report and hearings will be available to the Members, I do not intend to object to this request again.

Mr. Speaker, my major concern was that a hearing was held only this week, and with very little notice the resolution was reported out of the committee without an opportunity for at least one member to testify before that subcommittee.

I would hope that a copy of the report and also a copy of the hearings will be available so that Members will know exactly what they are voting on when the resolution is considered on Monday.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

REFORM FOREIGN OIL TAX CREDIT

The SPEAKER pro tempore. Under a previous order to the House, the gentleman from Illinois (Mr. CORCORAN) is recnized for 5 minutes.

Mr. CORCORAN of Illinois. Mr. Speaker, the major American oil companies which produce oil in foreign countries have long been able to take a dollar-for-dollar credit on their U.S. tax returns for their income tax payments to the OPEC nations. There is now considerable controversy over whether these payments are actually income taxes eligible for the foreign tax credit, or whether instead they are royalties for which only a tax reduction should be allowed. The problem arises because the oil deposits in the foreign countries are owned by the government itself. In this case, the distinction between royalty payments to the owner of the oil and tax payments to the government is insignificant.

The Commerce, Consumer, and Monetary Affairs Subcommittee, of which I am a member, recently received testimony contending that the income taxes assessed by the OPEC nations are, in fact, royalties disguised as taxes. In support of this position, the witnesses cited developments in the pricing of foreign oil, under which OPEC "taxes" are now calculated on the basis of "posted prices," amounts which are substantially above market prices. As one witness told the subcommittee, "the posted price serves solely as a lever to fix the level of revenues desired" by the host country. By using the artificial figure instead of actual income realized, the "tax" has lost its character as an income tax, and as such should not be creditable.

The subcommittee was also told that IRS and Treasury are currently reviewing these OPEC taxes in light of the price developments. It is not my intention to disrupt that process. However, if the Ways and Means Committee will soon receive the President's tax reform package, I believe the time is propitious to introduce legislation which may help cut through this royalty v. income tax imbroglio, in case the IRS does not.

The bill which I am introducing today would expand an existing provision of the Internal Revenue Code, section 901(f), by adding six additional criteria for distinguishing foreign income taxes from royalties paid by the American oil companies. The first of the criteria is taken from the Senate amendment to the Tax Reform Act of 1976, a provision which was dropped in conference. The other five criteria were outlined in an Internal Revenue Service news release dated July 14, 1976, as guidelines for determining when a foreign tax may qualify for the credit under U.S. law. If a foreign tax fails to satisfy any of these six provisions, or the two existing provisions, under this bill it would not qualify as an income tax.

One effect of this bill should be to recapture for the U.S. treasury revenues in excess of $1 billion annually which can be put to work for U.S. consumers-taxpayers instead of the OPEC cartel. Another effect would be to reduce this present tax advantage for U.S. companies to produce oil in foreign countries; and in this respect the incentive to produce domestic oil would, of course, be increased.

ECONOMISTS FOR RESPONSIBLE ENERGY POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. ROUSSELOT) is recognized for 5 minutes.

Mr. ROUSSELOT. Mr. Speaker, the President's National Energy Plan is nothing more than a tax bill, pure and simple. It will compound our present energy problems and discourage the development of new energy supplies for now and future generations and I was glad to have the opportunity to vote against the legislation when it came before the House. If allowed to become law, it will constitute the largest peacetime direct tax increase in this Nation's history.

My view is not just idle conjecture. It is shared by those who ought to know—noted economists from all over the country of both political parties. Their hard-hitting criticism of the administration's energy proposal appeared in the Washington Post on Thursday, October 27, and I ask unanimous consent that it be printed in the RECORD at this time. I urge my colleagues to read the statement carefully bearing in mind that these individuals have no axe to grind no special interest to serve except that of the American people.

[From the Washington Post, Oct. 27, 1977]

The following commentary is a paid advertisement:

DEMAGOGUERY AT THE WHITE HOUSE

Not since Richard Nixon left the White House has the public witnessed an outburst quite like President Carter's at his recent news conference on energy. The President heaped invective upon his opponents, denounced oil companies as "war profiteers" and declared that defeat of his energy program and removal of natural gas price controls will mean "the biggest rip-off in history."

As responsible economists of all parties, we deplore discussion of important national issues in these terms. We believe that the President's intemperate language reveals the essential weakness of his case.

The issue is not oil companies versus the people. And one does not need to be a fan of the oil companies to recognize that. Every signer of this statement has been critical of the oil industry. We strongly oppose the current system of controls and import subsidies that adds million of dollars to the income of oil refiners. We believe in a competitive oil industry, free from monopoly.

We think the best way to achieve the goals of energy conservation and limited imports from OPEC is to let the market set prices—with rewards going to those who serve consumers most efficiently. Mr. Carter wants the bureaucracy to set prices and to distribute the rewards politically.

Under Carter's plan the lobbyists he deplores really would have the ability to "rip-off" the public. This possibility has certainly been recognized by some of the oil companies themselves. Contrary to public impression, not all the oil companies have been fighting the Carter program. They see the possibility that it would protect them from competition as well as grant them direct subsidies.

The so-called "energy program" would be the largest peacetime tax increase in history. It would make many billions more dollars of tax revenue available for lobbyists to seek—as well as mandate an expensive bureaucracy which would increase the overhead costs of making energy available to consumers. Already the Department of Energy is to cost $10 billion annually—a sum roughly equal to the combined after-tax earnings of America's major oil companies.

Mr. Carter would use taxes to raise the domestic price of oil to the world level. This is his way of eliminating the subsidy we are now paying through the "entitlement program" for the import of foreign oil. A far better way to achieve the same goal is to let the market set the price. This would provide the domestic owners of oil, many of whom are not large oil companies, with the same incentive to produce oil which we currently provide to OPEC. It makes no sense to say that OPEC oil producers can receive $12 or $13 per barrel when American producers are limited to $6 per barrel. But this is exactly what the President's tax on crude oil would do.

If the market is allowed to set the price, this will bring forth additional energy supplies which will lead to lower prices in the future. But if the cost to the consumer goes up due to a tax increase, it will go up now and permanently. There is no increased production. The consumer's only hope under the Carter plan is that bureaucrats in the Department of Energy will somehow be more enterprising and efficient at bringing forth energy supplies than all of the many energy companies operating under the spur of profit and competition. Does anyone really expect this to be true?

There is no energy crisis in the U.S. today, but there is an energy problem. It was created by political manipulation and price controls in energy markets. Former President Nixon deserves much of the blame for imposing these controls on oil as part of his general price control program in 1971. The controls on natural gas that created the crisis of last winter date from more than 20 years ago. And the present system of oil taxes and subsidies was passed by Congress and signed into law by President Ford in 1975. Now a Democratic President seeks to perpetuate the mistaken policies of his Republican predecessors.

At the very time that the Carter Administration is opposing de-control and thus denying the public the right to purchase American gas at $2.20 per MCF, the Department of Energy is making long-term deals to import natural gas from Algeria and Indonesia at $3.50 per MCF.

Angry rhetoric from Mr. Carter will not persuade a reasonable citizen that it is better for our economy to spend $3.50 for gas than it is to spend $2.20.

Perhaps with more serious reflection, Mr. Carter may come to realize this himself. Perhaps he will return to his pre-election position that controls, which are a major cause of our energy problems, should be eliminated.

Congress has been told that it must rush to pass Mr. Carter's current energy plan. "This is the moral equivalent of war." And what is that? William James, from whom President Carter borrowed the phrase, defined "the moral equivalent of war" as nonmartial suffering, something which involves "discomfort and annoyance, hunger and wet, pain and cold, squalor and filth." We do not believe that the American people deserve to have "discomfort, pain, squalor, etc." imposed upon them by their government.

ECONOMISTS FOR RESPONSIBLE ENERGY POLICY

(This advertisement is presented as a public service by National Taxpayers Union. Contributions to help bring this message to Americans would be appreciated.)

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William R. Allen, Professor of Economics, UCLA.

John Riley, Professor of Economics, UCLA.

Martin Anderson, Senior Fellow, Hoover Institution, Stanford University.

Henry S. Rowen, Professor of Public Management, Stanford University.

James Sweeney, Professor—Stanford Engineering—Economics Systems, Stanford University.

Dennis Logue, Professor of Business, Dartmouth College.

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Karl Brunner, Professor of Economics, University of Rochester.

Robert E. Lucas, Jr., Professor of Economics, University of Chicago.

Ronald I.. McKinnon, Professor of Economics, Stanford University.

Ezra Solomon, Dean Whitter Professor of Finance, Stanford University.

William Meckling, Professor of Economics, University of Rochester.

James Buchanan, Distinguished University Professor, Virginia Polytechnic Institute.

Walter J. Mead, Professor of Economics, University of California at Santa Barbara.

Michael Ward, Professor of Economics, UCLA.

Murray Rothbard, Professor of Economics, Polytechnic Institute of New York.

Benjamin Rogge, Professor of Economics, Wabash College.

Milton Friedman, Past President, American Economics Association, Nobel Prize Winner.

William Fellner, American Enterprise Institute, Sterling Professor of Economics, Emeritus, Yale University.

D. Gale Johnson, Professor of Economics, University of Chicago.

C. Lowell Harriss, Professor of Economics, Columbia University.

Edward J. Mitchell, Professor of Business Economics, University of Michigan.

Yale Brozen, Professor of Economics, Graduate School of Business, University of Chicago.

LEGISLATION DENYING FOREIGN TAX CREDITS FOR TAX PAID OR ACCRUED TO REPUBLIC OF SOUTH AFRICA BY U.S. CORPORATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. RANGEL) is recognized for 10 minutes.

Mr. RANGEL. Mr. Speaker, last June I discussed my legislation which would deny foreign tax credits for any tax paid or accrued to the Republic of South Africa by a U.S. corporation. In a continued effort to bring about racial equity in that nation and peace to that part of the world, I have just recently introduced several pieces of legislation to achieve this goal.

In light of the fact that the President has stated his desire to improve relations in Africa and has expressed a concern regarding the protection of human rights, we must express our support for free elections in Namibia and Southern Rhodesia.

John Locke once stated, "for civil power can have no right except as this is derived from the individual right of each man to protect himself and his property." To do so, one must have, without any interference, elections which will be free. This is the only way in which all citizens can have some say as to what direction their goverment takes. Thus, again, I must impress upon you the necessity for free elections in Namibia and Southern Rhodesia.

In the past, pleas and demands in the form of words have not brought about substantive action and are not at present bringing about substantive action with respect to the situation in South Africa. When a nation responds to certain demands of concerned peoples, it usually comes as a result of some pressure. An area in which the United States can help apply pressure to the South African and Rhodesian governments is in the economic and political forums. Only when we do this will be begin to get affirmative action in the area of racial equality and also make some headway in turning over control of the government to the black majority.

The purpose of my proposed legislation is to persuade South Africa and Rhodesia that by denying its black majority basic human rights, these nations are not acting in their best interests, either politically or economically. By halting the importation of coal and

other commodities from South Africa, the United States is saying that it is time for a more progressive racial policy to be adopted and until that point we refuse to trade with you. Political sanctions such as refusing to assign defense attaches or other U.S. Armed Forces personnel to South Africa, taken in conjunction with the President's recent decision to recall our Ambassador to South Africa will help to underscore the point that the United States seeks to totally disassociate itself from those nations who continue to violate the basic human rights of any portion of its populace, which in this case happens to be a majority.

The majority black population is looking to this administration to provide the moral leadership to bring about racial equality in that corner of the world. Some form of pressure is needed to induce the minority government to negotiate with the black nationalists leaders. These negotiations have not proved successful. This legislation that I propose will hopefully pressure the apartheid regime to expedite the process of returning the basic human rights of individuals in South Africa.

To reflect upon the ideals set forth by our Nation's founders is to show concern for our fellow human beings who do not, at the least, enjoy basic human rights. My proposed legislation affords us that opportunity with respect to our relations with the nations of South Africa and Rhodesia. I would again hope that we might be able to conduct hearings on these matters in order that we might advance the concept of freedom for the individual and the doctrine of majority rule.

DRUG BENEFITS FOR THE AGED ACT OF 1977

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 5 minutes.

Mr. PEPPER. Mr. Speaker, I have today introduced legislation which can bring us closer to fulfillment of a promise made 12 years ago when the Congress enacted the medicare law, providing a program of health insurance for the aged.

I was deeply involved in the struggle to enact that milestone legislation. Now, as chairman of the Select Committee on Aging and its Subcommittee on Health and Long-Term Care, I remain committed to the equally important and difficult task of strengthening the program in those areas where it has fallen short. Principal among these is the lack of coverage for chronic illness, which affects some 40 percent of the elderly, or more than twice the number in their middle years who suffer from chronic illness. The acute, episodic illness orientation of medicare denies assistance where the elderly need it most—in health maintenance and treatment for chronic disease.

Consequently, those who suffer from hypertension, diabetes, arteriosclerosis, and so on, must meet the cost of treatment for these conditions out of their own pockets. At present, only those drugs which are given in a hospital or administered by a physician are covered at all under the medicare program. Yet Americans over 65, who comprise only 10.7 percent of the population, account for about 25 perent of total drug expenditures annually. In fiscal year 1976, the total bill for drugs and drug sundries for the elderly was $2.78 billion. Medicaid and other sources paid some 14.1 percent of this bill, but the bulk, almost 86 percent, came out of the pockets of those least able to pay—the elderly themselves.

As an early and ardent supporter of medicare, I am deeply concerned over the serious inadequacies which continue to plague the program a dozen years after its enactment. I have and will continue to press for action by the Congress to correct the gaps and limitations which exist in the medicare program prior to adoption of national health insurance. But we cannot wait for national health insurance. We must correct these deficiencies now.

I have been deeply concerned over the lack of medicare coverage for eyeglasses, hearing aids, and dentures, which rank among the most vital needs of the elderly, but for which medicare provides no coverage at all. The failure of medicare to cover preventive health services and the inadequacy of its coverage for mental health care result in enormous, unnecessary expenditures for the Federal Government and untold misery and hardship for the millions who look to medicare for life-giving medical attention. The restrictive limitations on home health care coverage, and the undue requirement that it provide only "skilled" care mean that hundreds of thousands are institutionalized needlessly.

As a result of these and other deficiencies in the program, we find that older citizens pay more now for health care than they did before medicare was enacted.

Bills I introduced earlier in this session, as part of a legislative package for the elderly, address many of the inadequacies to which I refer.

In a hearing conducted by my subcommittee on October 18, we received testimony which further highlighted the gaps and limitations in the medicare program. Predictably, the lack of outpatient prescription drug coverage was listed as one of the most glaring gaps in the program which was intended to give older citizens a hedge against the overwhelming cost of health care.

Testifying in behalf of the National Retired Teachers Association/American Association of Retired Persons, John Martin, former U.S. Commissioner on Aging, pointed to the fact that provision of an outpatient prescription drug benefit under medicare has been supported for 10 years by National, State, and local organizations which represent older citizens, by the HEW Task Force on Prescription Drugs, the 1971 White House Conference on Aging, a Presidential Task Force on Aging, and by the Social Security Advisory Council. Moreover, on three different occasions, in 1967, 1972, and 1973, the Senate has passed medicare amendments which would have provided drug benefits, only to meet with successful opposition in the House-Senate conference.

Clearly, the circumstances which precipitated this action by the Senate have not been alleviated. If anythnig, the situation has deteriorated. A survey of its members conducted in 1973–74 by NRTA/AARP revealed that expenditures for prescription drugs ranged from $200 to over $1,000, representing between 10 and 45 percent of income.

The problem is even more distressing for the elderly poor, who make up one-fourth of the entire older population. Recent figures indicate that those in the lowest classifications of family income—under $2,000 and between $2,000 and $4,999—experience an average individual prescription drug burden each year that is higher than those in higher-income brackets.

The fact of congressional intransigence in enacting a drug benefit under medicare, in combination with the fact that some 750,000 persons are not eligible for either part A or part B of medicare, leads us to the necessity of adopting a different approach. For that reason, the bill I introduce today, which has been introduced in the Senate by Senators KENNEDY and THURMOND, would provide free drug benefits for all of the 24 million elderly persons in the country, not just those who qualify for medicaid or for medicare or social security. Instead, all those 65 years of age or older would qualify under this bill. The legislation I propose would do more than fill in this gap in the medicare program; it would pave the way for universal drug coverage for the elderly under national health insurance.

The Drug Benefits for the Aged Act has been endorsed by the following organizations:

National Council of Senior Citizens,
American Association of Retired Persons,
National Retired Teachers Association,
National Association of Retired Federal Employees,
Committee on National Health Insurance,
United Auto Workers,
American Public Welfare Association,
National Conference of State Legislatures, and others.

In brief, the bill I introduce today will, with full implementation, provide for the elderly full coverage of all necessary drugs. It is a rational proposal, with cost controls, a separate and efficient administrative mechanism, a reasonable timetable which allows adequate time for setting up the administrative apparatus, and the phasing in of medications over a period of years.

Included among the bill's provisions are the following:

COVERAGE

With full implementation of the Drug Benefits for the Aged Act, coverage will

extend to all 24 million residents of the United States who are 65 years of age or older, including aliens who have resided in this country for at least 5 years. The program is not restricted to those who currently qualify for social security or medicare. Moreover, those who currently are eligible for prescription drug coverage under medicaid will eventually be covered under this act. This will result in a saving to the States of some $200 million they now expend for drugs for the elderly under the shared Federal-State medicaid program.

There is no requirement for copayment, coinsurance, or deductible under the bill I propose. Cost sharing, where it currently exists under medicare and medicaid, presents a heavy burden for the elderly, especially the poor and those on fixed incomes. Moreover, studies have indicated that the requirement for deductibles or copayments can add administrative costs of over $1 per claim, which is twice the amount expected under this act.

ADMINISTRATION

The drug benefits program for the aged would be administered by a separate unit under the Department of Health, Education, and Welfare, the Prescription Drug Benefits Council. The Assistant Secretary for Health would serve as its chairman, and its members would be appointed by the Secretary of HEW. The Commissioner of the Food and Drug Administration would serve on the Council, along with six members representing the fields of medicine, pharmacology, public health and pharmacy, and three members representing beneficiaries of the program. This Council would advise and assist the Secretary with administrative policy and long-term plans. It would recommend drugs for the approved benefits list and the allowable reimbursement cost for these drugs.

A centralized, automatic data processing system would be set up to handle the almost 300 million prescription claims expected. This centralized, separate system would make it possible to monitor prescriptions in regard to the utilization of drugs and prescribing patterns. The uniform accounting and reporting which is required by this bill will provide an information base readily adaptable to a prescription drug program under national health insurance.

BENEFITS

The bill establishes a workable timetable for institution of the drug benefits program, allowing adequate leadtime to establish the necessary apparatus. Therefore, no benefits would be available for the first and second years after passage of the bill. This time would be used to establish the Drug Benefits Council and appoint staff, set up the electronic data processing system, establish the approved drugs list and reimbursement prices, contract with participating pharmacies, establish dispensing charges in each State, and initiate drug utilization review, information, and education programs.

In the third year, when the program becomes operational, drugs in therapeutic categories relating to serious, chronic illnesses will be covered. This list of drugs on the drug benefits list is expected to cover some 70 percent of total prescription drug costs incurred by the elderly. Coverage will be limited to medications in these therapeutic categories for the third, fourth, and fifth years of the program. These therapeutic categories are: Adrenocoticoids, antianginals, antiarrhythmics, anticoagulants, anticonvulsants, antidepressives, antihypertensives, antineoplastics, anti-Parkinsonism, agents, antipsychotics, antirheumatics, bronchodilators, cariotonics, cholinesterase inhibitors, diuretics, gout suppressants, hypoglycemics, miotics, sedatives, thyroid hormones, tuberculostatics, and insulin, which is a nonprescription drug.

COSTS

In the first and second years of the program, the startup period, costs are estimated to be $100 million and $300 million, respectively. In the third year, when coverage for the medications included in the therapeutic categories above will be provided, the estimated cost will be $2 billion. In the fourth year, costs will be approximately $2.2 billion, and some $2.4 billion in the fifth year.

In the sixth year of the program, with comprehensive coverage of all drugs necessary for the elderly, the cost is expected to be $3.4 billion.

The drug benefit program will be financed from general revenues through the annual appropriations process.

This bill has been drafted in the spirit of rational cost control which has been so forcefully advocated by the new administration and which has received new emphasis in the Congress. Program costs will be checked by provisions in the legislation which exert downward pressure on wholesale drug prices, stimulate price competition among the makers of equivalent drug products, give financial incentives to pharmacists to select those drug products of lower cost, and hold down drug prices for 6-month periods, while giving manufacturers an opportunity to justify and obtain legitimate increases to cover rising costs where necessary. Those pharmacists who agree to participate in the program will be guaranteed equitable reimbursement for the cost of the drug product dispensed, within the provisions established by the bill, and for a dispensing charge, to be established by the Secretary on a State-by-State basis and dependent on the location of the pharmacy and the volume of prescriptions handled.

The bill provides for reimbursement for drug products at either the maximum allowable cost (MAC) or the estimated acquisition cost (EAC), under conditions established by the bill.

The rights of physicians in prescribing drugs will remain essentially unchanged under this legislation. They would be allowed to permit pharmacists to select the drug product from the program's approved formula of therapeutically equivalent and interchangeable drugs, or be able to insist that patients be given a brand name drug, when that is medically necessary. This is consistent with pharmacy laws adopted by 32 States which generally require or permit generic substitution.

Finally, the bill requires the Secretary of HEW to experiment with a variety of review methods for drug utilization and adopt one or more which prove to be the most efficient and effective. Moreover, the Secretary is required to carry out educational programs for beneficiaries, participating pharmacies, and physicians. This is intended to assure appropriate use of the program, adequate and proper product selection, and rational prescribing patterns.

Mr. Speaker, I am convinced that the time has long since come to assure older Americans of full and complete access to the benefits of our remarkable health care system. Certainly the medicare and medicaid programs have brought us a great distance toward that goal, but it is clear that we have failed to make good on that promise when one of the most necessary elements of health care remains outside the parameters of our principal medical assurance program. We can rectify this omission, and we must rectify it if we are to have any hope of moving toward a system of comprehensive, universal health care for the American people.

LOW INTEREST LOAN PROGRAM FOR VETERANS WHOSE DELIMITING DATE HAS EXPIRED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. BEDELL) is recognized for 5 minutes.

Mr. BEDELL. Mr. Speaker, probably every one of us has received inquiries from veterans in our districts asking why the delimiting date for using the GI bill cannot be extended. Time and time again, I have heard stories about veterans who have either had to abandon their education because the delimiting period ran out, or family responsibilities prevented them from ever using the GI bill at all.

Yet the Veterans' Affairs Committee tells us that it would cost the Government too much money to change the delimiting date. Consequently, my colleague Mr. WOLFF and I have today introduced a bill which would establish a low interest loan program—not a grant program—for veterans whose delimiting date has expired. This way, the old bugaboo about cost should be eliminated since the loans would have to be paid back. Conceptually, the idea of a loan program for educational benefits is not new, it exists now for veterans who are still within their delimiting period. Our bill would essentially extend the application of this loan procedure past the expiration of the delimiting date.

Specifically, we propose that the rate of the loan would be the same as the lowest prevailing rates for Federal educational loans available from HEW (currently 7 percent). The terms for paying it back would be negotiated but the limit would be 10 years. Terms would be based on the veteran's assets and income.

The bill would make eligible for the

loan program any veteran who served from August 4, 1964, to May 7, 1975, and who had not already used up his GI bill. The amount of the loan would be determined by the following formula. The maximum number of months for which a veteran would be eligible would be 45. For a veteran who was not able to use the GI bill at all, his loan would be for 45 months times the rate he would be entitled to based on dependents. If a veteran has used part of the GI bill already, his loan would be for 45 months times the appropriate rate minus the amount which he had already used. This way, no veteran would be entitled to educational assistance (loans and direct allowance) in excess of the maximum which would have been available to him but for the expiration of his delimiting date.

The 1964–75 eligibility date is a deliberate attempt to include anyone who served during the Vietnam conflict, since 1964–75 are the official dates for that conflict. Mr. WOLFF and I agree with President Carter that we owe a special debt of gratitude to these men and women who served during America's most unpopular war, and who are now having the greatest difficulty finding work in today's tight labor market. We feel that a loan program is the very least we can do to bring these veterans back into the mainstream of the American work force.

PERSONAL EXPLANATION

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD.

Mr. OTTINGER. Mr. Speaker, yesterday evening, I regrettably had to catch a plane for New York in order to meet a longstanding commitment in my district. As a result, I missed rollcall No. 710, the vote on House Resolution 826, the rule for consideration of H.R. 8200, bankruptcy law revision. The rule passed 358 to 11. Had I been present, I would have voted "yea."

CONFERENCE REPORT ON S. 1863

Mr. PRICE submitted the following conference report and statement on the bill (S. 1863) to authorize appropriations during the fiscal year 1978 for procurement of aircraft and missiles, and research, development, test, and evaluation for the Armed Forces, and for other purposes.

CONFERENCE REPORT (H. REPT. No. 95–777)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1863) to authorize appropriations during the fiscal year 1978 for procurement of aircraft and missiles, and research, development, test, and evaluation for the Armed Forces, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Department of Defense Supplemental Appropriation Authorization Act, 1978".

TITLE I—PROCUREMENT

SEC. 101. In addition to the funds authorized to be appropriated under title I of the Department of Defense Appropriation Authorization Act, 1978, funds are hereby authorized to be appropriated during fiscal year 1978 for the use of the Navy and the Air Force for procurement of aircraft and missiles, as authorized by law, in amounts as follows:

(1) For aircraft: for the Navy, $73,900,000; for the Air Force, $33,000,000.

(2) For missiles: for the Air Force, $64,000,000.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

SEC. 201. In addition to the funds authorized to be appropriated under title II of the Department of Defense Appropriation Authorization Act, 1978, funds are hereby authorized to be appropriated during fiscal year 1978 for the use of the Air Force and the Defense agencies for research, development, test, and evaluation, as authorized by law, in amounts as follows:

(1) For the Air Force, $290,500,000, of which $15,000,000 is authorized for the study of wide-bodied aircraft as strategic cruise missile carriers.

(2) For the Defense agencies, $15,000,000.

SEC. 202. (a) Section 202(a)(2) of the Department of Defense Appropriation Authorization Act, 1978 (Public Law 95–79), is amended by striking out "before January 1, 1980" and inserting in lieu thereof "not later than July 1, 1981".

(b) The amendment made by subsection (a) shall take effect October 1, 1977.

SEC. 203. In authorizing funds under this Act, Congress asserts its readiness to consider, in accordance with the processes set forth in the Congressional Budget and Impoundment Control Act of 1974 and the Budget and Accounting Act, 1921, such modifications in the United States cruise missile programs as the President may recommend to facilitate either negotiation or agreement in arms limitation or reduction talks.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following: "An Act to authorize appropriations during fiscal year 1978, in addition to amounts previously authorized, for procurement of aircraft and missiles for the Navy and the Air Force and for research, development, test, and evaluation for the Air Force and the Defense agencies, and for other purposes.".

And the House agree to the same.

MELVIN PRICE,
CHARLES E. BENNETT,
SAMUEL S. STRATTON,
RICHARD H. ICHORD,
LUCIEN N. NEDZI,
CHARLES H. WILSON,
ROBERT L. LEGGETT,
RICHARD C. WHITE,
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BOB WILSON,
WILLIAM L. DICKINSON,
G. WILLIAM WHITEHURST,
FLOYD D. SPENCE,
Managers on the Part of the House.

JOHN C. STENNIS,
THOMAS J. MCINTYRE,
JOHN C. CULVER,
DALE BUMPERS,
JOHN TOWER,
BARRY GOLDWATER,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1863) to authorize appropriations during the fiscal year 1978 for procurement of aircraft and missiles, and research, development, test, and evaluation for the Armed Forces, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I PROCUREMENT

F–14 aircraft

The only procurement item in dispute in conference was the additional authorization of the F–14. In the earlier Department of Defense Appropriation Authorization Act the Congress approved the conference report which authorized $755.7 million for procurement of 40 F–14's in fiscal year 1978 with advance procurement funds for 36 F–14's in fiscal year 1979.

In that conference on the Department of Defense Authorization request, the Senate conferees pointed out that a planned acceleration of procurement of F–14's from the current rate of 36 a year to 60 a year in fiscal years 1979 and 1980 could create a financial problem in the Naval aviation budget which would impact on the Navy's ability to fund the F–18 program as planned. The conferees agreed at that time that the F–18 program is essential to Naval aviation and should not be slowed or stretched out.

Although no authorization for F–14's was contained in the supplemental request, the House voted to authorize $151.6 million for procurement of 4 more F–14 aircraft in fiscal year 1978 and for advance procurement funds for 24 more in fiscal year 1979.

The conferees agreed that the unrequested addition by the House of advance procurement for additional F–14's in fiscal year 1979 could impact on the Navy's ability to fund the F–18 program as originally programmed, and that the F–18 program should not be slowed or stretched out. The conferees also agreed in directing the Navy to keep the F–18 program on the present contract schedule to provide for orderly and timely replacement of F–4's and A–7's in the Navy and Marine Corps as planned. For these reasons the added F–14 advance procurement funds were deleted, and the 4 additional F–14's were added in fiscal year 1978.

The House recedes with an amendment providing $73.9 million.

TITLE II RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

There were 11 items in disagreement in Title II of the bill, one in the Navy, two in Defense Agencies, and 8 in the Air Force, which were adjusted by the conference as follows:

High performance underwater vehicle

The House amendment authorized $5.9 million for this project for the Navy to seek advancements in laminar flow technology, to improve the performance of submarines and torpedoes.

The Senate bill contained no such amendment and since the project was not requested by the Department of Defense as part of the supplemental authorization the Senate insisted on its position.

The House recedes.

Cruise missile carrier

The Administration requested $50 million to study the adaptation of an existing wide-body commercial aircraft to carry and launch the cruise missile.

The Senate bill authorized $15 million for the cruise missile carrier program.

The House amendment authorized $5 million for the study of the cruise missile carrier, an amount added by floor amendment during House consideration of the bill.

The House recedes.

FB–111H

The Senate bill authorized $20 million to initiate development of a prototype of the FB–111H.

A similar authorization had been approved by the House Armed Services Committee in originally reporting the supplemental authorization legislation. However, the FB–111 authorization was deleted by a division vote during floor consideration of the legislation in the House. The House conferees, therefore, vigorously opposed the addition.

It was pointed out, however, that the House action in deleting the FB–111 authorization was taken prior to the latest House vote on the B–1; and in the absence of future procurement funding for the B–1, the desirability of studying a stretched version of the FB–111 as a future alternative was an option that should be reconsidered.

The Secretary of Defense indicated willingness to accept the addition of $20 million for the FB–111H development stating that this amount was sufficient to examine the design of such an aircraft. He further stated that examination of the concept is a prudent step and that no decision has been made either to produce the FB–111H or to proceed with full scale development. With that understanding, the conferees agreed to authorize $20 million.

The House recedes.

ICBM initiatives

The House amendment contained $60 million for a new budget line item, "ICBM Initiatives," under the Air Force RDT&E category for work related to modernization of the land based ICBM leg of the strategic Triad to assure its survivability.

The Senate bill contained no such provision.

The conferees agreed to an authorization of $30 million.

Strategic protective systems

The Senate bill provided $7.5 million, the amount requested, to accelerate development of ECM systems which will extend the effectiveness of B–52's against more severe future Soviet air defenses.

The House amendment contained $2.5 million.

The conferees agreed to an authorization of $5 million.

Strategic bomber enhancements

The House amendment contained $19.9 million, the amount requested, for concept formulation, technology demonstration, and hardware development for penetration aids for bombers.

The Senate bill provided $17.4 million, deleting authorization for study of a third generation cruise missile carrier.

The House recedes.

Ballistic missile early warning system (BMEWS)

The House amendment contained $1 million, the amount requested, for improvement of detection and tracking capability of the BMEWS radars.

The Senate bill deleted the request.

The House recedes.

Missile surveillance technology

The Senate bill provided $10.47 million for the development of improved satellite borne sensors for missile surveillance.

The House amendment had deleted the entire request.

The Senate reluctantly recedes.

Perimeter acquisition radar (PAR)

The House amendment contained $10 million the amount requested, to improve the performance capabilities of the PAR related to its detection range and coverage, reentry vehicle discrimination and tracking, and warning time.

The Senate bill had deleted the entire request.

The Senate recedes.

Defense Advanced Research Projects Agency (DARPA)

The House amendment contained $15 million, the amount requested, for DARPA for various technology base programs.

The Senate bill reduced the request to $9 million.

The Senate recedes.

Advanced manned penetrating bomber study

The Senate bill contained $5 million for a study of the role, if any, an advanced manned penetrating bomber might have in the mixed bomber force in the period beyond current plans.

The House amendment contained no such provision.

The Senate very reluctantly recedes.

LANGUAGE DIFFERENCES

There were three language provisions in addition to varying dollar authorizations which were considered in conference. They were adjusted as follows:

Cruise missile carrier

The House amendment contained a provision, Section 201(2), which required that of the funds authorized for Air Force research and development, $5 million shall be spent "for the study of wide-bodied aircraft as strategic cruise missile carriers."

The Senate bill contained no such provision but, as indicated earlier, had provided $15 million for study of wide-bodied aircraft as a cruise missile carrier.

The conferees therefore agreed to retain the language of the House amendment but to adjust the figure to the $15 million agreed to in conference.

Guided projectiles

The House amendment contained a provision, Section 202, which would amend Section 202(a)(2) of P.L. 95–79, the original fiscal year 1978 Defense Appropriation Authorization Act, to extend the time for the initial operational capability date for the Army 155mm and the Navy 5-inch guided projectiles from January 1, 1980 to "not later than July 1, 1981."

The Senate bill contained no similar provision.

The Senate recedes.

Cruise missile programs and SALT

The Senate bill included a provision, Section 201, asserting Congressional readiness to consider, in accordance with existing statutes, modifications in the cruise missile program which the President may recommend to facilitate either negotiations or agreements in arms limitation or reduction talks.

The House amendment contained no such provision.

The House recedes.

DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATION AUTHORIZATION ACT, 1978—CONFERENCE ACTION

[In millions of dollars]

Program	Budget request	House	Senate	Conference
PROCUREMENT				
F–14		151.6		73.9
Programs not in dispute	97.0	97.0	97.0	97.0
Subtotal, procurement	97.0	248.6	97.0	170.9
RESEARCH, DEVELOPMENT, AND EVALUATION				
Navy: High performance underwater vehicle		5.9		
Air Force:				
Cruise missile carrier	50.0	5.0	15.0	15.0
FB–111 H			20.0	20.0
ICBM initiatives (MX and ABRES)		60.0		30.0
Strategic protective systems	7.5	2.5	7.5	5.0
Strategic bomber enhancements	19.9	19.9	17.4	17.4
Ballistic missile early warning system (BMEWS)	1.0	1.0		
Missile surveillance technology	10.47		10.47	
Perimeter acquisition radar (PAR)	10.0	10.0		10.0
Programs not in dispute	193.1	193.1	193.1	193.1
Defense agencies:				
Defense Advanced Research Projects Agency (DARPA)	15.0	15.0	9.0	15.0
Advanced manned penetrating bomber study			5.0	
Subtotal, R.D.T. & E	307.97	312.4	277.47	305.5
Total authorization	404.97	561.0	374.47	476.4

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JOHN C. CULVER,
DALE BUMPERS,
BARRY GOLDWATER,
JOHN TOWER,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. WOLFF (at the request of Mr. WRIGHT), after 10:30 a.m. today for an indefinite period, on account of serving as U.S. Representative to the United Nations General Assembly.

Mr. LEDERER (at the request of Mr. WRIGHT), for today, on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. QUAYLE), to revise and extend their remarks, and to include extraneous matter):

Mr. CORCORAN of Illinois, for 5 minutes, today.

Mr. ROUSSELOT, for 5 minutes, today.

(The following Members (at the request of Mr. BENJAMIN) and to revise and extend their remarks and include extraneous matter:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. RANGEL, for 10 minutes, today.

Mr. PEPPER, for 5 minutes, today.

Mr. BEDELL, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. QUAYLE) and to include extraneous matter):

Mr. KETCHUM.

Mr. SHUSTER.

Mr. COLLINS of Texas in three instances.

Mr. DORNAN.

Mrs. PETTIS.

Mr. RUPPE in two instances.

Mr. COLEMAN.

Mr. LAGOMARSINO.

Mr. MCKINNEY.

Mr. GILMAN.

Mr. DUNCAN of Tennessee.

Mr. ROUSSELOT.

(The following Members (at the request of Mr. BENJAMIN), and to include extraneous matter:)

Mr. ULLMAN.

Mr. DOWNEY.

Mr. ANDERSON of California in three instances.

Mr. GONZALEZ in three instances.

Mr. EILBERG in five instances.

Mr. PEASE.

Mr. FARY.

Mr. LE FANTE.

Mr. OTTINGER.

Mr. ROONEY.

Mr. DENT.

Mrs. SCHROEDER.

Mr. RAHALL.

Mr. BRECKINRIDGE.

Mr. NEDZI.

SENATE BILLS AND CONCURRENT RESOLUTIONS REFERRED

Bills and a concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 791. An act to authorize additional appropriations for the acquisition of lands and interests in lands within the Sawtooth National Recreation Area in Idaho; to the Committee on Interior and Insular Affairs;

S. 917. An act to provide for conveyance of certain lands adjacent to the Gund Ranch, Grass Valley, Nevada, to the University of Nevada; to the Committee on Interior and Insular Affairs; and

S. Con. Res. 44. Concurrent resolution to authorize the Secretary of the Interior to accept donations of suitable markers recognizing the contributions of General Thaddeus Kosciuszko; to the Committee on Interior and Insular Affairs.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 717. An act to promote safety and health in the mining industry, to prevent recurring disasters in the mining industry, and for other purposes.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 3033. An act to provide duty-free treatment for certain copying lathes used for making rough or finished shoe lasts and for parts of such lathes, and for other purposes.

ADJOURNMENT

Mr. BENJAMIN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 38 minutes p.m.), under its previous order, the House adjourned until Monday, October 31, 1977, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2614. A letter from the Comptroller General of the United States transmitting a list of reports issued or released by the General Accounting Office during September 1977, pursuant to section 234 of the Legislative Reorganization Act of 1970; to the Committee on Government Operations.

2615. A letter from the Secretary of the Smithsonian Institution transmitting a report of the proceedings of the 86th Continental Congress of the National Society, Daughters of the American Revolution, pursuant to section 3 of the act of February 20, 1896; to the Committee on the Judiciary.

2616. A letter from the Administrator, National Aeronautics and Space Administration transmitting a report on negotiated contracts for experimental, developmental, test or research work, or for industrial mobilization in the interest of the national defense, covering the period January 1 through June 30, 1977, pursuant to 10 U.S.C. 2304(e); to the Committee on Science and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. REUSS: Committee on Banking, Finance and Urban Affairs. H.R. 9710. A bill to extend the authority for the flexible regulation of interest rates on deposits and accounts in depository institutions, to promote the accountability of the Federal Reserve System, and for other purposes; with amendment (Rept. No. 95-774). Referred to the Committee of the Whole House on the State of the Union.

Mr. PRICE: Committee of conference. Conference report on S. 1339 (Rept. No. 95-775). Ordered to be printed.

Mr. PRICE: Committee on Armed Services. H.R. 2637. A bill to amend title 10, United States Code, to authorize the Secretary of the Air Force to contract with air carriers to acquire civil aircraft to provide greater cargo capacity for national defense purposes in the event of war or national emergency, and to modify existing passenger aircraft for this purpose; with amendment (Rept. No. 95-776). Referred to the Committee of the Whole House on the State of the Union.

Mr. PRICE: Committee of conference. Conference report on S. 1853 (Rept. No. 95-777). Ordered to be printed.

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. H.R. 9370. A bill to provide for the development of aquaculture in the United States, and for other purposes; with amendment (Rept. No. 95-778). Referred to the Committee of the Whole House on the State of the Union.

Mr. DIGGS: Committee on International Relations. House Concurrent Resolution 388. Concurrent resolution expressing concern about the recent acts of repression by the Government of the Republic of South Africa. (Rept. No. 95-779). Referred to the House Calendar.

Mr. FOLEY: Committee on Agriculture. House Resolution 784. Resolution expressing the sense of the House of Representatives that the President should establish a Commission on Domestic and International Hunger and Malnutrition; with amendment (Rept. No. 95-780, Pt. I). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON of California:

H.R. 9802. A bill to amend title XI of the Merchant Marine Act, 1936, to permit the guarantee of obligations for financing fishing vessels in an amount not exceeding 87½ percent of the actual or depreciated actual cost of each vessel; to the Committee on Merchant Marine and Fisheries.

By Mr. ANDERSON of California (for himself, Mr. BEDELL, Mr. AUCOIN, and Mr. MOFFETT):

H.R. 9803. A bill to amend title 38 of the United States Code in order to provide for the payment of service pensions to veterans of World War I and for certain surviving spouses and certain children; to the Committee on Veterans' Affairs.

By Mr. BUTLER (for himself, Mr. COHEN, Mr. FRENZEL, Mr. PRITCHARD, Mr. ANDERSON of Illinois, Mr. FISH, Mr. ANDREWS of North Dakota, Mr. BUCHANAN, Mr. COCHRAN of Mississippi, Mr. CONABLE, Mr. COUGHLIN, Mr. ERLENBORN, Mr. GRADISON, Mrs. HECKLER, Mr. HILLIS, Mr. JEFFORDS, Mr. KASTEN, Mr. KEMP, Mr. LEACH, Mr. MCCLORY, Mr. MCCLOSKEY, Mr. MCDADE, Mr. MCKINNEY, Mr. MARKS, and Mrs. PETTIS):

H.R. 9804. A bill to provide for the civil rights of individuals within the jurisdiction of the United States; jointly, to the Committees on the Judiciary, and Education and Labor.

By Mr. BUTLER (for himself, Mr. REGULA, Mr. RHODES, Mr. SARASIN, Mr. STANTON, Mr. TRAXLER, Mr. TRIBLE, Mr. WALKER, and Mr. BOB WILSON):

H.R. 9805. A bill to provide for the civil rights of individuals within the jurisdiction of the United States; jointly, to the Committees on the Judiciary, and Education and Labor.

By Mr. CAVANAUGH:

H.R. 9806. A bill to repeal the carryover basis provisions added by the Tax Reform Act of 1976; to the Committee on Ways and Means.

By Mr. CONABLE:

H.R. 9807. A bill to provide that the innocent spouse rule shall apply for purposes of redetermining the liability for tax with respect to joint income tax returns for taxable years beginning after December 31, 1946, but before January 1, 1962, where such determination would otherwise be barred by res judicata; to the Committee on Ways and Means.

By Mr. CORCORAN of Illinois:

H.R. 9808. A bill to amend the Internal Revenue Code of 1954 to provide for standards concerning the treatment of payments by oil companies to foreign countries for purposes of the foreign tax credit; to the Committee on Ways and Means.

By Mr. DRINAN (for himself, Mr. CARR, Mr. GUDGER, Mr. GUYER, Mr. HARRINGTON, Mr. KRUEGER, Mr. MITCHELL of Maryland, Mr. STUMP, and Mr. WAXMAN):

H.R. 9809. A bill to amend title VII of the Civil Rights Act of 1964 to provide increased protection to employees' religious observances and practices; to the Committee on Education and Labor.

By Mr. BLOUIN (for himself, and Mr. QUIE):

H.R. 9810. A bill to amend Public Law 874, 81st Congress, to provide for the basic education of Indian children, to provide improvements in the delivery of other educational services for Indians, and for other purposes; to the Committee on Education and Labor.

By Mr. FREY:

H.R. 9811. A bill to authorize the Secretary of Housing and Urban Development to make grants to local agencies for converting closed school buildings to efficient, alternate use, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. HANSEN:

H.R. 9812. A bill providing that any State legislature which rescinds its ratification of a proposed amendment to the Constitution shall not be considered to have ratified the amendment; to the Committee on the Judiciary.

By Mr. JENRETTE:

H.R. 9813. A bill to amend the civil service retirement provisions of title 5, United States Code, to allow credit for service performed by a special agent of the Bureau of the Census who was paid on a piece price basis; to the Committee on Post Office and Civil Service.

By Mr. McKINNEY (for himself, Mr. BAUCUS, Mr. BEDELL, Mr. CAPUTO, Mrs. COLLINS of Illinois, Mr. EILBERG, Mr. FORSYTHE, Mr. HARRINGTON, Mr. MCHUGH, Mr. PATTISON of New York, Mr. PRICE, Mrs. SPELLMAN, and Mr. STEERS):

H.R. 9814. A bill to require the Federal Trade Commission to monitor the industries which produce supplies from, and hold reserves of, energy sources and, under certain circumstances, to take action to prevent noncompetitive market situations from evolving or continuing, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. MURPHY of New York (for himself, Mr. EDWARDS of Oklahoma, Mr. BURKE of Florida, and Mr. HILLIS):

H.R. 9815. A bill to amend the Canal Zone Code in order to establish procedures with respect to the disposition of land in the Canal Zone; to the Committee on Merchant Marine and Fisheries.

By Mr. PEPPER:

H.R. 9816. A bill to establish a program of drug benefits for the aged; to establish a Drug Benefits Council and other appropriate management controls to provide for the efficient administration of such program; and to require the conducting of certain studies and experiments, to enhance the capability of the Secretary of Health, Education, and Welfare to administer such programs, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ROE (for himself and Mr. DICKS):

H.R. 9817. A bill to authorize the Administrator of the National Fire Prevention and Control Administration to make grants to volunteer fire departments which are unable to purchase necessary firefighting equipment because of the increased cost of such equipment as the result of inflation; to the Committee on Banking, Finance and Urban Affairs.

H.R. 9818. A bill to amend the Internal Revenue Code of 1954 to provide a deduction for clothing purchased and used by taxpayers serving in volunteer firefighting organizations; to the Committee on Ways and Means.

By Mr. RUPPE:

H.R. 9819. A bill to amend the Shipping Act, 1916, to provide a solution to rebating practices in the U.S. foreign trade; to the Committee on Merchant Marine and Fisheries.

By Mr. RUPPE (for himself, Mr. HARRINGTON, Mrs. SPELLMAN, Mr. LE FANTE, Mr. GOODLING, Mr. HOWARD, Mr. FORSYTHE, Mr. EILBERG, Mr. EDGAR, Mr. AKAKA, and Mr. CORRADA):

H.R. 9820. A bill to provide that a portion of the savings which are realized by the Department of Defense as a result of the closure or realinement of a military base in a community shall be returned to the community for economic recovery and adjustment; to the Committee on Armed Services.

By Mr. STAGGERS:

H.R. 9821. A bill to establish the New River National Scenic Riverway, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. THORNTON (for himself, Mr. AUCOIN, Mr. BALDUS, Mr. BAUCUS, Mr. BEDELL, Mr. BROWN of California, Mr. CHAPPELL, Mr. FUQUA, Mr. GRASSLEY, Mr. HUCKABY, Mr. ICHORD, Mr. JEFFORDS, Mr. MATHIS, Mr. NOLAN, Mr. SIMON, Mr. THONE, and Mr. WATKINS):

H.R. 9822. A bill to amend the Packers and Stockyards Act of 1921; to the Committee on Agriculture.

By Mr. VENTO (for himself, Mr. CORRADA, Mr. SEIBERLING, Mr. WALGREN, Mr. PATTERSON of California, Mr. BADILLO, Mr. CORNELL, Mr. HARRINGTON, Mr. AKAKA, Mr. CARR, Mr. BONIOR, Mr. EDGAR, Mr. BEDELL, Mr. NOLAN, Mrs. COLLINS of Illinois, Mr. CORNWELL, Mr. OBERSTAR, Mr. WEISS, Ms. MIKULSKI, Mr. WON PAT, Mr. WEAVER, and Mr. KREBS):

H.R. 9823. A bill to amend the Atomic Energy Act of 1954 and the Energy Reorganization Act of 1974 to require the Nuclear Regulatory Commission to establish and enforce standards for the safe, long-term storage of high-level radioactive wastes, spent fuel rods, and any other radioactive wastes containing transuranic elements; to require the Energy Research and Development Administration to restore the background radiation levels at abandoned uranium mine and mill sites to levels which existed before operations commenced at the sites; to permit the States to establish and enforce nuclear waste storage standards which are more stringent than Federal standards; and for other purposes; jointly, to the Committees on Armed Services, Interior and Insular Affairs, and Interstate and Foreign Commerce.

By Mr. WOLFF (for himself and Mr. BEDELL):

H.R. 9824. A bill to amend title 38, United States Code, to establish a loan program to provide educational assistance to Vietnam-era veterans and their eligible dependents who were unable to complete a program of education before the expiration of their eligibility for benefits under the GI bill, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. JENRETTE (for himself, Mr. SISK, Mr. CORRADA, Mr. DERWINSKI, Mr. EILBERG, Mr. VENTO, Mr. MURPHY of Pennsylvania, Mr. DUNCAN of Tennessee, Mr. COHEN, Mr. MCCLORY, Mr. LEHMAN, Mr. GUYER, Mr. WINN, Mr. HUGHES, Mr. LENT, Mr. HEFTEL, Mr. LE FANTE, Mr. MAZZOLI, Mr. GILMAN, Mr. WALKER, Mr. CORNWELL, Mr. SANTINI, Mr. KEMP, and Mr. MARRIOTT):

H. Con. Res. 391. Concurrent resolution relating to the resolution of certain issues in United States-Cuban relations; to the Committee on International Relations.

By Mr. NIX:

H. Res. 880. Resolution relative to customs duties on textile, apparel, and fiber products; to the Committee on Ways and Means.

By Mr. SNYDER:

H. Res. 881. Resolution expressing the sense of the House of Representatives with respect to the establishment of a national telecommunications policy; to the Committee on Interstate and Foreign Commerce.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 6805

By Mr. GLICKMAN:

Strike out all after the enacting clause of the amendment in the nature of a substitute made in order by H. Res. 872, and insert the following:

That this Act may be cited as the "Consumer Protection Act of 1977."

SEC. 2. DECLARATION OF POLICY.

(a) FINDINGS.—The Congress finds and declares the following:

(1) In the execution of its constitutional and statuory responsibilities, the Federal Government and the agencies thereof—

(A) should consistently, completely, and adequately represent the interests of consumers;

(B) should not promulgate regulations or adopt policies without first developing and considering information as to their impact on consumers; and

(C) should act in such manner as to protect and serve the interests of consumers.

(2) The most effective and cost-efficient way to assure such representation and protection of consumers is to establish—

(A) an independent Office of Consumer Counsel within each significant operating unit of the executive branch of the Federal Government; and

(B) a Division of Consumer Protection and Advocacy in the Department of Justice to assist and support such Offices and to serve as the coordinating agency for consumer advocacy.

(b) PURPOSES.—

(1) It is the purpose of the Congress in this Act to reorganize each significant oper-

ating unit of the executive branch to the extent necessary to assure that each such unit, through an independent Office of Consumer Counsel, maintains internal processes and procedures for adequately representing, protecting, and serving the interests of consumers at all stages in, and in all phases of, the formulation, implementation, and review of policies, programs, regulations, and legislative recommendations.

(2) It shall be the specific purpose of each Office to represent the interests of consumers before and within the Federal agency of which it is a part; to receive, transmit, evaluate, and report on consumer complaints; to develop and disseminate information of interest to consumers; and to perform other functions to protect and promote the interests of consumers. In the exercise of its functions, powers, and duties, each such Office shall be independent of all other offices and officers of the agency of which it is a part.

(3) It shall be the specific purpose of the Division of Consumer Protection and Advocacy of the Department of Justice, in addition to such other functions as may be assigned to such Division by law or by the Attorney General, to—

(A) provide data, information, advocacy-training, and other appropriate services to each Office and to provide a forum for coordinating the activities and assuring the independence and effectiveness of the Offices;

(B) assist any Consumer Counsel in representing the interests of consumers before the relevant Federal agency;

(C) promote, through appropriate litigation, legislative recommendation, and recommendations to any Office the protection of consumers with respect to—

(i) the safety, quality, purity, potency, healthfulness, durability, performance, repairability, effectiveness, dependability, availability, truthful representation, and cost of any goods, services, credit or other property;

(ii) assuring consumer choice and competitive markets;

(iii) preventing unfair or deceptive trade practices and restraints on trade; and

(iv) the legal rights and access of consumers to speedy, effective, and inexpensive mechanisms for the resolution of consumer controversies.

SEC. 3. DEFINITIONS.

As used in this Act, unless the context otherwise requires—

(1) The term "agency action" includes the whole or any part of an agency "rule", "order", "license", "sanction", or "relief" (as defined in section 551 of title 5, United States Code), or the equivalent thereof, the denial thereof, or the failure to act.

(2) The term "agency activity" means any agency process, or phase thereof, conducted pursuant to any authority, or responsibility under law.

(3) The term "agency proceeding" means agency "rulemaking", "adjudication", or "licensing" (as defined in section 551 of title 5, United States Code).

(4) The term "commerce" means trade, traffic, commerce, or transportation, (A) between a place in a State and any place outside of such State, or (B) which affects trade, traffic, commerce, or transportation described in clause (A).

(5) The term "consumer" means any individual who uses, purchases, acquires, attempts to purchase or acquire, or is offered or furnished any goods, services, credit, or other property for personal, family, agricultural, or household purposes.

(6) The term "Consumer Counsel" means, with respect to a Federal agency, the officer who is appointed pursuant to this Act to represent the interest of consumers in accordance with this Act.

(7) The term "Federal agency" or "agency" means the Departments of Agriculture, Defense, Commerce, Energy, Health, Education, and Welfare (other than the Food and Drug Administration), Housing and Urban Development, Interior, Labor, Transportation, and Treasury; the Civil Aeronautics Board; the Consumer Product Safety Commission; the Environmental Protection Agency; the Federal Communications Commission; the Federal Maritime Commission; the Federal Trade Commission; the Interstate Commerce Commission; the Food and Drug Administration; the National Transportation Safety Board; the Securities and Exchange Commission; the General Services Administration; the Small Business Administration; the Postal Rate Commission; and any successors thereto.

(8) The term "Federal court" means any court of the United States.

(9) The term "interest of consumers" means any substantial health, safety, or economic concern of consumers involving goods, services, credit, or other property, or the advertising or other representation thereof, which is or may become the subject of any commercial offer or any transaction affecting commerce or which may be related to any term or condition of such offer or transaction. Such offer or transaction need not involve the payment or promise of a consideration.

(10) The term "Office" means any Office of Consumer Counsel established pursuant to section 4 of this Act.

(11) The term "participation" includes any form of submission.

(12) The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(13) The term "submission" means participation through the presentation or communication of relevant evidence, documents, arguments, or other information.

SEC. 4. ESTABLISHMENT.

(a) OFFICES OF CONSUMER COUNSEL.

(1)(A) There shall be established within each Federal agency, within 60 days after the date of enactment of this Act and pursuant to a plan of reorganization prepared by the head of each such agency to provide for adequate representation of the interests of consumers, an independent Office of Consumer Counsel. Such reorganization shall provide that all existing consumer offices and staff within such agency shall be combined into that agency's Office of Consumer Counsel.

(B)(i) Except to the extent prohibited by law, the Director of the Office of Management and Budget is authorized and directed to review all other Federal programs and activities which have a consumer information advocacy, or related function and identify those which would overlap, duplicate or conflict with the functions performed by these Offices. This review shall be carried out as a part of the President's first budget review process following establishment of the Office.

(ii) The Director of the Office of Management and Budget shall, one week after the submission of the President's budget to the Congress, report to the Committees on Appropriations and Government Operations of the House of Representatives and Appropriations and Governmental Affairs of the Senate the results of the review required by paragraph (1) of this subsection. Such report shall include (A) all activities identified as a part of the Office of Management Budget's review: (B) a description of those activities including their costs during the fiscal year and how those activities overlap, duplicate or conflict with the responsibilities of these Offices; and (C) the budgetary recommendations to the Congress to eliminate such activities.

(iii) Nothing in this subsection shall be construed to prohibit the Director of the Office of Management and Budget from including in the report required by paragraph (2) of this subsection, comments on the consumer related activities of independent regulatory agencies that overlap, duplicate, or conflict with the functions performed by these Offices.

(2) Each such Office shall be directed and administered by a Consumer Counsel. Each Consumer Counsel shall be appointed by the President, by and with the advice and consent of the Senate, for a fixed term of office not to exceed 3 years. The terms of office of the Consumer Counsel appointed initially shall be staggered, in a manner campatible with the oversight responsibilities of the Congress, to assure that all such terms do not expire simultaneously. Each Consumer Counsel shall be compensated at a rate not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of title 5, United States Code. Each Consumer Counsel shall be an individual who, by reason of training or experience, and attainments, is qualified to represent effectively and independently the interests of consumers. Upon the expiration of his term of office, each Consumer Counsel shall continue in office until reappointment or until the appointment and qualification of his successor.

(b) DIVISION OF CONSUMER PROTECTION AND ADVOCACY IN THE DEPARTMENT OF JUSTICE.—

(1) There is established, within the Department of Justice, a Division of Consumer Protection and Advocacy, which shall be directed by the Assistant Attorney General for Consumer Protection and Advocacy.

(2) Chapter 31 of title 28, United States Code, is amended by adding immediately after section 507 thereof, the following new section 507a:

"§ 507a. Assistant Attorney General for Consumer Protection and Advocacy

"The President shall appoint, by and with the advice and consent of the Senate, an Assistant Attorney General for Consumer Protection and Advocacy, pursuant to the Consumer Protection Act of 1977.".

(3) The analysis of chapter 31 of title 28, United States Code, is amended by adding at the appropriate place the following new item:

"507a. Assistant Attorney General for Consumer Protection and Advocacy.".

(4) Paragraph (19) of section 5315 of title 5, United States Code, is amended by striking out "(9)" and inserting in lieu thereof "(10)".

SEC. 5. POWERS AND DUTIES OF EACH CONSUMER COUNSEL.

(a) IN GENERAL.—Each Consumer Counsel shall be responsible for exercising the powers, duties, and functions provided for in this Act.

(b) SPECIFIC POWERS AND DUTIES.—Each Consumer Counsel may, in carrying out his functions under this Act and to the extent funds are appropriated—

(1) select, appoint, employ, and fix the compensation (subject to the civil service and classification laws) of such officers and employees as are necessary to carry out the provisions of this Act, and shall prescribe the authority and duties of such officers and employees;

(2) employ and pay the expenses of experts and consultants, in accordance with section 3109 of title 5, United States Code, at daily rates (including traveltime) not in excess of the maximum rate of pay for grade GS–18, as provided in section 5332 of such title 5;

(3) promulgate, in accordance with the applicable provisions of chapter 5 of title 5, United States Code, such rules, regulations, and procedures as may be necessary to carry out the provisions of this Act and to assure fairness to all affected persons;

(4) delegate authority for the performance of any function to any officer or employee under his direction and supervision;

(5) utilize, with their consent, the services, personnel, and facilities of State, regional, local, and private agencies and instrumentalities;

(6) accept voluntary uncompensated services, notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b));

(7) conduct conferences and hearings and otherwise secure data and expression of opinion;

(8) accept unconditional gifts or donations of services, money, or property (real, personal, or mixed, tangible or intangible);

(9) designate representatives to maintain effective liaison with (A) the Assistant Attorney General for Consumer Protection and Advocacy, (B) other Offices, and (C) State and local agencies carrying out programs and activities related to the interests of consumers; and

(10) perform such other administrative activities as may be necessary for the effective fulfillment of his duties and functions.

(c) REPORTS.—Each Consumer Counsel shall prepare and submit a quarterly report, on the activities of his Office to the head of the Federal agency of which such Office is a part and to the Assistant Attorney General for Consumer Protection and Advocacy. The annual report of each Federal agency shall include a separate section, which shall be prepared independently by the Consumer Counsel for such agency, on the consumer protection activities of such agency and on such agency's effectiveness in representing, protecting, and serving the interests of consumers. Each such separate section of each such annual report shall include, but not be limited to, a description and analysis of—

(1) the activities of the Office including its representation of the interests of consumers;

(2) the relevant Federal agency actions and Federal court decisions affecting the interests of consumers;

(3) the appropriation by Congress for the Office, the distribution of appropriated funds for the current fiscal year, and a general estimate of the resource requirements of the Office for each of the next 3 fiscal years; and

(4) the extent of participation by consumers in the activities of the Office, and the effectiveness of the representation of consumers before the agency of which the Office is a part.

(d) DUTIES OF EACH FEDERAL AGENCY.—Each office and officer of the agency of which an Office is a part shall provide such Office with such information and data as the Consumer Counsel requests, except as provided in section 11 of this Act. The budget requests and budget estimates of each Office shall be submitted by the agency of which it is a part directly to the Congress, and moneys appropriated for the use of such Office shall not be used by the agency of which it is a part for any other purpose.

SEC. 6. FUNCTIONS OF EACH CONSUMER COUNSEL.

Each Consumer Counsel shall—

(1) represent the interests of consumers within and before the agency of which his Office is a part to the extent authorized by section 7 of this Act;

(2) conduct and support research, and studies, to the extent authorized by section 10 of this Act;

(3) submit recommendations annually, to the Assistant Attorney General for Consumer Protection and Advocacy, the appropriate committees of the Congress, and the head of the agency of which his Office is a part, on measures to improve the operation of such agency and of the Federal Government in general in the protection and promotion of the interests of consumers, including, but not limited to, any reorganization recommendations, and recommendations relative to the elimination of duplicative or unnecessary rules and regulations promulgated by such agency which it considers not to be in the consumers' interests;

(4) receive, transmit to appropriate officials, and make publicly available consumer complaints, to the extent authorized in section 8 of this Act;

(5) conduct conferences, surveys, and investigations, including economic surveys, concerning the needs, interests, and problems of consumers: *Provided*, That such conferences, surveys, or investigations are not duplicative in significant degree of similar activities conducted by other Federal officials or agencies;

(6) cooperate with State and local governments and encourage private enterprise in the promotion and protection of the interests of consumers;

(7) keep the appropriate committees of Congress fully and currently informed of all the activities of his Office;

(8) encourage the adoption and expansion of effective consumer education programs;

(9) encourage the application and use of new technology, including patents and inventions, for the promotion and protection of the interests of consumers;

(10) encourage the development of informal dispute settlement procedures involving consumers;

(11) encourage meaningful participation by consumers in the activities of his Office;

(12) publish information and material obtained and developed in carrying out his responsibilities under this Act, including, but not limited to, a consumer register of matters that may be useful to consumers; and

(13) perform other activities which are recommended by the Assistant Attorney General for Consumer Protection and Advocacy or which he deems necessary for the effective fulfillment of his duties and functions.

SEC. 7. REPRESENTATION OF CONSUMERS

(a) ADMINISTRATIVE REPRESENTATION.—(1) If a Consumer Counsel finds that the result of a relevant proceeding or activity of the Federal agency of which his Office is a part may substantially affect an interest of consumers, such Consumer Counsel may, as of right, intervene as a party or otherwise participate in such proceeding or activity, for the purpose of representing an interest of consumers. If a Consumer Counsel finds, with respect to the Federal agency of which his Office is a part, that the result of any relevant agency proceeding, which—

(A) is subject to the provisions of section 553, 554, 556, or 557 of title 5, United States Code;

(B) involves a hearing that is required by any statute, regulation, or practice;

(C) is conducted on the record after opportunity for an agency hearing; or

(D) is subject to a requirement of public notice and opportunity for comment,

may substantially affect an interest of consumers, such Consumer Counsel may, as of right, intervene as a party or otherwise participate in such proceeding, for the purpose of representing an interest of consumers. A Consumer Counsel shall refrain from intervening as a party in any proceeding unless such intervention is necessary to represent adequately an interest of consumers. Each Consumer Counsel shall comply with the relevant statutes and procedural rules of general applicability governing the timing of intervention or participation in such Federal agency proceeding or activity. Upon intervening or participating in a Federal agency proceeding or activity, a Consumer Counsel shall comply with any relevant statutes and procedural rules of general applicability. The intervention or other participation of a Consumer Counsel, pursuant to this subsection, shall not affect the obligation of the Federal agency involved to assure procedural fairness to all participants.

(2) The Assistant Attorney General for Consumer Protection and Advocacy may, upon the request of a Consumer Counsel, assist such Consumer Counsel in any such Counsel's intervention or other participation in that Counsel's Federal agency proceeding or activity, pursuant to this subsection, and may, in an appropriate circumstance, recommend such intervention or other participation to any applicable Consumer Counsel.

(3) Whenever a Consumer Counsel determines to intervene or otherwise participate in his agency's proceeding pursuant to this subsection, such Consumer Counsel shall publish in the Federal Register a statement setting forth his findings under paragraph (1) and the specific interest of consumers sought to be protected. Upon intervening or participating, such Consumer Counsel shall file a copy of such statement in the proceeding.

(b) JUDICIAL REPRESENTATION.—

(1) The Assistant Attorney General for Consumer Protection and Advocacy may, as of right, and in the manner prescribed by law for an aggrieved person, initiate, intervene or otherwise participate in a civil action in a Federal court for the review of an agency action of any Federal agency if such Assistant Attorney General determines that such action may substantially affect an interest of consumers. If the applicable Consumer Counsel did not intervene or otherwise participate in the relevant Federal agency proceeding or activity out of which such agency action arose, the court shall determine whether the initiation of a judicial proceeding pursuant to this subsection would impede or would be necessary to preserve the interests of justice.

(2) If the Consumer Counsel believes that the initiation of a Federal civil action by the Assistant Attorney General, or the intervention in such Federal civil action, is warranted, it shall recommend such action to the Assistant Attorney General, who shall take such action if the conditions outlined in subparagraph (1) of this section are met. The Consumer Counsel shall have no power and authority to initiate or intervene in any Federal court proceeding.

(3) The initiation of a judicial proceeding, or any other participation, by the Assistant Attorney General for Consumer Protection and Advocacy, in a judicial proceeding pursuant to this subsection shall not alter or affect the scope of review otherwise applicable to the agency action involved.

(c) REQUEST FOR JUDICIAL REVIEW.—Whenever a Consumer Counsel, or the Assistant Attorney General for Consumer Protection and Advocacy, determines it to be in the interest of consumers, he may request the relevant Federal agency to initiate a judicial proceeding for review, or to take such other action, as may be authorized by law with respect to such agency. If such Federal agency fails to take the action requested, it shall promptly notify such Consumer Counsel or Assistant Attorney General of its reasons therefor, and such notification shall be a matter of public record.

(d) TITLE OF APPEARANCES.—Appearances before a federal agency by a Consumer Counsel under this Act shall be in the name of his Office and shall be made by qualified representatives designated by the consumer counsel involved. Appearances by the Assistant Attorney General for Consumer Protection and Advocacy shall be in the name of the United States unless the Attorney General otherwise provides, in which case such

an appearance shall be in the name of such Assistant Attorney General, and shall be made by qualified representatives of the Department of Justice designated by such Assistant Attorney General and in appearances before federal agencies by qualified representatives designated by the Consumer Counsel involved.

(e) POWERS.—A Consumer Counsel is authorized, with respect to any Federal agency proceeding in which such Consumer Counsel is intervening or otherwise participating, to request such Federal agency to issue such orders as it is authorized to issue pursuant to its statutory powers, for the copying of documents, papers, and records; for the summoning of witnesses and the production of books and papers; and for the submission of information in writing. Such Federal agency shall issue any such orders upon a statement or showing by such Consumer Counsel as to the general relevance or reasonableness thereof.

(f) PROHIBITION.—No Consumer Counsel is authorized to initiate or intervene in any proceedings or activity before any State or local agency or court.

(g) RULES CHANGES.—Each Federal agency shall review its rules of procedure of general applicability, and, after consultation with its Consumer Counsel, shall issue any additional rules or modifications of existing rules which may be necessary to provide for such Consumer Counsel's orderly intervention and other participation, in accordance with this section, in its proceedings and activities which may substantially affect the interests of consumers.

SEC. 8. CONSUMER COMPLAINTS.

(a) IN GENERAL.—Whenever a Consumer Counsel receives from any person any complaint or other information which discloses—

(1) an apparent violation of law, agency rule or order, or a judgment, decree, or order of a Federal court relating to an interest of consumers; or

(2) a commercial, trade, or other practice which is detrimental to an interest of consumers;

such Consumer Counsel shall, unless he determines that such complaint or information is frivolous or outside the jurisdiction of the agency of which his Office is a part, promptly transmit such complaint or information to the Federal official which has the authority to enforce any relevant law or to take appropriate remedial action. Each Federal agency shall keep the appropriate Consumer Counsel informed to the greatest extent practicable of any action which it is taking on complaints transmitted by him.

(b) NOTIFICATION.—Each Consumer Counsel shall, to the greatest extent practicable, notify producers, distributors, retailers, lenders, or suppliers of goods, services, and credit of all complaints of any significance concerning them received or developed under this section, unless such Consumer Counsel determines that to do so is likely to prejudice or impede an action, investigation, or prosecution concerning an alleged violation of law.

(c) PUBLIC AVAILABILITY.—Each Consumer Counsel shall maintain a public document room for public inspection and copying (at a reasonable charge, not to exceed cost), containing an up-to-date listing of all consumer complaints of any significance which such Consumer Counsel has received, arranged in meaningful and useful categories, together with annotations of actions taken in response thereto. Unless a Consumer Counsel, for good cause, determines not to make any specific complaint available, complaints listed shall be made available for public inspection and copying: *Provided*, That—

(1) the party complained against has had a reasonable time to comment on such complaint and such comment, when received, is displayed together with the complaint;

(2) the Federal official to whom the complaint has been referred has had reasonable time to notify the Consumer Counsel what action, if any, he intends to take with respect to the complaint; and

(3) no unsigned complaints shall be placed in the public document room.

(d) EVALUATION OF AND REPORTING ON COMPLAINT HANDLING PROCESSES.—Each Consumer Counsel shall evaluate the complaints received and transmitted and the effectiveness and efficiency with which such complaints are acted upon by the Federal agency of which his Office is a part. A summary of such evaluations, and recommendations for improvement, shall be included in the reports prepared by each such Consumer Counsel pursuant to section 5(c).

SEC. 9. CONSUMER INFORMATION.

(a) IN GENERAL.—In order to carry out the purposes of this Act, each Consumer Counsel shall—

(1) develop on his own initiative and shall, subject to the other provisions of this Act, gather from the other offices and officers of the Federal agency of which his Office is a part and from any other source; and

(2) disseminate to the public (in such manner, at such times, and in such form as he determines to be most effective)

information, statistics, and other data, including, but not limited to, any matter over which such Federal agency has jurisdiction concerning—

(A) the functions and duties of the Office;

(B) consumer products and services;

(C) problems encountered by consumers generally or conditions, situations, developments, or practices which may adversely affect consumers; and

(D) an index of notices of hearings, proposed and final rules and orders, and other pertinent activities of such Federal agency that may affect consumers.

(b) DUTY OF COOPERATION.—All Federal agencies which possess information which would be useful to consumers shall cooperate with the appropriate Consumer Counsel in making information developed and gathered under subsection (a) available to the public in understandable form.

SEC. 10. STUDIES.

Each Consumer Counsel may conduct, support, or assist research, studies, plans, investigations, conferences, and surveys concerning the interests of consumers: *Provided*, That such activities are not unnecessarily duplicative of similar efforts by other Consumer Counsels for any Federal agency, or by similar efforts otherwise conducted by any Federal agency, and that such activities shall in no way constitute the creation of product testing laboratories.

SEC. 11. ACCESS TO INFORMATION BY CONSUMER COUNSELS

(a) IN GENERAL.—Upon written request by a Consumer Counsel, the Federal agency of which his Office is a part, shall furnish or allow access to all documents, papers, and records in its possession which such Consumer Counsel deems necessary for the performance of his functions and shall furnish, at cost, copies of specified documents, papers, and records. Notwithstanding this subsection, a Federal agency may deny a Consumer Counsel access to and copies of—

(1) information classified in the interest of national defense or national security by an individual authorized to classify such information under applicable Executive orders or statutes, and restricted data whose dissemination is controlled pursuant to the Atomic Energy Act (42 U.S.C. 2011 et seq.);

(2) personnel and medical files and similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy;

(3) information which such Federal agency is expressly prohibited by law from disclosing to another Federal agency, including, but not limited to, such expressly prohibited information contained in or related to examination, operating, or condition reports concerning any individual financial institution prepared by, on behalf of, or for the use of an agency responsible for regulation or supervision of financial institutions;

(4) information which would disclose the financial condition of individuals who are customers of financial institutions; and

(5) trade secrets and commercial or financial information described in section 552(b)(4) of title 5, United States Code—

(A) obtained prior to the effective date of this Act by such Federal agency, if the agency had agreed to treat and has treated such information as privileged or confidential and states in writing to the appropriate Consumer Counsel that, taking into account the nature of the assurances given, the character of the information requested, and the purpose, as stated by the Consumer Counsel, for which access is sought, to permit such access would constitute a breach of faith by such agency; or

(B) obtain subsequent to the effective date of this Act by such Federal agency, if the agency has agreed in writing as a condition of receipt to treat such information as privileged or confidential, on the basis of its reasonable determination set forth in writing that such information was not obtainable without such an agreement and that failure to obtain such information would seriously impair performance of such agency's function.

(b) ACCESS TO TRADE SECRET INFORMATION.—Before granting a Consumer Counsel access to trade secrets or commercial or financial information described in section 552(b)(4) of title 5, United States Code, the Federal agency of which such Counsel's Office is a part shall notify the person who provided such information of its intention to provide such access, and shall afford such person a reasonable opportunity, not to exceed 10 days, to comment thereon or seek injunctive relief prohibitnig such access. If a Federal agency denies access to any information to a Consumer Counsel, pursuant to this subsection, the head of such agency and the appropriate Consumer Counsel (and the Assistant Attorney General for Consumer Protection and Advocacy, if requested by such Counsel) shall seek to find a means of providing the information in such other form, or under such conditions, as will meet such agency's objections.

SEC. 12. DISCLOSURE OF INFORMATION BY CONSUMERS COUNSEL.

(a) IN GENERAL.—Except as provided in this section, section 552 of title 5, United States Code, shall govern the release of information by any Consumer Counsel, by any employee or agent of any Office, or by the Assistant Attorney General for Consumer Protection and Advocacy.

(b) PROHIBITION.—No Consumer Counsel, or officer or employee of any Office shall disclose to the public any information which was received solely from its Federal agency when such agency has notified the Consumer Counsel that—

(1) such information is within any exception set forth in section 552(b) of title 5, United States Code; and

(2) such agency has determined that such information should not be made available to the public.

If such Federal agency specifies that any such information may be disclosed to the public in a particular form or manner, such information may be disclosed by such Consumer Counsel in the form or manner specified.

SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

For purposes of this Act, existing appropriated funds should be utilized to the greatest extent possible. However, there are authorized to be appropriated such sums as are necessary, not to exceed for each office $500,000 for the fiscal year ending September 30, 1978.

SEC. 14. EFFECTIVE DATE.

(a) This Act shall take effect sixty calendar days following the date on which this Act is approved, or on such earlier date as the President shall prescribe and publish in the Federal Register.

(b) Any of the officers provided for in this Act may (notwithstanding subsection (a)) be appointed in the manner provided for in this Act at any time after the date of the enactment of this Act. Such officers shall be compensated from the day they first take office at the rates provided for in this Act.

SEC. 15. SEPARABILITY.

If any provision of this Act is declared unconstitutional or the applicability thereof to any person or circumstance is held invalid, extended, that these Offices be reorganized, the constitutionality and effectiveness of the remainder of this Act and the applicability thereof to any person and circumstances shall not be affected thereby.

SEC. 16. TERMINATION.

(a) This Act shall terminate five years after the effective date of this Act, and the several Offices of Consumer Counsel and the Division of Consumer Protection and Advocacy of the Department of Justice shall be abolished as of the date of such termination.

(b) The President shall—

(1) commencing two years prior to the date of termination specified in subsection (a), conduct a review of these Offices' overall performance including, but not limited to, a study of the Offices' effectiveness in accomplishing their general purposes and promoting the general welfare; and

(2) not later than twelve months prior to the termination date specified in subsection (a), make public and submit to each House of Congress a report on the finding of the investigation conducted pursuant to paragraph (1), such report to include a recommendation that the authority of this Act be or that the authority of this Act be allowed to lapse.

(c) The committees of the House and of the Senate having primary oversight responsibility with respect to the Offices shall, not later than six months prior to the termination date specified in subsection (a), conduct an inquiry into the performance and effectiveness of the Offices and make public a report of their findings, conclusions, and recommendations, including proposed legislation for such extension or reorganization of these Offices as they deem appropriate.

H.R. 9718

By Mr. HOLLENBECK:

Section 9(d), on page 19, line 11, strike out the period and insert in lieu thereof the following: ", nor shall anything in this Act be construed to authorize the Administrator to request or direct the testing of a consumer product or service when testing has been completed on the performance of that consumer product or service or a substantially identical consumer product or service within 18 months of the Administrator's request, unless a significant hazard to the consumer can be demonstrated."

SENATE—*Friday, October 28, 1977*

(Legislative day of Friday, October 21, 1977)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. PATRICK J. LEAHY, a Senator from the State of Vermont.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Lord, as we go to our work this day, help us to go with joy in our hearts and peace in our souls. Show us clearly what our duty is and help us to be faithful in doing it. Preserve us from impatience and depression. Increase our faith, sharpen our intellect, mellow our judgment, deepen our spiritual insight. Keep our vision high and our goals clear. Grant us some part in the fulfillment of Thy mighty purpose in the world.

In the Master's name, we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 28, 1977.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable PATRICK J. LEAHY, a Senator from the State of Vermont, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. LEAHY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, Thursday, October 27, 1977, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield briefly to the Senator from Connecticut.

ORDER REFERRING S. 2236 JOINTLY TO THE COMMITTEE ON COMMERCE AND THE COMMITTEE ON FOREIGN RELATIONS

Mr. RIBICOFF. Mr. President, I ask unanimous consent that when the Committee on Governmental Affairs reports S. 2236, a bill to effect certain reorganization of the Federal Government to strengthen Federal programs and policies for combating international and domestic terrorism, it be simultaneously and jointly referred to the Committee on Commerce and the Committee on Foreign Relations for a period of 30 days.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I have no further need for my time.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I have no need for my time under the standing order. I yield it back.

SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Alabama (Mr. ALLEN) is recognized for not to exceed 15 minutes.

Mr. ALLEN. I thank the Chair.

CONSUMER PROTECTION AGENCY PREDICTIONS COME TRUE

Mr. ALLEN. Mr. President, in June of this year I noted that support for the proposed Agency for Consumer Advocacy, sometimes called the Consumer Protection Agency, was on the wane. I pointed out that the proponents of this agency, faced with growing concern in the Congress over adding to the Federal bureaucracy, had begun to trade principles for votes by exempting first one, then another area of Government regulatory activity of concern to consumers, by placing whole segments of the economy beyond the reach of the proposed advocate, and by publicly downplaying the considerable powers which the proposed new agency would be given.

Since June, this process has accelerated. Today, I would like to share two examples of this with my colleagues and the American public in these closing days of this 1st session of the 95th Congress, the 9th consecutive session of Congress in which efforts to create this unnecessary agency have failed.

The compromised compromise, I call this, for, as in previous years, a "new proposal" is being floated in an attempt to salvage the consumer agency. Some proponents are trying to sell it as a "compromise" in the House of Representatives in the hope of gaining a majority vote there prior to the adjournment of the current session of the Congress.

The new proposal calls for an Office of Consumer Representation, reflecting yet another in a long history of name changes designed to obscure the fact that proponents wish to create yet another independent agency and enlarge the Federal bureaucracy. The proposal would specify the consolidation of existing programs—a consolidation already anticipated in the existing bill—so long as the new agency could keep the money appropriated for these programs—in addition, I repeat, in addition to the full appropriations of the new agency. It also

would excise some of the objectionable snooping powers which have been proposed for the agency. It would, however, leave intact the vast powers of the agency to freely intervene in the affairs of sister Federal agencies and appeal their final decisions, which is the heart of the proposed legislation and long its most objectionable feature.

Nevertheless, the "new proposal" reflects another retreat for proponents of the consumer agency, the most recent retreat in a long line of such retreats which have made the legislation almost useless when compared with the original bills which so-called consumer advocates unequivocally have stated in the past were necessary to the concept of a Consumer Protection Agency. In 1972, at the very height of congressional support for the concept of an independent consumer agency and before all of the backsliding, exempting, and compromising which has now whittled it down into an Office of Consumer Representation, Mr. Ralph Nader even then called a similar compromise bill a "fraud on the consumer." In June of this year, I said that that 1972 bill was vastly superior to what its proponents would now be willing to accept. The "new proposal" has borne out that prediction.

In this new proposal, we have loopholes within loopholes. There is one area where proponents of the legislation do not seem the slightest bit embarrassed about minimizing the role which the new consumer champion will play. That area, of great concern to consumers, is international trade. This is downplayed, I can safely assume, to avoid exciting our friends in big labor who decided to support this legislation once they secured for themselves a major exemption which they thought protected their interests. Critics of the legislation, myself included, have pointed out that this exemption amounts to a loophole in the bill which threatens the interests of consumers and smacks of a political payoff.

Unhappily for big labor, however, it is becoming increasingly clear that the loophole has a loophole. The big labor exemption covers "labor disputes" and "labor agreements." While international trade resulting in increased foreign imports is a big labor problem—and certainly something that directly concerns me and the people I represent, the good people of Alabama—it is hardly a "labor dispute" or "labor agreement" within the meaning of the exemption.

This presents quite a problem for the proponents of the legislation, since they have been depending upon big labor support for passage of the bill at just the time that big labor and working men and women are becoming increasingly exercised over the loss of U.S. jobs to overseas manufacturers. In my own State of Alabama, steel and textile imports and shoes as well are having considerable impact on both manufacturers and jobs. Other industries are likewise suffering in almost every sector of our Nation.

It is especially timely, therefore, that we get a clear focus on the proposed new agency's expected role in such areas as determinations and recommendations on antidumping duties, countervailing duties, the escape clause, and even the advisory and negotiation process for tariffs and quotas. In short, this legislation would give the consumer advocate a role in the entire range of governmental activity which establishes our international trade policy, and we should have an idea of what its proponents expect will be the result of granting such authority to the new agency.

This is not a new question, it is just more important now. The preponderance of the testimony which the Congress has heard on this question indicates clearly that the consumer agency is expected to advocate increasing importation of foreign goods.

How, Mr. President, could labor support such a proposal as this?

For instance, the responses of Mr. Peter Schuck of Consumer's Union to questions asked by Congressman FUQUA in House hearings are enlightening:

Mr. SCHUCK. We are for more imports. We do not think the law should restrict imports. If it is economically justified to import, then people should be allowed to do so.

Mr. FUQUA. If you were the head of CPA, would you follow that line?

Mr. SCHUCK. In general, I think it is fair to assume that the CPA (Consumer Protection Agency) would tend to be in favor of free trade. I think that that is an interest that consumers do have and is a legitimate interest. It seems to me that there is ample scope for those other groups which are adversely affected by imports to make their views known.

So, Mr. President, we cannot look for the Consumer Protection Agency to meet the views of the working men and women of this country who are losing their jobs as a result of the importation into this country of foreign goods.

I suggest that the "other groups" which Mr. Schuck mentions include labor unions. A response which the noted consumer advocate, Betty Furness, gave to me during hearings on a consumer protection bill in this Chamber was quite explicit on this point. I had asked her about imports, quotas, and American jobs. She replied:

Miss FURNESS. It seems to me that the consumer interest is clear there. The consumer interest is to make available the goods at a lesser price.

What about the American working man or woman?

If the consumer does not want to buy those goods because of his loyalty to the labor movement, that is the consumer's decision. My decision would be to make the goods available.

Senator ALLEN. Let them come in, close U.S. plants and throw American workers out of jobs.

Miss FURNESS. That is a matter that is then regulated by the public in its own conscience. I think the goods should be available. I am not saying close the plants. I am saying, make the goods available and let the public decide whether they want to buy those goods or other goods.

As big labor's anxieties grow over imports, it is hardly surprising that proponents of this legislation have begun to downplay such viewpoints.

Mr. President, relevant to the matter of imports and the loss of U.S. jobs is the bill recently passed in the Senate to extend the basic operating authority of the Overseas Private Investment Corporation. I ask unanimous consent to have printed in the RECORD at this point a letter I received from the chief lobbyist of the American Federation of Labor and Congress of Industrial Organizations, Mr. Andrew J. Biemiller, urging me to vote against the OPIC bill, S. 1771, because of its practice of insuring foreign factories that manufactured products which subsequently find their way into American markets causing high unemployment and factory shutdowns.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OCTOBER 25, 1977.

Hon. JAMES B. ALLEN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ALLEN: The AFL–CIO urges you to vote against S. 1771, the extension of the Overseas Private Investment Corporation (OPIC). OPIC is a government agency which insures private investment abroad against losses from political risks. OPIC should be ended this year.

OPIC has continued to insure foreign factories that make textiles, steel, auto parts, sheet glass, TV parts, garments, leather goods and other products. Imports of these products are now flooding American markets. Thus OPIC insurance encourages the expansion of industries abroad, while American cities and towns are suffering high unemployment and lost tax bases from factory shutdowns at home.

OPIC continues to place the U.S. worker at a competitive disadvantage by insuring job-exports to low-wage countries where labor rights are denied and free unions do not exist. The six countries heading GAO's analysis of the high-concentration of OPIC insurance are countries where trade union rights are limited or non-existent. Such a policy of insuring the investment risks of some of our largest companies in such countries is not a justifiable Federal policy on behalf of U.S. labor.

OPIC has failed to carry out the 1974 Congressional mandate to transfer this insurance of private profit-making enterprise to private insurers. Instead, S. 1771 makes the United States government and, therefore the United States, the ultimate insurer of private investment abroad.

AFL–CIO urges you to vote against S. 1771, the extension of OPIC for another four years.

Sincerely,

ANDREW J. BIEMILLER,
Director, Department of Legislation.

Mr. ALLEN. Mr. President, although Mr. Biemiller's letter arrived in my office sometime after the Senate passed S. 1771 on October 25, I had already determined that the provisions of the legislation and many of the practices carried on under the auspices of OPIC were contrary to the interest of our domestic economy, and I voted against the bill. I should like to say, however, that if Mr. Biemiller and other officials of big labor feel that the Overseas Private Investment Corporation carries on policy contrary to the interest of U.S. jobs, then they are in for a real shock when the Agency for Consumer Advocacy or whatever it may be called goes into action. I urge big labor to study

the many ramifications upon our economy and upon U.S. jobs if the Agency for Consumer Advocacy bill is adopted. There will be no restrictions on the agency to intervene with our trade agencies, including the U.S. Department of State and, perhaps more important, the Office of the Special Representative for Trade Negotiations in the White House itself. When viewed in its entirety, I would not be surprised to see a labor-supported, anti-import amendment added to the discredited consumer agency bill, just for good measure.

AWAIT THE HOUSE

In June, I expressed some concern that proponents of the consumer agency would attempt to revive the bill by bringing it up first in the Senate, on the assumption that there is more support for the bill in this body. While skepticism in the Senate about this legislation may now have reached a level comparable with that in the House, I still believe that the Senate should not go forward until the House has acted.

I am gratified that the distinguished majority leader has publicly agreed with this view. All Senators and the American public should be grateful to him for sparing the Senate the careful, intense, and comprehensive scrutiny which I can guarantee that any consumer agency bill will receive here.

THE PANAMA CANAL TREATIES—NO. 21

Mr. ALLEN. Mr. President, on Tuesday, I talked at some length about the repressive character of the Panamanian Government and the impropriety of propping up the current Panamanian dictator through Senate advice and consent to a new treaty relationship which would tend to perpetuate the dictator's regime and which would be rightfully subject to repudiation by a later legitimate Panamanian Government. I emphasized that subsequent repudiation of these proposed treaties by a legitimate Panamanian Government was not in the least conjectural, but was instead a matter of plain record, inasmuch as leading Panamanian exiles have already testified to the House Committee on International Relations that, after the downfall of Dictator Torrijos, these treaties would not be worth the paper on which they are written.

To refresh the memory of Senators on this point, I will quote again from the remarks made before the House committee by Dr. Winston Robles, the chief spokesman for the Panamanian exile community here in the United States. Dr. Robles stated the matter in this fashion:

> Sooner or later the dictator will fall. Then the treaty is going to be rejected by Panamanians and their governments, and all the resentment against the dictatorship will be reflected in future relations between Panama and the United States.

Mr. President, Dr. Robles' remarks ought to be heeded. They foretell the great danger for the prospect of long-term friendship with the Republic of Panama and they foreshadow dire problems for the United States should Dictator Torrijos fall from power and thereby cease to be the guarantor of these treaties. The good will of Dictator Torrijos cannot be the linchpin of good relations with the people of Panama.

So, Mr. President, Dr. Robles' remarks ought to be taken into account. Since these treaties depend—and let us face the matter honestly—since these treaties depend only on the word of a smalltime gangster dictator, will we not soon see a vested interest in guaranteeing that this same smalltime dictator remains in power, or that his successor regime remains in power, in perpetuity? Do we not run the risk in ratifying these treaties of becoming in perpetuity the champions of a repressive government, rather than the consistent and active proponents of human rights in Panama, in the United States, and in all countries? Certainly, even a casual student of these proposed treaty arrangements would recognize that the United States, after ratification of these treaties, would have a heavy stake in seeing continued the Torrijos dictatorship, since virtually every provision of significance does depend on the continuance in power of the military regime now dominating Panama.

This latter point has not been lost on commentators who have followed this debate. Last Friday, the Washington Star carried a particularly perceptive editorial by Charles Bartlett which was entitled, "The Case for Delay on Panama." Mr. Bartlett suggests a third alternative to ratification or rejection of the Panama Canal treaties. Of course, Mr. President, in my judgment, these treaties should be promptly rejected, out of hand and without embarrassment, because these treaties are so laden with substantive and technical defects as to make them unworthy of favorable action in the Senate and, indeed, except for the gravity of the situation, unworthy even of efforts to correct by amendment the many obvious errors and the even more numerous latent flaws. But, Mr. President, notwithstanding my own opinion on this subject, I do feel that the third option suggested by Mr. Bartlett should receive close scrutiny inasmuch as his suggestion would at least prevent the United States from assuming the role of guarantor of the Torrijos dictatorship, one of the most repressive regimes ever to govern a nation in the Western Hemisphere. Mr. Bartlett suggests simply that the Senate defer action on the Panama Canal treaties until Torrijos loosens his death grip on the people of Panama.

Mr. President, Charles Bartlett describes his idea—and this may well, indeed, also be the idea of others, including some Members of the Senate—he describes his idea in this fashion:

> This strategy contemplates a delay as long as the three years which preceded Senate approval of the 1936 treaty. It has its roots in varied doubts on the character and intentions of President Omar Torrijos.

Mr. Bartlett apparently feels that delayed action on the treaties could cause some semblance of basic human rights to be reestablished in Panama. I, for one, believe it will take more than a delay in ratification of these treaties to reestablish democracy in Panama, but perhaps delay would cause some steps in the right direction to be initiated. In reviewing the recent public relations offensive launched by Dictator Torrijos, Mr. Bartlett seems to doubt that any significant steps have in fact been taken by the dictator to improve human rights in Panama, and he notes that the so-called free debate which preceded the plebiscite held last Sunday "could be the start of a new era or a mere gesture to propitiate the U.S. Senate." Mr. Bartlett rightfully suspcts this plebiscite was held strictly for stage effect here in the United States, and in further discussing the dim prospects for real progress in improving human rights in Panama, he goes on to point out the following:

> The signs are not encouraging. Gerardo Gonzalez, the former Communist leader who is now Torrijos' vice president, has asserted in recent days that Panamanians would not have had a new treaty if they had persisted in "the farce which in the past they considered democracy." He termed elections "a complex and repudiated system" which divided Panamanians into groups.

So, Mr. President, the Vice President of Panama, Gerardo Gonzalez, a former Communist, is not impressed with an electoral process which tends to divide voters into groups—presumably into groups not enamored of Torrijos' pro-Marxist regime. Former Communist Gonzalez—I assume he is no longer a Communist because that is what Mr. Bartlett reports—former Communist Gonzalez would undoubtedly prefer to see these treaties promptly ratified here in the Senate without delay so that the pro-Marxist regime now in power can fully consolidate its authority on the cash and prestige thereby bestowed. This last factor is also noted by Mr. Bartlett, who describes the matter this way:

> If the treaty is ratified and the government begins to draw the $80 million per year which it anticipates in tolls and fees, the regime will have no further need to consider democratization. The national guard, already badly corrupted in the top ranks, will be expanded to snuff out the last resistance to a left-wing dictatorship.
>
> * * * * *
>
> The great virtue of delay is that it will oblige Torrijos to show more of his hand. "I am one of the most radical of men," he has been saying in Europe. He has certainly been radical in visiting upon a small republic such authoritarian exotica as torture, forced expatriations and a blackout of free expression. Relentless greed is his only major shortcoming as a hardline Marxist.

Mr. Bartlett concludes with this thought:

> A Marxist dictatorship would be a poor epitaph for the saga of America's role in Panama, and the best hope of avoiding it may be foot-dragging by the Senate.

Indeed, Mr. President, perpetuation of a Marxist, pro-Castro dictatorship in Panama is not a result many Members

of the Senate, if any, would wish to see as our country's crowning achievement in the Isthmus of Panama, and I do, therefore, respectfully commend to my colleagues for active consideration Mr. Bartlett's thesis that prolonged delay—perhaps delay on the order of the Senate's wise and lengthy consideration of the genocide treaties—prolonged delay of that order might be the best method of stimulating Panama's political evolution toward freedom and might, additionally, be the best way of preserving the national security interests of the United States in this strategic and vital waterway.

Mr. President, I yield back the remainder of my time and I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, will the Senator withhold his suggestion?

Mr. ALLEN. I am delighted to.

Mr. ROBERT C. BYRD. I believe the Senator from Wyoming is ready to proceed under his order.

Mr. HANSEN. Mr. President, first, let me compliment the distinguished Senator from Alabama for his very perceptive observations and comments this morning. I hope that Senators will take time to read in the RECORD what our good friend from Alabama has so succinctly observed this morning.

Mr. ALLEN. I thank the distinguished Senator.

THE SENATE ETHICS CODE

Mr. HANSEN. Mr. President, recently, several of my colleagues filed suit in the U.S. Supreme Court challenging the constitutionality of the ethics code which was passed by the Senate in April of this year. They were joined in the suit by the Committee for the Survival of a Free Congress.

Those who filed the suit believe, and I agree, that the new ethics code is unconstitutional. Our Founding Fathers, in drawing up our Constitution, envisioned only three requirements of those who seek election to the U.S. Senate. Those requirements are that a person be at least 30 years of age, have been a U.S. citizen for at least 9 years, and reside in the State in which he or she seeks election.

The plaintiffs contend that the new Senate ethics code, which limits outside earned income, is an addition to the only qualifications for election set down in the Constitution. The suit also contends that any such new qualifications imposed upon candidates for the Senate would require an amendment to the Constitution. This clearly has not been done and their claim is that the new rule is, therefore, null and void.

In briefest summary, the suit contends that as a result of enforcement of the new rule, plaintiffs would be deprived of their rights to serve as U.S. Senators, and to meaningfully support candidates for the U.S. Senate. Such a result, they say, infringes upon their freedom of expression, unnecessarily discriminates against them, limits their right to earn a living and also to serve in the U.S. Senate, and deprives them of property without just compensation.

I could not agree more. I have no doubt that strict enforcement of this code will have serious ramifications during the coming years.

As some may recall, I voted against the code. I believe the legislation was an illegitimate legislative reaction to a number of legitimate problems and concerns. The resulting code falls short of addressing the true issues, and in fact, creates greater concerns for the future of our elected representatives.

As I have said before, as a legislative body, our greatest problem in recent years is our loss of credibility with the people of this country. We have failed to legislate effectively in areas of major ongoing economic problems. We have been divided for several years over the energy situation. Our entire health, welfare and education systems are in need of long overdue reforms. And individual members of both the legislative and executive branches have in the past violated the trust of the American people. But we cannot buy back that lost faith and confidence with this ethics code. We will have to earn it.

As I noted on the floor of the Senate during debate on the code, I question the extent to which we in Congress will go in legislating alleged reforms. As restrictions and guidelines increase we may slowly move toward a completely subsidized legislative bureaucracy, whose members are elected with Government funds and whose salaries are limited and closely regulated by statute. Our means of contact with our constituents are becoming more regulated all the time and our isolation from them is increasingly apparent.

In addition to the restrictions which are placed on Congressmen and Senators, enforcement of the new code will affect everyone as private citizens. It will curtail an individual's right to offer compensation should one wish to engage any representative for a speech or similar activity. It will further infringe upon an individual's right to elect anyone who has earned or anticipates earning more outside income than proscribed in the code. It usurps those constitutional powers reserved for the States and each individual citizen in deciding who shall represent their interests. And, it will discourage all who may consider running for a senatorial seat by imposing financial limitations which will make it more difficult, if not prohibitive, to maintain those most vital contacts with constituents.

We cannot have an elected body composed of only those wealthy persons who find no need for earning outside income. The idea that monetary compensation for lectures and speeches made in one's capacity as an elected representative somehow constitutes a conflict of interest and a threat to one's moral and ethical character, is beneath serious contemplation. I have supreme confidence in the ability of the American people to make decisions with respect to the moral character of the men and women they elect to represent them.

Enforcement of this code will discourage initiative, and with it we will sacrifice freedom of choice and we will submerge ingenuity. The provisions of this code will certainly discourage people with ability from seeking public office. From my vantage point, this code is unconstitutional.

QUORUM CALL

Mr. HANSEN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, before we begin on the unfinished business, I ask unanimous consent that the Senate proceed to the immediate consideration of certain measures that have been cleared for action by unanimous consent. They are as follows: Calendar Nos. 472, 480, 481, 482, and 483; and, on the Unanimous-Consent Calendar, all measures shown.

Mr. BAKER. Mr. President, reserving the right to object—and I will not object—as I previously advised the majority leader, these items as he describes them are cleared on our calendar for consideration and passage, and we have no objection to them.

Mr. ROBERT C. BYRD. I thank the minority leader.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CIBOLA NATIONAL FOREST BOUNDARY

The Senate proceeded to consider the bill (S. 553) to enlarge the boundary of the Cibola National Forest, which had been reported from the Committee on Energy and Natural Resources with amendments as follows:

On page 4, line 6, strike "3,111.60" and insert "1,400";

On page 4, line 7, strike "4,076.31" and insert "3,820";

On page 4, line 9, strike "2,172" and insert "150";

On page 4, line 10, strike "6,578.13" and insert "6,423".

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the exterior boundary of the Cibola National Forest in New Mexico be modified to include the following described lands:

1. A tract of land in townships 13 and 14 north, range 16 and 17 west, of the New Mex-

ico principal meridian in New Mexico, beginning at a point from which the southwest corner of section 34, township 14 north, range 17 west, bears north 89 degrees 52 minutes west 1,717.32 feet;

thence south 0 degrees 56 minutes east 1,307.46 feet to the southwest corner of the Fort Wingate Army Depot;

thence south 89 degrees 45 minutes east 897.60 feet;

thence south 89 degrees 57 minutes east 2,643.30 feet;

thence north 89 degrees 48 minutes east 5,272.08 feet;

thence north 89 degrees 51 minutes east 6,596.70 feet to the southeast corner of Fort Wingate Army Depot which bears north 89 degrees 51 minutes east 1,320.66 feet and south 1,328.58 feet from the northwest corner of section 6, township 13 north, range 16 west;

thence north 0 degrees 42 minutes west 12,945.12 feet; then due west 15,175.51 feet to the west boundary of the Fort Wingate Army Depot;

thence south 0 degrees 35 minutes west 2,598.32 feet;

thence south 0 degrees 23 minutes west 5,195.52 feet;

thence south 0 degrees 32 minutes west 3,872.88 feet to the point of beginning, containing an area of 4,556 acres, more or less. The southwest and southeast corners of Fort Wingate Army Depot mentioned in the above description are the same as was installed as of November 19, 1971, and mentioned in the Mann survey, United States Department of the Interior, Bureau of Land Management plat dated September 9, 1957.

2. Township 14 north, range 15 west, section 3, all lying south of Interstate 40; section 4, all lying south of Interstate 40; section 5, all; section 8, all; section 9, all; section 10, all lying south of Interstate 40; section 11, all lying south of Interstate 40; section 12, all lying south of Interstate 40; section 13, all lying south of Interstate 40; section 14, all; section 15, all; section 16, all; section 17, all; section 20, all; section 21, all; section 22, all; section 23, all; section 24, all; section 25, all; section 26, all; section 27, all; section 28, all; section 29, all; section 32, east half; section 33, all; section 34, all; section 35, all; section 36, all; containing 14,476.06 acres, more or less.

3. Township 10 north, range 4 east, section 2, south half northeast quarter, southeast quarter; section 11, northeast quarter, north half southeast quarter, southeast quarter southeast quarter; containing 520 acres, more or less.

4. That portion of the Elena Gallegos grant lying east of a line described as beginning at the closing corner between sections 35 and 36 of township 11 north, range 4 east, on the south boundary of said grant and extending north 2,700 feet, thence east 1,515 feet, thence north 1,260 feet, thence east 3,160 feet, thence north 4,125 feet, thence north 42 degree east 4,480 feet, thence north 1,710 feet, thence west 3,235 feet, thence north 19 degrees west 2,350 feet, thence west 1,400 feet, thence north 3,820 feet to a point on the north boundary of said grant, thence south 81 degrees 30 minutes east 150 feet along said grant boundary to the 7½ mile corner, containing 6,423 acres, more or less.

SEC. 2. Subject to valid existing rights, all lands owned by the United States in the areas described in section 1 of this Act are hereby added to the national forest, and shall be administered in accordance with the laws, rules, and regulations applicable thereto.

SEC. 3. For the purposes of section 6 of the Act of September 3, 1964 (78 Stat. 903), the boundary of the Cibola National Forest, as modified by section 1 of this Act, shall be treated as if it were the boundary of that forest on January 1, 1965.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-516), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

PURPOSE

S. 553 would enlarge the boundaries of the Cibola National Forest in New Mexico to include four separate tracts adjacent to the forest.

BACKGROUND AND SUMMARY OF PROVISIONS

The four tracts to be added to the national forest comprise approximately 25,975 acres.

The first tract contains 4,556 acres of federally owned land. This land had national forest status from 1912 to 1954 when it was transferred to the Department of the Army and became part of the Fort Wingate Army Depot. The Army Corps of Engineers has declared the land excess to its needs and the land is presently being considered for return to the administrative jurisdiction of the Bureau of Land Management. The land has potential for timber production and recreation. It is bounded on the east and south by U.S. Forest Service lands, on the west by Indian lands, and on the north by Fort Wingate.

The second tract contains 14,476 acres—9,760 acres of land; administered by the Bureau of Land Management; 1,280 acres of State land; and 3,463 acres of private land. Most of this land was reconveyed to the United States through exchanges under the Taylor Grazing Act, as amended, for the benefit of the U.S. Forest Service. The lands have value for wildlife, grazing and timber production. The present Cibola National Forest boundary adjoins these lands on the west and south.

The third tract contains 520 acres owned by the city of Albuquerque. The city purchased the tract to prevent commercial or residential development.

The fourth tract contains 6,578 acres of privately owned land (known as the Elena Gallegos grant lands).

This land cannot be acquired without enactment of S. 553 because of the provisions of two laws. Although amendments to the Land and Water Conservation Fund Act (section 7 of the act of September 28, 1976, 90 Stat. 1318, 16 USC 1601) have increased the area which the Forest Service can acquire outside a national forest boundary from 500 to 3,000 acres, the term boundary is defined as the boundary which existed on the effective date of the Land and Water Conservation Fund Act, January 1, 1965. Furthermore, extension of national forest boundaries in New Mexico, except by an act of Congress, is prohibited by the act of June 15, 1926 (44 Stat 745).

S. 553 would extend the national forest boundary statutorily to include the four tracts discussed above and state that that boundary for purposes of the Land and Water Conservation Fund Act would be treated as if it were the boundary on January 1, 1965.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FORT UNION TRADING POST NATIONAL HISTORIC SITE, NORTH DAKOTA AND MONTANA

The Senate proceeded to consider the bill (S. 491) to amend the act entitled "An Act to authorize establishment of the Fort Union Trading Post National Historic Site, North Dakota and Montana, and for other purposes," approved June 20, 1966 (80 Stat. 211), and for other purposes, which had been reported from the Committee on Energy and Natural Resources with an amendment to strike all after the enacting clause and insert the following:

That the first section of the Act entitled "An Act to authorize establishment of the Fort Union Trading Post National Historic Site, North Dakota and Montana, and for other purposes", approved June 20, 1966 (80 Stat. 211), is amended to read as follows:

"That, in order to commemorate the significant role played by Fort Union as a fur trading post on the upper Missouri River, the Secretary of the Interior may acquire by donation, purchase with donated or appropriated funds, or otherwise, the historic remains of Fort Union in the States of North Dakota and Montana, as he may deem necessary to accomplish the purposes of this Act: *Provided*, That the total areas so acquired shall not exceed four hundred and fifty acres.".

SEC. 2. The Act is further amended by repealing section 4 in its entirety and by adding the following new section 4:

"SEC. 4. The Secretary may not expend more than $73,000 from the Land and Water Conservation Fund for land acquisition nor more than $8,427,000 for the development of facilities at the site: *Provided*, That no funds for the development of said facilities shall be authorized prior to October 1, 1978: *Provided further*, That no funds may be expended for reconstruction of historic remains for Fort Union unless the Secretary of the Interior has determined, on the basis of historical documentation satisfactory to him, that such reconstruction can be accomplished with a minimum of conjecture.".

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PAUL H. DOUGLAS NATIONAL LAKESHORE

The assistant legislative clerk read as follows:

A bill (S. 1045) to change the name of the Indiana Dunes National Lakeshore to the Paul H. Douglas National Lakeshore.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that that measure remain on the calendar for the time being.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGIONVILLE NATIONAL HISTORIC SITE, PA.

The Senate proceeded to consider the bill (S. 1104) to direct the Secretary of the Interior to establish the Legionville National Historic Site in the State of Pennsylvania, which had been reported from the Committee on Energy and Natural Resources with amendments as follows:

On page 1, line 5, strike "Secretary of Interior is authorized shall acquire by gift, purchase, or otherwise, the real property described in subsection (b) for the" and insert "Secretary of the Interior is authorized to acquire by donation, purchase, or exchange, the real property described in subsection (b) for the";

On page 2, beginning with line 17, insert the following:

Sec. 3. (a) The Secretary may not expand more than $50,000 from the Land and Water Conservation Fund for land acquisition nor more than $500,000 for the development of essential facilities: Provided, That no funds for the development of essential facilities shall be authorized prior to October 1, 1978.

(b) Within three years from the effective date of this Act the Secretary shall develop and transmit to the Committee on Energy and Natural Resources of the Senate and to the Committee on Interior and Insular Affairs of the House of Representatives a general management plan for the use and development of the site consistent with the purposes of the Act, indicating—

(1) the lands and interests in lands adjacent or related to the site which are deemed necessary or desirable for the purposes of resource protection, scenic integrity, or management and administration of the area in furtherance of the purposes of this Act and the estimated cost thereof;

(2) the number of visitors and types of public use within the site which can be accommodated in accordance with the protection of its resources; and

(3) the location and estimated cost of facilities deemed necessary to accommodate such visitors and uses.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in order to preserve and interpret for the benefit of present and future generations the site of the first military training camp established in the United States, the Secretary of the Interior is authorized to acquire by donation, purchase, or exchange, the real property described in subsection (b) for the establishment and administration of a national historic site.

(b). The real property referred to in section (a) is that real property in Beaver County, Pennsylvania, containing twenty-two acres more or less, in the northernmost part of Harmony Township, adjacent to Baden Borough, which is bordered by Duss Avenue, State Highway 65, and Logan Lane.

SEC. 2. The property acquired under the first section of this Act shall be known as the Legionville National Historic Site, and it shall be administered by the Secretary of the Interior, acting through the National Park Service, in accordance with the Act of August 25, 1916, entitled "An Act to establish a National Park Service, and for other purposes" (16 U.S.C. 1, 2–4) and the Act of August 21, 1935, entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes" (16 U.S.C. 461–467).

SEC. 3. (a) The Secretary may not expend more than $500,000 from the Land and Water Conservation Fund for land acquisition nor more than $500,000 for the development of essential facilities: Provided, That no funds for the development of essential facilities shall be authorized prior to October 1, 1978.

(b) Within three years from the effective date of this Act the Secretary shall develop and transmit to the Committee on Energy and Natural Resources of the Senate and to the Committee on Interior and Insular Affairs of the House of Representatives a general management plan for the use and development of the site consistent with the purposes of the Act, indicating—

(1) the lands and interests in lands adjacent or related to the site which are deemed necessary or desirable for the purposes of resource protection, scenic integrity, or management and administration of the area in furtherance of the purposes of this Act and the estimated cost thereof;

(2) the number of visitors and types of public use within the site which can be accommodated in accordance with the protection of its resources; and

(3) the location and estimated cost of facilities deemed necessary to accommodate such visitors and uses.

Mr. HEINZ. Mr. President, I want to express my strong support today for S. 1104, the pending bill, which would establish the Legionville National Historic Site in Beaver County, Pa. This bill is similar to one I introduced in the other body last year, but unfortunately no action was taken at that time.

In addition to the support of my Pennsylvania colleague, Senator SCHWEIKER, the effort to establish Legionville as a national historic site has received the support of numerous organizations and historical groups around the United States, including the American Legion and the Anthony Wayne Historical Society.

One of America's greatest heritages is its rich historical past. Throughout the country there exists a wide variety of historically significant locations or structures. Frequently, as event or series of events of such import occurs at a given site to warrant special national recognition. Legionville, Pa., is such a site.

Situated along the Ohio River just 20 miles northwest of Pittsburgh, Legionville served as the first military training camp in the United States, and was the base for the first "Legion of the United States" under Gen. Anthony Wayne. Today's American Legion derives its name from this original campsite in Pennsylvania.

In the late 1700's, settlement of the United States had progressed as far as Pittsburgh, and remained effectively halted there because of Indian attacks. Two separate attempts were made to solve this problem. An expedition led by Harman and a later one by St. Claire were both badly beaten by the Indians, and the area remained closed to further expansion.

In 1789, the newly drafted Constitution permitted the National Government to raise a standing army. President Washington's objective was to form a regular army under a commander aggressive enough to solve the attack problem, and he chose Gen. Anthony Wayne for the post. Men were recruited and stationed at Fort Pitt under Wayne, who soon moved his army to the site of an old Indian village, Logstown, where he kept them for 2 years of intensive and uninterrupted military training. The camp immediately became known as Legionville because of the presence of the first "Legion" of the United States. The Legionville training was sufficient to form a crack fighting force, and the protection the Legion was able to provide allowed westward expansion to resume successfully.

As an important center for the military in our Nation's early history, Legionville drew to it many famous individuals. Among those serving under General Wayne were William Henry Harrison, aide-de-camp to Wayne and later President of the United States; Lt. William Clark, who served at Legionville long before he volunteered for his famous expedition under President Jefferson; and Zebulon Pike, who served as one of the generals during the War of 1812 and for whom Pike's Peak is named. It is a sad reflection on our Nation that, in spite of its historical significance, Legionville is one of the few remaining major Indian and Revolutionary era historical sites still undeveloped and unrestored in the United States.

I believe there is no question that the part Legionville played in the opening years of our Nation's history is of national significance. Passage to the northwestern territories was severely hampered until the first U.S. Army was formed and then trained at Legionville. It paved the way for our westward expansion, and for that alone deserves our recognition, as a commemoration to the roots of our country.

Unfortunately, efforts at the State level have not been sufficient to protect and preserve this historic location. As of now, this land where Presidents and generals walked is zoned for industrial use, and its owner has placed it on the market. Unless designated as a national historic site and taken over by the National Park Service, Legionville may well be lost to future generations of Americans.

S. 1104 will establish Legionville as a national historic site, authorize purchase of the land and begin the process of restoring the site. This legislation will bring well-deserved recognition to an important location in our Nation's history, and I urge its adoption.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendments be considered and agreed to en bloc.

There being no objection, the amendments were agreed to en bloc.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–526), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

S. 1104 would provide for the establishment of the Legionville National Historic Site in Beaver County, Pa. This 22-acre site would be administered by the Secretary of the Interior as a unit of the national park system.

BACKGROUND AND NEED

The proposed Legionville National Historic Site is situated on the Ohio River, northwest of Pittsburgh, Pa. This area is generally considered to be the site of the first military training camp in the United States and a prototype for American armies of the future.

Some of the officers trained at Legionville included Zebulon Pike; Lieutenant William Clark of Rogers and Clark; and William Henry Harrison, aide-de-camp to General Wayne and later President of the United States. Wayne himself was schooled during the American Revolution by Baron von Steuben who disciplined Washington's Army at Valley Forge. Anthony Wayne is acclaimed as America's first native-born military genius. During his military career he served with the Polish general, Count Pulaski in New Jersey and under Lafayette in the Yorktown campaign against the British. In 1783 he retired from the army with the brevet rank of major-general.

In 1792, President Washington decided both to reopen negotiations for peace with the western Indians and to build an army capable of imposing United States authority if the peace negotiations failed. To carry out these plans, Anthony Wayne was appointed as major-general in 1792 to command a new American army, called the Legion of the United States. He set up a training camp at the proposed Legionville site where he drilled and trained his soldiers to create a reliable and effective force.

LEGISLATIVE HISTORY

S. 1104 was introduced by Senator Heinz on March 23, 1977. The Subcommittee on Parks and Recreation held a hearing on June 28, 1977.

COST AND BUDGETARY CONSIDERATIONS

In accordance with subsection (a) of section 255 of the Legislative Reorganization Act, the following is a statement of estimated costs which would be incurred in the implementation of S. 1104, as ordered reported:

S. 1104 authorizes $500,000 for land acquisition and $500,000 for development of essential facilities at the site.

The Secretary of the Interior would be authorized to expend no more than $500,000 from the land and water conservation fund for land acquisition. The development money may not be authorized prior to October 1, 1978.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONVEYANCE OF HOMESITES WITHIN THE CHUGACH AND TONGRAS NATIONAL FORESTS, ALASKA

The ACTING PRESIDENT pro tempore. The next bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2118) to authorize the Secretary of Agriculture to convey certain homesites within the Chugach and Tongass National Forests, Alaska.

The Senate proceeded to consider the bill.

Mr. STEVENS. Mr. President, I welcome this opportunity to commend my colleagues for acting promptly in passing S. 2118. This legislation authorizes the Secretary of Agriculture to convey certain homesites within the Chugach and Tongass National Forests of Alaska.

Alaska, one-fifth the size of the entire United States, consists of 375 million acres of land and 90 percent of that total is still owned by the Federal Government. More specifically, 20.7 million acres of this land is national forest property and, therefore, is generally closed to private settlement.

Currently, more land is owned by the Federal Government in Alaska than in any other State; yet Alaskans traditionally have used Alaska's public lands to a greater extent than local residents of other States. Excluding Native land, only 1 percent of Alaska's land is privately owned. Due to the abundant Federal ownership of Alaskan land, little remains for private settlement. This is particularly true in southeastern and parts of southcentral Alaska, where the vast majority of land is national forest property.

In an effort to make more land available for private ownership, the Homesite Act was enacted into public law (43 U.S.C. 687a). The Homesite Act enabled the Department of Agriculture to issue special use permits for 5 acre homesites within the Chugach and Tongass Forests to individuals meeting National Forest Service requirements. Once the 3-year residency and improvement requirements are met, the National Forest Service requests the Department of the Interior to issue a public land order eliminating the land from forest status. The homesiter then applies to the Secretary of the Interior for a land patent.

The Federal Land Policy and Management Act of 1976 (Public Law 94–579) eliminated the authority of the Secretary of the Interior to issue such public land orders based on a congressional desire to retain public land in public ownership. Section 9 of this act prevents the Secretary of the Interior from excluding these lands from the national forest.

While I understand and appreciate the rationale of this section, Senator GRAVEL and I submitted this legislation to correct the inequities that it imposed on eight of our constituents. Mr. President, the rules of the game were changed at halftime and several Alaskans have been caught holding the ball. They have in good faith invested their time and money in complying with the rules and regulations imposed by the Homesite Act. Enactment of this legislation will allow these individuals to obtain title to land that they would have received prior to enactment of Public Law 94–579.

Again, I thank my colleagues for their favorable and prompt consideration of this legislation.

Mr. GRAVEL. Mr. President, I would like to make a few brief remarks on the bill which I have sponsored which is now under consideration by the Senate. S. 2118 would authorize the Secretary of Agriculture to convey eight homesites within the Chugach and Tongass National Forests in Alaska. These homesite occupants have met every provision of law applicable to this type of land entry but were caught in a kind of legislative crossfire. The provisions of the National Forest Management Act of 1976 provided that no further land withdrawals could be made from the national forests without congressional action. Unfortunately, due to administrative delays not all of the valid homesites within the two forests in Alaska were conveyed to the applicants by the time of the 1976 act.

This bill does not in any way undermine the language of the National Forest Management Act, nor does it allow any unwarranted disposition of national forest lands. This bill has been endorsed by the U.S. Forest Service and by the Energy and Natural Resources Committee. I urge my colleagues to pass this measure today.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–527), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

S. 9118 would authorize the Secretary of Agriculture to convey eight homesites ranging in size from 1½ to 3 acres, within the Chugach and Tongass National Forests in Alaska.

BACKGROUND AND SUMMARY OF PROVISIONS

The act of May 14, 1898, as amended (669 Stat. 444, 48 U.S.C. 371), by extending the application of the homestead laws to Alaska, permitted the conveyance of public domain homesites to entrymen in that State. Prior to the enactment of the National Forest Management Act of 1976 (90 Stat. 2949, 16 U.S.C. 1600), the Forest Service engaged in a cooperative procedure with the Bureau of Land Management to convey homesites on national forest lands. Those homesites were transferred administratively from the national forests to public domain administered by the BLM and were then conveyed by the BLM under the 1898 act.

Section 9 of the National Forest Management Act of 1976 (90 Stat. 2957, 16 U.S.C. 1609) prohibited the transfer of national forest land to public domain except by act of Congress. This provision foreclosed continued use of the cooperative procedure for conveying homesites on national forest lands in Alaska.

The committee, when it reported the 1976 act jointly with the Committee on Agriculture and Forestry, was not aware of this cooperative procedure. Although the committee fully endorses section 9 of the 1976 act, it does wish to rectify the unintended prohibition on conveyance of homesites to individuals who had fully qualified for conveyance prior to passage of the 1976 act.

Enactment of S. 2118 would make possible the conveyance of eight valid homesite claims. The claimants have met the requirements of the 1898 act; namely occupancy for not less than 5 months each year for at least 3 years. Under S. 2118, the claimants would pay $2.50 per acre or a minimum of $10.00. This is the same payment required by the 1898 act.

The acreage stated in S. 2118 is approximate only and could change slightly in the

conveyance process. It is the intent of S. 2118 that the parcels identified by the survey numbers be conveyed regardless of whatever minor acreage variances may be required. By law, the homesites can be no larger than 55 acres each.

LEGISLATIVE HISTORY

S. 2118 was introduced on September 21, 1977, by Senator Gravel, for himself and Senator Stevens. The Subcommittee on Public Lands and Resources of the Committee on Energy and Natural Resources held a hearing on the measure on September 22, 1977.

COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business meeting on October 10, 1977, by a unanimous voice vote of a quorum present, recommended that the Senate pass S. 2118, without amendment.

COST AND BUDGETARY CONSIDERATIONS

Set forth below is an October 18, 1977, Congressional Budget Office cost estimate on S. 2118:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., October 18, 1977.

Hon. HENRY M. JACKSON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S. 2118, a bill to authorize the Secretary of Agriculture to convey certain homesites within the Chugach and Tongass National Forests, Alaska.

Based on this review, it appears that a small amount of revenue would be received, and no additional cost to the Government would be incurred as a result of enactment of this bill.

Sincerely,

ALICE M. RIVLIN,
Director.

REGULATORY IMPACT EVALUATION

In compliance with subsection 5 of rule XXIK of the Standing Rules of the Senate, the committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 2118.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses. No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy. Little if any additional paperwork would result from the enactment of S. 2118.

The ACTING PRESIDENT pro tempore. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture is authorized to convey the following tracts of national forest land in Alaska, occupied as homesites, to the present occupants of said lands or their lawful successors in interest: *Provided,* That such persons would otherwise qualify to purchase said lands under the requirements of the Act of May 14, 1898, as amended (43 U.S.C. 687a):

Chugach National Forest

Homesite numbered 222, Clear Lake group, lot 3, United States survey numbered 4979, containing 1.58 acres.

Homesite numbered 205, Clear Lake group, lot 1, United States survey numbered 4979, containing 1.68 acres.

Homesite numbered 208, Heney Creek group, lot 46, United States survey numbered 3601, containing 3.03 acres.

Homesite numbered 210, Heney Creek group, lot 46, United States survey numbered 3601, containing 1.75 acres.

Homesite numbered 225, Lakeview group, lots M and LL, United States survey numbered 3533, containing 2.15 acres.

Homesite numbered 224, Lawing Extension group, lot 4, United States survey numbered 3532, containing 1.60 acres.

Homesite numbered 186, Snug Harbor group, lot 3, United States survey numbered 3531, containing 1.58 acres.

Tongass National Forest

Homesite numbered 1144, Gartina Game Creek group, lot 9, United States survey numbered 2414, containing 3.03 acres.

SEC. 2. Such conveyances shall be for the same consideration as established by the Act of May 14, 1898, as amended (43 U.S.C. 687a).

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

USE OF PROCEEDS FROM DISPOSITION OF CERTAIN REAL PROPERTY IN HAWAII

The Senate proceeded to consider the bill (S. 1318) to permit the State of Hawaii to use the proceeds from the sale, lease, or other disposition of certain real property for any public purpose, which had been reported from the Committee on Energy and Natural Resources with an amendment. On page 1, line 10, after the period, insert "Such sale, lease, or other disposition shall comply with the laws of the State of Hawaii relating to public lands.";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding section 4(a) of the Act entitled "An Act to provide for the transfer of title to certain land at Sand Island, Territory of Hawaii, to the Territory of Hawaii, and for other purposes", approved August 25, 1958, the State of Hawaii may use for any public purpose the revenue or proceeds from the sale, lease, or other disposition of the lands held by it under a transfer made by Executive Order Numbered 10833 under such Act on August 25, 1959. Such sale, lease, or other disposition shall comply with the laws of the State of Hawaii relating to public lands.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-515), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

S. 1318 would remove a Federal restriction on the use of 202 acres of State-owned land on Sand Island so that such land can be leased or sold for industrial purposes.

BACKGROUND

The Act of August 25, 1958 (72 Stat. 850) authorized the President to convey by executive order not more than 202 acres of the Sand Island Military Reservation to the Territory of Hawaii, and among other things, it required that after receiving the land the Territory must use all revenues from the lease or sale of the land for the support of the University of Hawaii. The lands were transferred to Hawaii in August 1959 by Executive Order Number 10837.

This tract, formerly part of the Sand Island Military Reservation, forms the protective seaward perimeter of Honolulu Harbor. The tract contains prime industrial sites. Potential uses include improved maritime facilities, bulk fuel storage for Honolulu International Airport, and expansion of the foreign trade zone. There is a pressing shortage of industrial land on Oahu, the State's most populous island. Use of the tract would partially alleviate the land shortage.

Industrial use cannot be made of land, however, because of a condition set forth in the 1958 law authorizing the land transfer. That condition prevents using revenues from lease or sale of the lands for purposes other than the support of the University of Hawaii. Since the passage of the 1958 law, Hawaii has become a State and the University of Hawaii is now funded directly from the State's general fund.

SUMMARY OF PROVISIONS AND COMMITTEE AMENDMENT

S. 1318 would permit the use by the State of Hawaii of proceeds from the sale, lease, or other disposition of the 202 acres of State-owned land on Sand Island for any public purpose, notwithstanding the provision in section 4(a) of the Act of August 25, 1958 limiting such use to support the University of Hawaii. Hawaii State law generally requires the disposition of public lands through a public notification and auction procedure. However, a 1970 amendment to the applicable state statute reads as follows:

Disposition of public lands for airline, aircraft, marine and maritime operations may be negotiated without regard to (the public notification/auction stipulation), (under certain conditions).

Because the State does intend to use the land in part for such operations, the Committee amendment would assure that any future disposition of the 202 acres will be governed by State law.

LEGISLATIVE HISTORY

S. 1318 was introduced on April 20, 1977, by Senator Matsunaga. The Subcommittee on Public Lands and Resources of the Committee on Energy and Natural Resources held a hearing on the measure on September 22, 1977.

COST AND BUDGETARY CONSIDERATION

Enactment of S. 1318, as amended, would not result in any significant expenditure of Federal funds and would have no Federal budget impact.

REGULATORY IMPACT EVALUATION

In compliance with subsection 5 of rule XXIX of the Standing Rules of the Senate, the committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 1318, as amended.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses. No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy. Little if any additional paperwork would result from the enactment of S. 1318, as amended.

Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LAND INTERESTS IN ADAMS COUNTY, MISS.

The bill (H.R. 1403) to authorize the Secretary of the Interior to convey the interest of the United States in certain lands in Adams County, Miss., notwithstanding a limitation in the Color-of-Title Act (45 Stat. 1069, as amended; 43 U.S.C. 1068), was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–517), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

H.R. 1403 would convey the interest of the United States in over 1,000 acres in Adams County, Miss., to Weathersby Godbold Carter, Jr., and Richard T. Harris III. The lands are described as section 28 township 5 north, range 2 west, Washington, Meridian, Adams County, Miss.

BACKGROUND AND SUMMARY OF PROVISIONS

Since the 1900's, the land in question was presumed to be a confirmed private land claim, title to which passed to the purported confirmee, pursuant to applicable law. However, a study of the plat and other available data does not show any clear corroboration that this private land claim was surveyed as section 28, or that a patent was ever issued therefor. Consequently, title is considered vested in the United States. The present claimants have expended considerable amounts of money in the purchase and improvement of this property, acting in good faith and without actual or record notice of any adverse claim by the United States.

The Color of Title Act, which established the basic policy in situations such as these, limits the amount of property which may be patented to 160 acres and further provides that consideration of not less than $1.25 per acre be received. The tract in question exceeds 1,000 acres. H.R. 1403 would remove the acreage limitations for purposes of this case and would permit the Secretary to process the application pursuant to the other requirements in the act. The Bureau of Land Management testified that there was enough information on hand to suggest the strong possibility that the beneficiaries of this bill would meet all the requirements for relief under the act, except for the 160-acre limitation on conveyance.

H.R. 1403 requires that application for conveyance be made within 1 year of the effective date of the bill.

Payment for the conveyance would be made according to the provisions of the Color of Title Act which provides for a minimum fee of $1.25 per acre, the exact amount to be determined by the Secretary after considering the equities.

Section 3 of the Color of Title Act provides that if the claimant requests that the patent not contain a mineral reservation and can establish that he or his predecessors have complied with the act for a period commencing not later than January 1, 1901, no mineral reservation shall be made unless the lands are, at the time of issuance of the patent, either within a mineral withdrawal or subject to an outstanding mineral lease.

About 980 acres are presently covered by an oil and gas lease with a primary term expiration date of September 30, 1982. There are two producing oil wells on it. If the current lessee does not relinquish the lease, and issuance of the patent proceeds in a routine fashion, there would be an outstanding mineral lease at the time of patent and the beneficiaries would be precluded from receiving the mineral interests under section 3 of the Color of Title Act. However, if through some unexpected occurrence, no lease was outstanding at that time, the beneficiaries could receive valuable mineral rights far in excess of what the Color of Title Act contemplates unless limiting provisions are included. Consequently, H.R. 1403 would reserve the mineral interest in the United States with the right of the Secretary to convey that interest only if the criteria of section 209 of the Federal Land Policy and Management Act of 1976 are met.

LEGISLATIVE HISTORY

In the 94th Congress a similar measure, H.R. 12575, passed the House of Representatives on September 23, 1976, but was not considered by the Senate.

H.R. 1403 passed the House on May 3, 1977. The Subcommittee on Public Lands and Resources of the Committee on Energy and Natural Resources held a hearing on the measure on September 22, 1977.

COST AND BUDGET ACT COMPLIANCE

Enactment of H.R. 1403 would not result in any significant expenditure of Federal funds and would have no Federal Budget impact.

REGULATORY IMPACT EVALUATION

In compliance with subsection 5 of rule XXIX of the Standing Rules of the Senate, the committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 1403.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses. No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy. Little if any additional paperwork would result from the enactment of H.R. 1403.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONVEYANCE OF CERTAIN LANDS IN THE SIERRA NATIONAL FOREST, CALIF.

The bill (H.R. 2527) to authorize the Secretary of Agriculture to convey certain lands in the Sierra National Forest, Calif., to the Madera Cemetery District, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–518), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of H.R. 2527 is to authorize the Secretary of Agriculture to convey a 20-acre tract in the Sierra National Forest, Calif., to the Madera Cemetery District.

BACKGROUND TO, AND NEED FOR, H.R. 2527

The 20-acre tract to be conveyed pursuant to H.R. 2527 has been used for burial purposes from as far back as 1890 when the land was homesteaded. The Forest Service has been issuing a special use permit to the Madera Cemetery District for 17.5 acres of the total 20-acre tract, Gravesites occupy about 10 acres of the land.

The 20-acre tract of land is isolated from other national forest system lands. The present and projected use of the land for cemetery purposes affords little opportunity for the furtherance of national forest system purposes. As landowners, the United States must bear the costs of administering the special land use permit. By transferring this 20-acre tract, the Forest Service would be relieved of the burden and expense of administering the special use permit.

SUMMARY OF PROVISION OF H.R. 2527

Section 1 authorizes the Secretary of Agriculture to convey all right, title, and interest of the United States in and to a 20-acre tract of land in the Sierra National Forest to the Madera Cemetery District, Calif. This section also provides the description as the south one-half of the northeast quarter of the northwest quarter of section 19, township 8 south, range 23 east, Mount Diablo meridian.

Section 2 reserves easements for existing facilities such as roads, telephone lines, pipelines, electric power transmission lines; and such easements for roads as the Secretary of Agriculture finds necessary to assure access to lands of the United States or to meet public needs.

Section 3 stipulates that the conveyance will only be made if the Madera Cemetery District makes payment for the tract of land within 1 year after the date of this act. The purchase price it to be fixed by the Secretary of Agriculture through appraisal or otherwise, after he takes into consideration the purpose for which the lands are to be used.

LEGISLATIVE HISTORY

In the 94th Congress, a similar measure, H.R. 2743, passed the House of Representatives, but was not considered by the Senate.

H.R. 2527 passed the House on May 2, 1977. The Subcommittee on Public Lands and Resources of the Committee on Energy and Natural Resources held a hearing on the measure on September 22, 1977.

COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business meeting on October 10, 1977, by a unanimous voice vote of a quorum present, recommended that the Senate pass H.R. 2527, without amendment.

COST AND BUDGETARY CONSIDERATIONS

Enactment of H.R. 2527 would not result in any significant expenditure of Federal funds and would have no Federal budget impact.

REGULATORY IMPACT EVALUATION

In compliance with subsection 5 of rule XXIX of the Standing Rules of the Senate, the committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 2527.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses. No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy. Little if any additional paperwork would result from the enactment of H.R. 2527.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONVEYANCE OF CERTAIN LANDS IN THE WENATCHEE NATIONAL FOREST, WASH.

The bill (S. 2033) to provide for conveyance of certain lands in the Wenatchee National Forest, Wash., by the Secretary of Agriculture, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any requirement or limitation therein with respect to the location of lands that may be conveyed, the Secretary of Agriculture is authorized to convey as a townsite lands in the Wenatchee National Forest, Washington, known as the Liberty Townsite, pursuant to and in accordance with the provisions of the Act of July 31, 1958 (72 Stat. 438; 7 U.S.C. 1012a) as amended by section 213 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743, 3760).

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–519), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

S. 2033 would authorize the Secretary of Agriculture to convey as townsite lands 17.4 acres in the Wenatchee National Forest in the State of Washington.

BARKGROUND AND SUMMARY OF PROVISIONS

S. 2033 would remove an inequity created by the enactment of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743, 43 U.S.C. 1701). S. 2033 would permit the applicants for a townsite under a townsite law repealed by the 1976 act to complete their application under a still valid townsite law.

The now repealed trustee townsite laws (Revised Statutes 2387–2389, 43 U.S.C. 717–723 (1970 ed.)) provided that, in the case of an unincorporated entity, public lands occupied as a townsite could be entered by the judge of the county court at the minimum price of $1.25 per acre in trust for the benefit of the occupants. The disposal of the lots was to be conducted under the regulations of the State in which the land was located. The laws further provided that entry of the land shall be made, or a declaratory statement of the purpose of the inhabitants to enter the land as a townsite shall be filed with the officer of the proper land office. They also provided that no title to any valid mining claims could be acquired.

An application on behalf of the occupants of the unincorporated town of Liberty was filed on July 23, 1976, by a judge of the superior court of Kittitas County, Wash.

The Liberty townsite application included the declaratory statement of the judge, and alleged that the townsite had been in existence since 1883. The townsite is within a portion of the Wenatchee National Forest which was withdrawn for national forest purposes on March 2, 1907, by proclamation.

In 1893 a mining claim was staked covering part of the town. The claim was abandoned in the early 1900's and relocated in 1918 and renamed the "New Discovery". The Government contested the claim and the patent application was withdrawn. In 1966, one of the owners of the claim attempted to mine the area. The residents of Liberty refused to move, the matter went to the Washington State Supreme Court and the residents prevailed. In July 1976 a decision that the mining claim was null and void was reached by the Interior Board of Land Appeals, but a petition for reconsideration was filed.

On October 21, 1976, the Federal Land Policy and Management Act of 1976 (90 Stat. 2743, 43 U.S.C. 1701), section 703(a) of which repealed the townsite laws, became law before any action could be taken on the application of the townsite residents. On May 27, 1977, the Bureau of Land Management rejected the application of Liberty townsite on the basis that the townsite application is not a valid existing right under section 701 of the Federal Land Policy and Management Act. While section 701(h) of that act protects valid existing rights, the Bureau of Land Management determined the Liberty applicants had no rights to protect since mere filing of a declaratory statement neither constituted an entry of the lands nor created any right to a conveyance of the townsite. Appeal has been taken from the BLM decision and the case is now pending before the Interior Board of Land Appeals.

S. 2033 authorizes the Secretary of Agriculture to make the conveyance pursuant to the Act of July 31, 1958 (national forest townsite law), as amended by section 213 of the Federal Land Policy and Management Act which provides for conveyance of national forest lands at fair market value to meet community objectives if certain criteria are met. S. 2033 would merely waive certain requirements of this act to permit the Forest Service to convey the lands in question even though they are not "located adjacent to or contiguous to an established community" and even if it were found that they do not in fact comprise "a tract of national forest system land."

LEGISLATIVE HISTORY

S. 2033 was introduced on August 5, 1977, by Senator Jackson, for himself and Senator Magnuson. The Subcommittee on Public Lands and Resources of the Committee on Energy and Natural Resources held a hearing on the measure on September 22, 1977.

COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business meeting on October 10, 1977, by a unanimous voice vote of a quorum present, recommended that the Senate pass S. 2033, without amendment.

COST AND BUDGETARY CONSIDERATION

Enactment of S. 2033 would not result in any significant expenditure of Federal funds and would have no Federal budget impact.

REGULATORY IMPACT EVALUATION

In compliance with subsection 5 of rule XXIX of the Standing Rules of the Senate, the committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 2033.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses. No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy. Little if any additional paperwork would result from the enactment of S. 2033.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

WHITE RIVER NATIONAL FOREST BOUNDARY, COLO.

The bill (S. 2101) to modify the boundary of the White River National Forest in the State of Colorado, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the exterior boundary of the White River National Forest in the State of Colorado is hereby modified to include the following described lands, containing 2,416 acres more or less:

(1) Township 10 south, range 85 west, sixth principal meridian:

Section 1, lots 1–7; and

(2) Township 10 south, range 84 west, sixth principal meridian:

Section 5: entire;

Section 6: north half, and southeast quarter except that part platted as a portion of the Red Mountain subdivision;

Section 7: east half of the east half, and that part of lot 27 outside the east half of the east half;

Section 8: entire;

Section 17: east half, north half of the northwest quarter, and lots 1, 3, and 6.

Section 18: that part of the northeast quarter of the northeast quarter bounded by M.S. 3905, 6120, and M.S. 6899.

SEC. 2. Subject to valid existing rights, all lands owned by the United States in the areas described in section 1 of this Act are hereby added to the White River National Forest, and shall be administered in accordance with the laws, rules, and regulations applicable thereto.

SEC. 3. For the purposes of section 7 of the Act of September 3, 1964 (78 Stat. 903, as amended; 16 U.S.C. 4601–9), the boundary of the White River National Forest, as modified by section 1 of this Act, shall be treated as if it were the boundary of that forest on January 1, 1965.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONVEYANCE OF CERTAIN PUBLIC AND ACQUIRED LANDS TO THE COUNTY OF MINERAL, NEV.

The Senate proceeded to consider the bill (H.R. 4979) to direct the Secretary of the Interior to convey certain public and acquired lands in the State of Nevada to the County of Mineral, which had been reported from the Committee on Energy and Natural Resources with an amendment to strike all after the enacting clause and insert the following:

That (a) the Secretary of the Interior, hereinafter referred to as the "Secretary", shall issue to the county of Mineral, State of Nevada, a patent or other instrument of conveyance for the land owned by the United States and comprising approximately two thousand six hundred and twenty acres described in this section, or any portion thereof, upon payment into the Treasury of the United States the appraised value of the parcel to be conveyed, plus the costs of appraisal, surveys and extinguishing adverse claims: *Provided,* That any of the land described in this section which remains unconveyed to the county of Mineral on and after five years from the date of approval of this Act shall no longer be subject to conveyance under this Act.

(b) The following described lands situated in the State of Nevada are hereby made subject to this Act:

(1) The west half of the northwest quarter of section 26, township 8 north, range 30 east; the part of the northwest quarter of the southwest quarter of section 26, town-

ship 8 north, range 30 east, that is south of the highway 95 right-of-way.

(2) The northwest quarter of the northeast quarter and the east half of the east half of section 25, township 8 north, range 29 east; all of sections 29 and 30, township 8 north, range 30 east; the north half of the southeast quarter of section 28, township 7 north, range 30 east.

(3) The part of section 21, township 7 north, range 30 east, that is west of Nevada State Highway Route 31; the north half of the northwest quarter and the southeast quarter of the northwest quarter of section 28, township 7 north, range 30 east; the part of the northeast quarter of section 28, township 7 north, range 30 east, that is west of Nevada State Highway Route 31; the part of section 27, township 7 north, range 30 east, that is west of Nevada State Highway Route 31; the east half of the northwest quarter and the north half of the southeast quarter of section 34, township 7 north, range 30 east; the part of the northeast quarter of section 34, township 7 north, range 30 east, that is west of Nevada State Highway Route 31; the part of section 35, township 7 north, range 30 east, that is west of Nevada State Highway Route 31.

SEC. 2. Upon receipt of a request from the county of Mineral, State of Nevada, for the purchase of a tract of the lands described in section 1, the Secretary shall cause the same to be appraised and, upon completion of such appraisal shall notify the county of Mineral of the appraised value of such tract and the county shall have six months from the date of such notice to complete the purchase of such tract by payment of the appraised value into the Treasury of the United States whereupon the Secretary shall issue a patent or other instrument conveying such tract to such county. Any such patent or other instrument of conveyance shall be issued in accordance with the provisions of section 208 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2757; 43 U.S.C. 1718); shall be subject to valid existing rights and easements of record; and shall contain any reservation necessary to protect use by the United States of real property owned by the United States that is adjacent to the tract conveyed. In addition, conveyance of section 29, township 8 north, range 30 east, shall be made only in accordance with the provisions of section 209 of the said Federal Land Policy and Management Act of 1976 (90 Stat. 2757; 43 U.S.C. 1719).

SEC. 3. All moneys received from the conveyance of lands under the terms of this Act shall be disposed of in the same manner as moneys received from the sale of public lands, except that moneys received as reimbursement for costs of appraisal, surveys, and extinguishing adverse claims may be used by the Secretary for said purposes without appropriation.

SEC. 4. Subject to valid existing rights on the effective date of this Act, the lands described in section 1 which are subject to conveyance pursuant to this Act are hereby withdrawn from all forms of appropriation under the public land laws, including the mining and mineral leasing laws. Such withdrawal shall terminate automatically with respect to a particular tract upon conveyance of that tract pursuant to this Act. Such withdrawal shall terminate upon publication of an order in the Federal Register by the Secretary no sooner than five years from the effective date of this Act, with respect to any lands or interest remaining in the United States at the conclusion of such five-year period.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-522), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

H.R. 4979 would direct the Secretary of the Interior to convey for fair market value 2,540 acres of land within the jurisdiction of the Bureau of Land Management to Mineral County, Nev.

BACKGROUND

The 2,540 acres were withdrawn along with other lands by several Executive orders for exclusive use as a Naval Ammunition Depot at Hawthorne, Nev. On November 1, 1972, the Department of the Navy declared the subject property excess and requested that the lands be transferred to the Bureau of Land Management, subject to easements granted for a power distribution line and appurtenances, and rights-of-way for a service road. About three-quarters of the adjoining lands are in non-Federal ownership or in the withdrawn area still needed by the Navy Department. The subject lands are thus effectively isolated from other public lands. They may be difficult and uneconomic to manage if they are returned to BLM management. Moreover, there is no need for the lands for any BLM program.

The lands are wanted by the county of Mineral for resale to attract industrial and commercial business. A large portion of the employment in Mineral County was dependent upon the naval ammunition depot. In December 1972, total civilian employment at the naval depot was 1,515 workers; in March 1975, the total number of workers employed at the depot was 795, a loss of 720 jobs or 48 percent of the 1972 total. This trend in employment levels at the ammunition depot is expected to continue. Thus, Mineral County has a disciplined work force, an increasingly severe unemployment level, and no space on which to locate private employers, since 98 percent of the land in the county is federally owned.

H.R. 4979 would give Mineral County 5 years after the date of enactment in which to purchase portions of or all the parcels described in section 1. At the end of the 5-year period, any lands which were not conveyed would no longer be subject to conveyance under H.R. 4979.

Officials of Mineral County do not want to purchase all of the parcels at once as it would cause a financial hardship to pay for the entire 2,620 acres at one time. Under the bill, the county would submit a request for a parcel described in section 1, an appraisal for that specific tract would be prepared, and the county would have 6 months after notice of the appraisal to purchase the tract at the fair market value based on comparable land sales in Mineral County. By appraising each parcel as it is requested, the possibility of windfall profits to the county would be eliminated in the event the land value increases during the 5-year period. This also eases the financial burden for the county by allowing it to purchase the land over the 5-year period.

The U.S. Geological Survey indicates that the lands in this bill are without value for locatable or leasable minerals, except for section 29, township 8 north, range 30 east, which is prospectively valuable for sodium and potassium.

There is an existing easement which was granted to the Sierra Pacific Power Co. for a power distribution line and appurtenances on parcel A of the lands in question (see map attached to Interior report); and another powerline and service road in parcel C for which there is an existing right-of-way of record. The language contained in H.R. 4979 in section 2 would protect valid existing rights and easements of record.

At the Subcommittee on Public Lands and Resources hearing on H.R. 4979, the administration witness supported enactment of the measure, if amended in the manner discussed in the Department of the Interior report printed in the Executive communications section of this report. During the markup of the proposal, Senator Laxalt offered, and the committee accepted, the administration-suggested changes. The amendment in the nature of a substitute contains those and several technical changes.

The principle substantive changes provide a new withdrawal procedure in section 4, a reservation of interests necessary to protect use of adjacent Federal land in section 2, a requirement in section 2 that the section of land which is possibly mineralized be conveyed only subject to section 209 of the Federal Land Policy and Management Act (90 Stat. 2757, 43 U.S.C. 1719) concerning conveyance of mineral interests, and a requirement in section 1 that the county pay costs of appraisal, surveys and extinguishing adverse claims.

LEGISLATIVE HISTORY

A similar measure was passed by the House late last Congress. H.R. 4979 passed on August 1, 1977, and a hearing was held on the measure by the Public Lands and Resources Subcommittee of the Committee on Energy and Natural Resources on September 22, 1977. The counterpart proposal, S. 299, was introduced by Senators Cannon and Laxalt on January 18, 1977.

COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business meeting on October 10, 1977, by a unanimous voice vote of a quorum present, recommended that the Senate pass H.R. 4979, if amended as described herein.

COST AND BUDGETARY CONSIDERATIONS

Set forth below is an October 11, 1977, Congressional Budget Office cost estimate for H.R. 4979, as amended:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., October 11, 1977.

Hon. HENRY M. JACKSON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 4979, a bill to direct the Secretary of the Interior to convey certain public and acquired lands in the State of Nevada to the County of Mineral, Nev.

Should the committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ROBERT A. LEVINE,
(For Alice M. Rivlin, Director).

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE, OCTOBER 11, 1977

1. Bill number: H.R. 4979.

2. Bill title: A bill to direct the Secretary of the Interior to convey certain public and acquired lands in the State of Nevada to the county of Mineral, Nev.

3. Bill status: As ordered reported by the Senate Committee on Energy and Natural Resources, Otcober 10, 1977.

4. Bill purpose: The bill directs the Secretary of the Interior to sell 2,620 acres to land to the county of Mineral, Nev., at fair market value, provided that any part which remains unsold after 5 years shall no longer be subject to conveyance under this act.

5. Cost estimate: The bill will result in additional revenues to the Government, estimated as follows:

[In thousands of dollars]

Fiscal year:	Estimated revenues
1978	40
1979	40
1980	40
1981	40
1982	40

6. Basis for estimate: Mineral County, Nev., wants to purchase this land for resale in order to attract business and development to the county and expand the community. The county wants to buy the entire 2,620 acres, but they will purchase the land as they can afford to, which will depend on how fast they can resell and get the money to purchase additional acreage. Thus they will probably buy in smaller parts over the 5-year. It is assumed that they will purchase an equal amount of acreage, 524 acres, in each year due to this money constraint. The land in question has not yet been appraised, but based on past appraisals in that area, the land will sell for approximately $80 per acre. Five percent of the revenue from the land sales will be allocated to the State and the remainder will go to the Treasury. The land values are not expected to inflate over the next 5 years. The outlays by the Government for the appraisal of the land will most likely be reimbursed by Mineral County in the same year, so there is no budget impact.

7. Estimate comparison: None.

8. Previous CBO estimate: On July 20, 1977, CBO transmitted an estimate with identical cost figures to the House Committee on Interior and Insular Affairs. The Senate committee's technical amendments are unlikely to change the costs of this bill.

9. Estimate prepared by: Marilyn K. Moore (225-7760).

10. Estimate approved by:

C. G. NUCKOLS,
(For James L. Blum,
Assistant Director for Budget Analysis).

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DISPOSITION OF CERTAIN RECREATIONAL DEMONSTRATION PROJECT LANDS BY THE STATE OF OKLAHOMA

The Senate proceeded to consider the bill (S. 920) relating to the disposition of certain recreational demonstration project lands by the State of Oklahoma, which had been reported from the Committee on Energy and Natural Resources with an amendment on page 3, beginning with line 10, strike through and including line 13, and insert the following:

(1) the fair market value, as determined by the Secretary of the Interior of the reversionary interest of the United States in the lands, as compensation for the release of any conditions providing for a reversion of title to the United States; and

(2) the administrative costs of issuance of the new deed: *Provided*, That such costs shall be paid to the agency which rendered the service, and deposited to the appropriation then current.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding section 3 of the Act entitled "An Act to authorize the disposition of recreational demonstration projects, and for other purposes", approved June 6, 1942 (56 Stat. 326; 16 U.S.C. 459t), the State of Oklahoma is hereby authorized to convey oil and gas mineral leases to the following described lands in Carter County, Oklahoma: those lands situated within the project designated and known as the Lake Murray Recreational Demonstration Area, said project lands being more particularly described in a quit-claim deed of the United States of America executed on February 1, 1943, by Harold L. Ickes, Secretary of the Interior approved on February 2, 1943, by Franklin D. Roosevelt, President of the United States, and recorded in book 186, pages 312 through 320 of the records of Carter County, Oklahoma. Any conditions providing for a reversion of title to the United States that may be contained in the conveyance of such lands by the United States to the State of Oklahoma are hereby released as to oil and gas exploration and development affecting the lands herein to be leased. The State of Oklahoma shall surrender the present deed of conveyance by the United States of the lands described in this Act and the United States shall issue a new deed to the State of Oklahoma for those lands, which new deed shall include oil and gas exploration and development as permitted uses of such lands: *Provided, however*, That it shall be a condition of such new deed that oil and gas exploration and development shall take place on the lands described in this Act only pursuant to plans which have been reviewed (such review to include preparation of a detailed statement of the type specified in section 2(a) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(c)), and approved by the Secretary of the Interior and which will assure that such exploration and development shall be carried out in a manner which to the maximum extent possible will assure the preservation of the natural, scenic, and recreational values of the demonstration area: *And provided further*, That the State of Oklahoma shall continue to use such lands in the Lake Murray Recreational Demonstration Area primarily for park, recreational, and conservation purposes.

SEC. 2. The issuance of the new deed described in section 1 of this Act shall take place only upon payment to the Secretary of the Interior by the State of Oklahoma of the following:

(1) the fair market value, as determined by the Secretary of the Interior of the reversionary interest of the United States in the lands, as compensation for the release of any conditions providing for a reversion of title to the United States; and

(2) the administrative costs of issuance of the new deed: *Provided*, That such costs shall be paid to the agency which rendered the service, and deposited to the appropriation then current.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-523), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

S. 920 would authorize the State of Oklahoma to convey oil and gas leases on some 2,257 acres of land situated within the project designated as the Lake Murray Recreational Demonstration Area.

BACKGROUND

The lands in question were acquired by the United States in the 1930's as part of a program of retiring submarginal agricultural land from the production, and were conveyed by quitclaim deed by the United States to the State of Oklahoma pursuant to the act of June 6, 1942 (16 U.S.C. 459t). The act authorized the Secretary of the Interior to convey or lease certain lands to the States or their political subdivisions, without consideration, for exclusive use for public park, recreational or conservation purposes. Although it is the present policy of the Congress and the Interior Department to reserve to the United States the mineral rights in any land conveyance of the type involved, in this particular conveyance to the State of Oklahoma no reservation of the mineral estate was made by the United States. The 1942 Act requires and the quitclaim deed contains a reverter which provides that any lands so conveyed or leased are subject to reversion to the United States if such lands are not used in compliance with the 1942 Act during a period of more than 3 years. The Solicitor's Office in the Interior Department has advised that the exclusive use restrictions on this land would exclude oil and gas development.

SUMMARY OF PROVISIONS AND COMMITTEE AMENDMENT

The purpose of S. 920 is to remove this legal impediment to oil and gas leasing of the lands. The State of Oklahoma would, however, be required to meet certain conditions. The existing deed of conveyance would be surrendered and a new deed issued by the United States which would allow for oil and gas exploration and development as a permissible use. Any oil and gas exploration and production would have to be accomplished pursuant to a plan (to include an environmental impact statement prepared pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969) reviewed and approved by the Secretary of the Interior and which will assure, to the maximum extent possible, the preservation of the natural, scenic and recreational values of the Demonstration Area. S. 920 would require that the subject lands be continued to be used primarily for park, recreational and conservation purposes. The State of Oklahoma would be required to pay the administrative costs associated with issuance of the new deed.

At the September 22, 1977, hearing on S. 920, the Administration witness testified in favor of enactment of S. 920, if amended to provide for payment of fair market value for the reversionary interest. During the October 1977, markup of S. 920, Senator Bartlett offered, and the Committee on Energy and Natural Resources accepted, the amendment suggested by the administration.

LEGISLATIVE HISTORY

S. 920 was introduced on March 4, 1977, by Senator Bartlett. The Subcomittee on Public Lands and Resources of the Committee on Energy and Natural Resources held a hearing on the measure on September 22, 1977.

COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business meeting on October 10, 1977, by a rollcall vote of a quorum present, recommended that the Senate pass S. 920 if amended as described herein.

COST AND BUDGETARY CONSIDERATION

Enactment of S. 920, as amended, would not result in any significant expenditure of Federal funds and would have no Federal Budget impact.

REGULATORY IMPACT EVALUATION

In compliance with subsection 5 of rule XXIX of the Standing Rules of the Senate, the committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 920, as amended.

The bill is not a regulatory measure in the sense of imposing Government-estab-

lished standards or significant economic responsibilities on private individuals and businesses. No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy. Little if any additional paperwork would result from the enactment of S. 920, as amended.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS CONSENT CALENDAR

Mr. ROBERT C. BYRD. Mr. President, there are certain measures on the General Orders Calendar that have been cleared for action by unanimous consent. The distinguished minority leader and I have consulted about these. I ask that the clerk transfer the following Calendar Orders Nos. 485 through 489, inclusive, to the Unanimous Consent Calendar.

The ACTING PRESIDENT pro tempore. The measures will be so transferred.

AUTHORITY FOR THE SECRETARY OF THE SENATE TO MAKE TECHNICAL AND CLERICAL CORRECTIONS—S. 920

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 920.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY PRODUCTION AND CONSERVATION TAX INCENTIVE ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the unfinished business, H.R. 5263, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5263) to suspend until the close of June 30, 1980, the duty on certain bicycle parts.

The Senate resumed the consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECESS UNTIL 10:05 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 30 minutes.

There being no objection, the Senate, at 9:35 a.m., recessed until 10:05 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. RIEGLE).

ENERGY PRODUCTION AND CONSERVATION TAX INCENTIVE ACT

The Senate continued with the consideration of H.R. 5263.

Mr. BAKER. Mr. President, most of the principals involved in the pending matter are in conference in an effort to expedite the proceedings of the Senate. With that in view, the majority leader and I have determined the best course of action at this point would be to recess once again so those conferences can continue. I think it would expedite the proceedings of the Senate today on this matter if we were to recess.

RECESS UNTIL 11:06 A.M.

I therefore ask unanimous consent that the Senate stand in recess for a period of 1 hour.

There being no objection, the Senate, at 10:06 a.m., recessed until 11:06 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. DECONCINI).

LEGISLATIVE PROGRAM

Mr. ROBERT C. BYRD. Mr. President, some few days ago I stated that it was the intention of the leadership to finish the energy tax bill, to work on the energy tax bill today and, if that cannot be completed today, then the Senate would be in tomorrow.

I should like to state now, and I shall yield shortly to the distinguished minority leader for his comments, that it is the intention of the leadership to finish this bill today if at all possible. This means we can be in session until 11 o'clock tonight, or midnight. If we are unable to finish it then, we will be in tomorrow, and Saturday will be a long day, in an effort to complete action on this bill.

There are other matters that have to be taken up. I would hope we would be able to complete action on the social security financing bill, on the supplemental appropriation bill, and on the Al-Can pipeline bill. These constitute an ample platter to demand our full attention next week, and it is my hope, as I have said heretofore, that the Senate can complete its floor work on those measures before the close of business Saturday a week from tomorrow.

To do that, we just have to complete action on this bill this week. So the leadership hopes that the cloakrooms will so notify the offices of Senators, to expect a long day today, because it is our determination to complete action on this bill today, and if not today then tomorrow; and the more we get done today the less we will have to do tomorrow.

I now yield to the distinguished minority leader.

Mr. BAKER. Mr. President, I thank the majority leader for yielding. I am sure I am no happier than anyone else to entertain the prospect of a late session today or a session tomorrow, but I agree that under the circumstances it is necessary.

I think we also ought to understand that this is not going to produce a slackened workweek next week. For instance, I am convinced that Monday will in fact be a busy day, and that next week will be a relatively busy week.

I think, Mr. President, that I need not repeat what I have said on this floor previously, except in brief form: I am not among those who think we cannot pass a bill. I think we can pass an energy package. I am aware of the fact that I am probably not going to like the bill that finally comes out of conference. I rather suspect that President Carter may not like the bill that finally comes out of conference either. But I think we have an obligation to do our best, and to do it as promptly as possible, because I think there is a serious, indeed a grave energy crisis in prospect.

We ought to be in late today and finish this bill as soon as we can and get it to conference. When it comes back from conference, we all reserve our rights. We may not like the bill that comes back from conference, but I think this is our best chance, and a better chance than any other I have seen.

Mr. President, I join the majority leader in suggesting that this is the appropriate schedule for the Senate. As much as I hate to say so and as much personal inconvenience I know it will cause many Senators, I do believe it is necessary.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader.

By way of a postscript, I think I should state that it is imperative, in my judgment, that from this time forward many necessary measures be completed by the close of business Saturday a week. Otherwise, the conferees are constantly harassed in their efforts to work out final bills in conference dealing with energy—and we already have four measures in conference dealing with energy—and there are measures in conference which deal with other matters. As long as the conferees have to stop their work and run back and forth to answer quorum calls, rollcalls, by either House or both Houses, they cannot complete their work in conference.

This is, I think, a demanding reason as to why we should endeavor to complete our work by Saturday a week, so that those conferees can spend their full time in conference to complete action on measures there before we adjourn for this session.

With all that in mind, I believe it is absolutely imperative that we complete action on this bill this week. I join with the distinguished minority leader in his comments.

Nobody is completely satisfied with this bill, but the Finance Committee did its best and I believe it should be commended for bringing out a bill under the circumstances. The bottom line is that the final bill will be molded, at least as far as its finishing touches are concerned, in the conference. That is always the way we operate. The differences between the two Houses are resolved in conference. But Senators have to get to the conference and they have to have time which is uninterrupted to deal with the very complex, complicated, and controversial questions. As long as they are

having to run back to the floor of the two Houses they cannot get their work done.

The minority leader and I and the managers of the bill on both sides are trying to look ahead down the road to the problems and attempting, in association, to work in the way that we can best consummate our work and fulfill our responsibilities to the American people by enacting an energy package and putting it on the President's desk. That is our responsibility. We are derelict in our responsibility if we do not do that.

I thank the distinguished minority leader and the ranking Members on that side of the aisle for the fine cooperation we have had and are having in attempting to finalize action on this measure this week.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

UP AMENDMENT NO. 984

Mr. DECONCINI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. DECONCINI), for himself, Mr. GOLDWATER, Mr. HART, Mr. HAYAKAWA, and Mr. BENTSEN, proposes an unprinted amendment numbered 984.

On page 11, line 12, strike "or"

On page 11 between lines 12 and 13, insert the following: "(xi) an evaporative cooling device, or

On page 11, line 13, strike "(xi)" and insert in lieu thereof "(xii)"

Mr. DECONCINI. Mr. President, this amendment is in behalf of myself, Senator GOLDWATER, Senator HART, Senator HAYAKAWA, and Senator BENTSEN. The amendment does several things.

Mr. President, conservation of energy lies ultimately with the individual: His residence; his method of transportation; and his choice of recreation. Of these, the most important is the residence. The average citizen of the United States spends 80 to 90 percent of his time inside a building, and the family residence is occupied at least three quarters of the day.

The residential energy credits, as contained in both the House bill and the bill reported by the Finance Committee, have not been controversial, but I believe this lack of controversy does not diminish their importance; perhaps it underscores it. I think we all agree that the principle of offering a tax credit to achieve a generalized social goal can be self-defeating if misdirected. However, if a limited tax credit is directed at a specific, quantified, energy objective, the tax credit can be an effective tool to reduce energy consumption voluntarily.

In reviewing the energy-conserving components now listed in the bill, I have become aware, along with many of my western colleagues, that there are possibilities for great energy savings not addressed in the pending legislation.

In many areas of the country, especially the 11 Western States, energy consumption is often much greater in home cooling than that consumed in residential heating. The amendment we are offering will include a component that could contribute to a significant annual energy savings. This component is the evaporative air cooler.

Evaporative coolers use the ancient and simply efficient principle of natural cooling. Water is pumped over pads of straw or shredded aspen. Fresh air, drawn by a blower is cooled and filtered as it flows through the pads and then through the house. Because of the simple design, Mr. President, the coolers are comparatively inexpensive and have low operating and repair costs.

A recent study focused on residential cooling in the 11 Western States. It was determined that 32 million people, occupying 8 to 9 million residences, do, or could, utilize evaporative coolers. It was further determined that approximately 50 percent of these residences have some form of cooling system. Of this 50 percent, about two-thirds or 3 million residences have air-conditioning, and only one-third or 1.5 million homes have evaporative air coolers.

This preliminary study of energy savings with the evaporative air cooler was conducted by Gordian Associates, Inc., of New York. Its major finding is that because the evaporative cooler is powered by a one-half horsepower motor and consumes about one-fourth the kilowatts of an air-conditioner, it contributes a 70 to 75 percent energy savings per site. Currently operating evaporative coolers save roughly 6 million barrels of oil per year. If just half of the potential users switched to an evaporative cooler, 18 million barrels of oil a year would be saved.

Historically, because of the low cost of electricity and the climate conditions of the West, home insulation has been underutilized, and is often totally inadequate. It is estimated that 48 percent of those below the poverty level live in houses with little or no insulation, and would benefit from the low cost cooling. And although the Western States have only 20 percent of the country's population, 30 percent of all mobile homes are located in the West. Mr. President, a great percentage of mobile home residents are retirees, are on a fixed income, or otherwise subsist on a low income. Evaporative coolers are ideally suited for the low cost cooling of mobile homes, which are very susceptible to the summer heat.

And although the Gordian study was limited to the Western States, manufacturers indicate a large potential for energy savings throughout the United States.

In concluding, Mr. President, I would like to commend the distinguished floor manager for his efforts to bring a legislative proposal to the Senate floor, and for his willingness to consider those amendments that will ultimately bring the Members of the Senate closer to an agreement on this difficult but crucially important legislation.

Mr. HART. Will the Senator yield?

Mr. DECONCINI. In one moment.

I ask unanimous consent at this time to have printed in the RECORD a statement from the Senator from California, Mr. HAYAKAWA.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HAYAKAWA

I am pleased to join as a cosponsor of this amendment which would include evaporative coolers as energy conserving devices.

One of the purposes of the bill we are debating is to encourage the installation of energy-conserving components in or on a taxpayers residence. However, the bill specifically encourages only those components which increase the efficiency of home heating systems.

In the Southwest United States over half the energy expended in homes is used for cooling rather than heating. When temperatures rise as high as 115 degrees this cooling is a necessity, not a luxury.

As my distinguished colleague from Arizona pointed out, Gordian Associates, Inc. of New York recently completed a study evaluating the energy and cost effectiveness of evaporative air cooling in comparison to electric heat pumps and mechanical air conditioning for residential buildings in the Western United States.

The results showed that the evaporative cooler conserved about 68–74% of the electricity and saved two-thirds of the energy cost in comparison to the heat pump and conventional air conditioner.

In addition, evaporative coolers presently installed in the Western United States are estimated to save approximately six million barrels fuel oil equivalent per year in comparison to alternative cooling systems. If 50% of the remaining estimated residential cooling market in those states where evaporative cooling technology is applicable, installed evaporative coolers savings would amount to 18 million barrels per year.

The Lawrence Berkeley Laboratory in California reached basically the same conclusions as the Gordian study. They also found that energy conservation advantages of evaporative coolers further increase in homes with poor insulation. This clearly benefits low income families who traditionally have the least effective insulation.

This is a simple amendment which clearly encourages energy conservation. Therefore, I hope the distinguished floor managers will accept it.

Mr. HART. Will the Senator yield?

Mr. DECONCINI. I yield to the Senator from Colorado.

Mr. HART. As cosponsor of this amendment I thank the Senator from Arizona for bringing this matter to the attention of Senators. It does capitalize on a natural phenomenon of our part of the world, and that is the arid, dry nature of the climate, and seeks to use that natural phenomenon as a means of conserving energy. That is the kind of thinking the Congress has to engage in if we are to solve the energy problem.

This measure obviously will not solve that problem by itself, but it is through a series of steps which seek to reverse the trend created in this country over the past several decades of cheap energy which will have the greatest impact on our total overall consumption of energy in this country, and reverse the very serious difficulties in which we find ourselves as a result of the wasteful decades in which we have all participated.

I believe the Senator has brought a small but very important measure before us. I support him wholeheartedly. I hope the distinguished floor manager accepts this amendment. I believe it will make a great deal of difference in our part of the country in energy consumption.

Mr. DECONCINI. I thank the Senator from Colorado.

Mr. President, I reserve the remainder of my time.

Mr. LONG. Mr. President, the Senator's amendment will add an additional item to the residential tax credit. It is one that had not been considered by the committee. It obviously has merit, and I am pleased to take the amendment to conference and ask that it be considered along with the other provisions involving the same residential question.

Mr. DECONCINI. I thank the Senator from Louisiana.

Mr. HART. Mr. President, I favor the amendment to give incentives for evaporative cooling devices—rather than have households invest in the usual refrigeration type of air conditioner.

Evaporative cooling devices can save substantial amounts of energy in parts of the country where there is a lot of dry heat. In Denver, Colo., the average humidity is below 30 percent virtually all the time when the temperature is over 90 degrees. These climatic conditions are particularly appropriate for using evaporative coolers.

The energy savings from using evaporative coolers can amount to 81 percent when they are used in an insulated house.

When used in an uninsulated house the energy savings are even greater, they are 87 percent.

In hot climates the cost savings are in the range of $75 per summer when these devices are used in an insulated house; and are about $180 when used in an uninsulated house.

This amendment will not only save energy, but it will help lower income people, who tend to live now in uninsulated houses and trailers, to save both energy and money.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

AMENDMENT NO. 1526

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, I call up at this time amendment No. 1526.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Utah (Mr. GARN) proposes an amendment numbered 1526.

Mr. GARN. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 5, line 23, replace the period with a comma, and insert the following: "plus,

"(3) the qualified hydrogen energy expenditures.".

On page 6, line 16, add a new subsection (3) as follows, and renumber subsequent subsections accordingly:

"(3) HYDROGEN ENERGY.—In the case of any dwelling unit, the qualified hydrogen energy expenditures are 20 percent of so much of the hydrogen energy expenditures made by the taxpayer during the taxable year with respect to such unit as does not exceed $2,000.".

On page 9, line 17, insert the following subsection (3), and renumber subsequent subsections accordingly:

"(3) HYDROGEN ENERGY EXPENDITURES.—

"(A) IN GENERAL.—The term 'hydrogen energy expenditures' means an expenditure made on or after April 20, 1977, by the taxpayer for hydrogen energy property and installation installed in connection with a dwelling unit—

"(i) which is located in the United States, the Virgin Islands, or Guam, and

"(ii) which is used by the taxpayer as his principal residence.

"(B) ITEMS INCLUDED.—The term 'hydrogen energy expenditures' includes only expenditures for—

"(i) hydrogen energy property,

"(ii) labor costs properly allocable to the onsite preparation, assembly, or installation of hydrogen energy property, or to the modification of conventional property for the use of hydrogen as a fuel.".

On page 12, line 17, add the following: "or in the production of electricity.".

On page 12, line 19, following the word "dential," add the words "or transportation".

On page 13, line 13, add a new subsection (6) as follows, and renumber subsequent subsections accordingly:

"(6) HYDROGEN ENERGY PROPERTY.—The term 'hydrogen energy property' means property—

"(A) which, when installed in connection with a dwelling—

"(i) uses hydrogen as a fuel for the purpose of heating or cooling such dwelling or providing hot water for use within such dwelling, or

"(ii) is used in the electrolysis of water for the production of hydrogen,

"(B) the original use of which begins with the taxpayer,

"(C) which can reasonably be expected to remain in operation for at least 5 years, and

"(D) which meets the performance and quality standards, if any, which—

"(i) have been prescribed by the Secretary by regulations, and

"(ii) are in effect at the time of the acquisition of the property.".

Mr. GARN. Mr. President, this amendment is very simple. Essentially, what it does is provide equal treatment to one of the cleanest forms of energy available to the American public. I am speaking of hydrogen energy.

In the bill as it stands before us, a tax credit is provided for homeowners who install energy conserving devices and materials or devices which use renewable energy sources. The purpose of this provision is to encourage the shift away from home heating and cooling by oil and natural gas, and the substitution of cleaner, more plentiful and more efficient energy sources.

Hydrogen is cleaner and more plentiful and since it can be made from coal, as a byproduct of oil refining, and from common water, it is as plentiful a fuel as exists. My amendments would encourage its use in the heating and cooling of homes, and in powering automobiles.

The technology for the use of hydrogen is available. What is not available is a reliable source of bulk hydrogen. Potential producers of such hydrogen need the same kind of encouragement that we are providing for the producers of solar equipment, and the flue dampers and so on, that can conserve scarce energy. In fact, hydrogen can be used in connection with these other forms of energy conservation.

The amendment would simply provide the same tax credit of 20 percent of the first $2,000 for the installation of hydrogen equipment that we are providing for energy conservation installation. As with that credit, if homeowners do not install this equipment there will be no revenue loss. If they do install it, the country will get the advantage of fuel savings, and a cleaner environment. Since there are very few bulk producers of hydrogen right now, and revenue loss would be extremely small to begin with, and would increase as hydrogen heating and cooling increased in popularity.

The amendment provides the credit against the expense of buying and installing water heaters, furnaces, heat pumps and so on that use hydrogen as a fuel, or for converting existing units to hydrogen combustion.

Mr. LONG. Mr. President, this amendment deserves to be considered by Congress. It was not raised in the committee, but it is very much in line with other things that were done in the committee. I hope that the Senate will agree to it so that we can take it to conference and consider it there.

Mr. CURTIS. If the Senator will yield I concur with the distinguished chairman of the committee.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 985

Mr. GARN. Mr. President, I send to the desk an unprinted amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read as follows:

The Senator from Utah (Mr. GARN) proposes unprinted amendment numbered 985.

Mr. GARN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 42, line 8, insert after the word "electric" the words "or hydrogen".

On page 42, line 12, strike the words "motor vehicle" and insert the following: "or hydrogen motor vehicle, or the cost of converting a gasoline-powered vehicle to the use of hydrogen".

On page 42, line 24, insert before "motor vehicle" the words "or hydrogen".

On page 43, line 16, add "or which uses hydrogen as a fuel,".

On page 43, line 23, insert following the word "electric" the words "or hydrogen".

Mr. GARN. Mr. President, this amendment relates to the use of hydrogen in transportation. The bill before us provides a $300 tax credit for the purchase of an electric vehicle. My amendment would provide a similar credit for purchase of a hydrogen-powered vehicle, or for the conversion of a gasoline-powered vehicle to hydrogen.

Hydrogen technology for automobiles is already well advanced. It is possible right now for the individual homeowner to use his house current to produce hydrogen for a personal automobile.

Unfortunately, hydrogen produced in that way is relatively expensive; it compares to $4 per gallon for gasoline. In order to make hydrogen a viable technology, a mass market needs to be created which will make it profitable for oil refiners, coal gasifiers, and so on, to provide the stable bulk supplies of hydrogen that are needed. At that point, hydrogen will compare with gasoline at about 17 cents per gallon, according to a study by Battelle Institute. Other estimates are slightly higher, but all are well below current prices of gasoline, and certainly below what we can expect in the future.

In this matter, Mr. President, I am not asking for special treatment. The bill provides a credit for electric vehicles. All I am saying is that hydrogen should be treated in the same way. The technologies are at a similar stage of development, and it is unwise for us to substitute our wisdom for that of the marketplace. Let us treat both forms equally.

Right now a hydrogen car costs about $10,000. These are prototypes, and the cost will come down radically in a few years. The credit in this bill phases out in 1985.

Within about 2 years, there will be a conversion kit on the market for about $700. The hydrogen engine is considerably more efficient than gasoline. The weight of the tank is an argument against it. But still, even with the weight of a hydrogen tank, it is more efficient than a gasoline engine.

Hydrogen is safer than gasoline.

I make some personal references to the fact that a young engineer in Provo, Utah, has developed a hydride process for utilizing hydrogen in automobiles. He has converted several automobiles that have been driven for 2 or 3 years on hydrogen. He has had a bus that was converted to hydrogen energy operating in the Provo municipal system for the last couple of years. Last year, he drove one of his buses to Washington and had it on display here.

This is something that is not far into the future. Hydrogen technology is available. All I am asking in this amendment is that the tax credit be the same for hydrogen as it would for some of the others, such as electric cars.

Mr. TALMADGE. Will the Senator yield?

Mr. GARN. Yes.

Mr. TALMADGE. I have examined the Senator's amendment. The bill already provides a tax credit for electric motor vehicles. The Senator's amendment would be broadening the amendment of the Committee on Finance. It provides another alternative to imported fuel. As far as the Senator from Georgia is concerned, I am prepared to take it to conference.

Mr. CURTIS. Will the Senator yield?

Mr. TALMADGE. I yield.

Mr. CURTIS. I concur with the distinguished manager of the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 986

Mr. GARN. Mr. President, I send one more unprinted amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Utah (Mr. GARN) proposes unprinted amendment No. 986.

Mr. GARN. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 90, line 9, insert following the word "shale" the words "or tar sands".

On page 90, line 10, following the word "shale" insert the words "or tar sands".

On page 91, line 12, following the words " 'oil shale'," insert the words " 'tar sands',".

On page 91, line 19, following the words " 'oil shale property' " a comma and the words " 'tar sands property',".

Mr. TALMADGE. Mr. President, as I understand, the Senator from Utah proposes to add a tax credit for the development of petroleum from tar sands as well as oil shale. I was the principal author of the amendment on oil shale. I concur fully that it meets the standard that the Senate Finance Committee considered when it considered alternative sources of fuel. I think that oil shale offers tremendous potential for the development of petroleum in this country. I am prepared to take it to conference.

Mr. GARN. I appreciate that.

Mr. CURTIS. Mr. President, I think it is a good addition and should be accepted.

Mr. HART. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HART. The Senator from Colorado intends, at an appropriate time, to move to strike portions of the bill providing tax credits for oil shale development. The Senator from Colorado merely wants to determine that it will be in order to modify his amendment to accommodate this change if, in fact, the tar sands are accepted.

The amendment is at the desk. It is amendment 1520. I have no objection to this amendment. I just want to make sure it will not prejudice my amendment.

The PRESIDING OFFICER. One provision of the Senator's amendment would not be in order if this amendment is agreed to; namely, the provision on page 2, lines 10 and 11.

Mr. HART. But it would be in order for the Senator from Colorado to seek unanimous consent to attempt to modify?

The PRESIDING OFFICER. Yes, it would be.

Mr. HART. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah.

The amendment was agreed to.

UP AMENDMENT NO. 987

Mr. SCHMITT. Mr. President, I send an unprinted amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. SCHMITT) proposes an unprinted amendment numbered 987, as follows:

On page 73, line 12, insert the following: after "industrial": "(including water purification or desalinization)"

Mr. SCHMITT. Mr. President, it is important to recognize that the term "cogeneration" should not be defined in an overly restrictive manner.

Mr. TALMADGE. Will the Senator yield?

Mr. SCHMITT. I am happy to.

Mr. TALMADGE. I think what the Senator's amendment does is clarify language already in the Finance Committee bill. We think it is already included and we certainly have no objection to the Senator's amendment and are prepared to take it.

Mr. SCHMITT. I appreciate that very much.

I think it is important to note very briefly that the problem of water purification is an important problem in the Southwestern United States. It is a growing problem throughout the country, and this amendment would recognize that problem and also recognize the use of waste heat is one of the hopes we have in solving our growing need for fresh water, providing for those needs.

There are so many possible applications for waste heat that it would be a fruitless effort for us to try to list each one. For that reason the committee has, on page 73 of the bill, listed major areas where cogeneration would yield important energy savings.

I believe that the purification and desalinization of water is important enough to be among those applications listed. The future need for pure, fresh water and the fact that waste heat would be easily and directly applied to this need make this all the more attractive to those of us facing potentially severe water problems in the future. The Southwest and the more arid coastal regions can vastly improve their water situations by desalting their ample supplies of brackish or salty water. Our large population centers will continue to be plagued by the problems of maintaining high water purity in an environment beset by the polluting agents of man in a growing society. Cogeneration can be an answer to these two problems. I urge my colleagues to demonstrate our foresight in recognizing water as the national problem it indeed will be within the next decade.

The Southwestern United States has tremendous supplies of brackish or salty water underground. We hope someday in the not-too-distant future to be able to utilize that, and the use of waste heat may well be the answer.

I appreciate the committee's willingness to accept this clarification.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Mexico.

The amendment was agreed to.

UP AMENDMENT NO. 988

Mr. SCHMITT. Mr. President, I send another unprinted amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. SCHMITT) proposes an unprinted amendment numbered 988.

Mr. SCHMITT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 61, line 23, insert the following:

Delete "(M) any other property of a kind specified by the Secretary by regulation," and add

"(M) a fuel cell, gas turbine, or external combustion engine which the Secretary determines to have a fuel efficiency such that the device would have significant energy savings.

"(N) any other property of a kind specified by the Secretary by regulations."

Mr. SCHMITT. Mr. President, it is difficult for any of us to envision a day when oil and gas are not the basis for our energy economy.

However, we are trying to do so.

I commend Senator GARN for his emphasis in his amendments on the material hydrogen, or the molecule hydrogen, and for the great potential that that element has in the future as our primary fuel. Perhaps in the next century or so we will see oil and gas as much a novelty as hydrogen is today, used only in a small number of unusual or specialty applications. But until that future time, they will remain the lifeblood of our industrialized Nation and of our industrialized societies.

For that reason I believe it is equally important to encourage highly efficient use of oil and gas, for those applications which have no near- or mid-term substitutes, as it is to encourage replacement where substitutes are available, and development of alternative energy.

Mr. TALMADGE. Will the Senator yield?

Mr. SCHMITT. I am happy to.

Mr. TALMADGE. Mr. President, I have examined the Senator's amendment. It adds an additional item for the 10-percent investment tax credit, fuel cell, gas turbine, or external combustion engine which the Secretary determines to have a fuel efficiency such that it would have significant energy savings.

It is in line with other items that we have already included in the bill. I personally think it is already included in the bill, but, in order to make certain, I am prepared to take it to conference.

Mr. SCHMITT. I appreciate the committee's desire on this point.

Currently the bill provides for a 40-percent investment credit when new nonoil and gas burning equipment is purchased. The amendment I have offered will provide a 10-percent credit incentive for capital investments in equipment which is substantially more efficient in its use of oil and gas.

It is important to understand that the increase in efficiency, as required in the amendment, should be a significant engineering improvement. For example, electrical generators used for load peaking are often gas turbines which have an average efficiency of about 25 percent. This amendment would offer an investment incentive to utilities which purchase oil and gas burning equipment having an efficiency of perhaps, 35 percent or greater. In areas where environmental air quality will not permit a shift to coal, utilities could apply, again under this amendment, for an investment credit for a 43-percent efficient fuel cell or a 37-percent efficient advanced design high temperature turbine.

I urge my colleagues to accept this amendment because it will provide a new burst of support for the small developing companies as well as large which provide innovation in our economic system. We need imaginative new ideas for the best utilization of our dwindling oil and gas reserves, just as much as we need them to shift to renewable sources of energy.

The PRESIDING OFFICER. The Senator's language in his amendment attempts to put language on an amendment that was adopted yesterday. Senator PERCY's amendment. Is it the intent of the Senator to now strike that language?

Mr. SCHMITT. Mr. President, in order that we may examine——

The PRESIDING OFFICER. It would take unanimous consent to do that.

Mr. SCHMITT. I would hesitate to do that until we see exactly what the Chair is referring to, so perhaps we can lay this aside temporarily until that is done.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be laid aside and the Senator from New Mexico is recognized for an additional amendment.

UP AMENDMENT NO. 989

Mr. SCHMITT. Mr. President, I have a third unprinted amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. SCHMITT) proposes an unprinted amendment numbered 989:

On page 43, line 10, delete: "4-wheeled".

Mr. SCHMITT. Mr. President, I think this, very obviously, is a simple amendment. The main purpose is to not exclusively limit the development of battery-powered or electrical to four-wheel vehicles.

Mr. President, in studying the provisions of H.R. 5263 and its accompanying report, I was surprised to note that only "four-wheeled" electric vehicles would be eligible for the tax credit of section 1028. That particular restriction seems unnecessarily narrow. There could well be a number of applications in which a three-wheeled vehicle might be more appropriate or cheaper. Given the signals in this bill, however, we would end up with a lot of inappropriate or expensive four-wheeled vehicles.

I would like to suggest, therefore, that we delete the requirement for vehicles to be "four-wheeled" and express more directly classes of vehicles which would not be eligible for the credit.

The language in the bill, I believe, already prevents any undue advantage being taken of this measure in that some fear golf carts and other light vehicles might come under the provisions. That has been adequately taken care of by the bill language.

I think it is important to recognize that light weight is one of the most important features of battery-powered cars and three-wheeled vehicles.

Mr. TALMADGE. Will the Senator yield?

Mr. SCHMITT. I am happy to.

Mr. TALMADGE. I understand the Senator's amendment is to authorize tax credit for electrical vehicles, even if they do not have four wheels.

Mr. SCHMITT. Yes.

Mr. TALMADGE. I have no objection and am prepared to take it to conference.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Mexico.

The amendment was agreed to.

UP AMENDMENT NO. 988

The PRESIDING OFFICER. The Senator's amendment that was laid aside has been modified by the staff of the Finance Committee and the amendment now is in order, if the Senator would like to return to it.

Mr. SCHMITT. Yes, I would like to return to that amendment.

The amendment, as modified, is as follows:

On page 61, after line 24, insert the following:

(O) a fuel cell, gas turbine, or external combustion engine which the Secretary determines to have a fuel efficiency such that the device would have significant energy savings.

Mr. TALMADGE. Mr. President, I repeat, I am prepared to take it to conference.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Mexico.

The amendment, as modified, was agreed to.

Mr. SCHMITT. Mr. President, that is the completion of my amendments. I thank the committee for their indulgence.

UP AMENDMENT NO. 990

(Purpose: To permit extension of gasoline tax whether or not tax incentives are finally adopted as part of the bill.)

Mr. BUMPERS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes an unprinted amendment numbered 990.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 96, line 9, after the word "tax" insert the following: "(other than the tax imposed by Section 1021 of this Act (relating to tax on gasoline))."

Mr. BUMPERS. Mr. President, I have cleared this amendment with the managers of the bill, but for the record, it is a very simple proposition.

The first sentence of section 1054 is unclear as to whether or not the extension of the 4 cent gasoline tax would be included in those taxes that could be used for incentive purposes as tax expenditures.

Mr. TALMADGE. Mr. President, I am glad to take the amendment of the Senator from Arkansas to conference, because that was not the intention of this language.

Mr. BUMPERS. I feel sure the language was not clear, and that was the purpose of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. What is the pleasure of the Senate?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TALMADGE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I thank the Senator from Georgia.

ENDANGERED PUBLIC LANDS

Mr. JACKSON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 3454.

The PRESIDING OFFICER. (Mr. GRAVEL) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H.R. 3454) to designate certain endangered public lands for preservation as wilderness, to provide for the study of additional endangered public lands for such designation, to further the purposes of the Wilderness Act of 1954, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. JACKSON. I move that the Senate insist upon its amendments and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. JACKSON, Mr. CHURCH, Mr. METCALF, Mr. ABOUREZK, Mr. MATSUNAGA, Mr. HANSEN, Mr. HATFIELD, and Mr. MCCLURE conferees on the part of the Senate.

ENERGY PRODUCTION AND CONSERVATION TAX INCENTIVE ACT

The Senate continued with the consideration of the bill (H.R. 5263).

Mr. TALMADGE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TALMADGE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TALMADGE. Mr. President, I ask unanimous consent to temporarily lay the pending matter aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

SCHOOL LUNCH PROGRAM—CONFERENCE REPORT

Mr. TALMADGE. Mr. President, I submit a report of the committee of conference on H.R. 1139 and ask for its immediate consideration.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, the conference report is fully cleared, and we are ready to proceed with it at this time. We have no objection to laying aside the pending question for that purpose.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1139) to amend the National School Lunch Act and the Child Nutrition Act of 1966 to revise and extend the summer food service program for children, to revise the nonfood assistance program, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 14, 1977.)

Mr. TALMADGE. Mr. President, H.R. 1139 makes important changes in the National School Lunch Act and the Child Nutrition Act of 1966. Under these acts, programs have been developed to improve the health and well-being of our Nation's children.

As amended by the committee of conference, the major provisions of H.R. 1139 would—

First, extend the summer food service program for children through September 30, 1980, with needed changes designed to eliminate abuses of the program and otherwise strengthen the administration of the program;

Second, extend through September 30, 1982, the authority of the Secretary of Agriculture to purchase agricultural commodities for donation to the child nutrition programs when acquisitions under other agricultural authorities are not available. The bill also requires the Secretary to establish procedures to assure that donations of agricultural commodities to the child nutrition programs are more responsive to the problems and needs of local school districts. Schools are permitted to refuse to accept delivery of not more than 20 percent of the total value of commodities and other foods tendered and may receive other commodities if they are available in the State;

Third, require the Secretary of Agriculture to conduct pilot projects—including no more than 10 cash-in-lieu of commodities projects—and a study of the effect on the child nutrition programs of making cash payments in lieu of commodities. New, more economical, efficient, healthful, and reliable methods of food delivery and preparation can now be tested and evaluated before they are implemented nationally;

Fourth, revise the special milk program to provide that in schools and institutions participating in the school lunch, school breakfast, or child care feeding program, free milk may be provided to children eligible for free school meals only at times other than the regular school lunch or school breakfast serving period. This change will eliminate difficulties in administering the program and result in estimated cost savings of over $30 million annually;

Fifth, revise the school breakfast program to increase the Federal maximum reimbursement for especially needy schools and require States to establish the standards, subject to the Secretary's approval, under which schools in severe need may receive 100 percent of their operating costs;

Sixth, revise the authority under which equipment funds are furnished schools to give strong preference to on-site or central kitchen preparation of school meals;

Seventh, permit junior high and middle school students in schools participating in the school lunch program, if approved by the governing school body, to refuse to accept offered foods they do not intend to eat. Currently, only senior high school students have this option.

Eighth, amend the special assistance provisions in two ways:

In any school in which at least 80 percent of the children are eligible for free or reduced price lunches, special assistance payments for these lunches can be made for the school year following the school year in which the children's eligibility determination is made, if the school requests the payments; and

In any school that elects to serve children free lunches for 3 years and pays for the lunches for "nonneedy" children from sources other than Federal funds, special assistance payments for free and reduced price meals are to be made to that school for a period of 3 years based upon its number of children determined eligible for free and reduced price meals during the first year;

Ninth, revise the authority under which States are provided administrative expenses for carrying out certain child nutrition programs to require that a specific amount—based on a percentage of the State's total costs—be made available for the 1978 through 1980 fiscal years;

Tenth, authorize a nutrition education and information program under which grants would be made to State educational agencies for the purpose of encouraging effective dissemination of scientifically valid information about food and nutrients to children participating in the school lunch and related child nutrition programs; and

Eleventh, require the Secretary of Agriculture to approve the competitive foods that may be offered for sale at the same time and place as school meals are served.

SENSIBLE ADMINISTRATION OF THE PROGRAM

I would like to make four additional points that I believe will lead to more sensible administration of the programs amended by H.R. 1139.

I.

The conference substitute authorizes substantial additional funds for State administrative expenses in operating the child nutrition programs. Smaller increases are authorized for State administrative funds for the summer food service program for children. In those instances where a State is properly administering its other child nutrition programs, and has unused State administrative funds available, the State may use these funds for administration of the summer food service program if the Secretary approves that use. This allocation of unused State administrative funds will help insure strengthened administration of the program. Improved management of the program for children may thus be attained without requiring the appropriation of any additional funds.

II.

The conference substitute requires the Secretary of Agriculture to make funds available to States administering the child care food program to defray the cost of conducting audits. The term "audits" should be construed to include overall administrative reviews of a sponsor's operations to assure effective program operation.

III.

The conference substitute, as I have noted, authorizes a nutrition education and information program.

The grants to the States would be based on a rate of 50 cents for each child enrolled in schools or other educational institutions in each State. The Congressional Budget Office, using data found in the "projection of educational statistics to school year 1985–86," published by the Center for Educational Statistics of the Department of Health, Education, and Welfare, calculates for fiscal year 1978, the following number of eligible children: 49,021,000 children in school grades kindergarten through 12; 2,003,000 children in independent nursery schools and kindergartens; and 1,300,000 children in other educational institutions. Therefore, there would be about 52,400,000 children enrolled in schools and other educational institutions at the elementary and secondary level that would be counted toward the States' grants.

IV.

As I have noted, the conference substitute requires the Secretary of Agriculture to approve the competitive foods that may be offered at the same time and place as school meals are served.

Very frankly, this amendment gave me a considerable amount of trouble, because it involved a balancing of strong equities on both sides of the question.

Certainly, everyone is in favor of improving the nutrition of our schoolchildren, particularly those in the elementary grades who may not have sufficient maturity to make intelligent dietary choices on their own. However, the sale of so-called "competitive foods" has provided local school systems with desperately needed supplemental revenues over the years. The demise of the neighborhood school has increased the already existing financial problems of our public school system. As the children of one family travel farther and farther to attend two or three separate schools, parental support of those schools diminishes.

Part of this gap has been filled by the proceeds which are realized from the sale of soft drinks and other snack foods in school vending machines. These funds have been used to purchase band uniforms, athletic uniforms, supplementary equipment for the schools, and other items that enable students to particiipate in beneficial school-related activities.

In many cases, the athletic program of a school is the cement which holds the student body together. The same can be said for the pride which students take in a good school band. The list goes on and on.

Mr. President, it is not the intent of H.R. 1139 to bring about a wholesale cancellation of the beneficial activities which I have listed. The only reasonable course to follow here is one of balance and sensible compromise. It is to be hoped that this is a law the Secretary of Agriculture will apply with discretion and restraint, realizing the potential impacts which are involved. What we want to avoid is the development of inflexible standards, rigidly applied.

I would hope, for example, that if a local school official demonstrated to the Department of Agriculture that the list of approved competitive foods was resulting in the cancellation of important and worthwhile programs in the school the Department would be willing to amend their regulations and allow the continued sale of items in special circumstances so long as the regular school lunch and breakfast programs were not jeopardized.

I happen to believe that, as a general rule, the local person who is on the scene has a deeper and more practical insight into school problems than Government officials in Washington, and that the Secretary should give careful consideration to the views of local school officials in the development of the list of approved foods.

Mr. President, I believe that the conference substitute before the Senate is sound legislation. If the legislation is intelligently administered, it can do great good.

Mr. President, I ask unanimous consent that a statement of the distinguished chairman of the Subcommittee on Nutrition of the Committee on Agriculture, Nutrition, and Forestry, Senator McGOVERN, be printed in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR McGOVERN

I am very pleased that the Senate is today taking final action on H.R. 1139, the National School Lunch Act and Child Nutrition Act Amendments of 1977, Conference Report.

This report emerged from the conference committee containing the strongest and best of the Senate provisions, as were passed by the Senate in June of this year. I believe the conferees were quite successful in blending the various House/Senate provisions to produce a conference report supported by all of the conferees.

This bill represents an attempt by both Houses of Congress to do some "fine tuning" of various federal food programs. Several of these food programs have experienced problems either administratively or in reaching those that are eligible. This bill is designed to correct those problems, and make revisions and updates where necessary.

The cornerstone of this bill is the provision for nutrition education. Nutrition education has been a component missing from our federal food programs. For the first time a federal program will be abe to provide the link between food, nutrition, and health—that link being education in nutrition and its relationship to good health.

NUTRITION EDUCATION AND TRAINING

The legislation sets up a system of grants to the states for nutrition education and training based on a formula of 50¢ for every child enrolled in schools or educational institutions within a state. Schools would include both public and private non-profit schools through the secondary level; institutions would include non-profit institutions engaged in educational activities through the secondary level.

The Congressional Budget Office using data found in the "Projection of Educational Statistics to school year 1985–86," published by the Center for Educational Statistics of the Department of Health, Education, and Welfare, calculates for fiscal year 1978, the following number of eligible children: 49,021,000 children in school grades kindergarten through twelfth grade; 2.003,000 children in independent nursery schools and kindergartens; and 1,300,000 children in other educational institutions; for a total of 52,400,000 children enrolled in schools and educational institutions at this elementary and secondary level.

The nutrition education funds are to be used for the purpose of developing nutrition education curriculum, training teachers and food service personnel in nutrition education, and training food service personnel in food service management.

During the initial development of this legislation and as the legislation moved through the legislative process, one concept became clear. The concept being that educating in nutrition did not simply mean the teaching of the four food groups. Rather, it should mean the teaching of the relationship between nutrition and health.

This new nutrition education program should go beyond the four food groups, beyond the teaching of the established bodily needs for nutrients in food, and move far beyond the crisis approach to nutrition. Nutrition education should, instead, examine the relationship between nutrition and health; it should aim to equip children with useful consumer skills for making wise food choices, who can then adjust their food selection to a changing food supply; it should examine food as it fits into the full range of people's lifestyles; where they are obtaining food, how they prepare it, and what values and priorities are placed on food in the context of the day's activities.

USDA must now move quickly on the development of the regulations for this program to guarantee that the nutrition education funds will be available to the states, as intended by this legislation.

Special Milk Program

The Child Nutrition bill passed by the Senate contained a provision which corrected an administrative problem in the

Special Milk Program The savings caused by this corrective action were then applied to totally absorb the cost of nutrition education. The conference committee accepted this special milk provision. The provision should ease the administrative problems schools have been experiencing in the Special Milk Program.

State Administrative Expenses

The bill is also intended to provide additional financial assistance to the states for administrative expenses in child nutrition program areas where federal assistance has been deficient in the past. The programs included under the State Administrative Expense (SAE) provision are school lunch and breakfast, child care food, special milk and equipment assistance. The formula for SAE funds is tied to total program expenditures within a state, thereby keeping administrative expenses at an equal pace with total program expenditures and responsibilities.

It would also be possible for any state, after (1) making the SAE funds available to the programs for which they were intended; (2) accounting for SAE expenditures; and (3) ensuring that the programs, specified in section 14 of this legislation, were not in any way being deprived of SAE funds; to utilize the state's own SAE money for administrative expenses associated with other child nutrition programs having a deficit.

COMPETITIVE FOODS

I am very pleased that the conference committee accepted a provision which will enable the Secretary of Agriculture to approve what foods may be sold in competition with the school lunch and breakfast programs. It is counterproductive for the Federal Government to attempt to provide nutritious, health supporting meals through the child nutrition programs, and, at the same time, permit foods of low nutritional value to compete directly with nutritious meals. The foods sold should be foods which will develop sensible food preferences (in terms of health), and which broaden a child's exposure to a variety of conventional foods.

Foods which naturally have a low nutrient to calorie density should not be acceptable. Foods fortified with vitamins and minerals are often too high in sugar and caloric content to be wholesome, and therefore, should not be acceptable just because they are fortified.

The fundamental purpose of the school lunch program is to provide school children with nutritious meals that promote good health, making full use of the nation's agricultural abundancies. The best way to accomplish this is by encouraging the consumption of conventional nutritious agricultural commodities—fruits, vegetables, dairy products, meat, poultry, whole grain cereals, nuts, and so forth.

I hope the Secretary will take this as an opportunity to review and approve competitive foods, *and* as an opportunity to reassess the foods which can be served as part of the Type A meal pattern.

COMMODITY DISTRIBUTION PROGRAM

The bill approved by the conferees also strengthens the commodity distribution program. Mandatory procedures for responding to state and local commodity needs are prescribed to make USDA more accountable to the states and local schools. In addition, more flexibility is granted for making up the short fall in each state of the commodities distributed. The Congress has developed these two legislative actions with the intent that the commodity distribution program be improved and strengthened. Internal, administrative actions within the Department of Agriculture to strengthen this program are certainly also in order.

SCHOOL BREAKFAST

An adjustment in especially needy breakfast reimbursement rates is included in this legislation. The increased rates are intended to assist those schools participating in the breakfast program with high proportions of low income children, and to serve as an incentive for schools to develop breakfast programs.

SUMMER FOOD PROGRAM

The bill makes several needed revisions in the Summer Food Program which are designed to clearly spell out federal, state and local responsibiilties for administering the program.

Finally, the bill specifies the priority scheme for equipment assistance funds. Priority will be given to on-site preparation, including central kitchens. Schools *currently* using frozen pre-plated meal systems would not be denied funds. However, schools newly entering the program who wanted to use frozen pre-plated meals would have to consider other types of meal service first, and then justify why other types of meal service were not the most sensible and practical in the long run.

This legislation takes a significant step forward in the area of nutrition education. A step which is long overdue. We must now proceed with the effort to tie these federal food programs to the promotion of good health, and sound nutrition habits.

I am very proud of this legislation. I believe it embodies much of the information assembled over the years by the Senate Select Committee on Nutrition and Human Needs. This legislation represents the new role that nutrition and food are playing and will continue to play in our agricultural and health policies. At the same time, the legislation refines, improves, and updates several of our federal food programs.

I urge that the Senate move quickly to enact this legislation, as the House has, and forward it to the President for signing.

Mr. TALMADGE. Mr. President, I yield to the Senator from New York.

Mr. JAVITS. I understand in the other body there was a colloquy between Congresswoman HOLTZMAN and the manager of the conference report which related to the transfer of certain moneys both for fiscal year 1977 and future years for additional costs for administration. As my own State would qualify for some of the 1977 money, the question arises of the degree to which there had been proper servicing in New York in the summer lunch program.

Congresswoman HOLTZMAN has been extremely critical of the administration of the summer lunch program.

Mr. TALMADGE. In response to the question of the Senator from New York, there was a colloquy on the floor of the House on October 27, beginning on page 35417. Congresswoman HOLTZMAN and Chairman PERKINS had such a colloquy.

I think I handled that in my statement, and I will repeat it for the Senator.

The conference substitute authorizes substantial additional funds for State administrative expenses in operating the child nutrition programs. Smaller increases are authorized for State administrative funds for the summer food service program for children. In those instances where a State is properly administering its other child nutrition programs, and has unused State administrative funds available, the State may use these funds for administration of the summer program if the Secretary approves that use. This allocation of unused State administrative funds will help insure strengthened administration of the summer program. Improved management of the summer food service program for children may thus be attained without requiring the appropriation of any additional funds.

Is that the matter to which the Senator from New York made reference?

Mr. JAVITS. The Senator is exactly right. That and the matter concerning the reallocation of unused money under present law, to pay for additional administration expenses of this past summer's feeding program.

Mr. TALMADGE. May we have order in the Senate, Mr. President.

The PRESIDING OFFICER (Mr. ZORINSKY). The Senate will be in order.

Mr. JAVITS. May I say to the Senator I would like to interest myself in this question because I am very sympathetic to Congresswoman HOLTZMAN's inquiries which have unearthed some very irresponsible operation with respect to this particular program in prior years in my own city, let alone State. What worried me was the fact that the moneys were not utilized properly and that fact, therefore, had a tendency perhaps to prejudice the whole program, which is terribly unfortunate.

I, therefore, want to be sure that the record is clear: First, that it will not help anybody if inadequacies in the administration of the program result in material curtailment or stopping of the program. This summer in New York many of the problems associated with past years were corrected but fewer children were served. I assume this was only a 1-year decrease and that next summer many more of the very needy children in New York will be served.

Second, I shall undertake, as I have done in the past, to collaborate in any effort by the department concerned and by Congresswoman HOLTZMAN to bring about additional suitable and appropriate corrections so that the Senate may, with confidence, allow this program to continue.

Mr. TALMADGE. The Senator is entirely correct. We found that in our development of the bill both at the hearing and in marking up the bill in the committee and in conference, and we did not want to destroy the program. We wanted to correct the abuses therein.

Mr. JAVITS. I just wanted to pledge myself, Senator TALMADGE, to dig into it with Congresswoman HOLTZMAN, and I hope Senator MOYNIHAN will do the same, in order to do her own correcting so that it may deserve the kind of support it deserves and needs, but which could be hampered and interfered with if it is badly run.

Mr. TALMADGE. The Senator is entirely correct, and that is true of the members of our committee.

Mr. JAVITS. I thank my colleague.

Mr. TALMADGE. I thank my distinguished friend from New York.

Mr. DOLE. Mr. President, I am proud to be associated with this conference report—the 1977 amendments to the school lunch and child nutrition programs—which is being presented to the full Senate today. Conference managers were committed to coming up with a bill which would continue to enhance the goals of

school meal programs, to "safeguard the health and well-being of the Nation's children, and to encourage the domestic consumption of nutritious agricultural commodities and other foods."

SUMMER FOOD SERVICE PROGRAM

A major portion of this legislation amends the administrative procedures of the summer food program for children, whose fiscal 1977 expenditures were over $150 million and projected 1978 expenditures are some $230 million. We are all too familiar with reports of poor meal quality, fraud, and mismanagement associated with this program a couple of summers ago. I am happy to report a vast improvement in the administration of this program in my own State of Kansas this past summer.

Particular emphasis in this bill has been given to a more careful look at the selection of sponsors, the content of contracts, procedures for handling contracts, and periodic food inspection. These actions should guarantee better administered programs as well as more nutritious and higher quality meals for children from economically depressed areas served by this program.

The Senate introduced a provision for program sponsors to seek out and use small businesses and minority-owned enterprises in the summer meal program. Such action should certainly improve the Federal Government's assistance to the small businessman. And I urge the Department to make positive efforts to use small and minority-owned business enterprises in the summer food program.

OFFER VERSUS SERVE PROVISION

The conferees adopted the House language which authorizes local school districts to permit junior high and middle school children to refuse foods which are offered to them. That is, they are offered five menu items and can accept—or be served—only three items. This provision prevails in senior high schools now. Since reimbursement rates are based on the foods offered students rather than the foods actually served students, I urge local school districts to recognize that this provision is "optional" and does not have to be implemented.

Based on testimony and discussion I have had in recent months—including pertinent testimony on the second day of the conference—with persons very close to the local school scene, I find myself questioning whether taking the offer versus serve provision down to the junior high school level—which means the fourth grade in some States—was a wise decision on the part of the conference.

School meal programs can serve as a focal point for developing sound food habits among young people. Particularly in view of the upcoming nutrition education activities. To eat better, students must learn to accept the wide variety of foods offered to them.

It seems to me that if students were offered a wider choice of high quality and nutritional foods, offer versus serve would not be necessary. I certainly would like to hear more evidence that this provision reduced plate waste—to a greater extent that it develops good food habits. I plan to get more input from my Kansas constituents and other cafeteria supervisory personnel from around the country on this issue between now and the time this legislation comes up for review again.

CASH OR COMMODITIES IN SCHOOL MEALS

The Department of Agriculture has been asked to choose a mix of localities to study, once and for all, the effects of providing cash payments in lieu of commodities for school meals. The Department study will include an assessment of the administrative feasibility and nutrition impact of cash payments in lieu of donated foods, including a look at the impact on food quality served, and impact on plate waste.

I hear there is lots of concern in the food industry that these pilot projects or studies will be biased—in favor of commodities. My response to them has been that I have faith in the Department's ability to carry out this research. And I trust that the Department recognizes the concerns of the industry, and will assure the Congress that every effort will be made to undertake a completely unbiased study and provide us with valuable and reliable data.

Within 18 months the Department is to report its findings back to the Congress, and this will help us make recommendations on the use of commodities and cash in State and local school districts.

TRAINING AND NUTRITION EDUCATION

In committee hearings we have heard a great deal over the past several months about the important relationship between what we eat and how we feel, and about nutrition's vital role in any preventive health strategy.

In this first session of the 95th Congress, I feel good that we have responded well in initial steps toward preventative health care associated with the food assistance programs. Better than ever before. But mind you, there's still a long way to go.

I supported these efforts: First, citing more nutrition education language than ever before. Second, funding to provide training for cafeteria personnel in preparing and serving higher quality meals. Third, instructing teachers in the principles of nutrition education. And finally, teaching students about the relationship between what they eat and their health and general well-being.

For 2 years, the legislation guarantees grants to States, based on 50 cents for each child enrolled in schools or institutions in the State. In reaching all of these children—and in training the cafeteria personnel and teachers—the States may call upon land grant colleges like my Kansas University, other institutions of higher education, and nonprofit institutions.

COMPETITIVE FOODS

We have tried to bring a semblance of order and sanity around the sale of foods sold in competition with school meals.

This provision is not intended to be against vending, against school revenue, or against specific foods per se. It is an effort to make more wholesome and nutritious foods available to students. In every way, these food sales would support the nutritional goals and integrity of school meals.

In conclusion, I would like to urge that the language in the Senate conference report surrounding S. 1420 and the June 30, 1977, CONGRESSIONAL RECORD statements covering this bill serve as further reference to the Department of the legislative intent of this document, particularly the new sections on training, nutrition education, and competitive foods.

I am pleased to have been a manager of this significant piece of legislation governing our school lunch and other child nutrition programs.

Mr. HUMPHREY. Mr. President, I am pleased to express my full support for the conference report on H.R. 1139, the Child Nutrition Act of 1977.

I applaud the leadership of the Senator from South Dakota (Mr. MCGOVERN) and the chairman of the Committee on Agriculture, Nutrition, and Forestry, Senator TALMADGE, for shaping a legislative package that could gain such broad support from this body.

Indeed, this is very important legislation for there is nothing more precious than the health of the Nation's children. Certainly our investment in their well-being today will be essential to this country's strength tomorrow.

I would like to offer a few comments on one of the more significant provisions, the section which concerns nutrition education.

There are few matters with which I have dealt in this body which I view to have more importance. The facts are simple. Too many of the children of America simply do not know what constitutes a good diet.

The results are staggering. Health and dental bills for the American family are soaring, with no relief in sight. The prospects for improvement are bleak, and it is becoming increasingly obvious to me that something must be done to reverse this situation.

It was in just this atmosphere that I introduced S. 720, the National Child Nutrition Information Act. I am both fortunate and proud to say that major provisions of that bill are included in the legislation that we have before us.

By enacting this bill, we will be taking a step along the road to facing up to the fact that there is a lot of nutrition education in America today. Children are exposed to scores of hours of television advertisements promoting the latest chewing gums, candies, and pops. Is this the only nutrition education we will allow our children to receive? I hope not.

The things I say here have been documented time and time again by several witnesses before many committees of the Congress, particularly the Senate Select Committee on Nutrition and Human Needs. Dozens of witnesses for the better part of the past decade have demonstrated beyond all reasonable doubt the need for a program of sound nutrition education for America's schoolchildren.

The program of nutrition education that this legislation contains will cost approximately $27.5 million. States will

develop their own plans, subject to final approval by the Department of Agriculture. This is important. I did not envision a monolithic approach, but a variety of programs that have been spawned by creative and imaginative nutritionists at the local level.

The nutrition education section of this bill is written as an entitlement program. There has been considerable criticism of this approach. In my view, it is critical that nutrition education be an entitlement program. The reason lies in the need for continuity. I have received letters from dozens of States pointing out the need for both nutrition education and for making this an entitlement program. Without an entitlement, our States simply cannot plan in a meaningful fashion.

Fortunately, the conferees saw the wisdom of this approach and decided to go with the entitlement for 2 years, followed up by appropriations for the third year. At that time, Congress will review the effectiveness of this program.

It is my understanding that the President will sign this important legislation. Soon after this bill becomes law, I hope that the Department of Agriculture issues the necessary regulations for getting the new provisions, particularly the nutrition education segment, underway. Given the fact that we are already 4 weeks into the fiscal year, it is important the Department move with great speed.

Mr President, I would like to summarize by saying that I am greatly pleased with the legislation. It is a bold step in improving the lives and this Nation's most important asset, its children. Mr. President, I urge that my colleagues adopt the conference report on H.R. 1139, the Child Nutrition Act of 1977.

Mr. CLARK. Mr. President, with passage of H.R. 1139, the Child Nutrition Act of 1977, Congress has expanded and improved the Federal Government's commitment to good nutrition among this country's schoolchildren. I am pleased that I had an opportunity to contribute to this important legislation as a member of the conference committee that resolved the differences between the House and Senate bills.

The major elements of the conference report on H.R. 1139, as approved by both houses, are:

First, the summer food service program for children has been extended for an additional 3 years, and sponsors and vendors of this program must abide by stricter requirements to prevent fraud;

Second, in order to make the commodity distribution program more responsive to local needs, schools are given the right to refuse up to 20 percent of the offered commodities. In addition, the Kansas "cash-in-lieu-of-commodities" experiment will be analyzed.

Third, the Secretary of Agriculture will be required to approve competitive foods, which are offered by local schools at the same time and place of the school lunch program.

And fourth, a new nutrition education program is established for 3 years, providing funds to support programs for all elementary and secondary students.

I am most pleased that Congress retained the provisions pertaining to competitive foods and nutrition education, which are meant to improve children's dietary habits.

In 1972, the prior authority of the Secretary of Agriculture to regulate competitive foods was curtailed. This step permitted schools to offer foods that make no contribution to nutrition and which actually undermine the school lunch program.

Over the past several months, I have received numerous communications from physicians, dentists, nutritionists, and others whose knowledge of nutrition I respect, all of whom have urged me to restore this authority to regulate competitive foods. For example, the Iowa Dental Association stated that "the Iowa Dental Association has long suggested the removal of sugar rich snack foods and drinks that compete with meals provided under school lunch programs". I ask unanimous consent that the letter be inserted in the RECORD.

Another significant improvement will entitle all 52 million schoolchildren to educational programs in proper nutrition. The Department of Agriculture will distribute grants to State education agencies for this purpose, at a rate of 50 cents per child.

I am convinced that efforts of this sort are sound investments that this country cannot afford to postpone. All would agree that dietary habits are shaped in the early years of life. Our Nation wastes literally billions of dollars each year on the costly health problems that are a direct result of poor nutrition—obesity, heart and vascular disease, and tooth decay. Therefore, this legislation, if implemented well, will represent an effective effort to contain health costs in the future.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

IOWA DENTAL ASSOCIATION,
Des Moines, Iowa, August 30, 1977.

Senator DICK CLARK,
Congress of the United States,
Washington, D.C.

DEAR SENATOR CLARK: Iowa dentists have followed the "National School Lunch and Child Nutrition Act Amendments of 1977" and the inclusion in the Senate bill of the Case-Dole Amendment.

Without going into depth, the Iowa Dental Association has long suggested the removal of sugar rich snack foods and drinks that compete with meals provided under school lunch programs. Basically "junk foods"—

1. Are not in interest of good total health.

2. Poor nutritional "eating habits" are established by the presence of junk foods. These eating habits are carried into adult life and medical complications from nutritional deficiencies.

3. The ingestion of sugar rich snack foods at school leads to a high percent of tooth decay and periodontal disease.

Dr. Clarence Hosford, a Monticello, Iowa dentist and member of the Iowa State Board of Dental Examiners, has been very successful in removing sugar rich snack foods from vending machines in Monticello.

We encourage your support in legislation that would remove "jump" (sugar rich snacks) from school vending machines.

Sincerely,

DALTON W. RICHEY, D.D.S.,
Executive Director.

Mr. TALMADGE. Mr. President, unless there be further questions, I move that the conference report be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

ENERGY PRODUCTION AND CONSERVATION TAX INCENTIVE ACT

The Senate continued with the consideration of H.R. 5263.

Mr. TALMADGE. Mr. President, I move now that we return to the unfinished business. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I call up my amendment No. 1525.

I am informed that the Senator from New Hampshire has an amendment, and I am happy to defer to him.

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from New Hampshire?

Mr. MOYNIHAN. The Senator from New York yields to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire.

AMENDMENT NO. 1521

(Purpose: To make certain wood-burning equipment eligible for the residential energy credit.)

Mr. McINTYRE. Mr. President, I call up my amendment No. 1521.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from New Hampshire (Mr. McINTYRE), for himself, Mr. ANDERSON, Mr. GRAVEL, Mr. HATHAWAY, and Mr. STENNIS, proposes amendment numbered 1521.

Mr. McINTYRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, line 24, strike out "or".

On page 12, between lines 24 and 25, insert the following:

"(iv) is an item (other than a fireplace) which is designed to use wood as a fuel for space heating, the heating of water or cooking of food, or any combination thereof, including any controls, ducts, stovepipes, footing, or other item (other than a chimney) necessary for the safe and efficient operation of any such item, or".

On page 12, line 25, strike out "(iv)" and insert in lieu thereof "(v)".

On page 15, between lines 2 and 3, insert the following:

"(9) ENVIRONMENTAL RESTRICTIONS ON CERTAIN WOOD-BURNING ITEMS.—No credit shall be allowed under subsection (a) for expenditures with respect to any items described in paragraph (5)(A)(iv) which are to be installed in any metropolitan or other area after the date on which—

"(A) the Administrator of the Environmental Protection Agency certifies to the Secretary that the emissions from such items would cause air quality in such area to be in violation of any Federal law, or

"(B) the Secretary of Agriculture certifies to the Secretary that additional consumption of wood in connection with such items would endanger forests in that area.".

Mr. McINTYRE. This is a simple amendment, which would clarify the intention of the Senate that wood-burning home heating appliances are qualified for the residential energy credit in this bill.

Before I continue with my statement, I ask unanimous consent that the Senator from Vermont (Mr. LEAHY) and the Senator from North Carolina (Mr. HELMS) be added as cosponsors of this amendment.

I shall not make a long statement, Mr. President. I submitted an extensively documented statement when I introduced the amendment on Wednesday. That statement and documentation appear on pages 35186 to 35196 of the CONGRESSIONAL RECORD of Wednesday, October 26.

Let me summarize that statement, however, in a few points.

First, the wood heating appliance tax credit is cost effective. According to figures supplied by the Wood Energy Institute, this credit would cost the Treasury $550 million by the year 1985. For this investment of tax dollars, it would save 360,000 barrels of oil a day by 1985.

There is strong evidence that this estimate of oil savings is conservative. Already in New Hampshire, for example, one study showed that 52 percent of the people use wood for at least part of their heat. They used 300,000 cords of wood last winter, the equivalent of 30 to 60 million gallons of home heating oil.

Another point is that the Federal Regional Council of New England, an organization of 15 Government agencies, has recommended in a new report that wood energy receive the same credit as other forms of renewable energy.

There are important environmental considerations involved in the use of wood energy. Therefore, this amendment proposes to give both the Environmental Protection Agency and the Forest Service of the Department of Energy the authority to review whether this particular credit should be applied in specific areas of the Nation.

If the air quality would be seriously impaired by the increased use of wood-burning appliances, or if forests would be endangered, then the credit would not be offered in that area.

Finally, there is the question of standards. The Nation's most prestigious testing laboratory, Underwriters Laboratories, Inc., has already developed safety standards and testing procedures for wood equipment. The Wood Energy Institute, an association of industries and others interested in the use of wood, is now developing performance standards.

Therefore, Mr. President, I urge the committee to accept this amendment.

Mr. TALMADGE. Mr. President, will the Senator yield?

Mr. McINTYRE. I yield.

Mr. TALMADGE. I have examined the amendment of the distinguished Senator. He attempts to make investment tax credit available for the utilization of wood-burning products as a fuel, and also peat, and I am happy, on behalf of the Committee on Finance, to accept it. I think it is already included in the bill by implication, but this makes it specific. We are prepared to take it to conference.

Mr. McINTYRE. I will modify the amendment to conform to the suggestion of the Senator from Alaska by adding the word "peat" and also the suggestion of the managers of the bill that we modify the amendment so that it will be considered as an energy-conserving component under this bill rather than a renewable energy system. This proposal would have the effect of granting a 20 percent tax credit for wood-heating appliances rather than a 30-percent tax credit. I accept both of the modifications and yield at this time to my good friend from North Carolina.

The PRESIDING OFFICER. Will the Senator send the modification to the desk.

The modification is as follows:

On page 11, after line 12, strike out "or."

On page 11, between lines 12 and 13, insert the following:

"(xi) is an item (other than a fireplace which is designed to use wood and peat as a fuel for space heating, the heating of water or cooking of food, or any combination thereof, including any controls, ducts, stovepipes, footing or other item (other than a chimney) necessary for the safe and efficient operation of any such item, or

On page 11, line 13, strike out "(xi)" and insert in lieu thereof '(xii)".

On page 15, between lines 2 and 3, insert the following:

"(9) Environmental restrictions on certain wood and peat burning items.—No credit shall be allowed under subsection (a) for expenditures with respect to any item described in paragraph (4) (A) (xi) which are to be installed in any metropolitan or other area after the date on which—

"(A) the Administrator of the Environmental Protection Agency certifies to the Secretary that the emissions from such items would cause air quality in such area to be in violation of any Federal law, or

"(B) the Secretary of Agriculture certifies to the Secretary that additional consumption of wood in connection with such items would endanger forests in that area.".

Mr. HELMS. Will the Senator yield for a question? I would like to ask the Senator a question or so.

In Asheville, N.C., we have a company named Smoky Mountain Enterprises, Inc., which manufactures a new energy-saving device called the buck stove. This wood burning stove is an energy conserving component which significantly reduces the amount of fuel consumed as a result of increased combustion efficiency.

This device is normally installed into a standard fireplace, although it can be installed separately if a home lacks a fireplace. A low watt, high power fan rapidly circulates air over the walls of the firebox to absorb the heat while keeping the walls cool. The cool walls maximize the flow of heat to the walls thereby minimizing the flow of heat up the flue.

The operation of the buck stove utilizes 80 percent of the heat available in the firebox, which, I understand, is a substantial increase in efficiency over many other wood burning stoves, and a vast increase over the standard fireplace which utilizes only about 10 percent of the heat produced by the burning wood.

My question is: Would this type of energy conserving, increase efficiency device be the type of stove that would be included within the ambit of your amendment?

Mr. McINTYRE. I want to assure the Senator from North Carolina that it would be included both within the language and spirit of my amendment.

Mr. HELMS. The Senator's amendment, as introduced, states that a fireplace would not be eligible for a credit. I assume that this means a fireplace of stone or brick or other construction materials?

Mr. McINTYRE. That is correct.

Mr. HELMS. Is it my understanding that a stove which is a metal wood stove but fits into a fireplace would be eligible, and would not be ruled out on the basis that it might be considered a fireplace?

Mr. McINTYRE. Yes; this type of wood-burning stove would be fully qualified for the credit under my amendment.

Mr. HELMS. I thank the able Senator, and I appreciate his adding me as a cosponsor to his amendment.

Mr. McINTYRE. As the Senator knows I have added him as a cosponsor.

Mr. President, I want to thank the distinguished Senator from New York for yielding to me in order to present this amendment.

I ask unanimous consent to add the distinguished Senator from West Virginia (Mr. RANDOLPH) as a cosponsor at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McINTYRE. Mr. President, I move that the amendment, as modified, be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from New Hampshire.

Mr. TALMADGE. We are prepared to take it to conference.

The amendment was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1525

(Purpose: To provide a tax credit related to increased refined petroleum product duties or fees.)

Mr. MOYNIHAN. I call up my amendment 1525.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN), for himself, Mr. RIBICOFF, Mr. JAVITS.

and Mr. HATHAWAY, proposes amendment numbered 1525.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 99, between lines 14 and 15, insert the following:

(c) RELIEF TO RESIDENTIAL AND CERTAIN INSTITUTIONAL USERS OF REFINED PETROLEUM PRODUCTS.—

(1) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowed) is amended by inserting immediately after section 44G the following new section:

"SEC. 44H. REFINED PETROLEUM PRODUCT IMPORT ADJUSTMENT CREDIT.

"(a) GENERAL RULE.—There is allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the products of—

"(1) the adjustment amount (as determined under subsection (b)) with respect to a refined petroleum product for each calendar quarter ending with or within the taxable year, multiplied by

"(2) the number of units (as defined by the Secretary) of such refined petroleum product used by the taxpayer for each such calendar quarter in a qualified use.

"(b) DETERMINATION OF ADJUSTMENT AMOUNTS.—For each calendar quarter beginning after the effective date of action taken by the President under section 232 (f) of the Trade Expansion Act of 1962 to adjust imports of refined petroleum products by the imposition of, or an increase in, a duty or fee, the Secretary shall determine an adjustment amount for each such product by dividing the total revenues from the imposition of the duty or fee, or the net increase in revenues from an increase in a duty or fee, for the calendar quarter by the total number of units of that refined petroleum product sold for use during that calendar quarter. The adjustment amount for each calendar quarter shall be determined not less than 30 days before the beginning of that quarter on the basis of estimates, and the adjustment amount for subsequent quarters shall be adjusted to the extent necessary to compensate for errors of estimate for preceding quarters.

"(c) QUALIFIED USE.—The term 'qualified use' means use in a residence for residential purposes, a hospital, a church, or an educational institution. In the case of use in a residence for residential purposes, the Secretary shall provide by regulations for the application of this section to condominium management associations (within the meaning of section 528(c)) or members of such associations, tenant-stockholders in cooperative housing corporations (as defined in section 216), and landlords and tenants in such a fashion that the amount allowed by subsection (a) is allowed, whether by allocation, apportionment, or otherwise, to the person paying, directly or indirectly, for the refined petroleum products so used.

"(d) PERSONS NOT SUBJECT TO INCOME TAX.—For purposes of this section, a hospital, cooperative hospital service organization, church, association or convention of churches or an educational institution exempt from taxation under this chapter by section 501(a) shall be treated as if it were a taxpayer liable for tax under this chapter.".

(2) REFUND OF EXCESS CREDIT.—

(A) Section 6401(b) (relating to amounts treated as overpayments) is amended—

(i) by striking out "and 44F (relating to certain energy-related depreciable property)," and inserting in lieu thereof "44F (relating to certain energy-related depreciable property), and 44H (relating to refined petroleum product import adjustment credit),", and

(ii) by striking out "and 44F" and inserting in lieu thereof "44F, and 45H".

(B) Section 6201(a)(4) (relating to assessment authority) is amended—

(i) by striking out "or 44F" in the caption thereof and inserting in lieu thereof ", 44F, or 44H",

(ii) by striking out "income) or section 44C" and inserting in lieu thereof "income), section 44C", and

(iii) by inserting "or section 44H (relating to refined petroleum product import adjustment credit)," after "credit),".

(3) ADVANCE QUARTERLY REFUNDS OF CREDIT.—

(A) IN GENERAL.—Subchapter B of chapter 65 (relating to rules of special application for abatements, credits, and refunds) as amended by adding at the end thereof the following new section:

"SEC. 6430. ADVANCE QUARTERLY REFUND OF SECTION 44H CREDIT.

"(a) GENERAL RULE.—Upon application made by a taxpayer eligible to claim the credit allowed by section 44H for the taxable year, the Secretary shall pay to the taxpayer, as a refund in advance, an amount equal to one-fourth of the taxpayer's tentative credit for the taxable year. For purposes of this subsection, the term 'tentative credit' means the amount of the credit the taxpayer expects to be allowed under section 44H for the taxable year based on the best estimates and data available to the taxpayer as of the filing date of the application.

"(b) RULES.—

"(1) APPLICATIONS.—The taxpayer shall submit a separate application for each calendar quarter for which he wishes to receive a payment under subsection (a) stating the amount of the credit under section 44H allowable to him with respect to qualified uses (as defined in section 44H(c)) by him for that calendar quarter. No payment shall be made under subsection (a) for any calendar quarter unless the application is filed during the 30-day period beginning 15 days before the beginning of such quarter. Each such application shall contain, or be verified by, a written declaration that the statements in the application are made under penalties of perjury and that every material matter asserted in the application is believed to be true and correct.

"(2) PAYMENTS.—The Secretary shall make each payment described in subsection (a) within 30 days after the date on which he receives the application for the payment.

"(c) CROSS REFERENCES.—

"For penalties applicable to fraud and false statements, see section 7206.

"For treatment of excess claims as underpayments of tax, see subchapter A of chapter 68.".

(4) CLERICAL AMENDMENTS.—

(A) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting immediately after the item relating to section 44G the following new item:

"SEC. 44H. REFINED PETROLEUM PRODUCT IMPORT ADJUSTED, CREDIT.".

(B) The table of sections for subchapter B of chapter 65 is amended by adding at the end thereof the following new item:

"SEC. 6430. ADVANCE QUARTERLY REFUND OF SECTION 44H CREDIT.

(5) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1976.

Mr. MOYNIHAN. This is an amendment which has been in principle agreed to within the Committee on Finance.

It is submitted on my behalf and that of Senator JAVITS, my senior colleague, the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Maine (Mr. HATHAWAY).

Section 1055 of the Finance Committee bill maintains the President's authority to impose tariffs on imports of refined petroleum products only. Imported crude oil is now exempted from that previous Presidential power.

This provision, the maintenance of the power to impose tariffs on refined petroleum products, was proposed to protect domestic refiners from foreign imports. This Presidential prerogative nonetheless poses an ominous threat to States such as mine, that of New York, and the Northeast generally, which are dependent, and in some cases almost totally dependent, on imports of refined petroleum products.

To speak only of my State of New York, New York imports 20.8 million barrels of home-heating oil per year, which is 36.6 percent of the 56.7 million barrels imported in a year by the entire country. New York's imports of home-heating oil represents 20 percent of the State's total consumption of home-heating oil. U.S. imports of home-heating oil, by comparison, represent only 5.4 percent of total national consumption of that product.

New York is particularly dependent on imports of residual oil, used primarily by industry and utilities. We import 131.7 million barrels of residual oil per year, 29.5 percent of national yearly imports of residual oil. The truly striking figure, however, is that New York's imports represent 90 percent of its yearly consumption of residual oil, as compared with 49.9 percent nationally.

The import of all refined petroleum products by New York shows a similar relationship to national imports. New York's imports of refined products represent 34.7 percent of its yearly consumption of all petroleum products. This compares with only 12 percent nationally. New York's annual imports of all refined petroleum products are 31.4 percent of the Nation's total yearly imports of refined products.

These are not especially inspiring statistics, Mr. President, but they represent a stricture on the economy of New York, and thus on the Northeast generally, which is quite different from that of the Nation, and which inspires us to this particular amendment.

The point about section 1055 is that it will afford protection to American oil refiners, but it will do this at the expense notably of one region—my region—and in some cases, our region will not only bear the cost relatively, but absolutely.

As I stated a moment ago, the United States imports 56.7 million barrels of home-heating oil each year, and that New York accounts for 36.6 percent of those imports. New York, New Jersey, and New England collectively import 54.3 million barrels per year, 96 percent of the Nation's annual imports of home-heating oil

The amendment I offer today is to provide a limited measure of relief in the event that the President should exercise this authority. This amendment will re-

bate any increase in tariffs on imported heating oil to residences, schools, chuches, and hospitals. Industrial users of imported refined petroleum products, and the only users of residual oil, would not qualify for rebates. We consider this a minimum amount of relief, should the program ever come into effect, because the problem of the Northeast's almost total dependence on imported residual oil is not addressed. I realize, however, that this problem must be solved in steps, perhaps small steps.

Mr. President, on behalf of my senior colleague and myself, I ask the committee's support and the Senate's support for this measure.

Mr. RIBICOFF. Mr. President, I am pleased to join with my distinguished and able colleague from New York, Senator MOYNIHAN, in offering this amendment. Should the President impose an import duty on refined petroleum products, the consequences for New England and the Northeast will be disastrous.

New England's energy situation continually weakens as this Nation becomes more dependent on foreign sources of oil. Last year foreign sources accounted for 79 percent of New England's oil demand and 23 percent of our petroleum requirements were direct product imports. Sixty-nine percent of New England's distillate fuel oil is from the foreign market.

Because we have virtually no energy resources of any significance in New England, we are more dependent on oil than other regions. Seventy-one percent of all New England buildings are heated by oil and 74 percent of the population heat with oil. In Connecticut, for example, 72 percent of the population—some 2.2 million people—depend on oil for space heating. Over 1 million buildings in my State are heated with oil.

Energy prices in our region are 31 percent higher than the United States as a whole. Since the 1973 oil embargo, the price of fuel has nearly tripled. During the past four heating seasons the cost of heating oil has increased more than 150 percent.

Two years ago New England's Governors agreed on the goal of reducing our region's oil dependence by 20 percent. We have made significant progress. The New England Fuel Institute estimates that the average home in the region has reduced fuel oil usage by at least 15 percent. The State of Connecticut, joined by many major industries, has taken a number of meaningful initiatives to achieve energy savings.

If an import duty on refined petroleum products—which includes No. 2 middle distillates—is imposed, our region will bear an unjust share of America's energy crisis. Senator MOYNIHAN's amendment will afford some protection to the average homeowner by insuring that they are insulated against price increases which an import duty may generate. The New England and Northeast consumer cannot be expected to sustain a disproportionate share of energy cost increases—particularly when users of natural gas and electric space heating will receive certain advantages. The Moynihan amendment will restore equity in energy pricing and I urge its adoption.

Mr. LONG. Mr. President, I am prepared to accept the amendment.

Mr. MOYNIHAN. I thank the distinguished chairman of the committee. I understood that to be the case.

Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York.

The amendment was agreed to.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the name of Senator RANDOLPH, the distinguished chairman of my subcommittee, be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The senior Senator from New York is recognized.

UP AMENDMENT NO. 992

Mr. JAVITS. Mr. President, I send to the desk an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York (Mr. JAVITS) proposes an unprinted amendment numbered 992:

On page 80, line 21, add the following new paragraph——

Mr. JAVITS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 80, line 21, add the following new paragraph (4) by adding at the end of subparagraph (E) the following:

"and facilities for the production of electric energy by a duly authorized agency of a state government which energy is sold pursuant to such authority for consumption within the territory of such state."

Mr. JAVITS. Mr. President, this amendment, which I offer on behalf of myself and Senator MOYNIHAN, would end an existing discrimination in the Internal Revenue Code caused by an arbitrary Treasury Department regulation. In the code, there exists an exemption from inclusion of interest on industrial development bonds which are "for the local furnishing of electric energy or gas." The purpose of that exemption was to allow public authorities and municipalities to develop electric energy facilities for legitimate development purposes in their areas. But the term "local" in that statutory exemption was restrictively and arbitrarily defined in the Federal tax regulations to mean no more than two contiguous counties.

It will be immediately seen that this runs afoul of our situation in a city like New York, which, because of a situation dating from the time of the American Revolution, has five separate counties, and yet there is no doubt that it is but a single locality in every sense of the term.

The definition is as follows:

Reg. 1.103-8(e)(2)(iii) the term "facilities for the local furnishing of electric energy or gas" means property which—

(a)

(b)

(c)

(d) Is a part of a system providing service to the general populace of one or more communities or municipalities, but in no event more than two contiguous counties (or a politicial equivalent) whether or not such counties are located within a single state.

For purposes of this subsection, a city which is not within, or does not consist of, one or more counties, shall be treated as a county.

This interpretation has resulted in a gross discrimination against the utility consumers of New York State, and possibly of other States as well. Our premier city, New York City, as most of my colleagues know, consists of five separate counties.

For example, we have only a single board of education for four counties, a single police department, a single fire department.

The local utility—and it is local in every sense of the term to New York—serves the entire city and Westchester County. But the definition imposed by the regulations precludes a public authority from selling power to that utility, and thus to its 10 million customers. These customers are being deprived of benefits that most other utility consumers in the Nation can enjoy.

Mr. President, New York has the highest utility rates of any city in the country. Although this is primarily due to the high price of residual fuel oil and other fuels, as well as the enormous tax burdens that these utilities face, we have here an opportunity to provide somewhat less expensive power to these millions of consumers. The Power Authority of the State of New York, which was established by State law to provide power primarily to public facilities, is now precluded from selling excess power to Consolidated Edison, which serves the New York City metropolitan area, and to most of the other utilities in New York State, because of the restrictive two county interpretation of the industrial development bond interest exemption.

The power authority has no choice but to finance its facilities with exempt industrial development bonds, the costs are far less, but the regulation severely limits their ability to use the power they generate most efficiently and effectively. In fact, the regulation is causing, and will cause, excess generating capacity to be built that would not otherwise be necessary. This will result in the use of more precious fuels, whether they be oil and gas or other fuels, and it will exacerbate capital shortage problems in the electric utility industry and in the Nation for no useful reason.

Moreover, it will cause needless environmental damage from more plants that would otherwise be necessary to serve the legitimate needs of New Yorkers. If the power authority had the flexibility it needs to sell its excess power to consumers within its legal jurisdiction, it could distribute its power where it is most needed and serve its own public consumers as well as the special needs of private consumers within the State.

If this amendment is agreed to, PASNY estimates that existing plants for the construction of two powerplants in the

New York area could save utility consumers approximately $100 million in finance costs over the life of the plants. In addition, these new nonoil and gas fired plants would save precious energy resources and save many millions in fuel costs. PASNY estimates that the fuel savings alone from one of its proposed new plants would yield utility consumers approximately $200 million/year by 1990.

This amendment has been fashioned very narrowly to avoid any significant revenue loss. It will not permit the Power Authority of New York State to construct powerplants with exempt bonds that it would not otherwise be able to construct. With or without this amendment, PASNY will build its needed new powerplants under the exempt provision. But this amendment would allow PASNY to pass on its savings to the millions of utility consumers in the New York City area. It will give the power authority, and others similarly situated, the flexibility it needs in dealing with electric power needs and new generating capacity. It will need the arbitrary discrimination against the New York City area that results from the treasury regulation limiting local power distribution to a two county area.

I urge my colleagues to accept this amendment.

Mr. MOYNIHAN. Will the Senator yield?

Mr. JAVITS. I yield.

Mr. MOYNIHAN. Mr. President, I associate myself with the remarks of my senior colleague. I would like to make another point which might be of interest to the Senate. That is that the beginnings of a national energy policy in this Nation can be dated from the establishment, under the then Gov. Franklin D. Roosevelt, of the Power Authority in the State of New York. It was that experience of providing a public yardstick, a measure for private utilities which, among other things, has made public utilities an economically successful and politically viable form of activity in terms of national monopoly.

Governor Roosevelt went on to become President, and we commenced the Bonneville and TVA, the whole series of public power policies which began in the 1930's.

It is a curiosity, indeed a perversity, of our Internal Revenue regulations that this same power authority cannot see fit to do the normal development that one would expect of such an enterprise by selling independent industrial development bonds.

In the aftermath of our having since acquiesced to a provision in this bill which retains a provision which would be potentially calamitous to us who are such great importers of oil, we would think it simple equity to allow the State of New York to do what other States already do and to accept this amendment. I am happy to join my senior colleague in this matter.

Mr. JAVITS. I thank my colleague very much for his statement.

I point out that this amendment is extremely narrow in terms of what kind of credit or how the State agency, to wit, the power authority, may use the industrial bonds issue exemption. The only thing the amendment affects is what may it do with this power after it has actually built a plant, which would be built anyhow. I want to make that clear. This will result in no new plants, no new enterprises, or anything else, which would not happen otherwise, but relates only to the fact that when it does have the power, and if it does have a surplus, it may sell that surplus within the State.

This, as I point out, is critically important to the biggest city in the United States, which, by some freak of history, has five counties. I hope very much the Senator from Louisiana and the Senator from Nebraska see fit to take the amendment to conference. If there are any problems with it, I am sure they can be dealt with.

Mr. LONG. Mr. President, this is a proposal to allow the power authority of the State of New York to sell electricity in New York State without limitation by the two contiguous counties' regulation. I cannot guarantee that the House will go along with this. For that matter, I am plagued by what oftentimes happens to a manager of a bill, that every sponsor of an amendment is the best expert in the Senate on the amendment. I would suggest the Senator receive that information from his colleague, the junior Senator from New York, who is our best expert at the moment. I would certainly be willing to go to conference and discuss the matter with the House to see what we can work out.

Mr. JAVITS. I thank my colleague very much.

Mr. CURTIS. I concur with the chairman.

Mr. JAVITS. I thank the Senator. We are ready for a vote.

Mr. MOYNIHAN. May I express my thanks to the distinguished chairman of the committee as well as the distinguished Senator from Nebraska.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOYNIHAN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Maine is recognized.

AMENDMENT NO. 1519

(Purpose: To delete the tax credit for production of oil and gas from nonconventional sources.)

Mr. HATHAWAY. Mr. President, I call up amendment No. 1519 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maine (Mr. HATHAWAY, for himself, Mr. CLARK, and Mr. HART), proposes an amendment numbered 1519.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 89, beginning with line 20, strike out through line 9 on page 93.

Mr. HATHAWAY. Mr. President, the amendment which I have called up, cosponsored by Senators HART and CLARK, is an amendment to strike the production credit from section 1044 of the bill. In the bill there is a provision for $3 a barrel tax credit for oil produced from shale rock, and 50 cents per Mcf for geopressurized methane gas and gas produced from tight rock formation. The energy tax bill provides tax incentives enough, I believe, for methane gas. It provides for a percentage depletion for gas produced from salt water wells; it provides for the intangible drilling deductions and for the expensing of geological and geophysical costs.

The same incentives are provided for natural gas produced from tight rock formations in Devonian shale.

Shale oil rock is already, under law, entitled to percentage depletion. It is entitled to the intangible drilling deduction and further entitled to the geological and geophysical deductions.

It seems to us that we do not need further economic incentives through the tax code at this time. We would be setting a bad precedent to establish a permanent tax credit for subsidies to the companies producing this energy. If further incentives are really needed, we think that they should be handled by a direct Government program. At this time, let us wait and see just what would happen with the already generous incentives which have been included in this bill.

Mr. President, there have been no hearings in regard to the $3 a barrel tax credit or the 50 cents per Mcf credits which this amendment would strike. It may very well be that such production credits are warranted. But, certainly, it seems to us that the amount that has been chosen is a somewhat arbitrary amount. Whether it is needed or not, I do not believe has been shown, except by someone who offered the amendment in the Finance Committee, how much is required. They have said it would be a nice thing for these people to have this extra credit. There is no basis for the oil companies coming in, or any of the producers coming in, and saying, "This is how much we need and we can show, dollarwise, why it comes out to $3 or why it comes out to 50 cents."

Perhaps we should consider it and perhaps we should include it. But for the present time, it seems to me that the tax breaks that these energy producers already get, either under existing law or under this bill, should be sufficient; or at least, we should wait and see to determine whether or not they are sufficient. If they are not sufficient, then, at a later time, we can give them whatever other assistance we think is necessary in order to produce this type of energy.

I do not think there is any doubt that we need as much oil and other sources of energy as we can possibly get. But simply and arbitrarily to say that, for oil shale, they should get $3 per barrel as a production incentive or to get the gas with an incentive of 50 cents per mcf seems to me to be a very poor way to legislate. We should defer such additional tax breaks

until such time as we have had hearings and an opportunity to determine just what, if any, additional tax breaks are necessary.

Senator HART of Colorado wanted to participate in this debate, Mr. President; I believe that he has been detained elsewhere but will be here shortly. Unless the manager of the bill would like to speak, I shall suggest the absence of a quorum.

Mr. LONG. Mr. President, first, let me suggest that, just because the Senate wants to legislate, and this is a significant amendment, this Senator would like to know when we can vote. Let me suggest a time limitation so that we can divide time on whatever basis the Senator from Maine would like. It is all right with me to let the Senator call his own signals on that, but I think we ought to have a limitation so we can know when we shall vote.

How much time would the Senator require?

Mr. HATHAWAY. If the Senator will yield, I should be happy to enter into a time agreement, but I think we should wait until the Senator from Colorado can be here, because I think he has a lot to say on this subject. I do not know what time he will agree to, but I am sure he will agree to a time limitation. Why not have a quorum call at this time?

Mr. LONG. I hope that perhaps we could end the rollcall prior to reading all the way through, but just call the quorum long enough to get the Senator in here.

Mr. HATHAWAY. He has been called and is on his way. He should be here very shortly. If the Senator wants to use this time to answer——

Mr. LONG. Let me speak on the subject briefly. Then I shall join the Senator in asking for a quorum.

Mr. President, this amendment is in the bill because testimony by Atlantic Richfield, and evidence obtained from other sources, indicates to us that there is a fantastic potential to produce additional fossil fuel from sources that are not presently in production.

In the Western States, the shale that is there is estimated to be enough to provide energy needs for hundreds of years if we simply develop the process to make the shale into oil.

The Senator from Georgia (Mr. TALMADGE) was very much impressed by the evidence and the testimony before the committee, and he made this point to Secretary Schlesinger and many others: If they would provide a production incentive to say that they would, for example, add $3 a barrel to the world price for selling shale oil, oil made from shale. If it does not work, it is not going to cost taxpayers anything. This is something that has already been developed to the pilot stage. We know it can be done. But when a taxpayer puts his money into it, there is a question: Can he make it produce on a commercial scale?

If it works, we then have a resource that is worth, perhaps, a trillion dollars or more. If it does not work, it does not cost the Government anything. The investor just loses money. Perhaps he can write some of it off as a tax loss, but in the conventional sense, we do not think of that as a loss to the Government, that a man tries to do something and spends money and fails.

If he is successful, because we provide an incentive to someone who hopes to make some money or profit, this Nation then has an invaluable resource, worth, perhaps, a trillion dollars, or maybe a lot more than a trillion dollars to this country.

The rock is there, the resource is there; it is just not doing us any good. It is a lot like that red clay we have in Louisiana. You could make something out of it, but unfortunately, they have some red clay in Arkansas that has a little higher quality for bauxite purposes, and they have red clay elsewhere that is better for making steel. So the result is that because somebody else has something better, more commercially feasible, what we have is valueless. If we could make this shale yield oil the way some people think it can, that could solve our whole energy problem.

Mr. TALMADGE. Mr. President, will our distinguished chairman yield at this point?

Mr. LONG. I yield.

Mr. TALMADGE. I wonder if we could get a time agreement on this amendment?

Mr. HATHAWAY. If the Senator will yield, I believe we can enter into an agreement. I believe the Senator from Colorado would like about 15 minutes to talk. I think we could agree to vote in about half an hour.

Mr. TALMADGE. I would like about 20 minutes, Mr. President.

Mr. HATHAWAY. Let us make it 40 minutes altogether.

Mr. TALMADGE. Twenty minutes to a side.

Mr. LONG. Mr. President, I ask unanimous consent that there be 40 minutes, equally divided between the manager of the bill and the Senator from Maine.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. TALMADGE. Mr. President, the House sent us a bill that was heavily loaded with taxes, the overwhelming majority of which would be rebated to the citizens of the United States. It was primarily a conservation measure. It did little or nothing to develop alternative sources of energy.

Conservation is well and good. But in the final analysis, if we depend on conservation alone, this Nation will ultimately die.

Why? Because we are now importing about 47 percent of the energy that we use in this country. And what is the cost, Mr. President? The present cost is $45 billion a year. It is increasing day after day, week after week, month after month.

What is it doing at the present time? Our dollar deficit for the United States of America this year will be a minimum of $25 billion, and probably as much as $30 billion.

What is it doing to our dollar? Every day, the lead item on the financial pages, if not the front page, is this: The dollar declines against the yen, the dollar declines against the mark, the dollar declines against the Swiss franc.

Mr. President, that is going to continue as long as this Nation has to import energy at the rate that we are importing it at the present time.

When the bill came to the Committee on Finance, it was immediately obvious to every member of the Committee on Finance, Democrats and Republicans alike, that the bill was weak because it did not do anything to develop alternative sources of energy.

Now, what are the alternative sources of energy?

No. 1 is coal. We have enough coal in the United States of America to last for 300 to 500 years. It constitutes a third of the total energy supplies of the world. Coal can be gasified. Coal can be liquefied. The Germans did it very effectively in World War II. That is how Hitler ran his war machine. But it is a high cost energy.

Mr. President, in addition to relying on coal, we must rely on other alternative sources of energy, and what is No. 1?

I hold in my hand a little piece of shale rock, found largely in the Rocky Mountains of this country. Do you know how much we have out there, Mr. President? Almost 2 trillion barrels of petroleum can be made from shale rock in the Rocky Mountains.

Here is the petroleum that comes out of shale rock. That, too, Mr. President, is high-cost energy.

There is one little plant operating out there now, Occidental, in situ process, where I understand they heat the shale and then drain oil from it, but the plant is producing a minimum amount now.

Dr. Schlesinger, the Secretary of Energy, when he was before the Finance Committee, testified that shale rock petroleum could be produced at a cost of $18 to $20 a barrel.

What is the cost when we import petroleum from overseas now, from OPEC?—$14.40 a barrel. So the thought occurred to me: If we could subsidize the production of our shale, we could become energy sufficient.

We had one witness, Atlantic Richfield, testify that if they could get a $3 tax credit, they would build a plant costing $1.2 billion and start to mine some shale rock, start producing petroleum from shale rock, and they would not want one thin dime of Federal money.

I have in my hand a telegram here from the chairman and president of Union Oil Co. of California. It reads, in part, as follows:

> Union Oil Company has previously indicated that it is willing to proceed with a commercial oil shale venture on its fee properties in Colorado provided it had reasonable Federal price guarantees and access to cost loans to assist in the construction. As we understand it, the proposed Federal energy development corporation would be capable of providing low-cost loans, but it appears unlikely that it can provide the price guarantees. We believe that a simpler and preferable alternative approach is the $3.00 a barrel tax credit that was approved last week by the Senate Finance Committee. If such a credit were to become law, we are prepared to move forward immediately with a $100.00 plus million commercial oil shale venture, using Union Oil's proved oil shale mining, retorting, and refining technology, under the tax credit approach.

Mr. President, I will not read it all. I ask unanimous consent that the telegram be printed at this point in the RECORD.

There being on objection, the telegram was ordered to be printed in the RECORD, as follows:

Senator HERMAN E. TALMADGE,
Washington, D.C.:

Union Oil Company has previously indicated that it is willing to proceed with a commercial oil shale venture on its fee properties in Colorado provided it had reasonable federal price guarantees and access to cost loans to assist in the construction, as we understand it, the proposed federal energy development corporation would be capable of providing low cost loans, but it appears unlikely that it can provide the price guarantees. We believe that a simpler and preferable alternative approach is the $3.00 a barrel tax credit that was approved last week by the Senate Finance Committee. If such a credit were to become law, we are prepared to move forward immediately with a $100.00 plus million commercial oil shale venture, using union oil's proved oil shale mining, retorting, and refining technology. Under the tax credit approach, all the risks of technology and financing would be borne by the provide companies, since the credits could not be claimed until shale oil was actually being produced. This approach offers a low risk and administratively simple way for the nation's taxpayers to assist bringing this vital alternative energy resource into commercial operation.

FRED L. HARTLEY,
Chairman and President, Union Oil Co. of California.

Mr. TALMADGE. Now, what are we talking about here? We are talking about trying to provide with a minimum amount of money additional sources of petroleum in this country.

The Senator's amendment is so broad it strikes not only the oil shale amendment, but the amendment agreed to this morning offered by the distinguished Senator from New Mexico, and also the provision that was inserted in the Finance Committee bill to try to get some of this high cost gas out of hard rock.

But I will deal primarily in my argument here with the shale provision, because it is the most cost effective. I will read first what the revenue effect would be, and I refer the Members of the Senate to the Finance Committee report, page 102:

REVENUE EFFECT

The credit for shale oil production will reduce revenues about $4 million in fiscal 1978, $19 million in fiscal 1979, and $327 million in fiscal 1985. The credit for geopressurized methane gas production will have no impact on revenues in fiscal years 1978 and 1979; it will reduce revenues by $52 million in fiscal 1985. The credit for tight rock formation gas production will not affect revenues in fiscal years 1978 and 1979; it will reduce revenues by $194 million in fiscal 1985.

This shale rock provision of this amendment would produce, according to Dr. Schlesinger's energy department, 200,000 barrels of petroleum daily by 1985. And how many barrels does that amount to in the course of a year, Mr. President? Seventy-three million barrels by 1985. That is about 10 percent of all we import at the present time. Every time we would produce one barrel, we would lose a tax credit of $3 and gain $11.40 that we did not have to send to Saudi Arabia.

Mr. President, that is the issue before the Senate.

I think the fundamental issue is whether or not this Nation has the courage, whether we have the will, whether we have the good sense, to face this issue and develop alternative sources of energy.

It is going to require a resolve like this Nation had when we developed synthetic rubber in World War I. It is going to require a resolve like this Nation had when we developed the atomic bomb in World War II. It is going to require a resolve like we had when we put a man on the Moon in 1970. This is just a first step.

If we want to die as a nation, we can sit here and do nothing. If we do, OPEC will starve us to death. Unemployment lines will be throughout the country. We will be without energy. We will be taking in each other's washing for a living.

But if we will use the resources and manpower that we are capable of, we can and we must make this Nation self-sufficient in energy.

Mr. President, I reserve the remainder of my time.

Mr. HART addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HART. Mr. President, I completely agree with the first and last parts of the Senator from Georgia's argument.

There is no question we have got a serious energy problem on our hands, and that we have got to take more aggressive actions to resolve it. There is no question that we are going to have to mount a substantial national effort, that a number of steps have to be taken.

The real question is the middle part of his argument as to whether this is the right step or the right resource at the right time. Unfortunately, it is not. It is the wrong step, the wrong resource, at the wrong time.

The Senator from Colorado happens to have a little interest in this since about 80 percent of the oil shale deposits are presently located in the State of Colorado, and any major development of an oil shale industry, whether overnight or over a short period of time, is going to have a substantial effect on the State of Colorado. Therefore, I think the constituents I represent have a substantial interest in this measure.

Mr. President, let us look at the facts that are put forward to justify a $3 a barrel subsidy for the oil shale industry to bring shale into production.

First of all, I think it is important to note that oil shale was not recently discovered either by the Finance Committee or anybody else. It has been around for a number of decades, and as far as people know is a potential resource.

So there is nothing new about oil shale and there is nothing new about the rocks that have been shown the Senate and the shale oil produced from those rocks. We have known about them for a long time.

The real question is the economics, the technology, and the impact on the area resulting from that production.

What did the Finance Committee have before it when it decided to offer this $3 a barrel subsidy? First of all, it had testimony by Mr. Daniels, of the Atlantic Richfield Corp., who suggested that a $3 a barrel subsidy for pioneer plants only, not for a full-scale industry, over the entire future—he gave no data to back the assertion that a subsidy of $3 a barrel is necessary to support commercial production and development.

The second witness was Mr. Brown, speaking for an organization called TOSCO, the Oil Shale Corp. Mr. Brown stated as follows:

We think that with properly leveraged project financing of an appropriate-sized plant, shale oil could probably compete in a free market today with OPEC oil of comparable quality landed in the U.S.

Mr. TALMADGE. Mr. President, will the Senator yield?

If that is true, why are we not producing it today?

Mr. HART. I am about to get to that.

It is not the economics. It is the impact on the water and the land and the air that still have not been resolved. It is the impact on the State of Colorado and the surrounding States and communities resulting from this production that still has not been taken care of, and it is many other factors. But it is not, according to Mr. Brown and TOSCO, the financing.

What did Mr. Armand Hammer say? He is with Occidental Petroleum, one of the companies trying to develop a technology. He testified before the Energy Committee on April 1, 1977:

Occidental believes it has found a way to produce this (shale) oil in an environmentally acceptable manner at prices competitive with imported oil . . . in the range of $11 to $14 per barrel," and . . . I do not mean Government-guaranteed loans. I do not mean price supports. We are not asking for anything of that kind. We don't believe it is necessary. The only thing we think is necessary and advisable is that the Government help speed up the process.

The Government is helping speed up the process. It has done so for about the last 20 years, even during the period when oil has been cheap. There has been Government-conducted research and development, and there is presently Governmet-financed research and development.

What needs to be solved are the technological problems, many of which are still unresolved, and the $3 a barrel subsidy will not solve them.

What needs to be solved is where the water is going to come from for this industry. As a Senator from this State, I say that that problem has not been solved, in a very arid State.

What needs to be solved is the impact on the land of the disposal of spent shale from above ground retorting. That problem has not been solved. What needs to be solved is the impact on the air of the State of Colorado from the retorting of this resource above ground. That has not been solved. What needs to be solved

are some investment problems as to the amount of capital required to finance this industry. That has not been solved. This $3 a barrel subsidy will not solve any of these problems.

Mr. President, the development of a full-scale oil shale industry is going to have enormous impact on my State, and I believe there is going to be an oil shale industry in the State of Colorado and in surrounding States. I think it will not be far off, but it has to be done right. It has to be done by the free market and not by an industry whose construction is financed by the Federal Government, whose prices are supported by the Federal Government, whose market is created by the Federal Government, whose costs are subsidized by the Federal Government, and in which the taxpayers have no stake whatsoever, except to underwrite the whole venture, so that somebody can make a lot of money at it.

The Senate of the United States would be well advised, before it adopts a provision such as this, to know exactly what it is doing. What it is doing is not anything related to free enterprise. It is a further step in the door of Government subsidization of a handful of companies, for one industry.

If we need oil shale, and I think we will, and if it is going to cost a great deal of taxpayers' dollars—and it might, although I am not convinced that it necessarily will, and the testimony does not support that it will—then let us look at some alternatives that have not been examined by Congress, including public corporations, since much of this resource is on public land that is presently owned by the taxpayers of the United States, and including a range of other alternatives. But complete elimination of business risk and subsidization of industry, so that the risks can be socialized and the profits can remain in the private sector, is hardly a fair deal.

Mr. President, as one whose State will be enormously impacted by the development of this industry, and as one who has followed oil shale development for the last 10 or 12 years very closely, as I said before, this is the wrong approach for the wrong reasons at the wrong time.

If Dr. Hammer is to be believed in his testimony before Congress, and if other spokesmen for oil shale companies are to be believed in their testimony before Congress and in statements they have made to me—I have looked into this matter for some period, both in public office and before I held public office—then, this is not necessary. This may be somebody's idea in the industry to get a leg up, but it is not the way to develop a major resource of this country. It has not been thought out. Most U.S. Senators do not know what shale is. It is not a new resource. It is something the people in Colorado and the surrounding area paid great attention to for a long period of time. As their spokesman in the United States, I am saying this is not the way to go.

The PRESIDING OFFICER. Who yields time?

Mr. TALMADGE. Mr. President, does the Senator from Maine desire to proceed? I suggest that he proceed at this point, and I would like to conclude, inasmuch as I have to face the argument.

Mr. HATHAWAY. I would be happy to let the Senator go ahead with his final remarks and reserve to myself 2 minutes to answer them.

Mr. TALMADGE. I yield myself 1 minute.

Mr. President, I have been told by knowledgeable people in the energy business that many potential oil shale developers are in a squeeze. I have been told that these companies must show planned commercialization of shale oil or they will lose their mineral leases on certain Government and private lands. If this be the case, it is not surprising that, on paper, everyone in the field is optimistic about commercialization, but in the real world they are doing very little about it.

Mr. President, the Senator from Colorado speaks of the ecological problems here. This amendment has nothing whatever to do with that. That is a red herring. It does not even come into the issue. That is something the Federal Government, the State of Colorado, and local authorities will face, because this does not change the law.

All I am doing by this modest subsidy is trying to save $14.40 a barrel that we pay to Saudi Arabia and OPEC, by having a subsidy of $3 a barrel for oil from shale rock. It seems to me that it is a good deal if you can spend $3 and get back $14.40.

I reserve the remainder of my time.

Mr. HATHAWAY. Mr. President, the Senator from Georgia may be correct; but I think that the questions that have been posed by the Senator from Colorado and the questions I mentioned earlier about the difficulty of determining just what, if any, credit should be allowed, as well as and all the other difficulties that are preventing us from getting oil shale and the geopressurized methane gas, remain to be answered.

I think it is premature at this time to be awarding these energy companies $3 a barrel and 50 cents an Mcf when we do not have any hard data to support that. Maybe they would be entitled to that much of a credit, maybe more; but not at this stage of the proceedings could we afford to grant them anything at all.

Mr. HART. Mr. President, will the Senator yield?

Mr. HATHAWAY. I yield.

Mr. HART. Mr. President, I think the Senator from Georgia made my point exactly. If those problems have not been solved yet, then this is an unnecessary subsidy and it will not solve those problems. We are proceeding in an orderly manner to develop an oil shale industry. We have been doing so for 20 years in this country.

Mr. TALMADGE. Mr. President, will the Senator yield to me, on my time?

Mr. HART. I will finish my remarks, and then I will retire from the field.

This subsidy will not solve those problems.

It is not raising a red herrring to say that those problems exist. They do exist, and this subsidy is not going to solve them. You can subsidize that industry for a long time, and until those problems are solved, it will be no good. That is exactly the point.

Mr. TALMADGE. Mr. President, I hold in my hand a weekly bulletin entitled "Environmental Study Conference, Senate Supplement No. 1, October 24, 1977." I read from page 8 thereof, and I ask the Senator if this is a correct quotation:

Finally, Hart says oil shale has yet to be proved an economic technology. Although there have been estimates that oil could be produced from shale for as little as $18 per barrel, this estimate does not include the cost of reclamation, price support, other government subsidies annticipated by industry, or construction grants now available from BOE.

Mr. HART. I say to the Senator that I do not know where that quote comes from. It may or may not be accurate.

Mr. TALMADGE. It quoted the Senator as saying it probably was not economically feasible even at $18 a barrel. That is my point. I am trying to prove that that is the reason we need a subsidy. The beauty about the subsidy is that: the $3 a barrel will be paid only if they produce petroleum. There will not be 1 nickel paid if they do not produce petroleum. What is wrong with producing petroleum in the United States of America at $3 a barrel instead of importing it from Saudi Arabia and other OPEC nations at $14.40 per barrel?

The PRESIDING OFFICER (Mr. STONE). The Senator's 1 minute has expired.

Mr. TALMADGE. I yield myself 2 additional minutes.

Mr. President, I ask unanimous consent to print in the RECORD a letter to Senator LONG, dated October 13, 1977, from the distinguished Senator from Colorado (Mr. HART) and an item-by-item response thereto.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., October 13, 1977.

Hon. RUSSELL B. LONG,
Senate Committee on Finance,
Washington, D.C.

DEAR MR. CHAIRMAN: I am writing to express my concern over reports that the Senate Committee on Finance plans to include a $3 per barrel tax credit for oil produced from shale.

I oppose such a credit on two counts. First, I do not believe that a tax subsidy is useful to accelerate the current rate of experimental oil production from shale. And second, there is no evidence to support the conclusion that shale oil will not be commercially feasible without this subsidy once full scale commercial production levels are achieved.

The Federal Government should help accelerate the development of promising new technologies, so they are economically practical and environmentally acceptable. However, I believe the tax credit proposed by the Finance Committee is premature and inappropriate at this time. Spokesmen for each of the various oil shale proposals have said that their current new technologies can compete with oil at current OPEC prices. Prototype commercial plants need to be built to prove the technology. But subsidies for commercial operations have not been deemed necessary, even by the oil shale companies.

As you probably know, there are a number of different oil shale operations at various stages of research and development in Colo-

rado. Of these, the Paraho project is currently conducting tests under the direction of the Department of Defense and ERDA on the Naval Oil Shale Reserve at Anvil Points. Of the two proposed production facilities on private land, the Colony Development Operations is presently awaiting full review of an Environmental Impact Statement and is negotiating with the Bureau of Land Management over a proposed land exchange. Upon successful resolution of these and other matters, Colony estimates that it will take at least 4 years to construct its pilot production facility.

Superior Oil is also discussing the possibility of a land exchange with the Bureau of Land Management, and this proposal will require an Environmental Impact Statement before any decision is reached. If a swap is completed, a 5 to 7 year pilot production program is necessary before commercial production is even considered.

Detailed Development Plans have just been approved for the Federal leaseholders of both the C-a and C-b tracts in Colorado. Both of these Plans propose a period of years for small scale demonstration projects to assess the economic viability, technical performance, and environmental ramifications of their as yet untested technologies. In the case of the Rio Blanco project on the C-a lease tract, this experimental phase will run for a full 5 years. In summary, it appears that research and development is now proceeding well, and large scale commercial production is about 5 to 10 years away.

I also question whether there is any justification for a tax credit in the future, once the full-scale commercial phase is begun.

The Finance Committee's initial interest in the $3 subsidy for oil shale appears to be based upon testimony by Mr. R. G. Daniels of Atlantic Richfield and by Mr. Brown of TOSCO Corporation (Colony Development) before the Finance Committee on September 12, 1977. Mr. Daniels suggests a $3 per barrel subsidy (for pioneer plants only), but gives no data to back the assertion that $3 is necessary to support commercial development.

All other testimony, both by the Atlantic Richfield/TOSCO group and by proponents of three other technologies, reaches the opposite conclusions. All promising new technologies are said to be commercially viable at the world oil price. In fact, on March 11, 1977, before the Energy Committee, Mr. Brown of TOSCO testified, "we think that with properly leveraged project financing of an appropriate-sized plant, shale oil could probably compete in a free market *today* with OPEC oil of comparable quality landed in the U.S.

In order to get properly leveraged financing, the shale oil industry needs to build a few prototype plants to prove that the technology works in a full scale plant. There is no evidence of a need to subsidize commercial production. In fact, there are at least two groups who plan to go ahead with prototype commercial plants without any kind government subsidy. Dr. Armand Hammer, of Occidental Petroleum Corp., testified before the Energy Committee on April 1, 1977, "Occidental believes it has found a way to produce this (shale) oil in an environmentally acceptable manner at prices competitive with imported oil . . . in the range of $11 to $14 per barrel," and ". . . I do not mean Government guaranteed loans. I do not mean price supports. We are not asking for anything of that kind. We don't believe it is necessary. The only thing we think is necessary and advisable is that the Government help speed up the process." . . .".

Superior Oil Corporation also reports to have a commercially viable process without subsidy. Mr. Ben Weichman, before the Energy Committee on May 24, 1977, testified that Superior's process could produce oil at $11 per barrel. Superior Oil wants to swap oil shale land, but does not want a production subsidy.

Paraho's experience to date at Anvil Points, Colorado, has resulted in projections that crude oil should be commercially feasible at current world oil prices.

It is a reasonable assumption that additional Federal help may be useful to further develop oil shale production capabilities. However, Federal aid should take the form of technical and research assistance to help solve the problems of water supply, air and water quality constraints, sociological impacts, and spent shale disposal. The government should provide for expedited consideration of the various Environmental Impact Statements and land exchange proposals. It is these technological and environmental matters which are the real barriers to full scale oil development. The subsidy proposed by the Committee will do nothing to overcome these production problems, but will only serve to add yet another revenue-losing provision to the tax code.

Further, tax subsidies are merely one form of Federal financial support—including construction loan guarantees, price supports, and guaranteed markets—which have been proposed for the oil shale industry. We should not enter this "incentive" thicket—which is manifestly antagonistic to true free enterprise—without much greater thought being given to its long range implications for our economic system. For my money, Federal financing inevitably will require greater public participation—particularly for a publicly owned resource.

I urge the Finance Committee to reconsider its proposal to subsidize commercial oil shale production and to focus instead on incentives to accelerate the research and development toward overcoming environmental and production difficulties.

Sincerely,

GARY HART,
U.S.S.

COMMENTS ON LETTER FROM SENATOR HART TO CHAIRMAN LONG OPPOSING SHALE OIL PRODUCTION CREDIT

In a letter to Chairman Long dated October 13, 1977, Senator Gary Hart has expressed opposition to the $3 per barrel shale oil production credit adopted by the Finance Committee. The letter confirms the fact that the United States will have no commercial shale oil production by 1985 if the current rate of development continues. In the absence of a Government incentive to expedite the construction of a few pioneer commercial plants, Senator Hart acknowledges that oil shale development over the next 5 to 10 years will probably be confined to mere technology demonstrations.

On the other hand, the shale oil production credit proposed by the Finance Committee could cause the existing oil shale ventures to activate and accelerate their development plans and could, as estimated by the Committee staff, stimulate between 100,000 and 300,000 barrels per day of domestic shale oil production in 1985. Even more importantly, the construction and operation of a few genuine commercial plants will provide a context for the advancement and refinement of existing recovery technology and will create a technological, environmental, and economic basis for further development of the Nation's oil shale resource. With the experience of a few commercial ventures in hand, the second generation of oil shale plants should proceed without the need for Government assistance or incentives.

The principal fallacy in Senator Hart's argument is the assertion that prototype technology demonstrations can establish an adequate basis for investment in full-scale commercial facilities. In fact, recovery technology represents only one of several necessary steps in a commercial oil shale project. The other steps—which are equally vital to the economics of a plant—include mining, crushing, oil upgrading, and reclamation. While further technology demonstrations may provide useful information, they will not establish that a complete commercial plant can be built and operated in an economic and environmentally acceptable manner.

For example, there is the proposed Colony oil shale project. Started in 1964, it is said to be the most commercially advanced oil shale project in the United States today. More than $70 million has already been spent on the project. Technology needed for it has been demonstrated at the semi-works plant scale, and design work and definitive cost estimates have been completed for commercial scale facilities to produce 48,000 barrels per stream day of high quality, sulfur free distillate petroleum. The Bureau of Land Management has completed a Final Environmental Impact Statement for the project, and Colony has acquired land needed for community development and completed planning of community facilities for construction workers and the permanent plant staff.

Despite all these efforts, the plans for proceeding with the Colony project are on the shelf, where they have been for the past three years. The project has not moved into its next phase, field construction, because of complex economic considerations attendant to all pioneer projects involving first-of-a-kind machinery. First, there is the size of the required investment—in excess of $1 billion. This is a huge sum of money, even to a group of large companies. Consideration of the investment of 1 billion must inevitably pay special attention to the risks involved, which are substantial in the case of a pioneer commercial oil shale plant.

On the regulatory side, there are uncertainties regarding the application of unsettled environmental requirements to a new industry without previous commercial-scale experience or precedents. These uncertainties could cause costly delays and expensive changes to the plant design. There is also the risk of costly delays because of litigation instigated by groups opposed to oil shale development. And there are, of course, the inevitable risks attributable to cost overruns resulting from scale-up of new technology and integration for the first time on a large scale of all of the operations involved in oil shale processing.

In reality, there are two sets of oil shale economics—those for pioneer plants and those for later plants. Later plants will benefit from the experience of the first plants and will, of course, be more efficient. And it is important to understand that significant breakthroughs in efficiency are more likely to be gained through experience with genuine commercial-scale facilities than through smaller proptotype demonstrations which are inherently uneconomic and inefficient.

Senator Hart errs in suggesting that prototype demonstrations could lead to the leveraged project financing of commercial oil shale ventures referred to by Mr. Brown of Tosco Corporation in his testimony to the Energy Committee. In discussing the competitive potential of domestic oil shale, Mr. Brown assumed a hypothetical financing structure in which two-thirds of the total capital cost of a commercial plant could be borrowed at a favorable interest rate on the strength of the project's assets. Mr. Brown emphasized that the leveraged financing scenario was entirely hypothetical and that such financing could not be obtained for a first plant even where the economics were attractive on paper. His testimony also carefully noted that prototype demonstrations would reduce only some of the risks and uncertainties deterring commercialization of oil shale.

Senator Hart's letter is further misleading in characterizing the proposed Colony De-

partment plant as a "pilot production facility." In fact, the Colony group (currently Atlantic Richfield Company and Tosco Corporation) has already conducted all necessary pilot plant and semi-works demonstrations and final design work for a full-scale commercial plant is also completed. Construction could proceed within six months. The group has no plans for further pilot or prototype operations.

The letter also appears to misinterpret announced development plans of other ventures by stating that they plan to go ahead with prototype "commercial" plants without government assistance. While Superior Oil, Paraho, and Occidental Petroleum each considers its respective technology ready for commercialization, none of them has announced a financial commitment to build a commercial plant. Superior has stated publicly that it does not intend to spend its own funds to commercialize its process (Press Conference of Mr. Ben Weichman, Washington, D.C., March 25, 1977). Occidental has stated that it will be "conservative" in the pace of development and that its prime venture on Federal lease tract C–b will spend only about $40 million over the next three years on initial mining operations (Los Angeles Times, March 21, 1977). The commercial plant is estimated to cost $440 million.

In fact, the infant oil shale industry is essentially in a holding pattern, with each venture spending only the relatively modest amounts necessary to maintain its technology, its private site, or its leased reserves. In these circumstances, the shale oil production credit proposed by the Finance Committee offers a fail-safe incentive. If the credit actually stimulates the construction of pioneer commercial facilities, it will have served its purpose. If the credit fails to stimulate commercial production and no significant quantities of shale oil are produced, the credit will not result in a material revenue loss to the Treasury.

Finally, the amount of the proposed credit is based on the detailed cost information for the Colony project submitted by the ARCO/TOSCO witnesses. This data has been previously published and constitutes the most definitive cost information in the public record for a commercial oil shale facility. Based on this data, the $3 credit would allow a project to incur cost over-runs of 25 percent and still remain competitive with imported oil. The credit would provide $1.80 per barrel to cover a 25 percent capital cost over-run for equipment redesign and replacement. It would also include $1.20 per barrel to cover downtime of up to 25 percent for unanticipated repairs.

Mr. TALMADGE. Finally, Mr. President, I hold in my hand a poll made by Louis Harris and Associates, dated September 1974, on attitudes toward oil shale development and preservation of natural resources in the State of Colorado as to whether they favor or oppose oil shale development in Colorado.

Total public, favor 62 percent, oppose 26 percent, not sure 12 percent; central city, favor 60 percent, oppose 28 percent, not sure 12 percent; suburb, favor 66 percent, oppose 22 percent, not sure 12 percent; town/rural, favor 57 percent, oppose 30 percent, not sure 13 percent; western slope—and that is where most of the shale rock is—favor 86 percent, oppose 11 percent, not sure 3 percent; government leaders, favor 75 percent, oppose 11 percent, not sure 14 percent; business leaders, favor 82 percent, oppose 14 percent, not sure 4 percent; environmentalists, favor 32 percent, oppose 64 percent, not sure 4 percent.

Mr. President, I ask unanimous consent that this poll be printed in the RECORD.

There being no objection, the poll was ordered to be printed in the RECORD, as follows:

ATTITUDES TOWARD OIL SHALE DEVELOPMENT AND PRESERVATION OF NATURAL RESOURCES IN THE STATE OF COLORADO

Whether favor or oppose an oil shale development plant in Colorado

[In percent]

	Favor	Oppose	Not sure
Central city	60	28	12
Suburb	66	22	12
Town/rural	57	30	13
Western slope	86	11	3
Active sportsman	57	33	10
Total public	62	26	12
Government leaders	75	11	14
Business leaders	82	14	4
Environmentalists	32	64	4

Mr. TALMADGE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 6½ minutes remaining.

Mr. TALMADGE. Mr. President, I withhold the remainder of my time.

Do either of the Senators desire to use more time?

Mr. HART. Mr. President, will the Senator yield one-half minute?

Mr. HATHAWAY. Yes, I yield one-half minute to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized for one-half minute.

Mr. HART. To reiterate, I do not know what the poll figures prove. As I said in my remarks, I am in favor of an oil shale industry. I think most people in my State are. That does not necessarily mean you have to be in favor of this subsidy. That is not the issue—how many people in Colorado are in favor of an oil shale industry? I favor an oil shale industry. It does not mean I have to favor every proposal to develop that industry.

Mr. HATHAWAY. Mr. President, how much time remains for the proponents?

The PRESIDING OFFICER. Eight and one-half minutes remain.

Mr. HATHAWAY. Mr. President, the Senator from Georgia has made the point that we are going to get this oil for $3 a barrel. We are going to get it for $3 a barrel for the credit, plus whatever we have to pay for the barrel, which is $14 or $15 if it is new oil. So we are adding to the price that the consumers in the United States are going to have to pay for the oil; albeit we are replacing foreign oil, but we are going to do it at a very heavy cost.

It seems to me that there are other methods where we could achieve the same result and reduce the number of barrels that we have to import at a much lower cost than what the bill in this particular section proposes.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. HATHAWAY. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TALMADGE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TALMADGE. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HATHAWAY. Mr. President, the Senator from Idaho wishes to speak on this amendment.

I again ask unanimous consent that we have a brief quorum call and the time not be charged to either side so he will have an opportunity to get over here.

I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATHAWAY. Mr. President, how much time remains for the proponents?

The PRESIDING OFFICER. The Senator from Maine has 7 minutes remaining.

Mr. HATHAWAY. Mr. President, I yield 3 minutes to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CHURCH. I thank the Senator.

Mr. President, I support this amendment because the provisions in the bill are redundant, extremely costly in terms of lost revenue, and totally unnecessary. Since the Government is already up to its ears in developing methods for the utilization of shale oil, what more can we do than we are already doing? How much more can we give away for that purpose than we are already giving away in public money? Why did we set up ERDA in the first place if we are then going to disregard what it is, at massive public expense, that ERDA is engaged in doing?

I do not understand this bill generally. But apart from my general mystification, this provision in the bill makes utterly no sense at all. We have at least four oil companies that are engaged in the utilization of oil shale rock in the great plateau of western Colorado. They know how to do it. The in situ technology has been developed to the point where all that is required now is Government participation for demonstration

projects that will make it clear it is indeed feasible to utilize this resource.

Only last week the Department of Energy signed an agreement with the Occidental Oil Co. to develop their in situ process. And the terms of that agreement are that the Federal Government will put up 71 percent of the money. That is three-quarters of the money to do it.

In view of the fact that ERDA is deeply engaged in putting up public money for this purpose, in view of the fact that the oil companies find this a satisfactory method for developing the oil shale, why on earth do we have to lay on top of it still another tax break?

It is quite unnecessary, quite unjustified, and I do hope that common sense will prevail and that this amendment will be adopted.

Mr. TALMADGE. Mr. President, I yield 2 minutes to the Senator from Oregon.

Mr. PACKWOOD. Mr. President, in each of these tax credits that was given by the Committee on Finance we attempted to estimate as fairly and as honestly as we could, with the figures used by the Joint Committee on Taxation, what the revenue loss would be for each credit, how much energy would be saved, and what it would cost to replace that energy if we did not save it.

On the oil shale and geopressurized methane gas credit it is estimated that it will cost the Treasury in the year 1985 $573 million to save 245,000 barrels of oil a day. That is about 3 percent of our imports.

If we do not spend that $573 million and save the 245,000 barrels, then we are going to have to import the 245,000 barrels. Every drop we do not save is a drop we are going to import.

To purchase 245,000 barrels of oil at today's prices, not what the Arabs may charge us in 1985 but today, would cost $1.274 billion or, to put it another way, it will cost us $700 million more to purchase the oil than it will cost us to save the oil. The difference of $700 million will be the amount of money going out of this country, gone, in order to purchase 245,000 barrels of oil and will result in a greater dependence if we passed this amendment, than we would otherwise have.

I cannot understand this rationale as to why we would not rather give—if you want to call it that, I call it incentive or inducement—$573 million to American businesses, to American individuals, to save 245,000 barrels of oil instead of $1.274 billion to the Arabs for the purchase of oil, and increase our dependence on the Arabs and increase our vulnerability to boycotts, jeopardizing our national security, making our diplomacy subject at any moment to the whims of whatever sheikhs may happen to be in control of different Arab countries.

I would implore the Senate, for a variety of reasons, financial, diplomatic, and military, to support the committee's position, defeat this amendment, and defeat all other amendments that will be coming down the road which would eliminate the savings of oil that we have tried to write into this bill.

Mr. TALMADGE. Mr. President, I yield 2 minutes to the distinguished Senator from Nebraska.

Mr. CURTIS. I thank my distinguished colleague.

An earlier speaker said we did not need this, and then proceeded to advocate appropriated money for a Government operation.

If that Government operation does not succeed, our money is gone and we have no oil.

Under the plan brought in by the Finance Committee, the risk and the expenditures made in the private sector, if it does not succeed, do not cost the Treasury one dime. If oil flows from the project, and it will, we will get a bargain, We will pay a subsidy of $3, rather than going on and on and on increasing our dependency upon foreign oil.

For 4 long years the Senate has sat here and worked on energy bills. We have authorized ERDA. They have built a grand Schlesinger-ocracy that costs $10 billion a year and never produced a pint of oil.

Here we have a chance to say to the private sector, "You can go ahead; if you fail we do not owe you anything, but if you succeed you will get a credit."

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. TALMADGE. One additional minute.

Mr. CURTIS. It will provide the incentive for those pioneer projects. The Senator asked, "What has ERDA built?" I would like to know. Never a pint of oil. We have had energy bills here, bill after bill, and our dependency on foreign oil just goes up, and up, and up. Why is it that they single out this one thing in here that does not call for the appropriation of money and gives a chance for more domestic production of oil?

Mr. HATHAWAY. Mr. President, will the Senator yield to me on my time?

Mr. CURTIS. Yes, I am delighted to yield on the Senator's time.

Mr. HATHAWAY. Can the Senator tell us why he wants the amount to be $3, and not $2, $1, 50 cents, or 10 cents? Is there any justification for the amount of $3 a barrel? Is there any justification whatsoever, other than a guess?

Mr. CURTIS. There was one witness, and there may have been more, who gave a constructive——

Mr. HATHAWAY. From the oil industry?

Mr. CURTIS. Yes.

Mr. HATHAWAY. What about the administration? I understand the administration is not taking a position on it.

Mr. TALMADGE. Will the Senator permit me to respond to that?

Mr. CURTIS. Yes.

Mr. TALMADGE. The Secretary stated that in his judgment it would cost $18 to $20 a barrel to produce petroleum from shale rock. Of course, as the Senator knows, a tax credit is deductible from taxes owed, so that would translate into a subsidy of something on the order of $5 a barrel plus for a corporation that is making a profit. So you add that to approximately $14 that a barrel of new oil sells for in the United States, and it would amount to approximately the cost of producing a barrel of oil from shale rock, according to Dr. Schlesinger.

Mr. HATHAWAY. Will the Senator yield further on my time?

Mr. TALMADGE. I yield.

Mr. HATHAWAY. Does that include all the other subsidies, the depletion allowance, the foreign tax credit, deduction of drilling costs, and all the rest?

Mr. TALMADGE. The subsidy would be for producing a barrel of petroleum, and nothing else. We had at least two companies that stated, "If we had a tax credit of $3, we would develop this petroleum capacity out of shale rock." One was Atlantic Richfield; the Senator will remember they testified before our committee that they had a plant that would probably cost $1,200,000,000, which they would build from their own resources. I put in the RECORD earlier in the day a statement from the chairman of Union Oil, in which they stated if they received the tax credit, that they would build, from their own resources, a shale oil capacity in America, to be run by Americans.

Mr. HATHAWAY. Of course, they are under no obligation to do that. They can make all kinds of promises to that effect.

Mr. TALMADGE. Suppose they do not do it. They do not get the credit.

Mr. HATHAWAY. The point made by the Senator from Colorado was what seems to me the real problem of why we are not getting this oil from shale rock. I think that problem ought to be addressed before we proceed with this giveaway.

Mr. TALMADGE. The answer is that every time we give away $3, we are going to save $14.40 that we would otherwise be using in Saudi Arabia or other OPEC countries. The jobs would be in the United States of America, not in Saudi Arabia, not in Iran, not in Kuwait, not in Venezuela. They would be here in America.

Mr. HATHAWAY. But it would still cost the price——

The PRESIDING OFFICER. The time of the Senator from Maine has expired. The Senator from Georgia has 1 minute.

Mr. TALMADGE. I yield the Senator 30 seconds.

Mr. HATHAWAY. It will still cost $3 to the taxpayers plus whatever the cost per barrel is going to be.

Mr. TALMADGE. It would cost $3 if it produces petroleum, but we would save $14.40 that would otherwise be spent in the OPEC countries.

Mr. HATHAWAY. As a taxpayer and a consumer, it would cost me $3 per barrel, plus $14 for producing it.

Mr. TALMADGE. You would pay the same price you would pay if we were getting it from Saudi Arabia, but it will be American oil, produced by Americans who pay American taxes.

Mr. President, has all time expired?

The PRESIDING OFFICER. The Senator has one-half minute.

Mr. TALMADGE. Have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. TALMADGE. I ask unanimous consent at this point that a letter from TOSCO Research, Inc., dated October 20, 1977, to the distinguished Senator from Colorado, written by Mr. Charles H. Brown, president, be printed in the RECORD, together with an article published in the Los Angeles Times of March 21, 1977, entitled "Hammer Pushes Hard for U.S. Oil Shale Project," be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TOSCO RESEARCH, INC.,
Boulder, Colo., October 20, 1977.

Hon. GARY W. HART,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HART: I am disappointed that you are opposing the shale oil production credit adopted by the Senate Finance Committee. Although it is very unlikely that our company could utilize such a credit to any significant extent, we firmly believe the credit would cause other companies to accelerate their plans for investing in oil shale development and could stimulate the construction of a few pioneer commercial plants by 1985. Without an incentive of this nature, it does not appear that the United States will have a commercial oil shale facility in operation by 1985.

I know you are well aware of the vastness of our Nation's oil shale resource and of its potential for reducing our increasing dependence on foreign oil. In addition, you must realize that a commercial oil shale industry would provide substantial economic benefits and new employment in the State of Colorado and, in particular, would raise the economic horizons of those who live in the depressed Western Slope region where Colorado's oil shale reserves are located. Independent polling has established that residents of the Western Slope overwhelmingly support commercial oil shale development, and it would be ironic if their dreams of entering the mainstream of American prosperity were frustrated by their own Senator.

Personally, I am disturbed that your recent letter to Chairman Long opposing the proposed credit quotes my testimony to the Energy Committee out of context and in a misleading manner. In explaining to the Energy Committee that the obstacles to commercial oil shale development are essentially financial, I presented extensive economic data based on a hypothetical financing structure which assumed that two-thirds of the total capital of a commercial plant could be borrowed at a favorable interest rate on the strength of the project's assets. Although this analysis showed that such leveraged financing could make a commercial shale plant competitive with imported oil, I emphasized to the Committee that the leveraged financing scenario was entirely hypothetical and could not be obtained for a first plant even where the economics were attractive on paper.

Furthermore, my testimony to the Energy Committee carefully noted that further prototype demonstrations could only reduce some of the risks and uncertainties which are presently deterring investment in commercial oil shale projects. This testimony is contrary to your assertion to Chairman Long that further prototype demonstration could lead to the type of leveraged financing on which I based my economic analysis.

Finally, your letter to Chairman Long is also misleading in characterizing the planned Colony Development plant as a "pilot production facility." In fact, the Colony group (currently Atlantic Richfield Company and Tosco Corporation) has already conducted all necessary pilot plant and semi-works demonstrations and final design work for a full-scale commercial facility has been completed. Construction could proceed within six months. Contrary to the implication in your letter, the group has no plans for further pilot or prototype operations.

Very truly yours,
CHARLES H. BROWN, *President.*

[From the Los Angeles Times, March 21, 1977]

HAMMER PUSHES HARD FOR U.S. OIL SHALE PROJECT

(By Dan Fisher)

"If you're talking about a comprehensive energy plan, you have to talk about shale oil."

That's how a top aide to energy czar-designate James Schlesinger responded when asked if President Carter will include that perennial bridesmaid among potential fuel sources in his April 20 energy message.

However, the official added quickly, the Administration is still considering a half-dozen approaches ranging from reliance on private industry to demonstrate feasibility up to a billion-dollar government commitment to assure immediate commercialization of shale oil technology. In between are a variety of proposals for government-financed demonstration programs.

There's probably no one more interested in which of these options is chosen than Dr. Armand Hammer, the controversial chairman of Occidental Petroleum Corp.

"The doctor," as he is known around the oil company's Westwood headquarters, has been using his considerable political influence to push for the most aggressive plan. He has met with Schlesinger and others arguing in favor of a $1 billion government commitment to build a 200,000-barrel-per-day shale oil facility to be managed by Occidental and using the company's technology.

A Carter proposal for a small, government-financed demonstration program would be "better than nothing," Hammer said in an interview. But, he added, it would "absolutely" be a disappointment if that were all the energy message had to say about shale oil.

The energy crisis demands "bold action," Hammer said. At the least, he said, the President should announce the appointment of a commission of noted scientists who would review Occidental's technology and report back to him on whether to proceed with the $1 billion commercialization plan.

It's long been recognized that the United States is to shale oil what Saudi Arabia is to conventional petroleum. The amount of oil locked in shale deposits in Colorado, Utah and Wyoming is equal to twice the proven oil reserves in the rest of the world—including those in the Middle East.

Repeated efforts to unlock that resource dating back more than 100 years have been unsuccessful, however, due to technical, economic, environmental and other problems.

Hammer stands almost alone in claiming that he has a process to extract shale oil at today's prices and without government help. Occidental and Ashland Oil Inc., Ashland, Ky., are seeking government approval to proceed jointly with a $440 million plant in northwest Colorado to produce 50,000 barrels per day of shale oil by 1983.

"We are not dependent on government help," Hammer said in the interview. "The decision has already been made to go forward."

However, the Occidental chairman added, "we will be, perhaps conservative" in the pace of development. The first three years following U.S. Interior Department approval of the development plan will only involve the expenditure of about $40 million for initial mining operations.

Occidental's current projection of commercial output by 1983 contrasts with its forecast just three months ago that it could be commercial by 1981.

While it doesn't need government help, Hammer said, the kind of federal commitment to shale oil he has outlined "can play a vital role in markedly accelerating the rate and breadth of commercialization."

Critics both in the Carter Administration and at competing companies are skeptical over Occidental's claims for its process. They argue that one or more government-financed demonstration programs are necessary to prove whether Hammer's or any other process is technically—much less commercially—feasible.

The Energy Research and Development Administration has already asked for unspecified budget authority to provide financial incentive for a shale oil demonstration project. And Sen. Floyd K. Haskell (D-Colo.) has introduced legislation that would provide about $100 million for a test of Occidental-type technology in a 5,000-barrel-per-day plant.

There's no question Occidental has a strong vested interest in seeing the President come out strongly for shale oil.

The 5,000-acre Colorado tract the company seeks to develop along with Ashland contains an estimated 1.2 billion barrels of recoverable shale oil. "That's like two North Seas—and you know what the North Sea is to Occidental," says Hammer. (Wall Street analysts are forecasting that the company's 1977 income from oil and gas operations will double to $133 million or more on the strength of its initial North Sea production, and 1978 earnings are expected to increase even more.)

Hammer has offered Occidental's oil shale technology to the government free of charge, although he wants his company to manage the proposed government-owned facility "for the normal management fee paid government contractors for similar undertakings."

The company has said it would offer licenses to others for a 3% royalty. If, as Hammer projects, a 2 million-barrel-per-day shale oil industry emerged from that $1 billion government commitment, the company could theoretically stand to collect $175 million a year in royalties alone.

All that is highly speculative, of course. Some experts doubt the value of the company's patents, for example. Art Lewis, project leader for oil shale at the Lawrence Livermore Laboratories, said that the concept Occidental is pursing "goes back a long way." It is his opinion that the company's patents "won't stand up to challenge, and I think Occidental's technical people know they won't."

Hammer said that five major oil firms have expressed interest in the company's process in recent weeks and the company is "actually talking about license arrangements" with one.

He acknowledged however, that positive government action could "add credibility" to the company's process.

Mr. TALMADGE. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. FORD), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr.

HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from North Carolina (Mr. MORGAN) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

On this vote, the Senator from North Carolina (Mr. MORGAN) is paired with the Senator from Minnesota (Mr. HUMPHREY). If present and voting, the Senator from North Carolina would vote "yea" and the Senator From Minnesota would vote "nay."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Massachusetts (Mr. BROOKE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from California (Mr. HAYAKAWA), the Senator from Kansas (Mr. PEARSON), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT) is absent on official business.

The result was announced—yeas 35, nays 49, as follows:

[Rollcall Vote No. 588 Leg.]

YEAS—35

Abourezk	Eagleton	Melcher
Anderson	Hart	Metcalf
Bayh	Haskell	Metzenbaum
Biden	Hatfield	Nelson
Bumpers	Hathaway	Pell
Chiles	Heinz	Proxmire
Church	Inouye	Riegle
Clark	Jackson	Sarbanes
Cranston	Kennedy	Sasser
Culver	Leahy	Stafford
DeConcini	Magnuson	Stevenson
Durkin	McIntyre	

NAYS—49

Allen	Gravel	Randolph
Baker	Hansen	Ribicoff
Belmon	Hatch	Roth
Bentsen	Helms	Schmitt
Burdick	Hollings	Schweiker
Byrd, Harry F., Jr.	Javits	Sparkman
	Johnston	Stennis
Byrd, Robert C.	Lavalt	Stevens
Cannon	Long	Stone
Case	Lugar	Talmadge
Chafee	Mathias	Thurmond
Curtis	Matsunaga	Tower
Danforth	McClure	Wallop
Dole	Moynihan	Weicker
Eastland	Nunn	Williams
Garn	Packwood	Zorinsky
Glenn	Percy	

NOT VOTING—16

Bartlett	Hayakawa	Muskie
Brooke	Huddleston	Pearson
Domenici	Humphrey	Scott
Ford	McClellan	Young
Goldwater	McGovern	
Griffin	Morgan	

So Mr. HATHAWAY'S amendment (No. 1519) was rejected.

Mr. TALMADGE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. CURTIS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 993

(Purpose: To exempt gasoline used as fuel in commercial fishing vessels from the two-cent tax increase.)

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS), for himself and Mr. HATHAWAY, proposes unprinted amendment numbered 993.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 23, line 14, after the words "section 212" insert the following: "including use as fuel in a commercial fishing vessel".

On page 23, line 20, after the words "section 212" insert the following: "including use as fuel in a commercial fishing vessel".

Mr. WALLOP. Mr. President, will the Senator yield?

Mr. STEVENS. Yes.

Mr. WALLOP. Mr. President, I ask unanimous consent that Mr. Bob Reynolds of my staff be granted the privilege of the floor on any votes and for the remainder of the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I thank my friend from Colorado (Mr. HART) for allowing me to go ahead of him with this amendment.

This amendment has very little revenue impact. It would simply exempt the use of gasoline as fuel in commercial fishing vessels from the 2-cent tax increase.

The committee bill calls for removal of the 2-cents-per-gallon refund or credit for gasoline and other fuels for motorboat and other nonbusiness, off-highway use.

This amendment continues the 2-cents-per-gallon refund or credit for gasoline used as fuel in commercial fishing vessels.

The amendment does not affect the 2-cents-per-gallon tax increase for other fuels, such as benzol, benzene, naphtha, LPG, and so forth, because commercial fishing vessels do not use these fuels to any significant extent.

The amendment does not affect the 2-cents-per-gallon tax increase for gasoline and other fuels for any use in a motorboat other than use as fuel in a commercial fishing vessel.

Neither the bill nor this amendment affects diesel fuel, nonhighway uses of which are not subject to the tax.

This amendment is needed, in my opinion, because the tax increase is unfair to those commercial fishermen who would be affected by it. Those affected would be the small operators with smaller, gasoline-powered vessels. These are generally those persons who are least able to absorb the increased tax. Within the fishing industry, the effect would be greater in Alaska, for instance, on salmon fishermen and others who tend to use smaller vessels than those fisheries in which larger vessels predominate that go very far offshore.

Agriculture will continue to receive the 2-cents-per-gallon refund or credit, as other businesses of gasoline are not affected by the bill. Commercial fishermen, in our opinion, are "farmers of the sea" and should receive the same fuel tax treatment as land farmers are entitled to.

The 4-cent tax on highway use was originally imposed to support highway development. The 2-cent increase on nonhighway uses will go only to improve water recreational facilities, but they would have to pay the increased tax. There will be no benefit to the commercial fishing vessels that would have to pay this increased tax.

The overall impact will be small, because most craft use diesel fuel rather than gasoline, but for those who use gasoline, their costs will be increased by this measure, without any benefits to anybody, except recreational boaters.

Diesel fuel in motorboats for business uses is exempted from the 4-cent tax applicable to highway uses, as are other nonhighway uses. Why should gasoline for fishermen be treated any differently?

There is no compelling argument against the amendment since, as the committee report states, the estimated energy savings from the removal of the credit or refund are negligible.

Certainly, the maintenance of this principle of treating fishermen as farmers of the sea, I think, is important.

Mr. CURTIS. Will the Senator yield?

Mr. STEVENS. I am happy to yield.

Mr. CURTIS. Is the Senator's amendment based upon the premise that basically, over the long run, gasoline taxes are levied for highway building purposes?

Mr. STEVENS. Yes, and this tax, as it applies to motorboats, is to be used for recreational purposes, not to assist commercial fishermen.

Mr. CURTIS. I think it is an extension of the principle which has been applied in reference to agricultural uses and the like. I have no objection to the amendment.

Mr. STEVENS. Mr. President, I ask unanimous consent that the distinguished occupant of the Chair, the Senator from Florida (Mr. STONE), be added as a cosponsor to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. That is my statement. I think it is a matter of principle, I say to the chairman of the committee. These little fishermen feel very strongly about being treated as farmers and food producers and not as recreational users of their boats.

Mr. LONG. Mr. President, there is not a lot of money involved in this amendment. It will be in conference and we can certainly consider the advantages and disadvantages in conference. I think the Senator has made a good case. I personally favor taking the amendment to conference.

Mr. STEVENS. I thank the Senator.

Mr. President, I ask unanimous consent that the Senator from North Carolina (Mr. HELMS) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. STEVENS. I move to reconsider the vote by which the amendment was agreed to.

Mr. CURTIS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Again, I thank the Senator from Colorado.

UP AMENDMENT NO. 994

(Purpose: To delete oil shale production from the credit for nonconventional source production.)

Mr. HART. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Colorado (Mr. HART) proposes an unprinted amendment numbered 994.

Mr. HART. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 90, beginning with line 6, strike out through page 91, line 22 and insert in lieu thereof the following:

"(b) AMOUNT.—The amount of the credit allowed under subsection (a) shall be equal to the sum of—

"(1) $3 multiplied by the number of barrels of tar sands produced during the taxable year from all tar sands property the taxpayer has an interest in to the extent such production is attributable to the taxpayer, and

"(2) 50 cents multiplied by the sum of the number of thousand cubic feet of—

"(A) geopressurized methane gas produced during the taxable year from all geopressurized methane gas property (within the meaning of section 614) the taxpayer has an interest in, and

"(B) gas produced during the taxable year from all tight rock formation property the taxpayer has an interest in,

to the extent that such production is attributable to the taxpayer.

"(c) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—For purposes of subsection (b), the production attributable to the taxpayer for oil or gas produced from any property during a taxable year shall be equal to the amount which bears the same ratio to the total production of oil or gas from the property during the year as the amount of the taxpayer's gross income from the property for the taxable year under section 613(a) on account of such production bears to the aggregate gross income from the property for the year (within the meaning of section 613(a)) of all parties having an interest in such property.

"(d) DEFINITIONS AND SPECIAL RULES.—

"(1) TAR SANDS, ETC.—The terms 'tar sands,' 'geopressurized methane gas', and 'tight rock formations' include such tar sands, gas, and formation as are included within a standard scientific definition of each such term established by the Secretary by regulation after consultation with the Secretary of Energy.

"(2) TAR SANDS AND TIGHT ROCK FORMATION PROPERTY.—The terms 'tar sands property' and 'tight rock formation property' include any property (within the meaning of section 614) with respect to which the taxpayer is claiming the credit allowed under subsection (a).

Mr. HART. Mr. President, in the course of the amendment just preceding the amendment offered by the Senator from Alaska, there was considerable discussion about a subsidy for the shale oil industry. I do not think it is necessarily profitable to repeat the entire debate that transpired principally between the Senator from Georgia as the proponent of that measure and the Senator from Colorado.

The amendment at the desk is similar to the one we voted on at the last rollcall vote with the simple exception that it affects only the oil shale subsidy.

Mr. President, as the debate indicated, the bulk of the oil shale deposits in the United States are located in the State of Colorado, approximately 80 percent of those deposits.

Mr. TALMADGE. Mr. President, will the distinguished Senator agree to a brief time limit, perhaps a 1-hour debate, and perhaps move to table this, because it has already been fully debated and voted on by the Senate.

Now, I am willing to agree to a reasonable time limit, but all we can do is really rehash what we talked about an hour ago.

Mr. HART. Mr. President, I ask unanimous consent that there be allocated to this amendment a half hour, with 15 minutes equally divided.

Mr. TALMADGE. That is agreeable to the Senator from Georgia.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HART. Mr. President, I would hope that the distinguished floor manager would not move to table on the grounds this has not been approached as an isolated matter. I think the previous amendment, affecting three separate subsidies, is substantially different from this. Therefore, I feel the amendment striking the oil shale subsidy should rise or fall on its own merits.

Mr. President, the history of the oil shale development in this country runs back 60 or more years. It is not recent or novel. There has been a considerable amount of Federal Government involvement in the attempts to develop that resource.

The exact amount of money spent, the Senator from Colorado cannot cite at this point. But it runs into the millions, if not the tens or hundreds of millions of dollars, perhaps tens of millions of dollars being spent by taxpayers to develop it.

The question is, Will it be developed on an orderly basis so that the State of Colorado and neighboring States are not destroyed in the process, or will it be done properly?

There is no question in my mind that there will be an oil shale industry. I think it will be in the reasonably foreseeable future. But at the same time, that industry has to be developed so it does not destroy the State of Colorado, the State of Utah, and the State of Wyoming.

It also has to be done in a way that is economically justifiable and economically fair.

The real question is whether a $3 a barrel subsidy at this point meets that last requirement.

There is also, I think, a serious philosophical question about the kind of economic development we will have in this country.

Those who have been promoting oil shale development in recent years have not just asked for a tax subsidy or a tax credit. They have also asked for loan guarantees for construction, because the amounts of money required to develop the facilities are considerable. They have asked for price supports against the possibility that foreign markets might reduce their prices. They have asked for loan guarantees that the Federal Government, the people of the United States, will guarantee that a certain amount of oil will be bought. They have asked for a lot of other things, including leasing public lands, which has in fact gone forward.

I favor some of those measures, but I certainly do not favor all of them because the result of that is not free enterprise, Mr. President, and I do not think we can promote a subsidy of this sort, particularly when linked to those other measures that many of those developers want, and call it free enterprise.

It is a private corporation conducting the operation, but if every element of risk is eliminated, we do not have free enterprise.

I was raised to believe that free enterprise not only resulted in a fair profit and return on one's investment in time and effort, but also undertaking a certain risk.

If the taxpayers of this country are asked to eliminate that risk, then I do not think, through any feasible, conceivable scheme of thought, can one decide that this is being done by free enterprise merely because it is a private company.

For example, when we were deliberating on the issue of the loan guarantee program for synthetic fuels, it was stated by a prominent journal in this country, as follows:

Once it is admitted that the private sector can't justify an investment in a commercial enterprise, it has to be conceded that the economic costs outweigh the economic benefits. Otherwise, the government is asking us to believe that a bureaucrat is better able to spot a profit opportunity than is a businessman.

As doctrinaire as we are on this point, we've always conceded that there is room for government support of pure reseach and development. But in the current bill Congress is being asked to finance existing, uneconomic Synfuel technology. Once the government gets involved in directly allocating capital to energy, a long line of capital-starved industries will be close behind.

Mr. President, that was the Wall Street Journal.

That is, I think, what underlies the issue here before us with this subsidy, whether, first of all, the industry is prepared to go forward.

I have argued rather strenuously that it is not, not really for economic rea-

sons, but for a variety of other reasons, problems with the industry that have not been solved and will not be by this subsidy.

Second, Mr. President, is the philosophical argument of whether the taxpayers should be underwriting operations that have not proved themselves to be economically feasible.

Third, Mr. President, whether this is an orderly way to proceed.

As a strong opponent of this process and one who has followed oil shale for a number of years, I feel very strongly that this is not an orderly way to proceed.

As the Senator from Idaho previously argued, the Government of the United States through ERDA and through the Department of Energy is doing a considerable amount of investing in oil shale development. I think that should continue.

But this subsidy will not enhance development of an industry one iota, and I think it is an unnecessary insertion of the public sector into what essentially is and ought to be a private development operation.

Mr. President, in spite of all that has been said on the previous amendment, the issue is not whether we are for or against oil shale development. I suspect I am as much for that as the Senator from Georgia. I am certainly aware of the polls read into the RECORD about the attitude of the people in my State. I followed them pretty carefully or I doubt I would be here. I know what the mood is of the people in my State and the people of this country.

The issue is not whether we want to free ourselves from dependence on foreign imports. I feel as strongly about that as I suspect anybody in this body.

I do not think this ought to be fought on whether we are for or against independence or for or against production of alternative supplies.

I think I feel as strongly as any person here on this issue, including the distinguished floor manager of the bill.

The issue is whether this measure, this specific subsidy, will enhance those alternative supplies and whether this procedure is the most orderly way to approach the development of a supply located in my State that I think a considerable amount of work already has been done.

I feel very strongly, Mr. President, that the answer to that question is "no."

Mr. President, I reserve the remainder of my time.

Mr. TALMADGE. Mr. President, the President of the United States has sounded a call to arms to every man, woman, and child, to every banker, businessman, and worker, to every industry, energy company, and every environmentalist. He has declared war on the energy crisis that this country is presently facing.

He has looked beyond existing politics and set his sights on the long-term best interests of our country and its citizens. He has told the American people in no uncertain terms through word, act, and deed that the days of relatively cheap energy from traditional sources are over.

I applaud him for his initiatives in energy conservation and development.

The President has sent to Congress a daring and tough national energy plan. It contains provisions that are difficult to accept by all people and all sectors of the economy.

No one can seriously disagree with his commitment, zeal, and dedication of purpose to solving this crisis which threatens the economic security and stability of our Nation.

So long as we are dependent upon foreign oil barons for almost half of our oil needs, we are at the mercy of foreign powers. That is an unconscionable situation for the United States to be in.

As a Member of the Senate, I pledge myself to be a soldier in America's army against this new enemy. This is an enemy which threatens our national security and even the freedom of the American people.

The President, with the analytical ability of the engineer that he is, has submitted an intricate and detailed battle plan to Congress.

In it, like in any war plan, there is recognition that a price must be paid—and it must be paid by everyone.

The President has placed in his energy bill forceful and effective provisions for the conservation of energy and for the increased efficiency of energy use.

However, as I see it, the President's "war room" advisers have overlooked one very crucial element for final victory. They have failed to provide sufficient resources and supply lines for the troops of this war, American industry and the American people.

Apparently, someone has assured the President that there are enough discovered energy sources to successfully fight and win this conflict with the energy shortage.

As I see it, this philosophy may win the battle. But it will lose the war.

Without overstating my concern or overdramatizing the situation, I fear for the future of the United States if we do not win energy independence as soon as possible.

The United States, despite reports to the contrary, has abundant resources in fossil fuels. In testimony before the Senate Finance Committee, Energy Secretary Schlesinger testified that there exists in known resources a 500-year supply of fossil fuels in coal, methane gas, and oil shale deposits.

During these energy hearings I, and other members of the committee, heard testimony that the United States has in the neighborhod of 1.7 trillion barrels of oil in shale rock that has yet to be developed on a commercial basis. This is more oil in shale rock alone than all the OPEC nations have combined.

We were also told that we are importing foreign crude oil at a daily rate of 8 to 9 million barrels and at a per barrel cost of some $14.40.

Secretary Schlesinger testified that the cost of producing oil from shale rock was generally conceded to be in the neighborhood of $18 to $20 per barrel.

Mr. President, it does not take a prophet to calculate that a $3 per barrel tax credit for the domestic production of shale oil would be beneficial to this country.

It would make this untapped resource commercially viable for the many companies and businesses that have been anxious to get into the production of shale oil for years.

For every barrel of shale oil produced. It would save $14.40 in our foreign trade deficit.

It would create jobs for our sluggish economy when the cry of "a job for every American" is being heard from New York to California.

It can make this country energy self-sufficient. It can break the OPEC cartel and free the United States from the whims of governments in control of oil and petroleum.

It would not cost the Government or the American taxpayer one red cent unless oil was produced.

Many people have expressed deep concern that the $3 credit would cause all sorts of threats to the ecology and the environment. To those people and to my distinguished colleagues, I say that this issue is a "red herring."

My amendment in no way effects the environmental safeguards that exist in the present law and would have absolutely no effect on any changes in future environmental laws.

Many people argue that a tax incentive is not needed by potential shale oil developers. If that be the case, then where is the commercial production?

I can see that many companies are projecting commercialization at some point in the future. However, the crisis is today, tomorrow, and the next day—not 20 years from now.

Also, I have been told by knowledgeable people in the energy business that many potential shale oil developers are in a squeeze to show the economics of immediate commercial development. I have been told that these companies must show planned commercialization of shale oil or they will lose their mineral leases on certain Government and private lands.

If this be the case, it is not surprising that on paper everyone in the field is optimistic about commercialization, but in the real world they are doing very little about it.

Other people argue that the cost of shale oil is uncertain and too potentially expensive to justify a Government commitment. To those people I say, if there is no production of oil from shale then there is no credit and no cost to the taxpayer.

Mr. President, all my distinguished colleagues know I am from an energy consuming State, and not a producing State. I have no nest to feather or axe to grind with energy companies.

The plain fact is that last winter I had to consider more than 40,000 who were put out of work as a result of the natural gas shortage.

I hope in the future to be able to tell my constituents that Congress and the President have dealt responsibly with every aspect of this country's energy problems.

I do not want to be in the position of trying to explain to them that the price

they had to pay in this war on energy was their jobs, heat in their homes, and the security of their Nation.

Many of my colleagues might say that it is very simple for the Senator from Georgia to advocate this kind of production when his State has no responsibility in it.

I would most respectfully point out to my colleagues that in a poll conducted in Colorado, one of the States most rich in oil shale, the people there by a very large majority have supported such development.

In fact, the results of a poll conducted in Colorado in late 1974 revealed that 62 percent of Colorado's overall population favored oil shale development and, in fact, on the Western Slope where most of such development would take place, there is an overwhelming amount of support—86 percent of those polled.

The last point I would like to make to my distinguished colleagues is that my proposed $3 per barrel tax credit would diminish in real value every year as a result of inflation.

This would, needless to say, encourage companies to immediately take advantage of this credit and would, in a sense, phase it out over time.

In my opinion, I would much rather run the risk of an American company making a profit producing untapped energy resources than to let the oil sheiks continue to line their pocket with gold.

My amendment, Mr. President, is no windfall for anyone. It is merely an attempt to get this Nation started in an area of energy development. It is merely a start toward energy independence.

We cannot go on forever talking about energy development. Early in World War II, the U.S. war machine needed synthetic rubber. If we had just talked about it, there would not have been sufficient rubber and the U.S. war effort would have ground to a halt.

Instead, the Government directed a crash program to develop synthetic rubber—and it became a reality.

The same kind of crash program was launched to develop the atomic bomb in the Manhattan project.

We also need a crash program to develop U.S. energy. And, the sooner we get started the better and safer our Nation will be.

Mr. President, I shall be brief, because this is primarily the issue we spent 1 hour debating prior to the previous vote.

The Senator referred to the free enterprise system and we ought not eliminate the risks involved in free enterprise by Government subsidy.

The risk involved is this, one plant will cost $1,200 million. That is the risk.

What is the Government's risk? The Government says, "If you produce domestic petroleum, we'll subsidize it, $3 a barrel."

That, in my judgment, is free enterprise in the capitalistic system at work. If they build this $1.2 billion plant and do not produce any petroleum, they will not get a tax credit of $3 a barrel.

If Union Oil Co., as the chairman says he will do, undertakes to spend over $100 million to build a plant to develop petroleum from oil shale, it is his risk. But if he produces some petroleum, we will subsidize that at the rate of $3 a barrel. Why? Because now we are paying $14.40 a barrel for about 47 percent of the petroleum used in the United States of America.

We import at the present time, if my memory is correct, something on the order of 8,700,000 barrels of petroleum a day. What is it costing? It is costing $14.40 a barrel landed. Where is it coming from, primarily? The OPEC nations, primarily the Middle East. What will be the Middle East favorable balance of payments this year? It will be $100 billion—money from the whole free world, going to Saudi Arabia, going to Kuwait, going to Iran, going to the other nations there, going to Venezuela, going to Nigeria. That is a $100 billion surplus for those countries.

What will be the trade deficit for the United States? A minimum of $25 billion, probably $30 billion.

It is all well and good to try to conserve energy, and that is primarily what the House-passed bill did. I am for conserving energy. But if you conserve energy and do not develop more energy, what do you do? You die less quickly than you would otherwise. That is what you do when you conserve energy.

What is the answer? To develop alternative sources of energy. And what are the alternative sources of energy? The first is coal. We have a third of the reserves in the entire world, and we must convert to coal wherever we can.

What else do we have? In the Rocky Mountains, in the West, we have a shale rock formation. It is said that more than 2 trillion barrels of petroleum are tied up in that shale rock. Two trillion barrels of petroleum is more petroleum than all the OPEC nations have combined.

However, right now it is not economically feasible to produce it. There is only one small plant operating out there. Others are interested, but it is not economically feasible at present prices.

So what am I proposing? What is the Finance Committee proposing? The Finance Committee voted on this issue twice. One time I think the vote was 14 to 2 and another time the vote was 14 to 3. That is the judgment of the Finance Committee. They attended the hearings; they heard the evidence; they know the issue. They know the deficit on our balance of payments. They know that the answer cannot be solely rested on conservation. The answer must be in developing alternative sources of energy. One of the most promising alternative sources of energy is to produce petroleum from shale rock. We have more petroleum in shale rock than all the OPEC nations have combined. So why do we not develop it?

I am prepared to yield back the remainder of my time, if the Senator from Colorado is.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. HART. Mr. President, how much time does the Senator from Colorado have?

The PRESIDING OFFICER (Mr. MATSUNAGA). The Senator has 8 minutes.

Mr. KENNEDY. Will the Senator yield to me?

Mr. HART. I yield.

Mr. KENNEDY. First, I ask the Senator from Colorado: During the course of the hearings were there not developers who indicated that they intended to go ahead with oil shale development without any tax credits? As I understand it, that was the case. Am I correct in that understanding?

Mr. HART. I think the Senator from Massachusetts is correct.

We have reviewed the testimony put forward there. One of the principal proponents of oil shale development has been the Occidental Petroleum Co. and its president, Dr. Armand Hammer. He stated before the Energy Committee, in April of this year, that he did not want Government support, did not feel it was necessary, and felt that he had a process that was economically feasible without any subsidies of any kind.

Mr. KENNEDY. I thank the Senator.

My understanding is the same as that of the Senator. Those who were committed to development felt that they could do this and could develop it economically. As I understand it, that was the testimony received by the Finance Committee.

Mr. President, I listened to the eloquence of the Senator from Georgia as to how this credit is going to resolve our energy problems. But the question is, at what cost? What kind of payment is the American consumer willing to put in the hands of special interest groups in order to get more energy? What price must we ask the people of Colorado to pay?

The $3 credit is equivalent to a depletion allowance of 57 percent, on top of the 15 percent depletion allowance already allowed for shale. So this amendment is going to provide a total of a 72-percent depletion allowance to oil shale developers, who are among the richest corporations of this country. Everyone should understand that. If they can also take advantage of the intangible drilling cost deduction, they get an even larger benefit.

I listened to the Senator from Georgia talk about how we have to meet the energy problem. But what is the justification for this huge giveaway? What is the justification for 57 percent on top of 15 percent? He has not made a case for this provision on the floor of the U.S. Senate.

This is one of the most outrageous giveaways to the highest income people of this country, and we had better understand that.

Only a few years ago, we debated the issue of eliminating the 22-percent depletion allowance for the largest oil corporations. That issue was on the floor of the Senate for a generation. Then, finally, 2 years ago, under the Hollings-Kennedy amendment, we eliminated the depletion allowance for the richest oil companies in this country, and their profits have escalated dramatically because of the international cost. They do not dare come on the floor of the Senate and say, "Give us our depletion allowance back on this bill." They are not bold enough to try that directly. Instead, they come in by the back door of oil shale and get an incredible 72-percent depletion allowance for going into oil shale.

It is a giveaway. It is a gigantic loop-

hole which will shock the average American taxpayer. And it is all done in thinking we are going to resolve our energy problems. But no case has been made on the floor of the U.S. Senate that this is any sort of responsible incentive.

On the contrary, the testimony is in direct conflict to it. There are adequate incentives already to be able to do it.

Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. The Senator from Colorado has 2 minutes. The Senator from Georgia has 11 minutes.

Mr. HART. Mr. President, I should like to clarify something, because I want the record to be clear.

The statement by Dr. Hammer that I cited was before the Energy Committee. There was testimony before the Finance Committee on this bill that a tax subsidy or tax credit of this sort would be helpful for the purpose of establishing pioneer plants, but not specifically any testimony supporting a permanent tax credit for commercial production of oil shale in this country. If that testimony was before the Finance Committee, I think it will be interesting to have it at this point in the RECORD, because that is what this tax credit does.

Mr. KENNEDY. Mr. President, am I not correct that there are provisions in the proposed legislation to provide for the pilot programs? It is my understanding that that already exists in the bill. Does not DOE have 17 projects at the present time?

Mr. HART. The Senator from Idaho was on the floor with respect to the previous amendment and cited the amount of Federal assistance going into oil shale at the present time: The 1977 budget in ERDA includes $6 million for oil shale production research, $4 million for gas production from shale, $2 million supporting——

Mr. KENNEDY. We have, as I understand it, 17 projects that are going on.

Mr. HART. That is correct.

Mr. KENNEDY. This amendment will benefit the current development, as well as others.

Mr. HART. That is correct.

Mr. KENNEDY. Finally, will the Senator comment on the environmental impact on the State?

It is interesting to me, Mr. President, that the State that is going to be most affected by this $3 tax credit is the State of Colorado. It is interesting that Colorado's two Senators have expressed strong objections to this credit. Why is the rest of the Senate trying to jam this credit down the throats of the residents of Colorado. I think that is the real question.

What is the impact? Has the Senator already made that case?

Mr. HART. The case has been made that there are about a dozen operations going forward, none commercially. The reason they are not going forward in the case of almost all of them is that there are serious problems of air pollution, of lack of water quantity, and of deterioration of water quality, and the question of how to dispose of the spent shale for the above ground retorting where the shale is mined and hauled up to the surface. The impact on our State would be enormous. Of course, this tax credit does not respond to any of those problems.

Those problems are the principal reason why there is not an oil shale industry in this country today.

I yield to the Senator.

The PRESIDING OFFICER. All time of the Senator from Colorado has expired.

The Senator from Georgia has 11 minutes remaining.

Mr. KENNEDY. Mr. President, could I ask unanimous consent for 2 minutes for Mr. HASKELL?

Mr. TALMADGE. Mr. President, I yield 2 minutes to the distinguished Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 2 minutes.

Mr. HASKELL. Mr. President, I wish to thank the distinguished Senator from Georgia.

In the Energy Committee and specifically in my Subcommittee on Energy Production and Supply, I had a bill to provide two completely federally funded tests to be operated by private companies for the purpose of ascertaining the economics of shale, the water consumption of shale, and the environmental impacts of shale. My point was that this is something we should know. My point was that we have huge oil reserves if they were economically and environmentally extractable.

Immediately after announcing the hearings and specifically after the first hearing two companies said, "No matter what the Federal Government does we are going into commercial production anyway."

One company conditioned its statement on the acquisition of some additional land.

Of those two companies, one company already has announced it is in commercial production.

So my point, Mr. President, is that this incentive, as it is called, is absolutely unnecessary. This is not to say that it may not be necessary not only with shale but tar sands and coal gasification that there be some type of Federal loan program because the capital cost is so large, but that is a different issue.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

The Senator from Georgia.

Mr. TALMADGE. Mr. President, the distinguished Senator from Massachusetts referred to intangible drilling costs. There is no intangble drilling cost here. This is a mining operation. A mining operation has a depletion allowance of 15 percent.

Mr. KENNEDY. The Senator understands that this will all be built on top of intangibles in the industry; does he not?

Mr. TALMADGE. No. There will be no intangible drilling cost. This is not a drilling operation. This is a mining operation.

Mr. KENNEDY. It is a taxing operation, also, and the Senator is not denying intangible drilling cost. Shale oil developers are also oil and gas producers. They also have the intangible drilling deduction. And they use it on their tax returns.

Mr. TALMADGE. It is a mining operation. They have a 15-percent depletion mining allowance, and that is it. It is a mining operation. There is no intangible drilling. This is not drilling down in the ground for oil. This is a mining operation, to mine rock.

I say to the Senator that rock looks like this. It comes out of mountains. It produces shale oil like this, and I understand out in the Rockies we have more potential petroleum than there is in all of the OPEC nations combined. The question is whether or not we want to produce petroleum here in the United States of America or whether we want to import it from the Middle East, from Kuwait, from Saudi Arabia, from Venezuela, and the other nations of the world now that operate OPEC and charge us $14.40 a barrel for the oil that we bring in from those nations.

It is the considered opinion of the Senator from Georgia and the opinion of the Finance Committee, by a vote of 14 to 3, that we should try to develop alternative sources of energy here. And the Rocky Mountains, where they have this vast resource tied up in rock, offer the best potential because there is more petroleum there than all of the Middle East combined.

Mr. LONG. Mr. President, will the Senator yield?

Mr. TALMADGE. I yield to my distinguished chairman.

Mr. LONG. Mr. President, when the Senator from Louisiana started his odyssey to try to work his way up from one committee to another to try to be on one of the more senior committees, he had the privilege of serving on the Interior Committee long before many present Senators came to this body, and back in about 1950 we were talking about that if you just had a little better price for oil produced from shale, we would have a huge flood of shale oil and as a matter of fact once in commercial production the unit cost would go down and we would just have all the energy we needed forever.

We have been hearing about that since 1950 to my certain knowledge, that with just a little price edge we are going to get all this flood of oil.

We have not seen any of it. After 20 years the only bit I have seen of it is the thimble full the Senator has in that vial right there. So far, a lot of people have put money into it.

Dear old Gene Milliken if he were here could certify to the Senator from Colorado and I tell people, if they have any doubt about it, "I want you to know I have put my own money in buying this shale; I think it has great possibility."

The poor man has gone to meet his Maker 15 years ago, and we still do not have any more than the ounce we see on the Senator's desk to show for all our oil.

Let us assume for the sake of argument so far no one has done anything but lose money. Gene Milliken lost. Everybody else has lost theirs. So far no one has made a nickle. All they have done is lose their good money.

The Senator is now afraid at long last someone might show a profit. We

should pray to the merciful Lord someone would make a profit out of this because if they do we will have enough energy to last us to kingdom come, and the Arabs can buy it from us for a change. If it should be that someone is making an unconscionable profit that way, and we do not have one ounce of it in Louisiana—I would be glad to pay to buy some of it—but if it should be that someone should make a profit out of it then we can take it away from them just like we took the depletion allowance away from the major oil companies.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. TALMADGE. I yield to the distinguished Senator from Nebraska.

Mr. CURTIS. Mr. President, if this oil is produced in the United States from shale, it will not be subject to any foreign tax credit as is oil produced elsewhere. Is that correct?

Mr. TALMADGE. The Senator is entirely correct.

Mr. CURTIS. Also if a corporation makes a profit, we get 48 percent back in taxes. Is that correct?

Mr. TALMADGE. The Senator is entirely correct.

Mr. CURTIS. All right. If all of this operation is in the United States, will those employees and officers, and all the added employees they get, be paying income tax?

Mr. TALMADGE. And working instead of drawing unemployment benefits.

Mr. CURTIS. And will they be paying the ordinary payroll taxes for social security and the like?

Mr. TALMADGE. They will.

Mr. CURTIS. Will they be paying gasoline taxes as they drive back and forth?

Mr. TALMADGE. They will.

Mr. CURTIS. How are you going to defend the Treasury of the United States if you insist on maintaining an oil industry thousands of miles across the sea and oppose one here? How is that going to benefit the Treasury?

Mr. TALMADGE. It will not. The Senator has put his finger on the entire problem. Instead of benefiting the Treasury, the Treasury is losing $25 to $30 billion on our balance of payments and the value of our dollar is going down day after day.

The first thing you see in the paper every morning when you pick it up is the dollar declines against the yen, the dollar declines against the Swiss franc, the dollar declines against the German mark. The reason it is declining is because of this intolerable deficit in our balance of payments which is caused primarily by the blackmail prices we are having to pay for imported energy from the OPEC nations.

The beauty about this provision in the Senate bill is this: If you will produce a barrel of petroleum in the United States of America from shale rock you will get to deduct $3 for the barrel from taxes that you owe in the United States. If you do not produce anything, we give you nothing. All of the risk is yours. If they produce, what happens? It will cost us then $3 per barrel from the Treasury; whereas, at the present time it is costing us $14.40 that goes to Saudi Arabia, to Kuwait, to Venezuela, to the other OPEC nations. The jobs are there and the money is there. What we are trying to do is bring the jobs back home and the money back home.

I yield back the remainder of my time.

Mr. HATHAWAY. Mr. President, before the Senator yields back his time, will the Senator agree to define the $3 credit?

Mr. TALMADGE. I did not understand the Senator.

The PRESIDING OFFICER. All time having expired, the question is on——

Mr. HATHAWAY. Mr. President, I ask unanimous consent to proceed for 30 seconds.

The PRESIDING OFFICER. Is there objection?

Mr. TALMADGE. What was the unanimous-consent request?

The PRESIDING OFFICER. To proceed for 30 seconds.

Mr. TALMADGE. What was the unanimous-consent request?

Mr. HATHAWAY. Ten more minutes, to be evenly divided.

Mr. TALMADGE. I object.

Mr. HATHAWAY. Five more minutes? How about 2 more minutes?

The PRESIDING OFFICER. Objection is heard.

All time having been yielded back, the question is on agreeing to the amendment of the Senator from Colorado. The clerk will call the roll.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

Mr. LONG. The suggestion is out of order. The rollcall has already started.

Mr. ABOUREZK. I said I suggest the absence of a quorum.

Mr. LONG. Mr. President, point of order. Mr. ABOUREZK's name was called and Mr. ABOUREZK said "aye."

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

Mr. ABOUREZK. I suggest the absence of a quorum.

The PRESIDING OFFICER. The rollcall had not yet begun and the point of order is not well taken. The clerk will call the roll to determine the presence of a quorum.

The second assistant legislative clerk proceeded to call the roll.

Mr. CURTIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. KENNEDY. I object.

The PRESIDING OFFICER. The clerk will continue with the call of the roll.

The second assistant legislative clerk continued to call the roll.

Mr. TALMADGE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

Mr. TALMADGE. Mr. President, I ask unanimous consent that debate be limited to 4 minutes to be equally divided between the distinguished Senator from Maine and the Senator from Georgia.

The PRESIDING OFFICER. Is there objection? The Chair hears none. Without objection, it is so ordered.

Who yields time?

Mr. HATHAWAY. Mr. President, I yield myself 30 seconds. I want to ask the Senator if he would accept an amendment to this so that the credit provided would be confined to the tax that was due on the shale oil operation only and could not be applied against any other of the company, if they run a candy store or any other type of business.

Mr. Talmadge. That is already in the amendment; that is the amendment now. It is limited to shale oil.

Mr. HATHAWAY. From reading it here it seems to me the $3 tax credit could be taken against any income which the company received or any tax on any of the income a company received.

Mr. TALMADGE. I could not agree to that, Senator.

The PRESIDING OFFICER. The Senator's 30 seconds have expired.

Mr. TALMADGE. I yield 1 minute.

The purpose of the tax credit is to develop some incentive for the development of this shale rock. Right now there is no significant development, as the distinguished Senator from Colorado said a moment ago. You have one or two little pilot plants which are financed with a dabble of money, Federal money, and federally-operated, but they are not producing oil from shale rock.

What we are trying to do is to produce oil from shale rock in abundance and trying to do it with a tax credit. The beauty about the tax credit is that it costs nothing unless they produce the petroleum. They will have to produce it in their own plant and, in addition to producing it in their own plant, they will bring the jobs back here. In addition to that it will be produced in this country. It will be American petroleum instead of petroleum we are importing at a cost of $14.40 a barrel.

I am perfectly agreeable to this: if there is a grant for the construction, the additional construction, paid for by Federal money, that would be withheld to the extent of the grant. I have no objection to that. But if there is a grant involved of 100 percent I would have no objection to withholding the credit or vice versa. I do not want to give them both.

But what we are giving them here is an investment tax credit where they risk their own capital.

Mr. HATHAWAY. But giving it to them against any income, income from any enterprise they have regardless of whether it is oil-related or not. That does not seem to be the thrust of what the Senator was arguing earlier that we need this $3 credit to make up for the differential of what the costs would be in the price of oil.

Mr. TALMADGE. We are starting with a project that is nonexistent; to wit, the development of oil from shale in the United States. We are trying to substitute such oil produced in the United States for petroleum produced in Saudi Arabia. In order to give them an incentive to do it we are offering them a tax credit of $3 a barrel. If people had taken that position during World War II, we never would have developed synthetic rubber, we never would have developed the atomic bomb,

and we could never have put a man on the Moon. We have got to have enormous resources involved and put forth an enormous effort to get the job done.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. KENNEDY. Mr. President, I yield myself the last remaining minute.

The PRESIDING OFFICER. The Senator is recognized for 1 minute.

Mr. KENNEDY. The most this Congress has ever provided in the depletion allowance was the old infamous 27½ percent for oil and gas. If the $3 credit is translated into a equivalent depletion allowance, it is worth 57 percent, added onto the 15 percent of the depletion allowance already available for shale. That makes a grand total of 72 percent depletion for shale. That is the effect of the committee bill. The amendment would strike the $3 credit. We should not be imposing it against the wishes of the two Senators from the State in which 80 percent of the oil shale is found.

In the past, we have heard Members speak for Colorado who represented the oil and gas industry. They are not here any longer. We now have spokespersons for the people of Colorado, and we have heard their objections to this amendment. I wonder how many of us would tolerate the rest of the membership jamming something down the throat of any of our States the way the Committee on Finance is doing to the State of Colorado. It is going to be interesting to watch how those who speak about States' rights vote on this particular measure.

The PRESIDING OFFICER. Does the Senator yield back the remaining time?

Mr. TALMADGE. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the amendment of the Senator from Colorado.

The yeas and nays having been previously ordered, the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. FORD), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from North Carolina (Mr. MORGAN), the Senator from Illinois (Mr. STEVENSON), and the Senator from Minnesota (Mr. HUMPHREY) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

On this vote, the Senator from North Carolina (Mr. MORGAN) is paired with the Senator from Minnesota (Mr. HUMPHREY). If present and voting, the Senator from North Carolina would vote "yea" and the Senator from Minnesota would vote "nay."

Mr. STEVENS. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from California (Mr. HAYAKAWA), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT) is absent on official business.

The result was announced—yeas 36, nays 47, as follows:

[Rollcall Vote No. 589 Leg.]

YEAS—36

Abourezk	Eagleton	Magnuson
Anderson	Glenn	McIntyre
Bayh	Hart	Melcher
Biden	Haskell	Metcalf
Bumpers	Hatfield	Metzenbaum
Chiles	Hathaway	Nelson
Church	Heinz	Pell
Clark	Hollings	Proxmire
Cranston	Inouye	Riegle
Culver	Jackson	Sarbanes
DeConcini	Kennedy	Sasser
Durkin	Leahy	Stafford

NAYS—47

Allen	Garn	Randolph
Baker	Gravel	Ribicoff
Bartlett	Hansen	Roth
Bellmon	Hatch	Schmitt
Bentsen	Helms	Schweiker
Burdick	Javits	Sparkman
Byrd, Harry F., Jr.	Johnston	Stennis
Byrd, Robert C.	Laxalt	Stevens
Cannon	Long	Stone
Case	Lugar	Talmadge
Chafee	Mathias	Thurmond
Curtis	Matsunaga	Tower
Danforth	Moynihan	Wallop
Dole	Nunn	Weicker
Eastland	Packwood	Williams
	Percy	Zorinsky

NOT VOTING—17

Brooke	Huddleston	Muskie
Domenici	Humphrey	Pearson
Ford	McClellan	Scott
Goldwater	McClure	Stevenson
Griffin	McGovern	Young
Hayakawa	Morgan	

So Mr. HART's amendment was rejected.

Mr. TALMADGE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. LONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TALMADGE. Mr. President, I ask unanimous consent that Mr. Bill Pursley, of Senator STONE'S staff, be granted the privileges of the floor during further debate on this measure and votes thereon; also, that Mr. Russell King, of my staff, have the privileges of the floor during debate and votes on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 995

(Purpose: Strike subsection (b) on the limitation of President's Authority to Adjust Imports of Petroleum.)

Mr. MCINTYRE. Mr. President——

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. MCINTYRE. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from New Hampshire (Mr. MCINTYRE) proposes an unprinted amendment numbered 955.

On page 97, beginning with line 18, strike all through line 5 on page 99.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a time limitation of 20 minutes on this amendment, to be equally divided.

Mr. MCINTYRE. Mr. President, a parliamentary inquiry. I understand there is a time limitation of 20 minutes, 10 minutes on each side, on this amendment, is that correct?

Mr. HASKELL. Reserving the right to object, Mr. President, I would first like to find out what this particular amendment is.

The PRESIDING OFFICER. The Parliamentarian advises me that there is no time limitation.

Mr. ROBERT C. BYRD. Mr. President, I made the request just now.

The PRESIDING OFFICER. Is there objection?

Mr. HASKELL. Reserving the right to object, Mr. President, I would first like to find out what the amendment is.

Mr. MCINTYRE. May I be permitted to respond to the distinguished Senator from Colorado without having the time charged against the amendment?

The PRESIDING OFFICER. There is no time limit until such time as a unanimous consent is agreed to. The Senator may proceed.

Mr. MCINTYRE. Mr. President, the thrust of this amendment is to remove subsection (b) from section 1054, which substantially broadens the authority to limit imports of refined petroleum products.

The PRESIDING OFFICER. Is there objection?

Mr. HASKELL. Reserving the right to object, subject to the manager's thoughts, I would agree to a time limit of 30 minutes per side, if that is satisfactory to the Senator from Louisiana.

Mr. LONG. Mr. President, I am willing to do whatever the Senator from Colorado would like to do about this matter. He is very familiar with what is involved.

Mr. HASKELL. I would make a substitute unanimous-consent request, Mr. President, that on this amendment there be 30 minutes allotted to each side.

Mr. ROBERT C. BYRD. Mr. President, I modify my request accordingly.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MCINTYRE. Mr. President, I yield myself so much time as I may require.

Mr. President, while subsection (a) of this part of the bill places greater restrictions on the President's authority under the Trade Expansion Act of 1962 to limit or adjust imports of crude oil, subsection (b) substantially broadens the President's authority to limit imports of refined petroleum products.

Subsection (b) states that the Secretary of the Treasury shall report to the President, after receiving a request to do so by any person, whether product imports threaten to impair national security. The President can then impose or adjust tariffs, fees, or quotas on refined petroleum products for as long as he deems appropriate.

This subsection ties national security to our domestic refining industry and

establishes several factors relating to refining.

These factors are:

(1) impact of foreign competition on the economic welfare of the domestic refining industry and (2) the investment necessary to assure the welfare and growth of such industry; and (3) any substantial unemployment, (4) decrease in revenues of government (5) loss of skills or investment, or (6) other serious effects resulting from displacement of domestically produced refined petroleum products by excessive imports shall be considered, (7) without excluding other factors, in determining whether such weakening of our internal economy may impair national security.

From 1959 until 1972 we experienced a domestic quota system on crude oil and refined petroleum products.

Commencing in the late 1960's the existence of the quota resulted in regional shortages of several petroleum products, the most notable distillate fuel oil.

While I am sympathetic to the need for a viable and efficient domestic refining industry, it is dangerous to shoot for a quick fix approach. This is particularly true in a noncompetitive, concentrated industry such as oil.

The Department of the Interior Energy Refining Utilization Report of 1971 first warned us of a growing shortage of domestic refining capacity as it relates to total national demand and that shortage is still present today. The industry has refused to respond. I am fearful that this authority could be used in a manner that would create a shortage of essential petroleum products such as home heating oil and residual oil, particularly if a quota was imposed. I believe there is no justification to a Government policy that would create artificial shortages.

In 1971 through 1973 I conducted a series of hearings before the Banking, Housing, and Urban Affairs Committee examining our growing need for additional domestic refining capacity and petroleum product shortages.

Based on those hearings, I have advocated on numerous occasions the need to construct efficient, modern, and environmentally sound refineries in the United States, including New England.

I do not believe, however, that the way to increase our domestic refining capacity is to return to a discredited quota or tariff system.

The President's report on the mandatory oil import quota system issued in 1970 clearly documented that petroleum quotas represent a substantial drain on consumer purchasing power with no offsetting advantages.

Presently total demand for petroleum products in the United States is averaging around 18½ million barrels a day.

Total domestic refining capacity is approximately 16½ million barrels a day when used at a capacity rate of close to 95 percent.

We, therefore, presently have a refining capacity shortage of approximately 2 million barrels a day.

During last winter's cold spell, this country was importing 700,000 barrels a day of distillate fuel oil. We are also presently importing close to 1½ million barrels a day of residual fuel oil. Furthermore, residual oil demand is increasing at a rate of 12 to 15 percent a year and distillate heating oil demand is increasing at approximately 10 percent a year.

Every additional barrel of residual oil demand is met through imports and much of the distillate demand increase must also be met by imports.

Also, because of widespread conversion by natural gas users to distillate, demand is estimated to continue to increase substantially for the foreseeable future. As just one example, automotive manufacturers are turning increasingly to diesel-powered engines to meet mileage and emission standards.

Large sections of this country rely on heating oils, both distillate and residual, as their residential and commercial heating source.

This is true for a large part of the Middle Atlantic States, the Northeast, the Midwest, and the Pacific Coast States.

Increased tariffs or quotas will only drive prices up on heating fuels and the consumer will have no alternative heating sources.

When dealing with an essential commodity such as heating oil, quotas do not depress demand, they only limit supply; tariffs do not decrease demand, they only increase price.

It is unfair to require some users of petroleum products to bear the brunt of a shortage of domestic refining capacity, a shortage for which the industry itself is responsible. If a quota is imposed on heating oils, then the ultimate result will be increased profits for domestic refiners and an increased cost to millions of American homeowners and small businesses.

The impact on local taxes will also be devastating.

A large percentage of public buildings are heated with residual fuel oil or distillate heating oil.

Decreased supply and increased price will place even greater stress on the tax base of our State and local governments.

What this section of the bill does, if the authority is exercised, is to take care of the refiners in this country—every one of which is presently making millions in profits. Of the products that could be affected two are of critical importance to the Northeast, residual and distillate oils. While the imposition of a quota will assure additional millions in profits to the refiners, consumers of heating oils will suffer because we either will not be able to afford to pay the price, or, worse, will not be able to get the oil at any price to heat our homes, run our hospitals, schools, public buildings, factories, and transportation.

I would rather vote for price decontrol than quotas or tariffs, Mr. President.

The price is too high for New England to pay with tariffs.

The winter is too long and too cold for shortages caused by quotas. We cannot take this type of regional punishment.

The cost is simply too high.

We are already paying the price for what the Arabs did to us in 1973.

I would rather vote for increased prices based on decontrol, with its obvious devastating redistribution of wealth from consuming areas to producing areas, than the inevitable slow strangulation that is assured in my region of the country from quotas or tariffs. We are not producers; hopefully some day we will be. We are not refiners; hopefully some day we will be.

I find it difficult to talk about shortages during a glut of oil in the world. Everyone of us knows by now that oil and gas are available; that is, available for a price.

If there is one thing I have learned after years—in fact a decade—of holding hearings on oil, it is that supplies of oil and natural gas are based on one criteria—price. The basic fact in the oil industry is that supply is based on price. Or, to put it another way, in our domestic oil industry, price and price alone determines supply. This is not normal in other industries. In other economic sectors of our economy, numerous factors impact on supply, and price is determined competitively. I am convinced, however, that at the production, refining and transportation levels of the oil industry, of which the natural gas industry is part, competition just does not exist and, furthermore, that at the levels of production and transmission of the much larger energy industry, that competition is increasingly contracting as the industry concentrates through acquisition, merger, contract and agreement. This is why I have consistently voted against price decontrol.

In the oil industry, the only competition I have observed is at the distribution and marketing levels and it is contracting rapidly at that critical level—critical because, at the marketing level, supply sets price rather than price setting reserves. Marketers will and do compete today if a competitive price is available.

Short of war, we cannot control the price the OPEC charges, and we realize that war is out of the question. In that context, I believe if the consumer is to have any chance of price competition, it must come through the supply side of petroleum products. There is no price competition at the production level. There is no competition at the transportation level. Therefore, any competition which could benefit the consumer must come at the marketing level. Tariffs will kill competition at the marketing level. Quotas will kill competition at the marketing level.

Quotas and tariffs only aid the big oil companies. Quotas and tariffs will ultimately cost more than decontrol because with decontrol, there is some chance of competition at the marketing level. Quotas and tariffs on petroleum finished products will tie the knot—and tie it tight—of total vertical monopolization by a consortium of integrated oil giants.

It must be pointed out that this authority was not requested by the President. This section was added by the Finance Committee. Do we, as a legislative body, truly want to give the President a blank check? If this power is exercised by President Carter or any future Presi-

dent, then total monopolization is assured in our domestic petroleum industry. This power is too great, in this Senator's opinion, to be explicitly granted by law to one person. Article I, section 8 of the Constitution explicitly grants to the Congress the power to levy duties and tariffs. A quota has the same effect but even goes further in the monopolistically controlled oil industry. The old mandatory oil import quota system destroyed competition at the refining level of the oil industry by creating controlled shortages of crude oil.

In this bill, we now give that power to the President for quotas or tariffs on finished products—which means mainly home heating oil and residual, in that these are the only products that are imported in quantity.

Furthermore, I would like the proponents of this section to explain why we might need tariffs or quotas against foreign petroleum products refined from world price oil at OPEC prices of close to $13.50 a barrel when average domestic crude oil is under $10 a barrel? Why in the world is there a need to keep out products refined from world price crude oil if ours is presently cheaper? To me, there is only one reason: a price fix to get U.S. crude and products above world price by establishing a tariff or quota controlled price.

This grant of quota authority, if used, could strangle New England, my region of this great country.

So I say "no." And I say "no" not only because I want to protect my region and my constituents, but because I want to protect the constitutional powers of the Senate of the United States from being surrendered to another branch of Government.

Mr. President, I reserve the remainder of my time.

Mr. HASKELL. Mr. President, first, I think it is important to recognize that this provision in effect states existing law. Since that is the case, why is this provision here? This provision is here because the distinguished Senator from Kansas, in committee, eliminated the President's authority to adjust oil imports right across the board, both as to crude and refined product, to impose tariffs, fees, or quotas.

Then, having done that, the distinguished Senator from Kansas talked with me and recognized that there was a need to protect a domestic refining industry. Therefore, all this does is put back into law what actually is now in there and, by inference, eliminates any reference to crude product.

Mr. President, why would it be a good idea to have a viable domestic refining industry? Is any type of standby Presidential import authority necessary? In my opinion. Mr. President, and I believe in the opinion of many others, it is absolutely essential that we preserve a domestic refining industry. The domestic refining industry could be badly threatened. For example, offshore refineries are not subject to OSHA requirements. Offshore refineries are not subject to EPA requirements. Offshore refineries do not have these additional costs that onshore refineries have.

Right now, Mr. President, only 54 percent of the domestically consumed petroleum refined product is manufactured in the United States. I think we should examine the situation. If refineries flee overseas, if additional refineries go to Holland, if refineries go to the Mideast and thereby undercut our refineries, would that not diminish the security of the United States? Because surely, the security of the United States depends upon being able to refine oil domestically. We are already dependent upon imported crude petroleum, but we need at least a viable domestic refining industry.

Now, Mr. President, this section of the bill, as reported by the Finance Committee, does not require the President of the United States to do one thing. This merely says that upon receiving an application, the Secretary of the Treasury, first, shall report his findings to the President. If the Secretary finds that imports threaten to impair national security, he shall so advise the President. Then the President, if he desires, shall take action.

Mr. President, the purpose of this provision, I think, is very well stated. The things that should be taken into consideration are the impact of excessive imports, such as substantial unemployment, decrease in Government revenues, loss of skills or investment, or other adverse effects. All these must be weighed without, at the same time, disregarding any other relevant factor such as the possible effect of the proposed action on the economy, on regional needs and on consumers.

Mr. President, I think allowing the President of the United States this authority is vital.

I reserve the remainder of my time and yield to the distinguished Senator from Wyoming.

Mr. HANSEN. Mr. President, I thank my distinguished colleague from Colorado for yielding.

Many of the things I had intended to say have already been articulated very forcefully by my good friend from Colorado.

Let me say on the face of it, simplistically, it is not difficult to understand the conclusions reached by our mutual good friend from New Hampshire. But we have got to look a little more deeply into this issue than simply to say, "If we impose a tariff on imported products, is that not going to make the cost of energy higher in this country?" Hopefully, a quick, ready answer may be, "Yes; it will."

But let us look beyond that.

I can remember when New England was dead opposed to the mandatory oil import program, a program that had bipartisan support, both Republican and Democrat, over a period of time, which was intended to see that we did not become too dependent upon any foreign source of supply.

In other words, the rationale was, "Let us keep the domestic industry healthy."

Now, I am not going to try to defend that program. It has been rejected by the Congress. But I would just make the point that when it was cheaper to buy oil abroad, New England did not like that program one bit because they said that if it were not for this mandatory oil import program they could buy a lot of that surplus cheap oil from other parts of the world—and not only New England, there were other parts of the country that said the same thing.

They said, "Why on earth are we handcuffing ourselves, making it necessary that we have to pay tribute to the domestic oil industry?"

That was all well and good and, of course, it is all history what happened.

In due time, we kicked out the mandatory oil import program, started buying oil abroad and then found out that not only the United States, but most of the civilized world, greatly increased its need for energy and competition got into the picture, then foreign relations got into the picture.

The Middle Eastern countries, many of which are Arabic, or at least inclined that way, were not pleased with America's position in the Middle East, and we had an embargo put on in 1974.

At that time, I did not hear anybody jabbing the domestic industry.

We rolled prices back and we are subsidizing foreign oil today by virtue of the fact that the composite price of domestically produced oil is about $8 a barrel, and what do we pay for the oil that comes from abroad? We pay about $13.50.

So all this amendment that the Senator from Colorado is defending, which is old legislation, is to say that it makes good sense to have the diversity that comes from a diversified refining industry, and these small refining plants, absent the protection that they now have and that the Senator from Colorado and I and others want to continue to give them, means they would go out of business.

So the long-range picture simply is this, given the advantages of avoiding the kind of tough environmental laws we have in the United States, given the ability of foreign refiners to burn high sulfur oil and to pay lower wages and transport their products on foreign bottoms, and to do many other things, they can come in with their refined products into the United States and undersell the products refined by the small domestic refiners.

When that happens, I say to my good friend from New Hampshire, that he will not find these foreign operators as charitable as they seemingly are today.

When they have put our small refiners out of business, they will have a virtual monopoly and they will be able to dictate the price.

It is because of an awareness of that fact that the policy of the United States has been to extend benefits and special considerations to the small refiner so he will stay in business.

I hope very much that the amendment by the distinguished Senator from New Hampshire, well intentioned though it is, will not pass, because if it does, New England and every other part of the

United States is going to suffer, and we will concentrate, in those few big refiners we have in the United States, a vulnerability to attack that could knock this country completely out of business.

It is only through the diversification of our refining capability that our national security is enhanced. We want to keep it that way. I regret that we have all these entitlement programs and we rolled prices back and did many other things.

Maybe Senator HASKELL and I do not agree on all of them, but we surely do agree on this one, and I stand solidly with him in urging that the Senate reject this amendment because, if we fail to support the position of the Senator from Colorado, we are going to pay through the nose when we see these small refinery operations go down the drain and we have to buy from abroad.

I thank my friend from Colorado.

Mr. HASKELL. I thank the distinguished Senator from Wyoming.

I assume the Senator from New Hampshire has something he would like to say and I think that right after his statement, we can possibly yield back our time.

Mr. McINTYRE. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized for 3 minutes.

Mr. McINTYRE. Mr. President, I would take issue with the distinguished Senator from Colorado that this is a rewrite of old law. Apparently, he is referring to the Trade Expansion Act of 1972.

The existing law, in the opinion of this Senator, is changed because by adding in new factors in this section it ties in domestic capacity of refining to national security for the very first time, and those factors are in this subsection.

First, impact of foreign competition on the economic welfare of the domestic refining industry;

Second, the investment necessary to assure the welfare and growth of such industry;

Third, any substantial unemployment;

Fourth, decrease in revenues of Government;

Fifth, loss of skills or investment;

Sixth, other serious effects resulting from displacement of domestically produced refined petroleum products by excessive imports shall be considered; and

Seventh, without excluding other factors, in determining whether such weakening of our internal economy may impair national security.

Mr. President, the distinguished Senator from Wyoming knows that right as of this moment the refining capacity on residual oil in domestic refineries is some 1.5 million barrels short of the needs of this country, and particularly of the region of New England.

When the distinguished Senator from Wyoming talks about the mandatory oil import quota system that was inflicted on this Nation and on the sections of the country that are not rich in oil or in energy sources back in 1958, we had to live with that program until finally it fell of its own inequities and its own stumbling.

Many times I heard the former Senator from Rhode Island, Mr. Pastore, exclaim in this Chamber about the price of foreign oil, back in 1958, 1959, 1960, 1961, 1962, and so on, the price of foreign oil being $1 or $1.25 a barrel cheaper than the subsidized price of oil at the domestic level. Senator Pastore said, "Why don't we buy all the oil we can out there that is cheaper and save our oil?" That made good sense.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. McINTYRE. I yield myself 2 additional minutes.

So the very thought of a Presidential activity that would bring quotas onto refined petroleum products sends the cold shivers down the spine of this Senator. Never, in my opinion, was a program more inequitable than the mandatory oil import quota system that was originally to aid and cause the refineries of America to be built.

Instead, our oil industry went to the Arab lands, where they could bring it out at a penny a barrel. The shadow of that oil import program must never occur again, because it is very unfair to New England.

Mr. President, I urge the Members of the Senate to join me in striking subsection (b), which is totally unnecessary and totally pointed, so far as this Senator is concerned, toward New England, the Middle West, the Far West, and other areas which are shy of oil and need this help with respect to refined distillates.

Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, if I recall correctly, in the discussion of this matter in the committee, the distinguished Senator from New York (Mr. MOYNIHAN) made the point that if, in order to save the domestic refineries or a substantial number of them, it might result in an increase in the cost of imported products, he could not go along with that if the burden was going to fall almost entirely or, in the main on, the Northeast part of this country or on the eastern seaboard.

It was agreed in the committee that we would work out something, either for floor consideration or in the committee, to assure that those who were the principal recipients of this imported product would not bear a disproportionate burden, but that, rather, the burden of the import program would be spread among all Americans, each more or less bearing his share of the burden of that program.

I note that there is an amendment numbered 1525, by Messrs. MOYNIHAN, RIBICOFF, HATHAWAY, and JAVITS, which would allow a refundable credit to qualified users of refinery products if the President imposes a quota, which was agreed to earlier today helps to take care of that problem.

So the point here is that there is no intent on behalf of the committee or on behalf of the managers of the bill to impose a heavy burden or a lopsided burden on New England or the eastern seaboard or any other part of this Nation to continue the American oil refineries and to maintain that industry at the proper level. If there is to be a burden, I say to the Senator from New Hampshire, that it should be shared evenly by all Americans, including those from the State I have the honor to represent, where we produce much of the energy, and we would be just as happy if there were no imports.

At the same time, we know what the problem is, and we will seek to assume our part of the burden of the cost of imports, to try to maintain a domestic refinery industry. We do this because we think it only fair. If we are going to ask those in the area represented ably by the Senator from New Hampshire to cooperate with us in maintaining a domestic refinery industry adequate for the Nation's needs, then we should cooperate with them, to see that no undue burden is imposed upon that part of the Nation.

So, in due course, we would expect the conference to agree to the Moynihan-Ribicoff amendment or we would work out something else in conference that would achieve the same purpose.

Mr. McINTYRE. I thank the distinguished chairman of the Finance Committee for those kind words. I certainly appreciate his intentions. But intentions do not keep us warm when there is a shortage, and that is what could occur by allowing some President to impose quotas.

I point out, Mr. President, that I consistently have urged the construction of refineries in the New England area. We had one or two before the imposition of that mandatory oil import quota system program, but they disappeared within a year or two after that facet in 1958.

I took it upon myself, because of the strong complaints of pollution and environmental factors, to visit the Arco refinery in Bellingham, Wash., which is a model refinery, and brought back the word to New England that it is possible today, with modern techniques and technology, to construct refineries that do not look like the Atlantic coastline along the New Jersey shore.

With that, Mr. President, I am prepared to yield back the remainder of my time, if the Senators from Colorado, Wyoming, and Louisiana are prepared to do so.

Mr. DOLE. Mr. President, will the Senator from New Hampshire yield for a question?

Mr. McINTYRE. I am happy to yield.

Mr. DOLE. I wish to make certain that I understand the complaint of the distinguished Senator from New Hampshire. I offered the motion in the Finance Committee to take away Presidential authority to impose fees or quotas, after Mr. Schlesinger stated on "Meet the Press" that if the Senate did not do what he thought we should do or the administration thought we should do, they

would solve the energy problem by imposing import fees up to $5 a barrel.

In an effort to make certain this would not happen, the amendment was offered to take away the authority from the President, in an effort to assure that the Senate had a chance to enact responsible energy legislation.

It never was the intent to damage New England. In fact, I think the distinguished chairman has indicated that we had the other view presented in the committee.

It was my understanding that the amendment of the distinguished Senator from Colorado (Mr. HASKELL) does not do violence to any section of the country. I was not in the Chamber to hear the initial part of the statement. I am wondering what the problem is as it concerns New England.

Mr. McINTYRE. The Senator from New Hampshire has no difficulty with subsection (a); it is with subsection (b), which deals with the refined petroleum products. That, of course, gets into two distillates that are very important to us—residual oil and heating oil No. 2. So we have no objection to subsection (a).

It is simply the fact that quotas might have to be imposed after we have lived through that mandatory oil import quota program. We cannot tolerate that, because that was very unfair and had many rank situations to disturb the people, such as in Portland, Maine. The oil tankers from the Middle East would arrive and pump oil through the State of Maine, into Canada, where, in Montreal, heating oil was 1½ cents or 2 cents cheaper than in Portland, due to the subsidizing of the domestic refineries.

I have no trouble with subsection (a); it is subsection (b), with the fear that a President in the future could enforce quotas. It is very objectionable.

As to Mr. Schlesinger's remarks about a $5 barrel, that was on crude oil; was it not?

Mr. DOLE. Yes.

Mr. McINTYRE. We would be strongly opposed to that, even though the Secretary has told us privately that the administration would take into consideration the vulnerability of sections such as New England and the Middle West.

Mr. DOLE. It is not that provision he objects to. I guess it is the part of the Haskel provision the Senator referred to as section (b).

I thank the Senator.

Mr. McINTYRE. I thank the Senator.

Mr. MATHIAS. Mr. President, the energy tax proposals reported by the Finance Committee contain a section which is the same as the provisions of S. 2012 as introduced by Senator FLOYD K. HASKELL on August 4, 1977, and cosponsored by Senators BENTSEN, GRAVEL and myself. This section amends the Trade Expansion Act of 1962 and is intended to protect our national security by insuring that the domestic refining industry does not fall casualty to foreign refineries as a consequence of continuing Government actions which raise the costs of doing business to domestic refineries. It is founded on legislation which I introduced in January. That bill was S. 56.

Foreign refiners presently enjoy substantial cost advantages over domestic refiners, including unloading facilities for supertankers; use of foreign rather than U.S.-flag ships; lower wage and other employment costs; ability to burn higher sulfur, lower cost fuel; and exemption from income taxes and from local property taxes. These cost advantages do not result from true economic efficiencies, but rather reflect desirable U.S. governmental policy to achieve important social goals within the United States.

Currently short-range programs, such as the domestic crude oil price controls, the DOE's crude oil cost equalization program, and import fees have offset the additional costs incurred by domestic refiners in meeting these national goals and thus have allowed domestic refiners to remain competitive with foreign refiners. However, future cost increases imposed on domestic refiners by Government actions (such as the imposition of a crude oil equalization tax or a user tax) could greatly aggravate this disadvantage. In order to prevent this, the President, under this section, could make the necessary adjustments to import license fees and tariffs with respect to foreign refined petroleum products as necessary to foster a strong domestic refining industry which is competitive with foreign refiners and to encourage construction of new or modernized refining capacity within the United States rather than in foreign countries.

Section 1055(b) merely builds on existing Presidential authority to protect national security. The U.S. Supreme Court, in *FEA* v. *Algonquin SNG, Inc.*, 426 U.S. 548 (1976), indicated that the President has some authority to regulate imports of oil and derivative products in this regard, but the case is not definitive on the limits of that authority. The section would, thus modify section 232 of the Trade Expansion Act of 1962 to explicitly delegate to the President authority to impose monetary exactions of the type required to protect the domestic refining industry.

It should be noted that this section of the Finance Committee's bill stands alone and is neither dependent on, nor irreconcilable with, any other section contained therein. It should be noted also that the section is necessary whether or not the final energy legislation contains crude oil equalization tax or a user tax because of the continuing uncertainty of what future conditions may arise which could call for fees to offset costs disadvantages of domestic refiners vis-a-vis foreign refiners.

SECTION 105(b) NEEDED TO PROTECT THE NORTHEASTERN UNITED STATES

Section 105(b) of H.R. 5263 would protect our national security by providing a mechanism for insuring that the United States is not dangerously dependent on unsecure sources of foreign refined petroleum products.

Section (b) does not mandate any tariff or import fee on any product. It does not mandate that the amount of any tariff or fee be the same on all products. Rather it provides a flexible means of protecting our national security by explicitly delegating to the President discretionary authority to insure that domestic refiners have a reasonable chance to compete with foreign refiners despite Government actions which raise the cost of business for domestic refiners higher than that of foreign refiners.

This section is particularly important for the Northeastern United States. The Northeast, which is refinery deficient and, therefore, inordinately dependent upon petroleum product imports, has shown increasing interest in the construction of refineries in that region. A. Johnson & Co. has recently (1974) completed a 14,000 barrels per day refinery in Newington, N.H. A referendum passed by voters in Massachusetts in November 1976, endorsed the acceptability of a refinery in that State, and Massachusetts has also recently completed through a reputable consulting firm (PIRINC) a feasibility study on refinery siting. Several refineries have been proposed for Maine including a 250,000 barrels per day plant at Eastport, Maine, proposed by the Pittston Co. and presently in the final stages of obtaining the necessary Government permits. In short, the Northeast—especially New England—now clearly wants to accommodate petroleum refineries and related energy facilities. Section (b) is vital to safeguarding these new refineries and related facilities.

This interest by Northeastern States in new domestic refineries is understandable given that region's current dependence on unsecure foreign refineries. The U.S. Bureau of Mines reports that in 1976 the east coast relied on imported product to meet 9.6 percent of its distillate demand, 80.8 per cent of its residual fuel demand, and 26.1 percent of its total petroleum product demand. For the first quarter of 1977, this dependence increased to 22.4 percent of distillate demand, 82.2 percent of residual fuel demand, and 32.6 percent of total product demand. This demand for imported product may increase even further this winter in the face of the regional natural gas shortage predicted by the October 10 report of the Senate Intergovernmental Affairs Subcommittee. Such a natural gas shortfall could be offset in the future by the construction along the east coast of proposed refinery capacity to convert naphtha to SNG, but again section (b) is vital to such refineries.

The economic relation of domestic and foreign refineries and the national importance of section (b) is explained in the attached factsheet. For the Northeastern States, it is clear that section (b) would be a substantial aid in securing their fuel supply and correcting their regional refinery deficiency. I, therefore, urge my colleagues to vote against the amendment of the distinguished Senator for New Hampshire.

The following groups support the bill as is:

American Petrofina, Inc.
Ashland Oil, Inc.
Building & Construction Trade Dept., AFL–CIO.

Champlin Petroleum Company.
Cities Service Company.
Clark Oil and Refining Corp.
Crown Central Petroleum Corp.
Getty Oil Company.
Hampton Roads Energy Company.
Hawaiian Independent Refinery, Inc.
Husky Oil Company.
Independent Refiners Assoc. of America.
Kerr McGee Corp.
Marathon Oil Company.
National Council of Farmer Cooperatives.
National Petroleum Refiners Association.
North Pole Refining Company.
Oil, Chemical and Atomic Workers International Union.
Pester Refining Company.
Phillips Petroleum Company.
Pennzoil Company.
Standard Oil Company (Indiana).
Sun Company, Inc.
Tenneco, Inc.
Union Oil Company of California.
Vickers Petroleum Co., Inc.

Mr. President, I ask unanimous consent that the following letters in support of the bill as reported be inserted in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

OIL, CHEMICAL AND ATOMIC
WORKERS INTERNATIONAL UNION,
Denver, Colo., October 12, 1977.

MEMBERS,
Senate Finance Committee, U.S. Senate, Senate Office Building, Washington, D.C.

DEAR SENATOR: As President of the Oil, Chemical and Atomic Workers International Union ("OCAW"), I am writing to urge very strongly that the Finance Committee adopt the provisions of Senator Haskell's bill (S. 2012) as part of any energy tax legislation reported by the Committee.

Senator Haskell's bill would provide a mechanism, by amending section 232 of the Trade Expansion Act, to protect the U.S. from undue reliance on foreign refiners by authorizing the President to adjust import license fees or tariffs to foster a strong domestic refining industry. S. 2012 therefore would provide standby protection for domestic refining and, for the reasons set forth below, should be enacted independently of the fate of the proposed crude oil equalization tax.

There are currently 100,000 workers in the domestic refining industry and additional tens of thousands in petrochemical and other industries directly tied to the domestic refining industry. OCAW represents a large proportion of these workers.

The operations of these industries are largely computerized and labor-efficient. Their workers are highly skilled with years of on-the-job training and experience behind most of them. Layoffs of this category of skilled and experienced workers can be catastrophic to workers and their families as work of this caliber elsewhere is generally not available to them. Conversely, to again build up a skilled work force in these industries is exceedingly difficult, costly and time-consuming. Yet the jobs of these workers are jeopardized today by the competitive advantages enjoyed by foreign refineries through tax and other legislative favors. Moreover, if the crude oil equalization tax passed by the House were accepted by the Senate in any form, these jobs could be lost almost overnight.

Foreign refining operations today have the unfair advantage of special and favorable tax treatment, not available to domestic refiners. In addition, domestic refining is unavoidably more costly than foreign refining because of higher American wages and other socially desirable measures to protect the environment and the health of the workers. Furthermore, the proposed crude oil equalization tax and industrial users tax, if enacted into law, would give domestic refining another financial handicap.

Moreover, OCAW believes that the design and maintenance of domestic refineries should be upgraded to reduce emissions of noxious effluents into the surrounding community. We believe that workers exposure to toxic substances, such as benzene, should and can be reduced to levels such that workers suffer no threats to their health by working in a refinery. We acknowledge that the attainment of these objectives will additionally raise the cost of domestic refining above those of foreign refining operations that are beyond the reach of EPA and OSHA regulations.

In considering the competitive position of domestic refining, it is necessary to examine also the real costs of foreign crude to the multinational oil companies that produce it. Because of profits and special tax advantages, the net cost of foreign crude to the multinational producers is less than the nominal world price. If the COET were enacted, imported products made with foreign crude by the multinationals would cost less than domestic products made with domestic crude even were refining costs the same.

For these reasons, OCAW strongly supports the Haskell bill, S. 2012, and urges its enactment as part of any national energy legislation.

Sincerely yours,
A. F. GROSPIRON, *President.*

AFL–CIO,
BUILDING AND CONSTRUCTION
TRADES DEPARTMENT,
Washington, D.C., October 11, 1977.

Hon. RUSSELL B. LONG,
Chairman, Senate Finance Committee, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: I understand that on Tuesday, Senator Haskell will re-offer his amendment in support of the domestic refining industry. This amendment should be adopted.

To serve the U.S. market, refineries will have to be maintained, constructed, modernized and expanded. This work should be done here, providing jobs for American workers, not abroad. However, U.S. refineries have cost disadvantages because foreign refineries enjoy tax breaks, harbors for supertankers, different environmental rules and other advantages. Energy Act proposals, such as the crude oil tax, would make the domestic industry noncompetitive.

The American people are willing to pay fair prices for American made products which provide jobs for Americans. Congress should not permit the domestic refining industry to become a casualty to a new Energy Act, however that Act ultimately may turn out.

Senator Haskell's amendment, with bipartisan sponsorship, deserves the support of every member of the Finance Committee. I urge that you give it your full support and leadership.

With kind regards, I am
Sincerely,
ROBERT A. GEORGINE,
President.

Mr. McINTYRE. I am prepared to yield back the remainder of my time.

Mr. HASKELL. I yield back the remainder of my time.

Mr. McINTYRE. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from New Hampshire.

On this question, the yeas and nays have been previously ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Delaware (Mr. BIDEN), the Senator from Kentucky (Mr. FORD), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Arkansas (Mr. McCLELLAN), the Senator from South Dakota (Mr. McGOVERN), the Senator from North Carolina (Mr. MORGAN), the Senator from Illinois (Mr. STEVENSON), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) would vote "yea."

Mr. STEVENS. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from California (Mr. HAYAKAWA), the Senator from Kansas (Mr. PEARSON), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT) is absent on official business.

The result was announced—yeas 23, nays 58, as follows:

[Rollcall Vote No. 590 Leg.]

YEAS—23

Anderson	Javits	Proxmire
Case	Kennedy	Ribicoff
Chafee	Leahy	Riegle
Durkin	Lugar	Schweiker
Hatfield	McIntyre	Stafford
Hathaway	Metzenbaum	Stone
Heinz	Moynihan	Weicker
Humphrey	Pell	

NAYS—58

Allen	Dole	Melcher
Baker	Eagleton	Metcalf
Bartlett	Eastland	Nelson
Bayh	Garn	Nunn
Bellmon	Glenn	Packwood
Bentsen	Gravel	Percy
Bumpers	Hansen	Randolph
Burdick	Hart	Roth
Byrd, Harry F., Jr.	Haskell	Sarbanes
	Hatch	Sasser
Byrd, Robert C.	Helms	Schmitt
Cannon	Hollings	Sparkman
Chiles	Jackson	Stennis
Church	Johnston	Stevens
Clark	Laxalt	Talmadge
Cranston	Long	Thurmond
Culver	Magnuson	Tower
Curtis	Mathias	Wallop
Danforth	Matsunaga	Zorinsky
DeConcini	McClure	

NOT VOTING—19

Abourezk	Hayakawa	Pearson
Biden	Huddleston	Scott
Brooke	Inouye	Stevenson
Domenici	McClellan	Williams
Ford	McGovern	Young
Goldwater	Morgan	
Griffin	Muskie	

So Mr. McINTYRE's amendment was rejected.

FEDERAL AVIATION ACT AMENDMENTS—CONFERENCE REPORT

Mr. CANNON. Mr. President, I submit a report of the committee of conference on H.R. 6010 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. MATSUNAGA). The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the amendment of the Senate to the bill (H.R. 6010) to amend title XIII of the Federal Aviation Act of 1958 to expand the types of risks which the Secretary of Transportation may insure or reinsure, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 27, 1977.)

Mr. CANNON. Mr. President, the conference report, with the exception of one amendment affecting only Alaska and Hawaii, which was offered by the Senators from those two States and is a limiting amendment offered in the conference, is identical with the way H.R. 6010 was passed by the Senate. I ask that the conference report be approved.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

ENERGY PRODUCTION AND CONSERVATION TAX INCENTIVE ACT

The Senate continued with the consideration of H.R. 5263.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

UP AMENDMENT NO. 996

Mr. HATHAWAY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. LONG. I object, Mr. President. Just read the amendment.

The assistant legislative clerk read as follows:

The Senator from Maine (Mr. HATHAWAY) proposes an unprinted amendment numbered 996:

On page 90, line 23, insert the following:

"(3) Any credit allowed by this section shall be reduced in equal proportion to the proportion of the value of any Federal funds provided by grant to the total cost of the investment in the equipment installed and facilities constructed to carry out these processes. The rule provided by this paragraph shall apply on a project by project basis."

Mr. HASKELL. Mr. President, will the Senator from Maine yield for a unanimous-consent request?

Mr. HATHAWAY. I yield.

Mr. HASKELL. Mr. President, I ask unanimous consent that Robert Libertore of my staff may have access to the floor during the consideration and votes on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATHAWAY. Mr. President, I have discussed this amendment with the manager of the bill, and I think it is agreeable to him. It is comparable to another amendment found at page 69 of the bill. It simply states, in effect, that if there are any Federal funds provided by grants on a project-by-project basis to those companies that can avail themselves of the $3 oil shale credit and the 50-cent gas credit, the credits would be prorated accordingly, so that it would only be credited toward the money that they had actually invested, and not toward those Federal funds that were made available for the production of that barrel of oil or that thousand cubic feet of gas.

Mr. LONG. Mr. President, I am willing to accept the amendment and take it to conference.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine.

The amendment was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

UP AMENDMENT NO. 997

Mr. JAVITS. Mr. President, I send an amendment to the desk and ask that it be reported. I then intend to yield to the Senator from Washington.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. JAVITS), for himself and others, proposes an unprinted amendment numbered 997.

Mr. JAVITS. Mr. President, I ask unanimous consent that further reading of the amendment be waived, and I will explain it.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 99, line 6, insert the following new paragraph:

"(f)(4) The President shall transmit any proposed adjustment regarding imports of refined petroleum products to the Congress before such proposed adjustments shall take effect together with a report explaining the reasons for the proposed adjustment. The proposed adjustment shall not become effective and may not be implemented unless neither House of Congress has disapproved such proposal in accordance with the following procedures:

(A) The President shall transmit any import adjustment (bearing an identification number) to both Houses of Congress on the same day. If both Houses are not in session on the day any import adjustment is received by the appropriate officers of each House, for purposes of this section such import adjustment shall be deemed to have been transmitted on the first succeeding day on which both Houses are in session.

(B) (1) Except as provided in paragraph (2) of this subsection, if import adjustment is transmitted to the Houses of Congress, such adjustment shall take effect at the end of the first period of 15 calendar days of continuous session of Congress after the date on which such adjustment is transmitted to such Houses, unless between the date of transmittal and the end of such 15-day period, either House passes a resolution stating in substance that such House does not favor such adjustment.

(2) An import adjustment described in paragraph (1) may take effect prior to the expiration of the 15-calendar-day period after the date on which such action is transmitted, if each House of Congress approves a resolution affirmatively stating in substance that such House does not object to such adjustment.

(C) For the purpose of subsection (B) of this section—

(i) continuity of session is broken only by an adjournment of Congress sine die; and

(ii) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 15-calendar-day period.

(D) Under provisions contained in an import adjustment, a provision of such an action may take effect on a date later than the date on which such action otherwise takes effect pursuant to the provisions of this section.

(E) (i) This subsection is enacted by Congress—

(*a*) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (*a*) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(*b*) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(ii) For purposes of this subsection, the term "resolution" means only a resolution of either House of Congress described in subparagraph (*a*) or (*b*) of this paragraph.

(*a*) A resolution the matter after the resolving clause of which is as follows: "That the ——— does not object to the import adjustment numbered ——— submitted to the Congress on ———, 19—", the first blank space therein being filled with the name of the resolving House and the other blank spaces being appropriately filled; but does not include a resolution which specifies more than one import adjustment.

(*b*) A resolution the matter after the resolving clause of which is as follows: "That the ——— does not favor the energy action numbered ——— transmitted to Congress on ———, 19—", the first blank space therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled; but does not include a resolution which specifies more than one import adjustment.

(ii) A resolution once introduced with respect to an import adjustment shall immediately be referred to a committee (and all resolutions with respect to the same plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(iii) (A) If the committee to which a res-

olution with respect to an import adjustment has been referred has not reported it at the end of 5 calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration of any other resolution with respect to such import adjustment which has been referred to the committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same import adjustment), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same import adjustment.

(F) (a) When the committee has reported, or has been discharged from further consideration of, a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(b) Debate on the resolution referred to in subparagraph (A) of this paragraph shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to; except that it shall be in order—

(1) to offer an amendment in the nature of a substitute, consisting of the text of a resolution described in paragraph (2) (A) of this subsection with respect to an import adjustment, for a resolution described in paragraph (2) (B) of this subsection with respect to the same such action, or

(2) to offer an amendment in the nature of a substitute, consisting of the text of a resolution described in paragraph (2) (B) of this subsection with respect to an import adjustment, for a resolution described in paragraph (2) (A) of this subsection with respect to the same such action.

The amendments described in clauses (1) and (ii) of this subparagraph shall not be amendable.

(VI) (A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

(VII) Notwithstanding any of the provisions of this subsection, if a House has approved a resolution with respect to an import adjustment, then it shall not be in order to consider in that House any other resolution with respect to the same such action.

Mr. JAVITS. I ask unanimous consent to yield to the Senator from Washington without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Washington is recognized.

UP AMENDMENT NO. 998

Mr. JACKSON. Mr. President, I ask unanimous consent to call up at this time my unprinted amendment which is at the desk.

The PRESIDING OFFICER. Without objection, the clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Washington (Mr. JACKSON) proposes an unprinted amendment numbered 998:

In section 1061, strike the comma after the word "gas" in subparagraph (c) of paragraph (1) of subsection (b), and insert "or synthetic liquid fuel,"

Mr. JACKSON. Mr. President, this amendment would allow the tax credit against the excise tax on business use of oil and natural gas for facilities for production of synthetic liquid fuels. The affected language applies only to facilities for the production of synthetic gas from coal. I see no reason why liquid fuels as well as gas should not be treated equally.

Mr. President, I have taken this matter up with Senator METZENBAUM. It is that part of his amendment which was adopted that this amendment is addressed to. I have also taken the matter up with the manager of the bill.

Mr. LONG. We are willing to accept the amendment and take it to conference.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. JACKSON. Yes.

Mr. CURTIS. We are unable to locate a section numbered 1061.

Mr. JACKSON. That was adopted yesterday. You have to have an up-to-date print. That is the Metzenbaum amendment, which dealt with gas from coal but not liquid fuel from coal. Obviously, they are all a part of the same synthetic process, an alternative process. The amendment is to correct that.

Mr. CURTIS. I thank the Senator for the clarification. We have no objection to the amendment.

Mr. JACKSON. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Washington.

The amendment was agreed to.

Mr. JACKSON. I thank the Senator from New York.

UP AMENDMENT NO. 997

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, the amendment I have offered—I am willing to yield to the Senator from Kansas for a unanimous-consent request, if that is what he wishes.

Mr. DOLE. Mr. President, I just thought I would like to see if we could get to the bill.

Mr. JAVITS. That is a rather large matter, but that will not be long.

Mr. DANFORTH. Is the Senator yielding for minor amendments?

Mr. JAVITS. No, mine will not be long.

Mr. President, this amendment is the necessary sequel to the amendment which we have defeated, though I voted for it, by the Senator from New Hampshire (Mr. MCINTYRE). What it does is say that if the President utilizes such authority as he has under the bill to impose new fees, tariffs, or quotas on any petroleum product import, then that action shall be subject to a one House veto. That, in essence, is the amendment.

I would like to read to the Senate, because it is of very broad interest, if the clerk would give it to me, the original amendment. May I have the original amendment, which is at the desk?

The PRESIDING OFFICER. The clerk will provide the Senator with the original amendment.

Mr. JAVITS. I wanted to read to the Senate the names of the cosponsors involved, because it represents, Mr. President, a very broad interest.

The Senate has decided, and that is the end of that, that it is going to leave the President with this authority which the Finance Committee has given him. That is the end of that. But the question is now suppose he does exercise this authority, which he has threatened to do, if he is not satisfied with our bill? What then? What I say is that if he is not satisfied, then by all means we should have the right at least to have a one-House veto.

Mr. President, there is always argument about the one-House veto, but I would like to point out that every other major energy pricing action by the administration which relates to petroleum or petroleum products is subject to a congressional veto provision.

This is contained in the Energy Policy and Conservation Act.

The sponsors of this amendment, just to indicate the breadth of the support for it, are Senators JACKSON, KENNEDY, BROOKE, STONE, MOYNIHAN, RIBICOFF, MCINTYRE, DOLE, DURKIN, and RIEGLE.

It is not an amendment which has any one of the two interests where we have had the major struggle in this bill. It is an amendment on which I believe all could agree, on the ground of an element of congressional protection in the vast power we are giving the President to undo, really, because that is the only time he would use it, the scheme which the Congress might establish in this energy bill as it finally comes out.

Mr. President, I believe this is an essential point. It has been much debated and argued by Senator MCINTYRE in connection with his amendment. We simply accept the verdict of the Senate, but seek this one precaution, that at least either the Senate or the House may reject the President's efforts in this regard.

Mr. President, to my section of the country and all of New England, this is a very critical point, because we are the primary users of home heating oil and residual fuels. That is the area to which the words used in the law "product imports" would specifically apply.

I hope very much that the Senate will see fit to allow at least this minimal measure of residual safeguard, having already made the decision that it is

going to keep this power with the President.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, as I explained previously, and I believe the Senator from New York was not in the Chamber at the time, we propose in conference, by both the Moynihan amendment, which has already been agreed to, and by whatever else may be necessary, to see that whatever may be necessary to assure that New York and the Eastern Seaboard are not subject to any undue burden as a result of trying to save domestic refineries, is done. We think any burden should be spread across the entire width and breadth of the land, with the people in my part of the country sharing our part of the burden along with all the rest. We would do that by whatever means may be necessary. It may have to be a tax credit or it may have to be something else. If the Moynihan amendment is not broad enough to do it, the provision of section 1054 is. We want to assure the Senator that we have every intention of protecting New York and the Eastern Seaboard from any special burden as a result of saving these refineries.

Having done that, Mr. President, we would believe that the Senate's view that these refineries should be kept in business would prevail. It scarces the independent refineries to death when they hear talk about a one-House veto. That means that if they have to count on the House, they will survive. But if they have to count on both Houses being for them, without the pressure of the other House exercising its proper weight, they might not survive.

I would hope very much that the Senator would not insist on that concept for the reason I have indicated.

Mr. JAVITS. I paid very strict attention to the Senator from Louisiana in this particular matter, about which he knows a great deal. There is no question about that. The Senator knows more than I do about it. In this particular case, the reason I read the list of sponsors, which includes four members of the Finance Committee, was to indicate opinions other than mine. I do not remotely pretend to be an expert on this whole subject. Naturally, it is my duty to have whatever safeguard I can for my particular interests, which I have tried to do here.

Apparently, this amendment enjoys broad agreement.

The Senator may or may not be right as to what bill will emerge out of the conference. I do not know. The Senator will have a great deal more to do with that than I will.

It seems to me that, faced with the threat of the Presidential use of this power—and the President has threatened that in very real terms—this is a very elementary precaution. On the two-House veto versus the one-House veto, the time element is so short, 15 days, the Senator knows it is physically impossible.

Finally, I would like to say this to the Senator: I would suggest, and I am not putting it in any sense of a demand, why not have the full armory of weapons in the conference, having this, too? There will be a lot of trading of this for that and that for this. The Senator could, in the conference, if he decided that way, make it a two-House veto, if he should decide that way. The Senator knows the Senate is not going to turn down the conference report on that account.

I would hope, and I do not know whether the Senator will or will not, that the Senator might consider simply taking this and having yet another string in his bow. Then, having Senators RIBICOFF, MOYNIHAN, and DOLE with the Senator on this conference, in some fashion the conferees can decide together what to do. I have no fixation on it. But after having the picture of rejecting the McIntyre business, and the President's making the threat he did—and we cannot assume it to be an idle threat—it seems to me it would not be an idle precaution.

Mr. LONG. Mr. President, what is wrong is that if we go to conference and the Senate asks the House Members if they want to take it, that is all there is to it. We cannot preclude the House from accepting a Senate amendment. That is probably what would happen, that they would just take it. That would be the end of it. We could not negotiate at all. If we wanted something other than that, and the House wanted to accept that amendment, we would not have any flexibility or discretion.

Mr. JAVITS. I am a conferee probably as often as the Senator is. I have great fidelity to that oath. I would not counter that argument. I would not say for a minute, or counsel for a minute, that any Senator should treat an amendment as half an amendment. I have made the point I wanted to make. If I cannot count on that particular argument all I can suggest is that the Senator have the same sweet attitude he has about this vote as he had on the vote on the Heinz amendment when he said even though there was some argument about whether it was 42 or 43, let us have it over with and go to the next. I suppose that is the best way to settle this.

Mr. LONG. Might I suggest that the Senator amend his amendment to make it a two-House veto?

Mr. JAVITS. I have given consideration to that. I would like very much to go with the Senator, but the difficulty is it is 15 days. I am just too experienced to accept that physical impossibility. Besides that, if it is a two-House veto, the Senator would definitely be stuck in the conference. This way, if the Senator wanted to, he could still make it two Houses when he gets there.

Mr. LONG. I would make it 30 days, 30 days with a two-House veto.

Mr. JAVITS. I do not see that it really advances the cause. I would like very much to do it, but I think we had better have it up or down.

Mr. LONG. Mr. President, I regret that I cannot support the amendment. I am willing to do anything within reason to assure anyone that, by virtue of trying to preserve the domestic refining business, it is important to our energy survival as well that we have the refineries necessary to provide our needs. They are going to deteriorate, they are not going to be here if we do not provide adequate refining capacity.

That being the case, I shall have to resist the amendment and hope that it is not agreed to.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. (Mr. BENTSEN). Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I ask unanimous consent that I may yield to Senator TOWER without losing the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I have some information here to report that I think will be of interest to the Senate.

The President of the United States has just endorsed deregulation of gas. In a telephone address to the National Newspaper Association Convention in Houston, the President said he favors eventual deregulation of natural gas prices. He said the move must be made gradually to control the economic shock.

The issue of deregulation is one of the items splitting the House and Senate over a national energy bill. The Senate approved deregulation, while the House supported Carter's plan to continue and expand controls for the time being.

"My goal is still to deregulate natural gas," he said. "I don't think we ought to do it all at once. It would be too much of an impact on our national economy."

Mr. President, in the Bentsen-Pearson bill is gradual deregulation. I think that, by implication, the President has endorsed it. This should facilitate the work of the conference and should result in the President's position being sustained.

I ask unanimous consent that this UPI report may be printed in the RECORD at this point.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

In the telephone hookup address, he also said that he favors eventual deregulation of natural gas prices, but said that move must be made gradually to control the economic shock.

The issue of deregulation is one of the items splitting the House and Senate over a national energy bill. The Senate approved deregulation, while the House supported Carter's plan to continue and expand controls for the time being.

"My goal is still to deregulate natural gas. I don't think we ought to do it all at once. It would be too much of an impact on our national economy."

Mr. HATHAWAY. Will the Senator yield?

Mr. TOWER. I yield.

Mr. HATHAWAY. The President said eventually. He did not say whether it would be 100 years from now.

Mr. TOWER. The Bentsen-Pearson bill is eventual and gradual. It fulfills all the requirements of the President's position.

I am sure the Senator sitting in the chair now will be happy to hear this.

Mr. RIEGLE. Will the Senator yield for a unanimous-consent request?

Mr. JAVITS. I yield for that purpose.

Mr. RIEGLE. Mr. President, I ask unanimous consent that Jim Humphreys be granted the privilege of the floor during vote and debate on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 999

Mr. JAVITS. Mr. President, I send a modified amendment to the desk and ask that it be stated. Will the clerk read the words as they appear in the modified amendment as well as the basic amendment?

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York (Mr. JAVITS) proposes a modification of his amendment numbered 997, which is now numbered 999.

On page 99, line 6, insert the following new paragraph:

"(f)(4) The President shall transmit any proposed adjustment regarding imports of refined petroleum products to the Congress before such proposed adjustments shall take effect together with a report explaining the reasons for the proposed adjustment. The proposed adjustment shall not become effective and may not be implemented unless both Houses of Congress have disapproved such proposal in accordance with the following procedures:

(A) The President shall transmit any import adjustment (bearing an identification number) to both Houses of Congress on the same day. If both Houses are not in session on the day any import adjustment is received by the appropriate officers of each House, for purposes of this section such import adjustment shall be deemed to have been transmitted on the first succeeding day on which both Houses are in session.

(B)(1) Except as provided in paragraph (2) of this subsection, if import adjustment is transmitted to the Houses of Congress, such adjustment shall take effect at the end of the first period of 30 calendar days of continuous session of Congress after the date on which such adjustment is transmitted to such Houses, unless between the date of transmittal and the end of such 30 day period, both Houses pass a resolution stating in substance that such House does not favor such adjustment.

(2) An import adjustment described in paragraph (1) may take effect prior to the expiration of the 30-calendar-day period after the date on which such action is transmitted, if both Houses of Congress approve a resolution affirmatively stating in substance that such House does not object to such adjustment.

(C) For the purpose of subsection (B) of this section—

(i) continuity of session is broken only by an adjournment of Congress sine die; and

(ii) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 30-day-calendar period.

(D) Under provisions contained in an import adjustment, a provision of such an action may take effect on a date later than the date on which such action otherwise takes effect pursuant to the provisions of this section.

(E)(i) This subsection is enacted by Congress—

(a) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(b) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(ii) For purposes of this subsection, the term "resolution" means only a resolution of either House of Congress described in subparagraph (a) or (b) of this paragraph.

(a) A resolution the matter after the resolving clause of which is as follows: "That the ——— does not object to the import to the Congress on ————, 19—", the adjustment numbered ———— submitted first blank space therein being filled with the name of the resolving House and the other blank spaces being appropriately filled; but does not include a resolution which specifies more than one import adjustment.

(b) A resolution the matter after the resolving clause of which is as follows: "That the ———— does not favor the energy action numbered ———— transmitted to Congress on ———— ————, 19—", the first blank space therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled; but does not include a resolution which specifies more than one import adjustment.

(ii) A resolution once introduced with respect to an import adjustment shall immediately be referred to a committee (and all resolutions with respect to the same plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(iii)(A) If the committee to which a resolution with respect to an import adjustment has been referred has not reported it at the end of 5 calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration of any other resolution with respect to such import adjustment which has been referred to the committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same import adjustment), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(c) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same energy action.

(F)(a) When the committee has reported, or has been discharged from further consideration of, a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(b) Debate on the resolution referred to in subparagraph (A) of this paragraph shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to; except that it shall be in order—

(1) to offer an amendment in the nature of a substitute, consisting of the text of a resolution described in paragraph (2)(A) of this subsection with respect to an import adjustment, for a resolution described in paragraph (2)(B) of this subsection with respect to the same such action, or

(2) to offer an amendment in the nature of a substtute, consisting of the text of a resolution described in paragraph (2)(B) of this subsection with respect to an import adjustment, for a resolution described in paragraph (2)(A) of this subsection with respect to the same such action.

The amendments described in clauses (i) and (ii) of this subparagraph shall not be amendable.

(V)(A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

(VII) Notwithstanding any of the provisions of this subsection, if a House has approved a resolution with respect to import adjustment, then it shall not be in order to consider in that House any other resolution with respect to the same such action.

Mr. JAVITS. Mr. President, the modification provides for a two-House veto within 30 days, this is, with 30 days instead of 15 days for the effectiveness of any order. I understand that is acceptable to both Senator LONG and Senator CURTIS.

I have conferred with a number of my cosponsors, and it is acceptable to them.

Mr. DURKIN. Will the Senator yield?

Mr. JAVITS. Yes, I yield.

Mr. DURKIN. That is with the privileged motion provision included?

Mr. JAVITS. Exactly; it carries privileged motions in both Houses.

Is that all right, I ask the Senator from Louisiana?

I am ready to vote.

Mr. DOLE and Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I move to recommit H.R. 5263 to the Senate Finance Committee.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. LONG. Mr. President, I have talked to the gentleman who speaks as liaison man for the President today and I have also talked to the President himself by telephone. The President is most hopeful that we do not recommit this bill. It is the President's view that we should amend the bill, improve on it if we can to the extent that we think we can, but he is very hopeful that the Senate will pass a bill and the bill will go to conference with the House.

I hope, Mr. President, that the motion to recommit is not agreed to.

The PRESIDING OFFICER. Will the

Senator send his motion to recommit to the desk?

Mr. RIEGLE. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. Will the Senator yield for a parliamentary inquiry?

Mr. DOLE. The Senator will yield for a parliamentary inquiry without losing his right to the floor.

The PRESIDING OFFICER. The Senator will state the parliamentary inquiry.

Mr. RIEGLE. May I inquire as to the disposition of the amendment put forward by Senator JAVITS?

The PRESIDING OFFICER. The motion takes precedence over an amendment.

Mr. JAVITS. Mr. President, I ask unanimous consent that action may be had upon my amendment.

Mr. LONG. Mr. President, I must object to that. I ask the Senator from New York to let us have the record vote on the motion.

Mr. JAVITS. If we have a vote on this amendment, we can dispose of it. There will be no further debate.

Mr. LONG. If the Senator will yield, I prefer to go ahead and vote on the motion to recommit, Mr. President.

I will accept the amendment, but I want to go ahead and vote on the motion to recommit.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, I understand there may be other motions to recommit. I only say to those who may have a different view that we have been discussing when to bring up a motion to recommit. We have discussed, at great length, how to phrase this motion to recommit.

I am not under any illusion that we probably have the votes to recommit this bill to the Committee on Finance. However, let me discuss it for a few moments. My distinguished colleague from Colorado (Mr. HASKELL) and my distinguished colleague from Massachusetts (Mr. BROOKE) and others may wish to be heard on the motion to recommit.

First, I think we should understand that by recommitting this bill to the Committee on Finance, it is not an attack upon the President's energy program. Four-fifths of the President's energy program has already passed the Senate. This Senator voted for every one of those bills. However, as presently structured, I cannot support the energy tax bill.

There have been some suggestions today that we would pick up more votes if we added certain instructions that would say that, for every dollar expended, there should be a dollar of revenue raised. It has been suggested that the committee could come back next Wednesday with that type provision.

Others have suggested that we have the instruction include the amendment by the distinguished Senator from Ohio (Mr. METZENBAUM). I think that is a good amendment. Once we start adding instructions it creates problems. As everyone in this Chamber knows, we all have different views. Therefore, the Senator from Kansas and the Senator from Colorado decided to go with a straight motion to give those Senators opposed to a tax increase a chance to vote against the tax increase.

Make no mistake about it: I do not care how we dress this bill up or what we call it, when we voted to report this bill and when the energy tax bill is passed, and it goes to conference, the Senate has voted for a crude oil equalization tax and many other taxes that are in the House bill. There is no way we can escape those taxes in conference.

There are many of us in the Senate who are opposed to a tax increase. We are going to have a big social security tax increase before the Senate next week. Those opposed to a tax increase ought to have a right to vote against that tax increase.

This motion is a way to bring to the attention of the American people, who still think we are talking about an energy bill in the Senate that in fact this is a tax bill. We have not discussed an energy bill since the first few days the bill was in the Finance Committee. The committee was under great pressure to report any bill. So the distinguished chairman put together a $40 billion package of tax credits. In the last few days, we added another $4 billion, or $5 billion. There has been some revenue gained through the efforts of the distinguished Senator from Ohio (Mr. METZENBAUM).

The administration will attempt to rewrite the bill in conference. We ought to recommit the bill or pass it. We should not waste the Senate's time and delay those with obligations by discussing amendments.

Mr. President, if it is possible to use the tax mechanism to find a solution to our energy problem, this bill is not the way to do it.

First, it is unthinkable that we can have before us a bill that makes no mention of the crude oil equalization tax, yet we all know that a vote for this bill is a vote for the equalization tax, a vote against it is a vote against the tax.

It is not enough to say this is the biggest tax cut in history, and the House passed the biggest tax increase in history, but go to conference and come out in the middle because the middle is voting for an equalization tax.

Passage of this bill could result in a precedent that will take a long time to live down. The Finance Committee has soundly rejected the crude oil equalization tax. We are not now voting on a crude oil equalization tax. Yet, we are under pressure by the administration to get on with our business so they can get this bill to conference. They plan on rewriting it in conference.

We have been told that by the Speaker of the House and by the House conferees. They have made up their mind, they want a crude oil equalization tax.

What the conference will decide—and the Senator from Kansas may be a conferee—is how to divide the money in rebates, back into production, or some other area, of conserving or producing energy.

If we end up with only the opportunity to vote on an entire bill, a bill whose major parts we have never had the opportunity to vote on, we will be shirking our responsibility as legislators.

The option is to return this bill to committee where we can take the time to see how taxes can indeed be best used to as one approach to solving our energy problems.

The Senator from Kansas realizes after the rather lopsided vote last night on residential tax credits that it is very difficult to bring a bill to the Senate floor filled with tax credits for everyone and have any success in whittling down those credits. It is much easier to give someone a tax advantage than have a tax increase.

Aside from the issues that are conspicuously absent from this bill, there is in the bill a Christmas tree of ill-advised tax credits that will cost the Government an unknown amount of money, and will save a completely undetermined amount of energy.

There is, in fact, no known relationship between the amount of purchases that will be made for new equipment, and the amount of energy that will be saved under this program. These tax credits are a boon to the particular industries that have been singled out in the bill, and they only very indirectly address the problem of energy savings. We have allowed tax credits for: furnaces, burners, flue dampers, electric pilot lights, storm windows, and doors, clock thermostats, caulking and weather-stripping, heat pumps, special meters, fluorescent lighting systems, and anything else the Secretary of the Department of Energy thinks can result in running a house more efficiently. There is, even, an unbelievable 40 percent extra tax credit for business to purchase energy saving equipment.

There is no way to estimate the amount of purchases that will occur, or the amount of energy savings that will accrue. Neither is there any way to tell whether all of the tax credit will be eaten up in artifically higher prices for the items that we have listed in this bill.

Mr. President, it just seems to this Senator, who opposed the increased taxes in the committee, that we ought to have an opportunity, for those in the Senate opposed to tax increases on an already overburdened economy, on an already overburdened American taxpayer, to have an opportunity now to say "No" to tax increases.

I would suggest if everyone in this body could sit down and say, "I want the tax increases to go to this area, or that area, or back in rebates," we might be able to agree on some legislation. But, we are voting for a tax increase. This is not energy legislation. If anyone can find any energy legislation in this bill, I will be happy to have it pointed out.

There have been estimates how we might save certain amounts of oil if we do this or that through tax credits. But I suggest that it is the better part of wisdom to take it back to the Finance Committee. There we can add the amendment of the distinguished Senator from Ohio (Mr. METZENBAUM), and others who have a direct interest in seeing some balance in the program.

But I would also say to those who have not followed this bill closely, as some of us have in the Finance Committee, it is a tax increase. It is not an energy bill. It is a tax bill.

We have seen just yesterday the President of the United States saying that he is going to delay sending the tax reform bill to Congress until next year. I commend the President for that action because we already have a tax bill before us right now, not a tax reform bill, but a tax increase bill.

It is going to raise the price of gasoline 9 cents a gallon by next year if we have the equalization tax, and who knows what the total increase will be by 1985.

And where does the money go?

There should not be any mistake about this bill. I think everyone recognizes this as a tax increase, as a tax bill and not as an energy bill. It is certainly not an energy production bill.

There is some focus on conservation, but very little is reliably estimated. No one really knows what the bill will save. No one really knows what the true cost will be to save energy.

I would hope my colleagues would recommit the bill. Send it back to the Finance Committee, give us another chance and perhaps we can come out with real energy bill.

Mr. President, I yield the floor.

Mr. HASKELL. Mr. President, I would like to support the motion of the distinguished Senator from Kansas to recommit the bill.

The bill is, as the Senator said, a tax bill. I would like to underline the fact that we have already processed four-fifths of the suggestions of the administration as to their energy program and I would also suggest that it is up to the Senate to decide whether the last one-fifth is or is not meritorious.

Obviously, the Senator from Kansas and I conclude it is not meritorious. But I think it is the job of each individual Senator to see if the tax one-fifth of the President's program has, in fact, as it is, the solution of the Nation's energy problem.

Briefly, the present bill before us has lots of incentives. In fact, somebody said that we have an incentive for everything except to buy thermal underwear.

We do not know what these incentives are going to do. We do not know whether they are going to save petroleum products, or in what amount. We do not know how much additional production the production incentives will raise.

So any estimates on the oil barrel saving, as the very competent staff of the joint committee said, are strictly speculation—educated speculation, but speculation nevertheless.

Let us now look at the bill in the House. First, there are three taxes. There is a crude oil equalization tax, and this will take billions of dollars out of the economy. Then, at least for 2 years, these billions go back on a per capita citizen basis.

What economic side effects is this tinkering with the economy going to have? What impact is it going to have on the suddenly escalating costs of places of employment throughout the country? I submit, Mr. President, that no economist is wise enough to say, and I submit that this is a dangerous exercise.

The second tax that the House bill contains is a so-called user tax on natural gas. We in the Senate have passed a coal conversion bill which will prohibit any new industrial or utility source, with minor exceptions, from using oil and gas. The user tax on natural gas is designed to leverage existing plants to scrap their plants. I use that term advisedly, because you do not convert to coal; you abandon one plant and you put in another plant. This user tax is designed to leverage an industry to scrap a very valuable, possibly new, possibly old, plant.

I submit that this is not an equitable procedure. These plants were constructed at a time when it was perfectly proper—and when, in fact, there was a national inducement—to use natural gas. To use the power of taxation to destroy that investment, in my view, is improper. If we want them to stop using natural gas and put in a coal plant, it seems to me that this is a national obligation, and suitable recompense should be undertaken.

So part of the user tax, so far as new plants are concerned, is unnecessary, because we have the coal conversion bill. The part as to existing plants is inequitable.

The third tax, of course, is the gas guzzler tax, but I believe that in the Senate, due to the efforts of the distinguished Senator from Ohio in the Energy Committee, we have a far better approach. We say that, starting at a certain year, no new car will get less than 16 miles per gallon, going up to 21 miles per gallon.

What we are asked to do here is to take a bill, which the senior Senator from Connecticut characterizes as a bill he could not vote for if he thought it was going to be enacted, and put that with the House bill, which has lots of taxes in it which do not seem to have merit; and then, somehow, we delegate our authority to a few Members of the Senate, and the House delegates its authority to a few Members of the House, to come up with a third program that may or may not have any relationship to either of those two. I submit that this is not a responsible legislative action.

To be sure, Congress should address itself to the gaps which remain in the energy problem of the United States. As I said at the beginning, four of five bills have been passed. I think there is one particular significant omission. We have not addressed ourselves to the question of whether Government loans or Government guarantees or other Federal mechanisms are necessary to bring on production in the areas of coal gasification, oil from tar sands, oil from shale, and the like—or, for example, the generation of electricity by solar energy.

ERDA is permitted to build one prototype plant; but it may well be—I pose this as a question, and it is subject to hearings—that there should be further Federal involvement.

Mr. President, it seems to me that we are dealing with a problem that basically cannot be settled by taxes. We have one approach in the Senate, which is all these incentives, another approach in the House, which consists of taxes—the incentives not being quantifiable as savings. As to the taxes, I think a majority of the body, given each tax, would vote against it.

I believe the wise thing to do is to recommit the bill to the committee. If the committee can come up with a proper bill, I think that is fine; but at the same time, we can examine this production end.

I yield the floor.

Mr. DOLE. Mr. President, may we have order?

The PRESIDING OFFICER. The point is well made. The Senate is not in order. Staff members will cease conversations. Staff members wishing to converse will retire to the cloakroom.

Mr. BROOKE. Mr. President, one of the most profoundly disturbing questions to arise from the energy debate is whether the executive branch or Congress can cope at all with complex technical and economic questions about basic resources; for competence of this nature is essential for decisionmakers in our era. Indeed, the future of democracy depends on our finding ways to manage a technologically advanced society effectively. Yet, in the energy debate, the House of Representatives virtually rubberstamped its committees' bill. Few fundamental questions were raised on the House floor. Even our Senate committees bogged down hopelessly over some issues including many tax matters. I do believe that the Senate has done much better than the House, in that we have at least tried to review each aspect of the legislation critically and thoroughly. But I fear that the end product, of which this bill is a part, shows the effects of our lack of time and resources to rework the administration's hastily devised program. It also shows the nature of the deep disagreements about energy policy in the Nation and in this body.

But, Mr. President this preposterous energy tax legislation which we are debating is the ultimate evidence of the recent breakdown of the policymaking process. This proposal for over $40 billion of tax expenditures, to be financed from just $28 million of new revenues, can also be viewed as the plan to spend more than $50 per barrel for theoretical oil savings in 1985. In fact, we know its sponsors only seem intent to move their deliberations on taxes out of the normal legislative arena and escape the discipline of future detailed congressional review.

I think all of us in this body are sympathetic to the committee's plight of having to fashion a consensus on this crucial section of the President's energy program where no true consensus exists. But I feel that it would have been better to admit failure directly rather than to present us with legislation which is a vehicle for a future compromise. It puts Senators who are publicly associated with very definite positions on energy and tax matters in the impossible posture of anticipating a conference report on

which they will have no opportunity to record these positions on the issues of greatest priority to them.

In other words, as has been said by the distinguished Senator from Kansas and the distinguished Senator from Colorado, we are abdicating our responsibility, delegating that authority. We will have no opportunity whatever to take our own positions and divorce our own opinions on the important aspects of this legislation.

For these reasons, I supported striking section 1054 and I am deeply disappointed that that motion of the distinguished chairman of the Energy Committee failed. The carte blanche the committee is requesting from the Senate would give the conferees on the tax bill enormous power.

I have nothing against giving power to our distinguished chairman of the committee and some of those conferees, but this is a very important issue. It is a vital issue. It is an issue on which we all should be heard. It is an issue on which we all should vote, and it is an issue on which we should know what we are voting on.

It even seems likely that they would propose an undefined public corporation to invest untold billions in energy programs as yet unidentified under budgetary procedures not subject to control by Congress, not even subject to control by the President. There is no control whatsoever.

I hope that this end-run on the legislative process will fail and that the radical policy of establishing an institution beyond the reach of normal governmental processes will die with it.

Mr. President, my own position on energy taxes has long been that some crude oil and end-use taxes would be acceptable if the proceeds went back to taxpayers. Our faltering economy and our beleaguered consumers cannot afford to have tens of billions in new taxes transferred out of ordinary households' pockets and into the energy producer's accounts. But I have become sadly convinced as we have debated this bill that we just cannot get there from here.

This tax expenditure scheme is written as a blank check on which neither the payee nor the amount to be paid is filled in, and I do not think any one of us are ready to do that. We would not do it in our personal lives. We certainly would not do it in our businesses. No one wants to write out a blank check without the amount, without the payee, and sign it. It is a negotiable instrument that can be used by others for whatever amount they want.

The signature can be seen as plain as can be, and that signature is "American taxpayer." That is what the signature is. This brainchild of the administration has now become the Senate's "Rosemary's Baby." It has become a monstrosity. We cannot get any assurance this can be translated into sound policy and if there is anything we need it is a sound policy in this action. And it would be wrong for the Senate to relinquish its responsibility to review each provision in such a potentially massive tax bill.

That is where our Finance Committee has stood time after time, year after year, when we were dealing with a massive tax bill. We should review and review carefully each provision. But here they are asking us not to do it, to give them a carte blanche.

Therefore, I am joining the distinguished Senator from Kansas, Senator DOLE, in making this motion to recommit, recommit this tax bill. It is a bad bill. It is a disastrous bill, and it is beyond redemption, beyond redemption in its present form.

The time has come for the Senate to ask its Finance Committee to start over, preferably with a commitment from the Carter administration to design a specific and responsive policy.

I think there is no one in this Chamber who doubts that we desperately need a sound national energy policy and without it we certainly should not be writing this kind of a tax bill. This is not such a program. Indeed, it is no program at all. Some feel political expediency dictates that we need a bill, just get it out, any bill. Rush it out.

There has been too much legislation of that sort where we do not think about it, where we do not put it on the drawing boards; we just get it out. And there is a potpourri of legislation floating around now like that, anxious to get it out. Let us do not get it out until it is right, and this is not right. This is clearly not responsible policymaking.

Rather, Mr. President, we should step back, rework this bill, bring it to the Senate floor in a few short weeks from now at the start of a new session. There are those of us who may believe we should bring it sooner. If the committee can do it, all right. But we certainly are not ready to vote on it at this time.

So, there is always plenty of time to legislate a good measure rather than a bad one.

Mr. President, in conclusion, I strongly urge my colleagues to support our effort to bring this proceeding to a temporary halt by recommitting this legislation. We are not trying to kill it. Recommit it. Recommit it for further refinement, for the further refinement this needs.

We will rue the day if we pass this legislation as it is. Mark my word on this 28th day of October, we will rue the day if we pass this legislation as it is presently written.

I yield the floor.

Mr. LONG. Mr. President, I take issue with two points that the Senator from Massachusetts made.

He said that we could bring back under the language in this bill a corporation with powers to borrow or guarantee loans.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LONG. Mr. President, in view of the fact that there is nothing in the bill that refers to a corporation and nothing in the House bill referring to a corporation or to establishing a Federal corporation, would it be within the purview of the conference even under section 1054 to bring back to the Senate from conference a corporation?

Mr. BROOKE. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Chair shall take that under advisement while the Senator is continuing.

Mr. HOLLINGS addressed the Chair.

Mr. LONG. Mr. President, let me make it clear that I have discussed this matter. This matter has been discussed with the Parliamentarian, who is not here at this moment, and we have been advised that it is not within the power of the conference to bring something back having to do with establishment of a corporation. There is nothing in the bill that establishes a corporation or refers to a corporation being established or created.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. HOLLINGS. Mr. President, has the Senator concluded?

Mr. LONG. Mr. President, I wish to have that parliamentary inquiry answered.

Mr. HOLLINGS. Mr. President, I do not wish to interrupt.

The PRESIDING OFFICER. A conference report that introduces new subject matter that is not germane to either the House bill or the Senate bill would be subject to a point of order on return to the body.

Mr. LONG. It is my understanding that there is nothing in the Senate bill at this point, and there is nothing in the House bill, that creates any corporation. That being the case, I ask if the conference could report back anything creating a corporation.

The PRESIDING OFFICER. Not without being subject to a point of order as previously stated by the Chair.

Mr. BROOKE. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his parliamentary inquiry.

Mr. BROOKE. It is my understanding, even though it is not in the bill, that the option is still open for the conferees to bring it back in the bill; is that not correct?

Mr. LONG. That is just the point, it is not. That is our judgment and that is the information we received, having inquired of the Parliamentarian and others, that there is nothing in the bill along that line to establish a corporation, and it would be subject to a point of order if we tried to bring back a corporation in the conference report.

The PRESIDING OFFICER. The Senator has stated the point correctly.

Mr. BROOKE. A further parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Louisiana has the floor. Is the Senator yielding for a parliamentary inquiry?

Mr. LONG. I yield for a parliamentary inquiry.

Mr. BROOKE. Could the conferees bring back the trust fund? That is no longer in the bill, as I understand it, that would take it out of the bill, the trust fund, but could the conferees bring back a trust fund?

The PRESIDING OFFICER. The same point of order would lie against the conference report in that situation if it was not germane to the legislation of either house as they went to conference.

Mr. BROOKE. I thank the Chair and I thank my colleague.

Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana has the floor.

Mr. LONG. Let me just complete my statement and then I will be glad to yield.

Therefore, Mr. President, I would take it that all we are really talking about here is that if we should agree to some of the House taxes in conference that we would have the privilege of recommending some tax reductions, tax credits or, perhaps, deductions, but we would not have the privilege even to recommend a tax increase other than that which is within the purview of the House bill. So that all we are really talking about is the right to recommend some tax reductions in the event we take taxes, and that would be in the area of trying to provide incentives to produce more energy. That is all we are really talking about.

Mr. President, I know we are going to have very lengthy debate on this. Those who speak for the motion have had a great deal more time to discuss it than those of us in opposition. But I believe, by way of getting on to it, we ought to move and move on to the next thing, and I, therefore, move to table the motion.

Mr. ROBERT C. BYRD. Mr. President, will the Senator withhold that?

Mr. LONG. I would be willing to withhold it——

The PRESIDING OFFICER. Does the Senator from Louisiana withhold?

Mr. LONG. I would be willing to withhold, Mr. President, if someone wishes to ask a question. I am willing to yield for a question.

The PRESIDING OFFICER. Will the Senator yield for a question?

Mr. ROBERT C. BYRD. I would like to make a statement on this motion.

Mr. LONG. I would ask unanimous consent that I might yield to the Senator from West Virginia for 3 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. HOLLINGS. I object.

Mr. ABOUREZK. Mr. President, reserving the right to object——

Mr. HOLLINGS. I have objected.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Will the Senator withhold his motion to table?

Mr. LONG. Mr. President, I cannot withhold without losing the floor and, therefore, I am sorry.

Mr. HOLLINGS. I object.

Mr. CURTIS. I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. LONG. I ask for the yeas and nays on my motion to table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, will the Senator withhold his motion and yield to the Senator from South Carolina and yield to me?

Mr. LONG. I would be willing to yield for a question, not for a statement.

Mr. HOLLINGS. I objected. Let us vote.

Mr. ROBERT C. BYRD. The Senator objected, but I am asking if the Senator would yield to the Senator from South Carolina briefly and then to me for a statement.

Mr. HOLLINGS. No. This brings us to a good enough point. I have been trying to be recognized——

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to recommit. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. LEAHY (when his name was called). Mr. President, on this vote I have a pair with the Senator from Delaware (Mr. BIDEN). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from North Carolina (Mr. MORGAN), the Senator from Illinois (Mr. STEVENSON), the Senator from Delaware (Mr. BIDEN), the Senator from Montana (Mr. METCALF), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

I further announce that if present and voting, the Senator from North Carolina (Mr. MORGAN) would vote "yea."

Mr. BAKER. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. HATFIELD), the Senator from California (Mr. HAYAKAWA), the Senator from Kansas (Mr. PEARSON), the Senator from Alaska (Mr. STEVENS), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT) is absent on official business.

On this vote, the Senator from Alaska (Mr. STEVENS) is paired with the Senator from Oregon (Mr. HATFIELD). If present and voting, the Senator from Alaska would vote "yea" and the Senator from Oregon would vote "nay."

The result was announced—yeas 51, nays 30, as follows:

[Rollcall Vote No. 591 Leg.]

YEAS—51

Allen	Curtis	Johnston
Baker	Danforth	Long
Bellmon	DeConcini	Magnuson
Bentsen	Eagleton	Mathias
Burdick	Eastland	Matsunaga
Byrd, Harry F., Jr.	Ford	Melcher
	Glenn	Moynihan
Byrd, Robert C.	Gravel	Nelson
Cannon	Hansen	Nunn
Case	Hathaway	Packwood
Chafee	Heinz	Percy
Chiles	Hollings	Randolph
Clark	Huddleston	Ribicoff
Cranston	Humphrey	Sasser
Culver	Javits	Schweiker
Sparkman	Stone	Zorinsky
Stafford	Thurmond	
Stennis	Williams	

NAYS—30

Abourezk	Hart	Metzenbaum
Anderson	Haskell	Pell
Bartlett	Hatch	Proxmire
Bayh	Helms	Riegle
Brooke	Jackson	Roth
Bumpers	Kennedy	Sarbanes
Church	Laxalt	Schmitt
Dole	Lugar	Tower
Durkin	McClure	Wallop
Garn	McIntyre	Weicker

PRESENT AND GIVING A LIVE PAIR AS PREVIOUSLY RECORDED—1

Leahy, against.

NOT VOTING—18

Biden	Inouye	Pearson
Domenici	McClellan	Scott
Goldwater	McGovern	Stevens
Griffin	Metcalf	Stevenson
Hatfield	Morgan	Talmadge
Hayakawa	Muskie	Young

So the motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from New York.

Mr. JAVITS. I am ready to vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment, as modified, was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, on behalf of the Appropriations Committee, I move that the bill, H.R. 5263, as amended, be committed to the Committee on Appropriations as required by section 401(b)(2) of the Budget Act with instructions that the committee report the bill back forthwith as amended to date, with an amendment deleting the refundable portions of those refundable tax credits contained in H.R. 5263 which have not been the subject of prior record votes by the Senate.

Mr. President, in a capsule so that we do not raise undue alarm, we are going to go back or——

Mr. STENNIS. Mr. President, I suggest this is a highly important matter. I ask for order in the Senate.

The PRESIDING OFFICER. The Senate will be in order. The Senator from South Carolina is entitled to be heard. Senators who wish to converse will please retire to the cloakroom.

Mr. NELSON. Mr. President——

The PRESIDING OFFICER. The Senator from South Carolina has the floor.

Mr. HOLLINGS. I ask unanimous consent to yield momentarily so the Senator may pose a unanimous-consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, I ask unanimous consent that Jeffery Nedelman, of my staff, be granted the privileges of the floor during the consideration of the pending measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. I also make a similar request for Mike Joy, Roger Schlickeisen,

Sid Brown, Ira Tannenbaum, John McEvoy, and Karen Williams.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, as I was about to state, the Senate has already taken, by record vote, action with respect to these refundable tax credits—approving both the Domenici amendment for assistance to the elderly and, the housing insulation credit, and also by a very close vote reflecting the intercity bus credit. I emphasize that this particular motion with instructions does not affect those refundable tax credits now in the bill which have already been acted upon by the Senate up to this particular point.

I only move that the bill goes back to the Appropriations Committee——

The PRESIDING OFFICER (Mr. BUMPERS). The Chair will ask the Senator to suspend until we have order in the Senate. There is entirely too much noise. We cannot hear the Senator. Will all Senators either take their seats or retire to the cloakroom?

The Senator from South Carolina.

Mr. HOLLINGS. The bill really does not go to the Appropriations Committee, but parliamentarily it does by procedure. Then immediately we will consider an amendment. The amendment, in essence, would knock out the two remaining refundable tax credits, the 40 percent and the 10 percent conservation and conversion credits left in there for businesses.

I emphasize the fact that the amendment does not affect individuals or the poor because the Domenici amendment and the residential conservation credits for individuals have already been acted upon by the Senate. We are not trying to change the already-voted upon will of the Senate with motions to reconsider and table, but, on the contrary, adhere to the law and the rules of the Senate with respect to jurisdiction, and more particularly to bring this bill back in line under the second concurrent budget resolution that was agreed to overwhelmingly by the Senate just last month.

Over the past year—and I wish my distinguished chairman from the Budget Committee were here because he is so eloquent and convincing on this particular score—the Budget Committee, with the various authorizing committees, the appropriations subcommittees and their various staffs has been working up a credibility for the congressional budget process.

Heretofore we have been extremely successful. We have had a first concurrent resolution and a second concurrent resolution for 1978. Everyone can always look and make certain that last minute trickery or back door financing cannot occur. There is no better way—I do not mean to be crass—to characterize this insidious so-called refundable tax credit to institutions and businesses that do not pay taxes in the first instance. It is pure sham.

What it ends up doing is, between now and 1985, to put on the books a $15 billion appropriations program, a spending program, that is not even subject to review. It has never been before the authorization committees in the first instance. Your Budget Committee has been working until 11 or 12 at night, just as the Energy Committee, in its considerations of the First and Second Budget Resolutions. We have never heard of these things.

We asked the questions. The Finance Committee told us 2 months ago about $1 billion in tax credits. We do not object to tax credits. But then they come out with this gimmickry. Turn to page 78 of the bill where it says "Payment in Lieu of Credit to Tax Exempt Organizations." That is the one of either 40 or 10 percent. Or turn to page 57 and it says "Certain Energy-Related Depreciable Property." There is allowed a credit against the tax imposed by this chapter of either 40 or 10 percent going right in.

These are moneys that are never to be paid. They are payments, and they have not been considered by any committee whatsoever. Here we are right at the end of the session, when all of us are trying to get this bill to a conference committee.

Incidentally, I voted with the chairman of the Finance Committee to table the motion to recommit just a minute ago.

It is not our intention in the Appropriations Committee to actually take this bill and go down and meet. We did that this morning in a very deliberate and well-attended session. We had a vote of 16 to 1. I understand somebody else might have voted against us, or our distinguished majority leader. I am not sure. That would have been 16 to 2. But we had two other proxies, the chairman of the committee (Mr. MCCLELLAN) and the Senator from Massachusetts, who was in another hearing. So we really ended up with an 18 to 2 vote after discussing, deliberating, and considering these measures.

Mr. CURTIS. Will the Senator yield briefly for a question?

Mr. HOLLINGS. Yes.

Mr. CURTIS. In reference to the meeting of the Committee on Appropriations, was the chairman of the Committee on Finance invited to the meeting and given an opportunity to state the case for the Finance Committee?

Mr. HOLLINGS. There was that ridiculous suggestion made earlier this morning in the Appropriations Committee by the Senator from Alaska. I never heard of anything more amusing than to have the Appropriations Committee invite over the trespassing chairman of the Finance Committee to come and explain our jurisdiction to us. We never more invited your chairman than you invited our chairman to your Finance Committee sessions when you breached the budget, the rules, and the law of the land. If you want me to read the law, Senator from Nebraska, I shall be glad to read the law that you voted for, supposedly.

Mr. CURTIS. We took no action against the Appropriations Committee. I am sure if we had, it would have been our duty—we might have overlooked it, I do not know—but it would have been our duty to notify them of it.

Mr. HOLLINGS. Well, you certainly did take action against the Appropriations and the authorizing committee. If you turn to our new rules, now, with the budget process there on page 215, "such bill or resolution shall then be referred to the Committee on Appropriations," and so on.

The fact of the matter is that this Senator consulted the Parliamentarian first—the staff did. Only yesterday, we were told by the Parliamentarian that it was not a discretionary thing. I thought perhaps we would, maybe, just raise a point of order.

He said, "It is not discretionary. You instead make a parliamentary inquiry, and I will automatically refer it to the Appropriations Committee."

When I double-checked that particular parliamentary opinion at the time, I was told the leadership is disturbed about this, and I would have to submit it to the U.S. Senate and let them vote upon it.

Well, we have been twisting and turning. We have had a difficult time to even get the floor. The distinguished chairman of the Finance Committee just came up to the Presiding Officer and said, "Well, if we are going to have a motion to recommit, we might as well recommit it to Finance as to Appropriations."

I think, as mature men, we ought to forget about that kind of nonsense. We are not trying to delay. We are considering this very objectively and very seriously. Here is $400 million. Every one of the appropriations subcommittee chairmen, working as the Senator from Mississippi on Defense appropriations, I happen to handle State-Justice-Commerce—we have all had to pare down, pare back to come within limitations allocated us by the U.S. Senate in the second concurrent resolution.

Now to have pared down, and without hearing, without discussion, without witnesses, please, my gracious, you come in from the Finance Committee, Senator from Nebraska, and stick it in the bill as a $15 billion spending program with no review whatever. It just absolutely wrecks the budget process and then you say, did we invite the distinguished chairman of the Finance Committee to come and explain it? We can hear his explanation. I am going to yield the floor and listen with interest.

We know what is going on. You have this Mickey Mouse language throughout the bill, for example giving discretion to the Secretary of the Treasury to set effective dates. Or the sense of the Senate provision to the conferees recommending a revenue impact. These little items do not dignify any kind of tax bill out of this particular body. They are playing games.

No, we did not play the game, Senator from Nebraska. Rather, we said we should be more forthright and bring up those things that exceeded our Appropriations Committee responsibility by $400 million. That is exactly what the amendment under the instructions would do. We have cut out that 40 percent refundable tax credit and the 10 percent refundable tax credits to various institutions who implement, purchase, and install the energy conversion and conservation equipment.

Many of us would agree with the merit of those particular things if properly considered. But that is the position taken

by the Appropriations Committee. This can be voted on just like any other amendment. It need not go down to the Appropriations Committee to get a quorum. It is not a delaying measure.

Mr. PACKWOOD. Will the Senator yield for a question?

Mr. HOLLINGS. I will be delighted to yield.

Mr. PACKWOOD. Would this also cut out the credits put in by the Senator from New Mexico (Mr. DOMENICI) for the aged that the Senate just yesterday voted for?

Mr. HOLLINGS. Oh, no, I was prepared for that, sir.

The motion, Senator from Oregon, says, "As amended to date, with an amendment deleting the refundable portion of those refundable tax credits contained in H.R. 5263 which have not been the subject of prior record votes by the Senate."

As the Senator indicated, the Domenici amendment has had a prior record vote and this Senator voted with the Domenici amendment and there have been other amendments with respect to residential insulation and with respect to intercity buses.

We are not being disruptive. We are not trying, by some maneuver, to go back on what we have done and undo it after parliamentary clinchers have been applied.

I do believe, if we are going to adhere to the budgetary process, if we are going to have any order whatever with all of the Senators on their committees, we ought to know that, just before we close down next Friday, we cannot come out here with a $15 billion program in your subject, namely, energy, and you have not heard a witness.

If we are working hard on the Appropriations Committee and trying to keep spending within limits, the Senate itself, with its Budget Committee and its overwhelming vote, cuts it back, too. They are men you ought to be able to rely on in their particular action. You should not have the idea or feel that, by some twisted or contorted wording here of refundable tax, we will be paying credits to things that do not even pay taxes or anything else, and have them considered as a tax or financial measure, when it is simply and solely appropriations that have never been submitted to the Appropriations Committee.

We cannot get that orderly process, if we are going to spend 6 weeks at the beginning of the year to get reorganization and the committees' jurisdiction cleared so everyone can know the new Member and senior Member and everybody can understand the rules of the game. If we are going to amend our rules and stick these in, let us not do havoc to it in the last week and make amendments with respect to this and go $400 million bucks over any kind of appropriations or authorizations, no witness or anything else.

More than anything else, you will never see it again. My sunset Senator, where art thou? You will never see the Sun rise on this one, never mind sunset. You have not seen the beginning of this one and, not having seen the beginning, you are going to have to suffer the end through 15 billion bucks through 1978, and see it through without having a chance to call ourselves a responsible body and reorganize.

We have reorganized the Senate and we have passed rules. It is pure sham, and I think it should be done right. I think this is the orderly way in which to do it.

Mr. LONG. Mr. President, I do not suppose I have ever been impressed by the sincerity of anybody more than by some young people I met when I first came to this body. These young people dedicated everything they had in life to trying to save this tired old world from destroying itself. They called themselves a "moral rearmament movement." I was invited to join and did not, just because I did not think I had what it took to live up to the high ideals those young people advocated, preached, and lived by. One thing they said I shall never forget. They said: It is not a matter of who is right; what is important is what is right.

Now that is the issue when you really get down to it.

Let us take something like the refundable tax credit that Dr. DOMENICI offered just the other night. I had some doubts about the fiscal aspects of that proposal. I knew very few Senators who would oppose it. On a previous occasion, I had been the only Senator to vote against that type of amendment. I invited anyone who wanted to oppose it to do so.

Let us suppose, for the sake of argument, that the sponsors of that amendment had limited themselves to a tax credit against income tax owed. If they had done that and if the Senate had voted for that by the same margin—80 to 2—what would have been the result?

Not many people over 65 pay an income tax. Only those who are fortunate enough to make enough money, in spite of all the different exemptions and deductions they get, to owe us an income tax—only those people over 65 would have had the benefit of that $75 tax credit. All the people who needed it most would have been denied the benefit of the tax credit. That would have been a travesty, indeed, and we would have had difficulty explaining to people why we did that.

The point the Senator from South Carolina is making at this moment was not made at that time, that a refundable credit is going to destroy the solvency of the Nation and that it is a dangerous way to do business.

We on the Senate Committee on Finance, after considerable prompting, enacted something that moves in the direction of a negative income tax. It is known as the earned income credit. It is based on the assumption that if a poor soul does not earn much money and if he has children he supports, perhaps we should help him. We gave those poor people the opportunity of making out their income tax, showing how little they had to support their families, and then entitling them to a tax credit which is refundable. A lot of poor people would rather toil than go on welfare, even though what little they have to show for it may not be much more than they would get in welfare. To be able to deal with this type of situation, we have to be able to make a tax refund to someone who does not owe us an income tax, or to someone who does not owe as much tax as we would be paying back to him as a refund.

Mr. President, this Nation needs the ability to use the device of a refundable tax credit.

I suppose we can illustrate it with the bill we have here as well as with any other bill. Take one problem with regard to which we have already had amendments offered: trying to save the oil refineries of the United States in the event the entitlements program comes to an end. Some of us think we need to have the capacity to refine oil in this country. Those members of the Finance Committee from the Northeastern States took the attitude that they were willing to preserve a domestic refining industry. But they did not think it would be fair that the burden of that policy should be levied entirely on their part of the country where oil imports come ashore. If we could work the matter out in such a fashion that they would feel the burden was shared generally across this land, they would be happy to maintain America's capability to refine oil.

It was the thought of this Senator, along with others, that perhaps we should use the device of a refundable tax credit for colleges that pay no taxes, for State governments that pay no taxes, poor people who pay no taxes—directly, at least, since taxes are passed on to them in the price of a product—to help them meet the burden that might be placed on them in the event the President put a tariff or a fee on energy coming into this country.

If we are to have a tax credit, it should not be based on whether a person owes at least that much income tax. It should be based on whether the burden is such that a person should be entitled to some assistance.

If we are going to have a provision of that sort, the place to handle it is in the tax writing committee. For one thing, a tax credit is not a matter we would be annually trying to assess in terms of appropriating a given amount of money.

We can estimate the cost of the credit when we set the budget, but we would not want to refuse to pay it just because one year we estimated the cost of the credit on the short side, any more than we would want to decline to pay the full interest on the national debt just because we underestimated the amount. That is why the interest on the debt is paid under a permanent continuing appropriation.

Mr. President, more than 2 years ago we enacted the earned income credit. That is a refundable tax credit, and although it benefits the poor, technically it has everything to say against it that the Senator from South Carolina said against a refundable credit that might benefit business.

Mr. MAGNUSON. Will the Senator yield for a question?

Mr. LONG. Let me complete my statement and I will yield.

Mr. MAGNUSON. I do not know what the poor have to do with this. I am trying to find out.

Mr. LONG. Let me explain a little bit further.

After we enacted the earned income credit for the benefit of the people to whom I referred, this question was asked of the Comptroller General: Was the earned income credit, a refundable tax credit, unconstitutional because the Constitution says that money can only be spent pursuant to an appropriation?

The Comptroller General answered that inquiry by pointing out that in 1948 an appropriation act contained a permanent, indefinite appropriation for tax refunds, and that the refundable earned income credit was such a tax refund. Let me read the last paragraph of the letter by the Comptroller General:

> In view of the fact that a permanent appropriation in an indefinite amount is available for making refunds of income tax overpayments, and the fact that the Congress has provided that, when allowable earned income credits exceed tax liability, the excess shall be considered an overpayment, we believe that payment of this excess from the permanent appropriation is authorized and there is no violation of the constitutional requirement that moneys not be drawn from the Treasury without an appropriation.

In other words, there is a continuing appropriation that covers the earned income credit.

Mr. President, let us look at the Budget Control Act of 1974, and in the document before me, the Standing Rules of the Senate, dated April 30, 1977, I am looking at page 216:

> (1) For purposes of this section, the term "new spending authority" means spending authority not provided by law on the effective date of this section.

Let me repeat that:

> "New spending authority" means spending authority not provided by law on the effective date of this section.

Mr. President, the law upon which the Comptroller General relies in upholding the refundable earned income tax credit was enacted in 1948. The Budget Control Act was enacted in 1974. So for almost 30 years we have had the continuing appropriation which makes possible the refundable tax credit.

Mr. President, quite apart from the technicalities and the legalities, it is simply a matter of saying that if something is right we ought to do it, regardless of what committee has jurisdiction, and if it is not right we should not do it, regardless of what committee has jurisdiction.

So far as this Senator is concerned, I would be the first to concede that the Appropriations Committee has a proper concern about the matter. If the Appropriations Committee wants to look at the matter, it is all right with me to refer it to the Appropriations Committee and to have the Appropriations Committee make a recommendation. I would be happy to consider any recommendation along this line that the Appropriations Committee wishes to make. After that committee has made a recommendation, let us permit the Senate to decide what it wants to do about it. That is fine with me.

As to the possibility of a point of order which one might consider making, it could only be made to a recommendation by the committee. It could not be made if we offered the same matter as a floor amendment.

I will make the members of the Appropriations Committee a good faith offer right now. If you want to recommit the bill, fine; we will recommit it to you. But do not try to tell us that we do not have the authority to recommend a refundable tax credit. The Comptroller General, having studied the matter very carefully, says that the authority exists to enact a refundable credit. The Finance Committee has the right to recommend a refundable tax credit, and the Senate can decide what it wants to do with the recommendation. The Appropriations Committee may have a recommendation to make, but do not try to commit the Senate in advance to vote against something.

We on the Finance Committee believe we have thought about these refundable tax credits longer than you have, but you may be wiser than we—Who knows? In any event, if you want to have the matter referred to your committee, fine. How long do you want it? We will be glad to recommit the bill.

Mr. MAGNUSON. Mr. President, I want to ask a question. The Senator from Louisiana does not get down to the point of the problem of jurisdiction.

He made a very nice speech about how gracious and how sympathetic the Finance Committee is to the poor. I do not know what that has to do with this. We are not talking about the merits of what the Finance Committee did. We think that the Finance Committee does not have a monopoly on taking care of the poor. The Appropriations Committee spends half its time taking care of the poor and the people who need it. But the Senator did get down to the real problem here, in the end.

The Senator made a speech about the merits of what the Finance Committee had done. That may be fine. I agree with some of it. But we can do certain things, too, and we do. We dispense equity all over the country—billions of dollars a year—and we think we do it very wisely.

We have some responsibility for the expenditure of money; and the Finance Committee has an even greater responsibility than we—more difficult—to raise the money for us to spend. But until the rules of the Senate are changed, we feel that we do not want to be criticized for the expenditure of money about which we have nothing to say. Otherwise, we might as well abandon the committee.

It is unfortunate that these things happen. I had thought that when we spent hours and days around here, at the beginning of the session, changing the rules, we were going to take care of everything. Jurisdictional problems are worse now than they ever have been, with respect to jurisdiction of committees of the U.S. Senate.

If we really want to recommit something, we should recommit the rules of the Senate, send them right back again to the drawing board. We have so many rules now and we are so mixed up in such a web that the country wonders whether we can get anything done.

That brings me to the point: We do not want to stall this bill in any way, but we do not see that we should establish a precedent here that the Finance Committee or any other committee should take over the constitutional and legislative duty of the Appropriations Committee.

We have long hearings. We have just as many hearings as does the Finance Committee. With respect to one section of the appropriation on HEW 1 year, I listened to 716 witnesses. That was exceeded only by my friend from Mississippi, on the Public Works Committee. I think he had 800 that year. We hear everybody and work hard.

We do not want to do anything to undo the graciousness and the benevolence of the Finance Committee for the poor. We are all for that. We are for doing equity around the country. Sometimes I wonder where you do it, but you claim you do it.

That is our only problem here. I felt that we could work this out, because it gets down to the establishment of a precedent. I would just as soon have less work; but we do have the responsibility for the appropriation of money. This is what we are concerned about, and this is what the Senator from South Carolina is concerned about, as well as the committee members who discussed this matter at some length.

It was unanimous that we try to work out this matter so that a precedent will not be established, that the Finance Committee can appropriate money at the same time they raise taxes. That used to be the rule in the House in the early days. The Ways and Means Committee appropriated money, and then they tried to raise the taxes for what they appropriated. That may be a good system to go back to. I am not so sure.

Then we went through a period in the history of the Senate during which the authorizing committees would also appropriate the money for whatever they authorized. That might be a good system to go back to.

Now we have the Budget Committee, and so forth, but we still are responsible. We are still the ones to whom the people say, "You fellows did this terrible thing; you appropriate all this money." Some people applaud it, but most people object to it, that we probably do too much. But until we do that, we are still the Appropriations Committee, and we are going to stick up for our rights, I hope. Otherwise, we would not be worthy of being members of the Appropriations Committee.

Mr. LONG. Mr. President, I admire the acting chairman and every member of the Appropriations Committee, including the distinguished Senator from South Carolina.

I recall when we first became involved with the investment tax credit, I believe I was the acting chairman of the Finance Committee at that time, or at least the chairman of the conferees. I asked to meet with the Appropriations Committee because it seemed to me that it might be a proper concern to them that the conference wanted to enact the investment tax credit. I had some doubts

about jurisdiction, and I thought it should be cleared with the Appropriations Committees. I came before them at that time and they said, "Go ahead."

Mr. MAGNUSON. The investment tax credit was not necessarily refundable.

Mr. LONG. I know.

Mr. MAGNUSON. It was a tax that was not going to be collected. That is what I understood it to be.

Mr. LONG. It was a subsidy.

I went to the Appropriations Committee and asked that committee for its judgment about the matter, and it was the view of the committee that I should go ahead, and I did.

On another occasion, when we first had the revenue sharing bill before us, I asked that the two committees meet on the issue of the provision appropriating revenue sharing funds. We discussed the matter, and on that occasion we just could not agree. So finally we debated the matter in the Senate, and we asked the Senate to decide the issue, and the Senate did.

On this occasion, Mr. President, I believe the Finance Committee has the jurisdiction to recommend what we did. I believe that we are within our rights in doing so. But that is not the important thing. What is important to me is that we do what is right, and I will be the first to agree that the Appropriations Committee has a proper concern about the matter.

What would the acting chairman of the committee like to do? So far as I am concerned, I do not care to concede that we do not have jurisdiction to make the recommendation, because I believe we do. Let me read from the Budget Control Act of 1974, where they have the definition of what entitlement authority means—what kind of bill must be referred to the Appropriations Committee. I am reading from page 216 of the Standing Rules of the Senate, dated April 30, 1977, the pamphlet that the Senator is looking at. I am looking at subsection (c) of section 401, "Definitions," paragraph (2), subparagraph (c). Here is the definition: It means authority "to make payments * * * the budget authority for which is not provided for in advance by Appropriations Acts."

My point is exactly the point that Mr. Staats made in his letter: The budget authority is provided for in a prior Appropriation Act, the supplemental Treasury and Post Office Departments Appropriations Act of 1949, approved June 19, 1948, chapter 558, title I, 62 Statute 561. Since the authority is provided for in a prior Appropriation Act, a refundable tax credit does not meet the definition of an entitlement authority under the Budget Act which would require referral to the Appropriation Committee.

But on the other hand, I would concede that the Appropriations Committee has a large interest in this subject matter.

Would the Senator like to have the bill recommitted to his committee and, if so, for how long?

Mr. MAGNUSON. I must say to the Senator I was not here when the Senator from South Carolina presented his motion, if there is a motion pending. As a matter of fact, I was down in the Appropriations Committee doing what we are trying to do here, doing exactly what the Senator is trying to do, doing some equity around the country with the money that the Senator recommends be raised.

Mr. HOLLINGS. If the Senator will yield, I am glad to try to answer that question.

Mr. LONG. I would like to know first what the Senator from Washington would suggest. I know what the Senator from South Carolina suggests.

The PRESIDING OFFICER. Would the Senator from Washington use the microphone?

Mr. MAGNUSON. I yield to the Senator from South Carolina.

Mr. HOLLINGS. I shall try to answer it to bring in focus the point I am trying to make. If the distinguished Senator will refer it back to us we do not have a discretion. We do not have the $400 million. We have done all we can do; namely, come out with an amendment to bring this portion of the Appropriations Committee jurisdiction back into line with the budget resolution and the spending limits this Senate has placed. It is a senatorial constitution that binds us, not the letter that the distinguished Senator read from Elmer Staats that has to do with the U.S. Constitution on earned income tax credits to individuals. We are not disputing the U.S. Constitution.

If we get through and succeed and it is concurred in and signed by the President, we do not think we can make a constitutional assault. We can make a senatorial assault within the budget process. So if the Senate refers it back to us we can only go up to the limit what we could spend particularly in this category. We have not quite $500 million—$400-some-odd-million over—and that is why we already exercised what discretional advice we could give; namely, that we strike the refundable portions of these two refundable tax credits which are more or less appropriations.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. LONG. Mr. President, I did not only refer to the Constitution. I also referred to the definition which is right in the Budget Control Act of 1974.

I do not want to confuse a difference of opinion with the Appropriations Committee with a difference of opinion with my friend who also serves on the Budget Committee on a Budget Committee matter involving the revenue impact of the bill. That is somewhat of a different matter. I think that should be considered on the merits and we will try to satisfy and comply with the Budget Act. We had our staff consult with the Budget Committee staff and the best advice that our staff could get from their staff was that we were in compliance, and we think we are. If we are not, we are going to amend the bill again so that we are in compliance, but we do not think we will have to.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. CURTIS. I share the opinion of the distinguished chairman of the Finance Committee that this very properly is a matter of concern and should have the attention of the Appropriations Committee. I believe if we look at the entire picture, however, we will find that the subject of tax credits is part of the taxing process and not appropriating process.

We have a good many tax credits in the code. There is the foreign tax credit. A political contribution calls for a tax credit. We have the investment tax credit that this Congress has enacted over and over again to spur the economy to give a credit for the purchase of new machines. We have what used to be called the retirement income credit. It is now referred to as the elderly credit. It was a provision put in the law because certain retirement programs were tax free. Railroad retirement was tax free by statute. Social security was tax free by ruling of the Treasury. And in order to equalize it for people whose income came from all other sources we have the retirement income credit. It worked out that they could take a credit on it.

What I am saying is a tax credit is part of the taxing process, part of the mechanism to determine the tax liability of the person and how he should report it. We have the work incentive credit.

In levying taxes it has always been the practice to distinguish the source of the income. Capital gains is taxed in one way, ordinary income in some other way, and all through the years there have been gaps where it was not observed. There have been special laws relating to earned income, and we have called it a work incentive. It is taken care of with a credit. We have earned income credit. There is a credit allowed in the law for someone who purchases a new home. It was only in there 2 years, but it was enacted. If someone makes an expenditure to care for his dependents while she goes out and works there is a credit given. There is a credit given for an employer who employes certain new employees in order to relieve unemployment.

Mr. BELLMON. Mr. President, will the Senator yield for a question?

Mr. CURTIS. I will when I finish my line of thought.

There is written right in the tax return a credit of $35 for each taxpayer and dependents.

Mr. MAGNUSON. Mr. President, will the Senator yield to me to save time?

Mr. CURTIS. No. It will not take me long.

Mr. MAGNUSON. I think it will save a lot of time.

Mr. CURTIS. No.

Mr. MAGNUSON. We are not talking about tax credits at all here.

Mr. CURTIS. Yes, we are.

Mr. MAGNUSON. The Senator is talking about the merits of tax credits.

Mr. CURTIS. Now there are times when the tax law allows a deduction against income and there are times that it is more equitable to allow a credit against the tax. Then if someone does not owe a tax, in most instances—I think in every instance—he can carry the unused credit forward. We have businesses that were not making any money. They brought new equipment they wanted to buy very badly, but they were not mak-

ing an money, and their only salvation was to carry the credit forward. They came before our committee and said:

Won't you make a refundable credit. We need the investment credit to carry out its purposes. Our well-to-do competitors get it but we cannot.

So the committee had to decide whether to make a refundable credit. It is part of the taxing program to determine the liability of a taxpayer and how it should be accounted, what system of accounting, and how it shall be reported.

It is not money that arrives in the Federal Treasury and then goes out.

The reason to make these refundable is that sometimes the carryover would not do the job, or it was a long wait. So, we made the tax credit refundable right now.

I realize that maybe we have too many refundable tax credits. Maybe we have appropriated too much money. Maybe the Appropriations Committee appropriates too much money. We should not attack their jurisdiction because of that. And as I say, I understand their concern. I am not critical of it. I do think that it has been the long-time practice here that when more than one committee feels that they have jurisdiction of a matter the usual practice is that they negotiate a little bit, that the two chairmen get together and see if they can agree on a joint referral, or something else, or ask each other about it, and in this case it was not.

Here this bill has gone along for several days and now, without notice to the chairman, without an opportunity for him to come to a committee and state the case for the Finance Committee, we are met with this as part of the procedure, I think on the part of some, to oppose or delay this bill.

I think that the citations made by the distinguished chairman of this committee are the controlling law. I believe if it were otherwise this would have been settled by a point of order. It is far different from some of these other cases, because a refundable credit is a refund of a tax. That is all it is.

I believe the position of the chairman of this committee ought to be sustained.

The PRESIDING OFFICER. The Senator from Florida.

Mr. CHILES. Mr. President, we ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Florida.

Mr. CHILES. Mr. President, I have been listening to the debate. It seems to me that the refundable tax credit is an interesting kind of device that could be used in an awful lot of ways. Right now it is on an energy bill. I think the distinguished chairman of the Committee on Finance said that the Nation needs this device.

Well, I think the Nation would get to see this device used quite a bit. If it is capable of being used. I think you could use it not just on an energy bill, as is the case now, but I think you could kind of use the device in a lot of ways.

I just started looking at a few appropriations bills. I find school assistance in the federally impacted areas, and it would seem to me if you wanted to you could say that we are going to give a refundable tax credit to those areas that have an Army base there.

After all, that is something that is important in the fact that they do not pay any taxes, so we will give them a refundable tax credit. Therefore, regardless of whether the Appropriations Committee decided to cut the impacted funds, if we decided to just give them a refundable tax credit we could do so.

I look at another appropriation bill, and I see security supporting assistance. Under that appropriation act Israel is down for $750 million, Egypt for $93 million, Jordan for $9 million. Let us give Israel a refundable tax credit. They do not pay any taxes to the Federal Government now, but we can give them a refundable tax credit. If we can do it for the bus companies, why can we not do it for Israel. So we give them a refundable tax credit, and we do it that way.

I look at another one, and I see the Panama Canal Zone, which is a subject of great interest now. For the Panama Canal Commission we are putting up some funds. Well, they do not pay any taxes now, but there is no reason why you cannot give them a refundable tax credit. It is said the Nation needs this device. It is something we need, so if we decide to, or the Committee on Finance decides to, we just make a refundable tax credit.

You would take every item, I think, that is in any of the appropriations bills or any other item we want to think about and call it a refundable tax credit, and I think that is the concern that the Appropriations Committee has after that comes out and after that is in that bill.

If it is wrong for the Appropriations Committee to say anything about that "Shame on you. What in the world are you doing having anything to say about that? You are just not right, and if you are going to do it you certainly ought to invite us there and talk to us about it."

I do not know, it seems to me I heard today that we ought to take up each one of these item-by-item. Well, certainly an individual has always been able to come on this floor—it has been one of the characteristics of the Senate, and I am glad it is there—and make his amendment to a bill. You could not raise any point of order that his amendment did not go through a committee regardless of what the committee was. We have always allowed that, and that has allowed some of us as individuals a voice where we could not get a committee to hear from us. But that is as individuals.

If a member of the Committee on Finance wanted to come up and put this on as an item, that is one thing. But when you come out with a bill, a package, and then you say "This is the package and now the Appropriations Committee cannot touch that package, or no one else can touch that package," you have gone beyond what an individual Member's right is on this floor because he stands as the individual and he tries to convince or persuade the body.

But when you come out with a Committee on Finance package and you wrap it all up in that package, then you take away from the body and from the authorizing committees and the appropriating committee the right to carry out their function.

The whole reason for the Budget Act was because we felt we had to have some control over spending. We were having all kinds of good items coming out, and I have never voted for a bad appropriation since I have been in government. They are all good, and they all benefit someone. But no one was tending the store and saying we have only got so many dollars to spend, and so we have got to set priorities.

So we said in the Budget Act we are going to try to set some priorities, and we are going to say that is the Budget Committee's prerogative to try to set those. But that comes up for debate, and everybody on this floor has an opportunity to put his 2 cents worth in to determine what those priorities should be. But within those broad priority numbers we allow the authorizing committee and the appropriating committee to say where the money should be spent, for what kind of items it should be spent and, at the same time, in that act we try to cut out the backdoor spending, the trust fund device that had been used, and all of the other kinds of backdoor devices.

Now, I can tell you if we can have this kind of device as a refundable tax credit it would be the biggest backdoor spending of any that there is. There would just be no way of controlling that because nothing would go through. It would not go through the Budget Committee, it would not go through the Appropriations Committee, and it would not go through the authorizing committees.

If you can circumvent every other device of the Senate which is to try to make order and to try to set a basis of coming through priorities, then you would really have destroyed the whole system. So I think we have to do something to just establish the order that we should.

Mr. MAGNUSON. Mr. President, I just wanted to say——

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. PACKWOOD. Mr. President, may I ask the clerk to read this motion once more?

The PRESIDING OFFICER. Does the Senator want the motion read?

Mr. PACKWOOD. The motion, yes.

The PRESIDING OFFICER. The clerk will read the motion.

The second assistant legislative clerk proceeded to read the motion.

Mr. PACKWOOD. That is enough. That is what I want to make clear. This is not a point of order, as I understand it. It is strictly a motion, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. PACKWOOD. That reference in there "as required by law" is redundant to the purpose of this motion, is it not?

The PRESIDING OFFICER. Well, the motion speaks for itself.

Mr. PACKWOOD. Well, I guess my question is if it is required by law, is the motion needed? I am curious, if we relied upon the law could this be referred to the Appropriations Committee, so I guess my question is, is the motion necessary?

The PRESIDING OFFICER. It would take a point of order to enforce the law. The law is not self-enforcing.

Mr. PACKWOOD. I understand that. So we are dealing not with a point of order and not with a point required by law but simply a motion.

The PRESIDING OFFICER. The Senator is correct.

Mr. PACKWOOD. We are not dealing with the Constitution either because all the Constitution requires for spending is that the appropriation be approved by Congress. The Constitution is not concerned with Appropriations Committees, Finance Committees, Interior Committees, or anything else, but the question it is concerned with is has it properly passed Congress whether it comes from the Finance Committee or any other committee, so that would not be a constitutional test.

So we are talking about then just one thing: the motion of the Senator from South Carolina to send this bill to the Appropriations Committee with instructions to take out the so-called 40- and 10-percent credits for the nonprofit corporations, and the 40 and 10 business credit, the refundable portion of them, and to send it back without those refundable portions.

The Senator from South Carolina several times made reference to the fact that it was fiscally irresponsible what the Finance Committee had done, and the horrendous amount of money it was going to cost. I want to look at the implications of that for a moment.

The cost of the refundability is $3.2 billion, that it will cost the Treasury in 1985. In exchange for that, we have 940,000 barrels of oil a day in 1985. That is what would be saved, at an expenditure of $3.2 billion. That is what it costs the taxpayers.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. PACKWOOD. Yes.

Mr. CHILES. $15 billion over the life.

Mr. PACKWOOD. Well, yes, $15 billion over the life, but then in that case we will talk about the energy saving over the life. I do not mind if people want to compare apples and apples, but I do object to them saying $15 billion and then only taking the energy savings in 1985.

Mr. CHILES. I am not talking about energy savings at all.

Mr. PACKWOOD. No; unfortunately most people are not talking about energy savings, and this is an energy bill. I will accept either the cost to the taxpayers over the life of the bill compared with the energy savings over the life of the bill, or the energy savings year by year versus the cost year by year.

The cost in 1985 is $3.2 billion. That is when the credits run out, and in that year we save 945,000 barrels of oil per day, and we will save that day after day, even when the credits are done, because these are credits for hardwood installations and for machinery that will save energy.

What we will be losing if we knock out these credits in 1985 is 945,000 barrels of oil a day, and that will cost us $4.9 billion at $14 a barrel, assuming the OPEC countries have not used up their oil and we can still purchase it at today's prices. So by sending this measure to the Appropriations Committee for modification, we would be saving $3.2 billion in refundable credits, but we would increase the cost to the taxpayer by $4.9 billion to purchase the oil. And not only do we lose the savings in 1985, we lose them every year, at an annual cost of $4.9 billion.

Mr. MAGNUSON. Mr. President, will the Senator yield at that point?

Mr. PACKWOOD. Yes.

Mr. MAGNUSON. The Appropriations Committee does not want to knock these things out.

Mr. PACKWOOD. I thought the motion was to send the bill to that committee with instructions to strike them.

Mr. MAGNUSON. We will come right back with them. We will strike them temporarily, and come right back with them. We are not going to strike that out.

Several Senators addressed the Chair.

Mr. PACKWOOD. I yield to the Senator from Louisiana.

Mr. LONG. Mr. President, I have now had an opportunity to discuss this matter with the distinguished Senator from South Carolina and the distinguished Senator from Washington, and I believe we have an understanding which I think would be appropriate.

I believe that the Senator is willing to modify his amendment to eliminate the words "as required by section 401(b)(2) of the Budget Act." If he will eliminate that, it is perfectly all right with me to go along with the motion, because, as I undersand it, it would still be subject to the Senate deciding whatever amendment it wants, the Finance Committee amendment or the Appropriations Committee amendment. It is up to the Senate to decide, and as long as that is the case, I am willing to vote for the motion if those words I cited are deleted.

Mr. MAGNUSON. Mr. President, if the Senator will yield, I want to say to the Senator from South Carolina, too, that I think this is a reasonable way to do this. I hate to see us get into—I know how sincere my good friend from Oregon is, but we are not attempting to change this bill particularly. We are just trying to establish jurisdiction. The Domenici amendment has nothing to do with this, or the poor have nothing to do with it. We are going to be just as good to them. If we had had the bill originally we probably would have done better than you people did. I am sure we would have done much better, no question about that in my mind, but I think we can work this out.

Mr. HOLLINGS. Mr. President, since the yeas and nays have already been ordered, this would be a unanimous-consent request. I do not mind; I just want my record made absolutely clear, and that of the Appropriations Committee, in that we have discussed this with the Parliamentarian right here—I think I could make a parliamentary inquiry on that—and he said that that section still applies.

There is no question whatever about the language:

If any committee of the House of Representatives or the Senate reports any bill or resolution which provides new spending authority—

This is on the $15 billion from now through the year 1985—

Which is to become effective during a fiscal year and the amount of new budget authority which will be required for such fiscal year if such bill or resolution is enacted as so reported exceeds the appropriate allocation of new budget authority reported under section 302(b) in connection with the most recently-agreed to concurrent resolution on the budget for such fiscal year, such bill or resolution shall then be referred to the Committee on Appropriations of that House.

That is my position and the position of the Appropriations Committee. As a lawyer—and I know the distinguished chairman of the Finance Committee, the Senator from Washington, and the Senator from Oregon are good lawyers—I think we are trying to do everything we can to expedite the passage of the bill. If we were merely trying to be technical as lawyers in sending it back to the committee, we will have lost time and everything else.

So in this spirit only of moving the bill forward, the point having been made, I ask unanimous consent that my motion be amended by striking therefrom the language "as required by section 401(b)(2) of the Budget Act."

The PRESIDING OFFICER (Mr. MATSUNAGA). Is there objection?

Mr. KENNEDY. Mr. President, reserving the right to object, the alteration of the motion that has been requested by the Senator from South Carolina, will that in effect strike the refundable parts of the Senate bill?

Mr. HOLLINGS. No, that is a legal reference, actually, in the motion, because we still have to vote on it up or down by the yeas and nays. This language still says:

With instructions that the Committee report the bill back forthwith as amended to date, with an amendment deleting the refundable portions of those refundable tax credits contained in H.R. 5263 which have not been the subject of prior record votes by the Senate.

So the rest of the motion stands.

The PRESIDING OFFICER. Is there objection?

Mr. STENNIS. Mr. President, will the Senator yield?

Mr. HOLLINGS. I yield.

Mr. STENNIS. Reserving the right to object, and I shall not object, I just want to make it clear, now, as I understand the Senator from Washington, the Senator from South Carolina, and the Senator from Louisiana, in the present situation, by striking out this reference to the section, it will still be voted on?

Mr. HOLLINGS. Oh, Yes.

Mr. STENNIS. And then also, before the bill as written now can be changed, it will take a vote of the Senate?

Mr. HOLLINGS. Right.

Mr. STENNIS. The Appropriations

Committee can just suggest a change, but on the floor here we will have to vote on it, is that correct?

Mr. HOLLINGS. The motion is that, technically, when you move to commit with instructions, parliamentarily it is under the auspices of going in, so to speak, into the committee, and coming out. So the answer is yes, we still have to vote on that amendment about these earned income tax credit sections still remaining in the bill.

The PRESIDING OFFICER. Does the Senator from Mississippi withdraw his reservation of the right to object?

Mr. STENNIS. Yes; I do not object.

Mr. ABOUREZK. Mr. President, reserving the right to object, I want to make an inquiry on this point. If the language is deleted as suggested by the Senator from South Carolina, does that mean no further point of order would lie against the legislation by virtue of its defects that have already been outlined?

The PRESIDING OFFICER. That would not be true.

Mr. ABOUREZK. A further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. The Senator from South Carolina alluded to the fact that if a parliamentary inquiry were made concerning whether or not this legislation should have been referred, the Chair would automatically refer it, is that a correct understanding, to the Appropriations Committee?

The PRESIDING OFFICER. If the point of order were made and sustained, then the bill would, in fact, be referred to the Appropriations Committee.

Mr. ABOUREZK. I understand that, but I understood Senator HOLLINGS to say that a point of order would not be necessary, on a parliamentary inquiry. Which is it that would be required?

The PRESIDING OFFICER. It would take a point of order to enforce the provisions.

Mr. ABOUREZK. Mr. President, I make the point of order, then, that the legislation has not been referred according to law and it is not in order to consider this legislation unless it is referred to the Appropriations Committee under the provisions of the Budget Act. Mr. President, is a point of order debatable?

Mr. LONG. Mr. President——

The PRESIDING OFFICER. The Senator from South Dakota has the floor. He has reserved the right to object. Does the Senator from South Dakota raise the point of order?

Mr. ABOUREZK. Yes.

Mr. LONG. Mr. President, I move that the point of order——

Mr. ABOUREZK. A point of order is not debatable.

Mr. LONG. Mr. President, I move to lay the point of order on the table.

The PRESIDING OFFICER. The question is on the motion to table the point of order.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to speak for 1 minute.

The PRESIDING OFFICER. Is there objection? Without objection, the distinguished majority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, we thought we had the matter resolved. The distinguished Senator from Louisiana was willing to proceed with a vote to send it to the committee; to have the committee report forthwith, in accordance with the motion of the Senator from South Carolina, with an amendment. The Senate would vote on that amendment. The distinguished Senator from South Carolina is willing to proceed in that fashion. The acting chairman of the Appropriations Committee is willing to proceed in that fashion. I would hope we would proceed in that fashion.

Both sides have argued this business about points of order, the language in the Budget Reform Act, and both sides have stated eloquent cases for their position.

But here is an opportunity to get on with this matter and avoid voting on a point of order when about everybody here has reached the consensus that it ought to go to the committee, that the committee report it back forthwith and without the language which refers to that. Everybody has made legislative history on that. One can choose whichever side he wishes on that.

I hope the Senator from South Dakota will not press his point of order but let us go on in the fashion that we were about to proceed, which I thought had been met with agreement by practically everybody here. We could get over this matter and get on with the bill.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I make the point of order that a motion to table has been made and the motion is not debatable. I ask unanimous consent that the Senator might make a statement, if he wishes.

Mr. ABOUREZK. Mr. President, all I am going to do is withdraw my motion.

Mr. LONG. I have no objection, Mr. President.

Mr. HOLLINGS. Now I ask again, Mr. President, unanimous consent, as I had before. I will reinstitute the unanimous-consent request to strike from my motion the language "as required from section 41(b)(2) of the Budget Act."

The PRESIDING OFFICER. The Chair will state at this point that a point of order not submitted to the Senate is not subject to a motion to table. Inasmuch as the point of order has been withdrawn, the question is now moot. Does the Senator from Louisiana seek recognition?

Mr. LONG. Mr. President, I just want to make the point——

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. LONG. I yield.

Mr. ROBERT C. BYRD. Will the Chair put the question by the distinguished Senator from South Carolina, please?

The PRESIDING OFFICER. Without objection, it is so ordered. The motion will be so modified, by unanimous consent. It is so ordered.

Mr. LONG. Mr. President, I hope everyone understands that I have stated my position and the Senator has stated his position. I have no objection at all to the Appropriations Committee proposing this amendment and I will vote for the Senator's motion.

SEVERAL SENATORS. Vote! Vote!

Mr. HOLLINGS. Do Senators want to withdraw the yeas and nays?

Mr. LONG. Mr. President, I ask that the yeas and nays be withdrawn.

The PRESIDING OFFICER. Is there objection? Without objection, the yeas and nays are withdrawn.

The question now recurs on agreeing to the motion, as modified.

The motion, as modified, was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the motion, as modified, was agreed to.

Mr. MAGNUSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Does the Senator from Massachusetts seek recognition?

Mr. HOLLINGS. Now, Mr. President, will the Chair recognize the distinguished Senator from Washington, the acting chairman of the Committee on Appropriations?

The PRESIDING OFFICER. The Senator from Washington.

UP AMENDMENT NO. 1000

(Purpose: To make the energy investment credits nonrefundable.)

Mr. MAGNUSON. Mr. President, from the Committee on Appropriations I report back H.R. 5263, as directed, and send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Washington (Mr. MAGNUSON) proposes an unprinted amendment numbered 1000.

The amendment is as follows:

On page 69, line 16, strike out the end quotation marks and the end period.

On page 69, between lines 16 and 17, insert the following:

"(e) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this part having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43.".

On page 70, strike out lines 7 through 15.

On page 70, line 16, strike out "(d)", and insert in lieu thereof "(e)".

On page 78, beginning with line 4, strike out all through page 79, line 22.

On page 92, lines 19 and 20, strike out "43, 44C, 44E, and 44F" and insert in lieu thereof "and 43, 44C, and 44H".

Mr. LONG. Mr. President——

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, it is my understanding in this parliamentary situation that when the committee reports the

bill back with the amendment, the Senate has the privilege of either agreeing to the amendment proposed by the Appropriations Committee or not agreeing to the amendment proposed by the Appropriations Committee.

The PRESIDING OFFICER. The Senator is correct.

Mr. LONG. Now we have the matter before us where we can dispense with the pride of committee jurisdiction. Now we can talk about the merits, which is what I have been wanting to talk about all the time, the merits of it.

Mr. President, the Senate Committee on Finance did not go along with the proposal of the House on requiring all of the companies to change over from gas and oil to coal. The committee proposed to save just as much energy by recommending a tax credit of 40 percent rather than by recommending that everyone be taxed in order to convert.

The Metzenbaum amendment would take care of all those who can convert. We still have to contend with those who cannot convert.

Mr. President, the big item in the bill is to provide that those who cannot convert should be provided a tax credit for converting rather than be required, as the House bill would require, to convert. So we still have the problem: Do we want to provide a tax credit to help bring about conversion, or do we want to do nothing about conversion with regard to those people who do not have plants that can burn coal?

Mr. President, if we are going to do it, the cost is very great. A 40-percent tax credit is very likely to exceed the income of the companies. But they need the money in order to find the wherewithal to do the converting. Otherwise, a company might be faced with as much as $100 million burden in order to convert. Mr. President, it seems to this Senator and seemed to the committee that they should have the credit to help pay the cost of converting.

Beyond that, Mr. President, the Senate amendment would also deal with the specially defined energy property. For example, there is an additional 10 percent as defined on page 61, investment tax credit for a recuperator, a heat wheel, a regenerator, a heat exchanger, a waste heat boiler, a heat pipe, an automatic energy control system, a turbulator, a preheater, a combustible gas recovery system, an economizer, an industrial heat pump, or any other property of a kind specified by the Secretary by regulations. and so on.

These are things that people would buy to provide for more efficient use of energy. The committee felt, with regard to these items, and the administration agreed with regard to most of these items, that there should be a special credit. The question is whether it should be refundable. It was the view of those of us on the committee that, if one does what we want him to do to be more efficient and use less energy, he should get it whether he paid that much in taxes that year or whether he did not pay that much in taxes. I pay out, people pay more taxes than just income taxes, which we are looking at. They also pay social security taxes, gasoline taxes, and various other taxes.

If those who favor the amendment care to discuss it further, Mr. President, I shall yield at this point.

The PRESIDING OFFICER. Does the Senator from South Carolina seek recognition?

Mr. HOLLINGS. Mr. President, the issue is still the same. It is a matter of payments. We understand about energy and everything else of that kind, but it is still a fact that that is the bottom line; namely, some $400.8 million in 1978 or $15.4 billion between 1978 and 1985, over and beyond budgetary limitations that have been fixed by the U.S. Senate. We did not have that liberty or discretion as an Appropriations Committee. That is why we had to come back and that is why the amendment faces us as an Appropriations Committee amendment. That is all we could do. We could not consider energy and all these other things, because it was not within our prerogative, under the directions of the Senate.

Having made the point, I think I am ready to vote on the amendment.

Mr. ABOUREZK. I want to ask a couple of questions. In voting for your amendment, in a sense, we are cutting out, over the life of the program, some $15 billion in tax refunds out of Treasury——

Mr. HOLLINGS. To businesses.

Mr. ABOUREZK. To different segments of industry. Who would be getting a refund out of the Treasury if they did not pay tax? Would that be public utility companies?

Mr. HOLLINGS. Well, the utility companies in the main, charitable institutions, certain schools, certain other nontaxpaying institutions.

Mr. ABOUREZK. Oil companies, refineries?

Mr. HOLLINGS. Oh, yes, the tax credit is still there. We never did get to the basis of that because it was obfuscated—I have learned that word since I have been up here—confused. We have done away with the refundable tax portion for those who do not pay taxes. For those who do, the credit is still there. This would have gotten rid of all of it. If someone would try to persuade the Senate that this would take away the substantial negotiating powers of our distinguished chairman of the Finance Committee in the conference with the House, there is still some $25 billion that this amendment does not touch. This only goes to the $15.4 billion.

Mr. ABOUREZK. I am trying to determine which industries benefit the most out of this particular giveaway provision that is in the bill and that the amendment would take out.

Mr. HOLLINGS. Utility companies and all that buy new boilers, new heavy equipment.

Since the Senator has asked that, let me refer to and make a part of the RECORD this letter. I did not want to get into this and delay the Senate.

In response to an inquiry by our Budget Committee dated October 26, 1977, Miss Alice Rivlin, the Director of our Congressional Budget Office, replied:

This is in response to your request that the Congressional Budget Office examine the effectiveness of the coal conversion tax tax credit provision (Section 1031) in the Energy Production and Conservation Tax Incentive Act (H.R. 5263), as reported by the Senate Finance Committee. Specifically, you requested that we estimate the proportion of the tax expenditures that would go to firms that would have converted to coal without such an incentive. This value is often referred to as an economic windfall since it represents a payment of firms for decisions which they would have made irrespective of the tax credit. This windfall is in contrast to that portion of the tax expenditure which induces firms to increase their coal use.

We have examined these issues and concluded that of the estimated 1.7 mbd oil equivalent of coal conversion qualifying for the proposed tax credit, about .8 mbd oil equivalent, or almost 50 percent, is likely to take place anyway. Thus, the windfall is about 50 percent of the proposed tax expenditures, or approximately $10–12 billion over the period 1978–1985.

The .8 mbd oil equivalent of coal conversion qualifying for the proposed tax credit projected to take place whether or not the tax credits are enacted consists of approximately .45 mbd oil equivalent in the industrial sector, and 0.35 mbd oil equivalent in the utility sector. These estimates are consistent with the data presented in the "Base Case" of the National Energy Plan, April 1977.

That plan was presented by the administration.

That goes directly to the point.

Mr. KENNEDY. Mr. President.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I want to make a very brief comment on the issue of refundability, because it is a concept which I think, under some circumstances, is very clearly justified. On reviewing the matters which have been raised by the Senator from South Carolina, I hope that the Senate will not be going on record either for or against refundability. Last year, I offered a refundable child care credit for working mothers and that was accepted by the chairman of the Finance Committee. It gave poor working mothers a refundable tax credit, which otherwise they would have been denied, while middle-income mothers would have been able to receive the credit. So the issue of refundability has some very broad policy implications. As a matter of simple equity, when we provide a tax credit, we ought to make it refundable.

I think the better part of wisdom is for the Finance Committee and the Appropriations Committee to try to work out what is necessary in terms of committee jurisdiction and what is necessary in considering tax expenditures, which have many elements in common with appropriations.

So in deciding this motion, I hope we will not be voting on the issue of refundability, because it is an important concept. It has been used, I think, effectively in ways I would strongly support, in the past in terms of the working poor.

I think it is one that deserves strong support in most instances. But I think the position which has been taken by the Appropriations Committee on the matter of jurisdiction is entirely justified.

Mr. President, in the past I have said that the existing 10-percent investment credit should be refundable. There are a number of newer industries that have not yet made profits. They are denied the investment credit because it is not refundable.

The current 10-percent investment credit, whether we are for it or against it, is basically a subsidy for industry.

By denying it to newer industries, or older industries that fail to have profits, we are basically saying that there is an important segment of our economy which is denied the investment credit if we do not make it refundable. The fairest and most equitable way, I believe, is to make it refundable.

The clearest example of the problem is an illustration in the automobile industry, where General Motors, because it is profitable, gets an investment credit, while Chrysler Corp. does not, because it has not had enough profits in the past few years. The investment credit lets General Motors pay $90,000 for a $100,000 machine. Why should Chrysler have to pay the full $100,000?

There are industries in my part of the country, older industries, which have been adversely affected because of the recent recession. They have not had the profits, and are denied the opportunity for the investment credit. Newer industries in my part of the country are denied it.

So the concept of refundability raises important equity issues which should not be lost sight of here.

On the particular issue here, I oppose the refundability of the 40-percent credit in this bill, because the credit is too large.

I would support refundability for about 10 percent, and I hope to offer an amendment to that effect.

I think that the 40-percent refundability is far too large, for other reasons that we will bring out during the course of the opportunity to debate that amendment. I would hope, if the Senator from South Carolina's amendment is accepted, to offer one to permit refundability up to 10 percent, which I think is warranted and justified by the committee's action and by the course of the hearings.

If the Senator from Louisiana is successful, I am going to make a motion to reduce the credit from 40 to 10 percent, because I think that is all that is justified.

But I wanted to express what I think are some of the considerations and some of the dilemmas in voting on this particular issue.

Mr. HASKELL. If the Senator from Massachusetts will yield for a question, I would concur with the Senator from Masachusetts that refundability is desirable because it evenhandedly treats the individual or the organization that makes a profit or does not make a profit.

But it occurs to this Senator, and I would like the Senator from Massachusetts' reaction, that this is not the place for an investment credit at all.

If we want companies to throw away their gas boilers and go into coal, some companies may be damaged to the extent of 70 percent. If they have a new plant, they may be damaged to the extent of 70 percent. If they have a very old plant they may be damaged to the extent of 5 or 10 percent.

I would pose the question to the Senator, whether he thinks this particular situation is a desirable place to treat everybody the same mathematically, whether they have an old or a new plant?

Mr. KENNEDY. Well, the hour is late in debate and the opportunities to alter or change this bill are few.

Mr. HASKELL. I understand.

Mr. KENNEDY. I favor an incremental refundable credit which has, according to the Library of Congress, the best opportunity for generating new capital formation, at the lowest cost to the Federal Treasury in terms of tax expenditure. But I do not think this is the place to debate it. We will have that chance to debate it on the tax reform bill next year.

But I would hope the Senator would feel that the reduction from 40 to 10 per cent would be a reasonable step here.

Mr. HASKELL. I say to the distinguished Senator from Massachusetts, I do not really know how I am going to vote on this particular motion. But I think the record should show that this is a perfect example where the investment credit is not tailored to the needs.

We want existing plants to convert. We are asking some of them to junk 80 percent of their investment and others 10 percent.

For the record, I hope in the future the Senate will look at things on a case-by-case basis.

I yield the floor.

Mr. LONG. Mr. President, let me just point out what this amendment does do and what it does not do.

It is to be presumed that with regard to most profitmaking companies they would get the tax credit, even without the refundability, because under the law, under a tax credit, they would get a 3-year carryback and a 7-year carry forward.

So most of them would be able to use the tax credit, no matter what level it might be.

It is true, even if this prevails, we might have to compromise it down from 40 to whatever, 20 or some other figure.

But no doubt about it, if the Senate position prevails there will be a big tax credit to help those who are required by law to convert to coal to do so, and that will help ease the burden.

But look at the inequities we would have, if you follow the Appropriations Committee amendment.

Here, let us say, is a city being served by a privately owned taxpaying power company. They get the benefit of the tax credit. Here is another city being served and having to convert, but this is a city-owned plant. We have two of those in Louisiana. It is a city-owned plant, owned by the community, or it is a rural electric plant. We are privileged to have a big REA plant in our State. They do not get it, so they have to put it in their rates and charge the farmers and all those people in their area a higher rate. You give a big tax credit to the privately owned companies. They call them privately investor-owned companies. While they get it, REA does not get it, the city-owned plant does not get it, the universities do not get it, the schools do not get it, the charitable organizations and nonprofit organizations do not get it.

Furthermore, any new organization, any new company which does not have the profits does not get it. It is hoped that in the future they might be able to make some money, but if they are new in the business, they do not get it, either.

So you would create the kind of inequity we frequently complain about: "Them as has gets, and them as don't have can do without."

So you have brought about the kind of anomaly we would seek to achieve with the tax credit, where the farmer at the end of the REA line, on REA electricity, does not get it, and the person in the city-owned plant does not get it, and local governments, county governments, and State governments—whatever they have along this line—do not get it.

The same would be true with regard to all these people who would get the 10 percent but who install an automatic energy-control system, a preheater, a combustible gas recovery system, an economizer, an industrial heat pump, a recuperator, a heat wheel, a regenerator.

If you have the good fortune to have profits and pay taxes, you get it. If you do not have that good fortune, you just do without. It works on the principle that "Them as has gets it," which we Democrats like to use from time to time in advancing our philosophy. But it runs contrary to it, Mr. President, because we Democrats like to think we are going to give the little fellow and the new man in business the same break as the others.

So we do not think this is a good provision. In other words, it would give those who are doing very well the benefit of the tax credit, and those who are not doing so well or those nonprofit organizations or universities or city governments or rural electrification units would do without.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. LONG. I yield to the distinguished Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I say to the able Senator from South Carolina that I believe the letter is not a correct communication so far as giving a figure is concerned, whatever the figure may be, because it appears to be picked out of the air, absolutely.

I can say to the Senator that the electric generating plants of this country that we are attempting to have use coal instead of natural gas and oil are reluctant—extremely reluctant—to do this. They are continuing to resist conversion.

I remind the Senator that the Senate and the House have mandated a change-over from natural gas and oil to coal. If the Senator will check this issue carefully he will find that there has been strong resistance by the electric companies, the utilities of this country, and other units of power generation, to make

the change to coal. There has been a limited program of coal conversion in law since 1975—and the changeover to coal has not come about as we had hoped. That is one of the major reasons now why the Congress is in the process of approving more comprehensive coal conversion legislation that is presently in conference.

I say, very kindly but very pointedly, that the figure used in the communication is not correct.

Mr. LONG. Mr. President, I ask unanimous consent that I may yield to the Senator from South Carolina, if he wishes to respond.

Mr. HOLLINGS. I will be glad to do so.

I obviously do not have the methodology that my distinguished colleague from West Virginia has. But in my experience of working, there could be a misunderstanding on my part or on his part.

I doubt that the figures or facts here are incorrect, in and of themselves. They read pretty clearly to me.

What she does, as I understand, is to take the national energy plan for April of 1977 and find out from the actual trends of usages and conversions that have occurred—let us say, this particular year and the preceding calendar year, down the line—watching the general trends with respect to conversion. From the shortage of natural gas, a lot of things bring about that conversion. One thing was the awfully cold winter we had last year. So they were not waiting on the Finance Committee, or the Senate, or the Senator from South Carolina to come along with a tax credit plan. On the contrary, they just could not wait any longer, and they began to convert. So, in working with Dr. Rivlin and the Congressional Budget Office, we think that generally they have been on target.

The Senator from Oklahoma has been trying to speak for some time, so I will yield to him.

Mr. BELLMON. Mr. President, to begin with, I call the attention of my colleagues to the fact that this is not basically a Hollings amendment. This is an Appropriations Committee amendment, which was agreed to by the membership of the Appropriations Committee, and Senator HOLLINGS is simply doing the bidding of the full committee.

Also I should like to make the point that we are not necessarily against the purposes that the Finance Committee has in mind when it establishes a refundable tax credit. Our point is that we are spending about $15 billion which has not had to be reviewed as other expenditures are reviewed and that this is not just a technical matter nor a jurisdictional matter in which the Appropriations Committee is trying to protect its territory. We feel it is an important issue and one that the full Senate should consider.

A refundable tax credit is a mechanism whereby the Government spends money just as though an authorizing bill and an appropriation bill had worked their way through the legislative process. So, what we have here is a mechanism for avoiding the whole authorizing and appropriating process. A refundable tax credit, therefore, does not have to be measured against all the other demands for spending, and a refundable tax credit survives regardless of its priority or cost-benefit analysis.

It becomes an entitlement which is not subject to regular and periodic review and evaluation.

I call the attention of the Senate to how far we have gone down this route. If we take a look at what we think of as backdoor spending, we find that refundable tax credits are just a part of the problem. In fiscal year 1977 we could calculate the total backdoor spending to be almost $300 billion. That is how much money passes through the Treasury without the appropriations or authorizing committee even taking a look at it—$300 billion. That breaks down into $134 billion which was not appropriated. We have off-budget spending and loan guarantees of about $8 billion in fiscal year 1977 and then tax expenditures of $125 billion.

So, of our total amount of spending in this country, about $300 billion goes on automatically, without the review of either the authorizing or the appropriating committees.

It is easy to see that a refundable tax credit could be designed for anyone and for any purpose. It does not matter whether the recipient is a taxpayer or a nontaxpayer. It could be a private citizen or a large corporation. Further, it does not matter whether a spending program designed by the committee of spending jurisdiction already exists.

These kinds of spending schemes come in on top of everything already in place, and they are not reviewed by the authorizing committees nor by the appropriating committees in a regular manner.

It seems to me that this issue concerns every Senator regardless of the committees assignment and regardless of personal or economic philosophy, and regardless of the merits of this particular tax expenditure.

This is not an Appropriations Committee problem, nor a Budget Committee problem, but it is a problem for every committee in the Senate. The bill as reported included refundable credits for energy equipment, for intercity buses, and for residential conservation; so the credits obviously affected the Energy Committee, the Commerce Committee, and the Banking, Housing, and Urban Affairs Committee.

The next time we could see a refundable tax credit that affects agriculture, military personnel, or environmental programs, overseas programs, veterans, or any other committee, and in those cases we would be invading the jurisdiction of the committees that have those responsibilities.

So I hope when we vote on this issue, and I hope we will vote very soon, that we will see this problem in its proper light.

It is not only a matter between the Appropriations Committee and the Finance Committee, but it is also whether or not the Senate is willing to give up the traditional areas of responsibility and turn them over to the Finance Committee and, in effect, allow them to vote these refundable tax credits without proper review.

SEVERAL SENATORS. Vote.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that David Johnson, of Senator MUSKIE's staff, be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Does the Senator from South Carolina seek recognition?

Mr. HOLLINGS. Yes.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I will go along with the wishes of the manager of the bill at this particular point. If the manager wishes a voice vote or wants a rollcall vote—let me ask for the yeas and nays on the amendment, if that is what he wants.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, it seems to me that we have debated this amendment as long as Senators want to debate it. I do not want to cut off debate. I want to vote on a motion to table.

Therefore, I move to lay the amendment on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay the amendment on the table. (Putting the question.)

Mr. LONG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to lay the amendment on the table. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. Senators will please clear the well. Senators will clear the well.

The clerk will suspend.

Senators will clear the well. Senators will please clear the well.

The clerk will proceed.

The second assistant legislative clerk resumed and concluded the call of the roll.

Mr. DECONCINI (after having voted in the affirmative). Mr. President, on this vote I have a pair with the distinguished Senator from Maine (Mr. MUSKIE). If he were present and voting he would vote "nay." If I were at liberty to vote I would vote "yea." Therefore, I withhold my vote.

Mr. MCCLURE. Regular order.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Illinois (Mr. STEVENSON), the Senator from Georgia (Mr. TALMADGE), the Senator from Minnesota (Mr. ANDERSON), the Senator from Delaware (Mr. BIDEN), the Senator from Montana (Mr. METCALF),

and the Senator from Minnesota (Mr. HUMPHREY) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. BAKER. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Utah (Mr. HATCH), the Senator from Oregon (Mr. HATFIELD), the Senator from California (Mr. HAYAKAWA), the Senator from New York (Mr. JAVITS), the Senator from Alaska (Mr. STEVENS), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT) is absent on official business.

On this vote, the Senator from New York (Mr. JAVITS) is paired with the Senator from Oregon (Mr. HATFIELD). If present and voting, the Senator from New York would vote "yea" and the Senator from Oregon would vote "nay."

I further announce that, if present and voting, the Senator from Alaska (Mr. STEVENS) would vote "yea."

The result was announced—yeas 38, nays 41, as follows:

[Rollcall Vote No. 592 Leg.]

YEAS—38

Allen	Haskell	Pearson
Baker	Heinz	Pell
Bartlett	Helms	Randolph
Bentsen	Huddleston	Ribicoff
Byrd, Robert C.	Johnston	Roth
Cannon	Laxalt	Schmitt
Cranston	Long	Sparkman
Curtis	Matsunaga	Stone
Danforth	McClure	Thurmond
Eastland	Melcher	Tower
Garn	Moynihan	Wallop
Gravel	Nelson	Williams
Hansen	Packwood	

NAYS—41

Abourezk	Durkin	Morgan
Bayh	Eagleton	Nunn
Bellmon	Ford	Percy
Brooke	Glenn	Proxmire
Bumpers	Hart	Riegle
Burdick	Hathaway	Sarbanes
Byrd, Harry F., Jr.	Hollings	Sasser
	Jackson	Schweiker
Case	Kennedy	Stafford
Chafee	Leahy	Stennis
Chiles	Lugar	Weicker
Church	Magnuson	Zorinsky
Clark	Mathias	
Culver	McIntyre	
Dole	Metzenbaum	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

DeConcini, for.

NOT VOTING—20

Anderson	Hayakawa	Muskie
Biden	Humphrey	Scott
Domenici	Inouye	Stevens
Goldwater	Javits	Stevenson
Griffin	McClellan	Talmadge
Hatch	McGovern	Young
Hatfield	Metcalf	

So the motion to lay on the table the committee amendment was rejected.

Mr. BROOKE. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. LONG. I would like to vote up or down on the amendment, but I want Senators to hear just for a few minutes what this thing is all about before we vote.

Mr. WEICKER. I move to reconsider the vote.

Mr. LONG. I am not going to move to reconsider. I want to vote up or down on the amendment.

Most Senators did not hear the debate, and I want the Members to hear for a moment or two what this is all about. Most of the Senators who discussed this with me and the Senator from Nebraska changed their votes, because they did not know what this was all about. Let me tell them what this is all about.

This committee amendment by the Committee on Finance does not strike this 40 percent tax credit for converting to coal—it does not do that, oh, no, it just takes it out for certain people. Who does it take it out for? It takes it out for the utilities financed by the Rural Electrification Administration. In other words, if you are an investor-owned company, and you are paying taxes, you get the investment tax credit against those taxes, a 3-year carryforward——

Mr. STENNIS. Mr. President, may we have order, here? Could the Chair clear the well and ask for order?

The PRESIDING OFFICER. The Senators will please cease their conversation on the floor. The Senate will be in order. Authorized staff will retire to the seats in the rear of the Chamber. The Senate will please come to order.

The Senator from Louisiana.

Mr. LONG. Mr. President, in my State we are building a big REA generating plant. It will have to change over and use coal. All right. Now, they will not get the tax credit, but the private investor-owned will get a 40-percent tax credit under this bill on that Appropriations Committee amendment. They will get it, the privately owned taxpaying companies will get it, and they will get a 3-year carryback and 7-year carryforward to take advantage of that 40 percent tax credit. The little REA cooperatives are going to have to raise their rates to all those farmers and all those small communities because they do not get it, so they will have to raise their rates while the privately owned investor-owned companies will get a big tax break, and that will reduce the rates, of course, because they will not have to put it in their rate base.

We have little communities, we have cities that have generating plants. They do not get it. If they were investor-owned, they do get it.

There are hospitals involved; there are nonprofit organizations; there are schools involved, and they do not get the benefit of the tax credit, because they are not taxpaying organizations. The taxpaying organizations do get it.

Mr. President, nobody has tried to contend that this investment tax credit, even the 10 percent investment tax credit, is to take care of an expense. It is a subsidy to encourage somebody to do something, and in this case the investment tax credit we are talking about here, the 40 percent, and also the 10 percent for using efficient equipment, all of that is a tax credit to encourage people to either convert to coal or a tax credit to encourage people to use more efficient equipment, and they ought to get it, Mr. President, whether the organization is owned by private investor-owned or whether it is owned by the Sisters of Charity if it is doing the same thing. If they earn it they ought to get it whether it is a small city or whether it is an REA, or whether it is a big privately owned organization.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. CURTIS. How about all the State universities?

Mr. LONG. They will not get it.

Mr. CURTIS. The colleges?

Mr. LONG. They will not get it.

Mr. CURTIS. All the Ivy League schools, the nonprofit institutions?

Mr. LONG. The point is you are saying here that—

We are asking you to do something in the national interest. We ask you to save energy, and if you will save energy we propose to give you a subsidy; we propose to give you an incentive, and we are going to do it by using the tax system.

There is precedent for it, Mr. President. But the Appropriations Committee amendment would recommend that the REA not get it, that the public bodies not get it, that the State and local governments not get the benefit of it; that the charitable organizations not get the benefit of it; that the universities, the colleges, not get the benefit or that some new organization, some new business——

Mr. BENTSEN. How about the Salvation Army?

Mr. LONG. They would not get it.

Now, Mr. President, this is a case where you could either give it to all those who comply or you can give it to some and not give it to others.

Even among private business organizations, a new organization starting out that does what you call upon them to do, but because it is a new business has no earning pattern, has not had a chance to generate enough income to have a carryback and a carryforward or to make much profit at all, they would not get the benefit of it.

Mr. President, that is patently inequitable, it is patently unfair; and Mr. President, the Committee on Finance has dealt with it for a longer period of time than the Appropriations Committee.

I am sure the Appropriations Committee has thought about it, but we in the Committee on Finance have been talking about it year after year. We talked about it year after year to convince one of the best conservatives serving on that Committee on Finance that if you do something like this it ought to be a refundable credit, because this is a subsidy. It is a subsidy to get somebody to do something. It is not related to his actual out-of-pocket expenses; it is something you pay to help get him to do something you want him to do. If he does what you want him to do, he ought to have the benefit

of it, and if he does not do it, he should not have the benefit of it, but it should not depend on the amount of his tax liability.

Now, Mr. President, that is the case for a refundable tax credit and, in my judgment, Mr. President, the Senate will regret it if they do not agree with it, if the Senate concludes that you are going to provide the tax credit for those fortunate people who are making a lot of money and paying a lot of taxes, business organizations, or whatever, and you are not going to provide it for the charitable organizations, the colleges, the universities, the nonprofit institutions, the municipal governments, the public power groups that do the same thing and have the same right to it, to the same subsidy by way of the tax system, that those that are the investor-owned companies and the taxpaying companies paying a lot of taxes, of course, would receive if they earned the subsidy, they ought to have it.

Mr. BUMPERS. Mr. President, will the Senator yield for a question?

Mr. LONG. Yes.

Mr. BUMPERS. Under the present law, the 10-percent investment tax credit is not a refundable tax credit, is it?

Mr. LONG. No, it is not.

Mr. BUMPERS. Well, these same people the Senator is talking about now, the municipally owned companies, REA and so on, you said a while ago that the investment tax credit is to try to get people to do something. The 10-percent investment tax credit has always been, at least I have always thought it was, designed to get business to invest, and in determining their tax liability and taking into consideration the investment tax credit they could get, they would make a decision on whether to invest or not. But these people the Senator is talking about have never gotten the advantage of the investment tax credit, whether it was 7 percent or the current 10 percent.

If that is the rationale, what is the rationale for now making them eligible for the additional 40 percent?

Mr. LONG. All right, let me give the Senator the rationale. Here it is: We want you to convert at very great expense gas-burning boilers over to a coal-burning boiler, and if you will do that we will give you a tax credit to help you to do it, so we are going to pay you an incentive to get you to save energy in the Nation's interest.

If we want you to do it, and we are encouraging you to do something, and we are going to help you pay the cost of it by a subsidy that we are paying out of the Treasury, why should we just give it to those who are private investor-owned groups and are making that much profit and not give it to the others?

The whole trend has been, may I say to the Senator, toward more and more taking and recognizing this factor that the people who have earned it and people who deserve it ought to get it whether they pay that much tax or not.

Mr. RIBICOFF. Mr. President, if the Senator will yield, I think the Senator from Arkansas raised a basic question that ought to be explained.

The original purpose of the investment tax credit was to induce the business and manufacturing community during the depression or low economic periods to buy new equipment to refurbish their plants so that they would get going and lift our economy and, therefore, we gave the investment tax credit to the business part of America to help the employment and the economy.

If you are talking about the Salvation Army or a hospital or a university, they did not have a plant or manufacturing organization for which they used investment tax credit, so the investment credit has a basic economic or social or political objective.

Now you come across and you want to convert from oil and gas to coal, so this becomes an objective all of its own. So you have the inducement of a 40-percent investment credit for the changeover to coal.

So that here we have another objective and we want to make certain that the institutions which are not profit-making will turn over and change to coal from oil and gas. That is the reason of a different rationale that we did not use before because we have different objectives, different purposes, and different uses.

Mr. BENTSEN. Will the Senator yield?

Mr. LONG. I yield.

Mr. BENTSEN. The Senator from Arkansas has raised a very significant point. I think we are seeing a transition taking place. We have seen it take place in the Finance Committee and here in the Senate, where the Senator from Massachusetts used to argue for a refundable tax credit. We talk about some of the inequities we see in a company not making a profit and not being eligible for an investment tax credit. He has proposed a refundable tax credit.

This kind of mood or change of mood has taken place in the Finance Committee. I am talking about the Senator from Nebraska moving to that position. It is to try to bring equity as to whether a company is making a profit or not, and in this case doing it by a refundable tax credit.

Mr. BUMPERS. If the Senator would permit me to make an observation, it would be this: For example, REA cooperatives obviously are going to be put at something of a competitive disadvantage when they are forced to convert with no refundable tax credit. They are not going to get any of the 40 percent back that they invest. That is unfair.

By the same token, of course, these people are not taxed entities. They get that competitive advantage over the private investor-owned utilities.

I wish the refundable tax credit were not what I consider so exorbitant. I could go along with perhaps some increase in the investment credit, but 40 percent seems to me like an exorbitant amount, with 10 percent, for a total of 50 percent. It makes one pause to wonder why we should not just pay the other 50 percent and take them over, if we are going to have to foot 50 percent of the bill. That seems like an exorbitant amount.

We have this refundable tax credit which is an advantage to the investor-owned utilities against the fact that the publicly owned do not pay any taxes. I wish the two were sort of in balance, but they cannot be in balance when the refundable tax credit is as high as 50 percent.

Mr. LONG. May I make one point there? The final point may be 40 percent, or, frankly, we may have to reduce it in conference. For all I know, they may force us to cut it a lot in conference, to try to work out a conference agreement. There is no way to tell. They might make us settle for half or less. In any event, whatever the figure, whoever is getting it, it is still going to depreciate that plant. He is going to be able to depreciate the full cost of it even though he gets the investment tax credit.

Is it fair, if we are going to let him depreciate the plant as well, to give that additional advantage to the privately owned company over the publicly owned company, let us say to the private generating facility over the REA?

Is it fair to give that much additional advantage over these local public power districts, the community-owned facilities?

Is it fair to give that much advantage to the other organizations such as universities and hospitals?

Is it fair to give that much advantage to a new business compared to an old business?

I am not talking about whether the credit is too generous. It may be. If so, perhaps an amendment should be offered to reduce it.

The other thing is more important to me, just as a matter of justice and fairness, it seems to me, if people do what you want them to do. In some cases the final answer may be that we are going to make them do it. In fact, as the committee recommended, we would be making these people convert by the time the House got through, but we would be helping to pay for it, if they took part of the Senate amendment.

If that were the case, would it be fair that the help in converting would apply to all and not just to the so-called investor-owned facilities?

Mr. BUMPERS. Let me ask a question. The Senator said something of interest to me a moment ago. I am not a public accountant and I do not know enough about tax law to ask these questions. Is the investor-owned utility going to get this 50-percent tax credit? The Senator said they also get the right to depreciate the total amount. If the investor-owned utility was going to build a plant at a cost of $1 billion, first of all they are entitled to a tax credit.

Mr. LONG. If the Senator will make it $100 million, I can calculate better.

Mr. BUMPERS. First of all, they are entitled to a 50-percent tax credit, which is refundable. So they have recovered half of their cost. Is the other $50 million depreciable?

Mr. LONG. Yes.

Mr. BUMPERS. So they recover all the expenditures they have put out, is that correct?

Mr. LONG. Let us put it more like it is. I believe the Senator will find that

companies in that category are probably paying about 20 percent of their income in taxes.

Mr. BUMPERS. I am using a hypothetical case.

Mr. LONG. Well, if they depreciate, let us say, a $100 million plant against a 20-percent rate, that is worth $20 million. If there is a 50-percent credit, that is worth $50 million. So they are out $30 million. It is 50 plus 20 being 70. So they are out $20 million.

Mr. BUMPERS. To use a hypothetical case, let us assume this is a good, honest utility company who will pay a full 48 percent on all earnings above $50,000. His first refundable tax credit is $50 million, so he has recovered 50 percent of his investment. Then he depreciates $100 million, and if he were in that hypothetical category, which a lot of people are in, he recovers another $48 million, so he has recovered $98 million of his $100 million investment. Is that a fair statement?

Mr. LONG. If the Senator can find one of those people actually paying 48 percent, that is right. What has been proven when that has been done? It has proven that perhaps it is being too generous to this investor-owned organization, and pointing up the inequity that that REA organization is not getting any help at all.

To take the Senator's example, the Senator is saying that the investor-owned company is getting 98 percent of his bill paid, which is difficult to justify. If that is the case, yes, perhaps so, but does that point up the fact that the REA over here, if they have to do the same thing, ought to be permitted to have at least 40 percent of theirs taken care of?

Mr. BUMPERS. For those of us who come from States where REA covers a substantial part of the rural areas of the State, it is a very difficult decision to have to make. The point is the REA as well as municipally owned utility companies and all other publicly held utility companies do not pay any taxes. They never have to take their tax liability into consideration in determining whether to make an investment. As I say, I would not have objected to some increase in investment tax credit, I think even a refundable tax credit, which the Senator from Massachusetts has championed on more than one occasion in this body. But, as I say, we do not balance out the increase in investment tax credit against the failure, for example, of publicly owned utilities to pay taxes. I think that is unfair. I wish we had it on a more equal basis.

Mr. BUMPERS. I do not want to belabor the point. I have made the point that I want to make.

Mr. LONG. My point is that this investment tax credit, as applied to energy, is a subsidy and it is a reward to those who do what we want them to do, which is install—either to convert to coal or to use and install the kind of energy equipment that we would like to see them install. If we are going to pay the subsidy, why deny it to grandma just because she did not make enough to pay taxes? Why should not everybody get the benefit of a subsidy if we are going to pay it? That is the whole point of making it refundable. That is my argument.

If you say it is too generous to the guy who gets it, if it is, then this other fellow is not getting any benefit out of it at all. So it is unfair that he is not benefiting from it, it seems to me.

Mr. RIBICOFF. May I have this colloquy with the Senator from Arkansas, because I understand what is bothering him.

The Senator from Arkansas is the Governor of Arkansas and I am the Governor of Connecticut. Most of our heating is done by oil in the State of Connecticut and the State of Arkansas, and we have budget problems. Now we have a policy that we want to convert from oil to coal. We get our public works department and they say, "Governor, it is going to cost us a million dollars to convert from oil to coal."

No one is going to make you, but you feel you ought to do that for the good of the country, the good of the energy problem, you should convert your campuses and your other public buildings, from oil to coal.

You suddenly ask yourself, where are we going to get that million dollars for the conversion. Money is tight. But suddenly, we come up and we say, well, they passed a law down there that, if we do convert from oil and coal, we will get a refundable tax credit of $400,000.

The budget picture comes to the Senator on his desk as Governor and my desk as Governor, and we look at it. We might not be willing to spend the $1 million, but we will spend $600,000 and, even though it is costing us some money, we will be able to balance out the equities.

What we are saying is a public policy—if energy is so important and oil and gas are so important that we save and convert to oil, we are going to be helpful to those institutions that do not have the funds to do it as a private corporation would have the funds and would get the credits. We are going to make it possible for hospitals and schools in States and city halls to go back and convert. We are saying that the Federal Government and the taxpayers are going to give us a break to help us.

Do I explain the policy?

Mr. LONG. Yes.

Mr. RIBICOFF. I think this is the problem we were faced with.

Mr. BUMPERS. As I say to the Senator, I do not want to belabor the point. I wish the investment tax credit were smaller. You know, this refundable tax credit in this bill is really supplemental to the mandate in the coal conversion bill which the energy conference committee is going to be taking up next week, which came out of our committee. It is supplemental to the coal conversion bill, which mandates that all of these plants convert, anyway, by 1990. What we are doing here is saying, we would like to expedite it, we would like you to do it as quickly as possible, and we are going to give you this really tremendous investment incentive to do it.

My point is that I simply think it is too high. There is not anybody here who would like to see this speeded up more than I would. But I think if we take 1½ million barrels a day, which is projected to be the savings under this conversion, and put it to the cost to the Federal Government of $27 billion, which is supposed to be the cost of this conversion tax credit by 1985—I have not done an analysis on it, but I just wonder how much the Government is going to be paying a day in subsidy for that 1½ million barrel savings.

Mr. PACKWOOD. I can give a partial response to that.

The PRESIDING OFFICER. The Senator from Louisiana has the floor.

Mr. McCLURE. Will the Senator yield to me for a unanimous-consent request?

Mr. LONG. Yes, I yield.

Mr. McCLURE. Mr. President, I ask unanimous consent that Ron Shiflett of my staff may be accorded the privilege of the floor at all stages of the proceedings during this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Will the Senator from Louisiana yield for a response?

Mr. LONG. Yes.

Mr. PACKWOOD. Although the total figure mentioned includes the refundability and the nonrefundability part, the refundability part of this credit is about two-thirds of the savings. It will save about 945,000 barrels of oil a day. The cost is not the full $27 billion, but closer to $20 billion over the entire period. In 1985, the cost for that year is $3.2 billion. The cost to purchase 945,000 barrels of oil at today's prices is $4.9 billion.

So where is the Government better off, where is the taxpayer better off? The taxpayer would be better off, literally, if we raised the taxpayer's taxes enough to pay the $3.2 billion than to pay $9.4 billion to buy the same amount of oil overseas.

Mr. WEICKER. Mr. President.

Mr. BUMPERS. May I make this point? If the Senator from Connecticut would let me make one point, then I shall shut up.

The 1½ million barrels of oil a day savings that the Committee on Finance represents will be saved by this provision——

Mr. PACKWOOD. Not the Finance Committee, the Joint Committee on Taxation.

Mr. BUMPERS. The Joint Committee on Taxation, whoever—neglects one fact. That is that this conversion is going to take place under a mandatory requirement under the Coal Conversion Act, anyway.

I think we can safely assume that we will get all of this conversion by 1990 whether we give a tax credit or not. So if we want to allocate the tax credit to some formula by deciding that conversion will occur maybe 2, 3, or 4 years sooner than it otherwise would, then I think we can take credit for the barrels saved on that basis. But I do not think we can take credit for 1½ million barrels a day.

Mr. PACKWOOD. First, this is a lot more than just conversion to coal. This

is conversion to hydroelectric, geothermal, solar, whatever we are trying to encourage people to shift to and away from oil and gas.

Over the days we have been debating this, people have been challenging the figures. I would not necessarily say that every figure that has been cited is accurate. All we can do is go on the best figures we have, and these are the best figures we have. The question is, Are we willing to give up the refundability, in exchange for that, if our estimates are accurate—and that is all we can go on—increase the amount of oil we shall be importing by about a million barrels of oil a day. We are only importing today 0.8 million. This is roughly 12 to 13 percent of all the oil we import.

If we have nothing but two choices—go with the refundability to have it cost the Treasury $3.2 billion a year, or eliminate the refundability and pay $4.9 billion a year to buy the oil we would otherwise save—from a strictly budget or financial standpoint, I cannot see why we do not choose the refundability.

Second, from a standpoint of equity, the chairman has made the point over and over: all the amendment is cutting out is the refundability for the companies in this country that are prosperous. They will be able to write off a total tax credit against their tax liability, reduce their taxes, and take the full advantage of the encouragement that we are trying to give to convert. To those companies that are new and fledgling, barely making a profit, to every eleemosynary institution in this country, every nonprofit organization in this country, we are simply yanking out from under them the rug of incentives, leaving them to the General Motors and General Electrics, taking it away from the Salvation Armies and Good Wills. And the bottom line is we are importing 1 million barrels of oil a day or more.

I ask you, where is the financial good sense, where is the national security good sense, where is the equity in that kind of conclusion?

Mr. WEICKER and Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. WEICKER. Mr. President, I suppose I have to ask a question as to whether or not we are going to be allowed to vote on the amendment of the distinguished Senator from South Carolina. I think that is really the issue here. It is not a matter of discussion. It is quite frankly a parliamentary device we are being placed through so we can go around the formal procedure of the Senate. I am not one of those who ever believed, and hopefully never will, that the end justifies the means. I think we are talking about the appropriations process, the budget process. I think these things should be observed.

I wish the distinguished Senator from Louisiana were on the floor now because I would like to know whether or not we are going to vote on the Hollings amendment now.

If he wants it delayed, I think that should be known also. If that is the case, I will be glad to go ahead and hold the floor because I know that I can hold the floor as long as anybody else can.

I sympathize with the problems that confront the Finance Committee, but the reason we are here debating this particular issue is because of the inability of the Finance Committee to do its job.

Had it done its job, there would have been plenty of time to go through the requirements of the process and those requirements certainly include the Appropriations Committee and the Budget Committee.

I am not willing to trust an energy policy to any one or several individuals, in essence this body, without instructions.

I grant, we had a test on that matter several times before. But now we are going even further. We are going to the point of obviating the normal processes of this body.

I advise my colleagues that this is something, sooner or later, that will catch up with each one of them.

I notice the distinguished Senator from Louisiana is in the rear of the Chamber. I wonder if he might respond to my question as to whether or not we could have a vote on the amendment of the Senator from South Carolina immediately.

My question to the distinguished Senator from Louisiana is whether or not we could possibly have a vote on the substance before us, his motion to table having failed, as to whether or not this matter now not be voted up or down. Really what we are voting up or down is not the substance or the merits, which have been described very eloquently here by both sides, but merely the matter of procedure.

I am not willing to go ahead and follow a procedure by anyone in this body. I point this out as to whether or not it is violating the appropriations process or the budget process.

I realize that having been on the short end of the vote, there may be unwillingness to have a vote immediately on the amendment before us, the amendment of the distinguished Senator from South Carolina. Is this something we can have right now, or not?

Mr. LONG. Well, Mr. President, I do not hold the floor. The Senator has the floor.

Mr. WEICKER. I ask the Senator from Louisiana as to whether he would be willing to have a vote on this matter right away?

Mr. LONG. I am not the one speaking.

Mr. WEICKER. No. I asked the question, and the Senator has not answered.

Mr. LONG. Whoever is the one doing the speaking is the one preventing us from having it.

Mr. WEICKER. I am not dealing in semantics but merely saying I would like to know if the Senator from Louisiana is willing to vote on the Hollings amendment right now. I am sure if he said "yes," we could all get to that vote right away.

Mr. LONG. I will make the Senator a proposition, if he will pair with the distinguished Senator from Georgia (Mr. TALMADGE), it will be right now.

Mr. WEICKER. What is of concern to me, and I think to many on this floor is the urgency of the problem that confronts the U.S. Senate in the sense of an energy crisis. Certainly, the distinguished Senator from Louisiana has made very substantial contributions to going ahead and resolving that crisis.

On the other hand, I have to stop somewhat short of entrusting the fate of the resolution of this crisis to his hands and his hands alone.

He and I have had this pointed out, I believe in the Tax Reform Act of 1976, where I was told that everything would work out if the Senator from Louisiana could go to conference.

I disputed then and now many of his philosophies, and the principles I would agree with on this issue.

But I will not agree to either he or the President of the United States having the power to resolve something which each one of us wants to address ourselves to and to go ahead and advocate to this same body that we should circumvent the appropriations process or the budget process.

I do not care what the merits are. First of all, we have to get to first base.

On its merits, I voted for much of what the Senator from Louisiana believes in. Deregulation, decontrol.

I do not believe I am very much opposed to the Senator from South Carolina philosophically. But I am not willing, no matter what the merits are, to go ahead and tread over the bounds of these processes which guarantee a thorough examination of any problem. That examination has to be made both from the sense of substance and merit, and that is the purpose of the authorization in the terms of appropriation and the terms of budget, all these elements.

I am not willing to go ahead and lump them into one committee. That is what is involved here.

I think the arguments presented by the distinguished Senator from Oregon and the distinguished Senator from Arkansas are, indeed, very enlightened, but they do not get to the point which now confronts us.

Are we, under the weight of the emergency and the crisis, willing to throw procedure overboard? That I am not willing to go ahead and do.

I think in essence the reason why the distinguished Senator from Louisiana lost on the last count was not because of his philosophy, not because of the merits, but because this encroachment of law and of custom, when it takes place, takes place under the guise of emergency and of the seriousness of any particular problem.

This is what is at issue now. That is why I say, why not get on to the business of voting on the motion of the distinguished Senator from South Carolina because, indeed, it really has not that much to do with substance or merit. It has to do with the procedures of the U.S. Senate.

I think we can get it over with very fast. Let us keep going on amendments and on substance, as I have indicated.

Mr. LONG addressed the Chair.

Mr. WEICKER. I do not yield the floor. I will yield for a question.

Mr. LONG. May I say to the Senator, I am not going to delay a vote. We are going to vote. But I say to the Senator, I thought we satisfied all the procedural complaints of the Appropriations Committee when I supported the motion to recommit the bill and report it back with their amendments, so that the amendment has the dignity of the Appropriations Committee behind it, and having done that we have our amendment and we have theirs.

I did the best I could. I thought I satisfied that.

I am willing to vote. It is all right with me.

Mr. WEICKER. May I ask the distinguished Senator from South Carolina if he is now willing to vote on his amendment?

Mr. HOLLINGS. I am prepared to vote. I would like to say one word, if the Senator will yield 1 minute.

Mr. WEICKER. I yield——

Mr. HOLLINGS. I lost my audience, but I still have the chairman of the Finance Committee.

In essence, if we look on page 23——

Mr. WEICKER. Is this a question?

Mr. HOLLINGS. Well, I was going to make—I will make it into a question.

Mr. WEICKER. I yield the floor; I have heard the Senator from Louisiana. He has indicated willingness to have a vote. That is good enough for me.

I yield the floor now. I hope we can have a vote on this matter.

Mr. HOLLINGS. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

Does the Senator from South Carolina seek recognition?

Mr. HOLLINGS. I am ready to vote. Let us see what happens.

The PRESIDING OFFICER. The question is on agreeing to the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DECONCINI (after having voted in the negative). On this vote I have a live pair with the Senator from Maine (Mr. MUSKIE). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." I therefore withdraw my vote.

Mr. SPARKMAN (after having voted in the negative). On this vote I have a live pair with the Senator from Ohio (Mr. METZENBAUM). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." I therefore withdraw my vote.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Illinois (Mr. STEVENSON), the Senator from Georgia (Mr. TALMADGE), the Senator from Montana (Mr. METCALF), the Senator from Delaware (Mr. BIDEN), and the Senator from Ohio (Mr. METZENBAUM) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

I further announce that if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. BAKER. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Utah (Mr. HATCH), the Senator from Oregon (Mr. HATFIELD), the Senator from California (Mr. HAYAKAWA), the Senator from New York (Mr. JAVITS), the Senator from Alaska (Mr. STEVENS), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT) is absent on official business.

On this vote, the Senator from Oregon (Mr. HATFIELD) is paired with the Senator from Alaska (Mr. STEVENS). If present and voting, the Senator from Oregon would vote "yea" and the Senator from Alaska would vote "nay."

I further announce that, if present and voting, the Senator from New York (Mr. JAVITS) would vote "nay."

The result was announced—yeas 30, nays 47, as follows:

[Rollcall Vote No. 593 Leg.]

YEAS—30

Abourezk	Culver	Morgan
Bellmon	Dole	Percy
Brooke	Glenn	Proxmire
Bumpers	Hart	Riegle
Burdick	Hathaway	Sarbanes
Byrd, Harry F., Jr.	Hollings	Schweiker
	Jackson	Stafford
Case	Kennedy	Stennis
Chiles	Lugar	Weicker
Church	Magnuson	
Clark	Mathias	

NAYS—47

Allen	Gravel	Nunn
Baker	Hansen	Packwood
Bartlett	Haskell	Pearson
Bayh	Heinz	Pell
Bentsen	Helms	Randolph
Byrd, Robert C.	Huddleston	Ribicoff
Cannon	Johnston	Roth
Chafee	Laxalt	Sasser
Cranston	Leahy	Schmitt
Curtis	Long	Stone
Danforth	Matsunaga	Thurmond
Durkin	McClure	Tower
Eagleton	McIntyre	Wallop
Eastland	Melcher	Williams
Ford	Moynihan	Zorinsky
Garn	Nelson	

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

DeConcini, against.
Sparkman, against.

NOT VOTING—21

Anderson	Hayakawa	Metzenbaum
Biden	Humphrey	Muskie
Domenici	Inouye	Scott
Goldwater	Javits	Stevens
Griffin	McClellan	Stevenson
Hatch	McGovern	Talmadge
Hatfield	Metcalf	Young

So Mr. MAGNUSON's amendment (No. 1000) was rejected.

Mr. LONG. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. CURTIS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. MELCHER). The Senator from Massachusetts is recognized.

AMENDMENT NO. 1467

(Purpose: Reduce the 40-percent additional investment credit for conversion equipment to 10 percent in section 1031.)

Mr. KENNEDY. Mr. President, I call up amendment No. 1467 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes amendment numbered 1467.

On page 57, line 22, delete "40" and insert "10".

The PRESIDING OFFICER. May we have order in the Senate?

The Senator from Massachusetts.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield.

Mr. ROBERT C. BYRD. Mr. President, may I ask the distinguished Senator from Massachusetts how many amendments he plans to call up?

Mr. KENNEDY. Mr. President, I have three amendments. This one, which relates to the reduction of the investment credit from 40 percent to 10 percent; then I may offer an amendment to reduce the basis for depreciation under this additional investment credit. And then I shall try to delete G and G deduction, which is a marvelous program that we can talk about. I hope we may get that one accepted. I have a number of others. I think that would probably do it.

Mr. ROBERT C. BYRD. I thank the Senator.

On the two amendments, excluding the one which he hopes will be accepted, will he agree to a time limitation of 40 minutes on each, equally divided?

Mr. KENNEDY. I think we can do it with 20 minutes to each side. I do not think we will use the time.

Mr. ROBERT C. BYRD. Is the Senator saying 20 minutes to the side?

Mr. KENNEDY. Twenty minutes each, or 15 minutes to a side.

Mr. ROBERT C. BYRD. Thirty minutes on each amendment equally divided?

Mr. KENNEDY. That is fine.

Mr. ROBERT C. BYRD. Mr. President, I make that unanimous-consent request.

The PRESIDING OFFICER. Is there objection?

Mr. WEICKER. Mr. President, reserving the right to object, I ask the distinguished Senator from West Virginia whether or not it is his intention to try to complete this bill tonight. We had 77 Senators voting on that last vote. That is almost one-quarter of the Senate out on probably the most crucial issue facing this Nation. I suggest this is not the best

of procedural practices, and I am willing to stay here all night if need be. But I wish to have some indication from the leadership, because very frankly, I think the objective of achieving a schedule to me is not as important as the fact that the substance of what we do be meritorious, and I really wish to have some sort of response on this question.

Mr. ROBERT C. BYRD. I am glad to respond.

Mr. PELL. Mr. President, if the Senator will yield, it is an excellent question. There may be only 77 Senators here now, but some of us who are here canceled out on the assumption we would keep going until we got through. So I think it is the stop and start, the staccato method of operation that gets us down. I hope for the sake of those who canceled out to stay here to finish that we keep going.

Mr. ROBERT C. BYRD. Mr. President, I will respond to the distinguished Senator. All week, Mr. President, I have stated that it was the intention of the leadership to try to complete action on this bill today, and that if action were not completed on this bill today we would be in tomorrow.

Now, this morning the distinguished minority leader and I stated very early that we would be in tonight until 11 or 12 o'clock in an effort to finish this bill tonight. I have been here many times when there were not 70 Senators, and I have seen the Senate stay in until 1 or 2 o'clock in the morning to finish action on a bill.

So it was announced early today that we would be in late, 11, 12 o'clock tonight, in an effort to finish the bill tonight, and if we cannot finish it tonight we would be in tomorrow.

Now, as to making a schedule, may I assure the distinguished Senator that making a schedule is no more important to me than it is to him. But as I stated today, and as I have stated all week, it is important that we complete action on this bill, get it to conference, and complete our floor work next Saturday, not to meet a schedule, but to allow the conferees to meet in the conferences on the five energy bills and on the other bills that are in conferences, without being harassed by quorum calls and rollcalls by either body.

So just forget about finishing a schedule. The important thing is to finish the bill, get it to conference, and get action there.

The conferees need to meet full time there and not have to be running back and forth to the floors of both Houses. They cannot complete their work there, and we need to get this bill in conference so all five bills would be in conference and the conferees can apply their full time and efforts and energies to this work there.

So I would hope that is a fitting response to the distinguished Senator's question.

Mr. WEICKER. Well, reserving the right to object—I will be glad to yield.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Reserving the right to object, this body, in order to meet the events scheduled deliberated around-the-clock on the issue of deregulation—I am not sure very intelligently—and to me, I suppose I would use the words of Thoreau when he said the question is not whether or not we are busy but what are we busy about.

Very frankly, having been on an around-the-clock schedule to try to meet a then October 7 deadline, which I thought was ridiculous to begin with, we then proceeded to go ahead and take days off and hours off.

I have to say that I am a little bit weary of what it is that is being done here merely to get through or get passage of a bill. I would suggest that as soon as the Senator from Massachusetts is through with his endeavors—I think it is important that we deliberate these things in the cold light of day, not at the end of 12 hours—and, as I say, I will be glad to stay here all night, and I will stay here all night, but it is my intention, I will tell my colleagues just that, that when we get through with the amendment of the Senator from Massachusetts, if I can receive recognition I will be glad to go ahead and discuss the energy bill, not one that is entrusted to any one or two individuals on the floor of this body or entrusted to one making a schedule, but a bill that makes sense.

If it means we spend Saturday here, that is fine. If we spend next week here, that is fine. When I got here to serve in this session, I did not expect to be out until Christmas, and I have nothing else to do, so I have nothing much further to say really on this issue except that I think it is time—and I serve on that conference, and we have been serving and meeting all week on that conference on energy, and we are doing our job here, and we will try to do it on the floor. But what is important, I think, is that we bring some degree of intelligence and, I might add, courage to addressing the issue of energy, not a tired mind and body and not one that is trying to meet some sort of a schedule, that is intended to get everybody out of town so that a few people can do the job each one of us ought to be doing.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABOUREZK. Mr. President, was there a unanimous-consent request before this body?

The PRESIDING OFFICER. I beg the Senator's pardon?

Mr. ABOUREZK. Has there been a unanimous-consent request? I heard somebody reserve the right to object.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. To what, may I ask?

[Laughter.]

Reserving the right to object——

Mr. WEICKER. To a time limitation.

The PRESIDING OFFICER. Is the Senator reserving the right to object?

Mr. ABOUREZK. I am reserving the right to object. I would like to know what the request was.

The PRESIDING OFFICER. The Senator from Massachusetts has asked unanimous consent for a 30-minute time limitation on two amendments. Will the Senator from Massachusetts identify the second amendment?

Mr. KENNEDY. 1511.

The PRESIDING OFFICER. Will the Senator describe the amendment?

Mr. KENNEDY. Its purpose is to require a basis adjustment for the 40 percent business energy investment tax credit.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. Reserving the right to object, Mr. President, with all respect to the leader, I have to agree with Senator WEICKER.

I think what we have been concerned with, and especially the leadership in this particular piece of legislation, is they have been concerned more with form than with substance. Now, there is no secret about it that there are a lot of us who do not like what is in this piece of legislation. There are some serious amendments to this legislation that ought to be considered not when we are in late at night, on a Friday night especially, when everybody thought they were going to go home and eat dinner or wherever they were going to eat dinner, but I do not think there is any reason why we cannot either do this tomorrow or do it on Monday instead of staying in until midnight tonight. If the Senator from Connecticut wants to stay here and discuss the issue later tonight I will stay with him to help him discuss it.

The PRESIDING OFFICER. Does the Senate object?

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard. The Senator from Massachusetts.

Mr. ABOUREZK. Mr. President, will the Senator yield?

Mr. KENNEDY. Yes.

Mr. ABOUREZK. Mr. President, I want to finish what I was going to say, if I may be permitted to do so now.

I would like to just direct a question to the leader. It is this: Is there any real compelling reason why we have to stay in so late tonight? Why is it not proper that we cannot come back either tomorrow or Monday, preferably Monday, and finish up this legislation?

Mr. ROBERT C. BYRD. Mr. President, we attempted to earlier this week, Monday and Tuesday, the leadership made every effort, to get Senators to come to the floor to debate this bill, offer their amendments.

I would like to get home as much as anyone does. I would like to have dinner with my wife also, but we have a responsibility, I think, to stay here and do the work. We have plenty to do Monday. We can finish this bill tonight or tomorrow, and we will have plenty to do Monday. We will have the supplemental appropriations bill on Monday; we will have social security financing next week; we have the Alcan pipeline next week; we have Regulation Q next week. So we have plenty of work to do next week, and I would hope that Senators would allow the Senator from Massachusetts to get on with the discussion of his amendments, and other Senators to offer their amendments.

Our responsibility is to do the work. The leadership is doing its very best to

proceed in an orderly fashion and to expedite the work. I would just urge Senators to let the Senate get on with its work on the bill.

The distinguished Senator from Connecticut a little while ago I heard him urging that we vote on the amendment. He was asking the distinguished Senator from Louisiana if he intended to hold the floor and not let the Senate vote, and I applaud the Senator from Connecticut for that because I think that helped us to reach a vote really.

Now he talks about holding the floor and not letting the Senate complete its business. I hope he will reconsider that, and I hope we will get on with the amendments by the Senator from Massachusetts.

Mr. BENTSEN. Mr. President, could we have an understanding as to——

The PRESIDING OFFICER. The Senator from Massachusetts has the floor.

Mr. KENNEDY. Mr. President, I would like to get to talking about my amendment, if we may.

The PRESIDING OFFICER. The Senator from Massachusetts has the floor.

Mr. BENTSEN. I have been trying to seek recognition for some time. I would like just about 30 seconds, if the Senator will yield.

Mr. KENNEDY. Yes, I am glad to yield briefly.

Mr. BENTSEN. I would like to ask the majority leader if he has any feel for the number of amendments yet to be offered.

Mr. ROBERT C. BYRD. The Senator from Massachusetts has indicated he has three; will other Senators indicate if they have amendments?

Mr. HATHAWAY. Four.

Mr. ROBERT C. BYRD. That is seven. Senator DURKIN has one.

Mr. HANSEN. Senator BARTLETT and I have at least three, do we not? Probably more.

Mr. ROBERT C. BYRD. That is 11.

Mr. BROOKE. I have four.

Mr. WEICKER. I have two.

Mr ROTH. I have an amendment.

Mr. ROBERT C. BYRD. That is 20.

Mr. HATHAWAY. I understand the Senator from Connecticut (Mr. RIBICOFF) has one amendment.

Mr. ROBERT C. BYRD. Twenty-two.

Several Senators addressed the Chair.

Mr. KENNEDY. Mr. President, I think I have the floor.

The PRESIDING OFFICER. The Senator from Massachusetts has the floor.

Mr. ABOUREZK. Mr. President, will the Senator yield?

Mr. KENNEDY. Briefly, without losing the floor.

Mr. ABOUREZK. Did I correctly understand there were 22 proposed amendments yet? Is that what the leader counted?

Mr. ROBERT C. BYRD. That was my count.

Mr. ABOUREZK. Does the leader intend to vote on all those amendments tonight?

Mr. ROBERT C. BYRD. Well, I have seen Senators call up their amendments and have them accepted in a matter of a minute or two. We probably have discussed things other than Senators' amendments enough now to dispose of them.

Mr. ABOUREZK. Then the answer is yes, we intend to take up all 22 amendments tonight?

Mr. ROBERT C. BYRD. I did not say that.

Mr. ABOUREZK. I hope the Senate will quit at some time tonight. May I ask the leader what time he plans on recessing or adjourning tonight?

Mr. ROBERT C. BYRD. I have no plans at the moment. That is the only answer I can give. That is the only responsible answer I can have. I cannot say 9 o'clock or 10 o'clock.

Mr. ABOUREZK. There is a precedent for that.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, this is a relatively simple amendment, but it does have a large budget effect. It involves issues which were talked about at some length earlier by the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Louisiana (Mr. LONG).

In this particular legislation—could we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order. May be have order in the Senate?

The Senator from Massachusetts.

Mr. KENNEDY. In this bill, Mr. President, there is an additional refundable 40-percent investment tax credit, which is allowed for "alternative energy property" purchased by industries and utilities in converting from oil and gas to coal and other fuels.

The proposed amendment would reduce the 40 percent alternative tax credit to 10 percent.

The revenue saving would be $600 million in fiscal year 1978, and $10 billion for fiscal years 1978–85.

Mr. President, the user tax adopted by the Metzenbaum amendment overlaps the 40 percent credit and eliminates the need for the credit. The energy saving under the user tax, 1.2 million barrels per day in 1985, is identical to the saving under the 40 percent credit, which would simply become a tax break for firms that have already converted to alternative fuels.

The energy saving estimate for the 40 percent credit in the SFC report, 1.2 million barrels per day, is grossly inflated. The Congressional Budget Office estimates that about 50 percent of the conversion attributed to the credit would take place anyway, even without the credit. Therefore, as CBO states, the credit provides a windfall of $10 to $12 billion over the period 1978–85. Half the credit is a pure waste of money.

At the 40 percent level, the credit provides a tax cut of $26 billion for business over the next 8 years. A large part of the subsidy will go to the Nation's 1,100 industrial giants, most of whom will be receiving a tax break for what they are doing anyway. If a tax cut for business of this magnitude is justified, it should be included in the general tax reduction package now under study by the President.

The proposed amendment cuts $10 billion from the cost of the tax credit in the bill. The amendment alone would bring the bill over half way back to the budget resolution. As reported, the SFC bill has a fiscal year 1978 revenue loss of $1.9 billion, which is $1 billion over the budget resolution. The amendment reduces the gap by $600 million, leaving a gap of $400 million.

The 40 percent credit is likely to be highly inflationary. The Treasury cautions that this large a credit may raise the price of boilers, which in turn will increase the revenue loss, because the 40 percent credit is based on the purchase price of the boilers. Each time the revenue estimate appears in the SFC report, a Treasury footnote is appended explaining the inflation problem.

The Finance Committee estimates assume an annual price inflation of 5.5 percent, roughly the current annual overall CPI figure. If the price of boilers escalates under the pressure of the 40 percent tax credit, the Treasury estimates that the revenue losses will be far greater—5.5 percent inflation, $26.4 billion; 10 percent inflation, $33.7 billion; 15 percent inflation, $43.9 billion.

The committee bill gives a cost of $26.4 billion for 5.5 percent inflation. At 10 percent inflation, the cost will go up to $33.7 billion. At 15 percent inflation, the cost will go up to $43.9 billion. The committee cost is bad enough. But it will be much worse, even twice as bad, if the price of boilers starts to climb.

Mr. President, in addition, the 40 percent credit is available on top of the existing 10 percent investment credit, making a total credit of 50 percent. Accelerated depreciation is also available on the full purchase price—that means a purchaser of a $100,000 boiler will actually pay only $50,000 for the boiler as a result of the tax credits. The purchaser can also take annual accelerated depreciation deductions based on the full $100,000. There is no justification for this "phantom" depreciation, based on a cost the purchaser did not pay.

There is no precedent for a 50-percent tax credit in the income tax laws. The committee estimates that, with the credit plus depreciation, a purchaser will actually pay only one-third of the cost of the equipment purchased. The Government will subsidize two-thirds of the cost of the equipment in the first year.

According to the American Boiler Makers Association, 1977 orders for boilers are running 60 percent ahead of 1976. In 1976 and the first half of 1977, not a single oil-fired or gas-fired boiler has been ordered in the larger industrial categories. The trend is even more pronounced among utilities. A tax incentive of the magnitude of 40 percent is not needed to encourage this trend.

Mr. President, finally, the boiler industry is concentrated. It is dominated by four major firms—Babcock & Wilcox, Combustion Engineering, Foster Wheeler, and Riley, which control 80 percent of the market. All four of these firms are large suppliers of the oil and gas industry. There are serious barriers to entry into the business—it recently

took 4 years and $30 million to construct a new boilermaking facility. In this situation, the 40-percent tax credit is very likely to be siphoned off by the dominant firms in the form of higher prices for their boilers, higher profits for the firms, and higher losses for the Treasury.

Mr. President, the House of Representatives adopted a 10-percent tax credit for such equipment and that is as high as we should go in the Senate.

Mr. President, I ask unanimous consent that a letter from Alice R. Rivlin, Director, Congressional Budget Office, and a letter from Laurence N. Woodworth, Assistant Secretary for Tax Policy, Department of Treasury, may be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., October 26, 1977.

Hon. EDMUND S. MUSKIE,
Chairman, Committee on the Budget, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request that the Congressional Budget Office examine the effectiveness of the coal conversion tax credit provision (Section 1031) in the Energy Production and Conservation Tax Incentive Act (H.R. 5263), as reported by the Senate Finance Committee. Specifically, you requested that we estimate the proportion of the tax expenditures that would go to firms that would have converted to coal without such an incentive. This value is often referred to as an economic windfall since it represents a payment to firms for decisions which they would have made irrespective of the tax credit. This windfall is in contrast to that portion of the tax expenditure which induces firms to increase their coal use.

We have examined these issues and concluded that of the estimated 1.7 mbd oil equivalent of coal conversion qualifying for the proposed tax credit, about .8 mbd oil equivalent, or almost 50 percent, is likely to take place anyway. Thus, the windfall is about 50 percent of the proposed tax expenditures, or approximately $10–12 billion over the period 1978–1985.

The .8 mbd oil equivalent of coal conversion qualifying for the proposed tax credit projected to take place whether or not the tax credits are enacted consists of approximately .45 mbd oil equivalent in the industrial sector, and .35 mbd oil equivalent in the utility sector. These estimates are consistent with the data presented in the "Base Case" of the National Energy Plan, April 1977.

If we can be of further help to you, please let us know.

Sincerely,

ALICE M. RIVLIN,
Director.

DEPARTMENT OF THE TREASURY,
Washington, D.C., October 27, 1977.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: This is in response to a request from your staff concerning the revenue effect of the additional 40 percent investment tax credit provision in the Energy Production and Conservation Tax Incentive Act.

The question refers to the Treasury Department opinion that the revenue cost estimate of the 40 percent tax credit is correct only under the assumption that prices of qualified property does not increase at a rate in excess of the general rate of inflation assumed to be 5.5 percent per year.

In this context, your staff has asked the Treasury Department to provide revenue cost estimates for the provision under the assumption of a 10 percent and 15 percent annual rate of increase in the price of qualifying property. Under these assumptions the cumulative revenue loss is $33.7 billion and $43.9 billion, respectively. The revenue cost estimated by the Senate Finance Committee is $26.4 billion. While the Department of the Treasury has no evidence which indicates that the price of qualifying equipment will increase at a rate in excess of 5.5 percent, it is possible that increased demand for certain equipment might cause substantive price increases for the equipment.

Sincerely,

LAURENCE N. WOODWORTH.

Mr. KENNEDY. So, Mr. President, I am hopeful that we can recognize the importance of modifying this 40 percent refundable investment credit in the way which I have described here, for the reasons which I have outlined.

I reserve the remainder of my time.

Mr. HASKELL. Mr. President, will the Senator yield for a question?

Mr. KENNEDY. Yes. There was an objection to the time limitation request, as I remember.

The PRESIDING OFFICER. There is no time limitation.

Mr. KENNEDY. I yield.

Mr. HASKELL. The Senator has pointed out that the coal conversion bill will prevent many hundreds of plants from going on oil and gas, and furthermore it will make existing plants with standby coal facilities convert; so we are talking about existing plants without standby facilities.

I wonder if the Senator from Massachusetts or anyone else knows how many plants might convert anyway, because their plants are wearing out, or because gas has gotten too high, and they can get coal. Does the Senator know of anyone who has those figures? It seems to me that might be relevant to our general discussion.

Mr. KENNEDY. I would not be able to give the Senator a precise answer on that, I can only indicate what the orders for boilers are now, versus 1976, according to the American Boilermakers Association. The figure is 60-percent higher now than in 1976 for coal-fired burners.

No single oil fired or gas fired burner has been ordered by the large industrial categories. So there has already been a dramatic increase of 60 percent, and no orders on oil and gas burners. I cannot say what the quality of some of the boilers would be.

Mr. HASKELL. Merely as an observation, it occurred to me that the Senator's statistics show that people are doing it anyway. This would certainly buttress the Senator's argument that 10 percent is liberal.

Mr. KENNEDY. I appreciate the statement of the Senator. I believe the Senator makes the point that the 60-percent increase at the present time shows that industries are already moving that way and supports the need for a reduction in the 40-percent credit.

I reserve the remainder of my time.

Mr. LONG. Mr. President, is there a time limitation? I was not aware that one was granted.

The PRESIDING OFFICER. There is no time limitation.

Mr. LONG. That is what I thought.

Mr. President, the Senator made the statement that there have been very few, if any, new gas or oil boilers ordered. The fact is, or my information is, that very few boilers of any kind have been placed on order. We want people to place them on order. The whole idea here is to get them to make a very big investment, to change over from gas and oil burning boilers to coal boilers. It would cost about three times as much to put in one of the coal burners as it will to put in a gas burner, and about twice as much for a coal burner as an oil burner, I am told.

These are very big investments. People are holding back. They are using every method available to them to stall, to delay. That is the reason conversion is not going along.

In an effort to get them to make the investments which, by law, they are required to make by 1990, quite a few years from now from the point of view of most of us, we feel that they need a very major incentive. That is why the committee proposed not a 10-percent credit, as we do not think that will get the job done, but a big tax credit, a 40-percent additional tax credit; we believe they need a big incentive. Our estimates are that without a big incentive, they are not going to go ahead and do it. With that incentive, the best estimate we can get is that this one item will bring about the conversion to save about half of the energy savings required by the tax writing committee for the whole program, just this one item.

Mr. CURTIS. Will the Senator yield?

Mr. LONG. For a question, yes.

Mr. CURTIS. Is it about 1 million barrels of oil per day?

Mr. LONG. Yes.

The PRESIDING OFFICER. Did the Senator yield?

Mr. LONG. I yielded for a question, Mr. President.

Mr. CURTIS. It is my understanding that this will bring about a conversion which will save 1 million barrels of oil per day.

Mr. LONG. That is correct.

Mr. CURTIS. If we wait for the existing statute to run and they comply by 1990, there will be a lot of days intervene where we will not have that saving of 1 million barrels per day. Is that the situation?

Mr. LONG. Mr. President, it will be a great number. If we let nature take its course, if we do not provide the tax incentive, the law says by 1990 they will have to convert. But what happens? They will just continue to postpone and delay as they are doing. They will come to 1990 and they will not have done it.

What happens if we do what we did with the clean air law? We were told that if we could put a man on the Moon we could certainly build a pollution-free automobile. So it was to be against the law not to build a pollution-free automobile by now.

They did not know how they could do it. We passed the law. What happened? All we did was prove industry right. It is true that we put the man on the Moon, and it is true we exploded the atom, but we still do not have the pollution-free

automobile. It is just like that Moon shot contributing to cancer research.

If you can put a man on the moon, you can get a cure for cancer in the same number of years. Just make the same dollar effort.

Back then that was the thought. We still do not have a cure for cancer. My thought is if we had spent $1 trillion, we would still not have a cure for cancer. It is not that we were not spending enough money in that case, but it just did not work.

But these people keep postponing and postponing. They get up to a deadline and what happens? They come to Congress and say, "Well, we cannot do it." It is that simple. It is like saying you cannot squeeze blood out of a turnip, it is just not there. When the time comes, they say, "I am sorry, we cannot do it. There is no way we can do it."

So Congress passes a law saying, "You have not been able to convert so we will extend the date."

Mr. CURTIS. Will the Senator yield further?

Mr. LONG. I will yield for a question.

Mr. CURTIS. As I understand this proposal, if a utility company just has to expand, if they have to build a plant and they build a coal one, they do not get this. It is when they convert and quit using gas or petroleum that they get it.

Mr. LONG. That is the whole idea. That is exactly right.

Mr. CURTIS. The whole purpose of this to save 1 million barrels of oil per day?

Mr. LONG. That is the purpose.

Mr. CURTIS. I do not recall what the contention was about the cost difference between the committee's version and the amendment, but I daresay it is far less than the cost of running the Department of Energy a year. So far, all their transactions have been on paper and they have not produced a barrel of oil.

I thank my chairman for yielding.

Mr. LONG. Mr. President, the Senator from Ohio (Mr. METZENBAUM) offered an amendment, to which we agreed, that said that the new facilities would be subject to a tax in case they do not convert, which is all fine, and that those very few who are fixed so they can burn coal as well as burn the other fuels would have to convert.

Ninety percent of what would be achieved by that amendment is in the new facilities to be built. There were exemptions all through it, whole States, for example, the metropolitan areas of New York, most of California, practically all the industrial areas. By the time we get through with all the exemptions of the Metzenbaum amendment, we would find that all those burning oil and burning gas would be permitted to continue, with very few exceptions. If we want these people to convert, we have two ways to do it: Either by putting a tremendous tax on them or by fining them under the law, or we can put in an incentive and help pay the cost of it. I do not think, Mr. President, that this Senate is willing to vote to say to those industries that are burning gas and burning oil and can convert without very great expense, that they will pay a back-breaking tax. Nobody has proposed that here. They can propose it if they want to, to make them convert.

So what is your alternative? Your alternative is to give them a big tax advantage if they do.

Obviously, Mr. President, an additional 10-percent investment tax credit is not going to get the job done. It will help some, but it will fall far short of what we have. The Senator will be able to report what he has reported about all boilers. They are just not being placed on order. The people are not buying them. The people are not converting.

Mr. President, estimating oil at $15 a barrel coming in from the Near East, by 1985, the provision that we have in mind will save about $7,500 million a year. When you look at the cost of this provision and then look at it in terms of saving oil, you come up with an enormous saving. And the savings justify the cost. This is a way to provide for a change in the affirmative and to spread the burden.

There are some areas that do not have any coal-burning facilities. If they are required to convert from oil, it is going to be a tremendous burden on those people. Sometimes, it is going to be the people who use the service, the person who consumes the electricity generated by a plant. How are we going to carry the burden of this conversion? Some people are already using coal burners. How are we going to share it? It is by providing the method by which taxpayers tend to spread the burden across the Nation and help share the burden brought on by conversion. That is the suggestion of the committee. A 10-percent tax credit, Mr. President, has on simple defect: It just will not get the job done.

Mr. MELCHER. Will the Senator yield?

Mr. LONG. I yield to the distinguished Senator.

Mr. MELCHER. I thank the distinguished chairman for yielding. I have a question.

I did not vote for the Metzenbaum amendment, because I was not sure of its effect on the copper industry in Montana. Had I known the answer to the effect of the Metzenbaum amendment on the copper industry that, in many instances, uses gas, I would have been inclined to vote for the Metzenbaum amendment. But I did not vote for it.

My concern now is, with the Metzenbaum amendment in the bill before us, what is the effect of the bill's present status on tax credit with an industry that converts from oil or natural gas to coal? How much tax credit do they get?

Mr. LONG. Under our bill——

Mr. MELCHER. Yes, with the Metzenbaum amendment in it.

Mr. LONG. I mean under the committee bill.

Mr. MELCHER. With the Metzenbaum amendment in it?

Mr. LONG. With the Metzenbaum amendment in it, if they convert, they would get the 40-percent tax credit.

Mr. MELCHER. A total of 40 percent tax credit?

Mr. LONG. Yes, plus the present 10 percent investment tax credit that they would receive under the existing law.

Mr. MELCHER. They would get 50 percent tax credit?

Mr. LONG. Fifty percent.

Mr. MELCHER. May I ask the chairman, is there no discerning feature in the bill as it stands now, with the Metzenbaum amendment in it, to what effect that has on the total earnings? What if the earnings of that particular company are great. Is there no limitation other than the 50 percent?

Mr. LONG. The way we have provided is that the 40 percent, as the Senator knows, would go to all companies. If those companies have a tax liability against which to claim the other 10 percent, they would get the 10 percent that they have available to them now. This is a refundable tax credit, so every company gets the 50 percent, which means that, under this proposal, 40 percent of the cost would be paid as a refundable tax credit. So the Government would pick up 40 percent of the cost of building the new plant. Now, of the other 10 percent, it would remain as under existing law.

Mr. MELCHER. A total of 50 percent, regardless of who owns the business or corporation?

Mr. LONG. That is right. Well, it would be 40 percent if it is, let us say, a public body; they would only get the 40 percent. But a tax paying company could get the 50 percent.

Mr. MELCHER. May I understand from the chairman that the effect of the pending amendment would be a 20-percent tax credit? If the pending amendment were accepted, would it be a 20-percent tax credit?

Mr. KENNEDY. The Senator is correct.

Mr. LONG. The total, plus the 10, would be 20, yes.

Mr. MELCHER. I thank the distinguished chairman.

I think the Senator from Massachusetts has correctly posed before this body the effect of the Metzenbaum amendment on the committee bill. If the Senator from Massachusetts' amendment is not right, then it is up to the Finance Committee to describe what is right, because the committee presented us 40 percent; the Senate adopted the Metzenbaum amendmnt; which has some effect on conversion and the total tax credit if we accept the bill before us results in 50 percent. The Senator from Massachusetts has correctly posed the problem before the Senate: What is correct in this part of this bill? I think, without adopting the Senator's amendment, we have, indeed, gone beyond what the committee recommended for this body when it proposed the bill before us.

Mr. DOLE and Mr. KENNEDY addressed the Chair.

Mr. LONG. Mr. President, I just point out that of the items that are going to bring conversion——

Mr. MELCHER. Who has the floor, Mr. President?

Mr. LONG. I had the floor.

The PRESIDING OFFICER. The Senator from Louisiana has the floor.

Mr. LONG. Mr. President, it is our view, and the analysis of our staff confirmed this, that of the incentives that

we have in the bill before us, the 40-percent investment tax credit will do far and away more—it is not even close—to bring about conversion than the Metzenbaum amendment. It is our judgment that the Metzenbaum amendment will help some, but it is not going to help a great deal compared to what the 40-percent investment tax credit will do.

I point out that the Metzenbaum amendment only applies to those situations where new plants are to be built or those situations where those plants that are built—which are very, very few—can use the coal as well as using some other fuel. So, if we look at what the Metzenbaum amendment does not cover, which is all those plants that burn something other than coal that we want to convert, there is where the big energy saving would be and that is where this 40 percent tax credit would do this job. We do not think an additional 10 percent tax credit is going to do much of anything.

Mr. CURTIS. Will the Senator yield?

Mr. LONG. Yes.

Mr. CURTIS. It should be pointed out that the 10-percent investment tax credit that is in the law now has no relation to the conservation of oil. That would be available under existing law for someone, even if they put in a boiler that uses oil or natural gas. So the amount of incentive here for converting to coal is not 50 percent, because that is something that is available to everybody.

It may happen that someone who makes the conversion will be combining the two for the specific purpose, but as far as the law is concerned it is unrelated.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I have been listening to the debate. I wonder if I can clarify this.

As I understand it, I guess it is now in conference, the coal conversion regulatory program that requires conversion as far as new powerplants are concerned, and new industrial plants, requires conversion of existing powerplants, and we cannot build anything but coal plants, if it is new, if it is a powerplant or industrial.

I remember testimony in the Finance Committee from the utilities. They do not plan building anything now except coal plants. I am wondering, since we have heard testimony and had the Coal Conversion Act, why do we need the tax credit?

I am just asking for information. Do we save additional energy by the tax credits and the Coal Conversion Act, or is it something that we are going to build a new plant anyway, just saying we gave a tax credit, even though we plan to build one, in any event?

I do not know that I fully understand the reason for the 40-percent refundable credit. But it would seem to me the Coal Conversion Act would take care of at least part of it.

Mr. HASKELL. Will the Senator from Kansas yield for a question?

Mr. DOLE. Yes.

Mr. HASKELL. It occurs to me the U.S. Government might be better off if it just bought the equipment and gave it to the companies.

My mathematics go somewhat like this: Take a $100 piece of equipment. So we get $50 under the proposed bill on investment tax credit, and take depreciation on the $100, since the corporate rate is 48 percent, there is $48. Now, $50 and $48 make $98. Surely, on a quantity discount basis we could get better than a 2-percent less than list price.

Would the Senator consider that possible?

Mr. DOLE. I should think, if we had cash.

Mr. HASKELL. It might be better for the Government to buy the equipment and give it to the company. Does the Senator think it possible?

Mr. DOLE. It is a possibility.

Certainly, it is creating tax shelters for someone if we pass this particular piece of legislation without some modification.

But I still do not know that I fully understand the need for the credit, particularly the 40-percent refundable credit, if it is required. I read from the bill, and it says that the bill would bar the use of oil or natural gas by new powerplants. All powerplants built before April 20 are considered new plants.

That seems rather specific. It seems to me if somebody starts a plant after April 20, it has to be coal, and I do not know why there is a tax credit unless we want to pay for the plant.

I remember the food stamp debate on this floor. Many of those who now support these giant giveaways were fighting about giving food stamps to the poor, that it was a waste of taxpayers' money.

Now we are suggesting we give away billions of dollars to industry, and perhaps they have earned it, or perhaps they will earn it. Perhaps it will save some energy.

But I cannot understand the need for it if we require the new plants to be coal-powered and we say existing powerplants must convert by 1990 without any tax credit.

We say if we do all that, we will save, depending on how far the Metzenbaum amendment might apply, nearly a million barrels a day.

The Senator from Kansas wonders if we will save an additional million barrels a day with tax credits and refundable credits of up to 40 percent.

It seems to me we passed the one piece of legislation in the Senate and I would hope the Kennedy amendment would be adopted.

Mr. MELCHER. Mr. President, if the distinguished chairman will again yield, I want to be sure on legislative intent that his interpretation of the bill is that with the Metzenbaum amendment in, it is an effective 50-percent tax credit.

Mr. LONG. Yes. That is correct. But it is not, because of the Metzenbaum amendment.

The Metzenbaum amendment does not do anything to provide incentive to those who have existing facilities, and we seek to convert to encourage them to do so.

Almost all of them would be exempt under the Metzenbaum amendment, and what we seek to do is convert those facilities. The Metzenbaum amendment just does not apply to them, because practically all of them would be exempt.

Mr. MELCHER. Mr. President, it is clear to me then that the accommodation of the Metzenbaum amendment, which is to force those plants that can convert to convert, that the combination is 50 percent. I think it is up to the committee.

Mr. LONG. Yes, and that would be the case even if we did not have the Metzenbaum amendment.

Mr. MELCHER. Would the distinguished Senator yield?

Mr. LONG. Yes.

Mr. MELCHER. That without the Metzenbaum amendment, is there any forcing to convert on the basis of a higher tax if we do not convert?

Mr. LONG. No. But the law says they would have to convert by 1990.

Mr. MELCHER. I understand what the law says at times and what really forces people to do things, and the Senator from Louisiana, the distinguished chairman, understands that as well as anybody in the Senate.

But sometimes the law is avoided or delayed, but what taxes decree, you obey.

What the effect of the Metzenbaum amendment is, that those who do convert, because of the Metzenbaum amendment, it is a 50-percent tax credit.

If the Finance Committee of the Senate and the Senate itself feels that 50 percent tax credit is excessive, they should respond.

The only proposition we have before us at the moment is the choice between the Senator from Massachusetts' amendment and the 50 percent that has been agreed to by the Senate with a combination, if we accept the committee amendments and the Metzenbaum amendment, for those who must convert.

I would think, under the circumstances, we would be better off with the amendment of the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I am not going to delay the Senate more than 2 or 3 minutes.

First of all, Mr. President, it is important to clarify the record. Under this particular proposal of the Senate Finance Committee, they estimate they are going to save 1.2 million barrels. That is written in the Senate Finance Committee report.

That is exactly the same saving that Senator METZENBAUM says his amendment will achieve. So there is a large energy saving under the Metzenbaum amendment.

In addition, Mr. President, look at page 59 of this bill, this wonderful provision that will save all of this oil. On lines 6 through 13, it says that one can shift to fuel which is still 75 percent gas or oil, and still get the tax credit—$25 billion tax credits. He does not have to convert to coal. He can shift 25 percent to coal, and still use 75 percent oil or gas, and still get the credit. That is on page 59 of the bill.

Mr. President, the Congressional

Budget Office Director, Alice Rivlin, also points out that half the cost of the committee provision is a windfall to firms for doing what they are already doing. I referred to her letter earlier.

Mr. President, her letter says the windfall is about 50 percent of the proposed tax expenditures, or approximately $10 to $12 billion over the period of 1978 to 1985.

They would be converting in any event, Mr. President.

So I would hope that we could move, Mr. President, down to what is a reasonable investment credit, 10 percent.

Mr. President, I am prepared to vote. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LONG. Mr. President, the Senator spoke of the proposed savings in the Metzenbaum amendment. We have been looking at those figures. We think the Metzenbaum amendment saves very little energy, because the savings assumed by the Metzenbaum amendment were built on top of this 40-percent tax credit. The Metzenbaum amendment presumes that you are going to have the Metzenbaum amendment to put the tax on to make those who can convert—which is not many—do so with all kinds of exemptions. But it would apply to new plants.

Then the Metzenbaum amendment would assume that you also would have a 40-percent tax credit, which would cause people to convert who have the existing facilities and who would be encouraged by the committee bill to convert.

So the savings claimed by the Metzenbaum amendment were what we claim in the committee bill plus what Mr. METZENBAUM thinks would be on top of it, adding his amendment to ours.

So you would have both put together. Without the 40-percent tax credit, you are not going to have much savings under the Metzenbaum amendment.

It is our estimate that we would save 2,124,000 barrels a day under this bill. It is further our estimate that this one provision would save about 1.3 million barrels a day. So out of what would be saved by the bill, almost two-thirds would be saved by this one amendment which the Senator would emasculate. He would take a 40-percent tax credit, which we think is a strong incentive—it has been said to be too good a thing, and perhaps so—but it is such a strong incentive that we would think people would be moving to convert; whereas, everybody is now resisting.

The Senator says no new gas-burning boilers have been put on order. The fact is that hardly any boilers of any kind have been put on order. Nothing is happening. So to make something happen, and to get it going, we do not think a 10-percent credit would do it. We have tried to estimate what we think a 10-percent additional investment tax credit would do. Not much. Maybe a little something, but not much.

We believe that if you go for a 40-percent additional investment tax credit, you make a tremendous saving. In 1985, you will be saving $7.5 billion a year in what it would cost the Arabs for that oil. That would be for jobs in the United States and to make us more energy independent.

So, Mr. President, in my judgment, if this amendment is adopted, it would reduce by about 50 percent what we would hope to save by the whole bill. In my judgment, that would be a very bad mistake. I would hate to see this amendment agreed to at this time of night, when very few Senators are present to hear the debate. I understand why. People are tired and weary. They wander out and do not hear the debate. They come in and ask someone about it. To put it in the Louisiana parlance, they fly by the seat of their pants, you might say, at that point, and just sort of get the best case they can by a brief explanation.

I think it is unfortunate that we are under the kind of pressure we have been under to vote on this matter, and I dislike to vote this late at night. So, under the circumstances, I move to——

Mr. MELCHER. Mr. President, will the Senator yield?

Mr. LONG. I yield for a question.

(Mr. MATSUNAGA assumed the chair.)

Mr. MELCHER. If the smelters or the copper plants which are using gas cannot convert to coal, does not the Metzenbaum amendment mean they are going to be taxed?

Mr. LONG. Under the Metzenbaum amendment, if they cannot convert, they are exempt.

Mr. MELCHER. They are exempt, if they satisfy the Government that they cannot convert——

Mr. LONG. Under the Metzenbaum amendment, they are exempt from the tax if they say they cannot convert. If they have boilers that are made to use gas or coal or they cannot be converted easily to coal burners, and they use gas or oil and cannot be converted to oil——

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. MELCHER. Mr. President, may I continue these question?

If the decision of Government is that the business can convert, and that company says, "We don't have the money," are they not taxed?

Mr. LONG. In some cases, they can go to court; and if they win, they are exempt from the tax.

Mr. MELCHER. If they win in court?

Mr. LONG. Yes.

Mr. MELCHER. And defy the Government and Congress and what have you. If they have not made any money in 3 years before and 5 years forward, will a tax credit do them any good?

Mr. LONG. Yes, under this bill it would do a lot of good, because it is a refundable tax credit.

Mr. MELCHER. I thank the chairman for that, because that is reassuring. It is a refundable tax credit—if it can be held in conference.

May I ask the chairman if ever the chairman has held in conference a substantial amount of refundable tax credit?

Mr. LONG. We have succeeded in holding the earned income credit, which is a refundable credit, and the housing credit.

Mr. MELCHER. Was it a substantial amount?

Mr. LONG. Yes. One of them is almost $800 million a year.

Mr. MELCHER. And was it for some business or industry like the copper industry?

Mr. LONG. No, it was not.

Mr. MELCHER. I was afraid the chairman was going to say that.

I have a great problem with depending upon this for the copper industry. The chairman has been very generous in yielding to me and responding to my questions.

I say to the chairman that in the case of going to the conference, of all the trade-offs that are involved, this is one of the things that may not be retained. When the distinguished chairman meets in conference, with all the trade-offs and all the melding of the two versions of the bills that are brought about, the question of substantial help in the way of refundable tax credits for an industry that may not be paying any income taxes for a number of years—because the industry is in a problem—may be lost sight of easily in facing the various conferees who are not adjusted to the same type of thinking as that of the Senator from Louisiana.

Mr. THURMOND. Mr. President, I support a refundable tax credit to encourage energy conservation and conversion. I cannot in good conscience, however, support a credit as high as 40 percent.

It is my feeling that 10 percent, as proposed by the distinguished Senator from Massachusetts, may be too low.

A figure between the two would be more acceptable.

Mr. LONG. Mr. President, I hope we could work out something that would be acceptable to both sides, and I would think the more substantial the tax credit is that goes to conference the better chance we have to work it out.

Mr. President, I move to lay this amendment on the table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to lay on the table the amendment of the Senator from Massachusetts.

On this question, the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MOYNIHAN (after having voted in the affirmative). Mr. President, on this vote I have a pair with the distinguished Senator from Maine (Mr. MUSKIE). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "aye." I withdraw my vote.

Mr. CANNON (after having voted in the affirmative). Mr. President, on this

vote I have a pair with the distinguished Senator from Delaware (Mr. BIDEN). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withdraw my vote.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from Delaware (Mr. BIDEN), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Ohio (Mr. METZENBAUM), the Senator from Maryland (Mr. SARBANES), the Senator from Alabama (Mr. SPARKMAN), the Senator from Illinois (Mr. STEVENSON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

Mr. BAKER. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Utah (Mr. HATCH), the Senator from Oregon (Mr. HATFIELD), the Senator from California (Mr. HAYAKAWA), the Senator from New York (Mr. JAVITS), the Senator from Alaska (Mr. STEVENS), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT) is absent on official business.

On this vote, the Senator from Alaska (Mr. STEVENS) is paired with the Senator from Oregon (Mr. HATFIELD). If present and voting, the Senator from Alaska would vote "yea" and the Senator from Oregon would vote "nay."

The result was announced—yeas 24, nays 50, as follows:

[Rollcall Vote No. 594 Leg.]

YEAS—24

Allen	Hansen	Randolph
Bentsen	Heinz	Ribicoff
Byrd, Robert C.	Huddleston	Sasser
Curtis	Johnston	Schmitt
Danforth	Long	Schweiker
Eastland	Matsunaga	Stennis
Ford	McClure	Stone
Gravel	Packwood	Tower

NAYS—50

Abourezk	DeConcini	McIntyre
Baker	Dole	Metcher
Bartlett	Durkin	Morgan
Bayh	Eagleton	Nelson
Bellmon	Glenn	Nunn
Brooke	Hart	Pearson
Bumpers	Haskell	Pell
Burdick	Hathaway	Percy
Byrd, Harry F., Jr.	Helms	Proxmire
	Hollings	Riegle
Case	Jackson	Roth
Chafee	Kennedy	Stafford
Chiles	Laxalt	Thurmond
Church	Leahy	Wallop
Clark	Lugar	Weicker
Cranston	Magnuson	Williams
Culver	Mathias	Zorinsky

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—2

Moynihan, for.

Cannon, for.

NOT VOTING—24

Anderson	Hayakawa	Muskie
Biden	Humphrey	Sarbanes
Domenici	Inouye	Scott
Garn	Javits	Sparkman
Goldwater	McClellan	Stevens
Griffin	McGovern	Stevenson
Hatch	Metcalf	Talmadge
Hatfield	Metzenbaum	Young

So the motion to lay on the table Mr. KENNEDY'S amendment (No. 1467) was rejected.

UP AMENDMENT NO. 1001

Mr. ALLEN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes an unprinted amendment numbered 1001 to Kennedy amendment No. 1467:

In lieu of figure "10" proposed to be inserted by amendment 1467, insert "20".

Mr. ALLEN. Mr. President, while I voted for the motion to table, I did so because I thought the 10-percent figure was too low; to cut the credit from 40 percent down to 10 percent, I thought, was too drastic. Also, amendment No. 1467 loses sight of the fact that the committee has two levels of credits, depending on the value of the work being done to justify the credit. They had the 40-percent level and the 10-percent level. This would bring all such credits down to the 10 percent.

Yet I believe there is ample reason to justify a difference. If you look on page 61 of the bill, under item (2) there, it lists the various items that would have the 10-percent credit. I ask unanimous consent that subsection (2) on pages 61 and 62 of the bill be printed in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

"(2) SPECIALLY DEFINED ENERGY PROPERTY.—The term 'specially defined energy property' means—

"(A) a recuperator,
"(B) a heat wheel,
"(C) a regenerator,
"(D) a heat exchanger,
"(E) a waste heat boiler,
"(F) a heat pipe,
"(G) an automatic energy control system,
"(H) a turbulator,
"(I) a preheater,
"(J) a combustible gas recovery system,
"(K) an economizer,
"(L) an industrial heat pump, or
"(M) any other property of a kind specified by the Secretary by regulations,

the principal purpose of which is reducing the amount of energy consumed, or the amount of heat wasted, in any existing operation and which is installed in connection with an existing industrial, agricultural, utility, or commercial facility.

Mr. ALLEN. The Kennedy amendment would bring all of the credits down to 10 percent. I believe there is justification for disparity. I thought the disparity was too great between the 40 percent as against the 10 percent; yet I believe 20 percent would be a more reasonable figure. It would constitute a 50-percent reduction in the credit proposed by the Finance Committee. I believe that would be fair and equitable, and I call for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

Mr. KENNEDY. Mr. President, I will not delay the Senate much longer. But I point out that we have a 10-percent investment credit in the law now. With the amendment of the Senator from Alabama, we would be adding 20 percent more. So the total credit would be 30 percent, which is an unprecedented level for a tax credit, obviously.

Just very briefly I would refer my colleagues to the language on page 59 of the committee bill, which says that firms do not have to convert fully to coal. They can shift to a fuel stream which is 75 percent gas or oil, and still get their tax credit. Seventy-five percent gas and oil and still get their gas credit on this. That is what we are talking about here.

As the Senator from Kansas has pointed out, these companies, under the Coal Conversion Act, are going to be required to convert by 1990, in any event. There has not been a new oil or gas boiler ordered in 18 months. The number of coal boilers has increased by 60 percent this year alone. There may be a justification for marginal increase, but certainly not to the extent set forth by the Senator from Alabama.

Finally, I would point out that the amendment of the Senator from Ohio (Mr. METZENBAUM), as he stated, would save 1.250 million barrels, which is exactly what the Senate Finance Committee claims for its 40-percent credit. The Senator from Louisiana disputes those figures now, but they were not disputed during the course of the debate.

Mr. DURKIN. Will the Senator yield for a question?

Mr. KENNEDY. I will not delay the Senate long. I would like to yield briefly. I yield to the Senator from New Hampshire for a question.

Mr. DURKIN. I thank the Senator. Is it not true that the investment tax credit that we are now talking about would require an additional 20 percent, which is important to people in New England who are trying to bring local hydro on the line?

Mr. KENNEDY. What this amendment of the Senator does, Mr. President, is to create a 30 percent credit. It is unjustified. Mr. President, I move to table the amendment of the Senator from Alabama and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ALLEN. Mr. President, I ask unanimous consent that the distinguished Senator from South Carolina (Mr. THURMOND) and the distinguished Senator from West Virginia (Mr. RANDOLPH) be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on the motion to table.

Mr. ALLEN. I call for the yeas and nays.

Mr. KENNEDY. Mr. President, I would be delighted to have a division, a standing vote.

The PRESIDING OFFICER. The yeas and nays have already been ordered. The clerk will call the roll. The question is on agreeing to the motion to table the amendment of the Senator from Alabama.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from Delaware (Mr. BIDEN), the Senator from Colorado (Mr. HASKELL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Ohio (Mr. METZENBAUM), the Senator from Maryland (Mr. SARBANES), the Senator from Alabama (Mr. SPARKMAN), the Senator from Illinois (Mr. STEVENSON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

Mr. BAKER. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Utah (Mr. HATCH), the Senator from Oregon (Mr. HATFIELD), the Senator from California (Mr. HAYAKAWA), the Senator from New York (Mr. JAVITS), the Senator from Alaska (Mr. STEVENS), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT) is absent on official business.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD), and the Senator from Alaska (Mr. STEVENS) would each vote "nay."

The result was announced--yeas 41, nays 34, as follows:

[Rollcall Vote No. 595 Leg.]

YEAS—41

Abourezk	Cranston	Lugar
Baker	Culver	Magnuson
Bartlett	DeConcini	Mathias
Bayh	Dole	McIntyre
Bellmon	Eagleton	Morgan
Brooke	Glenn	Pearson
Bumpers	Hart	Pell
Burdick	Hathaway	Proxmire
Byrd, Harry F., Jr.	Hollings	Ribicoff
	Huddleston	Riegle
Case	Jackson	Roth
Chafee	Kennedy	Stafford
Church	Laxalt	Weicker
Clark	Leahy	Zorinsky

NAYS—34

Allen	Heinz	Randolph
Bentsen	Helms	Sasser
Byrd, Robert C.	Johnston	Schmitt
Cannon	Long	Schweiker
Chiles	Matsunaga	Stennis
Curtis	McClure	Stone
Danforth	Melcher	Thurmond
Durkin	Moynihan	Tower
Eastland	Nelson	Wallop
Ford	Nunn	Williams
Gravel	Packwood	
Hansen	Percy	

NOT VOTING—25

Anderson	Domenici	Goldwater
Biden	Garn	Griffin
Haskell	McClellan	Sparkman
Hatch	McGovern	Stevens
Hatfield	Metcalf	Stevenson
Hayakawa	Metzenbaum	Talmadge
Humphrey	Muskie	Young
Inouye	Sarbanes	
Javits	Scott	

So the motion to lay on the table amendment numbered 1001 was agreed to.

Mr. LONG. Mr. President, I ask unanimous consent that when we meet on tomorrow, there be a 10-minute limitation, to be equally divided between the Senator from Massachusetts and the manager of the bill, on the Kennedy amendment.

Mr. ALLEN. Mr. President, reserving the right to object.

Mr. KENNEDY. Mr. President, reserving the right to object, I should like to hear from the leader about the voting. I was in my seat from 3 o'clock until 8:30, prepared to offer an amendment. I was prepared to agree to a half-hour time limitation. I listened with interest to what the leader has said, along with others, on it. I certainly hope that we could follow what the leader said and we will be able to vote this evening.

I waited 5½ hours to gain the floor and agreed to a 30-minute limitation. I am realistic enough to know that anybody can take it. People have threatened it on the floor. I hope the leader will speak on this issue now, as he spoke about it before.

Mr. LONG. I would like to speak one moment before the leader speaks.

Mr. President, when the Senator brought up his amendment, I was not the one who objected to a unanimous-consent agreement. It was Mr. ABOUREZK who objected to a unanimous-consent agreement. As far as I was concerned, I was willing to agree to a unanimous-consent agreement.

There were 75 votes. Seventy-five Senators were present and voting on the last rollcall. That means we have 25 absentees.

Mr. President, the point is, we estimate that this amendment knocks out about 50 percent of the energy saving in this bill. If we had agreed to a unanimous-consent request, fine. I would be willing to abide by it. But we did not agree to it. Mr. ABOUREZK objected.

That being the case, it seems to me, Mr. President, we ought to vote tomorrow when we have a more full attendance than we have now; some Senators are not here, and, obviously, I do not have any doubt how the vote would go right now. That is why I think we ought to vote tomorrow.

Mr. LEAHY. Will the Senator yield?

Mr. LONG. Yes.

Mr. LEAHY. Would it make a difference to the Senator if we did a head count to see which one of the bad guys would agree tomorrow, however divided?

Mr. LONG. Mr. President, the last time I did a tally, it looked like my side was behind because of the absentees. We have more absentees than the other side.

When we enter a unanimous-consent request, we take that chance. But when somebody objects to it——

Mr. KENNEDY. I would just like to hear from the leader about whether we are going——

Mr. ROBERT C. BYRD. The Senator likes to needle the leader.

I tried to get a unanimous-consent agreement earlier for 30 minutes on the Senator's amendment. He was very agreeable to that. There was an objection raised. I cannot help it because the objection was raised. I am willing, it is fine with me to stay in.

But, however, if it is the Senator from Louisiana or the Senator from Massachusetts managing the bill, I have to lean on that manager of the bill. If he does not want to go, I cannot make him go.

Talk about the leader, I am willing to stay here until 12 or 1 in the morning, but I cannot make Senator RANDOLPH, when he manages a bill, stay here if he does not want to stay.

Now, if Senator LONG wants to stay here, I am willing to stay, and I hope he will. But he has been here since 9:30 this morning. If he and Mr. CURTIS want to go home, fine. I cannot force them to go on. That is all I can do.

He has said he does not want to go forward. I know where I stand, so I cannot say. The leader cannot say any more than he is saying. He has done the best he can do.

Mr. ABOUREZK. May I say something?

The PRESIDING OFFICER. Is there objection?

Several Senators addressed the Chair.

Mr. ABOUREZK. Reserving the right to object.

The PRESIDING OFFICER. The Senator from South Dakota reserves the right to object.

Mr. ABOUREZK. My name has been bandied about here quite freely, so I have a right to respond, I think.

Now, it was not the Senator, he is not losing because I objected to that request earlier.

Mr. LONG. The Senator is losing——

Mr. ABOUREZK. All I am losing is a lot of sleep, not losing any votes. The Senator is the one losing the votes and wants to give up until tomorrow.

All I asked was that the leader let us go home early tonight and eat with our families and go to bed at a decent hour.

The leader convinced me we ought to stay in and I think we ought to stay. But we ought to separate the issues. The objection to the request had nothing to do with whether we come back tomorrow or not.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. I object.

Mr. WEICKER. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Louisiana.

Mr. LONG. Mr. President, as I was saying, it is the estimate of the committee that in the year 1985 under the bill we will save 2,124,000 barrels of oil imports a day and of that we would save 325,000 of it because of the residential energy credit, which this Senate voted for yesterday.

We hoped to save 26,000 with the transportation credit. We would save 265,000 from tax incentives relating to alternative sources of fuel to produce energy.

Put that together and what does it add up to?

It adds up to a saving of, roughly, 600,000 barrels per day.

Let us take 600,000 barrels. Let us take one other item. This is the additional refundable investment tax credit which accounts for almost all of it, 1,300,000 barrels per day.

This one item, 1,300,000 barrels a day gives us twice as much saving as all the rest put together. Twice as much from that one item.

We voted for the Metzenbaum amendment offered to us yesterday. The Metzenbaum amendment estimated big energy savings. Why? Because it was built on top of the 1.3 million. It was assuming we would still have the 40-percent refundable investment tax credit, and that in addition to the 40-percent investment tax credit saving 1.3 million barrels per day, some additional savings would be achieved from the Metzenbaum amendment.

But the overwhelming bulk of the so-called savings in the Metzenbaum amendment was because of the 1.3 million that is built in by the additional investment credit, not the small amounts, because of the Metzenbaum tax that go along with it.

The Metzenbaum amendment would do little in its own right, over and above the tax credit, because it exempted all existing facilities that burned gas. To all intents and purposes, it exempted practically everything that does not burn coal.

Look at what they had to save. Only 10 percent of what they hoped to save in oil and gas use with the Metzenbaum amendment would come from—10 percent of it, only 10 percent—what was to be saved by converting any of the existing facilities.

Where was the other 90 percent to be saved?

Either by building new facilities or, by what is in this bill, to provide a tax incentive to save. As a practical matter, Mr. President, nobody is converting over now when they get a 10-percent tax credit. The law says everyone must convert by 1990, but nothing has happened yet. Nothing much is being placed on order in the way of anything new.

Where are the savings supposed to come from?

Two-thirds of the savings in this bill is to come from a big 40-percent investment tax credit and by letting the investors depreciate the full price of the equipment, as well. An enormous tax incentive that was never voted before.

There is where we will get two-thirds of the savings in the bill.

Now, the Senator would strike that and he would substitute in lieu thereof a 10-percent investment tax credit.

Mr. President, in our view, that is throwing feed at the chickens. It is not going to accomplish much of anything.

The oil savings estimate is so low that it is not worth talking about.

Now, after we worked long hours, came in early and stayed late, are we now going to have a situation where Senators wander off the floor, wander to the cloakrooms, take a little nap in the marble rooms, visit this office, visit that office, putter around, talk about matters of the day, visit down in the restaurant, and after a while come in, having heard very little debate, and proceed to gut the bill? Is that what we are going to do?

Mr. President, that would be a very frustrating thing for those of us who have worked very long and hard on this bill to see happen.

So, Mr. President, if we cannot get the Congress to vote for the large tax credit incentive to get some oil savings, and the Metzenbaum amendment does not provide the oil savings, where are they to come from?

The Metzenbaum amendment says that only the people who can convert will go ahead and burn coal with their equipment; and they do not have to put in scrubbers, the way he explained it last night.

So, we are facing a situation in which Congress is not willing to say that those who have the gas-burning and oil-burning facilities that they will have to convert to coal. The Metzenbaum amendment says that those who can easily convert should do so, but it left unsaid what needs to be done with regard to the big problem—that is, the problem of convincing those who own hard to convert facilities that should convert their facilities into coal-burning facilities.

Mr. President, a lot needs to be done if we are going to pass an effective bill. We need to do a great deal more to encourage people to insulate houses. Yes, that will help. It will help if we can persuade people to take the shale rock in the great mountain areas and convert that rock into shale oil. That will help. But it is not going to do a great deal in the short run. It will take time.

Plants have to be built that are very expensive plants. So far, what has been done in this new industry has been very little, negligible.

But in time, those plants will be built and really will it be possible to convert economically to shale oil. It is going to cost not just $100 million or $200 million or $300 million. Those plants will cost $1 billion or even more.

However, the tax incentive we put in the bill for shale oil does remain. So, at least if one can build a billion dollar plant today, if he can get commercial production started, he will get a subsidy of about $3 for a barrel of oil. It costs nothing unless we get some energy.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. ALLEN. One of the objections to the 40-percent figure earlier in the evening was the fact that it would be refundable. I am wondering if there might be a possibility of a compromise amendment leaving the 40-percent figure as is but providing that it would be nonrefundable. That would be a compromise as between those who did want the nonrefundable feature which was defeated by the Senate after a motion to table had failed, after the eloquent argument by the distinguished floor manager of the bill.

I am wondering if those two features could be merged—the 40 percent, but providing that that should be nonrefundable—so it would not cause any payment of a refundable credit to a private enterprise company. It would all have to come out of taxes.

I wonder whether the distinguished manager of the bill would look with some favor on an approach of that sort.

Mr. LONG. Mr. President, I regret to say that I was distracted while the Senator was asking the question, and I ask the Senator to kindly repeat the question.

Mr. ALLEN. Earlier in the evening, there seemed to be a considerable body of opinion in the Senate that the 40-percent credit and the 10-percent credit should be nonrefundable. The Senate voted to make the credits refundable.

I am wondering whether we might merge those two opinions, those who feel that the 40-percent credit should be allowed and those who feel that the credit should be nonrefundable; whereas, under the present provision of the bill it is refundable, but leave the 40-percent figure and provide that that would be on a nonrefundable basis. In other words, there would be no refunds to companies that did not have a tax liability.

Mr. LONG. Mr. President, I honestly believe that we have a better provision with the refundability in it, in terms of justice and equity and merit, where we treat all alike. Basically, that is what we are talking about. The consumer of the product gets the same treatment, whether it is a publicly owned facility or a privately owned facility. It seems to me that the social and economic justice involved in that is a very important issue.

Mr. DOLE. Mr. President, will the Senator from Louisiana yield?

Mr. LONG. I yield.

Mr. DOLE. What about a 15-percent compromise, rather than 20 percent?

Mr. LONG. Mr. President, that sounds as though it might be a reasonable proposition.

I ask the Senator from Massachusetts if, in the spirit of compromise, he might be willing to agree to 15 percent.

Mr. KENNEDY. That sounds reasonable.

Mr. LONG. Would the Senator be so kind as to modify his amendment to make it 15 percent?

Mr. KENNEDY. Mr. President, I request that the amendment be so modified.

The PRESIDING OFFICER. Unanimous consent is required because the yeas and nays have been ordered. Is the Senator from Massachusetts asking unanimous consent?

Mr. KENNEDY. I so ask, Mr. President.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendment is so modified.

SEVERAL SENATORS: Vote! Vote!

Mr. MELCHER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered.

The question is on agreeing to the amendment of the Senator from Massachusetts, as modified.

Mr. ROBERT C. BYRD. Mr. President, I ask the manager of the bill what his wishes are with respect to proceeding further into the evening.

Mr. LONG. Mr. President, I cannot speak for others, but I believe the others are as tired as I am. We started debating about 9:30 a.m., and it is now 10:10 p.m. Some of us begin to get a little hazy after 12 hours of debating.

I think we all would be in better shape to legislate—we are not going to pass the bill tonight, anyway—if we go home after this vote and come back and start tomorrow, whatever time our slave-driving majority leader thinks would be fair. [Laughter.]

I say that without meaning any criticism of the majority leader. He works harder than anyone else, and he cannot understand why other people cannot do the same. I understand that.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today—and this will be the last rollcall vote of today—that it stand in recess until the hour of 10 a.m. tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY PRODUCTION AND CONSERVATION TAX INCENTIVE ACT

The Senate continued with the consideration of H.R. 5263.

Mr. CURTIS. Mr. President, I ask unanimous consent that Mr. Gary Crawford, of Senator THURMOND's staff, be accorded the privilege of the floor during consideration of this measure and votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment, as modified, of the Senator from Massachusetts.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from Colorado (Mr. HASKELL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Ohio (Mr. METZENBAUM), the Senator from Maryland (Mr. SARBANES), the Senator from Alabama (Mr. SPARKMAN), the Senator from Illinois (Mr. STEVENSON), the Senator from Georgia (Mr. TALMADGE), are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE), is absent on official business.

I also announce that the Senator from Maine (Mr. MUSKIE), is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. BAKER. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Utah (Mr. HATCH), the Senator from Oregon (Mr. HATFIELD), the Senator from California (Mr. HAYAKAWA), the Senator from New York (Mr. JAVITS), the Senator fom Alaska (Mr. STEVENS), and the Senator from North Dakota (Mr. YOUNG), are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT), is absent on official business.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD), and the Senator from Alaska (Mr. STEVENS) would each vote "yea."

The result was announced—yeas 72, nays 1, as follows:

[Rollcall Vote No. 596 Leg.]

YEAS—72

Abourezk	Eastland	Nelson
Allen	Ford	Nunn
Baker	Glenn	Packwood
Bartlett	Gravel	Pearson
Bayh	Hansen	Pell
Bellmon	Hart	Percy
Bumpers	Hathaway	Proxmire
Burdick	Heinz	Randolph
Byrd, Harry F., Jr.	Helms	Ribicoff
	Hollings	Riegle
Byrd, Robert C.	Huddleston	Roth
Cannon	Jackson	Sasser
Case	Johnston	Schmitt
Chafee	Kennedy	Schweiker
Chiles	Laxalt	Stafford
Church	Leahy	Stennis
Clark	Long	Stone
Cranston	Lugar	Thurmond
Culver	Magnuson	Tower
Curtis	Mathias	Wallop
Danforth	Matsunaga	Weicker
DeConcini	McClure	Williams
Dole	McIntyre	Zorinsky
Durkin	Melcher	
Eagleton	Moynihan	

NAYS—1

Morgan

NOT VOTING—27

Anderson	Hatch	Metzenbaum
Bentsen	Hatfield	Muskie
Biden	Hayakawa	Sarbanes
Brooke	Humphrey	Scott
Domenici	Inouye	Sparkman
Garn	Javits	Stevens
Goldwater	McClellan	Stevenson
Griffin	McGovern	Talmadge
Haskell	Metcalf	Young

So Mr. KENNEDY's amendment (No. 1467), as modified, was agreed to.

Mr. LEAHY. Mr. President, the Senate has already gone on record in the Public Utilities Regulatory Policy Act in favor of studying the efficacy of load management devices to improve utility efficiency and reliability.

As the distinguished chairman of the Finance Committee Senator LONG may know, utilities in Vermont have pioneered in the use of various load management techniques to improve efficiency of operation. As overall electrical demand increases year by year, load management can shave the peaks in electrical demand, thereby delaying the need for more powerplants. Spreading the load more evenly among existing generators today is a way to both conserve capital in a very capital-intensive industry, and precious energy, for tomorrow. Effective load management thereby helps to reduce the ultimate costs to consumers for a vital commodity that is taking an ever larger portion of their already overstrapped budgets. At the same time it conserves increasingly scarce and expensive fossil fuels.

Mr. President, two Vermont utilities—Central Vermont Public Service Corporation and Green Mountain Power Corporation—have established a voluntary time of day rate for their residential customers. Although a relatively small portion of residential customers have elected to participate in this program, customer satisfaction appears to be high in both utility service areas and there is a waiting list of applicants for this rate.

However, the time of day rates require a new and more sophisticated meter which can cost upward of several hundred dollars. I might point out that under section 1031 of the bill an "automatic energy control system" is eligible for the credit as specially defined energy property, and it would certainly seem reasonable that such equipment be similarly covered under the residential tax credit for "other energy-conservating components."

At this time I should like to ask the distinguished chairman of the Finance Committee whether residential load management devices would be eligible for the tax credit under section 1011 of the bill? Does he see such devices being included as one of the items the Secretary may, at his discretion, declare eligible for the tax credit?

Mr. LONG. Yes, this certainly is one of the items the Secretary may, at his discretion, declare eligible for the tax credit.

NUCLEAR REGULATORY COMMISSION AUTHORIZATIONS

Mr. HART. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1131.

The PRESIDING OFFICER (Mr. MATSUNAGA) laid before the Senate the amendments of the House of Representatives to the bill (S. 1131) to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes.

(The amendments of the House are printed in the House proceedings of the RECORD of September 12, 1977.)

Mr. HART. Mr. President, I move that the Senate disagree to the amendments of the House of Representatives and request a conference with the House on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. HART, Mr. RANDOLPH, Mr. GRAVEL, Mr. ANDERSON, Mr. MOYNIHAN, Mr. MCCLURE, Mr. STAFFORD, Mr. DOMENICI, and Mr. BAKER conferees on the part of the Senate.

CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the following resolution, which are all printing resolutions, that have been cleared on the minority side: Senate Resolution 294, House Concurrent Resolution 182. House Concurrent Resolution 190, House Concurrent Resolution 204, House Concurrent Resolution 205, House Concurrent Resolution 217, and House Concurrent Resolution 222.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL EXPENDITURES FOR COMMITTEE ON ENERGY AND NATURAL RESOURCES

The resolution (S. Res. 294) authorizing additional expenditures by the Committee on Energy and Natural Resources for routine purposes was considered and agreed to, as follows:

Resolved, That the Committee on Energy and Natural Resources is authorized to expend from the contingent fund of the Senate, during the Ninety-fifth Congress, $50,000 in addition to the amount, and for the same purposes, specified in section 134(a) of the Legislative Reorganization Act approved August 2, 1946.

BLACK AMERICANS IN CONGRESS

The Senate proceeded to consider the concurrent resolution (H. Con. Res. 182) providing for the printing as a House document of the pamphlet entitled "Black Americans In Congress," which had been reported from the Committee on Rules and Administration with amendments as follows:

On page 3, line 4, strike "two hundred and thirty-eight thousand six hundred" and insert "one hundred eight-nine thousand two hundred";

On page 3, line 7, strike "sixty-one thousand eight hundred" and insert "twelve thousand four hundred";

The amendments were agreed to.

The concurrent resolution, as amended, was agreed to.

The preamble was agreed to.

HOW OUR LAWS ARE MADE

The Senate proceeded to consider the concurrent resolution (H. Con. Res. 190) to provide for the printing of the brochure entitled "How Our Laws Are Made," which had been reported from the Committee on Rules and Administration with an amendment on page 2, beginning with line 4, to insert the following:

SEC. 2. There shall be printed for the use of the Senate thirty-six thousand four hundred additional copies of the document specified in section 1 of this concurrent resolution.

The amendment was agreed to.

The concurrent resolution, as amended, was agreed to.

OUR FLAG

The Senate proceeded to consider the concurrent resolution (H. Con. Res. 204) to authorize the printing of a revised edition of "Our Flag" as a House document, which had been reported from the Committee on Rules and Administration with amendments as follows:

On page 1, line 6, strike "two hundred and seventy-six thousand" and insert "two hundred fifty thousand two hundred and fifty";

On page 1, line 9, strike "fifty-one thousand five hundred" and insert "twenty five thousand seven hundred and fifty";

The amendments were agreed to.

The concurrent resolution, as amended, was agreed to.

OUR AMERICAN GOVERNMENT

The Senate proceeded to consider the concurrent resolution (H. Con. Res. 205) to authorize the printing of a revised edition of "Our American Government" as a House document, which had been reported from the Committee on Rules and Administration with amendments as follows:

On page 1, line 7, strike "five hundred and fifty-six thousand" and insert "five hundred and five thousand";

On page 1, line 10, strike "one hundred and three thousand" and insert "fifty-two thousand";

The amendments were agreed to.

The concurrent resolution, as amended, was agreed to.

THE CONSTITUTION

The Senate proceeded to consider the concurrent resolution (H. Con. Res. 217) to provide for the printing of a revised edition of "The Constitution of the United States of America," which had been reported from the Committee on Rules and Administration with amendments as follows:

On page 1, line 7, strike "two hundred and ninety-eight thousand" and insert "two hundred seventy-six thousand eight hundred";

On page 2, line 1, strike "fifty-one thousand five hundred" and insert "thirty thousand three hundred":

The amendments were agreed to.

The concurrent resolution, as amended, was agreed to.

THE CAPITOL

The Senate proceeded to consider the concurrent resolution (H. Con. Res. 222) to authorize the printing of a revised edition of "The Capitol," as a House document, which had been reported from the Committee on Rules and Administration with amendments as follows:

On page 1, line 6, strike "five hundred and seventy-five thousand" and insert "five hundred forty-four thousand eight hundred";

On page 1, line 9, strike "one hundred and three thousand" and insert "seventy-two thousand eight hundred";

The amendments were agreed to.

The concurrent resolution, as amended, was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to move to reconsider en bloc the votes by which the various resolutions were agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the votes by which the resolutions were agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR RECESS FROM SATURDAY UNTIL 10 A.M. MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business tomorrow, it stand in recess until the hour of 10 a.m. on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of morning business at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

APPROVAL OF BILL

A message from the President of the United States announced that on October 28, 1977, he approved and signed the bill (S. 1682) to provide for the implementation of treaties for the transfer of offenders to or from foreign countries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON CYPRUS—PM 126

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

Pursuant to Public Law 94–104, this report describes the efforts that the United States has made over the past sixty days to promote a settlement on Cyprus.

There have been no further intercommunal talks under U.N. auspices since the submission of my last report to the Congress in August, and none are presently scheduled. This negotiating pause

could easily last for several months more, through the forthcoming Greek elections in November and the Cyprus Presidential elections in February. However, we have not allowed ourselves to proceed on this assumption. Instead, we have continued actively to encourage a resumption of the intercommunal talks and, more importantly, have sought to ensure that, once these do reconvene, there will be meaningful discussion of the major unresolved issues.

We directed our attention to this goal during the special U.N. Security Council consideration of the Cyprus issue requested by the Government of Cyprus in late August and early September. A consensus resolution eventually emerged that was both equitable and nonpolemical, which called upon the parties to avoid provocative acts and resume intercommunal negotiations.

At the same time, we consulted with the Greek and Turkish governments to set the stage for a series of meetings in New York in which Secretary Vance and my Special Representative, Clark Clifford, met with President Kyprianou and Foreign Minister Christofides of Cyprus and with Foreign Ministers Bitsios and Caglayangil of Greece and Turkey. These New York meetings have encouraged us to believe that progress on Cyprus may be possible in the months ahead. We noted a growing recognition in the region that a just solution to the Cyprus issue will serve the long-term interests of all the nations in the Eastern Mediterranean.

Secretary Vance also met in New York with U.N. Secretary General Waldheim and with the Foreign Ministers of Great Britain, the Federal Republic of Germany, and other interested Western allies. All view the situation in the Eastern Mediterranean much as we do, and urgently wish to see progress toward a Cyprus settlement.

So, too, do the Cypriots. While in New York for the U.N. General Assembly, I had a useful discussion with Cyprus President Spyros Kyprianou. I assured him that the United States sincerely wishes to help the people of Cyprus find a just and lasting settlement, and that we stand ready, as in the past, to support the current U.N. negotiating effort in any way we can. President Kyprianou in turn assured me of his people's earnest desire for a settlement and of their hope that the United States can help bring this about.

In sum, therefore, I believe that I can record here—as I have not been able to do in the last two such reports—a cautious anticipation that movement toward meaningful Cyprus negotiations may soon be possible.

JIMMY CARTER.

THE WHITE HOUSE, *October 28, 1977.*

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 11:14 a.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that the Speaker has signed the following enrolled bills:

S. 717. An act to promote safety and health in the mining industry, to prevent recurring disasters in the mining industry, and for other purposes.

H.R. 3093. An act to provide duty-free treatment for certain copying lathes used for making rough or finished shoe lasts and for parts of such lathes, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore.

At 3:56 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that the House has passed the bill (H.R. 9346) to amend the Social Security Act and the Internal Revenue Code of 1954 to strengthen the financing of the social security system, to reduce the effect of wage and price fluctuation on the system's benefit structure, to provide for the conduct of studies with respect to coverage under the system for Federal employees and for employees of State and local governments, to increase the earnings limitation, to eliminate certain gender-based distinctions and provide for a study of proposals to eliminate dependency and sex discrimination from the social security program, and for other purposes, in which it requests the concurrence of the Senate.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CANNON, from the Commitee on Rules and Administration:

Without amendment:

S. Res. 294. A resolution authorizing additional expenditures by the Committee on Energy and Natural Resources for routine purposes (Rept. No. 95-555).

With amendments:

H. Con. Res. 182. A concurrent resolution providing for the printing as a House document of the pamphlet entitled "Black Americans in Congress" (Rept. No. 95-556).

With an amendment:

H. Con. Res. 190. A concurrent resolution to provide for the printing of the brochure entitled "How Our Laws Are Made" (Rept. 95-557).

With amendments:

H. Con. Res. 204. A concurrent resolution to authorize the printing of a revised edition of "Our Flag" as a House document (Rept. No. 95-558).

H. Con. Res. 205. A concurrent resolution to authorize the printing of a revised edition of "Our American Government" as a House document (Rept. No. 95-559).

H. Con. Res. 217. A concurrent resolution to provide for the printing of a revised edition of "The Constitution of the United States of America" (Rept. No. 95-560).

H. Con. Res. 222. A concurrent resolution to authorize the printing of a revised edition of "The Capitol", as a House document (Rept. No. 95-561).

By Mr. MAGNUSON, from the Committee on Appropriations:

Without amendment:

S. Res. 282. A resolution disapproving the proposed deferral of budget authority for acquisition, construction and improvements by the United States Coast Guard, Department of Transportation (Rept. No. 95-562).

H.R. 9019. An act to rescind certain budget authority contained in the message of the President of July 19, 1977 (H. Doc. 95-188), transmitted pursuant to the Impoundment Control Act of 1974 (Rept. No. 95-563).

With amendments:

H.R. 9375. An act making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes (Rept. No. 95-564).

By Mr. CANNON, from the Committee on Rules and Administration:

Without amendment:

S. Res. 312. An original resolution amending the subpoena authority of the Select Committee on Ethics contained on Section 3(d) of Senate Resolution 338, agreed to July 24, 1964 (Rept. No. 565).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WILLIAMS, from the Committee on Human Resources:

Gerald L. Klerman, of Massachusetts, to be Administrator of the Alcohol, Drug Abuse, and Mental Health Administration.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that today, October 28, 1977, he presented to the President of the United States the enrolled bill (S. 717) to promote safety and health in the mining industry, to prevent recurring disasters in the mining industry, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. EASTLAND (for himself, Mr. KENNEDY, Mr. BENTSEN, and Mr. DECONCINI):

S. 2252. A bill to amend the Immigration and Nationality Act and for other purposes; to the Committee on the Judiciary.

By Mr. EASTLAND:

S. 2253. A bill to amend title 28 of the United States Code to encourage prompt, informal and inexpensive resolution of civil cases by use of arbitration in United States district courts, and for other purposes; to the Committee on the Judiciary.

By Mr. STEVENS (for himself and Mr. GRAVEL):

S. 2254. A bill directing the Secretary of the Interior to convey certain property to David Sanhite Peele; to the Committee on Energy and Natural Resources.

By Mr. METCALF:

S. 2255. A bill for the relief of Suneetha DeSilva, her husband Ajith DeSilva, and her daughter Varsha Aneetha DeSilva; to the Committee on the Judiciary.

By Mr. RIEGLE:

S. 2256. A bill for the relief of Adat Shalom Synagogue; to the Committee on the Judiciary.

By Mr. MATHIAS (for himself and Mr. SARBANES):

S. 2257. A bill to amend the Railroad Retirment Act of 1974 to provide that a current connection with the railroad industry is not lost by reason of certain employment with the Department of Energy; to the Committee on Human Resources.

By Mr. TOWER:

S. 2258. A bill for the relief of Hildegard Mercedes Schlubach Ercklenz, Enno W. Ercklentz, Junior, Hildegarde Ercklentz Merrill, and Alexander T. Ercklentz, all citizens of the United States; to the Committee on the Judiciary.

By Mr. NELSON (for himself and Mr. HATHAWAY):

S. 2259. A bill to amend the Small Business Act to expand and revise the procedures for insuring small business participation in Government procurement activities, and for other purposes; to the Select Committee on Small Business.

By Mr. MATSUNAGA:

S. 2260. A bill for the relief of Judge Louis LeBaron; to the Committee on the Judiciary.

By Mr. HATHAWAY:

S. 2261. A bill to implement the United Nations Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property; to the Committee on Finance.

By Mr. THURMOND:

S. 2262. A bill for the relief of Frans Mustert; to the Committee on the Judiciary.

By Mr. THURMOND (by request):

S. 2263. A bill to amend title 38, United States Code, to establish a Court of Veterans' Appeals and to prescribe its jurisdiction and functions; to the Committee on Veterans' Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. EASTLAND (for himself, Mr. KENNEDY, Mr. BENTSEN, and Mr. DECONCINI):

S. 2252. A bill to amend the Immigration and Nationality Act and for other purposes; to the Committee on the Judiciary.

Mr. EASTLAND. Mr. President, I introduce the Alien Adjustment and Employment Act of 1977, and I ask unanimous consent that a copy of the bill together with a section-by-section analysis of the bill be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2252

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Alien Adjustment and Employment Act of 1977."

SEC. 2. (a) Section 249 of the Immigration and Nationality Act (8 U.S.C. 1259) is amended to read as follows:

"(a) A record of lawful admission for permanent residence may, in the discretion of the Attorney General and under such regulations as he may prescribe, be made in the case of any alien, as of the date of the approval of his application or, if entry occurred prior to July 1, 1924, as of the date of such entry, if no such record is otherwise available and such alien shall satisfy the Attorney General that he is not inadmissible under section 212(a) insofar as it relates to criminals, procurers and other immoral persons, subversives, violators of the narcotic laws or smugglers of aliens, and he establishes that he—

(1) entered the United States prior to January 1, 1970; and

(2) has had his residence in the United States continuously since such entry.

"(b) This section shall not apply to any alien who has assisted in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion.".

(b) The title preceding section 249 of such Act is amended to read as follows: "Record of admission for permanent residence in the case of certain aliens who entered the United States prior to July 1, 1924, or January 1, 1970".

(c) The resignation of section 249 in the table of contents (Title II—Immigration, chapter 5) of such Act is amended to read as follows:

"Sec. 249. Record of admission for permanent residence in the case of certain aliens who entered the United States prior to July 1, 1924, or January 1, 1970.".

SEC. 3. Section 201(a) of the Immigration and Nationality Act (8 U.S.C. 115(a)) is amended to read as follows:

"(a) Exclusive of special immigrants defined in section 101(a)(27), immediate relatives of United States citizens as specified in subsection (b) of this section, and of aliens in whose case a record of lawful admission for permanent residence is made pursuant to section 249, (1) the number of aliens born in any foreign state or dependent area located in the Eastern Hemisphere who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence, or who may, pursuant to section 203(a)(7), enter conditionally, shall not in any of the first three quarters of any fiscal year exceed a total of 45,000 and shall not in any fiscal year exceed a total of 170,000; and (2) the number of aliens born in any foreign state of the Western Hemisphere or in the Canal Zone, or in a dependent area located in the Western Hemisphere, who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence, or who may, pursuant to section 203(a)(7), enter conditionally, shall not in any of the first three quarters of any fiscal year exceed a total of 32,000 and shall not in any fiscal year exceed a total of 120,000.".

SEC. 4. (a) Notwithstanding any other provisions of law, any alien in the United States may, in the discretion of the Attorney General and under such regulations as he may prescribe, be permitted to reside in the United States temporarily until five years from the effective date of this Act, if such alien applies for such status within one year of the effective date of this Act and establishes to the satisfaction of the Attorney General that

(1) entered the United States on or before January 1, 1977;

(2) has had his residence in the United States continuously since such entry; and

(3) is not inadmissable under section 212(a) insofar as it relates to criminals, procurers and other immoral persons, subversives, violators of the narcotic laws or smugglers of aliens.

(b) This section shall not apply to any alien who:

(1) on January 1, 1977 was a nonimmigrant whose authorized stay, including any extension of the period of original admission, had not expired; or

(2) immediately prior to losing lawful nonimmigrant status had the status of a nonimmigrant student; or

(3) was formerly a nonimmigrant exchange alien as defined in section 101(a)(15)(J) of the Immigration and Nationality Act subject to the two-year foreign residence requirement of section 212(e) of the Act and has not fulfilled that requirement or received a waiver thereof; or

(4) has assisted in the persecution of any person or group of persons because of race, religion, nationality, membership in a particular social group, or political opinion.

(c) An alien granted temporary resident alien status under this section shall be issued such documentation as the Attorney General may by regulation prescribe.

(d) The Attorney General shall authorize the employment of any alien who is granted temporary resident alien status under this section.

(e) Notwithstanding sections 211(a) and 212(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1181(a) and 1182(a)(20)), the Attorney General may, in his discretion and under such regulations as he may prescribe, authorize the readmission into the United States of any alien who has temporary resident alien status pursuant to this section and who is returning to a residence in the United States from a temporary visit abroad, without requiring such alien to obtain a passport, immigrant visa, reentry permit, or other documentation. An alien who qualifies for readmission under this subparagraph shall not be subject to the requirements of section 212(a)(14) of the Immigration and Nationality Act, (8 U.S.C. 1182(a)(14)).

(f) If at any time after a person has obtained temporary resident alien status under this section, it shall appear to the satisfaction of the Attorney General that such person was not in fact eligible for such status, the Attorney General shall rescind the grant of temporary resident alien status to such person, and the person shall thereupon be subject to the provisions of the Immigration and Nationality Act to the same extent as if the grant of temporary resident alien status had never been made.

(g) Except as otherwise specifically provided in this section, nothing in this section shall be construed to give or confer upon an alien who is granted temporary resident alien status any privileges, rights, benefits, exemptions, or immunities under the Immigration and Nationality Act for which they would not otherwise be qualified.

(h) An alien who is granted temporary resident alien status under this section shall not be eligible to receive any benefits under any of the following provisions of law:

(1) Grants to States for Medical Assistance Programs under Title XIX of the Social Security Act (42 U.S.C. 1396 et. seq.);

(2) Aid to Families with Dependent Children under Title IV, Part A, of the Social Security Act (42 U.S.C. 601 et. seq.);

(3) Supplemental Security Income for the Aged, Blind, and Disabled under Title XVI of the Social Security Act (42 U.S.C. 1381 et. seq.); and

(4) Food Stamp Act of 1964, as amended (7 U.S.C. 2011 et. seq.)

SEC. 5. (a) Section 274 of the Immigration and Nationality Act (8 U.S.C. 1324) is amended:

(1) by inserting after subsection (b) the following new subsection:

"(c)(1) It shall be unlawful for any employer to employ aliens in the United States who have not been lawfully admitted to the United States for permanent residence, unless the employment of such aliens is authorized by the Attorney General.

"(2) Any employer who violates this subsection shall be subject to a civil penalty or not more than $1,000 for each such alien in the employ of the employer on the effective date of this subsection or who has thereafter been employed by the employer, except for such alien whose status was adjusted or application for adjustment was pending pursuant to the terms of section 2 or section 4 of the Alien Adjustment and Employment Act of 1977.

"(3) The United States district courts shall have jurisdiction to enjoin violations of this subsection.

"(4) Upon determination that cause exists to believe that an employer has engaged in a pattern or practice of employing aliens in violation of this subsection, the Attorney General shall bring actions for both civil

penalty and injunctive relief in the United States district court in any district in which the employer is alleged to have violated this subsection, or in any district in which the employer is found or transacts business.

"(5) Proof by an employer with respect to any person employed by him that, prior to the person's employment, or, in the case of a person hired prior to the effective date of this subsection, as soon as practicable but in any event within 90 days of such effective date, he saw such documentary evidence of eligibility to work in the United States as the Attorney General has by regulation designated for that purpose shall give rise to a rebuttable presumption that the employer has not violated this subsection with respect to that particular person.";

(2) by inserting after new subsection (c) the following new subsection:

"(d) Any person who knowingly and for gain assists an alien who is not authorized to work in the United States to obtain or retain employment in the United States, or who knowingly enters into a contractual or other arrangement to facilitate, for gain, the employment in the United States of an alien not authorized to work in the United States, shall be guilty of a felony, and upon conviction thereof shall be punished by a fine not exceeding $2,000 or by imprisonment not exceeding 5 years, or both, for each alien in respect to whom a violation of this subsection occurs.";

(3) by inserting after new subsection (d) the following new subsection:

"(e) The provisions of this section are intended to preempt any state or local laws imposing civil or criminal sanctions upon those who employ, or facilitate the employment, of aliens not authorized to work in the United States.".

(b) The title preceding section 274 of such Act is amended to read as follows: "BRINGING IN AND HARBORING CERTAIN ALIENS; RESTRICTION OF EMPLOYMENT OF ALIENS".

(c) The designation of section 274 in the table of contents (Title II—Immigration, chapter 8) of such Act is amended to read as follows:

"SEC. 274. Bringing in and harboring certain aliens; restriction of employment of aliens.".

SEC. 6. The provisions of this Act shall become effective 60 days after the date of its enactment.

SECTION-BY-SECTION ANALYSIS OF THE "ALIEN ADJUSTMENT AND EMPLOYMENT ACT OF 1977"

Section 2(a) of the bill amends section 249 of the Immigration and Nationality Act (8 U.S.C. 1259) by updating from June 30, 1948 to January 1, 1970 the cutoff date for the creation of a record if lawful admission for permanent residence. This permits the Attorney General, in his discretion, to create a record of lawful admission for permanent residence for aliens for whom such record does not currently exist, and who meet the following criteria, which were adopted from the present version of section 249:

(1) entry into the United States prior to January 1, 1970;

(2) continuous residence in the United States since such entry; and

(3) not inadmissible to the United States under section 212(a) of the Immigration and Nationality Act, 8 U.S.C. 1182(a), insofar as it relates to criminals, procurers and other immoral persons, subversives, violators of the narcotic laws or smugglers of aliens.

As in the present version of section 249, a successful applicant will obtain lawful permanent resident status as of the date of approval of his application, unless entry was prior to July 1, 1924, in which case adjustment will operate retroactively to the date of entry.

The term "continuous residence" has been construed so that temporary absences, without abandonment of residence in the United States, will not preclude establishment of the required continuous residence. *See e.g., Matter of Young*, 11 I&N Dec. 38 (BIA 1965); *Matter of Outin*, 14 I&N Dec. 6 (BIA 1972).

Present Service regulations, 8 C.F.R. 249.2, require an applicant for permanent resident status under section 249 to present documentary evidence of continuous residence. Such evidence may include records of official or personal transactions or records of events occurring during the period of claimed residence, as well as affidavits of credible witnesses. The Service anticipates that the same requirements will apply under this bill.

In addition, an alien who is inadmissible on certain criminal or immoral grounds, but who is the spouse, parent, or unmarried minor child of a United States citizen or a lawful permanent resident, may apply for a waiver of inadmissibility under section 212(h) of the Immigration and Nationality Act, 8 U.S.C. 1182(h), in connection with a section 249 application. See 8 C.F.R. 249.1. An alien inadmissible because of membership in certain proscribed organizations may apply for a waiver under section 212(a)(28)(I)(ii) of the Immigration and Nationality Act. Id.

Two statutory requirements contained in the present version of section 249, that the applicant establish that he is a person of "good moral character" and that he is "not ineligible to citizenship", have been deleted.

The term "good moral character" is defined in a negative manner in section 101(f) of the Immigration and Nationality Act, 8 U.S.C. 1101(f). Most of the aggravated grounds of misconduct which would mandate a finding of lack of good moral character are already covered by the section 212(a) requirements applicable to section 249. With respect to the other factors mentioned in section 101(f), that are not covered by section 249, the Attorney General has sufficient discretion to weigh all favorable and adverse factors in an alien's record and arrive at a proper decision as to whether or not permanent resident status should be granted. Therefore, the statutory requirement of "good moral character" is superfluous.

The term "ineligible to citizenship" basically relates to a rather small group of aliens who claimed legal exemption from military service on the basis of alienage.

The bill also adds a new disqualification to section 249 for aliens who have assisted in the persecution of others on account of race, religion, nationality, membership in a particular social group, or political opinion. The Administration has favored the inclusion of such a bar in other bills relating to the admission or adjustment of status of aliens.

Aliens who have resided in the United States since prior to January 1, 1970 in a parole status under section 212(d)(5) of the Immigration and Nationality Act, 8 U.S.C. 1182(d)(5), would be ineligible under section 249 because parole does not constitute an "entry". In addition, the provisions of section 212(e) of the Immigration and Nationality Act, 8 U.S.C. 1182(e), preclude an exchange alien subject to the two-year foreign residency requirement from obtaining adjustment under section 249.

An alien who improperly obtains lawful permanent resident status under section 249 is subject to rescission of that status as set forth in section 246 of the Immigration and Nationality Act, 8 U.S.C. 1256.

Regulations presently provide that an application under section 249 will be made to the district director having jurisdiction over the alien's place of residence, unless the alien is the subject of deportation proceedings, in which case the application will be made to an immigration judge. 8 C.F.R. 249.2. An application denied by a district director can be renewed before an immigration judge in deportation proceedings.

The Service estimates that 765,000 aliens will be eligible for creation of a record of admission for lawful permanent residence under the amended version of section 249. Present processing of section 249 cases involves an average of 30 minutes officer time and one hour clerical time. The Service estimates that the processing of section 249 cases will require 275 officer positions (costing $3,244,000 in FY 1978 and $6,061,000 in FY 1979) and 577 clerk positions (costing $3,201,000 in FY 1978 and $5,955,000 in FY 1979) at a total cost of $18,461,000 for FY 1978 and FY 1979.

Sections 2(b) and (c) of the bill make minor conforming amendments to the table of contents and the heading for section 249 contained in the Immigration and Nationality Act.

Section 3 of the bill amends section 201(a) of the Immigration and Nationality Act (8 U.S.C. 1251(a)) to exempt aliens obtaining lawful permanent resident status under section 249 from the numerical limitations on immigration. Such an exemption presently exists by reason of long standing administrative interpretation. Nevertheless, it is desirable to codify this exemption in order to avoid any possible doubt or ambiguity as to chargeability.

Section 4 of the bill creates a new temporary resident alien status which would not be a part of the Immigration and Nationality Act.

Section 4(a) of the bill authorizes the Attorney General, in his discretion to permit aliens to reside temporarily in the United States for five years from the effective date of the bill if they meet the following criteria:

(1) entry on or before January 1, 1977;

(2) continuous residence in the United States since such entry; and

(3) not inadmissible to the United States under section 212(a) of the Immigration and Nationality Act insofar as it relates to criminals, procurers and other immoral persons, subversives, violators of the narcotic laws or smugglers of aliens.

Applications for this status must be made within one year of the effective date of the bill.

Section 4(b) of the bill precludes the granting of temporary resident alien status to nonimmigrants who were in status on January 1, 1977, to out of status students, to exchange aliens who have not completed the two-year period of foreign residence required under section 212(e), and to aliens who have engaged in persecution. All other groups of undocumented aliens may apply for temporary residence.

Section 4(c) provides for the issuance of appropriate documentation to aliens granted temporary resident alien status.

Section 4(d) requires the Attorney General to authorize the employment of any alien granted temporary resident alien status.

Section 4(e) allows the Attorney General to establish regulations for the waiver of passport and visa requirements for a temporary resident alien who is returning to a residence in the United States from a temporary visit abroad. This would be similar to the waiver now given to a lawful permanent resident alien who is returning from a temporary visit abroad. An alien who is granted a waiver under this subparagraph is also exempt from labor certification requirements.

Section 4(f) provides for rescission of temporary resident alien status which was improperly granted. The language is similar to that of section 246 of the Immigration and Nationality Act, 8 U.S.C. 1256, pertaining to rescission of adjustment to lawful permanent resident status.

Section 4(g) prohibits temporary resident aliens from receiving any privileges, rights, benefits, exemptions, or immunities under the Immigration and Nationality Act except as specifically provided in the bill. Thus, unlike permanent residents, temporary resident aliens would not be eligible to petition for family members or to petition for naturalization on the basis of time spent in the United States in this status.

Section 4(h) excludes temporary resident aliens from receiving Medicaid, Aid to Families with Dependent Children, Supplemental Security Income, and Food Stamp benefits.

Enforcement considerations dictate that aliens granted temporary resident alien status be documented as soon as possible. In addition, sections 262, 264, and 265 of the Immigration and Nationality Act, 8 U.S.C. 1302, 1304, and 1305, require that all aliens in the United States register, that all aliens 14 years of age and older be fingerprinted, and that all aliens 18 years of age and older carry proof of alien registration.

The processing of aliens eligible for temporary resident alien status will require approximately 15 minutes of officer time and 30 minutes of clerical time for each alien. The Service estimates that as many as five million aliens may be eligible to apply, in which case it will require approximately 682 officer positions (costing $8,046,000 in FY 1978 and $15,029,000 in FY 1979) and 473 clerk positions (costing $2,949,000 in FY 1978 and $4,882,000 in FY 1979) at a total cost of $30,906,000 for FY 1978 and FY 1979.

The total cost of the alien adjustment portion of the proposed Act would be approximately $49,367,000.

Section 5(a)(1) of the bill amends section 274 of the Immigration and Nationality Act (8 U.S.C. 1324) by adding a new subsection (c) which provides the following.

Section 274(c)(1) provides that it shall be unlawful for any employer to employ aliens who are not authorized to work in the United States.

Section 274(c)(2) provides that in the event of a violation of the foregoing prohibition, a civil penalty not to exceed $1,000 shall be imposed upon the employer for each alien involved who was in his employ on the effective date of the bill or who was hired thereafter, except for aliens who are adjusted or who have applications for adjustment pending under this bill.

Section 274(c)(3) confers jurisdiction upon United States district courts to enjoin violations of section 274(c).

Section 274(c)(4) provides that upon belief that an employer has engaged in a pattern or practice of violating section 274(c), the Attorney General shall bring an action for civil penalty along with an action for injunction in an appropriate United States district court. An employer who continues to hire undocumented aliens in violation of an injunction could be cited for contempt.

The term "pattern or practice" has been used in other federal statutes such as the Civil Rights Act of 1964 (24 U.S.C. 2000e-6) and the Fair Housing Act of 1968 (42 U.S.C. 3613). The retention of employees hired prior to the effective date of the bill who are not authorized to work in the United States will be considered in establishing whether a pattern or practice exists.

The Government will be required to show more than just accidental, isolated, or sporadic hirings of undocumented workers in order to establish a "pattern or practice." See, e.g., International Brotherhood of Teamsters v. United States. — U.S. — (May 31, 1977). Therefore, those employers who may inadvertently hire an undocumented worker will not have to fear the imposition of sanctions under this bill, and the cause for discrimination against Mexican-American citizens and lawful permanent resident aliens will be minimized. Nevertheless, to further ensure against discriminatory hiring, the President will instruct the federal civil rights agencies to make much greater efforts to ensure that existing anti-discrimination laws are fully enforced.

Section 274(c)(5) specifies that an employer will be entitled to defend a charge of hiring undocumented aliens by proving that each prospective employee's documentation, as designated by the Attorney General in regulations, was seen prior to employment. An employer would have a maximum of 90 days from the effective date of the bill in which to examine the documentation of employees hired prior to the effective date.

The Social Security card will be designated as one of the authorized identification documents. Steps will be taken to make certain that such cards are issued only to citizens and those aliens who are authorized to work, as the law now requires. 42 U.S.C. 405(c)(2)(B). Those steps include requiring personal interviews of card applicants and making the card more difficult to forge. No steps will be taken, however, to make the Social Security card, or any other card, a national identification document.

Section 5(a)(2) of the bill makes it a felony to knowingly and for gain assist an undocumented alien in obtaining employment, or to enter into a contractual arrangement to facilitate the employment of an undocumented alien. The penalty, a maximum fine of $2,000 or up to five years imprisonment, or both, for each alien involved, is the same as that for harboring undocumented aliens under existing section 274(a)(4) of the Act.

These sanctions are directed at the substantial number of individuals who broker jobs for undocumented aliens or who act as agents for alien smugglers. The requirement that the activity be engaged in with knowledge and for gain protects those, such as employment agencies or union hiring halls, who may inadvertently refer an undocumented alien for a job. No change will be made in the proviso to existing section 274(a)(4) which states that employment shall not be deemed to constitute "harboring" for the purpose of the criminal sanctions imposed by that subsection.

Section 6 provides that the bill will become effective 60 days after the date of its enactment.

The employment sanctions portion of the bill would require an estimated 119 additional INS enforcement positions (costing $1,385,000 in FY 1978 and $2,898,000 in FY 1979) at a total cost of $4,283,000 for FY 1978 and FY 1979. In addition, there would be an estimated one-time cost of $4,000,000 for publicity of the new law and regulations.

Total cost of the bill for FY 1978 and FY 1979 is broken down as follows:

	Fiscal year 1978	Fiscal year 1979	Total
Adjustment to permanent residence	$6,445,000	$12,016,000	$18,461,000
Adjustment to temporary residence	10,995,000	19,911,000	30,906,000
Employment sanctions	1,385,000	2,898,000	8,283,000
Publicity	4,000,000	----------	----------
Total	$22,825,000	$34,825,000	$57,650,000

Mr. BENTSEN. Mr. President, I am pleased to join Senators EASTLAND and DECONCINI, in sponsoring the Alien Adjustment and Employment Act of 1977.

By most accounts there are somewhere between 6 and 12 million illegal aliens in this country; some 3 to 6 percent of our population has no claim to American citizenship; is accountable to no one; and is here in violation of our laws. I cannot think of a single nation in the world that would tolerate a similar situation within its borders.

The fact that we really do not have the vaguest notion of how many illegal aliens, or undocumented workers, are currently in the United States is indicative of the complexity of the problem, the lack of hard information about it, and the difficulty of devising a strategy to cope with it.

Certain facts, however, are indisputable:

Illegal aliens are attracted to our country by the prospect of employment at wages far in excess of what they might expect to earn at home.

There is a market for the employment of illegal alien labor, a market that extends to all regions of the country. In many areas illegal aliens are an important factor in the work force.

There is every reason to believe that, given the economic and demographic situation of many countries in this hemisphere, illegal immigration to the United States will increase dramatically in the future.

The financial, ethical, and physical problems inherent in closing our 1,800 mile border with Mexico to illegal immigration are clearly unacceptable. The problem cannot be solved at the border.

We cannot view our policy on illegal aliens as a purely domestic matter; our actions will have a direct impact on other nations, particularly Mexico.

We must be sensitive to the human dimensions of this problem. We are dealing with the lives and futures of millions of people who have come to this country, however illegally, to seek a better life and a more secure existence for their families. This is the same impulse that brought scores of millions of immigrants to America throughout our history.

Finally, Mr. President, I think we can all agree that there is little political profit in any attempt to come to grips with the dilemma of the illegal alien. We confront a problem that defies simple, painless, or popular solution. There is no single element of the President's program that is free from controversy or universally accepted.

Nevertheless, it is apparent that the illegal alien issue is important today and will become even more significant tomorrow. It cannot be addressed by following the line of least resistance. To the extent that we delay consideration of the President's proposals, we compound the difficulty of developing a coherent, comprehensive, effective strategy to deal with the problem.

I commend the administration for bringing the illegal alien question to the attention of the American public and for having the courage to come forth with a series of specific proposals on this matter.

I do not agree with every element of the administration program. I am particularly concerned about millions of illegal aliens being granted "nondeportable status," a sort of second-class residency that is inconsistent with our notion of democracy and may constitute a tacit admission of our inability to come to grips with a problem of this magnitude and complexity.

It is important to realize, however, that the administration proposals are not being submitted on a categorical, "take it or leave it" basis. Rather, they constitute an honest effort to contend with a very difficult and important problem. They provide a valuable frame of reference, a point of departure, for congressional consideration of one of the most significant, long-range problems facing our Nation today.

I am confident that the Senate, as it begins consideration of the Alien Adjustment and Employment Act of 1977, has the will and the capacity to help shape an effective national policy on the illegal alien question. I am confident that the administration will be receptive to our efforts. And I know that we will examine this matter with the care, the compassion, and the urgency it so clearly requires.

Mr. DECONCINI. Mr. President, it is an honor to cosponsor the Alien Adjustment and Employment Act of 1977 with the distinguished Senator and chairman of the Judiciary Committee from Mississippi (Mr. EASTLAND), and the distinguished senior Senator from Massachusetts (Mr. KENNEDY).

This legislation was drafted by the Justice Department in consultation with a wide spectrum of the groups concerned with the illegal alien issue. This is no small problem, Mr. President, especially in States like Arizona; it is not surprising, therefore, that opinions on the matter vary widely. On one point, however, there is unanimity of opinion: Something must be done. The present situation is intolerable. Feelings are mounting to the point where an unfortunate incident is likely.

The Federal Government must shoulder responsibility for the present system—or, more accurately, lack of system. It has been the lack of a firm commitment to any policy which has led to the present state of affairs. In a sense, I believe that many persons would argue that any policy is preferable to floundering on the issue.

The bill which I am cosponsoring today is certainly not without fault. It will not be acclaimed by one and all as the ultimate answer. I certainly have misgivings about some of its provisions. However, it is a policy; a starting point for the development of a coherent, reasonable, and effective national consensus on how best to treat the question of illegal aliens.

Senators EASTLAND and KENNEDY, both of whom serve on the Judiciary Subcommittee on Immigration, are committed to extensive hearings on the legislation, and both will approach the various policy decisions with an open mind. I am anxious to participate in that process and look forward to legislation that will strike the necessary balance between the competing interests of the different affected groups.

I strongly believe, Mr. President, that the illegal alien problem as it involves Mexico must be approached from a variety of directions. The legislation I am cosponsoring today is designed, essentially, to deal with those aliens whose residence in the United States is illegal. It does not confront the cause of the problem which lies in the difficult economic conditions that plague our Southern neighbor. As long as unemployment in that country exceeds 40 percent and economic opportunity is limited, the United States will continue to be a magnet, drawing to it men and women who have lost hope and seek the refuge of America's fabled bounty.

Unfortunately, the America of the 1970's is not the America of the 1870's—a land of virtually limitless opportunity. Our land has been populated and our economy has matured. We can no longer easily absorb thousands of newcomers. Whereas they would once have created more wealth, they now deprive our own citizens of jobs and opportunity. Therefore, while each of us is sympathetic to the desires and dreams of the illegal alien, we are also responsible for the welfare of American citizens.

It is absolutely imperative that we couple the type of legislation being offered today with other initiatives that will affect the root cause of the illegal alien problem—the ailing Mexican economy. I have proposed that the United States create a billion dollar development fund for Mexico. The fund would be jointly sponsored and administered by the American and Mexican Governments. The moneys would be used to assist in infrastructure projects where these were essential to particular economic activities, but the bulk of these funds would be used to promote private Mexican enterprise, especially in labor-intensive areas. As I conceive the program, some of the funds would be distributed on a matching formula basis, some as grants, while some would be used to guarantee private investment.

It is heartening to know that the Carter administration which fashioned the present legislation is also committed to a similar assistance concept. I look forward to working with the administration on this aspect of the problem as well.

In conclusion, Mr. President, I would like to reiterate that I do not believe this legislation is necessarily the final answer. I do believe, however, that it is a tremendously important first step for which the President and the Attorney General deserve not only gratitude, but praise. With the commitment of Senators EASTLAND and KENNEDY, I am confident that the Senate will have before it final legislation prior to the end of the 95th Congress.

By Mr. EASTLAND:

S. 2253. A bill to amend title 28 of the United States Code to encourage prompt, informal and inexpensive resolution of civil cases by use of arbitration in United States district courts, and for other purposes; to the Committee on the Judiciary.

Mr. EASTLAND. Mr. President, I introduce a bill and I ask unanimous consent that the text of the bill together with a letter from the Attorney General in connection with the bill be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2253

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds and declares that:

(a) in many federal judicial districts, parties to civil litigation experience lengthy delays and avoidable expense in the adjudication of their litigation; and

(b) arbitration has proven to be an effective and fair means of adjudicating many kinds of civil disputes.

SEC. 2. It is the purpose of this legislation to promote the prompt, informal and inexpensive resolution of civil disputes by encouraging greater use of arbitration on a voluntary basis and by authorizing, under the conditions specified in this Act, the courts to refer certain cases to arbitration in certain districts.

SEC. 3 (a) Title 28 of the United States Code is amended by adding after chapter 43 the following new chapter:

"CHAPTER 44—ARBITRATION

"Sec.
"641. Authorization of arbitration.
"642. Certification of arbitrators.
"643. Compensation and expenses of arbitrators.
"644. Jurisdiction and powers of arbitrators.
"645. Referral to arbitration.
"646. Arbitration hearing.
"647. Arbitration award and judgment.
"648. Trial de novo.
"649. Definitions.

"§ 641. Authorization of arbitration.

"A United States district court may authorize by local rule the use of arbitration in accordance with the provisions of this chapter.

"§ 642. Certification of arbitrators.

"(a) The chief judge of a United States district court in which the use of arbitration pursuant to this chapter is authorized shall certify as many arbitrators to serve within the judicial district as he determines to be necessary under this chapter.

"(b) An individual may be certified to serve as an arbitrator under this chaper if:

"(1) he has been for at least five years a member of the bar of the highest court of a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or the Canal Zone, and is admitted to practice before the certifying court; and

"(2) he is determined by the certifying court to be competent to perform the duties of an arbitrator.

"(c) An arbitrator may hold no full-time civil or military office or employment under the United States. An arbitrator is a special Government employee within the meaning of section 202 of title 18 and shall not be barred from the practice of law by operation of a code of ethics except as he is restricted from doing so as such a special Government employee and except that no arbitrator or partner or associate of an arbitrator may act as agent or attorney for any party in a matter in which the arbitrator participated as arbitrator.

"(d) Each individual certified as an arbitrator under this section shall take the oath or affirmation prescribed by section 453 before serving as an arbitrator.

"(e) Each certification shall be entered on record in the court and notice of the certification shall be given at once by the clerk of that court to the Director.

"(f) Certification of an arbitrator shall be for a period of four years unless sooner withdrawn by order of a majority of the active judges of the court.

"§ 643. Compensation and expenses of arbitrators.

"(a) Arbitrators shall receive as full compensation for their services a fee determined by the district court not to exceed $50 for each case in which they serve. The fee shall be paid by or pursuant to the order of the Director.

"(b) Under regulations prescribed by the Director and approved by the Judicial Conference, the Director shall reimburse arbitrators for actual expenses necessarily incurred by them in the performance of their duties under this chapter. Reimbursement may be made, at rates not exceeding those prescribed by the regulations, for expenses incurred by arbitrators for clerical and secretarial assistance, stationary, telephone and other communications services, travel, and such other expenses as may be determined to be necessary for the proper performance of the duties of such arbitrators, except that no reimbursement shall be made for all or any portion of the expense incurred by arbitrators for the procurement of office space.

"§ 644. Jurisdiction and powers of arbitrators.

"(a) Notwithstanding any provision of law to the contrary, if the court authorizes arbitration under section 641, the court shall refer to arbitration any civil action pending before it if:

"(1) the United States is a party, and:

"(A) the action is of a type that the Attorney General has provided by regulation shall be submitted to arbitration; or

"(B) the action is brought pursuant to section 2 of the Act of August 24, 1935, as amended (40 U.S.C. 270b), the United States has no monetary interest in the claim, and the relief sought:

"(i) consists only of money damages not in excess of $50,000, exclusive of interest and costs; or

"(ii) consists in part of money damages not in excess of $50,000, exclusive of interest and costs, and the court determines in its discretion that any nonmonetary claims are insubstantial; or

"(2) the United States is not a party, and:

"(A) the parties consent to arbitration and the relief sought consists only of money damages; or

"(B) (i) the relief sought:

"(a) consists only of money damages not in excess of $50,000, exclusive of interest and costs; or

"(b) consists in part of money damages not in excess of $50,000, exclusive of interest and costs, and the court determines in its discretion that any nonmonetary claims are insubstantial; and

"(ii) jurisdiction is based in whole or in part on:

"(a) section 131 of this title and the action is brought pursuant to section 20 of the Act of March 4, 1915, as amended (46 U.S.C. 688);

"(b) section 1331 or 1332 of this title and the action is based on a negotiable instrument or a contract; or

"(c) section 1332 or 1333 of this title and the action is for personal injury or property damage.

"(b) Arbitrators to whom actions are referred pursuant to this chapter shall have within the territorial jurisdiction of the court the power to conduct arbitration hearings and make awards as provided in this chapter and in such rules consistent with the provisions of this chapter as may be promulgated by the court for the conduct of arbitration proceedings.

"§645. Referral to arbitration.

"(a)(1) Actions subject to arbitration pursuant to this chapter, other than those described in section 644(a)(1)(B)(ii) or 644(a)(2)(B)(i)(b), shall be held by the clerk of the court for 20 days after the filing of the answer. If, by the expiration of that time, a party has filed a motion for judgment on the pleadings, summary judgment, or similar relief, the clerk shall refer the action to arbitration only after the court has ruled on the motion. If, by the expiration of that time, a party has initiated discovery proceedings, the clerk shall refer the action to arbitration upon notification to the clerk that discovery has been completed or upon the expiration of 120 days from the filing of the answer, whichever occurs earlier. If, by the expiration of that time, no party has filed a motion for judgment on the pleadings, summary judgment, or similar relief, the clerk promptly shall refer the action to arbitration, and in no event more than 120 days after the filing of the answer.

"(2) The court may return an action described in section 644(a)(1)(B)(ii) or 644(a)(2)(B)(1)(b) for arbitration if at any time before the commencement of trial the court determines that the non-monetary claims in the case are insubstantial and returns the case to the clerk with a statement of such determination. The clerk promptly shall refer any such case to arbitration and in no event more than 120 days after such determination.

"(b) The arbitration shall be conducted before a panel of three arbitrators, unless the parties agree to have it conducted before a single arbitrator. The parties may by agreement select any person or persons to conduct the arbitration. If, within seven days after the action has been referred to arbitration, the parties have not notified the clerk of the court that they have made such a selection, the arbitrator or arbitrators shall be chosen by the clerk by a process of random selection from among the persons certified by the court.

"(c) A person selected to be an arbitrator shall be disqualified for bias or prejudice as provided in section 144 and shall disqualify himself in any action in which he would be required under section 455 to disqualify himself if he were a justice, judge, magistrate or referee in bankruptcy.

"§ 646. Arbitration hearing.

"(a) The arbitration hearing shall commence not later than 30 days after the action is referred to arbitration and shall be concluded promptly.

"(b) Rule 45 of the Federal Rules of Civil Procedure shall apply to subpoenas for attendance of witnesses and the production of documentary evidence at an arbitration hearing under this chapter. The arbitrators shall have the power to administer oaths and affirmations.

"(c) The Federal Rules of Evidence may be used as guides to the admissibility of evidence in an arbitration hearing. Notwithstanding the provisions of the Federal Rules of Evidence, relevant evidence that is not privileged may be admitted in an arbitration hearing.

"(d) A party may have a recording and transcript made of the arbitration hearing at his expense. If a party has a transcript or a tape recording made, he shall furnish a copy of the transcript or tape recording without charge to any other party.

"§ 647. Arbitration award and judgment.

"The arbitration award shall be filed with the court promptly after the hearing is concluded and shall be entered as the judgment of the court after the time for requesting a trial de novo pursuant to section 648 has expired, unless a party demands a trial de novo before the court pursuant to that section. The judgment so entered shall be subject to the same provisions of law, and shall have the same force and effect, as a judgment of the court in a civil action, except that it shall not be subject to appeal.

"§ 648. Trial de novo.

"(a) Within 20 days after the filing of the arbitration award with the court, any party may demand a trial de novo in the district court.

"(b) Upon a demand for a trial de novo, the action shall be placed in the calendar of the court and treated for all purposes as if it had not been referred to arbitration, and any right of trial by jury that a party would otherwise have shall be preserved inviolate.

"(c) At the trial de novo the court shall not admit evidence that there had been an arbitration proceeding, the nature or amount of the award, or any other matter concerning the conduct of the arbitration proceeding, except that testimony given at an arbitration hearing may be used for impeachment at a trial de novo.

"(d) If the party who demanded a trial de novo fails to obtain a judgment in the district court, exclusive of interest and costs, more favorable to him than the arbitration award, he shall be assessed the costs of the arbitration proceeding, including the amount of the arbitration fees, and

"(1) if he is a plaintiff and the arbitration award were in his favor, he shall pay to the court an amount equivalent to interest on the arbitration award from the time it was filed; or

"(2) if he is a defendant, he shall pay to the plaintiff interest on the arbitration award from the time it was filed.

"§ 649. Definitions.

"As used in this chapter—

"(a) 'Judicial Conference' means the Judicial Conference of the United States;

"(b) 'district court' means a district court created under chapter 5 of this title and the United States District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands;

"(c) 'Director' means the Director of the Administrative Office of the United States Courts;

"(d) 'arbitrator' means an arbitrator certified pursuant to section 642 to conduct arbitration pursuant to this chapter; and

"(e) the United States is a party to a civil action if it is a party directly, or through its agency or department, or through its officer or employee in his official capacity."

(b) The analysis at the beginning of part III of title 28, United States Code, is amended by adding after the item relating to chapter 43 the following new item:

"44. Arbitration.".

(c) The analysis at the beginning of title 28, United States Code, is amended by adding after the item relating to chapter 43 the following new item:

"44. Arbitration.....651".

SEC. 4. Section 202(a) of title 18, United States Code, is amended by deleting the words "a part-time United States Commissioner" and inserting in lieu thereof the words "an arbitrator certified pursuant to section 642 of title 28".

SEC. 5. Arbitration in accordance with the provisions of chapter 44 of title 28, United States Code, shall be implemented on a test basis pursuant to this section for three years in no fewer than five nor more than eight representative districts to be designated by the Chief Justice of the United States, after consultation with the Attorney General. The selection of test districts shall be made on the basis of considerations such as the number of civil and criminal cases filed and tried

annually in the district, the case backlog in the district, the number of civil cases that would be referred to arbitration that are filed and tried annually in the district, the number of district court judges and magistrates sitting in the district, and the geographical location of the district.

SEC. 6. The Judicial Conference of the United States is authorized to develop model procedures consistent with the provisions of this Act for the conduct of arbitration proceedings under this Act.

SEC. 7. (a) The Federal Judicial Center shall advise and consult with the Judicial Conference of the United States and the district courts in connection with their duties under this Act.

(b) The Federal Judicial Center, in consultation with the Attorney General and the Administrative Office of the United States Courts, shall transmit to the Congress, on or before the expiration of the third year following the effective date of this Act, a report on the use, effectiveness and benefits of arbitration in the test district courts and such other districts in which cases are referred to arbitration under this Act.

SEC. 8. (a) The Attorney General shall promulgate regulations to describe the cases subject to arbitration pursuant to section 644(a)(1)(A) of title 28, United States Code, within one hundred and twenty days of the date of enactment of this Act.

(b) This Act shall take effect one hundred and twenty days after the date of enactment, except that subsection (a) shall take effect on the date of enactment.

SEC. 9. There is authorized to be appropriated for the fiscal year ending September 30, 1979, to the judicial branch of the Government such sums as may be necessary to be allocated by the Administrative Office of the United States Courts to Federal judicial districts and the Federal Judicial Center to carry out the purposes of this Act. The funds so appropriated shall remain available until expended.

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., October 20, 1977.

The VICE PRESIDENT,
U.S. Senate,
Washington, D.C.

DEAR MR. VICE PRESIDENT: Enclosed for your consideration and appropriate reference is a legislative proposal "To encourage prompt, informal, and inexpensive resolution of civil cases by use of arbitration in United States district courts."

The bill creates a chapter in Title 28 of the United States Code that would establish a process for district courts of mandatory arbitration of specified categories of civil actions, with the right to a full district court trial de novo preserved. In five to eight districts, to be selected by the Chief Justice, the use of arbitration under the statute would be mandated for a three year test period.

Arbitration of the type proposed in this bill has been in use in several states. Careful attention has been given to the experience that Ohio, Pennsylvania, New York, and California have had with arbitration. The experience of these States with mandatory arbitration for relatively small claims has been quite positive. It is, however, recognized that parallels must be made cautiously between the experience of these States and the system proposed for the federal courts because the federal jurisdiction floor (i.e., $10,000) is above the ceiling of most State arbitration plans. We also note that, in addition, there is a long history of the use of federal court arbitration on a voluntary basis.*

The bill contains findings that in civil litigations there are avoidable expenses and delays in many districts. The purpose of the bill is set forth as being the promotion of the prompt, informal and inexpensive resolution of disputes. The vehicle for achieving that result is arbitration.

The bill would add a new chapter to the United States Code, setting forth procedures for arbitration. The bill would allow any district to adopt this arbitration scheme and would require the scheme to be implemented on a test basis in five to eight districts to be chosen by the Chief Justice, after consultation with the Attorney General. This approach was taken because it is felt that the experience with arbitration is sufficiently extensive that it should be available for voluntary use in any district that chooses to adopt it and that a comprehensive and controlled test is warranted to determine how advantageous its mandatory use would be in the federal courts. At the same time, however, it seems premature to impose an arbitration scheme on all 94 districts without a period of experiment and study.

The bill requires that all cases of specified types filed in a district court adopting the scheme be referred to arbitration soon after the pleadings are closed. In addition, any matter in which the parties consent is to be referred to arbitration. The cases that are to be mandatorily referred are actions for money damages only or, in the discretion of the court, actions in part for monetary relief, and where not more than $50,000 in relief is sought, and which are: (1) Miller Act (where the United States does not have a monetary interest) or Jones Act federal question cases; (2) contract or negotiable instrument cases brought under federal question or diversity jurisdiction; or (3) personal injury or property damages cases brought under diversity or maritime jurisdiction. Actions to which the United States is a party are excluded, except where the Attorney General provides by regulation for their inclusion and except for the Miller Act cases where U.S. participation is in form only. The exception to the money damages limitation is made for cases in which the judge determines that any non-monetary claims are insubstantial. These classes of cases were selected after examining the entire federal civil docket. They are matters that generally present questions of fact and may not require a full trial before an Article III court. The $50,000 ceiling was imposed because it is felt that in cases involving greater amounts, except where the parties consent to arbitration, the losing parties are so likely to seek a trial de novo that arbitration may not be worthwhile.

Table 1, on the following page, sets forth the number of cases for all federal district courts filed in FY 1976 under the statutes under which cases will be referred to arbitration. No information is available, however, on the portion of these cases that seek only money damages and that claim no more than $50,000 damages. Consequently it is not possible to estimate with precision how many cases would be actually encompassed within the arbitration jurisdiction.

Filings and terminations of selected Federal District Court civil cases in fiscal year 1976

	Total filed	Terminated	Pending
Diversity:			
Insurance	3,184	2,483	999
Negotiable instruments	2,240	989	540
Other contract	13,559	9,755	4,584
Marine, personal injury	5,170	1,288	559
Motor vehicle personal injury	6,068	5,725	2,266
Other personal injury	[1] 8,635	5,996	2,006
Federal question:			
Miller act	955	901	555
Jones act	5,170	3,620	1,653
Other personal injury	(1)	107	29
Total selected civil cases	44,981	30,864	13,191
Total 1976 civil cases	130,597	110,175	140,189
Total 1976 criminal cases	[2] 41,020	43,675	19,756

[1] This represents personal injury cases (other than marine and motor vehicle) brought under both diversity and Federal question jurisdiction.
[2] Includes transfers.

Source: 1976 Annual Report of the Director of the Administrative Office of United States Courts, tables 16 and C4.

The proposed statute sets forth the general procedures to be followed for cases submitted to arbitration. They are to be referred to arbitration as soon as possible after the twentieth day following the close of pleadings, taking into account any motions for summary relief made or discovery initiated during the 20 day period. The referral may not be delayed beyond 120 days after the closing of the pleadings, unless a motion on the pleadings is still pending, in which event referral is to be made immediately upon the resolution of the motion. This time period was established in order to allow the resolution of questions related to the pleadings, and to allow the parties to conduct such discovery as can be completed within 120 days. Limited discovery may frequently be necessary in order that the parties may be well enough prepared to be able to have a meaningful and fair arbitration proceeding. Where a judge determines that non-monetary claims in a matter are insubstantial and refers the case to arbitration, the referral is to be made not more than 120 days after that finding.

Upon referral to arbitration, the parties have seven days to select any person or persons as the arbitrator. If they do not notify the clerk that they have done so, a panel of three arbitrators (unless the parties specify one) is to be selected from among a list to be maintained by the district court. Arbitrators on the list would be members of the bar of the court who have been members of any state bar for at least five years. They would be certified by the court for four year terms, with the certification revokable by order of a majority of the active judges of the court. They would be paid by the court a fee not to exceed $50 for each case in which they serve. Arbitrators are designated as special government employees under 18 U.S.C. § 202(a) in order to allow them to continue to handle, in their law practices, cases in which the United States is a party, except where there is a direct conflict of interest with their duties as arbitrators.

The arbitration hearing in a particular case would commence no later than 30 days after the action was referred to arbitration. Witnesses and documents could be subpoenaed

* See, e.g., *Thornton* v. *Carson*, 7 Cranch 596.

pursuant to F.R.C.P. 45, and the Federal Rules of Evidence would be non-binding guides, except that privileged material could not be introduced. It is intended that the relaxed rules would permit the admission of some hearsay evidence, particularly in documentary form.

The arbitration award would be entered as the judgment of the court, unless a party were to demand a trial de novo within 20 days. Where that occurred, the case would be placed on the civil docket of the court and treated in all respects as if it had never been referred to arbitration. Neither the fact of the arbitration proceeding nor the award could be admitted into evidence at a district court trial. The use of testimony given in the arbitration proceeding would not be precluded, however, for impeachment purposes in a subsequent trial.

Disincentives to demanding a trial de novo are included. Unless the party demanding a trial de novo obtained a judgment more favorable to him than the arbitration award, he would be assessed the costs of the arbitration proceedings, including the arbitrator's fees, and interest on the amount of the arbitration award from the time it was filed. These financial disincentives should suffice to cause a party to pause before demanding a trial de novo, but should not be so onerous as to constitute unconstitutional impediments to access to Article III courts.

The Judicial Conference of the United States is authorized to prepare model rules for use by district courts that adopt arbitration. The Federal Judicial Center is authorized to provide consultation and advice concerning arbitration to the Judicial Conference and to district courts adopting arbitration.

During the first three years that the statute is in force the Federal Judicial Center, in consultation with the Attorney General, is required to study the operation of the arbitration procedure. At the end of the third year the Center is required to file a report with the Congress evaluating the operation of arbitration in the test districts for use by the Congress.

The bill authorizes the appropriation of such sums as may be necessary to carry out the purposes of the Act.

I urge the prompt introduction and early enactment of this measure.

The Office of Management and Budget has advised this Department that there is no objection to the submission of this legislation from the standpoint of the Administration's program.

Sincerely,

GRIFFIN B. BELL,
Attorney General.

By Mr. STEVENS (for himself and Mr. GRAVEL):

S. 2254. A bill directing the Secretary of the Interior to convey certain property to David Sanhite Peele; to the Committee on Energy and Natural Resources.

Mr. STEVENS. Mr. President, I am today introducing a bill to direct the Secretary of the Interior to convey property to David Sanhite Peele. My colleague from Alaska, Mr. GRAVEL, joins me in sponsoring this legislation.

This measure would convey to him by quitclaim deed the surface rights to 160 acres of land located on Karta Bay, Prince of Wales Island, Alaska. This property initially belonged to his grandfather, Sanhite. A September 23, 1887, letter written by Territorial Governor A. P. Swineford to Sanhite Peele recognized his possessory rights to this land.

Since Sanhite Peele, an Alaskan Native, relying on this letter; did not apply for a Nativel allotment; a formal deed to this land was never issued. Before his death in 1912, Sanhite Peele willed this property to his grandson, David, with David's father, James, as the trustee. Subsequently based on his grandfather's use and occupancy, the Bureau of Indian Affairs on behalf of his grandson, David twice filed for a Native allotment to this property. The applications were rejected both times.

Since there is no authority in the 1906 Allotment Act for a son to inherit property based on a father's use and occupancy, the initial application was rejected. Additionally, since the land was not primarily used for agriculture or grazing and because David did not qualify for this allotment based on use and occupancy before the forest withdrawal date; the second application was also rejected. The Interior Board of Land Appeals affirmed this decision.

Mr. President, Sanhite Peele's claim to this land was based on the Territorial Governor's letter stating his possessory rights based on use and occupancy. At that time documents of this kind known as Skookum Paper were widely recognized. According to the Alaska State Director of the Bureau of Land Management, "a Skookum Paper which apparently was not based on any law or other authority but had considerable value in establishing occupancy prior to the creation of the Tongass National Forest in 1902".

David applied for his land based solely on his grandfather's use and occupancy, established in 1887 by the letter from the Territorial Governor. The U.S. Forest Service and the Interior Board of Land Appeals have rejected his claim because he did not meet the qualifications of the 1906 Allotment Act. Since this property "was" the Peele's in 1887, and was never a Native allotment, and was never meant to be a Native allotment except when the Bureau of Indian Affairs applied for David Peele in 1956; I urge my colleagues to act favorably on this measure. According to the Bureau of Land Management, David Peele's only alternative to obtain a deed to this property is enactment of private legislation such as this.

By Mr. NELSON (for himself and Mr. HATHAWAY):

S. 2259. A bill to amend the Small Business Act to expand and revise the procedures for insuring small business participation in Government procurement activities, and for other purposes; to the Select Committee on Small Business.

SMALL BUSINESS PROCUREMENT EXPANSION AND SIMPLIFICATION ACT

Mr. NELSON. Mr. President, the bill I am introducing today, the Small Business Procurement Expansion and Simplification Act, would reemphasize a long-standing national policy that encourages small firms to do business with their Federal Government.

This bill is an expression of my deep conviction that the small business community which produces 43 percent of our Nation's GNP more than one-half of our private employment and much of the product innovation of the last 50 years, is, indeed, the backbone of the American economy and should receive fair and equitable treatment as suppliers to the Federal Government. Small businesses are regularly discriminated against despite the fact that their competitive abilities are equal to or better than many larger firms if they are given the proper climate in which to compete.

Adm. Hyman Rickover, who has awarded numerous contracts to businesses for Defense Department programs, has often praised the abilities of small firms to do work for the Government. According to Rickover:

> Many firms, particularly small ones, act in the finest tradition of the free enterprise system A typical example of how the small company operates is one that has an important contract for my program. Its outlook is refreshing. Its owners do not spend nearly all of their time, as do the officials of large companies, on public relations, lobbying, and exerting political influence. Instead they understand it is up to them to please the customer and make a success of work. This they do by paying close attention to the work itself. When confronted with problems, they do not seek bail-outs or subsidies or use influence in high places to get special privileges . . . I have found that small and medium size companies take a more responsible view toward their contractual obligations than the large ones.

Small firms also are fully capable of acting as subcontractors to the Nation's largest Government—mainly defense and space—contractors. A highly placed administrator of the giant Lockheed Aircraft Corp. to the committee had this to say in a letter to the Small Business Committee:

> A formal Small Business Program preceding enactment of small business legislation, was established by Lockheed in 1951. Its philosophy recognized the basic economic fact that prime contractors such as Lockheed, need and rely on small business suppliers because they are responsive, competitive and capable—attributes that make them valuable business allies.

SMALL BUSINESS PROCUREMENT EXPANSION

Title I of the Small Business Procurement and Expansion and Simplification Act would weigh the scales more equitably for small businesses in the Federal procurement system. Small business procurement policy is set forth in broad terms in the Small Business Act and other procurement statutes, but implementation of the general intent of Congress is left to the Small Business Administration and the procuring agencies. Our hearings have revealed time and again that the procuring agencies and the SBA disagree over the degree to which small firms are capable of participating in the Government market. Unfortunately, such disagreements are not resolved in a fair arena, since the SBA has little authority to pursue the merits of its arguments in behalf of the small business contracting community.

PRIME CONTRACTS

Section 101 of this title would give the Small Business Administration authority to assist procuring agencies in the setting of goals for the participation of small concerns in Government procurement. In the past, SBA has had to stand by helplessly while the goals were set solely by the procuring agencies without the advice and assistance of the

agency that knows best what the potential small business participation is. Heretofore, contracting agencies have set their small business goals by what is easily attainable for the procuring offices rather than by what the potential small business market might be.

Here is an example of what can happen as a result of SBA's consultations with Federal contracting agencies in behalf of small contractors. In 1966, when the SBA Administrator abolished SBA's review of procurements for the purposes of setting them aside for small business, small business was receiving 20.9 percent of total Government contract awards. In 1969, the small business share had plummeted to 17.2 percent. In 1970, when the SBA review was reinstated, the small business share began to rise again, starting with a percentage of 17.8 percent in 1970, and increasing steadily, to 22.1 percent in 1976.

Should SBA and a procuring agency have a disagreement over what the goal for small business participation in that agency's contracting should be, the bill provides that the matter be submitted for determination to the Office of Management and Budget's Office of Federal Procurement Policy.

Section 101 of the bill also establishes a goal for increased participation by small firms in areas where small business has fared poorly. The objective of this provision is to provide an additional stimulus for procuring agencies to create more opportunities for small firms to compete for goods and services that have for the most part been supplied by larger contractors.

For example, small firms receive about 5 percent of Federal expenditures for research and development, as compared with an overall small business percentage that tends to hover around 20 percent of all goods and services purchased by Federal agencies. This section specifically authorizes the use of goals and set-asides as tools to substantially increase procurement dollars going to small research and development firms.

Additionally, section 101 provides that contracts having a value of less than $10,000 shall be reserved exclusively for small business concerns unless the contracting officer is unable to obtain offers from two or more small business concerns that are competitive in terms of price, quality, and delivery of the goods or services being purchased.

Under present practices, purchases that amount to $10,000 or less may be made under simplified purchasing procedures. Many transactions under this amount are for commercial items for which prices are set competitively or by regulatory processes. Thus, under these procedures, competitive techniques are used, but neither the more cumbersome methods of formal advertising nor the administrative burdens of negotiated procurement are required.

Many regulations governing procurement above $10,000 require a great deal of unnecessary time-consuming and expensive paperwork and are extremely frustrating and costly for small firms, thus discouraging them from doing business with the Government. Increasing opportunities for small businesses to supply their goods and services in the below $10,000 price range would certainly make government contracting less burdensome and more attractive to small business.

SUBCONTRACTS

Section 102 of title I would update the small business subcontracting program, which has had no substantive change since 1963. Under the program as currently structured, the SBA has little leverage over Government agencies and their large primes in order to promote subcontracting to small firms. It is basically a program in which the prime contractors are free to cooperate or not bother with procuring agencies. The real meat in the program is simply that "in evaluating bids or in selecting contractors for negotiated contracts, the extensive use of subcontractors by a proposed contractor shall be considered a favorable factor." SBA is prohibited from doing anything other than encouraging primes, through the contracting agency, to subcontract with small business.

This bill would put some teeth into the subcontracting program by authorizing the SBA Administrator to help procuring authorities determine the small business subcontracting potential for small business. SBA would review a prime contractor's subcontracting plan to determine if small business has been afforded the "maximum practicable opportunity" to subcontract to that prime. Should SBA and the contracting official disagree with each other as to whether the plan affords small firms maximum practicable subcontracting opportunities, the matter may be referred by SBA to the head of the department or agency for determination.

In other words, this would cut out the necessity for SBA to have a "hands-off" posture with the decisions of prime contractors of whether or not to subcontract with small business. This might result in a more vigorous campaign by prime contractors to subcontract a larger portion of their work performed on Government contracts to small firms.

SMALL BUSINESS PROCUREMENT SIMPLIFICATION

Section II of the Small Business Procurement Expansion and Simplification Act would greatly simplify the elaborate and burdensome procurement procedures that discourage many small firms from doing business with the Government.

Section 201 of title II would provide for the consolidation of the two major statutes governing defense and civilian agency procurements. Small businesses have testified before the Small Business Committee that the complexities of doing business with Government agencies are greatly confounded by the inconsistencies between the two acts. A major step forward simplying Government procurement procedures would be the promulgation of a uniform set of regulations for all Government purchasing agencies.

And since small firms suffer most from the onerous burden of excess paperwork required by procurement regulations, section 202 of title II directs the Office of Federal Procurement Policy to simplify the bidding, contracting administration, and performance requirements of Government contracts. The Government now has the benefit of the work of the Commission on Federal Paperwork, and it is a particularly opportune time to streamline the procurement process to make it easier and more attractive for small firms to do business with the Government.

As an additional aid to small businesses that are preparing bids on Government contracts, section 203 of title II requires Government procuring agencies to provide to a potential bidder simplified and streamlined copies and summaries of major Federal laws or rules which a business would have to comply with should he receive the contract. Small firms simply do not have the legal resources available to research and fully comprehend all of the requirements made of Government contractors. Many of these requirements are in the public interest, but small firms have the right to clearly understand what their responsibilities and pitfalls are before they bid on Government contracts.

In order to assure that small firms have sufficient leadtime in which to prepare and submit bids to Government procuring agencies, section 204 of this bill requires procuring agencies to open bids no sooner than 30 days from the date the procurement is advertised in the Commerce Business Daily. Small businesses are often precluded from bidding on Government contracts because they have insufficient time in which to wade through the details of bid requests and to prepare their bids. This section also requires the Secretary of Commerce to devise methods of providing to small firms one-stop information on available contracts and subcontracts.

Section 205 of title II would simplify the complicated, time-consuming, and expensive procedures that small firms must go through in order to resolve disputes they might have as contractors by setting up arbitration panels. Often, by the time a dispute is settled, the small firm has suffered heavy expenses and production delays. Both the Government and small business could save money if a quicker, simpler way of resolving contracting problems were available.

Mr. President, there is nothing in this legislation that would require the Federal Government to award contract or encourage subcontracts to be awarded to businesses that are not qualified to do a good job for the Government at competitive prices. The purpose of the bill is simply to provide more opportunities to small firms to prove they can do the job as well as larger firms.

The Small Business Procurement Expansion and Simplification Act, if enacted into law, would be a major step forward in translating into action the mandate that the Congress placed into the Small Business Act in 1953 that "a fair proportion of the total purchases and contracts or subcontracts * * * be placed with small business-enterprise."

The time has come to give the small business person's agency—the Small Business Administration—the tools to help small business to get a fair share of

the Government market. If we are truly serious about small business, there can be no question that something must be done, and now.

Mr. President, I ask unanimous consent that the text of this bill and a section-by-section analysis be printed in the RECORD following the remarks of my colleague, Mr. HATHAWAY, who is joining me in cosponsorship of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATHAWAY. Mr. President, I am pleased to join with my colleague, Mr. NELSON, in cosponsoring the Small Business Procurement Expansion and Simplification Act. As chairman of the Procurement Subcommittee of the Senate Small Business Committee, I have been deeply involved over the last 5 years with the problems smaller firms experience in doing business with the Federal Government. Hearings that I have conducted over this time period have indicated that the share of the Government market that small firms manage to capture is limited not by their capabilities as Government contractors, but primarily by a big government's bias against smaller firms.

This bias exists regardless of the mandate of the Congress that small firms receive a fair proportion of the Federal Government's total purchases and contracts or subcontracts for goods and services. It exists in spite of a 35-year-old national policy based on the realization that the industrial capacity of small business is vital to defense mobilization and on the economic theory that small firms are a necessary ingredient of competition in a free market economy.

If small businesses are given the opportunity to compete for every contract which they are capable of performing at a competitive price, I am confident that we will see small business participation in the Government market rapidly increase. To help achieve this, a major provision of this bill provides for the Small Business Administration, the agency that is the principal advocate of small business, to determine the capabilities of the small business community to deliver goods and services to the Government and to plug that determination into the goals that procuring agencies set each year for small business participation.

The bill also provides that all procurements made under simplified purchasing procedures (purchases under $10,000) be set aside for small business participation. In a poll conducted by the Procurement Subcommittee of over 130 small business contractors, the paperwork burden was cited as one of the chief and continuing problems experienced in doing business with the Government. Since small businesses suffer most from excessive red-tape, it follows that they will benefit most by doing business with the Government under these simplified bidding and payment procedures. Federal Government can at the same time reap the benefits of competition between capable small business firms. This provision, as well as others in the bill, will greatly simplify the procurement process for small business.

Here is an example of what the combined goal-setting authority for the Small Business Administration and the set-asides for purchases under $10,000 could mean for the small business community. During fiscal year 1976, small firms performed $12 billion worth of contracts for the Federal Government out of a total budget of $54.7 billion. Should the goals that procuring authorities and the SBA set average out as little as 25 percent of the total contracts awarded above $10,000, and if small businesses received all contracts below $10,000, we are talking about increasing the dollars that go to small businesses by about $7 billion.

And that could be only the beginning of an expanded Government market for small business, since these goals would be constantly adjusted to reflect the small business potential. And I submit that once the opportunities for participating in Government contracts expand, there will be a natural market response of expanded small business capabilities.

This point is well worth stressing. We are concerned with encouraging small businesses to do business with the Government, and we are concerned with encouraging contracting agencies to make available to smaller firms the same opportunities that are offered to larger firms. It is my belief that once small firms are aware of increasing opportunities, they will respond by rising to the occasion.

The provision for enhanced involvement by the Small Business Administration in subcontracting decisions has the potential of substantially increasing subcontracting dollars going to small business. When the Procurement Subcommittee held hearings on subcontracting by large firms to small business in 1973, testimony was given that large contractors for the Department of Defense were awarding 35.8 percent of their subcontracts to small business. Although there was a slight increase to 37.6 percent in 1976, the 1967 level of 43.3 percent has not again been reached.

As a percentage of the total prime contract dollars awarded, the small business share in subcontracting has experienced an almost uninterrupted decline from 21.1 percent in 1967 to 14.9 percent in 1976. Thus, larger firms are tending to cut back on what they are purchasing from small business in order to fulfill their Government contracts. Under the subcontracting provisions of this bill, the contracting officer and SBA will be required to take a long, hard look at these multimillion-dollar contracts that go to the giant corporations and satisfy themselves that all possible subcontract work has been designated for small business competition.

The bill would also make it possible for SBA to collect subcontracting statistics directly from prime contractors. Currently, the reporting system for subcontracts is a nightmare. Not all major primes report on their subcontracts to the procuring agencies, and when they do, their figures may be contaminated by commercial purchases. The primes are not the only culprits in the reporting process, however, since out of 54 civilian agencies only a dozen or so have ever bothered to report to Congress on their subcontracting during the past several years. And last, but not least, we in the Congress do not yet have a geographic breakdown of where subcontracting dollars are going. Thus, we have no idea whether there is a grossly inequitable geographic distribution of subcontract dollars going to small business. This situation will soon be remedied in part by language contained in one 1978 DOD appropriation bill, which I was pleased to support. But the provision in this bill is a vital one to apply to all procurement agencies.

Mr. President, the Small Business Procurement Expansion and Simplification Act would reemphasize and enhance our national policy that promotes opportunities for small firms to do business with the Federal Government. It is a measure that would help counteract the seeming reluctance of many procuring agencies to do business with smaller firms, turning around the "bigger is better" syndrome in Government procurement. The act would also greatly stimulate competition among firms wishing to do business with the Federal Government, with smaller firms coming into their own as providers of the goods and services needed to run the Federal Government.

S. 2259

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Small Business Procurement Expansion and Simplification Act of 1977".

TITLE I. SMALL BUSINESS PROCUREMENT EXPANSION

SEC. 101. Section 15 of the Small Business Act is amended—

(1) by inserting "(a)" after "Sec. 15."; and

(2) by adding at the end thereof the following:

"(b) The head of each department or agency of the Federal Government shall, after consultation with the Administration, establish goals for the participation by small business concerns in procurement contracts of that department or agency having values of $10,000 or more. Goals established under this subsection shall realistically reflect the potential of small business concerns to perform such contracts and to perform subcontracts under such contracts and may include goals for joint determinations by the Administration and the department or agency for the setting aside of contracts for small business participation as set forth in this section. Whenever the Administration and the head of the department or agency fail to agree, the matter shall be submitted for determination to the Administrator for Federal Procurement Policy, Office of Management and Budget.

"(c) Notwithstanding subsection (b), with respect to any category of procurement which the SBA determines can be produced by small business, which was procured by a Federal department or agency during any fiscal year, and for which less than 20 per centum of the dollar amount involved during such year was furnished by one or more small business concerns, the head of that department or agency shall, after consultation with the Administration, establish as an interim goal for each succeeding fiscal year until a fiscal year in which such concerns furnish at least 20 per centum of the dollar

value of such items, an increase by at least 10 per centum per annum of the dollar amount or participation by such concerns in the procurement of that item.

"(d) Nothing in this Act or any other provision of law precludes exclusive small business set-asides for procurements of research, development, test and evaluation, architectural, or engineering services, and agencies and departments are authorized to develop such set-asides to further the interests of small business in those areas.

"(e) Each contract for the procurement of goods and services which has an anticipated value of less than $10,000 and which is subject to small purchase procedures shall be reserved exclusively for small business concerns unless the contracting officer is unable to obtain offers from two or more small business concerns that are competive in terms of price, quality, and delivery of the goods or services being purchased. In utilizing small purchase procedures, contracting officers shall, wherever circumstances permit, choose a method of payment which minimizes paperwork and facilitates prompt payment to contractors."

SEC. 102. (a) Section 8(b)(5) of the Small Business Act is amended—

(1) by inserting "and statistical data" after "information"; and

(2) by striking out "encourage" and inserting in lieu thereof "review".

(b) Section 8(d)(1) of such Act is amended—

(1) by striking out ", the Secretary of Defense, and the Administrator of General Services shall cooperatively" and inserting in lieu thereof "shall";

(2) by striking out "through the appropriate procuring agency" in clause (B);

(3) by inserting after "any Government procurement agency" in clause (C) the following: "and its prime contractors"; and

(4) by striking out "in evaluating bids or in selecting contractors for negotiated contracts, the extensive use of subcontractors by a proposed contractor shall be considered a favorable factor" and inserting in lieu thereof the following: "before the award of any Government procurement contract over $500,000, the apparent low responsive bidder or offeror on such contract shall submit to the Federal department or agency letting such contract a written small business subcontracting plan. Such plan shall describe the type and percentage of work under such contract which such bidder or offeror expects to be performed by small business concerns and shall be incorporated as part of the contract requirements. Such plan and the bidder's or offeror's compliance with other such plans under other contracts shall be considered by the head of such department or agency in determining the responsiveness of such bidder or offeror for the award of such contract. No Government procurement contract shall be awarded to any bidder or offeror unless the department or agency letting such contract, after consultation with the Administrator, determines that the small business subcontracting plan submitted provides the maximum practicable opportunity for small business concerns to participate in the performance of such contract. Whenever the Administration and contracting procurement agency fail to agree, the matter shall be submitted for determination to the appropriate head of the department or agency by the Administrator.

(c) Section 8(d)(2) of such Act is amended—

(1) by striking out "which in the opinion of the procuring agency offers substantial subcontracting possibilities" and inserting in lieu thereof "to a large business concern"; and

(2) by striking out "which offers substantial possibilities for further subcontracting".

(d) Section 8(f) of such Act is added, to read as follows: "The head of each department and agency of the Federal Government shall review its large systems procurements and other procurements on which small business ordinarily cannot compete and take all feasible steps to subdivide such procurements into smaller components on which small business can compete and bid".

SEC. 102. Section 20 of the Small Business Act is amended by adding at the end thereof the following:

"(h) There is authorized to be appropriated to the Small Business Administration for purposes of carrying out sections 8(d)(1) and (2) a sum not to exceed $1,071,525, which shall be available without fiscal year limitation".

TITLE II. SMALL BUSINESS PROCUREMENT SIMPLIFICATION

SEC. 201. The Administrator of the Office of Federal Procurement Policy is authorized and directed, pursuant to the authority conferred by Public Law 93-400 and subject to the procedures set forth in such Public Law, to promulgate a single, simplified, uniform procurement Federal regulation and to establish procedures for insuring compliance with such provisions by all executive agencies.

SEC. 202. In carrying out section 201 of this title, the Administrator for Federal Procurement Policy shall (1) conduct analyses of the impact on small business concerns resulting from revised procurement regulations, and (2) incorporate into revised procurement regulations simplified bidding, contract performance, and contract administration procedures for small business concerns.

SEC. 203. (a) Except as provided in subsection (b), with respect to any Federal agency having procurement authority, the head of such agency shall—

(1) in the case of any Government procurement contract to be let by such agency which may not exceed $100,000 provide to any small business concern on its request—

(A) a copy of bid sets and specifications with respect to such contract;

(B) a copy and summary of each major Federal law or agency rule with which such concern must comply in performing such contract, including Federal laws and agency rules relating to environmental impact statements, air and water cleanliness requirements, and occupational and safety requirements; and

(C) the name and telephone number of an employee of such agency to answer questions with respect to such contract; and

(2) in the case of any Government procurement contract to be let by such agency which may exceed $100,000, provide to any small business concern on its request—

(A) a copy of bid sets and specifications with respect to such contract; and

(B) adequate citations to each major Federal law or agency rule (as described in paragraph (1)(B) with which such concern must comply in performing such contract.

(b) Subsection (a) shall not apply to any contract—

(1) which is for services which are personal in nature; or

(2) which, including all subcontracts under such contract, will be performed entirely outside any State, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(c) Documents and information required to be provided under subsection (a) shall be supplied, to the extent practicable, at the local level.

SEC. 204. (a) Except as provided in subsection (b), any Government procurement contract with respect to which a notice for bidding is published in the Commerce Business Daily shall be open for bidding until the later of—

(1) the end of a thirty-day period beginning on the date such notice is so published; or

(2) the date stated in such notice as the closing date for such bidding.

(b)(1) Subsection (a) shall not apply to any Government procurement contract to be let by any Federal agency with respect to which the head of such agency personally determines that emergency circumstances prevent compliance with such subsection.

(2) Subsection (a)(2) shall not apply to any Government procurement contract with respect to which an amendment notice for bidding is published in the Commerce Business Daily not later than fifteen days before the closing date for bidding stated in such amended notice.

(c) In the case of any Government procurement contract with respect to which a notice for bidding is published in the Commerce Business Daily—

(A) if such bidding is limited to only one person, such notice shall specify the law or rule under the authority of which such bidding is so limited; and

(B) if such bidding is limited to persons located in a certain region of the United States, such notice shall state the basis for so limiting such bidding.

(d) The Secretary of Commerce shall take such steps as may be necessary in order that all Government procurement contracts set aside for small business concerns under section 15 of the Small Busineses Act, and all awards of contracts to small business concerns, so identified, are published in a timely manner in the Commerce Business Daily.

(e) The Secretary of Commerce shall study the feasibility of, and to the extent practicable implement, the notification to any small business concern, on request of such concern, of all Government procurement contracts on which, or on any subcontract of which, such concern may bid.

SEC. 205. There is hereby established in the Small Business Administration such Government contract arbitration panels as the Administrator deems appropriate. Such panels shall provide an opportunity for resolving disputes between any small business concern and any Federal agency having procurement authority concerning any Government procurement contract which is let to such concern or which may be let to any such concern. Use of such panels shall be voluntary, and decisions of such panels shall be binding only to the extent that such concern and agency agree that such decisions are binding.

SEC. 206. For purposes of this Act—

(1) the term "Administrator" means the Administrator of the Small Business Administrator;

(2) the term "Federal agency" has the meaning given the term "agency" by section 551(1) of title 5, United States Code; and

(3) the term "Government procurement contract" means any contract for the procurement of any good or service by any Federal agency.

SECTION-BY-SECTION ANALYSIS

SEC. 1. The bill is cited as the "Small Business Procurement Expansion and Simplification Act of 1977."

TITLE I. SMALL BUSINESS PROCUREMENT EXPANSION

SEC. 101. Amends the Small Business Act by requiring heads of procuring departments and agencies to consult with the Administrator of the Small Business Administration in establishing goals for the participation by small businesses in contracts of the agency having a dollar value above $10,000. Declares that these goals shall realistically reflect the potential of small business concerns to perform such contracts. Provides that whenever

the Administration and the head of the department or agency fail to agree, the matter shall be submitted for determination to the Administrator for Federal Procurement Policy, Office of Management and Budget.

Provides that for any items in a category of procurement purchased by a Federal Department or agency during any fiscal year for which less than 20 percent of the dollar amount was furnished by small business, an interim goal shall be set of a yearly increase of at least 10 percent per year of the dollar amount of participation by small firms until at least 20 percent of the dollar value of the items is furnished by small business.

States that nothing in the Act or any other provision of law precludes exclusive small business set-asides for procurements of research, development, test and evaluation, architectural, or engineering services.

Provides that contracts having a value of less than $10,000 shall be reserved exclusively for small business concerns unless the contracting officer is unable to obtain offers from two or more small business concerns that are competitive in terms of price, quality, and delivery of the goods or services being purchased. In utilizing small purchase procedures, contracting officers shall, whenever circumstances permit, choose a method of payment which minimizes paperwork and facilitates prompt payment to contractors.

SEC. 102. Amends the Small Business Act to add statistical data to the information that the Small Business Administration may obtain as to methods and practices which Government prime contractors utilize in letting subcontracts; substitutes the word "review" for "encourage" in the same section where the SBA Administrator is empowered to take action to encourage the letting of subcontracts by prime contractors to small business concerns at prices and on conditions and terms which are fair and equitable.

Amends the Small Business Act to provide that the SBA Administrator (rather than the Secretary of Defense, the Administrator of the General Services Administration and the SBA Administrator) shall develop a small business subcontracting program that will, among other things, insure that such prime contractor and subcontractor will consult directly with the Administration, rather than through the appropriate procuring agencies.

Amends the Small Business Act by requiring that a procuring agency approve the small business subcontracting program of a low-bidding prime contractor before a contract award can be made. The SBA is authorized to assist in the evaluation of these programs to determine that small business subcontractors have been afforded a maximum practicable opportunity to subcontract to the prime. Provides that whenever the Administration and contracting procurement agency fail to agree, the matter shall be submitted for determination to the appropriate head of the department or agency by the Administrator.

Amends the Small Business Act to provide that every contract for property or services (with certain exceptions) in excess of $1,000,000 made by a government department or agency to a large business concern (removes the condition, "which in the opinion of the procuring agency offers substantial subcontracting possibility") shall require the contractor to conform to the small business subcontracting program and to insert in all subcontracts in excess of $500,000 a provision requiring the subcontractor to conform to such small business subcontracting program (removes the condition that the subcontract offer substantial possibilities for further subcontracts).

Authorizes the expenditure of $1,071,525 for purposes of carrying out Sec. 8(d) (1) and (2) of the Small Business Act (subcontracting program).

TITLE II. SMALL BUSINESS PROCUREMENT SIMPLIFICATION

SEC. 201. Directs the Administrator of the Office of Federal Procurement Policy to promulgate a single, simplified, uniform Federal regulation and to establish procedures for insuring compliance with such provision by all executive agencies.

SEC. 202. Directs the Administrator for Federal Procurement Policy to (1) conduct analyses of the impact on small business concerns resulting from revised procurement regulations, and (2) incorporate into revised procurement regulations simplified bidding, contract performance, and contract administration procedures for small business concerns.

SEC. 203. Directs procuring agencies to provide to any small business concern on its request concerning a procurement not to exceed $100,000—

(A) a copy of bid sets and specifications with respect to such contract;

(B) a copy and summary of each major Federal law or agency rule with which such concern must comply in performing such contract, including Federal laws and agency rules relating to environmental impact statements, air and water cleanliness requirements, and occupational safety requirements; and

(C) the name and telephone number of an employee of such agency to answer questions with respect to such contract.

Directs procuring agencies to provide to any small business concern on its request concerning a procurement exceeding $100,000—

(A) a copy of bid sets and specifications with respect to such contract; and

(B) adequate citations to each major Federal law or agency rule (as described in (B) above) with which such concern must comply in performing such contract.

Exempts from the above provision contracts for personal services and contracts for performance outside of the United States.

SEC. 204. Provides that any procurement contract notice which is published in the Commerce Business Daily shall be opened for bidding at least thirty days after the date such notice is so published.

Exempts from this provision any contract for which the head of the procuring agency personally determines that emergency circumstances prevent compliance with such provision. Also exempts any procurement for which an amended notice for bidding is published in the Commerce Business Daily not later than fifteen days before the closing date for bidding stated in the amended notice.

Requires that any notice for bidding appearing in the Commerce Business Daily which limits bidding to only one person or a certain region of the United States shall specify the law or rule under which the limitation applies.

Directs the Secretary of Commerce to take such steps as may be necessary in order that all Government procurement contracts set aside for small business concerns under section 15 of the Small Business Act, and all awards of contracts to small business concerns, so identified, are published in a timely manner in the Commerce Business Daily.

Directs the Secretary of Commerce to study the feasibility of, and to the extent practicable implement, the notification to any small business concern, on request of such concern, of all Government procurement contracts on which, or on any subcontract of which, such concern may bid.

SEC. 205. Establishes in the Small Business Administration contract arbitration panels for resolving disputes between any small business concern and any Federal agency having procurement authority concerning any Government contract which is let to such concern or which may be let to such concern. Use of such panels shall be voluntary and decisions of such panels shall be binding only to the extent that such concern and agency agree that such decisions are binding.

By Mr. MATSUNAGA:

S. 2260. A bill for the relief of Judge Louis LeBaron; to the Committee on the Judiciary.

Mr. MATSUNAGA. Mr. President, I am introducing a bill today addressed to the problem of a technical oversight in a law enacted back in 1948. Since that time, the oversight, which is contained in title 28 of the United States Code, section 373, has remained uncorrected, and this oversight has worked a substantial hardship on certain Federal judges.

Section 373 of title 28 establishes the retirement pay for judges in U.S. territories and possessions. Judges in territorial and possession courts are considered title I judges under the Constitution, much like tax court judges, since the courts are created by Congress. As tax court judges, judges in the territories and possessions serve for terms of years, rather than for periods of good behavior. However, when a qualified tax court judge retires, he continues to receive the salary of his office. The tax court judge's retirement pay is defined in terms of the salary presently paid to tax court judges. Thus, the retiree receives any increase enjoyed by judges presently serving, and the retiree's pay is kept in step with cost of living increases.

On the other hand, judges who served in the territories and possessions, under section 373 of title 28, upon retirement collect only the salary they had received when they relinquished office. No provision is made to adjust the retirement pay for any increase in the cost of living or for any increase in salary later received by active territorial and possession judges. Thus, the judge who retired more than 20 years ago, would receive the same retirement pay that he collected when he relinquished office.

The inequity of this retirement provision for territorial judges is illustrated by the case of Judge Louis LeBaron of Hawaii. Judge LeBaron served both as a judge on the Hawaii Federal district court and subsequently as a justice on the Hawaii supreme court, when Hawaii was a territory. He was appointed by President Roosevelt on July 8 1937, and in 1942 was named to the Hawaii Territorial Supreme Court. Judge LeBaron served a total of 18 years as a Federal judge in the territory of Hawaii, until February 14, 1955, when he retired. At the time he retired, territorial supreme court justices in Hawaii received a salary of $10,000 a year. Under section 373, Judge LeBaron continues to receive $10,000 a year as his retirement pay.

To this date, Judge LeBaron still receives only $10,000 a year as his retirement pay, for section 373 does not provide for any increase in the cost of living, or for any increase later received by justices or judges in the territories. Since a dollar now is worth only one-third of what it was worth back in 1955, Judge Louis LeBaron has in effect had

his retirement pay reduced by 66⅔ percent.

Were he covered by the retirement provisions for other article II judges, that is tax court judges, he would receive more than 3½ times what his retirement pay is today. In other words, Judge LeBaron today receives only a fraction of what a comparable retired judge of the tax court receives today. To correct this technical oversight, my bill would treat Judge LeBaron as if he had retired as a judge of the U.S. Tax Court on February 14, 1955. This treatment would provide him with a fair and adequate retirement pay and correct the egregious hardship he has suffered under section 373.

From the standpoint of plain equity, the bill which I am introducing today should be passed without delay.

By Mr. HATHAWAY:

S. 2261. A bill to implement the United Nations Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property; to the Committee on Finance.

Mr. HATHAWAY. Mr. President, it is my pleasure and privilege to introduce in the Senate a bill to implement the United Nations Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property.

This bill provides legislation necessary for implementation of the UNESCO convention which the Senate approved on August 11, 1972.

The problems of pillage and illicit trade in antiquities and cultural objects is not a new one.

For as long as mankind has existed, there has been war between nations, plunder by the victors, and subsequent trading of the spoils in normal commercial channels.

But it has become increasingly clear that we must take steps to set some standards for the acquisition of art objects so as to discourage, in the future, the use of methods of acquisition which more and more institutions and governments deplore.

The demand for art objects has grown. And since, by definition, there is only a finite supply of antique artifacts, their scarcity is met by increasingly aggressive practices by which they may be acquired.

Grave robbing, and other examples of the theft of antiquities from historical locations in the Earth or in ancient buildings, is nothing new.

But with the advances of archeology, such crude mining of ancient artifacts robs not only the owner of the object, but all of us of the knowledge which that object, in its ancient repository, might have imparted to us upon the sophisticated analysis of a modern archeologist.

And "beyond the grave," so to speak, is the problem of international trade in art objects.

Different countries have different restrictions. While it may be illegal to remove an object from country A for export to country B, it is deemed legal if the object passes through country C and there receives pro forma documentation which serves to make lawful a transaction which in reality subverts the efforts to maintain the cultural heritage of the nation in which the object originated.

In order to begin to combat these practices, which threaten the patrimony of all nations, a concerted, worldwide effort is necessary. The United States cannot by itself eliminate the pillage of antiquities or the illicit trade in art objects.

This bill gives the President a defined sphere of authority, under which he may enter into bilateral or multilateral agreements with other nations whose cultural patrimony is endangered by pillage. The President is also given emergency powers to restrict the importation of such artifacts where a foreign state requests it.

Although the provisions of the bill enjoy wide support, the art constituency is a complex one with a wide variety of interests, goals and problems. So in order to help the President address the situation, section 5 of the bill establishes a Cultural Property Advisory Committee.

The bill also prohibits the importation of cultural property stolen from a museum and there are provisions dealing with recovery, return, seizure, and judicial forfeiture of such artifacts. The bill is prospective only.

The art community has played a large role in the development of this legislation and it is my hope that with the continued support of museums, dealers and other institutions and interested parties, we shall be able to pass this bill early in 1978.

ADDITIONAL COSPONSORS

S. 1882

At the request of Mr. GLENN, the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 1882, to amend the Omnibus Crime Control and Safe Streets Act.

S. 1974

At the request of Mr. NELSON, the Senator from Louisiana (Mr. JOHNSTON) and the Senator from Nevada (Mr. LAXALT) were added as cosponsors of S. 1974, the Regulatory Flexibility Act, and of amendment No. 849, intended to be proposed to S. 1974.

S. 2066

At the request of Mr. MATHIAS, the Senator from New Hampshire (Mr. MCINTYRE) and the Senator from Alaska (Mr. GRAVEL) were added as cosponsors of S. 2066, a bill to protect the Appalachian Trail.

S. 2218

At the request of Mr. STONE, the Senator from Kansas (Mr. DOLE), the Senator from Mississippi (Mr. EASTLAND), the Senator from Hawaii (Mr. INOUYE), and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 2218, to establish a program of aquaculture.

S. 2227 AND S. 2228

At the request of Mr. HARRY F. BYRD, JR., the Senator from Nebraska (Mr. ZORINSKY) was added as a cosponsor of S. 2227 and S. 2228, bills to amend the Internal Revenue Code.

SENATE RESOLUTION 219

At the request of Mr. ROTH, the Senator from New York (Mr. JAVITS) was added as a cosponsor of Senate Resolution 219, establishing a senior citizen internship program in the Senate.

SENATE RESOLUTION 305

At the request of Mr. KENNEDY, the Senator from West Virginia (Mr. RANDOLPH) and the Senator from Minnesota (Mr. ANDERSON) were added as cosponsors of Senate Resolution 305, a resolution to name room S–120 in the Capitol for Senator HUBERT H. HUMPHREY.

SENATE CONCURRENT RESOLUTION 51

At the request of Mr. HUMPHREY, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of Senate Concurrent Resolution 51, relating to Americans missing in action.

SENATE JOINT RESOLUTION 95

At the request of Mr. HEINZ, the Senator from Pennsylvania (Mr. SCHWEIKER) was added as a cosponsor of Senate Joint Resolution 95, granting citizenship to William Penn and Hannah Callowhill Penn.

SENATE RESOLUTION 311—SUBMISSION OF A RESOLUTION RELATING TO GRAZING FEES ON PUBLIC LANDS

(Referred to the Committee on Energy and Natural Resources.)

Mr. WALLOP (for himself, Mr. MCCLURE, Mr. HANSEN, Mr. ABOUREZK, Mr. CANNON, Mr. DECONCINI, Mr. DOMENICI, Mr. GARN, Mr. GRAVEL, Mr. HATCH, Mr. HAYAKAWA, Mr. LAXALT, Mr. MCGOVERN, Mr. SCHMITT, Mr. STEVENS, and Mr. YOUNG) submitted the following resolution:

S. Res. 311

Whereas the Department of Agriculture and the Department of the Interior have announced a proposed new formula for computing fees to be charged for the grazing of livestock on public lands; and

Whereas the new formula will result in an additional cost of approximately $6,000,000 to grazing lease holders; and

Whereas the new formula will have devastating consequences on a substantial segment of the agricultural industry that is already facing severe economic problems; and

Whereas the announced new formula does not reflect the 1976 findings and recommendations of the interagency committee, known as the Technical Committee Organized to Review Public Land Grazing Fees which was established for the purpose of studying the fee structure for grazing on public lands:

Resolved, That it is the sense of the Senate that the Secretary of Agriculture and the Secretary of the Interior should, and are hereby urged and requested to, impose, with respect to any increase in the charges currently being made for grazing livestock on public lands, a moratorium for such a period as may be necessary to permit the appropriate committees of the Congress a reasonable opportunity to hold hearings on the proposed new formula.

Sec. 2. The Secretary of the Senate shall transmit copies of this resolution to the Secretary of Agriculture and the Secretary of the Interior.

Mr. WALLOP. Mr. President, last Friday, October 21, the Department of the

Interior and the Department of Agriculture announced the proposed new grazing fee formulas contained within a report submitted by the Secretaries of those agencies. Members of Congress, cattle ranchers, woolgrowers and the people in the rural communities of the West have been waiting for a report that would reflect the administration's understanding of the West and the problems of the stock grower. Apparently the agencies involved neither understand the conditions that make the Western livestock industry unique, nor does it care about the fate of the stock grower who depends upon the public lands for grazing.

The proposed grazing fee formulas endorsed reflect a disregard for the condition of the domestic livestock industry. This industry is facing its most difficult period of economic hardship since the depression. Stock growers are beseiged with production costs that continue to climb along with inflation, while the price that he receives for his product remains at an all time low. Cattle producers are hit particularly hard. Depressed prices and the market pressures created by continued imports of beef are forcing larger number of cattle producers out of business. In my State of Wyoming, the bankruptcy rate among ranchers will climb to 20 percent this year.

To these economic difficulties, there are serious problems facing stock growers which stem from government programs. The administration and clarification of the Organic Act is still in a shambles. Neither stock growers nor BLM administrators in the field are yet sure of the interpretation of this law and the impact that it will have on the livestock industry. Now the Government is proposing another economic burden, the consequences of which are unclear, in the form of a $6-million increase in grazing fees.

I do not need to continue to list the economic difficulties facing the U.S. livestock industry. Those who are concerned with the fate of the livestock producer are already familiar with its problems through testimonies before the International Trade Commission, public meetings on grazing fees, and reports in the media. The administration cannot help but realize the seriousness of the situation for the stock grower. This is our greatest disappointment. The administration is aware of this desperate economic condition yet it supports grazing fee formulas, which can only push more stock growers closer toward bankruptcy.

The Department of the Interior and the Department of Agriculture have not been without equitable alternatives to the formula that has been chosen. Agriculture groups such as the American National Cattlemen's Association and the American Farm Bureau Federation developed formulas that reflect years of research and took into consideration the effects the formula would have on the livestock industry. These recommendations were dismissed.

Even more surprising is the fact that the administration rejected the formula proposed by its own Technical Committee to Review Public Land Grazing Fees. The Technical Committee, composed of representatives from the Economic Research Service, USDA, Statistical Research Service, Forest Service, Bureau of Land Management, and the Department of the Interior, published its findings in the Federal Register on February 4, 1977. The Technical Committee recommended a formula that considered an index of private land lease rates, and an index of beef prices minus the cost of production. These agencies had conceded that some consideration had to be given to production costs and the price of the stockgrowers product if an equitable formula was to be achieved. The new proposed grazing fee formula rejected this consideration.

The rationalization of the administration's new grazing fee formula is that the grazing fees should not assure profitability but rather the formula should assure that the users of public lands pay fees equivalent to those paid on private lands. The new formula leans heavily on the assumption that grazing on public land is similar to grazing on private land, which it is not. There are economic reasons why the stockgrower has agreed to pay a premium for grazing on private lands. On private lands, the cost of fencing, water development, and other land improvements are not borne by the renting stockgrower as they are on public lands. Nor are they faced with the problem of public access. It is the permittee who makes the investments to improve our Nation's public lands to make them more productive for the benefit of us all. Will we enjoy the benefit of these improvements if the stockgrower is forced from the range and his occupation by higher grazing fees and other government policies?

The administration has made a tragic error in ignoring the grazing fee proposals that would consider cost of production and the price the stockgrower receives for his product. This proposal must not go into effect as planned by the Department of the Interior and the Department of Agriculture. I submit, along with my co-sponsors, that a moratorium be placed on all grazing fee increases until the appropriate Committees of Congress have an opportunity to hold hearings on this proposal, and an alternative grazing fee formula is adopted.

SENATE RESOLUTION 312—ORIGINAL RESOLUTION REPORTED RELATING TO THE SUBPENA AUTHORITY OF THE SELECT COMMITTEE ON ETHICS

(Placed on the Calendar.)

Mr. CANNON, from the Committee on Rules and Administration, reported the following original resolution:

S. RES. 312

Resolved, that section 3(d) of Senate Resolution 338, 88th Congress, agreed to July 24, 1964, is amended to read as follows:

"(d) Subpoenas may be issued (1) by the Select Committee or (2) by the chairman and vice chairman, acting jointly. Any such subpoena shall be signed by the chairman or the vice chairman and may be served by any person designated by such chairman or vice chairman. The chairman of the Select Committee or any member thereof may administer oaths to witnesses."

AMENDMENTS SUBMITTED FOR PRINTING

SOCIAL SECURITY AMENDMENTS—H.R. 9346

AMENDMENT NO. 1541

(Ordered to be printed and to lie on the table.)

Mr. TOWER. Mr. President, there is no longer any question that the financing of the social security system needs to be overhauled. This system has been ailing for some time and it is absolutely essential that Congress make it clear to all Americans that the commitment this Nation has to its social security system will be met and will not be defaulted. We owe this not only to the 100 million citizens who pay to support the system and to the 34 million who currently benefit from it, but to our next generation as well. They deserve, and we can give them, no less.

We must insist that the young people entering the work force today, who are obliged to pay an increasing tax on their earnings, be assured that their contributions will not be in vain. Congress must demand that the type of social security system which they contribute to and will look to for their future benefits will not be exorbitantly expensive and will reflect their contribution to the system.

Likewise, we cannot place this burden of lessening the financial ills of social security too heavily on our middle class and business community. Buffeted by inflation, middle income families cannot be made to bear a still greater share of the financing load for the retired generation. Applying a disproportionate share of this tax to employers would be equally unfair and ill advised. Employers will not pay increases in payroll taxes out of profits, but rather will shift the tax primarily to their employees, either through lower wages or by hiring fewer workers. Increased prices to the consumer would be an unavoidable product of this approach.

Equally as important, we must seek to remove immediately that continually discriminatory burden, the earnings limitation ceiling, so that the individual of retirement age can maintain his income level as high as possible to keep pace with inflation.

Mr. President, financial soundness can be achieved and a number of long standing inequities in the system can be corrected. I am convinced that the damage is not beyond repair. And for this reason, I am submitting today legislation that will work to stabilize the drain on the social security trust funds, reduce the effect of wage and price fluctuation on the system's benefit structure and eliminate the earnings test for retirement.

I am well aware that the Senate Finance Committee is reporting out extensive financing proposals of their own and I commend their tireless efforts to address this most urgent problem. I would hope, however, that when the Senate considers a legislative remedy it

may find merit in my midcourse suggestions and that the results of our combined efforts will effectively stabilize the drain on the trust funds and renew Americans confidence in an economically viable social security system once again.

Mr. President, I ask unanimous consent that a brief outline of the proposal I am submitting be printed at this point in the RECORD.

There being no objection, the outline was ordered to be printed in the RECORD, as follows:

OUTLINE OF SENATOR TOWER'S SOCIAL SECURITY LEGISLATION

1. Shifting 0.3% of the currently scheduled (for January 1, 1978) tax rate increase from the hospital insurance trust fund to the old age, survivors', and disability insurance trust fund. (The full rate increase is scheduled to be 0.4%).

2. Completely ending the earnings limitation for persons from age 65–72, accompanied by a tax increase of 0.25% to fund it, effective January 1, 1979. In that event, the OASDI trust fund would be depleted in 1983.

3. Using a dependency test solution that would reduce benefits payable to dependent spouses (including surviving spouses) by the amount of any civil service, (Federal, State, or local) retirement benefit payable to the spouse. The provision would apply only to individuals applying for spouses' social security benefits in the future and only if the dependent spouse had a civil service pension based on his or her own earnings in public employment which was not covered in the Social Security system.

4. Using the price indexing method of decoupling, this solves the defective indexing problem which currently exists, and would put the Social Security Trust Funds on a completely actuarily sound basis over the long-term (the next 75 years). It assures the beneficiary that both his initial benefit and subsequent benefits will be computed on a price-indexed basis. This contrasts with wage indexing, where the initial benefit is based upon wage rather than price history; which is substantially more expensive and could not keep the funds actuarily sound without further increases in the tax rate or wage base.

5. Calling for a blue ribbon commission, of outside members, to review the OASDHI trust funds and report to Congress by January 1, 1980, on acceptable ways to solve the short-range problems of the funds, which would be depleted in 1983 under this overall proposal.

ENERGY TAX BILL—H.R. 5263

AMENDMENT NO. 1542

(Ordered to be printed and to lie on the table.)

HOME INSULATION SAFETY STANDARDS

Mr. HART. Mr. President, I am sending to the desk today an amendment which addresses a critical problem, the need for safety standards for home insulation. The entire Nation owes a debt of gratitude to Raymond D. Jones, chief counsel, Felicia Muftic, executive director and Philip Stern, consultant engineer of the Metropolitan Denver District Attorney's Consumer Office for bringing this matter to the attention of the appropriate Federal agency, the Consumer Product Safety Commission. Unfortunately, that agency has, in my opinion, failed in its responsibility to address the allegations contained in that petition.

Those allegations include: First, risk of injury from fires associated with cellulose home insulation; second, risk of injury of cancer and other problems in the respiratory and gastrointestinal tracts due to the inhalation and ingestion of particles from fibrous glass home insulation; third, risk of injury from fires associated with plastic foam/resin home insulation; and fourth, risk of injury of irritation and poisoning associated with the use of plastic foam/resin insulation by consumers. Clearly, the most pressing problem is the risk of flammability in improperly treated cellulose insulation.

Mr. President, the Consumer Product Safety Commission's own Denver area office notified its Washington office of this potential problem on June 18, 1975, and on February 20, 1976, the Consumer Product Safety Commission's Denver office pointed out the need for mandatory fire resistance standards for cellulose insulation.

It is unconscionable that the CPSC has not acted of their own accord. But, even further, they have not as of this time addressed the issues raised in the petition filed by the Metropolitan Denver District Attorney's Consumer Office in October of 1976, which, under law, should have been addressed within 120 days of the date of filing.

The fact that the CPSC has not acted on this issue should not and will not deter us from bringing this issue to the forefront. Consumers, ready and willing to comply with energy conserving techniques, such as insulating homes, should not be jeopardized by some insulation production practices that are lax by the most liberal measurements. If the Congress is providing, through legislation, the incentives for energy conservation, we should couple that effort with sufficient protection for the consumer. We cannot overlook the potential hazards of the energy conservation techniques we are advocating this very day.

Mr. President, let me briefly review the facts. Cellulose insulation is primarily made from old newspapers and other paper and wastepaper products. As we all know, these are easily obtainable and extremely flammable. When this paper is ground, it is treated with a dry chemical, usually borax, boric acid, or aluminum sulfate which should cover the fibers if they are ground fine enough, making them fire retardant. But, since these chemicals are dry, it is possible that they may separate from the cellulose fibers at a later date, making the cellulose combustible. Evidence indicates that certain chemicals designed to retard flammability can leach out upon exposure to moisture or can be lost through a process known as sublimation, under the temperatures often found in an attic in the summer months. Mr. President, I do not pretend to be an expert on all the ins and outs of home insulation safety. But, I do know that the Consumer Protection Safety Commission does have the authority to address this pressing problem, and I am only too aware of their failure to do so.

My distinguished colleague from Kentucky, Mr. FORD, chairman of the Consumer Subcommittee of the Senate Committee on Commerce, Science, and Transportation has been extensively involved in this issue for quite some time. I commend him for his diligence and fine efforts and hope he will recognize the need for this legislation.

I ask unanimous consent that the text of my amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1542

On page 13, strike out lines 13 and 14, and insert in lieu thereof:

"(6) Consultation in prescribing standards; certain insulation standards.—

"(A) Consultation.—Performance and quality standards shall be pre-".

On page 13, between lines 18 and 19, insert the following:

"(B) Insulation standards.—To assist the Secretary in prescribing standards under paragraph (3) and to assist Congress in insuring credit shall be allowed under this section only for insulation which may be safely installed, the Consumer Product Safety Commission shall, as soon as practicable, but not later than 6 months after the date of the enactment of this section, issue final safety standards under the Consumer Product Safety Act (86 Stat. 1207) for cellulose insulation and submit to Congress and the Secretary its findings with respect to such insulation, together with any recommendations for the adoption or amendment of any law or regulation which it finds necessary to protect the public health and safety.

Mr. FORD. Mr. President, I commend my distinguished colleague from the State of Colorado for his strong statement on the subject of home insulation safety. As chairman of the Consumer Subcommittee of the Senate Committee on Commerce, Science, and Transportation, I held 2 days of hearings on this very matter on September 15 and 16 of this year. Also, on October 7, I held a day of oversight hearings involving the Consumer Product Safety Commission in which I voiced serious concern about CPSC's handling of the petition filed by the Metropolitan Denver District Attorney's consumer office.

On October 21, I sent a letter to Chairman Byington of the Consumer Product Safety Commission, and I ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OCTOBER 21, 1977.

S. JOHN BYINGTON,
Chairman, Consumer Product Safety Commission, Washington, D.C.

DEAR CHAIRMAN BYINGTON: In my capacity as Chairman of the Consumer Subcommittee and as a member of the Senate Committee on Energy and Natural Resources, recent testimony that I have heard in both forums has convinced me that home insulation safety questions seriously threaten our national energy goals. If we are to meet the President's goal of insulating 90 percent of American homes by 1985, it is essential that consumer confidence in home insulation products be maintained at a high level. Because home insulation is such a critical component of the national energy conservation effort, I believe the question of home insulation safety should be among your highest priorities.

In June of 1975 your own Denver field office notified the CPSC of a flammability problem involving improperly treated cellulose insulation. Subsequently, you received a detailed petition from the Denver District Attorney's office requesting home insulation safety standards. The Commission has now had one full year to deal with that petition. The period for written comments and submissions for the record on this matter expires today, October 21, 1977.

I am of the opinion that sufficient authority for dealing with the various aspects of the home insulation safety issue are presently contained in the Consumer Product Safety Act. If, however, the CPSC neglects or refuses to exercise that authority, I am prepared to introduce specific legislation directing the Commission to establish home insulation safety standards.

Please advise me within 30 days what action the CPSC plans to take on home insulation, and under what sections of the Consumer Product Safety Act it intends to proceed. Additionally, please indicate how many employees and what level of resources you intend to devote to the home insulation safety issue. If the CPSC current authorization level is not sufficient to deal with this specific problem, I would appreciate being advised what additional resources are needed. This information will be useful in my planning of reauthorization hearings on the CPSC which will be held early next year.

I believe that the Consumer Product Safety Commission can play a pivotal role in determining the success or failure of our national energy conservation effort. I look forward to hearing what concrete steps you, as Chairman, will urge the Commission to take in this important matter.

Sincerely yours,

WENDELL H. FORD,
Chairman, Subcommittee on Consumer.

Mr. FORD. I firmly believe that the Consumer Product Safety Commission possesses sufficient authority under its existing legislation to deal with this serious problem, which I believe threatens to undermine the consumer confidence that is essential for the success of our national energy goals.

Chairman Byington recently traveled to St. Louis to attend the National Fire Prevention and Control Administration's convention. Of the many trips he has taken as Chairman, this should prove to be the most worthwhile. By listening to State and local fire officials, Mr. Byington has obtained a firsthand account of the serious nature of the home insulation safety problem. I am advised that Mr. Byington will bring the subject of home insulation safety to the full Commission on Wednesday, November 2, 1977, and will at that time propose various steps for dealing with the Denver petition on home insulation. In my opinion, the outcome of that meeting will determine whether additional legislation is necessary.

With full knowledge of the serious problem existing in Denver and in many other parts of the country, I ask that my distinguished colleague consider withdrawing the amendment he has just proposed, and join with me in insisting that the Commission move forward expeditiously under its existing authority. Should the Commission fail to act on this subject forthwith, I can assure the gentleman from Colorado that I will work with him to develop specific legislation that will mandate Commission action on home insulation safety standards.

Mr. HART. Mr. President, I commend the gentleman from Kentucky for his continued effort to see that the Consumer Product Safety Commission recognizes the urgency of this problem and exercises its existing authority. Based on your assurance that Commission action on the subject of home insulation safety will be forthcoming, I will withdraw my amendment at this time. However, I will continue to monitor the Consumer Product Safety Commission's activities on this subject, and will work with you to develop specific legislation should the Commission fail to act.

AMENDMENT NO. 1543

(Ordered to be printed and to lie on the table.)

Mr. PERCY (for himself, Mr. JAVITS, Mr. PELL, and Mr. HART) submitted an amendment intended to be proposed by them to the bill (H.R. 5263) to suspend until the close of June 30, 1980, the duty on certain bicycle parts.

AMENDMENT NO. 1544

(Ordered to be printed and to lie on the table.)

Mr. RIEGLE submitted an amendment intended to be proposed by him to the bill (H.R. 5162), supra.

NOTICES OF HEARINGS

HOME INSULATION SHORTAGE

Mr. SASSER. Mr. President, the Subcommittee on Intergovernmental Relations will hold a hearing on November 2, to examine the impact of the current shortage of home insulation.

Home insulation is an integral part of our Nation's program to conserve energy. The current demand for home insulation products indicates that a great many Americans realize the importance of home weatherization to help cut down their fuel bills.

However, insulation is in scarce supply. The unavailability of insulation is affecting homeowners and homebuilders. Housing construction is delayed, resulting in layoffs in the building industry, and increased costs.

The subcommittee intends to examine the extent of the shortage of home insulation, and to find out what we can expect in the months ahead. The hearing is a continuation of the subcommittee's hearings begun last month to determine the state of preparedness for winter.

The hearing will be held at 10 a.m., in room 6202 of the Dirksen Senate Office Building.

CONDUCT OF MONETARY POLICY

Mr. PROXMIRE. Mr. President, the Committee on Banking, Housing, and Urban Affairs will be holding 3 days of public hearings on the conduct of monetary policy pursuant to the requirements of House Concurrent Resolution 133 on November 9, 10, and 11. The hearings will be held in room 5302 of the Dirksen Senate Office Building and will begin at 10 a.m. on each day.

On Wednesday, November 9, the committee shall receive the testimony of Dr. Arthur F. Burns, Chairman of the Board of Governors of the Federal Reserve System. Chairman Burns will announce to the committee the plans and objectives of the Board of Governors and the Federal Open Market Committee with respect to the monetary and credit aggregates.

On Thursday, November 10, the committee shall receive the testimonies of two distinguished economists: Dr. Andrew F. Brimmer, a former member of the Board of Governors of the Federal Reserve System, and currently president of Brimmer & Company, Inc., Washington, D.C., and Dr. Robert V. Roosa of Brown Brothers Harriman and Co., New York.

On Friday, November 11, the committee shall receive the testimonies of three witnesses who have been asked to comment on both current and past monetary policy and on the need for better coordination of monetary and fiscal policy. The witnesses shall be the Honorable W. Michael Blumenthal, Secretary of the Treasury; the Honorable Richard Bolling, chairman of the Joint Economic Committee or his representative from the committee; and Ms. Alice M. Rivlin, Director of the Congressional Budget Office.

Anyone interested in obtaining additional information about the hearings should contact Steven M. Roberts, chief economist for the committee, at (202) 224–0893.

ADDITIONAL STATEMENTS

FORMER PANAMANIAN PRESIDENT COMMENTS ON TREATIES

Mr. DOLE. Mr. President, a statement by former Panamanian President Arnulfo Arias, on the proposed Panama Canal Treaties, was recently brought to my attention. Dr. Arias, who now resides in exile in Florida, served as President of the Republic of Panama during 1940 to 1941, 1949 to 1951, and served 12 days of a third term before being ousted by Gen. Omar Torrijos in October 1968.

As one who had had a long and close association with both the domestic and foreign policies of Panama, Arnulfo Arias brings a unique perspective to the current treaty issue. His statement should be a part of the historical record on this matter. Mr. President, I ask unanimous consent that the text of the statement by Dr. Arias be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT FROM DR. ARNULFO ARIAS, LAST CONSTITUTIONAL PRESIDENT OF THE REPUBLIC OF PANAMA

First: On September 7, 1977 two treaty proposals were signed in Washington, by representatives of Panama and the United States after negotiations have been held for several years. The proposed treaties and their implementations were negotiated and signed at a most difficult time in Panamanian history, when there had not been and there are not, genuine democratic institutions, nor freedom of expression, nor basic inalienable rights of the citizenry. In such a manner that none of the political parties which represent the vast majority of the whole electorate have been involved in anyway whatsoever, directly or indirectly, in the negotiations or the signature of the drafts.

Furthermore the proposed treaties have in themselves developed a quite large area of misunderstandings, doubts and double in-

terpretations in Panama as well as in the U.S.A. which invalidates them and makes them inadequate by the precedent it sets, besides the planting of tragic seeds of discord for the future.

Second: The treaty drafts do not take into consideration the vital interests of Panama, the U.S.A., and Latin America, and should therefore be rescinded. Firmly established trends of opinion are backing such clear judgment. In this way we will avoid an internal confrontation in both countries as well as between both nations.

Third: It is up to Panama to first reestablish the democratic process, all public freedoms, guarantees to the citizenry, the return of all political exiles and the full enjoyment of all human rights, and furthermore to bring the house to fiscal and economic order.

Fourth: Later, within a climate of progress and public faith in our future, return again to the negotiating table to obtain a just and equitable treaty for both countries since we are not in discord with one another and a special relationship binds us together in our mutual aims to protect the rights and aspirations of our people. We have the desire for a dignified cooperation and the responsibility to guarantee by all means a maritime passage for all people of the world.

THE 160-ACRE LIMITATION ON FEDERAL PROJECT LANDS—AGAIN?

Mr. METCALF. Mr. President, as one who has devoted all of my public career to the defense of the family farm, I was heartened by the recent decision of Interior Secretary Cecil Andrus to enforce the Reclamation Act of 1902. That act provided for limitations on farm acreage which could be irrigated from the waters of a Federal reclamation project. The idea was to settle as many people as possible on the farm where they could enjoy the fruits of their own labor and raise their children in the best atmosphere. Unfortunately, the law has not been enforced and increasingly smaller numbers of corporate landowners have captured an increasingly larger percentage of these irrigated lands.

I applaud Secretary Andrus' courageous decision to reverse this process and return to the original intent of the law. My beliefs are shared by Dr. Carl F. Kraenzel, an expert in rural sociology who taught for 33 years at Montana State University and is now retired. Dr. Kraenzel has written a short statement in support of the decision, a copy of which I wish to place in the CONGRESSIONAL RECORD.

Dr. Kraenzel makes several points, but the one which most impressed me dealt with the diversity permitted by small ownership—diversity in amounts of water delivered to the soil and the resultant physical impact on the land, and the diversity in the lives of the inhabitants. People living in close proximity require a variety of services; the provision of these services permits extra income to those farming modest-size farms.

I believe Dr. Kraenzel has made an eloquent contribution to the debate on this important matter, and I ask unanimous consent that the text of his statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

THE 160-ACRE LIMITATION OF FEDERAL PROJECT LANDS—AGAIN?

I am Carl F. Kraenzel, a PhD. in Rural Sociology, with more than 33 years at Montana State University in research and teaching and six years of teaching and retirement at the University of Texas at El Paso, and now living at Las Cruces, New Mexico, an irrigated area on the Rio Grande. Also I grew up on a dry land farm in Western North Dakota, and know something at first hand of what was the Fertile Crescent in the Middle East. I have always watched closely the dry land farming and irrigation agriculture of the arid and semi-arid West and know something of rural society and agriculture in the rest of the Nation, and of urban society too.

I want to say something about family farming, which I endorse heartily, as contrasted with corporate agriculture. And I want to say this in the context of maintaining the 160-acre irrigation unit when supplied by federally constructed irrigation project water as set out in the Reclamation (Newland's) Act of 1902, and as being reimplemented under order of the U.S. District Court for the District of Columbia in the case of National Land for People, Inc. v. The Bureau of Reclamation, et al., Civil Action No. 76-928.

I have before me numerous documents of the original law and amendments to it, plus irrigation project statements and rulings of procedure by the Bureau, the several Secretaries of Interior and the Solicitor General, many items from newspapers and journal articles that are pertinent, many books on the subject and other professional writings as those of Dr. Paul S. Taylor of the Economics Department, Univ. of Calif. at Berkeley, the Report On The Lands of the Arid Region Of The United States by Major John Wesley Powell, The Great Plains by Walter Prescott Webb, and my own writings. I also have before me several drafts of the statement as I originally wrote it, properly documented, and too long and boring. Hence this brief statement in support of the Reclamation Act of 1902, its spirit and philosophy.

Firstly. Semi-arid and arid lands are different from humid area lands in that the former are not leached. Therefore the soils of these lands have an inpenetrable layer of hard pan below them, and the application of irrigation water or more than normal rainfall will result in the surfacing of salt and the virtual destruction of the soil for the growing of usual crops. Even alternating years of dry land cropping may result in large areas of salt or alkali slicks, and ruin the soil, after several decades of such practices because the stored moisture (in the alternate non-crop years) is too much, i.e., the vegetation and evaporation do not take all the moisture out of the soil, leaving a cumulative excess, unless moisture absorbing crops are planted occasionally. The excess moisture has nowhere to go. With the irrigation of such arid and semi-arid lands, this process of bringing saline substances to the surface is much more intense, especially if the irrigation is in the lower or low elevation valleys.

Generally these are the last remnants of a former salt sea, as in the case of the Imperial and Central Valleys of California, the lower reaches of the Rio Grande, and the Salt Flats in Arizona. The leached humid area soils have had these saline particulates removed by underground flow and surface run-off after eons of surplus moisture. No amount of technology and mechanization, including elaborate drainage ditching and underground pipe installation and washing of soil by imported sweet water, will suffice, unless hanging gardens and hydroponics are employed. The saline soils are ruined for a long time; and the larger the irrigated area devoted to a single crop system such as cotton or certain vegetables because of large scale mechanization as in corporate farming, probably the larger the damage to the soil, as in the case of the Imperial Valley.

Secondly. There is something that corporation agriculturalists of the West, especially in the Southwest, and their banker and businessman allies, can learn from the more rural of the rest of the arid and semiarid western agriculturalists, if they would. Whereas humid area farming and traditional thought about agriculture has been steeped in the idea of diversification of and by a farm, there has emerged in the West the idea of area diversification for agriculture, and including also other occupations. There is nothing in the Reclamation Law of 1902 that says that an operator of a 160-acre piece of land (or less), cannot also own and/or operate additional dry land acreage for grain, even at considerable distance from the town or irrigated base on which he lives; and/or graze livestock on private (cooperative if you will) or public grazing land, also at considerable distance away. Nor is there anything in the law to keep him from operating larger machinery for special tasks for his neighboring operators if he is mechanically adept and the neighbors arrange a longer term lease for him to purchase the equipment or buy it cooperatively.

Raising bees for honey production; growing vineyards and fruit orchards; operating a smaller dairy or a livestock feeding yard, especially if neighbors cooperate; owning and operating a business in town; performing one or more of several of a dozen other kinds of services for his neighbors, for cash, such as blacksmithing, crop dusting, spraying for insects and weeds, artificial insemination of livestock, or regular farm labor are other supplemental alternatives for many who have small irrigated acres. None of this need be subsistence farming. In fact, area and occupational diversification are a wise managerial move, avoiding the need of putting "all eggs in one basket." Thus a small irrigated base acreage can lend income security and diversity to an operator, and can make for a cluster-like kind of settlement in otherwise sparse areas where public and social services have been extraordinarily costly or hard to come by.

This kind of diversification is what Major Wesley Powell was talking about in his arid lands report of almost a century ago. It is the kind of reserve, mobility and flexibility characteristics this writer has recommended for the survival of settlement in the arid and semiarid lands—a tieing together of Sutland and Yonland, a kind of adapted settlement to replace the anarchistic isolated settlement pattern that was inflicted upon this area from the homesteading era. The writer knows of many agricultural operations of this nature in the Great Plains and the Rocky Mountain area. There are fewer examples of this among the Anglos of the Southwest, because of the intransigence of most of the corporate operators, their failure to adapt to arid and semiarid conditions after coming from the humid area, and because of the urban domination that has invaded the arid and semiarid lands, especially from the Pacific and Gulf area states.

At one time there were several such irrigation projects built in Montana and adjacent states, including among the Mormons in Utah. But the evil perpetrated by "tail-gunner" Joe McCarthy, a humid area Midwesterner, and his ilk, destroyed these in his "red-hunting spree"—destroyed a way of agriculture that would, in all probability, have been more adapted than what now prevails, including the corporate devices on irri-

gated lands that are destroying the soil, the environment, and the water resources, entirely for self-gain.

Thirdly, Large scale corporate irrigation agricultural operators (Southern Pacific Railroad, Standard Oil, Kern County Land Company, Tejon Ranch Properties, O'Neal plantation, Arden Farms, California Packing Corporation, King Ranch, Balfour and Guthrie, R. T. Hoover Cotton Company (if they still go by these names) among them), their urban corporate satraps, and their coat-tail riders have perpetrated massive abuses against the general public welfare and against the Reclamation Act of 1902.

The subventions included failure to divest themselves of excess acreage when using federal irrigation project water (in some cases actually expanding acreage with such water uses even if purchased at high prices) in violation of the Reclamation Act; the aborting of the law in the case of the Imperial Valley via the California Supreme Court in 1933, without obtaining higher court rulings less prejudicial to Southwesterners; the actual with-holding of the salary of the Commissioner of Reclamation and that of the Western Regional Director, an act of castigation for not bowing to corporate demands via action of the 80th Congress (but restored by the late President Harry S. Truman in the 81st Congress). These are reprehensible acts by corporate powers and their handmaidens.

This was also the era of the California-Texas-Louisiana Off-shore Oil steal (a national tax-payer bilking act); and the later passage of a $1.75 billion state bond issue by California citizens (resulting in additional usurpation of state and federal funds), and causing a friction among Army Engineers and the Reclamation Service that bode only divisiveness and conquest. Somewhat later Texas politicians followed behind, this time with a $3 billion bond issue (with the promise of great over-runs); only the citizens resisted by popular vote—an issue still in the Texas wind. The importation of sweet water from the Columbia River and from Alaska and Upper Canada, via NAWAPA subverted, for washing salt out of extant corporate lands (rather than for larger public benefits on an international scale) is a prospect. The use of Upper Missouri water to slurry coal from the Northern Great Plains to White Bluff, Arkansas, and two slurry lines from the same area to Houston, Texas, are surfacing now, and are likely to be precedent setting.

Today's propaganda that modern farming, because of technology, is vastly different from that in 1902, is a lie,* forwarded as bait to recruit the public to the cause of corporate avarice, including now the plundering of energy resources other than oil—a corporate rape that is international in scope. There is nothing in modern technology for agriculture—whether large equipment for each operator, weedicides, insecticides—that would appear to make it possible for an operator and his family, with hired help, to irrigate more than 160 acres (and not destroy the soil) except in an area diversified way.

Unless he also uses alien labor—something industry does today by exporting capital and factories to low wage countries. The case of National Land for People, Inc. v. the Bureau of Reclamation et al. is an attempt on the part of urban and rural people—tax payers too—to use publically financed water from federal reclamation projects to furnish family-type employment and income to people who otherwise would crowd the cities with unemployment and other high social service costs. A study of Arvin and Dinuba in California by Goldsmith demonstrates the advantage of family farming and rural town and institutional services, considering the multiplier effect of the original income from two kinds of operations, one a corporate enterprise with migrant workers and few year around residents, the other with families, babies, schools, hospitals, libraries, shops, stores, services for older residents and the numerous other functions that go with community and community organization.

A Bernard DeVoto, writing his "Easy Chair" column in Harper's, would have "needled" the powerful and the big into knowing that they too belonged to the human race and couldn't "take it with them", even in a corporate way. The above are reasons to support Civil Action No. 76-928 enthusiastically, without modification of the Reclamation Act of 1902. That act envisioned this kind of struggle—the landed gentry against the family farmer in a democracy.

*In 1910-14 farm parity compared with other segments of the economy (income-cost ratio) was 100%, the ideal. On Aug. 15, 1977 this ratio was 64%, the lowest since Mar. 1933, largely because high costs of production, chiefly urban and technologically induced.

WATERWAY USER CHARGES—HOW MUCH DIVERSION?

Mr. HANSEN. Mr. President, following a recent hearing on waterway user charges, our colleague from New Mexico (Mr. DOMENICI) wrote to Transportation Secretary Adams. His letter sought figures on the level of possible "diversion" of traffic off the waterways that might result from the waterway user charge under the phase-in schedule that is contained in the bill passed in June and in Senator DOMENICI's amendment No. 1460 to H.R. 8309. Following Senator DOMENICI's departure from the Senate yesterday, Secretary Adams' reply was received.

The conclusion of Secretary Adams' letter, based on recent, voluminous studies on inland waterway traffic by the Department's Transportation System Center, was:

As a result of our analysis, I can tell you that all of the diversion would come out of future traffic growth, none out of current traffic. Taking the barge traffic growth of the last ten years, we get an annual growth rate of approximately 52 per cent. If this rate continues for the next ten years and there is 15 per cent diversion ten years out, then barge traffic at that time will be 41 per cent greater than it is now.

Because of the wide interest in the issue of waterway user charges, I ask unanimous consent that a copy of Senator DOMENICI's letter and a copy of Secretary Adams' reply be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE, COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, D.C., October 21, 1977.

Hon. BROCK ADAMS,
Secretary, Department of Transportation, Washington, D.C.

DEAR MR. SECRETARY: During hearings by the Senate Committee on Finance this afternoon, there was much discussion on the degree to which waterway user charges might cause a "diversion" of traffic from the waterways to other modes of transportation. It was argued that this diversion might reach 20 percent under the language adopted by the Senate last June 22.

It would be most helpful to me to have an evaluation of this assertion by your Department, particularly in view of the phased-in nature of the waterway user charge contained in the Senate-passed bill and in my Amendment No. 1460.

What is the maximum level of diversion that is likely to occur under the phased-in approach, and what are the assumptions in your analysis?

Will any diversion that does occur come from existing traffic or from new traffic?

If such a diversion comes primarily from new traffic, what anticipated annual growth rate in waterway traffic can still be anticipated for the inland barge industry?

Your assistance and cooperation in responding to these questions is most appreciated.

Sincerely,

PETE V. DOMENICI.

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., October 27, 1977.

Hon. PETE V. DOMENICI,
U.S. Senate,
Washington, D.C.

DEAR PETE: I am writing in response to your letter of October 21, 1977. As a result of last Friday's hearings before the Senate Finance Committee, you asked me about the impact on barge traffic of charges sufficient to meet the cost recovery goals set by your bill.

According to our analysis, recovery of 100 percent of operating and maintenance costs plus 50 percent of new construction costs would result in a reduction of 10–15 percent in the ton miles of traffic carried by the barges on the inland waterways after full implementation, in 1990, of your amendment. Ten percent was our maximum estimate of diversion when considering only recovery of operating and maintenance costs. As you are aware, a critical assumption in this analysis is that the railroads do not raise their freight rates on traffic for which they are competing with the waterways.

Bearing in mind the phase-in approach of your bill, this is a level of diversion that would occur ten years from now. As a result of our analysis, I can tell you that all of the diversion would come out of future traffic growth, none out of current traffic. Taking the barge traffic growth of the last ten years, we get an annual growth rate of approximately 5.2 percent. If this rate continues for the next ten years and there is 15 percent diversion ten years out, then barge traffic at that time will be 41 percent greater than it is now. Even with the maximum diversion, then, large traffic would still be growing at an annual rate of 3.5 percent.

I am aware that at the hearing some people were suggesting that the rate of diversion might be as high as 20 percent. As I have already indicated, our analysis tells us that this is an unreasonably high figure. Let me state for the record, however, that even if the diversion were as high as 20 percent, it would still all come out of future growth. Diversion of 20 percent would leave the barges ten years from now with 33 percent more traffic than they are carrying today, and this is equivalent to an annual growth rate of 2.4 percent.

For the sake of comparison, let me note that in the last ten years total rail traffic grew by less than one percent per year. Increasing coal traffic may well raise the rail growth rate in the future. For example, a doubling of rail coal tonnage by 1985 would result in an annual growth rate for all rail traffic of 3 percent.

I hope this is helpful to you.

Sincerely,

BROCK ADAMS.

ADVANCEMENT OF SLAVIC STUDIES CONVENTION

Mr. BIDEN. Mr. President, a fortnight ago our Nation's Capital was fortunate to host the ninth annual national convention of one of our country's most prestigious academic organizations, the American Association for the Advancement of Slavic Studies. The AAASS, founded in the aftermath of World War II, is composed of the elite of the U.S. academic community which deals with the whole range of issues regarding the Soviet Union and Eastern Europe. This includes the historians and political scientists, linguists, and sociologists, indeed, every facet of academic inquiry.

For 4 days a capacity crowd—some 1,800 scholars, more than twice the number ever to attend a previous meeting—discussed in working panels such issues as "Dissent and Its Ramifications," "Arms Control in Soviet Studies," and "Soviet Science and Technology."

Among the high points of this year's convocation was the award of a special Distinguished Scholar Award to Prof. John Hazard of Columbia University, surely among the finest scholars on the Soviet Union ever produced by our country.

Another highlight, Mr. President, was a keynote speech given by my friend and colleague on the Foreign Relations Committe, Senator DICK CLARK, of Iowa. Senator CLARK was chosen for this assignment both because of his academic credentials as a lecturer on Russian and Soviet affairs on the university level, and because since coming to the Senate he has developed a wide range of contact among the outstanding figures in the field.

The subject of the Senator's speech grew directly out of this practice of inviting key academic figures to discuss with him important developments in the Soviet field. As he puts it, "I am concerned with observing how knowledge (academia) talks to power (the Congress)."

In addition to probing ways in which the academic world may better assist the Congress in reaching wise decisions, Senator CLARK also cites the dangers of the slackening of support for the Soviet studies programs for which this Nation has become famous. As you will recall, following an awareness in the mid-1930's of the inadequacy of our knowledge of Soviet affairs, the United States built up an impressive academic capability. But, as he points out, indifference and lack of a sense of urgency have combined to seriously erode this capability. It is this problem which he addresses with such insight and concern.

As a specific starting point for revitalizing Soviet studies, Senator CLARK suggests the merits of a special, interdisciplinary research project on Soviet agriculture, pointing out the great gaps in our knowledge of this vital aspect of Soviet life.

Finally, Mr. President, I would like to underscore Senator CLARK's appeal for an increasing sophistication in our analyses of Soviet and Eastern European affairs. As he describes it, in every respect these countries are becoming more complex, and the tired short-hand cliches of the past—"hard" or "soft," "hawk" or "dove" no longer serve to adequately describe the situation.

As chairman of the Foreign Relations Committee Subcommittee on European Affairs, I find these remarks very well taken, and ask unanimous consent that they be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

WHEN KNOWLEDGE SPEAKS TO POWER ON SOVIET AFFAIRS

(By U.S. Senator DICK CLARK)

I want to express my sincere appreciation for the opportunity you have given me this evening to step out of the role of an office holder, and to visit with my professional colleagues in the world of scholarship about a matter of common interest to our government and our profession.

I only wish that all drop-outs from the academic world could be welcomed back to school as warmly as this.

The truth of the matter, of course, is that I prefer to believe that I never really dropped out. For, as I hope to make clear this evening, scholarship is not determined by place of employment. It is more a matter of principles and of an approach to the human dilemma of reconciling mind with matter, will with intellect, and power with understanding. I would like to think that even in my present job I continue to share with you a commitment to those principles which characterize the scholar's response to this dilemma.

Tonight, I would like to address myself to two particular problems: (1) the worrisome decline in America's commitment to Soviet area studies at a time when we can ill-afford such a trend, and (2) the need to make scholarship more relevant to decision-making in our dealings with the Soviet Union. Finally, without seeking to spell out a detailed list of research priorities, I would like to suggest one proposal especially close to my own heart that might deserve further in-depth attention from the scholarly community.

In the 1930's, when some Americans first sensed the growing significance of Soviet power, the Department of State discovered to its dismay that it had no Foreign Service officers who had more than a tourist acquaintance with the language and people of the Soviet Union. Even more shocking was the discovery that America had very few qualified institutions to teach its diplomats, intelligence officers, soldiers, bankers and businessmen the language and area skills they needed to defend the nation and to promote its economic interests. The problem was first addressed by sending a few of our brighter young Foreign Service officers to Paris, Berlin and Riga for training.

By the 1950's and 60's, the situation had radically changed. We no longer had to send our diplomats abroad for training. On the contrary, the foreign offices of Europe and of other continents were sending their diplomats to American universities for training in Soviet language and area studies Following World War II, we had developed a capability for intellectually rigorous, broadly-based foreign area studies unmatched in the world. We not only had trained diplomats of the calibre of George Kennan, Chip Bohlen, Tommy Thompson and Loy Henderson, we had as well a community of political scientists and historians like Merle Fainsod or Phil Mosely, economists like Abram Bergson of Harvard, jurists such as John Hazard at Columbia, journalists such as Harrison Salisbury at the New York Times and a pool of military officers trained in the Foreign Area Studies Program of the Defense Department. This capability served us well. It broadened our horizons and it provided the information and insights needed to avoid nuclear war and to foster a climate for the halting but still significant steps toward detente.

Today, we are in danger of losing that capability. Language training is being cut back, major foreign area research centers are being disbanded or mothballed, experienced scholars are switching to other fields and applicants for university and governmental training programs have dwindled. Almost as serious as the decline of our existing capability has been our failure to move with the times and to develop other aspectes of the field. We should have been training Soviet area specialists in the physical sciences, in business and in related areas such as accounting, computer programming and other areas of modern management.

The basic paradox is that we are allowing our capability to study the Soviet Union to deteriorate specifically at a time when the country is becoming both more complex—and therefore more interesting—increasingly accessible and finally, more important to U.S. interests. We are mothballing experts just at the time when the Soviet Union faces us with increasing challenges.

I, for one, cannot understand the rationale for this decline in activity. Certainly, there has been no diminution of the role the Soviet Union plays in our lives or in the foreign policy of our nation. I can think of a half-dozen areas in which we desperately need new insights into the increasingly complex Soviet world:

We don't really understand Soviet strategic objectives or Soviet perceptions of the strategic balance.

Nor do we know for sure the impact of Eurocommunism, or how the Soviets feel about it.

How are environmental concerns being dealt with?

How will the demographic shifts impact on Soviet domestic politics and relations with foreign groups, such as the Arabs?

As a member of the Senate Foreign Relations Committee, and as a student with a personal interest in Russian society and culture, I can only say that we are still far from having the answers to these vital issues and to hundreds of others. In fact, in many such areas, we are not even able to state the questions correctly.

To state the questions is traditionally a function of the humanities. It requires people trained in history, languages, literature and philosophy. To answer the questions, we need both our newer methodologies in political science, sociology and psychology, and the applied arts and sciences I mentioned earlier. And we need these skills, both basic and applied, in a dimension which goes beyond the limits of our own language and culture. In an interdependent world, men and women cannot remain bound in their own national and professional areas. The scientists, bankers and businessmen of today must reach beyond those limits, as the diplomats and the journalists of yesterday did.

Now I know there are those—particularly in Congress—who look at such matters in historical perspective and suggest that this nation will respond when challenged. The Cold War, Sputnik, the international crisis of the 1960's gave us a sense of national purpose and an awareness of national dangers which compelled us to seek answers. And when we didn't find the answers in our existing store of knowledge, we had the vigor and the vision to develop new ways of asking questions. What we need, it's argued, is another Sputnik, another shock, and we'll respond with a crash program.

But of course this is an extremely dangerous way to go about things. I do not see the merits of waiting for a calamity as a catalyst for programs to put America's Soviet scholarship on the move again.

For one thing, a professional scholar is not something you can produce on short notice. Resources which are allowed to dwindle take years to recoup. Faculties which are permitted to disintegrate cannot readily be put back together. And, to an alarming extent, that disintegration is taking place right now.

But there's an even more fundamental reason for dissatisfaction with those who argue that "when we need them we'll have them," and this bears directly on my purpose in being here tonight. In a real sense, we need them now. As a senator, as a policy-maker, I am interested in the continuing relationship between scholarship and national policy-making. I am concerned with observing how knowledge talks to power; how academia impacts on policy.

Let me be specific. How can we, as scholars, help American decisionmakers apply power wisely, humanely and profitably? What do we have to say to the decision maker? How should we say it? When should we speak up, and when should we be silent? What, in other words, is our proper role in the conduct of the nation's business and the promotion of its security?

As scholars, we should only speak to power about things which we know or honestly believe to be the objective truth. Not contingent truth, not subjective truth, not partial or interested truth. A community of scholars who lose sight of the compelling need for objective standards of evidence in search of truth is in danger of becoming, as Fedotov said of his compatriots in the 19th century Russian intelligentsia, "a group of people united by the idealism of their aims and the unsoundness of their ideals."

Let us relate these principles to the role of scholarship on Soviet affairs, and to our perceptions of Soviet power. In the early days of the Cold War, it was the almost unanimous judgment of western scholarship that the nature of Soviet power was monolithic and immutable. The totalitarian model made this clear, and even in retrospect, it appears that there was much to be said for it as an approach to understanding the Russia of Stalin's day. Those who contemplate the Russian empire of our day are, I believe, in agreement that there have been changes. Although there is disagreement on the pace of those changes, there is by and large a willingness to accept that the Soviets have moved to some degree away from the totalitarian model and towards something which is at least slightly more compatible with the politics of the western industrial democracies. But I think it is equally clear to most observers of the Soviet scene that these changes are quite limited, and that by and large the Soviet decision makers and scholars are still committed to Leninist, if no longer purely Stalinist, ways of perceiving the world and their place in it. They are thus committed overtly, if not always in practice, to the principle of contingent truth. History for them is still politics projected backwards, and Bukharin—as well as Trotsky—remains a non-person of a propaganda caricature.

The significance of this for our ways of perceiving Soviet reality remains clear. So long as it persists, we cannot permit ourselves to depend, as we do for many other societies and cultures, upon information and insights which are generated by the scholars of that society. For the Soviet Union and its associated states and movements, we must continue to depend largely upon the information and insights which *we* can generate by our own scholarship. We must maintain as a matter of national interest a broadly based and sophisticated capability for intellectually rigorous, objective studies of the Soviet Union.

Let me say something about *how* knowledge speaks to power in our profession. I hope you will not mind if I speak frankly. I do so because I am aware of a number of proposals to place the funding of foreign area studies, including Soviet area studies, on a more stable, long-term basis. The recommendations of the group which met at Georgetown in April are convincing. As I indicated at the outset, I favor such proposals in principle and I would like to lend my support in bringing them to a productive conclusion. What I am about to say is therefore meant in a constructive sense.

I am not surprised that the Congress has been reluctant to provide further funding for foreign area studies. All too often its members have seen very little of the results. This is not, let me add, because there were no results, but simply because the results were not directly related to policy issues or were not presented in any way easily susceptible to comprehension and use by the Congress. Needless to say, the academic, research and policy-making communities have distinct tasks and methods. Yet these communities need not proceed in such isolation from one another. I recognize that there are serious obstacles to closer harmony. While the scholar is so often analyzing the past or making long-term future projections, and sometimes appears to feel threatened by deadlines, the policy-maker is forced to deal with existing problems, often under very rigid time pressures.

I can tell you from experience that time pressure is the most striking difference between my old job and my new one. Important information made available one day after a vote is useless, and we have about 700 votes a year.

What can be done about this? For starters, I would suggest that proposals for funding new research programs, or for reorganizing existing programs, should contain a clear commitment of utility to the Congress as well as to the Executive Branch. Honest scholarship need not fear exposure or the controversy that new information and significant insights will inevitably bring in train. We should be true to our best traditions of open intellectual inquiry, recognizing and preparing to cope with the problems that it may raise when it is government sponsored. Congressional oversight, if wisely applied, should bring executive research and academic studies into a public forum which will enhance its utility to all.

Let me emphasize the word "accessible." I do not mean by that only freedom from controls on access. I also mean plain readability. We are all busy people, but the decision makers who deal with national policy and international affairs in both Congress and the Executive Branch are often stretched beyond human endurance in the number and kind of printed documents which they must scan and absorb. Staffs, and briefings can lighten some of the burden. But ultimately, if an issue is to be properly understood and a person's decisions are to reflect a sound grasp of the issues, there is no substitute for sitting down and reading the original reports of the experts.

Unfortunately, the experts are not always readable or focused. If you note the kinds of scholarship and reporting which are cited by Congress you will find a commonality of approach: such reports are not only readable, they are also focused on issues of concern. Please not that I do not limit this point to issues about which the Congress is already concerned. Clearly, it should be the function of knowledge to help focus the attention of power on matters which should be of concern whether they are currently an object of interest or not. The point is that when knowledge speaks to such issues it should do so with a clear focus. The Congressional Research Service offers an increasingly valuable service in providing such a focus and in making the products of scholarship accessible to the Congress. But more needs to be done. Unless we present scholarship skillfully, we may be told by the Congress that it will not fund additional research for the simple reason that it cannot digest the volume of research already at hand. Maybe new avenues may need to be found to increase communications between Soviet specialists and members of Congress. Regular visits by scholars to meet with Senators—a practice I personally employ—may be one remedy.

Thus far I have stressed failings of the scholarly community. Of course, a large share of the blame rests with decision makers. Knowledge cannot speak if power is not listening. Too often, the Congress has not been listening. The Senate has focused very little attention on the Soviet Union. In a review of Congressional action over the past ten years, I have found that the Senate Foreign Relations Committee hearings, study missions and reports dealing with the Soviet Union have focused almost exclusively on problems of arms control and the strategic balance. It is interesting to note that there is not a single expert on Soviet affairs on any Senate committee staff.

Let us take a specific example of what's needed. I have noted that in our study of the Soviet Union and its associated states and movements we face many issues for which we either do not have answers or for which we have not yet properly formulated the questions. Many of these issues require long term study involving interlocking research projects broadly conceived along interdisciplinary lines. One of the most critical questions is the status of Soviet agriculture and its impact on world trade. Some of the work in this area has been quite valuable. Jim Millar and others here, for example, have taught me a great deal about the intracacies of Soviet agriculture. But the task has not yet been addressed with scope and long term commitment needed to provide the focused information we need. We simply do not know what we need to know if we are to make reliable forecasts of Soviet agricultural productivity and of Soviet involvement in the world economy.

This is an issue which directly affects the interests of the farmers and farm-product dependent citizens I represent in the state of Iowa. Today, one out of every four acres in America is cultivated for a foreign, rather than a U.S., market. This fourth acre often makes the difference between profitable or non-profitable operations for the farmer, as we are seeing this year throughout the farm belt. If our foreign markets can be stabilized, it means a great deal to the American farmer. In the past decade, the Soviet Union has been the most volatile element in the international grain market. We need to know whether it is realistic for us to expect the Soviets to stabilize their role in the market. And for that, we need to know much more than is now known about the interaction of climate, population and government in the USSR.

The dimension of these unanswered questions is so great that I would like to suggest the need for a broadly-conceived, long-range research project on Soviet agriculture, perhaps adopting the procedures applied back in the early 1950's with the Harvard Project on Soviet Society. As many of you here will recall, that project was funded by the Department of Defense Advance Research Projects Agency. Under the "Harvard Project," as it became known, basic research on the Soviet Union was conducted in many parts of the world.

And the basic point was that although it ran for only five years, the academic spinoff made it a major factor in Soviet scholarship for decades. Many of our basic concepts regarding the Soviet Union were formed by this project. Many of you sitting here today got your start in that operation.

Without being too specific on the mechanics—it might be under the National Endowment for the Humanities or the National Science Foundation or maybe even the State Department—what I'm suggesting is a Congressionally-funded research operation that would integrate scholarship from many disciplines: from economics and agronomy, of course, but also from sociology, demography and geography, plus an input from the advanced areas of political theory such as decision-making and bureaucratic conflict models.

The problems in this kind of research are immense. The data is now increasingly available, but we are failing to collect and use it. Our conceptual tools are often out of date, or related to other cultures than those of the USSR. Most serious, our trained manpower is dispersed in other areas or simply unemployed.

A national research program in this area will require the marshalling of our existing manpower resources and the creating of a new infrastructure of libraries, language schools and publishing facilities at a new level of complexity and magnitude. The lead times are comparable to those for major forms of military hardware or construction in civilian life. Five years will be the minimum required for any meaningful payoff, and ten years is probably more realistic.

Let us assume that the Congress and the Executive Branch are prepared to launch such a program and to make clear their sustained interest by appropriate legislation to support it over an extended period. And let us assume that the big payoff on the issue of Soviet involvement in the world economy will not come until the end of the program. What do the scholars involved do to meet the needs for information which decision makers of the country lay upon them during this period?

First, there should be continued and full reporting to the Congress as well as the Executive Branch on what is known as it emerges, recognizing that it is partial information.

Second, there should be full reporting to the Congress and to the country on what is *not* known. In many cases, the task of the decision-maker can be eased by an honest and authoritative statement of ignorance. I think we would have been better advised, in the history of our attempts to comprehend and deal with the implications of Soviet power, if we had been a little more willing than we were to suspend judgment.

Third, let us remember that research and analysis are useful not only to the decision-maker in Washington. Such information belongs in the first instance to the constituency which the decision-maker represents in the country.

Finally, let us insist on flexibility in research design. In Iowa, we have a saying that a good hog butcher uses everything but the squeal. We are also accustomed to something called the corn-hog ratio which tells a farmer when to convert what is basically the same commodity—protein—from one form to another depending on market conditions. Let us do the same with research. Let us, for example, keep in mind that language skills can be used for many aspects of national needs. More generally, let us recognize that answers to economic or political questions directly related to national affairs often depend on knowledge taken from other disciplines. Let us not construe our library acquisition for one program so narrowly that it cannot be applied to other programs. And when we seek to analyze the implications of Soviet involvement in the world economy, let us keep in mind the implications such involvement has for Soviet policy and society. In other words, let us continue to recognize the need for a multidisciplinary and interdisciplinary approach to area studies.

It is not my intention, of course, to attempt to lay out here a program of national priorities in Soviet area research. The Georgetown discussions of five months ago made a good beginning at that. But it does seem obvious to me that the one indisputable thing you can say about the Soviet Union is that it has become both more complex and more accessible. Marshall Schulman—who's probably the very best example here today of knowledge speaking to power—says that Soviet society was like a Spanish galleon, where one guy with a whip could keep things running reasonably well. Now, he says, it has become a steamship, with all the appropriate complexities.

It is vital for Western scholarship to keep pace with this change. It is important that our analysis become as differentiated as Soviet society. Old terms like "hard" or "soft" or "hawk" or "dove" serve us poorly in grasping this phenomenon.

But, above all, it is imperative that as the Soviet Union becomes ever more interesting, and our information about that great society becomes more accessible, that we not allow our academic resources to atrophy. It is essential that when knowledge talks to power, it has something to say. If the scholarly community is to have a greater impact on policy, it must speak to the relevant issues. At the same time, decision-makers must be prepared to listen. Once the decision-makers have begun to listen, they will hopefully better understand the need for scholarship and will add their own efforts to achieving the goal of revitalizing the field of Soviet area studies.

THE 50TH ANNIVERSARY OF SERVICE BY PAN AMERICAN WORLD AIRWAYS

Mr. CANNON. Mr. President, today is a special day in a special year for international air transportation. It marks the 50th anniversary of service by Pan American World Airways, the Nation's pioneer international airline. The birthday comes in a year in which we also pay tribute to Charles Lindbergh's historic flight across the Atlantic.

Shortly after Pan Am's inaugural flight from Key West to Havana on October 28, 1927, Charles Lindbergh became a technical adviser for Pan Am and subsequently helped survey many of the carrier's international routes. When Juan Trippe founded Pan Am, he foresaw a future for air travel far beyond the hop-skip-and-jump flights of that day. While most of the aviation leaders of the time concentrated on air routes over land, Pan Am turned outward to span the oceans in charting international links of air commerce. For this vision we are grateful. The pioneering efforts of Pan Am overseas have lead the way for increased trade and tourism for all Americans.

Just a few short years ago, Pan Am faced severe financial problems. I am heartened to read recently that the company has made great strides toward recovery. The thousands of Pan Am employees have made a major contribution toward the maintenance, strengthening and saving of our U.S.-flag system. Pan Am's recovery has been a visible bootstrap operation and I know that my colleagues in the Senate join with me on this 50th anniversary in saluting Chairman William T. Seawell and the employees of Pan Am.

INCREASES IN LUMBER PRICES

Mr. GARN. Mr. President, recently, the Banking Committee, of which I am a member, held hearings on increases in lumber prices and the effects on the housing industry. As the Senate should know, we have a goal in this country of 26 million housing starts over the next 10 years. That means we must build over 2½ million houses per year. Right now, we are starting just under 2 million units per year, and the price is rising for building materials.

Of course, Mr. President, that is simple economics. Increased housing starts means increased demand for materials, including lumber. Unless there is a way to increase the supply, the price will rise as builders compete for a scarce resource.

One of the most effective presentations of these facts was made to the committee in a statement submitted by our colleague, Senator McCLURE. As Senator McCLURE points out, it is possible for us to produce sufficient timber to permit 2.5 million housing starts a year. That is, there is enough timber in the forests, public and private of the Nation. Unfortunately, much of that timber on public land cannot be harvested, though it is a renewable resource that could be taken without harm to the forest stand. The difficulty lies in the policies of the Federal Government, and the interminable delays occasioned by environmentalist lawsuits. As things stand now, we might be able to get enough timber for 1 year, or even 2. But until other areas of the national forests are opened to the timber industry, we cannot harvest sufficient timber over a longer period without doing irreparable damage to the stands now producing.

Mr. President, Senator McCLURE's statement is excellent, and should be required reading for any Senator interested in the price of housing. I hope all Senators will take the time to read it, and in order to make that easier, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR JAMES A. McCLURE

Mr. Chairman, I appreciate the opportunity to testify on the subject of increases in lumber prices and the effect on our ability to meet our housing goals so the consumer is not priced out of the market. There are many factors associated with the rise in a cost of housing. My remarks today focus on timber supply from National Forest lands.

Secretary Harris of Housing and Urban Development is very unhappy with the lumber and plywood industry, and that's good.

She wants to investigate the evil industry that has driven the price of lumber and plywood up because that's hurting housing starts in this country. Well, as a matter of fact, every time we've got housing starts in the United States above a million and a half units a year we have run into a supply/demand crunch that has driven prices up, every time it's happened in the last decade or two. We get the housing starts up, the supply shrinks relative to demand, and lumber prices rise. It's happening now. We've gotten housing starts up, nearly two million housing starts a year. The fact of the matter is, if Secretary Harris looks at the problem very closely, it is not the industry that caused the shortage, it is the industry that has created supply. To the extent that supply is available, industry can take credit. To the extent that there is a shortage, somebody else will have to take the blame. We don't have enough timber in our inventory to sustain housing starts at the level of 2 million housing starts per year for three years. There isn't enough programmed cut in the United States to maintain housing industry at that level. There could be, but there isn't. And yet our national housing goal is 26 million housing units over a 10-year period, 2.6 million a year. We've never come close to that goal. But we can't come close to that goal with the current restrictions on production of timber resources in the United States. We can do it in one year. We might do it for two, I doubt it. We cannot do it for three years in a row. And I hope Secretary Harris and the Department of Housing and Urban Development takes a real close look at the resource base in this country. I hope they really analyze why we have the "chicken one day—feathers the next" cycle in the industry. I hope she'll find out why that chicken's going to be scrawnier in the future years—not fatter. I hope she will begin to analyze what government can do to level out the peaks and valleys and to increase the availability of lumber so that the supply/demand crunch will not be as severe as it otherwise would be. And if she is honest, and I have no reason to believe she is not, if she is honest in that evaluation, it can do nothing but help the industry because for the first time, then, in our inner circles of the Administration, the inside communication network, we'll have somebody who's not associated with the timber industry, who is not a spokesman for a natural resource state, who is saying we have to do something to increase the availability of timber that flows into the mills of the United States. Maybe, maybe then, some of the people who don't believe what has been said, will begin to believe, and then we can begin to rationalize the policies of government around the allocation of resources.

Somebody has asked, in this whole evolution of policy, how much wilderness should we have? As one of several questions that's an obvious one. Well, perhaps it's just as logical to ask, how much commercial, available forest should we have? Shouldn't we start from an inventory of the needs of this country, and an inventory of available resources and see how those two things match up, and see where the points of conflict are, determine why there are problems if, as a matter of fact, our resource base does not meet our future demand schedule? Rather than simply doing it case by case, making allocation of resources without ever having looked at the total resource need of the country this year or for future years.

Let's examine further the relationship among housing starts fluctuations, the Federal timber land base, and lumber and plywood prices. If you study the history of the housing industry you will note the wide ranges year-by-year in the level of housing starts. A direct relationship exists between housing starts and lumber price, with the higher the starts, the higher the price for construction lumber. In the past, when a housing slump occurs, a drastic downward trend in lumber prices results. It is important to note that in the past few years when housing has slumped there has been a less sharp drop in prices during the slump period. Some experts say this is due in part to a shrinking timber base associated with an imbalance of age classes of timber when considering all timber ownerships. In the West, where a great deal of the lumber and plywood is produced, most of the old-growth timber remaining is in Federal ownership. The ability to produce a given level of lumber volume rests in large part on the level of timber sales volume on Forest Service lands. Prior to World War II, most timber for forest products was supplied from private timber tracts. As these supplies have been depleted, and the National Forest developed for timber production, as one of the multiple uses, the lack of balanced standing timber age classes became apparent.

Congress focused on the timber management issue with the passage of the Resources Planning Act, as amended by the National Forest Management Act of 1976. The thrust of this legislation is to present a forest use plan to the Congress indicating the level of goods and services that can be produced and the costs involved. This will give the Congress something it hasn't had before, and that is a blueprint for the long range management of our National Forests that can be funded on a long term basis. The 1976 Act also lifted the dilemma of the Monongahela legal decision which had cast a cloud over the Forest Service ability to sell timber.

As resource plans are prepared pursuant to Congressional directive, a significant factor has developed, and that involves the roadless area review evaluation (RARE II) initiated at the directive of Assistant Secretary of Agriculture Dr. Rupert Cutler. He noted that roadless controversy has hampered the orderly planning process for several years because of an earlier roadless study (RARE I). The present RARE II expanded a criteria for roadless designation and added several million roadless acres for study to the earlier roadless inventory. In Idaho the number of roadless acres for study jumped to 12 million acres, up by 4 million from the earlier study. This puts the roadless study area at 60 percent of Idaho's 20 million acre National Forest System. Nationally, about 67 million acres are roadless study areas out of about 187 million acres of the National Forest System.

An example of the roadless area dilemma affecting the forest land base is the Gospel-Hump controversy on the Nez Perce National Forest in Idaho. This was settled legislatively by passage on October 20, 1977 in the Senate as part of the Endangered American Wilderness Act. This has all of the elements with which we're going to be dealing in the next several years. Grangeville, an embattled and threatened community pushed against the reality of real economic disaster, a planning process that has gone on for years without yielding management decisions, the gradual consumption of all federal timber which could move through the sale process, the diversion to non-federal sources until they have been used, and finally, the fact that time has run out. No alternatives remain! All the options have been pursued! And still no decision in sight! That community and the industry upon which it is dependent are faced with just one harsh reality—make an agreement or die. Compromise or go out of business.

Those interested in wilderness preservation, while holding most of the aces, recognized that they could not push too far without severe backlash and they, too, recognized the need for compromise. But while negotiation and compromise under these circumstances may produce decisions, it certainly is not the way to resolve tough public policy issues.

Is this situation characteristic of other areas? How many areas of our country have three years of timber supply under contract? How many have less? How many have to look forward for timber supply in the next three to five years that are now in currently roadless areas? Let me give you, as an example, the figures for the Nez Perce National Forest, the area in which the Gospel Peak and Buffalo Hump are located.

FIVE YEAR TIMBER PLAN PROJECTION

FY '78—104.8 MMBF total sell plan of which 43 MMBF in present roadless RARE 11, 19 percent.

FY '79—98.5 MMBF total sell plan of which 20 MMBF in present roadless RARE 11, 44 percent.

FY '80—100.5 MMBF total sell plan of which 36 MMBF in present roadless RARE 11, 36 percent.

FY '81—106.4 MMBF total sell plan of which 42 MMBF in present roadless RARE 11, 40 percent.

The two-year projection for all forests in Idaho is as follows:

FISCAL YEAR 1978 AND 1979 TIMBER SALES BY FOREST IN IDAHO, WITH PORTION OF THOSE SALES FALLING IN ROADLESS AREAS

[Board feet in millions]

Fiscal year	Total timber sell (board feet)	Area	Volume falling in roadless	
			Board feet	Percent
1978	179.0	Clearwater	12.0	7
1979	165.0	do	20.0	12
1978	308.5	Panhandle	35.9	12
1979	305.0	do	10.9	4
1978	104.8	Nez Perce	20.0	19
1979	98.5	do	43.0	44
1978	97.6	Boise	0	0
1979	88.5	do	0	0
1978	94.6	Payette	43.2	46
1979	77.8	do	32.5	42
1978	73.0	Targhee	3.0	4
1979	70.6	do	0	0
1978	34.0	Salmon	7.3	21
1979	39.5	do	13.5	34
1978	10.0	Caribou	6.5	65
1979	10.0	do	8.5	85
1978	21.2	Sawtooth	20.0	94
1979	24.2	do	20.0	83
1978	6.0	Challis	.8	13
1979	6.6	do	1.8	27

What happens if those planning processes are not completed and the planned sales cannot move into inventory. If there is any delay in the schedule, the imbalance between supply and demand will grow. Look again at the Nez Perce National Forest. The timber industry dependent upon the timber on that Forest has an installed mill capacity of 127 million board feet per year. The allowable cut has been established by the Forest Service at 122 million board feet per year. But that is optimum—the best you can hope for if everything goes as planned. Just recently the Forest Service announced that they would not be able to meet those goals and the volumes planned would have to be reduced by 25%.

Instead of being nearly 5% short, the supply shortage grows to 30%. That reveals the impact that is just now beginning to be felt in communities in Idaho.

It is possible to do a better job of managing the commercial forest lands and we can increase the yield of timber from all forests on public lands. We must if we are to minimize the pressure for development of lands which might more suitably be left to other

uses. We must if we are going to meet the nation's needs for timber products. But we have restricted the funds for resource management and imposed personnel ceilings on management agencies faced with increasing demands. We continue to take actions which reduce the capacity of the professional forest manager to do the increasingly more technical and more difficult job of assessing and managing those resources. And now we are told that the Office of Management and Budget has directed that fund requests be reduced by 30% for next year!

These constraints of time and money and personnel ceilings, as well as the complexity of the problems confronting us, tell me that Grangeville's problem is not unique, that it is a realistic expectation for all of Idaho and the Mountain states. There will be more Grangevilles. There will be more areas faced with a shrinking supply on the public domain and an increasing demand on non-federal lands. These latter lands must not be abused in order to cope with the shortages created by governmental policy and paralysis.

And yet we are going to be called on to deal with it because we have created an administrative structure that simply cannot function rapidly enough to meet the demands on our national resources.

I favor a different solution to deal with this question of interminable delay. The Congress has opened the process to public participation and I have supported that action even though it is time-consuming. But we can no longer afford both public involvement and an appellate procedure that halts decisions for endless years and requires a suspension of all management until the process is completed. I have no desire to cut off the right to appeal but I do think it is not outside the realm of possibility to change the immediate consequences.

I suggest that the status quo be maintained through all steps in the administrative appeal to the completion of the planning process but that the plan could then be implemented without stay even though appealed in the Courts, until it had been determined by a final order in a court of competent jurisdiction. That would at least allow us to breathe in the interim.

We have been forced to battle on the wrong terms. The battles over resource allocation have been in the areas where the conflicts are greatest and renewable and nonrenewable resource utilization values are the highest. We should try to reverse that process by identifying the areas in which the conflicts are minimal rather than maximum. We should make resource allocations to those uses which have the least conflict with other uses rather than choose to fight all the battles where the conflict is greatest. We can no longer follow the trail we have been following because we don't have the luxury of resources abundant enough to allow us to continue to operate while the process grinds on as usual.

We will be forced, just as the community of Grangeville was forced, to look at a situation of such urgency that it must be compromised under the harsh reality of economic disaster. That is a reasonable forecast of our course over the next five years. If it sounds gloomy, I must confess that in many ways it is. I don't foresee Congress appropriating the necessary money, the Forest Service being able to revise their procedures rapidly enough, the Congress cutting off the delays in Courts by legislative solution rapidly enough to deal with the problem.

We must inevitably face the fact that the continued utilization of forest products in the State of Idaho will be increasingly in currently roadless areas. That means we will face delays we cannot afford, and, inevitably, reductions in annual allowable cut that is beyond the capacity of industry to absorb. While I would wish it otherwise, I believe some economic dislocation will be visited on Idaho in the next five years.

It is not impossible to avoid this economic catastrophe and these human tragedies, but I am not certain that we will. There are some developments that are more than straws at which drowning men grasp. Whether RARE II succeeds or not, the effort is emphatic evidence that Secretary Cutler recognizes the need for a solution.

I hope the above comments on the frustrating dilemmas associated with the forest land base will provide some insight into the relationship of supply/demand to lumber prices. As a member of the Energy and Natural Resources Committee I will be pleased to work with this Committee in any way possible as we approach ways to resolve our housing problems.

A HISTORICAL LOOK AT THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, today I wish to urge ratification of the Genocide Convention, whose major objective is to preserve man's most precious right—the right to live. Genocide is defined as the deliberate destruction or persecution of national, racial, religious, or ethnic groups. A brief historical review follows in the hopes that it will serve as a reminder to my colleagues of the Convention's importance and impact.

In 1946, the General Assembly of the United Nations requested the Economic and Social Council to undertake the necessary studies in order to draw up a draft convention on the crime of genocide. At the request of the Economic and Social Council, the Secretary General prepared a first draft of the Convention and circulated it to member states for their comments in 1947. The Secretary General was at this stage assisted by an impressive group of international law experts. During the Paris session of the General Assembly, this draft was debated by the Legal Committee and eventually adopted by the General Assembly on December 9, 1948. Mr. President, the United States voted for its adoption.

The text of the convention confirms that genocide is a crime under international law, whether committed in time of peace or war. Of even greater importance, the convention states that all persons committing genocide shall be punished, be they constitutionally responsible rulers, public officials, or private individuals. Though genocidal crimes are not to be confused with political crimes, those guilty will be subject to the rulings of their competent national court.

Mr. President, we can no longer tolerate the possibility of a reenactment of any inhumane annihilation such as that carried out by the Nazi government of Germany during World War II. We can no longer tolerate the hideous crimes against humanity seen today all over the world. We can no longer tolerate a further delay in the ratification of this Convention.

DR. ARIS ALLEN ELECTED MARYLAND GOP CHAIRMAN

Mr. MATHIAS. Mr. President, I would like to congratulate the Republicans of the State of Maryland for electing Dr. Aris Allen as their statewide chairman. He will bring to the party's governing body a vast experience in politics and great powers of mind and persuasion. He can oversee a resurgence of the Republican Party of Maryland.

I have on numerous occasions stressed the importance to the Republican Party of reaching out for people, all kinds of people. We need a balanced membership that is representative of the total population. Dr. Allen will place special emphasis on broadening the base of the party.

An article by Christine Hall from the Baltimore Sun speaks to my point very well, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

. . . AND WITH THE MARYLAND GOP

(By Christine B. Hall)

The appointment of Dr. Aris Allen of Annapolis as state chairman of the Maryland GOP is remarkable because Dr. Allen is black and the Maryland Republicans have been singularly unresponsive to the black constituent for more than 60 years.

What is the more ironic is the sense of coming full circle politically. The political gains made by black Marylanders during Reconstruction were largely accomplished in alliance with the Republican Party, founded in Maryland in 1869. But like many good things, the political marriage ended all too soon. What may or may not have been an inevitable separation was considerably helped along by political chicanery, subterfuge, self interest and racial antagonism on the part of whites.

The Republican Party's near shutout of the black constituent is changing now and it is about time. With Dr. Allen's appointment as the state party chief, one senses that the Republicans are out to change their image and to mend some of their exclusionary ways. There may be some altruism involved here but realistically the Republicans need the black voter. They are in real trouble. So, after a lapse of some 65 years, Maryland Republicans are courting black folks again. For a variety of reasons, this is not all bad.

In the view of the new state-wide party head there are many positives in this whole matter. States Dr. Allen, "From a practical standpoint, we do not have a two-party system in Maryland. Thus, there is no system of checks and balances . . . It is disastrous for all of us to be united in one party We are taken for granted.

"Secondly, there is no room for bargaining or negotiation. If we do not support the Republican Party, they simply feel no obligation to us. Perhaps the cardinal rule of politics is that the party in office rewards its supporters and penalizes its detractors".

The Republican Party was lucky in getting a man of Dr. Allen's stature to accept the chairmanship. A modern-day Horatio Alger, Dr. Allen is a role model for black and white alike. For the poor and for blacks, Dr. Allen's accomplishments are the stuff of the American Dream.

From a background of poverty and being on his own from the age of 15, Dr. Allen's

odyssey is that of the black itinerant who tries his hand at everything: auto mechanics, radio repair, carpentry, sheet metal work and labor jobs. Slowly and steadily he puts himself through high school, college and medical school—only to be met by the barriers of racial segregation when it came time to hang out his shingle. He overcame through the same application of talent, wit, patience, a love of people and great satisfaction in working with and for them.

Looking back, Dr. Allen can recount a string of first accomplishments which are staggering in their implications and hopeful signs of progress on the racial front. Thirty years ago when he came to Annapolis he could not practice at the Anne Arundel County General Hospital. Today, he is chief of the medical staff and in charge of the full complement of 127 physicians associated with the hospital.

Initially denied membership in local, state and national medical societies, he is now a highly respected member of all of them. He is the first black physician to ever be pictured on the cover of the Maryland State Medical Journal.

Going on through the list of accomplishments, Dr. Allen is the first and only black member of the Annapolis Chamber of Commerce Board of Directors, the first black to become a Rotarian in Annapolis, the first black from Annapolis to get elected to the legislature, and so it goes.

Is his appointment as state GOP head a token? However talented and accomplished, why a black man elected to this position? Is he being used?

Dr. Allen responds:

"My appointment is not a token. It is a genuine and sincere effort on the part of the Republican Party to demonstrate that there is a place within the party for everyone.

"My appointment is going to have a considerable effect on states throughout the country. They will feel the need to follow suit. I feel we will see increased Republican Party appointments for blacks.

"Minorities feel that the Republican Party has simply scratched them off. To reverse this feeling the party has to demonstrate in tangible terms that all people have a place in the party. My election is a concrete indication of what the party is willing to do.

"My election was unanimous. There was not one single dissenting vote. This means an awful lot in my estimation and I interpret it as unity and support within the party.

"The fact that I am a black man was a factor. I do not deny that. By being a black man, I stand out. No one could miss me. As far as intent is concerned I do not believe the people in Maryland would be so irresponsible to elect any man not qualified to do the job. I think the people in the party think I am qualified.

"I'm not 100 per cent happy with my party. But turning your back is no answer. You make some meaningful input. That one voice will be heard by others. It will be joined by others. And so change can be promoted and brought about."

SENATOR GLENN'S OBSERVATIONS ON EAST ASIAN POLICY

Mr. HUMPHREY. Mr. President, last month, our distinguished colleague and friend from Ohio (Mr. GLENN) addressed the Fourth Japanese-American Assembly, held in Shimoda, Japan. The topic of his remarks was: "The Role of the United States in East Asia: A Legislative Perspective."

As chairman of the Subcommittee on East Asian and Pacific Affairs of the Senate Foreign Relations Committee, Senator GLENN has been a most diligent addition to the committee. Therefore, it was with considerable interest that I read his speech, which addressed not only the role of Congress in the foreign policy decisionmaking process and the perceptions of both East Asians and our policymakers as to the role of the United States in that part of the world, but also bilateral United States-Japanese relationships.

I found his observations refreshing, candid, and astute. Senator GLENN very effectively articulated not only common problems in our relationships but also the positive aspects of these relationships in a very important region of the globe. It is a most impressive contribution to the policy discussions as they impact on East Asia.

Mr. President, in light of the importance I attach to his remarks, I ask unanimous consent that they be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

THE ROLE OF THE UNITED STATES IN EAST ASIA: A LEGISLATIVE PERSPECTIVE

In the nearly two centuries since Americans first ventured to East Asia and Japan, our interests have become economically and politically intertwined. Yet despite these close relaionshtips, problems do arise, and perhaps more importantly, opportunities are missed.

This Conference to address both problems and opportunities is held at an opportune time and at a particularly appropriate place—Shimoda. Just 124 years ago, Commodore Perry came to Japan with the objective of opening diplomatic and trade relationships. The limited treaty resulting from that visit permitted the first American diplomatic representation in Japan, a Consulate at this very spot.

Too often we do not fully understand one another, but fortunately we persist in trying and these meetings attest to those efforts.

As a personal note, although I sit as a member of the Foreign Relations Committee of the United States Senate and am Chairman of the Subcommittee on East Asian and Pacific Affairs, I speak today not as a representative of the Administration, the Senate, nor the Foreign Relations Committee, but as an individual with concerns and hopes for the future regarding our mutual interests.

U.S. CHECKS AND BALANCES

To put the following remarks in perspective, I would point out an often misunderstood facet of our American democratic system; the checks and balances between the Executive and Legislative branches of government. While the President speaks with authority as the leader in foreign policy, that leadership is balanced with the check of Congressional, particularly Senate, approval on major issues.

This can be particularly disconcerting to others, for these counter-balancing responsibilities and approvals can sometimes give the impression that American foreign policy leadership speaks with the voice of an "uncertain trumpet," at best.

Despite this "uncertain trumpet," there is an even more fundamental factor that will determine long-term U.S. foreign policy; namely, the views of the American people, and it is abundantly clear to me that the overwhelming majority of Americans and their representatives in Congress strongly support the continuation of U.S. interests and concerns in East Asia, and with Japan in particular.

POST WWII POLICY

Our policy established at the end of World War II was not to further crush, not to humiliate, not to exploit, but rather to start the long process of building political and economic ties which would contribute to peaceful development. Japan stands today as eloquent testimony to the wisdom of that decision and to the strength of the Japanese people, as one of the strongest economic powers in the world, literally developed in the unbelievably short span of the last three decades. To somehow pull back now from such a success story is not realistic.

CHANGING RELATIONSHIP

Relationships, however, are not static. They change and develop as events transpire. But despite the end of the war in Indochina, the dramatic opening of China, and other necessary shifts in U.S. policy toward former adversaries in the region, U.S. determination to maintain close and cordial political and economic ties with Japan and other nations in East Asia has not been diminished.

U.S. INTENT

Recent actions of the United States prompted concern and misunderstanding over what many of our friends around the Asian periphery saw as signs of a U.S. recessional. This is not, of course, the first time in recent years that important U.S. policy moves have appeared to others less than well coordinated and have led to an adverse reaction by Asian friends.

But such interpretations are deceptive. Our primary objective remains the stability and prosperity of the East Asian region. Many Asian states have long looked to the United States as a prime supporter of their economic and strategic interests and a leader in Pacific affairs. Continued American presence is vital and I am confident:

The United States is and will remain an important source of economic and military cooperation;

The United States is and will remain a major market for raw materials and manufactured goods produced by these states and a major source of private capital investment;

The United States is and will remain committed to balancing other major powers in the area—the Soviet Union and China.

U.S. PREOCCUPATION AT HOME

It is no secret that in the recent past the United States has had problems at home. We had Watergate, an economic recession, an energy crisis, and the 1976 Presidential election, all following the collapse of the U.S.-supported governments in Indochina in 1975. U.S. friends in East Asia and Japan became deeply concerned over what they perceived as an increasing loss of interest by the United States in Asian affairs and a shift in the balance of power in the region.

Adding to Asian worries were calls by many U.S. politcal leaders for reductions in the number and size of U.S. forces in Asia. At the same time, increasing numbers of U.S. leaders were criticizing the growing volume of imported manufactured goods entering the United States from the nations of East Asia and were calling for restrictive tariffs and other measures to protect U.S. industries. There was also mounting criticism in the United States regarding the status of human rights in several East Asian countries closely aligned with the United States.

Some Asian concerns are understandable, but if we are to take a realistic approach to changing world situations, other concerns are not justified. For instance, I know of no one in the United States who prefers that our military forces remain spread around the

world as a "police force" in perpetuity, even though we very properly maintained many of our worldwide military alignments during the post World War II stabilizing period. The size and disposition of those forces obviously will and should change as nations are able to assume larger roles of responsibility. As another example, it is realistic to assume that as productive capacity grows and international commerce increases, agreements on trade must be forthcoming.

SPECIFIC EAST ASIAN CONCERNS REGARDING U.S. ACTIONS

But there are other more immediate East Asian concerns. While it was understandable that a new U.S. President wished to move forcefully and rapidly, new policy initiatives in many instances did not succeed in reassuring the nations of East and Southeast Asia. With the obvious advantage of perfect hindsight, it would undoubtedly have been advisable to more positively establish very broad understanding of U.S. overall commitment and general policy in the region before proceeding with individual initiatives.

A succession of East Asian Ambassadors have come to my office in recent months expressing their doubts and uncertainties regarding American actions and policies. I believe that if this Conference and other exchanges are less than candid and forthright in addressing these concerns we will limit the good which can accrue from these meetings.

Let me be more specific and share with you some of their views, comments, and questions:

"The United States seems to be far more concerned about improving relations with Hanoi, Peking, and even Pyongyang than in strengthening relationships with long-standing friends."

"Would our expressed concerns about Human Rights seriously alter our relationships with such places as South Korea, the Philippines or Indonesia?"

"In light of Soviet moves into the Indian Ocean, how can we even consider 'complete demilitarization' of the Indian Ocean?"

"Why are we not more concerned about movement of Soviet fishing fleets into the southwest Pacific and even Soviet airbase negotiations in that area?"

"Were press reports true, although later denied, that the United States would really consider closing its naval and air bases in the Philippines in light of increased lease payment demands?"

"Did the proposed cutoff of the last year's military assistance funds to Indonesia and Thailand, even though it did not pass in the Senate, indicate a lessening commitment?"

"Did the sudden trade sanctions against import of Japanese television sets indicate a changing trade relationship?"

"Will changes in our nuclear policies affect Japan's critical energy needs?"

"What will be our relationship with Taiwan in the future? Can that long-standing relationship be changed without reduction in confidence in American commitments? Will we sell arms to Taiwan?"

"Does our reduction of troops in Korea, even on a five-year basis, indicate reduced commitment to the East Asian overall balance of power? How long will our air and naval forces remain?"

That is sufficient to give you the general tenor. With Vietnam experience a recent memory, it is easy to understand why serious questions are raised in the minds of East Asian leaders. I would add that no one item on the above list seemed to be singularly critical in the minds of those to whom I talked, but taken together they form a pattern most disturbing to those in leadership positions. As expressed to me bluntly by one Ambassador,

"Can we still rely on the United States? We feel inundated by a tidal wave of change. What does it all mean? We don't know why you are doing what you are doing."

While I could reassure him of my confidence in American longterm commitment, specific answers to the many questions are not easy to answer either singly or as a whole.

CURRENT U.S. ACTIONS REASSURING

However, I am happy to say that in recent months U.S. leaders have taken greater pains to reassure our Asian allies and have managed to establish a better consultative framework in our Asian policy. Thus, the United States has recently worked hard to underline its continuing defense commitment to South Korea. Most notably, when Defense Secretary Brown met with South Korean President Park on 25 July, he gave the South Korean leader a personal letter from President Carter which reaffirmed the "firm and undiminished" U.S. commitment to support the South Korean government and advised that "neither North Korea nor any other nation should have any doubt about the continuing strength of this commitment."

The Brown mission subsequently announced that the bulk of American combat troops in Korea would not be withdrawn until 1981–82 and that the Administration had pledged—subject to Congressional approval—to provide the South Koreans with an estimated $2 billion in military sales and credits, as U.S. troop strength is reduced. He also spelled out in more detail the continuing commitment of U.S. air and naval forces which will remain indefinitely. These are precisely the type of positive signals needed for reassurance.

Elsewhere, the Administration substantially altered its position on demilitarization of the Indian Ocean. During talks with Australian Prime Minister Frazer in June, President Carter dropped his earlier call for "complete demilitarization" and endorsed the view that the United States should maintain a strategic balance in the area. He also assured Frazer that the United States will remain "a major power in Asia and the Pacific and would maintain a strong security position in the region."

Regarding the issue of U.S. security assistance to Asian friends, the Congress was not swayed by the arguments that there should be major cuts in the Administration's proposals for military aid in the area. Prior to final committee action, Military Assistance Funds for Indonesia and Thailand were restored, and that position was sustained by the full Senate.

At the same time prominent U.S. spokesmen—notably Secretary Vance in a major address on Asian policy on 29 June—have expressed a deeper realization of the difficulties some Asian states have in conforming to western standards of human rights. Thus, Vance expressed understanding that some Asian traditions—unlike the traditions of the West—stress the rights and welfare of the group over those of the individual and emphasize the fulfillment of basic human economic need over political rights.

Finally, the Administration and Congress have reassured Asia friends regarding U.S. trade policies by working well together to avoid protective tariffs or other harsh measures which would close U.S. markets to Asian goods and seriously disrupt our joint economic welfare. Thus, the Administration strongly reaffirmed the U.S. commitment to policies of free trade during President Carter's meeting with Japanese Prime Minister Fukuda at the London summit meeting in May. It subsequently negotiated compromise agreements with Japan, Taiwan and South Korea which established voluntary restrictions on the number of color television sets and shoes entering the United States from East Asia.

This spirit of cooperative friendship will also be evident, I believe, when the Association of Southeast Asia (ASEAN) officials meet, formally for the first time with the United States, to discuss opportunities as well as problems the ASEAN nations may have with current U.S. trade policies.

The above are but a few examples of other continuing assurances that will go a long way in restoring any erosion of confidence that may have occurred in the recent past.

JAPANESE-U.S. RELATIONSHIP

Apart from those general East Asian views, let us turn to specific Japanese-American relationships. Our ties are firmly and properly grounded in the self-interests of both nations and are essential to global stability.

The consultative mechanisms between our two countries are extensive but must be even further strengthened if misunderstandings in the future are to be avoided. No government likes surprises. Decisions made abroad with little or no prior consultation which drastically affect that nation's future naturally evoke a negative reaction as a defense to gain time for adequate analysis of new proposals.

The "Nixon shocks," for instance, arose in part because some American politicians believed the Japanese were unwilling to recognize legitimate American grievances. However, these feelings dissipated following the Tanaka visit of August 1973, when the final communiqué expressed a willingness to share a more equal and reciprocal relationship. In 1975, Japan for the first time participated as an equal with the major western powers in an economic summit.

My point is that our commitment to Asia is permanent, but must be based on mutual understanding. Determined diplomatic efforts to resolve problems, as in the case of Okinawa, are necessary.

And what of our Japanese-American military relationship? Critics in the United States habitually talk of the "free ride" or "free umbrella" provided Japan by the United States, and it is no small item. When we are running sizable trade deficits and Japan has a current account surplus, it is difficult to understand why Japan cannot increase its defense efforts in cooperation with the United States. Certainly the present U.S. Administration and a majority in Congress recognize and appreciate the domestic constraints on major expansion of Japanese military forces. However, to ensure qualitative sufficiency for Japanese self-defense forces, continuation of improvements should be made in such things as anti-submarine warfare equipment, fighter, and patrol aircraft, all of which may require far less strict adherence to the artificially selected 1 percent GNP "barrier" now used as a limit for defense budgeting. As a comparison, NATO countries average over 4.5 percent of defense expenditures. In time of need, less than an adequate defense force will be a poor bargain, whatever the percent of GNP.

What of the economic relationship between our two countries? This is an area of both opportunities and problems which Ambassador Mansfield recently addressed in considerable detail and which will be the subject of much of our other meeting time here at Shimoda.

The complications of further negotiations are indicated by the necessity of maintaining an economic system geared to exports which has led to a possible $7 billion current account surplus this year. Without further cooperative efforts to reduce that surplus, domestic politics are bound to hamper our trade relationship. Added to that is the concern over how, and to what degree, direct

investment between our two nations will be permitted to dominate particular product lines, with the obvious impact on employment. Reciprocity must exist or protectionism will arise.

There are no easy solutions, particularly so when non-agricultural American exports may sometimes suffer less from tariffs or quotas than from non-tariff, cultural barriers that are harder to penetrate—a marketing problem, in other words.

JAPAN'S INTERNATIONAL ROLE

On a larger scale than just Japanese-U.S. economic relationships, however, Japan is in a position to play a major and constructive role in grappling with the problems of a new economic order. Japan has the potential for being a pivotal nation in devising a new creative economic diplomacy emphasizing cooperation and peace.

Prime Minister Fukuda's recent meetings with ASEAN leaders and the pledge of substantial aid and assistance now known as the "Fukuda doctrine," is a highly commendable example of Japan's ability to contribute markedly to regional stability.

As another example, the newly-established $20 million "special assistance for the expansion of food production fund" will help others in the region to cope with a pressing problem.

But a word of caution is necessary. As this audience knows, other Asian states are keenly conscious of Japan's economic presence. Again, I would be less than candid and forthright before such a group as this if I did not say that many of the other East Asian nations have memories that have lingered too long of past Japanese militarism. While they have no fears today in a military sense, they express concern about the economic domination that might result from over-rapid Japanese expansion in the Asian area, expansion which could overpower their own economic improvement efforts. In other words Japanese aid and economic help cannot be "excessive" or dominating.

Since economic development, like self-government, cannot be exported, the infusion of capital and knowledge can best be used to supplement indigenous efforts, assuming there is to be a harmonious relationship.

Japanese national interests and an expanded international role do come together in the economic sphere. Increased foreign aid, less tied to export commodities, and private investment for development can help other nations to meet their goals and insure a more stable international system.

Economic power alone, however, is insufficient. Political muscle must accompany economics for major impact on global developments. For example, an activist Japan that mediates between the socialist and noncommunist states of the region as the Prime Minister suggested to ASEAN leaders, would help stabilize the international environment and also produce a greater sense of national identity. Japan has a historically unique opportunity. Never before has a rich and powerful nation chosen to exert itself in the international system through solely political and economic alignments. Japan now has that opportunity.

MOST IMPORTANTLY—ENERGY

Perhaps I have saved the largest and most underlying problem of all for last mention. What of energy?

Last fall, I flew over the Strait of Hormuz, the few-hundred-yards-wide outlet from the Persian Gulf and was told that, while 18% of America's total oil comes through that strait, some 70% of Western Europe's oil, and an astounding 85% of total Japanese oil supply passes through those narrow waters. For industrial Japan to be so dependent on that small, far-away piece of geography certainly emphasizes the magnitude of the problem and the importance of international relationships in an ever-increasingly interdependent world. Because of Japan's resource dependency—99.7% of oil is imported—her interests in energy security are paramount.

Since this too will be the subject of other more detailed discussion, I will not elaborate further, except to say that, in particular we are resolved to finding a mutually agreeable practical solution to the nuclear fuel reprocessing issue. Certainly our atomic weapons nonproliferation objectives are not directed against Japan. I would hope that the unique Japanese experience would encourage Japan to assist us in trying to stem the proliferation of nuclear weapons. Likewise we must, and will I am sure, resolve our differences so Japan can become more self-sufficient in the energy field through proper use of nuclear power.

This is a field in which I have been particularly active and have authorized several pieces of legislation dealing with nuclear matters. As a passing comment, I would add that I am firmly convinced we must also have some supplies of nuclear fuel internationally administered, and independent of national politics. I have introduced legislation to establish such an International Nuclear Fuel Authority.

"NEW ERA"

We are, I believe, entering into a "new era" of Japanese-American relations, a time of more equality, a time of more partnership, but still an era with so many as-yet unanswered questions. What will be the Japanese role in international politics? Will it center only on trade? Is Japan the Pacific bulwark of a Western economic and strategic system or is it primarily an Asian power, uniquely non-militaristic, that is also the principle economic power in the region? The answer, of course, is both, but then we must logically ask whether Japanese interest can be secured by passive diplomacy, or must a more active role be forthcoming? Thus, what is the yet-to-be defined role of Japan in Asia and the international system?

In February 1973, the Secretary-General of the LDP cited the lack of a permanent seat on the UN Security Council as evidence of the lack of a Japanese role commensurate with her power. Ambassador Mansfield, while in the Senate, urged such a shift. I was pleased to see President Carter reaffirm that objective when Prime Minister Fukuda met with him earlier this year. The rapid rise, fall and rebirth of modern Japan attests to the skill and character of the Japanese people and these talents certainly deserve a wider international forum.

"ASIAN AXIS"

The importance of Japan in this international forum can hardly be over-estimated. Within easy distance on each side of what I would term an "Asian Axis" from Tokyo to Canberra lies one-third of the world's population and untold resources yet to be developed. What happens along that Axis in the next few years will play a very major role, perhaps even a predominant role, in global developments for generations to come.

As we look ahead, we must continually consider and evaluate not only the above, but myriad other issues with continual, close consultation. Taking a Legislative branch viewpoint from Washington, I see no lessening of our continuing commitment to work together with you and other East Asian nations. America is not in retreat—far from it. That our cooperative efforts can succeed in the worldwide arena of competing ideologies is a foregone conclusion to me.

"WAVE OF THE FUTURE"

What is the "wave of the future"? Is it the super-socialistic approach, lesser brands of communism or free enterprise? We need only look to recent history for the answer.

At no place nor time in history has there ever been recorded such rapid advance in the status and general welfare of hundreds of millions of people as has occurred in those nations which following World War II developed along "free enterprise" lines. When we contrast the economic development of Japan, Germany, South Korea and Taiwan with what has happened under the deadening influence of the socialist states, the answer emerges with startling clarity. The systems of freedom under which we live are certainly far from perfect and we must work continually to make them better, but they certainly speak directly to age-old hopes for freedom, for dignity, for fair-play, for the right to determine one's place in a society, a nation, and the world, which are to me the "wave of the future."

Our challenge is to work together as partners in this framework of freedom toward a better, a more stable and a peaceful world. It will require our best efforts.

TO BALTIMORE: A LOVE SONG

Mr. MATHIAS. Mr. President, my colleagues have often heard me extol the virtues of Maryland's "Monumental City," Baltimore. Baltimore is a city of many faces and many charms. As is often the case, the full appreciation of a place can be heightened by a long period of absence. A recent article by Anne S. Haskell poignantly reflects the feeling of a Baltimorean who returned after a hiatus of many years. I ask unanimous consent that "To Baltimore: A Love Song" by Anne S. Haskell that was printed in the September 29, 1977 Baltimore Sun be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TO BALTIMORE: A LOVE SONG

(By Ann S. Haskell)

BALTIMORE! With all the places in the world to choose from, why Baltimore?

There were lots of other choices, of course, some to return to, places I'd called home before.

Like Virginia, with lots of cousins, orange-gold Shenandoah autumns, and thin pink slices of country ham.

The Sea Islands and Up Country of South Carolina, with its smell of paper-white narcissuses at Christmas, the blue of mountains in the distance, and only the slamming of a screen door down the block to interrupt the quiet of a summer night.

I'd loved Swarthmore, strict, academic, and purposeful as a secure parent, sending its teaching and learning populace forth each morning from a Quaker-gray stone station, to deliver or receive messages from the past (mine from the Middle Ages), to pursue the arts, or practice the science; its avenues lined with elms and filiusante-patrus blooming in the fall.

Buffalo, which tries the winter soul like a great white whale, then tantalizes with brief, lush summers, in whose university I'd worked with the Barths, Burgesses, and Ginsbergs of this world.

And Provence, especially Provence, where people look like me, and I can watch the lavender and almonds, olives and grapes growing in the fields below my window, where tile roofs the color of purple plums and apricots hold the warmth of the sun, where the *Mistral* wails like a spoiled child, and remnants of the noontime ratatouille, set out in the street for strays, give off nostalgic, garlicy odors during the heat of siesta.

Why, then, indeed, Baltimore?

Call it a romantic choice, if you like; it would be dreary to answer only to practicality. Say it's because it is a city with a season, a town with a focus, both in sync with mine. There'd been so much of summer, fall and winter places. I needed a spring this time, a place waking up to itself, a place of rejuvenation to match my own. And it was the center of my personal history, as well, the focal point for my forebears, the ones who knew each other and the others who didn't. No matter, they all meet here in me, now.

I'd visited Baltimore in the fall of '76 and was strangely excited by what I found: everything in a state of passage, of change, of growth. As in the fairy tale, it wasn't only the Sleeping Beauty who was rubbing her eyes, but everyone and everything down to the flies on the kitchen wall were waking up too. Homesteading, shopsteading, painting brilliant colored murals on the walls. A sugar bowl botanical garden, ubiquitous art shows—I visited three that first weekend—and a live theater on every corner, it seemed. Tyson street renovation and the Belvedere renovation; Italianate architecture in an art school, and an art school in a train station; Fells Point low on the w.ter, and the highest point of all, Federal Hill, with the city spread out around it, where I tried out the seesaws at midnight.

Baltimore, that penance we had to endure driving through, forever it seemed, when I was a child, in order to deserve our destination, New York. How it had changed!

And now I live here. I grew my first crop of corn and all the ingredients for ratatouille right in the city this summer. And from my study window I can see a lot of the place: the Calderesque Howard Street Bridge, the Jones Falls Expressway, and, in the foreground, beyond, the stadium whose lights blaze at night, the candelabra blinking laconic red eyes, and Foxtrot hovering like a hummingbird.

Several miles to my left is the place where my young grandmother with her firstborn, now eighty, waited an anxious three days so many years ago for her husband, the Rev. John Brenau Henry, to get home around the fire that had devastated the city; to my right there's the Lyric, where my great-grandmother McCormick died, as she'd always said she wanted to, watching Tannhauser; and the station over there where my grandfather Sullivan, an orphan, came east to the big city from Westernport, and where his future bride, then a Miss Frost, came in from time to time to visit the shops, hear the concerts, and keep medical appointments on Eutaw. Baltimore was their Big Apple.

These days I take guests to Haussner's, brag about the B.W.I., and strut with my thumbs hooked in my overalls about the research I do at the Enoch Pratt. I show them the Sugarman—sit on it, bounce on it, walk through it, burst with pride at renovated City Hall, and talk like an insider about the business of the Shot Tower.

As I said, it's a spring town, honoring its past, celebrating its present, anticipating its future. Why Baltimore? It's a city with a focus. To paraphrase Gertrude Stein, "because there's a there there."

THE MANDATORY RETIREMENT AGE

Mr. BAYH. Mr. President, last week the Senate voted to increase the mandatory retirement age for workers from 65 to 70. I think this legislation is an important first step in recognizing the economic needs of our Nation's older Americans.

The present practice of mandatory retirement works serve injustices against older Americans. For many of these individuals, retirement income from public or private sources is either unavailable or inadequate to provide an adequate standard of living. Indeed for some, the chance to remain an active member of the workforce is a matter of economic necessity. In 1975 14.6 percent of persons age 65 and older had annual incomes below the poverty level.

The inadequacy of income maintenance programs for many older Americans is clear. Social security payments to retired workers are frequently inadequate to meet the daily cost of living, and due to the practices of limiting outside earnings, these retired workers are left with few options to improve their economic status. For capable older workers the decision to retire at 65 should be an individual choice. We should not be in a position of dictating a poverty life style to many of our older citizens. Maximum freedom of choice should be given to employees in deciding when to retire, provided they are still psychologically and physically able to perform their jobs in a satisfactory manner.

Society as a whole suffers from mandatory retirement. Prof. James Schultz from Brandeis University testified before the House Select Committee on Aging that mandatory retirement of willing and able employees cost the Nation approximately $4.5 billion.

One concern that has been raised about this legislation is that it may increase the labor force participation rates of older Americans at the expense of younger ones. This concern does not seem to carry much weight when one looks at estimates by the Department of Labor that states if mandatory retirement had been prohibited for all workers under 70 years of age 1976, the male labor force would have increased by one-tenth of a percent. This represents an increase of only about 200,000 workers a year.

I support the basic concept of this legislation, and I believe that the policy we are establishing should be applied in an equitable manner. For that reason, I supported the Cranston amendment to H.R. 5383 which eliminated exempting from the increase in mandatory retirement elementary and high school teachers, tenured university faculty, and top-level corporate executives.

I look forward to the enactment of this legislation which will benefit so many of our older citizens.

THE CAREER EDUCATION INCENTIVE ACT—S. 1328

Mr. MATHIAS. Mr. President, I joined the majority of the Senate on October 20, 1977 in passing S. 1328, the Career Education Incentive Act. This is a bill that seeks to marry the world of work with the classroom. It seems to me that one of the measures of educational success is the degree to which instruction has prepared a student to meet the demanding choices of the adult world. Of those choices, one would be hard pressed to find a more crucial decision than the one that determines how a person spends 8 hours a day for 5 days a week. This decision has always been a difficult one at best, but the rapid rate of change occurring in the modern world has tremendously complicated the process of vocational choice. Thus the aphorism of Cervantes, "Fore-warned Fore-armed" is uniquely relevant to this bill.

S. 1328 provides Federal money on a short-term basis to encourage the States to provide a comprehensive career education program throughout all levels of public instruction. The intermediate aim is to integrate classroom teaching with the tools needed for future job selection and job performance. The ultimate goal is to provide students with the ability to find a job they like and will do well at rather than to provide a specific job. It is my belief that this can best be accomplished by providing students with a knowledge of the great variety of careers and their accompanying skill requirements as well as the ability to do self-assessments of their skills and interests. An additional thrust of this bill is to arm students with this kind of knowledge in such a way as to eliminate the intrusion of racial, sexual, economical and age biases and stereotyping. The result should be students better able to cope with the complexity of the modern world.

I believe this bill will make a valuable contribution to the youth of our country. I also feel that the business, labor, and professional sectors of America will receive benefits from this bill. Students who are better prepared to choose the right vocation for themselves should help to reduce worker turnover and to promote job satisfaction. This type of legislation is long overdue and I am pleased to have been able to support it.

SENATE TRIBUTE TO HUBERT H. HUMPHREY

Mr. ANDERSON. Mr. President, on Tuesday, October 25, 1977, the U.S. Senate paid an unprecedented tribute to our most distinguished colleague and good friend HUBERT HUMPHREY. Senator HUMPHREY is a man widely respected by both Democrats and Republicans and, most importantly, by the people all across the United States. The coverage of the Senate's welcome home ceremony by the national news media clearly demonstrated that his respect is universal.

I ask unanimous consent that articles from the Washington Star, Washington Post, Atlanta Constitution, Baltimore Sun, Los Angeles Times, and the Chicago Tribune be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From The Washington Star, Oct. 26, 1977]

A DAY THE SENATE WON'T FORGET

(By James R. Dickerson)

If Hubert H. Humphrey, the exuberant practitioner of the politics of joy, ever entertained a doubt about the love and affection of his Senate colleagues and fellow citizens it had to be dispelled after his moving and

emotional welcome back to the Senate chamber.

For 30 minutes yesterday the senators and their staff members who crowded the floor and the spectators who packed the galleries repeatedly rose to their feet to applaud and cheer the wan and drawn but ever ebuillient Humphrey, who is suffering from terminal cancer. It was a dramatic moment unprecedented in the memory of veteran Senate observers.

His voice occasionally quavering and moved to tears by the tribute of Sen. Wendell Anderson, D-Minn., one of his politcal proteges, Humphrey said that he was an optimist and conceded that some considered him a foolish optimist. "But I am optimistic about America and history is on my side," he said.

"My good friend, Sen. (Dale) Bumpers (D-Ark.), just whispered to me that 'this is just a little too much, isn't it Hubert?'" Humphrey said, his customary smile replacing the tears that followed Anderson's words. "I told him, 'Hush! I like it.'"

"I want you to know that I am old enough and sufficiently wise enough at this stage of my life to know that all you have said is not exactly according to facts," Humphrey continued, rising from his seat to acknowledge the tributes of Anderson, Majority Leader Robert Byrd and Minority Leader Howard Baker. "But I want you to know that I'm fragile and weak enough to want to believe every single word you have said."

Anderson spoke briefly but eloquently. "For those who say there are no heroes in the world today, to them I say they've never known Hubert Humphrey." Humphrey, seated just across the aisle, put his face in his hands as his chin quivered.

The tribute on the floor began with an explosion of cheers and applause as everyone in the packed Senate chamber and galleries stood at 2:01 p.m. when Humphrey entered for the first time in more than two months.

For six minutes he shook hands with his colleagues on both sides of the aisles and then their staff aides and finally the young pages. He embraced several, Vice President Walter F. Mondale, who leaned down from the presiding officer's chair to greet him, Byrd, Bumpers, Russell Long and Edward M. Kennedy. Each time the cheers and applause increased.

Humphrey blew a kiss to the galleries as he took a seat. Byrd dryly asked unanimous consent that the quorum call be rescinded and welcomed Humphrey back home.

"Nothing life has dealt him has dimmed his optimism or quenched his indomitable spirit," Byrd said and quoted Santayana:

Oh, world thou choosest not the better part
It is not wisdom to be wise
and on the inward vision close the eyes
But it is wisdom to believe the heart.

"Hubert Humphrey listens to his heart. He has changed our time through the impact of his personality, the vibrance of his intellect and the compassion of his heart. He is a man whose impact will reverberate for generations."

Baker took the light approach. "I want to welcome back our colleague, our friend and our compatriot," he began, leaning against his desk and smiling at Humphrey. "But I see dancing in his eyes the question, how many more times does he have to listen to all this before he can make some remarks of his own. For Hubert Humphrey this is cruel and unusual punishment.'

Humphrey responded in kind. "After all, I remember (Sen. James) Abourezk and (Sen. Howard) Metzenbaum going here for days. I see no reason that I should not come back and join in. I did not have a chance to really participate (in the recent natural gas deregulation filibuster). I was frustrated beyond end. Russell Long just thanked me. He said, 'There is nothing like having Hubert away.'"

Humphrey cited friendship and love as the best therapy for any ailment. "I have been going through a pretty rough struggle but one of my doctors back home said, 'Hubert, we have done about as much for you as we can for a while. Why don't you go back to Washington where you want to be, where your colleagues in the Senate are to be and where you can be with your friends, those whom you love so much?' And I said, 'Doctor, that is good advice.'"

Humphrey noted that he had followed this advice and referred to President Carter's detouring through Minneapolis on his way back from the West Coast on Sunday to bring Humphrey and his wife, Muriel, back in Air Force One. "I waited, however, because I am a frugal man, until I could get a free ride."

This gave Humphrey the opportunity to joke about his unsuccessful presidential campaigns. "For at least 20 years I have been trying to get on Air Force One," he told his laughing, appreciative audience. "I realize it was not a prolonged experience, but just the thought of it, the vibrations, gave me new hope and new strength."

Humphrey was met by about 40 reporters and television cameramen at the curb in front of the Dirksen Senate Office Building, where his office is, when he arrived in his limousine at 1:15 o'clock. He hid his face with his hands in mock embarrassment, grinned broadly and quipped: "I'm not Jimmy Carter, I'm Hubert Humphrey. Where were you all in 1968 when I needed you?"

He promised to concentrate his efforts on helping get Carter's energy program passed in the Senate this year. "I like him, I have confidence in him and I believe he's doing a good job," he said.

[From The Washington Star, Oct. 26, 1977]

THE HUMPHREY STYLE: GRACE, EVEN IN DEFEAT

(By Jack W. Germond and Jules Witcover)

It was the old Hubert Humphrey for a few minutes on the Senate floor when the Happy Warrior returned to the legislative body with which he has had a running love affair for nearly 25 years. He was physically wracked by his terminal illness, but his spirit remained what it always has been—buoyant and unconquerable.

Humphrey stood for a standing ovation in the chamber that he has left only to run for and serve as vice president, and he beamed at the bipartisan admiration he had just won.

In reflecting on Humphrey, however, what comes to mind are not so much his successes in winning repeated terms to the Senate, as his defeats along the way—the defeats that he met invariably with courage and good will.

The first in our recollection was the Democratic presidential primary in West Virginia in 1960, when he ran and lost to a young Massachusetts senator named John F. Kennedy. Humphrey ran not only against Kennedy, but against a shrewd strategy to make the primary a test of West Virginians' fairness and open-mindedness.

Kennedy declared that he did not think the voters of West Virginia—a predominantly Protestant state—were prejudiced against Catholics like himself. He said West Virginia had an opportunity to strike a blow against bigotry by demonstrating they could support a Catholic for president. The West Virginians largely bought the argument and Kennedy won a clear victory over Humphrey, who had campaigned his heart out.

One of the clearest memories of political reporters was the sight of Robert Kennedy, his brother's campaign manager, walking through the streets of Charleston after midnight to wish Humphrey well in his hotel. Humphrey took that defeat hard, because it knocked him out of the race, and he had to think that his presidential dreams were shattered with finality. But he put on a good front, as he always did.

When Kennedy died and Lyndon Johnson picked Humphrey to be his running mate in 1964, it seemed like a second chance for Humphrey. He became vice president, but under Johnson he let himself be used. Humphrey later said he was just doing as he was told in supporting the Vietnam war, but when he had the chance to be critical of the war in 1968, running for president himself, he waited too long.

On the day before the 1968 election, Humphrey received a huge reception in downtown Los Angeles. He and Sen. Ed Muskie, his running mate, stood in an open convertible and let a cloudburst of confetti fall on him. He returned that night to Minnesota, hoping to win, but the best he was able to do was a near-miss against Richard Nixon.

In 1972, there was his poor showing in the Florida primary behind George Wallace, and his defeat by George McGovern in the primary in Wisconsin, where he was known as "Wisconsin's third senator."

Finally, in 1976, there was his early statement that he would not be a presidential candidate—along with the very Humphrey-like caveat that if his party wanted him, he was "raring to go." As it became increasingly clear that he was not going to get that call, he toyed twice with the possibility of entering the ranks against Jimmy Carter. But in the end, tears welling in his eyes, he bowed out, having tasted defeat too often.

Humphrey had already faced serious illness and seemed to be on the mend when his doctors told him recently that his cancer was inoperable. Telling a man like Humphrey that he was going to lose his life was like telling the sun it could not rise tomorrow. Well, almost, Humphrey always had been like one of those big dolls with a wide round bottom that keeps popping back up when you hit it.

The word from the doctors, of course, is that old Hubert will not be bouncing back this time—that is, his wan body will not be bouncing back. As for his spirit, it never depended on how he felt physically, and it remained high as his Senate colleagues paid tribute to him while he could still hear the words ringing in his ears.

The history books may not be as effusively kind about Humphrey as his colleagues were, chiefly because of his knuckling under to Johnson on the war. But after his vice presidency, when he returned to the Senate, he addressed himself vigorously to the Senate's business and has been a strong hand for President Carter. Humphrey, in accepting—at length, of course—the Senate's applause, said, "I didn't intend to be that long." He paused, then added: "But that is the story of my life."

Hubert Humphrey is indeed a talking machine. But there is nothing mechanical or artificial about the spirit that he put on display once again in the Senate he has loved.

[From the Washington Post, Oct. 26, 1977]

A TRIBUTE TO HUMPHREY—SENATE CHEERS HIS RETURN TO WORK

(By Myra MacPherson)

It was one of those rare days in the Senate when the floor was crowded and no gavel rapped the demonstrating galleries back to order.

For five emotional minutes the chamber resounded with applause for Sen. Hubert H. Humphrey (D-Minn.), who stood at his desk

for the first time since learning he has inoperable cancer.

Though his voice was weak, he managed again to out-talk all his colleagues combined. They got up, one after another, to pay their tributes to the Democratic Party's Happy—though ailing—Warrior.

"I got wound up," Humphrey conceded. "I didn't intend to be that long—but that's the story of my life."

Humphrey looked up into the galleries and blew kisses to his wife, Muriel, who waved back and struggled with her tears while others in the galleries swallowed hard.

Though his body was wasted by the ordeal of sickness, Humphrey spoke of the politics of joy and love and faith. He also spoke with self-deprecating humor.

His doctors, he confided, had approved his return to the chamber, his home—"but because I am a frugal man I waited until I could get a free ride." He referred to his jet hitchhike with President Carter from Minnesota to Washington on Sunday.

The laughter died down and Humphrey went on: ". . . for at least 20 years I've been trying to get on Air Force One." In those 20 years he sought the presidency three times and was rejected twice as his party's nominee.

He listened as Robert C. Byrd (D-W.Va.), who has the majority leader post Humphrey also coveted, called him "a great political leader who combined the best of mind and soul. He has indeed believed his heart."

And Wendell R. Anderson, the junior senator from Minnesota, quieted the room with, "to those who say there are no heroes left in the world—to them, I say, they have never known Hubert Humphrey."

When Humphrey entered the Senate at 2 p.m., the applause welled up and he moved around the floor like a campaigner. All that was missing was "Happy Days Are Here Again."

The applause swelled as he hugged many senators—Russell B. Long of Louisiana, Edward M. Kennedy of Massachusetts, Anderson—then bounded up the steps to where his "special friend," Vice President Mondale, presided, for another hug. Then he turned and shook the hand of every Senate page standing by.

Earlier in the day, Humphrey, who calls himself "the old professional policy-maker," said he had returned to be Carter's emissary on the Hill, an oft-alien world these days for the President.

That Carter should need the one man he ridiculed in campaign rhetoric as too old and a has-been, was forgotten in the unanimity of the spirit of the chamber.

Humphrey spoke of Carter only in supportive terms.

"The energy question, tax reform—there's an awful lot on the table. For that the President is criticized for trying too much, too soon, but a President has to lay out the program. In a democracy you don't move rapidly. Congress will have to feel its way," he said. "I want to help, doing the little errands that sometimes add up to small achievements."

He said he is "revved up" to "push hard for the basic principles of the Humphrey-Hawkins" employment bill, and predicted the President would get 65 per cent of what he is seeking in his energy package.

Humphrey, who has learned there are no miracle cures—"Listen, if there was any miracle cure, I'd have it by now"—said, "I told the President the greatest contribution he could make is to give people a sense of confidence—to give them hope and to have patience to solve their problems."

It was pure unabashed Humphrey, corn and all, when he said, "Gosh, this is a great country."

But more than that, it was a class act.

[From the Baltimore Sun, Oct. 26, 1977]

SENATE GIVES HUMPHREY BIG WELCOME—OR FAREWELL

(By Stephen E. Nordlinger)

WASHINGTON.—Senator Hubert H. Humphrey, exuberant but gaunt from the ravages of cancer, came back to the Senate yesterday to a long, standing ovation and the tributes of his colleagues.

Quoting his old leader, Lyndon B. Johnson—"Come let us reason together"—Senator Humphrey brought with him a message for Congress and the American public to try to compromise the vexing issues before the country.

In his remaining days in public office, he said he would serve as a "kind of free spirit" candidly advising President Carter and congressional leaders on resolving their differences.

The galleries were packed and almost all the 100 members of the Senate, Republicans and Democrats, were there to applaud the 66-year-old Minnesota Democrat, whose service as a senator and vice president spans three decades.

Erect and smiling, Mr. Humphrey circled the chamber as the applause mounted around him to shake the hands of the members, the clerks, parliamentarians and even the pages as he returned to his political home from two months of cancer treatment and rest.

Mr. Humphrey, overjoyed by the outpouring of affection, blew a kiss to his wife, Muriel, in the gallery, he embraced Vice President Mondale, his old friend who presided, and Senator Robert C. Byrd (D., W. Va.), who defeated him earlier this year for majority leader.

Senator Humphrey plans to stay through the remaining few weeks of the session, but the thunderous greeting seemed also to serve as a possible farewell from his colleagues to the "Happy Warrior." There was no certainty that he would be returning next year.

"To those who feel there are no heroes left in the world, to those I say they have never known Hubert Humphrey," said Senator Wendell R. Anderson (D.), who serves with Mr. Humphrey from Minnesota.

Senator Byrd, speaking for the Democrats, and Senator Howard H. Baker, Jr. (Tenn.), the minority leader, speaking for the Republicans, also praised Mr. Humphrey.

"Sitting there and listening to all these remarks for Hubert Humphrey is cruel and unusual punishment," said Mr. Baker, referring to Senator Humphrey's well-known desire to speak.

Mr. Humphrey, when his turn came, acknowledged with a broad smile that he relished the accolades from his colleagues.

"My good friends, when Dale Bumpers (D., Ark.) leaned over the aisle and said to me, 'This is a little too much, isn't it,' I said, 'Hush.' "

When the laughter subsided Senator Humphrey, dressed in a gray tweed sports jacket, gray vest and gray trousers and a blue shirt, turned serious.

"The greatest gift of life is the gift of friendship and I have received it," he said. "And the greatest therapy is friendship and hope. All the doctors, chemicals, pills, radiation and nurses are helpful but without faith in yourself, in your own ability to win over difficulties, there is no healing. I know that because I have gone through a rough struggle."

Turning to his trip back to Washington, Senator Humphrey said that his doctors had told him, "We've done all we can for you," and it would be best to return to the Senate.

"I'm a prudent man and I waited until I could get a free trip," he said, referring to being picked up by President Carter in Minneapolis Sunday. "For almost 20 years I've tried to get on Air Force One. It was a short trip but the vibrations sent through me gave me new strength."

"I have been known through my life to be an optimist, sometimes a foolish optimist," he said. "At times I ignored reality and lived in a dream world, but I say to its critics that I am optimistic about America and I rebuke cynicism."

Then, Senator Humphrey added:

"I'm old and sufficiently wise enough to want to believe that all you have said is not in accordance with the facts and I am sufficiently fragile and weak to want to believe every single word."

In winding up his message, Mr. Humphrey told his colleagues:

"In the words of Isaiah, as a great President used to say, 'Come let us reason together.' There are no problems that cannot be solved if we are willing to give a little and share a little."

Senator Humphrey, accompanied by his wife and his physician, Dr. Edgar Berman, of Baltimore, was mobbed by newsmen and well-wishers when he arrived at his office shortly before the 2 P.M. Senate ceremony.

At an impromptu news conference, he said he felt "so much better now" and was eager to fulfill a role as a compromiser between Congress and the President on such issues as energy.

"He [Mr. Carter] has done a good job, but he needs a friend," said Mr. Humphrey. "I want nothing for myself. I don't want an ambassadorship. But I want to give a lot. I think I can be most helpful by talking candidly with the President. I'm kind of a free spirit. I will tell him what I think."

[From the Atlanta Constitution, Oct. 26, 1977]

HUMPHREY GETS HUGS, CHEERS

WASHINGTON.—They hugged him and kissed him, they cried and applauded like fools, and then they simply turned the Senate over to Hubert Horatio Humphrey Tuesday in a wild, roaring love feast of a welcome home.

Humphrey, looking gaunt but not infirm, picked his way slowly through the packed chamber during a lengthy standing ovation, shaking hands, slapping backs, and even embracing Strom Thurmond, who led a walkout of the 1948 Democratic convention after Humphrey's historic plea for civil rights.

The long fight with cancer has wasted his body, but the Humphrey grin was broad as he acknowledged the prolonged applause.

"Most of you know me as a sentimental man, and that I am," he told his colleagues and jam-packed Senate galleries in quavering voice, after the bedlam had ceased and a hush had fallen.

"Today is a very special day in my life. The greatest gift in life is the gift of friendship and I have received it, and the greatest healer there is is the friendship of love."

"My good friend, Dale Bumpers, just leaned across the aisle and said, 'This is a little too much, isn't it Hubert?' " Humphrey recounted. "I said, 'Hush,' " he added with a grin.

Earlier Sen. Robert Byrd D-W. Va., the majority leader, had said: "Nothing that life has dealt him has ever diminished his optimism or quenched his unquenchable spirit."

Sen. Howard Baker R-Tenn., the minority leader, ended his tribute by saying of Humphrey: "I can see dancing and glistening in his eyes; he's sitting here wondering how many more of these tributes he'll have to hear until he can speak."

Humphrey had met with newsmen before the Senate ceremony, and "Where were you guys in '68—I could have used you all," referring to his presidential campaign against Richard M. Nixon.

His recuperation, he said, had been "a really rough time, the worst I ever felt in the life."

Humphrey returned to Minnesota early in August and did not come back from the month-long summer recess. On his return Tuesday he found the legislators working on an energy tax bill that seemed certain to touch off a long, bitter fight.

Humphrey, who earlier told reporters he was ready to plunge in and work for support for President Carter's program, appealed to his colleagues to work out their differences.

"In the words of Isaiah, as a great president used to say, 'Come, let us reason together,'" Humphrey said. "There is no problem that can't be solved if we're willing to give a little and share a little."

He was referring to Lyndon B. Johnson, whom he served as vice president, and whose photographs adorn his office.

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7 MINUTES OF APPLAUSE GREET HUMPHREY

(By John H. Averill)

WASHINGTON.—The Senate extended an affectionate and moving welcome Tuesday to Sen. Hubert H. Humphrey (D-Minn.) as he returned to the Capitol after an 11-week absence and a second cancer operation.

"I've been going through a pretty rough struggle," said the 66-year-old Minnesotan, his body frail but his voice vibrant, as he thanked his colleagues for their kindness.

Word had circulated earlier that Humphrey would arrive in the Senate chamber at 2 p.m. By 1:55, most of the Senate's 100 members were at their desks. The galleries were jammed. Looking on from the family gallery were Humphrey's wife, Muriel, and his sister, Mrs. Frances Howard.

Senators and visitors alike arose in standing applause as Humphrey, flanked by an aide and Sen. S. I. Hayakawa (R-Calif.), who coincidentally arrived at the same time, entered the chamber precisely at 2. The applause continued for seven minutes as Humphrey, his eyes glistening, moved about the historic room shaking hands.

Humphrey had embraces for some special friends. The first was Sen. John C. Stennis (D-Miss.), the aging spiritual leader of the Senate's Dixie bloc, to whom Humphrey was once anathema for his civil rights views.

Also embraced were Majority Leader Robert C. Byrd (D-W.Va); Russell B. Long (D-La.); Edmund S. Muskie (D-Me.), Humphrey's 1968 vice presidential running mate; Sen. Edward M. Kennedy (D-Mass) and Sen. Wendell R. Anderson (D-Minn.), a Humphrey protege.

Humphrey then spotted another protege, Vice President Mondale, sitting as the Senate's presiding officer. Humphrey strode to the dais and embraced him.

It was an extraordinary scene, and there were few dry eyes as the Senate welcomed back an old friend who had learned during surgery in August that he has an inoperable pelvic cancer and that his case is terminal. A year ago his bladder was removed in another cancer operation.

Yet Humphrey, describing himself as always the optimist, sought to look at the cheerful side.

"The greatest gift in life is the gift of friendship, and I have it," Humphrey, standing at his desk, said in thanks for the affectionate welcome.

There have been many moving scenes in the Senate over the years, most recently the farewell last December to Sen. Mike Mansfield (D-Mont.), who was retiring after 16 years as majority leader. But the welcome for Humphrey seemed particularly memorable.

"In my 27 years in the Senate press gallery, this was the greatest demonstration of affection that I have seen," said Don C. Womack, the gallery superintendent.

"It was the most moving scene in my 20 years here," said William F. Hildenbrand, secretary to the Senate's Republican minority.

In brief remarks before Humphrey spoke, Byrd, who defeated Humphrey for the majority leadership last January, said:

"The presence of Hubert Humphrey in the Senate enhances the greatness that already inherently belongs to this distinguished chamber."

Minority Leader Howard H. Baker Jr. (R-Tenn.) followed. He told Humphrey: "We're glad you are back and that we have this opportunity to show our love."

"To those who say there no longer are any heroes in the world, I say, 'You don't know Hubert Humphrey,'" said Minnesota's Anderson in concluding the tributes.

Then Humphrey took over and, characteristically, spoke longer than intended. "I sort of got wound up," he said in apologizing for talking for 10 minutes. "I didn't intend to be that long, but that is the story of my life."

Humphrey returned to Washington Sunday aboard Air Force One. President Carter picked him up in Minneapolis on a return flight from Los Angeles.

Alluding to the flight, Humphrey said that his doctors had told him a week ago that he could return to the Senate. "But I waited, because I'm a frugal man, until I could get a free ride," Humphrey said amid laughter. "For at least 20 years, I have been trying to get on Air Force One. Just the thought of it sent vibrations through me that gave me new hope, new strength."

Later, just outside the Senate chamber, Humphrey encountered an old friend with Los Angeles connections, embraced him and exclaimed, "I hate those damn Rams."

Humphrey's favorite team, the Minnesota Vikings, was trounched by the Rams, 35–3, Monday night.

CRIME AND UNEMPLOYMENT: TWO SIDES OF THE SAME COIN

Mr. HUMPHREY. Mr. President, vitally important hearings, displaying the strong link between the Nation's rampant level of crime and high unemployment, are being conducted by Representative JOHN CONYERS of Detroit, chairman of the Subcommittee on Crime of the House Judiciary Committee.

Viewed comprehensively, the hearings clearly show that one of the most effective ways of fighting crime in general is to establish and sustain a full employment economy that will provide meaningful job opportunities paying decent wages for the families of the 25 million people who constitute the country's poverty stricken.

Testimony obtained by Representative CONYER'S subcommittee overwhelmingly shows that the billions upon billions of dollars spent in the name of law and order to strengthen police departments throughout the Nation, and build bigger and presumably better jails and prisons have not succeeded in checking and turning the tide of crime.

To the contrary, Mr. President, in my opinion, the hearings tend to show that our emphasis on law and order, to the exclusion of comparable efforts in other directions, have succeeded in perpetuating a terrible system that presents crime as the only desperate alternative available to a large number of our disadvantaged people. Without the illusion of successful criminal activity, many of the poor would have no hope whatsoever of achieving a better standard of living. They would, in effect, be forced to consign themselves to a hopeless future.

This dismal outlook is most prevalently held by disadvantaged teenagers and those in their early twenties, as indicated by testimony during the hearing that showed arrest rates for a variety of crimes were far heavier for those in this age group than it is for older members of the impoverished.

One of the most noteworthy aspects of the hearings was the testimony given by Professor Harvey Brenner, school of hygiene and public health, Johns Hopkins University.

As the result of a highly important, pioneering study, Dr. Brenner last year reported to the Joint Economic Committee, that clearly discernable correlations exist between increased unemployment and increases in physical and mental illness, suicides, murder, and admissions to mental institutions and prisons.

In further pursuit of this work, Dr. Brenner, for the first time, reported to the Subcommittee on Crime that a 1-percent increase in the unemployment rate in 1970 was associated with: 23,151 narcotics arrests out of a total of 832,624 such arrests reported by the FBI for that year; 8,646 burglary arrests out of a reported total of 284,785; 23,151 larceny arrests out of a total of 832,624; 5,123 embezzlement arrests out of a total of 85,033; 648 homicide victims out of a total of 16,848; 3,340 State and Federal prison administrations out of a total of 67,304.

Through a series of charts, Dr. Brenner graphically displayed the close correlation between increases in prison admissions as a result of homicide, burglary, and larceny for the United States as a whole, the State of Massachusetts, Canada, and the United Kingdom during periods ranging as far back as 1902. The correlations between rising unemployment, crime, and prison admissions are virtually exact and undeniably alarming.

Concerning other aspects of his testimony, Dr. Brenner observed that increased numbers of women and youth entering the labor market during the present period of high unemployment effects the level of crime. Dr. Brenner said:

> The impact of this (circumstance creates) incredible pressures on persons already with jobs and makes for far more intensive competition than there ever has been in our economy. We are therefore going to have to do far more than we ever did as a Nation in terms of creating jobs, because there are so many more people who wish them and who take them, which means that our chronically unemployed will probably have a much more difficult time of obtaining work.
>
> This in turn means that criminal activities, as an alternative, becomes more attractive to those who have the least education and job skills.

Dr. Brenner added that with increased numbers of women entering the labor force,

> We have the emerging phenomenon of female crimes. This was noted recently by a number of governments in Europe, by the Council of Europe, as well as by the United Nations as a problem—the sudden emergence of crime by women.

In discussing narcotics-connected crime, Dr. Brenner said that this area of criminal activity was "rather well contained" prior to the early 1950's when mandatory sentences were imposed for possession or selling such illegal drugs. Until this time, he said, the cost of feeding a heroin habit amounted to about $2 a day. The impact of the crackdown pushed the cost of supporting addiction to $200 a day, a cost that virtually required criminal activity to support.

He added that a New York Times investigative team "was unable to find any alteration of behavior in the sale or use of heroin in New York City following the crackdown" which is pretty well astonishing in my view. But even if it is fractionally accurate, it must indicate that the application of severity in penal law in this case certainly does not reduce the situation of criminality connected with drug abuse.

In this connection Dr. Brenner asserted that:

"To a marginal" extent law enforcement does have inhibiting effects on crime. However, there is a counter-balancing phenomenon which is really very peculiar. In instances of extraordinary heavy law enforcement, police are effective in that violators are arrested, prosecuted, convicted and imprisoned. This results in overloading the criminal justice system. The courts become disrupted and jails and prisons become overcrowded to such a degree that people are let go early.

And what ultimately results is that we do not have a harsher and more sustained and more substantial law enforcement policy. It is an absolutely self-defeating and totally destructive policy of the criminal justice system itself for which the potential criminal loses—for perfectly rational reasons—all respect.

His chances of being caught then becomes so much less that it nearly begins to pay for him to engage in a life of criminal activity.

Cutbacks in heroin traffic from Turkey and Mexico seemed to occasion in much of the United States, particularly New York, not a decrease but an increase in crimes associated with drug abuse.

He stated that in order to maintain the same level of income, persons who traffic in heroin have to charge more. The purity falls, resulting in an increased level of deaths and hepatitis due to drug related activity. Mysteriously, at the same time, the number of new users increases.

Dr. Brenner also stated that ironically,

To the degree that we enforce the law, and imprison our convicted persons for a reasonable length of time, we reduce their employability. It becomes even more difficult for them to manage within the economy. Few employers will look seriously at an individual with a criminal record.

The problems created by rising prison admissions following periods of rising unemployment feed on themselves, according to Dr. Brenner. Prison facilities become overcrowded, particularly so when the next period of rising unemployment is reached. As a consequence there is an early discharge of prisoners as well as increased prison admissions during such periods. Individual prisoners enter the prison system during or immediately following periods of high unemployment and leave it when the same conditions prevail. The prisoner "is at least as bad off as he was before" in terms of being able to find employment.

In concluding his remarks, Dr. Brenner said, "If we understand and can demonstrate statistically that changes in the rate of unemployment have a bearing on the percentage increase or decrease in crime, then crime itself has a cost to society" that extends beyond the cost in human injury.

It may, said Dr. Brenner, be dollar efficient in terms of preventing crime to aim greater resources toward the goal of creating increased, meaningful employment opportunities and a better future for those who are most vulnerable to adverse economic conditions, the undereducated, and the unskilled.

But Dr. Brenner viewed the possibility of developing a new prospective to address the problems of crime and unemployment with some pessimism. He asserted the man on the street is not always economically secure and it is difficult for him to endorse efforts to achieve full scale employment or other benefits for persons less fortunate while he fails to see that he himself is benefited by such efforts.

Mr. President, we must turn things around. We have got to make the Nation realize that crime and unemployment are closely linked, and that we are never going to effectively address the problem of crime unless we provide the disadvantaged with a better alternative than criminal activity as the most attractive means to survive. In effect, this means achieving and sustaining a full employment economy and providing the disadvantaged with the education and the skills to find rewarding and productive roles in that economy.

Representative CONYERS is to be congratulated for displaying the leadership and the initiative to give us all valuable insights into this fundamentally important problem.

THE STEEL INDUSTRY AND POLLUTION CONTROL

Mr. ANDERSON. Mr. President, the Senate-House conference committee now meeting on the Clean Water Act of 1977 is under considerable pressure from the steel industry to exempt for several years the discharges of steel plants to the Nation's waters from the 1977 best practicable treatment (BPT) deadline of the Federal Water Pollution Control Act of 1972.

One of the myths often promoted by businesses out of a need for allies and by some liberals out of arrogance or ignorance, is that working people are against strong environmental laws. As an example of the strong commitment of working people to environmental protection laws, particularly the workers who could potentially be affected by threatened layoffs in the steel industry, I request unanimous consent that three documents be printed in the RECORD for review of my colleagues.

First, an article from the October issue of Steel Labor, "USWA urges no retreat in air and water pollution standards." that reports the views of Jack Sheehan, legislative director of the United Steelworkers of America on the steel industry's compliance with air and water pollution standards. Second, a letter of October 25, 1977, addressed to me and all members of the Clean Water Act Conference Committee from Mr. Sheehan, stating the views of USWA President Lloyd McBride, in a letter to members of the Congressional Steel Caucus, that "our union does not seek any congressional relaxation of the industry's taxation or EPA/OSHA regulations." Third, a letter of October 10, 1977, to me from the United Steelworkers of America local 1010 in East Chicago, Ill., whose 18,000 members are employees of Inland Steel Corporation. This letter says, in part,

We are aware of attempts by industry to weaken the provisions of the 1972 Clean Water Act. These attempts should be resisted. We do not agree with the statements of the steel industry that pollution control eliminates jobs.

Mr. President, the article and letters will be weighed carefully by me and, I am confident, the other Senate conferees as we consider the proposed exemption for the steel industry from the 1977 BPT deadline.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

USWA URGES NO RETREAT IN AIR AND WATER POLLUTION STANDARDS

WASHINGTON, D.C.—There is no retreat by the USWA in worker protection provisions of existing air and water pollution control laws, according to Jack Sheehan, legislative director of the Steelworkers.

Work has been completed on the Clean Air Act, and the amendments to that law now have been signed by President Carter. The most highly publicized aspect of the air pollution was the extension of time granted to the auto makers. However, time extensions were also made available to steel facilities, copper smelters and other industrial sources. Another important part of the new air pollution law is a group of worker protection provisions which were included only as a result of efforts by the USWA, Mr. Sheehan says.

The action has not yet been completed on the Water Pollution Control Act. The House and Senate have both passed amendments to the water law, but some of the differences between the two versions are great and Congress is facing a major controversy in resolving those differences. Most of the remaining controversy, however, centers on the wetlands issue (i.e., control of development in the coastal and estuary areas) and thus does not directly involve effluent control at existing industrial sources.

A problem which Congress has had to face is that in both the air and water programs the compliance deadlines have not been met by many industrial sources. As a result, the deadlines set in law for attainment of natural standards have not been reached. In both air and water pollution control, the steel industry has had the worst compliance record of any industry.

As for air pollution control, there is not a single steel facility which is in full compliance with emission reduction requirements that are necessary for meeting public health standards for ambient community air. These health standards were to have been achieved by mid-1975 under the 1970 law, Mr. Sheehan reports.

In water pollution, over 85 per cent of all industrial sources have met the July 1977 requirement of installing the "best practicable technology" (BPT) for effluent control. But in the steel industry, less than half the facilities have been brought into compliance.

Because of the large scale noncompliance Congress was confronted with three possible courses of action: (1) relax the standards; (2) extend the deadlines; or (3) retain both the standards and the deadlines and require EPA to undertake massive and drastic enforcement action.

The USWA consistently maintained that there should be no retreat from the health standards. Maintaining the policy of attaining healthful environmental quality is important not only for the general public good, but also is linked importantly with our efforts of attaining workplace health standards, especially regarding coke ovens.

On the other hand, strict enforcement of the deadlines in the air and water laws was unrealistic because it would have resulted in widespread shutdown confrontations. Congress has chosen the middle route of making compliance date extensions available. Under the new clean air law, extensions can be granted until mid-1979. Similar extensions are likely to be placed in the water law as well. The Senate version would grant an additional 1½ years, while the House bill would allow two-year extensions.

In allowing more time, however, Congress has also served notice to industry that further failure to come into compliance will not be taken lightly. Beginning in 1979, any source not meeting the control schedule will be subject to noncompliance penalties.

The USWA has supported this penalty procedure for several reasons. Mr. Sheehan points out that it removes the current incentive for the companies to delay their compliance efforts knowing that they can thwart EPA's enforcement moves through litigation and through shutdown threats. The lack of an effective penalty system has invited the companies to use our members' jobs as pawns in a game of procrastination and environmental blackmail. The automatic nature of the penalties should be an incentive for compliance and help prevent the need for enforcement.

Also, if enforcement should be necessary, the penalty system is preferable to forced shutdown, which was the only effective tool under the old law.

UNITED STEELWORKERS OF AMERICA,
Washington, D.C., October 25, 1977.

Re: Water Pollution Control Conference Committee.

Hon. WENDELL R. ANDERSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ANDERSON: In the course of deliberations on the Water Pollution Control Act Amendments in the conference committee, the current situation in the steel industry has received considerable attention. For your interest, enclosed is a copy of the letter recently sent to members of the congressional steel caucus by USWA President Lloyd McBride.

In that letter it is pointed out that we feel the current steel imports pose a very real and immediate problem which requires both immediate and long range solutions through our trade policies. We also feel that it is necessary for the steel industry to commit itself to a program of modernizing marginal facilities. Until the marginal facilities are modernized they will persistently confront steel communities with the possibility of massive disruptions through permanent shutdowns and resistance to pollution abatement efforts.

We do not feel, however, that the current trade situation is related to pollution control requirements. Thus, as President McBride states in the letter, "Our union does not seek any congressional relaxation of the industry's taxation or of EPA–OSHA regulations." Relaxation of abatement requirements is not a substitute for modernization. Rather, abatement should be an integral part of modernization.

Sincerely,

JOHN J. SHEEHAN,
Legislative Director.

LOCAL UNION 1010,
UNITED STEELWORKERS OF AMERICA,
East Chicago, Ill., October 10, 1977.

Re: Clean Water Act of 1977.

Sen. WENDELL ANDERSON,
Senate Office Building,
Washington, D.C.

DEAR SENATOR ANDERSON: On behalf of our nearly 18,000 members at Inland Steel Company, I urge you to support strong Federal Clean Water Legislation. All of our members work and live near Lake Michigan, which is a source of drinking water, for most of them. Most of our members swim, fish and/or boat in Lake Michigan.

We are aware of attempts by Industry to weaken the provisions of the 1972 Clean Water Act. These attempts should be resisted. We do not agree with the statements of the Steel Industry that pollution control eliminates jobs. On the contrary, it is our belief that strong Federal Legislation, properly enforced will result in a net increase in jobs.

We feel the final bill should contain the following provisions:

1. Strongest possible protection from dredging and filling activities, including all navigable waters, main stem rivers, tributaries and headwaters.

2. Approval of Senator Nelson's Amendment, which bans phosphate detergents.

3. Mandating of "Best available Technology" for control of Industrial Pollution by 1983. Industries which send wastes to Municipal Treatment Plants should be required to pay the full costs of treating their effluents.

4. Rapid development of standards for and abatement of all toxic and hazardous substance discharges.

5. Approval of the "Clauson Amendment", providing funding for new or innovative pollution treatment methods.

The preservation of Clean Water is a matter of highest priority to our members. It is our hope that the 1977 Clean Water Act will reflect this priority.

Sincerely,

MIKE OLSZANSKI,
Chairman Environmental Committee.

BORROWING COSTS GOING UP FOR NATION'S CITIES

Mr. HUMPHREY. Mr. President, the administration has let it be known that the planning of an urban strategy is underway. The intent of such a strategy would be to assist in revitalizing the deteriorating economic base of many cities. I wholeheartedly endorse this effort and applaud the Carter administration for undertaking this difficult, but vital task.

I am concerned, however, with the narrow scope of the approach being recommended by the Treasury Department. The Department has indicated that their recommendations, albeit in draft form, are limited to assistance to private businesses to encourage their investment in the central city. Treasury officials have repeatedly emphasized their view that municipalities are not in need of an alternative or supplemental source of long-term credit. Based on my extensive contact with local officials from all across this Nation, I strongly disagree with the Treasury perception. A recent article which appeared in the Wall Street Journal indicates that a serious oversupply of municipal bonds presently exists which is forcing bond prices down and yields up in municipalities nationwide.

Our municipalities must have an alternative source of long-term credit and I urge the administration to give this option careful consideration.

Mr. President, I ask unanimous consent that the Wall Street Journal article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

OVERSUPPLY IS FORCING MUNICIPAL ISSUES TO THEIR LOWEST PRICES SO FAR THIS YEAR

(By Phil Hawkins)

NEW YORK—A serious oversupply condition has forced municipal bonds to their lowest prices and highest yields thus far in 1977.

New York bonds have become especially plentiful since their market acceptability was restored through progress in solving the well-publicized financial woes. One of the state's agencies sold $236 million last week; another will offer $255 million this week, and still another might put out up to $800 million in an advance refunding.

About $986 million of fresh tax-exempt bonds poured into the market last week, including large offerings of $236 million by the New York State Housing Finance Agency, $150 million by Oregon and $107 million by Tennessee. More than $1.2 billion of unsold old bonds already were piled on dealers' shelves.

Generous terms were set on the huge new array, but additional concessions soon became necessary. For example, Tennessee's seven-year bonds initially were priced to yield 4.05%, well above the going rate on similar state issues a week earlier, but their return had risen to 4.1% by early Friday.

Drastic price adjustments were made on various Municipal Assistance Corp. bonds after the New York agency said it might advance refund up to $800 million in existing issues. MAC's 10¼% bonds of 1993 soared about three points, while its 7½% bonds of 1995 plunged by the same equivalent of $30 for every $1,000 face amount.

Typical state and city issues were marked down about $23.75 for each $1,000 face amount during the week, as measured by a change in the Dow Jones municipal bond yield index to 6.33% from 6.14% the previous week. It put their net loss at about $43.75 over the past month while the index was moving from 5.98% in early September.

The current index level is the highest since a 6.38% late last November. Bond yields and bond prices move in opposite directions, of course.

An end to the oversupply condition isn't in sight. More than $1 billion of new tax-exempt bonds are being readied for sale this week, including formidable offerings of $255 million by the New York State Project Finance Agency, $150 million by Connecticut, $100 million by Philadelphia and $95 million by the Maryland Community Development Commission. None of the key sales will get under way today.

Utility bond prices also have been weakened by excessive supplies. More than $1 billion of new telephone, electric and gas company obligations are scheduled for sale in October, a sharp increase from the recent monthly average of about $710 million.

Last Friday, for instance, Consumers Power Co.'s 8⅝% bonds were released into the resale market while an estimated $40 million remained available from the $100

million offered only two days earlier at 99¼, where the return was 8.7% in 30 years. The bonds plunged about 1¼ points—$12.50 for every $1,000 face amount—to a level yielding 8.76%.

Only two new utility sales are planned this week, however. They involve offerings of $50 million by Southern California Gas Co. tomorrow and $60 million by Dayton Power & Light Co. on Wednesday.

Several other corporate and foreign offerings will get under way during the week. Among them are Wednesday sales of $150 million by Venezuela plus $100 million by Private Export Funding Corp. and a Thursday sale of $250 million by Aetna Life & Casualty Co., which on Friday increased the amount from $200 million originally.

A recent Treasury issue performed poorly last week. The department late Wednesday sold $2.5 billion of 7⅛% notes, due Nov. 15, 1982, at a price yielding 7.18%, but by Friday the notes had fallen in resale trading to 99 12/32 bid, 99 14/32 asked, where the return was 7.26%.

Older Treasury issues plummeted as much as 12/32 point in very light trading on Friday. The lengthy 7⅝% bonds of 2002–07 closed about 11/32 point lower at 98 23/32 bid, 98 27/32 asked, where the return was about 7.72%.

Nevertheless, Treasury securities remained fairly unattractive in relation to corporate bonds. They were yielding about 0.6 percentage point less than high-grade utility bonds and about 0.3 percentage point less than high-grade industrial company debentures, whereas the yield spreads usually are only about 0.55 and 0.25 percentage point, respectively.

In European markets last week, bond prices fell an average of about a point, the sharpest weekly decline so far this year. Investors were said to be avoiding purchases due to the double peril of rising short-term interest rates and falling foreign-exchange value of the U.S. dollar.

ALABAMA POWER CO. AND THE NRC

Mr. KENNEDY. Mr. President, a few weeks ago I proposed an amendment to the utility legislation before the Senate which would have installed antitrust review provisions in that bill. The antitrust review process would not have been part of any Federal licensing procedure, and thus the question of whether that review might cause any delay was not relevent to my amendment.

Nonetheless, during debate on my amendment the discussion turned to a proceeding before the Nuclear Regulatory Commission relating to a case involving the Alabama Power Co. I have recently received a letter from an attorney representing that firm, pointing out the company's interpretation of the outcome of the proceeding and questioning my characterization of some of the practices complained of in the case.

I believe that it is only fair that my colleagues have the opportunity to read first hand Mr. Balch's perspective on this issue. At the same time, my own observations, I believe, are borne out of reference to the record of the case as well. I have responded to Mr. Balch's letter pointing out the bases of my earlier statements, and I ask unanimous consent that both of these letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

OCTOBER 20, 1977.

Hon. EDWARD M. KENNEDY,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: I have read with concern the statement which you made relating to Alabama Power Company on the floor of the Senate on October 5, 1977, reflected at Page S. 16400 of the Congressional Record. Your statement is incorrect and misleading.

By way of background, you should be aware that the proceeding before the Nuclear Regulatory Commission (which apparently is what you referred to as the "Alabama case") was initiated by the "Advice Letter" of the Department of Justice pursuant to Section 105c of the Atomic Energy Act in August, 1971 and related to the licensing of the Company's Farley Nuclear Plant. Hearings in that proceeding began in December, 1974 and were not concluded until May, 1977 after more than 165 hearing days during which a transcript record in excess of 28,000 pages was compiled. In addition, the record involved literally thousands of pages of exhibits. This *six-year* ordeal resulted ultimately in the delay of the operation of the plant, which cost the consumers of Alabama in excess of $10,000,000.00. Had construction of the plant not been "grandfathered", the cost of the delay would have been even greater as in the case of Louisiana Power & Light. The net result of the "Alabama case" in the opinion of the Atomic Safety and Licnsing Board issud on Jun 24, 1977, was to afford Alabama Electric Cooperative, Inc. the unit power interest in the Farley Plant which Alabama Power Company had offered to that entity *before the evidentiary hearings began,* but to deny the joint ownership interest for which it contended for the stated purpose of extending its federal tax and interest subsidies. I fail to understand how the imposition of $10,000,000.00 on the consumers of Alabama Power Company can be justified as being in the public interest, and would strongly urge that Section 205c of the Atomic Energy Act be revised to assure that such delays not be permitted in the future.

With respect to your statements on the floor of the Senate, you stated that ". . . Alabama Power Co. refused to coordinate its bulk power supply with Alabama Electric, a cooperative, when it performs in coordination with other utilities. That is a clear violation, in terms of discrimination and refusal to deal, of the antitrust laws." The Licensing Board, after considering the evidence, did not agree with your statement. At Page 250 of its Initial Decision, the Board stated:

". . . we find that the 1972 interconnection agreement between Applicant and AEC is not anticompetitive in and of itself, and does not deny AEC power exchange services in an anticompetitive fashion."

The 1972 interconnection agreement, which provided for an expansion of the coordination which had existed between Alabama Power and Alabama Electric since the inception of operations of AEC in 1944, had also been approved by the Rural Electrification Administration and by the FPC. I would hasten to add that prior to 1972, the agreements for coordination between Alabama Power Company and Alabama Electric had also been reviewed by the Alabama Public Service Commission, and after the mid-1960's, by the FPC. In fact, the arrangements were subjected to extensive hearings before the FPC in its Docket No. E-7183. The FPC, in 1967, issued its opinion that the provisions of the agreement were not unreasonable. FPC did require the parties, together with the FPC staff, to explore, under Section 202 (a) of the Federal Power Act, additional coordination to take account of new generation the Cooperative was constructing and new federal hydro projects then being constructed, the first of which was completed in 1970. The representatives of Alabama Power engaged in joint engineering studies with the staff of the FPC, REA, SEPA and Alabama Electric to determine what new interconnection arrangements would be required in the light of the new generation referred to by FPC. It is out of these discussions that the 1972 interconnection agreement was developed.

Alabama Power Company has never refused to deal with Alabama Electric, and in fact has been continuously interconnected with it at multiple points since September 1944. Alabama Power Company has been providing Alabama Electric with back-up power supply as well as firm power every single day since their first coordination contract was executed in 1944! Moreover, the Board in the case you referred to, did not find that Alabama Electric had violated the antitrust laws. The Board did rule that the failure of Alabama Power Company in the discussions during 1970 and 1971 leading up to the February 1972 Agreement to agree to the demands of Alabama Electric was anticompetitive conduct. However, the Board also found that Alabama Power Company, during such period, was concerned about the impact of the 35-year all-requirements, exclusive dealing contracts which Alabama Electric had entered into with Alabama Power Company's wholesale customers. These contracts required that such customers disengage from Alabama Power Company whenever Alabama Electric had capacity to serve their loads and requested them to do so. Alabama Power had sought to persuade Alabama Electric to suspend such long-term (35-year) contracts during any new coordination agreement between Alabama Electric and Alabama Power because the impact of such contracts would simply be to assure that Alabama Power would lose the affected customers at the option of Alabama Electric, and foreclose any opportunity during the aforesaid 35-year contract term for Alabama Power to compete for service to these wholesale customers, some of which it had been serving since the 1930's.

Another reason why Alabama Power Company and Alabama Electric were delayed in reaching agreement on a new coordination agreement during the negotiations in 1970 and 1971 was that Alabama Electric was insisting that Alabama Power agree not to serve any new retail customers in the state of Alabama which located "closer to" a distribution line of any of Alabama Electric's distribution cooperative members, regardless of the distance—even as far away as several miles or more. It was the position of Alabama Power Company that such a demand was not only anticompetitive, but unreasonable in that it would inhibit Alabama Power from serving new loads and would preclude members of the public which desired service from Alabama Power Company, in counties where it served, from obtaining such service. It was only after this last demand by Alabama Electric was withdrawn that the 1972 Agreement was reached.

Your next comment concerning the "Alabama case" is the greatest distortion imaginable. You stated:

"Second, it attempted to get the cooperative to agree on territorial allocations, clearly an unlawful territorial allocation."

The consistent objective of the cooperatives in Alabama, which they have pursued both in negotiations with Alabama Power and before the Alabama legislature, has been to establish exclusive territories for the provision of service. I will be glad to furnish you copies of the legislative bills proposed by Alabama Electric and its members if you desire to see them. As indicated above, during the discussions leading up to the 1972 interconnection agreement, a major portion of the

time was involved in responding to the cooperatives' insistence that the State be carved up so as to assure them exclusive service territories.

The Company does feel that provisions to avoid wasteful duplicaion of electric service facilities are in the public interest, and this has been the regulatory policy of the State of Alabama for many years. When cooperatives first began their organization in the late 1930's and early 1940's, negotiations were conducted between the Company and the cooperatives at the direction of Gordon Persons, then President of the Alabama Public Service Commission, and later Governor of Alabama, to avoid such duplication. Mr. Persons, incidentally, formerly had been the consulting engineer retained by many of the cooperatives to assist in the development of their electric systems. These negotiations produced an agreement which was designed to avoid wasteful duplication, but which still permitted reasonable competition. These agreements were approved by the Alabama Commission as being in the public interest. At present, the Company's tariff, filed with the FPC, contains a successor version of these agreements. This tariff provision has also been explicitly approved by the Alabama Public Service Commission. During hearings before the FPC, the Company offered to strike the provision so that there would be absolutely no restrictions on competition; however, the cooperatives insisted that the provision remain. Their expressed concern was that the provision did not restrict competition enough in that they wanted exclusive service territories predicated on the "closer to" concept which was pressed by Alabama Electric and their representatives during the 1970–1971 negotiations described above.

It is my feeling that in the interests of truth and honesty, you should be aware of the cooperative's position on competition before you presume to make statements on the floor of Congress or elsewhere about the "Alabama case."

Finally, you stated on the floor of the Senate:

"The third was a requirement in the contract that all or none of the power purchased at wholesale come from Alabama Power—a sole source requirement—which the cooperative was unprepared to do."

This statement is false. The record shows that with respect to Alabama Electric, it has been purchasing wholesale power from Southeastern Power Administration (SEPA) since the early 1960's. Even before the 1972 coordination agreement referred to herein, the contract between Alabama Power and Alabama Electric expressly contemplated that Alabama Electric would purchase power from SEPA simultaneously with purchases from Alabama Power.

Prior to 1970, Alabama Power Company, like nearly every wholesale firm power supplier in the country, had reciprocal provisions in its wholesale rate schedules approved by the FPC that required (a) the Company to build transmission and generating facilities to supply (for the limited term of the contract) the specified loads of the customer; and (b) the customer to purchase all of its specified requirements from the Company at the delivery point which the contract covered. In Alabama Power Company's case, the term was for five years, subject to cancellation upon six months' notice at the end of such five years. Such a term is consistent with prudent planning. All of the witnesses who testified in the Nuclear Regulatory Commission proceeding to which you refer, including the experts sponsored by the other parties, stated that it is customary and reasonable for power supply contracts to commit purchasers for a reasonable planning period of up to five years.

The other two wholesale suppliers which operate in Alabama have all-requirements provisions in their contracts, but the terms of their contracts are much longer. TVA, which supplies wholesale customers in North Alabama, has a provison which states that the customer must purchase all of its power requirements from TVA for the entire 20-year term subject to cancellation after the first 10 years. Alabama Electric's current wholesale contracts, provide that the customers must buy all of their power requirements from Alabama Electric for a period of 40 years in the case of distribution cooperatives, and 30 years in the case of municipalities. Alabama Electric is quick to point out that these long-term exclusive-dealing contracts are required by federal policy as expressed by the Rural Electrification Administration. It is not only illogical, but unfair for you to criticize the five-year all-requirements provision in Alabama Power Company's tariffs without leveling the same attack at the longer-term provisions insisted upon by federal agencies.

I would hasten to add that neither we nor other utilities, federal or otherwise, have these provisions in wholesale contracts simply because everyone else does it. The electric utility industry is a capital-intensive business requiring the attraction of enormous investments before service can be rendered. Both TVA and the Rural Electrification Administration recognize, just as private utilities recognize, that some security of market must be achieved in order to assure that revenues will be available to pay for the facilities. The type of security of markets which TVA and REA have demanded, running from 20 to 40 years, has not been available generally to private utilities because of regulatory policy. Nevertheless, FPC itself prescribed the term for the requirements provision of Alabama Power Company's tariff, and found such terms to be reasonable.

With respect to the assertion that the Company's tariff is an all-requirements tariff, I would further note that when power marketed by the Southeastern Power Administration, a branch of the U.S. Department of the Interior, first became available for sale to other wholesale customers of Alabama Power Company in 1970, the Company readily agreed, notwithstanding the "all-requirements" feature of its then existing wholesale power supply contracts, to accommodate the supply of low-price SEPA power to such customers and to wheel such power for the government to such customers. These developments were a product of voluntary negotiations and resulted in a mutually beneficial coordination arrangement between SEPA, Alabama Power and more than twenty wholesale (preference) customers in Alabama.

The law firm of which I am a member served as co-counsel for Alabama Power Company in the NRC licensing proceeding to which you referred. I am, therefore, familiar in detail with the facts and circumstances involved in that case. The contracts referred to above, as well as the FPC and other agency action described, are all a matter of public record. I will be pleased to document from the public records any of the matters you wish to have so verified.

I bring these matters to your attention so that you can correct misstatements in the Congressional Record, and with the hope that being better informed, you might avoid misrepresentations in the future as you participate in legislation affecting the electric utility industry and the public it serves.

Yours very truly,

S. EASON BALCH.

WASHINGTON, D.C., *October 28, 1977.*

S. EASON BALCH, Esq.
Balch, Bingham, Baker, Hawthorne, Williams & Ward, Birmingham, Ala.

DEAR MR. BALCH: This responds to your letter of October 20, 1977 concerning my comments on the floor of the Senate regarding the antitrust review preceeding before the Nuclear Regulatory Commission (NRC) involving Alabama Power Company's Farley Nuclear Plant. Your letter asserts that my remarks concerning Alabama Power Company were incorrect and misleading and you further claim that the antitrust review resulted in a delay of the nuclear plant, costing consumers in Alabama in excess of $10,000,000.

Since your letter is a quite lengthy one, I will not undertake to respond to each and every point, but will instead deal with the two essential points you raise: the conduct of Alabama Power Co., as found by the NRC Licensing Board, and alleged delay in licensing the plant because of the antitrust review proceeding.

Contrary to your statements, my remarks relating to anticompetitive behavior engaged in by Alabama Power Co. are amply supported by the findings of the NRC Licensing Board. Your letter, largely a defense of Alabama Power's conduct, fails to note that the Board's ultimate conclusion was that Alabama Power had acted inconsistently with the antitrust laws and that relief was necessary to correct the anticompetitive situation shown by the record. The Board found:

". . . that Applicant possesses monopoly power in the generation and transmission of electric power in the relevant market of central and southern Alabama, and that it has used its dominant position to hinder or foreclose competition or potential competition for wholesale power supply. . . ." (Initial Decision—Phase I (ID–I), 321).

In view of the Board's findings of anticompetitive behavior by Alabama Power Co., it is clear that the antitrust proceeding that you condemn, has performed a public service by exposing prior to licensing of the plant, competitive wrongdoing by a major electric utility.

The NRC Licensing Board's conclusion that Alabama Power had utilized its monopoly power to foreclose and hinder competition was based on a number of specific findings of anti-competitive conduct, which are set forth below. With regard to Alabama Power's interconnection and coordination activities:

". . . Applicant consistently refused to make fair interconnection and coordination arrangements with AEC, for the sole purpose of maintaining and protecting Applicant's wholesale customer business from competition by AEC." (ID–I 243);

With regard to restrictive provisions in Alabama Power's wholesale contracts:

"That they are anticompetitive in regard to precluding alternative sources of supply." (ID–I 259);

With regard to formation of regional coordination agreements:

"Applicant clearly intended to, and did, deny in concert with other utilities, publicly owned utilities in its service area, the benefits of economic coordination in order to eliminate competition from them." (ID–I 311–12);

With regard to a restrictive provision in Alabama Power's contract to transmit surplus power from Government hydroelectric projects:

"We find this to be inimical to the antitrust laws" . . . and additionally, ". . . an exclusive dealing arrangement . . ." (ID–I 270–71).

With regard to Alabama Power's efforts to monopolize service to a Government military installation, Ft. Rucker:

". . . Applicant abused its monopoly power in the generation and transmission of wholesale power to attempt to foreclose competition and to gain a competitive advantage" (ID–I 287), and additionally, to constitute "unfair methods of competition proscribed by Section 5 of the Federal Trade Commission Act" (ID–I 291).

These are the anticompetitive acts and practices to which I was referring in my remarks on the Senate floor. Even though the Board found that some of Alabama Power's activities at issue in the proceeding were not anticompetitive, the elimination of Alabama Power's ability to act anticompetitively, as the evidence showed that the Company had acted, was certainly a public interest goal well worth pursuing.

It seems to me that your letter largely reargues from your perspective the matters which were involved in the NRC proceeding. My remarks to the Senate, however, were based not on any personal perception that I may have had of the competitive situation in the electric power industry in Alabama but rather on the findings of the impartial panel which actually heard the evidence presented by all parties.

The second essential point in your letter was that the delay in licensing the Farley plant resulted from the NRC antitrust review. Apparently, the delay beyond the point when the plant was otherwise eligible for an operating license amounted to about five weeks. As I understand the situation, Alabama Power Company's litigation tactic of insisting that the hearing be conducted in two phases resulted in an unnecessary prolongation of the proceeding. If the NRC Licensing Board had completed the taking of all evidence in April, 1976, as the Department of Justice and other parties urged, and had thus avoided the need for further evidentiary proceedings, briefing, and additional ruling by the Licensing Board in 1977, the Licensing Board's full and final decision could have been rendered before the Farley plant was ready to operate in May, 1977. I am informed that when in 1974 the Company proposed this bifurcation procedure, the Department of Justice, the NRC Staff, and the other parties strongly opposed it. The prediction of the latter parties that "[b]ifurcation . . . will almost certainly cause delay," was obviously borne out, and it is unfortunate that you have chosen to blame others for the delay and resulting costs which may well have been brought about by Alabama Power's litigation tactics.

I do not agree with your suggestion that Section 105c of the Atomic Energy Act be amended. Under the Nuclear Regulatory Commission's present procedures, ample time is available for antitrust hearings when such hearings are necessary. On the other hand, if there were no pressure to have antitrust review completed, it is likely that the antitrust proceedings would become even more protracted. The procedures followed by the NRC under existing Section 105c have served the public well, in my opinion, and I see no reason to change them because of the unique experience in the Alabama Power proceeding.

Sincerely,

EDWARD M. KENNEDY.

MINNEAPOLIS FULL EMPLOYMENT HEARING: MR. WILLIAM NORRIS

Mr. HUMPHREY. Mr. President, the people of my State never cease to surprise me with their sophistication, warm me with their conviction and concern, and make me proud to be a Minnesotan.

I have in mind Full Employment Week. Thousands marched from coast to coast the week of Labor Day demonstrating their desire for policies to achieve and sustain full employment, and testifying to the costs of falling short.

The costs are human and individual: Broken families, low self-esteem, and the gnawing futility of entrapment among the impoverished in a society of plenty. The costs are social: Higher mortality and illness, property crimes of survival, and subsequent imprisonment. The costs are economic: Hundreds of billions of dollars of potential production gone forever, and the consequent inflation from supply outstripped by reasonable demand.

In Minneapolis, Mr. President, emotions were high but the mind ruled. It was an exemplary performance. The Minneapolis Full Employment Action Council (FEAC) held a public hearing on September 6 at the Regional Native American Center on the need for full employment, and heard from 18 witnesses, including authorities on unemployment costs, planning, political leaders, and the unemployed themselves.

The local FEAC provided substantial funding for bringing in out-of-town experts, prepared a record, arranged media coverage, and did the sundry other tasks which dedicated people do without thinking twice. They did them, and the result was an excellent and serious exploration of the issues well attended by area citizens.

Janet Deming and Doug Peterson of FEAC thoughtfully sent me a full transcript. I, in turn, would like to share with my colleagues over the next few days selections from the testimony received.

The first witness was Mr. William Norris, president of Control Data Corp., one of the largest firms headquartered in Minnesota. Control Data, with offices and outlets across the country and throughout the world, is a fine corporate neighbor to the Midwest. It pays its taxes and provides jobs; it builds assembly plants in depressed areas of our large cities; it innovates to stay at the frontier of a complex vital industry; and finally, it provides quality services and products to our citizens in healthy competition with other computer companies also situated in our part of the country.

Mr. Norris' statement stressed the importance of full employment, calling the present situation "the Nation's No. 1 problem." In pointing out the need for 20 million new jobs in the next decade, Mr. Norris cited the role of business in developing new products and sharing information on useful technological improvements. But sharing information in a world full of paper is a big job that requires organization to obtain economies of scale. And that, he tells us, is a long way from happening:

The reluctance of private industry, coupled with the grossly inefficient methods of government and academia for communicating information, result in the technological wheel being wastefully reinvented every day. Moreover, technologies are lying on the shelf grossly under-utilized.

He suggests some ideas of how to facilitate technological information exchange. These views are well considered and deserve attention from Congress.

Among the other insights Mr. Norris was a candid assessment of the hesitancy of some segments of the business community to embrace enlightened objectives in employment and social policy:

But the increase in technological innovation that could reasonably be expected in today's environment would fall far short of what is required. The reason is primarily the indifference of business toward major societal problems. For too long business has been preoccupied doing the things that are the most profitable and leaving the solutions to most of the major problems of society as the responsibility of government. Meanwhile, these problems are growing to disastrous proportions.

Let me add my voice of assurance to those in the private sector who are listening: We in Government welcome all the help we can get.

Finally, Mr. Norris addressed the legislative context for sustaining balanced growth with full participation of dynamic, innovative commercial enterprises:

The legislative actions required to more effectively convert technology into jobs through the concentration of resources on a regional basis to focus efforts and achieve widespread cooperation appear to be embodied in the provisions of the Humphrey/Hawkins (Full Employment and Balanced Growth) bill. As noted earlier, the types of projects that need to be undertaken to meet societal needs are the same as those, or could be, that are to be implemented by the full employment and balanced growth plan of the bill.

I wish Mr. Norris hearty success in persuading his business colleagues of the benefits of sensitivity toward the needs of society including full employment.

Mr. President, I ask unanimous consent that Mr. Norris' full statement be printed at this point in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF WILLIAM NORRIS, PRESIDENT CONTROL DATA CORPORATION

Mr. EARL CRAIG, Jr. (moderator). Again, the fact that we have an incredible list of witnesses scheduled, I don't think that Senator Humphrey or I need to make an opening comments except to say that the two of us plan to be fairly tough in terms of keeping within some reasonable time, and secondly, I would point out to you that it's probably appropriate or inappropriate, depending upon your perspective that the Bureau of Labor Statistics figures for movement for the month of August was from 6.9 percent to 7.1 percent official rate. The movement for whites was from 6.1 percent to 6.1. The movement for blacks was from 13.2 percent to 14.5 percent. With that kind of backdrop I would like to call our first witness, Mr. Bill Norris, who is the president of Control Data Corporation.

Mr. NORRIS. Proceed?

Mr. CRAIG. Just proceed. (Minnesota State) Senator Humphrey is used to being in these kinds of positions, I'm going to make believe.

Mr. NORRIS. Thank you. The opportunity to participate in this forum is greatly appreciated. It would be most gratifying if I were able to contribute to a long-term solution

to unemployment, because I believe it is the nation's number one problem.

Not only are more jobs needed, but almost as important, more skilled jobs. The unemployment problem will become even more critical as in the next ten years another twenty million new jobs will be required. This would be the largest increase of any decade in our history; thirteen million were created in the last ten years.

The basic question is, "Can the U.S. increase jobs and still improve poductivity or is this another situation where we only can make trade-offs—between more automation, better productivity, and fewer jobs on the one hand, or more jobs, less efficiency, more inflation, increased government payouts and deficits on the other?"

This apparent dilemma is solvable through increased technological innovaiton. Technological innovation is the wellspring of new jobs. Capital investment is also a source of jobs and capital is required to support technological innovation. A dollar invested in technology will create more jobs and return more income than the same amount invested in capital equipment.

Technological innovation is also one of the key factors in productivity improvement, along with capital investment and employee training.

To avoid misunderstanding, I should mention that the definition of technology I use is "a way of doing things". I also use the words "technology" and "knowhow" interchangeably. How to grow two stalks of rice in place of one is knowhow or technology. How to design a nuclear power plant is another example. Obviously there is a broad span of technology.

Now let me give you a clear example of how technology or knowhow creates jobs. You have probably heard of or seen the portable sanitation units—or portable chemical toilets—that are used on construction sites. Before these portable units, there was both environmental pollution, unsanitary conditions, and lost time by workers due to improvisations. Then some innovative individuals in various parts of the country combined chemical knowhow, low cost construction technology and servicing management to provide the answer to the problem at an economical cost. Jobs were created, in the manufacture of the units, in the chemicals, in the servicing. Today in the U.S. there are over a thousand manufacturing jobs and another three thousand servicing jobs throughout the country. It is now a $100 million industry with over a thousand small businesses contributing to the economy of communities in every state. And it continues to grow.

As more knowhow is put into manufacture of the units, costs are reduced. As you know, this is called productivity improvement. Lower unit costs, combined with efficiencies in service, open up new uses and the employment of more people. In addition to construction sites, the units are being used at fairs, athletic events, parks, boat landings, summer cottages and home barbecues.

Although this example clearly illustrates job creation and productivity improvement, in most cases these results are not so viable; however, there have been many studies made that verify the processes. For example, one study of the linkages among jobs, productivity and technology shows that growth of employment in high technology industries is almost nine times as fast as in low technology industries with output growing almost three times as fast and productivity twice as fast.

But the increase in technological innovation that could reasonably be expected in today's environment would fall far short of what is required. The reason is primarily the indifference of business toward major societal problems. For too long business has been preoccupied doing the things that are the most profitable and leaving the solutions to most of the major problems of society as the responsibility of government. Meanwhile, these problems are growing to disastrous proportions.

For example, one of the most serious societal problems and closely related to employment is the achievement of more abundant and less costly sources of energy. Our economy is utterly dependent on cheap and readily available gas and oil for energy. Within twenty to thirty years, world production will begin to fall off. Considering that fifteen to twenty years are required to get meaningful results from the average new development, there is precious little time available to avoid disaster.

There are many other major societal problems crying for more attention. These include the improvement in energy conservation, greater environmental protection, new materials, less costly food production, more efficient water conservation, revitalization of inner cities, better education, better health care and improved productivity.

Solutions to this vast array of major problems, along with a nation-wide increase in technological innovation, will provide millions of private industry jobs that must be part of a systematic route to full employment. What is required are jobs that are created from products or services that meet the country's long range needs. This should be our main thrust for job creation. As a businessman, I have been involved during a period of over thirty years in establishing two small businesses that have grown and have provided needed products and services and, along the way, more than 40,000 jobs.

So I believe that leadership for planning and implementing full employment programs must be provided by business, working in cooperation with universities, government, labor and other major segments of society. These programs should be planned so that they are in accord with the national goals and priorities embodied in the full employment bill. Our major societal problems are massive ones and massive resources are required for their solution. The best approach is that they be viewed as business opportunities with an appropriate sharing of cost between business and government. Economic growth will be stimulated along with job creation. The key resource needed is technology; the knowhow to solve the problems.

In order to achieve the most timely solutions and increase technological innovation nationwide at affordable costs, we need to make existing technology more available to accelerate the creation of new technology and to devise more effective means of putting technologies to work in creating jobs and improving productivity.

BETTER AVAILABILITY

In elaborating on improved availability, it should first be noted that there is a vast amount of valuable technology throughout the world. But much of it is little known and little used because of lack of efficient mechanisms and incentives for communicating knowledge of it and then actually transferring it for productive use. In other words, the transfer of technical information and technology is grossly inadequate within our society—in government, in industry and in our universities.

The federal government spends more than $1 billion annually to disseminate results of federally-funded research and development. Yet it is frequently impossible or extremely difficult for either government or industry to obtain these results in a useful form. And let me repeat—in a useful form.

The reasons include inadequate records, ineffective coordination of federal programs, lack of attention to the needs of industry, and inattention to the information and technology transer needed by the scientists and the engineers who do the work. Since most university research is government-sponsored, it suffers from similar patterns of poor dissemination of results.

In the private sector, there is relatively little transfer of technology across industries. Yet studies show that many major innovations are the result of applying the technology of one industry in another; e.g., the high speed computer initially came from the electronics industry, not the business equipment industry; instant pictures were not invented by Eastman Kodak, and so on. The bottleneck in industry preventing more of this happening is the concern for maintaining an exclusive proprietary position. In the private sector we find a dichotomy between "over-protection of rights to technology" and "responsible sharing of technology for economic and social good"; a new attitude of cooperation by private companies is needed.

The reluctance of private industry, coupled with the grossly inefficient methods of government and academia for communicating information, result in the technological wheel being wastefully reinvented every day. Moreover, technologies are lying on the shelf grossly under-utilized.

Obviously we must use our technical information and technologies more efficiently in creating jobs and in improving productivity. Further, we must remain aware that productivity improvement alone can be counter-productive to full employment. It must therefore be accompanied by a creative force for new products and services that will absorb both the newly unemployed, and the expanding work force.

Technologies, wherever obtainable, should be viewed as the single richest potential source for the creation of new jobs by providing the basis for whole new businesses and new and improved products and services for existing business.

A major need, then, is to increase greatly the efficiency with which information on the vast reservoirs of technologies in government, universities and industry are communicated to those who can create new jobs by converting those technologies to new products and services. Increased efficiency in communications is essential. But not sufficient, because such sharing would be non-traditional and difficult. Special incentives are also needed, including tax breaks, to induce the private sector to make its technologies more available.

Policy changes and productive legislation are needed, summarized as follows:

1. A clearly stated redirection of policy to achieve the broader use of government-sponsored R & D results in the creation of jobs.

2. Stimulation of government laboratories and universities to make their technologies more available and to aid in their efficient transfer.

3. Provision of tax incentives or direct payments to encourage private companies to sell and/or lease their technology for the public good.

While more efficient transfer of existing technologies will be of enormous benefit, there are also new technologies needed for solving our major societal problems. However, the investment and risk required for many such developments are beyond private industries' resources and/or they do not provide an acceptable return on investment.

A whole new round of innovation is necessary. Innovations are needed like electrical power, the telephone or the beginning of the chemical industry in the 1880's. There are many likely targets, such as solar energy, nuclear fusion, new products using much less energy, new materials, water conservation methods and new agricultural technol-

ogies. The costs will be very high and the risks great, both because of uncertain technological outcome and unpredictable market reception.

The diverse technologies created will be useful in creating new products, processes and services and improving existing ones over a range much broader than covered in the initial projects. Hence they will have far greater value to society than can be realized by the individual companies involved. Clearly government should join with private companies to pursue these projects. Leadership and management should come from the private sector and funds from the government until experimental models prove feasibility and the risk is manageably reduced. Thereafter, the balance of the cost should be borne by industry.

Projects that meet societal needs, such as those for new energy sources, better transportation, environmental !mprovements, water conservation, should be supported under the priorities and programs part of the full employment and balanced growth plan of the Humphrey/Hawkins bill. In meeting these needs not only will jobs be created, but many of them will be skilled jobs. This is particularly important so that those who take lower-level, shorter-term employment in jobs corps and public works can look forward to job opportunities at a higher skill level.

Increasing the availability of existing technology and developing new technology are both essential, but we must put technology to use more effectively in order to achieve the most timely solutions to major societal problems.

The major deterrent is the widespread lack of understanding of the role of technology in the economic process, particularly that new jobs are derived from the application of technology. Moreover, just the use of the word "technology" often causes people to turn off with the attitude that technology is for the long hairs—don't bother me—or worse. More recently, technology has been thought of by some people as a synonym for pollution and dehumanization. So there is not only lack of support for increased technological effort, but opposition by some—both reactions stemming primarily from a lack of real understanding.

Yet, there is a deeply-rooted and growing concern in our country, and indeed worldwide, over unemployment. Efforts, albeit not very effective, are being made toward more permanent means for creating jobs as opposed to the short-term job corps/public works-type of approach.

Most of these efforts have been concentrated on facilitating the formation, development and more efficient operation of small businesses for achieving economic growth and creating new jobs.

In another, the small business administration made $300,000 available in 1977 to test the concept of establishing small business development centers at eight cooperating universities to aid small businesses with their management problems, particularly those involved in starting new companies and in finding and applying technologies required for new or improved products and services in existing organizations. This program will be expanded in 1978.

There are other similar organizations like the New Enterprise Institute in Maine, which started in 1974 with the belief that entrepreneurship and innovation in the small business sector was the fastest route to healthy economic growth in Maine. The funding level is about $700,000 over five years, and is provided mostly by a grant from the Kellogg Foundation.

One organization in a formative stage is the Committee of Urban Public Universities. This group's objective is to coordinate and apply university resources more effectively in cooperation with other public and private organizations to help solve unemployment, urban blight and the like.

There are many other community organizations that are engaged in facilitating economic growth in various ways by helping to finance new plant construction, inner city housing revitalization, public works, etc.

These many types of organizations do help to create jobs but usually on too small a scale, and they are fragmented, duplicative, and too often problems are merely studied instead of being solved. There is not adequate involvement of big business, labor unions, churches, universities or local governmental units, and most of the organizations have low visibility. They are micro solutions to macro societal problems. These are massive problems requiring massive resources and entailing many controversial issues.

What is needed is a pulling together of available resources on a regional and national scale to identify, prioritize and facilitate solutions with the implementation of problem solutions being done in the traditional manner by the private sector.

The major focus must be on unemployment—identifying and stimulating the private sector to undertake projects for creating new jobs. Although the main emphasis is on unemployment, other societal problems are addressed whose solutions would help to create jobs.

This approach has several advantages. One is that only by much more direct involvement of major segments of society will there be adequate general awareness of what technology is all about and what its relationship is to jobs and productivity. Another benefit is that of societal consensus—most will agree that the number one need is more jobs. Many who would reject proposals for increased government spending in development of alternate energy sources for fear of increased pollution or unjust enrichment of business, would seriously study and more likely support actions leading to more jobs.

The central vehicle for new job creation would be the establishment of regional development offices. These would be highly visible and would involve all segments of society.

Functions would include:

1. Selection of appropriate societal problems for attack.

2. Encouragement of businesses to assume the leadership of projects for solving the problems.

3. Encouragement of cooperation among businesses and between business and universities in implementing the projects.

4. Assistance to aspiring entrepreneurs and inventors in evaluation and preparation of business plans and start-up efforts, together with identification of financing sources.

5. Promotion of state and federal legislation to increase support for technological innovation.

6. Provision of inputs for helping establish national priorities and goals.

The method of operation of an area development office is best explained by looking at four programs that might be undertaken.

ENTREPENEURIAL ENTERPRISE

One important type of program is that of fostering the start-up of new, small enterprises. A new business means new jobs. An inventor has an idea for a new product or service, and wants to start a company to develop and market it. Financial backing from the usual sources is not available. The area development office provides assistance. A volunteer team of experts are assembled from local business and universities to review the idea, and if sound, to help in the preparation of a business plan and in promptly completing the many other steps in setting up a business. Since there is substantial risk, the initial capital is spread among a number of investors, including all types of businesses, banks, insurance companies, larger industrial companies, venture capitalists, plus labor unions, religious organizations and local civic and government units.

The potential for job creation can be glimpsed by noting that the small business administration estimates that there are 800,000 would-be entrepreneurs in the U.S. If half were able to succeed in starting a business employing an average of ten persons, there would be 4,000,000 new jobs created.

SOLAR ENERGY

In view of the critical importance of alternate sources of energy, more effort is needed to develop various forms of solar energy.

The approach should be to identify the projects with the best potential and encourage implementation by existing companies. When the risk is too high, or financial commitments are beyond the means of individual companies, then joint ventures should be encouraged—either by collaboration between existing companies or through the formation of new companies.

Here again, there is an enormous potential for job creation. There are about 180 companies in this field, most of them small; so if more technology were available, not only would the present ones expand, but many new businesses would start up.

Another important program is one helping to revitalize declining inner-city areas and to alleviate the nation's housing crisis. Entirely new technology is not needed because much of what is required already exists, but its existence isn't widely known.

The inexorably rising costs of transportation will reduce drastically the distances people can afford to commute daily. Hence, there will be residential clustering around employment centers and incentive for industry to locate amid existing housing.

Resolution of the nation's housing crisis will require a much expanded level of effort in the construction and maintenance of affordable housing. Preservation of existing urban housing offers the greatest entrepreneurial opportunities and potential for job creation.

A longer range program to be considered is one that stimulates and supports migration back to the countryside, including a movement toward smaller farms, if encouraged and properly managed as part of a national program and accompanied with appropriate broad-based research and development, would have great benefits for our society. Unemployment would be materially reduced. Food production would be increased, and food costs decreased. Greater conservation of natural resources and more environmental protection would be achieved along with the provision of a greater availability of a life style of growing popularity.

Many elements of change affecting agriculture and food processing are already apparent that not only support this thesis, but dictate its adoption. These include the steeply rising costs of energy, decreasing availability of fossil-based fuels and fertilizer, rising costs of equipment and land, the growing scarcity of water, unacceptable environmental degradation and diminishing returns from many of the present directions of agricultural crop breeding research.

Finally, the legislative actions required to more effectively convert technology into jobs through the concentration of resources on a regional basis to focus efforts and achieve widespread cooperation appear to be embodied in the provisions of the Humphrey/Hawkins bill.

As was noted earlier, the types of projects that need to be undertaken to meet societal needs are the same as those, or could be, that are to be implemented by the full

employment and balanced growth plan of the bill.

Also, the proposed area development offices would be the best source of data for establishing national priorities that are specified by the Humphrey/Hawkins bill and indeed are needed for achieving the most timely solutions to major societal problems.

In summary, what I am saying is that the old ways are not working, partly because solving the unemployment problem is always "someone else's" problem. Everyone really only wants to keep doing what he is doing and doesn't want to change. What I am proposing is to enlist all sectors of society to solve the problem of unemployment. In working together to help solve it, there will be not only a better understanding of the origin of jobs, but the enormous difficulty of creating them. Out of this effort will also come a much better and badly needed understanding and respect for each sector of society by the others. And most important, more jobs. Thank you.

Mr. CRAIG. Thank you, Mr. Norris. I have one question which you touched on in your early part of your speech that you talked about trade offs. One of the major trade offs that we hear about particularly from the business sector is the trade off that must be made between stopping inflation and stopping unemployment, and I guess my question to you is—was your comment in the beginning that you didn't think we had to make those kinds of trade offs, that you would reject the notion that other business people are saying that clearly inflation is more insidious for society than unemployment?

Mr. NORRIS. No. I'm saying that we can solve the problems of inflation along with the problems of unemployment providing you're doing useful things in the process like solving problems of society. That's the key.

Mr. CRAIG. Any other questions?

Mr. NORRIS. Thank you.

Mr. CRAIG. Thank you, Mr. Norris.

THE PANAMA CANAL TREATIES: ENHANCED BY INFORMATION

Mr. CRANSTON. Mr. President, a recent Gallup survey indicates that "the more Americans know about the Panama Canal Treaties, the more likely they are to favor Senate ratification of the pact." The survey also showed, however, "a serious lack of knowledge about the treaties."

For both these reasons, the Senate's decision to postpone final action on the treaties until next year was well advised. I believe the American public, and perhaps even Members of the Senate, will benefit from additional time to learn about and study the Panama Canal Treaties.

This survey also asked people what they regarded as the best arguments for and against the treaties. The argument that the treaties would "remove the stigma of colonialism" was considered the strongest argument for ratification. To me, this means that many Americans agree that we cannot continue to use the Canal Zone as an American colony. The few remaining colonies are anachronisms in a world which has long since rejected colonialism as an acceptable form of government. By attempting to continue our control of the canal itself as an adjunct to a Canal Zone colony, we unnecessarily weaken our ability to maintain our right to use the canal. Moreover, colonialism is totally inconsistent with our national traditions and principles. Our Nation was born in the first major successful revolt against colonialism.

How can the United States—of all countries—defend colonial ownership anywhere in the world?

We did not build the canal to establish a colony: We built it to guarantee open access to the United States and the rest of the world of a transit between the Atlantic and Pacific. And we have efficiently operated the canal that way. Ratification of the Panama Canal Treaties would give us the right to defend the canal and to guarantee future world access to it while recognizing legitimate Panamanian national interests.

Mr. President, my colleagues may find interesting the full report of this Gallup survey on the Panama Canal Treaties which appeared in the Washington Post on October 23, 1977. I ask unanimous consent that this report be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CANAL TREATIES ARE ENHANCED BY INFORMATION

(By George Gallup)

PRINCETON, N.J.—The more Americans know about the Panama Canal treaties, the more likely they are to favor Senate ratification of the pact, lending support to President Carter's thesis.

When those surveyed who have not heard or read about the debate over the treaties (26 per cent) are given a brief description of the pact and are asked to vote on it, they vote it down by nearly a 2-to-1 ratio (39 to 23 percent with 38 per cent undecided).

However, when the results are limited to just those who have heard or read about the debate (74 per cent), opinion is more closely divided, with 48 per cent opposed, 40 per cent in favor, 12 per cent undecided.

Finally, the survey measured the views of the better informed. The informed are defined as those who can correctly answer three key questions about the pact: the year the canal is to be turned over to the Republic of Panama, whether or not the United States has the right to defend the canal against third-nation attacks and whether or not the biggest U.S. aircraft carriers and supertankers are able to use the canal.

The vote among this "better informed" group—the one person in 14 who can answer all three questions correctly—is 5 to 4 in favor of the treaties.

The survey reveals a serious lack of knowledge about the treaties, with about four in 10 Americans aware that the United States has the right to defend the canal, only about one in four aware that the canal is to be turned over in the year 2000 and only about one in seven aware that aircraft carriers and supertankers cannot use the canal.

The poll was taken between Sept. 30 and Oct. 3.

(Overall, the poll shows 36 per cent favoring the treaties, 46 per cent opposed and 19 per cent undecided, regardless of awareness of details of the treaties.

(These results show a slight drop in approval from Gallup poll released in early September, when 39 per cent favored the treaties, 46 per cent were opposed and 15 per cent undecided. The earlier poll, however, was designed before the treaties were written and asked respondents their views based on a brief summary that stated, incorrectly, that the United States would "maintain control over the land and installations necessary to operate and defend the canal" after the turn of the century.)

Those who have heard or read about the debate were asked what they regard as the best arguments in favor of and against the treaties. Here are the responses, in order of frequency of mention:

BEST ARGUMENTS IN FAVOR

1. A good public relations move—remove stigma of colonialism.
2. Canal is not important to U.S. interests.
3. Maintaining canal is too expensive.
4. To avoid a conflict/prevent hostilities.
5. Not giving it totally away—we would be able to defend it against attack from third nation.
6. It belongs to the Panamanians—it's part of their land.

BEST ARGUMENTS AGAINST

1. U.S. has economic stake in canal.
2. U.S. should not pay them to take the canal.
3. Panama may not stick to terms of treaties.
4. They will soon keep us from using the canal at all.
5. Communists will take it over.
6. Canal is important to our national security.
7. We built and paid for it—we should keep it.

ARSON FOR PROFIT: A MAJOR CRIME

Mr. GLENN. Mr. President, on July 19, 1977, I introduced S. 1882, the Arson Control Assistance Act of 1977 which reclassifies arson from a "part two" to a "part one" major crime under the FBI's Uniform Crime Reports System and gives LEAA specific authority to make grants to localities for development of programs designed to combat arson.

This bill is designed to combat the astonishing growth of arson for profit, a particularly vicious crime that has grown by over 400 percent over the past decade. It is absurd and ridiculous that this crime is not now considered a "major crime" for purposes of FBI crime statistic reporting. At present, for the purposes of Federal crime statistic reporting, arson is equated with vagrancy, public intoxication and other petty crimes. It is not even required to be reported under its current classification. This, Mr. President, even though we are speaking of a crime that costs us 1,000 lives, 10,000 injuries, and an estimated $15 billion in damages annually.

What a spectacle it is to have neighborhoods burned block by block and for us to stand here in Congress passively calling for "neighborhood revitalization policies." One of the best revitalization policies is to declare arson a "major crime" and focus national attention and resources on an effort to stem the tide of a crime that is now going virtually unchecked.

Mr. President, I ask unanimous consent that five recent articles on arson-for-profit from Time and Newsweek magazines, the Washington Post and the New York Times be printed for the RECORD to further illustrate the scope of this problem. I also ask unanimous consent that Senator CHAFEE be added as a cosponsor of S. 1882, the Arson Control Assistance Act of 1977.

The PRESIDING OFFICER. Without objection, it is so ordered; and without

objection the material will be printed in the RECORD.

The articles are as follows:

ARSON FOR HATE AND PROFIT

In the chill, predawn darkness one day last week, 80 Massachusetts state policemen fanned out through Boston and its suburbs, ringing doorbells, rousing residents and hauling off to jail 22 surprised and discomfited citizens. Among those indicted: six attorneys, eleven real estate operators, four public insurance adjustors, one police officer and a retired fire chief. By week's end a total of 26 men had been arraigned in Suffolk County superior court on charges as varied as fraud, bribery and murder. But all of them were alleged to have committed one crime: arson. They were accused of contracting with landlords, financially troubled shopkeepers, warehouse owners and others to burn down their buildings for the insurance, with the arsonists taking a percentage of the claim.

Boston police had been investigating 95 suspicious fires that occurred between 1973 and 1976, including one that led last year to a Pulitzer-prizewinning photograph of a woman and little girl plummeting from a collapsed fire escape (the woman died, but the child survived). Last week the police came up with enough evidence to bring arson indictments on 35 of the fires that destroyed property worth $6 million and killed three people. Massachusetts Attorney General Francis X. Bellotti denounced the torch ring as "a conspiracy to burn down Suffolk County for profit." Added Stephen Delinsky, head of the state criminal bureau: "This is just the tip of the iceberg."

Whether for profit or for revenge, arson has become one of the most deadly, costly, and, for law enforcement officials, maddening crimes in the country. Deliberately started fires now exceed 100,000 a year, up 400% since 1967. Last year there were 6,776 reported arsons in New York City alone. In Chicago, arson has tripled in less than three years, and in crime-plagued Detroit it is up 12% over last year alone. But the most shocking statistics come from San Francisco, which has experienced a 700% increase in arson in five years. Says Lieut. James Mahoney, chief investigator for the San Francisco Fire Department: "Arson is the cheapest crime in the world to commit. All you need is a box of matches."

Cheap to commit, perhaps, but staggeringly expensive for society to endure. Officials blame arson for more than 1,000 deaths and 10,000 injuries a year. Insurance companies estimate that in 1976 arson cost $2 billion in claims. As a result, fire insurance premiums have risen sharply in the past five years. Adding other, related costs such as business failures, loss of jobs and tenant relocation, Walter D. Swift, vice president of the American Insurance Association estimates last year's total arson price tag in the U.S. to be between $10 billion and $15 billion.

"Arson is a barometer of urban decay," says New York City Deputy Chief Fire Marshal John Barracato, "and most city fathers are ashamed to admit they have this problem." But the ruinous dimensions cannot be hidden. In New York City's South Bronx, where Jimmy Carter took an impromptu walking tour earlier this month, there have been more than 7,000 fires in the past two years. "The destruction is reminiscent of the bombed-out cities in Europe," says Bronx District Attorney Mario Merola, who was a navigator in World War II. Chicago's Humboldt Park area has some 400 charred, abandoned buildings. In Detroit, 10,000 houses stand vacant, victims of fire. "The city is burning down," said an anguished Lieut. Robert McClary, head of Detroit's fire-fraud squad.

An estimated 40% of arson nationwide is economically motivated, as in the Boston cases that led to last week's roundup. Blazes are set by quasi-professional "torches" hired by landlords, real estate brokers, store owners, or welfare tenants who want to be relocated. The purpose, as New York Columnist Jimmy Breslin has put it, is to "build vacant lots for money." Charging up to $3,500 or a cut of the insurance money, the torch frequently mixes a brew of acid and sophisticated oxidizing agents to ignite a chemical fire that is all but impossible to trace.

In ghetto areas like the South Bronx and Humboldt Park, landlords often see arson as a way of profitably liquidating otherwise unprofitable assets. The usual strategy: drive out tenants by cutting off the heat or water; make sure the fire insurance is paid up; call in a torch. In effect, says Barracato, the landlord or businessman "literally sells his building back to the insurance company because there is nobody else who will buy it." Barracato's office is currently investigating a case in which a Brooklyn building insured for $200,000 went up in flames six minutes before its insurance policy expired.

Usually deadlier than the professional torch is the psychopathic amateur who burns once for strictly personal reasons such as jealousy or revenge. A federal study puts 55% of adult arsonists in the burn-for-hate category. In New York, a jealous suitor and two friends have been charged with setting a fire last year in a Puerto Rican social club in the South Bronx. Twenty-five partygoers died in the blaze. The alleged motive: the man's girl friend had attended the party against his wishes. Says Donald Mershon manager of the Metropolitan Chicago Loss Bureau, which handles property insurance claims for more than 100 firms: "Kids used to throw rocks or settle an argument with their fists. Now they simply burn a house down. Arson is being used as a weapon."

In ghetto areas around the country, arson is often a means of feeding drug habits. Unable to afford the tools to remove valuable brass plumbing, sinks, bathtubs and refrigerators in abandoned buildings, junkies pour inflammable liquid around the rooms, set a blaze and wait for firemen to chop up the floors, exposing the loot. Then the "mango hunters," as New York cops call them for their practice of reaping a harvest of stolen goods, move in, drag out the fire-resistant fixtures and sell them—a bathtub is worth $25 on the open market, a wash basin $15. Some areas of New York are being burned systematically block by block as frightened residents move out, slumlords make no move to protect their all but empty—and insured—buildings, and the torches move in.

Whatever the motive for arson, the result is fright and despair among innercity residents. Says Dorthy Maeda, chairman of Humboldt Park's arson committee: "It's a terrifying feeling never knowing when you go to sleep at night whether a fire bomb will come through the window." Along Boston's once elegant Symphony Road, where fire has gutted 29 of the 74 apartment buildings in the past four years, tenants live in constant fear of flames. "Everybody around here is jumpy," says local resident Sadie Ellis. "Whenever I hear sirens I turn the radio down to see if they're coming here."

Arson is one of the easiest crimes to commit and the hardest to prevent—and prosecute. District Attorneys must prove the fire was set intentionally.

Understaffed fire departments are usually too busy fighting fires to prevent them. But in response to the epidemic of arson, cities around the country are hiring more fire marshals. Largely under pressure from community leaders in Brooklyn, Mayor Abraham Beame recently authorized the New York City Fire Department to increase its force of investigators from 77 to 152—but that is still barely half the number of marshals experts believe New York needs to cope with its arson problem.

San Francisco's seven-man fire investigation squad had not been increased since it was founded in 1940. In July, however, the squad took on an eighth man, and two weeks ago the city formed a "combined services arson ask force," adding the District Attorney, his assistant and an investigator from the D.A.'s office, plus a police inspector, to the fire department's arson team.

The insurance industry has begun to train its own arson investigators. With the aid of the federal Law Enforcement Assistance Administration, insurance companies and city officials plan to create arson information banks to help apprehend torches. Unfortunately, catching arsonists requires enterprising detective work—and luck. The U.S. Attorney for western Pennslyvania, Blair Griffith, for example, has won 20 arson convictions based on the federal crime of mail fraud. Griffith relied on an arsonist turned informant: Merrill H. Klein, 53, a self-styled "business consultant" who worked as a "broker" for landloards eager to torch their property. After pleading guilty in 1974 to helping burn down a hotel in Bedford, Pa., Klein agreed to testify for the Government in three other arson cases he was also connected with, hoping his five-year sentence would not be increased (it wasn't).

Last week's mass arrest in Boston also depended partly on the grand jury testimony of a suspected torch who turned state's evidence, pointing the finger at local landlords and corrupt city officials. Until then, private investigators for insurance companies had been sniffing around the remains of burned-out houses, working the streets and doing undercover work in Boston bars with an eye out for well-known torches. With evidence of a conspiracy growing, 15 teams of city and state polic joined the private eyes, and finally, after 16 months of probing suspicious fires in the Boston area coupled with the talkative torch's testimony, they rounded up 100 witnesses and paraded them before a second grand jury in September.

But the initial breakthrough in the investigation was the result of mobilized anger on the part of residents in one of the burned-out sections. After appealing to local politicians and city agencies to investigate the wave of fires that had been destroying their neighborhood since 1973—and getting little action—a group of Symphony Road residents went to State Attorney General Bellotti with their own evidence that landloards and others were deliberately torching buildings in their community. Armed with these documented complaints, Bellotti ordered the state's criminal bureau to begin the probe that led to last week's indictments against what officials charge is the largest known arson ring in the U.S. One lesson of the Boston arrests is that in order to fight back against organized arson, the victims themselves may have to get organized and join forces with beleaguered—and all too often insufficiently interested—city officials.

BOSTON SYMPHONY ROAD A MEDLEY OF FIRES, DRUGS, DECAY, AND FEAR

BOSTON, Oct. 24.—A scent of smoke still lingers in the air along Boston's Symphony Road, although it has been nearly eight months since the last major fire. The smell is more noticeable at night on this narrow block of dilapidated brick apartment buildings, many of which were burned out in a series of suspicious fires over the last four years.

Garbage litters the incongruously new brick sidewalks and planters that the city installed last year in an effort to upgrade the street. A parking lot now occupies a long, thin strip of land where Nos. 46 through 70 stood before the fires.

It is not a happy street.

The Symphony Road area encompasses a decaying, racially mixed, six-block area near such well-known Boston institutions as Symphony Hall, the Museum of Fine Arts, the Christian Science Church complex, Northeastern University and several other academic and cultural institutions.

A low-income, low-rent neighborhood, its population of 4,000 is somewhat transient, consisting mainly of students, welfare families, young working people and elderly people. It has long had a reputation for street crime, drugs and prostitution and was once one of Boston's more notorious red-light districts.

This area was once occupied by families and longtime elderly residents, but as property taxes and maintenance costs increased over the last several decades real estate companies acquired ownership of many of the properties. And, as absentee-ownership grew, building maintenance declined and deterioration set in, according to one neighborhood study done by a local consulting concern.

There have been at least 23 major fires on Symphony Road since No. 40 burned in 1974, marking the beginning of a pattern of terror and fear in the neighborhood.

"It got so you couldn't sleep too heavy around here," one resident, who has lived here five years, said. "We were scared."

"I've lived in the ghetto, and I've lived in hell, but this is worse," said another resident, Ellen Machado, 70 years old, of 67 Symphony Road.

In September 1976, after a fire at 70 Symphony Road in which a five-year-old child died, residents formed a Symphony Tenants' Organizing Project to protect themselves.

"We were feeling fear, paranoia and a little desperation," David Scondras, a founder of the organization, said. Mr. Scondras, formerly an instructor of mathematics at Northeastern University, lives on Hemenway Street, which runs perpendicular to Symphony Road.

"It had become increasingly obvious to a great many of us that our buildings were being burned down for profit," he said.

Frustrated by a lack of action by city officials, the organization began searching the legal and financial histories of properties on Symphony Road in an attempt to prove that the fires had been set intentionally. Its investigative work led the Massachusetts Attorney General's office to conduct a yearlong arson investigation that resulted in the indictment of 33 persons here last week.

Only four of the indictments, however, were issued in connection with fires in the Symphony Road area.

In neighborhoods such as Symphony Road, organizations like STOP are not uncommon. But what the residents here find has distinguished STOP from its predecessors is the role it played in touching off the arson investigation.

"Before all the arrests were made," 15-year-old Sandy Leaphart of 21 Symphony Road, said, "I thought those STOP people were just another bunch of crazies. But I ate my words."

Mrs. Freddie Lewis, 62, lived on Symphony Road for 19 years before moving across the alley to Westland Avenue in 1972. There has been a rash of fires on Westland Avenue since February 1977. Four people died in one of them.

"We're crying for help here," Mrs. Lewis said. "Those STOP kids, I love them. They've done a marvelous job on the fires. But Symphony Road is pretty much gone now. "I love this neighborhood, and I'd like to continue to live here, but . . ."

While most of the residents here are proud of STOP's accomplishments, the organization says that much remains to be done.

"The indictments last week vindicated our original analysis, but in the long run that doesn't answer our central problem of how to develop a system where people have safe, decent housing," Mr. Scondras said.

"Sure. It's a victory for the Attorney General's office, but it's an empty victory for the five people who have died here and the 400 people who have had to relocate.

"It's like playing a football game and scoring a touchdown, but when you look up to the bleachers"—Mr. Scondras paused and gestured to a vacant, boarded-up building. "Look, there are the cheering multitudes."

MANY AUTHORITIES REGARD ARSON AS RAPIDLY GROWING NATIONAL PROBLEM

(By Linda Charlton)

WASHINGTON, Oct. 24.—A welfare family in Brooklyn was reported recently to have collected more than $40,000 in relocation benefits after being burned out.

In Jersey City, seven persons were * * * venge on one occupant of an apartment building.

Elsewhere, a landlord was charged with having set a fire that damaged one of his apartment buildings. Two chiropractors collected nearly $90,000 in insurance on a medical center that they allegedly set on fire.

And in Boston last week, the arrest of 22 state and local arson officials, public adjusters, lawyers and businessmen was said to mean the break-up of an established and profitable arson-for-hire ring that was reported to have set 35 fires destroying $6 million worth of property.

All these reported incidents, and thousands of others like them, are symptoms of what many authorities are convinced is a rapidly growing problem: the deliberate setting on fire of buildings of all kinds for reasons ranging from teen-age bordeom to economics to anger.

COSTS ARE FOUND RISING

The costs are mounting. In 1975, the most recent year for which comprehensive statistics are available, the guess of one expert is that there were 144,000 "incendiary" or purposely set fires. Victor Palumbo, a former Bronx fire marshal who is now arson program manager at the National Fire Academy, a part of the Federal Government's National Fire Prevention and Control Administration, said that his "guess" is that the total economic cost of arson in 1975 was $1.2 billion, with a $633 million cost to taxpayers.

Mr. Palumbo also said that he believes about 10 percent of the approximately 7,500 deaths by fire in that year, or 750, were caused by arson. After a recent personal telephone check of 20 cities of various sizes around the country, Mr. Palumbo said, he believes that "at least 25 percent of all fires are arson."

114,000 INCENDIARY FIRES

Paul Swain of the National Fire Protection Association, pointed out that "the trend on the table has been nothing but up since 1964" for arson; in 1974, the estimate was 114,000 incendiary fires. He, like Mr. Palumbo and others concerned with the arson problem, would like to see arson reclassified and placed with crimes such as murder, rape and burglary. At present, it is classified with the so-called "victimless crimes" such as prostitution.

Robert May of the International Association of Arson investigators feels that the Boston situation be duplicated in virtually every city in the country."

Mr. May gave what he said was a common scenario for arson-for-profit, starting with the acquisition at "distress prices" of property in inner-city neighborhoods. The landlords, he said, "do little in the way of maintenance and frequently blame the tenants." The property changes hands on paper frequently, Mr. May said, adding that "each time there's an increase in insurance, allegedly because the landlord's going to improve it."

The property continues to deteriorate, he said, and then come the first fires which cause the tenants to vacate the property, or some of it. "Then you begin to see the property stripped of appliances—copper plumbing, wiring, doors." Mr. May said, and then there are more and more destructive fires. Finally, the authorities order the building condemned as uninhabitable, and the landlord collects his insurance, he said.

LIKES NEW YORK STATE LAW

Mr. May said he believes that legislation such as that signed into law in New York State in August, which requires that outstanding taxes on property be paid from insurance proceeds before the landlord is paid, is likely to help curb the trend. A similar bill is now before the Massachusetts Legislature and another would require a landlord to pay the costs of demolition of a condemned building.

Although arson-for-profit is highly publicized, few experts believe it is the largest category of incendiarism. Other factors believed to be more significant—Mr. Palumbo rates them as about even—are vandalism, including fire-setting by juveniles, particularly teen-agers; revenge or personal rage against an occupant or building owner and pyromania.

Mr. Sawin pointed out the categories sometimes overlap: "In ghetto areas," he said, "you can give a youngster $50 and he'll set a building on fire."

Arson-for-insurance, however, is believed far more prevalent in some areas than in others, particularly in decaying inner-city slums where local merchants are losing their customers as residents move out. The possibility that Federal insurance programs such as riot insurance may be encouraging arson-for-profit was raised recently by Senator Charles H. Percy, Republican of Illinois, who has asked for an investigation by the General Accounting Office.

Senator Cites Chicago Figures

In Chicago, the largest city in his state, Senator Percy said, "Arson-related property damage rose approximately 15 percent from $18.9 million in 1975 to $21.7 million in 1976."

In New York City, 68 fire deaths are listed as arson deaths for 1976; there were 29 such deaths listed in 1975.

Mr. Palumbo, among others, feels that the national arson estimates are probably low, because of a lack of training in recognizing suspicious fires. Better training, he said, would lead to better law enforcement.

Mr Sawin agreed: "We've always felt if arson was properly investigated and prosecuted, the rate would drop," he said. Most authorities believe that arson has risen by as much as 300 percent over the last 10 years The first Federal arson task force was set up recently in Philadelphia.

In the office of the Massachusetts Attorney General, Francis X. Bellotti, a spokesman said that for the time being because of the recent arrests, the office was not commenting on any indications it might have turned up of similar arson rings elsewhere.

Mr. Palumbo cited a California situation to support his contention that specialized training may be a big part of the solution.

In Yolo County, California, he said, "they didn't have any arson problem until they formed an arson squad." Then, he said, the arson rate rose from one per month to 20; in a five-month period, 14 arrests were made.

AMERICANS ARE BURNING DOWN AND CASHING IN

New York.—Americans have been burning down their own buildings, and sometimes

their homes, at an increasing rate in the past few years in an effort to "cash in" when they're in financial trouble, insurance officials here report.

"Arson is a negative economic indicator," said General Kacson, vice president of the Insurance Information Institute. "During times of an economic downturn, we always have an upturn in arson claims."

He commented after the Insurance Services Offices, a statistical, advisory and rating organization, reported that fire in the United States caused an estimated loss of $310 million in July, the latest month for which statistics are available. That was 12.7 per cent higher than July 1976.

The total value of all fire losses, both insured and uninsured, is based on individual company reports of insured losses, according to the report.

The July figure was up $35 million from the same month last year and estimated fire losses for the first seven months of this year totaled nearly $2.3 billion, compared to about $2.1 billion during the same period in 1976.

"We estimate that 11 per cent of all the fire losses are attributable to arson," Kacson said. "Arson has grown over the last several years. But during periods of bad economic conditions, arson does rise."

Arson "tends to be commercial rather than personal," Kacson said.

"If they were residences, they would be apartment houses, more than single-family dwellings," he said. "People very seldom burn down their own homes. We just don't find that occuring very often. It only happens sometimes when someone wants to sell their house and can't.

"If people have structures that are not useful in an economic sense, there may be an inducement to cash in," Kacson said. "Secondly, some people may find expenses are high and will use arson as a way of getting out from under a negative situation.

"In general, this is accepted, by police, fire and government officials," he said. "During difficult business cycles we will find warehouse fires at a higher level than during prosperous times."

Al Haggerty, another spokesman for the insurance institute, described arson as "a real serious problem in this country.

"A lot of people . . . would rather burn it down, and that's straight, pure fraud," Haggerty said. "They decide, in effect, to sell a building to the insurance company."

TORCHES FOR SALE

Haverhill, Mass., is a dying factory town with a booming low-risk, high-profit industry: arson. From 1971 through last year, 96 residential buildings worth $2 million in insurance claims were set afire, and in May, nine men—including several prominent property owners and local real-estate agents—were indicted on charges of burning down their property for profit. Haverhill isn't alone. Arson for profit, says Clifford L. Karchmer, director of the Massachusetts Organized Crime Control Council, "is probably the largest growth area of white-collar crime in the country."

Nationwide, arson has grown to near-epidemic levels, especially in old, urban neighborhoods. "It's a disease, it's costing a lot of money, and it's growing," says New York City deputy chief fire marshal John Barracato. The insurance industry estimates that arson caused almost $2 billion in property damage last year, up sharply from $1.2 billion in 1975. And in Detroit, for example, arson is running 19 per cent ahead of last year. Buildings are sometimes torched for revenge, sometimes to cover other crimes such as murder; and sometimes just for kicks. But a great many deliberate fires, perhaps the majority, are the work of the arson industry—a shadow world of property owners, mortgage men, corrupt fire officials, insurance adjusters and mobsters.

Everyone Pays: The fires destroy more than just property and anyone unlucky enough to be trapped inside. Entire urban neighborhoods have collapsed into heaps of blackened debris. And as these wastelands spread, jobs, housing a sorely needed tax dollars are lost. "We're losing 300 to 400 buildings a month by fire and the majority are arson," says Nicholas Borg, a coordinator of New York's new 250-member arson task force. "That's a lot of property to lose from our city's tax rolls." Because Federal law requires that insurance companies extend their fire coverage to arson-prone neighborhoods through state-run insurance pools, all their customers must help foot the bill. "These losses are astronomical and in effect the private sector is forced to pay," says Walter D. Swift, vice president of the American Insurance Association.

Sen. Charles H. Percy of Illinois wondered aloud last week whether the Federal rules "facilitate arson-related insurance fraud by permitting any property owner in a core city to insure his holdings far beyond their market value and to burn them for the proceeds." In fact, that's just how it worked in Milwaukee, where Roland C. Hansen and his 20-year-old son, Steven, ran a thriving little business in real estate and insurance—burning real estate and collecting insurance. Shielded by "front" buyers, they would purchase run-down buildings, insure them for more than their worth and, a short time later, either set them afire or hire a professional "torch" for $1,600 to do the job. In April, the Hansens were convicted on Federal racketeering, conspiracy and mail-fraud charges

Bonanza: In big-city slums, some owners of decaying tenements turn to arson to recoup their losses. Others wait for tenants themselves to do the job. Last month, for example, two Bronx women were arrested after they allegedly paid a neighbor $100 to burn their apartment so they could be placed on the city's priority public-housing list and collect $2,000 in relocation fees. Cash-short small-business men sometimes look for a quick insurance bonanza, and arson can also be a handy way to knock out the competition. Last month, three men allegedly linked to the Colombo crime family were charged with setting fire to a Northfield, N.J., theater projection room to block the showing of the hit movie "Star Wars."

"It's hard to say exactly how much organized crime is involved," says a Justice Department official in Chicago. "But we know it's happening." In Rochester, N.Y., reputed capo Frank Valenti and many in his crime family have been indicted in an arson-for-profit ring, and in Boston, two suspected mob leaders have been involved with bars and lounges that repeatedly burn down. But many of the torches are rank amateurs. A New York police investigator, for example, recently traced $1,000 paid by a businessman to burn out a rival: before the match was struck, the job was subcontracted six times—and the ultimate torch was a 14-year-old who said he was paid little more than a six-pack of beer.

Low Risk: To cope with the business of arson, many cities have established special task forces, cooperative efforts by police and fire departments and the private sector. The most successful is in Seattle, where arson losses last year were cut by almost a quarter. States are changing laws, as in New York where local governments now are able to collect delinquent taxes from insurance proceeds before the building's owner is paid—thereby discouraging arson as a means of beating unpaid property-tax bills. And insurers are banding together to establish an information bank to prevent multiple claims on a single fire. But arson is a difficult crime to control. Despite a few dramatic arrests, the arson business remains a low-risk occupation. Nationwide, fewer than 2 percent of all suspected arson cases result in convictions.

22-SEIZED IN BOSTON IN ARSON CONSPIRACY CHARGES RANGE FROM BRIBERY TO MURDER—11 OTHERS STILL SOUGHT

(Special to The New York Times)

BOSTON, Oct. 17.—In raids that started before dawn today, the state police arrested 22 state and city arson officials, public adjusters, lawyers and businessmen after a four-month investigation of what officials called the largest arson ring in the nation's history.

Among those arrested were a former detective in the state fire marshal's office, the retired captain of the Boston arson squad and a former millionaire financier who was described by the authorities as "a onetime boy wonder of the Boston financial community.".

A Suffolk County grand jury returned 121 indictments against 33 persons last week, charging them with crimes ranging from murder to bribery in an alleged arson ring operating for the last four years in the Greater Boston area. The remainder of those indicted were expected to be brought into custody soon.

LOSS PUT AT $6 MILLION

Francis X. Bellotti, the state's Attorney General, described the operation as the most extensive arson-for-hire ring ever uncovered, adding that the property lost in the 35 fires ascribed to the ring was valued at $6 million.

Most of this amount had been fraudulently collected, Mr. Bellotti said, through a conspiracy involving arsonists, property owners, real estate speculators, insurance people, public adjusters, attorneys and law enforcement officials.

Three persons died in the fires, and hundreds of persons were injured, officials said. Murder charges were bought against three persons—Kevin Doherty of Boston, Nicholas K. Shaheen of Dedham and Robert Trainor, address unknown.

Among those arrested and arraigned today was James F. DeFuria, a former detective in the state fire marshal's office who resigned after he was called before the grand jury last week. He was charged with 11 counts of bribery, two counts of conspiracy and one count each of arson, burning to defraud and being an accessory after the fact.

Leo Weisentaner, the retired captain of the Boston arson squad, was arrested on a charge of two counts of bribery.

FORMER FINANCIER CHARGED

Christopher Fitzpatrick of East Boston, the former financier, was arrested and charged with one count each of arson and burning to defraud. A member of the state Attorney General's said Mr. Fitzpatrick, now in his early 30's, once held a seat on the Boston Stock Exchange, but later went bankrupt.

Charged with one count each of arson, burning to defraud and submitting fraudulent claim was John E. Fothergill, a retired captain of the Chelsea Fire Department. Mr. Fothergill, whose brother Herbet is now the Chelsea fire chief, was employed as a public adjustor, that is, one who is responsible for negotiating settlements between insurance companies and those insured.

The murder charges were based on the Massachusetts "Donny murder" statute. This states that, if a death occurs in the commission of a felony, such as arson, the accused is also culpable of murder. It was under this statute that Susan Saxe, a radical feminist, was tried for murder last year for her part in a bank robbery in which a guard was killed.

"One of the most disturbing things about this case is the kind of people involved," Mr. Bellotti said. "They are allegedly respectable people, lawyers, public adjustors, law enforcement officials."

TENANTS' GROUP PROMPTED INQUIRY

The state investigation, headed by Assistant Attorney General Stephen R. Delinsky, began last June after members of a tenants group from the Back Bay area conveyed their suspicions about a number of fires in their neighborhood to Mr. Bellotti. The investigators included members of the state police, the Boston Fire Department and representatives of local insurance companies who had held the policies on the burned buildings.

Most of these buildings, the authorities said, were in Boston, while the others were in the adjacent cities of Chelsea and Revere. The investigation found that many of the structures had been purchased by real estate speculators, who then doubled the insurance coverage on the pretext of rehabilitating the buildings. Once the insurance was obtained, the investigators said, arsonists were hired to burn the buildings.

The state fire marshal's office and city arson squads were responsible for inspecting the damage and determining the cause of the blaze.

"Partly because of corruption and partly becauses of the lax way fires have been investigated, there has not been an atmosphere of deterrence against this sort of crime," Mr. Bellotti said, adding that he expected this investigation to lead to a further crackdown on arsonists.

THE DEATH OF JUDGE THOMAS B. GRENEKER

Mr. THURMOND. Mr. President, during the August recess, one of the most eminent jurists in my State passed away. Judge Thomas B. Greneker was a South Carolina circuit judge for 23 years, from 1947 to 1970. Among his other distinctions were two terms in the South Carolina State Senate and decorated service in both World Wars. When death claimed him at the age of 83, the legal profession lost an exemplary member, South Carolina lost a dedicated public servant, and I lost a valued friend. I wish to put on record my sincere regard for, and admiration of, Judge Greneker as a man, and my gratitude for his many accomplishments.

I felt particularly close to Judge Greneker because we had so many experiences in common. His home town of Edgefield is where I grew up. We both spent some time in early manhood in teaching school and coaching athletics, and afterward we both turned to law. I succeeded Judge Greneker in the State senate when he gave up his seat in 1932. He succeeded me as circuit judge when I became Governor of South Carolina in 1947. Finally, in later years, Judge Greneker worked out of my old law office in Edgefield.

After careers that intersected so many times, my colleagues can well imagine the bond that had developed between us. They can also imagine the sorrow I feel now that this bond has been severed.

Judge Greneker spent almost all his life in South Carolina. For a brief period, though, he lived and worked here in Washington. In fact, he served as an assistant to a man whose name will be familiar to all students of American, and particularly of Southern, history—Senator Ben Tillman of South Carolina. In view of his connection with the Senate, it is particularly appropriate that his memory should be honored here.

It was in Washington, at Georgetown University, that Judge Greneker commenced the study of law. He had received his undergraduate degree at Wofford College. Thereafter, he devoted his life to the law. He practiced in Edgefield County, and won so much esteem and respect among his fellow lawyers there that the Edgefield bar nominated him for the circuit judgeship when that post became vacant.

As a judge, his conduct was characterized by patience, courtesy, and above all, fairness. It was the common opinion of knowledgeable observers around the State that his character was perfectly suited to his judicial office. He lent dignity and authority to any proceedings over which he presided.

Judge Greneker spent 19 years as a full-time judge and heard occasional cases for 4 more years. When he retired from the bench altogether in 1970, he resumed his practice of law in Edgefield, and was always ready to dispense advice and assistance to his friends and neighbors, and especially to his younger colleagues.

Judge Greneker was still going strong, at 83 years of age, when he was struck by a car in Edgefield. His death is the result of that accident.

Mr. President, keenly as I feel this misfortune, there are those who feel it more keenly still. Judge Greneker was deeply devoted to his family, and they returned his devotion in full measure. In this time of sorrow, I extend my sincere condolences to his widow, Mrs. Gladys Rives Greneker of Edgefield; his daughter, Mrs. J. W. Barnhill of Clemson; his son, Mr. T. B. Greneker, Jr., of Edgefield; and his five grandchildren and one great-grandchild.

It was a privilege for me to have known Judge Greneker so well. I hope it will be of some comfort to his mourning family to reflect upon the privilege they enjoyed in having him as husband, father, grandfather, and great-grandfather.

Mr. President, Judge Greneker was not a man to seek publicity. Nevertheless, his distinguished career brought him frequent recognition in the press. His daughter, Mrs. J. W. Barnhill, has been kind enough to send me a number of newspaper articles about him that give further details about his life—in the service, in politics, and in the law. In order that these materials may be readily available to my colleagues, I ask unanimous consent that they be printed in the RECORD.

There being no objection, the articles are ordered to be printed in the RECORD, as follows:

LT. THOMAS B. GRENEKER OF EDGEFIELD, S.C., RESUMES LAW PRACTICE 1945

EDGEFIELD, S.C., Dec. 4.—Lieutenant T. B. Greneker Sr., has returned to Edgefield to resume his practice of law after two years service in the United States Navy in the European and African theaters of war.

Lietuenant Greneker wears the legion of honor ribbon as commendation for his work in planning a syllabus of training, preparing schedules and conducting classes in the execution of a training program to indoctrinate operational personnel engaged in the formation of French bombing squadrons. He also wears the African-European theatre of war ribbon.

In addition to honors won in the present conflict, the Naval officer also has the victory medal ribbon on which repose two battle stars for campaigns of World War I in which he fought with the 118th Infantry, 30th Division. During World War I he was advanced from the rank of private to captain, returning to his home in Edgefield to practice law from 1919 until he volunteered for service with the Navy in World War II.

Before going overseas Lieutenant Greneker was commander of a Naval flight school near Clarksburg, W. Va.

His son, Thomas B. Greneker Jr., of the U.S. Navy, was attached to a Marine Corps unit during the invasion of France. A daughter is attending college at Furman University, Greenville, S.C., and his wife makes her home in Edgefield.

Lieutenant Greneker was formerly South Carolina state senator for eight years.

[From the Columbia (S.C.) State, Dec. 8, 1946]

EDGEFIELD BAR BACKS GRENEKER FOR JUDGESHIP

EDGEFIELD, Dec. 7.—At a recent meeting of the members of the bar of Edgefield county a resolution was passed endorsing T. B. Greneker for election to the judgeship of the Eleventh judicial circuit and a copy of this resolution has been sent to all of the members of the general assembly.

Mr. Greneker is a graduate of Wofford college and studied law at Georgetown university. He is a veteran of World War I, serving with the 118th Infantry, 30th Division in World War I and in the Navy in World War II from 1942 until discharged in 1945.

With the exception of those periods of military service, Mr. Greneker has lived and practiced law at Edgefield since 1919. He has participated in many of the important cases, both civil and criminal, in this and adjoining counties. He is recognized as an experienced lawyer of ability and has served on a number of occasions as special judge.

From 1925 to 1932 he was state senator from Edgefield county, retiring undefeated. His next candidacy for public office was in the recent election for house of representatives from Edgefield county, to which office he was elected by a substantial vote.

Mr. Greneker married Miss Gladys Rives and they have a son and daughter, both of whom are now in college, the son, T. B. Greneker, Jr., is also a veteran of the last world conflict.

Mr. Greneker is and has been active in church and civic affairs and has given freely of his means, time and services in all movements for the betterment of his community and is recognized as an outstanding citizen of this county.

The people of Edgefield are hopeful that he will be elected to the judgeship.

[From the Columbia (S.C.) State, Apr. 13, 1948]

JUDGE GRENEKER OPENS COURT HERE; CALLS JURY SYSTEM THE BULWARK OF CIVILIZATION

"Our courts and our juries may be criticized but they still are the bulwarks of our civilization," declared Circuit Judge Thomas B. Greneker of Edgefield as he opened the spring term of general sessions (criminal) court in Richland county court house yesterday.

Presiding here this week for the first time since his elevation to the bench last year, Judge Greneker gave a short address to the

grand jury emphasizing the meaning of the courts in American life. He is here this week pinch hitting for Judge J. Henry Johnson of Allendale, who is sick.

Urging the grand jurors to do their duty, he said, "When we lose respect for the sacredness of an oath we will have lost that which we should hold most dear. You never know when your daughter or friend will be brought into court and you want to see them get fair treatment. God grant we shall ever have honest jurors."

Just before he began speaking, the judge refused to excuse a man from jury service because he based his request on the fact that his business would suffer. "A juror is a sacred person and I'm not going to excuse anyone for business reasons," Judge Greneker explained. "Jury service is as important as anything you do as a citizen."

He made reference to the fact that grand juries began in England to protect citizens from being hounded into court for no cause by the king (the grand jury had to pass on a case before it could be tried before a judge, just as is now the case).

"We no longer fear persecution by the crown," the judge continued, "but we still have the heritage of the grand jury system. You have seen and I have seen cases brought against people and the grand jury is here to see to it that no such cases are brought into open court. The courts are here to protect the innocent as well as to convict the guilty."

On the other hand the judge strongly urged that no case be dismissed (by a grand jury verdict of "no bill") until all witnesses have first been heard and unless there is strong probability that there is nothing to the case. (Recent Richland county grand juries have not been remiss in this respect; rather, they have returned "true bills" on practically all cases submitted to them.)

"I'd rather be tried by 12 jurors than by any one judge," the Edgefield jurist continued. "Twelve men are not likely to make as many mistakes as any one man. After 30 years of observing the courts in my own county I know of no improper jury practice there."

[From the Charleston (S.C.) News and Courier, Sept. 17, 1951]

JUDGE GRENEKER MIXES DIGNITY WITH KINDNESS IN PRESIDING OVER GENERAL SESSIONS COURT

The man in the black court robes leaned over toward a soft-voiced and obviously frightened witness last week in the Court of General Sessions here.

"Are you married, son?" he asked in a kindly voice.

"Yes," came the almost inaudible answer.

"Then just imagine you're talking back to your wife like you do sometimes and talk up so everyone can hear," said Judge Thomas (Benjamin) Greneker of Edgefield.

Displaying an impressively human sensitiveness, and a keen sense of humor the 56-year-old judge of the 11th judicial circuit, didn't waste any time in letting court officials and members of the Charleston bar realize the dignity of the court would be upheld while he was on the bench.

Shortly after court convened Monday, attorneys and officials were notified they must appear in court wearing coats. Judge Greneker, whose voluminous robes undoubtedly cause him more discomfort than a summer coat, Friday suggested an air-conditioned court room for the county court house.

Shortly afterward, William F. Condon, chairman of county council, entered the court-room as a spectator. Court officials told Judge Greneker of his presence and the judge, with characteristic directness, asked Mr. Condon to come to the bench, where they discussed the matter.

Although this is Judge Greneker's first appearance here as a judge, he knows Charleston intimately. A daughter, Gladys (Sis), is married to Capt. Wallace Barnhill, U.S. Air Force, son of Mrs. T. S. Barnhill and the late Dr. Barnhill of Charleston and Mt. Pleasant. A son, Thomas B. Jr., also a veteran of World War II, is now farming at Edgefield, the Greneker home.

Last week, in delivering a blistering humiliating pre-sentencing talk to an air force AWOL private, one could sense the judge's indignation, his feeling of almost personal affront and his sympathy for the family of the prisoner.

After graduating from Wofford College, he attended Georgetown University Law School but left before completing his course to enter World War I as an infantryman. He served as a captain with the 30th division, AEF, and went into naval service during World War II as a lieutenant with the 15th Fleet Air Wing.

In 1922 he married Miss Gladys Rives, of Edgefield. There he has served as city and county attorney and, for 18 years, was chairman of the Edgefield county Democratic Executive committee. By appointment of the South Carolina Supreme Court, he served as a special judge.

In 1924 he entered actively into politics and was elected senator from Edgefield county, being succeeded in 1932 by a fellow townsman, J. Strom Thurmond, later governor of South Carolina.

In 1947, while a member of the state house of representatives he was elected judge of the 11th judicial circuit, this time it was he who succeeded J. Strom Thurmond, then circuit judge. He resigned his seat the same year before taking oath of office as judge.

The same year he refused to accept additional expense money voted judicial members by the state general assembly.

Earlier this year, charging the Greenwood County grand jury, Judge Greneker said "one of the major American responsibilities today is strengthening the home front. If American blood is continued to be spilled in a thin veneer all over the world it will be impossible to protect ourselves at home."

In charging the Charleston County grand jury here Monday, Judge Greneker lashed out at immorality and corruption in high governmental places.

There is an apparent undertone of immoral leadership in Washington which could become the means of destroying this country. It is a shame that our boys are dying in Korea without knowing what is behind them at home. Their lot is unhappy enough when they fight knowing that their war is an undeclared one. The realization that the very people they are supposed to respect are not worthy of respect must be most disheartening.

"I feel very strongly about this. I believe the circuit judges of America should speak out for what they know to be right. It is their duty. They should not remain silent in the face of an undermining of the moral strength of the nation," he told the jury.

Watching him gently chide a younger lawyer for an inadvertent breach of court-room rules, or seeing his face as he sternly reprimanded a young transgressor along with the environment which may have caused him to err, one could see the workings of a movingly human mind.

Perhaps the greatest tribute handed Judge Greneker here was the remark of a veteran of some 50 years experience and observance of courts.

"He knows what to say and when to say it; and he doesn't mind saying what's on his mind," he said as the judge left the courtroom.

[From the Lauren (S.C.) Advertiser, Nov. 14, 1957]

GENTLEMAN JUDGE

South Carolina has a unique judiciary system under which its circuit judges cover every county in the state over a period of six or seven years.

Under that system Judge T. B. Greneker of Edgefield, who has been holding court in the 8th judicial district of which Laurens is a part, for the past month or two, will not be seen here again for around seven years after the completion of this term of court.

The genial judge has won the respect and affection of court observers during these several terms he has presided over lately. We risk the opinion that the lawyers feel the same as the observers.

Judge Greneker has appeared to be conscientious in the pronouncement of sentences, taking into account the frailty of human beings as well as their worse traits. He has interspersed his judicial observations with a rare wit which has made the droning proceedings at least bearable.

He has been polite to everyone, yet firm in maintaining the dignity and decorum of the court. Although the same may be said of others, he may be aptly described as the gentleman judge.

As the governor of South Carolina said to the governor of North Carolina, "It is a long time between" or vice versa, but we express the hope that in the seven-year interim he will continue to flourish.

[From the Charleston (S.C.) News and Courier, Jan. 9, 1958]

EDGEFIELD MAN ONE OF S.C.'S MOST OUTSPOKEN JUDGES

"There's one thing that pleases me most about being a judge—that is the respect which people have for the office."

That is the comment of one of South Carolina's most outspoken circuit judges, Thomas Benjamin Greneker. It shows, too, that behind what sometimes appears to be a tough exterior lies a sympathetic attitude.

"The respect with which people hold the office of state judge makes me feel most humble. If that isn't enough to make a person do the best he can, I don't know what it would be," he commented in his chambers at the Charleston County courthouse yesterday.

SPEAKS HIS MIND

The 62-year-old jurist is known for speaking his mind on various subjects from the bench. Such topics have covered national leadership, the U.S. Supreme Court, drunken drivers and the attitude of some Northerners toward the South.

He makes no secret that his heart and interests lie with the Palmetto State. He also thinks most state court systems—and their judges—are held in high esteem by the citizenry.

Being a judge has its difficult moments, too, the Edgefield jurist says. Handling juvenile offenders is his hardest task.

HARDEST TASK

"By far the most difficult cases are those involving young offenders," he said.

He is a staunch defender of the probation system.

"About 85 per cent of the probationers make good," he said. "But you don't hear about them. The ones we hear about are those that come up with probation violations."

Greneker says he makes a special effort to be considerate of young people who are first offenders.

He classes sex offenders as the most dangerous cases and the ones most likely to repeat.

The graying jurist often scolds offenders before him as a teacher would a misbehav-

ing schoolboy. Then he'll "make every effort to give him the benefit of the law."

NO FORMULA

He says he usually can tell whether a defendant is guilty by the accused's attitude. But there is no formula for handling any defendant or any case.

"My experience—and the experience of other judges I've talked with—is that no two cases are alike."

Some offenders regret their acts while others don't, he said.

This is Greneker's second time to preside in Charleston. He was here in 1951, five years after he donned the black robes. He was elected judge of the 11th Circuit while serving in the State House of Representatives. He served in the State Senate in 1924–32.

Greneker is a veteran of both World Wars. He was city and county attorney for 18 years and once headed the Edgefield Democratic Executive Committee. He was born there July 14, 1895, and is a graduate of Wofford College and attended Georgetown University.

[From the Columbia (S.C.) Record, June 12, 1963]

JUDGE FIGHTS DRUNKEN DRIVING PROBLEM

(By Betty C. Leopard)

Eleventh Circuit Judge Thomas B. Greneker of Edgefield is in the midst of an experiment which he believes may be an answer to South Carolina's problem of drunk driving.

The Judge's idea came to light during the recent session of Lexington County General Sessions court, when several cases were continued until the next session that Greneker holds in Lexington.

This would mean that the case would not be called for another 12 months.

"This practice has been an experiment on my part," Judge Greneker said. "It is something I began in South Carolina several years ago. It is an experiment, I know, but do feel that it is effective with drunk drivers and it was prompted in the hope of providing some means of fighting the temptation.

"I find that, too, there has been a great increase in housebreaking and larceny charges—the greatest increase for that charge than any other charge to come before me—particularly for first offenders. In continuing such cases for a year and stipulating probation, there is some hope for those first-time offenders. I firmly believe that many fourth and fifth-time offenders might never have become such offenders if the practice of continuing their cases under probation had been in practice a long time ago."

He noted that the same situation applied to those charged with driving under the influence.

"If a defendant thinks he doesn't know what a judge is going to do with him—that he could be sent to jail for his offense—the fear of violation of probation will make them abide by that probation and continuance," he said.

Judge Greneker said that many lawyers have advised him that this practice has had an effect and believe it worthwhile. He noted that very few cases which have been continued from year to year have not been successful.

"I feel that the state, as well as myself has been repaid by the action of case continuance—not only in dollars and cents, but by the complete rehabilitation of the people involved," he said.

By the practice of continuing these cases, Judge Greneker said that he has found that attorneys have kept in close touch with their clients, showing a very humane interest as well as a professional interest in their welfare.

"By so doing, they are aiding their clients in keeping themselves straightened out and avoiding the great temptations that would lead to the breaking of their probations."

He noted that it has been particularly effective in pursuading men who have been subject to too much whiskey drinking in seeing the advantages of leaving it alone.

"Many of these people have become active in Alcoholics Anonymous and are rendering today a great service to others," he said.

"I have noticed that when a case in handled in this manner—that of continuance—the people in the community take an interest in the individual involved. I have known employers, family and friends, including the sheriff, to testify in open court in behalf of these people. They speak concerning a period of no less time than a full year as to the conduct of the person involved."

Judge Greneker has been in the practice of law since 1919, following his discharge from the Army after World War I. He served in the Navy during World War II and while in service and abroad, spent whatever time he found available to observe judicial practices throughout the world.

He has been a circuit judge for the past 16 years.

[From the Spartanburg (S.C.) Herald, Oct. 25, 1963]

SURE JAIL SENTENCE THE BEST MEDICINE

"It's time to break up this stuff," said Judge T. B. Greneker as the confessed tipboard operator stood before him.

Then the judge took the only action that will put a brake on the gambling traffic in this community.

He sentenced Wilbur Cash to jail, in addition to a fine.

"This is straight time; no probation," declared Judge Greneker.

The man can't pay his way out. He must go to jail.

Judge Greneker was entirely correct when he added, "A fine apparently does little good."

We have had plenty of experience to prove that in this county.

Time and time again the police have brought tipboard operators into court. They normally plead guilty, pay their moderate fines, walk out of court, and continue business as usual.

Fines have been considered as a necessary cost of operation—a license fee, if you will. Reports in this newspaper repeat case after case of that nature.

The typical good citizen in Spartanburg would be shocked to know the depth and breadth of the gambling operation in his community. Tipboards don't worry him, because they don't pose an immediate or obvious threat.

But big gambling money—and it is really big in tipboards right in this county—invite corruption and lawlessness.

Although gambling on sports events has flourished here, a reasonable degree of control has been maintained. Police authorities have kept constant pressure on the violators.

Now the courts are getting more vigorous in applying proper punishment.

The certainty of a jail term is the most effective medicine that can be given.

Spartanburg commends Judge Greneker for administering it.

[From the Greenwood (S.C.) Index-Journal, June 22, 1966]

JUDGE GRENEKER THINKS COURT SERIOUS BUT OCCASIONAL HUMOR IS PRICELESS

(By Danny McNeill)

McCORMICK.—Judge Thomas Benjamin Greneker feels that courtroom proceedings are extremely serious but humor injected occasionally is priceless.

The 71-year-old judge has become extremely popular with residents of the eleventh judicial circuit since his appointment in 1947.

The judge, noted for his words of advice and humorous comments during sessions of court, completed his last term of General Sessions Court in McCormick yesterday.

Judge Greneker is scheduled to retire in October after 47 years as a lawyer and 19 years as a judge. The judge has many friends in McCormick and calls many of the people there by their first names.

"While I am retiring, I want to retain a position of retired circuit judge with greatly restricted activities," Judge Greneker said yesterday.

Born in Edgefield County in 1895, the judge has lived there all his life. The former teacher and athletic coach at Greenville High school studied law at Georgetown University in Washington, D.C.

The judge is a veteran of two world wars and a firm believer in the importance of prayer. He thinks the most terrible decision handed down by the supreme court in recent years is the one "which placed a damper on prayer in our schools."

"Once during World War One, in June of 1917, we were on patrol and being shelled," the judge said. "A young soldier now living in the eastern part of South Carolina asked me if I believe in God and when I answered yes he asked me to lead the group in prayer. I have never forgotten that experience."

Judge Greneker is married and has two children, Thomas B. Jr., 41, and a daughter, Mrs. J. W. Barnhill.

The judge, who practiced law in Greenwood for a short time, points to three cases as the most dramatic he has tried.

These cases include a Columbia trial in which a University of South Carolina professor had become involved with a student nurse several years ago, a case last year in Greenville in which a defendant was charged with slaying a policeman, and a trial in which five men were tried in McCormick for a slaying in Charleston and all five sentenced to death.

"The most humorous case I can remember took place last month in Saluda when a man I remembered sentencing denied having been sentenced by me," the judge continued.

"After thinking a few moments I asked him who had sentenced him in 1962 in Aiken to which he replied, 'Some old judge from Edgefield, your Honor.' As he realized who he was talking to, he grinned and said, 'You shore do look a lot younger now, Judge'."

Another amusing case the judge remembers concerns a Negro minister convicted a number of years ago in Columbia for driving under the influence.

Several days after sentencing the man, the judge received a note from the deacon of the preacher's church which read: "Due to your services, we are now without a minister. We do not feel that the preacher meant any harm, he was merely overenjoying himself."

The judge, who has presided in all counties in the state, describes himself as too old to do anything but help his fellow man.

He says he is opposed to the administration revolution now going on in Washington and feels the supreme court, composed of what he terms "unexperienced judges is now overruling decisions made by some of our greatest judges, especially in the field of law enforcement".

The judge sees a possible reversal of present trends in decisions now being handed down but says this would depend on the next two judges appointed to the court.

[From the Columbia (S.C.) State, Aug. 14, 1977]

THOMAS GRENEKER, RETIRED JUDGE, DIES

EDGEFIELD—Judge Thomas Benjamin Greneker, 83, a retired 11th Circuit Court Judge

and a former state legislator, died Saturday from injuries received when he was struck by a car in Edgefield.

Born in Edgefield County, he was a son of the late Thomas Bailey and Hallie Nicholson Greneker.

Judge Greneker, a graduate of Wofford College and Georgetown University, was a member of the American Bar Association and the American Legion.

He served as a circuit court judge from 1947 until 1970 and was a member of the South Carolina House of Representatives and the State Senate.

During World War I, Judge Greneker served as an Army captain in France and during World War II he was a Navy lieutenant commander in North Africa.

Judge Greneker practiced law in Edgefield County for several years and was a former steward of the Edgefield United Methodist Church.

Surviving are his widow, Mrs. Gladys Rives Greneker of Edgefield; a daughter, Mrs. J. W. Barnhill of Clemson; a son, T. B. Greneker Jr., of Edgefield; five grandchildren and a great-grandchild.

Services will be 11 a.m. Monday in Eastview Cemetery in Edgefield County.

Honorary pallbearers will be members of the S. C. Bar Association.

The family suggests that those who wish may make memorials to the Methodist Home for the Aged in Greenwood.

Hollingsworth Funeral Home is in charge.

[From the Edgefield (S.C.) Advertiser, Aug. 17, 1977]

THOMAS GRENEKER, RETIRED JUDGE, DIES

Edgefield was shocked and saddened Saturday when the news spread that Judge Thomas Benjamin Greneker had been struck by an automobile that morning about 10:30 near his office on Buncombe Street. He was removed to the Edgefield County Hospital where it was hoped his injuries would not prove fatal but such was not to be the case and he passed away about 2:30 the same day. It appears that he stepped from the curb near his office into the path of the coming car.

Judge Greneker was born July 14, 1895 at Cedar Grove, the Nicholson family home. He was the son of the late Thomas B. Greneker and Hallie Nicholson Greneker. He was a nephew of the beloved June Nicholson, missionary to China whose life is portrayed in the book, "Days of June."

Benjamin Greneker as he was familiarly known, grew up in Edgefield and later attended Wofford College. He was also a graduate of Georgetown University and was a member of the American Bar Association. He was a member of the Hezzie Griffis Post No. 30 of the American Legion by virtue of his service in World Wars 1 and 2. During the first World War he served as an Army Captain in France and during World War II he was a Navy Commander in North Africa. He served simultaneously with his son, Thomas B. Greneker, Jr., in the last conflict.

Judge Greneker served as a circuit judge from 1947 until his retirement in 1970. He was previously a member of the South Carolina House of Representatives and the State Senate. He had previously practiced law and resumed his practice after retiring from his judgeship.

Judge Greneker was a faithful member of the Edgefield Methodist Church. He had served as Sunday School teacher for 40 years and had also been Sunday School superintendent and church treasurer. He was on the Board of Stewards and was an honorary member of this board at the time of his death. He loved the church and pastors found in him a constant source of help.

In the community Judge Greneker supported activities that made Edgefield a better place in which to live. Just recently he and Mrs. Greneker made an appreciated donation to the Edgefield County Hospital. He held a warm place in the hearts of the people of Edgefield who found in him a friend at all times. Many will remember the cheerful smile and the ready handclasp as words of greeting were exchanged.

Judge Greneker married Miss Gladys Rives—a lovely and gracious lady—who survives him with one daughter, Mrs. J. W. Barnhill of Clemson, and one son, Thomas B. Greneker, Jr., of Edgefield; five grandchildren and one great-grandchild.

Funeral services were held Monday at 11 o'clock at Eastview Cemetery. His pastor, Rev. John G. Hipp, was assisted by Rev. J. T. Littlejohn, in paying tribute to the life of one who meant so much to the church and community. Local friends served as active pallbearers while honorary pallbearers were members of the S.C. Bar Association. The Hollingsworth Funeral home was in charge of arrangements.

[From the Edgefield (S.C.) Advertiser, Aug. 17, 1977]

JUDGE GRENEKER

Not in a long time has this community felt so deeply and lingeringly the gloom on learning of the death of a fellow citizen, one whom they saw almost daily and spoke with as he made his rounds as though to find someone to cheer up, visiting the stores, stately in his stride befitting his long career and becoming to his distinguished service as Circuit Judge.

He walked on hallowed ground if for no other reason than that he had walked on it so long; but there were other reasons dear to him in his rich memory and in every landmark, and his manner and speech paid tribute, as this community pays tribute to him in spoken and silent memory.

WATER RESOURCES POLICY

Mr. HUDDLESTON. Mr. President, former Congressman Frank E. Smith of Mississippi wrote an excellent book in 1966 called "The Politics of Conservation." The book opens with these words:

The first session of Congress, in 1789, passed an act providing that "a lighthouse shall be erected near the entrance of Chesapeake Bay." That lone lighthouse put the United States government into the business of public works—the utilization, development, and conservation of the natural resources of the country. The lighthouse has grown into a multibillion dollar investment, but there is little more real agreement on comprehensive resources policy today than there was in 1789.

As I said, that was written in 1966. I have not been in Washington since 1966, but from what I see there today, Congressman Smith's words still ring true.

Smith points out that it was 35 years after the authorization of that lighthouse before Congress and the White House could agree on any responsibility for waterway development, and it took 150 years for the Government to assume any responsibility for the conservation of our basic resources.

Many people wonder why it is taking so long for the Government to develop an agreed upon set of energy policies. After all, my colleague from Washington (Senator JACKSON) made the first major energy policy recommendations about 7 years ago. Most people agree that we have a bona fide crisis. So why does not the Government do something in a hurry?

But I would suggest to you that when you compare how long it has taken us to develop national policies on water—how to get it, clean it, control it, protect it, save it, store it, and use it—one must be pleased with the speed with which energy policy is developing.

And if the citizens of this Nation agree with me that water, along with energy, is going to determine the future growth of this country, then it is high time we come together and make some decisions on how to proceed.

On May 23, President Carter said in his environmental message that the establishment of a national water policy was one of the pressing issues of his administration. He gave the Water Resources Council, the Office of Management and Budget, and the Council on Environmental Quality, 6 months to review the existing hodge-podge of existing policies.

On May 24, Secretary of the Interior Andrus outlined nine points for consideration in the study. They were:

Revision of the Water Resources Council's principles and standards for the management of water.

Deauthorization of old water projects.

Increased cost sharing by non-Federal entities.

Reforms of laws, regulations, and practices governing water allocation.

Wise use of water.

Quantification of Indian and Federal-reserved water rights.

Evaluation of water quality with conventional water resources allocation and development.

Improved dam safety.

And increased water conservation.

The administration held what many people believed were hurry-up hearings around the country. Dave Firor testified on behalf of the National Association of Conservation Districts. The hearing officers asked him no questions at all.

President Georgie Bagley wrote in NACD's Tuesday letter:

It appears to NACD that the recent exercise in public participation was designed to secure endorsement of predetermined conclusions about reforms in water policy desired by the Carter Administration. These, we would judge, are to (1) reduce federal input to water resource development projects; (2) broaden the number of objectives used in planning projects; and (3) require more stringent water conservation measures.

If I had all of the money that the Government has spent on studies related to water policy I would be a wealthy man.

Section 80 of the Water Resources Development Act of 1974 provided for a Presidential study of major water resources policies and called for recommendations to the Congress within a year after money was appropriated.

President Ford wrote that—

The study represents a unique opportunity to move further toward principles and standards and cost sharing arrangements for federal water and related land programs that can be supported by both the executive branch and the Congress.

You see, President Ford had the same high hopes for a national water policy as President Carter.

The section 80 study disappeared from view because there was so much disagreement between the Federal water

agencies and the Office of Management and Budget over the discount rate for figuring the benefit of projects that nothing happened.

That study was about a foot high and contains 22 volumes.

Mr. President, I might point out that the Water Resources Planning Act was in itself supposed to be a device whereby we get a handle on water policy. And the Water Resources Council was to have been the focal point at which all Federal water activities were pulled together into a common coordinated place.

But some serious shortcomings have been well pointed out with the existing system.

The fact that the Chairman of the Water Resources Council is always the Secretary of the Interior creates a number of difficulties. Foremost among these is that the focus of WRC activities centers around the water agencies within the Interior Department.

I might point out in this connection that the Department of Agriculture virtually had to force its way onto the program of the National Water Conference this year and was all but ignored insofar as planning and work on the water policy hearings were concerned.

Second, the Water Resources Council is a weak sister insofar as its ability to have critical issues studied and acted on.

Third, although the present water policy study may change things, the director of WRC does not have the authority to appraise present water policies or make recommendations to the President.

In general, I think the Federal Government is organized so that too many people are reporting to the President. But, since water policy is so important, Presidential contact is needed.

Fourth, there is no coordination of the grant authority under the Water Resources Planning Act with other programs of the Government. This creates problems of duplication of effort and incompatible plans.

Mr. President, there are other specifics, but what they all boil down to is that the Water Resources Council has found it easiest to go with the flow—to get along by going along, rather than facing and trying to solve water policy problems.

And while we have been concentrating on the Federal approach, we have neglected the important role that the States must play in water policy.

If I may, I would like to pilfer liberally from a speech made last August by Gov. Scott Matheson of Utah in reviewing where we have come in the development of water policy.

The Governor divided this evolution into a number of phases, the first of which he calls the period of conflict phase from the end of the Civil War to the New Deal.

During this period it was assumed that there was a natural adversary relationship between State and Federal Governments. A strict enforcement of the reserve powers clause of the Constitution kept each from encroaching on the province of the other.

This period was replaced by the cooperative phase which was brought on by the Depression. There was increased cooperation to meet the enormous economic and social challenges facing the country. It was the beginning of the categorical grants-in-aid, formula grants, and the investment tax credits to States.

The Governor's third phase is characterized by the needs of the post-World War II society. Between 1946 and 1960, 29 new grant-in-aid programs were set up dealing with capital construction projects by State and local governments. State and local governments began to see the Federal Government as a reservoir of money that could be tapped.

The fourth phase occurred between 1958 and 1968 during which there was a dramatic increase in program planning and project grants. By 1969 there were about 160 major programs, 500 specific legislative authorities, and 1,315 different Federal assistance activities.

This effort bypassed the States and had a strong urban-metropolitan bias. The Governor admits that during this period the States sat by and defaulted on their responsibilities.

The present phase, which began about 1965, is labeled "competitive federalism," whereby it was attempted to decentralize decisionmaking, except that this device relied on the old competitive relationships between the State and Federal Governments in play prior to the New Deal. But that competition has long ago gone by the boards.

While the States have regained some of their assertiveness, while they are in many respects where the action is insofar as government activity is concerned today, all layers of government are now interrelated and codependent as a result of the sharing of the wealth from the Federal Treasury. I think this pattern is too ingrained at this time to return to pre-New Deal structures.

In his presentation, Governor Matheson discussed the administration's water policy study. He said many of the options proposed by the Secretary of the Interior were unclear while others were unrealistic and unworkable. He argued that there could be no worthwhile water policy study without including the States in the process.

I find myself in agreement with the Governor. But I have also been made aware that the administration is now taking the States much more seriously as a result of the complaints they have made.

Mr. President, it has been estimated by Charles C. Bradley in an article, "Human Water Needs and Water Use in Americ a," published in the journal Science, that it takes 125 gallons of water to produce one egg; 1,000 gallons to produce one quart of milk; 3,000 gallons to produce one pound of beef; and 300 gallons to make a pound of bread.

In addition to the water costs of food production, enormous amounts of water are also needed for the production of fibers, lumber, paper, and steel. The average daily use of water in this country probably averages out at 75 gallons per person.

If Uncle Sam is going to make some major decisions on how water is used—even if he does it in conjunction with the States—it will have a profound effect on every person in this country.

We have been working on amendments to the Clean Water Act in Congress for about 2 years now. And I suppose you could characterize my own efforts as trying to strike a balance between the need to keep our water clean and the need to keep our overall economy healthy. That is not an easy balance to keep when you are being fired at on one side by the environmental movement, and on the other by industry, which would rather not spend the money to make some changes that seem needed.

In the middle is the farmer, who is sometimes scorned by the environmental movement, even though he has been in the conservation business longer than anyone else. Like industry, he has to make a profit, and dislikes being burdened by laws and regulations that keep him from doing so.

On the other hand, he is in the camp with the environmentalists because he cannot make his operations pay if he is silted in by runoff, or if his ground water supplies are contaminated.

I suppose you might say that since that poor farmer is trying to do the same balancing act on his own property that I am engaged in in water policy, he and I are close allies.

And since we are in the same boat I strongly believe that he and I, as well as the Department of Agriculture, are being ignored by the Water Resources Council. I think it is also fair to say that based on a study done at Iowa State University for the National Water Commission, a decision has been made by WRC that there is no need for concern about agricultural water needs.

It seems to me that this is shortsighted and would be disastrous if applied as a national policy.

There has been a lot of criticism about our technology-oriented agriculture. It uses a lot of fuel for equipment, and water for irrigation and food processing.

But before they do anything else, people have to eat. If we are going to avoid mass starvation here and abroad our only hope of survival is to use and improve on our agricultural technology.

Therefore, I think we will continually have to evaluate what we are doing on the ground in relation to the long-term protection of our resource bases of soil and water. This will have to be done at all levels—from the policymakers in the Federal Government down to the individual farmer trying to protect his own property.

It is pretty clear to me that the job of adjusting our technologies to meet the changing needs of agriculture—while at the same time protecting and conserving our resources—are going to change from time to time. I have confidence that the farmer has the ingenuity to make adjustments to this change.

Mr. President, I wish I were equally confident that the Government could make the changes as well.

I think it is essential that the Federal Government continue to help in the planning and construction of water resource development projects. And particularly

in regard to the small watershed program, the Federal share cannot be so low that it places an impossible burden on small communities with limited resources. Otherwise, there will be no small watershed program.

Public Law 566 has served us well. But it has some age on it now, and some changes are clearly in order. Many of the recommendations of the 25th National Watershed Congress should be given serious consideration.

The Senate Committee on Agriculture, Nutrition, and Forestry, of which I am a proud member, is working slowly and carefully on a total evaluation of how USDA soil and water programs can be changed to make them better—both from the standpoint of serving farm and rural needs, and to spend the taxpayers' money more wisely.

My own Land and Water Resources Conservation Act, S. 106, is dedicated to this end. It was vetoed during the 2d session of the 94th Congress. Both Houses have again passed it this year but the threat of a veto still remains. However, I am hopeful that some responsible compromise can be worked out with the White House.

The bill provides for an appraisal of the condition of all farm and open land in the country, and then a program of work is developed based on priorities discovered in the appraisal. This whole thing is then tied to the budget process.

The concern of both the Ford and Carter administration has been that the budget increment will commit the President to long-term spending for the future that might get in the way of other national priorities.

I am very sensitive to this. I have no wish to embarrass the President. But it has been my experience that unless planning is tied to how you spend your money, the planning report gets shelved.

The mountain of planning and policy papers already developed on our Nation's water should be evidence enough of that.

In one's own family, planning expenditures for food, clothing, et cetera, are based on how much money one expects to have so that dollars go first to meet the most important needs.

I do not see why the Government cannot use the same process in trying to devise soil and water conservation programs for the Department of Agriculture. I feel strongly about this.

Mr. President, the appraisal of the condition of our rural land, called for in my bill will continually make the case for soil and water conservation activities within the Department of Agriculture, while at the same time assuring that Federal tax dollars are put where they can do the most good. I urge my colleagues to join me in working for sound and viable soil and water conservation programs for the lands and water of America.

ROBERT K. WILMOUTH ELECTED PRESIDENT OF THE CHICAGO BOARD OF TRADE

Mr. PERCY. Mr. President, the Chicago Board of Trade has ended a careful and thorough 6-month search for a new president. The 22-member board of the commodities exchange has shown sound judgment in electing Robert K. Wilmouth. The exchange, founded in 1848, has enjoyed tremendous success in recent years, and I am confident that under Mr. Wilmouth's leadership that success will continue. Mr. Wilmouth replaces Warren W. Lebeck, who has been president since 1973, and is retiring after 24 years of dedicated service to the board of trade.

Mr. Wilmouth, a 48-year-old banker from Worcester, Mass., is an expert in foreign commodity trading patterns. Currently president, chief administrative officer and a director of the Crocker National Corp. of San Francisco, Mr. Wilmouth began his impressive career with the First National Bank of Chicago. I am delighted that he will be returning to the Chicago area as president of an exchange which handles half of the commodities futures contracts traded throughout the Nation.

Mr. William D. Haggerty, chairman of the 1,402-member Board of Trade, believes that the new president "brings to the exchange a broad background in finance, executive capability and an ability to be an excellent spokesman for the oldest and largest commodities futures exchange in the world."

I congratulate Mr. Wilmouth on his election and wish him the best of everything in his new position with the Chicago Board of Trade.

I also congratulate the board of directors of the Chicago Board of Trade on their outstanding selection.

DEPARTMENT OF EDUCATION

Mr. RIBICOFF. Mr. President, the Governmental Affairs Committee began hearings October 12 and 13 on legislation to create a separate, Cabinet-level Department of Education in the Federal Government—the first time in more than 20 years a committee of the Congress is seriously studying the concept.

The 21 witnesses testifying before the committee in those first 2 days highlighted many problems caused by the present uncoordinated, duplicative, and fragmented situation in administering the Federal Government's 300-plus education programs.

Educators complained of time-consuming Federal paperwork burdens imposed by the nearly 40 agencies involved in education. Among the testimony, Winfield Kelly, county executive for Prince Georges County, told of the runaround his education system takes every year in going from one agency to another for different school-related programs. The National Education Association cited an NEA survey showing wide discrepancies between Office of Education records of funds distributed to States, and several States' records of funds received—as much as $71 million in one State alone. Dr. Sam Halperin, a respected expert in Federal education program administration, pointed out the "extreme instability" in the position of U.S. Commissioner of Education, where 13 men served in just 12 years—from 1965 to 1977.

Because Federal education programs are scattered among many different agencies without coordination, and because the Education Division of HEW is subordinated to the overwhelming size and complexity of pressing health and welfare issues, badly needed leadership in the Federal education effort is simply not forthcoming.

We need a Secretary of Education to deal with serious education problems that have reached near-crisis proportions. Today, for example, the Toledo, Ohio, school system is threatening to close its doors for several months—no more funds are available. The American taxpayer is voting down budget requests for schools more frequently out of the frustration of rising taxes. Scholastic aptitude test scores have fallen considerably in the last decade, which the public interprets as evidence of the decline in quality of American education.

As these and other difficult problems continue to surface, educational institutions will be turning more to the Federal Government not only for financial help, but also for research, direction, and most importantly, leadership.

There are now 57 Senators sponsoring S. 991, the Department of Education Act of 1977. Together, we will attempt to remedy an organizational weakness in the Federal structure, to give education the high status it deserves in our Government. The committee plans to hold more hearings in the near future on this important legislation, and we will try to secure final passage before the end of the 95th Congress.

Mr. President, two distinguished American newspapers, the Hartford Courant and the Washington Star, examined the arguments for the establishment of a separate Department of Education and now support this concept in recent editorials. I ask unanimous consent that they be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

TAKE THE E OUT OF HEW

The federal government's role in education is too large to contain any longer within the triple-headed framework of the Department of Health, Education, and Welfare.

HEW's total responsibilities involve administration of more than 300 individual programs with an annual cost of more than $118 billion. Often the cause of the astronomical expense is lack of direct control over expenditures and inability to detect and correct fraud and abuse—welfare cheating and mock clinics, for instance.

The largest of HEW's three parts is education, which involves three out of every ten Americans.

Senator Ribicoff, a former Secretary of HEW, is spearheading the drive to put education in a department by itself, where it belongs. He told the opening session of hearings on the change, that with costs rising there has been a faltering in confidence in school's performance. Youngsters leave school and enter college without the ability to read, write and do sums. The public wants quality education, he said, "but it is having trouble trying to finance it."

The Supreme Court has ruled that property taxes cannot be the measure of educational quality. Then how is it maintained? Who pays? The federal government currently as-

sumes only eight per cent of total education costs, while half of all property taxes go to the schools. As escalating salary levels, maintenance fees, and equipment costs move continually upward, there is an understandable resistance by taxpayers to foot the bill, particularly when the results are so disappointing.

Yet, working within the framework of the giant HEW bureaucracy is too complicated and the focus too diffused for efficient handling of the multitude of problems currently facing education at all levels today. Nor is there a person responsible to speak principally for education in the president's cabinet, and as Mr. Ribicoff pointed out, HEW Secretary Califano has yet to make a major statement on the subject.

Since HEW was pasted together 24 years ago, education's costs has multiplied 35 times. Before this year ends, federal, local and parental spending for education will amount to $140 billion. Educational avenues have been opening up in many new fields—vocational, computer sciences and adult and continuing education, to mention a few. It is unfair to those who must foot the bill—all Americans in one way or another—for less than full attention to shed necessary light so important part of American life.

Senator Ribicoff has the aid of 54 other Senators co-sponsoring the drive to put education in its rightful place as an agency by itself. If this was done, it could receive the undivided attention of its leadership rather than, as now, sharing leaders with two other giant interests.

EDUCATION IN THE CABINET

There's almost nothing people feel strongly about that hasn't raised cries for a new government department. Consumers, women, the handicapped—what group wouldn't like to have its own cabinet member, the better to nudge the President and the public on its behalf?

Most proposals for new government departments have their momentary flare and sink back into ordinary iinterest promoting. Education is different, though. There's a strong case for dignifying the federal programs in this area with cabinet-level status. And, although President Carter has not said the final word, his earlier statements indicate that he is for it.

Disassembling HEW, the unmanageable administrative behemoth that now presides over what the United States does about education on the national level, is another issue. A fairly clearcut one, to be sure—there aren't many defenders of the way things are now.

Perhaps the most important point in favor of a federal Department of Education is the obvious matter of prestige and focus. To have a Secretary of Education in the Cabinet gives symbolic weight to the nation's concern for an area of dismaying failures.

Neatness, of course, can be over-rated in government. Real-life situations are often best served by measures that violate the symmetry of the organization chart, not to mention the orderly flow of procedures through channels.

Furthermore, we continue to cherish the diversity and localism of American education. Few would want the kind of centralized system that has had every class studying more or less the same page of the same bcok at the same time in French schools anywhere in the world.

But we are emerging from a period of experiment in education, much of it good tries that didn't work. Meanwhile, there's evidence that we're doing worse all the time about developing young people's capabilities.

They can't read, they can't write, they can't make change. They can't turn off the TV. Everybody knows the appalling dimensions of the problem.

Albert Shanker, president of the American Federation of Teachers, is afraid regrouping federal education programs in a new department would substitute a gesture for action. And, to be sure, bureaucracy is not known for its creativeness in this sort of problem-solving. But, placing education higher on the national agenda, as it would be with a place in the Cabinet, could stimulate creativity elsewhere and help to implement the new ideas.

Even if constructive originality turns out to be going back to old ways of teaching and learning.

COOKING WITH BRAILLE

Mr. MATHIAS. Mr. President, each of us here in this Chamber is convinced that his own State is the best. And I am no exception. But, Maryland is such a truly remarkable State and has done so many remarkable things that my pride is, I think, realistic rather than chauvinistic.

Today, in proof of my claims for Maryland, I would like to share with my colleagues the details of a very unusual and commendable project sponsored by Maryland's Department of Economic and Community Development (DECD).

Maryland is world renowned for its seafood and its seafood recipes. But, until very recently, not all cooks have been able to try their hand at Maryland's cuisine. Now, three Maryland seafood recipes are available in braille for the blind and the visually handicapped.

Joseph G. Anastasi, Secretary of the Maryland DECD, announced earlier this month that the department had published a total of 1,000 copies of each of the recipes on a highly durable plasticized paper, generally impervious to the ordinary hazards of cooking and storage.

Then, on October 10, in Annapolis in the kitchens of the DECD's Seafood Marketing Agency, Mrs. Hellen Tullis, a blind Baltimorean and a gourmet cook, gave a cooking demonstration on Maryland Lady Crab Cakes, using the brailled recipe.

Mrs. Tullis, who lives with her husband, George, a retired Coast Guard CPO, has been totally blind since age 14. She is a graduate of Hunter College and received her masters degree in speech therapy from Brooklyn College.

For 3 years in the mid-1950's, Mrs. Tullis hosted a Baltimore TV program called "As You Can See" and in 1953 was given a "Golden Mike" award for excellency by McCall's magazine.

Mrs. Tullis believes the recipes in braille will assist many of the visually handicapped to "expand one more area of self-sufficiency."

The 3 brailled recipes were chosen as the most popular of the 68 delicacies published in the Maryland Seafood Cookbook, now in its third printing, with 150,000 booklets sold throughout the United States. The recipes use oysters, clams, crabs, lobsters, and a variety of fish, all found in abundance in the Chesapeake Bay.

Mr. Anastasi said that the Maryland State Library for the Blind and the Physically Handicapped, now has the capability for brailling and may braille and record on cassettes many or all of the seafood recipes, depending on the demand and requirements of the blind.

Notice of the availability of the brailled recipes is being sent to the Library of Congress and nearly a dozen other organizations for dissemination to an informational network for the visually impaired in seven States and the District of Columbia.

DECD is cooperating with the Division of the Blind and Physically Handicapped of the Library of Congress and its affiliated network in seven nearby States and the District of Columbia. These include State libraries for the Blind and the Physically Handicapped in Maryland, Virginia, New Jersey, and Ohio (Cincinnati and Columbus).

Notice of the availability of the brailled recipes will also be made through the facilities of several other groups serving the visually handicapped, including: Washington Ear Radio Service for the Blind and the Physically Handicapped (Silver Spring); Services for the Physically Handicapped (Rockville); the Maryland School for the Blind (Baltimore); Blind Industries and Services of Maryland (Baltimore); and the National Federation of the Blind (Baltimore).

In addition to the "Maryland Lady Crabcakes," the other recipes in braille are "Broiled Chesapeake Delicacy," and "Scalloped Oysters."

So that my colleagues may judge for themselves the gustatory delights now available to blind cooks, I ask unanimous consent that one of these recipes "Maryland Lady Crabcakes" be printed in the RECORD.

MARYLAND LADY CRABCAKES

1 pound Maryland crabmeat.
1 cup Italian seasoned breadcrumbs.
1 large egg (or 2 small).
About ¼ cup mayonnaise.
1 teaspoon Worcestershire sauce.
1 teaspoon dry mustard.
½ teaspoon salt.
¼ teaspoon pepper.
Margarine, butter or oil for frying.
Remove all cartilage from crabmeat.

In a bowl, mix breadcrumbs, egg, mayonnaise and seasonings. Add crabmeat and mix gently but thoroughly. If mixture is too dry, add a little more mayonnaise. Shape into 6 cakes.

Cook cakes in fry pan, in just enough fat to prevent sticking, until browned; about 5 minutes on each side.

Makes 6 crab cakes.

NOTE.—If desired, crab cakes may be deep fried at 350°F. 2 to 3 minutes, or until browned.

Mr. President, I am sure my colleagues will agree that my pride in the resourcefulness and creativity of Maryland's DECD is fully justified. I hope they will let organizations which deal with the blind and partially sighted in their own States know that these recipes have been brailled and are available.

ERIC SEVAREID

Mr. MATHIAS. Mr. President, on a recent flight I came across an article in Passages, the magazine of Northwest Orient Airlines, which carried a profile of a great American journalist and commentator we all know and respect, Eric Sevareid. The article was entitled "Signing Off," and discussed Mr. Sevareid's distinguished 40-year career in

American journalism, and his retirement on November 26 when he reaches the mandatory retirement age of 65 at CBS. Mr. Sevareid, in my judgment belongs in that small group of writers, thinkers and commentators who have had profound influence on American Government and its policies and processes throughout the course of history. I refer to individuals such as Tom Paine, James Madison, Horace Greeley, Mark Twain, H. L. Mencken, Upton Sinclair, Will Rogers, Walter Lippmann, and James Reston.

Eric Sevareid's incisive commentary phrased in lean and sharply honed English has always reflected the best expression our language is capable of imparting.

I ask unanimous consent, Mr. President, to print the article on Mr. Sevareid's retirement in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SIGNING OFF

(By Robert Gregory)

Whoever it is that gets Eric Sevareid's job (and the choice is Bill Moyers at this writing) CBS News will never be the same. For it's losing the last of the best, the most influential survivor of that prestigious group of zealous and young pioneers assembled by Edward R. Murrow in 1939 to broadcast radio news of World War II.

They were "Murrow's Boys," those "embattled comrades" whose kinship was commensurate with their anticipatory youth (most were in their 20s or early 30s) and their marvel at the potential of radio. Intoxicated with a new gadget to cover a developing World War, they wondered only whether they had the wisdom to handle such vast power with responsibility and truth. Not only did history long ago redeem their deeds; it also invested them with romantic legend.

But Eric Sevareid's approaching retirement as television's No. 1 news analyst-editorialist-essayist implies far more than the consummation of an era, an age. It is a serious loss of elegance, style and gentle authority that have long given CBS News a competitive psychological edge and motivated its veteran news personnel. Because of Sevareid, and the continuity that he represented, they somehow thought that they were better than any other group of news broadcasters, and that preserving the Murrow-Sevareid legacy of excellence was almost obligatory.

Sevaried is not voluntarily retiring, though he is getting tired, and an old back injury and arthritis conspire to cause some rather unpleasant days. CBS policy mandates retirement at age 65, which he'll reach November 26; four days later he'll be gone. And the adjustment doubtless will be easier for him—even if "it's really a radical change after all these years"—than for much of the American public, which for almost two generations has come to look to him for analytical eloquence, fetching wit and astute fairplay, whether the topic was the possibility of war in the Middle East or the conduct of shirtless bleacher fans during a World Series.

Gone will be that familiar facial expression of Nordic pain, as though the news often just hurt too much to talk about; that deliberate voice that sounded like a fine tweed rustling against some autumn ivy; and above all that exactness of expression that charmed television audiences into believing they'd been thinking the same thing all along, but only Sevareid could put it into the right public words.

He's heard he has that effect on people, Sevareid says, but "if there's anything to it, it's my typically American background."

He's just a pretty average guy, he thinks, a small-town boy whose thinking developed in the ceremonies of innocence in Velva, North Dakota, where he was born in 1912, strengthened itself on harsh adventures and stable traditions in the Midwest and matured in Europe in the late '30s, as he turned to journalism and a lifetime's embrace of books and learning.

Murrow discovered him in 1939, saying, "I like the way you write, and your ideas." A close association developed that lasted until Murrow's death in April 1965. By then, Sevareid's nightly analysis on the Cronkite newscast had been a regular feature for more than a year.

Few of his pieces were ever as moving or as "rough on the emotions" as his eulogy to Murrow: "There are some of us here, and I am one, who owe their professional life to this man . . . who owe Ed Murrow their love of their work, their standards and sense of responsibility. He was a shooting star . . . an original, and we shall not see his like again.

"He was an artist, passionately alive, living each day as if it were his last, absorbing and radiating the glories and miseries of his generations: the men, the machines, the battles, the beauties. The poetry of America was in his bones. He believes in his family, his friends, his work and his country. Himself, he often doubted."

The words could apply equally well to Sevareid, particularly those about country, family, friends, work, self. But then he and Murrow were very much alike; the differences were few.

One major difference, however, was how each reacted to radio and television. "Murrow," says Sevareid, "was the first great natural. A remarkable presence. I used to look at his scripts and think they would never go, but he was writing for the ear, words to be listened to, not read. And he was very effective. Highly literate, he'd been trained in college in speech and drama, and that contributed to his easy adaptability to radio and later to his engaging manner on television."

Sevareid didn't find it so easy, although he was a much better writer than Murrow. "I'm not an actor and it was tough going on television, since I was just getting used to radio. Even that was never simple, at least to me; but television was a problem. I can't smile at machinery, and my eyes can't stand strong lights."

That accounts for his strained "look of gloom" beneath a thrice-creased forehead of becoming solemnity, along with a companion distrust of posturing, of seeking to fool people into believing that he's overjoyed instead of profoundly anxious.

Before writing a typical nightly piece, he thinks about it most of the day ("just deciding what to say has always been the hardest part of getting ready"). Once the topic is firmly selected, he turns to the typewriter, lights up a True cigarette (unless the CBS machine is out of that brand), and then pecks away, seldom revising, changing not a word—positive evidence of his clear ideas. Forty minutes later he's finished from 600 to 750 words, which approximates 2 to 2½ minutes of air time. A secretary then transfers the script to a teleprompter; when it's ready, Sevareid walks to the studio, on the floor below the CBS newsroom in Washington.

Sevareid always chooses his own subjects; there is not, and never has been, any interference. But throughout the years, he's argued gently with just about every executive, including Murrow—soft disagreements, though, never spiteful rages. Only once have I ever heard him speak contemptuously of an executive, and that dealt with an early discussion of how the TV viewing public would accept his analysis. The executive, now a ranking figure with *60 Minutes*, sought to persuade the network, as well as Sevareid, that no one in America would sit still to watch a man talk. Just talk. There would have to be pictures also. The executive argued that if Sevareid were to describe, say, a Supreme Court decision, then the audience should see a picture of the Supreme Court building. And so on. Sevareid cursed the nonsense into obscurity. "I won that one," he says.

He clashed with Walter Cronkite once, years ago, following a Sevareid piece on Dallas, Texas, where a jailbreak was attempted while Jack Ruby was waiting trial. Sevareid was not especially hard on Dallas, saying only that its frontier characteristics had not totally vanished. When the camera cut back to Cronkite, he cleared his throat uneasily and said, "And we might add, Eric, that's true of a lot of towns. And that's the way it is. . . ."

Sevareid's anger was majestic. It was an example—and Sevareid's only criticism of Cronkite, ever, for he admires him very much, "a remarkable man"—of open rebuke and correction of a colleague, which, according to Sevareid, "you just never do. Ever." So touchy did the episode become, that Cronkite grabbed the first plane to Washington. There, behind Sevareid's closed office door, which customarily is always open, an understanding was reached, a friendship preserved, and a holy war averted. Cronkite never again sought to explain what Sevareid meant to say or should have said.

To this day, the goal of every CBS News reporter of any consequence is to make Cronkite's money, but to have the respect and prestige of Sevareid. And CBS doesn't want to lose that prestige and respect either, or so it says.

News President Richard Salant says that Sevareid's retirement does not mean that their relationship is over. No, "Eric will stay on as a 'consultant,' " to provide "in-house critiques, to work closely in evaluating CBS News policy and direction." Which is fine, and well-intentioned. But when Frank Stanton reached mandatory retirement age as head of the network—fully expecting the rule to be waived—he, too, became a "consultant." And since then he's had as much impact on CBS as a tennis pro in Darien, Connecticut. So Sevareid looks upon these early messages of love with skepticism, even though Salant insists to anyone who'll listen that Eric's "a wise, wise man."

The decision on Moyers as "the next Sevareid" was also the handiwork of Salant, who explains "it's just a matter of scheduling, because we want to keep Bill on *CBS Reports*." Salant is sure that he's found the right man—even though "Eric is irreplaceable, and had we not had Bill, we would have never considered continuing nighty analysis."

Sevareid was not asked for his opinion on his replacement, which he might refuse to give anyway. But what he will say is that the television networks should present early, hour-long newscasts, but can't because local affiliates want to sell the time themselves. And he thinks that tlevision news is "much better now that it's ever been, although some local stations have gone wacky with happiness."

And, as for the 1950's, the Golden Age of Television, "to tell the truth, it was awful," Sevareid says. "We were experimenting, trying to figure out what to do and how. You look at some of that stuff today that we used to do and it's embarrassing, just terrible. A lot of nonsense."

He's also suspicious of "instant analysis"—the network practice that Spiro Agnew found so dreadful—in which major events are followed by roundtable talk by correspondents

who are expected to unload with "immediate eloquence." Unlike Agnew, though, whose disgust was self-righteously political, Sevareid believes that post-analysis is "a dangerous form of journalism" because it imperils professionalism.

"The whole thing started as filler material and then became tradition; but at times I've refused to be a part of it. Once or twice during Nixon's reign, I ignored it for reasons that were not political, just lack of preparation." Even so, Sevareid has consistently excelled at it; and his colleagues have always had the good sense to defer to his opinion. Indeed, the thinking inside CBS News has been that the network was often selected by audiences for a special event because Sevareid would appear afterward to put everything into understandable perspective.

But now those days are almost over, as a fashion of life that was never boring and sometimes a lot of fun."

Regrets? Savareid's had a few, mainly stories that he missed by happenstance, but on the whole he thinks his batting average has been pretty good. He says he enjoyed the early days of "reporting" much more than the later years as resident intellect—or, as his enemies have described him, "that pompous, high-sounding, condescending ass."

There'll be a small farewell party at CBS, and a special TV broadcast in which Charles Kuralt will interview Sevareid for an hour on his near-40-year career at CBS, and on those events and figures that often seemed larger because he was part of the coverage.

After that, a glass of dry sherry, maybe; several days in a rocking chair to sift out his thoughts; time with his beloved family, and then down to Warrenton, Virginia, and a fishing hole that welcomes earnest men whose only memorable lines belong in the water.

What he may also get involved in is Public Broadcasting's possible dramatization of *Not So Wild a Dream*, the autobiography written when he was 32 and recently re-published. He's proud of the book, for it's become a minor classic—"That's what you want, you know. Something that will last, like a good book."

Sevareid will last in memory, too, for his integrity, his search for truth when it often was hard to find, for his high professional standards, his love of language, for his ability to clarify complex ideas when clear thinking was urgently needed, for his quiet dignity, warm humility and loyalty to reason.

"I end this business honorably," Sevareid says. "What more could one want?"

ALCAN PIPELINE

Mr. DURKIN. Mr. President, every Member of this Congress recognizes the national need for bringing Alaskan oil and gas to market in the lower United States, but a recent report and testimony by a distinguished expert presents startling evidence that we may only get this natural gas by sacrificing up to 6 billion barrels of Alaskan oil.

The Prudhoe Bay reserves represent the greatest oil and gas accumulation ever found in North America: over 20 billion barrels of oil and 42 trillion cubic feet of natural gas. Their production could play an important role in alleviating the shortages we face in the near future.

That is why on October 12, I was shocked to hear testimony before the Energy and Natural Resources Committee that production of Prudhoe Bay gas may result in the permanent loss up to 6 billion barrels of crude oil. At that hearing, Dr. Todd M. Doscher, professor of petroleum engineering at the University of Southern California, expressed concern that gas withdrawal from Prudhoe's Sadlerochit reservoir, as presently planned by the oil companies, would seriously impair reservoir pressure and could cause the loss of 4 to 6 billion barrels of oil that might otherwise be recovered. This amount of lost oil represents nearly one-sixth of our total national recoverable reserves. Dr. Doscher asserts that no commitment should be made to gas production which might harm oil productivity without several years operating data. Without this data, we simply are not sure that gas production will not deprive the United States of enormous amounts of crude oil.

Dr. Doscher is a credible witness. He spent 25 years with Shell, where he became their chief petroleum engineer. He initiated the development of thermal techniques and steam injection for recovery from tar sands. He is now on the faculty of the department of petroleum engineering at the University of Southern California, and serves as a distinguished lecturer for the American Society of Petroleum Engineers.

Last spring, Dr. Doscher was contracted by the State of Alaska to prepare a report, "An Appraisal of Operating Plans for the Prudhoe Bay Pool." This report raises serious questions about the feasibility of the companies' operating plans for Alaskan North Slope oil. I believe the Congress must carefully consider its findings prior to a decision on the President's Alcan recommendation, and answer the serious questions this report raises. I believe Dr. Doscher's testimony and report to be of utmost importance and concern to every Member of Congress and I ask unanimous consent that his testimony of October 25 and the text of the final report be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DURKIN. As part of our effort to answer the disturbing questions raised by Dr. Doscher's report, the Energy and Natural Resources Committee requested the General Accounting Office to examine the various studies which project oil and gas recovery potential at Prudhoe Bay. The committee also held another hearing on Tuesday, October 25 and heard testimony from the field operators, the State of Alaska as well as Professor Doscher. From these hearings we are able to conclude that:

First. There is general agreement between the operators, Professor Doscher, and studies completed on the subject, that early gas sales will result in a loss of oil production.

Second. There is disagreement over how much this oil loss could be, ranging from about 200,000,000 barrels estimated by the operators to 6 billion barrels estimated by Doscher. This is because all projections are based on computer simulated mathematical models which are subject to a wide array of variances.

Third. As a result of this uncertainty, there is no current method of determining the effect of early gas sales upon oil production without acquiring several years of operating data.

The General Accounting Office findings essentially agree with these conclusions, and confirm my fears that commitment to a gas line at this time poses a serious risk to the potential development of Alaska oil. I ask unanimous consent that the GAO findings and an explanatory cover memorandum be inserted in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

I. LOSS OF OIL

Mr. DURKIN. At the hearing October 25, the operators, BP and ARCO, agreed with Dr. Doscher's testimony that, yes, they too, expect a loss of oil from early gas sales. The operators estimated this loss of oil at 1 to 1¼ percent of the total oil in place, or as much as 250 million barrels, considerably less than Dr. Doscher's estimate of 4 to 6 billion barrels. Yet 250,000,000 barrels of oil is worth over $3 billion at world prices which equals the current U.S. trade deficit for 2 months. Against this backdrop, it is ironic that the companies also stated gas sales will not significantly harm oil productivity.

II. HOW GREAT A LOSS?

Due to the lack of field operating data all production predictions are based on computer simulations which vary greatly in their results. H. K. Van Poollen, a respected Denver-based reservoir consultant, was contracted by the State of Alaska to complete simulated computer runs to predict the potential oil and gas recoveries for the Prudhoe Bay Field. Van Poollen's first study was completed in January 1976 and concluded that the highest oil recoveries were obtained by water injection and no gas sales. The State later requested additional analyses and Van Poollen completed supplement A in February 1977, which concluded that the operating plans submitted to the State (including early gas sales) "appear to maximize the oil recovery according to the results of this study."

There is a clear contradiction between Van Poolen's two reports. In his second study Van Poollen compared oil production at identical rates both with and without simultaneous natural gas sales. His results, set out below, show that natural gas and oil can be produced simultaneously without large reductions in oil production. This study was relied on by the State of Alaska, the operators, and the administration:

Run, cumulative oil production, and water injected:

3A Gas sales, 7.84 b. bbls., 15.9 b. bbls.

9A No gas sales, 7.56 b. bbls., 3.4 b. bbls.

Yet this is a misleading and inaccurate distortion of the facts. An earlier run by Van Poollen shows that the amount of oil production could be much higher if the reservoir pressure were kept higher. This simulation, relying on greater water injection, shows that production would rise 350 million barrels, the size of a major oil fields, if reservoir pressure remains high.

No. 10 no gas sales, 8.18 b. bbls, oil, 11.1 b. bbls. water.

But it is textbook geology that the pressure could be kept still higher—yielding even more oil—if more water was reinjected with gas, rather than relying on limited water injection. In other words, Van Poollen's first study shows that his second study underestimates the oil loss which will accompany gas sales, and even his first study underestimates this figure. Since these projections are both contradictory and inadequate, it is clear that the State based its conclusions on insufficient data.

Moreover, in their testimony before the committee, spokesmen for the State of Alaska confirm this general relationship between reservoir pressure loss due to increasing gas sales and declining oil productivity. Computer simulated models that have been completed for the Alcan Pipeline Co. by Core Laboratories concur:

The highest oil recovery occurred when all the available gas was reinjected and pressure was maintained in the aquifer.

However, extrapolation of Van Poollen and Core Lab findings indicate that the production difference between primary oil production with gas reinjection (over 9 billion barrels) and without gas reinjection (about 7.5 billion barrels) is in the range of 1 to 2 billion barrels of oil, depending upon operating conditions.

Loss of conventional production potential, however, is only part of the problem we face. The decline of reservoir pressure that accompanies early gas withdrawal could also result in the loss of tertiary recovery potential estimated at 4 billion barrels of oil. Thus the total loss of Alaskan oil due to construction of a gas pipeline at this time could approach 6 billion barrels, nearly one-third of the total petroleum resource at Prudhoe Bay. And only about one-third of Prudhoe's 20 billion barrels of oil might be recovered leaving over 12 billion barrels of valuable oil in the ground. In effect we could be sacrificing more than all the oil that will be discovered onshore in the United States between now and 1985.

III. WHAT SHOULD BE DONE?

Because of this uncertainty and potential loss of oil a safe course of action that would maintain reservoir pressure and maximize field productivity is to reinject gas together with water to replace all volumes of oil produced. While maximizing oil productivity, gas reinjection will prolong stable reservoir pressure. During the first 3 to 5 years of oil production, reservoir data that can reliably determine the optimum operating plan will become available. The decision to construct a gasline and produce Prudhoe gas should be made at that time.

It may be surprising to some of my colleagues that according to the oil companies, in 8 years oil production at Prudhoe Bay will peak and begin a dramatic decline. It is at this point that gas withdrawal could save billions of dollars by not necessitating construction of a gasline. The gas instead could be shipped through the oil line; larger and larger volumes of gas to replace the declining oil production. The reason why this option has not been studied by the operators escapes me.

Although Prudhoe Bay oil and gas represents this Nation's largest single hydrocarbon resource, it will only supply about 5 percent of our total consumption over the 25 year life of the field. We must do everything we can to maximize oil and gas recovery, and we must not permit anything to reduce production. That is why I believe commitment to a mode of gas production that may cause substantial loss of oil is not in the national interest at this time.

While a temporary deferral of the Alcan project may ultimately increase aggregate production of Alaskan oil and gas, I recognize that the United States desperately needs to increase domestic energy supplies immediately. In this regard I would like to point out a hypothetical alternative use of the vast amounts of capital that would be used to construct an Alcan pipeline. Assuming a total project cost of $12 billion, which GAO has stated may be a low estimate, we can estimate what increase in domestic gas production this investment could produce if invested entirely in new gas development:

Gas well cost: $50/ft., high estimate (FPC 1975: $38/ft.)
Well depth: 7,500' (FPC average depth 1975: 7,500')
Average well cost: $375,000/well
Production estimate: 2,000 Mcf/day (low FPC estimate for new wells)
Success Rate: 10% low estimate (API 1975: 14.4%)

Thirty-two thousand wells could be drilled with an investment of $12 billion. Assuming an average success rate of 10 percent, 3,200 wells would produce a low average of 2,000 Mcf a day each, or an aggregate of 6.4 bcf a day, or approximately 2.34 trillion cubic feet a year, about three times the anticipated production of Prudhoe Bay.

The above figures should only be considered a hypothetical calculation. The figures are conservative and refer to only new field wildcat wells, not production wells. Nonetheless, the final result indicates clearly that a $12 billion investment in domestic gas development could make a crucial difference in improving our gas supply picture far more significant than Alaskan gas. In contrast, the expenditure of $12 billion without considering the inevitable cost overruns on a project which will increase gas supplies by 5 percent and which may cost billions of barrels of crude oil, must be thoroughly scrutinized.

I would also like to draw attention to the tremendous new oil and gas fields that our southern neighbors, Mexico, is now developing. In his report to Congress on the Alcan proposal, the President has already recognized Mexican gas as an "economically attractive means to supplement traditional domestic supplies by 1985."

There is presently pending before the Federal Energy Regulatory Commission an application to import substantial quantities of gas from Mexico. FERC expects initial deliveries to be made later this year, with deliveries of 2 billion cubic feet per day by 1986. This is the same amount of gas that would be delivered via Alcan, but there is compelling evidence to indicate this volume could be easily doubled within a much shorter time frame.

Mexican gas is clearly a feasible alternative because it is economically competitive, poses far fewer technical and environmental problems than the proposed Alcan, and most importantly, it is abundant. In fact, Mexican engineers are now indicating that by 1982 they will have so much gas they would not know what to do with it.

A recent Oil and Gas Journal article (September 19) summarizes the situation:

Pemex engineers involved in planning development of the (Reforma) fields agree that the 2.5 million cfd line will not absorb the gas surplus expected by 1981–82.

By then, some of them believe, Reforma could be producing 8–10 billion cfd. If the local market could absorb 4 billion and exports 2 billion, there still would remain a surplus of at least 2 billion cfd.

This vitally needed gas, only 800 miles from our southern border is easily transportable to the United States through the pipeline Pemex, the Mexican oil company, is already constructing. If necessary, another parallel pipeline could easily be built to accommodate additional deliveries. Mexican gas would give us the opportunity to ensure optimal production of our Prudhoe Bay reserves, while providing the necessary supply increment to avoid gas shortages in the near future. Mr. President, I ask unanimous consent that a recent article in the Los Angeles Examiner describing the advantages of Mexican gas be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 3.)

Mr. DURKIN. Mr. President, until convincing evidence is presented that resolves reasonable doubts that production of Prudhoe Bay gas will significantly reduce overall productivity of the reservoir, I must question this project at this time. I recognize the urgent need for the gas that would be made available from such a project, but I believe that there are viable alternatives to increase gas supplies that would also result in less economic disruption to our hard-pressed consumers.

Clearly Congress should question seriously a commitment to a course of action we may later regret. When reliable and adequate field operating data regarding the Prudhoe Bay reservoir becomes available in 3 to 5 years Congress will be able to make a definitive judgment. A decision prior to that time without resolving these questions would be premature and possibly disastrous to the national interest. I urge my colleagues to carefully review the facts regarding this problem and join me in seeking the answers as soon as possible because I am certain we want to insure maximum production of oil and gas from our Nation's greatest energy resource.

There being no objection, the exhibits were ordered to be printed in the RECORD, as follows:

EXHIBIT 1

TODD M. DOSCHER, PH. D.

At the time I was requested to appear before you on October 12, I informed you that my professional attention, and that of my colleague, Dr. Elmer Dougherty, Jr., was brought to bear on the Prudhoe Bay Oil Field because we were retained by the Legislative Affairs Agency of the State of Alaska to assess the operating plans that were submitted to the State's Division of Oil and Gas.

You are apparently here concerned with one of the conclusions which we reached in that study. We believe it is necessary for you to assess this one conclusion concerning gas sales within the total framework of our study.

Our overall conclusion is that studies prepared by the operators of the field, and those prepared on behalf of the Division of Oil and Gas as well as those prepared by still other groups have not been juxtaposed, scrutinized and challenged well enough for an unequivocal decision to be reached at this time as to what is the best operating plan for Prudhoe Bay. Certainly not to the extent as I and my colleague would have done had we been given the responsibility to do so.

Of course, a definition must be given to "the best" operating plan. The best may be variously defined as the best for maximizing the immediate flow of royalties and taxes to the state, or for maximizing the profitability of the operators, or for maximizing the recovery of crude oil, or a maximum flow of benefits to the people of Alaska.

Our studies explicitly used these two yardsticks for defining best: the maximum recovery of crude oil, and the maximum flow of benefits to the state. We were retained by the State of Alaska.

It is always a goal of the reservoir engineer to maximize the recovery of crude oil. At this time the need for attaining such a goal is intensified by the fact that our nation's access to supplies of crude oil is sorely limited and the limitation increases daily. The National Petroleum Council's prediction of future supplies of crude oil in the absence of Prudhoe Bay and new discoveries is shown in their Figure 5 of their December 1976 study. America's supplies will have dwindled to less than 1.5 million barrels a day by 1990, and even with Prudhoe Bay will be only 2 million barrels a day. Compare this with the 8 million or so we produced last year and the 20 million barrels we burned each and every day. It will be a stroke of sheer luck to be able to double this rate by successful exploration and enhanced recovery. A Prudhoe Bay discovered every other year would just keep our supplies constant if we could continue to import oil.

We must also look forward to severe limitations with the coming decade of our ability to import crude oil. The oil in the subsurface of the mid-East is limited too by nature, and production will surely peak within the decade ahead. Our basic yardstick therefore of assessing whether the proposed operating plans for Prudhoe Bay will maximize the recovery of crude oil is well justified. We concluded that the evidence for the claim that gas sales from Prudhoe Bay would not interfere with maximizing crude oil production is weak. We believe the evidence for reaching such a decision will not be available for several years during which time reservoir surveillance will provide the required data.

It is to be noted that the Prudhoe Bay field is so large that a mere 1 percent difference in recovery efficiency amounts to a volume of oil that is produced from some very large oil fields. So large, in fact, that less than a handful have been discovered in the United States since 1960. Whereas in former times one could be sanguine about sacrificing a percentage point in recovery efficiency for greater convenience, a smaller investment, or somewhat higher profitability, the same standards can no longer be applied.

Further, by conventional technology some twelve billion barrels of crude oil will not be recovered from Prudhoe Bay. It is folly to adopt an operating plan that doesn't consider the possible effect of such a plan on the potential implication of tertiary recovery processes that may succeed in capturing some of that twelve billion barrels of oil that will remain in the largest reservoir ever to have been discovered within the United States.

So much for our first yardstick.

Now for the second: the maximum flow of benefits to the State of Alaska. We concluded that this matter had not been given the attention it merits. We do not believe the sale of gas is in the best interests of the State or the nation; that is, the sale of gas now envisioned.

It will be impossible to sell more than two billion cubic feet of gas a day without seriously hurting the crude oil recovery even using the optimistic analysis of the operators therefor. It will be impossible to envision selling more than this short of the immediate implementation of a water flood that would balance withdrawals of gas and liquids. There are no plans for doing so. A daily sale of two billion cubic feet a day through a pipe line that might well represent an investment of 25 billion dollars, which we have observed in the literature, will require a transportation tariff of some $5 per thousand. This in itself, the transportation cost, is so much greater than current pipe line delivered costs for natural gas, and so much greater than those envisioned by any proponents of deregulation that the well head price of the gas itself will be pushed back to marginal values. The State will reap but a fraction of the value of the gas.

There is also a major question as to whether the gas will be marketable, on the proposed schedule, unless the price of all other gas supplies are raised to its equivalence.

The State would gain much more from their resources by ultimately converting a significant amount of the gas to liquid fuels, alcohols, and petrochemicals. The State could envision starting gas movements in the present crude oil line within fifteen to twenty years. The Prudhoe Bay reservoir is a short lived reservoir. Within eight years, oil production will start a precipitous decline, when our needs for additional liquid fuels will be verging on the desperate, and within fifteen years its potential will be less than 500,000 barrels a day.

The State could envision a long future of profitable and valuable utilization of its gas resources for over a century, particularly if such use is combined with utilization of its coal resources, should it not consent at this time to gas sales. The nation would be little the worse for not having the Prudhoe Bay gas available for immediate burning. It will amount to less than 5% of current consumption. An equivalent amount of gas could probably be made available from other sources, far cheaper and within the same time framework, if exploration and production of marginal sources were promoted by trivial increases in regulated prices. This would be true for a decade or two, but for longer periods of time you must address more fundamental issues.

I will close by bringing to your attention that it was more than Americans' know-how, more than their vim and vigor, more than their pursuit of free enterprise and freedoms that made America what it is. It was cheap and abundant sources of energy. Without the latter, America would not be America. We no longer have cheap and abundant sources of energy. We no longer have yesterday's potential. I implore you to take this into account when you deliberate on matters concerning the future of our nation.

REVIEW AND ANALYSIS OF THE PROPOSED OPERATING PLAN AND OF THE STUDIES AND COMPUTER SIMULATIONS OF THE DYNAMICS OF THE SADLEROCHIT RESERVOIR

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Dr. Doscher was formerly consulting petroleum engineer to the Exploration and Production Department of a major, integrated oil company. He has over thirty years of experience in petroleum production operations, research and development activities, and in the valuation of energy and mineral resources. His work has ranged from reserve audits to economic feasibility studies, the development of field operating practices, the invention of specialized drilling fluids, and the logistics of capping gas well blow-outs.

Among other achievements he developed the membrane filter, now in world wide use, for the evaluation of water quality for subsurface fluid injection and was Division Engineer in charge of the development of the first in-situ process for recovering the Athabasca Tar Sands. He has been chairman of the American Petroleum Institute's subcommittee on crude oil recovery efficiency and was the first chairman of the Implementation Committee of Society of Petroleum Engineer's Improved Oil Recovery Field Reports. He was a Distinguished Lecturer of the Society in 1976–77.

Dr. Doscher has been elected to membership in the honorary societies of Phi Beta Kappa, Sigma Xi, Tau Beta Pi and Phi Lambda Upsilon for his achievements in a variety of scholastic disciplines. He holds a bachelor's degree, summa cum laude, and a master's degree in chemical engineering from the College of the City of New York and the Case Institute of Applied Sciences, respectively. He also has a doctorate in colloid chemistry from the University of Southern California.

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Prior to joining the faculty of the University of Southern California in 1971, Dr. Dougherty was employed by several major U.S. petroleum and chemical companies. His work included refinery chemical engineering, reservoir engineering and directing operations research efforts. In addition, Dr. Dougherty has served in senior management capacities with two firms in the management consulting and computer software fields.

Dr. Dougherty's work has been widely published in the fields of petroleum engineering and operations research. In 1964 he received the Cedric K. Ferguson Medal, awarded by the Society of Petroleum Engineers for the best paper by a junior member. Some of his work includes "Simulation of Oil Reservoirs on a Digital Computer", "A Computerized System for Planning Major Investment Decisions in Oil", and "Optimizing the Scheduling of Oil Field Development". He has also given several papers in the area of statistical and mathematical analysis of oil lease bidding.

Dr. Dougherty is a member of numerous professional associations, including the Society of Petroleum Engineers, the Society of Petroleum Well Log Analysts and the Operations Research Society of America. He is also

a member of the professional honorary societies Sigma Xi and Tau Beta Pi. Dr. Dougherty holds a Bachelor of Science degree in Chemical Engineering from the University of Kansas, and has received his masters and doctorate degrees in Chemical Engineering from the University of Illinois.

PREFACE

The authors of this study wish to express our appreciation to the Legislative Affairs Agency for the confidence and trust they put in us in executing this study of the State's most important physical resource, the Prudhoe Bay Oil Field. For the purpose of executing this study, we have relied heavily on published information in the public domain. In addition, we contacted the operators of the Prudhoe Bay Field, the Division of Oil and Gas of the State of Alaska, and the Division's consultant, H. K. Van Poolen and Associates, as well as other engineering firms which, for one reason or another, had prepared analyses for the prediction of performance of the Prudhoe Bay Field.

As a requirement for technical discussions with their engineering staffs, the operators requested, and we executed secrecy agreements with the operators, in accordance with approval from the Legislative Affairs Agency.

We intentionally did not overreach what we believed were the limits of our privileges and the necessities for information under our contract to the Legislative Affairs Agency. Therefore we may not have delved into certain details that we believed were proprietary and would add little to our conclusions. Our primary attention was to the methodology employed in the performance predictions and to the source of the input data. The agreed-upon remuneration for our services also posed limitations on the pursuit of overly detailed examination of documents and conference follow-ups. Again, we believe such additional examinations would not have any significant effect on our conclusions.

CHAPTER I—INTRODUCTION

This study was prepared in accordance with an agreement entered into by the Legislative Affairs Agency of the State of Alaska and Todd M. Doscher and Elmer L. Dougherty, Jr.

The purpose of the agreement is to provide, through the Agency, professional consulting services in oil and gas reservoir analysis to the Alaska State Legislature.

The statement of work, parts (A) and (B), of the agreement follows:

(A) The Contractors shall provide a written review and analysis of the proposed Prudhoe Bay operating plan, and the studies and computer simulations that have been made of the dynamics of the Sadlerochit Reservoir, including the studies made for the Alaska Department of Natural Resources by H. K. Van Poolen and Associates, Inc., and for the U.S. Department of the Interior by H. J. Gruy and Associates. In addition, the Contractors shall contact the principal owners of leasehold interests in the Prudhoe Bay Field and obtain from them such information as is relevant to this analysis and as the owners may be willing to release to them.

(B) The purpose of the written review and analysis shall be to provide the legislature with an independent audit of the practical and theoretical implications of the reservoir operating plans that have been and may be proposed by the field operators and the Alaska Department of Natural Resources.

Todd M. Doscher and Elmer L. Dougherty, Jr., the contractors, herewith submit the attached report in fulfillment of the agreement to provide the specific services requested.

The contractors are individually responsible for the opinions, interpretations and findings that are presented in this report. The opinions, interpretations and conclusions are not necessarily shared by the Legislative Affairs Agency of the State of Alaska, nor by associates, clients and employers of the contractors.

CHAPTER II—MAJOR OBSERVATIONS AND CONCLUSIONS

The dynamics of a petroleum reservoir are a function of (1) the physical and chemical characteristics of the fluids contained within it, (2) the geological configuration of the reservoir and its lithology, (3) the pressures and temperatures to which the fluids and rocks are subjected, and (4) the rates and total volumes of fluids that are withdrawn from it and injected into it.

Accurate prediction of reservoir behavior turns upon knowing as much as possible about the first three factors and being able to describe them numerically. Then the values ascribed to the parameters which describe the reservoir and its fluids are inserted into mathematical equations which represent the physical laws controlling fluid flow. The particular mode of operating the reservoir, fluid production and injection as a function of time through wells deployed at specific locations in the reservoir, is then stipulated and the production behavior of the reservoir results from the simultaneous solution of the mathematical equations.

The physical laws, which are represented mathematically in carrying out such a reservoir prediction, are inviolate. However, to facilitate solution of the many simultaneous equations that represent the laws governing flow of fluids from point to point in the reservoir, mathematical approximations are frequently employed even when using high speed digital computers. The accuracy of the predictions become primarily a function of how reliably the reservoir analyst knows the correct values of the parameters of the subsurface fluids, of the relationships between reservoir fluids and the reservoir rock, and how well the reservoir has been described mathematically. The reliability of such predictions increases as observations are made of reservoir performance and the values of the reservoir and fluid parameters are adjusted to account for observed behavior. The reservoir is only completely understood the day that it is shut down, and then only with respect to its response to the particular operating plan that was used.

Nevertheless, early predictions are important and necessary. It is only by predicting the behavior of various modes of operation that the operator can choose that scheme which promises to be the most rewarding—an optimum combination of produced volumes and economic return. The prudent operator usually allows for sufficient flexibility in implementation of his chosen mode of operation should performance of the reservoir indicate that the values of the dominant parameters as gleaned from reservoir performance are different than those chosen at first based on diagnostic tests, laboratory analysis and analogy with his experience.

Crude oil reservoirs tend to be unique entities, and analogy has proven not to be too reliable except in broad generalizations. The American Petroleum Institute has studied the possibility of correlating reservoir performance of fields in the United States, Bulletin D–14, 1967. The correlations that were achieved are inadequate to predict the performance of any one reservoir with an acceptable degree of reliability although they can predict the average performance of a group of reservoirs.

The Sadlerochit reservoir in the Prudhoe Bay Field is the largest reservoir that has ever been discovered in the Western Hemisphere. The physical laws governing fluid in this reservoir are the same as those governing fluid flow in any other reservoir. The task of modelling the reservoir and the description of the reservoir is simply a bigger task. Because of the tremendous financial investment that will be made to produce this reservoir, the operators have made a great investment in time and expense to model the reservoir and predict its performance. The Department of Natural Resources, Division of Oil and Gas, has also modeled the reservoir and carried out reservoir predictions. This work was contracted to H. K. van Poolen and Associates, consultants to the Division of Oil and Gas. Still other predictions of reservoir performance were executed for other private and public purposes by other consultants.

This study was conducted, not to make additional predictions, but to audit the content and conclusions of these reservoir predictions which had already been published. The major conclusions of this study follow. Additional conclusions will be found in Chapter VII.

MAJOR CONCLUSIONS OF THIS STUDY

I. With respect to the State's responsibility to its citizens to analyze the operating plans for the Prudhoe Bay field.

The State of Alaska's Division of Oil and Gas has not adequately represented the State in ascertaining the reliability, sensitivity and economic impact of the operating plans for the Prudhoe Bay Field proposed by the operators of the field, nor has the Division adequately compared the work presented by the operators to the work carried out on their behalf by their consultant.

The inadequacy of the Division's review of the work of the operators and of their consultant is primarily due to the fact that the Division of Oil and Gas is not adequately staffed to oversee the State's interests in the largest crude oil reservoir discovered in the United States. The Division has not been assigned the responsibility for assessing the economic impact of the operating plans of the State, but neither has any other agency of the State. This is a vital function in the exploitation and management of the state's resources. It is therefore mandatory for the State to increase the competence and scope of the Division of Oil and Gas at the earliest possible date in order for the State to be assured of deriving maximum benefits from its resources for the citizens of the State of Alaska.

Immediately, the staff of the Division of Oil and Gas should be strengthened to guarantee that adequate surveillance of reservoir performance, and data collection and recording does occur for the necessary task of reviewing and analyzing reservoir performance to protect and strengthen the state's interests. The plans for such surveillance and data collection should be comprehensive but well planned so as not to interfere with or be an undue burden on the operators in their pursuit of efficient management of producing operations.

2. With respect to the approval of plans for future operation of the Prudhoe Bay field.

No operating plan should be approved or committed to by the State at this time which does more than assure the minimum orderly development of the field to attain crude oil production at the rate required for successful operation of the Aleyska Pipeline.

This conclusion is based on the belief that it is necessary to confirm from field performance supplemented by special tests and testing procedures and continuing analysis that the most likely values of the parameters of the reservoir and reservoir fluids have been chosen as input for the mathematical predictions of reservoir performance. Further, that the mathematical description of the reservoir is adequate to account for observations made of field performance.

It follows that net withdrawals (sales) of gas should not be committed to at this time. A period of no less than two and possibly as much as five years will be required to make the necessary observations and tests to validate the values of the various reservoir parameters that affect reservoir per-

formance. Only by the accumulation of such data can performance predictions be made which will confirm to the state the desirability and/or necessity of selling the gas from the Sadlerochit reservoir. During this period the State should embark on studies which will reveal the desirability and advantages to the state of other modes of utilization of the gas (other than pipe-line sales some five years hence as proposed by the operators) should it be concluded that it is not necessary for economic production of the crude oil for such early sales to occur.

The State need not have any fears of relinquishing any economic benefits from the early sales of gas, all other factors being unaffected or rendered more favorable by such a delay.

3. With respect to potential recovery of additional quantities of crude oil over and above that which the operators believe is recoverable by conventional technology.

Twelve billion or more barrels of crude oil will be left behind in the Sadlerochit reservoir at the conclusion of conventional operations sometime after the turn of the century. This is not due to the inadequacy of any of the specifically proposed operating plans, but due to the limitations of conventional technology in exploiting crude oil reservoirs. Because of the magnitude of this volume of unrecovered oil, and because of the unique nature of reservoirs, the State should not rely solely on the spin-off of technology being pursued for other reservoirs for the development of a tertiary recovery process that may be applicable to Prudhoe Bay.

The state should, on its own if necessary, but preferably in conjunction with the operators and the federal government embark on an intensive research and development program to ascertain the feasibility and applicability of a tertiary recovery process for the Sadlerochit reservoir. Since the primary recovery process being used may affect the applicability of a tertiary process, the implementation of such a research and development program should be expedited immediately.

Chapter III

POROSITY, OIL SATURATION AND THE OIL IN PLACE

An oil reservoir is not a uniform accumulation of sand grains. The interstitial voidage, the porosity, varies throughout the reservoir. In order to estimate the pore space that is filled with oil, gas and water, cores are taken from a number of wells in the field and analyzed in the laboratory. Since it is impossible to sample every inch of every well, electric logs are used to make such estimations on a routine basis.

In a sandstone such as that of the Prudhoe Bay reservoir, it would be expected that the density log would give the most reliable result for estimation of porosity. Unfortunately, at the top of the formation there is a significant concentration of iron sulphide (pyrite), a very dense material which prevents a reliable calibration being made between the log response and the true porosity. Iron sulphide occurs to a lesser, but erratic degree throughout much of the rest of the formation. The density log (a type of radioactive log employing the Compton scattering of gamma rays by electrons) does not give reliable porosity values in such a situation.

In lieu of the density log, the acoustic log was used as the standard tool for measuring porosity. The log was calibrated in the laboratory against cores whose porosity was subsequently determined. This cross checking of the acoustic log response against actual cores was done to obviate the problems that are usually encountered in using standard relationships between porosity and acoustic velocity. There are three factors that tend to make the standard response relationships result in estimates of porosity that are too high: 1) presence of interbeded shale; 2) lack of complete consolidation and compaction of sandstone matrix; and 3) presence of residual oil saturation in the flushed zone measured by the sonic log.

The laboratory calibration should tend to reduce these errors. However, the core porosities determined in the laboratory are themselves probably higher than the true values in the formation. The principal reason for this is the change in effective stress between the in-situ conditions and those on the surface. In a well consolidated sandstone such as that of the Sadlerochit, the difference in porosity may be small, but not trivial, when estimating the amount of oil originally in place in a reservoir.

A censored report made available to us by the Division of Oil and Gas indicated that the analysis of the cores from one well showed a one porosity percent reduction when the cores were stressed to reservoir conditions. However, the validity of this correction and its applicability to all measurements could not be verified by us since the actual data had been removed from the report. From our discussions with the operators we would conclude that they did not make such corrections in their resource studies although some of those working on the mathematical reservoir simulation studies suggested that such corrections had been made. We were not able to verify just what had been done but the greatest evidence suggestd no attempt had been made to take into account porosity changes as a function of confining pressure.

The important conclusion is that since both the acoustic log porosity and the core porosity both tend to be too high, a cross plot between these two quantities does not demonstrate that the calculated porosity is the correct in-situ value. It is possible of course that neither of these measurements deviated significantly from the correct, in-situ values but no evidence to support such a contention has been provided.

Obviously, if the porosity measurements result in porosity values that are too high, the estimate of void space and of oil in place will be too high. Actually, the error in the estimate of oil in place will be somewhat larger (on a percentage basis) than the percentage error in the porosity. This is so because porosity itself enters into the calculation of the oil saturation.

Use of porosity values that are too high in the Archie equation to evaluate water saturation from resistivity logs will result in water saturations which are too low; the oil saturations will be correspondingly too high. The net effect is to further increase the upside error in the estimate of oil in place.

It is our belief that the estimate of the oil in places as a result of neglect of the effect of pressure on porosity could be too high by a factor of 5% to 10%.

The consultant to the Division of Oil and Gas has presented an estimate of original oil in place which is some 10% less than that calculated by the operators. Although this difference can be traced to his use of a porosity value consistently lower than that used by the operators, it is not certain whether the deviation in porosities resulted from differences in interpretative technique or from the fact that a much smaller data base was available to the consultant. The consultant did not correct for the effect of pressure on porosity as far as we could determine. It must not be assumed that the two estimates of oil in place represent the probable range within which the true estimate of original oil in place falls. There may be a consistent difference in interpretation or in the data base which only a detailed study could reveal.

Although the estimates of the oil in place do not affect the relative estimates of recovery efficiency nor of the conclusions concerning the preferred operating scheme, there is some concern about the difference between the two estimates. It is somewhat surprising that this significant point was not raised for discussion at the hearing in Anchorage this past May. A 10% difference in original oil in place is some two billion barrels. Such a difference between the estimates of two reservoir engineering groups is worthy of serious attention.

Chapter IV

RESERVOIR PERMEABILITY, CONFIGURATION, AND RECOVERY MECHANISMS

The permeability of the formation, just as the porosity, varies throughout the reservoir. Actually, in a single sedimentary unit it might be expected that the variation in permeability can be studied statistically and an average permeability assigned to the unit. This is basically true, but it does not take into account local extremes which may occur randomly within the unit and cause marked differences in behavior. For example, shale deposition within a sandstone member may have occurred because of a marked reduction in fluid velocity in the stream from which deposition took place, or a very coarse, heterogeneous deposition (conglomeratic section may have occurred in a high velocity stream. The occurrence of such variations in rock structure across the producing section may cause a marked change in the flow of fluids in the reservoir. Perturbations in the rock composition and structure can greatly vary the advance of one fluid into another thereby exacerbating or ameliorating phenomena such as viscous fingering, channeling, and coning. These effects become most pronounced of course, when the production mechanism relies on the encroachment of water or gas into the oil column.

A reservoir can be sampled only by drilling a hole through it. The nature of the reservoir between the holes can only be conjectured. The Sadlerochit reservoir, unfortunately, is not, as noted several times earlier, a uniform reservoir. The Sadlerochit comprises several sedimentary units, varying from high energy, conglomeratic sands to low energy shaly sands. In the former the permeability is likely to be high throughout whereas in the latter the possibility is great that marked changes in permeability will occur over relatively short distances. As a result of such changes the ability of fluid to flow within or through shaly sands is greatly reduced. As will be discussed below, this uncertain variability in rock characteristics makes constructing a realistic model of the Sadlerochit a difficult job.

A further complication is that the reservoir is intersected by several faults across which fluids may or may not flow. Not until significant volumes of fluids have been produced from the reservoir and the associated pressure changes carefully analyzed will it be possible to reduce the uncertainty in the reservoir configuration and in the effect which non-homogeneities in the reservior configuration will have on future reservoir behavior.

It is, nevertheless, necessary to construct a model in advance in order to make an initial choice from the possible production schemes that could be used to produce the reservoir. To construct a model, at each point in the reservoir a permeability value must be assigned for each of the several fluids contained within the pore space. Unfortunately, permeability cannot be measured in-situ. Production tests provide transient pressure data which can be interpreted to determine "kH" values, the product of the permeability and the thickness of the productive formation. The value of kH thus ob-

tained is an average value representation of the rock in the immediate neighborhood of the well when filled with the particular fluid saturations which exist around the well bore at the time the test was made. It was noted in Chapter III that the permeability of the rock to oil and water and gas varies as the saturation of these fluids vary. Since the saturations will change during production, to predict reservoir behavior it is necessary to have more than one value of permeability at one particular saturation.

Cores brought into the laboratory can be mounted in an appropriate apparatus, and the relative permeability to oil and water, or to oil and gas, can be measured over a fairly wide range of saturation. The data is obtained by simultaneously flowing the two fluids through the core until an equilibrium condition is reached. However, the values of relative permeability obtained are not unique functions of saturation; different values will be obtained depending upon the direction in which the saturation of oil (or water) is changing. The drainage relative permeability values are those which control fluid flow when oil saturation is increasing, and the imbibition values are those which are obtained when the water saturation is increasing.

Even though there are standardized laboratory methods for measuring relative permeability, there is some question concerning the significance of laboratory derived relative permeability data. The operators did use preserved cores and reservoir fluids to determine the relative permeability functions recognizing the fact that cleaning of cores and the use of laboratory fluids frequently give different results. Relative permeability data obtained on cleaned cores usually result in significantly higher relative permeabilities to both oil and water. On the other hand, the reliability of data obtained on composite cores (a series of small cores butted against each other), which were used by the operators to develop the oil-water relative permeability data, has not been established in the technical literature. The multiple end effects encountered at each joint may have an effect on the derived values for the relative permeability.

The most serious problem in regard to relative permeability arises in estimating the end point values of relative permeability, viz., the saturations at which the permeability to either fluid (most importantly, of course, to oil) becomes zero (if it does so at all when saturation is greater than zero). As noted in Chapter III, for oil the end point saturation and the shape of the relative permeability determine in great measure the actual efficiency with which the oil is displaced by water or gas. A very low end point (residual) saturation to oil is of little consequence if an excessively larger number of pore volumes of water must be forced through the rock to reduce the oil saturation to that value. The problems arising in the definition of the relative permeability curve at low oil saturations are highlighted by the differences in the conclusions of the operators and of the consultant to the Division of Oil and Gas, H. K. Van Poolen and Associates.

The averaged relative permeability curves of the operators do not appear to differ greatly from those used in the study prepared by H. K. Van Poolen for the Division of Oil and Gas.

The Division of Oil and Gas would not permit us to view the original data they had on hand; the only curves available to us were those published in the Van Poolen report and those presented by the operators at the Anchorage hearings in May. We are therefore unable to rate the quality with which the curves actually fit the experimental data nor the quality of the experimental data points themselves.

Van Poolen's curves give somewhat higher values for the relative permeability to oil for both the oil/water and oil/gas systems, and a significantly lower relative permeability to gas in the oil/gas system. The most significant difference between Van Poolen and the operators results from the interpretation of the basic data from which the curves were derived.

Van Poolen interprets the relative permeability data to indicate that sizeable end point saturations exist. Average irreducible oil saturations of 0.42 ± 0.10 and of 0.23 ± 0.10 were reported by Van Poolen for the oil/gas and oil/water systems, respectively. (However, in the simulation studies, Van Poolen used an irreducible oil saturation of 32% to gas). The operators do not believe that irreducible oil saturation to gas is this large. They have attempted to verify their belief by measuring residual saturations resulting from subjecting the fluids to a large centrifugal force developed by placing the cores in a rotating device. By plotting and extrapolating their results on semi-logarithmic graph paper (relative permeability on a logarithmic scale vs. saturation on a linear scale) they obtain a continuous curve which can be extrapolated down to very, very low oil saturations. The corresponding relative permeability values are several orders of magnitude below a value of 0.01 (an approximate lower limit to laboratory measured values of relative permeability).

We are not certain of the validity of the centrifugal results, particularly in regard to the scaling of possible time-dependent effects. Over geological time periods we can expect the non-wetting oil phase to have been practically completely drained from a gas cap. We have no evidence that such drainage is approached under dynamic operating conditions and a producing life of twenty-five years.

Although much careful laboratory work and theoretical analysis was probably carried out to justify the use of the low residual saturations secured in the laboratory centrifuge, ultimate validation can only be secured from observations in the actual reservoir. When the operators' curves were used in the simulation studies, the residual oil to gas invasion in the areas where gravity stabilizes the displacement falls to values well below 20%, and average significantly less than the end point residual saturation reported by Van Poolen.

This result from the operators' simulation studies is the most crucial one in their representation of the preferred operating plan, since it provides the basis upon which expansion of the gas cap is chosen as the preferred operating scheme for the Prudhoe Bay Field. It is again surprising that the Division of Oil and Gas did not raise this matter at the Anchorage hearings in May. The contention of the operators that such low residual saturations to gas invasion would be achieved was in opposition to the interpretations that were reported in the studies which they sponsored.

To find support for the operators' contention that such low residuals of oil will be attained by gravity drainage at the rates called for in the planned operation of Prudhoe Bay, we searched the literature for supporting case histories. Unfortunately, there is not much published data on this score. Certainly, the results reported by Exxon for the Hawkins Woodbine Reservoir in 1975 tends to support the concept that residual oil saturation can be driven down to extraordinarily low values by gas cap expansion-gravity drainage. The Hawkins Woodbine producing formation contains a much more viscous crude than does the Sadlerochit, and on this basis it would be expected that the efficiency with which oil is displaced by either water or gas would be low because of viscous fingering. On the other hand, the permeability of the reservoir sands is very high, 1194 mds. for the Lewisvillive member and 3396 mds. for the Dexter (six to seventeen times greater than that of the Sadlerochit). The residual saturations to both gas and water invasion are quite low in the cores taken from the reservoir, 3% and 15%, respectively. These residual saturations are extremely low for such a crude and raises the possibility that these cores were flushed during the coring operation itself as suggested by the operator. It should be added that the higher saturation of gas in the gas invaded zones could have promoted flushing and given rise to the apparent low residual saturation. Woodbine reservoir sands are known to be driven to very low residual oil saturations by water encroachment, viz., in the East Texas field cores have been revealed to have saturations less than 10%.

However, the volumetric results are impressively different. A low rate of production may have contributed significantly to these results; for many, many years withdrawal rate from the reservoir was limited by the Texas Railroad Commission's imposition of allowable production rates. For results from the operation of the Hawkins Woodbine reservoir to be extrapolated to Prudhoe Bay or any other reservoir, consideration must be given to rates of withdrawal; and in particular the rate at which the gas cap did in fact move southward in the Hawkins reservoir. It is worth noting that the operator of the Hawkins Field in opting for enhancing recovery from the field by gas injection into the gas cap will repressure the gas cap and maintain the pressure during the subsequent production life rather than depend exclusively on gas expansion to lower pressures.

In a Venezuelan reservoir familiar to us efficient gravity drainage is being achieved by complete reinjection of produced gas and maintenance of reservoir pressure.

The writers have had the opportunity to review the performance of a relatively small group of some twenty reservoirs in Texas which have been subject to recovery by gas reinjection into the gas cap. The reported average recovery efficiency from such reservoirs is of the order of 44 percent. This efficiency is somewhat greater than that from a much larger sample of sandstone reservoirs subjected to an induced water flood, viz., 38 percent. An analysis of reservoir properties of the two groups indicates that the former (gas cap reinjection) have significantly better parameters (particularly, permeability) than those in the latter group. When the performance of the reservoirs being produced by gas reinjection is compared to that of a group of reservoirs having approximately the same parameters, but subject to a natural water drive, they do poorly in comparison, 44 percent vs. 54 percent recovery. Unfortunately, a substantive comparison of performance, given equivalent reservoir parameters and drive mechanism could not be found. In summary, we could not find an unequivocal verification for the supposition that in the Sadlerochit the residual oil saturated to gas expansion will be significantly less than that to water invasion, viz., that less oil will be left behind by gravity drainage than by water encroachment.

The occurrence of a strong natural water drive in the Sadlerochit has been virtually ruled out because of the deterioration of reservoir properties in the water column downdip from the oil accumulation. Encroachment of water may be further limited by the existence of an altered, more viscous crude at the oil water contact. It is not certain whether the tar mat per se would be a significant barrier to fluid flow.

Had there been a strong water drive in the Sadlerochit, then the chances would have been great that the operators would have chosen to produce the reservoir by taking

advantage of the water drive. The oil water contact would have been allowed to rise and produced solution gas would have been reinjected into the cap to maintain its pressure.

One is then led to inquire why, in the absence of a natural water drive, a water flood is not initiated to execute the same function that a natural water drive would have played. The primary reason for not choosing to do so is the contention of the operators that allowing the gas cap to expand to lower pressures will result in the high displacement efficiency (low residual oil saturation) already alluded to. Additionally, there are questions concerning the continuity of the shales in the lower sedimentary units and the tar mat over various areas at the oil water contact. These latter problems could probably be overcome by the judicious choice of injection locations. Then, too, there is the cost of implementing a large scale water flood at this time. With such heavy investments already made over a significant period of time without the production of revenues, and in the perceived absence of clear cut advantages, a choice would be made by any prudent operator to chose an operating plan that did not require additional investments.

Gas expansion-gravity drainage, the preferred production method of the operators, leads to a reduction in reservoir pressure. A significant lowering of the reservoir pressure before final blow down acts to reduce oil recovery, in the absence of compensating factors, in a dual manner. First, the loss of pressure reduces the rate of influx of crude into the producing wells thereby accelerating the time at which production falls below the minimum economic limit. Secondly, the pressure loss allows dissolved gas to come out of solution in the crude oil thereby increasing the oil content of the oil phase (a solution of gas in oil) that is left behind the displacement front. The total amount of unrecovered oil is increased. In addition, the loss of solution gas results in an increase in crude oil viscosity which again reduces the influx of oil into producing wells.

The operators eventually intend to offset some of the effect of that component of the pressure reduction due to gas withdrawal from the cap by injecting water into the gas cap. This is preferred by them to a greater degree of reinjection of the produced gas because of the presumed saleability of the gas and because of the energy consumed in gas injection. However, no data has been presented by the operators to compare the cost of eventual water injection with the cost of reinjection of gas.

The operators have presented results of their studies which indicate that the recovery efficiency of the preferred operating plan could be increased from approximately 36% to approximately 40% by the initiation of source water flooding five to ten years after production starts from the Prudhoe Bay Field. It appears from the limited information made available to us that a major fraction of the water to be injected would be injected into the gas cap where it would serve primarily to retard the rate of pressure reduction. Some water would be injected into the oil column to increase the sweep of displacing fluid in the reservoir. However, we would estimate that the reservoir would be far from having been completely swept by water and expanding gas at the time of abandonment.

Prudent analysis of alternative producing schemes would in our experience have required a thorough technical and economic comparison of early implementation of a water flood to an extent sufficient to approach complete pressure maintenance and of total reinjection of produced gas without any injection of water other than that produced from the reservoir. These would have served as references for the evaluation of all other plans. Although these may have been studied by the operators for their own use the results of such analyses were not presented to the State. The Division of Oil and Gas did not request such studies from its consultant.

The operators are planning to conduct a small scale water injection operation sometime in the next two or three years to get information on the actual residual oil saturation to water encroachment. This, together with observations on the residual oil saturation behind the advancing gas contact, will serve to erase any doubts on the comparative efficiency of the two displacement mechanisms. Should the results of such observations lead to conclusions concerning the values of important parameters that are different from those used in the current simulations then consideration can be given to a revision in operating plans. Should the reservoir performance be considerably different from that which is anticipated, then the opportunity for revision will exist only if the necessary options are still available. Thus, it does not appear prudent at this time to commit to the withdrawal of gas from the reservoir for pipeline sales until it is certain that such sales will not interfere with the adoption of possibly superior production schemes. It would also appear to be more than prudent for the operators to accelerate their field verification of the residual oil saturation to water flooding.

A major contributing parameter to the choice of the gas expansion-gravity drainage process as the preferred process is the conclusion that the vertical permeability in much of the Sadlerochit reservoir is a high fraction of the horizontal permeabilitiy. Because of the nature of the deposition process, it is a general observation that vertical permeability is less than horizontal permeability. The sand grains tend to align themselves parallel to the direction of flow of the water from which they were deposited. Thus, the more elongated the sand grains, the lower will be the ratio of vertical to the horizontal permeability. Measurements on individual, small cores indicate that the vertical to horizontal permeability ratio is not significantly less than 0.5. However, the existence of interbedded shale streams and shale beds can seriously reduce this ratio over greater thicknesses. Obviously, an impermeable layer of shale will reduce the vertical permeability to zero across any vertical macrosection of reservoir that contains such an impermeable layer.

Although shales have been observed in cores and on log traces throughout the Sadlerochit, correlation of the shales from one well to another is common only in the lower sedimentary units which are shalier than the upper zones. The operators have made statistical analyses of the occurrence and areal extent of shales based on the observations in the wells, and have used these observations to introduce shales into their reservoir model. Based on these analyses the operators divided the reservoir into two sections, a shaly one and a non-shaly one; and conducted simulation studies on each to estimate the difference in behavior that may be anticipated.

Again, this is very critical input into the mathematical model since if the frequency and impermeability of the shales have been underestimated, then the areal sweep of the oil column by the expanding gas cap will be less than now anticipated by the operators.

A high ratio of vertical to horizontal permeability has been indicated to promote efficient oil recovery by gravity drainage. It also promotes gas coning which works against efficient recovery of the reservoir crude oil.

Gas coning is a very complex phenomenon which involves excessive production of gas from the gas cap along with the crude oil. Significant reservoir energy is thereby lost as the gas is produced. Gas coning occurs because of the differences in density and viscosity between the overlying gas and the oil. Under the influence of the pressure drawdown required to cause the influx of fluids into a well bore, the gas oil interface will tilt downwards around the well and may reach the level of the perforations. This phenomenon is highly rate sensitive. As the velocity of the fluids converging on the well bore increases, the pressure drawdown around the well bore also increases. Since the tilting of the gas oil contact increases as a function of the pressure drawdown, the tendency to suck the gas cone into the perforations increases with production rate into any single well.

The operators are completely aware of the potential damaging effects of gas coning on production performance and have already requested permission to reduce the spacing in the field to 160 acres in order to minimize such coning. An increase in the number of wells, while keeping the total production rate constant, will, of course, lower the production rate per well. The lower production rates, in turn, lower the pressure drawdown around each well and therefore reduce the extent of gas coning.

Water coning, the upwards tilting of the oil water interface and excessive water production accompanying oil production, will not be as severe as gas coning. However, the operators will choose the intervals to be perforated in the producing wells so as to minimize both gas and water coning.

Because of the importance of the vertical permeability within the reservoir, it is somewhat surprising that neither the state nor the operators sought to use a published technique which has the potential for measuring the in-situ vertical permeability, at least within the vicinity of a well bore.

It is certain that if the Sadlerochit reservoir is produced according to the plans set forth by the operators (or by any other conventional technology) the oil left behind in the reservoir when it is abandoned will exceed twelve billion barrels.

Neither the operators nor the state have as yet pursued any detailed studies, to our knowledge, of the potential of tertiary or enhanced recovery techniques in recovering some of this residual crude oil. We do not wish to imply in any way that such techniques are currently available, although many have been proposed and are under study for reservoirs in the lower 48. Because of the enormity of the residual and the critical supply situation for crude oil in the United States, which will only worsen in future years, it is of utmost urgency to consider as soon as possible the development and applicability of enhanced recovery techniques for the Prudhoe Bay Field. It is none too early to do so because the operating scheme to be used during primary operations may have a significant effect on the successful implementation of tertiary recovery processes. A successful tertiary recovery process might well recover an additional four billion barrels of crude oil. This will be again discussed in Chapter V.

Chapter V

PERCENT RECOVERY ESTIMATES AND COMPUTER SIMULATION MODELS

In the absence of any data to indicate trends in Prudhoe Bay's production performance, theoretical reservoir prediction methods provide the only means of making recovery estimates. To apply these prediction methods to Prudhoe Bay computer models of the reservoir were constructed. These models use well established equations to predict over time (a) the simultaneous flow of oil, gas and water throughout the reservoir system and (b) the fluid pressure at each point in the reservoir resulting from different rates of production from and fluid injection into the reservoir. The computer programs used to

obtain these predictions have been used many times in other equally complex reservoirs. Because of the relatively recent (a little more than a decade ago) development of these sophisticated computer based schemes for reservoir prediction, it is not possible to find a large number of reservoirs whose history was predicted from scratch, and which have been operated long enough to evaluate the match of prediction with performance. On the other hand, there is a significantly larger body of documented successful predictions of reservoir performance that were made for reservoirs for which some historical production performance was already available. In these cases the model could be fixed by history matching procedures.

There is an old adage in the computer game, viz., garbage in equals garbage out. Interpreted here this means that if the models constructed do not reasonably approximate the configuration of the reservoir and the distribution of fluids within it, the results will be worse than meaningless; they will be misleading. Likewise, if the values of the parameters which are used in the model to represent fluid flow through the porous media under the continuing changes in pressure and saturation resulting from production are not a compatible blend of the important physical-chemical properties of the fluids and the rock with the model's aggregated representation of the reservoir, the results will be meaningless.

Accomplishing the first requirement necessitates a careful analysis of the structure and composition of the producing formation, and of the distribution of fluids within the pore space. Both the consultant to the Division of Oil and Gas and the operators carefully interpreted data from well logs and cores to define the structure of the producing formation. The operators gave much more consideration to the composition of the formation, however, than did the consultant. The important composition parameter is the amount of shale interbedded within the sandstone producing member. The major impact which this constituent has on fluid flow was discussed earlier.

The operators concluded that several correlatable interbedded shale layers act as total barriers to vertical flow over considerable portions of the Sadlerochit. They also conducted extensive statistical and computer modeling studies of vertical cross sections of the Sadlerochit to estimate the reduction in vertical permeability caused by shale stringers visible in individual wells but not readily correlatable between wells. The reduced values of vertical permeability were then fed into the large computer models used to predict reservoir performance and percent recovery. In its prediction model the consultant simply fixed vertical permeability equal to 0.1 times horizontal permeability; in the layers of the model representing cleaner sand sections this factor was increased to 0.3 or 0.5.

As a result of these differences in accounting for the effects of interbedded shales, the flow patterns in the consultant's model must have been drastically different from those in the operators' models. It is surprising that the significance of this difference was not examined during the Anchorage hearings.

To determine the fluid distribution within the formation both the operators and the consultant appear to have thoroughly analyzed all available basic data. These include well logs, flow tests and fluid samples. With the exception of the anomalous behavior observed in the Eileen area where clean oil is produced from a section of the Sadlerochit for which the calculated water saturation is surprisingly high, the fluid distribution obtained seems eminently correct. Of course, the extent to which the several faults in the Sadlerochit will affect flow will not be known with certainty until sufficient production data are available. In the present studies the effect of faults has been assumed minimal, a reasonable assumption based upon the fact that the elevations of gas/oil and water/oil contacts are fairly uniform throughout.

Accomplishing the second requirement that the values of the parameters used in the modeling studies comprise a satisfactory translation of the basic reservoir data into numbers within the model which will cause it to make realistic predictions is a subtle art. The efforts discussed above to determine the most likely value to assign to vertical permeability throughout the recovery prediction model illustrate both the advantage of having considerable practical reservoir modeling experience to decide the proper way to proceed and the painstaking work required to obtain a suitable translation.

Other important situations which had to be dealt with were the assignment of values to the parameters, of the aquifer, which determine the amount of water influx and pressure support to be derived from the aquifer; and the way in which to model the effect upon water influx of the heavy oil zone of variable thickness which lies just above much of the water/oil contact. The basic data for the first situation are the porosities and the permeabilities of cores taken from wells penetrating the Sadlerochit formation outside the limits of the oil-bearing region. Sufficient data points were available to establish with reasonable certainty that the reservoir properties deteriorate downdip; and the parameters introduced into the model reflect the poor qualities of the aquifer.

Deciding what to do in the model to reflect the heavy oil zone is a more subjective problem. Heavy oil or tar barriers have been observed at the water/oil contact in many reservoirs throughout the world. A tar barrier of varying flow resistance underlies the Hawkins Field mentioned earlier; similar tar barriers exist at the water/oil contact in both the Abqaiq and Ghawar Fields in Saudi Arabia. Interpretations of production data from these fields indicates that these tars act as an impediment to flow of water from the aquifer, but constitute complete flow seals only in limited areas, if at all. In Prudhoe Bay the generally held opinion seems to be that the heavy oil is more mobile than in these examples just cited so that the reduction in the model's permeability at the water/oil contact to reflect the flow barrier should be less. The correct value to assign is, however, uncertain and will remain so until sufficient production data are available to allow a quantitative analysis to be made. The effect of this uncertainty on reservoir predictions is reduced by the fact that the aquifer has such low transmissibility.

Two other important translation problems which had to be dealt with in constructing the recovery prediction models were how to represent the effects of water and gas coning and what relative permeability curves to use. As discussed previously the high pressure gradient around a producing well can suck a cone of gas down (or water up) into the perforations. In terms of reservoir dimensions the radius of the top of this cone is small, say 50 feet or so. In the reservoir prediction models the dimensions of the grid blocks used to represent the reservoir are much greater than the dimensions of such a cone. Typically, the grid blocks had a length of 1000–5000 ft. and a thickness of 40–100 ft. In the model the pressure and saturations calculated are volume averages over the grid block, and the composition of fluids flowing out of a grid corresponds to these volume average saturations.

In order to realistically incorporate the effects of coning into their prediction models the operators first constructed single well coning models. These are cylindrical with a single producing well at the center; the length of the cylinder spans the producing formation, and the maximum radial dimension is, say, 2–10 times the radius of the fully developed cone. The coning models are used to determine the amount of coning as a function of the distance from the fluid contact to the nearest perforations, pressure drawdown between the perforations and the surrounding average reservoir pressure, and ratio of horizontal to vertical permeability, including, of course, any local shale barriers. (Coning is also influenced by the densities and viscosities of the fluids, but these are fixed by pressure and temperature.) The production performance of the detailed well coning models was transformed into a set of curves which were then used in the reservoir prediction model to more accurately predict the producing ratio of each well in the recovery predictions.

H. K. Van Poolen in his study prepared for the Division of Oil and Gas did not use this rather painstaking approach to determine producing ratio. It would be expected, then, that his results should tend to be more optimistic than those of the operators, i.e., his gas oil ratios (GOR) and water oil ratios (WOR) should tend to be lower. The significance of these differences was not considered at the hearings in Anchorage.

Three important aspects of the relative permeability curves had to be considered in the prediction models; how to account for gravity segregation within a single grid block, whether to use the drainage or the imbibition curve, and what values of end point or residual saturations to use. The operators assumed that the fluids were segregated within each grid block containing a fluid/fluid contact. For example, in some instances if the gas/oil contact fell in a cell it was assumed that the portion above the contact the cell was filled with oil saturated with gas at the average pressure in the cell. The relative permeability curves used in the model were adjusted to reflect the fact that flow from this cell into its neighbor would consist of gas above the contact and oil below the contact.

The operators assumed that the drainage relative permeability curve applies on first opening the reservoir to production. This curve is assumed to continue to apply until water influx into a cell begins at which time a rapid transition is made to the imbibition relative permeability curve. No such assumption was made by Van Poolen.

As discussed previously the most critical considerations in the recovery models are the values to assign to the end point or residual saturations. Aside from the uncertainty discussed earlier about what values will be representative of behavior in a small sample of the reservoir rock, another uncertainty arises from the modeling process itself. The values measured in the laboratory are representative of conditions within a microscopic pore volume, which for purposes of discussion can be thought of as that contained within 1 to 2 to 3 cubic inches of rock, which has been thoroughly swept with gas or with water. In the prediction models the volumes of the grid blocks varied from about 1 million cubic inches to 50 trillion cubic inches. The models compute average oil saturation vs. time. Given the laboratory values, considering the discrepancy in volumes just cited, what values of residual oil should be used in the reservoir models to cause them to predict most accurately the percent recovery which will be observed in the reservoir. None of the reservoir blocks will be as thoroughly swept as was the microscopic pore volume in the laboratory, but the difference will not be uniform and is not predictable with certaintly. The operators assumption of intracell gravity segregation deals partially with this problem.

As the above discussion indicates there are many uncertainties surrounding the recovery predictions. These uncertainties can only be eliminated or reduced by collecting produc-

tion data and comparing observations to predictions. This process of modifying a model to improve the agreement between prediction and observation is standard procedure in the use of reservoir models; this process, alluded to earlier, is commonly called history matching. The operators indicate that they plan to continue working with their models and that as production data become available they will examine it looking for ways to improve the reliability of their models.

Likewise, the Division of Oil and Gas indicated that as soon as sufficient production data become available to warrant the action, they plan to request their consultant to update their model.

Whereas one can be sanguine about the thought that by observing performance the reservoir models can be increasingly fine-tuned, and thus made better able to predict subsequent performance; it is still necessary to choose what is believed to be the superior production process based on predictions which are made before any performance is available. In order for such a selection to be made, it is necessary to rate the comparative reliability of the input parameters that will control performance by different production methods and to rate the overall mathematical simulation procedure which is used.

With no doubt or reservations, we believe that the simulation scheme used by the operators is superior to those used by any others who have attempted to predict the performance of Prudhoe Bay. On the other hand, we do not believe the operators have in their public presentations reported on the effect on production performance of a sufficiently wide range of operating conditions. H. K. Van Poolen has studied the effect of a wider range of conditions, but still the variability was somewhat limited and somewhat arbitrary so that inter-comparisons between the results from changing conditions is not easily achieved.

The consensus conclusion of the operators as reported at the Anchorage hearings is that about 40 percent of the original oil in place may ultimately be recovered if their proposed operating plan is followed. This plan includes:

1. Oil production to be initiated at the rate of 1.5 MMB/D.
2. 160 acre spacing to be used (with some 80 acre spacing).
3. Low pressure gathering systems and artificial lift.
4. Injection of all produced water and apparently, at a later date, source water.

In our contacts with the operators, we found that one of the operators appeared to take the lead in discussions with us and the supply of information. Although the other operators indicated their results were somewhat different than those of the principal spokesman they agreed that the differences were minor. Therefore, in the subsequent discussion we will refer to the results presented by one of the operators as being representative of the group.

The spacing of 160 acres and less (rather than the 32 acres originally believed to be suitable for Prudhoe Bay) and the low pressure gathering system and artificial lift were demonstrated to be necessary to raise the crude oil recovery efficiency from the high twenties to 34 percent while committing to the sale of natural gas of 2 BCF/D starting five years after crude oil production was initiated. By injecting the water produced along with the crude oil, recovery is raised to 36 percent.

The operators did not present a base case to demonstrate what recovery efficiency might be expected in the absence of any gas sales. A case in which gas sales were delayed for fifteen years, by which time over 80 percent of the ultimate crude oil has already been recovered, with the ultimate amounting to 37.5 percent of the reservoir crude oil. The comparison is not sufficient since when considering the total economics and cost benefits of the project a run with no gas sales and higher spacings would be in order.

Van Poolen, on the other hand, shows a significant effect of gas sales on recovery efficiency when sales are increased from 2 to 3 and then 4 billion cubic feet a day. The recovery efficiency is gradually reduced from 41 percent to 32 percent (a loss 1.9 billion barrels). Again, Van Poolen does not give a case without gas sales that can be directly compared with the three runs just cited. Extrapolation of the results of these three cases to zero gas sales would suggest that the recovery efficiency would increase to 9.1 billion barrels, or 47.7 percent of the oil in place.[1] Such explicit extrapolation is not justified, but the implicit trend certainly is in the absence of any other information. We therefore believe the State Division of Oil and Gas should have delved into these matters at the Anchorage hearings in May 1977. Again, it must be emphasized that there are some significant differences in the simulation techniques used by Van Poolen and the operators, and there are significant differences in the input data (see below). However, we believe the trends established in any one modeling procedure are significant even though absolute values of predicted performance may be open to question.

It is worthy of note that H. J. Gruy and Associates also found a significant difference in recovery with and without gas sales, the effect of no gas sales being such as to raise the recovery efficiency from 29 percent to 39 percent even without waterflooding. Gruy and Associates used the basic input of the Van Poolen model, but a simulation scheme of their own.

The operators did not present the results of a full scale pressure maintenance program by water flooding without any associated gas sales. Van Poolen did in part, showing a recovery of 7.8 and 8.2 billion barrels, or 40.8 percent and 43.0 percent of the oil in place at maximum crude oil rates of 1.6 and 1.2 million barrels a day, respectively. These were the highest efficiencies reported by Van Poolen, and would have probably been higher if the reservoir pressure was eventually drawn down to that of the reference case with gas sales. Van Poolen implied in a subsequent report study that the production scheme used in reaching such high recovery efficiencies might have been unrealistic. We see no evidence for this although there has been no economic feasibility study made of the implied scheme of production.

Van Poolen does show that the effect of gas sales on reducing recovery can be compensated for by carrying out a water flood and changing the operational limits on gas oil ratios. Thus, the recovery is increased from 7.1 billion barrels (Run 8) to 7.9 billion barrels (Run 21). However, the latter result (gas sales, water injection and changed operational limits) is even slightly greater than the case for no gas sales and water injection, 7.8 billion barrels (Run 11). We believe that the result for no gas sales would be significantly higher if the run were continued, blowing down the reservoir to reach the same terminal pressure as in Run 21. It would seem to be in order for the Division of Oil and Gas to have sought to have performance predictions prepared for them that were compatible for direct comparison.

The operators did study the effect of limited water flooding, starting five to nine years after the initiation of production of crude oil (with gas sales starting five years after crude oil production) as already noted. Their studies indicate an increase in recovery can be achieved by such injection; a gradual increase from 36% to 40% as a function of the rate of water injection and its timing. A good amount of this increase appears to be due to the increase in the gas cap pressure, since a large fraction of the water is injected directly into the gas cap. The increase in recovery is not primarily due to a major sweep of the crude oil column by the injected water.

We believe that the operators have stressed gas expansion and gravity drainage as the principal modes of production because of their belief that the residual oil saturations to such a drive will be less than that to water. Gas sales are looked on with favor because of the reputed cost for continuing gas injection, and because of the relatively low present value of water flood recovered oil which doesn't speak well for additional capital investments during the early life of the operation.

We believe that the State must look on the matter of crude oil recovery from a somewhat different standpoint than that of the operators. The State, whether or not it is interested in reinvesting its earnings from the operation of Prudhoe Bay in other profitable ventures, does not have the same opportunities for doing so nor the same freedom to do so as a private enterprise. The state has responsibilities to its citizens and the citizens of the nation that the private enterprise does not.

First of all, there is the matter of the absolute value of the recovered oil itself. A difference in a percentage point in recovery can be sacrificed with impunity in ordinary reservoir operation in past times if a significantly higher profitability is achieved. A percentage point in the recovery of oil from Prudhoe Bay represents 200 million barrels, a major oil field in itself.

Secondly, just what is the trade off between the cost of gas reinjection and water injection even as proposed by the operators, and what are the corresponding recovery efficiencies for such base case operations?

Thirdly, are the interests of the State and the Nation better served by stretching out the period of utilizing the natural gas from Prudhoe Bay? In the possible absence of future discoveries, say from the Beaufort Sea, the present crude oil pipeline will not be highly utilized after fifteen years of operating Prudhoe Bay. Crude oil production begins to decline precipitously after some eight years of operation, and within fifteen years the production rate is down to less than 500,000 barrels a day. Should consideration be given to using the crude oil line for two phase flow of gas and oil at that time with gradual increases in the gas oil ratio of the throughput?

The gas arriving at some convenient destination within Alaska could be converted to liquid fuels and petrochemicals from which the State and the Nation will derive greater ultimate economic and social benefits than those to be gained by delivering the gas at this time at great cost to the lower 48 for mere burning!

These are vital matters to be examined by the state, and such examination is possible only by having available a more comprehensive series of reservoir performance predictions, economic studies, and gauges of practicality.

[1] Core Laboratories, Inc. in their report prepared for the Alcan Pipeline Company present results of mathematical simulations which show a monotic decrease in oil recovery from 8.36 billion barrels of crude oil to 6.23 billion barrels as the gas sales are increased from 0 to 4 billion cubic feet a day. At the time Core Laboratories conducted their studies it was believed that gross production had to be only 117 percent of gas sales. Subsequent information indicates that the gross will have to be closer to 135 percent of net. Thus, the effect of a given value of net gas withdrawals (sales) would have even been more pronounced in the Core Laboratories study.

In concluding this review of the analysis of the prediction of recovery efficiency, a comparison of some of the results of Van Poolen and the operators will bring into final focus some of the problems in appreciating the differences between the results of various mathematical simulations.

For the Van Poolen cases which are most closely comparable to the preferred plan of the operators (Runs 3A and 5A) an average recovery of 41% is predicted compared to 39% for the Exxon runs 6 and 7. (The 2% difference is of the order of 400 million barrels.) However, considering the differences in the two models it is surprising that the results are so close. The biggest difference between the two models, from our somewhat arm's length remoteness, is the assumed residual oil saturations to gas invasion. As stated earlier, the residual oil saturation in the operators' model can be driven to quite low values by the continuing invasion of gas whereas in the Van Poolen model there is an end point saturation of 32%. Since recovery is proportional to pore volume swept multiplied by the reduction in oil saturation, Van Poolen must predict a considerably higher sweep efficiency than do the operators. Van Poolen's higher sweep is consistent with the fact that they built less realism into their model than did the operators; the simplifications they made could well lead to apparent improved sweep efficiency in the model output. What is startling is that these two effects almost exactly offset one another, and that the Division of Oil and Gas did not bring this matter up for discussion at the Anchorage hearings.

The fact that two different schemes provide answers of such similar numerical value cannot be used to indicate that the common result is correct. Attention must be given to the nature of the input data, the nature of the reservoir model, the scheme for solving equations, and the exact nature of the operating conditions imposed on the model reservoir behavior. Again, we point to the necessity of production data for calibrating these models. When predictions are made before the accumulation of real reservoir performance data, it is necessary to leave options open for the operator to respond to the accumulation of real knowledge about reservoir performance.

Chapter VI

ACCUMULATION OF RESERVOIR DATA, PERFORMANCE OF RESERVOIR TESTS, AND SURVEILLANCE OF PRODUCING OPERATIONS

No mortal now knows exactly how the Prudhoe Bay Field will perform. This fact has been exemplified and stressed many times in the previous discussion. None of the parties involved would likely question the many uncertainties in reservoir performance which need to be dealt with. An extensive and thorough program of test and measurement and general surveillance of reservoir operations has been laid out to provide the necessary data to unravel these mysteries.

The planned program of data collection to which the operators have agreed is specified in Rules 1–15 in Conservation Order No. 145. These rules call for a continuing program of testing well performance and collecting a large body of data indicative of how the reservoir is performing. Pressure surveys, gas-oil ratio tests and productivity profiles (spinner surveys to indicate where produced fluids are entering the well bore) will provide a growing volume of data indicative of what is happening in individual wells. A thorough program of well logging is planned to track the movement of the gas/oil and the water/oil contacts throughout the field.

Interpretation of these latter two sets of data will indicate the degree of gas and water coning and the effect of permeability barriers. These data will be particularly valuable in selecting optimum perforation intervals in new wells and in planning workovers of existing wells. Reservoir material balance calculations, initially, and later reservoir simulation studies incorporating these data will begin to reveal the vitally important values of residual oil saturation and to throw light on the many other uncertainties built into the reservoir prediction models. All of this information should be of particular value in planning and implementing water injection.

These rules also provide for minimum well spacing of approximately 100 acres, prohibit gas flaring, limit pool offtake rates and specify safety practices to be followed in drilling and producing wells. The procedures to be followed in cementing and casing a well are also specified, and particular concern is given to avoiding serious problems with the permafrost.

Surprisingly omitted from these completion procedures was a provision to test the integrity of the cement seal through the productive formation. For the benefit of those uninitiated in oil well completion procedures, when a well is drilled a piece of pipe (called either a casing or a liner depending on whether it does or does not extend to the surface, respectively) is inserted through the hydrocarbon bearing strata and cemented in place. A sufficient volume of cement is forced into the annulus between the pipe and the rock face of the productive formation to fill the annulus to a level of at least 500 feet above the highest potential productive formation (Rule 3). The cement must overlap by at least 100 feet the next deepest casing string (obviously of larger diameter) (Rule 3). Perforations are simply holes blown through this deepest section of pipe by bullets or jets of metal fired at selected depths.

In order to have complete control of the producing well the cement must bond securely to both the outer wall of the pipe and the rock face. A cement bond log can be run in the well to determine if the seal is complete. If a faulty section is detected, a hole is cut in the pipe opposite and more cement is squeezed under high pressure into the angular region outside the pipe. The operators indicated that such logs are run and the drilling reports which are examined confirmed this. It is surprising, however, that running and carefully interpreting a cement bond log in all wells, both injection and production, is not incorporated in the completion rules. A faulty cement seal can greatly exacerbate gas coming since a leak between the casing and the production formation can provide a conduit with effectively infinite permeability from the gas cap into the perforations. (A noise log or a temperature log will frequently reveal such leakage behind the casing in a producing well.)

At the Anchorage hearings in May the operators testified to their plans to conduct all of the surveillance activities called for in Conservation Order No. 145. In our discussions with them they indicated that in their judgment they have assigned sufficient experienced engineers to adequately monitor performance and to interpret the data so that it can be put to use to improve the operation of the reservoir.

The Division of Oil and Gas was not, however, adequately staffed at the time of our discussion with them in July to handle its surveillance responsibilities. They were actively recruiting for an engineer with 5 to 10 years experience to be assigned full time to this watchdog activity. It seems a fair question to ask whether the Division will, after it recruits the one person for whom it is now looking, have sufficient capability to do its job properly. Attempting to answer this question requires careful consideration of what the Division's role should be. Certainly, it should not be envisioned that the Division should approach the level of staffing required to duplicate the reservoir engineering studies performed by the operators. The engineers carrying out these studies for the operators are experienced and are backed up by large staffs of specialists and research scientists providing a complete cross-section of talent and experience. On the other hand, very few would argue that Alaska's interests are being properly looked after if its watchdog group is so thinly spread and lacking in the required competence and skills that all it can effectively do is rubberstamp the operators proposals.

Even without even beginning to duplicate the operators' efforts, there remains a very large amount of work which the Division must do to properly oversee operation of the Prudhoe Bay Field. This work falls into three categories: on-site inspection and supervision; data acceptance, review, organization and storage; and independent interpretations and analyses. The first category is an essential part of knowing that things are being done properly and that accurate data are being collected; regular visits to the field are also necessary to keep an engineer tuned in to the significant problems being faced and how the data collected relate to these problems. The second category is to make certain that the data are reasonable and that the measurements seem to be made correctly. Because the volume of data to be delivered to the Division is large, procedures for storing it in a readily retrievable and useful form need to be devised. The last category feeds off of the first two; the Division will need to perform independent analyses to arrive at its own interpretations.

The charter of the Division does not call for it to consider economics in its analyses, but at some point such considerations must come into its deliberations because (a) the operators' proposals are necessarily developed against a back drop of economic factors, and (b) the people of Alaska are interested in achieving the maximum economic benefit from their interest in Prudhoe Bay.

In addition, the Division of Oil and Gas, the Legislative Affairs Agency, or some other agency or agent of the State must be, assigned the role of assessing the end use and utilization of the state's resources in Prudhoe Bay (and other oil and gas and mineral accumulations) that are not yet committed.

Finally, the Division of Oil and Gas, or an appropriate research board should pursue under their own auspices or jointly with lease holders and the Federal Government, research, and development programs that will increase the absolute recovery of wealth from the Prudhoe Bay field and the maximum conversion of the crude oil and gas into economic and social benefits for its citizens and those of the other forty-nine states.

Considering the enormous treasure in the Prudhoe Bay Field, and the magnitude and multiplicity of the tasks which must be performed to insure its maximum utilization, there is considerable doubt that the current staffing plans of the Division of Oil and Gas are adequate. Not only must the staff of the Division be increased, but its scope and responsibilities, must be greatly extended or supplemented by other agencies of the State of Alaska.

Chapter VII

CONCLUSIONS

1. Concerning the adequacy of the review of the operating plans submitted by the operators and the studies prepared on behalf of the Division of Oil and Gas of the State of Alaska.

It has been concluded on many counts that the results of the simulation studies presented to the State by the operators and others prepared for the Division of Oil and Gas have not been as adequately reviewed as required to protect the interests of the

state in their great resources in Prudhoe Bay.

In reaching this conclusion we do not impugn that the studies are manifestly incorrect or improperly conceived. We appreciate that they are built on an input which can be debated, operating conditions which can be varied, and a reservoir model that can only approximate the real Sadlerochit reservoir.

The studies prepared by the operators emphasized the plans which the operators had selected based, in part, on their interpretation of laboratory tests and their need to maximize their interests. Theirs is a proper course of action. The studies prepared on behalf of the Division of Oil and Gas of the State, although more comprehensive in the range of variables addressed, were not sufficiently internally consistent for positive trends in the variation of operating characteristics to be adequately revealed.

There are sufficient differences between the Van Poolen studies and those of the operators so that the Division of Oil and Gas should have addressed these differences, despite the differences in the sophisticated and apparent realism of the models. We call attention, specifically, to the differences in the estimates of the orginal oil in place in the reservoir, and the differences that are implied in the effect of gas sales on ultimate oil recovery even under water flooding conditions. Both the Van Poolen and Core Laboratories studies indicate a substantial effect of increased gas sales on decreasing oil recovery.

We have attempted to show throughout this report the basic limitations of reservoir performance predictions in the absence of actual reservoir performance. Because of these limitations, it is not possible to make sufficiently accurate performance predictions in the absence of some performance data to history match, or calibrate the model and the simulation scheme chosen. We are impressed, as should all Americans, with the enormity of the Prudhoe Bay reservoir and that at this time it contains some thirty percent of the reserves of liquid fuels of the nation. Whereas a difference of one percentage point in recovery efficiency for lesser reservoirs in past times could be sacrificed with impunity for greater convenience in operations, or greater profitability, a one percentage point difference in the recovery of crude oil from Prudhoe Bay is some 200,000,000 barrels. Only some sixty fields with larger ultimate recovery than this volume have ever been discovered in the United States, and only three (including Prudhoe Bay) since 1960.

We have therefore concluded that the State should make no commitment beyond that which is required for the orderly development of the field to permit attainment of crude oil production at the rate required for the economic operation of the crude oil pipeline.

The State should seek to have prepared an internally consistent set of reservoir performance predictions that explore the effect of individual variables, economic costs and a wide range of operating conditions. Such base case information is necessary for informal assessment of preferred operating plans.

2. With respect to staffing of the Division of Oil and Gas of the State of Alaska and other agencies of the state that will be required to maximize the wealth of Prudhoe Bay for the citizens of the State and the Nation.

The present and planned staffing of the Division of Oil and Gas is inadequate for the role the Division of Oil and Gas must play in order to provide the necessary surveillance, data collection, and independent analysis of the performance of Prudhoe Bay.

In addition to these conventional activities the State should add to the responsibilities of the Division, or assign to currently activated agencies or newly created ones, the tasks of economic assessment of various operating plans for the Prudhoe Bay Field, and of the economic and social benefits of the end use and utilization of the oil and gas that is not already committed; further, the state should sponsor and participate in research and development programs that hopefully will increase the recovery of crude oil from Prudhoe Bay beyond which can be recovered by conventional technology.

Whereas increased staffing on all counts is needed, the greatest urgency resides in developing a sufficiently competent staff to exercise proper surveillance and the informed collection of field performance data. Data can never be collected after the fact. At the same time, such surveillance and data collection activities must be undertaken without creating an unnecessary burden on the operators nor in interfering with the orderly development of the field.

3. With respect to the State's evaluation of ways and means for maximizing their interests in the wealth of Prudhoe Bay on behalf of their citizens.

The operators have presented the conclusions of their studies which show that the sales of gas and eventual implementation of water flooding will not interfere with realizing a high recovery of crude oil from the Sadlerochit reservoir. The State has not studied the possibility that there are other alternate and more beneficial uses of the gas for their account which will not interfere with the interests of the operators, and simultaneously maximize the total recovery of fuels, particularly liquid fuels for the nation.

There is serious doubt in our minds that the gas can be marketed profitably in a free market or that such sales of gas to the lower forty eight states is in the best overall interests of the State and the Nation.

Estimates of the cost of the proposed gas line abound. We are impressed by recent estimates which suggest that a cost of twenty five billion dollars or more would not be surprising. A gas rate limited to two billion cubic feet a day would require a transportation cost of $5 per thousand cubic feet in order to return an investment of twenty five billion dollars at a 15% discounted cash flow. This cost is in the absence of any operating costs, taxes, and purchase price of the gas at the well head. Gas, burdened with such a transportation cost would probably not be competitive. Other sources of gas could well become available at such costs. Further, the two billion cubic feet a day constitutes less than 5% of our nation's consumption at this time; a marginal source by itself.

It appears necessary therefore if the State is to wisely make use of its resources that it set about to ascertain the realistic, anticipated costs of pipeline construction and the possibility that such a transportation system for the gas would be built. There are alternate and possibly more beneficial uses for the gas.

In the absence of future discoveries of crude oil which can be transported by the present crude oil line from the North Slope to Valdez, throughput will begin to decrease precipitously within eight years and within fifteen will be less than 500,000 barrels a day. It may be possible at that time to use the crude oil line for two phase flow of oil and gas. Ultimately, some of the gas could be liquefied and transported to West Coast destinations by tankers.

In addition, the gas could be converted in part to liquid fuels (alcohol) capable of being transported through the crude oil line. In addition, the gas could be converted to petrochemicals. There is little question about the range of possibilities for using the valuable resource of gas in many ways, any one of which and all together would probably represent far greater utilization of the state's resources for the ultimate long range benefits to the citizens of the State and the Nation.

The state would be remiss in not embarking upon a full fledged study of the potential of alternate utilization of the gas in lieu of permitting it to be shipped at great cost to the lower forty-eight for mere burning at this time.

4. With respect to research and development programs to increase the recovery efficiency beyond that attainable by conventional technology.

Some twelve billion barrels of crude oil are likely to remain in the reservoir following the time when the field reaches its economic limit sometime after the turn of the century by the application of only conventional technology. It has not been sufficiently impressed on the citizens of the United States that Prudhoe Bay will have spent its maximum potential for producing crude oil within eight years, and thereafter begins a precipitous decline, reaching a value of less than 500,000 barrels a day within fifteen years. Further, that conventional technology will leave amount of crude oil then will be extracted. This oil will remain in the reservoir because of the nature of the fractional flow curve (see Appendix). An increasingly large and uneconomic quantity of water or gas would be required to recover this residual oil.

A great effort is underway in the United States, in part sponsored by the United States Energy Research and Development Administration (ERDA), seeking processes for recovering crude oil left behind by conventional technology. Success to date has been limited except in the use of steam injection techniques in California's heavy oil reservoirs.

Because of the reported high vertical permeability (the parameter that recommends gravity drainage as the production mode), there is an enhanced recovery process, carbon dioxide injection, that possibly may succeed in Prudhoe Bay. Carbon dioxide injection is being actively studied for the recovery of residual oil by many large oil producers, ERDA, and universities.

Carbon dioxide under high pressure is miscible with many crude oils. The density of this liquid, a function of pressure and temperature, is of the same order of magnitude as crude oils. If such miscibility of carbon dioxide with Prudhoe Bay crude can be demonstrated, then significant recovery of the residual oil from Prudhoe Bay field is conceivable. The thick sand interval and high permeability would recommend consideration of a gravity stabilized process in which the carbon dioxide is injected at the gas-oil contact to sweep the residual oil downwards. Mixing with the methane gas cap would be restricted because of the far greater density of carbon dioxide. Such a stabilized process is probably the most effective way for implementing the carbon dioxide recovery process.

We do not know of the existence of any large, naturally occurring quantities of carbon dioxide on the North Slope. The gas in Prudhoe Bay does contain some 12% of carbon dioxide which is not sufficient nor can it be made available in a sufficiently timely fashion to be used in such a recovery scheme. A search for naturally occurring carbon dioxide could well be undertaken.

Produced crude oil could be burned to produce carbon dioxide. We would roughly estimate that combustion of one third of the additionally produced crude oil would provide the required carbon dioxide for such a scheme. Already, in tertiary recovery operations in California, Venezuela and other places in the world one third of the addi-

tionally produced crude oil is used to generate steam for profitably producing viscous crudes.

The ultimate value of a delivered barrel of Prudhoe Bay crude may be so much greater than its on-site value (it already is so), that the cost of burning two billion barrels of the six that might be produced by such a scheme would be more than offset by the four billion barrels of saleable crude.

Values of the process could be further enhanced by concomitant use of the energy liberated by combustion. For example, a 700 mile power transmission line to Southern Alaska is not out of the question. Some of the carbon dioxide could be supplied by gas reforming with the "by-product" hydrogen being used in the production of petrochemicals. Additionally, a combination of carbon dioxide, power and hydrogen could be manufactured by partial gasification of the crude oil or of the heavy ends of the crude.

Again, we would summarize our views by stating that there is conceptual technology for increasing the recovery of crude oil from Prudhoe Bay, and that such methods could be compatible with other technology for enhancing the long range utilization of the resources of the State for the benefit of the State of Alaska and the Nation. We believe the State should pursue the definition, development and implementation of those programs which will achieve the most favorable results while still promoting the orderly and prudent development of the Prudhoe Bay field.

APPENDIX: THE MECHANICS OF OIL PRODUCTION

The sedimentary rocks that constitute the Prudhoe Bay reservoir are comprised of sandstones, conglomerates and shales that were washed down from mountains to the north and deposited by a southward flowing river system in deltas and rivers. The reservoir is comprised of several zones, each having been laid down under relatively constant geological conditions. They vary from relatively clean sands deposited in a main river channel to the finer clays, since compacted to shales, deposited in quieter bays. Thicknesses of conglomerates consisting of coarse sands, even pebbles, interbedded with shales are also found.

It is obvious that the Prudhoe Bay reservoir is not a uniform entity. This nonuniformity is a hallmark of practically all crude oil reservoirs. As a result there is not any singular and unique value for any one reservoir parameter. The values of porosity (fraction of the rock comprised of pores which can be filled with oil, gas and water) will change foot by foot and probably inch by inch. Only a most likely or average value derived by statistical analysis, can be assigned to any of the pertinent parameters that govern fluid flow and recovery efficiency. To each assigned value must be appended a designation of its likely variation.

The values of the most important parameters, moreover, cannot be directly measured in the reservoir; rather, the values must be calculated or inferred from some other measurement. For example, the porosity of the reservoir (the fraction of a rock layer's volume which can be filled with oil, gas and water) is a most important parameter for the estimation of the original oil in place in the reservoir. Although there are down-hole tools which can investigate this parameter, these tools must be calibrated against a piece of rock, a core, cut from the formation by special coring tools driven by the drill string. (In the case of Prudhoe Bay, the use of the preferred down-hole tool for reliable porosity estimation was found to be inapplicable because the reservoir rock contains unusually dense materials.) Cores used for reference calibration are taken to the laboratory, "cleaned up", and their porosity measured under conditions which attempt to restore the subsurface environment of the reservoir. It is obvious that such measurements can only approach the true in-situ values. The calibration is effected by comparing the down-hole tool's response in the section from which the core was taken to the laboratory-determined value.

Another parameter, even more important in affecting recovery efficiency and production rates, is the permeability of the rock to oil, gas and water when the rock contains (is saturated with) varying amounts of oil, gas and water. Permeability is a measure of the ease with which fluids will flow through the reservoir under a given pressure gradient (pressure drop per foot of reservoir) after allowing for differences in the viscosity of the fluids (viscosity is a measure of the thickness of the fluids; molasses has a high viscosity, water has a low viscosity). Again, values of permeability are usually measured on "cleaned up" cores, which have been resaturated with oil, water and gas in various proportions by any one of several procedures. Measurement of fluid flow rate through the core and the corresponding pressure drop across the core provides the data from which permeability is calculated.

The permeability of a core in the laboratory shows intuitively unanticipated behavior. If the rock is filled with only water, the permeability to water is found to be essentially the same as that to oil. However, when the core is filled with the two immiscible fluids (oil and water do not mix, they are immiscible), it is found that for a given pressure drop the total rate of flow through the core is significantly less than the rate of flow when only one fluid is present. The loss in permeability is a function of the saturation.

In addition to the total flow being less than that for either fluid by itself, the fraction of water and of oil in the stream flowing through the core changes systematically with the saturations of oil and water in the rock.

An examination shows that at maximum saturation of water, corresponding to a minimum saturation of oil, oil will no longer flow in the rock. Thus, if water invasion was the dominant mechanism for displacing oil in the reservoir there is some level of oil saturation which cannot be reduced. Obviously, this level sets a theoretical limit to the amount of oil that can be recovered by water displacement. Further, the amount of water required to reach this irreducible minimum value for the oil saturation is governed by the curvature of the fractional flow curve as the water saturation approaches its maximum value. If the curve reaches its maximum value abruptly, it will take a relatively small amount of water throughput to reach the irreducible oil content. On the other hand if the end point is reached gradually (asymptotically) large volumes of water will be required to reach the irreducible minimum oil saturation.

A similar relationship holds for the simultaneous flow of oil and gas. Now, however, the porosity available to the oil and gas is less than the total porosity of the rock. Some of the porosity will be filled with an irreducible amount of water. The presence of this water results from the fact that most minerals are wetted by water in preference to oil, and is a reminder of the fact that most sedimentary rocks that contain oil were laid down in a marine environment. At a later time when the oil migrated from the source beds into the rocks, some 10% to 30% of the water in the pore space remained behind primarily in the form of films of water around the rock grains.

The saturation at which gas flow is initiated is known as the critical gas saturation, and is usualy only 1 to 5% of the porosity. The fractional flow of gas not only is initiated at low gas saturations, but also rises very rapidly with further small increases in gas saturation. As a result, the final approach to the maximum gas saturation (minimum oil saturation) is more gradual than in the case of water displacing oil. Indeed, there is much question as to whether there is any true residual oil saturation when gas displaces oil in the presence of water-wetted rocks. However, because of the asymptotic approach of the curve to its maximum value, very large volumes of gas must be put through the core to reach the minimum (zero ?) value of residual oil. From a practical point of view, therefore, there is a real residual oil saturation to a gas drive since infinite volumes of gas cannot be put through the core.

Another property of reservoir fluids that must be kept in mind is their compressibility. It is well-known that the volume of a given amount of gas will be decreased if the pressure on the gas is increased (a parallel is what happens when one sits on an air cushion). It is not always realized that liquids such as oil and water are also compressible. Of course, the change in volume of a liquid for a given change in pressure is much smaller than in the case of a gas. Although the compressibility, or inversely, the expandability of oil and water under a reduction in pressure is small, if the pressure is decreased on a very large volume of water the absolute expansion will be very large indeed. Water expands only three one hundredths of one percent when the pressure is reduced by 100 pounds, but if the initial volume of water is a trillion barrels the absolute expansion is 300 million barrels. If the pressure is reduced by a thousand pounds, the absolute expansion is three billion barrels.

Crude oil contains dissolved gas (associated natural gas), and the amount of gas dissolved is a function of pressure. The volume of a given weight of "pure oil" will increase as the gas is dissolved in it, and will, of course, decrease as the gas is liberated.

In a reservoir such as Prudhoe Bay where a gas cap exists the crude oil has dissolved all the gas it can at the reservoir pressure. Were it not so saturated, the free gas would be continuing to dissolve in it until equilibrium was reached. Therefore, any reduction in the pressure on the Prudhoe Bay reservoir will lead to the liberation of gas. This decrease in pressure will of course happen when fluids are withdrawn (produced) from the reservoir. Some of this gas is liberated within the reservoir, dispersed in the oil. The fractional flow of oil in the produced fluids will therefore begin to decrease according to the fractional flow concepts presented above. The decrease in oil flow will be proportionately far greater than the increase in gas saturation. Since the volume of oil shrinks as gas is liberated, the oil saturation in the reservoir decreases even more rapidly as gas is liberated. The fractional flow of oil further suffers, and gas production begins to increase rapidly.

It is obvious that other factors being equal, it is best to produce a reservoir at as high a pressure as possible to secure the most favorable flow of oil into the reservoir.

It is of course impossible to avoid some pressure reduction in the reservoir. It is this very drop in pressure which provides the energy for the oil to flow into the bore hole of a well. Production can be seen to be a self-defeating process. The withdrawal of oil from the reservoir lowers the pressure, a reduction in pressure decreases the available energy for additional flow, the reduction in pressure liberates gas and shrinks the oil which further lowers the flow rate of oil into the well, and when shrunken oil is left behind in the reservoir, the reservoir oil contains a higher content of "pure oil." A crude oil reservoir can never produce oil today better than it did yesterday.

A thick, vertical slice of a reservoir similar to that of Prudhoe Bay, but without the shale layers is depicted. There is a column of gas on the top, a column of water on the bottom, and in between is the gut of the reservoir, the oil column. There is some water in the oil column, most of it at an irreducible minimum saturation at which it will not flow. Following drilling, and casing the well, the liner (casing across the oil saturated interval) is perforated with explosive jets or bullets. The perforating fluid in the hole is then circulated out; the pressure at the bottom of the hole is allowed to fall below that of the reservoir. The resulting difference in pressure results in a flow of oil out of the reservoir into the bore hole. As the oil reaches the lower pressure of the bore hole, gas comes out of solution. The gas continues to expand upwards towards the lower pressure of the wellhead. Because the tubing in the well through which fluids are conducted to the surface has a smaller diameter than the casing, the oil entering the well is entrained by expanding slugs of gas and carried to the surface. The well is said to flow naturally.

Gradually the pressure begins to drop throughout the reservoir and the oil-gas interface begins to fall. The space formerly occupied by oil is replaced by the gas, which expands as reservoir pressure drops. How much oil is left behind at this descending interface between the oil and gas? If the descent was infinitely slow, the oil left behind might well be close to zero; recovery would be nearly 100%. Under practical conditions, the rate will never be infinitely low and the residual oil saturation will be determined by the curvature, or asymptotic approach to the ultimate residual saturation and the rate chosen for withdrawal of oil.

As a result of the pressure drop within the reservoir, some gas will be liberated from the oil as the oil flows to the perforations. This gas will tend to rise because of its low density towards the gas cap. This is known as gravity segregation and will occur all the more rapidly if the vertical permeability of the rock is high. This is good because even less gas will be produced than if segregation did not occur, and the gas cap is fortified.

If the pressure drop between the oil column and the perforations is high, due to a high production rate, the gas cap will be sucked down into the perforations. This is known as gas coning; it is to be avoided, in general, because it results in a loss of energy available to displace additional oil into the well.

Gas coning may be reduced by lowering the velocity of the oil towards a well bore. Thus, coning can be restricted by decreasing production rate. If some given rate of production must be maintained from a reservoir, then coning can still be restricted by drilling more wells. This operation is known as infill drilling. An intermediate solution would be to seal off the existing perforations and create new ones lower down in the oil column so that the gas cap will not be sucked into them until a later time.

The perforations are not put at the bottom at the beginning of production at Prudhoe Bay to avoid sucking the water up into them (water coning). Of course, the water column itself will be exanding as the reservoir pressure is reduced. A large water leg would result in significant expansion leading to a rise in the oil-water interface; displacement of oil by water (a natural water drive). In many reservoirs a natural water drive originating from a water column, much bigger in size than the oil column, results in oil displacement at but a tiny drop in reservoir pressure. Historically, such natural water drive reservoirs in the United States have given the greatest recovery efficiencies the industry has encountered. Some reservoirs, in East Texas and Louisiana, had recoveries as high as 70% .

For a reservoir slice as depicted with a large and strong aquifer contiguous with the oil column, there would be no choice in the mode of operating the reservoir. The gas cap pressure would have to be maintained to prevent oil from being pushed up into it.

If the aquifer is limited and weak, a choice must be made: to allow the gas cap to expand or institute a water drive by injecting water. The decision must be made based on the following parameters:

Firstly, the residual saturation of oil left behind an expanding gas cap vs. the residual saturation left behind by encroaching water.

Secondly, the comparative costs of injecting water and the need for and costs of reinjecting gas.

It has been concluded by the Operators that the natural water drive at Prudhoe Bay is insufficient to invade the oil column at rates comparable to the desired rate of oil production. Therefore, a choice had to be made on the comparative advantages of gas cap expansion vs. waterflooding.

Should the sands not be continuous, but interbedded with impermeable shales, then gas cap expansion will be stopped by such discontinuities and the gas cap can be considered virtually a separate reservoir. Under these conditions the oil between the shales would have to be produced by the relatively inefficient solution-gas depletion process, supplemented by very early (horizontal) water displacement. Of course, the separation by shale cannot be as absolute as suggested. The very existence of one gas cap and a somewhat common water level in the Prudhoe Bay reservoir suggests that vertical communication is at least high enough for gravity segregation to have occurred over geological time. It is obvious that the exact definition of the extent of vertical communication is required to choose a proper operating plan.

EXHIBIT 2

MEMORANDUM

To Members, Committee on Energy and Natural Resources.

From Henry M. Jackson, Chairman.

Re October 25 hearing on the President's recommendation to designate the Alcan pipeline project for approval.

On October 12 the Committee received testimony from Dr. Todd Doscher of the University of Southern California that production of natural gas from the Prudhoe Bay field could have a significant adverse effect upon the amount of oil that would be ultimately recovered.

In response to Dr. Doscher's testimony, the Committee has requested the State of Alaska and the three largest Prudhoe Bay producers to testify on his findings at tomorrow's hearing. Dr. Doscher will also testify.

Prior to the hearing I requested the staff to conduct a review of the studies available to the public on the Prudhoe Bay production potential. Four studies of the field were reviewed.

The first, which was done for Arctic Gas, was by DeGolyer-McNaughton. It estimated oil and gas production potential but showed no basis for those estimates.

The second, which was done for the Interior Department was by Gruy Associates. It was a discounted cash flow analysis predicting the amount of production that would result from various oil and gas prices.

The third, which was done for the State of Alaska, was by Van Poollen and Associates. It used a computer to simulate the field's behavior to predict detailed reservoir behavior.

The fourth, which was done for Northwest Pipeline, Inc. (Alcan), was by Core Laboratories. It was also a computer simulation of the field's behavior.

The staff was assisted in its review by two members of the staff of the General Accounting Office. The GAO staff members who assisted the project are Dr. Tom Woods, a physicist with expertise in petroleum production forecasting, and Mr. Bob Finney, a petroleum engineer from the GAO's Houston, Texas, field office. Their findings are enclosed for your use.

Questions concerning the hearing should be directed to George Dowd (ext. 4–2564) or to Betsy Moler (ext. 4–0611) of the Committee staff.

FINDINGS

1. We cannot evaluate Operators and D & M due to a paucity of information contained in the reports.

2. While we cannot describe the Operators and the D & M field simulations, we would conclude that of those we could, Gruy, Core and VanPoollen essentially simulate the operations of different fields although all 3 claim to utilize VanPoollen data. We find these anomalies in the following areas.

a. The water drives in all three simulations are significantly different with the VanPoollen simulation having the weakest aquifer and Gruy the strongest.

b. Both Gruy and Core only describe the Sadlerochit field and exclude considerations of hydrocarbons located elsewhere. VanPoollen posits a link between the gas cap in the Shublik formation.

c. Core indicates that for the same field parameters, the existance of an aquifer increases oil recoverability. VanPoollen indicates the opposite, although the effect is small.

d. The production profiles on a yearly basis with and without aquifers are significantly different for Van Poollen and Core.

e. Similarly oil production profiles with gas sales show that the Sadlerochit field as simulated by VanPoollen does not agree with that as simulated by Core.

f. We have found the estimates of oil-in-place and gas-in-place to be inconsistent among the studies and in the case of the operator study, internally inconsistent.

g. We find no consistency, however, between the studies and the published API reserve figures as of 31 December 1976.

3. Despite these differences all 5 studies indicate either a maximum oil recovery of about 8.4 million barrels or 42.8 percent recovery of oil-in-place.

4. Production of gas from Sadlerochit requires gas cap production early on the productive life. At 2.4 bcf a day, the capacity of the Alcan pipeline, this would require production of oil significantly above the current 1.2 million barrel a day capacity of the TAPS to avoid excessive gas cap production.

5. All studies agree without gas re-injection, and some type of water re-pressuring, there would be significant deterioration in the recovery of oil and gas.

6. We find that none of the studies addressed natural gas liquids which at 1.45 gal/Mcf of gas and 2.4 bcf per day pipeline throughout results in almost 100,000 barrels a day of n.g.l.

7. We find that the production profiles in the VanPoollen and Core studies are markedly different. (Note: The attached graph shows the amount that oil production is likely to increase or decrease in a given year with 2.0 billion cubic feet of gas sales per day for Van Poollen and 2.4 bcf/d for Core.)

CONCLUSION

At this point we cannot ascertain the overall effect of gas production and sales on the ultimate recovery of oil from the Sadlerichit reservoir.

EXHIBIT 3

MEXICO'S GAS PIPELINE SEEN AS U.S.'S UNSUNG SAVIOR DURING WINTER SHORTAGES

MEXICO CITY.—While attention was focused on a $10-billion pipeline to carry natural gas

from Alaska, Mexico has been making plans to supply the United States with what many officials believe will be a more significant long-term solution to winter gas shortages.

Until last winter's shortages, Mexico had largely ignored its natural gas potential, concentrating instead on plans to double oil production and refining capacity. The winter crisis, however, spurred Mexico to re-count its blessings in natural gas. President Jose Lopez Portillo immediately ordered a pipeline built to the American border.

Mexico is believed to have vast gas reserves. Although no estimates of total reserves are available, the director general of the state oil monopoly, Jorge Diaz Serrano, said earlier this month that output in 1982 would be much higher than the 4 billion cubic feet a day he had forecast just a few months ago. Mexico's gas reserves are believed to be far greater than Alaska's.

Even before Mexico starts construction of its new pipeline, there is concern that the line will prove too small to carry the amounts of gas that will be available for export by 1982.

Diaz Serrano said at a recent meeting of engineers in Monterrey that a planned pipeline of 48 inches in diameter has been thought by some to be too large. "We now think that before 1982 it could prove to be too small and we'll have to consider ways of increasing our gas transportation capacity," he said.

The trans-Canada pipeline, which should be completed by 1982 or 1983, will have capacity of about 2.2 billion cubic feet per day, commensurate with steady exploitation of the 26 trillion cubic feet of natural gas believed available in the Alaska North Slope oilfields.

In contrast, the $1.5 billion Mexican pipeline, carrying gas 821 miles from the southeastern oil states of Chiapas and Tabasco to the Texas border at McAllen, will have a capacity of 2.5 billion cubic feet per day and, with construction starting in November, should be ready by late 1979.

Adding further to Mexico's euphoria have been, in the words of Diaz Serrano, "highly encouraging and promising" gas finds in northern states on the Texas border and on the Baja California peninsula.

But Mexico's natural gas wealth is evident in the southeastern oil 36 fields alone. These fields, discovered in May 1972, now account for 63 percent of the country's 1.1 million barrels a day oil output.

Compared with the trans-Canada pipeline, Mexico's line should be relatively easy to build, not only would it be much shorter but it would also cover less rugged territory. Some 126 miles of the pipeline will be concrete-covered and sunk in swamps and flood areas, but most will be across the rolling agricultural lands on the Gulf of Mexico, traversing 17 rivers and 86 roads or railroads.

UNITED STATES-SOVIET RELATIONS

Mr. KENNEDY. Mr. President, on October 26, Marshall Shulman, Special Adviser to Secretary Vance, made an impressive statement on United States-Soviet relations before the House Subcommittee on Europe and the Middle East. I have felt for some time that the country needed a comprehensive and up-to-date assessment of this key bilateral relationship. Dr. Shulman has offered us not only that, but an eminently sensible analysis of the balance we must strike between cooperative and competitive factors, their political, economic, military and human rights dimensions, and the impact of both internal developments and the Sino-Soviet dispute. I hope that this will be the first in a series of administration statements on the encouraging progress underway in U.S. relations with the U.S.S.R. I request unanimous consent that Dr. Shulman's statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

OVERVIEW OF U.S.-SOVIET RELATIONS

Thank you for the opportunity to appear before you today. I believe that your Subcommittee is performing an important service to the Congress and the American public by its series of hearings on how Soviet domestic developments affect our relations with the Soviet Union, and by making available the testimony of many distinguished specialists on this question.

In adding my contribution to this discussion, it is my purpose to deal with this issue within the larger context of the current and longer-term outlook for U.S.-Soviet relations.

Public opinion in the United States has tended to fluctuate widely in its moods about the Soviet Union, based as it has been upon simplified and polarized stereotypes about the nature and purposes of the Soviet system. With the help of the kind of information developed in your hearing, I believe we have both the opportunity and the obligation to build a sounder and steadier base in public opinion for a realistic and consistent approach to our relations with the Soviet Union, without any illusions about the seriousness of the problems involved in this relationship, and without undue expectations about the time and effort that will be required to move step by step toward a less dangerous and more constructive relationship. To develop this kind of public support, we need a more widespread understanding of both the changes and the continuities in Soviet political life, as well as a clear perception of our own interests in the way we would like to see our relationship with the Soviet Union develop over the coming years.

Rather than occupying ourselves with an effort to clarify the ambiguities of the word "detente," it would be more productive, I believe, to make it clear that we start from a frank recognition that the Soviet-American relationship at this period in history is a competitive one, based upon quite different views of the world and conflicting long-term aims; at the same time, it is also true that these two countries, as inhabitants of the same planet, have many overlapping interests. Common sense dictates that we should, while advancing our own interests and purposes energetically, seek to regulate the competitive aspects of the relationship to reduce the danger of war and at the same time to enlarge the area of cooperation where our interests are not in conflict. Over the coming decades, to the extent that future generations of Soviet leaders may see their self-interest in a more constructive relationship, we should make it clear that we would be receptive and responsive to a movement in this direction.

Although Soviet-American relations are but one element of our foreign policy, there is scarcely an aspect of international life that is not affected by this relationship, and that would not be made more difficult and more dangerous by a high level of Soviet-American tension and unregulated competition.

While these considerations suggest that we should welcome and seek to strengthen the prospect of an improvement in Soviet-American relations, they also suggest that substantial progress over the long run will be better served by specific actions on concrete problems based upon mutual self-interest than by symbolic gestures or abstract declarations about detente. Further, they suggest that, although the balance between competitive and cooperative interest may—and we hope will—shift increasingly in favor of the latter, both elements are an integral part of the relationship and there is nothing inconsistent in dealing with both competitive and cooperative aspects of the relationship at the same time.

Although it lacks the headline appeal of simplistic slogans, this measured, balanced and realistic approach can help to avoid the swings of public sentiment between too high expectations and disillusioned hostility. With public support and understanding of this approach, we can sustain a steadier and more consistent policy toward the Soviet Union through the inevitable ups and downs caused by changes in the Soviet Union, in the United States, and in the international scene.

Against the background of these general comments, I turn now to a brief discussion of some specific aspects of the present state of Soviet-American relations: SALT and other arms control issues; areas of political competition; economic relations; exchanges and scientific cooperation, and the issue of human rights. Following this discussion, I will conclude with a review of some developments within the Soviet Union and in the external world environment that may have a bearing on the future course of Soviet-American relations.

DISCUSSION OF CURRENT ISSUES

1. SALT. The most urgent foreign policy issue arising out of the Soviet-American relationship stems from the fact that, as a result of modern military technology, each country has the ability to destroy the other as a functioning society. How we should react to this awesome fact has been the subject of a continuing debate in this country, and is not yet clearly resolved in the public mind. Our fundamental premise is that we must provide adequately for the security of our country and of our allies, and for the preservation of the values of our society. Some argue that we can best protect the security of our country by striving for as much military superiority as possible over the Soviet Union and other possible adversaries. The consequence of this course, however, is to encourage the other side to do the same, with the net effect of a continuing movement toward larger, more complex, and less stable weapons systems on both sides, a steady decrease in our security, and a mounting strain upon our society.

Between this approach and the other extreme of inadequate concern for the importance of a military equilibrium, there is a third course, which has been the declared policy of this government in recent years, whose purpose has been to seek to stabilize the strategic military competition at moderate levels by negotiations with the Soviet Union in the Strategic Arms Limitation Talks (SALT).

We are committed to the proposition that this country must be strong, so that no adversary could ever be in a position to believe that it could attack either this country or its allies without disastrous consequences for itself. Although the United States can, if necessary, keep pace with whatever level of military competition is required, it clearly is in our security interest that the military competition be as stable and reduced to as low a level as can be achieved through negotiations. This is what we have been trying to do in SALT since it began in November, 1969. The Treaty limiting anti-ballistic missiles and the Interim Agreement of 1972 have clearly been useful, but both sides have nevertheless continued to build up their strategic weapons arsenals, qualitatively and quantitatively, in ways that were not limited by the Treaty or the Interim Agreement.

One reason why SALT has not been more effective so far is that the differences in the weapons systems and the geographical situa-

tions of the United States and the Soviet Union have made it difficult to measure with any precision what strategic equality means. Each side is stronger in some aspects of the military competition, and each side has been driven by concern that the advantages of the other might be, or might appear to be, more effective than its own. We have also been experiencing a period of extraordinary technological innovation in weapons, which has made the calculations involved in SALT negotiations incredibly complex.

And yet, despite the complexity of the technical aspects of SALT, the basic policy questions involved come down to a matter of common sense and judgment, on which the President, the Congress, and an informed public can base their decisions.

In the present negotiations with the Soviet Union, an effort is being made to stabilize the military competition, to begin a downward turn to more sensible levels, and to slow down the introduction of new and less stable military technologies. If these negotiations succeed, both countries will be more secure, and the world will be safer.

Within the past month, during the visit of the Soviet Foreign Minister, Mr. Gromyko, to Washington, considerable progress was made in breaking through issues that had been deadlocked for a long time.

Although the Interim Agreement has formally expired, each side has stated that it will not take any actions which would be inconsistent with that agreement while the present negotiations are proceeding. In these negotiations, the basic agreed elements would be incorporated in a new Treaty which would run until 1985. Other elements which are of concern to one side or the other but on which full agreement has not yet been reached, would be held in place by a protocol to the Treaty, whose function would be to give us three years in which to continue efforts to find mutually satisfactory solutions to these problems. At the same time, it is anticipated that agreement will be reached on the principles to govern the next round of negotiations, the main thrust of which will be to work for more substantial reductions than are immediately possible, while preserving the strategic equilibrium between the two countries.

Since there have been continuing and extensive consultations with the Congress on the details of these negotiations under appropriate circumstances, I shall not discuss these details here, but it would be relevant to our subject today to observe that progress in SALT would represent not only a significant improvement in the most important single aspect of Soviet-American relations, but an advance in the most fundamental issue affecting international peace and security.

Although SALT must stand on its own, based upon the enlightened self-interest of the United States and the Soviet Union, it can enhance the prospects for other arms control problems, and for an improvement in other aspects of Soviet American relations.

2. Other Arms Limitation Aspects of Soviet-American Relations. It may be useful to summarize briefly the present status of a number of other arms limitation negotiations in process, since they are more extensive than may be generally appreciated.

A. Indian Ocean—The second round of bilateral US-Soviet talks on this subject, held in Washington in late September, was encouraging. We are seeking Soviet agreement to stabilize the military situation in that region as a first step, and to prevent an arms competition from developing between the two countries. We will be meeting again in the near future for a third round of talks.

B. Comprehensive Test Ban—In these negotiations, which also include the United Kingdom, there has been some progress in moving from the present partial test ban toward one that would include all underground nuclear explosions. Although an agreement seems to be emerging that a ban on nuclear weapons tests would be desirable now, whether or not other nuclear nations are prepared to join in the agreement, differences remain on several questions, including whether peaceful nuclear explosions should be banned. We feel that such a total ban is necessary, and are continuing to negotiate on this question at Geneva.

C. Mutual and Balanced Force Reduction in Central Europe—At Vienna, arduous negotiations involving the United States, the Soviet Union and some of their respective allies, have been seeking an equitable solution to this source of danger and tension. There has not yet emerged any common ground between the Western insistence that reductions should move toward equal levels, and the Soviet insistence that the present balance of forces should be preserved by equal percentage reductions. We are continuing these negotiations, in the conviction that a solution to this problem could contribute substantially to European security and a climate of justified confidence.

D. Chemical Weapons—These negotiations are moving forward reasonably well. The Soviet and American delegations are working on technical details and problems of definition, in the hope that it may be possible by spring to make a joint submission of guidelines to the Committee of the Conference on Disarmament in Geneva.

E. Anti-Satellite Arms Control—Since both the United States and the Soviet Union rely heavily upon satellite reconnaissance to monitor compliance with SALT and other agreements, as well as for early-warning systems, it is obviously a matter of concern that agreement should be reached to prevent either side from developing the capability of destroying satellites. There have been reports that the Soviet Union has been experimenting with such capabilities and, if these were to continue, the United States would clearly draw on its strong technological base to develop capabilities at least as strong as those of the Soviet Union. We are continuing our own research and development work in this area, should it be necessary swiftly to develop such capabilities; at the same time, we are preparing proposals which we hope will head off this potentially destabilizing development.

F. Radiological Weapons—Negotiations are proceeding on this subject at Geneva, with some prospect of reaching agreement in a few months.

G. Advance Notification of Missile Launches—This subject has been included in the strategic arms limitation negotiations, and is now under negotiation at Geneva. The Soviet position has been that necessary safeguards are already provided in two previous agreements—one on Incidents at Sea and the other on Measures to Reduce the Risk of Outbreak of Nuclear War—which oblige either side to notify the other if a test or accidental launch might be subject to misinterpretation. We believe that a more far-reaching obligation on both parties is required if a genuine contribution to mutual confidence is to be achieved.

H. Limitations on Conventional Arms Transfers—Only a beginning has been made in dealing with this dangerous problem, which is made more difficult because it involves conflicting political interests in specific areas and touches on important interests of our allies. Since the United States is the principal source of conventional arms sales and transfers, it has felt the obligation to initiate proposals on this subject, but substantial negotiations have not yet resulted.

I. Non-Proliferation of Nuclear Weapons—This is a subject on which the United States and the Soviet Union should have, and do have, strong parallel interests, and on which a fair degree of cooperation has been achieved. In June, the two sides agreed to subsume their joint efforts on non-proliferation under the aegis of the London Suppliers Group, since the cooperation of other nuclear suppliers is obviously essential.

The key to any effort to halt proliferation is to increase our knowledge of the relationship between the fuel cycle in peaceful applications and the production of nuclear materials from which weapons can be produced. We must not only know this subject well, we must ensure that other nations are also aware of these risks and benefits of nuclear energy. The International Atomic Energy Agency, in which the U.S. and the Soviet Union have generally worked well together, has played a valuable role in this effort. Constructive participation by the Soviet Union in the International Nuclear Fuel Cycle Evaluation Organizing Conference, held recently in Washington, has been a further indication of the high level of cooperation between our two governments on non-proliferation.

J. Theater Nuclear Weapons—Soviet weapons which are targeted on Europe are at present largely unconstrained by any international agreement, and Soviet development of increasingly modern systems such as the SS-20—a mobile, MIRVed, intermediate range ballistic missile—and the Backfire bomber, are causing our Allies increasing concern. We are at this point unsure whether negotiations on these systems, which fall into the "gray areas" between SALT and MBFR, are feasible. The problem is an increasingly important one, however, and one to which we will be giving much thought.

A summary judgment of these varied arms limitation efforts would suggest that a wide number of significant problems are being addressed, some with reasonable prospects of effective results, some less so. In our judgment, these efforts are more likely to be useful to the extent that they seek specific and concrete steps, rather than general declarations. In our view, propagandistic declarations of intent, although they may have a specious public appeal, do not contribute substantially to the solution of concrete problems in reducing the danger of either conventional or nuclear war.

3. Areas of Political Competition. Since the Quadripartite Agreement of 1971 on Berlin, the most crucial area of potential confrontation between the United States and the Soviet Union—Central Europe—has been relatively stable. By comparison with earliest periods, it is an important step forward that Europe is now in the category of geographical areas where the risk of confrontation has been substantially reduced. Although Europe—East and West—continues to be a vital area of political competition because of its significant industrial resources, the conduct of that competition can be made less dangerous to the peace of the world if more substantial progress is achieved in the negotiations at Vienna on the reduction of military forces in the area.

By contrast, the Middle East still poses a substantial risk of hostilities which could involve the Soviet Union and the United States. For thirty years, through four Arab-Israeli conflicts, Soviet and American interests have intersected in the Middle East. While Soviet influence in the area has had its ups and downs, it is obvious that the area is of considerable importance to the Soviet Union, and that a constructive rather than an obstructive role by the Soviet Union would be an important element in any effort to reduce the danger of another Middle Eastern war.

In the current situation, we have been able to work both with Israel and the Arab parties in starting the process toward a settlement, but to achieve a comprehensive and durable solution requires direct negotiations between the parties. This can best be achieved, we believe, under the auspices of a Geneva Conference, with the cooperation

and support of its two co-chairmen, the United States and the Soviet Union.

It should be made clear beyond any doubt that it was this objective that was the sole motivation in our joining with the Soviets in the recent Soviet-American statement on the Middle East during the visit of Foreign Minister Gromyko to the United States. It would be an error to believe that the statement was inspired by any desire to use the Middle East as a vehicle for improving United States-Soviet relations.

In Africa, it must be said that Soviet actions over the past two years have shown a lack of restraint. In Angola and also in the war between Ethiopia and Somalia, we feel that Soviet policies—especially arms supply—contributed to local conflicts in a way that seriously destabilized the region. In other African areas of potential conflict—Rhodesia and Namibia—there have been set in motion initiatives which could lead to a settlement enjoying wide African support. It has been our purpose to encourage the Soviet Union to adopt a constructive attitude toward these initiatives, and to avoid any further East-West polarization of Africa. We hope and expect that the Soviet Union will support the essential role of the United Nations in working toward settlement in these areas.

In a summary assessment of this brief review of the global aspect of Soviet-American relations, it can be said that although realism compels us to accept the political competition between the Soviet Union and the United States in various areas of the world as a fact of international life, there has been some modest progress in moving toward a codification of the restraint that can be expected in greater or lesser degree in the different areas. This is motivated not by altruism but by self-interest on both sides, since it is painfully evident that an unregulated competition can dangerously exacerbate the many local sources of conflict which have arisen and will arise, and the possibility of local conflicts spiralling out of control is always present.

4. Economic Relations. The development of economic relations is clearly an important component of the total relationship between the United States and the Soviet Union. In recent years, the Soviet Union has indicated an active interest in expanding its importation of agricultural products, consumer goods, manufactured goods, and advanced technology. It would also like to expand its export of manufactured goods as well as raw materials to Western markets. The development of this trade with the United States and other advanced industrial nations can be a stabilizing factor in Soviet policy toward the world.

There are also areas in which Soviet and U.S. economic policies are affected by and have a critical impact on the rest of the world. Foremost among these are international grain trade and energy problems. The cooperation of the Soviet Union in the orderly allocation and handling of food reserves as well as the supply and availability of oil will be increasingly important.

Questions have been raised about the balance of political risks and benefits to the United States that need to be weighed in determining a national policy on the expansion of economic relations with the Soviet Union. Clearly, a period of national discussion and consultations with the Congress lie before us as we seek to clarify such issues as the extension of Most Favored Nations status to the Soviet Union, what criteria should govern the extension of credits through the Export-Import Bank, what criteria should govern the transfer of technology, to what extent we should participate in energy and other resource development projects, etc. We shall also have to address the question of how the necessary degree of coordination can be achieved between the government and the private sector, and between the United States and its allies.

It has been the declared policy of this government that it looks toward an improvement in economic relations between the Soviet Union and the United States as conditions make this possible, and in my view it would be desirable to move in this direction by prompt and measured steps. The concrete measures by which this policy can be implemented will be determined on the basis of consultations with the Congress.

5. Scentific, Academic and Cultural Exchanges. Between 1972 and 1974, the United States and the Soviet Union signed a series of eleven bilateral agreements to foster cooperation in a variety of technical fields: health, environmental protection, artifical heart research, energy, atomic energy, agriculture, housing, transportation, oceanography, space, and science and technology. Prior to 1972, our cooperative relations with the Soviet Union in these fields had been largely restricted to one-time exchanges. The bilateral agreements added an element of continuity to our cooperative ventures and have stressed joint research efforts.

We have pursued a variety of objectives in implementing the agreements: achievement of scientific or technical benefit, promotion of commercial relations, broadening and deepening our overall relations with the Soviet Union, and expanding our access to their closed society. Participating U.S. agencies report satisfactory or betore progress toward these goals. As evidence of our determination that continued participation remains in our interest, during 1977 we have agreed to the extension of five agreements—artificial heart research, health, environmental protection, space, and science and technology—for a further five years. In 1976 under these agreements, 876 Soviet participants travelled to the United States and 973 U.S. participants travelled to the Soviet Union.

Other programs, notably that of the National Academy of Sciences, bring Soviet and American scientists together, in some cases for collaborative research of up to a year's duration. Knowledge and understanding of one another has grown as a result of a 20-year-old official exchanges agreement, under which approximately 350 scholars, students and lecturers now travel annually between the two countries.

Under the same agreement, six Soviet performing arts groups have visited the U.S. this year and two American groups have gone to the Soviet Union. Soviet and American traveling exhibitions are to tour nine cities in each country in the next three years. Last year a Soviet exhibit on science toured the U.S. and a U.S. exhibit on photography has just completed a Soviet tour. In addition, we had a Bicentennial exhibition in Moscow and the Soviets in turn will hold a 60th Anniversary exhibition in Los Angeles next month.

In addition to the scientific and scholarly advances that flow from these exchange arrangements, we attach importance to the opportunities for personal contacts and increased insight into each other's society. While there are asymmetries between the two societies that complicate the problem of managing these exchanges so that their benefits are equally distributed, every effort is being made to ensure that this is the case, and significant improvements have been registered since the exchanges began.

6. Human Rights. Although the human rights issue has been a source of contention in U.S.-Soviet relations, it is our hope that over the longer run, it will be seen to have had constructive effects.

At the philosophical level, we believe that there can be a useful dialogue between societies that start from the needs of the society and emphasize the fulfillment of material needs, and those which start from the dignity and worth of the individual and emphasize the fulfillment of political rights.

It is obvious, however, that the human rights issue also raises political and bureaucratic problems—that it touches on fundamental questions of political control, and therefore often stimulates neuralgic responses. We have sought to make it clear in our bilateral discussion on human rights issues, and at the Belgrade conference on the Helsinki Agreement, that the commitment of this Administration to the advancement of human rights is an integral element of our foreign policy generally, and is not directed against the Soviet Union in particular. There has not been and there will not be any slackening in this commitment. We have sought the most effective means by which to realize our purpose, which is to seek constructive results in improving the lot of individuals concerned and to encourage long-term trends in the world toward a wider respect for the dignity and worth of human beings.

We do not see this objective as inconsistent with the desire to work toward reduced international tension and improved Soviet-American relations; on the contrary, we believe that in the long run the reduction of international tension can contribute to an easing of the internal pressures which restrict the fullest realization of the creative potential of men and women everywhere.

EFFECT OF INTERNAL DEVELOPMENTS IN THE SOVIET UNION

Against the context of this brief overview of US-Soviet relations, I turn now to some remarks on the subject of internal developments within the Soviet Union, which have been the central theme of this series of hearings. Our thinking about the relations between these two countries clearly rests upon the assumptions we make about domestic trends within each of the two countries, although in practice these assumptions often remain unagreed or unarticulated in our discussions of the subject.

Some students of the Soviet Union tend to emphasize the historical continuities in the Russian experience; others, the changes in the complex responses of Soviet society to advancing industrialization. There are obviously important truths in both perspectives, and both have to be taken into account in our thinking. The Soviet system reflects the centuries of centralization, autocracy, bureaucratism, and isolation from the Western traditions which has marked the Russian experience and been carried over into the Soviet period. At the same time, it is also true that the Soviet Union is constantly in a process of change in significant respects, reflecting the tugs and hauls of competing pressures and interests characteristic of developing societies elsewhere.

Notwithstanding the extreme centralization which marks Soviet institutions, the central drama of Soviet political life is between tendencies toward orthodoxy and toward modernization, contending in every aspect of domestic and foreign policy, sometimes perhaps within the minds of individual Soviet leaders.

Although in the limited public impressions we have of the Soviet Union through Western press accounts, the main divisions appear to be between the dissidents and the Soviet Establishment, the fact is that even within these groups there are significant differences as well as the many other gradations of opinion that need to be taken into account in Soviet society and Soviet political life. Although the population as a whole appears to be extremely resistant to change and largely apolitical, there can be observed at both ends of the political spectrum—among the dissidents as well as among the Party elite—the modern equivalent of the dual strains in Russian history of the Slavophiis and the Westerners. Nationalism is reflected

in the Soviet Union not only among the various minority nationality groups, but also among the Great Russians; similarly, the impulse toward modernizing the country along Western lines also cuts across other divisions in the political spectrum.

These divisions have their effects on two of the most interesting questions affecting the present and future development of the Soviet Union.

The first of these stems from the fact that the Soviet Union is on the threshold of a wholesale generational turnover at the upper levels of its power structure. Not necessarily in the next succession, but within the foreseeable future, it is clear that an ascendant generation will be holding the levers of power, and one of the most intriguing questions before us concerns the character of that generation, men now in their forties and early fifties. We know that by and large they tend to be better educated than the present ruling group, and more familiar with the outside world, but beyond that, they do not appear to be a homogenous group. Whether they will tend to move toward nationalism and orthodoxy, or toward Western-style modernization, we cannot now predict. All that we can say, perhaps, is that to the extent they see their interest in a responsible involvement of their country in the world economy and the world community, they should not feel from what we do or say that this option is closed to them.

This is related to the second question: how the Soviet leadership will deal with some fundamental structural problems in the Soviet economy. Behind the problems of low productivity and lags in the advanced technological sector are organizational problems that inevitably involve anomalies in the highly centralized political control system. Conflicting approaches to the solution of these problems reflect the divisions between the impulses toward orthodoxy versus modernization mentioned earlier, and also appear to have some correlation with the differences between the generations. While we should not underestimate the capability of the Soviet system to manage its problems on a day-to-day basis without any clear-cut solutions to these choices, it may have some relevance for our own policy choices that the development of economic relations with the advanced industrial societies of the West is bound to have some influence on the directions that will emerge.

EXTERNAL FACTORS

At least brief mention should be made of a few of the most important of the factors external to the Soviet Union likely to influence the course of Soviet-American relations.

The Sino-Soviet relationship obviously deeply influences the Soviet outlook, involving both rational calculations and visceral fears. Some of the effects of this Soviet preoccupation may be salutory, and some may be disadvantageous to our interests. As a general principle, our efforts to move toward normalization of our relations with the Peoples Republic of China rest upon the desirability for our own interests and those of the international community of that outcome. It should not be interpreted as an effort to manipulate the geopolitical triangle in order to achieve short-term benefits. The stabilization of the strategic military competition cannot be fully realized without the participation of the Peoples Republic of China and until that is possible, there will remain significant limits on how far the Soviet Union and the United States can go on a purely bilateral basis.

Among other external factors, perhaps the most important for its influence on the Soviet-American relationship is the capability of the international community to absorb the thrust of the Soviet Union toward expanding its political influence and establishing itself as a global power. It is a characteristic mark of this period in history that the rise of the Soviet Union as a world power coincides with many other profound transformations in the international order. The Soviet Union seems not to have fully perceived how much the revolutionary transformations of this age have moved from the patterns of traditional Marxist-Leninist thought, and it is not clear how Soviet aspirations will adjust to the new patterns.

In this connection, a significant practical aspect of the question is the capability of the international community to deal with the tensions and potential conflicts between the developing nations and the industrialized nations. The inter-section of the East-West and the North-South divisions in international politics requires a broadening of our perspectives over those to which we have been accustomed in the past. Here the balance between competitive and cooperative elements in the Soviet-American relationship has to be tested and assessed freshly in each particular circumstance. And here the balance between our national rivalry and our common stake in the solution of such global problems as resources, food, energy and the environment require a constant interplay between short-term advantages and longer-term imperatives. We can only claim to have approached the threshold of this problem, but events move with such rapidity that we may not be granted the luxury of a leisurely adjustment in our habitual modes of thought. To the codification of the restraints we seek in the Soviet-American competition as it bears on local conflict situations, we seek to add the more positive dimension of active cooperation between the Soviet Union and the United States in supporting international institutions that are emerging to deal with these global problems.

Those, Mr. Chairman, are some of the perspectives I would wish to emphasize in response to the questions before your Subcommittee.

ARMS CONTROL IMPLICATIONS OF CRUISE AND MOBILE MISSILES

Mr. KENNEDY. Mr. President, on October 7, 1977 I joined Senators MATHIAS and MCINTYRE in a colloquy on cruise and mobile missiles, which I found helpful in clarifying the arms control implications of their further development and deployment. At that time, a number of colleagues joined us in expressing the most serious concerns about moving ahead with the M–X mobile missile, not only for SALT but for the future security of our country. These concerns are set forth eloquently in an October 10, 1977, editorial of the New York Times, which I believe all of us would do well to carefully consider prior to the next military appropriations cycle. I ask unanimous consent that the editorial be printed at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

MXING UP SALT

While President Carter has been working toward a new agreement with Moscow to limit strategic missiles, the Air Force has been burrowing away in the Pentagon with plans for a new giant and mobile missile. If it should ever see daylight, it will profoundly change American strategic policy and increase the risk that a diplomatic crisis might escalate to nuclear war.

The subterranean image is appropriate. Each huge "MX" (meaning "missile, experimental") and its launching crew would travel through a concrete tunnel a dozen miles or so in length. It would, when launched, burst through the surface at some surprise spot along the tunnel.

MX is a response to two possible threats and an alleged need. One threat is to our present force of land-based missiles (ICBM's). In some rather implausible scenarios, which assume a perfectly executed massive Soviet attack, they might all be destroyed in their underground silos. The second threat is to Air Force's job— and jobs. One way to respond to the increasing vulnerability of our present ICBM force would be to place a larger proportion of missiles on virtually invulnerable Navy submarines. But given President Carter's decision not to build the B–1 bomber, de-emphasizing the land-based missile force would leave the Air Force with no new major strategic weapons system—a real threat to any military bureaucracy.

The alleged need as defined by the Air Force is for a very large missile capable of destroying Soviet land-based missiles in their fortified silos. Since the Russians rely more heavily on large land-based missiles—they represent some 70 percent of Soviet strategic power compared with only 25 percent for the United States—MX would amount to a first-strike weapon: A force of 300 MX's could destroy the entire Soviet land-based force in half an hour.

Imagine a moment of escalating tension: Moscow would face the dilemma of either firing first or risking the destruction of its missiles in the ground. The Air Force contends it needs such threatening missiles to match those the Soviet Union is now deploying. But so long as the bulk of American weapons is invulnerable to a first-strike, no rational Soviet leader would attempt it. So there is no reasonable case for a new family of heavy American missiles like the proposed MX. That leaves the question of whether to deploy smaller missiles in mobile form, at much less cost.

The political puzzle is how the hugely expensive MX, each costing about $100 million, has got so far. Last year the Senate Armed Services Committee—a body hardly unsympathetic to military requests—asked the Secretary of Defense for a full study of the future of the land-missile force and its role in American strategic policy. The committee stipulated that the conclusions "should represent Presidential policy." The study has not been made.

It is clear, however, that it is not President Carter's policy—as it was not his predecessors'—to pose a first-strike threat to Soviet nuclear forces. Moreover, the President hopes that arms control agreements will ban all mobile missiles, for once deployed they could not easily be counted and limited.

Last week it became known that Secretary of Defense Harold Brown had tentatively recommended "full-scale" development funds for MX. His spokesman denied that the recommendation was merely a "bargaining chip" to be traded away in the present SALT negotiations. Even if it is, the President should reject the idea. Today's bargaining chips have a disturbing tendency to become tomorrow's arms control problems. The last "chip" was the cruise missile, now causing serious difficulties for arms control. Once again, technology seems to be driving policy—and driving it in the wrong direction.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

B. Mahlon Brown III, of Nevada, to be U.S. attorney for the district of Nevada for the term of 4 years vice Lawrence J. Semenza.

Gerald D. Fines, of Illinois, to be U.S. attorney for the southern district of Illinois for the term of 4 years vice Donald B. Mackay, resigned.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee in writing on or before Friday, November 4, 1977, any representations or objections they may wish to present concerning the above nominations with a further statement whether it is their intention to appear at any hearing which may be scheduled.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will come in at 10 o'clock tomorrow morning. There are no special orders. After the two leaders or their designees have been recognized under the standing order, the Senate will resume consideration of the unfinished business. No amendment is presently pending, but Senators will be on hand, I am sure, to call up their amendments. Rollcall votes will come at any time on tomorrow.

I hope that we will have a good day with considerable progress made.

Mr. RANDOLPH. Mr. President, will the distinguished majority leader yield?

Mr. ROBERT C. BYRD. I yield.

Mr. RANDOLPH. I realize, Mr. President, that perhaps this is a question for which there might not be an answer, but does the leadership feel there might be a disposition of this measure tomorrow evening?

Mr. ROBERT C. BYRD. Mr. President, may I say to my friend, the distinguished senior Senator from West Virginia, that I had hoped the matter would be disposed of tomorrow. But from the count that was taken earlier this evening, I suppose there remain about 18 or 19 amendments to be disposed of.

There are some amendments which may go rather quickly. I have no way of knowing. This morning, for example, I believe there were 10, 12, or 15 amendments which were called up, debated briefly, and accepted by the committee. That could happen tomorrow, but I doubt it.

I would imagine that most of the amendments that are going to be accepted have been offered already.

The manager of the bill indicated to me just a little while ago that he would not like to go beyond 5 p.m. tomorrow afternoon.

As I said earlier, I lean on the manager of the bill and the ranking members to carry the load. That being the case, I doubt that we will dispose of this bill tomorrow.

Mr. RANDOLPH. Mr. President, I certainly am in agreement with the majority leader when earlier in colloquy he indicated the tremendous importance of the work in the hands of the manager of the bill. I think that is very important.

Mr. ROBERT C. BYRD. Always. The managers of bills—Mr. RANDOLPH, Mr. STENNIS, whomever it might be, be it the chairman of a committee or whomever—that man must carry the burden. I long ago gave up trying to whip people. I found out I could not do very well at that. All I can do is depend upon the managers and the ranking members. They do their best. They conduct the hearings and give their time to the consideration of the bill. One simply has to lean upon them to carry the burden.

Mr. RANDOLPH. I have this final comment, Mr. President: I believe the leadership on both sides of the aisle, Senator BYRD and Senator BAKER, are to be commended. I believe they have demonstrated a positiveness that has been expressed time and time again—to have adequate debate and yet move the Senate, hopefully, toward an adjournment. I sense that constantly and Senators generally approve of it.

I personally hope that tomorrow we might conclude, though it is understandable we might not.

This is important legislation. The country has varying views on it, as Members of the Senate have expressed and voted. But they do believe that there should come from this Congress, before we go home—whatever date that may be—a program to at least partially solve the energy problems of this country. I know that both of our able and effective leaders here are dedicated to that resolve.

Mr. BAKER. Will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. BAKER. I once again rise to express my deep appreciation to the distinguished senior Senator from West Virginia. I have served with him and under him as a member of the Committee on Public Works, now the Committee on Environment and Public Works. I know much of what I know about the Senate through his tutelage. For that reason, I am also grateful to him for his generous remarks tonight.

Mr. ROBERT C. BYRD. Mr. President, I cannot recess without saying Senator RANDOLPH is one of the most cooperative, courteous, and understanding chairmen we have in the Senate. He is a very able chairman. The leadership appreciates it when Members cooperate and work together.

We have a very difficult matter before the Senate now. The Senator from West Virginia (Mr. RANDOLPH) has said that we expect the American people to sacrifice in an effort to solve the problem, and the Senate is going to have to show that it is willing to find a way to work out compromises. We are all going to have to compromise some, if we reach a solution to this problem.

So, as he has said, the Senate is expected to deliberate, but it is also expected to reach a decision at some point. I feel that it will, in due time.

RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 10 o'clock tomorrow morning.

The motion was agreed to and, at 10:39 p.m., the Senate recessed until, Saturday, October 29, 1977, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate October 28, 1977:

NATIONAL SCIENCE FOUNDATION

James Arthur Krumhansl, of New York, to be an Assistant Director of the National Science Foundation, vice Edward C. Creutz, resigned.

U.S. METRIC BOARD

The following-named persons to the positions indicated:

Louis Polk, of Ohio, to be chairman of the U.S. Metric Board for a term of 6 years (new position).

To be members of the U.S. Metric Board for the terms indicated (new positions):

For a term of 2 years:
Carl A. Beck, of Pennsylvania.
Francis R. Dugan, of Ohio.
Edward L. Ginzton, of California.
Henry Kroeze, of Wisconsin.

For a term of 4 years:
Paul Block, Jr., of Ohio.
Thomas A. Hannigan, of Maryland.
Frank Hartman, of Michigan.
Sandra R. Kenney, of Maryland.
Roger Ellis Travis, of Massachusetts.

For a term of 6 years:
Sydney D. Andrews, of Florida.
Joyce D. Miller, of New York.
Glenn Nishimura, of Arkansas.
Satenig S. St. Marie, of Connecticut.
Adrian G. Weaver, of Connecticut.

EXTENSIONS OF REMARKS

NATIONAL WARRANTY UPDATE CONFERENCE

HON. JOHN E. MOSS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 28, 1977

Mr. MOSS. Mr. Speaker, on November 3 and 4, 1977, the Consumer Federation of America, the U.S. Chamber of Commerce, and the HEW Office of Consumer Affairs will conduct a conference on the Magnuson-Moss Warranty-FTC Improvement Act. The purpose of the conference is to examine whether the Warranty Act and its implementing regulations have fulfilled the expectations of consumers and business.

As cosponsor of the act, I salute the efforts of these three groups to evaluate the effects of the legislation. Congress passed the Warranty Act more than 2½ years ago after numerous studies had documented the need for the legislation. Extensive hearings by the Subcommittee on Commerce and Finance further established the need for legislation which would: One, require that the terms and conditions of written warranties on consumer products be clearly and conspicuously stated in simple language; two, prohibit the proliferation of

classes of warranties on consumer products and instead require that warranties be either "full" or "limited"; three, safeguard against the disclaimer or modification of the implied warranties of merchantability and fitness; and four, provide consumers with access to reasonable and effective remedies where there is a breach of the warranty.

The Magnuson-Moss Warranty Act met these requirements. Under the act, the Federal Trade Commission is empowered to issue rules requiring warrantors to disclose the warranty terms in simple and easy to understand language. The FTC rules can require the warranty to clearly identify the name and address of the warrantor, to spell out what parts of the product are covered by the warranty and to whom the warranty extends, and to explain to the consumer what he or she must do to obtain compliance with the warranty.

The act also sets out minimum standards for a warranty to be considered a "full" warranty. If a warranty does not meet these standards, it must be conspicuously labeled a "limited warranty." To be a "full" warranty, the warrantor must remedy a defective or malfunctioning product within a reasonable time and without charge. If the warrantor is not able to correct the defect or malfunction after a reasonable number of attempts, the warrantor must give the consumer a refund or replace the product. In addition, a full warranty may not limit the duration or any implied warranty, and it may not exclude or limit consequential damages for breach of the warranty unless the exclusion is conspicuously disclosed on the face of the warranty.

The National Warranty Update Conference should provide an excellent opportunity to evaluate the new law and its implementing regulations. It will enable consumers, business, and academic leaders and Government representatives to discuss whether the congressional intent is being properly carried out by the FTC. Participants will also have the chance to learn Government policymakers' views on current and future regulatory priorities under the law. Equally important, the policymakers will be able to hear the views of consumers and business representatives which may provide valuable information to assist them in their efforts to implement and enforce the law.

Mr. Speaker, because I think this conference may be of interest to my colleagues and their staffs as well as the general public, I would like to insert in the RECORD a copy of the CFA press release announcing the conference and the schedule of the conference:

WARRANTY CONFERENCE ANNOUNCED

The Consumer Federation of America (CFA), the U.S. Chamber of Commerce, and the Office of Consumers Affairs/HEW (OCA/HEW), today announced joint sponsorship of a National Warranty Update Conference. The two-day conference will be held at the Washington Hilton Hotel, Washington, D.C. on Thursday and Friday, November 3 & 4, 1977. Agreements on the need for the conference, the objectives, speakers, etc., were arrived at in meetings arranged by the U.S. Office of Consumer Affairs, Department of Health, Education and Welfare and the George Washington University's Department of Marketing and Business Administration, School of Business and Government.

The National Warranty Update Conference will examine the Congressional intent of the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act (passed by Congress over 2 and ½ years ago) from the perspective of business and consumers and will explore the extent to which Congressional intent has been furthered by Federal Trade Commission regulations implementing the Warranty Act.

Kathleen F. O'Reilly, Executive Director, speaking for CFA and Jeffrey Joseph, Director of Government and Consumer Affairs for the Chamber stressed the point that this Conference will be a cooperative and constructive effort by business and consumers to examine whether the Warranty Act and its implementing regulations meet the expectations of consumers and business leaders who are jointly interested in warranties. The sponsors acknowledged benefits for consumers and business in the Act but pointed out that problems and confusion experienced by warrantors under the Warranty Act have brought frustrations for consumers and business as well. For example, in some cases, warrantors have dropped warranties because of confusion in interpreting the law. (The Act is generally intended to establish minimum standards for warranties.) The sponsors intend to aid regulators and Congress in assessing the effect of the law and regulations on consumers and business.

The sponsors stated, "The U.S. Chamber and CFA agree on the value of providing Government with a 'Report Card' on the Warranty Act almost three years after its enactment. In developing this 'Report Card' we will convene the best minds available from the academic, Congressional, business, consumer, and legal communities to report on current warranty policy, Congressional intent, consumer expectations, and warrantors' needs. We will strive to obtain answers to many of the questions consumers and business leaders are having about this Act and we will suggest priorities for areas needing prompt attention. The sponsors recognize an obligation on the part of consumers and business representatives to respond to the question of regulatory and Congressional leaders who are attempting to create effective national policy."

In announcing this joint effort, CFA and the U.S. Chamber acknowledged having differences of views on other areas of national consumer policy, but pointed out that: "Consumerism, like foreign policy, doesn't necessarily require the concept of Linkage. We believe that National Warranty Policy will benefit from this cooperative effort. It is the intent of the sponsors of this Conference that the Conference will be conducted by the sponsors in a manner so as to aid in establishing a framework for future productive dialogue among business, consumer, academic and government leaders."

Further details on the Conference will be made public shortly.

PROGRAM

THURSDAY, NOVEMBER 3

8:00 a.m.-2:00 p.m.: Registration.

9:00 a.m.: Introduction by Conference Moderator: Frank F. McLaughlin, Acting Director, Office of Consumer Affairs, (HEW).

Welcome: Dr. Salvatore Divita, Chairman, Department of Marketing and Business Administration, School of Business and Government, George Washington University.

9:15 a.m.: Objectives of the Conference as viewed by:

An Administration Representative: Esther Peterson, Special Assistant to the President for Consumer Affairs.

An Industry Representative: William G. Van Meter, Senior Vice President, Chamber of Commerce of the U.S.

A Consumer Representative: Dr. Lee Richardson, Chairman, Marketing Department, Louisiana State University; President, Consumer Federation of America.

10:00-10:45 a.m.: A look at congressional intent in passage of Magnuson-Moss: What were the broad policy objectives of the legislation?

Questions from the audience.

10:45 a.m.-12:15 p.m.: Panel: responsibilities under Magnuson-Moss:

Moderator: JoAnn Clayton, Executive Director, San Francisco Consumer Action.

What regulations and implementation schedule did Congress impose? Richard J. Leighton, Attorney, Leighton & Conklin.

What regulations did industry need to carry out the intent of Congress? Edward S. Jones, Senior Attorney, J. C. Penney, Inc.

What did consumers expect?: Kathleen F. O'Reilly, Attorney, Executive Director, Consumer Federation of America.

12:15-2:00 p.m.: Lunch.

Topic: Congressional Interest in Effective Implementation of Magnuson-Moss: Representative Bob Eckhardt, Chairman, Subcommittee on Consumer Protection and Finance, House Committee on Interstate and Foreign Commerce.

2:00-3:45: Panel: Implementation and Enforcement of Magnuson-Moss to date:

Moderator: Senator Frank (Ted) Moss.

A report on what portions of the law are now in effect: Larry Kanter, Division of Special Statutes, FTC.

A consumer view of implementation & enforcement needs: Richard Alpert, Staff Attorney, Specialists on Warranties, National Consumer Law Center, Boston College.

A business view of implementation & enforcement needs: Robert L. McCleary, Manager, Consumer Affairs, Corning Glass Works.

Role of the FTC regional offices in implementation & enforcement: Jerry Lamet, Assistant Regional Director, FTC (Chicago Regional Office).

Reactor: Gilbert Thelen, Chicago Daily News.

4:00-5:30 p.m.: Workshops on the mandatory regulations and their impact on industry and consumers:

Workshop A: Disclosure of written consumer product warranty terms (including language simplification issue):

Moderator: Jane Wilson, President, Federal-State Reports; Editor, Warranty Watch.

What are the requirements of the regulations?: Alan Rubin, Division of Special Statutes, FTC.

What has been the effect of the regulations on:

Large Business?: Ned A. Smith, Owner, Relations Manager, Ford Motor Company; President, Society of Consumer Affairs Professionals in Business.

Small Business?: Lawrence Whalen, President, Berkline Furniture Company; Chairman, Consumer Affairs Committee, Southern Furniture Manufacturers Association.

What has been the special impact of the law (including regulations) on family farmers?: Sheila Sidles, Executive Secretary, Iowa Consumers League.

What has been the effect of the regulations on consumers?: Glenn Nishimura, Director, Arkansas Consumer Research.

Reactor: Peter Weaver, Syndicated Consumer Columnist.

9:20-9:45 a.m.: Workshop Summaries: Workshop Moderators.

9:45-11:00 a.m.: Panel: The effect of Magnuson-Moss on State laws:

Moderator: Dr. Kathleen Browne Ittig, Department of Consumer Studies, State University College at Buffalo; Chairperson, Niagara Frontier Consumers Association.

What is the effect of the specific provisions of Magnuson-Moss on state laws? Albert H. Kramer, Director, Bureau of Consumer Protection, FTC.

Warranty complaint handling at the state and local level: Andy Driscoll, President, Michigan Consumers Alliance.

Impact on business at the state and local level: Lewis L. Salton, Chairman of the Board and Chief Executive Officer, Salton Inc.; Director, Association of Home Appliance Manufacturers.

A state Attorney General's office looks at state warranty laws and Magnuson-Moss: Herschel T. Elkins, Deputy Attorney General, California Attorney General's Office.

A state advocate looks at state warranty laws and Magnuson-Moss: Stanley C. Van Ness, Attorney, Public Advocate, Department of the Public Advocate, State of New Jersey.

Reactor: George Heaton, Attorney, Research Associate, Center for Policy Alternatives, Massachusetts Institute of Technology.

11:00 a.m.–12:15 p.m.: Panel: A look at rulemaking priorities under Magnuson-Moss (Title II) from the perspective of:

Moderator: Stanley E. Cohen, Washington Editor, Advertising Age.

An FTC Spokesperson: Christian S. White, Assistant to the Chairman, FTC.

A Washington Lawyer: S. Lynn Sutcliffe, Attorney, Van Ness, Feldman & Sutcliffe.

A Business Representative: Neil H. Offen, President, Direct Selling Association; Member, Government and Regulatory Affairs Committee, Chamber of Commerce.

A Consumer Representative: Mark Silbergeld, Attorney, Director, Washington Office, Consumers Union.

Reactor: Roberta M. Baskin, Consumer Reporter and Administrator, Consumer Action, NBC, WMAQ (Chicago).

12:15–2:00 p.m.: Lunch.

Topic: How do the principles of regulatory reform relate to Government action on warranties?

Harrison Wellford, Executive Associate Director for Reorganization and Management, Office of Management and Budget; Head of President's Reorganization Project.

Wayne Granquist, Associate Director for Management and Regulatory Policy, Office of Management and Budget.

2:00–3:30 p.m.: Panel: The American Bar Association Committee on the FTC looks at the future:

Moderator: Edith Barksdale Sloan, Attorney, Director, District of Columbia Office of Consumer Protection.

Three Advisory Opinion Statements: Nancy Buc, Attorney, Weil, Gotshal & Manges; Member, Consumer Affairs Committee, Chamber of Commerce.

Informal Dispute Settlement: Lewis M. Popper, Attorney, Wald, Harkrader & Ross.

Discretionary Priorities: Caswell Hobbs, Attorney, Morgan, Lewis & Bockius.

Reactors: James Boyle, Attorney, Executive Director, Texas Consumer Association. Samuel Thurm, Senior Vice President, Association of National Advertisers, Inc.; Member, Consumer Affairs Committee, Chamber of Commerce.

3:30–4:15 p.m.: Conference wrap-up:

Jeffrey H. Joseph, Attorney, Director, Government and Consumer Affairs, Chamber of Commerce.

Kathleen F. O'Reilly.

Panel and workshop procedure:

(1) Statement by each panelist.

(2) Panel Interaction.

(3) Comments of Reactor (where scheduled).

(4) Questions from the audience.

BASE CLOSURES

HON. PHILIP E. RUPPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 28, 1977

Mr. RUPPE. Mr. Speaker, I am again reintroducing the Defense Economic Adjustment and Recovery Act with 10 additional cosponsors. Thus, there are now 32 cosponsors with which to form the nucleus for institutionalizing a relief mechanism for communities hard-hit by Federal base closure actions. If ever there were a case to be made for Federal assistance, it is in the case of military base closures where the Federal action is a direct cause of local hardship.

Quite frankly, I am surprised that more Congressmen have not joined in this effort, especially in light of the recent Department of Defense announcement that a base closure program larger than the one undertaken this year is planned early next year. From last month's closing of Kincheloe AFB located in my district, I have learned that it is extremely difficult to reverse a military decision while at the same time working to insure that adequate Federal assistance is available in case efforts to keep it open failed. This should not be the case.

Present assistance is both inadequate and extremely competitive. Areas targeted for base closures should not be forced to fight other depressed urban or rural areas for money. Both need assistance, but for different reasons.

Base closure assistance must be both substantial and timely if economic disruption is to be avoided. My bill would provide this stimulus by requiring that 10 percent of the 10-year cost-savings achieved by base closing be available to the affected communities in order to stimulate productive jobs and avoid severe economic problems. This money would be channeled through existing agencies and departments on an expedited basis.

I hope that my colleagues will perceive the need for this bill not as one important only to members who have military installations in their district, but also one important to an overall effort to eliminate pockets of poverty and put Americans back to work.

I shall continue to work with my colleagues on the House Armed Services Committee, Senators RIEGLE and GRIFFIN who have introduced this bill in the Senate, and the White House to insure that this legislation becomes a reality.

I will, of course, also continue to welcome the support of my House colleagues in this effort.

PERSONAL EXPLANATION

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 28, 1977

Mr. PHILLIP BURTON. Mr. Speaker, through some inadvertence certain remarks that I made during consideration of the conference report on the bill (H.R. 3744), the Fair Labor Standards Amendments of 1977, were lost or misplaced en route to the Printing Office. Although I will not attempt to recall and restate all of those remarks of mine which were omitted from the RECORD, I would, however, like to take note of a discussion regarding the conference agreement on the coverage of concessioners.

The report's extension of coverage to employees of concessioners in certain national lands is written in the form of an exception to an exemption from minimum wage and overtime coverage applicable to seasonal amusement and recreational establishments. Thus, if a lodge, for instance, might qualify for the exemption provided by section 13(a)(3) of the law, but is also an entity providing facilities in a national park, for instance, then the lodge would not qualify for the section 13(a)(3) exemption from coverage because of its "concessioner" status.

Mr. Speaker, also included in the matter omitted were remarks I made about the beloved gentleman from Pennsylvania (Mr. DENT), chairman of the subcommittee, and the sponsor and floor manager of the great fair labor standards laws of the recent past. Although the gentleman from Pennsylvania was physically unable to be present during House debate on this bill and during the actual conference sessions, he was otherwise able to effect his influence and concern for the working poor by insuring that the potential of this legislation would be fulfilled. He truly deserves our respect and admiration and stands as a living monument to all those who aspire toward simple justice for all of our people.

DR. ARTHUR BURNS SPEAKS OUT ON THE NEED TO RESTORE INCENTIVE TO THE AMERICAN ECONOMY BY ENACTING KENNEDY-STYLE TAX REDUCTIONS

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 28, 1977

Mr. KEMP. Mr. Speaker, Dr. Arthur Burns recently spoke on "The Need for Better Profits" in order to revitalize the American economy. The best way to do this, he said, is to enact substantial tax reductions and bring inflation under control.

These are important remarks and I hope my colleagues will seriously consider the issues raised by Dr. Burns:

THE NEED FOR BETTER PROFITS

(By Arthur F. Burns)

It is a pleasure for me to be here on the campus of Gonzaga University to participate in this celebration of Founder's Day. I am also pleased to be able to join you in honoring a great teacher of economics, Dr. Graue. It is eminently fitting that Dr. Graue's contribution to economic understanding should be noted today not only by festivity but also by serious economic discussion.

In consonance with that, I would like to address a feature of our current economic environment which, as long as it persists, could well prove an insurmountable barrier to the achievement of full employment in our country. I refer to the fact that the profits being earned by American business are at an unsatisfactory level.

It is both striking and disturbing, I believe, that profits get relatively little attention these days from economists. I have the impression that the economics profession has almost forgotten that ours is still predominantly a profit-motivated economy in which, to a very large extent, whatever happens—or doesn't happen—depends on perceived profit opportunities. Certainly, the preoccupation in the Nation's capital tends to be with other matters. The slightest hint, for example, of emerging trouble for the economy will promptly unloose a flood of fiscal and monetary proposals, virtually all predicated on the notion that what is crucial is governmental manipulation of aggregate demand. Seldom does anyone pause to ask what should be a compellingly obvious question—namely, whether lack of confidence in profit opportunities on the part of our profit-oriented businessmen and investors may not be the essential cause of difficulty.

My own judgment is that a deep-rooted concern about prospective profits has in fact become a critical conditioner of economic performance in our country. If I am right in thinking so, actions taken in Washington to enlarge the already huge budget deficit in the interest of more consumer spending are likely to be of little sustained benefit in reducing the level of unemployment. That was a principal reason why I felt no lasting benefit could flow from the $50 rebate that was under consideration early this year.

If poor profitability is adversely affecting economic performance, we should expect business firms to exercise great caution in embarking on capital-investment projects. No businessman is likely to add to his plant or equipment if the promise of a decent return is not present. The current expansion of the over-all economy, while otherwise generally satisfactory, has been marked by notably weaker investment spending than was characteristic of previous recoveries. In the two-and-a-half years of this expansion, real capital outlays have increased only half as much as they did, on average, over like periods in the previous five expansions. The shortfall has been especially marked in the case of major long-lived industrial construction projects, and it has occurred even in industries—such as paper and basic chemicals—in which the rate of utilization of industrial capacity is well advanced.

Unless the willingness of businessmen to invest in new plant and equipment increases decisively, the expansion of economic activity now under way will continue to lack balance. And that, I need hardly add, will make it more uncertain whether the expansion is going to continue at a sufficient pace to bring unemployment down significantly, or—for that matter—whether the expansion itself will long continue.

The weakness of profits in recent years is not the only cause of investment hesitancy, but it is unquestionably a very important cause. To be sure, many people have a contrary impression about the general level or the trend of profits. In fact, the most commonly cited profits figures—the so-called book profits that businesses report to their stockholders—have risen spectacularly in the last few years, and in total are currently running just about double their level a decade ago. But these raw profit figures are misleading and they should never be taken at face value.

In actuality—as the more sophisticated observers of corporate finances know—raw profit numbers have become virtually meaningless as a guide to corporate affairs because of the way in which inflation distorts the calculation of profits. Under historical cost accounting—the method used widely for inventory valuation and universally for capital-asset valuation—the true costs of producing goods in an on-going business are far from fully captured. Rather, they are significantly understated with respect to both the drawdown of materials from inventory and the consumption of capital assets. And when costs are understated on an accounting basis, profits of course are overstated; that is to say, the reported total of profits contains an element of inflationary fluff that in no sense enlarges a firm's ability to pay dividends or add to retained earnings.

The practical consequence of the inflationary fluff on a company's fortunes is decidedly negative, since taxes have to be paid on the "phantom" portion of profits. Quite obviously, this has lessened the ability of corporations to add to their capital investment without borrowing. The tax drain has become very large in recent years because of the enormous understatement of costs. For 1976, for example, the Commerce Department estimates that the replacement cost of inventories used up by nonfinancial corporations exceeded by $14 billion the materials expenses claimed for tax purposes. More striking still is the Department's estimate for last year of the amount by which depreciation charges based on historical cost fell short of the replacement cost of the capital assets consumed. That estimate came to nearly $36 billion, making the combined understatement of costs from these two sources $50 billion in 1976.

The huge understatement of costs that arises because of inflation cannot be ignored by anyone seriously concerned with corporate earnings. Once account is taken of the distortions wrought by inflation—and when an offsetting adjustment is also made to allow for the changes over time in Treasury depreciation rules—we find that the level of corporate profits was overstated in 1976 by about $30 billion, and that this resulted in an overpayment of some 10 to 12 billion dollars in income taxes. True economic profits of corporations are thus very different from reported book profits.

Just how poor the trend of profits has recently been is clearly indicated by the fact that in each year from 1968 through 1975 the after-tax "economic profits" of nonfinancial corporations from domestic operations were, in the aggregate, consistently below the levels reached during 1965–1967. A new high level of these profits was indeed reached during 1976, but even that achievement is decidedly unimpressive when profits are expressed as a rate of return on the amount of equity capital in use. So far in the inflation-riddled 1970's the after-tax rate of return on stockholders' equity has averaged only about 3¼ percent when the tangible assets portion of equity capital is valued, as it should be, on a replacement cost basis. That figure is lower by two percentage points than the average rate of return for the 1950's and 1960's. Despite a sizable recovery from the recent recession, the rate of return on the equity investment in our corporations appears to be running currently at a level not significantly different from the depressed average so far this decade.

Anyone who wonders why capital spending has been so halting or why stock prices have behaved so poorly for so long would be well advised to study this dismal record of what American business has been earning. Historically, there has been an impressively close correlation between the rate of return on stockholders' equity and the rate of real investment. The linkage between the rate of return on equity and the behavior of equity prices is looser, but it still suggests that professional investment managers are no longer being deceived by the inflationary fluff in profit numbers. The stock market, by and large, has not been behaving capriciously; instead it has been telegraphing us a message of fundamental importance.

At any given point in time, investment activity and stock market behavior are conditioned, of course, by much more than current profit readings. What is ultimately decisive in determining the behavior of investors and businessmen is not the rate of return currently earned on past investments but rather expectations about future earnings. Very often current earnings are an excellent proxy for expectations about future earnings; sometimes they are not. My judgment is that businessmen and investors at present have a sense of doubt and concern about the future that is even greater than would be justified by the low level of true economic profits.

One telling piece of evidence that this is so is the pronounced hesitancy of businessmen going forward with capital-spending projects that involve the acquisition of long-lived assets. The investment recovery that we have experienced so far in this cyclical expansion has been heavily concentrated in relatively short-lived capital goods that promise quick returns—trucks, office equipment, and light machinery, for example. Major investment projects that cannot be expected to provide payback for many years encounter serious delays in getting management's approval. Indeed, the decline of industrial construction that set in during the recent recession continued through the first quarter of this year—two years after general economic recovery got under way—and has not yet turned around decisively enough to establish a clear trend.

Many businessmen have a deep sense of uncertainty about what the longer future holds and, as a consequence, are discounting expected future earnings more heavily than they ordinarily would in their investment calculations. The special degree of risk that businessmen see overhanging new undertakings means that they often will not proceed with a project unless the prospect exists for a higher-than-normal rate of return. This is not only skewing investment toward short-lived assets; it is also fostering an interest in mergers and acquisitions—something that does not require waiting out new construction undertakings. There has been a noticeable pickup in merger activity recently, but such activity generates neither additional jobs nor additional capacity for our Nation's economy.

The reasons why businessmen appear to be assigning special risk premiums to major investment undertakings are complex, and I certainly cannot deal with them exhaustively today. But I would like at least to touch on the conditioning influences that seem most important—beyond, of course, the critical fact that current corporate earnings, properly reckoned, are discouragingly low.

My frequent discussions with businessmen leave little doubt in my mind that a strong residue of caution in businessmen's thinking has carried over from the recession of 1974–75. I think it is fair to say that the present generation of business managers had developed an inordinate degree of faith in government's ability to manage and sustain economic expansion. When they discovered that that faith was not justified, the experience was sobering—particularly for the not inconsiderable number of businessmen who had imprudently expanded debt in the froth of the earlier prosperity. Moreover, the lingering sense of unease produced by the severity of the recession has been deepened by the sluggishness of the subsequent recovery in much of the world economy outside the United States. In contrast to the widely-shared conviction of just a few years ago that the business cycle had been mastered, a surprising number of businessmen

are now seized by concern that the world economy may have entered a downphase of some long cycle. One factor sparking such speculation is apprehension that the quantum jump in energy prices may be affecting the world's growth potential to a more serious extent than was originally thought likely.

More troublesome still, the specter of serious inflation continues to haunt the entire business community. The fear that inflation will not be effectively controlled is indeed a key reason for the high risk premiums that businessmen nowadays typically assign to major investment undertakings. Increasingly, businessmen understand the severity of the burden they are carrying on account of the taxation of "phantom" profits. They also have learned the hard way—from the frenetic conditions of 1973–74—that inflation is totally inimical to a healthy business environment. Having little basis for projecting how inflation will affect their enterprises and fearful that government may in time resort to direct controls once again, they feel bewildered in attempting to judge their future costs or their future selling prices. Because of that, they yearn for some solid piece of evidence that inflation will be tamed. They are troubled because no such evidence is yet at hand.

Added to these concerns is the fact that businessmen have had great difficulty in evaluating the implications of the major policy initiatives that are being considered this year. Businessmen cannot at this juncture confidently judge what kinds of energy will be available in the years ahead. Nor do they yet have any firm basis for assessing what kinds of tax incentives or disincentives may apply to particular energy uses. They are concerned that innovations in Social Security financing now under consideration may end the traditional rule under which employer and employee taxes have been the same and, as a consequence, lead to multi-billion dollar increases in the Social Security levies they have to pay. They suspect, moreover—as do many others—that the revamping of welfare programs will prove much more expensive than is now being estimated and that still additional taxes on businesses will be imposed as a means of financing reform. And the daily rumors about impending tax reform, among which ending of preferential treatment of capital gains is frequently emphasized, have contributed to a mood of unease in both corporate board rooms and the stock exchanges. So too has the expectation that a serious campaign for a costly undertaking in national health insurance may start next year.

I strongly suspect that the ability of businessmen to assimilate new policy proposals into their planning framework has now been stretched pretty far. In fact, I seldom talk with a businessman these days who does not, in one way or another, voice concern about his inability to make meaningful projections of corporate costs and earnings for the years immediately ahead.

The implications of the matters on which I have been dwelling—the behavior of profits and the state of mind of the business community—appear to have escaped a good many people. Economic analysts who insist, for instance, that capital spending will automatically catch fire as capacity margins diminish are, in my judgment, thinking too mechanically. Much will depend on the process by which the economy reaches more intensive utilization of resources—especially on government's role in that process.

I also think that analysts endeavoring to assess capital-spending prospects—and indeed prospects for the economy generally—may be neglecting a sensitive cyclical development. I refer to the fact that, whereas prices charged by business generally advanced more rapidly than did the costs incurred by business in the early stages of this expansion, that is no longer the case. This, of course, means that profits per unit of output have stopped rising and may indeed have begun to fall—a development typical of the more advanced stage of business-cycle expansions and one that is certainly not conducive to vigorous capital-investment activity. I know enough about business-cycle behavior to avoid at this time the inference that a sustained profits squeeze is emerging. We have here, nevertheless, an incipient imbalance in the economic situation that ought to concern us. And it is one more compelling reason to ask if national policy does not need to be more explicitly oriented to the strengthening of profitability and the encouragement of capital formation.

The last time business investment in fixed capital was as weak as it has been since 1973 was in the late 1950's and early 1960's. I believe there are some policy lessons we can profitably draw from that period. There was a great deal of concern at that time that a phase of deep-seated economic malaise had set in, with worry voiced that sluggishness in business investment might well prevent the economy from attaining full employment. The parallels with today—both in objective fact and in assessment—are close in many respects, the major differences being that profit rates were not as low then, nor was inflation comparably troublesome.

A bold policy approach—predicated on the need for stimulation of capital investment—was then developed, with one of President Kennedy's early messages to Congress calling for enactment of an innovative tax device, namely, the investment tax credit. The Revenue Act of 1962 brought the tax credit into being. That same year witnessed a reinforcement of investment incentives in the form of significant liberalization of Treasury depreciation rules. This investment-oriented thrust of policy was followed, moreover, by recommendations for broadly based income tax reductions for both businesses and individuals, and they ultimately were embodied in the Revenue Act of 1964. Taken together, those actions of the early 1960's were sensitively responsive to conditions that have many similarities to the situation in which we now find ourselves. And what is particularly worth recalling, those actions soon had the consequence of strengthening dramatically both investment activity and the general economy.

If we were able to launch a policy response now that was just as unambiguously positive in its implications for profitability, I for one would have little doubt about our economy's capacity to shake off its malaise. As every recent study of our Nation's investment needs has emphasized, we are confronted with an enormous capital-formation challenge for the years ahead. If we have the good sense to create hospitable conditions for saving and investing, I truly believe ours could become an age of sustained progress in employment and well-being.

The doubts and uncertainties that now prevail in the business and investing community reflect, in large part, irritation or annoyance at what is viewed as governmental myopia. They must not be interpreted as being indicative of business timidity. That enormous vitality and dynamism still exist in our business system is attested by the extraordinary fact that, despite the weakness of profits in recent years and the cumulating anxieties about the future, our economy has actually generated nearly seven million jobs since the spring of 1975—nearly all of them, I should add, in private industry.

The practicality of so many initiatives in this Administration's first year is arguable, but the President's leadership also bespeaks a seriousness of purpose that in the end may bring lasting benefits to our Nation. We have been through a year of animated policy debates—a year, I think, of useful growth in the perception of how plausible but divergent objectives can be practically blended. The basic reform this country now needs is the creation of an environment with many new job opportunities for our people. I expect the dust of controversy to settle and that constructive legislation will follow.

I do not mean to suggest that encouragement of investment through a bold tax policy is all that is needed. Such encouragement is vital, to be sure, and it will undoubtedly make a difference in the willingness of businessmen to invest in new plant and equipment. But the effort at eliminating the high risk that now attaches to investment must be of broader reach. It must go to the array of concerns of the business community about energy policy, about environmental codes, about governmental regulations at large, and—above all—about inflation.

I cannot overstate the importance of unwinding the inflation that is continuing to plague our economy. There is a paramount need for avoiding new cost-raising measures by government, of which the recently legislated increase of the minimum wage is only the most recent very troublesome example. Fiscal and monetary policies need to be conducted in ways that will quiet rather than heighten inflationary expectations. On the fiscal side, this means that great caution will have to be observed both in giving up tax revenues and in program initiatives entailing new expenditures. As a practical matter, expenditures on some existing programs may therefore have to give way. We simply dare not take steps that would result in any appreciable enlargement of our already swollen budget deficit. That could only excite unease in the business and financial community.

On the monetary side, I want to assure you that we at the Federal Reserve fully appreciate the critical linkage between money creation and inflation. We have no intention of letting the money supply grow at a rate that will add fuel to the fires of inflation. On the contrary, we are determined to bring about a gradual reduction in the rate of money expansion to a pace compatible with reasonable price stability. That cannot be done quickly because of the powerful inflationary pressures that have become embedded in our economic life over so many years; but I assure you that it will be done if the Federal Reserve retains—as I expect it will—the independence from political pressures on which the Congress has so wisely insisted across the decades. That does not mean that the Federal Reserve is preoccupied with the objective of monetary firmness. Our obligation to foster financial conditions that favor the expansion of job opportunities is clear and I assure you this is very much on our minds. We constantly keep probing for that delicate balance between too much and too little money.

The increase of short-term interest rates that has occurred since late April has served to check what would otherwise have been an explosion of the money supply. By taking measures to check the growth of money, we have demonstrated that we remain alert to the dangers of inflation. As a consequence, long-term interest rates, which nowadays are extremely sensitive to expectations of inflation, have remained substantially stable. Had we not taken steps to bring the money supply under control, I have little doubt that fears of inflation would now be running stronger, and that long-term interest rates, which play such a significant role in shaping investment decisions, would therefore now be higher than they in fact are. In that

event, of course, the continuance of economic expansion would be less secure.

We at the Federal Reserve always welcome advice on how best to proceed. Ours, however, is the responsibility to act in the monetary area, and we intend to exercise that responsibility in ways that promote the long-run as well as the immediate interests of this Nation.

INTEREST GROUP MISUSES MEMBERS' NAMES

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 28, 1977

Mr. SHUSTER. Mr. Speaker, I would like to bring to the attention of the Members of the House a very disturbing incident and one which I hope would not be repeated.

The Citizens Committee for the Right to Keep and Bear Arms has sent mass mailings to congressional districts with the Member's name boldly printed at the top of the label. I have written a letter to this organization stating that I did not authorize the use of my name and requested that this practice be stopped immediately. In addition, I have written to the Postmaster General asking for advice on any recourse that would be available to me to prevent such an occurrence in the future. For the Members' information, I would like to include a copy of my letters to the organization and Mr. Bailar:

HOUSE OF REPRESENTATIVES,
Washington, D.C., October 26, 1977.

Mr. BENJAMIN F. BAILAR,
Postmaster General,
U.S. Postal Service,
Washington, D.C.

DEAR MR. BAILAR: Please be advised that my name is appearing above the name and address on envelopes mailed by the Citizens Committee for the Right to Keep and Bear Arms without my authorization.

Attached is a copy of one such envelope along with a letter which I have sent to the Committee.

Is there any recourse which I might have to assure that such unauthorized use of my name in the U.S. mails is not continued?

Sincerely,

BUD SHUSTER,
Member of Congress.

HOUSE OF REPRESENTATIVES,
Washington, D.C., October 26, 1977.

Mr. ALLEN M. GOTTLIEB,
Chairman, Citizens Committee for the Right to Keep and Bear Arms, Bellevue, Wash.

DEAR MR. GOTTLIEB: I was surprised when my Altoona Office received an envelope from the Postal Service (copy attached) which shows my name above the name and address of the person to whom the envelope was addressed.

It would appear to be part of a mass mailing conducted by your organization in which my name is used without my authorization.

Please be formally advised that I did not authorize the use of my name in this mailing; that I ask that such use be stopped forthwith; and that I request you to immediately reply in writing providing me with the circumstances around which this mistake occurred.

Sincerely,

BUD SHUSTER,
Member of Congress.

THE FARM PRODUCTION PROTECTION ACT OF 1977

HON. IKE F. ANDREWS

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 28, 1977

Mr. ANDREWS of North Carolina. Mr. Speaker, the Subcommittee on Conservation and Credit of the House Committee on Agriculture is considering H.R. 7111, the Farm Production Protection Act of 1977. This bill is sponsored by my good friend and the distinguished chairman of the subcommittee, the Hon. ED JONES, of Tennessee. I am a cosponsor of an identical bill, H.R. 9213.

Of all the measures along these lines that are pending in the subcommittee or have been proposed, this one seems to have the best potential to protect and to benefit the farmers of America. Essentially, it would provide all-risk, all-crop protection nationwide.

As many of my colleagues know, North Carolina, the South, and other sections of the country have sustained substantial crop damage from drought this year. Even so, we hear reports of bumper grain crops to the point many people are saying, "A good year for farmers."

Such a viewpoint is misleading when one considers that there are thousands of farmers who have suffered damage to their crops and their financial condition even in this bumper year of production.

Although the disaster provisions of the farm bill will help some farmers, a great many of them will not share in the benefits of this legislation. Many of these are in North Carolina's Fourth District, which I am privileged to represent.

The present Federal Crop Insurance Corporation program, which H.R. 7111 addresses, is available in my district only to tobacco farmers. I understand that some 824 tobacco growers in Chatham, Durham, Randolph, and Wake Counties participate in this program, and they are, I believe, reasonably well pleased with the protection offered under this program.

But, no Federal crop insurance program is available for those many farmers in the Fourth District who cultivate more than 125,000 acres in corn, wheat, oats, barley, grain sorghum, and soybeans. Although these farmers are somewhat protected through the provisions of the disaster program, they do not enjoy the privilege of participating on a voluntary basis in the Federal Crop Insurance Corporation program.

They should, Mr. Speaker, have the same opportunity to protect their crop investments that is afforded to tobacco growers.

Enactment of H.R. 7111 and establishment of the proposed Farm Production Protection Corporation should go a long way toward offsetting some of the problems in our present farm programs. It is my sincere hope that the subcommittee, the full committee, and the Members of the House will expedite consideration of this bill so that it can be enacted soon after we reconvene in early January of 1978.

ELIMINATION OF THE EARNINGS LIMITATION

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 28, 1977

Mr. GILMAN. Mr. Speaker, permit me to take this opportunity to express my gratitude for the passage of H.R. 9346, the Social Security Amendments Act, in the House yesterday. Although this measure did not provide the answers to all of the social security problems which are confronting the American public, the legislation does make some long-range long-needed, changes which will significantly improve the system as we know it now.

I supported this bill, which passed the House by a vote of 275 to 146, because of several significant provisions it contained. One of the more necessary reforms included was the elimination of the earnings limitation, an action which will greatly alleviate the burdens and inconvenience now placed upon many of our elderly population.

My colleague, the gentleman from California (Mr. KETCHUM) offered an amendment which met with approval by by the House. This amendment removes by 1982, the earnings limitation for all persons 65 years of age and older. Currently, our senior citizens are able to earn only $3,000 imposing undue burdens upon them, because of the severity of inflation, the high prices of fuel and food, and the ever-escalating property taxes which face millions of our elderly.

I have been a long-time supporter of the earnings limitation removal, having introduced legislation in the past two Congresses calling for the deletion of this outstated check upon outside earnings. Many of my colleagues in the House have joined with me in this effort by cosponsoring this legislation. Surely, the social security system should reflect the needs and trends of our economic situation, and for too long, the system has not been responsive to large segments of the population, particularly the elderly of America.

Another provision which is admirable is the allowance for widows to remarry without loss of any benefits. This inequity had been perpetrated for too long without correction, and it is a timely and just revision of the system.

Americans can rest easier now that the Congress has acted to correct many

of the problems which had plagued the social security fund for the last several years. This legislation is expected to eliminate four-fifths of the present deficit, and to insure that old age and disability funds will be in working order for another 25 years at least.

Certainly, social security reform was much too long in coming, and the necessity for such sweeping changes was mirrored in the concern expressed by our constituents. I am pleased and gratified that the Congress had seen fit to address itself to the widespread problems evident in our social security system, and to insure that Americans be granted all the benefits they rightfully deserve. It is hoped that the Senate will move expeditiously in considering these reforms.

PHILADELPHIA EXPANDS HIGH-INTENSITY LIGHTING PROGRAM AS DETERRENT TO CRIME

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 28, 1977

Mr. EILBERG. Mr. Speaker, I am happy to report that, early next year, the city of Philadelphia will install an additional 1,000 new sodium lamps on new streets and ones that already have sodiums, to provide increased lighting protection for residents.

According to an announcement from Mayor Frank L. Rizzo, several parks also will have additional lighting.

According to Mayor Rizzo, the conversion to sodium lighting, begun in January 1972, will do two things: It will save the taxpayers money and it will provide increased protection against crime.

On the economic side, the sodium lighting will mean a savings of almost $1 million in power costs a year. These savings are possible because sodium lamps use 10 percent less power than mercury lights.

At the same time, the sodium lights double the amount of existing light on the residential street. As the mayor has pointed out:

Lighting is one of the most effective deterrents to crime, and our sodium light conversion program has helped to continually reduce our city's crime statistics. These sodium lamps have doubled the amount of existing light on the street and gives the street the appearance of daytime during the evening. This improved lighting has also generated an additional feeling of safety and security for all Philadelphians.

The $2 million cost of the conversion of city lighting from mercury to sodium will be totally repaid in power savings within 3 years. In August 1972, the city's 83,000 mercury street lamps used 6,927,078 kilowatt hours, while in August 1977, 92,000 sodium lamps—a 12-percent increase in number—used 6,925,857 kilowatt hours.

Mr. Speaker, I am proud of the fact that Philadelphia was the first major city in the Nation to plan a conversion of its lighting from mercury to sodium.

TRAVEL: AN ENGINE OF EMPLOYMENT

HON. FRED B. ROONEY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 28, 1977

Mr. ROONEY. Mr. Speaker, the travel industry is an essential part of our Nation's economy, and in some of our States, tourism is the leading industry. What is more, the travel industry stands out among major U.S. industries in creating new jobs, resisting economic downturns, and providing a major source of jobs for minorities, women, and youth.

Discover America Travel Organizations, Inc. (DATO), the Washington-based, national, nonprofit organization of the U.S. travel industry, based on research by the U.S. Travel Data Center, has vividly illustrated the job creation and impact aspects of the travel industry in a new report, "Travel: An Engine of Employment."

This is an industry which impacts upon us all, and I include this report at this point in the RECORD:

TRAVEL: AN ENGINE OF EMPLOYMENT

INTRODUCTION

The travel industry's contribution to employment in America is vital to the nation's economy. Travel directly generates employment in every state in the nation. It is a major economic mainstay in many regions of the country. Over the past two decades, travel has created jobs at twice the rate of the overall economy.

This job creation continues through economic downturns as well as prosperity, making travel an important anti-recessionary force in our economy. Travel offers relatively more employment opportunity than other industries to disadvantaged groups traditionally discouraged by the job market.

Travel is solely dependent upon adequate supplies of petroleum. While travel away from home requires relatively little of the nation's annual petroleum supplies, such travel would not be possible without this small amount. Policies that attempt to extract extraordinary petroleum savings from travel will weaken the industry's employment generation powers and impose human costs on our economy beyond the inconsiderable benefits that might be derived.

It has been estimated, for example, that closing gasoline service stations on weekends would reduce petroleum consumption by less than one percent but cut travel industry employment by over 475,000 jobs. This is a heavy price to pay for such insignificant savings, yet this approach has been seriously advanced by some to help deal with conservation of petroleum supplies.

The effects of such a discriminatory energy policy go beyond the jobs lost. The travel industry consists almost entirely of small businesses. Such a plan would strain the resources of many of these firms past the breaking point and cause them to fail. This is a serious cost in a nation that seeks to reduce its unemployment and strengthen small business opportunities.

The employment loss among both entrepreneurs and employees caused by petroleum shortages might be made up through governmental policies directly aimed at increasing jobs, such as a public service employment program. However, a comparison of the costs of such a program against job creation in the private sector is not encouraging. Some estimates place the true cost of creating an additional job through public service employment programs as high as $80,000 per job at an annual rate. The U.S. Travel Data Center estimates that initial travel expenditures of $25,500 currently supports one retail job in the travel industry. It makes little sense to eliminate a private sector job supported by $25,500 and to replace it with one costing possibly three times as much for minimal energy benefits.

The travel industry is a major engine of employment. Our economic and social well-being are protected and enhanced if policy makers recognize this reality.

WILLIAM D. TOOHEY,
President, Discover America Travel Organizations.

TRAVEL: AN ENGINE OF EMPLOYMENT

Travel away from the home community has become an integral part of the American way of life. Rising income and increasing leisure time have stimulated a growing American population to visit nearby areas or faraway places for pleasure and relaxation. Moreover, travel today is an essential part of the nation's way of doing business, improving the exchange of ideas and resources in a free enterprise economy.

Despite the pervasive nature of travel in American life, its economic contributions are not generally perceived particularly by policy makers. There is a tendency among some to regard this industry, which makes it possible for Americans to more fully enjoy their leisure time and facilitate their business activities, as frivolous and non-essential. When conditions demand a reduction in energy consumption, these people say limit the petroleum available to travel, ignoring or underestimating the injurious economic effects of such a policy.

Aside from restricting an activity that provides communication between people, cultural understanding, physical and mental health benefits and facilitation of commerce, such policies are shortsighted from the standpoint of the nation's economic welfare. The industry that has developed to serve the traveler in America contributes enormously to the U.S. economy. In 1976, the U.S. Travel Data Center estimates that travelers spent $104 billion in the U.S. on trips involving an overnight stay away from home and day trips to places 100 miles or more away. The $104 billion in expenditures includes spending by foreign visitors as well as U.S. residents. This activity, in turn, generated $22 billion in wage and salary income and $13 billion in Federal, state and local tax revenue.

But the most impressive contribution of travel to the American economy must be measured by jobs. Travel directly generated 3.8 million jobs in 1976 and indirectly an estimated additional two million jobs.

Travel's contribution to employment goes far beyond simple estimates of volume. As the following pages indicate, the travel industry stands out among major U.S. industries in creating new jobs, resisting economic downturns and providing a major source of jobs for minorities, women and youth.

Moreover, small businesses dominate the industry. Ninety-nine percent of the 1.4 million travel-related business firms in the U.S. are classified as small businesses. Energy, tax reform, and other policies that discriminate against the travel industry will impact heavily on the small businesses that comprise the industry, producing failure and loss of employment in this sector. These characteristics of employment and small businesses in the

travel industry should be of vital concern to national leaders committed to employment opportunity for all Americans who want to work.

However, this strength in producing jobs and income is particularly dependent upon adequate supplies of petroleum fuel; travel requires transportation and transportation requires petroleum. Without the provision of adequate supplies of fuel for transport, the travel industry engine of employment will eventually grind to a halt. This would be a severe loss in our nation where creating and maintaining employment opportunity remains a top priority.

Increased travel activity and its job-creating capacity can also be used as an effective tool of public policy. Given additional demand for travel, this labor intensive industry can absorb large numbers of unemployed and underemployed workers. Such increased demand generally can be accommodated quickly to increase employment without immediate large-scale investment to expand capacity.

As the economy shifts to a service orientation and as the nation wrestles with its problem of high unemployment, it would appear to be in the public interest to view the travel industry as a vital element in an expanding U.S. economy. Travel activity has contributed to the balanced growth of the U.S. economy and employment and to the development of depressed areas, many of which have been aided in developing their travel resources by government funds.

Travel activity offers some special opportunities for the economic support and involvement of low-income groups. Public policies designed to increase travel activity have important potential as the nation seeks to reduce the increasing burdens of income maintenance programs. Increased travel activity can be accomplished by more efficient vehicles, better travel planning, group travel and other adjustments for more efficient use of the nation's petroleum fuels.

THE U.S. TRAVEL INDUSTRY IS A MAJOR U.S. EMPLOYER

Travel away from the home community is an important part of the American lifestyle. The 1972 National Travel Survey indicates that at least one out of every two U.S. residents takes at least one trip to a place 100 miles or more away from home in a given year.

On an average day, nearly 8 million Americans are traveling away from home, a vast, mobile population equal to that of the Chicago metropolitan area. A vital industry has, developed to transport and serve these travelers.

Despite the enormity of travel activity, the contribution of the industry to U.S. employment is frequently overlooked. This is strikingly evident in the past design of public policies to deal with actual or potential petroleum shortages. Too often, travel has been characterized as frivolous and non-essential by those attempting to manage scarce petroleum resources.

There is nothing frivolous and non-essential about the jobs generated by travel activity. Table I indicates that the travel industry provides substantial employment in every state in the nation. A total of 3.8 million jobs were directly created by travel activity during 1976, or nearly 5 percent of total nonagricultural payroll employment.

The direct employment impact, however, identifies only part of the total effect of travel spending on the U.S. economy. Additional jobs are created along the production chain as travel industry retailers purchase goods and services from wholesalers, manufacturers and other business sectors.

The indirect employment created by this activity is substantial. The National Tourism Resources Review Commission estimated that for every 100 jobs directly generated by travel spending in America, 48 jobs are generated indirectly. This means that the total impact of travel spending on U.S. employment may be as high as 5.7 million jobs in 1976, or 7 percent of total payroll employment.

Travel activity and the industry that serves it is solely dependent upon a healthy passenger transportation system, which in turn, depends upon adequate supplies of petroleum fuel. While other industries can utilize coal, natural gas, nuclear power or other sources for most of the energy they require, transportation needs petroleum for 97 percent of its energy. Travel transportation to places 50 miles or more away from home, however, accounts for only 10 percent of annual petroleum consumption, or about 4.6 percent of the total energy consumed in the U.S. If this relatively small amount of petroleum were unavailable, the travel industry would cease to operate and millions of jobs would be lost.

TABLE 1.—*1976 U.S. Travel-Generated Employment*

	Thousands
Alabama	36
Alaska	9
Arizona	68
Arkansas	37
California	348
Colorado	72
Connecticut	35
Delaware	12
District of Columbia	34
Florida	283
Georgia	71
Hawaii	45
Idaho	20
Illinois	127
Indiana	58
Iowa	42
Kansas	38
Kentucky	56
Louisiana	61
Maine	33
Maryland	52
Massachusetts	92
Michigan	139
Minnesota	132
Mississippi	31
Missouri	108
Montana	19
Nebraska	23
Nevada	39
New Hampshire	26
New Jersey	92
New Mexico	34
New York	167
North Carolina	78
North Dakota	14
Ohio	125
Oklahoma	62
Oregon	53
Pennsylvania	152
Rhode Island	8
South Carolina	58
South Dakota	16
Tennessee	67
Texas	225
Utah	33
Vermont	21
Virginia	73
Washington	68
West Virginia	25
Wisconsin	96
Wyoming	14
Total U.S. traveler-generated	3,625
Foreign visitor-generated	213
Grand total	3,838

TRAVEL CREATES JOBS AT TWICE THE RATE OF THE OVERALL ECONOMY

The travel industry has been an engine of employment for at least two decades.

Since 1958, employment in the travel industry, according to estimates of the U.S. Bureau of Labor Statistics, has grown 121 percent, or more than twice as fast as overall non-agricultural payroll employment.

The travel industry contributed 10 percent of the 28 million new jobs created over that period. Its share of total non-agricultural payroll employment grew from 4.3 percent to over 6 percent in 1976.

TRAVEL INDUSTRY JOB CREATION CONTINUES DURING RECESSIONARY PERIODS

Payroll employment in the travel industry has grown every year since 1958, when relevant data first became available. In contrast, total non-agricultural payroll employment has declined in two of these years. This pattern suggests that the travel industry resists recessions better than the average industry in the economy.

This indication is borne out by an analysis of the 1973–75 recession, the worse economic downturn since the Great Depression of the 1930's.

Total payroll employment declined three percent below year-earlier months during the recession. On the other hand, travel industry employment rose significantly throughout this period.

In June, 1975, when the recession depressed total payroll employment 2.2 million jobs below its year-earlier mark, travel industry employment was 700,000 jobs above its year-earlier level.

The travel industry also outperforms the overall economy in job creation during economic recovery. By December, 1976, travel industry employment had grown nearly three times as fast as total employment over year-earlier levels.

THE TRAVEL INDUSTRY OFFERS MORE JOB OPPORTUNITIES THAN THE U.S. OVERALL AVERAGE

Minority groups, women and youth have generally registered higher unemployment rates than the overall average in the U.S. These workers have generally found it more difficult than other employees to find a job.

The travel industry provides an abundant number of jobs for both members of minority groups and women. In 1976, blacks and members of other minority groups made up 13 percent of the employment in the travel industry, compared to less than 11 percent for total U.S. employment. Hotels, motels, other lodging places and railways are particularly strong at providing job opportunities for minorities.

Female employees account for nearly 55 percent of employment in the travel industry, against 40 percent for the overall economy. Restaurants, hotels, motels and other lodging places are heavy employers of women.

The travel industry also offers substantial employment opportunities for high school and college-age youth. This group traditionally shows unemployment rates two to three times as high as the total economy, indicating the difficulty that young people have in finding jobs. The travel industry is better than other industries in providing jobs for this important group.

For example, entertainment and recreation services including travel attractions, an important part of the travel industry, provided 287,000 jobs for youths aged 16 to 21 years old in 1976, or one-third of all jobs in this category. This percentage of youth employ-

ment was greater than for any other industry for which data are available and compares to less than 14 percent for all U.S. industries.

CERTAIN REGIONS ARE HEAVILY DEPENDENT UPON TRAVEL-GENERATED EMPLOYMENT

The travel industry provides substantial employment in certain regions of the country. For example, the "sun belt" area of America, represented by the South and Frontier West travel regions, depends upon travel for nearly five and one-half percent of its total non-agricultural payroll employment.

Studies indicate that the less industrialized areas of the country are more dependent upon the travel industry for employment than other regions. As the table shows, the Mountain West region relies on travel-generated employment the most. U.S. resident travel generates 1 out of 16 non-agricultural payroll jobs in this area, compared to the national average of 1 out of 23.

The above comparisons indicate the employment effects of travel by U.S. residents. However, foreign visitors generate another 194,000 jobs throughout the nation. If these could be allocated among the regions, the travel-generated shares of total employment, of course, would be higher.

TABLE 2.—DIRECT TRAVEL-GENERATED EMPLOYMENT AND TOTAL NONAGRICULTURAL PAYROLL EMPLOYMENT BY TRAVEL REGION, 1975

Travel region	Travel-generated employment (thousands)	Total non-agricultural payroll employment (thousands)	Travel-generated share of total (percent)
New England: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont	198.4	4,699	4.2
Eastern Gateway: New Jersey, New York	239.4	9,479	2.5
G. Washington Country: Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia	320.6	8,961	3.6
South: Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee	715.7	13,604	5.3
Great Lakes: Illinois, Indiana, Iowa, Michigan, Minnesota, Ohio, Wisconsin	662.2	17,625	3.8
Mountain West: Colorado, Montana, Nebraska, North Dakota, South Dakota, Utah, Wyoming	175.4	2,738	6.4
Frontier West: Arizona, Kansas, Missouri, New Mexico, Oklahoma, Texas	494.1	8,905	5.5
Far West: Alaska, California, Idaho, Nevada, Oregon, Washington, Hawaii	538.5	10,888	4.9
U.S. overall	3,344.7	76,899	4.3

TRAVEL INDUSTRY EMPLOYMENT DEPENDS UPON THE VIABILITY OF SMALL BUSINESSES

Small businesses dominate the travel industry. The most recent data indicate that 99 percent of the nation's 1.4 million travel-related firms are classified as "small businesses" under U.S. government definitions.

Small businesses are less able to weather business declines than large corporations. Energy, tax reform and other policies that discriminate against the travel industry will impact heavily on the small businesses that comprise it, producing failures and loss of employment in the sector.

Policy makers must take this into account as well as the Nation's commitment to fostering small business opportunities when national policies and priorities are decided.

CONTROL REBATING IN THE U.S. FOREIGN TRADE

HON. PHILIP E. RUPPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 28, 1977

Mr. RUPPE. Mr. Speaker, today I have introduced a bill designed to control rebating in the U.S. foreign trade. Rebating is a practice whereby shipping companies give secret kickbacks to preferred customers in order to secure their business. Although this is prohibited by current law, enforcement has been practically nonexistent and rebating has been widespread for years. Sea Land, the largest U.S.-flag steamship company, recently made a full disclosure of its rebating practices to the Federal Maritime Commission and accepted a $4 million settlement. Although this disclosure has led to an intensive investigation of rebating by the FMC, to date no other carriers have made settlements or paid fines in conjuncion with rebating malpractices. This demonstrates the need for both improving the enforcement procedures of the Commission and creating incentives to end rebating.

The bill I have introduced includes features contained in several proposals which have been submitted by Government agencies and private companies. It increases penalties for rebating from the current $1,000 per day up to $50,000. It requires that conference agreements must contain the right of independent action so that steamship lines may reduce their rates legally without having to give secret kickbacks. Penalties are provided for those foreign carriers who refuse to provide documentation or honor subpenas in conjunction with rebating investigations but gives the Secretary of State authority to negotiate acceptable international cooperation before such penalties become mandatory. The bill requires that responsible officers of both shippers and carriers certify, under penalty of perjury, that they are not paying or accepting rebates. Finally, it requires the FMC to expeditiously address and conclude rebating investigations. No amnesty is provided for past violations of the antirebating statutes.

Accordingly I urge favorable action on my proposal to end this widespread practice which is disrupting our foreign trade.

A GREAT TRAGEDY

HON. WILLIAM M. KETCHUM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 28, 1977

Mr. KETCHUM. Mr. Speaker, this week a great tragedy occurred within the congressional district which I am privileged to represent, a tragedy which has touched all Americans. I am referring to the disastrous fire at Elk Hills Naval Petroluem Reserve which took the lives of three of my constituents. At this time I ask that my colleagues join with me in expressing our most heartfelt condolences to the families of George Van Hoozen, Mark Morvant, and Bobby Fuqua, all of Bakersfield, Calif., who lost their lives during that tragic event.

I ask, too, that my colleagues join with me in expressing equally heartfelt thanks and tribute to Red Adair, a man who truly qualifies for the title of living legend, for the forthright and courageous methods he employes to terminate disasters such as that at Elk Hills. Thanks to his efforts, the fire has been extinguished.

THE NEW DEAL IS DEAD—MAY IT REST IN PEACE

HON. WYCHE FOWLER, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 28, 1977

Mr. FOWLER. Mr. Speaker, our colleague, the Honorable ELLIOTT LEVITAS, spoke recently to the Women's National Democratic Club here in Washington on the subject "The New Deal Is Dead—May It Rest in Peace." As Robert Akerman, perceptive columnist of the Atlanta Journal-Constitution, wrote on October 23, 1977, Representative LEVITAS showed the kind of insight that warms a historian's heart.

I am sure that our colleagues would enjoy Mr. Akerman's recapture of Mr. LEVITAS' bold analysis of historical lessons as yet unlearned.

IN NEW ERA, THE NEW DEAL IS DEAD

One of Georgia's congressmen, Rep. Elliott Levitas, recently showed the kind of insight that warms a historian's heart.

In a speech which illustrates that to learn from the past we must note now only how it resembles the present but also how it may differ, he declared that the New Deal is dead. And he was bold enough to make these comments to the Women's National Democratic Club in Washington.

As Levitas pointed out, Franklin Roosevelt designed the New Deal approach at a time when a virtually unregulated economy was in shambles, and the people were crying out for strong leadership from government to get things moving again. But today the economy is thoroughly regulated, and more regulation is hardly the way to stimulate business. "The public no longer wants or needs all-encompassing direction and control from Washington," Levitas said.

Yet many people still advocate such New Deal methods as government creation of make-work jobs in the face of economic slowdown. They do not fully realize how today's situation differs from that of the 1930s.

As Levitas noted, prices and wages were falling in the crisis of the 1930s. Though he did not use the term, it was a period of deflation. In that context there was room for increased government spending to prime the pump without the danger of runaway inflation. Today, however, we already have a dangerous rate of inflation; indeed it may be the cause of the economic slowdown, and certainly you can't cure the ailment by feeding the rate of inflation.

So I would add that New Deal methods of fighting economic recession are among the most outdated aspects of that era. What we need now is a way to fight both inflation and stagnation at the same time—something the New Deal never faced.

Since as far as I knew no professional economist had come up with a concrete proposal to do this, more than two years ago I offered my own suggestion to the effect that we should develop a system of tying corporate income tax reductions to reductions in the prices of products sold by these corporations. A leveling off or lowering of prices not only would counter-act inflation but also would enable consumers to buy more, thus counter-acting recession by increasing production and jobs. During this period a number of people including two presidents have proposed tax cuts to stimulate the economy, but they had not suggested that business tax cuts be conditioned on price cuts, which to me is the crucial point.

Now at last I am pleased to note that some leading economists have finally made a connection between price policy and tax policy. Dr. Arthur Okun, chairman of the Council of Economic Advisers under President Johnson, last week proposed a system of tax incentives tied to price restraint on the part of businesses. And then Henry Wallich of the Federal Reserve Board of Governors and Sidney Weintraub, professor of economics at the University of Pennsylvania, came out with their own variation of the idea.

I do not necessarily agree with all of their specific suggestions. Okun wants to offer tax incentives for restraints on wages as well as prices, which seems too complicated to me. Wallich and Weintraub want to use tax penalties as well as incentives, which smacks too much of price control under another name. But at least they are advocating new approaches in a new situation.

When a Democratic congressman bluntly tells a Democratic organization that the New Deal is dead, we are on the way to understanding that our own era demands a different approach. And now that economists are beginning to generate ideas the New Deal never thought of, we may be on the way at last to finding such an approach.

HUD CALLOUSNESS TO FLOOD VICTIMS

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 28, 1977

Mr. RAHALL. Mr. Speaker, recently southern West Virginia experienced a devastating natural catstrophe. During this April disaster, West Virginia suffered extreme flooding which resulted in millions of dollars of damage and the declaration of my entire congressional district as a Federal disaster area.

If anything was worse than the damage and suffering caused by the floods, it was the frustration which was experienced as the flood victims tried to obtain Federal assistance. A typical cause of this frustration is HUD's minirepair program. By definition, this program is to provide only the barest of necessities. So bare in fact, that by HUD's logic, the minirepair program should not include repair or replacement of damaged furnaces, because the flood did not occur in the winter. Now with the winter fast approaching, many of the flood victims will face heating hardships since they have no furnaces for heat. I do not know if this callousness is unique to West Virginia or not, but it is one item in a long list of frustrations West Virginians have learned to expect from the Department of Housing and Urban Development.

CORRECTION OF THE RECORD ON CRUISE MISSILE RANGE

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 28, 1977

Mr. DOWNEY. Mr. Speaker, the CONGRESSIONAL RECORD of October 21, pages 34785–34786, carried a lengthy discussion of the B–1 versus widebody cruise missile carrier issue which no doubt left many readers in a state of confusion. This discussion, by Congressman DORNAN of California, is a response to a "Dear Colleague" letter circulated by Congresspersons CARR and SCHROEDER and me 3 days earlier—but it does not include the letter it attacks. In order that the reader fully understand the issue at hand I have always made it my practice, when taking to task any piece of writing of shorter than book length, to reproduce the criticized portions in full or at least to provide a reference specifying where they can be found. To do otherwise is, at best, to leave the reader wondering what one is talking about or, at worst, to mislead him by presenting an incomplete picture. Of course, if one is to reproduce the opposition arguments in their own words, one must have confidence that one's own arguments are stronger. If I were defending the B–1, I would probably not have that confidence.

In order to complete the record, I considered inserting the full text of our "Dear Colleague" here. But the House has once again rejected the B–1, the issue is dead, and such an insertion would probably not justify its printing cost to the taxpayer. So I will let it lie; anyone wishing a copy of our demonstration of the superiority of the wide body over the B–1 can obtain one from me or from Mr. CARR or Mrs. SCHROEDER.

But the gentleman from California did attribute to me a position which is not my position; this is one of the perils of refusing to reproduce one's opponent's arguments in his own words. So that no one will misunderstand my views, I will now correct the record on this point.

The gentleman from California says the following:

If greater (air launched cruise missile) range is such a requirement later on, then why are not these same people leading a fight to have it included now, particularly if that same greater range may be the salvation of the 747–CMC?

Needless to say, the silence of the gentlemen from New York and Michigan (Mr. Downey and Mr. Carr) on extending ALCM range in SALT II is deafening—and that silence in itself may seal the fate of the 747–CMC, whether adopted or rejected, in any case.

We have not been silent, deafeningly or otherwise. On the contrary, our position on this exact issue was explained in the "Dear Colleague" in question. I want no one to accept Mr. DORNAN's assertion that I have been "silent" on this point, and I reproduce the relevant passage from our "Dear Colleague" below:

The SALT II cruise missile range restrictions will apply for only three years, during which cruise missiles will play only a minor role in our strategic deterrent—and during which neither the B–1 nor the wide-body will have reached operational status.

In short, there is no significance to a limitation on a system which does not exist during the lifetime of the limitation. Something which is needed later is not necessarily needed now.

For the longer term, it is interesting to note the implication of a Cruise missile range limitation for both sides. For our part, it will in time reduce target coverage. But for the Soviets' part, when one considers the opportunities for forward basing of defensive systems which we have but the Soviets do not, target coverage against the United States is much more severely reduced, potentially to near zero. Since I do not evaluate national security in terms of our superiority over the Soviets, this is not an argument which moves me a great deal. My concern is for secure deterrence, which means it is more important that we have Cruise missile coverage than that the Soviets be denied it. But for those who do concern themselves with the relative strengths of the United States and the Soviet Union, I would think this might be an interesting point.

For my part, I oppose a cruise missile range limitation and have stated so, not only in the "Dear Colleague" letter quoted above, but in direct communication with the President and with our chief negotiator, Paul Warnke. I oppose it not for military reasons but for political reasons. I am concerned—and recent House debates suggest my concern is well founded—that many observers who deal with these matters on an occasional basis, whose acquaintance with the nuts and bolts of national security is casual, will incorrectly interpret the 3-year limitation as damaging national security, and will oppose the entire agreement as a result.

I am not sure exactly what fight the gentleman would have me lead. If we were dealing with a bill or resolution, I would very probably propose an amendment to relax or eliminate the range limitation—to reiterate, I would do this not because of military requirements, but because of political reality. But we are not dealing with a bill or resolution; we are dealing with a treaty or an international agreement. Congress does not conduct international negotiations; we can only take what is submitted to us and vote it up or down.

Given this choice, the only rational course is to vote it up, and to see to it that longer range cruise missiles will be permitted when they are ready and needed. To do otherwise would be to send SALT II back to the drawing boards, thus delaying or preventing progress toward the SALT III qualitative limitations which offer our only hope of arresting the present steady slide toward mutual first strike and high probability of superpower nuclear war.

A TRIBUTE TO ALLEN H. GARLAND

HON. AL ULLMAN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Friday, October 28, 1977

Mr. ULLMAN. Mr. Speaker, I rise today to pay tribute to Allen H. Garland, a pillar of this country's international trade community, who passed away on October 24.

In this city which devotes a major part of its efforts to the business of Government, we hear and read a lot of the shortcomings of the bureaucracy and the questionable nature of the industry and dedication of Government employees. Those of us in Government are acutely aware that such criticism is all too often misplaced.

On the other hand, we all too seldom pause to note the long years of devoted public service and contributions to the national good that the public receives from Government employees.

Because of the unique nature of a Washingtonian, Allen H. Garland, and his career in Government, I believe it well worth pausing and reflecting on his career spent almost entirely in international trade policy in the Department of Commerce and in the Office of the Special Representative for Trade Negotations. Allen Garland did not work directly for the Congress or for the Committee on Ways and Means. In a larger sense, however, he worked with all us who have responsibilities in the international trade area. By describing his contribution it serves to remind us in the Congress that the best of our efforts here become reality through the efforts of individuals like Allen Garland.

Allen Garland was born in Berwyn, Md., and spent his life in the Washington area. He attended Gonzaga High School, graduated from the School of Foreign Service, Georgetown University, and took graduate study at American University.

During World War II, Al Garland served in the 78th Infantry Division of the U.S. Army and saw action in the Battle of the Bulge, Remagen Bridge, and the Ruhr Pocket. He was justly proud of his war service as a foot soldier.

Al Garland's career in international trade policy began in the Department of Commerce in 1948. As his experience and responsibilities grew, Al Garland's reputation as a solid, knowledgeable policy official grew also. He was known as a hard-nosed negotiator who was always prepared. He participated in many bilateral and multilateral trade negotiations and in every major round of GATT negotiations from Torquay, England, in 1950–51 to the Kennedy round in 1964–67. His ability and effectiveness earned not only the lasting respect of his colleagues, but also of his counterparts representing the governments of other countries.

Al Garland was at his best in representing the Department of Commerce in interagency committees. As a strong advocate of U.S. commercial interests, he had an input in many trade policy decisions by the President from 1959 to 1969. As chairman of the Trade Policy Staff Committee from 1969 to 1976, Allen Garland directed the interagency machinery for the development and implementation of trade policy at the staff level. In this capacity, Al's influence, good judgment and close working relationship with the Committee on Ways and Means were invaluable to the shaping and eventual enactment of the Trade Act of 1974. Among other things, this act authorized the current Tokyo round of trade negotiations which may be the most important of the continuing series of GATT negotiations. Also as chairman of this policy committee, Al Garland was instrumental in developing the important preparatory work for U.S. participation in the Tokyo round.

In addition to his negotiating abilities, his policy sense, and his talents as an excellent administrator, Al Garland possessed human qualities as a counselor, teacher, and friend that enabled him to touch the lives of many of his colleagues in the trade policy field. Particularly, he took the time to counsel and advise many young career professionals, contributing significantly through his unique commonsense approach and many years of knowledge and experience to their practical education. Many active in the trade community today can point with genuine gratitude and pride to this man for the guidance he has provided to insure success in their careers.

Mr. Speaker, the trade community has had to say goodbye to one of its finest and most generous contributors much too soon. He has many, many friends and colleagues, however, who will not forget Allen Garland for his accomplishments, his friendship and, indeed, his lasting contribution to his country.

AN OFFICE OF CONSUMER REPRESENTATION: WE NEED IT!

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 28, 1977

Mr. HORTON. Mr. Speaker, many reservations about the proposed Consumer Protection Agency were put to rest last week with the introduction of a substitute bill, one that balances the interests of business with the interests of the consumer. It would create an Office of Consumer Representation, whose principal power would be to represent within the Federal Government the interests of consumers.

Because much of private industry has opposed the original bill, I was quite interested to find in the October 27, 1977, edition of the Washington Post a full-page advertisement voicing the new views of two of this area's most prominent business leaders. In short, they feel—as I do—that the new bill can, indeed, protect the interests of the consumer without placing an undue burden on the business community.

Mr. Speaker, I am pleased to call to the attention of my colleagues the views of Milton L. Elsberg and Myron D. Gerber, the president and chairman of the board of Drug Fair. I would hope other businesses and associations would follow the enlightened lead of Drug Fair. Their article follows:

AN OFFICE OF CONSUMER REPRESENTATION: WE NEED IT!

An Office of Consumer Representation—in this age of consumerism—you'd think everyone would support it.

But it's hard to think of a more controversial issue.

Most business people are against it.

We're for it.

We believe in our free marketplace. Our economy is like a three-legged stool. The legs are business, labor, and consumers. If the economy is to function as it should, all three legs should be in balance.

Business and labor have departments in the Federal Government to look after their interests. Consumers have no counterbalancing voice.

We think they should have one.

The proposed Office of Consumer Representation will have no regulatory power. Its only power will be to speak on behalf of consumers within the Federal Government.

Frankly, we've had some reservations. But the new bill takes care of them. We don't see why business is still so alarmed We've seen all the arguments—and we think the Office of Consumer Representation is an idea whose time has come.

The House of Representatives will probably consider the bill establishing an Office of Consumer Representation in the coming weeks. Why not exercise your prerogative as a citizen and let your Congressman know how you feel about this issue?

MILTON L. ELSBERG,
President.
MYRON D. GERBER,
Chairman of the Board.

$19 MILLION FOR TWO INTERCULTURAL CENTERS

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 28, 1977

Mr. ROUSSELOT. Mr. Speaker, last week the House handed out over $19 million of the taxpayers money to two universities—Georgetown and Tufts—for demonstration "intercultural centers." What was unique to such largess was the fact that it was done before other schools had a chance to apply to HEW for the same funds; it was done knowing full well that it will cost over $100 per square foot to build one facility; and, it was done despite the fact that the intercultural program itself is a low-priority educational item.

Despite the opposition of 202 Members of the House, myself included, the chairman of the Labor-HEW Appropriations Committee succeeded in getting the funds approved thereby striking a great moral victory for higher education. Unfortunately, however, the editors of the Washington Post do not share the same view. In their recent editorial, "Pork-Barreling for Academe," they contend:

. . . the way this huge hand-out was maneuvered through the House is a lesson in how not to award Federal money for education.

They make the obvious points about other schools being excluded from the $19 million, the cost of building the centers, et cetera, and they conclude by requesting the Senate to refrain from any similar pork-barrel inclinations.

I hope all my colleagues will take the time to read this most insightful editorial and I am inserting it in the RECORD at this point:

PORK-BARRELING FOR ACADEME

In one of those weak moments that bring out the worst in Congress, the House fell for an amendment the other day that would slip a quick $19.3 million in grants, loans and loan authority for bricks and mortar to two universities—one of which happens to be Georgetown University. The other happens to be Tufts, which happens to be in Massachusetts, which happens to be the home state of House Speaker Thomas P. (Tip) O'Neill Jr. While we don't enjoy knocking a valiant fund-raising effort for a local institution of higher learning, the way this huge handout was maneuvered through the House is a lesson in how not to award federal money for education.

Fortunately, the approval in the House was only by a slim margin—the vote was 215 to 202—and there seems to be strong opposition in the Senate on numerous solid counts. To begin with, a House Appropriations subcommittee held only a skimpy two-witness hearing on the measure, which would provide construction funds for "demonstration model academic intercultural centers." These centers are authorized under a new section of the Higher Education Act. One of them would be for the Fletcher School at Tufts and one for GU's graduate school of foreign service. As if there were some emergency about it, the money for the two centers was added not to a regular appropriations bill, but to a supplemental bill for the current fiscal year.

Quite understandably, some opponents in the House did wonder why other venerable schools weren't in the running for all this money. About the best explanation short of favoritism was something to the effect that the two schools are "recognized leaders in the field of international education" and are "ready to expand their capability," as the House Appropriations subcommittee chairman, Rep. Daniel J. Flood (D-Pa.), put it.

Sure. But over in the Senate, where an Appropriations subcommittee headed by Sen. Warren G. Magnuson (D-Wash.) held a respectable 3½-hour hearing on the measure, opponents included representatives of the American Council on Education and the American Association of Colleges and Universities, who noted that the proposed "centers" are not priority items for higher education these days. Indeed, it turns out there are about 17 good reasons for eliminating the provision as the Senate subcommittee did.

It's noteworthy, for example, that a presidential commission even now is studying such programs, which is an argument for looking at its findings before dishing out millions to two universities. Besides, the proposed facilities are estimated to cost $100 a square foot—rather high for projects that aren't even meant to provide for increases in enrollment.

None of this is to say that GU and Tufts won't need new federal assistance in the future for their fine academic programs. So will other distinguished institutions around the nation. But they shouldn't be getting large amounts of taxpayers' funds from the pork barrel. On Friday, when the matter is scheduled for consideration by the full Senate Appropriations Committee, we hope that the members will reinforce the conclusion of their subcommittee and continue to prevail on the Senate floor and in conference with the House.

THE ART OF CHINESE DUPING

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 28, 1977

Mr. DORNAN. Mr. Speaker, on April 28, I read into the CONGRESSIONAL RECORD an article which appeared in the Reader's Digest entitled, "China Behind the Guided Tour." It told of the ploys and deceptions used by the Chinese Communists to dupe wide-eyed American dignitaries and journalists into believing that Red China is an efficient and flourishing nation full of happy workers.

One of the most recent wide-eyed travelers to Red China was Carl Rowan. He, as so many before him, was given the official tour of China and—right on cue—started sending back naively glowing reports about the "good life" under communism. It is all too obvious from his reports that he has not heard the stories of those who have escaped the so-called "good life." Those refugees who have lived in—not toured—Red China have a far different tale to tell.

In a recent column by Reed Irvine, chairman of the board of accuracy in media, Carl Rowan's reports are contrasted sharply with the statements of Yuan-yen Fan, the Chinese Communist air force pilot who fled communism in his Mig-19 last July.

I urge my colleagues to read Mr. Irvine's column and compare the reports of the credulous Mr. Rowan and a man who lived through the nightmare of Chinese communism.

The article follows:

COLUMNIST TAKEN IN BY CHINESE GUIDED TOUR

WASHINGTON.—A journalist died and went to heaven, but he found life there rather unexciting, and he asked St. Peter if he couldn't find a more interesting place for him to spend eternity. St. Peter pointed out that there was only one alternative, hell. The journalist asked if it would be possible to look it over, and he was told it could be arranged. He went down to hell and found it to be a very lively, exciting place. There were bars, go-go dancers, gambling casinos and lots of action. He decided that hell was the place for him, and he applied for a transfer immediately.

St. Peter warned him that the decision was irrevocable, but he had not the least doubt about the correctness of the move. He packed his bags and returned to hell. He was immediately seized, placed in irons and assigned to the task of stoking the hellfire under the miserable conditions.

He protested vociferously. This was not at all what he had expected on the basis of what he had seen during his brief visit. How could they do such a thing? "Ho, ho," chuckled the Devil. "We knew that we could hook you on the old guided tour routine."

The Soviets pioneered the guided tours for visiting dignitaries and journalists under Stalin. The Chinese Communists learned the art from the Soviets. Professor Edward Luttwak in his excellent article on Communist China in the December 1976 issue of Commentary, asked: "After the great warning of the Russian Potemkin tours of the 1930's, how could our intellectuals and our journalists—often explicitly mindful of the precedent—fall into the very same trap?"

But fall they do. The latest victim is columnist Carl Rowan, who has been sending back fatuous, glowing reports as he progresses on his Chinese guided tour.

"In 16 days (!)," Rowan writes, "I never saw a beggar, a prostitute or a child who appeared to suffer from serious hunger, neglect or abuse."

Yuan-yen Fan, the Chinese Communist air force squadron leader who flew his Mig-19 to Taiwan last July, painted a vastly different picture of life on the Mainland at his news conference on July 8. Fan asid: "Life of the civilian is very hard. People at Chengchow, Hankchow and Shanghai fare better, but those cities are swarming with beggars coming from the countryside. . . . Because people in the villages do not have enough food to eat, they sometimes have to sell their children. . . . They just want someone to keep these children alive."

In another column, Carl Rowan said that the Chinese made him ashamed "of the abominable excuse for education that is being given to millions of American youngsters." Rowan was much impressed by the discipline of the Chinese students he saw and by the absence of problems with drugs and teen-age pregnancies.

He was apparently unaware of the turmoil and chaos that has afflicted the schools of Mainland China for the past decade as a result of Mao Tse-tung's insistence that "redness" was more important than "expertness." That meant that the schools were directed to concentrate on indoctrinating the students in Mao's political ideas at the expense of training them academically. This went so far as to result in the high school graduates being sent out to the country to "learn from the peasants," while uneducated youths were assigned to the colleges.

The result was that two years ago the situation was so bad that the minister of education complained to Mao that the colleges were turning out graduates who did not know how to read.

While Carl Rowan is praising the Chinese educational system, the Chinese leaders are themselves trying to undo the damage wrought by Mao. They are stressing the need for academic and scientific training. They are playing catch-up ball.

FINANCIAL AID FOR COLLEGE STUDENTS

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 28, 1977

Mr. OTTINGER. Mr. Speaker, Sylvia Porter, well known financial advisor and author of the syndicated column "Your Money's Worth," recently authored a six-

part series on financial aid for college students.

Today many working students are being excluded from college because of the cost, and tuition and other academic fees are bankrupting the parents of many young people who are attending college. Ms. Porter's articles are a source of valuable information for students and parents and I would like to include the series in the RECORD:

[From the Washington Star, Oct. 9, 1977]

THERE ARE WAYS TO MANAGE WHEN YOU FACE COLLEGE COSTS

(By Sylvia Porter)

Item: At some colleges today, as many as 80 percent of the enrolled students are getting a form of financial aid.

Item: In 1977 alone, a record total of more than $9 billion will have been made available to meet the costs of education after high school—in grants or scholarships, loans and jobs.

Item: More and more families are learning how to apply for and are getting financial aid from government and private sources to help them pay college bills they otherwise could not afford.

Despite the relentless upsurge in college costs in recent years, there is a way to manage when your children are ready to enroll. Do not rule out a school your child wants because of cost alone!

But to get what you need, you must start planning right now—even if your child is only a sophomore or junior in high school. Also collect the most current and most reliable information possible on what college costs and the kinds of financial aid available.

1. Begin by finding out what college really costs today. Forget costs two or three years back. If your child has already selected a college, see the catalog for exact charges, and count everything—tuition and fees, books and supplies, room and board, transportation and personal expenses.

You will find reliable estimates of total and itemized costs at many colleges in the College Scholarship Service book "Student Expenses at Postsecondary Institutions, 1977–1978."

Ask your counselor or librarian for a copy or send $4.00 to College Board Publication Orders, Box 2815, Item No. 3179435, Princeton, N.J. 08540. It includes average costs at over 2,700 two- and four-year colleges and proprietary schools, and is an excellent guide.

2. While you can regulate costs just by your choice of college, this is only one approach. Even though costs vary widely, most colleges use the same methods to determine your need for financial aid. So with financial aid, the amount you pay can be the same whether the college costs $2,400 or $6,000 a year.

3. It may be that a low-cost college in your community has exactly the educational program you want. If so, grab it. If not, note that high-cost colleges often have more private financial aid funds to help you make up the difference between costs and what you can afford.

To illustrate what you might face, it costs an average of $4,905 to attend a private four-year college as a resident student this year—and at some colleges total costs now top $7,000! But a public two-year college where you live at home would run about $2,314. In between these extremes, total costs for this academic year are:

State college in your own state, averaging $2,500 to $3,00 depending on whether you live at home or away.

State college out of your home state, costing from $100 to over $1,000 in additional tuition charges.

Private two-year college where you live at home: $3,680.

Private four-year college where you live at home: $4,331.

If your child's choice is a proprietary schoo: (trade or vocational school), the cost could run between $3,900 and $4,500 for a nine-month period.

In these institutions, which prepare students for a particular business position, skilled trade, semiprofession, personal service, recreational activity, or some other occupational training, your child also may be able to get financial assistance for expenses.

But I cannot overstress the need for early planning, and for reliable, current information about the whole financial aid process. The three key months for action are:

October: Right now! Ask your counselor for a copy of "Meeting College Costs," start checking costs, the financial aid process, funds available and from where, eligibility, application deadlines. If your child wants to participate in a college's early decision program, he or she should contact that college at once for special aid application instructions—such as deadlines, forms, or other information the college requires.

December: Have your child pick up a 1978–79 Financial Aid Form (FAF) from the school counselor. Check the financial aid application deadlines and forms required by the colleges your child favors.

January: As soon after the New Year as possible, send your completed Financial Aid Form to the College Scholarship Service. Any student applying for a Basic Educational Opportunity Grant must file the Financial Aid Form after Jan. 1, 1978, so you can supply financial information for the full 1977 calendar year.

[From the Washington Star, Oct. 10, 1977]

ESTABLISHING YOUR NEED FOR AID FOR COLLEGE

(By Sylvia Porter)

You don't have to be poor to qualify for aid to attend college, but you do have to prove you need it. Need is the difference between the costs of school and what your family can contribute.

You and your child are expected to pay something toward college costs by almost all sources that award aid. The amount you pay depends on the results of "need analysis" performed by national organizations, such as the College Scholarships Service (CSS) of the College Board. These results may then be adjusted by the financial aid director at the college making the award.

Applying for financial aid should be much simpler this year because of new procedures. Most of you can now use only one form (instead of two or three) to find out if you're eligible for money from the U.S. government or state governments, colleges, private funds.

No longer is a student required to fill out a separate form for the Basic Educational Opportunity Grant, a major federal aid program. A student can use the Financial Aid Form of the College Scholarship Service for the BEOG program and other kinds of aid, too.

Also, in about 30 states, the state scholarship agencies or financial aid administrators' associations have agreed to use the FAF, usually eliminating the need for an extra state form.

For a student not yet a high school senior, there is the Early Financial Aid Planning Service of CSS. It can give you an early estimate of your eligibility for aid from different sources, a comprehensive picture of your family's financial situation in relation to college costs and aid funds, steps you can take now to plan for paying college bills later. See your high school counselor for more information on this early planning service.

If your child is a high school senior, you can get an estimate of what you'll be asked to pay by using the worksheets and tables in the CSS booklet "Meeting College Costs." It's available from your high school guidance office.

Here's a table from the CSS giving you a rough estimate of what you might be expected to pay. It assumes a two-parent family with one parent working and one child in college. These are "ballpark" figures.

Before tax income:	Contribution for one child
$3,000	$30
$10,000	410
$12,000	700
$14,000	1,000
$16,000	1,330
$18,000	1,740
$20,000	2,240
$25,000	3,740
$30,000	5,150
$35,000	6,440

Of course, family contributions shrink substantially as the number of children in the family increases. For instance, with three children in college next year, you would not be expected to contribute anything until your before-tax income hit $12,000.

Income is not the only factor in calculating need. It also depends on assets, number of children in the family, debts, expenses, unusual circumstances, and college costs.

Also your child is expected to contribute—usually about 35 percent of current savings for each year in college, about $500 from summer earnings, and something from special benefits (Social Security, say).

To estimate your need, subtract your total family contribution (parents' plus students contribution) from the total annual cost of college.

If this need analysis shows that you and your child should be able to contribute $2,000, you wouldn't have need at a college with yearly costs of $1,900—but you would have considerable need at a college costing $4,500.

CSS doesn't expect parents to wipe out their assets or savings to finance a college education. Another key point: The recommendation from CSS on need is calculated according to a national standard, but it does not take into account what money the college has to give. The final estimate of need is always made by the financial aid director at the college—who may adjust the CSS recommendation, upward or downward, especially if you offer new facts.

Then the aid director decides how much and in what form the aid will be awarded—usually a combination of grant, loan, and work.

[From the Washington Star, Oct. 11, 1977]

PRIVATE SOURCES OF COLLEGE AID

(By Sylvia Porter)

Although some colleges are giving out "no-need" or "merit" scholarships to attract top students, few national programs award funds for achievement alone. Most look for a combination of achievement and need.

An exception is the National Merit Scholarship Program, the largest independently financed undergraduate college scholarship competition, conducted by the National Merit Scholarship Corp. (NMSC), under which about 3,900 Merit Scholarships, worth more than $11 million, are awarded each year.

This is the month—October—that the nation's high school juniors enter the competition by taking the Preliminary Scholarship Aptitude Test-National Merit Scholarship Qualifying Test (PSAT–NMSQT). The test cosponsored by the College Board and the NMSC, is given in about 17,500 schools across the nation. See your counselor today about participating.

Only the highest scorers on the PSAT-NMSQT, representing the top one-half of one percent of the nation's most academically talented youth, continue in the competition for Merit Scholarships. At least, 1,000 winners receive one-time nonrenewable $1,000 scholarships and some 2,900 receive four-year awards that range from $400 to $6,000 over four college years.

NMSC also administers the National Achievement Scholarship Program for Outstanding Negro Students. Black students who take the PSAT–NMSQT compete for about 575 Achievement Scholarships valued at approximately $1.7 million.

For more information, write to National Merit Scholarship Corp., One American Plaza, Evanston, Ill. 60201.

When you take the PSAT–NMSQT, you can use your answer sheet to ask the College Board to include your name in its Student Search Service files. The Search Service is consulted by colleges that want to send information about their new or special programs—including financial aid—to students with certain characteristics. This could be of great help to you.

A new scholarship program—the Century Leaders Program, which awards scholarships to qualified high school students—recently has been added by the National Assn. of Secondary School Principals and the National Honor Society.

Under this program, two students from each state and the District of Columbia are chosen to receive $1,000 scholarships. From this group, one national winner receives $10,000 and nine national finalists receive $500 each, in addition to the initial $1,000.

Your application must be filed with your high school principal by this Friday, Oct. 14. You have no time at all to delay.

Some achievement scholarships are available for students with special interests, talents, or definite career plans. To find the right ones for you, first make a list of your personal qualifications, interests, objectives and talents. Then check directories and reference guides for programs that seem appropriate.

You'll find an exceedingly useful guide outlining financial aid programs in "The Financial Aid Guide for College" by Elizabeth W. Suchar (Simon & Schuster, $5.95).

Specialized, although small, programs are offered by national organizations your child may belong to (such as 4-H Clubs, Boys' Clubs, Jaycees, and Junior Achievement). Don't overlook.

Professional career organizations—for instance, those related to health and nursing, law enforcement, journalism, engineering, special education—offer aid to encourage a young student to enter their fields. Some even sponsor scholarship "contests" to help students demonstrate their skills.

Get a copy of a booklet called "Need a Lift?" which has an excellent list of career organizations and private sources of aid. Send 50 cents to American Legion, Box 1055, Indianapolis, Ind. 46206. Your 50 cents will be repaid many, many times.

Athletic scholarships also provide a way of meeting college costs, as you are well aware, and so do grants given to winners of beauty and talent contests sponsored by local, state or national organizations.

Beware, though, of private commercial entrepreneurs who, for a fee, promise to get you an athletic scholarship.

"ORDINARY GIRL" FROM BAYONNE MAY BE SAINT

HON. JOSEPH A. LE FANTE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 28, 1977

Mr. LE FANTE. Mr. Speaker, on behalf of the people in my hometown of Bayonne, N.J., and all Americans, I wish to make note of spiritual mission of Sister Miriam Teresa of Bayonne.

Sister Miriam Teresa—1901–27—may be the next American-born saint. Pope Paul VI appointed the Reverend Nicola Ferrante of Rome as the postulator for the Cause of Sister Miriam Teresa in the Sacred Congregation for the Canonization of Saints in 1967. Father Ferrante visited Bayonne to commemorate the 50th anniversary of her death and to continue his research on her life.

Although her life was short, it was dedicated to the spiritual welfare of us all. Mr. Speaker, I commend the following article, which appeared in the Falcon, to my colleagues:

"ORDINARY GIRL" FROM BAYONNE MAY BE SAINT

(By Joan Babbage)

Although Sister Miriam Teresa Demjanovich has been described as "an ordinary girl from Bayonne" it is possible she will become this country's second native-born saint.

Visiting the Sister Miriam Teresa League at the College of St. Elizabeth yesterday was Postulator General Rev. Nicola Ferrante of Rome, who was appointed postulator for the Cause of Sister Miriam Teresa in the Sacred Congregation for the Canonization of Saints in 1967.

Father Ferrante traveled from Rome to continue his research on the life of the nun, who was a member of the Sisters of Charity and a graduate of the college in Convent Station.

He spent part of the day visiting a nun who has been in the hospital since March. He brought her blessings from Sister Miriam Teresa and said the nun has shown remarkable improvement ever since.

Rev. Ferrante today will visit the site where Sister Miriam Teresa grew up in Bayonne before he returns to Rome. The house where she lived as a youngster has been torn down.

This year marks the 50th anniversary of Sister Miriam Teresa's death at the age of 26, following an appendectomy.

According to her sister, Mrs. Ann McLaughlin of Montclair, Sister Miriam Teresa was just an ordinary girl who liked to play baseball.

I was a nurse taking care of her when she died at St. Elizabeth's Hospital in Elizabeth. I recall she said to me, "Everything is going to be all right, Ann," but when I returned to her room, she was gone," said Mrs. McLaughlin.

Sister M. Zita, who was a novice at the same time as Sister Miriam Teresa, has written her biography and has devoted her life to her beatification.

She recalls Sister Miriam Teresa as well-balanced and meticulous about keeping the rules of the community.

"She had a sense of humor and was a sincere friend. She was a perfectionist that sometimes the others didn't sympathize with her."

Sister Zita said although many miracles have been attributed to Sister Miriam Teresa, "her great mission was the spiritual life of all of us."

Her spiritual director in religion, the late Rev. Benedict Bradley was so impressed with her vision that he directed her to write a series of spiritual essays, which were published posthumously, under the title of "Greater Perfection."

The essays, which deal with the meaning of life, union with God on earth, sacraments and prayers, have been translated into five languages and circulated throughout the world.

Said Sister Anne Lucille, secretary of the Sister Miriam Teresa League.

"She believed that spirituality was within everyone's grasp and that all people are in need of prayers, regardless of who they are."

Mother Elizabeth Seton of Philadelphia earlier last year was named the first American-born saint of the Roman Catholic Church.

GAO: ENERGY BILL DOES NOT MEASURE UP

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 28, 1977

Mrs. SCHROEDER. Mr. Speaker, on October 14, 1977, the General Accounting Office (GAO) issued an update of its July report on the national energy plan. I think this update, while even less optimistic than the July report, is a fair and objective analysis of the goals in the national energy plan.

It is not pleasant reading, but what it has to say is important. I hope my colleagues will take a few minutes to read it.

The last paragraph of the summary is especially noteworthy. While GAO agrees with the overall objectives of the national energy plan, they state that—

The more specific program goals in the Plan, as reproduced on page 12 of H.R. 8444, however, seem highly unrealistic in light of our continuing analysis. Further, the program which is emerging appears to us to be incapable of achieving them.

To highlight the most important conclusions of the update, GAO states that the administration's projections for domestic oil production of 10.6 Mbbl/d in 1985 is high, and that crude oil production in the range of 8 to 9 Mbbl/d is a more realistic estimate. This means that our oil imports are more likely to be 12–13 Mbbl/d by 1985 instead of the 6 Mbbl/d goal set by the administration.

A summary of the update follows:

WASHINGTON, D.C.,
October 14, 1977.

To the President of the Senate and the Speaker of the House of Representatives:

In July we issued a report which included our observations on the Administration's National Energy Plan (EMD–77–48; 7/25/77). That report compared the specific initiatives in the National Energy Plan with the conclusions and findings of previous GAO work on related issues.

One of our observations at that time was that the Plan, as designed by the Administration, was not strong enough to meet the Administration's proposed National Energy Goals. We felt that it was incongruous to submit a plan which is not designed to meet stated goals. We agreed with the concept of establishing such goals and recommended that the Congress not only approve a set of clearly defined National Energy Goals, but that it approve a program which is designed to meet those goals. Obviously, such a program would not only need to contain stronger measures than proposed by the Administration, but would also need to contain milestones in order to chart progress towards the goals, as well as standby measures in the event that satisfactory progress is not being made.

For example, one of the Administration's goals was to reduce oil imports to 6 million barrels per day (MMB/D) by 1985. We concluded in our July report that oil imports would more likely be about 10.3 MMB/D in 1985 because of what we believe to be overly optimistic Administration projections of energy supplies from other sourecs, particularly coal. We did not take issue with the Administration's projections for domestic oil production of 10.6 MMB/D in our July report, except to note that it appeared to be on the high side. We have now done additional analysis on domestic oil production possibil-

ities and have concluded that crude oil production in the range of 8 to 9 MMB/D is a more realistic estimate.

Future oil production estimates are, of course, open to considerable speculation and there is no "right" estimate. However, we believe that our analysis demonstrates that production above 8–9 MMB/D is sufficiently unlikely that it should not be used for National planning purposes. A summary of the analysis supporting our conclusion is in Attachment I. This means that oil imports are more likely to be in the range of 12–13 MMB/D by 1985 instead of the 6 MMB/D which is the Administration's goal. These figures are outlined more clearly in Attachment II.

NATIONAL ENERGY GOALS

The Congress has taken some specific steps in dealing with the energy problem and has passed significant energy legislation in 1974, 1975, and 1976. It is about to pass even more significant legislation in 1977. However, we urge that the Congress focus the energy debate on the national energy goals and an overall strategy to achieve those goals. The debate should focus on the questions of how much energy should be consumed in the future, in what form, and where it will come from. The related economic, environmental, international and social implications should be analyzed. The appropriate time schedule should be addressed in relation to how long we can expect to be relying on insecure imports, the burning of coal, and using conventional nuclear power before we will be moving to a renewable energy base.

After such an assessment of our energy future and its options, the Congress could then establish realistic national energy goals. It could also enact additional programs which may be necessary in order to meet those goals. It is also important that milestones be established so that it is clear, over time, whether we are making satisfactory progress toward meeting those goals. We also urge the adoption of a set of standby measures which might have to be used if the milestones indicate that we are not making satisfactory progress toward the goals. The existence of a well-publicized set of standby strategies could be helpful in strengthening the programs already in operation.

The overall objectives, which were presented in the National Energy Plan, make sense to us. The more specific program goals in the Plan, as reproduced on page 12 of H.R. 8444, however, seem highly unrealistic in the light of our continuing analysis. Further, the program which is emerging appears to us to be incapable of achieving them.

ELMER B. STAATS,
Comptroller General of the United States.

INTERVIEW WITH DR. MILTON FRIEDMAN ON ENERGY CRISIS

HON. SHIRLEY N. PETTIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 28, 1977

Mrs. PETTIS. Mr. Speaker, in recent years we have heard so many opinions on the Nation's energy problems, that at times, it becomes difficult to separate knowledgeable fact from pure speculation.

In response to President Carter's recent statement about the oil companies, the noted economist, Dr. Milton Friedman, appeared on the ABC Television show "Good Morning America" on October 26 with correspondent David Hartman and explained his views on the origins of our so-called "energy crisis."

Dr. Friedman's observations are extremely enlightening and I would request that a transcript which I obtained be placed in the RECORD so we can all benefit from them:

ENERGY CRISIS

HARTMAN. We asked Mr. Friedman if there is really an energy crisis and here is his response.

FRIEDMAN. We sure do have an energy crisis but the energy crisis that we have has been produced not by the oil companies not reality by OPEC but has been produced by Washington.

H. In what way?

F. By political manipulation in the whole energy area starting with control of prices of natural gas in 1954, continuing with Mr. Nixon's imposition of general price controls in 1971—the only one of which remains is price control on oil. The result of this has been to discourage domestic production, to encourage consumption and to encourage imports from abroad. We have been doing exactly the opposite of what our national needs really call for.

H. Mr. Friedman, President Carter has said that the oil companies want it all, that potentially the profiteering could become one of the biggest ripoffs in history. Do you agree with that?

F. No, I should think that's pure, sheer demagoguery. Of course the oil companies want to make profits, you want to make profits, I want to make profits, Mr. Carter wants to make profits, we all want to make profits. The question is what kind of arrangement will convert that attempt to make profits into a socially beneficial situation. I must say the oil companies stand to benefit much more by ripping off the country with Mr. Carter's energy program than they ever could do without it. You know, one of the curious things about this is the absolute lack of attention to numbers. Total expenditures in the first year of Mr. Carter's new Department of Energy will be over ten billion dollars. That's roughly equal to the total after tax profits of all American oil companies.

H. Well, then, why is the President pushing this program of his?

F. I'm baffled as to why he's doing it because I cannot believe that it would be in his self-interest to have the results which would follow from imposing the Carter/Schlesinger program. The only way I can interpret it is that he really doesn't believe he can get most of it and he's overstating what he wants in order to get a few things at the very end.

H. What do you think ought to be done, Mr. Friedman?

F. Oh, there's no doubt what ought to be done. What ought to be done is to eliminate government controls and roadblocks. You ought to deregulate natural gas, that is eliminate price controls on oil, you ought to abolish the Department of Energy and send the 20,000 bureaucrats now employed back to productive activity instead of interfering with the production and distribution and consumption of energy. If you did that, the so-called energy crisis would disappear. Not only would it disappear domestically but the effect of it would be in a very short order to lead to a complete breakdown of the OPEC cartel.

H. What do you mean by short order?

F. Within two or three years at the very most.

H. What would happen to gas prices and oil prices if decontrol were to be put into effect?

F. They would stay exactly where they are or perhaps rise a trifle because, in fact, whom are you kidding? Who is paying for the American oil, gasoline and energy but the American consumer? There is a world market in gasoline and energy and we are paying almost the world prices. The only difference is that the federal government today is subsidizing by three dollars a barrel—roughly—the imports of all oil from abroad. But the American consumer is paying for that through taxes. So what you really want to look at is not the price at the gas pump but the total cost to the American consumer of the energy supply. Deregulation would lower the cost not raise it.

Let me make one more statement which is absolutely incredible because the government seems to do the opposite of what we need. During President Eisenhower's regime, when foreign oil was cheap and plentiful, the government restricted the import of foreign oil. They cut down on imports in order to encourage the use of more costly domestic sources. Today, when foreign oil is expensive and relatively scarce, the government is doing the opposite. We're encouraging the import of foreign oil, we're discouraging the production of American oil, we're encouraging the consumption of energy. You tell me, isn't this par for the course? Don't you notice that in most areas when government steps in, whatever its announced objectives, the actual results tend to be perverse?

H. I'm glad you're asking—by the way—rhetorical questions.

F. (Chuckle) I want you to answer what you really think. Do you really think that New York City intended to produce the mess it produced?

H. No sir. I doubt that they did. One more question. It looks like the oil companies are becoming the scapegoat here and have for some time. Why is that the case?

F. Oh, that's obvious. First of all, you have never seen anybody blame himself for bad things he did. It's always somebody else who's at fault. The government isn't going to say "mea culpa we did this." You've got to find a devil whom you can blame. The oil industry is a very convenient devil. It consists of very large, impersonal firms, the names of which everybody knows. It's very easy to berate them as profiteers. Now the fact is that the oil companies have been on both sides of this issue. If you examine who has been lobbying in Washington, you will find that it is not a case of consumers versus producers or versus the oil industry. It's fundamentally a case of those oil companies that have large domestic sources of production versus those oil companies that get most of their oil from abroad. The oil industry recognizes—and I shouldn't say the oil industry . . . it's not a unit—A certain part of the oil industry recognizes that it can do very well indeed under the Carter program, that after all, it may be able to get better subsidies out of Mr. Schlesinger's Department of Energy than it can by competing on the open market with a lot of other oil companies.

H. Mr. Friedman, thank you for being with us.

F. It's a great pleasure to be with you, David.

NATIONAL HEALTH INSURANCE

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, October 28, 1977

Mr. DUNCAN of Tennessee. Mr. Speaker, the issue of national health insurance is one which has been hotly de-

bated in many circles for several years now. It is an issue which will undoubtedly be before the Congress for resolution sometime in the not-too-distant future.

When considering programs, such as national health insurance, which have the potential for tremendous social, economic, and political impact, I feel that it is helpful and important to look at the experience of other nations with these programs in action.

I would, therefore, like to commend to my colleagues the following letter. It was written by my constituent, Mrs. Vera Hall of Knoxville, Tenn., to the editor of the Knoxville News-Sentinel. Given Mrs. Hall's personal experience with national health insurance in Great Britain, I think her comments deserve our serious consideration.

OCTOBER 21, 1977.

The EDITOR,
News Sentinel.

DEAR SIR: Mr. Walter Friedenberg's articles on the socialized medicine in Britain were well written, informative and quite accurate but with not enough detail—may I add to that.

British born, I have lived in America for 30 years—am a citizen and dedicated to the American way of life. I worry much about the way our government is taking us down the same road as Britain—not learning at all from the mistakes and economic chaos that has all but brought to a halt the enviable way of life the British people were accustomed to

I have many relatives including a Mother, sister and brother in England so I am a frequent visitor to England and I have experienced first hand the problems that socialized medicine has brought to its people.

With the high cost of medicine and hospital care in the U.S. today the temptation is great to let the government take over and supply medical care for all. Believe me this will be a third class medical system within 10 years. The British income tax rate starts at 33% and reaches 50% on a $16,000 yearly income. They pay dearly for this so called "free medical care" but now let me give you just two (I have more) personal experiences I have had with my Mother and Father's medical care.

Three years ago my Mother got up from her bed at approximately 8 a.m. She fell unconscious to the floor. My father, who was at that time quite disabled with arthritis, unable to lift her to the bed and without a telephone—had to go out on the street for help.

My brother arrived as soon as he was notified (living several miles away) and he spent the next 7 hours watching mother while trying to get the doctor. Eventually the doctor arrived at 3 p.m. and he in turn called in a specialist who decides whether the patient needs hospital care. A family practitioner, or anyone else for that matter, does not have the authority to make this decision or to call for an ambulance. My mother finally arrived at a London hospital at 8 p.m. that night. She remained unconscious for two more days—obviously the good Lord wasn't ready for her—as she recovered remarkably well—left only with a dragging foot and a slight paralysis in her left arm. Once she was in the hospital she received kind, adequate attention. Two years later my husband and I returned to England because my father was very ill. We arrived to find him in a very deteriorated condition, diabetes and painful arthritis which has caused paralysis in his legs and he was unable to walk.

For four agonizing days we waited for the specialist to arrive to make the decision about hospital care, and my father was in a diabetic coma by the time the order was given for an ambulance. My father passed away several months later in a hospital that was of World War I vintage—in a ward with approximately 15 other old people. The hospital was warm and clean but believe me the American people have no idea of the antiquity of so many of the hospitals. The lack of money makes it almost impossible to replace these hospitals with new modern facilities.

Although you can choose your general practitioner, if he can take care of you—Mr. Friedenberg was not exaggerating when he said the doctor has from 2,500–3,500 patients to serve—you cannot choose a specialist if you require surgery. Many times, after the initial examination and surgery you never see him again, an intern takes over. I can guarantee Senator Kennedy, President Carter or any of our Senators etc., who are advocating National Health Care will use this system—they, like the well-to-do British, will see a doctor privately and will subscribe to a private insurance plan so they can be admitted to a private clinic when they need surgery. Private patients are how the British doctor and surgeon keep their heads above water economically—it is as expensive to live in England now as it is in the U.S. and $12,000 a year for a doctor is no longer a comfortable income.

I am aware that some of our doctors, particularly surgeons, make extraordinary incomes and we do need some curbs on that. Our hospitals are wasteful and many are too luxurious, but my family here in the States has been blessed with a dedicated, compassionate G.P. and with adequate hospital insurance (with premiums less than the British pay in their taxes) we have managed, without undue hardship, to receive excellent medical care.

I am forwarding a copy of this letter to my Congressman and Senators. I hope it may help just a litle to make them think before they act.

Sincerely,

VERA HALL.

KNOXVILLE, TENN.

ECONOMISTS FOR RESPONSIBLE ENERGY POLICY

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 28, 1977

Mr. KEMP. Mr. Speaker, taxing energy makes as much sense in trying to increase the supply of oil and gas as taxing work to increase the number of jobs. But this is what President Carter would have the Congress do. As one Member of the House who voted against the administration's "no growth" energy bill I was encouraged to read today the very eloquent statement on energy by some of America's finest and most respected academicians today in the Washington Post.

It speaks for itself and I include it at this point in the RECORD and the names of these distinguished economists who state so articulately the case for free market solutions to the "energy problem."

Not since Richard Nixon left the White House has the public witnessed an outburst quite like President Carter's at his recent news conference on energy. The President heaped invective upon his opponents, denounced oil companies as "war profiteers" and declared that defeat of his energy program and removal of natural gas price controls will mean "the biggest rip-off in history."

As responsible economists of all parties, we deplore discussions of important national issues in these terms, we believe that the President's intemperate language reveals the essential weakness of his case.

The issue is not oil companies versus the people. And one does not need to be a fan of the oil companies to recognize that. Every signer of this statement has been critical of the oil industry. We strongly oppose the current system of controls and import subsidies that adds millions of dollars to the income of oil refiners. We believe in a competitive oil industry, free from monopoly.

We think the best way to achieve the goals of energy conservation and limited imports from OPEC is to let the market set prices—with rewards going to those who serve consumers most efficiently. Mr. Carter wants the bureaucracy to set prices and to distribute the rewards politically.

Under Carter's plan the lobbyists he deplores really would have the ability to "rip-off" the public. This possibility has certainly been recognized by some of the oil companies themselves. Contrary to public impression, not all the oil companies have been fighting the Carter program. They see the possibility that it would protect them from competition as well as grant them direct subsidies.

The so-called "energy program" would be the largest peacetime tax increase in history. It would make many billions more dollars of tax revenue available for lobbyists to seek—as well as mandate an expensive bureaucracy which would increase the overhead costs of making energy available to consumers. Already the Department of Energy is to cost $10 billion annually—a sum roughly equal to the combined aftertax earnings of America's major oil companies.

Mr. Carter would use taxes to raise the domestic price of oil to the world level. This is his way of eliminating the subsidy we are now paying through the "entitlement program" for the import of foreign oil. A far better way to achieve the same goal is to let the market set the price. This would provide the domestic owners of oil, many of whom are not large oil companies, with the same incentive to produce oil which we currently provide to OPEC. It makes no sense to say that OPEC oil producers can receive $12 or $13 per barrel when American producers are limited to $6 per barrel. But this is exactly what the President's tax on crude oil would do.

If the market is allowed to set the price, this will bring forth additional energy supplies which will lead to lower prices in the future. But if the cost to the consumer goes up due to a tax increase, it will go up now and permanently. There is no increased production. The consumer's only hope under the Carter plan is that bureaucrats in the Department of Energy will somehow be more enterprising and efficient at bringing forth energy supplies than all of the many energy companies operating under the spur of profit and competition. Does anyone really expect this to be true?

There is no energy crisis in the U.S. today, but there is an energy problem. It was created by political manipulation and price controls in energy markets. Former President Nixon deserves much of the blame for imposing these controls on oil as part of his general price control program in 1971. The controls on natural gas that created the

crisis of last winter date from more than 20 years ago. And the present system of oil taxes and subsidies was passed by Congress and signed into law by President Ford in 1975. Now a Democratic President seeks to perpetuate the mistaken policies of his Republican predecessors.

At the very time that the Carter Administration is opposing de-control and thus denying the public the right to purchase American gas at $2.20 per MCF, the Department of Energy is making long-term deals to import natural gas from Algeria and Indonesia at $3.50 per MCF.

Angry rhetoric from Mr. Carter will not persuade a reasonable citizen that it is better for our economy to spend $3.50 for gas than it is to spend $2.20.

Perhaps with more serious reflection, Mr. Carter may come to realize this himself. Perhaps he will return to his pre-election position that controls, which are a major cause of our energy problems, should be eliminated.

Congress has been told that it must rush to pass Mr. Carter's current energy plan. "This is the moral equivalent of war." And what is that? William James, from whom President Carter borrowed the phrase, defined "the moral equivalent of war" as nonmarital suffering, something which involves "discomfort ad annoyance, hunger and wet, pain and cold, squalor and filth." We do not believe that the American people deserve to have "discomfort, pain, squalor, etc." imposed upon them by their government.

ECONOMISTS FOR RESPONSIBLE ENERGY POLICY

(325 Pennsylvania Ave. S.E., Washington, D.C. 20003)

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CAMPAIGN FINANCE: THE PROBLEMS LINGER

HON. E. THOMAS COLEMAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, October 28, 1977

Mr. COLEMAN. Mr. Speaker, the issue of publicly financed congressional campaigns is one which we have addressed in the past and one which, no doubt, will come before us again.

I have asked the people of north Missouri their opinion on this matter, and I would like to share their thoughts with my colleagues.

The results of my recent opinion survey of Missouri's Sixth District confirms my position that Federal funding of congressional campaigns is opposed by most Americans.

Over three-fourths of the 25,000 people responding to my questionnaire said they were against the Federal Government using tax dollars to finance campaigns for Congress. Such a method is currently in use for Presidential races.

In my opinion, there are a number of reasons why congressional candidates should not receive Federal dollars to mount an election effort.

First. Public financing is an incumbent protection bill. Limiting both incumbent and challenger to equal spending severely limits the challenger, who customarily has had to spend more to unseat an incumbent. In 1972, for example, 10 incumbent House Members were defeated by challengers—on the average, the successful challengers outspent the incumbents by $40,000. As one national newspaper columnist said, "Public financing is the best job-insurance policy any incumbent could buy."

Second. Misplaced emphasis. Public financing automatically assumes that campaign contributions from individuals and groups is inherently evil. A majority of Americans are represented in the electoral process by work-related groups such as agricultural, labor, teacher, medical, or business groups in order to promote the political interests they deem important. This is how democracy has worked for many years and effective restraints, such as full campaign fund disclosure, have been instituted to guard against abuse.

Third. Lack of public support for public financing. Not only in north Missouri, but throughout the country, public opinion polls show that Americans do not want to earmark $1 on their income tax returns for congressional campaigns. Further, a solid majority of Americans refuse to use the present Presidential checkoff on tax returns.

To make matters worse, the contributor would have no say as to what political party he wants his dollar to go to. As Thomas Jefferson said 200 years ago, "to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves and abhors, is sinful and tyrannical."

Another serious argument is that Federal financing would, in my opinion, discourage citizen participation in elections. There would be further Federal encroachment on our electoral process. Every new Federal regulation adds another barrier to potential candidates. Candidates will be harassed by restrictions and burdened with countless forms. To run for office will become a nightmare of redtape.

Despite the fact that my congressional race was marked by enormous personal spending by my opponent—the fourth highest in the Nation—I still believe that individuals and groups should have the right to contribute to campaigns. Personally, I would much rather receive one thousand $1 contributions from friends and supporters than one $1,000 check from a special interest group and particularly more than from the National Treasury.

One final note: At the conclusion of its investigation into Watergate, the Select Committee on Presidential Campaign Activities, headed by Senator Sam Ervin, issued a warning against public financing.

> . . . the committee takes issue with the contention that public financing affords either an effective or appropriate solution . . . The committee's opposition is based upon the fundamental need to protect the voluntary right of individual citizens to express themselves politically as guaranteed by the First Amendment. Furthermore, we find inherent dangers in authorizing the Federal bureaucracy to find and excessively regulate political campaigns.

CHUCK WHALEN'S PERCEPTIVE REPORT ON THE U.N.

HON. LUCIEN N. NEDZI

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 28, 1977

Mr. NEDZI. Mr. Speaker, a few days ago we all received a letter from our esteemed friend and colleague, Congressman CHARLES "CHUCK" WHALEN, who is serving as a U.S. delegate to the United Nations.

CHUCK's letter is refreshingly free of the cliches which seem to abound when the U.N. is discussed, either by defenders or detractors. Instead, he gives us a perceptive and clearheaded view of what it is like on the floor and in the lobby of the United Nations.

Best of all, he sets forth a persuasive case for the proposition that the U.N. sessions provide virtually unrivaled access to the foreign ministers and representatives of foreign lands, with relatively small effort.

Our Nation is well served by CHUCK WHALEN'S presence at the U.N. Having worked with him closely on the Armed Services Committee, I know he is a man of skill and decency. Let us hope that his abilities in the foreign relations field will not go unused when he retires from the Congress next year.

Under leave to extend by remarks, his letter is set forth below:

HOUSE OF REPRESENTATIVES,
Washington, D.C., October 19, 1977.

Hon. LUCIEN N. NEDZI,
Rayburn House Office Building.

DEAR LU: My appointment as a U.S. Ambassador to the United Nations is hardly into its third week of what is a three-month assignment, but I would like to share with you some initial impressions. In fact, my intent is to write you periodically in order to pass on thoughts and observations on developments here. In turn, I would certainly welcome your comments and suggestions. Until December 23, I can be reached at (212) 826-4769, or by writing in care of the U.S. Mission to the United Nations, 799 U.N. Plaza, New York, New York 10017.

With the collective and unique interests of Congress in mind, my hope is to look at this often controversial international organization as thoroughly as possible, to examine its procedures and to evaluate objectively its performance—good and bad. Given the extraordinarily full agenda of this 32nd General Assembly, it is already obvious that there will be more than enough to write about. Although things here are still in that early shake-down period known as "general debate," several matters are already clear.

First, by contrast with the sometimes acerbic mood of past sessions of the U.N., the opening meetings of the 32nd General Assembly have been constructively businesslike and cordial. That positive atmosphere warrants the expectation—not just hope—of productive results from this largest international forum.

Second, our former colleague, Ambassador Andrew Young, has obviously made an excellent impact among representatives of the 148 other countries comprising this body. The high esteem in which he is held by members of the General Assembly clearly suggests that he is one of the Carter Administration's best appointments.

Third, a good deal of careful thought has gone into the composition of the U.S. delegation. There are a number of reasons for this, one of the most obvious being that other member nations carefully observe the American delegation.

Our ten representatives—five delegates and five alternates—present to the General Assembly a delegation which accords status to racial and religious minorities, women, and the Congress—a point clearly noted by other member nations.

Fourth, everything the U.S. does is watched carefully as a symbol of what we think. This is something we in the Congress have heard repeatedly, but there is no substitute for witnessing it firsthand. As an example, we all know how often constituents visiting the House or Senate Galleries are surprised at how few Members there may be on the Floor at any given time. The same observation applies here, but with sometimes far-reaching international implications. Thus, at least one of our U.S. Ambassadors must be present at all times in the U.S. seat in the General Assembly. Similarly, invitations to social functions (far more than we are often burdened with in Washington) are carefully reviewed and acceptances coordinated. In all instances, the first decision is whether the U.S. should be represented.

Fifth, the entire U.S. U.N. Mission of about 110 people is attentive to every aspect of U.N. operations during the time of the General Assembly. Beyond that, operations here appear to be conducted in a highly professional and efficient manner. For instance, every Monday, Wednesday, and Friday morning, a top level meeting is convened by Ambassador Young. Present are all ambassadors, alternate delegates, and principal staff. Every upcoming event is reviewed in minute detail, as are recent developments both in the U.N. and elsewhere in the world. The chief objective of that strenuous effort, of course, is to assure full and careful implementation of U.S. strategy.

Just a brief word now on President Carter's visit to the U.N., on October 4th and 5th. In many important ways, I think that visit epitomized what the U.N. is all about and what its potential for success really is. After carefully observing Mr. Carter's busy schedule here during those two days, and having participated in many of the meetings at which he met personally with representatives from approximately 155 countries and international organizations, I became more convinced than ever of the U.N.'s value. The President also conducted in-depth sessions with the foreign ministers of key Mideast countries in an attempt to work out the framework of movement toward a Geneva Conference and peace in that troubled area. Additionally, Secretary of State Vance, over the two-week period that he was in New York, met personally with representatives of more than 80 different countries.

My point, simply, is that the President and Secretary Vance gained access to literally hundreds of foreign leaders through a mere 500-mile round trip. That, as I said, is what the U.N. is all about—not only does it offer a forum for discussion and negotiation of differences, but, for the U.S., it presents a particularly convenient opportunity and outlet for foreign diplomacy. The fact that President Carter's visit here by most accounts was a resounding success merely serves to reinforce my view.

There is one other aspect about the U.N. that I would like to share with you—its basic similarity to the Congress in many respects. Organizationally and structurally, it is built along the same bicameral lines as Congress, with a House (General Assembly) and a Senate (Security Council). Its six standing committees (far fewer than ours) perform the same basic function of doing preliminary work on resolutions which are ultimately reported to the Floor of the General Assembly. (One difference: since all 149 member nations have a vote in each committee, resolutions brought to the floor of the General Assembly are rarely amended or defeated.) In fact, the U.N. also has its own "Cloak Room" in the form of the Delegates Lounge off the General Assembly. A visit there at any time of the day will witness the same type of engrossed conversation, negotiating sessions, and general arm-twisting we know so well in Congress. I would also observe that while the languages, colorful styles of dress, and customs of delegates here obviously reflect the 149 countries from which they come, the essential style of all these individuals (diplomats and politicians all) is strikingly similar to our own in Washington. That is, in short, a real reflection of the universal "family of man."

Finally, I would only note one other fundamental similarity between the U.N. and Congress. In the same way that the issues which come before us each day in Committee and on the floor mirror the concerns and needs of our country, so the many matters before the U.N. reflect the problems of the entire world. The U.N. Agenda for this 32nd General Assembly, with some 122 scheduled items (not all of which will be considered in depth, of course), indicates the challenge—and opportunity—this international body has set out for itself. In the coming weeks, I hope to discuss several of these Agenda items with you in detail as they come up for discussion and debate. If there is anything of particular interest or concern to you, please let me know, and I will try to respond.

In the meantime, I hope that these waning days of the First Session of the 95th Congress will be as productive and satisfying for you as these opening days of the U.N. have been for me.

Sincerely,

CHARLES W. WHALEN, Jr.,
Member of Congress.

COMPETITIVE ENERGY DEVELOPMENT ACT

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, October 28, 1977

Mr. McKINNEY. Mr. Speaker, today I am reintroducing the Competitive Energy Development Act with cosponsors. I am also submitting the following letter to the RECORD for the benefit of those of my colleagues who did not have the opportunity to read it previously. The letter follows:

On September 7th, I introduced H.R. 8947, the Competitive Energy Development Act, a bill designed to protect the competitive integrity of alternate energy resource development.

The growing concerns of both the public and members of Congress regarding the increasing involvement of major oil firms in alternate energy production are not without foundation. Current information provided by the American Petroleum Institute and House and Senate Committees (as outlined in the attached chart) shows: increasing percentages of total U.S. coal and uranium production being credited to major oil firms; a dramatic annual increase in mergers between oil firms and alternate fuel producers; a growing concentration of ownership by oil firms in alternate fuel reserves; and a significant decrease in production output by petroleum owned coal companies since the 1973 oil embargo. (The latter statistic lends some credence to the argument that oil firms can now, or may, intentionally withhold alternate fuel production in order to exploit rising prices of finite petroleum reserves.)

The history of Supreme Court decisions enforcing Sec. 7 of the Clayton Antitrust Act endorses the interpretation of these market trends as accurate indicators of potential anticompetitive developments in a given market. And, cognizant of Sec. 7 Clayton's prospective intent, the Supreme Court has repeatedly acted to arrest such anticompetitive market trends in their incipency. In fact, in the case of *United States* v. *Reading Co.*, 253 U.S. 26 (1920) the court held that "(when) this dominating power was not obtained by normal expansion to meet the demands of a business growing as a result of superior and enterprising management, but by deliberate and calculated purchase for control . . . such power, regardless of the use (or nonuse) made of it, constitutes a menace to and an undue restraint upon interstate commerce within the meaning of the Antitrust Act . . ." Thus the law insures that both actual and potential competition will be protected from anticompetitive practices while permitting beneficial use of existing capital and energy management expertise.

The inevitable enactment of a comprehensive national energy program (NEP), makes the monitoring of such dangerous market trends and the enforcement of Supreme Court antitrust decisions more important than ever before. The NEP mandates the rapid development of badly needed alternate fuels and as such creates artificial production incentives thereby increasing the potential for competitive abuse. The greater need and shortened production time for alternative fuel development make it much more difficult to insure that these resources will be developed in a competitive environment. Sources on the political spectrum as diverse as F.E.A. Administrator John O'Leary and editorial columnist James J. Kilpatrick have expounded on the future dangers of "oil companies evolvement into energy companies."

Yet present enforcement proceedings of Clayton Sec. 7 are not sufficient to guard against the development of such oligopolies in the alternate energy field. Such cases may take up to seven years before an initial decision is made. However, within the next seven years the anticipted production of coal will have to be increased by 565 million tons above the 1976 level, market conditions will have changed and new submarkets will already have been established.

Furthermore, the recent defeat of the Kennedy amendment to the Senate's coal production program, which would have precluded further involvement of oil firms in alternate energy production, demonstrates that protection of competition will not, and should not result from "legislative divestiture". My bill offers a new approach providing the FTC with the necessary tools to insure that competition is maintained in alternate energy development.

The Competitive Energy Development Act, (the provisions of which are outlined on the reverse side of the attached chart) directs the FTC, in conjunction with the Department of Energy, to develop new criteria by which to accurately measure competition in alternate energy markets. These criteria would update those indicies applied in previous Clayton Act antitrust cases and apply them to development activities required by the National Energy Plan, and would include: rates of production; reserve ownership distribution; concentration ratios; investment in research and development; and profitability. The FTC would continually monitor alternate resource development and upon the discovery of a potentially anticompetitive situation, would issue an order to show cause why the violator should not be held responsible for anticompetitive practices. After a full administrative hearing and subsequent to the determination of a violation, the FTC would recommend or take direct action to remedy the situation, making use of several remedial options, including divestiture.

This reasonable and effective approach has its essential basis in aforementioned case histories and its modern energy application in recent Congressional action. With passage of the Coal Leasing Act Amendments of 1975, Congress based the issuance and maintenance of coal leases on producer-compliance with time tables of initial production. In essence, the Congress declared in the passage of this law: "produce it or lose it". My bill would extend this principle to all alternate energy markets. In addition, my bill would provide the thresholds by which we could measure the progress (or lack of success) in meeting our ambitious NEP production goals. It is the omissions of just such indicies that is the basis of the G.A.O.'s strong criticism of the energy program.

The Competitive Energy Development Act will enhance the production of badly needed alternate resources without creating, as a result, an all-powerful (and unnecessary) energy industry.

If you would like to cosponsor the Competitive Energy Development Act, please contact Hank Spring at x55544.

Sincerely,

STEWART B. MCKINNEY.

FOUR MEASURES OF MAJOR ENERGY PRODUCERS' EXPANSION INTO ALTERNATE FUELS (COAL AND URANIUM)

I.—Reserve ownership [1]

COAL

[*Percent of U.S. total*]

Rank:		
1	Continental Oil*	5.3
2	Burlington Northern	4.6
3	Union Pacific/Champlin*	4.0
4	Kennecott Copper	3.6
5	Exxon Corporation*	3.4
6	El Paso Natural Gas*	2.1
7	Amax (20% Socal)*	2.0
8	North American Coal	2.0
9	Occidental Petroleum*	1.4
10	U.S. Steel	1.2
11	Kerr McGee*	1.1
12	Eastern Gas and Fuel*	1.0
13	Gulf Oil*	1.0
14	Mobil Oil*	.9
15	Pacific Light and Power	.9

URANIUM

[*Percent of U.S. total*]

Rank:		
1	Kerr McGee*	32.9
2	Gulf Oil*	18.1
3	United Nuclear	9.1
4	Continental Oil*	5.7
5	Western Nuclear	5.1
6	Getty Oil*	4.5
7	Utah International*	4.0
8	Exxon Corporation*	3.4
9	Anaconda	2.8
10	Phillips Petroleum*	2.0
11	Rio Algam	1.2
12	Reserve Oil*	1.1
13	Union Pacific/Champlin*	1.1
14	Standard Oil of Ohio*	.9
15	Union Carbide	.9

*Petroleum firm.

[1] American Petroleum Institute, *Concentration Levels in the Production and Reserve Holding of Crude Oil, Natural Gas, Coal and Uranium in the U.S.* (discussion paper #004 R); Feb. 14, 1977; p. 37.

II.—Petroleum company mergers with alternate energy firms [2]

Number of mergers	Between the years	Number of mergers
10	1955–60	3
7	1960–65	5
11	1965–70	1
24	1970–73	(*)

*No data.

[2] Hearings on S. 489 Before the Subcom. on Antitrust and Monopoly of the Senate Com. on the Judiciary, 94th Cong., 1st Sess., p. 275 (1976).

III.—Petroleum industry share (percent) of total U.S. production [3]

Percent	Year	Percent
0	1955	9.4
0	1960	25.0
1.6	1965	20.0
19.2	1970	25.0
	[1973 oil embargo]	
16.9	1975	27.2

[3] American Petroleum Institute, *Concentration Levels in the Production and Reserve Holdings of Crude Oil, Natural Gas, Coal and Uranium in the U.S.*; p. 12 and 13.

IV.—Petroleum company owned coal production (in thousand tons) [4]

Parent company	1971	1972	1973*	1974	1975
Continental Oil	54,779	64,992	60,477	51,754	54,919
Occidental Oil	22,873	22,605	22,879	20,848	19,421
Ashland Oil	7,191	11,159	12,539	13,878	13,468
Standard Oil of Ohio	10,483	11,236	11,461	9,452	9,258
Gulf Oil	7,063	7,679	8,064	7,528	7,294
Exxon Corp	1,170	1,974	2,695	2,480	2,867
6 company total	103,559	119,595	118,115	105,940	107,227
U.S. total	552,192	595,386	591,788	603,406	648,400

*Reflects imposition of OPEC embargo.

[4] American Petroleum Institute, *The Performance of Oil Affiliates in the Coal Industry* (research study No. 004); March 1977; p. 16.

COMPETITIVE ENERGY DEVELOPMENT ACT

Essentially the C.E.D.A. has three parts. They are:

CRITERIA

The FTC in consultation with D.O.E. will develop criteria to measure competition in alternate energy resource markets including: coal, oil shale, uranium, nuclear, geothermal, solar technology, or solar patents.

FTC will schedule public hearings to provide for widespread input into criteria formulation.

Criteria will include:

(a) Structural aspects—concentration ratios, barriers to entry, reserve ownership distribution.

(b) Performance aspects—profitability, rates of production, investment in R&D.

(c) Other aspects—cross subsidization of intergrated energy segments, regional and submarket competition, inter-industry competition, individual firm.

Criteria formulation to be completed eighteen months after enactment and will be revised at five year periods to reflect changing market conditions.

MONITORING AND ENFORCEMENT

Based on D.O.E., and self obtained information, FTC will continuously monitor competition in markets to determine if CRITERIA has been violated.

If violation exists, FTC will convene hearing and issue an "order to show cause" why violator should not be held responsiole for anticompetitive behavior.

FTC will issue final report upon conclusion of the hearing and make recommendations to remedy anticompetitive violation—

(a) such recommendations include requests for action to be taken by any agency or department of government (including the FTC).

(b) such recommendations may include divesting violator of its holdings or barring further acquisitions.

ANNUAL REPORT

Annual report will assess state of competition within alternative energy source markets (based on aforementioned CRITERIA).

Annual report will explain changing trends in alternative energy source markets.

Annual report can make recommendations (legislative and otherwise) to correct regressive trends in alternate energy source markets.

OTHER

Bill requires D.O.E. to supply FTC with any requested materials which would assist them in carrying out the provisions of this act.

No information provided shall lose any confidentiality, which it had by law, when in the possession of D.O.E.

There are such funds authorized to be appropriated in order to carry out the provisions of this act.

JUDE WANNISKI OF THE WALL STREET JOURNAL DISCUSSES THE CRASH OF '29 AND A NEW VIEW OF "THE WAY THE WORLD WORKS"

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 28, 1977

Mr. KEMP. Mr. Speaker, this week there were renewed demands by some Members of Congress for "protectionism" from foreign trade, in order to help the depressed American economy, industries—such as steel and textiles—that are suffering from foreign competition, and to reverse the Nation's trade deficit. It is interesting that such efforts are being made 48 years—to the week—after the stock market crashed on Wall Street.

Fortunately, up until now, the forces of free trade and trade liberalization have managed to prevail, having somehow felt that a repetition of the Smoot-Hawley tariff would not help the economy. In this respect, I would point out the continuing efforts of President Carter and our chief trade negotiator, Ambassador Robert Strauss, in resisting the protectionist tide, and working for lower—not higher—trade barriers. I would also commend those Members of the House who rejected the "protectionist" cargo preference bill last week—particularly the gentleman from Florida (Mr. GIBBONS) and my colleague from New York, Mr. BARBER CONABLE.

I suspect that those who still persist in the illusion that a little bit of protection will not do any harm would be much less confident of their position if they were more aware of the disastrous consequences of the Smoot-Hawley tariff in helping to cause the Great Depression, as well as lengthening its tragic effects.

The following essay by Mr. Jude Wanniski from today's Wall Street Journal eloquently details the importance of the Smoot-Hawley tariff in creating an international wedge that totally destroyed international trade and caused the stock market crash, precipitating the ensuing depression.

It has taken 48 years for anyone to really explain the stock market crash and, interestingly, it was not an economist, it was a journalist who did so. This article and Mr. Wanniski's book, "The Way the World Works" which explains the "Laffer Curve," is as great a contribution to the solution of our economic malaise as John Maynard Keynes' general theory was in causing the problem.

The article follows:

[From the Wall Street Journal, Oct. 28, 1977]

THE CRASH OF '29—A NEW VIEW

[The last week of October 1929 remains forever imprinted in the American memory.

It was, of course, the week of the Great Crash, the stock market collapse that signaled the collapse of the world economy and the Great Depression of the 1930s. From an all-time high of 381 in early September 1929, the Dow Jones industrial average drifted down to a level of 326 on Oct. 22, then, in a series of traumatic selling waves, to 230 in the course of the following six trading days.

The stock market's drop was far from over; it continued its sickening slide for nearly three more years, reaching an ultimate low of 41 in July 1932. But it was that last week of October 1929 that burned itself into the American consciousness. After a decade of unprecedented boom and prosperity, there suddenly was panic, fear, a yawning gap in the American fabric. The party was over.

Why?

The following interpretation by Jude Wanniski, Associate Editor of the Journal, is adapted from his forthcoming book, "The Way the World Works: How Economies Fail, and Succeed," to be published next spring by Basic Books. (Copyright 1977, Jude Wanniski.)]

The most common explanation of the crash is that the market was overpriced, the victim of heedless speculators who had somehow lost their grip on reality in the mad rush for quick profits. But that explanation has never quite satisfied, either empirically or logically. There is no real sense in which the market can be "underpriced" or "overpriced." For every seller, there is always a buyer—at a price. The stock market, particularly the New York Stock Exchange, was and is too massive for any group of individuals to manipulate. At any moment, it is *fully* priced.

Technically, what the market measures in the process of absorbing information and translating it into a valuation of the market shares is the capital stock of the U.S. The market places a value on each company listed on its exchange, based on its calculations of that company's future income.

STOCK MARKET ANTICIPATES

The accent should be on "future." The market does not reflect past events, it reflects the probabilities of future events. It anticipates. From studies of stock splits, we know that the price of individual shares starts moving up, relative to other shares, about 12 months before a split. By the time the split is announced, nothing further takes place. The market has already fully discounted the event.

The most important information coming to the market is political news. Changes in underlying economic values tend to be glacial. But political news is volatile, because it can instantly and dramatically alter the future income of the companies whose stocks are listed on the exchange. On Nov. 22, 1963, for example, the day President Kennedy was assassinated, the industrial average fell 22 points. On recognition that a successful presidential transition had been made, it recovered all the lost ground the following day and gained 11 more.

If one accepts this rational model of stock market behavior, it's logical to believe that the market at its 1929 peak was exactly where it should have been, and that the crash resulted from some stupendous error in a relatively few political minds.

In particular, one would look first for an explanation in tax policies, the actions of government that most directly affect future income flows. Arthur B. Laffer of the University of Southern California has described the "wedge" of taxes between what workers produce with their efforts and the rewards they are allowed to keep. A change in the future wedge will be quickly reflected in stock markets. A 150-point slide in the Dow Jones industrials ended at noon on May 29, 1962, as news reached the market that the Kennedy administration would propose the tax cuts that spurred the economy in the 1960s. The industrials gained 50 points that afternoon.

SMOOT-HAWLEY TARIFF ACT

Looking back at the history of 1929, there is no dramatic increase in the domestic tax wedge to explain the market collapse. But there is also an international wedge—the tax on international transactions. And here there is a dramatic event, the gathering political momentum of what is now conceded to be the century's most disastrous piece of economic legislation. The Great Crash of 1929 anticipated the Smoot-Hawley Tariff Act of 1930. The calamitous declines of Monday, Oct. 28, and Tuesday, Oct. 29, followed immediately the collapse of the Senate coalition that had been the last barrier to the tariff.

To understand the crash, though, one must back up to review the boom years of the 1920s. The great Coolidge bull market got under way in earnest in 1924. The industrial average, which had taken four years to move from 90 to 106 in the first part of the 1920s, reached 134 at the end of 1924, 181 by the end of 1925 and, after a pause in 1926, 245 at the end of 1927.

These were not paper, "speculative" gains, for this was a period of phenomenal growth in the nation's capital stock. Between 1921 and 1929, GNP grew to $103.1 billion from $69.6 billion. And because prices were falling, real output increased even faster.

The boom coincided with sharp tax cuts. To pay for the first World War, income taxes had been boosted to a high of 77% on incomes over $1 million. An excess profits tax on business and a doubling of the normal corporate rate to 12% had also been imposed. In the 1920 elections, Warren Harding, pledging a return to normalcy and a reduction in taxes, won by the greatest landslide in American history up to that time.

Harding's Treasury Secretary, Andrew Mellon, engineered a tax cut—the top bracket was reduced to 56% in 1921 and then to 46% in 1922. Because this reduction in the domestic wedge was partly offset by the mild increase in tariffs the administration also pushed through, there was only mild expansion in the economy. But after Harding's death Calvin Coolidge succeeded to the presidency, and he quickly embraced Secretary Mellon's arguments for even more drastic tax reductions.

As Coolidge aptly explained in a speech to the National Republican Club in February 1924: "An expanding prosperity requires that the largest possible amount of surplus income should be invested in productive enterprise under the direction of the best personal ability. This will not be done if the rewards of such action are very largely taken away by taxation."

As it gradually became clearer through 1924 that the Coolidge tax bill to reduce the top income-tax rate to 25% had sufficient support for passage, the stock market began its unprecedented climb.

It's interesting that Great Britain, which did nothing to reduce the steep progressive income taxes introduced during World War I, experienced no boom at all during the 1920s. By contrast, Italy under Mussolini went from severe economic contraction to rapid expansion in 1923 as he cut the wartime personal tax rates back to 10% and cut back tariffs and internal excises. And the French, under a center-right coalition formed by Poincare, ended a financial crisis in 1926 by slashing the general income-tax rates in half, to 30% from 60% at the top.

Wealth brings its own problems, however. In the U.S., in particular, farmers were being hurt by the falling farm prices that were doing so much to raise the standard of living for the rest of the country. The Republican Party in 1928 looked at this phenomenon as something to be corrected by governmental action, and decided to attempt to adjust the imbalance in wealth between farm and city by raising the protective tariff on foreign agricultural products.

The U.S. from its earliest days had imposed tariffs as a source of revenue and as a protection for fledgling industry. But it was one thing to impose tariffs when the U.S. was a small debtor nation (and much of the tariff revenue was used to pay off the public debt, which in turn meant a decrease in future domestic tax liabilities). It was quite another matter for the U.S. to impose tariffs when, as a result of World War I, it had grown into the most powerful creditor nation in the world.

As tragic as the marginal farmers' plight might be, no GOP argument, political or economic, could justify higher tariffs. By restricting foreigners' ability to sell their goods in the U.S., the Republicans were making it more difficult for foreigners to pay off their debts to the U.S. and import goods from us. Over time, tariffs would, in essence, have the same inhibiting impact on investment and commerce as an increase in taxes.

Herbert Hoover signed the Smoot-Hawley Bill on June 16, 1930, but the stock market started anticipating the act as early as December 1928.

DOUBLE BLOW TO MARKET

The market was hit a double blow in the space of two days. On Dec. 5, after the market had closed, Coolidge announced there would be no further tax cut in the next budget. The industrial average dropped 11 points the next day. It fell another eight points the following day as word got out that the House Ways and Means Committee had scheduled hearings of 14 subcommittees to take up tariff testimony, and that the hearings would cover all commodities, not just agriculture.

There was plenty of opposition to higher tariffs, though, and the market soon continued its upward climb, reaching 300 by year's end and continuing to climb until March 23, 1929, when real trouble began. The tariff hearings were under way, Hoover had been inaugurated March 4 and on March 24, a Sunday, the world got bad news on page 2 of The New York Times: Senator Jack Watson, the Republican Senate leader, predicted in an interview that it would be difficult to limit tariff increases to agricultural products. Senators, he noted, were being deluged by industries in their own districts for similar treatment. On Monday, the stock market broke heavily again.

There was more bad news on Tuesday, March 26. New York and New England's elected officials called on Hoover for tariff increases on rayon, cotton and related materials. Stocks crashed on record volume (8,246,740 shares), though a late rally stemmed the tide.

Interestingly, though The New York Times and other papers closely followed the tariff hearings—and the stock market's activity, of course—the two weren't linked. A typical headline in the Times was March 26's "Stock Prices Break Heavily as Money Soars to 14%." The front-page story blamed the sell off primarily on a tightening of credit; there was no mention of tariff matters, though a separate story on tariffs appeared on page 19. The reference to "money" going to 14% referred only to spot loans to individuals who had bought shares on margin and were having to raise fresh funds to cover their accounts. Long-term rates didn't rise. The Times and others would insist on linking money rates and stock prices right through the October crash.

Opposition to the tariff binge began to materialize in the Senate, and it appeared that a combination of progressive Republicans and Democrats would prevail against the Old Guard Republican protectionists. A procedural vote before the summer recess seemed to confirm this, and the stock market, assured, resumed its climb, reaching 381 on Sept. 3. The Dow Jones industrials wouldn't see that level again for more than a quarter of a century.

The decline over the next several weeks was orderly; by Oct. 10, the market had drifted down to 352. On Oct. 22, the market even gained six points on news that antitariff forces had won a test vote to cut chemical tariff rates. But on Oct. 23, an hour before the market closes, disaster strikes: The market declines a stunning 21 points after news is out that the antitariff coalition has broken apart on the question of carbide rates. The carbide rates themselves are relatively unimportant; the vulnerability of the antitariff forces is the key. Yet the remarkable coincidence again goes unremarked in the next day's newspapers.

MORNING PANIC, AFTERNOON RALLY

On Thursday, Oct. 24, the antitariff forces suffer another setback; casein tariffs are raised 87%. John Kenneth Galbraith, in his book, "The Great Crash—1929," describes the day on Wall Street:

"The panic did not last all day. It was a phenomenon of the morning hours. . . . For a while prices were firm. Volume, however, was very large, and soon prices began to sag. Once again the ticker dropped behind. Prices fell farther and faster, and the ticker lagged more and more. By eleven o'clock the market had degenerated into a wild, mad scramble to sell. In the crowded boardrooms across the country the ticker told of a frightful collapse. . . . By eleven-thirty the market had surrendered to blind, relentless fear. This, indeed, was panic."

By afternoon, however, the antitariff forces had reassembled and pushed through amendments cutting other chemical rates. The stock market rallied and closed with only a 6½ point drop.

The following Monday morning's Times provides the hardest news yet that the antitariff coalition had been broken and the protariff coalition was in control. Not only did Senator Smoot predict the bill would survive. So did Senator Borah, until then leader of the antitariff forces, saying he thought "it is going to be made into a good bill." Worse yet, Democratic leader Simmons said the Democrats would do nothing to kill the bill, that the Republicans would have to take full responsibility.

In the day's trading, the DJI dropped 38 points in what the Times called a "Nationwide Stampede to Unload."

The following day, Black Tuesday, the industrials fall 30 points more, to 230, as all the reports coming out of Washington seem to be aimed at assuring the stock market that the tariff bill will not be killed. Senate Majority Leader Watson even complains that Democratic delays might be charged with responsibility for the crash in stocks!

RECOVERY TAX CUT

On Nov. 13, the market hits its low for the year, 198. A surprise 1 percent tax cut announced by Mellon shores up the market—it recovers to 263 by the end of December. But the Senate resumes work on the tariffs in the spring despite vigorous protests from U.S. trading partners; there is still hope that Hoover might veto the bill.

On June 13, the Senate approves by two-votes the measure to increase tariffs on more than 1,000 items and sends the bill to Hoover. On this news, the stock market breaks 14 points to 230, *precisely* where it was on the bottom on Black Tuesday, Oct. 29. Hoover signs the bill and stocks tumble again. The market slide does not end until Franklin Roosevelt, a tariff foe, is nominated by the Democrats in 1932.

Most one-term Presidents only have time for one truly disastrous decision. Herbert Hoover squeezed in two. Having crimped international trade, he proceeded in 1932 to squeeze the domestic economy directly by pushing through Congress a measure to boost the income-tax rate back to 63 percent from 25 percent and piling on business taxes too. His aim was to reduce the budget deficit of the preceding 18 months, caused by the gathering slowdown. With ample help from the Democrats, Congress approved the tax increase.

Under Roosevelt, economic management was only slightly improved, for even as he and his party chipped away at Smoot-Hawley, they again and again added to internal taxation during the following eight years, and the depression lengthened into war.

BALANCE OF POWER: PART VII IS TACAIR DEAD?

HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 28, 1977

Mr. BRECKINRIDGE. Mr. Speaker, with the completion of the past series of articles addressing the naval balance, the military balance(s) now turns to a brief consideration of comparative U.S./Soviet tactical air capabilities.

As in the past, I would like to open this section with an authoritative, yet provocative statement on the trends and problems unique to this particular arm of service. Technological and doctrinal developments not only have impact on relative capabilities, but also give rise to issues which underlie any discussion of military balance. Therefore, a full appreciation of trends in the balance of

tactical air forces should be assisted by familiarization with those issues, especially in view of the many qualitative considerations that enter this field.

Toward that end, today's selection is an award-winning essay by Capt. Gerald G. O'Rourke, U.S. Navy, retired, "Is Tac Air Dead?" as it appeared in the U.S. Naval Institute Proceedings, October 1976.

ESSAY BY CAPT. GERALD G. O'ROURKE, U.S. NAVY (RET.)

Loosely defined, tactical air power (Tac Air) comprises a variety of airplanes and helicopters and the air weapons each can deliver against an enemy. In World War II, TacAir came of age as a major element of warfare.

The availability of air support dominated the planning for a battle. Its effectiveness usually determined the outcome. Early establishment of air superiority was essential, accomplished in swirling dogfights and strafing attacks on aerodromes. With command of the air came the freedom to pound at the enemy while moving friendly troops with impunity on the ground. Ground-based defenses against TacAir were notoriously ineffective, despite extensive allocations of manpower and weaponry to antiair artillery.

For the subsequent three decades, the gaining and maintaining of air superiority has been considered prerequisite to successful combat by military planners. With air superiority, you win. Without it, you lose.

Among U.S. military forces, the new dimension offered by TacAir helped to spawn the establishment of a separate air arm, revolutionized naval warfare, and converted a large segment of the ground army into air-mobile troops. Armed forces throughout the world became equally air-minded. A dizzying succession of tactical aircraft designs appeared, each one faster, quicker, and more capable than the last. By the mid-1960s, Soviet and American designers had far outpaced the rest, with the Russian MIG–21 and the U.S. F–4 fighters epitomizing the very best of the bunch. The modern Soviet generation of tactical aircraft includes the Foxbat, Fencer, Flogger, and Fitter B, while the United States is fielding an all-new team of F-14, F-15, F–16, F–18, and A-10.

Meanwhile, back on the ground, there has also been progress. Reliable electronics were introduced to antiair weaponry. Guided munitions were added to ballistic armament, and many of the air-to-air developments were adapted to meet the durability requirements of the ground environment. As a result of these plodding efforts from the muddy world of the foot soldier, some initial doubts of the invincibility of TacAir began to appear in the early 1960s. Soviet surface-to-air missiles, a factor in the Cuban Crisis of 1962, appeared in quantities in Southeast Asia by 1965. Over the next eight years, North Vietnam, a small nation with essentially no air power, used guerrilla tactics, persistence, and a strategy of attrition to confound the best efforts of the world's leading TacAir practitioners, the U.S. Air Force and the U.S. Navy. During the brief Middle East War in late 1973, both Arab and Israeli TacAir forces sustained unexpectedly high losses. Tanks, infantry, and other ground-mobile forces occupied the center stage in that dramatic war, leading some observers to the conclusion that air superiority—while still critical to the outcome of a battle—could be attained and maintained without using aircraft. Another, more extreme view was that air superiority, in itself, was no longer critical to the battle. Still another opinion on the issue comes from the budgeteers and economists, who feel that airplanes have become too costly, thus inevitably less numerous, and will eventually prove ineffectual in combat.

All these viewpoints, summed together are most succinctly described by the opinion sometimes heard today—"TacAir is dead!"

Much of the support for this opinion cites the rapid proliferation and improved lethality of sophisticated surface-to-air guided missiles. This is an oversimplification. More likely, it is the close integration of a large family of air defense equipment that is responsible. The surface-to-air missile is but one member of that family—albeit an important one. Equally essential are many other "weapons," such as early warning radars, netted communications links, coordination and control centers for radars, guns, missiles, and interceptor aircraft, covert intelligence collectors, evaluators of operational intelligence, and the mobility built into each "weapon." All these elements, joined together represent a systems approach to the air defense problem.

Within this system, target data must move quickly through redundant radio and wire links. Radars must have fast on-off cycles and a plethora of antijam and antideception modes. Missiles must be quickly loaded onto launchers, easily camouflaged, and be capable of no-warm-up firing. Missiles in flight must be fast and maneuverable. Their destinations should not be "advertised" by strong emissions of radio energy. Visual guidance modes should be available for backup or for changing firing doctrines. Home-on-jam, multi-mode sensors, and pop-up launching techniques are useful added options. Antennas should be remotely located to minimize damage from antiradiation missiles. Defense against short-range air attacks should be provided by rapid-fire guns, automatic small arms and man- and truck-mounted heat-seeking missiles. Entire missile-gun complexes should be easily and rapidly movable to permit either "shoot-and-move" or "move-and-shoot" tactics. And above all else, the overall system must be firmly but flexibly commanded.

The North Vietnamese used such a systems concept for their air defenses in the Hanoi-Haiphong complex. One early effect was a rapid increase in the ratio of combat-support to combat aircraft for each U.S. strike effort. Highly sophisticated, specially trained and equipped TacAir units were assigned to suppress surface-to-air missiles. Whole flights were devoted solely to chaff dropping. Command and control facilties were quickly expanded to support new tactical requirements. A host of weight- and space-consuming equipment of a purely defensive nature was added to each tactical aircraft. Attacking aircraft were laden with electronic jamming pods. Introduction of the man-mounted SA–7 missile forced costly heat-suppression modifications on helicopters, gunships, and low-flying attack aircraft. Bomb release altitudes were pushed upward, and bombing accuracy decreased accordingly.

By late 1973, when the Middle East fighting erupted, the ground system had been refined to the degree that an offensive posture appeared almost practical. The Arab tactics, reflecting Soviet instruction and training, relied upon rolling the air defenses along with the ground forces. Arab TacAir, rapidly decimated by superior Israeli fighter pilots, was rarely a factor. The battle for air superiority then became a series of duels between U.S.-built attack aircraft and a Soviet-built, mobile ground-based air defense system. The Israelis were able to maintain air superiority. Nevertheless, the attrition of expensive TacAir resources was unexpectedly higher, and their effectiveness markedly lower, than experienced in the similar war of 1967. Perhaps more significant was the Arabs' reliance upon a ground-based system to achieve air superiority.

The implications inherent in the alleged demise of TacAir are unusually serious for the United States. As a nation built upon an economic philosophy of high productivity, and with the value of the human held paramount, the development of TacAir as a principal military weapon was quite natural. Tac Air capitalized upon superior technology and the trainability of super-specialist aircrews. It provided a system of superbly accurate, controlled, ultra-long-range artillery while exposing a minimum number of humans to combat hazards.

The TacAir philosophy extends far beyond the U.S. Air Force's Tactical Air Command. It pervades the Navy, where carrier-based attack aircraft now represent the paramount means of applying naval force against an enemy. In the Army, the cavalry has been remounted in helicopters, and close air support resources have almost replaced artillery. In the Marine Corps, "vertical envelopment" has become the preferred method for the initial onslaught, and close air support has been honed to an incredibly fine edge to support forward moving troops. If TacAir really is dead, an awesome amount of rethinking, reequipping, and retraining is required for all the U.S. armed forces.

The national security strategy of the United States depends heavily upon a quick reaction capability deployed forward upon demand—notably TacAir elements in the form of Air Force fighter wings and Navy attack carriers. If quick response capabilities are to be linked to the speeds of tanks or ocean convoys rather than those of jet aircraft, no overwhelming and sudden application of force will be possible in an overseas conventional war scenario. The nuclear threshold would inevitably be lowered. In a long-term war, the criticality of sheer manpower would be felt instead of technology and productivity.

On the other hand, TacAir supporters argue that the actual death certificate to document the passing is nowhere to be found. They argue that the standoff in Vietnam was not a fair test, since TacAir was not used there to support an offensive, land-occupying ground army. They point out that the vaunted Arab air defenses did not prevail in 1973. Nevertheless, even the stoutest defenders readily concede that there were no milk runs into downtown Hanoi in 1972, and that no force could long endure the attrition suffered by Israeli air forces in 1973.

If TacAir is not dead, it is certainly in trouble. What is worse, one wonders if the U.S. military establishment has recognized the problem. The Air Force is buying new airplanes which promise little more than aerodynamic performance increases over their predecessors. The F–15 and F–4 are remarkably similar tactical aircraft. The F–16 is often called a "throwback to the World War I Spad—a tinkertoy for the Air Force Flying Hot Dog Association, good for airshows at county fairs on a sunny summer afternoon." The A-10 is a grossly slow (by jet standards) flying titanium tank, designed to slug it out at close quarters with ground batteries. The AWACS (airborne warning and control system) is an incredibly expensive airborne control center whose longevity in combat is often compared to that of a clay pigeon. The Navy is doing much of the same with its TacAir dollars. The carrier air wing planned for the next decade shows a marked similarity to the one used for almost a decade off Vietnam. F–14s are replacing F–4 Phantoms, F–18s will replace A–7s, and either an F–14 or an F–18 derivative will someday supersede the venerable A–6. In combat, they will fly a bit longer, farther, higher, and faster than their predecessors, carrying fewer, but smarter bombs, rockets, and missiles.

When considered in individual terms, each of these new TacAir planes is a good one. The Navy's swing-winged F–14 Tomcat, with its 100-mile Phoenix air-to-air missile, is the ultimate in an all-weather interceptor design. The Air Force's F–15 Eagle is sleek, super-powered, and unusually versatile at a

variety of fighter and attack missions. The F–16 is Walter Mitty's dream come true: small, powerful, maneuverable, and a joy to pilot. The F–18, a compromise design, shows lots of promise for ample performance, adequate power, and enough range and endurance to give the carrier Navy a respectable fighter-bomber. The A–10 is capable of luging tremendous quantities of munitions to the forward lines, and the AWACS is a marvel of sophisticated electronics.

It is not the aircraft themselves, nor even their astronomical costs that are knocking TacAir all akilter. Instead, it is the basic philosophy concerning just how they will be used in combat. If TacAir's historical precedents are followed, the F–14s, F–15s and F–16s will first take on the enemy's fighters to establish air superiority. Then the F–18s, A–10s, and most of the fighters will lug bombs and rockets to pulverize ground targets.

That seems to be the plan. It worked in World War II, in Korea, in Vietnam, and in the Middle East. Ergo, it will work the next time, too.

Maybe.

Maybe not.

Because the aircraft are, individually, far more expensive than their predecessors, there will be fewer of them available for use. Because they are even more sophisticated, specialized, and complex, more of them will remain grounded for maintenance, repair, and want of a scarce spare part. Because ground defenses are markedly improving, more attrition will take place over the target. Even though each of the new airplanes is expected to accomplish more than several of its predecessors could, airplanes still get shot down one at a time. With fewer numbers of more effective, but more costly, tactical aircraft, the limit of acceptable attrition may well be lower in the future than it was in the past. There is more than adequate warning to the United States that such a condition could exist in the next combat situation. Now is the time when we should look very critically at the ground defenses as well as at our own philosophy of attack.

Ground defenses are effective only as a total system. They have many vulnerable points. They must remain coordinated. Their personnel must be well trained. Their equipment must be maintained, exercised, repaired, and supplied. They must be numerous. They must move. Each of their pieces of equipment is very fragile against an air attack, and their total resources, just as ours, are finite. Complexity, sophistication, and high unit costs are plagues to them as well as to us.

Each of these vulnerabilities has been exploited by TacAir in the past, and each, in turn, has been strengthened by the ground defenders. In this essentially piecemeal, seesaw battle, TacAir is still winning, or was in October of 1973. Nevertheless, the rate of progress of ground defenses is faster. Piecemeal improvements in TacAir will probably not suffice in the future. Improvements of a more basic nature are needed if TacAir is to retain its winning ways.

A basic philosophy guiding our TacAir efforts in the past has been to avoid ground-based air defenses rather than to destroy them. We used surprise, terrain masking, speed, maneuverability, decoys, and jamming to provide safe ingress and egress. We employed flak suppression, antiradiation weapons, and standoff weapons only when the other efforts were inadequate.

In the future, surprise and terrain masking won't work. Modern long-range air search radars with remote gap-fillers are just too good. Aircraft performance in speed and maneuverability is bounded very stringently by physics, and we have long since been pushing hard at these extreme limits. There is little respite available from improved aerodynamics or greater "G" tolerances. Antiradiation missiles will probably always be a help, as will standoff weapons of many kinds. However, the former will always be limited by both technical and tactical changes, as well as by dense electronic environments, and the latter will always be constrained by target acquisition problems, high relative costs, and other factors. Jamming and decoys are diversionary in nature and rarely decisive except in brief encounters.

Accordingly, the basic philosophy of avoidance of ground defenses is probably obsolete. The only viable alternative is destruction. In order to destroy or otherwise foreclose the effective use of ground defenses, they must be detected, then located and identified, and finally attacked with lethal weapons. Because of their mobility, all three steps must rapidly follow one another. In an overall sense, this is very like the antisubmarine problem which our Navy has struggled mightily to solve for more than four decades. It cannot be accomplished without a system. A single aircraft, even two or three together, would be no match for either a submarine or a good air defense complex. While the Navy's antisubmarine experience is lengthy, Tac Air's apprenticeship for surface-to-air missile-busting is confined pretty much to the Wild Weasel-Iron Hand efforts of the late stages of Vietnam.[1] These involved specialized aircraft equipped with the best electronic listening and localizing devices, and the stationing of these aircraft adjacent to target areas, hopefully just beyond the range of the missiles. When antiair missile emitters came on the air, individual fast reaction was made by firing antiradiation, air-to-ground missiles from the Wild Weasel-Iron Hand aircraft. In a light-to-moderate threat environment, a reasonable degree of success was claimed. However, many basic shortcomings soon became evident. Prebriefed location information was usually outdated or inaccurate. Localizing equipment on board each aircraft was rough. Tactics were largely individualized for each aircraft, and there was little mutual support. Informational data transfer rates between aircraft and controlling authorities were severely limited by voice radio constraints. Dense ground defense environments complicated problems, and a mobile missile battery tended to deny any airspace sanctuary for the on-station aircraft. The main battery of the missile-buster aircraft was the Shrike antiradiation missile. Results were hard to measure and even harder to assess. A permanent diversion of assets was required to support the effort, leading a large segment of combat-experienced TacAir pilots to feel that the entire program was wasteful. Nevertheless, significant successes were achieved. Surface-to-air missiles were forced to shut down during critical time periods, and their radar emissions were shortened, thus lowering their accuracies. Less effective visual guidance modes were often forced into use.

The present TacAir philosophy calling for surface-to-air missile avoidance should not (and *can* not) be changed overnight. It takes time. Much testing and evaluating need to be done. An overall goal—or series of goals—must be set. A new "system" is needed for TacAir, and this means that a "systems approach" has to be used.

Thus far, the problem has not been viewed in this fashion. Instead, the aircraft designers are working on speed and maneuverability, the ordnance experts are happily developing bigger bangs from the same old pound of TNT, and the electronic warfare experts have retired to their sacred avionics laboratories for the endless diddling with dials which they so love. The fighter pilots are too busy mastering the intricacies of a dogfight, and the bomber crews are working hard to become as smart as their new smart bombs. When each group is queried about the growing threat from ground defenses, each has a parochial answer. The designers say better aerodynamic performance, and the ordnance fellows say a bigger bang. The fighter pilots are going to dazzle the opposition with vertical scissors and high-energy turns, and the bomber types are going to stand off and lob in some smart weapon. The electron wizards talk, but in unintelligible languages.

No single group can be expected to have the answer. Some possibilities do exist and are being worked on—individually.

One of these is a very sophisticated system calling for airborne, high-altitude high-accuracy, long-range sensors, a battery of ground computers, and a readily available stable of attack aircraft armed with precision guided standoff air-to-ground munitions. In this intricate game, a missile or radar emission is picked up by the airborne sensors and relayed to the ground computers. Within a matter of seconds, the type of the emitter is identified and its location fixed through triangulation. The attack airplane is called in, directed to a release point, and the smart weapon is launched to hit the established location. It's a good idea, but it has a lot of limitations. To begin with, it's expensive. It's more or less fixed, implying usefulness only for a relatively static battleground. Location accuracies gained from weak signals at long ranges present myriad technical and operational problems, and there is an inherent time lag between the signal receipt and the weapon's impact that can permit target escape through mobility. The system must be very sophisticated to avoid high false alarm rates and decoys.

Another possibility lies in the use of remotely piloted vehicles. This concept envisages a TacAir effort much like the present, but with wholesale substitution for manned aircraft. If the remotely piloted vehicles can be made to do the many jobs which now require manned tactical aircraft, a much higher rate of attrition can be accepted. They have been used with a fair degree of success in combat photo roles, and there seems little doubt that they can be profitably employed for long-term, on-station, sensor-carrying missions. All such vehicles, irrespective of size or mission, retain the basic disadvantages of complexity, high cost, and inflexibility in operation inherent in any substitute for a manned vehicle. It is probably the tradeoff of cost versus flexibility in operation which most seriously weakens their case. To be effective, they must be both numerous and inexpensive. When they are made to be as smart as a pilot, their costs skyrocket, and their numbers become miniscule. Payloads are pretty low and recovery techniques very tricky and specialized. At night, or in bad weather, it's almost impossible to get them home safely. Remotely piloted vehicles have a lot of utility in various special-mission forms and as one-way weapons. However, it would be very misleading to presume that TacAir's problems can be solved by any unmanned aircraft concept.

Another approach to the revitalization of TacAir involves the use of slow but less vulnerable individual tactical aircraft. Engine noises and exhaust temperatures can be greatly muffled. Radar reflective areas can be drastically reduced by several clever schemes. Flying titanium tanks such as the A-10 can be built to shrug off hits from antiair artillery. Each modification, individually, provides an appealing reduction in vulnerability for an affordable reduction in operational capability. When put together into one design, however, it usually won't even fly, much less fight. Neither the "in-

[1] Wild Weasel aircraft are Air Force fighters (usually F-4's) modified and specialized for working against surface-to-air missiles. Iron Hand planes were Navy aircraft performing similar duties, usually on a mission-to-mission basis.

visible airplane" concept nor the titanium tank syndrome is going to solve the problem.

Standoff, air-to-ground weapons are highly touted these days as the way to go with TacAir. There are myriad official definitions and classification systems used to describe these weapons, none of which accurately covers the full spectrum. The term "smart bomb" is probably as good as any. All smart bombs have two design goals in common. Accuracy enables one bomb to replace dozens, or even hundreds of older free-fall bombs, and the standoff capability allows the delivering tactical aircraft to remain outside the more lethal ranges of the ground defenses A major problem with all smart bombs appears in the process of acquiring and identifying the target. If a pilot has to go all the way to a target in order to get his smart weapon to lock onto it, the long standoff range capabilities are not doing him much good. On the other hand, if he stands way off and lobs the weapon in, then the weapon's superb accuracy is in doubt. If the smart bomb does its own acquiring after a long-range, self-powered flight, it might go haywire and home in on the wrong target—possibly even one of our own!

Smart bombs have other problems as well. Each one is astronomically more expensive than a single dumb bomb. Unless one of them equals the effectiveness of a whole bunch of dumb bombs, they just aren't cost-effective. This may not be much of a factor to the men fighting the war, but it sure is back in Washington, at the annual bomb-buying time. Then, too, if the target is a railroad marshaling yard, or fields full of enemy troops, the pinpoint accuracy of the smart bomb is an extravagance. And on top of all this, buying expensive smart bombs does not imply saving money on inexpensive dumb airplanes. In fact, almost the opposite is often the case, since the launching airplane has to carry specialized hardware in the form of racks, rails, pods, data links, control panels, and fancy television tube cockpit displays.

Despite all these shortcomings, smart bombs will certainly be useful for destroying surface-to-air missiles because increased standoff ranges and a high degree of accuracy are much needed. But before the smart bomb can be put to work, the pilot—or the system—must know where the target really is. High IQ ordnance is only a part of the answer to TacAir's problem.

Since most of the proliferating breed of sophisticated ground defense equipment relies heavily upon electronic emissions of one sort or another, any concept for countering the ground system must contend in the electronic arena. Because most of our anti-surface-to-air missile efforts in Vietnam were built around electronic equipment, all of the services look toward their electronic warfare experts for future developments in defense suppression. Unfortunately, these electron wizards are all too often isolated from the operational pilots by their technical expertise. In truth, extremely close cooperation and transfer of knowledge between electronic warfare experts and operating aircrews is imperative to the success of any new TacAir concept. Progress in electronics has probably far outpaced that of any other scientific area over the past decade, and the stellar performer in this fast world is digital data processing.

Digitalized equipment has had an impact on almost every segment of modern society, from moon-walking to supermarket checkout counters. There is an overwhelming need for compact, reliable, flexible, and inexpensive data processing equipment on all tactical aircraft. But they must be integrated, in support of a system concept, to make any sense. Without the concept to provide the requirements, each new aircraft tends to be built around its own individual design. As a result, tactical aircraft can't work with each other very well. In the future, they must.

One of the best of the potential answers to TacAir's problem is a concept called TacStrat, an unofficial abbreviation for tactical strategy. In a grossly simplified description, TacStrat involves arming each ordinary tactical aircraft with antennas, a computer, data links and the concomitant displays, control boxes, and smart weapons. A group of aircraft, tied together through automated electronic navigational wizardry, would sally forth into the surface-to-air missile jungle. As each ground defender turned on an emitter, many aircraft would pick up the signal. The computers would then whirl out the location, pick the aircraft best located for immediate counter-attack, warn off the aircraft in danger, and keep the rest of the TacAir team informed but uninvolved.

TacStrat offers many advantages. No specialized aircraft would be needed, although every plane would need additional sensory and data processing avionic equipment. These pieces of equipment will have to be capable but not super smart, since the aircraft will be close to the ground defenses, and many of them will coordinate to make the fix. Reaction time is short—certainly fast enough to preclude loss of a target due to mobility. Prebriefed intelligence would not need to be highly accurate. A variety of air-to-ground munitions could be employed and the mutual support of many aircraft can be brought to bear.

Like any concept, TacStrat has a few problems of its own. From a technical point of view, the system should work. The toughest problem here is in the software, or the instructions that have to be fed to the many computers involved. With enough testing and evaluating, the TacStrat proponents feel that this can be worked out. From an operational point of view, there are many unknowns. For example, what happens when three, four, or a dozen threat emitters simultaneously come on the air? The black boxes can handle that situation with millisecond computations, but what about the pilots of aircraft? Can they respond rapidly and accurately enough to follow the critical succession of orders coming to them, much less fully understand what the whole situation means? How far apart, physically, should the aircraft be? How large a chunk of airspace should they take on for each anti-missile sweep?

If the ordinary tactical aircraft is to be used, this also means that the ordinary TacAir flight crew will be used. Can these "ordinary" people be trained well enough to master their TacStrat roles, while still maintaining their essential skills in the basic roles of flying, dog-fighting, intercepting, bombing, and strafing? Could TacStrat be introduced gradually, both in training and in hardware, or must it be done in one fell swoop, with all the attendant organizational disruption of people and equipment? The experienced TacAir experts shake their heads and mutter about all the nitty-gritty problems that can arise.

Here the problem lies, at least for the present. Ground defenses continue to proliferate and be refined, increasing the threat to TacAir and decreasing its usefulness in combat. Most of the large TacAir programs for the near future are hardware-oriented. And most of the hardware has been conceived for individuals, rather than for mutually supportive use. Long-range planning for long-range problems is mired in a muddle-puddle of competing concepts.

There is probably no quick and ready answer. It isn't a fixed-base, long-range anti-missile system. It isn't higher speed and better maneuverability in aircraft. It isn't remotely piloted vehicles. It isn't an invisible airplane or a flying tank. It isn't an arsenal of smart bombs. It isn't a total reliance upon either magic black boxes or intricate, dazzling displays of data.

Some parts of the answer *are* apparent. It is some sort of a system, using mutually supportive aircraft. It isn't unsophisticated. It must rely heavily upon integration of the new breed of avionics, the new breed of smart weapons, and probably a new breed of TacAir pilots. Its introduction implies large-scale changes in thinking, in training, in equipment, and in operating procedures both flying and fighting. It will take time to be developed, matured, and perfected. And right now it hasn't even been conceived!

If the TacAir thinkers and TacAir leaders don't come to grips with the problem pretty soon, TacAir *will* be dead!

FOUNDING OF THE CZECHOSLOVAK REPUBLIC—59TH ANNIVERSARY

HON. JOHN G. FARY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 28, 1977

Mr. FARY. Mr. Speaker, today marks the 59th anniversary of the founding of the Czechoslovak Republic on October 28, 1918. From the very beginning of the movement to make Czechoslovakia a free and independent country, the American people and the Czech and Slovak people worked together. Not only is October 28 a date of profound significance to our two countries, but to freedom-loving people all over the world.

President Woodrow Wilson, and Thomas G. Masaryk, soon to be President of the Czechoslovak Republic who served in this capacity from 1918 to 1935, worked together during the summer of 1918 to insure the Czechoslovak cause of national independence. As a matter of fact a small American expeditionary force was sent by President Wilson to Siberia to aid former Czech prisoners of war in Russia to join the Allies in defeating Austria-Hungary and Germany and bring an end to World War I.

During many centuries of foreign domination the Czech and the Slovak peoples never lost their national identities. The nation now known as Czechoslovakia before World War I was part of the Austro-Hungarian Empire, and the Czech provinces of Bohemia and Moravia were controlled by Austria and the Slovak provinces by the Hungarians.

Thomas Masaryk representing the Czechs, and Milan R. Stefanik representing the Slovaks, realized that to achieve independence for their peoples political unity of the two peoples was essential to bring freedom for both out of the chaos of war and the distintegration of the Austro-Hungarian Empire.

In 1916 the Czechoslovak National Council was formed with Stefanik, Masaryk, and Dr. Eduard Benes as its leaders. The National Council of Czechoslovakia was recognized by the French as the legitimate representative of the new nation on June 29, 1918. Britain extended this recognition on August 9, and the United States followed on September 3,

1918. Austria collapsed on the night of October 27, and independence was declared by the National Council on October 28.

The Nazis and then the Communists destroyed the hard won freedom of the Czechoslovak peoples after two decades of liberty, with only a brief respite after the Second World War. In 1968 the Soviet conquerors affirmed the "Brezhnev doctrine," and the Czechoslovak nation was occupied with military forces. The invasion was an intervention by Communist forces to prevent the Czechs, and Slovaks from establishing their own social order and their rights as a nation, but the people of Czechoslovakia have not resigned themselves to the tyranny that was forcefully and brutally imposed by Moscow.

Perhaps more than at any other time since the vicious invasion by the Soviet Union of Czechoslovakia in 1968 this year as Americans we have been made aware that our own future, as well as the future of Czechoslovakia, and all captive nations, depends on our constant vigilance and uncompromising will to stand firm in the face of totalitarian aggression. We must never forget that détente has not changed the bitter realities for the captive people since the Soviet hierarchy has by no means ceased to be an instrument of oppression.

As Americans, I feel that our commitment to freedom compels us to dedicate ourselves to the cause of freedom wherever it is denied, and to support efforts to liberate the captive nations of the world.

I am proud to join in this observance in the House of Representatives, and with the people of Chicago and all Americans of Czech and Slovak descent in their hopes and prayers that in the near future the people of Czechoslovakia will again celebrate October 28 as a free people.

It is my fervent hope that the time will not be too distant when the totalitarian form of government can be overcome, and each country can function as a strong independent nation in a free world.

THE CIVILIAN LEFT TO DIE

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 28, 1977

Mr. DORNAN. Mr. Speaker, at 2 o'clock this afternoon I shall attend the funeral of former Marine Corps major and CIA employee, Tucker Gougelmann. He will be buried at Arlington National Cemetery with full honors by the country he served. Ironically, he will be buried beside another courageous American who served his country in the CIA, Pilot Francis Gary Powers.

I would like to call to the attention of the Congress and the American people not only Mr. Gougelmann's honorable service in two capacities, but to the circumstances surrounding his death. Mr. Gougelmann was seen alive in Saigon in April of 1975, the month that Saigon was overrun by its Communist conquerors. But because of the inaction of his elected officials in the United States, Tucker was allowed to rot in a Saigon prison from that April until he died at some imprecise time in the summer of 1976.

More ugly still is the fact that, during his imprisonment, Members of the Congress were rising in this Chamber and asserting emphatically that there were no Americans left alive in Vietnam, that the Vietcong and North Vietnamese were telling us the truth. And all the time these speeches were being made, Tucker was lying in a Saigon cell, praying that these same people would not forget about him. But forget him they did.

I do not know what prayers Tucker Gougelmann said during those long nights, but in my prayers always is the hope that there are no others left alive in Vietnam whose prayers are going unheard.

A HUMAN NEEDS "CRUSADE" FOR AMERICA'S BLACK AND OTHER "HAVE-NOTS"

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 28, 1977

Mr. CONYERS. Mr. Speaker, it is my understanding that the President's international human rights crusade has shifted in emphasis from political rights to human needs. This new thrust of Presidential concern is directed at the tens of millions of "have nots" in the world who are living a hand-to-mouth existence. As expressed in the President's speeches and public comments, he will stress the right of "have-nots" to shelter, food and health care as well as rights for their children to be educated, and their rights to the fruits of technological progress.

I would argue that the President, in shaping this policy course, should apply the same principles, moral and political commitment to human needs in this country. Economic and social justice for blacks cannot be achieved without Presidential leadership of a human needs-human rights crusade. The President would have to take essentially the same steps to execute a domestic human needs drive on behalf of black "have-nots," including:

An effort, coordinated at the Cabinet level, to integrate the planning and policies of the Federal agencies that impact on the economic and social conditions of black Americans.

Pulling together all efforts in the public and private sectors to bring about a coordinated domestic program designed to impact positively on blacks-in-need.

National leadership by the President, backed up by White House and Cabinet officials, to make economic and social justice for blacks the paramount element of a domestic human needs thrust.

Poverty, racial injustice and discrimination, and minority unemployment are still the Nation's most severe social problems. At least on paper, the Carter administration is committed to proving that, through sweeping governmental reorganization and new legislative initiatives, that Federal programs can be made at once more effective, efficient and humane. Reform of the Nation's welfare system and the creation of a system of national health insurance should be centerpieces of this effort.

President Carter already has unveiled his welfare and, despite good intentions, its weaknesses exceed its strengths. It is too early to predict the form a national health insurance proposal will take. Still missing, however, as a major policy goal, is productive work for all Americans able to perform it—the goal of full employment.

THE ROLE OF THE PRESIDENT AND THE FEDERAL GOVERNMENT

First. Presidential leadership per se, in terms of vision of the future, priorities, goals, policy direction, and so forth, is far more important than either bureaucratic reorganization or new legislation.

Second. People in every socioeconomic strata, region, city, town or rural area need the kind of reassurance about the shape of the future for them that can only be provided by a combination of this leadership and a comprehensive planning and policysetting process: If the Hawkins-Humphrey bill did not exist, the administration would have to invent an equivalent.

Third. Public aversion to "big government," that is the Federal Government, and deep skepticism about its effectiveness, in any area of domestic and foreign policy, is a fact of contemporary and future political life that has to be respected. At the same time, without systematic and extensive public intervention the problems of the cities, their urban regions, and the structurally unemployed cannot be remedied.

Fourth. Popular support for the administration's initiatives will require vastly increased opportunities for citizen participation in public policymaking and program performance monitoring. Bringing 30 percent to 50 percent of the American people together around something that they will fight for will require Government working closely with community leadership that is trusted, coalition-building on issues affecting the basic necessities of life, focusing on neighborhoods as basic units of program planning and action, and interpreting to people by every means available who will be helped and who will be hurt by any Government initiatives.

Fifth. Full employment and holding down the cost of living are the issues that most directly and significantly concern most voters/citizens, that will determine the next Presidential election, and that provide the touchstones for setting priorities for the next 3 years. The Federal Government will have to be managed, reorganized, redirected and focused on accomplishing these two interrelated policy goals. Presidential leadership, comprehensive planning and policysetting, public intervention strategies, and citizen participation in public

policymaking and program performance monitoring are essential ingredients for achieving these full employment and anti-inflation goals.

A STRATEGY FOR FULFILLING ECONOMIC RIGHTS AND HUMAN NEEDS

The majority of the American public perceives that blacks have made considerable progress in the last decade. Accordingly, white Americans tend to minimize continuing black-white disparities. Whereas it is no surprise that blacks overwhelmingly support increased spending for low-income housing, employment, urban development, welfare, and programs specifically targeted at improving black economic and social conditions, white Americans generally do not assign high priorities to programs for black Americans and the cities. A majority of whites in the abstract favor school integration but are not in favor of busing. Likewise, white Americans believe that blacks should have equal housing opportunity but are less supportive of strong open housing laws.

There seems to be a growing belief in the body politic that blacks have gained too much and are moving too quickly in their quest for economic equality. This view takes the form of code words such as "reverse discrimination" and movements such as "antibusing." This political trend ignores or is ignorant of the facts that black income is still only 60 percent of whites; that over 30 percent of black families earn less than the poverty level; and that only 15 percent of black families earn more than the median income. The main point is that many whites tend to perceive civil rights and economic rights policies as threatening their own resources and privileges in a "zero-sum game" where blacks can only advance at the expense of whites.

Against this background, it will take a tremendous educational and political effort to extend the economic, social, and civil rights gains of the past two decades. Presidential leadership in this effort will be absolutely indispensible. At the same time, I realize that Presidential leadership is politically constrained to some degree by the general political climate of the Nation and the misunderstanding and misrepresentation of the facts regarding affirmative action and black-white disparities.

In part for these very reasons I am advocating an economic rights and human needs strategy for blacks that in large measure is not targeted at black problems per se. The three key policy components of this strategy are: full employment; bolstering the economic and social health of families; and urban revitalization. Taken together, these policies constitute an economic rights and human needs agenda for America's "have-nots," who are disproportionately black and urban dwellers. The new economic and social policy framework and process advocated here would yield an integrated package of policies and programs that can be communicated to the public by the administration as a "non-zero-sum game."

FULL EMPLOYMENT

I support the Hawkins-Humphrey bill precisely because it is not a simple jobs bill. The bill is designed to utilize all of the available policies and mechanisms relevant to achieving full employment, balanced economic growth, and price stability. The bill aims to accelerate the enlargement of the total number of jobs needed to productively employ all of those needing and wanting work. It is concerned with the quality of work as well as the quantity; and with the immense idleness and underutilization of workers, many of whom do not even show up in the unemployment statistics. At this point, I remain extremely reluctant to endorse a particular target unemployment rate, for adult or overall unemployment, because of my grave concern for the disastrously high black youth unemployment rate and the equally disastrous low black youth labor force participation rate.

H.R. 50—THE CORNERSTONE OF EMPLOYMENT AND URBAN POLICY

The administration's Urban and Regional Policy Task Force is developing recommendations for the fiscal 1979 budget and for longrun policy and legislative implementation. In fact, the Hawkins-Humphrey bill provides the planning framework and the implementation vehicle for using all Federal programs and activities, including urban, tax, and other policies and programs, to achieve full employment. Therefore, urban policy formulation should be set within the framework of implementing H.R. 50. This step can be taken administratively, that is, prior to congressional enactment of the legislation.

The President should inform his Cabinet members that he is unequivocally committed to achieving the full employment and anti-inflation goals of the Hawkins-Humphrey bill; that he intends to use the full authority and power of the President, the full legislative authority and resources of each agency and program, and the full effort of every staff person at every level of the Federal Government, in Washington and across the country, to achieve the full employment and anti-inflation goals of the Hawkins-Humphrey bill.

The President should inform his Cabinet members that, from this point forward, every piece of legislation, every policy, regulation, procedure, and activity initiated and carried out by his administration will be measured and judged as to its contribution to achieving the full employment targets incorporated in the Hawkins-Humphrey bill.

The President should make a major address to the Nation to explain the nature of this total commitment and to ask for the cooperation and assistance of all Americans in the implementation of the Hawkins-Humphrey bill approach. After that, he should have his Cabinet members—all of them—report to the American people at regular intervals on the progress being made in achieving full employment and anti-inflation goals.

Following the President's address, he should seek a joint Presidential and congressional policy declaration of the right of all Americans able and willing to work to have opportunities for useful paid employment at fair rates of compensation. Achieving this goal will require a comprehensive plan within which national development in all fields affecting the quality of life for all Americans would receive integrated attention. Exclusive attention to GNP growth, rather than balanced national development focused on quality-of-life goals, fails to reflect the real short- and long-term needs of the American people.

BOLSTERING THE ECONOMIC AND SOCIAL HEALTH OF FAMILIES

In President Carter's Inaugural Address, he expressed,

> The hope that when my time as your President has ended, people might say this about our Nation: . . . That we had strengthened the American family, which is the basis of our society.

One of the first and most significant actions taken by the administration in support of this goal is the inclusion of incentives in the proposed welfare reform package which attempt to strengthen family ties and remove incentives for family breakup. However, neither the welfare reform plan nor any other Federal policies go far enough toward improvement of the fundamental living conditions of black and white American families which in large measure determine family stability.

The poor are not a permanent group. The poverty population actually is very fluid, with 7 to 10 million people moving out of poverty each year and an equal number becoming poor. Based on a 9-year study by the University of Michigan, almost 80 percent of the poor step in and out of poverty. The $30 billion which flows into welfare aid each year has eliminated only one-fifth of the 1-year poverty, one-third of persistent poverty, and less than one-tenth of intermittent poverty.

The University of Michigan study showed that welfare programs have surprisingly little impact on economic status. The most important ingredient in poor people's economic health, the study indicated, is family composition and the number of breadwinners in the family. A new job for a wife, mother, or child can have a significant impact on the support that a family can generate for itself. Hence a welfare-related jobs program should not ration jobs one to a family if the economic well-being of families is a paramount national goal.

In addition, reduction in the cost of living for families can be as important as increasing spendable income. Food, energy, housing, and health costs absorb 80 to 90 percent of lower income family budgets. Holding down the prices of these necessities of life becomes almost as important as policies to put people back to work or to work for the first time. Anti-inflation policies focused on the persistently rising prices of basic necessities of life have to be viewed as integral to overcoming poverty in the United States and as a chief ingredient in poor people's economic and social health.

The political climate for expanded efforts to reduce unemployment also can be improved by reducing inflationary pressures. Consequently, full employment, strengthening family life and reducing poverty, and targeted anti-inflation policies have to be treated within a unified

policy framework. Once again, the Hawkins-Humphrey bill provides this policy, planning, and implementation framework.

JOB CREATION THROUGH RESTORATION OF CENTRAL CITY ECONOMIES

First. The future of cities and their job creation potential is dependent on strong national economic growth. Such growth in turn is dependent on legislative establishment of a new economic policy framework and process aimed at the fullest possible utilization of all policies and programs relevant to full employment, balanced public and private job growth, and price stability. This framework is provided by Full Employment and Balanced Growth Act of 1976 (S. 50 and H.R. 50). Administration support for and congressional enactment of this bill is imperative.

Second. Job creation aimed at full employment for blacks will require revitalization of the economic base of distressed cities, especially in the Northeast and Midwest. This urban revitalization effort will be largely dependent on private sector investments which create private employment opportunities. In order to attract large amounts of private capital to revitalization of the urban economies, administration support for and legislative creation of an urban development bank is essential.

Third. A wide range of public sector actions must precede and accompany private investment. This will require the highest possible national policy commitment to the cities, urban economic revitalization, and job creation for the un- and underemployed. The president of the United States must play the key role in establishing this commitment, supported by Congress, the States, cities, and counties, business and labor, and other national and local public and private organizations.

Fourth. The urban revitalization and job creation effort will require Federal leadership of the process with varying participation and responsibilities at National, State, and local levels of public and private sectors. The form of the multilevel public-private relationships in this massive undertaking must be one of effective partnerships which draw on the fullest possible resources of all participants and, at the same time, improve the capacities of all partners to participate in the development process.

Fifth. Full enlistment of the talents, energies and resources of government and private sectors will require delegation by the President of overall direction of the effort to the second highest elected office of the Federal Government—Vice President MONDALE. This action will serve to raise the urban revitalization, joblessness and job creation issues to the summit of the Nation's agenda. Furthermore, only the Vice President will be able to directly call upon the resources of all relevant Federal agencies, policymakers and officials in an effective and flexible manner as required to plan and execute the undertaking.

Sixth. All macroeconomic and microeconomic policies and programs related to urban economic revitalization and job creation will have to be systematically reviewed in the shortest possible period of time. All those Federal policies not normally viewed as related to urban economic revitalization—environment, energy, transportation, taxation, revenue sharing, regulation, defense, communications, and so forth—must be added to the review process.

Seventh. Initially the focus of the urban revitalization and job creation effort should be the linkage of federal manpower, community and economic development programs in a coordinated strategy. Over time the focus must move toward a coherent and comprehensive Federal urban investment program aimed in particular at job creation on an unprecedented scale. Given the extensive lead time required for legislative enactment of the Humphrey-Hawkins bill and an urban development bank, comprehensive policy and program review relating to urban economic revitalization, and the systematic coordination of Federal and Federal-State-local program efforts, a structure and process for initiating the all-out attack on joblessness should be created immediately.

Eighth. This initial structure and process, accountable directly to the Office of the Vice President, would serve as: the vehicle for developing a coordinated urban development strategy, linking manpower development, community development and housing, economic development, and welfare-income support programs; the vehicle for creating the public and private sector partnership of national scope focused on job creation through restoration of central city economies; the vehicle for establishing a collaborative working relationship between the executive and legislative branches of the U.S. Government in the planning and execution of the war on joblessness, with legislative leadership provided by the Congressional Black Caucus; the vehicle for mobilization of State and local political leadership together with national and local business leadership in partnership with the executive and legislative branches of the Federal Government; and, not least of all, the absolutely essential vehicle for black and other minority participation and partnership in a national full employment program.

MOBILIZING FEDERAL INFORMATION RESOURCES

The administration must recognize that an enormous gap exists in public understanding of the crisis in black America. The Federal Government contributes to this gap by the failure to use more effectively the enormous statistical and informational resources within its agencies. Most critically, the way that "unemployment" is defined by the Bureau of Labor Statistics grossly understates and misrepresents black joblessness and the inability of blacks, especially youth, to enter and form stable and productive attachments to the labor force.

Federal agencies have recognized the many gaps in the Federal economic information system. Efforts are underway, with the Department of Commerce as the lead agency, to reorganize and consolidate widely dispersed statistical activities into a more effective reporting system. I urge that first priority be given to bringing together and strengthening those components of the Federal reporting system that comprehensively measure the economic and social status of black Americans, trends that signal new or intensifying problems as well as opportunities for remedial action, and the impact of the economy and Federal activities on blacks.

In this connection, it is vital that the current statistical measurement of progress by GNP growth be significantly improved by measurements of social well-being and the quality of life. The gross national product is only the crudest measure of national progress. Furthermore, the GNP in no way reflects the gains or losses in meeting human needs and fostering the quality of life satisfying to individuals, black and white. The crisis in black America cannot be understood and charted over time without development of quality of life measurements that are integrated into the national accounting framework. The Commerce Department, HEW, HUD, Labor, and OMB should collaborate with a Presidential mandate, to immediately develop the quality of life indicators necessary to assess and formulate Federal policies affecting black Americans, and the increasingly serious economic and social situations of our cities.

The reports generated by this multiagency statistical and information system should be made available to the President on a regular basis so that he can make fully informed decisions with respect to legislation and policies directly or indirectly affecting black Americans.

In order to facilitate this Presidential decisionmaking process, all legislation, policies, regulations, and budgets recommended by Federal agencies or OMB for the President's consideration should be accompanied by: First, an impact statement assessing the potential gains and losses for black Americans; second, a set of options for modification of these recommendations for the purpose of maximizing the gains for black Americans; third, a clear delineation of the unknowns with respect to impact which require special attention in the development of the Federal reporting system or Federal research and evaluation activities; and fourth, steps required to develop more coherent multiagency policies and programs for Federal intervention in the problem area. These reports should be made available to the public, widely circulated throughout public and private sectors, and communicated to the public by the President personally at regular intervals in televised "status reports on black America."

CREATIVITY FOR AMERICA

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 28, 1977

Mr. LAGOMARSINO. Mr. Speaker, I am fortunate to have in my congressional district, Mr. Floyd B. Quigg of

Ventura, who is one of the foremost authorities on the history of patent law. Floyd prepared in a recent issue of his publication, The Private Citizen, a treatise on our patent system entitled, "Creativity for America." I urge my colleagues to carefully consider Floyd Quigg's words:

CREATIVITY FOR AMERICA

The future for any American's life, liberty and pursuit of happiness depends, now as in 1787, upon a powerful quality in our citizens which is impossible for eyes to see; but it makes the difference between strength and weakness, 'tween plenty and want, between life and death—if, when and where it is put actively to work.

It's called Creativity, and here's what the word means: "The ability to combine or arrange existing materials or elements or processes into a New Pattern of Use by people, a pattern that heretofore has not existed."

Creativity, strictly a Gift of God, is bestowed upon individual humans only. It is a gift that has no value unless and until it is put to work in some manner; and its true nature can be known only to the person into whose private custody it has been given. Only he, or she, can have any inkling of the vision within.

TWO OPTIONS FOR THE CREATIVE MIND

If he choose to do nothing with this new idea, to let it linger unseen and by others unsuspected, within the hidden fastnesses of his own mentality and spirit, not one second of his allotted life-span will he have to devote to it, not the tiniest flexing of a physical or mental muscle, not a cent of his or anyone's cash resources. He can lead the same kind of reasonably normal human life he's been leading, his flash of creative genius unsuspected, his sanity unquestioned by those sensible people around him. He remains like them just another ordinary mortal.

This, since the dawn of time itself, has been the fate of most creative ideas given human individuals by our lavishly bestowing God. With natural riches all around, upon and under the earth, in the sky and in the depths of the sea, mankind either knew not how to recognize them or could not find a way for pooling of abilities, to use them. A mechanism was lacking, an incentive for individuals to try. You ask, "Why not?" Well, I'll tell you why not.

Let a man dare fan that creative spark of an idea within, into genuine action, calling it forth from its protective invisibility to the open and public world of that which can be seen, touched, smelled, heard—or all these put together—an object of real usefulness to mankind. That's when his troubles begin. He must devote to it a share of his own personal lifetime, and a share also of his physical and mental energies. He must obtain materials for the production of it; and usually tools and machines must be bought, rented or borrowed for fabrication. Besides, he should have a place to do this work in privacy. He must gamble all these resources on just one invisible thing—his own confidence in the ultimate value of his own creative vision, of that which could be and should be.

So now you wonder, "Why so much privacy?" If he confides in someone the news that he is inventing something new and maybe important, he will be accused of madness, egotism, and impracticability because if his idea had real merit, someone else would have thought of it long ago. If he keeps his counsel to himself he is considered a hermit at best, a suspicious or maybe dangerous character at worst. Kindly-disposed friends are always at hand to assume he doesn't know it, and sensibly warn him that "the odds are heavily against" his being able to win success, if he elects to pull his "crazy" idea out of hiding and invest real time, work and money in it. They mutter such things as wondering who he thinks HE is, to be able to fulfill some unmet human need, or solve some problem vexing the world.

These, then, are the two options that a person faces, when he harbors within himself a creative idea. He can stifle it, considering himself unable (for whatever reason satisfactory to him) to bring it into the open and develop it, or being unwilling to accept the risking of his resources, under the circumstances that surround him. He can do that or he can take the risk, invest his resources, or the resources of others, and perchance achieve big success—if perchance the whole business is not stolen away from him. For centuries and in many lands, the ideas that succeeded were those conceived by men who found favor with governmental officials. Ideas lodged in the creative brains of "ordinary" people did not see the light of day.

DISCOUNTING THE "COMMON MAN"

Hundreds of years of human history, thousands of years of it on the Eurasian and African continents, offer dismal evidence of how slow progress can be, even among highly intelligent peoples, if the creative abilities of only "the elite" of any nation are harnessed, if there be financial or other incentive to merely the chosen few. Nobody could tell where the real "gem of an idea" was to be found, perhaps in some person most unlikely or unlovely in appearance. For centuries of slow, plodding improvement, nobody seriously tried.

THE GREAT INVENTION 1787

Knowledge of this centuries-long exercise in futility, this lack of officials interest in making use of human creativity in whichever humans it might exist, was part of the mental equipment and environment of certain wise, determined and highly inspired minds in 1787. It was they who wrought that wonderful New Invention, a governmental idea and mechanism to become known worldwide as the United States of America. Their set of "plans and specifications" for it were officially identified as the United States Constitution.

As part of it, in a bold move to reach out to the creativity of any mind that had it, whether high or low in position or power, their plan authorized (and thereby obligated) the "Congress" they invented to offer a very special "deal" to any and all the creative minds to offer in turn their very special type of service to the new Nation. These citizens they identified as "authors and inventors," and each was to make publicly open (the meaning of the world "patent") the new idea he might have, in a form so clearly described that any other reasonably intelligent person might understand it, and use it as a new foundation for building still other new creations. The author was to write for publication, so others could read and benefit. The inventor was to develop his idea to the point where it would become a new product or machine, one that other citizens could use and build upon with their own inventiveness.

In return for this full disclosure, the newly invented Government would accord the creative man or woman something which these same drafters of the Constitution had been opposing in principle for years, a full monopoly. However, there were four conditions to it. First, it would apply to only that which he himself had created, something which would not exist without his efforts. Second, it had to be actually a new and useful creation. Third, it had to be his own creation; only the individual human who had performed the creating would be given this legal authority. The fourth condition was that the monopoly could not be permanent; it must be in all cases "for limited times."

Why did the Founding Fathers knowingly award so much monopolistic authority (strictly limited though it was) in unnamed and unimaginable and unpredictable individuals known only to them as "authors and inventors?" It was NOT out of special love for creative persons, though the Constitution itself was an outstanding and highly successful work of creativity.

Guessing or "crystal-gazing" is not needed, to learn why the Drafters did it. They explained why, and very clearly, in the first ten words of Clause 8 of Section 8, Article I: "To Promote the Progress of Science and the Useful Arts."

In whose behalf, to promote this progress—just for authors and inventors? This answer also was made very clear, in the first seven words of the Constitution, on the question of just who it was that the document was intended to serve: "We, the People of the United States . . ." If this new Nation were to become an independent people, in a world where other nations of long standing were already immeasurably stronger, this Nation HAD TO HAVE so much Progress in Science and the Useful Arts as to enable it to catch up at least with these elders. The Constitution Drafters were smart enough (divinely inspired enough, too) to know that the ONLY way to "get here" was to utilize the creative ingenuity of every available creative person, utilize it more fully and effectively than any competing nation had done.

Action begins: Early in 1790, President George Washington urged the First Congress to lose no time in implementing Clause 8; the creative abilities of authors and inventors, put actively to work, were critical to the future of all the people in the land. On April 10 he signed into law the first U.S. Patent Act; and on May 31, the Copyright Act. These two enabling acts have been "working in double harness" ever since; and at one period of years both were operated by Patent Office. Both had the advantage of being specifically authorized by the Constitution, and both had another advantage, seldom credited with its vital importance to the teamwork of these two governmental agencies in our progress.

This unsung advantage derives from the fact that just one language—English—is both spoken and written here, by rich and poor alike. (There are variations, to be sure, but it is understood by nearly everybody; and everybody who does, profits his full share by being an American.) One reason for it is that so many of the early colonists had come from England; that's well known. Another reason, equally cogent but not so widely known, began in 1611 with publication of the Holy Bible in just one version that had been officially authorized by England's King James. "Godfearing" English colonists had both a common tongue and a common literature, giving them a winning solidarity. (In ancient Babel, disruption of their one-language unity had wrought disaster, would do likewise here.) The USA having the earth's largest population with one universal language, we can counsel together and work together.

Results to date: In 1972 our State Dept's Agency for Internatl Development compiled a summary of the Gross National Product of each nation in the non-communist world, in terms of US dollars 1970, in each case an "as is" picture of the total productive power of those peoples. I arbitrarily have arranged these AID listings in three geographical areas (one of which is US & possessions), each of 'em combining advanced industrial technologies with severely retarded areas, just the way our world was in 1970. Compare them, in billions of US dollars and in millions of persons to produce and share in it; and write your

own editorial: Western Europe (incl Greece, Turkey), & Africa—747 mln popln, GNP $841 billion; (2) Near-East (incl Greece, Turkey, Egypt), plus all South Asia, Oceania, Canada, and all Latin America exc Cuba—1,603 mln people, GNP $650 billion; (3) USA and possessions, 205 million people, $979 billion GNP. Did YOU know THAT?

Then-now-next: In 1790, USA popln not quite 4 mln or 5 per then-sqmi; hand tools made nails, built structures, de-seeded cotton, spun yarn, sewed clothing, set type, harvested grain, tilled soil, made bullets & candles; horses for mobile power and hi-speed travel (covered wagons 20 mi per DAY). But something was stirring, 3 patented inventions that year . . . millionth patent 1911 . . . 4-millionth late Dec-1976—would be more if Congresses & courts made it less costly to get and defend a patent. Sept. 1, 1977, USA popln est by Census 217.3 mln, 60 per now-sqmi; birth every 10 seconds, net gain one each 21 secs. Inventiveness has met challenges of popln growth in past, will in future if turned "on" not "off" by Govt.

F.B.Q.

SOCIAL SECURITY: WHAT HAPPENED?

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 28, 1977

Mr. PEASE. Mr. Speaker, the most heavily lobbied bill of this entire session of the U.S. Congress did not deal with the B-1 bomber, the Clinch River breeder reactor, abortion, common situs picketing, or any of the headline-grabbing controversies Americans are familiar with.

Rather, the award for the most lobbying activity goes to the Social Security Financing Amendments of 1977, which the House passed last Thursday and sent to the Senate.

The bill, as recommended by the House Ways and Means Committee, made a dozen changes in the social security law, but only one proposed change generated all the lobbying activity. It was a proposal to require that all Federal, State, and local public employees be covered by social security.

In a 10-day period, I personally received 3,087 letters opposing the proposed "universal coverage" of social security. Telegrams and phone calls flooded into my offices in Washington and the 13th District.

Other Congressmen reported similar experiences. The outpouring was impressive testimony to the concern of postal workers, teachers, and other public employees about their pension arrangements. It also said a lot about the degree to which public employees are aware that—to an important extent—Congress or the State legislature is their employer. Public employees are accustomed to being rallied in support of or opposition to legislation.

In the case of the social security "universal coverage" proposal, someone either deliberately or inadvertently misled a lot of public employees, especially teachers. Many who wrote or telephoned to me expressed a real note of panic. They understood that Congress wanted to grab the assets of their financially sound public employee pension systems in order to bolster the financially troubled social security trust fund.

That fear was totally unfounded. The universal coverage proposal did not in any way merge social security with existing public employee pension funds. It did not require, as many believed, that public pensions be reduced. What it did say is that all public employees would have to pay social security taxes—and thus be eligible for social security benefits—just as is the case already for all employees in private business. Indeed, nationwide, 70 percent of public employees are now covered by social security.

However, in Ohio, no State or local public employees participate in social security—unless they have a second job in private employment. For them, universal coverage would probably have meant paying 5.85 percent—rising to 7.45 percent in 1990—in social security taxes on top of the 8 to 9 percent they already pay to their public employee pension funds. One could not expect Ohio public employees to be happy about that prospect.

From State, county, city, and township officials, there were also strong objections. As employers, they too would have to pay 5.85 percent or more of their total payroll as the employer's share. Doing so would be a substantial additional financial obligation for State and local government units. Officials did not know where they would find the money.

In Congress, the most telling argument against the universal coverage proposal was this. The proposal would have made universal coverage effective in 1982 and require, in the meantime, a 2-year study of what problems might be caused. Many Congressmen felt that was putting the cart before the horse.

Representative JOSEPH FISHER, of Virginia, argued that Congress should require a 2-year study of the feasibility of universal coverage and then decide whether to require it. With the logic of Representative FISHER and the awareness of those thousands of letters from constituents, the House adopted the Fisher approach by a vote of 386 to 38. I was 1 of the 386.

TINSEL SWORDS AND CARDBOARD SHIELDS: SALT II

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 28, 1977

Mr. DORNAN. Mr. Speaker, press accounts of the SALT II negotiations presently underway in Moscow indicate that the American negotiating team is characteristically surrendering to Soviet pressure. Under the direction of Paul C. Warnke, the United States has apparently accepted Soviet limitation demands on strategic launch vehicles, ICSMs; land-based ICBMs, Soviet heavy missiles, Soviet "Backfire" long-range supersonic bombers, and U.S. sea-launched and ground-launched cruise missiles. In each and every of the above categories, the U.S. proposal was rejected and the exact Soviet proposal adopted. This causes me to wonder why the President ever sent Mr. Warnke to Moscow. I submit that it would have been faster and cheaper to have the Russians simply send their demands straight to the U.S. Senate for ratification.

Fortunately, though, there are men in the U.S. Senate who are not so blind as Mr. Warnke, who do not easily discount Soviet-declared intentions of world conquest, who do not ignore present Soviet aggression on nearly every continent, and who know that world peace can only be maintained from a position of moral and physical strength and commitment. Senator BOB DOLE is one such man. In his typically straight-forward and cogent manner, qualities that made him a worthy Vice Presidential candidate last year, Senator DOLE spoke to the Georgia jaycees mock legislature about the serious risks and instabilities that result from a peace built upon vague assurances, good intentions, and unequal arms limitations. In a category by category description, Senator DOLE warned that ratification of the SALT II treaty in its present form will surely result in just such a false peace.

Mr. Speaker, I ask unanimous consent that Senator DOLE's address before the Georgia jaycees be made a part of the RECORD.

Mr. Speaker, if we allow ourselves to fall behind, if we are perceived to be the weaker of the two, if doubts should arise as to our ability to stand our ground in future confrontations, then we can expect to see some fundamentally important shifts in power relationships as old alliances begin to crumble and neutrals begin choosing sides. Other nations will not be left in doubt as to what the Kremlin means when it speaks of military strength as an instrument of power and, they will know that the United States willingly permitted the Free World's security to be jeopardized.

We simply cannot afford to be playing Russian roulette in a nuclear age. Yet, at the highest levels of the American Government there is an enormous institutional will to disbelieve the evidence on the "defensive" measures the Soviets are making. The President seeks to reassure the public that we really have nothing to worry about. We continue to be parsimonious with our own research and development, relying instead on antiquated and insufficient defenses.

I, therefore, call upon my colleagues in the U.S. Senate to carefully scrutinize the SALT treaty when it is presented to them. Future world peace depends upon it, national security demands it, and the future of our children wills that it be done.

GEORGIA JAYCEE MOCK LEGISLATURE

Let me turn to a specific area of vast national and world significance—foreign policy generally and S.A.L.T. in particular.

The Carter Administration has provided the nation with new foreign and defense policies. The American people have hardly been able to keep up with these new departures, tumbling from the White House one after the other: withdrawal from Korea, down-

grading of Tiawan, recognition of Cuba and Vietnam, the President's U.S. Ambassador warmly praising the victorious struggle of North Vietnam and the President's Action Director attending the North Vietnamese victory celebration, bringing the Soviets back into the Middle East with a joint declaration, canceling the B-1, and of course, the Panama Canal Treaty.

The popular outcry has been loudest on the Canal Treaty, perhaps because the people see it against this background of withdrawal and apology.

CARTER ADMINISTRATION AND S.A.L.T.

But the most important of all the Carter Administration national security departures has yet to receive wide notice. So as I indicated, I would like to talk with you briefly about S.A.L.T., the negotiations the Carter Administration have been conducting with the Russians.

It is a paradox that this most important of all national security issues for the American people seems the most elusive and complicated in detail. To master its complexity requires the learning of a new language of MIRVs and MARVs, of ALCMs and SLCM, MLBMs, SSNX-18S and SNDVS. But once mastered, this language reveals SALT to be like all policy matters, amenable to applied common sense. Let us review the simple issues of SALT, stripped of jargon and ask some common sense questions.

The first question must be: What is it we seek to achieve through SALT negotiations? The answer can only be to achieve increased security of the United States and its allies. The answer to this question will be the sole criterion by which we in the U.S. Senate must judge the coming SALT treaty.

By which issues do we judge the fairness and balance of the treaty limitations to find whether it increases or decreases our security?

FOUR CRITERIA

Fred Ikle, recent Director of the Arms Control Agency has suggested the four criteria by which we should measure that success or failure in a SALT treaty.

First, a SALT treaty ought to strengthen deterrence. Deterrence simply means dissuading the Soviets from attacking us or our allies by persuading them that the consequences to them of attacking us are worse than anything they could gain by doing so. SALT should strengthen that dissuasion.

Second, SALT must secure an even balance—real self-evident equality or parity.

Third, SALT should achieve some reduction in nuclear arsenals and ease the burden on taxpayers.

Fourth, the treaty must be strictly enforceable and verifiable without having to place blind trust in the Russians.

Now let us turn to what actual limitations seem near to agreement. The Senate as a whole has not been briefed, so for details on what has now been agreed we must rely on recent news articles quoting "informed sources." To compare where we started from, we have the March proposal made public by the President himself:

Ceiling on strategic launch vehicles, ICBMS, sub-launched SLBMS, and long-range bombers:

Carter proposed in March a ceiling of 1800.

The Russians insisted on 2250.

Reported "compromise" 2250.

Ceiling on multiple warhead vehicles:

Carter proposed in March a ceiling of 1100.

The Russians insisted on 1320.

Reported "compromise" 1320.

Ceiling on land-based ICBMs

Carter proposed in March a ceiling of 550.

The Russians insisted on 850.

Reported "compromise" 850.

Limits on Soviet heavy missiles—six times the payload of the U.S. Minuteman:

Carter proposed in March (U.S.—0) (Soviets—150).

The Russians insisted on 308.

Reported "compromise" (U.S.—0 (Soviets—308).

Limits on Soviet Backfire long-range supersonic bomber:

Carter proposed in March strict numerical limits on Backfire.

The Russians insisted there be no limits other than assurances they would not use it against the U.S.

Reported "compromise": no limits other than assurances.

Limits on U.S. sea-launched and ground-launch cruise missiles:

Carter proposed in March there be no limits on U.S. medium range (up to 2500 km) cruise missiles.

The Russians insisted all SLCMS and GLCMS be limited to 600 km range (320 miles).

Reported "compromise": all SLCMS and GLCMS limited to 600 km range.

If the facts of this new agreement as reported in Newsweek and elsewhere are true, then doing some simple arithmetic on my tablecloth, we find that this treaty would leave us with the following balance sheet by 1985:

United States

ICBM payload, 2.5 million pounds.

ICBM warheads, 1650.

Long-range bombers, 120 B-52s.

Soviet

ICBM payload, 9 million pounds.

ICBM warheads, 6000.

Long-range bombers, unlimited backfires (about 500 by 1985).

MEASURE UP

Returning to the four issues of former Arms Control Director Ikle, how do these terms measure up?

First; deterrence: it is hard to see how such a record of U.S. concessions resulting in such lop-sided numbers could strengthen Soviet fear of U.S. counterattack. It would seem to me deterrence would be weakened, not strengthened.

Second, even balance: the imbalance would seem to be staggering.

Third, reductions: there are indeed U.S. reductions, but net Soviet increases.

Fourth, enforceable and verifiable: it is agreed in the intelligence community that a 600 km limit on cruise missiles is not veriable, but other enforcement arrangements seems so far to have been a subject deferred by the Administration.

It is difficult to believe that any President could be so ill-advised as to conclude such a treaty as described above. Let us hope these many authoritative news stories are wrong.

A treaty cannot be achieved except by limitations unequal and unfair to the U.S., or by terms unenforceable, and built only on Soviet assurances of good intentions, then the answers to our opening question is an obvious NO. U.S. security will not be enhanced by ratifying such a treaty, and a bipartisan majority of the Senate will reject it without hesitation.

Let us hope that these events do not occur. All of us would prefer to curb arms competition and reduce the risk of war, but none of us will do so at the risk of future U.S. security. It is the responsibility of all of us to make special efforts to inform ourselves in these difficult matters. The advice of the people, and the judgment of the Senate must be based on a reasoned understanding of strategic issues.

NAVY DAY 1977

HON. DAVID C. TREEN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 28, 1977

Mr. TREEN. Mr. Speaker, on October 14 of this year I had the high honor of participating in the Navy Day celebration in New Orleans sponsored by the Greater New Orleans Council of the Navy League of the United States. I had the privilege of introducing the Honorable Edward Hidalgo, Assistant Secretary of the Navy for Manpower, Reserve Affairs and Logistics, at the luncheon hosted by the Navy League at the Fairmont Hotel.

A special honoree at that luncheon was our former colleague, the former Chairman of the House Armed Services Committee, the Honorable F. Edward Hébert. I am pleased to report that our friend Eddie Hébert is making a remarkable recovery from a very serious illness which he sustained several months ago.

Mr. Speaker, this Nation is indeed fortunate to have people of the caliber of Edward Hidalgo accept positions in our executive branch. Secretary Hidalgo, who assumed his present office on April 25, 1977, has had a prestigious career both in private life and public life. He is an outstanding attorney who has had naval experience on several levels which will be extremely helpful to him as he moves to improve our total force Navy. Secretary Hidalgo served with the U.S. Navy from 1942 to 1946 in several different assignments, including that of an air combat intelligence officer on the carrier *Enterprise*, for which service he was decorated, and as a Special Assistant to the Secretary of the Navy, James Forrestal. He was a member of the Eberstadt Committee which reported to the Secretary of the Navy on unification of the military services in 1945.

From 1965 to 1966, Mr. Hidalgo was Special Assistant to the Secretary of the Navy, Paul H. Nitze. More recently, he served as Special Assistant for Economic Affairs to the Director of the U.S. Information Agency, and in 1973 he became General Counsel and Director of Congressional Liaison of that Agency.

Secretary Hidalgo's remarks to the Navy League luncheon in New Orleans were received with enthusiasm by the naval community, and I would like to share these comments with my colleagues. Secretary Hidalgo's address gives assurances that we have in him a man of vision, courage, and dedication to the never-ending job of strengthening and making more efficient the U.S. Navy. His remarks follow:

REMARKS BY THE HONORABLE EDWARD HIDALGO

I ask you to join me on this Navy Day 1977 in looking at post-war U.S. in 1946, the intervening three decades and our Nation today through the eyes of James Forrestal.

Jim Forrestal was a giant among men—a

driving force in World War II Washington—a commanding figure in post-war national and international security affairs.

His enquiring mind ranged across an extraordinarily broad field of affairs—naval matters, politico-military affairs, post-war planning, industrial and economic relations, both national and international, government reorganization, domestic politics, atomic weaponry, demobilization, and this list could go on and on to include countless fundamental aspects of our national life as we brought to a close the war in the Pacific. A giant indeed, and a man who rose to the challenge on the eve, during and after, the most devastating war that ever threatened our American way of life.

In the 9 tough years Jim Forrestal served in government—as Under Secretary of the Navy, then Secretary of the Navy and finally, as the first Secretary of Defense, Jim Forrestal climbed three major peaks of professional achievement. He presided over the wartime build-up of the largest and most formidable Navy ever assembled on Earth. While attention is commonly directed to numbers and types of ships and aircraft produced and manned during World War II, it is important to pay tribute to those who accomplished the herculean effort that was required to manage, coordinate, and orchestrate this massive technical and industrial miracle. Jim Forrestal had unique qualifications to grapple with this problem. He assembled highly talented men from both the uniformed and civilian world. This team worked tirelessly with American industry and thus produced the finest ships, aircraft, and support forces ever mobilized and put to war

As the war progressed in favor of U.S. and our allies, Jim Forrestal expanded his horizons and became foremost among the civilian executives in the cabinet to articulate the importance of politico-military affairs and the essential need to coordinate national policy between the armed forces and the State Department. He watched with growing alarm the political ambitions of the Soviet Union as it regained strength and began its relentless drive into eastern Europe and Germany. Time and again, in his closed door meetings and increasingly in his public remarks, Jim Forrestal sounded the tocsin against communist aggression and imperialism and vigorously advocated the hardnose pursuit of U.S. national interests in our negotiations with Stalin in the closing months of the European War.

Jim Forrestal would not have been surprised by the Korean War, the Cuban missile crisis, Vietnam and the numerous other crises which have darkened the international scene these past three decades.

The third towering achievement of Jim Forrestal which I wish briefly to share with you relates to what many now take for granted—unification of the military services in the integrated Department of Defense.

I wish there were time to review this history as I saw it firsthand in 1945–46, the huge influence in this process by such towering figures as Generals Marshall and Eisenhower, Secretary of War Patterson, Secretary of the Navy Forrestal and his intimate adviser Ferd Eberstadt—and President Truman in the oval office.

Suffice it to say that Jim Forrestal's zeal, wisdom and determination that the unifying process should not alter the basic traditions and destinies of the Navy and Marine Corps have proved both prophetic and providential.

If Jim Forrestal were here today—celebrating this day, a Navy he loved—a Navy proud—a Navy strong—a Navy ready—What counsel would he offer us?

I'm on safe ground by assuring you that Jim Forrestal would advocate military readiness with the same vigor today as he did three decades ago. In testimony before Congress in 1945 he said and I quote, "those who hate war must have the power to prevent it," unquote. I ask you, is that not the essence of our national security policy today? You and I know it is and though the shape and size of that power to prevent have changed dramatically since the close of World War II and the threats to peace and security have flared and receded, cloaked themselves in a myriad of subtle forms, and though a sense of weariness at maintaining a taut watch sometimes threatens to overcome the good judgment of the free world, the fact persists that if you wish to avoid war, you must be ready to fight and what's more to win. Woe if we misjudge or misapply this crucial postulate!

Recent remarks by our most talented Secretary of Defense, Dr. Harold Brown, before the World Affairs Council of Northern California, are relevant to our theme:

"As a nation, we are less inclined than in the 1960's to see a threat in every alien event—and that is a part of wisdom. But wisdom and inertia are not the same thing. It is true that we could adopt a passive strategy, reacting to events only in the hope of staying out of trouble rather than acting to shape them. But that is not the President's style. He does not propose to be an observer or arbitrator, neither do I. He likes to take initiatives: In my own area of responsibility. So do I."

Jim Forrestal, if he were here, would be intolerant of anyone who ignored the basic doctrine that indispensable to our national security is a close and productive working relationship between the private industrial sector of our Nation and the U.S. Navy. We were the most technologically oriented of the services in World War II and we still are today.

Any history of the war years, worthy of the title, must highlight Jim Forrestal's achievements in understanding the unique resources possessed by private industry, resources which are the product of the strength, skill and ingenuity of our democracy, imbued with its passionate dedication to liberty and the individual initiative and inventiveness of free men.

Yes, Jim Forrestal understood these human and material resources and was therefore able to mobilize them in a time of crisis in unprecedented fashion so that our valiant men and women could have the implements of war—the best in the world—not only to defend the nations of the free world across two oceans but also to insure a formidable victory.

The current Navy administration headed by Graham Claytor, Secretary of the Navy, is acutely aware of its responsibilities to foster a dynamic relationship with private industry in a manner consonant with our national interest. Indeed, the new Navy Secretariat has established as one of its first priorities the resolution of the virtual chaos surrounding the 2.7 billion dollars of claims levied by the shipbuilders against the Navy, arising from warship contracts of the last 7–10 years. We are going to settle these claims equitably and as promptly as possible. Moreover, as a parallel effort we are taking steps in concert with the shipbuilders to determine how best to avoid future claims. Again, in my mind's eye I can see Jim Forrestal, firm of countenance, as he says, "Get on with it, wisely and quickly."

Also in the setting of the historic crisis of World War II, a related truth was written—the strength of mutual understanding and respect by the millions who labor in the private pathways of our Nation and those who labor in the pathways of Government. To run the unbelievably intricate machine of our democracy, with its checks and balances by the executive, the judicial, and the legislative branches, such understanding may not be indispensable but it nearly is. Its absence generates waste, distortion of judgment, needless conflict of views—in a word, inefficiency. Unless the governmental machine functions as smoothly, efficiently and fairly as our fallible humanity permits, our freedoms will not be implemented in the fullest measure they require. Our freedoms, therefore, will be correspondingly eroded.

This understanding, therefore, between the citizens in private life and the citizen in Government life is, in that sense, indispensable. Stated very concretely, how well you and I understand our respectve roles in life—and I have spent more than eighty percent of my life in the private sector—bears directly upon the structure and vitality of our democratic way of life.

A related aspect of this civilian-governmental relationship and one with profound complexity and meaning in the Department of Defense, consists of the roles of the uniform and civilian members of your military services, specifically the Navy and Marine Corps. Jim Forrestal had deep convictions on this subject which he put into practice with consummate skill.

The proper balance between the roles of the Navy blue/Marine green and the Navy secretariat—not to mention the 320,000 civilians in the Navy—deserves your thought and understanding. It demands the closest attention and keenest intuition by those of us charged with the responsibility of structuring and protecting this crucial relationship.

The political philosophy of our democratic way of life is oft defined, in one of its aspects, in terms of the civilian control epitomized at its apex by the status of our President as Commander-in-Chief of our Armed Forces. So it is and so it should be! No one understood this better or nurtured it with greater care than Jim Forrestal.

But in the daily, monumental tasks of the civilian and the military within the Department of the Navy, the enduring truth is that of a finely balanced relationship, founded on mutual respect, strengthened by a recognition of the talents, experience and wisdom which each side is trained and qualified to bring to bear in this interplay of forces which, harmoniously combined, produces a leadership of inestimable power.

There is a further dimension to this civilian-military relationship which is vital to our ability to function as a Navy and that is the community-to-community relationship. I am proud and happy to speak of this third element in this city, for New Orleans has long enjoyed the reputation of huge welcome and support to our military forces. I speak not just of the visitors—ships on port call—but those who are based here permanently in performance of their duty. Instant to mind is our fourth Marine division and fourth Marine air wing, our headquarters for the Naval reserve, and our enlisted Navy placement bureau. Your warm and positive interest in these and other Department of Defense agencies stand as a model for all cities of the Nation. This is a mutual bond with advantages flowing two ways.

I wish there were more Navy and Marine Corps in New Orleans and my Naval aide tells me that it has been a longstanding proposal of Atlantic fleet sailors to dig a canal through Jacksonville, Florida to the Gulf so that the number of ship visits in Nawlins could be increased. Budgetary and other considerations keep forcing this idea out of the appropriations bills. Even so, we know this popularity—this hospitality—this support of the Navy and Marine Corps is not accidental or a casual happenstance. It comes about through thoughtful actions of key citizens and towering among them, from this city—this state—a man of national and international stature—an old and valued friend—

Chairman Eddie Hebert who, more than anyone else has had a major hand in making New Orleans and the Navy a model of community relations. I thank him for the Navy and Marine Corps and thank all of you who carry on this tradition.

Why these themes on this Navy Day 1977? How does Jim Forrestal's legacy apply to our current posture, our future outlook?

My answer is that more than any other time in our history, it is imperative that we civilians and military recognize our shared responsibility for making critical choices and decisions in our national security program. This recognition must take into account the fact of the narrow—the wire thin—margin for error which no longer allows us to recover from ill-conceived programs, to write off a few million dollars and start again, to patch and bandage a program back to health, to waste resources or people on any pretext. Those days are or should be behind us—forever.

In our highly complex technological environment we must make the right choices of ship, aircraft, or weapons systems the first time and do so with an eye to economic no less than military factors so as not to fan the fires of inflation, or otherwise unduly dislocate the domestic economy. We must do so while struggling to constrain those pernicious laws of Professor Parkinson—reducing the bureaucracy and yet, in seeming contradiction, increasing efficiency and productivity of both uniformed and civilian personnel of the Department of the Navy.

The challenge of this mind-boggling technological era is a complex and defiant one. We must and shall meet it in the classic style of the American pioneer, relentless in energy, fearless in adventure.

There is one final philosophical aspect which cuts across the various themes I have shared with you on this Navy Day. I wish to speak of it despite the seeming contradiction with what I have just said concerning the intense pressures for making correct decisions—the narrow margin of error—the expanding responsibility imposed on fewer and fewer people. The fear of failure thus looms larger and exerts more and more influence upon the decision making process.

No one courts failure—no one likes failure yet those who have not tasted failure will not be found in your history books. Only those who dare, who measure the risk and make the plunge, who rebound from failure to try once more, "whose rise on the stepping stones of their dead selves to higher things"—only those men who know defeat ever find success and thus have made their mark on mankind. I speak of defeat, of course, in a material or cosmic undertaking, never in the observance of basic principles.

Perhaps I'm wrong but I sense a predilection, perhaps stronger in the bureaucratic environment than in the private sector, that seeks to dedicate excessive talent and resources to ensuring against failure as if the result will, by default, be judged success. This striving to avoid error is not the same as seeking the achievement of a positive goal—avoiding failure is not success. If we allow ourselves to focus solely upon avoiding failure there can be no question about where we are fixed on the curve of progress and the downward direction of its slope.

And finally, there is the related syndrome of which one becomes so keenly aware in our Capitol City. The speed and dexterity with which countless numbers of kindly or unkindly souls second-guess those who have a responsibility to bear, be it executive, legislative or judicial. No, indeed, says the critic:—I would not do it this way or that, the judgment is flawed, the reasoning is unsound, the intentions suspect. Prejudice, high-minded patriotism, ignorance, commercialism, nobility, idleness, excessive zeal, malice—these and other motivations play their single or cumulative role in the never-ending process of attack, be it on the golf course, in the bars, in the corridors, or in the public marketplace.

How much easier it is to destroy than to build! Watch the demolition of a building it took years to build, and you'll know what I mean.

To end this aspect of our philosophical theme, I remind you of the words of Theodore Roosevelt at the turn of the century:

"It is not the critic who counts, not the man who points out how the strong man stumbled, or where the doer of deeds could have done them better, the credit belongs to the man who is actually in the arena: whose face is marred by dust and sweat and blood: who strives valiantly: who errs and comes short again and again: who knows the great enthusiasms, the great devotions, and spends himself in a worthy cause: who, at the best, knows in the end the triumph of high achievement: and who, at the worst, if he fails, at least fails while daring greatly, so that his place shall never be with those cold and timid souls who know neither victory nor defeat."

Jim Forrestal knew failure, knew the sting of the critic, proved to be more sensitive to the frustrations that encumbered his visions and achievements than his contemporaries understood until too late. Our Navy in 1977 owes much to his leadership, wisdom, and sacrifices.

As Navy Day is celebrated across the continent, in the far flung outposts of the world manned by sailors and marines, and in the fleets roaming the major oceans of the world, I bring to you then a message from the past that bears directly upon our present and our future.

The Navy is essential to our freedom! A strong Navy-Marine Corps team is pivotal to our security! "Those who hate war must have the power to prevent it," said Jim Forrestal in 1945.

Dr. Brown emphasized another facet of this essential strength when he recently observed:

"Our actions (referring to world issues and world diplomacy) can be the more restrained, the greater our strength."

A strong Navy/Marine Corps team is not just sailors, marines, ships, aircraft, and weapons systems but, more importantly, an expression of the collective will of a maritime Nation consecrated to its own freedom and to an expanding justice in a widening free world.

Let us join in a simple act of faith on this Navy Day—faith in the indestructbility of our system of self-government but ever mindful of the essential ingredients of the type of heritage men like Jim Forrestal have bestowed:

—Optimism tempered by wisdom, stubborn determination guided by a clear understanding of our national interest, and an invincible dedication to the dignity and therefore the freedom of mankind.

Such is the meaning of Navy Day!

SENATE—*Saturday, October 29, 1977*

(Legislative day of Friday, October 21, 1977)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. JOHN MELCHER, a Senator from the State of Montana.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O Lord, our heavenly Father, almighty and everlasting God, who hast safely brought us to the beginning of this day: Defend us in the same with Thy mighty power, and grant that this day we fall into no sin, neither run into any kind of danger; but that all our doings may be ordered by Thy governance, to do always that which is righteous in Thy sight.

Now unto Him that is able to keep you from falling, and to present you faultless before the presence of His glory with exceeding joy; to the only wise God our Saviour, be glory and majesty, dominion and power, both now and ever. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 29, 1977.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN MELCHER, a Senator from the State of Montana, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. MELCHER thereupon assumed the chair as Acting President pro tempore.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, Friday, October 28, 1977, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, there are no special orders for this morning. I have no request nor requirement for my time under the standing order, and I yield it back.

Mr. President, what is the pending business?

ENERGY PRODUCTION AND CONSERVATION TAX INCENTIVE ACT

The ACTING PRESIDENT pro tempore. The pending business is, under the previous order, the Senate will now resume consideration of the unfinished business, H.R. 5263, which the clerk will state by title.

The legislative clerk read as follows:

A bill (H.R. 5263) to suspend until the close of June 30, 1980, the duty on certain bicycle parts.

The Senate resumed the consideration of the bill.

Mr. BAKER. Mr. President, I understand that the distinguished Senator from Illinois had certain questions he wished to put to the managers of this measure. I am prepared to yield the floor so that he can rise for that purpose.

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

Mr. PERCY. Mr. President, I thank the distinguished minority leader. I have advised the distinguished floor manager of the bill (Mr. LONG) that I have a number of questions in my mind as we approach the end of the consideration of this bill. The managers of the bill have been extraordinarily diligent in working with the leadership to move this legislation forward as rapidly as we possibly can.

It is now just 3 minutes after 10 on Saturday morning. We stayed until 10:39 p.m. last night. We are prepared—to stay right straight through today until we finish this bill in accordance with the request of the leadership and the floor managers of the bill.

I am sympathetic with the goals, certainly, of moving forward to finish this bill. We originally were scheduled to adjourn by October 7 and many of us made plans in accordance with that schedule. Those of us who are up for reelection, such as the distinguished minority leader, and others, certainly have a duty and an obligation to return home, as we frequently do.

I try to get back to Illinois every 10 days. I have been back approximately 350 times since I have been in the Senate. I am sure my classmate, the distinguished Senator from Tennessee has been back to Tennessee that many times. In my case, I have two potential Democratic opponents who have declared their desire to run against me. They are running up and down the State, 7 days a week, making all kinds of charges, some of which have no foundation or fact but that I am unable to answer because of my duties here.

I wish to cooperate here today in every way possible so we can finish this bill just as soon as we possibly can.

Mr. LONG. Mr. President, if the Senator will yield at that point, let me say that if it were within my power to make the Senator's opponent tell the truth, I would be glad to cooperate. But I do not know what I can do about that.

I frequently complain about the fact that my opponents say things about me that I do not agree with. But I hope the Senator will not hold it against the managers of the bill.

Mr. PERCY. I certainly do not blame my distinguished colleague. I am somewhat amused by charges that one opponent has made that I am never back in central and southern Illinois. I have been back there so many times in the past decade or two I fear I may wear out my welcome. But, at least, if we do not get back at this particular time while they are making such charges, then I am unable to respond to them directly. I have an obligation to occasionally do so, even if I and other Illinoisans do not take them too seriously.

I think we have an obligation to try now to finish our work here, adjourn, and get back to our constituents, and I want to cooperate in every way I possibly can to do so.

We even stayed here on September 27, my 58th birthday. We stayed here all night. It was awfully nice of the Senate to sit and celebrate. My wife and son and daughter-in-law came down at 11:45 p.m., to celebrate and we had a few minutes together, at least until the next rollcall vote. We were in almost continuous session until the next night.

I only mention that to say that all of us are trying to cooperate in every way we possibly can to move essential legislation forward.

I had seven amendments to the energy tax bill which I had announced at the time the bill was initially reported. Four of those amendments have been disposed of, worked out with the floor leadership, voted on by the Senate, and unanimously adopted by the Senate.

I still have three amendments, and as long as we are aiming to finish today, I would like to get some understanding as to what can be done to take those amendments under consideration soon.

I would like to mention, on the substance of the bill, that this morning's Washington Post had a story on the front page which was disparaging of the Senate bill.

Many of us have been working together with the floor leadership to make this a tremendous, significant, forward move in having this Nation adopt a national energy policy. I think we can do it.

I think that amendments that have been accepted, voted on by the Senate, have added substance to the bill.

There has been criticism of the energy tax bill because it is too producer oriented. I happen to think that the language in the bill that the Senate voted to retain on Thursday, clearly indicates it is our intent to offer incentives in several different directions, not to pass just a producer-oriented bill.

That is a tripod on which there would only be one leg. The distinguished minority leader is one of the most distinguished amateur photographers in America today. He certainly would not put a camera on a tripod with only one leg. We have to have, I think, in this program, the same thing we have to have there, a tripod with three legs.

We have three legs. We are trying to build in, first, incentives for production. There is not anyone who says conservation can do this whole job. We have to have more production especially of renewable sources. That is why many of us feel we should go toward market pricing, working toward that objective and goal, get the market forces operating to provide adequate incentives for production and get energy up to the price that it really costs—its replacement cost.

What is its alternate energy source going to cost? The second leg of the tripod has to be conservation, and the amendments I have offered, and other amendments being offered will strengthen the conservation end of this bill.

The third leg of the tripod is conversion to more abundant sources, and this bill has certain incentives built into it to do that.

The Metzenbaum amendment, which I cosponsored, will strengthen the move toward conversion—toward the use of more coal.

I am delighted that the distinguished Senator from Nebraska is here. The Senate accepted, with the support of the minority floor manager and the majority floor manager, the two gasohol amendments of the Senator from Illinois which will strengthen considerably our support for a fuel source that is renewable—alcohol to be made from waste products, garbage, corn products, and other agricultural and forestry products.

So I think we are starting to build a very important bill.

The bill that the committee originally reported produced three times as much energy as was saved. That is 1.5 million barrels of production versus a half million barrels saved a day by 1985. We are now getting this back into balance.

As I mentioned the bill has been improved by adding an oil and gas user tax, which will save millions of barrels of oil, reaching a level of 1.2 million barrels a day by 1985. The Metzenbaum amendment has not been given full public credit for moving us in that direction.

The Senate bill is getting to be a much stronger bill. We have added incentives for gasohol, which can potentially cut gasoline use by 10 percent, equal 1.5 million barrels a day.

We have defeated attempts to delete the use of funds from any crude oil tax for conservation and energy incentives. I believe this was a strong demonstration by the Senate that it intends to build a tripod approach toward the development of a national energy policy.

The bill still needs further improvements, and I hope the conferees will improve it still further.

The Washington Post today calls the Senate energy tax bill a puny bill. Today we have an opportunity to strengthen this bill considerably.

The supporters of the yesterday's recommital motion have stated accurately that laws should not be made in conference but in the two Houses of Congress. I voted against them however. We never would have had a new national policy this year if we had recommitted it. There is nothing we can accomplish by doing that. But we have to give them some credit for saying you should not and cannot write a bill in conference. We should take the bit in our own teeth, and the Senate should do what it must, right here. I agree with that, and I feel that we have the time today to do it. Let us face up to our responsibilities by strengthening the solid foundation we now have and strengthen the conservation portions of the bill.

I direct my comments now to the manager of the bill and first mention my amendment No. 1528. This amendment was offered months and months ago by

Senator STONE and me as an original Senate resolution. There is no use waiting further for it to be acted upon. It simply urges the President to call a White House conference on energy conservation before the end of next year, and it provides authorization for the funds for that. Senator STONE is a principal cosponsor, along with Senator HUMPHREY, who also feels it is very important.

Senator MCCLURE, Senator HELMS, Senator LUGAR, Senator CASE, Senator HEINZ, Senator DANFORTH are now cosponsors of this amendment.

Yesterday, Senator JAVITS and Senator MOYNIHAN showed the television commercials developed by the Alliance to Save Energy, of New York, in room EF-100. They are dramatic and effective commercials being shown under the leadership of our two distinguished colleagues on ways by which people can save energy.

In view of the fact that we have had a number of amendments accepted graciously by the managers of the bill, I would like to bring up amendment No. 1528 for immediate consideration, as soon as I have completed my comments. I think we can dispose of it very quickly.

Mr. DURKIN. Mr. President, will the Senator yield for a question?

Mr. PERCY. I yield.

Mr. DURKIN. In the interest of expediting the procedures, and realizing that we probably will be here until the late hours of the night, I have a minor amendment that the manager has said he would accept; and if the Senator from Illinois would be so gracious as to agree, I could call it up in a very short time and dispose of it in about 5 minutes.

Mr. PERCY. I would be very happy to accommodate my colleague. We could enter into a unanimous-consent agreement that following the disposition of my distinguished colleague's amendment, my amendments then would be taken up.

Mr. President, I ask unanimous consent that amendment 1528 be the order of business following the disposition of the amendment by Senator DURKIN.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. LONG. What is that?

Mr. PERCY. That is No. 1528.

Mr. LONG. Is the Senator calling it up?

Mr. PERCY. It is the pending amendment. I should like to call it up immediately, as soon as I finish my comments, unless there is some reason why the floor manager feels that it should be held off.

Mr. LONG. If the Senator is just asking for consent to call it up, I can answer that, because it does not require consent. That is within the power of the Senator. Go right to it. There is no problem.

Mr. PERCY. I should like to find out how we could dispose of my other two amendments.

The ACTING PRESIDENT pro tempore. Does the Senator from Illinois ask unanimous consent that following the disposition of the amendment by the Senator from New Hampshire, No. 1540, the amendment of the Senator from Illinois, No. 1528, will be the pending business?

Mr. PERCY. I do.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

Mr. PERCY. Mr. President, my next amendment, which I have discussed on occasion with the distinguished floor manager of the bill, is modified amendment No. 1496, now printed in its modified form as amendment No. 1543.

This amendment was distributed, in substance, to every Member of the Senate in a "Dear Colleague" letter on October 14. This is the so-called gas guzzler tax.

I know that the question of the gas guzzler tax is a controversial item. First of all, the Senate did act to ban most extreme gas guzzlers. We now know that the Senate provision is not likely to prevail in conference. The House conferees had a vote of 24 to 0 to reject that amendment. It would be very hard to envision that being in the conference report.

The House has a gas-guzzler tax bill. This bill was asked for originally by the President. It is supported by the Department of Energy. The Senator from Illinois, having discussed this principle for a matter of months, is very reluctant not to do anything here on the floor. The Senate really is being criticized for not acting, for just saying, "Let us legislate in the conference." That is not the way to legislate, particularly considering the fact that there are certain strong objections being raised to at least the original version of this amendment by the UAW and by Ford Motor Co.

I have discussed this amendment with the distinguished Senator from Michigan (Mr. GRIFFIN). Senator GRIFFIN was away on official business yesterday, as I understand it, and has not yet returned.

I wish very much to have this amendment considered while he is here, but I think he would be the first to understand that if we are pressing to finish this bill today, the Senator from Illinois has no alternative other than to offer it now. The Gallup poll now shows that 54 percent of all Americans support this approach.

Some of our colleagues have indicated they prefer an absolute prohibition. However, there is no chance, in my judgment, to get that into the final bill, with a 24-to-0 vote against it by the House conferees. The next best alternative is to provide a voluntary decision by the individual purchaser, but there must be some disincentive against consumers buying inefficient automobiles.

So, the Senator from Illinois wishes to bring this amendment up. I think the Department of Energy would wish to see it brought up if they felt that there was a reasonable chance that it would be carried in the Senate. I think, having surveyed many of my colleagues, there is a strong chance that the Senate will support this amendment. I do not want unemployment or maladjustment in the auto industry any more than anyone else. Many of us have automobile plants in our States. We want to see a strong, vigorous automobile industry, but we want them putting their effort behind producing automobiles that will convert our fleet to meet the standards laid down by Congress and to which the industry has now agreed. What we have done is mandated what the industry must do. What we have not done is to provide any incentive for the consumer to start moving toward these cars. As a matter of fact, factories have had to shut down their lines on the gas-efficient cars and convert over and start producing more gasoline-inefficient cars, which is just going to make it all the more difficult for them to reach the ultimate goal.

I would be happy, in view of the absence of the distinguished Senator from Michigan, if we finish this bill today, to print in the RECORD the letters the United Auto Workers and the Ford Motor Co. have written to me on this proposal. I will try to articulate every argument that has been raised against this concept, and other Senators can do likewise.

Certainly, Illinois has automoble plants and many parts suppliers. But I think the Senate should be on record on this proposal. I think if we are going to finish this bill today, we should vote today. Certainly, if we carry over—and I wish the judgment of the distinguished Senator from Louisiana on this, in fairness to my colleague from Michigan, I would be quite agreeable to not have a motion made to reconsider so that if by any chance we do carry over until Monday the Senator from Michigan could move to reconsider the vote on Monday if he wishes.

I turn to the floor manager of the bill for his advice in this matter. But here we are as a Senate criticized for not having substance in the bill. The fuel inefficiency tax is a concept supported by the President, supported by DOE, and supported by the House of Representatives. If we are serious about finishing this bill, why do we not move ahead and at least consider that provision today? It is a very important provision and a big potential gas saver. If for any reason we do not finish the bill tonight, let us continue the debate on Monday so that the Senator from Michigan (Mr. GRIFFIN) will have a chance to present any counterarguments.

Mr. LONG. Mr. President, will the Senator yield?

Mr. PERCY. I yield.

Mr. LONG. The amendments the Senator has to offer, as far as I am concerned, can be offered today and if we do not finish today they can be offered again on Monday or on Tuesday if we do not finish Monday, so that I would really think that a lot of time is not going to make any difference on those amendments.

I think Senators thought about it, heard about it, have been talking about it for months now, and most Senators know what they want to do. I think they can certainly make up their minds on a 10-minute presentation by each side.

So I ask unanimous consent that when the Senator calls up those three amendments there be 10 minutes on each side and then the Senate votes.

Mr. PERCY. With all due respect to the fact that we have given it serious consideration, I do not feel that 10 minutes on a side would be adequate for the Senator from Illinois to do justice to the

arguments raised against these amendments. Senator HELMS has already asked to be notified when they are on the floor. He wishes to speak against one of my amendments. I feel dutybound to present every argument that has been presented to me against the amendment simply because of the absence of Senator GRIFFIN today. So I will agree to a 30-minute limitation on each side, 1 hour on the gas-guzzler amendment. That would be enough. I think that that would fulfill the obligation the Senator from Illinois has to his colleague who cannot be here today.

Mr. BAKER. Mr. President, will the Senator yield to me for a moment?

Mr. PERCY. I yield.

Mr. BAKER. I understand and I am sympathetic to the point of view of the Senator from Illinois because I know these are important amendments and they have been controversial and they have been a significant part of the general debate on these matters. But we are sort of extremists now, and we sort of need to conserve as much time as we can. I urge my friend and colleague from Illinois, who came to the Senate the same day I did—and he and I have gone through a lot of the same experiences over the years—and ask him to take account of the fact that has been before us a long time—this is Saturday morning, and we are going to try hard to finish—and see if we could not reduce that time a little. I suggest say 30 minutes equally divided, or 40 minutes equally divided.

Mr. PERCY. The Senator from Illinois would first be happy to enter into a unanimous-consent agreement on a time limitation on the first amendment of 5 minutes on a side. That would be 10 minutes on that amendment.

Mr. BAKER. If we can do that, which one is that?

Mr. PERCY. Amendment No. 1528. In fact, I will be willing to enter into an agreement of 5 minutes total, 2½ minutes to each side.

Mr. LONG. I do not need but 1 minute. I am going to take that if the Senate will let me take it.

Mr. PERCY. All right. I ask unanimous consent that we have a time agreement of 2 minutes equally divided.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none. It is so ordered.

Mr. PERCY. Mr. President, I ask unanimous consent that on the next amendment, No. 1543, there be a time limitation of 1 hour to be equally divided. The Senator from Illinois will yield back the moment he has answered fully all the questions that have been raised with him and there are no other speakers against the amendment, and possibly we could even finish up that in 40 minutes.

Mr. LONG. I want the privilege to make a motion to table on that if at the time I decide I want to. I have not decided. I wish to have that privilege.

Mr. PERCY. The Senator from Illinois will fully understand.

The ACTING PRESIDENT pro tempore. The Senator from Illinois is asking unanimous consent to bring up his amendment No. 1543 immediately following the amendment No. 1528 and there be a time limitation.

Mr. PERCY. One hour equally divided.

The ACTING PRESIDENT pro tempore. One hour equally divided. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, I wonder what provision should be made as to amendments to amendments, or motions or appeals. Would 10 minutes on any amendments in the second degree be agreeable?

Mr. LONG. The usual thing, that they be germane.

Mr. BAKER. We can put it in the usual form.

Mr. LONG. How about 10 minutes equally divided?

Mr. BAKER. On amendments to amendments.

Mr. LONG. Amendments to amendments.

The ACTING PRESIDENT pro tempore. Does the Senator from Illinois so amend his unanimous-consent request?

Mr. BAKER. The condition would be the request to be in the usual form, of course the allocation of time and germaneness, and that any amendments in the second degree be limited to 10 minutes equally divided.

Mr. PERCY. No objection.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PERCY. Mr. President, the last amendment, which would then dispose of all the amendments of the Senator from Illinois and would enable us to move toward final passage today, would be again a principle that I have discussed with the distinguished floor manager of the bill over a period of years. We had a colloquy here on the floor about it recently, and I know it presents a difficult popular measure, it is something I feel we should do. It is amendment No. 1495 which eliminates the deductibility of State and local gasoline taxes against Federal income tax.

The House has passed this measure. They wish to see it in the final bill.

Mr. DOLE. Thirty minutes on a side?

Mr. PERCY. The Senator from Illinois would agree to 30 minutes on a side.

Mr. LONG. That is all right with me. I would also like to reserve a motion to table.

Mr. BAKER. Let me make sure I understand the motion to table reservation.

Mr. LONG. Ordinarily when you agree to vote you waive your right to make a motion to table.

Mr. BAKER. I understand that. I want to make sure I understand what the Senator from Louisiana is proposing. Is he proposing an amendment to the unanimous consent request that notwithstanding the time limitation he can make a motion to table at any time?

The ACTING PRESIDENT pro tempore. The Chair points out the motion——

Mr. LONG. I am not asking—after the time expires.

The ACTING PRESIDENT pro tempore. The Chair points out that the motion to table would be in order anyway. These are time limitations. They are not an agreement to vote at a time certain. They are just time limitations.

Mr. PERCY. Mr. President, the Senator from Illinois is familiar with some of the problems involved with this amendment. I think during the course of the discussion it would be the hope of the Senator from Illinois that we could vote on something that adds over $1 billion back to the budget. The amendment removes an unnecessary incentive to use gasoline. But during the course of our discussion we can determine whether or not it should be tabled or not, or whether it should be voted on up or down, or whether it should be withdrawn. To the Senator from Illinois it really depends on what attitude is taken by the Senate conferees in conference. There is no compelling need to vote on it if the conferees from the Senate might be amenable to use this as a proper early bargaining chip and, perhaps, recede to the House position. The Senator wants to do anything that would help the position of the Senate conferees.

The ACTING PRESIDENT pro tempore. Do I understand the unanimous-consent request to be 30 minutes on each side on amendment numbered 1495, with 10 minutes for second degree amendments? Is there objection?

Mr. HANSEN. Mr. President, reserving the right to object, just let me say it is a little simplistic, it seems to me, to assume that from the vantage of the Midwest all things can be resolved, and that what would seem to make sense in Illinois would correspondingly make good sense everywhere else.

In Wyoming, where we happen to burn more gasoline per capita than any other State, it is not that easy to get around, and taxes, State and local taxes, on gasoline are a very real and important part of the cost of doing business and, therefore, I have to say to my good friend from Illinois, whose general philosophy I ordinarily support, in this instance there are differences, and I would just have to observe this is that sort of a situation.

Mr. PERCY. The Senator from Illinois fully recognizes that that issue will be part of the colloquy we will have on this amendment.

Mr. HANSEN. I will yield back my time.

Mr. PERCY. The Senator from Illinois would simply like to point out it is in the House bill. House Members up for reelection next year must have taken all these factors into consideration, including House Members from the West and other areas that depend on the automobile. Southern Illinois is totally dependent upon the automobile for transport in many localities.

Mr. HANSEN. If I could observe, Mr. President, let me say I am not quite certain what the House Members took into consideration except the orders they may have gotten from the Speaker.

Mr. BAKER. Mr. President, is there a unanimous-consent request pending?

The ACTING PRESIDENT pro tempore. There is a unanimous-consent request pending and it is on amendment numbered 1495.

The Chair, in his capacity as a Senator, suggests the absence of a quorum.

Mr. DURKIN. Mr. President, who suggested the absence of a quorum?

The ACTING PRESIDENT pro tempore. The Chair has so suggested.

Mr. DURKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. I object.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. DURKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. PELL). Is there objection? The Chair hears none, and it is so ordered.

Mr. DURKIN. Mr. President, I call up amendment No. 1540.

The PRESIDING OFFICER. There is a unanimous-consent request pending on the part of Senator PELL.

Mr. BAKER. Mr. President, will the Chair restate the unanimous-consent request, and may we have order in the Senate?

The PRESIDING OFFICER. On amendment No. 1495 there will be 20 minutes to a side, 10 minutes on second-degree amendments, and debatable motions or appeals.

Mr. BAKER. And the agreement will be in the usual form.

Mr. MELCHER. I object.

The PRESIDING OFFICER. Objection is heard.

AMENDMENT NO. 1540

(Purpose: To provide a home heating oil tax credit for home heating oil.)

Mr. DURKIN. Mr. President, I call up amendment No. 1540 on behalf of Senator HATHAWAY, Mr. BROOKE, and myself.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Hampshire (Mr. DURKIN), for himself, Mr. HATHAWAY, Mr. BROOKE, and Mr. MCINTYRE, proposes an amendment numbered 1540.

Mr. DURKIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore (Mr. MELCHER). Without objection, it is so ordered.

The amendment is as follows:

On page 99, between lines 14 and 15, insert the following:

(c) RELIEF TO RESIDENTIAL USERS OF REFINED PETROLEUM PRODUCTS.—

(1) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowed) is amended by inserting immediately after section 44G the following new section:

"SEC. 44H. TAX CREDIT FOR HOME HEATING OIL.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year, an amount equal to 25 percent of the total cost of heating oil purchased by the taxpayer during the taxable year.

"(b) LIMITATIONS.—

"(1) MAXIMUM CREDIT.—The credit allowed under subsection (a) may not exceed $150.

"(2) LIMITATION.—The credit allowed by this section shall apply only to oil purchased for a qualified use.

"(3) MARRIED INDIVIDUALS.—In the case of a husband and wife who file a joint return under section 6013, the amount specified under paragraph (1) shall apply to the joint return. In the case of a married individual filing a separate return, paragraph (1) shall be applied by substituting '$75' for '$150'.

"(4) LIMITATION BASED ON ADJUSTED GROSS INCOME.—The credit provided under subsection (a) shall be reduced by 1 percent of so much of the adjusted gross income of the taxpayer for the year exceeds $15,000.

"(c) QUALIFIED USE.—The term 'qualified use' means use in a residence for residential purposes. In the case of use in a residence for residential purposes, the Secretary shall provide by regulations for the application of this section to condominium management associations (within the meaning of section 528(c)) or members of such associations, tenant-stockholders in cooperative housing corporations (as defined in section 216), and landlords and tenants in such a fashion that the amount allowed by subsection (a) is allowed, whether by allocation, apportionment, or otherwise, to the person paying, directly or indirectly, for the refined petroleum products so used.".

(2) REFUND OF EXCESS CREDIT.—

(A) Section 6401(b) (relating to amounts treated as overpayments) is amended—

(i) by striking out "and 44F (relating to certain energy-related depreciable property)," and inserting in lieu thereof "44F (relating to certain energy-related depreciable property), and 44H (relating to home heating oil tax credit),", and

(ii) by striking out "and 44F" and inserting in lieu thereof "44F, and 44H".

(B) Section 6201(a)(4) (relating to assessment authority) is amended—

(i) by striking out "OR 44-F" in the caption thereof and inserting in lieu thereof ", 44F, OR 44-F".

(ii) by striking out "income) or section 44C" and inserting in lieu thereof "income), section 44C", and

(iii) by inserting "or section 44H (relating to home heating oil tax credit)," after "credit),"

(3) CLERICAL AMENDMENTS.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting immediately after the item relating to section 44G the following new item:

"Sec. 44H. Home heating oil tax credit.".

(4) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1977.

Mr. DURKIN. Mr. President, I ask unanimous consent that Senator LEAHY from Vermont be added as a cosponsor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DURKIN. Mr. President, the amendment I have proposed rectifies an imbalance that has existed for approximately 20 years in Federal energy policy. The cost of home heating oil in New England and most of the northern tier States has tripled in the last 4 years, and will probably more than triple by midwinter, using early 1973 as the base year.

The cost escalation has had a devastating effect on the ability of citizens in our colder States to pay their heating bills.

The prospect of another grim winter this year has hard-pressed citizens already cutting their budget to the bone in anticipation of the freeze. We are not talking here about the inability to buy a luxury; we are talking about survival. We are not talking about adding an incentive to use oil. The Northern Tier States, the New England States, all are already hooked, and hooked severely, on OPEC oil.

The Northern States, the New England States, represent about 6 percent of our population, but burn 21 percent of the home heating oil in this country. We all know what has happened to the cost of home heating oil.

My people are watching their paychecks and their social security checks disappear into their oil tanks at an ever-increasing pace. Last week I was home talking to a friend who just this October 1 finally paid for last year's oil bill.

The House has a similar provision, but the House provision does not provide a refundable tax credit. The House provision has a complicated rebate system that is going to create an awful bureaucratic problem, especially for the fuel oil dealers who are not part of the big oil corporations, are not part of the majors. The New England fuel oil dealers are struggling to provide some service and some competition.

But the House version would saddle them with a tremendous amount of paperwork, and I think that paperwork would probably defeat the program.

This amendment provides for a tax credit to residents who are users of home heating oil. The refundable credit is for a maximum of 25 percent of the total cost of the heating oil purchased by the taxpayer during the taxable year. The maximum tax credit is $150. The maximum credit declines by a dollar for every hundred dollars of income over $15,000.

Who is eligible? Homeowners, renters, and, in short, all residential users of home heating oil other than hotels and motels.

When is the credit available? The credit may be claimed for taxable years beginning after December 31, 1977.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. DURKIN. Well, at this point I yield to my friend from Maine, who has worked so hard with me to put this amendment together.

The PRESIDING OFFICER (Mr. MATSUNAGA). The Senator from Maine.

Mr. HATHAWAY. I thank the Senator from New Hampshire for yielding to me at this point.

Mr. President, I wanted to point out that one of the primary purposes of the amendment is to provide this tax credit primarily for low income people. Senators will notice that on page 2 of the amendment, there is a limitation, beginning on line 16, providing that a person who makes over $15,000 a year gets the credit reduced proportionately, so that it is wiped out altogether for a person who has an adjusted gross income of $30,000 a year.

For people in Maine, New Hampshire, and other northern tier States, the amount of money that they have to spend to heat their homes amounts to, in many cases, about 20 percent of their income. The cost of heating oil has gone up in the

last 10 or 12 years from 16 cents to almost 50 cents a gallon.

For people who are working on an income that amounts to little more than the minimum wage, this is an enormous amount of money for them to pay to heat their homes. Although predictions have been indicated in the Washington Post of late that we are not going to have as severe a winter as we had last year, I understand that the Farmer's Almanac, which has been wrong very few times in our history, indicates that we are going to have a more severe winter than we had last year.

Mr. President, I ask unanimous consent that the testimony of Mr. Timothy Wilson before the Finance Committee be included at this point in the RECORD. Mr. Wilson is the director of the Maine Division of Community Services and his testimony highlights the hardships on the people of Maine which are the result of the high price of heating oil. His testimony is a moving statement of the reasons that this amendment should be adopted.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TESTIMONY OF MR. TIMOTHY P. WILSON

Mr. Chairman, Distinguished Senators and Guests: I have been asked to address this Committee today to present the situation regarding the availability and cost of energy in Maine presently and to describe the probable impact of the home heating oil rebate system. I would like to present my comments in three, distinct parts and will submit for the record supportive data to illustrate points made:

PART I—PREFACE TO COMMENTS

The evidence is overwhelming. The country has experienced a difficult economic period and is just now beginning to recover. Unfortunately, Maine tends to carry a disproportionate burden in this regard. Although the inflation rate has stabilized in the area of 6 or 7 percent, down from the 12.2 percent in 1974, the cost of living continues to be disproportionately high for the Northeast, and Maine in particular.

Consider the following facts regarding the State of Maine, a rural state with a total population of slightly over one million:

Close to 20 percent of the population in Maine are living in poverty or near poverty conditions.

Maine has consistently ranked as one of the lowest average states in per capita income. Most recently, for the period 1973 through 1976, Maine has ranked 43rd, 45th, 42nd, and 44th in per capita income. That is to say, only six other states had lower per capita incomes and these were predominately Southern states.

Unemployment rates in Maine, historically and consistently, have been greater than the national average. Recent data, for June of 1977, indicated a national unemployment rate of 7 percent; the rate was 9.7 percent for Maine and five of the sixteen counties had unemployment rates in excess of 13 percent.

Recent income data released for 1976 indicates that the average household income in Maine is only 87 percent of the United States average and only 82 percent of the New England average.

The Consumer Price Index for the Northeast area of the United States is rising at a faster rate than the National Index, no doubt reflecting the comparatively higher energy costs.

In short, Maine is not a wealthy state and, although it may be rich in natural beauty, many of its one million citizens are living in poverty conditions, unable to secure adequate jobs and required to carry a disproportionate burden as relates to energy costs.

PART II—CHARACTERISTICS OF CLIENTS SERVED BY THE MAINE WINTERIZATION PROGRAM

The following points of interest are presented based upon a cumulative survey of approximately 9,000 households winterized in Maine. These households were occupied by low income and elderly citizens and represent homes winterized from the start of the winterization program in 1973 through 1976:

48 percent of the households had either residents or heads of households who were 62 and over.

42 percent of the families were married couples with dependents under 18.

78 percent of the heads of household were unemployed; an additional 10 percent were only employed part-time. Of those indicating employment, the greatest percentage, approximately 12 percent, indicated employment in the manufacturing sector followed by forest and agricultural activities.

Types of assistance received by families were as follows:

AFDC—19 percent.

Supplemental Security Income—21 percent.

Food Stamps—49 percent.

General Assistance—6 percent.

Social Security—38 percent.

Other types of assistance—15 percent.

Value of homes is estimated to be under $5,000 for 38 percent of the households; 71 percent of the homes were valued under $10,000.

Types of heating systems were as follows:

Hot water or steam—18%.

Central hot air furnace—36%.

Fireplace or stove—39%.

Built-in electric heat—1%.

Room heaters—11%.

Other types of heating systems—8%.

Correspondingly, the types of fuel used were as follows:

Fuel oil—55%.

Kerosene—27%.

LP gas—10%.

Coal or coke—less than 1%.

Electricity—3%.

Wood—33%.

Other fuel types—none.

Since the start of the project, fuel records have been requested of clients served; however, many people are unable to provide this information. Of the information collected, we were able to determine that the average cost for heating for the low income family is in the area of $400 per year. The average number of gallons of fuel oil consumed is in the area of 750 gallons per year. The average amount of wood used was 6 cords per year.

It is interesting to note that increasingly families are using secondary and even third sources of heat in their homes. The primary fuel used continues to be oil at 44 percent, followed by wood at 25 percent, and kerosene at 23 percent. Oil and kerosene make up 67 percent of the total type of fuel used. Wood is the largest secondary fuel used.

In considering the incomes of people served, the average amount earned yearly was $3,568. Ninety-five percent of the clients served earned less than $7,000 and 61 percent earned less than $4,000 per year.

Cost of utilities averaged at $56 per month; however, 54 percent of the clients had costs greater than $60 per month.

Sixty-six percent of the clients have had their electricity discontinued at some point or disconnected.

Forty-three percent of households served did not have complete plumbing.

Forty-five percent of the houses served did not have basements.

Seventeen percent of the clients served had been served by earlier weatherization projects, indicating a continuing need.

Fifty-five percent of the materials provided were installed by the owner.

Range of man-hours expended in the installation of materials ranged from 1 hour to 128 hours with the average number of hours per home at 16.

An additional bit of information recently collected indicates the amount of work remaining for complete installation. Thirty-eight percent of the homes insulated at an average cost of $160 indicated work remaining, most of which would have required an additional $300 plus per home for complete weatherization.

In summarizing this section, the typical Maine winterization client that emerges consists of a male head of household, between the ages of 31 and 50, with a wife and 1 or 2 dependents under 18, or of an elderly couple, 62 and over. Family head is unemployed with the family income averaging $3,568 per year, and the family is receiving food stamps. The family is living in their own home, valued at less than $5,000, and pays over $60 per month for utilities.

The house has an average of 5 rooms, incomplete plumbing, and a central hot air furnace and/or stove which burns fuel oil. More than one type of heating system is employed with 750 gallons plus of fuel oil burned and 6 cords of wood burned during the most recent heating season. This would translate to over $500 per year for heating costs at prevailing prices.

PART III—PROBABLE IMPACT OF HIGHER FUEL PRICES UPON LOW INCOME AND ELDERLY

In this final section, I would like to cite the probable impact of higher energy costs upon the poor and elderly. I would like to preface these comments by saying that I don't have a crystal ball by which to provide ready made solutions. However, in view of the information we have collected through the weatherization project, I feel the following comments are reasonable and not exaggerated.

The average low income family in Maine has available $3,568/year and burns 750 gallons of oil plus approximately 6 cords of wood per year. If the family is burning only oil, the consumption is closer to 1200–1500 gallons per year. At prevailing prices, total cost for heating is anywhere from $500 to $700 per year. This represents 20 percent of the average low income family's total income. And the $60/month average utility bill and you conclude that 40 percent of the average low income family's total income is obligated to heating and utility costs!

Something else has got to give! That family has $2,148 left to pay for all other necessities of life including food, health costs, transportation, and other shelter costs. This is not tolerable in a civilized country while oil companies report record earnings!

Now, let's assume then that we add a 10¢ per gallon tax on oil. What is the impact upon the low income family?

It's disastrous!

You in effect will increase the average cost of heating for that family anywhere from $100 to $150 per year. You will increase that portion of their budget obligated to heating from 20 percent to 24 or 25 percent of their total income. Add the cost of utilities to this and we're in the area of 44 to 45 percent of the total family budget obligated to heating and utility costs.

The hypothesis that continually increasing the price of fuel will decrease consumption simply does not apply in this situation. Heat in an area such as Maine, and elsewhere, is a necessity of life. People cannot cut down on

consumption beyond a certain point. They have no choice but to pay the increased price at the expense of some other necessity of life.

Analysis of area winterization data from 1973 to the present has indicated that low income families are using less than in pre-embargo days. The average oil consumption in 1973 was closer to 1,500 gallons/ year; in 1976, it was below 1,200 gallons/year; and for people burning wood as a secondary source of heat, it was closer to 750 gallons/year plus 6 cords of wood. This was accomplished through insulation, lower temperatures, and the use of secondary and third heating sources such as wood. For low income citizens, I believe we have squeezed the conservation potential of ever higher prices to its limit. Further price increases will simply force people to do without other necessities of life. Heat is an inelastic commodity. It does not respond to the "normal" economic laws of cost and consumption; of supply and demand.

A tax increase system on oil with rebates will undoubtedly benefit the middle and upper income levels, but it will be disastrous for the poor unless some special provisions are made. Higher energy costs are a fact of life that we can't escape from at this point in our Nation's history. I appeal to your sense of fairness and ask that these higher costs not be placed disproportionately upon the shoulders of the low income and elderly citizens of this country.

I stated at the onset that I didn't have a crystal ball and did not possess any cure-all solution for the energy crisis we are now faced with. I would, however, underscore the following:

Continued and increased emphasis should be placed upon conservation by means of programs such as weatherization presently being implemented by the Community Services Administration.

Tax incentives for homeowner insulation should be expanded.

Low or non-interest loans should be available to those citizens unable to benefit significantly from tax rebates.

Year-round programs aimed at benefiting the low income citizens should be developed which would minimize many of the problems encountered with short duration cyclical programs.

Any increased costs should be borne by those able to pay. We cannot allow the continued exorbitant energy costs to be placed upon the low income and the elderly, the very citizens who are least able to pay.

Mr. DURKIN. Mr. President, will the Senator yield at that point?

Mr. HATHAWAY. I yield.

Mr. DURKIN. The Farmers Almanac, which has not been wrong many times, predicts that this winter will be 16 percent colder than last winter. In fact, I think a direct quotation is that this winter will be worse than the winter at Valley Forge.

I point out that the Farmers Almanac, even though it uses an esoteric formula which it has not disclosed, is still correct most of the time. I do not think we can afford to be wrong this time.

I might point out that last year, under the guidance of Senator MUSKIE and Senator HATHAWAY, we appropriated emergency funds to help many lower income people in the Northern States make it through the winter. I think this tax credit is a superior and much more equitable method of solving that problem, which will greatly reduce if not eliminate the need for this emergency loan and grant program we had last year.

Mr. President, we are not talking about wealthy people. We are talking about two people, both of them working in a shoe factory, working long hours under less than ideal conditions, losing a finger occasionally to the machines, both of them taking home $7,500 a year. They have two children they are trying to put through school. They are trying to be independent and responsible citizens. We have asked them to put on storm windows and install insulation. Storm windows they cannot get. Insulation has gone up sevenfold since the President's April 20 speech.

We will be lucky this year if home heating oil does not go to 60 cents a gallon. I would not be surprised if it went to 70 cents a gallon before the winter is over.

The people we are talking about are the average middle-class citizens who are really the backbone of this country. For too long Congress, wittingly or unwittingly, has waged war on the middle class in this country. I think it is time we stopped trying to wipe them out.

Mr. HATHAWAY. Mr. President, will the Senator yield?

Mr. DURKIN. I yield.

Mr. HATHAWAY. I point out that we have provided billions of dollars of business credits in this measure. I think the least we can do is provide this credit essentially for low-income people.

It is true that last year the SBA did some monitoring of the price of fuel oil in the northeastern tier. It did not work out too well. The monitoring system this year is designed not to work out at all, and, anticipating that we probably will not get any realistic monitoring system that will help keep the prices of heating oil within reasonable bounds, this amendment is even more necessary.

Mr. DURKIN. Mr. President, I would like to point out, too, that the energy costs in New England are the highest in the country. They are almost 50 percent higher than for the rest of the Nation.

We want to carry our fair share of the national energy program; and let us not kid ourselves, this national energy program is a tax increase. It is going to hit an awful lot of people, and hit them where they can afford it least, in the pocketbook.

We are willing to bear our fair share of that burden in New England and the northern tier States. But right now, before the national energy program is adopted, as I say, almost 60 percent of our oil now comes from OPEC, and ironically, when it was a dollar and a half a barrel we could not buy it, but now when it is $14 a barrel we can. Almost 60 percent of our oil now comes from OPEC, and our costs are almost 50 percent higher, energy-wise, than for the rest of the country. We are willing to bear our fair share, but this refundable tax credit for home heating oil eliminates that undue economic burden for energy costs that our people have had to bear.

With this amendment in place, we are in a position to bear our fair share, with the rest of the regions of the country, and work with the President to solve this national energy crisis.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. DURKIN. I am happy to yield to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, there is undoubtedly a lot of merit, of course, to the Senator's proposal; and it is particularly meritorious because it is designed to aid people with incomes below $15,000 primarily.

At the same time, I would call to the attention of the Senate that this amendment does provide, once again, reliance on more tax credits. We are legislating by tax credit, and it does deprive the Treasury of revenue that would otherwise be received.

In the first place, can the Senator from New Hampshire inform the Senate as to how much this proposal will cost the Treasury? What is the revenue impact?

Mr. DURKIN. Excuse me; I must apologize. I did not hear the question.

Mr. PROXMIRE. Can the Senator from New Hampshire inform the Senate as to how much this amendment for a 15-percent credit up to $150, phased out, will cost the Treasury? What is the revenue cost?

Mr. DURKIN. There has been no estimate on revenue loss. I think you have to take it in context with the overall equity of the program that we are trying to fashion here on the Senate floor, that is going to be fashioned in conference, and that the Senator from Louisiana is going to try to bring out of that conference.

The oil equalization—I mean the industrial user's tax amendment, which I supported and which the Senate has passed, is going to produce revenue, and I think parts of the cost of this program can be taken out of the revenue generated by the Metzenbaum users tax.

Mr. PROXMIRE. Perhaps so, but perhaps not. I might point out——

Mr. DURKIN. May I make one further point? We have provided tax credits for utilities and we have provided tax credits for various other groups. We have provided a lot of tax credits in this bill that are going to benefit the bigger industries, some of the corporate industries, the utilities, and a lot of others. I think it is only fair, when we know there is going to be some tax coming out of the conference, that the average citizen, the guy on the street who is struggling to survive and maintain a standard of living, that something be in this program for those people.

Mr. PROXMIRE. I do not disagree with that. I commend the Senator from New Hampshire on that element in his amendment. I believe that is meritorious. But we should know what we are doing, and what it is going to cost. I understand the amendment will cost about $5 billion. Maybe not. Maybe that is too high. We have an Internal Revenue Taxation Committee which is giving us estimates right along, and the Treasury Department is giving us estimates. This is a straightforward, simple amendment. They should be able to tell us whether it is going to cost $500 million, $1 billion, whatever it will cost. This is permanent legislation. If the Senator puts this into effect, it does not come off at any time. It goes on indefinitely. We should know what effect this is going to have.

Mr. BELLMON. Will the Senator yield?

Mr. DURKIN. I understand the Senator's point. I do not think the Senator from Maine and I would object to putting in a 5-year limitation.

Mr. PROXMIRE. I was going to suggest that. I was going to suggest that we add at the end of the legislation, on page 4, line 14, after the Senator indicates when the amendment will be effective, the following words: "and ending December 31, 1982." In that way, at least, we would terminate. The reason for the termination——

UP AMENDMENT NO. 1002

Mr. DURKIN. Mr. President, I ask unanimous consent that the amendment be so modified.

Mr. PROXMIRE. The Senator does not have to ask unanimous consent. The yeas and nays have not been ordered.

The PRESIDING OFFICER. Does the Senator modify his amendment?

Mr. DURKIN. Yes.

The PRESIDING OFFICER. The amendment is so modified. Will the Senator please send his modification to the desk?

Mr. DURKIN. Yes, right away.

The modification is as follows:

On page 4, line 14, strike the period, add a comma, and the following "and ending before January 1, 1983."

Mr. PROXMIRE. This is especially important. The Senator and I discussed this privately a few minutes before he brought up his amendment. This amendment, in a sense, encourages the use of oil in heating homes and, therefore, provides a disincentive for coal. The Senator recognizes this. It is impractical to convert within less than 5 years, but after that it may be more practical. Therefore, the termination date, I believe, is valuable. I commend him on that. I do think we should have, before we act on this amendment, some notion whether it is going to cost the Treasury $100 million, $1 billion, or more.

Mr. HATHAWAY. If the Senator will yield, we asked the Treasury yesterday, and my staff man was trying to find out again this morning. We have not received the information from the Treasury. I believe we will have some idea before we are finished with debate.

Mr. BELLMON. If the Senator will yield, I believe I have some information on this.

The PRESIDING OFFICER. The Senator from New Hampshire has the floor. Does the Senator yield?

Mr. DURKIN. I am happy to yield.

Mr. BELLMON. First, I would like to provide some information, but I will ask a question. According to the staff of our committee, the cost of this amendment is $1.5 billion per year. Also, as I read the amendment, I cannot see that it does anything for renters. Can the Senator give us any enlightenment on that point?

Mr. DURKIN. Yes, on page 3, line 4:

"* * * landlords and tenants in such a fashion that the amount allowed by subsection (a) is allowed, whether by allocation, apportionment, or otherwise, to the person paying, directly or indirectly, for the refined petroleum products so used.".

That is the provision which takes care of the renters.

Mr. BELLMON. Is that the Senator's position?

Mr. DURKIN. It is handled by the Secretary, by his regulations.

Mr. BELLMON. The language on page 3, line 7, says the person paying, directly or indirectly, for petroleum products so used.

Mr. DURKIN. The Secretary could issue regulations to make sure that this is taken care of.

Mr. BELLMON. I wonder if the Senator can clarify this further. In the amendment it refers to the landlord or tenant paying directly or indirectly. Perhaps it would be by check or cash or credit card, or otherwise.

Mr. DURKIN. I think the colloquy between the Senator from Oklahoma and others would clarify that. One of the expressed purposes of this amendment is to benefit renters who have to absorb the higher cost of home heating oil. The Secretary is responsible for issuing regulations to articulate the position we have discussed in the colloquy.

Mr. BELLMON. Mr. President, I know the Senator from Wisconsin is concerned about this provision. This provision has not been considered by the Appropriations Committee. It further reduces revenues without any knowledge of what this does to the total Federal budget. I consider this to be an extremely dangerous amendment and urge that it be defeated.

The PRESIDING OFFICER. The Senator from New Hampshire has the floor.

Mr. DURKIN. I understand, Mr. President, that the floor managers are in a position to look favorably upon this amendment and accept it. That being the case, I do not need any more time to discuss it.

Mr. LONG. Mr. President, there is an amendment seeking to achieve a similar purpose in the House bill. The House bill uses a refund against the crude oil equalization tax to achieve a similar purpose, and the provision in the House bill is estimated to cost about $900 million a year.

The Senator's approach would seek to achieve a parallel purpose. He would use a refundable tax credit on behalf of the consumer of the product to achieve the same result, or the same general purpose.

Mr. HATHAWAY. Will the Senator yield at that point?

Mr. LONG. Yes.

Mr. HATHAWAY. We have received the information from the Treasury that it will cost approximately the same amount as the rebate provisions set forth by the House. It is about $1 billion.

Mr. LONG. That is my impression. The House provision costs about $900 million. The amendment offered by the Senator from New Hampshire would cost about $1 billion. There is about a 10 percent variation in the cost.

It has always been my view, Mr. President, that in conference, if we emerge with any part or all of the equalization tax, we would have to make some arrangements to compensate the northeast part of the United States for the relief that it enjoys today under the entitlement program. Frankly, the only problem I have about agreeing to the amendment is that I would have liked to have had a little leverage in arriving at this point because, between now and the time of the conference, we may want to develop something for the entire country to help in the case of energy shortage or discontinuance of service, to help people who have one form of energy cut off to buy some other form. We have to get some tax relief in doing that.

In any event, Mr. President, if we emerge with the crude oil tax, or if we do anything in the way of trying to protect the future of the American refining industry, we will be required, as a condition of doing that, to ease the burden of all that type of thing on the area so well represented by the Senator from New Hampshire, the Senator from Maine, and their cosponsors.

In view of the fact that the House has added an amendment that would seek to achieve the same type purpose as the will of the House, I think it is appropriate that the Senate, out of respect to those who represent the same part of this Nation on this side of the Congress, should have an amendment, however the Senate should think it should best be drafted, to achieve the same purpose. In conference we can consider both approaches and arrive at the one which seems best to meet the need.

At this moment, I am not in a position to say whether the approach advocated by the Senator from New Hampshire and his cosponsors would better meet the needs than those sponsored by those who represent the same part of this Nation on the House side. I can only say that when we study the matter in conference, we can better judge which approach would be best. I think we would probably want to take one or the other, although perhaps it might conclude that it would be best to merge a mix of the two. So I would be pleased to take the amendment to conference, knowing very well, Mr. President, that in the end, we are going to have to have something along this line to achieve this purpose if we are going to have this legislation.

Mr. DURKIN. I thank the Senator, and I appreciate his support for this amendment. I very much appreciate his statement that out of the conference will come either the Senate version or the House version, but it will reflect the real needs of the average American family in New Hampshire and Maine, and New England.

Mr. RIBICOFF. If the Senator will yield, I trust that the chairman will designate me a conferee and my interests are exactly with those of the Senator from New Hampshire on this problem. The Senators from New Hampshire and Maine can be assured that, as a conferee, I shall do everything I can to assure equal treatment and fairness for the people of New England, who suffer unusual burdens and hardships in the cold winters.

Mr. DURKIN. For the average people of New Hampshire and Maine, I thank the Senator from Connecticut.

Mr. LONG. Mr. President, I congratulate the Senator from New Hampshire for his diligence in caring for the needs of his constituents. They undoubtedly have a problem and, while I am sure that they are being well represented on the House side, I salute the Senator for seeing to it that they are even better represented on the Senate side.

Mr. DURKIN. I thank the Senator.

Mr. BELLMON. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BELLMON. Do I have the floor, Mr. President?

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. BELLMON. Mr. President, I point out that line 7 on page 3, in my judgment, does not take care of the legislative needs of the renter. This says the tax credit will go to the person paying, directly or indirectly, for the refined petroleum products so used. The fact is that a great many people in low-income brackets are renters. They rent with long-term contracts. Those people cannot be taken care of by this amendment, since the contracts are already signed.

Mr. President, this amendment has a price tag of between $1 billion and $1.5 billion. It is not going to reach the people that need this the most. I recommend that it be defeated.

Mr. HATHAWAY. For the purpose of those words, we would be glad to accept language that is clearer. But I think the colloquy that has already been had between the Senator from New Hampshire and the Senator from Oklahoma indicates that the person actually paying for the oil, who is getting hit with the bill, is the one who is going to get the refund. We would leave it with the recommendation that the Secretary can either say the tax credit goes directly to the renter who is paying for the heat as part of his rent, or it goes to the landlord and the renter's rent is reduced thereby. I assume that the first way of doing it would be the easier way.

Many tenants, as the Senator knows, pay for their own oil, so it is not part of the rent. And naturally, they would be getting the rebate because of the payments that they are making on their own. But in situations where the landlord pays the heating bill and, in turn, charges extra rent for doing that, it would still be the case that the tenant would get the credit, because he is the one who is is actually paying for the heat.

If the Senator has some language that would make that clearer, I think the Senator from New Hampshire and I would be happy to accept it.

Mr. BELLMON. I think the person making the amendment should make it clearer.

Mr. HATHAWAY. I think we have made it clearer from this colloquy, and that certainly would be taken into consideration by the Secretary in promulgating any regulation pursuant to this amendment.

Mr. BELLMON. Take the person who has a 3-year contract on an apartment with a fixed rent. How would that be taken care of?

Mr. HATHAWAY. Is that person paying for the heat himself or is it a contract where the landlord pays for the heat?

Mr. BELLMON. He pays the rent to the landlord and the landlord furnishes the heat.

Mr. HATHAWAY. The landlord would get the bill——

Mr. BELLMON. Even if the contract has already been entered into and signed?

Mr. HATHAWAY. It would make no difference. The Secretary would not be changing the terms of the contract; he would be making the rebate directly to the renter. That does not affect the terms of the contract in any way. The renter still pays the same amount that he would pay under the lease agreement. But if the lease agreement includes the cost of the heat then the Secretary could presume that the burden of paying for that has rested upon the tenant; therefore, the tenant should get the rebate, or get the credit.

Mr. BELLMON. In line 2, page 2, it says that the taxpayer should get an amount equal to 25 percent of the total cost of the heating oil purchased by the taxpayer during the taxable year.

How much of the rent is heating oil that the renter is paying for in the circumstances I just described? How does the landlord or the renter determine how much the heating oil costs?

Mr. HATHAWAY. I suppose it depends upon what kind of a physical situation they have. If it is an apartment house with one furnace and the heat is distributed to several different apartments, I suppose it would have to be prorated some way. But that is not an insurmountable problem. They can write regulations that define how to determine that in a multifamily dwelling. I do not think there is any problem presented by this that cannot be very easily straightened up through regulations by the Secretary.

Mr. BELLMON. It is my feeling that this is impossible to administer.

Mr. HATHAWAY. I suggest that it is pretty clear that we want the person who actually has to pay for the oil to get the credit. Whether that is done directly or indirectly makes no difference.

There may be some mathematical problem to determine how much of the rent should be allocated to various tenants in an apartment house, but I do not think that is an insurmountable problem.

Mr. BELLMON. Mr. President, if the Senators are finished, I would like to move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay the amendment on the table. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HASKELL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Georgia (Mr. NUNN), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. BAKER. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Utah (Mr. HATCH), the Senator from Oregon (Mr. HATFIELD), the Senator from California (Mr. HAYAKAWA), the Senator from Vermont (Mr. STAFFORD), the Senator from Alaska (Mr. STEVENS), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT) is absent on official business.

I further announce that, if present and voting, the Senator from Alaska (Mr. STEVENS) would vote "nay."

The result was announced—yeas 27, nays 48, as follows:

[Rollcall Vote No. 597 Leg.]

YEAS—27

Bartlett	Hansen	Nelson
Bellmon	Hart	Pearson
Bentsen	Helms	Proxmire
Bumpers	Hollings	Roth
Chiles	Laxalt	Sasser
Church	Lugar	Schmitt
Curtis	McClure	Tower
Dole	Metzenbaum	Wallop
Glenn	Morgan	Zorinsky

NAYS—48

Abourezk	Eagleton	Moynihan
Baker	Eastland	Packwood
Biden	Ford	Pell
Brooke	Hathaway	Percy
Burdick	Heinz	Randolph
Byrd, Harry F., Jr.	Huddleston	Ribicoff
Byrd, Robert C.	Jackson	Riegle
Cannon	Javits	Sarbanes
Case	Johnston	Schweiker
Chafee	Kennedy	Stennis
Clark	Leahy	Stone
Cranston	Long	Talmadge
Culver	Magnuson	Thurmond
Danforth	Mathias	Weicker
DeConcini	Matsunaga	Williams
Durkin	McIntyre	
	Melcher	

NOT VOTING—25

Allen	Hatch	Nunn
Anderson	Hatfield	Scott
Bayh	Hayakawa	Sparkman
Domenici	Humphrey	Stafford
Garn	Inouye	Stevens
Goldwater	McClellan	Stevenson
Gravel	McGovern	Young
Griffin	Metcalf	
Haskell	Muskie	

So the motion to lay on the table amendment No. 1540, as modified, was rejected.

Mr. LONG. Mr. President, in order to save time for the Senate, I ask unanimous consent that the order for the yeas and nays on the amendment be vitiated.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The question now occurs on the amendment, as modified, offered by the Senator from New Hampshire.

The amendment, as modified, was agreed to.

Mr. LONG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DURKIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PERCY addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. CHILES. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. PERCY. I yield.

Mr. CHILES. Mr. President, I ask unanimous consent that Rick Farrell, of my staff, have the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. PERCY. I yield.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a 10-minute limitation on each rollcall vote today.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. Mr. President, reserving the right to object——

Mr. ROTH. Mr. President, will the Senator yield for a unanimous-consent request?

The PRESIDING OFFICER. The Senator from South Dakota has reserved the right to object.

Mr. ABOUREZK. Mr. President, is there a special reason why every rollcall vote should be 10 minutes? There are people wandering away from the floor who may not get back in time.

Mr. ROBERT C. BYRD. They should not wander. Today is Saturday. Most of the offices probably will not be open long. It will save the time of the Senate, and the rollcall vote will be registered just as clearly in 10 minutes as it would be in 15 minutes.

I hope my friend from South Dakota will not object.

Mr. ABOUREZK. I do not do this because I am not a friend of the Senator from West Virginia, but I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROTH. Mr. President, will the Senator yield?

Mr. PERCY. I yield.

Mr. HANSEN. May we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROTH. Mr. President, I ask unanimous consent that I be permitted to bring up amendment No. 1533 following the Senator from Illinois, and there has been an agreement between the Senator from Louisiana and myself that there be 30 minutes on this amendment to be equally shared.

The PRESIDING OFFICER. Is there objection?

Mr. PERCY. Mr. President, reserving the right to object, does the Senator understand the Senator from Illinois has three amendments?

Mr. ROTH. Yes. Following the three amendments of the Senator from Illinois.

Mr. PERCY. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. PERCY. Mr. President, I yield to my distinguished colleague from Idaho for a unanimous-consent request.

Mr. McCLURE. Mr. President, I ask unanimous consent that Mr. Mike Hathaway, of my staff, be accorded the privilege of the floor at all stages of the proceedings on this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1528

(Purpose: To request the convening of a White House Conference on Energy Conservation.)

Mr. PERCY. Mr. President, I call up amendment No. 1528 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY), for himself and Mr. STONE, proposes amendment numbered 1528.

Mr. PERCY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 104, line 20, insert the following:

SEC. 1058. WHITE HOUSE CONFERENCE ON ENERGY CONSERVATION.

(a) The Congress hereby finds that—

(1) with each passing day, the United States is further from reaching a goal of energy independence;

(2) with energy prices increasing and serious political and environmental constraints on new sources of supply, energy conservation must be widely utilized as an important means to attain energy endependence;

(3) traditional, nonrenewable energy sources are being exhausted worldwide;

(4) despite the existence of many technologically feasible ways of saving energy, the Nation has not utilized effective strategies and technologies to encourage energy conservation; and

(5) the formulation of such strategies and the utilization of energy saving technology requires the distribution of information through private organizations, the public sector, and national conferences.

(b) The President of the United States is urged to call a White House Conference on Energy Conservation as soon as practicable following the date of enactment of this Act but not later than December 31, 1978, in order to develop recommendations and stimulate a national assessment of problems, and solutions to problems, involving energy conservation.

(c)(1) Any such conference, if called, shall be planned and conducted under the direction of the National Energy Conservation Planning and Advisory Council (hereinafter referred to as the "Council"), established pursuant to paragraph (2) of this subsection. Each Federal department and agency shall provide such cooperation and assistance to the Council, including the assignment of personnel, as may reasonably be required by the Chairman of the Council.

(2) There is established a National Energy Conservation Planning and Advisory Council, appointed by the President of the United States, composed of fifteen members who shall be representative of the categories referred to in paragraph (d)(1) of this section.

(3) The President, at the time of appointment, shall designate one member to serve as Chairman and one to serve as Vice Chairman. Any vacancy in the Council shall not affect its powers but shall be filled in the same manner in which the original appointment was made.

(4) It shall be the function of the Council to—

(A) make all arrangements and preparation for the Conference, and to provide guidance and planning for the Conference;

(B) request the cooperation and assistance of such Federal departments and agencies having responsibilities in areas involving energy conservation;

(C) prepare and make available necessary background materials for the use of delegates to the White House Conference on Energy Conservation; and

(D) prepare and distribute such interim reports of the White House Conference on Energy Conservation as the Council deems appropriate.

(5) The Council shall have the power to appoint and fix the compensation of an Executive Director, and such additional staff personnel as it deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title, and to procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $125 a day for individuals.

(6)(A) Any member of the Council who is otherwise employed by the Federal Government shall serve without compensation in addition to that received in his regular employment.

(B) Members of the Council, other than those referred to in subparagraph (A), shall receive compensation at rates not to exceed the daily rate prescribed for GS–18 under section 5332 of title 5, United States Code, for each day they are engaged in the performance of their duties (including traveltime); and, while so serving away from their homes or regular places of business, they shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expenses authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

(d)(1) For the purpose of ascertaining facts and making recommendations concerning energy conservation, the Council shall take such action as may be necessary to bring together, as participants in the Conference, the following:

(A) Members of the Congress and Federal, State, and local government officials with responsibility over energy policies and programs;

(B) representatives of energy industries;

(C) representatives of public utilities;

(D) representatives of environmental and conservation organizations;

(E) representatives of consumer organizations;

(F) representatives of industrial and financial trade associations;

(G) representatives of small businesses;

(H) representatives of organized labor;

(I) representatives of the academic and scientific communities;

(J) representatives of agricultural groups;

(K) representatives of public transportation and public transit; and

(L) individual citizens with particular expertise in the energy field.

(2) A final report of the White House Conference on Energy Conservation shall be submitted by the Council to the President not later than one hundred and twenty days following the date on which the conference is called, and the findings and recommendations included therein shall be immediately made available to the public. The Council shall, within ninety days after submission of such final report, transmit to the President and the Congress their recommendations for administrative action and legislation necessary to implement the recommendations contained in such report.

(3) The Council shall cease to exist one hundred and twenty days after the submission of the final report required by paragraph (2).

(4) For the purpose of this section the term "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

(5) There is authorized to be appropriated such sum, not to exceed $5,000,000, as may be necessary to carry out this section.

(e) Subsections (c) and (d) of this amendment shall take effect only if the President of the United States calls a White House Conference on Energy Conservation pursuant to subsection (b) of this section, and publishes a notice to that effect in the Federal Register.

Mr. PERCY. Mr. President, I yield to our distinguished colleague, the Senator from Florida (Mr. STONE), on whose behalf I propose this amendment.

Mr. STONE. Mr. President, I think that the debate over the past several months on the various energy bills indicates that there is not a consensus in the country nor in the Congress as to the best way to conserve energy. It is important that the President convene a national energy conference to develop such a consensus and to lay the groundwork for the implementation of an effective energy policy. This is the reason I joined Senator PERCY in introducing a Senate joint resolution requesting the President of the United States to call a White House Conference on Energy Conservation.

As most Americans now understand, our country faces a serious energy crisis. President Carter has addressed the country on this matter and has made certain proposals to Congress to solve this problem. The President has recognized that whatever specific solutions may ultimately be adopted by Government, no solution can be effective unless it has the full support of the American people. Because of the importance of public understanding and support and because energy conservation certainly represents an important ingredient in any energy policy, a White House Conference on Energy Conservation can be significant in the implementation of an effective energy policy. As set forth in the resolution, the Conference would include representatives of Congress; State and local government officials; representatives of energy industries, public utilities, environmental and conservation organizations, consumer organizations, industrial and financial trade associations, small businesses, organized labor, academic and scientific communities, agricultural groups, public transportation and public transit; and individual citizens with particular expertise in the energy field.

The Conference would prepare a report for the President which shall be made public and transmitted to Congress. The report would recommend any administrative and legislative action deemed necessary to implement the recommendations contained in the report.

Under the provisions of the resolution, the Conference shall be called by the President not later than December 31, 1978. A National Energy Conservation Planning and Advisory Council is established by the resolution for the purpose of organizing the Conference.

Mr. President, I have previously urged the convening of a more comprehensive energy conference for the purpose of developing a national energy policy. On January 14, 1977, I introduced Senate Joint Resolution 11, which has 12 cosponsors, directing the President to call such a conference. I discussed such a conference with President Carter and Dr. Schlesinger. Because the President was anxious to proceed with an early energy proposal, it was determined inadvisable to hold such a conference before the announcement of the President's energy plan on April 20. Nevertheless, I continue to believe that it is important for public understanding and support of a national energy policy for the widest possible discussion of energy policy and its impact on our complex society.

Inasmuch as the President's energy plan emphasizes energy conservation, I believe the convening of a Conference on Energy Conservation would contribute to the understanding and support for the President's program.

Mr. President, as the Senate knows, Senator PERCY has been a leader for energy conservation. He has contributed significantly to the development of the idea of a National Energy Conservation Conference, and I salute him for his efforts. I am pleased that we are able to join together in this effort and urge the adoption of this resolution.

Mr. PERCY. Mr. President, the cosponsors of this amendment include Senator HUMPHREY, Senator JAVITS, Senator MOYNIHAN, Senator DANFORTH, Senator MCCLURE, Senator MATSUNAGA, Senator HELMS, Senator LUGAR, Senator CASE, and Senator HEINZ.

The amendment simply provides for requests to the President that he shall call a White House Conference on Conservation of Energy before the end of next year.

Mr. President, there are serious environmental and economic constraints on developing new sources of energy supply. Nonrenewable sources of energy are being exhausted globally and the United States is becoming increasingly dependent on imported oil. This situation urgently underscores the need for energy conservation.

There are tremendous opportunities for using energy more efficiently. Conservation measures have been slowed, however, by institutional, economic, and informational blockages. It is precisely to help overcome these obstacles and take advantage of the huge conservation opportunities open to us that I am introducing this amendment to the energy tax bill requesting that the President call a White House Conference on Energy Conservation.

We need to define the energy problem not in a simple way as the need to increase supplies, but rather as the challenge of meeting our social and economic goals with the minimum amount of energy necessary. We need to dispel the myth that increased use of energy means a better life, and that less energy means a lower standard of living. Instead, we should first pursue and give high priority to the one policy that makes the most economic sense: converting energy waste into energy supply via conservation.

Those who support a "strength through exhaustion" policy tend to describe conservation as curtailment: wearing sweaters in 60° buildings, waiting in line for gasoline, and limiting economic growth. They seem unable to understand that we can mine energy in buildings, cars, and industrial processes with insulation, more efficient engines, and better control systems. Conservation is energy supply. It is invariably our least expensive new supply option.

But the success of conservation does not ultimately rely on scientists, inventors or legislators. It relies on the full support and commitment of the American people. It is absolutely vital that the public fully understand and cooperate with the conservation effort. A White House Conference can do much to contribute to such understanding. By its very existence the Conference would call attention to energy conservation. It would help people realize that conserving energy requires more of a change in attitude than a change in lifestyle.

This amendment would urge—not mandate but simply urge—that the President establish a National Energy Planning and Advisory Council. It would be composed of 15 members representing diverse facets of American society. This Council would then plan and direct the White House Conference. The Conference would prepare a report for the President which would be made public and transmitted to the Congress. The report would recommend whatever administrative and legislative action it found necessary to further the use of conservation energy. In short, it would take the best ideas from a crosssection of people, and deliver them to the Congress and the President.

The executive and legislative branches need the benefit of the experience and expertise of all sectors in the development and implementation of a national energy conservation program. A White House Conference on Energy Conservation will provide the focal point and vehicle for such input, just as national conferences have served as catalysts for action on other issues of nationwide concern in the past.

Mr. President, energy problems are not going to fade away. Nor are any of the new technologies we have been talking about this week going to prove themselves a panacea. Wise use of the energy supply we have today is the safest, least expensive, least disruptive direction in which to look for answers. It is up to everyone in this country to look for ways to conserve energy. It is up to the Congress to enlist everyone in the search. Let us, therefore, create this White House Conference and people it with repre-

sentatives from many different viewpoints. And let us try to help motivate the Nation toward a greater commitment to energy conservation. I urge my colleagues to accept this amendment.

I have received a statement of support for this amendment year the alliance to save energy.

Mr. President, I ask unanimous consent that this statement by Richard McGraw, executive director of the Alliance To Save Energy, in support of the White House Conference on Conservation be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY RICHARD L. MCGRAW

The pressing need to save energy in this country necessitates our making all efforts to inform the public about the need to conserve. The President, as the focal point of our national government, is best able to demonstrate the virtue of conservation. A White House Conference on Energy Conservation is the best vehicle to promote energy savings, and to bring together disparate groups to support this common end. For these reasons the Alliance to Save Energy heartly endorses this conference.

A lot of private companies, trade associations, labor organizations and non-profit organizations are actively promoting energy conservation. Unique among them is the recently created Alliance to Save Energy. It is the only national, non-profit, bi-partisan organization formed for the express purpose of heightening national awareness that America faces a real energy shortage and that our energy waste is great and avoidable. The message of the Alliance is that Americans can make far more productive use of wasted energy, and can save dollars while contributing substantially to the nation's future well-being.

The Alliance was formed last Spring by Senator Humphrey and Senator Percy. At the time President Carter endorsed it as follows: "I want to welcome the timely creation of the private, non-profit Alliance to Save Energy which is being announced today. This organization is dedicated to the concept that there is a new, inexpensive and accessible resource: conservation energy. Conservation energy is the energy derived by replacing wasteful habits and technologies with more efficient ones. Every American can join in the effort to make conservation energy one of our chief resources. I urge them to do so." The President designated Vice President Mondale as Honorary Chairman of the Alliance. Former President Ford is also an Honorary Chairman.

The Alliance has no ax to grind and no product to sell. It has a Board of Directors and Board of Advisors that are balanced politically and geographically. They represent a board spectrum of industry, labor, environmental, and consumer groups. All these groups are convinced, regardless of their views on other subjects, of the need to conserve America's energy resources. Members of the Senate and House of Representatives are supporting the Alliance. I include a list of their names.

There is a great need to educate the public. I believe that a balanced, private, non-profit effort can add much to the job at public persuasion which government, oil companies, public interest groups, utilities, or other groups are already doing.

The Alliance does not wish to duplicate worthwhile programs of other organizations. Rather, the Alliance plans to act as a catalyst for energy saving programs with public and private organizations. I would like to describe several of these programs:

On September 20th the Alliance kicked-off a State-wide Energy-Efficiency Campaign with the Channel Companies in New Jersey. The Alliance will provide college scholarships to winners of an energy conservation essay contest. The Channel Companies will provide free materials for weatherizing the homes of several New Jersey low income families. The Kiawanis and the American Legion will provide volunteer labor for this.

In September the Alliance co-sponsored an energy conference with the Energy Research and Development Administration at Oak Ridge, Tennessee. Mr. John Eberhard, President of the American Institute of Architects Research Foundation, represented the Alliance at the Conference.

This month the Alliance co-sponsored the Fourth Annual International Energy Conference with the University of Colorado in Boulder. The Honorable Kenneth Rush represented the Alliance as the keynote speaker.

Also this month in Tucson, Arizona, the Alliance co-sponsored the International Conference on Energy Use Management with the University of Paris and the University of Arizona. I was the keynote speaker there.

On November 16 the Alliance will co-sponsor a radio/telephone Farm Line on energy conservation with the Agriculture Council of America. The Farm Line program is expected to reach several hundred thousand people.

On November 11, A.S.E. will co-sponsor an energy conservation conference with Kansas State University.

In the coming months, we will be co-sponsoring many more workshops, seminars, panels and conferences with the National Association of Homebuilders, National Association of Realtors, American Trucking Association, the American Canning Association and many others.

A.S.E. will develop and sponsor a training program on energy conservation for remodeling contractors with the National Home Improvement Council.

With the Edison Electric Institute, we will launch their National Energy Watch program aimed at providing homeowners energy efficiency information through the electric utility companies.

With the American Gas Association, we will endorse and collaborate on their Energy Management in a Family Affair Program.

The Boy Scouts of America will distribute over 2 million copies of the Alliance's publication *How to Save Money with Energy Conservation.*

The Alliance will offer a computerized homeowners energy audit to members of more than 4,000 trade associations at a very nominal cost.

A.S.E. is providing more than 250 corporations and trade associations with energy saving tips for publication in their employee and member newsletters.

Finally, the Alliance has announced and is preparing a major international energy conference and trade show in the Spring of 1979.

The Alliance to Save Energy has the resources in place. Actions are underway. It takes a little energy and initiative to save energy. The Alliance can help provide both, and help make this country energy efficient. The Alliance feels the White House Conference on Conservation will also provide impetus towards making their country more fuel efficient. That is why we endorse this conference.

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Honorable John J. Rhodes, H-232, The Capitol, Washington, D.C. 20515.

Honorable Patricia Roberts Harris, Secretary, Department of Housing and Urban Development, Washington, D.C. 20410.

Honorable Thomas P. O'Neill, 2231 Rayburn House Office Building, Washington, D.C. 20515.

Honorable James R. Schlesinger, President's Energy Task Force, The White House, Washington, D.C. 20500.

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The PRESIDING OFFICER. I believe the Senator from Illinois forgot to mention my name as a cosponsor.

Mr. PERCY. Mr. President, I ask unanimous consent to have Senator MATSUNAGA added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

I thank the Senator from Illinois.

Mr. PERCY. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Louisiana wish to be recognized on this amendment?

Mr. LONG. Mr. President, I yield back the remainder of my time.

Is this the 1-minute amendment?

Mr. PERCY. Yes.

Mr. LONG. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Illinois.

(Putting the question.)

The ayes appear to have it. The ayes have it, and the amendment is agreed to.

Mr. PERCY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

Mr. METZENBAUM. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. METZENBAUM. What was just adopted by voice vote?

The PRESIDING OFFICER. The amendment offered by the Senator from Illinois.

Mr. METZENBAUM. That is the gas guzzler tax?

Mr. PERCY. No.

The PRESIDING OFFICER. It was amendment No. 1528 to request the convening of a White House conference on energy conservation.

Mr. PERCY. I assure my distinguished colleague there would not be a short time limitation on the gas guzzler tax amendment.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. PERCY. Mr. President, under the unanimous-consent agreement entered into this morning the pending business is the gas-guzzler tax amendment.

Since that unanimous-consent agreement this morning the Senator from Illinois has talked with the Senator from Michigan on the telephone. During the course of the conversation this morning, I made it very clear that the distinguished Senator from Michigan would have wanted to have been here if his other duties had not prevented him from being present. But out of consideration for his absence today, I urge that, if we have a vote on this amendment today, we not move to reconsider it, provided that we do not go to final passage. That way the Senator from Michigan could move to reconsider it on Monday. I wish to extend that courtesy to my distinguished colleague.

Having talked to him on the telephone and talking further with the distinguished minority leader, I wish to modify the existing unanimous-consent agreement as follows: that sometime during the course of the day we have all of the debate finished on the gas-guzzler amendment; that if we go to final passage today the vote on that amendment would occur just prior to final passage; but if we do not go to final passage today, that this amendment be voted upon as the first amendment on Monday and that we have an additional 10 minutes on a side reserved so that the Senator from Michigan can present his arguments.

I ask my distinguished colleague, the floor manager of the bill, Senator LONG, if that arrangment would be satisfactory. Sometime during the course of the day we can discuss for approximately 1 hour the so-called gas-guzzler tax then finish that discussion. Then if we go to final passage today we would have a vote on this amendment before final passage.

Mr. LONG. The Senator would wish to let it go in today.

Mr. PERCY. I ask consent that if we do not have final passage today, having finished the bulk of the colloquy and argumentation on this amendment today, that we go over until Monday morning and that after the recognition of the two leaders and of Senators who have special orders, that this be the first vote on Monday morning. The distinguished Senator from Michigan, Senator GRIFFIN, will return Sunday night. He does not care how early it is on Monday morning. He wants 10 minutes. So the Senator from Illinois asks unanimous consent that if we do hold it over until Monday we have 10 minutes on a side then, and then vote on he amendment on Monday.

Mr. LONG. Mr. President, I am hoping we are going to be able to complete the bill today, and if we do not, then of course I am willing to give consent to do that.

I hope we shall proceed on the theory that we might be able to complete the bill. If we cannot, we will try to accommodate the Senator.

Mr. DOLE. That is all right.

Mr. CHILES. Mr. President, I think if we are going to debate the bill, we should do it today or let the bill carry and see whether the Senator wants to carry the amendment over until Monday. Debating the bill sort of finally today and then having to offer this amendment and then having another 20 minutes or 10 minutes on it Monday does not make sense. We either debate it now or carry it over.

Mr. PERCY. I bring to the attention of my colleague from Florida the fact we have a time limitation agreement of 1 hour today that was entered into this morning. But out of consideration for the absence of the Senator who is vitally concerned with this issue, the Senator from Illinois prefers not to have the vote today, even though I stand to gain by a vote today. The absentees who are away generally seem to be against the amendment. But I think that out of consideration for my colleague I would rather hold the final vote over until Monday. But let us get the hour of debate on the amendment out of the way, and then hold over. I would be willing to just have 10 minutes on Monday for the Senator from Michigan to give his argument and 5 minutes to respond to whatever he might say, for a total of 15 minutes, and then vote.

Mr. LONG. Mr. President, I ask unanimous consent that the Senator have the privilege of bringing his amendment up any time he wants to bring it up.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. METZENBAUM. That does not require unanimous consent. A Senator may bring up an amendment any time he wants to bring it up. He has that right.

Mr. LONG. I am not talking about displacing someone else's amendment. I mean when one can get recognition and the parliamentary situation is such he can offer the amendment. I ask that he certainly have that privilege.

Mr. METZENBAUM. Mr. President, reserving the right to object, does a Senator not always have the right without unanimous consent to so do?

Mr. LONG. He did until he took it away from himself. He got up here and asked for unanimous consent that three of his amendments be considered in sequence, and that we consider one right after the other, so I am asking unanimous consent that he be permitted to bring up that gas-guzzler amendment whenever the parliamentary situation permits and when he wants to bring it up.

Mr. METZENBAUM. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Illinois.

Mr. PERCY. Mr. President, I think in view of this situation—

Mr. LONG. Mr. President, will the Senator, if he will, bring it up or do not bring it up, either way. If the Senator does not want to bring it up, let us have somebody else. We have heard now almost an hour of discussion of when the Senator should bring an amendment up. So far as I am concerned, the Senator ought to bring it up any time the Senator feels that bringing up an amendment would be appropriate, and that would be all right with me, and I think that would be fine with the Senate. Whenever the Senator feels like bringing it up, bring it up. If the Senator does not feel like bringing it up do not bring it up, and that is all right with me.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. PERCY. Mr. President, I ask unanimous consent that the third amendment to be offered by the Senator from Illinois, which is the amendment involving nondeductibility of State and local taxes from the Federal return be the pending order of business, and that debate on that be limited to 20 minutes on a side.

The PRESIDING OFFICER. Is there objection?

Mr. HOLLINGS. I object.

The PRESIDING OFFICER. Objection is heard.

AMENDMENT NO. 1495

(Purpose: To repeal the income tax deduction for State and local gasoline taxes.)

Mr. PERCY. Mr. President, I call up my amendment No. 1495 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

Mr. PERCY. Mr. President, this is an amendment to repeal the deduction for State and local taxes.

The PRESIDING OFFICER. Will the Senator advise the Chair as to which amendment he wishes to be called up first? The order calls for amendment No.——

Mr. PERCY. 1495.

The PRESIDING OFFICER. That would require unanimous consent because of the previous order having been entered.

Mr. LONG. I ask unanimous consent, Mr. President, that the Senator be permitted to call up the admendment right now.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Senate will proceed to consider 1495, which the clerk will now report.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY) proposes amendment numbered 1495.

Mr. PERCY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Illinois.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . REPEAL OF DEDUCTION FOR STATE AND LOCAL TAXES ON GASOLINE AND OTHER MOTOR FUELS.

(a) REPEAL.—Paragraph (5) of section 164 (a) (relating to deduction for taxes) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) The heading of paragraph (5) of section 164(b) is amended by striking out "AND GASOLINE TAXES".

(2) The text of such paragraph (5) is amended by striking out "or of any tax on the sale of gasoline, diesel fuel, or other motor fuel".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect at the close of December 31, 1977.

Mr. PERCY. Mr. President, because of the grave energy problems which beset our Nation we are being forced to reexamine the ways in which the Federal Government encourages and discourages the consumption of gasoline. The days of cheap and abundant energy supplies are over. We have entered a new era, one in which the challenge of conserving energy supplies assumes a new and dramatic importance.

For this reason, I was very disappointed when the Senate Finance Committee, by a vote of 10 to 7, deleted from the language of the House bill the repeal of the personal deduction for State and local gasoline taxes. This action was contrary to the expressed wishes of both the House and the administration. I am therefore offering an amendment to the energy tax bill which would remove this irrational and counterproductive tax loophole.

I have sought a repeal of the State and local gasoline taxes for some time. As recently as March 1975 I offered a similar amendment to the one I am offering now.

Mr. NELSON. Mr. President, may we have order in the Senate so that the Member may be heard?

The PRESIDING OFFICER. The Senate will be in order. Senators will cease conversations on the floor. The staff, too, will cease conversations.

The Senator from Illinois.

Mr. PERCY. Mr. President, my amendment deserves support for three reasons. First, it is important that the Congress show its determination to take serious steps to deal with our energy problem. It is illogical to tell the American people that energy must be priced at its proper value, while simultaneously providing them with a tax deduction which encourages gasoline consumption.

While the actual energy savings resulting from adoption of my amendment might be quite small, it is intended to provide the American people with tangible evidence that the Congress is trying to develop a rational and consistent energy policy with conservation as its cornerstone.

Second, the revenues generated by my amendment will not be inconsequential. Estimates provided by the Joint Committee on Taxation predict a possible increase in budget receipts of $115 million in fiscal year 1978, $780 million in fiscal year 1979, and $1.4 billion in fiscal year 1985. This revenue will help alleviate the current deficit in our Federal budget.

A final reason, Mr. President, why I urge support of this amendment, is that it will eliminate an inequitable compli-

cation from the tax law. It is inequitable because only people in higher income brackets who itemize their deductions can benefit from this tax provision. Moreover, the benefit from the deduction increases as personal income rises.

Another inequitable aspect of this tax deduction is that State and local gas taxes are primarily used for the construction and maintenance of State and local roads. The deduction shifts part of these costs away from the highway user to the general taxpayer.

Mr. President, in conclusion, a tax deduction implies an incentive to the taxpayer to act in a particular manner. The major thrust of the Nation's energy policy has to be the more efficient utilization of the energy we now consume. In light of this new and necessary national priority it makes no sense to maintain an antiquated tax deduction which encourages gasoline consumption. I urge my colleagues to join with me in repealing this unnecessary deduction.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. HANSEN. Mr. President, I hope very much the Senate will not agree with the distinguished Senator from Illinois. In the first place, let me observe that the State of Wyoming consumes more gas per capita than does any other State in the Union, and for a very good reason. We have practically no bus system in the State of Wyoming. There is no railroad system that starts to move people or to take people from where they are to where they have to go many times in order to perform their jobs.

We are trying our best to make a significant contribution to the alleviation of the Nation's energy supplies, and, as a consequence, people are driving as much as 200 miles a day round trip from the nearest place they can find to live in order to operate our plants and mine operations and lots of other things.

Now the Senator speaks about this being an inequitable provision in the law. He may think that no one in Wyoming itemizes the amount they pay in gasoline taxes, but I can assure him and Senators generally that they do that for a very good reason: they have to. It is expensive out there.

Another one of the Senator's proposals is to treat with this gas guzzler deal. It is all well and good if you do not have to go very far to work, and if the weather is good, but if you have to drive through storms, if you have to be subjected to wind velocities as we sometimes find in Wyoming—as a matter of fact, in the little town of Rock River we have had empty railroad boxcars blown off the track. I know many people think there are greater wind velocities in this Chamber than anyplace else in the United States, and that may be true. But if it is true, we are in second place in Rock River, Wyo., because we have actually had boxcars blown off the track.

When that happens it is important to have a heavier car, and people know that, and they know that if you are going to buck snow it is important to have a heavier car.

I would hope very much that the Senate would join with me in defeating this amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, with all due respect to my friend from Illinois, what he is proposing is a windfall tax increase, nothing more, nothing less.

Mr. President, last year the Senate, by a vote of 50 to 42, accepted my amendment to the tax reform bill of 1976 which deleted action by the Senate Finance Committee designed to limit the gasoline tax deduction to only those taxes in excess of $50 per year. At that time I argued—and the argument is just as valid today—that there was absolutely no evidence that the limitation of that deduction would result in any energy conservation, and that it was little more than a windfall tax increase levied upon millions of Americans who must use their automobiles for commuting to and from work or to travel great distances in the rural areas of our country. After accepting my amendment, the Senate, by an even greater margin, rejected an amendment by the distinguished junior Senator from Illinois, Mr. STEVENSON, which would have eliminated the deduction entirely.

Here we are, on a Saturday morning, Mr. President, in an ironic twist. The House has voted, as part of the omnibus energy bill, to eliminate the gasoline tax deduction. But the Senate Finance Committee rethought its position of last year, and wisely rejected the proposal.

However, the able senior Senator from Illinois, Mr. PERCY, is now proposing an amendment to reverse the Finance Committee's decision and to affirm the House's elimination of the deduction. Thus, if the pending amendment of the Senator from Illinois is adopted, the deduction will be eliminated and there will be nothing left to negotiate in the conference.

I think the Senate ought to understand what is going on. Let us make it quite clear as to exactly what we are not doing if we adopt the Percy amendment. We are not saving any energy. A virtual doubling of the cost of gasoline over the past 4 years has not noticeably altered U.S. gasoline consumption. This is the basis for the rejection by both Senate and House of the administration's proposal to raise gasoline taxes. Obviously, if enormous increases in the price of gasoline will not deter driving, elimination of a mere tax deduction will have no impact at all.

Indeed, the suggestion that the elimination of this deduction will result in reduced gasoline consumption borders on the ridiculous. Picture the average American family about to embark on a Sunday drive. The mother and father, the children, and the family dog are all in the station wagon ready to leave. The picnic lunch is all packed. The house is locked. Then suddenly the father remembers, and with a sad face tells his family: "I'm sorry. We must all get out of the car. We can't go. I just remembered; I read in the papers that Congress has voted to eliminate the gasoline tax deduction."

It would take a rather vivid imagination to come up with a scenario like that, Mr. President. It just would not happen.

The point, therefore, is this. If the pending amendment will not save us any gasoline, and it certainly will not, what will it do? It will do nothing less than impose, according to the figures of the Senator from Illinois, about a $1\frac{1}{2}$ billion tax increase on the American public. It is as simple as that. And, I frankly do not understand why the Senator proposes to do it. Almost all are agreed that what we need now is not a tax increase, but a tax reduction. To this proposition, I wholeheartedly agree. My distinguished friend from Delaware (Mr. ROTH) and others, have argued long and eloquently for such a decrease. Why, then, would any of us want to vote for an increase, and especially an increase that will add most to the burdens of the hard-working people of this country?

Mr. MELCHER and Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. HELMS. Mr. President, I have not yielded the floor.

The PRESIDING OFFICER. Oh, the Senator from North Carolina has not yielded the floor. The Senator from North Carolina.

Mr. HELMS. Contrary to myth, the gasoline tax deduction is not a rich man's deduction. For the very wealthy, the dollar value of this deduction is insignificant. Rather, this is a modest tax break for the average citizen, and I do not propose to stand by and allow it to be taken from him. Citizens receiving the greatest benefit from the gasoline tax deduction are those who drive to work or who live in rural areas, and who are forced to travel great distances for medical care, groceries, farm supplies, and other necessities. I need not point out that citizens who live in rural America and who grow tobacco, corn, and soybeans, are not rich folks; rather, these are citizens struggling to make a living off the land. These are the people who do not have any money to spare, and who benefit by the few extra dollars the deduction affords them.

Further, I just cannot accept the fact that citizens should be required to pay a tax on a tax—and that is what this amendment proposes. It always seems that the special interest groups, the very wealthy, and the welfare lobbies get all the breaks with this Congress. I find myself hoping that for once, the average working man or woman, trying to support his or her family amidst the inflation caused by this Congress, would finally win a round. And the way for the average fellow to win a round is to reject the pending amendment.

Now I yield the floor, Mr. President.

ADDITIONAL STATEMENT SUBMITTED

Mr. DOLE. The amendment offered by the Senator from Illinois to repeal the State gasoline tax is simply a tax measure not an energy proposal. The fact is that the amendment would raise $7.5 billion by 1985. According to the Joint Tax Committee, the amendment "is not expected to have any significant energy

savings." The problem with the bill before the Senate is that it is a tax bill and not an energy bill and the Senator from Illinois' amendment further demonstrates this fact.

Presently 21 percent, or about 19 million Americans, use this tax deduction. There are enough taxes in this energy bill. Although the House has voted to eliminate the deduction, the Senate Finance Committee chose to reject their action. During the consideration of the Tax Reform Act of 1976, the Senate voted not to eliminate the gas tax deduction. Consideration of tax reform can best be accomplished during the consideration of the administration's tax reform proposals, should the President ever decide to send them for our consideration.

Mr. PERCY. Will the Senator yield?

Mr. DOLE. I yield to my distinguished colleague from Illinois.

Mr. PERCY. Mr. President, I thank the distinguished Senator both for yielding to me, and for having helped me make one of my points. As he said, only one-fifth of the taxpayers in this country—21 percent—use this deduction. Most taxpayers take the standard deduction. Itemization only makes sense in higher income brackets or in special cases. The "average guy" does not benefit from this loophole. The deduction for State and local taxes is a subsidy for upper income persons. And we all know that the average taxpayer pays for such loopholes in the end, through higher overall tax rates.

I remind my colleague from Louisiana that he rose in support of a similar amendment I offered in March of 1975. At that time he agreed that the deduction subsidized upper income persons. Repeal of the deduction will cause no hardship for low-income persons, since they use income tax form 1040–A, the short form.

Mr. President, the Treasury supports this repeal. The Department of Energy supports it. The House version of the national energy plan, H.R. 8444, contains it. As I said before, it is nonsensical to urge Americans to conserve gasoline, then pay them for wasting it. I urge my colleagues to support elimination of this inequitable subsidy.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, I tried to get a time agreement on this amendment. It was objected to. If the Senate wants to hear more argument on this amendment, it can, by agreeing to a time agreement.

I have tried to get the Senate to accept this kind of thing before. I tried to get the committee to vote for it. But I do not think anyone can get a majority of the Senate to vote for this thing. I think the Senate wants to vote and move on. So, Mr. President, I move to table the amendment.

Mr. PERCY. Mr. President——

Mr. LONG. And I ask for the yeas and nays, Mr. President.

Mr. PERCY. Mr. President——

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PERCY. Mr. President——

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Illinois. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Alaska (Mr. GRAVEL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Georgia (Mr. NUNN), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. BAKER. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Utah (Mr. HATCH), the Senator from Oregon (Mr. HATFIELD), the Senator from California (Mr. HAYAKAWA), the Senator from Vermont (Mr. STAFFORD), the Senator from Alaska (Mr. STEVENS), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT) is absent on official business.

I further announce that, if present and voting, the Senator from Alaska (Mr. STEVENS) would vote "yea."

The result was announced—yeas 65, nays 12, as follows:

[Rollcall Vote No. 598 Leg.]

YEAS—65

Abourezk	Ford	Metzenbaum
Baker	Glenn	Morgan
Bartlett	Hansen	Moynihan
Bayh	Hart	Nelson
Brooke	Haskell	Packwood
Bumpers	Hathaway	Pearson
Burdick	Heinz	Pell
Byrd, Harry F., Jr.	Helms	Randolph
Byrd, Robert C.	Hollings	Ribicoff
Cannon	Huddleston	Riegle
Case	Jackson	Roth
Chiles	Javits	Sasser
Church	Johnston	Schmitt
Cranston	Laxalt	Schweiker
Curtis	Leahy	Stennis
Danforth	Long	Stone
DeConcini	Lugar	Talmadge
Dole	Magnuson	Thurmond
Durkin	Mathias	Tower
Eagleton	Matsunaga	Wallop
Eastland	McClure	Williams
	Melcher	Zorinsky

NAYS—12

Bellmon	Clark	Percy
Bentsen	Culver	Proxmire
Biden	Kennedy	Sarbanes
Chafee	McIntyre	Weicker

NOT VOTING—23

Allen	Hatfield	Nunn
Anderson	Hayakawa	Scott
Domenici	Humphrey	Sparkman
Garn	Inouye	Stafford
Goldwater	McClellan	Stevens
Gravel	McGovern	Stevenson
Griffin	Metcalf	Young
Hatch	Muskie	

So the motion to lay on the table Mr. PERCY's amendment (No. 1495) was agreed to.

AMENDMENT NO. 1543

The PRESIDING OFFICER. The clerk will state amendment No. 1543 offered by the Senator from Illinois.

Mr. PERCY. Mr. President, I ask unanimous consent to withdraw my amendment No. 1543.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment was withdrawn.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, is there an order for the recognition of the Senator from Delaware?

The PRESIDING OFFICER. There is a previous order of the Senate. The Senator from Delaware is now recognized to offer his amendment No. 1533.

Mr. ROBERT C. BYRD. Would the distinguished Senator from Delaware yield to me for 1 minute?

Mr. ROTH. I am happy to yield.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 1 minute into executive session for the consideration of the nominations under "The Judiciary."

Mr. BAKER. Mr. President, reserving the right to object, there is no objection on this side, and I am pleased to state to the majority leader that we have cleared the nominations under "The Judiciary" on the executive calendar for consideration and confirmation.

There being no objection, the Senate proceeded to the consideration of executive business.

THE JUDICIARY

The second assistant legislative clerk read the nomination of Gilbert S. Merritt, of Tennessee, to be U.S. circuit judge for the Sixth Circuit.

Mr. BAKER. Mr. President, I am extremely pleased to express my unqualified support for the nomination of Mr. Gilbert S. Merritt, of Nashville, Tenn., to be U.S. circuit judge for the Sixth Judicial Circuit of the U.S. Court of Appeals, I know and have the highest respect for Gil Merritt as a person and I am familiar with his many noteworthy accomplishments. He has distinguished himself throughout his lifetime as a student, teacher, private attorney, civic leader, and as an outstanding former U.S. attorney for the middle district of Tennessee. I believe that Gilbert Merritt has the rare blend of experience, ability, and judicial temperament to excel on the Federal bench, as he has excelled in

so many previous endeavors. This capable citizen of Tennessee is, in my opinion, uniquely well qualified to fill the vacancy on the Sixth Circuit Court of Appeals created by the passing of another Tennessean and highly respected jurist, the late Judge William E. Miller. I enthusiastically support the nomination of Gil Merritt and unequivocally commend him to my colleagues as an individual most worthy of their confirmation. He will prove a further complement to the already distinguished bench of the Sixth Judicial Circuit.

Mr. SASSER. Mr. President, I commend the President of the United States on the nomination of Gilbert Merritt to fill the vacancy on the Sixth Circuit Court of Appeals in Cincinnati.

Mr. Merritt is an extraordinarily able and competent attorney. His distinguished career in the bar is qualification enough to fill this position. He has demonstrated compassion and sensitivity for the problems of this difficult age. Additionally, he has exhibited the wisdom to assist in resolving these great questions. Time and again, he has shown fairness and equity in his legal practice. He has accepted unpopular cases and has done more than his share of pro bono work. He knows well the abilities and shortcomings of the judiciary.

Gil Merritt is extraordinarily well qualified by way of education. He holds an undergraduate degree from Yale University, a law degree from Vanderbilt University, and a master's degree in law from Harvard University School of Law. He compiled an enviable record as U.S. attorney for the middle district of Tennessee. I might add that while making a reputation as a tough and fair-minded prosecutor, he was also the youngest U.S. attorney in the country.

The selection of Mr. Merritt reflects not only credit upon the President, but also upon the newly constituted judicial selection commissions for appellate judges. I truly hope that the commission system will continue to encourage and recommend such able lawyers for the Federal bench.

Additionally, I am proud to say that Mr. Merritt hails from my native State of Tennessee and was a classmate of mine at the Vanderbilt School of Law. There I came to know his substantial intellectual gifts and his dedication to a fair and equitable system of jurisprudence. My colleagues will be interested in knowing, also, that Mr. Merritt is a direct descendant of another great Tennessean, Andrew Jackson.

I commend this distinguished nominee to my colleagues and express my gratitude to President Carter for nominating Mr. Merritt.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was considered and confirmed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The second assistant legislative clerk read the nomination of Pierre U. Leval, of New York, to be U.S. district judge for the southern district of New York.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was considered and confirmed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. Mr. President, I ask unanimous consent that the time taken by the majority and minority leaders not be taken out of my time.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY PRODUCTION AND CONSERVATION TAX INCENTIVE ACT

The Senate continued with consideration of the bill.

AMENDMENT NO. 1533

(Purpose: Sense of Senate against crude oil equalization tax).

Mr. ROTH. Mr. President, I call up my amendment No. 1533.

The PRESIDING OFFICER. The clerk will state the amendment.

The second assistant legislative clerk read as follows:

The Senator from Delaware (Mr. ROTH), for himself and others, proposes amendment No. 1533.

Mr. ROTH. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new section.

SEC. 1058. SENSE OF THE SENATE WITH RESPECT TO CRUDE OIL EQUALIZATION TAXES.

It is the sense of the Senate that the conferees on the part of the Senate shall reject all new taxes imposed under any provision of the Internal Revenue Code added by this Act with respect to crude oil, whether such taxes are imposed through a crude oil equalization tax, a tax on crude oil at the wellhead or a sale of crude oil.

Mr. ROTH. Mr. President, I am today proposing an amendment expressing the sense of the Senate that the crude oil equalization tax not be adopted in any form.

This amendment will put the Senate on record as being firmly opposed to the crude oil tax, and, if adopted, it will send a message to the administration and the House-Senate conference committee that the Senate will not accept the crude oil equalization tax in any form.

The crude oil tax is remarkable in only one sense; that is that it is opposed by the AFL–CIO, the Chamber of Commerce, and Consumer Federation of America, the National Taxpayers Union, and virtually every other group which has spoken out. And well it might be opposed, since it does little or nothing to solve the energy crisis. The Senate Energy and Natural Resources Committee approved a resolution opposing the tax by a 13-to-1 vote, and the Senate Finance Committee rejected the tax by an 11-to-7 vote.

Yet despite this overwhelming opposition to the tax, I am very concerned that the administration and the conferees will approve the crude oil tax in the House-Senate conference committee.

It is no secret—it has been discussed in considerable measure here on the floor—that it is the intention, by approving this bill, to give broad authority to the conferees, first, to approve this crude oil tax and, then, divide it up among enough people so that it will get support from diverse groups.

In fact, the Senate bill contains or will contain broad language which will allow the conferees to approve the crude oil tax and use the revenues from this tax for rebates to oil producers, energy trust funds, and other purposes.

I, for one, deplore and oppose that kind of legislative action. It is wrong. The procedure is wrong and I think the Senate itself should adopt the kind of energy program it believes in, rather than leaving it up to a handful of men.

Mr. President, the reason I oppose the crude oil tax so strongly is that it is wrong for the economy, it is wrong for the country at this time. Make no mistake, this is nothing but a massive tax increase in the guise of an energy tax. Its adoption would impose the largest peacetime tax increase in this Nation's history. This bothers me.

It bothers me very much when we already have in the morning paper, the Washington Post, an article that points out that, already, the social security tax increase the House approved on Thursday would, if enacted, be one of the largest peacetime tax increases in U.S. history. If we impose one on top of the other, I am concerned what is going to happen to this economy, because the provisions of the House bill, if accepted by the Senate, would result in $39 billion in increased taxes on the American economy between 1978 and 1982. If the tax is extended through 1985, as the administration has proposed, there would be a tax increase of at least $91 billion.

The administration has called the crude oil tax "the centerpiece" of its energy program. Yet the fact remains that it will do very little, even by their own admission, to solve the energy crisis.

But the crude oil equalization tax is nothing more than a charade that will siphon billions of dollars out of the economy without producing one new barrel of oil. The administration says the crude oil tax is designed to raise consumer oil prices to the world price level in order

to discourage consumption. But according to every estimate we have seen, this $39 billion tax increase will not result in any significant energy savings.

Besides not reducing our energy consumption, the crude oil tax will discourage domestic energy production. The main reason this country is forced to import an increasing supply of foreign oil is to make up for the energy we are not producing in the United States. And by discouraging domestic oil production, the crude oil tax will increase our dependence on foreign oil and make us even more vulnerable to the OPEC cartel. As the AFL-CIO has pointed out in testimony before the Finance Committee the tax, by increasing the price of domestic oil to the price of OPEC oil, will "delegate to the OPEC nations the power to determine domestic energy prices."

As I said earlier, the crude oil tax is not only wrong for energy, it is wrong for the economy. At a time when leading economists, including some of the administration's own economists, one calling for a general tax cut, it is inconceivable to me that the administration is proposing a tax increase that would take at least $600 from the average family through 1981.

This increased burden will have a devastating impact on the economy. According to four separate economic projections, prepared by Data Resources, Wharton, Chase Econometrics, and the Congressional Budget Office, the administration's energy tax program will result in slower economic growth, higher unemployment, and increased inflation.

Now, there are differing views as to whether the crude oil tax will have any impact on the price of a gallon of gasoline, but some think it may increase it up to 7 cents a gallon.

And it will increase the price of home heating oil, diesel oil, petrochemical feedstocks, and other products by an equivalent amount. The end result would be increased consumer costs for food, shelter, heating, electricity, transportation, and other consumer goods.

As I said, the crude oil tax is distinguished not by its support, but by its opposition. The AFL–CIO told the Finance Committee that—

> The tax would unfairly place the burden of energy conservation and development on our middle-income consumers, workers, and taxpayers.

The chamber of commerce, the Consumer Federation of America, the National Taxpayers Union, and virtually every other group which has spoken out has come out in opposition to the crude oil tax.

I am opposed to the crude oil equalization tax in any form. A crude oil tax which imposes a $39 billion tax increase on all consumers and rebates the proceeds to some consumers is nothing but an income transfer scheme and a ripoff of the middle class which will stop the economic recovery dead in its tracks.

A crude oil equalization tax which imposes a $39 billion tax increase on consumers and rebates a portion to oil producers is nothing but a welfare scheme for oil companies which will provide bundles of bucks for big oil.

In any shape or form, the crude oil tax is wrong. But unless this amendment is adopted, the crude oil tax may be approved by the House-Senate conference committee. This amendment clearly states that the Senate is firmly opposed to the crude oil tax, and it will send a loud and clear message to the administration and the House-Senate conference committee that the Senate will not accept the crude oil equalization in any form.

Mr. President, I yield.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 2 minutes.

Mr. LONG. Mr. President, first, I ask unanimous consent that immediately after the disposition of this amendment that Mr. RIBICOFF, the distinguished Senator from Connecticut, be recognized to call up an amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LONG. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LONG. Mr. President, is this binding on the Senate if agreed to, is it binding on the conferees?

The PRESIDING OFFICER. It is not binding on the conferees, and, as Vice President Barkley used to say, it falls within the category of a pious hope.

Mr. LONG. So what this means is then that the Senate conferees ought to fight and bleed and, if need be, die before bringing a crude oil tax back to the Senate.

The PRESIDING OFFICER. That would be the Senator's interpretation.

Mr. LONG. I ask further, does this mean that if the conferees, having given their all, fighting against the crude oil tax, should find they could have no bill without a crude oil tax, would it still be the part of the conferees to reluctantly bring the crude oil tax back to the Senate?

The PRESIDING OFFICER. It definitely would be.

Mr. LONG. I want to congratulate the Senator for giving the Senate a chance to express its strong feeling about the crude oil tax so that, in the event we are required to bring it back from conference, everybody can know that we realize how strongly the Senate felt about the matter and, if we had to yield, we did so only because we were overwhelmed by the House conferees and had no other choice.

With that understanding, Mr. President, I am ready to vote on the amendment.

Mr. ROTH. Mr. President, how much time——

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Delaware has 5 minutes remaining.

Mr. ROTH. I yield 2 minutes to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas is recognized for 2 minutes.

Mr. DOLE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOLE. Mr. President, if an amendment were offered, not a sense of the Senate resolution, if it were offered to include the equalization tax and it failed, would the vote be binding on the conferees?

The PRESIDING OFFICER. The conferees, as the Senator knows, have a right to include language either from the House bill or the Senate bill.

Mr. DOLE. I think everyone understands that.

The reason I made the inquiry is to point out, even though we offer an amendment which might be defeated, we cannot bind the conferees.

Another parliamentary inquiry: Could the conferees be instructed not to accept an equalization tax?

The PRESIDING OFFICER. They could be so instructed, but such instructions are not binding upon the conferees.

Mr. DOLE. A further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOLE. Is there any way to bind the conferees?

Mr. LONG. Vote down the bill; that will bind them.

The PRESIDING OFFICER. There is no way to bind conferees.

Mr. DOLE. I think that is the general understanding. That is the point the Senator from Kansas would like to make for just 1 minute.

There should not be any doubt in any of the Senators' minds, the conferees will return with the equalization tax.

I pointed out yesterday, if we want the tax, we ought to vote for passage of the bill, or vote not to recommit. Many of us hope it still might be recommitted.

But there is no doubt in anyone's mind, there should not be after what has been said in the last few minutes, that the Senate is headed for an equalization tax.

As the Senator from Delaware pointed out, this tax is massive. It is $91 billion.

He has just indicated what the Washington Post said this morning. It stated that the American public is about to feel the largest tax increases in past history in social security tax. It seems to me that President Carter could lay claim in his first year in office of an incredible amount of taxes on the American people. Perhaps more than any other President. All of these taxes come in 1 year. If we adopt the equalization tax it will be the greatest tax increase in the history of the United States.

The PRESIDING OFFICER. The time has expired.

Mr. ROTH. I yield another minute.

Mr. DOLE. I will just conclude.

The PRESIDING OFFICER. The Senator from Kansas is recognized for 1 minute.

Mr. DOLE. The equalization tax is a tax-raising program.

As the Senator from Delaware pointed out, the unions are against it, the consumers are against it, the business people are against it. The only ones for it are

those who were paid to be for it by the administration.

I do not recall even one witness coming before our committee in support of equalization tax, unless they were somehow working for the administration in support of the equalization tax.

I hope we have an overwhelming vote so that at least there is some indication to the conferees that we oppose the equalization tax.

Mr. ROTH. Mr. President, I will be very brief. First, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second. There is a sufficient second.

The yeas and nays were ordered.

Mr. ROTH. Mr. President, I call to the attention of the Senate a letter I have had placed on the desk of each Senator a few minutes ago, which includes a cartoon showing one man saying: "Sir! The men need more fuel for the winter!" The answer of the administration is: "Quick! Tax the firewood!"

I yield back the remainder of my time.

Mr. LONG. Mr. President, it perhaps serves a purpose to offer the amendment. I certainly respect the right of the Senator to make known his strong feelings about the matter.

While I could not vote for the crude oil equalization tax as the House bill stands, I feel as I believe the majority of Americans do, as expressed in a poll taken by the Columbia Broadcasting System. The people were asked, "Would you favor a tax if the tax were to be used to get more energy?" Seventy percent of the American people said, "Yes," and 30 percent said, "No." That, in my judgment, is about the way the American people feel.

If a tax is going to help solve this energy problem, if it will give us a lot of additional energy or even save us a lot of additional energy, if it is going to achieve something, it might be worth it. But most of us, I believe, felt that just to put the tax on and then refund it in the same amount really would not accomplish much. That is why we find ourselves in the same situation we do.

If the Senate should pass this bill and send some of us to conference, and if I should be one of them, I would take the view with the House that the Senate does not favor the crude oil equalization tax, but I would not take the view that the Senate would not vote for it under any circumstances.

I would take the view that if you could make a package that had enough things in it, which Senators liked, they might be willing to vote for the tax because they thought they were getting their money's worth. That is the only basis upon which I think I could sign a conference report that would bring it back here.

But Senators might feel that under no circumstances, no matter how good an offer we might make, no matter what imagination might go into bringing back a good conference report, they still would not be willing to accept any part of the crude oil equalization tax. If it should come back, they would of course vote it down. That is the way to tell the conferees that under no circumstances would they consider anything. Of course, the Senate has a right to do that. We shall see.

There is no assurance that if the bill goes to conference, any part of the crude oil equalization tax would come back.

What the Senator seeks to do is to help make it somewhat more certain than it is at this moment that no part of it would come back from conference. But the Parliamentarian has advised the Chair, and the Chair has so stated, that this expression would be a statement of the majority view of the Senate at this particular point, but that it cannot bind the conferees.

If we go to conference, we are expected to talk to the House about what the House did. How else could we expect them to talk to us about what we did? So we communicate.

I am not one of those people who require a hearing aid to hear. If I did, perhaps I could accommodate the Senator by turning down my hearing aid when people talk about the crude oil tax. But that is not possible. If the amendment is agreed to, we will take that for what it is worth and for what it is, and we should do the best we can to reflect the view of the Senate, as expressed by this vote as well as all the others.

I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. LEAHY). All time on the amendment has been yielded back.

The question is on agreeing to the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from Alaska (Mr. GRAVEL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Alabama (Mr. SPARKMAN), the Senator from Illinois (Mr. STEVENSON), the Senator from Alabama (Mr. ALLEN), and the Senator from Arkansas (Mr. BUMPERS) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. BAKER. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Utah (Mr. HATCH), the Senator from Oregon (Mr. HATFIELD), the Senator from California (Mr. HAYAKAWA), the Senator from Vermont (Mr. STAFFORD), the Senator from Alaska (Mr. STEVENS), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT) is absent on official business.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) and the Senator from Alaska (Mr. STEVENS) would each vote "yea."

The result was announced—yeas 30, nays 47, as follows:

[Rollcall Vote No. 599 Leg.]

YEAS—30

Abourezk	Glenn	Pearson
Baker	Hansen	Riegle
Bartlett	Heinz	Roth
Bayh	Helms	Schmitt
Bentsen	Johnston	Schweiker
Burdick	Laxalt	Stone
Church	Lugar	Thurmond
Curtis	McClure	Tower
Danforth	Melcher	Wallop
Dole	Metzenbaum	Weicker

NAYS—47

Bellmon	Eastland	Morgan
Biden	Ford	Moynihan
Brooke	Hart	Nelson
Byrd, Harry F., Jr.	Haskell	Nunn
Byrd, Robert C.	Hathaway	Packwood
Cannon	Hollings	Pell
Case	Huddleston	Percy
Chafee	Jackson	Proxmire
Chiles	Javits	Randolph
Clark	Kennedy	Ribicoff
Cranston	Leahy	Sarbanes
Culver	Long	Sasser
DeConcini	Magnuson	Stennis
Durkin	Mathias	Talmadge
Eagleton	Matsunaga	Williams
	McIntyre	Zorinsky

NOT VOTING—23

Allen	Hatch	Muskie
Anderson	Hatfield	Scott
Bumpers	Hayakawa	Sparkman
Domenici	Humphrey	Stafford
Garn	Inouye	Stevens
Goldwater	McClellan	Stevenson
Gravel	McGovern	Young
Griffin	Metcalf	

So Mr. ROTH's amendment (No. 1533) was rejected.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. RIBICOFF. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Pursuant to the previous order, the Senator from Connecticut is recognized.

UP AMENDMENT NO. 1003

(Purpose: To provide for the establishment of an energy production, conservation, and conversion trust fund.)

Mr. ROBERT C. BYRD. Mr. President, I would like to ask the distinguished Senator from Connecticut (Mr. RIBICOFF) if he would be willing to have a time limitation on this amendment.

Mr. RIBICOFF. I would be. May I respond to the majority leader that I believe a number of Senators who would like to comment would like some time. As far as I personally am concerned, a half-hour, 20 minutes, are more than enough for me, but I know there are three or four Senators who would like to comment.

Mr. PROXMIRE. Mr. President, I would like at least 10 minutes.

Mr. JAVITS. Mr. President, I would like 5.

Mr. MOYNIHAN. Mr. President, I would like 3.

Mr. ROBERT C. BYRD. Twenty minutes on a side?

Mr. JAVITS. I think Senator PROXMIRE wanted some time.

Mr. PROXMIRE. Ten minutes.

Mr. JAVITS. If Senator RIBICOFF can accommodate us——

Mr. ROBERT C. BYRD. Half an hour on a side, and I so make that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. I send to the desk an amendment on behalf of myself and the Senator from New York (Mr. MOYNIHAN) and I ask that it be read.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut (Mr. RIBICOFF), for himself and Mr. MOYNIHAN proposes unprinted amendment numbered 1003.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 96, between lines 15 and 16, insert the following:

(b) ESTABLISHMENT OF ENERGY PRODUCTION, CONSERVATION, AND CONVERSION TRUST FUND.—

(1) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Energy Production, Conservation, and Conversion Trust Fund" (hereinafter in this title referred to as the "Trust Fund"), consisting of such amounts as may be appropriated or credited to the Trust Fund as provided in this section.

(2) ESTABLISHMENT OF SEPARATE ACCOUNTS.—There are hereby established within the Trust Fund the Energy Financing Program Account and the Energy-Efficient Transportation Account, each of which shall be separately managed and administered as if each such account constituted a separate trust fund. The Energy Financing Program Account shall encourage conservation of energy and the conversion to and production of energy (other than conventional production of oil and natural gas). The Energy-Efficient Transportation Account shall encourage energy-efficient forms of transportation. Of each amount transferred to the Trust Fund under subparagraph (3), the Secretary shall make allocations between the two accounts in accordance with authorizing legislation enacted after the date of enactment of this Act.

(3) TRANSFER TO TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—

(A) IN GENERAL.—There are hereby appropriated to the Trust Fund amounts determined by the Secretary of the Treasury (hereinafter in this section referred to as the "Secretary") to be equivalent to the sum of one dollar plus the amount of a portion of the net increase in budget receipts resulting from any new taxes not refunded to consumers that are imposed under any provision of the Internal Revenue Code of 1954 added by this Act.

(B) METHOD OF TRANSFER.—The amounts appropriated by subparagraph (A) shall be transferred at least quarterly from the general fund of the Treasury to the Trust Fund on the basis of estimates made by the Secretary of the amounts referred to in subparagraph (A) received in the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(4) Management of trust fund.—

(A) REPORT.—It shall be the duty of the Secretary to hold the Trust Fund, and to report to the Congress each year on the financial condition and the results of the operations of the Trust Fund (and of each Account contained therein) during the preceding fiscal year and on its expected condition and operations during the next 5 fiscal years. Such report shall be printed as a Senate document of the session of the Congress to which the report is made.

(B) INVESTMENT.—

(i) IN GENERAL.—It shall be the duty of the Secretary to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

acquired by the Trust Fund may be sold by acquired by the Trust Fund may be sold by the Secretary at the market price.

(iii) INTEREST ON CERTAIN PROCEEDS.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

(c) Expenditures from Trust Fund Accounts for Energy Projects and Programs.—Amounts in any account of the Trust Fund shall be available, as provided by authorization and appropriation Acts, for making expenditures for the purposes of such account under this section. Nothing in this subsection shall be deemed to authorize any program, project, or other activity not otherwise authorized by law enacted after the date of enactment of this Act.

Mr. JAVITS. Mr. President, will the Senator be kind enough to put me on the amendment?

Mr. RIBICOFF. I ask unanimous consent, Mr. President, that the Senator from New York (Mr. JAVITS) be listed as an original cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CURTIS. Mr. President, who has the time in opposition?

The PRESIDING OFFICER. That was not specified?

Mr. ROBERT C. BYRD. The agreement is in the usual form.

The PRESIDING OFFICER. If the floor manager of the bill is in favor of the amendment then time in opposition would go to the minority leader or his designee.

Mr. CURTIS. All right.

The PRESIDING OFFICER. The Chair assumes that will be the Senator from Nebraska in this case.

Mr. RIBICOFF. Mr. President, briefly I would like to state what this amendment does and what it does not do.

This amendment establishes an energy production, conservation, and conversion trust fund in the U.S. Treasury.

It creates two accounts within the trust fund—an energy financing program account and and energy-efficient transit account. Each account is separately managed and administered.

The energy financing program account is to encourage conservation of energy and the conversion to and production of energy, other than the conventional production of oil and natural gas.

The energy-efficient transportation account will encourage energy-efficient forms of transportation.

Revenue for the trust fund is derived from a portion of the net increase in budget receipts, not refunded to consumers, resulting from any new taxes added by the energy tax bill; the trust fund serves only as an accounting mechanism.

Programs supported by the trust fund must be authorized by the appropriate legislative committees and be subject to appropriations procedure as well as the Congressional Budget Act.

An annual report on the trust fund's financial condition and the results of its operations must be submitted annually to the Congress.

The trust fund will fill the gap between technologies developed with Department of Energy aid and the commercial development of various energy technologies by the private sector.

The trust fund will encourage the development of alternative sources of energy to insure that we will have future energy resources other than fossil fuels.

Programs supported by the trust fund will encourage small, independent concerns to become more active in the development of alternative energy sources.

The trust fund will help implement the GAO's recommendation that funds from the energy tax be used to expand public transportation opportunities to provide alternatives to the automobile.

What the trust fund is not.

It is not an energy corporation;

It does not authorize any program or project;

It does not duplicate on-going research efforts; and

It is not a subsidy for major producers.

Forms of alternative energy to be supported include, for example, solar energy, wind and tidal power, ocean currents, biomass conversion, photovoltaic cells, coal gasification and liquefaction, and geothermal energy.

Transportation programs to be supported include—

Mass transportation by bus, including grants to purchase buses and to construct express bus lanes;

Fixed guideway mass transit;

Commuter rail transportation;

Mass transit terminal and operational facilities;

Repair and maintenance of existing transit systems;

Development of fringe parking areas along mass transit routes;

Construction of bikeways alongside of roads and highways;

A portion of the transportation trust fund could be allocated to States for their energy-efficient transportation programs; and

Operating subsidies not included within scope of trust fund.

Mr. President, I have discussed this amendment with Senators MAGNUSON and CANNON. Following these discussions I would like to clarify that the fund is intended to promote energy efficient transportation, and is not limited to intercity or intracity transportation. In other words, it could conceivably be used to promote busway or commuter train improvements for mass transportation, or it could be used to help intercity buses and rail freight improvements in the intercity area. It is my understanding that, for instance, the Commerce Committee will be considering major new

programs in both these fields in the next year, and it is possible that either or both of them could qualify for use of the new fund that would be created by this amendment.

Mr. President, a serious shortcoming in President Carter's energy tax program is the failure to encourage the production of additional energy. The administration's plan—and the recently revised Senate energy tax bill—fail to stimulate research, development, demonstration, or production of alternative energy sources. An additional flaw in the national energy plan is the lack of meaningful transportation initiatives.

A trust fund could provide loans, loan guarantees, or price guarantees for private energy production or conservation projects for forms other than oil or natural gas. This mechanism would also aid programs designed to decrease the energy consumption of overall transportation systems and encourage the development of the most energy-efficient forms of transit.

An energy development trust fund would primarily finance those projects which are based on proven technology but which require practical demonstration or application to determine whether commercial operation is practical. The trust fund could focus on those projects which may be technically feasible but which are not presently commercially feasible for private investment because of the high risk of loss, or those projects for which the private sector cannot readily obtain financing because of the size of the costs associated with the demonstration of the technology's commercial application. The trust fund would not become directly involved in the operation or management of a particular project. It is only a financing mechanism. It would not build, own, or operate an energy project.

Emphasis should be placed on those alternative forms of energy which are renewable and environmentally benign—such as solar energy, wind and tidal power, ocean currents, biomass conversion, and photovoltaic cells. I recognize, however, that we must also accelerate the development of other energy sources which depend on fossil fuels, such as coal gasification and liquifaction, and oil shale, as well as geothermal energy.

The charge has been leveled that the Federal Government already invests several billion dollars annually in the research, development and demonstration of new energy sources. This is true. The fiscal year 1978 ERDA authorization calls for a total of $6.2 billion for civilian energy research and development. However, almost one-half of this amount is devoted to nuclear energy. Over $800 million is directed to fossil energy while only $393 million is earmarked for solar energy.

It has been reliably estimated that about $1 trillion will be required during the next decade for the development of alternative sources of energy. The private sector alone does not have the necessary capital. Serious long-term work on alternative energy demands greater Government financial support.

The Department of Energy could fund development of various technologies themselves while the private sector could finance the commercial development of those developed technologies which demonstrate economic feasibility. The trust fund could fill the gap between the two to insure that additional technologies would be developed and available in the future.

Revenues from the energy tax bill represent an appropriate and available source of capital for the trust fund. The trust fund can provide financial assistance to the private sector for projects contributing to the development, production, transportation, transmission, or conservation of energy, other than oil and natural gas, if sufficient capital is not otherwise available from other Government sources of the private financial market. These funds would only be available for programs which had undergone the normal authorization and appropriations process.

The energy development trust fund would not preclude the development of regional energy programs. In order that energy production and conservation projects of regional, geographic, and economic significance may be carried out, States should be encouraged to create regional programs for the purpose of promoting the production and conservation of energy. Regional energy activities could plan, expedite and finance projects which specifically relate to the reduction of the cost of energy and increasing the supply of energy in their locales.

Aside from conforming to the normal authorization and appropriations process, the programs funded by the energy trust fund must also be subject to the provisions of the Congressional Budget Act. Further, all research, development, demonstration, and production programs must be fully consistent with the National Environmental Policy Act.

For those programs which have been specifically authorized, the trust fund would also be available for research and capital expenditures, including demonstration projects, for energy-efficient public transportation. Programs could include, but not be limited to, mass transportation by bus, including grants and subsidies to purchase buses and to construct express bus lanes; fixed guideway mass transit; commuter rail transportation; mass transit terminal and operational facilities; and repair and maintenance of existing transit systems. Funds could also be devoted to developing fringe parking areas along mass transit routes and the construction of bikeways alongside of roads and highways. Operating subsidies would not be included within the scope of the trust fund. A portion of the transit trust fund could be allocated for the States for their energy-efficient transportation programs.

Mr. President, the trust fund will help America meet its energy needs and more efficiently use whatever revenues are generated by the tax bill. The General Accounting Office has endorsed the use of tax revenues for improving the energy efficiency of the country's transportation system over rebates for individual taxpayers. The energy development and transportation trust fund will correct a major oversight in the President's energy program. It will provide a mechanism to decrease our dependence on imported petroleum and fossil fuels. Further, a trust fund will stimulate further conservation in the transportation sector and will encourage the development and use of the most energy-efficient forms of transit. We must not forego the potential which the trust fund offers. I urge its adoption.

Mr. MOYNIHAN. Mr. President, will the Senator yield?

Mr. RIBICOFF. I would be pleased to yield to the Senator from New York.

Mr. MOYNIHAN. Mr. President, I have the honor to join in sponsoring this measure with my distinguished friend and colleague from Connecticut.

The Senate is no doubt surfeited with argument on the subject of energy, and I will be brief, my purpose being solely to introduce one datum into our discussion.

We have talked a great deal about conservation of energy, yet it must remain a question in many persons' minds how much can this be done, how feasible it is. Is it a moral exhortation against a realistic option?

I would like to suggest that it is the latter. The State of New York is a large State, the second most populous and certainly extending to every form of settlement, of density, and of terrain. Nevertheless, it has an old tradition of mass transit and public transit—energy efficient forms of transportation.

The results are quite striking. In the United States as a whole, the average citizen consumes 324 million Btu's a year. That is British thermal units—an amount of energy required to raise 1 pound of water 1 degree Fahrenheit.

In New York City, the per capita consumption is 220 Btu's per year. In other words, in New York City, the per capita consumption of energy is 68.2 percent, only two-thirds, of the national average. If, throughout the Nation, we could reduce the average per capita consumption by one-third, the energy crisis would disappear.

I would simply suggest that it is possible to use a very great deal less energy than most people now do, without in any way imposing a sense of emergency or straitened circumstances. New York State now has that experience. It has shown the importance of our energy-efficient forms of transportation. The trust fund which this amendment would provide would make possible the extension of such uses to other States, as well as within New York State—and there is proof, Mr. President, that this is a good idea.

I thank the Senator from Connecticut.

Mr. RIBICOFF. I yield to the senior Senator from New York.

Mr. JAVITS. Mr. President, this is government in operation in this day as it should be, and for this reason: We all recognize that we no longer are a strictly private enterprise society, because average people demand some things that private enterprise alone cannot do. This was Abraham Lincoln's own definition: That when private enterprise cannot do it, or do it as well, government has to play a role.

The fact is that we do not want private enterprise to do everything Senator RIBI-

COFF has described. This is in the highest national interest.

Why? Not only because we are in a serious political situation as far as oil is concerned, not only because we are in a devastating, catastrophic financial situation as far as oil is concerned, but because the oil is running out. There is no question about that fact, and we are not here to talk in terms of tomorrow, but in terms of decades, perhaps centuries hence, for our country. Oil is running out. In 20 or 30 years it will be obsolescent, even in Saudi Arabia.

So, Mr. President, in order to think ahead, we have to do what Senator RIBICOFF suggests somehow, either through private enterprise, which we have depended upon for generations, or through government, or through both.

The point is that with the capital required today, and the inability to raise it except at very high rates or on very high expected profits, or by inducements which we ourselves are making—we have already passed amendments respecting oil shale and other things, to provide inducements for conversion to coal, et cetera—instead, therefore, of speculating that these inducements, which we would have to give and pay for, or plow back to the private enterprise companies which are engaged in these activities, will produce what we want, we are putting ourselves in a position—and I emphasize that word, because the amendment is intelligently drafted toward that end—we are putting ourselves in a position to have the Government help, join, be a partner, be a joint adventurer, and do it alone, if necesssary, in order to serve the national interest in supplying these renewable sources of energy; and, as Senator MOYNIHAN has quite properly pointed out, in supplying also the means for more efficient transit than these hordes upon hordes of automobiles with one passenger. We talk about gas guzzling, Mr. President; this is one of the most criminal and shameful wastes on the part of the country, which we have corrected somewhat because the Northeast is a smaller place, but we still have an awful long way to go in the rest of the country.

In addition, and this should very much appeal to our younger people, Mr. President, we must contemplate the day of the moving sidewalk, the mass transit vehicle that rides on air, the monorail, and all the other Buck Rogers things we have talked about, because they have got to be here. The times demand it. We cannot survive unless we do it, whether it is environmentally, from the point of view of sources of energy, or the need for supplying a world population which is very likely to double in the next 100 years.

So, for all those reasons, and because this amendment is very carefully drafted and crafted, what will go into the trust fund for these purposes will only be what we can afford to put into it, and we have a veto at every stage, as well as the affirmative opportunity to put money into this trust fund or not to put it into the trust fund. It is a very gifted idea, Mr. President, absolutely essential to the future as we look into the future.

Instead of being moles, for a change we ought to be eagles. That is the reason for adopting this amendment, which I hope very much the Senate will show its confidence in our own future by adopting.

Mr. CURTIS. Mr. President, I yield 4 minutes to the distinguished Senator from Montana (Mr. MELCHER).

Mr. MELCHER. I thank the distinguished Senator from Nebraska for yielding to me.

Mr. President, I am not sure that I want to intrude——

Mr. KENNEDY. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. MELCHER. I yield.

The PRESIDING OFFICER (Mr. DOMENICI). The Senator will state it.

Mr. KENNEDY. Could I ask, Mr. President, who is handling the time in opposition to this amendment?

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. CURTIS. How much time does the distinguished Senator want?

Mr. KENNEDY. What is the time limitation on the amendment?

The PRESIDING OFFICER. The Senator from Nebraska has 30 minutes.

Mr. CURTIS. I have yielded 4 minutes, and have committed 10 minutes to the distinguished Senator from Wisconsin (Mr. PROXMIRE).

Mr. KENNEDY. Well, I would like 8 minutes, then, from that time.

Mr. CURTIS. Very well.

Mr. MELCHER. Mr. President, I am not sure I want to intrude with facts about coal on this very fine theory of setting up a trust fund for so many meritorious causes. But the distinguished Senator from Connecticut, in describing his amendment, mentioned two possibilities of new technology with coal: coal gasification and coal liquefaction. At that point, I think I should bring forward some relevant facts.

My State of Montana is the State with the greatest coal reserves of any of the 50 States, and we have long looked at what coal liquefaction or coal gasification might mean in our State. There are no processes yet that produce products from coal, either through liquefaction or gasification, that are economically feasible at this time. So the argument might be made that we need to put more money into it and hasten on with the products.

But, regrettably, what is being ignored with coal is the technology for MHD, magnetohydrodynamics. That is a technology that is being pursued through ERDA, and it is the most promising technology for coal. It means conservation of the greatest magnitude, because out of every ton of coal there would be 40 percent, or 50 percent, greater efficiency in generating electricity, 40 to 50 percent more kilowatts of electricity from a ton of coal. It means a solution to how much water would be used in the generation of electricity through the use of coal, because MHD would use very little water and, on the other hand, coal gasification would require large amounts of water, and that is a serious difference for any Western State, particularly our State of Montana.

What I am afraid the trust fund would do would be to further fragment our efforts in the coal technology field.

Mr. RIBICOFF. Mr. President, will the Senator yield on my time?

Mr. MELCHER. Yes, I am delighted to yield, because I think it is a serious point.

Mr. RIBICOFF. I was giving examples of what the trust fund could be used for. There is nothing in this particular amendment which says what specific programs are included. I was just giving examples. What will be included under the trust fund will depend on what is authorized by the Energy and Natural Resources Committee, the Environment and Public Works Committee, or the Commerce Committee. I was just listing a few of the examples of where the trust fund could help produce more energy. That does not mean that it is exclusive in any respect. It does not mean that the trust fund cannot be used for coal gasification, magnetohydrodynamics, or any other process. That would be subject to the authorizing process and the appropriations process. The proper committees, after hearings, would make a determination as to what allocation would be made to the trust fund.

Mr. MELCHER. Would the Senator yield for a question?

Mr. RIBICOFF. Yes.

Mr. MELCHER. The amendment has not yet been made available.

Mr. RIBICOFF. I will be glad to supply the Senator with a copy.

Mr. MELCHER. Will the Senator explain what the amendment seeks to do in terms of loan guarantees or in the nature of a subsidy to private industry for any of these processes connected with coal?

Mr. RIBICOFF. There is general language without indicating how that would be done. If there were loan guarantee provisions it would have to go to Senator PROXMIRE'S committee for the terms. It would be within their jurisdiction.

If it came to the question of authorizing types of transportation it would go to either Senator RANDOLPH'S committee or Senator MAGNUSON'S committee.

If it came to using parts of the trust fund for alternative sources of energy, it would go to Senator JACKSON'S committee.

All we are doing is setting up two basic accounts in the Treasury whose net resources would be derived from any taxes which would be raised.

If there was anything remaining in that tax account—there would be two accounts in the Treasury—then the proper committees in the Senate, through the authorization and appropriation process, would make a determination as to the proportions and the specific uses.

We do not foreclose the proper committees or the Congress from the allocation and utilization of funds. That will be done by this whole body after the proper committees of the Senate make their determination.

Mr. MELCHER. Will the Senator yield for one more question?

Mr. RIBICOFF. Yes.

Mr. MELCHER. This section of the amendment says that any obligation acquired by the trust fund may be sold by the Secretary at the market price. I as-

sume this means the Secretary of the Treasury. Does that mean that the Secretary would be selling obligations under his own authority, or is the Senator reassuring me that that authority could only be granted through some authorizing committee of the Congress?

Mr. RIBICOFF. Perhaps Senator PROXMIRE can follow this, but when the Secretary of the Treasury holds funds belonging to the United States in trust he makes investments in accordance with the law and restrictions as to how the Treasury sells obligations. That would have to come through Senator PROXMIRE's committee, I believe.

Mr. MELCHER. I thank the distinguished Senator. He has greatly enlightened me on the purpose of this amendment.

My greatest fear is that by adopting an excellent theory we might further fragment our research and development for energy which is now underway. We have had too much fragmentation as it stands now. I would be delighted if, in this amendment, if it is to be adopted, it is explicit to prevent further fragmentation of the necessary research, engineering, and development programs. In particular MHD research development needs advancement coordination and emphasis.

Mr. RIBICOFF. I want to point out that while some of the Members of this body have been unhappy with this proposal concerning the jurisdictional aspects, there was very close consultation between the Finance Committee, the Joint Taxation Committee, Senate legislative counsel, Miss Elinor Bachrach of the Senate Banking Committee, Mike Harvey of the Senate Energy and Natural Resources Committee, and Howard Shuman, Senator PROXMIRE's administrative assistant.

Even today I had further consultations With Senator PROXMIRE. He pointed out some problems which he had. Even though he did not like this proposal, he did insert in this amendment language which would assure Senator PROXMIRE that the objectives we were trying to achieve were actually the objectives which this amendment would achieve if adopted by this body.

Mr. MELCHER. I thank the Senator for his further remarks.

I wanted only to make that point, that if this is adopted, whatever the final goal is we are pursuing in greater energy research and development, we do not allow ourselves to have further fragmentation with a less effectiveness and greater delay.

Mr. PROXMIRE. Mr. President, will the Senator from Nebraska yield 10 minutes?

Mr. CURTIS. I yield 10 minutes.

Mr. PROXMIRE. Mr. President, I oppose this amendment. It is wrong in principle and wrong in practice. I recognize under the circumstances the amendment has been virtually accepted because of the defeat of the Jackson amendment offered earlier with respect to section 1054 of the bill.

First, Mr. President, I would like to say that the Senator from Connecticut has been extremely fair, accommodating, and helpful in eliminating any question of jurisdiction here. That is no longer a problem. As the Senator said, and he is absolutely correct, the language now on page 4 of the amendment makes it clear that the Senate Banking Committee, Energy Committee, the Senate Appropriations Committee, other committees, will retain their jurisdiction in full. There is no encroachment here at all.

Nevertheless, Mr. President, I am against this for a number of reasons. We should understand that there is nothing, really, in this provision for research and development. Research and development is taken care of separately. We have a $6 million agreement for fiscal 1978 in ERDA for research and development. Six million dollars a year over the next 8 years will be $48 million in that area.

This amendment provides something else. This provides investment in those technologies which probably otherwise would not be funded.

Mr. President, that sounds pretty good but let us see what we are doing. We are segregating a part of the revenues of this Government so they will go into investment in the energy industry. All the studies I am going to indicate in a minute indicate that that is not needed. What it means is that these funds will not go into housing, they will not go into health, they will not go into education, they will not go into defense. They are segregated specifically for energy investment in marginal projects.

Mr. President, last year our committee held extensive hearings on the so-called Rockefeller $100 billion proposal. We could not even find support for that proposal in the industry itself. The Bankers Trust Co. study and a study by Duesenberry and Bosworth, two of the finest economists in the country, indicate that the funds available for investment in energy would be ample to do the job that we needed over the next 10 years.

What this really would do would be to provide for marginal projects which could not make it in the free market.

Mr. President, what this would do is to give Federal aid to put technologies on line and into production on a commercial scale. Here is the way it would operate. The Energy Finance Corporation would say to the businessman:

> Take this technology which has been developed with Government money and demonstrated with Government money and then take a few million or billion dollars more in Federal financing and put the technology into operation and sell the product to the public. If it makes money, you will get rich. If it does not make money, the Federal Government will absorb the losses. Either way you will be ahead of the game.

Mr. President, this amendment with its promises and implications—if it comes to our committee we have to approve it, and, if we have the funds available, knowing what I know from the past, I think it would go ahead with the funds—the loan guarantees and the like, would be a real bonanza for private industry. It would require that the revenues raised by energy taxes would go into a trust fund, to be used for financial assistance to energy concerns for energy projects.

There is no language to require a reasonable return to the public on its investment. All of the testimony we had from the most expert people we could get on all sides of the subject, over a period of many days in our committee. and we have several hundred pages of testimony, indicates an overwhelming opposition. The feeling was that this would not help us get more energy, but get less. Why? Because the projects which would be financed would be the marginal projects, the projects which could not make it on their own.

If there ever was a time when an industry had plenty of cash flow and is going to have plenty of cash flow in the next 7, 8, and 9 years, it is the energy industry. We have been providing the basis for much higher prices in the energy industry. That means, of course, they will not only have high profits, and I commend those profits as I think they are essential and necessary, but they will have the profits to do the job efficiently, according to market tests.

Mr. President, as I said earlier, I am opposed to the amendment offered by the Senator from Connecticut and I urge that the Senate reject it. This amendment would establish an energy production, conservation, and conversion trust fund for the purpose of receiving the proceeds of any new taxes approved by a House-Senate conference committee and channeling them into various types of financial assistance for unspecified energy projects. The amount of money involved is not specified either, but it could run to $40 billion or more.

I understand that what the Senator really wants to do is establish an Energy Finance Corporation similar to the $100 billion Energy Independence Authority proposed a couple of years ago by former Vice President Rockefeller. This is not wholly clear, since the language of the amendment is rather sketchy. But I judge from the remarks the Senator made in hearings at which Rockefeller testified and from the original text of the bill marked up by the Finance Committee that this is what he wants to end up with, either on the Senate floor or in conference.

Mr. President, the proposed amendment has the potential of becoming a massive giveaway to big business for risky energy projects that could well cost the taxpayers billions of dollars. It would be a grave error for the Senate to accept any amendment that could lead to the establishment of a Rockefeller-type energy corporation without lengthy and careful consideration of all the issues involved.

The Committee on Banking, Housing, and Urban Affairs, which I chair, held hearings on the Rockefeller bill last year. So far as I know, we are the only Senate committee to have given any formal consideration to this proposal, and our hearings were in the nature of an overview of the subject.

I can say right now that we found a host of problems with the bill and with the whole concept of a Government-funded energy development corporation.

It would give large Federal subsidies to high-cost, high-risk energy projects which the private capital markets will

not touch, because they may never earn a profit or even a return on the initial investment.

It would be a payoff, and in some cases a bailout, for big businesses—especially the oil companies and the nuclear power industry—which are involved in the development of new energy sources already.

It would drain capital away from other essential needs, such as housing, agriculture, and small business.

It would allocate scarce Federal credit resources for need which can be met in the private markets without any Government intervention. Studies by Bankers Trust Co. and by noted economists Barry Bosworth and James Duesenberry have shown that there will be sufficient credit available in the private sector to meet energy investment needs through 1985 without resorting to Federal aid.

As conceived by the former Vice President, it would have been a multibillion-dollar blank check. The proposed corporation could fund almost any type of energy project, give virtually any kind of financial assistance, with very few conditions and no cost-benefit analysis. It would be outside of the Federal budget, beyond the scope of effective congressional oversight, not subject to the Freedom of Information Act, and not clearly constrained by environmental or other regulatory safeguards.

Mr. President, the Banking Committee did not take any further action on the energy independence authority bill following the hearings because we found so much opposition to the proposal in the testimony of witnesses and because we had so many reservations about it ourselves. Now the Senate is being asked to approve a similar measure by the back door—without full hearings, without a detailed text, and without any consideration by the committees which have jurisdiction over energy and financial aid programs.

When we protest, when we ask questions, we are told that all of our concerns about these issues—about the trust fund to force tax revenues to be spent only for energy projects, about a potential energy corporation—we are told that all of these concerns will be addressed and answered in conference, in a conference with the House in which very few Senators will participate.

This is unacceptable. Passage of this amendment would be an abdication of the Senate's responsibility for making energy policy.

SENATE SHOULD NOT BUY A "PIG IN A POKE"

Mr. President, I believe strongly that the Senate should not buy a "pig in a poke," especially not one with about $40 billion worth of fat on it. And that is just what this trust fund amendment is—a great, hefty pig in a poke.

The energy tax bill now pending in the Senate does not raise any revenues, so there is nothing in it to make up a trust fund. If the Senate were to adopt a trust fund provision, this would indicate a willingness to accept in a conference report some unspecified taxes which the Senate has not considered or voted on.

The amendment offered by the Senator from Connecticut does not spell out in any detail the uses to which the funds collected in the trust fund will be put. It is a backdoor authorization and appropriations measure which attempts to lock the committees with jurisdiction over energy, financial aid, and mass transit into massive new programs. The proper way to encourage new energy resource development is through the normal authorization and appropriations process, where specific program and funding proposals will be considered carefully on their merits by committees with experience and expertise in these matters.

The amendment does not even show who would be empowered to spend the moneys collected in the trust fund. It simply gives certain administrative authority to the Secretary of the Treasury.

The Senator from Connecticut states that all these matters will be resolved in conference with the House. Thus he is asking us to give him carte blanche to sign the Senate's name to a massive energy financing measure it will have had no hand in shaping, developed in the course of a conference in which few Senators will take part.

AMENDMENT WOULD VIOLATE AUTHORIZATION AND APPROPRIATIONS PROCESS

Passage of this amendment would circumvent the authorizing process and infringe on the jurisdictions of both the authorizing and appropriations committees. If the Senator has his way in conference, then I believe this trust fund will come back to us loaded down with vast sums of money earmarked for energy production and various other purposes. This would intrude directly into the jurisdiction of other committees of the Senate, notably the Energy Committee and the Banking Committee. It would tell them what money they are to spend and for what purpose, and perhaps even who is to get the money. These committees would be handed a fait accompli and told—here is what you get; you fill in the details. This is contrary to Senate procedure, and very much contrary to the public interest as well.

Establishment of a trust fund along the lines indicated would distort the budget process and impede the conduct of fiscal policy. Leaving aside the arguments about how the bill before us violates the Congressional Budget Act, which have been ably presented by my colleagues on the Budget Committee, I would point out that channeling revenues into a trust fund earmarked for specific purposes interferes with the whole notion of a budget process. Energy programs should be made to compete with all other programs for budget allocations, so that priorities can be set according to needs. There is no logical match between revenues raised by a particular energy tax or taxes and financing needs in the energy area. If there is a pressing need for more financial assistance to business concerns for energy production, as the Senator from Connecticut suggests in this legislation, then Congress will take care of this need through the normal authorizing and appropriations process.

Furthermore, I see no provision in this amendment to return any unused moneys in the trust fund to the general fund of the Treasury. This means one of two things. Either Congress will be forced to authorize and appropriate the expenditure of all the revenues accruing to the trust fund in any given year, whether or not this is wise, or else there will be problems for fiscal policy and for the economy.

To the extent that funds remain in the trust fund unexpended, then the amount of the budget deficit will be overstated, the impact of Government spending will be lessened, and there could be a dampening effect on economic growth.

AMENDMENT WOULD CREATE AN ENERGY "WHITE ELEPHANT" BANK

Mr. President, these are some of the procedural and conceptual reasons for opposing the amendment offered by the Senator from Connecticut, and I think they are matters for great concern. But let us not lose sight of the fact that there is ample reason to oppose the amendment on the merits as well. Of course, it is a little difficult to evaluate the proposal on its merits since we have so little in the way of substantive language before us. However, we do have the Rockefeller bill as a guide to the intended merits. So let me discuss in more detail the problems the Banking Committee uncovered in its 3 days of hearings on the Rockefeller bill:

The intent of that bill, and of the trust fund/energy corporation proposal is to provide billions of dollars in Federal financial assistance to meet the presumed capital needs of the energy industry. However, as I mentioned before, the Bankers Trust and Bosworth-Duesenberry studies concluded that there will be sufficient capital available in the private markets to meet the financing needs of the energy industry over the next decade. Thus there is no demonstrated need for Federal Government intervention in energy financing.

Moreover, there is no evidence that private industry is failing to invest in energy and energy-related projects. Quite the contrary, the energy industry is booming. Thus it is probable that Federal financing would substitute for, rather than add to, the supply of capital available for energy needs. In other words, it would take private business off the hook and enable them to replace their own capital with handy, risk-free Federal aid programs, and all their implicit and explicit subsidies.

What this legislation would do is channel funds into the risky, marginal energy projects which cannot get financing in the private market. This was made clear in the original language of the Finance Committee bill, which provided financing only for the type of project which "could not receive sufficient funding upon commercially reasonable terms or conditions from other sources to make such project commercially feasible."

Mr. President, here we have the heart of the bill, and the heart of the problem. The intent is to provide a Federal handout—or a Federal bailout—for a lot of high-cost, high risk energy proj-

ects which the private market will not touch. Instead of conforming to the discipline of the market, these projects will get a free ride from Uncle Sam. And the probable result is that the taxpayers will end up paying the tab for billions of dollars in losses from ill-conceived investments that have gone bankrupt.

Mr. President, we should not blunder into this type of program through the back door, through voting for a trust fund that will be converted into an energy "White Elephant" bank. In my view, we should not do this by the front door either, but it is for sure we should know what we are doing and look before we leap.

There are other problems with this proposal, as with its predecessor, the Rockefeller bill. The types of financial assistance that could be offered are very broad, virtually unlimited. The Finance Committee bill referred to financial aid "including, but not limited to, loan guarantees, price guarantees, and loans." Many types of aid are fraught with problems. Price guarantees, for example, are intended to insure that the project can be profitable when it comes on line, by providing that the Federal Government will make up the difference if the production cost is higher than the market price. This could obligate the Government to pay billions of dollars in subsidies for indefinite periods of time to private companies which may never be economically viable.

The types of projects which could receive assistance are similarly broad. The Finance Committee bill referred to "projects involving energy development, production, transportation, transmission, distribution, or conservation," and it also included a separate fund for mass transit.

Potentially, the Congress would be authorizing an independent corporation to invest huge amounts of Federal aid in virtually any type of project it chose. And if the model of the Rockefeller bill were followed, then that corporation would not even be in the budget. It would escape all of the normal oversight processes that other Federal programs are subjected to. Thus we would, in effect, be giving a priority to energy projects at the expense of other vital needs of the society, such as housing, agriculture, and small business.

Once again, Mr. President, I have to make the point that this amendment cloaks an effort to make an end-run around the authorizing committees, and perhaps even around the express will of the Congress. The idea is to create an independent agency, free of budgetary constraints, with a mandate to finance projects which are too risky and too expensive to get preferential financing in the private markets.

We have no evidence that private companies will refuse to fund an expensive project if they think it will make them some money. Look at the Alaska pipeline, which was entirely privately financed, to the tune of $7 billion.

Nor is there any reason why Congress cannot—or more importantly should not—consider financing certain high-cost projects on a case-by-case basis. Given that we spend months debating the terms of a multibillion dollar health or public works program, why should the Senate surrender its right and responsibility to deliberate carefully on the merits of a multibillion dollar energy project.

Let us take an example. Time and again, we have been told that an energy finance corporation could give aid for synthetic fuels development, that is, for coal gasification plants or an oil shale operation. These involve investments of a billion dollars or more; the state of the technology is questionable; and the projected per unit price when the plants come on line is far above the projected price of existing fuels. So they would certainly meet the "white elephant" criteria in the bill.

Well, the fact is that Congress has already considered at length and rejected, in the last Congress and the one before it, a synthetic fuels loan guarantee program running into several billions of dollars. Whether my colleagues agree with it or not, that was the decision of the House of Representatives—to reject a synthetic fuels loan guarantee program. And now we are being asked to make an end run around the Congress, an end run around the House of Representatives, to put in place an energy financing corporation that can give the synfuels industry all the money it needs without any discussion or any sign-off from Congress. There is no question in my mind that we should reject any effort to do this.

IS IT NEEDED AND WHO WILL BENEFIT?

Mr. President, at this point we have to ask some very basic questions: do we need legislation providing massive amounts of new financing for alternative energy projects, and who will benefit from the passage of this legislation?

As regards the latter question, the answer is clear. The beneficiaries will be the major oil companies.

True, the financing provided through the trust fund (and/or) corporation) is intended to go for new, alternative sources of energy, such as oil shale and coal gasification, and not for conventional oil and gas production. However, as a recent study prepared by the Library of Congress for the Church Subcommittee of the Energy Committee revealed, the oil companies hold large and often predominant interests in the development of nonpetroleum energy resources. Here are some of the figures the study provided for the 20 top oil companies:

They hold all of the four oil shale leaseholds awarded in 1974, which are the first ones awarded in 44 years;

At the present time, they appear to be predominant in the geothermal energy field, in terms of both development activities and land holdings;

They control close to half of the known uranium reserves and uranium milling capacity; and

They hold 11.8 percent of total coal reserves. Furthermore, the study points out that the addition of coal reserves held by other oil companies would increase this number, since at least five of the smaller oil companies are among the top 20 coal reserve holders.

So there can be no doubt that much of the financial assistance that would be provided by this amendment would go straight to the major oil companies, to do with the government's money what they are already doing on their own.

Now, is this financing really needed? I strongly doubt that it is. The Federal Government is already pouring huge amounts of money into energy development. For fiscal year 1978, the Congress has appropriated $6.2 billion for energy, research, development, demonstration, and related activities. That is a great deal of money. To give an example, it is almost twice as much as we spend for community development block grants, which go to States and cities throughout the country. And this is all direct spending by the Federal Government. Some of the work is done in-house, but much of the money goes to private companies under contract with the U.S. Government.

Just to give some basis for comparison, I have here a study done by the Library of Congress which shows that—calculated in today's dollars—the U.S. Government is spending more now on a yearly basis for energy research, development, and demonstration projects than it spent on the World War II Manhattan project or on the Apollo space project. Let me quote from that study. It points out that the fiscal year 1978 energy fur ding is "at a level at least one-third greater than the Manhattan project at its 1944 peak, and 40 to 60 percent as great as the entire NASA program (not just Apollo) at its 1965 peak. Furthermore, the U.S. E.R.D. & D. program has been on a rapidly rising trend for several years, increasing from $0.67 billion in fiscal year 1973 to the anticipated $4 to $6 billion in fiscal year 1978—an increase of sixfold to tenfold in 5 years, which is an annual compounded growth rate of between 43 and 55 percent."

Mr. President, I ask that the full text of the CRS paper be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PROXMIRE. The amendment offered by the Senator from Connecticut would go way beyond the energy research, development, and demonstration programs, and way beyond the $6 billion the Federal Government is already going to spend. The primary purpose of the Rockefeller bill, and presumably of the amendment, is to provide financing for the commercialization of new energy technologies. It is to give Federal aid for bringing these technologies on line and into production on a commercial scale. As I see it, the Energy Finance Corporation would say to the businessman: Take this technology, which has been developed with Government money and demonstrated with Government money, and then take a few million or billion dollars more in Federal financing, and go put the technology into operation and sell the product to the public. If it makes money, then you will get rich; and if it does not make money, then the Federal Government will absorb the losses. Either way, you will be ahead of the game.

Mr. President, this amendment, with its promises of loan guarantees, price guarantees, equity investments and the like, could be a real bonanza for private industry. It would require that the revenues raised by energy taxes go into a trust fund, and that the trust fund be used for financial assistance to business concerns for energy projects. But there is no language to require a reasonable return to the public on its investment, no language to limit the profits that may accrue the private industry from these Government subsidies, and no language even to require the business concerns to pay back the money they get from the Federal Government through price guarantees or what have you, if indeed they are ever in a condition to pay it back.

It would be a disaster for the Senate to approve this amendment. The costs to the taxpayer are potentially enormous. The benefits to be gained are questionable at best, and what is still more questionable is how much of them would flow to the taxpayers. It is my belief that this measure, if enacted, is more likely to enrich big business at the taxpayers' expense.

SENATE SHOULD NOT HAND OVER A BLANK CHECK

Mr. President, the Senator from Connecticut is asking the Senate to hand him a blank check. And I do mean a really blank check. No dollar figure written down, no date, no name of the bank, and no name of the recipient. The Senator wants us to give him a blank sheet of paper with just a signature at the bottom—U.S. Senate. Then he intends to take that sheet of paper with him to conference and get the signature of the House of Representatives too. There he is confident that he can write in the dollar figure and the date and the administrator and probably even the names of the people who are going to get the money, more or less.

So this is the game plan. The Senator will bring back to us, he says, a neat package containing some of the revenues raised by the House bill—which is **not** even before the Senate—and his own energy financing vehicle which the Senate has not considered in any detail whatsoever.

Mr. President, I urge once again that the proposed trust fund amendment be rejected.

If we come in with this kind of project, Mr. President, we are going, in my view, to have not less energy, as I say, but more, at great cost to the Federal Government. I think it is a mistake. Nevertheless, let me say in conclusion that, as I said, we acted the day before yesterday, I believe, on the Jackson amendment that would have knocked out the providing funds for energy investment. That was defeated by, I think, a 56-to-38 vote. Having suffered that defeat, it seems to me that this is a reasonably logical way to move.

It does protect the jurisdiction of the various committees. It does provide that the funds in the section we preserved by that Jackson defeat, unfortunately, will move into a trust fund and be handled in a reasonable way under the circumstances.

In view of the fact that the Senate has spoken, I do not expect to ask for a rollcall vote on this. But, Mr. President, I wanted to make the record that I think it is a serious mistake. I do hope our conferees will consider this when we go to conference.

I yield the floor and yield back the remainder of my time.

EXHIBIT 1

FEDERAL FUNDING OF MANHATTAN, APOLLO, AND ENERGY RESEARCH AND DEVELOPMENT

Occasionally it is desired to compare the rates of funding, and the total funding, for the WW II Manhattan project and the Apollo space project, with rates of funding and total funding for energy research, development and demonstration. The following information is provided to facilitate such a comparison.

The total expenditures for the Manhattan Engineer District (Manhattan project) 1942 through 1946, were $2,191,000.[1] The peak annual funding occurred in 1944, in which $939,395,000 were expended. Thus, at its peak, the Manhattan project expended a little less than $1 billion annually. At today's prices, this would amount to about $3 billion annually.

Total appropriations for the National Aeronautics and Space Administration (NASA) for fiscal years 1959–1977, amounted to $64,656,400,000.[2] The peak annual funding for NASA occurred in FY 1965, and amounted to $5,250,000,000. At 1977 prices this translates to about $10 billion. However, the Apollo program was not as large as the entire NASA budget. NASA estimated the total cost of the Apollo program at about $25 billion, up to about 1970 at which time the program was essentially completed.

For comparison, the FY 1978 budget for the Energy Research and Development Administration (ERDA) which President Carter requested of the Congress in February 1977, included a subtotal of $3,921,000,000 for budget authority in Energy Research, Development and Demonstration (R, D and D). Both the President and committees of the Congress have proposed changes in this request subsequently.

The conference on FY 1978 ERDA authorizations approved about $6 billion for civilian energy R, D and D, and related activities. Thus 't has been proposed that the U.S. Government spend annually for these purposes at a level at least one-third greater than the Manhattan project at its 1944 peak, and 40–60% as great as the entire NASA program (not just Apollo) at its 1965 peak. Furthermore, the U.S. Energy R, D and D program has been on a rapidly rising trend for several years, increasing from $0.67 billion in FY 1973 to the anticipated $4 to $6 billion in FY 1978—an increase of six- to ten-fold in five years, which is an annual compounded growth rate of between 43% and 55%.

In addition to the above comparisons based on the currently proposed expenditure rate for Energy R, D and D—and the peak rates for Manhattan and Apollo, we have summed the total operating expenditures of the Atomic Energy Commission and the Energy Research and Development Administration from FY 1948 through 1977 for both civilian and military applications. This amount is $60,219,000,000. Translated to today's prices the amount is about $102,000,000,000. At current prices, the total spent for development of all types of nuclear and nonnuclear energy (post WW II) is about $102 billion;[3] the amount for development of nuclear weaponry alone in the Manhattan project is about $6 billion; and the amount for development of all forms of space research and exploration is about $104 billion.

Given this history, it seems appropriate to state that the civilian U.S. Energy R, D and D effort already exceeds in absolute level of activity the Manhattan project both cumulatively and at its peak, and nearly matches and will probably soon match the absolute level of activity of the Apollo program both cumulatively and at its peak. The civilian energy R, D and D program is still a somewhat smaller proportion of the total U.S. national income than were Manhattan and Apollo in their times, but the differences in the proportions of contemporaneous national income are not extreme.

Mr. CURTIS. Mr. President, I yield to the distinguished Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts (Mr. KENNEDY).

Mr. KENNEDY. Mr. President, I rise to express opposition to this amendment. I am interested in one particular aspect of the amendment. If it is accepted, it will provide resources for the development and production of alternative sources of energy, with the help of investments by the Federal Government. I would be interested in knowing who is going to own the patents—whether we are going to reserve any public interest in them, since American taxpayers' money is going into this program.

As the chairman of the Antitrust Subcommittee, I am also extremely interested in how this amendment affects the free enterprise system.

Mr. RIBICOFF. If I may respond, all we do is create the trust fund. The allocation of resources from the trust fund and the conditions upon which the trust fund will be used will be completely within the jurisdiction of the authorizing committees. We were very careful to make sure, after working this out with Senator PROXMIRE, Senator JACKSON, and Senators MAGNUSON and CANNON, that we were protecting each committee's jurisdiction. As the chairman of the Banking Committee pointed out, while he is unhappy with it, he does recognize that there has been no infringement whatsoever on the jurisdiction of his committee. So if it came to terms of loans or guarantees, Senator PROXMIRE's committee would have to make that decision.

Mr. LONG. Will the Senator yield on that point?

Mr. RIBICOFF. I yield.

Mr. LONG. I say to the distinguished Senator that I would be happy to join with the Senator from Massachusetts in saying that if anyone gets a loan or loan guarantee, if he holds a private patent, he would have to pool it with anybody else who might be in the same area and he could charge no more than a reason-

[1] Richard G. Hewlett and Oscar E. Anderson, Jr. The New World, 1939/1946 [Volume 1, A History of the United States Atomic Energy Commission], University Park, Pennsylvania State University Press, 1962. 766 p. See appendix 2, p. 723–724.

[2] CRS summary, available on request.

[3] U.S. Library of Congress. Congressional Research Service. Science Policy Research Division. Selected Atomic Energy Commission and Energy Research and Development Administration Expenditures—FY 1948 Through FY 1977 [by David Bruce Hack]. March 14, 1977. 5 p.

able fee. I would be happy to support an amendment, or even offer it myself, to say that.

Mr. KENNEDY. Does that also include sharing in the profits? The amendment establish a trust fund with all kinds of possibilities for commitment of funds.

Mr. LONG. Let me tell the Senator one thing I would like to do if this becomes law. I am not saying it here, because we are trying to get a trust fund established. But we have a provision in the Trade Act where, if someone is run out of business by foreign competition and if the Government guarantees a loan to try to create a new payroll, a preference would be given to firms which make available 25 percent of the stock to employees. I would favor, personally, that kind of concept for anyone who gets a loan guarantee for a new company. I wish we had had that in the Reconstruction Finance Company Act in World War II. If we had, companies like Kayser, Reynolds, and various others, would be at least 25 percent owned by the people who work for those companies. I like that idea.

I also would support the Senator in a measure where, as to someone who does not already have a patent, if he develops it under a Government-guaranteed program, the patent rights would have to be in the public domain.

I have tried to advocate that for years and did not get as far with it as I would like to. I have been guiding a few laws but I have been very disappointed. I hope the Senator, as part of that Judiciary Committee, would help to push that concept. That, to me, is a very good thing. If he wants my help, just send for me.

Mr. RIBICOFF. If the Senator will yield, the staff of the Energy and Natural Resources Committee pointed out to me that in 1974, in creating ERDA, for developing the nonnuclear forms of energy, provisions were made in the act to arrange for pooling the patents and technology and that the same method could be followed in any provisions under here. But again, I point out that the conditions would be the conditions established by the Energy Committee. The trust fund does not do it. If they follow their past precedents of the 1974 act, they would take care of the problem that concerns the Senator from Massachusetts.

Mr. KENNEDY. I certainly feel that the public ought to share as well in the profits. We may be opening up a very interesting partnership here between the oil and gas companies and the Federal Government. It will be interesting to see how this trust fund develop if this provision remains in conference.

Mr. President, my major concerns, however, go to the basic purpose of this amendment. The President has committed himself to a rebate to the American people of any revenues raised by the crude oil equalization tax. I think that makes sense as part of his national energy program, in terms of both energy conservation and equity. We have seen the bill from the Senate Committee on Finance, which originally recommended that the tax revenues should go into a trust fund. That provision was deleted on a point of order. Now it is coming back as a floor amendment, but it has been modified to authorize, not require, the tax revenues to go into a trust fund.

The amendment is a nose under the tent. It allows "a portion" of the tax revenues to go into the trust fund. But they may try to get the whole thing in conference.

This is the nose under the tent. I may talk about improved transportation and mass transit for the cities. But it is also a plowback provision, as clear as can be. Anyone who has seen the power of the various interests exercised here in the course of the debate on deregulation should have no question in his mind what that language means.

It is said that, if all we do is have that money put into a trust fund, our authorizing committees and our appropriations committees will still have to decide how the dollars will be spent.

We have seen who has the power to influence that determination—it's the oil industry lobbyists who want some of the action in the trust fund. They like what they see. We are taking the first step. We are creating the pie. And then they will start to carve it up.

Then we hear talk as well about a transportation account. We already have the highway trust fund, with more than $7 billion a year in it, with more than 90 percent of the interstate system completed. Now they want another transportation trust fund. If we are interested in a transportation account for mass transit, the Senator from Connecticut is more than welcome to join with Senator WEICKER and myself, who have been trying to open up the highway trust fund for a period of 7 years—with the support of the Senator from Connecticut, I might add.

Why are we doing this? Why do we want this new trust fund? Why should this amendment be approved, when a highway trust fund already exists? We know what is going on here.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. Can we get 3 or 4 more minutes? I think we used some time during the exchange.

Mr. CURTIS. I yield.

Mr. KENNEDY. There should be no question about it, Mr. President, that is what we are talking about.

As one who is strongly committed to mass transit and other social programs to help the 80 percent of the Americans who live in urban areas, we ought to be doing more. But this is the wrong way to go about it.

As the Senator from Wisconsin has pointed out, somehow these other special accounts get special consideration. And for those resources that are put into this particular trust fund, make no mistake about it, it means the rebate will be denied the taxpayers of America.

I agree with the Senator from Wisconsin and others who say we are going to rue the day when we establish this separate trust fund. The apparent protections of the authorizing committees are not enough. We ought to follow the orderly process that has been established under the rules of the Senate, and not now establish this independent fund, which I think will turn out to be a vast new plum for the oil industry.

Many of us come from high petroleum-consuming areas of the country. As a result of geography and nature, we are dependent upon heating our homes with petroleum products and fueling our industries with petroleum products, we are paying a disproportionate amount of the family budget to heat our homes and run our industries. Our livelihood is dependent on petroleum products. How can we possibly justify the use of these new oil tax revenues being subverted into this trust fund?

It just makes no sense, Mr. President, and I certainly hope the amendment will be defeated.

The PRESIDING OFFICER (Mr. MATSUNAGA). Who yields time?

Mr. CURTIS. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator is recognized for 2 minutes.

Mr. CURTIS. Mr. President, the question has been raised, where is private enterprise in this energy picture?

Frankly, Mr. President, private enterprise has not been given a chance. For several years now, we have had controls and price ceilings. What has happened? The price of energy has continued to go up. Our dependence upon foreign sources continues to increase.

The testimony that we have before the committee indicates that there is a great potential for further production of petroleum and natural gas in the United States. It can be done. Private enterprise can deliver it.

During all these years of controls and holding down the marketplace economy and its operation, we have gone on and on, and what do we have to show for it? One more bureaucracy costing us $10 billion a year and a decreasing portion of our petroleum and natural gas being produced in this country.

Mr. President, the bill as it came from the Finance Committee was far from perfect, but every feature in there dealt with saving oil or producing more. Whatever has been added to that bill in the way of welfare legislation and other matters was not the responsibility of the Finance Committee.

Mr. President, I do not propose to go at length into an economic debate. I merely cite the history of the United States, which is the history of the private enterprise economy.

I am ready to yield back the remainder of my time.

Mr. RIBICOFF. I yield back the remainder of my time.

Mr. CURTIS. I yield back the remainder of my time.

Mr. KENNEDY. Would the Senator yield for a brief question?

The PRESIDING OFFICER. Will the Senator yield?

Mr. KENNEDY. For a question?

Mr. RIBICOFF. I am pleased to.

Mr. KENNEDY. I refer to page 104 of the report, at the bottom of the page.

I know the revised proposal is different from the original one, but in the report it talks about a similar provision, the one that preceded this.

It talks about how the revenues could be used. It says:

This could be done in several different ways: (1) shifting the tax from purchasers of crude oil to oil producers and royalty holders, allowing the ceiling price of regulated crude oil to rise by the amount of the tax and exempting a portion of each producer's oil production from the tax.

That says to me "deregulation" about as clearly as could be said.

I understand that the Senator has revised——

Mr. RIBICOFF. May I say——

Mr. KENNEDY. If I may finish, on page 2 of the Senator's amendment, it states that the program account shall encourage conservation of energy and the conversion to and production of energy (other than oil and natural gas).

Can the Senator tell us what this language in the revised amendment means in terms of that report language, does it effectively vitiate that?

Mr. RIBICOFF. It does. What we are talking about by putting in the word "tax," it is obvious we eliminated in the revised proposal the question of decontrol.

So that was eliminated. It would not apply because the report was on the old bill, not on the revised bill.

Mr. KENNEDY. I thank the Senator for that comment.

Of course, the concern that many of us have still exists. It relates to the fact that the major oil and gas companies have the ownership and increasing control over alternative sources of energy, so they will be able to obtain major benefits from the trust fund. I still have serious concerns about the amendment.

But I think the statement and comment on it is certainly helpful and I thank the Senator.

Mr. JACKSON. As I understand the Senator from Connecticut's amendment, it expressly provides that the money in the proposed trust fund could be spent only in the manner provided in separate authorizing legislation enacted in the future.

Mr. RIBICOFF. That is correct.

Mr. JACKSON. It is also my understanding that such authorizing legislation would be developed by the appropriate authorizing committees. In other words, only energy-related authorization bills would come before the Committee on Energy and Natural Resources.

Mr. RIBICOFF. That is correct.

Mr. JACKSON. I thank the Senator very much.

Mr. RIBICOFF. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to amendment No. 1003.

The amendment was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1004

Mr. HATHAWAY. Mr. President, I send an unprinted amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Maine (Mr. HATHAWAY), for himself and Mr. DURKIN, proposes an unprinted amendment numbered 1004.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 99, after line 14 insert:

Sub-part B of part 1 of the Appendix to the Tariff Schedule of the U.S. (19 U.S.C. 1202) is amended by inserting immediately after 911.16 the following new items:

911.17: Glass fibers in bulk: glass fibers in the form of mats, batts, blankets, felts, pads, casings and boards, all the foregoing, of a density not over 25 lbs.-per-cubic-foot, whether or not coded, impregnated or bonded with glue, plastics, or other substances or lined, backed or supported with paper, paper board, fabrics or similar materials, or with metal mesh or foil; glass-fiber filter with or without their frameworks or supports; and articles not specifically provided for, of glass fibers (provided for in item 540.71, part e, schedule 5) . . . Free. No change . . . On or before June 30, 1979.

911.18: Mineral wool, in bulk or in batts, blankets, or similar forms, whether or not lined, backed, or supported with paper, paper board, or similar material (provided for in item 522.81, part 1, schedule 5). Free. No change . . . On or before June 30, 1979.

911.19: Boric Acid (provided for in item 416.10, Subpart B, part II, schedule IV . . .) Free. No change . . . on or before June 30, 1979.

SEC. 2. The amendment made by the first section of this act shall apply with respect to articles entered, or withdrawn from warehouse for consumption on or after the date of enactment of this act.

Mr. HATHAWAY. Mr. President, this amendment would suspend the import duty on insulation material for 18 months.

We heard a great deal of debate the other night in regard to the insulation tax credit for homeowners. One of the points that was brought out was that there are only three providers of insulation in this country and that the price of the insulation has skyrocketed over the past few months.

In order to avoid price controls, which probably are warranted in this situation, and in order to inject a little more competition into this field, which has practically no competition at all, we should lower the tariff or suspend the tariff for this period of time, through June 30, 1979.

Undoubtedly, in the next 18 months most people will be taking advantage of the home insulation tax credit to insulate their homes. The products covered by this amendment would include fiberglass, mineral wool insulation, and boric acid.

Mr. LONG. Mr. President, will the Senator yield?

Mr. HATHAWAY. I yield.

Mr. LONG. Mr. President, I have been looking over the Senator's amendment and have discussed it with our staff. I think the amendment has merit. In order to save the Senate's time, I urge that we agree to the amendment now.

Mr. HATHAWAY. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine.

The amendment was agreed to.

Mr. HATHAWAY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments?

UP AMENDMENT NO. 1005

Mr. DANFORTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Missouri (Mr. DANFORTH) proposes an unprinted amendment numbered 1005.

Mr. DANFORTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 61, line 22, delete the word "or"

On page 61, line 23, delete the letter "(M)" and add in lieu thereof "(N)"

On page 61, line 23, add immediately before the redesignated "(N)", the following: "(M) a replacement fluorescent lighting system, or"

Mr. DANFORTH. Mr. President, this amendment would specify that the business conservation credit specifically include the replacement of fluorescent lighting systems. It is something of an anomaly in the bill now that the residential credit is extended for fluorescent lighting systems but the business conservation credit is not. Therefore, this amendment simply would include in the list of 12 items now included in the business energy conservation credit the replacement of fluorescent lighting systems.

I hope this amendment will be accepted by the managers of the bill.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. DANFORTH. I yield.

Mr. CURTIS. Will the Senator state again the purpose of his amendment? We were a bit delayed in obtainng a copy.

Mr. DANFORTH. The bill, as it was reported by the committee, lists in the various items that qualify for the residential energy conservation credit a number of items, including the replacement of fluorescent lighting systems. The bill also lists a number of items, 12 in all, that specifically qualify for the business energy conservation tax credit. Fluorescent lighting is listed in the residential

list but it is not listed in the business tax credit. This amendment simply would add fluorescent lighting to the enumerated devices included in the business tax credit.

Mr. CURTIS. Are the items that are listed otherwise alike in both places in the bill?

Mr. DANFORTH. I have not compared the lists, frankly.

Mr. CURTIS. I understand that they are.

Mr. DANFORTH. I think they are more or less alike.

Mr. CURTIS. I have no objection.

Mr. LONG. I have no objection, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Missouri.

The amendment was agreed to.

AMENDMENT NO. 1532

(Purpose: To provide a tax credit for the reduction of energy consumption in residences and commercial buildings)

Mr. DOLE. Mr. President, I call up amendment No. 1532.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an amendment numbered 1532.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following new section:

SEC. . CREDIT FOR REDUCTION OF ENERGY CONSUMPTION.

(a) Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowed) is amended by inserting immediately after section 44G the following new section:

"SEC. 44H. CREDIT FOR REDUCTION OF ENERGY CONSUMPTION.

"(a) GENERAL RULE.—There is allowed as a credit against the tax imposed by this chapter for the taxable year the applicable percentage (determined under subsection (b)) of the taxpayer's qualified energy costs for the taxable year.

"(b) APPLICABLE PERCENTAGE.—The applicable percentage under subsection (a) for the taxable year is twice the percent by which the taxpayer's qualified energy consumption for each residence or business structure of the taxpayer for the preceding taxable year exceeds the taxpayer's qualified energy consumption for each of those residences or business structures for the taxable year.

"(c) LIMITATIONS.—

"(1) MINIMUM REDUCTION REQUIRED.—No credit shall be allowed under subsection (a) for the taxable year if the applicable percentage is less than 1 percent.

"(2) MAXIMUM CREDITABLE REDUCTION.—The amount of the credit allowed by subsection (a) shall not exceed 20 percent of the taxpayer's qualified energy costs for the taxable year.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED ENERGY COSTS.—The term 'qualified energy costs' means the sum of the amounts paid or incurred by the taxpayer for the taxable year for qualified energy consumption.

"(2) QUALIFIED ENERGY CONSUMPTION.—The term 'qualified energy consumption' means the consumption of electricity, refined petroleum products, or natural gas to provide heating, cooling, or electric power for use in the taxpayer's residence or in a business structure of the taxpayer (other than the use of such power in connection with a manufacturing process).

"(3) BUSINESS STRUCTURE.—The term 'business structure' means a building or part thereof used by the taxpayer in his trade or business or in carrying out any activity described in section 212.

"(e) PERSONS NOT SUBJECT TO INCOME TAX.—For purposes of this section, a hospital, cooperative hospital service organization, church, association or convention of churches, or an educational institution exempt from taxation under this chapter shall be treated as if it were a taxpayer liable for tax under this chapter and as if its tax exempt activities were its trade or business activities.".

(b) REFUND OF EXCESS CREDIT.—

(1) Section 6401(b) (relating to amounts treated as overpayments) is amended—

(A) by striking out "and 44F (relating to certain energy-related depreciable property)," and inserting in lieu thereof "44F (relating to certain energy-related depreciable property), and 44H (relating to credit for reduction of energy consumption),", and

(B) by striking out "and 44F" and inserting in lieu thereof "44F, and 44H".

(2) Section 6201(a)(4) (relating to assessment authority) is amended—

(A) by striking out "OR 44F" in the caption thereof and inserting in lieu thereof ", 44F, OR 44H",

(B) by striking out "income) or section 44C" and inserting in lieu thereof "income), section 44C", and

(C) by inserting "or section 44H (relating to credit for reduction of energy consumption)," after "credit),".

(c) CLERICAL AND CONFORMING AMENDMENTS.—

(1) The table of sections for such subpart is amended by inserting immediately after the item relating to section 44G the following new item:

"Sec. 44H. Credit for reduction of energy consumption.".

(2) Section 6096(b) (relating to designation of income tax payment to Presidential Election Campaign Fund) is amended by striking out "and 44G" and inserting in lieu thereof "44G, and 44H".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after April 19, 1977, and before January 1, 1986.

Mr. DOLE. Mr. President, I will explain this amendment very briefly.

There has been a great deal of effort, ingenuity and initiative by various Members of the Senate, by the staff, and particularly by Senators on the Finance Committee and the Joint Committee staff, to determine ways to design a residential energy conservation program that will truly work. What we have come up with is a program that would give tax credits to specific interests or specific companies, in an effort to save energy and to assist in solving our energy problems.

I am certain it has occurred to other Members of the Senate, as it occurred to the Senator from Kansas, that we have given credits to just about everybody except the American people. We have talked about tax credits for installing insulation, but if we look carefully, we see that there are only three companies that manufacture insulation. We see that with or without the credits most people are going to insulate anyway.

What this amendment attempts to do is to overcome the shortcomings of the present bill by giving tax credits directly to those people who actually conserve energy. If a household uses less energy in 1977 than it did in 1976, there would be a tax credit available for that household. It is not very complicated. It simply gives tax credits to the people who actually save energy. It results in no wasted effort or misdirected funds because a taxpayer would get a credit only after the country has reaped the benefits of the program. A taxpayer would have to save energy first, in order to get the credit.

The proposed approach is not based on the premise that people must purchase a particular device in order to get a tax credit. People would compare their fuel and electricity records for last year and this year. They would calculate the percentage they reduced their consumption this year.

Suppose they used 10 percent less energy this year they would then total up their fuel and electricity bills for this year. Suppose their combined bills come to $1,200. They would get a tax credit for twice the percent of the energy they conserved. Twenty percent of $1,200 would be $240. The maximum amount they could qualify for would be 20 percent of their utility bills.

The Senator from Kansas feels that it would work, and it would work for the following reasons:

First, because it depends on records, it can be kept honest. Second, since it always refers to the previous year, the incentive is always there. Third, since it gets harder to save after the initial attempt, it will not cost the Government much in the following years, unless there are actual savings.

In effect, the program is self-terminating. It gets the Government out of the business of listing its favorite pieces of equipment and allows maximum initiative on the part of the consumers.

The program applies to people who hold receipts for bills already paid. For an apartment or rented office space, the owner would be left to work out an arrangement with the tenants.

For a typical household, the possibility of saving $200 in taxes should be enough incentive for people to purchase storm doors, more efficient heating equipment, insulation, and so forth.

Mr. HATHAWAY. Will the Senator yield for a question?

Mr. DOLE. I yield.

Mr. HATHAWAY. Is the tax credit going to be based upon cost or upon the quantity of the savings? The cost of oil will go up, and even though the person uses less the total cost might be the same as it was last year. Therefore, they would not get any credit. Whereas, based on a quantity saved or some kind of indexing that accounted for the price rises, then I think it would be more equitable. I think the Senator's idea is a good one.

Mr. DOLE. It is based on quantity.

Let me again consider the hypothetical case. Say that there is a reduction in con-

sumption this year over last year of 10 percent, and you total up your fuel and electricity bills for this year, say it comes to $1,200. You would get a tax credit of twice the percentage of energy saved; in other words, 20 percent of $1,200, which is $240. That is an example of how it would be computed.

It seems to the Senator from Kansas that, rather than trying to figure out all the different gadgets, all the different machines, and all the different types of insulation for which we might give tax credits, we can give the tax credits directly to the household. We can let the American people make the determination as to what to do to save energy and thus justify their tax credit. I think the American people can still be trusted to make the right decisions. This is a workable alternative to giving millions and millions of dollars in tax credits to particular industries, whether it is to the insulation industry or some other industry.

It seems to me that an energy saving of up to 10 percent is probably the maximum one could expect. Moreover it would be difficult to save yet another 10 percent the following year, and tax credits would only be available for a further savings in the next year.

We have attempted to determine how much it would cost to save a barrel of oil under this approach. In this country consumers purchase electricity, at $64 per barrel of oil equivalent and gas at $13.10 per barrel of oil equivalent. Home heating oil costs about $18.40 per barrel.

For electricity conserved, the Government would reimburse consumers about $128 per barrel saved in the first year that the savings occur. For gas, the Government would reimburse consumers about $26.10 per barrel saved in the first year that the savings occur.

But in order to get the full benefit of the credit, there will be permanent modifications in a home, new furnaces, insulation, efficient appliances, for example. And savings will occur year after year for the life of the modification. If we assume a 20-year life for a piece of equipment, it will only cost about $3.20 to save a barrel of oil due to new modification affecting electricity and 65 cents to save a barrel equivalent by conserving gas.

While the Senator from Kansas is not certain just how much the total savings will be, we can nevertheless determine what it will cost the Nation to conserve a certain amount of energy.

In 1976, the Nation consumed the equivalent of 13.8 million barrels of oil per day in the residential and commercial sectors. Assuming an average fuel price of $15 per barrel that is a fuel bill of $75 billion.

So if we save 5 percent it would cost 10 percent of the figure or $7.5 billion to save 690,000 barrel per day. That is not a very high cost based on estimates made for some of the other amendments to this bill. This compares well, for example, with the estimate of $7.1 billion to save 325,000 barrels per day under the plan for residential credits that is now incorporated in the bill.

In conclusion, let me say that under the amendment there would be no guesswork. One can refer to records to determine the energy saved. The records are there for the previous year. I would suggest, Mr. President, that under the general language in section 1054, we could take this amendment to conference. It does, I think, represent a significant departure from the program now contained in the bill.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, is there a limitation on this?

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Is there a limitation on this amendment?

The PRESIDING OFFICER. There is no limitation.

Mr. LONG. If the Senator will permit, I will only speak a minute.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 1 minute.

Mr. LONG. Senators want to vote. I will speak a moment and then move to table.

Mr. President, this amendment has been considered. It was discussed in the committee, and we did not vote for the amendment for the reason that there is no practical way that this could be administered to do equity.

If you have a warm winter, everyone would use a lot less energy and so not because they did anything that justifies giving them any special consideration, they all save a lot of energy, and they would appear to be great energy savers, so it would cost the Treasury a fortune. If you have a very cold winter, no matter how hard they try to save energy, they would still use more.

If you have a rather mild summer, everyone would appear to be great energy savers, and they would be entitled to a huge amount of tax money flowing back in their direction, but, on the other hand, if you had a very hot summer, as we did in Louisiana and in most of the sunbelt this last year, then no matter how hard they try to save energy, they would still be using a lot more air conditioning than before.

So what the amendment would tend to do, even though the Senator does not have that in mind, is to make a tremendous tax expenditure available on something that really depends on the decision of the merciful Lord himself, not on what the individual does.

There is no way you could administer it to actually make it see that the person gets the advantage because he saves energy as the amendment would appear to intend.

Therefore, Mr. President, I move the amendment be laid on the table.

Mr. DOLE. Mr. President, I think I can save time if the Senator will withhold a couple minutes.

Mr. LONG. I withhold.

I ask unanimous consent that I may yield 2 minutes to the Senator.

Mr. DOLE. I am willing to accept a voice vote on the motion to table.

I do not quarrel with the distinguished chairman, that the weather needs to be taken into account. I think, however, that this concept deserves consideration. The Senator from Kansas believes that the energy savings can indeed be verified. One can simply get the bills from the utility companies. It is not very hard. Besides, while we may have a very warm winter, we may also have a very cold winter. It seems to this Senator that over a few years it will balance out.

While I do not quarrel with many of the tax credits in the Senate bill, I want to stress the point again. What is so wrong about giving the credits to the individual, to the householders, to those who save the energy?

We have been told by two recent Presidents to save energy. I think we will provide the needed incentive to conserve if we say, "If you reduce your energy consumption this year, you are going to receive a credit."

To the Senator from Kansas this seems to be the right direction. I understand however that the concept is new and not yet thoroughly studied. It was discussed some in the House Ways and Means Committee, but I do not recall this issue being discussed in the Finance Committee. I would hope nevertheless that it would, even without being accepted, be something that could be raised in conference under section 1054.

I am prepared to withdraw the amendment on the condition we can work this matter out.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, I hope the Senator will withdraw the amendment. If he does, we will talk about it in conference. Otherwise, I am ready to vote.

Mr. DOLE. The Senator from Kansas would withdraw the amendment if the Senator from Louisiana would hold out some hope that it might be considered to fall in the general category of section 1054.

Mr. LONG. If someone can show how it could be administered perhaps it could. I just do not know how it could be administered. Maybe between now and then the Senator will figure out a way and if so we will talk about it.

Mr. DOLE. Mr. President, on that basis, the Senator from Kansas will withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Are there further amendments to be proposed to the bill?

Does the Senator from Maine wish recognition?

Mr. HATHAWAY. Mr. President, I have an amendment with respect to allowing a tax credit for hydroelectric dams, but I understand that several of the cosponsors will not be available for about an hour. So I hesitate to offer it at this time.

I have tried to contact Senators. I have contacted the other Senators involved, and they said they would be ready about 3 o'clock.

Mr. LONG. Mr. President, if that is the only amendment remaining, I am willing to accept the amendment and take it to conference.

Mr. HATHAWAY. Fine. I appreciate that.

The amendment has not been reported yet, technically.

The PRESIDING OFFICER. Will the Senator indicate the number of his amendment?

UP AMENDMENT NO. 1006

Mr. HATHAWAY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine (Mr. HATHAWAY) for himself, Mr. McCLURE, Mr. DURKIN, Mr. CHURCH, and Mr. PACKWOOD, proposes an unprinted amendment numbered 1006.

Mr. HATHAWAY. Mr. President, I ask unanmious consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 59, line 2, delete the word "not".

Mr. McCLURE. Mr. President, this amendment would include the dam structure in the definition of equipment used in the production of energy by hydroelectric power which is eligible for the tax credit provided for by section 1031.

Encouraging the construction of hydroelectric dams could save the energy equivalent of 180 million barrels of oil every year. The Federal Power Commission asserted that the United States has 113,000 megawatts of undeveloped hydro potential, almost twice the 66,000 megawatts of existing capacity. If only 10 percent of our 50,000 small dams were even partially developed, the 180 million barrels of oil savings would become a reality.

The bill before us does provide incentives for hydroelectric development, but excluded the dam structure itself. As we know, the major cost of any hydroelectric project is the cost of the dam. For that reason, I am cosponsoring this amendment and urge that it be accepted.

Mr. HATHAWAY. Mr. President, I understand the manager of the bill is going to take this to conference, and I will yield back the remainder of my time which, I guess, is forever. [Laughter.]

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine.

The amendment was agreed to.

Mr. HATHAWAY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments?

Mr. HATHAWAY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Are there further amendments?

UP AMENDMENT NO. 1007

Purposes: To include certain electrical heat equipment within the definition of "energy property" for purpose of tax credit.

Mr. TOWER. Mr. President, I call up my amendment at the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas (Mr. TOWER) proposes an unprinted amendment numbered 1007.

Mr. TOWER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 72, after line 14, insert the following:

"(v) equipment for the application of heat by electricity generated by the use of an alternate substance (including other on-site property necessary to effect process changes for the use of such equipment) which will use neither oil nor natural gas, and which will replace equipment used in an existing industrial facility which uses oil or natural gas as a fuel".

On page 74, after line 7 and before line 8, insert the following:

"(8) ALTERNATE SUBSTANCE.—The term 'alternate substance' means any substance other than—

"(i) oil and natural gas, and

"(ii) any product of oil and natural gas.".

On page 74, line 8, redesignate "(8)" as "(9)".

On page 74, line 18, redesignate "(9)" as "(10)".

Mr. TOWER. Mr. President, this amendment amends section 1032 of the bill. Section 1032 provides a special 10 percent investment tax credit that is in addition to the regular investment tax credit, for a limited period of time.

This credit would be available for certain types of property, called energy property, during the period before January 1, 1986.

The purpose of this bill and section 1032, in particular, is to encourage and facilitate investments in equipment designed to reduce the amount of oil, natural gas, and other energy consumed in heating or cooling a building or used in an industrial process.

This is a very simple and modest amendment. It would include within the definition of "energy property" eligible for the 10 percent credit certain electrical heat equipment.

This is a logical and natural extension of the bill's provisions for conversion and conservation, and the amendment itself is quite limited in its application. The only kind of equipment eligible for this credit would be equipment for the application of heat by electricity, which equipment will use neither oil nor natural gas and will replace equipment used in an existing industrial facility which uses oil or natural gas.

Importantly, the only equipment eligible would be equipment for the application of heat by electricity generated by the use of something other than oil or gas. This amendment would not make eligible for the credit equipment which uses electricity generated by oil or gas. Also included as equipment eligible for the credit under this amendment would be other onsite property necessary to effect process changes for the use of the eligible electric equipment.

This is a very modest and simple amendment, Mr. President. The function of it is to include certain electrical heat equipment within the definition of energy property for the purpose of the tax credit. It would, in effect, be consistent with the desire to encourage conversion to alternative sources other than oil or gas, more specifically coal and hydroelectric.

I have discussed this amendment with the manager of the bill, the distinguished Senator from Louisiana, and with the distinguished ranking minority member of the committee, Senator CURTIS, and they both indicated to me they are prepared to accept it. It has been worked out with various staff members mentioned, and, therefore, I am prepared to dispose of the matter now.

Mr. METZENBAUM. Mr. President, will the Senator from Texas yield for a question?

Mr. TOWER. Yes.

Mr. METZENBAUM. Could the Senator explain this amendment a bit more? I notice in the description of that which I think is a comparable amendment it talked about the 40-percent investment tax credit.

Mr. TOWER. I am glad the Senator brought that up. Actually we change it to another section to bring it into the 10-percent investment credit. It is not refundable, so it is one of the nonrefundable credits.

It would provide for the application of electricity for heat equipment so long as that electricity was not generated by heating oil or gas.

Mr. METZENBAUM. Could the Senator from Texas—I had difficulty in hearing him when he was presenting his amendment—give me another explanation as to what this amendment is intended to do?

Mr. TOWER. It applies the 10-percent investment tax credit for electrical heating equipment provided the electricity is not generated by oil or gas. It would be generated by coal or hydroelectric power or any other form.

Mr. METZENBAUM. I thank the Senator from Texas.

Mr. TOWER. I think it probably would be beneficial to industries in the Senator's own State.

Mr. METZENBAUM. I thank the Senator.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, I have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Texas.

The amendment was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments to the bill?

AMENDMENT NO. 1534

(Purpose: To provide that any energy tax revenues not used for energy purposes be transferred to Social Security Trust Fund.)

Mr. ROTH. Mr. President, I call up my amendment No. 1534.

The PRESIDING OFFICER. The clerk will report the amendment.

The second assistant legislative clerk read as follows:

The Senator from Delaware (Mr. ROTH) proposes an amendment numbered 1534.

Mr. ROTH. Mr. President, I ask unanimous consent to dispense with further reading of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 96, strike lines 7 through 15 and add the following:

(a) IN GENERAL.—Notwithstanding any other provision of this Act or of the Internal Revenue Code of 1954 added by title II of this Act, no tax shall be imposed under any provision of such Code added by this Act unless this Act also contains or provides tax incentives for increased production and conservation of energy and for conversion to alternative sources of energy and tax mechanisms for avoiding or mitigating adverse and undesirable consequences arising out of the energy crisis. Further, that all taxes added by title II of this Act less those providing tax incentives for increased production and conservation of energy and less those imposed under section 1021 of this Act relating to the tax on gasoline and other motor fuels shall be transferred to the Social Security Trust Fund.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, my amendment is a very simple one. This amendment would provide that any revenues from any tax approved by the conference committee not used for energy production and conservation be transferred to the social security trust fund.

As I think most Members of the Senate will agree, we are going to have to take some drastic steps to make the social security trust fund viable. As you all know, yesterday the House passed a bill which will amount to about $65 billion in increased social security taxes by 1983.

The Committee on Finance has under consideration a bill that will likewise raise the social security taxes by substantial amounts. No one knows for certain what the conferees will do on the energy bill, but I think it is clear to everyone here—Mr. President, could I have the attention of the Senate, please?

The PRESIDING OFFICER. The Senate will be in order. The Senator is entitled to be heard. Senators will please cease their conversations on the floor.

The Senator will proceed.

Mr. ROTH. Mr. President, I do not want to take too long, but I think this is an important amendment. There is now no question that there will be substantial energy tax increases approved by the conference committee, and I believe those revenues which are not used for energy production or conservation should be transferred to the social security trust fund.

No one can say how much that will be, but it is entirely possible that there might be anywhere between $7 to $11 billion available for social security. That is admittedly only a guesstimate.

But if we could put $7 to $11 billion into the social security trust fund we would be making a very significant contribution. It would mean reducing the potential social security tax increase by about 11 to 16 percent.

The President yesterday said he was very concerned about the impact that the social security tax increases will have on our economy. So am I. But when you stop to think we may have two very significant tax increases, the energy tax increase and the social security tax increase, one following the other, we have an even greater reason to be concerned about the economy.

I am proposing that we try to kill two birds with one stone, and use any excess revenue from the energy package to help out the social security trust fund, whatever that amount may be.

The adoption of this proposal would be good for the workers who are going to have to pay the increased social security taxes; it will be good for our senior citizens, the beneficiaries of our social security trust fund; and, finally, Mr. President, I think it would be good for our economy by helping to lighten the impact of these very substantial tax increases.

Mr. LONG. Mr. President, this matter was discussed in the House, and the House decided it should not be done. It was discussed in the Senate Finance Committee, and we decided we should not do it, either.

One reason why we believe we should not do it is that the crude oil equalization tax in the House bill is set to expire in 1981. The Senator is strongly opposed to the crude oil equalization tax, and so are a great number of Senators. Those who are opposed to it would like to see it terminated if it ever goes on; but if we direct those revenues into the social security fund, the chances will be that they will want to keep it on indefinitely, or the administration will fight to keep it on, because the social security system will need more revenues and will continue to need more revenues in the years ahead.

For those reasons, Mr. President, I move that the amendment be laid on the table.

Mr. ROTH. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Delaware (Mr. ROTH). The yeas and nays are ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from Alaska (Mr. GRAVEL), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Illinois, (Mr. STEVENSON), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Alabama (Mr. ALLEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Rhode Island (Mr. PELL), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Minnesota (Mr. HUMPHREY) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE), is absent on official business.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Rhode Island (Mr. PELL) would each vote "yea."

Mr. BAKER. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Utah (Mr. HATCH), the Senator from Oregon (Mr. HATFIELD), the Senator from California (Mr. HAYAKAWA), the Senator from Vermont (Mr. STAFFORD), the Senator from Alaska (Mr. STEVENS), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT) is absent on official business.

On this vote, the Senator from Alaska (Mr. STEVENS) is paired with the Senator from Oregon (Mr. HATFIELD). If present and voting, the Senator from Alaska would vote "yea" and the Senator from Oregon would vote "nay."

The result was announced—yeas 57, nays 18, as follows:

[Rollcall Vote No. 600 Leg.]

YEAS—57

Abourezk	Eastland	Morgan
Baker	Ford	Moynihan
Bayh	Glenn	Nelson
Bentsen	Hart	Nunn
Biden	Haskell	Pearson
Brooke	Hathaway	Percy
Burdick	Hollings	Proxmire
Byrd, Robert C.	Huddleston	Randolph
Cannon	Javits	Riegle
Case	Johnston	Sarbanes
Chiles	Kennedy	Sasser
Church	Leahy	Sparkman
Clark	Long	Stennis
Cranston	Magnuson	Stone
Culver	Mathias	Talmadge
Curtis	Matsunaga	Thurmond
DeConcini	McIntyre	Wallop
Durkin	Melcher	Weicker
Eagleton	Metzenbaum	Zorinsky

NAYS—18

Bartlett	Hansen	Packwood
Bellmon	Heinz	Roth
Byrd, Harry F., Jr.	Helms	Schmitt
	Jackson	Schweiker
Chafee	Laxalt	Tower
Danforth	Lugar	
Dole	McClure	

NOT VOTING—25

Allen	Hatfield	Ribicoff
Anderson	Hayakawa	Scott
Bumpers	Humphrey	Stafford
Domenici	Inouye	Stevens
Garn	McClellan	Stevenson
Goldwater	McGovern	Williams
Gravel	Metcalf	Young
Griffin	Muskie	
Hatch	Pell	

So the motion to lay Mr. ROTH's amendment on the table was agreed to.

Mr. LONG. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. JAVITS. Will the Senator yield for a unanimous-consent request?

Mr. BELLMON. I yield to the Senator from New York.

TECHNICAL CORRECTION TO UP AMENDMENT NO. 997

Mr. JAVITS. Mr. President, I am told by the professional staff one word was incorrect in the amendment which we adopted yesterday relating to a two-House veto on an order of the President setting import fees.

I ask unanimous consent that in line 6 the word "unless" be changed to the word "if."

The PRESIDING OFFICER. Will the Senator state the number of the amendment?

Mr. JAVITS. It is unprinted amendment numbered 997.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

UP AMENDMENT NO. 1008

Mr. BELLMON. Mr. President, I call up my amendment which is at the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) proposes an unprinted amendment numbered 1008.

Mr. BELLMON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 61, line 23, insert the following:

Redesignate (M) as (N) and insert after (L) the following:

"(M) Silicone Controlled Rectifier Unit also known as SCR Unit."

The PRESIDING OFFICER. The Senator will suspend until the Senate is in order. Senators will cease conversations on the floor. Senators will please clear the well.

The Senator from Oklahoma.

Mr. BELLMON. Mr. President, on page 61 of the bill, there is a rather lengthy list of devices which conserve energy. My amendment would add another device to the list, a device called a silicone controlled rectifier unit, which has considerable application in industrial uses.

This amendment has been discussed with both the manager of the bill and the ranking member.

Mr. President, I call the attention of the distinguished Senator from Louisiana to page 61, line 23 of the bill for a discussion of subsection (M) of section (2) setting for the specially defined energy property which would qualify for investment tax credit. This section specifically sets forth certain pieces of equipment which are energy savers. Without listing all items, subsection (M) provides that in addition to the named equipment in subsection (A) through (L) the Secretary would have the authority to include by regulation "any other property of a kind specified" as being energy saving.

Mr. President, there is a new piece of equipment which is called a "silicone controlled rectifier unit" otherwise known ts "SCR" units.

The SCR unit consists of a highly sophisticated control house, which transforms a.c. current to d.c. current on an as needed basis. Where a standard drilling rig will require up to mine diesel engines (3–1,000 hp and 6–100 hp) in order to run both a.c. and d.c. generators, the SCR equipped drilling rig will have, at most, three diesel engines up to 1,000 hp each, running a.c. generators only. Under normal drilling operations, the SCR unit will allow all of the a.c. and d.c. electric motors on the drilling rig to operate simultaneously with just one or two of the three engines running instead of all nine individual engines, as with a diesel drilling rig without a SCR unit. This is a result of the a.c. input into the SCR control house being allocated to various electric motors and transformed into d.c. current on an as needed basis.

The fuel consumption on a diesel rig without a SCR unit is 2,250 gallons of diesel fuel per day. A similar rig equipped with a SCR unit will consume 1,500 gallons of diesel fuel a day, a savings of 750 gallons per day per rig. There are approximately 2,087 rigs operating in the United States today, so daily savings of fuel could equal approximately 1,500,000 gallons daily.

While I am sure this is the type of item which the Secretary has the authority to include in energy saving devices my amendment would simply clarify the position of "SCR units," as being that type of equipment which qualifies under this section.

Mr. LONG. Mr. President, we believe that this matter is covered already, but just in case it might not be, we are glad to take the amendment.

Mr. CURTIS. We have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Oklahoma.

The amendment was agreed to.

The PRESIDING OFFICER. Are there further amendments?

Mr. DOLE. Mr. President.

The PRESIDING OFFICER. The Senator from Kansas.

UP AMENDMENT NO. 1009

(Purpose: To establish a national energy stamp program.)

Mr. DOLE. Mr. President, I yield to the Senator from Connecticut.

Mr. WEICKER. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Connecticut (Mr. WEICKER) proposes unprinted amendment numbered 1009.

Mr. WEICKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following new section:

SEC. . ENERGY STAMP PROGRAM.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Director of the Community Services Administration, or his successor in interest, shall not later than 180 days following the date of enactment of this section, promulgate such regulations as may be necessary to establish an energy stamp program to provide assistance to low-income and fixed-income households which presently must devote a major portion of their income for the purchase of utility services.

(b) DEFINITIONS.—As used in this section the term—

(1) "heating fuel" means electricity, oil, gas, coal, or any other fuel if used by a household as the primary source for heating or cooling a dwelling;

(2) "Director" means the Director of the Community Services Administration;

(3) "local agency" means the community action agencies, and State Economic Opportunity Offices which are established pursuant to the Economic Opportunity Act of 1964;

(4) "household" means—

(A) any group of related individuals who are living as one economic unit for whom heating fuel is customarily purchased in common, directly, or indirectly by undesignated payments in the form of rent; or

(B) any individual living alone who purchases heating fuel, directly, or by undesignated payments in the form of rent;

(5) "coupon" and "stamp" mean any coupon, stamp, or certificate issued pursuant to the provisions of this Act;

(6) "retail heating fuel outlet" means any establishment, including a recognized department thereof, which sells heating fuel for consumption by households;

(7) "wholesale heating fuel outlet" means any establishment, including a recognized department thereof, which sells heating fuel to retail heating fuel outlets for resale for consumption by households;

(8) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands;

(9) "bank" means any member or nonmember bank of the Federal Reserve System; and

(10) "landlord" means any person who rests a dwelling which is the principal residence of the tenant and who normally includes the cost of heating fuel in the rental charge to the tenant.

(c) STAMP PROGRAM.—

(1) If the local agency plan described in subsection (g) is approved by the Director, the Director shall establish and maintain an energy stamp program, under which households deemed eligible pursuant to subsection (d) will be provided with assistance to defray heating fuel costs. The method in which this assistance is provided shall be through energy stamps.

(2) Any eligible household may receive heating fuel coupon assistance—

(A) if such household purchases heating fuels; or

(B) if such household makes undesignated payments for heating fuel in the form of rent, and the landlord to whom such rent is due consents to the making of such payments in coupons.

(3)(A) Coupons received by any eligible household described in subparagraphs (2)

(A) shall be used to purchase heating fuel only from a retail heating fuel outlet participating in the energy stamp program.

(B) Coupon received by any eligible household described in subparagraph (2)(B) shall be used only for payment of the appropriation portion of such household's rent related to heating fuel costs.

(d) NATIONAL STANDARDS.—

(1) The Director shall establish uniform national standards of eligibility for participation by households in the energy stamp program. Participation in the program shall be limited to households whose income and other financial resources are determined by the Director to be substantial limiting factors in permitting such households to purchase heating fuel or to make undesignated payments for such fuel.

(2) As a minimum, the standards of eligibility shall provide that any household is eligible if such household—

(A) is eligible for benefits under title XVI of the Social Security Act; or

(B) is eligible for benefits under the Food Stamp Act of 1964.

(3) In lieu of, or in addition to, the criteria described in paragraph (1) or (2), the Director shall consider any criteria submitted by a local agency to the Director for determining the eligibility of households in the area serviced by such local agency.

(e) PRINTING.—

(1) Pursuant to subsection (g)(4) of this section, energy stamps shall be printed by the Bureau of Printing and Engraving of the United States in $5 denominations and shall be issued by a local agency only to households which have been duly certified as eligible to participate in the energy stamp program.

(2) Each coupon shall—

(A) bear the name of the local agency from where it was issued;

(B) stipulate that its monetary value is $5; and

(C) include any words or illustrations that are required to explain its purpose and use.

(3) The Director shall establish standards for determining the number of energy stamps to be issued to an eligible household.

(4) In establishing standards under paragraph (3) the Director shall consider—

(A) any criteria submitted by a local agency that is deemed to be important for the evaluation of energy stamp assistance in the area serviced by such local agency;

(B) the income of households within the area serviced by such local agency;

(C) the number of individuals in such households;

(D) the temperature and other climate conditions in the area in which such households reside;

(E) the type of heating fuel used by such households; and

(F) the extent to which such households have participated in weatherization programs.

(5) Prior to receiving the energy stamps, each participating household must pay to the local agency 33⅓ percent of the total value of the coupons to be received by such household.

(6) The value of the energy stamp assistance provided to an eligible household under this section shall not be considered to be income or resources for any purpose under any Federal or State law, including any law relating to taxation, welfare, or public assistance programs.

(f) REDEMPTION.—

(1) Coupons accepted by any retail heating fuel outlet or any person described in subsection (c)(2)(A)(i) shall be redeemed through wholesale heating fuel outlets or banks, with the cooperation of the Department of the Treasury.

(2) Coupons issued and used in accordance with the provisions of this section shall be redeemable at face value by the Director through the facilities of the Department of the Treasury.

(g) LOCAL PLANS.—

(1) Each local agency desiring to participate in the energy stamp program shall submit to the Director for approval a plan of operation specifying the manner in which and the effective dates of participation during which such program shall be conducted within the area serviced by such local agency. In addition, the local agency may provide information regarding weatherization programs which have been or are now being conducted in the area.

(2) The Director shall approve any local agency plan of operation which satisfies the provisions of paragraph (1) and which provides—

(A) that the local agency shall undertake the certification of applicant households in accordance with the eligibility requirements established by the Director under subsection (d);

(B) safeguards which restrict the use or disclosure of information obtained from applicant households to persons directly connected with the administration or enforcement of the provisions or regulations of this section;

(C) that the local agency shall undertake extensive outreach action to inform eligible households and heating fuel outlets as to the availability, rules, regulations, and benefits of the energy stamp program;

(D) for the granting of a fair hearing and a prompt determination thereof to any household aggrieved by the actions of a local agency under any provision of its plan of operation as it affects the participation of such household in the energy stamp program;

(E) that the local agency keep a strict and accurate accounting of all transactions made pursuant to this section;

(F) a requirement that landlords submit certification that any increase in rent charged to a household is not based solely upon actual or anticipated receipt by that household of energy stamps; and

(G) that the local agency shall coordinate the energy stamp program with weatherization projects.

(3) If the Director determines that in the administration of the program there is substantial failure by a local agency to comply with provisions of this section or with the plan of operation submitted by such agency, he or she shall inform such local agency of the failure and shall allow the local agency a reasonable period of time for the correction of the failure. Upon the expiration of such period, the Director shall order that there be no further distribution of energy stamp assistance in the area serviced by such agency until such time as satisfactory corrective action has been taken.

(4) The Director shall reimburse a local agency for the costs it incurs in administering the energy stamp program. Such reimbursement would be made upon terms and conditions prescribed by rule of the Director. In addition, the United States—

(A) shall finance the printing of energy stamps and the issuing of such coupons to local agencies; and

(B) shall be obliged for payment of the face value of energy stamps to persons redeeming such coupons in accordance with the provisions of this section.

(h) CRIMINAL PENALTIES.—

(1) Whoever knowingly uses, transfers, acquires, alters, or possesses energy stamps in any manner not authorized by this section—

(A) shall, if the total value of such coupons is $100 or more, be fined not more than $10,000 or imprisoned for not more than five years, or both; or

(B) shall, if the total value of such coupons is less than $100, be fined not more than $5,000 or imprisoned for not more than one year, or both.

(2) If a local agency administering the energy stamp programs finds (in accordance with the process described in subsection (g)(2)(F) of this section) that a landlord has increased rent to a household based solely upon actual or anticipated receipt by that household of energy stamps, then the landlord may be fined an amount not more than twelve times the amount of the household's rent increase.

(i) REGULATIONS.—The Director shall issue such regulations as he deems necessary or appropriate for carrying out the provisions of this section.

(j) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out the provisions of this section, there are authorized to be appropriated, for the fiscal year ending September 30, 1978, the sum of $100,000,000, for the fiscal year ending September 30, 1979, the sum of $100,000,000, for the fiscal year ending September 30, 1980, the sum of $100,000,000, and for each fiscal year thereafter, such sum as may be necessary.

Mr. WEICKER. Mr. President, I am today introducing an energy stamp amendment which is designed to provide low and fixed income households economic assistance in meeting residential energy costs. I have already introduced this amendment to previous energy legislation. I am introducing this amendment again to emphasize the serious difficulties which poor people encounter in paying their energy bills, and the need for governmental action. We are today discussing tax policy. Regardless of which type of tax plan we eventually adopt, the price of energy will rise. This price increase will inevitably have its greatest impact upon the poor people of the United States.

During the last few years, all Americans have been hard hit by the ever increasing costs of utility bills. For example, the average price of home heating oil increased by 19.2 percent in 1977 over the 1976 average price. The impact of the 1973 Arab oil embargo and subsequent OPEC price boosts have been felt in the pockets of American consumers, particularly the poor and elderly.

Mr. President, we must recognize the fact that a significant number of poor people in this country have been severely affected by runaway energy costs. Based upon figures compiled by the U.S. Census, 11 percent of all families nationwide live in poverty and 23 percent of all inner-city families are poor. Added to this is the startling fact that 57 percent of elderly unrelated individuals live in poverty. What is more, according to a 1973 report by the Senate Select Committee on Nutrition and Human Needs, rent or mortgage payments take up 50 percent or more of the income of our Nation's poor.

The amendment which I am introducing today will help alleviate the burden borne by poor and elderly citizens in meeting their fuel costs. It includes the following provisions:

First. The Director of the Community Services Administration, local community action agencies, and State economic opportunity offices will all be involved in the coupon program;

Second. Both homeowners and apart-

ment dwellers are eligible for energy-stamp assistance;

Third. Any household may receive energy coupons if it is eligible for benefits under title XVI of the Social Security Act or if it is eligible for benefits under the Food Stamp Act of 1964. In addition to, or in lieu of, these criteria, local agencies may suggest eligibility guidelines;

Fourth. Energy stamps will be printed in $5 denominations and shall include explanatory words or illustrations as to their usage. In establishing standards for determining the number of coupons to be issued to eligible households, the Director shall consider household income, area climate conditions, the extent to which such households have participated in weatherization programs, and other noted factors. Each participating household must pay to the local agency 33⅓ percent of the total value of the stamps it will receive.

Fifth. Redemption of the coupons will be provided by retail fuel outlets, landlords, and the Director;

Sixth. Each local agency desiring to participate in the energy stamp program must submit to the Director a plan of operation as to how it will carry out the assistance measures. Local agencies shall be held responsible for dutifully certifying applicant households, for undertaking extensive outreach publicity action, and for keeping a strict and accurate accounting of all transactions made pursuant to this act. The Federal Government shall reimburse local agencies for the cost of administering the program and shall also finance the printing and issuing of the energy stamps; and

Seventh. This amendment authorizes $100 million to be appropriated for each of the next 3 fiscal years. For subsequent years, such sums as may be necessary for the energy stamp program are to be appropriated.

The Federal Government has been slow to respond to the needs of the elderly and the poor in coping with inflationary fuel costs. I am introducing my amendment to demonstrate to the American poor and elderly that the Congress does, indeed, have a great deal of concern for their welfare. With the implementation of an energy stamp program, which is designed to complement weatherization plans, these citizens will not be forced to freeze in their homes, as was the case with many during the winter of 1976.

Mr. President, I think it is safe to point out that, regardless of action taken here or in conference, the rise which has already been experienced in the area of energy has very clearly impacted upon the weakest elements of our society, be those elements poor in the economic sense or on fixed incomes, be they elderly—in other words, those whose income in no way has been able to match the tremendous increase in the cost of energy as it manifests itself in their utility bills, as it manifests itself in gasoline costs, et cetera.

I suppose the most amazing statement that I hear made whenever I advocate mandatory fuel conservation and rationing is that we do not want rationing—we do not want any World War II-type rationing. I have to point out to my colleagues, and, indeed, to all those in this Nation who make that statement, that we have had rationing for 4 years now, since the Arab oil embargo. The only point that remains to be argued is who is it that has been rationed? For 4 years, the poor people, the elderly, the fixed income people, the lower than moderate income people in this country have been rationed. They have been rationed by price.

We already know, in the face of what occurred last winter, that so many people in this category had to turn down their thermostats to the point where many of them actually froze to death. That is not a horror story to incite action on the floor; it actually happened. It is going to happen again.

It is not the strong elements of American society that I am concerned with. Indeed, they have not contributed anything in the sense of conservation, as witness the increased oil imports, as witness the balance-of-payments deficit. Indeed, very indication is that no matter what we raise the price of gasoline or heating oil to, a good portion of America can pay it, and no conservation will be achieved. But that is another argument for other of my colleagues as they present their amendments here today. What I am concerned about is correcting an inequity that has existed now for 4 years.

I notice that, in the previous amendment, a suggestion was made that whatever surplus would come from whatever tax was levied be plowed back into the social security fund. I will lays odds that if we gave a choice today to an elderly couple as to whether they wanted a rise in social security payments or whether they would prefer to have some sort of relief on their utility bill, they would select relief on their utility bill. That is what has been nailing them.

I do not agree with the concept of rationing by price to begin with; my colleagues know that. I have introduced and reintroduced measures for mandatory conservation—rationing—and I have been voted down every time. So it appears that we are going to continue the policy of rationing by price in some form by the legislation we pass here or the legisition that comes out of the conference.

To me, that is second best. It would have been far preferable if we had gone ahead and had gasoline station closings. That would have impacted on all of us. It would have been far preferable if each one of us would have had to choose a day of the week when we are not going to drive our car and put an identifying colored sticker on our windshields.

But never mind World War II rationing. Every rationing plan that has been going to impact on all Americans, obviously, has been very unpopular on this floor. So we are right back where we started from insofar as the previous Republican administrations are concerned. We are going to have conservation, we are going to have rationing, but we are going to have it by price.

I think it is unfortunate, very frankly, in the United States, that we have chosen that way to go, because, clearly, it means that not all are going to participate in the burden of the solution.

Mr. LONG. Mr. President, will the Senator yield?

Mr. WEICKER. Yes, I yield.

Mr. LONG. Mr. President, the Senator's idea might very well help with the problem, but it seems to me that it is so much at variance with what we have been doing in the energy area that if it is to be tried, it ought to be tried on an experimental basis. We ought to have a pilot test of it and then see how well it works.

For my part, I would be willing to agree that on a proper pilot basis, the Senator's idea be tested and we could, perhaps, judge whether it seems to accomplish what the Senator believes it should, or whether it seems to develop flaws and problems that cannot be foreseen at this time.

I ask the Senator, would he be willing to accept an amendment to his amendment that would limit this to a proper pilot test?

Mr. WEICKER. Yes; the answer is that what I am trying to draw attention to, I say to my colleague from Louisiana, is that if I am going to go to the second best method, and I consider rationing by price the second best method of conservation, at least maybe we could ameliorate that so it does not impact on the people it has been impacting on for 4 years.

I recognize the fact that, to go into an energy stamp program nationwide, like that, it biting off a good deal. It could very well be abused, which neither the Senator from Louisiana nor I would like to see. I hope I will have the chance to explain my energy stamp proposal.

In any event, I can see going into a pilot program in several areas in the country so that climate is taken into account, so that urban and rural areas are taken into account—this is not just a city measure; it also has to do with rural areas of the country, with both the South and the North. Because, do not forget, if I talk heating in my area of the country, severe heat is just as vicious, if you will, or devastating to people in the South.

I want to point something out: There have already been two pilot programs, very small ones—one in Ohio, one in Pennsylvania—on the concept of an energy stamp program. I might add, the recipients of the stamps would be those eligible for certain payments—welfare payments and the food stamp program, also.

Would I be willing to do it on a pilot program basis? The answer is yes, because, at least, I think it makes a point that I have been trying to make and some of us have been trying to make for 4 years: We cannot continue to dump on the people who are the weakest elements of our society. They cannot bear the burden of solving the energy crisis, and they have been bearing that burden. At least it will bring some form of recognition by the Congress of the United States that an inequity exists, and it does exist.

Mr. LONG. Mr. President, I shall need, perhaps, an hour or so to prepare—maybe less than that, but will need at least

the better part of an hour to prepare the right kind of amendment to the Senator's amendment. I would like to urge the Senator—who, incidentally, has made a very eloquent argument for his amendment—to lay it aside temporarily and let us get on with voting on some of the others. Then, as soon as we have an amendment prepared, we will bring it back up.

Mr. WEICKER. If I could just finish for a few minutes, I am perfectly prepared to step aside. I did not know anybody else was waiting. But if I can just finish.

Mr. JAVITS. Will the Senator yield?

Mr. WEICKER. Yes.

Mr. MATHIAS addressed the Chair.

Mr. WEICKER. I yield first to the distinguished Senator from New York and then I shall yield to the Senator from Maryland.

Mr. JAVITS. This is sort of an antipoverty program. Some elements of it would be that, would they not?

I ask the question because I remember a few years ago we did something in the Human Resources Committee about energy costs as part of the antipoverty program. So my only point is this, I would like to be told if it is experimental—and I would like to have the attention of the Senator from Louisiana—if it is experimental, that our committee which has antipoverty legislation be tied into the experiment so that we can come, also, to a judgment as to whether it in any way affects the antipoverty program, and if so, how, and desirably, et cetera.

My feeling for it is very sympathetic because I thoroughly agree with the Senator from Connecticut that if we freeze to death it is just as bad as if we starve to death.

So this is a very meaningful element of whatever we do in that particular field.

But I did want to be sure our interests were asserted, as I am the ranking minority member.

Mr. WEICKER. Let me put it this way, the expertise, the entire background of the Senator from New York in this area far exceeds that of this Senator from Connecticut. I sit on the Energy Committee. So I only analyze it in terms of economic impact. Whereas the Senator from New York has made this his life's work, evaluating those elements of our society that need special help in the basic necessities of life.

I have no objection at all in construing this amendment that there be some oversight by his committee.

Mr. JAVITS. I thank my colleague.

Mr. WEICKER. I yield to the Senator from Maryland.

Mr. MATHIAS. I thank the distinguished Senator from Connecticut for yielding.

Mr. President, I ask unanimous consent that Ralph Oman of my staff be granted privilege of the floor during this debate and the votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, I would like to congratulate the distinguished Senator from Connecticut on bringing this concept to the attention of the Senate at this time and making it a part of this debate. It is an important concept. It is one that has been around a while. The distinguished Senator from Tennessee, the minority leader, has sponsored a fuel stamp program. I have sponsored a fuel stamp program.

I followed with great interest the colloquy between the Senator from Louisiana, the manager of the bill, and the Senator from Connecticut, who is the author of this pending amendment.

I just say that as the sponsor of similar legislation that I am not quite as quick to accept the offer of the Senator from Louisiana as the Senator from Connecticut has been because it is not a new idea. It is an idea that has been kicking around here.

I ask the Senator from Louisiana if he is talking about a meaningful pilot project, not just something that is going to put this idea over for another couple of years?

Mr. LONG. Mr. President, my thought is that there is no point having a pilot project if we do not have it on a sufficient size to give a fair judgment of whether or not we think the idea works.

Mr. MATHIAS. I would not quarrel with the Senator on that point, but here we are talking about exactly the same type program we used with food stamps. I believe the Senator from Connecticut will agree with that.

So there is machinery in place. We could do it very quickly. We could issue on essentially the same kind of economic guidelines the food stamps are issued. I think if we say within this winter, very quickly, in a pilot program, in a major metropolitan area, so that we have got a good test of it, then I think the Senator's program, or his concept of the pilot program, is right.

But I do not think the Senator from Louisiana wants to suggest to the Senate, nor do I think the Senator from Connecticut or the Senator from Maryland would want to agree, that we are going to take a long time to get to the test and it is going to be a minuscule program. I think it is an idea whose time has come and we ought to get on with it.

Mr. WEICKER. I say this in fairness to the Senator from Louisiana, and I appreciate the comments of the Senator from Maryland, again, I know his life's work has been wrapped up in just this type of legislative thrust.

The Senator from Louisiana did not offer me, "OK, I'll take it, we'll take it into conference."

He did not offer me, "Let's have a study."

All the things I find very horrid. Not just talking about the Senator from Louisiana. We all know when something is being raised on the floor and then buried in the back room. That was not——

Mr. MATHIAS. Accept that on the floor and kill it in conference.

Mr. WEICKER. That was not offered here.

It was, in other words, to take this concept, give it a fair test in a pilot program.

I have some doubt myself starting this out full blown on the entire Nation. I do not gather that, at least as it is now being worked on. We will have a chance to look at it in a few minutes. As I said, the Senator from Maryland will look at it with me to assure himself it does provide the elements.

Mr. LONG. As far as the Senator from Louisana is concerned, we can try it in Baltimore, we can try it in Washington. I would be willing to try it in New Orleans.

But obviously, I am a little bit worried about trying it in New York because so many people are up there.

Mr. JAVITS. That is a better trial.

Mr. LONG. But frankly, in my judgment——

Mr. MATHIAS. The Senator has stirred up the Senator from New York now.

Mr. JAVITS. He has interested me.

Mr. LONG. It is my judgement if it will work in Washington, it will work anywhere.

Mr. WEICKER. I thank the distinguished Senator from Louisiana.

Mr. President, let me again thank the Senator from Maryland (Mr. MATHIAS), the Senator from New York (Mr. JAVITS), the Senator from Louisiana (Mr. LONG), the Senator from Kansas (Mr. DOLE), who came to my assistance on this element when, very frankly, it looked as though the whole thing might go down the drain.

Let me say this as one who has stood on this floor and spoken out for decontrol and deregulation to up our production, I also realize that is meaningless unless accompanied by conservation.

I have already stated I would have preferred some sort of mandatory rationing as being the method for that conservation. That clearly is not to be.

Then I have to take the next best step, which is to make certain, in the course of trying to get this additional production, and I am very much for trying to achieve that conservation and knock down the use, that there are those that require our special care in this country.

This is not a welfare matter, I might add. This is a very great number of people. Yes, some on welfare, but anybody on any sort of a fixed income who is brutalized by the rise in prices and the climate in the various areas in which they dwell.

This statistic amazed me the other day. One study shows the poorest 10 percent of our population spends 30 percent of its income on energy, while the richest 10 percent spends about 4.2 percent of its income on energy.

In other words, the price of energy affecting living standards of our poor today are seven times as much as it affects the wealthy.

Now, that seems to me a situation that requires redress. I hope that in the concept we recognize our obligation in this legislation, even though we do not get the whole loaf during the course of this bill, we recognize that we are going to use the price mechanism as a conservation method and at the same time we are going to take care of our neighbors and make certain that they will not continue to bear the unreasonable burden that has been theirs for the past 4 years.

At this time, does the Senator from Kansas wish any time? If he does, I will lay aside my amendment.

Mr. DOLE. I will take the time now.

Mr. WEICKER. Mr. President, I ask unanimous consent that my amendment be laid aside temporarily.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the Senator from Kansas obtain recognition and then yield to me?

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. I yield to the distinguished Senator from West Virginia.

Mr. ROBERT C. BYRD. I thank the Senator.

THE GOLDEN GAVEL IS AWARDED TO SENATOR MATSUNAGA

Mr. ROBERT C. BYRD. Mr. President, the U.S. Senate has been called the greatest deliberative body in the world. For the Senate to function efficiently and effectively, many people must carry out their responsibilities and fill roles that are vital but are often little appreciated.

One of the most important roles in this body is that of the Presiding Officer. The Vice President and President pro tempore of the Senate are often required to fulfill responsibilities that carry them from this Chamber. At such times, the burden of presiding over the Senate falls on the Members themselves. Many Senators give graciously and generously of their time in meeting this essential responsibility for their colleagues. The work is time consuming and sometimes appears to be taken for granted.

In recognition of this situation, however, the custom of awarding the Golden Gavel has emerged in the Senate. Any Senator who presides for 100 hours during one session of the Senate receives this honor from the Senate pages, in appreciation for his conscientious response to this important duty.

Today, Senator SPARK MATSUNAGA, of Hawaii, joins that select group of Senators who have received the Golden Gavel.

Robert E. Lee once commented that "duty" is the sublimest word in the English language. That sublimity is considerably enhanced, it seems to me, when a duty is accepted voluntarily and executed expertly and effectively, as Senator MATSUNAGA has done in presiding over the Senate. I am certain that I speak for all the Senators in expressing my thanks to him for his unselfish service.

But this response to duty is not unusual for the junior Senator from Hawaii. His whole life and public career form a pattern of the fulfillment of duty to his comfunity, State, and Nation. From his participation in the famous First Battalion, 442d Regimental Combat Team, in World War II, through his years in the Hawaii Legislature and seven terms in the U.S. House of Representatives, SPARK MATSUNAGA has demonstrated the qualities of leadership and maturity that he has shared with his colleagues in the Senate.

I congratulate Senator MATSUNAGA on receiving the Golden Gavel Award, and I thank him for his untiring service and exemplary leadership as the Presiding Officer.

[Applause, Senators rising.]

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. PROXMIRE. Mr. President, not only has the Senator from Hawaii served as Presiding Officer, but also, he has served with remarkable distinction, with éclat, with verve, with a style which is unique.

He is the only Presiding Officer I know who addresses the Senate vertically, instead of sitting down. He does it with such consideration and with such effectiveness in obtaining order that I think he should not only receive the Golden Gavel but sort of a "Golden Fleece Gavel." [Laughter.]

Mr. LONG. Mr. President, I should like to add one word to what the very able and great majority leader said about our distinguished Presiding Officer, Mr. SPARK MATSUNAGA.

When he was a little boy, studying civics in Hawaii, at a time when Hawaii was a territory, he was taught about the United States, and he told his teacher, "I am going to be a U.S. Senator some day."

The teacher said, "How can you be a U.S. Senator? There is no way. You live in Hawaii and Hawaii is not a State. A Senator must come from a State."

He said, "I don't know, but I am going to be a U.S. Senator," and he is.

Mr. ABOUREZK. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. ABOUREZK. I wish to add a word or two about SPARKY MATSUNAGA.

If there is any way to add an oakleaf cluster to his Golden Gavel, I would like to do it, because he is the only Presiding Officer in this body who never has ruled either me or one of my amendments out of order. [Laughter.]

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. JAVITS. Mr. President, I think it would be wrong for us to be silent on this side.

Not only is the Senator from Hawaii distinguished, but also, as Senator PROXMIRE has truly said, he has made a new style in the Senate. We can really hear it. He does address the Senate in the erect position. It is a great indication of his feeling of respect for his colleagues.

I know that I speak for my colleagues on this side in expressing our pleasure that he has earned this very distinguished honor. Our congratulations go to him on the excellence of his presiding style.

SEVERAL SENATORS. Hear! Hear!

Mr. MATSUNAGA. If the Senator from Kansas will yield, the Chair rises to express his heartfelt appreciation. It must be visible that the Chair is deeply moved by the most generous remarks of the distinguished majority leader (Mr. ROBERT C. BYRD), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. ABOUREZK), the Senator from New York (Mr. JAVITS), and the Senator from Wisconsin (Mr. PROXMIRE).

There is an old oriental adage which my father used to repeat to me:

When speaking of yourself, use your words sparingly, for you may be asked to live up to them.

I am glad that the wonderful words which were spoken here were not spoken by me but by my distinguished colleagues, for I would encounter extreme difficulties in living up to them. [Laughter.]

I especially wish to express my appreciation to the distinguished majority leader, who has served as a symbol of true democratic leadership and one whom I have tried to emulate, while sitting in this chair and out of it.

In all seriousness, I deem the privilege of presiding over this body, the greatest deliberative body in the world, a great honor, a rare privilege, even for a minute; and to have been granted that opportunity to preside for 100 hours in my freshman year is an event which will be cherished throughout the rest of my life in being. For this I thank you, one and all.

[Applause, Senators rising.]

Mr. DOLE. Mr. President, I wish to extend my congratulations to my distinguished colleague, also.

We served together in time of war, and we served together in time of peace—relative peace—in the House and in the Senate of the United States. I have come to know and respect SPARKY MATSUNAGA as a friend, a tireless worker, and an outstanding representative of his great State.

I certainly am proud to be on the floor at the moment he should reach this landmark in the U.S. Senate. So I also extend my heartiest congratulations and thanks.

The PRESIDING OFFICER. The Chair thanks the Senator from Kansas.

AUTHORITY FOR COMMITTEE ON GOVERNMENTAL AFFAIRS TO FILE REPORT BY NOVEMBER 30, 1977

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs have until November 30, 1977, to file its report on blind trusts pursuant to section 311 of Senate Resolution 110 as agreed to by the Senate on April 1, 1977.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY PRODUCTION AND CONSERVATION TAX INCENTIVE ACT

The Senate continued with the consideration of H.R. 5263.

UP AMENDMENT NO. 1010

Mr. DOLE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE), for himself and Mr. KENNEDY, proposes an unprinted amendment numbered 1010:

On page 75, beginning with line 22, delete all through line 3 on page 77.

Mr. DOLE. Mr. President, this is a very simple amendment. It will not take long to explain it.

The amendment would eliminate the credits for business insulation property. We are talking about a cost in fiscal year 1978 of $103 million; 1979, $101 million; 1980, $107 million; 1981, $113 million; 1982, $119 million—a total cost in the neighborhood of $900 million between now and 1985.

The energy savings is estimated to be 160,000 barrels per day by 1985. Mr. President, I suggest that it is an estimate. It is very difficult to prove.

Just 2 days ago we authored an amendment to strike out residential insulation, and it was demonstrated rather clearly that the Senate did not want to tamper with residential insulation credits.

Mr. President, we really see no reason to have the credits for business insulation property, and I believe that we can save the taxpayers of this country nearly a billion dollars and since the savings in energy are estimates at best that we can better provide other savings for less cost.

Mr. President, there is no time limit. I think the distinguished Senator from Massachusetts wishes to speak, but I do not see him in the Chamber at the moment.

Are they willing to accept the amendment?

The PRESIDING OFFICER. The Senator from Georgia.

Mr. TALMADGE. Mr. President, this is a 10-percent investment credit for business energy insulation. It was in the House bill, and it is included in the Senate bill, also.

The Committee on Finance thought that it was worthy of inclusion particularly inasmuch as it was in the House bill. It will save energy, and that is what this program is all about. It would save about 40,000 barrels of energy a day.

I, therefore, object to the amendment.

Mr. DOLE. Mr. President, there is just being distributed now an illustration of some of the tax credits we have been dispensing. It is a cartoon that appeared this morning in the newspaper. It shows Congress Insulation Company insulating this house with, I assume, dollar bills or $100 bills or $20 bills, and that is in essence what we have been doing. We have been appropriating the taxpayers' money, which they do not have, to increase the taxes for tax credits, particularly in the insulation area where we do not have the insulation. It has been stated in this Chamber, I think four or five times at least, that only three companies make insulation, that the costs of insultation have increased 40 percent in the last 6 months, that you are now on the waiting list from 6 to 8 months even to find insulation. It is not the kind of business that can be created overnight to produce more insulation.

There is a great deal of deception going on now in the insulation field. The Federal Trade Commission, one Government agency I know a little about, is now in the process of investigating some of the deceptive practices, in fact some of the so-called—I would not use the term "ripoff"—indication that there is a great deal happening in this area that should not be happening.

If it is cost effective it is going to be a return on the investment in any event insofar as business is concerned.

All the reasons stated in the previous arguments that we have tried to apply to residential credits I think can apply doubly insofar as business insulation property is concerned. It seems to this Senator that in business they are going to make the investment because they know it is going to save money. They have the personnel, they have all the accountants, and they have all the expertise they need. And it just seems to me that this is nearly a billion dollars that might be well spent in some other area, whether it is saving energy or producing energy. It does not make any difference whether it is in the House bill or not. It is a bad provision, and it would seem to me that it should be stricken.

Mr. KENNEDY. Mr. President, is there a time limitation?

Mr. DOLE. There is no time limitation.

Mr. KENNEDY. I will just speak briefly, Mr. President.

I think the justification for this amendment has much in common with the justification for our amendment on home insulation yesterday. First, there is not enough insulation to go around. And even that which is going around is already rising in price three times as fast as the wholesale price index. By adding an additional credit, the bill effectively puts additional pressure on the cost factor. That point applies both to home insulation as well as business insulation.

But even though most of the arguments are the same, I think it is important to underline just one point before the vote that is significantly difficult. Businesses have the opportunity for tax depreciation which the homeowner does not have. Therefore, they already have an incentive to insulate which the homeowner does not have. There may be Members in this body who have been unpersuaded by the arguments of the Senator from Kansas and myself, as it relates to the homeowner, and want to give additional incentives to the homeowner. But businesses already have an additional incentive in the depreciation area. We believe that is incentive enough.

Beyond that, Mr. President, private companies have the wherewithal, the knowledge, the technology, and the basic business awareness of the savings that will be realized with insulation. They understood the savings that insulation can achieve. That is why they are in business. They know that their investment in insulation will be recovered quickly in the form of lower energy costs. It is a wise business decision to insulate. It might be difficult to convince a homeowner, and we might have to provide an additional incentive to homeowners. But I think everyone in this body understands that in private industry, they are making decisions based upon business judgment and they understand the importance of the savings without this additional incentive.

So, I would hope, Mr. President, that we could save the taxpayers $1 billion under the Dole-Kennedy amendment. It is nothing more than a windfall to companies for doing what they are already doing.

Mr. TALMADGE. Mr. President, the business insulation property will save 40,000 barrels of oil daily in the year 1985. The revenue loss from this provision will be $941 million or a little more than $100 million a year. It seems to me to be a big bargain to save 60,000 barrels of oil a day in 1985 with this business insulation credit.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. TALMADGE. I yield.

Mr. LONG. When reference is made to saving money for the taxpayers, is it not correct to point out that this is a savings for the taxpayer? This is to give taxpayers a tax savings if they will do something that we want them to do.

Mr. TALMADGE. The Senator is correct.

Mr. LONG. So that there is more than one way to look at saving money for taxpayers. If taxpayers do things in the public interest, we would like for them to save money.

Mr. TALMADGE. We have already granted the insulation credit not only to the homeowner but the apartment house owner as well, and it seems to me to be only equitable to grant the same thing for business savings.

I, therefore, move to table the amendment.

Mr. CURTIS. Vote.

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

(Putting the question).

Mr. CURTIS. It is tabled. Go on to the next one.

Mr. KENNEDY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Kansas.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

(Mr. ZORINSKY assumed the chair, and was succeeded by Mr. MATSUNAGA and then Mr. NUNN.)

Mr. SPARKMAN (when his name was called). On this vote I have a pair with the distinguished Senator from Maine (Mr. MUSKIE). If he were present and voting he would vote "nay"; if I were at liberty to vote I would vote "aye." I therefore withhold my vote.

Mr. CRANSTON. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Arkansas (Mr. BUMPERS), the Senator from Missouri (Mr. EAGLETON), the Senators from Kentucky (Mr. FORD and Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUM-

PHREY), the Senator from Vermont (Mr. LEAHY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Rhode Island (Mr. PELL), the Senator from Illinois (Mr. STEVENSON), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) would vote "yea."

Mr. BAKER. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Utah (Mr. HATCH), the Senator from Oregon (Mr. HATFIELD), the Senator from California (Mr. HAYAKAWA), the Senator from New Mexico (Mr. SCHMITT), the Senator from Vermont (Mr. STAFFORD), the Senator from Alaska (Mr. STEVENS), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT) is absent on official business.

On this vote, the Senator from Alaska (Mr. STEVENS) is paired with the Senator from Oregon (Mr. HATFIELD). If present and voting, the Senator from Alaska would vote "yea" and the Senator from Oregon would vote "nay."

The result was announced—yeas 36, nays 35, as follows:

[Rollcall Vote No. 601 Leg.]

YEAS—36

Baker	Gravel	Moynihan
Bentsen	Hansen	Nunn
Burdick	Hollings	Packwood
Byrd, Robert C.	Jackson	Percy
Cannon	Javits	Randolph
Cranston	Johnston	Ribicoff
Curtis	Long	Sasser
Danforth	Magnuson	Stennis
DeConcini	Matsunaga	Stone
Durkin	McClure	Talmadge
Eastland	McIntyre	Tower
Glenn	Melcher	Zorinsky

NAYS—35

Abourezk	Clark	Metzenbaum
Bartlett	Culver	Morgan
Bayh	Dole	Nelson
Bellmon	Hart	Pearson
Biden	Haskell	Proxmire
Brooke	Hathaway	Riegle
Byrd, Harry F., Jr.	Heinz	Roth
	Helms	Sarbanes
Case	Kennedy	Schweiker
Chafee	Laxalt	Thurmond
Chiles	Lugar	Wallop
Church	Mathias	Weicker

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Sparkman, for.

NOT VOTING—28

Allen	Hatfield	Pell
Anderson	Hayakawa	Schmitt
Bumpers	Huddleston	Scott
Domenici	Humphrey	Stafford
Eagleton	Inouye	Stevens
Ford	Leahy	Stevenson
Garn	McClellan	Williams
Goldwater	McGovern	Young
Griffin	Metcalf	
Hatch	Muskie	

So the motion to lay on the table amendment No. 1010 was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I take the floor at this time to inquire as to——

Mr. RANDOLPH. Mr. President, may we have order, please?

The PRESIDING OFFICER (Mr. NUNN). Senators will please take their seats and cease conversations. The Senate will be in order.

The Senator from West Virginia.

Mr. ROBERT C. BYRD. I thank the Chair. Mr. President, I take the floor at this time to inquire as to the number of amendments that remain to be called up, and to see if it might be possible to get a time limitation on each of those amendments, if they can be identified, so that we can have some understanding as to when the Senate will be able to complete action on the bill.

I am looking at this side for the moment. Mr. KENNEDY?

Mr. KENNEDY. Mr. President, I would just have one more; if we were going to finish this afternoon, I would just offer one, with a half-hour time limitation. If we are going over, then there would probably be three others, but each would be 10 minutes on a side. So I think four if we do it on Monday, just one this afternoon. If the Senate is going over, I would want to offer the others.

Mr. ROBERT C. BYRD. I thank the distinguished Senator. Mr. RIEGLE?

Mr. RIEGLE. I have one amendment at the desk that hopefully will not take too long.

Mr. ROBERT C. BYRD. Would the Senator suggest a time limitation?

Mr. RIEGLE. I would think 5 minutes—on either side—would be sufficient.

Mr. ROBERT C. BYRD. Mr. DURKIN?

Mr. DURKIN. Mr. President, I have one additional today, 27 if we go over until Monday. [Laughter.]

Mr. ROBERT C. BYRD. Does the Senator have any suggestion as to time?

Mr. DURKIN. I have one that will go 10 minutes on a side.

Mr. BAKER. Mr. President, there are a number on this side. I think the Senator from Pennsylvania has one.

Mr. SCHWEIKER. I have one, and I would be glad to work out a time agreement. The committee might well accept it and eliminate the necessity for a time agreement.

Mr. BAKER. I see the Senator from Oklahoma on the floor, who, I believe, is the principal sponsor of three amendments, if I am not mistaken.

Mr. BARTLETT. Mr. President, I will say to the Senator from Tennessee that is correct, three amendments. I think the minority leader is prepared to talk on that. I would be willing to agree to a time limitation of 30 minutes on all three amendments, equally divided, with a vote taking place on Monday.

Mr. BAKER. I also see the distinguished Senator from Idaho on the floor, who, I believe, has an amendment.

Mr. MCCLURE. I have two that go together, and one separate one, so in effect two amendments.

Mr. ROBERT C. BYRD. Is there any suggestion——

Mr. MCCLURE. A very short time limit. We may be able to arrive at some agreement.

Mr. ROBERT C. BYRD. All right. Senator DOLE?

Mr. DOLE. I was just discussing his amendment with the Senator from Idaho. I think we may be able to accept it. I will discuss that with the Republican leader and the chairman.

I have two amendments, and probably one will be offered. That will be to substitute the House bill for the Senate bill, which will not take long.

Mr. PERCY. I have amendment No. 1543 remaining, which I am prepared to go ahead and vote on this afternoon. But to honor my commitment to Senator GRIFFIN, if we hold the bill over until Monday, which I understand Senator BARTLETT wants to do, so that Mr. GRIFFIN can be accommodated since he is coming back Sunday night, I would suggest that following the votes on the Bartlett amendments we have an hour-and-a-half equally divided on amendment 1543, with the vote to follow immediately.

Mr. ROBERT C. BYRD. Can the Senator from Massachusetts call up his amendment at this time? I believe he indicated he would be willing to enter into a time agreement limiting debate to 20 minutes to be equally divided. If we could proceed with that amendment, I believe the minority leader and I could get around among those who have amendments, list them, and bring them back to the manager of the bill to see if we can reach an agreement as to a time limitation on those amendments. We will then be in a better position to advise the Senate as to what our findings are.

The PRESIDING OFFICER. The Chair will point out that the Weicker amendment is now pending. The question recurs on the Weicker amendment.

Mr. BAKER. I understand negotiations have been underway on the Weicker amendment with the prospect that it might be accepted in modified form.

Mr. LONG. A modified amendment is being prepared.

Mr. DOLE. They are working on some modification language now.

Mr. LONG. Mr. President, I ask that the Weicker amendment be temporarily laid aside.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Massachusetts is recognized.

AMENDMENT NO. 1508, AS MODIFIED

(Purpose: To provide that certain taxpayers not be eligible for any benefit conferred by this Act.)

Mr. KENNEDY. Mr. President, I call up amendment No. 1508, and I send a modification to the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an amendment numbered 1508, as modified.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

At the appropriate place insert the following new section:

SEC. . BENEFITS OF ACT DENIED TO CERTAIN TAXPAYERS.

Notwithstanding any other provision of this Act, any provision of, or amendment made by this Act, which provides for a credit, deduction, exclusion, or reduction with respect to any tax imposed under the Internal Revenue Code of 1954 and which would otherwise apply under this Act to a taxpayer whose income for the taxable year includes income from the production of oil or gas shall not apply to that taxpayer for that taxable year if the taxpayer is a taxpayer described in section 613A(d)(2) or section 613A(d)(4) of such Code.

Mr. KENNEDY. Mr. President, I will be glad to enter into a time limitation.

Mr. LONG. I just want to know what the amendment is about.

Mr. KENNEDY. Basically, it is to deny the benefits of this bill, the depletion allowances, the intangible drilling costs, the special production credits, and the new investment credits to the major oil and gas companies. We use the same definition we used in 1975 here on the Senate floor in repealing the percentage allowance for those firms.

Mr. LONG. I would suggest 20 minutes equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. PACKWOOD. I object.

Mr. KENNEDY. Mr. President, I yield myself such time as I might need.

Mr. PACKWOOD. I object to the time limitation.

The PRESIDING OFFICER. Objection is heard.

Mr. KENNEDY. Mr. President, in 1975 the distinguished Senator from South Carolina and I offered an amendment to eliminate the 22 percent oil depletion allowance. It was offered in recognition of the fact that, with the explosion of prices in the international oil market, there was sufficient incentive to the major oil and gas companies to produce without the additional benefit of the percentage depletion allowance. The result was a compromise repeal, in which percentage depletion was denied to the major integrated oil and gas firms, but permitted for most independent producers.

I think the results since the repeal of the depletion allowance, with the escalation of costs, quite clearly reflect that the major oil and gas companies have been able to continue their dramatic profits, in spite of the repeal of the depletion allowance.

This amendment tracks that particular amendment in 1975. What it does is permit all of the investment credits, all of the percentage depletion allowances, all of the intangible drilling costs, all of the special credits in this legislation for the independent producers. But it denies the benefits for the handful of oil giants who do not need these incentives anyway.

What it does do is deny the benefits for the major integrated oil companies, the international giants. If independent producers go into the area of geothermal energy, if they go into shale oil development, if they go into the variety of other alternative energy sources which this legislation is meant to encourage, they will be able to receive the full benefits of this generous legislation.

What it says is that, under this bill, we are not going to provide additional windfall benefits to the major oil and gas companies of this country.

I do think the bill will encourage the independent sectors of the industry. It will make them more competitive. I believe it will mean an expansion in terms of competition in a wide range of different energy activities, in the whole range of shale oil, geothermal, all of the energy areas. It will effectively deny the benefits of this program to the largest, the wealthiest, and the most powerful integrated oil companies.

The companies we are talking about are the large integrated companies, and they should not receive those benefits.

The chairman of the Finance Committee and others opposed our depletion repeal amendment in 1975. The compromise preserved the allowance for the so-called small producers—who are not so small in many cases, but have huge incomes, too, and are often among the largest companies in this country. But the 1975 compromise denied partial depletion to the biggest giants, and there is no reason that the Senate should open up the Treasury in 1977 to benefit those firms. What they lost in 1975 they should not get through the back door in 1977.

I understand the argument that will be made here on the floor of the Senate, "All of these various provisions are meant to save oil and gas. What we do not need is a weak program in meeting that objective."

I would certainly hope that those who are going to support programs for the largest gas and oil companies are going to explain to us on the floor of the Senate why those companies deserve these subsidies. Are they going to save oil? How many barrels per day will actually be saved by extending these provisions to the largest oil and gas companies?

This is not a complex amendment, Mr. President, but I do think it is a fundamental amendment in terms of equity and competition. How much is enough? How much is this body prepared to give to the largest oil and gas companies in this country?

Mr. PACKWOOD. Mr. President, my opposition to this particular amendment is not because of any particular love for the large oil companies. I voted with the Senator as far as divestiture. We are talking about such things as geothermal energy now. We are talking about trying to expand other alternative forms of energy. The major oil companies are now the principal companies involved in attempting to find, explore, and develop those alternative resources.

The time may come in the Senate when we want to look at the situation involving antitrust, not only as far as the oil companies are concerned, but many other companies.

We may want to enter into an investigation of how big is big or how much should oil companies be allowed to diversify into a variety of different businesses. But if we want to develop geothermal energy, if we want to develop shale oil, then the mama and papa oil company is not going to do it.

What did the Senator from Georgia say it cost for initial investment in shale oil development? The Senator is here; I ask him.

Mr. TALMADGE. One of the witnesses that appeared before the Senate Finance Committee, Atlantic Richfield, said he and his associates would spend $1.2 billion on the plant they contemplated.

We also had a telegram from the chairman of the board of Union Oil that they contemplated spending a minimum of $100 million on their plant.

Mr. PACKWOOD. Is it fair to say it is not likely that small oil companies are going to get involved heavily in the initial development of shale oil?

Mr. TALMADGE. They do not have the resources. They could not.

Mr. PACKWOOD. I thank the Senator.

Mr. President, geothermal development is not unfamiliar to Oregon. We have had some little development. One of our campuses, Oregon Institute of Technology, at Klamath Falls, Oreg., converted from oil to geothermal. They had been heating eight of their buildings, about 530,000 square feet of space, with oil. They converted over to three geothermal wells with depths of roughly 1,300 to 1,800 feet. Hot water comes out at a temperature of 800 degrees. Their annual costs on heating with oil had been $250,000. Their annual cost of heating with geothermal hot water is about $12,000, and they are saving about 13,000 barrels of oil per year by the conversion.

Oregon has some State public lands, and we have a great many Federal public lands in that State. They have recently been opened up to bidding. They have not yet been developed. But they have been opened to bidding on the development of the geothermal resources. Most of the bids, certainly the largest, have been by major oil companies. I have been one of the first to say that we want to be wary, we want to be careful of how much we allow the overall energy industry in this country to be controlled by oil companies. But I am saying this is not the bill and not the time to settle that topic.

If we want to develop these new resources, then we are going to have to develop them much as we did the crude oil resources in this country 40, 50, and 60 years ago. We are going to have to invite everybody in, try to invite every venture dollar we can, because it is a risky business, and hope we find enough alternative sources of energy to crude oil and natural gas to get us through the shortages for the next 10 years.

I voted for the divestiture of the oil

companies. I think the time is long overdue when we should have a serious study of the size of American companies, including oil companies and others. But this is not the place to put in this kind of limitation if we hope to have any kind of expansion of a variety of different alternative sources to crude oil.

Mr. BENTSEN. Mr. President, we are seeing a very substantial deficit in our balance of trade because of our oil imports. That compares with a surplus in 1976.

The trade deficit represents a very significant leakage from the domestic economy to the rest of the world. It has precisely the same effect on the economy as a tax increase. It reduces demand in America. Therefore, it lowers the growth rate and it adds to unemployment. To prevent continuation of this deficit we must reduce our dependence on overseas oil. We must encourage the development of nonconventional energy sources. This amendment will substantially limit some very important incentives approved by the Senate Finance Committee. I urge very strongly that the Senate turn down this amendment.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. MATSUNAGA. I rise in opposition to the amendment offered by the Senator from Massachusetts. Let us stop to think what we are trying to do here. We are trying to save domestic oil consumption; we are trying to create new sources of energy so that we will reduce our imports of oil. One of the most promising alternate sources of energy in certain areas of our country—California, Hawaii, Oregon, the Western States in general—is geothermal energy.

The cost of drilling for geothermal energy is so much greater than the cost of drilling for oil that we need the capital, we need the expertise of the big oil companies. Without such capital, without such expertise, no one is going to venture into the development of geothermal energy as an alternative to oil.

Hawaii depends upon oil for its energy; the State must import oil to satisfy up to 98 percent of its energy needs. Geothermal energy promises to make Hawaii self-sufficient in energy, along with solar, ocean thermal, and wind energy. Without the support, the capital of the big oil companies, and the expertise of the big oil companies, it is doubtful that Hawaii will ever realize this dream of being self-sufficient in its energy requirements.

I urge my colleagues to vote down this amendment, because it is counter to what we are trying to do with our energy program.

Mr. CRANSTON. Mr. President.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. I should like also to support the Finance Committee position and oppose the amendment. Granted that the allowance would go to large and small companies, this is a very promising field for the development of new energy. Assistance is needed to get the investment to develop geothermal energy, which is very important in the West, very important in California, and can be very, very significant, nationally.

This is an industry that is in its absolute infancy. Only one commercial geothermal field in the United States—that is the Geysers in California—is now producing electricity. The amount of electricity produced there is currently 502,000 kilowatts. That is enough to provide 60 percent of the needs of San Francisco. We can develop some other fields that would do likewise. Obviously, that can be a tremendous boost to energy production in our country. The total potential productivity of the Geysers field is around 2 million kilowatts, all of which can be available by 1985, or by 1990.

In President Carter's energy plan, he states this laudable purpose: "To bring about equality to treatment among activities that compete for capital." This equality can be achieved, in my view, only by retaining the Finance Committee's provision for percentage depletion for geothermal resources.

The Senate has, twice before, I remind the body, approved a percentage depletion allowance provision for geothermal resources. I urge it to do so again. I hope that, this time, it can get it all the way to enactment.

Mr. KENNEDY. Mr. President, although this amendment was not targeted on the geothermal issue, it is obviously a sensitive issue. It is true that one of the 21 largest oil companies, Union Oil Co., has already made a substantial investment in geothermal energy. I have another amendment on that question. It is amazing to me that the Senate would consider allowing a depletion allowance on a virtually nondepletable resource.

I know an argument can be made that certain types of geothermal energy are depletable, but there are other geothermal sources that are nondepletable, at least by any ordinary definition of depletion. Why not provide a depletion allowance for the wind energy in Massachusetts, or the solar energy down in the Southwest. Why not provide a percentage depletion allowance for them as well, if we are going to say that a nondepletable geothermal resource is going to get it? The logic of that eludes me, but that is not the thrust of this particular amendment.

Mr. MATSUNAGA. Will the Senator yield?

Mr. KENNEDY. I want to make a few other remarks with regard to points raised here, then I will yield.

The chart behind me gives us some idea of how the oil companies are devouring the ownership of alternative sources of energy. They have already moved heavily into coal and uranium. Obviously, they are moving into geothermal and shale oil.

The chart shows their ownership of coal and uranium reserves, and their share of the current production of these sources.

There are people in here who say, "If we're going to consider horizontal divestiture, let us do so. And in due time, when we have a chance to examine legislation in the next session, let us debate it, but not on this particular program."

We will have an opportunity, I hope, in the next session to have a debate and discussion on horizontal divestiture. But that is stronger medicine for the oil and gas giants. It would prohibit them from entering alternative energy fields. This amendment only says we should not use tax dollars to subsidize their entry into those fields.

But I do make the point that if we add the kinds of tax incentives this bill offers, there may be very little left for horizontal divestiture, because the benefits of this bill are going to encourage the major integrated oil and gas companies to reach out for an even greater share of the sources of alternative energy.

We can see where they are already moving now. The incentives in this bill are going to produce further concentration of the industry.

This is an effort, in this particular amendment, to say, "All right, let's provide all these incentives to the smaller firms, to the independents, to the nonintegrated companies. The major companies are already moving in. Let us get some other firms in, before it is too late."

Now, it is amazing to me that in 1977, knowing that the major oil and gas companies have reaped extraordinary profits, over the past 4 years because of the explosion in oil prices, we are nonetheless going to provide additional millions and millions and millions of dollars in new tax incentives to the largest integrated oil and gas companies. The dollars will come out of some place. They will come out of the pockets of the average American family, make no mistake about it.

This is not going to be an incentive for new energy production. We are making it available to the major oil companies. It will be an incentive to lessen competition instead.

It will bring extraordinary windfall profits to the major companies and corporations already in these areas, and it is going to do so at the cost of the American consumer. That is basically the reason why I offer this amendment.

Let us provide these resources and incentives, if we make that decision, to the smaller independent and more competitive aspects of industry.

But why are we going to give it to the major corporations? Do they need all this money? They do not know what to do with money they already have. Gulf was considering buying Ringling Brothers circus.

Mobil Oil spends millions of dollars for Montgomery Ward and for land speculation in California.

And Members of the Senate say, "Let's pile more money on them because maybe at last they'll go out and produce more," when they are already putting a great deal of their resources at the present time into nonenergy areas.

We are effectively going to be taking this money out of the pockets of the average American and giving it to the oil giants. That is what the issue is here.

We have no assurance whatsoever by the members of the Finance Committee that if we only provide these incentives to the competitive aspects of American oil and gas production, we would see only x amount of oil and gas saved, but if we provide it to the majors, then y amounts saved.

We have no figures like that whatever. Absolutely none. But we know we will be providing every year a very substantial windfall tax profit to major oil and gas companies.

Several Senators addressed the Chair.

Mr. KENNEDY. I yield the floor, or I will yield for questions.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President and Members of the Senate, I rise to support this amendment. I do so because we sit here day in and day out, in the last 9 months, and we have cried our eyes out for the big oil industry. We have talked about production and then when it comes to doing something about production, what do we do?

We give a giveaway to the oil companies of this country who certainly do not need it. The profits of the oil industry have been magnificent. When they report their earnings and say that they are not doing any better as far as the return on investment than other parts of American industry, it just is not in accordance with the facts because they delude the American public by not including in their debt figures.

The fact is that this amendment makes sense. This is a giveaway of the American taxpayer's dollar.

When we give away the American taxpayer's dollar, it just means that if the oil companies do not pay it, and we give the money to them, then the people of America pay it.

If there were a scintella of evidence that we would get more oil, whether it is shale oil, whether we get more geothermal energy, whether we get more oil from the tar sands, if there were a scintella of evidence, maybe there would be some justification to provide this kind of an incentive.

But we have been here day in and day out, whether it had to do with gas deregulation, whether it had to do with drilling on the Outer Continental Shelf, whether it had to do with depletion allowances, whether it had to do with tax incentives, we have cried our eyes out for the oil industry.

We talk about free enterprise. We believe in free enterprise and we have to support the Kennedy amendment because the Kennedy amendment says, "Let the small companies have an opportunity to grow, give them some incentive to go out and drill and explore and develop, but don't give the same advantages to those who don't need it."

There is no reason that big oil needs these kinds of dollars unless we are beholden or we want to do some special kinds of favors for the big oil industry of this country.

We have talked about divestiture and we do not move toward divestiture. We say we will get to that subject tomorrow.

But the fact is without divestiture we do not have free enterprise in the oil industry.

We talked about doing other things in this whole program, but, with no exception, big oil has consistently prevailed in this session of the Congress of the United States.

Now, this is an opportunity to do something to make a distinction for the small oil producers.

I remember when we talked here one day about some special retroactive legislation that the distinguished Senators from Texas had pertaining to the development of the small independent producers. I remember very well that the distinguished Senator from Texas' amendment prevailed. The next move we had was then to make it be retroactive, coming from the other distinguished Senator from Texas.

But we do not need to do that. That was one thing for the small independents. If we believe in the small independents and we have some concern about them, then we ought to support this amendment as proposed by Senator KENNEDY.

I am concerned, and I can count the figures beforehand, the amendment is not going to pass. But the amendment should pass and the American taxpayers ought to realize that they are the ones who are paying the bill, and what we are doing by refusing to pass this amendment is that we are providing for direct subsidies for the big oil companies of this Nation. We are taking the dollars out of the pockets of the American people.

Mr. KENNEDY. Will the Senator yield?

Mr METZENBAUM. Yes; to the Senator from Massachusetts.

Mr. KENNEDY. I was wondering if the Senator was familiar with the August 15 article in Forbes magazine.

It is an article that says:

> Does Exxon have a future? The day is coming when oil alone can no longer absorb Exxon's vast cash flow. What happens then? Forbes notes that enormous amounts of money will roll into Exxon in the early years of North Sea Production . . . and from Alaska's North Slope. This for a company that is virtually debt free. Exxon has long term debt of $3.7 billion; on the other hand it has $5 billion in cash and marketable securities. . . . Exxon's huge pileup of assets cannot be blamed on any reluctance to spend money on oil. It plans laying out $4.4 billion a year for capital projects from 1977 through 1981. . . . But even the continental shelf is unlikely to absorb the $7 billion a year cash flow that Exxon will have within 5 years. . . . Still the money will pile up.

Mr. President, still the money will pile up.

Under this bill, we are providing hundreds of millions of dollars more to firms like Exxon. What additional incentive should there be?

Mr. METZENBAUM. I appreciate the distinguished Senator from Massachusetts mentioning the Forbes article. I have read it, and I was concerned about the poor plight of the oil industry. But the thrust of that article was totally different, in that it said poor Exxon was having a great problem finding a place to use the billions upon billions of dollars it is amassing in its treasury.

Mr. KENNEDY. Is it not the argument of those who support these tax expenditures that we have to give the big oil companies more money, more resources, to increase production? Yet, they are not willing or able to expend the resources they have. Who provides this money?

Mr. METZENBAUM. It comes from the American taxpayer. Instead of Exxon having to worry about how to take care of its $7.7 billion in cash flow each year and what to do with it, if we do not adopt this amendment, they will have $8.7 billion or $9.9 billion.

The article only serves to emphasize that Exxon and the other major oil companies do not need additional tax credits and depletion allowances. They have more than enough cash today to do everything they want to do, so far as exploration and development are concerned, and they actually are looking for other areas in which to invest.

Mr. CRANSTON. Mr. President, I should like to speak to one point that has come up in the course of this discussion, and that is the issue of whether geothermal energy is an inexhaustible or wasting, depleting resource.

It has been alleged that it is everlasting. The fact is that the Director of the Department of Energy has written to our colleague the Senator from Hawaii (Mr. MATSUNAGA), and stated:

> I do not believe there is any reasonably scientific doubt that geothermal resources are depletable.

He stated, also:

> The reigning confusion over this issue is largely semantic. The simplistic statement is often made that "the natural heat of the earth is inexhaustible" . . . This statement, while true in principle, is irrelevant to any foreseeable potential use of geothermal resources . . . The geothermal resources at shallow depths [than the earth's core] are exhaustible over a few years or decades, and renewable only over periods of eons.

The fact is, of course, that no one is absolutely certain whether the heat of the Earth is actually diminishing, but that is not relevant to this discussion. The heat, by itself, in the core of the Earth is presently useless. It needs something to carry it to the surface so it can be used, and that is water. Water is diminishing in California and the West and perhaps in the entire country, much of which has been struck by a drought.

Therefore, the resource of geothermal energy is diminishing, because it is becoming useless or not available as its conductor exhausts. To date, reinjection into the system is not helping replenish the availability of the resource.

So we are talking about a depletable resource.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. CRANSTON. I yield.

Mr. KENNEDY. It is obviously a scientific fact, as to whether or not the resource is depletable. As I understand it, there are some types of geothermal energy that could be considered depletable over a long period of time, but there are other types which may not be depletable at all, or depletable only over a period of many many years, perhaps 50 or even 100 years. Why should they get a 22 percent depletion allowance year after year? This is nothing like oil and gas depletion. Would the Senator support an amendment that would restrict the depletion allowance on geothermal energy to resources that are depletable? I think that was the obvious intention in terms

of oil and gas, and I am wondering if the Senator would support that for geothermal energy.

Mr. CRANSTON. No, I would not, because I do not think we can define it properly.

Mr. KENNEDY. Even if the Academy of Science is prepared to show that? If not, is the Senator going to support those of us who live on the east coast and want a depletion allowance for wind energy, tidal energy, and solar energy? We are going to say that the Sun is depletable and the tides are depletable. It either is or is not depletable. I am prepared to say that that should be a scientific fact. I do not think we can resolve that here.

If the scientific information proves that a resource is not depletable, is there any justification for a depletion allowance. I mention this particularly because in the Senate Finance Committee, with respect to geothermal energy, in the evaluation of how much energy is going to be saved by the bill, it says "negligible." So we are not doing this because it is going to save any energy. We should not be under that illusion.

Mr. LONG. Mr. President, will the Senator yield?

Mr. CRANSTON. I yield.

Mr. LONG. When the Senator refers to the estimate and he says "negligible," we are talking about negligible prior to 1985. But, conceivably, by the year 2000 we might be producing a fantastic amount of energy by that method.

It is true that when you go down about 5 miles into the Earth, you get through the hard, outer crust and get to the molten core of the Earth. From that point, you have 8,000 miles of molten lava, between there and Red China on the other side.

Nobody will live long enough to see all the heat inside the earth exhausted. But when you drill down and you find the spots where one can fairly and reasonably get to the heat, it is my understanding that, in time, the area where you drill will cool off; and when it does, you have to find another area to drill into. Although it is true that eventually the heat of the earth might restore heat to the drilled area, it is not going to happen any time soon. Maybe in somebody else's lifetime that will be the case. It is my understanding that that is something that can be debated.

I have voted on both sides of the issue —one, when I looked at it at first blush, and the other when poeple showed me the kind of technical information to which the Senator from California refers.

Mr. MELCHER. Mr. President, will the Senator yield?

Mr. MATSUNAGA. Mr. President, will the Senator yield?

Mr. CRANSTON. I am afraid we would land in court if we tried to determine at this point, by any amendment, what is depletable or what is not.

I say to the Senator from Massachusetts that Massachusetts is blessed with wind, tide, and sun, and so is California. If the Senator can figure out a way to benefit tax-wise—I will join him.

Mr. KENNEDY. We do not have the Union Oil Co. there yet.

Mr. MATSUNAGA. Mr. President, will the Senator yield?

Mr. CRANSTON. I yield to the Senator from Hawaii.

Mr. MATSUNAGA. Mr. President, the Senator from Massachusetts has raised the question of depletability of geothermal energy. This is the question which was raised even by the chairman of the Finance Committee when the matter was under discussion in that committee; and he is now convinced, I am sure, that geothermal energy is depletable.

In *Reich* v. *Commissioner*, 545 Fed. 2d 1157, the Ninth Circuit Court of Appeals, in 1972, declared that geothermal steam is in fact depletable.

Let me also read from the letter, to which the distinguished Senator from California referred, the letter signed by the Director of the Department of Energy, Division of Geothermal Energy, on October 11, 1977:

> I do not believe there is any reasonable scientific doubt that geothermal resources are depletable. It is possible to imagine an extremely unusual formation that might not be depletable, but the scientific evidence clearly shows that all known recoverable resources are depletable.

I also point out to the Senator from Massachusetts and the Senator from Ohio that 42 minerals now enjoy a 22-percent tax depletion allowance. The list includes uranium, zinc, asbestos, sulfur, talc, nickel, oil, and gas. These 42 depletable minerals receive a 22-percent allowance. Why should not a depletable geothermal resource have the same allowance?

Several Senators addressed the Chair.

Mr. MATSUNAGA. I would like to answer the points raised by the Senator from Ohio as well as those raised by the Senator from Massachusetts.

The combined revenue loss for geothermal depletion as well as the deduction for intangible drilling expenses will be $50 million by 1985. The estimated energy savings would be 50,000 barrels of oil a day or over 18 million barrels of oil a year.

These figures were obtained from the staff of the Joint Committee on Taxation. And the Sierra Club has stated in a letter dated October 1977 that potential energy savings will be even greater, measuring 200,000 barrels a day by 1985 or 73 million barrels a year.

The tax cost for oil saved by geothermal development will be—I beg the Senator from Ohio and the Senator from Massachusetts to listen—I repeat the tax cost for oil saved by geothermal development will be less than 66 cents per barrel. This will mean 73 million barrels a year that we will not need to buy from OPEC countries.

Mr. MELCHER. Mr. President, will the Senator yield?

Mr. METZENBAUM. Will the Senator from Hawaii yield for a question?

Mr. MATSUNAGA. I promised to yield to the Senator from Montana. I yield to the Senator from Montana.

Mr. METZENBAUM. For a question.

Mr. MELCHER. I would like the attention of the Senator from Massachusetts and the desk.

As I read the modified amendment that we are considering, it refers to no tax credits going to two different groups, groups that have a refinery or groups that have a retail outlet. I fail to find out how geothermal gets into this debate without a refinery, and I do not suppose they meet on the retail level either. Why is this debate going on about geothermal?

Mr. KENNEDY. Because the principal oil company in geothermal energy production is the Union Oil Co. of California, and it would fall under the language of the amendment. The Senator is quite correct that this whole discussion is only a part of the total amendment.

So the amendment is applicable to the oil company that has been in the geothermal area in California. But I ask you, why do they need this new carrot? They are already there. They are already producing. Why do they deserve this windfall?

Mr. MELCHER. I thank the Senator for yielding to me, and I will make an observation.

Through Union this amendment may get at geothermal. But it goes much beyond the majors, if the criteria is going to be a refinery or retail outlet. It gets to cooperatives that have a retail outlet. It gets to cooperatives such as Cenex that have a refinery and it would deny to them the opportunity for what is in the bill for the purposes of any type of tax credit or tax consideration.

Mr. METZENBAUM addressed the Chair.

Mr. KENNEDY. The point I make is that this is the identical language that was adopted in 1975 to exclude the major oil companies from the 22-percent depletion allowance. If the firms in the Senator's examples do not qualify for the 22-percent depletion allowance of oil and gas, they would not qualify for the subsidies in this bill. I do not think, really, that the language could be stretched to cover the example the Senator has suggested because, in fact, since that law was passed 2 years ago those examples have not been brought to the attention of the Senate.

Mr. MELCHER. But I bring it to the attention of the Senate now because indeed there are a variety of possible tax credits and the forgiveness feature that would go to them even if they did not have much of a taxable income that are possibilities in this particular bill. And as I read the Senator's amendment it is all inclusive to forbid any of them to go to these classifications.

Mr. KENNEDY. The test is identical to the 1975 act. The percentage depletion allowance is denied to oil and gas firms that do have retail outlets or refineries. There is a $5 million exemption for retail sales, and a 50,000-barrel-per-day exemption for refineries. So only the large integrated firms lose the depletion allowance. The lesson has been quite clear. It reaches just the major oil and gas companies. Of course, cooperatives may be in a different status, since they probably do

not pay taxes anyway as tax-exempt organizations. So they do not get any of the tax subsidies in current law anyway. Why should they start getting tax subsidies now? Perhaps they will come under the small sales exemption.

Mr. MELCHER. A $5 million sales will not possibly reach the refining and retailing business of many small operations.

Mr. KENNEDY. What companies?

Mr. MELCHER. I named Cenex, a cooperative that has a refinery in my State.

Mr. KENNEDY. Do they have a percentage depletion allowance?

Mr. MELCHER. They operate in Minnesota and North Dakota.

Mr. KENNEDY. Did they have a depletion allowance prior to 1975? If they don't pay taxes, they would not get depletion and the intangible drilling deduction under either current law or under this bill.

Mr. MELCHER. I do not think that the depletion allowance will apply to them. But the Senator's amendment if I read it correctly would deny any of the tax credits or the refundable tax credits under this bill to them because they are in the groups identified by the section of the code that under the amendment will not be eligible for the tax credits or concessions.

Mr. MATSUNAGA. Mr. President, I still have the floor.

Mr. METZENBAUM. A point of order, Mr. President.

Mr. MATSUNAGA. I am happy to yield to the Senator.

Mr. METZENBAUM. A point of order.

The PRESIDING OFFICER. The Senator from Hawaii has the floor. Does the Senator yield?

Mr. METZENBAUM. A point of order, Mr. President.

The PRESIDING OFFICER. Does the Senator from Hawaii yield the floor?

Mr. METZENBAUM. I do not need him to yield for a point of order.

The PRESIDING OFFICER. The Senator must have the floor in order to make a point of order.

Mr. METZENBAUM. The point of order I am making is that the Senator from Hawaii lost the floor when he yielded the floor to the Senator from Montana. He had no right to yield it under the rules.

Mr. MATSUNAGA. The Senator from Hawaii will state that he was on his feet continuously, that he yielded to the Senator from Montana to permit a colloquy between him and the Senator from Massachusetts, and that he did not yield for this point of order.

The PRESIDING OFFICER. The Senator from Hawaii has the floor.

Mr. METZENBAUM. Has what?

The PRESIDING OFFICER. The Senator from Hawaii has the floor.

Mr. MATSUNAGA. I will now be happy to yield.

Mr. METZENBAUM. A parliamentary inquiry.

The PRESIDING OFFICER. Does the Senator from Hawaii yield for a parliamentary inquiry?

Mr. MATSUNAGA. I will be happy to yield for a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. METZENBAUM. Can a Member of the Senate yield the floor to another Member of the Senate without losing the floor when there is no time limit on debate?

The PRESIDING OFFICER. He can if the point is not raised and he is recognized.

Mr. METZENBAUM. At what point need the point be raised?

The PRESIDING OFFICER. Not at the point when the Senator has the floor back.

Mr. METZENBAUM. If the Senator has not yet obtained the floor back and the point of order was raised at that time, would it not lie?

The PRESIDING OFFICER. The Chair never understood the Senator from Hawaii gave up the floor. The Chair recognizes the Senator from Hawaii.

Mr. METZENBAUM. The Senator from Georgia was not listening too well. All right. No problem.

Mr. MATSUNAGA. Thank you, Mr. President.

I will call to the attention of the Senator from Massachusetts that there are 13 major and 12 independent oil companies now with geothermal programs, and I repeat for the benefit of the Senator from Ohio that without the capital of the big oil companies we do not anticipate any movement in the development geothermal energy. It is for this reason that I, as the Senator from Ohio well knows, who have not been a champion of the big oil companies, would resist any attempt by amendments such as this to discourage anyone from going into the development of geothermal energy.

If the Senator from Ohio will read the amendment carefully, as was pointed out by the Senator from Montana, it appears that this amendment will deny all credits being given to the oil companies, the big oil companies, by this bill.

Let me read now from the amendment itself:

> Notwithstanding any other provision of this Act, any provision of, or amendment made by this Act, which provides for a credit, deduction, exclusion, or reduction with respect to any tax imposed under the Internal Revenue Code of 1954 and which would otherwise apply under this Act to a taxpayer whose income for the taxable year includes income from the production of oil or gas shall not apply to that taxpayer for that taxable year if the taxpayer is a taxpayer described in 613A(d)(2) or section 613A(d)(4) of such Code.

We are not talking only about the depletion allowance for geothermal development; we are talking about all these other credits in the bill, which would be denied under the amendment offered by the Senator from Massachusetts. So I urge my colleagues to defeat this most unfair amendment.

We need to be fair not only to the little ones, but to the big ones as well. That is the American way.

I would be happy to yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio was the first to address the Chair.

Mr. LONG. Mr. President, will the Senator yield to me, reserving his right to the floor?

The PRESIDING OFFICER. I might say the Chair cannot see the Senator from Louisiana. [Laughter.]

Mr. LONG. Mr. President, will the Senator yield to me without losing his right to the floor?

Mr. METZENBAUM. I yield to the Senator without losing my right to the floor.

Mr. LONG. Mr. President, the Senator from Massachusetts has just brought up an amendment which stirs sufficient interest so that it is going to require more debate than we can accommodate today. In due course, I am going to ask that we set this amendment aside and take up some amendments that I think we could, perhaps, accept. We could accept some without a rollcall and we can get them out of the way. Then I would hope everybody who would like to participate in making a record on the pending amendment would get his speech made and, hopefully, everybody would read all of the speeches between now and the time we come back on Monday morning. The thoughts will be laid out beautifully, in perfect, scholarly style, with all the appendices so that everybody can see and read what everybody has said on both sides, and I am sure Senators will be better advised on Monday. They will probably have 200 or 300 pages, with all of the backup information available.

I know once in a while the Senate ought to do something, in a meditative, thoughtful way. So for those Senators who have been hanging around here hoping that we were going to pass the bill, I think I should tell them we are not going to be able to pass the bill today. Go home. Good luck. You can have the rest of the day off.

Mr. KENNEDY. Mr. President, will the Senator yield for 10 seconds?

Mr. LONG. Yes.

Mr. KENNEDY. The Senator from Louisiana is a very benevolent man, but the Senator may be spoiling Sunday for a lot of oil company executives.

Mr. LONG. Well, my impression of lobbyists is that most of them are overpaid and underworked. They do about 1 week's work and get a solid year's pay.

Mr. KENNEDY. They have earned their pay on this bill.

Mr. LONG. If they have to do an extra day sometime in the year it will not hurt. It is good for their circulation to have a little anxiety over the weekend. [Laughter.]

Mr. METZENBAUM. I think this question of it being good for the circulation is a very good point, but I wonder if we are going to put this amendment aside why we should not put the entire matter aside until Monday morning and start up again?

Mr. LONG. I will say to the Senator my thought is we could dispose of some things that would require no more than a voice vote, some noncontroversial things. I believe there are a few amend-

ments, an amendment or two, I can take to conference. If the Senator wants to object to it, let the Senator present his amendment and then do whatever the Senator thinks about it, because the kind of thing I have in mind is the sort of thing to be done more or less by unanimous consent anyway.

Mr. METZENBAUM. Until what hour does the Senator from Louisiana expect to continue?

Mr. LONG. Hardly past 5.

Mr. METZENBAUM. Five o'clock?

Mr. LONG. About 5 o'clock.

I now hope that those who might want to make some very thoughtful speeches about this subject might be willing to make some of those speeches after 5 o'clock so we could get some other things done between now and then. I will be glad to stick around and hear them. I want to show a little consideration for my colleagues. They are a little weary of me, I know, and they can at least get a respite from that. So we can get some other things done. I am not trying to urge the Senator to defer his speech, but I hope the others could be deferred for a while until we can get some other things done.

I thank the Senator.

Mr. KENNEDY. Mr. President, I am prepared to set it aside. Does the Senator want to set a time to vote on Monday?

Mr. LONG. I would be happy to.

The PRESIDING OFFICER. Has the Senator from Ohio yielded?

Mr. METZENBAUM. For the purpose of reaching an agrement with respect to setting it aside.

The PRESIDING OFFICER. Not fully.

Mr. METZENBAUM. Otherwise I would want the floor.

TIME-LIMITATION AGREEMENT ON KENNEDY AMENDMENT NO. 1508

Mr. LONG. I ask unanimous consent, Mr. President, when the Senate convenes on Monday that there be 20 minutes equally divided to discuss the pending Kennedy amendment, and that at that point the Senate proceed to vote on the amendment.

Mr. MELCHER. Reserving the right to object——

Mr. LONG. I will withdraw the motion to vote, because someone might want to make a motion to table. I do not know whether they do or do not, but we have the usual unanimous-consent request for 20 minutes equally divided on the amendment.

The PRESIDING OFFICER. Is there objection?

Mr. MELCHER. Reserving the right to object, Mr. President, I only want to make one point, and then I shall not object. That point is that the amendment before us by its nature goes much farther than just the giants or the majors of the oil industry. It involves a refinery or a retailer that has some oil production, and I give one example. In the case of Cenex, which is a cooperative that operates in Minnesota, North Dakota, and South Dakota and Idaho and Montana, this amendment would apply, and so no tax credits or other tax concessions in the bill that apply would apply to them if this amendment were adopted. It would affect many other small operators. For that reason I hope the amendment is rejected.

I do not object.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Senator from Ohio has the floor.

Mr. METZENBAUM. I yield back the floor.

The PRESIDING OFFICER. Does the Senator from Montana desire to be recognized?

Mr. KENNEDY. Mr. President, I ask unanimous consent to set my amendment aside.

AMENDMENT NO. 1483

(Purpose: Strike the current deduction for geological and geophysical costs of geopressurized methane gas in section 1043.)

I call up amendment No. 1483 which, I believe, will be acceptable.

The PRESIDING OFFICER. The clerk will report.

The second assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes amendment numbered 1483.

The amendment is as follows:

On page 85, delete lines 7 through 19.

Mr. CHILES. As I understand it, Mr. President, there will be no more rollcall votes today?

Mr. LONG. No more rollcall votes.

Mr. KENNEDY. Mr. President, the amendment would delete the section granting an "intangible-type" deduction for so-called "G and G" costs, the costs in discovering deposits of geopressurized methane.

There are basically two types of costs involved, as I understand it. First, there are seismic costs. Geologists string out listening devices every half mile or so. They drill a hole, put in some dynamite, and set off shock waves. Then they measure the return of the shock waves and try to identify structures or domes in the earth that might contain energy resources.

Second, there are the costs of airplane reconnaissance. Two techniques are used here. One involves gravity meters, where they look for anomalies in gravity caused by changes in the formation of the Earth. A bulge in the Earth's crust may produce detectible changes in gravity, suggesting the existence of a cavity or dome in the Earth.

The other involves magnetic fields, where they use magnetic devices to detect changes that may indicate a cavity or dome.

As I understand it, there is no way that either the seismic technique or the airplane reconnaissance can distinguish between oil and gas and geopressurized methane. They have to drill before they know what is there. All the techniques reveal is that there is a cavity in the Earth.

It may contain nothing.

It may contain oil, oil and gas, or oil, gas, and geopressurized methane in a combination.

The geopressurized methane is natural gas dissolved in water under pressure. It is generally found along the Gulf coast off Louisiana, Texas and Mississippi at depths of 6,000 to 8,000 feet. So it is likely to be found in the same places as oil and gas.

My concern is that the special G and G deduction for methane will become a backdoor way for companies to get a G and G deduction for oil and gas. They may "search" for methans, but they will get a bonus if they find oil and gas, since they will have a deduction for their G and G costs. Congress has now been willing to grant that deduction directly for the oil and gas companies, and we should not do it indirectly now. So I hope the amendment will be accepted.

Mr. LONG. Mr. President, after disagreeing to that amendment in the committee, I have discovered, and I believe the other committee members now are aware, that there were technical defects in that part which we were not originally aware of. Therefore, I am glad to agree to accept the Senator's amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment was agreed to.

UP AMENDMENT NO. 1011

(Purpose: To provide a tax credit for the annual increase in an individual's home heating and cooling costs attributable to imported oil costs.)

Mr. CHILES. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Florida (Mr. CHILES) proposes an unprinted amendment numbered 1011: At the appropriate place insert the following new section—

Mr. CHILES. Mr. President, I ask unanimous consent that the further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following new section:

SEC. . CREDIT FOR INCREASED RESIDENTIAL ENERGY COSTS ATTRIBUTABLE TO IMPORTED OIL.

(a) Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowed) is amended by inserting immediately after section 44H the following new section:

"SEC. 44I. CREDIT FOR INCREASED RESIDENTIAL ENERGY COSTS ATTRIBUTABLE TO IMPORTED OIL.

"(a) GENERAL RULE.—In the case of an individual, there is allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to that portion of the amount by which his home heating and cooling costs for the taxable year exceed such costs for the preceding taxable year is attributable to increases in the price of imported residual fuel oil.

"(b) LIMITATIONS.—

"(1) MAXIMUM DOLLAR AMOUNT.—The amount of the credit allowed by subsection (a) for the taxable year shall not exceed $150 ($75 in the case of a married individual making a separate return of tax).

"(2) MAXIMUM ADJUSTED GROSS INCOME.—The amount of the credit allowed by subsection (a), after the application of paragraph (1), shall be reduced by one percent of the amount by which the adjusted gross income of the taxpayer exceeds $15,000 ($7,500 in the case of a married individual making a separate return of tax).

"(3) APPLICATION WITH OTHER CREDITS.—

The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this part having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, 43, 44C, and 44H.

"(4) SAME STRUCTURE LIMITATION.—No credit is allowable under subsection (a) for the taxable year for home heating and cooling costs of the residence of the taxpayer for the taxable year unless—

"(A) the same dwelling unit was his residence for the preceding taxable year, or

"(B) the taxpayer establishes, to the satisfaction of the Secretary, the amount of the home heating and cooling costs for such dwelling unit for the preceding taxable year.

"(c) DEFINITIONS; SPECIAL RULES.—For purposes of this section—

"(1) HOME HEATING AND COOLING COSTS.—The term 'home heating and cooling costs' means the sum of the amounts paid or incurred by an individual for the taxable year to provide heating and cooling for his residence.

"(2) INCREASE ATTRIBUTABLE TO IMPORTS OF RESIDUAL FUEL OIL.—The amount of any increase in the home heating and cooling costs of taxpayers attributable to increases in the price of residual fuel oil shall be determined by the Secretary after consultation with the Secretary of Energy and the public utility commissions of each State, on a State-by-State basis not less frequently than annually.

"(3) TENANTS.—In the case of an individual who is the lessee of his residence, 25 percent of the amounts paid or incurred for the taxable year as rent shall be treated as the base amount home heating and cooling costs for that taxable year. This paragraph shall not apply in the case of a lessee whose home heating and cooling costs are not included in his rental payment.

"(4) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as residence by 2 or more individuals—

"(A) the amount of the credit allowable under subsection (a) by reason of expenditures for home heating and cooling costs made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as one taxpayer whose taxable year is such calendar year; and

"(B) each of such individuals shall be allowed a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

"(5) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who holds stock as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation.

"(6) CONDOMINIUMS.—

"(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which he owns, such individual shall be treated as having made his proportionate share of any expenditures of such association.

"(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528 (c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.".

(b) REFUND OF EXCESS CREDIT.—

(1) Section 6401(b) (relating to excess credits) is amended by—

(A) inserting after "credit)," the following: "44I (relating to credit for increased residential energy costs attributable to imported oil),"; and

(B) striking out "and 43H" and inserting in lieu thereof "44H, and 44I".

(2) Section 6012(a) (relating to persons required to make returns of income) is amended by—

(A) striking out "and" at the end of paragraph (6),

(B) striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon and the word "and", and

(C) inserting immediately after paragraph (7) the following new paragraph:

"(8) every taxpayer claiming the credit allowed by section 44I;".

(3) Section 6201(a)(4) (relating to assessment authority) is amended—

(A) by striking out "or 44H" in the caption thereof and by inserting in lieu thereof ", 44H, or 44I",

(B) by striking out "income) or section 44H" and inserting in lieu thereof "income), section 44H", and

(C) by inserting "or section 44I (relating to credit for increased residential energy costs attributable to imported oil)," after "credit),".

(c) CLERICAL AND CONFORMING AMENDMENTS.—

(1) The table of sections for such subpart is amended by inserting immediately after the item relating to section 44H the following new item:

"Sec. 44I. CREDIT FOR INCREASED RESIDENTIAL ENERGY COSTS ATTRIBUTABLE TO IMPORTED OIL.".

(2) Section 6096(b) (relating to designation of income tax payment to Presidential election campaign fund) is amended by striking out "and 44H" and inserting in lieu thereof "44H, and 44I".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1977.

Mr. CHILES. Mr. President, due to geography and resulting problems of access to energy supplies, certain regions of this country have borne a disproportionate share of the burden of the increased energy costs we have experienced in the last few years.

We are all familiar with the situation of New England where the cost of imported home heating oil has played economic havoc with the average person's budget.

In earlier action on this bill the Senate adopted an amendment which provides a refundable tax credit of 15 percent on the cost of home heating oil in order to provide some relief to those consumers in New England from this continuing burden.

I can well understand the motivation for this amendment as many Floridians are facing similar problems in meeting their energy bills. So are many States along the Eastern Seaboard that import residual fuel oil for electrical generation. We like New England are caught in a particular situation that has resulted in our paying more than most Americans for the cost of energy.

Just as in New England many Floridians have seen their bills go up 200 to 300 percent in the past several years.

Why? For essentially the same reason as is the case in New England. Florida, as are several other states, is very heavily dependent on imported petroleum products. A very sizable portion (almost half) of our electricity is generated with imported residual fuel oil.

We have no choice but to use that imported product. That is all we can get. Since the embargo and the onslaught of OPEC the price of that imported residual oil has skyrocketed as have utility bills in Florida. I think we have the dubious distinction of being the leader in this regard but other States along the eastern seaboard have similar problems.

As we hear earlier in discussing the plight of New Englanders, this rapid increase in energy costs is a burden the lower and moderate income householder simply can not bear.

In New England homes are heated with home heating oil and the Senate has seen fit to provide some relief to householders on the cost of that product through a refundable tax credit.

In Florida a great many homes are heated and cooled by electricity; electricity that in a large measure is generated from imported residual fuel oil. Yet Florida householders who face the same problem as New Englanders for the same reason of a dependence on imports receive no relief from the Durkin amendment.

The amendment that I and Senator STONE are offering, proposes to rectify that oversight. Essentially what our amendment provides is a similar refundable tax credit based on the increase in utility bills that can be directly attributed to the increased price of imported residual fuel oil. This is a provision limited in scope. It is not a tax credit for increased utility bills but a tax credit for the increase in utility bills that has resulted from a region's particular dependence on an imported petroleum product whose price is set by OPEC.

Mr. President, this is the amendment I have discussed with the distinguished chairman of the committee, by myself, Senator DURKIN, Senator STONE, and Senator HATHAWAY. Primarily, it would essentially do for the rest of the eastern seaboard what the fuel oil adjustment amendment does for the Northeast area, because this would be talking about the residual oil in addition to the fuel oil, and it would allow, where you could show that there was an increase in the utility bills as a direct result of having to import the foreign oil which you could not get anywhere else, that increase to be passed over.

Mr. STONE. Mr. President, the amendment which Senator CHILES and I offer is designed to lessen the terrible burden of dramatically increased utility rates for millions of our citizens. It is specifically directed at the problem of the impact of increasing imported residual fuel prices on residential utility rates in many parts of the country, including my State of Florida.

It is a fact, Mr. President, that until this country can reduce its dependence

on imported energy sources, American consumers will continue to pay energy prices, including utility rates, at the mercy of the OPEC cartel. While our Nation as yet has not been able to put into place an effective energy policy to reduce our dependence on foreign energy sources, there is no reason at all why the U.S. Government cannot take action to prevent undue hardship and suffering among our citizens which results from escalating energy prices.

Conservation should be a centerpiece of our national energy policy. But, Mr. President, it is unfair to ask millions of of our citizens to conserve what they cannot conserve—essential uses of electricity necessary for the basic comforts of life. The amendment which Senator CHILES and I offer is a matter of simple fairness and economic justice. It will not encourage energy waste.

It will avoid economic hardship and human deprivation which accompany the continuing pattern of increasing utility rates. At least to the extent that these increased utility rates are due to high-priced, imported residual fuel oil, our Government has an obligation to reduce the impact on millions of helpless citizens.

Mr. President, the Senate during the course of this debate on the energy tax bill has already adopted provisions to alleviate suffering and hardship in other respects. I strongly supported the adoption of a provision granting an energy cost credit to the senior citizens of our country who are particularly vulnerable to increased living costs. But, Mr. President, the Senate has not as yet addressed the hardship which millions of other Americans are facing because of dramatically increased utility rates. The amendment we offer today does address the hardship of these citizens and I urge adoption of the amendment.

Mr. CHILES. If the chairman has no objection to it, I would move the adoption of the amendment.

Mr. METZENBAUM. I have a question, Mr. President.

The PRESIDING OFFICER. The Senator from Florida has the floor. Does the Senator yield?

Mr. CHILES. I yield for a question.

Mr. METZENBAUM. Would the Senator from Florida indicate the cost, so far as he is concerned, with respect to this amendment?

Mr. CHILES. It would be less the way the amendment is framed than the Durkin amendment, but I cannot tell you the amount.

Mr. METZENBAUM. How does it fit in with the Durkin amendment?

Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. CHILES. The Durkin amendment deals with heating oil. We create our heat from electricity, as do many other parts of the eastern seaboard; so this is talking about the imported residual oil used for that purpose.

Mr. LONG. Mr. President, might I suggest to the Senator that he place in the RECORD a statement explaining the amendment, together with a copy of it? I believe that the amendment is something that I can support, but the amendment may be a somewhat significant amendment, and we have told Senators that there were g oing to be no more rollcalls. Therefore, someone who might want to object might have left not knowing about it.

It is my impression of the amendment that it simply provides treatment for those on the eastern seaboard south of the Mason-Dixon line parallel to that which was provided for those north of the Mason-Dixon line.

Mr. CHILES. Except it is not only the South. New York would be affected by this amendment, Connecticut would be affected by the amendment, even some of the New England States that use residual oil would be affected by it. It is just that we do not use fuel oil that much as a heating device. But it is not a "south of the Mason-Dixon line" amendment at all.

Mr. DURKIN. Mr. President, will the Senator yield?

Mr. CHILES. I yield.

Mr. DURKIN. Mr. President, I rise in support of the amendment, which I have cosponsored, together with Senators HATHAWAY and MOYNIHAN, because it has application up and down the entire eastern seaboard. This is not the sunbelt versus the snowbelt; this is one that will benefit the snowbelt and the sunbelt and the entire east coast, which is really held hostage to the OPEC residual oil, which is one of the reasons why electric rates in New Hampshire are among the highest in the country. So I consider it as applicable to the whole east coast.

Mr. DURKIN. Mr. President, I am pleased to cosponsor this amendment to the energy tax bill to provide a refundable tax credit for future increases in electric bills caused by skyrocketing imported residual oil prices. New Hampshire and New England have the highest electric bills in the Nation due to huge OPEC oil price increases. This amendment is designed to help keep this burden from growing heavier this winter. It complements my earlier amendment, adopted this morning, which provides a tax credit for the high cost of home heating oil. Taken together, these two measures provide badly needed relief for New Hampshire's young families, elderly, small businesses, and other consumers squeezed by the oil octopus.

This measure would provide a credit for the full amount by which electric bills increase because of imported oil price increases. It would be available to both homeowners and renters and would be paid out as a cash refund to those who do not file tax returns. Like my home heating oil tax credit, this credit would decrease by $1 for every $100 of adjusted gross income earned by taxpayers over $15,000. Thus, it is carefully drawn to benefit those who need it most.

New Hampshire and New England have the longest winters and pay the highest electric bills in the Nation. Our citizens cannot afford to continue watching their paychecks disappear into their electric meters. With the specter of yet another disastrous winter lurking behind the beauty of the New Hampshire fall, it is essential that our energy legislation provide relief for the citizens who need it most. This amendment is a step in that direction.

Mr. CHILES. Mr. President, I would certainly defer to the wishes of the distinguished chairman. If he feels there are Senators who might want to see this amendment I would certainly defer to him.

Mr. LONG. Mr. President, the Senator knows we discussed this amendment briefly and told the distinguished Senator from Florida that I did not intend to object to the amendment. My only concern is that there may be others who might want to know more about it. If we could wait until Monday, we could have more information from our staffs, at least to explain it, and hopefully at that point we can agree to it.

Mr. METZENBAUM. Mr. President, will the Senator from Florida yield?

Mr. CHILES. I yield.

Mr. METZENBAUM. I rose, not because I am certain whether I am for or against the amendment, but because it looked to me as though it were a very substantive amendment. It was my understanding that the amendments to be taken up at this moment were not going to be of that nature.

I would like to know its cost and know more about the amendment. I do not mean to indicate to the Senator from Florida that I am for or against his amendment, but I do believe laying it over until Monday and making available at that time the cost figures would be helpful.

Mr. CHILES. Mr. President, I ask unanimous consent that we allow the amendment to go over.

The PRESIDING OFFICER (Mr. HOLLINGS). Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I send an amendment to the desk——

The PRESIDING OFFICER. Does the Senator from Florida withdraw his amendment?

Mr. CHILES. No, no.

The PRESIDING OFFICER. Well, the question is on the amendment.

Mr. CHILES. I request that the amendment be printed, and that it be temporarily laid aside.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

UP AMENDMMENT NO. 1012

(Purpose: To allow a tax credit for the purchase of equipment or materials relating to the development or construction of an electric motor vehicle.)

Mr. McCLURE. Mr. President, I offer two amendments, and ask that they be considered simultaneously.

The PRESIDING OFFICER. The clerk will report.

The second assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE), offers, en bloc, an unprinted amendmen numbered 1012.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (No. 1012 en bloc) are as follows:

On page 73, line 7, add the following new sentence: "An electric motor vehicle used in the taxpayer's trade or business shall be treated as energy property."

On page 60, between lines 18 and 19, add the following: "(xiii) equipment used in research relating to development or construction of, or in the actual construction of electric motor vehicles."

Mr. McCLURE. Mr. President, these two amendments go together. They deal with the exemption that will be allowed for an electric motor vehicle used in a trade or business. The first amendment allows the same treatment as it allowed in the business investment section of the bill. The other one would extend the same tax credit treatment to the equipment and research costs for developing and constructing an electric motor vehicle.

I have discussed this with managers of the bill on both sides of the aisle. It is my understanding that they are willing to accept these amendments.

Mr. METZENBAUM. Mr. President, I have no idea what the amendments contain. I think there are others of us on this floor who really ought to be apprised of what these amendments are before they are acted on, and we have a record vote.

Mr. LONG. Mr. President, I believe that we would be well advised to wait until tomorrow to consider any more amendments. Senators have worked very hard this week, and I would hope that Senators who have amendments to offer would show them to the distinguished Senator from Ohio. He certainly is diligent, and I commend him for taking a careful look at each amendment, and I would want Senators to explain their amendments to him as well as to the Senate.

So I think we would all be well advised to take off now, and hopefully for the weekend. That gives us all the rest of this day and then all day Sunday for a long weekend.

Mr. ROBERT C. BYRD. And, by virtue of the fact that the Senate has done such a good piece of work today, we get an extra hour beginning at 2 a.m.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, the Senate has acted on 19 amendments today. If it is agreeable with the distinguished manager of the bill, I would suggest that we come in Monday at 10 o'clock and start on the bill about 10:30.

Mr. McCLURE. Will the Senator yield for a moment? Because the Senator from Idaho had distributed this amendment, and the Senator from Ohio has had them on his desk for some time, I wonder if the Senator from Ohio would still like to interpose the objection to the amendment.

Mr. METZENBAUM. Mr. President, I appreciate the comment of my friend from Idaho. The fact is there have been a number of papers on my desk. In fact, there are so many papers I almost need a scorecard to keep track of them. I did not know which amendments would be called up.

Somebody did mention some concern about the McClure amendment. I am trying to say to the Senator from Idaho that I am not aware of the content, and I think we would be better served to lay the amendment over until Monday.

Mr. McCLURE. Mr. President, I ask unanimous consent that my amendment may be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, there will be no further action on this bill today.

ORDER FOR RECESS UNTIL 10:15 A.M., MONDAY, OCTOBER 31, 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10:15 a.m. Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO RESUME CONSIDERATION OF H.R. 5263

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, following the recognition of the two leaders or their designees on Monday, the Senate resume consideration of the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. That would mean that the Senate would get back on the bill at about 10:30 a.m. Monday.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following communications, which were referred as indicated:

EC–2215. A letter from the General Counsel of the United States General Accounting Office transmitting, pursuant to law, a report on the status of budget authority that was proposed, but rejected, for rescission; to the Committees on Appropriations; the Budget; Commerce, Science, and Transportation; Foreign Relations; Governmental Affairs; and Armed Services, pursuant to the order of January 30, 1975.

EC–2216. A letter from the Acting Comptroller General transmitting, pursuant to law, a report on the second special message of the President for fiscal year 1977 (with an accompanying report); to the Committees on Appropriations; the Budget, Agriculture, Nutrition, and Forestry; Commerce, Science, and Transportation; Armed Services; Human Resources; Energy and Natural Resources; Judiciary; Finance; Governmental Affairs; and Foreign Relations, pursuant to the order of January 30, 1975.

EC–2217. A letter from the Deputy Secretary of Agriculture transmitting a draft of proposed legislation to authorize the regulation and exportation and transportation of animal semen (with accompanying papers); to the Committee on Agriculture, Nutrition, and Forestry.

EC—2218. A letter from the Administrator of the Rural Electrification Administration transmitting, pursuant to law, a report on the approval of an REA-insured loan to Southeast Colorado Power Association, of La Junta, Colorado (with an accompanying report); to the Committee on Appropriations.

EC–2219. A letter from the Deputy Assistant Secretary of the Defense Security Assistance Agency transmitting, pursuant to law, required information concerning the Department of the Army's proposed Letter of Offer to the United Kingdom for Defense Articles in excess of $25 million (with accompanying papers); to the Committee on Armed Services.

EC–2220. A letter from the Director of the Defense Civil Preparedness Agency transmitting, pursuant to law, a report on property acquisitions of emergency supplies and equipment for the quarter ending September 30, 1977; to the Committee on Armed Services.

EC–2221. A letter from the Administrator of the Environmental Protection Agency transmitting a draft of proposed legislation to amend the Noise Control Act of 1972 (with accompanying papers); to the Committee on Environment and Public Works.

EC–2222. A letter dated October 21, 1977, from the Assistant Legal Adviser for Treaty Affairs of the Department of State transmitting copies of international agreements other than treaties (with accompanying papers); to the Committee on Foreign Relations.

EC–2223. A secret communication from the Comptroller General of the United States transmitting, pursuant to law, a report discussing the effectiveness of the Department of the Air Force's mobilization planning for depot maintenance, peacetime efficiency of maintenance depot operations, and ways to improve the motivation of the maintenance depot's work force (with an accompanying report) ( ); to the Committee on Governmental Affairs.

EC–2224. A letter from the Acting Director of the Office of Management and Budget, Executive Office of the President, transmitting pursuant to law, a follow-up report on the recommendations of the National Advisory Committee on Juvenile Justice and Delinquency Prevention, Advisory Committee to the Administrator on Standards for the Administration of Juvenile Justice; to the Committee on Governmental Affairs.

EC–2225. A letter from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of Council Act No. 2–87, an Act to amend the District of Columbia Health Regulations (with accompanying papers); to the Committee on Governmental Affairs.

EC–2226. A letter from the Acting Comptroller General of the United States transmitting, pursuant to law, a report entitled "Uniformed Procurement Decisions for Commercial Products Are Costly" (PSAD–77–170, October 26, 1977) (with an accompanying report); to the Committee on Governmental Affairs.

EC–2227. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Probation and Parole Activities Need to be Better Manager" (GGD–77–55, October 21, 1977) (with an accompanying report); to the Committee on Governmental Affairs.

EC–2228. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Examination of Financial Statements of the Federal Home Loan Banking System: A Favorable Opinion But Some Management Problems"

(FOD-77-15, October 25, 1977) (with an accompanying report); to the Committee on Governmental Affairs.

EC-2229. A letter from the Acting Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a follow-up report on the report on the recommendations of the Board of Visitors to the United States Naval Academy (with an accompanying report); to the Committee on Governmental Affairs.

EC-2230. A letter from the Secretary of Health, Education, and Welfare transmitting, pursuant to law, the 1976 report on the National Health Service Corps (with an accompanying report); to the Committee on Human Resources.

EC-2231. A letter from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, 256 reports covering the period October 3 through October 14, 1977 concerning visa petitions which the Service has approved according the beneficiaries of such petitions third- and sixth-preference classification (with accompanying papers); to the Committee on the Judiciary.

EC-2232. A letter from the Director of Defense Research and Engineering transmitting pursuant to law, the report of Department of Defense Procurement from Small and Other Business Firms for October 1976 through April 1977 (with an accompanying report); to the Select Committee on Small Business.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

Michael J. Egan, of Georgia, to be Associate Attorney General.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. PACKWOOD (for himself and Mr. RIBICOFF):

S. 2264. A bill to amend the Internal Revenue Code to clarify the tax status of income from lending of securities by exempt organizations; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PACKWOOD (for himself and Mr. RIBICOFF):

S. 2264. A bill to amend the Internal Revenue Code to clarify the tax status of income from lending of securities by exempt organizations; to the Committee on Finance.

LOANS OF SECURITIES BY TAX-EXEMPT ORGANIZATIONS

Mr. PACKWOOD. Mr. President, today the Senator from Connecticut (Mr. RIBICOFF) and I are introducing legislation to encourage exempt organizations to lend securities. Our bill provides that income received by exempt organizations from the lending of securities is to be treated as investment income, and not subject to the tax on unrelated business income.

Senator RIBICOFF and I first introduced this bill on September 14, 1976, as S. 3811. It was supported by the Treasury Department and the Securities and Exchange Commission. Letters from each of these agencies in support of S. 3811 can be found at the conclusion of my remarks. On September 20, 1976, the Finance Committee favorably reported S. 3811 as an amendment to H.R. 7929, an unrelated bill. However the Securities loans amendment to H.R. 7929 was deleted by the Senate on October 1, 1976, the last day of the 94th Congress. This enabled H.R. 7929 to be enacted without a joint House-Senate conference.

THE PROBLEM

Occasionally, an owner of stocks or bonds will direct his or her broker-dealer to sell securities, but the owner fails to make timely physical delivery of the certificates to the broker-dealer. According to the Securities and Exchange Commission, this can happen in several different situations. It can happen if the legal ownership of the security must be changed prior to delivery to the broker-dealer. For example, the security may be in the name of a deceased person, or in corporate name. It can also happen if the customer has not sold his entire holdings and must have the certificates broken down into smaller denominations.

Other common reasons would be if the seller has sold the security short or if the seller has not received the security from a previous seller. In these cases, there can be a "failed transaction." To avoid this, the broker-dealer tries to find an identical block of stock from another source, such as a trust fund, a nonprofit organization such as a college or university, a foundation, or a pension fund. If an identical block of stock certificates is found, the broker-dealer pays a fee, frequently computed like an interest payment, for the use of the certificates. The borrower also posts full collateral. With the borrowed stock, the broker-dealer can complete the transaction and avoid a "fail."

By lending securities, a nonprofit organization can increase its investment yield, in a thoroughly collateralized and safeguarded transaction. However, many exempt organizations are not now lending securities. This is because the Internal Revenue Service has not ruled on the question of whether the income received by exempt organizations from lending securities is subject to the tax on unrelated business income. This discourages exempt organizations from lending securities, and it means that the number of failed transactions is increased.

PROPOSED LEGISLATION

This bill provides that income received by exempt organizations from securities lending is not subject to the tax on unrelated business income. This means exempt organizations can lend securities without the fear that the Internal Revenue Service will seek what may be a substantial tax payment.

Also, the bill provides that income received by private foundations for lending securities is subject to the 4 percent tax on investment income imposed on private foundations under Internal Revenue Code Section 4940.

In a related area, the bill provides that income received by regulated investment companies, usually called mutual funds, will be treated as investment income. This means mutual funds can lend securities without jeopardizing their tax status. It is appropriate to deal with this mutual funds problem in this bill to help avoid the possibility that income from securities funding would be treated as investment income for one group of taxpayers, but as business income for another group.

The bill requires that the lender of securities be provided substantial safeguards. This assures that the lending of securities by exempt organizations is thoroughly safeguarded. One such restriction is that the borrower must furnish full collateral to the lender in exchange for the borrowed securities. A second restriction is that the borrower must supply additional collateral on a daily basis if the market value of the collateral ceases to be at least equal to the market value of the borrowed securities. A third restriction is that the instrument providing for the loan of securities must give the lender the right to have the securities returned with only 5 business days' notice.

This bill would be effective beginning after December 31, 1976. However, I do not intend there to be any inference that income received by exempt organizations from securities lending by exempt organizations or regulated investment companies prior to that date is to be treated as something other than income from passive investments.

This bill has virtually no revenue impact. The Internal Revenue Service now collects very little, if any, revenues from exempt organizations from securities lending. Last year, the finance committee estimated that the revenue loss is under $5 million per year.

I ask unanimous consent that the text of the bill, letters from the Treasury Department and Securities and Exchange Commission regarding S. 3811, and excerpts from the Finance Committee's 1976 report on the securities loan bill, be inserted at this point in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 2264

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that

(a) IN GENERAL.—

(1) INCLUSION IN GROSS INVESTMENT INCOME OF PRIVATE FOUNDATION.—Section 509 (e) of the Internal Revenue Code of 1954 (relating to definition of gross investment income) is amended by inserting "payments on securities loans (as defined in section 512 (a)(5)),' after "dividends".

(2) EXCLUSION FROM UNRELATED BUSINESS INCOME OF PRIVATE FOUNDATION.—Section 512 (b)(1) of such Code (relating to modifications of unrelated trade or business income) is amended by inserting "payments on securities loans (as defined in section 512(a)(5)),' after "interest,".

(3) REGULATED INVESTMENT COMPANY INCOME.—Section 851(b)(2) of such Code (relating to limitations on regulated investment company income) is amended by inserting "payments on securities loans (as defined in section 512(a)(5))," after "interest,".

(4) INCLUSION IN NET INVESTMENT INCOME FOR EXCISE TAX PURPOSES.—Section 4940(c)(2) of such Code (relating to gross investment income) is amended by inserting "payments on securities loans (as defined in section 512(a)(5))," after "rents,".

(b) DEFINITION OF PAYMENTS ON SECURITIES LOANS.—Section 512(a) of such Code (relating to definition of unrelated business taxable income) is amended by adding at the end thereof the following new paragraph:

"(5) DEFINITION OF PAYMENTS ON SECURITIES LOANS.—The term 'payments on securities loans' includes all amounts received in respect of a security (as defined in section 1236(c)) loaned by the owner thereof to another person, whether or not title to the security remains in the name of the lender, including amounts in respect of dividends or interest thereon, fees computed by reference to the period for which the loan is outstanding and the fair market value of the security during such period, income from collateral security for such loan, and income from the investment of collateral security, if the agreement between the parties provides for—

"(A) reasonable procedures to implement the obligation of the borrower to furnish collateral to the lender with a fair market value on each business day during the period the loan is outstanding at least equal to the fair market value of the security at the close of business on the preceding business day, and

"(B) termination of the loan by the lender at any time on notice of no more than five business days, whereupon the borrower is required to return certificates for the borrowed securities to the lender.".

(c) EFFECTIVE DATE.—The amendments made by this section apply with respect to amounts received as payments on loans of securities (as defined in section 512(a)(5) of such Code) after December 31, 1976.

DEPARTMENT OF THE TREASURY,
Washington, D.C., September 14, 1976.

Hon. BOB PACKWOOD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PACKWOOD: You have requested our views on the attached draft bill, which would allow exempt organizations to lend their securities certificates to brokers and other persons and not subject the income that such organizations would receive from such loans to the unrelated business income tax.

To qualify for such treatment, the lender would have to require the borrower to provide collateral equal to the full fair market value of the loaned securities, and supplement it with sufficient additional collateral on any business day when the value of the securities rose above the value of the collateral currently on hand. In addition, the loans would have to be subject to termination on five business days notice. Under those circumstances, the fees that the lender would receive for loaning the certificates, as well as the income paid over by the borrower to the lender during the period of the loan, would be treated as passive income exempt from the unrelated business income tax. In the case of private foundations, however, this income would be subject to the 4% excise tax on its net investment income.

The bill would afford similar treatment to regulated investment companies, allowing them to pass through the fees and other income that they receive from such loans to their shareholders tax-free.

The draft bill would provide such passive income treatment for amounts received by exempt organizations and regulated investment companies after December 31, 1975.

Such a bill would allow exempt organizations to maximize the income that they could derive from their portfolio investments without jeopardizing these investments. We understand that the safeguards required in the draft bill for such loans are the same as those required by the Securities and Exchange Commission for such loans when they are made by a regulated investment company. Since these loans are fully secured, we think that they constitute an appropriate investment activity for exempt organizations, and one that should be encouraged. Furthermore, such loans are less speculative than the granting of options on portfolio securities, and Congress recently allowed exempt organizations to engage in the latter activity without incurring any unrelated business income tax. In the case of both exempt organizations and regulated investment companies, the income from such loans should be treated the same as other investment income.

In addition, we understand that the SEC would support such a draft bill because it would help relieve the chronic shortage of securities certificates, by encouraging pension funds and other institutional investors to loan their securities certificates to brokers. Brokers frequently need to borrow certificates to cover short sales and the failures of sellers to make timely delivery of certificates they have sold. The securities currently being borrowed from customers' margin accounts are apparently not sufficient to meet current needs, and institutional investors, who hold a large percentage of securities, are reluctant to loan out their certificates because they are concerned about the potential adverse tax consequences. The draft bill would eliminate such adverse tax consequences where the loans contain adequate safeguards.

The revenue effect of this draft bill is expected to be negligible.

The Treasury Department would support such a draft bill. However, the committee reports should make clear that no inference is to be drawn with respect to the active or passive classification of income from securities loans that lack the prescribed safeguards, both for purposes of the unrelated business income and for other income tax purposes, e.g., personal holding company income.

The Office of Management and Budget has advised the Treasury Department that there is no objection from the standpoint of the Administration's program to the presentation of this report.

Sincerely yours,

CHARLES M. WALKER.

SECURITIES AND EXCHANGE COMMISION,
Washington, D.C., September 29, 1976.

Hon. AL ULLMAN,
Chairman, House Ways and Means Committee, Longworth House Office Building, Washington, D.C.

DEAR CHAIRMAN ULLMAN: I am writing to you at the suggestion of Senator Packwood to express the Commission's support for Section 2 of H.R. 7929. That Section will make clear that income from lending securities is to be treated as gross investment income so that, among other things, exempt organizations may lend their securities to brokers and other persons without subjecting the income received from such loans to the tax on unrelated business taxable income. It would also make clear that gross income derived from such loans would be classifiable as the type of gross income which is required to constitute 90% of the gross income of a regulated investment company.

The Commission has consistently been of the view that loans of securities are a means to improve the process of clearing and settling securities transactions. When the questions covered by Section 2 of H.R. 7929 first arose, my predecessor, Chairman Garrett, wrote to the Commissioner of the Internal Revenue Service to express the Commission's views that, from the point of view of the securities markets, it would be useful to facilitate securities lending. The Commission also believes that the practice of lending securities should continue to be recognized as loans rather than separate purchases and sales. The Commission understands that the Internal Revenue Service, in administering the tax laws, has so treated the practice.

The Commission supports Section 2 of H.R. 7929. At the same time, the Commission understands that the language regarding investment companies and exempt organizations is intended to make clear that income from the practice of lending securities is in effect properly classified as "passive" income. We hope the Committee will be able to make it clear that no inference is to be drawn that securities loans not meeting those technical and very particularized requirements should no longer be treated as loan transactions. If I can be of further assistance to the Committee regarding this or any other subject within the Commission's expertise, please do not hesitate to call on me.

Sincerely,

RODERICK M. HILLS,
Chairman.

INTEREST ON CORPORATE DEBT TO ACQUIRE ANOTHER CORPORATION

The Committee on Finance, to which was referred the bill (H.R. 7929) relating to the deduction of interest on certain corporate indebtedness to acquire stock or assets of another corporation, having considered the same, reports favorably thereon with amendments and an amendment to the title and recommends that the bill as amended do pass.

* * * * *

PRESENT LAW

Exempt organizations—Unrelated business income

The investment income of exempt organizations [1] generally is not subject to tax on unrelated business income.[2] The types of investment income sources listed as being generally free of this tax are dividends, interest, annuities, royalties, rents, and capital gains from the sale of investment assets (sec. 512(b)(1), (2), (3), and (5)).

Exempt organizations—Public charities

Certain organizations may be treated as public charities (i.e., not private foundations) if they normally receive more than one-third of their support from a combination of gifts, grants, contributions, or membership fees and gross receipts from admissions, sales of merchandise, performance of services, or furnishing of facilities in activities which are not unrelated trades or businesses. This rule applies only if the organization normally receives not more than one-third of its support from gross investment income plus the excess of the organization's unrelated business taxable income over the amount of the tax imposed on such income

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[1] In this report references to "exempt organizations" do not include social clubs (sec. 501(c)(7)) and employees' beneficiary associations (sec. 501(c)(9)), which may be taxable on investment income of all types. The term "exempt organizations," as used in this report, also does not include political organizations (as described in sec. 527) and homeowners' associations (as described in sec. 528).

[2] In the case of "debt-financed property", different rules apply, and the investment income may be taxable in part. Those rules are dealt with under section 514 of the Code (see sec. 512(b)(4)) and are not amended by this bill.

(sec. 509(a)(2)). Under this provision, the term "gross investment income" means the gross amount of income from interest, dividends, rents, and royalties, but not including any such income to the extent included in computing the unrelated business income tax.

Exempt organizations—private foundations

The Code imposes on each private foundation a tax equal to 4 percent of its net investment income for the taxable year (sec. 4940). For this purpose, net investment income is the amount by which the sum of gross investment income and net capital gain exceeds the deductions which are attributable to the earning of this income. For this purpose, gross investment income also means the gross amount of income from interest, dividends, rents, and royalties (but not including any such income to the extent it is included in computing the unrelated business income tax).

Regulated investment companies

For a corporation to qualify as a regulated investment company, at least 90 percent of its gross income must be derived from dividends, interest, and gains from the sale or other disposition of stock or securities (sec. 851(b)(2)). The Internal Revenue Service has ruled privately that payments on securities loans are not dividends or interest even if they are paid by the broker (borrower) as the equivalent of a dividend or interest payment on the underlying security.

REASONS FOR CHANGE

Because of time delays which a broker may face in obtaining securities to deliver to a purchaser (from the seller), brokers are frequently required to borrow securities from organizations with investment portfolios. In general, it is felt desirable that organizations (and individuals) with securities holdings should be encouraged to make them available for loan since the greater the volume of such securities available for loan the less frequently will a broker be in a position where he must fail to deliver a security to a purchaser within the time required by the relevant market requirements.

The Securities and Exchange Commission provides rules governing the lending of securities by regulated investment companies. These rules, in general, require that the loan of security be fully collateralized (with adjustments made on a daily basis) by cash or marketable securities with a fair market value equal to the fair market value of the securities loaned and that the lender be able to terminate the loan with 5 business days' notice.

In general, the lender of securities is compensated for the loan in two ways. First, if a dividend or interest is paid with respect to the security during the term of the loan, the borrower pays the lender an amount equal to that dividend or interest payment. Second, a fee is paid for the use of the security. This fee may be computed by reference to the period for which the loan is outstanding and the fair market value of the security during that period, or it may be the income from the collateral security for that loan, or it may be income from the investment of the collateral security.

As indicated above, the Internal Revenue Service has ruled privately that neither portion of this compensation constitutes dividend or interest income to regulate investment companies. Existing law is unclear as to whether such income is subject to the unrelated business income tax, but there is some concern that the Service might take that position. It does not appear that under existing law these payments would be treated as gross investment income for the purposes of whether the lending organization is a public charity or whether the income is subject to the private foundation excise tax on investment income. The Service also is unwilling to rule as to whether an organization is engaged in a trade or business when it holds its investment portfolio securities available for such loans. If so, the income therefrom would be subject to the unrelated business income tax. Also, gains from the sale of such securities might be treated as gains from the sale of property held for sale to customers in the ordinary course of business.

The committee believes that it is not desirable to discourage[3] exempt organizations and regulated investment companies from making their securities available for loans to brokers, because making such loans of securities can have a favorable impact on the liquidity of securities markets. * * *

The committee has concluded that, where the loan is fully collateralized in accordance with the Securities and Exchange Commission requirements, the income from the lending of a security should be regarded as investment income which is similar to dividends and interest in the case of exempt organizations and regulated investment companies.

EXPLANATION OF THE PROVISION

The provision provides, in general, that payments in respect to securities loans which satisfy certain requirements are to be treated in the same manner as dividends and interest in the case of a lender who is an exempt organization or a regulated investment company. Thus, if an exempt organization lends a security[4] to another party, in order for the payments to qualify for the passive income treatment the agreement between the parties must provide for reasonable procedures to implement the obligation of the borrower to furnish collateral to the lender with a fair market value on each business day the loan is out for the payments to qualify for this passive income treatment the agreement between the parties must provide for reasonable procedures to implement the obligation of the borrower to furnish collateral to the notice of no more than five business days.

Also, it is contemplated that the activity of an exempt organization in merely making available its securities for a loan is not to affect its status as an investor with respect to those activities nor is it to result in the organization's being treated as being in the trade or business of selling or lending securities so as to result in the gains from such securities being treated as subject to the unrelated business income tax. Similarly, payments on securities loans of this sort are to be treated as gross invetment income for purposes of determining whether an organization has met the limitations on investment income as a percentage of support required under section 509(a)(2). These payments also are to be treated as gross investment income for the purpose of the excise tax on the investment income of private foundations (sec. 4940), and the expenses of earning such income are to be deductible in computing that tax.

Similarly, in the case of regulated investment companies, payments on securities loans are to be treated in the same manner as dividends and interest. However, where these payments are passed through to the shareholders of these companies, they would not be treated as dividends for the purpose of divided exclusions.

In making these provisions for payments on securities loans which meet the prescribed standards, the committee intends that no inference is to be drawn with respect to the active or passive classification of income from securities loans that lack the safeguards required in the bill, either for purposes of the unrelated business income tax, treatment as gross investment income, or for other income tax purposes, such as determining whether such income is personal holding company income.

It is not intended that this treatment be available if the securities which are loaned constitute inventory or are being held for sale to customers in the ordinary course of the organization's trade or business. These activities go beyond the concept of production of investment income that is intended to be exempted, or treated as passive income. Also, it is not intended that this bill detract from the court's decision in *Randall Foundation* v. *Riddell*, 244 F 2d 803 (C.A. 9, 1957), that securities trading can be so large a part of the activities of an organization that the organization fails to meet the statutory test of being "organized and operated exclusively for religious, charitable, scientific," etc., purposes, and thus does not qualify for exemption from tax.

EFFECTIVE DATE

This amendment applies to amounts received after December 31, 1975, regardless of whether the organization involved is a calendar year taxpayer or a fiscal year taxpayer.

REVENUE EFFECT

This amendment is estimated to have, at most, a small effect (under $5 million per year loss) on the revenues.

III. COST OF CARRYING OUT THE BILL AND COMMITTEE VOTE

In compliance with section 252(a) of the Legislative Reorganization Act of 1970, the following statement is made relative to the effect on the revenues of this bill. The enactment of H.R. 7929, as amended, will result in a small annual revenue loss (under $5 million) and a one-time revenue loss of less than $1 million. The Treasury Department agrees with this statement.

In compliance with section 133 of the Legislative Reorganization Act of 1946, the following statement is made relative to the vote of the Committee on reporting this bill. This bill was ordered favorably reported by the Committee by voice vote.

IV. CHANGES IN EXISTING LAW MADE BY THE BILL

In the opinion of the committee, it is necessary, in order to expedite the business of the Senate, to dispense with the requirements of subsection 4 of rule XXIX of the Standing Rules of the Senate (relating to the showing of changes in existing law made by the committee amendment, as reported).

[3] If a dividend or interest equivalent payment would be subject to tax, while the dividend or interest if paid directly would be not taxable, then in many cases the exempt organization would find itself with less income after tax if it lent the securities than would be the case if it kept the securities.

[4] For this purpose, the definition of a security is that provided by section 1236(c) of the Code, as "any share of stock in any corporation, certificates of stock or interest in any corporation, note bond, debenture, or evidence of indebtedness, or any evidence or an interest in or right to subscribe to or purchase of any of the foregoing."

ADDITIONAL COSPONSORS

S. 1333

At the request of Mr. HUDDLESTON, the Senator from Alabama (Mr. SPARKMAN) was added as a cosponsor of S. 1333, a bill to authorize reimbursements to States for supplemental security income payments which were based upon erroneous information from the Department of Health, Education, and Welfare.

S. 1556

At the request of Mr. HANSEN, the Senator from Arizona (Mr. DECONCINI) was added as a cosponsor of S. 1556, a bill to authorize a program of assistance to States for the establishment, expansion,

improvement, and maintenance of veterans' cemeteries.

AMENDMENTS SUBMITTED FOR PRINTING

ENERGY TAX BILL—H.R. 5263

AMENDMENT NO. 1545

(Ordered to be printed and to lie on the table.)

Mr. WEICKER (for himself, Mr. DOLE, Mr. BAKER, Mr. MATHIAS, and Mr. JAVITS) submitted an amendment intended to be proposed by them to the bill (H.R. 5263) to suspend until the close of June 30, 1980, the duty on certain bicycle parts.

AMENDMENT NO. 1548

(Ordered to be printed and to lie on the table.)

Mr. RIEGLE submitted an amendment intended to be proposed by him to the bill (H.R. 5263), supra.

NOTICES OF HEARINGS

ECONOMIC CONDITIONS OF THE FISHING INDUSTRY

Mr. NELSON. Mr. President, I wish to announce that the Select Committee on Small Business has scheduled a hearing on the economic and loan problems confronting the fishing industry on December 5, 1977. Local and regional witnesses will discuss, among other subjects, the economic impact of the 200 mile limit on the fishing industry.

The hearing will be held in Groton, Conn., beginning at 10 a.m. in the council chambers of the Municipal Building at Meridian Street.

Further information can be obtained from the committee offices, room 424D Russell Senate Office Building, telephone 224-8497.

CORRECTION

Mr. NELSON. The hearings to be held by the Subcommittee on Monopoly and Anticompetitive Practices of the Senate Small Business Committee on drug quality, competition, and Government procurement of drugs will be on November 14, 15, and 16, 1977 at 10 a.m. in room 1318 Dirksen Senate Office Building rather than December 14, 15, and 16 as previously announced.

ADDITIONAL STATEMENTS

NONLEGISLATIVE DAYS—CALENDAR YEAR 1978

Mr. ROBERT C. BYRD. Mr. President, the minority leader and I have been in consultation about the nonlegislative days for calendar year 1978. In order that all Senators may have notice as soon as possible of these days for the next calendar year, to enable them to make advance plans, I ask unanimous consent that the schedule we have agreed upon be printed in the RECORD.

There being no objection, the schedule was ordered to be printed in the RECORD, as follows:

The Senate will not be in session on Monday, February 13; Tuesday, February 14; Wednesday, February 15; Thursday, February 16; and Friday, February 17.

In March, the Senate will not be in session on Friday, March 24; Monday, March 27; Tuesday, March 28; Wednesday, March 29; Thursday, March 30; and Friday, March 31.

The Senate will not be in session on Monday, May 29; Tuesday, May 30; Wednesday, May 31; Thursday, June 1; and Friday, June 2.

In July, the Senate will not be in session on Monday, July 3; Tuesday, July 4; Wednesday, July 5; Thursday, July 6; and Friday, July 7.

The Senate will not be in session on Wednesday, August 30; Thursday, August 31; Friday, September 1; Monday, September 4; and Tuesday, September 5.

SENATOR DOMENICI'S TESTIMONY

Mr. BELLMON. Mr. President, recently the senior Senator from New Mexico (Mr. DOMENICI) appeared before the Senate Committee on Governmental Affairs to testify concerning S. 991, the Department of Education Act of 1977. His activism and leadership on educational matters are widely admired, and his comments are particularly pertinent for Members of the Senate who will consider this legislative proposal. I have had the privilege of working with him in the design of education legislation, and I value his judgment in this field quite highly. So that Senator DOMENICI's views on S. 991 may receive the attention of all Senators, I ask unanimous consent that his testimony be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

TESTIMONY OF SENATOR PETE V. DOMENICI

Mr. Chairman, I appreciate this opportunity to testify before the Committee on Governmental Affairs concerning a separate cabinet level Department of Education. The Department of Education Act of 1977, S. 991, should receive high priority from the Congress and the Administration. I commend the Chairman for his leadership in this regard.

Free public education in this country as provided through combined local, state, and federal effort is perhaps the single most important domestic program in the country. Total expenditures for education from all sources of $120.1 billion accounted for 8 percent of the total Gross National Product (GNP) of this country in Fiscal Year 1976. This compares to the 5½ percent of GNP accounted for by all defense spending, the 3½ of GNP spent by all levels of government on health and medical care, and the 3 percent of GNP accounted for by welfare. Education accounts for approximately one-fourth of all government spending from combined federal, state and local sources.

Thus, education is a major enterprise in this country. It is built around complete relationships between local, state, and Federal roles. While basic education programs are primarily a state and local responsibility, the Federal government has a major policy role in higher education, vocational education, and elementary and secondary education. Federal policy has been primarily aimed at providing support for students whose education costs more than the average per pupil expenditure such as handicapped, bilingual, and educationally and economically disadvantaged children.

Unfortunately, the Federal role in these and other areas has been hampered by the lack of priority accorded to education within the bureaucratic structure of the executive branch.

Education currently resides in the same department of government responsible for Social Security reform, welfare reform, and creating National Health Insurance. Attention to education policy obviously has a low place on the totem pole in HEW. One department simply cannot be responsible for so many areas.

I believe that the Department of Health, Education and Welfare has been remiss in its education dealings with the Congress and with the clients it purports to serve—the local and state education agencies of this country and the children these entities represent. Education has not received in the past and is not now receiving within HEW the consideration which must surely be given to an endeavor as important socially and economically as education.

A reorganization which recognizes the importance of education in our country is desperately needed. In addition, a Secretary of Education to carefully consider federal education policy and its interrelationships to state and local policies is a must if we are to ever make sense of the current unmanageable state of education programs.

Education must be reorganized at the federal level, and services provided by federal education programs need to be reorganized at the state and local level. S. 991 will accomplish the reorganization at the federal level. Reorganization of service at the state and local level might then be accomplished through passage of the Optional Simplification Act which Senator Bellmon and I have proposed and which is currently being considered by the Education Subcommittee chaired by Senator Pell.

Mr. Chairman, I am an advocate of education. I believe our children are the greatest resource of this country. Just as individual children need attention from their parents and teachers, so education needs priority attention from the federal government. I believe the Congress should establish that priority by creating a separate Department of Education.

ABORTION AND INTERNATIONAL WOMEN'S YEAR

Mr. PROXMIRE. Mr. President, I recently received a copy of a letter from Sister Bertels of the Silver Lake College of the Holy Family to the editor of the Spirit. Sister Bertels, like myself, both oppose the practice of abortion and yet support the integrity of the International Women's Year organization, and her letter describes very clearly why such a stand is not inconsistent.

Very simply, there are many issues which need serious attention in addition to abortion. For instance, we need to know what women feel needs to be done to get widows and divorcees back into the workstream, to protect battered women and abused children, and to advance credit, education, and health services for women. So, while opposing very strongly their stand on abortion, I continue to see International Women's Year as a useful and well-organized forum for the discussion of a variety of issues.

I agree with Sister Bertels, and feel that her letter brings objectivity and sense to an issue which for too long has been ruled by emotion. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SILVER LAKE COLLEGE
OF THE HOLY FAMILY, INC.,
Manitowoc, Wis., October 18, 1977.

Mr. JIM ALT,
Editor, The Spirit,
Green Bay, Wis.

TO THE EDITOR: In view of the current debate over the coming conference in Houston sponsored by the International Women's Year Committee, I would like to put a few things straight.

I was a member of the IWY committee for Wisconsin that planned the state conference held in Madison, June 3–5. Nancy Smidle, President, Wisconsin Women for Agriculture (Kewaunee), was also named to the committee. Our appointment was made through the Washington office of the commission on the status of women which pressed for the grant of $5 million to finance a conference in all of the states. Congresswomen Martha Griffiths seemed to be the originator of the idea and pressed for its inauguration, not Bella Abzug.

Wisconsin's share was about $57,000, a good part of which was used to set up an office in Madison to administer the grant (office space, salaries of administrator and secretarial help, mailings, mileage, etc.). The 28 delegates allotted to Wisconsin would also receive a share of the monies to cover the cost of attending the Houston meeting.

I was present at some of the budget planning meetings and can vouch that there was no hanky-panky involved here, giving pro-abortionists the edge. Nor was there any secrecy attached to what was coming off. New releases were sent out frequently. Some were published in the local newspapers; some were not. That was probably due to judgments of editors. I noted that Madison and Milwaukee papers ran big stories, but locals in other cities did not. But some coverage was given. I suppose, like everything else, if we are not directly involved, we pay no attention. The exact amount of coverage could be vertified, however, by a trip to the morgue of one's local paper.

The members of the planning committee were asked to submit membership lists of organizations so that every member could receive information about the Madison conference directly. I was named to the committee as a representative of agriculture, specifically Wisconsin Women for Agriculture. I submitted that list. I also negotiated to get the roster of the American Association of Retired Persons because I knew the local president. I did not submit a list of Catholic women's organizations because I assumed that was being taken care of by other Catholic women on the committee. Catholic women's colleges had reps on the committee as did several minority associations that are tied to the church. If Pro-life organizations did not know of the conference, we should share the blame. But let's be very frank: they should assume a good share of the blame themselves because they could have known.

The members of the committee were also asked to submit resolutions to be considered at the "workshops" held during the Madison meeting. I submitted five on agricultural concerns, which was my bailiwick. None of these resolutions were accepted by the resolutions committee because the matter of the resolutions did not involve women directly . . . or so I was told.

I was angered to no end about this. The episode pointed up what rural women constantly complain about: the women who had the greatest influence at the conference THINK they understand agriculture and the role of women in the industry. They understand neither; in fact, their ignorance is colossal. Anyone who needs evidence should examine the report published by the National Advisory Council on Women's Educational Programs, entitled "Educational Needs of Rural Women and Girls," January 1977.

I wrote an article for our WMA Newsletter pointing up this problem. Farm women read it, were duly indigent, but did not gang up at the conference to make our point. Very few even bothered to attend the conference. So we ended up with no voice. Not one rural rep was named to the lucky 28. We since got a rep named at large Eunice Guell of Fond du Lac. A local contractor, who believes it important that she attend, is contributing the money to finance her attendance.

I sent the same resolutions to the Michigan Women for Survival of Agriculture. They were primed on the action because of our experience and ganged up to get the resolutions passed—all five of them. They did just that and got a farm woman elected to represent them in Houston to boot. We also warned the women from Oregon and California who were ready for the sessions in their states.

Pro-life advocates in our diocese are duly concerned about the resolutions to be presented at the Houston Convention and about the fact that we are not sure of our degree of influence. They should be. It is true that the women associated with the Governor's Council on the status of women in Wisconsin had the edge in the Madison Conference. The Madison-Milwaukee axis is well organized; leaders know each other intimately through the council; they are in touch constantly. That is pretty darn hard to buck. Orabelle Fisher (Mrs. Lawrence) of Valders who attended with me, noted the session was "fixed" in this sense. But even that edge could have been washed out if pro-life members had been better organized; if we had attended the meeting in sufficient numbers; if we had attended intending to get a goodly share of the power, as they did in several states. Our action now is a bit late.

I think we waste valuable time resorting to name-calling and hurling charges we cannot substantiate. The "pro-permissives" do the same thing. Witness the dirty deal Anita Bryant is getting from people in her profession right now. I believe that anybody that resorts to ridicule just ran out of logic.

We have logic on our side. Pro-life people must develop a set of resolutions that will be introduced in Houston, counter to the ones now on the list. We must stand together solidly to promote this cause. The Houston delegates are not legislators, Bella Abzug notwithstanding. The Houston Conference could end up a complete flop as was the international conference in Mexico a couple of years ago . . . or it could be the arena for the resolution of this conflict to the real benefit of humankind. Let's stop searching for the devil in the the piece and get busy determining the future.

Sister THOMAS MORE BERTELS,
OSF, Professor of History/Silver Lake College.

GAS DEREGULATION

Mr. METZENBAUM. Mr. President, during the past several weeks, I have attempted to bring to the Senate's attention the severe economic impact which would result from deregulating the price of natural gas. In addition, I presented numerous studies which indicated that, despite unprecedented price increases, production levels of natural gas declined. I believe that the arguments made by Mr. Hobart Rowan in an article which appeared in the Washington Post on October 13, 1977, incisively outline the tremendous problems associated with natural gas deregulation.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GAS DEREGULATION: THE PUBLIC IS BEING HAD

The industry's effort to deregulate the price of newly discovered natural gas threatens to be one of the boldest and biggest steals of all time. "What is being done here is the greatest unarmed robbery in the history of the country," according to Sen. Don Riegle (D-Mich.).

It's important to get some impression of the monumental nature of the rip-off. Not content with a price increase for new gas of 445 per cent from 1972 through 1976, the industry in reality is seeking to get the equivalent of the monopoly price of oil, as set by OPEC: $2.50 to $2.75 per thousand cubic feet.

That would give the industry a price increase of 2,000 per cent—yes, 20 times the 13- to 14-cent price at which it was making a good profit in 1968.

The industry lament is that it needs ever higher prices to provide incentive for new explorations. But a hard-to-counter analysis by the Consumer Federation of America shows that while prices were increasing 445 per cent in 1972–76, gas production decreased 12 per cent, reserves declined 19 per cent, and profits boomed by 50 per cent.

Lee C. White, former chairman of the Federal Power Commission, now lobbying hard against deregulation, observes that before 1968, "we argued over pennies." And for good reason: Every added penny on the gas price per thousand cubic feet costs consumers $200 million. Every dime costs $2 billion.

Yet, in an effort to stave off the greedy drive for total deregulation, hard-pressed Democratic senators are giving away dimes and quarters like chicken feed.

Last year, two statistical agencies of the Federal Power Commission estimated that a fair price for "new" natural gas was between 60 cents and 67 cents—"fair price" meaning a return of 15 to 18 per cent.

But the commission itself figured the fair price at $1.42, allowing, in its computation, a federal tax burden calculated at the theoretical corporate-tax-table maximum of 48 per cent. Of course, no industry pays 48 percent. "If they paid more than 7 per cent [as as effective tax rate], they need a new lawyer," says White.

Then the Carter administration came along, after the U.S. Court of Appeals sustained the FPC's $1.42 price, and proposed a formula that would sweeten the price for "new" natural gas to $1.75.

Even that didn't satisfy the industry, so Henry Jackson made an abortive attempt to avert a deregulation vote in the Senate with a proposal for $2.03 per thousand cubic feet, and a more generous interpretation of "new" gas. The price would rise to $3.36 in 1985, with full deregulation in 1987. How utterly ridiculous can this get? How long will it take before the public realizes that it is being had?

A high administration official dealing with energy matters, who saw the turn of the tide some weeks ago, put it this way:

"The moral imperative for American business is to maximize profits. Natural gas is no exception. You just go over the debates over the years. Give us 35 cents—that's all we want, they said. Give us 50 cents. Last year, they said a dollar will produce all the gas you want. Now, at a $1.75, for the shallow deposits, the incentives are just overwhelming. . . .

"The incentives are so damn great that the producers are bidding one against the other for drill rigs, for steel, for trained manpower, for leases."

There was a time when the administration thought the industry couldn't turn down a price between $1.75 and $2 because the profits would be so great. But the natural-gas industry isn't satisfied. It's had the

deregulation bug ever since President Nixon planted the idea, and now sees no reason why it shouldn't get the OPEC equivalent, and with that a transfer of some $10 billion annually from consumers to the gas producers. Who knows? The OPEC oil price one day may be $25 a barrel.

The huge increase in the price of oil from around $2 to $3 a barrel in 1972 and 1973 to $13 or $14 a barrel today, as many officials have once again concluded, created unmanageable financial problems. It has led to enormous debt and, currently, a serious world-wide flirtation with protectionism.

The price of oil is today's key issue—and everyone talks about it merely in whispeers, fretful in the effect on Mideast politics. The world today appears to be concerned more about the fear of an empty gas tank than about mortal attitudes. But having let OPEC dictate this country's oil prices, it would be criminal if we let OPEC dictate natural-gas prices as well.

HUMAN RIGHTS AS A COMMON LINK

Mr. PROXMIRE. Mr. President, in the past few weeks the South African Government has embarked on a campaign against dissension toward its racial policies. It has done so in a manner that completely disregards the human rights of the people involved.

Eighteen civil rights groups have been banned. The major black newspaper was shut down and its editor was arrested.

Some 70 civil rights leaders were detained and then confined to their homes Donald Woods, an outspoken antiapartheid editor of the East London Daily Dispatch who writes a syndicated weekly column which is read by half a million South Africans, will not be allowed to write or speak in public for 5 years. Beyers Naude, leader of the Christian Institute, a multiracial, nondenominational group of liberal churchmen, has been ordered not to have contact with anyone outside his family for 5 years. During early morning raids police have confiscated papers, documents, and files of scores of antiapartheid leaders.

The fact that South Africa is blatantly violating human rights is disturbing, to say the least. Moreover, it is shocking to realize that these instances are but a few of those that must be occurring.

I am sure most of my colleagues share these feelings of dismay and disbelief. The administration has issued a statement saying it is "deeply disturbed" about the South African situation. At first glance it may seem that there is nothing this body can do to affect these drastic human rights violations. But I suggest otherwise.

I urge the Senate to support the Carter administration in its concern over the South African tactics. This can be done through the ratification of the treaty that holds fundamental human rights at its center—the Genocide Treaty.

It must be remembered that the situation in South Africa does not constitute genocide. Ratification of the Genocide Treaty, therefore, would not have a direct effect upon the situation there. However, the crime of genocide and the situation in South Africa share a common link—the violation of human rights.

Let us give the administration a firm basis of commitment to human rights on which to stand. Let us ratify the Genocide Treaty.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT CALENDAR

Mr. ROBERT C. BYRD. Mr. President, there are several measures on the Unanimous Consent Calendar which have been cleared for action, I believe, on both sides. The minority leader is present and will comment thereon. I ask unanimous consent that the Senate proceed to Calendar Orders numbered 485 through 498, inclusive.

Mr. BAKER. Mr. President, reserving the right to object, the Unanimous Consent Calendar on this desk is cleared for consideration and passage of all of the items which were identified by the majority leader. We have no objection to their consideration and passage at this time.

The PRESIDING OFFICER. Is there objection? The Chair hears none. Without objection, it is so ordered.

LIBRADO PEREZ

The bill (S. 330) for the relief of Librado Perez, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Librado Perez shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–530), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to grant the status of permanent residence in the United States to Librado Perez. The bill provides for the payment of the required visa fee and for an appropriate visa number deduction.

STATEMENT OF FACTS

The beneficiary of the bill is a 51-year-old native and citizen of the Philippines who currently resides in Honolulu, Hawaii, with his brother, a U.S. citizen. The beneficiary was employed in the Philippines as a civilian mess attendant with the U.S. Army from 1939 until his internment as a prisoner of war in 1941. From August 23, 1946, to March 27, 1949, he served honorably in the U.S. Army as a Philippine scout. His only entry into the United States was on November 15, 1971.

FON-CHIAU SHIH

The bill (S. 336) for the relief of Fon-Chiau Shih, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Fon-Chiau Shih shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–531), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to grant the status of permanent residence in the United States to Fon-Chiau Shih. The bill provides for the payment of the required visa fee and for an appropriate visa number deduction.,

STATEMENT OF FACTS

The beneficiary of the bill is a 60-year-old native and citizen of China who entered the United States as a visitor on June 26, 1976. She currently resides in Honolulu, Hawaii, with her son, a lawful permanent resident.

ISAIAS BERRONES REYES

The bill (S. 1413) for the relief of Isaias Berrones Reyes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Isaias Berrones Reyes shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and condi-

tional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-532), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to grant the status of permanent residence in the United States to Isaias Berrones Reyes. The bill provides for the payment of the required visa fee and for an appropriate visa number deduction.

STATEMENT OF FACTS

The beneficiary of the bill is an unmarried 66-year-old native and citizen of Mexico who first entered the United States in 1913 as a baby with his parents. His mother died in 1918 and is buried in Corpus Christi, Tex. His father died August 20, 1938. The beneficiary has reentered the United States illegally several times, the last time being in March 1954. Since that time he has resided in Vidalia, La., where he works as a handyman for various persons.

SANG YUN YOON

The bill (S. 1618) for the relief of Sang Yun Yoon, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Sang Yun Yoon may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in his behalf by Mr. and Mrs. William Voelker, citizens of the United States, pursuant to section 204 of this Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

SEC. 2. Section 204(c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-533), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to facilitate the admission into the United States as an immediate relative a child to be adopted by citizens of the United States, notwithstanding the fact that the prospective adoptive parents have previously had the maximum number of petitions approved.

STATEMENT OF FACTS

The beneficiary of the bill is a 13-year-old native and citizen of Korea who is presently in the custody of the Social Welfare Society, Inc., in Seoul. The prospective adoptive parents, Mr. and Mrs. William Voelker, are U.S. citizens. They are adoptive parents of two other Korean-born children; they have no natural children.

CHIN-HO AN

The bill (H.R. 3461) for the relief of Chin-Ho An, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-534), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to confer immediate relative status on Chin-Ho An.

STATEMENT OF FACTS

The beneficiary of the bill is a 67-year-old native and citizen of Korea. Two of his daughters and a son are lawful permanent residents of this country and one of his daughters is a citizen of the United States. Her visa petition in behalf of the beneficiary could not be approved since her parents were never legally married. Petitions for her mother and sister were approved and they expect to come to the United States as soon as the beneficiary is permitted to accompany them.

IMELDA C. JAYAG

The Senate proceeded to consider the bill (S. 579) for the relief of Imelda C. Jayag, which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert the following:

That, in the administration of the Immigration and Nationality Act, Imelda C. Jayag Potter may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Mr. and Mrs. William Potter, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-535), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to facilitate the admission into the United States of the adopted child of U.S. citizens. The purpose of the amendment is to conform the bill to established precedents.

STATEMENT OF FACTS

The beneficiary of the bill is a 19-year-old native and citizen of the Philippines who currently resides in Manila with an aunt. She was adopted in the Philippines on May 5, 1975, by Mr. and Mrs. William Potter, U.S. citizens. Mrs. Potter is the beneficiary's aunt.

JUANITA BINABISE

The Senate proceeded to consider the bill (S. 1110) for the relief of Juanita Binabise, which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert the following:

That, in the administration of the Immigration and Nationality Act, Juanita Binabise may be classified as a child within the meaning of section 101(b)(1)(F) of such Act, upon approval of a petition filed in her behalf by Mr. and Mrs. Mateo Laem Binabise, citizens of the United States, pursuant to section 204 of such Act. The natural parents, bothers, and sisters of the said Juanita Binabise shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-536), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to facilitate the entry into the United States as an immediate relative the adopted child of United States citizens. The bill has been amended in accordance with established precedents.

STATEMENT OF FACTS

The beneficiary of the bill is a 9-year-old native and citizen of the Philippines who resides there with a cousin of her adoptive mother. She was adopted January 13, 1973 in the Philippines by Mr. and Mrs. Binabise who reside in Hawaii. She has been entirely dependent on them for financial support since the adoption.

SO SAN KIM

The Senate proceeded to consider the bill (S. 1136) for the relief of So San Kim, which had been reported from the Committee on the Judiciary with an amendment on page 2, line 1, strike "Act." and insert "Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, So San Kim may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Mr. and Mrs. Francis Eugene Mayberry, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act and the provisions of section 204(c) of that Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C .BYRD. Mr. President, I ask unanimous consent to have printed

in the RECORD an excerpt from the report (No. 95–537), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to facilitate the adjustment of status as an immediate relative the child to be adopted by U.S. citizens, notwithstanding the fact that the prospective adoptive parents have previously had the maximum number of petitions approved. The amendment is technical in nature.

STATEMENT OF FACTS

The beneficiary of the bill is a 5-year-old native and citizen of Korea who was paroled into the U.S. April 29, 1977, and presently resides in La Grande, Oreg., with her prospective adoptive parents who will institute adoption proceedings as soon as possible. They have previously adopted two Korean orphan children who were recently naturalized as U.S. citizens. In addition, they have three other children. Information is to the effect that they are financially able to care for the beneficiary.

MISS MEEMA MUSER

The Senate proceeded to consider the bill (S. 1852) for the relief of Miss Meema Muser, which had been reported from the Committee on the Judiciary with an amendment on page 2, line 1, strike "Act." and insert "Act, and the provisions of section 204(c) of that Act, relating to the number of petitions which may be approved, shall be inapplicable in this case."; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Miss Meema Muser may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Mr. and Mrs. Harold H. Vollmer, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act, and the provisions of section 204(c) of that Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–538), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to facilitate the entry into the United States as an immediate relative a child to be adopted by U.S. citizens, notwithstanding the fact that the prospective adoptive parents have previously had the maximum number of petitions approved. The bill has been amended in accordance with established precedents.

STATEMENT OF FACTS

The beneficiary of the bill is a 1-year-old native and citizen of Thailand who is currently residing at a foster home in Bangkok. Her mother died of advanced tuberculosis 10 days after she was born and her father did not return to the hospital either to get her or claim his wife's body. The prospective adoptive parents have two adopted children, one a native and citizen of the United States and the other a native and citizen of Korea. A third child, also a native and citizen of Korea, was to be adopted by them, but the child died two days after arrival in the United States from sudden infant death syndrome December 4, 1976.

TIMOTHY LAO OLAVERE

The Senate proceeded to consider the bill (S. 612) for the relief of Timothy Lao Olavere, which had been reported from the Committee on the Judiciary with amendments as follows:

On page 1, line 4, strike "Timothy" and insert "Timmy";

On page 1, line 10, strike "Timothy" and insert "Timmy";

On page 1, line 11, strike "relationships" and insert "relationship";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Timmy Lao Olavere may be classified as a child within the meaning of section 101(b)(1)(F) of such Act, upon approval of a petition filed in his behalf by Samuel M. Olavere, a citizen of the United States, and his wife, Elsa Olavere, a lawfully admitted resident alien, pursuant to section 204 of such Act. The natural parents and brothers and sisters, if any, of Timmy Lao Olavere shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read:

A bill for the relief of Timmy Lao Olavere.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–539), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to facilitate the entry into the United States as an immediate relative of the adopted child of a United States citizen and a lawful permanent resident. The bill has been amended to refer to the beneficiary by his legal name.

STATEMENT OF FACTS

The beneficiary of the bill is a 4-year-old native and citizen of the Philippines who currently resides in that country with the parents of his adoptive mother. On June 4, 1974, the beneficiary was adopted in the Philippines by proxy. His adoptive parents, Mr. and Mrs. Samuel Olavere, a naturalized U.S. citizen and lawful permanent resident, respectively, reside in Honolulu, Hawaii. Mr. Olavere holds the rank of petty officer first class in the U.S. Navy; his wife is employed as a medical technologist.

CHESTER CHUN KET YOUNG

The Senate proceeded to consider the bill (S. 1165) for the relief of Chester Chun Ket Young (also known as Chun-Kit Yeung), which has been reported from the Committee on the Judiciary with amendments as follows:

On page 1, line 5, strike "shall" and insert "may";

On page 1, line 6, strike "and shall be accorded immediate relative status under section 201(b) of such Act";

On page 1, line 9, strike "Tim Lok Leung Young, a citizen" and insert "Mr. and Mrs. Kwan Loy Young, citizens";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Chester Chun Ket Young (also known as Chun-Kit Yeung), may be classified as a child within the meaning of section 101(b)(1)(F) of such Act upon approval of a petition filed on his behalf by Mr. and Mrs. Kwan Loy Young, citizens of the United States, pursuant to section 204 of such Act. No natural parent, brother or sister, or prior adoptive parent, of Chester Chun Ket Young (also known as Chun-Kit Yeung), shall, by virtue of such relationship, be accorded any right, privilege, or status under such Act.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–540), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to facilitate the entry into the United States as an immediate relative of the adopted child of U.S. citizens. The bill has been amended to conform with established precedents.

STATEMENT OF FACTS

The beneficiary of the bill is a 17-year-old native and citizen of China who is currently residing in Hong Kong with an uncle. On September 20, 1976 he was adopted by Kwan Loy Young and Tim Lok Leung Young, citizens of the United States. Mr. Young has been continuously employed in the U.S. Civil Service since 1957; his wife is not employed outside the home. The beneficiary is primarily dependent upon his adoptive parents for his support.

MARIA ELENA JUMALON

The Senate proceeded to consider the bill (S. 1166) for the relief of Maria Elena Jumalon, which had been reported from the Committee on the Judiciary with amendments as follows:

On page 1, line 4, strike "shall be" and insert "may be";

On page 1, line 6, strike "and shall be accorded immediate relative status under section 201(b) of such Act,";

On page 1, line 9, following the comma, insert "and his wife, Demetria Jumalon, a lawful permanent resident,";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Maria Elena Jumalon may be classified as a child within the meaning of section 101(b)(1)(E) of such Act upon approval of a petition filed in her behalf by Generoso Erejil Jumalon, a citizen of the United States, and his wife, Demetria Jumalon, a lawful permanent resident, pursuant to section 204 of such Act. No natural parent, brother, or sister, if any, of Maria Elena Jumalon shall, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–541), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to facilitate the entry into the United States as an immediate relative the alien adopted child of a United States citizen and his lawful permanent resident wife.

STATEMENT OF FACTS

The beneficiary of the bill is a 7-year-old native and citizen of the Philippines who resides there with her natural parents and two * * * 1973, by a U.S. citizen and his lawful permanent resident spouse who is a sister of the beneficiary's natural mother. The adoptive parents reside in Wahaiwa, Hawaii and information is to the effect that they are financially able to care for the beneficiary.

MARGRET CHUN

The Senate proceeded to consider the bill (S. 1400) for the relief of Margret Chun, which had been reported from the Committee on the Judiciary with an amendment as follows:

On page 1, line 4, strike "Margret Chun" and insert "Heung-Sang Chun (also known as Margret Chun)";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Heung-Sang Chun (also known as Margret Chun) shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading.

The title was amended so as to read:

A bill for the relief of Heung-Sang Chun (also known as Margret Chun).

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–542), explaining the purpose of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill as amended, is to grant the status of permanent residence in the United States to the beneficiary. The bill provides for the payment of the required visa fee and for an appropriate visa number deduction. The bill has been amended to refer to the beneficiary by her legal name.

STATEMENT OF FACTS

The beneficiary of the bill is a 27-year-old native of Hong Kong and citizen of Great Britain who entered the United States on September 5, 1972, as a student. On May 15, 1977, she graduated cum laude from the University of Mississippi with a bachelor of science degree in pharmacy. The beneficiary is currently employed as an intern pharmacist in Meridian, Miss.

NATIONAL MEDICAL LABORATORY WEEK

The Senate proceeded to consider the joint resolution (S.J. Res. 78) to authorize and request the President to proclaim the second week of April as "National Medical Laboratory Week," which had been reported from the Committee on the Judiciary with amendments as follows:

On page 2, line 4, strike "annually";

On page 2, line 5, after "April" insert "in 1978";

The amendments were agreed to.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

The joint resolution, with its preamble, reads as follows:

Whereas the health of all Americans depends upon educated minds and trained hands;

Whereas laboratory tests are of the utmost importance in the diagnostic process of detecting disease in man;

Whereas the practice in modern medicine of the life conserving standards we now enjoy would be impossible without scientific tests performed daily in the medical laboratory;

Whereas maintenance of these standards and progress toward improvements in the quality of laboratory services depends on the dedicated efforts of professional practitioners of laboratory science;

Whereas through this dedication the medical laboratories of the United States have made a vital contribution to both the quality of patient care and to the preservation of human life itself;

Whereas many Governors and mayors have through the years issued proclamations calling upon their citizens to give special attention to the pivotal role played by laboratory sciences in patient care; and

Whereas the Government of the United States has supported significant research to improve laboratory procedures and develop standards for laboratory services provided within Federal health programs: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to issue a proclamation designating the second week of April in 1978 as "National Medical Laboratory Week", and inviting Governors and mayors of State and local governments of the United States to issue similar proclamations. The President is further requested to consider including in such proclamation an invitation calling upon the press, radio, television, and other communications media, the health care professions and all other agencies and individuals concerned with programs for the improvement of laboratory services to unite during such week in public activities to impress upon the people of the United States the importance of laboratory services to their own welfare and that of our country, and to urge their support of programs to improve such services for all Americans.

The title was amended so as to read:

Joint resolution to authorize and request the President to proclaim the second week of April of 1978 as "National Medical Laboratory Week."

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to move to reconsider en bloc the votes by which the various measures were adopted.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I make that motion.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TRANSFER OF MEASURES TO UNANIMOUS CONSENT CALENDAR

Mr. ROBERT C. BYRD. Mr. President, there are certain measures on the Calendar of General Orders which have been cleared for transfer to the Unanimous Consent Calendar, as follows:

Calendar Order No. 500, Senate Concurrent Resolution 53, a concurrent resolution authorizing the printing of additional copies of hearings entitled "Panama Canal Treaties"; Calendar Order No. 501, Senate Resolution 276, a resolution authorizing the printing of the committee print entitled "Study on Federal Regulation, Volume IV, Delay in the Regulatory Process," as a Senate document; Calendar Order No. 502, Senate Resolution 277, a resolution authorizing the printing of the committee print entitled "Study on Federal Regulation, Volume III, Public Participation in Regulatory Agency Proceedings," as a Senate document; Calendar Order No. 503, Senate Resolution 278, a resolution to increase the fiscal year limitation on expenses which may be incurred by the Committee on Foreign Relations to facilitate the interchange and reception of certain foreign dignitaries; Calendar Order No. 504, Senate Resolution 285, a resolution authorizing the printing of the report entitled "Progress in the Prevention and Control of Air Pollution in 1976," as a Senate document; and Calendar Order No. 505, House Concurrent Resolution 241, a concurrent resolution providing for the printing of 100,000 additional copies of the subcommittee print of the Subcommittee on Consumer Af-

fairs of the Committee on Banking, Finance, and Urban Affairs entitled "Give Yourself Credit: Guide to Consumer Credit Laws."

The PRESIDING OFFICER. The measures will be so transferred.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations under Federal Maritime Commission and under new reports.

Mr. BAKER. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. I have no objection. I simply wish to advise the majority leader that those nominations are cleared on this side of the aisle and we have no objections to their consideration and confirmation.

The PRESIDING OFFICER. Without objection, the clerk will state the nominations.

FEDERAL MARITIME COMMISSION

The second assistant legislative clerk read the nomination of Thomas F. Moakley, of Massachusetts, to be a Commissioner.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. I move to reconsider the vote by which the nominee was confirmed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

The second assistant legislative clerk read the nomination of Gerald L. Klerman, of Massachusetts, to be Administrator.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nominee was confirmed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, what is the pending business now before the Senate?

The PRESIDING OFFICER. Is there further morning business?

If not, morning business is closed.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in adjournment for 2 seconds.

The motion was agreed to, and, at 4:53 p.m., on Saturday, October 29, 1977, the Senate adjourned for 2 seconds.

AFTER ADJOURNMENT

SATURDAY, OCTOBER 29, 1977

The Senate met at 4:53 p.m. and was called to order by Hon. ERNEST F. HOLLINGS, a Senator from the State of South Carolina.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Saturday, October 29, 1977 be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNFINISHED BUSINESS

Mr. ROBERT C. BYRD. Mr. President, may we have the statement of the unfinished business at this point, please?

The PRESIDING OFFICER. The clerk will state it.

The second assistant legislative clerk read as follows:

A bill (H.R. 5263) to suspend until the close of June 30, 1980, the duty on certain bicycle parts.

The PRESIDING OFFICER. Is there objection to the present consideration of the unfinished business?

The Chair hears none.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will come in at 10:15 a.m. on Monday, following a recess. After the two leaders or their designees have been recognized under the standing order, the Senate will resume the consideration of the unfinished business, H.R. 5263. Rollcall votes will occur during the day on that measure and on amendments and motions in relation thereto. I think it is a hope that can be fairly optimistically shared among us that the Senate will complete action on that bill on Monday.

RECESS UNTIL MONDAY, OCTOBER 31, 1977, AT 10:15 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 10:15 a.m. on Monday.

The motion was agreed to and at 4:54 p.m., the Senate recessed until Monday, October 31, 1977, at 10:15 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 29, 1977:

FEDERAL MARITIME COMMISSION

Thomas F. Moakley, of Massachusetts, to be a Federal Maritime Commissioner for the remainder of the term expiring June 30, 1978.

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

Gerald L. Klerman, of Massachusetts, to be Administrator of the Alcohol, Drug Abuse, and Mental Health Administration.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

Gilbert S. Merritt, of Tennessee, to be U.S. circuit judge for the sixth circuit.

Pierre N. Leval, of New York, to be U.S. district judge for the southern district of New York.

HOUSE OF REPRESENTATIVES—*Monday, October 31, 1977*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

You shall keep the Commandments of the Lord, your God, by walking in His ways and by fearing Him.—Deuteronomy 8: 6.

Eternal God, bring our disturbed spirits into the quiet of Your presence and breathe through the heats of our desires Your coolness and Your calm. From our little lives filled with worries about our work and fears about the future we would look up to the hills of our faith from whence comes our help. Give to us, we pray Thee, an elevation of mind, a breadth of vision, and a depth of spirit that we may begin this day restored in mind, renewed in strength, and reinforced in faith.

We pray for our Nation. Across the boundaries of color, creed, and culture come to us as a people and make us one in spirit as we face the troubles of these trying times. Bind us together in a common humility before You, the God and Father of us all, and grant that our faith in You may be a unifying power drawing our human family into a true and real brotherhood. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills and a concurrent resolution of the House of the following titles:

H.R. 1403. An act to authorize the Secretary of the Interior to convey the interest of the United States in certain lands in Adams County., Miss., notwithstanding a limitation in the Color-of-Title Act (45 Stat. 1069, as amended; 43 U.S.C. 1068);

H.R. 2527. An act to authorize the Secretary of Agriculture to convey certain lands in the Sierra National Forest, Calif., to the Madera Cemetery District;

H.R. 3461. An act for the relief of Chin-Ho An;

H.R. 4979. An act to direct the Secretary of the Interior to convey certain public and acquired lands in the State of Nevada to the county of Mineral, Nev.; and

H. Con. Res. 190. Concurrent resolution to provide for the printing of the brochure entitled "How Our Laws Are Made."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6010) entitled "An act to amend title XIII of the Federal Aviation Act of 1958 to expand the types of risks which the Secretary of Transportation may insure or reinsure, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1139) entitled "An act to amend the National School Lunch Act and the Child Nutrition Act of 1966 to revise and extend the summer food service program for children, to revise the nonfood assistance program, and for other purposes."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, concurrent resolutions of the House of the following titles:

H. Con. Res. 182. Concurrent resolution providing for the printing as a House document of the pamphlet entitled "Black Americans in Congress";

H. Con. Res. 204. Concurrent resolution to authorize the printing of a revised edition of "Our Flag" as a House document;

H. Con. Res. 205. Concurrent resolution to authorize the printing of a revised edition of "Our American Government" as a House document;

H. Con. Res. 217. Concurrent resolution to provide for the printing of a revised edition of "The Constitution of the United States of America"; and

H. Con. Res. 222. Concurrent resolution to authorize the printing of a revised edition of "The Capitol", as a House document.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 3454) entitled "An act to designate certain endangered public lands for preservation as wilderness, to provide for the study of additional endangered public lands for such designations, to further the purposes of the Wilderness Act of 1964, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. JACKSON, Mr. CHURCH, Mr. METCALF, Mr. ABOUREZK, Mr. MATSUNAGA, Mr. HANSEN, Mr. HATFIELD, and Mr. MCCLURE to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 1131) entitled "An act to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HART, Mr. RANDOLPH, Mr. GRAVEL, Mr. ANDERSON, Mr. MOYNIHAN, Mr. MCCLURE, Mr. STAFFORD, Mr. DOMENICI, and Mr. BAKER to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 336. An act for the relief of Fon-Chiau Shih;

S. 491. An act to amend the act entitled "An act to authorize establishment of the Fort Union Trading Post National Historic Site, North Dakota and Montana, and for other purposes", approved June 20, 1966 (80 Stat. 211), and for other purposes;

S. 553. An act to enlarge the boundary of the Cibola National Forest;

S. 579. An act for the relief of Imelda C. Jayag Potter;

S. 612. An act for the relief of Timmy Lao Olavere; and

S. 920. An act relating to the disposition of certain recreational demonstration project lands by the State of Oklahoma.

S. 1104. An act to direct the Secretary of the Interior to establish the Legionville National Historic Site in the State of Pennsylvania;

S. 1110. An act for the relief of Juanita Binabise;

S. 1136. An act for the relief of So San Kim;

S. 1165. An act for the relief of Chester Chun Ket Young (also know as Chun-Kit Yeung);

S. 1166. An act for the relief of Maria Elena Jumalon;

S. 1318. An act to permit the State of Hawaii to use the proceeds from the sale, lease, or other disposition of certain real property for any public purpose;

S. 1400. An act for the relief of Heung-Sang Chun (also known as Margret Chun);

S. 1413. An act for the relief of Isaias Berrones Reyes; and

S. 1618. An act for the relief of Sang Yun Yoon.

S. 1852. An act for the relief of Miss Meema Muser;

S. 2033. An act to provide for conveyance of certain lands in the Wenatchee National Forest, Wash., by the Secretary of Agriculture;

S. 2101. An act to modify the boundary of the White River National Forest in the State of Colorado;

S. 2118. An act to authorize the Secretary of Agriculture to convey certain homesites within the Chugach and Tongass National Forests, Alaska; and

S.J. Res. 78. Joint resolution to authorize and request the President to proclaim the second week of April of 1978 as "National Medical Laboratory Week."

CONSENT CALENDAR

The SPEAKER. Pursuant to the order of the House of October 28, 1977, this is the day for the call of the Consent Calendar.

The Clerk will call the first bill on the Consent Calendar.

ALASKA NATIVE CLAIMS SETTLEMENT ACT

The Clerk called the bill (H.R. 8499) to amend section 16(b) of the Alaska Native Claims Settlement Act.

There being no objection, the Clerk read the bill, as follows:

H.R. 8499

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 16(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688), as amended, is further amended by inserting in the last sentence thereof, following the comma after the word "section," the following: "and from lands withdrawn by subsection (d) of this section for the village corporation for the village of Klukwan and not selected by such village corporation,".

With the following committee amendment:

Page 1, beginning on line 3, strike out all after the enacting clause and insert in lieu thereof the following:

That section 16(b) of the Act of December 18, 1971 (85 Stat. 688, 705), as amended (43 U.S.C. 1615), is further amended by deleting the last sentence thereof.

SEC. 2. Section 14(h)(8) of the Act of December 18, 1971 (85 Stat. 688, 705), is amended by designating the existing paragraph as paragraph "(A)" and adding the following new paragraph (B):

"(B) Such allocation as the Regional Corporation for southeastern Alaska shall receive under this paragraph shall be selected and conveyed from lands that were withdrawn by subsection 16(a) and 16(d) and not selected by the Village Corporations in southeastern Alaska; except lands on Admiralty Island in the Angoon withdrawal area and, without the consent of the Governor of the State of Alaska or his delegate, lands in the Saxman and Yakutat withdrawal areas are not available for selection or conveyance under this paragraph."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read:

"A bill to amend the Alaska Native Claims Settlement Act.".

A motion to reconsider was laid on the table.

BIG BROTHERS-BIG SISTERS OF AMERICA ACT

The Clerk called the bill (H.R. 7249) to amend the Federal charter of the Big Brothers of America to include Big Sisters International, Inc., and for other purposes.

There being no objection, the Clerk read the bill, as follows:

H.R. 7249

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the first section of the Act entitled "An Act to incorporate the Big Brothers of America", approved September 2, 1958 (36 U.S.C. 881 et seq.) is amended—

(1) by inserting "(a)" before "the following";

(2) by striking out "Big Brothers of America" and inserting in lieu thereof "Big Brothers—Big Sisters of America"; and

(3) by adding at the end thereof the following new subsection:

"(b) This Act may be cited as the 'Big Brothers—Big Sisters of America'."

(b) Section 3 of such Act (36 U.S.C. 883) is amended—

(b) by striking out "boys" and inserting in lieu thereof "individuals"; and

(2) by striking out "and Canada".

(c) Section 5(a) of such Act (36 U.S.C. 885(a)) is amended by striking out "and in Canada to the extent permitted by Canadian laws".

(d) Section 7(a) of such Act (36 U.S.C. 887(a)) is amended by striking out "section 16" and inserting in lieu thereof "section 16(a)".

(e) Section 15 of such Act (36 U.S. 895) is amended—

(1) by striking out "the name, The Big Brothers of America" and inserting in lieu thereof the following: "any of the following names: The Big Brothers of America; Big Sisters International, Incorporated; Big Sisters of America; Big Brothers; Big Sisters; Big Brothers—Big Sisters of America; and Big Sisters—Big Brothers"; and

(2) by striking out "section 16 of this title" and inserting in lieu thereof the following: "section 16(a) of this Act, and by the District of Columbia corporation, Big Sisters International, Incorporated, described in section 16(b) of this Act,".

(f) Section 16 of such Act (36 U.S.C. 896) is amended—

(1) by inserting "(a)" before "The corporation"; and

(2) by adding at the end thereof the following new subsection:

"(b) The corporation may acquire the assets of Big Sisters International, Incorporated, a corporation organized under the laws of the District of Columbia, upon discharging or satisfactorily providing for the payment and discharge of all of the liability of such corporation and upon complying with all laws of the District of Columbia applicable thereto.".

SEC. 2. Paragraph (11) of the first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101(11)) is amended to read as follows:

"(11) Big Brothers—Big Sisters of America.".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GRANTING EXTENSION OF PATENT TO UNITED DAUGHTERS OF THE CONFEDERACY

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 810) granting an extension of patent to the United Daughters of the Confederacy.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, will the gentleman explain this bill?

Mr. KASTENMEIER. Mr. Speaker, if the gentleman will yield for a brief explanation, the purpose of S. 810 is to extend and renew design patent No. 29611, the insignia of the United Daughters of the Confederacy, for a period of 14 years from the date of enactment of the legislation.

The design patent for the emblem of the United Daughters of the Confederacy was originally issued on November 8, 1898. It was subsequently renewed and extended in 1926, 1941, and 1963. The most recent extension will expire on December 18 of this year.

Although the Department of Commerce generally opposes the extension of patents, it has long excepted the extension of design patents for emblems of religious, patriotic, and fraternal organizations from this policy.

S. 810 passed the Senate on May 13, 1977. It was reported by unanimous voice vote by the Committee on the Judiciary on October 12.

The Congressional Budget Office informs us that the bill will result in no cost to the taxpayer.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, I yield to my colleague, the gentleman from Illinois, a member of the committee.

Mr. RAILSBACK. Mr. Speaker, I thank the gentleman from California for yielding.

Mr. Speaker, I would simply like to say that this is a bill that was handled by the gentleman from South Carolina, Congressman JIM MANN. I think it has been correctly characterized as a bill that would extend and renew the design patent No. 29611, the insignia of the United Daughters of the Confederacy, for a period of 14 years from the date of enactment of the legislation. It was handled in the other body by the Senator from South Carolina (Mr. THURMOND).

I do not know of any opposition to the bill.

Mr. ROUSSELOT. Mr. Speaker, I appreciate the explanation of my two colleagues.

I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 810

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a certain design patent issued by the United States Patent Office of date November 8, 1838, being patent numbered 29,611, which is the insignia of the United Daughters of the Confederacy, which was renewed and extended for a period of fourteen years by Public Law Numbered 213, Eighty-eighth Congress, approved December 18, 1963, is hereby renewed and extended for an additional period of fourteen years from and after the date of enactment of this Act, with all the rights and privileges pertaining to the same, being generally known as the insignia of the United Daughters of the Confederacy.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ACCOMMODATIONS FOR JUDGES OF THE COURT OF APPEALS

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 2770) to amend section 142 of title 28, United States Code, relating to the furnishing of accommodations to judges of the courts of appeals in the United States.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, the gentleman from Wisconsin can assure there is no additional cost to the Government?

Mr. KASTENMEIER. If the gentleman will yield, Mr. Speaker, yes, I can.

Today there are 140 judges who work in all circuits of the U.S. Court of Appeals. When not actually sitting in court these judges work in chambers in quarters in the communities in which they actually reside. Appellate judges, unlike trial judges, spend most of their worktime in chambers, reading briefs and writing opinions. Full facilities and accommodations for these judges and their staffs are provided only in communities where the court actually sits. This bill would not change this practice, but would permit the Administrative Office of United States Courts to arrange with the General Services Administration to provide limited office space in places such as post offices or Federal buildings to judges who have residences in communities other than where the court sits. Such office space will be provided only if the space is already available. It is my understanding that such space will be provided to a judge only if it is not otherwise being used by the agency occupying the premises.

At the present time only three judges would qualify for such quarters. This is an extremely minor piece of legislation which, according to the Congressional Budget Office, will not result in any cost whatsoever to the Government.

Mr. ROUSSELOT. Mr. Speaker, I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Speaker, I thank the gentleman for yielding.

It is my understanding that this would affect only three Federal judges: Judge Byron Skelton, fifth circuit; Judge Thomas Meskill, second circuit; and Judge Pierce Lively, sixth circuit.

The significant thing about it is the accommodations would have to be approved as necessary by the judicial council for the appropriate circuit and space must be available without cost to the Government.

Mr. ROUSSELOT. Or displacing anybody else?

Mr. RAILSBACK. That would be my understanding.

Mr. KASTENMEIER. Mr. Speaker, that is within the legislative history. It is not within the bill itself, but everybody understands it and it was our understanding.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the bill, as follows:

H.R. 2770

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 142 of title 28, United States Code, is amended by adding the following sentence at the end thereof: "The limitations and restrictions contained in this section shall not be applicable to the furnishing of accommodations to judges of the courts of appeals at places where Federal facilities are available and the judicial council of the circuit approves.".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

BIG BROTHERS AND SISTERS OF AMERICA

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 2208) to amend the Federal charter of the Big Brothers of America to include Big Sisters International, Inc., and for other purposes, a bill similar to H.R. 7249, just passed.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2208

An act to amend the Federal charter of the Big Brothers of America to include Big Sisters International, Incorporated, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the first section of the Act entitled "An Act to incorporate the Big Brothers of America", approved September 2, 1958 (36 U.S.C. 881 et seq.) is amended—

(1) by inserting "(a)" before "the following";

(2) by striking out "Big Brothers of America" and inserting in lieu thereof "Big Brothers-Big Sisters of America"; and

(3) by adding at the end thereof the following new subsection:

"(b) This Act may be cited as the 'Big Brothers—Big Sisters of America'."

(b) Section 3 of such Act (36 U.S.C. 883) is amended—

(1) by striking out "boys" and inserting in lieu thereof "individuals"; and

(2) by striking out "and Canada".

(c) Section 5(a) of such Act (36 U.S.C. 885(a)) is amended by striking out "and in Canada to the extent permitted by Canadian laws".

(d) Section 7(a) of such Act (36 U.S.C. 887 (a)) is amended by striking out "section 16" and inserting in lieu thereof "section 16(a)".

(e) Section 15 of such Act (36 U.S.C. 895) is amended—

(1) by striking out "the name, The Big Brothers of America" and inserting in lieu thereof the following: "any of the following names: The Big Brothers of America; Big Sisters International, Incorporated; Big Sisters of America; Big Brothers; Big Sisters; Big Brothers—Big Sisters of America; and Big Sisters—Big Brothers"; and

(2) by striking out "section 16 of this title" and inserting in lieu thereof the following: "section 16(a) of ths Act, and by the District of Columbia corporation, Big Sisters International, Incorporated, described in section 16(b) of this Act,".

(f) Section 16 of such Act (36 U.S.C. 896) is amended—

(1) by inserting "(a)" before "The corporation"; and

(2) by adding at the end thereof the following new subsection:

"(b) The corporation may acquire the assets of Big Sisters International, Incorporated, a corporation organized under the laws of the District of Columbia, upon discharging or satisfactorily providing for the payment and discharge of all of the liability of such corporation and upon complying with all laws of the District of Columbia applicable thereto.".

SEC. 2. Paragraph (11) of the first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101(11)) is amended to read as follows:

"(11) Big Brothers—Big Sisters of America.".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider the bill was laid on the table.

A similar House bill (H.R. 7249) was laid on the table.

APPOINTMENT OF CONFEREES ON S. 1131, NUCLEAR REGULATORY COMMISSION AUTHORIZATION, 1978

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1131) to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Enery Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes, with a House amendment thereto, insist on the House amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Arizona? The Chair hears none, and appoints the following conferees: Messrs. UDALL, BINGHAM, TSONGAS, and BAUMAN.

AUTHORIZING SECRETARY OF AGRICULTURE TO CONVEY CERTAIN HOMESITES IN ALASKA

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2118) to authorize the Secretary of Agriculture to convey certain homesites within the Chugach and Tongass National Forests, Alaska, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objction to the request of the gentleman from Arizona?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, could the gentleman explain this legislation?

Mr. UDALL. Mr. Speaker, if the gentleman will yield, this is a bill of the gentleman from Alaska (Mr. YOUNG), and the Alaska delegation. It involves eight homesteads in the national forest that would be transferred to the owners. They have complied with all the provisions of the law, except in 1976 we passed a new Forest Management Act. And, we passed the BLM Organic Act legislation. These eight people are left out in the cold; entitled to this land, having complied with all the requirements of the old law, but with no way to get title except by act of Congress.

It has been cleared with the gentleman from Maryland (Mr. BAUMAN), the ranking member of the subcommittee, and the administration is in favor of it.

Mr. ROUSSELOT. Mr. Speaker, if the gentleman tells me that it is approved by the gentleman from Maryland, the gentleman from Alaska (Mr. YOUNG), and the entire Interior Committee, the bill must have merit.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

Mr. DINGELL. Mr. Speaker, reserving the right to object, I always have some curiosity about these bills that give away public land. Maybe my good friend, the gentleman from Arizona, can tell us a little more about it. Who is getting these public lands?

Mr. UDALL. Mr. Speaker, if the gentleman will yield, the homestead laws applied to Alaska in all their forms until 1976. Eight citizens had applied for homestead and moved on the lands, met all the requirements they would have to pass in order to get title, except that the Congress passed a law repealing the Homestead Act.

Mr. DINGELL. These are homesteaders, not Natives?

Mr. UDALL. Exactly.

Mr. DINGELL. We are not duplicating the rights of Natives who have already been bought out?

Mr. UDALL. No; this has nothing to do with that.

Mr. DINGELL. Nothing to do with Natives?

Mr. UDALL. No.

Mr. DINGELL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2118

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture is authorized to convey the following tracts of national forest land in Alaska, occupied as homesites, to the present occupants of said lands or their lawful successors in interest: *Provided,* That such persons would otherwise qualify to pur-

chase said lands under the requirements of the Act of May 14, 1898, as amended (43 U.S.C. 687a):

Chugach National Forest

Homesite numbered 222, Clear Lake group, lot 3, United States survey numbered 4979, containing 1.58 acres.

Homesite numbered 205, Clear Lake group, lot 1, United States survey numbered 4979, containing 1.68 acres.

Homesite numbered 208, Heney Creek group, lot 31, United States survey numbered 3601, containing 3.03 acres.

Homesite numbered 210, Heney Creek group, lot 46, United States survey numbered 3601, containing 1.75 acres.

Homesite numbered 225, Lakeview group, lots M and LL, United States survey numbered 3533, containing 2.15 acres.

Homesite numbered 224, Lawing Extension group, lot 4, United States survey numbered 3532, containing 1.60 acres.

Homesite numbered 186, Snug Harbor group, lot 3, United States survey numbered 3531, containing 1.58 acres.

Tongass National Forest

Homesite numbered 1144, Gartina Game Creek group, lot 9, United States survey numbered 2414, containing 3.03 acres.

SEC. 2. Such conveyances shall be for the same consideration as established by the Act of May 14, 1898, as amended (43 U.S.C. 687a).

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

BIG BROTHER KEEPING SCORE

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, the Commerce Department is planning to publish something called a "social performance index." While it is not yet clear just what this index will look like, some hints have been given by Secretary of Commerce Juanita Kreps—and those hints are, to put it mildly, disturbing.

According to Secretary Kreps, the purpose of this index would be to "make sure corporations get credit for the constructive things they do and also to prod those who lag in social performance to do a better job."

And just what is "social performance"? This key concept is not spelled out but it includes "minority hiring and environmental controls—responsiveness to consumer complaints, product testing, and purchasing from minority firms." The Business Roundtable, an organization of top business executives, is said to be "cooperating" with the Commerce Department in creating this index.

In my opinion we have here, in a microcosm, much that is wrong-headed and silly and dangerous in Government and in business. Secretary Kreps says such an index would serve to keep corporations from being regulated even more than they are now. In short, if corporations do not "cooperate" in this endeavor, who could be surprised if severe regulations are not forthcoming? There is a name for this kind of proposal. It is blackmail.

Here we have a plan to have Government keeping score, according to its own concept of what the rules should be and what constitutes good "social performance." Here we also have prestigious businessmen corporating with Government in a plan that would place them in the role of schoolchildren awaiting the teacher's judgment as to whether they have been good.

It is by now a sad but true fact that most businessmen are scared out of their wits by even a suggestion of more regulations and they have good reason to be because, as even Secretary Kreps admits, "dramatic dollar costs" result when regulatory schemes" are imposed. In other words the consumer eventually gets it in the neck.

But just because regulatory schemes are expensive and often futile does not mean that some sort of governmental report card is any better. In some ways this proposed index is even worse than regulation. Business can sometimes fight regulatory excesses in court. But what can be done if some bureaucrat decides that you have not performed your "social task" in a manner he thinks is correct? What happens if your business finds itself publicly chastized by the Government, even though you may disagree with the reasoning and the facts involved? What recourse would any businessman have if he found his good name and the name of his company smeared by a poor rating on the social performance index?

Please do not tell me that since businessmen are "cooperating" this makes everything OK. I am skeptical of the Federal Government when it says some group is "cooperating" if such cooperation is gained at the end of a gun, so to speak. There is much talk of businesses and universities cooperating with Government-imposed "goals and timetables"—or, as it is known to its victims, the quota system. But such cooperation comes about only because Government threatens to cut off funds if the people involved do not do what the bureaucrats want. So let us not kid ourselves: No matter how much it is said that business is cooperating with this scheme, we all know that it is Government—and in practice that means some bureaucrats in Washington—who would have the final word.

President Carter has promised us less Government interference in our lives. But now we see that he will institutionalize all of the biases and prejudices of Naderism at its worst and then create a new form of the old public pillory in which unfortunate offenders will have to stand, without hope and without recourse.

How will it be determined, for example, if a company is doing its "social duty" in the field of hiring minorities? Will there be a quota system? A goals and timetables system? Some kind of numerical ratio set up? If these things are not done, how will the score be kept? Who will determine if businesses are responding to consumer complaints? Ralph Nader? One of his humorless, fanatical disciples, eyes ablaze with hate for free enterprise? What about environmental controls? Will the Commerce Department allow environmental issues to be balanced against jobs and economy and, yes, the profits needed to keep an industry growing? Or will a company be officially listed as a social menace if if disagrees with the lunatic fringe of the environmental movement?

Mr. Speaker, I find these reports of a social performance index more than disturbing. I find them frightening. If the Commerce Department bureaucrats can publish an annual social performance index, set up by bureaucratic rules and standards, using the forced "cooperation" of businessmen as an excuse to do what the bureaucrats want done, who is next? What about education? What about the communications industry? What about any group that has an interest in social goals, including charitable foundations and church groups? If business supposedly needs this index to protect it from more regulations, can we not expect to soon see an argument made that other institutions in our society "need" such an index?

Mr. Speaker, I find it amusing that the acronym for Social Performance Index is SPI. It will indeed be spying. First on business and then on everyone else. Let us stop this nonsense before we all wake up one day and find that we have transformed our free society into a carbon copy of that imposed on the Chinese by their masters, one in which public confession, public scrutiny, and constant and universal Government surveillance are a way of life.

THE LATE TONY HULMAN

(Mr. JOHN T. MYERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHN T. MYERS. Mr. Speaker, four of the most famous words in the sports world, and certainly best known in the world of automobile racing are, "Gentlemen, start your engines."

The man who pronounced those words since 1946 at the Indianapolis 500, and who has pronounced those words at race events more than any other individual, the man who immortalized those words, Tony Hulman, is being buried at this hour at his hometown of Terre Haute, Ind.

In 1946, he purchased a dilapidated 2½-mile race track in Indianapolis, then often called the "brickyard." He rebuilt the stands and enlarged the seating capacity, resurfaced the track, and promoted the sport of automobile racing. Today, because he has put so much into the world famous 500-mile track, that Memorial Day race is now recognized as the "greatest spectacle in racing."

Tony is known throughout the world, not only for his interest and dedication and what he has given to automobile racing, but because of the fact that he has been a great contributor to a great many other fields. Philanthropically, he has given much to the area of Terre Haute and the State of Indiana.

He will be missed, not only by automobile racing fans throughout the world, his friends, his family, his wife, and daughter, but by many, many people who knew Tony. Tony, a most humble person, was a man I never heard say an ill word

about any other individual; a simple sort of fellow, a great man and just one real nice guy. We will all miss Tony.

PROPOSED HEW REGULATIONS PROTESTED

(Mr. GRASSLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRASSLEY. Mr. Speaker, my office is being flooded with letters from constituents protesting proposed HEW regulations which attempt to cut down on the number of empty hospital beds. My constituents are feeling this will lead to the demise of our local hospitals.

Yesterday, readers of the New York Times and the Washington Star read about the costly retrofitting a little library in my district will have to go through to meet HEW regulations about accessibility to buildings for the handicapped. A library with an annual budget of under $4,000 is being asked to expend $6,500 for a wheelchair ramp when there are no citizens of the community restricted to wheelchairs.

Bureaucrats in HEW ought to come to rural America to find out how detrimental, costly, and destructive their regulations are to small cities.

Every community in America is not the size of the city where these bureaucrats sit behind fancy desks making regulations disturbing a good, quiet, and concerned way of life in rural America.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 3(b) of rule 27, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule 15.

After all motions to suspend the rules have been entertained and debated and after those motions, to be determined by nonrecord votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

CALL OF THE HOUSE

Mr. MONTGOMERY. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 714]

Addabbo	Chappell	Foley
Alexander	Chisholm	Ford, Mich.
Ambro	Clawson, Del	Ford, Tenn.
Andrews, N. Dak.	Conyers	Fowler
	Corcoran	Gammage
Archer	Cornell	Giaimo
Armstrong	Cotter	Gibbons
Ashley	Coughlin	Gonzalez
Badillo	Davis	Harsha
Biaggi	Derrick	Heckler
Bingham	Derwinski	Holland
Boland	Drinan	Hollenbeck
Bolling	Eckhardt	Holtzman
Bonior	Emery	Horton
Brodhead	Erlenborn	Howard
Buchanan	Fish	Hyde
Burton, John	Flippo	Ketchum
Cederberg	Flowers	Koch
Krueger	Murphy, Ill.	Solarz
Lehman	Pepper	Spellman
Long, Md.	Pursell	Teague
Lundine	Quie	Thompson
McCormack	Roberts	Vander Jagt
McDonald	Rodino	Wilson, Bob
McEwen	Roe	Wolff
McKinney	Roncalio	Wright
Meeds	Rosenthal	Wydler
Metcalfe	Santini	Yates
Mikva	Scheuer	Young, Fla.
Milford	Seiberling	Young, Mo.
Moakley	Shuster	Zeferetti

The SPEAKER. On this rollcall 342 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

RAISIN MARKETING PROVISIONS

Mr. RICHMOND. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6782) to permit marketing orders to include provisions concerning marketing promotion, including paid advertisement, of raisins and distribution among handlers of the pro rata costs of such promotion, as amended.

The Clerk read as follows:

H.R. 6782

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That effective October 1, 1978, section 8c(6)(I) of the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, is amended—

(1) by inserting "raisins," after "apples,"; and

(2) by inserting ", raisins," after "with respect to almonds".

SEC. 2. Within a period of sixty days following the second anniversary of the implementation of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the Senate a report which shall describe in detail how this Act has been implemented including, but not limited to, information as to the issuance or amendment of any affected order, the annual amount of assessments collected, in the aggregate and by size and class of handler, the manner in which such assessments were collected, the amount of direct expenditures credited against the pro rata expense assessment obligations of each handler, and the purpose to which such assessments and such direct expenditures of each such handler were devoted.

The SPEAKER. Is a second demanded?

Mr. SYMMS. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from New York (Mr. RICHMOND) will be recognized for 20 minutes, and the gentleman from Idaho (Mr. SYMMS) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. RICHMOND).

Mr. RICHMOND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, hearings on H.R. 6782, a bill to permit a Federal marketing order for the promotion of raisins, were held on May 11 of this year by the Subcommittee on Domestic Marketing, Consumer Relations and Nutrition. The bill, authored by Mr. KREBS of California, and cosponsored by Mr. SISK of California and Mr. JENRETTE of South Carolina, would allow raisin handlers to advertise raisin products under their Federal marketing order. At our hearings Congressman KREBS pointed out that the raisin industry in California unanimously endorses this legislation not only to provide for greater competition with other raisin exporting countries, but also to streamline the marketing order system presently operating at both the State and Federal levels.

On June 16, the subcommittee passed H.R. 6782 with an administration-approved amendment which would require a review of the marketing order 2 years after enactment of this bill.

The full Committee on Agriculture met on September 21. At that time a technical amendment, offered by Mr. KREBS, was agreed to which established that the USDA review would be conducted 2 years after the implementation rather than 2 years after the enactment of the legislation. The bill was agreed to in the full committee by unanimous voice vote.

Mr. Speaker, this is indeed an uncontroversial bill which is supported by the administration.

Because this is only enabling legislation, the raisin growers and handlers, in the final analysis, must approve the provisions of the bill in a referendum.

The bill has a minimal price tag of $7,500 for administrative expenses and will not become effective until fiscal year 1979. I urge the House to approve H.R. 6782 as the full Committee on Agriculture has unanimously done.

Mr. SYMMS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the gentleman from New York has explained, this bill was considered in the Subcommittee on Domestic Marketing, Consumer Relations and Nutrition, and as perfected was approved unanimously. The full committee also unanimously approved this bill after adopting a technical amendment designed to implement it effective with fiscal year 1979.

The bill is narrow in its application:

First, it affects only the State of California;

Second, it affects only marketing orders implemented in California for raisin marketing;

Third, it affects only paid advertising; and

Fourth, it affects only the crediting of handler expenditures on their paid advertising.

As the gentleman from New York has also explained, the bill carries a very modest cost, no more than $7,500.

Mr. RICHMOND. Mr. Speaker, I yield such time as he may consume to my colleague, the gentleman from California (Mr. KREBS).

Mr. KREBS. Mr. Speaker, I thank the distinguished gentleman for yielding.

Mr. Speaker, at this stage I probably should not say anything in light of the unanimous support that I received on both sides of the aisle on this particular bill.

Let me just briefly point out to the membership of the House what this en-

abling legislation is. The industry will have to vote on this particular program. The industry has supported this particular bill. In the final analysis, the industry through its financing of the promotional program will pay for the promotion itself.

I would also like to point out some of the reasons for this legislation. Mr. Speaker, the raisin industry, which is concentrated almost exclusively in California, has been forced into very serious competition with foreign producers of raisins, particularly in the Balkan countries. As a result of the inability to advertise under the Federal marketing order they have been under a distinct handicap in meeting this competition.

Mr. Speaker, if this bill should be passed, the raisin industry will be in a position to compete adequately with some of the foreign producers. Furthermore it will give those raisin handlers who advertise by brand an opportunity to receive credit for funds contributed by them toward the promotion program, and by the same token also advance the interest of the raisin industry as a whole.

Mr. Speaker, as has been pointed out, the cost of this program will be limited strictly to the holding of the referendum, and the estimated cost is $7,500.

I therefore would appreciate the support of the House for this bill, which has no opposition that I am aware of.

Mr. RICHMOND. Mr. Speaker, I have no further request for time.

Mr. SYMMS. Mr. Speaker, I have no further request for time

The SPEAKER pro tempore. (Mr. ROSTENKOWSKI). The question is on the motion offered by the gentleman from New York (Mr. RICHMOND) that the House suspend the rules and pass the bill H.R. 6782, as amended.

The question was taken.

Mr. HARRIS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. RICHMOND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 6782, just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

REGULATION Q EXTENSION

Mr. ST GERMAIN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 9710) to extend the authority for the flexible regulation of interest rates on deposits and accounts in depository institutions, to promote the accountability of the Federal Reserve System, and for other purposes, as amended.

The Clerk read as follow:

H.R. 9710

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—REGULATION OF INTEREST RATES

SEC. 101. Section 7 of the Act of September 21, 1966 (Public Law 89–597), is amended by striking out "December 15, 1977" and inserting in lieu thereof "December 15, 1978."

TITLE II—AMENDMENTS TO THE FEDERAL RESERVE ACT

SEC. 201. This title may be cited as the "Federal Reserve Reform Act of 1977".

CONGRESSIONAL-FEDERAL RESERVE DIALOG ON MONETARY POLICY

SEC. 202. Insert a new section 2A immediately after section 2 of the Federal Reserve Act to read as follows:

"GENERAL POLICY: CONGRESSIONAL REVIEW

"SEC. 2A. The Board of Governors of the Federal Reserve System and the Federal Open Market Committee shall maintain long run growth of the monetary and credit aggregates commensurate with the economy's long run potential to increase production, so as to promote effectively the goals of maximum employment, stable prices, and moderate long-term interest rates. The Board of Governors shall consult with Congress at semiannual hearings before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives about the Board of Governors' and the Federal Open Market Committee's objectives and plans with respect to the ranges of growth or diminution of monetary and credit aggregates for the upcoming twelve months, taking account of past and prospective developments in production, employment, and prices. Nothing in this Act shall be interpreted to require that such ranges of growth or diminution be achieved if the Board of Governors and the Federal Open Market Committee determine that they cannot or should not be achieved because of changing conditions.".

BOARD OF DIRECTORS OF FEDERAL RESERVE BANKS

SEC. 202. The following paragraphs of section 4 of the Federal Reserve Act are amended:

(a) the tenth paragraph by inserting after the comma the following: "without discrimination on the basis of race, creed, color, sex, or national origin,".

(b) the eleventh paragraph by striking all after "members," and substituting "who shall represent the public and shall be elected without discrimination on the basis of race, creed, color, sex, or national origin, and with due but not exclusive consideration to the interests of agriculture, commerce, industry, services, labor, and consumers.".

(c) the twelfth paragraph by inserting immediately after the first sentence thereof the following sentence: "They shall be elected to represent the public, without discrimination on the basis of race, creed, color, sex, or national origin, and with due but not exclusive consideration to the interests of agriculture, commerce, industry, services, labor, and consumers.".

SENATE CONFIRMATION OF CHAIRMAN OF BOARD OF GOVERNORS

SEC. 204. The second paragraph of section 10 of the Federal Reserve Act (12 U.S.C. 242) is amended by inserting after the third sentence thereof the following: "Except that of the persons thus appointed beginning on February 1, 1982, and at four-year intervals thereafter, one shall be designated by the President, by and with the advice and consent of the Senate, to serve as Chairman of the Board for a term of four years, one shall be designated by the President, by and with the advice and consent of the Senate, to serve as Vice Chairman of the Board for a term of four years. Whenever a vacancy shall occur, other than by expiration of term, among the Chairman or Vice Chairman of the Board of Governors of the Federal Reserve System appointed by the President as above provided, a successor shall be appointed by the President, by and with the advice and consent of the Senate, to fill such vacancy, and when appointed he shall hold office for the unexpired term of his predecessor.".

CONFLICTS OF INTEREST

SEC. 205. (a) Subsection 208(a) of title 18, United States Code, is amended by adding "a Federal Reserve bank director, officer, or employee," immediately before "or of the District of Columbia".

(b) Subsection 208(b) of title 18, United States Code, is amended by adding the following new sentence at the end thereof: "In the case of class A and B directors of Federal Reserve banks, the Board of Governors of the Federal Reserve System shall be the Government official responsible for appointment.".

REFERENCES TO FEDERAL RESERVE ACT PARAGRAPHS

SEC. 206. References in this title to paragraphs of the Federal Reserve Act refer to the paragraphs as designated in the compilation of the Federal Reserve Act as amended through 1974, compiled under the direction of the Board of Governors of the Federal Reserve System in its legal division.

TITLE III—AMENDMENTS TO THE BANK HOLDING COMPANY ACT OF 1956

SEC. 301. (a) Section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)) is amended by inserting after the second sentence the following new sentence: "The Board is authorized upon application by a bank to extend, from time to time for not more than one year at a time, the two-year period referred to above for disposing of any shares acquired by a bank in the regular course of securing or collecting a debt previousy contracted in good faith, if, in the Board's judgment, such an extension would not be detrimental to the public interest, but no such extension shall in the aggregate exceed three years.".

(b) Section 2(a)(5)(D) of such Act (12 U.S.C. 1841(a)(5)(D)) is amended by adding at the end thereof the following new sentence: "The Board is authorized upon application by a company to extend, from time to time for not more than one year at a time, the two-year period referred to herein for disposing of any shares acquired by a company in the regular course of securing or collecting a debt previously contracted in good faith, if, in the Board's judgment, such an extension would not be detrimental to the public interest, but no such extension shall in the aggregate exceed three years.".

(c) Section 4(c)(2) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1843(c)(2)), is amended by striking out "shares acquired by a bank in satisfaction of a debt previously contracted in good faith, but such bank shall dispose of such shares within a period of two years" and inserting in lieu thereof the following: "shares acquired by a bank holding company or any of its subsidiaries in satisfaction of a debt previously contracted in good faith, but such shares shall be disposed of within a period of two years".

SEC. 302. Section 3(b) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) is amended to read as follows:

"(b) Upon receiving from a company any application for approval under this section, the Board shall give notice to the Comptroller of the Currency, if the applicant company or any bank the voting shares or assets of which are sought to be required is a national banking association or a District bank, or to the appropriate supervisory authority of the interested State, if the applicant company or any bank the voting shares or assets of which are sought to be acquired is a State bank, in order to provide for the submission of the views and recommendations of the Comptroller of the Currency or the State

supervisory authority, as the case may be. The views and recommendations shall be submitted within thirty calendar days of the date on which notice is given, or within ten calendar days of such date if the Board advises the Comptroller of the Currency or the State supervisory authority that an emergency exists requiring expeditious action. If the thirty-day notice period applies and if the Comptroller of the Currency or the State supervisory authority so notified by the Board disapproves the application in writing within this period, the Board shall forthwith give written notice of that fact to the applicant. Within three days after giving such notice to the applicant, the Board shall notify in writing the applicant and the disapproving authority of the date for commencement of a hearing by it on such application. Any such hearing shall be commenced not less than ten nor more than thirty days after the Board has given written notice to the applicant of the action of the disapproving authority. The length of any such hearing shall be determined by the Board, but it shall afford all interested parties a reasonable opportunity to testify at such hearing. At the conclusion thereof, the Board shall, by order, grant or deny the application on the basis of the record made at such hearing. In the event of the failure of the Board to act on any application for approval under this section within the ninety-one-day period which begins on the date of submission to the Board of the complete record on that application, the application shall be deemed to have been granted. Notwithstanding any other provision of this subsection, if the Board finds that it must act immediately on any application for approval under this section in order to prevent the probable failure of a bank or bank holding company involved in a proposed acquisition, merger, or consolidation transaction, the Board may dispense with the notice requirements of this subsection, and if notice is given, the Board may request that the views and recommendations of the Comptroller of the Currency or the State supervisory authority, as the case may be, be submitted immediately in any form or by any means acceptable to the Board. If the Board has found pursuant to this subsection either that an emergency exists requiring expeditious action or that it must act immediately to prevent probable failure, the Board may grant or deny any such application without a hearing notwithstanding any recommended disapproval by the appropriate supervisory authority.".

SEC. 303. Section 11(b) of the Bank Holding Company Act of 1966 (12 U.S.C. 1849) is amended to read as follows:

"(b) The Board shall immediately notify the Attorney General of any approval by it pursuant to section 3 of a proposed acquisition, merger, or consolidation transaction. If the Board has found that it must act immediately in order to prevent the probable failure of a bank or bank holding company involved in any such transaction, the transaction may be consummated immediately upon approval by the Board. If the Board has advised the Comptroller of the Currency or the State supervisory authority, as the case may be, of the existence of an emergency requiring expeditious action and has acquired the submission of views and recommendations within ten days, the transaction may not be consummated before the fifth calendar day after the date of approval by the Board. In all other cases, the transaction may not be consummated before the thirtieth calendar day after the date of approval by the Board. Any action brought under the antitrust laws arising out of an acquisition, merger, or consolidation transaction approved under section 3 shall be commenced prior to the earliest time under this subsection at which the transaction approval under section 3 might be consummated. The commencement of such an action shall stay the effectiveness of the Board's approval unless the court shall otherwise specifically order. In any such action, the court shall review de novo the issues presented. In any judicial proceeding attacking any acquisition, merger, or consolidation transaction approved pursuant to section 3 on the ground that such transaction alone and of itself constituted a violation of any antitrust laws other than section 2 of the Act of July 2, 1890 (section 2 of the Sherman Antitrust Act, 15 U.S.C. 2), the standards applied by the court shall be identical with those that the Board is directed to apply under section 3 of this Act. Upon the consummation of an acquisition, merger, or consolidation transaction approved under section 3 in compliance with this Act and after the termination of any antitrust litigation commenced within the period prescribed in this section, or upon the termination of such period if no such litigation is commenced therein, the transaction may not thereafter be attacked in any judicial proceeding on the ground that it alone and of itself constituted a violation of any antitrust laws other than section 2 of the Act of July 2, 1890 (section 2 of the Sherman Antitrust Act, 15 U.S.C. 2), but nothing in this Act shall exempt any bank holding company involved in such a transaction from complying with the antitrust laws after the consummation of such transaction.".

The SPEAKER pro tempore. Is a second demanded?

Mr. ROUSSELOT. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Rhode Island (Mr. ST GERMAIN) will be recognized for 20 minutes, and the gentleman from California (Mr. ROUSSELOT) will be recognized for 20 minutes.

The Chair now recognizes the gentleman from Rhode Island (Mr. ST GERMAIN).

Mr. ST GERMAIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 9710, which provides for a simple 1-year extension of regulation Q, first adopted in 1966 to insure a steadier flow of deposits in thrift institutions, whose primary purpose is that of supplying funds for home mortgage financing.

Those who claim that this approach to home mortgage financing has simply not achieved its purpose are in error and I believe that they know it. Commercial banks today continue to enjoy a competitive edge over the average thrift institutions by virtue of their full range of services and superior branching operations, both in location and number. Beginning with the Hunt Commission and extending through the FINE study in the 94th Congress, opponents of regulation Q and its accompanying differential were repeatedly pressed for viable alternatives to insure adequate home mortgage financing and were repeatedly pressed to furnish an estimate as to when depositors may expect increased interest rates as a result of an ultimate elimination of the regulation Q ceiling. They were simply unable to come up with either viable alternatives or to furnish a convincing case wherein depositors would be the beneficiaries. It is for these, the same depositors that we find commercial bankers displaying "crocodile tears."

We will continue in our efforts to seek permanent solutions, rather than temporary expedients to the home mortgage financing crises in this country, not limited to interest rate costs.

It certainly remains my hope that at long last, by making available the highly successful NOW account to the rest of the Nation, that we will be able to proceed in a manner that will truly benefit the public interest, rather than to perpetrate the status quo among competing financial institutions. By extending regulation Q for a 1-year period, we are at least insured of having the balance of the 95th Congress to make the response the public interest demands on such issues as NOW accounts, the Co-Op Bank Act, and the Safe Banking Act.

There is very little that I can add to the reconsideration of title II, the so-called Reform of the Fed Title, except to say that it represents at best a minimum step forward to insure ultimately the type accountability to the people through their elected representatives in Congress. Finally, the two amendments to the Bank Holding Company Act are long overdue regulatory flexibility measures, but with regulatory flexibility must come regulatory accountability. It is my hope that in connection with our deliberations on the Safe Banking Act early in the next session, that by our adoption of title XIII of that Act (H.R. 9600), we will finally review carefully the Bank Holding Company Act Amendments of 1970 and the over 7 years of supervisory activities that have been carried on largely behind a cloak of secrecy.

Mr. Speaker, I yield such time as he may consume to the chairman of the full committee, the gentleman from Wisconsin (Mr. REUSS).

Mr. REUSS. Mr. Speaker, the bill before us consists of three titles. Title I extends regulation Q from its current expiration date of December 15, 1977, to December 15, 1978. The continued existence of regulation Q will insure a steady flow of deposits into our Nation's thrift institutions, thus providing for an ample supply of funds for home mortgage financing.

Title II is the exact same language as that of H.R. 8094, as amended, which was reported out of the Committee on Banking, Finance and Urban Affairs by a vote of 40 to 0 in August of this year. As you will recall, H.R. 8094 passed the House under suspension of the rules without audible dissent.

Title II sets forth guidelines for monetary policy and establishes regular oversight hearings on that policy. It doubles the number of Reserve Bank directors who will represent the public at large. The title regularizes the terms of the Federal Reserve Board Chairman and Vice-Chairman in relationship to the President's term of office, and requires Senate confirmation of these appointments. Finally, it extends current conflict of interest statutes to the Federal Reserve bank officers and employees.

Title III contains two noncontroversial amendments to the Bank Holding Company Act of 1956. Each year since 1971

these amendments have been requested by the Federal Reserve in its annual legislative recommendations to Congress.

Section 301 authorizes a bank holding company to retain shares in a bank acquired in connection with defaults on debts previously contracted for, for a period not to exceed 5 years. Currently, such acquisitions must be divested of within 2 years. This 2-year period is extremely inflexible and has caused severe hardship to the acquiring financial institutions. Any financially astute purchaser of such stock would be well aware of the 2-year divestiture deadline and wait around until the last minute and make a bid well below normal market values to take advantage of the "fire sale" conditions. This legislation will allow the Federal Reserve to grant no more than three 1-year extensions of the divestiture deadline, thus keeping the holding company's feet to the fire and insuring that the holding company take whatever steps necessary to divest of the acquired stock in a prompt but orderly manner.

Sections 302 and 303 permit the Federal Reserve to dispense with the usual 30-day notice period, during which the bank regulatory authorities and the Department of Justice currently have the opportunity to comment on the acquisition of a bank by a bank holding company. By dispensing with the usual 30-day notice period, the Federal Reserve will be able to take steps to prevent the probable failure of the bank to be acquired. Currently, the failing bank revolves in limbo for the 30-day comment period. This legislation will avoid the uncertainty of the 30-day comment period and allow the regulatory agencies to do a better job during such financially sensitive periods.

Mr. Speaker, this legislation passed the Committee on Banking, Finance, and Urban Affairs by a record vote of 41 to 0.

I ask my colleagues to join with me in the speedy passage of this important legislation.

Mr. ROUSSELOT. Mr. Speaker, although I support H.R. 9710 in its present form, it would have been preferable to have a simple 2-year extension of the authority to regulate interest rates on deposits and accounts in depository institutions, commonly referred to as regulation Q as approved unanimously by the Subcommittee on Financial Institutions. My preference for the subcommittee version is based on three major considerations:

First. Nearly every Member of this House, regardless of his views on the merits of extending regulation Q, realizes that it is extremely likely that regulation Q will not be in effect 2 years hence. Even if financial reform legislation is enacted during this period, it is virtually certain to contain an extension of regulation Q for at least 2 years. In the absence of financial reform there will still be extensions of this authority, which was first instituted in 1966 on a "temporary" basis and has been extended 13 times since then.

Second. A 2-year extension will remove for a time the temptation either to use extension of regulation Q as a "vehicle" for passing legislation which cannot stand on its own merits or to hold meritorious legislation "hostage" to obtain an extension of regulation Q. Since regulation Q will be extended in any event, a 2-year extension would permit the consideration of banking legislation on its merits for awhile.

Third. With respect to titles II and III, I have no objection on the merits. Title II, the Federal Reserve Reform Act, passed the House on a voice vote on September 12, 1977. Title III would give the Federal Reserve discretion to extend for up to 3 years the present 2-year limit for a bank holding company to dispose of shares acquired by a bank in satisfaction of a debt previously contracted in good faith. The remainder of title III would speed the process of arranging the acquisition of a failing bank and is noncontroversial.

I realize that a failure to enact title III would cause hardship in four situations in which banks have failed, not the least important of which happens to involve Milwaukee, Wis. My concern is that any addition to a simple extension of regulation Q may prompt Members of the other body to propose additions of their own and thus jeopardize the extension itself.

Several of us in committee had reservations about adding certain parts to this extension of regulation Q on the basis that we are not sure it really belongs in this legislation. Specifically, I refer to title III, which some of us felt might more appropriately be considered in a private bill.

I would also like to state that many of us on the committee were disappointed that we are not extending regulation Q for 2 years. The gentleman from Illinois (Mr. ANNUNZIO) and myself introduced legislation, H.R. 9614 and H.R. 9691, respectively, to extend regulation Q for 2 years, so that we would not be back here in an election year going through this process again, but I suppose that this is better than extending regulation Q for 6 months at a time, which some Members of the other body would like to do.

I am concerned that when the gentleman from Rhode Island (Mr. ST GERMAIN), Mr. STANTON, Mr. REUSS, and this Member go to conference with Members of the other body on a bill extending regulation Q, the conferees from the other body have admitted openly and forthrightly, as they did earlier this year, that regulation Q represents an excellent "vehicle" for passing other legislation which Members of this House may feel is nongermane, untimely, or ill considered. In my judgment, the longer we can extend regulation Q, the greater will be our assurance that this popular legislation will not be held hostage for bills which might fail if they are considered on their own merits.

Mr. Speaker, I now yield to my distinguished minority leader on the Committee on Banking, Finance and Urban Affairs, our ranking Republican, who has been a great champion of making sure that regulation is extended, the gentleman from Ohio (Mr. STANTON).

Mr. STANTON. Mr. Speaker, I rise in support of H.R. 9710 and urge its enactment here today.

Title I provides a 1-year extension for the authority of the Federal Reserve and the other regulatory bodies to issue regulation Q which, as all Members must surely know now, establishes the maximum interest rates that may be paid on various types of savings accounts. Although we may look to the day sometime in the future when regulation Q may no longer be necessary, it is important to keep this authority alive until we deal with the questions of investment authorities for our various types of financial institutions.

Title II of the bill is identical to the provisions of H.R. 8094 which was previously passed by the House without dissenting vote on September 12, 1977. I supported that legislation at the time although I expressed grave reservations about the provision which was section 3 in that bill and appears as section 204 in this bill. This section provides that the terms of the Chairman and Vice-Chairman of the Federal Reserve will run concurrently with a 1-year lag to that of the President. In other words, the Chairman and Vice-Chairman will be appointed for 4-year terms starting on February 1, following the year of the inauguration of the President. As I said at that time, I cannot rest easy with the provisions of section 204, which would tie the Chairman's term of office to that of the President. First, there is no demonstrated need for this change. Despite the assertions that undesirable situations may possibly arise with our present timing of the Chairman's appointment, it is a matter of historical fact that such situations have not occurred in the past. All the difficulties that this section is supposed to overcome are strictly speculative.

In trying to look into the future, we should base our speculations on what we have experienced in the past. In this case, we have not experienced any difficulties. There is absolutely no need for this provision.

Second, this section would politicize the Chairman's appointment. We are clearly making the Chairman "the President's man" and thus placing into the hands of the Executive greater control over the monetary policy of this country.

Finally, there are serious defects in the proposed process. Just imagine the consequences of having a lame-duck Chairman. What will happen in the event a Chairman fails to finish his term? Will we expect continuity and effectiveness of leadership with two or even three short-term Chairmen? Just imagine the potential decline in the caliber of Fed leadership under such conditions. Dr. Arthur Burns, speaking for a majority of the Members of the Federal Reserve Board, had this to say about the proposal when he testified before the subcommittee on June 23, 1977:

> . . . because (the proposal) would link the Chairmanship to the incumbency of a President, the likely result is that the person selected for that position would not serve his full term and would leave the Board only a year after the President who appointed him left his office. The consequence could be some politicizing of the Federal Reserve, and

perhaps some erosion of the independence of the Nation's monetary authority.

A corollary of the 'linked' terms procedure, of course, is that vacancies in the offices of Chairman and Vice Chairman can be filled only for the unexpired portions of the terms. This aspect of the proposal is also quite troubling. Where only a relatively short portion of the 4-year term remains to be served, it may be quite difficult for a President to recruit a highly qualified individual in view of the need for an appointee to sever his prior relationship and divest or put in trust his investments. Nor could the President give any assurance of reappointment to a full term—where, for example, he himself was not eligible for reelection.

Even where it might be possible for the President to reappoint his nominee for a full term, the individual appointed to fill an unexpired term would in effect be on probation until the partial term expired. The implications of this for the independence of the Federal Reserve during that period—the possibility that the individual will be inclined to act in such a way as to promote his own reappointment—are obvious. Moreover, the procedure for filling unexpired terms might result in the office of Chairman being unfilled until the President was in a position to make an appointment for a full 4-year term, thus leaving the central bank handicapped for that period. To my mind, these are serious limitations.

Mr. Speaker, this provision will, in my judgment, be a step backward and will encourage a return of control to the Executive after 60 years of proven experience under a policy of Fed independence.

In view of the fact that the other body has previously declined to accept this provision, it would be my hope that they might drop it from the bill when they act upon it.

Title III of the bill contains some badly needed amendments to the Bank Holding Company Act, and we support their enactment. These are authorities which the Federal Reserve has requested for several years and on which we have recently had adequate testimony in hearings on the Safe Banking Act before the Subcommittee on Financial Institutions Supervision, Regulation, and Insurance. We find that both the members of the affected industries and the regulatory authorities support these provisions.

I urge Members to cast their vote in favor of the bill today.

Mr. Speaker, I would only point out to my friend, the gentleman from California (Mr. ROUSSELOT), and ask him if the recollection of our committee is right, that we can assure the House Members that this bill will be brought back to us basically in the form it is, and that the other body will not add on a lot of extraneous material. Is that correct?

Mr. ROUSSELOT. Mr. Speaker, I appreciate the gentleman's bringing that up, because it was agreed in committee, by the chairman of the subcommittee, Mr. ST GERMAIN, and the chairman of the full committee, the gentleman from Wisconsin (Mr. REUSS), that we would go resolutely to conference on this issue and make sure that there are not a lot of nongermane items added on by the Senate, that we will make every effort to keep this bill in as pure a form as it was when it came from our committee.

I think the gentleman is correct that it is important to assure the House membership that this bill will not come back from conference with a lot of extraneous items added to it.

Mr. STANTON. Mr. Speaker, I appreciate the gentleman's remarks.

Mr. ST GERMAIN. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. MOTTL).

Mr. MOTTL. Mr. Speaker, I rise to speak on the extension of regulation Q which has many fine provisions, but which I must oppose because of certain discriminatory aspects.

I do so reluctantly because of the hard work my good friend and colleague, Rep. HENRY REUSS of Wisconsin has devoted to regulation Q in the Banking, Finance and Urban Affairs Committee.

As presently written and interpreted by the Federal Reserve Board, regulation Q discriminates between wealthy depositors and those with less money.

Persons who can deposit $100,000 or more in a certificate of deposit can negotiate an interest rate based on what the market will bear. But the small depositor has the interest he will earn fixed by law.

The large depositor according to the Wall Street Journal and my own research, could conceivably be penalized only ¾ percent interest if he withdrew his money after 1 month instead of after 1 year.

The small depositor with a $2,000 certificate maturing in 2½ years and paying 6¼ percent interest, would lose all interest for the previous 90 days and would see the remaining interest revert to that paid on regular savings accounts—a substantial penalty.

Since regulation Q can not be amended to remove these discriminatory practices because the bill is on suspension, I must reluctantly vote against it until such time as big and small depositors are treated equally.

I would hope that my distinguished colleague, Mr. REUSS, and his committee will try to eliminate this discrimination when regulation Q comes up again in the future.

Mr. LUKEN. Mr. Speaker, I rise in support of H.R. 9710, the Federal Reserve Reform Act. This piece of legislation has several important provisions, but I would like to address my remarks to title I, the extension of regulation Q.

Regulation Q is due to expire on December 15 of this year. This piece of legislation would extend regulation Q through December 15, 1978. The House already passed one extension of this provision in this session of Congress and has now wisely incorporated an additional 1-year extension in H.R. 9710.

It has been my consistent belief that regulation Q should not be allowed to expire. This provision is essential to the housing industry as well as to the savings and loan associations, which supply 75 percent of all money for home loans. Regulation Q allows savings institutions to pay a higher interest rate than commercial banks, thereby attracting sufficient capital to support the housing market.

When regulation Q was first enacted in 1966, Congress made its intention clear that home lending institutions be allowed to pay more interest on savings than commercial banks. The purpose was to insure funds would be available for home buyers. This purpose still clearly needs to be served. Without the ceiling and interest rate differential provision, home lenders would be unable to effectively compete for savings against the larger, more diversified full-service banks.

Although I wholeheartedly support the extension of regulation Q through December 1, 1978, I believe Congress should go further to a more definite commitment to this policy. Regulation Q is essential for keeping the housing market strong and the capital backing necessary for this end.

Mr. VENTO. Mr. Speaker, I am pleased to rise in support of H.R. 9710, the proposal to reform the Federal Reserve System.

The articulation in the statutes of the reporting process that was initiated by a resolution in the 94th Congress is appropriate.

While these hearings are very limited by the nature of the proceedings and personalities involved, they are fundamental in the oversight responsibility that the Banking, Finance and Urban Affairs Committee has pursued. In the future the continuing dialog that is established should provide insight to Congress on the economic monetary decisions of the Federal Reserve System.

Senate confirmation and Presidential selection of the Chairman of the Board of Governors will provide for a good balance of power between the administration and legislative branches, but most importantly, will enhance the responsiveness of the Chairman to coordinate the Federal Reserve System programs with the policies worked out by elected officials. The independence of the Federal Reserve System will not be modified by the safeguards provided and a more regular process of selection will assure the accountability that is desired.

The provision to select a wider crosssection of membership for the Federal Reserve System is long overdue. Public consumer representation is of vital importance in addition to the professionals that have historically served from agriculture, labor, commerce, industry, and the varied services.

The extension to deal effectively with conflict of interest is especially important as we attempt to provide assurances and renewed sense of confidence in Government and especially those that serve in appointed positions of responsibility.

The proposal also includes a title I, that extends regulation Q for 1 year until December 15, 1978.

In conclusion, I would voice my support for that provision. The savings and loan industry has made a good commitment to finance home construction and purchase for millions of Americans. Without the differential today, the savings and loans would not be able to effectively serve that need. The increase in powers and responsibilities sought by some savings and loans ought not to diminish the important role that so many have played in the past.

The increase in treasury notes just this past week gives ample warning to those who might suggest that the savings and loans do not need this incentive to attract revenue.

Without the differential, there is a very real possibility that the resources to finance new residential dwellings would be adversely affected.

Therefore, I urge all my colleagues to support this proposal, H.R. 9710, which must have expeditious passage to help our constituencies.

Mr. ANNUNZIO. Mr. Speaker, I am in wholehearted support of H.R. 9710. While the distinguished chairman of the Committee on Banking, Finance and Urban Affairs has quite clearly spelled out the provisions of the legislation, I would like to take a few minutes to discuss title I, since I was the author of that section.

The legislation as originally introduced provided for a 2-year extension of regulation Q, that section of banking law which sets limits that can be paid on savings accounts and also provides for a differential and amount of interest that can be paid on savings accounts by savings and loan associations as opposed to commercial banks.

Regulation Q was first enacted in 1966 and has been extended periodically. H.R. 9710 represents the 10th extension of the law. I had hoped that we could achieve a 2-year extension of the law at this time, however, in conversations with key Members of the Senate, I was told that a 2-year extension would not be acceptable but that the Senate would accept a 1-year extension without the necessity of going to conference. While I favor a much longer extension if not a permanent application of regulation Q, I am nonetheless enough of a realist to know that in politics you sometimes have to compromise.

Under existing law, regulation Q will expire on December 15 of this year. While there has been criticism of regulation Q because it tends to restrict the amount of interest that can be paid to small depositors and provides a slight competitive advantage to savings and loans in a quest for such accounts, there are many positive aspects of regulation Q that are overlooked. Without regulation Q smaller financial institutions, both banks and savings and loans, would find it difficult to compete for savings accounts since the giant financial institutions would offer savings rates that would attract the money away from the small financial institutions. We saw evidence of this during periods of the so-called wild card certificates of deposit when money from small communities across the country flowed out of those communities and into major financial centers.

Without regulation Q, home mortgage rates would have to be increased. If financial institutions pay more for savings, then they have to obtain those additional funds by charging more for home mortgages. And since it is the small saver who traditionally obtains the home mortgage, regulation Q actually benefits that individual who may not have a large savings account but almost assuredly will have a large mortgage.

Mr. Speaker, we are entering a period of monetary instability in our country and we are beginning to see an increase in disintermediation in which money is being withdrawn from financial institutions and invested in other financial instruments that are providing a greater yield. For that reason alone, we must make certain that the home mortgage industry is not placed in further jeopardy by allowing regulation Q to expire. After a long period of recession, the homebuilding industry is finally back on its feet and housing starts are finally beginning to reach boom levels. Since the savings and loan industry is responsible for nearly three-quarters of all housing starts, we must make certain that there is an adequate supply of money to finance those houses. Regulation Q has accomplished that purpose and should be extended.

As I have said on many occasions, regulation Q may be the entire answer to the home mortgage market problem, but ulation Q may not be the entire answer to idea, it is the best that we have. Those who criticize regulation Q offer no alternative solution so until that alternative solution is developed, I will continue to support regulation Q and hope that some day we may find a more lasting solution. I urge enactment of H.R. 9710.

Mr. ST GERMAIN. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Rhode Island (Mr. ST GERMAIN) that the House suspend the rules and pass the bill H.R. 9710, as amended.

The question was taken.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on the motion will be postponed.

GENERAL LEAVE

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on H.R. 9710.

The SPEAKER. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

FEDERAL RESERVE BANK AUTHORITY EXTENSION

Mr. MITCHELL of Maryland. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 611) to extend the authority of the Federal Reserve banks to buy and sell certain obligations.

The Clerk read as follows:

H.J. RES. 611

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 14(b) of the Federal Reserve Act is amended by striking out 'October 1, 1977" and inserting in lieu thereof "May 1, 1978," and by striking out "September 30, 1977" and inserting in lieu thereof "April 30, 1978".

The SPEAKER pro tempore. Is a second demanded?

Mr. HANSEN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Maryland (Mr. MITCHELL) and the gentleman from Idaho (Mr. HANSEN) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Maryland (Mr. MITCHELL).

Mr. MITCHELL of Maryland. Mr. Speaker, I yield myself such time as I may consume.

Mr. MITCHELL of Maryland. Mr. Speaker, House Joint Resolution 611 would extend until April 30, 1978, the authority of the Federal Reserve to purchase U.S. obligations up to a limit of $5 billion from the Treasury on a direct basis. Extensions of this authority have been granted on 20 occasions so far since originally being granted by Congress in 1942. The authority provides a backstop for Treasury cash and debt operations. It assures that the Treasury will be able to raise cash almost instantaneously in emergencies. It has been described by Treasury Assistant Secretary David Mosso as "a key element in all the the Treasury's financial planning for a national emergency." Currently, the authority does not exist. It expired on September 30, 1977. Prompt action to reinstate it is in the public interest. That is what House Joint Resolution 611 would do.

At the same time, House Joint Resolution 611 extends the draw authority only until next April 30. The reason for this is that the authority has potential monetary policy implications. The authority makes it possible for the Treasury to use the Fed as its "handmaiden," and thus to avoid the discipline of the market place. If abused, this could cause excessive money creation and inflation. The possible side effects need to be reexamined. The April 30 expiration date both permits and compels doing so early in the next session. I urge adoption of House Joint Resolution 611.

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the minority supports the enactment of House Joint Resolution 611. Although there have been temporary short-term lapses, as is currently the case, in the Federal Reserve's authority to purchase directly from the Treasury, we can say that this authority has existed for 35 years. Although it is not used with great frequency, there are times when disruptions of financial markets are avoided by the Fed's purchasing Treasury obligations directly from the Treasury. Avoiding such disruptions saves money both for the Treasury and other borrowers in the market.

Traditionally, the subcommittee holds oversight hearings every couple of years to review the use made of this authority. Unfortunately, time did not permit this to be done this year but I understand it is the chairman's intention to schedule hearings early next year.

Mr. Speaker, I will ask the chairman of the subcommittee if what I have just stated is correct.

Mr. MITCHELL of Maryland. Mr. Speaker, if the gentleman will yield, that is correct.

Mr. HANSEN. Mr. Speaker, in view of this situation and because I think it is important to keep this authority intact, I urge the Members to support this short-term extension today.

Mr. STANTON. Mr. Speaker, will the gentleman yield?

Mr. HANSEN. I yield to the gentleman from Ohio.

Mr. STANTON. Mr. Speaker, I appreciate the gentleman's yielding.

Mr. Speaker, I rise in support of House Joint Resolution 611. It is a simple extension of what is commonly called the Treasury draw authority, the authority for the Federal Reserve to purchase notes directly from the Treasury so as to facilitate Treasury's cash management operations. The authority is limited in amount, and in duration. It is designed to permit the Treasury to maintain relatively low levels of idle cash. By giving the Treasury this extra margin of flexibility, we are saving the taxpayers significant costs in interest that would otherwise be payable on idle funds.

Mr. Speaker, this authority has only very infrequently been used, and then for very short periods of time—matters of 2 or 3 days, as a rule—and for relatively small amounts. Commonly, whole years have gone by without use of the authority.

From this record, we can safely conclude that there is no cause to fear abuse of the authority being granted. Nevertheless, I view this resolution as an interim measure and I urge that a careful examination of the Treasury's cash management operations be conducted by the committee before we provide for further extension of this authority.

With the understanding of the chairman of the subcommittee on domestic monetary policy that such hearings will be convened early in the second session of this congress, I support the resolution and urge our colleagues to support its immediate enactment.

Mr. MITCHELL of Maryland. Mr. Speaker, I have no further requests for time.

Mr. HANSEN. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland (Mr. MITCHELL) that the House suspend the rules and pass the joint resolution (H.J. Res. 611).

The question was taken.

Mr. HANSEN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. MITCHELL of Maryland. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter on House Joint Resolution 611.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

SELECT COMMITTEE ON ETHICS EXTENSION

Mr. DELANEY. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 871) providing for the extension of the existence of the Select Committee on Ethics.

The Clerk read as follows:

H. RES. 871

Resolved, That, notwithstanding the provisions of H. Res. 383, Ninety-fifth Congress, adopted March 9, 1977, the Select Committee on Ethics (hereinafter in this resolution referred to as the "select committee") shall expire upon the completion of its official business. The records, files, and material of the select committee shall be transferred to the Committee on Standards of Official Conduct upon such expiration.

SEC. 2. The authority of the select committee to report bills and resolutions referred to it, and the authority of the select committee to adopt regulations and issue advisory opinions, shall remain in effect until the expiration of the select committee under this resolution.

The SPEAKER pro tempore. Is a second demanded?

Mr. QUILLEN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. DELANEY) will be recognized for 20 minutes, and the gentleman from Tennessee (Mr. QUILLEN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. DELANEY).

Mr. DELANEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 383, which passed the House on March 9, 1977, by a vote of 410 to 1, established the Select Committee on Ethics through December 31, 1977. House Resolution 871 would extend the life of the select committee until its official business is completed during the Second Session of the 95th Congress.

The select committee has indicated that the necessity for the extension arises because the House will be unable to consider the select committee's financial disclosure legislation this year. Also, the Senate has not yet acted upon H.R. 7792, the committee's Franked Mail Act of 1977, which passed the House by voice vote on July 12, 1977. It anticipated that the committee will be able to complete its work early in the next session.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from New York (Mr. DELANEY), the chairman of the Committee on Rules, has ably described this measure.

However, I would like to point out to the Members of the House that the Obey Commission brought before us the proposal which established earned and nonearned income provisions. The Select Committee on Ethics was established to provide information and issue opinions for the benefit of the Members of this House, and to codify and put into law civil and criminal penalties on the proposals of the Obey Commission passed by the House.

Mr. Speaker, the authority of this committee to report legislation expired September 30, 1977.

A bill was reported, but it has not been before the House; and this resolution gives the committee extended authority to make revisions in the measure that they have reported.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I take this time only to pose a question either to the gentleman from New York (Mr. DELANEY) or to the gentleman from Tennessee (Mr. QUILLEN).

When this select committee was first created, I, as a member of the Obey Commission, was not terribly happy with the creation of the committee because I felt that the duties assigned to it were more properly within the jurisdiction of the Committee on Standards of Official Conduct which already exists in the House. It seemed to me that establishing a select committee simply for this purpose was somewhat of a duplication.

I notice that in the pending resolution it says that the Select Committee on Ethics "shall expire upon the completion of its official business."

Mr. Speaker, I assume that means that it cannot extend beyond the 2d session of the 95th Congress; but I raise this question: Does that not allow an open-ended expiration date which may well extend beyond the time during which the committee has anything to do?

Mr. QUILLEN. Mr. Speaker, the gentleman from Maryland (Mr. BAUMAN) has asked a good question.

I recently asked the chairman of that committee, the gentleman from North Carolina (Mr. PREYER), the same question. He responded to me, if I am correct, that the extension was only to complete the business now before the committee.

Mr. PREYER. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I will be happy to yield to the gentleman from North Carolina to respond to the question of the gentleman from Maryland (Mr. BAUMAN).

Mr. PREYER. Mr. Speaker, I thank the gentleman for yielding.

It is our understanding that, as a matter of parliamentary law, a select committee expires at the end of a session of the Congress, whether or not it is actually mentioned in the terms of the resolution.

It is certainly our intention that it expire at the end of this session, and I understand that that is a matter of parliamentary law.

Mr. BAUMAN. Mr. Speaker, if the gentleman will yield further, I do not think the gentleman from North Caro-

lina (Mr. PREYER) has responded to the second part of the question. That is, Why should we extend the life of this select committee to the end of the Congress when the duties of the committee, assigned by the original resolution, may expire this year, or in January, whenever the House acts finally on the gentleman's recommendations?

Why should this committee remain around another 10 or 11 months with persons on the payroll when the committee's job may be finished?

Mr. PREYER. If the gentleman will yield further, Mr. Speaker, the resolution reads "upon the completion of its official business."

That is the reason it is worded in that way. We anticipate that we will be able to complete our business within the next 3 or 4 months of next year. We will be reducing the size of the staff, and we anticipate that we will complete our work very shortly.

Mr. QUILLEN. Mr. Speaker, may I ask one further question of the gentleman from North Carolina (Mr. PREYER).

Is it not true that the completion of the select committee's business includes taking another look at H.R. 7401, which has been reported by the gentleman's committee, and to make possible changes in that legislation?

Mr. PREYER. If the gentleman will yield further, Mr. Speaker, yes; we think there are some changes that need to be made in that legislation, and we anticipate doing that.

Mr. QUILLEN. I would hope, Mr. Speaker, that the committee would seriously consider some major changes, including, perhaps, changing the earned and unearned income provisions and the reporting provisions mandated by the Obey Commission proposal and passed by this House.

Mr. WIGGINS. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from California.

Mr. WIGGINS. Mr. Speaker, I thank the gentleman for yielding.

I wanted to answer more pointedly the question asked by the gentleman from Maryland (Mr. BAUMAN).

The gentleman from North Carolina (Mr. PREYER), the chairman, and I discussed inserting a specific date for terminating the work of the select committee; but we frankly were unable to make an intelligent estimate as to when the conference would conclude. Therefore, we opted for the open-end date, which is when we conclude our business. As the ranking Republican member, I want the membership to know that I have no enthusiasm for continuing the work of this committee one moment longer than it is necessary. I think I accurately reflect the views of the gentleman from California as well. In short, we are not going to perpetuate this committee for any time beyond that which is absolutely necessary to conclude our work.

Mr. QUILLEN. I thank the gentleman. I think the advisory opinions and work of this committee have been most helpful. I would like to say that I think there should be some mechanism for reconsideration of some of the provisions of the Obey Commission proposal, which was adopted by this House, early in the next session, if not in this one. This Member will investigate every avenue where we might have the ability and the opportunity to reevaluate what this House did earlier in this session.

Mr. Speaker, I have no further requests for time.

Mr. DELANEY. Mr. Speaker, I yield 5 minutes to the gentleman from North Carolina (Mr. PREYER).

Mr. PREYER. Mr. Speaker, House Resolution 871, which I introduced for Congressman WIGGINS and myself, would extend the life of the Select Committee on Ethics until its official business is completed during the second session of the 95th Congress.

House Resolution 383, which passed the House on March 9, 1977, by a vote of 410 to 1, established the select committee through December 31, 1977. The committee's charge was to provide guidelines and interpretations concerning the new House Rules which were adopted on March 2, 1977, and to incorporate these rules into statute wherever appropriate.

Over the past several months, the committee has worked on a bipartisan basis to assure that implementation of the new rules is as smooth as possible. The necessity for an extension beyond the end of this year has arisen principally because the House will be unable to consider the select committee's financial disclosure legislation this year, and the Senate has not yet acted upon H.R. 7792, the committee's Franked Mail Act, which passed the House by voice vote on July 12, 1977. However, it should be emphasized that failure to consider the committee's financal disclosure legislation this year will not delay the filing of financial information by Members and employees of the House. Under the new House Rules, financial disclosure statements must be made next spring for the time period from October 1, 1977, through December 31, 1977. An additional benefit of this legislation will be to allow the select committee to continue to answer the many questions concerning the requirements of the new disclosure rules.

We had hoped and expected that we could finish our work by the end of the year, and we are disappointed that we could not meet this goal. However, it is anticipated that the committee will be in a position to complete its work early in the next session.

Mr. Speaker, I think that it is important that the select committee be extended so that members and staff will be given the necessary help to comply with the spirit and intent of the new rules with as few difficulties as possible.

Mr. DELANEY. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. SISK).

Mr. SISK. Mr. Speaker, I heard about this late Friday afternoon. I was somewhat surprised and a little bit chagrined. I suppose there is ample precedent for it when the Committee on Rules itself comes down here and suspends the rules. This is a matter on which the Committee on Rules does have original jurisdiction. As a member of the Committee on Rules, I had not even heard that the matter was before our committee.

I want to say, frankly, I am not being critical of our chairman or anyone else. I assume that this was a decree handed down by the Leadership.

Mr. DELANEY. Mr. Speaker, will the gentleman yield?

Mr. SISK. I yield to the gentleman from New York.

Mr. DELANEY. I thank the gentleman for yielding.

Does the gentleman want to close off further business for the Rules Committee for this session? He has expressed to me time and time again that the reason for some of his votes against reporting legislation from the Rules Committee was the lack of an emergency situation.

It was determined that the most convenient way to continue the select committee was to bring this resolution up now, under suspension of the rules, and give this House a chance to vote on it on October 31, 1977, prior to the recess. That is the reason for bringing it up today under suspension of the rules.

Mr. SISK. Let me say, as I was about to say, I certainly am not here to criticize my own chairman on this. I see no reason why this whole matter could not have been handled in January just as well as handled now.

I recognize the select committee's life will expire if this is not extended, but perhaps some of us would want it to expire.

I am not critical of the gentleman from North Carolina (Mr. PREYER), because Judge PREYER is a man I respect. He is dealing with a matter where I recognize he has a serious problem. It was my understanding they had actually reported a bill and because of so many objections to part of it maybe they have taken it back to take another look at it.

I frankly think we have gone overboard and have adopted some things in the so-called Obey report last spring that I think there is a considerable amount of regret about, and before we write it in blood—and I understand that is what we are doing here—in a codification of what in essence was an adoption by a rule without any penalties, it seems to me we might explore this situation. I would like to have seen some hearings before the Committee on Rules, which does have jurisdiction, to explore whether in fact we should even extend the life of this select committee without further information.

Again I say I am not being critical of my own chairman and certainly not of the gentleman from North Carolina (Mr. PREYER) and members of his committee, but I do think that we in this House inadvertently are being forced into a position where we are taking, hook, line and sinker, something we know very little about.

I do not know about the money involved here. The normal procedure is to come to the floor with a bill stating what the cost would be. I realize this is being done under a suspension of the rules, and perhaps all rules are being suspended, but I am curious whether it is $100,000 or $500,000. I do not know.

Mr. PREYER. Mr. Speaker, will the gentleman yield?

Mr. SISK. At this time I yield to the gentleman from North Carolina (Mr. PREYER) for some comment on that question.

Mr. PREYER. Mr. Speaker, if the gentleman will yield, we had a budget of $284,000 for the first 10 months. We will turn back about $100,000 of that. We think that would be enough, the $100,000, to get us through the duration of the committee for next year, so we are not here seeking any more money.

Mr. SISK. So what the gentleman is saying in essence is he feels there is enough money left over from this year's activities to carry the activities on through. I would hope that my colleague is right on that.

Again, as I said, I am much more concerned about other aspects of it than I am really the cost.

Would my colleague comment as to just what was reported, if it was reported?

In fact, is it not true the committee did report a bill from the select committee?

Mr. PREYER. Mr. Speaker, if the gentleman will yield, one of the problems of bringing this to the floor this session is that there is not just one bill involved. There are four bills involved, which have been reported out of the committees, and they will all go before the Rules Committee. All four of these bills will go before the Rules Committee, and I assure the gentleman there will be plenty of time when that occurs to go into the substantive matters involved in those bills. Putting the four together is going to be a problem and there are objections to certain elements in each one of those bills, but I think the gentleman will have ample time to look into this.

Mr. SISK. I thank my colleague for his comments. Evidently we are not going to have the time here fully to discuss this. On that basis I am going to ask for a "no" vote on this resolution and I hope we will have more time next year to discuss this matter.

Mr. CHARLES H. WILSON of California. Mr. Speaker, will the gentleman yield?

Mr. SISK. I yield to the gentleman from California (Mr. CHARLES H. WILSON).

Mr. CHARLES H. WILSON of California. Mr. Speaker, how many staff are involved?

Mr. PREYER. If the gentleman will yield, there are presently nine members of the staff. We anticipate that will be reduced to five.

Mr. CHARLES H. WILSON of California. The problem I have with this and some other special committees is that we cannot get rid of the staff and they keep unnecessary investigations going far beyond the time that is justified.

The SPEAKER pro tempore. There being no further requests for time, the question is on the motion offered by the gentleman from New York (Mr. DELANEY) that the House suspend the rules and agree to the resolution (H. Res. 871).

The question was taken.

Mr. QUILLEN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3 of rule XXVII, and the prior announcement of the Chair, further proceedings on this motion will be postponed.

GREAT LAKES FISHERY ACT AMENDMENTS

Mr. LEGGETT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2203) to amend the Great Lakes Fishery Act of 1956.

The clerk read as follows:

H.R. 2203

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Great Lakes Fishery Act of 1956 (70 Stat. 242; 16 U.S.C. 931–939c) is amended by:

(a) striking the word "three" before "Commissioners" in section 3, and inserting in lieu thereof the word "four"; and

(b) striking the word 'two" before "shall" in section 3(b), and inserting in lieu thereof the word "three".

The SPEAKER pro tempore. Is a second demanded?

Mr. RUPPE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. LEGGETT) will be recognized for 20 minutes, and the gentleman from Michigan (Mr. RUPPE) will be recognized for 20 minutes.

The Chair now recognizes the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a very simple bill. It does two things.

First, it would amend the Great Lakes Fishery Act to increase from three to four the number of U.S. Commissioners to serve on the Great Lakes Fisheries Commission.

Mr. Speaker, it so happens that four U.S. Commissioners are already serving on the Commission and have been ever since the convention was amended in 1967 to authorize four Commissioners to serve on the Commission. Therefore, the bill would only legalize what has been the practice for the past 10 years.

Second, the bill would amend the act to increase from two to three the number of non-Federal Commissioners to be represented on the Commission.

Under present law, one of the three U.S. Commissioners is required to be an official of the U.S. Government and the other two are required to be persons who are residents of the Great Lakes States and who are qualified by reason of their knowledge of the fisheries of the Great Lakes.

The bill would merely increase the number of non-Federal persons authorized to serve on the Commission from two to three.

Mr. Speaker, the bill has the support of the administration, it was unanimously reported out of the Merchant Marine and Fisheries Committee, and it would not result in any additional cost to the Federal Government.

I think it is a good bill and I urge its prompt passage.

Mr. RUPPE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 2203, legislation I introduced to conform the Great Lakes Fishery Act of 1956 to the Convention on Great Lakes Fisheries. When the Convention was concluded, it was clear that the problems facing the Great Lakes fisheries demanded joint action by the United States and Canada. Recognizing this need, the Convention, which entered into force on October 11, 1955, called for the creation of a Great Lakes Fishery Commission whose general objective is to improve and perpetuate the Great Lakes fishery resources.

The Commission, which has no regulatory authority, has the following duties:

To formulate and undertake research and management programs;

To recommend appropriate conservation and management measures on the basis of the findings of these research programs; and

To control sea lamprey populations.

The Commission has had a high degree of success in accomplishing these goals. The sea lamprey control programs implemented by the Commission and the stock enhancement programs recommended by the Commission have brought about a remarkable recovery of many Great Lakes fisheries. Today the commercial fishery in the Lakes has rebounded to a dockside value of $21 million with a wholesale value of $100 million. The sport fishery has now grown to a value of $350 million.

As the Commission assumed more responsibility for Great Lakes fisheries management, it became clear that the number of commissioners should be increased to allow for a better representation of the many States and Provinces in the lower Lakes area. In May of 1967 the Convention was amended to provide for this increase. However, the implementing legislation has not been amended to reflect this change.

H.R. 2203 would bring the Great Lakes Fishery Act into conformity with the Convention. The bill would increase the number of U.S. representatives on the Commission from three to four. The amendment would not, however, require additional appropriations due to the fact that the Department of State has been funding four members on the Commission since the Convention was amended in 1967.

I strongly urge the passage of this long-overdue technical amendment.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. FORSYTHE).

Mr. FORSYTHE. Mr. Speaker, I rise in support of H.R. 2203 which amends the Great Lakes Fishery Act of 1956.

The Great Lakes Fishery Act implements the Convention on Great Lakes Fisheries between the United States and Canada. The convention and the implementing act originally provided for the

establishment of a "Great Lakes Fishery Commission" which consisted of three commissioners from each country.

The Commission and its agents have performed remarkably well in effecting much-needed improvements in the Great Lakes fishery resource. From a fishery situation which could only be termed "devastated", the commercial fishery of the Great Lakes has rebounded and has become a viable and important industry.

In December 1964, representatives from the United States and Canada met to assess the progress made under the convention. As this conference it was agreed that there was a need to provide better representation for the fishery interests in the lower Lakes. As a result of this expressed need, the convention was amended in 1967 to provide for four Commissioners from each country. However, the enabling legislation was never changed to be consistent with the convention amendment.

H.R. 2203 would correct this discrepancy between the convention and the act by increasing the number of U.S. representatives on the Commission from three to four.

Mr. Speaker, to make the implementing legislation consistent with the convention, I urge that H.R. 2203 be adopted.

Mr. MURPHY of New York. Mr. Speaker, the Great Lakes Fishery Act of 1956 is the enabling legislation for the Convention on Great Lakes fisheries between the United States of America and Canada. H.R. 2203 is intended to bring the Great Lakes Fishery Act into conformity with the convention, as amended on May 19, 1967, to add an additional member for each contracting party to the Great Lakes Fishery Commission. Since the fourth Commissioner has been serving for 10 years, this legislation will result in no additional expenditure.

Upon the completion of the Welland Canal connecting Lakes Ontario and Erie in 1931, this rich commercial and sport fishing area was invaded by a vicious parasite—the sea lamprey. This predator, which feeds by attaching itself to the body of its prey, caused extensive damage to the stocks of high-value lake trout and white fish.

Perhaps the only benefit of the sea lamprey invasion was to spur the completion of an international body dedicated to the welfare of the fishery resources of the Great Lakes.

The Commission, which has no regulatory authorty and whose general objective is to improve and perpetuate Great Lakes fishery resources, had its membership set on September 10, 1954, at three members from Canada and three from the United States. With respect to U.S. Commissioners, the Great Lakes Fishery Act of 1956 stated that:

> . . . one shall be an official of the U.S. Government; and two shall be persons residing in Great Lakes States, . . .

The "two persons residing in Great Lakes States" who were appointed to the Commission were from Michigan and Wisconsin. As the sea lamprey problem in the upper Great Lakes began to come under control, the Commission's efforts expanded to Lakes Ontario and Erie, the lower Great Lakes. Since Pennsylvania and Ohio—and my home State of New York—all bordering the lower lakes, did not have representation, negotiation for such representation was initiated. This effort culminated in an agreement which entered into force May 19, 1967. The new agreement substituted the word "four" for the word "three." An official of the State of New York was appointed as the fourth member of the Commission.

Therefore, H.R. 2203, by increasing the number of U.S. Commissioners serving on the Great Lakes Fishery Commission from three to four, will merely bring the Great Lakes Fishery Act into accord with a practice which has existed for the past 10 years.

Mr. Speaker, I strongly support this legislation, and I now yield to the gentleman from California (Mr. LEGGETT) chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. LEGGETT) that the House suspend the rules and pass the bill H.R. 2203.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LEGGETT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered, H.R. 2203.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

URGING KOREAN GOVERNMENT COOPERATION

Mr. ZABLOCKI. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 868) expressing the sense of the House that the Government of the Republic of Korea extend full and unlimited cooperation to the investigation of the Committee on Standards of Official Conduct to determine whether Members of the House were involved in accepting anything of value from such government or any agent of such government.

The Clerk read as follows:

H. RES. 868

Whereas information has come to the House of Representatives establishing that Members of the House of Representatives have been the object of efforts by the Government of the Republic of Korea, or persons and organizations acting on behalf of the Government of the Republic of Korea, to influence the Members' official conduct by conferring things of value on them or on members of their immediate families or their business or political associates, and

Whereas the Committee on Standards of Official Conduct is now engaged pursuant to H.R. 252 in a full and complete inquiry and investigation to determine whether Members of the House of Representatives, their immediate families or their associates accepted anything of value, directly or indirectly, from the Government of the Republic of Korea or representatives thereof; and

Whereas information of obvious and compelling relevance to the aforesaid investigation is accessible to the Government of the Republic of Korea but is not accessible to the Committee on Standards of Official Conduct; and

Whereas such information has been withheld from the committee in contravention of the historic alliance and cooperative atmosphere that has prevailed between the Government of the United States and the Government of the Republic of Korea: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that the Government of the Republic of Korea should cooperate fully and without reservation with the Committee on Standards of Official Conduct and with its special counsel to provide complete access to all facts relevant to the aforesaid investigation, so that the work of the committee may be completed expeditiously and the historic alliance of the United States and the Republic of Korea may persevere to the mutual benefit of our two great nations.

The SPEAKER pro tempore. Is a second demanded?

Mr. DERWINSKI. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

Mr. BAUMAN. Mr. Speaker, reserving the right to object, it is my understanding that the gentleman from Illinois (Mr. DERWINSKI) has a statement that the gentleman may wish to make during the course of debate on this resolution. It seems to me that the House should have Members here to hear that statement.

I am not disposed to object to the second, but I wonder if the Chair would entertain a point of no quorum at some point during the deliberations.

The SPEAKER pro tempore. The Chair will entertain a motion for a call of the House.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

Mr. ZABLOCKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 868 is a noncontroversial resolution expressing the sense of the House that the Republic of Korea cooperate with the Committee on Standards of Official Conduct and with its special counsel to provide complete access to all facts relevant to the committee's investigation to determine whether members of the House were involved in accepting anything of value from the Government of the Republic of Korea.

House Resolution 868 was introduced on October 26 by Chairman FLYNT and all 11 other members of the Committee on Standards of Official Conduct, and ordered favorably reported by the Committee on International Relations by voice vote the following day.

For some time now, the reputation of the Congress has been impugned by allegations of illegal and improper relationships between some of its members and agents of the Korean Government. The time for clearing the air is long overdue. However, the agencies assigned to accomplish this task, including the Com-

mittee on Standards of Official Conduct, are impaired in their activities because of the apparent lack of cooperation by the Government of the Republic of Korea.

As many of you know, I have been a long and strong supporter of the assistance we have given to the Republic of Korea in the past decades. I continue to favor security assistance for Korea so long as Korea faces national security threats, since that assistance is also in the security interest of the United States.

American generosity toward the Republic of Korea has been very substantial. With American assistance, the Republic of Korea withstood an onslaught from the north, and is secure today; economic performance in South Korea has been spectacular and exceptional by the world standards for economic growth.

It is precisely because of the tradition of American support for Korea and Korea's singular success as a nation that the present situation is a tragic one.

Unfortunately, we are witnessing a cancerous growth of suspicion, of unwillingness to cooperate that threatens to unravel many positive accomplishments of the past.

Further, the United States and the Republic of Korea are two nations which should be extending and deepening their longstanding friendship and cooperation. Instead we are mired in a growing controversy that threatens to undermine a relationship built up over time, a relationship that has been mutually beneficial to both parties.

In supporting House Resolution 868, I appeal to the spirit of understanding and cooperation that has characterized our mutual relations over the past decades.

The resolution recognizes that only with the full cooperation of the Government of the Republic of Korea can important information required to clear the air be provided. The resolution states that:

> Such information has been withheld from the Committee in contravention of the historic alliance and cooperative atmosphere that has prevailed between the government of the Republic of Korea and the U.S. Government.

It is to preserve this cooperative atmosphere that I urge the passage of this measure. It is to preserve this atmosphere, moreover, that I urge the Republic of Korea to recognize that it is in the mutual interest of both our countries to move beyond the present impasse. We must set our bilateral relations again on the steady course that has characterized our relations in the past.

Mr. Speaker, I urge the adoption of the resolution.

Mr. DERWINSKI. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. CAPUTO).

Mr. CAPUTO. Mr. Speaker, the President of the United States asked for cooperation in our investigation of the allegations that Members of Congress have received things of improper value from the Korean Government, and he was rebuked. The Speaker of the House of Representatives asked, and he was rebuked. By a narrow 24-vote margin the House of Representatives itself indicated that it was unwilling to cut economic aid in return for Korean cooperation with our investigation. Since that time, hearings have revealed publicly for the first time, and in detail unprecedented in House history, and an effort by a foreign government, the Korean Government, to plan and implement a complex scheme to corrupt the independence and integrity of this country. Since that time, there have been numerous indictments handed up by the Federal grand jury against individuals who have attempted—and, to varying degrees, succeeded—in bribing Congressmen and Senators. We have also learned of explicit efforts to bribe members of the White House.

I fear that narrow 24-vote defeat of aid would be even narrower now if that matter were before us.

We have learned that several Korean Ambassadors were involved in an overt effort to provide cash to American Congressmen in return for support for Korean efforts. We received testimony from an eyewitness to such an attempted bribe. We have learned that the Korean Exchange Bank, the Office of Prime Minister, the Korean Office of Supply, the Korean Central Intelligence Agency, the Korean Ambassador here in Washington, the Korean Ambassador in New York, indeed, that the President of Korea himself knew about these bribes, planned them, authorized them and, in part, participated in some aspects of the bribery scheme.

Mr. Speaker, this resolution does not ask for any compromising of Korean sovereignty or any compromising of Korean political institutions or Korean independence. We have simply asked for their cooperation in our own efforts to rectify a situation in our own country involving our own political institutions and our own elected officials. There is nothing unreasonable about a request of that kind, particularly in light of the overwhelming evidence that the Korean Government itself, in a broad and deep way, was involved in this alleged bribery scheme.

But I seek to make a second point in supporting this resolution. No one should think that our investigation is stymied without Korean Government cooperation, desirable and appropriate though that cooperation is. There are areas to investigate that have not been examined, and they ought to be examined.

For example, the committee members should hear what it is that Mr. Tongsun Park told the Justice Department before he left this country. The committee members should read whatever staff preparations were made for President Ford in anticipation of his request that the Attorney General begin an investigation in the Justice Department of these allegations.

Further, the committee should read the request that President Ford made of Attorney General Levi to begin this investigation. The committee should interview those individuals in the White House who were collecting the so-called back channel of intelligence which we have reason to believe contained information relating to misconduct by Members of Congress. That would include Juanita Moody, and Messrs. Hyland, Eagleburger, and Scowcroft. Undoubtedly some of that information was relayed to Mr. Kissinger. Undoubtedly some of that information was relayed to previous Presidents of the United States. They too should be interviewed.

We should learn what it is these officials and former officials know, not because they are targets of this investigation, but because we have reason to believe they were advised, along with at least one Secretary of Defense, of this insidious lobbying activity and its growth.

The SPEAKER pro tempore. The time of the gentleman from New York (Mr. CAPUTO) has expired.

Mr. DERWINSKI. Mr. Speaker, I yield 1 additional minute to the gentleman from New York (Mr. CAPUTO).

Mr. CAPUTO. Further, Mr. Speaker, we should explore what it is that was contained in the White House tapes, where some conversations probably took place. We should explore what U.S. Ambassadors to Korea, Mr. Porter and Mr. Habib, learned. We should know what they can tell us about these activities.

We should pursue this matter aggressively with intelligence agencies and obtain whatever information the DIA, the CIA, and the NSA have that might be helpful. We should get testimony from those Members who may have direct knowledge of these Korean efforts by taking testimony directly from Members, not just from spouses and employees of Members.

These are the kinds of things we could investigate, even without Korean cooperation.

No one should think, should the Koreans reject our appeal for cooperation, that this investigation has to wind down. There are ample opportunities for productive inquiry, ample evidence to gather, and leads to pursue, even without successful cooperation from the Korean Government.

Mr. ZABLOCKI. Mr. Speaker, I yield 7 minutes to the chairman of the Committee on Standards of Official Conduct, the gentleman from Georgia (Mr. FLYNT).

Mr. FLYNT. Mr. Speaker, I rise in support of House Resolution 868, which I introduced and which has as cosponsors every member of the Committee on Standards of Official Conduct.

Resolution 868, if passed, would express in unequivocal terms the collective will of the House that the Government of the Republic of Korea "cooperate fully and without reservation with the Committee on Standards of Official Conduct and with its Special Counsel to provide complete access to all facts relevant" to our committee's investigation of South Korean attempts to influence Members of Congress. I cannot overemphasize the significance of the action that my colleagues and I ask the House to take today.

In February of this year, the House assigned to our committee the task of

ascertaining "whether Members of the House of Representatives, their immediate families, or their associates accepted anything of value, directly or indirectly from the Government of the Republic of Korea or representatives thereof." This assignment, embodied in House Resolution 252, was premised expressly upon allegations that representatives of that Government had engaged in attempts to influence improperly Members of this House.

On the basis of facts developed by our committee, many of which were presented publicly in recent hearings, the allegations of yesterday have become the established truth of today.

There can be no doubt that officials and agents of the Republic of Korea devised a plan to influence Members of Congress by giving Members things of value. There can also be no doubt that the plan was effectuated. A major premise of the resolution now before the House is the recogntion of these facts.

When Mr. Leon Jaworski became Special Counsel to our committee for the purpose of directing the Korean investigation, his first public pronouncement to us emphasized the necessity of "unlimited cooperation" by the South Korean Government. Shortly, thereafter, you, Mr. Speaker, conveyed the same message from the floor of this Chamber, stating on September 7, 1977:

> Whatever the facts may be, they will ultimately come out. The American people will not tolerate suppression and coverup. I have no desire to embarrass or to infringe upon the sovereignty of the Republic of Korea. Rather, I ask for the help of a great ally. Cooperation has always been the hallmark of our relations with Korea. Let cooperation in this investigation be a symbol of the continued flourishing of our alliance.

It is my sad duty to report that, notwithstanding the calls for cooperation which have emanated from this chamber and from the members and staff of our committee, none has been offered to us. Instead, we have met with resistance. The very ally on whose shores the blood of our young men was spilled not three decades ago has seen fit to refuse us the assistance we need to remove the cloud that now hangs over Congress.

Mr. Speaker, our committee is firm in its resolve to carry out the task assigned to us in February. We have assembled and presented to the public a detailed record of the plans to influence Members of Congress. We are on record that we shall continue to probe this matter to the utmost and to present the facts as we have them, in accordance with the rules of the House, to the Congress and the American people.

Let me emphasize that the failure of the Republic of Korea to assist us does not diminish our resolve. Nor will our investigation and report be without substance if cooperation is not forthcoming. But two things are certain.

First, it is my considered judgment that the investigation will necessarily be incomplete without the full cooperation of those who have better access to certain facts than we do.

Second, if cooperation does not occur, then the strength of our great and historic alliance with South Korea will surely be imperiled.

Mr. Speaker, neither of these events can possibly be in the interest of either country.

House Resolution 868 is carefully drawn to express several important matters.

It makes clear that the facts known to the Committee on Standards of Official Conduct establish that there was a plan to influence the conduct of Members and that the plan was effectuated. The record of our recent hearings together with other evidence available to us leaves no room for doubt.

The resolution further clarifies the resolve of our committees to pursue the investigation to its conclusion. While we hope for an expeditious end of the matter, we shall not sacrifice thoroughness in any respect.

Furthermore, it expresses the irrefutable truth that information of obvious relevance, whether it be inculpatory, exculpatory or both, is being withheld from the committee by the Government of the Republic of Korea.

The resolution states that such withholding violates the spirit of alliance and mutual cooperation that has prevailed between the United States and the Republic of Korea for many years.

Finally, it calls upon the Government of South Korea to extend its unrestricted cooperation to the committee so that this task may be completed thoroughly and expeditiously.

House Resolution 868 is intended to express the collective will of this body, having been sponsored by the entire membership of the Committee on Standards of Official Conduct and having been reported without delay or dissent by the Committee on International Relations. The Republic of Korea must join with us now, as we have joined together in the past, so that the cloud of suspicion that lurks above this institution can be removed by a complete revelation of the facts and that the strong alliance between the United States and the Republic of Korea may continue unimpaired.

Mr. DERWINSKI. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. WIGGINS).

Mr. WIGGINS. Mr. Speaker, I am going to support this resolution because it calls for no more than the cooperation of the Government of Korea and that is only appropriate. However, in voting for the resolution, I do not wish either the Government of Korea or my colleagues to misunderstand the extent to which I expect the Government of Korea to cooperate.

Mr. Speaker, I think that this issue swirls around the availability of Tongsun Park as a witness. Personally, I hope that it may be possible for Tongsun Park to give his testimony to the select committee; but I do not expect the Government of Korea, contrary to its own laws, to seize the body of Tongsun Park and to spirit that human being across the seas illegally simply to accommodate the wishes of the House of Representatives.

Mr. Speaker, there must be a legal way in which to secure the testimony of Tongsun Park; and it is not my purpose, in supporting this resolution, to urge that it be accomplished illegally.

The second point is that the whereas clauses in the resolution accept certain information as fact. The very first recital says that certain information has come to the attention of the House of Representatives establishing as a fact the involvement of the Republic of Korea in attempting to influence U.S. Members of Congress. I think it is premature to accept the truth of testimony of only a few witnesses. When the testimony of Tongsun Park becomes available, it may be that the Government of Korea was not in fact implicated. We have only a few witnesses now, and I urge the Members in voting for this resolution not to accept the truth necessarily of only the proponents of one side of the question.

Mr. DERWINSKI. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina (Mr. SPENCE).

Mr. SPENCE. Mr. Speaker, as the ranking minority member of the Committee on Standards of Official Conduct, I wish to join in, and to support, the remarks of the chairman of that committee, the gentleman from Georgia. I, too, fear the impact of an incomplete investigation, both as to the public perception of the House of Representatives, and as to our relations with the Republic of Korea.

It is well known that the investigation now being conducted by our committee pursuant to House Resolution 252 is unprecedented. That is so because of the scope and subject matter of the investigation itself. These factors make the cooperation of South Korea vital to our work.

I hope that the enormity of our task is well understood by all who have occasion to observe the activities of the committee. We are dealing with extremely complex events that took place over a period of nearly one full decade. Many of the relevant facts have been shrouded in secrecy; many remain so today. It is, in my view, remarkable that our committee and staff were able to unfold as much of the mystery as was revealed in our recent hearings.

House Resolution 252 directs us to ascertain whether Members of the House, their immediate families, or their associates accepted anything of value from the Government of the Republic of Korea, or its representatives. Let us examine this task with frankness.

Such transactions normally involve two parties operating in secrecy. The transactions are not recorded by receipt or cancelled check, in most cases, because both parties are acutely aware that they are conducting themselves in an unlawful or unethical fashion. There are no witnesses, except in a circumstance where the witness himself may be a third-party accessory. In short, transactions of the kind we are investigating are virtually impossible to trace because of the strong negative incentive of either party to come forward, and because of the lack of evidence from other sources.

Now let us view this matter from another perspective. It is a matter of record that our committee has, in its possession, certain information indicating the receipt of money or other things of value by Members of Congress. The information is viewed by us as having varying degrees of credibility. Some of it may be

true; but, without corroboration, it is incapable of establishing wrongs actually committed. Equally as important, some of it may be false; but, without refutation, it is capable of rendering irreparable harm to the character and reputation of the innocent.

Our staff has been directed to pursue every lead with vigor. But the best source of information is beyond the reach of our compulsory process, and access to it has not been granted our committee.

In the resolution now before us for consideration, we call upon our historic ally, the Republic of Korea, for assistance which is crucial to the successful completion of this investigation. And to fail at this point in bringing this investigation to a successful conclusion would have disastrous results, both here and abroad. It could result in a serious loss of confidence by our own people in their government. And it could—indeed, it almost surely would—result in a serious rift between the United States and the Republic of Korea.

I have always been an advocate for United States support of the Republic of Korea, and I want to continue that record of support. I believe it is vital to the interests, not only of the people of America and the people of Korea, but the people of the entire free world.

I urge upon my colleagues today the great importance of extending the call for cooperation embodied in House Resolution 868. Whatever your doubts about its value, let me suggest that any fruit it bears will ultimately inure to the benefit of both countries and to the cause of freedom everywhere.

Mr. ZABLOCKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. BENNETT).

Mr. BENNETT. Mr. Speaker, I rise in strong support of House Resolution 868. The United States and the Republic of Korea are friends and allies and they should remain so.

The United States needs the lawful assistance of Korea in the ongoing investigation of charges made against U.S. Congressmen and others. Without this assistance it will be very difficult, if not impossible, for the investigating committee to perform its assigned duties.

I remember when France's President Charles de Gaulle told us, as a friend, that France found that it had made a mistake in staying in Vietnam and that we might be making the same mistake. Almost 200 years earlier, President George Washington had to talk similarly with the authorities in France about the operations of their ambassador, Edmond Charles Genet. The two countries then worked out their problems in mutual friendship; and that is what is now needed between the United States and Korea.

It is difficult for a friend to take advice that a mistake may be being made. But the willingness to do that may be an excellent indication of real friendship. So, in the present situation I sincerely hope that the Korean Government will do what it can legally do to provide the needed evidence.

Mr. ZABLOCKI. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. CHARLES H. WILSON).

Mr. CHARLES H. WILSON of California. Mr. Speaker, this is a motherhood type of resolution. I am sure it is going to pass unanimously. I do not know of anyone who is going to vote against it. But I do have a couple of observations I would like to make in connection with this subject matter.

First, I am concerned and terribly upset over the continual harassment of congressional committees and the American press against the Republic of Korea, and accusations which are made that the Republic of Korea has intentionally tried to influence Members of Congress in connection with favoring some position involving the Republic of Korea.

I was recently asked to meet with a group of Jewish leaders in Los Angeles in my district, and I had an hour-and-a-half meeting with them when I was in my district the last time. For about an hour and 25 minutes the entire conversation had to do with lobbying me very intensively and with great pressure so far as I was concerned, about matters pertaining to the State of Israel. About 5 minutes of the time dealt with domestic issues involving what was facing the Congress of the United States. The lobbying was very strong and, I thought, unnecessary.

I was asked why I voted against the military assistance or foreign aid bill because one-third of it was supposed to be for the State of Israel. I explained that the gentleman from Florida (Mr. YOUNG) on the Republican side of the aisle convinced me too much money was going to the international banks, and I voted against the bill because I did not like what was in it, and it had nothing to do with being for or against Israel. I further stated that had a group of Korean-Americans lobbied me similarly on behalf of the Republic of Korea I would probably be hailed before the House Committee on Standards of Official Conduct.

In my file I have a stack of letters, actual threats from people in the Greek community, because I voted for Turkey when we had the discussion about aid to Turkey and the great lobbying effort we had from the Greek community a year or two ago.

On my desk today I have a letter from the aerospace industry of West Germany inviting me and other members of the Armed Services Committee to help the West Germans sell their aerospace products to the United States. Members have gone on trips to Peking where travel was taken care of by the American military aircraft, but where all expenses were paid for by the Chinese Communist Government for those Members of Congress who have gone over there. This, in my opinion, is illegal—but we apparently make greater allowances these days for improper relations with Communist countries than we do with our relations with anti-Communist countries.

We can relate case after case after case of other countries who have done as much, if not more, to bring undue pressure upon Members of the American Congress.

I wonder what the real motives are that are behind this press pressure and the pressure by committees of the Congress. I think it is an effort to try to depose President Park, and maybe some Members, in the absence of more knowledge about the facts of the tremendous job he has done for his country, might think this is a good thing.

Our country has been involved in many ways in the deposing of leaders of foreign countries. We helped get rid of Batista so Cuba could get Castro. We were on both sides in Chile. We helped with the murder of Diem in South Vietnam. Now through congressional hearings we are attempting to bring about the overthrow, if we can, of the man who has brought the stability of his country to a very high point. The economy of the Republic of Korea has improved tremendously because of the policies of President Park. It is a success story we should admire and applaud rather than the efforts to destroy that some Members have allowed themselves to be a part of.

President Park has done an outstanding job even though he has been tough on some issues which we find revolting to us as Americans, which are difficult for us to understand. But perhaps we should learn more about the Oriental philosophy and the great obstacles this country has had to overcome before we judge it and its leaders too harshly.

This is a serious matter and I wish it were possible for all Members of Congress to learn more about this fine country, about the fine people that come from there as new citizens who have brought credit and distinction to themselves and our country.

I have not had the advantage of participating in the hearings chaired by the gentleman from Georgia (Mr. FLYNT), but from what I saw on television of the hearings that were televised I saw a group of defectors and traitors of Korea who were testifying against their country so they could have the security of staying here in this great United States of America.

I hope we will take into consideration, as my good friend, the gentleman from California (Mr. WIGGINS) stated, that the witnesses who have appeared before the committee chaired by the gentleman from Georgia (Mr. FLYNT) have been rather one-sided. I do not know that the committee has had any witnesses who have been there to defend Korea. Of course, there is no defense for bribery, if bribery has taken place.

There is no defense for a government involving itself in the political affairs of the United States to the extent that some of these people have claimed they have been involved. Apparently everything was all right until they got on the outs with their own country and then they decided they would defect. We have more defectors from Korea now that we have illegal aliens from Mexico. The easy way for a Korean to come over here now is to say, "I will appear before your committee and tell you something about President Park or tell you some incident I know about."

I think we should be very, very cautious, and not do anything to disrupt the friendship we have had in the past and we can continue to have through the years with these great people.

CALL OF THE HOUSE

Mr. SYMMS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 715]

Alexander	Flippo	Nolan
Anderson, Ill.	Flowers	Ottinger
Andrews, N.C.	Fowler	Pepper
Andrews, N. Dak.	Gammage	Quie
Archer	Gaydos	Roberts
Badham	Giaimo	Rodino
Bingham	Gibbons	Roncalio
Boiling	Harsha	Ruppe
Bowen	Heckler	Santini
Brown, Mich.	Hefner	Sarasin
Burton, John	Holland	Scheuer
Cederberg	Horton	Shipley
Chappell	Howard	St Germain
Chisholm	Hyde	Stark
Clawson, Del	Kemp	Steed
Coleman	Koch	Teague
Conyers	Krueger	Tucker
Corcoran	Lott	Udall
Corman	Lundine	Ullman
Cornwell	McCormack	Vander Jagt
Davis	McFall	Waxman
Delaney	McKinney	Wilson, Tex.
Dicks	Mann	Wolff
Dingell	Mathis	Wright
Dodd	Meeds	Young, Alaska
Drinan	Metcalfe	Young, Fla.
Fish	Moorhead, Pa.	
	Neal	

The SPEAKER pro tempore. On this rollcall 353 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

URGING KOREAN GOVERNMENT COOPERATION

The SPEAKER pro tempore. The Chair recognizes the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, I yield myself such time as I have remaining.

Mr. Speaker, most of the Members of the House know me to be an active Member of the International Relations Committee, an internationalist, and a proponent of foreign policy based on strong national defense. Only a few of the veteran Members recall that I came to Congress 19 years ago as a classical midwestern isolationist.

Notwithstanding the unsolicited attention that I have received from the media in recent days, I am mindful of the famous order of Admiral Farragut, "Damn the torpedoes—full speed ahead!" It is in that tradition that I dare address the House this afternoon on the subject of Korea.

Mr. Speaker, the issue before us is the resolution which I support calling for the South Korean Government to cooperate fully with our Ethics Committee's investigation of alleged illegal South Korean lobbying activities in this House of Congress. The RECORD of today's proceedings, however, would not be complete if it dwelt solely on the allegations and problems of that investigation. To put this whole matter in perspective, we must also discuss why good United States-South Korean relations remain vital to both countries.

As a consequence of my 15 years on the Committee on International Relations, I am absolutely convinced that a strong, prosperous South Korea allied with the United States is essential to the peace and stability of Northeast Asia.

My overriding concern is the security aspects of the Korean-American relationship. I have never been, and I am not today, a defender or apologist for any specific administration, political figure, or internal policy of the South Korean Government. I am, however, very much cognizant of the fact that South Korea is important to the United States, just as the United States is important to Korea. I believe that what happens on the Korean Peninsula has a direct bearing on the national security interests of the United States and its Asian allies: Japan, the Philippines, Indonesia, and others.

A great many Members of the House also share that view. I am concerned, however, that with all of the unfavorable publicity generated by the current investigations regarding South Korea and its reputed agents of influence, many Members may allow the controversy surrounding these probes to affect their ability to see clearly what is at stake. As times goes on in these investigations, the pressure to succumb to political expediency may build to an intolerable level. Hopefully, a majority will be able to resist that pressure and continue to act in a manner that will insure that both our short- and long-term security interests in Northeast Asia are fully maintained.

The security of Japan rests on a South Korea allied with the Free World. If by aggression or subversion South Korea should fall to the Communists, Japan would then lie dangerously exposed to the possibility of suffering a similar fate. Such a turn of events would force the Japanese either to rearm, an option presumably neither we nor they care to see exercised, or, alternatively, make accommodations with Red China and/or the Soviet Union. The adoption of any of these options would most assuredly have a destabilizing effect upon the geopolitical situation throughout Asia.

The administration insists that we must begin shortly to withdraw our ground forces from South Korea while simultaneously helping the South Koreans to attain military self-sufficiency. I do not agree with that policy, but I assume it will be implemented. Congress failure to back the President in these efforts would be interpreted quite correctly as the direct result of the adverse political fallout caused by these investigations.

If Congress does not go along with the President's assistance plans for South Korea, what happens to his troop withdrawal program? Does he dare remove any of them? If he does anyway, will not that increase significantly the prospect of an invasion from the North? History reveals that the 1950 Communist invasion, which was led by North Korea's current dictator Kim Il Sung, was predicated on a miscalculation that the United States would not defend South Korea. Do we want a repeat of that episode with all that implies in terms of U.S. involvement and bloodshed? I think not, as Defense Department records show that 54,246 American servicemen died in that conflict and 103,284 were wounded.

What this House needs to demonstrate, Mr. Speaker, is that it still possesses enough objectivity to permit its decisions and votes on aid to Korea to be dictated by a thoughtful assessment of our foreign policy interests in Asia, and not by issues raised by protracted and often dramatic coverage of what is now the "Korean scandal."

Mr. ZABLOCKI. Mr. Speaker, I yield the balance of my time to the gentleman from New York (Mr. SOLARZ).

The SPEAKER pro tempore. The gentleman from New York (Mr. SOLARZ) is recognized for 2 minutes.

Mr. SOLARZ. Mr. Speaker, I want to associate myself with the very thoughtful and eloquent analysis of our good friend, the gentleman from Illinois (Mr. DERMINSKI), who has been a very valuable member of the Committee on International Relations, and who, I think, has set forth very clearly what the consequences for our own country would be were we to completely disassociate ourselves from the situation in South Korea.

However, Mr. Speaker, I think it is very important to put in its proper perspective precisely what we have under consideration at the present moment.

What we have before us is not a resolution in any way protesting the President's policy of withdrawing our troops from South Korea which, by the way, I happen to strongly support. What we have before us is not a resolution opposing the President's plans to provide military compensation to the South Korean Government in order to make up for the loss of American fire power which will occur when the Second Division is finally withdrawn from South Korea which, by the way, I support as well. What we have before us is a resolution expressing the concern of the Congress over the failure of the South Korean Government to cooperate with us in our very understandable efforts to get to the bottom of this improper influence buying scandal.

I must say that I find it very strange that the Government of South Korea, which several years ago did not hesitate to send surreptitious agents to Japan in order to kidnap Kim Dae Jung, the man who ran against Park Chung Hee in the last presidential election in South Korea, in order to bring him back into captivity in Seoul, now finds it impossible to voluntarily cooperate with us in our effort to interrogate Tongsun Park in South Korea itself.

This resolution simply says that the Congress of the United States wants the South Korean Government to cooperate with us so that we can get to the bottom of this very unfortunate scandal. And I believe it deserves the support of every Member of the House.

Mr. LUKEN. Mr. Speaker, I rise in support of House Resolution 868, introduced by the Committee on Standards of Official Conduct and reported out by the International Relations Committee.

The cooperation of the South Korean Government in both the congressional and Justice Department investigation of Korean influence buying is imperative if we are to get answers. It has been my position since the start of the Korean investigation that a special prosecutor should be appointed, but regardless of

the method chosen, we must have cooperation from the Koreans.

If it is true, as ascertained by South Korea, that their government has committed no wrong doing in its lobbying efforts on Capitol Hill, there should be no reason for noncooperation. Mr. Jaworski, I believe, is doing an admirable job but must also have access to all available information if his appointment as special counsel is to be fruitful.

The speculation and clouds which are hanging over the Congress must be brought to an end. The very integrity of the Congress as an institution is at stake. The people of this country have a right to know what their representatives are doing in their name. There should be full disclosure of all activities involving the South Korean Government. The American people have had enough of Government using elected officials for personal gain. The Korean investigation should go ahead regardless of who is implicated. We cannot abide double standards for those Government officials who skirt the law. They must be identified and dealt with accordingly.

Finally, I not only fully support the resolution calling for the complete cooperation of the South Korean Government but I also call for the quick and complete domestic investigation. No more delays.

The American people deserve a Congress which represents them, not a foreign government with a special congressional expense account.

Mr. GILMAN. Mr. Speaker, I rise in support of the pending resolution (H. Res. 868), expressing the sense of the House of Representatives that the Government of South Korea extend its full and unqualified cooperation to the ongoing investigation by the Committee on Standards of Official Conduct of alleged illicit congressional lobbying activities by representatives of the Korean Government.

As a result of continued allegations of improper activities by representatives of the Korean Government, our bilateral relations have been severely strained. Without a speedy resolution of these serious charges, a cloud of suspicion and mistrust will continue to hamper the pursuit of our legitimate foreign policy goals with that nation.

U.S. assistance to South Korea serves to counter the threat to the national security of that nation and in turn supports our own security interests in that part of the world. I am therefore concerned about the seriousness of the allegations and the effects they are having upon our security interests.

I appeal to the Government of Korea to repsond in a manner that will uphold the long and honored historical friendship and cooperation that has existed between our two nations. As I stated in a recent letter to President Park, "the future of U.S.-Korean relations are in your hands." Throughout the history of our bilateral relations, we have joined together to defend the national security of a free Korea. Now South Korea is faced with a new kind of threat. To defend against that threat, however, you and only you hold the key and that key is the cooperation between our two Governments in dissipating the cloud of impropriety overshadowing our relationship.

Accordingly, Mr. Speaker, I urge the adoption of House Resolution 868.

Mr. CAPUTO. Mr. Speaker, in the debate on House Resolution 868 we have heard that the Republic of Korea has been unfairly singled out and harassed by congressional committees and the press.

In support of this allegation we have been told how one member recently met with a group of Jewish leaders who lobbied him intensively for the cause of Israel. Although it is not stated specifically one would assume this group of Jewish leaders were American Jewish leaders. Of course Americans have right to make their feelings be known to their elected representatives. One must also assume that no improper monetary inducements were offered to the Congressman by these American Jewish leaders, otherwise it would have been reported. One must also assume that there was no knowledge that these American Jewish leaders were acting out of anything but their own conviction and not as agents of the Government of Israel. For if any of these assumptioinns are wrong, the matter would have and should have been reported to the proper authorities for prosecution.

The efforts of American Jewish leaders to support Israel is, to say the least, not equivalent to those of Korean citizens working as surreptitious agents of the KCIA bent on corrupting members of the U.S. Congress.

The Constitution forbids Members of Congress from accepting any gifts and emoluments from agents of a foreign government, such as Tongsun Park. The Constitution does not forbid, but encourages American citizens to communicate their thoughts and beliefs to their elected representatives. That is the heart of our democracy.

To compare the transfer of thought and opinion from an American citizen to his elected representative to the transfer of bribes and instructions from a foreign agent to a U.S. Congressman is to miss the point of the House investigation into the Korean scandal.

It must be abundantly clear at this point that it is not congressional committees or the press which are endangering the military and economic relationship of Korea and the United States. The danger springs from Korean politicians.

GENERAL LEAVE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 868.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. ZABLOCKI) that the House suspend the rules and agree to the resolution, House Resolution 686.

The question was taken.

Mr. BAUMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

EXPRESSING CONCERN ABOUT RECENT ACTS OF REPRESSION BY THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA

Mr. DIGGS. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 388) expressing concern about the recent acts of repression by the Government of the Republic of South Africa.

The Clerk read as follows:

H. CON. RES. 388

Whereas the circumstances surrounding the death of Steve Biko on September 12, 1977, while he was being detained by the Government of the Republic of South Africa, have aroused deep concrn among Americans and within the world community; and

Whereas the Government of the Republic of South Africa on October 19, 1977, took a series of repressive measures against black and white opponents of its apartheid policy, including the closing of newspapers, the outlawing of peaceful religious and social groups, and the detention and "banning" of South African citizens; and

Whereas these repressive measures represent a serious violation of the rights of the persons and organizations affected and will further isolate the Government of the Republic of South Africa as a member of the international community; and

Whereas the United States holds such actions to be unacceptable: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress strongly denounces the above acts committed by the Government of the Republic of South Africa which suppress the expression of political thought and violate the rights of the individual, and urges the President to take effective measures against the Republic of South Africa in order to register the deep concern of the American people about the continued violation of human rights in that country.

The SPEAKER pro tempore. Is a second demanded?

Mr. ASHBROOK. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Michigan (Mr. DIGGS) will be recognized for 20 minutes, and the gentleman from Ohio (Mr. ASHBROOK) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan (Mr. DIGGS).

Mr. DIGGS. Mr. Speaker, I allocate myself 4 minutes.

Mr. DIGGS. Mr. Speaker, I rise to seek unanimous support for House Concurrent Resolution 388 expressing concern about the recent acts of repression by the Government of South Africa. This resolution introduced by the distinguished gentlelady from Illinois and member of the Subcommittee on Africa, CARDISS COLLINS, was reported out by unanimous voice vote by the Committee on International Relations last Thursday.

House Concurrent Resolution 388 denounces the disturbing circumstances surrounding Steve Biko's death, and the South African Government's detention, bannings and closings of newspapers on October 19 as serious violations of human rights, and urges the President to take effective measures to register the deep concern of the American people about the continued violation of human rights in South Africa.

Mr. Speaker, the members of the committee see this resolution as the minimal expression of concern that should come from this Congress. The Subcommittee on Africa which this resolution was referred, considered other resolutions on South Africa that would have called for specific measures, for instance, ending Export-Import Bank loan guarantees. But, since such provisions would have involved joint or sequential jurisdiction to other committees, and therefore may have delayed action, we supported House Concurrent Resolution 388 which only urges that the President take "effective measures."

Why should Congress express itself on this question? The Constitution provides that Congress exercise a role in the formulation of foreign policy. Moreover, as their representatives we have a responsibility to speak for the American people. The South African Government through its sophisticated public relations mechanism in the United States is attempting to go over the head of the President, and appeal to the baser instincts of certain Americans. They hope to evoke fear that pressure on South Africa will have an adverse effect on the United States.

As Dr. Brzezinski, the President's National Security Adviser, stated over national television yesterday that the administration's actions are not designed to destroy South Africa, but rather to strengthen the forces of reason there. I agree with him that the African's quest for self determination and full participation in the affairs of their country, could lead to a racial conflict that could be rapidly transformed into an ideological conflict.

There are those who might argue that additional pressure will cause South Africans to retreat into the laager and will disturb our negotiations in Namibia and South Africa.

This is not the case. South Africa is engaged in these negotiations for their own national interests. Therefore, informed sources believe that, assuming the South Africans are sincere about the negotiations, support for House Congressional Resolution 388 and the proposed administration action will not stalemate these discussions.

Mr. Speaker, the death of Steve Biko in detention as a result of head injuries which caused brain damage and kidney failure and the actions of October 19 arouse great concern. It is important to note that these detentions of bannings affected not only Africans supporting the black consciousness movement, but also journalists, religious leaders and white antiapartheid leaders, all of whom were seeking peaceful change.

Mr. Speaker, between 1963 and 1977, 41 Africans died in detention. In addition, over 225 nonpolitical detainees died while in police custody in 1975 and 1976.

The African majority has:

No freedom of movement;

No freedom of expression;

No freedom of speech;

No protection against search and seizure;

There is no writ of habeas corpus;

No right to vote; and

No right to own land.

Instead there is arrest without warrant; detention without trial and no recourse to the courts of law for release. The Government has passed a series of repressive internal security measures that provide virtually no supervision over police treatment of detainees. One out of every five Africans has been arrested, or detained, for violations of pass laws or internal security provisions.

Mr. Speaker, this resolution does not imply that the committee is not concerned about human rights violations in other parts of the world. But South Africa is a unique case. South Africa is the only country to base its repression and denial of basic rights exclusively on race, regardless of one's political views. Moreover, such abrogation of human rights, based on race, are rooted in the law. Mr. Chairman, such distinctions are abhorrent to our legal system and political heritage.

Respect for basic human rights is not a new concern of the international community; this notion did not originate with the Carter administration. Indeed these principles formed the foundation upon which this Nation was established.

The racial policies of South Africa have been an issue before the United Nations in one form or another since 1946. South Africa has systematically ignored successive U.N. General Assembly resolutions, Security Council decisions and International Court of Justice opinions expressing concern about apartheid. South Africa has continued to violate its obligations under the U.N. Charter, and its actions have become increasingly a source of international tension and conflict.

South Africa continues to delay its withdrawal from Namibia;

South Africa has categorically refused to implement sanctions against Southern Rhodesia;

South Africa had 2,000 special police forces and helicopter units in Rhodesia for 8 years;

South Africa blatantly intervened in Angola, in 1975, with 2,000 troops;

South Africa has launched hot-pursuit raids against Zambia.

Mr. Speaker, it is for these reasons, and in the interest of preventing a wider, more cataclysmic conflict in southern Africa that I urge unanimous support for this resolution.

Mr. DIGGS. Mr. Speaker, I yield 3 minutes to the gentlewoman from Illinois (Mrs. COLLINS).

Mrs. COLLINS of Illinois. Mr. Speaker, I take this opportunity to talk very briefly about House Concurrent Resolution 388, which is the resolution under consideration at this time.

First of all, let me commend the chairman of our Subcommittee on Africa for the very expeditious manner in which this resolution was gotten out of committee and for the help that all Members of the subcommittee and of the full committee gave in acting on this resolution.

As many of us know, I introduced on the same day of the recent police actions in South Africa, House Concurrent Resolution 383, which was cosponsored by some 52 Members, as a direct response to the events of October 19. As we all know, on that day the South African Government arrested, detained, banned, or otherwise restricted the activities of more than 50 of its citizens, black and white, closed down the nation's leading black newspaper, and outlawed 18 peaceful social and religious organizations.

Although House Concurrent Resolution 388 makes specific reference to the events of September 12 and October 19, events which profoundly stirred the conscience of the American people, these tragic events are but a small part of an institutionalized pattern of the repression of human rights that has characterized the Republic of South Africa since the adoption of apartheid as official policy in 1948.

It is, therefore, rightly in the context of its sincere commitment to human rights that the administration has reacted to the recent events in South Africa. In this connection, it is important to recognize that the tragic circumstances surrounding the death of Steve Biko represent only the tip of the iceberg. According to figures furnished me by the State Department, at least 41 South Africans have died while under detention for so-called political crimes, 22 of them, including Steven Biko, since March of 1976.

With respect to the events of October 19, I wish to point out that all of the persons arrested or banned, and all of the organizations that were outlawed are, like Steve Biko was, noted for their moderation and commitment to achieving change through peaceful means.

The administration has reacted in an appropriate manner by recalling Ambassador Bowdler for consultations and by announcing its support of the forthcoming Security Council Resolution calling for a mandatory arms embargo on South Africa. Although I think it is not enough, I think it is a step in the right direction; however, let me remind all Members that without congressional support, the administration's bargaining position could be weakened to the extent that Mr. Vorster's contention that what Americans think of the situation in South Africa is "irrelevant" will become a self-fulfilling prophesy.

It is, therefore, up to the Congress to register the deep concern of the American people about the continued violations of human rights in South Africa, by voting for this resolution that reflects this sentiment. I strongly urge my colleagues to join me in support of House Congressional Resolution 388.

Mr. DIGGS. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. MAGUIRE).

Mr. MAGUIRE. Mr. Speaker, the catalog of human misery in South Africa is long and revoluting. Through personal

intimidation, South Africa can extend its tyranny over blacks cheaply. It does so through daily inequities of the pass law, blacks being arrested nightly for not having their identity documents in order. It does so by shipping Africans without urban jobs to the rural areas. It does so by leveling the shacks of the poor. It does so by segregation—by routine distinctions between who can eat, walk, sleep, and dream in particular places. The best jobs are reserved legally for whites. No trade unions are allowed for blacks. In a daily sense, South Africa is a police state as far as blacks are concerned. The rule of law has for years not existed. There is no habeas corpus. About 700 Africans are being held in solitary confinement without bail. Most trials are but a mockery. For ordinary blacks, South Africa is little better than the Haiti of Duvalier or the Uganda of Amin.

Now South Africa has moved dramatically into tyranny, Voices of reason have been lost. What we need for most of all was the beginning of a dialog between black and white over the country's future. That, after all, was all that people like Steve Biko, Percy Qoboza, Donald Woods, and Beyers Naude wanted. Now, all this promise has been destroyed by South Africa's draconian assault on human sensibility. We have now the mailed fist of full-scale repression. If there is violence today, it is the violence of the South African Government, with its institutionalized racism, against its own people. The United States cannot stand idly by. We must put deeds behind our promises. White South Africa has no friends of significance but ourselves. We cannot remain silent when its leaders plunge their beautiful country into renewed turmoil and put the future stability of that part of the world, as well as the lives of blacks and whites, and world peace, at risk.

South Africa's banning of scores of political and religious groups must necessarily lead the United States and the world to conclude that the institutionalized racism which has for so long identified South Africa is, despite international pleas, going to continue. Surely it is incumbent upon the United States as a champion of human rights to vigorously protest the systematic persecution of a people, to demand that the truth be told, and to take action as well. There is no guarantee, of course, that South Africa will pay the slightest bit of attention to our resolution, but we must prove to South Africa, to the world, and to ourselves that all of the noble talk about human rights is not just talk.

I was encouraged by the administration's recall of our Ambassador to South Africa—an action which I and many of my colleagues recommended—and I hope that further executive and legislative efforts to conclusively demonstrate our concern for South Africa's repressed majority will be undertaken in the near future. Such efforts should include the suspension of additional economic incentives for U.S. companies to do business in South Africa. An example would be termination of Export-Import Bank loan guarantees for South Africa, which is the subject of a bill I introduced in the House on October 25 (H.R. 9746). The United States has also agreed to support a U.N. Security Council mandatory arms embargo against South Africa. These steps should be part of a deliberate, staged policy to disentangle ourselves from South Africa bilaterally—the only way, in my judgment to exert any real leverage on South Africa.

Today, let the House of Representatives go on record denouncing South Africa's actions and asking our Government, through the President, to take effective action.

Mr. DOWNEY. Mr. Speaker, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from New York.

Mr. DOWNEY. I thank the gentleman from New Jersey for yielding to me. I would like to commend the chairman of the subcommittee and the gentlewoman from Illinois (Mrs. COLLINS) for the work that they have done. But, I am afraid that the Vorster government is going to look at this country and react to this resolution and to other things with a very loud ho-hum. I think this resolution and other things will show what this Congress really thinks of that government.

Mr. DIGGS. Mr. Speaker, I reserve the balance of my time.

Mr. ASHBROOK. Mr. Speaker, I yield 5 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, although I can understand what prompts the sentiments expressed in the pending resolution, I believe that the South African situation and U.S. policies toward that nation need far more serious consideration than simple resolutions of denunciation which accomplish little. I think the statement just made by the gentleman from New York (Mr. DOWNEY) indicates that there are some in this Congress who are not satisfied with denunciation, but want self-destructive proposals that would not help the situation at all.

I do not think anyone can fail to be moved by the recent events in that unhappy land, especially those of us who have visited there and those of us who call ourselves conservatives. Yes, I think the acts of repression should be condemned, but having said that I think it is time that the Congress of the United States stop playing to the galleries of American politics on this issue and start paying attention to what could be at the end of the road if the Carter policies are followed to their logical conclusion.

South Africa is not going to go away. It is not a banana republic. All the bluster and speeches in this Congress and the United Nations are not going to wipe it from the face of the Earth. Its historic origins pre-date our own and its white inhabitants are not colonials but descendants of people who were there even before blacks migrated south.

Second, we badly need much of the mineral wealth of South Africa which we must have in this nuclear day and age. South Africa has been our strong ally for many, many years, even in the face of our repeated affronts. It sits astride the Cape of Good Hope where nearly 40 percent of our imported oil must pass by sea.

The wealth of South Africa and its obvious strategic postion on that continent have made it the ultimate target of Soviet expansion in Africa, a greatly developed thrust which the current Carter policy ignores. Instead we have established a Special African Fund which will be used to subsidize South Africa's neighbors to the north so that the Communist controlled states of Mozambique and Angola can be used as staging area for further Soviet and Cuban penetration into the continent. Strangely, our Government, so concerned with human rights, in Africa aids these Communists and denounces the anti-Communists.

You must understand that South Africa's economy is for the most part self-sufficient.

While all these African States and the United Nations are denouncing South Africa, the same black African States are trading with South Africa, and many of them depend directly on South Africa and its Government for their own income and economies, including Mozambique, Botswana, Lesotho, Zambia, and others.

I think most Americans do disagree with the apartheid policies. I do. But I do not believe it is too late for blacks and coloreds and whites in that nation to finally resolve their differences in some constitutional system that will allow each to achieve its destiny and, at the same time, protect their rights.

I hope that is the case, but this constitutional solution has to come from within the nation. Last year, when I visited South Africa, I met freely with people from every walk of life and every race.

I can tell the Members of this House that most of the white Afrikaaners with whom I have talked—and they are the ones we are going to have to convince with all of our rhetoric—want to move away from all of these rigid racial policies of the last 30 years, and they have quietly applauded some of the changes that have taken place. I do not believe the Members would believe me if I told them of the long list of improvements that have taken place recently. Yet the blacks in South Africa continue to live under civil restrictions which I cannot accept but which have to be viewed in the context of that nation's history. So we should be indignant about what has happened there in recent weeks but we should realize that the policy stated by the President and the Vice President, the U.N. Ambassador and some in this Congress, has to some degree driven South Africa's Government, now in the midst of an election campaign toward the intransigent position they have taken in recent weeks. I think it is unfortunate. But I do not ever hear the same liberal voices speak up to denounce other African nations. Rarely do they speak of the slaughter of 50,000 souls in Equatorial Guinea by that country's President Macias, or the torture and death of thousands by the self-styled emperor, Jean Bodel Bokassa, of the Central African Empire, and the wasting and squandering of the wealth of the nation, or the leaders of Burundi, when

hundreds of thousands have died at the hands of the Government, or the repeated antics of the well-known, murderous dictator, Idi Amin of Uganda, who has been estimated to have killed anywhere from 100,000 to 300,000 political opponents and minority tribesmen, and who boasted that Adolf Hitler was a piker because he did not kill enough Jews. We did not hear voices raised about those repressive dictators. I think we should have the same standards for all.

Our own country, so concerned with human rights abroad, instead seeks to get in bed with Fidel Castro, that great international "civil libertarian," and would rather pump out American tax dollars through aid and indirect loans to the Vietnamese, who only 2 years ago were killing our own soldiers.

There will be solutions to the problems in South Africa, and they will come from within. The increasing pressures from the blacks and coloreds will eventually bring about change, just as will the self-interest of the whites. The question is whether all of the proposed sanctions and embargoes here today are going to help the people we profess to want to help, the blacks and the whites.

That was a point made clear to me by Percy Queboza, the editor of the now banned black newspaper, the World, with whom I spent 2 hours talking. Sitting in his office last November, he denounced American liberals who would cut off trade and isolate South Africa. He said:

They will only hurt my people most. Tell them that when you go back to your country.

I asked Percy Queboza if he did not fear arrest for his outspoken opposition to the nationalist government, since several of his reporters had already been detained for months without charges. and he replied, "I do not think our government would be that stupid," and he smiled. But they were that stupid, and he is in jail today because of their stupidity.

But the repression imposed by the South African Government should not and must not be justification for continued foreign policy stupidity on the part of our own Government. The utmost care and understanding must be employed, lest we eventually have to accept the blame for a racial holocaust in Africa, in which freedom and liberty for all people and all races will be lost possibly forever.

Mr. Speaker, I hope the Members consider carefully what path they are following by their advocacy of this resolution which gives a blank check to an administration whose South African policies are largely to blame for the present predicament.

Mr. Speaker, I include two recent editorials at this point in my remarks:

[From the Baltimore Sun, Oct. 25, 1977]

DEALING WITH SOUTH AFRICA

The South African crackdown on opposition deserves the condemnation of the civilized world. There is little that foreign governments can do, however, that does not in the short run simply help Prime Minister John Vorster.

His immediate problem is to win the largest mandate his National party has ever received in the November 30 election among whites. He has been running against Jimmy Carter, Walter Mondale and Andrew Young all along. Many Afrikaners are disturbed at the outlawing of 17 organizations, suppression of the black newspaper World, arrests and bannings. But anything that can be labeled foreign interference brings them defensively behind Mr. Vorster, and helps change the subject.

Washington knows this well. Like the African governments clamoring at the United Nations, its positions are designed more for American and Black African opinion than for positive effect on South Africa. Although a rebuke against the Vorster crackdown is in order, the United States has other concerns with South Africa. Pretoria's cooperation is needed in the Anglo-American plan for transition to majority rule in Zimbabwe (Rhodesia). The United States, Canada, Britain, France and West Germany are jointly negotiating to persuade South Africa to grant genuine independence to Namibia (South West Africa) based on majority rule.

A latecomer to African politics, the United States has committed its prestige to these two objectives. No posturing should be allowed to undermine them before they are achieved. Among other things, they require good ambassadorial communication. President Carter recalled Ambassador William Bowdler for consultations, a diplomatic slap which shows this country's outrage but also helps Mr. Vorster electorally. Probably no real diplomacy is possible before South Africa's election, but after it, the United States will need an ambassador with good connections in Pretoria. The White House should resist pressures from many quarters for Mr. Bowdler's permanent recall.

Pressures for economic sanctions against South Africa will mount at the United Nations. South Africa's form of racial subjugation is unique, but the provocation last week was mild compared to the civil liberties denials of many governments that denounced it. As a forum of world opinion, the United Nations is a good place for verbal denunciation. Such weapons as economic sanctions, however, should be held in reserve as pressure on the Namibia question. Results are better than grandstanding.

[From the Washington Post, Oct. 26, 1977]

SANCTIONS AGAINST SOUTH AFRICA?

For the Administration, the question of whether the United States should join the United Nations' cry for economic sanctions, or penalties, against South Africa for its latest political atrocities is an exercise in the new diplomatic math. Having linked relations with South Africa to Pretoria's domestic policies, the United States can *not* react without losing credibility at home, in black Africa and in Pretoria. To overreact, however, could diminish South Africa's necessary cooperation in the Rhodesia and Namibia crises and put its government into an even more perverse and embattled mood. The administration must also avoid taking a stance so far in front of general public opinion—which remains, we believe, ambivalent—that Pretoria will be able to exploit the gap.

We don't like sanctions. This has nothing to do with favoring apartheid. It has to do with the conviction that sanctions are a poor and possibly self-defeating tool to use against a system so powerfully entrenched. Only if sanctions were intensified close to the point of a declaration of war would they likely do more than embitter and solidify most whites. How will the international community care for the vulnerable blacks inside South Africa—and also outside, in Botswana, for example, or Lesotho—who would be the first and principal victims? To start down the sanctions road is not what a responsible government ought to do just to satisfy its outrage or to keep up with the international Joneses. The effect on the people meant to be moved and helped is the first thing to keep in mind.

South Africa is no banana republic in which, if Washington chose, it could blow the system down. It resembles the Soviet Union in the sense that its white rulers are fiercely nationalistic and clannish and tend to respond by defiance to excessive outside pressure. South Africa has large stockpiles of the things that might be cut off by sanctions. It has devoted years, and its considerable wealth and ingenuity, to devising ways to render itself relatively immune. Among the ruling whites, under the manipulation of their chosen leaders, sanctions would doubtless heighten morale and the spirit of common sacrifice, rather as they have in neighboring Rhodesia, which, with a sixteenth as many whites, has survived and even prospered under total sanctions for a dozen years. What finally brought Ian Smith to the bargaining table was not sanctions but guerrillas.

Many Americans may not wish to be told that their government, even in conjunction with other Western government (which are even more economically dependent upon economic ties with South Africa) and with Third World governments (many of whom will continue to trade with Pretoria even as they vote sanctions), cannot itself undo apartheid. But the beginning of wisdom here is an awareness of the United States' own limitations. The feasible and effective steps the United States can take to end the system must necessarily be small compared both with the steps that the nonwhites of South Africa will take anyway and with the steps that self-interest may ultimately lead the whites to take themselves.

Mr. ASHBROOK. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, this resolution has been brought before us in all seriousness, and yet, when we look at it, it more properly should be a resolution in blank and maybe a quantity-printed resolution. It cannot be taken seriously because it is politically inspired and politically motivated.

If the Members have the resolution in front of them, let us go through it and strike out a few names and put in some blanks and see what happens. Here is the way we should amend this resolution and make it more equitable.

Whereas the circumstances surrounding the death of (blank) on (blank), while he was being detained by the government of (blank), have aroused deep concern among Americans and within the world community; and

Whereas the government of (blank) on (blank), took a series of repressive measures; . . .

Whereas these repressive measures represents a serious violation of the rights of the persons and organizations affected and will further isolate the government of (blank);

Whereas the United States holds such actions to be unacceptable:

Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress strongly denounces the above acts committed by the Government of (blank) which suppress the expression of political thought and violate the rights of the individual, and urges the President to take effective measures against (blank) in order to register the deep concern of the American people about the continued violation of human rights in that country.

Well, there we have a blank resolution. We will have the House committee responsible for printing resolutions authorize about three score of these resolutions, and we will fill in the names of African nations. Pick the time, pick the

people, pick the events, and then write out the resolution.

In the first "whereas" we can include the circumstances surrounding the death in Uganda of a bishop who was murdered a few months ago. We can name country after country. We can include Nigeria and name the 23 persons who were killed there, including the former Premier. We can name the repressions, name the acts of repression, fill in the name of the African nation, and then bring the resolution back. At least that will make more sense than singling out one nation.

Are there Members who say that does not make sense? I will say one thing: It makes a lot more sense than what we are doing with House Concurrent Resolution 388.

We can fill in the blanks with the name of one country after another, the series of events, the dates, and the repressions involved, and then say this is the type of action the House should take.

I was listening to my good friend and colleague, the gentleman from Michigan (Mr. DIGGS), when he was saying that South Africa is the only country where there has been a known legal repression. I will point out to the gentleman from Michigan that I have studied many of the constitutions of the African nations.

Does my colleague, the gentleman from Michigan, know, for example, that one of the oldest African nations, Liberia, has written into its constitution from the earliest days a prohibition against a white owning land in that country? Is that a repression?

If we want to get into that, how about all these countries that, in their own way and in the context of their own society, have built in their own legal repressions?

South Africa has been guilty of some repressions, certainly, as the gentleman from Maryland (Mr. BAUMAN) and others have indicated, and I certainly would be among those who would criticize them and urge them to change their policies. But is South Africa alone in repressing freedoms in Africa?

To single out one nation, when there are probably 20 or 30 other nations in Africa alone—and we are only talking about one continent—that would richly deserve to have their names and dates and incidents censured, seems to me to be wrong. If we were to make this a blank resolution, we should include all nations guilty of repression. To single out South Africa makes one wonder.

I would ask a question of the sponsors of the concurrent resolution. Is this the first resolution of concern over repression in Africa that has come before the Congress? I have been here 17 years, and it seems to me that it is. Maybe I have missed one.

Is this the very first resolution that has been brought out expressing a concern for repression in Africa? If it is, why did we overlook all these incidents that happened before? Why in the world do we single out one country for selective concern?

Mr. Speaker, I suggest that we send this concurrent resolution back, and that we bring it back in blank and fill in the names of all the African nations deserving censure. Then we can take up these resolutions individually and vote each one of them up or down, rather than singling out one nation as the liberal leadership does today.

Mr. DIGGS. Mr. Speaker, I yield 3 minutes to the distinguished majority whip, the gentleman from Indiana (Mr. BRADEMAS).

Mr. BRADEMAS. Mr. Speaker, I rise in support of House Concurrent Resolution 388. I do so as an expression of my deep concern over the recent acts of repression carried out by the Government of the Republic of South Africa.

I do so to give voice to the growing shock felt by millions of Americans at the reports from South Africa of government lawlessness on a scale heretofore not seen even in that country.

And I do so, finally, to support the President in measures he may undertake to make clear to the Government of South Africa that its recent actions are wholly unacceptable to men and women of conscience everywhere in the world.

Mr. Speaker, the death in detention of Stephen Biko on September 12, 1977 was a reminder, if one were needed, of the lengths to which the apartheid forces in South Africa were willing to go to prevent the development of any sort of effective and responsible black leadership in that troubled nation. Mr. Biko was the 22d person to die in detention in South Africa in the past 18 months, and reports are legion of widespread torture and abuse in South African jails.

But the sweeping measures carried out on October 19—banning black protest groups, closing the principal black newspaper and arresting its editor, prohibiting untold numbers of South African individuals and groups, black and white, from engaging in any sort of political activity—and promising even more of the same in the future—with all these measures, Mr. Speaker, the Government of South Africa has demonstrated its complete disregard for basic considerations of human rights and personal freedom.

For the issue, Mr. Speaker, is far broader now than simply opposition to South Africa's racial policies—as venal as those policies continue to be.

The arrest of Percy Qoboza, editor of the leading black newspaper, the World, and the banning of Donald Woods, editor of the Daily Dispatch, who was described by the New York Times as "perhaps the most eloquent and biting critic of the Government writing for newspapers serving the white community," have done immeasurable damage to freedom of the press in South Africa. And that nation's Information Minister has warned that these actions should be viewed by other newspapers as a warning "not to abuse", as he put it, the right of criticism.

The "banning" of individuals, imposed without trial of any sort, has meant that a person may not speak on radio, may not permit himself or herself to be quoted directly in newspapers, and may not even meet with more than one person at a time, other than family members. The South African Government thus puts an end, Mr. Speaker, to the rights of free speech and free assembly as well.

The banning of groups which have spoken out against government policies knows no limits either, it seems, encompassing even such peaceable religious groups as the Christian Institute of Southern Africa. As a Member of Congress whose district includes one of America's leading centers of learning, the University of Notre Dame, which institution is itself the home of an active and vital center for civil rights, I feel perhaps a peculiar empathy with the fate of the Christian Institute. So, freedom of religion, too, Mr. Speaker, has been dealt a heavy blow by the South African Government.

In its statement of October 19, the so-called Justice Minister, James T. Kruger, referred to what he termed a "campaign of hate" against which his government had been forced to act. I submit, Mr. Speaker, that the only campaign of hate in South Africa is being waged by the Government of South Africa against its own people, black and white, and against the sensibilities of freedom-loving people everywhere.

Mr. Speaker, it is vitally important that our Government speak with one strong voice on this issue and therefore, that we in Congress join President Carter, as he has urged us to do, to make clear to the Government of South Africa, and to the world, our unwavering opposition to its violation of essential human rights.

I urge my colleagues to give this resolution their full support. I hope that the resolution will be supported on the majority side of the aisle as well as by those of the party of Abraham Lincoln.

Mr. DIGGS. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, I rise in support of House Concurrent Resolution 388 which expresses the deep concern of this Congress over the recent and repressive actions taken by the South African Government.

Repression of human rights is a tragedy that is encountered worldwide, but massive denial of human rights based solely on race is a situation unique to South Africa. By taking actions against blacks, against civil libertarians, against the press, the Vorster government has demonstrated its contempt for those who value human rights. These repressive policies are abhorrent to the instincts of every American. It is our duty as representatives of this Nation, a nation whose purpose and resolve depends on freedom and equality, to voice our strong disapproval.

After the massive crackdown the blacks and nonwhites in South Africa are now more separate and less equal than ever before. The recall of the U.S. Ambassador to South Africa by President Carter and our support of the United Nations arms embargo are indications of how seriously this country views the desperate steps taken by Vorster. I hope that more forceful actions will be taken by the United States to insure that we remain credible as a Nation concerned with human rights.

I experienced personal outrage at the senseless, violent murder of Steve Biko. Steve Biko, considered by so many as

a moderating voice, a leader of his people, and until his death a potential leader of his country. I noted the news of his arrest on August 8 with alarm, but was totally shocked at the notice of his death and the circumstances by which he died. The information that Biko was but one of 20 political detainees who have died while in police detention since March of last year further heightened my desire to express my own outrage at these events. I met with South African Ambassador Donald Sole in the hope of finding out the true circumstances behind Biko's death. The Ambassador answered probing questions with evasive replies. After that meeting, I decided to introduce House Resolution 809, expressing the deep concern of the House over this appalling incident. Many of those Members attending the Sole meeting joined with me in sponsoring this resolution. We sought an impartial investigation of the death of Steve Biko and of the conditions of all South Africans now in detention under the provisions of the Terrorism Act and the Internal Security Act. I am grateful that the Subcommittee on Africa incorporated part of my resolution into the legislation before us today.

In the wake of the recent series of predawn dragnet raids, highly reminiscent of Gestapo tactics, the South African Government has swept into its jails and publicly silenced its most dedicated and creative leadership. Clearly, the Vorster regime has decided it can no longer afford freedom of political expression because it can no longer afford the truth to be told.

It is both appropriate and necessary that the House support House Resolution 388 so that we may go on record as opposing the denial of human rights in South Africa. If we condone through our silence the inhuman wrongs of the Vorster government, then the United States and this House merit no stature in the world community as champions of human rights and human dignity.

The continuing repressive measures by the South African Government will, in the short run, have the desired effect. A powerful but frightened authority has always found it easier to cope with opposition by silencing its leaders rather than listening to their grievances. But in the long run, these grievances appear to be so fundamental that any solution short of a transformation of the entire political system will be no solution at all.

The inescapable restrictions of the apartheid system control every aspect of life for the nonwhite community in South Africa. It is the only country that determines where you will work, what you will do, and how much you will be paid solely on the color of your skin. This is unacceptable—just plain unacceptable. There is a minimal standard of human rights which cuts across national boundaries. South Africa's conduct has so deteriorated that their actions defy an international set of values which transcend their own internal political system.

The United States, as the moral leader of the free world, must not and cannot stand idly by while the rights of millions are systematically destroyed. I urge the Congress to use Steve Biko's death and the escalation of repression in South Africa to demonstrate to the world at large that our dedication to the principle of human rights is sincere, total, and unequivocal.

Mr. DIGGS. Mr. Speaker, I reserve the balance of my time.

Mr. ASHBROOK. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Ohio (Mr. WHALEN), our representative to the United Nations at the present time.

Mr. WHALEN. Mr. Speaker, I rise in support of House Concurrent Resolution 388, which expresses concern about recent acts of repression by the Government of South Africa.

Permit me to cite three reasons why it is important for the Congress to register such concern at this time.

First, this resolution announces to the world congressional reinforcement of administration statements made up to now which have deplored political repression in the Republic of South Africa. The United States, whether we like it or not, is still saddled with the burden of proving that it deplores repressive actions by the Vorster government. We must make constant efforts to set doubts to rest, and the Congress must join with the administration in order that our government may speak with one voice.

Second, this resolution reminds us that the U.S. response to events in South Africa has only just begun. It puts President Carter on notice that the Congress will continue to monitor carefully future executive branch actions and will, where appropriate, expect to participate in their formulation.

Third, and not least important, there is a fundamental reason of principle why the Congress must go on record at this time. Institutional racism and political repression in South Africa is one of the great moral issues of our time. We must take a strong stand and reaffirm that stand by specific action whenever necessary.

Mr. Speaker, I urge my colleagues to vote for this resolution for which the administration has indicated its support.

Mr. TSONGAS. Mr. Speaker, will the gentleman yield?

Mr. WHALEN. I yield to the gentleman from Massachusetts.

Mr. TSONGAS. I thank the gentleman for yielding.

The gentleman will recall that 10 years ago I was an intern at the Wednesday group. There was a statement made by our office condemning the action of the South African Government subsequent to the decision on Southwest Africa. Seven Members signed that petition. The gentleman was one of them. The gentleman had foresight. It is too bad that 10 years later we still are rehashing the same old ground.

Mr. ASHBROOK. Mr. Speaker, I yield 3 minutes to the gentleman from Alabama (Mr. DICKINSON).

Mr. DICKINSON. Mr. Speaker, I find myself in a dilemma here because, assuming that the allegations set forth in the resolution are factual and true—and we have only newspaper accounts on which to base this; at least I do—certainly no one would vote against such a resolution. We do, in fact, deplore the denial of human rights, the repression of expression, and the taking of human lives wherever and by whomever.

However, the thing that bothers me, Mr. Speaker, is whether the passage of this resolution and our expression here means that we are insensitive to the taking of other human lives wherever it might be, particularly on the African continent?

The statement has been made that there have been 22 people killed in custody in the last 2 years in South Africa. Perhaps this is so, perhaps not. Do the Members of this body realize, though, that when Ethiopia had its coup, 60 of the top military were lined up and killed one morning? How many people has Idi Amin killed? Literally thousands and thousands. These are minorities also. They are going on a tribal minorities basis. It amounts to genocide. Over 100,000 have been denied their lives, not just their liberty.

I am very much concerned, Mr. Speaker, that we are going to give the wrong impression here that we are only concerned about who is doing what if it is on a racial basis. Yesterday the news reported that over 60 guerrillas raiding across the border of Angola into what is Namibia or Southwest Africa were killed. These were Marxist Communists who have been aided and abetted by Cuban troops, raiding across the border from what is now Marxist Angola. I do not hear anybody being concerned about that.

In the press not too long ago 90 children were reported kidnaped—they were blacks—by guerrillas raiding from Mozambique going into Rhodesia. They were kidnaped and brought back over into Mozambique to coerce the parents to support the Communists. The same is true just recently in Southwest Africa where schoolchildren were kidnaped in raids across the border.

Where is the concern for these people? Is it only a concern for those when it is a question of black and white? Must it be a white doing something to a black before we are concerned? Are not lives just as important if blacks are killing blacks?

I would like to see us in this House go on record as deploring violence anywhere, everywhere, regardless of by whom and regardless of color. To me it certainly ill behooves us to hold ourselves out as some paragon of virtue where all the righteousness and all the wisdom in the world is reposited, because if the Members will recall—and everybody in this House can recall—it was less than 20 years ago that we finally did away with apartheid in this country. We only have 12 percent minorities here, not 80 percent. I wonder what the American people would have done and this Congress would have done if the United States were 80 percent nonwhite?

Mr. ASHBROOK. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. CRANE).

Mr. CRANE. Mr. Speaker, I have a number of objections to this resolution that has been presented to us today. The

first has to do with the drafting of the language. I think it is defective.

The first "whereas" explains that we have a deep concern here in the United States over circumstances surrounding the death of Steve Biko, and it elaborates that this concern is shared within the world community.

On page 2 of the resolution, it states:

That the Congress strongly denounces the above acts committed by the Government of the Republic of South Africa.

There is the clear implication that Steve Biko's death was the result of an action by the Government of the Republic of South Africa, a point that I do not think has been established.

The Biko case is under investigation. Just as we have had from time to time condemnations of members of our police forces in various cities in this country, it does not mean that individual excesses are the established position of the Government. Frankly I feel there are members of the Government of the Republic of South Africa who share the concern surrounding the circumstances of Steve Biko's death.

In the second "whereas" there are some legitimate concerns all of us share about the suppression of a free press, arbitrary detention, outlawing of peaceful religious, and social groups, right of association, and the like.

But it seems to me what we manifest is moral schizophenia by addressing violations of human rights in one country to the exclusion of others which have been guilty not only of these things but of vastly worse crimes. By remaining mute on a universal condemnation of suppression of human rights in all guilty countries, we are seemingly condoning the repression of rights or commission of political crimes in such countries as the U.S.S.R., Red China, Vietnam, Mozambique, Angola, Cuba, Panama, Uganda, Cambodia, and perhaps a hundred others.

Take, for example, the Government of Vietnam, which the United States permitted to join the United Nations. A representative from this administration—at taxpayers' expense—embraced the representative of that country when we know of the butchery in that country of people whose greatest offenses were friendship with the United States and a desire to live free from communism.

Supporters of this resolution indicate a desire to prevent the Republic of South Africa from becoming further isolated. Such a resolution as this, in my judgment, will aggravate rather than ameliorate this problem.

No civilized person supports a denial of human rights. On the other hand, we know how ferociously some Members of this body have worked to dignify the repressive regions of Vietnam, Cuba, Panama, and others, while simultaneously voting American taxpayer assistance to other repressive regimes such as Angola and Mozambique. Until this body is prepared to submit to a vote a resolution condemning those governments which deny human rights equally, I refuse to be drawn into a position of hypocritically censuring one. My intention under these circumstances is to vote present. I will reserve criticism until the Republic of South Africa finds itself buried in a resolution containing the names of all countries suppressing human rights, most of which, tragically make the actions of the Republic of South Africa look tame by comparison.

Mr. ASHBROOK. Mr. Speaker, I yield 3 minutes, the remainder of my time, to the gentleman from Oklahoma (Mr. EDWARDS).

Mr. EDWARDS of Oklahoma. Mr. Speaker, I rise in support of the resolution, but more than that I rise in support of the proposition that men own their freedom and dignity not as a gift from government, to be stripped from them in the name of necessity, or convenience, or policy, but as a birthright, a gift of God, and that when any government anywhere strongly imprisons its citizens or denies to them the fundamentals of social justice or deprives them of the right to speak and write freely, then that government is an enemy of every freedom-loving man and woman everywhere, and whether that nation has been an ally of an enemy is totally beside the point. A nation which rests its government on a denial of the rights of its citizens may be an ally through the sharing of mutual interests, but it cannot be a friend.

Mr. Speaker, earlier in this session I had introduced an amendment which would have prohibited the spending of money to negotiate the resumption of normal relations with the Government of Cuba. I did so because the Cuban Government is supported by an armed police state, by the stamping out of freedoms, by jail cells filled with political prisoners and cemeteries filled with political opponents. That is unfortunately the direction in which the Government of South Africa appears to be headed.

Since I first entered public life, Mr. Speaker, I have denounced suppression of freedom in the dictatorships of the world: in the Soviet Union, and on mainland China, in Angola and Uganda, in Mozambique and in East Germany.

But freedom cannot be demanded of our enemies if we ignore its suppression by those we count as friends. By definition, a nation that maintains its government by suppression of freedom and by government brutality crosses the line to the other side in the battle between the free world and the unfree.

I have asked of my colleagues in this Chamber that they no longer follow the double standard, that we not practice selective morality.

It is the shame of this Congress that has not happened. When we in this Chamber cast our votes for or against foreign aid the divisions are predictable. On the one hand there are those who vote to give our dollars to Vietnam and Cuba, to Angola and Uganda, but who refuse that aid to the countries of Latin America that have been considered our allies and our friends.

On the other hand are those who speak eloquently against aid to Vietnam and Cuba, Angola, and Uganda, but are quick to offer money to support the unfree nations of the free world.

Mr. Speaker, I have cast my vote in each case against granting aid to nations which maintain their rulers by the enslavement and oppression of the ruled.

But I say to my conservative friends that we cannot condemn double standards if we hold them.

We cannot condemn selective morality if we practice it.

We cannot rationalize tyranny.

There are few nations in the history of the world that have rested their claim to world leadership and have indeed rested their entire form of government on one single, lone, difference between it and the nations around it. This is such a government. America is nothing if it is not a beacon for freedom. It is nothing if it is not a voice against injustice anywhere in the world.

Do not tell me we should ignore the awful events in South Africa because others in this Chamber ignore the awful events in Uganda. It may be true but it is irrelevant to what we must say and do on the resolution to be true to the principles that underlie our very reason for being in political life.

Do not tell me we should ignore the events in South Africa because the situation is different there than here, more complicated, more difficult. All of that is true. None of it can justify the imprisonment of political opponents, the beating of prisoners in their cells, detention without charges, the closing of newspapers.

Do not tell me you fear communism in Africa if we close our eyes to these outrages and forces the blacks in Africa into the arms of the Communists.

If you resent the debate of censure against South Africa when no such criticisms are leveled at other equally repressive governments, then speak out as I do now against those nations as well. Your complaints are right. They are justified. But they do not excuse the Vorsters, the Krugers, the oppressors of South Africa.

Mr. Speaker, I urge my colleagues to vote for this resolution.

If we have no condemnation for South Africa today, can we claim tomorrow to have a personal commitment to the right of all men to live free?

No. There is no other way. Ally or enemy. White or black. West or East. Wrong is wrong; evil is evil.

I condemn South Africa, Mr. Speaker. I cannot do anything else and be true to myself.

Mr. DIGGS. Mr. Speaker, I yield 1 minute to the gentleman from Maryland (Mr. MITCHELL).

Mr. MITCHELL of Maryland. Mr. Speaker, we have heard a lot of talk about the abuses of human rights around the world. What we have here is very simple. What is involved here is the most flagrant, the most widespread abuses we have witnessed in some time in the civilized world.

I would respectfully suggest it is all right to help fill in the blanks games with legislation. I would suggest if you want to fill in the blanks games and tag one person to another that is all right; but I think it is more important that the Congress has to give a response to three groups of people. One is the 40 political prisoners who have died from torture since 1963 in South Africa.

No. 2 is the black journalists and white journalists in South Africa who cannot speak. Fill in the blanks games with them.

Finally, play it with Steve Biko, who has been silenced by death.

Mrs. BURKE of California. Mr. Speaker, will the gentleman yield?

Mr. MITCHELL of Maryland. I yield to the gentlewoman from California.

Mrs. BURKE of California. Mr. Speaker, would not the gentleman agree in the case of Uganda, not only did we withdraw our ambassador, but we have withdrawn all official Americans. We provide no aid.

The SPEAKER pro tempore. The time of the gentleman from Maryland has expired.

Mr. DIGGS. Mr. Speaker, I yield 30 additional seconds to the gentlman from Maryland.

Mrs. BURKE of California. Mr. Speaker, if the gentleman will yield further, in the case of Ethiopia that was brought up, we have done the same thing. We have withdrawn all our officials and have withdrawn our Ambassador. We have withdrawn any military assistance and have taken very strong action in those cases.

Mr. Speaker, I rise in support of House Concurrent Resolution 388. I do so because I believe the increasing violence and repression incurred by the apartheid policies of the Government of the Republic of South Africa merit our concern as a body. We should be filled with anxiety over these policies because they indicate that for the white as well as black children of South Africa, the time for peaceful change is quickly running out.

Why must this country "wait and see" until after its vision becomes blurred? Let us, as a body, recognize what we see and show our concern for it via this resolution now.

The adoption of this resolution is especially vital as the South African Government has indicated that the latest crackdown on opposition newspapers, black consciousness organization and leaders, and white critics may not yet be over. Congress should express its concern in an effort to forestall such a possibility.

This body must let the Republic of South Africa know that it questions the detention and mysterious death of Steve Biko; that it questions the October 19 suppression of the white-run Christian Institute as well as 17 black organizations (including the Soweto Students' Organization, the Black Women's Federation, the South African Students' Organization, and the Black Community Program.)

It is imperative that we demonstrate our abhorrence of the detention of some 40 individuals under the Internal Security Act as announced October 19. Individuals included are Hlaku Rachidi, president of the Black People's Convention Smangaliso Mkhatshwa, acting secretary-general of the Southern African Catholic Bishops' Conference, and Percy Qoboza, editor of the World. Banned whites like Donald Woods, editor of the Daily Dispatch also need to know we care. South African Information Minister Connie Mulder has indicated that the recent crackdown would be a prelude to further action against white newspapers "if the State is endangered or law and order threatened."

Mr. Speaker, I am grateful for the first important steps taken by the Carter administration with regard to the problem that this resolution addresses. I hope, however, that recalling for consultation of Ambassador Bowdler and the calling for an arms embargo will not be the end of this Nation's expression of sympathy for the plight of peace in South Africa. This resolution, if adopted, will indicate our support not only to the administration, but our hopeful expectations of new initiatives in our foreign policy efforts with the Republic of South Africa as well.

Mr. MITCHELL of Maryland. The points of the gentlewoman from California are absolutely correct. I think that is the kind of informative information we would like to hear, rather than playing games with the legislative process.

Mr. DIGGS. Mr. Speaker, I yield 1 minute to the gentleman from Alabama (Mr. BUCHANAN).

Mr. BUCHANAN. Mr. Speaker, I rise to express my strong support for House Concurrent Resolution 388 and to voice my equally strong opposition to the continued blatant violation of the human rights of the majority of its citizens by the Republic of South Africa.

South Africa is unique among those nations of the world which deny even the most basic rights to its citizens because its unconscionable practices are part of the very foundation of South African law. Other similar violators, such as the Soviet Union and Uganda, at least provide basic human rights guarantees on paper, if not in practice.

The actions referred to in this resolution represent but another in a long series of laws and resolutions which treat blacks, Asians, and coloreds in South Africa as little better than slaves.

The laws which so curb individual liberties are not based on political beliefs. They are not a result of religious differences. They are based solely on the color of one's skin.

Mr. Speaker, a year ago I stood in this well asking Members to join with me in the passage of a resolution, which many Members cosponsored with me, condemning and denouncing the disregard by the Soviet Union of the human rights and liberties of its own citizens, rights and liberties that we in the United States hold dear.

For the same reasons, I ask you now to vote for this resolution. You can call it by any name. You can pick flaws with language. You can find fault with other countries; but your vote against this resolution will be a vote to endorse the repression that is present and reprehensible in South Africa.

Today we are witnessing in the Republic of South Africa the same type of repression and the same efforts to thwart the legitimate aspirations of the people of South Africa as we have seen elsewhere. These actions by the government did not follow the death of Steve Biko. They did not arise with the decisions on October 19 to close black newspapers, ban organizations, and curb press freedom in South Africa. They do reflect a long litany of abuses.

The International Commission of Jurists has called the South African Sabotage Act of 1962 an act which reduced the liberty of citizens to "a degree not surpassed by the most extreme dictatorships of the left or right."

The Jurists' Commission went on to say, and I quote:

> This measure is a culmination of a determined and ruthless attempt to enforce the doctrine of apartheid and is not worthy of a civilized jurisprudence.

Regrettably, the law was not the culmination of South Africa's efforts to curb the rights of its citizens and to preserve apartheid. Such efforts continue today.

Mr. Speaker, in a few weeks, we in the United States will observe Thanksgiving, a time when we express our appreciation for the many rights and freedoms which our society guarantees and protects.

Many Americans, black and white, will take advantage of a 4-day weekend to visit relatives in other States and cities. In my own family, my daughter will come home from college to spend the weekend with our family.

Were I a black in South Africa, however, such a simple act as my child's visit home for 4 days would be against the law.

If I were black and living in South Africa, my wife and my 13-year-old daughter would have to obtain permits to continue living with me. It would be a criminal violation of the law for them to reside with me without such permits.

We have seen similar disregard for the sanctity of the family in the repressive policies of the Soviet Union.

Over the years, our Government has urged the South African Government to modify its policies. We have used reason. We have even vetoed resolutions imposing sanctions against South Africa in the hope of convincing that Government to modify its policies, all to no avail.

The resolution before us underlines the very deep concern of the Congress over the continuation and expansion of these repressive laws and policies and urges the President to take effective measures against the Republic of South Africa to further emphasize this concern.

It is regrettable, indeed, Mr. Speaker, when a country with the natural resources of South Africa should so waste its human resources. In a land wealthy with minerals, there is poverty of the soul.

Just as our Nation could not long thrive under such repressive measures, the Republic of South Africa cannot long survive under a system which deprives so many of its citizens the right to life, to liberty, and even to the pursuit of happiness.

The latest wave of repression adds to the reasons I say that the Government of South Africa might be doing what is right to win an election, but stands condemned before the judgment bar of history and before the judgment bar of God.

Mr. DIGGS. Mr. Speaker, I yield the balance of my time to the gentleman from New York (Mr. SOLARZ).

Mr. SOLARZ. Mr. Speaker, I must say that the arguments which we have heard

from my friends on the other side of the aisle, who style themselves as champions of human liberty and freedom, have a strangely false and hollow ring. They condemn this resolution on the grounds that while it criticizes the repressive activities of the Government of South Africa, it says nothing about the repressive activities of other governments elsewhere on the continent.

Yet when we passed the resolution a few weeks ago condemning the suppression of human rights in Cambodia, I did not hear them getting up and arguing against it on the grounds that it should have included references to the suppression of human rights in the Philippines and in South Korea.

When we passed the resolution a few months ago condemning the repression of human rights in the Soviet Union, I did not hear them argue against it on the grounds that we should have included references to the suppression of human rights in Cyprus.

When we passed resolutions over the last several years condemning the violation of human rights in Cuba, I did not hear them argue against it on the grounds that it did not refer to the suppression of human rights in Uruguay and Paraguay?

Why is it that whenever we have a resolution condemning repression by anti-Communist governments, it is criticized by these gentlemen on the grounds that it does not include references to the suppression of human rights by Communist governments; but whenever we have resolutions condemning the suppression of human freedom in Communist regimes, they say nothing about the fact it fails to refer to the suppression of human rights in anti-Communist governments.

The fact of the matter is that those of us who sponsor this resolution are concerned about the suppression of human rights in Uganda, Burundi, the Central African Republic, and other repressive regimes in Africa and elsewhere around the world. If those Members who oppose this resolution want a resolution dealing with repression in other countries let us draw it up, and let us work for it, but there is nothing in this resolution which implicitly or explicitly sanctions the suppression of human rights outside South Africa. What this resolution does is to express the concern of the Congress over the suppression of human rights in South Africa, and if a Member is against apartheid, and shares our sense of outrage over the recent events in that country, he ought to vote for this resolution.

Mr. BONKER. Mr. Speaker, any American concerned about massive and arbitrary violations of human rights should support this resolution. Using the mildest language possible, House Concurrent Resolution 388 calls for the United States to take effective measures to register our strong concern about the continuing gross violations of human rights in South Africa. Item 1: Blacks have no inalienable rights under South African law. Item 2: Over the past 18 months, 21 blacks have died while in detention, Steve Biko being the latest victim. Item 3: A series of highly arbitrary bannings and arrests of moderate groups occurred a couple of weeks ago on a scale unprecedented even by South African standards.

The resolution before us represents the very least we as concerned Americans can do at this time. Myself and many of my colleagues who follow events in Africa closely would have preferred a resolution calling for much stronger action on the part of the United States. However, Mr. Vorster's insulting description of the U.S. South African policy as "irrelevant" should not deter us from measuring our potential actions according to the standard of reason rather than a standard of highly emotional and fatuous electioneering politics currently employed by South African leaders. The range of options available to the United States is fairly extensive. On February 2, 1977, I introduced a list of these options which I will insert again today. The time has come for us to act in measured but effective ways. For example, an embargo on arms sales to South Africa will have little effect unless there is a concomitant prohibition on licensing arrangements which presently allow a variety of weapons to be manufactured within South Africa. Likewise, the possibility of recalling some of our diplomatic staff, such as the U.S. Commercial Attaché, is likely to have little effect on U.S. trade with South Africa unless action is taken to remove investment incentives provided through such institutions as the Export-Import Bank.

It is likely that by appealing to right-wing sentiments among whites in South Africa, Mr. Vorster will win the upcoming election by an overwhelming margin. We must make it very clear, however, that the use of such tactics will not help Mr. Vorster obtain support here.

The list of options follows:

U.S. POLICIES WHICH HAVE BEEN PROPOSED FOR MODIFYING SOUTH AFRICA'S SYSTEM OF APARTHEID

1. The United States could downgrade its representation in South Africa to the Charge Level to express its concern for self-determination and human rights.

2. The United States could officially and more forcefully condemn the violence and police tactics in recent racial disturbances, and the detention without trial of political activists.

3. The United States could cease condemnation of the efforts of blacks in South Africa to achieve their freedom by forceful means, and in reaffirmation of the principles enunciated in the Declaration of Independence, acknowledge their right to use whatever means are necessary to achieve self-determination.

4. The United States could make it clear to the present government of South Africa that the United States will not go to its defense or give aid in the suppression of internal revolt related to its apartheid policies, and that the United States would not seek to oppose support for such a revolt from neighboring black African states.

5. The United States could contribute substantially to the United Nations Trust Fund for South Africa. (The Fund is made up of voluntary contributions and is used for legal assistance, education, and refugee relief for refugees from South Africa. U.N. General Assembly Resolution 2397, December 1, 1968).

6. The United States could support multilateral (via the Organization of African Unity or the United Nations) or bilateral programs of humanitarian support to the liberation movements through the provision of educational and medical supplies.

7. The United States could adopt a program of assistance to political refugees from South Africa. (For example, South African students now in exile in Botswana have reportedly requested U.S. aid for obtaining travel documents and scholarships in the United States.)

8. The United States could take a stand against business expansion in South Africa until such time as South Africa ends its racial policies, and implement an effective means of discouraging U.S. business involvement in South Africa.

9. The United States could advise U.S. businesses that, if they decide to stay in South Africa, they do so at their own risk, and, in the event of difficulties with liberation elements, the U.S. Government will not support them or afford protection.

10. The United States Government could actively and publicly use its power and influence to encourage U.S. firms in South Africa to establish fair employment practices in their South African enterprises.

11. Executive Order No. 10925 could be amended so that, with respect to those U.S. businesses in South Africa, fair employment practices in their South African enterprises be a condition for the eligibility for government contracts.

12. The U.S. arms embargo against South Africa could be expanded to include the provision of spare parts, componentry and repairs; all sales of light aircraft, including civilian, to South Africa; and training to South African military personnel, including correspondence courses and participation in conferences, and cooperation in the transfer of, research, development and/or military know-how, including the testing of military equipment.

13. The United States could support a United Nations mandatory arms embargo against South Africa.

14. The role of the U.S. military attache in South Africa could be terminated.

15. The United States could institute an expanded educational and cultural program with South African blacks, coloureds and Asians, and those institutions and individuals working for change to majority rule.

16. The United States could end the sale of weapons-grade uranium to South Africa and end all nuclear collaboration.

17. U.S. policy in international financial organizations could be made consistent with a policy of supporting change in South Africa and not of economically undergirding the status quo.

18. U.S. banks and other financial institutions could be prohibited from providing financing to South Africa and/or to firms in South Africa.

19. U.S. visa policy toward South Africa could be based on quid pro quo considerations. (U.S. Congressman, academics, and journalists have been denied visas by South Africa.)

20. The United States could end all remaining Export-Import Bank facilities still available to South Africa. (Current policy permits insurance and guaranteed coverage in commercial sales. It normally limits the term of such coverage to two to five years, but can extend it if necessary.

21. The U.S. Department of Agriculture Commodity Credit Corporation (CCC) credits to South Africa, which have been extended to firms in South Africa making purchases from U.S. suppliers, could be ended.

22. The United States could forcefully make clear its opposition to the Bantustan program and plans for other independent "nations" such as the Transkei.

Mr. LUKEN. Mr. Speaker, I rise in support of House Concurrent Resolution 388 which expresses the concern of the American people about the violation of human rights in South Africa.

Apartheid is a vicious and unconscionable idea. Recent events in South Africa make this very clear. The death of Steve Biko, founder of the South African Students Organization, from wounds received while in the custody of the South African police, the outlawing of peaceful religious and social groups, and the closing of newspapers which opposed apartheid are actions which no civilized nation can accept, and which all civilized countries must scorn.

Mr. Speaker, I believe that South Africa has violated internationally recognized norms of human rights with its apartheid policy. Apartheid is not therefore merely an internal matter of South Africa. The United States, as a country dedicated to the cause of international human rights, and as a country which maintains diplomatic relations with South Africa, must denounce this doctrine.

In 1965 I marched with Dr. Martin Luther King in Birmingham, Ala. Since that time I believe that the United States has made progress in our struggle for racial equality. We would be terribly remiss, however, if we thought that the ideas we fought for will be safe when complete social justice is achieved within the borders of our country. Violations of human rights throughout the world, and as in the Soviet Union—are the business of the United States. Failure to recognize this will endanger the foundation on which we have built a strong nation dedicated to the belief that men are created equal before God and before the law.

Mr. KILDEE. Mr. Speaker, the Members of the House have previously indicated our concern over the violation of human rights throughout the world, and we have strongly supported President Carter's initiatives in this area.

As the leader of the democratic governments in the world, I feel that we have a special moral responsibility to encourage the development of democratic institutions and to discourage the erosion of these institutions.

The developments in South Africa especially during the last couple of weeks are tragic. To be very frank, I am outraged at a deliberate policy to undermine human rights and to deny those same political rights that we considered to be so important when we achieved our independence 200 years ago.

Two of the basic elements of democracy are due process of law and freedom of the press. It has become apparent that the Government of the Republic of South Africa is systematically denying these rights to persons who oppose certain abhorrent policies of that Government.

It has also become apparent that the Terrorism Act of 1960 is being used as a means of denying due process to people who are not terrorists. The detention and "banning" of churchmen and political moderates under the provisions of this act would seem to be contrary to its intent. The act seems to have become a convenient tool for stifling legitimate political opposition. I fear that the actions of the Government in South Africa may inevitably create a violent confrontation.

I urge my colleagues to join me in expressing their concern over the violations of basic human and political rights in South Africa by voting for this resolution denouncing the activities of the South African Government.

Mr. BENJAMIN. Mr. Speaker, I would like to rise in support of House Concurrent Resolution 388 which is for the purpose of denouncing the current repression which exists in South Africa and congratulate Mrs. COLLINS for her efforts to bring this matter to our attention. Since I represent the First District of Indiana which is still truly a melting pot of our country, I have long since been concerned about human rights issues around the globe. I have spoken out repeatedly against repression in the Ukraine, Lithuania, and the Soviet Union and today I believe that the Congress must go on record in denouncing the current actions of the South African Government. The South African Government's recent actions in Soweto, the closing of schools, the banning of black organizations and newspapers, are clearly human rights violations which cannot go unnoticed by our Government.

As a cosponsor of an identical resolution, I am proud to be able to publicly express my concern about the recent acts of repression by the Government of the Republic of South Africa. I would like to commend Congressman PARREN MITCHELL and the members of the Congressional Black Caucus for their leadership in bringing these deplorable conditions to the attention of the American public. I would also like to laud Congressman STEERS for his efforts in introducing a congressional resolution which would ask President Carter to examine to what degree U.S. Government-assisted trade with South Africa supports their apartheid system.

In addition, I have called upon Secretary of Transportation Brock Adams to not give any consideration to the bid of Grinaker Precast, Ltd—a South African firm—for a $35-million contract to produce 1.2 million concrete rail ties to upgrade the railroad tracks in the northeast corridor between Washington and Boston. While Grinaker Precast has teamed up with an American firm, I do not believe that this business arrangement is in the best interest of our foreign policy and certainly this kind of action would not benefit the beleaguered South Africans who are valiantly fighting for their civil rights.

It is my greatest hope that the Government of South Africa will see fit to reverse its apartheid policies and attempt to establish a democratic government where all citizens can participate fully in their Government.

Mr. ZABLOCKI. Mr. Speaker, I rise in support of House Concurrent Resolution 388, to express concern about the recent acts of repression by the Government of South Africa.

The distinguished chairman of the Subcommittee on Africa, Congressman DIGGS, and the principal sponsor of the resolution, the gentlelady from Illinois, Congresswoman COLLINS, have ably recounted for you the background of the recent dubious actions taken by the South African Government against its nonwhite citizens. For my part, I would simply add that these acts of repression are uniquely reprehensible in that they are directed at people solely on the basis of race and, unless immediately corrected, can only lead to more violence in South Africa and retard the search for peace in the entire southern African region. No nation, in good conscience, can stand silent in the face of such actions.

By urging the President to take effective measures against the South African Government in order to register the American people's deep concern about these repressive acts, we in no way limit the President's course of action in this crisis.

Rather by expressing our denunciation of these acts, the Congress will lend valuable support and credibility to the President's efforts in the United Nations to convince the South African Government to cease and desist.

I urge the adoption of the resolution.

Mr. BIAGGI. Mr. Speaker, House Concurrent Resolution 388 is a measure which aims to send a message to the brazen and shameless Government of South Africa as well as other such nations that the U.S. Congress denounces their acts of political and human repression. It is a message which must be heard clearly by the Vorster government.

For us to remain silent in the face of these outrages would in itself be shameless. In the past several months we have witnessed travesties in South Africa which resemble the horrors of Nazi Germany. The bludgeoning death of black leader Steve Biko shocked and enraged the civilized world. The closing of black-owned newspapers was another numbing development.

It is imperative that we respond by imposing effective measures against the Republic of South Africa. We are aware of the President's commitment of human rights and justice and this resolution expresses our support of this cause as it relates to South Africa. However, as I have said on numerous occasions, for our human rights policy to be truly effective—we must denounce all nations who engage in human rights violations. Certainly a parallel resolution should be sponsored to condemn Great Britain for human rights violations in the North of Ireland.

There is no more fundamental human right that the right to live. Steve Biko was denied this right—the right to a free press is also essential—the black majority of South Africa has been denied this right. We must prevent this disease from spreading. I urge support of House Concurrent Resolution 388.

Mr. KOSTMAYER. Mr. Speaker, on October 19 democracy was dealt another body blow by the Government of South Africa. The shutting down of the opposition press following the death of black leader Steve Biko, and the newly announced move to increase the cost of basic services to black communities, reveals a policy which ignores almost

totally those principles upon which our own country was built.

America has for a long time had a close relationship with the Government of South Africa. Now it is time to reexamine our policy toward that country. I am encouraged that the State Department has recalled our Ambassador to South Africa for the time being.

Earlier this year the House acted to prevent importation of certain commodities from Rhodesia. I urge my colleagues to join in approving the resolution which urges sanctions against the South African Government as a means of expressing our outrage at their policies.

We in the 95th Congress, on both sides of the aisle, have made clear our commitment to the cause of human rights. Once again it is time for us to show our support for the legitimate rights of the people of South Africa. The citizens of that unhappy land look to the United States; for our commitment is to the cause of basic human justice and remains a source of inspiration to people around the world. It is my hope we will not let them down in their hour of need.

GENERAL LEAVE

Mr. DIGGS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this concurrent resolution (H. Con. Res. 388).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore (Mr. McFALL). The question is on the motion offered by the gentleman from Michigan (Mr. DIGGS) that the House suspend the rules and agree to the concurrent resolution House Concurrent Resolution 388.

The question was taken.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

CHANGES IN EXCISE TAXES ON DISTILLED SPIRITS

Mr. ULLMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4458) to amend certain provisions of the Internal Revenue Code of 1954 relating to distilled spirits, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4458

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5062(b) of the Internal Revenue Code of 1954 is amended to read as follows:

"(b) DRAWBACK.—On the exportation of distilled spirits or wines manufactured, produced, bottled, or packaged in casks or other bulk containers in the United States on which an internal revenue tax has been paid or determined, and which are contained in any cask or other bulk container, or in bottles packed in cases or other containers, there shall be allowed, under regulations prescribed by the Secretary, a drawback equal in amount to the tax found to have been paid or determined on such distilled spirits or wines. In the case of distilled spirits, the preceding sentence shall not apply unless the claim for drawback is filed by the bottler or packager of the spirits and unless such spirits have been stamped or restamped, and marked, especially for export, under regulations prescribed by the Secretary. The Secretary is authorized to prescribe regulations governing the determination and payment or crediting of drawback of internal revenue tax on spirits and wines eligible for drawback under this subsection, including the requirements of such notices, bonds, bills of lading, and other evidence indicating payment or determination of tax and exportation as shall be deemed necessary."

SEC. 2. (a) Section 5215 of the Internal Revenue Code of 1954 is amended to read as follows:

"SEC. 5215. RETURN OF TAX DETERMINED DISTILLED SPIRITS TO BONDED PREMISES.

"(a) GENERAL.—On such application and under such regulations as the Secretary may prescribe, distilled spirits withdrawn from bonded premises on payment or determination of tax (other than products to which any alcoholic ingredients other than such distilled spirits have been added), may be returned to the bonded premises of a distilled spirits plant. Such returned distilled spirits shall be destroyed, denatured, or distilled, or shall be mingled as authorized in section 5234(a)(1) (other than subparagraph (C) thereof).

"(b) DISTILLED SPIRITS RETURNED TO BONDED PREMISES FOR STORAGE PENDING EXPORTATION.—On such application and under such conditions as the Secretary may by regulations prescribe, distilled spirits which would be eligible for allowance of drawback under section 5062(b) on exportation, may be returned by the bottler or packager of such distilled spirits to an export storage facility on the bonded premises of the distilled spirits plant where bottled or packaged, solely for the purpose of storage pending withdrawal without payment of tax under section 5214(a) (4), (7), (8), or (9), or free of tax under section 7510.

"(c) DISTILLED SPIRITS STAMPED AND LABELED AS BOTTLED IN BOND.—On such application and under such regulations as the Secretary may prescribe, a proprietor of bonded premises who has bottled distilled spirits under section 5178(a)(4)(A)(ii), which are stamped and labeled as bottled in bond for domestic consumption, may return cases of such bottled distilled spirits to appropriate storage facilities on the bonded premises of the distilled spirits plant where bottled for storage pending withdrawal for any purpose for which distilled spirits bottled under section 5178(a)(4)(A)(i) may be withdrawn from bonded premises.

"(d) APPLICABILITY OF CHAPTER TO DISTILLED SPIRITS RETURNED TO BONDED PREMISES.—Except as otherwise provided in this section, all provisions of this chapter applicable to distilled spirits in bond shall be applicable to distilled spirits returned to bonded premises under the provisions of this section on such return.

"(e) CROSS REFERENCES.—

"(1) For provisions relating to the remission, abatement, credit, or refund of tax on distilled spirits returned to bonded premises under this section, see section 5008(d).

"(2) For provisions relating to the establishment of an export storage facility on the bonded premises of a distilled spirits plant, see section 5178(a)(3)(D)."

(b) Section 5178(a)(3) of such Code is amended by adding at the end thereof the following new subparagraph:

"(D) A proprietor who has established facilities for the storage on bonded premises of distilled spirits under subparagraph (C) may establish a portion of such premises as an export storage facility for the storage of distilled spirits returned to bonded premises under section 5215(b)."

(c) Section 5205(c)(2) of such Code is amended by adding at the end thereof the following new sentence: "This paragraph shall also apply to every container of distilled spirits returned to the bonded premises under the provisions of section 5215(b).".

(d) The heading and the first sentence of paragraph (1) of section 5066(a) of such Code are amended to read as follows:

"(1) BOTTLED DISTILLED SPIRITS WITHDRAWN FROM BONDED PREMISES.—Under such regulations as the Secretary may prescribe, distilled spirits bottled in bond for export under the provisions of section 5233, or bottled distilled spirits returned to bonded premises under section 5215(b), may be withdrawn from bonded premises as provided in section 5214(a)(4) for transfer to customs bonded warehouses in which imported distilled spirits are permitted to be stored in bond for entry therein pending withdrawal therefrom as provided in subsection (b)."

(e) Section 5207(a) of such Code is amended—

(1) by striking out "and" at the end of paragraph (9),

(2) by redesignating present paragraph (10) as (11), and

(3) by inserting after paragraph (9) the following new paragraph:

"(10) the kind and quantity of distilled spirits returned to bonded premises, and".

(f) Section 5008(d) of such Code is amended to read as follows:

"(d) DISTILLED SPIRITS RETURNED TO BONDED PREMISES.—

"(1) GENERAL.—Whenever any distilled spirits withdrawn from bonded premises on payment or determination of tax are returned to the bonded premises of a distilled spirits plant under section 5215(a), the Secretary shall abate, remit, or (without interest) credit or refund the tax imposed under section 5001(a)(1) (or the tax equal to such tax imposed under section 7652) on the spirits so returned.

"(2) DISTILLED SPIRITS RETURNED TO BONDED PREMISES FOR STORAGE PENDING EXPORTATION.—Whenever any distilled spirits are returned under section 5215(b) to the bonded premises of a distilled spirits plant, the Secretary shall (without interest) credit or refund the internal revenue tax found to have been paid or determined with respect to such distilled spirits. Such amount of tax shall be the same amount which would be allowed as a drawback under section 5062(b) on the exportation of such distilled spirits.

"(3) DISTILLED SPIRITS STAMPED AND LABELED AS BOTTLED IN BOND.—Whenever any distilled spirits are returned under section 5215(c) to the bonded premises of a distilled spirits plant, the Secretary shall (without interest) credit or refund the tax imposed under section 5001(a)(1) on the spirits so returned.

"(4) LIMITATION.—No allowance under paragraph (1), (2), or (3) shall be made unless a claim is filed under such regulations as the Secretary may prescribe, by the proprietor of the distilled spirits plant to which the distilled spirits are returned within 6 months of the date of return."

SEC. 3. (a) Section 5124(a)(9) of the Internal Revenue Code of 1954 is amended to read as follows:

"(9) without payment of tax, in the case of distilled spirits bottled in bond for export under section 5233 or distilled spirits returned to bonded premises under section 5215(b)), for transfer (for the purpose of storage pending exportation) to any customs bonded warehouse from which distilled spirits may be exported, and distilled spirits transferred to a customs bonded warehouse under this paragraph shall be entered, stored,

and accounted for under such regulations and bonds as the Secretary may prescribe; or".

(b) Section 5175(a) of such Code is amended to read as follows:

"(a) REQUIREMENTS.—No distilled spirits shall be withdrawn from bonded premises for exportation, or for transfer to a customs bonded warehouse for storage therein pending exportation, without payment of tax unless the exporter has furnished bond to cover such withdrawal under such regulations and conditions, and in such form and penal sum, as the Secretary may prescribe."

(c) Section 5003 of such Code is amended by striking out "manufacturing" in paragraph (9) and inserting before the period at the end of paragraph (9) "and section 5214(a)(9)".

(d) Section 5214(b) of such Code is amended by adding at the end thereof the following new paragraph:

"(7) For provisions relating to distilled spirits for use of foreign embassies, legations, etc., see section 5066."

SEC. 4. (a) Section 5214(a) of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new paragraph:

"(10) without payment of tax by a proprietor of bonded premises for use in research, development, or testing (other than consumer testing or other market analysis) of processes, systems, materials, or equipment, relating to distilled spirits or distillery operations, under such limitations and conditions as to quantities, use, and accountability as the Secretary may by regulations require for the protection of the revenue."

(b) Section 5005(e)(2) of such Code is amended to read as follows:

"(2) RELIEF FROM LIABILITY.—All persons liable for the tax on distilled spirits under paragraph (1) of this subsection, or under subsection (a) or (b), or under any similar prior provisions of internal revenue law, shall be relieved of any such liability at the time, as the case may be, the distilled spirits are exported, deposited in a foreign-trade zone, used in the production of wine, deposited in customs bonded warehouses, laden as supplies upon, or used in the maintenance or repair of, certain vessels or aircraft, or used in certain research, development, or testing, as provided by law."

(c) (1) Section 5004(a)(2)(B) of such Code is amended by striking out "(9), or" and inserting "or" after "(2),".

(2) Section 5004(a)(2)(C) of such Code is amended to read as follows:

"(C) exported, deposited in a foreign-trade zone, used in the production of wine, laden as supplies upon, or used in the maintenance or repair of, certain vessels or aircraft, deposited in a customs bonded warehouse, or used in certain research, development, or testing, as provided by law."

(d) (1) Section 5005(d) of such Code is amended by striking out "(3), or (9)" and inserting "or (3)" after "(2),".

(2) Section 5005(e)(1) of such Code is amended by striking out "section 5214(a)(4), (5), (6), (7), or (8)," and inserting "section 5214(a)(4), (5), (6), (7), (8), (9), or (10),".

(e) (1) Section 5008(f)(3) of such Code is amended by striking "and" at the end thereof.

(2) Section 5008(f)(4) of such Code is amended by striking out the period at the end thereof and inserting in lieu thereof "; and".

(3) Section 5008(f) of such Code is amended by adding at the end thereof the following:

"(5) the customs bonded warehouse in the case of withdrawal under sections 5066 and 5214(a)(9).

The provisions of subsection (a) shall be applicable to loss of distilled spirits withdrawn from bonded premises without payment of tax under section 5214(a)(10) for certain research, development, or testing, until such distilled spirits are used as provided by law."

(f) Paragraph (14) of section 5003 of such Code is amended to read as follows:

"(14) For provisions authorizing the withdrawal of distilled spirits without payment of tax for use in certain research, development, or testing, see section 5214(a)(10)."

SEC. 5. (a)(1) Section 5234(a)(2) of such Code is amended by striking from the heading "FOR FURTHER STORAGE IN BOND.".

(2) So much of the first sentence of section 5234(a)(2) of such Code as follows subparagraph (C) thereof is amended to read as follows:

"(D) which have been stored in internal revenue bond in the same kind of cooperage for not less than 4 years (or 2 years in the case of rum or brandy),

may, within 20 years of the date of original entry for deposit of the spirits, be mingled on bonded premises."

(b) Section 5025(e)(7) of such Code is amended by striking out "for further storage in bond".

SEC. 6. Section 5025(b) of the Internal Revenue Code of 1954 is amended by inserting ", or the extracted oils of such," after "other natural aromatics".

SEC. 7. The amendments made by this Act shall take effect on the first day of the first calendar month which begins more than 90 days after the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. FRENZEL. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Oregon (Mr. ULLMAN) and the gentleman from Minnesota (Mr. FRENZEL) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4458 makes a number of technical amendments to the provisions of the Internal Revenue Code taxing distilled spirits in order to encourage exportation of our distilled spirits, thereby tending to provide more jobs in this industry for our workers and adding another weight in our favor to the balance of payments. This is the main thrust of the bill now before this Chamber. Other provisions of the bill make it easier to use spirits for plant research and development purposes and eliminate an obsolete restriction in the production of gin that now hampers product uniformity.

Mr. Speaker, the provisions of this bill are of an unusually technical nature, but they may be fairly summarized as follows:

The first section extends to imported distilled spirits that are packaged or bottled in the United States for export the same tax drawback treatment given to domestically produced spirits that are packaged or bottled for export.

Section 2 allows distilled spirits to be returned to bonded premises of distilled spirits plants or to export storage facilities for storage pending exportation. Also, it provides for refund or credit of the tax at the time those distilled spirits are returned for that purpose.

Section 3 allows spirits bottled in bond for export, or returned to an export storage facility for eventual exportation, to be transferred without payment of tax to customs bonded warehouses for storage pending exportation.

Section 4 allows spirits to be withdrawn from bonded premises without payment of tax for purposes of product and operations research, development, and testing.

Section 5 relaxes the conditions under which bonded spirits may be mingled.

Section 6 allows gin to be made with the extracted oils of juniper berries and other aromatics, as well as with the juniper berries or other aromatics themselves, without payment of the rectification tax.

Section 7—the effective date—provides that the bill's provisions take effect at the start of the first calendar month which begins more than 90 days after enactment.

Mr. Speaker, the bill was passed by the House last year and was reported favorably by the Senate Finance Committee but died because the Congress adjourned 3 days later. This bill is supported by the distilled spirits industry and has gained the general approval of the Treasury Department and of the Bureau of Alcohol, Tobacco, and Firearms. It is estimated that the only loss to the revenue will be $3 to $5 million during the first year after enactment, with no loss thereafter.

Mr. Speaker, I urge adoption of H.R. 4458.

Mr. FRENZEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4458, which amends various excise tax provisions of the Internal Revenue Code of 1954 concerning distilled spirits.

The bill contains several provisions that will facilitate the export of distilled spirits and wines.

H.R. 4458 also provides for the drawback of tax paid or determined on imported wines or distilled spirits, that are bottled or packaged in casks or other bulk containers in this country, and are exported. Wines or spirits manufactured in the United States are currently eligible for this export drawback. The bill contains other provisions intended to reduce the cost of exporting spirits.

The bill also makes the use of distilled spirits for scientific purposes less costly by providing that distilled spirits may be withdrawn from a bonded premises for specified types of research, development, or testing, without the payment of tax. To prevent abuses, the Secretary of the Treasury is authorized to impose limitations and conditions on the use of the withdrawn spirits.

H.R. 4458 allows producers greater flexibility in their operations by extending the exemption from the rectification tax to gin produced by the use of extracted oils of juniper berries and other natural aromatics.

H.R. 4458 allows producers to operate

more efficiently and facilitates the export of distilled spirits and wines. I recommend its passage.

Mr. ROSTENKOWSKI. Mr. Speaker, as a member of the Ways and Means Committee, I urge my colleagues to join me in support of H.R. 4458 which amends certain of the distilled spirits plant provisions of the Internal Revenue Code. This legislation would remove from the code restrictions which are not necessary for the effective enforcement of revenue and regulatory aspects of the law. This legislation is substantially the same as that which passed the House of Representatives during the 94th Congress. These amendments have no adverse impact on the revenue and can be summarized as follows:

SECTION-BY-SECTION ANALYSIS

Section 1. *Drawback for bulk imported goods bottled in United States:* Section 1 of the bill would authorize allowance of drawback of tax on bulk imported goods which are bottled in the United States and exported therefrom. Because of the limitation to goods "manufactured or produced in the United States" in existing law, imported distilled spirits are not subject to drawback under section 5062(b). However, by virtue of section 5523, IRC, reduction in proof and bottling or packaging are deemed to constitute manufacturing under section 311 of the Tariff Act of 1930. (19 U.S.C. 1311). This amendment would make the export standards of Sec. 5062(b) consistent with those in Section 311.

Section 2. *Distilled spirits returned to bonded premises:* Section 2 of the bill would permit the bottler or packager to return to an export storage facility on bonded premises distilled spirits which would be eligible for drawback under Section 5062(b). The return of the spirits must be solely for the purpose of storage pending withdrawal for export, or other withdrawal without payment of tax authorized under Section 5214(a), or free of tax under Section 7510.

This section also permits the bottler to return to appropriate storage facilities on the bonded premises distilled spirits which he had bottled in bond after tax determination. Such spirits may be withdrawn for any purpose for which distilled spirits bottled in bond before tax determination may be withdrawn from bonded premises.

Appropriate amendments are made to provide for the remission, abatement, credit, or refund of tax on spirits returned to bonded premises under this section.

The amendments made by this section are designed to simplify and encourage export transactions.

Section 3. *Withdrawals to customs bonded warehouses:* Section 3 of the bill would authorize withdrawal of distilled spirits from bonded premises without payment of tax for transfer to any customs bonded warehouse. This provision applies to spirits bottled in bond for export and to spirits returned to bonded premises under section 5215(b). The amendment is designed to simplify and encourage export transactions.

Section 4. *Removal of samples for research, development, or testing:* Section 4 of the bill would make a reasonable extension of the purposes for which samples may be removed without payment of tax to include plant research in addition to laboratory analysis. This amendment is similar to the recent amendment to Section 5053 relating to beer.

Section 5. *Mingling and blending of distilled spirits:* Section 6 of the bill eliminates the requirements of existing law that the mingled spirits be placed in the same barrels and that the mingling must be for further storage in bond. Proper administration of the distilled spirits tax and regulatory provisions does not require the return of the distilled spirits to bonded storage. From a practical standpoint, the use of the same package is an unnecessary restriction.

Section 6. *Use of juniper oils in production of gin:* Section 7 of the bill would authorize the use of extracted oils of juniper berries and other aromatics in the production of gin without incurrence of the rectification tax in addition to the present system of redistillation of a pure spirit over juniper berries and other aromatics. This amendment will permit production of gin with greater uniformity and without loss in quality.

Section 7. *Effective date:* The act would become effective on the first day of the first calendar month which begins more than 90 days after enactment. This will give the Treasury Department and the distilling industry sufficient time to modify procedures under the statutes amended.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ULLMAN. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN) that the House suspend the rules and pass the bill H.R. 4458, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 3, rule XXVII, the Chair will now put the question on each motion on which further proceedings were postponed in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 6782;
H.R. 9710;
H.J. Res. 611;
H. Res. 871;
H. Res. 868; and
H. Con. Res. 388; on all of which the yeas and nays were ordered.

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

RAISIN MARKETING PROVISIONS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 6782, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. RICHMOND) that the House suspend the rules and pass the bill H.R. 6782, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 396, nays 7, not voting 31, as follows:

[Roll No. 716]

YEAS—396

Abdnor	Diggs	Latta
Addabbo	Dornan	Le Fante
Akaka	Downey	Leach
Allen	Drinan	Lederer
Ambro	Duncan, Tenn.	Leggett
Ammerman	Early	Lehman
Anderson, Calif.	Eckhardt	Lent
	Edgar	Levitas
Andrews, N.C.	Edwards, Ala.	Livingston
Andrews, N. Dak.	Edwards, Calif.	Lloyd, Calif.
	Edwards, Okla.	Lloyd, Tenn.
Annunzio	Eilberg	Long, La.
Applegate	Emery	Long, Md.
Archer	English	Lott
Armstrong	Erlenborn	Lujan
Ashbrook	Ertel	Luken
Ashley	Evans, Colo.	McClory
Aspin	Evans, Del.	McCloskey
AuCoin	Evans, Ga.	McDade
Badham	Evans, Ind.	McEwen
Badillo	Fary	McFall
Bafalis	Fascell	McHugh
Baldus	Fenwick	McKay
Barnard	Findley	McKinney
Baucus	Fisher	Madigan
Bauman	Fithian	Maguire
Beard, R.I.	Flippo	Mahon
Beard, Tenn.	Flood	Mann
Bedell	Florio	Markey
Beilenson	Flynt	Marks
Benjamin	Foley	Marlenee
Bevill	Ford, Mich.	Marriott
Biaggi	Ford, Tenn.	Martin
Blanchard	Forsythe	Mathis
Blouin	Fountain	Mattox
Boggs	Fowler	Mazzoli
Boland	Frenzel	Meeds
Bonior	Frey	Meyner
Bonker	Fuqua	Michel
Bowen	Gaydos	Mikulski
Brademas	Gephardt	Mikva
Breaux	Gilman	Milford
Breckinridge	Ginn	Miller, Calif.
Brinkley	Glickman	Miller, Ohio
Brodhead	Goldwater	Mineta
Brooks	Gonzalez	Minish
Broomfield	Goodling	Mitchell, Md.
Brown, Calif.	Gore	Mitchell, N.Y.
Brown, Mich.	Gradison	Moakley
Brown, Ohio	Grassley	Moffett
Broyhill	Gudger	Mollohan
Buchanan	Guyer	Montgomery
Burgener	Hagedorn	Moore
Burke, Calif.	Hall	Moorhead, Calif.
Burke, Fla.	Hamilton	
Burke, Mass.	Hammer-schmidt	Moorhead, Pa.
Burleson, Tex.		Moss
Burlison, Mo.	Hanley	Mottl
Burton, John	Hannaford	Murphy, Ill.
Burton, Phillip	Hansen	Murphy, N.Y.
Butler	Harkin	Murphy, Pa.
Byron	Harrington	Murtha
Caputo	Harris	Myers, John
Carney	Harsha	Myers, Michael
Carr	Hawkins	Natcher
Carter	Hefner	Neal
Cavanaugh	Heftel	Nedzi
Cederberg	Hightower	Nichols
Chappell	Hillis	Nix
Clausen, Don H.	Hollenbeck	Nolan
	Holt	Nowak
Clay	Holtzman	O'Brien
Cleveland	Horton	Oakar
Cochran	Hubbard	Oberstar
Cohen	Huckaby	Obey
Coleman	Hughes	Ottinger
Collins, Ill.	Ichord	Panetta
Collins, Tex.	Ireland	Patten
Conable	Jacobs	Patterson
Conte	Jeffords	Pattison
Corman	Jenkins	Pease
Cornell	Jenrette	Pepper
Cornwell	Johnson, Calif.	Perkins
Cotter	Johnson, Colo.	Pettis
Coughlin	Jones, N.C.	Pickle
Crane	Jones, Okla.	Pike
Cunningham	Jones, Tenn.	Poage
D'Amours	Jordan	Pressler
Daniel, Dan	Kasten	Preyer
Daniel, R. W.	Kastenmeier	Price
Danielson	Kazen	Pritchard
Davis	Kelly	Pursell
de la Garza	Kemp	Quie
De'aney	Ketchum	Quillen
Dellums	Keys	Rahall
Dent	Kildee	Railsback
Derrick	Kindness	Rangel
Derwinski	Kostmayer	Regula
Devine	Krebs	Reuss
Dickinson	LaFalce	Rhodes
Dicks	Lagomarsino	Richmond

Rinaldo	Slack	Vander Jagt
Risenhoover	Smith, Iowa	Vanik
Robinson	Smith, Nebr.	Vento
Roe	Snyder	Volkmer
Rogers	Solarz	Waggonner
Roncalio	Spellman	Walgren
Rooney	Spence	Walker
Rose	St Germain	Walsh
Rosenthal	Staggers	Wampler
Rostenkowski	Stangeland	Watkins
Rousselot	Stanton	Waxman
Roybal	Stark	Weaver
Rudd	Steed	Weiss
Runnels	Steers	Whalen
Ruppe	Steiger	White
Russo	Stokes	Whitehurst
Ryan	Stratton	Whitley
Sarasin	Studds	Whitten
Satterfield	Stump	Wiggins
Sawyer	Symms	Wilson, Bob
Scheuer	Taylor	Wilson, C. H.
Schroeder	Teague	Wilson, Tex.
Schulze	Thompson	Winn
Sebelius	Thone	Wirth
Seiberling	Thornton	Wylie
Sharp	Traxler	Yates
Shipley	Treen	Yatron
Shuster	Trible	Young, Alaska
Sikes	Tsongas	Young, Mo.
Simon	Tucker	Young, Tex.
Sisk	Udall	Zablocki
Skelton	Ullman	Zeferetti
Skubitz	Van Deerlin	

NAYS—7

Bennett	Myers, Gary	Wydler
Dingell	Quayle	
McDonald	Stockman	

NOT VOTING—31

Alexander	Flowers	Lundine
Anderson, Ill.	Fraser	McCormack
Bingham	Gammage	Metcalfe
Bolling	Giaimo	Roberts
Chisholm	Gibbons	Rodino
Clawson, Del	Heckler	Santini
Conyers	Holland	Wolff
Corcoran	Howard	Wright
Dodd	Hyde	Young, Fla.
Duncan, Oreg.	Koch	
Fish	Krueger	

The Clerk announced the following pairs:

Mr. Dodd with Mrs. Heckler.
Mr. Flowers with Mr. Anderson of Illinois.
Mr. Lundine with Mr. Alexander.
Mr. McCormack with Mr. Hyde.
Mr. Conyers with Mr. Rodino.
Mrs. Chisholm with Mr. Wolff.
Mr. Koch with Mr. Giaimo.
Mr. Bingham with Mr. Metcalfe.
Mr. Santini with Mr. Krueger.
Mr. Howard with Mr. Corcoran of Illinois.
Mr. Fraser with Mr. Del Clawson.
Mr. Gammage with Mr. Wright.
Mr. Gibbons with Mr. Duncan of Oregon.
Mr. Roberts with Mr. Holland.

Mr. McDONALD changed his vote from "yea" to "nay."

So (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b)(3), rule XXVII, the Chair announces he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on the additional motions to suspend the rules on which the Chair has postponed further proceedings.

REGULATION Q EXTENSION

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 9710, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Rhode Island (Mr. ST GERMAIN) that the House suspend the rules and pass the bill H.R. 9710, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 395, nays 3, answered "present" 7, not voting 29, as follows:

[Roll No. 717]

YEAS—395

Abdnor	Collins, Ill.	Hall
Addabbo	Collins, Tex.	Hamilton
Akaka	Conable	Hammer-schmidt
Allen	Conte	Hanley
Ambro	Corman	Hannaford
Ammerman	Cornell	Hansen
Anderson, Calif.	Cornwell	Harkin
Andrews, N.C.	Cotter	Harrington
Andrews, N. Dak.	Coughlin	Harris
Annunzio	Cunningham	Harsha
Applegate	D'Amours	Hawkins
Archer	Daniel, Dan	Hefner
Armstrong	Daniel, R. W.	Heftel
Ashbrook	Danielson	Hightower
Ashley	Davis	Hillis
Aspin	de la Garza	Hollenbeck
AuCoin	Delaney	Holt
Badham	Dellums	Holtzman
Badillo	Dent	Horton
Bafalis	Derrick	Hubbard
Baldus	Derwinski	Huckaby
Barnard	Devine	Hughes
Baucus	Dickinson	Ichord
Bauman	Dicks	Ireland
Beard, R.I.	Diggs	Jacobs
Beard, Tenn.	Dingell	Jeffords
Bedell	Dornan	Jenkins
Beilenson	Downey	Jenrette
Benjamin	Drinan	Johnson, Calif.
Bennett	Duncan, Tenn.	Johnson, Colo.
Bevill	Early	Jones, N.C.
Biaggi	Eckhardt	Jones, Okla.
Blanchard	Edgar	Jones, Tenn.
Blouin	Edwards, Ala.	Jordan
Boggs	Edwards, Calif.	Kasten
Boland	Edwards, Okla.	Kastenmeier
Bonior	Eilberg	Kazen
Bonker	English	Kelly
Bowen	Erlenborn	Kemp
Brademas	Ertel	Ketchum
Breaux	Evans, Colo.	Keys
Breckinridge	Evans, Del.	Kildee
Brinkley	Evans, Ga.	Kindness
Brodhead	Evans, Ind.	Kostmayer
Brooks	Fary	Krebs
Broomfield	Fascell	LaFalce
Brown, Calif.	Fenwick	Lagomarsino
Brown, Mich.	Findley	Latta
Brown, Ohio	Fisher	Le Fante
Broyhill	Fithian	Leach
Buchanan	Flippo	Lederer
Burgener	Flood	Leggett
Burke, Calif.	Florio	Lehman
Burke, Fla.	Flynt	Lent
Burke, Mass.	Foley	Levitas
Burleson, Tex.	Ford, Mich.	Livingston
Burlison, Mo.	Ford, Tenn.	Lloyd, Calif.
Burton, John	Forsythe	Lloyd, Tenn.
Burton, Phillip	Fountain	Long, La.
Butler	Fowler	Long, Md.
Byron	Frenzel	Lott
Caputo	Frey	Lujan
Carney	Fuqua	Luken
Carr	Gaydos	McClory
Carter	Gephardt	McCloskey
Cavanaugh	Gilman	McDade
Cederberg	Ginn	McEwen
Chappell	Glickman	McFall
Clausen, Don H.	Goldwater	McHugh
Clay	Goodling	McKay
Cochran	Gore	McKinney
Cohen	Gradison	Madigan
Coleman	Grassley	Maguire
Collins, Ill.	Gudger	Mahon
Collins, Tex.	Guyer	Mann
Conable	Hagedorn	Markey
Conte	Hall	Marks
Corman	Hamilton	Marlenee
Cornell	Hammer-schmidt	Marriott
Cornwell	Hanley	Martin
Cotter	Hannaford	Mathis
Coughlin	Hansen	Mattox
Cunningham	Harkin	Mazzoli
D'Amours	Harrington	Meeds
Daniel, Dan	Harris	Meyner
Daniel, R. W.	Harsha	Michel
Danielson	Hawkins	Mikulski
Davis	Hefner	Mikva
de la Garza	Heftel	Milford
Delaney	Hightower	Miller, Calif.
Dellums	Hillis	Miller, Ohio
Dent	Hollenbeck	Mineta
Derrick	Holt	Minish
Derwinski	Holtzman	Mitchell, Md.
Devine	Horton	Mitchell, N.Y.
Dickinson	Hubbard	Moakley
Dicks	Huckaby	Moffett
Diggs	Hughes	Mollohan
Dingell	Ichord	Montgomery
Dornan	Ireland	Moore
Downey	Jacobs	Moorhead, Calif.
Drinan	Jeffords	Moorhead, Pa.
Duncan, Tenn.	Jenkins	Moss
Early	Jenrette	Murphy, Ill.
Eckhardt	Johnson, Calif.	Murphy, N.Y.
Edgar	Johnson, Colo.	Murphy, Pa.
Edwards, Ala.	Jones, N.C.	Murtha
Edwards, Calif.	Jones, Okla.	Myers, Gary
Edwards, Okla.	Jones, Tenn.	Myers, John
Eilberg	Jordan	Myers, Michael
English	Kasten	Natcher
Erlenborn	Kastenmeier	Neal
Ertel	Kazen	Nedzi
Evans, Colo.	Kelly	Nichols
Evans, Del.	Kemp	Nix
Evans, Ga.	Ketchum	Nolan
Evans, Ind.	Keys	Nowak
Fary	Kildee	Oakar
Fascell	Kindness	Oberstar
Fenwick	Kostmayer	Obey
Findley	Krebs	Ottinger
Fisher	LaFalce	Panetta
Fithian	Lagomarsino	Patten
Flippo	Latta	Patterson
Flood	Le Fante	Pattison
Florio	Leach	Pease
Flynt	Lederer	Pepper
Foley	Leggett	Perkins
Ford, Mich.	Lehman	Pettis
Ford, Tenn.	Lent	Pickle
Forsythe	Levitas	Pike
Fountain	Livingston	Poage
Fowler	Lloyd, Calif.	Pressler
Frenzel	Lloyd, Tenn.	Preyer
Frey	Long, La.	Price
Fuqua	Long, Md.	Pritchard
Gaydos	Lott	Pursell
Gephardt	Lujan	Quayle
Gilman	Luken	Quie
Ginn	McClory	Rahall
Glickman	McCloskey	Railsback
Goldwater	McDade	Rangel
Goodling	McEwen	Regula
Gore	McFall	Reuss
Gradison	McHugh	Rhodes
Grassley	McKay	Richmond
Gudger	McKinney	Rinaldo
Guyer	Madigan	Risenhoover
Hagedorn	Maguire	Robinson
Hall	Mahon	Rodino
Hamilton	Mann	Roe
Hammer-schmidt	Markey	Rogers
Hanley	Marks	Roncalio
Hannaford	Marlenee	Rooney
Hansen	Marriott	Rose
Harkin	Martin	Rosenthal
Harrington	Mathis	Rostenkowski
Harris	Mattox	Rousselot
Harsha	Mazzoli	Roybal
Hawkins	Meeds	Rudd
Hefner	Meyner	Runnels
Heftel	Michel	Ruppe
Hightower	Mikulski	Russo
Hillis	Mikva	Ryan
Hollenbeck	Milford	Sarasin
Holt	Miller, Calif.	Satterfield
Holtzman	Miller, Ohio	Sawyer
Horton	Mineta	Scheuer
Hubbard	Minish	Schroeder
Huckaby	Mitchell, Md.	Schulze
Hughes	Mitchell, N.Y.	Sebelius
Ichord	Moakley	Seiberling
Ireland	Moffett	Sharp
Jacobs	Mollohan	Shipley
Jeffords	Montgomery	Shuster
Jenkins	Moore	Sikes
Jenrette	Moorhead, Calif.	Simon
Johnson, Calif.	Moorhead, Pa.	Sisk
Johnson, Colo.	Moss	Skelton
Jones, N.C.	Murphy, Ill.	Skubitz
Jones, Okla.	Murphy, N.Y.	Slack
Jones, Tenn.	Murphy, Pa.	Smith, Iowa
Jordan	Murtha	Smith, Nebr.
Kasten	Myers, Gary	Snyder
Kastenmeier	Myers, John	Solarz
Kazen	Myers, Michael	Spellman
Kelly	Natcher	Spence
Kemp	Neal	St Germain
Ketchum	Nedzi	Staggers
Keys	Nichols	Stangeland
Kildee	Nix	Stanton
Kindness	Nolan	Stark
Kostmayer	Nowak	Steed
Krebs	Oakar	Steiger
LaFalce	Oberstar	Stockman
Lagomarsino	Obey	Stokes
Latta	Ottinger	Stratton
Le Fante	Panetta	Studds
Leach	Patten	Stump
Lederer	Patterson	Symms
Leggett	Pattison	Taylor
Lehman	Pease	Teague
Lent	Pepper	Thompson
Levitas	Perkins	Thone
Livingston	Pettis	Thornton
Lloyd, Calif.	Pickle	Traxler
Lloyd, Tenn.	Pike	Treen
Long, La.	Poage	Trible
Long, Md.	Pressler	Tsongas
Lott	Preyer	Tucker
Lujan	Price	Udall
Luken	Pritchard	Ullman
McClory	Pursell	Van Deerlin
McCloskey	Quayle	Vander Jagt
McDade	Quie	Vanik
McEwen	Rahall	Vento
McFall	Railsback	Volkmer
McHugh	Rangel	Waggonner
McKay	Regula	Walgren
McKinney	Reuss	Walker
Madigan	Rhodes	Wampler
Maguire	Richmond	Watkins
Mahon	Rinaldo	Waxman
Mann	Risenhoover	Weaver
Markey	Robinson	Weiss
Marks	Rodino	Whalen
Marlenee	Roe	White
Marriott	Rogers	Whitehurst
Martin	Roncalio	Whitley
Mathis	Rooney	Whitten
Mattox	Rose	Wiggins
Mazzoli	Rosenthal	Wilson, Bob
Meeds	Rostenkowski	Wilson, C. H.
Meyner	Rousselot	Wilson, Tex.
Michel	Roybal	Winn
Mikulski	Rudd	Wirth
Mikva	Runnels	Wydler
Milford	Ruppe	Wylie
Miller, Calif.	Russo	Yates
Miller, Ohio	Ryan	Yatron
Mineta	Sarasin	Young, Alaska
Minish	Satterfield	Young, Fla.
Mitchell, Md.	Sawyer	Young, Mo.
Mitchell, N.Y.	Scheuer	Young, Tex.
Moakley	Schroeder	Zablocki
Moffett	Schulze	Zeferetti
Mollohan	Sebelius	
Montgomery	Seiberling	
Moore	Sharp	
Moorhead, Calif.	Shipley	
Moorhead, Pa.	Shuster	
Moss	Sikes	
Murphy, Ill.	Simon	
Murphy, N.Y.	Sisk	
Murphy, Pa.	Skelton	
Murtha	Skubitz	
Myers, Gary	Slack	
Myers, John	Smith, Iowa	
Myers, Michael	Smith, Nebr.	
Natcher	Snyder	
Neal	Solarz	
Nedzi	Spellman	
Nichols	Spence	
Nix	St Germain	
Nolan	Staggers	
Nowak	Stangeland	
Oakar		
Oberstar	NAYS—3	
Obey		
Ottinger		
Panetta		
Patten		
Patterson		
Pattison		
Pease		
Pepper		
Perkins		
Pettis		
Pickle		
Pike		
Poage		

Emery	McDonald	Motti

ANSWERED "PRESENT"—7

Cleveland	O'Brien	Walsh
Crane	Quillen	
Gonzalez	Steers	

NOT VOTING—29

Alexander	Fish	Koch
Anderson, Ill.	Flowers	Krueger
Bingham	Fraser	Lundine
Bolling	Gammage	McCormack
Chisholm	Giaimo	Metcalfe
Clawson, Del	Gibbons	Roberts
Conyers	Heckler	Santini
Corcoran	Holland	Wolff
Dodd	Howard	Wright
Duncan, Oreg.	Hyde	

The Clerk announced the following pairs:

Mr. McCormack with Mr. Del Clawson.
Mr. Roberts with Mrs. Heckler.
Mr. Santini with Mr. Hyde.
Mr. Wright with Mr. Anderson of Illinois.
Mr. Flowers with Mr. Krueger.
Mrs. Chisholm with Mr. Duncan of Oregon.
Mr. Bingham with Mr. Corcoran of Illinois.
Mr. Koch with Mr. Lundine.
Mr. Howard with Mr. Wolff.
Mr. Giaimo with Mr. Gibbons.
Mr. Alexander with Mr. Conyers.
Mr. Dodd with Mr. Fraser.
Mr. Gammage with Mr. Metcalfe.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FEDERAL RESERVE BANK AUTHORITY EXTENSION

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the joint resolution (H.J. Res. 611).

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland (Mr. MITCHELL) that the House suspend the rules and pass the joint resolution (H.J. Res. 611), on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 388, nays 14, not voting 32, as follows:

[Roll No. 718]

YEAS—388

Abdnor	Collins, Ill.	Grassley
Addabbo	Collins, Tex.	Gudger
Akaka	Conable	Guyer
Allen	Conte	Hagedorn
Ambro	Corman	Hall
Ammerman	Cornell	Hamilton
Anderson, Calif.	Cornwell	Hanley
Andrews, N.C.	Cotter	Hannaford
Andrews, N. Dak.	Coughlin	Hansen
Annunzio	D'Amours	Harkin
Applegate	Daniel, Dan	Harrington
Archer	Daniel, R. W.	Harris
Armstrong	Danielson	Harsha
Ashley	Davis	Hawkins
Aspin	de la Garza	Hefner
AuCoin	Delaney	Heftel
Badillo	Dellums	Hightower
Bafalis	Dent	Hillis
Barnard	Derrick	Hollenbeck
Baucus	Derwinski	Holtzman
Beard, R.I.	Devine	Horton
Beard, Tenn.	Dickinson	Hubbard
Bedell	Dicks	Huckaby
Beilenson	Dingell	Hughes
Benjamin	Dornan	Ichord
Bennett	Downey	Ireland
Bevill	Drinan	Jacobs
Biaggi	Duncan, Tenn.	Jeffords
Blanchard	Early	Jenkins
Blouin	Edgar	Jenrette
Boggs	Edwards, Ala.	Johnson, Calif.
Boland	Edwards, Calif.	Johnson, Colo.
Bonior	Edwards, Okla.	Jones, N.C.
Bonker	Eilberg	Jones, Okla.
Bowen	Emery	Jones, Tenn.
Brademas	English	Jordan
Breaux	Erlenborn	Kasten
Breckinridge	Ertel	Kastenmeier
Brinkley	Evans, Colo.	Kazen
Brodhead	Evans, Del.	Kelly
Brooks	Evans, Ga.	Kemp
Broomfield	Evans, Ind.	Ketchum
Brown, Calif.	Fary	Keys
Brown, Mich.	Fascell	Kildee
Brown, Ohio	Fenwick	Kindness
Broyhill	Findley	Kostmayer
Buchanan	Fisher	Krebs
Burgener	Fithian	LaFalce
Burke, Calif.	Flippo	Lagomarsino
Burke, Fla.	Flood	Latta
Burke, Mass.	Florio	Le Fante
Burlison, Mo.	Flynt	Leach
Burton, John	Foley	Lederer
Burton, Phillip	Ford, Mich.	Leggett
Butler	Ford, Tenn.	Lehman
Byron	Forsythe	Lent
Carney	Fountain	Levitas
Carr	Fowler	Livingston
Carter	Fraser	Lloyd, Calif.
Cavanaugh	Frenzel	Lloyd, Tenn.
Cederberg	Frey	Long, La.
Chappell	Fuqua	Long, Md.
Clausen, Don H.	Gaydos	Lott
Clay	Gephardt	Lujan
Cleveland	Gilman	Luken
Cochran	Ginn	McClory
Cohen	Glickman	McCloskey
Coleman	Goldwater	McDade
	Goodling	McEwen
	Gore	McFall
	Gradison	McHugh
	McKay	Pepper	St Germain
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	McKinney	Perkins	Stangeland
	Madigan	Pettis	Stanton
	Maguire	Pickle	Stark
	Mahon	Pike	Steed
	Mann	Pressler	Steers
	Markey	Preyer	Steiger
	Marks	Price	Stockman
	Marlenee	Pritchard	Stokes
	Marriott	Pursell	Stratton
	Martin	Quayle	Studds
	Mathis	Quie	Stump
	Mattox	Quillen	Taylor
	Mazzoli	Rahall	Teague
	Meeds	Railsback	Thompson
	Meyner	Rangel	Thone
	Michel	Regula	Thornton
	Mikulski	Reuss	Traxler
	Mikva	Rhodes	Treen
	Milford	Richmond	Trible
	Miller, Calif.	Rinaldo	Tsongas
	Miller, Ohio	Risenhoover	Tucker
	Mineta	Robinson	Udall
	Minish	Rodino	Ullman
	Mitchell, Md.	Roe	Van Deerlin
	Mitchell, N.Y.	Rogers	Vander Jagt
	Moakley	Roncalio	Vanik
	Moffett	Rooney	Vento
	Mollohan	Rose	Volkmer
	Montgomery	Rosenthal	Waggonner
	Moore	Rostenkowski	Walgren
	Moorhead, Calif.	Roybal	Walker
	Moorhead, Pa.	Rudd	Walsh
	Moss	Runnels	Wampler
	Mottl	Ruppe	Watkins
	Murphy, Ill.	Russo	Waxman
	Murphy, N.Y.	Ryan	Weaver
	Murphy, Pa.	Sarasin	Weiss
	Murtha	Satterfield	Whalen
	Myers, Gary	Sawyer	White
	Myers, John	Scheuer	Whitehurst
	Myers, Michael	Schroeder	Whitley
	Natcher	Schulze	Whitten
	Neal	Sebelius	Wiggins
	Nedzi	Seiberling	Wilson, Bob
	Nichols	Sharp	Wilson, C. H.
	Nix	Shipley	Wilson, Tex.
	Nolan	Shuster	Winn
	Nowak	Sikes	Wirth
	O'Brien	Simon	Wydler
	Oakar	Sisk	Wylie
	Oberstar	Skelton	Yates
	Obey	Skubitz	Yatron
	Ottinger	Slack	Young, Alaska
	Panetta	Smith, Iowa	Young, Fla.
	Patten	Smith, Nebr.	Young, Mo.
	Patterson	Snyder	Young, Tex.
	Pattison	Solarz	Zablocki
	Pease	Spellman	Zeferetti
		Spence	

NAYS—14

Ashbrook	Cunningham	Poage
Badham	Gonzalez	Rousselot
Bauman	Hammer-schmidt	Symms
Burleson, Tex.		
Caputo	Holt	
Crane	McDonald	

NOT VOTING—32

Alexander	Duncan, Oreg.	Koch
Anderson, Ill.	Eckhardt	Krueger
Baldus	Fish	Lundine
Bingham	Flowers	McCormack
Bolling	Gammage	Metcalfe
Chisholm	Giaimo	Roberts
Clawson, Del.	Gibbons	Santini
Conyers	Heckler	Staggers
Corcoran	Holland	Wolff
Diggs	Howard	Wright
Dodd	Hyde	

The Clerk announced the following pairs:

Mr. Wright with Mr. Fish.
Mr. Staggers with Mr. Eckhardt.
Mr. Giaimo with Mr. Diggs.
Mr. Koch with Mr. Corcoran of Illinois.
Mr. McCormack with Mr. Del Clawson.
Mr. Metcalfe with Mr. Anderson of Illinois.
Mr. Roberts with Mr. Gammage.
Mrs. Chisholm with Mr. Hyde.
Mr. Alexander with Mr. Baldus.
Mr. Dodd with Mr. Holland.
Mr. Flowers with Mr. Duncan of Oregon.
Mr. Lundine with Mr. Conyers.
Mr. Howard with Mr. Krueger.
Mr. Wolff with Mr. Gibbons.
Mr. Santini with Mr. Bingham.

So (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

SELECT COMMITTEE ON ETHICS EXTENSION

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution H. Res. 871.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. DELANEY) to suspend the rules and agree to the resolution H. Res. 871, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 385, nays 22, not voting 27, as follows:

[Roll No. 719]

YEAS—385

Abdnor	Clausen, Don H.	Fowler
Addabbo	Clay	Fraser
Akaka	Cleveland	Frenzel
Allen	Cochran	Frey
Ambro	Cohen	Fuqua
Ammerman	Coleman	Gaydos
Anderson, Calif.	Collins, Ill.	Gephardt
Andrews, N.C.	Collins, Tex.	Gibbons
Andrews, N. Dak.	Conable	Gilman
Annunzio	Conte	Ginn
Applegate	Corman	Glickman
Archer	Cornell	Goldwater
Armstrong	Cornwell	Goodling
Ashley	Cotter	Gore
Aspin	Coughlin	Gradison
AuCoin	Cunningham	Grassley
Badillo	D'Amours	Gudger
Bafalis	Daniel, Dan	Guyer
Baldus	Daniel, R. W.	Hagedorn
Barnard	Danielson	Hall
Baucus	Davis	Hamilton
Bauman	de la Garza	Hanley
Beard, R.I.	Delaney	Hannaford
Beard, Tenn.	Dellums	Harkin
Bedell	Dent	Harrington
Beilenson	Derrick	Harris
Benjamin	Derwinski	Harsha
Bennett	Devine	Hawkins
Bevill	Dickinson	Hefner
Blanchard	Dicks	Heftel
Blouin	Diggs	Hightower
Boggs	Dingell	Hillis
Boland	Dornan	Hollenbeck
Bonior	Downey	Holt
Bonker	Drinan	Holtzman
Bowen	Duncan, Oreg.	Horton
Brademas	Duncan, Tenn.	Hubbard
Breaux	Early	Huckaby
Breckinridge	Eckhardt	Hughes
Brinkley	Edgar	Ichord
Brodhead	Edwards, Ala.	Ireland
Brooks	Edwards, Calif.	Jacobs
Broomfield	Edwards, Okla.	Jenkins
Brown, Calif.	Eilberg	Jenrette
Brown, Mich.	Emery	Johnson, Calif.
Brown, Ohio	English	Johnson, Colo.
Broyhill	Erlenborn	Jones, N.C.
Buchanan	Ertel	Jones, Okla.
Burgener	Evans, Del.	Jones, Tenn.
Burke, Calif.	Evans, Ga.	Jordan
Burke, Fla.	Evans, Ind.	Kasten
Burke, Mass.	Fary	Kastenmeier
Burlison, Mo.	Fascell	Kazen
Burton, John	Fenwick	Kelly
Burton, Phillip	Findley	Kemp
Butler	Fisher	Keys
Byron	Fithian	Kildee
Caputo	Flippo	Kindness
Carney	Flood	Kostmayer
Carr	Florio	Krebs
Carter	Flynt	LaFalce
Cavanaugh	Foley	Lagomarsino
Cederberg	Ford, Mich.	Latta
Chappell	Ford, Tenn.	Le Fante
	Forsythe	Leach
	Fountain	Lederer
		Leggett

Lehman	Nichols	Smith, Nebr.
Lent	Nix	Snyder
Levitas	Nolan	Solarz
Livingston	Nowak	Spellman
Lloyd, Calif.	Oakar	Spence
Lloyd, Tenn.	Oberstar	St Germain
Long, La.	Obey	Staggers
Long, Md.	Panetta	Stangeland
Lott	Patten	Stanton
Lujan	Patterson	Stark
Luken	Pattison	Steed
McClory	Pease	Steers
McCloskey	Pepper	Steiger
McDade	Perkins	Stockman
McEwen	Pettis	Stokes
McFall	Pickle	Stratton
McHugh	Pressler	Studds
McKay	Preyer	Stump
McKinney	Price	Taylor
Madigan	Pritchard	Thompson
Maguire	Pursell	Thone
Mahon	Quayle	Thornton
Mann	Quie	Traxler
Markey	Rahall	Treen
Marks	Railsback	Trible
Marlenee	Rangel	Tsongas
Marriott	Regula	Tucker
Martin	Reuss	Udall
Mathis	Rhodes	Ullman
Mattox	Richmond	Van Deerlin
Mazzoli	Rinaldo	Vander Jagt
Meeds	Risenhoover	Vanik
Meyner	Robinson	Vento
Michel	Rodino	Volkmer
Mikulski	Roe	Waggonner
Mikva	Rogers	Walgren
Milford	Roncalio	Walker
Miller, Calif.	Rooney	Walsh
Miller, Ohio	Rose	Wampler
Mineta	Rosenthal	Watkins
Minish	Rostenkowski	Waxman
Mitchell, Md.	Roybal	Weaver
Mitchell, N.Y.	Rudd	Weiss
Moakley	Ruppe	Whalen
Moffett	Russo	White
Mollohan	Ryan	Whitehurst
Montgomery	Sarasin	Whitley
Moore	Satterfield	Whitten
Moorhead, Calif.	Sawyer	Wiggins
	Scheuer	Wilson, Bob
Moorhead, Pa.	Schroeder	Wilson, C. H.
Moss	Schulze	Wilson, Tex.
Mottl	Sebelius	Winn
Murphy, Ill.	Seiberling	Wirth
Murphy, N.Y.	Sharp	Wylie
Murphy, Pa.	Shipley	Yates
Murtha	Shuster	Yatron
Myers, Gary	Sikes	Young, Alaska
Myers, John	Simon	Young, Fla.
Myers, Michael	Skelton	Young, Mo.
Natcher	Skubitz	Young, Tex.
Neal	Slack	Zablocki
Nedzi	Smith, Iowa	Zeferetti

NAYS—22

Ashbrook	Hansen	Runnels
Badham	Jeffords	Sisk
Biaggi	Ketchum	Symms
Burleson, Tex.	McDonald	Teague
Crane	O'Brien	Wydler
Evans, Colo.	Pike	
Gonzalez	Poage	
Hammer-schmidt	Quillen	
	Rousselot	

NOT VOTING—27

Alexander	Fish	Krueger
Anderson, Ill.	Flowers	Lundine
Bingham	Gammage	McCormack
Bolling	Giaimo	Metcalfe
Chisholm	Heckler	Ottinger
Clawson, Del	Holland	Roberts
Conyers	Howard	Santini
Corcoran	Hyde	Wolff
Dodd	Koch	Wright

The Clerk announced the following pairs:

Mr. Bingham with Mr. Anderson of Illinois.
Mrs. Chisholm with Mr. Del Clawson.
Mr. Wolff with Mr. Hyde.
Mr. Santini with Mrs. Heckler.
Mr. Roberts with Mr. Corcoran of Illinois.
Mr. McCormack with Mr. Fish.
Mr. Metcalfe with Mr. Holland.
Mr. Alexander with Mr. Dodd.
Mr. Conyers with Mr. Flowers.
Mr. Ottinger with Mr. Krueger.
Mr. Wright with Mr. Koch.
Mr. Howard with Mr. Gammage.
Mr. Giaimo with Mr. Lundine.

Mr. ANDERSON of California changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

URGING KOREAN GOVERNMENT COOPERATION

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution (H. Res. 868).

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. ZABLOCKI) that the House suspend the rules and agree to the resolution (H. Res. 868) on which the yeas and nays are ordered.

The vote was taken by electronic device; and there were—yeas 407, nays 0, not voting 27, as follows:

[Roll No. 720]

YEAS—407

Abdnor	Carney	Fisher
Addabbo	Carr	Fithian
Akaka	Carter	Flippo
Allen	Cavanaugh	Flood
Ambro	Cederberg	Florio
Ammerman	Chappell	Flynt
Anderson, Calif.	Clausen, Don H.	Foley
		Ford, Mich.
Andrews, N.C.	Clay	Ford, Tenn.
Andrews, N. Dak.	Cleveland	Forsythe
	Cochran	Fountain
Annunzio	Cohen	Fowler
Applegate	Coleman	Fraser
Archer	Collins, Ill.	Frenzel
Armstrong	Collins, Tex.	Frey
Ashbrook	Conable	Fuqua
Ashley	Conte	Gaydos
Aspin	Corman	Gephardt
AuCoin	Cornell	Gibbons
Badham	Cornwell	Gilman
Badillo	Cotter	Ginn
Bafalis	Coughlin	Glickman
Baldus	Crane	Goldwater
Barnard	Cunningham	Gonzalez
Baucus	D'Amours	Goodling
Bauman	Daniel, Dan	Gore
Beard, R.I.	Daniel, R. W.	Gradison
Beard, Tenn.	Danielson	Grassley
Bedell	Davis	Gudger
Beilenson	de la Garza	Guyer
Benjamin	Delaney	Hagedorn
Bennett	Dellums	Hall
Bevill	Dent	Hamilton
Biaggi	Derrick	Hammer-schmidt
Blanchard	Derwinski	
Blouin	Devine	Hanley
Boggs	Dickinson	Hannaford
Boland	Dicks	Hansen
Bonior	Diggs	Harkin
Bonker	Dingell	Harrington
Bowen	Dornan	Harris
Brademas	Downey	Harsha
Breaux	Drinan	Hawkins
Breckinridge	Duncan, Oreg.	Hefner
Brinkley	Duncan, Tenn.	Heftel
Brodhead	Early	Hightower
Brooks	Eckhardt	Hillis
Broomfield	Edgar	Hollenbeck
Brown, Calif.	Edwards, Ala.	Holt
Brown, Mich.	Edwards, Calif.	Holtzman
Brown, Ohio	Edwards, Okla.	Horton
Broyhill	Eilberg	Hubbard
Buchanan	Emery	Huckaby
Burgener	English	Hughes
Burke, Calif.	Erlenborn	Ichord
Burke, Fla.	Ertel	Ireland
Burke, Mass.	Evans, Colo.	Jacobs
Burleson, Tex.	Evans, Del.	Jeffords
Burlison, Mo.	Evans, Ga.	Jenkins
Burton, John	Evans, Ind.	Jenrette
Burton, Phillip	Fary	Johnson, Calif.
Butler	Fascell	Johnson, Colo.
Byron	Fenwick	Jones, N.C.
Caputo	Findley	Jones, Okla.
Jones, Tenn.	Murphy, N.Y.	Simon
Jordan	Murphy, Pa.	Sisk
Kasten	Murtha	Skelton
Kastenmeier	Myers, Gary	Skubitz
Kazen	Myers, John	Slack
Kelly	Myers, Michael	Smith, Iowa
Kemp	Natcher	Smith, Nebr.
Ketchum	Neal	Snyder
Keys	Nedzi	Solarz
Kildee	Nichols	Spellman
Kindness	Nix	Spence
Kostmayer	Nolan	St Germain
Krebs	Nowak	Staggers
LaFalce	O'Brien	Stangeland
Lagomarsino	Oakar	Stanton
Latta	Oberstar	Stark
Le Fante	Obey	Steed
Leach	Ottinger	Steers
Lederer	Panetta	Steiger
Leggett	Patten	Stockman
Lehman	Patterson	Stokes
Lent	Pattison	Stratton
Levitas	Pease	Studds
Livingston	Pepper	Stump
Lloyd, Calif.	Perkins	Symms
Lloyd, Tenn.	Pettis	Taylor
Long, La.	Pickle	Teague
Lott	Pike	Thompson
Lujan	Poage	Thone
Luken	Pressler	Thornton
McClory	Preyer	Traxler
McCloskey	Price	Treen
McDade	Pritchard	Trible
McDonald	Pursell	Tsongas
McEwen	Quayle	Tucker
McFall	Quie	Udall
McHugh	Quillen	Ullman
McKay	Rahall	Van Deerlin
McKinney	Railsback	Vander Jagt
Madigan	Rangel	Vanik
Maguire	Regula	Vento
Mahon	Reuss	Volkmer
Mann	Rhodes	Waggonner
Markey	Richmond	Walgren
Marks	Rinaldo	Walker
Marlenee	Risenhoover	Walsh
Marriott	Robinson	Wampler
Martin	Rodino	Watkins
Mathis	Roe	Waxman
Mattox	Rogers	Weaver
Mazzoli	Roncalio	Weiss
Meeds	Rooney	Whalen
Meyner	Rose	White
Michel	Rosenthal	Whitehurst
Mikulski	Rostenkowski	Whitley
Mikva	Rousselot	Whitten
Milford	Roybal	Wiggins
Miller, Calif.	Rudd	Wilson, Bob
Miller, Ohio	Runnels	Wilson, C. H.
Mineta	Ruppe	Wilson, Tex.
Minish	Russo	Winn
Mitchell, Md.	Ryan	Wirth
Mitchell, N.Y.	Sarasin	Wydler
Moakley	Satterfield	Wylie
Moffett	Sawyer	Yates
Mollohan	Scheuer	Yatron
Montgomery	Schroeder	Young, Alaska
Moore	Schulze	Young, Fla.
Moorhead, Calif.	Sebelius	Young, Mo.
	Seiberling	Young, Tex.
Moorhead, Pa.	Sharp	Zablocki
Moss	Shipley	Zeferetti
Mottl	Shuster	
Murphy, Ill.	Sikes	

NAYS—0

NOT VOTING—27

Alexander	Fish	Krueger
Anderson, Ill.	Flowers	Long, Md.
Bingham	Gammage	Lundine
Bolling	Giaimo	McCormack
Chisholm	Heckler	Metcalfe
Clawson, Del	Holland	Roberts
Conyers	Howard	Santini
Corcoran	Hyde	Wolff
Dodd	Koch	Wright

The Clerk announced the following pairs:

Mrs. Chisholm with Mr. Fish.
Mr. Gammage with Mrs. Heckler.
Mr. Giaimo with Mr. Corcoran of Illinois.
Mr. Santini with Mr. Anderson of Illinois.
Mr. Wolff with Mr. Holland.
Mr. Koch with Mr. Alexander.
Mr. Roberts with Mr. Del Clawson.
Mr. McCormack with Mr. Hyde.
Mr. Lundine with Mr. Krueger.
Mr. Howard with Mr. Long of Maryland.
Mr. Dodd with Mr. Metcalfe.

Mr. Conyers with Mr. Wright.
Mr. Bingham with Mr. Flowers.

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

EXPRESSING CONCERN ABOUT RECENT ACTS OF REPRESSION BY THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution (H. Con. Res. 388).

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. DIGGS) that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 388), on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 347, nays 54, answered "present" 5, not voting 28, as follows:

[Roll No. 721]

YEAS—347

Abdnor	Clausen,	Fraser
Addabbo	Don H.	Frenzel
Akaka	Clay	Frey
Allen	Cochran	Fuqua
Ambro	Cohen	Gaydos
Ammerman	Coleman	Gephardt
Anderson,	Collins, Ill.	Gibbons
Calif.	Conable	Gilman
Andrews, N.C.	Conte	Ginn
Annunzio	Corman	Glickman
Applegate	Cornell	Goldwater
Archer	Cornwell	Gonzalez
Ashley	Cotter	Goodling
Aspin	Coughlin	Gore
AuCoin	Cunningham	Gradison
Badillo	D'Amours	Grassley
Bafalis	Danielson	Gudger
Baldus	Davis	Guyer
Barnard	de la Garza	Hagedorn
Baucus	Delaney	Hall
Beard, R.I.	Dellums	Hamilton
Beard, Tenn.	Derrick	Hanley
Bedell	Derwinski	Hannaford
Beilenson	Dicks	Harkin
Benjamin	Diggs	Harrington
Bevill	Dingell	Harris
Biaggi	Downey	Harsha
Blanchard	Drinan	Hawkins
Blouin	Duncan, Oreg.	Hefner
Boggs	Duncan, Tenn.	Heftel
Boland	Early	Hightower
Bonior	Eckhardt	Hillis
Bonker	Edgar	Hollenbeck
Bowen	Edwards, Ala.	Holtzman
Brademas	Edwards, Calif.	Horton
Breaux	Edwards, Okla.	Hubbard
Breckinridge	Eilberg	Huckaby
Brinkley	Emery	Hughes
Brodhead	English	Jacobs
Brooks	Erlenborn	Jeffords
Broomfield	Ertel	Jenrette
Brown, Calif.	Evans, Colo.	Johnson, Calif.
Brown, Mich.	Evans, Del.	Johnson, Colo.
Brown, Ohio	Evans, Ind.	Jones, N.C.
Broyhill	Fary	Jones, Okla.
Buchanan	Fascell	Jones, Tenn.
Burgener	Fenwick	Jordan
Burke, Calif.	Findley	Kasten
Burke, Fla.	Fisher	Kastenmeier
Burke, Mass.	Fithian	Kazen
Burlison, Mo.	Flippo	Keys
Burton, John	Flood	Kildee
Burton, Phillip	Florio	Kindness
Caputo	Foley	Kostmayer
Carney	Ford, Mich.	Krebs
Carr	Ford, Tenn.	LaFalce
Carter	Forsythe	Lagomarsino
Cavanaugh	Fountain	Le Fante
Cederberg	Fowler	Leach
Lederer	Nichols	Smith, Iowa
Leggett	Nix	Smith, Nebr.
Lehman	Nolan	Snyder
Lent	Nowak	Solarz
Levitas	Oakar	Spellman
Livingston	Oberstar	Spence
Lloyd, Calif.	Obey	St Germain
Lloyd, Tenn.	Ottinger	Staggers
Long, La.	Panetta	Stangeland
Long, Md.	Patten	Stanton
Luken	Patterson	Stark
McClory	Pattison	Steed
McCloskey	Pease	Steers
McDade	Pepper	Steiger
McFall	Perkins	Stockman
McHugh	Pettis	Stokes
McKay	Pickle	Studds
McKinney	Pike	Thompson
Madigan	Pressler	Thone
Maguire	Preyer	Thornton
Mahon	Price	Traxler
Mann	Pritchard	Treen
Markey	Pursell	Trible
Marks	Quayle	Tsongas
Marlenee	Quie	Tucker
Martin	Rahall	Udall
Mathis	Railsback	Ullman
Mattox	Rangel	Van Deerlin
Mazzoli	Regula	Vander Jagt
Meeds	Reuss	Vanik
Meyner	Rhodes	Vento
Michel	Richmond	Volkmer
Mikulski	Rinaldo	Walgren
Mikva	Risenhoover	Walker
Miller, Calif.	Rodino	Walsh
Mineta	Roe	Wampler
Minish	Rogers	Watkins
Mitchell, Md.	Roncalio	Waxman
Mitchell, N.Y.	Rooney	Weaver
Moakley	Rose	Weiss
Moffett	Rosenthal	Whalen
Mollohan	Rostenkowski	White
Moore	Roybal	Whitehurst
Moorhead,	Ruppe	Whitley
Calif.	Russo	Whitten
Moorhead, Pa.	Ryan	Wiggins
Moss	Sarasin	Wilson, C. H.
Mottl	Sawyer	Wilson, Tex.
Murphy, Ill.	Scheuer	Wirth
Murphy, N.Y.	Schroeder	Wydler
Murphy, Pa.	Sebelius	Wylie
Murtha	Seiberling	Yates
Myers, Gary	Sharp	Yatron
Myers, John	Shipley	Young, Mo.
Myers, Michael	Simon	Young, Tex.
Natcher	Sisk	Zablocki
Neal	Skelton	Zeferetti
Nedzi	Slack	

NAYS—54

Andrews,	Hansen	Rousselot
N. Dak.	Holt	Rudd
Armstrong	Ichord	Runnels
Ashbrook	Ireland	Satterfield
Badham	Jenkins	Schulze
Bauman	Kelly	Shuster
Bennett	Kemp	Sikes
Burleson, Tex.	Ketchum	Stratton
Butler	Latta	Stump
Byron	Lott	Symms
Chappell	Lujan	Taylor
Collins, Tex.	McDonald	Teague
Daniel, Dan	McEwen	Waggonner
Daniel, R. W.	Marriott	Wilson, Bob
Dent	Miller, Ohio	Young, Alaska
Devine	Montgomery	Young, Fla.
Dornan	O'Brien	
Flynt	Poage	
Hammer-	Quillen	
schmidt	Robinson	

ANSWERED "PRESENT"—5

Cleveland	Dickinson	Milford
Crane	Evans, Ga.	

NOT VOTING—28

Alexander	Flowers	McCormack
Anderson, Ill.	Gammage	Metcalfe
Bingham	Giaimo	Roberts
Bolling	Heckler	Santini
Chisholm	Holland	Skubitz
Clawson, Del	Howard	Winn
Conyers	Hyde	Wolff
Corcoran	Koch	Wright
Dodd	Krueger	
Fish	Lundine	

The Clerk announced the following pairs:

Mr. Flowers with Mr. Skubitz.
Mr. Krueger with Mr. Winn.
Mr. Metcalfe with Mr. Bingham.
Mr. McCormack with Mr. Corcoran of Illinois.
Mr. Roberts with Mrs. Heckler.
Mr. Santini with Mr. Hyde.
Mr. Wright with Mr. Holland.
Mr. Wolff with Mr. Howard.
Mr. Koch with Mr. Dodd.
Mrs. Chisholm with Mr. Del Clawson.
Mr. Conyers with Mr. Anderson of Illinois.
Mr. Giaimo with Mr. Gammage.
Mr. Alexander with Mr. Lundine.

Mr. MARRIOTT changed his vote from "present" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid upon the table.

ANNOUNCEMENT BY THE SPEAKER

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent to speak out of order for 1 minute.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. O'NEILL. Mr. Speaker, I address my remarks to the minority leader.

In view of the fact that so many of the younger Members have said that this is an evening which means so much in their lives with their own youngsters at home, I thought the House would rise at 6 o'clock, if there is no objection on that side of the aisle.

Mr. RHODES. If the Speaker will yield, of course there is no objection, but I just want to know where the Speaker is going to do his trick or treating.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed a concurrent resolution of the following title:

S. Con. Res. 53. Concurrent resolution authorizing the printing of additional copies of hearings entitled "Panama Canal Treaties."

WORLD ASSEMBLY ON AGING

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that the Committee on International Relations be discharged from further consideration of the resolution (H. Res. 736) to express the sense of the House of Representatives that the U.S. delegation to the United Nations should work with the delegations of other member nations to call for a World Assembly on Aging and a World Year on Aging, and ask for its immediate consideration.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 736

Whereas the United Nations has within recent years intensified its research and information exchange activities relating to aging;

Whereas a question relating to broadening the United Nations program on aging will be considered this autumn at the thirty-second session of the General Assembly;

Whereas the discussion of such question will offer a timely forum for discussion of a proposal for a World Year on Aging and an intergovernmental Assembly on Aging;

Whereas recent United Nations reports provide impressive evidence that aging populations worldwide will cause widespread economic and social dislocations unless extensive and informed efforts are made to take full advantage of the beneficial and far-reaching opportunities afforded by an increase in the proportion of older persons; and

Whereas there is reason to believe that widespread support for a World Assembly and World Year on Aging can be developed among member nations of the United Nations: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that the President should instruct the United States delegation to the United Nations to work with the delegations of other nations represented at the United Nations to call for a World Assembly on Aging and a World Year on Aging for not later than 1982.

SEC. 2. The Clerk of the House shall transmit a copy of this resolution to the President.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. ZABLOCKI) is recognized for 1 hour.

Mr. ZABLOCKI. Mr. Speaker, House Resolution 736 is a simple resolution expressing the sense of the House that the President should instruct the U.S. delegation to the United Nations to work with other delegations to that body to call for a World Assembly on Aging and a World Year on Aging for not later than 1982.

This is a timely expression of the House. The problems of the aging are a challenge not only to the United States but to the world community. In 1970 United Nations estimates revealed 291 million in the world over 60 and projected that population to increase by 585 million by the year 2000—a growth of more than 100 percent.

An increase of such magnitude will call for solutions to such difficult problems as improving health, status, income maintenance, and housing for the world's senior citizens. The issues of social policy will impact on every nation of the world and therefore should be discussed in the United Nations where all members of the world community can help to solve these problems.

It is important to note that a number of private international nongovernmental organizations and U.S. private organizations have endorsed this resolution. They include the Grey Panthers, the American Association of Retired Teachers, the Association for Gerontology in Higher Education; the National Council of Senior Citizens; the National Indian Council on Aging; the Urban Elderly Coalition; and the International Center for Social Gerontology.

Mr. Speaker, the other body unanimously approved an identical resolution earlier this month and the Committee on International Relations gave its unanimous approval to the resolution last Thursday. Although passage of this resolution will cost the taxpayer absolutely nothing, it would certainly lend support to U.S. efforts to make the future brighter for the aging of the world when the U.N. General Assembly takes up the issue in November of this year.

Mr. Speaker, I wish to congratulate the distinguished gentleman from Florida (Mr. PEPPER) for his sponsorship of this resolution and for his able stewardship of the Select Committee on Aging.

I urge the adoption of the resolution.

Mr. Speaker, I yield 5 minutes to the gentleman from Florida (Mr. PEPPER), the principal sponsor of the resolution, for debate only.

Mr. PEPPER. Mr. Speaker, I wish to thank and commend my distinguished colleagues, DONALD FRASER, chairman of International Organizations Submittee, and CLEMENT ZABLOCKI, chairman of the Committee on International Relations for reporting my resolution (H. Res. 736) to the floor for consideration by the full House.

In recognition of the overwhelming need to shape responsive policies which address the crucial worldwide social, economic, and political implications of an increasing elderly population, I am gratified that my colleagues in the House brought forth this resolution calling for the President to instruct the U.S. delegation to the United Nations to work with other U.N. delegations toward a World Assembly on Aging and a World Year on Aging not later than 1982.

Due to medical breakthroughs and improved social conditions, the elderly are increasing in numbers worldwide. The approximate 291 million persons 60 years and over, in 1970, throughout the world, will increase to nearly 585 million by the year 2000—an increase of more than 100 percent.

The United States would benefit directly from a World Assembly on Aging. For example, many European countries are more advanced than the United States in meeting the income maintenance, health care, housing, and social service needs of the elderly. Their elderly populations now represent 15 percent of their total population and are not expected to increase significantly in coming years. The growth of the U.S. aged population is not expected to level off until the turn of the century. European countries, therefore, have had the need for some time to address matters pertaining to the elderly. In contrast, the United States is behind.

The United States also would benefit from the consideration of important issues facing all industrialized countries, such as the effects of raising the mandatory retirement age, and the effects of an increased elderly population in the work force and its economic implications on the young and the country as a whole. Other common issues involve the development of programs which eliminate unnecessary institutionalization of the aged and mechanisms which assist the elderly reenter a community after such institutionalization. While the United States is moving toward the direction of providing alternatives to institutional care, European countries have already developed many alternatives, such as sufficient sheltered housing for the elderly with congregate dining and recreation rooms and support services. Comprehensive health care coverage and pension systems exemplify other issues facing industrialized nations.

The World Assembly on Aging would also help underdeveloped countries where people are now enjoying longer lives. More developed countries have a responsibility for helping underdeveloped countries in meeting problems and planning for the future.

The House action is timely because the United Nations will soon consider a question to expand its research and information program on aging. The forum thus provided should serve as an appropriate vehicle for discussion of a World Year and a World Assembly on Aging.

S. 238, a bill identical to House Resolution 736 which was sponsored by the Honorable FRANK CHURCH, has recently received Senate approval. In addition, this resolution has received the support of the Association for Gerontology in Higher Education, the Gray Panthers, the International Center for Social Gerontology, the National Association of Counties, the National Council of Senior Citizens, the National Indian Council on Aging, the National Retired Teachers Association-American Association of Retired Persons, and the Urban Elderly Coalition. Lastly, the question of U.N. expansion in the field of aging was raised earlier this year in a meeting of the U.N. Commission for Social Development representing 35 developed and developing nations. This question in the form of a resolution was passed by unanimous consent.

Mr. Speaker, the United States should take the lead in recognizing the need to enhance communication between policymakers, from many lands, to benefit from their insights with respect to methods, approaches, and techniques of improving the lot of elderly people throughout the world, whether it is with regard to improved health, status, income maintenance, housing, or simple social acceptability.

What this resolution does is to focus world attention upon the needs of elderly people, wherever they are, so that they will have an opportunity to render a valuable contribution to their countries and to their society and to their times. They shall also have an opportunity to enjoy in the sunset period of their lives, as far as possible, good health, a reasonable standard of living, and some of the joy anticipated by the poet Browning, when he said:

Grow old along with me,
The best is yet to be.
The last of life, for which the
first was made.

Mr. ZABLOCKI. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. Mr. Speaker, I urge the House approval of House Resolution 736 expressing the sense of the House of Representatives that the U.S. delegation to the United Nations should work with other delegations to call for a World Assembly on Aging and a World Year on Aging no later than 1982.

Support for the worldwide conference would be consistent with the efforts of the House Select Committee on Aging to plan ahead to meet the future needs of the elderly population. I chaired a hearing of my Subcommittee on Federal, State, and Community Services in late September examining the tremendous growth expected in the elderly population of the United States. Both in the United States and around the world, the impact of increased numbers of elderly will result in new demands for vital services.

Statistical studies of our population tell us that we are maturing. For example, in 1975, the median age was 28. In 2000 it will be 34. In 1900, 4 percent of our population was elderly. Today, there are 22 million persons over the age of 65, approximately 10 percent of our population. By the year 2000, there will be close to 40 million elderly persons over the age of 65, approximately 15 percent of our population. By 2025, there may be 55 million persons over the age of 65, which may constitute 20 percent of our population. These demographic changes will not be unique to the United States. In 1970, there were approximately 291 million persons in the world who were over 60. By 2000, the number will climb as high as 585 million.

The United Nations is the ideal organization to conduct this World Year on Aging and World Assembly on Aging. Since 1948, the United Nations has directed efforts toward the needs of the aged and the programs and policies necessary to meet those needs. In 1973, the Secretary General issued a report on the changing economic and social status of the aged in the world and proposed guidelines for age related policies. Subsequent reports have been issued by the various departments of the United Nations. More recently, the U.N. established an information system for the dissemination of material on aging. These activities have resulted in a wealth of information which should be presented to and discussed by world leaders and experts in the field of aging.

The United States has much to gain from the World Assembly. For example, some industrialized countries, such as England, have already reached a population level of 20-percent aged. These countries are currently facing the issues we can expect to develop in our own country over the next 50 years. Clearly, a forum where these countries can present their problems and policies can provide us with the insight and foresight necessary to meet our own developing needs with respect to health care, alternatives to institutionalization, retirement policies, services and housing for our elderly population.

Support for this resolution is broad based. Fifteen international organizations on aging and many of our national organizations on aging have endorsed this proposal. The Senate has already approved it and the House Committee on International Relations has reported it to the floor for consideration. I urge the immediate approval by my colleagues.

I wish to pay a special tribute to the sponsor of this resolution, the distinguished chairman of the House Select Committee on Aging, Mr. PEPPER. He is well known as a national advocate for the elderly. He is now on the verge of gaining international advocacy credentials. Passage of this resolution would be a fitting tribute to Mr. PEPPER.

Mr. ZABLOCKI. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. WHALEN).

Mr. WHALEN. Mr. Speaker, at the outset, I would like to take this opportunity to congratulate the gentleman from Florida (Mr. PEPPER) on the fine work that the gentleman has done in the matter of aging.

I regret that my duties at the United Nations precluded me from being here to vote on the earlier resolution.

Let me say that wearing my congressional hat I rise in support of House Resolution 736.

Wearing my hat as a delegate to the United Nations, I certainly take note of this resolution and will bring it immediately to the attention of my colleagues at the U.S. Mission at the United Nations in New York. Hopefully, this matter will be passed in the 32d General Assembly. We will certainly do all that we can to achieve that passage.

GENERAL LEAVE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this resolution (H. Res. 736.)

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. ZABLOCKI. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ENDORSING HERMOSILLO DECLARATION ON COMBATING TRAFFIC IN DRUGS AT THE INTERNATIONAL LEVEL

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that the Committee on International Relations be discharged from further consideration of the concurrent resolution (H. Con. Res. 265) to endorse the Hermosillo Declaration on Combating Traffic in Drugs at the International Level and urge the President to encourage other nations to cooperate in eradicating narcotics trafficking, and ask for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 265

Whereas the legislators from the United States and Mexico who attended the seventeenth Mexico-United States Interparliamentary Conference at Hermosillo, Sonora, Mexico, adopted the Hermosillo Declaration on Combating Traffic in Drugs at the International Level on May 28, 1977; and

Whereas this declaration condemns, "without reservations of any kind the illegal cultivation of all plants that may be used to obtain substances which, when employed as narcotics, cause grave and often irreparable damage to people's health"; and

Whereas this declaration recommends that "energetic, preventive, prosecuting and punitive measures be taken to discourage the cultivation of drug producing plants in order to suppress narcotics traffic"; and

Whereas this declaration expresses the desire by Mexico and the United States to intensify their efforts to eradicate the "cultivation, traffic, use and abuse of drugs," particularly heroin and other dangerous drugs, and to combat the organized criminal traffickers of narcotics; and

Whereas efforts to end narcotics trafficking and eliminate the illicit supply of opium production requires the concerted action of all members of the international community: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress endorses the Hermosillo Declaration and encourages other nations to adopt this declaration.

SEC. 2. The Congress urges the President to encourage other nations to cooperate in an international effort to eradicate narcotics trafficking and to eliminate the illicit production of opium.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. ZABLOCKI) is recognized for 1 hour.

Mr. ZABLOCKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Concurrent Resolution 265 addresses one of the most tragic problems facing the nations of the world today—the illegal trafficking in narcotics and its effect on the population of the world community.

Specifically, the resolution provides for a congressional endorsement of the Hermosillo Declaration on illicit drug trafficking and encourages other nations to adopt the declaration. The resolution also urges the President to encourage other nations to cooperate in an international effort to eradicate narcotics trafficking and to eliminate the illicit production of opium.

The Hermosillo Declaration was adopted by the legislators of the United States and Mexico at the 18th Mexico-United States Interparliamentary Conference held in Hermosillo, Sonora, Mexico, in May of this year.

In part the declaration states:

. . . it is the will of the peoples and Governments of the United States and Mexico to energetically and definitively condemn, without reservations of any kind, the illegal cultivation of all plants that may be used to obtain substances which, when employed as narcotics, cause grave and often irreparable damage to people's health. . . .

The declaration also states the intent of our two countries to maximize our cooperative effort to prosecute illicit drug traffickers.

Mr. Speaker, this resolution has the full endorsement of the administration. Its adoption will not cost the taxpayer,

but it will be a fresh signal to all concerned about our firm intention to eliminate illicit drug trafficking.

I want to congratulate the gentleman from New York (Mr. GILMAN) for his sponsorship of the resolution and urge its adoption.

Mr. Speaker, at this time I yield 2 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, in May of this year, the 17th Mexico-United States Interparliamentary Conference was held in Hermosillo, Sonora, Mexico. Because of the seriousness and magnitude of the growing narcotics problem throughout the world, this important issue became the central theme of the conference and led to the adoption by the Conference of the Declaration of Hermosillo no Narcotics Trafficking at the International Level.

This unprecedented act of adopting a joint position on an issue represents a major step forward in utilizing interparliamentary meetings to achieve policy goals.

The purpose of the Declaration was to encourage our two nations to intensify our joint efforts in interdicting narcotics trafficking, in eradicating the supply of opium production and stamping out the criminal elements who thrive on these activities. The purpose of House Concurrent Resolution 265 is to give official congressional endorsement to the Hermosillo Declaration and urge the President to encourage other nations to cooperate in eradicating narcotics.

As the author of House Concurrent Resolution 265, I am proud to be joined in this effort by the entire congressional delegation to the Hermosillo meetings. It is our hope that through such statements of understanding and joint purpose as the Hermosillo Declaration and this resolution, we can help to awaken the world's consciousness about the horrors of drug abuse.

In a recent letter to this Committee on International Relations, the Department of State endorsed the objectives of House Concurrent Resolution 265, commended "Congressional action in using interparliamentary meetings to eliminate the illicit production of and trafficking in narcotics." In addition, it points out that the President's August 2 message to the Congress on drug abuse fully supports the intent of House Concurrent Resolution 265.

As a participant in the Hermosillo meetings, I am aware of the great importance which our fellow Mexican legislators attach to this issue. It is therefore important that we act positively to demonstrate through this action the sincere desire of the United States Congress to use the interparliamentary forum as a productive step in our effort to help solve the many bilateral and multilateral problems that our nations face.

Having unanimously been approved by the Subcommittee on Inter-American Affairs and by the entire Committee on International Relations, I urge the adoption of the resolution before us. House Concurrent Resolution 265.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I will be pleased to yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate my colleague yielding to me.

I know that the gentleman from New York (Mr. GILMAN) was a major activist at the Interparliamentary Conference to see that this American delegation supported this resolution. It is a relatively unusual thing, to have such cooperation from both countries in an effort to eliminate narcotics trafficking and illegal production of dangerous drugs.

I compliment my colleague. I was one of those present who supported the Hermosillo Declaration, and I am pleased that the chairman of the committee brought it to the floor to give us a chance to discuss the issue.

Mr. GILMAN. I thank the gentleman from California for his kind words of support.

Mr. ZABLOCKI. Mr. Speaker, I yield 1 minute for debate only to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Speaker, I would like to rise also in strong support of this resolution, and to commend the gentleman from New York (Mr. GILMAN) for his leadership. I had the privilege of attending the interparliamentary meeting in Hermosillo.

I believe that a lot of times many of the resolutions that we concern ourselves with on this floor perhaps are thought not to be very meaningful and that they do not make much of a difference one way or another. I think this is very significant. It is one of the first times that parliamentarians from two neighboring countries who share this very serious problem have met and shared the consideration of a very important issue, and have come up with a resolution to do something about it. I urge approval of the resolution.

Mr. ZABLOCKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. DE LA GARZA), one of the prime movers in the area of this legislation.

Mr. DE LA GARZA. Mr. Speaker, I rise in support of the resolution.

Mr. BURKE of Florida. Mr. Speaker, I rise in support of House Concurrent Resolution 265 to endorse the Hermosillo Declaration on combating traffic in drugs at the international level.

As a delegate to the 17th Mexico-United States Interparliamentary Conference and as ranking minority member of the Select Committee on Narcotics Abuse and Control I was a participant in the formulation of the Declaration of Hermosillo on combating traffic in drugs at the international level.

Prior to the conference in Hermosillo, Sonora, Mexico, I traveled with other members of the Select Committee on Narcotics to inspect the 2,000-mile Southwest border from San Ysidro, Calif., to Brownsville, Tex. We saw first hand on this trip the enormous difficulties that Mexican and American law enforcement officials encounter in their daily attempts to stop narcotics traffic and to eradicate the heavy illicit supply of heroin that continually crosses our common border. When placed in the context of these difficulties the Hermosillo Declaration becomes an important policy for it strongly indicates the awareness by Mexico of the necessity for the eradication of cultivation of poppies growing within Mexico's borders and to halt the flow of opium coming into the United States which is estimated as 80 to 90 percent of all the heroin entering this country.

The Hermosillo Declaration states that it is the will of the peoples and Governments of the United States and Mexico to:

> Energetically and definitively condemn, without reservations of any kind the illegal cultivation of all plants that may be used to obtain substances which, when employed as narcotics, cause grave and often irreparable damage to people's health;
>
> Tenaciously and untiringly prosecute by every possible means—within the context of our respective countries' Constitutions and laws—the traffic in such drugs both within and across our borders, and establish effective and far-reaching cooperation to that end among the authorized agencies of our two governments as well as among non-governmental institutions and civic groups.

The Hermosillo Declaration not only symbolizes the friendship that exists between our two nations but also provides an opportunity for us to exercise our joint resources in interdicting narcotics traffic and eradicating the supply of opium products.

A joint communique, signed by the heads of the delegations of both Mexico and the United States, was also issued, stating that—

> Both delegations, by the "Declaration of Hermosillo" manifested their irrevocable decision to cooperate with their respective governments in order to intensify and reinforce the fight against the growing, use and traffic of drugs and to this end adopt any legislative measures that may lead to the total eradication of this serious evil that is a scourge of humanity.

I truly hope that the Hermosillo Declaration will prove to be the beginning of the end of narcotics traffic from Mexico to the United States. I will continue to work to see that this becomes a reality. It is my hope that my colleagues will agree unanimously that this is an important step toward combating international traffic in drugs.

Mr. ZABLOCKI. Mr. Speaker, I move the previous question on the concurrent resolution.

The previous question was ordered.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

REAFFIRMING COMMITMENT OF UNITED STATES TO OBTAIN FULL COMPLIANCE WITH HUMAN RIGHTS PROVISIONS OF HELSINKI ACCORDS

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent for the immediate consideration of the concurrent resolution (H. Con. Res. 387) reaffirming the commitment of the United States to obtain full compliance with the human rights provisions of the Helsinki accords and to press for global commitment to human rights.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 387

Whereas the continuing harassment of political dissidents and intellectuals in the Soviet Union, Czechoslovakia, and in some other countries of Eastern Europe is a source of great concern to the American people and the United States Congress; and

Whereas those who have been harassed and/or imprisoned for their political beliefs by the Soviet Union include among others Gunars Rode, Valentyn Moroz, Doctor Sergei Kovalev, Mykola Rudenko, Yuriy Shukhevych, Anatoly Shcharansky, and Oleska Tykhy; and

Whereas travel restrictions and arbitrary visa policies continue to frustrate contacts between friends and relatives in Eastern and Western Europe and the reunification of families; and

Whereas those victimized by such policies include Galina Michelson and her daughter Olga Michelson who have been frustrated in their attempts to obtain an exit visa to join, after a twenty-year separation, their husband and father, respectively, Anatol Michelson who is living in the United States; and

Whereas applicants for emigration visas in the Soviet Union and East European countries continue to encounter needless delays in the processing of their papers; and

Whereas the Governments of the Soviet Union, Czechoslovakia, and thirty-three other nations are obligated to respect human rights and fundamental freedoms (including freedom of thought, conscience, religion, or belief) for all without distinction as to race, sex, language, or religion, in accordance with the Helsinki Accords and with other international declarations of human rights principles, including the Charter of the United States and the Universal Declaration of Human Rights; and

Whereas several national governments elsewhere in the world are systematically denying basic human rights to their own citizens; and

Whereas the protection of human rights is a necessary condition for the functioning of a democratic society and its governing institutions and is a commitment of all members of the United Nations; and

Whereas the American Nation was born with a tradition of respect for human rights and our people remain steadfastly committed to the defense of human rights for ourselves and all the peoples of the world: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress, as the representative body of the American people, pledges full support to the President in his efforts to advance the cause of human rights in the international community and urges the President to inform the appropriate heads of state of other nations at the opportune time that the United States, in evaluating its relations with other nations, will take cognizance of the extent to which they accord protection to human rights within their own nation.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. ZABLOCKI) will be recognized for 1 hour.

Mr. ZABLOCKI. Mr. Speaker, this resolution constitutes a reaffirmation of our policy in regard to human rights violations in the U.S.S.R. and Eastern Europe as well as elsewhere around the world. It is intended to bolster the President and his human rights policy during the negotiations in Belgrade which are currently underway.

It is clear that the Congress should not remain silent in the face of continuing human rights violations in the Soviet Union and elsewhere.

Resolution cites names of particular individuals who were the subjects of various resolutions pending before the Subcommittee on International Organizations. These names were all added to this one resolution to avoid needless duplication. However, it was made clear in the committee hearing that the list of names is not to be regarded as exclusive, that those in similar circumstances whose names do not appear in this resolution are also intended to be helped by the resolution.

The resolution simply pledges the full support of the Congress to the President in his efforts to advance the cause of human rights and urges the President to inform the appropriate heads of state of other nations at the opportune time that the United States will take cognizance of the human rights record of those nations with whom it interacts.

I call upon my colleagues to lend their full support to this resolution.

Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. PEASE) for purposes of debate only.

Mr. PEASE. Mr. Speaker, I appreciate having the opportunity to discuss human rights. Much has been said and done because of human rights considerations since February when I first introduced House Concurrent Resolution 137, the precursor of the resolution before us. However, there still exist two compelling needs that are addressed with this resolution.

First, it is important that the Congress express strong support for President Carter's leadership in defense of human rights. Since both the President and the Congress have a hand in the conduct of foreign policy, it is sometimes easy to lose sight of what are agreed upon as guiding principles for our foreign policy. Surely we in the Congress recognize the importance of building respect for human rights throughout the world, so we should voice our support for the President's efforts to advance the cause of human rights.

Approval of this resolution will enable the President and the Congress to present a solid front to the international community which still questions the sincerity of our human rights commitment. This would clear up any misunderstanding on the part of foreign leaders about dissension within the American Government about the importance attached to human rights. Our renewed national commitment to the cause of human rights is not a fleeting fancy. President Carter has said as much and the Congress should do likewise.

Second, the resolution calls for an even-handed, systematic approach to building respect for human rights. Certainly we must press the leaders of the Soviet Union and other East European countries at Belgrade and elsewhere to abide by the spirit and the letter of the provisions of basket three of the Helsinki accords. It is within those countries that human rights are most frequently trampled for reasons of political expediency. However, we must also be prepared to defend human rights when they are abused and abandoned elsewhere in the world—even among our allies. To fail to do so calls into question our motives and diminishes the cause of human rights.

For these reasons, Mr. Speaker, I urge my colleagues to support this resolution.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. PEASE. I will be happy to yield to the distinguished gentleman from New York.

Mr. GILMAN. Mr. Speaker, on October 25, 1977, the International Relations Committee held hearings on House Concurrent Resolution 387, introduced by my colleague, the gentleman from Ohio, Mr. PEASE. This important piece of legislation, which calls for the Congress to join with the administration in reinstating human rights as a basic part of U.S. foreign policy and as a sincere commitment to this cause by both the administration and the Congress, is imperative at this time during an upsurge of public expression and moral support for human rights abroad.

In my capacity as special advisor to the American Delegation at Belgrade, Yugoslavia, where the final act of the 1975 Helsinki Conference was held, I was particularly impressed by the need for this Nation to present a solid front in requesting cooperation of other nations in establishing standards and procedures for international human rights.

If we wish to take an "even-handed, systematic approach to building respect for human rights," as the Pease bill calls for, our Government must be united in the effort to promote and protect human rights and that spirit which emerges when free people commit themselves to change the repressive policies in totalitarian governments in other parts of our world. We must prove that contrary to what the Soviet Union or other repressive regimes may charge—that human rights is now being used as a carrot dangling on a stick in front of "good" or "bad" countries—the United States has been reinstating human rights as an integral part of any international framework of agreements, with the same import in decisionmaking as trade, foreign aid, arms control, defense, and monetary policies.

Certainly the adoption of this resolution by the Congress would illustrate the great concern in Congress and throughout this country of that double standard in the internal community in which individuals enjoy inherent rights and privileges in one country, but not in another. Certainly, genuine and constructive channels of communication between the East and West cannot long remain open when those governments themselves are divided in their approach and viewpoint of the problems involved.

I therefore state my support for House Concurrent Resolution 387, and urge that my colleagues do the same.

Mr. PEASE. Mr. Speaker, I thank the gentleman from New York (Mr. GILMAN) for his support.

Mr. ZABLOCKI. Mr. Speaker, I yield 1 minute, for debate purposes only, to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, I commend the chairman of the Committee on International Relations, the gentleman from Wisconsin (Mr. ZABLOCKI), and the gentleman from Ohio (Mr. PEASE) for their leadership in bringing this resolution to the floor. I would like to point out that this concurrent resolution has the unanimous support of our committee, and that is at times a rarity.

I would also like to point out that as a result of the work of the gentleman from Florida (Mr. FASCELL), the Congress has had an ongoing, thorough and legitimate interest in the positions being taken at Belgrade by our diplomats. It is obvious that the rules behind the Iron Curtain do react to specific pressure and they do react when the world is aroused over specific cases of denial of human rights.

Mr. Speaker, that is the thrust of the resolution, I am pleased to support it, and I commend the committee chairman for bringing it to the floor.

Mr. ZABLOCKI. Mr. Speaker, I yield 1 minute, for debating purposes only, to the gentleman from Alabama (Mr. BUCHANAN).

Mr. BUCHANAN. Mr. Speaker, as a member of the Commission on Security Cooperation in Europe, which developed a long record of abuses with reference to Warsaw Pact countries, particularly the Soviet Union and Czechoslovakia, in violation of the Helsinki Accords, and as one of the delegates to Belgrade, I want to commend the committee for bringing us this concurrent resolution.

I commend also the chief delegate to Belgrade, Mr. Justice Arthur Goldberg, who is taking a strong stand for human rights. I am sure that his hand will be strengthened by the passage of this concurrent resolution, and I urge its passage.

GENERAL LEAVE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution under consideration (H. Con. Res. 387).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. ZABLOCKI. Mr. Speaker, I move the previous question on the concurrent resolution.

The previous question was ordered.

The SPEAKER pro tempore. The Clerk will report the committee amendment to the preamble.

The Clerk read as follows:

Committee amendment: Page 1, line 9, after the name, "Yuriy Shukhevych," insert the name, "Anatoly Shcharansky,".

The committee amendment to the preamble was agreed to.

The concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 1019, MARITIME APPROPRIATION AUTHORIZATION ACT, FISCAL YEAR 1978

Mr. MURPHY of New York. Mr. Speaker, I call up the conference report on the Senate bill (S. 1019) to authorize appropriations for the fiscal year 1978 for certain maritime programs of the Department of Commerce, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of October 26, 1977.)

Mr. MURPHY of New York (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. MURPHY) will be recognized for 30 minutes, and the gentleman from California (Mr. MCCLOSKEY) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge approval of the conference report on S. 1019.

Mr. Speaker, on May 24, 1977, the Senate passed—unanimous consent—S. 1019, a bill providing for the authorization request of the Maritime Administration of the Department of Commerce for fiscal year 1978, with amendments.

On July 13, 1977, by the overwhelming vote of 355 to 40, the House of Representatives passed H.R. 4963, the companion bill providing for the authorization request of the Maritime Administration for fiscal year 1978, with amendments.

As the Members will recall, the Senate bill—S. 1019—was then taken from the Speaker's table, all after the enacting clause struck, and the provisions of H.R. 4963 inserted in lieu thereof.

The differences between the Senate-passed bill and the House amendment were generally resolved in conference on September 27 and October 6.

I would now like to comment on the contents of the conference report.

Section 1 provides for the title, identical in both bills as the Maritime Appropriation Authorization Act for Fiscal Year 1978.

Section 2 sets forth the six elements for which authorization authority is provided.

Section 2(1) of the Senate bill and the House amendment both authorize $135 million for construction-differential subsidy. However, this subsection of the Senate bill contains the language "not to exceed", whereas the House amendment does not. The House agreed to this minor technical amendment.

Section 2(2) of the Senate bill and the House amendment both authorize $372,-109,000 for operating-differential subsidy.

The House amendment included a provision that no operating-differential subsidy funds would be paid to any subsidized liner company unless its chief executive officer certifies that he has taken action to insure that no illegal rebates are being paid during the period for which the funds are to be received and also that he will fully cooperate with the Federal Maritime Commission in its investigation of illegal rebating. This provision was considered discriminatory by the Senate conferees because it applies only to subsidized carriers who are in competition with unsubsidized U.S. carriers and foreign-flag carriers operating in our liner trades. The Senate-passed bill contained no comparable provision and the Senate conferees rejected this provision in the House amendment.

Moreover, the requirement that the chief executive officer insure that no company officer, employee or agent will pay any rebates was considered by the Senate conferees incapable of being fulfilled, because it is impossible absolutely to guard against such practices by an agent in a foreign country.

A proposal was then considered by the conferees to extend the provisions of the antirebating certification to include all vessels serving the foreign and domestic trades of the United States.

The Senate conferees would not agree to this amendment because it was not germane, and not limited to the scope of the provision in the original House amendment pertaining only to subsidized carriers.

Currently, the Federal Maritime Commission is conducting a thorough and deliberate investigation of all ocean carriers, U.S.-subsidized and nonsubsidized and foreign-flag in regard to rebating practices. More importantly, both the House and the Senate are now considering a comprehensive antirebating bill with provisions designed to enable the Federal Maritime Commission to deal with all ocean carriers on an equal basis.

Two days of hearings were held before the Merchant Marine Subcommittee, during which all the Federal agencies concerned with maritime policy were invited to attend. These hearings revealed that the basic cause of rebating is overtonnaging or overcapacity in the U.S. liner trades. We have scheduled further hearings and intend to reach a legislative solution to this problem.

In order to complete these hearings and seek enactment of antirebating legislation before the Congress terminates, we estimated a time frame of 240 days. Accordingly, to resolve the deadlock between the House and Senate at the conference, I proposed that in order to permit the House and the Senate to act deliberately and comprehensively on rebating legislation, the provision requiring certification be delayed or suspended for a period of 240 days.

A discussion of this proposal then occurred at which time the gentleman from California (Mr. McCLOSKEY) recommended that instead of 8 months delay of the effectiveness of the certification amendment, it should be delayed for a period of 6 months.

The conferees believed that the 240-day period was more realistic in order to pass antirebating legislation. It was made clear that current laws already prohibit rebating and no illegal conduct by any carrier would be condoned during the 240-day period.

The conferees then voted and adopted the 240-day suspension provision.

The Subcommittee on Merchant Marine has held 2 full days on H.R. 9518, the antirebating bill, and we have scheduled 2 additional days this week. We really believe that antirebating legislation should and can be enacted within the next 240 days.

The conference also unanimously adopted an amendment modifying the nature of the certification to be made by the chief executive officer so that instead of certifying that he "has taken prompt and comprehensive action" he would under the adopted language be required to certify that he "is using and will use reasonable diligence" to insure no company owner, employee, or agent is rebating.

Mr. Speaker, section 2(3) pertaining to the research and development activities of the Maritime Administration, and section 2(4) pertaining to the National Defense Reserve Fleet, are identical in the Senate bill and House amendment, so that further comment is not required.

Section 2(5) of the Senate bill authorizes $14,633,000 for maritime training at the Merchant Marine Academy at Kings Point, N.Y., whereas the House amendment authorizes $14,656,000 for this purpose. I am pleased to inform the House that the Senate agreed to this increase of $23,000 which will be used to replace barracks windows as part of the ongoing modernization program at the Merchant Marine Academy.

Section 2(6) authorizes funds for the State marine schools. The Senate bill authorizes $5,370,000 for this purpose, whereas the House amendment authorizes $5,970,000. Both bills contained an additional $1.2 million to fund the increase in the annual subsistence allowance to students at such schools from $600 to $1,200. Additionally, the Senate bill includes an increase of $150,000 to fund an increase in the annual maintenance and support payment to the State marine schools of from $75,000 to $100,000. The amount in the House amendment includes an increase of $750,000 for improvements to the five training vessels on loan to the State marine schools. The increased amount of $600,000 in the House amendment was agreed to by the Senate.

Section 3 of the conference report, pertaining to supplemental authorization authority, is identical in the Senate bill and House amendment, so that further comment is not required.

Section 4 of the Senate bill amends section 4 of the Maritime Academy Act of 1958, to increase the annual maintenance and support payments to the State marine schools from $75,000 to $100,000. The House amendments do not contain a comparable provision. The House agreed to this provision in the Senate bill in recognition of the acute need of these institutions to improve their facilities. This provision is set forth in section 4 of the conference report.

Section 5 of the Senate bill is identical to section 4 of the House amendment, and amends section 6(a) of the Maritime Academy Act of 1958, to increase from $600 to $1,200 the annual subsistence payments to students at the State marine schools. This provision is set forth in section 5 of the conference report.

Section 5 of the House amendment amended section 209(b) of the Merchant Marine Act, 1936, to generally require annual authorization of appropriations for elements of expense now provided for in the "operations and training account" of the annual appropriations bill, but not now covered by the annual authorization bill. The Senate bill does not contain a comparable provision. The Senate agreed to this provision in the House amendment which is set forth as section 6 of the conference report. This additional authority is intended to assist the Congress in carrying out its oversight responsibilities over the Maritime Administration of the Department of Commerce.

Section 6 of the House amendment amends section 216 (c) and (d) of the Merchant Marine Act, 1936, to substitute the words "Secretary of Commerce" for the word "Commission" wherever it appears. The Senate bill does not contain a comparable provision. The Senate agreed to this minor technical amendment which is set forth in section 7 of the conference report.

Section 7 of the House amendment amends section 509 of the Merchant Marine Act, 1936, to increase from 75 to 87½ percent, the amount of title XI guaranteeing financing available to a ferry operating solely in point-to-point transportation which is designed to be of not less than 75 gross tons and capable of a sustained speed of not less than 8 knots. The Senate bill does not contain a comparable provision. The Senate agreed to this minor amendment, and it is set forth in section 8 of the conference report.

Section 6 of the Senate bill generally provides for one additional Assistant Secretary of Commerce to be the head of the Office of Congressional Affairs and to be the principal adviser to the Secretary of Commerce on congressional relations matters. The House amendment does not contain a comparable provision. The House agreed to this Senate amendment in recognition of the importance of congressional relations, and this provision is set forth in section 9 of the conference report.

Mr. Speaker, the conference report before the House at this time represents a very fair resolution of the differences between the House and the Senate on this legislation. I strongly urge my colleagues on both sides of the aisle in the House to approve the conference report on S. 1019.

Mr. Speaker, we feel that 240 days from the beginning of the fiscal year is a very short period of time. The fiscal year began on October 1. We felt that 240 days would give us until June of next year. Considering that we will get back on the 17th of January, that we will finish hearings in January and February, going into subcommittee markup in March, with the full committee expediting this procedure in April, that will get us scheduled on the floor some time, hopefully, in late April or May, and then with an agreement with the Senate, that would be 240 days.

I did not feel that was an unreasonable amount of time; but, as I said, the FMC will continue its practice of moving forward as expeditiously as possible in any area of rebate violations that it sees.

Mr. Speaker, I reserve the balance of my time.

Mr. McCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will be offering a motion to recommit this bill to the conferees on a very simple issue; and I think the House should understand it because it is unique in my experience of 10 years in this body.

Mr. Speaker, the recommittal motion will recommit the conference report to the committee of conference with the following instructions to the managers on the part of the House:

The words, "after the 240th-day after the date of this act," added by the committee of conference, shall be stricken.

Why, Mr. Speaker? The House will recall, Mr. Speaker, that when this bill, the maritime authorization, passed through the House appropriating $352 million for operating subsidies for fiscal year 1978, we passed a simple amendment. Please note that the fiscal year runs from October 1, 1977, until September 30, 1978—we are already 1 month into that 12-month period.

That simple amendment would require that the chief executive officer of each of the 10 subsidized U.S. shipping companies that received this $352 million, when they get their money as they are entitled to each month as the year goes forward, certify that they had taken reasonable steps to see that they were no longer engaging in illegal rebating practices. We modified this in conference to make it absolutely sure we were not asking any chief executive officer to do anything more than to use reasonable diligence to insure that during the period they got the money, they were not making any illegal rebates. They were not to be responsible for what the agents did, but they had to try to take reasonable steps to make sure they did not repay these illegal rebates.

Second, the chief executive officer was required to cooperate with the investigation into the illegal rebates being conducted by the Federal Maritime Commission. This is a very simple requirement—just as a welfare recipient certifies that he is obeying the law, and that he will cooperate with the agency enforcing the law.

The Senate's objection to that was based upon the fact that this would put

the 10 operating U.S. subsidized carriers into an unfair position, since the foreign companies that might also do illegal rebating could not be prosecuted by the Federal Maritime Commission. The Senate suggested through Senator INOUYE, the chairman of their conferees, that we broaden the provision to require that foreign carriers also cooperate with our FMC, or be denied entry into our ports, or pay a fine. The Senate in effect suggested broadening the provision, and the House responded. The response of the chairman, the gentleman from New York (Mr. MURPHY), was, let us not broaden it to continue the carrying of a heavier penalty against these foreign operators; let us ease the penalty against U.S. carriers. The question was how to do that. The penalty was eased by not making the law apply for 8 months after the law is enacted. The law cannot possibly be enacted now until mid-November, so in effect we will have a deferral for 9½ months of the year when funds are authorized. The amendment adopted by the House does not apply for the greatest part of the fiscal year. We are in effect saying, if we do not recommit this bill to the conferees, that it is all right for U.S. shipping owners who have violated the law to continue violating the law, and it is all right for them to decline to cooperate with the Federal Maritime Commission. I do not think the House wants to do this.

We are in a situation where we have seen 2 of these same 10 shipping companies that are receiving this money allegedly having gone to the former chairman of the House Committee on Merchant Marine and Fisheries and paid him $15,000 in bribes. We have seen 6 of these 10 companies presently under investigation by the Federal Maritime Commission for rebating. We have had testimony at the hearings, which I commend the chairman for calling, that one of these companies that is receiving the subsidies has decided not to cooperate with the FMC until such time as we pass legislation involving rebating.

It seems to me unseemly for the House of Representatives to adopt a bill to impose a condition on the recipients of $352 million of subsidies and then allow the House conferees in effect to say that provision will not be effective for 9½ months of the year, and that during the next 8 months these companies can go on without either cooperating with the FMC or without meeting the terms of the law.

In my judgment, Mr. Speaker, this kind of a recommittal to conference forces the Senate to meet the proper objections that the House raised to the initial bill, and I think we should pass the motion for recommittal.

Mr. COHEN. Mr. Speaker, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from Maine.

Mr. COHEN. I thank the gentleman for yielding.

As I understand, the House passed this bill originally by simply requiring that those industries who received the subsidies simply certify their compliance with existing law and agree to cooperate with investigations now ongoing?

Mr. McCLOSKEY. That is correct, and all they have to do is to certify they are making diligent efforts to comply with existing law.

Mr. COHEN. As I understand, the Senate did not insist we retrench from that position but recommended that we broaden it, and this came about as a result of the House's own motion that they will, and this is the problem that bothers me. If the Senate had said, this is too heavy an imposition on our companies, that would be one thing, but the Senate said, no, let us extend it to other companies, and then conceded that it would be nongermane and withdrew that position. The House comes forward and says, we will withdraw from that amendment adopted on the House floor, and I certainly think that is wrong.

I certainly commend the gentleman on his statement. I hope that the House will vote to recommit this bill.

Mr. MURPHY of New York. Will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Speaker, we feel that this legislation only applies to about 10 subsidized carriers that we are trying to keep alive as a viable American-flag fleet. We feel that to be fair we cannot require just these 10 but we must bring in the 900-some-odd people in competition with these 10 carriers under the aegis of the Federal Maritime Commission.

I do not think any of us disagree with that fact. No one can disagree with this fact: that the law today requires penalties and compliance with no rebating. The Federal Maritime Commission is in the process of bringing these cases against the companies. It is continuing its investigations. These investigations will continue. This language says nothing about the law as it presently exists.

The gentleman from California in the conference committee, and I will quote it to him, when we were talking about this, said:

> Why do we not cut it off at the end of the first quarter of 1978, on March 31, 1978? Instead of 240 days from enactment, let us cut it off 6 months into the fiscal year.

And the gentleman was willing to agree to the principle of extending for a limited period of time until the Congress had time to act definitively to bring all carriers under this certification that he is asking us to require immediately.

I just think March 31 is not a practical date in order to require action by the Congress. Here we are, going to adjourn this week. The gentleman knows we are into very comprehensive hearings on the rebate problem. We have not pinned down Justice, Treasury, State, and the FMC as to where we feel they should stand, where the differences in jurisdictions are. We know we have to bring in witnesses from the foreign field, from the freight-broker area, from the agent area, who have never been brought in. The Senate did not bring these people in. We have to bring in the private American and not-subsidized carriers. If we are to come back January 17, then March 31 is just too short a period of time.

The gentleman was willing to agree to March 31. I am just extending it to June so we do not have such a tremendous pressure to act, but so that we can act properly and in good faith, not to penalize just 10 carriers but to pass proper legislation to bring all 900 carriers into this legislation under the proper law.

Mr. McCLOSKEY. I cannot object to the gentleman's statement and I would hope the gentleman would not hold against me the fact of my willingness to try to draft some agreement in the conference in the time period. But in this situation will we not now, by postponing compliance for in effect 9½ months of the year, be giving them open season to say: "We do not feel we have any obligation to cooperate with the FMC for the next 9½ months"?

Mr. MURPHY of New York. We are not giving them 9½ months not to comply. They already have to comply with the existing law, which the gentleman knows is tough.

Mr. McCLOSKEY. As the gentleman knows, and as I know, when we took this up on October 5 all of the companies were cooperating. When we had the FMC before us for testimony last week on the gentleman's bill, to clear up this situation, the testimony was clear that one of those companies which had previously been cooperating with the FMC is now stonewalling and declining to cooperate because of this pending legislation which is phrased in such a manner that after notice of cooperation are they granted immunity. If under the current legislative situation we have a company now refusing to cooperate, that conference situation takes on a much different meaning.

Mr. MURPHY of New York. We will have the Chairman of the Commission in the meeting tomorrow as to who this company is. The testimony only said: "We think there is one company involved," because in the legislation we are considering in the rebate area there is an amnesty from criminal prosecution, not from civil penalties.

I would like to find out who that company is and I will recommend right there to the FMC that they go after that company; but I think the gentleman was willing for a 5- or 6-month break period, I felt 8 was necessary because of the October-November-December-January period of time that the Congress will not be in session with its activities focused on this problem; the gentleman knows as we have proceeded through the deliberations of the committee this year that we tried to move expeditiously and I can guarantee that we will move expeditiously on this legislation.

I think the gentleman knows I speak in good faith, have always acted and demonstrated that to the committee members.

Mr. McCLOSKEY. On that point I have to agree and I commend the gentleman.

I think it is fair to say it will take 8 months to complete final resolution of

this problem; but I still think it is wrong for the House having adopted an amendment to apply a full year and then withdraw that amendment and say it will apply for only 9½ months. This is why I will make the motion to recommit.

Mr. COHEN. Mr. Speaker, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from Maine.

Mr. COHEN. Mr. Speaker, we are coming to the point that we are simply asking those companies to comply with the law as it is. It does not seem to be an onerous burden to ask them to simply comply with the law.

Second, this Government has just passed a resolution requiring that the Government of South Korea cooperate with this Government in its investigation. If we are going to impose that for a foreign country, we ought to insist on this requirement.

Mr. Speaker, I hope we will support the motion to recommit.

Mr. STUDDS. Mr. Speaker, many of the provisions of the House version of this bill were adopted originally by the Committee on Merchant Marine and Fisheries as the result of recommendations by the Ad Hoc Select Subcommittee on Maritime Education and Training, which I chair. Consequently, I would like to describe for my colleagues the final decisions on those matters which were made by the members of the conference committee.

In section 2(5) of the bill, the House authorized $14,565,000 for maritime training at the U.S. Merchant Marine Academy located at Kings Point, N.Y. This amount was $23,000 more than the amount authorized for this purpose by the other body. The conference committee agreed on the House authorization figure, with the increase of $23,000 earmarked for barracks window replacement as we had intended. This increase of $23,000 has not yet been appropriated, so it cannot be spent until it is included in a supplemental appropriations bill.

Section 2(6) of the bill provides for the Federal grants and student aid which the Maritime Administration administers for the six State maritime academies, which are located in California, Maine, Massachusetts, Michigan, New York, and Texas. The House authorized $5,970,000 for this purpose, while the other body authorized only $5,370,000. Both bills include amounts necessary to cover the increased cost of raising subsistence payments to cadets from $50 to $100 per month which, as I explained more fully during the House debate on the bill, is a cost-of-living increase fully justified by the inflation which has occurred since the payment was last changed in 1958. The authorization passed by the House included $750,000 for additional work on the training ships which the Federal Government lends to the State academies. The other body's authorization figure included $150,000 to cover the cost of an increase of $25,000 per academy in direct Federal payments, which is an increase not included in the House bill. Consequently, while the conference committee agreed to the House authorization figure of $5,970,000 for this item, the action of the conferees actually will decrease the additional authorization for work on the training ships from $750,000 to $600,000.

Section 4 of the bill reported by the conference committee amends section 4 of the Maritime Academy Act of 1958 to increase the maximum annual maintenance and support payments to State maritime academies from $75,000 to $100,000. This amendment was not included in the House version of the bill. As I explained a minute ago, its adoption will not increase the authorization above the House amount because of a corresponding reduction in the extra funds provided by the House for work on the training ships. Monies to implement this increase in the authorization have not yet been appropriated, and will have to be acted upon in a supplemental appropriation bill if they are to become available this year.

Section 5 of the bill reported by the conference committee amends section 6 (a) of the Maritime Academy Act of 1958 to increase the federal subsistence payments to cadets from $50 to $100 per month. This provision was included in both versions of the bill, and the funds to implement it are already appropriated.

Section 6 of the bill reported by the conference committee amends section 209(b) of the Merchant Marine Act, 1936, to require annual authorization of appropriations for extension and correspondence courses offered by the Maritime Administration, and for all other elements of expense included in the operations and training account but not heretofore subject to annual authorization. This amendment was in section 5 of the House version of the bill, and I am pleased that the other body has agreed to accept it.

Section 7 of the bill reported by the conference committee is identical to section 6 of the House version, and makes technical amendments to section 216(c) and (d) of the Merchant Marine Act, 1936, to make it refer to the correct administrative official.

Mr. Speaker, the House conferees have ably represented the House position on the provisions I have just described. They have managed to obtain agreement on the House position on all of them, with only one minor modification. I congratulate them on doing so well in upholding the House position, and urge my colleagues to adopt the conference report.

Mr. MURPHY of New York. I have no further requests for time.

I move the previous question on the conference report.

The previous question was ordered.

MOTION TO RECOMMIT OFFERED BY MR. M'CLOSKEY

Mr. McCLOSKEY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the conference report?

Mr. McCLOSKEY. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. McCLOSKEY moves to recommit the conference report on S. 1019 to the committee on conference with the following instructions to the managers on the part of the House: "The words '(after the 240th day after the date of enactment of this Act)' added to Section 2(2) by the Committee on Conference shall be stricken, and the anti-rebating amendment adopted by the House (with technical changes adopted by the Committee on Conference) shall be adopted in such form that it shall become effective immediately upon enactment."

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore, announced that the noes appeared to have it.

Mr. McCLOSKEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 166, nays 231, not voting 37, as follows:

[Roll No. 722]

YEAS—166

Abdnor	Gilman	Myers, John
Ammerman	Glickman	Neal
Archer	Goldwater	Nedzi
Armstrong	Goodling	O'Brien
Ashbrook	Gradison	Pattison
Badham	Grassley	Pettis
Bafalis	Guyer	Poage
Beard, Tenn.	Hagedorn	Pressler
Bedell	Hammer-schmidt	Pritchard
Beilenson	Harkin	Quayle
Benjamin	Hillis	Quie
Blanchard	Hollenbeck	Quillen
Bonior	Holtzman	Railsback
Brodhead	Horton	Regula
Brown, Mich.	Ichord	Rhodes
Brown, Ohio	Ireland	Rinaldo
Broyhill	Jacobs	Robinson
Buchanan	Jeffords	Rousselot
Burgener	Johnson, Colo.	Rudd
Burke, Fla.	Jones, Okla.	Sarasin
Burleson, Tex.	Kasten	Sawyer
Butler	Kastenmeier	Schulze
Caputo	Kelly	Sebelius
Carr	Ketchum	Seiberling
Carter	Keys	Shuster
Cavanaugh	Kildee	Skubitz
Cleveland	Kindness	Smith, Nebr.
Cochran	Kostmayer	Snyder
Cohen	Lagomarsino	Spence
Coleman	Latta	Stangeland
Collins, Tex.	Leach	Stanton
Conable	Lent	Stark
Conte	Livingston	Steers
Cornell	Lujan	Steiger
Coughlin	Luken	Stockman
Crane	McClory	Symms
Cunningham	McCloskey	Taylor
Derwinski	McDade	Thone
Devine	McDonald	Treen
Dickinson	McEwen	Trible
Dornan	McKinney	Tsongas
Duncan, Tenn.	Madigan	Vander Jagt
Edwards, Okla.	Maguire	Vanik
Emery	Marks	Volkmer
Erlenborn	Marlenee	Walgren
Ertel	Martin	Walker
Evans, Colo.	Michel	Walsh
Fenwick	Milford	Wampler
Findley	Miller, Ohio	Weiss
Fish	Mitchell, N.Y.	Wiggins
Forsythe	Moore	Winn
Fraser	Moorhead, Calif.	Wydler
Frenzel	Mottl	Wylie
Frey	Myers, Gary	Yates
Fuqua		Yatron
Gibbons		Young, Fla.

NAYS—231

Addabbo	Flynt	Nowak
Akaka	Foley	Oakar
Allen	Ford, Mich.	Oberstar
Ambro	Ford, Tenn.	Obey
Anderson, Calif.	Fountain	Ottinger
	Fowler	Panetta
Andrews, N.C.	Gaydos	Patten
Andrews, N. Dak.	Gephardt	Patterson
	Ginn	Pease
Annunzio	Gonzalez	Pepper
Applegate	Gore	Perkins
Ashley	Gudger	Pickle
Aspin	Hall	Pike
AuCoin	Hamilton	Preyer
Badillo	Hanley	Price
Baldus	Hannaford	Pursell
Barnard	Harris	Rahall
Baucus	Harsha	Rangel
Bauman	Hawkins	Reuss
Beard, R.I.	Hefner	Richmond
Bennett	Heftel	Risenhoover
Bevill	Hightower	Rodino
Biaggi	Holt	Roe
Blouin	Hubbard	Rogers
Boggs	Huckaby	Roncalio
Boland	Hughes	Rooney
Bonker	Jenkins	Rose
Bowen	Jenrette	Rosenthal
Brademas	Johnson, Calif.	Rostenkowski
Breaux	Jones, N.C.	Roybal
Breckinridge	Jones, Tenn.	Runnels
Brinkley	Jordan	Ruppe
Brooks	Kazen	Russo
Burke, Calif.	Krebs	Ryan
Burke, Mass.	LaFalce	Satterfield
Burlison, Mo.	Le Fante	Scheuer
Burton, Phillip	Lederer	Schroeder
Byron	Leggett	Sharp
Carney	Lehman	Shipley
Cederberg	Levitas	Sikes
Chappell	Lloyd, Calif.	Simon
Clausen, Don H.	Lloyd, Tenn.	Sisk
	Long, La.	Skelton
Clay	Long, Md.	Slack
Collins, Ill.	Lott	Smith, Iowa
Corman	McFall	Solarz
Cornwell	McHugh	Spellman
Cotter	McKay	St Germain
D'Amours	Mahon	Staggers
Daniel, Dan	Mann	Steed
Daniel, R. W.	Markey	Stokes
Danielson	Marriott	Stratton
Davis	Mathis	Studds
de la Garza	Mattox	Stump
Delaney	Mazzoli	Thompson
Dellums	Meeds	Thornton
Dent	Meyner	Traxler
Derrick	Mikulski	Tucker
Dicks	Mikva	Udall
Dingell	Miller, Calif.	Ullman
Downey	Mineta	Van Deerlin
Drinan	Minish	Vento
Duncan, Oreg.	Mitchell, Md.	Waggonner
Early	Moakley	Watkins
Eckhardt	Moffett	Weaver
Edgar	Mollohan	White
Edwards, Ala.	Montgomery	Whitehurst
Edwards, Calif.	Moorhead, Pa.	Whitley
English	Moss	Whitten
Evans, Ga.	Murphy, Ill.	Wilson, Bob
Evans, Ind.	Murphy, N.Y.	Wilson, C. H.
Fary	Murphy, Pa.	Wilson, Tex.
Fascell	Murtha	Wirth
Fisher	Myers, Michael	Young, Alaska
Fithian	Natcher	Young, Mo.
Flippo	Nichols	Young, Tex.
Flood	Nix	Zablocki
Florio	Nolan	Zeferetti

NOT VOTING—37

Alexander	Eilberg	Krueger
Anderson, Ill.	Evans, Del.	Lundine
Bingham	Flowers	McCormack
Bolling	Gammage	Metcalfe
Broomfield	Giaimo	Roberts
Brown, Calif.	Hansen	Santini
Burton, John	Harrington	Teague
Chisholm	Heckler	Waxman
Clawson, Del	Holland	Whalen
Conyers	Howard	Wolff
Corcoran	Hyde	Wright
Diggs	Kemp	
Dodd	Koch	

The Clerk announced the following pairs:

On this vote:

Mr. Roberts for, with Mr. Harrington against.

Mr. Teague for, with Mr. Howard against.

Mr. Broomfield for, with Mr. Koch against.

Mr. Del Clawson for, with Mr. Bingham against.

Mr. Corcoran of Illinois for, with Mrs. Chisholm against.

Mr. Hansen for, with Mr. Conyers against.

Mrs. Heckler for, with Mr. Dodd against.

Mr. Hyde for, with Mr. Lundine against.

Mr. Kemp for, with Mr. Wolff against.

Mr. Whalen for, with Mr. McCormack against.

Until further notice:

Mr. Alexander with Mr. Diggs.

Mr. John Burton with Mr. Metcalfe.

Mr. Eilberg with Mr. Brown of California.

Mr. Flowers with Mr. Gammage.

Mr. Giaimo with Mr. Krueger.

Mr. Holland with Mr. Waxman.

Mr. Santini with Mr. Wright.

Mr. Anderson of Illinois with Mr. Evans of Delaware.

Messrs. APPLEGATE, RAHALL, FLYNT, and CEDERBERG changed their vote from "yea" to "nay."

Messrs. POAGE, SKUBITZ, SEIBERLING, BRODHEAD, GLICKMAN, and CAVANAUGH changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. DANIELSON). The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

PERMISSION FOR COMMITTEE ON MERCHANT MARINE AND FISHERIES TO FILE REPORT ON H.R. 9794, MEXICAN FISHING AGREEMENT

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries may have until midnight tonight to file a report on H.R. 9794, Mexican Fishing Agreement legislation (GIFA).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 830 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 830

Resolved, That when the House proceeds in the Committee of the Whole House on the State of the Union to the further consideration of the bill (H.R. 7073) to extend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, it shall be in order to consider an amendment in the nature of a substitute to said bill consisting of the text of the amendment in the nature of a substitute recommended by the Committee on Agriculture to and now printed in the bill (H.R. 8681), said amendment shall be considered as an original bill for the purpose of amendment under the five-minute rule, and all points of order against said substitute for failure to comply with the provisions of clause 7, rule XVI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 7073, it shall be in order in the House to take from the Speaker's table the bill S. 1678 and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions contained in H.R. 7073 as passed by the House.

The SPEAKER pro tempore. The gentleman from California (Mr. SISK) will be recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 830 makes in order an amendment to the bill H.R. 7073 which extends the Federal Insecticide, Fungicide, and Rodenticide Act. The House considered H.R. 7073 on September 22, 1977, and concluded all general debate on the measure but did not begin reading the bill for amendment.

This rule provides that when the House again resolves into the Committee of the Whole for further consideration of H.R. 7073, it shall be in order to consider an amendment in the nature of a substitute for the bill. The specific amendment made in order is itself an amendment in the nature of a substitute recommended by the Committee on Agriculture and now printed in the bill H.R. 8681.

The amendment will be considered as an original text for the purposes of amendment and will be read by sections. It is subject to amendment under the same provisions as any completely open rule. All points of order under clause 7, rule XVI relating to germaneness are waived for the substitute. This is necessary because H.R. 8681 as amended provides for a revision of the FIFRA Act whereas H.R. 7073 simply provides for an authorization and extension of the act.

The rule further provides for one motion to recommit with or without instructions. After passage of H.R. 7073, it shall be in order in the House to take S. 1678, the Senate companion measure, from the Speaker's table and to strike the provisions of that bill in order to insert the

provisions of H.R. 7073 as passed by the House.

Mr. Speaker, the procedure specified by the rule is necessary to facilitate the timely consideration of the FIFRA bill. The Committee on Agriculture earlier this year began extensive oversight hearings on the FIFRA program. The committee, however, was unable to complete its work on a revision of the FIFRA Act in time to meet the Budget Act deadline of May 16, 1977. Consequently, the committee reported H.R. 7073 which authorized funds and extended the program through fiscal year 1978. The committee, however, continued its work on FIFRA and on October 5, 1977, reported H.R. 8681.

Mr. Speaker, H.R. 8681 amends FIFRA to make that program more effective. The bill insures the availability of pesticides for agricultural and forestry production while at the same time providing needed safeguards against unreasonable adverse effects on human health and the environment.

H.R. 8681 amends the FIFRA Act to improve the Federal pesticide registration process which has come virtually to a halt as a result of requirements made by 1972 amendments to the act for reregistration and classification of thousands of pesticides. The bill separates the classification process from reregistration so that classification can be completed as rapidly as possible. The deadline for the reregistration process which is currently October 21, 1977, would be eliminated, and the deadline for requiring that "restricted" pesticides may be applied only by certified applicators would be extended 6 months to April 20, 1978.

The bill also provides modifications to the registration process in order to allow timely action on applications. Generic registration and conditional registration would be authorized in some instances under strictly specified conditions. The bill requires action on applications for experimental use permits within 90 days as well as notification of reasons for any rejection.

The data compensation and trade secrets provisions of the FIFRA Act have been clarified. This provision is expected to speed up the registration process by decreasing litigation and to encourage manufacturers to pursue research on safe and effective pesticides. The bill allows original applicants who developed the data for the registration to have a 5-year exclusive right to the data and to be granted an additional 5 years in which they would be compensated for the data's use by other applicants. A binding arbitration process to settle disputes is provided.

The bill strengthens the authority of the States in administering pesticide programs by granting the States greater authority in registration of pesticides for special local needs and specifying that responsibility for enforcement activities will be undertaken at the State level except under certain conditions.

Other provisions of the bill direct the Department of Agriculture to give priority to research on biologically integrated alternatives for pest controls. There is also a provision granting four specific exceptions to the ban on pesticide uses inconsistent with labeling. The bill authorizes $54.5 million for FIFRA in fiscal year 1978, the amount provided in the HUD-Independent Agencies Appropriation Act for fiscal year 1978.

Mr. Speaker, this legislation is important to all of our citizens, and I would urge my colleagues to adopt House Resolution 830 so that we might proceed to the amendment process of the bill H.R. 7073.

Mr. Speaker, I reserve the remainder of my time.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in order to comply with the Congressional Budget Act reporting date deadline on May 16, the Committee on Agriculture reported H.R. 7073, the Federal Insecticide, Fungicide, and Rodenticide Act Extension, on May 16, 1977. A rule was granted in the Rules Committee on June 8, and this rule was adopted by the full House on September 21. General debate on the bill has been completed but action on the measure has not been concluded.

The resolution before us today is a rule providing that an amendment in the nature of a substitute recommended by the Agriculture Committee now printed in the bill H.R. 8681 be made in order to H.R. 7073. The amendment in the nature of a substitute is to be considered as an original bill and open to all germane amendments. All points of order against the substitute for failure to comply with clause 7 of rule XVI (the germaneness rule) are waived. The rule allows a motion to recommit with or without instructions.

After passage of H.R. 7073, it will be in order to take S. 1678 from the Speaker's table, move to strike all after the enacting clause, and insert in lieu thereof the provisions of the House-passed bill.

The substitute legislation is designed to strike a better balance between the availability of pesticides to the farmer and the need to provide safeguards against their unreasonable adverse effects on human health and the environment. Several changes in existing FIFRA law are made which will help reduce the huge backlog of applications for registrations and reregistrations of pesticides. Additionally, greater authority is granted to the States for registration of pesticides for special local needs; and the substitute clearly specifies that the primary responsibility for enforcement activities is intended to be at the State level, except when the State does not have an approved plan.

The measure extends the authorization for FIFRA for 1 year and authorizes $54.5 million for fiscal year 1978. Also contained is an authorization of $46,636,000 for fiscal year 1977, which funds have already been appropriated.

Mr. Speaker, the substitute proposal was endorsed by the Agriculture Committee by a 44-to-0 vote on September 23. It is my understanding that it meets the objections of those, including myself, who have complained for years about the bureaucratic delays created when EPA and the Department of Agriculture disagree as to the effects of a certain pesticide, all to the detriment of the farmer. I congratulate the committee on its work, and I urge my colleagues to support this rule and the bill.

Mr. Speaker, I have no requests for time.

Mr. SISK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. FOLEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 7073) to extend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended.

The SPEAKER pro tempore (Mr. FLYNT). The question is on the motion offered by the gentleman from Washington (Mr. FOLEY).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 7073, with Mr. DANIELSON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Thursday, September 22, 1977, all time for general debate on the bill had expired.

Pursuant to House Resolution 830, the Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on Agriculture now printed in the reported bill H.R. 8681 as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 8681

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

DEFINITIONS

SECTION 1. Section 2 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended by—

(1) adding at the end of subsection (e)(1) the following: "Any certified applicator who holds and applies pesticides only to provide a service of controlling pests without delivering any unapplied pesticide to any person so served, is not deemed to be a seller or distributor of pesticides under this Act.";

(2) in subsection (e)(3), striking out "a certified" and inserting in lieu thereof "an";

(3) in subsection (q)(1), striking out the period at the end of clause (G), inserting "; and" in lieu thereof, and adding a new clause (H) as follows:

"(H) in the case of a pesticide not registered in accordance with section 3 of this Act and intended for export, the label does not contain, in words prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) as to render it likely to be noted by the ordinary individual under customary conditions of purchase and use, the following: 'Not Registered for Use in the United States of America'.";

(4) in subsection (t), striking out all that follows "which" and inserting in lieu thereof "is injurious to food and agricultural production, processing, storage or transportation or to health or the environment and which the Administrator, after coordination with the Secretary of Agriculture, establishes as a pest under section 28.";

(5) in subsection (w), inserting "or active ingredient used in producing a pesticide" im-

mediately after "or device" wherever such term appears therein;

(6) adding at the end of subsection (w) the following: "The dilution by individuals of formulated pesticides for their own use and according to the directions on registered labels shall not of itself result in such individuals being included in the definition of 'producer' for the purposes of this Act.";

(7) in subsection (dd), inserting "or active ingredient used in producing a pesticide" immediately after "or device"; and

(8) adding at the end thereof the following new subsections:

"(ee) To Use Any Registered Pesticide in a Manner Inconsistent With Its Labeling.—The term 'to use any registered pesticide in a manner inconsistent with its labeling' means to use any registered pesticide in a manner not permitted by the labeling, or not authorized by the Administrator or not authorized by a State under section 24(c): *Provided,* That the term does not include (1) applying a pesticide at any dosage, concentration, or frequency less than that specified on the labeling, (2) applying a pesticide against any target pest not specified on the labeling if the application is to the crop, animal, or site specified on the labeling, (3) employing any method of application not prohibited by the labeling, or (4) mixing a pesticide or pesticides with a fertilizer when such mixture is not prohibited by the labeling.

"(ff) Basic Pest Control Chemical.—The term 'basic pest control chemical' means a pesticide which is not intended to be applied for pest control purposes without further formulation, but is intended to be used in producing a formulated pesticide.

"(gg) Formulated Pesticide.—The term 'formulated pesticide' means a pesticide which is intended to be applied for pest control purposes without further mixing or formulation, or after mixing with water or other dilutant by the applicator.".

USE OF DATA TO SUPPORT REGISTRATION; ADDITIONAL DATA TO SUPPORT EXISTING REGISTRATION

Sec. 2. (a) Section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended by—

(1) in subsection (c)(1), redesignating existing subparagraph (F) as (G), and amending subparagraphs (D) and (E) and adding a new subparagraph (F), such subparagraphs (D), (E), and (F), to read as follows:

"(D) except as otherwise provided in subsection (c)(2)(D) of this section, a full description of the tests made and the results thereof upon which the claims are based, or alternatively a citation to data which appear in the public literature or which previously had been submitted to the Administrator and which the Administrator may consider in accordance with the provisions of subparagraphs (E) and (F) of this subsection;

"(E) if relied upon by the applicant, data first submitted to the Administrator after January 1, 1970, by another applicant to support an application for registration or for an experimental use permit, or to satisfy a request by the Administrator: Provided, That such data shall not, without the written permission of the original data submitter, be considered by the Administrator to support an application by another person, except—

"(i) in the case of data originally submitted to support an application for an experimental use permit or for registration of a new pesticide product, the Administrator may consider the data to support another person's application for registration after passage of a period of five years following the date the Administrator first issues a registration, to the extent permitttd by subparagraph (F) of this subsection;

"(ii) in the case of data submitted in support of an application for an amendment adding a new use or uses to an existing registration and which pertains solely to such new use, such data may be considered in support of another person's application for registration after passage of a period of five years following the date the Administrator first registered the pesticide, to the extent permitted by subparagraph (F) of this subsection; and

"(iii) in the case of data requested by the Administrator and first submitted to support or maintain in effect an existing registration or to support reregistration, the Administrator may consider the data to support another person's application for registration after passage of a period of five years following the date of submission, to the extent permitted by subparagraph (F) of this subsection;

"(F) an offer to compensate the original data submitter, during the five-year period commencing immediately upon the expiration of a period of exclusive use, for an item of data under subparagraph (E), (i), (ii), or (iii) of this subsection. The Administrator may, without the permission of the original data submitter, consider such item of data in support of an application for registration by any other person (hereinafter in this subparagraph referred to as the 'applicant') only if the applicant has submitted to the Administrator such offer accompanied by evidence of delivery to the original data submitter of the offer. The terms and amount of compensation may be fixed by (i) agreement between the original data submitter and the applicant, or (ii) failing such agreement, binding arbitration under this subparagraph. If, at the end of ninety days after the date of the receipt by the original data submitter of the offer to compensate, the original data submitter and the applicant have neither agreed on the amount and terms of compensation nor on a procedure for reaching an agreement on the amount and terms of compensation, either person may initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint an arbitrator from the roster of orbitrators maintained by such Service. The procedure and the rules of the Service shall be applicable to the selection of such arbitrator and to such arbitration proceedings, and the findings and determination of the arbitrator shall be binding and not subject to further appeal. The parties to the arbitration shall share equally in the payment of the fee and expenses of the arbitrator. If at any time the Administrator determines that an original data submitter has failed to participate in a procedure for reaching an agreement or in an arbitration proceeding as required by this subparagraph, or failed to comply with the terms of an agreement or arbitration decision concerning compensation under this subparagraph, the original data submitter shall forfeit his or her right to compensation for the use of the data in support of the application. Notwithstanding any other provision of this Act, if at any time the Administrator determines that an applicant has failed to participate in a procedure for reaching an agreement or in an arbitration proceeding as required by this subparagraph, or failed to comply with the terms of an agreement or arbitration decision concerning compensation under this subparagraph, the Administrator shall deny the application or cancel the registration of the pesticide in support of which the data was used without further hearing. Before the Administrator takes action under either of the preceding two sentences, the Administrator shall furnish to the affected person, in writing and by certified mail, notice of intent to take action and allow fifteen days from the date of furnishing the notice for the affected person to respond. If a registration is denied or canceled under this subparagraph, the Administrator may make such order as the Administrator deems appropriate concerning the continued sale and use of existing stocks of such pesticide. Registration action by the Administrator shall not be delayed pending the fixing of compensation. After expiration of any period of exclusive use and any period for which compensation is required for the use of an item of data under this subsection (c)(1), the Administrator may consider such item of data in support of an application for registration by any other applicant without the permission of the original data submitter and without an offer having been received to compensate the original data submitter for the use of such item of data, and"; and

(2) amending subsection (c)(2) by—

(A) inserting "(A)" immediately after "(2)";

(B) inserting immediately after "kind of information" in the second sentence the following "in accordance with subparagraph (B) of this paragraph,";

(C) striking out "subsection (c)(1)(D) of this section and" from the third sentence; and

(D) adding a new subparagraph at the end thereof as follows:

"(B) Additional Data to Support Existing Registration.—

"(i) If the Administrator determines that additional data is required to maintain in effect an existing registration of a pesticide, the Administrator shall notify all existing registrants of the pesticide to which the determination relates and provide a list of such registrants to any interested person.

"(ii) Each registrant of such pesticide shall provide evidence within ninety days after receipt of notification that it is taking appropriate steps to secure the additional data that is required. Two or more registrants may agree to jointly develop, or to share in the cost of developing, such data if they agree and advise the Administrator of their intent within ninety days after notification. Any registrant who agrees to share in the cost of producing the data shall be entitled to examine and rely upon such data in support of maintenance of such registration.

"(iii) If, at the end of sixty days after advising the Administrator of their intent to develop jointly or share in the cost of developing data, the registrants have not further agreed on the terms of the data development arrangement nor on a procedure for reaching such agreement, any of such registrants may initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint an arbitrator from the roster of arbitrators maintained by such Service. The procedure and rules of the Service shall be applicable to the selection of such arbitrator and to such arbitration proceedings, and the findings and determinations of the arbitrator shall be binding and not subject to further appeal. All parties to the arbitration shall share equally in the payment of the fee and expenses of the arbitrator.

"(iv) Notwithstanding any other provision of this Act, if the Administrator determines that a registrant has failed to take appropriate steps to secure the data required under this subparagraph within the time required by the Administrator, or determines that a registrant has failed to participate in a procedure for reaching agreement or in an arbitration proceeding as required by this subparagraph, or failed to comply with the terms of an agreement or arbitration decision concerning a joint data development arrangement under this subparagraph, the Administrator shall cancel such registrant's registration of the pesticide for which additional data is required in accordance with section 6(b) of this Act: *Provided,* That if a registration is canceled under this subparagraph, the Administrator may make such order as the Administrator deems appropriate concerning the continued sale and use of existing stocks of such pesticide.

"(v) Any data submitted under this subparagraph shall be subject to the provisions of section 3(c)(1)(D), (E), and (F) of this Act. Whenever such data is submitted jointly by two or more registrants, an agent shall be agreed on at the time of the joint submission to handle any subsequent data compensation matters for the joint submitters of such data.".

(b) The amendments to section 3(c)(1)(D), (E), and (F) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, made by this section shall apply with respect to all applications for registration or reregistration approved on or after the date of enactment of this amendment.

MINOR USE REGISTRATIONS

SEC. 3. Section 3(c)(2)(A) of the Federal Insecticide, Fungicide, and Rodenticide Act, as redesignated by section 2 of this Act, is further amended by inserting immediately after the second sentence the following: "The Administrator, in establishing standards for data requirements for the registration of pesticides with respect to minor uses, shall make such standards commensurate with the anticipated extent of use, pattern of use, and the level and degree of potential exposure of man and the environment to the pesticide. In the development of these standards, the Administrator shall consider the economic factors of potential national volume of use, extent of distribution, and the impact of the cost of meeting the requirements on the incentives for any potential registrant to undertake the development of the required data.".

SIMPLIFIED REGISTRATION PROCEDURE; EXEMPTION FROM REQUIREMENTS FOR SUBMISSION OF DATA

SEC. 4. Section 3(c)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is further amended by adding two new subparagraphs at the end thereof as follows:

"(C) SIMPLIFIED PROCEDURES.—Within nine months after the date of enactment of this subparagraph, the Administrator shall, by regulation, prescribe simplified procedures for the registration of pesticide, which shall include the provisions of paragraph (2)(D) of this subsection.

"(D) EXEMPTION.—No applicant for registration of a pesticide who proposes to purchase a registered basic pest control chemical from another producer in order to formulate such purchased pesticide into an end-use product shall be required to—

"(i) submit or cite data pertaining to the safety of such basic pest control chemicals, as opposed to the safety of the formulated pesticide; or

"(ii) offer to pay reasonable compensation otherwise required by paragraph (1)(E) and (F) of this subsection for the use of any such data.".

WAIVER OF DATA REQUIREMENTS PERTAINING TO EFFICACY

SEC. 5. Section 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended by adding at the end thereof a new sentence as follows: "In considering an application for the registration for the registration of a pesticide, the Administrator is authorized to waive, at the Administrator's discretion, data requirements pertaining to efficacy. If a pesticide is found to be efficacious by any State pursuant to section 24(c), a presumption is established that the Administrator shall waive such data requirements for use of the pesticide in such State.".

REGISTRATION UNDER SPECIAL CIRCUMSTANCES; INTERIM ADMINISTRATIVE REVIEW

SEC. 6. Section 3(c) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended by adding at the end thereof the following new paragraphs:

"(7) REGISTRATION UNDER SPECIAL CIRCUMSTANCES.—Notwithstanding the provisions of subsection (c)(5) of this section—

"(A) The Administrator is authorized to conditionally register or amend the registration of a pesticide if the Administrator determines that (i) the pesticide is identical or substantially similar to any currently registered pesticide and use thereof, or differs only in ways that would not significantly increase the risk of unreasonable adverse effects on the environment, and (ii) approving the registration or amendment in the manner proposed by the applicant would not significantly increase the risk of any unreasonable adverse effect on the environment. An applicant seeking conditional registration or amended registration under this subparagraph shall submit such data as would be required to obtain registration of a similar pesticide under subsection (c)(5) of this section: *Provided,* That if the applicant is unable to submit an item of data because it has not yet been generated, or because it is an item of data described in subsection (c)(1)(E) or (F), the Administrator is authorized to register or amend the registration of the pesticide under such conditions as will require the submission of such data not later than the time such data are required to be submitted with respect to similar pesticides already registered under this Act.

"(B) The Administrator is authorized to conditionally amend the registration of a pesticide to permit additional uses notwithstanding that data concerning the pesticide may be insufficient to support an unconditional amendment, if the Administrator determines that (i) the applicant has submitted satisfactory data pertaining to the proposed additional use, and (ii) amending the registration in the manner proposed by the applicant would not significantly increase the risk of any unreasonable adverse effect on the environment. Notwithstanding the foregoing provisions of this subparagraph, no registration of a pesticide may be amended to permit an additional use of such pesticide if the Administrator has issued a notice stating that such pesticide, or any ingredient thereof meets or exceeds risk criteria associated in whole or in part with human dietary exposure as enumerated in regulations issued pursuant to this Act, and during the pendency of any risks and benefits analysis initiated by such notice, if (I) the additional use of such pesticide involves a major food or feed crop or (II) the additional use of such pesticide involves a minor food or feed crop and the Administrator determines, with the concurrence of the Secretary of Agriculture, that there is an available and effective alternative pesticide which does not meet or exceed such risk criteria. An applicant seeking amended registration under this subparagraph shall submit such data as would be required to obtain registration of a similar pesticide under subsection (c)(5) of this section: *Provided,* That if the applicant is unable to submit an item of data (other than data pertaining to the proposed additional use) because it has not yet been generated, or because it is an item of data described in subsection (c)(1)(E) or (F), the Administrator may amend the registration under such conditions as will require the submission of such data not later than the time such data are required to be submitted with respect to similar pesticides already registered under this Act.

"(C) The Administrator is authorized to conditionally register a pesticide containing an active ingredient not contained in any currently registered pesticide for a period reasonably sufficient for the generation and submission of required data (which are lacking because a period reasonably sufficient for generation of the data has not elapsed since the Administrator first imposed the data requirement) on the condition that by the end of such period the Administrator shall have received such data and that the data do not meet or exceed risk criteria enumerated in regulations issued pursuant to this Act, and on such other conditions as the Administrator may prescribe: *Provided,* That a conditional registration or amendment under this paragraph shall be granted only if the Administrator determines that use of the pesticide during such period will not cause any unreasonable adverse effect on the environment.

"(8) INTERIM ADMINISTRATIVE REVIEW.—Notwithstanding any other provisions of this Act, the Administrator may not initiate a public interim administrative review process to develop a risk-benefit evaluation of the ingredients of a pesticide or any of its uses prior to initiating a formal action to cancel, suspend, or deny registration of such pesticide, required under this Act, unless such interim administrative process is based on a validated test raising prudent concerns of unreasonable adverse risk to man or to the environment.".

CLASSIFICATION PRIOR TO REGISTRATION; CHANGE IN CLASSIFICATION FROM RESTRICTED USE TO GENERAL USE

SEC. 7. Section 3(d) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended by—

(1) inserting in paragraph (1)(A) a new sentence immediately after the first sentence thereof as follows: "Registered pesticides may be classified prior to reregistration.".

(2) striking out "30 days" in paragraph (2) and inserting in lieu thereof "sixty days"; and

(3) adding a new paragraph (3) to read as follows:

"(3) CHANGE IN CLASSIFICATION FROM RESTRICTED USE TO GENERAL USE.—The registrant of any pesticide with one or more uses classified for restricted use may petition the Administrator to change any such classification from restricted to general use. Such petition shall present the registrant's position that restricted use classification is unnecessary since a classification of general use would not cause unreasonable adverse effects on the environment. The Administrator, within sixty days from receiving such petition, shall notify the registrant of whether the petition has been granted or denied. Any denial shall contain an explanation to the registrant and any such denial shall be subject to judicial review pursuant to section 16.".

REREGISTRATION; USE AT A DILUTION LESS THAN LABEL DOSAGE

SEC. 8. Section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended by adding at the end thereof two new subsections as follows:

"(g) REREGISTRATION OF PESTICIDES.—The Administrator shall accomplish the registration of all pesticides in the most expeditious manner practical: *Provided,* That to the extent appropriate, any pesticide which results in a postharvest residue in or on food or feed crops shall be given priority in the reregistration process.

"(h) USE AT A DILUTION LESS THAN LABEL DOSAGE.—Prior to March 31, 1978, the use of a pesticide for agricultural and forestry purposes at a dilution less than label dosage will not be deemed to be a use inconsistent with the label. After that date no such use shall be deemed inconsistent with the label unless and until the Administrator shall have promulgated and issued a regulation in accordance with this Act which regulation specifically requires the use of definite amounts of dilution.".

AUTHORITY OF ADMINISTRATOR TO CERTIFY APPLICATORS

SEC. 9. Section 4(a) of the Federal Insecticide Fungicide and Rodenticide Act, as amended, is amended by—

(1) inserting in paragraph (1) immediately after "(1) FEDERAL CERTIFICATION.—" the fol-

lowing: "In any State for which a State plan for applicator certification has not been approved by the Administrator by February 20, 1978, the Administrator, in consultation with the Governor of such State, shall, if practicable, conduct a program for the certification of applicators of pesticides: Provided, That such program shall conform to the requirements imposed upon the States under the provisions of subsection (a)(2) and shall not require the private applicator to take any examination to establish competency in the use of the pesticide. In any State in which the Administrator conducts a certifications program, the Administrator is authorized to require any person engaging in the commercial application, sale, offering for sale, holding for sale, or distribution of any pesticide, one or more uses of which have been classified for restricted use, to maintain such records and submit such reports concerning the commercial application, sale, or distribution of such pesticide as the Administrator may by rule prescribe."; and

(2) adding at the end of paragraph (2) the following: "Effective with the fiscal year beginning October 1, 1978, the Environmental Protection Agency shall share on an equal basis with each State the cost to that State of conducting a certification of applicator program using funds hereafter appropriated for the purposes of this Act.".

EXPERIMENTAL USE PERMITS

SEC. 10. Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended by—

(1) amending subsection (a) to read as follows:

"(a) ISSUANCE.—Any person may apply to the Administrator for an experimental use permit for a pesticide. The Administrator shall review the application. After completion of the review, but not later than ninety days after receipt of the application and all required supporting data, the Administrator shall either issue the permit or notify the applicant of his determination that he may not issue the permit and his reasons therefor. The applicant may correct the application or request waiver of conditions for such permit within thirty days of receipt by the applicant of such notification. The Administrator may issue an experimental use permit only if he determines that the applicant needs such permit in order to accumulate information necessary to register a pesticide under section 3. An application for an experimental use permit may be filed at any time."; and

(2) amending subsection (f) by striking out the word "may" the first time it appears in the first sentence of such subsection and inserting in lieu thereof the word "shall".

ALTERNATIVE TO CANCELLATION

SEC. 11. Section 6(b) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended by inserting in the last sentence immediately after "In taking any final action under this subsection, the Administrator" the following: "shall consider restricting a pesticide's use or uses as an alternative to cancellation and shall fully explain the reasons for these restrictions, and".

CANCELLATION OF CONDITIONAL REGISTRATION

SEC. 12. Section 6 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended by redesignating subsection (e) as subsection (f) and inserting after subsection (d) a new subsection (e) as follows:

"(e) CONDITIONAL REGISTRATION.—

"(1) The Administrator shall issue a notice of intent to cancel a registration issued under section 3(c)(7) of this Act if (A) the Administrator, at any time during the period provided for satisfaction of any condition imposed determines that the registrant has failed to initiate and pursue appropriate action toward fulfilling any condition imposed or (B) at the end of the period provided for satisfaction of any condition imposed, if such condition has not been met: *Provided,* That the Administrator may permit the continued sale and use of existing stocks of a pesticide whose conditional registration has been canceled under this subsection to such extent, under such conditions, and for such uses as the Administrator may specify if the Administrator determines that such sale or use is not inconsistent with the purposes of this Act and will not have unreasonable adverse effects on the environment.

"(2) A cancellation proposed pursuant to this subsection shall become final and effective at the end of thirty days from receipt by the registrant of the notice of intent to cancel unless during that time a request for hearing is made by a person adversely affected by the notice. In the event that a hearing is requested, a hearing shall be conducted pursuant to subsection (d) of this section: *Provided,* That the only matters for resolution at that hearing shall be whether the registrant has initiated and pursued appropriate action to comply with the condition or conditions within the time provided or whether the condition or conditions have been satisfied within the time provided and whether the Administrator's determination with respect to the disposition of existing stocks is consistent with the Act. In the event a hearing is held, a decision after completion of such hearing shall be final. Notwithstanding any other provision of this section, a hearing shall be held and a determination made within seventy-five days after receipt of a request for such hearing.".

REGISTRATION OF ESTABLISHMENTS

SEC. 13. Section 7 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended—

(1) in subsection (a), inserting "or active ingredient used in producing a pesticide subject to this Act" immediately after "any pesticide subject to this Act";

(2) in subsection (c)(1), inserting "or active ingredients used in producing pesticides" immediately after "pesticides"; and

(3) in subsection (d), inserting "other than the names of the pesticides or active ingredients used in producing pesticides produced, sold, or distributed at an establishment" immediately after "pursuant to subsection (c)".

INSPECTION OF BOOKS AND RECORDS

SEC. 14. Section 8(b) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended by adding immediately after the last sentence the following: "Before undertaking any such inspection under this section, the officers or employees must present to the owner, operator, or agent in charge of the establishment or other place where pesticides or devices are held for distribution or sale, appropriate credentials and a written statement as to the reason for the inspection, including a statement as to whether a violation of the law is suspected. If no violation is suspected, an alternate and sufficient reason shall be given in writing. Each such inspection shall be commenced and completed with reasonable promptness."

TRADE SECRET AMENDMENTS

SEC. 15. Section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended by—

(1) inserting in subsection (b) immediately after "Notwithstanding any other provision of this Act" the following: "and subject to the limitations in subsections (d) and (e) of this section"; and

(2) adding four new subsections at the end thereof as follows:

"(d) LIMITATIONS.—

"(1) All information concerning the objectives, methodology, results, or significance of any test or experiment performed on or with a registered or previously registered pesticide or its separate ingredients, impurities, or degradation products, and any information concerning the effects of such pesticide on any organism or the behavior of such pesticide in the environment, including but not limited to data on safety to fish and wildlife, humans and mammals, plants, animals, and soil, or studies on persistence, translocation and fate in the environment, and metabolism, shall be available for disclosure to the public: *Provided,* That the use of such data for any registration purpose shall be governed by section 3: *And provided further,* That this paragraph does not authorize the disclosure of any information which—

"(A) discloses manufacturing or quality control processes;

"(B) discloses the details of any methods for testing, detecting, or measuring the quantity of any deliberately added inert ingredients of a pesticide; or

"(C) discloses the identity or percentage quantity of any deliberately added inert ingredient of a pesticide,

unless the Administrator has first determined that disclosure is necessary to protect against an unreasonable risk of injury to health or the environment.

"(2) Information concerning production, distribution, sale, or inventories of a pesticide which is otherwise entitled to confidential treatment under subsection (b) of this section may be publicly disclosed in connection with a public proceeding to determine whether a pesticide, or any ingredient of a pesticide, causes unreasonable adverse effects on health or the environment, if the Administrator determines that such disclosure is necessary in the public interest.

"(3) If the Administrator proposes to disclose information described in subparagraph (A), (B), or (C) of paragraph (1) or in paragraph (2) of this subsection, the Administrator shall notify, in writing and by certified mail, the submitter of such information of the intent to release such information. The Administrator may not release such information, without the submitter's consent, until thirty days after the submitter has been furnished such notice: *Provided,* That where the Administrator finds that disclosure of information described by subparagraph (A), (B), or (C) of paragraph (1) of this subsection is necessary to avoid or lessen an imminent and substantial risk of injury to the public health, he may set such shorter period of notice (but not less than 10 days) and such method of notice as he finds appropriate. During such period the data submitter may institute an action in an appropriate district court to enjoin or limit the proposed disclosure. The district court shall give expedited consideration to any such action. The district court may enjoin disclosure, or limit the disclosure or the parties to whom disclosure shall be made, to the extent that—

"(A) in the case of information described in subparagraph (A), (B), or (C) of paragraph (1) of this subsection, the proposed disclosure is not required to protect against an unreasonable risk of injury to health or the environment; or

"(B) in the case of information described by paragraph (2) of this subsection, the public interest in availability of the information in the public proceeding does not outweigh the interests in preserving the information's confidentiality.

"(e) DISCLOSURE TO CONTRACTORS.—The Administrator may provide any information which is exempt from disclosure pursuant to subsection (b)(4) of section 552 of title 5, United States Code, to a person other than an officer or employee of the Environmental Protection Agency if the Administrator determines such other person requires the information in connection with an activity which is undertaken under contract with the Administrator, which relates to the administration of this Act and with respect to

which the Administrator (or an officer or employee of the Environmental Protection Agency) is not prohibited from using such information. The Administrator shall require as a condition to the provision of information under this section that the person receiving it take such security precautions respecting the information as the Administrator may by regulation prescribe.

"(f) PENALTY FOR DISCLOSURE BY FEDERAL EMPLOYEES.—(1) Any officer or employee of the United States or former officer or employee of the United States who, by virtue of such employment or official position, has obtained possession of, or has access to, material the disclosure of which is prohibited by subsection (b) of this section, and who knowing that disclosure of such material is prohibited by such subsection, willfully discloses the material in any manner to any person not entitled to receive it, shall be guilty of a misdemeanor and fined not more than $10,000 or imprisoned for not more than one year, or both. Section 1905 of title 18 of the United States Code does not apply with respect to the publishing, divulging, disclosure, or making known of, or making available, information reported or otherwise obtained under this Act.

"(2) For the purposes of this section, any contractor with the United States who is furnished information as authorized by subsection (e) of this section or any employee of any such contractor, shall be considered to be an employee of the United States.

"(g) DISCLOSURE TO FOREIGN AND MULTINATIONAL PESTICIDE PRODUCERS.—(1) The Administrator shall not knowingly disclose information submitted by an applicant or registrant pursuant to this Act to any employee or agent of any business or other entity engaged in the production, sale, or distribution of pesticides in countries other than the United States or in addition to the United States or to any other person who intends to deliver such data to such foreign or multinational business or entity unless the applicant or registrant has consented to such disclosure. The Administrator shall require an affirmation from any person who intends to inspect data that he or she does not seek access to the data for purposes of delivering it or offering it for sale to any such business or entity or its agents or employees and will not purposefully deliver or negligently cause the data to be delivered to such business or entity or its agents or employees.

"(2) The Administrator shall maintain records of the names of persons to whom data is disclosed and affiliations they represent and shall inform the registrant of the name(s) and affiliation(s) of such person(s).

"(3) The provisions of section 1001 of title 18, United States Code, shall apply to any affirmation made pursuant to subsection (g)(1) of this section.".

UNLAWFUL ACTS

SEC. 16. Section 12(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended by inserting immediately before the semicolon at the end of subparagraph (F) the following: ": Provided, That it shall not be unlawful to sell a restricted use pesticide to a person who is not a certified applicator for application by a certified applicator".

CIVIL PENALTIES

SEC. 17. Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended by—

(1) striking out the last sentence in paragraph (3);

(2) redesignating paragraph (4) as paragraph (5); and

(3) inserting after paragraph (3) a new paragraph (4) as follows:

"(4) DETERMINATION OF PENALTY.—In determining the amount of the penalty the Administrator shall consider the appropriateness of such penalty to the size of the business of the person charged, the effect on the person's ability to continue in business, and the gravity of the violation. Whenever the Administrator finds that the violation occurred despite the exercise of due care or did not cause significant harm to health or the environment, the Administrator is authorized to issue a warning in lieu of assessing a penalty.".

PESTICIDES AND DEVICES INTENDED FOR EXPORT

SEC. 18. (a) Section 17 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended by—

(1) amending subsection (a) to read as follows:

"(a) PESTICIDES AND DEVICES INTENDED FOR EXPORT.—Notwithstanding any other provision of this Act, no pesticide or device or active ingredient used in producing a pesticide shall be deemed in violation of this Act—

"(1) when intended solely for export to any foreign country and prepared or packed according to the specifications or directions of the foreign purchaser, except that producers of such pesticides and devices and active ingredients used in producing pesticides shall be subject to sections 2(p), 2(q)(1)(A), (C), (D), and (H), 2(q)(2)(A), (C)(i) and (iii), and (D), 7, and 8 of this Act; and

"(2) in the case of any pesticide other than a pesticide registered under section 3 or sold under section 6(a)(1) of this Act, if prior to export, the foreign purchaser has signed a statement acknowledging that he understands that such pesticide is not registered for use in the United States and cannot be sold in the United States under this Act. A copy of that statement shall be transmitted to an appropriate official of the government of the importing country."; and

(2) adding at the end of subsection (b) the following: "Such notification shall, upon request, include all information related to cancellation or suspension of the registration of a pesticide and information concerning other pesticides which are registered under section 3 and which could be used in lieu of such pesticide.".

(b) The amendment made by subsection (a)(1) of this section shall become effective one hundred and eighty days after the date of enactment of this amendment.

DISPOSAL

SEC. 19. Section 19 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended by adding a new subsection (c) as follows:

"(c) PROVISIONS FOR UNUSED QUANTITIES.—Notification of cancellation of any pesticide shall include specific provisions for the disposal of the unused quantities of such pesticide.".

RESEARCH AND MONITORING ACTIVITIES

SEC. 20. Section 20 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended by—

(1) in the first sentence of subsection (a), striking out all after the phrase "and he shall" and inserting in lieu thereof the following: "coordinate such research with the Secretary of Agriculture, who shall give priority to research to develop biologically integrated alternatives for pest control."; and

(2) amending subsection (c) to read as follows:

"(c) MONITORING.—The Administrator shall undertake such monitoring activities, including but not limited to monitoring in air, soil, water, man, plants, and animals, as may be necessary for the implementation of this Act and of the national pesticide monitoring plan. The Administrator shall establish procedures for the monitoring of man and animals and their environment for incidental pesticide exposure, including but not limited to the quantification of incidental human and environmental pesticide pollution and the secular trends thereof, and identification of the sources of contamination and their relationship to human and environmental effects. Such activities shall be carried out in cooperation with other Federal, State, and local agencies.".

SOLICITATION OF COMMENTS; NOTICE OF PUBLIC HEARINGS

SEC. 21. Section 21(b) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended by—

(1) inserting immediately after "actions authorized under this Act," the following: "the Administrator shall solicit the views of the broad scientific community at an early stage of the Administrator's decision making process; and,"; and

(2) striking out "scientists," in such subsection.

STATE COOPERATION, AID, AND TRAINING

SEC. 22. Section 23 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended to read as follows:

"SEC. 23. STATE COOPERATION, AID, AND TRAINING.

"(a) COOPERATIVE AGREEMENTS.—The Administrator authorized to enter into cooperative agreements with States and Indian tribes—

"(1) to delegate to any State or Indian tribe the authority to cooperate in the enforcement of this Act through the use of its personnel or facilities, to train personnel of the State or Indian tribe to cooperate in the enforcement of this Act, and to assist States and Indian tribes in implementing cooperative enforcement programs through grants-in-aid; and

"(2) to assist State and Indian tribal agencies in developing and administering State or Indian tribal programs for training and certification of applicators consistent with the standards the Administrator prescribes.

"(b) CONTRACTS FOR TRAINING.—In addition, the Administrator is authorized to enter into contracts with Federal, State, or Indian tribal agencies for the purpose of encouraging the training of certified applicators.

"(c) INFORMATION AND EDUCATION.—The Administrator shall, in cooperation with the Secretary of Agriculture, utilize the services of the Cooperative State Extension Services to inform and educate pesticide users about accepted uses and other regulations made pursuant to this Act.".

PESTICIDES FORMULATED FOR DISTRIBUTION AND USE WITHIN A STATE

SEC. 23. Section 24 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended to read as follows:

"SEC. 24. AUTHORITY OF STATES.

"(a) A State may regulate the sale or use of any federally registered pesticide or device in the State, but only if and to the extent the regulation does not permit any sale or use prohibited by this Act.

"(b) Such State shall not impose or continue in effect any requirements for a label or packaging in addition to or different from those required pursuant to this Act.

"(c) A State may provide registration for pesticides formulated for distribution and use within that State to meet special local needs if the registration has not previously been denied, disapproved, or canceled by the Administrator; however, this shall not prohibit registration of ingredients or uses undergoing benefit-risk evaluation prior to a decision to cancel, suspend, or not to reregister. Such registration shall be deemed registration under section 3 for all purposes of this Act, but shall authorize distribution and use only within such State.".

AUTHORITY OF ADMINISTRATOR—REGULATIONS; SCIENTIFIC ADVISORY PANEL

SEC. 24. (a) Section 25 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended by—

(1) in subsection (a)(1), striking out the period at the end of the second sentence and adding the following: "and differences in environmental risk and the appropriate data for evaluating such risk between agricultural and nonagricultural pesticides.";

(2) in subsection (a)(2)(B), adding at the end thereof the following: "In taking any final action under this subsection, the Administrator shall include among those factors to be taken into account the impact of such final action on production and prices of agricultural commodities, retail food prices, and otherwise on the agricultural economy, and he shall publish in the Federal Register an analysis of such impact.";

(3) striking out subsection (c)(1) and redesignating subsections (c) (2), (3), (4), (5), and (6) as subsections (c) (1), (2), (3), (4), and (5), respectively;

(4) in subsection (d), striking out the third sentence and inserting in lieu thereof the following: "The Administrator shall also solicit from the advisory panel comments, evaluations, and recommendations of the advisory panel for operating guidelines to improve the effectiveness and quality of scientific analysis made by personnel of the Environmental Protection Agency that lead to decisions by the Administrator in carrying out the provisions of this Act. The comments, evaluations, and recommendations of the advisory panel and the response of the Administrator shall be published in the Federal Register in the same manner as provided for publication of the comments of the Secretary of Agriculture under such sections. The Chairman of the advisory panel, after consultation with the Administrator, is authorized to create temporary subpanels on specific projects to assist the full advisory panel in expediting and preparing its evaluations, comments, and recommendations."; and

(5) in subsection (d), adding at the end thereof a new sentence as follows: "Section 14(a) of the Federal Advisory Committee Act, 86 Stat. 776 (relating to termination), shall not apply to this panel.".

STATE ENFORCEMENT; ESTABLISHMENT OF A LIST OF PESTS; COOPERATION WITH DEPARTMENT OF AGRICULTURE'S PROGRAM; ANNUAL REPORT

SEC. 25. The Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended by—

(1) redesignating sections 26 (severability) and 27 (authorization for appropriations) as sections 30 and 31, respectively; and

(2) inserting after section 25 the following four new sections:

"SEC. 26. STATE PRIMARY ENFORCEMENT RESPONSIBILITY.

"(a) For the purposes of this Act, a State has primary enforcement responsibility for pesticide use violations during any period for which the Administrator determines that such State—

"(1) has adopted pesticide use laws and regulations which are no less stringent than those established under this Act;

"(2) has adopted and is implementing adequate procedures for the enforcement of such State regulations; and

"(3) will keep such records and make such reports with respect to activities under paragraphs (1) and (2) as the Administrator may require by regulation.

"(b) Notwithstanding the provisions of subsection (a) of this section, any State which has a plan approved by the Administrator in accordance with the requirements of section 4 of this Act shall have the primary enforcement responsibility for pesticide use violations.

"(c) States not having a plan approved by the Administrator in accordance with the requirements of section 4 shall have primary enforcement responsibility upon such approval.

"(d) The Administrator shall have enforcement responsibility for those States which do not have enforcement responsibility and authority under this Act: *Provided*, That, notwithstanding the provisions of section 2(e)(1) of this Act, during any period when the Administrator has such enforcement responsibility, section 8(b) of this Act shall apply to the books and records of commercial applicators and section 9(a) of this Act shall apply to the establishment or other place where pesticides or devices are held for commercial application.

"(e) Effective with the fiscal year beginning October 1, 1978, the Environmental Protection Agency shall share on an equal basis with each State the cost to that State of its primary enforcement responsibilities for pesticide use violations using funds hereafter appropriated for the purposes of this Act.

"SEC. 27. FAILURE BY THE STATE TO ASSURE ENFORCEMENT OF STATE PESTICIDE USE REGULATIONS.

"(a) Upon receipt of any complaint alleging a violation of the pesticide use provisions of this Act, the Administrator shall refer the matter to the appropriate State officials for their investigation of the complaint consistent with the requirement of this Act. If, within thirty days, the State has not commenced appropriate enforcement action, the Administrator shall be authorized to act upon the complaint to the extent authorized under this Act.

"(b) Whenever the Administrator determines that a State to which such responsibility has been delegated is not carrying out the regulation and enforcement of such provisions in a manner consistent with this Act, he shall notify the State. Such notice shall specify those aspects of the administration of the State program that are determined to be inconsistent with this Act. The State shall have ninety days after receipt of the notice to correct any deficiencies. If after that time the Administrator determines that the State program is inconsistent with or inadequate under this Act, he is authorized to rescind any delegation to the State made under this subsection.

"(c) Section 26 of this Act shall not limit the authority of the Administrator to enforce this Act, where he determines that emergency conditions exist which require immediate action on the part of the Administrator.

"SEC. 28. ESTABLISHMENT OF A LIST OF PESTS; COOPERATION WITH DEPARTMENT OF AGRICULTURE'S PROGRAM.

"The Administrator, in coordination with the Secretary of Agriculture, shall establish and maintain, according to agricultural products and geographic area, a list of pests in order of priority, that need to be brought under control to assure an adequate supply of quality and economical agricultural products. The Administrator shall also coordinate and cooperate with the Secretary of Agriculture's research and implementation programs to develop and improve the safe use of and the effectiveness of chemical, biological and alternative methods to combat and control pests that reduce the quality and economical production and distribution of agricultural products to domestic and foreign consumers.".

"SEC. 29. ANNUAL REPORT.

"The Administrator shall submit an annual report on our before February 15 of each year except that the first report shall not be due until February 15, 1979. The report shall include the total number of applications for conditional registration pursuant to section 3(c)(7)(B) and 3(c)(7)(C), and with respect to those applications approved, the Administrator shall report his findings in each case, the conditions imposed, and any modification of such condition in each case, and the quantities produced of such pesticides.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 26. Section 30 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, as redesignated by section 25 of this Act, is amended by striking out "and for the period beginning October 1, 1976, and ending March 31, 1977, the sum of $23,600,000", and inserting in lieu thereof the following: "and for the period beginning October 1, 1976, and ending September 30, 1977, the sum of $46,636,000, and for the period beginning October 1, 1977, and ending September 30, 1978, the sum of $54,500,000".

STUDY

SEC. 27. (a) The Administrator of the Environmental Protection Agency shall perform a study examining the feasibility of assessing and collecting fees from persons applying to register, or amend the registration of, pesticides to cover the costs incurred by the Environmental Protection Agency in processing such applications pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended. The Administrator shall complete this study and submit a report setting forth the findings of the study and recommendations for the implementation of these findings to the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture, not later than nine months after the date of enactment of this Act.

(b) The Administrator, in cooperation with the Secretary of Agriculture, and after consultation with appropriate State officials, shall institute a review of available scientific information dealing with issues involved in the methods of pesticide application, including but not limited to the advisability of ultra-low-volume methods of application, and shall recommend to the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture such changes as he may deem necesary in existing law relative to provisions of the Act pertaining to the use of a pesticide in a manner inconsistent with its label. The report shall be submitted as soon as practicable after the date of enactment of this Act but not later than six months after the date of enactment of this Act.

(c) The Administrator shall submit an updated study examining the problems of minor uses of pesticides not specifically permitted by labeling. The Administrator shall complete this study and submit a report setting forth the findings of the study and recommendations for the implementation of these findings to the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture, not later than nine months after the date of enactment of this Act.

EFFECTIVE DATES

SEC. 28. Section 4 of the Federal Environmental Pesticide Control Act of 1972, as amended, is amended by—

(1) striking out in subsection (b) the colon immediately after the second "thereunder" and all that follows down through the end of the subsection and substituting in lieu thereof a period;

(2) in subsection (c), striking out paragraph (2), and redesignating paragraphs (3), (4), and (5) as (2), (3), and (4), respectively;

(3) in subsection (c)(2), as redesignated, inserting "and six months" after "years";

(4) in subsection (c)(3), as redesignated, inserting "and six months" after "years"; and

(5) in subsection (c)(3)(B), as redesignated, striking out "Within four years after the enactment of this Act each" and inserting in lieu thereof "Each".

Mr. FOLEY (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment in the nature of a substitute be dispensed with, and that the amendment be printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection

to the request of the gentleman from Washington?

There was no objection.

AMENDMENT OFFERED BY MR. MATHIS

Mr. MATHIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MATHIS: On page 67 of H.R. 8681, after line 23, insert the following new paragraph (and redesignate the subsequent paragraphs accordingly):

(3) adding at the end of subsection (a) the following new paragraph:

"(4) RULE AND REGULATION REVIEW.—

"(A) CONGRESSIONAL REVIEW.—Notwithstanding any other provision of this Act, simultaneously with promulgation or repromulgation of any rule or regulation under this Act, the Administrator shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in subparagraph (B), the rule or regulation shall not become effective, if—

"(i) within 90 calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule or regulation promulgated by the Administrator of the Environmental Protection Agency dealing with the matter of
which rule or regulation was transmitted to Congress on .', the blank spaces therein being appropriately filled; or

"(ii) within 60 calendar days of continuous session of Congress after the date of promulgation, one House of Congress adopts such a concurrent resolution and transmits such resolution to the other House, and such resolution is not disapproved by such other House within 30 calendar days of continuous session of Congress after such transmittal.

"(B) EFFECTIVE DATE.—If at the end of 60 calendar days of continuous session of Congress after the date of promulgation of a rule or regulation, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the rule or regulation, and neither House has adopted such a resolution, the rule or regulation may go into effect immediately. If, within such 60 calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the rule or regulation may go into effect not sooner than 90 calendar days of continuous session of Congress after its promulgation unless disapproved as provided in subparagraph (A).

"(C) FOR THE PURPOSES OF SUBPARAGRAPHS (A) and (B) of this paragraph—

"(i) continuity of session is broken only by an adjournment of Congress sine die; and

"(ii) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of 30, 60, and 90 calendar days of continuous session of Congress.

"(D) EFFECT OF CONGRESSIONAL INACTION.—Congressional inaction on or rejection of a resolution of disapproval shall not be deemed an expression of approval of such rule.";

Mr. MATHIS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. MATHIS. Mr. Chairman, this amendment, which is offered jointly on behalf of myself and the gentleman from Georgia (Mr. LEVITAS), is the amendment that has come to be known as the congressional review amendment, or congressional veto amendment. I think every Member of the House is familiar with it. The House has adopted identical language previously on other legislation that has come through the House. I think it is very clearly the mood of the House that this is what we want to do.

We want to have an opportunity to take a shot at some of these rules and regulations after the agencies have promulgated them. This does the same thing for the Environmental Protection Agency as has been done on other occasions.

I do not know of any great need to debate this, but I do yield to the gentleman from Georgia (Mr. LEVITAS), who is a cosponsor and the primary author of the language contained in this amendment.

Mr. LEVITAS. I thank my colleague for yielding to me. I commend him as a member of the Agriculture Committee for his leadership in this and other matters.

I think it is clear and the mood of the House has been expressed in a loud and compelling way. The Congress elected by the people has the responsibility of writing the laws, not the unelected bureaucrats. If we ever turn over our Government to be run by people elected by no one, then we will have abandoned a fundamental premise on which this Government was founded. This amendment simply gives to the Congress the opportunity to look at and see the regulations which are promulgated by the unelected bureaucrats and decide whether it is consistent with the congressional intent or whether it is arbitrary or oppressive.

I think that is our responsibility. We have to measure up to our responsibility, and I hope we pass this amendment.

Mr. MOORE. Mr. Chairman, will the gentleman yield?

Mr. MATHIS. I yield to the gentleman from Louisiana.

Mr. MOORE. I commend the gentleman for offering this amendment. The time for this idea came in the last Congress. We passed it some 10 or 11 times in the last Congress, including an amendment to this bill in the last Congress and we have done so 4 or 5 times already in this Congress. This is something that this bill particularly requires—congressional oversight over the rules and regulations which will be issued by an agency not elected by the people, but oversight by the Congress over a matter which has a great effect on the economy and the health of people of our country.

I hope the amendment will be adopted.

Mr. MATHIS. I would remind the Members of the House that almost identical language was passed on this bill during the previous Congress and the bill was vetoed on the basis of this amendment by the fellow who was occupying the White House at that time. I hope we have better luck with the fellow in the White House now.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. MATHIS. I yield to the gentleman from Missouri.

Mr. VOLKMER. That is only with respect to the rules and regulations applying to the FIFRA program?

Mr. MATHIS. That is right. We have no authority under this bill to get into other areas or dealings of the Environmental Protection Agency.

Mr. VOLKMER. So basically there is only a very limited area to which it will apply but it is of great importance to the agricultural industry at this time.

Mr. MATHIS. It is a very important area, I concur with the gentleman's remarks. I hope at the proper time we can have an amendment to deal with this same issue relative to the other issues with regard to the Environmental Protection Agency.

Mr. VOLKMER. I thank the gentleman.

Mr. MATHIS. Mr. Chairman, I urge adoption of the amendment.

Mr. FOLEY. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

I know the hour is late and I will not engage in a prolonged discussion of this amendment. I feel as if I am rising somewhat as a voice in the relative legislative wilderness to oppose an amendment that is increasingly popular, as represented by several instances in which the House has decided to attach such an amendment to legislation.

There are, of course, constitutional questions that have been raised by the administration of President Ford and the present administration as a possible invasion of the division of powers. Beyond, that, it is my concern that if we follow a course which requires the laying over before the House and the Senate for a period of 90 days, any one of the thousands of regulations issued each year by the Federal agencies, we will become so bogged down with the review of proposed regulations, that the Congress will not have the proper opportunity to address the major policy questions which come before us and which should be our primary business.

Beyond that, I think some Members may find, particularly in legislation of this kind, where the Agency involved, that is, the Environmental Protection Agency, may be attempting to move toward modifying and making more reasonable and flexible the administration of this program.

The Members may also find that by adopting this amendment, they will have delayed the effective implementation of this bill beyond the coming growing season; so, I want to suggest my own concern that the 90 days delay proposed by this amendment may in this bill work to the disadvantage of farmers and ranchers who need prompt implementation of the elements of this bill to modify the certain unduly rigid procedures of the Environmental Protection Agency, some of which in fairness have been brought about by certain requirements of the Congress.

Mr. Chairman, I personally am going to vote against the amendment, but I will not trouble the House further with these arguments. I think Members have

heard them before on various other bills, and they can make their own judgment on the amendment.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the requisite number of words.

I wonder if the chairman of the committee would respond to a question?

Mr. FOLEY. I would be glad to.

Mr. CUNNINGHAM. The gentleman mentioned in his statement in opposition, that this could impact negatively on farmers, because it would prevent them from using certain pesticides, herbicides, et cetera. Would it not be true that normally an EPA regulation would be to prohibit the existing use, rather than encourage a new use?

Mr. FOLEY. Mr. Chairman, if the gentleman will yield, this bill that we have before our committee today, among other provisions, authorizes the conditional registration of pesticides which have no apparent adverse effect on the environment, thus expediting the use of those pesticides and herbicides in the agricultural community. If regulations implementing this section are subjected to a congressional review period of 90 days in addition to existing time requirements, I am concerned that the regulations will not be in place to affect the next growing season and thus deny any farmers the relief afforded by conditional registration.

Mr. CUNNINGHAM. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. MATHIS).

The question was taken; and on a division (demanded by Mr. MATHIS) there were—ayes 74, noes 15.

So the amendment was agreed to.

Mr. WAMPLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the committee amendment.

I do not intend to restate the provisions of this amendment, except to say that it contains several amendments to develop better scientific analysis by EPA in its regulatory decisionmaking processes.

I do have some reservations about these amendments—not as to congressional purpose or intent—but as to the interpretations the people at the Environmental Protection Agency will place on them. After all, the real reason for this action by the House is to break an administrative logjam created by rules, regulations, and interpretations imposed on the industry, the States, and the farmers by EPA that makes the current laws as intended by Congress inoperative.

Therefore, Mr. Chairman, I remain pessimistic about this legislation.

EPA cannot seem to measure and prudently balance risks against benefits without overbalancing on the side of risks. Too often EPA in its decisionmaking processes, leans heavily on controversial techniques and tests. The balancing of risks and benefits is a difficult undertaking and requires the adoption of methods and administrative procedures to insure that the most accurate scientific information available is used in making such judgments. Certainly, EPA does not need to bend science to fit its judgments when determining whether a pesticide is safe for use or is not safe.

Surely such controversial matters, affecting our ability to produce quality and economical food and fiber products, should be based on an unquestionable scientific basis.

I, along with the distinguished gentleman from Texas, Mr. POAGE, have fought this battle with the people down at EPA on an annual basis.

As we in the House found a few weeks ago during debate on the saccharin controversy, this is a serious problem that applies not only to EPA and the FDA, but to OSHA, HEW, and several other Federal agencies. And on this subject of cancer risks, which is the keystone in all of EPA's regulatory decisionmaking, these Agencies are on controversial scientific ground.

Extremely strong concern bearing on the subject before us was expressed in a National Academy of Science report titled "Pesticide Decision Making," released on October 20. Unfortunately, this report was unavailable to the committee during its deliberations on FIFRA. The Academy report states in part:

A major controversy over the EPA regulations for the RPAR (Rebuttable Presumption Against Registration) process concern questions about evidence that a pesticide may have oncogenic effects. Should the Agency deny or cancel a registration, for example, because extrapolations from data on mice and other rodents show carcinogenic potential? Should the Agency take into account scientific judgments that, even though there is evidence of a risk on oncogenesis, the particular use sought for a pesticide would not pose an unreasonable adverse effect to humans or to the environment?

The National Academy of Science recommendation to correct this situation follows:

The carcinogenic potential of any pesticide that exceeds EPA criteria for chronic toxicity (oncogenesis) should be evaluated by cancer experts. Initially, the EPA Cancer Assessment Group should make this evaluation, and its conclusions should be reviewed by other cancer specialists.

The most important point made by the Academy report and one this Congress should study with great care, is as follows:

Adequate epidemiological data on cancer victims to detect possible relationships to pesticide use are not available. Moreover, no toxicological methodology has been developed which will assure that a pesticide that induces tumors will—or will not—necessarily induce cancer.

The Academy states further that:

It is unlikely the controversy can be resolved without a more extensive national research effort to obtain the information needed by federal regulatory agencies in the evaluation of data on carcinogenicity.

To solve this dilemma, the Academy suggests:

EPA should sponsor research to obtain broad determinations of the levels of human exposure to carcinogens in the environment. In addition, a multiagency effort should be undertaken to develop national criteria for interpreting data on carcinogens, and for assessing the carcinogenic risks of human exposures to pesticides.

We have a serious problem here, Mr. Chairman. With EPA basing its decisions on questionable risks and assessment procedures what is at stake here? Should EPA give stronger weight to the need or benefits of most pesticides than it now gives?

Again, lets see what the National Academy of Science had to say in its report. I quote:

At present the EPA regulations on pesticides do not require the consideration of benefits as part of the EPA Administrator's decision to issue a notice of intent to deny or to cancel a registration. The disadvantage of focusing almost exclusively on risks in the early stages of decision making is that pesticides uses which are important to the agricultural economy, to human health, and to protect forests and buildings are not adequately studied or considered in initial decisions by the Agency.

In this instance the Academy Recommends:

EPA regulations should require, and not simply permit, the consideration of benefits in determinations of whether to issue a notice of intent to deny or to cancel a registration.

This is especially important when we consider that the Academy in another report to the President "World Food and Nutrition" said on June 20:

The magnitude of crop losses from pests is not known precisely, but worldwide it is estimated to average about a third of potential food production.

There are many other serious criticisms made in the Academy's report and I earnestly recommend your consideration of this whole volume. I understand this document just arrived in your office last week.

Mr. Chairman, I offered an amendment during committee markup to require EPA to request the National Academy of Science to do a study and come up with recommendations on a National Cancer Assessment Policy, so we in the Congress could enact laws that are based on the best scientific knowledge available, and not on emotion or controversy. The committee, however, decided that since such a study involved other committees and several agencies, it would, instead of making it a part of the FIFRA Act, put strong language in the report supporting an executive branch initiative in this area. Because of my strong belief that this is the basic logjam to good administration of the FIFRA Act, as well as other laws involving cancer assessment, I shall shortly introduce comprehensive legislation to develop a National Cancer Assessment Policy for all concerned Federal agencies. I shall seek your support for such legislation.

Finally, Mr. Chairman, it is most important that we continue close supervision over EPA. This can best be done as called for in the committee amendment to limit EPA's authorization to 1 year and to have congressional veto power over its rules and regulations, the subject of the amendment offered by the gentleman from Georgia (Mr. MATHIS).

I hope the House will not yield in conference on these two provisions.

Mr. FOLEY. Mr. Chairman, I move to strike the necessary number of words.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Chairman, I am opposed to the subsitute, H.R. 8681, offered by the Committee on Agriculture.

I do not quarrel with the contention that EPA's pesticide programs need to be streamlined. I also realize that ambiguities in the data sharing sections of the FIFRA and poor management of the registration process by EPA has created real barriers to entry for small pesticide manufacturers and formulators. But this bill throws the baby out with the bath water. In the name of fostering the competitive position of small businesses and in the name of protecting farmers, H.R. 8681 dilutes the Federal commitment to reduce public exposure to toxic substances in the environment.

There are many things wrong with this bill, Mr. Chairman. It directs EPA to promulgate relaxed safety data requirements for pesticides intended for "minor uses." But the Administrator is given little guidance as to what constitutes a minor use.

The bill allows a State to register any pesticide for any use not already canceled by EPA. Under current law, EPA has 90 days to override State registrations, but the bill before us today strikes this authority. Thus, whenever EPA begins an RPAR or cancellation proceeding, which typically takes years to complete, any State in the Union could beat them to the punch by registering the suspect chemical. This will be defended, I expect, as protection of States rights. Are we forgetting that the products, sprayed with these pesticides are not just consumed in one State, but by people all around the country?

Section 6 of the bill, permitting "conditional registration" of pesticides by EPA, distresses me particularly.

Under section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) all new pesticide products (and all uses of these pesticides), must be registered, that is, certified as not causing "unreasonable adverse effects on man or the environment" before they may be sold and used. In May 1976, however, EPA implemented a new category of registration—"conditional registration." Briefly, EPA's granting of a conditional registration to a new pesticide product allows that product to be sold and used, before all relevant testing data is submitted. Although the term "conditional" seems to imply something less that full unconditional registration, the two categories are in fact virtually indistinguishable.

A 1976 report by the House Commerce Committee's Subcommittee on Oversight and Investigations found EPA's conditional registration approach to be an illegal misinterpretation of FIFRA's premarket testing requirements. Responding to this charge, EPA attorneys admitted the law required premarket testing. But instead of drafting a new policy, more faithful to the statutory charge that pesticides should be thoroughly tested before the public is exposed to them, the Agency instead asked the Congress to ratify conditional registration, when considering FIFRA amendments this year. The Agriculture Committee has agreed to this request, and explicit conditional registration authority appears as section 6 of H.R. 8681.

EPA has publicly stated that, if given conditional registration authority by the Congress, it would routinely register new pesticide products identical or similar to existing pesticides, without requiring as a precondition the generation of missing health effects data. Such routine registration would even apply to new pesticides whose "identical or similar" counterparts (products already on the market are so strongly suspected to being unsafe that interim proceedings toward cancellation (RPAR) have already begun.

Second, under authority currently granted in H.R. 8681, EPA would routinely register new uses of a pesticide, even though data on file at the Agency may not be sufficient to support its registration in the first place. In some cases, EPA would allow new uses of a pesticide (such as use on a food crop for the first time) against which an RPAR has been issued.

Finally, and most regrettably, H.R. 8681 grants EPA the authority to register pesticides with new active ingredients in the absence of complete safety data.

This approach directly contravenes one of the basic principles of FIFRA and other laws controlling toxic substances in the environment: That all new chemical products should be proven safe before they are allowed to be sold and used. The conditional registration policy will place the burden of proof on EPA, instead of on the manufacturer, where it belongs, for once a pesticide is registered only positive Agency action can change its status.

When would conditionally registered pesticides be regulated? EPA's past performance and projections for the future offer little cause for optimism. The 1972 Federal Environmental Pesticide Control Act directed EPA to reevaluate more than 35,000 existing pesticide products—but the Agency has reregistered virtually none of these in the past 6 years. The registration for Kepone was canceled only after nationwide publicity surrounding the paralysis of workers who handled it. DBCP, the latest horror story, was suspended by EPA last week, but only after similar heavy publicity accompanying revelations of sterility among workers using the chemical. Yet studies done in 1961 indicated that DBCP causes sterility in animals. Not surprisingly, a recent Washington Post headline labeled the pesticide program "A Study in Chaos."

There is no reason for pesticides to be treated more leniently than other substances introduced by man into the environment. If anything, these products should be scrutinized more closely than other chemicals, since they are in fact intended to be poisons. Chemicals designed to destroy plants or animals should by no means be assumed safe to humans in the absence of complete evidence to that effect.

Mr. Chairman, many of the FIFRA amendments in this bill are sound improvements and should be enacted. But overall, the committee substitute weakens our efforts, begun 30 years ago, to protect man and the environment from unreasonable exposure to dangerous pesticides. It should be defeated.

Mr. FOLEY. Mr. Chairman, before I yield further, I would like to join the gentleman from Virginia (Mr. WAMPLER) in very briefly rising to say that I think this legislation which we are bringing here as an amendment in the nature of a substitute to H.R. 7073 makes major and important new directions in the basic Federal insecticide law. I believe that the direction taken by the Committee on Agriculture, which reported this bill by a vote of 44 to 0, will assist the Environmental Protection Agency in making more flexible and effective the basic law which is designed not only to protect human health and safety and the environment, but also to afford an opportunity for the wise use of agricultural chemicals necessary for a continued strong agriculture and forestry in the United States.

The committee originally intended to include as part of the omnibus farm bill, legislation extending the authorization of FIFRA and making other necessary amendments in that act. Because of the numerous complex issues identified during these hearings, amendments to FIFRA were separated from the farm bill.

The committee reported H.R. 7073 providing for an extension of the authorization of FIFRA in order to comply with the time deadline of May 16, 1977, provided for in the Congressional Budget Act of 1974. It was not possible, however, to include in the bill at that time amendments to the regulatory provisions of the act because of the complexities of the issues. The committee report on H.R. 7073 stated that substantive changes in the act would be considered later in the session. H.R. 8681, as amended, fulfills this commitment.

The text of H.R. 8681, as amended, represents a compromise on the many diverse issues involved in this legislation and has the support of the entire Committee on Agriculture. The bill was reported by a unanimous rollcall vote of 44 yeas to 0 nays in the presence of a quorum—a most unusual feat in an area involving such controversy as pesticide legislation.

The text of the amendment will permit more effective realization of the objectives of FIFRA. It will assure availability of pesticides for agricultural and forestry production in the United States while at the same time providing needed safeguards against unreasonable adverse effects on human health and the environment.

To this end the legislation would expedite the registration and reregistration of pesticides by the Environmental Protection Agency, encourage greater research for safe and effective pesticides by manufacturers and formulators of pesticides, and direct the U.S. Department of Agriculture to give priority to research on biologically integrated alternatives for pest controls. It also strengthens the authority of the States in administering pesticide programs and relieves pesticide applicators from certain restrictions currently imposed upon them.

Pesticides have been regulated in this country under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) since 1947. The Department of Agriculture had the responsibility to administer the act until the Environmental Protection Agency was formed in 1970 and FIFRA was transferred to EPA. FIFRA was significantly modified in scope and procedure with the passage of Public Law 92–516 in 1972. Broad new authorities for use regulation and comprehensive control over pesticide products were added at that time.

In 1975, Congress made further modifications to the act in Public Law 94–140 in response to strong sentiment from the public that the Environmental Protection Agency had failed to give appropriate consideration to the effect of regulations under this act on the various sectors of the agriculture community.

It has been evident for some time after enactment of the 1975 amendments that there continue to be many problems that preclude effective implementation of the major changes in the law that came into effect in 1972. The registration and reregistration process, which is the foundation of the program, has come to a virtual halt. This has impacted seriously on the availability of pesticides in the production of crops and has affected the ability of pesticide formulators both large and small to continue in the business; it has frustrated the public and the Congress. Even the Agency has admitted serious problems are occurring in the administration of the program and has requested legislative relief.

This has not been the fault of any one factor. To remedy this situation, the committee has included a number of provisions in H.R. 8681, as reported. There are thousands of pesticides that under the 1972 amendments must be reregistered and classified by October 21, 1977. This has proved to be an impossibility. Practically none has been reregistered at this time, and no one can predict how many years this task will require. H.R. 8681 would separate the classification process from reregistration, thus allowing classification to be completed as soon as possible because the requirement that pesticides be registered for use is an integral part of the applicator certification program. To provide a realistic date to initiate requirements that pesticides classified for restricted use be applied only by certified applicators, H.R. 8681 has extended this 6 months until April 20, 1978. In addition, the deadline date for completing the reregistration process has been deleted.

The lack of clarity in the data compensation provisions of section (c) and the trade secret provisions of section 10(b) has resulted in a spate of litigation which has blocked the registration process. The committee has given careful consideration to the issues involved and has agreed on provisions which recognize the interests of the parties involved.

H.R. 8681 has struck a careful balance between the interests of the small formulator and the need for encouraging competition in the pesticide business, on the one hand, and the need to assure the continued research and development of new pesticides by recognizing the limited proprietary interest of those who have incurred the expense of developing health and safety data. H.R. 8681 has done this by assuring the original applicant for registration who developed the data to support the original registration a 5-year period of exclusive proprietary right and, thereafter, an additional 5-year period during which he would have a right to compensation for use of the data by other applicants. It would also establish a procedure for settling compensation disputes by binding arbitration. After the 10-year period, the data would be freely available to support other applications for registration.

H.R. 8681 also clarifies the trade secret provisions of the act by balancing the legitimate right of the public to know the basis for agency decisions and the right of a business to see that the manufacturing process and other trade secret information controlled by the act are not disclosed for the commercial advantage of competing business interests.

Currently there is no differentiation in FIFRA between basic manufacturers and formulators. H.R. 8681 would obviate the need for formulators to furnish certain registration data by providing authority for "generic" registration. A formulator who buys registered basic pest control chemicals from another producer to formulate his purchased pesticide into an end-use product would not be required to submit data requirements as to the basic pest control chemical. Under the "generic" registration plan, detailed submissions and evaluations of the basic chemical need not be repeated with each formulation—registration actions would be based on the unique aspects of the particular formulation. Applications will be simplified and formulators relieved of the need to offer to pay for the registration data except in the purchase price of the basic pest control chemical.

Another provision designed to facilitate registration is the provision authorizing the Administrator to waive data requirements as to efficacy in considering an application. This authority is expected to be used, in particular with respect to agricultural chemicals because of the comprehensive knowledge concerning pesticide efficacy which prevails in the agricultural community.

The provisions in H.R. 8681, as amended, providing for conditional registration are another important step in expediting the registration process. It is especially important to small companies who seek "me too" registrations to be able to produce pesticides already registered under a different name.

H.R. 8681 authorizes the conditional registration of pesticides during the period in which data is needed for complete registration in three situations, subject to conditions which the committee believes adequately assures the safety of health and the environment. Conditional registration would be allowed for a pesticide identical or substantially similar to a currently registered pesticide and for a new use of an already registered pesticide only if, in each case, it would not significantly increase the risk of unreasonable adverse effects on the environment. As a further caution in the latter case, conditional registration would be barred if the Administrator had issued a notice stating that the pesticide meets or exceeds risk criteria associated in whole or in part with human dietary exposure in prescribed circumstances if the additional use involves a food or feed crop. A third type of conditional registration would apply to a pesticide containing new active ingredients but only if it would not cause any unreasonable adverse effect on the environment during the period of conditional registration. As further safeguards, the Administrator is directed to cancel a conditional registration if the applicant had not taken appropriate action to meet any imposed conditions. The Administrator is also required to submit an annual report with respect to applications for conditional registration approved by him so that the Congress can evaluate the program on a continuing basis.

It is intended that in the case of a conditional registration granted where data was not available to the applicant because it was protected by the exclusive use provision, that the applicant would assume responsibility for developing his own data and not rely on making use of the original data submitter's data upon expiration of the exclusive-use period. To do otherwise would thwart the purpose of the protection provided by the exclusive-use provisions in this legislation.

H.R. 8681 facilitates the effective implementation of the act by adding the resources and inputs of Federal agencies, States and others with special expertise and by improving coordination between EPA and other agencies carrying out similar activities so as to eliminate duplication of effort. For example, the Administrator is required to coordinate its research by EPA with the Department of Agriculture, and that Department is enjoined to give priority to research to develop biologically integrated alternatives for pest control. Under current law EPA is required to give priority to such research, but with limited funds and manpower, it has found it difficult to do a thorough job. The Department of Agriculture is more qualified to pursue this important effort to find viable alternatives to pesticides which are found to be harmful to health and the environment.

A State is given primary enforcement responsibility for pesticide use violations if the State has a plan approved for certification and training of applicators. This should facilitate enforcement of the act in most local areas of the country. EPA retains residual authority to act in emergency situations and to rescind any delegation if it determines that the State program is inadequate. Finally, the role of the State is strengthened in registering pesticides for special local needs. To assist the States in carrying out these functions, H.R. 8681 provides for EPA to share on a 50–50 basis with the States, commencing with fiscal year 1979, the cost of the State enforcement program and the cost of the State applicator certification program, including the training program and all related activities.

H.R. 8681, as amended, contains provisions designed to alleviate certain

problems which have faced pesticide applicators in the actual use of registered pesticides. This is accomplished by providing clarification of what is considered to be the "use of a pesticide inconsistent with its labeling." Under H.R. 8681 this phrase would not include: First, applying a pesticide at any dosage less than that specified on the labeling; Second, applying a pesticide against any target pest not specified on the labeling; third, employing any method of application not prohibited by the labeling; or fourth, mixing a pesticide or pesticides with a fertilizer when such mixture is not prohibited by the labeling.

H.R. 8681, as amended, provides an authorization for appropriations in the amount of $54,500,000 to carry out activities under FIFRA for fiscal 1978. This is consistent with the amount already appropriated by Congress in the HUD and Independent Agencies Appropriation Act. It encompasses all pesticide programs administered by EPA, including pesticide research in the health and ecological effects program. There is currently in conference the bill H.R. 5101 which authorizes appropriations for research activities of EPA. Of the total amount authorized by H.R. 8681, a portion is designed for pesticide research as set forth in H.R. 5101; the balance is for all other programs conducted by EPA pursuant to FIFRA.

There are several other troublesome features in the current law which are less pervasive than those specifically cited here. These problems are also resolved by H.R. 8681, as reported.

It is expected that EPA shall make every effort to insure the prompt implementation of all provisions of the bill upon its enactment. This will assure that the benefits of the bill will be available to the public before commencement of the next growing season. In cases where time deadlines have been set, it is the hope that EPA will be able to complete its action well before expiration of the prescribed time limit.

I have great confidence in the new Administrator of EPA. He has demonstrated a sensitivity to the many issues involved in this legislation and a willingness to cooperate in making FIFRA a workable piece of legislation.

The importance of pesticide regulation is accepted by all. The need to assure the availability of pesticides for public health, agricultural production, food safety, and other reasons is recognized. However, these important objectives are not being realized under the current law. The changes that will be made by the amendment will permit the realization of these goals. Its provisions will finally make this legislation workable.

Mr. Chairman, I would like to extend my thanks to a number of people who assisted in this legislation. I wish to thank Mr. WAMPLER the ranking minority member of the committee, for his ever-courteous cooperation and his aid and assistance. I would like to pay special tribute to Mr. DE LA GARZA, chairman of the Subcommittee on Department Investigations, Oversight, and Research in the work done to shape this legislation. He was faced with one of the most controversial pieces of legislation to come before the Committee on Agriculture. Through his persistence and diligence, the subcommittee reached a compromise which was finally adopted by a unanimous vote of the committee. Assisting him in this effort was Mr. THONE, rankink minority member of the subcommittee, and the other members of the subcommittee who played a major role in shaping this compromise.

Mr. Chairman, I hope that after one or two additional amendments are presented, that this amendment in the nature of a substitute will be overwhelmingly adopted.

Mr. THONE. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Nebraska.

Mr. THONE. Mr. Chairman, as this body gives final consideration to H.R. 8681 to amend and extend the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), there are several points I would like to call to the attention of Members.

Throughout most of the world, nearly half of the food produced is lost to pests. If that situation prevailed in the United States, this Nation and much of the remainder of the globe would be facing mass starvation.

One of the principal means of preventing U.S. food loss to pests is by the use of chemicals. One of the Nation's important goals should be to make it possible to reduce even further the percentage of crops lost to vermin.

All Americans, of course, should give the highest priority to making certain that the means we use to control pests do not inadvertently cause harm to mankind either immediately or in years to come.

The House Agriculture Committee and its Subcommittee on Department Investigations, Oversight and Research was deeply aware of both of those goals as we worked to amend FIFRA. A sincere and thorough effort was made to consider all viewpoints and factors involved in this legislation.

During 1977, a total of 7 days of hearings were held on this proposed legislation. Nearly 2 weeks of open business meetings were held to write and refine the bill that is coming before you. Indications that balanced judgment was given to all aspects are the facts that in subcommittee the bill was approved with 14 affirmative and no negative votes and that in full committee the approval was 43-to-0. Such unanimity is almost unheard of for such complicated legislation affecting so many people directly and all Americans indirectly.

May I call to your attention four of the objectives we hope to accomplish by adoption of this legislation?

No. 1. Current law, regulations and court action have hopelessly ensnarled the U.S. Environmental Protection Agency in redtape involved with controlling pesticides. Under present procedures, the most pessimistic estimate is that it will take EPA 15 years to reregister all pesticides. The most optimistic estimate is 4 years. We believe that our proposed legislation will permit EPA to cut much of that redtape and nearly all of the lag time. The bill permits less complicated procedures for all new registrations. It also provides for complete simplification of a conditional registration if a proposed pesticide is identical or substantially similar to one already approved.

No. 2. The bill gives the Federal Government access to information needed to study any formulation. At the same time, those who invest in research are given protection on their proprietory information.

No. 3. The proposed legislation, rather than providing only Federal control, considers some States' rights, abilities and responsibilities. Under the bill, any State that does not now have provisions for certifying pesticide applicators has until February 28, 1978, to provide for such a program. Further, the bill provides that when EPA conducts certifying programs in those States that do not adopt their own programs, EPA shall conduct its programs in consultation with those State Governors. Additionally, provision is made for Federal and State 50–50 cost sharing for State certification programs.

No. 4. This bill provides for only a 1-year extension of the FIFRA legislation. This will insure that Congress will have needed oversight to this important program. This will provide a ready vehicle for early remedy if additional amendments should be shown necessary after this bill becomes law and is applied.

Mr. Chairman, I wish to take this opportunity to clarify some language which appears in section 6 of the committee amendment, which in turn amends secsection 3(c) of FIFRA by adding a new paragraph 7 (A), (B), and (C) thereto.

My comments are directed to language in subparagraph (A) on page 45 of the committee amendment, lines 1 and 2, and in subparagraph (B), page 46, lines 17 through 19. The item of data described therein would in most, if not all, cases relate to data submitted by a registrant to fill data gaps. It would be data either requested by EPA or that filed by a registrant to support an amendment to an existing registration to obtain an additional use. I cannot think of any instance where it could relate to data submitted by the original data submitted in support of an original application, since the deadline for the submission of data would then be in effect retroactive if one were to read the language literally.

Mr. Chairman, I also wish to insert in the RECORD at this point material which I believe bears heavily on the reason why the House version of the FIFRA amendments contains an "exclusive use" provision.

A letter from Douglas M. Castle, Administrator of the Environmental Protection Agency dated July 8, 1977 to Senator HERMAN TALMADGE caused concern in the Department of Commerce about the lack of sufficient protection to protect the data submitted.

The General Counsel of the U.S. Department of Commerce drafted, I repeat drafted, a letter (undated) which I believe to be the best expression of the need to revise the FIFRA bill (S. 1678) as passed by the Senate. Though it is a draft letter, the counsel representing

the Patent Office stated in the record of the committee hearings on H.R. 8681 (the body of which was substituted for that in H.R. 7073) that the draft represented the views of the General Counsel of Commerce.

This draft letter eloquently states the case why test data and trade secrets should be protected. The ultimate beneficiary of such protection is the farmer and others in the agriculture and the business community who use registered pesticides.

I endorse the proposal contained in the draft letter of the General Counsel of Commerce. The House bill, I believe, also endorses it.

ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., July 8 1977.

Hon. HERMAN TALMADGE,
Chairman, Senate Committee on Agriculture, Nutrition and Forestry, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your July 1, 1977, request for our views on S. 1678, a bill "To Amend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended."

Section 2 of the bill would amend the Act by adding a definition of the term "to use any registered pesticide in a manner inconsistent with its labeling" which specifies four acts not included in the term.

Section 2 of the bill would amend the Act by deleting present provisions related to use of data to support registration and substituting provisions which recognize a proprietary period of 7 years for data submitted in support of a registration. Such data, however, is available to any person offering reasonable compensation for its use. Differences over the terms and amount of compensation are to be settled by binding arbitration through the Federal Mediation and Conciliation Service.

Section 2 of the bill also provides similar procedures for allocating costs among several registrants who combine to produce additional data required by the Administrator to support their registrations, together with effective incentives to assure that data is generated in a timely fashion.

Section 3 of the bill would simplify registration procedures by providing that data on safety of an active ingredient of a pesticide product for which registration is sought need not be submitted if it has already been submitted by the active ingredient's manufacturer, nor is compensation required for its use.

The bill also would require consideration of various factors in establishing data requirements for pesticides intended for minor uses, and would authorize EPA to waive efficacy data requirements.

The bill would authorize conditional registration of pesticides identical or similar to registered pesticides; conditional approval of additional uses of a registered pesticide; and conditional registration of new pesticides under stated conditions, all without validation of data or while additional data requirements are being met. Cancellation procedures for such conditional registrations are also provided.

Section 7 of the bill would clarify that registered pesticides may be classified before completion of reregisteration.

Section 8 would require the Administrator to certify applicators in a State having no approved certification plan if practicable and if requested by the Governor. Enforcement authority is also provided.

Section 9 would clarify that, as an alternative to cancellation, a pesticide could be restricted for use only by certified applicators.

The bill would make clear that health and safety tests conducted on a registered pesticide are to be available to the public, while providing for trade secret treatment of certain commercial information. Further, information on production and sales may be disclosed in proceedings to determine a pesticide's adverse effects.

Section 12 of the bill would authorize the Administrator to diminish penalties in consideration of specified factors.

The bill would extend certain enforcement and applicator certification provisions to Indian tribes. Further, the Scientific Advisory Panel would be extended through 1980, and certain effective dates requirements are deleted.

The bill would add a definition of "professional applicator" and make such a person subject to the record-keeping, establishment inspection, and penalties provisions of the Act. In addition, the bill would make exported pesticides subject to certain labeling requirements and the manufacturer of active ingredients subject to establishment registration requirements.

The bill would authorize appropriations of $54,500,000 for FY 78 and $70,000,000 for FY 79.

While the bill is not identical to the Administration's proposed amendments to the FIFRA, is would accomplish all the major objectives of that proposal. The Environmental Protection Agency supports enactment of S. 1678 with the concerns noted below.

The provisions of S. 1678 originated by the Committee which remove the need for the Administrator to resolve compensation disagreements between data originators and those who would cite the data would be a welcome improvement on present law. *However, we are concerned that the specific proprietary period for data submitted be sufficient to protect the investment of the data submitter,* given the trade secret provisions of section 11. [Emphasis Supplied]

We support the provision for controlled disclosure of trade secret data to contractors.

We have no objection to several other provisions of the bill not included in the Administration proposal: different minor use registration requirements, restriction to certified applicators as an alternative to cancellation, consideration of size of business or intent when assessing penalties, extension of the Scientific Advisory Panel, regulation of professional applicators, labeling exported pesticides, and registration of active ingredient manufacturing establishments.

We also support the amendment which would authorize the Administrator to conduct an applicator certification program in a State whose plan has not been approved, although we have reservations about making certification contingent on a request of the Governor.

We feel it would be preferable to assure that users have the opportunity to be certified prior to the time when use of restricted products by persons who are not certified is unlawful. Requiring the Governor's request carries with it the remote possibility that misuse enforcement or denial of registrations within a state would ensue if a Governor delayed or failed to initiate Federal certification.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the President's program.

Sincerely yours,

DOUGLAS M. COSTLE.

GENERAL COUNSEL OF THE
U.S. DEPARTMENT OF COMMERCE,
Washington, D.C.

Hon. HERMAN TALMADGE,
Chairman, Committee on Agriculture, Nutrition and Forestry, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: By a letter to you dated July 8, 1977, Mr. Douglas M. Costle, Administrator of the Environmental Protection Agency (EPA) indicated the Administration's general support of S. 1678, a bill "To amend the Federal Insecticide, Fungicide and Rodenticide Act, as amended (FIFRA)."

THE PROBLEM

Section 11 of the bill would make publicly available, without compensation, most information including test methodology, data and results submitted by an applicant in support of a FIFRA registration request. Section 2 of the bill would establish a 7 year "proprietary" period starting from the date of data submission during which EPA would be barred from considering an initial registration applicant's experimental data in support of a later applicant's registration request without the later applicant either obtaining consent from the initial applicant or offering to pay him reasonable compensation (if necessary, to be determined by arbitration). After 7 years, such data could be used by a later applicant to support a registration request and could be considered by EPA without the payment of compensation. With the exception of this limited compensation provision, information available under Section 11 could be used without restriction. Mr. Costle's letter expressed concern that the 7 year period might not be "sufficient to protect the investment of the data submittor, given the trade secret (disclosure) provisions of Section 11."

BACKGROUND

The discovery of a new pesticide product or product use can result in the award of a patent for a 17-year term; however, pesticide products and product uses can not always be patented. A patent for a pesticide product provides the holder with a legal right to exclude others from producing or marketing the pesticide. In order to obtain a patent, the inventor, in the patent application, must disclose information sufficient to enable others skilled in the art of pesticide manufacture to produce the pesticide. This information later appears in the published patent.

Before a pesticide may be sold in the U.S. market, a FIFRA registration for the use for which the product is to be sold, must be obtained. For a patentable pesticide, application for a FIFRA registration is usually not made until a patent has been issued, although FIFRA registration is independent of the patenting process.[1] In order to satisfy FIFRA registration requirements, an initial applicant must generate and furnish EPA with test data of a type traditionally held as a trade secret and not disclosed to the public because of the costs associated with the generation thereof and the use others could make of it.

The average pesticide registered for sale for a use bears a direct cost of $4 million for synthesis and screening and $3 million for research and development (National Agricultural Chemicals Association, 1976 Industry Profile Study, page 1) (hereinafter NACA Study). An EPA report estimates the cost of discovery and development of a pesticide at about $7.5 million, including costs of unsuccessful compounds (EPA, Evaluation of the Possible Impact of Pesticide Legislation on Research and Development Activities of Pes-

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[1] One of the statutory conditions for the grant of a patent is that the "invention" not be known by others more than 1 year before the filing of a patent application. 35 U.S.C. 102(b). If information concerning an invention is given to an agency of the government in confidence but that information is subsequently released to the public by that agency pursuant to law (such as would be the case under proposed Section 11), or otherwise, prior to application for a patent, the original submittor could be barred from obtaining a patent. Accordingly, industry does not usually initiate registration procedures until after a patent has been issued.

ticide Manufacturers, page 4 (1975)) (hereinafter 1975 EPA Study). The estimated cost of testing necessitated by registration requirements alone ranges from $1.475 million for a simple compound to $3.1 million for a complex compound (EPA, Incremental Cost Impacts of 1972 Federal Insecticide, Fungicide and Rodenticide Act, as amended, page 134 (1976) (hereinafter 1976 EPA study). The cost to a new manufacturer to commercialize a successful pesticide product to the point of obtaining a significant return on investments is stated in an EPA report as being $50 million (1975 EPA Study,, page 20).

Based on an industry survey, the average elapsed time from discovery to final FIFRA registration for a use for pesticide products registered in the years 1975–1976 was 88 months or 7⅓ years (NACA Study, page 8). According to the Patent and Trademark Office, the average time necessary to process a patent application for a pesticide is 19 months. Assuming that a patent application would not be made until approximately 5 months after discovery, a patent would not issue until about 2 years after discovery. Subtracting the presumed 2 years necessary from discovery to patent issuance, 5⅓ years of the 17 year patent term is consumed before a final registration is accomplished.[2]

Modification and/or expansion of existing facilities or complete construction of new manufacturing facilities—plus needed initial marketing efforts—may consume from 1 to 3 years after registration leaving a useful patent protected term of 10⅔ years to 8⅔ years in which to recover costs and earn a return on investment.[3] If a product is successful competitors will tend to undertake production and sale of the product when the patent term expires. The entry of new manufacturers of the product will tend to reduce product price and consequently the profitability of production and sale by the originator of the product.

According to Jonathan P. Rogers, Vice President, Mobil Chemical, in a presentation at an October 1976 EPA-Department of Commerce sponsored conference, "Incentives for Research and Development in Pest Control," 13 years of the 17 year patent term is consumed before the "positive cash flow position" or the "breakeven point" is reached for a successful crop protection product (prepared text page 1). "Positive cash flow position" or "breakeven point" refers to the point where investment costs are fully recovered and a return or investment begins to be realized. There is no typical cash flow curve for a pesticide, but Mr. Rogers stated that the 13 year figure presented was "realistic." Since the industry regards information of this nature as proprietary and specific figures are seldom published, we have no way to verify this conclusion. However, our analysis is not dependent on the magnitude of the return or on the period during which a return is realized. Rather, it concerns whether the proposed legislation would decrease the potential for return, whatever its magnitude, and thereby decrease the incentive for conducting research, development, and registration testing for new products and for new uses for existing products.

If the product is not commercially successful, or if based on new information, registrations for uses are cancelled during the patent term, a return sufficient to justify the investment may not be realized. Financial losses can be significant and can seriously damage even a large corporation. For product uses for which FIFRA registration is obtained late in the patent term, after a term has expired, or for a product or use which cannot be patented, a sufficient return on investment, including recovering registration costs, must be obtained in a market where others may freely compete with the same product Normally, by holdnig registration test data as a trade secret, a limited term of exclusivity of market results from obtaining a registration since others may not sell the product until they obtain registration themselves. This takes time and an expenditure of funds similar to the expenditure by the original registrant.

Obviously, the expectation on the part of the pesticides industry regarding return on investment will determine the level of funds, if any, it will allocate to pesticide research, development, testing and manufacture.

Information made available to us by the National Agricultural Chemicals Association indicates that existing governmental regulation has been a significant factor contributing to nine firms ceasing pesticide production, 18 firms ceasing basic research and development for the development of new pesticides, and one firm moving part of its research and development abroad (Attachment A).

S. 1678

Proposed Sections 2 and 11 of S. 1678 would make it relatively simple and inexpensive for a potential competitor to obtain registration and undertake competitive marketing of a product originally registered by another. Competitive marketing of a product immediately after patent expiration or, in the case where no patent protection exists, shortly after the original applicant obtains registration, can be expected to reduce the original registrant's return on investment. If, as a result of Sections 2 and 11, a reasonable return on investment can not be expected, the pesticides industry will lack the incentive to undertake costly research, development, registration testing, and manufacture of new pesticide products or new uses for existing products. We believe that Sections 2 and 11 of S. 1678 will reduce the return on pesticide research, development and registration testing investment and may cause a further exodus of U.S. industry from the pesticides sector.

Under the proposed 7 year proprietary period, data submitted in support of a FIFRA registration which is granted during the first 10 years of a patent term could be considered by EPA to support a subsequent registration request, without the payment of compensation by the subsequent applicant, before expiration of the 17 year patent term. We can see no reason why any competitor would pay compensation to have EPA rely on that data during the 7 year period following the original submission of that data, since he could have EPA rely on it, *without cost*, immediately after the 7 year period to support a registration request which could be granted on or before expiration of the patent term.

Even if Section 2 were revised to require compensation for the privilege of relying on another's data regardless of the length of time after submission, the disclosure provisions of Section 11 would aid subsequent applicants in obtaining FIFRA registrations and competing almost immediately after patent expiration. With abundant information regarding test methodology and results, etc., available as a result of the public disclosure provision, a potential competitor would be able to generate the experimental data necessary to satisfy registration requirements at a small fraction of the cost incurred by the initial applicant to generate such data. The costs of reperforming tests, once similar or identical tests have been completed, are often substantially less because the costs of learning (experimental design, unsuccessful initial experiments, etc.) associated with the first performance do not have to be duplicated. Disclosure would also be of similar aid to potential competitors where a product or product use is unprotected by a patent and the only exclusivity of market for an original registrant is by virtue of the fact that others must obtain FIFRA registrations before they can compete.

We are not unmindful of the interests in providing for full disclosure of all test data and methodology submitted in connection with a registration application and in making available to the public information relating to the safety and efficacy of registered products. Further, we recognize that certain members of the public, such as scientists representing public interest organizations, often have a legitimate non-competitive need for access to detailed registration test data and methodology.

We are aware of the interests in permitting others to obtain subsequent registrations by directly relying on an initial registrant's data, provided the initial registrant is adequately compensated or gives his consent.

Further, we recognize that a registration system which makes publicly available substantially all information submitted by an applicant will be less costly and burdensome to administer than a system entailing the resolution of applicants' claims that certain of their submitted data is exempt from disclosure and the special protective handling of exempt data (e.g., controlled access and disclosure only pursuant to protective agreements).

DEPARTMENT OF COMMERCE PROPOSAL

We urge that S. 1678 be revised in accordance with the proposal detailed below, which takes into account the positive and negative aspects of each of the following objectives:

(a) providing for full disclosure of all test data and methodology submitted by a registrant;

(b) assuring availability of all registration information for non-competitive use by those with a legitimate need to know;

(c) permitting subsequent registration applicants to rely directly on an initial registrant's data, provided there is consent or reasonable compensation;

(d) providing a registration system which minimizes administrative cost and burden; and

(e) providing a registration system which minimizes disincentives against research, development, registration testing and manufacture of new pesticide products and new uses for existing products.

and balances them in a manner which attempts to maximize those aspects which we believe are the most important to the public interest.

Specifically, S. 1678 should be revised to require that:

Bona fide trade secret,[4] or privileged or confidential, commercial or financial data (hereinafter protected data) developed for FIFRA registration and submitted by an

[2] If, after FIFRA registration for a use is obtained, it is desired to market the product for other uses, FIFRA registrations for those uses must be obtained. Obviously, the later in the patent term such registrations are applied for and obtained, the shorter the period of patent protection becomes in which to recover the additional registration testing costs.

[3] According to the 1975 EPA study (pages 20–21), for a established pesticide company, approximately 8 years are needed for discovery, testing, registration, plant construction and initial marketing while approximately 10 years are needed for a new pesticide company.

[4] An appropriate definition of the term "trade secret" appears in Restatement of Torts, § 757, comment b at page 5 (1939) and in Food and Drug Administration regulation 21 CFR 21.61(a). We recommend that EPA be statutorily required to utilize a similar definition in considering trade secret claims.

applicant not be disclosed to the general public by EPA for a period of 10 years from the date of registration except to qualified persons representing non-competitive interests with a legitimate need to know, pursuant to appropriate protective agreements prohibiting disclosures which could be beneficial to competitors or except as otherwise provided below;

An original registrant's protected data may not be considered by EPA to support a subsequent applicant's registration request, without the originator's consent, for a period of 10 years from the date of original registration; except, safety data submitted by an original registrant whether protected or not, may be considered by EPA to support a registration requested by an applicant who proposes to purchase the registered pesticide from the original registrant/producer in order to formulate such purchased product into an end-use product (see Section 3 of S. 1678 whereby such applicants would neither be required to submit safety data nor be required to pay compensation for having EPA consider safety data submitted by the original registrant/producer from whom they intend to purchase);

Data submitted by an original registrant which is not protected from disclosure made publicly available but not be considered by EPA to support a subsequent applicant's registration request without the originator's consent or without the subsequent applicant offering to pay reasonable compensation to the originator pursuant to the provisions of existing law modified to incorporate the arbitration provisions of Section 2 of S. 1678, except EPA may consider safety data submitted by an original registrant, whether protected or not, to support a registration request by an applicant who proposes to purchase the registered pesticide from the original registrant in order to formulate such purchased product into an end-use product;

After 10 years from the date of a registration, protected data submitted to support that registration application, other than that which is purely nonscientific, commercial or financial information (e.g., information regarding sales, distribution or inventories etc.), be made publicly available and may be considered by EPA in support of subsequent applications, without consent or compensation. However, information submitted by an applicant which discloses manufacturing or quality control processes, the details of any methods for testing, detecting, or measuring the quantity of any deliberately added inert ingredients of a pesticide, or the identity or percentage quantity of any deliberately added inert ingredient, shall not be disclosed, regardless of the time after registration, unless the Administrator of EPA determines that disclosure is necessary to protect against an unreasonable risk of injury to health or the environment; and

Any information submitted by an applicant may be disclosed if the Administrator of EPA first determines that disclosure is necessary to protect against an unresonable risk of injury to health or the environment or in connection with a public proceeding to determine whether a pesticide, or any ingredient thereof, causes unreasonable adverse effects on health or the environment, if the Administrator of EPA determines that such disclosure is necessary in the public interest.

Descriptive summaries of data for which protection from disclosure is claimed be submitted by an applicant to EPA, and that such summaries be made publicly available;

DISCUSSION

Adequate information relating to safety and efficacy either appears on the pesticide label or is available pursuant to the requirements of existing law. Our proposed required descriptive summaries of protected data would make all registration information available at no cost to those with a legitimate noncompetitive need to know but in a manner which would prevent competitors from benefiting. Our proposal would not reduce the prospects of a return on investment as the current version of S. 1678 would do.

Under our proposal, for products or product uses protected by patent, where a registration is granted within the first 7 years of the patent life, potential competitors would be able to rely on the original applicant's protection data—at no cost—in time to begin competition immediately or shortly after the patent expires. However, for registrations occurring during the last 10 years of patent life or for registrations for products or uses not protected by a patent, others desiring to compete as soon as possible either would have to negotiate with the original registrant for consent for EPA to consider the original registrant's protected data in support of their registration requests or would have to invest the funds and time necessary to develop independent FIFRA registration data.

For products or uses not protected by a patent, if the initial registrant chooses not to give his consent, a period of marketing exclusivity would result. The length of this period would vary from a minimum of the time necessary for others to conduct testing and obtain independent FIFRA registration to a maximum of 10 years. This exclusivity would maintain the incentive to expend the funds necessary to conduct research, development, and registration testing for those products and new uses of products where patent protection is unavailable by reducing the risk associated with such spending. Under our proposal, it is important to note that if an original registrant claims that certain information is protected from disclosure (and the claim is sustained), competitors would be prevented from directly benefiting from the data, without the originator's consent, for only a 10 year period.

We acknowledge that our proposal does not accommodate the interest in permitting others to obtain subsequent registrations by having EPA rely on an initial registrant's protected data (other than safety data submitted by an original registrant to support registration requests by applicants who propose to purchase the registered pesticide from the original registrant/producer in order to formulate such purchased product into an end-use product), without the registrant's consent, provided the initial registrant is adequately compensated. We recognize that efficient use of resources is a desirable social goal, and we are cognizant that repeating learning experiences and tests, after a product has been proven safe by a previous registration effort, is wasteful of resources from an overall point of view.

However, in the Department's view, granting others the right to use what traditionally has been protected information, provided compensation is paid, undermines the incentives provided by private ownership of proprietary information. The negation of private ownership of proprietary information by federal law and regulation should not be adopted absent a compelling showing of need. In our view, such a showing has not been made for protected registration data. If an existing pesticide supplier is not satisfying market demands for a particular use, a competitor, under existing law, may find it profitable to either arrange to produce and market another's patented product under license of the original registrant or, where no patent exists, purchase the registration data on the open market from the originator or generate the independent experimental data necessary to register the product for sale. Consequently, we see no need for making available, upon compensation, a registrant's proprietary FIFRA registration data.

Under our proposal, if an initial registrant elected, at the time of submission to EPA, not to claim or maintain registration test data as protected data, he would be assured at least partial compensation if others requested EPA to consider it in support of their subsequent registration requests regardless of the time after registration. Thus, an incentive would be provided to disclose what otherwise would be protected data, with the only financial detriment being the initial registrant sharing, without compensation, the value of his registration learning costs with those who choose not to compensate but to conduct their own tests.

Under our proposal, administrative costs and burdens to EPA will be higher than under the scheme proposed in S. 1678. However, we believe that the greater costs and burdens would be no higher than those faced by other regulatory agencies requiring the submission of protected data and, in any event, are justified given the negative impacts of the unfettered disclosure of protected data.

CONCLUSION

If Sections 2 and 11 of S. 1678, are enacted as presently drafted, we are persuaded that investment in basic research and development for new pesticide products and product uses will be reduced. Whatever short term gain there may be to pesticide users and consumers of agricultural products would be more than offset in the long run by a decline in pesticide research and development with a consequent decline in the availability of new pesticide products and uses.

The intent of Sections 2 and 11 is to assure that the public has liberal access to pesticide data. However, the effect of Sections 2 and 11 will be to give follow-on competitors in the pesticide industry an advantage unavailable in most other industries which will reduce the incentive to invest. The advantage derives from the availability to competitors of costly information which normally would not be disclosed because of the use competitors could make of it. Disclosure of detailed registration test data to potential competitors is not necessary for effective regulation and is not justified by any public purpose of which we are aware.

Accordingly, because we believe that our proposal would accomplish the useful public purposes to be served by revealing confidential or privileged information to noncompetitors with a legitimate need to know, without granting a substantial economic benefit to competitors of data originators, we urge its adoption.

COMPANIES WHICH HAVE DISCONTINUED BASIC RESEARCH AND DEVELOPMENT FOR NEW PESTICIDES SINCE THE DATE FIFRA WAS ENACTED

Exxon Corporation (formerly Standard Oil of New Jersey), Trenton, New Jersey.

Hooker Chemicals and Plastics Corporation, Niagara Falls, New York.

Olin Corporation (formerly Olin-Mathison Corporation), Little Rock, Arkansas.

Air Products and Chemicals, Incorporated, Allentown, Pennsylvania.

Carbola Chemical Company, Natural Bridge, New York.

Scott Minerals and Chemical Corporation, Out of Business.

Smith-Douglass, Norfolk, Virginia.

Cities Service Company, Atlanta, Georgia.

American Oil Company, Chicago, Illinois.

Hercules Incorporated, Wilmington, Delaware.

Pittsburgh Plate Glass Industries, Pittsburgh, Pennsylvania.

Allied Chemical, Morristown, New Jersey.

The Ansul Company, Marinette, Wisconsin.

Lebanon Chemical Company, Lebanon, Pennsylvania.

COMPANIES WHICH HAVE DISCONTINUED THE PRODUCTION OF PESTICIDES SINCE THE DATE FIFRA WAS ENACTED

Woodbury Chemical, St. Joseph, Missouri.
White Chemical, Phoenix, Arizona.
R. T. Vanderbilt, New York, New York.
Thompson Chemical Corporation, St. Louis, Missouri.
Signal Oil and Gas Company, Houston, Texas.
Riverdale Chemical Company, Chicago Heights, Illinois.
General Reduction Company, Chicago, Illinois.
Escambia Chemical Corporation, Pensacola, Florida.
Atlas Agricultural Chemical, Waynesboro, Georgia.
Sherwin Williams Company, Cleveland, Ohio.
Standard Spray and Chemical Company, Lakeland, Florida.
Acme Paint and Chemical Company, Detroit, Michigan.
Chapman Chemical Company, Memphis, Tennessee.

COMPANIES WHICH HAVE INITIATED SOME BASIC RESEARCH AND DEVELOPMENT ACTIVITIES ABROAD SINCE THE DATE FIFRA WAS ENACTED

The Dow Chemical Company, Midland, Michigan.

Mr. Chairman, it is my opinion that the House of Representatives should approve H.R. 8681 with nearly the unanimity displayed by the subcommittee and committee that considered it so carefully and that the position of the House be held in the House-Senate conference.

Mrs. SMITH of Nebraska. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentlewoman from Nebraska.

Mrs. SMITH of Nebraska. Mr. Chairman, I rise in support of the amendments to the Federal Insecticide, Fungicide, and Rodenticide Act—FIFRA—as incorporated in H.R. 8681.

In doing so, I want to especially commend my colleague from Nebraska, Representative CHARLEY THONE, and the other Members who serve on the Department Investigations, Oversight, and Research Subcommittee for their outstanding efforts in drafting these needed changes in FIFRA.

Acting on substantive changes in the law to enhance its effectiveness and thus eliminate much of the present confusion over the registration, reregistration, and application of pesticide is preferable to any simple extension of the act as originally proposed. Action needs to be taken as quickly as possible. We cannot put off these changes until next year. Our farmers and ranchers should not have to tolerate further delays and uncertainties over the availability of safe and effective chemicals for controlling pests, weeds, and predators. By the same token, the manufacturers of these chemicals need to have clarification of the ground rules and regulations. They need to know what they can and cannot do within the limits of the law.

We are all aware of the problems which have resulted from the difference in the interpretation of the FIFRA law by the Environmental Protection Agency as measured against congressional intent. The amendments we are considering today address themselves to many of these problems. When they become operative, they will, I believe, go a long way toward correcting what has been called in some circles—bureaucratic chaos.

Our farmers and ranchers are dependent upon pesticides in the production of food and fiber. These chemicals must be safe and effective and they must be available when needed. There must be a rule of reason throughout the whole regulatory process in getting approved chemicals on the market and in applying them. But, as someone has noted, there have been instances in evaluating the chemicals when "potential risks may be overestimated while substantial benefits may be underestimated." It is evident that we need to work out a more balanced approach in reaching vital decisions which affect the livelihood of millions. The amendments in this bill are designed to help do that.

Mr. Chairman, we have special problems in Nebraska, and here again, the adoption of this legislation will be helpful in solving them. The Environmental Protection Agency has rejected Nebraska's plan to comply with the law on the certification on pesticide applicators. We are one of a few States in the Nation to be faced with this problem.

The reasons given for turning down the Nebraska plan are based on deficiencies which can be corrected during the next session of the Nebraska Legislature. One of the provisions of this bill provides for extra time and sets up a workable plan for the certification of applicators until the State plan is approved. This extra time is vital in our case. We need this extension. We ask for congresional approval.

It is also important to point out that in addition to all of the needs for effective pesticides, we have counties in Nebraska which suffer from infestations of musk and Canadian thistles. The need for the right kind of chemicals for controlling these weeds is highly important is we are going to keep this land in crops and pasture.

Our livestock producers also have a stake in the manner in which the Environmental Protection Agency interprets and administers this law. They are particularly concerned about effective predator control. They are still losing too many cattle and sheep to coyotes. Many of them feel that 1080 is the only reliable means of keeping the coyotes under control. They would like to see further evaluation and review of the restrictions now limiting the use of 1080.

FIFRA is an important law if properly and reasonably administered. It has not worked well up to now, but we know where the problem areas are and what to do to correct them. The amendments in this bill will go a long way toward providing the reasoned approach to successful implementation of congressional intent in carrying out the law. I join in urging my colleagues to approve this legislation.

Mr. BROWN of California. Mr. Chairman, I rise in support of this legislation and want to clarify the relationship between this legislation and the bill H.R. 5101 which was only recently passed by the House and the Senate.

H.R. 5101 is the Environmental Research, Development and Demonstration Authorization Act of 1978. It basically authorized appropriations for research and development activities of the Environmental Protection Agency. The bill originated in the Subcommittee on the Environment and the Atmosphere of the Committee on Science and Technology which I am privileged to chair. This is pursuant to our jurisdiction under the House rules over environmental research.

That bill authorized some $253,000,000 for EPA research activities including $10,800,000 for activities authorized under FIFRA, the bill which is being considered today. In assigning the jurisdiction for environmental research to one Committee, the House in its wisdom recognized the need to have the Nation's environmental research program looked at coherently. H.R. 5101 is one result of such a look, that is, EPA's total environmental research program in support of several regulatory statutes, FIFRA being one, is now authorized in one bill.

The bill contains several other provisions which we feel will help us carry out our oversight over the EPA research program and therefore, in the long run, lead to a much better program. One such provision established a Science Advisory Board to make input to regulations, criteria and other documents promulgated by the Agency. An amendment to the bill was accepted by our committee on the floor of the House which called for coordination between the Science Advisory Board established by H.R. 5101 and the Scientific Advisory Panel which was established to provide very similar services and advice related to FIFRA. I have an amendment relating to the FIFRA Scientific Advisory Panel which I intend to offer later and which I will discuss after I have finished with some more general remarks concerning the bill before us today.

As I have indicated, my subcommittee has jurisdiction over environmental research and development. For that reason I am particularly interested in several provisions in the bill before us which amends the research section of FIFRA. Specifically, section 20 of the bill before us would amend section 20(a) of FIFRA to require the Administrator to coordinate research which he undertakes to carry out the purposes of the act with the Secretary of Agriculture who shall give priority to research which develops biologically integrated alternatives for pest control. I feel that this is a good amendment because the research therein authorized will naturally lead the Nation's farmers away from the use of toxic materials as pesticides and into the use of more appropriate technologies.

The section also deletes from the act the provision which currently requires the Administrator of EPA to give priority to such research on biologically integrated alternatives. I would hope that it is understood that this is not intended to be an instruction to the Administrator that he discontinue such research for it is important and entirely appropriate that EPA also carry out activities in this area of research. Since the language requires the Administrator of EPA to co-

ordinate research with the Secretary of Agriculture I think that it is very reasonable that they both have programs in this area.

Section 20 would also amend section 20(c) of FIFRA which currently requires the Administrator to undertake such monitoring activities as may be necessary for the implementation of the act and of the National Pesticide Monitoring Plan by requiring in addition that the Administrator establish procedures for monitoring of man, animals, and their environment for incidental pesticide exposure and for other things. This is a very good amendment. As I am sure many of my colleagues are aware, my subcommittee and I are very interested in the whole area of environmental monitoring and indeed we have just recently held hearings on this subject. We found at these hearings that there is need for a great deal more attention to the subject of environmental monitoring and I feel that this amendment can only help that. Also, I believe that when we are better able to monitor our pesticide exposures and our pesticide content, in fact, that there will be much more push toward the use of integrated biological alternatives rather than the present toxic materials.

Now I want to speak very briefly about the amendment which I intend to offer as discussed above. The bill H.R. 5101 established a general Science Advisory Board to make scientific input to all of EPA's regulations. An amendment provided that the umbrella Science Advisory Board shall coordinate its activities with the particular advisory panel established in FIFRA. Today, I intend to propose a parallel amendment which will require that the Scientific Advisory Panel established in FIFRA coordinate its activities with the Science Advisory Board established under H.R. 5101. The specific language of the amendment which will be added at the end of the language in section 25 in the Act says:

In carrying out the functions assigned by this Act, the Panel shall consult and coordinate its activities with the Science Advisory Board established under the Environmental Research, Development and Demonstration Authorization Act of 1978.

This language is exactly parallel to the language in H.R. 5101. I hope that all my colleagues can accept and support this amendment.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Chairman, I rise in support of the substitute bill, H.R. 7073, and would like to commend its sponsor, the gentleman from Nebraska (Mr. THONE), for his diligence in developing this important legislation.

The United States is the world's largest producer of food. One of the reasons we have been able to produce such an abundance of food has been our ability to develop careful and effective means of controlling pests through the use of chemicals consistent with the results of long range research on environmental impacts. Our goal should be to further reduce the loss of crops from pests. At the same time, we must have a comprehensive pesticide regulation program to protect man and the environment from any unnecessary harm from chemicals used in pesticides.

This legislation addresses both of these goals in a reasonable and responsible manner. I commend the members of the House Agriculture Committee and its distinguished chairman, the gentleman from Washington (Mr. FOLEY), for their willingness to listen to and respond to the concerns of our farmers. Seven days of hearings were held giving all those concerned an opportunity to present their views on the proposed legislation and nearly 2 weeks were devoted to perfecting the bill.

I have received letters and telegrams from several of the farm bureaus in my congressional district in strong support of this substitute. Bill Pauli, president of the Mendocino County Farm Bureau wrote:

The amendments to FIFRA, offered by Representative Thone, are most important to farmers who use agriculture chemicals wisely to produce abundant supplies of food and fiber.

Al Vinyard, president of the Humboldt County Farm Bureau wrote:

Agriculture needs these chemicals to remain a viable national industry.

Donald Gayaldo, president of the Lake County Farm Bureau urged a return to the original intent of the Congress when we first enacted the pesticide laws and William Petersen, president of the Sonoma County Farm Bureau, also wrote in support of these meaningful changes in existing law.

The problem stems from a number of provisions in the 1972 Federal Environmental Pesticide Control Act which have, unfortunately, resulted in a maze of redtape and a badly snarled registration process.

This legislation is needed to help clarify and simplify these procedures. Without this legislation, delays in registration are likely to force a number of formulators out of business and seriously impair our farmer's ability to effectively, but carefully, fight pests.

I urge my colleagues to support this legislation.

Mr. BONIOR. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Michigan.

Mr. BONIOR. Mr. Chairman, each week it seems that we hear of the dangers of yet another chemical in our environment. I am deeply concerned about the effect of the numerous chemicals especially pesticides which affect our everyday lives without our knowledge. Our workplaces, our homes, our farms and our food are not adequately protected from the dangers of these chemicals.

One of the major problems with these chemicals is their complex nature and the absence of information about them and their possible bad effects on our health and environment. Too often, the only group which has done research on the effects of these chemicals is the manufactures who have a vested interest in not releasing damaging information. This problem is becoming even more important as we use more pesticides. In our quest for food which is easy to prepare, free from traces of insects, and looks nice, we have become extremely dependent on chemicals which we know little about.

The Congress recognized the need for better regulation of these pesticides when it passed FIFRA, 5 years ago, but the problem has not been solved. EPA estimates it will take at least 10 years to test and certify the 30,000 pesticides already on the market. EPA does not have enough manpower to complete this tremendous task and I believe that the pesticide division of EPA needs a much larger staff including many more toxicologists if it is to fulfill the original intent of the law.

The public health risk of the delay in certifying and testing these chemicals is tremendous. Already, EPA has identified over 100 pesticides which are known to be toxic to humans or carcinogenic and yet they are still on the market because of the elaborate certification, suspension and cancelation procedures in this law. Nobody knows how many of the pesticides EPA has not been able to test, yet are equally dangerous. Since the passage of this law EPA has only been able to take one pesticide—Kepone—off the market and then only because of massive publicity and pressure on manufacture.

Within the last few months, we have seen a scary yet typical example of the dangers of pesticides and the effect of the delay in EPA action. Workers in a California plant were found to be sterile due to exposure from the pesticide DBCP which is used to fight nematoads, little round worms. This chemical has been known to cause cancer and sterility since 1961 and it is still on the market. It was on the list of pesticides for a speeded up review under rebuttable presumption against registration (RPAR) but action against these 125 pesticides has been delayed due to lack of manpower at EPA. EPA has assured me that it will be issuing a suspension notice and notice of intent to cancel DBCP within the next few weeks, but that is because of the public pressure because of the cases of sterility in California. How many people must die or be ill because of these pesticides, before we get them off the market? EPA wants these chemicals off the market now but it is extremely frustrated by its lack of manpower and lack of information on these pesticides. EPA desperately needs more funding and authorization of funds for new positions in its pesticide division if it is to protect the American public from their health hazards. Congress should give EPA the resources it needs to fulfill the intent of this act.

AMENDMENT OFFERED BY MR. FITHIAN

Mr. FITHIAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FITHIAN: Page 32, line 20, insert immeriately after "labeling," the following: "unless the Administrator has required that the label specifically state that the pesticide may be used only for the pests specified on the label after he has determined that the use of the pesticide against other pests would cause an unreasonable adverse effect on the environment,".

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I yield to the distinguished gentleman from Washington (Mr. FOLEY), the chairman of the committee.

Mr. FOLEY. Mr. Chairman, as I read the gentleman's amendment, it simply puts in positive terms provisions which are contained in the amendment in the nature of a substitute. The proposed amendment places an affirmative context on what is contained in somewhat negative language in the amendment; is that correct?

Mr. FITHIAN. That is correct. Mr. Chairman, I would advise the distinguished chairman that that is a requirement that we have for this section. It is in the Senate report language of their bill. It simply puts in statutory form what is already in the report language, but we believe the EPA attorneys think this is necessary.

Mr. FOLEY. If the gentleman will yield further, speaking for myself, Mr. Chairman, I support the gentleman's amendment and I urge the adoption of the amendment.

Mr. THONE. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I yield to the gentleman from Nebraska.

Mr. THONE. Mr. Chairman, the minority side has gone over the amendment adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. FITHIAN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FITHIAN

Mr. FITHIAN. Mr. Chairman, I offer an amendment.

The clerk read as follows:

Amendment offered by Mr. FITHIAN: On page 68 lines 23 and 24 strike out "a new sentence as follows" and insert in lieu thereof "the following"; and on page 69, line 2 insert immediately after the end of the sentence the following: "In carrying out the functions assigned by this Act, the panel shall consult and coordinate its activities with the Science Advisory Board established under the Environmental Research, Development and Demonstration Authorization Act of 1978."

Mr. FITHIAN. Mr. Chairman, I would like to explain to the House that the gentleman from California (Mr. BROWN) was called from the floor because of illness of his wife, and he asked that I offer this amendment for him. He was present at the private colloquy with me and with the chairman, and wanted to assure us that in the use of this language we did not require the Advisory Board to concur during the period of time in which the Department of Agriculture and the Scientific Review Panel, which is in FIFRA, would be reporting back. What this amendment does, therefore, is simply put in the FIFRA language the reciprocal language which is already in the research and development section for the Environmental Protection Act.

Mr. Chairman, I would like to take this opportunity to express my strong support for H.R. 8681, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act, which is the Agriculture Committee's substantive substitute for H.R. 7073.

This committee substitute is very similar to the bill that I introduced on August 1 of this year. I believe that this much-needed legislation is an effective compromise that for the most part satisfies the Environmental Protection Agency, environmental groups, large chemical producers, small businessmen including pesticide formulators, farmers, and farm organizations, pesticide applicators and other commercial applicators, State pesticide officials, and consumers, especially home gardeners.

Everyone agrees that the present EPA system of pesticide registration is not working. While applications continue being received in great quantity, the number of new pesticides granted approval in the past 3 years is staggeringly low. In effect, if EPA would at this time devote maximum resources to the registration of pesticides, it would take them about 14 years to remove the present backlog. The FIFRA legislation, as presently interpreted, is simply not working and accordingly we must make efforts to remedy the situation.

The legislation is designed to:

First. Preserve competition in the insecticide industry;

Second. Permit small insecticide formulators to continue to exist and compete despite the registration law;

Third. Permit the establishment of a program of generic registration, and establish the legislative history for its enactment, a process that Congress and the Agriculture Committee monitor continuously and closely;

Fourth. Establish a system of conditional registration, expediting the process of registration of pesticides;

Fifth. Establish a system of "exclusive use of data" for 5 years and a compensatory period of 5 years for utilization of the data by others in the registration process. It also prevents abridgment of the data producer's commercially valuable testing assets and forbids infringements on confidential marketing reports and business statistics;

Sixth. Prohibit the disclosure of data under this act to any representative of a foreign business, government, or to any multinational corporation, preventing the utilization of this data for registration abroad.

Seventh. Allow public access to vital information about the impact of an insecticide on the environment, but protect trade secret information;

Eighth. Allocate the primary enforcement of FIFRA to State agencies rather than EPA;

Ninth. Waive efficacy requirements once a State agency has found the pesticide to be initially efficacious;

Tenth. Provide for a maximum 90-day experimental use permit reviewed by EPA;

Eleventh. Require EPA to provide specific provisions for the disposal of unused quantities of pesticides which have been canceled;

Twelfth. Provide for the establishment of procedures to monitor the impact of incidental pesticide exposure, such as kepone, on man and his environment;

Thirteenth. Allow the EPA administrator to enter into cooperative agreements with Indian tribes;

Fourteenth. Bring FIFRA into harmony with other laws dealing with toxic substances; and

Fifteenth. Authorize funds for FIFRA through fiscal year 1978, but require the EPA to return to the committee for authorization beyond that date.

Although these amendments to FIFRA make comprehensive changes in existing law, their primary impact occurs with: First, conditional registration; second, generic registration; third, exclusive use of data; fourth, trade secret provisions; and fifth, State enforcement responsibilities.

I would like to take this opportunity, Mr. Speaker, to comment on these important changes in FIFRA.

Most major manufacturers and pesticide formulators are experiencing difficulty in gaining approval for additional uses or changed uses of pesticides which were approved decades ago by the Government. The root of this problem is that the adequacy of the decades-old studies on which the approvals of current pesticides are based have been called into question. FDA and EPA have found sloppy practices—test results have been discovered that do not agree with underlying data—and have also concluded that risk assessments reached decades ago do not uniformly conform with the judgments scientists reach based on knowledge that has accumulated since then. As there are more than 1 million pieces of data in EPA's files, the dimensions of this problem are unknown, but the potential is disturbing.

Thus EPA finds itself presently unable to take new registration actions where old chemicals are concerned without "validating" toxicity studies to reaffirm old findings or discover any problems and direct that new studies begin. It is preferable to conduct data validation systematically, taking the most important or widely used pesticides first. In fact, it appears that it would be virtually impossible to complete the task, or reach regulatory decisions based on the old studies in a reasonable period of time without a highly efficient program for data validation. In the interim, there is a need to provide a mechanism to modify current registrations to adjust dose rates, add pest or sites to labels, specify new application techniques, or accommodate new producers who wish to compete with identical products approved in the past. The conditional registration provisions of the bill are intended to meet the need to redress the inequitable double standard that will otherwise exist until data are validated during registration. The chemical giants and the small but vital formulators stand equally to gain from these provisions of H.R. 8681.

Many of my colleagues are also receiving cries for help from the thousands of small formulators around the country who are unable to obtain or modify pesticide registrations. This bill contains additional provisions directed specifically to alleviating their problems. A person who

wishes merely to formulate a basic pest control chemical he has purchased from a supplier is relieved of having to submit safety studies to the Government which have been performed with the basic chemical he purchases. He must only furnish test results conducted with a formulation. These latter tests are comparatively inexpensive and of short duration. He need not perform or contract for the performance of these simpler tests himself if they have been conducted and submitted to EPA by another manufacturer of his formulation. In that case he may rely on the other formulator's results, but only with permission or upon payment of compensation for 10 years after submission of the tests. In some cases a supplier of basic chemicals may have the information needed by the formulator and supply it gratis to facilitate EPA approval of his customer's label.

At the core of the proposals to streamline the reregistration of pesticides is the concept of establishing generic standards. EPA scientists would assemble and evaluate all data pertinent to a particular chemical and devise a standard of safe uses that could be applied any time after it is established to approve the application. The advantages of their approach over the current requirement to examine whatever limited data a particular manufacturer can develop or cite—ignoring data already on file—in order to reach a separate safety judgment each time an application is filed as twofold. First, the scientist is able to examine complete information on toxicity—not just whatever pieces of that puzzle an applicant can secure. Second, it vastly simplifies the flow of paper between the Agency and the applicant for the prospective registrant to merely inform EPA that he intends to manfacture a product within the chemical specifications of a previously established safety standard—supporting any deviations with specific information limited to a change he may wish to prepare. A comprehensive standard would eliminate the need for data submission altogether in most cases.

I would now like to discuss some of the other problems associated with pesticide registration. In this bill, we have established or recognized certain procedural requirements for obtaining registration. For example, applicants will be required, if requested by the Administrator, to submit data or references (citations) to existing data submitted on or after January 1, 1970, and in the event that referenced data is compensable, the applicant must submit an offer to pay compensation to the EPA as well as to submit evidence of delivery of the offer to pay directly to the originator of the test data. The Senate bill to amend FIFRA (S. 1678) contains the same provisions.

It was brought to our attention both during and after the committee and subcommittee hearings on FIFRA that the EPA is in the process but has not yet completed its catalog of existing data—and thus obtaining adequate data references or determining data ownership may continue to delay issuance of registrations to applicants other than those who originally furnished the data to EPA. I hope this will not be the case as it has been our goal in this legislation to expedite and facilitate the registration process.

I recognize that cataloging nearly 1½ million pieces of pesticide test data is a formidable task; however, I would urge the EPA Administrator to place a very high priority on completing the cataloging of data and to advise the committee as soon as possible of the expected completion date and whether completion of the data catalog may require substantial time to complete or impose any substantial burden or delays upon applicants, and if so, whether the committee should consider legislative changes to relieve applicants of certain procedural requirements until these requirements can be reasonably met.

It has already been over 2 years since EPA has been able, for all practical matters, to register pesticides. I, for one, do not wish to see any further delays in registering pesticides. I urge our committee chairman to bring to the attention of the EPA Administrator the importance of completion of the data catalog. This is an important concern which we were unable to adequately address in the legislation or the committee report. Until we have more information on this matter, I do not suggest any legislative changes—but do feel that it is important to be mentioned at this time.

This compromise legislation establishes a 5-year period for the exclusive use of data and a compensatory period of 5 years for the utilization of the data by others in the registration process. Although I would have preferred a mandatory licensing system with compensation spread over nearly 10 years, I supported this effort in the spirit of compromise so that the legislative process could be expedited.

Exclusive use for 5 years will allow the company which generates research and test data to have sole proprietary use of that data. No other company, therefore, could utilize this data. After the 5-year period of exclusive use runs out, another company or companies could utilize the data if they promised to compensate the original data supplier. This total of 10 years would allow the original data supplier and registrant to recoup the costs of the initial investments and the cost of research and health and safety testing, and to establish the product in the marketplace. These exclusive use and compensatory periods will encourage chemical producers to invest their efforts in research for new chemicals and new uses for established chemicals, hopefully resulting in the emergence of new products for the farm community and the American consumer in general. In my view, this provision of the bill is very generous to the manufacturers of technical grade pesticides—generous perhaps to a flaw. It should be a continuing responsibility of the House Committee on Agriculture and the Senate Committee on Agriculture, Forestry, and Nutrition to assure that our action here does not exacerbate the growing tendency toward oligopoly in the pesticide manufacturing industry.

In this connection, Mr. Chairman, there can be no doubt that the present FIFRA is clearly contributing to anticompetitive practices. Such a development, were it to continue, would result in unnecessarily high prices to farmers. We should take extreme care in our oversight function to assure that the proposed amendments actually improve the situation described by the Justice Department as harmful to competition.

The opinion of the Justice Department is clearly spelled out in the letters reprinted in today's extension of remarks.

If our amendments proposed here do not reverse this trend, we have every obligation to return to this legislation with further corrective amendments. I am not at all certain this will not be necessary.

There is another serious legal and social concern addressed by the proposed legislation—trade secrets. This legislation protects the vital trade secret data generated by the chemical pesticide industry, including methodology, the manufacturing process, information on deliberately added inert ingredients, and any information on the production, distribution, sale or inventories of the products. This provision protects the company which has invested funds in the testing and use of inert ingredients and defends the privacy of confidential business information against unwarranted intrusion by competitors.

Section 15 of the bill provides for the creation of a new subsection (g) prohibiting disclosure of information to foreign businesses, governments, or entities, or to multinational corporations. Thus, foreign competitors or multinational corporations. Thus, foreign competitors or multinational corporations could not legally obtain research data, paid for by others, and utilize it for registration abroad—where compensation would not have to be paid.

While protecting the essential trade secret data needed by the chemical pesticide industry and encouraging further pesticide research, this bill would make other data, including safety data and toxicity tests, routinely available to the public, competitors, and other potential registrants. All data, however, is subject to reasonable and fair compensation. It was the intent of the initial FIFRA language that this data be made available, but under the present circumstances, interpretations, and litigation, this is not possible. The public has an inherent right to know about the potential damaging aspects or cancer-causing ingredients in all pesticides produced in this country and should be given the information about a pesticide's impact on man and his environment.

Under the provisions of the bill, States would receive primary enforcement responsibilities for administering pesticide legislation, especially dealing with pesticide use violation. With regard to the relative responsibilities of State and Federal Governments, I call special attention of my colleagues to pages 37–38 of the report accompanying the bill before us—Report No. 95–663.

In summary, Mr. Chairman, these amendments to FIFRA will have an important and beneficial impact on farmers and the farm community. They will

expedite the registration process so that an adequate supply of pesticides is readily available. They encourage research into new pesticides and new uses for old products which will help the farmer increase his yields per acre and protect against unwanted pests. Local farmers, farm organizations, and community and business leaders will be able to work directly with the state and local pesticide enforcement officers, thus assuring the establishment of adequate efficacy procedures and enforcement regulations. Since the bill encourages pesticide research and development, it should stimulate more products at cheaper prices, which will benefit farmers and the farm community.

Small businessmen, pesticide formulators, and small manufacturers will also benefit from the proposed amendments to FIFRA. This legislation drastically reduces the bureaucratic red tape needed to register pesticides and uses of pesticides. By allowing the State to have primary enforcement responsibilities, the enforcement and monitoring programs will be streamlined. Wasteful Government practices and areas of duplication would be greatly reduced. The reduction and streamlining of the efficacy requirements will directly benefit all companies, large and small, who seek to register pesticides.

In conclusion, the bill is a compromise which will satisfy the basic needs of the chemical pesticide industry, while protecting the free enterprise system and the competitive structure of the industry. It protects the vital trade secret data concerning the manufacturing process but discloses data needed to assess potential danger to man and his environment. It establishes a 5-year period of exclusive use and a 5-year period for compensation which guarantee investing companies a return on their expenditure and encourage further pesticide research into new chemicals and new uses of old products. It gives the States primary enforcement responsibilities and removes this from the EPA. This legislation is a compromise in the best sense of the word, for it protects the vital interests of the chemical pesticide industry, the States, the public, and the EPA.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I yield to the gentleman from Washington.

Mr. FOLEY. I thank the gentleman for yielding.

Mr. Chairman, again this language adopted in the substitute today merely reinforces an amendment already adopted in the research authorization for EPA and is reciprocal language to that language already adopted by the House. We support the amendment and urge its adoption.

Mr. THONE. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I yield to the gentleman from Nebraska.

Mr. THONE. I thank the gentleman for yielding.

Mr. Chairman, first, I would again like to acknowledge the tremendous time and effort that the gentleman from Indiana (Mr. FITHIAN) has put in on this legislation.

Second, I would ask the gentleman from Indiana (Mr. FITHIAN) whether or not this in any way, shape, or form would impair on the independent nature of the Scientific Advisory Panel. I understand it will not.

Mr. FITHIAN. It does not. That is correct.

Mr. THONE. If the gentleman will yield further, on the gentleman's time, if I could, I would like to address a brief colloquy with the gentleman from Texas (Mr. HIGHTOWER).

When we appeared before the Committee on Rules, we talked about this bill as being "the compromise" rather than "a compromise." Is this the gentleman's understanding?

When the gentleman is through with his statement and his answer to my question, I would also like to address the same question to the gentleman from Indiana (Mr. FITHIAN).

Mr. HIGHTOWER. Mr. Chairman, will the gentleman from Indiana yield?

Mr. FITHIAN. I yield to the gentleman from Texas.

Mr. HIGHTOWER. Mr. Chairman, I cannot, of course, speak for any Member but myself, but as the gentleman from Indiana knows, the gentleman from Nebraska (Mr. THONE) and I sat down together and worked very hard to try to work toward and effect a compromise.

We talked to people of just about every point of view, and the result was the bill that we have before the committee today. The bill came out of the Committee on Agriculture unanimously, with all points of view fully expressed.

Mr. Chairman, I would think there should be no reason why any Member of the House could not support this bill as the compromise.

Mr. THONE. Mr. Chairman, I would address that same inquiry to the gentleman from Indiana (Mr. FITHIAN), if he will yield further to me.

Mr. FITHIAN. I would be happy to yield to the gentleman from Nebraska.

Mr. THONE. Mr. Chairman, is this the gentleman's understanding of our position on this legislation?

Mr. FITHIAN. Yes.

Mr. Chairman, I would say to my friend, the gentleman from Nebraska (Mr. THONE), that I believe he well knows of the long and difficult hammering out of this compromise.

I would also point out that the basic disagreement and the basic difficulty with the bill have come about in the definition of "trade secrets" and in the definition of what constitutes "reasonable compensatory period," during which the research and development of the pesticide could be carried out and the profit for that item could be returned.

I would advise my friend, the gentleman from Nebraska, as he knows, that I personally preferred no period of exclusive use. I would reiterate that at this point. However, in working out this legislation, it is my judgment that the 5-year, exclusive-use period, the 5-year compensable period, and the limitation of any compensation to 10 years make for the kind of compromise which ought to be viable. I intend to support the compromise here in the House today. I intend to support this as the legislation.

Mr. Chairman, I would just say additionally, however, for the benefit of the gentleman from Nebraska (Mr. THONE), that long after he has become chief executive of some State or other, if the bill which we are addressing today does not do in fact what we believe it will do, which is to bring to farmers over the next decade cheaper pesticides because we have restored or reversed the trend toward consolidation and retained competition in the field for the next decade, I will try to correct that. In that event, I would be back here some years hence hopefully to attack the problem of basic competition in order to keep competition in the field so we can offer pesticides at reasonable rates to farmers across the country, the same farmers who are now paying too much for their pesticides.

Mr. THONE. Mr. Chairman, I thank the gentleman from Indiana (Mr. FITHIAN).

I would like to state again that this is one of the reasons why I believe we need the 1-year extension that the House has voted, and that is why the provisions of the House bill must be maintained in the conference.

The CHAIRMAN. The time of the gentleman from Indiana (Mr. FITHIAN) has expired.

(By unanimous consent, Mr. FITHIAN was allowed to proceed for 2 additional minutes.)

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Chairman, I would like to commend the gentleman from Indiana (Mr. FITHIAN), the gentleman from Nebraska (Mr. THONE), and the gentleman from Texas (Mr. HIGHTOWER) for the major effort they made in bringing the two divergent views together in the prolonged committee sessions in order to get us to the point where we are today. They have worked to bring a commonsense approach to the problems that we face in the present law, and I think it will work.

I know that the new leadership in the administration in EPA working together with us, will see that it does work.

I believe that we have a good piece of legislation, one that we can be proud to support and, hopefully, sustain in conference, with all of us working together.

I believe we have brought a commonsense aproach to the problem. All of us have compromised, each in his own way, each in his own measure. This is basically a compromise feature. It is a compromise bill that I think we can be proud of, and I think we should sustain it in conference.

Mr. FITHIAN. Mr. Chairman, I will state in closing that the chairman of the subcommittee, the gentleman from Texas (Mr. DE LA GARZA), and the chairman of the full committee, the gentleman from Washington (Mr. FOLEY), exhibited great patience in working out this compromise. Their efforts should be noted

today, and I certainly want to commend them for their work.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. FITHIAN).

The amendment was agreed to.

Mr. GRASSLEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, in subcommittee, I offered an amendment regarding the RPAR process which is intended to bring under control, at least to some extent, the EPA's philosophy that a product is guilty, until proven innocent. I was pleased that the subcommittee agreed with my amendment and thus decided to adopt it.

As those familiar with FIFRA know, the EPA may issue a rebuttable presumption against registration of a product, thus placing the burden on the manufacturer to demonstrate that the product is entirely safe and harmless, when used properly. Unfortunately, in the past, the EPA has issued these presumptions arbitrarily, without any valid scientific evidence with which to conclude that a product is harmful. My amendment requires the EPA to base any RPAR proceeding on a "validated" test raising prudent concerns of unreasonable adverse risk to man or to the environment.

The EPA was originally established to regulate activities and products which might have an adverse effect on the environment by conducting or relying on sound scientific data established in an objective manner. The Agency was not intended to become a sounding board for environmental groups whose concerns are all too often based on personal philosophies founded on speculative rather than scientific evidence. Unfortunately, the RPAR process is an ideal mechanism to translate such speculation into public policy, and all too often, policy which does not serve the public.

Every Member of this House is astute enough to know that today, you cannot get up and support a cause, or an industry which clearly devastates the environment, or produces products clearly harmful to man. But to accept the past EPA practice of assuming, because of some expressed concern by a particular organization or individual, that a product is dangerous is both irresponsible and reprehensible.

My amendment will insure that the EPA relies on scientific data, and that it takes into account the risks and benefits of a products use before deciding whether or not to attempt a ban. In the short and long run, this is in the best interests of the public generally, and the farmer and consumer specifically, because it will insure that farmers may continue to rely on products proven effective in the successful production of crops, and that consumers can continue to rely on reasonably priced farm products being available at their grocery stores.

Mr. EVANS of Georgia. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have previously served notice of my intention to offer an amendment to this bill which I support. In withdrawing my amendment I wish to explain my reasons.

My amendment would have prohibited the EPA from banning the use of the pesticide Mirex in the fight against the fire ants through 1978. Under present regulations aerial application of Mirex is banned at the end of this year and all application is banned after June of 1978.

Mr. Chairman, the fire ant first entered this country and has now spread through the Southeast.

While it is generally conceded that fire ants are detrimental to crops, animals, and machinery, these pests are primarily harmful to people engaged in outdoor activities in infested areas. When the ant mound is disturbed, and there may be hundreds of mounds up to 3 feet high over an acre of land, the ants rush out to inflict stings on the intruder. Thus, workers in an infested area may be so seriously threatened by the pest that they refuse to work.

The fire ant is extremely aggressive and its sting is very painful and usually results in the formation of blisters three to five times in size which eventually break open into open wounds. With some individuals the reaction to the sting of a fire ant may be severe enough to require hospitalization and may be life threatening.

Mr. Chairman, the fire ant is a serious hazard to the lives and health of the people in our area. It is only with the strong assurances from the Environmental Protection Agency that they will cooperate to control this pest that I reluctantly withdraw my amendment.

Mr. Chairman, I ask unanimous consent that these two letters of assurance addressed to me from Douglas M. Costle, Administrator, and Mrs. Barbara Blum, Assistant Administrator, of the Environmental Protection Agency be included in the RECORD at this point.

Thank you, Mr. Chairman, I yield back the balance of my time.

U.S. ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C. October 31, 1977.

Hon. BILLY LEE EVANS,
House of Representatives,
Washington, D.C.

DEAR MR. EVANS: In the past several weeks, various officials of the Agency, including Deputy Administrator Barbara Blum and Assistant Administrator for Toxic Substances Steve Jellinek, have met with you or communicated with you in writing to express the concerns of this Agency about your proposed amendment to the FIFRA legislation which would extend the phase-out period for the pesticide Mirex. I am writing to express my personal concerns about your proposed amendment and also to indicate why it is not necessary at this time.

The Agency's concerns about the safety of Mirex were fully aired orally by Steve Jellinek, and later set down in writing in Barbara Blum's letter of October 28, 1977. My purpose for writing is to indicate our sincere commitment to expedite regulatory clearance for an alternative pesticide which as Administrator I can assure you the Agency will honor. As you have been informed, there are approaches which can be taken under FIFRA to give approval on an expedited basis to pesticides in order to meet serious and pressing needs. Moreover, the proposed Committee amendments contain a section authorizing conditional registrations which, if passed, would significantly augment our FIFRA options for expedited approval of control materials. It goes without saying, of course, that before granting permission to use a pesticide, the Agency would have to have a reasonable basis for concluding that it would not cause unreasonable risk to man or the environment.

It is my understanding that there are several alternative pesticides which are realistic candidates for regulatory clearances next year and I believe that the prospects for some form of approval are reasonably good. The key point I want you to understand is that the Agency is sincere and earnest in its commitment to review, on an expedited basis, requests for approval for a fire ant control material, and that we will approve such a request if it is at all possible to do so in the public interest.

Sincerely yours,

DOUGLAS M. COSTLE.

U.S. ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C.

Hon. BILLY LEE EVANS,
House of Representatives,
Washington, D.C.

DEAR MR. EVANS: I am most appreciative of the opportunity to discuss the mirex/fire ant problem with you, and the very serious health concerns that underlie our reservations about your amendment. At the same time, you have reinforced our awareness of the considerable problem posed by the fire ant, and on that basis I am prepared to give you my personal assurances that EPA will examine the prospects for early approval of an alternative chemical prior to the fall 1978 application period. As you know, the terms of the cancellation provide that mirex will remain available for mechanical broadcast application for the spring 1978 application.

Let me briefly describe the basis for our strong reservations about mirex. EPA accepted the plan proposed by the Mississippi Authority for the Control of Fire Ants for the phaseout of mirex because of serious concern for the health hazard posed by the chemical. This concern dates back to when a blue-ribbon panel of medical experts urged curtailment of its use on the basis of a positive cancer test conducted by the National Cancer Institute. A second NCI study, reported in 1976, confirmed the carcinogenic potential of mirex.

Mirex persists in the environment for dozens of years, tends to be found in ever-higher quantities through the food chain, and is present in the tissue of approximately one in every five persons in States of heavy mirex use. The highest of these human residues is only some twenty times smaller than the dosage level that caused the NCI to characterize mirex as comparable in its tumor inducing potential to carcinogens used as positive controls in the 1969 experiment.

More recently scientists have demonstrated that mirex will cross the placental barrier to expose the unborn. USDA findings suggest that mirex degrades into the carcinogenic pesticide kepone, offering a possible explanation for the detection of both kepone and mirex in human breast milk from Southern mothers. A 1977 National Academy of Sciences pesticide report asserts that, "Studies in laboratory animals indicate that exposure to any of several carcinogens before or immediately after birth results in a greater carcinogenic effect than a comparable exposure as an adult."

The consensus among experts is that cancer latency in humans is typically 20 to 40 years. Thus, we could not expect to have epidemiological confirmation for several years of the cancer risk to humans from mirex which is strongly suggested by laboratory data. We believe it would be tragic to wait for such evidence when compelling experimental evidence is at hand.

I share your interest in the early restoration of a control agent for the fire ant and am pleased to discuss the prospects in some detail. EPA could take either or both of the following actions under present law to expedite introduction of a mirex substitute:

Grant an emergency exemption from the registration requirements for a specified period as was recently done to authorize use of four unregistered chemicals to combat cotton pests in nine Southern states.

Grant an experimental use permit.

Additionally, H.R. 8681 contains provisions for the issuance of conditional registrations which could expedite approval of a pesticide, currently registered for other purposes, to be used for fire ant control, or to authorize the use of an entirely new chemical while certain testing requirements are satisfied. Of course, any of the foregoing actions would depend on an assessment of the risks that the pesticide would pose and findings by the Administrator that any such risks fall within the confines specified by the statute. You may be sure that the matter of a mirex substitute would receive high level attention at EPA and that procedural delays would not prevent prompt action so long as the minimum necessary information about the persistence, toxicity, and mobility of the chemical is available.

At present, there is intensive effort underway to perfect a mirex substitute. The U.S. Department of Agriculture is supporting several research projects, including a sizable contribution to the effort underway by the Mississippi Fire Ant Control Authority. EPA has contributed $100,000 to that project and has provided the full-time services of a senior staff member to Commissioner Jim Buck Ross. Much of the effort in Mississippi has focused on an effort to degrade mirex rapidly and thereby substantially reduce human exposure to the chemical. Mirex baits provide effective suppression of fire ants in a treated area for a year to 18 months. The active ingredient released into the environment to achieve that transitory control persists for many years. Thus, development of a mirex that could degrade into innocuous compounds would greatly modify the risk-benefit balance.

On the other hand, there is no scientific basis for prejudging the products of "biodegradable mirex"—whether those substances are more or less harmful or persistent than mirex. Scientists in Mississippi, with technical support from EPA, are working very hard to answer the first of these questions. They have begun the difficult process of identifying the degradation products, and unless unforeseen obstacles are encountered should be well in several weeks to a few months. Even as that process is underway, however, it may be possible to conduct some toxicity screening for the identified degradation products. Once all the degradation products are identified it will be possible accurately to assess the need for original toxicity testing to establish a risk profile for the use of "mirex plus amines."

A number of "conventional" pesticides, with established and acceptable risk profiles, are highly lethal to fire ants. In the case of all of them one of two difficulties exist before they can be truly effective for the control of fire ant populations, but considerable progress is being made. Because these pesticides are approved for other uses, many of the difficulties attendant to registration of a new chemical are not present in extending their uses to include fire ant control.

Still another control technique being explored at Texas A&M University is the use of a juvenile hormone to retard the development of the ants at the larval stage and prevent them from emerging from the mounds as adults.

Tens of millions of dollars have been spent to apply mirex while the effort to discover a preferable alternative has been insignificant heretofore. You may be sure that EPA will work to rectify that imbalance with the knowledge that each year of use results in many years of exposure to mirex by persons living in treated areas. I hope that these efforts to discover a mirex alternative will enjoy your vigorous support.

Finally, we believe the integrity of the regulatory system for pesticides which Congress has established should be protected. On that basis we have opposed legislative "bans" on pesticides as well as proposals to permit untested or unduly dangerous chemicals to be used to combat specific pest problems. I hope that an acquaintance with the exhaustive consideration given to risks and benefits in arriving at pesticides decisions will lead you to conclude that it is a regulatory process which is worthy of your support even though we could reach different conclusions in any particular instance about whether a pesticide poses an unreasonable risk. For these several reasons we urge that Congress not establish the practice of legislating approval or disapproval of any of the millions of site/pest/pesticide decisions that our government must make.

We hope we can continue to work with you on this important matter, and I will personally be available to continue our discussions.

Sincerely yours,

BARBARA BLUM,
Deputy Administrator.

Mr. MOSS. Mr. Chairman, I rise in opposition to section 6 of the proposed amendments to the Federal Insecticide, Fungicide, and Rodenticide Act which would authorize the Environmental Protection Agency to register—that is, to permit sale and use of—pesticides containing untested chemicals.

Under present law, a pesticide must be shown not to cause unreasonable adverse effects before it may be allowed on the market. Section 6 would grant new authority to the Environmental Protection Agency to register pesticides before health and safety testing has been performed.

This scheme would be authorized on the pretext that the registrations would be conditional. However, the conditions imposed by section 6 in most instances are illusory—the registrations would be virtually indistinguishable from full, unconditional, registration.

The Subcommittee on Oversight and Investigations conducted extensive oversight in 1975 and 1976 over the Environmental Protection Agency's efforts to protect the public from hazardous exposure to chemical pollutants. It concluded, with respect to the Environmental Protection Agency's pesticides programs, "[i]n sum, in its regulation of pesticides, EPA is failing to perform its mandate to protect the public." The importance of that conclusion is underscored by the subcommittee's finding that at least one-third of all pesticides currently on the market are suspected by the Environmental Protection Agency of being cancer-causing.

When the 35,000 to 50,000 currently registered pesticides were allowed on the market their destructive potential was not known or anticipated. But today, after experiences with Kepone-caused brain damage and DBCP-caused sterility, this country can no longer hide behind a shield of ignorance. The list of pesticide-caused disasters is growing at an ever-accelerating pace. In this context, the cavalier, sell first-test later policy of section 6 is plainly irresponsible.

The Committee on Interstate and Foreign Commerce has endeavored to protect the public health from toxic chemical contaminants by developing and reporting legislation to insure the safety of food—the Federal Food, Drug, and Cosmetic Act—and water—the Safe Drinking Water Act—and to protect both by preventing contamination of the environment—the Toxic Substances Control Act; the Resource Conservation and Recovery Act. The foundation the Commerce Committee has built to protect the public health will be effectively undermined by these amendments.

I have directed subcommittee staff to study the potential of these so-called conditional registration amendments to impair or destroy programs under the Food, Drug, and Cosmetic Act, the Safe Drinking Water Act, the Toxic Substances Control Act, and the Resource, Conservation and Recovery Act. I plan to offer amendments, at the appropriate time, to restore the integrity of programs under those acts.

I would like to submit, for the RECORD, letters I wrote to the chairman of the Committee on Agriculture subcommittee that reported this bill and to you, Mr. Chairman, on the subject of conditional registration. I want to be on record against this dangerous program, and I want the public to know what information the Agriculture Committee had in hand when it reported this bill.

Congress objective should be to insure that chemicals are put to the test, not the American public. Conditional registration, by contrast, will serve to broaden and prolong the chemical insult the public has been and is being forced to endure. I condemn the apparent disregard for the public health and well-being evinced by the conditional registration policy and urge a vote against H.R. 8681.

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 16, 1977.

HON. E. DE LA GARZA,
Chairman, Subcommittee on Department Investigations, Oversight, and Research, Washington, D.C.

DEAR CHAIRMAN DE LA GARZA: We write in opposition to proposed amendments to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) that would authorize the Environmental Protection Agency (EPA) to conditionally register (permit sale and use of) pesticides for which health safety testing has not been performed. Conditional registration will serve to broaden and prolong the chemical insult the American public has been and is being forced to endure. One would be hard pressed to fashion a program that would deviate more from the precautionary policy of the current FIFRA, which is, as former EPA Administrator Russell E. Train expressed it, to put chemicals to the test, not people. We condemn the apparent disregard for the public health and welfare evinced by the conditional registration concept and offer the following analysis in support of our opposition to the proposed conditional registration amendments.

BACKGROUND

EPA, on the strength of a tortured interpretation of Section 3(c)(2) of FIFRA, initiated a conditional registration program on

May 27, 1976, by publication in the *Federal Register* of a Notice entitled, "General Statement of Policy—Data Requirements for Registration." This Subcommittee evaluated that conditional registration program in particular, and EPA's regulation of pesticides in general, in its 1975 and 1976 oversight of EPA's efforts to protect the public from hazardous exposure to chemical pollutants.

In the Subcommittee's report on "Federal Regulation and Regulatory Reform," published in October, 1976, we concluded: "[i]n sum, in its regulation of pesticides, EPA is failing to perform its mandate to protect the public." With respect to conditional registration, we concluded: "EPA's plan for 'conditional registration' directly contravenes the Federal Insecticide, Fungicide, and Rodenticide Act's mandate that pesticide products not be registered unless the Administrator first determines that they do not cause unreasonable adverse effects on man or the environment."

On June 2, 1977, Richard J. Denney, Jr., Associate General Counsel for Pesticides, in a memorandum to Edwin L. Johnson, Deputy Assistant Administrator for Pesticide Programs, responded to our charge that EPA lacked authority to issue conditional registrations under present law. He conceded that the present statute contains "no explicit authority" for conditional registrations but argued, instead, that EPA could defend conditional registration "as a common sense implementation of the statute." Nonetheless, Mr. Denney concluded that an "amendment to the Act to clarify this authority and its scope would be very helpful." Consequently, EPA drafted amendments to the FIFRA to accomplish that end and those amendments, in large measure unchanged, were among those passed by the Senate on July 29, 1977 (Section 6 of S. 1678).

We must voice disappointment and distress that EPA elected to respond to the Subcommittee's substantive concerns not by correcting the problem, but by seeking statutory authority for a program that may threaten rather than protect the public health and welfare. For these and the following reasons, we urge you to consider carefully the impact and ramifications of a conditional registration program before you act to amend the FIFRA.

CONDITIONAL REGISTRATION UNDER S. 1678

Section 6 of S. 1678 would add paragraph 3(c)(7) to the FIFRA. Paragraph 3(c)(7) would authorize, in subparagraph (A), conditional registration of a pesticide identical or substantially similar to a currently registered pesticide; in subparagraph (B), conditional registration of a new use of a currently registered pesticide; and in subparagraph (C), conditional registration of a pesticide containing an active ingredient not contained in any currently registered pesticide.

Both subparagraphs 3(c)(7)(B) and 3(c)(7)(C) are especially worrisome for they broaden the scope of the conditional registration program beyond that which EPA initiated in 1976, and, thus, increase the potential hazard to public health.

SECTION 3(C)(7)(C): NEW ACTIVE INGREDIENTS

This section represents the greatest deviation from the precautionary policy of present law. Before the EPA Administrator may conditionally register a pesticide, under proposed 3(c)(7)(C), containing an active ingredient not contained in any currently registered pesticide, he must first determine that its use "will not cause any unreasonable adverse effect on the environment." This standard is the same as that contained in section 3(c)(5) of the current FIFRA which authorizes the Administrator to register a pesticide only if he determines it "will not generally cause unreasonable adverse effects on the environment."

Associate General Counsel Denney, in his June 2, 1977, memo to Deputy Assistant Administrator Johnson stated: "[i]t is at least arguable that the absence of long-term data precludes the possibility of making a Section 3(c)(5) finding." He continued:

"Prior to completion of . . . [an intensive review of the safety data within EPA's files], even as to a new product which is identical to a currently registered product it would be *very difficult* for the Administrator to find, as required by Section 3(c)(5) of FIFRA, that "the pesticide would perform its intended function without unreasonable adverse effects on the environment and that when used in accordance with widespread and commonly recognized practice it would not generally cause unreasonable adverse effects on the environment." It would be *more difficult yet* for the Administrator to make the Section 3(c)(5) findings for any pesticide product which differed from a currently registered product in ways which did not present clear advantages from the standpoint of protecting the environment and public health—for example, a product which proposed a *use not currently registered* or a product which was composed of an *ingredient not currently registered* by the Agency. (Emphasis added.)

One year earlier, in the May 27, 1976, Federal Register notice announcing the conditional registration program, Mr. Johnson, when discussing the propriety of conditional registration for new active ingredients, had more candidly admitted:

No such conditional registration provision was included in the regulations as regards new registration actions. In practical terms this has meant that it has not been possible for applicants to obtain a new registration when testing is necessary to support the new registration, and the test results are not yet available. This is entirely appropriate where the applicant proposes a new pesticide product which is different from a currently registered pesticide product. *In such a case, the Administrator would be unable to make the determinations required by section 3(c)(5) of the Act* without consideration of all the data required for the type of pesticide concerned. . . . (41 Fed. Reg. 21686.) (Emphasis added.)

We agree with Mr. Johnson's conclusion that it is "entirely appropriate" to disallow conditional registrations for new active ingredients. To conclude otherwise and to agree to Section 3(c)(7)(C) would be to require the EPA Administrator to do the impossible—to see into the future—for how else could he evaluate the potential adverse effects of an untested chemical?

SUBPARAGRAPH 3(C)(7)(B): NEW USES

This section would authorize conditional registration of a new use of a currently registered pesticide. Associate General Counsel Denney, in his above-quoted statement, identified the 3(c)(5) finding the Administrator would be required to make before he could register a use not currently registered as an example of a finding "more difficult yet" than "very difficult" for the Administrator to make. The May 27, 1976, Federal Register notice would have allowed conditional registration of a new use only if it would result in less pesticide being utilized or if it, without changing the amount of pesticide utilized, would reduce the exposure of applicators to the pesticide. Subparagraph 3(c)(7)(B) would impose no similar limitation on the Administrator's authority. He would be authorized, ostensibly, to allow a new use that would for the first time leave a residue of the pesticide on food products. This would result, in turn, in direct human exposure to a pesticide for which health safety testing had not been performed. We submit that this authority, like the authority to conditionally register new active ingredients, runs counter to the precautionary policy of the FIFRA.

SUBPARAGRAPH 3(C)(7)(A): IDENTICAL OR SIMILAR PRODUCTS

This section would authorize conditional registration of a pesticide identical or substantially similar to a currently registered pesticide. EPA has argued that it needs this authority to eliminate the competitive disadvantage suffered by those without a registration for a currently registered pesticide. It believes that use of this authority would operate to redistribute market shares without increasing the amount of pesticide entering the environment. While this may certainly be a laudable objective, the Subcommittee still has reservations about the means EPA has chosen to achieve it.

If EPA's premise is correct—that the amount of pesticide entering the environment would not increase as a result of exercise of this authority—then we do not object to subparagraph 3(c)(7)(A). But, to date, EPA has offered no study or analysis of pesticide markets that would validate its premise. If a conditional registration would facilitate access to a given pesticide, its use might be increased. The Administrator, under Section 6(a)(1) of FIFRA, may permit the continued sale and use of existing stocks of a pesticide whose registration is cancelled. If the number of registered marketers is increased, the amount of pesticide stockpiled might be increased as well. Until the pesticide market is analyzed, Congress will be at a loss to determine whether or not subparagraph 3(c)(7)(A) will result in an increased hazard to public health.

CONDITIONS

Subparagraph 3(c)(7)(A), (B), and (C) characterize the registrations they would authorize as "conditional." Close analysis suggests, however, that only registration of new active ingredients pursuant to 3(c)(7)(C) would be distinguishable from full unconditional registration. The following analysis focuses on the conditions imposed by the three subparagraphs.

"Conditional" registration of a new active ingredient (3(c)(7)(C)) would be authorized:

"on the condition that by the end of [a period reasonably sufficient for generation of required data] the Administrator shall have received such data *and that the data do not meet or exceed risk criteria* enumerated in regulations. . . ." (Section 3(c)(7)(C)) (Emphasis added).

Contrast this condition with the conditions imposed with respect to "conditional" registration of new uses (3(c)(7)(B)) and identical or substantially similar pesticides (3(c)(7)(A)):

"under such conditions as will require the submission of data not later than the time such data are required to be submitted with respect to similar pesticides already registered under this Act. . . ."

These latter conditions require only that data be submitted, but do not require that the data show absence of hazard. The net result, then, is to place these registrations in precisely the same status as full unconditional registrations. We would be deceiving the public if we were to pass the 3(c)(7)(A) and (B) amendments on the pretext that the registrations thereunder would be conditional.

CONCLUSION

There is nothing about enshrining this stopgap conditional registration procedure in statutory language that can make it any less noxious. If the statutory scheme is unworkable and arbitrarily creates competitive imbalance, it should be overhauled; but, not at the expense of the public health. It is imperative that chemical testing be conducted in the laboratory—we have all been made to serve as unwilling guinea pigs for far too long already.

We respectfully request that you carefully consider our analysis of conditional registration in your deliberations over the FIFRA amendments.

Sincerely,

ANDREW MAGUIRE,
Member, Subcommittee on Oversight and Investigations.

JOHN E. MOSS,
Chairman, Subcommittee on Oversight and Investigations.

HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS,
Washington, D.C., October 4, 1977.

Hon. THOMAS P. O'NEILL, Jr.,
House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: We are writing to request that H.R. 8681, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act, be referred to the Committee on Interstate and Foreign Commerce in order that the Committe may fulfill its responsibility under Rule X 1(*l*)(10) and (11) of the Rules of the House of Representatives to protect the public health.

This Committee has endeavored to protect the public health from toxic chemical contaminants by developing and reporting legislation to ensure the safety of food (the Federal Food, Drug, and Cosmetic Act), of water (the Safe Drinking Water Act), and to protect both by preventing contamination of the environment (the Toxic Substances Control Act; the Resource Conservation and Recovery Act). The foundation this Committee has built to protect the public health will be undermined by H.R. 8681.

Under present law, a pesticide must be shown not to cause unreasonable adverse effects before it may be allowed on the market. H.R. 8681 would authorize the Environmental Protection Agency to register (permit sale and use of) pesticides before health and safety testing has been performed.

This scheme would be authorized on the pretext that the registrations would be conditional. However, the conditions imposed by H.R. 8681 in most instances are illusory—the registrations are virtually indistinguishable from full, unconditional, registration.

At least one-third of all pesticides currently on the market are suspected by the Environmental Protection Agency of being cancer-causing. When these pesticides were allowed on the market their destructive potential was not known or anticipated. But today, after experiences with Kepone-caused brain damage and DBCP-caused sterility, this country can no longer hide behind a shield of ignorance. The list of pesticide-caused disasters is growing at an ever accelerating pace. In this context, the cavalier, sell first—test later, policy of H.R. 8681 is plainly irresponsible.

Under the authority of the Federal Food, Drug, and Cosmetic Act, reported by this Committee, the Environmental Protection Agency is directed to set tolerances (maximum allowable levels) of pesticide residues on food. H.R. 8681, by allowing registration of untested pesticides, creates the necessity for tolerances to be set without health and safety data. The Environmental Protection Agency, as if to dash any hopes that Congress might have had that it would disallow residues of untested pesticides on food products, on June 28, 1977, issued a tolerance for the incompletely tested pesticide thiabendazole—over the protest of its own chief chemist: "[i]n the 22 year history of the Pesticide Amendment [section 408 of the Food, Drug, and Cosmetic Act] no tolerance has ever issued with an acknowledgement that the judgment of safety was based on incomplete data." H.R. 8681 will make meaningless the protection contemplated by the Federal Food, Drug, and Cosmetic Act.

The authority granted the Environmental Protection Agency to require premarket testing of toxic substances is the heart of the Toxic Substances Control Act, reported by this Committee and enacted into law in 1976. Chemical substances, when distributed in commerce for use as pesticides, are subject to regulation under only the Federal Insecticide, Fungicide, and Rodenticide Act. But when these same chemical substances are marketed for non-pesticide uses, as hundreds are, they may be subject to regulation under the Toxic Substances Control Act. H.R. 8681, by allowing marketing of untested pesticides, produces the anomaly that the Environmental Protection Agency would be authorized, for example, to allow use of an untested chemical as a pesticide applied to apples, while it would be required to prohibit use of the same chemical as an insulator in an industrial capacitor. This Committee should be given an opportunity to consider H.R. 8681 in order to attempt to reconcile this inconsistency.

The Safe Drinking Water Act, reported by this Committee in 1974, requires the Environmental Protection Agency to set maximum levels and to prescribe treatment for organic chemical contaminants in drinking water. The Environmental Protection Agency has, to date, set maximum contaminant levels for only six organic chemicals—all pesticides. It will be unable to set maximum contaminant levels, or to prescribe treatment for contaminated water, if the contaminant is an untested pesticide registered under H.R. 8681. Underscoring the seriousness of the threat to drinking water posed by pesticides, only two weeks ago the drinking water supply of 70,000 residents of North Miami Beach, Florida, was shut down because the drinking water was believed to be contaminated by pesticides.

Under the Resource Conservation and Recovery Act of 1976, the Environmental Protection Agency is directed to promulgate criteria for identifying the characteristics of hazardous wastes in order that the wastes may be disposed of in a safe manner. The toxicity of the waste is, obviously, a prominent factor to be taken into account. H.R. 8681, by allowing the distribution in commerce of untested chemicals, the toxicity of which cannot be determined, compromises the ability of the Environmental Protection Agency to fulfill its responsibility under the Resource Conservation and Recovery Act to protect the public health and the environment.

The Committee on Interstate and Foreign Commerce has jurisdictional responsibility under the Rules of the House of Representatives for the public health. Unless the Committee is given an opportunity to consider H.R. 8681 it will be effectively stripped of the authority to fulfill that responsibility.

The Committee on Interstate and Foreign Commerce, as the legislation it has reported to protect the public health and the environment demonstrates, has much legislative experience that ably prepares it to consider amendments to the Federal Insecticide, Fungicide, and Rodenticide Act.

The Subcommittee on Oversight and Investigations conducted extensive oversight in 1975 and 1976 over the Environmental Protection Agency's efforts to protect the public from hazardous exposure to chemical pollutants. It concluded, with respect to the Environmental Protection Agency's pesticides program, "[i]n sum, in its regulation of pesticides, EPA is failing to perform its mandate to protect the public." H.R. 8681 will serve to aggravate an already bad situation.

Mr. Speaker, we request that H.R. 8681 be referred to the Committee on Interstate and Foreign Commerce in order that it may be given an opportunity to meet its responsibility to protect the public health. To deny this request for a referral is, de facto, to amend the Federal Food, Drug, and Cosmetic Act, the Toxic Substances Control Act, the Safe Drinking Water Act, and the Resource Conservation and Recovery Act. This Committee should not be expected to sit idly by as its years of effort to ensure public protection are made meaningless.

Sincerely,

JOHN E. MOSS, *Chairman.*
PAUL G. ROGERS.
JOHN D. DINGELL.
HARLEY O. STAGGERS.
BOB ECKHARDT.

Mr. RHODES. Mr. Chairman, I recently have been contacted by Mr. Joe Bob Neely of Tempe, Ariz., who criticizes many of the actions taken by the Environmental Protection Agency—EPA—against agricultural chemicals, pesticides, et cetera, which are having substantial adverse effects on crops in my home State of Arizona.

It is one of the most articulate letters I have received on this subject. Accordingly, I ask unanimous consent at this point to insert it in the record for the enlightenment of the other Members. I also consider that it would add to the legislative history of the FIFRA bill as an example of the things that the House is trying to do to correct some of the abuses or problems mentioned by Mr. Neely.

In his letter Mr. Neely requests that we:

On behalf of all the farmers across the Nation . . . make every effort to reduce the stranglehold that the bureaucrats are applying to this Nation's agriculture.

I am pleased to note that the House bill addresses many of the problems which Mr. Neely cited and which are besetting farmers as it relates to the administration of the pesticide program by EPA. For instance, Mr. Neely criticizes an administrative process instituted by EPA called the rebuttable presumption against registration—RPAR—process. The bill prohibits EPA from implementing such a review process for a pesticide prior to initiating a formal action for suspension or cancellation unless that process is based on a "validated test raising prudent concerns of unreasonable adverse risks to man or to the environment."

What this means to the farmer and to the pesticide producer is that EPA cannot arbitrarily place the sole and entire burden on pesticide registrants to prove that their pesticide is not having any adverse effects on the health of humans or the environment.

I would also like to point out a few other things that this bill does, which I believe will be very helpful to farmers and agriculture generally as it relates to the administration of programs by EPA as provided under FIFRA, as amended:

First. There is a requirement in the bill that EPA must consult with the Department of Agriculture with respect to research on biologically integrated alternatives to pesticides and that USDA must give priority to such research.

Second. There is a provision which permits the application of a pesticide for agricultural and forestry purposes at a dilution less than label dosage under certain circumstances.

Third. The bill provides an exclusive-use period of 5 years to registrants of a pesticide with respect to the test data submitted in support of a new pesticide registration. The bill provides an additional 5 years' compensation for such data to the original data submitter for data which another registrant may wish to use in support of his application.

This provision may well be the key provision in the entire bill, for I believe that it will provide the incentive to producers of pesticides to come up with alternatives for pesticides which are in fact harmful to either the health of humans or the environment.

At the same time, I believe it will serve as an incentive to producers to increase the number of registrations for new pesticides, inasmuch as producers can be assured that they will have some period of protection during which they can recover on the heavy investments that they must incur. The producers have investments not only for their research, but for the test data, which is very costly and which must be submitted to EPA in support of applications for registration so as to assure that agency that the pesticide is not harmful.

There are many other provisions in this House bill which I understand will be helpful to farmers in the future with respect to clearing up the administrative backlog at EPA such that pesticides may be more quickly registered and thus usable. This bill also goes a long way, I am informed, in insuring that the actions taken by EPA are applied in an intelligent and evenhanded manner and are not arbitrarily imposed on producers.

Based on my understanding of this bill, it contains compromises that make it acceptable to farmers, pesticide producers, and to environmentalists. It also gives to the States the primary responsibility for enforcement of pesticide use violations.

Accordingly, I urge all of my colleagues on this side of the aisle, as well as my colleagues on the other side of the aisle, to give this bill their strong support, so that our conferees can attend the conference knowing they have an informal instruction to give strong support to the House version of this measure.

Mr. Neely's letter follows:

SEPTEMBER 19, 1977.

Hon. JOHN RHODES,
U.S. Congress,
Washington, D.C.

All is not well in the agricultural community. At this very time, while you are reading this letter, the insect situation in the crops being grown in the United States is very critical.

We cannot remember when our cotton crop has been attacked by so many different insects. At the present time in Arizona we are treating for Cotton Bollworm, Tobacco Budworm, Cotton Leaf Perforator, Army Worms, Salt Marsh Caterpillar and Cabbage Looper. Any one of these insects, if left unchecked, would completely destroy our crop.

In past years, when infestations reached similar proportions, we would reach into our arsenal of agricultural pesticides and pull out one that would do an adequate job in controlling a specific pest. We cannot do that nowadays—primarily because we don't have the chemicals. It seems that in 1972 when Congress reworked the Federal Insecticide, Fungicide and Rodenticide Act, they decided that perhaps we didn't need to have these chemicals and they passed legislation that enabled the Environmental Protection Agency to do away with the most effective tools we have had to raise our crops.

Ever since they took DDT away from the farmer it seems that each year the most effective weapons are also put on the prohibited list. The list of those chemicals they have taken away from us is beginning to exceed the list of chemicals that we can use today. Not only that, but the chemicals they have taken away from us have been our most effective ones.

Right in the middle of the 1976 cotton season, someone determined that GALECRON and FUNDAL caused cancer in some species of mice. These products were immediately taken off the market by the manufacturers. On the surface that doesn't sound too bad—but the fact is that GALECRON and FUNDAL were our most effective chemicals in combating lepidopterous insects. These chemicals are ovicides, which means that they attacked the insect in the egg stage—and they did so effectively. We have no other insecticide that does this. We have been told that in the testing as required by EPA, the mice were fed massive doses of these chemicals. It is our understanding that if a human being had been the test animal, he would have had to consume several thousand pounds of food each day that had been treated with the proper amount of these chemicals and that he would have to do this every day for nearly a lifetime in order to duplicate the tests that were given to these mice. Now, we are not scientists—we are farmers. These tests may be scientific in nature but they certainly cannot be termed realistic.

Since the end of World War II, many fantastic chemicals have been developed to help us raise our crops. It seems that when they take one off the market it is always done in approximately the same manner as Galecron and Fundal; namely unrealistic testing. Our agricultural chemical friends tell us that the string is running out; that their ability to develop new technology and new chemicals cannot keep pace with EPA's ability to take them away. If something does not happen to reverse this trend, we farmers are going to be in serious trouble. Our costs for fighting insects in 1977 will be double what they were in 1976. Also, our yields will probably be much less than they were last year, because we don't have as effective a chemical arsenal as we should have.

As a result of Congress' amendment of FIFRA in 1972, the EPA has come up with something they call Rebuttable Presumption Against Registration (RPAR). We first heard about this when EPA published a list of 45 chemicals which were to be regarded as likely candidates. EPA tells us that RPAR is simply a review to determine whether or not they need new safety requirements for most of these chemicals, and under this RPAR if a pesticide shows potentially dangerous characteristics, it is subjected to more intensive scientific review and public comment. Then a decision is made to allow its continued use, or to begin a cancellation process to remove the materials from the market. The thing we don't like about this is that these chemicals have been on the market and we have used them safely for as much as 25 years without any apparent danger or hazard to human life. What we would like to have someone tell us is—just how much safety does a product have to demonstrate before it can be accepted by EPA? We are getting awfully tired of the remarks EPA makes regarding these chemicals being carcenogenic when they, in fact, cannot prove that these chemicals have ever caused cancer in a human being. We have recently heard that stomach cancers and those tumors related to the intestinal tract are the most rapidly decreasing type that we have in this country today. If this is true, we wonder if the quality of our food has anything to do with this. The most rapidly growing cancer in this country is the EPA itself. And—we would hope that Congress would find a cure for that.

We would like every congressman to know that when we lose a valuable production tool—our costs go up and our efficiency goes down. With farm prices at their lowest levels in recent years and with Government interference with our production increasing by leaps and bounds, only one of two things can happen: either we, the farmers, will go broke—or the consumers in this country will be paying more and more for their food and fiber as time goes on. The Cost, Price and Government squeeze is starting to kill American Agriculture—and we want the Congress to begin doing something about it.

EPA says they are carrying out the wishes of Congress and Congress says they can't control EPA. This, we believe, is a sad state of affairs and it is beginning to affect every American Citizen.

We are asking that something other than lip service be given to a REALISTIC APPROACH to the assessment of the use of agricultural chemicals and other Government controlled farm practices. EPA has been unable to document a single death from poisoning by agricultural chemicals when they were used in the manner stipulated by the manufacturer and printed on the label of the product. In actuality, very few products manufactured in the United States today have such an exemplary safety record.

Congressman, we beseech you, on behalf of all the farmers across the Nation, to make every effort to reduce the stranglehold that the bureaucrats are applying to this Nation's agriculture.

JOE BOB NEELY.

Mr. SYMMS. Mr. Chairman, I wish to take this opportunity to call attention to the provision in the committee amendment to H.R. 7073 which relates to the use of data to support registration. Paragraph (E)(i) of that amendment, which appears on page 34 of H.R. 8681, provides for a 5-year period of exclusive use of data in the case of data originally submitted to support an application for an experimental use permit or for registration of a new pesticide product.

Paragraphs (E) (ii) and (iii) also provide some period of exclusive use—as I understand it—and a period of compensation for data. However, it is paragraph (E)(ii) that I want to principally call to your attention.

As I understand it, data submitted in support of a new registration is normally considered to support claims under sections 3(c)(5) (A), (B), (C), and (D)—composition, labeling, efficacy, and safety. While these data are substantial, new data to add a new pest or a new site to such registration in most cases may not be substantial and, therefore, were not intended by the committee to be subject to the full 5-year protection afforded the initial registration, but only to the unexpired portion of the 5-year period provided under paragraphs (E) and (F).

On the other hand, data which supports the issuance of a tolerance regulation to cover residues of a pesticide remaining at harvest on a raw agricultural commodity are substantial. This data is required under the Food, Drug and Cosmetic Act, though the development and review of such data are carried out by

EPA under FIFRA and regulations issued thereunder.

These data in most cases are uniquely different from any data previously submitted and considered by the Administrator for the existing registration. Several additional years may be required for the development of such data at considerable expenditures of moneys and resources.

However, as I read paragraph (E)(ii), a situation could arise where an applicant may have obtained a registration for a pesticide for application on an ornamental shrub and later find through tests and data that that herbicide can be used for a food, such as an apple tree. In that case, subsequent tolerance data submitted in support of such additional use are not accorded the full 5-year protective data period as provided under section 3(c)(1)(E)(i).

I am not sure this type of situation is what the subcommittee and the committee intended. There is no question but what in the example I have just mentioned—where a pesticide may be found to be useful for fruit trees but was, therefore, used on ornamental shrubs—may not change in chemical composition one bit. Therefore, it remains an amendment under 3(c)(1)(E)(ii) is not entitled to the full 5-year protection of data as I read that paragraph.

If H.R. 7073 as amended becomes law, I submit that pesticide manufacturers who have any expectation at all that a pesticide which they may use immediately for nonfood products is going to be held off the market for some time until the manufacturer determines whether or not that pesticide may be used for food products so that the manufacturers obtain the full 5-year protection period for the total uses.

It was my understanding that one of the reasons for amending FIFRA at this time was to get the new pesticides and new uses from the manufacturer to the farmers in the quickest possible time. It may be that the example I cited above is a case where that will not occur and where instead the manufacturer will hold up delivery of his new products for use by farmers or other agricultural enterprises until such time as it can be determined whether or not a pesticide may have some use in the production of food products.

I understand that based on the compromise which Mr. THONE of Nebraska has mentioned that it is too late to open up this issue here on the floor. However, when, as or if this bill becomes law, I would suggest that EPA, the Department of Agriculture, and the House Committee on Agriculture commit themselves to close oversight as to how this new bill is going to operate, such that if it does turn out that some pesticides are being withheld from the market to determine whether or not they cover food use, that further consideration be given to amending section 3(c)(1)(E)(ii) to accommodate the aforementioned situation.

The CHAIRMAN. Are there any further amendments? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. DANIELSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7073) to extend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, pursuant to House Resolution 620 and 830, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

Mr. FITHIAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 368, nays 21, not voting 45, as follows:

[Roll No. 723]

YEAS—368

Abdnor
Addabbo
Akaka
Allen
Ambro
Ammerman
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badham
Badillo
Bafalis
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Blanchard
Boggs
Boland
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, Phillip
Butler
Byron
Caputo
Carney
Carter
Cederberg
Chappell
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corman
Cornell
Cornwell
Cotter
Coughlin
Crane
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dornan
Downey
Duncan, Oreg.
Duncan, Tenn
Early
Eckhardt
Edgar
Edwards, Ala.
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Fraser
Frenzel
Frey
Fuqua
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Grassley
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harris
Harsha
Hawkins
Hefner
Hightower
Hillis
Hollenbeck
Holt
Horton
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Ketchum
Keys
Kindness
Kostmayer
Krebs
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Leggett
Lehman
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Luken
McClory
McCloskey
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Mahon
Mann
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Meeds
Meyner
Michel
Mikulski
Milford
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Pursell
Quayle
Quie
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Rudd
Runnels
Ruppe
Russo
Ryan
Sarasin
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shuster
Sikes
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Steed
Steers
Stockman
Stokes
Stratton
Stump
Symms
Taylor
Thompson
Thone
Thornton
Traxler
Treen
Trible
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Waggonner
Walgren
Walker
Wampler
Watkins
Weaver
White
Whitehurst
Whitley
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—21

Bonior
Carr
Drinan
Edwards, Calif.
Goodling
Holtzman
Kildee
Maguire
Mikva
Miller, Calif.
Mitchell, Md.
Moffett
Moss
Mottl
Ottinger
Stark
Steiger
Studds
Waxman
Weiss
Yates

NOT VOTING—45

Alexander
Anderson, Ill.
Bingham
Blouin
Bolling
Broomfield
Brown, Calif.
Burton, John
Cavanaugh
Chisholm
Clawson, Del
Conyers
Corcoran
Dent
Diggs
Dingell
Dodd
Edwards, Okla.
Eilberg
Evans, Del.
Flowers
Gammage
Harrington
Heckler
Heftel
Holland
Howard
Kemp
Koch
Krueger
Lundine
McCormack
Metcalfe
Murphy, N.Y.
Risenhoover
Roberts
Rousselot
Santini
Sisk
Skubitz
Teague
Walsh
Whalen
Wolff
Wright

The Clerk announced the following pairs:

Mr. Santini with Mr. Del Clawson.
Mr. McCormack with Mr. Anderson of Illinois.
Mr. Metcalfe with Mr. Edwards of Oklahoma.
Mr. Gammage with Mr. Kemp.
Mr. Wright with Mr. Whalen.
Mr. Howard with Mr. Teague.
Mr. Conyers with Mr. Broomfield.
Mr. Wolff with Mr. Evans of Delaware.
Mr. Koch with Mr. Rousselot.
Mr. Dodd with Mr. Skubitz.
Mr. Lundine with Mr. Alexander.
Mrs. Chisholm with Mr. Blouin.
Mr. Bingham with Mr. Heftel.
Mr. Roberts with Mr. Holland.
Mrs. Heckler with Mr. Sisk.
Mr. Corcoran of Illinois with Mr. Holland.
Mr. Walsh with Mr. Risenhoover.
Mr. Murphy of New York with Mr. Flowers.
Mr. Eilberg with Mr. Dingell.
Mr. Dent with Mr. Diggs.
Mr. Cavanaugh with Mr. John Burton.
Mr. Brown of California with Mr. Krueger.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. FOLEY. Mr. Speaker, pursuant to House Resolution 830, I call up from the Speaker's table the Senate bill (S. 1678) to amend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

AMENDMENT OFFERED BY MR. FOLEY

Mr. FOLEY. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FOLEY:

Strike out all after the enacting clause of S. 1678, and insert in lieu thereof the text of H.R. 7073, as passed by the House, as follows:

DEFINITIONS

SECTION 1. Section 2 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended by—

(1) adding at the end of subsection (e)(1) the following: "Any certified applicator who holds and applies pesticides only to provide a service of controlling pests without delivering any unapplied pesticide to any person so served, is not deemed to be a seller or distributor of pesticides under this Act.";

(2) in subsection (e)(3), striking out "a certified" and inserting in lieu thereof "an";

(3) in subsection (q)(1), striking out the period at the end of clause (G), inserting "; and" in lieu thereof, and adding a new clause (H) as follows:

"(H) in the case of a pesticide not registered in accordance with section 3 of this Act and intended for export, the label does not contain, in words prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) as to render it likely to be noted by the ordinary individual under customary conditions of purchase and use, the following: 'Not Registered for Use in the United States of America'.";

(4) in subsection (t), striking out all that follows "which" and inserting in lieu thereof "is injurious to food and agricultural production, processing, storage or transportation or to health or the environment and which the Administrator, after coordination with the Secretary of Agriculture, establishes as a pest under section 28.";

(5) in subsection (w), inserting "or active ingredient used in producing a pesticide" immediately after "or device" wherever such term appears therein;

(6) adding at the end of subsection (w) the following: "The dilution by individuals of formulated pesticides for their own use and according to the directions on registered labels shall not of itself result in such individuals being included in the definition of 'producer' for the purposes of this Act.";

(7) in subsection (dd), inserting "or active ingredient used in producing a pesticide" immediately after "or device"; and

(8) adding at the end thereof the following new subsections:

"(ee) TO USE ANY REGISTERED PESTICIDE IN A MANNER INCONSISTENT WITH ITS LABELING.—The term 'to use any registered pesticide in a manner inconsistent with its labeling' means to use any registered pesticide in a manner not permitted by the labeling, or not authorized by this Administrator or not authorized by a State under section 24(c): *Provided*, That the term does not include (1) applying a pesticide at any dosage, concentration, or frequency less than that specified on the labeling, (2) applying a pesticide against any target pest not specified on the labeling if the application is to the crop, animal, or site specified on the labeling, unless the Administrator has required that the label specifically state that the pesticide may be used only for the pests specified on the label after he has determined that the use of the pesticide against other pests would cause an unreasonable adverse effect on the environment, (3) employing any method of application not prohibited by the labeling, or (4) mixing a pesticide or pesticides with a fertilizer when such mixture is not prohibited by the labeling.

"(ff) BASIC PEST CONTROL CHEMICAL.—The term 'basic pest control chemical' means a pesticide which is not intended to be applied for pest control purposes without further formulation, but is intended to be used in producing a formulated pesticide.

"(gg) FORMULATED PESTICIDE.—The term 'formulated pesticide' means a pesticide which is intended to be applied for pest control purposes without further mixing or formulation, or after mixing with water or other dilutant by the applicator.".

USE OF DATA TO SUPPORT REGISTRATION; ADDITIONAL DATA TO SUPPORT EXISTING REGISTRATION

SEC. 2. (a) Section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended by—

(1) in subsection (c)(1), redesignating existing subparagraph (F) as (G), and amending subparagraphs (D) and (E) and adding a new subparagraphs (F), such subparagraphs (D), (E), and (F) to read as follows:

"(D) except as otherwise provided in subsection (c)(2)(D) of this section, a full description of the tests made and the results thereof upon which the claims are based, or alternatively a citation to data which appear in the public literature or which previously had been submitted to the Administrator and which the Administrator may consider in accordance with the provisions of subparagraphs (E) and (F) of this subsection,

"(E) if relied upon by the applicant, data first submitted to the Administrator after January 1, 1970, by another applicant to support an application for registration or for an experimental use permit, or to satisfy a request by the Administrator: *Provided*, That such data shall not, without the written permission of the original data submitter, be considered by the Administrator to support an application by another person, except—

"(i) in the case of data originally submitted to support an application for an experimental use permit or for registration of a new pesticide product, the Administrator may consider the data to support another person's application for registration after passage of a period of five years following the date the Administrator first issues a registration, to the extent permitted by subparagraph (F) of this subsection;

"(ii) in the case of data submitted in support of an application for an amendment adding a new use or uses to an existing registration and which pertains solely to such new use, such data may be considered in support of another person's application for registration after passage of a period of five years following the date the Administrator first registered the pesticide, to the extent permitted by subparagraph (F) of this subsection; and

"(iii) in the case of data requested by the Administrator and first submitted to support or maintain in effect an existing registration or to support reregistration, the Administrator may consider the data to support another person's application for registration after passage of a period of five years following the date of submission, to the extent permitted by subparagraph (F) of this subsection;

"(F) an offer to compensate the original data submitter, during the five-year period commencing immediately upon the expiration of a period of exclusive use, for an item of data under subparagraph (E) (i), (ii), or (iii) of this subsection. The Administrator may, without the permission of the original data submitter, consider such item of data in support of an application for registration by any other person (hereinafter in this subparagraph referred to as the 'applicant') only if the applicant has submitted to the Administrator such offer accompanied by evidence of delivery to the original data submitter of the offer. The terms and amount of compensation may be fixed by (i) agreement between the original data submitter and the applicant, or (ii) failing such agreement, binding arbitration under this subparagraph. If, at the end of ninety days after the date of the receipt by the original data submitter of the offer to compensate, the original data submitter and the applicant have neither agreed on the amount and terms of compensation nor on a procedure for reaching an agreement on the amount and terms of compensation, either person may initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint an arbitrator from the roster of arbitrators maintained by such Service. The procedure and rules of the Service shall be applicable to the selection of such arbitrator and to such arbitration proceedings, and the findings and determination of the arbitrator shall be binding and not subject to further appeal. The parties to the arbitration shall share equally in the payment of the fee and expenses of the arbitrator. If at any time the Administrator determines that an original data submitter has failed to participate in a procedure for reaching an agreement or in an arbitration proceeding as required by this subparagraph, or failed to comply with the terms of an agreement or arbitration decision concerning compensation under this subparagraph, the original data submitter shall forfeit his or her right to compensation for the use of the data in support of the application. Notwithstanding any other provision of this Act, if at any time the Administrator determines that an applicant has failed to participate in a procedure for reaching an agreement or in an arbitration proceeding as required by this subparagraph, or failed to comply with the terms of an agreement or arbitration decision concerning compensation under this sub-

paragraph, the Administrator shall deny the application or cancel the registration of the pesticide in support of which the data was used without further hearing. Before the Administrator takes action under either of the preceding two sentences, the Administrator shall furnish to the affected person, in writing and by certified mail, notice of intent to take action and allow fifteen days from the date of furnishing the notice for the affected person to respond. If a registration is denied or canceled under this subparagraph, the Administrator may make such order as the Administrator deems appropriate concerning the continued sale and use of existing stocks of such pesticides. Registration by the Administrator shall not be delayed pending the fixing of compensation. After expiration of any period of exclusive use and any period for which compensation is required for the use of an item of data under this subsection (c)(1), the Administrator may consider such item of data in support of an application for registration by any other applicant without the permission of the original data submitter and without an offer having been received to compensate the original data submitter for the use of such item of data, and"; and

(2) amending subsection (c)(2) by—

(A) inserting "(A)" immediately after "(2)";

(B) inserting immediately after "kind of information" in the second sentence the following "in accordance with subparagraph (B) of this paragraph,";

(C) striking out "subsection (c)(1)(D) of this section and" from the third sentence; and

(D) adding a new subparagraph at the end thereof as follows:

"(B) ADDITIONAL DATA TO SUPPORT EXISTING REGISTRATION.—

"(i) If the Administrator determines that additional data is required to maintain in effect an existing registration of a pesticide, the Administrator shall notify all existing registrants of the pesticide to which the determination relates and provide a list of such registrants to any interested person.

"(ii) Each registrant of such pesticide shall provide evidence within ninety days after receipt of notification that it is taking appropriate steps to secure the additional data that is required. Two or more registrants may agree to jointly develop, or to share in the cost of developing, such data if they agree and advise the Administrator of their intent within ninety days after notification. Any registrant who agrees to share in the cost of producing the data shall be entitled to examine and rely upon such data in support of maintenance of such registration.

"(iii) If, at the end of sixty days after advising the Administrator of their intent to develop jointly or share in the cost of developing data, the registrants have not further agreed on the terms of the data development arrangement nor on a procedure for reaching such agreement, any of such registrants may initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint an arbitrator from the roster of arbitrators maintained by such Service. The procedure and rules of the Service shall be applicable to the selection of such arbitrator and to such arbitration proceedings, and the findings and determinations of the arbitrator shall be binding and not subject to further appeal. All parties to the arbitration shall share equally in the payment of the fee and expenses of the arbitrator.

"(iv) Notwithstanding any other provision of this Act, if the Administrator determines that a registrant has failed to take appropriate steps to secure the data required under this subparagraph within the time required by the Administrator, or determines that a registrant has failed to participate in a procedure for reaching agreement or in an arbitration proceeding as required by this subparagraph, or failed to comply with the terms of an agreement or arbitration decision concerning a joint data development arrangement under this subparagraph, the Administrator shall cancel such registrant's registration of the pesticide for which additional data is required in accordance with section 6(b) of this Act: *Provided*, That if a registration is canceled under this subparagraph, the Administrator may make such order as the Administrator deems appropriate concerning the continued sale and use of existing stocks of such pesticide.

"(v) Any data submitted under this subparagraph shall be subject to the provisions of section 3(c)(1)(D), (E), and (F) of this Act. Whenever such data is submitted jointly by two or more registrants, an agent shall be agreed on at the time of the joint submission to handle any subsequent data compensation matters for the joint submitters of such data.".

(b) The amendments to section 3(c)(1)(D), (E), and (F) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, made by this section shall apply with respect to all applications for registration or reregistration approved on or after the date of enactment of this amendment.

MINOR USE REGISTRATIONS

SEC. 3. Section 3(c)(2)(A) of the Federal Insecticide, Fungicide, and Rodenticide Act, as redesignated by section 2 of this Act, is further amended by inserting immediately after the second sentence the following: "The Administrator, in establishing standards for data requirements for the registration of pesticides with respect to minor uses, shall make such standards commensurate with the anticipated extent of use, pattern of use, and the level and degree of potential exposure of man and the environment to the pesticide. In the development of these standards, the Administrator shall consider the economic factors of potential national volume of use, extent of distribution, and the impact of the cost of meeting the requirements on the incentives for any potential registrant to undertake the development of the required data.".

SIMPLIFIED REGISTRATION PROCEDURE; EXEMPTION FROM REQUIREMENTS FOR SUBMISSION OF DATA

SEC. 4. Section 3(c)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is further amended by adding two new subparagraphs at the end thereof as follows:

"(C) SIMPLIFIED PROCEDURES.—Within nine months after the date of enactment of this subparagraph, the Administrator shall, by regulation, prescribe simplified procedures for the registration of pesticides, which shall include the provisions of paragraph (2)(D) of this subsection.

"(D) EXEMPTION.—No applicant for registration of a pesticide who proposes to purchase a registered basic pest control chemical from another producer in order to formulate such purchased pesticide into an end-use product shall be required to—

"(i) submit or cite data pertaining to the safety of such basic pest and control chemicals, as opposed to the safety of the formulated pesticide; or

"(ii) offer to pay reasonable compensation otherwise required by paragraph (1)(E) and (F) of this subsection for the use of any such data.".

WAIVER OF DATA REQUIREMENTS PERTAINING TO EFFICACY

SEC. 5. Section 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended by adding at the end thereof a new sentence as follows: "In considering an application for the registration of a pesticide, the Administrator is authorized to waive, at the Administrator's discretion, data requirements pertaining to efficacy. If a pesticide is found to be efficacious by any State pursuant to section 24(c), a presumption is established that the Administrator shall waive such data requirements for use of the pesticide in such State.".

REGISTRATION UNDER SPECIAL CIRCUMSTANCES; INTERIM ADMINISTRATIVE REVIEW

SEC. 6. Section 3(c) of the Federal Insecticide, Fungicide and Rodenticide Act, as amended, is amended by adding at the end thereof the following new paragraphs:

"(7) REGISTRATION UNDER SPECIAL CIRCUMSTANCES.—Notwithstanding the provisions of subsection (c)(5) of this section—

"(A) The Administrator is authorized to conditionally register or amend the registration of a pesticide if the Administrator determines that (i) the pesticide is identical or substantially similar to any currently registered pesticide and use thereof, or differs only in ways that would not significantly increase the risk of unreasonable adverse effects on the environment, and (ii) approving the registration or amendment in the manner proposed by the applicant would not significantly increase the risk of any unreasonable adverse effect on the environment. An applicant seeking conditional registration or amended registration under this subparagraph shall submit such data as would be required to obtain registration of a similar pesticide under subsection (c)(5) of this section: Provided, That if the applicant is unable to submit an item of data because it has not yet been generated, or because it is an item of data described in subsection (c)(1)(E) or (F), the Administrator is authorized to register or amend the registration of the pesticide under such conditions as will require the submission of such data not later than the time such data are required to be submitted with respect to similar pesticides already registered under this Act.

"(B) The Administrator is authorized to conditionally amend the registration of a pesticide to permit additional uses notwithstanding that data concerning the pesticide may be insufficient to support an unconditional amendment, if the Administrator determines that (i) the applicant has submitted satisfactory data pertaining to the proposed additional use, and (ii) amending the registration in the manner proposed by the applicant would not significantly increase the risk of any unreasonable adverse effect on the environment. Notwithstanding the foregoing provisions of this subparagraph, no registration of a pesticide may be amended to permit an additional use of such pesticide if the Administrator has issued a notice stating that such pesticide, or any ingredient thereof meets or exceeds risk criteria associated in whole or in part with human dietary exposure as enumerated in regulations issued pursuant to this Act, and during the pendency of any risks and benefits analysis initiated by such notice, if (I) the additional use of such pesticide involves a major food or feed crop or (II) the additional use of such pesticide involves a minor food or feed crop and the Administrator determines, with the concurrence of the Secretary of Agriculture, that there is an available and effective alternative pesticide which does not meet or exceed such risk criteria. An applicant seeking amended registration under this subparagraph shall submit such data as would be required to obtain registration of a similar pesticide under subsection (c)(5) of this section: Provided, That if the applicant is unable to submit an item of data (other than data pertaining to the proposed additional use) because it has not yet been generated, or because it is an item of data described in subsection (c)(1)(E) or (F), the Administrator may amend the registration under such conditions as will require the

submission of such data not later than the time such data are required to be submitted with respect to similar pesticides already registered under this Act.

"(C) The Administrator is authorized to conditionally register a pesticide containing an active ingredient not contained in any currently registered pesticide for a period reasonably sufficient for the generation and submission of required data (which are lacking because a period reasonably sufficient for generation of the data has not elapsed since the Administrator first imposed the data requirement) on the condition that by the end of such period the Administrator shall have received such data and that the data do not meet or exceed risk criteria enumerated in regulations issued pursuant to this Act, and on such other conditions as the Administrator may prescribe: Provided, That a conditional registration or amendment under this paragraph shall be granted only if the Administrator determines that use of the pesticide during such period will not cause any unreasonable adverse effect on the environment.

"(8) INTERIM ADMINISTRATIVE REVIEW.—Notwithstanding any other provisions of this Act, the Administrator may not initiate a public interim administrative review process to develop a risk-benefit evaluation of the ingredients of a pesticide or any of its uses prior to initiating a formal action to cancel, suspend, or deny registration of such pesticide, required under this Act, unless such interim administrative process is based on a validated test raising prudent concerns of unreasonable adverse risk to man or to the environment.".

CLASSIFICATION PRIOR TO REGISTRATION; CHANGE IN CLASSIFICATION FROM RESTRICTED USE TO GENERAL USE

SEC. 7. Section 3(d) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended by—

(1) inserting in paragraph (1)(A) a new sentence immediately after the first sentence thereof as follows: "Registered pesticides may be classified prior to reregistration.".

(2) striking out "30 days" in paragraph (2) and inserting in lieu thereof "sixty days"; and

(3) adding a new paragraph (3) to read as follows:

"(3) CHANGE IN CLASSIFICATION FROM RESTRICTED USE TO GENERAL USE.—The registrant of any pesticide with one or more uses classified for restricted use may petition the Administrator to change any such classification from restricted to general use. Such petition shall present the registrant's position that restricted use classification is unnecessary since a classification of general use would not cause unreasonable adverse effects on the environment. The Administrator, within sixty days from receiving such petition, shall notify the registrant of whether the petition has been granted or denied. Any denial shall contain an explanation to the registrant and any such denial shall be subject to judicial review pursuant to section 16.".

REREGISTRATION; USE AT A DILUTION LESS THAN LABEL DOSAGE

SEC. 8. Section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended by adding at the end thereof two new subsections as follows:

"(g) REREGISTRATION OF PESTICIDES.—The Administrator shall accomplish the reregistration of all pesticides in the most expeditious manner practical: Provided, That to the extent appropriate, any pesticide which results in a post-harvest residue in or on food or feed crops shall be given priority in the reregistration process.

"(h) USE AT A DILUTION LESS THAN LABEL DOSAGE.—Prior to March 31, 1978, the use of a pesticide for agricultural and forestry purposes at a dilution less than label dosage will not be deemed to be a use inconsistent with the label. After that date no such use shall be deemed inconsistent with the label unless and until the Administrator shall have promulgated and issued a regulation in accordance with this Act which regulation specifically requires the use of definite amounts of dilution.".

AUTHORITY OF ADMINISTRATOR TO CERTIFY APPLICATORS

SEC. 9. Section 4(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended by—

(1) inserting in paragraph (1) immediately after "(1) FEDERAL CERTIFICATION.—" the following: "In any State for which a State plan for applicator certification has not been approved by the Administrator by February 20, 1978, the Administrator, in consultation with the Governor of such State, shall, if practicable, conduct a program for the certification of applicators of pesticides: *Provided,* That such program shall conform to the requirements imposed upon the States under the provisions of subsection (a)(2) and shall not require the private applicator to take any examination to establish competency in the use of the pesticide. In any State in which the Administrator conducts a certification program, the Administrator is authorized to require any person engaging in the commercial application, sale, offering for sale, holding for sale, or distribution of any pesticide, one or more uses of which have been classified for restricted use, to maintain such records and submit such reports concerning the commercial application, sale, or distribution of such pesticide as the Administrator may by rule prescribe."; and

(2) adding at the end of paragraph (2) the following: "Effective with the fiscal year beginning October 1, 1978, the Environmental Protection Agency shall share on an equal basis with each State the cost to that State of conducting a certification of applicator program using funds hereafter appropriated for the purposes of this Act.".

EXPERIMENTAL USE PERMITS

SEC. 10. Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended by—

(1) amending subsection (a) to read as follows:

"(a) ISSUANCE.—Any person may apply to the Administrator for an experimental use permit for a pesticide. The Administrator shall review the application. After completion of the review, but no later than ninety days after receipt of the application and all required supporting data, the Administrator shall either issue the permit or notify the applicant of his determination that he may not issue the permit and his reasons therefor. The applicant may correct the application or request waiver of conditions for such permit within thirty days of receipt by the applicant of such notification. The Administrator may issue an experimental use permit only if he determines that the applicant needs such permit in order to accumulate information necessary to register a pesticide under section 3. An application for an experimental use permit may be filed at any time." and

(2) amending subsection (f) by striking out the word "may" the first time it appears in the first sentence of such subsection and inserting in lieu thereof the word "shall".

ALTERNATIVE TO CANCELLATION

SEC. 11. Section 6(b) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended by inserting in the last sentence immediately after "In taking any final action under this subsection, the Administrator" the following: "shall consider restricting a pesticide's use or uses as an alternative to cancellation and shall fully explain the reasons for these restrictions, and".

CANCELLATION OF CONDITIONAL REGISTRATION

SEC. 12. Section 6 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended is amended by redesignating subsection (e) as subsection (f) and inserting after subsection (d) a new subsection (e) as follows:

"(e) CONDITIONAL REGISTRATION.—

"(1) The Administrator shall issue a notice of intent to cancel a registration issued under section 3(c)(7) of this Act if (A) the Administrator, at any time during the period provided for satisfaction of any condition imposed determines that the registrant has failed to initiate and pursue appropriate action toward fulfilling any condition imposed or (B) at the end of the period provided for satisfaction of any condition imposed, if such condition has not been met: *Provided,* That the Administrator may permit the continued sale and use of existing stocks of a pesticide whose conditional registration has been cancelled under this subsection to such extent, under such conditions, and for such uses as the Administrator may specify if the Administrator determines that such sale or use is not inconsistent with the purposes of this Act and will not have unreasonable adverse effects on the environment.

"(2) A cancellation proposed pursuant to this subsection shall become final and effective at the end of thirty days from receipt by the registrant of the notice of intent to cancel unless during that time a request for hearing is made by a person adversely affected by the notice. In the event that a hearing is requested, a hearing shall be conducted pursuant to subsection (d) of this section: *Provided,* That the only matters for resolution at that hearing shall be whether the registrant has initiated and pursued appropriate action to comply with the condition or conditions within the time provided or whether the condition or conditions have been satisfied within the time provided and whether the Administrator's determination with respect to the disposition of existing stocks is consistent with the Act. In the event a hearing is held, a decision after completion of such hearing shall be final. Notwithstanding any other provision of this section, a hearing shall be held and a determination made within seventy-five days after receipt of a request for such hearing.".

REGISTRATION OF ESTABLISHMENTS

SEC. 13. Section 7 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended—

(1) in subsection (a), inserting "or active ingredient used in producing a pesticide subject to this Act" immediately after "any pesticide subject to this Act";

(2) in subsection (c)(1), inserting "or active ingredients used in producing pesticides" immediately after "pesticides"; and

(3) in subsection (d), inserting "other than the names of the pesticides or active ingredients used in producing pesticides produced, sold, or distributed at an establishment" immediately after "pursuant to subsection (c)".

INSPECTION BOOKS AND RECORDS

SEC. 14. Section 8(b) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended by adding immediately after the last sentence the following: "Before undertaking any such inspection under this section, the officers or employees must present to the owner, operator, or agent in charge of the establishment or other place where pesticides or devices are held for distribution or sale, appropriate credentials and a written statement as to the reason for the inspection, including a statement as to whether a violation of the law is suspected.

If no violation is suspected, an alternate and sufficient reason shall be given in writing. Each such inspection shall be commenced and completed with reasonable promptness."

TRADE SECRET AMENDMENTS

SEC. 15. Section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended by

(1) inserting in subsection (b) immediately after "Notwithstanding any other provision of this Act" the following: "and subject to the limitations in subsections (d) and (e) of this section"; and

(2) adding four new subsections at the end thereof as follows:

"(d) LIMITATIONS.—

"(1) All information concerning the objectives, methodology, results, or significance of any test or experiment performed on or with a registered or previously registered pesticide or its separate ingredients, impurities, or degradation products, and any information concerning the effects of such pesticide on any organism or the behavior of such pesticide in the environment, including but not limited to data on safety to fish and wildlife, humans and mammals, plants, animals, and soil, or studies on persistence, translocation and fate in the environment, and metabolism, shall be available for disclosure to the public: *Provided*, That the use of such data for any registration purpose shall be governed by section 3: *And provided further*, That this paragraph does not authorize the disclosure of any information which—

"(A) discloses manufacturing or quality control processes;

"(B) discloses the details of any methods for testing, detecting, or measuring the quantity of any deliberately added inert ingredients of a pesticide; or

"(C) discloses the identity or percentage quantity of any deliberately added inert ingredient of a pesticide,

unless the Administrator has first determined that disclosure is necessary to protect against an unreasonable risk of injury to health or the environment.

"(2) Information concerning production, distribution, sale, or inventories of a pesticide which is otherwise entitled to confidential treatment under subsection (b) of this section may be publicly disclosed in connection with a public proceeding to determine whether a pesticide, or any ingredient of a pesticide, causes unreasonable adverse effects on health or the environment, if the Administrator determines that such disclosure is necessary in the public interest.

"(3) If the Administrator proposes to disclose information described in subparagraph (A), (B), or (C) of paragraph (1) or in paragraph (2) of this subsection, the Administrator shall notify, in writing and by certified mail, the submitter of such information of the intent to release such information. The Administrator may not release such information, without the submitter's consent, until thirty days after the submitter has been furnished such notice: *Provided*, That where the Administrator finds that disclosure of information described by subparagraph (A), (B), or (C) of paragraph (1) of this subsection is necessary to avoid or lessen an imminent and substantial risk of injury to the public health he may set such shorter period of notice (but not less than 10 days) and such method of notice as he finds appropriate. During such period the data submitter may institute an action in an appropriate district court to enjoin or limit the proposed disclosure. The district court shall give expedited consideration to any such action. The district court may enjoin disclosure, or limit the disclosure or the parties to whom disclosure shall be made, to the extent that—

"(A) in the case of information described in subparagraph (A), (B), or (C) of paragraph (1) of this subsection, the proposed disclosure is not required to protect against an unreasonable risk of injury to health or the environment; or

"(B) in the case of information described by paragraph (2) of this subsection, the public interest in availability of the information in the public proceeding does not outweigh the interests in preserving the information's confidentiality.

"(e) DISCLOSURE TO CONTRACTORS.—The Administrator may provide any information which is exempt from disclosure pursuant to subsection (b)(4) of section 552 of title 5, United States Code, to a person other than an officer or employee of the Environmental Protection Agency if the Administrator determines such other person requires the information in connection with an activity which is undertaken under contract with the Administrator, which relates to the administration of this Act and with respect to which the Administrator (or an officer or employee of the Environmental Protection Agency) is not prohibited from using such information. The Administrator shall require as a condition to the provision of information under this section that the person receiving it take such security precautions respecting the information as the Administrator may by regulation prescribe.

"(f) PENALTY FOR DISCLOSURE BY FEDERAL EMPLOYEES.—(1) Any officer or employee of the United States or former officer or employee of the United States who, by virtue of such employment or official position, has obtained possession of, or has access to, material the disclosure of which is prohibited by subsection (b) of this section, and who knowing that disclosure of such material is prohibited by such subsection, willfully discloses the material in any manner to any person not entitled to receive it, shall be guilty of a misdemeanor and fined not more than $10,000 or imprisoned for not more than one year, or both. Section 1905 of title 18 of the United States Code does not apply with respect to the publishing divulging, disclosure, or making known of, making available, information reported or otherwise obtained under this Act.

"(2) For the purposes of this section, any contractor with the United States who is furnished information as authorized by subsection (e) of this section or any employee of any such contractor, shall be considered to be an employee of the United States.

"(g) DISCLOSURE TO FOREIGN AND MULTINATIONAL PESTICIDE PRODUCERS.—(1) The Administrator shall not knowingly disclose information submitted by an applicant or registrant pursuant to this Act to any employee or agent of any business or other entity engaged in the production, sale, or distribution of pesticides in countries other than the United States or in addition to the United States or to any other person who intends to deliver such data to such foreign or multinational business or entity unless the applicant or registrant has consented to such disclosure. The Administrator shall require an affirmation from any person who intends to inspect data that he or she does not seek access to the data for purposes of delivering it or offering it for sale to any such business or entity or its agents or employees and will not purposefully deliver or negligently cause the data to be delivered to such business or entity or its agents or employees.

"(2) The Administrator shall maintain records of the names of persons to whom data is disclosed and affiliations they represent and shall inform the registrant of the name(s) and affiliation(s) of such person(s).

"(3) The provisions of section 1001 of title 18, United States Code, shall apply to any affirmation made pursuant to subsection (g)(1) of this section.".

UNLAWFUL ACTS

SEC. 16. Section 12(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended by inserting immediately before the semicolon at the end of subparagraph (F) the following: " : Provided, That it shall not be unlawful to sell a restricted use pesticide to a person who is not a certified applicator for application by a certified applicator".

CIVIL PENALTIES

SEC. 17. Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended by—

(1) striking out the last sentence in paragraph (3);

(2) redesignating paragraph (4) as paragraph (5); and

(3) inserting after paragraph (3) a new paragraph (4) as follows:

"(4) DETERMINATION OF PENALTY.—In determining the amount of the penalty the Administrator shall consider the appropriateness of such penalty to the size of the business of the person charged, the effect on the person's ability to continue in business, and the gravity of the violation. Whenever the Administrator finds that the violation occurred despite the exercise of due care or did not cause significant harm to health of the environment, the Administrator is authorized to issue a warning in lieu of assessing a penalty."

PESTICIDES AND DEVICES INTENDED FOR EXPORT

SEC. 18. (a) Section 17 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended by—

(1) amending subsection (a) to read as follows:

"(a) PESTICIDES AND DEVICES INTENDED FOR EXPORT.—Notwithstanding any other provision of this Act, no pesticide or device or active ingredient used in producing a pesticide shall be deemed in violation of this Act—

"(1) when intended solely for export to any foreign country and prepared or packed according to the specifications or directions of the foreign purchaser, except that producers of such pesticides and devices and active ingredients used in producing pesticides shall be subject to section 2(p), 2(q)(1)(A), (C), (D), and (H), 2(q)(2)(A), (C) (i) and (iii), and (D), 7, and 8 of this Act; and

"(2) in the case of any pesticide other or sold under section 6(a)(1) of this Act, if or sold under section 6(a)(1) of this Act, if prior to export, the foreign purchaser has signed a statement acknowledging that he understands that such pesticide is not registered for use in the United States and cannot be sold in the United States under this Act. A copy of that statement shall be transmitted to an appropriate official of the government of the importing country."; and

(2) adding at the end of subsection (b) the following: "Such notification shall, upon request, include all information related to cancellation or suspension of the registration of a pesticide and information concerning other pesticides which are registered under section 3 and which could be used in lieu of such pesticide."

(b) The amendment made by subsection (a)(1) of this section shall become effective one hundred and eighty days after the date of enactment of this amendment.

DISPOSAL

SEC. 19. Section 19 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended by adding a new subsection (c) as follows:

"(c) PROVISIONS FOR UNUSED QUANTITIES.—Notification of cancellation of any pesticide shall include specific provisions for the disposal of the unused quantities of such pesticide.".

RESEARCH AND MONITORING ACTIVITIES

SEC. 20. Section 20 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended by—

(1) in the first sentence of subsection (a), striking out all after the phrase "and he shall" and inserting in lieu thereof the following: "coordinate such research with the Secretary of Agriculture, who shall give priority to research to develop biologically integrated alternatives for pest control."; and

(2) amending subsection (c) to read as follows:

"(c) MONITORING.—The Administrator shall undertake such monitoring activities, including but not limited to monitoring in air, soil, water, man, plants, and animals, as may be necessary for the implementation of this Act and of the national pesticide monitoring plan. The Administrator shall establish procedures for the monitoring of man and animals and their environment for incidental pesticide exposure, including but not limited to the quantification of incidental human and environmental pesticide pollution and the secular trends thereof, and identification of the sources of contamination and their relationship to human and environmental effects. Such activities shall be carried out in cooperation with other Federal, State, and local agencies.".

SOLICITATION OF COMMENTS; NOTICE OF PUBLIC HEARINGS

SEC. 21. Section 21(b) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended by—

(1) inserting immediately after "actions authorized under this Act," the following: "the Administrator shall solicit the views of the broad scientific community at an early stage of the Administrator's decision making process; and,"; and

(2) striking out "scientists," in such subsection.

STATE COOPERATION, AID, AND TRAINING

SEC. 2. Section 23 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended to read as follows:

"SEC. 23. STATE COOPERATION, AID, AND TRAINING.

"(a) COOPERATIVE AGREEMENTS.—The Administrator is authorized to enter into cooperative agreements with States and Indian tribes—

"(1) to delegate to any State or Indian tribe the authority to cooperate in the enforcement of this Act through the use of its personnel or facilities, to train personnel of the State or Indian tribe to cooperate in the enforcement of this Act, and to assist States and Indian tribes in implementing cooperative enforcement programs through grants-in-aid; and

"(2) to assist State and Indian tribal agencies in developing and administering State or Indian tribal programs for training and certification of applicators consistent with the standards the Administrator prescribes.

"(b) CONTRACTS FOR TRAINING.—In addition, the Administrator is authorized to enter into contracts with Federal, State, or Indian tribal agencies for the purpose of encouraging the training of certified applicators.

"(c) INFORMATION AND EDUCATION.—The Administrator shall, in cooperation with the Secretary of Agriculture, utilize the services of the Cooperative State Extension Services to inform and educate pesticide users about accepted uses and other regulations made pursuant to this Act.".

PESTICIDES FORMULATED FOR DISTRIBUTION AND USE WITHIN A STATE

SEC. 23. Section 24 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended to read as follows:

"SEC. 24. AUTHORITY OF STATES.

"(a) A State may regulate the sale or use of any federally registered pesticide or device in the State, but only if and to the extent the regulation does not permit any sale or use prohibited by this Act.

"(b) Such State shall not impose or continue in effect any requirements for a label or packaging in addition to or different from those required pursuant to this Act.

"(c) A State may provide registration for pesticides formulated for distribution and use within that State to meet special local needs if the registration has not previously been denied, disapproved, or canceled by the Administrator; however, this shall not prohibit registration of ingredients or uses undergoing benefit-risk evaluation prior to a decision to cancel, suspend, or not to reregister. Such registration shall be deemed registration under section 3 for all purposes of this Act, but shall authorize distribution and use only within such State.".

AUTHORITY OF ADMINISTRATOR—REGULATIONS; SCIENTIFIC ADVISORY PANEL

SEC. 24. (a) Section 25 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended by—

(1) in subsection (a)(1), striking out the period at the end of the second sentence and adding the following: "and differences in environmental risk and the appropriate data for evaluating such risk between agricultural and nonagricultural pesticides.";

(2) in subsection (a)(2)(B), adding at the end thereof the following: "In taking any final action under this subsection, the Administrator shall include among those factors to be taken into account the impact of such final action on production and prices of agricultural commodities, retail food prices, and otherwise on the agricultural economy, and he shall publish in the Federal Register an analysis of such impact.";

(3) adding at the end of subsection (a) the following new paragraph:

"(4) RULE AND REGULATION REVIEW.—

"(A) CONGRESSIONAL REVIEW.—Notwithstanding any other provision of this Act, simultaneously with promulgation or repromulgation of any rule or regulation under this Act, the Administrator shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in subparagraph (B), the rule or regulation shall not become effective, if—

"(i) within 90 calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule or regulation promulgated by the Administrator of the discharged from further consideration of such a resolution, or either House has adopted such a resolution, the rule or regulation may go into effect not sooner than 90 calendar days of continuous session of Congress after its promulgation unless disapproved as provided in subparagraph (A).

"(C) FOR THE PURPOSES OF SUBPARAGRAPHS (A) AND (B) OF THIS PARAGRAPH—

"(i) continuity of session is broken only by an adjournment of Congress sine die; and

"(ii) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of 30, 60, and 90 calendar days of continuous session of Congress.

"(D) EFFECT OF CONGRESSIONAL INACTION.—Congressional inaction on or rejection of a resolution of disapproval shall not be deemed an expression of approval of such rule.";

(4) striking out subsection (c)(1) and redesignating subsections (c) (2), (3) (4), (5), and (6) as subsections (c) (1), (2), (3), (4), and (5), respectively;

(5) in subsection (d), striking out the third sentence and inserting in lieu thereof the following: "The Administrator shall also solicit from the advisory panel comments, evaluations, and recommendations of the advisory panel for operating guidelines to improve the effectiveness and quality of scientific analyis made by personnel of the Environmental Protection Agency that lead to decisions by the Administrator in carrying out the provisions of this Act. The comments, evaluations, and recommendations of the advisory panel and the response of the Administrator shall be published in the Federal Register in the same manner as provided for publication of the comments of the Secretary of Agriculture under such sections. The Chairman of the Advisory panel, after consultation with the Administrator, is authorized to create temporary subpanels on specific projects to assist the full advisory panel in expediting and preparing its evaluations, comments, and recommendations."; and

(6) in subsection (d), adding at the end thereof the following: "Section 14(a) of the Federal Advisory Committee Act, 86 Stat. 776 (relating to termination), shall not apply to this panel. In carrying out the functions assigned by this Act, the panel shall consult and coordinate its activities with the Science Advisory Board established under the Environmental Research, Development and Demonstration Authorization Oct of 1978."

STATE OF ENFORCEMENT; ESTABLISHMENT OF A LIST OF PESTS; COOPERATION WITH DEPARTMENT OF AGRICULTURE'S PROGRAM; ANNUAL REPORT

SEC. 25. The Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended by—

(1) redesignating sections 26 (severability) and 27 (authorization for appropriations) as sections 30 and 31, respectively; and

(2) inserting after section 25 the following four new sections:

"SEC. 26. STATE PRIMARY ENFORCEMENT RESPONSIBILITY.

"(a) For the purposes of this Act, a State has primary enforcement responsibility for pesticide use violations during any period for which the Administrator determines that such State—

"(1) has adopted pesticide use laws and regulations which are no less stringent than those established under this Act;

"(2) has adopted and is implementing adequate procedures for the enforcement of such State regulations; and

"(3) will keep such records and make such reports with respect to activities under paragraphs (1) and (2) as the Administrator may require by regulation.

"(b) Notwithstanding the provisions of subsection (a) of this section, any State which has a plan approved by the Administrator in accordance with the requirements of section 4 of this Act shall have the primary enforcement responsibility for pesticide use violations.

"(c) States not having a plan approved by the Administrator in accordance with the requirements of section 4 shall have primary enforcement responsibility upon such approval.

"(d) The Administrator shall have enforcement responsibility for those States which do not have enforcement responsibility and authority under this Act: *Provided*, That, notwithstanding the provisions of section 2(e)(1) of this Act, during any period when the Administrator has such enforcement responsibility, section 8(b) of this Act shall apply to the books and records of commercial applicators and section 9(a) of this Act shall apply to the establishment or other place where pesticides or devices are held for commercial application.

"(e) Effective with the fiscal year beginning October 1, 1978, the Environmental Protection Agency shall share on an equal basis with each State the cost to that State of its primary enforcement responsibilities for pesticide use violations using funds here-

after appropriated for the purposes of this Act.

"SEC. 27. FAILURE BY THE STATE TO ASSURE ENFORCEMENT OF STATE PESTICIDE USE REGULATIONS.

"(a) Upon receipt of any complaint alleging a violation of the pesticide use provisions of this Act, the Administrator shall refer the matter to the appropriate State officials for their investigation of the complaint consistent with the requirement of this Act. If, within thirty days, the State has not commenced appropriate enforcement action, the Administrator shall be authorized to act upon the complaint to the extent authorized under this Act.

"(b) Whenever the Administrator determines that a State to which such responsibility has been delegated is not carrying out the regulation and enforcement of such provisions in a manner consistent with this Act, he shall notify the State. Such notice shall specify those aspects of the administration of the State program that are determined to be inconsistent with this Act. The State shall have ninety days after receipt of the notice to correct any deficiencies. If after that time the Administrator determines that the State program is inconsistent with or inadequate under this Act, he is authorized to rescind any delegation to the State made under this subsection.

"(c) Section 26 of this Act shall not limit the authority of the Administrator to enforce this Act, where he determines that emergency conditions exist which require immediate action on the part of the Administrator.

"SEC. 28. ESTABLISHMENT OF A LIST OF PESTS; COOPERATION WITH DEPARTMENT OF AGRICULTURE'S PROGRAM.

"The Administrator, in coordination with the Secretary of Agriculture, shall establish and maintain, according to agricultural products and geographic area, a list of pests in order of priority, that need to be brought under control to assure an adequate supply of quality and economical agricultural products. The Administrator shall also coordinate and cooperate with the Secretary of Agriculture's research and implementation programs to develop and improve the safe use of and the effectiveness of chemical, biological and alternative methods to combat and control pests that reduce the quality and economical production and distribution of agricultural products to domestic and foreign consumers.".

"SEC. 29. ANNUAL REPORT.

"The Administrator shall submit an annual report on or before February 15 of each year except that the first report shall not be due until February 15, 1979. The report shall include the total number of applications for conditional registration pursuant to section 3(c)(7)(B) and 3(c)(7)(C), and with respect to those applications approved, the Administrator shall report his findings in each case, the conditions imposed, and any modification of such condition in each case, and the quantities produced of such pesticides.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 26. Section 30 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, as redesignated by section 25 of this Act, is amended by striking out "and for the period beginning October 1, 1976, and ending March 31, 1977, the sum of $23,600,000", and inserting in lieu thereof the following: "and for the period beginning October 1, 1976, and ending September 30, 1977, the sum of $46,636,000, and for the period beginning October 1, 1977, and ending September 30, 1978, the sum of $54,500,000".

STUDY

SEC. 27. (a) The Administrator of the Environmental Protection Agency shall perform a study examining the feasibility of assessing and collecting fees from persons applying to register, or amend the registration of, pesticides to cover the costs incurred by the Environmental Protection Agency in processing such applications pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended. The Administrator shall complete this study and submit a report setting forth the findings of the study and recommendations for the implementation of these findings to the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture, not later than nine months after the date of enactment of this Act.

(b) The Administrator, in cooperation with the Secretary of Agriculture, and after consultation with appropriate State officials, shall institute a review of available scientific information dealing with issues involved in the methods of pesticide application, including but not limited to the advisability of ultra-low-volume methods of application, and shall recommend to the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture such changes as he may deem necessary in existing law relative to provisions of the Act pertaining to the use of a pesticide in a manner inconsistent with its label. The report shall be submitted as soon as practicable after the date of enactment of this Act but not later than six months after the date of enactment of this Act.

(c) The Administrator shall submit an updated study examining the problems of minor uses of pesticides not specifically permitted by labeling. The Administrator shall complete this study and submit a report setting forth the findings of the study and recommendations for the implementation of these findings to the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture, not later than nine months after the date of enactment of this Act.

EFFECTIVE DATES

SEC. 28. Section 4 of the Federal Environmental Pesticide Control Act of 1972, as amended, is amended by—

(1) striking out in subsection (b) the colon immediately after the second "thereunder" and all that follows down through the end of the subsection and substituting in lieu thereof a period;

(2) in subsection (c), striking out paragraph (2), and redesignating paragraphs (3), (4), and (5) as (2), (3), and (4), respectively;

(3) in subsection (c)(2), as redesignated, inserting "and six months" after "years";

(4) in subsection (c)(3), as redesignated, inserting "and six months" after "years"; and

(5) in subsection (c)(3)(B), as redesignated, striking out "Within four years after the enactment of this Act each" and inserting in lieu thereof "Each".

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

Similar House bills (H.R. 7073 and H.R. 8681) were laid on the table.

APPOINTMENT OF CONFEREES ON S. 1678, FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the House insist upon its amendments to the Senate bill (S. 1678) to amend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Washington? The Chair hears none, and appoints the following conferees: Messrs. FOLEY, DE LA GARZA, BROWN of California, SKELTON, BRECKINRIDGE, HIGHTOWER, ENGLISH, FITHIAN, JENRETTE, THORNTON, AMMERMAN, WAMPLER, THONE, HECKLER, GRASSLEY, and MARLENEE.

GENERAL LEAVE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous matter on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

APPOINTMENT OF ADDITIONAL CONFEREE ON S. 1585, TO PREVENT SEXUAL EXPLOITATION OF CHILDREN

Mr. VOLKMER. Mr. Speaker, I ask unanimous consent that the Speaker be authorized to appoint an additional conferee on the Senate bill (S. 1585) to prevent the sexual exploitation of children.

The SPEAKER. Is there objection to the request of the gentleman from Missouri? The Chair hears none, and appoints the following additional conferee: Mr. RODINO.

PERMISSION TO FILE CONFERENCE REPORT ON LABOR-HEW APPROPRIATION ACT, 1978

Mr. GIAIMO. Mr. Speaker, I ask unanimous consent that the managers on the part of the House may have until midnight tonight to file a further conference report on the bill H.R. 7555, making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1978, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I wonder exactly what sort of agreement might have been reached by the conferees.

Mr. GIAIMO. If the gentleman will yield, the gentleman realizes that I am doing this at the last moment prior to adjournment here tonight in an effort to expedite matters. We just had a quick call from the conferees who are meeting, and feel that they may be able to wrap things up. It would help matters if we could file the conference report tonight. It would expedite those questions.

Mr. BAUMAN. I would like, if possible, to find out exactly what the content of the conferees' agreement is for tactical reasons, but I can understand

the necessity with only 3 days left this week.

Mr. GIAIMO. The conferees are still deliberating. As the gentleman recognizes, there are different problems here and they are trying to work out something that may be acceptable to both bodies. They may be able to complete this tonight. If they were to complete it, it would expedite matters if I could get unanimous consent to file the conference report.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. FOLEY asked and was given permission to address the House for 1 minute.)

Mr. FOLEY. Mr. Speaker, I take this time to announce that the leadership is moving the number six suspension on the calendar schedule for today, H.R. 8331, Securities Investor Protection Act amendments, to tomorrow's schedule for suspension.

The leadership is adding the following three bills to the suspension calendar for tomorrow:

H.R. 8159, International Safe Container Act;

S. 1528, Safe Drinking Water Act Amendments of 1977; and

H. Res. 784, Establishing a Commission To Study World Hunger.

TEMPORARY STEEL TRADING ACT OF 1977

(Mr. DINGELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DINGELL. Mr. Speaker, the crisis in steel requires immediate relief. As the representatives of one of the most heavily industrialized districts in the United States, Michigan's 16th, I am acutely aware of the impact of steel imports on the domestic steel industry. In my district there are three steel foundries employing 20,000 persons. In the first 8 months of 1977, steel imports into the Midwest have increased 73 percent over the same period of 1976, with resultant layoffs of hundreds of steelworkers in my district alone. President Carter and some of the steel companies have a mutual understanding that the protection of the American steel industry lies with the stepped up enforcement of antidumping laws, laws that prohibit unfair trade practices by foreign nations or entities thereof, and countervailing duties. According to the Department of the Treasury and the International Trade Commission, it will take a minimum of 10 months under current law to investigate charges of foreign steel dumping before any recommendations could be made to the President for corrective action.

I find these factors crippling to our U.S. economy, and consequently, I am introducing today, the Temporary Steel Trading Act of 1977. This measure will provide temporary relief to the steel industry through the imposition of limitations on the quantity of steel imported into this country. The tonnage allowed to enter through U.S. ports would constitute 11.1 percent of the apparent consumption of steel as measured by the Department of Commerce. This 11.1 percent represents the amount of steel imported into this country during the period of July 1, 1973 through June 30, 1974. During this time, steel production by domestic producers was at its all time high with unemployment of steelworkers a correspondingly low 3.1 percent.

This measure provides for regional relief from excessive import penetration and also allows the President to allocate portions of the steel imports to countries that might normally be squeezed out of the U.S. trade by steel producers in the European Community and Japan. Additionally, the bill contains provisions for reducing or eliminating restrictions if certain conditions relating to domestic steel employment or trade agreements are met. If these conditions are not met, the limitations will terminate after 3 years have passed.

Finally, the bill would establish a Commission on Steel Products to study and recommend solutions to the intermediate and long-term problems facing the steel industry. The Commission would consist of representatives from Government, labor, industry, and consumers to assume a broad spectrum of opinion in this important work.

I would ask that my section-by-section summary of the bill be inserted into the RECORD at this point:

SECTION-BY-SECTION SUMMARY OF THE TEMPORARY STEEL TRADING ACT OF 1977

Section 1—Short title.

Section 2—Findings:

Under the Trade Act of 1974, P.L. 93-618, the Congress acted to establish a program under which the United States is to negotiate with foreign countries agreements allowing open and nondiscriminatory world trade. These agreements are intended to harmonize, reduce, and eliminate barriers to trade on a basis which assures substantially equivalent competitive opportunities for the commerce of the United States. Congressional intent of the Trade Act is focused on establishment of equitable trading practices while providing adequate procedures to safeguard American industry and labor against unfair or injurious import competition.

Subsequent to the enactment of the Trade Act, the Office of the Special Representative for Trade Negotiations has been working to formulate the basis for equitable trade agreements. While these negotiations have been undertaken the domestic steel industry found itself the target of dumping of steel products by foreign steel producers, unfair trade practices forcing the imposition of quotas to protect domestic specialty steel producers, and secret and discriminatory bilateral agreements, relating to steel, made between foreign nations or instrumentalities thereof. This is found to be to the detriment of the U.S. These trade practices have increased unemployment in the steel industry and have jeopardized the health of the industry.

In light of these developments since 1974, this bill has as its purpose the establishment of temporary measures to enable the domestic steel industry to regain its health and allow the Federal Government and others to study the problems of the steel industry and international trade. The purpose also is to formulate appropriate and constructive measures to ameliorate the intermediate and long term problems facing the industry.

TITLE I—QUANTITATIVE RESTRICTIONS ON STEEL IMPORTS

Section 101—(Delimiting the Base Period and Product by Product Percentages)—

This section provides for the limitation of imports of specific steel products to a percentage of the expected apparent consumption of steel over a six month period. The six month periods are to begin on January 1 or July 1 beginning on or after January 1, 1978.

Subsection (b) sets forth the percentage amounts for individual steel products. The net result of these percentages are to limit steel imports to an overall market share of 11.1 percent. This figure is based upon the percentages of imports of steel products during the period July 1, 1973 to June 30, 1974; a period of high demand for all steel products, representative of high levels of U.S. steel production with concommitant low unemployment levels of 3.1 percent for the steelworkers.

Section 102—(Determination of Import levels)—

This section defines apparent consumption and expected apparent consumption for purposes of the act. Apparent consumption is defined as the amount of such articles shipped by all United States steel producers plus imports of such steel products over a six month period, minus the amount of such articles expected in such six month period. Expected apparent consumption for any six month period is equal to the apparent consumption of the steel product in the same six month period in the preceding calendar year. The figures for expected apparent consumption may be adjusted up to 10 percent to compensate for variances in seasonal shipping or demand.

Section 103—(Country by Country Allocation)—

This section empowers the President to allocate a percentage of the total amount of imported steel product allowed to enter the U.S. upon the resuest of any country. No allocation is to exceed 40 percent. This mechanism allows the President the necessary flexibility he needs for his trade policies.

Section 104—Discretionary Adjustment—

Subsection (a) allows the President to eliminate or reduce the import restrictions on a steel product if the President determines that such action will not threaten employment in steel industry or where the President finds that a reduction or elimination of import restrictions for the steel product is in the national interest.

Subsection (b) Presidential action shall take effect unless the Congress acts within 10 days to pass a concurrent resolution of disapproval.

Section 105—(Regional Adjustments)—

This section allows the President to adjust the quantities of imported steel entering any region to avoid disruption of that regional market. The adjusted levels are not to exceed the proportional market share that product possessed in that region during the 12 month period from July 1, 1973 through June 30, 1974.

Section 106—(Enabling authority)—

Enables the Secretary to issue all necessary and appropirate regulations to implement this measure.

Section 107—(Termination of Import Restriction)—

This section will terminate import restrictions by (1) a trade agreement entering into

force with the European Economic Community or Japan pursuant to Section 102(e) of the Trade Act of 1974, or (2) three years after the effective date of import restrictions pursuant to Section 109, or (3) where the President determines that over a six month period as defined in Section 101 the level of unemployment in the steel industry is less than four percent, but the President shall reimpose the limitations upon a finding that unemployment has risen above four percent for any six month period as defined in Section 101.

TITLE II—COMMISSION ON STEEL PRODUCTS

Section 201—(Establishment of the Commission and Duties)—

This section establishes a commission on steel products to study and report on constructive methods to help the steel industry through Federal programs. The commission has one year to prepare the report, which is due one year after enactment of this act. The commission shall consist of nine members appointed by the President, representing government, industry, labor and consumer groups. The section provides compensation of $100 per day for members of the commission, not in government service and requires the detailing of employees of Federal agencies wherever possible.

I would emphasize the ameliorative nature of the import limitations with their maximum life of three years. These limitations are intended to relieve the undue hardship suffered by the steelworkers as a result of our "trading partners" exporting their own unemployment. By reducing imports of steel, I seek to avoid subjecting the American consumers to the double burden caused by purchasing foreign steel. First, the purchasers of the foreign steel are subsidizing foreign countries by keeping unemployment levels down in steel exporting countries, thus reducing the unemployment burden in that country; and second, as taxpayers, we all pay for the costs of import penetration through unemployment programs and Federal assistance programs designed to help those who have lost their jobs through imports.

I ask my colleagues' support for my bill and call for prompt hearings in the Congress.

It is designed to protect and succor the ailing steel industry, while providing the impetus for redoubled efforts to create an international framework to assure fair trade as envisioned by the Congress when it enacted the Trade Act of 1974.

THE CRASH OF '29—A NEW VIEW

The SPEAKER. Under a previous order of the House, the gentleman from Oklahoma (Mr. EDWARDS) is recognized for 20 minutes.

Mr. EDWARDS of Oklahoma. Mr. Speaker, if Government continues to take away in taxes a large part of the Nation's wealth, the individuals and businesses in the Nation will have that much less to spend on goods and services or to invest in new plants and equipment. When that happens, the result is less economic growth, higher unemployment, and a lower standard of living.

I watch with growing anxiety what the Members of this Congress are doing to our national economy. Many are supporting an energy tax bill that could take $350 billion out of the economy without producing any new energy. The House has passed a bill that in many cases will triple a worker's social security taxes over the next 10 years. And now many Members propose new spending on welfare and national health insurance.

The economy, through the stock market, is already flashing very strong warning signals that far too much income is being siphoned out of the productive sector of our economy and into the Federal Treasury.

The administration's programs are all touted as being in the worker's interest. The truth is, they are having precisely the opposite effect because they are widening the gap between what workers produce and the rewards they are allowed to keep. And that can only mean more trouble for our economy in the months ahead.

In support of this argument, I draw my colleagues' attention to the article, "The Crash of '29—A New View," by Jude Wanniski, in the Wall Street Journal of October 28. I hope the Members will not fail to notice that many of the conditions that precipitated the crash of 1929 are present today.

THE CRASH OF '29—A NEW VIEW

(NOTE.—The last week of October 1929 remains forever imprinted in the American memory.

(It was, of course, the week of the Great Crash, the stock market collapse that signaled the collapse of the world economy and the Great Depression of the 1930s. From an all-time high of 381 in early September 1929, the Dow Jones industrial average drifted down to a level of 326 on Oct. 22, then, in a series of traumatic selling waves, to 230 in the course of the following six trading days.

(The stock market's drop was far from over; it continued its sickening slide for nearly three more years, reaching an ultimate low of 41 in July 1932. But it was that last week of October 1929 that burned itself into the American consciousness. After a decade of unprecedented boom and prosperity, there suddenly was panic, fear, a yawning gap in the American fabric. The party was over.

(Why?

(The following interpretation by Jude Wanniski, Associate Editor of the Journal, is adapted from his forthcoming book, "The Way the World Works: How Economies Fail, and Succeed," to be published next spring by Basic Books.)

The most common explanation of the crash is that the market was overpriced, the victim of heedless speculators who had somehow lost their grip on reality in the mad rush for quick profits. But that explanation has never quite satisfied, either empirically or logically. There is no real sense in which the market can be "underpriced" or "overpriced." For every seller, there is always a buyer—at a price. The stock market, particularly the New York Stock Exchange, was and is too massive for any group of individuals to manipulate. At any moment, it is fully priced.

Technically, what the market measures in the process of absorbing information and translating it into a valuation of the market shares is the capital stock of the U.S. The market places a value on each company listed on its exchange, based on its calculations of that company's future income.

STOCK MARKET ANTICIPATES

The accent should be on "future." The market does not reflect past events, it reflects the probabilities of future events. It anticipates. From studies of stock splits, we know that the price of individual shares starts moving up, relative to other shares, about 12 months before a split. By the time the split is announced, nothing further takes place. The market has already fully discounted the event.

The most important information coming to the market is political news. Changes in underlying economic values tend to be glacial. But political news is volatile, because it can instantly and dramatically alter the future income of the companies whose stocks are listed on the exchange. On Nov. 22, 1963, for example, the day President Kennedy was assassinated, the industrial average fell 22 points. On recognition that a successful presidential transition had been made, it recovered all the lost ground the following day and gained 11 more.

If one accepts this rational model of stock market behavior, it's logical to believe that the market at its 1929 peak was exactly where it should have been, and that the crash resulted from some stupendous error in a relatively few political minds.

In particular, one would look first for an explanation in tax policies, the actions of government that most directly affect future income flows. Arthur B. Laffer of the University of Southern California has described the "wedge" of taxes between what workers produce with their efforts and the rewards they are allowed to keep. A change in the future wedge will be quickly reflected in stock markets. A 150-point slide in the Dow Jones industrials ended at noon on May 29, 1962, as news reached the market that the Kennedy administration would propose the tax cuts that spurred the economy in the 1960s: The industrials gained 50 points that afternoon.

SMOOT-HAWLEY TARIFF ACT

Looking back at the history of 1929, there is no dramatic increase in the domestic tax wedge to explain the market collapse. But there is also an international wedge—the tax on international transactions. And here there is a dramatic event, the gathering political momentum of what is now conceded to be in the century's most disastrous piece of economic legislation. The Great Crash of 1929 anticipated the Smoot-Hawley Tariff Act of 1930. The calamitous declines of Monday, Oct. 28, and Tuesday, Oct. 29, followed immediately the collapse of the Senate coalition that had been the last barrier to the tariff.

To understand the crash, though, one must back up to review the boom years of the 1920s. The great Coolidge bull market got under way in earnest in 1924. The industrial average, which had taken four years to move from 90 to 106 in the first part of the 1920s, reached 134 at the end of 1924, 181 by the end of 1925 and, after a pause in 1926, 245 at the end of 1927.

These were not paper, "speculative" gains, for this was a period of phenomenal growth in the nation's capital stock. Between 1921 and 1929, GNP grew to $103.1 billion from $69.6 billion. And because prices were falling, real output increased even faster.

The boom coincided with sharp tax cuts. To pay for the first World War, income taxes had been boosted to a high of 77 percent on incomes over $1 million. An excess profits tax on business and a doubling of the normal corporate rate to 12 percent had also been imposed. In the 1920 elections, Warren Harding, pledging a return to normalcy and a reduction in taxes, won by the greatest landslide in American history up to that time.

Harding's Treasury Secretary, Andrew Mellon, engineered a tax cut—the top bracket was reduced to 56 percent in 1921 and then to 46 percent in 1922. Because this reduction in the domestic wedge was partly offset by the mild increase in tariffs the administration also pushed through, there was only mild expansion in the economy. But after Harding's death Calvin Coolidge succeeded to the presidency, and he quickly embraced Secretary Mellon's arguments for even more drastic tax reductions.

As Coolidge aptly explained in a speech to the National Republican Club in February

1924: "An expanding prosperity requires that the largest possible amount of surplus income should be invested in productive enterprise under the direction of the best personal ability. This will not be done if the rewards of such action are very largely taken away by taxation."

As it gradually became clearer through 1924 that the Coolidge tax bill to reduce the top income-tax rate to 25 percent had sufficient support for passage, the stock market began its unprecedented climb.

It's interesting that Great Britain, which did nothing to reduce the steep progressive income taxes introduced during World War I, experienced no boom at all during the 1920s. By contrast, Italy under Mussolini went from severe economic contraction to rapid expansion in 1923 as he cut the wartime personal tax rates back to 10 percent and cut back tariffs and internal excises. And the French, under a center-right coalition formed by Poincare, ended a financial crisis in 1926 by slashing the general income-tax rates in half, to 30 percent from 60 percent at the top.

Wealth brings its own problems, however. In the U.S., in particular, farmers were being hurt by the falling farm prices that were doing so much to raise the standard of living for the rest of the country. The Republican Party in 1928 looked at this phenomenon as something to be corrected by governmental action, and decided to attempt to adjust the imbalance in wealth between farm and city by raising the protective tariff on foreign agricultural products.

The U.S. from its earliest days had imposed tariffs as a source of revenue and as a protection for fledgling industry. But it was one thing to impose tariffs when the U.S. was a small debtor nation (and much of the tariff revenue was used to pay off the public debt, which in turn meant a decrease in future domestic tax liabilities). It was quite another matter for the U.S. to impose tariffs when, as a result of World War I, it had grown into the most powerful creditor nation in the world.

As tragic as the marginal farmer's plight might be, no GOP argument, political or economic, could justify higher tariffs. By restricting foreigners' ability to sell their goods in the U.S., the Republicans were making it more difficult for foreigners to pay off their debts to the U.S. and import goods from us. Over time, tariffs would, in essence, have the same inhibiting impact on investment and commerce as an increase in taxes.

Herbert Hoover signed the Smoot-Hawley Bill on June 16, 1930, but the stock market started anticipating the act as early as December 1928.

DOUBLE BLOW TO MARKET

The market was hit a double blow in the space of two days. On Dec. 5, after the market had closed, Coolidge announced there would be no further tax cut in the next budget. The industrial average dropped 11 points the next day. It fell another eight points the following day as word got out that the House Ways and Means Committee had scheduled hearings of 14 subcommittees to take up tariff testimony, and that the hearings would cover all commodities, not just agriculture.

There was plenty of opposition to higher tariffs, though, and the market soon continued its upward climb, reaching 300 by year's end and continuing to climb until March 23, 1929, when real trouble began. The tariff hearings were under way, Hoover had been inaugurated March 4 and on March 24, a Sunday, the world got bad news on page 2 of The New York Times: Senator Jack Watson, the Republican Senate leader, predicted in an interview that it would be difficult to limit tariff increases to agricultural products. Senators, he noted, were being deluged by industries in their own districts for similar treatment. On Monday, the stock market broke heavily again.

There was more bad news on Tuesday, March 26. New York and New England's elected officials called on Hoover for tariff increases on rayon, cotton and related materials. Stocks crashed on record volume (8,246,740 shares), though a late rally stemmed the tide.

Interestingly, though The New York Times and other papers closely followed the tariff hearings—and the stock market's activity, of course—the two weren't linked. A typical headline in the Times was March 26's "Stock Prices Break Heavily as Money Soars to 14 Percent." The front-page story blamed the sell off primarily on a tightening of credit; there was no mention of tariff matters, though a separate story on tariffs appeared on page 19. The reference to "money" going to 14 percent referred only to spot loans to individuals who had bought shares on margin and were having to raise fresh funds to cover their accounts. Long-term rates didn't rise. The Times and others would insist on linking money rates and stock prices right through the October crash.

Opposition to the tariff binge began to materialize in the Senate, and it appeared that a combination of progressive Republicans and Democrats would prevail against the Old Guard Republican protectionists. A procedural vote before the summer recess seemed to confirm this, and the stock market, reassured, resumed its climb, reaching 381 on Sept. 3. The Dow Jones industrials wouldn't see that level again for more than a quarter of a century.

The decline over the next several weeks was orderly; by Oct. 10, the market had drifted down to 352. On Oct. 22, the market even gained six points on news that antitariff forces had won a test vote to cut chemical tariff rates. But on Oct. 23, an hour before the market closes, disaster strikes: The market declines a stunning 21 points after news is out that the antitariff coalition has broken apart on the question of carbide rates. The carbide rates themselves are relatively unimportant; the vulnerability of the antitariff forces is the key. Yet the remarkable coincidence again goes unremarked in the next day's newspapers.

MORNING PANIC, AFTERNOON RALLY

On Thursday, Oct. 24, the antitariff forces suffer another setback; casein tariffs are raised 87 percent. John Kenneth Galbraith, in his book, "The Great Crash—1929," describes the day on Wall Street:

"The panic did not last all day. It was a phenomenon of the morning hours. . . . For a while prices were firm. Volume, however, was very large, and soon prices began to sag. Once again the ticker dropped behind. Prices fell farther and faster, and the ticker lagged more and more. By eleven o'clock the market had degenerated into a wild, mad scramble to sell. In the crowded boardrooms across the country the ticker told of a frightful collapse. . . . By eleven-thirty the market had surrendered to blind, relentless fear. This, indeed, was panic."

By afternoon, however, the antitariff forces had reassmbled and pushed through amendments cutting other chemical rates. The stock market rallied and closed with only a 6½-point drop.

The following Monday morning's Times provides the hardest news yet that the antitariff coalition had been broken and the protariff coalition was in control. Not only did Senator Smoot predict the bill would survive. So did Senator Borah, until then leader of the antitariff forces, saying he thought "it is going to be made into a good bill." Worse yet, Democratic leader Simmons said the Democrats would do nothing to kill the bill, that the Republicans would have to take full responsibility.

In the day's trading, the DJI dropped 38 points in what the Times called a "Nationwide Stampede to Unload."

The following day, Black Tuesday, the industrials fall 30 points more, to 230, as all the reports coming out of Washington seem to be aimed at assuring the stock market that the tariff bill will not be killed. Senate Majority Leader Watson even complains that Democratic delays might be charged with responsibility for the crash in stocks!

RECOVERY ON TAX CUT

On Nov. 13, the market hits its low for the year, 198. A surprise 1 percent tax cut announced by Mellon shores up the market—it recovers to 263 by the end of December. But the Senate resumes work on the tariffs in the spring despite vigorous protests from U.S. trading partners; there is still hope that Hoover might veto the bill.

On June 13, the Senate approves by two votes the measure to increase tariffs on more than 1,000 items and sends the bill to Hoover. On this news, the stock market breaks 14 points to 230, precisely where it was on the bottom on Black Tuesday. Oct. 29, Hoover signs the bill and stocks tumble again. The market slide does not end until Franklin Roosevelt, a tariff foe, is nominated by the Democrats in 1932.

Most one-term Presidents only have time for one truly disastrous decision. Herbert Hoover squeezed in two. Having crimped international trade, he proceeded in 1932 to squeeze the domestic economy directly by pushing through Congress a measure to boost the income tax rate back to 63 percent from 25 percent and piling on business taxes too. His aim was to reduce the budget deficit of the preceding 18 months, caused by the gathering slowdown. With ample help from the Democrats, Congress approved the tax increase.

Under Roosevelt, economic management was only slightly improved, for even as he and his party chipped away at Smoot-Hawley, they again and again added to internal taxation during the following eight years, and the depression lengthened into war.

THE POLITICAL OLYMPIC GAMES

The SPEAKER. Under a previous order of the House, the gentleman from Iowa (Mr. GRASSLEY) is recognized for 10 minutes.

Mr. GRASSLEY. Mr. Speaker, most Americans, I would venture to say, were upset—and more than a little ashamed—last year when the young athletes on the Taiwanese Olympic Team had the Olympic door officially slammed in their faces. The Republic of China's team—from Taiwan—had already made the long and expensive trip to Montreal. But the People's Republic of China—the mainland Chinese—protesting that there can only be one China, put pressure on the host-country Canadians and had the Taiwanese team thrown out. And the International Olympic Committee let it happen.

The incident put a damper on the 1976 Olympics that ran counter to the spirit behind the games, and that had to be discouraging to young athletes everywhere. Do not forget: The Taiwanese trained and equipped their team with as much enthusiasm and treasure and as much hard-fought competition as any other nation. How do you suppose those kids felt when they were told they could not compete—when they found themselves in the middle of a political scrap the likes of which the Olympic games

themselves are expressly charged with avoiding? As one commentator put it:

I would have been proud if our athletes and those from other free nations had told the olympic committee that the republic of China would have to be allowed to compete or the Peking team would be running around the track by itself—but that didn't happen, and the Olympic flame seems a little less bright these days.

Now, as preparations are being made for the 1980 games in Moscow, it looks as though the young athletes of yet another nation may be threatened with a lockout. The target nation, this time, is Israel, and if it is allowed to happen, the Olympic Committee will have stricken a severe blow to its own institution.

Moscow is not friendly territory for Israelis anyway. And after the horrendously expensive deal the Sovies put over on NBC for coverage rights, it should be evident that any dealings with the Russian Bear concerning the 1980 games will be tense. But the Russians are being a bit more subtle than Peking was last year. They were playing their own little Byzantine game of by-the-rules intrigue—in fact, it would be fascinating, if it were not so potentially tragic.

Some months ago, a group of Third World nations succeeded in running through the United Nations General Assembly a resolution denouncing "Zionism" as a form of "racism." "Zionism," of course, has become a code word for Israel for many of those nations, particularly in the Arab world—and you may recall the furor the resolution caused. Now this is where Russian politics-as-usual comes in.

Olympic eligibility is tied to, among other things, a rule which says a competing team must belong to at least 5 of the 26 recognized international sports federations. Now, as the various federations meet, Third World members are invoking the U.N. resolution denouncing Zionism as a way to get Israel thrown out on grounds of racial discrimination. So far, the Soviet-backed move has worked. So far, the Israelis have been tossed out of three sporting federations. And if, come 1980, Israel is not a recognized member in the required five federations, her athletes must not be invited to the Moscow games—and it will all have happened by the rules.

At least the Chinese were open and boldfaced in their confrontation with the Olympic Committee in Montreal. The Russians are using a back door to accomplish similar ends—the political exclusion of a nation they do not like.

Now, much has been said about the problem—probably because no one is exactly sure how to counter the complex move. Former California Gov. Ronald Reagan had one suggestion. He proposed that the U.S. Olympic Committee say to the International Committee, "We want to see the guest list now or we aren't coming to the party." It is a difficult problem. But it is one the Olympic Committee will not be able to hide from. The Israelis—for so long the scapegoat for one form of political intrigue or another—simply cannot be unceremoniously excluded—that is, if the Olympic flame is to be kept burning at all.

TRIBUTE TO A GREAT AMERICAN—JEREMIAH DENTON

The SPEAKER. Under a previous order of the House, the gentleman from Alabama (Mr. EDWARDS) is recognized for 5 minutes.

Mr. EDWARDS of Alabama. Mr. Speaker, Rear Adm. Jeremiah H. Denton, Jr., will retire on November 1 after 30 years of service to his country as an officer in the U.S. Navy. The valor and heroism which typified his illustrious career was best exemplified by the 7½ years he spent as a prisoner of war in North Vietnam. During that time, his strong leadership inspired his fellow prisoners to act as a proud, highly disciplined group, maintaining their dignity and keeping their morale high despite incarceration under the most brutal of conditions. Many who lived to return to the United States might not have except for his strength of character, persistence, and example.

Admiral Denton's numerous awards tell a story of their own about the kind of man he is, and the kind of job he has done for his country. He holds the Navy Cross, Distinguished Service Medal, three Silver Stars, the Distinguished Flying Cross, five Bronze Stars, two Air Medals, two Purple Hearts, and numerous other campaign and service decorations. His civilian awards include an honorary doctorate of letters from Spring Hill College, a Silver Medal from Pope Paul VI, and national patriotic awards from the American Legion, Veterans of Foreign Wars, the Reserve Officers Association, and the Freedom Foundation, among others. During a naval career spanning three decades, he distinguished himself as a naval aviator, achieving qualifications first in airships and later in a wide range of combat aircraft. A gifted writer, his Founders' Day address at Elon College was entered into the CONGRESSIONAL RECORD, and his book, "When Hell Was In Session," was published by the Reader's Digest Press in 1976.

Also most worthy of mention in giving tribute to this remarkable American are his lovely wife, the former Kathryn Jane Maury, of Mobile, Ala., and their seven children. They shared with him the many sacrifices of a Navy career and deep concern and uncertainty during his imprisonment in North Vietnam.

Jeremiah Denton is a man who knows more than most Americans just how precious and wonderful is the freedom which all of us enjoy. He reminded us poignantly of that the day he returned to American soil after years in captivity, when his first words to us were "God bless America." Our country has little to fear about its continued existence as a free society so long as we produce in sufficient quantity the type of person such as Jeremiah Denton. His dedication, courage, leadership, and moral strength are an inspiration and an example to us all.

It is an honor and a pleasure to salute this great American and to wish him well in his new responsibilities as assistant to the president of Spring Hill College in his home State of Alabama.

ENERGY BILL RIPPED APART

The SPEAKER. Under a previous order of the House, the gentleman from Virginia (Mr. HARRIS) is recognized for 10 minutes.

Mr. HARRIS. Mr. Speaker, as the joint House-Senate conference proceeds on H.R. 8444, the National Energy Act, I am greatly concerned about provisions adopted by the other body which I believe would be damaging to the country and devastating to the family budget. Specifically, I have urged the House conferees to oppose the deregulation of natural gas and reject any provisions that would weaken the effort to establish national standards for utility rate reform. I believe that the House bill establishes a clearcut and effective policy in both of these areas, and that the other body's provisions would severely handicap our Nation's energy program.

THE FALLACY OF DEREGULATION

The Senate's bill, S. 2108, would lift price controls from "new" onshore natural gas in 2 years and from "new" offshore natural gas in 5 years, and revise the definition of "new" gas to cover gas from extensions of previously discovered reservoirs. The House bill raises the price ceiling on new natural gas to $1.75 per T/cf and limits the definition of new gas to gas from newly discovered wells and reservoirs.

Proponents of deregulation would like everybody to believe that it will provide the ultimate panacea to our Nation's gas supply problems. I feel, however, that many of the arguments in favor of deregulation are misleading—for there is plenty of evidence which suggests that lifting price controls will add to the already high profits of oil and gas producers without adding significantly to the supply of natural gas.

DEREGULATION IS ANTICONSUMER . . .

I find it deeply disturbing that many supporters of deregulation base their arguments on the needs of the oil industry, without mentioning one word about the needs of consumers. The truth is that consumers need gas to heat their homes and cook their meals—at prices they can afford—far more than big oil needs the windfall profits that would result from deregulation.

Deregulation will place an unnecessary and unjustifiable strain on the family budget. According to the Library of Congress estimates, the average American family currently pays about $200 per year for gas used for home heating and cooking. Deregulation would make them pay up to twice as much—$400—costing consumers a total of $10 billion each year between now and 1985.

AND PRO-INFLATION

Consumers will feel the impact of deregulation not only on their gas bills, but in the prices they pay for other goods as well. Since natural gas accounts for nearly 30 percent of our total energy needs, deregulation is likely to have a ripple effect on virtually every sector of the economy. For example, the bread industry requires billions of cubic feet of gas each year. Under deregulation, consumers would have to pay $38.5 mil-

lion more for bread in 1985 than they do today. In my view, lifting price controls from natural gas would fuel another round of inflation, forcing manufacturers to pass on higher production costs to consumers and escalating the price of many basic necessities.

A BILL FOR BIG OIL?

The oil industry claims that deregulation would make it possible for them to uncover—and bring to market—natural gas from new sources. Yet I find it interesting that the Senate's proposal for deregulation includes not only gas from newly discovered wells, but gas from extensions of previously discovered reservoirs as well. This would double the amount of gas that would be eligible for higher prices under the House bill. Big oil should not be allowed to gouge the public by charging higher prices for gas that is not really new.

Proponents of deregulation are fond of graphs and charts showing that more money for big oil means more gas for consumers. Yet between 1972 and the first half of 1977, gas prices for the top 21 oil companies soared by more than 79 percent, while profits climbed a walloping 103 percent. During the same period, production declined by 19 percent for the entire industry.

LITTLE IMPACT ON SUPPLY

An economic analysis prepared by the Federal Energy Administration indicates that deregulation would only exaggerate this situation. Because the supply of gas is relatively price-inelastic, every 1 percent increase in the price of gas over $2 will yield substantially less than 1 percent increase in the supply of gas after 1985. Deregulation is a high price for consumers to pay for a policy that holds little likelihood of producing more gas.

I am convinced that in the face of deregulation, oil and gas producers have had an incentive to keep gas in the ground that they figured would bring higher prices—and profits—a few years down the road. We must put an end to the manipulative practices of big oil, and set a firm gas pricing policy that is consistent with the interests of the average American.

NO HOPE FOR UTILITY RATE REFORM

In the area of utility rate reform, the Senate bill (S. 2114) would limit the Government's role in setting national standards for electric rates and exclude a number of important consumer-protection provisions from the House bill. The House bill, on the other hand, establishes a national policy for utility rate reform and includes provisions for direct consumer participation in ratemaking proceedings.

The Senate proposals allow the Federal Government to intervene in State regulatory proceedings in the capacity of "an advocate for rate reform," without providing the mechanism by which such reform could take place. I personally do not see why utilities would suddenly listen to the Government's Advocacy of rate reform, when they already find it oftentimes convenient not to listen to the largest group of advocates—the consumers. It is vitally important to preserve those portions of the House bill that would establish a national policy for reforming utility rates, and eliminate those portions of the Senate bill that would make such reform a virtual impossibility.

CONSUMER'S NEEDS IGNORED

Moreover, the Senate bill removes almost all of the consumer provisions in the House bill. Specifically, these provisions would establish rates that reflect the true cost of service, reduce rates for electricity used during off-peak hours and seasons, make utilities compensate consumers who successfully challenge rate-increase decisions and prohibit utilities from charging their customers for promotional or political advertising.

The House bill provides consumers with the opportunity to participate in ratemaking decisions that directly affect their welfare, and gives the Government a decisive role in setting national standards for rate reform. These serious omissions from the Senate bill, on the other hand, ignore the needs of consumers and jeopardize the true rate reform. This should not—and cannot—be allowed to happen.

ANOTHER CONCESSION TO BIG OIL?

There is little doubt in my mind that the Senate's reluctance to establish an effective program for rate reform is tied to the effort to remove price controls from natural gas. The oil and gas suppliers are pushing—and pushing hard—to remove price controls from natural gas, and the utilities certainly are not opposing this lobbying effort. They are confident that State regulators will let them pass on higher fuel prices to consumers, just as they are confident that deregulation can only work to enhance their profits.

Last year alone, automatic fuel adjustment charges cost consumers $9 billion, or approximately $380 per family, while utilities and gas suppliers continued to report record profits. In Virginia, Washington Gas Light's profits doubled—up $7.7 million—and VEPCO's increased by 15 percent to $23 million.

The time has come to put an end to big oil's power-play to gain control of our national energy program. In the area of natural gas pricing, as well as utility rate reform, the Nation needs policies that are effective and genuinely comprehensive. We need legislation that reflects the interests of the entire population, rather than the special interests of the oil industry. I feel that the House bill is compatible with these goals.

BIG BROTHERS OF AMERICA TO MERGE WITH BIG SISTERS

The SPEAKER. Under a previous order of the House, the gentleman from Connecticut (Mr. DODD) is recognized for 5 minutes.

Mr. DODD. Mr. Speaker, I ask unanimous consent that the House do pass H.R. 7249, a bill which I and my colleague from Michigan (Mr. CARR) have introduced to amend the Federal charter of the Big Brothers of America to include Big Sisters International, Inc. A bill with identical provisions to the bill being considered by us today was passed by the Senate last week, and it is hoped that the Members of the House will give their unanimous consent to its passage in order that it may be signed by the President during this session of Congress.

I would like to emphasize that rather than conferring a new Federal charter on an organization, H.R. 7249 should more properly be viewed as a bill which expands the charter presently held by Big Brothers of America to include the Big Sisters program as well. This change in the Federal charter is necessary to reflect the merger of the two organizations which was formally agreed to at a joint membership meeting of both of these organizations in June of this year.

Mr. Speaker, I have had the pleasure of working in the Big Brothers program in southeastern Connecticut, where I live, and serving as a member of the national board of directors of Big Brothers. I know this organization well, and I can speak firsthand of the enthusiasm and support with which this merger was received by the membership nationwide of the two organizations. This new combined organization has 357 local affiliate agencies and currently has over 115,000 active "matches" between volunteer and child, and almost as many additional children on waiting lists.

Merger discussions between Big Brothers and Big Sisters actually began in 1973, but it was not until June of 1975 that the two organizations formally established a joint merger study committee. A year later, in June 1976, this committee presented their formal recommendations for the merger of the two organizations. In February 1977, the boards of directors of the two organizations formally approved the merger recommendation. And, in June 1977, the membership of the two organizations, in a joint meeting, formally ratified the proposed merger which had already been adopted by the boards of directors.

Mr. Speaker, this merger was undertaken for several reasons including: Cost-savings realized from sharing rather than duplicating resources; better services for all children—both boys and girls—who live in single parent homes; and finally, in many areas of the country local funding sources have urged the local chapters of Big Brothers and Big Sisters to merge.

Mr. Speaker, I urge all of my colleagues to give their support to the great work being performed by the combined Big Brothers/Big Sisters organization for our Nation's youth by supporting the passage of H.R. 7249.

THE MINE SAFETY AND HEALTH ACT OF 1977

The SPEAKER. Under a previous order of the House, the gentleman from Minnesota (Mr. OBERSTAR) is recognized for 5 minutes.

Mr. OBERSTAR. Mr. Speaker, I would like to commend the gentleman from Pennsylvania (Mr. GAYDOS) and the other members of the Education and Labor Committee, particularly the members of the Subcommittee on Compensation, Health, and Safety, for their hard work and diligence in bringing this legislation

to the House floor. More importantly, the speed with which they have moved this important legislation though conference assures that it will be sent to the President before the end of this session of the 95th Congress.

Having grown up in a miner's family and having worked in the mines myself, I know firsthand the dangers that miners face. That is why during my first year in Congress—the 94th Congress—I introduced legislation to insure that hard rock miners get the most effective Federal mine safety program possible, the kind of protection for life and limb which they need and deserve. Now 3 years later we are on the verge of having the Mine Safety and Health Act of 1977 become law.

The Mine Safety and Health Act of 1977 has two primary objectives: To codify those various laws into a consistent and comprehensive program providing better statutory protection to hard rock miners by upgrading the provisions of the 1966 Metallic and Nonmetallic Mine Safety Act, and to transfer the enforcement of the Coal Mine Safety Act and the Metal Mine Safety Act from the Department of the Interior to the Department of Labor.

The intent of the legislation is to combine all the statutory protections now afforded workers through different safety laws.

The conference report we are voting on today contains provisions embodied in the legislation which I authored in the last Congress and reintroduced (H.R. 3769) this year. Many of these provisions were similar to those Senate amendments accepted by the conferees. The Senate amendments in no way diminish the House bill, rather they strengthen and complement our language.

Among the provisions of H.R. 3769 included in the conference report are:

First. Greater specification on the standard-making procedures to assure timely administrative action and accountability for those actions. For instance, the requirement that any modification or revocation of an existing standard be accompanied by an explanation of how the action provides greater protection, and that an explanation be published if the Secretary determines not to promulgate a standard for which action had been initiated. It also requires that the Secretary initiate standard-making activity within a certain time regarding hazards for which NIOSH criteria documents are issued.

Second. Inspection for underground mines at least four times yearly and inspection of surface mines at least twice each year.

Third. A section provides that the miners' walkaround rights—that the right to accompany an inspector during an inspection—shall apply to all inspections carried out and shall not be limited to one miner representative.

Fourth. The requirement that emergency temporary standards, to protect miners from exposure to grave danger, shall take effect immediately on publication in the Federal Register and the requirement that permanent standard be promulgated within 9 months.

Fifth. A provision that requires that the results of any medical examinations required by NIOSH shall be available to the miners and their representatives without cost, while also providing for an active safety and health educational program for the miners.

Sixth. Transfers of the Department of Interior's health and safety research functions to NIOSH.

The need for stronger safety standards is acutely dramatized by the ongoing strike in my district. The 15,000 United Steelworkers want the law clarified and streamlined and the program merged in a single Government agency. What we have before us today accomplishes this goal and deserves the support of each Member of this House.

WAYS AND MEANS TRADE SUBCOMMITTEE ANNOUNCES HEARINGS ADMINISTRATION OF ANTIDUMPING LAWS

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

Mr. VANIK. Mr. Speaker, on behalf of the Subcommittee on Trade of the Committee on Ways and Means, I am announcing oversight hearings on the administration of the antidumping laws. The hearings will be held November 8 and 9, and testimony from the public is invited.

The hearing announcement follows:

CHAIRMAN CHARLES A. VANIK, SUBCOMMITTEE ON TRADE, COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, ANNOUNCES 2 DAYS, OF HEARINGS ON NOVEMBER 8 AND 9, 1977, ON CONGRESSIONAL OVERSIGHT OF THE ANTIDUMPING ACT OF 1921, AS AMENDED

The Honorable Charles A. Vanik (D., Ohio), Chairman of the Subcommittee on Trade of the Committee on Ways and Means, U.S. House of Representatives, today announced that the Subcommittee on Trade will conduct two days of hearings on Tuesday and Wednesday, November 8 and 9, 1977 in connection with the Subcommittee's oversight responsibilities regarding the administration of the Antidumping Act of 1921, as amended. The hearings will be held in the Main Committee Room of the Ways and Means Committee in the Longworth Building beginning at 10:00 A.M. on Tuesday, November 8, and at 10:45 A.M. on Wednesday, November 9.

During the oversight hearings on the administration of the Antidumping Act of 1921, the Subcommittee will be particularly concerned with the issues of the adequacy of the existing statute to deal with the problems of unfair import pricing practices and the timely assessment of dumping duties following a finding of dumping by the Secretary of the Treasury.

Officials from interested Executive Branch agencies will be the first witnesses, with representatives from the Treasury Department and the U.S. Customs Service leading off, followed by a spokesman from the U.S. International Trade Commission. Testimony will be received by the Subcommittee from the interested public following the appearances of the Executive Branch witnesses.

Witnesses are on notice that in order to provide more time for questioning and discussion, the oral presentation of written statements will be limited to three (3) minutes strictly, to be followed immediately by questioning. The full statement will be included in the record. Also, in lieu of personal appearance, any interested persons or organizations may file a written statement for inclusion in the printed record.

Requests to be heard must be received by the Committee by the close of business Friday, November 4th. The request should be addressed to John M. Martin, Jr., Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Room 1102 Longworth House Office Building, Washington, D.C. 20515; telephone (202) 225–3625. Notification to those scheduled to appear and testify will be made by telephone as soon as possible after the filing deadline.

In this instance, it is requested that persons scheduled to appear and testify submit 30 copies of their prepared statement to the Committee office, Room 1102 Longworth House Office Building, by the close of business Monday, November 7th.

Persons submitting a written statement in lieu of a personal appearance should submit at least three (3) copies of their statement by the close of business Monday, November 21, 1977. If those filing written statements for the record of the printed hearing wish to have their statements distributed to the press and the interested public, they may submit 30 additional copies for this purpose if provided to the Committee during the course of the public hearing.

Each statement to be presented to the Subcommittee or any written statement submitted for the record must contain the following information:

1. The name, full address and capacity in which the witness will appear;

2. The list of persons or organizations the witness represents and in the case of associations and organization, their address or addresses, their total membership and where possible, a membership list; and

3. A topical outline or summary of the comments and recommendations in the full statement.

PERSONAL EXPLANATION

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania (Mr. KOSTMAYER) is recognized for 5 minutes.

Mr. KOSTMAYER. Mr. Speaker, on Thursday, October 27, I had to return to my congressional district for essential business.

My presence in the district the evening of October 27 and on October 28 necessitated my missing several rollcall votes.

Had I been present I would have voted as follows:

Rollcall No. 709; "yes."
Rollcall No. 710; "yes."
Rollcall No. 711; "yes."
Rollcall No. 712; "yes."
Rollcall No. 713; "yes."

RE UNITED STATES-SOVIET RELATIONS

(Mr. HAMILTON asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of my colleagues a comprehensive statement on United States-Soviet relations and U.S. policies toward the Soviet Union delivered by Dr. Marshall Shulman, Special Advisor on Soviet Affairs to the Secretary of State and head of President Carter's Interagency Committee on Soviet Policy.

This October 26 statement before the House International Relations Commit-

tee Subcommittee on Europe and the Middle East stresses the crucial importance of SALT to Soviet-American relations and the need for seeking specific measures to broaden areas of cooperation with the Soviet Union even though many areas of competition continue to preoccupy our policymakers.

Dr. Shulman's prepared statement follows:

TESTIMONY BY MARSHALL D. SHULMAN

OVERVIEW OF UNITED STATES-SOVIET RELATIONS

Mr. Chairman. Thank you for the opportunity to appear before you today. I believe that your Subcommittee is performing an important service to the Congress and the American public by its series of hearings on how Soviet domestic developments affect our relations with the Soviet Union, and by making available the testimony of many distinguished specialists on this question.

In adding my contribution to this discussion, it is my purpose to deal with this issue within the largest context of the current and longer-term outlook for U.S.-Soviet relations.

Public opinion in the United States has tended to fluctuate widely in its moods about the Soviet Union, based as it has been upon simplified and polarized stereotypes about the nature and purposes of the Soviet system. With the help of the kind of information developed in your hearing, I believe we have both the opportunity and the obligation to build a sounder and steadier base in public opinion for a realistic and consistent approach to our relations with the Soviet Union, without any illusions about the seriousness of the problems involved in this relationship, and without undue expectations about the time and effort that will be required to move step by step toward a less dangerous and more constructive relationship.

To develop this kind of public support, we need a more widespread understanding of both the changes and the continuities in Soviet political life, as well as a clear perception of our own interests in the way we would like to see our relationship with the Soviet Union develop over the coming years.

Rather than occupying ourselves with an effort to clarify the ambiguities of the word "detente," it would be more productive, I believe, to make it clear that we start from a frank recognition that the Soviet-American relationship at this period in history is a competitive one, based upon quite different views of the world and conflicting long-term aims; at the same time, it is also true that these two countries, as inhabitants of the same planet, have many overlapping interests. Common sense dictates that we should, while advancing our own interests and purposes energetically, seek to regulate the competitive aspects of the relationship to reduce the danger of war and at the same time to enlarge the area of cooperation where our interests are not in conflict. Over the coming decades, to the extent that future generations of Soviet leaders may see their self-interest in a more constructive relationship, we should make it clear that we would be receptive and responsive to a movement in this direction.

Although Soviet-American relations are but one element of our foreign policy, there is scarcely an aspect of international life that is not affected by this relationship, and that would not be made more difficult and more dangerous by a high level of Soviet-American tension and unregulated competition.

While these considerations suggest that we should welcome and seek to strengthen the prospect of an improvement in Soviet-American relations, they also suggest that substantial progress over the long run will be better served by specific actions on concrete problems based upon mutual self-interest than by symbolic gestures or abstract declarations about detente. Further, they suggest that, although the balance between competitive and cooperative interest may—and we hope will—shift increasingly in favor of the latter, both elements are an integral part of the relationship and there is nothing inconsistent in dealing with both competitive and cooperative aspects of the relationship at the same time.

Although it lacks the headline appeal of simplistic slogans, this measured, balanced and realistic approach can help to avoid the swings of public sentiment between too high expectations and disillusioned hostility. With public support and understanding of this approach, we can sustain a steadier and more consistent policy toward the Soviet Union through the inevitable ups and downs caused by changes in the Soviet Union, in the United States, and in the international scene.

Against the background of these general comments, I turn now to a brief discussion of some specific aspects of the present state of Soviet-American relations: SALT and other arms control issues; areas of political competition; economic relations; exchanges and scientific cooperation, and the issue of human rights. Following this discussion, I will conclude with a review of some developments within the Soviet Union and in the external world environment that may have a bearing on the future course of Soviet-American relations.

DISCUSSION OF CURRENT ISSUES

1. SALT. The most urgent foreign policy issue arising out of the Soviet-American relationship stems from the fact that, as a result of modern military technology, each country has the ability to destroy the other as a functioning society. How we should react to this awesome fact has been the subject of a continuing debate in this country, and is not yet clearly resolved in the public mind. Our fundamental premise is that we must provide adequately for the security of our country and of our allies, and for the preservation of the values of our society. Some argue that we can best protect the security of our country by striving for as much military superiority as possible over the Soviet Union and other possible adversaries. The consequence of this course, however, is to encourage the other side to do the same, with the net effect of a continuing movement toward larger, more complex, and less stable weapons systems on both sides, a steady decrease in our security, and a mounting strain upon our society.

Between this approach and the other extreme of inadequate concern for the importance of a military equilibrium, there is a third course, which has been the declared policy of this government in recent years, whose purpose has been to seek to stabilize the strategic military competition at moderate levels by negotiations with the Soviet Union in the Strategic Arms Limitation Talks (SALT).

We are committed to the proposition that this country must be strong, so that no adversary could ever be in a position to believe that it could attack either this country or its allies without disastrous consequences for itself. Although the United States can, if necessary, keep pace with whatever level of military competition is required, it clearly is in our security interest that the military competition be as stable and reduced to as low a level as can be achieved through negotiations. This is what we have been trying to do in SALT since it began in November, 1969. The Treaty limiting anti-ballistic missiles and the Interim Agreement of 1972 have clearly been useful, but both sides have nevertheless continued to build up their strategic weapons arsenals, qualitatively and quantitatively, in ways that were not limited by the Treaty or the Interim Agreement.

One reason why SALT has not been more effective so far is that the differences in the weapons systems and the geographical situations of the United States and the Soviet Union have made it difficult to measure with any precision what strategic equality means.

Each side is stronger in some aspects of the military competition, and each side has been driven by concern that the advantages of the other might be, or might appear to be, more effective than its own. We have also been experiencing a period of extraordinary technological innovation in weapons, which has made the calculations involved in SALT negotiations incredibly complex.

And yet, despite the complexity of the technical aspects of SALT, the basic policy questions involved come down to a matter of common sense and judgment, on which the President, the Congress, and an informed public can base their decisions.

In the present negotiations with the Soviet Union, an effort is being made to stabilize the military competition, to begin a downward turn to more sensible levels, and to slow down the introduction of new and stable military technologies. If these negotiations succeed, both countries will be more secure, and the world will be safer.

Within the past month, during the visit of the Soviet Foreign Minister, Mr. Gromyko, to Washington, considerable progress was made in breaking through issues that had been deadlocked for a long time.

Although the Interim Agreement has formally expired, each side has stated that it will not take any actions which would be inconsistent with that agreement while the present negotiations are proceeding. In these negotiations, the basic agreed elements would be incorporated in a new Treaty which would run until 1985. Other elements which are of concern to one side or the other but on which full agreement has not yet been reached, would be held in place by a protocol to the Treaty, whose function would be to give us three years in which to continue efforts to find mutually satisfactory solutions to these problems. At the same time, it is anticipated that agreement will be reached on the principles to govern the next round of negotiations, the main thrust of which will be to work for more substantial reductions than are immediately possible, while preserving the strategic equilibrium between the two countries.

Since there have been continuing end extensive consultations with the Congress on the details of these negotiations under appropriate circumstances, I shall not discuss these details here, but it would be relevant to our subject today to observe that progress in SALT would represent not only a significant improvement in the most important single aspect of Soviet-American relations, but an advance in the most fundamental issue affecting international peace and security.

Although SALT must stand on its own, based upon the enlightened self-interest of the United States and the Soviet Union, it can enhance the prospects for other arms control problems, and for an improvement in other aspects of Soviet American relations.

2. Other Arms Limitation Aspects of Soviet-American Relations. It may be useful to summarize briefly the present status of a number of other arms limitation negotiations in process, since they are more extensive than may be generally appreciated.

A. Indian Ocean—The second round of bilateral US-Soviet talks on this subject, held in Washington in late September, was encouraging. We are seeking Soviet agreement to stabilize the military situation in that region as a first step, and to prevent an arms competition from developing between the two countries. We will be meeting again in the near future for a third round of talks.

B. Comprehensive Test Ban—In these negotiations, which also include the United Kingdom, there has been some progress in moving from the present partial test ban toward one that would include all underground nuclear explosions. Although an agreement seems to be emerging that a ban on nuclear weapons tests would be desirable now, whether or not other nuclear nations are prepared to join in the agreement, differences remain on several questions, including whether peaceful nuclear explosions should also be banned. We feel that such a total ban is necessary, and are continuing to negotiate on this question at Geneva.

C. Mutual and Balanced Force Reduction in Central Europe—At Vienna, arduous negotiations involving the United States, the Soviet Union and some of their respective allies, have been seeking an equitable solution to this source of danger and tension. There has not yet emerged any common ground between the Western insistence that reductions should move toward equal levels, and the Soviet insistence that the present balance of forces should be preserved by equal percentage reductions. We are continuing these negotiations, in the conviction that a solution to this problem could contribute substantially to European security and a climate of justified confidence.

D. Chemical Weapons—These negotiations are moving forward reasonably well. The Soviet and American delegations are working on technical details and problems of definition, in the hope that it may be possible by spring to make a joint submission of guidelines to the Committee of the Conference on Disarmament in Geneva.

E. Anti-Satellite Arms Control—Since both the United States and the Soviet Union rely heavily upon satellite reconnaissance to monitor compliance with SALT and other agreements, as well as for early-warning systems, it is obviously a matter of concern that agreement should be reached to prevent either side from developing the capability of destroying satellites. There have been reports that the Soviet Union has been experimenting with such capabilities and, if these were to continue, the United States would clearly draw on its strong technological base to develop capabilities at least as strong as those of the Soviet Union. We are continuing our own research and development work in this area, should it be necessary swiftly to develop such capabilities; at the same time, we are preparing proposals which we hope will head off this potentially destabilizing development.

F. Radiological Weapons—Negotiations are proceeding on this subject at Geneva, with some prospect of reaching agreement in a few months.

G. Advance Notification of Missile Launches—This subject has been included in the strategic arms limitation negotiations, and is now under negotiation at Geneva. The Soviet position has been that necessary safeguards are already provided in two previous agreements—one on Incidents at Sea and the other on Measures to Reduce the Risk of Outbreak of Nuclear War—which oblige either side to notify the other if a test or accidental launch might be subject to misinterpretation. We believe that a more far-reaching obligation on both parties is required if a genuine contribution to mutual confidence is to be achieved.

H. Limitations on Conventional Arms Transfers—Only a beginning has been made in dealing with this dangerous problem, which is made more difficult because it involves conflicting political interests in specific areas and touches on important interests of our allies. Since the United States is the principal source of conventional arms sales and transfers, it has felt the obligation to initiate proposals on this subject, but substantial negotiations have not yet resulted.

I. Non-Proliferation of Nuclear Weapons—This is a subject on which the United States and the Soviet Union should have, and do have, strong parallel interests, and on which a fair degree of cooperation has been achieved. In June, the two sides agreed to subsume their joint efforts on non-proliferation under the aegis of the London Suppliers Group, since the cooperation of other nuclear suppliers is obviously essential.

The key to any effort to halt proliferation is to increase our knowledge of the relationship between the fuel cycle in peaceful applications and the production of nuclear materials from which weapons can be produced. We must not only know this subject well, we must insure that other nations are also aware of these risks and benefits of nuclear energy. The International Atomic Energy Agency, in which the United States and the Soviet Union have generally worked well together, has played a valuable role in this effort. Constructive participation by the Soviet Union in the International Nuclear Fuel Cycle Evaluation Organizing Conference, held recently in Washington, has been a further indication of the high level of cooperation between our two governments on non-proliferation.

J. Theater Nuclear Weapons—Soviet weapons which are targeted on Europe are at present largely unconstrained by any international agreement, and Soviet development of increasingly modern systems such as the SS-20—a mobile, MIRVed, intermediate range ballistic missile—and the Backfire bomber, are causing our Allies increasing concern. We are at this point unsure whether negotiations on these systems, which fall into the "gray areas" between SALT and MBFR, are feasible. The problem is an increasingly important one, however, and one to which we will be giving much thought.

A summary judgment of these varied arms limitation efforts would suggest that a wide number of significant problems are being addressed, some with reasonable prospects of effective results, some less so. In our judgment, these efforts are more likely to be useful to the extent that they seek specific and concrete steps, rather than general declarations. In our view, propagandistic declarations of intent, although they may have a specious public appeal, do not contribute substantially to the solution of concrete problems in reducing the danger of either conventional or nuclear war.

3. Areas of Political Competition. Since the Quadripartite Agreement of 1971 on Berlin, the most crucial area of potential confrontation between the United States and the Soviet Union—Central Europe—has been relatively stable. By comparison with earlier periods, it is an important step forward that Europe is now in the category of geographical areas where the risk of confrontation has been substantially reduced. Although Europe—East and West—continues to be a vital area of political competition because of its significant industrial resources, the conduct of that competition can be made less dangerous to the peace of the world if more substantial progress is achieved in the negotiations at Vienna on the reduction of military forces in the area.

By contrast, the Middle East still poses a substantial risk of hostilities which could involve the Soviet Union and the United States. For thirty years, through four Arab-Israeli conflicts, Soviet and American interests have intersected in the Middle East. While Soviet influence in the area has had its ups and downs, it is obvious that the area is of considerable importance to the Soviet Union, and that a constructive rather than an obstructive role by the Soviet Union would be an important element in any effort to reduce the danger of another Middle Eastern war.

In the current situation, we have been able to work both with Israel and the Arab parties in starting the process toward a settlement, but to achieve a comprehensive and durable solution requires direct negotiations between the parties. This can best be achieved, we believe, under the auspices of a Geneva Conference, with the cooperation and support of its two co-chairmen, the United States and the Soviet Union.

It should be made clear beyond any doubt that it was this objective that was the sole motivation in our joining with the Soviets in the recent Soviet-American statement on the Middle East during the visit of Foreign Minister Gromyko to the United States. It would be an error to believe that the statement was inspired by any desire to use the Middle East as a vehicle for improving United States-Soviet relations.

In Africa, it must be said that Soviet actions over the past two years have shown a lack of restraint. In Angola and also in the war between Ethiopia and Somalia, we feel that Soviet policies—especially arms supply—contributed to local conflicts in a way that seriously destabilized the region. In other African areas of potential conflict—Rhodesia and Namibia—there have been set in motion initiatives which could lead to a settlement enjoying wide African support. It has been our purpose to encourage the Soviet Union to adopt a constructive attitude toward these initiatives, and to avoid any further East-West polarization of Africa. We hope and expect that the Soviet Union will support the essential role of the United Nations in working toward settlement in these areas.

In a summary assessment of this brief review of the global aspect of Soviet-American relations, it can be said that although realism compels us to accept the political competition between the Soviet Union and the United States in various areas of the world as a fact of international life, there has been some modest progress in moving toward a codification of the restraint that can be expected in greater or lesser degree in the different areas. This is motivated not by altruism but by self-interest on both sides, since it is painfully evident that an unregulated competition can dangerously exacerbate the many local sources of conflict which have arisen and will arise, and the possibility of local conflicts spiralling out of control is always present.

4. Economic Relations. The development of economic relations is clearly an important component of the total relationship between the United States and the Soviet Union. In recent years, the Soviet Union has indicated an active interest in expanding its importation of agricultural products, consumer goods, manufactured goods, and advanced technology. It would also like to expand its export of manufactured goods as well as raw materials to Western markets. The development of this trade with the United States and other advanced industrial nations can be a stabilizing factor in Soviet policy toward the world.

There are also areas in which Soviet and U.S. economic policies are affected by and have a critical impact on the rest of the world. Foremost among these are international grain trade and energy problems. The cooperation of the Soviet Union in the orderly allocation and handling of food reserves as well as the supply and availability of oil will be increasingly important.

Questions have been raised about the balance of political risks and benefits to the United States that need to be weighed in determining a national policy on the expansion of economic relations with the Soviet Union. Clearly, a period of national discussion and consultations with the Congress lie before us as we seek to clarify such

issues as the extension of Most Favored Nation status to the Soviet Union, what criteria should govern the extension of credits through the Export-Import Bank, what criteria should govern the transfer of technology, to what extent we should participate in energy and other resource development projects, etc. We shall also have to address the question of how the necessary degree of coordination can be achieved between the government and the private sector, and between the United States and its allies.

It has been the declared policy of this government that it looks toward an improvement in economic relations between the Soviet Union and the United States as conditions make this possible, and in my view it would be desirable to move in this direction by prompt and measured steps. The concrete measures by which this policy can be implemented will be determined on the basis of consultations with the Congress.

5. Scientific, Academic and Cultural Exchanges. Between 1972 and 1974, the United States and the Soviet Union signed a series of eleven bilateral agreements to foster cooperation in a variety of technical fields: health, environmental protection, artificial heart research, energy, atomic energy, agriculture, housing, transportation, oceanography, space, and science and technology. Prior to 1972, our cooperative relations with the Soviet Union in these fields had been largely restricted to one-time exchanges. The bilateral agreements added an element of continuity to our cooperative ventures and have stressed joint research efforts.

We have pursued a variety of objectives in implementing the agreements: achievement of scientific or technical benefit, promotion of commercial relations, broadening and deepening our overall relations with the Soviet Union, and expanding our access to their closed society. Participating U.S. agencies report satisfactory or better progress toward these goals. As evidence of our determination that continued participation remains in our interest, during 1977 we have agreed to the extension of five agreements—artificial heart research, health, environmental protection, space, and science and technology—for a further five years. In 1976 under these agreements, 876 Soviet participants travelled to the United States and 973 U.S. participants travelled to the Soviet Union.

Other programs, notably that of the National Academy of Sciences, bring Soviet and American scientists together, in some cases for collaborative research of up to a year's duration. Knowledge and understanding of one another has grown as a result of a 20-year-old official exchanges agreement, under which approximately 350 scholars, students and lecturers now travel annually between the two countries.

Under the same agreement, six Soviet performing arts groups have visited the US this year and two American groups have gone to the Soviet Union. Soviet and American travelling exhibitions are to tour nine cities in each country in the next three years. Last year a Soviet exhibit on science toured the US and a US exhibit on photography has just completed a Soviet tour. In addition, we had a Bicentennial exhibition in Moscow and the Soviets in turn will hold a 60th Anniversary exhibition in Los Angeles next month.

In addition to the scientific and scholarly advances that flow from these exchange arrangements, we attach importance to the opportunities for personal contacts and increased insight into each other's society. While there are asymmetries between the two societies that complicate the problem of managing these exchanges so that their benefits are equally distributed, every effort is being made to ensure that this is the case, and significant improvements have been registered since the exchanges began.

6. Human Rights. Although the human rights issue has been a source of contention in US-Soviet relations, it is our hope that over the longer run, it will be seen to have had constructive effects.

At the philosophical level, we believe that there can be a useful dialogue between societies that start from the needs of the society and emphasize the fulfilment of material needs, and those which start from the dignity and worth of the individual and emphasize the fulfilment of political rights.

It is obvious, however, that the human rights issue also raises political and bureaucratic problems—that it touches on foundamental questions of political control, and therefore often stimulates neuralgic responses. We have sought to make it clear in our bilateral discussion on human rights issues, and at the Belgrade conference on the Helsinki Agreement, that the commitment of this Administration to the advancement of human rights is an integral element of our foreign policy generally, and is not directed against the Soviet Union in particular. There has not been and there will not be any slackening in this commitment. We have sought the most effective means by which to relaize our purpose, which is to seek constructive results in improving the lot of individuals concerned and to encourage long-term trends in the world toward a wider respect for the dignity and worth of human beings.

We do not see this objective as inconsistent with the desire to work toward reduced international tension and improved Soviet-American relations; on the contrary, we believe that in the long run the reduction of international tension can contribute to an easing of the internal pressures which restrict the fullest realization of the creative potential of men and women everywhere.

EFFECT OF INTERNAL DEVELOPMENTS IN THE SOVIET UNION

Against the context of this brief overview of US–Soviet relations, I turn now to some remarks on the subject of internal developments within the Soviet Union, which have been the central theme of this series of hearings. Our thinking about the relations between these two countries clearly rests upon the assumptions we make about domestic trends within each of the two countries, although in practice these assumptions often remain unagreed or unarticulated in our discussions of the subject.

Some students of the Soviet Union tend to emphasize the historical continuities in the Russian experience; others, the changes in the complex responses of Soviet society to advancing industrialization. There are obviously important truths in both perspectives, and both have to be taken into account in our thinking. The Soviet system reflects the centuries of centralization, autocracy, bureaucratism, and isolation from the Western traditions which has marked the Russian experience and been carried over into the Soviet period. At the same time, it is also true that the Soviet Union is constantly in a process of change in significant respects, reflecting the tugs and hauls of competing pressures and interests characteristic of developing societies elsewhere.

Notwithstanding the extreme centralization which marks Soviet institutions, the central drama of Soviet political life is between tendencies toward orthodoxy and toward modernization, contending in every aspect of domestic and foreign policy, sometimes perhaps within the minds of individual Soviet leaders.

Although in the limited public impressions we have of the Soviet Union through Western press accounts, the main divisions appear to be between the dissidents and the Soviet Establishment, the fact is that even within these groups there are significant differences as well as the many other gradations of opinion that need to be taken into account in Soviet society and Soviet political life. Although the population as a whole appears to be extremely resistant to change and largely apolitical, there can be observed at both ends of the political spectrum—among the dissidents as well as among the Party elite—the modern equivalent of the dual strains in Russian history of the Slavophils and the Westerners. Nationalism is reflected in the Soviet Union not only among the various minority nationality groups, but also among the Great Russians; similarly, the impulse toward modernizing the country along Western lines also cuts across other divisions in the political spectrum.

These divisions have their effects on two of the most interesting questions affecting the present and future development of the Soviet Union.

The first of these stems from the fact that the Soviet Union is on the threshold of a wholesale generational turnover at the upper levels of its power structure. Not necessarily in the next succession, but within the foreseeable future, it is clear that an ascendant generation will be holding the levers of power, and one of the most intriguing questions before us concerns the character of that generation, men now in their forties and early fifties. We know that by and large they tend to be better educated than the present ruling group, and more familiar with the outside world, but beyond that, they do not appear to be a homogenous group. Whether they will tend to move toward nationalism and orthdoxy, or toward Western-style modernization, we cannot now predict. All that we can say, perhaps, is that to the extent they see their interest in a responsible involvement of their country in the world economy and the world community, they should not feel from what we do or say that this option is closed to them.

This is related to the second question: how the Soviet leadership will deal with some fundamental structural problems in the Soviet economy. Behind the problems of low productivity and lags in the advanced technological sector are organizational problems that inevitably involve anomalies in the highly centralized political control system. Conflicting approaches to the solution of these problems reflect the divisions between the impulses toward orthodoxy versus modernization mentioned earlier, and also appear to have some correlation with the differences between the generations. While we should not underestimate the capability of the Soviet system to manage its problems on a day-to-day basis without any clear-cut solutions to these choices, it may have some relevance for our own policy choices that the development of economic relations with the advanced industrial societies of the West is bound to have some influence on the directions that will emerge.

EXTERNAL FACTORS

At least brief mention should be made of a few of the most important of the factors external to the Soviet Union likely to influence the course of Soviet-American relations.

The Sino-Soviet relationship obviously deeply influences the Soviet outlook, involving both rational calculations and visceral fears. Some of the effects of this Soviet preoccupation may be salutory, and some may be disadvantageous to our interests.

As a general principle, our efforts to move toward normalization of our relations with the Peoples Republic of China rest upon the desirability for our own interests and those

of the international community of that outcome. It should not be interpreted as an effort to manipulate the geopolitical triangle in order to achieve short-term benefits. The stabilization of the strategic military competition cannot be fully realized without the participation of the Peoples Republic of China and until that is possible, there will remain significant limits on how far the Soviet Union and the United States can go on a purely bilateral basis.

Among other external factors, perhaps the most important for its influence on the Soviet-American relationship is the capability of the international community to absorb the thrust of the Soviet Union toward expanding its political influence and establishing itself as a global power. It is a characteristic mark of this period in history that the rise of the Soviet Union as a world power coincides with many other profound transformations in the international order. The Soviet Union seems not to have fully perceived how much the revolutionary transformations of this age have moved from the patterns of traditional Marxist-Leninist thought, and it is not clear how Soviet aspirations will adjust to the new patterns.

In this connection, a significant practical aspect of the question is the capability of the international community to deal with the tensions and potential conflicts between the developing nations and the industrialized nations. The intersection of the East-West and the North-South divisions in international politics requires a broadening of our perspectives over those to which we have been accustomed in the past. Here the balance between competitive and cooperative elements in the Soviet-American relationship has to be tested and assessed freshly in each particular circumstance. And here the balance between our national rivalry and our common stake in the solution of such global problems as resources, food, energy and the environment require a constant interplay between short-term advantages and longer-term imperatives. We can only claim to have approached the threshold of this problem, but events move with such rapidity that we may not be granted the luxury of a leisurely adjustment in our habitual modes of thought. To the codification of the restraints we seek in the Soviet-American competition as it bears on local conflict situations, we seek to add the more positive dimension of active cooperation between the Soviet Union and the United States in supporting international institutions that are emerging to deal with these global problems.

Those, Mr. Chairman, are some of the perspectives I would wish to emphasize in response to the questions before your subcommittee.

NEW APPROACHES IN THE FIGHT AGAINST INFLATION

(Mr. FRASER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FRASER. Mr. Speaker, the human material costs of our continuing failure to restore health to the economy are staggering. To a considerable extent, these costs should be seen as the price that we have paid in order to avoid further inflation. It is unfortunate that the American people are never given an explicit opportunity to decide how much they are willing to pay for various degrees of price stability. For instance, there is reason to believe that we could have added $100 billion to the GNP—over $1,300 per household—and could have reduced unemployment by over 1.5 million persons had we been willing to accept a 1-percent increase in the inflation rate. Would the American people regard this as too high a price to pay for an increment of price stability? I do not know.

In recent weeks there has been considerable discussion of the possibility of avoiding the trade off between unemployment and inflation. In a very interesting speech, entitled "The Great Stagflation Swamp" Arthur Okun, former Chairman of the President's Council of Economic Advisers has offered a number of innovative proposals for an anti-inflation program which is not anti-growth. Of particular interest is Mr. Okun's suggestion that the tax system be used to reward wage-price restraint. Much of our continuing inflation can be viewed as a distributive struggle in which everyone, be they workers or employers, attempts to raise the price of what is being sold, be it labor services or finished products. Since the overall result of this struggle is reduced GNP and high unemployment, partial guarantees with respect to its outcome may yield significant rewards. Mr. Okun's proposal merits careful consideration. The speech follows:

THE GREAT STAGFLATION SWAMP

(By Arthur M. Okun, Senior Fellow, Brookings Institution)[1]

I classify my after-dinner speeches as either indigestion talks or dessert talks. I warn you in advance that this is an indigestion talk. Actually, I much prefer spreading cheer than gloom; and I can be honestly cheerful about the short-term outlook. The slowdown that the economy has been experiencing is probably no more than a slight dent in our growth curve. Consumer spending got ahead of itself during the early months of this year, and it has been marking time more recently; businesses have reacted by slowing the buildup of their inventories. Meanwhile, the evidence on business spending for fixed investment has brightened considerably; capital spending is now firmly aboard the recovery bandwagon. In my judgment, the expansion still has a good deal of vigor and a substantial life-expectancy.

I expect the Carter administration to unveil a program of tax reform and tax reduction that will, on balance, buoy the expectations of investors and consumers in the short run and their incentives and purchasing power in the longer run. In the closing months of 1977, and during the first half of 1978, I expect some renewed reduction in unemployment and a stronger pattern of business activity.

If I spelled out that short-term story in detail for my address tonight, I might even persuade you and send you home happier. But I could do that only by ducking the longer-term outlook, which I regard as distinctly less favorable. The big issue—the $2 trillion question—is whether we are now travelling a road to sustainable prosperity accompanied by reasonable stability of the price level. In my judgment, the current strategy of economic policy probably does not lead to a happy ending. And that is why I believe we should not rely on simply more of that same strategy. As I see it, my message is a call for action rather than a forecast of gloom. I have some proposed remedies for the ills, and I will discuss them in detail. But I must warn you that the medicines are not pleasant-tasting, and that they are unconventional and unproven. I hope that my remarks will be thought-provoking and challenging; but, after this initial full disclosure, I shall not be surprised if some of you head for the exits.

AN OVERVIEW OF PROBLEMS AND PROSPECTS

In 1977, the United States will record a higher unemployment rate and a higher inflation rate than was experienced in any year between 1952 and 1972. We have not licked either of these two major problems; indeed, they have become intertwined and combined in a way that is historically unprecedented, and, by the verdict of many economic textbooks, theoretically impossible. This nation has had serious inflation problems before; it has had prolonged periods of excess capacity and idle manpower before; but it has never previously faced a serious inflation problem after a prolonged period of slack.

The co-existence of stagnation and inflation or, as it has been dubbed, "stagflation," is a new problem. Yet we are dealing with it with old policies that are unlikely to solve it. The Carter administration—in this respect, like the Ford administration—is trying through traditional fiscal-monetary measures, to attain both a sustained gradual recovery to full prosperity and a sustained gradual slowdown of inflation.

That strategy is not succeeding. The modest recovery targets have been attained reasonably well over the past 2½ years; the economic expansion has been a rather typical, standard-sized advance. But because the recession that preceded it was double-sized, it has brought us only half-way back to prosperity. Thus, we have paid heavily to keep our recovery moderate, and we have no relief from inflation during the expansion to show for these efforts.

The basic inflation rate has been stuck at 6 percent since the spring of 1975. Nor is there any basis for confidence that relief is forthcoming. Indeed, in my judgment, the inflation rate is more likely to accelerate than decelerate between now and 1979, even with a continuation of a slowly recovering economy. And, once it becomes undeniable that the gradualist anti-inflation strategy has failed, I fear that monetary and fiscal policy will be tightened anew to restrain the growth of the economy, thereby courting the next recession.

In my view, a serious effort to deal with inflation and slack simultaneously must go beyond traditional fiscal-monetary policies. It must invoke specific measures to hold down prices and costs in both the private and public sectors. It must break the wage-price spiral that has so firmly and stubbornly gripped the system. I believe that a number of techniques in pursuit of those objectives deserve serious consideration. Let me state emphatically that the worthy candidates do not include a return to price-wage controls, such as the Nixon administration conducted in 1971–73.

GETTING STUCK IN THE SWAMP

As an autobiographical obligation, I must record, that the most recent uphappy era of our economic history began late in 1965, while I served as an adviser to President Johnson. That is when the critical decisions were made to finance the Vietnam military build-up in an inappropriate inflationary manner. But the historical record will not support any "original-sin" explanation of inflation that would attribute our ills of a dozen years to that mistake. Every wartime period in the U.S. history has been marked by a severe inflation; indeed, the Vietnam

[1] The views expressed are my own and are not necessarily those of the officers, trustees, or other staff members of The Brookings Institution.

episode was the least severe. But the end of every previous war was marked by the end of inflation.

The unique experience of the seventies is that the end of the war was associated with an intensification of inflation. The double-digit inflation of 1973–74 was the product of many new mistakes and misfortunes: excessive monetary and fiscal stimulus in 1972, the devaluation of the dollar, the mismanagement of U.S. grain supplies, and the OPEC shock to energy prices.

Responding to that rip-roaring inflation, the makers of monetary and fiscal policy adopted extremely restrictive measures that brought on the most severe recession since the late thirties. That recession promptly cut the inflation rate to about 6 percent by the middle of 1975. But there we have been ever since, despite massive excess supplies of idle people, machines, and plants. If our economic institutions responded currently to a slump as they did in 1922 or 1938 or 1949, the recession and prolonged slack would not only have stopped inflation in its tracks but created a wave of falling prices.

In fact, the nature of price- and wage-making has been transformed in the modern era. We live in a world dominated by cost-oriented prices and equity-oriented wages. The standard textbook view of prices adjusting promptly to equate supply and demand applies only to that small sector of the U.S. economy in which products are traded in organized auction markets. And there it works beautifully—the prices of sensitive industrial raw materials fell by 15 percent between May 1974 and March 1975.

Elsewhere, however, prices are set by sellers whose principal focus is on maintaining customers and market-share for the long run. The pricing policies designed to treat customers reasonably and maintain their loyalty in good times and bad times rely heavily on marking up some standard measure of costs. For most products, prices do not rise faster than standard costs during booms nor do they rise less rapidly than costs during slumps.

Similarly, the long-term interest of skilled workers and employers in maintaining their relationships is the key to wage decisions in both union and non-union situations. The U.S. labor market does not resemble the Marxist model in which employers point to a long line of applicants ("the reserve army of unemployed") and tell their current workers to take a wage cut or find themselves replaced. Employers have investments in a trained, reliable, and loyal work-force. They know that, if they curbed wages stringently in a slump, they would pay heavily for that strategy with swollen quit rates during the next period of prosperity. In a few areas, where jobs have high turnover and thus employers and employees have little stake in lasting relationships, wages do respond sensitively to the level of unemployment. But, in most areas, personnel policies are sensibly geared to the long-run. Workers seek and generally obtain equitable treatment; and the basic test of equity is that their pay is raised in line with the pay increases of other workers in similar situations. Such a strategy introduces inertia in the rate of wage increase; it creates a pattern of wages following wages.

The customer and career relationships that desensitize prices and wages from the short-run pressure of excess supplies and demands have a genuine social function. They are not creations of evil monopolies but rather adaptations to a complex, interdependent economy in which customers and suppliers, workers and employers benefit greatly from ongoing relationships. In general, the persistence of inflation is not a tale of villainy. By any standard, and by comparison with other industrial countries, American unions have been remarkably self-restrained in recent years. Business, meanwhile, has kept its markups below levels that would be justified by the current cost of capital.

In combination, business and labor have been raising prices about 6 percent a year and increasing hourly compensation (wages, private fringes, and employers' payroll tax costs) by about 8 percent a year. The 8-and-6 combination allows a typical margin of real wage gains in line with the normal trend of productivity. Precisely for that reason, it becomes self-perpetuating. New wage decisions are made against the background of 8-percent advances in other wages and 6-percent increases in prices. And so they tend to center on 8 percent. Then, with hourly labor costs rising by 8 percent, businesses find their labor costs per unit of output up about 6 percent, and so their prices continue to rise by 6 percent.

There is no handle on either the wage side or the price side by which we can pull ourselves out of this stagflation swamp. Nor can any single industry or union provide a handle, except by making an unreasonable sacrifice of its own self-interest. It must do what everybody else is doing in order to protect itself. Analogously, if all the spectators at a parade are standing on tiptoe in an effort to get a better view, no individual can afford to get off his uncomfortable tiptoe stance. Ending the discomfort requires a collective decision.

As a qualification, let me note that my sympathy does not extend to the latest fashion in the wage-price spiral, whereby it is turning into a wage-price-projectionist spiral. In this new variant, a big wage hike is followed by a major price increase and then by a joint pilgrimage of business and labor executive to Washington to demand that the government stop foreign sellers from increasing their share of the American market. Fortunately, the Carter administration has generally resisted such unreasonable demands, instead insisting that business and labor face up to the consequences of their own actions on sales volume and employment.

PRODUCTION AND JOBS

Because prices and wages respond only a little to changes in total spending, production and employment respond a lot. And that is the fundamental limitation of fiscal and monetary restraints as a means of curbing inflation. Those policies clearly can put the lid on total spending for goods and services. The holddown in total spending is then split between a cutback in production and a slowing of inflation. But that "split" is the result of price and wage determination; it is not controlled by Washington. We learned—or should have learned—in the past three years that the split is extremely unfavorable. The reaction to weaker markets is loaded with layoffs, no help-wanted signs, cutbacks of production schedules, and slashes in capital budgets. It is, at most, sprinkled with holddowns in prices and wages. To save one point on the basic inflation rate through policies that restrain total spending, we lose more than 5 points—easily $100 billion—of our annual real GNP.

The recession and slack of 1974–77 have extracted a toll of $500 billion in lost production of capital goods and consumer goods that could have added to our productivity and our standard of living. That cost should be clearly recognized, although it must be equally recognized that there was, and is, no toll-free route of escape from our problems. In fact, the toll keeps mounting. After thirty months of economic expansion, we have moved only about half the distance from the depths of the recession to a reasonable and feasible level of prosperity or full employment. Serious statistical studies designed to estimate the unemployment rate associated with reaonably balanced—neither slack nor tight—labor markets converge on a range between 5 and 5½ percent. They demonstrate that, with today's structure of labor markets, full employment certainly cannot be defined as a 4-percent unemployment rate. But neither can it be pegged anywhere near our current 7.1 percent. Since unemployment has come down from 9.0 percent at the worst of the recession to 7.1 percent, we are about half-way to a reasonable cyclical target in the zone of 5.0 to 5.5 percent.

The excess of nearly 2 percentage points in the unemployment rate is not a structural phenomenon; it is not concentrated in "unemployables," secondary workers, or groups especially affected by government benefit programs. It is instructive to compare the unemployment rates of eminently employable groups today with their 1973–74 average: [2]

[In percent]

	August 1977	*Avg. 1973–74*
Married men	3.5	2.5
Craftsmen	5.5	4.0
Factory workers	7.0	5.0
"Job losers"	3.4	2.1
[Weeks]		
Average duration	13.5	9.8

Unemployment remains high because production has not grown enough to generate the jobs required to get us back to prosperity. The behavior of the unemplopment rate in recent years poses no mystery. Indeed, it has moved remarkably true to form in relation to the growth of production. Between 1973 and 1977, our annual growth rate is averaging 2 percent, and such a substandard growth performance entails a much increased rate of unemployment. Economists can disagree about whether the nation's "potential growth rate"—the rate of growth of real GNP that maintains a constant unemployment rate—is as low as 3.3 percent or as high as 4 percent, but it surely is not 2 percent. If I use my favorite number, 3¾ percent, for the potential growth rate, the 2-percent average actual growth rate since 1973 would be expected to raise the unemployment rate by 2.3 percentage points, in line with a rule-of-thumb formula that I developed in 1961. That would point to an unemployment rate a little above 7 percent currently, and that is where we are.

The potential growth rate of the economy is influenced by trends in productivity and in labor-force participation. In the seventies, a rising fraction of women and young people have chosen to enter the labor force. That increase in "work ethic" permits the economy to enjoy greater growth without encountering tight labor markets. Indeed, in its absence, the rather disappointing trend in productivity would have significantly lowered our trend of potential growth. To be sure, if women and teenagers stopped hunting for jobs and went back to their knitting and ball-playing respectively, our unemployment figures would be lower. But our labor markets would be tighter, and the potential of the economy would be reduced. The increased labor-force participation of these workers is correctly viewed as an opportunity and not a burden.

At the level required to bring the unemployment rate down to the middle of the 5.0-to-5.5 zone, our real GNP would be about $100 billion—or 5½ percent—above its present level. The evidence suggests that our plant capacity could accommodate that extra output without strain, so long as it was broadly spread across sectors. Such a judg-

[2] In 1973, when the overall unemployment rate was 4.9 percent, labor markets seemed a bit tight, although they contributed very little to the upsurge in inflation. In 1974, at a 5.6 overall rate, they seemed a bit weak on average.

ment must rest on estimates of operating rates, which are admittedly imperfect. But they are not likely to be seriously biased, either upward or downward. The estimate of capacity may inappropriately include some outmoded facilities, but it is just as likely to omit some rehabilitated facilities.

In short, idle resources and sacrificed output continue to represent an enormous national extravagance. Economists ought to be devoting more of their efforts and ingenuity to correcting that waste and less to talking it away or defining it out of existence.

THE COST OF INFLATION

Just as 7 percent unemployment is not full employment, so 6 percent inflation is not price stability. For the past two years, inflation has been reasonably steady and relatively well-predicted, and yet it remains domestic public enemy No. 1 in the view of a majority of the American people. I find that entirely understandable. In a system that rests on the dollar as a yardstick, a score-keeping device, and a basis for planning and budgeting, the instability of the price level adds enormously to uncertainty and risk.

In our institutional environment, most people cannot hedge their wealth or their incomes against inflation. The single-family home has been the only major asset that has served as an effective inflation-hedge during the past decade; and it is obviously not a feasible outlet for gradual maintained flows of saving. Common stocks have been miserable failures as inflation hedges; savings deposits and life insurance offer no effective inflation protection.

A small minority of Americans have obtained cost-of-living escalators that protect their real incomes effectively from inflation. But their escalated wages are passed through into prices and thereby destabilize the real incomes of the majority whose earnings are not indexed. Escalators are a means of passing the buck among groups within our society, not of protecting the buck for the whole of society.

Recent professional discussions of inflation-adjusted accounting and inflation-adjusted taxing underline the importance of the dollar yardstick in our institutional structure. Efforts to develop a "real" yardstick as a substitute for the dollar founder on legitimate controversy and unavoidable complexity. Understandably, businessmen typically rely on the dollar. Most continue to set their prices on the basis of known actual costs rather than hypothetical replacement costs for both inventories and capital facilities. And FIFO "pricers" recognize that FIFO accounting tells the true story of their profits, even though it costs extra taxes. But they also know that the dollar is not reliable in an inflationary world. Thus, the gap between actual, historical costs of old plant and equipment and current or predicted costs of new facilities creates agonies in capital budgeting and weakens investment.

This country has not adapted, and is not adapting, to 6-percent inflation. The tolerable rate of inflation in this society is considerably below 6 percent. In the early sixties, 1½ percent inflation was generally regarded as tolerable; in the early seventies, a 3-percent rate was widely accepted. If we were now to label 6 percent inflation as acceptable, who could believe that such a decision was the final turn of the ratchet? This country needs an effort to restore the reliability of the dollar, not a set of innovations to replace it; it needs an effort to curb inflation, not a program to learn to live with it.

With current prospects and policies, the basic inflation rate is not likely to drop below 6 percent during the remainder of the present economic expansion. To be sure, the inflation rate fluctuates from quarter to quarter, and minor wiggles and jiggles tend to generate vain hopes and groundless fears. Currently, declines in farm prices and a downward blip in mortgage interest rates are generating favorable news. That is genuinely reassuring in proving that the jump in inflation to an 8 percent rate earlier this year was transitory. But the latest figures do not signify any fundamental improvement that is likely to be sustained.

The inflation outlook is a mixed bag. It has favorable elements: the weakness of farm and metal prices, and indeed of world commodity prices in general; the light calendar of union wage-bargaining in 1978. But it has unfavorable components as well. Nonunion wages, which have risen much less rapidly than union wages in the last few years, must be expected to accelerate to some degree. A substantial segment of industry will try to widen markups and profit-margins, particularly to narrow the gap between the historical and the current costs of capital facilities. Long before the economy reaches a state of excess demand, a return to healthier markets would embolden many businessmen to raise their markups.

Finally, our chance for some net relief from inflation has been reduced by a new wave of legislative actions that add to particular costs and prices. Employers' hourly labor costs will be raised by hikes in payroll taxes in January for both social security and unemployment insurance. Further increases in payroll taxes are contemplated to finance proposed reforms of social security. The minimum wage seems slated to move up from $2.30 to $2.65 next year. The first installment of the well-head tax on crude oil is scheduled to take effect in 1978.

Government farm programs have re-instituted acreage cutbacks—deliberately reducing the productivity of our agriculture. Many of these cost-raising measures have *some* justification. No one of them spells the difference between price stability and rampant inflation. But, in combination, they may well add 1½ percent to the inflation rate by late 1978.

This wave of cost-raising measures deserves far more attention and scrutiny than it has received. Reliance on such measures is nothing new, but their total magnitude does set a new record. The Congress may have been tempted to load costs on the budgets of consumers and employers in order to avoid loading more onto the federal budget. In several of these areas, the President initially advanced proposals that were admirably restrained, but then compromised in the face of strong political opposition. (When some of the press welcomes such instances as evidence of the President's education in the ways of Washington, I cannot share the enthusiasm.) Meanwhile, the financial and business community has been so preoccupied with Thursday-afternoon reports on M_1 and federal deficit reestimates that it has missed the big new inflationary game in town.

All things considered, my best guess is that, between now and 1979, inflation is more likely to accelerate than to decelerate—and not because of overly rapid growth or excess demand.

With that inflation forecast, a good growth performance in 1979 and 1980 seems unlikely. Bad news on inflation would turn into bad news for prosperity in several ways. First, it would mean higher interest rates. Short-term interest rates cannot be responsibly held below the inflation rate indefinitely. To me, an interest rate on Treasury bills above 7 percent would sound an alarm; it would generate disintermediation and create a mortgage famine that would starve home-building. Second in an environment of stud-born and intensifying inflation, the makers of fiscal policy would be understandably reluctant to provide any stimulus to the investor or consumer that may be needed to sustain growth. Third, bad news on inflation would heighten consumer anxiety and once again weaken discretionary household spending.

The connection between worsening inflation and a subsequent recession is not magic or automatic, but it is genuinely built into the attitudes and expectations of our public and our policymakers. "Inflation-backlash" is a reality. Given that reality, we simply cannot take the risk of doing what comes naturally and hoping for good luck.

Thus, my principal message is that we cannot count on our current policies to pull us out of the stagflation swamp. The evidence based on the experience of recent years has accumulated and become overwhelming. "Patience and fortitude" is no longer an acceptable response to our disappointments. The time has come to face the likelihood that we have a losing hand, and to deal a new one.

A FISCAL-MONETARY CURE?

Some who accept my grim verdict about current policies call for a new monetary-fiscal strategy. And they point in opposite directions. On one side, the argument takes these lines. If a slack economy is not curing inflation, then why take the high costs of slack? Why not try to grow out of the inflation with stimuli that have reliably spurred growth every time they have been applied in the past—like major permanent tax cuts backed up by a monetary policy committed to low interest rates?

On the other side, the reverse case is made. If inflation is not abating with 5-percent real growth, isn't it clear that we need more restrictive policies to slow the economy down until inflation responds?

These polar-opposite proposals share in common the justified anxiety that our current act of juggling two eggs may lead to both getting broken. But I fear that they have one other thing in common that is less admirable. They are asking us to kid ourselves. The expansionists are right that production and jobs are good things—but not because they alleviate inflation. Any major stimulative strategy—taken alone—will hasten the day that inflation accelerates and that inflation-backlash sets in. The restrictions are right that a big enough dose of restraint would curb inflation—but only at the price of some $100 billion of output per point of inflation-reduction.

Some groups in the business and financial community would, no doubt, applaud a hypothetical announcement that the government was cutting its spending by, say, $30 billion and that the Federal Reserve was now setting monetary targets aimed at say, only 7 percent growth of nominal GNP. But when government contracts were rescinded, when banks began closing loan windows, when cash registers stopped ringing, the responses are entirely predictable—new waves of layoffs, new slashes in capital budgets, a collapse in productivity, and new demands that the government stop imports, shorten workweeks, and launch programs of makework jobs.

Perhaps the most appealing variant of the restraint prescription is the call for a very gradual, but consistently maintained, slowing of monetary growth and reversal of fiscal stimulus. As far as I can see, that strategy—taken alone—offers us a long dull headache instead of a sharp acute one but no smaller total amount of pain. Moreover, its plan to curb demand gently enough to avoid a recession surely sets a new record for fine-tuning. It reminds me of the story about the Greek boy who thought he could pick up a full-grown bull if he started with a new-born calf and lifted it every day. The first little trimming of total demand is a mere baby calf. It would not do production and employ-

ment much harm (nor would it do our inflation performance much good). But, as time progresses, that calf would grow into a bull—and we cannot count on lifting it.

A PROGRAM FOR PROSPERITY AND PRICE STABILITY

We need an anti-inflation program that is not an anti-growth program, and that goes beyond traditional fiscal and monetary measures. In the past three years, I have assembled long menus of measures that might hold down costs and prices without holding down production and employment. Tonight, I offer a specific set of proposals. I do so uncomfortably—I left the business of packaging four-point prorgams nearly a decade ago, and I prefer to stay out of it. I do so diffidently—because the particular facets of the program have not been polished by staff work or constructive criticism. But I do so enthusiastically because I am convinced that the general approach it embodies represents our best hope for getting out of the stagflation swamp.

No net federal cost-raising. First, the administration should set a target of zero net cost-raising measures for 1978, and should report quarterly to the American people on the achievement of that target. Any new cost-raising governmental action that imposes higher labor costs on employers or higher prices on consumers would have to be neutralized by a federal cost-reducing measure—lightening the burden of some regulation or providing a cost-cutting subsidy. Thus, we would be insured against any encore of the cost-raising actions of 1977.

Sales-tax-cut incentive. Second, the federal government should institute a grant-in-aid program that would defray half the revenue loss of any state or city that reduced or repealed its sales taxes during 1978. Mayors and governors obtaining the federal aid for sales tax cuts would pledge not to increase other cost-raising taxes during the period (but could raise income taxes). An allocation of $6 billion of federal outlays for this program would fund a 1 percentage point cut in the consumer price index.

Sales taxes are part of the cost-of-living—both genuinely and statistically. Reductions in them would hold down consumer prices and have anti-inflationary effects on wages that are linked, formally or informally, to the cost of living.

Tax relief for price-wage restraint. Third, a tax-relief incentive should be offered to workers and businessmen who enlist in a cooperative anti-inflationary effort. To qualify for participation, a firm would have to pledge, at the beginning of 1978, to hold the average rate of wage increase of its employees below 6 percent and its average rate of price increase below 4 percent (apart from a dollar-and-cents passthrough of any increases in costs of materials and supplies) during the course of the year. In return for participation, employees of the firm would receive a tax rebate (generally through withholding) equal to 1½ percent of their wage or salary incomes with a ceiling of $225 per person; and the firm would receive a 5 percent rebate on its income-tax liabilities on domestic operating profits.

Any firm covered by a collective bargaining contract would be obliged to consult with union representatives before deciding to participate in the program. Typical workers who were counting on wage increases of 8 percent (before-tax) or less would benefit from participation.

I would hope for strong moral suasion, led by the President himself, to enlist participants in the program. But non-participation would be a matter of free choice and would not be subject to any penalty. Each participating firm would file a statement of compliance at the end of the year, which would be subject to audit by the Internal Revenue Service.

The total cost in federal revenues of the cooperative restraint program might approach $15 billion: with the sales tax grants, it could total $20 billion. Tax cuts of that magnitude are being widely espoused in the context of the forthcoming tax reform program. I would postpone the tax cuts in the reform package, with the conviction that a pro-growth, anti-inflation program deserves a more urgent priority on the nation's agenda.

Obviously, the increase in purchasing power and profitability provided by the anti-inflationary tax cuts would stimulate consumption and investment. Indeed, the prospect of a credible attack on inflation could reduce the uncertainty that now constricts capital budgeting. If the program achieves its objective of a mutual and balanced de-escalation of wages and prices, there would be no overhang of "catch-up" wage and price increases in 1979. But opportunities should be held open for renewing the program (or phasing it out more gradually) in an effort to cut inflation once again.

New GNP targets. Fourth and finally, the administration and the Federal Reserve, in cooperation, should set forth revised fiscal and monetary targets designed to ensure full recovery and lower inflation. For 1978, those targets should aim for an encore of the increase in nominal GNP of 1977—about 10½ percent—with more real growth and less inflation. For 1979 and 1980, they should aim to bring the growth of nominal GNP progressively into single-digit territory. Thus, they will call for declining federal deficits and slowing money growth (appropriately adjusting for any further significant shifts in velocity). Such a fiscal-moneary strategy should strongly reinforce the credibility of the anti-inflation program and help to ensure that we don't slide back into the swamp.

Still, the first requirement is to get out of the swamp. My program is neither a panacea nor a long-run insurance policy against inflation and stagflation. But its approach offers a good chance of bringing about a mutual de-escalation of prices and wages, and an end to the insidious wave of governmental cost-raising actions. It recognizes that traditional monetary-fiscal policies are powerful tools to promote full recovery and to prevent a resurgence of excess-demand inflation. But it also recognizes realistically that they cannot, by themselves, cure stagflation. That new problem requires the additional help of new remedies, which, of necessity, are unconventional and unproven. Whether the new remedies become politically feasible depends on whether sophisticated Americans, like those in this audience, face up to the reality that we are likely to remain stuck in the stagflation swamp with current policies, and whether they are willing to consider seriously—and to criticize constructively—alternative routes to noninflationary prosperity.

ONEIDA COMMUNITY CELEBRATES 100 YEARS

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HANLEY. Mr. Speaker, I would like to take a moment to bring attention to a significant anniversary being observed this year in the cities of Oneida and Sherrill, N.Y.

A century ago, the manufacture of silverware began in these communities as a practical means of supporting a unique social experiment. One hundred years later the experiment has ended, but the business continues. And, today, Oneida Ltd., is the Nation's largest maker of stainless steel tableware.

The story behind the Oneida Community, as it was known in the late 19th century, is one of the more interesting socio-religious experiments in our Nation's history.

The community's founder, John Humphrey Noyes, was an ordained minister, who, in 1848, led a group of 80 people from Vermont to join a few sympathizers in the upstate New York village of Oneida. Reverend Noyes had concluded that the second coming of Christ occurred in 70 A.D. The millennium, therefore, had arrived, and it was no longer possible to follow the old ways of alternate sinning and repenting. Reverend Noyes' new perspective was: Sin no more, repent no more, so work to eliminate that worst of all evils—selfishness.

The small community, under the zealous leadership of Reverend Noyes, organized itself into an almost absolutely unselfish commune. This meant that not only did personal property have to be sacrificed to the community interest, but the individual also had to relinquish all claims. In place of the normal family unit, the group family and group family living ensued.

The group's goals were summed up in one word, which carried for the group an almost mystical meaning: improvement, improvement morally, spiritually, intellectually, and physically through hard, shared work, men and women alike.

To support their commune environment, family members directed their energies to producing needed items for their contemporary neighbors; canned fruits and vegetables, steel animal traps, carpet bags, straw hats, mop handles and sewing silk. This, of course, did not come easy, but an evangelical determination brought the group through, and their items sold well. In the early 1870's, they numbered roughly 300 total.

One of the last functional items which the community learned to manufacture was silver tableware: knives, forks and spoons. This manufacture began in 1877, just 3 years before the religiously oriented community dissolved itself. After the death of Reverened Noyes, and divisiveness caused by the increased criticism of the local clergy and civil authorities, it was decided to abandon this religious and social experiment. The transition to an ordinary manufacturing operation was carried out smoothly by a simple unanimous vote of the commune members. They formed a stock company known as Oneida Community, Ltd., now known commonly as Oneida Silversmiths.

Oneida Silversmiths' dedication to "improvement" resulted in vast acceptance of its product. Its attention to detail and insistence on quality became familiar to consumers in the Northeast and, eventually, the whole Nation.

In both World Wars, Oneida Silversmiths made invaluable contributions. Although it manufactured ammunition clips, rifle sights, parachute hardware and tableware, its real specialty was the

production of a wide range of surgical instruments, of which the company became a principal source.

In a highly competitive field, Oneida is recognized as a leader in marketing strategy. As long ago as 1910, Oneida was the first company in America to use full page, full color ads. Today, it is the only silver company to advertise on all three national television networks.

With manufacturing facilities in Canada, Northern Ireland, and Mexico, and sales well over $80,000,000 last year, Oneida Silversmiths is a long way in time and technology from the small commune of 1877.

But, in attitude and commitment to "improvement," it is very clear, indeed.

REMARKS OF CONGRESSMAN JAMES M. HANLEY BEFORE JOINT NATIONAL NEWSPAPER ASSOCIATION AND AMERICAN NEWSPAPER PUBLISHERS ASSOCIATION

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HANLEY. Mr. Speaker, on Friday, October 28, 1977, I was privileged to attend the National Newspaper Association's annual convention in Houston, Tex. At that convention I addressed a unique joint session of the postal committees of the National Newspaper Association and the American Newspaper Publishers Association.

These two groups were meeting together for the first time in order to work on common postal problems and to express solidarity of support for H.R. 7700, the Postal Service Act of 1977.

I would like to share with my colleagues the remarks which I made before the joint postal committees that express much of the philosophy behind the bill.

REMARKS OF CONGRESSMAN JAMES M. HANLEY

On Tuesday, October 18, the House Post Office and Civil Service Committee approved the most significant piece of postal legislation since the Postal Reorganization Act of 1970.

The Postal Service Act of 1977, H.R. 7700, was ordered reported by very strong bipartisan majority of 19–4. I have every expectation that it will receive equally strong support when it comes to the House.

Why has it received such approval, particularly when both the Administration and the Postal Service have looked upon it with a severely jaundiced eye?

The answers are reasonably simple.

It has received broad support because it is the result of years of study by Congress—the only group in the country outside the Postal Service itself which has focused extensively on postal problems.

It has received broad support because it approaches postal problems in a frank and direct manner—recognizing that we all have to pay a price for good postal service at reasonable rates.

And it has received broad support because it helps meet the needs of our constituents who have been pressing constantly for a Postal Service which cares about their wants and needs.

The major features of the bill are reasonably well known.

The President would appoint the Postmaster General and the Board of Governors would be abolished.

The "breakeven" concept would be abolished and the public service functions of the Postal Service recognized by increasing authorizations for appropriations.

Congress would be able to review and, if necessary, veto major changes in postal rates and nationwide service policies.

Congressional intent in the 1970 Act would be reaffirmed by requiring that postal rates be more closely related to costs but at the same time include important non-cost factors.

These and the other provisions of H.R 7700, are important. Nevertheless, they outline only superficially the conceptual superstructure of the bill—that a government agency charged with service to the people cannot function properly in isolation from the elected leaders of government.

We did many things right in 1970—and H.R. 7700 does not move to change them. We established a modern system of labor relations, allowed the Postal Service to borrow money for capital projects, revised and modernized contracting procedures, removed Postmasterships from the clutches of political patronage and established a more objective method for establishing rates.

But we let our enthusiasm for creating something new get out of hand.

We created an organizational monster which in a real sense was accountable to no one.

It was not accountable to the President because it was run by a Postmaster General appointed by a very part-time Board of Governors, appointed for nine-year terms.

It was not accountable to Congress because it did not rely on Congress for the bulk of its operating funds. And those appropriations which were authorized permanently were scheduled to be eliminated over a period of years.

And, of course, it was not accountable to any stockholders, as it would have been if we had turned over mail delivery to a private corporation.

The result has been well documented here in Congress. Suffice it to say that it has fostered arrogance and insensitivity which has cast a distinct aura of unreality around the actions and pronouncements of top postal management.

This is the distinct impression I get from Members of Congress, who tend to get upset when they are ignored by government agencies. It is also a distinct chorus from major mail users, contractors who deal with the postal service, publishers and organizations which have become enmeshed in often meaningless red tape and postal employees from mail handlers to (and above) postmasters.

Above all, it comes from our constituents. Surveys show that the majority of citizens are reasonably satisfied with mail delivery. That may be so, but the mail to our offices and meetings back home indicates that Americans of all kinds are more fed up with mail delivery and the Postal Service than ever before.

This, let it be said, is a fact of political life that no responsible elected official can or should ignore in a democracy.

And this brings me to a major reason for these remarks—to express strongly my perplexity over the Administration's opposition to most of the goals we are trying to achieve in H.R. 7700.

It is opposition based on ignorance. It is an opposition based on a lack of understanding of the role which the Postal Service plays in American life. Most disturbing, it appears to be opposition based on indifference.

When Bowman Cutter of the Office of Management and Budget testified before a joint hearing late in September, his unveiling of the long awaited Administration postal policy was a shock. A shock not because of the content—which was critical of our approach—but because of its shallowness and lack of research and supporting material.

This, after we had postponed completion of hearings for two months just because we were told the policy was "imminent." This, after a group in the White House was purportedly working on a policy statement since the first of the year.

The erstwhile Commission on Postal Service which we created last year, produced a seven volume report with almost a hundred pages of conclusions and recommendations in less time.

I am saying this not to be critical of the President. I am a strong supporter of his Administration. I am merely saying that in this particular instance, the people who have developed the administration's policy have done the President and the Congress a disservice. Whether it was through inadvertance or purposeful, a disservice has been done just the same.

H.R. 7700 as it is now gives the President a great opportunity to form a partnership with Congress to get the Postal Service back on track again—and keep it there.

A key point is the appointment of the Postmaster General by the President. While Administration spokesmen generally support this provision, even here they hedge their bets by insisting on a six-year term and retention of the Board of Governors to set postal policy.

The President should be insulated—so the argument goes—from the decisions of an unpopular government agency.

I heartily disagree. As I have said before it is both bad politics and bad government. No political figure should be insulated from the effects of programs under him on the public. In the final analysis, no public figure can be insulated from public reaction, so he might as well exercise as direct control as possible.

By appointing the Postmaster General, the President can exercise tremendous positive influence on the Postal Service.

He should, and I am sure would, appoint a person with not only great business acumen but with a finely developed sense of the demands of public service.

The President's advisors express concern that some provisions of H.R. 7700 could lead to uncontrollable spending by the postal service.

Not so, particularly with Presidential appointment power. The President would pick a competent manager. He would then in no uncertain terms, order him to provide the best possible service in the most economical manner.

If the appointee fails, the President will soon know it in the same way we find out, through irate constituents. Then the President will fire the Postmaster General and find a new one who can do the job.

This is a luxury he does not have under the present system, and it is one luxury he cannot do without.

On top of the incentives for good management built into the appointment process, they are also built into the financial aspects of H.R. 7700.

The Post Office and Civil Service Committee has determined that 15% of the Postal Service's prior year's operating expenses is a good and reasonable figure to pay the Postal Service for the vast public service role it performs.

If that was where we left it—a massive subsidy in perpetuity with no strings at-

tached—some administration criticism would certainly be justified.

But this is not where we left it. We tied some of the authorization to specific functions—the maintenance of small post offices, continuation of six-day delivery, and a large, new research and development program.

Then we emphasized that this was not a permanent authorization. It lasts for only two fiscal years, then a new authorization must be granted. Thus, we on the Post Office and Civil Service Committee—and the rest of Congress—will have a continuing role in overseeing postal finances and programs through a process of periodic authorization.

On top of this, it has to be reiterated that H.R. 7700 is an authorization bill, not an appropriation bill. Should a miracle befall us and financial sunshine bathe the Postal Service in a new light, the full authorization does not have to be appropriated.

So here, again, is an area where the President can have immense influence on postal policy. He and his Postmaster can work with Congress on a continuing basis to develop periodically new authorization legislation which meets the needs of the Postal Service at that particular time. Through the yearly appropriations process, the President and his Postmaster General can fine tune the request of the Postal Service for funds and, if necessary, specify to a greater extent what the money for that particular year should be used for.

H.R. 7700, therefore, provides a judicious blend of oversight and flexibility which can be used by both the President and Congress to build a better Postal Service.

When the Postal Reorganization Act of 1970 was passed it was generally believed that postal reorganization would result in improved service, stabilized postal rates, enormously improved productivity and efficiency achieved through modernization and mechanization, and exceptionally capable management brought about by separating postal management from a direct relationship with the Administration and partisan politics.

Seven years' experience has demonstrated that the achievements of postal reorganization have fallen far short of everyone's expectations. The high level of service promised has not been achieved. Postal Service claims of overnight delivery are artfully disguised by requirements for mailing zip-coded letters by 5:00 o'clock and limiting delivery to nearby areas, stands far below the actual performance prior to postal reorganization. Delivery standards beyond local areas can hardly be described as rigorous.

Despite three substantial rate increases in five years, billions of dollars in various appropriations, and large borrowings to meet operating expenses, the Postal Service at the end of fiscal year 1977 had a deficit of $1.2 billion. The Postal Service's equity of $1.7 billion in 1971 plummeted to minus $429 million by the end of 1976. The bulk mail system, costing nearly $1 billion and originally estimated to earn a return investment in excess of 30 percent is now expected to earn a return of merely 3 percent, and even this may prove to be overly optimistic. Postal productivity has slightly improved—fewer employees are handling more mail—but since postal costs have increased from $9.2 billion in 1971 to approximately $17 billion in 1978, dollar efficiency—pieces of mail handled per dollar spent—has declined sharply. Finally, the principal effects of removing top level postal management from a direct relationship with the Administration and partisan politics are that the Postmaster General is frequently unresponsive to the Congress and the Administration has not yet come to grips with major postal policy problems.

These are some of the deficiencies H.R. 7700 is designed to correct. It is not a perfect bill, but it does move in the right direction.

I strongly hope that Administration spokesmen will reassess their positions and work with us in Congress toward the common goal of a better Postal Service.

Most of you recognize the significance of H.R. 7700 and have given us strong support. I thank you for your help. But, we are really just beginning the struggle. So I want to solicit your continuing and active help. We need your help in contacting every Member of Congress and educating him about the important features of H.R. 7700. And we need your help in educating the public about the complications of postal finance and rates.

It has been a great pleasure to be here this morning. Thank you.

PERSONAL EXPLANATION

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, on rollcall No. 719, House Resolution 871, a bill to continue the Select Committee on Ethics, which passed the House 385 to 22, I was present in the Chamber but in a conference on the energy bill and, as a result, inadvertently failed to vote, having voted on all the other suspension bills today. I would like the RECORD to show I would have voted "yea."

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. EDWARDS of Oklahoma (at the request of Mr. RHODES), for today and the balance of the week, on account of official business.

Mr. CORCORAN of Illinois (at the request of Mr. RHODES), until further notice, on account of personal illness.

Mr. DEL CLAWSON (at the request of Mr. RHODES), from Friday, October 28, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. SIKES, for 30 minutes, today, and to revise and extend his remarks and include extraneous matter.

(The following Members (at the request of Mr. PRESSLER), and to revise and extend their remarks and include extraneous matter:)

Mr. EDWARDS of Oklahoma, for 20 minutes, today.

Mr. GRASSLEY, for 10 minutes, today.

Mr. KEMP, for 10 minutes, today.

Mr. YOUNG of Alaska, for 15 minutes, on November 1.

Mr. EDWARDS of Alabama, for 5 minutes, today.

(The following Members (at the request of Mr. KOSTMAYER) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. HARRIS, for 10 minutes, today.

Mr. DODD, for 5 minutes, today.

Mr. OBERSTAR, for 5 minutes, today.

Mr. VANIK, for 5 minutes, today.

Mr. KOSTMAYER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. HAMILTON, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,127.

Mr. FRASER, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $1,207.50.

Mr. ROSTENKOWSKI, to revise and extend his remarks prior to passage of H.R. 4458.

(The following Members (at the request of Mr. PRESSLER) and to include extraneous material:)

Mr. MICHEL.

Mr. JOHN T. MYERS.

Mr. CARTER in three instances.

Mr. HAMMERSCHMIDT.

Mr. CUNNINGHAM.

Mr. MARRIOTT.

Mr. LAGOMARSINO in two instances.

Mr. WALKER.

Mr. WALSH.

Mr. HAGEDORN.

Mr. STEERS in two instances.

Mr. ABDNOR.

Mr. ASHBROOK in three instances.

Mr. COLLINS of Texas in two instances.

Mr. KEMP in three instances.

Mr. DORNAN in two instances.

Mr. DERWINSKI.

(The following Members (at the request of Mr. KOSTMAYER) and to include extranous matter:)

Mr. WALGREN.

Mr. MURTHA.

Mr. ANNUNZIO in six instances.

Mr. ANDERSON of California in three instances.

Mr. GONZALEZ in three instances.

Mr. MURPHY of Illinois.

Mrs. KEYS.

Mr. CARNEY in two instances.

Mr. DENT in two instances.

Mr. BROWN of California in 10 instances.

Mr. HARKIN.

Mr. ROSENTHAL.

Mr. JACOBS in two instances.

Mr. MAZZOLI in two instances.

Mr. ROGERS in five instances.

Mr. AUCOIN.

Mr. MOSS.

Mr. FORD of Michigan.

Mr. KOCH in three instances.

Mr. OTTINGER.

Mr. DODD.

Mr. RISENHOOVER.

Mr. FRASER.

Mr. GIBBONS.

Mr. DANIELSON.

Mrs. BOGGS.

Mr. ROE.

Mr. DINGELL.

Mr. BRECKINRIDGE.

Mr. FITHIAN.

Mr. NEDZI.

Mr. BURKE of Massachusetts.

SENATE BILLS, JOINT AND CONCURRENT RESOLUTIONS REFERRED

Bills and a joint resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 336. An act for the relief of Fon-Chiau Shih; to the Committee on the Judiciary;

S. 491. An act to amend the act entitled "An act to authorize establishment of the Fort Union Trading Post National Historic Site, North Dakota and Montana, and for other purposes," approved June 20, 1966 (80 Stat. 211), and for other purposes; to the Committee on Interior and Insular Affairs;

S. 553. An act to enlarge the boundary of the Cibola National Forest; to the Committee on Interior and Insular Affairs;

S. 579. An act for the relief of Imelda C. Jayag Potter; to the Committee on the Judiciary;

S. 612. An act for the relief of Timmy Lao Olavere; to the Committee on the Judiciary;

S. 920. An act relating to the disposition of certain recreational demonstration project lands by the State of Oklahoma; to the Committee on Interior and Insular Affairs;

S. 1104. An act to direct the Secretary of the Interior to establish the Legionville National Historic Site in the State of Pennsylvania; to the Committee on Interior and Insular Affairs.

S. 1110. An act for the relief of Juanita Binabise; to the Committee on the Judiciary.

S. 1136. An act for the relief of So San Kim; to the Committee on the Judiciary.

S. 1165. An act for the relief of Chester Chun Ket Young (also known as Chun-Kit Yeung); to the Committee on the Judiciary;

S. 1166. An act for the relief of Maria Elena Jumalon; to the Committee on the Judiciary.

S. 1318. An act to permit the State of Hawaii to use the proceeds from the sale, lease, or other disposition of certain real property for any public purpose; to the Committee on Interior and Insular Affairs;

S. 1400. An act for the relief of Heung-Sang Chun (also known as Margret Chun); to the Committee on the Judiciary;

S. 1413. An act for the relief of Isaias Berrones Reyes; to the Committee on the Judiciary.

S. 1618. An act for the relief of San Yun Yoon; to the Committee on the Judiciary;

S. 1852. An act for the relief of Miss Meema Muser; to the Committee on the Judiciary;

S. 2033. An act to provide for conveyance of certain lands in the Wenatchee National Forest, Washington, by the Secretary of Agriculture; to the Committee on Interior and Insular Affairs;

S. 2101. An act to modify the boundary of the White River National Forest in the State of Colorado; to the Committee on Interior and Insular Affairs;

S.J. Res. 78. Joint resolution to authorize and request the President to proclaim the second week of April of 1978 as "National Medical Laboratory Week"; to the Committee on Post Office and Civil Service; and

S. Con. Res. 53. Concurrent resolution authorizing the printing of additional copies of hearings entitled "Panama Canal Treaties"; to the Committee on House Administration.

ENROLLED BILL SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 1139. An act to amend the National School Lunch Act and the Child Nutrition Act of 1966 in order to revise and extend the summer food program, to revise the special milk program, to revise the school breakfast program, to authorize the Secretary of Agriculture to carry out a program of nutrition information and education as part of food service programs for children conducted under such act, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on October 28, 1977, present to the President, for his approval, bills of the House of the following titles:

H.R. 2521. To provide for the mandatory inspection of domesticated rabbits slaughtered for human food, and for other purposes;

H.R. 2850. To suspend until the close of June 30, 1978, the duty on certain latex sheets, and for other purposes;

H.R. 2982. To suspend until the close of June 30, 1980, the duty on synthetic tantalum/columbium concentrate, and for other purposes;

H.R. 3093. To provide duty-free treatment for certain copying lathes used for making rough or finished shoe lasts and for parts of such lathes, and for other purposes;

H.R. 3259. To continue to suspend for a temporary period the import duty on certain horses, and for other purposes; and

H.R. 9090. To exempt disaster payments made in connection with the 1977 crops of wheat, feed grains, upland cotton, and rice from the payment limitations contained in the Agricultural Act of 1970 and the Agricultural Act of 1949.

ADJOURNMENT

Mr. KOSTMAYER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 11 minutes p.m.), the House adjourned until tomorrow, Tuesday, November 1, 1977, at 12 o'clock noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mrs. SCHROEDER: Committee on Post Office and Civil Service. H.R. 5723. A bill to provide that certain persons who were originally appointed as supplemental security income hearing examiners under pre-1976 provisions of title XVI of the Social Security Act shall without any restriction be deemed appointed as administrative law judges; with amendment (Rept. No. 95–617, Pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. FRASER: Committee on International Relations. House Resolution 784. Resolution expressing the sense of the House of Representatives that the President should establish a Commission on Domestic and International Hunger and Malnutrition; with amendment (Rept. No. 95–780, Pt. II). Referred to the House Calendar.

Mr. PERKINS: Committee on Education and Labor. House Concurrent Resolution 369. Concurrent resolution to establish a revised coverage schedule for basic benefits guaranteed by the Pension Benefit Guaranty Corporation for employee pension benefit plans which are not multiemployer plans. (Report No. 95–781, Pt. I). Ordered to be printed.

Mr. FRASER: Committee on International Relations. House Concurrent Resolution 387. Concurrent resolution reaffirming the commitment of the United States to obtain full compliance with the human rights provisions of the Helsinki Accords and to press for global commitment to human rights; with amendment (Rept. No. 95–782). Referred to the House Calendar.

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. H.R. 9794. A bill to bring the governing international fishery agreement with Mexico within the purview of the Fishery Conservation Zone Transition Act (Rept. No. 95–783). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. AuCOIN:

H.R. 9825. A bill to amend the Internal Revenue Code of 1954 to provide, for purposes of determining proper cellar treatment for natural wine, that wines made exclusively from cranberries or other highly acidic berries and fruit other than grapes shall be entitled to a volume of ameliorating material not in excess of 60 percent; to the Committee on Ways and Means.

By Mrs. BOGGS (for herself, Mr. BADILLO, Mr. EAFALIS, Mr. BEDELL, Mr. BINGHAM, Mr. BLOUIN, Mr. BURKE of Massachusetts, Mr. CARR, Mr. COR-MAN, Mr. CORNWELL, Mr. DERRICK, Mr. DOWNEY, Mr. EILBERG, Mr. FORD of Tennessee, Mr. FRASER, Mr. HARRINGTON, Mr. HILLIS, Mr. HYDE, Mrs. KEYS, Mr. LEDERER, Mr. LE FANTE, Mr. LEHMAN, Mr. MIKVA, Mr. MITCHELL of Maryland, and Mr. MOAKLEY):

H.R. 9826. A bill to amend title XVIII of the Social Security Act to authorize payment under the medicare program for occupational therapy services, whether furnished as a part of home health services or otherwise; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mrs. BOGGS (for herself, Mr. MURPHY of Pennsylvania, Mr. NIX, Mr. OTTINGER, Mr. PEPPER, Mr. PERKINS, Mr. PRICE, Mr. PRITCHARD, Mr. ROE, Mr. ROSENTHAL, Mr. ROYBAL, Mr. SCHEUER, Mr. SNYDER, Mr. STARK, Mr. STEERS, Mr. CHARLES WILSON of Texas, Mr. YOUNG of Alaska, Mr. FLORIO, and Mr. BONIOR):

H.R. 9827. A bill to amend title XVIII of the Social Security Act to authorize payment under the medicare program for occupational therapy services, whether furnished as a part of home health services or otherwise; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. BURKE of Massachusetts:

H.R. 9828. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to provide for Federal participation in the costs of the old-age, survivors, and disability insurance program and the medicare program, with appropriate reductions in social security taxes to reflect such participation, and without any ceiling on the amount of an individual's annual earnings which may be counted for benefit and tax purposes; to the Committee on Ways and Means.

By Mr. BURLISON of Missouri:

H.R. 9829. A bill to direct the Commodity Futures Trading Commission to regulate brokers who engage in forward contracting in

connection with producers of agriculture crops; to the Committee on Agriculture.

By Mr. CARR (for himself, Mr. BEDELL, Mr. BONIOR, Mr. CAPUTO, Mr. D'AMOURS, Mr. HARRINGTON, Mr. MITCHELL of Maryland, Mrs. SPELLMAN, Mr. STEERS, and Mr. TRAXLER):

H.R. 9830. A bill to increase deposit insurance from $40,000 to $100,000 for accounts which qualify as individual retirement accounts and accounts established under qualified (Keogh) plans for the self-employed; to the Committee on Banking, Finance and Urban Affairs.

By Mr. CARR (for himself, Mrs. COLLINS of Illinois, Mr. FASCELL, Mr. PRICE, Mr. WALGREN, Mr. CORNWELL, Mr. DOWNEY, and Mr. MICHAEL O. MYERS):

H.R. 9831. A bill to provide for equalizing the costs of unemployment compensation, revising the extended benefits program, and for other purposes; to the Committee on Ways and Means.

By Mr. CONABLE:

H.R. 9832. A bill to amend title II of the Social Security Act to provide that payments of aid to families with dependent children which are made to an individual during any period while he is awaiting a determination of disability for social security purposes shall be recovered from the amount of any disability benefits subsequently awarded to the extent that such benefits are paid on a retroactive basis for months in that period; to the Committee on Ways and Means.

By Mr. DICKINSON (for himself, Mr. BEVILL, Mr. BUCHANAN, Mr. EDWARDS of Alabama, Mr. FLIPPO, Mr. FLOWERS, and Mr. NICHOLS):

H.R. 9833. A bill to authorize payments to States as reimbursement for payments which were based upon erroneous information supplied by the Department of Health, Education, and Welfare; to the Committee on Ways and Means.

By Mr. DINGELL (for himself and Mr. FORD of Michigan):

H.R. 9834. A bill to reduce unemployment, stimulate fair and free competition in world steel trade, provide temporary relief from unfair trading practices for the domestic steel industry, and for other purposes; to the Committee on Ways and Means.

By Mr. EDWARDS of Oklahoma:

H.R. 9835. A bill to amend the National Labor Relations Act to clarify certain sections which relate to coverage of health care institutions and the protection of their employees and for other purposes; to the Committee on Education and Labor.

By Mr. JOHNSON of California (for himself, Mr. MINETA, and Mr. WALSH):

H.R. 9836. A bill to authorize the Architect of the Capitol to furnish chilled water to the Folger Shakespeare Library; to the Committee on Public Works and Transportation.

By Mr. LAGOMARSINO (for himself and Mr. PANETTA):

H.R. 9837. A bill to provide rental assistance under section 8 of the U.S. Housing Act of 1937 for owners of mobile homes who rent the real property on which their mobile homes are located; to the Committee on Banking, Finance and Urban Affairs.

By Mr. LAGOMARSINO (for himself, Mr. BURGENER, Mr. LEHMAN, Mr. DUNCAN of Tennessee, Mr. PRICE, Mr. LEDERER, Mr. RISENHOOVER, Mr. CARR, Mr. CEDERBERG, Mr. PEPPER, Mr. LLOYD of California, Mr. BADILLO, Mr. MURPHY of Pennsylvania, Mr. SEBELIUS, Mr. VENTO, Mr. KOSTMAYER, Mr. CHARLES WILSON of Texas, Mr. BRADEMAS, Mrs. BURKE of California, Mr. DOWNEY, Mrs. SPELLMAN, Mr. ROYBAL, Mr. ROE, Mr. BONIOR, and Mr. GOODLING):

H.R. 9838. A bill to provide rental assistance under section 8 of the U.S. Housing Act of 1937 for owners of mobile homes who rent the real property on which their mobile homes are located; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MAZZOLI:

H.R. 9839. A bill to amend title XVIII of the Social Security Act to include dental care, eye care, dentures, eyeglasses, and hearing aids among the benefits provided by the insurance program established by part B of such title, and for other purposes; jointly to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. MOAKLEY:

H.R. 9840. A bill to provide for the addition of Dorchester Heights to the Boston National Historical Park; to the Committee on Interior and Insular Affairs.

By Mr. MOORHEAD of Pennsylvania:

H.R. 9841. A bill to provide for the establishment of Multipurpose Service Centers for displaced homemakers, and for other purposes; to the Committee on Education and Labor.

By Ms. OAKAR (for herself, Mr. DEVINE, Mr. WOLFF, and Mr. RINALDO):

H.R. 9842. A bill to amend the Regional Rail Reorganization Act of 1973 to authorize the Secretary of Transportation to guarantee notes issued to State and local taxing authorities to secure payment of tax obligations owed by a railroad in reorganization; to the Committee on Interstate and Foreign Commerce.

By Mr. OBERSTAR:

H.R. 9843. A bill to establish a Neighborhood Reinvestment Corporation; to the Committee on Banking, Finance and Urban Affairs.

By Mr. PERKINS:

H.R. 9844. A bill to amend section 62(c) of the Water Resources Development Act of 1974 to increase the authorization of appropriations for dam work on the Big Sandy River; to the Committee on Public Works and Transportation.

By Mr. RISENHOOVER:

H.R. 9845. A bill to facilitate the coordination of programs for the protection, management, and control of wild free-roaming horses and burros, and other resources, and for other purposes; jointly, to the Committees on Interior and Insular Affairs, and Merchant Marine and Fisheries.

By Mr. SISK (for himself, Mr. BEILENSON, Mrs. BURKE of California, Mr. CARR, Mr. COLLINS of Texas, Mr. CORNWELL, Mr. DELLUMS, Mr. DRINAN, Mr. EDWARDS of California, Mr. EILBERG, Mr. FRASER, Mr. HARRINGTON, Ms. HOLTZMAN, Mr. HYDE, Mr. MCCLORY, Mr. MCCLOSKEY, Mr. MANN, Mrs. MEYNER, Mr. PATTISON of New York, Mr. SIMON, Mrs. SPELLMAN, and Mr. WHITEHURST):

H.R. 9846. A bill to amend title 10, United States Code, to allow female members of the Armed Forces to serve in all duty assignments for which they volunteer and are otherwise qualified; to the Committee on Armed Services.

By Mr. STEERS:

H.R. 9847. A bill to amend section 2687 of title 10, United States Code, to require notification of local officials, as well as Congress, before a military base closure or realinement may be carried out, and to change the period of time which must elapse after such notification before such a base closure or realinement may be carried out; to the Committee on Armed Services.

By Mr. UDALL (for himself, Mr. SIMON, Mr. STEERS, Mr. CORNELL, Mr. CORCORAN of Illinois, Mr. CONYERS, Mr. PIKE, Mr. WHITEHURST, Mr. CLAY, Mr. JOHN L. BURTON, Mr. ROSENTHAL, Mr. OBERSTAR, Mr. DUNCAN of Tennessee, Mr. BEILENSON, Mr. ERTEL, Mr. GUDGER, Mr. NIX, Mr. HARRINGTON, Mr. BONIOR, Mr. CAPUTO, Mr. WAXMAN, Mr. RISENHOOVER, Mr. HUGHES, Mr. PATTISON of New York, and Mr. KOCH):

H.R. 9848. A bill to amend title 5, United States Code, to promote proper and efficient activities of the Government, and to protect Federal employees disclosing situations in which such activities are not proper or efficient; to the Committee on Post Office and Civil Service.

By Mr. WALKER (for himself, Mr. MOAKLEY, Mr. OTTINGER, Mr. MCHUGH, Mr. EILBERG, Mr. NEAL, Mr. LENT, Mr. VENTO, Mr. WEAVER, Mr. CONYERS, Mr. EDGAR, Mr. SIMON, Mr. HARRINGTON, Mr. PURSELL, Mr. DELLUMS, Mr. SCHEUER, Mr. GLICKMAN, Mr. ROSENTHAL, Mr. CARR, Mr. RYAN, Mr. STARK, Ms. HOLTZMAN, and Mr. CHARLES WILSON of Texas):

H.R. 9849. A bill to amend the Federal Food, Drug, and Cosmetic Act to require that packaged food bear nutrition labeling; to the Committee on Interstate and Foreign Commerce.

By Mr. WHALEN:

H.R. 9850. A bill to amend the Airport and Airway Development Act of 1970 to require the establishment of a system of automated flight service stations; to the Committee on Public Works and Transportation.

By Mr. ANDERSON of California (for himself, Mr. SNYDER, Mr. HAMMERSCHMIDT, and Mr. JOHNSON of California):

H.R. 9851. A bill to amend the Federal Aviation Act of 1958 to improve cargo air service; to the Committee on Public Works and Transportation.

By Mr. DINGELL:

H.R. 9852. A bill to provide for a study of the economics of nuclear power, the siting, reliability, and other aspects of nuclear regulation, the disposal of wastes from nuclear facilities licensed pursuant to the Atomic Energy Act of 1954, and for other purposes; jointly, to the Committees on Armed Services, Interior and Insular Affairs, and Interstate and Foreign Commerce.

By Mr. DUNCAN of Tennessee:

H.R. 9853. A bill to provide for a comparison study of the costs and other factors associated with the establishment of reimbursement guidelines for respiratory therapy; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. DUNCAN of Tennessee (for himself and Mrs. LLOYD of Tennessee):

H.R. 9854. A bill to amend the Department of Energy Organization Act to provide that part-time temporary personnel of the Energy Research Centers of the Energy Research and Development Administration who are transferred under such act shall have the same rights of conversion to permanent part-time status as apply with regard to full-time temporary personnel of such centers; to the Committee on Post Office and Civil Service.

By Mr. VENTO:

H.R. 9855. A bill to amend the Wild and Scenic Rivers Act by designating portions of the Upper Mississippi River in Minnesota as a component of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. MAHON:

H.J. Res. 641. Joint resolution making further continuing appropriations for the fiscal year 1978, and for other purposes; to the Committee on Appropriations.

By Mr. STEERS:

H.J. Res. 642. Joint resolution making continuing appropriations for the fiscal year 1978 for salaries of employees of the Depart-

ments of Labor and Health, Education, and Welfare and certain related agencies; to the Committee on Appropriations.

By Mr. ABDNOR (for himself, Mr. LUJAN, Mr. LENT, Mrs. PETTIS, Mr. HALL, Mr. PRESSLER, Mr. ANDREWS of North Dakota, Mr. BEARD of Tennessee, Mr. BROWN of Michigan, Mr. MCDADE, Mr. ALLEN, Mr. EDWARDS of Alabama, Mr. HARKIN, Mr. HANSEN, Mr. RUPPE, Mr. VANDER JAGT, Mr. RISENHOOVER, Mr. RAHALL, Mr. YOUNG of Alaska, Mr. CORCORAN of Illinois, Mr. KREBS, Mr. LIVINGSTON, Mr. WAGGONNER, Mr. DUNCAN of Tennessee, Mr. VAN DEERLIN, and Mr. STUMP):

H. Res. 882. Resolution expressing the sense of the House with respect to a reorganization of the Department of Housing and Urban Development; to the Committee on Banking, Finance and Urban Affairs.

By Mr. KEMP (for himself and Mr. NOWAK):

H. Res. 883. Resolution to reaffirm the use of our national motto on currency; to the Committee on Banking, Finance and Urban Affairs.

By Mr. THOMPSON (for himself and Mr. LEVITAS):

H. Res. 884. Resolution to authorize the chairman of the Committee on House Administration to retain counsel to intervene in the case of *Atkins* v. *United States;* to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ASHBROOK:

H.R. 9856. A bill for the relief of certain aliens; to the Committee on the Judiciary.

By Mr. ECKHARDT:

H.R. 9857. A bill for the relief of Brian Milton Bartusek; to the Committee on the Judiciary.

By Mr. MARLENEE:

H.R. 9858. A bill for the relief of Loretto B. Fitzgerald; to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 9718

By Mr. HOLLENBECK:

(Amendment to the amendment in the nature of a substitute offered by Mr. BROOKS)

Section 9(d), on page 19, line 11, strike out the period and insert in lieu thereof the following: ", nor shall anything in this Act be construed to authorize the Administrator to request or direct the testing of a consumer product or service when testing has been completed on the performance of that consumer product or service or a substantially identical consumer product or service within 18 months of the Administrator's request, unless a significant hazard to the consumer can be demonstrated."

SENATE—*Monday, October 31, 1977*

(Legislative day of Saturday, October 29, 1977)

The Senate met at 10:15 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. EASTLAND).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O God, who art the same yesterday, today, and forever, our Guide, our Friend, our Lord, grant to all who serve in the Government of this Nation a fresh vision of the world yet to be when Thy kingdom shall come on Earth as it is in heaven. Grant wisdom and strength to the President, the Members of Congress, and all others whom we have set in authority over us.

Grant us grace and wisdom for the crucial problems of our age.

Lead us out of confusion to clarity, from uncertainty to certitude, from conflict to cooperation that we may bring to pass only that which is wise and good for this Nation.

We pray in the name of Him who came to bring life and liberty. Amen.

RECOGNITION OF LEADERSHIP

The PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Saturday, which were not included in the disposition of the reading of the Journal of Saturday, be approved.

The PRESIDENT pro tempore. Without objection, it is so ordered.

THE FIFTH COMPONENT OF THE COMPREHENSIVE NATIONAL ENERGY PROGRAM

Mr. ROBERT C. BYRD. Mr. President, we are well on our way to completing action on the fifth and final component of the comprehensive national energy program. I think that what we have seen in the Senate is a demonstration of the legislative process at its best.

The Senate has developed its own approach in respect to the fifth and final component of the energy package, the administration approach was one that was calculated through tax measures and conservation to reach the objective by 1985 of reducing our dependence upon oil imports to 6 million barrels of oil per day. The Senate has enacted four components of the package, those dealing in the main with conservation.

The bill that has been brought out of the Finance Committee utilizes a different approach, that of tax incentives and tax credits to encourage production, exploration, and development of new energy sources and new forms of energy—keeping in mind also the conservation aspect by virtue of its having dealt with mass transit and other forms of public transportation.

So, what we see here, Mr. President, is an alternative approach that has been developed which, when in conference with the House of Representatives, can be, possibly, blended with the House approach in such a way as to achieve results that may be superior to either of the two approaches when standing alone, which may very well achieve the goal of conserving more energy in the long run than would have been accomplished by the administration's approach alone.

So to those who would say that the Senate has mangled the bill or has dealt harshly with the President's program, I say that this is the legislative process at its best—the Senate working its own will, developing its own alternatives, and proceeding to a final conclusion, which I hope will be reached today in that regard, so that the conferees of both Houses then can utilize the conference, or the "third House," in a way that will improve the final product. I hope this will demonstrate that the members of the legislative branch have accepted their responsibility to deal with one of the most, if not the most, difficult, complex, controversial, and vital issues of our times—a comprehensive national energy policy.

So, Mr. President, I take this occasion to compliment the members of the Finance Committee, the manager of the bill, the ranking member, and the Members of the Senate who have demonstrated by their serious amendments a desire to show to the American people that Congress will work with the administration and that both, working together, can provide the first steps toward the solution of the energy problem in a way that will enhance our economic stability and our national security.

I also compliment those Senators who have opposed the measure and who have offered amendments to it. They have done this in a fine tradition and in a fine spirit which is in accordance with the legislative process as we know it.

What we all have to realize is that it takes time and it takes dedication on the part of all Senators to work out the kind of compromise which, after it is sent to the conference, can be molded further and compromised into the final product, which I hope will convince the American people that Congress has demonstrated the proper spirit of cooperation and dedication to meet this great national problem. Only in that way can we expect the American people, themselves, to be will-

ing to sacrifice, as we all will have to sacrifice, if we hope to deal with this crisis.

Finally, Mr. President, without the strong support of the distinguished minority leader and the minority itself, this measure could not have reached the stage where we now find it. Indeed, I think it would be fair to say that whatever finally is passed would not have passed were it not for that kind of cooperation, spirit, and dedication on the part of the minority. They have disagreed on some points, as they rightly should. Members of the minority have offered amendments, as they rightly should, as have the Members of the majority.

I think the Senate and the Nation certainly will recognize the contributions that have been made by the minority leadership as it has worked with and cooperated with the majority leadership and those on this side of the aisle, as we have attempted to reach a common objective here. I express my gratitude to the distinguished minority leader and those Members on his side within the leadership for the help they have shown constantly.

The PRESIDENT pro tempore. The minority leader is recognized.

Mr. BAKER. Mr. President, first, I thank the majority leader for his kind remarks and his observations with respect to the conduct of the minority in relation to the energy package.

I add these observations and thoughts, which I have conveyed to the majority leader from time to time. It will come as no surprise to anyone that he and I talk almost daily about our agreements, and our disagreements. I believe it assists in the dispatch of the business of the Senate to know in advance when we will agree and disagree.

I have said these things before, but I should like to reiterate them now, in short form.

First, I agree with the President of the United States: There is a serious problem at hand. Indeed, it might be characterized as an impending energy crisis. We are at the mercy of foreign sources for much of our fuel supply, and I find it an intolerable situation.

Second, I agree with the President of the United States and with the majority of this body—particularly the distinguished majority leader—that we owe an obligation to do something about it. The Senate should never stand around, comment, criticize, and wring its hands. We are an action group—at least as much as the executive departments and in some respects, to a greater degree, because it is our ultimate responsibility to dispose of these issues.

I think we should act. I have expressed that feeling in a different phrasing and idiom from time to time by saying that I am not among those who do not want a bill. I want one. I also have said on occasion that I expect, given the realities of the times and the numerical strength on our respective sides of the aisle, that I am not going to like some parts of the bills as they are finally enacted and signed by the President. But I suspect that the President will not like some parts of them, either. However, we need a bill; we need a policy. For my part, I am determined to see that we pass an energy package.

I am disturbed from time to time to hear statements that the White House will not accept this, or will not do that, or that the President will veto something else. I understand the necessity to say that sort of thing; but I hope, as well, that the country does not get the idea that there is no flexibility in trying to arrive at a solution to the energy problem. I assume there is one, and I would find it difficult to believe otherwise.

So, notwithstanding that I am not likely to be pleased with, or even approve of, all parts of the energy package which is finally passed, I am willing to compromise, and I think the administration both should and will be, as well.

I suspect, based on published accounts attributed to the majority leader, that he, too, may feel that some sort of compromise is necessary.

It has been our view and position that there should be a bill, and that we should do as good a job with it as possible.

The next item I wish to reiterate is that I think it is the responsibility of a national political party not only to analyze, critique, criticize, and publish to the country our differences with the administration or the majority, but also to publish alternatives, giving the country a choice.

I believe that the Republicans in the Senate have done a remarkable job in that respect this year. We have published an energy economics package and a tax package, with virtual unanimity on the principles involved in those statements.

One of those, of course, has to do with energy and taxes. As a matter of fact, it overlaps into two of the Republican alternative proposals. In the natural gas deregulation bill, we prevailed, at least in part, with the Republican view—that is, that wage and price controls always produce shortages if they stay on long enough; that the best way to insure future production, to decrease our dependence on foreign sources, and to decrease prices is actually to decontrol the price of natural gas, and to couple that with an appropriate windfall profits tax, an excess profits tax, or plow-back provisions. We are now involved with the last proposal, because the Republican position is that we also should decontrol the price of crude oil over a period of time, coupled with appropriate taxes.

I was pleased when the Senate Finance Committee did not report an array of new taxes but did, in fact, submit a proposal for substantial incentives to increase production.

I also was aware of the fact that the bill probably could not be considered a complete bill until we considered some tax aspect of it and compared it to the provisions adopted in the House.

So by and large, I have supported the committee's position because I think we should get to conference. I have said here in the Chamber before I think we should get to conference. I am not sure I will like the resulting legislation, but I reserve all my rights. When we get that conference report back, indeed we may have a serious extended debate. I am not implying filibuster, but rather a thorough debate on that conference report. However, we are waiving no rights now in saying that this last part of the energy package should go to conference with the House of Representatives. It should do so promptly.

Mr. President, having said all that, I cannot close without saying that I rather suspect that even the administration has a different view of its tax package now than it had when we began this debate. I think this type of situation makes the legislative independence of Congress so remarkably valid in this era. It gives us time to think about proposals. It gives the country a chance to consider them. It gives us the luxury of second thoughts. I believe the administration, the Congress, and the country benefit as a result.

I think, Mr. President, that we will finally get an energy bill. I close by saying I do not have any illusions about my or the Republicans liking all of it, but I think we have succeeded in some respects and failed in others; and I think, respectfully, that the President should share this view. He is going to "win some and lose some." But finally we need the policy that is a product of compromise.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader. I am sorry but, unfortunately, the impression has been given from day to day what the Senate is doing is mauling, mangling, and defeating the President's energy proposal. That is not the case at all.

What the Senate has been doing is this: It has been developing an alternative proposal in many respects, which when taken into conference can give the conferees a choice from which, and out of which, they can blend—at least there will be the potential for the blending of—a final product that will be an improvement over either of the two approaches and one which in the final analysis will enhance our national security and help to stabilize our economy and better benefit the American people in the long run.

I would hope that the people would now view the action of the Senate, as we hopefully approach the end of our contemplations on this bill, as an effort to work toward a feasible, effective solution to the energy problem—not to maul, not to decimate, not to mangle, not to defeat the President. There has been too much of an impression that this or that or something else is being done by the Senate to defeat the President's proposal. That is not the objective or the result at all. The objective is to deal with the energy crisis. Certainly all wisdom is not to be found at either the one end of Pennsylvania Avenue or the other. I would hope that there is some to be found at both ends. We in the Senate have accepted our responsibility under the Constitution to deal with this crisis, to deal with this issue, and to deal with

the legislation, to come up with alternative approaches which, as I say, when in conference may be blended, and out of which conference may come final product that the Senate can be proud of, and of which the American people can be proud and which, in the final analysis, will benefit the Nation.

Mr. President, I ask unanimous consent to have printed in the RECORD two letters which I sent to the distinguished Senator from Louisiana (Mr. LONG), chairman of the Finance Committee, one dated August 19, and the other dated September 26, 1977.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., August 19, 1977.

Hon. RUSSELL B. LONG,
Chairman, Senate Finance Committee, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: I commend you and the Finance Committee for utilizing the August recess for initiating hearings on the tax aspects of the Administration's energy plan.

I urge the Committee to consider the use of any revenues generated by the proposed gas guzzler and crude oil equalization taxes to meet the challenge posed by our national energy crisis. These monies should not be dispersed through rebates except possibly in the case of low income individuals most severely impacted by steadily rising fuel prices. The Administration's proposal to rebate these monies across the board fails to adequately reflect the nature of the energy crisis facing the Nation.

That crisis portends a worldwide shortage of crude oil and natural gas, fuels upon which modern mass industrial societies, such as the United States, have grown dependent. I recognize that there is not agreement on the actual time when demand for crude oil and natural gas will outrun available supply. There is, however, a consensus that the likelihood of a shortage in the not too distant future is real. Action is required now if we hope to have viable alternative energy sources in place by the 1980's when they may be needed to supplement our dwindling supplies of oil and natural gas.

In light of our serious energy situation, we must seize the opportunity and use the revenues from the taxes at issue for specific energy-related purposes. First, we must proceed with the development of alternative energy resources. Such development would provide for an increased supply of energy, protect our country from any cut-off of crude oil in the event of another embargo, and conserve crude oil and natural gas.

Rather than the disparate approach which we have taken towards alternative fuels in the past, we should view this as an opportunity to establish the basis for a well-funded, integrated alternative fuels program. The options here are numerous. They include an accelerated program of research, development, and demonstration of gasification and liquefaction processes for the production of synthetic fuels from coal, as well as for processes to assure that coal can be burned in an environmentally acceptable manner. The production of synthetic alternatives from coal would help to assure the availability of liquids and gases that will be in demand for the foreseeale future.

Other major options are the application of the revenues to the development of geothermal energy, wind energy, and biomass energy. There is considerable potential for these energy sources which if tapped more vigorously will significantly add in the coming decades to the level of energy production in various sections of the country.

Solar energy is another clearly under-utilized alternative energy source. Water heated by solar energy is now economically competitive in many areas of the country. Similarly, space heating and cooling is now economically feasible in some regions. Yet, we have failed to develop a wide range of incentives for businesses to apply solar technology to today's energy needs. We should be able to do more to encourage commercial and agricultural enterprises to adopt solar technology. In addition, we need to do more to encourage the development of solar-generated electricity.

In short, the monies generated by the proposed gas guzzler tax and the crude oil equalization tax should be used to subsidize the development of these various alternate energy sources.

Second, we should consider applying the tax revenues produced by the proposed gas guzzler and crude oil equalization taxes to further advance conservation in the transportation sector of the economy. This sector accounts for over half of the total domestic demand for petroleum.

There is a need to spur the development of mass transit options, to make mass transit more generally available to the public. It is well known that the energy efficiency of buses and subway cars is dramatically higher than that of automobiles. According to a recent Office of Technology Assessment study, for example, a transit bus carrying 30 passengers is six times as efficient as an automobile carrying an average of 1.4 people.

We are moving ahead with the development of more efficient automotive vehicles, and this is absolutely necessary. However, we have yet to realize the full potential of mass transit for urban and rural areas. Some of the monies generated by the proposed taxes should be earmarked to provide capital assistance for purchases of buses, for construction of rail systems, and for modernization of existing systems.

We must also assure that our existing rail system will be able to handle the increased coal production envisaged in the national energy program.

These are some of the concrete measures besides ensuring increased production of oil and natural gas that can be taken now and in the immediate years ahead. If the Finance Committee does pass the gas guzzler and crude oil equalization taxes, I would urge the Committee to give careful consideration to using the monies generated by these taxes for such purposes as would help safeguard our national energy future. This would require investing the revenues raised in the development of more fuel-efficient transportation systems and in the subsidization of alternate energy resources. Furthermore, such uses of these monies would provide socially meaningful jobs for many of those Americans presently unemployed.

The energy program proposed by the Administration can be strengthened if the Committee recommends using the considerable revenue which will be generated in the ways I have suggested. Gross crude oil equalization tax collections are estimated by the Joint Committee on Taxation at $38.9 billion between 1978 and 1982. Over that same period, some $26.6 billion of the collections will be available for improving and expanding our passenger and freight rail systems and our bus systems and fostering alternative energy sources.

Let us meet the challenge. Our dilemma is real. Investing the monies in the ways I have suggested will not do all that needs to be done. They are steps, however, that face up to the challenge confronting us. I believe that they are steps in the right direction.

I appreciate your consideration.

With best regards,

ROBERT C. BYRD,
U.S. Senator.

U.S. SENATE,
Washington, D.C., September 26, 1977.

Hon. RUSSELL B. LONG,
Chairman, Senate Finance Committee, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: I was disappointed by the outcome of the Finance Committee's test vote on the crude oil equalization tax, and I hope that the Committee will in the end recommend the enactment of such a tax. I continue to feel strongly that a constructive substitute for the Administration's tax and rebate proposal must be developed if the Senate is to pass a strengthened National Energy Policy.

The revenues generated should be utilized to help ensure the Nation's energy future. First, they should be used to increase the domestic supply of energy through the development of an alternative fuels program. Second, they sholud be used to conserve energy through the development of fuel-efficient mass transit. Third, they should be used to ensure adequate facilities to transport the Nation's coal through the construction and modernization of rail systems. I elaborated on these measures in my earlier statement submitted to the Committee.

The revenues generated by the tax should be partially rebated to low income individuals. This would serve the dual purpose of assisting those persons who would be most severely affected by rising energy prices and preventing tax collections from having a negative impact on the Nation's economy, especially in the period before new and expanded energy and transit programs can be initiated.

I trust that my comments will prove helpful to you and the members of the Committee as you continue to consider the tax provisions of the National Energy Policy.

With best regards,

ROBERT C. BYRD,
U.S. Senator.

Mr. BAKER. Mr. President, if the majority leader will yield to me just for the moment, I agree with him entirely. I think we have improved upon the measure, will continue to do so, and that the conference will improve upon the bill submitted by the administration. This procedure is, I believe, a very proper one.

Mr. President, I give special thanks to the majority leader, to the distinguished chairman of the Finance Committee, to the distinguished ranking minority member of the Finance Committee, Senator CURTIS, and others who worked so hard to do the best that could be done under the circumstances.

I have never heard any of them say that this is the best that could be achieved, but I think all of them say—certainly they imply—that this is the best they were able to do under the circumstances. The Senate owes these Senators a debt of gratitude, with special thanks to the majority leader for devising and effectuating the method by which the Senate could work in an orderly and regularized process to arrive at a decision in good time.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader.

ENERGY PRODUCTION AND CONSERVATION TAX INCENTIVE ACT

The PRESIDENT pro tempore. Under the previous order the Senate will now resume consideration of the unfinished business, H.R. 5263, which the clerk will state by title.

The legislative clerk read as follows:

A bill (H.R. 5263) to suspend until the close of June 30, 1980, the duty on certain bicycle parts.

The Senate resumed the consideration of the bill.

The PRESIDENT pro tempore. The pending question is on agreeing to amendment No. 1508, as modified. There are 20 minutes equally divided.

Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may proceed for 2 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the measures that have been cleared for action by unanimous consent on Friday and which now appear on the Unanimous-Consent Calendar may be proceeded with at this time, and they begin with Calendar Order No. 500 and end with Calendar Order No. 505 on the Unanimous Consent Calendar.

The PRESIDENT pro tempore. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, and, of course, I shall not object, since these measures have been transferred to the Unanimous-Consent Calendar. I have no objection to proceeding to their consideration at this time, and all of the items on the Unanimous-Consent Calendar are cleared for passage on my calendar.

The PRESIDENT pro tempore. Without objection, it is so ordered.

PRINTING OF HEARINGS ON PANAMA CANAL TREATIES

The concurrent resolution (S. Con. Res. 53) authorizing the printing of additional copies of hearings entitled "Panama Canal Treaties" was considered and agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Senate Committee on Foreign Relations two thousand five hundred additional copies of each part of its hearings entitled "Panama Canal Treaties".

STUDY ON FEDERAL REGULATION, VOLUME IV, DELAY IN THE REGULATORY PROCESS

The resolution (S. Res. 276) authorizing the printing of the committee print entitled "Study on Federal Regulation, Volume IV, Delay in the Regulatory Process" as a Senate document was considered and agreed to, as follows:

Resolved, That the committee print of the Committee on Governmental Affairs entitled "Study on Federal Regulation, Volume IV, Delay in The Regulatory Process" be printed as a Senate document and that there be printed one thousand five hundred additional copies of such documents for the use of the committee.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–547), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Senate Resolution 276 would authorize the printing for the use of the Committee on Governmental Affairs of 1,500 additional copies of its committee print of the current Congress entitled "Study on Federal Regulation, Volume IV, Delay in the Regulatory Process as a Senate document.

The printing-cost estimate, supplied by the Public Printer, is as follows:

Printing-cost estimate

To print as a document (1,500 copies)	$3,508.28
1,500 additional copies ($719.54 per 1,000)	1,079.31
Total estimated cost, R. Res. 276	4,587.59

A joint letter in support of Senate Resolution 276 addressed to Senator Howard W. Cannon, chairman of the Committee on Rule and Administration, by Senator Abe Ribicoff and Senator Charles R. Percy, chairman and ranking minority member, respectively, of the Committee on Governmental Affairs, is as follows:

U. S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, D.C., September 28, 1977.

Hon. HOWARD W. CANNON,
Chairman, Committee on Rules and Administration, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Senate Resolution 276 and Senate Resolution 277, before your committee, provide for printing as Senate documents, the Governmental Affairs Committee's prints, "Study on Federal Regulation, Volume III, Public Participation in Regulatory Agency Proceedings" and "Study on Federal Regulation, Volume IV, Delay in the Regulatory Process," which were published in July 1977. They were prepared pursuant to Senate Resolution 71 (94th Cong., 1st sess.) by the study of regulatory agencies of the Governmental Affairs Committee. Senate Resolution 276 and Senate Resolution 277 would authorize the printing of volumes III and IV, respectively, as Senate documents (1,500 copies each) and the printing of 1,500 additional copies of each volume for the use of the Committee on Governmental Affairs.

These two volumes represent part of the findings of the Committee on Governmental Affairs' 18-month investigation of the regulatory agencies which was begun pursuant to authority granted by Senate Resolution 71 (94th Cong., 1st sess.).

Volume III examines the premise that the regulatory agencies too often make decisions without a fair representation of affected interests. The book analyzes several legislative proposals currently before the 95th Congress and discusses alternative means to increasing public participation in agency proceedings. Volume IV examines undue delay in agency proceedings. Excessive delay is very costly for Government, consumers and industry alike. This volume studies the way in which agencies are delayed and proposes a number of practical steps that would reduce it.

This is the first time these problems have been studied by the Congress and much of the information in these reports has never before been published. It is understandable, therefore, that the demand for these works has been overwhelming. Our supply of both volumes has been virtually exhausted. Libraries, State and local governments, Federal agencies, the press, Members of Congress, the private sector and the public have requested copies. We have filled as many as we have been able. We would like to fill all requests and anticipate that with the publication of the next two reports, demand for these two volumes will resume.

We respectfully request that the Rules Committee approve Senate Resolution 276 and Senate Resolution 277.

Sincerely,

ABE RIBICOFF,
Chairman.
CHARLES H. PERCY,
Ranking Minority Member.

STUDY ON FEDERAL REGULATION, VOLUME III, PUBLIC PARTICIPATION IN REGULATORY AGENCY PROCEEDINGS

The resolution (S. Res. 277) authorizing the printing of the committee print entitled "Study on Federal Regulation, Volume III, Public Participation in Regulatory Agency Proceedings" as a Senate document was considered and agreed to, as follows:

Resolved, That the committee print of the Committee on Governmental Affairs entitled "Study on Federal Regulation, Volume III, Public Participation in Regulatory Agency Proceedings" be printed as a Senate document and that there be printed one thousand five hundred additional copies of such document for the use of the committee.

Mr. ROBERT E. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–548), explaining the purposes of the measure.

There being no objection, the except was ordered to be printed in the RECORD, as follows:

Senate Resolution 277 would authorize the printing for the use of the Committee on Governmental Affairs of 1,500 additional copies of its committee print of the current Congress entitled "Study on Federal Regulation, Volume III, Public Participation in Regulatory Agency Proceedings" as a Senate document.

The printing-cost estimate, supplied by the Public Printer, is as follows:

Printing-cost estimate

To print as a document (1,500 copies)	$2,556.16
1,500 additional copies (at $486.65 per 1,000)	729.98
Total estimated cost, Senate Resolution 277	3,286.14

A joint letter in support of Senate Resolution 277 addressed to Senator Howard W. Cannon, chairman of the Committee on Rules and Administration, by Senator Abe Ribicoff and Senator Charles H. Percy, chairman and ranking minority member, respectively, of the Committee on Governmental Affairs, is as follows:

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, D.C., September 28, 1977.

Hon. HOWARD W. CANNON,
Chairman, Committee on Rules and Administration, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Senate Resolution 276 and Senate Resolution 277, before your

committee, provide for printing as Senate documents, the Governmenttal Affairs committee's prints, "Study on Federal Regulation, Volume III, Public Participation in Regulatory Agency Proceedings" and "Study on Federal Regulation, Volume IV, Delay in the Regulatory Process," which were published in July 1977. They were prepared pursuant to Senate Resolution 71 (94th Cong., 1st sess.) by the Study of Regulatory Agencies of the Governmental Affairs Committee. Senate Resolution 276 and Senate Resolution 277 would authorize the printing of volumes III and IV, respectively as Senate documents (1,500 copies each) and the printing of 1,500 additional copies of each volume for the use of the Committee on Governmental Affairs.

These two volumes represent part of the findings of the Committee on Governmental Affairs' 18-month investigation of the regulatory agencies which was begun pursuant to authority granted by Senate Resolution 71 (94th Cong., 1st sess.).

Volume III examines the premise that the regulatory agencies too often make decisions without a fair representation of affected interests. The book analyzes several legislative proposals currently before the 95th Congress and discusses alternative means to increasing public participation in agency proceedings. Volume IV examines undue delay in agency proceedings. Excessive delay is very costly for Government, consumers and industry alike. This volume studies the way in which agencies are delayed and proposes a number of practical steps that would reduce it.

This is the first time these problems have been studied by the Congress and much of the information in these reports has never before been published. It is understandable, therefore, that the demand for these works has been overwhelming. Our supply of both volumes has been virtually exhausted. Libraries, State and local governments, Federal agencies, the press, Members of Congress, the private sector and the public have requested copies. We have filled as many as we have been able. We would like to fill all requests and anticipate that with the publication of the next two reports, demand for these two volumes will resume.

We respectfully request that the Rules Committee approve Senate Resolution 276 and Senate Resolution 277.

Sincerely,

ABE RIBICOFF,
Chairman.
CHARLES H. PERCY,
Ranking Minority Member.

INCREASED LIMITATION ON EXPENSES INCURRED BY THE COMMITTEE ON FOREIGN RELATIONS

The resolution (S. Res. 278) to increase the fiscal year limitation on expenses which may be incurred by the Committee on Foreign Relations to facilitate the interchange and reception of certain foreign dignitaries was considered and agreed to, as follows:

Resolved, That, effective September 1, 1977, subsection (b) of Sen. Res. 91, Ninety-fourth Congress, agreed to March 18 (legislative day March 12), 1975 (as amended by S. Res. 459, Ninety-fourth Congress, agreed to June 24 (legislative day, June 18), 1976), is amended—

(1) by striking out "1976" and inserting in lieu thereof "1977"; and

(2) by striking out "$15,000" and inserting in lieu thereof "$20,000".

(b) Effective October 1, 1977, such subsection is amended—

(1) by striking out "1977" and inserting in lieu thereof "1978"; and

(2) by striking out "$20,000" and inserting in lieu thereof "$25,000".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–549), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

BACKGROUND

Senate Resolution 247, 87th Congress, agreed to February 7, 1962, authorized the Committee on Foreign Relations to employ one additional permanent professional staff member and to expend not to exceed $5,000 each fiscal year—

to assist the Senate properly to discharge and coordinate its activities and responsibilities in connection with participation in various interparliamentary institutions and to facilitate the interchange and reception in the United States of members of foreign legislative bodies and prominent officials of foreign governments.

Senate Resolution 91, 94th Congress, agreed to March 28, 1975, (1) extended such authority to include the "interchange and reception in the United States of prominent officials of intergovernmental organizations", and (2) increased from $5,000 to $10,000 the limitation on annual expenditures for the purpose.

Senate Resolution 459, agreed to June 24, 1976, increased from $10,000 to $15,000 the limitation on annual expenditures for the same purpose.

Senate Resolution 278 would increase from $15,000 to $20,000 the annual expenditures for this purpose.

Additional information concerning the purpose and need for Senate Resolution 278 is set forth in Senate Report 95–459 filed by the Committee on Foreign Relations.

A joint letter in support of Senate Resolution 278 addressed to Senator Howard W. Cannon, chairman of the Committee on Rules and Administration, by Senator John Sparkman and Senator Clifford P. Case, chairman and ranking minority member, respectively, of the Committee on Foreign Relations, is as follows:

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C., September 29, 1977.

Hon. HOWARD W. CANNON,
Chairman, Committee on Rules and Administration, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I refer to Senate Resolution 278 which authorizes the Committee on Foreign Relations an increase from $15,000 to $20,000 in fiscal year 1977 and from $20,000 to $25,000 in fiscal year 1978 and subsequent years for the reception of certain foreign dignitaries.

This resolution was considered by the Committee on Foreign Relations on September 28, 1977, and was ordered favorably reported to the Senate by a unanimous voice vote.

We hope this resolution will be favorably reported by the Committee on Rules and Administration at your earliest opportunity.

With best wishes and kindest personal regards,

Sincerely,

JOHN SPARKMAN,
Chairman.
CLIFFORD P. CASE,
Ranking Minority Member.

PROGRESS IN THE PREVENTION AND CONTROL OF AIR POLLUTION IN 1976

The resolution (S. Res. 285) authorizing the printing of the report entitled "Progress in the Prevention and Control of Air Pollution in 1976" as a Senate document was considered and agreed to, as follows:

Resolved, That the annual report of the Administrator of the Environmental Protection Agency to the Congress of the United States (in compliance with sections 313, 202, and 306(e) of Public Law 91–604, the Clean Air Act as amended) entitled "Progress in the Prevention and Control of Air Pollution in 1976" be printed, with illustrations, as a Senate document.

SEC. 2. There shall be printed one thousand additional copies of such document for the use of the Committee on Environment and Public Works.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–550), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Senate Resolution 285 would provide for the printing of 1,000 additional copies of the report entitled "Progress in the Prevention and Control of Air Pollution in 1976" as a Senate document for the use of the Committee on Environmental and Public Works. This is the annual report to Congress of the Administrator of the Environmental Protection Agency, in compliance with sections 313, 202, 306(e) of Public Law 91–604, the Clean Air Act, as amended.

The printing-cost estimate, supplied by the Public Printer is as follows:

Printing cost estimate

To print as a document (1,500 copies	$2,800.98
1,000 additional copies	609.98
Total estimated cost (S. Res. 285)	3,410.70

A joint letter in support of Senate Resolution 285 addressed to Senator Howard W. Cannon, chairman of the Committee on Rules and Administration, by Senators Jennings Randolph and Robert T. Stafford, chairman and ranking minority member, respectively, of the Committee on Environment and Public Works is as follows:

U.S. SENATE, COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, D.C., October 7, 1977.

Hon. HOWARD W. CANNON,
Chairman, Committee on Rules and Administration, U.S. Senate, Suite 305, Russell Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to Senate Resolution 285, which I introduced in Senate on October 5th, 1977.

Section 313, Public Law 91–604, the Clean Air Act Amendments of 1970, as amended, provides that an annual report shall be made to the Congress by the Administrator of the Environmental Protection Agency on all measures taken toward implementing the purpose and intent of this act. This report reviews the progress that the U.S. Environmental Protection Agency has made during the year 1976 in the control and prevention of air pollution, and, for the first time, includes two other EPA reports to Congress required under the Clean Air Act, as amended, e.g., section 202, report on measures taken in

relation to motor vehicle emission control (ch. VII), and section 306(e), report on Federal procurement and violating facilities (in ch. IX).

Approval of this resolution by the Committee on Rules and Administration is requested inasmuch as a continuing review of the activities of the EPA is underway to insure compliance with the provisions of the cited Act. After several years of oversight hearings and extensive legislative consideration, amendments to the Clean Air Act were enacted into law on August 8, 1977. The EPA's role in implementing the purpose and intent of the act has been strengthened and it is expected that this report will serve as a useful tool in measuring future progress under the amended act. Wide distribution will be made to concerned local, State and Federal agencies, as well as civic and conservation groups.

Your early consideration will be deeply appreciated.

With warm personal regards,

Truly,

JENNINGS RANDOLPH, U.S.S.,
Chairman.

ROBERT T. STAFFORD, U.S.S.,
Ranking Minority Member.

GIVE YOURSELF CREDIT: GUIDE TO CONSUMER CREDIT LAWS

The concurrent resolution (H. Con. Res. 241) providing for the printing of 100,000 additional copies of the subcommittee print of the Subcommittee on Consumer Affairs of the Committee on Banking, Finance, and Urban Affairs entitled "Give Yourself Credit: Guide to Consumer Credit Laws" was considered and agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-551), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

House Concurrent Resolution 241 would provide for reprinting of 100,000 copies of the subcommittee print of the Subcommittee on Consumer Affairs of the House Committee on Banking, Finance and Urban Affairs (H. Doc. 95-167) entitled "Give Yourself Credit: Guide to Consumer Laws." In its report accompanying House Concurrent Resolution 241, (H. Rept. 95-551), the Subcommittee on Consumer Affairs states it is receiving about 1,000 requests a day, which has created a huge backlog. The subcommittee also states in its report that high schools and universities have been using this booklet as a teaching guide for a course in consumer credit.

The printing cost-estimate on House Concurrent Resolution 241, as agreed by the House of Representatives is as follows:

Printing-cost estimate

To print 100,000 copies (H. Con. Res. 241) $39,088.77

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to move en bloc to reconsider the votes by which the various measures were adopted.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I make that motion.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS CONSENT CALENDAR

Mr. ROBERT C. BYRD. Mr. President, there are two measures on the General Orders Calendar which are cleared for unanimous consent. I ask that the clerk transfer those measures to the Unanimous Consent Calendar, they being Calendar Order No. 506 and 507.

The PRESIDENT pro tempore. The measures will be so transferred.

COMMITTEE MEETING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, November 1.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ENERGY PRODUCTION AND CONSERVATION TAX INCENTIVE ACT

The Senate continued with the consideration of H.R. 5263.

The PRESIDENT pro tempore. Who yields time?

Mr. LONG. Mr. President, I ask unanimous consent that we might suggest the absence of a quorum with the time being counted equally against both sides.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LONG. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KENNEDY. What is the pending matter, Mr. President?

AMENDMENT NO. 1508

The PRESIDENT pro tempore. The pending question is on agreeing to amendment No. 1508, as modified. There are 20 minutes to be equally divided.

Mr. KENNEDY. How much time remains, Mr. President?

The PRESIDENT pro tempore. Six minutes to a side.

UP AMENDMENT NO. 1013

Purpose: To provide that certain taxpayers not be eligible for any benefit conferred by this Act.)

Mr. KENNEDY. Mr. President, I send to the desk a modification of my amendment and I ask unanimous consent that my amendment be so modified.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The modification is as follows:

SEC. . BENEFITS OF ACT DENIED TO CERTAIN TAXPAYERS.

(a) Notwithstanding any other provision of this Act, any provision of, or amendment made by Part III, Part IV or Part V of title I of this Act, which provides for a credit, deduction, exclusion, or reduction with respect to any tax imposed under the Internal Revenue Code of 1954 and which would otherwise apply under this Act to a taxpayer whose income for the taxable year includes income from the production of oil or gas shall not apply to that taxpayer for that taxable year if the taxpayer is a major petroleum producer.

(b) As used in this section—

(1) "major petroleum producer" means any person (including all affiliates of such person) who, during the calendar year 1976, or in any subsequent calendar year, produced within the United States a total of fifty-five million barrels of crude oil or condensate and natural gas liquids, or whose interest in crude oil or condensate and natural gas liquid production within the United States totaled fifty-five million barrels, or who produced within the United States three hundred billion cubic feet of natural gas, or whose interest in natural gas production within the United States totaled three hundred billion cubic feet;

(2) "person" means an individual, corporation, partnership, joint venture, joint stock company, trust, trustee in bankruptcy, receiver in reorganization, association, or any organized group, whether or not incorporated, but does not include any authority of the United States or of the several States;

(3) "affiliate" means a person controlled by, controlling, or under or subject to common control with respect to any other person;

Mr. KENNEDY. Mr. President, I yield myself 4 minutes.

During the discussion and debate last week on my initial amendment we used as the key to the denial of the tax benefits in this bill the language which was accepted by the Senate in 1975 at the time we repealed the depletion allowance.

There was some question whether this was sufficiently precise and whether a number of cooperatives and other smaller companies would be denied the tax benefits of getting into the newer sources of energy. So the revision I have offered here would use as the cutoff point for the benefits the largest 17 oil and gas producers.

The amendment, therefore, would deny the tax benefits to companies whose oil production exceeded 55 million barrels annually or whose natural gas production exceeded 300 billion cubic feet annually.

This amendment, Mr. President, recognizes the extraordinary wealth, power, and influence of the major oil and gas companies in the energy area generally, recognizes that they have experienced extraordinary profits over the period of the last 2 to 3 years.

I put into the RECORD last week material which showed that the profits of the major oil and gas companies had risen by over 103 percent in the last 5 years.

There are extraordinary tax incentives in this particular measure and, it seems to me, those tax incentives ought to be limited to the smaller companies.

This is useful and important in expanding competition in the oil and gas industry, and they are the ones that should be encouraged in this particular area.

The major oil and gas companies do not need, Mr. President, the large re-

sources of capital to move into these areas. We illustrated during the previous debate we had last week that the major oil and gas companies are using their capital resources in many instances to get into nonenergy businesses. They have gotten into department stores—Mobil has acquired Marcor—and into land syndicates in California, and a wide range of other activities outside the area of energy.

If we are going to just pile the billions and billions of dollars of tax advantages onto these companies, we should have some assurance that they will use these benefits for new developments of energy.

Mr. President, I do not believe this is an issue which is confined to those that are concerned about the tax issue.

James Kilpatrick, who is recognized as a leading conservative writer and commentator, talks about a fundamental principle of conservatism——

The PRESIDENT pro tempore. The Senator's time has expired.

Mr. KENNEDY. I yield myself an additional minute.

He says:

A fundamental principle of conservatism is to fear concentrations of great power, and to seek ways to restrain them. That is one of the things our Constitution is all about.

He continues:

That point, in my view, assuredly has been reached in the matter of the great oil companies and competing energy sources.

He understands this issue, Mr. President. He continues:

If we believe that competition is a good thing, let us put that conviction to work. If we are wary of excessive concentrations of power, let us halt this disturbing concentration before it grows still larger.

Mr. President, by not accepting this amendment, I think we are supporting the further strengthening of the large industrial giants in this Nation, and simply providing the opportunity for further erosion of our free market system. I do not believe it has been shown that this is going to solve our energy problem.

So, Mr. President, I would hope that the Senate would recognize that these 17 major oil and gas companies do not need the opening up of the American taxpayers' pockets by granting them the further tax incentives that this bill would provide, and that Senators will vote in favor of this amendment.

I reserve the remainder of my time.

Mr. LONG. Mr. President, the Senator is undoubtedly looking at the problem from one point of view, and I am looking at it from another. In my part of the country, if someone has a tract of land, he hopes that he can find someone to drill it, and he will try very hard to find anyone he can to drill it. People there have pretty much contained all the prospects on wells, and have found all the oil down to 5,000 feet that could be found in Louisiana. So, if companies want to do more, they have to go very deep, with very expensive wells; and I do not know of anyone who thinks it makes any difference who drills, as long as he finds someone with the technical potential to do the job. No one frowns upon signing a contract with Exxon, if Exxon can do the job; and oftentimes he finds the large companies may be the only ones that will be willing to consider putting their money out to do the necessary geophysical work, and so forth, to see if they can justify doing it.

I find it somewhat amusing that the Senator makes the argument that he does not want the companies to be putting their money into Montgomery Ward and Ringling Brothers Circus. I take it he is interested in trying to get someone to find oil from shale. The Senator says he is opposed to the subsidy in oil; but if someone is willing to do it, it seems to me it has to be someone who can take on a billion dollar proposition and make it a commercially feasible venture.

Indeed, we would like, in my part of the country, to find someone to put the money in to see if they can develop methane gas from the geopressurized brine. It has a fantastic potential—perhaps enough to take care of the energy needs of the country for 300 years. But someone is going to have to put the money up, and it looks like that also will take a billion dollar investment.

Who can do it? The companies the Senator would exclude are about the only ones with enough money to do that sort of thing, and it would probably require a joint venture, rather than some individual company, to do it.

The Senator mentioned Arco, Atlantic-Richfield. Atlantic-Richfield testified they would like to have a try at making oil from shale on a commercial scale, but, they said, they would need to get at least two more major companies to help them do it. The Senator said that even one of them should not be involved. Yet here is one company that comes up and says, "We would like to try it, but we would need to get at least two other companies to go in and do it." So the Senator would effectively kill the program by saying that those big enough to do the job could not do it.

If the Government is not going to take the risk, who can do it, Mr. President, and who can take that kind of risk unless they have a huge amount of money available?

I yield 2 minutes to the distinguished Senator from Nebraska.

Mr. CURTIS. Mr. President, I would like to point out that the object of our enacting this legislation is to get more energy. Maybe the argument can be made for a change in our economic system. People have a right to argue for a change in our basic tax structure. But they should wait for another time. Here we are faced with a dependency on foreign oil, and what we need is the production of oil, and to do that job we need producers of all types; is that not correct?

Mr. LONG. The Senator is correct.

Mr. CURTIS. I thank the Senator.

Mr. MELCHER. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. LONG. How much time do I have remaining?

The PRESIDENT pro tempore. A minute and a half.

Mr. LONG. I must reserve the remainder of my time for the moment. I would be happy to yield after the vote is over.

Mr. President, I ask unanimous consent that I might yield to the Senator from Montana for a unanimous-consent request and it not be charged against my time.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MELCHER. Mr. President, I ask unanimous consent that before this vote is taken, I have 4 minutes to address some questions to the distinguished author of the amendment.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

Who yields time?

Mr. KENNEDY. Mr. President, how much time do I have remaining?

The PRESIDENT pro tempore. One minute.

Mr. KENNEDY. I withhold that time.

Mr. LONG. Mr. President, I yield 1 minute to the Senator from Wyoming

Mr. HANSEN. Mr. President, I want to make just two points. First, the best reason I know why Mobil bought Marcor was that, given the attitude of this Congress, there are better ways to make money than to put all your eggs in one oil basket. It is that simple.

If this were the great bonanza people would have Congress believe that it is, they would get into something that had a better profit margin than Montgomery Ward has.

Mr. President, as several Senators pointed out here last Saturday, the expertise and capital of the major oil companies is needed to develop geothermal energy resources.

And, I might point out that the companies that would be banned by this amendment from participating in any of the credits for oil and gas development are the companies that even the independents must depend on for much of the exploration and development of new oil and gas reserves.

Much of the drilling done by independents is on farmouts from leases owned by integrated oil companies which would be banned from participating in any of the incentives offered by this bill.

As is often the case when someone attempts to punish the major oil companies the smaller integrated companies as well as the independents get hit by the shotgun blast.

And, I might point out to my good friends and colleagues that profits are not all that good for some of the oil companies this year especially as compared with some other businesses and industries.

Those of you who read the Washington Post may have noticed last week that General Motors had record profits for the third quarter of this year and that Ford Motor Co.'s profits for the third quarter were $266.5 million as compared with $42 million for the same period last year. That is more than a 500-percent increase.

The Post reported its own profits for the third quarter as 88 percent over the third quarter of 1976.

The Post also listed the reports of five oil companies whose profits were down from the year before.

Mobil said its earnings were $239 million compared with $252 million in 1976.

Cities Service reported $40.2 million as compared with $56.8 in 1976.

Marathon reported earnings of $49.6 million compared with $64.1 million in 1976.

Pennzoil was down to $27.1 from $29.9 the year before and Getty reported $66.4 million compared with $67.3 a year ago.

So it does not seem to me that the oil companies are doing all that "ripping off" they are accused of.

At least it seems that some other prices—and taxes—have also gone up. In fact, I have noticed that the price of gasoline has been going down lately rather than up.

So if we want to do what this bill is intended to do—increase our energy supplies—we had better put our money on a horse capable of winning a race.

Either that or continue to spend it for OPEC oil to the tune of $45 billion a year or more.

I am disappointed that we would be taking an action——

The PRESIDENT pro tempore. The Senator's 1 minute has expired.

Mr. LONG. I yield my remaining 30 seconds to the Senator from Nebraska.

Mr. CURTIS. Did the Senator from Wyoming want more time?

Mr. HANSEN. No.

Mr. CURTIS. Mr. President, if we are going to have enough production to save us from serious trouble in the future, both as to cost and possible embargo and the other hazards of transporting oil along the way, we are going to need the efforts of companies of all sizes. In this drive for laws that will increase production, we should be as fair to all segments as we can, but this is no time to undertake a complete rewrite of novelty oils or the tax laws or anything.

Mr. President, I have in mind one company that participated in the Alaska pipeline, a gigantic undertaking without Government money. After they had made their commitment, the threat appeared here on the Senate floor that there would be a forced divestiture of their outlets. Had that happened, they would have been unable to go ahead and complete the pipeline, because they had pledged those assets.

The PRESIDENT pro tempore. The Senator's time has expired.

Mr. KENNEDY. Mr. President, since I have but 1 minute remaining, and I think the Senator from Montana has 4, I would like to have him use his 4 minutes, and then, as the proponent of the amendment, I would like to take the last 1 minute to comment.

Mr. MELCHER. Mr. President, if the Senator from Massachusetts will yield, I have three or four questions because this is a substantially different amendment than was offered last Saturday.

First of all, in reading the amendment, the 55 million barrels or 300 million cubic feet of gas products, in both cases within the United States, applies only to a list that is attached to the Senator's letter.

For the purpose of legislative intent, may I ascertain if it is the Senator's intent in his amendment not to affect anyone else?

Mr. KENNEDY. The Senator is quite correct.

Mr. MELCHER. When I think about whether we want tax subsidies for a solar heating plant on the Exxon building, or insulation for their building, I have no problem with denying that particular tax incentive. But I wonder about some amendment that either will be attached here in the Senate or in conference which deals with tax incentives for stripper production. Would not this amendment clearly preclude any of those advantages from any of these companies listed?

Mr. KENNEDY. It certainly is not my intention, nor do I believe that the language would so preclude.

Mr. MELCHER. I think at some point or other this bill will contain features which would encourage, probably through tax incentives, secondary recovery of oil from stripper wells. This language seems to be so inclusive that I think if there was stripper production with any of those listed, it would effectively deny them that tax encouragement.

Mr. KENNEDY. As I understand, with the decision of the Senate on the production corporation, I imagine any particular detail in terms of stripper production can be worked out. I do not think there is anything in this amendment, nor is it intended, to affect the stripper production.

Mr. MELCHER. Yes.

Mr. KENNEDY. The top 17 companies would be denied the benefits presently in the bill.

Mr. MELCHER. I thank the Senator.

In most respects, this modification of the amendment has corrected the deficiencies that I saw in it on Saturday. I only bring to the attention of the distinguished author of the amendment, and indeed to the rest of the Senate, that if this amendment is adopted and there are stripper incentives attached to the bill, it must be made clear that some further modification of this amendment must be done. Stripper production by secondary recovery, regardless of whether it is Exxon, Texaco, Shell, Getty, Union, Sun, Phillips, what have you, is something we want to encourage in this country.

I thank the Senator for yielding to me and answering my questions. I yield the floor, Mr. President.

Mr. KENNEDY. Mr. President, just in the final minute, I recall to the Senate testimony by a distinguished Member of this Senate in 1961, when he said:

> But the thought has occurred to me that I would be careful before I let the oil companies have a patent on future uses of atomic energy, because with their enormous investment in oil reserves, they would certainly have a strong interest in seeing that the use of petroleum was not displaced by a new source of power, at least not until they had large holdings of uranium and other sources of that power.

That statement was made by the chairman of the Finance Committee, Senator RUSSELL LONG, who understood the fact of the proliferation of power and authority and research in these alternative sources of energy.

With regards to the ability to develop through capital information, James Kilpatrick said it well when he said:

> To the argument that only the giant oil companies can provide the capital to meet goals for coal and uranium, let me make this response: Those who believe in the marketplace have to trust the marketplace. Assuming a demand for competing fuels, the capital will appear to supply that demand.

Mr. President, that is the premise of this particular amendment. I think the free market deserves an opportunity in this area and the benefits in this bill ought to be limited.

The PRESIDING OFFICER (Mr. CHILES). All time has expired. The question recurs on agreeing to the amendment. The yeas and nays have not been ordered.

Mr. MATSUNAGA. Mr. President, I move to table the amendment.

Mr. KENNEDY. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CURTIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CURTIS. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MATSUNAGA. Mr. President, the Senate debated the issues raised by the Senator from Massachusetts, last Saturday, when he introduced his amendment. The issues have been thoroughly aired, and, at this time, I only want to summarize my position.

First, this amendment unfairly singles out one sector of the energy industry for discriminatory treatment. Second, insofar as the amendment would deny geothermal depletion, it would discourage existing capital and expertise from developing geothermal energy. Third, contrary to the assertions of the Senator from Massachusetts, evidence proves the exhaustibility of geothermal reservoirs. Fourth, development of geothermal energy with tax incentives is cost productive.

Mr. President, as my 15-year record in the Congress will show, I am not a champion for the large oil companies. I am certainly not in their service. However, this amendment strikes me as being patently discriminatory. The business

conservation incentives in this bill apply to all sizes of businesses—from the individual proprietor to the corporate giants. Whoever can modify their physical plant or process to cut down energy consumption or develop alternative sources of energy will have tax incentives to do so. I repeat, these tax incentives would apply to all entities.

Now the Senator from Massachusetts wishes to deny these incentives to integrated oil companies. He wishes to deny them the conservation incentives, not simply because of their bigness, for larger businesses still remain eligible for the tax credit. He wishes to deny them the conservation incentives, not simply because of their profitability, for more profitable businesses still remain eligible for the credit. He wishes to deny them the conservation incentives not because of their inability to develop more energy efficient techniques of operation, for he has no proof of such inability. Instead, he would deny them the conservation incentives, because these companies are integrated oil concerns. Clearly, such discrimination is irrational. If these businesses can conserve fuel oil and develop alternate sources of energy to reduce oil consumption, they ought to receive the same encouragement as all other businesses.

The Senator from Massachusetts has stated that these large oil companies are monopolistic and anticompetitive, and he may be right. But the antitrust laws should address that problem. It would clearly be unfair to carry out a dislike for big oil companies in this bill. Such an amendment would be tantamount to a bill of attainder, or certainly a bill of pains and penalties. The amendment in effect says, the Senate will give conservation and production incentives to all sectors of business, except integrated oil companies. Under the Kennedy amendment integrated oil companies would be excluded not because they make money, but because they are big oil companies and we do not like them. In this bill for conservation incentives and production, there is no room for such discriminatory attitude.

If this amendment were successful, Mr. President, the loss of geothermal depletion for the big oil companies would be paltry. But the loss would be gigantic for the development of geothermal energy. Wells that tap geothermal reservoirs are hard to locate and hard to drill. Deep, dense rock formations have to be drilled through, to bring in a producing geothermal well. Even after a successful well is dug, the heat plays out and a new or deeper well must be drilled. The expertise must be developed to harness this alternate energy source.

Furthermore, these wells and the generating plants that convert the steam and heat to electricity are sited in earthquake prone or volcanic rift zones. The financial risk is great. Certainly, the tax incentives for geothermal development should be extended to all companies to maximize development. The rapid, successful development of geothermal energy cannot be accomplished without the capital and expertise of the large oil companies.

As I stated earlier, Mr. President, my State, Hawaii, is utterly dependent on oil for its energy. It imports every barrel of oil consumed and pays over $15 a barrel for high price Indonesian oil. Hawaii has potential alternative energy sources such as solar, wind, and ocean thermal. One of the most promising alternative sources for large scale development is geothermal. But geothermal energy needs massive investments of capital and expertise; and this capital and expertise are available primarily through the oil companies. To deny geothermal tax incentives to the integrated oil companies, effectively stunts the development of this promising energy source.

Focusing on the particular issue of depletability, the Senator from Massachusetts questions whether geothermal energy is exhaustible. I repeat what I said last Saturday, the Ninth Circuit Court of Appeals in *Reich* v. *Commissioner*, 454, F. 26 1252 (1972) held geothermal steam wells were exhaustible. Furthermore, the Senator from California, Mr. CRANSTON, and I have quoted from the letter from the Department of Energy, dated October 11, 1977, that letter states that—

There is no reasonable scientific doubt that geothermal energy sources are depletable.

Last, Mr. President, the Senator from Massachusetts questions the amount of oil, geothermal tax expenditures will save. Again, I reply, the staff of the Joint Committee on Taxation estimates that oil conservation will be 50,000 barrels a day. The conservative Sierra Club has estimated that the savings will be 200,000 barrels a day, or 73 million barrels a year. The tax cost of a barrel saved will be, if I may correct my prior statement, 75 cents a barrel. Surely, the energy savings is cost productive.

Mr. President, the pending amendment is patently unfair and would also thwart the development of geothermal energy. For these reasons, Mr. President, I urge that the amendment be rejected.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Massachusetts. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. JAVITS. Mr. President, on this vote, I have a pair with the Senator from Maine (Mr. MUSKIE). If he were present and voting he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. DECONCINI (after having voted in the affirmative.) Mr. President, on this vote, I have a pair with the Senator from Indiana (Mr. BAYH). If he were present and voting, he would vote "nay." I have voted "yea." Therefore, I withdraw my vote.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Alaska (Mr. GRAVEL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Rhode Island (Mr. PELL), the Senator from Tennessee (Mr. SASSER), the Senator from Illinois (Mr. STEVENSON), and the Senator from Florida (Mr. STONE) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Rhode Island (Mr. CHAFEE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Utah (Mr. HATCH), and the Senator from Oregon (Mr. HATFIELD) are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT) is absent on official business.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "nay."

The result was announced—yeas, 55, nays 23, as follows:

[Rollcall Vote No. 602 Leg.]

YEAS—55

Allen	Ford	Pearson
Baker	Garn	Percy
Bartlett	Glenn	Randolph
Bellmon	Goldwater	Ribicoff
Bentsen	Griffin	Schmitt
Burdick	Hansen	Schweiker
Byrd, Harry F., Jr.	Hayakawa	Sparkman
Byrd, Robert C.	Heinz	Stafford
Cannon	Helms	Stennis
Case	Johnston	Stevens
Chiles	Laxalt	Talmadge
Church	Long	Thurmond
Cranston	Lugar	Tower
Curtis	Mathias	Wallop
Danforth	Matsunaga	Weicker
Dole	McClure	Williams
Eagleton	Moynihan	Young
Eastland	Nunn	Zorinsky
	Packwood	

NAYS—23

Abourezk	Hollings	Metzenbaum
Anderson	Jackson	Morgan
Clark	Kennedy	Nelson
Culver	Leahy	Proxmire
Durkin	Magnuson	Riegle
Hart	McIntyre	Roth
Haskell	Melcher	Sarbanes
Hathaway	Metcalf	

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Javits, for.
DeConsini, for.

NOT VOTING—20

Bayh	Hatch	Muskie
Biden	Hatfield	Pell
Brooke	Huddleston	Sasser
Bumpers	Humphrey	Scott
Chafee	Inouye	Stevenson
Domenici	McClellan	Stone
Gravel	McGovern	

So the motion to lay on the table Mr. KENNEDY'S amendment (UP No. 1013) was agreed to.

Mr. LONG. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1545 (ALTERNATIVE FOR UP AMENDMENT NO. 1009)

(Purpose: To establish projects to demonstrate energy stamp programs.)

The PRESIDING OFFICER. The Senate will now proceed to the consideration of the amendment by the Senator from Connecticut (Mr. WEICKER) which was temporarily laid aside.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Connecticut (Mr. WEICKER) proposes amendment No. 1545, as an alternative for unprinted amendment numbered 1009.

The amendment is as follows:

At the appropriate place insert the following new section:

SEC. . ENERGY STAMP PROGRAM.

(a) IN GENERAL.—Notwithstanding any other provisions of law, the Director of the Community Services Administration, or his successor in interest, shall not later than 180 days following the date of enactment of this section, promulgate such regulations as may be necessary to establish a pilot energy stamp program to provide assistance to low-income and fixed-income households which presently must devote a major portion of their income for the purchase of utility services.

(b) DEFINITIONS.—As used in this section the term—

(1) "heating fuel" means electricity, oil, gas, coal, or any other fuel if used by a household as the primary source for heating or cooling a dwelling;

(2) "Director" means the Director of the Commmunity Services Administration;

(3) "local agency" means the community action agencies, and State economic opportunity offices which are established pursuant to the Economic Opportunity Act of 1964;

(4) "household" means—

(A) any group of related individuals who are living as one economic unit for whom heating fuel is customarily purchased in common, directly or indirectly, by undesignated payments in the form of rent; or

(B) any individual living alone who purchases heating fuel, directly or by undesignated payments, in the form of rent;

(5) "coupon" and "stamp" means any coupon, stamp, or certificate issued pursuant to the provisions of this Act;

(6) "retail heating fuel outlet" means any establishment, including a recognized department thereof, which sells heating fuel for consumption by households;

(7) "wholesale heating fuel outlet" means any establishment, including a recognized department thereof, which sells heating fuel to retail heating fuel outlets for resale for consumption by households;

(8) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands;

(9) "bank" means any member or nonmember bank of the Federal Reserve System;

(10) "landlord" means any person who rents a dwelling which is the principal residence of the tenant and who normally includes the cost of heating fuel in the rental charge to the tenant; and

(11) "designated pilot area" means one of at least five areas selected for participation in the pilot energy stamp program under this section by the Director on the basis of insuring that each such area reflects different climatic and geographic (including rural and urban) conditions than the other such areas.

(c) STAMP PROGRAM.—

(1) If the local agency plan of a designated pilot area described in subsection (g) is approved by the Director, the Director shall establish and maintain an energy stamp program, under which households in such area deemed eligible pursuant to subsection (d) will be provided with assistance to defray heating fuel costs. The method in which this assistance is provided shall be through energy stamps.

(2) Any eligible household in a designated pilot area may receive heating fuel coupon assistance—

(A) if such household purchases heating fuels; or

(B) if such household makes undesignated payments for heating fuel in the form of rent.

(3)(A) Coupons received by any eligible household described in subparagraph (2)(A) shall be used to purchase heating fuel only from a retail heating fuel outlet participating in the energy stamp program in the pilot area.

(B) Coupons received by any eligible household described in subparagraph (2)(B) shall be used only for payment of the appropriation portion of such household's rent related to heating fuel costs.

(d) STANDARDS.—

(1) The Director shall establish standards of eligibility for participation by households in the pilot energy stamp program. Participation in the program shall be limited to households whose income and other financial resources are determined by the Director to be substantial limiting factors in permitting such households to purchase heating fuel or to make undesignated payments for such fuel.

(2) As a minimum, the standards of eligibility shall provide that any household is eligible if total income of such household is 125 percent above the poverty level for the calendar year.

(3) In lieu of, in addition to, the criteria described in paragraph (1) or (2), the Director shall consider any criteria submitted by a local agency in a designated pilot area to the Director for determining the eligibility of households in the designated pilot area serviced by such local agency.

(e) PRINTING.—

(1) The Director shall provide for the printing of such energy stamps in such denominations as he deems necessary to carry out the provisions of this section.

(2) The Director shall establish standards for determining the number of energy stamps to be issued to an eligible household.

(3) In establishing standards under paragraph (2) the Director shall consider—

(A) any criteria submitted by a local agency that is deemed to be important for the evaluation of energy stamp assistance in the area serviced by such local agency in the designated pilot area;

(B) the income of households within the area serviced by such local agency;

(C) the number of individuals in such households;

(D) the temperature and other climate conditions in the area in which such households reside;

(E) the type of heating fuel used by such households; and

(F) the extent to which such households have participated in weatherization programs.

(4) Prior to receiving the energy stamps, each participating household must pay to the local agency 33⅓ percent of the total value of the coupons to be received by such household.

(5) The value of the energy stamp assistance provided to an eligible household under this section shall not be considered to be income or resources for any purpose under any Federal or State law, including any law relating to taxation, welfare, or public assistance programs.

(f) REDEMPTION.—

(1) Coupons accepted by any retail heating fuel outlet or any person described in subsection (c)(2)(A)(i) shall be redeemed through wholesale heating fuel outlets or banks in the designated pilot area, with the cooperation of the Department of the Treasury.

(2) Coupons issued and used in accordance with the provisions of this section shall be redeemable at face value by the Director through the facilities of the Department of the Treasury.

(g) LOCAL PLANS.—

(1) Each local agency desiring to participate in the energy stamp program in the designated pilot area shall submit to the Director for approval a plan of operation specifying the manner in which and the effective dates of participation during which such program shall be conducted within the area serviced by such local agency. In addition, the local agency may provide information regarding weatherization programs which have been or are now being conducted in the area.

(2) The Director shall approve any local agency plan of operation which satisfies the provisions of paragraph (1) and which provides—

(A) that the local agency shall undertake the certification of applicant households in accordance with the eligibility requirements established by the Director under subsection (d);

(B) safeguards which restrict the use or disclosure of information obtained from applicant households to persons directly connected with the administration or enforcement of the provisions or regulations of this section;

(C) that the local agency shall undertake extensive outreach action to inform eligible households and heating fuel outlets as to the availability, rules, regulations, and benefits of the energy stamp program;

(D) for the granting of a fair hearing and a prompt determination thereof to any household aggrieved by the actions of a local agency under any provision of its plant of operation as it affects the participation of such household in the energy stamp program;

(E) that the local agency keep a strict and accurate accounting of all transactions made pursuant to this section;

(F) a requirement that landlords submit certification that any increase in rent charged to a household is not based solely upon actual or anticipated receipt by that household of energy stamps; and

(G) that the local agency shall coordinate the energy stamp program with weatherization projects.

(3) If the Director determines that in the administration of the program there is substantial failure by a local agency in a designated pilot area to comply with provisions of this section or with the plan of operation submitted by such agency, he or she shall inform such local agency of the failure and shall allow the local agency a reasonable period of time for the correction of the failure. Upon the expiration of such period, the Director shall order that there be no further distribution of energy stamp assistance in the area serviced by such agency until such time as satisfactory corrective action has been taken.

(4) The Director shall reimburse a local agency in a designated pilot area for the costs it incurs in administering the energy stamp program. Such reimbursement would be made upon terms and conditions prescribed by rule of the Director. In addition, the United States—

(A) shall finance the printing of energy stamps and the issuing of such coupons to local agencies; and

(B) shall be obliged for payment of the face value of energy stamps to persons re-

deeming such coupons in accordance with the provisions of this section.

(h) CRIMINAL PENALTIES.—

(1) Whoever knowingly uses, transfers, acquires, alters, or possesses energy stamps in any manner not authorized by this section—

(A) shall, if the total value of such coupons is $100 or more, be fined not more than $10,000 or imprisoned for not more than 5 years, or both; or

(B) shall, if the total value of such coupons is less than $100, be fined not more than $5,000 or imprisoned for not more than 1 year, or both.

(2) If a local agency administering the energy stamp program in a designated pilot area finds (in accordance with the process described in subsection (g)(2)(F) of this section) that a landlord has increased rent to a household based solely upon actual or anticipated receipt by that household of energy stamps, then the landlord may be fined an amount not more than 12 times the amount of the household's rent increase.

(i) REGULATIONS.—The Director shall issue such regulations as he deems necessary or appropriate for carrying out the pilot energy stamp program under the provisions of this section.

(j) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out the provisions of this section, there are authorized to be appropriated, for the fiscal year ending September 30, 1978, the sum of $25,000,000, for the fiscal year ending September 30, 1979, the sum of $25,000,000, and for the fiscal year ending September 30, 1980, the sum of $25,000,000.

Mr. CURTIS addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. CURTIS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CURTIS. Mr. President, how much time, if any, has been allocated to this amendment?

The PRESIDING OFFICER. There is no time limit on this amendment.

Mr. LONG. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LONG. Mr. President, it is my understanding that the Senator has modified his amendment in line with our discussion to make this a pilot program rather than an overall program.

The PRESIDING OFFICER. The Senator from Connecticut has not modified, he has submitted an alternative, and he has the right to modify.

Mr. LONG. Mr. President, I ask that I may proceed for 1 minute.

The PRESIDING OFFICER. The Senator is recognized.

Mr. LONG. Mr. President, the alternative, as I understand it—I will ask the Senator from Connecticut if this is not true—the alternative he has submitted provides for a pilot program in five areas to test the energy stamp approach, as discussed by the Senator from Connecticut Saturday, is that correct?

Mr. WEICKER. That is correct.

Mr. LONG. I thank the Senator.

Mr. President, I would support the amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I suggest the absence of a quorum for just a minute.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Does the Senator modify his amendment by substituting——

Mr. WEICKER. This is the modified amendment that I am calling up.

The PRESIDING OFFICER. The amendment is so modified.

Mr. WEICKER. Mr. President, there is a technical error in paragraph (d)(2) on page 5 of amendment No. 1545. The paragraph should read as follows:

(2) As a minimum, the standards of eligibility shall provide that any household is eligible if total income of such household is less than 125 percent of the poverty level for the calendar year.

I ask unanimous consent to modify my amendment to make that technical change.

The PRESIDING OFFICER. The Senator has a right to modify his amendment. The amendment is so modified.

Mr. WEICKER. Mr. President, I have very few comments, and then I will yield to the distinguished Senator from New York.

I thank the distinguished Senator from Louisiana and all others who have helped put together this modified amendment. I think it is extremely important that what has been agreed upon, basically, is that we recognize the special hardship in any rationing-by-price scheme that is going to fall on the weakest elements of our society. How we are to go ahead and handle that hardship is something that deserves close scrutiny, and certainly it also deserves a positive plan.

The suffering I am referring to has been going on for 4 years. I think—and so do others of my colleagues—that it is unfair to continue the special burden of high prices in the energy field, more particularly in the sense of utility bills, upon those individuals.

Therefore, what we are proposing is a pilot program of energy stamps, a pilot program that will cover at least five separate situations—including rural, urban, north, and south and help us gain experience with issuing energy stamps to those who are within the eligibility standards I mentioned before, within 125 percent of the poverty level.

It is not the full program I initially advocated in my amendment. However, I am satisfied that before we engage in such a program, it is necessary to gain the experience that these pilot programs provide.

I am very certain that what will be shown here is that this special care is very much warranted.

We are not dealing, I might add to my colleagues, with something that is nice to have. We are dealing with a basic necessity of life. As I indicated previously, for 4 years the elderly, the poor, and the near poor have suffered terribly in the course of this energy crisis. They have suffered because, in effect, not all Americans have taken the burden of the solution on their shoulders. This amendment at least takes us a step toward making sure that our conservation effort will be a fair one and will be placed on the shoulders of all Americans, not just the weakest elements of our society.

I yield to the distinguished Senator from New York.

Mr. JAVITS. I thank my distinguished colleague.

Mr. President, I speak now so that we may carry over into this modified amendment the understanding with Senator LONG and the Finance Committee respecting participation in the oversight of how this goes to the Human Resources Committee, so that Chairman WILLIAMS and I may be able to so inform the committee. I gather that is agreeable to the Senator from Louisiana.

Mr. LONG. I did not quite understand what the Senator is asking.

Mr. JAVITS. I referred to the participation by the Human Resources Committee in the oversight responsibility in respect of how this particular experiment goes, as it is partially in our line and partially in the line of the Finance Committee.

Mr. LONG. Yes. I hope, Mr. President, that Senators on that committee will take a very close look at this. They have a compelling interest in a matter of this kind. We have a right to rely upon them for their help and their advice as to whether they think this is working.

The advantage of this amendment is that, without a great expenditure, it would give us the opportunity to try the energy stamp approach to see if it has merit and if it can be handled to overcome the administrative problems and complexities that some might fear.

In my judgment, we should try to find answers and try to experiment enough with new ideas that are offered and that we hope will answer some of our national needs. Then we would know whether we had something good and could prove it before we tried to implement something of this type on a large scale.

If we had done this with some of the existing billion-dollar programs before we jumped into them, we might have been better advised to know whether they would work or would not work, and where the problems were. The energy stamp idea is the kind of thing that nationwide would cost a great deal of money, but it may very well be that we should do something along these lines. How could we judge the merits of this compared to other things better than by having it pilot tested?

I will be happy to vote for the amendment, and I hope the Senate will agree to it.

Mr. JAVITS. I thank my colleague very much.

The reason for my position is that it is to be administered by the Community Services Administration, which falls under the oversight of the Human Resources Committee.

I express my indebtedness, as a cosponsor and as a representative of my State, which has so many poor, to Senator WEICKER for his outstandingly fine service in thinking up this amendment and handling it with the taste and the conviction he has.

Mr. WEICKER. I thank the Senator from New York.

Mr. RANDOLPH. Mr. President, will the Senator from Connecticut yield?

Mr. WEICKER. I have agreed to yield to the Senator from Kansas. I will then yield to the distinguished Senator from West Virginia.

Mr. DOLE. Mr. President, I believe we have restricted the general program to an area that deserves support, to see whether or not such a program will work. It has been compared with the food stamp program in some aspects, and that is a very productive program in many areas. Even there, we have tightened it up. We have been giving tax benefits by the billions to industry in the past few days.

This is a good amendment, and the designated pilot areas will make certain that we understand the full potential of the program before it is enlarged.

I commend the distinguished Senator from Connecticut, and I am pleased to support the amendment.

Mr. WEICKER. I thank the Senator from Kansas.

Mr. President, I yield to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, when the able Senator from Connecticut (Mr. WEICKER) initially offered his amendment, I listened very carefully. Often, we do not have the opportunity to listen carefully to the explanation of an amendment. But on that occasion, I had such an opportunity to follow his analysis as he worked his way through to indicate the end result.

As has been said by the distinguished Senator from Kansas, we have had certain types of incentives—or whatever we desire to call them—to encourage all segments of our society to cope with the crucial problems that are involved in an energy program.

And this certainly is one of the efforts being made by the able Senator from Connecticut (Mr. WEICKER) in his modified amendment, agreed to as I understand it by the chairman of the Finance Committee. Also, in our Committee on Human Resources there is, as the Senator from New York (Mr. JAVITS) has indicated an involvement in connection with the project of this kind.

It is a pilot program; but it can well lead to a better understanding of the energy assistance which can be given in perhaps a unique way to a group or grouping of people who are deserving of our attention, our concern, and also our commitment.

The amendment will add a section to the pending bill to establish five pilot projects to demonstrate an energy stamp program for low- and fixed-income households, giving them economic assistance in meeting residential energy costs.

There is no doubt in the next few years the cost of all forms of fuel used in home heating must rise. It is essential that the Federal Government to explore alternatives that will help those who might be faced with an inability to pay such increased rates. I believe this is one alternative worth further study.

The pilot coupon programs would be administered by the Community Services Administration together with State economic opportunity offices and local community action agencies.

Both homeowners and apartment dwellers would be eligible for assistance. Denominations of the stamps would be set by the Director of the Community Services Administration and redemption of the coupons would be provided by retail fuel outlets and landlords.

The pilot program calls for $25 million for each of the next 3 fiscal years. Local agencies desiring to participate in the program must submit a plan of operation to become eligible. Guidelines for the program will be structured by the Community Services Administration but based primarily on input from local agencies.

I commend the Senator from Connecticut (Mr. WEICKER) for his effort in bringing this matter to the attention of the Senate and in being able to modify the amendment to secure broad-based support of Senators. I think this is an indication of a man whose intentions are the very best.

Mr. WEICKER. I thank the distinguished Senator from West Virginia (Mr. RANDOLPH) for his very gracious remarks.

(Mr. ZORINSKY assumed the chair.)

Mr. LONG. Mr. President, will the Senator yield?

Mr. WEICKER. I yield.

Mr. LONG. Mr. President, it occurs to me that on page 4, line 3, where the words "defray heating fuel costs" occur, it might be well to add the words "or cooling." after the word "heating." While low-income people usually are not thought of as being persons who enjoy the benefits of air-conditioning, poor individuals of low income at least do need refrigerators, or other energy-consuming machines which cool. Since helping them to defray their energy costs is generally what the Senator is trying to do, it seems to me he might like to think in terms of helping defray the cost of the energy used by a household refrigerator.

Mr. WEICKER. I think I can respond to the distinguished Senator from Louisiana.

I could not agree more. This is not just meant to apply to the northern States. Believe me, to die of heat is death just as much as dying from the cold.

The definition is:

As used in this section the term—

(1) "heating fuel" means electricity, oil, gas, coal, or any other fuel if used by a household as the primary source for heating or cooling a dwelling;

Mr. LONG. Then the Senator has this matter taken care of?

Mr. WEICKER. That is correct. I could not agree more. We do not want this to be only a northern program. It is a program, very frankly, for those whose energy costs are too high regardless of where the costs are incurred by virtue of heating or cooling, in no matter what section of the country.

Mr. LONG. I am pleased the Senator thought about that. I thank the Senator.

Mr. WEICKER. I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. There was no time limitation.

Mr. WEICKER. Mr. President, I ask unanimous consent that the distinguished Senator from West Virginia, Mr. RANDOLPH, be included as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Connecticut.

The amendment was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. Weicker. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. CHILES. I yield.

Mr. WEICKER. Mr. President, I ask unanimous consent that the distinguished Senator from Alabama (Mr. ALLEN) be a cosponsor on the last amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Florida.

AMENDMENT NO. 1547

(Purpose: To provide a tax credit for the annual increase in an individual's home heating and cooling costs attributable to imported oil costs.)

Mr. CHILES. Mr. President, I call up amendment No. 1547 that was temporarily laid aside Friday and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Florida (Mr. CHILES), for himself, Mr. STONE, Mr. DURKIN, Mr. HATHAWAY, and Mr. MOYNIHAN, proposes an amendment numbered 1547.

The amendment is as follows:

At the appropriate place insert the following new section:

SEC. . CREDIT FOR INCREASED RESIDENTIAL ENERGY COSTS ATTRIBUTABLE TO IMPORTED OIL.

(a) Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowed) is amended by inserting immediately after section 44H the following new section:

"SEC. 44I. CREDIT FOR INCREASED RESIDENTIAL ENERGY COSTS ATTRIBUTABLE TO IMPORTED OIL.

"(a) GENERAL RULE.—In the case of an individual, there is allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to that portion of the amount by which his home heating and cooling costs for the taxable year exceed such costs for the preceding taxable year which is attributable to increases in the price of imported residual fuel oil.

"(b) LIMITATIONS.—

"(1) MAXIMUM DOLLAR AMOUNT.—The amount of the credit allowed by subsection (a) for the taxable year shall not exceed $150 ($75 in the case of a married individual making a separate return of tax).

"(2) MAXIMUM ADJUSTED GROSS INCOME.—The amount of the credit allowed by subsection (a), after the application of paragraph (1), shall be reduced by 1 percent of the amount by which the adjusted gross income of the taxpayer exceeds $15,000 ($7,500 in the case of a married individual making a separate return of tax).

"(3) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this part having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, 43, 44C, and 44H.

"(4) SAME STRUCTURE LIMITATION.—No credit is allowable under subsection (a) for the taxable year for home heating and cooling costs of the residence of the taxpayer for the taxable year unless—

"(A) the same dwelling unit was his residence for the preceding taxable year, or

"(B) the taxpayer establishes, to the satisfaction of the Secretary, the amount of the home heating and cooling costs for such dwelling unit for the preceding taxable year.

"(c) DEFINITIONS; SPECIAL RULES.—For purposes of this section—

"(1) HOME HEATING AND COOLING COSTS.—The term 'home heating and cooling costs' means the sum of the amounts paid or incurred by an individual for the taxable year to provide heating and cooling for his residence.

"(2) INCREASE ATTRIBUTABLE TO IMPORTS OF RESIDUAL FUEL OIL.—The amount of any increase in the home heating and cooling costs of taxpayers attributable to increases in the price of residual fuel oil shall be determined by the Secretary after consultation with the Secretary of Energy and the public utility commissions of each State, on a State-by-State basis not less frequently than annually.

"(3) TENANTS.—In the case of an individual who is the lessee of his residence, 25 percent of the amounts paid or incurred for the taxable year as rent shall be treated as the base amount home heating and cooling costs for that taxable year. This paragraph shall not apply in the case of a lessee whose home heating and cooling costs are not included in his rental payment.

"(4) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as residence by 2 or more individuals—

"(A) the amount of the credit allowable under subsection (a) by reason of expenditures for home heating and cooling costs made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as one taxpayer whose taxable year is such calendar year; and

"(B) each of such individuals shall be allowed a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expeditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

"(5) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who holds stock as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation.

"(6) CONDOMINIUMS.—

"(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which he owns, such individual shall be treated as having made his proportionate share of any expenditures of such association.

"(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.".

(b) REFUND OF EXCESS CREDIT.—

(1) Section 6401(b) (relating to excess credits) is amended by—

(A) inserting after "credit)," the following: "441 (relating to credit for increased residential energy costs attributable to imported oil),"; and

(B) striking out "and 43H" and inserting in lieu thereof "44H, and 44I".

(2) Section 6012(a) (relating to persons required to make returns of income) is amended by—

(A) striking out "and" at the end of paragraph (6),

(B) striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon and the word "and", and

(C) inserting immediately after paragraph (7) the following new paragraph:

"(8) every taxpayer claiming the credit allowed by section 44I;".

(3) Section 6201(a)(4) (relating to assessment authority) is amended—

(A) by striking out "OR 44H" in the caption thereof and by inserting in lieu thereof ", 44H, OR 44I".

(B) by striking out "income) or section 44H" and inserting in lieu thereof "income), section 44H", and

(C) by inserting "or section 44I (relating to credit for increased residential energy costs attributable to imported oil)," after "credit),".

(c) CLERICAL AND CONFORMING AMENDMENTS.—

(1) The table of sections for such subpart is amended by inserting immediately after the item relating to section 44H the following new item:

"Sec. 44I. Credit for increased residential energy costs attributable to imported oil.".

(2) Section 6096(b) (relating to designation of income tax payment to Presidential election campaign fund) is amended by striking out "and 44H" and inserting in lieu thereof "44H, and 44I".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1977.

Mr. CHILES. Mr. President, under this amendment, the individual is allowed a credit in an amount equal to that portion of the amount by which his home heating and cooling costs exceed the costs of the previous year as a direct result of increases in the price of imported residual fuel oil.

This is a very modest amendment in that it only provides relief for any future increases in the price of residual fuel oil. The large increases have already taken place and the tax credit is not retroactive in application.

It follows the parameters of the Durkin amendment already passed by the Senate. The credit shall not exceed $150 and will be reduced for incomes exceeding $15,000.

For the purpose of renters, home heating and cooling costs will be considered as 25 percent of the rent in the case when utilities are paid by the landlord.

I think the distinguished chairman of the Finance Committee has had a chance to look at the amendment.

Mr. LONG. Mr. President, I understand what the Senator is trying to do, and I applaud him for his efforts to protect the consumers of imported residual fuel oil from additional costs. I hope very much that this matter can be worked out in conference.

As the Senator knows, there will be some administrative problems to try to overcome, but I am sure that it can be considered in conference between the two Houses.

Mr. CHILES. I thank the distinguished chairman for that, and I am ready for the vote.

Mr. LONG. I am willing to take the amendment to conference, Mr. President.

Mr. STONE. Mr. President, the amendment Senator CHILES and I have offered is directed at that part of the utility rate which increases as a result of price increases of residual fuel oil used to generate electricity. In view of the fact that utility rate consumers are at the mercy of OPEC-controlled imported residual fuel oil prices, it is important that they be protected against any further drastic fluctuation in these fuel oil prices. Since 1973 utility rates affected by imported residual fuel oil have doubled and tripled in many places throughout our country, including Florida.

The largest utility in Florida, serving 1,658,000 residential customers, has informed me that the average monthly residential utility bill for the last 12 months in Florida is $39.13, excluding taxes. Almost one-fifth of this monthly utility bill represents the cost for residual fuel oil. The amendment Senator CHILES and I offer is designed to affect this portion of the utility bill. I am informed that every dollar per barrel increase in the cost of imported residual fuel oil to a utility has the effect of raising the average residential utility user's bill in Florida by 90 cents per month or about $10.80 per year. In such a case the amendment Senator CHILES and I offer would have the effect of allowing the residential electric user a refundable tax credit of $10.80.

Mr. President, inasmuch as the Senate has already adopted an amendment I supported providing for a refundable tax credit for home heating oil, protecting consumers in New England from price increases of imported fuel oil, it is only fair that residential electric consumers whose electricity comes from the use of imported residual fuel oil also be protected against such price increases. I urge the Senate's adoption of this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Florida.

The amendment was agreed to.

Mr. CHILES. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CURTIS. Mr. President, may I inquire what is the next amendment order?

AMENDMENT NO. 1546

The PRESIDING OFFICER (Mr. CHILES). The Senate will now proceed to the consideration of the amendment of the Senator from Idaho (Mr. McCLURE), amendment No. 1546 which was temporarily laid aside.

Mr. CURTIS. Mr. President, may I inquire whether or not there is an amendment ordered following the McClure amendment?

The PRESIDING OFFICER. There is no amendment order following the McClure amendment.

Mr. SCHWEIKER. Mr. President, if the Senator will yield, I am prepared to go forward with my amendment. It should not take long.

Mr. CURTIS. Mr. President, I ask unanimous consent that the distinguished Senator from Pennsylvania be recognized after the McClure amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an amendment numbered 1546.

Mr. McCLURE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 73, line 7, add the following new sentence: "An electric motor vehicle used in the taxpayer's trade or business shall be treated as energy property.".

On page 60, between lines 18 and 19 add the following:

"(xiii) equipment used in research relating to development or construction of, or in the actual construction of electric motor vehicles.".

Mr. McCLURE. Mr. President, might I ask the Chair if the two amendments which last Saturday were to be considered en bloc are now pending en bloc?

The PRESIDING OFFICER. Will the Senator identify the two amendments for the desk?

Mr. McCLURE. One amendment is on page 60, lines 18 and 19. The other amendment is on page 73, line 7.

The PRESIDING OFFICER. The amendments are being considered en bloc.

Mr. McCLURE. I thank the Chair.

Mr. President, these amendments are designed to encourage the production of electric motor vehicles and to give a tax incentive for businesses that purchase electric motor vehicles.

The first amendment would classify as alternative energy property equipment used in research and development of electric motor vehicles and equipment used in the construction of these vehicles. The effect of this amendment is to give a refundable credit of 15 percent, in addition to the regular investment credit, for this equipment. Eligible equipment includes only equipment which is used for research, development, or construction of electric motor vehicles manufactured primarily for use on public streets, roads, and highways.

The second amendment would classify electric motor vehicles used in a taxpayer's trade or business as energy property. This amendment results in these vehicles being eligible for a 10-percent tax credit, in addition to the regular investment credit. This credit applies only to electric motor vehicles manufactured primarily for use on public streets, roads, and highways, that is, electric vehicles which, if used for personal purposes, would be eligible for the $300 credit under proposed section 44D.

I have discussed these amendments with the managers of the bill on both sides. I understand they are prepared to accept both amendments.

Mr. LONG. Mr. President, these amendments would give the electric motor vehicles used in trade or business an additional 10-percent energy tax credit. They also would make equipment used in research, development, and construction of electric motor vehicles eligible for the additional 15-percent business energy tax credit.

Mr. President, I believe that these amendments could well be considered in conference, and I am willing to accept the two amendments.

Mr. McCLURE. Mr. President, I am happy to yield to the Senator from Kansas.

Mr. DOLE. Mr. President, speaking for the Republican side, the amendments have been discussed with the distinguished Senator from Idaho and we think they are good amendments.

Mr. McCLURE. I thank the Senator from Kansas.

The PRESIDING OFFICER. The question occurs on agreeing to the amendment of the Senator from Idaho.

The amendment was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Pennsylvania is recognized.

Mr. McCLURE. Mr. President, if the Senator will yield for 1 minute so I may complete the colloquy on these amendments, I have a third amendment which would have increased the tax credit for the individual personal use of electric motor vehicles from $300 to $800.

I understand that this matter was discussed in the Finance Committee at some length and there was a great deal of resistance in allowing a $300 exemption or credit. For that reason, while I would have liked to have offered this amendment, I will not offer it, because the committee has agreed to the other two, and because of the history in the committee on the $300 credit.

Mr. President, I would have offered as an amendment to H.R. 5263, section 1028, the following:

On page 42, line 14—change "$300" to "$800".

On page 43, line 3—change "$300" to "$800".

This amendment would increase the tax credit for individuals acquiring a qualified electric motor vehicle from $300 to $800.

I commend the Committee on Finance for including section 1028 in the bill. Electric motor vehicles offer a strong potential for conserving oil supplies and converting transportation energy demands to renewable resources.

I believe, however, that $300 does not offer an adequate incentive. The present price differentials for electric vehicles, based on approximately comparative performance and size specifications, usually exceed $1,000, based on the present levels of production. These differentials will, of course, decrease as production levels increase, but during the next few years, I believe that we should assume at least a $1,000 figure.

No amendment, therefore, would offset a major portion of that differential. This would increase the purchase of electric vehicles, thereby increasing the fuel and environmental savings available from this alternate means of transportation.

Mr. President, these amendments take a major step in assuring that small business concerns have realistic and adequate opportunities to participate in the research, development and manufacturing of electric and hybrid vehicles. If this adequate impetus is given to electric vehicle research, development, and improvement, major improvements in the range and performance of electric and hybrid vehicles are possible in the near term.

If we have learned nothing else in the last few years, we have learned the necessity for husbanding our precious supplies of oil. Oil must be diverted from uses for which substitutions are available and conserved for its most essential functions. We must have the oil to provide petrochemical feedstocks for synthetic fibers, for clothing, building materials, and insulation. We may someday find we desperately need oil for the base for synthetic food supplements—if we do, it must be there. But we cannot grow much food very well without fertilizers and we cannot provide our farmers with the fertilizers they need unless we have the petrochemicals to manufacture it. And feeding people is not enough. We have to think of their health. We depend on petrochemicals for antibiotics and other medicines as well as for the latest in medical devices, such as artificial heart valves.

One way to change the transportation energy base would be to shift a greater share to urban use of electric vehicles, which indirectly allow a greater share of coal and nuclear reserves to go for transportation needs. As we are seeing, it is imperative that we find alternative sources of energy. Over the long run, this will not present an unsolvable problem. The physical supply of energy is bountiful, but it is man's technology which must improve to take advantage of it. We must also learn to husband our resources, using the precious, finite fuels for top priorities, where substitutes are not yet available. And, a switch to electric vehicles would allow in the future a greater use of the virtually infinite sources, such as coal, solar energy, geo-

thermal energy, and the energy from nuclear breeder reactors. The name of the game should become, "Use oil only where you can't use something else."

Rural America also has a large stake in the future use of electric vehicles. One of the most important points I want to make today is that by easing the unnecessary use of fossil fuels in combustion engines, we will be allocating the various forms of available energy in a more efficient way. If tomorrow's farmer has enough gasoline and diesel fuel for his trucks and tractors, it will be precisely because these fuels were not used by commuters who were given a reasonably clean and economical alternative. If proper uses are not made of available resources, ultimately everyone suffers.

The commuter depends upon the farmer for food and it now seems that the farmer, at least in the short run, may depend upon the commuter for fuel. But first we must see that the commuter has that choice to make. We must do everything we can to see that the truth of this situation is put before the public. I believe the average citizen has no idea what already is, and what could be, available in the electric car field. I further believe that if he knew, he would be significantly more interested trying one out. Once that demand begins, market forces will take over, and you and I will not be stuck having to make embarrassing explanations to our grandchildren about why we burned such valuable and useful substances as oil and natural gas liquids, in the face of excellent alternatives.

In summary, Mr. President, reducing the amount of petroleum consumed by gasoline powered automobiles would limit the need to import corresponding quantities of petroleum. This, in turn, would reduce the flow of U.S. dollars overseas, and would allow greater flexibility in our foreign policy.

A study by the Argonne National Laboratory indicates that a gradual buildup of electric vehicles by the year 2000 would result in a cumulative savings of 1.3 billion barrels. At today's price of $13 per barrel of imported oil, such a reduction corresponds to a cumulative savings in foreign payments of $16.9 billion. As was stated in the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976, electric vehicles—"can play an important role in this Nation's energy conservation programs, while continuing to provide much of the flexibility and freedom that the public has come to expect of its personal transportation systems."

I thank the Senator for yielding.

UP AMENDMENT NO. 1014

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SCHWEIKER. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. SCHWEIKER) proposes an unprinted amendment numbered 1014:

On page 59, line 5:

After the word "fuel", strike the words "(except coke and its byproducts)."

Lines 16 and 17, page 59—After the word "products", strike the words "(except coke and its byproducts)."

Mr. SCHWEIKER. Mr. President, this amendment, of which the distinguished Senator from Alabama (Mr. ALLEN) is my principal cosponsor, has some other cosponsors that I would like to read into the RECORD at this point. They are: Mr. HEINZ of Pennsylvania, Mr. MOYNIHAN of New York, Mr. LUGAR of Indiana, Mr. HUDDLESTON of Kentucky, Mr. THURMOND of South Carolina, Mr. EAGLETON of Missouri, Mr. RANDOLPH of West Virginia, Mr. PERCY of Illinois, Mr. FORD of Kentucky, Mr. SPARKMAN of Alabama, Mr. DOLE of Kansas, Mr. MATHIAS of Maryland, and Mr. BAYH of Indiana.

Mr. President, the amendment I offer at this time is a simple one which I believe brings the language of the committee bill with respect to tax credits for "shifts from oil and natural gas to other fuels" into line with the intent of this legislation. The idea of tax credits to help break our reliance on oil and gas is the centerpiece of this bill and my amendment is directed toward that end.

On page 59 of the committee bill the equipment eligible for tax credits is listed, but at the end of the list are the words "except coke and its byproducts." Mr. President, I believe we should be aware that we are overlooking a significant chance to save oil and natural gas by such an exclusion. Coke production by the Nation's steel plants results in a coke gas byproduct that can be used as a substitute for oil and natural gas, thereby easing the fuel crunch and reducing the danger that the steel industry or other industries will be forced to turn to foreign sources, such as LNG from Algeria.

The steel industry generates over 65 percent of its total energy consumption from the production of coke and byproduct gas. The byproduct coke oven is the only full-scale, production tested coal gasifier in commercial operation in the United States. If the steel industry is to substantially reduce its consumption of fuel oil and natural gas, that can be most efficiently accomplished by constructing new coke batteries. The gas produced by these batteries can directly replace fuel oil and natural gas in the steelmaking and finishing processes. In addition, some blast furnaces use 10 percent fuel oil or natural gas in their energy mix. This use of oil and gas can be replaced by substituting quality coke, if we take steps to bring new coke facilities on line.

Since the cost of producing coke gas, an alternative to oil and gas, approximates 50 percent of the coke oven process, under my amendment, about 50 percent of the investment cost should be available for the tax credit. The provisions of this section, as amended, would apply as well to the reconstruction of existing coke batteries.

For some reason, H.R. 5263 as reported by the Finance Committee, excludes coke from the definition of alternative energy property. Coke gas is one of the oldest alternate energy sources available today.

The Members of this Congress are well aware of the steel industry's problems. It would be a terrible mistake to further compound them by excluding blast furnace coke batteries from the definition of alternative energy property.

The House bill does not exclude coke gas from the credits. Mr. President, I submit to the Senate that by passing my amendment we encourage our steel industry to move ahead on new coke facilities which, by producing valuable coke gas, make a very healthy contribution to our energy independence efforts. I stress that we are talking about a very significant amount of fuel saved. For example, one typical coke facility uses 4,600 tons of coal a day and produces from it the equivalent of 28.8 million cubic feet of natural gas a day.

The bill says if you install equipment that makes possible a shift from oil and gas to other fuels you get the tax credit. A new coke facility does just that, by producing coke gas. It follows, then, that the intent of this legislation would call for including coke production in the incentives. That is what my amendment does.

I very strongly feel that coke should receive the same kind of tax credit that other synthetic fuels do. I would point out that we have put unusual restraints on coke ovens, such as new coke oven standards for health purposes, so that pollutants from coke ovens will not be injurious to health. This requires an expensive capitalization program.

Just this week there was a headline in the New York Times that Bethlehem Steel reports the largest corporate loss in the history of any U.S. company on the record books, $477 million. That is a dramatic reminder of the state of the steel industry today.

In addition, United States Steel Corp. just announced a 76-percent decrease in its third-quarter profits, and National Steel Corp. reported a 54-percent drop in its profits and earnings.

In addition, Wheeling Steel reported a substantial loss for its period of operations. I could go on and on. I will not belabor the point. There are 18,000 steelworkers now out of work, and that says it best of all.

So I think it is very important, if we are going to set up a new incentive system to produce synthetic fuel, that we include the oldest, most beneficial, best-known and best-proven technology we have today, namely coke production.

Therefore, it would be well to strike these words "coke and its byproducts" so that coke-oven gas can be included.

Mr. CURTIS. Mr. President, will the distinguished Senator yield?

Mr. SCHWEIKER. Yes.

Mr. CURTIS. I have examined the amendment. It seems to me it is in accord with what should be done and, so far as I am concerned, I think the committee ought to accept the amendment.

Mr. SCHWEIKER. I certainly thank the distinguished Senator from Nebraska.

I would like to yield to the principal cosponsor, Senator ALLEN, at this point.

Mr. ALLEN. I thank the distinguished Senator. I do have remarks prepared.

H.R. 5263 as reported by the Senate Finance Committee includes a variety of incentives for industry to convert from the use of oil and natural gas to alternative fuels. In so doing, the bill provides a definition of the term "alternative en-

ergy property." Basically, this is property which will make possible the shift from oil and natural gas to alternate fuels.

Equipment which produces coke and byproduct gases and liquids of coke is expressly excluded from the definition of property which would qualify for a special investment tax credit. The steel industry generates over 65 percent of its total energy consumption from the production of coke and byproduct gas. I am informed that a typical large size coke oven battery—consisting of approximately 85 slot ovens—uses about 4,600 tons of coal per day. Enough coke oven gas can be produced by this facility to replace 28.8 million cubic feet of natural gas per day. Obviously, production of gas on this magnitude makes the byproduct coke oven the only full-scale, production-tested coal gasifier in commercial operation in the United States. If the steel industry is to substantially reduce its consumption of fuel oil and natural gas, it can be most efficiently accomplished by the construction of new coke oven batteries. The gas produced by these batteries is now and can in the future directly replace the need for fuel oil and natural gas in the steelmaking and finishing processes. But the costs involved in construction of new coke ovens—because of a number of factors not the least of which are federally mandated environmental requirements—is causing our domestic producers to seriously consider postponing or not constructing new coke oven batteries at all. Among other reasons, this has been prompted by the fact that countries like West Germany and Sweden are producing huge amounts of coke (reportedly 15 million tons currently are available in West Germany alone) which they are willing to sell in this country at prices significantly below domestic production costs. Failure to provide the incentives for constructing new coke oven batteries on our own soil can only result in lost jobs, reliance on foreign countries for still another critical material, and further exacerbate the already crisis situation existing in the steel industry. Likewise, while we are deprived of coke oven gas to supplant the need for oil and gas, our foreign competitors are given still another unnecessary advantage.

This problem has been brought home particularly forcefully to me. In May of 1975, Republic Steel Corp., which has a major facility in Gadsden, Ala., announced a $350 million expansion of its plant. Because profits fell off significantly thereafter, the company has postponed its plans. Environmental demands, OSHA costs, price restraints, imports all contributed to this problem. Among other things contemplated in Republic's expansion was construction of a coke oven battery to replace an aging battery now located there. Should Republic be in a position to expand its steelmaking and finishing capacity as planned but allow the old battery to phase out without replacement, it would be required to obtain the equivalent of 7 million cubic feet of natural gas per day from other sources. Even assuming no expansion, failure to replace the old battery when it is no longer functional will necessitate procurement of an additional 3.2 million cubic feet a day of natural gas equivalent. If we do not provide these type of tax incentives, for coking facilities obviously the economies of northeast Alabama and other steel areas will be further threatened.

It is not apparent to me why coke ovens which supplant the need for oil and natural gas usage were excluded from the definition of property which qualifies for this special tax consideration. The Members of this body are well aware of the steel industry's problems. Just this week Bethlehem Steel reported what may be the largest one-quarter loss ever sustained by a major U.S. corporation. It would be a dreadful mistake to further compound those problems by excluding blast furnace coke batteries from the definition of "alternative energy property."

Mr. LONG. Mr. President, I think the Senators have made a good case for their amendment, which would allow the alternative energy property credit for new coke facilities which produce coke oven gas. Everyone knows the steel industry is having a very difficult time these days. This is something I think we could well consider in conference, and I would be willing to accept it.

Mr. SCHWEIKER. I thank the distinguished chairman and ranking member very much. I certainly appreciate the help of the distinguished Senator from Alabama.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Pennsylvania.

The amendment was agreed to.

Mr. CURTIS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ALLEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open for further amendment. If there is no further amendment——

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HATHAWAY). Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as the supplemental appropriation bill (H.R. 9375) is called up and made the pending business before the Senate, there be a time limitation thereon of 1 hour, to be equally divided between the Senator from Washington (Mr. MAGNUSON) and the Senator from North Dakota (Mr. YOUNG).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. That there be a time limitation on any amendment of 30 minutes, and on any debatable motion, appeal, or point of order of 20 minutes; and that the agreement with respect to the division and control of time be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the energy tax bill, the Senate proceed to the consideration of the supplemental appropriation bill (H.R. 9375).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the supplemental apropriation bill, the Senate proceed to the consideration of the social security financing bill (H.R. 9346).

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement is as follows:

Ordered, That when the Senate proceeds to the consideration of H.R. 9375 (Order No. 518), the Supplemental Appropriation Bill for 1978, debate on any amendment shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill, and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: Provided, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 1 hour, to be equally divided and controlled, respectively, by the Senator from Washington (Mr. Magnuson) and the Senator from North Dakota (Mr. Young): Provided, That the said Senators, or either of them, may from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader and other Senators for their cooperation. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF THE ALCAN GAS PIPELINE BILL—SENATE JOINT RESOLUTION 82

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the social security financing bill, the Senate proceed to the consideration of the Alcan measure.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, am I correct in understanding that on this measure there is a statutory time limitation?

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. BAKER. Will the majority leader help me by stimulating my recollection as to how long that is?

Mr. ROBERT C. BYRD. Yes; I believe the motion to proceed is limited to 1 hour, and the time on the joint resolution is limited to 10 hours; and that time can be limited further by motion.

Mr. BAKER. I have no objection.

I believe, then, we would go, upon the completion of the bill now before the Senate, to the supplemental appropriation bill, and then to the social security financing bill, upon which there is no time limitation, but rather just an agreement that it is the next item of business?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. And then to the Alcan pipeline measure, on which there is a statutory time limitation?

Mr. ROBERT C. BYRD. The Senator is correct, with the understanding that conference reports can be brought up at any time, as well as other matters which have been cleared for action on which little time is required.

Mr. BAKER. I thank the majority leader. Does the Senator contemplate that we will be able to finish this schedule as suggested by the end of the week?

Mr. ROBERT C. BYRD. Yes; I would hope so, and probably be able to take on some other measures.

Mr. DURKIN. Mr. President, reserving the right to object, and I shall not object, I think the Alcan gas pipeline measure involves a critically important matter, and Senators should carefully consider the testimony we have had in the Energy Committee.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BELLMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY PRODUCTION AND CONSERVATION TAX INCENTIVE ACT

The Senate continued with the consolidation of H.R. 5263.

Mr. BELLMON. Mr. President, the Senate will shortly vote on final passage of the tax phases of President Carter's energy program. While I do not agree with every feature of this bill, I intend to vote for its passage since I am convinced that, unless effective action is taken, the United States will soon face an energy crisis of unparalleled proportions. While I did not agree with President Carter's characterization that our energy problems are "the moral equivalent of war," I do feel that unless aggressive, intelligent action is taken to remedy the unrealistic and counterproductive laws which are presently on the books, our energy situation will continue to deteriorate until both the strength and the economic vitality of our Nation are irreparably damaged.

Mr. President, in an obvious effort to generate public pressure upon Members of the Senate, President Carter has made an emotional appeal for passage of his energy program, which he described as "fair," "well-balanced," and "adequate" to meet America's energy needs. I charge that as introduced, the President's program is none of those three.

In trying to sell this package which I would characterize as being "unfair, unbalanced, and inadequate" energy proposals to the American people, President Carter has perpetuated a fallacy; that is, that the only significant opposition to the Carter energy program comes from vested interests—oil-State Senators and Congressmen, oil companies and their lobbyists, and big business.

The fact is that numerous dissents have been voiced against the administration's national energy plan, including several government agencies. The General Accounting Office, the Congressional Budget Office, and the Office of Technology Assessment all raise serious questions as to the Carter plan's ability to achieve the desired and stated goals.

GAO, in a report to the chairman of the House Energy and Power Subcommittee had this to say:

> . . . The plan fails to come to grips with the problem of increasing domestic oil production.

The Office of Technology Assessment analyzed the plan and made this finding:

> . . . The actions proposed in the plan may not be strong enough to prevent oil imports from reaching levels that could threaten national security and economic stability. The plan's domestic oil, natural gas, and coal production tragets represent the upper limits of capacity and are not likely to be achieved.

All three of these government agencies—GAO, CBO and OTA—as well as the Library of Congress disagree with the projections on which the Carter energy plan is based, in such areas as energy growth, coal conversion by industrial users of oil and gas, reduction of gasoline consumption, insulation of home dwellings, and use of solar energy.

In addition, many respected nongovernmental institutions and experts have criticized the Carter plan. Allow me to cite a few examples.

Joseph A. Pechman of the Brookings Institution concludes that—

> If the Carter proposal is enacted, producers would probably explore for and produce less gas than they do now; almost certainly they would produce less than if prices were decontrolled.
>
> In short, these proposals will not eliminate the gas shortage; they will partially disguise it and extend it to the markets that are now uncontrolled. In addition, they will remove the market test for supplemental gas supplies and encourage investment in uneconomic facilities and processes.

A team from the University of Texas—Walt W. Rostow, William L. Fisher, and George Kozmetsky—stated:

> In short, we do not believe that the investment resources presently provided in the National Plan are consistent with its production targets.

Henry Rowen, former President of Rand Corp., now at Stanford Business School, has this to say about the Carter plan:

> The extraordinary assemblage of controls and taxes proposed will inflict large costs and inequities on the American people and will get in the way the plan's principal goal of reduced foreign dependence.

Fred Hoffman and Richard Nehring, both of the Rand Corp., argue that given great uncertainties in future energy supplies, the most constructive policy approach must be flexible and adaptive, rather than inflexibly tied to a fixed scenario—as the Carter plan is.

An economic appraisal of the President's energy program by Walter J. Mead, just released by the International Institute for Economic Research, concludes that the Carter plan creates more problems than it solves. Another economist well versed in energy problems, M. A. Adelman, in an introduction to Professor Mead's analysis, points out that increased amounts of energy will be forthcoming and energy markets will be cleared if the free pricing mechanism is permitted to operate.

The Nation's newspapers have likewise been critical of the Carter energy plan. A survey of 88 editorials in 69 newspapers during August, compiled by the American Petroleum Institute, showed disapproval—by 2 to 1—of either the administration's plan or the House-passed energy bill.

Opposition also has been expressed by many of the Nation's Governors. In August, the Midwestern Governor's Conference, meeting in Oklahoma, condemned the lack of price incentives in the Carter proposal, which they called "dangerously weak" from a production standpoint. This action was followed soon afterward by a similar critical resolution by the Southern Governor's Conference.

Finally, there is increasing evidence that the American people have not been persuaded by President Carter's appeals and his stubborn defense of his national energy plan.

NBC News reported that its polling shows approval of the Carter position dropping from 47 percent in April to 41 percent in June, 39 percent in August and now only 32 percent. Ony 41 percent of the people want Congress to adopt Carter's energy program while 31 percent are negative and 28 percent not sure. A recent Harris poll shows President Carter with a 58–33-percent negative energy policy rating, and his overall energy program is disapproved by 57–33 percent.

Mr. President, my point is that President Carter is trying very hard to show that "everyone is out of step but Jimmy." In view of the widespread opposition to his program—by a wide and varied segment of the population—it is plain to see that he is the one who is out of step.

When the President announced his energy program last spring, I expressed the hope that Congress would rewrite the program to accomplish the goal of meeting our immediate energy needs and providing for future energy self-sufficiency. I still believe those goals can be achieved, and I am confident that this Congress will carry out this responsibility to the American people.

Mr. President, one of the better ways of meeting that responsibility will be to approve the Bartlett amendments which are going to be offered shortly and which I believe will do more than anything else proposed so far in this legislation to help us get out of our present energy bind.

I feel that there is still time for the United States to work its way out of our present energy difficulties through legislation which places greater emphasis on developing this Nation's abundant energy resources.

A few days ago I sent to each Member of the Senate a piece of oil shale rock and a sample of oil which is now being produced by the Paraho project near Rifle, Colo. I ask unanimous consent that a copy of the fact sheet which was sent to each Member be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BELLMON. Mr. President, it is obvious to me that here is an enormous resource containing oil enough to last the United States more than 200 years, which action by Congress could bring into production during the next decade.

The Talmadge amendment, which was adopted, I believe will go a long way in that direction, and I sincerely hope that that amendment survives the conference with the House of Representatives.

(Mr. CULVER assumed the chair.)

In addition, there are huge quantities of oil in old fields which can be produced through the use of secondary and tertiary processes.

Action by Congress to make such efforts economical is desperately needed. I urge the Senate conferees to place maximum effort on tax measures which will provide needed incentives to private investors to bring on increased energy supplies from our domestic resources as rapidly as possible.

Mr. President, there is no excuse for the United States to import 50 percent of the crude oil we use. Our country has enough fossil fuel resources to last between 500 and 1,000 years. Our energy industries have the technology and the will to vastly expand production. All that is lacking is the economic climate which makes investment attractive. Also, time will be needed to build the huge and costly plants, to drill thousands of additional wells and to install the processes and equipment needed for new production techniques.

The Senate conferees must keep this in mind if the Nation's future energy needs are to be met from secure and, ultimately, the most economical sources, which is to say development of our own energy reserves.

EXHIBIT 1

OIL SHALE FACT SHEET

Q. What is oil shale?

A. Oil shale is neither oil nor shale, but a fine-grained sedimentary rock (marlestone) that contains an organic material called kerogen. When heated, shale yields kerogen and when treated, kerogen becomes oil.

Q. Where are the U.S. shale deposits?

A. Oil shale deposits of varying types and degrees of richness (shale grade) occur in at least 30 states. The most extensive, rich deposits of oil shale are in the Green River Formation underlying the Colorado plateau west of the Rocky Mountains. These rich deposits may be as thick as 2,500 feet and cover some 16,500 square miles in Colorado, Utah, and Wyoming. There are also large deposits of "black" shales that extend from Texas to New York and from Alabama through Michigan.

Q. How much oil can be recovered from these deposits?

A. The richest deposits in the United States yield 25 gallons or more of crude shale oil per ton of oil shale. (A ton of oil shale is about half the size of a desk.) The rich deposits in the Green River Formation—the most commercially attractive of the U.S. oil shale deposits—contain an estimated 600 billion barrels of oil. This amount is more than the proved reserves of natural crude oil in the entire world. The total amount of oil recoverable from all oil shale deposits in the Green River Formation is estimated to exceed two trillion barrels. Currently, the U.S. is using seven billion barrels of crude oil per year. This means that enough oil could be recovered from the high quality oil shales to last the country about 100 years at current rates of usage. The total amount of shale oil available would last the country between 200 to 300 years or more.

Q. How is oil recovered from shale?

A. While oil shale processing has never been demonstrated on a large scale in the United States, several techniques for recovering this vast domestic resource have been and are being developed. All of these techniques for recovering oil from shale are variations of one basic process known as retorting. Retorting involves heating the oil shale to more than 900 degrees Fahrenheit, which causes the kerogen in the shale to more than 900 degrees Fahrenheit, which causes the kerogen in the shale to decompose to form oil. The quality and quantity of oil produced vary with the shale grade and the particular retorting technology involved.

Two basic types of retorting technology are being developed—surface (above ground) and in-situ (in-place or underground). Basically, surface processing involves mining the shale using conventional techniques. The shale is then crushed and processed in an above ground or surface retort.

Q. Can crude shale oil be made into a full range of petroleum products?

A. Yes. While the physical and chemical properties of crude shale oil differ somewhat from the properties of natural crude oil, methods are being developed to refine shale oil into a full range of petroleum products. Shale oil is an excellent source of middle-distillate transportation fuels (jet and diesel fuels), and can also be used as a source for gasoline, heating oil, and petrochemical feedstocks. Petrochemical feedstocks are used to make tires, fabrics, plastics, adhesives, drugs, fertilizers, insulation, and many other products.

Q. Do the oil shale deposits contain other recoverable resources?

A. Yes. Kerogen in the oil shale also yields significant amounts of gas. This gas can be recovered at the same time that the oil is recovered. In addition, many deposits, particularly those in the north-central portion of the Green River Formation, contain large deposits of aluminum, soda ash, and nahcolite (mineral baking soda).

Q. Can shale oil compete economically with imported crude oil?

A. The economics of recovering oil from shale compared with importing crude oil are affected by many factors—the uncertainty over future oil prices, methods and availability of financing, the nature of the shale deposit and technology employed, and the degree of government participation, for example. The major factor affecting the relative economic uncertainty of this emerging industry, however, is that shale oil production has never been demonstrated on a commercial scale in the United States. The results of studies supported by the U.S. Navy indicate that refinery grade crude shale oil can be produced commercially at a cost of $16 to $20 per barrel. Currently, imported crude oil costs $13 to $14 per barrel.

Q. What are the major factors affecting the development of an oil shale industry?

A. Aside from the economics discussed above, the major factors that must be considered are protection of the environment; water availability; socioeconomic impact; Federal, state, and local government policies; and the full-scale demonstration of oil shale technologies. While none of these factors are insurmountable, they nonetheless must be given due consideration during the planning and development of an oil shale industry.

Oil production in the United States has been declining since 1970. To meet the increasing demand for oil, the nation has had to depend more and more on imports. Of the daily demand for 18.6 million barrels of oil, the country must now import 8.8 million barrels. At this rate, oil imports will cost the nation nearly $45 billion in 1977. As the nation increases its dependence on imported oil, its social, economc and defense welfare will become even more vulnerable to foreign supply disruptions and capricious economic actions. The nation must develop domestically controlled alternatives to imported oil. One major alternative is oil shale.

Q. What is the principal environmental concern?

A. The retort tailings are relatively high in salt content. Unless properly handled, there is some danger that this salt might leach into the streams and rivers. The tailings can be stored in such a way that no leaching occurs and the salt is, therefore, immobilized.

Q. Why are we not making oil from shale?

A. To build a plant that will produce 100,000 barrels of crude shale oil per day will cost an estimated $1.2 billion. Current crude oil prices, plus the uncertainties regarding environmental impacts of the shale oil plant have made these unattractive to commercial investors. 80 such plants would be needed to produce the oil now being imported. Private capital for investments of this magnitude is not currently available.

Mr. BELLMON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CULVER). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CURTIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CURTIS. I ask unanimous consent that Mr. Dave Swoap of the Finance Committee staff may have the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CURTIS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BARTLETT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield?

Mr. BARTLETT. I yield to the distinguished majority leader.

Mr. ROBERT C. BYRD. Mr. President, I understand that the distinguished Senator from Oklahoma has three amendments he plans to call up.

Mr. BARTLETT. That is correct.

Mr. ROBERT C. BYRD. I ask unanimous consent that there be a time limitation, debate on each of the three amendments to be limited to 40 minutes, to be equally divided in accordance with the usual form.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. CURTIS. Will the distinguished Senator yield for a question?

Mr. BARTLETT. I yield to the distinguished Senator from Nebraska.

Mr. CURTIS. Are the amendments that the Senator plans to call up all printed?

Mr. BARTLETT. Yes, they are all printed. The third one has been modified slightly and I shall bring that out at the time I call it up.

Mr. CURTIS. Will the Senator give us the numbers?

Mr. BARTLETT. 1502, 1497, and 1501.

Mr. CURTIS. Which one will have some modification?

Mr. BARTLETT. 1501.

Mr. CURTIS. I thank the Senator.

Mr. LONG. Mr. President, I ask unanimous consent that the time in opposition be assigned to the distinguished Senator from Washington (Mr. JACKSON).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. Mr. President one of the most significant steps that Congress has taken with respect to increasing domestic energy supplies has been the stripper well amendment. Last year the Senate passed the stripper well amendment by a vote of 61 to 29 as a part of the legislation to extend the life of the Federal Energy Administration. The effect of the amendment was to exempt from price controls those oil wells which produce less than 10 barrels of oil per day. The intent was to extend the economic life of these low-productivity oil wells and thereby supplement this country's available day-to-day crude oil supply, as well as its recoverable reserves.

The stripper well amendment has largely been a success. Stripper well abandonments are down and production is approximately level. It is actually slightly less for 1976 than for 1975, but that is because of a large drop in the State of California. Other than that, the production would be substantially increased.

Abandonments of stripper wells in the United States last year totaled less than 10,000 wells, which represents a 26-percent reduction from the level in 1975. As of January 1 of this year, there were 365,000 stripper wells in the United States. This is 16 percent more than the 316,000 projected in 1971 for that date absent any price relief for stripper wells.

It might be of interest to my colleagues that the production in some States has been up very remarkably due to the stripper wells. I say to the distinguished Senators from Kansas that the production there is up 1 million barrels. I think that is a surprise, maybe, for all of us, that we are getting increases in that production that is the most marginal of all. But the activity that has been generated by the decontrolled price has enabled and attracted people, the owners of the production, to invest in those practices which do enhance production. So not only has the decline been stopped in most of the States, but there has actually been a small to significant increase in production.

We know very well that, overall in the United States, there has been, for quite a number of years, a consistent decline in production. So, when we can stop that decline in the most marginal of all wells and then, hopefully, stop it in other marginal wells of greater depths, I think that we then have the opportunity, with increased encouragement to drill wells and find new production, of flattening out and then, finally, increasing the domestic oil production of the United States.

In view of the great need for us to eliminate the deficit in trade that we have accrued because of the huge imports of high-cost foreign oil, this would be, of course, very, very good news.

Crude oil production attributable to stripper wells in the United States last year totaled 392 million barrels. That is 110 million barrels over the level projected for last year absent price relief. It amounts to about 14 percent of our domestic crude oil supply. Preliminary figures for the first 6 months of this year indicate even greater stripper production. That 110 million barrels extra was made available last year as a direct result of decontrolling the price at an average of $13.50 per barrel. That means $1.5 billion was kept from being shipped overseas and was spent at home, buying the services of American service companies, and buying American steel and paying for American labor.

Who says that decontrolling the price will not bring on more supplies? When it will do it with the most marginal of wells, I think it will do it with any well.

Mr. President, as helpful as the stripper well amendment has been, there are a great many wells to which the amendment could potentially apply but which have been unable to take advantage of its benefits. In practice, the stripper well amendment exempts from price controls production from a property where the average production per well is less than 10 barrels per day. In administering this provision, the FEA has ruled that the only wells which can be counted are those which actually, physically produce crude oil. The FEA has not included water injection wells, which are often necessary to maintain the productivity of older oil fields. Injection wells are often converted producers, but more frequently, they are newly drilled wells in the older fields, completed with new completion methods.

As production declines in a mature field, an operator finds it necessary or desirable to initiate a program of water injection to supplement reservoir pressure. To do so requires a large front-end investment in equipment and incurs a much higher overall operating expense. Injection wells cost at least as much, and often many times more, to operate as conventional producing wells in the same field.

Even at the decline stage in the life of a waterflood, these injection wells contribute to the production of the field, even if it is uneconomical. Their existence has extended the life of the field and added to our available domestic crude oil reserves.

The point I am making there is that a water flood in its final stages still produces considerable oil, but it is at a very high cost. So frequently wells are abandoned prior to reaching the level of 10 barrels per day, the level qualifying a stripper well for the purpose of deregulation of price.

These injection wells should be included among those qualifying the property for the stripper well exemption. If the injection wells were turned off or abandoned, then the production from the oil wells would decrease very sharply and, in that case, they probably would qualify as a stripper well. But they would not be producing or exhausting the reservoir of the amount of oil that could be produced and recovered. So it would not be a sensible field production practice.

Failure to include the injection wells has simply meant that many fields with expensive water injection systems are becoming uneconomic to operate and are being abandoned before getting the chance to reach stripper status. Much potentially producible oil is being left behind as uneconomical to produce, simply because the controlled price is too low. Once these wells are abandoned they and their reserves are lost forever. Before this debate is finished, I hope the distinguished Senator from Wyoming (Mr. HANSEN) will relate the facts of one of the large water floods in his State, which brings out this point very vividly, that this particular amendment will make it possible to produce an extra 50 million barrels of oil that is known to exist in the field he will describe, but will not be produced unless there is some price relief. What happens is that these

high-cost wells are plugged out before they decline to the point where they qualify for stripper status.

Mr. President, it is my belief that injection wells should be included among those qualifying a property for stripper status. This amendment will make that clear. It simply adds a sentence to the language of the stripper well provision of the Emergency Petroleum Allocation Act to stipulate that these wells shall be included along with the producing wells.

This amendment should be entirely acceptable to my colleagues. It creates no opportunities for windfalls to producers. It will simply extend the producing life of many of the older fields in the United States and, thereby, make valuable additions to our available domestic supply.

There is absolutely no negative impact on American consumers. Without the decontrolled price this oil would simply not be produced. But at a decontrolled price, more oil is made available and American dollars are kept in the American economy, not shipped overseas to OPEC nations in payment for their oil.

It makes no sense for us to permit our wells to be prematurely abandoned, to waste the oil, and then have to replace that oil by importing from the OPEC nations high cost foreign crude.

I might also add that the vast majority of stripper wells are operated by small, independent businessmen. These independents are willing to take the time, trouble, and hard work involved in maintaining low-productivity stripper wells, while the major oil companies often are not, because of their higher costs of operation.

So, as I have stated, the benefits of this amendment are many. By extending the economic life of these wells, more crude oil production is made available today, and a larger amount will be available in the future. The need for imports of foreign oil is reduced and our balance-of-payments deficit eased. There are no windfalls and no negative consumer impact.

Mr. President, I strongly urge adoption of this amendment.

Mr. HART. Will the Senator from Oklahoma yield for a question?

Mr. BARTLETT. I am happy to yield to my distinguished friend from Colorado.

Mr. HART. Mr. President, the amendment which the Senator from Oklahoma offers is interesting and I think deserves our serious consideration in that it attempts to maximize the domestic resources that we have and not let them remain in the ground.

I think that is a goal that all of us can and should support.

The Senator in his introductory statement, however, said that we cannot get this oil out if the price is held artificially low.

I think the counterpart of that question is whether the price to which the Senator from Oklahoma thinks that that resource needs to go is artificially high in terms of the cost of producing this oil. It is that other side of the coin which I think is of concern.

It would be helpful to know, first of all, how many properties in the Senator's estimate would be forced to shut down if this amendment were not adopted. Second, and on the contrary, how many properties would benefit from this amendment that might be economically feasible to produce anyway if the price stayed in the range of $6 to $10 instead of $14 or $15.

It is a question of cost as against the justification for the price.

Mr. BARTLETT. Would the distinguished Senator from Colorado permit me to offer my amendment, which I neglected to do, and then I will answer his question?

Mr. HART. Certainly.

AMENDMENT NO. 1502

(Purpose: To amend the Emergency Petroleum Allocation Act of 1973 to clarify the intent of the "stripper well" amendment.)

Mr. BARTLETT. Mr. President, I call up my amendment No. 1502 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BARTLETT), for himself, Mr. BELLMON and Mr. HANSEN, proposes amendment numbered 1502.

The amendment is as follows:

At an appropriate place in the bill, insert the following new section:

SEC. . Section 8(i)(2) of the Emergency Petroleum Allocation Act of 1973, as amended, is amended by adding the following new sentence at the end thereof: "Including in the count of the total number of wells on a property shall be all wells producing crude oil and all wells utilized for the purpose of injecting water and/or other materials into a producing reservoir for the purpose of enhancing crude oil recovery.".

The PRESIDING OFFICER. Who yields time?

Mr. BARTLETT. Mr. President, the questions asked by the distinguished Senator from Colorado are very pertinent and valuable.

First, let me approach the cost question this way.

In looking at the producing well alone, the costs involved of the small producer are those costs of just producing that well, operating the pumping unit, presumably, keeping in good shape the lead line to the tank, keeping the property cleaned up, and the normal expenses, pulling the well occasionally, and so on.

The cost of operating an injection well in a waterflood is roughly the same as that for a producing well.

So for a stripper waterflood to be treated fairly under the stripper well amendment, we should, therefore, count the injection wells as oil wells for the purpose of qualifying.

Normally there are 70 to 80 percent as many injection wells as oil wells, and sometimes as much as 100 percent. So we would be adding 70 percent more wells to the oil wells for the purpose of figuring the per-well production and, hence, determining the lease qualification.

For example, if the average production was 15 barrels per producing well and there were an equal number of injection wells to oil wells, then the production for the purpose of equalification for the stripper exemption from price controls would be 7½ barrels per day and would, hence, qualify.

What I am trying to say is, from the point of view of expenses, I think that it is very realistic to consider the injection well on a par with the oil well.

Mr. HART. Does the Senator have any estimates that justify the price of $14 or $15 a barrel? That is to say, what if the average cost of production assisted by an injection well is $7.50 or $8 a barrel. What is there to justify that this oil be sold for $14?

Mr. BARTLETT. We do not have the figures on a national basis, as the Senator is asking.

In response to the question of the Senator from Colorado, let me ask the distinguished Senator from Wyoming to relate the situation of a water flood in Wyoming which is a large water flood with a lot of injection wells and a lot of wells producing at varying depths.

I yield to the Senator from Wyoming.

Mr. HANSEN. Mr. President, in response to the distinguished Senator from Colorado, I point out that the Salt Creek field just north of Casper, Wyo., is an old field. They first started producing that field early this century. The producing company estimates that if these amendments are adopted, they will increase the total amount of oil that can be recovered from that field by 50 million barrels.

The point I wish to make is this: It certainly is true, I say to the Senator from Colorado, that the actual cost of lifting oil varies field by field. However, what we should be looking at, instead of trying to concern ourselves with what may be adequate in each instance, is to recognize this:

As a consequence of the adoption of these three amendments, whatever oil is produced over what otherwise would have been produced means that Americans will be buying American oil; they will be reducing the balance of payments problems by that amount; they will be addressing the concern of national security by that amount; and it is not going to take one dime out of the Treasury. It is not going to cost the American consumer one penny more. The only alternative to American oil is imported oil. So that if we have to buy a barrel of imported oil at $14.50 and have the opportunity of buying a barrel of American oil at the same price, I do not really see the relevance in asking ourselves what that barrel of American oil should sell for, if, by virtue of the adoption of these amendments, it is available, as contrasted with its not being available.

Mr. HART. The relevance is that if you can buy something for $6 to $10, why pay $15 for it? If there are people out there who will go out and produce this marginal oil for $6 to $10 a barrel—why let that price go to an artificially high level of $15?

Mr. HANSEN. We have had a composite price situation, and this is the result of that kind of fine tuning that the Senator's question implies.

It is precisely because more and more of the total amount of oil that is produced in the United States qualifies as new oil that it depresses the price of the old oil.

In this Salt Creek field, oil sells for $5.21 a barrel; and they are closing down between 25 and 50 wells per year in that field simply because it does not pay them to try to pump it at that price. Just east of Cody, Wyo., last year, oil was about $4.25 or $4.30 a barrel.

If the Senator can fine tune it, if he can go from field to field in the United States and say precisely what that figure should be, I probably would have to agree with him. But I think that, so far, the record of Government in trying to do that fine tuning has been a miserable failure.

It makes sense to me to adopt these three amendments that will assure the production of oil which, without the adoption of these amendments, never would be brought to market at all.

Mr. BARTLETT. I also point out, in response, that I think the stripper well amendment has shown not only that we have been able to stem the decline in production, but also, we have flattened it out and in most States actually increased production.

It is important for us to recognize as a Nation that we not only have to have a price for this oil that is going to tend to continue producing it, but also, to have some money to spend to fracture formations to increase production. This is what has happened in the case of the stripped well amendment, and I believe this would happen in the case of this amendment, which would prolong the life of the waterfloods and would give the operators the opportunity to increase production by other and more expensive processes?

The other point I should like to emphasize is that this Nation, knowingly or unknowingly, is wasting a lot of its production by either terminating production with premature abandonments because of arbitrarily low prices or is failing to invest in secondary recovery, mainly by waterflooding, which is an expensive process, to enhance the production. I think this amendment, as one of the three, is vital to that.

Mr. HART. The Senator from Oklahoma has said that the stripper well amendment has resulted in increased production. The Senator from Wyoming has said that the so-called program of fine tuning, which has been the process, I take it, of administering that amendment, has not worked. So I would be interested in a reconciliation of those two judgments of the amendment.

Mr. HANSEN. I will reconcile my part of it quickly.

In the first place, when I spoke about fine tuning, I was not talking about the stripper well amendment. That is about the only positive thing this Congress has done in the last half-dozen years that has anything to do with bringing about increased production.

Mr. HART. But that has required some administrative judgment.

Mr. HANSEN. All it did was require the adoption of an amendment by the Senator from Oklahoma. The rest of this composite price situation is the fine tuning to which I alluded.

Mr. BELLMON. Mr. President, will the Senator yield?

Mr. BARTLETT. I yield.

Mr. BELLMON. Mr. President, I should like to respond to the question the Senator from Colorado has raised about whether or not this oil is going to sell at exorbitantly high prices.

The fact is that it now costs over $8 a barrel to find a barrel of new oil. The cost for the leases and the exploration and development brings it well over the present composite average of $8 a barrel. Those wells have to pay royalty, taxes, and lifting costs. So at the new price of oil today, an exorbitant profit is not being made.

What we have to be concerned about is not just producing oil we already have; we have to be concerned about replacing that oil. So if the Senator is concerned that this amendment is going to result in exorbitant profits or windfall profits, I think he can be assured that that is not going to be the case. If there is extra income to the producers from this amendment, it will only be about what it takes to replace the oil by finding new wells.

Mr. HART. The Senator from Oklahoma speaks about $8 a barrel. That is the first I have heard of it. I have been trying to get it for several months.

Mr. BELLMON. The Senator can get different figures from different places, but the $8 figure is the one that I have heard.

Mr. BARTLETT. Mr. President, I reserve the remainder of my time.

Mr. JACKSON. Mr. President, I oppose this amendment and urge that it be defeated.

The proponents are arguing here, in effect, that it clarifies the intent of the so-called stripper well amendment. Mr. President, I supported the original exemption from price controls for the so-called stripper wells.

I point out that the language of the existing law expressly refers to wells producing crude oil. It does not include injection wells, nor was it intended to. The effect of the amendment would be to expand the number of crude-oil producing properties which are exempt from price controls.

The Department of Energy indicates that it is unable to determine the amount of production that would be decontrolled. It is even more difficult to determine whether and to what extent the amendment would yield any additional production over and above that which is already stimulated by the current exemption for stripper wells.

Much of the oil to which the amendment would apply is old oil which was discovered several years ago. The amendment—so that we all understand—would allow the price to jump from $5.25 to almost $14 over night. I see no justification for this $9 per barrel windfall.

Mr. President, in connection with the colloquy between the distinguished Senator from Colorado (Mr. HART) and the distinguished Senator from Oklahoma (Mr. BARTLETT), I point out that the existing law, the Emergency Petroleum Allocation Act, does provide a procedure by which the producer can, in fact, get an exemption for secondary recovery, including injection wells. In response to the question posed by the Senator from Colorado, the hitch is that these producers must demonstrate that the cost justifies the price. So the procedure is there. If the producer can justify the price, then an exemption can be had under the existing law.

Mr. President, I feel very strongly that we must provide additional incentives to bring out the so-called hard-to-get oil, where the cost can be demonstrated to be a factor that warrants price adjustment. I think that is what we all seek. But should you turn around and grant a $9 per barrel increase where you cannot even come close to justifying that kind of a price exemption?

Mr. HART. Mr. President, will the Senator yield?

Mr. JACKSON. I yield to the Senator from Colorado.

Mr. HART. The argument is made, on the other side of the coin, that these field-by-field or even well-by-well determinations in programs presently existing are not working well. I think the Senator from Wyoming called it fine tuning distinctions. Can the Senator from Washington comment on that? If you were to apply that principle to this program will the new Department of Energy function well in making that kind of a case-by-case determination?

Mr. JACKSON. I think that if there are problems then we should certainly rectify the troubles that we are having by changes in procedure. But the question one has to ask is should you turn around and exempt all of these wells so that the price goes from $5.25 to almost $14 a barrel?

I must say that I support—and that is why we put it in the act—orderly procedures which will make it possible for relief to be granted based on cost. I think that can be done. But the relief should be sought in that direction and not to exempt the whole class of operators here.

Mr. HANSEN. Mr. President, will the Senator from Washington yield for just one question from the Senator from Wyoming?

Mr. JACKSON. I yield for more than one question.

Mr. HANSEN. The Senator from Washington, if I understood him correctly, said if there is a problem. Does the Senator from Washington believe that importation of about 50 percent of petroleum we use in this country to be a problem?

Mr. JACKSON. Of course it is a problem, but the Senator from Wyoming and others have not indicated what kind of increase production is going to accrue from this. I want to see increased production, but I do not believe you should turn around and create a blanket exemption here without a proper showing.

Mr. BARTLETT. Mr. President, will the Senator yield?

Mr. JACKSON. That is what is involved here. We have two other exemptions that will be proposed to the Senate.

I think it is a mistake to grant a $9 a barrel increase in the price of oil which 4 years ago only cost $3.50 for a whole barrel. Now we are increasing it $9 a barrel because there are problems in this area. We recognize that there are problems, and we have provided for a remedy under the allocation act and which is covered, of course, under EPPA.

Mr. BARTLETT. Mr. President, will the Senator yield on that point of remedy?

Mr. JACKSON. I yield.

Mr. BARTLETT. The remedy has to work. The FEA requires an operator to show a history of financial loss, and then they will grant only enough relief to just break even in the future. The Senator knows, as well as I do, that a small operator who operates at a financial loss over some period of time is not going to be able to fool around with lawyers and accountants to try to make a case. There have been few cases pressed.

I think the Senator will agree that with all the wells that have been abandoned, even those producing more than 10 barrels per well and not qualifying for the stripper production exemption, this remedy is not working.

I think the Senator also knows that the EPCA bill, which was signed at the end of 1975 and which is supposed to decontrol the price of oil by 1981, is now further away from decontrol than ever before. The average price of oil is now farther under the world price than it was when the bill was first signed. So I think the facts clearly show that the remedies have not worked.

Mr. JACKSON. May I just point out that the existing law, section 8(a) of the Allocation Act, does provide the necessary relief if that relief is sought. I must say to my knowledge they have not come to our committee and complained about a failure to carry out the provisions of the act.

I for one am prepared to recommend relief in the event they can make a proper showing. But, Mr. President, what is being asked here by this amendment is simply to grant a total exemption without relation to a proper showing as to the costs for that extra production.

I hope the amendment will be rejected.

I reserve the remainder of my time.

Mr. PERCY. Mr. President, will the Senator yield?

Mr. BARTLETT. Before yielding to my distinguished friend from Illinois, I say to my good friend, the chairman of the Energy Committee, that the reason there has not been testimony before his committee on how well the EPCA bill has worked is that there have not been any hearings. The Senator well knows several of us asked to have hearings on deregulation proposals designed to improve the EPCA bill, but we were unable to have those hearings. I think that at that time the deficiencies of the bill would have been very quickly foretold and explained to the members of the committee, but there just was not the opportunity.

Mr. JACKSON. May I just respond by saying, as the Senator knows, Senator JOHNSTON has held hearings before his subcommittee on the issue of pricing, including a specific bill—S. 2073—which would amend the pricing laws.

Mr. BARTLETT. The hearings were not held that we requested on the EPCA bill for the purpose of amending it.

Mr. PERCY. Mr. President, will the Senator yield 5 minutes?

Mr. BARTLETT. I yield 5 minutes to the distinguished Senator from Illinois.

Mr. PERCY. Mr. President, I have previously indicated that I feel the Energy Production and Conservation Tax Incentive Act must rest on three legs: conservation, renewable resources, and new production.

It has been charged that the bill is too heavily oriented toward production incentives. We should make certain that it has a second leg to stand on: that is strong conservation, and a third leg to stand on which is conversion to renewable resources.

I have offered a number of amendments, five of which have now been accepted by the Senate, to increase conservation and stimulate conversion. But I also feel very strongly that we have to continue our incentives for production.

I can think of nothing more wasteful than a government policy which leaves in the ground billions of barrels of crude oil which could be made available to consumers. Unfortunately, that is just what seems to be being done now. Billions of barrels of potentially producible oil are being abandoned and lost forever simply because the cost of getting that oil out of the ground is greater than the price it is allowed to sell for.

It makes no sense whatsoever to leave a domestic barrel of oil unproduced at a controlled price which is less than the cost of an imported barrel to replace it. With an unfavorable balance of payments, and with an oil import bill of $45 billion this year, such a policy is ludicrous.

Mr. President, I point out once again, as I have before, that there are a great number of factors affecting our present economy involved in our enacting a strong national energy policy. For instance, the dollar is at the weakest point it has been in years. Why? Because we have a weak economy here at home? No. Because of our huge balance of payments deficit caused by our importing $45 billion of oil. That has weakened the dollar all over the world. It has caused a lack of confidence in the dollar because of our inability to conserve, our inability to move fast enough on conversion to renewable resources, and our inability to stimulate production right here at home.

Mr. President, for these reasons, I support the Bartlett amendments. They make awfully good sense to me. They will add oil to our domestic reserves at no increased cost to the consumer. Senator BARTLETT'S amendments will extend the economic life of many wells which cannot take advantage of the highly successful stripper well amendment now in effect.

A majority of these nonstripper wells are operated by small independent businessmen. These amendments will make economically feasible hundreds, perhaps thousands, of projects designed to enhance the ultimate recovery of crude oil from known fields.

Price decontrol will apply only to oil which would otherwise not be available, oil which would have to be replaced with high-cost foreign oil. Thus there will actually be no adverse consumer price impact. There will also be no windfalls to oil producers, as these amendments will not affect old oil.

Mr. President, the Bartlett amendments are designed to conserve our known domestic reserves of crude oil to prevent them from being abandoned and to make them available to U.S. concerns.

Fifteen minutes ago I had a telephone call from the former chairman of the board of IBM Corporation, Mr. Tom Watson, Jr., who is one of the most knowledgeable men in America on economic conditions abroad. He feels one of the strongest points that should be made to the Senate of the United States as it considers energy legislation is the weakened dollar all over the world.

The dollar situation is causing great concern in many other countries as well as in the United States. It causes concern in Japan, in West Germany, and the rest of Europe. It is something that we can rectify by strengthening our domestic sources of energy in the field of petroleum, plus our renewable resources, plus our energy conservation policies.

It is a tripod. All three legs have to be there in order for there to be a solid base.

I commend my distinguished colleague for giving attention now to stripper well production and the ways in which we can increase that production.

Mr. BARTLETT. I thank my distinguished friend from Illinois for the points he has brought out. They were not brought out before, and they are most significant, not only to our present but to our future and to the general economy of this Nation and the world. I think his points were most appropriate.

I yield to my distinguished friend from Texas. May I ask how much time remains?

The PRESIDING OFFICER. The Senator from Oklahoma has 3 minutes remaining.

Mr. TOWER. I will be very brief.

I would first like to ask unanimous consent that I be added as a cosponsor to the Senator's amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. I mention the problem of high-water-ratio to oil or high-water-cut crude, as it is called, and I think it provides a very good illustration of the need to count injection wells for the purpose of stripper exemption.

There are many reasons why some wells produce unusually large quantities of water in association with the small volume of oil, but whatever the reason the result is the same. High-water-ratio oil production is economically marginal because of the high lifting costs and the high water disposal costs.

I would like to ask the Senator from Oklahoma if he does not feel that this is

an added very strong reason for including injection-type wells in the definition of stripper, as he proposes to do.

Mr. BARTLETT. I would say to the distinguished Senator from Texas this is a most pertinent observation. Just as an example, in a high-water producing well it takes a much bigger pumping unit just to lift that much additional weight. It takes larger rods, larger tubing. There has to be generally treatment of the water that is produced before it can reinjected into the ground. So just in the operation of the oil well itself it is a higher cost operation.

Then you throw in the whole cost of operating a water flood lease, and you have a duplication of the costs of the producing side. So this is a very fair and reasonable amendment to get a relationship between the costs that are commensurate with low production marginal wells.

Mr. TOWER. I thank my friend from Oklahoma.

Mr. President, I commend the distinguished Senators from Oklahoma (Mr. BARTLETT and Mr. BELLMON) and the able Senator from Wyoming (Mr. HANSEN) for their continuing efforts to fashion rational and effective crude oil pricing legislation. Enactment of the amendments which they offer would make significant and meaningful improvements in the current oil pricing law.

I would, of course, like to see Congress pass legislation phasing out all oil price controls. That would be the most intelligent thing to do, in my opinion. At the very least, however, there should be contained somewhere in these various energy bills significant additional economic incentives for the production of domestic crude oil. The proposals offered by the Senators from Oklahoma and the Senator from Wyoming, although modest proposals, would take us in the right direction.

The inclusion of injection wells in the computation of a property's barrels-per-day average per well, for purposes of the stripper oil exemption, would be a natural and beneficial change. It would be a change which would make the law more reasonable and less arbitrary. Most important, it would add significantly to the Nation's supply of domestic crude oil by extending the economic life of many older, developed oil fields. I cannot tell you with any certainty just exactly how much additional oil would be ultimately recovered if we were to make this change. I can tell you that the difference would be significant, and every additional barrel recovered would add to the American economy and reduce our very real, costly, and frightening dependence on imported petroleum.

Likewise, the amendment to exempt oil produced from economically marginal wells, producing up to 35 barrels per day from a depth greater than 8,000 feet, proposes another needed change that we ought to enact into law without a moment's hesitation. There can simply be no reasonable doubt that this change, expanding the current stripper well concept, would materially increase the supply of domestic crude oil.

I included in the comprehensive crude oil pricing legislation which I introduced in June of this year, S. 1709, a similar, but more expansive exemption for what I referred to in my bill as "deep stripper" well crude oil. My legislation would exempt oil produced from a well producing up to 60 barrels per day at an average producing depth greater than 20,000 feet.

Let me take this opportunity to say, by the way, that in preparation of that legislation I received invaluable assistance from my good friend, Senator BARTLETT. I greatly respect and admire the Senator from Oklahoma for, among other things, his expertise and knowledge of the energy business, and I am grateful for his friendship and assistance.

Certainly, I believe that a more expansive definition of exempt marginal production can be justified, both from an economic standpoint and from a policy perspective as well. Enactment of this amendment would, however, be an important step forward toward a more effective national energy policy. The current stripper well exemption has been successful in postponing well abandonments and in extending the economic life or older reservoirs. Passage of the injection well amendment and the marginal well amendment would go a long way in putting some balance in a national energy proposal now too heavily weighted toward energy conservation, as opposed to production, objectives.

Price relief for marginal oil production is needed now because unless such relief is granted, thousands of otherwise uneconomical wells will be abandoned and substantial quantities of oil will remain in the ground, never to be produced. Wells which produce only a small quantity of oil daily, sometimes at substantial depths, and wells which produce very large quantities of water with the oil, because of their relatively high production costs, are economical only under the best of circumstances. Taken together, such wells can make a major contribution to our total domestic oil supply.

I compliment the Senator from Oklahoma on his amendments, and I urge the Senate to adopt them.

Mr. CURTIS. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Who is seeking recognition?

Mr. BELLMON. Mr. President, very briefly, I would simply like to say I consider it to be senseless not to permit the counting of injection wells when determining average daily production. If these are not oil wells in the strict sense of the word, they are certainly essential to oil production. I felt, when we passed the stripped well amendment initially, they would be included. The Interior Department has long counted injection wells. I am not sure Members of the Senate realize this, but the Interior Department has long counted injection wells in the administration of the Federal mineral leasing program. This is not anything new we are trying to do. It has been the custom already in the Interior Department and has been for some time.

When we originally enacted the stripper exemption, and when we reenacted it in 1976, I certainly believed that the FEA (now the Department of Energy) would follow the very sensible precedent set by the Interior Department.

In every rational sense, an injection well necessary to production is a producing well. If there are two wells from a property each producing nine barrels a day, both would be stripper wells even under the constricted FEA definition. However, assume the same two wells with one operating as a necessary injection well and the other yielding 18 barrels per day. The economics of production from these two wells are very similar, but the FEA and now the Department of Energy would deny stripper treatment to the crude produced by injection. This makes no sense to me whatever, and as I mentioned it is contrary to my understanding of the Department of Interior regulations on the same subject.

It is our purpose in this legislation to encourage domestic crude production. The stripper exemption is a very important part of that policy since it encourages production from marginal properties. It is hard to think of a more marginal kind of property than one in which it is necessary to inject water into the ground to achieve substantial production. Not only is water injection expensive, but unless it is instituted and maintained where necessary, production from the properties in question can be irretrievably lost. Therefore, we must encourage water flood projects to be maintained and newly instituted where possible. Unless injection wells, which are expensive to operate, can be counted in determining whether average daily production falls within the 10-barrel standard for stripper crude, operators are simply not going to have the incentive to maintain water flood activity or to institute it where necessary.

Moreover, it seems to me that the FEA and now the DOE policy is completely irrational. If there are five wells on a property producing a total of 20 barrels per day, they all qualify for the stripper exemption. Suppose the operator wants to rework this system to obtain higher production, converts two of the wells to injection wells and increases the yield to 40 barrels per day. However, under the FEA and DOE reading of the stripper exemption, this would leave only three producing wells with a total production of 40 barrels per day and an average daily production of greater than 10 barrels per well. Under this example, the operator would not qualify for the stripper exemption. Suppose, however, that another operator with a property in the same basic position is able to rework by converting only one producing well to an injection well. In his situation, the resulting production would be 40 barrels per day from four producing wells as now defined by the DOE and he would qualify for the stripper exemption.

Thus the first operator, who would need to create two injection wells and who would, therefore, have to incur greater expense than the second operator, would end up without stripper exemption and thus would probably have

no incentive to increase his production. The second operator who would have the easier and cheaper job of converting only one well to an injection well would be able to obtain the exemption.

Ridiculous situations of this kind need to be remedied. We must provide sufficient inducement for operators to maximize their production. The Nation needs every drop of crude that we can obtain in that fashion. An injection well that is necessary to production is just as much of an economic drain as an ordinary production well and should be counted when determining average daily production under the stripper exemption.

Mr. President, I am convinced that the Senate genuinely desires to hold domestic oil production to the highest possible levels. This amendment plus the other Bartlett amendments are designed to accomplish this objective.

Mr. DOLE. Mr. President, we have now passed four bills and are presently debating the fifth bill, whose purposes are to decrease the demand for oil in this country as a way of decreasing our needs for imports. We have yet to see a bill from the administration that addresses the other half of the problem—that is to increase supplies as an equally important way of decreasing our need for foreign imports. This amendment would address the supply problem essentially by providing for increased production from a property that uses injection wells to extract oil.

When the pressure in a producing reservoir drops, so does the production from that reservoir. As a way of increasing the production from such reservoirs, a producer can drill other wells and inject water into the new wells. The water essentially pushes the oil up through the wells that would otherwise no longer produce oil. When such a property produces less than 10 barrels a day per well, the oil from that property qualifies for the world price. They are socalled stripper wells.

This amendment would let producers count both the producing wells and the injection wells when he is calculating the number of barrels per well that he produces from the property.

I think this would certainly be fair. While these injection wells are very costly, they produce no oil of their own and thus they produce no profits for the producer. Yet, without them there would be no production from such a property at all. They deserve to be counted as part of the total number of wells on the property.

If a producer were allowed to count such wells in his total, the result would be that he would produce more oil from the properties, and the country would have to depend less on foreign oil. It is also a fact that this extra production would be available to the American people at no extra cost—even if the oil gets the world price. The reason is simply that without the world price for such oil, it would not be produced. Without this enhanced production our only choice would be to pay the world price for foreign oil. It will be our choice.

So it is obvious to me that this amendment will result in increased production from well-worked oil fields, and it is also obvious that foreign oil is the only alternative if we do not allow producers to get the world price for their enhanced production. Thus I lend my support to this amendment and I urge my colleagues to do the same.

Mr. CURTIS. Mr. President, I support this amendment. I believe it is both equitable and just, and that it will add materially to our oil supplies.

Under the Emergency Petroleum Allocation Act of 1973, all domestic oil production other than stripper (10 barrels or less) is subject to price controls. The exact nature of price controls is determined administratively and under existing regulations old oil (the amount of oil produced on a property up to either 1972 production of oil or 1975 production of old oil) is controlled at a price of about $5.20. New oil (oil produced in excess of old oil) is controlled at a price averaging about $11.23. However, the higher price for new oil is curtailed by a limit on the average price of nonstripper oil.

This amendment, No. 1502, would amend the Emergency Petroleum Allocation Act of 1973 to provide that in determining the total number of wells on a property producing crude oil, both the wells producing crude oil and all wells which are used to inject water and/or other materials into a reservoir for the purpose of increasing crude oil recovery would be included.

Mr. President, since over half the Nation's 1990 oil and gas production must come from reserves not yet discovered, it is critically important to consider the replacement cost of these reserves. Most estimates by industry and Government reach the conclusion that the bulk of the major new oil and gas discoveries must come from new frontiers such as the Outer Continental Shelf, Alaska and unexplored deeper horizons. Additional recoveries from known reserves will also come from enhanced recovery projects which in the past have been uneconomical. This results in sharply higher real finding, development and production costs as compared to costs of reserves now being produced. Moreover, sharply higher transportation investments are required to bring these potential discoveries to market. The classic example, is the investment of over $7 billion for the Alaska pipeline just to move the production across the State to a point still 1,500 to 2,000 miles from consuming areas.

In addition to the sharply higher real costs associated with finding and developing replacement reserves, the impact of inflation on petroleum industry costs has been particularly severe. For example, in the period 1974-mid-1977 inclusive, inflation in the overall economy [as measured by the Wholesale Price Index (WPI), Consumer Price Index (CPI) and the GNP deflator] average about 27 to 34 percent. At the same time petroleum industry inflation as measured by the Wholesale Price Index for oilfield machinery and equipment has increased 72 percent.

Finally, the petroleum industry is also faced with significantly increased costs incurred in complying with environmental protection requirements.

The cost of alternate sources to oil and gas, such as synthetic fuels, is higher than the cost of conventional sources, and these capital intensive facilities have been hit hard by inflation over the past few years.

All of these factors together have resulted in estimates by various sources that the total expenditures for domestic oil and gas exploration and production alone will range between $20 and $30 billion per year over the next decade. This will be some three times the average annual amount of about $8 billion invested by the industry in exploration and production during 1971 through 1975.

These sharply increased capital requirements must be met from retained earnings, new equity issues, new long term debt, and from capital.

It has been alleged by the administration that many U.S. petroleum companies are "awash in cash" and are unable to spend their current annual cash flow. Two points need to be made in regard to these allegations. First, the data used by the administration are at best misleading by their own admission. For example, they note that "The term 'excess funds' does not necessarily equate with excessive or windfall profits. Neither would it be reasonable to assume that all cash flows generated from domestic production operations would be used for domestic capital expenditures on oil and natural gas production. The excess portion of cash flow not so used could be applied to corporate dividends, reducing debt, the purchased assets for nonenergy operation or various other corporate undertakings." Even this admission fails to note the absolute necessity of corporate dividends if equity capital is to be retained much less increased. The need for increased working capital also requires an adequate return on shareholders' equity.

Mr. JACKSON. Mr. President, I am prepared to yield back my time.

Mr. SCHMITT. Mr. President, will the Senator from Washington yield for a question?

Mr. JACKSON. I yield 1 minute to the Senator from Montana.

Mr. MELCHER. I thank the distinguished chairman for yielding me a minute.

I want to say that in our State we find that, yes, indeed, there are some stripper wells that do not benefit from the current law for a better price and consequently water injection for added production is not undertaken.

It seems to me that the three amendments that are being proposed by the Senator from Oklahoma go to that particular problem of making more of those wells eligible for the terms under FEA where water injection will bring them back into production and consequently qualify under the higher stripper well prices.

I would like to see that added production not only for my State but every-

where else in the United States where we can have added production by water injection to get them back in production, contributing to our national goal of more domestic oil.

I hope the first amendment out of the three is adopted, and that we go on to adopt the other two, also.

Mr. JACKSON. I yield 1 minute to the Senator from New Mexico. I am prepared to yield back my time so that we can vote.

Mr. SCHMITT. I appreciate the Senator's courtesy. The Senator from Washington has mentioned the term "windfall" and a $9 windfall at that. I think it is well for us to keep that $9 in perspective. Every well that is shut in—and the Senator from Wyoming has mentioned 1 field where 25 or 30 are shut in a year—is in reality a windfall for the OPEC nations, for all the exporters of oil to this country. That $9 is generally around $4.50 to the Government in taxes and $4.50 for American industry as capital for additional development of not only petroleum and other energy resources but other capital means of our country.

The most important thing is, as was said earlier by the Senator from Wyoming, that all of this $9, whether it goes to the Government or into our capital resources, stays in this country; for every well that is shut in, the windfall is for OPEC, and I thank the Senator from Washington for his courtesy.

Mr. JACKSON. I yield to the Senator from Arkansas (Mr. BUMPERS).

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 1 minute.

The PRESIDING OFFICER (Mr. BENTSEN). The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I just wish to say that I intend to support the amendment, and incidentally, I would like to be made a cosponsor.

I had some reservations about the amendment, because I felt there was some serious potential for abuse here in drilling these salt injection wells in order to get the upper tier price or the stripper price, the decontrolled price. But I talked with the people in my State who are in this business. Virtually all the oil produced in my State is stripper oil, and they tell me that as a practical matter, this is not likely to be abused, because these wells are expensive to drill and to maintain, and that any figure we establish here of the number of wells that can be used in terms of the formula will be highly arbitrary.

So I elected not to offer a perfecting amendment and to support and cosponsor the amendment of the Senator from Oklahoma.

I am told that the problem with a perfecting amendment like mine is that it might set up some an administrative burden and expense that the amount of money involved would far offset the benefits to be gained from it. For that reason, I am willing to risk it. Reliable people, whose word I take on issues like this, assure that as a practical matter, it will not be. These wells are drilled for highly technical reasons, at terrific cost.

So I am prepared to support the amendment.

Mr. BARTLETT. Mr. President, if my good friend from Washington will yield, I ask unanimous consent that the names of the following Senators be added as cosponsors of the amendment: the Senator from Texas (Mr. TOWER), the Senator from Arkansas (Mr. BUMPERS), the Senator from New Mexico (Mr. SCHMITT), the Senator from Texas (Mr. BENTSEN), and the Senator from Louisiana (Mr. JOHNSTON).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JACKSON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Oklahoma. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCLURE (after having voted in the affirmative). Mr. President, on this vote I have a pair with the Senator from Maine (Mr. MUSKIE). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "aye." Therefore, I withdraw my vote.

Mr. METCALF (after having voted in the negative). Mr. President, on this vote I have a pair with the Senator from Alaska (Mr. GRAVEL). If present and voting, he would vote "aye." If I were at liberty to vote, I would vote "nay." I withdraw my vote.

The PRESIDING OFFICER. The clerk will suspend until the Senate is in order. The clerk will not proceed with the rollcall until the Senate is in order. Senators will cease their conservations.

The clerk may proceed.

The legislative clerk resumed and concluded the call of the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Alaska (Mr. GRAVEL), the Senator from Arkansas (Mr. McCLELLAN), the Senator from South Dakota (Mr. McGOVERN), the Senator from South Dakota (Mr. ABOUREZK), and the Senator from Arizona (Mr. DECONCINI) are necesarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

I further announce that, if present and voting, the Senator from Arizona (Mr. DECONCINI) would vote "yea."

Mr. STEVENS. I announce that the Senator from Rhode Island (Mr. CHAFEE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Utah (Mr. HATCH), and the Senator from Oregon (Mr. HATFIELD) are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT) is absent on official business.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 62, nays 24, as follows:

[Rollcall Vote No. 603 Leg.]

YEAS—62

Allen	Glenn	Packwood
Anderson	Goldwater	Pearson
Baker	Griffin	Percy
Bartlett	Hansen	Randolph
Bellmon	Hart	Riegle
Bentsen	Haskell	Roth
Bumpers	Hayakawa	Sasser
Burdick	Heinz	Schmitt
Byrd, Harry F., Jr.	Helms	Schweiker
	Huddleston	Sparkman
Byrd, Robert C.	Humphrey	Stafford
Cannon	Johnston	Stennis
Chiles	Laxalt	Stevens
Cranston	Long	Stone
Curtis	Lugar	Talmadge
Danforth	Mathias	Thurmond
Dole	Matsunaga	Tower
Eagleton	Melcher	Wallop
Eastland	Morgan	Weicker
Ford	Moynihan	Young
Garn	Nunn	Zorinsky

NAYS—24

Biden	Hollings	Metzenbaum
Brooke	Inouye	Nelson
Case	Jackson	Pell
Church	Javits	Proxmire
Clark	Kennedy	Ribicoff
Culver	Leahy	Sarbanes
Durkin	Magnuson	Stevenson
Hathaway	McIntyre	Williams

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—2

McClure, for.
Metcalf, against.

NOT VOTING—12

Abourezk	Domenici	McClellan
Bayh	Gravel	McGovern
Chafee	Hatch	Muskie
DeConcini	Hatfield	Scott

So Mr. BARTLETT's amendment (No. 1502) was agreed to.

(Later the following occurred:)

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that my vote on amendment 1502 be changed from "nay" to "yea," inasmuch as this will not change the outcome of the vote

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

(The foregoing rollcall vote reflects the above request.)

Mr. HANSEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BELLMON. Mr. President, I ask unanimous consent that the distinguished Senator from West Virginia (Mr. RANDOLPH) be added as a cosponsor of the amendment which just passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who seeks recognition?

Mr. BARTLETT. Mr. President.

The PRESIDING OFFICER. The Senator from Oklahoma.

AMENDMENT NO. 1497

(Purpose: To amend the Emergency Petroleum Allocation Act of 1973 to exempt from price controls economically marginal production)

Mr. BARTLETT. Mr. President, I call up amendment No. 1497 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BARTLETT), for himself and Mr. BELLMON, and Mr. HANSEN, proposes an amendment numbered 1497.

Mr. BARTLETT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At an appropriate place in the bill, insert the following new section:

PRICE CONTROL EXEMPTION FOR MARGINAL PRODUCTION

SEC. . Section 8 of the Emergency Petroleum Allocation Act of 1973, as amended, is amended by adding the following new paragraph:

"(k)(1) The first sale price of marginal well crude oil shall be exempt from the regulation promulgated under section 4(a) of this Act.

"(2)(A) For purposes of this subsection, 'marginal well crude oil' means crude oil produced and sold from a property whose maximum average daily production of crude oil per well during any consecutive twelve-month period beginning after December 31, 1975, exceeds ten barrels but does not exceed—

"(i) twenty barrels from an average producing depth greater than two thousand feet but not greater than four thousand feet;

"(ii) twenty-five barrels from an average production depth greater than four thousand feet but not greater than six thousand feet;

"(iii) thirty barrels from an average producing depth greater than six thousand feet but not greater than eight thousand feet; and

"(iv) thirty-five barrels from an average producing depth greater than eight thousand feet.

"(B) To qualify for the marginal well crude oil exemption under this subsection, a property must be producing crude oil at the maximum feasible rate throughout the twelve-month qualifying period and in accordance with recognized conservation practices.

"(C) Quantities of crude oil qualifying for the exemption under the terms of this subsection shall not be included in the calculation of the weighted average first sale price of domestically produced crude oil for the purposes of subsection (a) of this section.

"(D) Included in the count of the total number of wells on a property shall be all wells producing crude oil and all wells utilized for the purpose of injecting water and/or other materials into a producing reservoir for the purpose of enhancing crude oil recovery.".

The PRESIDING OFFICER. Will the Senator advise the Chair if this is one of the amendments on which there is a 40-minute time limitation?

Mr. BARTLETT. Yes, there is a 40-minute time limitation, divided 20 minutes to a side.

The PRESIDING OFFICER. I thank the Senator.

Mr. BARTLETT. Mr. President, Congress has twice enacted into law provisions to exempt from price controls crude oil produced from a stripper well property. Stripper well properties have been defined in the law as properties on which the average production of crude per well is less than 10 barrels each day. This exemption allows stripper wells to receive free market prices and has had remarkable success in maintaining production from low-volume, high-cost properties—I might stress from the most marginal of marginal wells.

The most recent survey from the National Stripper Well Association indicates that the stripper well amendment is serving the Nation well, Abandonments in recent years of oil wells have been reduced 26 percent. Reserves from stripper well properties have increased to 4.9 billion barrels, and total production in the stripper well category has increased to a level of over 400 million barrels this year.

There are a number of other high-cost properties which are not included within the stripper definition because their average production rates are greater than 10 barrels per day per well. The production from these properties, like stripper wells prior to the stripper well exemption, could be shut in at low, controlled prices, and these wells could be abandoned unless the prices increase. The oil that would be used to replace this lost production would have to be imported foreign oil, which comes in at substantially higher prices.

It makes no sense to export billions of American dollars to foreign nations when this production could be recovered from domestic resources and have the American money paid to American service companies, steel companies, American individuals who work on these leases, and have the money circulate in this Nation.

My amendment expands upon the stripper well concept by exempting from price controls crude oil produced from properties producing at greater depths in accordance with the marginal well definition which has been included for years in the conservation statutes of the State of Texas. The amendment leaves the stripper well exemption intact and then defines the marginal wells so that a property whose average production depth is between 2,000 feet and 4,000 feet would receive exempt status if the production rate were 20 barrels per day or less. This treatment is continued in depth increments of 2,000 feet so that a property whose average production is 8,000 feet or deeper would be exempt if the production rate per well is less than 35 barrels a day.

This amendment takes into account the fact that producing capital and well maintenance costs increase as the producing depth of the wells increases. It will insure that a large number of wells with relatively low-production rates will not have to be prematurely shut-in or abandoned because of our price-controlled system, then be replaced by high cost OPEC crude.

Based on an analysis by the Texas Railroad Commission, approximately 80 percent of the total number of wells and 27 percent of the total production of the State fall within the parameters of the State's marginal well law. If the Texas experience is extended to the Nation as a whole, approximately 2.165 million barrels of lower 48 production would qualify for the exemption. However, because approximately 14 percent of U.S. crude oil production is already in the stripper category and is already exempt from price controls, there would only be 1.040 million barrels per day subject to this marginal well amendment.

Assuming that, by 1978, total U.S. production, excluding Alaskan and stripper, would be evenly divided between the lower and upper tiers, approximately 520,000 barrels per day of the marginal production would come from the upper tier category, and 520,000 barrels would come from the lower tier category. Based on these assumptions, the total cost of this amendment is approximately $2 billion per year, an increase of 30 cents per barrel of petroleum consumption, or less than 1 cent per barrel of petroleum product consumed. I feel that these costs are probably even overestimated.

The stripper well amendment has been very successful and is accomplishing its purpose. Billions of barrels of U.S. oil reserves will be recovered because of the stripper well exemption. It can be improved, by allowing those wells that would become uneconomic at more than 10 barrels per day to receive exempt prices through this marginal well exemption.

I point out that a shallow well, compared to a deeper well, is a relatively cheap investment. As we go deeper, we find out that the cost of the deeper production is, to a great extent, sharply increased just from the drilling cost. Then, if you add in the casing and tubing, the steel costs, it accelerates further. You have larger size pipe, you have greater expenses.

The costs of drilling and equipping oil wells in the United States in 1975 shows that, for a well with a depth interval of zero to 1,250 feet, and in each one of these categories there were quite a number of wells, the average cost was $19,990. For a well at 5,000 to 7,500 feet, the cost was $193,029; a well of 15,000 to 17,500 feet, 1.8 million; 20,000 feet and deeper, $3.3 million.

Mr. President, I ask unanimous consent that this table be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

COSTS OF DRILLING AND EQUIPPING OIL WELLS IN THE UNITED STATES IN 1975

(1977 costs are approximately 25 percent higher)

Depth interval and average cost:

0–1,250 feet, $19,990.
1,250–2,500 feet, $38,651.
2,500–3,750 feet, $75,269.
3,750–5,000 feet $115,697.
5, 000–7,500 feet, $193,029.
7,500–10,000 feet, $326,862.
10,000–12,500 feet, $639,466.
12,500–15,000 feet, $978,827.
15,000–17,500 feet, $1.8 million.
17,500–20,000 feet, $2.7 million.
20,000 feet and deeper, $3.3 million.

SOURCE.—Joint Association Survey of the American Petroleum Institute.

NOTE.—An oil well at 9,000 feet costs 10 times as much to drill and equip as one at 2,000 feet, and a well at 17,000 feet costs 50 times as much.

Mr. TOWER. Will the Senator yield?

Mr. BARTLETT. Yes, I yield.

Mr. TOWER. I rise in support of the amendment of the Senator from Oklahoma. I ask unanimous consent that I be added as a cosponsor.

The PRESIDING OFFICER (Mr. MOYNIHAN). Without objection, it is so ordered.

Mr. TOWER. Mr. President, the rationale behind exempting stripper well production in the first place is that it is essentially uneconomical production unless you give it special treatment. I think if we are going to follow through with the original intent of exempting stripper well production, we have to raise the allowable production as we go deeper so that we realize what the ultimate objective of exempting stripper production is in the first place. As the Senator from Oklahoma has ably pointed out, the shallow production is relatively inexpensive, but the deeper you go, the more expensive it gets. The simple fact is that if we do not raise the number of barrels that come under the definition of a stripper well for deep wells, that will become uneconomical production that will probably be capped and remain in the ground forever.

So this will have the effect of producing more oil.

Mr. BARTLETT. I state to the Senator from Texas that I appreciate his remarks very much. But I would like to ask him a question.

At the time the operators and royalty owners and other interested parties appeared before the Railroad Commission to work out this graduated scale for the purpose of making production allowances, recognizing the additional costs of deep production, I would assume, and I am asking my good friend, was there not quite a wrangle and a lot of haggling going on working this out because different people with different interests would have a different viewpoint of what would be fair as a graduated depth correlation, is that not correct?

Mr. TOWER. The Senator is correct.

There was some difficulty there. The area of agreement was that we certainly should raise the figures, however, for the deeper production.

As to trying to graduate it foot by foot and apply a per barrel increase in the footage basis, it did generate some disagreement as to what is fair and what is not fair.

What the Senator from Oklahoma proposes to do is far less liberal than what I propose to do because the Senator from Oklahoma does put a 35-barrel ceiling on this storage production, it is my understanding.

I would like to see it go even higher, depending how deep we go. But I think it is certainly proper to ask for a ceiling of 35 barrels per day for this very deep production.

Mr. BARTLETT. I thank the Senator from Texas.

I yield to the Senator from Kansas.

Mr. DOLE. I will just take 10 seconds to commend the distinguished Senator from Oklahoma, who knows more about this particular industry than anyone on the Senate floor, without doubt.

I commend his leadership and certainly think he has stated the case properly, objectively, and I thank him for it. I am pleased to be a cosponsor.

Mr. BARTLETT. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mr. JACKSON. Mr. President, this amendment would exempt from price controls approximately 1 million barrels a day of current crude oil production, which is a little over 8 million barrels.

The cost of this to the American consumer between now and 1985 in 1975 dollars would be approximately $26 billion, according to the Department of Energy.

The department further indicates that it would be highly unlikely that the amendment would stimulate any significant amount of production greater than under existing rules and law.

Thus, the adoption of the amendment would give oil producers a windfall without any significant benefit in terms of production.

Mr. President, once again, I call attention to the fact that there is authority under existing law, the Allocation Act, to do what is sought here.

So that our colleagues are not misled, Mr. President, this is not a case of new wells appearing on the scene. The wells are already there. The three amendments, the first one that was passed just a moment ago, this one and the next one, will cost the American public over $60 billion between now and 1985 with, really, no substantial increase in production.

I think it is time that the public understands, because what we are doing here on the floor of the Senate when we get through will be to decontrol about half of our current oil production.

Mr. President, when the prices start soaring, and they will soar, we are adding $9 a barrel, $9 a barrel for oil that we could get 4 years ago for $3.50 a barrel.

Now, our colleagues need to know what they are getting into when the prices start to soar after this legislation becomes law without adding to production. This is not a situation in which new oil will be brought in. Mr. President, under the President's program, the so-called new oil, oil discovered after April 20, will go at the world price of almost $14 a barrel.

But here, we are decontrolling oil, allowing OPEC to set the prices. If that is what our colleagues want to do, I think they are making it very clear by the action here this afternoon.

Mr. TOWER. Will the Senator yield to me?

Mr. BARTLETT. Yes.

Mr. TOWER. I think it is wrong to say this will cost the consumer additional money because this oil is going to replace oil that is currently being imported from external sources at the OPEC price.

So for every barrel of Middle Eastern oil this stripper oil replaces, it is going to cost the consumer no more than what he is paying now.

The Senator from Washington spoke nostalgically about our paying a higher price now for what we paid only $3 a barrel for 3½ years ago.

I remind the Senator from Washington that about 4 or 5 years ago we were only paying $3, maybe $1.50, for the oil we imported from the Middle East. They came in and preempted a lot of uneconomic production in this country by selling oil very cheaply. We got to relying on it and then once they had us, once they had us dependent on them, they jumped up the price artificially to the world price.

I remind my colleagues of something else, and that is that the additional income realized from this stripper oil will, in most instances, go back to producing more marginal and currently not too economic oil that would not otherwise be produced.

So what we are talking about is reaching oil that ultimately will be capped if the price does not go up.

We are not breaking the American consumer, but trying to remove him from the position he is in, dependent on external sources for what he pays for his crude oil.

Mr. JACKSON. Mr. President, one brief observation here.

What we are doing is not talking about new oil. We are talking about, and I think my good friend from Texas practically conceded it, is that 1 million barrels of oil that is being produced now will get the added price advantage of almost $14 a barrel instead of the $5.25, and the allegation is that those additional profits will help to go out and get other oil.

All I can say, Mr. President, is that the purpose of the price incentives which I have supported in connection with existing law is to bring in new oil.

We are not bringing in any new oil, Mr. President. The facts are, it is one thing to talk about prices in terms of bringing in added significant production, but it is something else to simply hand a windfall.

We are getting into big numbers here. When we get through with the third amendment, we will have decontrolled 4 million barrels out of the little over 8 million barrels a day we produce.

Mr. KENNEDY. Will the Senator yield?

Mr. JACKSON. I yield to the Senator from Massachusetts.

Mr. KENNEDY. I say that I think the Senator from Washington has made the case very clearly. But I want to make sure that the Members understand that under the current pricing law, if there is justification for additional costs, as I understand it, there can be the procedure followed by which higher costs reaching the international costs can be obtained.

Mr. JACKSON. The Senator is correct. Under the Allocations Act, section 8(b), authority to make such price adjustments is provided for in existing law. We all support that. In some cases it can be justified. But the point is that to give it to all of them where there is no justification, where there will not be any increase in production, is simply a windfall, and the American consumer is going to pay through the nose. That is what we are trying to prevent here.

Mr. KENNEDY. Can the Senator from Washington indicate to us what he believes will be the effect of this particular amendment on increased production?

Those who have advocated this amendment have not indicated what additional production will result. Often, in the debate we have had on various parts of this legislation when we have tried to reduce some of the tax expenditures it has been said if we take that

particular step, it means we are throwing out the window the savings of a million barrels a day by 1985, or whatever. But there have been attempts to try to tie this tax expenditure to actual increases in production.

I am wondering, with respect to this amendment, whether there have been any estimates or whether the chairman of the Energy Committee can give us any estimates as to what it will mean in terms of new production. The Senator has stated what it will mean in terms of additional cost to the consumer. It appears to me that the Senator has stated correctly that this is, in effect, decontrolled by the back door, or the front door, whichever way one looks at it.

Mr. JACKSON. Or the side door.

Mr. KENNEDY. Or the side door.

What is the Senator's estimate?

Mr. JACKSON. Not my estimate, but the Department of Energy estimate is zero increase in production.

Mr. KENNEDY. In the last 5 years, as I understand, we actually have doubled the drilling activity, so the industry is already moving ahead in terms of exploration. We are not talking about increasing that particular feature. What we are talking about is the existing production, and it is important to underline that.

Mr. JACKSON. I thank the Senator.

Under the President's energy program, the new oil is decontrolled. So that to go after the new oil, they go for the world price.

Mr. President, this really boils down to a clear-cut windfall, nothing else.

Mr. KENNEDY. Could the Senator indicate to us who he thinks will be the principal beneficiaries of this particular provision? Is there anything to indicate that? Are the largest oil companies going to be eligible to benefit under this proposal? There does not seem to me to be any provision in this amendment to limit it to either the smaller companies or the independents or the wildcatters. As I understand, it will just be across the board. It will be available to Exxon and the largest oil and gas companies as well as to the smaller independents.

Mr. JACKSON. The biggest producers will get the most. It is that simple.

Mr. BARTLETT. Mr. President, that statement is absolutely incorrect, and the Senator knows it.

The large producers of energy, the Exxons, having higher costs of operation, tend to sell their production as that production reaches the point of abandonment, as it becomes marginal.

There is no question that the great share of the production that is marginal, both stripper and producing at a greater depth, is owned by the independents and the small producers. They will be the beneficiaries; and just as they have done with the stripper well amendment, they will invest in waterflooding and fracturing, but they will not actually increase daily production to any great extent.

What they will do, I say to the distinguished Senator from Washington, is to increase the ultimately recoverable reserves. They will flatten out the production so that there will not be a continuing decline.

The Senator said that this amendment and the other one will affect 50 percent of the production. This amendment, by itself, will affect 14 percent of our production, along with the 14 percent that is now affected by the stripper well amendment. That would be 28 percent.

I believe we have to pay attention to our marginal production and extend its life and offer the opportunity for the owners of that production to invest various devices for enhancing it.

One final point: The Senator has made several references to the exemptions and appeals section of the FEA law, as to it being a good remedy. I should like to read one paragraph by A. V. Jones, president of the IPAA, from his testimony before the Energy Committee, and it was the subcommittee chaired by the distinguished Senator from Louisiana (Mr. JOHNSTON). Mr. Jones said:

> Finally, when discussing marginal well categories it is important to mention FEA's exceptions and appeals (E and A) process. FEA uses the existence of the F and A process to counter all arguments for additional across-the-board incentives for marginal production. FEA's E and A procedure is a sham and has little real practical significance for the independent producer's viewpoint.
>
> The E and A process is nothing more than cost-of-production rulemaking. Frequently, a producer not only has to show that his producing operation is losing money, but also that it threatens his economic viability. Exceptions are generally granted for periods of short duration and only to the extent needed to make the operation economic. Relief is too little, too late, and not permanent.

Mr. MELCHER. Mr. President, will the Senator yield?

Mr. BARTLETT. I yield to the distinguished Senator from Montana.

Mr. MELCHER. I thank the Senator for yielding.

Those who really think that conservation problems should be practiced in the oil field should take a good, hard look at this amendment, the amendment we previously adopted, and the next one to come before us.

As an oil field gets older, the production per day drops, and it is a question of whether or not enough money is going to be spent on water injection or other means to get the balance of the oil in each well that is there in the field already developed.

I am very much in favor of these stripper well amendments, because we are faced in our case, in Montana, with the Sumatra Field, at one time a highly producing field. At this time, for all practical purposes, we might as well call the entire field a stripper field. We are facing the same thing in the Belle Creek Field, which Montana shares with Wyoming, where that production has dropped off rapidly; and without water injection or other secondary recovery means, the remainder of the oil that is in that field is not going to be captured. The wells are in place: it is a developed field; the pipes are there; everything is there. It only makes sense to produce all the oil that is there, that is practical to capture and provide it for the marketplace. With these amendments, it is made practical to produce the hard-to-get oil in the field.

For those people who will benefit by this, let me say that the means of recapturing this oil costs money. You cannot get it without investing more money. The question is, should it be returned to the investors by higher prices in the marketplace? I say "yes." It is that simple. It is meritorious on its face.

The profits may go to those who invest the money to recapture the hard-to-get oil in the oil field.

It is not simply windfall. It is an investment through water injection or other means to recapture most of the oil.

I hope the Senate accepts this amendment as resoundingly as it accepted the one preceding, and I hope we also accept the third amendment. They are part of a package.

Mr. HART. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senator from Oklahoma has the floor.

Mr. HART. Will the Senator from Oklahoma yield for a question, either to himself or the Senator from Montana?

Mr. BARTLETT. I yield.

Mr. HART. The question, once again, becomes, what are the cost figures to justify permitting the price of this oil to rise to the artificially high price of $15 a barrel? That is what I think would be helpful to know, not simply that it costs a lot of money, but how much money. What would be the margins of profit? To justify a vote in favor of this amendment, what kind of costs are we talking about on a national average or any other figure that the sponsors of the amendment can come up with?

I do not think it is enough to say that this is expensive oil and you cannot get it out for $5.20. The question is, what does it cost to get it out, and why does that justify $15 a barrel?

Mr. BARTLETT. I say to the distinguished Senator from Colorado that we do not have estimates of this kind of cost. We do know, for example, which I submitted for the RECORD, that there are very much higher investments in deeper producing wells. A well between zero and 1,250 feet has a cost to drill and equip of $19,990, whereas one between 2,500 and 3,750 feet would be $75,000. This gives an idea of the rising cost of deeper production.

The figures used in the graduated depth proposal are not pulled out of the air. Those are figures that were debated heatedly and finally agreed upon by the Railroad Commission of Texas, the oil and gas regulatory body of that State, and these have stood up over a period of time as a means of recognizing the additional cost of deeper production. We have adopted that as our schedule for the same recognition here.

Mr. HART. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The time of the Senator from Oklahoma has expired.

Mr. MELCHER. Mr. President, will the Senator yield 2 minutes?

Mr. BARTLETT. Will the distinguished Senator from Washington yield us 2 minutes?

Mr. JACKSON. How much does the Senator need?

Mr. BARTLETT. Two minutes.

Mr. JACKSON. All right. Do not be too harsh now. I yield 2 minutes.

Mr. MELCHER. I yield.

Mr. HART. The costs the Senator from Oklahoma cited are costs of drilling. What is the cost of operating these fields, not the cost of drilling new wells?

Mr. BARTLETT. The cost of operation is in direct relationship to the cost of drilling the well. It costs more to operate a bigger pumping unit. It costs more to maintain a larger pipe. We are talking about the tubing. The lifting costs of a deeper well are greater. You have to have a larger servicing unit and if you have water problems with the well, which is often the case in the marginal stages, then you just have more tubing to have problems with. So the depth is a factor in operations.

But the part that I did say that relates very directly to operations is the schedule that was adopted by the Railroad Commission. That is strictly operating wells to give them a larger allowable, because of the greater depth.

Mr. MELCHER. I answer the Senator further by saying that the costs are not exact costs, because the art is not exact. This is risk capital. It is less risky than just going out and wildcatting. But it is risk capital to determine how much more oil can be gotten out of an oil field. It will vary from one field to another and even within a section of a field. How much water injection or other means will cost for secondary recovery varies and in terms of how much more oil is gotten out determining if there is a profit and how much of a profit.

It is fair to say that no one is going to invest his money in water injection without thinking he is going to get a good rate of return. It is risk capital, and to get producers to invest that risk capital we have to give them a greater price to make the investment.

Mr. HART. The question becomes why should the Senate delegate to the oil-producing States the authority to set prices which may yield extremely high rate of profit on U.S. oil wells?

Mr. HANSEN. Mr. President, I have cosponsored and fully support the amendment of the Senator from Oklahoma (Mr. BARTLETT) to grant price relief to deeper oil wells which are economically marginal at production rates in excess of the stripper well allowance of 10 barrels a day. Many of these wells produce from deeper zones that require more expensive pumping, production and treating equipment—often these wells produce 10 or more barrels of water to each barrel of oil but if higher prices are not allowed, they will be shut in. This is one of the reasons to the continuing decline of domestic production in the lower 48 States.

For each barrel of lost production from these marginal wells, we will import a barrel of foreign oil at the world price. So it will not cost the U.S. Government anything to maintain such marginal production, but, in fact, will lessen the rate of increase of imported oil.

Rather than shutting these wells down while they are still capable of producing, their oil will continue to contribute to U.S. national security and provide jobs to Americans.

Every additional barrel of oil we can produce in this country is one barrel less we will have to import. We must keep these wells in production.

Mr. CURTIS. Mr. President, under the Emergency Petroleum Allocation Act of 1973, all domestic oil production other than stripper (10 barrels or less) is subject to price controls. The exact nature of price controls is determined administratively, and under existing regulations old oil (the amount of oil produced on a property up to either 1972 production of oil or 1975 production of old oil) is controlled at a price of about $5.20. New oil (oil produced in excess of old oil) is controlled at a price averaging about $11.23. However, the higher price for new oil is curtailed by a limit on the average price of nonstripper oil.

This amendment No. 1497 would amend the act to exempt from price controls oil from a property producing more than 10 barrels per day (stripper wells produce 10 or less) but not more than 20 barrels from a zone between 2,000 and 4,000 feet, 25 barrels from a zone between 4,000 and 6,000 feet; 30 barrels from a zone between 6,000 and 8,000 feet; and 35 barrels from a depth greater than 8,000 feet. In order to qualify, a property must be producing oil at the maximum feasible rate throughout a 12-month qualifying period and must conform with recognized conservation practices.

Mr. President, I urge the adoption of the amendment for the same reasons as set forth in my statement on the prior amendment No. 1502.

Mr. BENTSEN. Mr. President, national energy policy must encourage additional production from high cost "marginal wells." Without adequate incentives, many of these wells will be abandoned and we will lose forever the benefit of these known reserves.

Marginal oil properties individually produce only modest amounts of oil but, in the aggregate, contribute an estimated 25 percent of our total production. If we can substantially extend the life of many existing wells and avoid premature abandonment of marginal oil properties we will be taking a concrete step toward reducing our dangerous dependence on insecure foreign sources of oil.

An oil producer who produces oil from a marginal property—one where production levels are so low that continued economic operation is threatened—should be entitled to a reasonable price for marginal production. The availability of a higher price for marginal oil would simply extend the "stripper well" concept which is in existing law. (The Emergency Petroleum Allocation Act of 1973, as amended.)

Whether a property is "marginal" is largely a function of how much oil is produced, plotted against the depth from which it is produced, since obviously well depth bears directly on drilling and operating costs.

The stripper well exemption was first adopted as an amendment to the Trans-Alaska Pipeline Authorization Act of 1973. Later that same year, the 10-barrel-per-day stripper well exemption was incorporated in the Emergency Petroleum Allocation Act. There is no magic in the 10-barrel-per-day designation. It was an arbitrary measure which Congress adopted, and which has been reaffirmed several times. The stripper exemption has served its purpose well, but we should now recognize the correlation which must exist between the number of barrels of daily production and the depth of the well in order for the well to be economically viable.

The State of Texas has, for years, applied the concept of marginal production without difficulty, and has evolved, through experience, a good definition of economic marginality. Wells with the following depths and levels of production are defined as marginal wells under Texas law:

Well depth and average daily production

2,000 feet or less	10 barrels or less
2,000 to 4,000 feet	20 barrels or less
4,000 to 6,000 feet	25 barrels or less
6,000 to 8,000 feet	30 barrels or less
8,000 feet or deeper	35 barrels or less

This definition of marginal oil was also approved by the U.S. House of Representatives on July 31, 1975, when Congressman JIM WRIGHT's marginal oil production amendment was adopted. Congressman WRIGHT's amendment would have included marginal oil in a "high-cost oil" category which would have been created by FEA under the House bill. The average price of "high-cost oil" would have been $10 per barrel.

A marginal well incentive will encourage additional production which otherwise would not occur. The benefits of the incentive would be directed only toward those producers who are engaged in high cost production techniques.

Mr. DOLE. Mr. President, through the debates of the last months, many of us have come to realize that reduced demand, while important, is only half the solution to our energy problem. Increased supplies, produced in this country, can also reduce our need for imported oil. An energy program cannot in any way be considered comprehensive if it ignores the potential benefits to the country that could be brought about by increasing domestic supplies of petroleum. Yet this bill, like the four that have already passed the Senate, makes no mention of increased supplies.

This proposed amendment finally addresses an important part of the supply problem.

Under the Emergency Petroleum Allocation Act, we now grant the world price to oil from wells that produce less than 10 barrels of oil a day, the so-called stripper wells. Oil from stripper wells was originally given the world price, because these wells are hardly worth the cost of keeping them in production. Stripper wells contribute 14 percent of the oil produced in this country. Yet if the oil from them were getting only $5.60 per barrel instead of $13.30, we could count on seeing most of these wells shut down.

If this were to happen our imports would increase as surely as if we were to go on a spree of buying gas guzzlers.

Now there is nothing magical about

10 barrels per day as a measure of a well that is "marginal" in terms of its profitability. Because of our present pricing policies there are too many wells in this country that are in danger of being shut down, because they are only "marginally profitable." And this condition exists at a time when this country needs all the oil it can produce.

The proposed amendment would expand on the class of oil wells that would qualify for the world price. Besides wells only producing 10 barrels per day, the amendment would also provide the world price for oil produced from deeper wells having slightly greater levels of production. It would include wells producing up to 20 barrels per day if the wells are from 2,000 to 4,000 feet deep, up to 25 barrels per day, if the wells are from 4,000 to 6,000 feet deep. It would allow the world price for greater levels of production up to 35 barrels per day if the well is deeper than 8,000 feet.

The amendment would moreover allow a producer to include both producing wells and injection wells for the purposes of calculating the amount of production per well on the property.

I think that the country would benefit from keeping these marginally profitable wells in production and I intend to support the amendment.

The President talks about offering incentives to companies to go out and drill new wells in untried areas. Yet here we have wells that have on the average two-thirds of their oil yet to be produced. It would be folly to deprive ourselves of oil whose location we know, and whose amount we are pretty sure of, just because we are unwilling to allow the companies to obtain the world price for producing that oil.

While the President talks about bringing on new wells and new production, the Senate has agreed to give a tax credit of $3 per barrel for shale oil to bring it down to where we can afford it. While incentives are indeed needed to bring down the cost of high-priced oil, it is in our interest also to raise the price of oil from mariginal wells in order that we can access the oil yet to be produced from those wells.

While a lot more needs to be done to offer the incentives necessary to increase production in this country. I applaud the Senator from Oklahoma for this amendment that will, at a minimum, keep in production many wells that would otherwise be lost in terms of their contribution to keeping our imports down.

I intend to support the amendment and urge my colleagues to also lend their support.

The PRESIDING OFFICER. The time of the Senator from Oklahoma has expired.

Mr. JACKSON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 10 minutes.

Mr. JACKSON. Is all the other time used on the other side?

The PRESIDING OFFICER. The time has expired.

Mr. JACKSON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JACKSON. Mr. President, I yield back the remainder of my time.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. HART. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk resumed the call of the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. LONG. Mr. President, I move that the pending amendment be laid on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table.

Mr. BARTLETT. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METCALF (after having voted in the negative). Mr. President, on this vote I have a live pair with the Senator from Maine (Mr. MUSKIE). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withdraw my vote.

Mr. RIEGLE (after having voted in the affirmative). Mr. President, on this vote I have a live pair with the Senator from Alaska (Mr. GRAVEL). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withdraw my vote.

Mr. TOWER. Regular order, Mr. President. Regular order, Mr. President.

The PRESIDING OFFICER. Regular order is for the clerk to tally the vote, which he is doing.

The assistant legislative clerk resumed and concluded the call of the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Alaska (Mr. GRAVEL), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from South Dakota (Mr. MCGOVERN) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL) would each vote "nay."

Mr. STEVENS. I announce that the Senator from Rhode Island (Mr. CHAFEE), the Senator from New Mexico (Mr. DOMENICI), and the Senator from Oregon (Mr. HATFIELD) are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT) is absent on official business.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "nay."

The result was announced—yeas 43, nays 46, as follows:

[Rollcall Vote No. 604 Leg.]

YEAS—43

Abourezk	Hart	Moynihan
Anderson	Haskell	Nelson
Biden	Hathaway	Nunn
Brooke	Heinz	Pell
Bumpers	Hollings	Proxmire
Byrd, Robert C.	Humphrey	Randolph
Cannon	Inouye	Ribicoff
Case	Jackson	Sarbanes
Chiles	Javits	Sasser
Church	Kennedy	Stevenson
Clark	Leahy	Talmadge
Culver	Long	Williams
Durkin	Magnuson	Zorinsky
Eagleton	Matsunaga	
Glenn	McIntyre	

NAYS—46

Allen	Goldwater	Pearson
Baker	Griffin	Percy
Bartlett	Hansen	Roth
Bellmon	Hatch	Schmitt
Bentsen	Hayakawa	Schweiker
Burdick	Helms	Sparkman
Byrd, Harry F., Jr.	Huddleston	Stafford
	Johnston	Stennis
Cranston	Laxalt	Stevens
Curtis	Lugar	Stone
Danforth	Mathias	Thurmond
DeConcini	McClure	Tower
Dole	Melcher	Wallop
Eastland	Metzenbaum	Weicker
Ford	Morgan	Young
Garn	Packwood	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—2

Metcalf, against.
Riegle, for.

NOT VOTING—9

Bayh	Gravel	McGovern
Chafee	Hatfield	Muskie
Domenici	McClellan	Scott

So the motion to lay on the table amendment No. 1497 was rejected.

Mr. CURTIS. I move to reconsider the vote by which the motion was rejected.

Mr. BARTLETT. I move to lay that motion on the table.

Mr. LONG. Mr. President, I ask unanimous consent that I may address myself to this matter for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I personally favor the amendment, but I moved to table it for the reason that I know that this amendment is going to be the subject of extended debate. We are in for either a "minibuster" or a full-scale filibuster if the amendment is agreed to.

I know the majority of the Senate favors the amendment. I think that that matter can be taken into consideration when we talk about this matter in conference. But, Mr. President, we are not going to be able to get a bill that the President will sign. We will be wasting our time. I hope the Senator will be willing to withdraw his amendment, just on the basis that if we agree to this amendment, we are going to have a filibuster on this bill.

The conferees on the bill will recognize the fact that the Senator is supported by

a majority of the Senate at this particular point and will discuss that and try to work out something that we hope the President will sign and that the House will take. Without that, we are not going to have anything anyway. I urge the Senator to recognize that we, in good will, understand his problem and urge him to understand ours.

I ask the Senator from Oklahoma if he would be willing, at this point, to withdraw his amendment, understanding the fact that we have it within our power in conference to talk about matters of this sort in the form of tax incentives, although we do not have a right to talk about changes in price controls in conference.

Mr. STONE. Mr. President, will the Senator from Louisiana yield?

The PRESIDING OFFICER. The Senator's minute has expired.

Mr. STONE. I ask unanimous consent to proceed for 30 seconds.

THE PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. STONE. The Senator from Florida voted not to table, but because the Senator from Florida favors the substance of the amendment of the Senator from Oklahoma, in the light of the analysis of the situation by the Senator from Louisiana, if this is not withdrawn and it does come to a reconsideration, the Senator from Florida intends to change his vote in order to expedite getting this bill to conference.

Mr. LONG. I hope that everybody will understand that this amendment will bring on extended debate. I think the Senators want to vote and I believe that the Senator from Oklahoma would be well advised to accommodate the rest of us and be willing to permit the amendment to be withdrawn. Otherwise, there are going to be amendments to the amendment offered and, frankly, in the event that the amendment is agreed to, we are going to be in for a filibuster on the bill. I honestly think the Senator is in as good a position now as he is ever going to be with this particular proposal.

The PRESIDING OFFICER. The question is on laying on the table the motion to reconsider.

Mr. LONG. Mr. President, I ask unanimous consent that the Senator from Oklahoma may be heard for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. Mr. President, I was listening to the distinguished Senator from Louisiana, and I know that he said that, in his opinion, the majority of the Senate did favor this proposal and also, in his opinion, he believes that this would lead to extended debate in a filibuster. Certainly, I am not interested in that.

Does the Senator from Louisiana believe that this amendment, being favored by the majority of this body, could be included in the proposal that would be pushed by the Senate conferees in the conference?

Mr. LONG. Not in this particular form, but in the context of tax incentives which achieve the same purpose, this type of thing could be discussed in conference. Based upon my believe that some people strenuously oppose section 1054, which is in the bill, I hope the Senator will not push his luck. I think it would be counterproductive to do so. I plead with the Senator to withdraw his amendment.

Mr. BARTLETT. I value the Senator's counsel. As I understand it, the Senator is personally interested in this proposal and would be interested in pushing this proposal in the proper form in the conference.

Mr. LONG. This type of thing I would be willing to urge the House to consider in a form that would be within the jurisdiction of the conference.

Mr. BARTLETT. Mr. President, in view of that, I ask unanimous consent that this amendment No. 1497 be withdrawn.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment was withdrawn.

Mr. JACKSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. Under the unanimous-consent agreement, what is the next matter before the Senate?

The PRESIDING OFFICER. The Senator from Oklahoma was to be recognized to call up another amendment if he so desires.

Mr. JACKSON. A parliamentary inquiry: I understood the unanimous-consent request of the Senator from Oklahoma applied only to the amendment that we have just voted on in connection with the motion to table. Is that correct?

The PRESIDING OFFICER. That was the only amendment before us. It was the only amendment before the Senate.

Mr. JACKSON. Under the unanimous-consent agreement, there was a third Bartlett amendment.

The PRESIDING OFFICER. The Senator is correct, with a 40-minute time limitation.

Mr. LONG. Mr. President, I hope and I ask unanimous consent that that unanimous-consent request be vacated.

The PRESIDING OFFICER. Is there objection?

Mr. CURTIS. Reserving the right to object.

Mr. BARTLETT. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BARTLETT. I say to my good friend from Louisiana that my intention would be to call up my amendment; then, after debating it, to lay it aside.

Mr. HANSEN. Mr. President, are we under a time limitation now?

The PRESIDING OFFICER. There will be a 40-minute time limitation on this amendment when it is called up.

Mr. HANSEN. Until the amendment is called up, we are not under a time constraint.

The PRESIDING OFFICER. The Senator is correct.

Mr. HANSEN. Mr. President, am I recognized?

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. HANSEN. Mr. President, I think it should be observed that what the Senate has done here earlier today is indicate clearly its support of a concept that recognizes what can be done simply through the market place, through the price mechanism, in recovering oil that otherwise is going to be left in the ground. In my State of Wyoming, the Salt Creek oil field, which is about 40 miles north of Casper, Wyo., is a good example.

At the present time, the producers of that field receive for that oil $5.21 a barrel. That oil field has been producing since early in this century. Without the added incentive that will come about from the relief that has been granted or that will be granted to that field—may we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order, and kindly attend to the Senator from Wyoming, who has the floor.

Mr. HANSEN. With the relief that can be granted to that field and to producers everywhere in the United States, we will get a substantial increase, or we will get a far greater recovery of oil in places than would otherwise occur.

Senators have spoken about the problems that they see in paying a higher price to domestic oil producers. Let me turn that coin over and say, here is what we ought to be looking at: Every barrel of oil in the ground in the United States that could be recovered and that we condemn to stay in the ground simply because of our hardheadedness in saying we will not let the price rise above $5.21 a barrel, as is the case in Salt Creek, Wyo., right now, means that we will have the questionable privilege of buying oil from a foreign country at $14.50 a barrel, or whatever the going price may be.

So to my good friends on both sides of the aisle, who have supported this amendment which carried by nearly 3 to 1, I say that nothing could have happened which would have greater potential benefit to the United States and insure that the action that was taken here becomes part of the conference report and is agreed to by both Houses of Congress and signed into law by the President.

I say that, Mr. President, because, first of all, we will be maximizing jobs for Americans. Second, we are going to be investing in America. Of the oil that is produced, if the taxes on that oil for a corporation should be 48 percent, half of that oil that will be produced and will sell for a good price will come back and benefit the Treasury of the United States as our normal tax laws apply. Three, we will address the balance-of-payments problem.

We are going to pay out this year for oil we import into this country, which we will have to buy abroad, over $45 billion. It makes no sense at all to me to condemn our domestic oil producers to the artificially low price that the composite price application results in their receiving now and buy the high-priced foreign oil we will otherwise have to buy.

I think also that note should be taken of the fact that our national security

will be enhanced if this first amendment that was adopted so overwhelmingly can become law because it will minimize our dependence upon foreign countries.

Mr. BUMPERS. Will the Senator yield for a question?

Mr. HANSEN. I am happy to.

Mr. BUMPERS. I voted for the Senator's first amendment. I think it has a great deal of merit based on the stripper well amendment Senator BARTLETT and I got passed 2 years ago. I thought it had merit.

I have serious reservations about this amendment and did not and would not support it. I hope the conference committee will not support it.

One of the questions I want to ask—I do not want to get into the philosophical argument for or against the approach the Senator is taking—but I wonder if the Senator knows how many wells in this country produce 15 barrels a day or up which have been shut in the last 3 years.

Mr. HANSEN. May I say to my good friend from Arkansas, I do not have any national figures. I can give him some specific information in the Salt Creek field, which I would suspect might be a fairly typical example of an old field.

Mr. BUMPERS. On what kind of a field?

Mr. HANSEN. The Salt Creek field in Wyoming. This is a 24-square-mile field. I think the first production was started about 1908 in what they called the First Wall Creek Sands.

We have in the Light Unit there some six different horizons that have been in production. The first ones started in 1908, 1917, 1926, just to give an example.

The Tensleek Unit is later. That was drilled in 1930.

I can say that they are closing down, they are shutting in and capping between 25 and 50 wells per year in that field.

It is estimated that just for this field alone, for Salt Creek, that these amendments that have been printed and which were being offered here, the first of which has been adopted, would result, according to the officials operating this field, in the recovery of 50 million barrels of oil that otherwise would be left in the ground.

I am sorry that I do not have the national figures that my friend from Arkansas inquired about. I ask unanimous consent that this data on Salt Creek may be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ATTACHMENT I

PERTINENT DATA—SALT CREEK FIELD

Active horizon	Wells: Active prod.	Wells: Active inj.	Average depth (ft.)	Current producing rate: BOPD	Current producing rate: BWPD	Remaining gross reserves as of Oct. 22, 1977 (MMBO)	Date discovered	Date waterflood initiated	Current rate per producing well (BOPD/well)	Current rate per active well (BOPD/well)
Light oil unit:										
First Wall Creek	275	183	1,300	3,000	85,636	1.917	1908	1955	10.9	6.6
Second Wall Creek	620	323	1,700	800	249,121	9.220	1917	1962	15.8	10.4
Third Wall Creek	8	3	1,800	55	333				6.9	5.4
Lakota	8	0	2,450	98	6,051				12.3	12.3
Second Sundance	6	0	2,800	13	271				2.2	2.2
Third Sundance	24	0	2,950	851	19,652	.384	1926		35.4	35.4
Total, light oil unit	941	509	[1] 1,580	13,817	361,064	15.702			14.7	9.5
Tensleep unit	34	0	4,000	1,927	217,659	3.679	1930		56.7	56.7
Total, Salt Creek unit	975	509		15,744	578,723	19.381			16.1	10.6

[1] Represents a weighted average for LOU.

SALT CREEK FIELD, NATRONA COUNTY, WYO.

The Salt Creek Field, which covers approximately 24 square miles, consists of two producing units; (1) the Light Oil Unit, involving 12 producing horizons of which six are still active, and (2) the Tensleep Unit. Attachment I details the pertinent data associated with the various producing horizons in the Salt Creek Field. The largest of the two producing units, the Light Oil Unit, represents approximately 88 percent of the production and is currently under active waterflood in the two major horizons. First and Second Wall Creek.

Production from both units is currently receiving "old oil" prices and, as indicated on Attachment I, have a water-oil-ratio greater than 10 to 1. As operating expenses continue to increase and oil production continues to decline, the number of producing wells is expected to be reduced by 25–50 wells per year as they become uneconomic to operate at the "old oil" price of $5.21 per barrel. If both units were to receive the current stripper price of $15.27 per barrel, it is estimated that an additional 50,000,000 barrels of oil would be recovered over continued operations at the old oil price. If stripper well prices are obtained in the future, which is uncertain, some portion of the above 50,000,000 barrels of oil will be recovered. The higher price would lower the economic producing rate per well thereby allowing us to keep wells on production longer, and would make projects that would increase oil recovery but require a major capital investment (i.e., waterflood expansion, redrilling of abandoned wells, etc.) economically viable.

As indicated on Attachment I, the Light Oil Unit would qualify for stripper prices if all active wells could be used in the total well count. We are not allowed to include injection wells in the total well count even though they are an integral part of a waterflood project and are directly responsible for the additional reserves that such projects recover over primary production.

Mr. BUMPERS. In 1921, Smackover Field, in Arkansas was discovered, one of the biggest discoveries before or since. Unfortunately, the gas was flared off. We have about 18 percent of that oil out now, and the other 82 percent is still in the ground and not going to come out except under some enhanced recovery technique.

Of the 8,000 wells in my State, 6,000 of them are strippers producing 10 barrels a day or less. Production in my State has gone from 45,000 barrels a day to about 56,000 to 57,000 barrels a day, largely due to the fact that we decontrolled the prices for stripper wells.

That is the reason I supported the Senator from Oklahoma's first amendment, because I think it gives the producers in my State a big incentive to drill these salt-disposal, salt-injection wells, and to keep that production going.

But my problem with the amendment, of course, first of all, is that it releases over a million barrels a day from controls, and there are no specifics I have heard presented here which show us what it does other than the fact that it would cost—and these are my own figures—because we increase the price roughly $6 to $14 a barrel, that calculates to about $2.9 billion a year additional cost to the American consumers if that million barrels would be released.

I did not hear anything presented here except in general terms that would indicate we enhance recovery or that we increase recovery as a result of the amendment.

About the only thing I can see is that it will cost about $3 billion a year more and the American public does not get anything except what they will get anyway.

Mr. HANSEN. If I can respond, let me observe that we have a number of oil fields in Wyoming. As a matter of fact, I think we are about fifth in total oil production among all the States, and about seventh insofar as natural gas goes.

In Wyoming, just east of Cody, are several oil fields, a couple of major ones, I was talking with some of the Marathon officials a little more than a year ago. At that time, as I recall, they were receiving for their oil being pumped out of that old field under the two tier composite price system about $4.25 or $4.50 a barrel—I have forgotten the precise figure.

Thy had a number of problems. They drilled injection wells. There was a secondary recovery effort in progress and they were pumping about 10 barrels of water for each barrel of oil.

When the EPA laws were applied, as they did then apply and continued to apply, no longer was it possible for Marathon Co. to dump the water out and let it evaporate normally on that arid part of Wyoming, but they had to treat the

water. As a consequence, given the price they were able to receive for the oil then, they were just about at a marginal point in the recovery of the oil.

If the cost of pumping the oil and treating the water, and everything else, was very much more, they would have been better off as, indeed, they were contemplating doing, capping those wells.

I do not know what the figures are, but I can say this, this formula that constitutes the basis for the second Bartlett amendment recognizes the fact that it costs more to drill, it costs more to pump, it costs more to service the wells, to drill injection wells and do everything, the deeper the well is.

The Texas Railroad Commission a number of years ago, recognizing these facts, said, "Let's set a schedule that will take into account recognition of the fact that it costs more to produce deeper wells."

So that is essentially what the second Bartlett amendment would have done—the amendment the Senator from Oklahoma (Mr. BARTLETT) has just withdrawn. I think it was a good amendment. My hope is, as was expressed by the distinguished chairman of the Finance Committee, that it will be incorporated into the conference report, because it makes good sense.

This arbitrary figure of saying that a stripper well is one that produces not more than 10 barrels of oil per day works with shallow wells, but it does not work at all on these deeper wells; and, as a consequence, absent this concept of law, which I hope will be passed some time this year, there will be lots of oil left in the ground in wells that could indeed and may now have a capability of producing more than 10 barrels of oil per day.

But if the total costs exceed what those barrels of oil will sell for, then we are not going to recover that oil.

This brings me to the next point that the Senator from Arkansas spoke about. He mentioned that one estimate was that this would cause an increase in the cost of oil to Americans of about $2.9 billion.

On the face of it, if we were to assume, as I think the Senator has, that all the oil would go from $5.21 or $5.25 a barrel to $13.50 or $14 a barrel, I would not argue with his figures.

Mr. BUMPERS. It was based on the difference between $14 a barrel and $6 a barrel.

Mr. HANSEN. That would be $8.

The important consideration is not only to look at that figure, important though it is, but also, and even more important to look at what happens if we make no changes and if we do not produce very much of this oil that otherwise would be produced if it were to sell for $14 rather than for $6. In that instance, we have sent our jobs abroad. We have made our investments abroad We are paying tribute to the foreign countries to the tune of $45 billion that could be going into American jobs, American industry, and making a contribution to the Treasury of the United States. This, I think, is the important consideration that we should keep in mind, and which I hope the chairman of the Finance Committee will keep in mind when this bill goes to conference.

(Mr. MORGAN assumed the chair.)

Mr. BUMPERS. Mr. President, nobody deplores the trade deficits we are experiencing and nobody deplores the outflow of dollars for OPEC oil more than I do.

As the Senator knows, the arbitrary price set by essentially the Arab nations, OPEC, has nothing to do with lifting the cost of oil in this country. I do not like to peg our arguments at the OPEC price, which is a cartel.

Second, if the Senator's amendment had confined this price to new wells in old reservoirs, for example—because new wells and new reservoirs are going to get the upper tier price anyway—if we had had some hearings in our Energy Committee, on which the Senator from Wyoming and I serve, to determine the cost of drilling these wells at various depths and could have calculated a figure based on those different costs, this amendment would have made infinitely more sense.

For a well that produces 20 barrels a day at 4,000 feet, the lifting costs are not much more than the lifting costs of, say, 10 barrels a day at a 2,000-foot depth. Once the capital investment is made in the well, the lifting cost is not that much different.

That is the reason why I should like to have seen the Senator's amendment at least go forward only to new wells. All we are doing under this amendment now is releasing thousands and thousands of wells, some of which have been in production for years and years.

I do not want to belabor it. I just wanted to make those observations. I wish our committee had had hearings on this and that we had definitive information we could give our colleagues.

Mr. BARTLETT. Mr. President, I have listened to the very fine dialog between my two colleagues, the Senator from Wyoming and the Senator from Arkansas.

The Senator from Arkansas makes the point that the OPEC price of oil is an arbitrary cartel price, and certainly it is. But I do not think we can duck our heads in the sand and ignore it. That is the price for oil that we must pay when we need to import additional oil, a need which is increasing every day.

As we fail to extend the life of producing properties, properties which are going to be plugged out because they do not have sufficient price to pay for the costs of operation, we are then obviously inviting more and more dollars to go out of this Nation, to create a further problem of balance of payments deficits.

People like to talk about balance-of-payments deficits, but very little is done about it. The President of the United States, in his program, is doing very little about it, and these three amendments would have contributed to alleviating the problem.

Second, the Senator is talking about the cost of production. One thing we need to do—and I think the Senator will agree with me—is not only to stop the decline in production but also to increase our production from domestic sources. So it is going to take not only the cost of operating these wells that are reaching the marginal stage, but also, we need to have enough money to replace that production and to increase that production.

The price of oil, which is almost $8 on the composite price, has not been enough. That is not enough to do the job, because we are still declining in crude oil production.

My amendment—the second one, the one that was just considered—dealt with the oil price at $5.25, not $8.

My contention is this: Marginal production would be treated at the unregulated price or the world price exactly the same way that the operators treated the stripper production. The Senator asked for cost figures. There were no cost figures on the stripper production because they are not available, and there were no cost figures on this. But I do think there is every reason to believe that the operators would have invested in water flooding, would have invested in fracturing, would have invested in improving those properties, because they would have the incentive to increase that oil.

The Senator from Arkansas asks, "Why not talk about an increase?" We did talk about an increase from individual wells—I did, or at least I intended to, because there is a normal decline of something like 1.5 percent or 1 percent per month that exists with all production, particularly marginal stripper production.

I am confident that this amendment would have kept that production at least constant; and because I believe that a lot of potential water flooding exists in the $5.25 oil, I think it would have increased.

Mr. BUMPERS. Mr. President, will the Senator yield?

Mr. BARTLETT. I yield, without losing my right to the floor.

Mr. BUMPERS. Mr. President, I have said this so many times on the floor that I hesitate to repeat it, but I think it bears repeating.

No. 1, it sounds self-serving, but I have tried to be objective, such as on the stripper well amendment, in decontrolling oil, where there is some relationship between the cost of producing that oil and the OPEC price.

I know the Senator agrees with me—because it is irrefutable—that every time we decontrol a barrel of oil in this country, we allocate the price of that oil to OPEC, because the price of that oil that is decontrolled here is going to bring exactly what the Arab nations say oil is going to be; and it is going to be that way for all time to come.

If we decontrol 6 million barrels under the Senator's second amendment, which he has graciously withdrawn, the price of that oil will go to $14 a barrel, or whatever the OPEC price is. It does not have any relevance to whether that is a fair return, whether the American consumer is being treated fairly or not.

Finally, the one thing I have never understood about the arguments of the major oil companies in this country is how much more oil we find if we decontrol it, when right now, as of the end of this year, you can go out and find new oil, all you want; and by the end of this year, in December, that oil will be worth $11.78 a barrel, and that is only $2 less than the OPEC price.

That has been true for 2 years, and yet the production of this country has been declining 500,000 barrels a day. So I just think their arguments are specious. I will not belabor it and take more of the Senator's time. I just wanted to make those points.

Mr. BARTLETT. Mr. President, I appreciate the rationale of the Senator from Arkansas. I shall comment on his last point. I hope he will listen. I would like to have the attention of the Senator from Arkansas. If I might have the attention of the Senator from Arkansas, I would appreciate it. A particular operator is able to do an amount of drilling based to a great extent on the amount of money he has in the bank. That directly affects the amount he can borrow, and that directly affects the amount he can spend on wells. So he is going to be handicapped in drilling wells if he has a lot of $5.25 oil, and there is a lot of $5.25 oil. When we know that $8, which is the average price for all domestic oil, is insufficient to replace the oil we use, we obviously know that $5.25 oil will not replenish it.

So it makes no sense at all to keep those prices down to a point where we know that we are going to keep losing more and more domestic oil.

I think that there is every reason to believe the treatment that the Senator received in the State of Arkansas where his production went up actually would take place with that oil in his State that is above 10 barrels per well and this would be affected by the depth variations and production variations in the amendment we just voted on. I hope he will check with the producers that have that production, people whom he trusts, and I think he will find them to be mostly independents, and I believe that he will find that they will say that that amendment would result in additional oil over and above the decline and probably actually an increase in the current rate of production.

Mr. President, I shall talk about my amendment No. 1501. I am not going to call it up, but I do want to discuss it very briefly.

Mr. President, at a time of great concern over our domestic energy supply situation, it is sobering to note that in the production of crude oil from a conventional reservoir, more oil is left in the ground than is ever produced. Often as much as twice as much is left behind as is produced.

In efforts to combat this problem engineers have for many years been researching methods to increase the recovery of crude oil from existing fields through a variety of enhanced recovery techniques. Some techniques have been known and practiced for many years; others are only now in the experimental stage.

Water flooding is a technique of enhancing crude oil recovery which has stood the test of time. It is relatively simple but can be very expensive. In a water flood, brine water similar to that occurring naturally within the crude oil reservoir is injected into the reservoir to maintain pressure and attempt to push crude oil toward producing wells. Installing a waterflood system requires a tremendous front-end investment in equipment, and maintaining the equipment and operating the water flood over the life of the project is quite expensive.

As is well known by my colleagues, quite a number of exotic tertiary enhanced recovery processes are being researched today. They are typically complex and expensive to implement and operate. Examples of these experimental tertiary processes are micellar polymer flooding, miscible fluid or gas injection, cyclic steam injection, chemical flooding, in situ combustion, and others.

The administration recognizes the need for price incentives to encourage and make economic the implementation of enhanced recovery projects at existing crude oil fields. Unfortunately they are hampered in any attempt to grant price incentives by the cumbersome and restrictive crude oil pricing structure in existing law. Some form of legislative relief is needed to help make enhanced recovery of crude oil economically viable. This amendment will accomplish that objective.

Mr. President, what this amendment will do is grant price relief for only that oil production which comes about as a result of the enhanced recovery project. For ease of administration this incremental production is defined as that in excess of the generally accepted decline curve of 1.5 percent per month.

That is, the amount of crude oil production which would not get the decontrolled price is defined as the total amount of oil production at the time the enhanced recovery project is initiated, reduced each month by 1.5 percent. All crude oil production in excess of that level would be exempt from price controls.

In order to prevent the unnecessary subsidization of enhanced recovery operations already in progress, this amendment will apply only to projects begun after April 20, 1977, or significantly expanded after that date.

Enhanced recovery projects are defined broadly to include waterfloods as well as the exotic tertiary methods. It is defined broadly to make those projects viable which are not now economically feasible. The projects that are economically practical under existing price controls have been implemented already.

There will be no enrichment of any oil companies as a result of this amendment. By applying only to incremental production, the amendment assures that price relief is granted only for truly enhanced production. By applying only to new or significantly expanded projects, it assures that no projects already economic are further subsidized.

There will be no consumer price impact, because the decontrolled price goes only for those oil supplies which would not otherwise be available. If these supplies are not made available they must be replaced with premium-priced foreign oil.

Mr. President, this amendment represents a positive step forward in fostering development of significant additions to our domestic supply of energy—crude oil that we know is there, but which cannot be produced at low, controlled prices.

Mr. President, I think that this Nation is very shortsighted if it does not want to conserve its energy that it knows exists, where it exists, and what potential increases can be realized by secondary recovery methods. In the first place, secondary recovery requires a very substantial investment in a series of injection wells that generally number about the same as the number of oil wells. It also requires a generally deep well to provide a water supply. Then it requires treating facilities, large pumps to create pressure so that the water can be injected in four wells, for instance, on the corner of a square and drive the oil toward the center, which would be a producing well, and to do this in all directions.

The injection well part of a water flood project costs equally as much as does the oil well part of the water flood project. In the $5.25 oil classification there are many, many wells, many, many producing properties that would be water flooded if only there were sufficient revenues in the pockets of the owners of that production to bring it about.

It is generally agreed and accepted as a good rule of thumb that of the oil in place in a sandstone reservoir, one-third of it will be produced by normal means, flowing and pumping, the second third may be produced by water flooding the project or some other method of secondary recovery, leaving a final third that is not producible today unless it might be produced by some means of tertiary recovery.

So what we have is a potential of production in this Nation, just waiting there, sitting there, to be produced if the investment is made to waterflood it, which is an amount equal to the amount of production coming from the wells that have been produced only by the primary methods of flowing and pumping. We have ignored this, and so this Nation is guilty of wasting tremendous amounts of oil that are known to exist whose recoveries are known fairly accurately, and which may be produced economically to the benefit of this Nation.

It would reduce the decline of domestic production. It would reduce the balance of payments deficit. It would improve the economy. It would, in effect, stop waste that I think we should be very ashamed of creating.

This amendment would decontrol the price of oil that would be generated from the waterflood which must be considered a valid waterflood by the State regulatory agency, and it would give the uncontrolled price to that amount of the

new oil produced over and above the existing production.

In the amendment as modified, the existing production would be reduced by a factor of 1 percent per month, which would mean that over a period of 8 years and a few months it would be reduced to zero. At that point, which would be at a stage of development of marginal production, the production coming from the project would all be at the unregulated world price.

In March, 1975, the Interstate Oil Compact Commission in a study conducted for the Federal Energy Administration concluded that decontrol of secondary and tertiary production in the United States would increase production by 350,000 barrels per day, and more importantly, the increased reserves which would be recovered over a period of time would be 10 billion barrels.

So my purpose in discussing this amendment is to acquaint the Members of this body with the waste that is going on; with the need that we have to conserve our oil and to produce the oil that we know that we can produce at a price no greater than that which we are paying OPEC for oil that we do not produce.

I might add that when we continue to keep our controls on the price of oil, we are giving OPEC that much more leverage to raise further the price of oil over and above the price that now exists. They certainly know that, if we are not going all-out to increase our domestic production, they can freely raise the price as they choose and that they have done.

There is a lot of worry today about the solidarity of the American dollar. It is my strong conviction that if the Arab nations and other OPEC countries continue to have concern about the American dollar they are very apt to increase the price of OPEC oil higher than it now is to make up for their concern about the value of the dollar.

This, of course, could go on indefinitely. So I think we are foolish if we do not address the problem of the large importations of oil, if we do not make a sincere effort to reduce that large amount of imported oil by increasing our own domestic production.

Mr. President, I yield the floor.

Mr. JACKSON. Mr. President, if the Senate had adopted the three-part Bartlett amendment package, it would have brought the total deregulated share of current U.S. domestic production to about 50 percent. This would have given a windfall of more than $60 billion by 1985 to producers.

I noted the statement made by the floor manager that the conferees on the energy tax bill would consider accomplishing the purposes of these amendments by means of tax credits or other tax mechanisms.

The fear of that possibility was what led me to move to strike section 1054 last week.

I certainly hope that the Senate conferees do not think that they have a license from the Senate to deregulate, for all practical purposes, the price of any flowing oil—let alone such a large proportion of it.

UP AMENDMENT NO. 1015

(Purpose: To extend the tax credit for home heating oil to propane/butane mixtures used in residences).

Mr. ANDERSON. Mr. President, Senator RIEGLE had an amendment he was going to offer, and I have an amendment which I am going to offer, and Senate DOLE has an amendment. I would be happy to proceed with my amendment if it would be all right.

I have an unprinted amendment I would like to send to the desk.

The PRESIDING OFFICER. The clerk will report.

The second assistant legislative clerk read as follows:

The Senator from Minnesota (Mr. ANDERSON) proposes unprinted amendment numbered 1015.

Mr. ANDERSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . CREDIT FOR HOME HEATING OIL EXTENDED TO PROPANE.

(a) In General.—Section 44H (relating to tax credit for home heating oil), as added by section 1055 (c)(1) of this Act, is amended—

(1) by inserting "and Propane/Butane mixtures" after "Oil in the heading thereof; and

(2) by inserting "and propane/butane mixtures" after "oil" in subsections (a) and (b)(2) thereof.

(b) Clerical Amendments.—

(1) Section 6401(b)(relating to amounts treated as overpayments), as amended by section 1055(c)(2)(A) of this Act, is amended by inserting "and propane/butane mixtures" after "heating oil".

(2) Section 6201(a)(4) (relating to assessment authority), as amended by section 1055 (c)(2)(E) of this Act, is amended by inserting "and propane/butane mixtures" after "heating oil".

(3) The item relating to section 44H in the table of sections for subpart A of part IV subchapter A of chapter 1, as added by section 1055(c)(3), is amended by inserting "and propane/butane mixtures" after "heating oil.".

(c) Effective Date.—The amendments made by this section shall take effect on the day after the date of enactment of this Act and shall apply with respect to taxable years beginning after December 31, 1977.

Mr. ANDERSON. Mr. President, last Saturday Senator DURKIN, Senator HATHAWAY and others offered an amendment which provided for a tax credit for those whose homes are heated by fuel oil. There was extensive debate. There was a rollcall vote, and I think the Senate made it very clear that they supported this tax credit.

My amendment would do one additional thing. It would extend the tax credit to some nearly 10 million homes that are heated with propane or a butane mixture. In Minnesota alone, for example, there are 71,000 homes heated by propane or a butane mixture. I think, that in fairness people who heat their homes in this fashion, the same benefit as stated in the Durkin amendment should also apply to homes heated by propane.

I visited with Senator LONG, and I think his attitude toward my amendment was the same as his attitude toward the Durkin amendment.

I spoke with Senator DOLE and others and I think their feelings toward the Durkin amendment have not changed.

Mr. DOLE. Mr. President, will the Senator yield? I am sure Senator CURTIS will have no objection. I have no objection to this amendment. We have to take a hard look at all of these amendments in conference. Certainly the same principle applies in the Midwest to the use of butane as well as propane. It is a good amendment from the standpoint of consistency, and we have no objection on this side of the aisle.

Mr. LONG. Mr. President, this amendment has parallel logic to the Durkin amendment that was agreed to, with the exception that this amendment involves propane, and the Durkin amendment involved home heating oil. It has the same logic to recommend it. If the Senate so desires, we will be glad to discuss it in conference with the House.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Minnesota.

The amendment was agreed to.

UP AMENDMENT NO. 1016

(Purpose: To provide for the refund of any increase in duty on refined petroleum products used by a public utility unable to obtain sufficient domestic products.)

The PRESIDING OFFICER. The Senator from Michigan (Mr. RIEGLE) is recognized.

Mr. RIEGLE. I have an amendment at the desk in my name and in the names of Senators GRIFFIN, STONE, JAVITS, and BROOKE, which I ask the clerk to report.

The PRESIDING OFFICER. The clerk will report.

The second assistant legislative clerk read as follows:

The Senator from Michigan (Mr. RIEGLE), for himself and others, purposes an unprinted amendment numbered 1016:

On page 99, line 5, strike out the closing quotation marks and the period. On page 99 between lines 5 and 6, insert the following:

"(4) If the President takes such action with respect to imports of refined petroleum products after the date of the enactment of the Energy Production and Conservation Tax Incentive Act, he shall establish by Executive Order a procedure for refunding all or a part of any amounts paid or payable by a public utility with respect to imports of refined petroleum products to the extent that the public utility demonstrates, to the satisfaction of the President, that its importation of such products is attributable solely to the unavailability, regardless of price, of domestic supplies of such product or alternate domestic fuels or energy sources.

Mr. RIEGLE. Mr. President, this amendment has gone through a variety of refinements. I discussed it at great length with Senator HASKELL and with other Members on both the majority and minority side to try to work out language that would provide a method whereby public utilities in most situations where they cannot secure domestic supplies for certain product, refined product, that they needed in their operations and are, therefore, forced to go to foreign supply, that in most cases if an import tax is

applied by the President, that means be found to rebate that portion because we know it would just make its way onto the consumers in those affected States and areas. I do not think that is really what our intent would be if there was such an import tax.

This cuts very deeply in my home State because we have two major utility companies that despite aggressive efforts to secure certain types of refined products—there are 30 domestic companies in the market—find themselves required to go to foreign supply. Frankly, they would prefer not to, as I would prefer they not have to, but that is the name of the situation.

I think the procedure we call for here is an eminently reasonable one. It calls for a determination by the President, upon cause, that these facts pertain, and that there is no other way regardless of price, any kind of reasonably competitive price, for these public utilities to receive the supplies they need from domestic suppliers.

So the only additional point I would make is this, Mr. President: We put in here the terminology "regardless of price," and we obviously mean price that would be in the range of the competitive price. We do not mean by that that someone would be required to construct a pipeline or some extraordinary remedy that would really go beyond the bounds of reason.

It is not our intention to do that. What we are talking about here is the price and process in a competitive range to go out and secure supplies that would otherwise not be available domestically.

We have broad support for this, and I hope my colleagues can accept the amendment.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. RIEGLE. Yes, I yield.

Mr. DOLE. My understanding is that this amendment has been modified. The fact that the amendment has been modified would indicate that, perhaps, that the language in the report, would take care of the Senator's concern. However, I see no objection to the amendment with the modification and with the language in the report. I assume, however, the Senator still feels the amendment is necessary, or at least desirable.

Mr. RIEGLE. I do indeed, and I appreciate the willingness of the minority to accede to it on the basis of those modifications, because I think it is needed.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Michigan.

The amendment was agreed to.

UP AMENDMENT NO. 1017

Mr. MELCHER. Mr. President, I call up my amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER) proposes an unprinted amendment numbered 1017.

Mr. MELCHER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new title:

TITLE —TRANSPORTATION OF CRUDE OIL

DEFINITIONS

SEC. 1. As used in this title—

(a) The term "Secretary" means the Secretary of the Department of the Interior.

(b) The term "Northern Tier States" means Washington, Oregon, Idaho, Montana, North Dakota, Minnesota, Michigan, Wisconsin, Illinois, Indiana, and Ohio.

(c) The term "Inland States" means those States other than a Northern Tier State and other than California in the continental United States.

(d) The term "crude oil transportation system" means a crude oil pipeline within and subject to the jurisdiction of the United States, and including, but not limited to, the port, terminal, tank farm, pumping stations, off-take points, and other related facilities, associated with moving volumes of Alaskan crude oil by pipeline to Northern Tier or inland States.

(e) The term "Northern Tier project" means that proposed crude oil transportation system generally described in an "Application for Right-of-Way Across Federal Lands" filed by the Northern Tier Pipeline Company with the Department of the Interior, Bureau of Land Management, on April 18, 1977.

(f) The term "Long Beach-Midland project" means that crude oil transportation system which was the subject of and generally described in the "Final Environmental Impact Statement, Crude Oil Transportation System: Valdez, Alaska to Midland, Texas (as proposed by Sohio Transportation Company)", the availability of which was announced by the Department of the Interior at 42 Federal Register 28008, June 1, 1977.

(g) The term "applicant" means the person or entity who has applied for or applies in the future for, some or all of the Federal, State, or local permits, rights-of-way, or other authorizations as necessary for or related to the construction, operation, and maintenance of one of the crude oil transportation systems referred to in subsections (e) and (f) of this section, or any other such system.

TRANSPORTATION SYSTEMS

SEC. 2. (a)(1)

Upon any applicant's written request that is filed with the Secretary within fifteen days of the date of enactment of this subtitle, or, if the application is filed after the date of enactment of this subtitle, within sixty days after filing the application, the Secretary, and the Secretary of Energy shall review the status of that applicant's rights-of-way, permits, leases, and other authorizations necessary for construction, operation, and maintenance of a crude oil transportation system from the west coast to any of the Northern Tier States or inland States. With respect to applications for the crude oil transportation systems referred to in subsections (e) and (f) of section 1, the Secretary shall establish a schedule for the preparation in consultation with the Environmental Protection Agency, by March 15, 1978, of any draft environmental impact statements and by May 1, 1978, of any final environmental impact statements which may be required, if not already completed. With respect to applications for any other such systems, the Secretary shall establish such a schedule so as to complete a final environmental impact statement within one year after filing the application.

(2) The Secretary shall provide appropriate means by which the Governor or other official of any State or subdivision thereof and any other interested person may submit to the Secretary such views and written comments, with respect to the alternative crude oil transportation systems, as they shall determine to be appropriate, and with respect to the States, shall make every effort to coordinate and achieve cooperation and compatibility in the timing and conduct of the State and Federal review and decision process.

(3) Any Federal agency required to prepare an environmental impact statement on any crude oil transportation system which is being considered by the Secretary pursuant to this Act shall minimize to the fullest extent possible the duplication of effort or conflict among agencies of government, and may rely on and incorporate to the extent possible consistent with the objectives of this Act competent data analyses, conclusions, findings and decisions regarding environmental impacts developed or made by any other Federal or State agency.

(b)(1) Following the Secretary and the Secretary of Energy's review of applications for the systems referred to in subsections (e) and (f) of section 1 and the completion of any required environmental impact statements, the Secretary and the Secretary of Energy, after consultation with, and approval of, Federal agencies that under Federal law must authorize, issue, or enforce permits or authorizations that are necessary for or related to the construction, operation, and maintenance of each cude oil transportation system, shall determine no later than June 15, 1978, with respect to the Northern Tier project and no later than December 15, 1977, with respect to the Long Beach-Midland project whether the crude oil transportation system proposed by the applicant shall be approved under this title.

(2) The Secretary and the Secretary of Energy shall make their decision for each project subject to this subtitle upon its own individual merits. The Long Beach-Midland project and the Northern Tier project are not and shall not be considered as mutually exclusive crude oil transportation systems nor as the only alternative systems to be considered. Each decision made by the Secretary and the Secretary of Energy shall considered. Each decision made by the Secvironmental and land use considerations, cost and timing of construction, and the net national economic benefits to be realized through alternate methods of crude oil and petroleum product distribution.

ENFORCEMENT OF RIGHTS-OF-WAY

SEC. 3. The Congress hereby authorizes and directs the Secretary of the Interior and other Federal officers and agencies to issue, no later than thirty days from the date of the Secretary's decision to approve, and take all necessary actions to administer and enforce rights-of-way across Federal lands, Federal permits, Federal leases, and other Federal authorizations that are necessary for or related to the construction, operation, and maintenance of each crude oil transportation system approved by the Secretary pursuant to this title.

JUDICIAL REVIEW

SEC. 4. Actions seeking judicial review of the approval of the Secretary and the Secretary of Energy or the actions of the Federal officers under sections 2 and 3 concerning the issuance of the necessary rights-of-way, permits, leases, and other authorizations for the construction, operation, and maintenance of any crude oil transportation system approved by the Secretary may only be brought within sixty days following the date of such action. A claim shall be barred unless a complaint is filed within the time specified. Any such complaint shall be filed in a United States district court, and such court shall have exclusive jurisdiction to determine such pro-

ceeding in accordance with the procedures hereinafter provided, and no other court of the United States, or any State, territory, or possession of the United States, or the District of Columbia, shall have jurisdiction of any such claim whether in a proceeding instituted prior to or on or after the date of the enactment of this subtitle. Any such proceedings shall be assigned for hearing at the earliest possible date, shall take precedence over all other matters pending on the docket of the district court at that time, and shall be expedited in every way by such court. Such court shall not have jurisediction to grant any injunctive relief against the issuance of any right-of-way, permit, lease, or other authorization pursuant to this section except in conjunction with the final judgment entered in a case involving a claim filed pursuant to this section. Any review of an interlocutory or final judgment, decree, or order of such district court may be had only by direct appeal to the Supreme Court of the United States.

ANTITRUST LAWS

SEC. 5. Nothing in this title, and no action taken hereunder shall imply or effect an amendemnt to, or exemption from, any provision of the antitrust laws.

SEPARABILITY

SEC. 6. If any provision of this title, or the application thereof, is held invalid, the remainder of this title shall not be affected thereby.

Mr. MELCHER. Mr. President, this is an amendment similar to what the Senate previously adopted. However, at the time we adopted it earlier this month some of the provisions the administration had recommended in terms of how we go about laying out the criteria for the quick approval, expedited approval, of oil pipelines from the west coast to inland States, were not available.

The administration recommendations have now become available. The amendment I am proposing today incorporates some of their recommendations. We have agreed to put in part of the administration's recommendations. I would like to get this before the conference, and I hope the manager of the bill will accept it.

Mr. LONG. Mr. President, the Senate has agreed to this amendment previously, and it was hoped that the conference would accept it. There is some doubt, however, that the bill to which it has been attached will ultimately become law.

I cannot, of course, guarantee the Senator that he will have any better luck attaching the amendment to this bill; but it could well be that if the House is willing to accept it, perhaps we can accommodate the Senator in settling this issue. If so, I will have no objection to accepting it.

Mr. ABOUREZK. Mr. President, I would like to ask the Senator from Montana a question. I did not quite understand his explanation. I wonder if he might give me a bit of clarification on it.

Mr. MELCHER. This is an amendment dealing with expediting the construction of oil pipelines from the West Coast inland

The Senate has already recognized the severe situation facing the northern tier, Midwestern and other inland States with respect to crude oil supplies by approving an almost identical amendment I offered to the Public Utilities Regulatory Policy Act of 1977 on October 6. For that reason I will not go into great and repetitive detail in explaining the amendment I have at the desk.

I do, however, want to point out its principal features and several changes which were favored by the administration and others, including some Members of the House of Representatives, and which should make it much easier to reach agreement in conference.

The intent of this measure is precisely the same as when it was offered in behalf of 37 of us earlier this month—to speed consideration of required Federal permits for U.S. pipelines needed to carry Alaskan and other crude oil supplies from the west coast inland and then to provide for expedited judicial review of any claims arising from decisions or actions under the amendment.

Recognizing that the amendment dealt with two specific pipeline proposals at different stages of development—as well as others which may be proposed in the future—the amendment set deadlines for decisions on required Federal permits, authorizations rights-of-way or other approvals required by law. In the case of the Long Beach, Calif. to Midland, Tex. project for which applications have been filed by Sohio, the decision deadline was December 15 of this year. In the amendment I offer today that deadline remains the same and is expected to be met easily by the Federal agencies involved since an environmental impact statement has been completed and permit applications reviewed for some time.

In the case of northern tier pipeline proposed from Port Angeles, Wash., to Clearbrook, Minn., in the previous amendment we set a draft environmental impact statement deadline of January 15, 1978. A final EIS date of March 1, 1978, and a final decision date of April 1, 1978, were included.

Since then the administration and House Members have expressed the belief that the EIS preparation period was too short. In recognition of their concern, but remaining convinced that a decision on northern tier is still crucial in order for construction to begin during the coming summer, the amendment I now offer would require a draft environmental impact statement by March 15, 1978, a final EIS by May 1, 1978, and a northern tier pipeline decision by June 15, 1978. The administration recommends a longer time frame but has also made suggestions to use the competent State data to speed up the process.

I believe these dates are realistic in terms of what needs to be done in order to comply with the National Environmental Protection Act (NEPA) especially in view of the administration's additions included in this amendment. It is authority and direction recommended by administration representatives for the Secretary of Interior to seek input from States and local governments, and to coordinate and cooperate as much as possible with them where Federal and State decision processes are involved. Perhaps even more important, Federal agencies are authorized to use State and local data, analyses, conclusions, findings and decisions in environmental impact statement preparation where it is feasible and to avoid duplication of effort among agencies of Government as much as possible. These are important additions that can cut the time without sacrificing quality in the EIS.

I want to point out once again, however, that this amendment in no way affects State laws or procedures concerning siting of crude oil transportation facilities, although it is hoped that States will be able to act promptly in this respect as well, and may be assisted by the provisions of this amendment.

The decision process involving the Secretaries of Interior and Energy remain identical to those accepted by the chairman of the Energy Committee, Senator JACKSON, and adopted by the Senate October 6.

The judicial review provisions of the amendment I am offering are also identical and continue to stipulate that any suits arising from actions under the measure must be filed within 60 days in a U.S. district court. Appeal is directly to the Supreme Court without right of injunction until there is a final court ruling.

Mr. President, as I indicated when the Senate considered this issue previously, northern tier and Midwest States have their backs to the wall with respect to crude oil supplies. It is essential that we cut the unnecessary Federal redtape and compress the consideration process for Federal approval in order to begin getting oil from Alaska and other sources where it is desperately needed to assure that our refineries will continue to operate and our people will continue to have assured supply of gasoline, diesel, heating oil and other products at reasonable prices.

I cannot emphasize strongly enough that this proposal also will enable the firms involved, once their projects are approved, to begin ordering nearly a half billion dollars worth of steel and planning the hiring of thousands of American workers whose wages are expected to total over $1 billion during 2 years of pipeline construction.

For these reasons I urge adoption of this amendment.

Mr. ABOUREZK. Does the amendment deal with a specific pipeline route, or just set up a procedure by which pipeline construction is approved?

Mr. MELCHER. It sets up procedures for those pipeline companies who have applied for Federal permits or who will apply in the future. Two pipeline companies have applied at this time no others have indicated an interest in applying for permits but if they do, the procedures for their applications are outlined in the amendment.

An important administration suggestion involves gathering data for the environmental impact statesments.

The administration has recommended that Federal agencies be allowed to use, in some cases, competent State data for purposes of developing the EIS, and that they be able to participate, or the States be able to participate with them. They have made one recommendation in terms of judicial review; we have accepted that. They have asked for a later date for de-

veloping the EIS and we have gone somewhat toward their requested later date.

Mr. ABOUREZK. I wonder if the Senator would give me a few moments to look it over. If I could, I might be able to agree to it.

Mr. MELCHER. Surely.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside.

The PRESIDING OFFICER. Is there objection?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. We do not need to do that. I believe the Senator was just ready to call off the quorum.

Mr. DOLE. Is the Senator from Montana read to proceed?

Mr. MELCHER. Yes, we are ready, Mr. President.

Mr. DOLE. Very well.

UP AMENDMENT NO. 1018

Mr. MELCHER. Mr. President, I ask unanimous consent to modify my amendment. Will the clerk read the modification?

The legislative clerk read as follows:

On the last page, after "or order of such district court may be had only" strike the remainder of that line and insert "by direct appeal to the Supreme Court of the United States".

The PRESIDING OFFICER. The Senator has a right to modify his amendment, and the amendment is so modified.

The question is on agreeing to the amendment of the Senator from Montana, as modified.

The amendment, as modified, was agreed to.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, first of all, I would like to pose a question to the distinguished chairman.

I would like to ask the distinguished Senator from Louisiana, Mr. LONG, a question concerning the business users tax now contained in the bill as a result of the Metzenbaum amendment. One of the provisions of this tax would exempt from taxation any use of a substance which is "not generally marketable for use as a fuel." My question is this: Would refinery gas, sometimes called tail gas, which is a byproduct of the refining of oil, be considered not generally marketable and therefore exempt from tax?

Mr. LONG. My understanding of this definition is that whether a substance is generally marketable or not depends on the costs which would be necessary to make the gas available for sale. Make gas varies widely in Btu content, chemical composition and pressure. Some types of gas could be easily sold, with little extra expense, as an excellent fuel which other companies could make good use of. In fact, some types of make gas are of such high quality that they can be injected into a natural gas pipeline without any adverse effect on the quality of the natural gas. In cases like this, the gas certainly would be considered generally marketable and its use would be taxable if used in a combustor otherwise subject to the user tax. Other types of make gas, however, would require considerable processing to be sold to other companies. It is my understanding that most of the make gas falls into this category. If an unreasonable level of costs would be necessary to make a particular type of gas useful to other companies it would be considered to be not generally marketable and thus exempt from the tax. In sum, my response to the Senator's question is that some, but not all, refinery make gas would be exempt from the user tax.

Mr. DOLE. Mr. President, I thank the chairman for this information. It will certainly be helpful.

AMENDMENT NO. 1531

Mr. President, the Senator from Kansas has one amendment to discuss. I will not offer that particular amendment, but I will offer another amendment which will take only a short amount of the Senate's time. I will offer the amendment but expect that it will be tabled.

The first amendment that I had planned on proposing was No. 1531. It is similar to the amendment offered by the Senators from Oklahoma, Senators BARTLETT and BELLMON. It would have exempted newly discovered oil from oil price controls provided under the Emergency Pricing Control Act of 1973.

We have had a lot during the past few days on energy policy. Many of us have come to realize that reduced demand, while important, is only half of the solution to the energy problem.

I had thought about calling up the amendment, but after the discussion earlier decided not to bring up for consideration. The amendment would have been acceptable to many of my colleagues. It would not result in excess profits, or the necessity to tax them. It would not give oil companies higher prices for oil already being pumped.

It would, however, allow producers to get the world price for newly discovered oil with no strings attached. It would, in fact, give producers the incentive price the President claims he is willing to give them.

Increased supplies, produced in this country, can also reduce our need for imported oil. An energy program cannot in any way be considered comprehensive if it ignores the potential benefits to the country that could be brought about by increasing domestic supplies of petroleum. Yet this bill, like the four that have already passed the Senate, makes no mention of increased supplies.

COST NO MORE

Let me say that we in this country really do not have a choice as to what price we will pay for oil in the future. Again this year production is decreasing while our demand continues to grow. If we continue as we are, the oil we require will come from overseas, will cost the world price, and will result in a continued balance-of-payments problem and continued loss of jobs in this country. If we were to allow producers to get the world price for newly discovered oil in this country, we would gradually shift back toward dependence on domestic supplies. In either case, however, we can plan on paying the world price for oil brought on to satisfy our new demands. Under my proposal we would start to solve our balance-of-payments problem, we would create jobs for Americans in America, and we would accomplish all this at no extra cost to Americans. Whether we pass this amendment or not, however, we are going to pay the world price for extra oil brought on to satisfy our growing demands.

NO WINDFALLS

This is not a proposal to give higher prices to oil companies for oil already flowing and then require that they plow back their profits into new production. Under this proposal the companies would only make a profit if they showed positive results from a program of exploration and development. This proposal would not subsidize them to explore for oil. They would have to risk their own capital or ventures that would not pay off for them until 4 or 5 years in the future. If they discovered no new oil, there would be no profits at all.

Under this proposal there would also be no need for the bureaucracy to manage a transfer of funds from the Treasury to specific uses by the companies. There would be no need to oversee how they spent every last dime. Under this proposal the discovery of new oil would in itself be proof to the country that the companies were putting their money back into new exploration and development.

ELIMINATE THE UNCERTAINTIES

This proposal would keep newly discovered oil apart from the system of price-tiers and composite prices. Its effect would be to provide a level of certainty that is necessary if the companies are to make the enormous investments we expect from them.

In the environment of orchestrated uncertainty created by the FEA, it is little wonder that oil companies have not undertaken any major program of exploration and development. The composite price mechanism causes enough uncertainty as it is, but since February 1976, the prices of various types of oil have been rolled back twice and frozen four times by the FEA. I feel it is most important that newly discovered oil be immune from the composite price and from whims of the administration's regulators.

The major effect of this measure will not be large profits, nor will it be an immediate new supply of domestic oil. The major effect will be an environment of certainty in which companies can again find it possible to assess their risks, an environment in which they can consider making long-range investments without trying to take into account that great unknown, "What will the Government come up with next?"

PRESIDENT'S PROPOSAL

The idea presented in this amendment is by no means new. The President has also said that he plans to allow newly discovered oil to be sold at the world price. He claims that this "incentive price" would "provide all the incentives needed for the development of new oil production in the United States." I agree with the President and my amendment is designed to carry out his stated goals. But if it were that simple, our proposals would be identical.

The difference between the two proposals is that the amendment under consideration would provide incentives for new production. The administration's proposal would not. Their ability to offer incentives is hampered by the controlled composite price of oil. Their claimed ability to offer higher prices is a plan born of administrative manipulation by the regulators, and there is no reason to think that new production would be forthcoming if their plan were put into effect.

Let me explain.

The average price of domestic crude oil is controlled at about $8.35 per barrel. The average price is allowed, under the law, to increase by 10 percent per year. Thus, if newly discovered oil were priced at the world price of about $13.30 per barrel, then the prices of other oil must go down to maintain the average at the legal limit. Thus there could be no incentive for more production because the composite price dictates average profits. Companies with new production could in effect depress the price that could be obtained by companies with old production. But it all must even out under the regulated average or "composite" price. This is essentially how the President's program would work, with one slight, but important modification. It turns out that the administration has already prepared the way for a new tier at world prices by administratively holding the price of oil below the level allowed by law. Through a series of rollbacks, price freezes, and new price schedules, the administration has succeeded in keeping price increases down, and creating a gap between present prices and the price allowed by law. Thus the President is in a good position to announce a new tier at the world price. He has accomplished the necessary price decreases quite gradually over the last year. After depressing the price of oil slowly and quietly, the administration can now offer a new higher price suddenly and with great flourish. But it is all a sham.

Under the present system, the administration simply cannot offer a real incentive for the oil companies to produce more oil. The uncertainty of the composite price remains. New oil will still depress the price of old oil. If the administration puts its proposal into effect, the oil companies will still be putting their money into circuses, department stores, and real estate. And the administration will claim they are not cooperating.

Now the President has said simply, and in a straightforward way, that he plans to allow newly discovered oil to get the world price. He did not attempt to confuse us with the subtleties of the petroleum pricing system and he did not tell us that he was going to squeeze the system on the low side so that he would have room to maneuver on the high side of the price scale. He just said he wanted newly discovered oil to get the world price—period.

This amendment accommodates the President's desires. Hopefully the administration will not lash out at a simple and straightforward approach to accomplishing their own stated goals.

SUMMARY

There are two arguments for adopting this amendment:

First, we will be paying world prices for newly discovered oil with or without the proposed amendment. With it we can keep the cost of those purchases within our own country.

Second, the President does not have the authority to decontrol newly discovered oil, although he has stated publicly that he wants this oil to get the world price. This amendment would accomplish the President's goals in a simple and straightforward manner.

I might say in summary that the amendment would have applied only to oil produced on new properties after April 20, 1977. In fact, it addressed one of the objections raised to the amendment of the distinguished Senator from Oklahoma which would have applied to old oil.

It seems to me that this is a matter which we must come to grips with at some later point.

Although I am not offering the amendment, I want to discuss it and make it a part of the record.

I ask unanimous consent that a copy of the amendment be printed at this point in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

At the end of the bill, add the following new section:

SEC. . Section 8 of the Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new subsection:

"(k)(1) The first sale price of newly discovered crude oil shall be exempt from the regulation promulgated under section 4(a) of this Act, and from the composite price limitation of subsection (a) of this section.

"(2) For purposes of this subsection, the term—

"(A) 'newly discovered crude oil' means crude oil produced and sold from any property from which no crude oil was produced and sold prior to April 20, 1977; and

"(B) 'property' means the right, arising from a lease or from a fee interest, to produce crude oil.

"(3) A producer may treat as a separate property each separate and distinct producing reservoir subject to the same right to produce crude oil, if such reservoir is recognized by the appropriate governmental regulatory authority as a producing formation which is separate and distinct from, and not in communication with any other production formation.".

UP AMENDMENT NO. 1019

Mr. DOLE. Mr. President, finally, today is Halloween. Therefore, it is appropriate that we at least take a look at what we have done. How many millions of Americans will be scared tonight, because of the action taken by the Senate; and how many Americans will be scared, because of the action taken by the House?

I would say that, based upon a reading of the House bill and the Senate bill, it is the opinion of the Senator from Kansas that they will not be scared nearly as much with the Senate version as with the House version. I send to the desk a substitute and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 1018 as a substitute to the committee amendment and in lieu of the language proposed to be inserted, insert the following.

The assistant legislative clerk proceeded to read the amendment.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing amendment is title II of H.R. 8444 and was printed in the House proceedings of the RECORD on August 5, 1977.)

Mr. DOLE. Mr. President, I believe I can explain my amendment very quickly. What the Senator from Kansas sent to the desk is the House bill. We have had a lot of discussion since last Tuesday about the Senate bill and the tax credits it contains. We have been considering a bill reported by the Senate Finance Committee. The Senate bill, whether we can justify it or not, provides tax credits for almost anything imaginable; tax credits for insulating homes, installing solar energy, weather stripping, purchasing business energy equipment, and a host of other items. The bill extends existing business tax credits to nonprofit and Government institutions. We have even given a tax credit for burning firewood.

The Senate needs to look at the two different bills. I have maintained throughout the debate, and I believe very seriously, that the Senate will soon be considering equalization tax in the House bill. It seems to me that when we go to conference we are going to be faced with the House bill, not the Senate omnibus tax credit bill of 1977. Therefore, my amendment is very simple. It is the House-passed bill.

It is a bill that the Senator from Kansas opposes. I want to get some indication from the Senate that there is at least some opposition to House-passed bills. If we go to conference, we can then have a chance to sort out the differences.

The Senator from Kansas believes his colleagues should be aware of the contents of the House bill, and that the taxes it contains will probably be in the conference report.

It would seem to me that because today is Halloween, as the Senator from Kansas has indicated, it is appropriate to talk about the House bill.

The Senator from Kansas hopes that

once my colleagues focus on the taxes in the House bill, they will understand it for what it is, and will unmask it for what it is—a tax bill. It is purely and simply a tax bill.

The House bill has a net negative revenue effect of about $54 billion. For that amount of money, there is almost no energy savings. For example, the residential energy tax credits cost the Treasury about $4.8 billion. As I have pointed out along with my distinguished colleague from Massachusetts, the Federal Government will get very little increased energy savings for its expenditure. The facts are overwhelming that homeowners will insulate their homes without Government interference or Government subsidy.

The transportation tax section of the House-passed bill will drain $29.5 billion from the American taxpayer and will save less than 100,000 barrels of oil per day. The crude oil equalization tax, which has rarely been mentioned in this body except for a resolution introduced by the Senator from Delaware (Mr. ROTH), will, by 1981, cost the American taxpayer $40 billion. What do we get for our $40 billion? A savings of barely 200,000 barrels of oil. Under the equalization tax, it will cost about $47 to save a barrel of oil.

The House-passed bill contains a users' tax that could cripple almost every major industry in the country today. It would tax industry $25 billion between now and 1985. While the energy savings of about 1 million barrels of oil a day is significant, I should point out that most of this savings would occur anyway, because of forced conservation under S. 977, the Coal Conversion Act, already passed by the Senate. In fact, it is in conference now.

The House bill also contains some changes in the business investment credit and these changes cost $1.3 billion and save only a negligible amount of energy.

The President has been quite clear that he will not compromise on the bill passed by the House. In addition, the House conferees have stated their firm opposition to any of the credits considered by the Senate, especially any incentives for the production of oil and gas.

As a member of the Finance Committee, who attended all the hearings and listened to most of the debate, in the Senate I believe we need to strike an independent stance.

We need to go to the conference with the House conferees understanding that we do not care for their taxes. We may be able to bargain with the House conferees. I am certain that the distinguished chairman can bargain better than anybody I know of in the Congress of the United States. However, we still want the conferees and others to be on notice that we do not like what we see in the House-passed bill.

It can safely be assumed that out of the conference the conference report will contain some tax. Maybe some increase will be justified after we have had an opportunity in the conference to discuss the issues.

Mr. President, for that reason, I believe the Senate should go on record either against or for the taxes. If the motion to table is made and not sustained, the Senator from Kansas might have an alternative. It would strengthen the Senate's hand and the conferees' hands to telegraph, in advance, that the Senate has its own views on energy. We hope to work out some reasonable compromise with the House. I know the chairman and the other conferees will have an independent input.

Mr. LONG. Mr. President, I am sure that after a week of hard work and long hours, some Senators are rather tempted to just agree to the Senator's amendment and save all the time and debate that will be involved in the conference between the Senate and the House and save themselves the trouble of coming back to vote on the conference report. But I really think, Mr. President, that the Senate has indicated, through its Finance Committee, which I believe is reasonably representative of the Senate, that it does not like the idea of voting for the taxes in the House bill. They would like to settle for a great deal less than that in the way of taxes. If they are going to vote the taxes, they would like to have some of the tax cuts that have been recommended for individuals here on the Senate floor and some of those recommended by the committee.

Therefore, Mr. President, I believe that the Senate would prefer to stay with the bill that it has put together here during this last week on the Senate floor. Accordingly Mr. President, I move that the amendment be laid on the table.

Mr. DOLE. I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. STONE). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay the amendment on the table. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. METCALF (after having voted in the negative). On this vote, I have a pair with the distinguished Senator from Alaska (Mr. GRAVEL). If he were present and voting, he would vote "yea." I have voted "nay." Therefore, I withdraw my vote.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Alaska (Mr. GRAVEL), and the Senator from Rhode Island (Mr. PELL) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

Mr. STEVENS. I announce that the Senator from Rhode Island (Mr. CHAFEE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Oregon (Mr. HATFIELD), the Senator from North Carolina (Mr. HELMS), and the Senator from Nevada (Mr. LAXALT) are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT) is absent on official business.

I further announce that, if present and voting, the Senator from New Mexico (Mr. DOMENICI), and the Senator from North Carolina (Mr. HELMS) would each vote "yea."

The result was announced—yeas 74, nays 14, as follows:

[Rollcall Vote No. 605 Leg.]

YEAS—74

Allen	Garn	Nelson
Anderson	Glenn	Nunn
Baker	Goldwater	Packwood
Bartlett	Griffin	Pearson
Bellmon	Hansen	Percy
Bentsen	Haskell	Randolph
Biden	Hatch	Ribicoff
Bumpers	Hayakawa	Riegle
Burdick	Heinz	Roth
Byrd, Harry F., Jr.	Hollings	Sasser
	Huddleston	Schmitt
Byrd, Robert C.	Humphrey	Schweiker
Cannon	Inouye	Sparkman
Case	Javits	Stafford
Chiles	Johnston	Stennis
Church	Long	Stevens
Cranston	Lugar	Stone
Curtis	Mathias	Talmadge
Danforth	Matsunaga	Thurmond
DeConcini	McClure	Tower
Dole	McGovern	Wallop
Durkin	Melcher	Weicker
Eagleton	Metzenbaum	Williams
Eastland	Morgan	Young
Ford	Moynihan	Zorinsky

NAYS—14

Abourezk	Hathaway	McIntyre
Brooke	Jackson	Proxmire
Clark	Kennedy	Sarbanes
Culver	Leahy	Stevenson
Hart	Magnuson	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Metcalf, against.

NOT VOTING—11

Bayh	Hatfield	Muskie
Chafee	Helms	Pell
Domenici	Laxalt	Scott
Gravel	McClellan	

So the motion to lay on the table was agreed to.

Mr. CURTIS. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1020

Mr. LONG. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an unprinted amendment numbered 1020:

Sec. . Provided, That title I of H.R. 5263 shall not be effective so long as title II of H.R. 5263 remains law.

Mr. LONG. Mr. President, this is a technical amendment to adjust for the unanimous-consent request, because the request says that when this bill is passed, we will add the House bill to it. This says that as long as the Senate bill is effective, the House bill does not become law, and it fixes it so that either can be agreed to in conference.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CURTIS. Mr. President, I have a technical correction which has been cleared for consideration.

I ask unanimous consent that the Secretary of the Senate be authorized to make the following modifications in unprinted amendment No. 978, offered by Mr. DOMENICI on October 27, 1977, to H.R. 5263:

(1) Strike out "head of household" each place it appears and insert in lieu thereof "individual".

(2) In subsection (a) of the proposed new section 44H of the Internal Revenue Code of 1954 added by such amendment, insert "who maintains a household (within the meaning of section 44A (f)(1)) and" immediately after "individual".

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Mr. President, reserving the right to object—and I do not wish to object—will the Senator explain the purpose of this amendment?

Mr. CURTIS. This relates to the amendment offered by the distinguished Senator from New Mexico (Mr. DOMENICI), which gave a credit for heating oil expenses for the elderly.

Mr. METZENBAUM. I understand that.

Mr. CURTIS. The amendment I now offer is proposed by the legislative counsel. It changes the words "head of household" to "individual who maintains a household."

Mr. LONG. It corrects a drafting error.

Mr. CURTIS. It corrects a drafting error.

Mr. METZENBAUM. I have no objection.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. CURTIS. Mr. President, on behalf of Senator DOMENICI, I ask unanimous consent that the name of the Senator from New Jersey (Mr. WILLIAMS) be added as a cosponsor of unprinted amendment No. 978, which establishes the energy cost credit for the elderly.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate will be in order. Senators will kindly clear the well, on both sides of the aisle.

Mr. ABOUREZK. Mr. President, I should like to direct a question to the manager of the bill, Senator LONG.

One of the staff members of the Joint Committee on Taxation has indicated that the tax expenditures on this piece of legislation, as it is now amended, amount to only $1 billion less than when we started. That would mean roughly $39 billion. I want to know if that figure is accurate and if the manager of the bill will be willing to inform me.

Mr. LONG. That is a ballpark estimate. The revenue loss is about the same because there have been many amendments added on the floor that provide tax credits to individuals for home heating oil, for the elderly, and for other things.

Mr. ABOUREZK. That is essentially accurate, then.

Mr. LONG. Yes. However, the Senator should note that when this bill is passed, under the unanimous-consent agreement, it will go to conference with the House bill, which provides $53 billion in tax increases.

Mr. ABOUREZK. Is that not all rebated in the House bill?

Mr. LONG. No, it is not. The House bill provides a net increase of $53 billion. This bill provides net tax reductions of about $40 billion.

Mr. ABOUREZK. But essentially we are taking some $39 billion out of the U.S. Treasury in this legislation.

Mr. LONG. The Senator can say it any way he wishes. He can say that we are leaving some $40 billion in the pockets of the taxpayers. That is another way to put it.

The Senate action to which the Senator is making reference has to do with shifting credits around so that they go to individuals pockets rather than to corporations. The net result is about the same amount of credits overall, but a very different distribution between individuals and businesses.

Mr. ABOUREZK. Does the committee have an estimate of how much of that $39 billion will go to individual low income taxpayers and how much will go to corporations or business for oil companies?

Mr. LONG. About $22 billion would go to individuals. Even that which goes to corporations, to a very considerable degree, will be passed through to individuals through lower prices and lower costs of services.

Mr. ABOUREZK. I would not feel very comfortable about that, unless we also wrote that into law.

Mr. LONG. It would take some time for the Senator from Louisiana to provide all the details the Senator from South Dakota would like to have about the bill. But I will do what I can to see that he has it all, or as much as he wants, between now and final passage of the bill, which we have not yet reached. We are now approaching third reading.

Mr. ABOUREZK. I thank the Senator.

Mr. JAVITS. Mr. President, I wish to make a brief statement before the final vote. I have no objection if we are ready for third reading to have third reading.

Mr. LONG. Mr. President, will the Senator withhold that until after third reading?

Mr. JAVITS. I just said that myself. I am willing to yield for third reading and ask unanimous consent that I may retain my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER. Mr. President, I ask unanimous consent to make clerical corrections and pagination corrections in an amendment that I offered when it was accepted.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. Mr. President, what is the clerical correction?

Mr. LONG. We will take care of that.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there further amendment to be proposed?

Mr. MATSUNAGA. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MATSUNAGA. Are there further amendments pending at the desk?

The PRESIDING OFFICER. There are no amendments currently pending.

Mr. MATSUNAGA. Mr. President, for the past three months, I have, with other Finance Committee members, sought to forge an energy tax program that would achieve the President's goal. The bill as amended and now before the Senate, for final passage, I believe will help to attain the objective. Through massive tax incentives for conversion to alternate energy, it will save 2 million barrels of oil a day—oil that we would otherwise need to purchase from the OPEC nations.

The bill, as amended, certainly is not a flawless one, but it is a bill which this body can send to conference with the other body. Hopefully, after passage by the Senate, the bill will be perfected in conference with the House, and the conference product will prove acceptable to both Houses, as well as to the President.

Finance as it has been repeatedly stated by proponents of the committee bill, to arrive at an acceptable bill the Senate conferees will need flexibility. The Senate bill is heavy with tax incentives and the House bill is heavy with taxes. Each side must compromise to develop a mutually acceptable bill. One of the serious deficiencies in the House bill which needs to be corrected is the lack of energy production incentives. I am gratified that the Senate has seen fit not to deprive its Senate conferees of the flexibility essential to perfect the bill's shortcomings.

No one wants higher taxes. But, if taxes must be imposed to resolve the energy crisis, I am willing to vote for those taxes. I am willing to defend my vote for those taxes, but only if the tax revenues will provide tax incentives for increased production, conservation of energy, conversion to alternative energy sources, and mechanisms to avoid or mitigate adverse and undesirable consequences arising from the energy crisis. I stand firm in the belief that production incentives for conventional as well as nonconventional energy must be provided. My position is confirmed by past consumption trends, by our ever increasing amount of oil imports, by our growing deficit in our balance of trade due to such imports, and by rising inflation due to the ever increasing cost of energy.

I submit that the Nation's demand for energy, like motorists' demands for gasoline, is inelastic. A recent Pennsylvania survey showed that even if gasoline cost $2 a gallon, people would still drive their cars to work. Despite the high price, gas consumption would not be cut measurably. People need gasoline to travel to work, to take their children to school, to get to the doctor, and run essential chores. Similarly, the general demand for oil is inelastic, because our economy depends on it.

From 1973 to 1976, the price of controlled domestic crude oil more than doubled, from $3.89 to $8.11. When the higher cost of imported oil is averaged in, the price paid by consumers has tripled, because of the Arab cartel action. Yet, over the same period, oil con-

sumption, after only a slight decrease in 1974 and 1975, has increased to a level over and above that of 1973.

Despite the tripling in the cost of oil, oil consumption is now higher than ever before. The slight decrease experienced in 1974 and 1975 was not caused by the higher price of oil but was due to the greatest economic depression since 1929. The staff of the Joint Committee on Taxation reported that—

> The decline in energy consumption between 1973 and 1976 was the result of the sharp decline in GNP since 1973, rather than the result of any major changes in consumer behavior.

In other words, in the short run, we cannot materially pare down energy consumption short of repeating the economic depression we are now shaking off. Oil and gas literally fuel the Nation's economy. Oil and gas are fueling our economic recovery.

In view of our inelastic demand for energy, the President's proposal to increase the price of oil and gas is ill-advised. We need only to remind ourselves that the price of oil has tripled in the last 3 years and yet the demand continues to increase. To achieve the import reduction desired, without production or conversion incentives, the President would need to impose heavy penalty taxes—taxes heavy enough to stop American industry in its tracks, taxes heavy enough to trigger another depression.

If our Nation cannot satisfy its inelastic demand for energy from domestic sources, it must turn abroad to Arab OPEC countries. Even before the Arab oil embargo of 1973, U.S. oil production was on the decline and our country had to resort to more and more oil imports. The crippling effect of the Arab boycott only affirmed our desperate dependence on foreign oil.

I only repeat what is common knowledge to each Senator. We now import over half our oil at a cost of $45 billion a year. Our balance-of-trade deficit this year will total $30 billion. This deficit has wreaked havoc with the dollar. The dollar buys less today, because this country has gone into a deficit to buy 8 million barrels of foreign oil a day.

We need that oil to operate our factories, make and transport our goods, grow and process our crops, and provide needed services. We need that oil to keep our workers employed. And if domestic production cannot fulfill that need, we perforce must buy foreign oil.

As things stand today, we not only are dependent on foreign oil, we also subsidize the importation of foreign oil in place of domestic production. Under the entitlements program the low cost of controlled domestic oil is averaged out with the high cost of foreign oil. Refineries that use cheap domestic oil must compensate refineries that buy high-cost foreign imports. The insidious effect is to have American consumers subsidize the use of foreign oil.

I would rather have the $45 billion we pay for foreign oil every year go to American companies for greater production. At least, that money will buy American equipment, employ American workers, and insure American oil production.

We cannot be so weak or quarrelsome that we fall to bickering and fail to avert the economic crisis that is nearly upon us. If we fail to stem this $45 billion outflow of dollars, we will bleed the American economy only for the benefit of OPEC countries.

Let us remember, too, that our unemployment rate stubbornly remains at 6.9 percent of the work population. In minority groups, it is 13.1 percent; 6.8 million able-bodied persons are unable to find work. These people desperately need gainful employment. Industry and government must provide the jobs.

The administration is toying with the idea of a quick tax cut to stimulate the economy. But this bill, H.R. 5263 has the economic stimulus the economy needs. Its massive tax incentives for the fabrication and installation of alternate energy equipment will generate business activity not seen since the 1960's. And the initial activity will have a rippling effect throughout the economy.

Some critics may rail at these tax incentives going to business. But let me stress that it is business that employs people; it is business that pays workers' salaries, social security taxes, and health benefits; it is business that provides the goods for these wages to purchase; and it is business that provides the earnings and salaries which the Federal Government taxes.

Mr. President, it will take 5 to 10 years for the economy to make the transition to alternate fuel. In the meanwhile oil and gas must continue to fuel our industrial production. Here, we must have incentives for greater domestic production of conventional fuel to replace foreign oil.

During the Finance Committee's mark-up of the energy tax bill, when the outlook for any program was poor, I talked about the macadamia nut experience in Hawaii. We in Hawaii could not tax our farmers to force them to grow macadamia nut trees. We had to provide a positive incentive, a tax moratorium, to encourage the industry. Consequently, from a modest start, a new viable industry has emerged to add to the health of Hawaii's overall economy and well-being.

Similarly, on a larger scale, the Federal Government cannot tax people to encourage them to develop energy. The Government cannot threaten to tax them out of existence unless they do what the Goverment wants. The Government must give positive incentives.

For this reason, I urge the Senate to pass this bill. It is far from perfect, but I fervently hope that the conferees will be able to return a perfected conference bill that will prove acceptable to the Congress and the President, and above all achieve our energy goals.

ADDITIONAL STATEMENTS SUBMITTED

Mr. McINTYRE. Mr. President, I will vote for passage of the energy tax bill today, but I will do so without any strong conviction that this is the right thing to do. As enthusiastic as I am about some provisions of the bill, I am equally unhappy about some others.

Among the good provisions of this bill are the following:

First. It provides a tax credit to homeowners and businesses for insulation and other energy conservation measures;

Second. It provides a tax credit for the use of solar energy systems in homes and business;

Third. The Senate accepted my proposal to provide a similar tax credit for the use of wood-burning heating equipment in the home;

Fourth. The Senate agreed to the amendment offered by my colleague from New Hampshire (Mr. DURKIN) to provide a $150 tax credit for home heating oil; and

Fifth. The bill as amended includes also a provision to tax oil and gas used by these industries which are capable of switching to domestically produced coal.

Among the bad provisions of the bill are the following:

First. Chiefly, it is a severe burden on the Federal budget. There are too many tax breaks to big business, and the anticipated deficit is huge.

Second. The bill provides for tariffs and quotas on imported oil, for the benefit of domestic refiners. I do not like oil imports any more than any other Senator; but in New England we are forced to rely on imported oil. It is a gross injustice to make the consumers of New England pay for protective tariffs that benefit a few refining companies.

Third. The bill contains references to so-called "plowbacks"—giving some the potential revenue to the oil and gas companies. This is objectionable, and I will be forced to vote against any final bill if a portion of any crude oil tax is given to the oil industry.

Fourth. An ill-defined energy trust fund is contemplated by the bill. This provision opens the way for creation of an energy giveaway fund that would dwarf the highway trust fund in magnitude.

On balance, this bill has my lukewarm support. That support is conditional. First, it is conditioned upon a decrease in the huge deficit that this bill brings into the House-Senate conference. And second, my support for the bill is conditioned upon the tenuous balance struck between assistance to consumers and loopholes for big business. If that balance is tipped away from the New Hampshire and the New England consumer in the final version of this bill when it emerges from the House-Senate conference, I will vote against the conference report.

Mr. HATHAWAY. Mr. President, as the Senate concludes its consideration of the energy tax bill, it is important to keep in mind the dual goals of this legislation—energy conservation and energy production. The Nation is moving into an era where we must stress conservation of our limited energy resources and production of oil and gas in the short-run as we shift into alternative, renewable energy resources.

This bill is not perfect. There are excellent provisions in it and there are some with deficiencies. However, it is my hope that by the time the conference committee has completed its work, the Senate will have before it, the first step in the development of a comprehensive national energy policy.

There are regional disparities in energy patterns; both in production and consumption. This bill attempts to balance the burdens and the incentives among different groups of people and areas of the country.

I would briefly like to highlight several of the provisions which most directly impact on the consumers of the Northeast in general, and on Maine specifically.

First, there is a refundable tax credit for 25 percent of the cost of home heating oil used in a taxpayer's residence. The credit is limited to $150 per year. The credit is reduced as the taxpayer's adjusted gross income exceeds $15,000 per year. It is a measure designed to help the lower- and middle-income residents of the extreme cold weather States such as Maine which are so heavily dependent on imported petroleum products to meet the ever-escalating costs of keeping their homes warm.

Second, to the extent that the President imposes any tariff on imported products, this amount shall be returned to the individual home heating oil users.

Third, there is a tax credit of up to 20 percent of the first $2,000 of expenditures for the purchase of equipment used for burning wood in a person's residence. This includes stoves and heaters but does not include fireplaces. The credit is refundable.

Fourth, there has been a 2-cents-per-gallon refund for gasoline or diesel fuel used in motorboats. The bill would repeal this refund. However, an exception would allow the rebate to continue for fuel used by boats engaged in commercial fishing. This is extremely important for the many residents of Maine whose livelihood is dependent on fishing.

The energy tax bill makes important strides toward development of a comprehensive national energy plan but is so constructed that the incentives and disincentives are balanced across income levels and geographic regions.

Just today, the Wall Street Journal published an article which quotes an official as saying:

> After two years of reduced energy consumption which followed the 1973 oil embargo and the world crude oil price increase, the personal energy consumption of the American public has returned to pre-embargo levels.

The U.S. record stands in sharp contrast to the rest of the world.

It is time that decisive action is taken. Hopefully, this bill will give direction and impetus to a new U.S. energy policy.

I know that the people of the State of Maine understand and appreciate the challenge ahead. They will respond magnificently, as they always have.

CARTER'S ENERGY PROGRAM: A BOON FOR FOREIGNERS, A PENALTY FOR AMERICANS

Mr. HATCH. Mr. President, The Senate's skepticism of the administration's energy program is fully supported by the facts. Although the administration made every effort to cover up the facts, increasingly courageous people are bringing the facts to light. A recent example is Fred Singer, professor of environmental sciences at the University of Virginia, who published a letter in the October 9 issue of the Washington Post. Professor Singer points out that at the same time that the administration is reducing the supply of American natural gas by holding the price down to $1.75, it is importing liquified natural gas from Algeria to fill the gap at a price of $3.37.

Mr. President, why is President Carter willing to pay Algeria twice the price he is willing to pay America? Is this part of the administration's program of bypassing the congressional appropriations process in order to give more foreign aid to the so-called Third World than the Congress appropriates, to transfer more American income and wealth to foreigners than the American people agree to give in foreign aid?

The administration has mislead the American people and some Members of Congress who support its so-called energy program. The administration says it is holding the price of American gas down in order to help the consumer. But what it is really doing is holding down the supply of American gas so that it can import gas from abroad at twice the price. As Professor Singer points out, when the Algerian natural gas is "rolled in," the American consumers will be paying a total of $5.4 billion above what they would pay if the gas were purchased at the top price our own producers are allowed to charge. The administration's energy program is a program that will drive up the price of energy to Americans in order to hand over billions of our dollars to foreigners. It is a hurt America, help the Third World program.

Mr. President, American producers of natural gas will supply all the gas that we can possibly use at a price far below the current Algerian price of $3.37. There is no need to further damage our balance of payments. to further weaken the dollar in international markets, to further damage our own industry, and to drive up the cost of energy to the American consumer. I hope that the Senate's conferees are chosen in a manner that they reflect the will of the Senate on natural gas deregulation and that they do not sell out the American people and the will of the Senate in the conference with the House.

I ask unanimous consent that the letter by Professor Singer be included in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MORE ON THE GAS-DEREGULATION DEBATE

One of the arguments used by proponents of price deregulation of natural gas has been that it would protect the consumer. By a set of unexplained calculations, the price for all new gas is to be regulated at $1.75 per 1,000 cubic feet, less than about $2, which is what gas has been selling for on the intrastate (and therefore federally unregulated) market. The consumer therefore saves 25 cents, right? Wrong! In reality, price regulation provides a subsidy for part of the energy industry and for foreign producers—at the expense of the consumer.

In a little publicized decision on June 30 the Federal Power Commission approved the import of liquefied natural gas (LNG) by the Trunkline Gas Company, a subsidiary of one of the nation's largest pipeline companies. The approval is for 168 billion cubic feet annually, for 20 years, at a price of $3.37. The supplier is Algeria, one of those "friendly" countries that was in the forefront of the Arab oil embargo.

Here is the kicker. The FPC had approved the project earlier, on April 29, but with the proviso that the LNG be priced "incrementally." This means that Trunkline would deliver the LNG to those customers who were willing to pay the full price for this incremental gas, but that the general consumer would not be directly affected. (He would be affected indirectly, because the firms that bought the high-priced LNG would probably raise the price of their products.)

But Trunkline could not find enough customers for the LNG—which comes as no surprise since the current average (old plus new) price of gas is around $1. So it asked that the LNG be "rolled in," which would spread the extra cost equally among all of its customers. The APC approved this request, and so $11.3 billion will be paid by all of Trunkline's customers, which is $5.4 billion above the new ceiling price for natural gas, and $7.6 billion above the average price.

There are some additional points to be considered:

While the President pleads for conservation in order to reduce oil imports, the price regulation of natural gas is producing LNG imports from insecure suppliers. The Trunkline project is only one of many.

While the President pleads for conservation, companies are importing extra amounts of oil, which will be turned into synthetic natural gas (SNG), at a cost of about $4 (and up). Under the President's Energy Plan, these SNG plants would be part of the rate base, producing guaranteed profits for their owners, with the higher costs of the SNG rolled into the average price of gas.

And there is a sleeper too: The FPC approved an incredible provision in Trunkline's contract with Algeria that, in the future, would tie the LNG base price to the OPEC price of oil and not to the cost of producing the LNG. The effect of this action is clear: Consumers would be forced to support increasing monopoly profits for Algeria subject to OPEC price decisions, while price regulation would make it unprofitable for domestic producers to go after the gas costing more than $1.75.

Ralph Nader, where are you?

S. FRED SINGER,
Professor of Environmental Sciences, University of Virginia.
CHARLOTTESVILLE.

Mr. BROOKE. Mr. President, there is no longer any question that the availability and management of electric utility energy is a matter of national concern. Energy resources in general did not become a matter of public policy with the introduction of the President's energy program. For over 2 years, the Nation has been implementing laws whose sole public purpose is the conservation and production of our domestic energy resources.

Not only is it perfectly evident that managing electric power is of national interest. It is also clear that there are management strategies, particularly restructuring of rates, which can increase the efficiency of precious basic energy resources, save energy, reduce the growth of energy demand, reduce the need for energy capital, and maximize economic and procedural justice to end-users of electricity.

Therefore, I suggest that the overall definition of the policy problem and even the nature of the most effective solutions to that problem are fairly obvious.

The only thing that is not yet obvious is what the Congress of the United States is going to do about it. And those of us who have worked on these issues for some years are deeply disappointed. The apparent response of the Senate is to do simply nothing.

There is really no other way to interpret the legislation we have just recently passed. The accompanying report characterized development of standards as "an unnecessary intrusion" without any adequate explanation. Instead, we were presented with a bill which provided that the Secretary may collect information and make suggestions about rates to Commissioners, or to nonregulated utilities, which happen to be holding hearings. These suggestions are to be essentially ad hoc, based on no formalized body of policy or expertise. And the Department's ability to be a presence at all depends on future appropriations for staff. Also, the Secretary's rights as a party in any proceeding are so limited by this measure that they are fewer than those of any other party to the case. The Secretary may not appeal even an arbitrary and capricious rate decision. Thus, nothing requires consideration of her or his recommendation. Indeed, there may be a bias against such consideration since regulators usually feel a need to protect their decisions against possible appeal. Finally, we enacted a great many studies, including a continuation of the kind of research efforts we authorized 2 years ago precisely so that by this time we could make policy determinations about appropriate Federal strategies.

I think if we are frank about what happened in the course of consideration of this measure, we will be forced to admit that the timidity of this approach is a direct result of the emotional, symbolic appeals that have characterized discussions on this issue.

A massive and expensive campaign of letters to stockholders following a format suggested by utilities' national trade associations has caused unwarranted fears among those who depend on utility stocks for income. The kind of rhetoric that is typical in the letters from the utilities to the owners include such threats as "the very survival of the United States as a free nation is threatened," or "this is a doomsday plan" or "this is an attempted power grab by Washington federalists"—a phrase which many companies seemed to fancy—and, finally, "the free enterprise system will be doomed."

No elected official wants to confront an electorate that has been frightened by such demagogic and simplistic appeals. But, we in the Congress have a responsibility to provide leadership on these energy issues and if we had done so sooner it is very likely that this kind of response would never have arisen at all. As things stand, I am sure we can establish a sound policy initiative and explain it to the American people who are entitled to all of the facts.

Of course, it is only natural that many elected officials see the problems of the utilities as so complex that they feel there will be no obvious political reward from the sophisticated, yet not highly visible, solutions that Federal action might advance. Indeed, most of us here realize that there is no magic answer to continuing increases in consumer electric bills. But that is no reason for the Congress of the United States to abandon the problem to the 50 States and to let State officials absorb the political reaction that a utility regulation sometimes evokes. I appeal to all of my colleagues to realize that, if the utilities' problems of cost, inefficiency, growth rates, and dependence on fossil fuels are not resolved the Congress will eventually be required to find a solution anyhow. And we will be under far greater pressure than we now find ourselves. These issues will be coming right back here to us in the long run. We should not wait for a full blown crisis to take the responsibilities that are rightfully ours.

I submit that congressional passage of any halfway measure like the measure which passed the Senate would send a clear and negative signal to regulators at the State level. It would say that the expectation of clear Federal policy guidance and direction under which State commissions have operated in the last 4 years is not to be fulfilled. It will signal that there will be no minimal policy that could equalize ratemaking among jurisdictions. Thus, we would again be saying that progressive States which might act to establish policies which could further advance us toward our national energy goals will be penalized in competition for new industry. If the Federal Government's embryonic energy leadership is to be shackled by the Congress in this way, then the day when consumers can evaluate the true value of their energy demand and modify their behavior to reduce current wasteful practices has been indefinitely and unnecessarily delayed. The interjurisdictional competition to provide cheap electric power on convenient terms, regardless of the energy consequences, could well resume. And all this would occur at a time when we could instead be providing real guidance which would reduce future energy demands and save consumers energy.

I am disappointed that my amendments which represented a very modest attempt to put forward a clear Federal policy on electric energy conservation were defeated. Since 1975, I have tried unsuccessfully to initiate such a policy and the evenly divided nature of the Senate on this issue convinces me that my continued efforts should not cease. The hard facts point to the need for substantive reform and the Congress cannot avoid that reality for much longer. I hope the House-Senate conference committee will send us a strong bill. I certainly plan to continue my efforts for much-needed change.

WOOD AS AN ALTERNATIVE ENERGY SOURCE

Mr. HATHAWAY. Mr. President. I was pleased to cosponsor amendment 1521 of the Senator from New Hampshire (Mr. McINTYRE).

The State of Maine has tremendous resources in wood. Large portions of this country are heavily timbered; they provide great possibilities for conversion of residential space heating away from oil and gas and toward wood and wood products.

I proposed an amendment in the Senate Finance Committee which was accepted. That amendment extended the residential energy credit to various items of equipment which utilize wood.

The amendment of the Senator from New Hampshire clarifies the original provision which was agreed to by the committee.

I have a brief analysis of the Wood Energy Institute concerning the desirability of utilizing wood for space heating which I request be inserted in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

SEPTEMBER 26, 1977.

JACK NORMAN,
Senator HATHAWAY
Dirksen Senate Office Building,
Washington, D.C.

DEAR JACK: The following information has been developed in response to Committee review of H.R. 8444. It is the firm belief of this Institute that the intention of any tax credit legislation should include a program encouraging American homeowners to utilize our renewable energy resource—WOOD—for residential space heating.

Prior to the specifics of our report, I believe it would be appropriate to point out the heating characteristics of wood as a fuel.

Wood heating systems for residential installations are becoming more efficient, safer and more convenient. However, wood is still a labor-intensive fuel. It requires work to harvest, to store, to carry to the combustion applicance, and finally more labor to remove the ashes. Unfortunately, this is not a clean process, usually requiring the housewife or homeowner to follow along with a broom and dust pan.

Therefore unlike solar energy, the wood heating enthusiast must look forward to a labor commitment to the continued operation of his wood heating system. If any homeowner deserved tax incentives for their efforts in conserving the depleting traditional energy resources, these incentives should be available to those willing to convert to wood heat.

And finally, it is important to keep in mind that the utilization of fuelwood today is contributing to an essential forest management program enabling this resource to be more productive in the years to come.

The following information was developed in cooperation with Lawrence D. Garrett, Project Leader, Northeastern Forest Experiment Station, Burlington, Vermont. Specific information was gathered from building contractors, stove manufacturers, wood heating appliance retailers, government bureaus and the files of both the U.S. Forest Service and Wood Energy Institute. Since little research has been done on these questions, the information had to be independently developed. As such, with the imposed time constraints we felt certain assumptions were necessary. These assumptions have been noted.

ASSUMPTION NO. 1

A TAX INCENTIVE PROGRAM

A tax incentive program is made available to the United States homeowners encouraging them to convert from fossil fuels (oils, gas, coal) or electricity to a renewable energy resource—wood. Rebates for conversion are 30% of the first $1,500 and 20% of the next $8,500 capital investment. The rebate program is open to homeowners proposing to use their wood heating system as either a primary or secondary heating source.

QUESTIONS

1. What is the probable reduction in energy demand on fossil fuels and/or electricity from such a tax incentive program expressed in barrels of oil (42 U.S. Gallons) equivalent at 5.8 x 10^6 BTU per barrel?

2. What is the anticipated total cost of such a proposed tax rebate program?

CONCLUSIONS

1. A review of the effects of a tax incentive program, as indicated above, leads us to conclude that conservatively over 130 million barrels (or an energy equivalent) per year would be saved over the next ten-year span.

2. We conclude that the total cost of such a tax rebate program would be 550 million dollars.

Time was insufficient to fully investigate and evaluate the two questions. A critical void exists in the economic implications of wood as an alternative energy source. Yet, obvious rapid transfers to this energy source by consumers and industry are occurring in several U.S. regions, specifically New England.

Because of the weakness in data, certain assumptions were made which you should be aware of. I.rst, for Question 1.

Assumption

1. Rebates are applicable to multiple and single dwelling households.

TABLE 1.—U.S. REGIONAL ENERGY CONSUMPTION FOR COMFORT HEAT; HOUSEHOLD AND COMMERCIAL (1973)

	Quadrillion Btu (quads)				
	NE	MA	E.N. central	W.N. central	South Atlantic
Total household or commercial use	1.21	3.09	3.64	1.49	1.40

	E.S. central	W.S. central	N. & W.	PAC	Total all regions
Total household or commercial use	0.66	1.20	0.74	1.38	14.81

Therefore, 14.8 quads were used in households for comfort heat. A percentage of this is used for heating hot water, swimming pools, etc., but it is considered a minor component and as yet not defined.

The 14.8 quads are used primarily in large urban areas. Over seventy (70) percent of households are in these urban areas and generally would be excluded from use of wood due to point availability. Some could and will use wood in the future as marketing systems are better developed to supply these markets.

We can assume that the remaining thirty (30) percent of household units would have direct access to wood either in solid or chip form. This represents approximately 4.4 quads of energy that is directly accessible for replacement.

The only current effective data on home use of wood for comfort heating comes from a Vermont study which indicates that 7% have transferred to complete heating by wood in the past 4 years, and 50% are using wood in part. It also indicates an interest on the part of 10% of the total to become more dependent on wood. We would expect these 10% are a part of the 50% using wood in some way already. It is important to note that those heating entirely with wood are using stoves almost exclusively while others are using fireplaces and stoves.

Based on this data it appears a safe assumption that at least 10% of rural households can and will convert entirely to wood. The direct impact of this conversion would be 4.4 quads $\times$ 10% = .44 quads. This assumes that the 10% value is equally applicable to all regions, and we feel it is now or will be. Back orders with stove manufacturers, rapidly expanding numbers of firewood dealers, increasing costs of alternative fuels, relative low cost of conversion to wood, and the expressed intent of households to convert to wood would indicate a doubling of this value in 5 to 10 years. This would put consumption of wood energy at .9 quad based on 1973 energy consumption data. It must be remembered that this does not include any partial heating, or any heating in metro areas.

It would appear that based on 1973 energy consumption data, .9 to 1.5 quads of energy could be transferred to wood from alternative fuels by 1985. This could represent over 1% of total U.S. domestic consumption at expected use levels. Annually it could amount to a savings of over 130 million barrels of fuel oil.

Responding to Question No. 2, what will be the expected cost of such a program? The majority of expected conversions are installations of space heater wood stoves fired with solid split wood. Costs of retrofitting existing structures will include the following:

Wood Heater and Accessories	$400.00
Chimney (6" to 8" insulated flue)	260.00
Installation (Labor)	250.00
Total	910.00

The average rebate computed at 30% of total investment will be approximately $273.00 per household. The number of households in rural areas is approximately 20 million with 10% expected to retrofit. Therefore, we have 2 million times $275.00 or 550 million dollars expected rebate over the next 5 to 10 years.

Therefore depending on the speed of conversion to wood heating systems, tax credits of 55 to 110 million dollars per year will generate fossil fuel savings of approximately 130 million barrels annually.

We hope that this information will be of assistance to you and hopefully contribute to convincing Congress that wood should be extended the same tax credit programs as solar energy.

Very truly yours,

ANDREW B. SHAPIRO,
President.

Mr. RANDOLPH. Mr. President, I commend my colleagues of the Senate for their forthright deliberations on H.R. 5263, the fifth section of a hoped for energy program. The conference will consider what will become this Nation's first overall plan.

President Carter has my commendation for his initiative in bringing to the Congress a national energy plan—a problem five previous administrations failed to address. I also feel that it is evident, as the 6 days of debate on this section alone has clearly demonstrated, the majority of the Senate felt that major modifications were necessary before a measure could be presented to the American people as a blueprint which will be used to direct our energy efforts in the long term.

Many people, including some in the administration and in the Senate have held that these modifications have been a defeat for the President's program. I do not share this view. The administration and the Congress must continue—to a greater degree than in the past—to work together to assure a sound and lasting resolution to the energy problems which confront us both in the present and in the future. We are taking, in a sense, a first comprehensive step on a long road.

I am confident that when a final proposal emerges from the conference committee it will be a good basic framework for resolving complex energy issues.

I emphasize basic framework because the legislation will not be "cast in stone" but will be adjusted and refined to fit the changing energy needs of the country. And the needs will change.

Decisions made in the 95th Congress, followed through by the Carter administration, private industry, and our total citizenry can do much to guarantee energy use policies which will strengthen America.

Mr. President, I commend the able chairman, Senator LONG of Louisiana, and the other members of the Finance Committee for the time and the careful attention they have given to H.R. 5263. By working together at a well-reasoned pace America can comprehend and will eventually solve their energy problems.

BREAKING THE OPEC CARTEL

Mr. SCHMITT. Mr. President, as the Senate considers the final piece of energy legislation in the first session of the 95th Congress, I would like to reflect upon the overall energy situation as it now exists. While this may be the last energy bill of this session, it will undoubtedly be followed by a long procession of bills which will be designed to solve the problems that the present series of bills will fail to solve or, indeed, will create. This is because in establishing its energy policy, the administration has ignored the fundamental laws of supply and demand. In effect it has done nothing more than increase the tax burdens of the average citizen.

Although both received scant attention, the law of demand is somewhat better reflected in the administration's proposals than is the law of supply. The proposals received by the Congress and passed by the House emphasized the relationship of demand to price. We all agree that as price rises, demand for energy is reduced. Thus, the administration asks that the consumer pay more for energy through increased taxes and increased imports to make up for decreasing domestic production.

New electrical generating facilities using coal are to be built, presumably leaving to rust those oil burners now in operation, but which must still be paid for by the utility company regardless of whether they are used. Of course, these costs will eventually be paid for by the consumer in the form of higher rates.

Next the administration asks for a tax on gas guzzling autos as a symbol of our determination to eliminate what some consider waste of gasoline by Americans. But it turns out that the "horrible gas guzzler" is really the family station wagon that performs so many chores essential to the average American.

Finally, the package includes a tax on most of the domestically produced petroleum used by the consumer. Certainly this tax will cause the price of energy to rise and some energy will be conserved, but people who can least afford it will pay more; thus the burdens will increase but production will not. Unfortunately, this increased burden on all Americans is

just that, an increased burden which does not do anything to help solve the long-term problem. Increased taxes do not increase production, and the administration's solution does little to solve the basic problem; for decreased domestic energy supply only increases our dependence on the OPEC cartel.

The cartel-like prices being charged by OPEC reflect a better understanding of supply and demand than appears to exist in Washington. The key to making a cartel price hold is the willingness of members of the cartel to reduce output and allocate shares of limited production between those who were once competitors. By holding down production, the OPEC cartel knows that it can charge a higher price for its product—again, the law of demand in action, a higher price and less petroleum demanded by the world.

However, if there were an increase in production within the cartel or from without, the OPEC pricing strategy would not work. Thus, the cartel only holds together if there are strict limits on production within it. The way to break the cartel is to provide additional supplies from outside the cartel. This is the policy which could be used by the United States to undermine the cartel's pricing scheme—to provide additional world petroleum supplies to offset the reduction in those supplies enforced by the OPEC cartel. Our own resources of oil and gas are great enough to do this and would be rapidly available if production were encouraged. Our unregulated intrastate market has proved this. Instead, this Nation is doing exactly the opposite, and it could not be more to the cartel's liking than if they had written our national policy themselves.

The future outlook of U.S. dependence upon imported energy is grim. In 1973, when the OPEC cartel first raised its price, the United States was importing about a third of its petroleum. Today, we are importing about half of our petroleum requirements. Furthermore, the General Accounting Office estimates that under the administration proposal, by 1985 imports will total 12 or 13 million barrels a day compared to 8 million today. Thus we will be dependent by 4 to 5 million more barrels per day in 1985 under the conservation-oriented program suggested by the administration.

Now this increased dependence cannot be attributed primarily to increased demand for oil and gas. The International Energy Agency studied the problem in the United States and pointed out that our problem derives mainly from a decrease in domestic production of oil and gas. In the period 1972–76, U.S. energy consumption increased by only 3 percent, but at the same time our oil imports increased by 51 percent. Quite clearly this is a problem of declining domestic production, yet the administration's proposed energy policy does nothing to reverse this decline and will actually accelerate it.

Clearly the administration has only a partial understanding of the laws of supply and demand and their interaction. The President assumes that under a rise in market prices, there would be no more domestic oil and gas forthcoming. He assumes that there is insufficient capacity to produce the drilling rigs needed to expand exploration and development. He assumes that the industrial capacity of this great Nation, and the initiative and imagination of its people are not equal to the task.

Mr. President, the fact is that there would be rapid response to a price incentive in the oil industry. There would be a rapid response in the manufacturing industry. There would be a rapid response in the research and development community which is looking for new energy sources. Similar responses in unregulated intrastate natural gas markets demonstrate the reasonableness of such an expectation. Thus, by not including incentives for production of new domestic oil and gas, the President has missed a great opportunity to replace imported oil with domestic crude and in so doing break the OPEC cartel.

Mr. ROTH. Mr. President, 1 year ago, during his Presidential campaign, Jimmy Carter said:

> I would never increase taxes for the working people of our country and the lower- and middle-income groups . . . and you can depend on that if I am elected.

The American people believed Mr. Carter and elected him President. Yet Congress is now on the verge of enacting two of the President's major proposals, his energy tax program and the social security tax bill, and the American people are faced with two of the largest peacetime tax increases in this country's history.

The President's energy tax program is nothing more than a massive tax increase in the guise of an energy program. The crude oil equalization tax, which the administration has labeled the "centerpiece" of its energy program, is a charade that will siphon $39 billion out of the economy between 1978 and 1982 without producing one new barrel of oil. The tax will not result in any significant energy savings, it will not encourage any increased energy production, and it will not reduce our dependence on foreign oil.

The crude oil tax is opposed by the AFL–CIO, the Chamber of Commerce, the Consumer Federation of America, and virtually every other group which has spoken out. The Senate Energy and Natural Resources Committee approved a resolution opposing the tax by a 13-to-1 vote, and the Senate Finance Committee approved my motion to kill the tax by an 11-to-7 vote.

Yet despite the overwhelming opposition to the crude oil tax, it is now apparent that the crude oil tax will be approved in the House-Senate conference committee. I am deeply disappointed that the Senate failed to approve my amendment to put the Senate on record as being opposed to the crude oil tax, and its acceptance will mean higher taxes on the American consumers.

I am also disappointed that the Senate rejected my second amendment to use a portion of the money from increased energy taxes to help stabilize the Social Security System. At the same time we are considering massive energy taxes, Congress is about to impose billions of dollars of increased social security taxes on working Americans. The combined impact of these two new tax increases will have a devastating impact on the economy.

I agree that steps must be taken to insure the financial stability of the Social Security System, but the higher social security taxes could decrease the popularity of the Social Security System and put pressure on Congress to reduce social security benefits.

If Congress is going to impose billions of dollars of energy taxes on the American people, we can reduce the economic impact by using a portion of this money to help the Social Security System. My amendment would have given Congress the chance to kill two birds with one stone, and it would have reduced the amount of tax increases needed to stabilize the Social Security System.

By refusing to accept this amendment and by refusing to reject the crude oil tax, the Senate has set the stage for the adoption of two of the largest peacetime tax increases ever imposed. These massive tax increases will put a tremendous burden on the working people of this country, and could result in a major economic slowdown, increased inflation, and higher levels of unemployment.

Mr. LONG. Let us go to third reading.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, we had a debate in this Chamber some time ago—it seems like a long time, but it is not more than a matter of days—respecting the unique position of this bill and what would be done with it in conference.

I am about to vote for this bill, Mr. President, because I believe that all Members, in view of our experience, understand everything is going to depend on the conference and that report. This bill, as Senator ABOUREZK properly pointed out, has huge expenditures and few taxes. It has a useful and effective oil and gas user's tax in the way of Senator METZENBAUM's provision. But it is not nearly enough to balance the expenditures. In addition, we have passed five bills, or will have when we pass this one. The House of Representatives has passed one. Everything is going to depend on this conference.

Conference reports are not amenable, as we all know. But sometimes the Senate faces a situation like this one which is atypical. As one Member—and I had the honor to have Senator RIBICOFF agree with me specifically on this point—I simply add this caveat before voting: I will treat this conference report as if it were an original bill being debated in the Senate, and I shall vote if I feel that it does not meet our energy needs to send this back to conference, perhaps more than once, in order to carry out the intent and purpose of the Senate as

a whole. But I would not—and I have been in many conferences myself—consider this particular conference report to be the normal report which is not amendable and presumptively acceptable, where we feel that House and Senate views have been thoroughly digested by conferees and the result is probably about the best we can do; therefore, we take it as a package as the best that can be done.

My own rationale, Mr. President, is this: We have to have an energy package, and that includes an energy tax bill. It undoubtedly will be a compromise. I do not agree with the President that it is proper or desirable to ration through the price mechanism. In view of the continuing problem of inflation this is a very dangerous and a very serious deficiency in the President's program. But, nonetheless, given the temper of our country, some selective price increases may be necessary. You do not see our people—and I think it is disgraceful, but it is true—you do not see our people cottoning to any major amount of conservation without incentive to do so.

Under those circumstances, Mr. President, we have to proceed along the line of enhancing and increasing production, and that is the one fundamental improvement of the Senate bill over the President's proposal. I tried to vote that way on all these amendments. Therefore, it is my conviction that a conference report should carry forward this philosophy: It should endeavor to do all we can in terms of conservation by direct incentives and requirements; it should endeavor to do all we can in terms of new production. Because of the seriousness of inflation and the concomitant unemployment by its breeding, which energy price increases could further exacerbate, the conference report should minimize the effort to ration through price. On that basis, as one man's judgment, I believe it would be about what can be done and what would be in the best interest of the entire country, not merely one region or one sector.

I finally emphasize that I reserve the right to send the conference report back once, twice, three, or four times until it is whipped into the best shape it can be in, so that, as one Senator I find it provides the most effective energy program for our Nation.

I thank the Chair.

Mr. CRANSTON. Mr. President, I I have been asked to read a statement by another Senator. Before doing so I make plain that his bottom line does not reflect my view. I shall vote for this bill, recognizing that it is not perfect, but I think that no Senator considers this to be a perfect bill.

The statement that I have been asked to read is from Senator MUSKIE, who is in Bethesda Hospital and therefore cannot be present. His statement reads as follows:

STATEMENT BY SENATOR MUSKIE

Although I am unable to be present for the vote today on H.R. 5263, I would, if I were present, be compelled to vote against the bill.

Although the Senate may take some satisfaction that some of the most questionable and costly provisions of the legislation have been stricken by amendments offered from the Senate floor, the bill remains inconsistent with both this year's budget resolution and any reasonable exercise of fiscal responsibility for future years.

In my judgment the bill should be ruled out of order under the Budget Act, if the bill does escape being subject to a point of order only on the slimmest of technicalities—abdication to the Secretary of the Treasury of the Constiutional power of Congress to determine the effective dates of the legislation.

It contains a number of provisions of dubious validity, many of which reopen the backdoor spending the Budget Act was enacted to reduce.

In light of costly amendments added on the floor, the bill will cost as much as $40 billion during the next eight years.

Many Senators are no doubt influenced to ignore this bill's severe fiscal defects on the promise that it is only a vehicle to get to conference. They have been assured the conference version of the legislation will be more responsible.

But the Constitution did not give Congress three branches—a House, a Senate, and a conference.

Nor do the Constitution and our duty as Senators permit us to abandon responsibility for the meaning and effect of our own actions.

Bills which violate sound fiscal policy and undermine the budget process should be rejected by the Senate.

Whatever the merits of this bill as energy legislation, it is irresponsible as fiscal action. I would therefore be compelled to vote against it.

Senator METZENBAUM and Senator BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. BENTSEN. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. METZENBAUM. I yield.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, I ask unanimous consent that we vote not later than 6 p.m. after the Senator from Ohio speaks.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Objection.

The PRESIDING OFFICER. Objection is heard.

The Senator from Ohio.

Mr. METZENBAUM. Mr. President, Members of the Senate, I rise to indicate that I intend to vote against this bill, but in doing so I do not ask anyone else to follow my lead but rather want to discuss with the Members of this body exactly where we are and where we have been.

Early on, the President of the United States told us that there was a national energy crisis in this country and that it was important that we take action to do something about it. As a consequence of that he went on television and he talked to the people of this country and he set a program for Congress which really had only one thrust. The thrust of that proposal was: We will raise the cost of energy across the board by a host of different taxes. We will do it by a gas guzzler's tax. We will do it by a tax on gasoline. We will do it by a wellhead tax. We will do it by a tax on coal and oil and gas users.

And he set a package that amounted to a cost to the American people of $100 billion and maybe more than that.

That measure was then sent to the House of Representatives, and the House of Representatives gave him much of what he had asked for. Some would say 75 percent and some would say 80 percent, but most of his package came to the Senate in that form with the exception of the gasoline tax.

Then the bill went to the Finance Committee. I have tremendous respect for the leadership and the members of the Finance Committee, but the facts are that that committee did not conduct any hearings with respect to the energy conservation or the energy production aspects of the bill which had to do with additional taxes.

That is a very able committee, but its specialty is not in the field of energy. When confronted with this problem, that committee then decided that it did not want a program to increase taxes to the American people, so it rejected out of hand the taxes that had been proposed by the President of the United States.

And I must say to Senators that had I sat on that committee I would have voted as they did in rejecting all of those taxes with the exception of the modification that I offered to the Senate in connection with the oil and the gas users tax and which the Senate subsequently adopted.

But the members of the Finance Committee then faced a dilemma. They had been given a responsibility to come forth with a program, and the emphasis at that point was on delivering a bill—almost any bill. I heard the distinguished leader of the Republican minority today say, "I want a bill." I have heard the President of the United States say, "I want a bill." I think every Member of the Senate wishes to have a bill because we all share the same kinds of concern over the energy problem in this country and we wish to do something about it.

The House of Representatives came forward and said, "Let us tax the people of America in order to force them down this road," but the Senate Committee on Finance rejected that idea, and it was right.

Then the Finance Committee came out with a host of new ideas, all sorts of tax credits, and then as the bill came to the floor there were more tax credits added. As a matter of fact, this may be of interest to the Members of the Senate, there have been 25 separate amendments which have been accepted in this Chamber, all of which were for special interests or special-interest groups that wanted a share of the booty.

Today, we have a bill before us that provides for a $40 billion dip into the Federal Treasury, $40 billion of the American taxpayers' money, and whether half of it goes to the oil industry or 75 percent of it, or 100 percent of it is not the issue. The fact is that the American people are being called upon to pay $40 billion more between now and 1985. Some of the credits have become almost absurd.

What could be more appropriate on a Halloween night, the trick and treat night, than digging into this bag of $40 billion worth of tax credits and treating the oil industry and some of the special interests? The American taxpayers will be paying the $40 billion that is involved in this bill. This bill is a cookie jar kind of measure. It has something in it for everybody.

If you had any problem and you did not get the problem resolved, it is only because you did not ask for it, you did not come forward about your amendment. Otherwise, you would have had it.

But the fact is that neither this measure nor the President's original proposal is going to solve the energy problem of this country.

Let us keep the record clear as to what the President's original proposal would have done. According to the best estimate of the administration's original proposal, we would still be using 25 percent more energy by 1985 than we presently are—an amount only 4 percent less than we would have been consuming if we had no bill at all.

Under this measure your guess is as good as mine as to how much more energy we will be using.

We provided in this bill for a trust fund, and I did not oppose it. But I do not think that is the way to go, because I do not think you should use a trust fund to give a special kind of a bonanza to the oil industry.

You can talk about it any way you want to, but when push comes to shove what have we done in this legislation? We have said to the oil industry, "If the price of getting this bill through is to sweeten your treasuries, then we are willing to do that."

But there is not a scintilla of evidence that anybody has offered on the floor of the Senate or in committee—may I have order in the Senate at the well, please?

The PRESIDING OFFICER. The Senate will be in order.

Mr. METZENBAUM. There is not a scintilla of evidence that anybody has offered that either the administration's measure or this measure will produce more energy or conserve more energy in this Nation.

The Senate saw fit to adopt a measure, an amendment, that I had proposed which would indeed save energy, would save 1.2 million barrels of oil a day. But, unfortunately, a number of the other amendments that are contained in the bill have no such merit. One after the other raids the Treasury, but achieves no energy savings. Section 1052 exempts the sale of refined lubricating oil from a 6-cent per gallon excise tax at a cost of $24 million to the American taxpayer. The committee report says that this will have negligible savings of oil imports.

Section 1051 extends indefinitely the minimum tax provision on intangible drilling costs at a cost of $354 million to the American taxpayer. It will have negligible savings on oil imports according to the committee report.

Section 1041 extends the exemption from taxation of interest earned on industrial development bonds for coal gasification and liquefaction facilities at a cost of $226 million to the American taxpayer. The committee report says it will have negligible savings of oil imports.

Section 1043 provides an allowance for percentage depletion for geothermal deposits at a cost to the American taxpayers of $304 million. The committee report says it will have negligible savings of oil imports.

That is just scraping the surface.

Mr. President, you can go through this bill from top to bottom. But this legislation is not going to save any energy, except maybe through the oil and gas user's tax amendment I offered and which the Senate saw fit to adopt. Perhaps that made a bad bill a little better.

When this bill came to the floor of the Senate it was an abomination. When we were done with the amendments that were adopted on the floor of the Senate, it became a legislative monstrosity.

Now those who want a bill will have a bill. If you think you have met the responsibility of sending a bill to conference, then you have done just that. But if you think you have actually done anything to resolve the energy problem of this Nation, you have not done so.

The administration's program in its original form would have only scraped the surface. That was never enough to do the job. I rise to say that in my opinion we are going to do something about the problem of energy in this Nation only when the administration conceives of a new approach to the entire problem of energy—and it is going to involve mandatory conservation measures.

The administration has not seen fit to support mandatory conservation measures. Mandatory conservation measures mean providing efficiency standards for motors; they mean doing something to limit the amount of gasoline we consume in this country; they mean something about using retrofit devices for the amounts of fuel we consume in our homes; and they mean thinking about a host of other ideas. But the administration has not seen fit to move in that area.

The truth is that in passing this tax bill, we will not have done much to solve the energy problem of this Nation. We may be thinking we are salving our conscience, but this bill does not even do that. This bill places an intolerable burden upon the American taxpayer while doing very little to scratch the surface of the energy problems of this country.

There are those who say, "Let's wait and see what comes out of conference, and then we can vote no."

I do not think that is really an adequate answer. It may be for some. It is not for me. For that reason, I intend to vote "nay" on this bill, but I do not urge anyone else to follow me in that direction.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. DURKIN. Mr. President, I will be very brief. I am going to vote for the bill, even though all the items in it do not please me.

I would like to underscore the remarks of the senior Senator from New York, because it is within that context that I am supporting this measure, as a way out of a box canyon, so to speak.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I share almost all the distress expressed by the Senator from Ohio. I never thought the President's package was nearly draconian enough to begin with. But, as the Senate has dealt with it, in a way different from the way the House dealt with it, every newspaper in the country has tried to give the impression that the Senate somehow was dismantling a bill which represented the salvation of the country and a solution to the energy crisis.

The other four parts of the bill do indeed have a great deal of merit. I intend to support all of them. I am not going to vote for this bill. I think it is a turkey of the worst kind. It is a bill which will cost $10 a barrel to the American Treasury for every barrel saved. We can buy OPEC oil for $14 a barrel, and we have tried to get away from that; but we have Christmas treed this thing up until, while some of these claims undoubtedly are exaggerated, we are going to pay $10 a barrel for every claimed barrel of oil that we will save under this bill. I think there are better approaches, and I think the American people will realize there are better approaches.

Mr. President, every year down in South Arkansas they have what they call an armadillo fry. I have never attended, but we have a lot of armadillos in Arkansas. Last year the food editor of the Arkansas Gazette went down to it, and came back with a new recipe for roast armadillo. He said you filet them, put about four of them on a two-by-four, put them in the oven and roast them for about 2 hours, take them out of the oven, throw the armadillo away and eat the two-by-four.

I would rather throw this whole thing away and scratch it than vote for a bill which I think is a sham on the American public. Therefore, I will join the Senator from Ohio in voting against it.

The PRESIDING OFFICER. The question is, Shall the bill pass? All those in favor——

Several Senators addressed the Chair, requesting the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President there will be no more rollcall votes tonight.

The PRESIDING OFFICER. The question is, Shall the bill pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. METCALF (when his name was called). Mr. President, on this vote I have a live pair with the Senator from Alaska (Mr. GRAVEL). If he were present and voting, he would vote "aye." If I were at liberty to vote, I would vote "nay." Therefore. I withhold my vote.

Mr. SPARKMAN (when his name was called). Mr. President, on this vote I have a pair with the Senator from Maine (Mr. MUSKIE), who cannot be present. If he were present and voting, he would vote "nay." If I were free to

vote, I would vote "aye." Therefore, I withhold my vote.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Alaska (Mr. GRAVEL), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Rhode Island (Mr. PELL) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) would vote "yea."

Mr. STEVENS. I announce that the Senator from Rhode Island (Mr. CHAFEE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Oregon (Mr. HATFIELD), the Senator from North Carolina (Mr. HELMS), and the Senator from Nevada (Mr. LAXALT) are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT) is absent on official business.

On this vote, the Senator from Oregon (Mr. HATFIELD) is paired with the Senator from North Carolina (Mr. HELMS). If present and voting, the Senator from Oregon would vote "yea" and the Senator from North Carolina would vote "nay."

I further announce that, if present and voting, the Senator from Nevada (Mr. LAXALT) would vote "nay."

The result was announced—yeas 52, nays 35, as follows:

[Rollcall Vote No. 606 Leg.]

YEAS—52

Allen	Griffin	Percy
Baker	Hansen	Randolph
Bartlett	Hathaway	Ribicoff
Bellmon	Hayakawa	Sasser
Bentsen	Heinz	Schweiker
Biden	Huddleston	Stafford
Byrd, Robert C.	Inouye	Stennis
Cannon	Javits	Stevens
Chiles	Long	Stone
Cranston	Matsunaga	Talmadge
Curtis	McClure	Thurmond
Danforth	McIntyre	Tower
DeConcini	Melcher	Weicker
Durkin	Moynihan	Williams
Eagleton	Nelson	Young
Eastland	Nunn	Zorinsky
Ford	Packwood	
Glenn	Pearson	

NAYS—35

Abourezk	Garn	Magnuson
Anderson	Goldwater	Mathias
Brooke	Hart	McGovern
Bumpers	Haskell	Metzenbaum
Burdick	Hatch	Morgan
Byrd, Harry F., Jr.	Hollings	Proxmire
	Humphrey	Riegle
Case	Jackson	Roth
Church	Johnston	Sarbanes
Clark	Kennedy	Schmitt
Culver	Leahy	Stevenson
Dole	Lugar	Wallop

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—2

Metcalf, against.
Sparkman, for.

NOT VOTING—11

Bayh	Hatfield	Muskie
Chafee	Helms	Pell
Domenici	Laxalt	Scott
Gravel	McClellan	

So the bill (H.R. 5263), as amended, was passed.

UP AMENDMENT NO. 1021

Mr. LONG. Mr. President, I send to the desk a title amendment and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. MATSUNAGA). The title amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an unprinted amendment to the title numbered 1021.

Amend the title so as to read: "An act to provide tax incentives for the production and conservation of energy, and for other purposes.".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. LONG. Mr. President, I ask unanimous consent that, in the enrollment of the amendments of the Senate to the bill H.R. 5263, the Secretary of the Senate be authorized to make such technical and conforming changes, including changes in section numbers and cross references thereto, as may be necessary to set forth in proper form the amendments adopted by the Senate during its consideration of the bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none. Without objection, it is so ordered.

Mr. LONG. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PRIVILEGE OF THE FLOOR

Mr. RIEGLE. Mr. President, I ask unanimous consent that Lars Peterson of my staff may have the privilege of the floor on the legislation upcoming.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR BILL TO BE HELD AT DESK

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that when H.R. 4458 is sent over from the House, it be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUPPLEMENTAL APPROPRIATIONS, 1978

The PRESIDING OFFICER. Pursuant to the previous order of the Senate, the Senate will now proceed to the consideration of H.R. 9375, which the clerk will state.

The legislative clerk read as follows:

A bill (H.R. 9375) making supplemental appropprations for the fiscal year ending September 30, 1978, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with amendments as follows:

On page 2, beginning with line 11, insert the following:

AGRICULTURAL MARKETING SERVICE

MARKETING SERVICES

For an additional amount to implement the Government-Wide Food Quality Assurance Program, $3,708,000.

FEDERAL CROP INSURANCE CORPORATION

SUBSCRIPTION TO CAPITAL STOCK

To enable the Secretary of the Treasury to subscribe and pay for capital stock of the Federal Crop Insurance Corporation, as provided in section 504 of the Federal Crop Insurance Act (7 U.S.C. 1504), $30,000,000.

On page 3, beginning with line 1, insert the following:

AGRICULTURAL CREDIT INSURANCE FUND

For an additional amount for the Agricultural Credit Insurance Fund for loans that may be insured, or made to be sold and insured under this fund in accordance with and subject to the provisions of 7 U S.C. 1928–1929, $100,000,000 for farm ownership loans.

On page 3, line 12, strike "$30,000,000" and insert "$26,704,000";

On page 3, beginning with line 14, insert the following:

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

AGRICULTURAL CONSERVATION PROGRAM

For an additional amount to carry out the Agricultural Conservation Program, $36,600,000, to incur obligations for the period ending September 30, 1978, and to liquidate such obligations for soil and water conserving practices in major drought or flood damage areas as designated by the President or the Secretary of Agriculture: Provided, That not to exceed 5 per centum of the amount herein may be withheld with the approval of the State committee and allotted to the Soil Conservation Service for services of its technicians in the designated drought or flood damaged areas.

On page 4, line 8, strike "$40,500,000" and insert "$47,000,000";

On page 4, line 23, strike "table 1 of Committee Print Numbered 94-39 of the Committee on Public Works and Transportation of the House of Representatives" and insert "the table on page 19 of Senate Report Numbered 95–564 in the absence of final congressional action on H.R. 3199 by November 15, 1977";

On page 5, beginning with line 5, insert the following:

CONSTRUCTION, MAJOR PROJECTS

For an additional amount for "Construction, major projects", $139,100,000, to remain available until expended.

On page 5, line 14, after "1980" insert a colon and the following:

Provided, That all unobligated balances from prior appropriations made available for carrying out 38 U.S.C. 644 and 5031–5037 shall also be available for purposes authorized by Public Law 95–62.

On page 5, beginning with line 18, insert the following:

ASSISTANCE FOR HEALTH MANPOWER TRAINING INSTITUTIONS

For an additional amount for "Assistance for health manpower training institutions" for pilot programs for assistance in the establishment of new State medical schools, as authorized by 38 U.S.C. chapter 82, section 5072, $3,847,000, to remain available until September 30, 1984.

On page 6, beginning with line 1, insert the following:

GENERAL SERVICES ADMINISTRATION

CONSUMER INFORMATION SERVICE

For an additional amount for travel, from funds previously appropriated for the Consumer Information Center, $5,000.

On page 6, beginning with line 9, insert the following:

RESOURCE MANAGEMENT

For an additional amount for "Resource management", $2,600,000.

On page 6, line 19, strike $5,000,000" and insert "$2,000,000";

On page 6, line 25, strike "$24,080,000" and insert "$30,880,000";

On page 7, line 16, after "positions" insert a colon and the following:

Provided further, That section 201(b) of the Surface Mining Control and Reclamation Act of 1977 (91 Stat. 445) is amended to delete the roman numeral "IV" in the first sentence and substitute the roman numeral "V" in lieu thereof

On page 7, line 24, strike "$8,054,000" and insert "$7,224,000";

On page 8, line 2, strike "$1,866,000" and insert "$2,166,000";

On page 8, beginning with line 11, insert the following:

ALASKA NATIVE FUND

The Alaska Native Claims Settlement Act of December 18, 1971, as amended (85 Stat. 688 (43 U.S.C. 1601 et seq.)), is further amended by adding a new section 31 thereto as follows:

"SEC. 31. (a) Notwithstanding the provision of section 3477 of the Revised Statutes, as amended (31 U.S.C. 203), the Secretary is authorized to recognize validly executed assignments made by Regional Corporations of their rights to receive payments from the Alaska Native Fund. Such assignments shall only be recognized to the extent that the Regional Corporation involved is not required to distribute funds pursuant to section 7(j) or 7(m) of this Act.

"(b) The Secretary shall not recognize any assignment under this section which does not provide that the United States reserves the right to assert against the assignee and successors of the assignee, any setoff or counterclaim which the United States has against the assignor Corporation.

"(c) No stockholder of any Regional or Village Corporation shall have any claim against the Secretary or the United States as the result of any assignment duly recognized by the Secretary pursuant to this section.".

On page 9, line 13, strike "That this appropriation shall be available only upon the enactment of H.R. 6550, or similar legislation: Provided, further,":

On page 10, line 2, strike "upon enactment into law of H.R. 6550, or similar legislation";

On page 10, beginning with line 15, insert the following:

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST PROTECTION AND UTILIZATION

For an additional amount for "Forest protection and utilization", for "Forest land management", $3,672,000.

FEDERAL ENERGY ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $276,344,000, of which $253,110,000 shall become available only upon enactment of authorizing legislation as follows: (1) for conservation grants for schools and health care facilities, $200,000,000; for conservation grants for local government buildings, $25,000,000; for grants for financial assistance to utility regulatory commissions, $6,630,000; for solar heating and cooling installations in Federal buildings, $20,000,000; to remain available for obligation until September 30, 1979; and (2) for administration of grants for schools and health care facilities, local government buildings, and utility rate reform, $1,480,000; *Provided,* That of the total amount of this appropriation, not to exceed $6,000,000 shall remain available until expended for a reserve to cover any defaults from loan guarantees issued to develop underground coal mines as authorized by Public Law 94-163: *Provided further,* That the indebtedness guaranteed or committed to be guaranteed under said law shall not exceed the aggregate of $62,000,000.

On page 12, line 4, after "$1,270,000" insert a comma and "of which $1,210,000 shall be for eighty-two new permanent positions";

On page 12, beginning with line 8, insert the following:

HEALTH RESOURCES ADMINISTRATION

MEDICAL FACILITIES GUARANTEE AND LOAN FUND

Of the loan principal allotted under title VI of the Public Health Service Act for fiscal year 1973 which remained unobligated on September 30, 1976, not to exceed $2,000,000 shall be available to honor commitments made by the Secretary prior to October 1, 1976, to make or guarantee loans under such title VI.

On page 12, beginning with line 17, strike through and including page 13, line 2;

On page 13, beginning with line 8, insert the following:

SOCIAL SECURITY ADMINISTRATION

SPECIAL ASSISTANCE TO REFUGEES FROM CAMBODIA, VIETNAM, AND LAOS IN THE UNITED STATES

For assistance to refugees from Cambodia, Vietnam, and Laos in the United States, $124,000,000.

On page 13, beginning with line 13, insert the following:

DEPARTMENTAL MANAGEMENT

GENERAL DEPARTMENTAL MANAGEMENT

For an additional amount for "General Departmental Management", $1,719,000 for compensating the State of Washington for losses it incurs in vacating and turning over to the United States the land and all improvements thereon which was formerly the site of the Tacoma Indian Hospital in Tacoma, Washington.

On page 13, beginning with line 21, insert the following:

RELATED AGENCIES

COMMUNITY SERVICES ADMINISTRATION

COMMUNITY SERVICES PROGRAM

For an additional amount for "Community services programs", $200,000,000.

On page 14, line 6, strike "$121,000,000" and insert "$00,000,000";

On page 14, line 8, strike "Project; and of which not to exceed $17,000,000 is" and insert Project";

On page 14, beginning with line 10, insert the following:

Not to exceed $17,000,000 of the funds appropriated for "Operating expenses" in the Public Works for Water and Power Development and Energy Research Appropriation Acts for fiscal years 1976 (Public Law 94-180) and 1977 (Public Law 94-355) are hereby made available to

On page 14, beginning with line 23, insert the following:

ALASKA HYDROELECTRIC POWER DEVELOPMENT FUND

For the purpose of carrying out the provisions of section 203 of the Water Resources Development Act of 1976 (Public Law 94-587), $5,450,000, to remain available until expended: Provided, That no part of this appropriation or any other amount in this fund shall be available to guarantee any obligations in excess of the amount appropriated herein.

On page 15, beginnng with line 4, strike through and including line 11, and insert in lieu thereof:

ADMINISTRATIVE PROVISION

None of the funds available to the Corps of Engineers shall be used to transfer construction responsibility for the Cooper River Rediversion project and the Murrels Inlet Navigation project from the Charleston (S.C.) District to the Wilmington (N.C.) District.

On page 15, beginning with line 20, insert the following:

UPPER COLORADO RIVER STORAGE PROJECT (TRANSFER OF FUNDS)

For an additional amount for "Upper Colorado River Storage Project", for construction of recreational and fish and wildlife facilities authorized by section 8 of the Act of April 11, 1956, as amended, $875,000, to be derived by transfer from "Construction and Rehabilitation."

On page 16, line 24, strike "$7,000,000" and insert $7,500,000";

On page 17, beginning with line 4, insert the following:

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

SALARIES AND EXPENSES

Not to exceed $20,250 of the funds appropriated under this heading in the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1978, shall be available for official reception and representation expenses.

On page 18, line 8, strike "$48,913,000" and insert "$34,130,000";

On page 18, line 14, strike "69,392,000" and insert "$54,609,000";

On page 18, line 17, strike "$34,130,000;" and insert "$34,130,000:";

On page 18, beginning with line 18, strike through and including line 19;

On page 19, beginning with line 16, strike through and including line 20;

On page 20, beginning with line 5, insert the following:

Appropriations provided under this heading in the Department of Defense Appropriation Act, 1977, are rescinded in the amount of $462,000,000.

On page 20, beginning with line 12, insert the following:

Appropriations provided under this heading in the Department of Defense Appropriation Act, 1977, are rescinded in the amount of $1,400,000.

On page 20, line 19, strike "$233,470,000" and insert "$260,500,000";

On page 21, beginning with line 16, insert the following:

CHAPTER IX—DEPARTMENT OF TRANSPORTATION

FEDERAL RAILROAD ADMINISTRATION

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

To enable the Secretary of Transportation to make grants to the National Railroad Passenger Corporation, $18,000,000, to remain available until expended, for operating losses incurred by the Corporation.

On page 22, beginning with line 1, insert the following:

CHAPTER X—DEPARTMENT OF STATE

MIGRATION AND REFUGEE ASSISTANCE

For an additional amount for "Migration and Refugee Assistance", $6,300,000, to provide assistance for the transportation and reception and placement of Indochinese refugees resettling in the United States.

On page 23, beginning with line 18, insert the following:

SEC. 205. Effective October 1, 1977, section 106(a)(8) of the Legislative Branch Appropriation Act, 1963 (2 U.S.C. 60j(a)(8)), is amended by inserting "Deputy Chief Guide," after "Chief Guide,".

SEC. 206. Effective October 1, 1977, section 111 of the Legislative Branch Appropriation Act, 1978, is amended—

(1) by striking out "an amount equal to three times the amount referred to in section 105(e)(1) of such Act, as amended and modified" in subsection (a) and inserting in lieu thereof "$149,286"; and

(b) by striking out "the amount referred to in section 105(e)(1) of the Legislative Branch Appropriation Act, 1968, as amended and modified," each place it appears in sub-

section (b) and inserting in lieu thereof "$49,762".

SEC. 207. Section 114 of the Legislative Branch Appropriation Act, 1978, is amended by striking out "each of which is in the office of a Senator and the pay for which is disbursed by the Secretary of the Senate" and inserting in lieu thereof "the pay for each of which is disbursed by the Secretary of the Senate out of an appropriation under the heading 'SALARIES, OFFICERS AND EMPLOYEES'.".

SEC. 208. Effective August 5, 1977, the last sentence of section 506(e) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(e)) is amended by inserting after "Office of the" the following: "President pro tempore, Deputy President pro tempore,".

SEC. 209. (a) The Secretary of Transportation shall, not later than 60 days after the date of enactment of this Act, designate on the National System of Interstate and Defense Highways, in accordance with the provisions of section 103(e)(1) and (f) of title 23 of the United States Code, routes or portions thereof equal in total mileage (or as near thereto as practicable) to the total mileage withdrawn prior to such date from such System pursuant to section 103 (e)(4) of such title 23 and not redesignated on such System.

(b) On and after the date of enactment of this Act the Secretary shall so designate on such System, in accordance with the provisions of sections 103(e)(1) and (f) of title 23 of the United States Code, routes or portions thereof equal in total mileage (or as near thereto as practicable) to mileage withdrawn from such System pursuant to such section 103(e)(4) not later than 60 days after such withdrawal.

SEC. 210. Any export license referred to in Section 11 of Public Law 95-92 which is issued initially on or before September 30, 1978 may from time to time thereafter be renewed, reissued or modified (or in the event of lapse of such license, replacement licenses may be issued), provided that any such renewal, reissuance or modification (or any such replacement license) does not change significantly any such license as initially issued.

Mr. BAKER. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum without the time being charged to either party under the unanimous-consent agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I ask unanimous consent that I be permitted to propound three or four parliamentary inquiries to the Chair without the time consumed being charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, S. 1811, which is now on the President's desk, authorizes $80 million for the Clinch River project. H.R. 9375, the supplemental appropriation bill, as passed by the House and reported by the Committee on Appropriations, contains an $80 million appropriation for the same project. My inquiry is, if the President vetoes S. 1811, would this appropriation then be subject to a point of order, provided he vetoes it before final action is taken and the point of order is made before final action is taken?

Would the Chair like to have the parliamentary inquiry restated?

The PRESIDING OFFICER. Will the Senator please restate his parliamentary inquiry?

Mr. BUMPERS. S. 1811 is now on the President's desk for his signature or veto. It contains an $80 million authorization for the Clinch River reactor. We have before us at this moment, as the pending business, H.R. 9375, which is the House appropriations bill. It has been passed by the Senate Committee on Appropriations.

My question is: If the President vetoes S. 1811, just as a hypothetical case, if we should be notified at this moment that he had vetoed that bill, would, then, this appropriation in this bill be subject to a point of order?

The PRESIDING OFFICER. It would not be subject to a point of order.

Mr. BUMPERS. Could the money appropriated, assuming passage, then be spent for that project?

The PRESIDING OFFICER. That would constitute a legal question, which is beyond the scope of the Senate procedure.

Mr. BUMPERS. Could the Chair inform this Senator why this appropriation would not be subject to a point of order if the authorization therefor does not exist?

The PRESIDING OFFICER. For one thing, this is House language, a House bill which, is not subject to a point of order.

Mr. BUMPERS. Is the Chair ruling that because this is a House bill that it is not subject to a point of order?

The PRESIDING OFFICER. The Chair advises the Senator that rule XVI applies to amendments to appropriations bills, amendments in the Senate, and does not apply to any House language.

Mr. BUMPERS. I thank the Chair.

The PRESIDING OFFICER. Does the Senator from Alaska seek recognition?

Mr. STEVENS. Mr. President, if the Senator from Arkansas is through, I suggest the absence of a quorum under the conditions previously existing, that it not be charged against anyone.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME-LIMITATION AGREEMENT—S. 2159

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as S. 2159, calendar order No. 499, is called up and made the pending business, there be a time limitation on the bill of 1½ hours, to be equally divided between Mr. KENNEDY and Mr. JAVITS, that there be a time limitation on all amendments of 30 minutes each, with the exception of 1 hour on an amendment by Mr. HATCH, 1 hour on an amendment by Mr. SCHWEIKER, and 1 hour on an amendment by Mr. JAVITS, and that there be 20 minutes on any debatable motion, appeal or point of order, and provided further that the agreement be in the usual form.

Mr. BUMPERS. Reserving the right to object——

The PRESIDING OFFICER. The Senator from Arkansas reserves the right to object.

Mr. BUMPERS. Would the leader say again how much time there is on amendments other than those that have been agreed on?

Mr. ROBERT C. BYRD. Thirty minutes on each amendment.

Mr. BUMPERS. Mr. President, I do not think I would want an hour, but I will offer an amendment and I would like, if the leader will, to include an hour for my amendment. I would think we could probably do it in 30 minutes, but I would like that little hedge.

Mr. ROBERT C. BYRD. Very well.

Mr. President, I modify the request by providing that Mr. BUMPERS have 1 hour, equally divided, on an amendment which he may present.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The text of the agreement is as follows:

Ordered, That when the Senate proceeds to the consideration of S. 2159 (Order No. 499), a bill to amend sec. 771 of the Public Health Service Act to require an increase in the enrollment of 3rd-year medical students in the school year 1978-79 as a condition to medical schools receiving capitation grants under sec. 770 of such act, debate on any amendment (except on one amendment each by the Senator from Utah (Mr. Hatch), the Senator from Pennsylvania (Mr. Schweiker), the Senator from New York (Mr. Javits), and the Senator from Arkansas (Mr. Bumpers), on each of which there shall be 1 hour) shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill, which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 1½ hours, to be equally divided and controlled, respectively, by the Senator from Massachusetts (Mr. Kennedy) and the Senator from New York (Mr. Javits): *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

ORDER FOR CONSIDERATION OF THE PUBLIC HEALTH SERVICE ACT, S. 2159, AND THE SOCIAL SECURITY BILL, H.R. 9346

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the supplemental appropriations bill, the Senate proceed to the consideration of S. 2159, and that the social security bill follow S. 2159, rather than precede it.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENDANGERED SPECIES ACT AUTHORIZATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1316 a bill to authorize appropriations for the Endangered Species Act.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1316) entitled "An Act to authorize appropriations for fiscal years 1978, 1979, and 1980 to carry out State cooperative programs under the Endangered Species Act of 1973", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That section 6 of the Endangered Species Act of 1973 (16 U.S.C. 1535) is amended—

(1) by striking out the period at the end of subsection (c) and inserting in lieu thereof "; or", and by adding at the end of such subsection the following: "that under the State program—

"(A) the requirements set forth in paragraphs (3), (4), and (5) of this subsection are complied with, and

"(B) plans are included under which immediate attention will be given to those resident species of fish and wildlife which are determined by the Secretary or the State agency to be endangered or threatened and which the Secretary and the State agency agree are most urgently in need of conservation programs."; and

(2) by amending subsection (i) to read as follows:

"(i) APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated not to exceed the following sums:

"(1) $10,000,000 through the period ending September 30, 1977.

"(2) $16,000,000 for the period beginning October 1, 1977, and ending September 30, 1981.".

Amend the title so as to read: "An Act to amend the Endangered Special Act of 1973 regarding the requirements for State cooperative programs thereunder and to authorize appropriations through fiscal year 1981 to carry out such programs.".

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate disagree to the amendment of the House and ask for a conference with the House on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. CULVER, Mr. MUSKIE, and Mr. WALLOP conferees on the part of the Senate.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 12:30 p.m., a message from the House of Representatives delivered by Mr. Berry, one its clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 1139. An act to amend the National School Lunch Act and the Child Nutrition Act of 1966 in order to revise and extend the summer food program, to revise the special milk program, to revise the school breakfast program, to authorize the Secretary of Agriculture to carry out a program of nutrition information and education as part of food service programs for children conducted under such act, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore.

At 5:22 p.m., a message from the House of Representatives by Mr. Hackney, one of its clerks, announced that the House has passed without amendment the following bills:

S. 810. An act granting an extension of patent to the United Daughters of the Confederacy.

S. 2118. An act to authorize the Secretary of Agriculture to convey certain homesites within the Chugach and Tongass National Forests, Alaska.

S. 2208. An act to amend the Federal charter of the Big Brothers of America to include Big Sisters International, Incorporated, and for other purposes.

The message also announced that the House insists upon its amendments to the bill (S. 1131) to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes, disagreed by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. UDALL, Mr. BINGHAM, Mr. TSONGAS, and Mr. BAUMAN were appointed managers of the conference on the part of the House.

At 6:35 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1019) to authorize appropriations for fiscal year 1978 for certain maritime programs of the Department of Commerce, and for other purposes.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following communications from executive departments, which were referred as indicated:

EC–2233. A letter from the Chairman of the Commission on Civil Rights transmitting, pursuant to law, a compilation of reports submitted by the 51 State Advisory Committees (With accompanying reports); jointly, by unanimous consent, to the Committee on Human Resources and the Committee on the Judiciary.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a communication transmitted by the Chairman of the U.S. Commission on Civil Rights, relative to the 51 State Advisory Committee reports, be referred jointly to the Committees on Human Resources and Judiciary.

The PRESIDING OFFICER. Without objection, it is so ordered.

EC–2234. A letter from the Acting Comptroller General of the United States transmitting, pursuant to law, a report that rescission proposal number R78–1 has been converted to a proposed deferral; jointly, pursuant to the order of January 30, 1975, to the Committees on Appropriations, the Budget, and the Judiciary.

EC–2235. A letter from the Chairman of the National Commission on Electronic Fund Transfers transmitting, pursuant to law, the final report of the National Commission on Electronic Fund Transfers (with an accompanying report); to the Committee on Banking, House, and Urban Affairs.

EC–2236. A letter from the Administrator of the National Aeronautics and Space Administration transmitting, pursuant to law, required information with respect to contracts negotiated by NASA for the period January 1, 1977 through June 30, 1977 (with an accompanying report); to the Committee on Commerce, Science, and Transportation.

EC–2237. A letter from the Comptroller General of the United States transmitting, for the information of the Senate, information on their analysis on domestic oil production possibilities (with an accompanying report); to the Committee on Energy and Natural Resources.

EC–2238. A letter from the Assistant Legal Adviser for Treaty Affairs of the Department of State transmitting, pursuant to law, international agreements other than treaties entered into by the United States within the past sixty days (with accompanying papers); to the Committee on Foreign Relations.

EC–2239. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Relationships Between U.S. and NATO Military Commands Structures—Need for Closer Integration" (LCD–77–447, October 26, 1977) (with an accompanying report); to the Committee on Governmenal Affairs.

EC–2240. A letter from the Acting Comptroller General of the United States transmitting, pursuant to law, a report entitled "Perspectives on Military Sales to Saudi

Arabia" (ID–77–19A, October 26, 1977) (with an accompanying report); to the Committee on Governmental Affairs.

EC–2241. A letter from the Comptroller General of the United States transmitting, pursuant to law, a monthly list of GAO reports for the month of September 1977 (with an accompanying report); to the Committee on Governmental Affairs.

EC–2242. A letter from the Acting Administrator of the General Services Administration transmitting, pursuant to law, a report covering the disposal of surplus Federal real property for historic monument purposes (with an accompanying report); to the Committee on Governmental Affairs.

EC–2243. A letter from the Secretary of the Smithsonian Institution transmitting, pursuant to law, a copy of the National Society of the Daughters of the American Revolution "Annual Proceedings of the Eighty-sixth Continental Congress" (with an accompanying report); to the Committee on Rules and Administration.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. RIBICOFF, from the Committee on Governmental Affairs.

Report entitled "Use of Simplified Address Mailings by Members of the Senate (together with additional views) (Rept. No. 95–566).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. WEICKER:

S. 2265. A bill to provide for a National Migratory Fish Species Conservation and Management Plan, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DECONCINI (for himself and Mr. WALLOP):

S. 2266. A bill to establish a uniform law on the subject of bankruptcies; to the Committee on the Judiciary; and, if and when reported, to the Committee on Finance for not to exceed 30 days to consider sections 346, 505, 507, 523, 728, 1146, and 1331.

By Mr. CRANSTON (for himself, Mr. ABOUREZK, Mr. CANNON, Mr. CHURCH, Mr. HASKELL, Mr. HAYAKAWA, Mr. METCALF, Mr. NELSON, and Mr. WALLOP):

S.J. Res. 96. A joint resolution to postpone until December 31, 1978, the effective date of the final regulations developed pursuant to the proposed regulations published in the Federal Register dated August 25, 1977 (43 CFR 426), relating to Federal reclamation law, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MATHIAS:

S.J. Res. 97. A joint resolution making continuing appropriations for the fiscal year 1978 for salaries and employees of the Departments of Labor and Health, Education, and Welfare and certain related agencies; to the Committee on Appropriations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WEICKER:

S. 2265. A bill to provide for a national migratory fish species conservation and management plan, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. WEICKER. Mr. President, today, I am pleased to introduce the "Marine Migratory Fish Conservation and Study Act of 1977".

This legislation is based on the needs of the Nation to properly manage migratory fish that freely move between the waters of many States. Migratory fish are some of the most valuable to the Nation, supporting substantial parts of the commercial and especially the recreational fisheries.

When the Fisheries Management and Conservation Act of 1976 was drafted those fish species that lived primarily within the territorial sea were purposely excluded from the act to prevent infringement upon States rights.

I agree that the Federal Government should be involved as little as possible in the affairs of individual States. However, the present situation with regard to management of migratory fish within the territorial sea is totally unacceptable. Many migratory species spend most of their life cycles within the near coastal areas, predominately along the east coast of the United States. Such species as the menhaden, bluefish, striped bass, croakers, and sea trouts are a few of these that stay near shore and thereby do not qualify as species that should be managed under the Fisheries Conservation and Management Act.

Presently, each State has its own management and conservation program, but in terms of the total range of a species, a single State's program is ineffective.

A case in point, is the past attempts to manage menhaden through cooperation by State organizations.

The menhaden is the second most important commercial species in the United States, after tuna. It at one time provided almost one million metric tons per year of usable organic matter for livestock feed, medicines, fertilizer, and many other uses.

Menhaden are caught almost exclusively within the territorial sea on the east coast and along the Gulf of Mexico. On the east coast they migrate between no less than 10 States, moving in and out of estuary systems and coastal waters. In the gulf the menhaden migrate more or less onshore-offshore. Juveniles in the northern range of the east coast migrate southward and spend their first winter in North Carolina waters.

The fishing industry has put heavy pressure on the Atlantic menhaden population for many years, resulting in a severe depletion of this stock. In the Gulf of Mexico, the fishing pressure on menhaden is heavy but the stocks have held, yielding higher catches each year. It is possible that if this pressure continues the result will be economic depletion of the gulf stocks similar to that of the Atlantic fishery.

The catch statistics for the Atlantic stock show a rapid rise in effort and catch from 1950 through 1956, peaking at just under 700,000 metric tons in 1956, then dropping drastically to an all time low of 161,000 metric tons in 1969. The fishing effort also dropped accordingly.

It appears from figures of catch statistics for the following years (1970–76) that the Atlantic stock did not recover from its earlier depletion and is not likely to recover under present fishing pressures. The fishery is now taking large numbers of juvenile menhaden from North Carolina waters during the winter. Many of these are recruited from northern waters, in which they spawn, then migrate south for the winter and therefore, the North Carolina winter fishery is further depleting stocks originating in other States. The taking of juveniles as a major source of the fishery is a dangerous practice which prevents the stocks from reaching sexual maturity and propagating at a rate to sustain the populations.

The situation for the menhaden is becoming increasingly critical and the Atlantic stock may be further economically depleted in future years.

The menhaden is one of the most studied of all fish species living in U.S. waters. The old Bureau of Commercial Fisheries and now the National Marine Fisheries Service have studied the life history of the menhaden continuously since 1950.

Even though these studies have shown that the species was being overfished, nothing could be done to reverse the trends. The States involved could not agree on an overall plan of management.

Other important migratory species that are caught primarily within the State's waters have similar histories. For instance, the Atlantic croaker and Grey seatrout were at one time commercially important north of Cape Hatteras. Several million pounds of each species were caught each year, but, overfishing in the midforties was a probable cause of the croaker population in this area to be badly depleted and the seatrout population reduced considerably.

The striped bass is another species of prime importance, especially to the recreational fisheries and is clearly in need of uniform management. Its abundance fluctuates from year to year and is subject to increasing fishery pressures. Some States impose strict regulations on striped bass fishing, while others have very little active management programs.

There have been several attempts to consolidate management efforts on striped bass, but the results have not been good.

Mr. President, the migratory species that are so important to the commercial and recreational fisheries must be given proper protection in order that they may thrive and provide optimum utilization for our future generations.

The Marine Migratory Fish Conservation and Study Act of 1977 is designed to provide this needed protection and management. It calls for the Secretary of Commerce to initiate a national migratory fish species conservation and management plan with consultation from States' representatives and other interested parties. The purpose of the plan is to set up a uniform management program on a species-by-species basis in which a State can receive grants of 80 percent to implement migratory fish species management programs within their territorial and inland waters.

An effective management program of migratory fish must be based on sound scientific information. Besides the menhaden, only a few species of migratory fish are studied to any extent. My bill addresses the need of comprehensive studies of migratory fish providing authorization for adequate appropriations to carry out such studies.

Mr. President, I ask unanimous consent that the text of this bill, along with the section by section summary of its provisions, be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FINDINGS

S. 2265

Be it enacted by the Senate and House of Representatives of America in Congress assembled, That this Act may be cited as the "Marine Migratory Fish Conservation and Study Act of 1977".

FINDINGS

SEC. 2. The Congress finds and declares that—

(1) the migratory fish species that inhabit the waters off the coasts of the United States including species that migrate between coastal waters and off-shore waters, species that migrate between separate States' coastal waters, highly migratory species of the high seas, and species that migrate between estuaries and freshwater of the United States and the ocean constitute a valuable and renewable natural resource;

(2) certain migratory fish species are extremely valuable to the Nation in terms of economics and recreation;

(3) fishing by domestic and foreign interests have reduced or depleted certain stocks of migratory fish species;

(4) some commercial fisheries have been seriously affected by overfishing because of inadequate management;

(5) some migratory fish species spend most of their life cycles within the territorial seas of several States;

(6) past attempts to manage and conserve migratory fish species with a few exceptions have been at best ineffective;

(7) the regional fishery management councils established pursuant to the Fisheries Management and Conservation Act of 1976 (16 U.S.C. 1852 (302) (a)) to regulate the fisheries of the United States do not have the mandate to protect all migratory species of fish;

(8) a national program for the management of all migratory fish species is necessary to (a) prevent further depletion of certain stocks; (b) increase the abundance of those certain stocks to reach optimal levels; and

(c) to insure constructive fishery management of all the Nation's migratory fish species;

(9) knowledge of the life histories and population dynamics of many migratory fish species is sparse; and

(10) a national program for the study of migratory fish species is necessary to increase the effectiveness of managing and conserving such species;

PURPOSE

SEC. 3. (a) It is therefore the purpose of the Congress in this Act to take immediate action to protect and conserve the migratory fish species of the United States by establishing management and conservation measures and research programs on such resources in all waters within the jurisdiction of the United States, including coastal State waters. Such measures and programs shall be based on the best available scientific information on migratory fish species and their environment, and shall be adjusted from time to time when new scientific studies indicate that such adjustments are necessary.

(b) In addition it is the purpose of the Congress to provide for systematic studies of all migratory fish species especially those that spent most of their life cycles within the territorial seas of the United States.

DEFINITIONS

SEC. 4. As used in this Act, the term—

(1) "coastal dependent migratory fish species" means all species that are dependent on near shore areas or estuaries at some time in their life cycles, such as those species that use estuarine systems for nursery grounds;

(2) "fishing conservation zone" means a zone contiguous to the territorial seas of the United States within which the United States exercises exclusive fishery management and conservation authority;

(3) "fish stock" means an intra specific group of fish capable of being managed as a unit;

(4) "high seas" means waters beyond the territorial sea and the fishery conservation zone (or equivalent thereof) of any nation;

(5) "inshore migratory fish species" means all migratory fish that spend most or all of their life cycles within the territorial waters or estuaries of coastal States;

(6) "migratory fish species" means those species and stocks of fish that move from one habitat or region to another during their respective life cycles but does not include those species that stay within the territorial waters of a State during their entire life cycles, except as provided by section 5(c)(6), and such species include but are not limited to the following:

Common name, and scientific name:
Barracudas—Sphyraenidae
Bluefish—Pomatomus saltatrix
Billfish (Marlins, Sailfish)—Istiophoridae
Dolphin—Coryphaenidae
Drums (Croakers, Drums, Kingfish)—Sciaenidae
American Eel—Anguilla rostrata
Jack Mackerel—Trachurus symmetricus
Lingcod—Ophiodon elongatus
Menhaden—Brevoortia sp.
Mullets—Mulgidae
Sharks—----------
Striped Bass—Morone saxatalis
Tautog—Tautoga onitis
Tunas and Mackerels—Scombridae
Yellowtail—Seriolo dorsalis

(7) "Optimum" with respect to the yield from a fishery, means the amount of fish—

(A) which will provide the greatest overall benefit to the Nation, with particular reference to food production and recreational opportunities; and

(B) which is prescribed as such on the basis of the maximum sustainable yield from such fishery, as modified by any relevant economic, social, or ecological factors;

(8) "Secretary" means the Secretary of Commerce; and

(9) "territorial sea" means the 3-mile zone contiguous to coastal States and territories of the United States.

NATIONAL MIGRATORY FISH SPECIES CONSERVATION AND MANAGEMENT PLAN

SEC. 5. (a) The Secretary shall within one year after the enactment of this Act submit to the President and Congress a National Migratory Fish Species Conservation and Management Plan (hereinafter referred to as the "Plan") to establish a program of conservation and management of migratory fish species of the United States. The Plan shall include conservation and management measures necessary and appropriate for the conservation and managements of migratory fish species and shall be consistent with the following:

(1) management and conservation measures shall address overfishing of migratory fish species and establish the optimum sustainable yield for each fishery;

(2) individual stocks of migratory fish species shall be managed according to their needs, and priorities shall be decided on the basis of a species' immediate danger of being depleted;

(3) management and conservation measures shall apply to commercial and recreational fisheries;

(4) the budgets for research, management, and enforcement, required under the terms of this Act, shall be based on a reasonable relation to the values and needs of the resources to be conserved; and

(5) migratory fish species shall be managed on a species by species basis;

(b) The Plan and other regulations necessary to carry out the provisions of this Act shall comply with management jurisdictions provided by the Fishery Conservation and Management Act of 1976 (16 U.S.C. (301)).

(c) The Plan shall establish management and conservation programs for migratory fish species according to the following classifications:

(1) inshore migratory fish species which migrate primarily within the territorial waters of two or more States;

(2) migratory fish species which migrate between the estuarine waters and the territorial waters of two or more States;

(3) migratory fish species which migrate between the estuarine waters and the fishing conservation zone;

(4) migratory fish species which migrate between the territorial sea and the fishing conservation zone;

(5) migratory fish species which migrate between any jurisdictional zone of the United States or of coastal States and the high seas but only when such species are within such zones; and

(6) migratory fish species which migrate within a single State's waters but only when such species or stock contributes significantly to the species or stocks of another State's waters; particularly if the eggs and larvae are recruited to another State's waters by natural means.

(d) (1) In preparing the Plan the Secretary shall solicit views from coastal States' representatives and a panel of fishing scientists from Federal, State and private institutions to assist in the drafting of management programs for migratory fish species.

(2) Each such coastal State representative shall advise only with respect to such species as occur within the waters of his State.

(e) The Plan shall include:

(1) a description of the fisheries for migratory fish species including but not limited to the number of fishing units, catch by location, catch by month and season, catch by units effort, and historic catch statistics;

(2) a description of the migratory fish species and the stocks that are covered;

(3) identification of the stocks that have been adversely affected by the domestic and foreign fisheries;

(4) collection of the catch statistics of migratory fish species and stocks of species over their geographic ranges;

(5) an assessment of the condition of species and stocks of species in terms of their optimum sustainable yield;

(6) a summary of the impact of commercial and recreational fisheries on individual migratory fish species and stocks;

(7) identification of all coastal dependent migratory fish species and their coastal environment;

(8) designation of zones where and periods when a fishery should be modified, halted temporarily, or assisted in order to preserve or increase the species and stocks of migratory fish species;

(9) catch limitations on migratory fish species in accordance with accepted principles of fishery population stocks dynamics;

(10) catch and other appropriate statistics from commercial and recreational fishermen and fish processors; and

(11) a compendium of existing coastal States' management programs that affect migratory fish species.

(f) The Secretary is authorized to make Federal grants to coastal States and other entities, in accordance with rules and regulations promulgated by the Secretary, in order to assist such States in carrying out programs to manage migratory fish species within their own waters in accordance with the Plan. Such rules and regulations shall provide for—

(1) solicitation of proposals from individual coastal States to conserve and manage migratory fish species;

(2) selection of a State's proposed management programs for Federal grants based on its consistency with the Plan;

(3) Federal grants of up to 80 percent of the total cost of administering such management programs; and

(4) Federal grants of up to 80 percent of the total cost to coastal States, private institutions, universities, and industry for scientific studies consistent with the provisions of section 7.

(g) The Secretary shall within 90 days after the enactment of this Act establish an Office of Migratory Fish through which he shall administer the provisions of this Act.

EFFECTIVE DATE OF THE PLAN

SEC. 6. (a) The Plan shall become effective on October 1, 1979, or as otherwise provided under subsection (b), unless disapproved under the terms of such subsection and, after it becomes effective, shall not be modified unless such modification is submitted to the President and Congress under the terms of such subsection. Any such modification, unless disapproved by the Congress under subsection (b), shall take effect after 180 days following the final date on which such disapproval could occur under the provisions of such subsection.

(b) (1) The Plan first submitted to the Congress under section 5 shall take effect as provided in subsection (a), unless during the first period of 60 calendar days of continuous session of the Congress after the date of such submission, either House adopts a resolution disapproving the Plan so recommended and submitted. For the purpose of this subsection the continuity of a session is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-day period.

(2) Paragraphs (3) through (9) of this subsection are enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively but applicable only with respect to the procedure to be followed in such House in the case of resolutions described by this subsection; and they supersede other rules only to the extent that they are inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(3) If the committee, to which has been referred a resolution disapproving the Plan or modifications thereto submitted under this subsection, has not reported the resolution at the end of 10 calendar days after its introduction, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any resolution with respect to the same Plan or modifications which has been referred to the committee.

(4) A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same recommendation), and debate thereof is limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(5) If the motion to discharge is agreed to, or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same regulations or modifications.

(6) When the committee has reported, or has been discharged from further consideration of, a resolution with respect to such Plan or modifications, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(7) Debate on the resolution is limited to not more than 2 hours, to be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

(8) Motions to postpone, made with respect to the discharge from committee, or the consideration of, a resolution with respect to such Plan or modifications, and motions to proceed to the consideration of other business, shall be decided without debate.

(9) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution disapproving such Plan or modifications shall be decided without debate.

(10) In the event the Congress disapproves such Plan, or any modification, during such 60 calendar day period, the Secretary shall, within 90 days thereafter submit a revised Plan or modifications, as the case may be. Such revised Plan or modifications shall take effect after 180 days following the final date on which a disapproval by Congress could occur under the provisions of this subsection unless, during the first period of 60 calendar days of continuous session of the Congress after the date of such submission either House adopts a resolution disapproving such revised Plan or modifications.

SCIENTIFIC STUDIES

SEC. 7. The Secretary shall establish within 90 days after the date of enactment of this Act a program to conduct comprehensive scientific studies of the various migratory fish species and their environmental requirements and such other matters as may be necessary to carry out the Plan. Such studies shall also include a determination of—

(1) life histories of the various species;

(2) life histories of those species of marine life that impact on migratory fish species;

(3) habitat assessment including the identification of the important biological, physical, and chemical components and their role in the habits of the various species;

(4) identification of food sources and their effects on behavior, population dynamics, migratory habits, and distribution of the various species; and

(5) the probable impacts on the various species resulting from environmental modification.

PROHIBITED ACTS

SEC. 8. It is unlawful for any person—

(1) to violate any provision of this Act (including for the purpose of this and following sections any regulation prescribed pursuant to this Act);

(2) to refuse to permit any officer authorized to enforce the provisions of this Act to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of this Act;

(3) to resist or prevent a lawful arrest for any act prohibited by this section; or

(4) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any migratory fish species taken or retained in violation of this Act.

CIVIL PENALTIES

SEC. 9. (a) Any person who is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 8 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $25,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary, or his designee, by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, and history of prior offenses, ability to pay, and such other matters as justice may require.

(b) Any person against whom a civil penalty is assessed under subsection (a) may obtain review thereof in the appropriate court of the United States by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the Secretary shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

(c) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(d) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

CRIMINAL OFFENSES

SEC. 10. (a) A person is guilty of a criminal offense if he willfully commits any act prohibited by section 8.

(b) Any offense described in subsection (a) is punishable by a fine of not more than $50,000, or imprisonment for not more than 6 months, or both; except that if in the com-

mission of any such offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any officer authorized to enforce the provisions of this Act (as provided for in section 12), or places any such officer in fear of imminent bodily injury, the offense is punishable by a fine of not more than $100,000, or imprisonment for not more than 10 years, or both.

(c) There is Federal jurisdiction over any offense described in this section.

CIVIL FORFEITURES

SEC. 11. (a) Any fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used, and any fish taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 8 shall be subject to forfeiture to the United States. All or part of such vessel may, and all such fish shall, be forfeited to the United States pursuant to a civil proceeding under this section.

(b) Any district court of the United States which has jurisdiction under section 8 shall have jurisdiction, upon application by the Attorney General on behalf of the United States, to order any forfeiture authorized under subsection (a) and any action provided for under subsection (a).

(c) If a judgment is entered for the United States in a civil forfeiture proceeding under this section, the Attorney General may seize any property or other interest declared forfeited to the United States, which has not previously been seized pursuant to this Act or for which security has not previously been obtained under subsection (d). The provisions of the customs laws relating to—

(1) the disposition of forfeited property,

(2) the proceeds from the sale of forfeited property,

(3) the remission or mitigation of forfeitures, and

(4) the compromise of claims,

shall apply to any forfeiture ordered, and to any case in which forfeiture is alleged to be authorized, under this section, unless such provisions are inconsistent with the purposes, policy, and provisions of this Act. The duties and powers imposed upon the Commissioner of Customs or other persons under such provisions shall, with respect to this Act, be performed by officers or other persons designated for such purpose by the Secretary.

(d) (1) Any officer authorized to serve any process in rem which is issued by a court having jurisdiction under subsection (b) shall—

(A) stay the execution of such process; or

(B) discharge any fish seized pursuant to such process;

upon the receipt of a satisfactory bond or other security from any person claiming such property. Such bond or other security shall be conditioned upon such person (i) delivering such property to the appropriate court upon order thereof, without any impairment of its value, or (ii) paying the monetary value of such property pursuant to an order of such court. Judgment shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court.

(2) Any fish seized pursuant to this Act may be sold, subject to the approval and direction of the appropriate court, for not less than the fair market value thereof. The proceeds of any such sale shall be deposited with such court pending the disposition of the matter involved.

(e) For purposes of this section, it shall be a rebuttable presumption that all fish found on board a fishing vessel which is seized in connection with an act prohibited by section 8 were taken or retained in violation of this Act.

ENFORCEMENT

SEC. 12. (a) The provisions of this Act shall be enforced by the Secretary, the Secretary of the department in which the Coast Guard is operating, and the enforcement authorities of individual States within their respective territorial waters. Such Secretaries may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency, including all elements of the Department of Defense, and of any State agency, in the performance of such duties. Such Secretaries shall report semiannually, to the President and Congress, on the degree and extent of known and estimated compliance with the provisions of this Act.

(b) Any officer who is authorized (by the Secretary, the Secretary of the department in which the Coast Guard is operating, or the head of any Federal or State agency which has entered into an agreement with such Secretaries under subsection (a)) to enforce the provisions of this Act may—

(1) with or without a warrant or other process—

(A) arrest any person, if he has reasonable cause to believe that such person has committed an act prohibited by section 8;

(B) board, and search or inspect, any fishing vessel which is subject to the provisions of this Act;

(C) seize any fishing vessel (together with its fishing gear, furniture, appurtenances, stores, and cargo) used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, the violation of any provision of this Act;

(D) seize any fish (wherever found) taken or retained in violation of any provision of this Act; and

(E) seize any other evidence related to any violation of any provision of this Act;

(2) execute any warrant or other process issued by any court of competent jurisdiction; and

(3) exercise any other lawful authority.

(c) If any officer authorized to enforce the provisions of this Act (as provided for in this section) finds that a fishing vessel is operating or has been operated in violation of any provision of this Act, such officer may, in accordance with regulations issued jointly by the Secretary and the Secretary of the department in which the Coast Guard is operating, issue a citation to the owner or operator of such vessel in lieu of proceeding under subsection (b). If a permit has been issued pursuant to this Act for such vessel, such officer shall note the issuance of any citation under this subsection, including the date thereof and the reason therefor, on the permit. The Secretary shall maintain a record of all citations issued pursuant to this subsection.

(d) The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this Act. In the case of Guam, and any Commonwealth, territory, or possession of the United States in the Pacific Ocean, the appropriate court is the United States District Court for the District of Guam, except that in the case of American Samoa, the appropriate court is the United States District Court for the District of Hawaii. Any such court may, at any time—

(1) enter restraining orders or prohibitions;

(2) issue warrants, process in rem, or other process;

(3) prescribe and accept satisfactory bonds or other security; and

(4) take such other actions as are in the interest of justice.

ANNUAL REPORT

SEC. 13. The Secretary shall report to the Congress and the President, not later than March 1 of each year, on all activities with respect to the Plan, and all other activities relating to the conservation and management of migratory fish resources and other matters that were undertaken under this Act during the preceding calendar year.

INTERNATIONAL AGREEMENTS

SEC. 14. The Secretary of State, at the request of the Secretary, is authorized to negotiate with any nation in which a migratory fish species freely moves between jurisdictional waters of that nation and those of the territorial seas of the United States for the purposes of managing such species for conservation purposes and for determining rights to fish such species. The terms of the negotiations shall be based on the following guidelines:

(1) scientific information concerning migratory fish and species shall be exchanged between that nation or nations and the United States; and

(2) negotiations shall be compatible with the interests of the United States.

AUTHORIZATIONS FOR APPROPRIATIONS

SEC. 15. (a) There are authorized to be appropriated for the purpose of this Act, excluding section 7, not to exceed the following sums:

(1) $1,000,000 for the fiscal year ending September 30, 1979;

(2) $10,000,000 for the fiscal year ending September 30, 1980;

(3) $20,000,000 for the fiscal year ending September 30, 1981;

(4) $20,000,000 for the fiscal year ending September 30, 1982; and

(5) $20,000,000 for the fiscal year ending September 30, 1983.

(b) There are authorized to be appropriated for the purpose of section 7 of this Act not to exceed the following sums:

(1) $2,000,000 for the fiscal year ending September 30, 1979;

(2) $20,000,000 for the fiscal year ending September 30, 1980;

(3) $25,000,000 for the fiscal year ending September 30, 1981;

(4) $25,000,000 for the fiscal year ending September 30, 1982; and

(5) $25,000,000 for the fiscal year ending September 30, 1983.

DETAILED EXPLANATION OF THIS BILL

Section 5. Instructs the Secretary to establish a National Migratory Fish Species Plan; including the establishment of an office to implement such a program and to (a) make grants to States of 80 percentum to carry out conservation and management programs within such States waters; (b) make grants available to Federal, State, and private institutions to conduct scientific studies of marine migratory species pursuant to section — of this Act.

Section 6. Establishes the effective date of the plan as October 1, 1979, unless Congressional disapproval is submitted within 60 calendar days after the date of submission of the plan.

Section 7. Establishes a program for scientific studies of migratory fish species.

Section 8. Describes the prohibited acts pursuant to this Act.

Section 9. Addressed the civil penalties under this Act including assessment of penalty, review, action upon failure to pay assessment and compromise action by the Secretary.

Section 10. Address criminal offenses including punishment provisions pursuant to this Act.

Section 11. Provides for possible forfeitures of vessels and contents, gear cargo by any persons in violation of this Act.

Section 12. Addresses endorsement of this Act including responsibility powers of authorized officers, issuance of citations and jurisdiction of the courts.

Section 13. Provides for an annual report to the Congress and the President on all activities in respect to this Act.

Section 14. Authorizes the Secretary of State at the request of the Secretary to negotiate with a nation in respect to migratory fish species that migrate between waters of foreign nations and the territorial sea of the United States.

Section 15. Authorizes appropriations not exceeding $20 million per annum for implementation of the program and not exceeding $25 million per annum for scientific studies.

By Mr. DECONCINI (for himself and Mr. WALLOP):

S. 2266. A bill to establish a uniform law on the subject of bankruptcies; to the Committee on the Judiciary; and, if and when reported, to the Committee on Finance for not to exceed 30 days to consider sections 346, 505, 507, 523, 728, 1146, and 1331.

Mr. DECONCINI. Mr. President, I ask unanimous consent that this bill dealing with bankruptcy reform be referred to the Committee on the Judiciary; that when reported from that committee, it then be referred to the Committee on Finance, for not to exceed 30 days; with the Finance Committee to consider only sections 346, 505, 507, 523, 728, 1146, and 1131.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. DECONCINI. Mr. President, I am introducing today a comprehensive bankruptcy reform bill that will have far reaching effects on the bankruptcy process in our country. I am honored that Senator WALLOP, the ranking minority member of the Subcommittee on Improvements in Judicial Machinery, is joining me as a cosponsor.

The impetus for the present bill was generated 7 years ago when the Congress created the Commission on the Bankruptcy Laws of the United States to develop legislation updating and revising bankruptcy law. The Commission's efforts resulted in the introduction of several bankruptcy bills in each of the past two Congresses. Senator BURDICK, my predecessor as chairman of the Subcommittee on Improvements in Judicial Machinery, introduced these bills and conducted 24 days of hearings in the 94th Congress on bankruptcy legislation. This year, the House of Representatives has spent many months processing H.R. 8200, the House bankruptcy reform bill. The Senate bill I am introducing today contains significant differences from H.R. 8200, but I want to acknowledge the fine work of the House and emphasize that many sections of the two bills are identical.

I have scheduled hearings on the bankruptcy legislation for November 28, 29, and 30. It is my expectation that the House bill will have passed by that date and that the hearings will embrace both the Senate and House versions of the bankruptcy bills. Although the House held extensive hearings in the 94th Congress on predecessor bills to H.R. 8200, no hearings were held on H.R. 8200. I feel it is necessary to receive formal comment on the amendments that are being made by the House and Senate to present law; however, the hearings will necessarily be limited to points in controversy between the two bills and to certain major areas of overriding interest.

Two aspects of the proposed legislation that have received extended debate involve the court structure and the trustee sections. Many persons believe an independent article III court is a necessary component of bankruptcy law reform. Opponents of that approach cite the present system of referees in bankruptcy which has a splendid record of bringing expertise and efficiency to the handling of bankruptcy cases. My proposal will continue the present adjunct relationship of the referee to the district court but will greatly expand the jurisdiction and elevate the status of the present referee.

Under present law and practice, the trustee system consists of private trustees generally selected by the referee. This system has stood the test of time and works efficiently at little cost to the taxpayer or the creditor. The proposed Senate bill retains the existing system with a proviso that panels of qualified trustees be selected for each judicial district by the Director of the Administrative Office of the U.S. Courts; trustees may be elected by creditors or appointed by the referee from this panel.

Major changes are made to the substantive law concerning consumer and business bankruptcies, changes which I believe strike a balance between the interests of debtors and creditors. We are functioning under a bankruptcy law that has undergone little change in four decades. The time has come to update our bankruptcy law to accommodate the present-day needs of our society.

There is no doubt in my mind that some fundamental changes in both the substantive law of bankruptcy and its courts is long overdue. For the most part, there is a general consensus on what should be done. There are, however, a number of outstanding issues in controversy about which there are major divisions of opinion among both experts and various interests groups, representing consumers and creditors. In constructing the present legislation, I have built on the consensus that exists. In those areas of controversy, I have tried to strike a balance between some of the more extreme proposals for change and present law. During the hearings the subcommittee will hold in November, we will attempt to focus on those key issues. My own mind remains open, and I look forward to receiving testimony from a wide spectrum of groups with a view to further fine tuning the very tentative decisions we have reached and which are embodied in the legislation being introduced today.

Mr. CRANSTON (for himself, Mr. ABOUREZK, Mr. CANNON, Mr. CHUCH, Mr. HASKELL, Mr. HAYAKAWA, Mr. METCALF, Mr. NELSON, and Mr. WALLOP):

S.J. Res. 96. Joint resolution to postpone until December 31, 1978, the effective date of the final regulations developed pursuant to the proposed regulations published in the Federal Register dated August 25, 1977 (43 CFR 426), relating to Federal reclamation law, and for other purposes; to the Committee on Energy and Natural Resources.)

Mr. CRANSTON. Mr. President, I send to the desk a joint resolution relating to the Department of the Interior's proposed regulations on the acreage limitation provisions of Federal reclamation law, and I ask its appropriate referral.

This resolution would postpone until December 31, 1978, the effective date of final rules and regulations promulgated pursuant to the regulations proposed in the Federal Register dated August 25, 1977. These regulations were proposed in response to a court order arising out of a suit against the Bureau of Reclamation brought by National Land for People, Inc., a California-based public interest group. The regulations seek to standarize the Department's methods for approving the sale of excess lands in irrigation districts served by Federal reclamation projects as required by the Federal reclamation laws, as amended and supplemented.

My intention in proposing the delay of the effective date until December 31, 1978, is to assure affected landowners that the Secretary will take no action to enforce the regulations until Congress has had an opportunity to review the regulations as finalized and to determine what, if any, changes in the regulations or in the law itself might be warranted.

Mr. President, there is a complex set of legal and factual issues that have been raised by the publication of these proposed regulations. The publication of the regulations came on August 25, 1977, just a few days after the Ninth Circuit of Appeals overturned a Federal district court decision and ruled that the acreage limitation and residency requirements of Federal reclamation law apply to lands served by Federal reclamation projects in the Imperial Valley of California (*United States* v. *Imperial Irrigation District*, 559 F. 2d 509). Also relevant is an April 5, 1976, ruling of the ninth circuit in *United States* v. *Tulare Lake Canal Co.*, 535 F. 2d 1093, that the acreage limitation provisions of Federal reclamation law apply to the Tulare Lake basin in California as well.

These rulings of the court, combined with the publication of the proposed regulations, have raised a number of important and far-reaching issues with respect to the basic law and have generated considerable public confusion and concern.

I believe these issues and concerns can best be aired in the Congress in an atmosphere of calm, rational deliberation. Such a context can be achieved if the Congress provides a period of time to review the regulations during which the regulations cannot be enforced by the Secretary. That is the purpose of my resolution.

In addition, my resolution would allow the Secretary to approve voluntary sales of excess lands if such sales are in compliance with the proposed regulations, or with the final regulations if they are promulgated prior to December 31, 1978. Sales of excess land and any subsequent sales of such lands in the Westlands

Water District in California would be prohibited, however, recognizing the court order in *National Land for People, Inc.* v. *The Bureau of Reclamation*, Civil Action No. 76-928, August 13, 1976, which prohibits any sales in that irrigation district until final regulations become effective.

Finally, my resolution makes explicit that the time period on any existing recordable contract will not be affected by the resolution, except that those contracts which expire during the period between the date of enactment and December 31, 1978, will be granted an additional 6 months.

I want to make very clear that in proposing that the effective date of the final regulations be postponed until after December 31, 1978, I am not hinting to the Secretary that he delay promulgating the final regulations. To the contrary, I believe much of the confusion which now reigns could be eliminated by the issuance of final regulations. I hope that he will publish the regulations in final form as soon as possible after completion of the administrative hearings he has already scheduled and after the Department has analyzed the public comment received on the proposed regulations.

Mr. President, a similar joint resolution has been introduced by my distinguished colleague and friend from New Mexico (Mr. DOMENICI). As I indicated at the time of the introduction of that resolution, I am not a cosponsor of the Domenici resolution because I believe it is drafted in such a way that it goes beyond what is necessary to preserve the status quo. Indeed, it appears that the Domenici resolution has the effect of waiving for 1 year the basic law, as opposed to the regulations.

That basic law—the Reclamation Act of 1902, as amended and supplemented—has been on the books for more than half a century without disrupting western agriculture and without harm to individual landowners. I see no compelling argument for waiving the law itself for one year. It is the proposed regulations that have raised the public concern and controversy. It should be the regulations that are waived for a year, not the law itself.

Mr. President, a second difference between my resolution and that of the Senator from New Mexico is that I have provided a method for the Secretary to approve voluntary sales of excess lands if such sales are found to be in compliance with the proposed—or the final—regulations. This is necessary in some cases where serious financial consequences would result if sales are banned altogether.

Mr. President, I believe my resolution achieves a mutually-shared goal: The assurance by Congress that no enforcement of the regulations or withholding of water to force compliance with the regulations will be allowed until Congress has had a reasonable period of time to hear the fears and concerns that have been raised, to examine the final regulations, and to decide whether or not changes in the basic law might be warranted.

Mr. President, I ask unanimous consent that my resolution be printed in the RECORD at this point, together with an explanation of its terms.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S.J. RES. 96

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

Whereas, one of the original purposes of Federal Reclamation Law, as amended and supplemented, is to promote family farming and such purpose is still valid; and

Whereas, the construction of Federal reclamation projects and the delivery of water from such projects involves a considerable expenditure of tax dollars; and

Whereas, the Secretary of the Interior has proposed regulations in the Federal Register dated August 25, 1977, (43 C.F.R. 426), relating to the acreage limitation provisions of federal reclamation law; and

Whereas, the Secretary of the Interior is holding hearings and receiving comments prior to the preparation of final regulations concerning the acreage limitation provisions of Federal reclamation law; and

Whereas, the publication of the proposed regulations has generated considerable public confusion and concern and has raised important, far-reaching issues; and

Whereas, the Congress is responsible for oversight and review of the operation and enforcement of Federal reclamation law:

Now therefore be it *resolved*, That, notwithstanding any other provision of law, no final regulations developed pursuant to the proposed regulations published in the Federal Register dated August 25, 1977, (43 C.F.R. 426), shall become effective prior to December 31, 1978.

SEC. 2. During the period which begins on the date of enactment and ends on December 31, 1978, the Secretary of the Interior may approve any sale or transfer of excess lands or any subsequent sale or transfer of such lands in any irrigation district subject to Federal Reclamation laws, as amended and supplemented, except in Westlands Water District in California, only if the Secretary finds that such sale or transfer is in compliance with the proposed regulations announced in the Federal Register dated August 25, 1977, (43 C.F.R. 426), *provided, however*, that the provision of the proposed regulations requiring that excess lands be disposed of by lottery to be conducted by the Secretary of the Interior shall not apply. If final regulations developed pursuant to said proposed regulations are promulgated prior to December 31, 1978, all sales or transfers of land must comply with such final regulations.

SEC. 3. The time period specified in existing recordable contracts shall not be affected by this joint resolution; *provided, however*, that the time period of any existing recordable contract which expires during the period from the date of enactment of this resolution to December 31, 1978, shall be extended an additional six months from December 31, 1978.

SEC. 4. Nothing in this joint resolution shall be construed to amend, repeal or extend the effect of existing provisions of Reclamation Law or to affect any pending litigation or legal decision.

EXPLANATION OF CRANSTON RESOLUTION

The Cranston resolution would:

(1) Postpone until after December 31, 1978, the effective date of the final regulations developed from the proposed regulations published in the Federal Register dated August 25, 1977, relating to acreage limitation provisions in the Federal Reclamation laws, as amended and supplemented.

(2) Allow the Secretary of the Interior to approve voluntary sales of excess lands in any irrigation district subject to Federal Reclamation laws:

(a) Except in Westlands Water District in California where any sales are prohibited by court order; and

(b) If the Secretary finds that such voluntary sales are in compliance with the proposed regulations (or the final regulations when promulgated).

(3) Make explicit that the time period of any existing recordable contract will not be affected by this resolution, except for those which expire during the period which begins on the date of enactment and ends on December 31, 1978, which would be granted an additional six months.

The Cranston resolution differs from the Domenici resolution:

(1) The Cranston resolution simply postpones the effective date of the final regulations.

The Domenici resolution has the effect of waiving the law itself for one year from the date of enactment.

(2) The Cranston resolution allows for voluntary sales of excess lands.

The Domenici resolution bans all sales of excess lands until final regulations become effective.

By Mr. MATHIAS:

S.J. Res. 97. A joint resolution making continuing appropriations for the fiscal year 1978 for salaries and employees of the Departments of Labor, and Health, Education, and Welfare and certain related agencies; to the Committee on Appropriations.

Mr. MATHIAS. Mr. President, once again we are on the verge of causing severe hardship to the 150,000 Labor and Health, Education, and Welfare employees whose payroll is contained in the fiscal year 1978 appropriations bill for those two Departments. We are still at an impasse on that bill because of disagreement over the issue of abortion funding. Questions of deep principle exist on both sides of that issue, and one cannot doubt the sincerity or strength of conviction of the advocates of both positions.

We must, however, come to grips with the severity of the hardship our continuing disagreement inflicts on these hapless victims, and we must now move to ease their plight. In that regard, I am introducing a resolution that would give the peace of mind that comes from knowing that they will be able to pay the rent or mortgage and the automobile installment and buy food for their families. There is no reason to hold these employees hostage because of a serious difference of opinion in which they are innocent bystanders. My resolution will pay the salaries and benefits of those people working directly for Labor and HEW, as if the items already agreed to by the conference committee were enacted into law. It would continue in force until the end of the fiscal year or until the entire bill is enacted, whichever event occurs first. It will not release the pressure on the conferees because it leaves funding for programs, as contrasted with payroll, still hostage to the issue.

I wish to emphasize my hope that we can reach agreement promptly on the whole bill and that my proposal will be unnecessary, but I want to spare these employees the grave anxiety we caused last month when at the 11th hour we passed a continuing resolution. It is important that the Senate would consider my resolution at the first indication that our disagreement will last beyond

the November payroll deadline. It would be irresponsible of us to do otherwise.

ADDITIONAL COSPONSORS

S. 753

At the request of Mr. HUMPHREY, the Senator from Texas (Mr. TOWER) was added as a cosponsor of S. 753, providing disability benefits for the blind.

S. 1315

At the request of Mr. DECONCINI, the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 1315, an act to provide more effectively for the use of interpreters in courts of the United States.

S. 1487

At the request of Mr. BELLMON, the Senator from Illinois (Mr. PERCY) was added as a cosponsor of S. 1487, to eliminate racketeering in the sale of cigarettes.

S. 2066

At the request of Mr. MATHIAS, the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of S. 2066, to complete and protect the Appalachian Trail.

S. 2197

At the request of Mr. STONE, the Senator from New York (Mr. JAVITS) was added as a cosponsor of S. 2197, to provide mortgage protection life insurance to certain veterans.

S. 2236

At the request of Mr. RIBICOFF, the Senator from New York (Mr. MOYNIHAN), the Senator from New Hampshire (Mr. DURKIN), and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of S. 2236, the Omnibus Anti-Terrorism Act of 1977.

SENATE RESOLUTION 264

At the request of Mr. BELLMON, the Senator from Montana (Mr. MELCHER) was added as a cosponsor of Senate Resolution 264, authorizing additional expenditures for the Select Committee on Nutrition and Human Needs.

SENATE RESOLUTION 302

At the request of Mr. MCINTYRE, the Senator from Montana (Mr. MELCHER) and the Senator from Kentucky (Mr. HUDDLESTON) were added as cosponsors of Senate Resolution 302, relating to the reorganization of the Department of Housing and Urban Development.

AMENDMENT NO. 978

At the request of Mr. CURTIS, the Senator from New Jersey (Mr. WILLIAMS) was added as a cosponsor of unprinted amendment No. 978, establishing an energy cost credit for the elderly, proposed to the bill (H.R. 5263), the energy tax bill.

SENATE CONCURRENT RESOLUTION 60—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO SOUTH AFRICA

(Referred to the Committee on Foreign Relations.)

Mr. CLARK (for himself, Mr. HUMPHREY, Mr. SARBANES, Mr. BROOKE, Mr. KENNEDY, Mr. CULVER, Mr. EAGLETON, Mr. PERCY, Mr. JAVITS, Mr. CHURCH, and Mr. BAYH) submitted the following concurrent resolution:

S. CON. RES. 60

Whereas the circumstances surrounding the death of Steve Biko on September 12, 1977, while he was being detained by the Government of the Republic of South Africa, have aroused deep concern among Americans and within the world community; and

Whereas the Government of the Republic of South Africa on October 19, 1977, took a series of repressive measures against black and white opponents of its apartheid policy, including the closing of newspapers, the outlawing of peaceful religious and social groups, and the detention and "banning" of South African citizens; and

Whereas these repressive measures represents a serious violation of the rights of the persons and organizations affected and will further isolate the Government of the Republic of South Africa as a member of the international community; and

Whereas the United States holds such actions to be unacceptable: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress strongly denounces the above acts committed by the Government of the Republic of South Africa which suppress the expression of political thought and violate the rights of the individual, and urges the President to take effective measures against the Republic of South Africa in order to register the deep concern of the American people about the continued violation of human rights in that country.

Mr. CLARK. Mr. President, on behalf of Senator HUMPHREY, Senator SARBANES and myself, I submit a concurrent resolution expressing concern about the recent acts of repression by the Government of the Republic of South Africa. This resolution has already passed the House by a vote of 347 to 54 today, October 31.

The resolution cites specific acts by the Government of South Africa, including the circumstances surrounding the death of Steve Biko, the closing of newspapers, the outlawing of peaceful religious and social groups, and the detention and bannings of a number of South African citizens. It expresses the view of Congress that these acts are unacceptable violations of the rights of persons and organizations, and urges the President to take effective measures to register the deep concern of the American people.

I urge my colleagues in the Senate to lend their full support to this resolution as an expression of support for the actions of the administration in response to the recent repressive measures taken by South Africa.

Mr. President, recent events in South Africa have caused a swift and strong reaction in the international community and deservedly so. In a move which stunned everyone, the Government of South Africa launched a nationwide sweep of political dissenters the scope of which has not been seen in South Africa since the crackdown on black political groups in the days following the Sharpeville massacre a decade and a half ago. The Government began its operation in the early morning hours of October 19, searching and ransacking homes and offices of targeted victims. In a matter of hours, virtually every voice of dissent advocating nonviolent change of apartheid had been silenced through massive bannings and detentions of blacks and whites and of individuals and organizations. Between 50 and 70 people were placed in detention and at least 18 associations and 3 publications were closed down. The Government has indicated that the bannings are permanent and the detentions unchallengeable in court.

In response to a warning by the U.S. Government that these repressive actions would cause a serious review of United States-South African relations, Prime Minister Vorster replied that the reaction of the United States was "totally irrelevant" to him. In further defiance of world opinion, Vorster seemingly reneged on a commitment he gave to President Carter last August that his government would not develop nuclear weapons. In a televised interview broadcast in this country on October 23, Vorster denied he had promised President Carter any restraints on nuclear weapons development.

A number of newspapers' editorials and columnists have commented insightfully on recent events in South Africa. On October 21, the New York Times pointed out that the "anarchists" whom the South African Government accuses of fomenting trouble could not do the country as much harm in 10 years as Minister of Justice Jimmy Kruger has done in a single day. On October 23, the Times singled out Vorster's attack on the United States, summarized in his assertion that "we are not governed from overseas." In response, the Times rightfully asserted that we are all, indeed, governed from overseas. No nation, like no man, is an island. It is our business to condemn racism and injustice; it is Mr. Vorster's obligation to his nation and ours to listen, else "we shall suffer together."

The Star editorial of October 20 said that—

South Africa shows signs of becoming a society in which there is no rule of law at all, whether by good law or bad.

Law appears to be giving way to official expedients benefiting a segment of society. The editorial goes on, however, to note that—

There is no such thing as selective tyranny. . . . [The] entire fragile structure of political civility seems imperiled today.

Two perceptive columnists also added to the press comments. William Raspberry wrote that—

Even if it is possible to envision a future in which a black majority and a white minority work together in harmony to run the country, it is impossible to visualize the steps by which that future is accomplished.

Anthony Lewis addressed the question of the dilemma which South Africa poses for the United States:

Mr. Carter's attempt to make Western values matter once again in foreign affairs is at risk here. . . The United States should make it clear—to others and to itself—that it cannot determine events in South Africa. [But] Mr. Carter must convince the world that America has a commitment: A concern

about South Africa that will not be deflected.

Mr. President. I ask unanimous consent that these articles be included in the RECORD. But to them I would like to add a few observations of my own.

I have been following South African events for some time now. Though the recent measures I described earlier have justifiably set off a barage of intense criticism, it is important to understand that they are not unique in South Africa. The pattern of repression—including deaths, detentions and bannings—have been going on for years. What is different is the timing and extent of repression being adopted today. World attention is now focusing on South African repression partly because of the policy of the present administration which emphasizes human rights more than any other in U.S. history, partly because of new international initiatives to resolve the conflicts in southern Africa, and partly because of the dramatic pace of events occurring in the entire region of southern Africa over the last 3 years. These developments have forced us to take a closer look at South Africa precisely at a time when she is becoming more vulnerable. But what we see happening there is the culmination of nearly three decades of steadily increasing racial domination; it is the climax of a tyranny rather than its beginning.

The attitude of the South African Government equally needs to be viewed in proper perspective. Since Prime Minister Vorster's meeting with Vice President MONDALE in Vienna last May, the South African Government has predictably responded with what some judge to be a "laager" mentality, that is, one which recedes into an unyielding defensive position. The term "laager" refers to the circle of covered wagons which the original Afrikaner pioneers used to defend themselves from attack when they first settled on the African continent some 300 years ago. The Afrikaner government has been developing a laager mentality, not in response to U.S. pressure, but in response to internal developments over which the United States has no control. The steady decolonization of the African continent, the collapse of the defensive buffer zone in southern Africa as a result of the independence of Mozambique and Angola, serious economic recession, unrest in Soweto and other townships, the coming of age of a new black generation unwilling to accept apartheid—these and other developments set South Africa on a militaristic, defensive course. Over the last 3 years, Pretoria has amply demonstrated that she is retreating into a laager for reasons of her own. We simply need to look at the soaring defense expenditures, efforts to accelerate the policy of separate development and bring the so-called homelands to independence, passage of legislation tightening up the security laws, and the development of schemes to politically seduce the minority groups (the Indians and Coloureds) into a new constitutional arrangement that would exclude blacks and reduce the racial ratio in favor of the whites. The death in detention of Steve Biko and the nationwide crackdown of dissidents are the last in a long line of authoritarian actions which affirm South Africa's single-minded determination to go it alone.

I mention these trends only to illustrate the point that events within South Africa have a momentum of their own that has had little to do with U.S. policy. The United States has been blamed by the South African Government for internal difficulties of its own making. The truth is that South Africa is reaping the rewards of its own folly. In the last few months, the United States has simply been reading the signs and issuing warnings that are, as yet, unheeded. But by spurning the United States, South Africa is spurning whatever hope for peaceful change still exists. Continued internal repression and external defiance can only increase the likelihood of violence, drive the frustrated black community to underground organization, deprive the society as a whole of decent, reasoned leadership with whom a dialog could begin, and intensify the strained international relations with members of the free world whose values she pretends to defend.

South Africa's principle justification for her recent actions also relate to her long term policies. Citing the racial arithmetic of less than 5 million whites against some 18 million blacks, the South African white government claims it is acting in self defense. It maintains that its policies of racial supremacy are necessary for racial survival. In this regard, there is a lesson to be learned for South Africa from another African experience which bit hard into the conscience of the world community.

Ten years ago, Africa's largest nation experienced an agonizing civil war that was justified by a similar assumption. The leaders of Biafra had argued that survival of its people, who had suffered bitterly in communal riots, could be assured only through secession. In Nigeria, as in South Africa today, the survival of a people was equated with a specific political formula which, in fact, turned out to produce the opposite result from what was intended. More inhabitants of the territory claimed by Biafra died as a result of this fatal premise than at the hands of those who were originally responsible for the sufferings of the Ibo people. Regrettably, it took a military solution to resolve that conflict.

One might look back on this phase of African history and ask whether there are meaningful parallels to be drawn. Is not the philosophy of racial supremacy, in the name of racial survival, in fact a suicidal course for whites? Is a violent solution the only way to demonstrate the fallacy of this thinking? Do we not have an obligation to oppose not only a system which is morally reprehensible to us, but one which is drifting rapidly toward a confrontation that has worldwide implications?

More and more, South Africa is appearing to be speeding toward self-destruction. But it is not simply her own citizens that stand to lose. We all do because of the significance of the issues involved. In the final quarter of the 20th century, the world cannot tolerate racism. Nor can it ignore the inequalities between rich and poor that divide the nations of this planet into the haves and the have-nots, a dichotomy that is personified in the daily confrontations of inequality and indignity that occur in an apartheid society. We owe it to ourselves to condemn actions which threaten world peace and security, as apartheid—30 years in the making—is surely doing on its present course.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From The New York Times, Oct. 23, 1977]

WE ARE ALL GOVERNED FROM OVERSEAS

In the midst of grave folly last week, South Africa's Prime Minister Vorster raised some serious questions. We owe him—and ourselves—the answers.

"We are not governed from overseas," Mr. Vorster insisted to a cheering election rally. In other words, what gives Americans the right to react with horror and threat to his suppression of all major black political leaders and organizations?

The threat of a retaliatory change in American policy, he added, "is none of my business whatsoever." In other words, why should he care what the United States thinks or does?

And finally a theme of mocking irony about a Western "double standard"; he could do what he wanted without protest if he were black instead of white. In other words, given all the injustice around the world why condemn South Africa with such special vehemence?

The answer to the first question is that we are all, indeed, governed from overseas. Much of mankind, if not yet all of it, shares a set of values that transcends not only national frontiers but also social systems and stages of development. A century ago, Americans could still debate the rules by which they might consign blacks to second-class citizenship. Today, obedient to the transcendent values of an interconnected civilization, they may not. South Africa belongs to that same civilization; indeed, at other moments, Mr. Vorster has been fast to proclaim his membership in it to seek protection against his Communist phantoms. We accumulate his gold; he punches our computers and drinks our soda. We worship in the same Bible. In the realms of ideology we are each other's keepers. We govern a common fate.

Why, more concretely, should he care what we do? Because his economy, Europe's and ours are interlocked. Even now American campuses seethe with demands that the universities withdraw their investments from corporations doing business in his country. Rich and strong, South Africa could injure us as we would injure it, but not remotely in comparable ways. Mr. Vorster's Afrikaner minority may be able to repress the country's huge black majority for decades more, but not forever; and the time left for peaceful change will rapidly shrink if the last remnants of legitimacy are withdrawn from its Government by other nations.

As for injustices elsewhere, they are rampant. Tyranny, by blacks as well as whites, discredits other nations. Violence and economic deprivation are tolerated too much in our own land. But racism stands condemned as intolerable. Official racism that seeks to root political power in the doctrine of the permanent inferiority of men and women of a different color is the evil inheritance of white men everywhere and they are pledged to expunge it. Official racism in a nation so wealthy and advanced in almost every other respect has become unforgivable.

We Americans say again that there is time for peaceful change in South Africa if blacks are invited to the table at which the nation's destiny is mapped. It is our business to say it, and Mr. Vorster's obligation to his nation and ours to listen. We may argue together about the pace of change, but not about the direction. We shall suffer together if we fail.

[From the Washington Post, Oct. 21, 1977]

CRIMES IN SOUTH AFRICA

Yes, there are within South Africa powerful and determined and even criminal forces conspiring to break down law and order, shred the fabric of the nation and undermine its international standing. They are the men in the government of Prime Minister John Vorster, who, intensifying repressive policy all too long in train, have just closed down three newspapers, including "The World," eloquent voice of the black community, outlawed some 18 black and white organizations working peaceably for social justice, added as many as 70 more people to the hundreds already "detained" or "banned"—seized or silenced by the state and denied the protection of the law—and promised more of the same "if necessary." Those "anarchists" whom the South African regime again accuses of fomenting trouble could not do the country as much harm in 10 years as Minister of Justice Jimmy Kruger, the man most behind the current moves, has done in one day.

Those moves will not, of course, curb the demands of the subject peoples of South Africa to be treated with dignity. They will, however, go far to ensure burial of the attempts at multiracial dialogue that moderate blacks have been making with special urgency since the Soweto uprising of 1976. These efforts offered South Africa the best, if not the only, way to avert what Mr. Vorster himself, in a rare moment of insight, once called events "too ghastly to contemplate." The moderates knew well how tenuous their position was within the black townships. They will now be virtually helpless to refute the contention of their sons and daughters that violence is the only sure path to change.

There is, too, an international aspect to the latest triumphs of police rule. The whites, and especially the Afrikaners of the ruling National Party, are obsessed these days by fear that the United States is prepared to abandon, if not to destroy, them for geopolitical and political reasons of its own. Never mind that the paranoia is unjustified, or that it is cynically exaggerated and exploited by the leadership; it forms a central element in Afrikaner thinking all the same. It has produced a situation in which many whites will greet the new crackdown—conducted only hours after publication in South Africa of Vice President Mondale's calm and thoughtful appeal for dialogue—as a deserved rebuke to the United States for "interfering" in South Africa's internal affairs.

This unhappy political fact places upon Washington a delicate responsibility to make sure that its compassion for the victims of repression does not provide the practitioners of repression with the pretext for becoming even more arbitrary than they already are. Deciding how to deal with this dilemma is the somber central task now facing American policy on South Africa.

[From the Washington Star, Oct. 20, 1977]

THE NEWS FROM SOUTH AFRICA

The story from South Africa today is sadly familiar. Long troubled by racial separation laws that are out of date, to say the very least, South Africa shows signs of becoming a society in which there is no rule of law at all, whether by good law or bad.

There is invariably an illusion, when law begins to give way to official expedients—especially when the expedients victimize only a segment of the society—that they can be contained. Thus with one hand Mr. Vorster's Afrikaner government works to accommodate tractable blacks with the "homelands" policy, While with the other it undertakes frantic measures aimed at suppressing black militancy.

The instrument of the latter policy is the decade-old Terrorism Act. It allows the government to detain indefinitely those suspected of "terrorism" (for which one may read, in many cases, lawful political activism) without charge or trial. It allows this detention, moreover, in secrecy that hides their fate and treatment from the prying eye of the press and indeed from the eye of all decent South Africans, whether black or white, whether supporters or foes of apartheid. Under the Terrorism Act, hundreds have been detained; and more that 40 now have died in custody. The latest victim, on September 12, was Steve Biko, leader of the Black People's Convention.

Mr. Biko's death, more than the others, touched a deep nerve in South Africa. Yet the initial reaction was routine. There has been, as usual, no official inquiry into his death and the worst is suspected. There are those who insist, in defense of the embattled minister of justice, James Kruger, who is formally responsible for the prison, that such a report would dispel the rumors and suspicious of official foul play.

But rather than forward that report, Mr. Kruger, citing the growth of a "revolutionary climate," has moved this week to shut down two critical black newspapers, ban 18 political organizations, and arrest 10 prominent black leaders, including Percy Qoboza, the outspoken editor of the Johannesburg World.

One can of course, understand—without for an instant condoning—the insecurity that leads Mr. Vorster's government to react in this way. But these repressive steps mark an ominous turning. Certainly it is keenly disappointing to those who hoped that South Africa would eventually have the wisdom to choose openness and the rule of law—not secrecy and repression— as the means of discharging its troublesome agenda of race problems. A few weeks or months ago, before the Biko incident, there were signs that this could happen. They seem to be melting away.

Again, when a nation ruled by law begins to tamper with it, there is always the illusion that expedient policies have a limit. But the interdependence of law with liberty, and liberty with independent courts, the right of political association and a free press renders the limit imaginary. There is no such thing, finally, as selective tyranny. When the chain of interdependent rules and institutions is broken at any point, the whole thing becomes fragile because, if it works, it becomes very troublesome.

For decades now, South Africa has pursued a racial policy deemed by much of the world as imprudent at best and oppressive at worst. But not even the pursuit of that policy, as fundamental law, has thrust the nation fully into barbarism or converted it into a police state pure and simple. It retains free newspapers, harassed but still printing; it still has critics of the government, at large and in parliament and speaking out; it still has a reasonably independent judiciary, enforcing laws made by an elected parliament, and an enlightened internationally-minded business community. This entire fragile structure of political civility seems imperiled today, as one reads the news from South Africa.

The tragedy is that South Africa need not go this way. There are alternatives, and there is time to pursue them. But she is well along on the road to tyranny—tyranny, moreover, which cannot conceivably contain the pressures for racial justice that have created it. May Mr. Vorster come to his senses before the situation is beyond retrieving.

[From the New York Times, Oct. 24, 1977]

FACING SOUTH AFRICA

(By Anthony Lewis)

The turn of the screw in South Africa poses extremely delicate problems in diplomacy for President Carter. His whole new policy toward Africa, and beyond that important relationships with friendly countries, may be affected by what he does or does not do in response to Pretoria's sweeping new moves to silence the critics of official racism.

A test is likely to come in the next few days. The United Nations Security Council will be pressed by the African countries to take action. Inevitably, what the Council does will depend to a great extent on the American position.

If the United States favors a strongly worded resolution, it risks conflict with Britain, which relies on its South African trade and investment. Indeed, Britain or France might veto the resolution. On the other hand, if the United States vetoes or otherwise blocks action, the Administration's careful effort to improve relations with African countries will be severely damaged.

Moreover, quite apart from the pitfalls of United Nations politics, there is a substantive question of the greatest difficulty: What actions by the outside world may have a useful effect on South Africa at this time? But if there are no easy answers, it is possible to suggest some principles that should guide Mr. Carter and his advisors as they wrestle with the South African issue.

First, the United States has a strong interest—a self-interest—in taking a clear stand against the arrests and bannings ordered by the South African Government last week. In the narrowest terms, it is an economic interest. American trade with black Africa has zoomed to the point where Nigeria alone accounts for more than South Africa. Mr. Carter's recognition of this new reality is symbolized by his stop in Nigeria on next month's planned world trip.

More broadly, Mr. Carter's attempt to make Western values matter once again in foreign affairs is at risk here. The risk lies in the very fact that the South African Government claims to be defending those values—to be resisting Communism. If the United States seemed to be acquiesing in the bizarre claim, the Carter policy would deserve to be taken with a grain of cynicism.

Second, realism is essential. The United States should make clear—to others and to itself—that it cannot determine events in South Africa. Empty rhetoric would be unhelpful.

Realism requires, too, an understanding that American policy on South Africa has to be good for the long haul. As outside pressure increases, Mr. Vorster may well retaliate—by such steps as an oil blockade if Botswana or other black countries dependent on South Africa. We should be thinking of how to deal with that.

Third, the United States should be wary of finally closing the door on Prime Minister Vorster and his Nationalist colleagues. Mr. Vorster, in defending last week's repression, needled Mr. Carter by saying that American disapproval would be "irrelevant." But it would be unwise to reply in kind to such provocation.

For all the brutal suddenness of last week's actions, there is still some slim hope of a more rational policy from the Vorster Government after the electon to be held Nov. 30. Some Nationalist politicians, at least, want to make changes—and want the United States to keep the pressure on for change. That means that the United States should by stages, keeping some leverage, rather than taking such a step as, for example, breaking diplomatic relations altogether.

Fourth, whatever measures are undertaken should have a broad measure of support

from the international community, and from the American public. Mr. Vorster is highly sensitive to differences in American opinion, and he would quickly exploit any differences manifest in the public or Congress.

In this regard, there can be no substitute for a strong leadership role by the President. Only he can make clear the American interest in seeing a change in South Africa. Only he can make the case to the country that, with no illusions of early success, we must nevertheless act as a matter of self-respect.

Mr. Carter must convince the world that America has a commitment: a concern about South Africa that will not be deflected. Vice President Mondale told Mr. Vorster that—told him, for example, that we would welcome South Africa's help on the neighboring problems of Rhodesia and Namibia but would not, in exchange, ease up on criticism on its own racism. Firm United States action now would make that position convincing.

Finally, it is vital to convey the sense that whatever we do now is just one step in what will be gradual but increasing pressure for change. The recall of the United States Ambassador for consultations sent a signal. A next step might be action to discourage new investment in South Africa, both through a United Nations resolution and by cutting off our own Export-Import Bank loan guarantees. If Mr. Vorster acts violently and speaks angrily, it is the more necessary for Mr. Carter to react soberly and steadily.

[From the New York Times, Oct. 20, 1977]

COURTING DISASTER IN SOUTH AFRICA

The South African Government seems determined to create precisely those conditions that will transform its largely moderate black opposition into an extremist and violent force. In a concerted, nationwide predawn crackdown yesterday, South Africa's white rulers banned virtually every major black organization, closed the two leading black newspapers, raided the homes of black leaders and the offices of black movements and church bodies, detained more than 50 leaders, and ordered official ostracism for some of their white sympathizers.

Such a response by Prime Minister John Vorster to the expression of grievances by blacks has become familiar, almost banal. But even for his insensitive regime, the latest suppression is startling. Overnight, further legal communication with the nation's blacks and among them seems to have been rendered impossible. They are virtually ordered underground.

In the short run, the repression will have the desired effect, of course. A powerful but frightened authority always finds it easier to cope with opposition by silencing its leaders rather than addressing their grievances. This is particularly true in South Africa, where the black grievances are so fundamental as to defy redress without the transformation of an entire political system. It is a system whereby 4.3 million whites—and in a sense only the Afrikaner majority among the whites—deny all political rights to more than 18 million blacks. For a while now, the regime will not have to confront the persistent, well-formulated and articulate black demands.

In time, however, if it hold to its present course, the Government will have to cope with worse, with violent rhetoric and violent deeds. And it will need even more violent methods to prolong the suppression. The next wave of black leaders will not likely demonstrate the forbearance and commitment to legal procedure shown under extreme provocation by those arrested yesterday.

The Government's latest actions betray the cynical strategy behind last month's proposal for a new constitution. It would extend limited political rights to the nation's 2.4 million persons of mixed race ("coloreds") and 750,000 Indians ("Asians") while denying any to the majority of blacks who do not live in the set-aside tribal "homelands." Denied a voice in the evolving system, blacks had no alternative to protest against it. Now denied the opportunity for open opposition, they will have no alternative except to pursue the challenge underground. And given the ominous warnings of Government spokesmen at the moment of crackdown, dissenting whites may soon be driven to the same extreme.

The tragic irony, for South Africa and for the world, is that there may yet be time for an orderly transition to a multiracial political system. But blacks must participate in its design, as collaborators and as openly welcomed critics. To suppress them now is to suppress the last hope for peaceful change.

[From the Washington Post, Oct. 24, 1977]

WHY MODERATION MEANS REVOLUTION IN SOUTH AFRICA

(By William Raspberry)

How could the South African authorities have been so dumb as to move harshly against those moderate blacks who have been urging peaceful change? Wouldn't it have been smarter to placate the moderates, who weren't asking for an awful lot, and save the brutal repression for the revolutionaries?

Versions of these questions, heard in the days since last week's crackdown in Johannesburg, are based on false analogies to the American South of the 1960s or to African colonialism.

Moderation was a political option in America. Since blacks constituted only a tenth of the national population and were hardly anywhere an effective political majority, whites could share power without really giving up very much. (Even so, the sharing came only very grudgingly.)

But what is moderation in South Africa? Any demand for changing the system under which 4.3 million whites hold absolute dominion over 18 million blacks—no matter how moderately the demand is couched—is in fact revolutionary. It is a proposal that South Africa stop being what it is.

An America with a fully franchised black population is essentially what it was before. A South Africa with a fully franchised black population is, for the whites now in control, an unmitigated disaster.

Nor is going "back home" the alternative it was for colonialists. The South African whites have been there for about as long as American whites have been here. There is no "home" to return to.

The traditional approaches to racial accommodation don't apply in South Africa. The South African authorities understand this, even if we do not. They will play at "reform"—removing racial barriers at only the country's most expensive hotels, for instance—because they value world opinion. For the same reason, they will put new names on old policies—"homelands" instead of "bantustans" or "native reserves."

But they want no part of substantive change. Some of those now in jail, dead, under "ban" or otherwise silenced earned the government's displeasure by such seemingly modest proposals as better education for blacks or demands that the official autopsy reports on the late Steve Biko be released.

"The World," the country's biggest black newspaper—and by all accounts an incredibly good one—is closed, at least in part because it persisted in demanding that the government either release or officially charge three of its reporters who had been in jail, without trial, for up to 232 days.

South African officials would like the world to think better of their government. But they cannot afford freedom of political expression because they cannot afford for the truth to be told.

When the government was forced (largely as a result of the Biko affair) to choose between improving its image abroad and maintaining its racist political system at home, public relations came out, not for the first time, in second place. The alternative to the status quo is so unacceptable that, in the crunch, nothing else matters.

That is why it is hard not to be profoundly pessimistic about the future of South Africa. One listens to the country's moderates and liberals, hears the anti-repression views of growing numbers of its students, and hopes that there can be some reasonable resolution.

But how? Even if it is possible to envision a future in which a black majority and a white minority work together in harmony to run the country, it is impossible to visualize the steps by which that future is accomplished.

The government, aware of the dilemma, tries to buy time by silencing any who question official policy. But how long can that work, particularly after Zimbabwe (Rhodesia) reverts to black rule?

Recent events in South Africa only underscore the catastrophe that seems unavoidable in a country where change is inevitable and peaceful change is impossible.

AMENDMENTS SUBMITTED FOR PRINTING

CAPITATION GRANTS TO MEDICAL SCHOOLS—S. 2159

AMENDMENT NO. 1549

(Ordered to be printed and to lie on the table.)

Mr. MATHIAS (for himself and Mr. EAGLETON) submitted an amendment intended to be proposed by them to the bill (S. 2159) to amend section 771 of the Public Health Service Act to require an increase in the enrollment of third-year medical students in the school year 1978–79 as a condition to medical schools receiving capitation grants under section 770 of such act.

NOTICES OF HEARINGS

PARKS AND RECREATION SUBCOMMITTEE

Mr. JACKSON. Mr. President, I wish to announce for the information of the Senate and the public, the scheduling of a public hearing before the Parks and Recreation Subcommittee of the Senate Energy and Natural Resources Committee.

The hearing is scheduled for November 1, 1977, beginning at 9 a.m. in room 3110 of the Dirksen Senate Office Building. Testimony is invited regarding S. 2066 and H.R. 8803, bills to amend the National Trails System Act.

For further information regarding the hearing, you may wish to contact Ms. Laura Beaty of the subcommittee staff on extension 47144.

Those wishing to testify or who wish to submit a written statement for the record should write to the Parks and Recreation Subcommittee, room 3106, Dirksen Senate Office Building, Washington, D.C. 20510.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JACKSON. Mr. President, I wish to announce for the information of the Senate and the public, the scheduling of a public hearing before the Senate Committee on Energy and Natural Resources.

The hearing is scheduled for November 10, 1977, beginning at 10 a.m., in room 3110 of the Dirksen Senate Office Building. Testimony is invited regarding Senate Joint Resolution 93, a resolution relating to the excess land law provisions and residency requirements of the Federal reclamation laws, as amended and supplemented. It is anticipated that additional related measures, which have yet to be introduced, may be considered at the same time.

For further information regarding the hearing you may wish to contact Mr. Russell R. Brown of the professional staff on extension 42366. Those wishing to testify or who wish to submit a written statement for the hearing record should write to the Senate Committee on Energy and Natural Resources, room 3106, Dirksen Senate Office Building, Washington, D.C. 20510.

THE BANKRUPTCY REFORM ACT

Mr. DECONCINI. Mr. President, I wish to announce that open public hearings will be held by the Subcommittee on Improvements in Judicial Machinery on S. 2266, a bill to establish uniform laws on the subject of bankruptcy.

The hearings will be held on November 28, 29, and 30, 1977, commencing at 9 a.m. each day, in room 2228 Dirksen Senate Office Building.

Persons who wish to testify or submit a statement for inclusion in the record should communicate, as soon as possible, with the subcommittee office, 6306 Dirksen Senate Office Building; telephone 202/224-3618.

NOMINATION

Mr. WILLIAMS. Mr. President, I wish to announce that at the hearing scheduled by the Committee on Human Resources on Wednesday, November 2, 1977, at 9:30 a.m. in room 4232 Dirksen Senate Office Building, the nomination of James Arthur Krumhansl, to be an Assistant Director of the National Science Foundation, will also be considered.

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS

Mr. McINTYRE. Mr. President, I am pleased to announce that the Subcommittee on Financial Institutions of the Committee on Banking, Housing and Urban Affairs, will hold a hearing on S. 1900, a bill to clarify the treatment of banks and other depository institutions under State and local revenue laws.

The hearing will be held on Tuesday, November 22, and will begin at 10 a.m., room 5302, Dirksen Senate Office Building.

Anyone who wishes further information regarding this hearing should contact Mr. William R. Weber, room 5300, Dirksen Senate Office Building, 202-224-7391.

ADDITIONAL STATEMENTS

DEVELOPMENT OF PLASTIC PALATE MAY HELP THE DEAF

Mr. RANDOLPH. Mr. President, in this age of rapid progress in science and technology we are overwhelmed with the evidence of major accomplishments. We are familiar with progress in the accelerated services in travel, food, and communications industries. Less attention is given to the advancement that results from science and research which impacts on handicapped persons.

I share with my colleagues an article in the Atlanta Constitution, UPI. It was brought to my attention by the Honorable Robert E. Maxwell, U.S. district judge for the northern district of West Virginia. As chairman of the Subcommittee on the Handicapped, emphasis by the media to achievements of individuals such as Dr. Samuel Fletcher, with his most recent invention, is informative.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to printed in the RECORD, as follows:

PLASTIC PALATE MAY HELP THE DEAF

BIRMINGHAM, ALA.—A University of Alabama-Birmingham researcher has developed a "plastic palate," an electrode-studded device that maps the movements of the human tongue in an effort to improve the speech of the deaf.

"I've replaced sound with feeling," said Dr. Samuel G. Fletcher, a speech pathologist who has devoted more than a decade to producing the plastic palate.

"Now, I want to get it out of the laboratory," he said. 'Eventually, I'll have a model ready for home use—one that can be plugged into a person's television set."

Fletcher's invention, with the help of the university's electrical engineering department, is simple in design. The complexities arise when speech improvement begins for the deaf, some of whom have no better than a 80 per cent intelligibility level.

The program centers on the use of a plastic palate which is placed against the roof of the mouth. On the palate, molded to fit the individual patient's mouth, are 96 minute sensors.

On its bottom, the electrodes are flush with the palate to give it a smooth surface and one that is comfortable for the patient. On the upper side, a thin copper wire connects the sensors to a display screen.

These tiny wires are grouped at the back of the palate and are strung around the back teeth, along the cheeks and out the corners of the mouth.

These electrodes, or sensors, complete an electrical circuit when the tongue makes contact with them and illuminates the dots on the screen.

"The deaf will be able to make the most immediate use of this," Fletcher explained, adding that a futuristic use might be to communicate with astronauts far out in space when radio communication is no longer practical.

Fletcher said the device shows the subject by dots on the screen where the tongue is when a syllable is uttered correctly. A video display terminal is used to spell out instructions to the patient.

For example, a patient is asked to utter an "n" sound, which requires touching the tongue to the root and to the front of the mouth. When Fletcher congratulates the subject on the correct tongue placement, "he can remember what it felt like."

The subject's voice is taped. So that the computer data can be overlayed with precision, the instant of time when each word was spoken must be known. This is accomplished by connecting a tone burst generator to the tape recorder, he said.

The generator "beeps" 25 times per second at a frequency normally higher than the human voice so its sound is not intermingled with the spoken message.

The tape is then played into a frequency analyzer that breaks the voice down into frequencies and converts them to visual images on paper.

ACCESS TO A FAIR SHARE OF GAS URGED

Mr. GOLDWATER. Mr. President, gas reserves from the Prudhoe Bay field on the North Slope of Alaska are the largest uncommitted supply now available. Its prime market is in the lower 48 States which, like Arizona, are experiencing a severe natural gas shortage.

To protect and promote the national interest—for all consumers to benefit from the North Slope gas supply—marketing of this unique supply of gas must be undertaken with one goal taking precedence over all others.

All areas of the country must be provided access to a fair share of the gas. Furthermore, consumers in Arizona or anywhere else should not be forced to bear the cost of noncompletion of the Alaska transportation project or pay for gas not received.

Last year Arizona, which is totally dependent on outside sources for its natural gas, was among the six States enduring the highest percentage of curtailment nationally.

A moratorium has been placed on all new gas hookups in the area served by the State's largest natural gas retailer. In addition, aggressive action to provide alternate fuel capabilities has been taken.

Projections indicate continuing increases in Arizona's population and a continuing decrease in gas supplies.

During the 1980's Arizona homes, schools and commercial establishments will begin curtailments. The threat to the State's continued economic health is obvious.

Arizona, which is experiencing the Nation's highest population growth rate, will need an additional 100,000 Mcf of gas per day to meet our highest priority customer requirements.

Now, the Federal Power Commission has ruled that advance payment arrangements between gas producers and a few large pipeline distributors would be contrary to the national interest and provide little or no benefit to the ultimate consumer.

In making its recommendation to the President, however, the Federal Power Commission did not establish guidelines as to how the Prudhoe Bay gas is to be marketed quickly and efficiently in the lower 48 States.

The Commission did advise that it favors a reasonably broad distribution of Alaskan gas across domestic markets. And I agree with that; it is good advice.

President Carter proposes to leave allocation of the Prudhoe Bay reserves to private contract negotiations between producers and would-be purchasers. Prior experience with such advance payments arrangements has demonstrated this is unadvisable. The last time producers were allowed to market Prudhoe Bay gas reserves, the result was discrimination against Arizona and other regions.

I urge that you specify that Alaskan gas to be sold to interested local distributors in proportion to their contract volumes with their interstate pipeline suppliers.

This approach to marketing will assure the broad distribution of Alaskan gas to all domestic markets as the FPC recom-

mended. It will provide needed guidance to producers, pipelines, and distributors. It will eliminate any marketing advantages resulting from the advance payments arrangements with producers which the Commission found contrary to the public interest and sought to end by its order of December 31, 1975.

If we are to serve the public interest, the producers should not decide what markets are to be served. And, in this time of scarcity, this giant supply of oilfield gas should not go to the highest bidder.

CLEARING UP SOME MISPERCEPTIONS ABOUT THE INTERNATIONAL LABOR ORGANIZATION

Mr. HUMPHREY. Mr. President, the controversy surrounding continued U.S. participation in the International Labor Organization stems in large part from considerable misinformation and misperceptions of this Organization.

On October 20, a distinguished columnist, George Will, in recommending U.S. withdrawal from the Organization, based his conclusion on five points he raised in his column. Mr. Will is a brilliant columnist and one whom I admire very much for his articulate style and thorough research of the issues. However, I must respectfully disagree with his reasoning on this issue. Therefore, I will address myself to the five points he raised.

First, Mr. Will criticized the fact that in 1974 Israel had been unduly criticized by the ILO in the absence of the normal investigation procedures of the Organization. No one can argue with the unfairness of the 1974 resolution and I strongly agree it ran contrary to the principles of the ILO. However, what Mr. Will failed to point out in his column was that this matter has now been returned to the normal procedural determinations, thereby assuring that due process is maintained. If the strongest nation in the free world, the United States, runs out on the process at this critical juncture, then it is apparent the interests of Israel will be jeopardized.

Second, Mr. Will was justifiably critical that the U.S.-proposed resolution to eliminate nongermane political resolutions from being considered by the ILO was not approved. But he failed to point out it is still on the agenda of an authorized working group.

Third, Mr. Will asserted the Committee of Experts report citing Czech and Soviet violations of their ILO obligations, particularly in the area of worker rights, was rejected. The report, although not adopted, is still the guiding directive to ILO's supervisory machinery.

Fourth, Mr. Will claims the ILO is dominated by "hostile forces." This is just not true, although our departure would greatly enhance the opportunity of the Eastern bloc nations to accomplish this goal. The Governing Body, the Secretariat, the supervisory machinery of the Committee of Experts, and Conference Committee on Application, and the various industry conferences are firmly in the hands of a clear majority of individuals from nations committed to the principles of due process, tripartism, and the objective and uniform application of the adopted standards.

Fifth, the same 1977 Conference which Mr. Will criticizes, unanimously passed resolutions reaffirming tripartism and the freedom of association. In fact, it directed its permanent staff and Governing Body to go forward on the very principles George Will treats as dead.

Needless to say, Mr. Will's column says nothing of the widespread technical assistance by which the ILO reaches out, with its principles of worker participation through free organizations, to the developing world nations—those same nations who are so strongly courted by the totalitarians.

I would also disagree with Mr. Will's "ship of fools" argument by pointing out it would be foolish of the United States to delude itself into believing we could go it alone, to desert our allies in the free world, ignore all international outreaches to the developing nations, and self-righteously condemn the shortcomings or an organization to which our Government has accorded a rather low priority—we have not yet ratified any of the ILO's basic human rights conventions—and which possesses the only international enforcement procedures for human rights obligations.

Mr. President, in order to place the controversy surrounding the ILO in its proper perspective, I have prepared a paper entitled "U.S. Interest in the ILO: The Crossroads in Perspective."

Mr. President, I ask unanimous consent that both the George Will column and the paper entitled "U.S. Interest in the ILO: The Crossroads in Perspective" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 20, 1977]

TIME TO LEAVE THIS "SHIP OF FOOLS"

(By George F. Will)

The Soviet Union recently dispatched to the United States several agents of what the AFL-CIO properly calls "the Soviet system of labor control." Officials of several unions, including the United Auto Workers and United Mine Workers, received these agents as fellow "trade unionists," undeterred by the fact that the Soviet Union, which denies workers the right freely to organize and strike, has no trade unions in any meaningful sense.

By collaborating for too long with the institutionalized cynicism of the International Labor Organization, the U.S. government has contributed to such poisoning of language and action. It is time to stop.

By Nov. 5, President Carter must tell the ILO whether the United States will remain a member, enjoying the privilege of paying about $20 million a year (approximately one-quarter of the ILO budget) to finance aggression against this nation's interests.

The ILO, now part of the United Nations, is a relic of the League of Nations. Samuel Gompers, president of the American Federation of Labor, helped draft the ILO constitution at the Paris Peace Conference in 1919. The ILO was the first and only League organization the United States joined (in 1934).

The ILO's basic principle is—was, really—tripartite representation, bringing together representatives of workers, employers and government from each nation. For several decades the ILO was moderately useful as a technical-assistance organization, supervising compliance with labor standards and conventions.

But the ILO has become a mirror of the shift of political forces against the democracies. Most of the member nations have authoritarian regimes that choose the "representatives" of workers and employers.

The ILO's great purpose was to defend the rights of workers, especially the right to organize and strike. But in many ILO nations common basic rights are fictions.

In November 1975, Secretary of State Henry Kissinger gave the requisite two years' notice of U.S. intention to withdraw. He cited ILO meddling with extraneous political issues, and disregard for due process.

Kissinger noted: "The constitution of the ILO is predicated on the existence within member states of relatively independent and reasonably self-defined and self-directed worker and employer groups." This premise is anachronistic in an increasingly statist world. Most nations are new nations, and many new nations, like many old nations, have at least partially socialized labor and capital, treating both as commodities to be manipulated at the pleasure of the state.

The ILO of 1919, like the world of 1919, is long gone. The United States has long tolerated erosion of the tripartite principle of representation, and the de facto transformation of the ILO into an association of governments. But U.S. acquiescence ended when the ILO became an instrument of propaganda against the United States and its allies.

In 1974, the ILO suspended its due process in order to condemn Israel, without proper investigation, on the usual charges of racism, etc. In 1975, the ILO granted observer status to a nonrepresentative terrorist organization (the Palestine Liberation Organization), and the U.S. labor delegation walked out.

The Chamber of Commerce and the AFL-CIO—world's largest democratic labor movement—are united in favor of withdrawal from the ILO, even if the government decides to stay. But President Carter's senior foreign-policy advisers want the United States to stay.

It is said that if the United States leaves, the ILO will be dominated by hostile elements. But they dominate it already. It is said that a majority of ILO members have given assurances that they will sin no more. But since the United States announced its intention to withdraw, the ILO's extremist majority has sinned vigorously.

For example, in June the ILO rejected a rules change, sponsored by the United States, that would screen resolutions to prevent the ILO from dealing with political matters not germane to its mission. It refused to reconsider, with due process, charges against Israel. In addition, it refused to adopt one of its committee reports, which cited violations of the rights of workers in the Soviet Union and Czechoslovakia, and contained Israel's reply to charges against it. This was the last straw, a repudiation of ILO compliance machinery.

If the United States backs down on withdrawal, the ILO, and the watching world, will know that it is safe to call this nation's bluff. Withdrawal will be a warning shot across the bow of the United Nations, another "ship of fools" from which, eventually, the United States may want to disembark.

U.S. INTEREST IN THE ILO: THE CROSSROADS IN PERSPECTIVE

The United States has reached the crossroads in its association with the ILO. Can the lessons of the recent past help us in choosing a course? Where do the results of the June 1977 Conference point in terms of our long-range objectives inside and outside the ILO?

THE PLENARY SESSION

Much of what happened in the plenary session of that Conference was negative:

US initiatives to reverse the trend towards politicization and to restore due process were stalled; a compromise solution in dealing with the 1974 condemnation of Israel was first accepted and then repudiated by the Arab bloc; in the ensuing bitterness, a first-rate report from the Application of Conventions Committee failed to secure formal Conference approval for lack of a quorum.

These set-backs were all the more serious because they occurred in the main forum of the Conference which has the last word on all the proposals before the meeting. It is here that delegates seek the limelight of publicity while the ground work for concrete results is done rather more quietly in the various committees of the Conference.

WORK OF THE CONFERENCE COMMITTEES

The technical work in these committees was positive, except for the Committee on Structure which failed to act on the "due process" amendment to Article 17 of the Standing Orders; this was a major disappointment to the US delegation but the amendment has not been rejected and remains on the agenda as a bargaining chip for changes in the composition, authority and election procedures of the Governing Body.

The Application of Conventions Committee performed extremely well:

(a) It overwhelmingly defeated a Soviet proposal to do away with the "Special List" (which highlights long-standing violations of ratified Conventions);

(b) It endorsed by a very large majority the principle of consistency in ILO supervision (Conventions are uniformly binding on all ratifying countries, whatever their economic or social system), which the Committee of Experts had reaffirmed in its report;

(c) It demonstrated that concern for human rights must be non-selective by singling out for special censure violations in eight countries (Argentina, Bolivia, Chile, Czechoslovakia, Ethiopia, Liberia, Uganda, USSR) representative of different regions and political systems; about 70 per cent of all the cases discussed involved the ILO's Conventions on basic human rights;

(d) It turned down Arab objections to the examination by the ILO's regular supervisory machinery (Experts and Conference Committees) of charges (1974 resolution) that Israel discriminates against Arab workers in the occupied territories; such examination would guarantee due process in dealing with politically motivated initiatives.

The Resolutions Committee unanimously adopted two resolutions, dealing respectively with the strengthening of tripartism in ILO supervisory procedures (originally proposed by employers delegates) and with the promotion, protection and strengthening of freedom of association, trade union and other human rights (proposed by workers delegates); by calling for the "universal application of ILO standards" and for "strict impartiality" in their supervision, these resolutions strongly support the traditional principles underlying ILO supervision. When the Governing Body is scheduled to give effect to these resolutions, in November, it will have a tangible basis for preventing any attempts to tamper with the supervisory machinery. These two were the only resolutions adopted and the Committee deliberately refrained from acting on a draft resolution condemning US policies in the Panama Canal Zone.

Four Technical Committees continued the ILO's persistent—though less spectacular—task to formulate labor and social standards. The results: a convention to protect workers against air pollution, noise and vibration; a convention on the working conditions of nursing personnel; proposals for standards on freedom of association and employment in the public service and proposals for standards on labor administration in economic development, which are to be considered for final adoption by the Conference in 1978.

A SUMMARY BALANCE SHEET

By its use of the "no quorum" strategy the Communist-Arab coalition was able, with broad support from the Third World, to prevent Conference action on issues of fundamental concern to the United States. This refusal was not however tantamount to a formal rejection of the US proposals, nor did it invalidate the findings and conclusions of the Committee on Conventions, on which future examination will be based.

As a result the 1974 resolution condemning Israel has now been successfully channelled into the ILO's regular investigative machinery, with all the safeguards of due process that machinery provides.

Similarly, the due process amendment to the Standing Orders is still very much on the agenda, as part of the proposals pending before the tripartite Working Party on Structure.

At the end of the Conference two special procedures, under the ILO Constitution, were initiated by the Governing Body: a representation against Czechoslovakia alleging non-observance of the Discrimination in Employment Convention; a complaint against Argentina concerning the Freedom of Association Convention.

The technical work of the ILO continues unimpaired, including the development of a basic needs strategy as part of the world employment program, the adoption of a tripartite declaration of principles on multinational enterprises, highly satisfactory to US objectives, etc., etc.

U.S. INTERESTS IN PERSPECTIVE

The work of the ILO serves US objectives by raising labor standards, thus improving our competitive advantage; by building bridges to the Third World through technical assistance; by counteracting the thrust of totalitarianism of all shades, at the grass roots.

But in the light of the Carter Administration's strong commitment of human rights, it is the ILO's long-established procedures to secure respect for its conventions on trade union freedom, on the abolition of forced labor, on the elimination of job discrimination, etc. which deserve and have indeed received the strongest possible support from all those in the US—whatever their affiliation—familiar with this unique system. By coincidence, periodic ILO supervision (which combines reporting, technical scrutiny, comments from labor and management and detailed discussion in the Conference) originated just 50 years ago and to mark that occasion the Committee of Experts and the Conference Committee on the Application of Conventions reaffirmed their commitment to the universality, objectivity and impartiality of the supervisory process. A glance at the reports of the two Committees confirms that these ambitious principles are translated year after year into critical observations addressed to countries all around the world. And a follow-up over the years shows that in a sizeable proportion of cases these observations have led to concrete results.

As already noted, this machinery is still intact and able to continue operation on an effective basis. Two recent developments have in fact opened up new perspectives directly relevant to America's growing concern with human rights: the findings of its Committee of Experts are now achieving formal status not only within the ILO itself but also in relation to the UN Covenant on Economic, Social and Cultural Rights and even to the Helsinki Agreement.

Under the terms of the UN Covenant, ECOSOC is to receive from the ILO all available information on the observance by the ratifying countries of such key provisions as those on freedom of association, trade union rights and the safeguarding of fundamental political and economic freedoms in the pursuit of full employment. As part of the arrangements worked out with the UN, the Governing Body has decided to entrust this new task of examination to the Committee of Experts, starting in 1978.

Principle VII of the Declaration on Principles Guiding Relations between Participating States (the opening portion of the Helsinki Agreement) contains a pledge that the signatories will "respect human rights and fundamental freedoms" and will "fulfill their obligations as set forth in the international agreements in this field." The findings of the ILO on the degree of compliance by participating States with its human rights Conventions thus emerge as a fully documented and legitimate part of the review exercises provided for in the Helsinki Agreement, the first of which will begin in Belgrade in October.

IMPLICATIONS OF U.S. WITHDRAWAL

While it is difficult to speculate how the Soviets really feel about continued US membership in the ILO, there are a number of recent indices as to their attitude towards ILO supervision, particularly in regard to human rights.

In November 1976, when the Governing Body decided to ask the Committee of Experts to prepare the report to ECOSOC on observance of the Covenant on Economic, Social and Cultural Rights, the USSR proposed unsuccessfully that this report not be left to the Committee of Experts alone, but be approved by the Conference. The Soviet Union and its closest allies demonstrated during the June 1977 Conference that they are very nervous about the critical comments of the Committee of Experts and would be only too happy, if given a chance, to undermine a system which has fearlessly exposed human rights violations no matter where they occur. This deliberate tendency to attack the Committee of Experts and even the Office is not a new phenomenon but it became much more marked this year, as illustrated by the extracts from the Conference Record appended to this paper.

Like the rest of its work, the ILO's record in the enforcement of human and social rights has taken decades to build up. In this process nothing has been more decisive than the strong support increasingly given to the Committee of Experts by the US, by its fellow democracies and indeed by labor and employer representatives from a remarkably broad range of other countries. Whether an assault on the system of supervision could be beaten off when the United States is no longer present and able to throw its unequalled weight in the balance, remains at this point a fateful and sobering question.

ANNEX

Conference statements bearing on the Future of ILO supervision

Mr. IBRAHIM (Government delegate, Iraq). "The report of the Committee on the Application of Conventions and Recommendations fails in many passages to show a sound examination of the questions it has handled, particularly since the report has illegitimately and unlawfully discussed points regarding the legal system of most of the member States. (Provisional Record, p. 31/10)

Mr. CHKOUNAIEV (Government adviser, U.S.S.R.). "It is our conviction that the International Labour Organization, despite its 50 years of experience, has still not found the most rational way, in accordance with the spirit of international co-operation, of ensuring the fullest and most extensive application of the Conventions and Recommendations it has adopted. The supervisory ma-

chinery devised by it with this end in view works inadequately in many cases and sometimes even serves interests which have nothing to do with its original aims, involving political consideration of which we are all aware. . . . In concrete terms, the socialist and developing countries are considered from the point of view of the bourgeois legal systems and this is inadmissible. Nor can we admit that the Committee should allocate to itself the right of acting as judge with regard to certain countries or governments, either putting them down on a special list or by mentioning them in separate paragraphs of the general report. We consider that this practice must be modified without delay." (Provisional Record, p. 31/11)

Mr. KOZIK (Workers' delegate, Czechoslovakia). "The Committee on the Application of Standards gives us the clear impression that the interpretation by the Committee of Experts of the methods and forms of application, which stem, as I have said, from differences in social systems, are being used for political ends. At the same time unjustified interference in the internal affairs of States exceeds all limits. . . . The work of the Committee of Experts and the Committee on the Application of Conventions and Recommendations should be entirely directed to establishing whether member States are really fulfilling the aims and purposes for which the international Conventions have been ratified." (Provisional Record, p. 31/14)

Mr. SZIGETI (Government delegate, Hungary). "These last few years, the number of ratifications has considerably increased, as a result of which there has also been an increase in the volume of work done by the Committee of Experts. In view of these objective factors my delegation feels that it is essential to increase the number of experts in the Committee so as to make due allowance for representation of all parts of the world, all the member States of the Organisation. . . . The work of the Committee of Experts is done in close collaboration with the department of the ILO which does a considerable job of organisation. That is why the responsibility of this branch of the ILO in preparing the documents of the Committee of Experts is extremely heavy. The Committee of Experts is not able to study for itself the huge body of information it gets from various countries. It has to base itself on analyses and studies carried out by the corresponding department of the ILO. We are very sorry to have to say that this department does not always work in a way that is beyond reproach. It often happens that facts or data of great importance contained in the information sent by governments does not appear in the analyses prepared by the department. This leads to difficulties and sometimes baseless arguments. We have again observed the fact this year. We therefore express the hope that the Department in question, and the Committee of Experts in considering the application of standards, will make more allowance than in the past for the different objectives that stem from differences in the economic social systems of various countries and for differences in national tradition." (Provisional Record, pp. 31/18–19)

Mr. NASKOWSKI (Government delegate, Poland). "Standard-setting activities are one of the prime tasks of the ILO. But at the same time it is obvious that these activities and the procedures and bodies set up for this purpose shall serve to guarantee the vital interests of workers against exploitation, to protect their freedom and their dignity, and to ensure that the legitimate defence of human rights cannot serve ends contrary to the mission of the ILO." (Provisional Record, p. 35/10)

WATERWAY USE CHARGES: SOME FARMER COMMENTS

Mr. STAFFORD. Mr. President, Senator DOMENICI, who is in New Mexico today, has asked that I place the following statement in the RECORD. I ask unanimous consent that Senator DOMENICI's introductory remarks and the full statement of Mr. Fred McKim before the Senate Finance Committee be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY MR. DOMENICI

The following testimony of Mr. McKim highlights two facts worth noting. First, farmers dependent on rail are having to dip into their own pockets to keep needed rail service alive. While taxpayers pick up the tab for the barge industry, farmers using rail are not so lucky; they must rely on the time-honored American tradition of self-help. Second, even while going bankrupt, the railroads are paying more state and local taxes than the highly profitable barge industry. In Iowa, for example, in 1975 the railroads paid over $7,000,000 in state and local taxes while the 14 largest barge lines paid only $80.

STATEMENT OF FRED MCKIM

My name is Fred McKim. I manage the West Bend Elevator Company at West Bend, Iowa. The elevator is owned and operated on behalf of approximately 2500 farmers in our area. I am also president of the United Purchasers Association, a group of nine co-operative elevators in central and western Iowa.

I am testifying in support of the user charge provisions of H.R. 5885 as passed by the Senate. My organization is very concerned about unjustified expansion of barge navigation on the Mississippi River, starting with Lock sand Dam 26 at Alton, Illinois. I do not want to see the Iowa grain farmers tied down to a transportation system that only allows marketing of their grain through the elevators at the mouth of the Mississippi River.

Right now our farmers are able to sell their corn and soybeans to a variety of markets which compete with each other. Soybeans are sold to domestic processors as well as for export. Corn is sold to domestic processors, as well as to beef feeders in the Southwest and to the poultry industry in the South and Southeast, including Arkansas, Louisiana, Alabama and Georgia. Almost all of this traffic moves by rail.

Both soybeans and corn move from our elevator to the export markets through the Texas Gulf Ports of Houston and Galveston and the East Gulf Ports of Pascagoula and Mobile as well as the grain exporting points near New Orleans and Baton Rouge. We have shipped over one-hundred cars of corn for export through the Port of Norfolk, Virginia. One of our associated elevators shipped a full trainload of soybeans to Los Angeles for export to Japan. Others have shipped through the North Pacific Coast Ports. We expect West Coast movements to Japan to increase as the Japanese continue to construct ships of such size and draft that they cannot be handled by the Panama Canal and the Gulf Ports.

Adequate rail service from our Iowa elevator and others in our state makes it possible for us to sell our grain in whatever market offers the best price. The farmers in my co-operative have invested over $2.2 million in grain loading facilities at West Bend alone, in the last four years.

In my part of Iowa the shippers have taken steps to make sure they have adequate rail service by joining together to raise money for interest-free loans to the Rock Island Railroad to upgrade its track. Some 30 shippers formed the Iowa Falls Gateway Shippers Association of which I have been chairman. The Association included not only grain elevators, but a large fertilizer retailer, a farm equipment manufacturer, and Winnebago Industries, a manufacturer of recreational vehicles. To date this group has raised $2.5 million for these interest-free loans. For 1978 we have committed ourselves to provide $1,750,000 in loans to the Rock Island to upgrade its facilities.

We have worked to maintain a system of rail transportation and have invested substantial sums of money in the belief that system will continue to operate at reasonable rates. That rail system cannot continue to provide service at rates we can afford if substantial volumes of traffic are taken away by the barge lines as a result of government subsidy. It does not seem right that government money is used to foster barge transportation which in turn will hurt or even destroy the railroads on which we depend. We know what it means to face the loss of rail transportation as a result of our experience since the Rock Island Railroad bankruptcy and the near collapse of that service. Even the threat of curtailed rail service put us in the position where we could not adequately sell our grain. It is not just economic theory as to possible impact; we have been through it. We did everything we could to keep the Rock Island going through the crisis. We cannot afford to have that service or the service of its connecting roads cut back or curtailed.

A combination of truck and barge cannot satisfy the transportation needs of Iowa's grain shippers. We must have rail service. The river operations only benefit a few farmers in the eastern part of the state and, for that matter, a few shippers. The railroads serve all shippers large and small throughout the state. Studies by Dr. Baumel and his associates at Iowa State University, sponsored and published by the United States Department of Transportation, have shown that central and western Iowa can move their grain to market by rail more cheaply than by a combination of truck and barge, and, of course, enjoy a greater choice of markets with better prices for their crops. See attached maps. If railroads are deprived of a portion of their volume shipments on a regular basis by subsidized barge competition, we will not have the rail service we now depend upon.

One step toward establishing some sort of equity between the barge operators and the railroads would be to establish a system of commercial navigation charges. This would not cure the situation where the railroads pay over $70,000,000 in state and local taxes in Iowa while the 14 largest barge lines only paid $80 in 1975. Barge charges would not cure the problem of the Corps making inaccurate projections of transportation needs in the Midwest and then building barge facilities to meet them regardless of the consequences to the rail shippers. A barge user charge is no substitute for adequate economic analysis.

However, 100 percent recovery of the cost of maintaining and operating the river navigation system and 100 percent recovery of the cost of new capital construction, would be an important step toward a balanced transportation system. The system is unbalanced now, and that should be corrected. The barge shippers and barge operators should raise money privately to build bigger locks if they really want them, the same way we raised money privately to improve the Rock Island Railroad.

A MATURE AMERICA AND THE GLOBAL SOCIAL CONTRACT

Mr. HART. Mr. President, last year I had the pleasure of having on my staff a congressional fellow from the Depart-

ment of State, Mr. Joseph Montville. Based on his experience in the Senate and a similar contribution in the office of Congressman LEE HAMILTON, Mr. Montville prepared an article entitled "A Mature America and the Global Social Contract." This article has now appeared in the June issue of the Foreign Service Journal.

Mr. Montville's thesis is that American foreign policy is maturing: That our traditional obsession with power is beginning to be balanced by thoughtful concern over the survival of mankind. He identifies some of the principal elements of dangerous contention now and in the future between the rich and poor nations. Finally, he suggests that America might avert potential strife by taking the lead in negotiating a global social contract where nations agree to give up a portion of their presumed natural rights for the sake of peace and mutual security.

For the benefit of my colleagues, I ask unanimous consent that the text of this thoughtful article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A MATURE AMERICA AND THE GLOBAL SOCIAL CONTRACT

(By Joseph V. Montville)

There is a feeling that America may have recently begun to mature. The majority of American voters seem to have endorsed the premise in the Presidential election that there had been unacceptable abuse of power by Democratic and Republican Administrations in Washington for the last 10 or 15 years, in both domestic and international politics. The popular verdict seemed to be that the country or at least its government had been guilty of arrogance, vainglory and a wholesale drift from the values which have defined this nation. Vietnam and Watergate could prove to have been major stimuli in the maturation of the American political culture.

It is no accident of history that the impact of the women's movement coincides with this perceived sense of maturity. For the movement has assaulted the foundations of the macho/cowboy ethic which has dominated our political behavior for so many decades. Animus is yielding some ground to anima. Our traditional obsession with power is beginning to be balanced by thoughtful concern over the survival of the species.

This essay attempts to build on the assumption of a maturing America, to identify some of the principal elements of dangerous contention now and in the future in its foreign relations, and to suggest that America might mitigate serious potential strife by taking the lead in negotiating a global social contract.

This term should not be taken as yet another example of American political rhetoric. Today's world or, perhaps more convincingly, tomorrow's world threatens to display many of the characteristics of Thomas Hobbes's description of the natural condition of mankind, before the social contract emerged, "a time wherein men live without other security than which their own strength and their own invention shall furnish them . . . and the life of man solitary, poor, nasty, brutish and short." Hobbes used the concept of the social contract to describe that condition where men agree to give up a portion of their presumed natural right to everything for the sake of peace and mutual security.

There are obvious parallels between Hobbes's abstract natural condition and today's unstable world. There are parallels also in our government's basically self-centered politico-military approach to world problems in the last ten or 15 years and the position of the new Administration that recognizes global interdependence as real and natural. The Carter call for "world order" diplomacy can be seen as a proposition in which all members of the international community are encouraged to acquire the habit of community whereby, in Hobbes's words, "man be willing, when others are so too . . . to lay down this right to all things, and be contented with so much liberty against other men as he would allow other men against himself."

THE CARTER PHENOMENON

This essay could not have been written had Jimmy Carter lost the 1976 Presidential election. If there is any weight to the perception of maturity in the electorate it is that Carter built his election on his contention that the people were weary of political leaders who behaved like ill-bred adolescents, and that they were ready to support an emotionally mature adult who unselfconsciously accepted old-fashioned American values including, even, the social utility of love.

In the area of America's behavior abroad, candidate Carter was blunt in his criticism. In his first major foreign policy speech in Chicago on March 15, 1976, he said:

"For too long, our foreign policy has consisted almost entirely of maneuver and manipulation . . . where military supremacy and economic muscle are the only things that work and where rival powers are balanced against each other to keep the peace. . . . It is likely that in the future [however], the issues of war and peace will be more a function of economic and social problems than of the military security problems which have dominated international relations since 1945."

In the same speech, Carter charged that for years the United States had ignored the developing countries or treated them as pawns in the big power chess game. He criticized what he called this "attitude of neglect and disrespect toward developing nations" which he said was "predicated in part on a sense of superiority toward others—a form of racism."

Addressing the issue of neglect of the less developed countries, Zbigniew Brzezinski outlined what he has called the serious inequities in the worldwide human condition which have caused the new Administration to perceive America's future security in terms of movement toward international equity. In the spring, 1976, Bellagio Review Brzezinski noted that of the roughly 150 states in the world community, only five, with a total population accounting for just six per cent of the world total, have per capita incomes of over $5,000 per year. An additional 15 states, with about 13 per cent of the world's population, have per capita annual incomes over $2,500. A further 24 per cent of the world's population show $500 to $1,500 per capita annual incomes. But some 90 states, representing about 60 per cent of the world's population, have per capita annual incomes of less than $500.

These stark disparities in the standards of living around the world have caused the proliferating sovereignties of the post World War II Southern hemisphere (in socio-political if not geographic terms) to combine to try to force the wealthy Northern hemisphere to compensate for past economic exploitations, real, perceived, or invented, through systematic resource transfers.

Not long ago, the United States, as the preeminent world superpower, could ignore the apparent threat to its long-range security in the demands of the less developed countries for equity, but that time has passed. The diminution of our claim to unquestioned political leadership in the free world caused by our record in Vietnam, the growth of Soviet power, and the devaluation of the dollar, once the unquestioned bedrock of the international monetary system, ended the short-lived post-war Pax Americana. The quintupling of oil prices helped to speed our consciousness of the fact.

EQUITY DEMANDS OF THE SOUTHERN HEMISPHERE

The perceptions of and demands behind the Third and Fourth Worlds' call for a new international economic order vary in drama and degree.

The less developed countries, organized in the Group of 77 (which now numbers 112 countries), proclaimed their position at Manila in February 1976 declaring:

". . . that international economic conditions—particularly world inflation, monetary disorders, recession in the highly industrialized regions, the appearance of new forms of economic discrimination and coercion, certain forms of action by transnational corporations and the revival of protectionist trends in the developed countries—have seriously affected the economies of the developing countries . . ."

The Group deplored—

". . . the application by the developed countries of unjust and discriminatory trade regulations, and the obstacles which they impose on developing countries in regard to access to modern technology; [and affirmed] their conviction that it is necessary and urgent to bring about radical changes in economic relations in order to establish new relations based on justice and equity which will eliminate the inequitable economic structures imposed on the developing countries, principally through the exploitation and marketing of their natural resources and wealth."

The 63 page Manila Declaration goes into great detail on how these demands should be fulfilled. The document contains many political assumptions that are at least debatable and its tone is often strident, perhaps to satisfy domestic constituency demands as much as to impress the industrialized world with the seriousness of the Group of 77's determination.

Mahbub ul Haq, a representative of the Third World who is also a development specialist at the IBRD, has attempted to explain in more relaxed language just what the North-South issue is all about. Writing for the Overseas Development Council ("Negotiating a New Bargain with the Rich Countries" in *Beyond Dependency*, Erb and Kallab,eds., 1975), Haq explained that the developing countries were working as a bloc in various international forums to gain greater equality of opportunity in the international economy and to secure the right to sit as equals around the bargaining tables of the world. No massive redistribution of past income and wealth is being demanded. In fact, "even if all the demands are added up, they do not exceed about one percent of the GNP of the rich nations. What is really required, however, is a redistribution of future growth opportunities." Haq outlines three principal problem areas: trade, monetary policy, and international resource transfers.

The problem in foreign trade, he says, is that exports of about 12 major primary commodities (excluding oil) account for about 80 percent of the total export earnings of the developing countries. The consumer pays over $200 billion for these commodities and their products while the producers get only about $30 billion, with the middlemen enjoying most of the difference. Furthermore, there are often extreme fluctuations in basic commodity prices while the purchasing power of these primary exports keeps declining in terms of the costs of manufactured imports. Finally, the manufactured exports of the developing countries often face tariffs and quotas in the developed countries although they consti-

tute only some nine percent of manufactures in world trade.

To attempt to solve these trade problems, the argument goes on, producers must get a greater share of the final consumer price through processing commodities, improving world market structures, reducing middlemen profits and developing their own financing and distribution facilities. Also, producers, working through associations as necessary, should secure improved prices for primary products before stabilizing them in commodity agreements.

In the area of monetary policy, Haq says the developing countries have benefited little from the creation of international liquidity. He notes that of the $102 billion in international reserves created during 1970–74, they received $3.7 billion—less than four percent. "As in any banking system," he says "the poor get little credit."

His solution to this problem would be the gradual phase-out of national reserve currencies and their replacement by a truly international currency—like the Special Drawing Rights (SDRs)—through deliberate decision of the International Monetary Fund. Further, the volume of international liquidity should be regulated by the IMF in line with growth requirements in world trade and production particularly to benefit the developing countries. Also, the distribution of international liquidity should be adjusted to benefit the poorest countries. To assure that the developing countries' interests are equitably represented, the present voting strength in the IMF should be changed to establish near parity between them and the developed countries.

The problem of international resource transfers is particularly provocative. Existing resource transfers are purely voluntary—dependent of the fluctuating political will of the developed countries. Although a kind of international "deal" was made by the industrialized countries in accepting a target of one percent of GNP per year, .7 percent of which would be official development assistance (ODA), in actual fact, ODA for all members of the OECD's development assistance committee declined to .3 percent in 1975 and to .2 percent in the case of the United States.

A much more alarming aspect of the resource transfer situation is the debt problem, Haq writes. This has come about through general inattention to the terms of resource transfer which has resulted in the accumulation of over $120 (about $200 billion in March 1977) billion in financial debt whose servicing takes away about one half of new assistance every year.

THE INADEQUACY OF STATUS QUO DIPLOMACY

It is not the intention here to analyze the historic justice of the Group of 77's claims of exploitation or to judge the efficacy of its proposals to remedy the situation made at, for example, the Sixth and Seventh Special Sessions of the United Nations General Assembly or at UNCTAD IV in Nairobi last spring.[1] The United States has, in fact, been very generous in the past and has participated in some impressive successes in Third World economic development. The point is that global economic and social inequities clearly still exist and this situation is potentially dangerous for the United States and the word community. Dealing with the problem is very difficult because it is so complex, because so many domestic US interests are involved and because it is politically easier to fight to protect the advantages of the status quo for the short term than to contemplate sacrifices or adjustments that may be necessary for US and world security in the long term. This is why mature political leadership from the White House is so essential.

For the moment, let us consider just one aspect of the US's present problem in dealing with Third World demands for increased investment and easy access for its manufactures to developed world markets. At a December 1976 Carnegie Endowment conference of economists, trade unionists, academics and business leaders at Rye, New York,[2] US labor leaders complained loudly about domestic unemployment caused, they said, by the cheap imports from the developing countries. Gus Tyler of the International Ladies Garment Workers Union told the meeting his union had declined from 2.7 million members to under 2 million in the last few years because of imports. Lane Kirkland, George Meany's heir-apparent at the AFL–CIO, attacked Third World nations that lure American multinational firms through "extravagant concessions and virtual gifts of lands and labor." Warning that the US economy faces the same threat that has undermined Great Britain, the loss of its industrial base. Tyler said the United States should reverse its international development policy by deemphasizing industrialization in the Third World and promoting agricultural production.

Such defensive reactions by elements of the US economy adversely affected by changes in the world economy can be expected to increase. Furthermore, these constituencies will make their weight felt in Congress and the specialized departments of the Executive branch. But if short-term adjustments cause difficulties, we must imagine what long-term challenges, both foreign political/economic and global environmental, await American policy-makers. By looking into the future, it might be easier to perceive the problems for our long-range security and the consequent need for vision and courage in the present.

SOME LIMITS IN THE FUTURE

One of the ironies of the current indictment by the developing countries of the industrialized world is that both sides see accelerated economic, particularly industrial, growth as the answer to all problems. This is at a time when the energy crisis has alerted us to the possibility of a ceiling on industrial growth.

Robert Heilbroner, in his book, *An Inquiry into the Human Prospect* (1974) brought together a number of independent studies which point to a near future whose dimensions make the difficult present seem easy indeed. Drawing on the March 1973 *Scientific American*, for example, Heilbroner outlines a best case population projection for the world. At the current rate of growth, the populations of Southeast Asia, Africa, and Latin America will double in 30, 27, and 24 years respectively.

If, in the best circumstances, the developing countries were to achieve a zero population growth level by the year 2000, they would nonetheless have increased in size two and one half times in 50 years. If the developing countries succeed in reaching the target of Western fertility rates by 2050, they will meanwhile have grown four and one half times in size.

For those who would defeat the population problem through greatly increased food production in "green revolutions," Heilbroner cites Erhlich's Population, Resources, Environment (1972) as finding that if India were to apply fertilizer as intensively as does the Netherlands today, India would consume nearly half the present world output. Further, the introduction of fertilizers on such a scale may surpass the ecological tolerance of the soil to chemical additives (citing Barry Commoner's The Closing Circle, 1971).

Projections on the limits of industrial growth are particularly sobering. The current annual rate of industrial growth in the developed countries is about 7 percent—that is a doubling every ten years. Thus in 50 years, demand for resources to feed industrial growth will have doubled five times requiring a volume of resource extraction 32 times larger than today's.

Even assuming, Heilbroner continues, that through vast improvements in technology, including access to seabed resources, the supply difficulties could be overcome, one barrier would still seem to defy all the ingenuity of man. This is the problem of heat.

All industrial production, including the extraction of resources, requires the use of energy. Also, all energy, including that generated from natural processes such as wind power or solar radiation, is inextricably involved with the emission of heat.

The problem is that, "if the present rate of growth continued for 250 years, emissions would reach 100 percent of the absorbed incoming solar heat. The resulting increase in the earth's temperature would be about 50° C.—a condition totally unsuitable for human habitation."[3]

SHORTER TERM DANGERS

If his readers are skeptical about his long-range projections of the limits to industrial growth and the implications for future political stress and turmoil, Heilbroner forces them to face a less speculative near-term phenomenon. He warns of the possibility that some developing countries whose governments fear violent upheavals because of resource scarcity and severe population pressures in their countries might resort to nuclear blackmail to get relief from the developed countries.

This might seem farfetched if we were not so aware of the nuclear proliferation problem today. An MCPL (Members of Congress for Peace Through Law) study in 1976 estimated that by 1990 nuclear power plants in the less developed countries alone will be generating 30,000 pounds of plutonium annually—enough to make the equivalent of 3,000 Hiroshima-scale bombs a year. We thus turn sharply back from Heilbroner's bleak future to a serious problem whose management demands "world order" diplomacy—now. We can examine a case that illustrates the complexity of the challenge to our diplomacy in the present.

ECONOMIES AND NUCLEAR PROLIFERATION; WEST GERMANY AND BRAZIL

At an international conference on global food problems in Philadelphia last December, a Ford Foundation official reported that Brazil had achieved no significant increase in prduction of domestically consumed major food crops in the last ten years. However, over that same period, Brazil's population has grown between 20 and 30 percent, driving up food prices and further diminishing the already low food-buying power of the poorest people. Infant mortality rates, which had been declining steadily, are now rising as a result of malnutrition.

The chief explanation for Brazil's domestic food crop deficit is that it has incurred such massive foreign debt that most of its agricultural advances have been devoted to crops for export. Much of the land that now yields 10 million tons of soybeans per year for Japan used to produce foodstuffs for Brazilians. The New York *Times* story of December 4, 1976 does not go on to explain why Brazil has such a massive foreign debt, but Norman Gall did so in an article in the Summer 1976 *Foreign Policy*.

[1] For critiques see Nathaniel H. Leff, "The New Economic Order—Bad Economics, Worse Politics" in the Fall 1976 Foreign Policy. See also, Edwin J. Feulner, Jr.'s Congress and the New International Economic Order, Heritage Foundation, 1976.

[2] Reported in The Washington *Post*, December 16, 1976.

[3] Citing Ayres and Kneese, "Economic and Ecological Effects of a Stationary State," Resources for the Future Series, December 1972.

Noting that Brazil is the developing world's leading oil importer, Gall reports that it has been in deep trouble since the 1973 Arab-Israeli war. This situation has produced a Brazilian foreign policy called "ecumenical pragmatism," which involves closer ties to the Arab world diplomatically as well as diversification of export markets, sources of energy, technology, and foreign investment.

Specifically, Brazil wants its own nuclear power capacity to lessen its dependence on expensive imported fuel. Furthermore, Gall says, since Brazil has ambitions to become a world power, it might do so by developing a nuclear weapons option for its own sake and as a counterbalance to whatever nuclear development rival Argentina might undertake.

The complexity of the interdependence of the international politico-economic factors in the Brazil case became apparent after the uproar over the well-publicized West German-Brazilian nuclear development deal of 1975.

Under this agreement, the Germans agreed to build uranium enrichment, fuel fabrication, and spent fuel processing plants as well as power plants on contract to the Brazilian state power monopoly. In exchange, Brazil agreed to export portions of the uranium discovered in a joint exploration project to West Germany. News of the deal evoked sharp criticism in the US Congress over the lack of effective controls on the proliferation of nuclear technology.

What received little attention at the time was the fact that West Germany, which has no important petroleum or uranium resources, had powerful incentives to search for a deal like the one it eventually negotiated with Brazil. The first was the 1973 Arab oil embargo followed by OPEC's quintupling of prices. The second was the suspension by the United States Atomic Energy Commission of the signing of all new contracts for future supplies of enriched uranium because anticipated demand exceeded the capacity of the AEC's three enrichment plants to produce. Furthermore, the AEC went back on firm contracts to supply enriched fuel to 45 foreign reactors set to begin operations in the 1980s. Ten of these were in West Germany and two in Brazil.

THE GOVERNMENT'S ORGANIZATIONAL DILEMMA

Thus this specific case links the Arab-Israeli problem, domestic Brazilian food shortages, the global oil price crisis and consequent search for nuclear energy to the serious dilemma of uncontrolled proliferation of nuclear weapon-making technology. Unfortunately, there is little evidence that any one center in the United States Government had any conception of the interrelationship of events and facts that led to the Brazil-West Germany deal. Neither the Congress nor the Executive Branch was even organized to be aware of the variety of independent but interrelated economic and social factors that resulted in the controversial agreement, let alone realize what had happened.

The United States Government's ability to deal with the complicated demands of world order diplomacy deserves entirely separate treatment. Few can deny, however, that our Government, including Congress, is not organized to "see" something like the Brazil-Germany deal and understand it. Furthermore, it is not organized yet to "see" the significance of the North-South confrontation in terms of the steady erosion of living standards in the industrialized West and consequent adverse domestic political reaction, the growth of inequity in much of the Third World, and the resource and ecological limits which undermine the traditional economists' and politicians' remedy of ever-increasing industrial production.

A QUESTION OF COMMITMENT

The task is enormous. It is really the agenda for humanity in the next 50 years. Before the 1976 election, there was little evidence that this country's political leadership at the highest level accepted this fact. The new Administration not only appears to accept the fact but also seems committed intellectually and morally to doing what is necessary to fulfill this country's responsibilities. In the March 1976 speech referred to above, Jimmy Carter said:

"A stable world order cannot become a reality when people of many nations of the world suffer mass starvation; when the countries with capital and technology belligerently confront other nations for the control of raw materials and energy sources; when open and non-discriminatory trade has become the exception rather than the rule; when there are no established arrangements for supplying the world's food and energy nor for governing control and development of the seas; and when there are no effective efforts to deal with population explosions or environmental quality. The intensity of these interrelated problems is rapidly increasing and better mechanisms for consultation on these problems that affect everyone on this planet must be established and utilized."

As President, Mr. Carter has recommitted himself to act on all these issues. In the North-South Context, he told United Nations permanent delegates March 17 that "poverty and inequality are of such monumental scope that it will take decades of deliberate and determined effort even to improve the situation substantially." He also said "developing countries must acquire fuller participation in the global economic decision-making process." In this speech and one to the Organization of American States Permanent Council April 14, the President pledged the United States to work for commodity price stabilization agreements, more preferential trade arrangements for the developing countries, full US replenishments for multilateral lending institutions, and concentration of bilateral aid in the poorest sectors of the poorest nations.

The President's stated awareness of the necessity of consultation and cooperation in dealing with serious global problems that will not go away presages the possibility that our government may be able to accept Thomas Hobbes's prerequisite for a social contract. That is for the United States to take the lead in bringing nations to make the sacrifices necessary in habits of consumption, for example, so that resources and opportunities for development are shared fairly.

One other factor provides grounds for encouragement that the new Administration may have a chance at promoting world order or a global social contract. That is candidate Carter's perception that a form of racism has characterized our—and the West's—outlook on relations with the less developed countries. Such a perception is the first necessary step in eliminating racism from our approach. He said in his March 15 speech that we should:

". . . treat the people of other nations as individuals, with the same dignity and respect as we demand for ourselves. No matter where they live, no matter who they are, the people of the other lands are just as concerned with the struggles of daily life as you and I. They work hard, they have families whom they love, they have hopes and dreams and a great deal of pride. And they want to live in peace. Their basic motives are the same as ours."

This rhetoric is not the sort of clever, articulate, conceptual analysis to which foreign affairs specialists have become accustomed in recent years. It is, however, accurate. No American of any sensitivity who has lived in the Third World can have helped but experience the same perception.

If there is to be some hope that the nations of this world can cope with the dangerous problems of population growth, dwindling essential resources, and ecological limits—not to mention uncontrolled proliferation of nuclear weapons technology—these nations must acquire the habit of community—to see themselves as members of a species whose survival is in question. There is some hope for a global social contract if the false perceptions of racism wither away. If they do not, and Third World peoples feel alienated from the dominant culture in the industrialized countries, they will react to our abuse of their selfesteem in possibly self-destructive rage.

World order diplomacy—including serious engagement in the North-South dialogue—is not a matter of choice. There is no choice. With the trends as they are, it is hard to see how life will become easier for any nation. There will have to be, as our leaders say, much hard work, sacrifice, and change in our style of living. A maturing America can accept these facts and act as an example for the rest of the world. This seems to be what the new Administration wants; and, given the crucial importance of government leadership in this endeavor, that is cause for some hope.

STUDY HIGHLIGHTS CANAL TREATY CONTROVERSIES

Mr. DOLE. Mr. President, I want to direct the attention of my colleagues to a fine analysis of the proposed Panama Canal Treaties, which has just been issued by the Heritage Foundation here in Washington.

This Backgrounder magazine report focuses on the many remaining complexities and contradictions within the treaties, and emphasizes the case for direct modification of treaty language—not just "simple clarifications or restatements of the meanings of the language." In eight sections, the report reviews the most controversial portions of the proposals and suggests the series of major problems which the treaties, in their present form, could precipitate.

In my own testimony before the Senate Foreign Relations Committee earlier this month, I cited the several treaty defects relating to U.S. defense rights, canal passage rights, duration of the transition period, and commitments on location of a sea-level canal. I have already introduced a series of amendments and reservations which address these problems. It is my own feeling that we have a responsibility to analyze these documents carefully and to anticipate potential problems that may confront us in the future if they are ratified.

To this end, I think the Heritage Foundation study, prepared by policy analyst Jeffrey B. Gayner, is a useful overview that will assist us in consideration of the treaties and their impact on future generations.

Mr. President, I ask unanimous consent that the report titled "Panama: Terms of the Treaties," be printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PANAMA: TERMS OF THE TREATIES

(NOTE: Nothing written here is to be construed as necessarily reflecting the views of the Heritage Foundation or as an attempt to aid or hinder the passage of any bill before Congress.)

SUMMARY

The visit to Washington on October 14, 1977, by General Torrijos of Panama underscored the severe problems that have arisen in the series of hearings held on the Panama Canal treaties. Through the issuance of a new joint statement of clarification of some of the terms of the Neutrality Treaty, the two governments attempted to reassure the people of both Panama and the United States that the vital interests of both countries are adequately protected under the new agreement.

However, the problems exemplified in this one section of the treaties appear to reflect the general nature of the agreement itself and prospective difficulties with other sections. The following areas of controversy that have arisen, particularly in congressional hearings, are examined in detail in the main body of this paper:

The two new treaties simply follow the general outline of the agreements in principle reached by previous administrations. By not taking into account the numerous objections raised over the years by the United States Congress over some of these principles, an inevitable conflict has arisen between the executive and legislative branches of government in the ratification process.

At the center of the controversies over the new treaties is their fundamental purpose: transferring control of the Panama Canal and the Canal Zone to the Panamanian government over the next 22 years.

The creation of a jointly run Panama Canal Commission to immediately replace the Panama Canal Company raises serious problems over the continued efficient operation on the canal. The treaty mandates more Panamanian participation in employment. A five-year limit on future non-Panamanian workers may lead to a lack of sufficient skilled workers to operate the canal.

Major control over the Canal Zone and its residents by the Panamanian government takes place in a relatively short 30-month period in contrast to the 22 years in which administration of the canal is transferred. American canal employees may leave the area rather than live under the jurisdiction of the military dictatorship that presently rules Panama.

Prohibiting the United States from negotiating with another nation to construct a new canal without Panama's permission may foreclose a necessary option if the new canal treaties leads to either extraordinarily inefficient operation with excessive tolls or the complete closure of the canal.

Under the economic terms of the new treaties, the Panamanian government will receive approximately $60 million in revenue per year, or over a 2500% increase from their present direct benefits. Because Panama's share of revenue is tied to the American wholesale price index, the rate will rise at nine separate intervals over the next 22 years. A Panamanian economic minister has estimated that his government would receive a total of $2.262 billion in 1977 dollars.

Since the new payments to Panama are supposed to come out of operating expenses of the canal, an immediate increase in tolls from 25% to 40% will be required upon inauguration of the new treaties. This will be the largest single increase in the history of the canal and could substantially affect American export and import trade. If the increases still fail to cover expenses then the Panama Canal Commission, as a U.S. government agency, may have to seek appropriations from Congress to make up for any possible deficit.

Conflicting interpretations of American rights to protect the canal after the year 2000 reveal potential problems with the Panamanian government in the future over the language of the treaty. While apparently resolving the differences over the meaning of "expeditious passage" the joint Carter-Torrijos Statement of October 14, 1977, raises other questions about the capability of the United States to act if denied access to Panamanian territory which, after 2000, will encompass all lands surrounding the canal and even the canal itself.

INTRODUCTION

On September 7, 1977, President Carter signed two new Panama Canal treaties with General Omar Torrijos in Washington, D.C. If ratified by a two-thirds vote of the United States Senate and approved in a referendum in Panama, the treaties would establish a new framework for the operation of the Panama Canal for the next 22 years and after that period grant complete control over the canal and adjoining area to the Republic of Panama. The first treaty terminates or supersedes all previous treaties and agreements with Panama and, over a period ending on December 31, 1999, transfers control over the Panama Canal and Canal Zone to the government of the Republic of Panama. The second, much shorter, treaty provides for the "Permanent Neutrality and Operation of the Panama Canal."

In late September and early October, both the Senate Foreign Relations and the House Relations Committees held extensive hearings on the new treaties. This analysis reviews the provisions of the two treaties, but focuses primary attention upon the various controversies that have arisen in the course of the congressional hearings. An earlier Heritage Backgrounder (No. 31) examined some of the broad general issues involved in the transfer of the canal to Panama. Another Backgrounder will later re-examine some of these same questions in the light of the new treaties; but this analysis deals only with the specific provisions of the proposed treaties and the controversies they have precipitated.

THE FRAMEWORK OF THE TREATIES

The treaties open with reference to both the Joint Declaration of April 3, 1964, and the Joint Statement of Principles of February 7, 1974, between Panama and the United States as establishing the general framework of the new treaties. Most of the details of the two agreements implement many of the general principles laid out in these two previous agreements. But compared to the 1967 draft of an agreement, never officially ratified by either side, the 1977 treaties propose terms that are much more favorable to the Panamanian side.

In the prelude to the first treaty, the United States agrees to abrogate the previous treaties by "acknowledging the Republic of Panama's sovereignty over its territory." In several other places in the agreement, the United States also "acknowledges" Panama's sovereignty rather than "granting" it. Thus, the fundamental premise of the new treaty rests upon existing Panamanian sovereignty and the terms of the treaty only change the nature of Panama's sovereign power over the Canal Zone. Critics of the agreement contend that the United States currently possesses sovereignty, or at least all the meaningful attributes of sovereignty, and thus the new treaty actually transfers American control.

Unlike the 1903 treaty, the Panama Canal Treaty of 1977 lasts for only 22 years. Thus, the treaty provides the mechanism for transferring all of the facilities and functions relating to the operation of the Panama Canal and Zone over to the Republic of Panama. At the termination of this treaty at noon, Panama time, December 31, 1999, the Republic of Panama will assume complete authority over the area. Only the second treaty, dealing with neutrality, extends beyond this 22-year period.

ABOLITION OF THE PANAMA CANAL COMPANY

Article III of the first treaty provides for the rights which Panama grants to the United States under the new treaty. These rights relate largely to the operation of the canal under a newly established Panama Canal Commission. This organization, governed by a 9-member board with an American majority, would assume many of the functions previously performed by the Panama Canal Company. Provided that the American members of the board should vote as a unit, the United States would continue nominal control over the operation of the Canal until the year 2000.

However, unlike the present arrangement, the activities of the new Commission are narrowly restricted under the treaty itself. Section 5, e.g., of Article III provides that the Commission will reimburse the Republic of Panama $10 million per annum for providing "police, fire protection, street maintenance, street lighting, street cleaning, traffic management and garbage collection." Every three years the payment will be readjusted to reflect inflation and other factors. Section 6 provides that Panama will also assume other functions, such as customs, post offices, courts, and licensing that previously were performed by the Panama Canal Company. In general Section 8 provides that "there shall be a growing participation of Panamanian nationals" at all levels of employment related to the canal.

A separate Panama Canal Consultative Committee is established under Section 7. This body, composed equally of Americans and Panamanians, will "advise on matters such as general tolls policy, employment, and training policies of Panamanian nations in the operation of the Canal and international policies on matters concerning the Canal." Given the even number of members on this board, potential difficulties exist in the formation of concrete recommendations.

DEFENSE OF THE CANAL UNTIL 1999

Article IV provides the United States with the "primary responsibility to protect and defend the canal" until 1999. Critics of this section contend that too much discretionary authority has been left with the President and that the United States needs to operate more than four bases in order to adequately defend the canal.

While the United States presently has fourteen bases in the Panama Canal Zone, the new agreement would reduce this number to only four. This is not included in the main body of the treaties, but instead has become part of an executive agreement that accompanies the treaties. And even the four bases will be jointly run with the Panamanians. Because the President can act freely under an executive agreement to reduce forces at his own discretion, Senator Allen objected that too much power was granted the President to effectively phase out credible American military force in Panama well before the year 2000.

Moreover, under the treaty a board comprised of an equal number of American and Panamanian military representatives shall oversee military cooperation in defending the canal and periodically review the situation. The American forces could only take action outside the limits of their bases with the approval of this board. This has led to concerns that pressure for the removal of Americans from their existing four bases may mount well before 1999.

Some military men have also strongly criticized the effectiveness joint board gov-

erning defense decisions. They believe that defense of the Panama Canal concerns matters that require instant decisions that can only be made effectively by one supreme authority and that a coalition defense arrangement would introduce potential discord and thwart prompt action.

AMERICAN EMPLOYEES OF THE PANAMA CANAL

Articles V, IX, X, and XI govern the rights of non-Panamanian employees of the Panama Canal. While the United States will continue to operate the canal until 1999, the Republic of Panama assumes official jurisdiction over the Canal Zone upon ratification of the treaty and complete legal jurisdiction over the area in a 30-month transition period. Thus Americans, who previously lived under the jurisdiction of the United States government, will come under Panamanian authority.

Under Article V, called the "Principle of Nonintervention," employees of the Panama Canal Commission must "abstain from any activity incompatible with the spirit of the treaty. Accordingly they shall abstain from any political activity in the Republic of Panama as well as from any intervention in the internal affairs of the Republic of Panama." This section has engendered great apprehension because the Canal Zone will be a part of the Republic of Panama under the treaty; hence, the military government of Panama will have complete discretion over interpreting what constitutes "the internal affairs" of Panama.

Article XI grants to the United States "the primary right to exercise criminal jurisdiction over United States citizen employees of the Panama Canal Commission and their dependents" and military forces for some offenses. But this right only exists for the 30-month transition period and grants to Panama a wide latitude in other areas. Similarly, the United States will only "retain police authority and maintain a police force" in certain specified areas for the transition period.

Given the present animosity between many Americans currently living in the Zone and the Torrijos government, the new treaties have raised serious questions whether sufficient skilled Americans will remain in Panama to run the canal if the new treaties are ratified. Many have already left simply in anticipation of the new agreement; other Zonians have purchased guns for defense. Violence may erupt if the agreement is ratified and the government of Panama attempts to assert its new jurisdiction over the Canal Zone by attempting to collect the privately owned guns which then will be illegal under Panamanian law.

In response to questions raised about prospective problems that Americans citizens working in Panama may entail, the State Department points out that they will enjoy rights and protection similar to those of large concentrations of U.S. government employees elsewhere abroad." Also, even if Americans are arrested under Panamanian laws, they retain the right under the treaty to await trial and serve out their sentence, if convicted, in U.S. custody.

EMPLOYMENT WITH THE PANAMA CANAL COMMISSION

Under the treaty other changes pertain to future employees of the Panama Canal Commission, the agency given responsibility for actually running the canal itself. As stated above (Article III) Panamanians must be given increasing participation in the operations of the canal. In order to encourage this, Article X provides that "Within five years from the entry into force of this Treaty, the number of United States nationals employed by the Panama Canal Commission . . . shall be at least twenty percent less than the total number" now employed by the Panama Canal Company. Thus, if Americans do not voluntarily leave, they will be required to do so. At present a reduction of this size appears likely to occur naturally.

Moreover, under Section 5 of the same article, any new non-Panamanian employees of the canal will only be allowed to work for a maximum of five years. This mandated rotation will presumably prevent the continuation of the present American community that has often provided several generations of canal employees. But at the same time, it may make it difficult to continue to fill the most skilled positions, although some exceptions to the five-year policy may be granted. This requirement for a maximum service of five years is counter to the lessons of experience in the operations of the Panama Canal. Employees have always sought jobs in the past on the basis of a career of civil service rather than temporary assignment.

In order to accomplish this arbitrary reduction of non-Panamanian personnel, the Commission will "periodically inform the Republic of Panama . . . of available positions" that become open and Panama shall provide "Panamanian nationals claiming to have skills and qualifications" necessary for the jobs. In order that certain skilled personnel will qualify for positions, the United States "shall recognize the professional licenses issued by the Republic of Panama."

The ostensible control that the Panamanian government will exercise over the future employees of the canal has led to some criticism by both Americans and Panamanians now working in the Canal Zone. American employees express the fear that people lacking sufficient qualifications may be placed in jobs simply to satisfy the requirements of the Panamazation formula for overall employment objectives. Moreover, black Panamanians have voiced their concern that the current non-discriminatory hiring policies of the Panama Canal Company will be replaced by Panamanian government prejudice in hiring.

Finally, Senator Griffin pointed out in the Senate hearings that some questions exist as to whether current procedures for electing union representatives will continue and just what conditions may be imposed, under Panamanian law, over negotiations for new contracts. He expressed the fear that workers benefits may have the lowest priority in the allocation of revenues collected by the Commission.

SEA-LEVEL CANAL OR A THIRD LANE OF LOCKS

Of the various portions of the proposed agreement, Article XII dealing with the building of another canal contained one of the most unexpected provisions. This very short section of the main treaty provides for the joint study by Panama and the United States of possibly building a sea-level canal* It also grants to the United States the right "to add a third lane of locks to the existing Panama Canal." If the United States exercises this right, the new lane of locks would be governed by this same treaty and turned over to Panama in 1999. Some have pointed out that under the 1903 treaty the United States already has authority for "expansion and new construction" for the existing canal and thus no new permission is necessary. But beyond existing American rights the new terms have raise other concerns.

The controversy has focused on the one section of this article that reads in its entirety as follows:

2. The United States of America and the Republic of Panama agree on the following:

(a) No now interoceanic canal shall be constructed in the territory if the Republic of Panama during the duration of this Treaty, except in accordance with the provisions of this Treaty, or as the two Parties may otherwise agree; and

(b) During the duration of this Treaty, the United States of America shall not negotiate with third states for the right to construct an interoceanic canal on any other route in the Western Hemisphere, except as the two Parties may otherwise agree.

Section 2b clearly means that the government of Panama would have the power to prevent the United States from either building or even negotiating to build another canal anywhere in the hemisphere without their consent. Critics have contended that this provision locks the United States into the present treaty and consequently regardless of what might transpire in the next twenty-two years, the United States has no alernative other than using the present canal. Thus even with a change in government in Panama or the closing of the canal for whatever reason the United States could not pursue an alternative route.

In exchange for this veto power, the United States presumably has the right under Section 2a of this article to prohibit Panama from building a sea-level canal anywhere in her own territory with any other country. Supporters of the new treaty have pointed out that at present Panama could negotiate with the Soviet Union to build a sea-level canal, but under the section of the new treaty the United States would have to assent.

During the Senate hearings on the treaties, it was revealed that supporting documents on Article XIII indicated that under Section 2a the United States only had a right to "first denial" of a proposal to build a sea-level canal in Panama. In other words, Panama could pose terms for a sea level canal unacceptable to the United States and in this manner would free herself of any restrictions on her course of action under Section 2a. Furthermore, if a nation such as the Soviet Union offered to simply lend the money to Panama to build a canal then this section would not apply.

The prospective role of a sea-level canal becomes important in any discussion of having a canal that can accommodate the largest supertankers and aircraft carriers. Senator Gravel pointed out in his testimony that the costs of building a sea-level canal (now estimated at $5.29 billion by the Army Corps of Engineers) could be compensated for by the amount of money saved over several decades of transporting upwards of 500,000 barrels of per day from Alaska to the Gulf states area. Costs presumably would fall from the present $2.83 per barrel for Panamanian transshipment to about $2.18 per barrel with a sea-level supertanker. Senator Gravel supported the proposed treaties as paving the way for a new sea-level canal agreement.

On the other hand, Senator Thurmond dismissed serious discussion of sea-level canal because Panama would either lose all of her jobs related to operating the locks or charge prohibitively high tolls even for the sea-level canal. With the difficulties that have arisen with the present canal, he contended that the United States should not enter any future canal arrangement with Panama. Others pointed out that even if Panama entered into an agreement with the Soviets to build a sea-level canal, the United States could satisfy her basic needs by simply maintaining complete control over the present canal.

Another objection to this section arose among conservation and environmental groups who object to the principle of a sea-

*Technically no sea-level canal can exist because of the variations of water levels caused by the tides in two oceans. Thus a sea-level canal actually would be a tidal-locks canal so that the differing levels could be adjusted. Thus one set of locks would still be necessary.

level canal. Congressman Leggett testified before the Foreign Relations Committee that extreme marine biological hazards would be involved in having a salt water channel between the oceans. Moreover, conservation groups do not believe that the present wildlife sanctuaries adjacent to the canal will be adequately protected when transferred over to the Panamanian government.

ECONOMIC TERMS OF THE NEW TREATY

Aside from the defense and national security issues dealt with below, the new economic arrangements under the proposed treaty have probably generated the strongest opposition. The new formula for compensating Panama for the use of the canal over the next 22 years would mean an increase of direct revenue for the Panamanian government of approximately $57 million or over a 2500% increase from the present amount.

Article XIII outlines the new, complicated economic arrangements and also provides for the transfer of the current physical assets of the Panama Canal Zone. This means all of the buildings, dock facilities, the Panama Railroad, and eventually all housing, schools, stores, and other properties currently belonging to the Panama Canal Company or the United States government. Panama would take immediate title to most of these assets and others, such as the four military bases, by 1999.

Section 4 of Article XIII provides for three devices for compensating Panama for the use of the canal:

1. Panama shall receive 30 cents for each net ton for each vessel transiting the canal. This, however, is only the base figure. After the first five years, this figure "will be adjusted to reflect changes in the United States wholesale price index for total manufactured goods." Each two years thereafter the figure will be adjusted, presumably upwards. Thus during the life of the treaty, this figure would rise on nine separate occasions by the amount the United States wholesale price index rises every two years.

2. The present fixed annuity of $2.3 million would immediately rise to $10 million and remain at that figure for the duration of the treaty. Over that life of the treaty this would amount to $220 million.

3. Finally, "An annual amount of up to $10 million per year" would be paid to Panama out of operating expenses of the canal if any surplus exists. If no surplus in revenues exist in any given year then "the unpaid balance shall be paid from operating surpluses in future years." Thus the maximum amount collected under this section would be $220 million also.

In his testimony before the Senate Foreign Relations Committee, Secretary of State Vance estimated that "Panama would initially receive about $60 million per year under this formula, which would apply until the year 2000." He further pointed out that "All of these payments are made from Canal revenues. Panama will thus have a strong interest in insuring unimpeded and efficient use of the canal."

The United States does not directly pay these amounts to Panama, but instead they must be derived from revenues generated by traffic through the canal. Thus the United States Congress will never vote directly upon these payments to Panama; they are incorporated in the expenses of operation of the canal by the new Panama Canal Commission. But since the Panama Canal Company currently operates the canal at a slight loss, the only manner in which these new expenditures can be met would be through substantial increases in the tolls of ships transiting the canal. However, in the Senate hearings on the treaty, Senator Griffin indicated that if a deficit does occur then the United States government may be forced to provide the balance of funds because the Panama Canal Commission is a United States government agency.

The American treaty negotiator Sol Linowitz has already estimated that the tolls under the new treaty would probably rise immediately by 25 percent to 30 percent to cover the new expenditures and avoid a further deficit. An increase of this amount would constitute the largest single increase since the canal began operating in 1914 and still might only temporarily cover anticipated expenditures. The Panama Canal Company has projected an increase of 40 percent to meet the new expenditures. The escalator clause in the 30 cents per ton levy coupled with the Panamanian incentive to guarantee a surplus of $10 million each year would probably produce further increases.

Various projections have been calculated in order to estimate the total economic benefits that the new treaty bestows upon the Panamanian government. Using Secretary of State Vance's estimate of $60 million per year over the life of the treaty would lead to a total of $1.32 billion coming into the Panamanian treasury. Senator Harry Byrd has similarly estimated an amount of $1.15 billion, but both of these figures are in 1977 dollars. In a speech to the Panamanian National Assembly on August 19, 1977, Panamanian Planning and Economic Policy Minister Nicolas Ardito Barletta estimated that his government would receive a total of $2.262 billion in 1977 dollars. The variations undoubtedly reflect differing calculations of anticipated volume of traffic through the canal and future changes in the toll structure as well as benefits Panama will receive from other operations they will assume in the Canal Zone.

Supporters of these new arrangements contend that the previous payment of $2.3 million constituted inadequate compensation for Panama's major asset, her geographic location. In the hearings Senator Percy pointed out that the United States pays other nations comparable amounts of money in order to lease military bases on their territory. Others recalled that last spring Panama demanded $5 billion, including an initial $1 billion lump sum down payment, for the American right to operate the canal for the next 22 years. Thus Panama substantially moderated her demands and therefore the $60 million per year figure is not unreasonable. But most importantly, as Secretary Vance stated, the payments should derive completely from canal revenues and therefore "the treaties require no new appropriations, nor do they add to the burdens of the American taxpayer."

Opponents of the payments point out that the $2.3 million annuity figure only represents a small part of the total revenues the canal pumps into the Panamanian economy. Including wages, retirement benefits, purchases of goods and other items, the estimated gross amount of income flow into Panama from the Canal Zone last year amounted to $243.2 million. They further note that only through the construction of the canal by the United States did Panama begin to benefit substantially by her location. Senator Byrd estimates that the canal and assets in the adjoining zone constitute a $7 billion investment in itself, and thus additional payments may bring to $10 billion "the overall cost of the Panama Canal treaties." Opponents simply deny that Panama had any right to demand any amount of money and that American rights over the zone exist in the 1903 treaty and this makes the situation fundamentally different from other military base agreements. Finally, the method of payment is considered a subterfuge in that the consumers and producers of all goods passing through the canal will have to pay the costs of the increasing tolls. With 68 percent of all shipping either originating or terminating at United States ports, American citizens will ultimately pay a substantial percentage of the costs involved in the new treaty.

CONFLICTING INTERPRETATIONS OF THE NEUTRALITY TREATY

While the first treaty, examined above, deals extensively with the arrangements for operating and transferring the canal and Canal Zone over to Panama over the next 22 years, the second treaty has engendered the most controversy, eventually prompting another visit to Washington by General Torrijos on October 14th and the issuance of a joint clarification statement. The second treaty entited "Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal" is designed to provide for the security of the canal after the termination of the first treaty. However, even before the initial appearance of the text of this treaty, conflicting interpretations of its key provisions arose.

A. The right of intervention

In particular, attention has focused on two key articles of the treaty dealing with the right of the United States to act unilaterally to maintain the neutrality of the canal and the right of the United States warships to priority passage through the canal.

Article IV reads as follows:

The United States of America and the Republic of Panama agree to maintain the regime of neutrality established in this Treaty, which shall be maintained in order that the Canal shall remain permanently neutral, notwithstanding the termination of any other treaties entered into by the two contracting Parties.

The Carter Administration has contended that under this article the United States has the authority to intervene unilaterally to protect the neutrality of the canal. Secretary Vance maintained in his prepared statement to the Senate Foreign Relations Committee that, "after the year 2000 . . . the United States will have a permanent right to maintain the canal's neutrality, including the right to defend the Canal if necessary." The language of Article IV "means there is no limit under the Treaty of the freedom of the U.S. to assure permanently the Canal's neutrality."

However, on August 19, 1977, Dr. Romulo Escobar Bethancourt, the Head of the Panamanian negotiating team, provided a different version of the neutrality treaty in an address to the Panamanian National Assembly. He examined at length the negotiating process and maintained that it remained "stalled until the United States gave up the idea of its guaranteeing the Canal's neutrality." He alluded back to the first article of the second treaty which states that "The Republic of Panama declares that the Canal . . . shall be permanently neutral. . . ." By denying the United States the right to join in this declaration Escobar maintained that declaring "the Canal's neutrality was an act relating to Panama's sovereignty." Therefore, he concluded that "we are not giving the United States the right to intervene." In a press conference on August 22, Escobar flatly stated that "The neutrality pact does not provide that the United States will say when the neutrality is violated."

When confronted at the hearings with Escobar's statements, Ambassador Linowitz asserted that he thought "too much is being made of a statement that was made by the negotiator in Panama which has not been repeated. . . ." But he also asserted that "We are under no obligation to consult with or seek approval from any other nation or international body before acting to maintain the neutrality of the canal." When General George Brown testified before the same committee, he expressed a view similar to Linowitz's, but with less assurance: "In my judg-

ment, these provisions insure that the U.S. ability and unilateral right to defend the canal against any external threat remain unimpaired."

B. Expeditious passage

Similar difficulties developed over the meaning of Article VI of the treaty which provides that "vessels of war and auxiliary vessels" of the United States and Panama "will be entitled to transit the canal expeditiously." In his national assembly speech, Escobar asserted that in the course of the negotiations the United States sought preferential rights of passage, but "after long discussions they (the American negotiators) accepted the U.S. warships could not be granted preferential rights." He maintained that by granting any preferential right to United States warships would violate "the neutrality treaty and was contrary to the objective of the treaty we were negotiating." When asked about this at a press conference, Escobar rather inelegantly stated, "if . . . the gringos with their warships say, 'I want to go through first,' then that is their problem with the other ships there."

In the Senate hearings, Secretary Vance indicated a differing interpretation of this section. When asked what the right to transit the canal expeditiously meant, Vance responded that "in practical terms, as I understand it, this means our ships will go to the head of the line." Ambassador Linowitz admitted that he was disturbed by the statements of Escobar, but asserted that "some people very high in the Panamanian government has assured us that we will not hear similar statements in the future."

But only one week later still more disconcerting statements emerged from Panama. Senator Dole released the text of a confidential State Department cable that indicated that two views of Escobar had been confirmed by another Panamanian negotiator. Carlos Lopez Guevara told American Embassy officials that he found discussions of the treaty in the U.S. Senate hearings disturbing and that neither preferential passage nor intervention were granted to the United States under the neutrality treaty.

In a major televised address on October 3, Guevara elaborated at length on the same points raised in the cable. On the questions of intervention he stated the following:

It is sad to see highly responsible officials in the United States say that this neutrality treaty grants the right of intervention. It is sad to note this inconsistency, not only because there is nothing in this treaty to serve as a basis for such a claim, but also because the term "intervention" has been left out of international diplomatic jargon since World War II, since the time when the UN Charter was signed.

Similarly he stated quite simply that "expeditious does not mean priority or preferential treatment." He noted that the term priority appeared in the 1967 treaty but was "rejected by the Panamanian negotiating team" in the 1977 treaty. He directly contradicted Secretary Vance by saying, "I have heard it said that expeditious means 'ahead of the line' (quoted phrase spoken in English) at the front of the line. And from where does this interpretation come, when the history of the negotiations reveals that every notion of preferential treatment was rejected?"

Senator Dole brought the cable to the attention of the Foreign Relations Committee and Senator Stone elaborated upon the Guevara's speech. This led to demands by many members of the committee for some clarification of the terms of the Neutrality Treaty. Senator Church stated tersely: "Let it be clear that the Senate is not likely to ratify these treaties if crucial provisions are being interpreted differently by the principal parties, the governments of the United States and Panama."

Senator Clark attempted to dismiss the points raised by Dole by asserting that only General Torrijos, as the dictator of Panama, should be listened to in regards to how Panama interprets the treaty. He referred back to the statement by General Torrijos in Washington that the new treaties "places us under the Pentagon's defense umbrella." Ambassador Linowitz had earlier referred to this same quotation to ward off questions raised by Escobar's comments. However, the same night that Lopez Guevara repudiated Vance's interpretation of the neutrality treaty, a third Panamanian negotiator, Aristides Royo, attempted to clarify the "umbrella" quotation. He noted that "it has been said that Panama is placing itself under the Pentagon umbrella, as if this umbrella had been opened by these treaties—which are precisely treaties that for a 22-year period will be closing the Pentagon umbrella over the Republic of Panama."

C. The views of General Torrijos

While a consistent pattern of answers has emerged from the three Panamanian negotiators, General Torrijos himself has had few public comments on the various disputed portions of the treaty until he made his second visit to Washington. This is not surprising because in the United States Ambassadors Bunker and Linowitz have been the principal interpretors of the new treaty and President Carter has made few public statements about the treaties other than in response to questions.

However, the few remarks by General Torrijos before his visit to Washington on the question of the right of intervention appear to be consistent with the views of his negotiators. In a report to Panama made while traveling in Yugoslavia on October 1, 1977, he related that while in Washington for the signing ceremony in September, he saw Linowitz testifying on television:

He was saying the United States has a right to act freely if the canal is threatened in any way, and unilaterally, that is, whenever they decide to do so and permanently, that is per saecula saeculdrom. Religions have a right to speak about perpetuity. This is the ingredient they use to promote their product. I did not want to listen any more. My position in this regard is clear and public. For there to be intervention, there must be a people who want to be intervened.

The Panamanian leader clarified this somewhat further in a speech to a student federation congress in Panama on September 15, 1977. He commented on some misconceptions that have developed about the treaty:

I am not afraid, nor am I denying, that we signed a clause which if misinterpreted by future U.S. generations could give place to intervention. But I am not afraid because I know the youth that we are producing. And in order for there to be intervention, there must be a people willing to accept intervention, and these people have no intention of accepting it.

Much earlier this year, presumably even before any final draft of the neutrality section could have been completed, General Torrijos already spoke confidently about Panamanian rights after the year 2000. In an interview with a Mexican newspaper in March, Torrijos related the following:

Some Americans feel that certain canal rights should be preserved after 1 January 2000, but they forget that the agreement signed by the Panamanian and U.S. governments clearly states that the treaty will be valid only until 31 December 1999. After that moment, the duties and responsibilities will be assumed by our country solely and exclusively.

With differences in interpretations threatening the passage of the treaty, the Carter Administration invited General Torrijos to return to Washington. This led to the issuance of new statement of understanding of the two most controversial sections of the neutrality treaty. The Carter-Torrijos statement of October 14th indicated that

The correct interpretation of this principle (Article IV) is that each of the two countries shall, in accordance with their respective constitutional processes, defend the Canal against any threat to the regime of neutrality, and consequently shall have the right to act against any aggression or threat directed against the Canal or against the peaceful transit of vessels through the Canal.

This new interpretation, by referring to "each" country, appeared to indicate a right by the United States to unilaterally act to keep the canal open.

However, at the same time the second part of the statement emphasized that

This does not mean, nor shall it be interpreted as a right of intervention of the United States in the internal affairs of Panama. Any United States action will be directed at insuring that the Canal will remain open, secure and accessible, and it shall never be directed against the territorial integrity or political independence of Panama.

This restatement of the Panamanian view of interference may once again cause some difficulties because after the year 2000 the present Canal Zone and the canal itself will by definition be Panamanian territory with the rights of the United States limited to the provisions of the Neutrality Treaty. Moreover, even assuming a distinction between the canal and Panama, it raises the further question of how the United States could act to defend the canal if prohibited from using Panamanian territory, or the land adjacent to the canal, particularly defending it from Panama.

The final portion of the clarifying statement directly repudiated the earlier view of Guevara presented above and provided that "expeditious passage" meant that "in case of need or emergency," United States vessels of war could "go to the head of the line of vessels in order to transit the Canal rapidly." This right apparently would be guaranteed by the Panamanian operators of the canal after the year 2000.

While most Senators lauded these clarifying statements, some have raised further questions about the new language and what precisely it means. Some questioned the status of the statement since neither President Carter nor General Torrijos even signed it. Senator Dole, who had highlighted these problems, proposed that the new clarifying language be directly incorporated in the text of the treaty in order to prevent future conflicting interpretations of this portion of the treaty. But this may only reflect the kinds of problems that may arise in other sections of the treaty not yet subject to such fastidious analysis.

D. Other considerations in the Neutrality Treaty

Beyond the two articles examined above some questions have arisen over two other sections in this treaty. Under Article III the treaty provides that "vessels of war and auxiliary vessels of all nations shall at all times be entitled to transit the canal . . ." This requirement has created a concern as to whether in time of war enemies of the United States would have equal rights of passage through the canal as do American ships. According to the Panamanians, for genuine neutrality to exist this right must be granted.

General George Brown has acknowledged this interpretation but dismisses its significance as follows:

We would depend on our military power on the approaches to the canal to prevent a nation belligerent to us from passing. The treaty says they can pass through the canal

but there is nothing that says they can pass to it.

This assertion has raised the broader question of the capacity of the United States to protect the sea lanes without having access to any base of support or surveillance in Panama. Similarly, if the United States can adequately defend the canal from a posture at sea, then why has the United States maintained 14 bases in the Panama Canal Zone. In his testimony, Admiral Moorer, former Chairman of the Joint Chiefs of Staff, maintained that only by remaining in Panama with military force can the United States satisfactorily protect the sea lanes and her vital interests in the entire southern Caribbean region.

Finally, despite the strong assertions of neutrality that permeate the treaty, particularly as interpreted by Panama, one section conspicuously asserts discriminatory treatment among nations using the canal. Part 2 of Article VI allows "the Republic of Colombia toll-free transit through the canal for its troops, vessels and materials of war." Moreover, Panama may grant "the Republic of Costa Rica with the right of toll-free transit." These two nations have been among the strongest supporters of a new treaty and under it they obtain special privileges. This obviously sets a precedent for granting special rights to the United States, however, Panama has consistently maintained that such privileges would violate the neutral spirit of the agreement.

CONCLUSION

Thirteen years of sporadic negotiations preceded the final drafting of the new Panama Canal treaties. Nonetheless, the final provisions of the agreement have raised an enormous range of questions before the Senate Foreign Relations Committee. Since much of the skepticism focuses on major provisions of the treaties, many Senators have already proposed amendments, or changes, in the actual text of the treaties which would require renegotiations with the Panamian government. At present it appears that neither the Carter Administration nor the Panamanian government would be amenable to any substantive changes in the actual agreement. Thus possibly only a direct vote by the Senate against the treaties would precipitate new negotiations.

In most of these areas of concern, no simple clarifications or restatements of the meanings of the language can resolve the difficulties. The attempted clarification of parts of the neutrality treaty have resolved some doubts, especially concerning the meaning of expeditious passage. Nonetheless, the definition of Panamanian territorial integrity may prevent effective action by the United States without Panamanian consent and no right exists to defend the canal from a threat from Panama itself, such as a strike closing the canal.

At the most fundamental level no convincing case has been presented that the new treaties can protect America's vital security and economic interests better than the present treaty. Instead, the current confrontations with the Panamanian government may lead to a much broader range of confict under the new treaties. But once the treaties are ratified the United States loses control over the Canal Zone and thus most of her leverage in dealing with the Torrijos regime.

The new treaties will probably precipitate serious problems involving the continued employment of skilled workers necessary to run the canal, a substantial rise in tolls that will have severe repercussions on world commerce and particularly the price of goods in the United States, and eventually a conflict with Panama over American security rights in protecting the canal. The new treaties would transform the concept of the Panama Canal from its operation as a vital artery of world commerce into an enterprise designed to satisfy the economic and nationalistic desires of one nation. Other considerations will certainly figure in the final decision of the Senate on ratification, but the specific terms of the treaties have certainly raised, rather than resolved prospective problems inherent in transferring the canal over to Panamanian control.

JEFFREY B. GAYNER,
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PEACEFUL USES OF CIVILIAN AND MILITARY SPACE TECHNOLOGY: THE CONTRIBUTIONS OF HOWARD AND HARRIET KURTZ

Mr. STEVENSON. Mr. President, as a commentary on this year's Nobel Peace Prize awards, Walter Cronkite of CBS News recently expressed his view on the use of space technology for world peace. Walter Cronkite specifically mentioned Howard and the late Harriet Kurtz, Americans who have dedicated their lives to the implementation of space age technology for international peace.

In much the same vein, Bruce Callander, editor of the Air Force Times, pointed out in his column how much of the technology and knowledge developed for national defense can be used to help achieve a more peaceful and just world. Mr. Callender noted specifically how the Kurtzes, through war control planners, have pursued this goal.

I commend to my colleagues the views expressed in this commentaries, and I ask unanimous consent that the complete texts be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[CBS Radio Network]

WALTER CRONKITE REPORTING

WALTER CRONKITE. This is Walter Cronkite reporting with news and commentary on the CBS Radio Network.

Ordinarily, the Nobel Peace Prize is awarded to people of some prominence—a Sakharov, a Henry Kissinger, a Martin Luther King. This week, however, the 1976 prize was given to a pair of relatively obscure Ulster women who—out of obscurity—created a growing peace movement among the women of Northern Ireland. Such recognition, of course, is encouraging to those who receive it. But it also serves to remind us that there are many remarkable people in our midst who have dedicated their lives to something other than their own well-being, but whose ideas and contributions often are lost in obscurity.

Mariead Corrigan and Betty Williams, the recipients of the Nobel Peace Prize, both are in their thirties. Their efforts to sell peace in Northern Ireland are about two years old, and they may or may not share credit for the fact that violence there has been considerably reduced since they began. Howard and Harriet Kurtz are in their sixties. For 20 years, they devoted their lives and what little they had in the way of fortune to selling an idea for international peace. They now are deeply in debt, and she is fighting a desperate battle with cancer. So far, their ideas had few takers, but they keep trying. The Kurtzes now live in Washington. He's an engineer and a former lieutenant colonel in the Air Force; she's an ordained minister. Their idea is to employ space age technology in the service of world peace. Specifically, they propose that the United States initiate a kind of global information service, plugging all nations into a system of orbiting satellites that would provide everyone with economic, environmental, and even military intelligence about everyone else. In short, an open world. Now this, of course, is an astonishingly naive idea, and it hasn't been helped by the form in which it is communicated: closely typed pages written in the poorly structured rush of language common to people who feel they have too much to say to say it simply, and who want too much to convince to be credible. To make matters worse, the communication is laced with the seeming paranoia of obsessed people who are used to having their obsessions scorned. And of course, the Kurtzes have been scorned. They made all the rounds; they've talked to government officials, reporters, and editors. They managed to get their idea printed in the report of a Congressional committee, and last spring it got sympathetic treatment in the Washington Post.

But for the most part, their presentations probably are filed under "K" for kooky ideas, or in the waste basket. But consider for a moment some kind of system for an international sharing of satellite information not only as feasible, but probably inevitable at some point. And in military terms, the satellite already has opened the world for those who can afford the satellites. The satellite has made possible a series of American-Soviet nuclear agreements, even détente itself, by making Soviet objections to on-site inspection irrelevant. It's possible that Howard and Harriet Kurtz could have the germ of a valid concept. We're so used to judging ideas by their covers that we might laugh at the invention of the wheel, if it were not presented by a noted authority. The fact that two people with no official sanction have had the audacity to devote their lives to an idea and the presumption to push it is enough in itself to turn us away. But we might remember that some of the kookiest ideas on record have come from the White House, the Pentagon, and corporate board rooms. And that some of the best have come from unsanctioned people like the Kurtzes and the two Ulster women: naive people who didn't know that wisdom had been monopolized and licensed. There will be no Nobel Prize for the Kurtzes. But the nobility of their self-sacrifice for an ideal deserves thought and recognition.

[From the Air Force Times, Oct. 24, 1977]

TIME TO GIVE MILITARY DUE CREDIT

(Commentary by Bruce Callander)

What the military services need, some of the critics contend, is a peacetime mission which will:

Excite the country's best young people to the point where they will flock to the colors.

Convince the taxpayers that every penny of their defense money is going to a useful, constructive purpose.

Give career military people such a sense of importance and such a feeling of being appreciated that they will consider the pay and benefits only secondary.

Dispell the image of the armed forces as paid killers and replace it with one in which they are viewed as humanitarians in uniform.

The ad agency which could concoct that kind of corporate image for the services probably could write its own ticket.

Unhappily—or happily, depending on your point of view—Madison Avenue probably isn't up to it.

The Vietnam war did not make the services the most popular institution in town. The rising cost of defense hasn't helped. Concern over serious domestic problems has put day-to-day survival ahead of long-range survival in the minds of many people.

The military probably enjoys greater public approval than it did during the Vietnam

war or in past times of peace, but that is not saying a lot. Long before Kipling put the sentiment in verse, people were saying that a soldier with no war to fight is about as welcome among his fellow citizens as a case of hives.

In wartime—at least when there is general public support for the war cause—the situation is different. But it is not necessarily the professional soldier who is honored. Often as not, it is the short-time volunteer or the conscript, who may not have wanted to be part of it at all. A general mobilization involves enough people so that most of those who aren't in have a close friend or relative who is. It's hard to be negative when a loved one is giving his all.

In peacetime, the prime excuse for an armed military establishment is the threat of war. People may accept the need for protection and pay for it, but they don't necessarily like it. An insurance policy may be recognized as one of life's necessities. It may give the insured a degree of comfort and well being. But he doesn't have to like paying the premiums.

But what if the military became a profit-making organization—not in the sense of making money but in the sense of providing a host of useful services valuable and visible to the ordinary citizen in his daily life?

There are, of course, countless examples in which this happens.

A natural disaster strikes an area. With the Red Cross and the local emergency units, the National Guard comes to the rescue. The active forces supply airlift, helicopter evacuation, medical help, bulldozers and whatever.

Or volunteers from a nearby installation restore an orphanage or adopt the residents of an old folks home.

Or a child with a rare disease is airlifted to a military hospital and provided a crewman's pressure suit.

Or a technique learned through military research is used to solve a farming problem or improve a consumer product.

In isolated ways—many of them invisible to most of the public—the military investment is turned back to the taxpayer.

Unfortunately, much of the time, the services get little credit for their contributions. Sometimes they are taken for granted. Other times, there is a conscious decision to keep the military involvement in low profile.

The U.S. space program has been one of the prime examples and, in many ways, the most unfortunate one.

From its beginning, the program has been a close military-civilian partnership. Early boosters were modified intercontinental ballistic missiles. The launch sites have been military real estate. Most of the astronauts have been military fliers and those who were not have been trained by the services. The Air Force has supplied the civilian space program much of its top talent. Army has provided worldwide communications. Whole fleets of Navy ships have patrolled the recovery areas.

Yet "on-camera," the space shots have appeared as almost completely civilian shows. The military astronauts rarely appear in uniform. Seldom are they addressed by military rank. The logo on space hardware—even that supplied by the military—seldom is that of the parent service.

Why? Because, from its onset, the U.S. space program was advertised as a non-military endeavor. The aim was to show that, in contrast to the unblushingly military Soviet space effort, the U.S. activity was concerned solely with the peaceful exploration of space.

Whether that attempt was completely successful is a question. It did accomplish, one thing, however, and that, presumably, was unintentional.

By the obvious effort to remove the military "taint" from the program, the government has helped to perpetuate the popular belief that the services' expertise lies solely in the field of war making.

That belief has been encouraged further by the effort to justify the space budget. Much has been made of the "spin-off" benefits consumers have enjoyed from the civilian space programs—from no-stick cookwear to clearer TV pictures to nourshing fruit drinks. Little if any effort has been made to publicize the contributions which originated with the military.

We have not always been so shy about the military's involvement outside the profession of arms. In the 1920s, military fliers, often in military planes, flew in civilian air races and often won. In the 1930s, the Army's Corp of Engineers built some of the world's largest dams. In the immediate post-WW–II years, commercial aviation still admitted that most of its pilots had military backgrounds and that many of its planes were descendants of service aircraft—the Boeing 707 from the AF's KC–135, for example. Now the military connection often is ignored or at least underplayed.

All of which is not to say that things have changed completely. Lost campers still are happy to be spotted by the AF's Aerospace Rescue and Recovery Service. The Engineer Corps still has its hand in numerous public work projects. All services still turn out to help their civilian neighbors dig out of a snowstorm or recover from a flood.

But these are scattered efforts which, however numerous and important, can be looked on as the exception rather than the rule. These is nothing in the military mission which addresses the relationship of peacetime forces to the civilian community beyond that of peacekeeping and preparedness.

Perhaps it is ridiculous to think of the defense manpower, equipment and expertise as a national resource available for other than deterrence and battle.

But consider the magnitude of those resources—the planes, the ships, the heavy vehicles, the tools, the repair facilities, the laboratories, the buildings and real estate. Consider the number of doctors, dentists, policemen, mechanics, computer specialists, educators, lawyers, pilots, seamen, engineers, accountants, clerical workers, personnel experts, space technicians, electronics workers, musicians and firemen the services have produced.

One way and another many of these resources are brought to bear on problems of the national community. But the services rarely receive full credit for their contributions.

What if some way were found to make it a principle of national policy to use all of the resources of the armed forces for the betterment of the nation and the world in ways which would not compromise the nation's defense or reduce readiness?

A group called the War Control Planners—the non-militant peace group which has been discussed in these pages from time to time—suggests a way. They propose a world effort using space technology and other capabilities to locate new energy sources and mineral deposits, improve agriculture, detect natural disasters in the making, forecast and control weather and enhance world communications.

Each nation could participate in such a program by investing some of its military resources, the War Control Planners contend, but without giving up any of its defense capabilities.

The services already participate to a degree in such ventures, but there is a certain sense of national embarrassment about such participation and the military involvement is played low key.

Perhaps it is time to bring the military out of the closet, recognize it as something other than a necessary evil and restore national pride in its existence. Not needed? Consider this tiny bit of evidence: Do you really believe that the reason young military people resent service haircut regulations is that they dislike not being able to effect contemporary styles? Or is it a deeper problem of being marked as a member of an organization with which they are not anxious to be so prominently identified?

THINK "POSITIVE"?

Mr. GOLDWATER. Mr. President, I ask unanimous consent that an excellent editorial appearing in U.S. News & World Report, written by Warren T. Brookes, which first appeared in the Boston Herald American, be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THINK "POSITIVE"?

During the past few years, it has become fashionable in the media, generally, to refer to any politician who votes against major spending programs as "negative," or "lacking in compassion."

Similarly, politicians who regularly vote for vast government social enterprises are regarded as "positive" or "compassionate" or "liberal" (i.e. "for the people").

What is "positive" about a government that runs annual deficits of over 50 billion dollars—and prints money to finance them?

What is "positive" or "compassionate" about a constant inflation rate of nearly 7 per cent—a rate at which half of your life savings are destroyed every 10 to 12 years?

What is "positive" about a government whose regulations now cost consumers more than 100 billion dollars a year?

What is "positive" about government health programs that have singlehandedly driven the nation's spending on health care from 5 per cent of the GNP to nearly 9 per cent, in just 10 years?

What is "positive" or "liberal" about a Social Security System that is now taking more from the taxpayers than they can ever get back—and is still going bankrupt?

What is "positive" about a public education system that now spends over $11,500 a year per student—and doesn't teach them now to read, write, or do arithmetic?

What is "positive" or "compassionate" about a welfare system that is turning millions of Americans into helpless wards of the state, and encouraging millions of others to choose dependency instead of work?

What is "positive" about a government whose total accumulated long-term debt and obligations are over 5 trillion dollars—more than the total worth of the economy?

What is "positive" about a government energy policy that succeeds only in putting millions of people out of heat and work in the middle of a severe winter?

What is "positive" about more than 4 billion dollars in known welfare abuse, error and fraud?

What is "positive" about a nation where there are nearly 85 full-time dependents or employes of government for every 100 productive private taxpayers?

What is "positive" or "compassionate" about government housing and urban-development programs that have only accelerated urban decay, and isolated the poor in bleak warehouses?

What is "positive" about a government which is printing money at a rate more than twice as fast as the nation's economy is growing?

What is "positive" or "liberal" about asking government bureaucrats to make decisions for you, which you are better able to make for yourself—and at much lower cost?

What is "positive" about government policies that first create energy shortages, and then demand billions in new taxes to "solve"

them, that create a crisis, and demand even more power and control to "alleviate" it?

In short, what is "positive" or "compassionate" or "liberal" about big government, with all its trappings of bureaucratic power, waste and arrogance, with all its constant threats to individual freedom, privacy and expression?

We think we know what Thomas Jefferson would have said to these rhetorical questions. In 1801 he wrote:

"Every man wishes to pursue his occupation and to enjoy the fruits of his labors and the product of his property in peace and safety, and with the least possible expense. When these things are accomplished, all the objects for which government ought to be established are answered."

Mr. GOLDWATER. I know this is a little bit unusual to have an article appearing before comments are made, but I would hope that the reader would read the column and then begin to think about what we are subjected to daily in the press by commentators and by just ordinary people in politics. The Republican Party, for example, seems to be hellbent on becoming a moderate or, "progressive party." People who long have been on the extreme left are now trying to hedge a bit by adopting the terms "progressive," "moderate," and "positive."

Mr. Brookes has asked questions throughout his editorial that I think these kinds of people should read and begin to think about. What is progressive, for example, about the votes of people in Congress who place this country on the verge of bankruptcy? What does the term "moderate" mean when applied to a person who will vote for more and more measures aimed at putting the American citizen under the thumb of some bureaucratic agency? These actions are neither progressive nor moderate in my opinion.

This country was founded on the idea of freedom, and what is progressive, or positive, or moderate about efforts made by Members of Congress to move this country back to the very type of government our forefathers fled from? I have long maintained that there is a place, a very proper and needed place for two concepts or interpretations of our Government. One would be liberal under the example of Thomas Jefferson. The other would be conservative under the concepts of wanting to make progress on the proven values of the past. I wish Americans would think about what Mr. Brookes is trying to bring across in his column. It is time because if we keep on trying to hide behind definitions, adjectives, and words, the American dream may wind up being a nightmare.

THE CHAOS OF COLLEGE CURRICULA

Mr. EAGLETON. Mr. President, it is commonplace for Senators to slap into the CONGRESSIONAL RECORD all sorts of articles, speeches and other assorted "goodies." We all indulge in this harmless exercise.

Today I want to introduce yet another article into the CONGRESSIONAL RECORD. This one, however, is different. This one, I strongly urge, should be read by every Member of the Senate. It is entitled, "The Chaos of College Curricula" and was written by Ernest L. Boyer, the U.S. Commissioner of Education. It appeared in the October 30 edition of the Washington Post.

In it, Dr. Boyer analyzes the shortcomings in the curriculums of our colleges and universities. This subject has been a persistent and pet paranoia of mine. It is of more than theoretical interest to me since my son is a freshman in college. Since Dr. Boyer's views are identical to mine, his article is nothing short of brilliant.

I now would like to set forth a few extracts from the article and add a few commentary gems of my own.

The safest thing one can say about a college diploma today is not that it signifies some commonly accepted educational achievement, but rather that its holder probably has been around the campus for four years. Beyond that, everything is uncertain . . . Educational institutions are supposed to have some significant purposes of their own, some goals beyond creating catalogue listings that read like mental menus. . . .

How true. In our colleges there seems to be some sort of status race to determine which college can offer the most obscure or arcane courses. Basic fundamentals are either assumed or ignored.

In the 1960's and 1970's the curriculum trend at our American colleges was:

Toward a free elective system, the kind of curriculum "cafeteria" whch many students speak of today . . . But a curriculum that suggests students have nothing in common is just as flawed as one that suggests students are all alike. We need a core curriculum not to protect the disciplines, not to worship a set of books, but because as individuals we also hold important things in common.

* * * * *

We share a common heritage, and we need to focus on the traditions of the past. Colleges have a central obligation to help the human race remember, for better or worse, where it has been and how it got there. . . . The goal, of course would not be a simple survey course, not a breathless rush through history. Nor do I propose some eclectic muddle. Rather, the goal should be to choose a few seminal events with care, to study them with intensity, and to understand how they have helped shape our world.

Amen. In my judgment, every college graduate, whether premed, prelaw, or preanything, should have some exposure to where we have been, and how we got from there to here.

A component of the core curriculum's approach to our heritage should be concerned with change, with sets of events viewed from different vantage points.

So true.

We need a communications course, for instance. Language is what makes us a unique species, and all students should be required to master the written and spoken word.

From time to time, I have occasion to interview young people with masters and/or law degrees for staff positions in my office. I encounter some very, very bright, eager young men and women. I am impressed with their hopes and aspirations and their sincerity to make a better world. Usually, they verbalize rather well, but uniformly they are woefully inadequate in written English. They often do not know the first thing about punctuation, sentence structure, or the setting forth of a thought in a clear, concise, or cogent manner.

In my educational era (Amherst, 1950), such mundane, but necessary tools as spelling, grammar, and style were drilled into my head. This is not very exciting or glamorous stuff, but it is vital and important.

The college and graduate students of today have no interest in or reverence for written English. Their abuse of our mother tongue borders on being a national scandal.

I would make it a firm and categorical prerequisite that no one would be permitted to graduate from college unless he could read, write, and speak the English language.

The guiding logic here is to recognize our common membership in our social structures, to clarify their functions, and to understand how organizations can and should be changed in light of changing social needs. The core curriculum should convey key sectors of American life; government and law, business, finance, the economy and the private non-profit realm.

It is appalling to see so many recent college graduates who do not have a comprehension of the basic concepts of the world's political, social, and economic order.

Schools and colleges must be honest enough to affirm that the realities of earning a living have always been part of the liberal arts tradition. . . . The relationship between quality education and the world of work will not be solved just by tacking some vocational courses onto the traditional curriculum. Rather, it is time for education to confront the subject of vocation as a profoundly serious course of study and to make the study of work itself a part of the curriculum. What have been the historical, philosophical, religious and social attitudes toward work around the world? How does work relate to the fundamental value choices that every student must confront? . . . This is not to urge that colleges become vocational. Rather, it is to suggest that we simply begin to rediscover the true meaning of liberal education.

Right on!

What I do propose is a core curriculum that looks at the heritage we share, reflects on fundamental common experiences of the present, and then focuses on those alternatives for the future that in a thousand separate and unsuspected ways are being shaped today. . . . Who are the social prophets of our time? What images of the future does our society possess? What are its central dogmas and how do these compare with the forecasts offered by the emerging profession of futurology? How does the process of policy planning translate future alternatives into current choices?

Mr. President, I realize that I have spent an extraordinary amount of time quoting liberally from Dr. Boyer's article. I do so because I consider it to be an extraordinarily good commentary on a long-ignored educational issue. I hope my colleagues will read the entire article. Therefore, at this time I ask unanimous consent that the entire Boyer article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE CHAOS OF COLLEGE CURRICULA—DEGREE MUST REFLECT A CORE OF KNOWLEDGE

(By Ernest L. Boyer)

The safest thing one can say about a college diploma today is not that it signifies some commonly accepted educational achievement, but rather that its holder probably has been around the campus for about four years. Beyond that, everything is uncertain.

This is because on the vast majority of campuses, required courses have been dropped, and the ones which remain reveal a staggering incoherence of purpose, often expressed as "distribution requirements."

Under this system—if it can be called a system—a humanities requirement might be met by a course in film appreciation (12 nights of the Marx Brothers and the aesthetics of "Casablanca"), contemporary literature, modern dance or poetry reading. A social science requirement can be met by a course in Latin American history, by watching "The Adams Chronicles" on television, or by making tape recordings of grandma flipping through the family photo album ("oral history"). At some colleges a natural science requirement may be met not only by traditional courses in physics, biology or chemistry, but also by doing work for a season in the Galapagos.

While the college curriculum in this country has properly become rich and varied, that is no justification for random course selection by students. Educational institutions are supposed to have some significant purposes of their own, some goals beyond creating catalogue listings that read like mental menus. The colleges' sense of purpose was seriously shaken by the campus turmoil of the 1960s and early 1970s, and the problem has been compounded by financial fears on many campuses today. But unless educators are willing to tell the emerging generation that they have little idea about what matters anymore, colleges and universities must seek to redefine the threads of common experience that bind us together.

To do this, campuses would have to recreate some common core curriculum. This, it should be emphasized, does not mean that we need a national curriculum, and such a suggestion from the U.S. commissioner of education certainly is not intended to indicate that the federal government should legislate the contents of education. Colleges and universities themselves must make these decisions.

Some already have begun doing so. At Harvard, an investigation of undergraduate education has led to proposals for a new core curriculum. At Stanford, a committee that has spent several years looking at reform of undergraduate education recently recommended a course requirement in Western civilization. At Amherst, a faculty committee is recommending a new structure for the undergraduate curriculum. But most campuses have not begun this process of rediscovery.

THE CURRICULUM "CAFETERIA"

In the academic world, as elsewhere, beliefs tend to swing too sharply from one extreme to the other. In the early days of American higher education, Harvard College prescribed for all its fuzzy-cheeked, teenage students a tight, inflexible curriculum that was considered divinely ordained. Exceptions to the academic rules were rarely sought and even more infrequently granted.

As knowledge continued to expand, as college doors began swinging more widely open, and as we began to learn more about individual students' differences, notions about what should be taught also changed. More courses, more electives and more student independence were introduced to keep pace with the intellectual, social and economic ferment in our midst.

The idea of some sort of common core did, of course, persist. There were experiments at Columbia University, the University of Chicago and St. John's College, and Harvard produced a report on general education that served as a kind of bible for most colleges and universities after World War II. But the seemingly irreversible sweep was toward a free elective system, the kind of curriculum "cafeteria" which many students speak of today.

But a curriculum that suggests students have nothing in common is just as flawed as one that suggests students are all alike. We need a core curriculum not to protect the disciplines, not to worship a set of books, but because as individuals we also hold important things in common. What we need is to find a middle ground.

What are the common experiences that could become a new common core of liberal education? I would offer one of many possible sets of ideas.

First, we share a common heritage, and we need to focus on the traditions of the past. Colleges have a central obligation to help the human race remember, for better or worse, where it has been and how it got there.

Obviously, to talk about our heritage has a familiar ring. But a notion need not be rejected just because it is familiar, and if our schools and colleges do not help keep the past alive and help introduce students to the people and ideas and events that have contributed consequentially to human gains and losses, we will not only have lost our past, we will have lost our future, too.

The goal, of course, would not be a simple survey course, not a breathless rush through history. Nor do I propose some eclectic muddle. Rather, the goal should be to choose be to choose a few seminal events with care, to study them with intensity, and to understand how they have helped shape our world.

I would, however, inject a special word of caution: A chief danger of any study of the past is that we come to believe that our current view of things is the only accurate one and an improvement over past accounts. Thus, a component of the core curriculum's approach to our heritage should be concerned with change, with sets of events viewed from different vantage points.

One might study, for example, how the conventional wisdom about American involvement in Indochina changed from 1950 to 1975. One might compare versions of communism in the 1920s and 1970s. One might trace how the ideas of empire, colonization and "manifest destiny" were born, implemented and radically revalued. One might look at a particular historical moment from the perspective of black people or of women or of non-Western cultures.

But we not only share a common past; we also share the challenges of a common present. It has always seemed curious that most past experiments in general education (the Great Books, for example) have focused exclusively—almost compulsively—on the past and have been remarkably inattentive to the crucial common experiences in the contemporary world. A new core curriculum should also examine our existence here and now and focus on those circumstances that shape our lives.

We need a communications course, for instance. Language is what makes us a unique species, and all students should be required to master the written and spoken word. They also should understand how we use and misuse symbols, how we communicate not just with words but with mathematics and music and computers and dance.

Courses in communications should strive for "comprehensive literacy"—the ability to spot the hidden suppositions behind a message. Students should, for example, learn how to deal critically with advertising and propaganda. By looking at television news, they might elaborate a notion of "tube literacy." This emphasis on language is essential not only because it is the connecting tissue of our culture, but because it becomes the tool for other learning.

THE MEANING OF WORK

We also need a course on institutional literacy. All of us are caught up in a world of social institutions. We are tied into schools and banks and towns and cities and clubs, into the entire structure of contemporary life. No education has done its job if it does not clarify for students how these structures came to be and where they fit into the broader social context.

The guiding logic here is to recognize our common membership in our social structures, to clarify their functions, and to understand how organizations can and should be changed in light of changing social needs. The core curriculum should convey key sectors of American life: government and law, business, finance, the economy and the private non-profit realm. Case studies would be particularly useful adjuncts. If their angle of approach were determined by an insistent issue in the news—"ungovernability," human rights, national health insurance, balance of payments, the charitable deduction—so much the better.

We also need a course on the meaning of vocation. We all give purpose to our lives in large part through productive work. Our schools and colleges have been negligent in their failure to confront this essential fact.

We hear a lot of talk these days about "liberal versus vocational" education, and it is suggested that our collegiate traditions are demeaned if they lead directly to a job. Such a view not only distorts the present, but it denies the past. Education has always been a blend of inpsiration and utility.

Last fall I was on sabbatical at Cambridge University in England. It is a bucolic spot, with gardens, ivy-covered walls and quiet academic courts, all far removed from the corridors of commerce and from the clang of industry—or so it seemed. Yet during my stay I read "The Masters" by C. P. Snow, a novel that probes academic politics by describing the process by which a Cambridge college selects a master.

In the appendix Snow talks about the history of Cambridge University. He tells how students came to study with their tutors 600 years ago. They slept in dirty lofts and went hungry many times. They faced poverty for months, and for one simple reason: Jobs lay ahead, "jobs in the royal administration, the courts, the church, jobs teaching in the schools." The training was in fact vocational, Snow declared, "and jobs lay at the end."

Harvard College was founded not only to defend the Christian faith but also to prepare young men for jobs: the ministry, law, medicine, teaching and professions pursued by the privileged.

In more recent years our arts and sciences majors—so far removed from charges of vocationalism—have been, in fact, quite practical in their thrust, with students going on to graduate school or specialized job training. The unspoken assumption has always been that our graduates would get productive jobs, and the greatest embarrassment for any academic department is to discover that its graduates cannot get "placed."

Schools and colleges must be honest enough to affirm that the realities of earning a living have always been part of the liberal arts tradition. It is true that some work is not vocation and that some jobs are not uplifting, but degrading. But the problem of relating work to higher education cannot be so easily dismissed. Many useful, challenging and crucial jobs have emerged in recent years, yet schools and colleges still confer prime legitimacy on those jobs that have been around the longest and that we like the best.

Because of tradition, lethargy, ignorance and snobbery, mindless distinctions are made between what is vocationally legitimate and illegitimate. Such distinctions have led to equally mindless choices about what can and cannot be offered at the arts and science colleges.

It is all right, some say, to prepare to be a doctor, but it is less all right to be a nurse. It is all right to be an engineer, but to be a computer programmer is off limits. Teaching college is just great, but teaching elementary school is something else again. To dig the ruins of the past is a respectable objective, but to work with ruined lives in an urban jungle—a much more demanding task—is not so worthy. To read what has been written in the past is fine, but to aspire to write about the present—as a journalist perhaps—is not quite legitimate at many arts and science colleges.

What logic is used by those who make distinctions such as these, by those who—through the curriculum they offer—determine for their students which work is honorable and which is not?

The relationship between quality education and the world of work will not be solved just by tacking some vocational courses onto the traditional curriculum. Rather, it is time for education to confront the subject of vocation as a profoundly serious course of study and to make the study of work itself a part of the curriculum. What have been the historical, philosophical, religious and social attitudes toward work around the world? How does work relate to the fundamental value choices that every student must confront?

Above all, schools and colleges should be places where students come to understand that, for most of us, work is an expression of who we are and where we fit. "I work, therefore, I am" may overstate the case, but it speaks to our current condition.

This is not to urge that colleges become vocational. Rather, it is to suggest that we simply begin to rediscover the true meaning of liberal education.

EXPLORING THE FUTURE

Finally, the core curriculum should respond not only to the past and present, but to the future as well. Robert Heilbroner observes in "The Human Prospect": "There is a question in the air, a question so disturbing that I would hesitate to ask it aloud did I not believe it existed unvoiced in the minds of many. The question is: 'Is there hope for man?'"

I do not propose a single, apocalyptic vision of the future. What I do propose is a core curriculum that looks at the heritage we share, reflects on fundamental common experiences of the present, and then focuses on those alternatives for the future that in a thousand separate and unsuspected ways are being shaped today.

Such a core course would spend some time looking at the "history of the future." In many ways societies are held together by their images of the future. It is important to consider the images that earlier cultures have possessed as well as to look more closely at utopian literature, science fiction, scripture, millenarian tracts and other sources of such images.

Who are the social prophets of our time? What images of the future does our society possess? What are its central dogmas and how do these compare with the forecasts offered by the emerging profession of futurology? How does the process of policy planning translate future alternative into current choices?

We are at the pivotal time in human history, and educators must approach their responsibilities with a sense of confidence and of urgency. The human race continues to expand at a rate of 200,000 people a day, or 73 million more people every year. And every day more than 800 million people face gnawing hunger, living literally from hand to mouth. Tensions over resources grow more acute, and the quality of our environment is threatened. Where will we get our food, and how can it be appropriately distributed? What about our energy supply, and how can it be equitably shared? How can we reduce the poisons in the atmosphere? Can we have a proper balance between population and the life-support system of this planet. How can we live together, with civility, in a climate of constraint? These are a few of the transcendent issues that today's young people must begin to think about with great care.

Recently, at a seminar in the Persian city of Persepolis, John Gardner said: "Our planet is but a speck of dust in the universe, and our life on it is but an instant in the long stretch of astrophysical time. Still, it is the only planet we have, and our life on it holds great possibilities of beauty and dignity and meaning. Yet, if it were asked of us how we spend our time on our speck of dust, we would have to say, 'We spend a good deal of it fighting one another and laying waste our earth.'"

"Surely," Gardner went on to say, "all of us here believe that we can do better."

It just may be that, as we better educate ourselves and make the human spirit more sensitive, we will touch the life of every student and together make our common future more secure.

REV. ALFRED L. C. ROBBS

Mr. RIEGLE. Mr. President, it is with great pleasure that I call the attention of my colleagues to a distinguished man from my State, Michigan, who is being honored November 5 in Flint by his friends and associates.

Rev. Alfred L. C. Robbs is one of Flint's most distinguished and respected clergymen. His life has been an expression of his love for and commitment to his congregation, his friends, family, and neighbors, our city of Flint, and all humankind. I have personally known Reverend Robbs for many years and consider him one of my closest and dearest friends. I feel a great happiness for him as he receives honors richly deserved. He is a great and good man.

Reverend Robbs was born on October 19, 1914, in Little Rock, Ark., the son of Ada and Rev. Charles Henry Robb. When he was 5, the family moved to Terre Haute, Ind., where Reverend Robbs attended the Highland Primer School. In 1931, at the age of 17, he had to quit the 11th grade to go to work. Eighteen years later he returned to school and graduated along with his danghter, Betty, in the class of 1950 of Garfield High School. He was married on March 4, 1932 to Marget Rose and they now have six children.

Reverend Robbs' first church was the Boyles Chapel in Sullivan, Ind. From there he went to Emanuel Baptist Church in Wisconsin. The Robbs moved to Flint in the winter of 1957 and he became the pastor of Cannon Baptist Church on January 1, 1958. In December, 1971, he moved his congregation to the Christ Fellowship Church where he is today.

Reverend Robbs is indeed a dedicated and humane person concerned with helping others. His contributions to the city of Flint will continue to serve the interests of all the people for years to come. By his deeds, he is worthy of all the honors being bestowed upon him in the ceremonies on November 5.

THE GENOCIDE CONVENTION IS A VITAL PART OF AN EFFECTIVE HUMAN RIGHTS POLICY

Mr. PROXMIRE. Mr. President, ever since last year's election campaign, President Carter has been advocating the protection of human rights on a global scale. His inaugural statement that "our commitment to human rights must be absolute" has been implemented through a variety of foreign policy decisions. To date, the Carter administration has:

Condemned the slaughter of political opponents of Idi Amin in Uganda;

Condemned the recent crackdown against blacks in South Africa;

Sent supportive correspondence to Soviet dissident and Nobel prize winning physicist Andrei Sakharov;

Arranged a meeting between the President, Vice President MONDALE, and leading Soviet dissident Vladimir Bukovsky;

Reduced military aid to Argentina, Ethiopia, and Uruguay, on the basis of human rights protection;

Used the State Department to construct an effective advocacy of human rights in Latin America;

Opposed a $90 million loan from the Inter-American Development Bank to El Salvador to bring about a tangible improvement in that country's human rights policies; and

Discussed human rights, and specifically the release of political prisoners, with over 80 foreign leaders.

All too often, however, the President's initiatives do not receive much needed support from other branches of our Government. Although it may be effective, advocating human rights through specific foreign policy decisions for particular political groups can also be a very slow process. In view of this, the State Department has long understood that our interests in human rights can effectively be pursued through participation in international agreements.

I am very proud of the progress we have already made in this area. We have ratified conventions on the treatment of refugees, the nationality of women, and the suppression of slave trade. But in view of this, I find it ironic that we have yet to ratify the Genocide Convention—the one convention which protects the fundamental right to live regardless of one's religious beliefs, ethnic background, race, or nationality. In fact, the U.S. failure to ratify this convention is worse than ironic; it is a tragic mistake.

In a recent interview, Pat Darien, Assistant Secretary of State for Human Rights, had this to say about the administration's stand:

> Some parts of the bureaucracy say that our concern for human rights will pass. But they are going to have to think again. . . . We've staked our international reputation on this high ground. If there were any thought of pulling away, the political implications would be disastrous.

Assistant Secretary Darien is absolutely right. And until the Senate ratifies

the Genocide Convention, U.S. initiatives in the area of human rights can only be partially successful. I urge my colleagues to give their full support to President Carter's courageous stand by ratifying this convention immediately.

ENERGY CONSUMPTION

Mr. HATHAWAY. Mr. President, we have wrestled throughout the year with the national energy plan submitted by President Carter. Members of Congress from both sides of the aisle have suggested changes, modifications and refinements to direct this country in the direction away from reliance on oil and gas toward renewable, alternative energy sources. We have urged decreased consumption and development of a consciousness that the "times they are a-changin'" in the words of Bob Dylan.

Apparently, the word has not really gone forth.

Today's Wall Street Journal has an excellent and sobering article on the immense appetite for energy in this country. The article quotes one official as saying, "after 2 years of reduced energy consumption which followed the 1973 oil embargo and the world crude oil price increase, the personal energy consumption of the American public has returned to preembargo levels." The U.S. record stands in sharp contrast to the rest of the world.

This is tragic. The American people may only be delaying the inevitable. I am fraid that the rationing of petroleum supplies and petroleum products may be the consequence of the insatiable and wasteful demand of energy by the American people.

It is time, long since time, for a change in attitude. I hope the American people will realize the problem before the irreversible tide overtakes us.

Mr. President, I ask unanimous consent that the full text of the Journal article be reprinted in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THERE IS PLENTY OF OIL ON HAND RIGHT NOW, BUT OUTLOOK IS BLEAK

(By Charles N. Stabler and James Tanner)

Petroleum storage tanks in the U.S. are primming with 970 million barrels of crude oil and fuel, a 52-day supply, up 11 percent from the inventory a year ago. Meanwhile, the flow of oil from Alaska's big North Slope is rising. And at some gasoline stations, attentants once again will even wipe your windshield without being asked.

There is plenty of oil around these days, everybody admits, and the supply outlook for next year is possibly even better. So what's the problem?

The problem, talks with oil men and economists make clear, is that the current abundance represents only a pause, a temporary breather, in the nation's rush toward increasing dependency on foreign sources of energy. On this point, industry officials generally agree with President Carter, although they take strong exception to much of his program for putting the U.S. on a more self-sufficient basis for its energy needs.

Regardless of what happens to the by now much-altered Carter energy program as it is debated in Congress, there is little expectation that it will have much impact on oil imports any time soon. Moreover, the public's reaction to the whole issue of energy supplies has been apathetic at best.

A SKEPTICAL REACTION

Ask Ali A. Attiga, secretary-general of the Organization of Arab Petroleum Exporting Countries, the question President Carter asked at a recent press conference: "Do we have the will as a nation to cut down our enormous oil imports?" Responds Mr. Attiga, "I have my doubts."

He isn't alone. "With supplies readily obtainable now and in the foreseeable future, the public will buy whatever fuel it can afford at prevailing prices," says John H. Lichtblau, executive director of the Petroleum Industry Research Foundation. "Significant voluntary energy self-restriction in the absence of a visible or immediately looming shortage is therefore unlikely."

Although the increased demand for home insulating materials and extensive newspaper publicity for solar heating give the impression that the public's dedication to conservation is rising, according to Rene Zentner, opinion research manager for Shell Oil Co., "the realities of energy utilization suggest a different result."

LAGGING EFFORTS

"After two years of reduced energy consumption which followed the 1973 oil embargo and the world crude oil price increase," he says, "the personal energy consumption of the American public has returned to pre-embargo levels."

On this score, the U.S. record stands in sharp contrast to that of most other industrialized nations. Although America's faster economic growth rate and the increased energy demands stemming from last winter's unusually cold weather and the subsequent drought in agricultural regions blur the comparisons slightly, the following table, showing percentage changes in daily average oil consumption for the first half of 1977 compared to the like periods of 1976 and 1973, indicates a definitely poorer conservation effort by U.S. consumers than by those in Europe and Japan.

Change in daily oil consumption

[In percent]

	From 1976	From 1973
United States	+8.8	+7.5
Japan	+7.0	−0.7
France	−1.4	−8.6
Germany	−0.5	−10.8
Italy	−2.6	−5.0
United Kingdom	−1.5	−19.5

For the full year, most projections put U.S. 1977 petroleum consumption at an average 18.5 million barrels a day, up 6 percent from last year and more than one million barrels a day above the level just prior to the 1973–1974 Arab oil embargo. The new surge in demand for oil in the U.S., which had slumped in the recession years of 1974 and 1975, would not be of particular concern if domestic oil output were keeping pace.

But seven years ago, domestic oil production peaked at 9.6 million barrels a day and began declining rapidly. As a result, by 1973 when the embargo began, 35 percent of the oil consumed in the U.S. was coming from abroad. By last year, with demand rising once again and domestic output falling to around 8 million barrels a day, Americans were importing four out of every 10 barrels of oil they consumed.

Last summer the long delayed trans-Alaskan pipeline was opened, providing fresh supplies of oil from the North Slope. The initial flow of around 700,000 barrels a day has boosted domestic oil output slightly, to about 8.3 million barrels a day for the year.

Nonetheless, oil imports continue to climb, increasing this year to a record 8.6 million barrels a day, or 46 percent of U.S. needs. (Natural gas liquids produced in the U.S., which can be processed into petroleum products, make up the remainder of the 18.5 million barrels a day of petroleum demand.)

Alaska's North Slope will supply an additional 500,000 barrels of oil a day next year, bringing the trans-Alaskan line to its capacity of 1.2 million barrels a day. Each new barrel of Alaskan production would, of course, displace one barrel of foreign oil if demand remained static and production elsewhere in the U.S. held level.

But production from the older fields in the lower 48 states is continuing to decline. And another hard winter could drive up demand sharply again next year. Even with a normal winter, petroleum demand in the U.S. could increase again by enough to offset the additional oil from Alaska.

IMPORTS DIP?

Depending on economic conditions, demand could rise in 1978 by 2 percent to 4 percent, according to most projections. In its supply and demand forecast, considered authoritative by the industry, the Independent Petroleum Association of America last week estimated 1978 petroleum demand will increase 3.5 percent to 19.2 million barrels a day.

Such a forecast would indicate a slight dip in imports to 8.4 million barrels a day, the producers' organization estimates. This estimate, however, doesn't include any foreign oil that would be needed for the government's strategic petroleum-reserve program.

Oil observers agree that even if there is a slight decline in imports next year, the dip will be only temporary. "We are probably on a plateau for the next two or three years, but when we get to the 1980s, we will see big increases in our oil imports again," says Hendrik S. Houthakker, a Harvard economist.

Paying for imported oil is largely responsible for the deepening deficit in U.S. trade with other nations. The merchandise-trade deficit this year is likely to be around $30 billion, compared to $9.3 billion of red ink in 1976 and a surplus of $9 billion in 1975. Some economists foresee a further deepening of the deficit next year, possibly to $35 billion, and 1979 isn't likely to be much better.

IMPACT ON FOREIGN EXCHANGE

The heavy outflow of dollars to pay for imports, which is only partially offset by return flows of dollars for investment and bank deposits, is one reason for the weakness of greenbacks against other currencies such as the German mark, Japanese yen and Swiss franc. Other factors beside oil imports, of course, influence the currency market, namely the weak competitive position of many U.S. products in world trade and a decline in the surplus normally generated by agricultural exports. But economists say oil is at the heart of the problem, and, for that matter, holds the most potential for a remedy.

"To a considerable extent, the deficit is the product of U.S. inaction on energy policy," says a study by Morgan Guaranty Trust Co. of New York. "Probably the most constructive contribution the U.S. can make towards reducing its deficit is to develop and implement an effective energy program which tackles both the supply and demand sides of the problem, with the aim of limiting net oil imports."

It is estimated U.S. oil imports will cost $42.2 billion this year, up $10 billion from last year. As recently as 1973, the nation's oil import bill was less than $8 billion. Im-

ports of natural gas cost $2 billion last year and will probably reach $2.5 billion this year and $3 billion in 1978, Morgan Guaranty estimates.

Taking account of offsetting exports of coal and some petroleum products, the bank's economists project the net deficit of non-nuclear fuels in 1977 will be $43.5 billion, $47 billion in 1978 and $51 billion in 1979. "We are going to have to have a very competitive economy (in world markets) to pay for this," says Rimmer de Vries, a Morgan economist.

POLITICAL IMPLICATIONS

The level of oil imports has obvious political as well as economic implications. "Having to be dependent for 46 percent of our oil requirements on foreign sources with a very high concentration in one area entails certain political risks," says Mr. Lichtblau of the petreloum research group. "It also makes us indirectly subject to the individual resource policies of the major oil suppliers which may differ from our interests. In addition, in the view of most petroleum geologists, physical resource constraints are likely to appear before the end of the next decade if the U.S. and the rest of the world should continue to increase their oil requirements at the long-term pre-1973 rate of about 7 percent annually or even at this year's and last year's average rate of 5 percent to 5.5 percent.

There is considerable doubt among oil men that some of the producing countries, particularly Saudi Arabia, the chief source of foreign oil, will continue to expand their output much beyond their ability to absorb the revenues they gain. And even if the exporters are willing to boost output, how long can they physically do it?

Within the next few decades, possibly by 1990 or even sooner, world oil output is expected to follow the pattern already established in the U.S.—peaking out and then declining. This is the crux of the "energy crisis," oil men agree: A scarcity of petroleum threatens to arrive before alternative energy sources have been developed.

TWO VIEWS ON THE PANAMA CANAL TREATIES

Mr. CHURCH. Mr. President, two articles have recently appeared in national publications on the question of the pending Panama Canal Treaties. The first is a thoughtful essay on the subject, which appeared in Time magazine of October 31. The second is a surprising article in favor of the new arrangement with Panama from the actor John Wayne, a man noted for his staunch conservative views.

I would commend both articles to my colleagues, and ask unanimous consent, Mr. President, that they be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From Time magazine, Oct. 31, 1977]

THAT TROUBLESOME PANAMA CANAL TREATY

(By Edwin Warner)

How could such a good cause get into so much trouble? The Panama Canal treaty, which gradually cedes U.S. control over the waterway to Panama by the year 2000, is nothing if not reasonable and conciliatory. It is a common-sensical solution to a nagging, decades-old problem—one that has damaged U.S. relations not with an enemy but with a relatively good neighbor. Yet opposition has grown so intense that while the treaty is expected to be approved by a plebiscite in Panama this week, it is still in considerable trouble in the U.S. Senate.

Ronald Reagan almost accidentally discovered, during his bid for the G.O.P. presidential nomination last year, that the canal aroused high passions. Coming so soon after the U.S. retreat from Viet Nam, the question of giving up the waterway became inextricably entangled with the matter of American strength and pride—of patriotism v. surrender. Yet for all the opposition, the pact has the backing of a very wide spectrum of informed opinion, including conservatives like Bill Buckley and John Wayne. Four successive Presidents—Lyndon Johnson, Richard Nixon, Gerald Ford and now Jimmy Carter—have backed negotiations and pushed them along. Faults may be found with an imperfect document in a not so perfect world, but its basic realism has not been questioned by those with some familiarity with the issue. Why, then, the rancorous debate? Says former Secretary of State Dean Rusk, who testified on behalf of the pact: "A mistake was made in the beginning of the debate. We began to ball up our fists at each other without knowing what it is we were fighting about."

Some of the bare-knuckled opponents, of course, are less interested in the facts than in the fight; indeed, they welcome it. Much of the political right sees in the Panama Canal the ideal issue to rally the troops, gain recruits and make a political comeback. Conservative-financed literature is popping up everywhere, and members of Congress concede they are influenced by the torrent of antitreaty mail because there is so little on the other side. The treaty, like many worthy foreign policy enterprises, lacks an organized constituency. Nevertheless, the canal issue is fraught with risk for conservatives. If the treaty is ratified, they are losers; if it is rejected and the canal is disrupted by violence, they are probably still losers, since their plans for a comeback could well collapse in a fire storm of recriminations.

The treaty's supporters have made a number of blunders. Battling on too many other fronts, the Carter Administration let the opposition get the jump on it waiting too long to start educating grass-roots America on the intricacies of the treaty. Further, the White House's handling of Congress was not as adroit as it might have been. Carter's aide Hamilton Jordan complained of the Senate: "Some of those bastards don't have the spine not to vote their mail. If you change their mail, you change their mind." Senator Clifford Case, a New Jersey Republican who is sympathetic toward the treaty, coldly replied that such a remark was not "helpful."

It may not be helpful, either, to overemphasize the guilt factor in giving up the canal. To be sure, the U.S. acquired the canal territory in a grandly imperialistic manner in 1903, and the waterway remains one of the last, most prominent vestiges of the colonial era. As Senator S. I. Hayakawa put it, not altogether whimsically, "We stole it fair and square." But it can be argued that ever since the canal was opened for business in 1914, the U.S. has more than made up for its initial land grab. It has managed the canal in an openhanded manner, allowing access to all the world's shipping, including that of Communist nations. It has deliberately kept fees and tolls as low as possible. Says David McCullough, author of the The Path Between the Seas, a meticulous history of the canal's construction: "The fact is no power on earth could have done what we did. We've done a lot of small, stupid things in the Canal Zone over the years, but we've never done anything operating the canal that we need be ashamed of." With considerable reason, Americans can relinquish control of the great ditch out of a sense of pride—magnanimity combined with good sense.

Amid all the rhetorical smoke surrounding the canal treaty, people are understandably confused about the hard facts—and realities. Some key questions about the pact and what its approval would mean:

Q. How important is the Panama Canal for the U.S.?

A. Of course, it is still important, but not nearly so vital as it used to be. About 8% of U.S. international maritime trade passes through the waterway, much of it in non-American vessels. Some 4% of American coast-to-coast trade transits the canal, compared with 9% in 1964 and 50% in 1940. Few U.S. warships make the trip; the supercarriers are too big, and the nuclear submarines are vulnerable to detection and attack because they must be on the surface to make the crossing. Besides, the U.S. has maintained two virtually separate navies in the Atlantic and the Pacific since World War II. Strategic materials are increasingly transported across the country by rail and truck. While disruption of the canal would be troublesome for the U.S., it would be far from fatal.

Q. What claim does Panama have to the canal?

A. Historically, at least, not much of one. The U.S. will be ceding the canal to Panama but not "returning" it, since Panama never really possessed it. If anything, Colombia was the aggrieved party. With American connivance, Colombian rebels "liberated" the isthmus from the Bogota government in 1903 and turned the rights to build the canal over to the U.S. Panama and its canal came to life together; without the canal, Panama could scarcely exist as a viable nation. Canal revenues account for some 25 percent of Panama's gross national product, 20 percent of its employment and almost 40 percent of its foreign exchange earnings. Thanks to the canal, Panamanians have one of the highest per capita incomes of any nation in Latin America: a still very modest $1,060. In one sense, Panamanians can be grateful that America decided to build the canal.

Yet the present anomaly remains: a small but proud nation cut in half by a huge waterway under the control of a foreign power. The arrangement may once have been economically justified, even a historical necessity, but it is a current indignity for Panamanians. As Venezuelan President Carlos Andres Perez Rodriguez told Carter: "The Panamanians feel exactly about the Canal Zone as North Americans would feel if the British owned the Mississippi River." In fact, Americans had much the same attitudes as contemporary Panamanians when the Spaniards and French (not the British) controlled the Mississippi at the turn of the 19th century. In 1956 America supported Egyptian sovereignty and condemned the British and French attempt to recover the Suez Canal. The U.S. has had too much experience with double standards in dealing with the Communist world to indulge in the same practice.

Q. Can Panama run the canal as well as the U.S.?

A. The American record is hard to beat. There have been remarkedly few accidents or sinkings considering the amount of traffic. Yet there is no reason to assume that Panamanians cannot do as well; the Egyptians have learned to run the Suez Canal, which admittedly lacks the complex system of locks of the Panama Canal. Says a senior State Department official: "Nowhere is it written that you have to have a Georgia Tech degree to run the canal. The canal is damned important economically to the Panamanians. It is their only natural resource, and they will take care of it." Writes Vermont Royster, former editor of the Wall Street Journal: "For us, the canal is at most one adjunct to commerce and defense. For Panama, the canal is vital; the closing of the canal would be a disaster."

At the moment, Panama does not have the skilled manpower to take over the canal. But

it has 23 years to train pilots, technicians and mechanics—a sufficient amount of time, one would think, since it takes a mere twelve years to train a brain surgeon. Panama has also said it would hire other nationals if there are not enough native citizens to do the job.

Q. Can the U.S. intervene militarily to protect the canal once Panama is in control?

A. No question has aroused more anxiety or opposition to the pact. Until 2000, the U.S. will control the canal and its military bases. After that the treaty states that the U.S. and Panama shall maintain the "neutrality" of the canal, a clause that seemed alarmingly vague to many people. When it became apparent that this concern was about to sink the treaty, Panama's head of state, General Omar Torrijos Herrera, went to Washington, and he and Carter issued a joint "statement of understanding." The "correct interpretation," they said, is that each country shall defend the canal against any aggressive act or other threat to its neutrality and shall make sure that it remains "open, secure and accessible." But the U.S. has no "right to intervention in the internal affairs of Panama."

This seems to lead to a certain ambiguity. How can the U.S. defend the canal without somehow intruding in Panama's internal affairs? Treaty proponents admit the distinction is a fine one but think that it can be observed. The U.S. asks nothing more of Panama than a functioning canal.

The Carter-Torrijos understanding seemed to answer the question of intervention to almost everyone's satisfaction. Senate Majority Leader Robert Byrd, who has not said how he stands on the treaty, described the understanding as "a very important diplomatic achievement and a big plus for the President and the treaty." Republican Senator Robert Dole, one of the pact's chief critics, called the joint statement a "step in the right direction," his most favorable remark to date.

The Carter-Torrijos understanding also cleared up another controversial point. The treaty gives both nations the right to send its warships through the canal "expeditiously." But how expeditiously? Panamanian officials, under fire from the left, insisted that U.S. vessels would be granted no special treatment. A number of U.S. Senators found that position unacceptable. The new statement specifies that warships of either country would be entitled to "expedited treatment" and, during emergencies, could go to "the head of the line of vessels."

Q. What if the U.S. fails to ratify the treaty?

A. The reaction in Latin America would be dramatic. Countries on the coast of Latin America that depend heavily on the canal—Peru, Ecuador, Venezuela—have privately advised the U.S. that they have some misgivings about eventual Panamanian control. But publicly they would doubtless join the rest of the continent in denouncing the U.S. for a breach of faith. Certainly the rejection would sour American relations with Latin America and intensify distrust and hostility.

Failure to ratify would also be a gift to American's worst enemies. Latin America's left wing opposes the pact because it ensures a U.S.-Panamanian partnership for the foreseeable future and, perhaps more important, because it eliminates a major source of antagonism between the U.S. and its southern neighbors. Notes the Buenos Aires *Herald:* "The Latin American left is clearly dismayed at the emergence of an agreement which may prove satisfactory to most Latin American opinion, ranging from the center left to the center right." If the Senate were to reject the pact, the Latin left would be able to say, "We told you so," and would probably gain adherents among disillusioned moderates. No right-winger in the U.S. is more fervent in his desire to see the treaty fail than is the Latin American left.

Q. If the U.S. does not ratify the treaty, can it protect the canal from violence?

A. Not very easily, say the people who should know: the Joint Chiefs of Staff. They believe it is in the national interest to cede control of the waterway. Acting alone, surrounded by a hostile population not only in Panama but in the rest of Latin America, the U.S. would need an estimated 100,000 troops to put down a determined guerrilla effort. And even that sizable a force could not seal off the waterway's lock mechanisms, dams and power plants from some kind of sabotage.

A band of skilled terrorists, for example, could approach the Gatun Dam through the dense jungle with relative ease. Properly placed explosives could blow up the dam, drain the water that is required to operate the locks and put the whole canal out of commission for as long as two years. General George Brown, Chairman of the Joint Chiefs of Staff, told Time Correspondent Jerry Hannifin: "If I were a guerrilla backed by Fidel Castro or somebody, I would just love those Panamanian jungles. They are better than even the jungles of Viet Nam. An organized guerrilla effort could cost us heavily. That is why we want the Panamanians on our side from scratch under the new treaties. We need them to help us." If the U.S. were forced to take some kind of military action to protect the canal in, say, the year 2027, it would be in a far stronger moral position if it had approved the treaty. Then it would be fighting on behalf of Panama, not against it.

The Panama Canal treaty is no historical accident, no caprice of idle statesmen. It has been twelve long, arduous, ruminative years in the making; it is an idea whose time has come—and whose time may be running out, given the objection to the treaty among many Latin Americans, especially in Panama. Strongman or not, Torrijos is faced with opposition, chiefly radicals who are considerably farther to the left than he is. If the treaty is not ratified, if trouble breaks out in Panama, it will be all the harder to draw up a subsequent pact in an atmosphere of mutual recriminations. Responsible citizens of both countries would look back on the present period as an opportunity that was tragically missed.

[From the Washington Post, Oct. 25, 1977]

TREATY SUPPORT FROM—YES—'THE DUKE'

(By John Wayne)

My interest in Panama goes back to the '40s. I have friends on both ends of that country's political spectrum. As a matter of fact, my first introduction to the Panamanian situation was in the '30s when Harmodio Arias was president. He was probably the best-liked figure in all of Latin America and one of the very few presidents who has ever completed a term. His wife and his son Tito, then about 12 years old, visited me in California. Another son, Tony, was godfather to one of my daughters. I am going into these personal things only to show that I have had reasons to give attention to our relationships down there.

I have followed the Panamanian situation since the time the State Department ensured our losing good relationships with Panama by changing its policy and charging extremely high prices for tuition for the children of several Panamanian families to go to Canal Zone schools. These families were continually involved in the leadership and administration of Panama. I think it would have been quite obvious that with their children attending our schools they would have our point of view. I wrote a letter to our administration at that time to apprise it of this situation. Nothing was done.

I was appalled when Gen. Eisenhower appeared to have given the sovereignty of the canal away by allowing the Panamanian flag to fly there; but at that time, neither Congress nor the press nor the conservatives uttered any kind of cry. I did, but it was a voice in the wilderness.

In checking to find the reason for President Eisenhower's actions, I found out that, although we had the rights to the ownership and jurisdiction of the canal, Panama had not surrendered sovereignty. I also found out that the United States, in the Arias-Roosevelt Treaty of 1936, ratified in 1939, recognized the sovereignty of Panama in the Canal Zone as it was originally stated in the 1903 agreement.

In negotiations during the Kennedy administration, it was further agreed that any place within the civil area that the American flag flew, there must be a Panamanian flag raised.

Our people in the Zone tried to avoid this by removing flagpoles. This started irrational actions by both sides. During those student riots that took place in 1964, then-President Lyndon Johnson told the world that there would be a gradual return of the canal to Panamanian possession. There were still no outcries from the people who are now complaining, but these acts, plus common decency to the dignity of Panama, demanded a re-evaluation of our treaty.

Now, let's take these new treaties for what they are. We do not give up one active military installation for the next quarter of a century. We do transfer to Panama in the civil canal area such governmental activities as police and fire protection, civil administration, post offices, courts, customs, garbage collection and maintenance of certain areas that are not necessary to manage the canal. The canal will continue to be run by an American agency whose board of directors will comprise nine members—five members of the board being American, and four Panamanian. These four will be selected by the United States from a list proposed by Panama. This board of directors will not have any authority on our military bases, which we will have there for a quarter of a century under the terms of the treaties.

The treaties ensure the jobs of all American citizens working in the canal and their continued use of their rented homes at the present rate, which averages $150 a month, including utilities, garbage collection, sewerage, upkeep of the grounds and maintenance of buildings. All this is guaranteed to each until retirement or completion of his contract.

When these responsibilities are transferred to Panama, the Canal Company will also transfer $10 million a year of the toll charges. I doubt if this will cover the operating costs. So does our government. Therefore, this United States Canal Company Agency, which will still be running the canal for the next 20 years, will be instructed to raise the toll charges 30 cents per ton, or about 0.00015 cents per pound, to be given to Panama to cover such contingencies as inflation plus rental for the 120,000 acres that the United States will continue to hold for its military installations. This added toll charge could amount to $40 million in the years to come—but none of it will come out of our pockets. We will not be required to pay one dollar to Panama when these treaties are put into effect.

Regarding communism, there will always be accusations and counter-accusations. Gen. Torrijos has never followed the Marxist line. Even in his speech when he visited Cuba, he stated that Castro had ensured schooling and developed a system of feeding his people, but at a high social cost. Because of this he stated that what was aspirin for Cuba was not necessarily the right medicine for Panama, which is putting it about as plainly

as possible, when you are visiting in a foreign country, that you do not agree with their methods.

I have carefully studied the treaties, and I support them on the basis of my belief that America always looks to the future and that our people have demonstrated qualities of justice and reason for 200 years. That attitude has made our country a great nation. The new treaties modernize an outmoded relationship with a friendly and hospitable country. They also solve an international question with our other Latin American neighbors. Finally, the treaties protect and legitimize fundamental interests of our country.

MENACHEM BEGIN

Mr. EAGLETON. Mr. President, perhaps no public figure of this time captures the interest of citizens around the world as does Israel's new Prime Minister Menachem Begin. I found an article in the November 3, 1977, edition of Rolling Stone by Eric Breindel to be particularly interesting.

I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE MANY WARS OF MENACHEM BEGIN
(By Eric Breindel)

He is a frail, sardonic; passionate man of sixty-four who, during his life, has known the Germans, the Russians, the British and the Arabs as enemies. For many years his harshest critics have been in Israel itself. For almost thirty years it was a truism of Israeli politics that Menachem Begin, who led the opposition to the ruling Labor party during that time, could never become prime minister. Too, fiery, too unrelenting, too right wing, his opponents said. The late Albert Einstein and the late philosopher Hannah Arendt were among his adversaries in the United States. But neither his enemies nor his critics have changed him.

In May 1977, Menachem Begin—the man who at one time was the symbol of an ultranationalist element in Israel considered so irresponsible as to merit the attention of the secret service—was elected prime minister. Once a flamboyant, even histrionic, orator, Begin—despite precarious health—now projects unshakable authority and confidence. Many Israelis, living in a permanent state of crisis in a country which has lacked strong leadership since Egypt and Syria attacked on Yom Kippur in 1973, are responding to Begin's sense of certainty. The popular view is that Begin knows exactly where he stands, what he must achieve, what he can negotiate and what he cannot. This explains why—despite the apprehension of many heads of state and diplomats throughout the world, despite the deepening rift between the United States and Israel—Begin is gaining strength at home.

A public opinion poll taken in Israel in early September showed that if a national election had been held that month, Begin's Likud party would have won an unprecedented absolute majority in the Knesset (Israel's Parliament), which he lacked at the time of his election. Much of Begin's electoral strength rests in the "second Israel," those Jews of African and Asian origin who now, with Israeli Arabs and Palestinians from the West Bank, form much of the urban proletariat in a state founded by European Jews. As outsiders vastly underrepresented in public and professional life, the focus of their discontent was the Labor party. Begin benefited from it.

His hard-line, nationalistic platform appeals more to Jews in Israel who have lived among the Arabs—and for whom the Arabs have always been the primary enemy—than to most European Jews who fled from a far more powerful enemy, the Third Reich.

Yet Begin himself embodies the Eastern European Jewish experience in this century. Born in 1913 in Brest Litovsk, Poland, he graduated from law school and became an important figure in the Polish branch of the right-wing Revisionist Zionist movement. His mentor was a man named Ze'ev Jabotinsky who preached militant Zionism, the establishment of a Jewish state in Palestine by force of arms. The Jabotinsky group opposed the Zionist establishment, headed by Chaim Weizmann and David Ben Gurion, charging its timidity would doom their crusade. In the late 1930s Begin headed the Polish Betar—a militant, uniformed youth organization which seemed almost facist in character to many traditional Zionists. He was arrested in 1938 in a demonstration outside the British consulate in Warsaw. Great Britain, which held a League of Nations mandate in Palestine, often enraged Zionists who felt Britain had betrayed its pledge to create a Jewish "national home" in Palestine. As the second World War loomed the Zionists became increasingly hostile to the British. To revisionists like Begin, the refusal of Great Britain to open the doors there to millions of Jews in Eastern Europe was the same as condemning those Jews to death.

When World War II started, Begin fled occupied Warsaw and by foot reached the Soviet-controlled zone of Poland where he was eventually arrested by Soviet police. After more than a year in Soviet prisons and a Siberian Labor camp, he was released and then joined a unit of the Free Polish Army which was sent to train in Jordan. He crossed the River Jordan to be reunited with his wife.

On the riverbank in Brest Litovsk, Begin's father, his brother and an infant nephew were machine-gunned by the Nazis. His mother was murdered in the hospital of the city; only one of his three sisters survived the holocaust.

In Palestine, he reactivated the Irgun Zvai Leumi (National Military Organization). The Irgun had been formed in 1937 during Arab riots in Palestine and, at Jabotinsky's command, had launched small-scale operations against British installations and retaliatory attacks on Palestinian Arabs. A truce was declared when Britain entered the war. At the end of 1943, Begin issued the Irgun's "Proclamation of Revolt," a declaration of the war which he led while living underground until the State of Israel was established in May 1948.

I was in Parliament yesterday and it seems fair to observe that you aren't being granted a honeymoon period of the kind we are used to in the United States.

I never had it. From the first day the honeymoon period disappeared . . . evaporated. Our position is very sharp, and aggressive. It's the perfect right of a parliamentary opposition to fight the government, to criticize the government. I only said yesterday, and this is important, that when we were in the opposition we behaved differently when it came to problems of national consensus. I think we behaved better . . . from the national point of view.

Does the fact that you barely escaped the holocaust in Europe, that members of your immediate family were murdered by the Nazis, make you entirely different from previous prime ministers? Isn't this the most critical difference, not that you are the first prime minister outside the Labor party?

Perhaps it makes a difference, but it shouldn't (make a difference). The holocaust is such a tragedy that even if a man didn't suffer personally, didn't lose members of his family . . . well, I suppose that Mr. Rabin also lost some members of his family, perhaps not his parents, perhaps not his sisters. . . . It is not a matter of one person and his family. It is the greatest disaster ever noted in the annals of mankind. Whenever you think of it, even thirty-five years later, it actually—defies your imagination. Atrocities there were throughout the ages. The first World War was the greatest turning point. The cruelty which came between the wars and during the second was a result of the first. Until then people were kinder to each other. There were some wars, local wars, but the civilian population always was assured. There were terrorists in Czarist Russia. They used to forsake their planned attacks at the risk of their own lives when the governor, the czar, the prince was traveling with his wife. They always waited until the man was alone. They believed that this was the way to do it. The way of the terrorist is to kill the ruler, the symbol.

The greatest revolution in human history, in my opinion, is the first World War, and in the wake of it came the second World War. However, to take out a civilian population and kill them all and to do it, as the Germans said, "scientifically," in cold blood, with planning for six years on end! It had never happened. The Mongols, the Cossacks, in the wake of their onslaught, of the battle, of the war, in the fury of battle, they carried out atrocities. Very sad, of course. But that is a completely different story from deciding as they did decide at Wannsee (Berlin suburb, 1942), that the Jews must be killed—the so-called "final solution"—millions, to gas, to burn, to burn alive.

You know, when I was in Rumania this week everything came again to me because Transylvania, which is now in Rumania, was then a part of Hungary as a result of that decision taken by Hitler and Mussolini to give the area to Hungary, their ally. Rumania was also their ally, but still they preferred the Hungarians. And in 1944, when it was clear to everybody that Germany had lost the war, Eichmann was still active in Transylvania. They took out from there hundreds of thousands of Jews and brought them to Auschewitz, to the gas chambers. Then we asked the British in 1944, "Bomb the railway lines!" We knew that every day people were sent to their deaths, on train after train (to the camps), and it was only a matter of a few months until the war ended. "Stop it, bomb the railway lines, they won't be able to put the people on trains," we said. On trucks it would have been more difficult. On foot, true they may perish on the road, but how many? Still, hundreds of thousands could have been saved. They bombed everything in Germany in those days. They had already sent thousands of planes, thousands of planes! And the railways, of course, are strategic targets; it's legitimate to bomb a railway line. Railways are used for military transports. And then, silently, in an "orderly way" as the Germans would put it, they took out hundreds of thousands of Jews—men, women and children—and packed them on the trains.

Again, I repeat, it is so specific an event, so grave an event, it doesn't depend on whether you have lost a family. If you've lost a family, of course, you're directly involved. But even if you are a non-Jew, if you are a human being . . . it's such a horrible thing! Therefore I wou'dn't distinguish between myself and Mr. Rabin from this point of view. I think a Sabra can feel very deeply about the holocaust. . . . As far as I'm concerned? It lives within me. And I live with it. And I will live with it until the last day of my life. . . . Imagine, I was just now in Bucharest and the rabbi told me the following story: one day the Nazis, the Rumanian Nazis, burst into the synagogue. They took out all the Jews who prayed there together with the—how do you say Hazan?

Cantor.

Cantor. They slaughtered them, slaughtered them. And then they put them into a butcher shop. And they hung them on the meat hooks like cows. They put a placard up: "Kosher Meat." Can a human being understand such a thing, such a horrible atrocity. . . . And that happened to our people. It lives within me, I think forever. . . .

(Later) So I think I finished saying that the holocaust lives within me. It is the prime mover of all that we have done in our generation; for instance, our fight for liberation is a result of the recognition that we, in our time, must create conditions so that never again will the Jew be defenseless. Our scourge was the defenselessness of the Jewish people. And that defenselessness which became helplessness was the real provocation for the murderers. They saw that they can do to the Jew anything they want to. A cruel man is a coward. If he sees that there is no resistance, that there is no danger to him, then he doesn't know any limits. And we have the experience with the Nazis. They were so cruel as long as the Jews didn't resist. But when they themselves became prisoners they were lower than the lowest, actually kneeling before their captors and begging for pity, "Don't kill me." They themselves killed the Jews without any hesitation, as if they wouldn't have been human beings. But when they faced danger, they broke down completely and, as I said, they used to ask for pity, "Don't touch me, don't kill me, I was a friend of the Jews," they used to say to our partisans and I know it from their own stories. So again I say that the defenselessness of the Jews was the real scourge of our life, for centuries, but mainly in our generation. That must never happen again. Therefore we decided to take up arms and fight for liberation. In order to have a state, an army, a means of national defense, that was the prime mover. . . .

Secondly, to make sure that the Jewish state is secure, that the borders are unbreakble, that the land is unconquerable. That is the second prime mover of all our actions, when we were in the opposition and now in the government. All the time, indeed we remind ourselves, we remind others, what happened to the Jewish people when they faced an enemy, a cruel enemy, and couldn't defend themselves, even in the end couldn't defend their own families. The men in those horrible days delivered their wives and their children into the hands of the executioners.

Therefore, to us, as I said to President Carter, the term "national security" is no cloak for anything, no excuse for anything. Admittedly, there have been powers in history which use national security for aggrandizement. They used to say national security, but actually they wanted some additional piece of territory; not in our case. When we say national security we mean the lives of our families, of our women and children. And therefore, the holocaust is, even today, an actual mover of our actions, of our decisions, of our worries. Voila!

Mr. Prime Minister, I'd like to ask you about Germany, particularly in light of the 1952 controversy over reparation payments. At the time you said, "There are things in life that are worse even than death and this is one of them. We will leave our families, we will say goodbye to our children, we are prepared even to go to prison, but there must be no negotiations with Germany." You opposed the reparation payments, but now they are a fact of life in Israel. Indeed, some have claimed that they provided a much needed boost to the economy of the country. Were you right in 1952? How do you feel about the question of Israel and Germany now?

I must speak on this issue with complete candor. I believe I was right and I failed. My friends and I opposed unconditionally an agreement between us and the Germans, a financial agreement based on the holocaust, in the generation of the holocaust. It is still a horrible thought that the Jewish state made an agreement with the German state, accepting a certain amount of money and actually giving rehabilitation to the Germans. It's a special case of national responsibility. Usually every man is responsible for himself. But in the case of the holocaust, the German people, I suppose nearly one hundred percent, supported, as Churchill called Hitler, "the embodiment of all evil in mankind." As long as he brought them victories, they were with him. It is not true that the German people did not know what was happening to the Jews. They did know! And therefore it is a unique case of complete national responsibility for whatever happened to our people. It is not true in this case to distinguish between government and people. They are the same in bearing responsibility for what happened to our people. The Germans could have saved at least hundreds of thousands of Jews; they didn't. There were a few exceptions. We respect those people, even in Germany, who helped the Jews, but you can count them on the fingers of one hand. Out of a nation of 80 million, there were maybe a hundred. They were all after our blood, all of them.

Indeed it happened that . . . a devilish man turned a great nation, "a nation of poets and philosophers" as the Germans called themselves, into a bloodthirsty mob. But the fact is that all of Germany became that mob. Therefore we opposed, not reparations as such, but an agreement between the two states; as the Germans bear total responsibility for what happened to us, so now as the Jewish state signed with the German state an agreement that meant rehabilitation for the Germans in the generation of destruction and of the holocaust.

Therefore I wanted to prevent that agreement from coming into being but I failed. I've admitted that failure and I admit it now since you brought up the subject and a man should admit his failures. Regrettably I failed. I am now prime minister. There came last week a German ambassador. The foreign minister received him. The president received him and I know, yes I knew it was going to happen. This is now our reality and I have to live with it.

So you, too, would receive the German ambassador?

If he asks me to receive him I will . . . because it's one of my duties.

The Irgun under Begin attacked installations, offices, police stations and oil refineries of the Mandatory Government in Palestine, hoping to drive the British out of the country. With the end of the war, Begin deemed it legitimate to mount operations against British military installations in Palestine. Depending on one's point of view, the Irgun was either a liberation army or a gang of terrorists. They did not deliberately attack British civilians and warnings were frequently issued, as in the 1946 bombing of the King David Hotel, British headquarters in Jerusalem. But civilians were killed that day and in other operations. Begin directed the entire organization: his strategy was to stage spectacular raids to humiliate the British. An offshoot of the Irgun, the Stern Group, carried out political assassinations, a method Begin opposed.

During the Arab-Jewish civil war of 1947–48 the Irgun—often with the help of the regular Jewish military force called the Haganah—mounted broader military operations. In April 1948, on Haganah orders, units of the Irgun and Stern Group attacked the Arab village of Deir Yassin near Jerusalem. Arabs, who still cite Deir Yassin as an example of Zionist brutality, claim 254 innocent persons were murdered. Begin, and other Irgunists who were actually there, claim that trucks with loudspeakers warned the villagers to flee, that their own men suffered heavy casualties and that civilians were killed because of house-to-house fighting.

Some historians contend that the Irgun and Stern units, inexperienced in combat and unprepared for the resistance they encountered, became frantic and randomly opened fire. Whatever the true story, Deir Yassin has remained a rallying cry for the Palestinian cause and a reason many people still detest Begin.

In 1948, Begin emerged from the underground, figure of mystery, long hunted by the British and even unrecognized by the men of the Irgun. In 1949, Begin became a member of Parliament after his Herut (Freedom) party won a few seats in Israel's first election. But in 1952, during the controversy over whether Israel should accept reparations from Germany, Begin's fury at such an agreement imperiled his political career. He whipped a crowd of 15,000 people in Jerusalem's Zion Square into a frenzy and was charged with inciting them to attack the Knesset Building. Many Israelis saw him and his followers as a right-wing lunatic fringe. After calling Prime Minister Ben Gurion a "hooligan," Begin was suspended for the remainder of that Parliamentary session.

In the mid-Sixties, he formed a coalition between his Herut party and the Liberal party—that coalition is now the backbone of the Likud bloc. In 1967, during the days of crisis before the Six Day War, he helped form a government of national unity to more effectively overcome the Arab threat. He became a minister-without-portfolio, but in 1970 he left the government and returned to his role as leader of the opposition.

His militant nationalist outlook was unchanged. He advocated retention of most of the territories occupied by Israel in the Six Day War of 1967—the West Bank including the holy city of Jerusalem, the Golan Heights and the Sinai Peninsula—not only on security grounds but because they formed the historic lands of Israel. But some thought his tone had become less strident. In 1970, Begin left the government in opposition to a U.S. proposal that Israel withdrew from the occupied territories in return for guarantees of greater security. In 1973, the Yom Kippur War—Israel had 3000 men killed—strengthened the Likud; in 1977, numerous scandals in the Rabin government catapulted Begin to national leadership.

The prime minister does not grant many interviews now. He is not hostile to journalism although their coverage frequently displeases or puzzles him (Time magazine, for example, angered him by advising us readers that Begin is pronounced to rhyme with Fagin). It is largely a matter of the prime minister's overcrowded schedule. But in interviews he does give, he prefers not to discuss issues on which his general positions are well-known and often expressed. Thus, he has little new to say about the possibility of including the Palestine Liberation Organization in any Israeli-Arab peace talks, Israeli settlements on the West Bank which President Carter considers illegal, or the crucial relationship of his country with the United States which provides so much military assistance to Israel.

He speaks in precise, heavily accented English, occasionally using Yiddish, Russian and French words. He learned English listening to BBC when he was underground. For years he has been the only prominent Israeli to constantly wear a coat and tie. His manners are equally correct, a reminder of the courtliness of the Polish Army thirty-five years ago. He rises to greet visitors, he kisses the hands of women, he manages a pleasantry before getting down to business. In the Knesset, he is often as humorous as he is sharp. Deflecting criticism by the opposition leader Shimon Peres, Begin recently made the entire house laugh when he suddenly

switched from Hebrew to English and chided his former opponent: "Shimon, be a good loser!"

During the three sessions he granted Rolling Stone in September 1977 in his office in Jerusalem, there were few moments of laughter. Rather, Begin allowed an outsider to see him brood and he spoke of those events which caused him, and millions of other survivors, such profound pain. Even so, his warmth and wit did not disappear.

After your victory in May [1977] you were often described in the international press as an "exterrorist." Often a specific incident was cited: the execution by the Irgun in 1946 of two British sergeants who were prisoners. You warned that they would indeed be hanged if the British carried out the execution of three captured Irgunists. When the Mandatory Government refused to heed your warning, you carried out your threat. But isn't such an act an act of terrorism too?

It is not. The word terrorism, what is its etymological source? In Latin "terror" means fear. I already reminded you of the way those who fought the Czarist regime in Russia carried out their actions. They killed princes, governors. They knew that other governors would come instead, but they wanted to instill fear into the government. And through fear to bring down the Czarist government. That is a method. We never used it. We fought, armed men against armed men, pitched battles, between a small group of what are now called "urban guerrillas"—we actually provided the example of what an urban guerrilla is—we created the method of the urban guerrilla. In other words, to hit and disappear. Normal life, never armed, I lived for years in the underground. I had not one bodyguard. There was not one pistol either within our house or outside. . . . We took out our arms from the stores only before an operation. After the operation the men disappeared, the arms were again hidden in the stores. That was the urban guerrilla which, really, we created in our time. Now, we never used personal assassination, never. We planned military operations against military objectives. There were casualties on both sides but this is the inevitable result of a fight for liberation. Such fights for liberation we have throughout history and everybody prides themselves on their own struggle.

Now some historians say that the most justified fight for liberation was that of Spartacus during the Roman Empire, because it was not only a fight for political liberation, it was a fight for the physical liberation of slaves. If this thesis is true, I think that our fight was more justified than the Spartacus rebellion because ours was not only a fight for independence or for liberty . . . but for survival, and that fight of Spartacus was not for survival; their lives were not in danger. True, some of them used to lose their lives but their lives were not directly in danger and ours were.

The British wanted to have a Palestinian state in 1949, which was promised in the White Book of 1939, with a small minority of Jews, one-third. It would have been a Palestinian state with an overwhelming Arab majority. That was the plan. The British decided to carry it out. Everything would have been lost for us. I suppose that third would have disappeared; part of it physically destroyed by the Arabs and the others would have left. And then, I think, the beginning of the end of the Jewish people would have started . . . who had ever helped the Jews? Who cared? And so we changed that course through our fight. And therefore it is more justified even than the Spartacus revolt. You have the American fight for independence. What did they do? They took up rifles and fought the British Army. . . .

I can give an endless number of examples. Ours was a fight for liberation. It was not terrorism. Terrorism means that you use the method of instilling fear into a certain government, killing its representatives, assassinating its representatives. We never used such a method and we said that we wouldn't use such a method. Therefore that word really didn't apply to us. We were really not impressed by name-calling. . . . Ah, we didn't mind. They called us different names. One of the British generals one day decided to call us "thugs." So what! So he called us thugs. We were not. We had the complete conviction that ours was a just cause. We never thought about danger to ourselves. We went around the streets of Tel Aviv and Jerusalem legitimately. Therefore we never thought about danger to ourselves. We slept well and we never thought, oh well, perhaps tomorrow the police will come, or the military, and kill us although they would have opened fire on the spot. There was the conviction of pecple who believe in the justice of their cause and in the legitimacy of their fight. So that word (terrorist) never applied to us.

The special case of executions by the British and retribution by us doesn't change the principle. Sometimes people write in the press that the Irgun hanged two sergeants. What do they mean by that? We just took two British sergeants and hanged them? Did we want to hurt them? We, in 1944, warned the British; never execute our men because our men are not criminals, they are fighters. They are ready to sacrifice their lives. And when they fall in battle there is no reason for retribution. Every one of us was ready to die for liberty. We said so—liberty or death. That was the first proclamation I wrote myself when we started our fight at the end of 1943. These two words actually changed history and created history. Liberty or death. Our first warning was as early as 1943. They captured two of our men and sentenced them to die. So we captured five British officers.

We didn't say anything. We didn't want to create an issue of British prestige. Now when they commuted the sentence of death for our men we set free all the officers. We never wanted to touch any one of them. They were not so-called hostages to be taken. This was a matter of saving the lives of our men. And when the lives were saved, we said, "Go home!" The British hanged nine of our men during our revolt (1944–1948). . . . Altogether twelve, and nine were hanged during our revolt. All of them were members of the Irgun. No, eight men of the Irgun and one man of Lehi (Stern Group). Two of them with only one hand grenade put in between their hearts and. . . .

Blew themselves up?

Yes, it exploded. Thus they avoided the hangman. That was their decision. So we warned the British time and again, there will be retribution. One of the laws of warfare is reprisals, retribution. When one side breaks the law the other side's answer is the same. You bomb my civilian population. I have no option but to bomb your civilian population. And ours is exactly the same story, of course, with different ramifications. We warned in advance, "Don't do this." But they did.

There was not justice involved at all. It was a political decision of the British government. They wanted to break the backbone of the Jewish resistance. They knew that we were very sensitive. And we were, very sensitive about the gallows. There is a difference between a soldier falling in battle and a soldier being hanged alone . . . completely alone. We tried to save them but all our plans fell to the ground. The British transferred them from Jerusalem to the Acre Fortress (near Haifa) and suddenly executed them. They betrayed their word when they spoke to Dov Gruner's sister who came from the United States. They told her, "Nothing is going to happen to your brother." The following day they executed him. And we carried out that retribution. The result: no more hangings! Really the British gallows were broken. They still were here for a full year more and they arrested many of our men and they sentenced them, but not to death.

General (Sir Evelyn H.) Barker, who was then the commander-in-chief of the British forces, said in the house of Mrs. Antonius—she was a British lady who married an Arab—they had open house for many people and we had a good intelligence service in those days, we had the information. Barker said one evening, in the home of Mrs. Antonius, "I shall hang one hundred Jews and there will be peace in Palestine." He would have carried out that threat. He was . . . almost a Nazi. He was a man capable of anything. He was the ruler after the second World War in Schleswig-Holstein and the Danes hate him until this very day. They said that he was like a Nazi. I wouldn't say that he was a Nazi. He was a Briton, but a cruel man.

He didn't take any human factors into consideration. First he wrote that the Jews should be "hit in their pockets." In their pockets! It was a sheer anti-Semitic outburst! And then he said that he will hang one hundred Jews—he said from the lampposts on the street he would hang them. You know, he thought he could do anything he wished. But he had to admit his mistake. He left his country in clandestinity. He ran away. Nobody knew when he left. But he knew he had found here an opponent who will not give up. He didn't break our resistance. But that retribution became inevitable. We forewarned them about it. It was not terror at all, we wanted to save our people's lives, our men's lives. We were a group of people in which everyone was willing to give his life for his country. It was a great source of moral strength. Our men knew that the entire Irgun would be behind them under any circumstances.

Any comparison to the so-called PLO I would call sacrilegious, sacrilegious! We never hurt a woman, a child, a civilian, we never wanted to hurt them. Ours were battles between armed men and armed men. The PLO never attacks an army installation, an army unit, always civilians. It's easy, of course, to kill a child, to kill a woman, to put a bomb in the marketplace. What's the great hochma? Why the big deal about it? Anybody can do that. And, as we know, they (the PLO) get a lot of money for this. So, as I said in parliament yesterday this is the basest, the meanest armed organization ever, because no armed organization, if they fight for an ideal. . . intentionally ever hurts civilians. Sometimes it happens, then you regret it. Then you prove to your own fighters you don't want such things. But they (the PLO) plan to hurt civilians, women and children. And when they carry out those bloody attacks, they rejoice in them. They say, "This is the proper way." That is a genocidal method. Therefore, somebody asks me from time to time, "Well, you yourself fought, why don't you respect your opponents?" I would! I will respect an Arab fighter. But I can't respect those killers. We never used such methods. It never occurred to us to capture a plane somewhere 30,000 feet in the air, scare all the women and children, bring it down and say, "I will kill all these passengers if you don't do my will." It never occurred to us.

But the PLO does exactly that with women and children. Therefore I say it is the meanest armed organization ever established, except for the Nazi organizations. And any comparison is sacrilegious. This is the difference. . . .

I think we must now again stop. I'm sorry. Perhaps you can come again and we shall continue. I did my best, my friend.

I know and I do appreciate it. Suppose I were to wait here. Is there a chance I could squeeze in again?

What today? Not today, I'm sorry but it's absolutely impossible. It's Erev Shabat

(Sabbath Eve). But if you stay a few days then on Monday I will meet you again. On Sunday I can't because there is a session of the Cabinet. . . (To an aide) Perhaps on Sunday in the afternoon I can meet our friend? Can I? Yes. Sunday in the afternoon. Let us say between five and six o'clock.

Some people now say that the greatest enemy the Jewish people face is actually the Soviet Union, not the Arabs. And you spent more than a year as a prisoner in Soviet labor camps, and were interrogated, you underwent interrogation by the Soviet secret police (the NKVD) What is the chance for a Soviet-Israel rapproachment? And surely your experience in the Soviet Union must must have left deep scars.

The word "enemy" should be used with its proper meaning. An enemy is a state in a state of war with you. That is the technical meaning and I wouldn't like to enlarge the term. Those who are in a state of war with us, they are our enemies. When we conclude peace treaties, they will cease to be our enemies. They will be our neighbors. Now the Arabs are both, our neighbors and our enemies, because by their own proclamations they are in a state of war with us. Other countries may be friendly or unfriendly, but they are not our enemies from this point of view. Therefore I won't categorize the Soviet Union as an enemy. . . . There are three periods in the history of the Soviet Union and Zionism, or the Jewish state, which is the result of the Zionist, or the Jewish state, which is the result of the Zionist idea and struggle. First, there was a period of thirty years of complete hostility. Since the Bolshevik Revolution, Zionism was seen as a so-called nationalist deviation. As you know, in the Soviet Union, the Russians are actually the ruling nation, the strongest. But there are many nationalities. The Ukrainians, the Russians, the Uzbekis, the Georgians . . . and the Jews as well. The only extraterritorial or actually nonterritorial nationalist is the Jewish nationality. They tried to create a territory.

The Birobidjan Experiment of the 1930s? (Short-lived Jewish autonomous region.)

Yes, Birobidjan. It failed. A failure. It had no bearing on reality. . . . They recognize the Jewish nationality as such, not in the sense of citizenship, which is mistakenly identified with nationality in the West. As a result of historic developments, in Eastern Europe there was always a distinction between nationality and citizenship. You could be a citizen of a county and of a different nationality than the majority. And this is the proper idea. Therefore, we in Israel recognize the Arab nationality in our state. There is a Jewish nationality and an Arab nationality, although all are citizens of Israel. Now the Soviets viewed Zionism as this so-called nationalist deviation from the Socialist idea and they used to put into jail every Zionist. It was a crime. Nothing is said about Zionism in the penal code specifically but they always find the proper article and this they did against me. I was sentenced under Article 58 of the Russian code. They speak of counterrevolutionary activities. Lenin himself wrote that article. But then it was enlarged and almost became a book. The article had so many subsections it was long enough to be a book. And everything can be put under that article.

They found a place in it for you.

Absolutely. . . . So this was the period of complete hostility. They persecuted Zionists, they sent them to Siberia, to concentration camps, they put them into jail, they opposed it, they even opposed it here. They sent their agents to incite the Arabs against us. Complete hostility. And in 1946 and 1947 there was a change. A far-reaching change. I think it was a result of our struggle for liberation against British rule, for obvious reasons. They decided our struggle was a progressive struggle and that was it. When Gromyko made his famous speech in the United Nations (1947), it was based on our struggle. The British, he said, could not crush us and that proved the bankruptcy of British rule in Palestine, and now there should be a Jewish state and an Arab state in Palestine. For us the important point was, of course, a Jewish state—"Evreiskoe Gosudarstvo"—and since 1947—that was the turning point, up until 1954, even 1955, the Soviet Union was quite friendly with Israel. They were the second country to recognize Israel, de jure, after Mr. Truman. It was a matter of twenty-four hours; the Soviet Union followed suit after the United States. Secondly, and perhaps this is more important, we got arms from Czechoslovakia which in those days meant they came with the approval of Moscow. We got rifles . . . very vital weapons. They helped us also in the United Nations. That was the second thing. The third period started somewhere around 1954 or '55. The Russians concluded an arms deal with the Egyptians also through Czechoslovakia. Yes, Czechoslovakia started to supply arms to Egypt. Of course with the knowledge and the approval of Moscow and then renewed hostility started. They severed diplomatic relations with us, they renewed them. There was a Soviet ambassador here but the policy was hostile toward Israel. Then came the Six Day War (1967) and again they severed diplomatic relations with us.

One change has taken place within the last two or three years, indeed a far-reaching change. The Soviet Union was always for negotiations between us and the Arab states and they never recognized the so-called PLO as a partner for negotiations. Lately they do. I can understand the reasons. They want a base in the Middle East. They feel if the PLO can take over Judea and Samaria [the West Bank], in no time at all it will become a Soviet base. Of this they are absolutely sure and this is the reason. It would be very convenient for them. From here they can go in any direction; to the north, to the east, to the south. This is a very serious change in their policy and it is now the policy of the state.

Now lastly about what you termed "rapprochement." I don't know. There are many meanings to rapprochement. First of all, there should be normalization of our relations. I think that the Soviets regret the fact that they severed relations with us because you can have the most far-reaching differences of opinion and still talk to each other. After all, this is international life. Doesn't the Soviet Union have differences of opinion with the United States of America?

Even in China, the Russians have an ambassador.

In China, they have an ambassador. In Germany, they have an ambassador. It was a mistake. We would like to have normalization and normalization means that there will be a Soviet ambassador in Jerusalem and an Israeli ambassador in Moscova. With all the differences between us. They should take the initiative to restore diplomatic relations with Israel. They should take that initiative because they severed relations in the first place. And we would agree to renew diplomatic relations, but we would ask for the right of every Jew who wishes to do so to come to our country from the Soviet Union. It is what we call "The Return to Zion," and it is a perfect right of every Jew who wishes to exercise it. It is consistent with the Helsinki Agreement and with the Universal Declaration of Human Rights of 1948 and we shall stand by it.

And then, of course, we have a special problem with the "Prisoners of Zion" or "Prisoners of Conscience." We ask that they be released (from prison) and allowed to leave. And so this could be termed normalization of relations, normalization. That is what we stand for. Whatever our relations will be like in the future is a matter that depends on the general political situation, on our talks with them through diplomatic channels as they proceed in the future. The word "rapprochement" would be, in my opinion, in this circumstance, too far-reaching. Normalization is the better and the more exact expression. So normalization is perhaps possible; anyhow, we stand for it. We would gladly open normal relations. . . .

As far as my own experience is concerned, the harsh conditions in which I lived in the Soviet Union do not have anything to do with our policy. It's a problem for myself. . . . But when one survives them, it becomes an experience and even in certain respects a positive one. I have seen things, I learned . . . this is not any reason to have, let me say, a negative attitude toward Russia. If they are hostile, of course, we cannot answer with friendship. Friendship must be mutual. But my own experiences in Soviet concentration camps, in Soviet prisons—and they were quite harsh—couldn't influence any decision

In the early period of the Zionist movement many thought that Zionism, the establishment of a Jewish state, would bring an end to anti-Semitism.

Well that was Herzl's idea, not mine.

Yes.

Tout proportion guarde. (It's still an open question.) Herzl predicted that the Jewish state would bring an end to anti-Semitism. To a certain extent it did, but not completely.

I wonder if I could ask you, in a philosophical sense, to analyze anti-Semitism as a phenomenon. Your mentor, Ze'ev Jabotinski, spoke of "the anti-Semitism of things."

Objective anti-Semitism.

Right.

Of things, Yes, of man and of things.

What, in your view, is anti-Semitism today?

Well I tell you, of course there are anti-Semites in the world and there is anti-Semitism. There is still prejudice. Our founding fathers analyzed the phenomenon of anti-Semitism. They used to say when the Jew is poor he is despised because he is poor. And as Kaiser Wilhelm said—was it Kaiser Wilhelm?—he said, "As the Jews are poor, they . . ." no! it was . . . Plehve, the Russian minister of the interior [1903]. He was accused, probably rightly so, of inciting the pogroms. He said to Herzl when Herzl visited him, "The Jews are poor and as they are poor, they don't wash, etc." He even elaborated on this. (Laughs.) Let us leave Plehve out. What I want to say is that it went, "The Jew is a poor man, so he is abominable." On the other hand, "The Jew is a rich man, he is a Rothschild," or in those days, "Baron Hirsch." So he should be hated and so forth. . . . Ah, "The Jew is a learned man," therefore he arouses envy. As Bevin [British foreign secretary] used to say, "He want to be first in line." So whatever the Jew does . . . you remember the famous quote from Lessing in Nathan der Weise, the drama, Nathan the Wise Man: "Und der Jude wird verbrannt."

"Whatever happens the Jew must be put to the stake." And the Jew must be burned! . . . It's a bit dated, Nathan der Weise, but still it should be read by everybody to understand the prejudice which ultimately resulted in Nazism. "Whatever the Jew does, we don't want him. He is an exception to all the rules." Now we can see the juxtaposition. Take those days and our times. There may be anti-Semites who still say, "We have trouble with that state. . . ." I think that Hammerskjold said, "Perhaps it was a mistake to bring about the creation of a Jewish state." So we can say that actually this is the continuation of that anti-Semitic prejudice. Whatever the Jew is, whatever he does, he should be an object of negative feeling. Yes, we have it throughout the world.

I think that anti-Semitism was hit by the creation of the Jewish state. Now there is re-

spect for the Jew because there is a Jewish state, because there is a Jewish army, because there is a Jewish government. . . . But the phenomenon of anti-Semitism itself did not disappear. It couldn't. And let us not forget that the Jewish state was created during the severest onslaught of anti-Semitism, which left traces. It was during the period of Nazism, of the second World War. The state came after the holocaust when people saw that the Jew is not treated as a human being. So that crisis has been overcome. Let us not forget it. And I think the Jewish state contributed very much to this development, namely respect for the Jew, human dignity of the Jew. But still, there is a National Front in Britain, there is a Nazi group around Chicago, there are Nazis in Germany and Austria, of course. That has not changed . . . But basically, Herzl was right. Only now as we have a Jewish state, is there human dignity for the Jew all over the world. With marginal phenomena of anti-Semitism which, of course, has not been completely eradicated. For instance, in France anti-Semitism was inherited since the days of Dreyfus, before the second World War there was violent anti-Semitism. Mr. [Leon] Blum was atrociously beaten up by anti-Semites when he was prime minister! This was not known in those days. Now we know it as a historic fact. They almost killed him. A group of anti-Semites and some French fascists attacked him and almost killed him. And he was prime minister of the country! They shouted anti-Semitic remarks at him. "Bloody Jew . . . dirty Jew . . . bloody Jew." So that was the period when mankind was in convulsion. . . ."

Now Soviet propaganda is in fact anti-Semitic. Let us not forget this. Throughout the Communist world there is propaganda against Zionism, but there are also Russian cartoons which sometimes remind you of Streicher (Nazi gauleiter). Of course, when a mighty power like this issues such cartoons they also have influence. But we know, for instance, that the Russians themselves respect us from time to time, as during the Six Day War, the Yom Kippur War; all the Eastern European people had high respect for us. The Jewish state gave us back our dignity. Whenever I meet Jews from the United States they tell me this. Without Israel I don't know what would have happened to our people. It would have been thought that the Jew can be treated as he was in Europe during the Forties. But the turning point was the fight for liberation. The Jews took up arms to fight. This was a new phenomenon. And then the creation of the state, the fact that we have a fine fighting army and all the other attributes of sovereignty; that gave us new standing; a flag amongst the flags of independent nations.

My dear friend, it is our third meeting and I have to go to Maale Adumim [one of the new West Bank settlements]. . . . My wife is waiting for me and we must start out at 6:15.

THE ACREAGE LIMITATION PROVISION OF THE FEDERAL RECLAMATION LAW

Mr. CRANSTON. Mr. President, the August 25, 1977, publication by the Department of the Interior of proposed regulations relating to the acreage limitation provision of Federal reclamation law has created considerable confusion and controversy.

Just a few days before the proposed regulations were published in the Federal Register, the Ninth Circuit Court of Appeals handed down a significant decision reversing a 1971 Federal District Court ruling which had found the Imperial Irrigation District to be exempted from the acreage limitation provision of Federal reclamation law. The August 18, 1977, Ninth Circuit ruling reversed this. The result of this legal decision, if not reversed by a higher court, will be to apply the acreage limitation requirement to Imperial Valley landowners for the first time.

In an effort to clarify how this unique situation would be handled by the Department of the Interior, I wrote on September 22, 1977, to the Solicitor of the Department of Interior, Mr. Leo M. Krulitz. I asked the Solicitor to advise me how the Imperial Valley would be treated, if the proposed regulations are finalized without substantial revision and if the legal decision is not successfully challenged.

On October 25, 1977, the Solicitor replied to my inquiry, acknowledging the unique factual situation which applies to the Imperial Valley. In essence, he stated that the excess landowners in Imperial Irrigation District should be allowed 1 year after the effective date of the final regulations to sign recordable contracts, and that they should have the 5-year period thereafter, as proposed in the regulation, to dispose of their excess lands.

Mr. President, I ask unanimous consent that my letter of September 22 and Mr. Krulitz's reply of October 25 be printed in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CRANSTON. Mr. President, I wish to make one comment with respect to this exchange of correspondence. The Imperial Valley landowners have made it clear to me that they are opposed to the application of the acreage limitation in their irrigation district and that they intend to seek relief both from the courts and from the Congress.

In my discussions with several Imperial landowners, it became clear that there was considerable confusion about when the Department of Interior would enforce the acreage limitation provision against excess landowners. In some cases, it was believed that they would be required to sell their lands immediately. I did not think that was the case, and I wrote to the solicitor for a clarification. He has confirmed my opinion that the landowners would have at least 5 years to sell their excess lands, and in addition, he advised me of his opinion that an additional year, after the regulations go into effect, would be granted the Imperial landowner.

I would also like to vote that I am introducing today a Senate joint resolution to postpone the effective date of the final regulations until after December 31, 1978.

My purpose in offering this resolution is to give Congress an opportunity to review the regulations and the law itself and to hear the concerns and fears of landowners throughout the Western States. During that congressional review, I will consider the Imperial Valley situation carefully.

The point is, Mr. President, that if my resolution is adopted, and if the Department of Interior adheres to the policy stated by the Solicitor in his October 25, 1977, letter to me, the Imperial Valley excess landowners will have until December 31, 1979, to sign recordable contracts and another 5 years thereafter to dispose of their excess lands. And in the meantime, Congress will have an opportunity to review all the facts and opinions about the regulations and the law and, if necessary to make appropriate changes to insure that our reclamation laws are equitable and effectively enforced.

EXHIBIT 1

Washington, D.C.,
September 22, 1977.

Mr. LEO M. KRULITZ,
Solicitor, Department of Interior,
Washington, D.C.

DEAR MR. KRULITZ: On August 18, 1977, the Ninth Circuit Court of Appeals handed down its decision in U.S. v. Imperial Irrigation District reversing the judgment of the lower court and the applicability of the acreage limitation provision of federal reclamation law to the Imperial Irrigation District.

Subsequently, on August 25, 1977, the Department of Interior published in the Federal Register its proposed regulations for administering the acreage limitation provision of reclamation law.

I would appreciate your opinion on the question of how long landowners in the Imperial Irrigation District would have to dispose of their excess lands, assuming that the Ninth Circuit decision in U.S. v. Imperial Irrigation District is not successfully appealed and that the proposed regulations are finalized without substantial revision.

It is my impression that these landowners would have five years from the date on which they signed a recordable contract in which to sell their excess lands. Your verification or correction of this would be greatly appreciated.

Sincerely,

ALAN CRANSTON.

Washington, D.C.,
October 25, 1977.

HON. ALAN CRANSTON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CRANSTON: This is in response to your letter of September 22 inquiring how long landowners in the Imperial Irrigation District would have to dispose of their excess lands, assuming that the Ninth Circuit Court decision becomes final and that the proposed excess land regulations are adopted in final form without substantial revision.

Section 426.5(a) of the proposed regulations provides that an excess landowner may receive project water on his excess land only if he executes a valid recordable contract prior to delivery of any water to his excess lands. Section 426.5(a)(2)(i) states that recordable contracts shall allow a landowner to dispose of his excess land at an approved price to an eligible non-excess owner within five years. The Department's propcsal in the ordinary situation, then, is to require an excess landowner to sign a recordable contract before receiving project water, which contract will allow him five years to divest himself of his excess lands.

The Imperial Irrigation District does not present an ordinary situation, because only recently has the federal court of appeals determined that the acreage limitation applies to the lands in the Imperial Irrigation District. These lands have, of course, been receiving water through federally constructed facilities for many years under the assumption that the acreage limitations do

not apply to lands in that District. The proposed regulations do not squarely address themselves to this rather extraordinary situation.

The Department has, however, proposed a course of action for dealing with an analogous situation where a new legal interpretation requires the application of the acreage limitation to persons already receiving water pursuant to the reclamation law.

Specifically, proposed section 426.2(c) allows persons who own lands which have become excess by the Solicitor's Office determination that the excess land law applies across the West, and not merely on a district-by-district or project-by-project basis, one year from the effective date of the regulations to sign a recordable contract for the sale of excess land, in order not to interrupt delivery of federal water to these lands.

I also note that in the Imperial Irrigation District litigation, initiated originally by the United States, there was no agreement by the parties that recordable contracts signed after the conclusion of litigation would date back to the time the original water delivery contracts were signed. This distinguishes Imperial from the Tulare Lake Canal case, where I am told that the landowners agreed in signing a long-term water contract prior to resolution of the litigation, that in the event the courts held the excess land law did apply, recordable contracts signed subsequent to the decision would be dated back to the time the litigation was initiated.

Accordingly, I believe that the fairest solution in the Imperial case—assuming that the courts ultimately hold that the District is subject to the acreage limitation and that our proposed regulations become final without major change on this point—is that the excess landowners in the Imperial Irrigation District should be allowed one year to sign recordable contracts, and that they should have the normal five year period thereafter in which to dispose of their excess lands.

I trust this answers your inquiry. Please let me know if you would like additional information.

Sincerely yours,

LEO M. KRULITZ,
Solicitor.

PANAMA CANAL TREATY

Mr. MORGAN. Mr. President, the question of the ratification of the Panama Canal Treaty by this Senate presents a most difficult question. It is one that should be decided on its merits and not on emotional issues. In speaking to the North Carolina State Bar, I undertook to examine the issue in some detail. I hope that it may be of assistance to others. Therefore, I ask unanimous consent that the speech in its entirety be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SPEECH BY SENATOR ROBERT MORGAN

As I said last week, in a speech here in Charlotte before the B'nai B'rith on our policy in the Middle East, each of us in the Senate has an obligation to investigate and study matters relating to the foreign policy of the United States. Along with our duties in the Senate and the constitutional duty to advise and consent to presidential initiatives, we have a duty to report to our constituents and to provide them with a summary of events and discussions taking place in Washington. This is a serious obligation and one which I am happy to fulfill today before this important body of North Carolinians.

THE IMPORTANCE OF THE ISSUE

I want to talk to you today about a foreign policy issue that has created considerable interest here in North Carolina and elsewhere in the nation—the Panama Canal.

All the North Carolinians who have written to me about the Panama Canal are quite right to express a concerned and sincere interest in this subject. The Canal, the newly negotiated treaties and this country's broad foreign policy concerns are inseparable. They are too important to be decided on the basis of jingoism and emotionalism, but should be the subject of reasonable and rational examination. I hope today to be able to contribute constructively to such an examination. Let us not forget that the eyes of the entire world are upon us as we are grappling with this difficult issue. The other nations will not only look at our ultimate decision but particularly at the processes by which we reach this decision.

WHAT ARE MY CONCERNS

I am personally concerned about the Panama Canal issue for several reasons. I have gone to Panama. I have examined the conditions existing in that country and in the Canal Zone which is an American enclave splitting Panama into two. The social and economic conditions in the rest of Panama, as in much of Latin America, are entirely different than those in the U.S. and the Canal Zone. The manicured lawns and country club life so very much apparent in the Zone are in stark contrast to the living conditions of most Panamanians, who enter the Canal Zone only as lowly paid servants of resident Americans. This unwarranted disparity is widely known and can only damage our own image.

It is also clear, to the Panamanians and to the world, that the operation of the Canal, the good jobs and the money it provides, are reserved to the foreigners in their midst—the Americans. It is an untenable position. We cannot forever perpetuate a life style created during the early part of the 20th century. History does not stand still, and we have to adapt to this fact.

Our relationship with Panama on the future of the Canal is a festering sore and affects our relations not only with Latin America but with the rest of the world. Our global position as a world leader and as a moral standard bearer, is seriously weakened by maintaining this vestige of colonialism. Our world influence will diminish when the community of nations examines our relations with Panama.

This much you can be sure of, I will not lend my name to any agreement which reduces the ability of the United States to defend the Canal or our access to the Canal in times of peace or war.

WHAT ARE MY OWN CREDENTIALS

Whenever a man talks to you about his position on a subject, you should always think about his background and prior convictions before judging his views on a given subject. I want you to remember that I have been associated, in one way or the other, with the military services for the greater part of my adult life. I was in World War II and the Korean War and I still oppose any troop pull-out from Korea. I supported the B–1 bomber program and have been a supporter of a strong defense. I oppose resumption of relations with Cuba because I cannot detect any potential benefit to us by doing so. I oppose abandonment of Taiwan. Now, with that in mind, I am sure you realize that I would not support any foreign policy which would reduce our prominence in the world, renege on our commitments, or in any way endanger our own security.

WHAT IS MY POSITION

That is why I can tell you now that I am convinced that our relationship with Panama cannot remain as it is. There must be a change. We are faced with three alternatives:

One—We can pull out of Panama and leave a vacuum.

Two—We can stay in our present position in Panama and practically be assured that Central America will become our second Indo-China.

Three—We can negotiate a relationship with Panama which will allow us to maintain our vital interests in that country while allowing the Panamanians the dignity and benefit of living on their own land—a fact which we would surely insist upon in our part of the United States.

There are three basic reasons why a change is necessary—first, it is just plain right to do so, second the practical reason of world politics and third, the historical perspective which dictates our action in the present situation.

We must be careful not to look at the problem as a nearsighted person would. In other words, the problem is more than just a canal, or Panama or even Latin America. The problem is a world problem. We must look at the political, economic, moral and cultural impact of our dealings with Panama from the perspective of our worldwide responsibilities. We must balance whatever concessions we make in this part of the world against potential gain accruing to us because of these actions. We must balance giving up some questionable sovereignty (while maintaining defense rights) against the moral credit we get in the eyes of the world for doing what is right. But let us look more specifically at the issue by recalling some historical facts about our involvement in Panama.

THE LESSONS OF HISTORY

History is most important in our understanding of the Panama Canal. It may impel us to consider some modification of our relationship there. The lessons to be learned concern pride, doubtful acquisition and legality.

The first lesson is one of pride in our accomplishment in Panama. The efforts of the United States to do what no other country had been able to achieve remains a lasting testimony to the power and greatness of our nation. I share in this pride. As one person stated, this was the "moon shot" of the early twentieth century. No other nation could have done this and none did. It is in part to keep this pride in what we have done that we should consider a modification of our tie with Panama.

PROBLEMS WITH BUSINESS DEALINGS

Another lession which is not so glorious, but nevertheless requires review, is the manner in which we acquired the Canal and the Canal Zone. To be blunt, this was a very shady business undertaking and even by historical standards, a very suspect venture.

In 1903, the United States negotiated a treaty with Colombia to secure a concession for building a canal. Colombia found the terms to be unacceptable and rejected the treaty. President Roosevelt was enraged. He called the Colombians "inefficient bandits," "foolish and homicidal corruptionists," and "contemptible little creatures."

After this rejection, the U.S. began to negotiate with Phillipe Bunau Varilla (Boonow Vari-yah), the former chief engineer of the French canal company, which had failed in its efforts to construct a canal in the 1880's. He had purchased the stock of the company and was very active in lobbying the United States to build a canal in Colombia and to purchase his stock. Bunau Varilla's time was short since his concession expired

in 1904, so he worked behind the scences in Colombia and then in the Province of Panama.

Promising support by the U.S. Navy and a gift of $100,000 from his own pocket, the Frenchman encouraged a group of revolutionaries in the province to prepare for a revolt. This same man, who now pressed for a U.S. canal, had earlier tried to sell stock to Russia and Great Britain. On November 3, 1903, a U.S. warship appeared off the coast of Panama on a routine mission. Assuming this to be the support of which Bunau Varilla had spoken, the Panamanians revolted against Colombia. U.S. warships prevented the landing of Colombian troops and by November 6th, 1903, the U.S. was able to recognize an independent country of Panama. But this is not the end of the story or of Bunau Varilla.

Bunau Varilla had traded his support of the Panamanians for their designating him to be their representative in Washington. Less than two weeks after U.S. recognition of Panama, he was able to negotiate the Panama Canal Treaty with Secretary of State Hay. Two Panamanian negotitors landed too late. The treaty had already been signed. Panama eventually ratified it, fearing the loss of any deal with the United States. In doing so, Panama agreed to a treaty unseen by any Panamanian and unsigned by a Panamanian. One of the great mysteries still remaining today is who got the $40,000,000 paid under the treaty and, equally of interest, what happened to Bunau Varilla.

LEGALITIES

A third lesson one finds in history is the doubtful legal base upon which U.S. action rested in Panama. In prohibiting the landing of Colombian troops to quell the Panamanian rebellion, the U.S. argued that an 1846 treaty with Colombia provided that transit of the Isthmus of Panama should always be free. How this squares with U.S. actions is difficult to see. On the contrary, the same 1846 treaty required the U.S. to insure Colombian access to the Isthmus and to protect and guarantee the sovereignty of Colombia in the area. I repeat, the U.S. had agreed to protect the sovereignty of Colombia.

On the topic of treaties, the 1903 treaty, which has been the basic working document for the last 74 years, is of great interest. Under this treaty, negotiated and signed in the fashion I have already described, Panama granted to the United States the right to build a canal through the country, along with a strip of land five miles wide on either side of the canal. The treaty allowed the U.S. to exercise its rights in the Canal Zone "in perpetuity" and to exercise those "rights, power and authority . . . (as) if it were sovereign of the territory."

Even by contemporary standards this was a harsh arrangement. For any lawyer, this much is clear: treaties usually don't last forever and rights within a treaty last only for the life of the treaty itself. I am sure that you agree, that the clause "if it were sovereign" is not a passing of clear title, it is not a grant of titular sovereignty.

Secretary of State Hay remarked, before ratification of the treaty in the Senate, that there are "many points in this treaty to which a Panamanian patriot could object." The President of the American Bar Association Francis Rawle, in 1903, termed the entire affair, including the revolt in Panama, a "crime." The great American historian, Samual Flagg Bemis, called the whole matter ". . . the one really black mark in the Latin American policy of the United States . . ." Senator Money of Mississippi in 1904 claimed that the treaty "comes to us more liberal in its concessions . . . than we . . . ever dreamed of having . . . In fact, it sounds very much as if we wrote it ourselves . . ."

RECENT HISTORY

A fourth and final lesson of history which suggests some modification or adjustment in our relations with Panama, are the events we have witnessed since 1903.

We eventually made our peace with Colombia by a treaty of 1921, eighteen years after we had taken the Canal Zone over their objections and revised certain provisions of the original treaty with Panama in 1936 and 1955. The latent animosity which has always existed over the treaty, erupted in 1959 and again in 1964, sparked by incidents involving this flying of the Panamanian flag in the Canal Zone. Serious negotiations began in 1964 on revising the 1903 treaty and continued to the present time.

Since 1903, we have seen ever-increasing resentment on the part of the Panamanians and most of Latin America. The events of the turn of the century and the treaty under which the canal and the Canal Zone are operated, are as familiar to them as today's news, and perhaps even more so. Presidents Kennedy, Johnson, Nixon and Ford all cited the need for some change in the situation in Panama and in 1964 and 1974, we pledged to negotiate a new treaty. The situation in Panama has been tense. In the recent plebiscite adopting the new treaties, the Panamanians, to my mind, reaffirmed the view that some modification is in order.

THE FACTS TODAY

After reviewing the history, we can see the train of events that led to the two treaties signed by President Carter and General Torrijos on September 7th of this year. The negotiations have been long and trying and after 16 years of effort, we need to review the product of this work.

The two treaties contain some very important provisions. The first treaty deals with the specifics of the relationship of the United States and Panama. In the area of defense, the treaty provides for a U.S. presence in the canal until the year, 2000 with some reduction in facilities. After that date, the U.S. will continue to have the right to maintain the neutrality of the canal. U.S. warships are guaranteed "expeditious passage" through the canal, meaning that in time of crisis or otherwise U.S. naval vessels would be given priority. Day-to-day operations of the canal will remain in the hands of the U.S. with a gradual increase in participation by the Panamanians until the complete transfer of control in the year 2000. In the economic area, Panama would receive increased toll revenues and an increased annuity from the present $2.3 million a year to $10 million a year, all of which would come only from canal revenues. In addition to the treaty, we are committing ourselves to help Panama secure $200 million in Export Import Bank credits, $75 million in AID housing guarantees, and $20 million in loan guarantees from the Overseas Private Investment Corporation. There is also a commitment for joint study of any new sea level canal and the promise by Panama that the United States would be able to construct a third set of locks.

The second treaty deals with neutrality. This provision has been in every treaty since 1846 and it means that the canal should be open to ships of all countries of the world. The treaty provides that the U.S. and Panama will "maintain" the neutrality in perpetuity. There has been much discussion of this provision and of the various aspects of the treaty and I would like to turn to those now for they are the meat and bone of the controversy.

CONSTITUENT CONCERNS

North Carolinians have expressed a number of concerns. Some of these concerns are based on misinformation, but some raise serious questions which may end up compromising the treaties now before us.

TORRIJOS A COMMUNIST AND DICTATOR

One charge that has been raised is that General Torrijos is a dictator and a Communist, and that by turning over the Canal to him we are strengthening his regime.

In my opinion, he is not a Communist, and I don't think he will ever become one. Panama has no diplomatic relations with Russia. But other factors stand out more. When visiting Cuba, Torrijos told a Cuban audience that while Castro had done some good in Cuba, it had been at a high social cost. He went on to say that what aspirin is for Cuba was not necessarily the right medicine for Panama. In the world of diplomacy, one does not get much blunter than that in rejecting the methods of a host government. Panama does have a small Communist party, and they are bitterly opposed both to General Torrijos and these treaties. The Communists feel that the approval of these treaties will hurt them in their attempts to come to power. If our present relationship with Panama is continued, they believe they will have an issue with which they can inflame the Panamanian people and create instability. Communists have used this route to power before, and we should not allow them to use it now.

It is true that General Torrijos is a dictator, but we have supported dictatorships in the past when it suited American interests, and will probably continue to do so in the future. I do not like dictators, and I don't want to excuse Torrijos, but we have to distinguish between them. Last week there was an election in Panama, and the people and press were free to campaign on both sides of the issue. Can you imagine this happening in Cuba? The simple fact is that General Torrijos does not maintain the type of totalitarian control that is standard in some other countries. This is important. His army has only 7,000 men in it, but more important, he has brought stability to the country.

And this treaty does not return the Canal to him, but to the people of Panama, and they do want it back. William Buckley said it well: "(It is not true) that (Torrijos') own tyrannical habits and ideological predilections have anything to do with the feeling of the Panamanian people toward the Canal Zone." This has been a gut issue for the Panamanians for a long time, long before Torrijos was on the scene.

Last Sunday, the Panamanians voted, in what is generally reputed to be an honest election, on these treaties, and they voted by more than 2 to 1 in favor of them. And let's not fool ourselves. Very few of those who voted against the treaties believe that the U.S. should keep the Canal.

AMERICAN RETREAT

Another concern is that this is just one more American retreat in the world. In the past few years, people have been upset with some facets of American foreign policy—the handling of the Vietnam War, Angola, and now the talk of abandoning our allies in China and Korea—and I don't blame them.

I will never support a retreat in Panama. A new relationship with Panama might represent a strengthened commitment, however. We may be committing ourselves to deal with the Panamanians on a more equitable basis.

We may be committing ourselves to cooperate with the Panamanians with regard to what happens in portions of their country. And, we have insisted on the right to intervene if the neutrality of the Canal is not maintained. This is the subject I would like to talk about now.

RIGHT TO INTERVENE

One of the most serious concerns is the defense issue. Are we doing what is best to make sure that the Canal stays open? And

do we have the right to intervene to insure the neutrality of the Canal?

Opponents of the treaty argue that we can best insure that the Canal stays open with a U.S. Military presence in the area. The Administration argues that the most likely threat to the Canal comes from guerrillas, and that if the Canal belonged to Panama, guerrillas would be less likely to operate and that the Panamanian government would seek to protect the Canal.

We must remember that there will be American troops in the Canal Zone until the year 2000. The military appears to feel that this treaty is good, that the U.S. can defend the Canal under any circumstances, and that this treaty will not hurt our strategic posture.

The treaty is ambiguous on the American right to intervene, calling for the "maintenance" of neutrality. Many argue that without a stated right of intervention, the U.S. holds worthless paper. On the other side, it is urged that we cannot state such a right in a treaty lest we create a renewed source of Panamanian indignation. I have noted that General Torrijos, at the singing ceremony in September, said that by signing the treaties he was placing Panama under the defense umbrella of the U.S. There was some confusion anyway, so President Carter and General Torrijos met again last week to clarify the right of the U.S. to intervene. It is my understanding that this is now an accepted fact. The U.S. may protect the Canal short of intervention in Panamanian politics. It is important that this fact be clear to all. We should remember that under these treaties the U.S., if it chooses, could intervene at any time whether the Panamanians like it or not.

PRIORITY OF PASSAGE

One matter which remains to be cleared up is the issue of "expeditious passage" for American warships. Treaty supporters argue that priority passage for American warships is guaranteed. But there have been Panamanian statements to the contrary. I feel that this important matter has not been resolved, and I will be looking for a firm clarification.

EXTRAVAGANT COSTS

Another area which has received attention concerns money. Along with the treaty, but not a part of it, the U.S. government has pledged its best efforts to arrange for a five year package of loans, loan guarantees and credits totalling $295 million. Some have charged that the purpose of this is to bail out the New York banks that have loaned Panama money, but I have found no evidence to support this.

In addition, all the American-built facilities in the Canal Zone will be turned over to the Panamanians by the year 2000.

We must note, however, that we have recouped nearly double our investment in Canal tolls since the Canal opened in 1941. The cost of the Canal was $387 million, canal revenues have added $690 million to the U.S. Treasury.

The economic package pledged by the Administration won't be coming directly from Congressional appropriations, but it will be paid for by the taxpayer. I cannot help but wonder why this pledge was made, or what the Panamanians will do with the money. But this package is not part of the treaty. We could work to oppose it, if we felt this was the proper course, even if the treaty ends up being approved. I am interested in the economic aspects of the treaty and will examine the evidence and follow the debate closely.

CONSTITUTIONAL ISSUE

Constitutional questions have been raised regarding these treaties. Some have argued there must be enabling Congressional legislation to go along with the treaties before the U.S. government can return property and territory in the Canal Zone to Panama. Others feel the House of Representatives should be directly involved in the approval of these treaties. The Administration rejects both these views. As a lawyer, I have an obligation to examine the constitutional issues and with the benefits of expert testimony decide what the proper course is.

THE PUBLIC AND MAIL

Finally, I'd like to talk about public opinion and the mail. There is a lot of debate about public opinion in the country and some speculate that as many as 85 percent of our people are opposed to any treaty with Panama but a recent Gallup Poll shows that this is not the case. Those Americans who would be sympathetic to a new treaty now total about 46 percent.

Much of the mail seems to be based on a lack of understanding of the facts. Nothing is more important to me than to receive the views and opinions of my constituents. Indeed, it is vital for me in fulfilling my obligations but there is nothing that upsets me more than when I receive mail which does not reflect the thoughts and views of North Carolinians. Mass mailings for post cards have been sent out and signed by concerned citizens and then sent to me. Let me read to you the questions on one of these cards:

1. Should the U.S. give up its vital defense base, the Panama Canal?

2. Should the U.S. allow the Government of Panama to control our urgently needed shipments of oil through our Panama Canal?

3. Should the U.S. surrender our canal to the Soviet backed dictatorship in Panama?

Now I am sure that any responsible citizen would answer "No" to any of these questions if the facts on these cards reflected the reality. Based on the history I have presented here, I'm sure that you can see that it is not such a simple matter as these questions would have you believe. I repeat, I want and need the expressions of concern by my constituents, but I want the reasoned judgments of North Carolinians, not the slanted materials of some Washington-based lobby group.

In closing, I would again like to say that we have basically three options to choose from in dealing with the Panama Canal. We can do nothing, by which I mean refuse to consider any new treaty. I believe this would be a mistake. It would be wrong and it would antagonize the people of Panama and throughout Latin America. If there were guerrilla activity, and we sent more troops to Panama, it would antagonize people throughout the world and create great divisions in this country. And what if a few well-trained guerrillas sabotaged the locks and succeeded in closing the Canal? We would have the land, but the Canal would not be open, and we need that more.

We could choose to just give the Canal back to Panama, with no restrictions or conditions. Some people feel that this is the only just action the U.S. can take. But I don't think that this is in the legitimate interest of the United States, which must be recognized and protected, or in the interest of the rest of the world.

Or, we can try to find a course which returns the Canal to Panama but which also protects the rights of the United States. This is what I support. We need a new treaty, but the treaties now before us may not be the right ones. There are issues that have not been clarified, and constitutional points which need to be examined. I will repeat again, I will not support any measure which is inconsistent with the convictions I hold concerning America's need for access to the Canal and the need for the United States to be able to defend the Canal.

THE PANAMANIAN PLEBISCITE

Mr. CRANSTON. Mr. President, this past October 23, a plebiscite on the new Panama Canal treaties was held in Panama. The actual tally has not yet been officially verified and reported, but it is widely known that Panama's voters approved the treaties by an approximate margin of 2 to 1.

The two-thirds majority vote immediately brings to mind the fact that ratification of the treaties by the U.S. Senate will require a two-thirds vote. I remain cautiously optimistic that the final vote tally of the Senate will show the necessary two-thirds majority in favor of the treaties. However, the vote in Panama, as a mandate for change from the status quo, deepens the significance of action by the Senate on the new treaties.

This significance of the Panama vote was well stated in a recent editorial entitled "The Panamanian Plebiscite." which appeared in the Washington Star on October 26, 1977. Mr. President, I believe the entire editorial will be of interest to my colleagues, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE PANAMANIAN PLEBISCITE

The approval of the Canal treaties by a 2-to-1 margin in a Panamanian plebiscite makes a small but noteworthy contribution to the campaign for ratification in the United States.

The weekend voting by Panama's long-ignored electorate, while not as one-sided as the government had predicted, has succeeded in giving a form of democratic legitimacy to the negotiation by General Omar Torrijos, the country's "maximum leader." The pending treaties now demonstrably represent the desire of at least two-thirds of the Panamanian people—not just the wishes of the military dictatorship that has held power without democratic sanction for nine years.

A rejection of the treaties by the United States, in these circumstances, would be a slap at the Panamanian people, not just at their autocratic rulers. This consideration should counter, to some degree, the argument of treaty opponents that the agreements should be dismissed as the handiwork, on Panama's side, of a "two-bit dictatorship" with which the United States need not deal seriously.

Even the sizable "no" vote might contribute to the effect of the plebiscite on American opinion. That so many Panamanians were ready to oppose General Torrijos on the issue, and that their dissent has been reported, speaks for the honesty of the electoral exercise. A lopsided result smacking of Soviet-style unanimity would deserve skepticism.

The negative vote, at the same time, is nowhere interpreted as a sign that one-third of the Panamanians favor the status quo on the Canal, under which the United States since 1903 has acted as if sovereign in the Zone bisecting Panama. The nay-sayers include many who believe General Torrijos should strike a harder bargain with Washington; they object to waiting until the year 2000 to complete the Panamanian takeover of the Canal, and to giving the U.S. defense rights that would continue into the next century. Some of the "no" votes simply express domestic opposition to the Torrijos regime, and desire for a return to democracy. Virtually none of the vote can be interpreted as favoring the continuance "in perpetuity" of Uncle Sam's old-style governance of the Canal and the adjacent real estate, and the present economic arrangements.

The plebiscite should prove, if it still needed proving, that whether the pending treaties are ratified or not by the U.S. Senate, there will be no returning to the placid, non-controversial American presence in the Isthmus. If the 1903 terms are to be kept in force, it will be in less friendly surroundings, to put it mildly, and in the face of widespread international disapproval including that of almost all of Latin America. The Carter administration was at pains to illustrate this last point with the presence of Western Hemisphere leaders at the recent treaty-signing ceremonies here.

The Senate should include a reasonable reading of the Panamanian vote in the mixture of facts and emotions on which it is considering the Canal treaties. It may be significant that Senate ratification requires the same two-thirds margin produced by the plebiscite. In the desire thus expressed for a fairer arrangement to keep the Canal in operation and assure its safety, it is not just General Torrijos talking.

NO NEED FOR AN ENERGY TRUST FUND

Mr. KENNEDY. Mr. President, the energy trust fund approved by the Senate on Saturday sets a precedent in terms of the close relationship it creates between Government and industry to facilitate and accelerate the commercialization of new sources of energy, or of new fuels from long established sources of energy.

My opposition to the amendment does not mean that I disagree with its goals. From the standpoint of maintaining the Nation's freedom from OPEC influence, and of avoiding the effects of an increasingly serious balance-of-payments problem, it would seem essential that the Nation shift to domestic fuels—our remaining petroleum plus our vast stores of coal and shale—as soon as possible.

The question is, why has this shift to domestic resources not already begun to occur? The basic essentials of extracting oil from shale, and of converting coal to gaseous or liquid fuel, have been known for some time—though it is of course possible that new and more efficient processes may yet be discovered. But the basis for acceptable technologies are known and could be employed in the very near future. Nor are these processes inordinately expensive in terms of investment for plant, particularly in comparison to the resources, the cash flow, and the current investment in wells, refineries, tankers and pipelines now maintained by the petroleum industry. Thus we have to look elsewhere to find an answer to why alternative sources of energy are not being tapped.

The answer is twofold. First, there is presently a glut of crude petroleum which is expected to last so long that the oil companies see no need to prepare for a shift to alternatives. Second, the price of alternative synthetic fuels is uncertain, and probably higher, than projected prices of oil for the foreseeable future. So while there maybe a national imperative to switch to domestic synthetic fuels, there is no foreseeable commercial incentive for such a move at current projected prices of the synthetics.

What the proposed trust fund proposes to do, is to underwrite the necessary investment—presumably of the petroleum industry—for the production of synthetic fuels, and to guarantee the price of these fuels, which is to say that the Government is expected to pay the difference in price between these fuels and the world price of oil and gas. In other words, the Government, which is to say the people of the United States, is to assume the full commercial risk of all synthetic fuels commercialization ventures now and forever.

This raises a very deep question which would seem to lie at the heart of our free enterprise system, which is established on the principle that profits and ownership are the proper rewards of those who take the commercial risks. If the citizens of the United States are to collectively take the commercial risks in creating a synthetic fuels industry, then it is appropriate to ask what provision has been made for their ownership of the production facilities in which they have invested, and to ask how the eventual profits of these undertakings will be distributed to those who have put up the capital.

While I am in no way suggesting that we nationalize the synthetic fuels industry, there is no avoiding the fact that the trust fund, and its proposed method of operation, is a serious threat to the enduring independence of those companies which make use of it. Further, it will set a precedent that could have almost disastrous effects throughout industry. If Government undertakes to assume the risks that belong to industry in our free enterprise system, then we will soon fail to have a free enterprise system.

In the short run, given the precedent of this trust fund, we might easily expect to see the auto industry asking for a trust fund to absorb the costs and risks of our mileage, pollution, and safety regulations. We might even see the drug industry asking us to assume the risk of their introducing a new drug. But somewhere along the line, the public can and should ask for a return on its investment. At that point, we will have to consider whether we have not actually been creating public corporations that require some degree of formal public ownership. That will be an interesting day, indeed.

The logical consequences of the trust fund concept, which would remove all risk from commercial ventures in the synthetic fuels industry, are staggering in terms of the preservation of private industry in this country. The importance of this point is one of the major factors in the energy issue we are considering today. We should not let the urgency of solving our energy supply problems cause us to take steps that are unnecessary, inappropriate, and which may create extremely complex problems for our free enterprise system in the future.

THE PROPOSED PANAMA CANAL TREATIES

Mr. HARRY F. BYRD, JR. Mr. President, Jenkin Lloyd Jones, editor and publisher of the Tulsa, Okla., Tribune, has written an excellent column on the proposed Panama Canal Treaties. Mr. Jones' column is syndicated by the Los Angeles Times Syndicate and this particular column was released yesterday.

It raises points in regard to the proposed treaties which need to be emphasized.

I ask unanimous consent to have printed in the RECORD the column by Mr. Jones captioned "The Crawling Treaties."

There being no objection, the column was ordered to be printed in the RECORD, as follows:

THE CRAWLING TREATIES

(By Jenkin Lloyd Jones)

Maybe the real reason why the two Panama Canal treaties are in such trouble is that a large majority of Americans have developed the gut feeling that our country has crawled long enough. The antennae of the Senate have been waggling.

The shock of Watergate no longer disturbs the seismographs. The liberal-left theory that America was guilty of and rightly punished for assaulting the liberty-loving Viet Cong was never purchased by most Americans, but the incuriosity of its holders as to the present state of civil rights under the Communists has begun to register.

The strident drive to let erstwhile bombers wade through the files of the FBI and dismantle the CIA has long since reached the point of overkill. All over the country, in factory, tavern and truck stop, the question is being profanely asked how many prison years should be assessed against patriots who infiltrated the Weathermen while revolutionaries have returned unscathed from exile to tour as college lecturers.

There is a rising tide of anger which the flagellantes of press and camera may not have detected because they have been so busy interviewing each other.

It was, perhaps, a prodigy of ill-timing that led President Carter to choose this moment to spring the Canal treaties. For they are the most abject retreat, scuttle and bugout in the lengthy history of American diplomacy.

And the reaction seems to have astonished and dismayed those who apparently believe that unless Americans give up all positions of strength anywhere outside our borders we are guilty of imperialism and aggression.

Who imagines that the 1903 American Congress would have undertaken the most costly and ambitious public work that the world had yet seen if it had anticipated, not only that our control would not reach its first century, but that the American people would have to pay a heavy indemnity for our effrontery in building the canal in the first place?

How else can one read President Carter's pacts than as payment of conscience money on a matter providing no reason for a guilty conscience?

We have spent about $7 billion on the Canal without which Panama would still be an ill-governed province of Colombia. It now has the highest per capita income of any Central American country. There has been much bleating from Panama about the allegedly low annual payments to the Panamanian government of $2.3 million. What Panama doesn't mention is the fact that since 1945 it has received $368 million in U.S. foreign aid.

Sol Linowitz, one of the chief treaty negotiators, has himself forecast that under their provisions tolls would rise from 25 to 30 per cent.

The new agreements would require the United States to pay $50 million a year to Panama for the 23 years before Panama takes over altogether.

In a speech to the Senate on Sept. 13 Sen. Harry Byrd said:

"It is estimated that the overall cost of the Panama Canal treaties to the American taxpayer eventually will be roughly $10 billion. Based on this amount, we would be paying Panama more than $24,000 an acre for the privilege of giving U.S. territory to Panama, or $5,000 for every man, woman and child in Panama."

The effort by the President to sell the pacts as an accomplished fact had no precedence in diplomatic history. He convened a camp meeting of Latin American heads of state in Washington to sing hosannas at the initialling, as though Senate approval were certain and perfunctory.

The treaty-pushers have done nip-ups forecasting sabotage if we fail to approve. Any sabotage aided and abetted by the Panamanian government could be handled without cost to Americans by simply deducting the bill for repairs from our aid to Panama. That aid is not a Panamanian right, but a freewill gift.

Panamanian dictator Omar Torrijos is in financial trouble. He has kited the national debt from $167 million when he took over to $1.5 billion today. Long on a spending spree, he now owes foreign banks approximately $136 million. The treaties, of course, would shore up these loans, and don't think the nervous banks don't know it.

The American negotiators have cravenly agreed to give Panama veto power over any future Atlantic-Pacific canal. Who knows what earth-moving technology of the 21st century might offer if Panama's extortion became intolerable? There's always Nicaragua.

Finally, the President has said that in spite of wide variance between his spokesmen and Panama's over what the treaties really provide, all can be fixed by a letter of "clarification" from General Torrijos. Who thinks future Panamanian governments would feel bound by a letter from a transitory strong man?

They are lousy treaties. Let's get off our knees.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Audrey A. Kaslow, of California, to be a Commissioner of the U.S. Parole Commission for the term of 6 years, vice Paula A. Tennant, term expired.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Monday, November 7, 1977, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

ORDER FOR RECOGNITION OF SENATOR ALLEN ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized on tomorrow, Senator ALLEN be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 10:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF SUPPLEMENTAL APPROPRIATION BILL AT 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at 11 o'clock a.m. tomorrow, the Senate proceed to the consideration of the supplemental appropriation bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO HOLD BILL AT DESK

Mr. STEVENS. Mr. President, I have discussed the matter with Mr. ABOUREZK and I ask unanimous consent that when H.R. 8499 is received from the House that it be held at the desk pending further disposition.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

RETURN OF PAPERS ON S. 1528

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be directed to inform the House of Representatives that it may disregard the request made by Senate Resolution 310, October 27, 1977, for the return of the papers on S. 1528, the Safe Drinking Water Act Amendments of 1977.

The PRESIDING OFFICER. Without objection, it is so ordered.

TOXIC SUBSTANCES CONTROL ACT AMENDMENTS OF 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 176, S. 1531.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1531) to amend the Toxic Substances Control Act to establish a program of assistance to the States for protection and indemnification of individuals injured in their business or person by chemical substances to establish a chemical emergency respond team, to increase the authorization for appropriations, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill? There being no objection, the Senate proceeded to consider the bill.

Mr. RIEGLE. Mr. President, the Toxic Substances Control Act was signed into law on October 11, 1976, following a 6-year struggle by the Congress to develop a product which would provide the protections which are so vital yet be structured in a manner that would avoid veto by the President. That the final product was acceptable not only to organized labor, the environmental community, and other supporters of the legislation, but the mainstream of the chemical industry as well, is ample testimony to the hard labors of the Senate and the House to fashion the final product.

The resolution of key provisions of the act, like the testing provisions of section 4, the premarket notification provisions of section 5, and the reporting provisions of section 8, was achieved only by protracted negotiation which literally extended over a number of years.

The key provisions of the act are not yet operative. Rules for testing have not been proposed under section 4, premarket notification under section 5 is yet to begin, and the reporting procedures of section 8 have not yet gotten off the ground in any kind of significant way. Thus, it is premature to consider amendments which would alter any of the key operative provisions of the act in any significant way.

Nonetheless, it has become increasingly clear in recent months that there are yet some gaps in the law that need closing, not with respect to the major operative sections of the act, but to insure that the act is responsive to the victims of chemical disasters and that sufficient funds are available to properly administer the act.

Title III of S. 1531 would provide a substantial increase in the amount of authorization for appropriations. When the Toxic Substances Control Act passed the Congress a year ago, it was with the full realization by Members of both the House and Senate that the authorization for appropriations was deficient. Authorizing an average of less than $13 million per year over the first 3 years of life of this important new authority is just not adequate to the task, especially in light of the fact that other key environmental health statutes are funded at much higher levels. For example, fiscal year 1978 appropriations for the Federal Water Pollution Control Act are in excess of $254 million, the Clean Air Act is in excess of $238 million, the Safe Drinking Water Act exceeds $58 million, the Food, Drug, and Cosmetic Act exceeds $238 million, and the Occupational Safety and Health Act is over $136 million.

The Environmental Protection Agency is currently in the process of developing an implementation strategy document. Thus, any estimates for future authorizations for appropriations under the act must be tempered by the uncertainty of not having a strategy document in hand. Nonetheless, EPA estimates of the funds it can use, plus the additional expectations that EPA will undertake significant new activities over the course of the next 2 years above and beyond those contemplated when the act was passed a year ago, all lead me to conclude that a substantial increase in the authorization for appropriations needs to be provided.

Obviously, Congress will have an opportunity to fine tune the amount of funds available for the programs in the appropriations process.

Title II of the committee bill creates what I believe to be an extraordinarily important tool to combat chemical contamination emergencies which have plagued this Nation in recent years.

The chemical industry has grown dramatically in the past 10 years. During that period, production of synthetic organic chemicals has increased by 233 percent. Sales now exceed $100 billion per year in this country, and the annual production of the top 50 chemicals alone total 410 billion pounds.

As the chemical industry has grown, so has the number of chemical emergencies which threaten human health and the environment. Since 1968, at least 30 instances of chemical contamination of food have occurred involving 24 States and resulting in losses of nearly $100 million.

In considering the Toxic Substances Control Act over the course of the last 6 years, and in oversight since the act has passed, the Committee on Commerce, Science, and Transportation has held extensive hearings on a number of environmental catastrophes. Most recently, 4 days of field hearings were held earlier this year in Michigan to examine the facts surrounding the widespread contamination of food, livestock, and human beings in Michigan by the chemical PBB. At this point, it has been estimated that 9 million people in Michigan, out of a total of 9.5 million, have PBB's in their system. The hearing record dramatically demonstrates the incredible amount of bureaucratic lethargy and inaction encountered when a catastrophe like this occurs. Even though the chemical responsible for the contamination in Michigan was identified in 1974, only now are we beginning to fully understand the health implications. In January of this year, nearly 4 years after the incident, the National Institute of Occupational Safety and Health has finally begun to find out the occupational implications of manufacturing and processing this chemical.

Unfortunately, Michigan's experience with PBB's is not isolated. The Ohio River near Louisville is seriously threatened by the contamination of the river by carbon tetrachloride, HCP, and "octa." PCB's for example, now contaminate the environment of vast areas of the United States, including human beings.

There is little question that ample authority exists to regulate these kinds of hazards under the Toxic Substances Control Act and other authorities, not only of EPA, but of agencies like the Occupational Safety and Health Administration, the Food and Drug Administration, and the Consumer Product Safety Commission.

Despite all this authority, there is still no mechanism to insure that all the appropriate agencies of Government will be organized rapidly and thoroughly to determine the health and environmental effects of toxic substances and other potentially toxic substances, and to undertake control efforts as well.

It is this grave shortcoming in the Federal fabric of toxic substances control that motivated the committee to include title II in S. 1531. When the committee reported S. 1531 on May 16, objection was raised by the Environment and Public Works Committee on the basis that title II fell within that committee's jurisdiction. I am happy to report that the disputes that existed between the Environment and Public Works Committee and the Committee on Commerce, Science, and Transportation with respect to title II have been resolved. While I remain convinced, and the Committee on Commerce, Science, and Transportation is likewise convinced, that on balance, S. 1531 does fall predominantly within the committee's jurisdiction, in the interests of comity between our committees, we have worked out our differences.

Two weeks ago, I wrote to the conferees on amendments to the Federal Water Pollution Control Act (H.R. 3199) urging them to adopt in the conference report a number of key provisions relating to a provision in the House bill providing money to cope with environmental emergencies. In my view, if these suggestions were adopted, then there would no longer be a need for title II of S. 1531. Through the cooperation of the distinguished senior Senator from Maine and other conferees from the Senate, my suggestions have been incorporated in the conference report on that bill. I thus plan to offer an amendment to S. 1531 which would delete title II in favor of a similar provision in the conference report on the Federal Water Pollution Control Act.

Title I of S. 1531 establishes a program of toxic substances injury assistance for those who are economically damaged or damaged in their person by the contamination of food and livestock by chemical substances and mixtures.

To date, the single largest chemical accident to occur involving food is the PBB incident in Michigan. It has been estimated by USDA that approximately $75 million worth of livestock and poultry have been destroyed since the chemical contamination incident occurred in 1973.

In 1974, nearly $7 million worth of poultry had to be destroyed in Mississippi because of contamination by the pesticide tieldrin, $4 million worth of poultry had to be destroyed in 1969 in Arkansas as a result of contamination by heptaclor. The list goes on and on.

While losses due to contamination of food and livestock by chemical substances or mixtures may be compensated to a degree through litigation, it is clear that litigation often presents an inadequate tool to aid the innocent victims of chemical contamination.

Liability insurance carried by those responsible for contaminations may well prove to be inadequate, as it inevitably will be found in the PBB incident in Michigan. The unhappy result is that losses of livestock and poultry by farmers and others within the State will go uncompensated.

Moreover, even if the tort system resulted in full restitution to those damaged, it does so only after an agonizingly long period of time. Despite the fact that the contamination incident in Michigan took place in 1973, and the cause was determined in 1974, litigation is still continuing to determine liability and to award damages. Many of the farmers and others in Michigan who suffered these losses in 1974 have been forced out of business because of the enormous time delays involved.

Title I provides a means to compensate those who have suffered, while also providing a means of recovery by the United States of insurance for damage awards occurring as a result of the chemical contamination.

Title I provides Federal funding of 75 percent of the cost of the compensation through the States when food or livestock is contaminated by chemical substances or mixtures, and action by State officials occurs against the food or livestock as a result.

The States are to be subrogated to the rights of the recipient of assistance money with a mandatory requirement that certain of the funds be restored to the Federal Treasury.

Fifty million dollars is authorized to be appropriated in each of the fiscal years 1978, 1979, and 1980. While actual losses throughout the country will obviously be much larger than this, because we are plowing new ground with this kind of program, it makes sense to limit the amount of Federal outlay.

Mr. President, in my view, these amendments to the Toxic Substances Control Act are vital. I urge the Senate's favorable consideration of them.

UP AMENDMENT NO. 1022

(Purpose: To grant the Environmental Protection Agency rulemaking authority under the Toxic Substances Control Act.)

Mr. RIEGLE. Mr. President, I send to the desk an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Michigan (Mr. RIEGLE) proposes an unprinted amendment numbered 1022.

Mr. RIEGLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 19, following line 17, insert the following:

SEC. 202. At the end of section 26 of the Toxic Substances Control Act (90 Stat. 2625), insert the following new subsection:

"(h) RULEMAKING AUTHORITY.—The Administrator is authorized to prescribe such rules as are necessary to carry out his or her functions under this Act."

Mr. RIEGLE. Mr. President, when the Toxic Substances Control Act passed a year ago, the authority was not granted to the Administrator to issue such rules as is necessary to carry out his functions under the act. Only specific grants of rulemaking authority were provided in specific sections of the act. This was clearly an oversight and should be corrected. The lack of specific rulemaking authority could well result in protracted litigation with respect to certain provisions of the act. EPA must attempt to flesh out the existing provisions of the statute by virtue of interpretive rules; and when review of those rules takes place upon any enforcement action having to do with them, judicial review will

occur on a de novo basis, with the courts spending a great deal of time reviewing each of those interpretive regulations in each instance where an enforcement proceeding takes place.

This dilemma could occur in several different places under the act. For example, section 5(e) authorizes EPA to act against signficant new uses of existing substances when "information * * * is insufficient to permit a reasoned evaluation of the health and environmental effects" of the substances.

EPA should be able to specify what information must be provided in order to avoid a finding of "insufficient information." Being able to specify these kinds of understandings will aid not only the agency in any judicial review associated with an enforcement proceeding, but will also aid the chemical industry in that they will have a better idea of precisely what is required of them in complying with the notification procedures.

Under the Toxic Substances Control Act, judicial review is not only authorized generally for rules issued by the agency, but also in enforcement proceedings.

The difference lies in the scope of judicial review that will occur if rulemaking authority is granted as opposed to there being no such grant of authority. If specific rulemaking authority is granted, then review by the court as a collateral matter in conjunction with an enforcement proceeding would be on an "arbitrary and capricious" basis, as the Administrative Procedure Act provides. In the absence of rulemaking authority, the matter would be considered de novo in each case.

Mr. President, there is no good reason why the courts ought to be clogged by requiring a de novo review of interpretive rules each time an enforcement proceeding takes place based on an interpretive rule. Due process is provided by compliance with the rulemaking procedure in the first place and there is no need to examine the issue fresh and anew as would be the case if the agency were required to issue interpretive rules.

General rulemaking authority is provided in other statutes administered by EPA, including the Federal Water Pollution Control Act, the Clean Air Act, and the Federal Insecticide, Fungicide, and Rodenticide Act. The authority contained in the Toxic Substances Control Act ought to be consistent, and I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 1023

(Purpose: To delete title II of S. 1531.)

Mr. RIEGLE. Mr. President, I send to the desk an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Michigan (Mr. RIEGLE) proposes an unprinted amendment numbered 1023.

Mr. RIEGLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 6, strike all following line 17; and strike pages 7 through 18 and all through line 9 on page 19.

On page 19, strike line 10 and insert in lieu thereof "TITLE II—AUTHORIZATION FOR".

On page 19, line 12, strike "301", and insert in lieu thereof "201".

Mr. RIEGLE. Mr. President, the amendment I offer would delete title II of S. 1531. Title II of the bill establishes a chemical emergency response team which is designed to cope with environmental emergencies. As stated in my opening remarks on the bill, title II is no longer necessary because of an agreement reached with the Environment and Public Works Committee and the other conferees on the Federal Water Pollution Control Act amendments to insert a similar provision in that act. Consequently, including the provision in S. 1531 would be duplicative of that provision. I, therefore, offer an amendment to delete title II.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. GRIFFIN. Mr. President, as one who has worked hard for passage of S. 1531—and as the author of what is now title I of the bill—I am pleased that the Senate leadership has scheduled consideration of this measure.

Two weeks ago, I spoke on the floor to urge that this crucial legislation not be overlooked in the rush to adjournment and that every effort be made to schedule S. 1531 for action. Accordingly, I commend the leadership now for this response.

Needless to say, this is an important bill for Michigan. In our State, we are all too familiar with the unhappy story of the accidental mixing of the fire retardant polybrominated biphenyl (PBB) with cattle feed and its tragic chain-reaction effects on animal and human health.

Last March Senator RIEGLE and I conducted hearings in Michigan to make a record on this accident. We heard testimony from farmers and consumers, who have borne the brunt of this episode, and we heard from scientists and other experts as well as Federal and State officials.

After 4 days of field hearings, 2 more days of hearings were held in Washington; and thereafter the Commerce Committee reported S. 1531. Title I of the reported bill is similar to S. 899, which I had introduced earlier. It is designed to provide Federal assistance and incentive for States which face up to the need for a program to cope with chemical disasters.

Although attention is focused now on the PBB tragedy in Michigan, we need only review a little recent history—the Dieldrin contamination in Mississippi and Kepone poisoning in Virginia—to recognize that chemical disaster can strike any State at any time.

Thus, while S. 1531 is important to Michigan now, it can be very important to the citizens and Senators of other States tomorrow. With the rapidly expanding use of chemical substances—more than 30,000 now in the stream of commerce and another 1,000 new substances likely to be introduced during the next year—it is likely that there will be more, not fewer, PBB-type incidents in the future.

In fact, as I pointed out 2 weeks ago, the PBB problem is no longer just a Michigan problem. Unfortunately, traces of this toxic chemical have also been found recently in eight other States—Ohio, New Jersey, New York, Illinois, Pennsylvania, Tennessee, California, and Mississippi.

S. 1531 is designed to provide limited interim assistance to innocent victims of a chemical disaster. The legislation authorizes Federal reimbursement of up to 75 percent of amounts that a State makes available for compensation of victims, pending litigation of claims against those responsible for the chemical accident.

In short, S. 1531 is designed to help a State that is willing to help its citizens recover from a chemical disaster. In most cases, people who are suffering—those who are sick and those whose herds or crops are wiped out—just cannot wait years for relief while their claims drag through the courts.

In an age of widespread chemical use, it is vitally important that we have adequate programs and mechanisms to deal with unexpected contamination of the environment, so that victims are not left without recourse and assistance.

This bill takes a long step in the right direction—not just for Michigan, but for the country.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (S. 1531) was passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Toxic Substances Control Act Amendments of 1977".

TITLE I—TOXIC SUBSTANCES INJURY ASSISTANCE

SEC. 101. Section 28 of the Toxic Substances Control Act (15 U.S.C. 2627) is amended as follows:

(1) redesignate subsections (b), (c), and (d) thereof as subsections (c), (d), and (e), respectively; and

(2) insert immediately after subsection (a) thereof the following new subsection:

(b) TOXIC SUBSTANCES INJURY ASSISTANCE.—(1) For the purposes of this subsection only, the term 'chemical substance' has the same meaning as provided under paragraph (2) of section 3 of this Act without regard to the exception provided in subparagraph (B) thereof.

"(2) Whenever the chief executive of any State—

"(A) has reason to believe that there is present in the environment of such State

any chemical substance or mixture which may cause injury to the health or welfare of any person or animal; and

"(B) (i) orders, pursuant to law, the authorities of such State to impound or otherwise condemn any livestock, including poultry, or food which may contain any such chemical substance or mixture, or (ii) finds that any livestock, including poultry or food containing such chemical substance or mixture is seized or otherwise may not be distributed in commerce by action of a Federal official, such State, upon application to the Administrator, may receive up to 75 percent of the actual disbursements or payments made by such State for the assistance or indemnification of any individual or person harmed in his business or person by such action of the chief executive or such Federal official in accordance with the provisions of paragraph (3) of this subsection.

"(3) (A) The Administrator is authorized to make grants to States for amounts not to exceed 75 percent of the disbursements or payments made by such States for the assistance or indemnification of any individual or person harmed in his business or person by the action of the chief executive of any such State, or by a Federal official, pursuant to the circumstances described in paragraph (2) of this subsection according to the following order of priorities:

"(i) actions principally involving polybrominated biphenyls; and

"(ii) actions involving other chemical substances or mixtures.

"(B) Each applicant for assistance under the provisions of subparagraph (A) of this paragraph shall furnish such assurances to the Administrator as the Administrator may require that such applicant will—

"(i) take all steps necessary to assure that the applicant is subrogated to the rights of the recipients of disbursements or payments made by such applicant for the assistance or indemnification of the actual losses of such recipients arising out of circumstances described in paragraph (2) of this subsection;

"(ii) take all steps necessary to recover from the recipients of disbursements or payments made by such applicant for the assistance or indemnification of the actual losses of such recipients arising out of the circumstances described in paragraph (2) of this subsection, all amounts recovered by such recipient (I) under any contract of insurance, or (II) as a recovery or award allowed or made as result of any action brought by or on behalf of any such recipient for the purpose of obtaining damages or other monetary compensation or indemnification against any other persons arising out of circumstances described in paragraph (2) of this subsection; and

"(iii) return to the Administrator, in the same proportion as the funds granted under this subsection bear to the total amount of State disbursements or payments, such recoveries as may be received by such State under subclause (I) and (II) of clause (ii).

"(4) The Administrator is authorized to make grants to the States for the establishment, maintenance, and operation of medical programs or facilities to detect or monitor the effect on the environment, and particularly on human beings, livestock, including poultry, and other animals, of the presence of any chemical substance or mixture which the chief executive of any such State and the Administrator have reason to believe may be injurious to the health or welfare of any individual or animals in such State or adjacent States or regions. Such grants may also be utilized by any such State for the treatment of human beings, livestock, including poultry, and other animals adversely affected by chemical substances or mixtures, to the extent that such treatment is otherwise not reasonably available. Nothing contained in his paragraph shall authorize the Administrator to make grants which would duplicate grants under the other provisions of this section.

"(5) Upon application by the chief executive of a State the Administrator is authorized to make payments to any individual for actual medical expenses incurred by such individual in the detection or treatment of any injury to any such individual caused, or reasonably believed to be caused, by the presence of the chemical substance or mixture which is the subject of such application.

"(6) Grants and payments made available under the authority provided in paragraphs (3), (4), or (5) of this subsection may be made for any circumstance described in paragraph (2) occurring on or after January 1, 1973.".

"SEC. 102. Section 28 of the Toxic Substances Control Act is further amended—

(1) in subsection (c) thereof, as designated by section 101(a)(1) of this title, by adding immediately after "(a)" the following: "and (b)";

(2) in subsection (d) thereof, as designated by section 101(a)(1) of this title, by adding immediately after "(a)" the following: "and (b)"; and

(3) in subsection (e) thereof, as designated by section 101(a)(1) of this title, by inserting immediately before the last sentence therein the following new sentence: "For the purpose of making grants and payments under subsection (b) there are authorized to be appropriated $50,000,000 for the fiscal year ending September 30, 1978, $50,000,000 for the fiscal year ending September 30, 1979, and $50,000,000 for the fiscal year ending September 30, 1980.".

TITLE II—AUTHORIZATION FOR APPROPRIATIONS

SEC. 201. Section 29 of the Toxic Substances Control Act (15 U.S.C. 2628) is amended—

(1) by striking out "$12,625,000" and inserting in lieu threof "$50,000,000;" and

(2) by striking out $16,200,000" and inserting in lieu thereof $100,000,000".

SEC. 202. At the end of section 26 of the Toxic Substances Control Act (90 stat. 2625), insert the following new subsection:

(h) RULEMAKING AUTHORITY.—The Administrator is authorized to prescribe such rules as are necessary to carry out his or her functions under this Act.".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE MEETING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Foreign Relations Committee be authorized to meet during the session of the Senate tomorrow on November 1 to hear and consider one executive nominee and to mark up S. 2152, the Bretton Woods Agreement Act, and to discuss other committee business.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene tomorrow at 10:30 a.m. After the two leaders or their designees have been recognized under the standing order, Mr. ALLEN will be recognized for not to exceed 15 minutes.

At 11 a.m., the Senate will resume consideration of the supplemental appropriation bill.

Mr. President, I ask unanimous consent that it be considered and that it be the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. The Senate will take up that bill under a time agreement.

Mr. President, upon the disposition of the supplemental appropriations bill, the Senate will take up Calendar Order No. 499, S. 2159, a bill to amend the Public Health Service Act to require an increase in the enrollment of third year medical students in the school year 1978–79, and for other purposes, and there is a time limitation on that bill and on amendments and motions in relation thereto.

Upon the disposition of that bill, the Senate will proceed to the consideration of Calendar Order No. 515, H.R. 9346, the social security bill.

Upon the disposition of that bill, the Senate will take up the Alaska-Canadian pipeline measure, Senate Joint Resolution 82. There is a time agreement under the law on that measure.

Upon disposition of that measure, the Senate may then proceed to the consideration of other measures that have been cleared for action on both sides of the aisle.

Mr. President, there will be rollcall votes tomorrow throughout the day, throughout the afternoon, and into the evening.

RECESS UNTIL 10:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 10:30 a.m. tomorrow morning.

The motion was agreed to; and at 6:41 p.m., the Senate recessed until Tuesday, November 1, 1977, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate, October 31, 1977:

CONSUMER PRODUCT SAFETY COMMISSION

R. David Pittle, of Maryland, to be a Commissioner of the Consumer Product Safety Commission for the remainder of the term expiring October 26, 1982, vice Thaddeus A. Garrett, Jr.

NATIONAL ENDOWMENT FOR THE ARTS

Livingston L. Biddle, Jr., of the District of Columbia, to be chairman of the National Endowment for the Arts for a term of 4 years, vice Nancy Hanks, term expired.

IN THE NAVY

The following-named (Naval Reserve Officers Training Corps candidates) to be permanent ensigns in the line or staff corps of the Navy, subject to the qualifications therefor as provided by law:

Major D. Bursey, Jr.
Elizabeth M. Clow
Mark E. Dowd
James C. Heinen
Robert L. Howard
Roger A. Hungerford

The following-named Navy enlisted scientific education program candidates to be permanent ensigns in the line or staff corps of the Navy, subject to the qualifications therefor as provided by law:

Thomas D. Abrahamson
Scott J. Amos
Jacob A. Anthony
Edwin D. Bankston
Harrison A. Beasley, Jr.
Charles R. Beavers
Patricia L. Beckman
Jerald K. Bevens
Alfred J. Billings
Douglas A. Black
Lindell G. Blair
David J. Brewer
Steven L. Brooks
Vernon D. Buchanan
William D. Campbell
Robert R. Canavello
Glen H. Carpenter
Craig H. Chapman
Ryan L. Christensen
Dennis C. Claes
Earl R. Coffin
Donald E. Cole
Clenton Collier
Billy A. Colvin
Kenneth W. Coomes
Samuel D. Craig
Michael V. Daniel
James M. Darabond
William A. Dicken
Don W. Driskill
Donald L. Eberly
Timothy L. Edgell
Robert H. Ellis
Jesus A. Esquivel
Christopher L. Evans
Patrick R. Ferry
Gregory L. Fletcher
Dennis M. Foster
Mark G. Fredericks
Paul C. Gage
Michael J. Gill
Gary L. Girardet
James T. Glass
Edward L. Graham
Charles W. Green
Johnny L. Green
Arthur W. Gresham
Ronald N. Gunn
James R. Hague
John F. Hall
Norman E. Hardee
Ricky A. Heiderken
Robert W. Henderson
William J. Hendrickson
Rex A. Hensley
Andrew A. Hergert
Keith E. Hinote
Jimmy S. Hirakana
Michael J. Hoeinghaus
Glenn R. Hottell
Patrick W. Hughes
Michael L. Iverson
Michael A. Jacovelli
Lawrence M. Jendro
Gerald L. Johnson
Jerry M. Jones
James C. Kaiser
Steven J. Kantner
Karl A. Klankowski
Robert L. Knight
Robert E. Kunkle
Paul E. Lambourne
Michael H. Laptas
Robert C. Larrabee
Daniel L. Lehr
Peter J. Lestrange
James M. Loerch
Stephen R. Lowe
John F. Luksik
John W. Lutz
Pat G. McCartney
William J. McCullum
James W. McDougald
Michael J. McGehearty
Glenn MacDonald
Stephen J. MacDonald
Arthur M. Macy
Griffin N. Macy
John H. Marable
Richard J. Martin
Roger D. Martin
Robert Mason
Robert M. Melendez
Terry L. Mellon
Shannon G. Metcalf
John W. Mickelson
Gary G. Miller
James E. Miller
Micheal G. Miller
William E. Mize
Michael A. Moan
Roger J. Morais
Kenneth M. Muske
John A. Nixon
Lawrence P. Norstedt
Charles E. Ogier
Leo D. Owens
Scott E. Palmer
Bennie E. Patton
Stephen S. Payne
Allen V. Peloquin
Alva W. Phelps
Craig J. Pickart
Gary L. Piepkorn
Charles P. Pietsch
Wiley E. Pipkin
Alfred E. Plourde
Michael C. Plumb
Joseph C. Podhasky
Michael J. Reed
Don A. Reidenbach
Roy C. Rogers
Theron S. Rose
Udo H. Rowley
James M. Salm
Keith R. Schlenker
Jeffrey A. Schmitz
Dennis J. Seipel
Mark L. Shaw
Robert R. Silvira
Harvey E. Sitzlar
Paul Slominski
Ronald E. Small
Alfred Smith
Forrest J. Smith
William S. Stuhr
Gary E. Tobias
Raymond F. Toll
Taylor T. Tripp
Dave J. Urich
Donald B. Vanoteghem
Joel N Walker
William J. Walsh
Michael P. Webb
John J. Wesser
William H. Wheeler
Howard Whitcomb
Claude M. Whittle
Thomas M. Wilbur
David T. Williams
John R. Williams
Stacey A. Wilson
Steven K. Wooley
Rolf A. Yngve
Carl B. Zich, Jr.

EXTENSIONS OF REMARKS

STEELHEAD TROUT PROTECTION ACT—H.R. 9736

Hon. John E. "Jack" Cunningham

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, October 31, 1977

Mr. CUNNINGHAM. Mr. Speaker, this week I introduced H.R. 9736, the Steelhead Trout Protection Act. This bill, to preserve and protect the steelhead trout, is an amendment to the Black Bass Act of 1926. The Black Bass Act makes unlawful the interstate commerce of black bass if the commercial taking of the fish is contrary to the law of the State in which it is taken. This amendment will modify the Black Bass Act to include steelhead trout and to rectify several Federal court decisions affecting steelhead trout.

Many States have recognized the steelhead trout as a game fish because they are a particularly good sport fish—best when fished in streams—and of a greater general value when fished with sport fishing gear. In these States, sports gear must be used and fishermen are limited as to how many steelhead they may take. The fish and wildlife departments of these States manage and promote the growth of these spectacular game fish so that sport fishermen will have the chance to fish for them for years to come.

Sport fishermen in the United States pay millions of dollars per year in fishing license fees. Much of this money is spent on the artificial propagation of steelhead trout. In fact, the majority of the funding for fish creation programs comes from the license fees paid by sport fishermen.

Recent Federal court decisions, unfortunately, have allowed commercial Indian fishermen to gillnet huge quantities of steelhead trout, many of which are propogated from these sport license fees. These fish are then either sold fresh locally or frozen and shipped airfreight to different parts of the country.

As I mentioned before, the steelhead trout is classified as a game fish in these States and fishing with gill nets or fishing for commercial purposes is illegal by State law. But Federal judges around the country have allowed the commercial taking of steelhead trout by Indians citing old treaties.

I am opposed to these court decisions. The 70,000 steelhead trout caught annually in Washington State represent only 2 percent of the total annual harvest of all salmon and steelhead. So, taking the steelhead out of commercial channels would not disrupt any group economically. In fact, the sports harvest of steelhead provides a greater economic, social, and recreational value to Americans.

The Steelhead Trout Protection Act will stop the gillnetting and commercial taking of steelhead trout in those States who have classified it as a game fish. The bill amends the Black Bass Act to specifically include the steelhead trout and to apply State laws regarding this fish to Indian tribes.

My bill will facilitate the State management of this important resource. It will further give those who have paid for the propagation of these sport fish the chance to fish for them with sport fishing gear in the magnificent streams and rivers of America.

Mr. Speaker, I offer the following bill for my colleagues' review:

H.R. 9736

A bill to amend the Act commonly known as the Black Bass Act to provide further protection for steelhead trout, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Steelhead Trout Protection Act".

SEC. 2. The Congress hereby finds and declares that—

(1) steelhead trout fishing in the streams of many of the States annually attracts thousands of sport fishermen who contribute greatly to the Nation's recreational economy;

(2) the steelhead trout has been designated as a game fish by some States and may be taken in such States only through the use of sports fishing gear and may not be sold in such States commercially;

(3) the artificial propagation of steelhead trout has been financed primarily by funds from sports fishermen;

(4) United States Federal Court decisions interpreting treaties with Indians have allowed commercial Indian fishermen to take large numbers of the steelhead sports fish, placing them in commercial channels to the detriment of sports fishing and the importance to the economy of the states as a sports attraction; and

(5) the use of steelhead trout as a commercial fish is detrimental to sports fishing, and is of relatively lower value to the economy than its use as a game fish; and

(6) it is the intent of the Congress in enacting this Act to facilitate management by the States of wildlife resources.

SEC. 3. Notwithstanding any Indian treaty, laws and regulations of a State prohibiting or restricting the taking or sale of steelhead trout (salmo gairderii) for commercial purposes shall apply to Indians and Indian tribes fishing at places within such State in the same manner and to the same extent as such laws and regulations apply to other persons.

SEC. 4. The Act entitled "An Act to regulate the interstate transportation of black bass, and for other purposes", approved May 20, 1926 (16 U.S.C. 851–856), is amended—

(1) by inserting ", steelhead trout," after "bass" each place it appears; and

(2) by striking out section 10.

HATCH ACT OPPOSED

HON. JOE D. WAGGONNER, JR.

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 31, 1977

Mr. WAGGONNER. Mr. Speaker, I would like to bring to the attention of

my colleagues the following editorial from the Santa Maria Times opposing repeal of the Hatch Act.

HATCH ACT OPPOSED

In the ranks of civil servants the strongest defense against political solicitations is the statement, "I can't—I'm Hatched."

The Hatch Act of 1939 forbids federal and postal employees from taking active roles in partisan politics, but it is now under attack for allegedly abridging federal employees' political "rights."

Three bills are up for consideration by Congress, with the likelyhood that one will pass before the next general election.

The Hatch Act now covers 2.8 million federal workers—70 percent of the federal work force. The Hatch Act prohibits these employees from serving as officers of a political party, from soliciting contributions for a partisan political purpose, serving as delegates to political conventions, circulating partisan nominating petitions, or running as partisan candidates for public office.

The Hatch Act does not prohibit political party membership nor does it bar non-partisan political activity.

Those arguing for amendment of the Hatch Act—and these are primarily public employee unions such as the American Federation of Government Employees and the American Postal Workers Union—argue that the act disenfranchises federal workers and unfairly restricts their First Amendment rights of free speech and association. They contend the act is unnecessarily broad.

The Hatch Act has been upheld by the Supreme Court on three occasions. Its most recent decision declared that restrictions on political activity were justifiable; public laws and programs, it contended, should be administered impartially and without the appearance of bias; the government workforce should not be employed to build a powerful political machine; and employees should be free from pressures to perform political chores.

In the words of the Court, "It is in the best interest of the country, indeed essential, that federal service should depend on meritorious performance rather than political service."

The Times opposes amendments to Hatch Act for at least three reasons; that changes would increase the potential for building a powerful political machine through use of government workers; give the bureaucracy a political outlook that could undermine administrative discretion; increase the ability of the executive to manipulate the civil service.

NATIONAL FAMILY WEEK

HON. DAN MARRIOTT

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Monday, October 31, 1977

Mr. MARRIOTT. Mr. Speaker, one of the most important bills that we have passed in this session is House Joint Resolution 439, now Public Law 95–100, passed July 18, 1977, proclaiming November 20 through 26 as National Family Week.

The first presidency of the Church of Jesus Christ of Latter-day Saints is urging all of its members to observe this week with fitting activities and reflection. So impressed was I with the letter they sent to their members that I felt it would be proper to insert it in the RECORD, where others may reflect on its message:

SALT LAKE CITY, UTAH,
October 26, 1977.

To the Congress and President of the United States, we express our gratitude and commendation for proclaiming National Family Week during November 20–26, 1977.

Never in the history of this great country have its citizens needed to be reminded more of the importance of parenthood and the home than in these challenging days now.

America can never be any stronger than its homes.

Our children are our most precious and powerful resource.

Every child deserves a good, wholesome home in which to grow.

The words from Proverbs are so true today:

"Train up the child in the way he should go: and when he is old, he will not depart from it."—Proverbs 22:6.

No institution can equal a good home for teaching prayer, honesty, moral purity, gratitude and unselfishness.

No man or woman can better spend his or her time than in teaching righteousness to children. There is no better teaching than that of the example of an honorable life.

What an impact for good, or bad, a parent can have on his or her children in the way the parent lives in and around the home!

We invite all Americans to join members of our Church in setting aside one evening a week for family activities together—discussing the scriptures, family matters, good citizenship, and having wholesome fun together.

We urge members of the Church and all citizens of this country to observe National Family Week with fitting activities and reflection.

We commend to all the words of the Lord:

"And they shall also teach their children to pray, and to walk uprightly before the Lord."—Doctrine and Covenants 68:28.

SPENCER W. KIMBALL,
N. ELDON TANNER,
MARION G. ROMNEY,
The First Presidency.

SECRETARY HARRIS ADDRESSES TESTIMONIAL FOR HON. HENRY S. REUSS

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 31, 1977

Mr. ZABLOCKI. Mr. Speaker, on October 13, 1977, our distinguished colleague, Representative HENRY S. REUSS, was honored at a testimonial dinner in Milwaukee in recognition of his 23 years of dedicated service to the city and to the Nation.

Well-deserved accolades from President Carter, Governor Schreiber, and local officials, paid tribute to the contributions that Representative REUSS has made to solving the critical issues of our times, including fighting inflation, fostering job growth, rebuilding our cities, and achieving meaningful tax reform. I have been privileged to serve with Representative REUSS throughout this period, and to personally witness his outstanding dedication, judgment, and ability.

Also honoring Representative REUSS on this occasion was the Honorable Patricia Roberts Harris, Secretary of Housing and Urban Development, who was the principal speaker of the evening.

Secretary Harris addressed herself to the problems that universally confront our major urban centers, the features of the administration's national urban development plan, and other means by which HUD seeks to help our cities meet their pressing needs. Because of the significance of these issues, and the effectiveness of her presentation, I would like to share Secretary Harris' remarks with my colleagues, as follows:

TESTIMONIAL ADDRESS

It is a pleasure to be here tonight to join you in paying tribute to Henry S. Reuss, and to talk about a very important subject, the City.

I am aware of the new Milwaukee—its many strengths as well as its needs. In describing the City, Henry, you neglected to point out that Milwaukee's tallest skyscraper is not blessed with a revolving restaurant. And from the top floor, one has a fine view of "The Bridge That Goes Nowhere." That does not, I presume, illustrate the road you propose to take for the future of urban America.

I know that Henry Reuss is taking us somewhere. His 22 years in Washington and his earlier experience on the Milwaukee School Board, as Special Prosecutor in the City, and as Deputy General Counsel of the Marshall Plan—have provided him with a unique perspective on the multifaceted problems of the city.

As Chairman of the House Committee on Banking, Finance and Urban Affairs, he has legislative jurisdiction over the Department of Housing and Urban Development.

Our relationship could be tense.

But Henry Reuss is a thoughtful person and the Committee which he leads has some of the best minds and most effective leaders on the Hill.

Chairman Reuss' new Subcommittee on the City is adding depth and reflection to the daily press of Congressional action. Through it, Henry Reuss' commitment to the cities, to working people and to the poor is made manifest. I share these commitments.

If it is to be less unheavenly, the city must be viewed as a system, where economic development and social programming are inextricably woven. In the words of Chairman Reuss, urban policy must form a seamless web—jobs, housing, education, civil rights, and private enterprise must function together in a rational manner.

In the past, the Federal Government has not adopted a national policy which simultaneously addresses the weakening of older central city economies, the causes and negative effects of suburbanization, and the plight of central city minority groups. In many cases, it has inadvertently contributed to the problems and imposed complex, costly and irrelevant requirements on State and local governments.

After years of being told that the urban crisis can be over if we only neglect it—benignly or, more malignantly, by telling cities like New York to "drop dead"—our cities deserve more.

The President has directed me to chair a cabinet level Urban and Regional Policy Group to develop a more coordinated national urban and regional policy and to prepare program recommendations in time for the January State of the Union Message.

We are now examining:

The ways in which coordinated economic development can revitalize cities;

The overriding importance to a national urban policy of insuring jobs;

The links between physical development and national employment policies;

The establishment of greater cooperation between the suburbs and their central cities;

The role of a neighborhoods policy;

Programs that eliminate redlining in all its forms;

Approaches to the establishment of efficient intra- and inter-city transportation;

The need for new mechanisms for municipal finance; and

The urban impact of alternative tax reform proposals.

All of this is being coordinated with the President's energy program. Twenty-five of the 113 proposals in the energy package are actions which cities and States can take to avoid the great excess of energy demand over supply which otherwise will occur in the 1980s. New buildings and upgraded hospital and school structures can become models of energy efficiency, cogeneration projects can allow utilities to sell waste heat to business, and units with solar heating and other energy-saving innovations can be given special tax benefits.

In his press conference this morning, the President made clear the international leadership role which the United States must take to help our allies with their own energy programs. The cities of this country provide a testing ground for much that needs to be done.

We cannot, in our national urban policy, simply hand down programs from Washington. Chairman Reuss has recognized this. He has asked that Mayors, Governors and other local officials be brought into the process. He has said that business, labor, neighborhood groups and thoughtful citizens must be heard.

We are proceeding accordingly—through meetings in the White House with all of these groups, through the national citizen urban growth forums that have been held in many cities, through the White House Conference on Urban Growth, which will be held next year, and through extensive communications across the country by the team of professionals working on our emerging urban policy.

The cornerstone of progress must be recognition that a civilized society can no longer expect poor people to accept unemployment and a dangerous physical environment.

We have learned that "trickle down" economics through manipulative fiscal and monetary policy cannot alone eliminate structural unemployment and underemployment in the Nation's inner cities.

We must accept, then, the goal of insuring that every man and woman willing and able to work has the opportunity to do so.

Chairman Reuss also has advocated a computerized national job bank and relocation aid for jobless Americans who want to move from depressed cities to areas where work is available. The Administration is now examing such a plan, based on the experience in Sweden.

Jobs must be made to work for community development—and economic revitalization will use housing programs not only to shelter the poor, but as vehicles for channeling new construction to areas of greatest need.

An increasingly used word in Washington is "Targeting." We are talking both of cities and their component neighborhoods.

No single program is the answer, but the coordination of a number of efforts will serve the overall objective of revitalizing urban areas.

At HUD, we are targeting the $3.5 billion Community Development Block Grant program, new Assisted Housing programs, and Housing Rehabilitation programs toward deteriorating inner city areas to help them become dynamic, viable places to live, work and raise families.

The rehabilitation initiatives—illustrated, for example, by the newly expanded Urban Homesteading program—are especially important to cities like Milwaukee, with its basically sound housing stock.

For the first time, HUD is coordinating urban development and housing strategies to achieve maximum leverage of Federal funds in targeting change to our urban centers.

We have clarified the intent of the community development program by specifying that HUD will monitor the operation of block grant programs and enforce the requirement that they must principally benefit low- and moderate-income people—by funding projects that aid low- and moderate-income neighborhoods, eliminate slums and blight, or meet other urgent needs.

And we have already proven that we are serious.

Other components of a more targeted national urban development plan by the Administration include:

Initiation of HUD's $400 million urban development action grant program to leverage public money with private financing for unique, non-recurring city projects;

Examination of an urban bank, which could provide equity capital for the longer run, making available grants and low interest loans to businesses willing to invest in the city;

Redirection of the Economic Development Administration's programs from a more rural to a more urban focus; and

Preliminary consideration of an expanded new-towns-in-town program when the current moratorium on new communities is lifted—so that we might proceed with review of prospects like the Park West area of Milwaukee.

In all of this, a new public-private partnership needs to be established. The task is not easy. We must forge an alliance which the 60s and early 70s could not create—one which accepts the use of the profit motive in the pursuit of social objectives.

But it can be done—as the South Shore Bank has demonstrated in Chicago and the Philadelphia Mortgage Plan against redlining has shown in the East.

Henry Reuss believes that more neighborhood groups should be given the means to revitalize their communities through development corporations. This, too, is a vehicle for targeting that we are examining. Community Development corporations are crucial for institution building at the people's level. It is common-sense economics through self-help—with benefits bubbling up rather than trickling down. The successes of the East Side Housing Action Council and the citizen and community groups working in and around Brady Street in Milwaukee hint at what can be accomplished with more Federal commitment.

If this is a nation of cities, then Milwaukee is a city of neighborhoods, based on the strength of its people. It is a city which naturally embraces the hopes and plans of the new office of Neighborhoods, Voluntary Associations and Consumer Protection which I have organized at HUD and which is headed by Father Geno Baroni.

We want to remove the impediments against the natural forces of neighborhood self-help, protect functioning neighborhoods from decline, and meet the needs of severely deteriorated neighborhoods.

We are seeking coordination with other agencies—such as ACTION, the Department of Labor and the Department of Justice—and are initiating a technical assistance program for neighborhood groups.

As we court a marriage between new jobs and physical development of the community, there is much potential in asking not what can be done for people, but how government can facilitate efforts of the people to do it themselves.

We can, with appropriate training, use the unemployed to rehabilitate housing; participate in new variations on urban homesteading; help weatherize and retrofit homes; play a key role in new public and industrial construction; produce crops in hydroponic community greenhouses; staff security forces for peace of neighborhood mind and encouragement of commercial success; work as paraprofessionals in education, health and related services; and provide day care for others.

Some of this work—like home weatherization—has the capacity simultaneously to create more jobs, dampen price increases, and provide Americans a more stable priced set of goods and services that meet their basic human needs.

The lesson underlying many of these potential initiatives is that modern American technology can serve in more labor- and skill-intensive work to satisfy many local needs.

We must also ascertain how programs can be facilitated by a neighborhood crime prevention policy that helps people build a stake in their community. We are now exploring such a policy. Many other issues related to crime, like handgun registration and control, have an impact on community development that has not been sufficiently dealt with.

Part of our neighborhoods policy provides for special efforts to encourage some of the middle class to stay in or return to targeted areas of center city revitalization. Commuting energy can be saved, the urban tax base expanded, and neighborhoods stabilized. We share Henry Reuss' concern that we press this as a part of urban revitalization.

We are reviewing a "Targeted Tandem" program to buoy urban rehabilitation of single and multifamily dwellings. A secondary market is being considered to buy, at preferred rates, mortgages in distressed cities and neighborhoods. If lenders are able to sell existing mortgages at favorable prices and use the proceeds to make new loans, we believe that it will become easier to borrow money in areas where private financing has been hard to get in the past.

The other, equally important side of neighborhood revitalization is to prevent or greatly minimize the displacement of low-income groups in places of middle class in-movement. With the past of urban renewal, we do not want a future in which inner city ghettos are traded for the suburban slums characteristic of Latin America and many other parts of the world.

An Interagency Project on Human Displacement is now looking at existing benefits under the Uniform Relocation and Real Property Acquisition Act of 1970, and the possibility of extending benefits to public and private development not now covered by the law. We at HUD have established special set-asides of Section 8 subsidies for families facing displacement because of increased rent, rising property values, and rehabilitation in urban neighborhoods.

Yet pressing on our solutions is the reality that a higher percentage of the poor live in central city neighborhoods than ever before.

Of the poor who reside there, the percentage who are black has risen from 37 percent to nearly 50 percent in the past 15 years. One in every six black Americans—more than four million people—is trapped in poverty in urban ghettos. And a majority of housing markets over recent years have experienced an increase in segregation—a phenomenon that is further increasing the average black's isolation from the Nation's whites.

Ten years after the Kerner Commission it is debatable whether we are any less separate or more equal.

It is well to remember the Polish author, Stanislaw Lec, who asks us not to "underrate prejudice as a means of fighting it."

Racial problems are not just symptoms of larger and more national trends. They are,

in and of themselves, a major cause of the urban condition.

Langston Hughes can justifiably wonder what happens to a dream deferred:

"Does it dry like a raisin in the sun?
Or fester like a sore—and then run?
Does it stink like rotten meat?
Or crust and sugar over—like a syrupy sweet?
Maybe it just sags like a heavy load.
Or does it explode?"

If it is not to explode, we must build on the racial, ethnic, cultural and political diversity of our people.

We need:

More organizations like Harambee, to pull together the personal identities of our minority populations and give them support through block leaders;

More parent and family programs, like those created by the North West Action Council; and

More interracial cooperation at the neighborhood level, such as that pursued by the Sherman Park Community Association through its Manpower and Economic Development programs.

There are endless numbers of bridge issues that offer political and personal strength to the black, the brown and the white working citizens in older central cities. There are many opportunities to bring people together:

The common concern for adequate housing and adequate medical care.

The common desire for quality education for their children.

The common hope for clean air, clean water and healthy environment.

The common fear of crime and unsafe streets.

The common struggle for jobs and decent wages.

The common commitment to a better way of life for themselves and their children.

The Federal Government must dedicate itself to more effective enforcement of fair employment and open-housing laws, as Chairman Reuss advocates.

Along with the revitalization of center cities, HUD has set as its other principal goal the provision of freedom of opportunity and expanded housing options to all citizens, regardless of race, ethnic origin, or economic condition.

To ensure that there will be equal opportunity for low-income families in the suburbs as well as the city, HUD has informed participating communities that we will strictly enforce the requirements of the Housing Assistance Plan, and require housing for low- and moderate-income people when shown to be necessary.

Now there are cities and counties that know we mean what we say.

What do I want for the city?

I want a place with flowers in the spring and tomatoes in the summer on the rooftops and in the yards of city homes.

I want a city where the schools open the minds of all children to the extraordinary power of a sentence and the precise glories of mathematics.

I want a city that dwells not just on the dollar and the need for economic growth, but that also celebrates the quality and texture of life.

I want a city where equality of opportunity is the fundamental fact from which all others are derived and the central point at which all observations are terminated.

I want a city where every young girl and boy can dream of becoming President, or, as Mr. Carter has said, the even more difficult job of Mayor.

I want a city where salsa blends with Gemutlichkeit, where Italian children learn about Jewish poverty and where Polish children read Alex Haley.

I want a city full of variety and movement, peace and serenity a city of proud and gentle women and men, of six year olds who are joyful, 83 year olds who are wise, and handicapped citizens who live with dignity.

I want a great deal, but, to paraphrase Henry Demarest Lloyd if we wait to be forced by events, we shall be astounded to find how much more extreme they are than our utopias.

The system changes slowly. Many are impatient. The battles are hard. But the effort is worth a lifetime—yours, and Henry Reuss' and mine.

SPECIALTY STEEL IMPORTS

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 31, 1977

Mr. MURTHA. Mr. Speaker, as a strong supporter of the need for specialty steel imports, I would like to insert into the RECORD for the information of the members, a letter I received recently from Mr. R. P. Simmons, chairman of the advisory committee of the Specialty Steel Industry. I certainly concur with the need for President Carter to approve the continued import regulations recommended by the International Trade Commission.

The letter follows:

OCTOBER 24, 1977.

Hon. JOHN P. MURTHA,
U.S. House of Representatives,
Cannon House Office Building,
Washington, D.C.

DEAR MR. MURTHA: The International Trade Commission has determined that termination of specialty steel quotas at this time would adversely and seriously affect the Steel Industry of the United States. This determination was made after extensive review of the present state of the Specialty Steel Industry and the probable impact of termination or significant modification of the quotas put into place for a three-year period on June 14, 1976 under provisions of the Trade Act of 1974.

The specialty steel quotas which are in effect, we believe, should be retained. We hope that you will support our plea to the President to confirm the determination of the International Trade Commission and permit the specialty steel quotas to run the full three-year period terminating is June, 1997.

Statements made by carbon steel industry leaders at the recent White House meeting with regard to their general opposition to voluntary quotas or orderly marketing agreements were made in the context of such agreements outside of existing U.S. trade laws. The specialty steel quotas now in effect resulted from a petition filed under provisions of the Trade Act of 1974. This petition was entirely consistent with the intent of Congress in passing this legislation in 1974 and in no way contradicts these statements. Indeed, the carbon steel leaders called for vigorous enforcement of all of our trade laws.

We urge you to support our position, the position of the International Trade Commission twice, and one President in finding that American companies should be provided relief through the imposition of specialty steel quotas for a three-year period and support retention of such quotas.

Very truly yours.

R. P. SIMMONS,
Chairman, Advisory Committee.

THE FUTURE: AN AUTO EXECUTIVE LOOKS AT THE AUTOMOBILE AND ENERGY SUPPLIES

HON. LUCIEN N. NEDZI

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 31, 1977

Mr. NEDZI. Mr. Speaker, when I was growing up in the Detroit area, the auto industry was a target of turmoil and suspicion. Rightfully so. It was natural for most of us to ally ourselves with the cause of the auto workers who were struggling for decent wages, improved working conditions, and bargaining rights.

Now the most difficult struggles have been won, and, in the process, management has become far more responsible and community-minded than it used to be.

Of course, I still believe that the pronouncements of management should be subjected to a healthy dose of skepticism. But I have found plenty of good sense and decency in the ranks of today's automobile industry.

In this regard, I regret that there are some people in the Nation's Capital who seem to be automatically against whatever the auto industry is for. The industry deserves a fair hearing in all quarters.

A General Motors executive, Mr. Howard H. Kehrl, recently spoke on the future of the automobile and on energy development and conservations. His remarks are worthy of our attention, and, under leave to extend, are set forth below:

REMARKS BY HOWARD H. KEHRL

Thanks, Howard, and good morning, ladies and gentlemen.

I compliment you for coming to Detroit this year. I can't think of a better place for your group to meet, and it's especially fitting for you to be so close to the Detroit-Windsor Tunnel and the Ambassador Bridge. They exemplify the international flavor of your association.

Toll roads, tunnels, bridges and ferries are, of course, vital transportation links, and it's a pleasure to have you who manage them with us here.

With your involvement in transportation, I thought you would be interested in an overview of some of the trends taking shape in our industry. So let's look first at the sales prospects, then review some product approaches, and end up with the energy challenge.

It's easy to make sales predictions, but, unfortunately, they are often wrong. That's especially true in the auto industry. We've erred from time to time over the years—even though our batting average in the past two years is exceptionally good—and usually our errors have been on the low side—just too conservative.

The love affair of the public with automobiles is far from over . . . in fact, some respects, I think it's picking up momentum due to the revolution in new car resizing and redesign. People seem more interested than ever in cars and trucks.

That's a good reason for GM's sales predictions to be so bullish for 1978. Based on a healthy economy and favorable consumer attitudes, our 1978 model year forecast for industry new car and truck deliveries is 15½ million units. That would eclipse 1973 as the all-time record sales year and give the indus-

try its third consecutive year of increased sales.

Breaking down the '78 model year forecast, we look for deliveries to be in the area of 11¾ million cars and 3¾ million trucks. And we expect the increases to come from cars and trucks manufactured in the United States.

Forecasts for the remainder of this decade should erase any doubts that the auto industry is a growth industry.

We expect the upward trend to continue, and we don't think '78 model year sales will borrow from 1979. The trend has been for car sales to increase by about 250,000 units a year. With a level trend we would have 12½ million car sales by 1980 . . . so I don't see 11.7 million sales next year being very much above the trend.

These market projections should dispel any fears you might have about a decline in automobile transportation. Private cars will remain the backbone of our transportation system, and they will continue to use your facilities in ever-increasing numbers.

This doesn't mean that our transportation system will remain as it is today over the next few years. There will be changes—tremendous changes. . . . Changes in modes, products and technology.

There obviously will be some growth in public transportation in the 1980's and '90's. We can see additional use of rail transit, perhaps limited use of such things as people movers, but, in our opinion, the bus will remain the workhorse of public transportation. Its go-anywhere versatility is unmatched, and it has the capability of speeding up service through exclusive bus lanes.

However, the car, as I mentioned before, will remain dominant. It will still be the way most Americans choose to get to work, go to the store, or take a trip.

We're already starting to see what cars-of-the-future will look like. GM's full-size cars introduced last year and our new mid-sizes are good examples of what's ahead. Cars will be lighter but roomy enough to provide comfort for the driver and passengers with adequate luggage room.

Why the emphasis for weight-saving? Weight, not size by itself, is what affects fuel consumption. If we in General Motors are going to have our cars average 27.5 mpg by 1985—as mandated by government—and still offer five-and-six passenger family-sized cars, we'll have to redesign and lighten our full-size models one more time. We already reduced their weight some 700 pounds in 1977 models. Before 1985, we will do it again.

This second-generation redesign will be tougher than the first one. We've already eliminated the obvious extra pounds. This means we will have to depend more on substitution of the lightweight materials and designs to take out weight.

We're examining and re-examining every material, and lightweight susbtitutes are being considered wherever possible. Plastics are being used more freely. And we're considering greater use of such materials as high-strength, low-alloy steel and aluminum. It's safe to say the cars of the future will use more of all three materials.

Alternate powerplants also figure prominently in product trends for the future. As many of you know, our Oldsmobile Division is pioneering V8 diesel passenger cars. Our Opel division in Germany has offered diesels for many years overseas, but this is the first time we've ever installed a non-gasoline engine in GM production passenger cars in the United States.

This diesel is expected to get about 25 percent more miles per gallon than a comparable gasoline engine, and we expect the engine to play an increasingly important role in our near-term efforts to improve fuel economy.

Farther in the future, we see electric cars. We hope GM's first electric-powered car is less than 10 years off, but the timetable depends upon improvements in the performance and cost of batteries. Once these problems are resolved, we believe the electric car is one of the best possibilities on the horizon to use energy from coal and nuclear energy for personal transportation.

Energy is so closely linked to future product planning that we keep it in mind in everything we do. At General Motors, for example, we have a team of experts assembled to study all aspects of the subject. Our Research Staff scientists, our economists, our Energy Management specialists, and our Energy Policy Group are constantly reviewing conservation methods and monitoring supplies.

We have developed an energy scenario that I thought you would be interested in. It illustrates some of our longer-term projections.

Let's take a look at the energy possibilities for 1985 and beyond.

Electric cars or vans, as was mentioned earlier, will grow in numbers for specialized applications and the trend will be accelerated as central powerplants are converted to coal or nuclear. Zoning codes encouraging high-density housing near stores and business places could also hasten the growth of short-trip electric vehicles.

Most vehicles will still use liquid fuel in the 80's and 90's, but 5% of it may well be derived from coal and oil shale. Even today's processing technology for coal and oil shale could be cost-competitive by 1990 as petroleum supplies become scarcer.

The energy equivalent of an estimated 15 trillion barrels of crude oil could be supplied from proved and potential coal and oil shale resources in the United States as compared with our U.S. petroleum resources of only .14 trillion.

New automotive materials will continue to evolve along with vehicle designs that take advantage of their properties. Structural members of fiber-reinforced plastic composites are anticipated, perhaps giving us vehicles with plastic-encased steel skeletons. Later on, glass fiber in plastic composites may be replaced with graphite.

In addition to saving energy, our country will be increasingly concerned with reusing materials and plastics. By 1990, vehicle designs may specify recyclable materials. By the year 2000, aluminum and iron in the car could be 100 percent recyclable and plastic 80 percent recyclable. An indication of what's to come was given by the U.S. Patent Office recently when it awarded its 4 millionth patent . . . a process to recycle used asphalt and aggregate compositions.

A variety of energy forms are expected to emerge from 1995 and beyond that will provide welcome relief for our energy-short world.

Nuclear powerplants can supply a quarter of our electrical power needs by then. Pointing clearly to a nuclear future are the 64 commercial reactors now licensed to operate in the U.S. Long-term abundance of nuclear power depends on development of breeder reactors and fusion technology. Since a breeder plant produces both power for distribution and fuel for a number of conventional plants, successful breeder technology will extend energy sources far into the future. Breeder technology will be developed in the rest of the world regardless of the recent actions taken in the U.S.

Beyond 1995, solar energy will be used to some extent to cool and heat buildings and to generate electricity.

Geothermal and hydrothermal energy, obtained by tapping the natural heat of the earth, will also be making a contribution to our energy program. We have the knowledge at hand to use this source. Electricity is being commercially produced now at the Geysers fields near San Francisco.

Biomass, such as plant life, will be a source of alcohol fuels and chemical raw materials in the future. The processes for putting biomass to this use are well known or already in the development stage. An example is research being conducted on a cactus plant that produces a milky fluid. Nobel chemist Dr. Melvin Calvin believes the fluid could be a source of automotive fuel, and wants to plant the cactus in arid regions of Southern California.

Other plants that may be sources of fuels and chemicals can be grown on land unsuitable for food crops. Our GM scientists estimate it is possible to provide enough methanol to fuel 106 million cars (the current national fleet size), driven 10,000 miles per year, and getting fuel economy equivalent to 50 miles to the gallon, from biomass grown annually on 60 million acres of woodland. There are over 400 million acres of such land in the United States that could be used for that purpose.

To sum up the energy picture, the future is extremely challenging but not without hope. For the next 50 years, we will have petroleum assuming reasonable conservation.

If we direct our petroleum sources to vehicle use alone, however, there will probably be oil available through the next century. Synthetic liquid fuels derived from coal and oil shale will become commonplace along with electric power from coal and nuclear sources. More distantly, biomass and solar energy should put in an appearance. Beyond that, other sources of energy such as fusion could carry us forward.

So much for the long-range energy possibilities. Looking at the near-term challenge, GM is very much concerned with our nation's approach to energy. There is a great need for increased energy supplies, basically founded on the free-market principle. There is also an urgent need for energy conservation.

Awhile back we in GM asked ourselves the question, "Where does all the energy go?" And we looked for an answer in terms of an annual energy budget for an average household in BTU's consumed. Here's what we found:

34 percent of the energy consumed in an average household is used for heating the home, 32 percent for driving the car say 15,000 miles a year; 8 percent for heating water, 7 percent each for lighting and air conditioning, 5 percent for cooling or freezing food, 2 percent for cooking, and 1 percent each for drying clothes, watching color TV and operating small appliances. Washing machines and dishwashers contributed another 1 percent each.

I think this puts the energy picture into better perspective and shows that the automobile isn't the only factor that must be considered in our nation's conservation efforts. As a matter of fact, the energy required to heat your home for 2½ hours in zero weather would be greater than that required to drive to and from work between say the Detroit suburb of Birmingham and downtown Detroit on a wintry day.

This doesn't mean that cars aren't a major energy user. But there are ways to minimize their fuel consumption . . . and this can be done almost immediately and result in huge nationwide fuel savings.

Merely observing the 55 mile-per-hour speed limit would result in tremendous energy savings. Our engineers have found, for instance, a 3 to 4 percent decrease in nationwide gasoline consumption would result if the 55 mph speed limit were strictly observed. Even with current driving practices, the U.S.

Department of Transportation estimates a 1 to 2 percent nationwide savings.

Another 1.4 percent of fuel could be saved nationwide if car tires were inflated to recommended pressures. That seems like a small percentage, but when magnified nationwide over the entire car population, it would mean a saving of 1.1 billion gallons of gasoline annually.

Some researchers regard our findings as too conservative. The Tire Industry Safety Council, for example, estimates that properly inflated tires could reduce total fuel consumption by as much as 5 percent.

Increased usage of radial tires would also have an immediate impact on fuel usage. If all automobiles on the road today were equipped with radials—instead of a third of them as is now the case—an estimated 3 percent reduction in total gasoline consumption could be achieved. Incidentally, based on sales forecasts, 90% of our 1978 models will be equipped with radials.

As many of you probably know, there is a deal of research work going on in the tire industry, and we can expect additional fuel savings as new tire developments reach the market.

Other nationwide fuel savings can be brought about by the new, improved engine oils and driveline lubricants that are being developed now. Car and van pooling, and keeping cars tuned up and properly maintained also would make an important contribution.

Good driving practices can also have a major effect, and the thought occurs that perhaps our nation's driver training programs should put extra emphasis on fuel-efficient driving practices along with observing safety rules and traffic conditions.

Finally, we believe a vast amount of fuel could be saved through more efficient traffic flow patterns. Our engineers have found that the largest single factor affecting the fuel required to complete an urban trip is the time spent on that trip. As levels of congestion increase, trip times increase and more fuel is consumed.

Let me give you an example. In one specific route, we found that a trip in very smooth, sparse traffic used 25 percent less fuel—a fourth less fuel—than the corresponding trip in congested rush-hour traffic.

It's not always possible to avoid this problem, but we believe urban traffic flow can be improved by such things as synchronized traffic signals, express lanes, one-way systems, right-turn-on-red laws, computer-controlled freeway access systems, elimination of selected on-street parking and development of more and better urban expressways. Such improvements would translate directly into greater fuel conservation and much less pollution.

I know you are developing vehicle identification processes such as AVI to expedite traffic flow by eliminating unnecessary stopping and starting at toll gates. Such efforts will make a valuable contribution toward the attainment of our national energy and air quality goals.

Energy conservation is a broad subject, and I've mentioned only a few possibilities. There are many, many others. But I think this gives you an idea of what can be done—almost immediately—to save fuel and help our nation preserve dwindling energy supplies.

In a relatively short time, we've taken a hurried trip through the auto industry today. We've looked at market prospects, product trends, and energy challenges. I hope the trip has been interesting and informative . . . and gives you a better understanding of what we in the auto industry see ahead and how we are planning to meet some of our future challenges.

THE UNITED STATES SHOULD INVOKE BOTH ECONOMIC AND MILITARY SANCTIONS AGAINST SOUTH AFRICA

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 31, 1977

Mr. KOCH. Mr. Speaker, I am pleased that the House today approved House Concurrent Resolution 388, in which the Congress has strongly denounced the policies of apartheid and the methods used to maintain them by the Republic of South Africa. This concurrent resolution also urges the President to take "effective measures against the Republic of South Africa" in order to "register the deep concern of the American people about the continued violation of human rights" in South Africa.

I believe the President should take even stronger actions than are now part of the stated policies of the administration. The administration so far has only supported prohibiting sales of military weapons to South Africa by all members of the United Nations. However, since the United States has not sold arms to South Africa for the past 14 years, this policy adds little which would deprive South Africa of meaningful U.S. support and encourage South Africa to change its policies of apartheid. I call upon my colleagues to adopt legislation and for the President to adopt regulations which restrict economic as well as military trade with South Africa.

As my colleagues know, South Africa has maintained a policy of rigid segregation of the races and has maintained this segregation through a rigid, totalitarian enforcement system. In recent weeks the whole world has been shocked by South Africa's brutal repression of black newspapers, religious organizations, and social organizations in an attempt to prevent any further protest over the death of the young black South African leader Steve Biko or the apartheid system. Mr. Biko died under very doubtful circumstances, while in the custody of the South African police.

The reaction of black South Africans to Mr. Biko's death no doubt further terrified the white minority which is attempting to continue its racist policies through the intimidation of the black population. These policies attempt to subjugate that population and banish or exterminate any budding leaders or dissenters. I do not believe that such a government can or should long endure, regardless of its police and military force. I believe morality dictates that the United States take action beyond military sales prohibitions and invoke economic sanctions against South Africa, regardless of the short-term adverse consequences these actions may have for the U.S. economy.

In order to obtain broad international support, the United States should support economic sanctions to be imposed by members of the United Nations. All of these sanctions should be aimed at forcing South Africa to adopt policies which respect the basic human and civil rights of all their citizens. As for the impact such sanctions will have on our efforts to obtain South African Government support for majority rule in Rhodesia, I do not believe that South Africa's support is worth sacrificing the liberties of an additional 21 million South Africans.

I am pleased with the broad support for the resolution proposed by our colleague, the Honorable CARDISS COLLINS. I believe the Congress should go further and pass legislation invoking economic sanctions against South Africa, and I commend to my colleagues the proposals which would do that.

LABOR-HEW PAYCHECKS SHOULD BE SEPARATED FROM THE LABOR-HEW APPROPRIATIONS IMPASSE

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, October 31, 1977

Mr. STEERS. Mr. Speaker, I am today joining Senator CHARLES MCC. MATHIAS in introducing a continuing resolution which will pay the salaries and benefits of those people working directly for Labor and HEW while the House and Senate attempt to come to an agreement over the issue of medicaid funds for abortion—a dispute which has held up passage of the Labor-HEW appropriations bill past the 1977 fiscal year's end on September 30, 1977.

Today, October 31, the continuing resolution which was passed earlier this month to give the conferees time to work out a suitable compromise on the Labor-HEW bill will run out. While the November 1 paycheck for the 150,000 employees in these two Departments is covered by the first continuing resolution, the November 18 paycheck which must be processed on November 9 is not.

There is evidence at this time that the conferees are not likely to reach a compromise on this impasse before the November 9 deadline. Last Thursday, for instance, the Senate by a vote of 59 to 33 rejected the House proposal for a compromise on this issue. Likewise, the House rejected the Senate compromise several weeks earlier by a vote of 234 to 163.

It is clear that the receipt of Government employees paychecks should never have been tied to a substantive moral issue of the magnitude of the medicaid for abortion issue. It is highly unfair to use civil servants as a pressure point to force Congress' hand on such a grave issue.

Earlier this month, when the authority for paychecks ran out, I received hundreds of calls from employees who live from paycheck to paycheck. Perhaps, it is difficult for Members of Congress, whose paychecks do not hang in the balance on this issue, and who for the most part can afford to have savings as a backup if their pay is held up, to understand the careful "check balancing act" which many families rely on each month in order to

keep up with ever increasing costs of living.

I realize that to fund paychecks alone will not solve all the problems associated with the failure of Congress to enact the Labor-HEW appropriations for 1978. There are still significant programmatic increases in such vitally important areas as education for the handicapped and special programs for the disadvantaged which cannot be spent. There are crucial supplies at the National Institutes of Health, for instance, which can not be bought and which literally force a standstill on research projects there. Other Government business is also forced at a standstill when employee travel plans must be canceled because 1978 funds have not been appropriated.

This is merely a stopgap measure to be sure that there is food on the table and money to pay rent checks, utility bills, and the like—on time.

AMENDMENT IN THE FORM OF A SUBSTITUTE TO H.R. 9378

HON. JOHN H. DENT

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 31, 1977

Mr. DENT. Mr. Speaker, on Tuesday, November 1, 1977, H.R. 9378 will come to the floor. This bill, which Mr. ERLENBORN and I cosponsored, would automatically postpone mandatory termination insurance coverage for multiemployer pension plans for a period of 2 years. The Senate is considering a similar measure. However, its version would give the Pension Benefit Guaranty Corporation discretion to postpone coverage for up to 18 months. In order to more expeditiously consider the subject matter of H.R. 9378, an agreement has been reached with the Senate sponsors to automatically postpone mandatory coverage for a period of 18 months, and to make the language of the bills identical. On Tuesday, November 1, I will move that the House consider an amendment in the form of a substitute to H.R. 9378 to reflect this agreement.

The amendment follows immediately:

AMENDMENT IN THE FORM OF A SUBSTITUTE TO H.R. 9378 AS REPORTED BY THE COMMITTEE ON EDUCATION AND LABOR ON OCTOBER 13, 1977

Strike out all after the enacting clause and insert in lieu thereof: "That (a) section 4082(c) of the Employee Retirement Income Security Act of 1974 (relating to effective dates; special rules) is amended—

(1) by striking "January 1, 1978" in paragraph (1) and substituting "July 1, 1979";

(2) by striking "January 1, 1978" in paragraph (2) and substituting "July 1, 1979";

(3) by striking "December 31, 1977" in paragraph (2)(B) and substituting "June 30, 1979";

(4) by striking "January 1, 1978" in paragraph (4) and substituting "July 1, 1979";

(5) by striking "December 31, 1977" in paragraph (4)(D) and substituting "June 30, 1979".

(b) Section 4082 of such Act is amended by adding at the end thereof the following new subsection:

"(d) The corporation shall present to the Committee on Education and Labor of the House of Representatives and the Committee on Human Resources and the Committee on Finance of the Senate a report which comprehensively addresses the anticipated financial condition of the program relating to mandatory coverage of multiemployer plans, including possible events which might cause the corporation to experience serious financial difficulty after July 1, 1979. Such report shall include an explanation of any alternative courses of action which might be taken by the corporation to insure proper coverage of multiemployer plans and the proper financing of the program relating to such plans. If the report contains recommendations for amendments to this title, such recommendations shall be fully explained, and shall be accompanied by explanations of other options for legislative change considered and rejected by the corporation. The report shall be presented by July 1, 1978."

TRIBUTE TO TONY HULMAN MISTER "500"

HON. JOHN T. MYERS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 31, 1977

Mr. JOHN T. MYERS. Mr. Speaker, funeral services were held this morning in Terre Haute, Ind., for one of Indiana's most famous sons, Anton Hulman, Jr., president and chairman of the board of the Indianapolis Motor Speedway, site of the annual 500-mile race, recognized as one of the major sporting events in the world.

But it was not just the race fans who gathered to pay their last respects to Tony, as he was known to all. In his 76 years, he demonstrated time and again that the American system can succeed in more spectacular ways to the ultimate benefit of more people than any other system devised by man.

Tony devoted most of his adult years to putting his business successes in grocery wholesaling, banking, newspapers, radio and television, railroads, utilities, soft drink distributing, and the Indianapolis Speedway itself, to work for others.

Tony's philanthropic projects reflected his true interest in people:

Hospitals for the ill; churches for spiritual needs; an airport for travelers; art gallery for the artistic; universities, colleges for the young people; chairman of war bond sales for national defense; chairman of Flood Control Commission to preserve our lands and furnish recreation for the people; supporter of Olympic games to spur interest in sports and physical well-being; historical museums to remind us of our glorious heritage; and active support of medical care for the poor, the Tuberculosis Society, United Fund, Cancer Society, and Red Cross.

When you understand the generosity of this man in giving of himself to make this community, State, and Nation a better place in which to live, then you can understand the outpouring of response to his sudden death late Thursday evening.

To the hundreds of thousands who annually packed the Indianapolis Motor Speedway to see the 500-mile race and to the millions who have followed the race via radio and television, Tony was perhaps best known for his world famous words, "Gentlemen, Start Your Engines." To those who knew him better, Tony was more than a starter, he was a doer who made every effort to do whatever job he undertook just a little bit better and in a more cheerful manner than it had been done before him.

He earned the respect and affection of all with whom he came into contact. Tony Hulman will be missed and remembered by us all.

ARE CRUISE MISSILES INEFFECTIVE?

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 31, 1977

Mr. CARTER. Mr. Speaker, the defense of the United States of America is of ultimate importance. I read just a few days ago of a base in Cuba on which there were 24 long-range Russian bombers. Each plane, according to the article, has a range of 5,000 miles. It is estimated that 70 million Americans could be killed if the Russians chose to attack from the Cuban base with nuclear warheads. I consider this situation intolerable.

Furthermore, Mr. Speaker, the Evans-Novak column gave very disturbing information to the effect that the cruise missile is incapable of penetrating Russian defenses.

In view of this fact, Mr. Speaker, I would hope that this Congress would revive the B–1 bomber. I enclose the Evans-Novak column for the perusal of the Members:

ARE CRUISE MISSILES INEFFECTIVE?

(By Rowland Evans and Robert Novak)

WASHINGTON.—Secret computer studies show that the existing U.S. cruise missile would not have a chance to penetrate the Soviet Union's sophisticated defense system, a revelation acutely embarrassing to President Carter and threatening to the prospective SALT II agreement.

The studies, conducted jointly over the summer by a private contractor and the Pentagon, found that a scheduled "live" test would result in the Tomahawk cruise missile being shot down by U.S. defenses.

Consequently the Defense Department some two weeks ago cancelled the "live" test substituted a "dead" or simulated test.

That was intended to sidestep severe embarrassment for the weapon that became strategically crucial when Carter shelved the B–1 bomber.

But word has filtered out of the Pentagon, giving new ammunition to Capitol Hill critics of the Carter defense policy. The new strategic arms limitation agreement (SALT II) being negotiated in Geneva becomes more vulnerable than ever to criticisms that it gives the Soviet Union a dangerous advantage.

A Defense Department spokesman told us there was no computer study made and that there will be "live" tests of the Tomahawk. But our sources at the Pentagon reaffirmed in detail the story of the cruise missile crisis.

The President's unexpected decision against B–1 bomber production transformed the cruise missile from a theater to a global

weapon. As such, it is now a critically important U.S. strategic weapon.

Although the cruise missile team has boasted that their weapon presents radar a cross-section the size of a seagull, that may be too big.

Further reducing the cross-section or increasing the missile's speed would require major changes.

"I'm very much afraid," one technical expert told us, "that the cruise missile is about one weapon generation away from being able to penetrate Soviet defenses."

NUCLEAR POWER STUDY COMMISSION

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 31, 1977

Mr. DINGELL. Mr. Speaker, I have been informed that the administration shortly intends to present to the Congress a proposal, in the form of a bill, to expedite the siting and licensing of nuclear power reactors which generate electricity. This proposal has been formulated without the benefit of a comprehensive study to identify the causes of the present delays in the siting and licensing process. For the administration to have proceeded in such a manner is in direct contravention of the April 30 national energy plan, wherein the administration announced that "the President has directed that a study be made of the entire nuclear licensing process." That promised study has never been completed. It apparently has not yet even been initiated. As a consequence, the early drafts of the administration's proposed bill, which began circulating in August, have met with nearly universal opposition from both the nuclear industry and intervenors.

Because I believe it would be useful for the administration to undertake this study in order to clarify some of its positions in regard to the problems associated with the siting and licensing of nuclear power reactors, I am today introducing legislation to establish a temporary Nuclear Power Study Commission. The purpose of this Commission is to identify and analyze the problems in the present siting and licensing process and to formulate solutions which will eliminate avoidable delays without weakening existing regulations which are designed to protect the public health and safety and the environment.

The Commission is to be composed of 13 members: Representatives of the affected Government agencies, the States, the State licensing agencies, the nuclear industry, and consumers. The Commission is directed to submit a preliminary report to the Congress within 180 days after the initiation of its study, and to file a final report within 120 days after the publication of its initial report. The findings of this study will then provide an informational base upon which the administration can more effectively formulate a comprehensive policy that adequately protects the interests of all those who are concerned with the siting, licensing and economics of nuclear power reactors.

I insert the text of the bill (H.R. 9852) at this point in the RECORD.

H.R. —

A bill to provide for a study of the economics of nuclear power, the siting, reliability, and other aspects of nuclear regulation, the disposal of wastes from nuclear facilities licensed pursuant to the Atomic Energy Act of 1954, as amended, and the delays associated with licensing and construction of such facilities, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Comprehensive Nuclear Regulatory Act of 1977".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds—

(1) that there is a need for developing, improving, and utilizing alternative sources of energy for present and future generations;

(2) that one alternative source is nuclear energy which should be utilized whenever technologically and financially appropriate in order to lessen our dependence on imported petroleum and conserve natural resources for high priority uses;

(3) that interstate commerce is substantially affected by the siting, construction, operation, and decommissioning of nuclear power reactors and by the disposal of solid wastes from nuclear facilities;

(4) that an essential element of any national energy policy must be effective policies and procedures for licensing and constructing nuclear power reactors, which

(A) are consistent with applicable environmental laws, standards, and regulations,

(B) provide for effective protection of the public health and safety and the common defense and security, and

(C) provide for an anti-trust review, as provided under existing law;

(5) that the licensing and regulation of nuclear power reactors should be the responsibility of an independent regulatory agency;

(6) that the States and the public have a direct and significant interest in participating at the earliest practicable time and to the fullest extent possible in the planning, siting licensing, construction, operation, and decommissioning decisions associated with the development and licensing of nuclear power reactors in determining whether the new generating capacity which such reactors would provide is needed, and whether alternative sources of power are available including, but not limited to solar energy, coal-fired generating plants, conservation, and other technologies;

(7) that consumers of electric energy generated by nuclear power facilities are adversely impacted by the costs incurred as a result of delays in the licensing and construction of nuclear power reactors or abandonment of such reactors;

(8) that the economic justification for nuclear power with respect to the alternative methods of electric power generation, conservation or displacement of electrical loads to other sources of energy is in question.

(b) It is therefore the purpose of this Act to provide for a comprehensive study to determine whether and to what extent the policies, practices and procedures of Federal and State agencies responsible for approving the siting, licensing, construction and operation of nuclear power reactors, of nuclear power license applicants and of the persons who design, construct and equip nuclear power reactors should be changed or modified.

SEC. 3. (a) There is hereby created a temporary commission to be known as the "Nuclear Power Study Commission" (hereinafter, in this Act referred to as the "Commission"). The Federal members of the Commission shall be (1) the Secretary of Energy, who shall be the Chairman, (2) the Chairman of the Nuclear Regulatory Commision, (3) the Chairman of the Federal Energy Regulatory Commission, (4) the Chairman of the Council on Environmental Quality, (5) the Administrator of the Environmental Protection Agency, (6) the Chief of the Corps of Engineers, and (7) the Director of the Office of Management and Budget. In addition, the President shall appoint to the Commission one representative of the National Governors Conference, one representative of State agencies that regulate rates charged consumers for the use of electric energy, two representatives from the nuclear power industry, and two representatives from the general public who have no direct financial interest in the nuclear industry and who represent citizen or environmental organizations.

(c) The Commission shall begin its study within 60 days after enactment of this Act and shall publish an initial report, including proposed recommendations for public review and comment, within 180 days after the study begins. The Commission shall also obtain the views and comments of all members of the Nuclear Regulatory Commission, the Federal Energy Regulatory Commission, and the Council on Environmental Quality. All such comments shall be made in writing or in an oral proceeding, if any, with a transcript made, and shall be available to the public. The public shall have a minimum of 45 days to comment. The Commission, after giving full consideration to such comments, shall submit a final report to the President and the Congress within 120 days after publication of the initial report, together with such recommendations as the Commission deems appropriate. The report shall include the separate views, if any, of any member of the Commission. The Commission shall terminate upon submission of the report to the Congress.

(d) Each Federal agency represented on the Commission shall provide, without reimbursement, such funds, personnel, and facilities as the Chairman deems appropriate to carry out the Commission's responsibilities. Any person made available to the Commission pursuant to this section by any non-Federal member of any organization which such member represents shall not be considered a Federal employee for any purpose.

SEC. 4. (a) The study conducted by the Commission shall, at a minimum, cover the following matters:

(1) the extent to which and when determinations respecting the need for new electric generating facilities are made by responsible Federal and State agencies and electric utilities, the adequacy of those determinations, and the extent to which there is or should be public participation in such determinations;

(2) the proper role of Federal and State governments or regional authorities and the public in determining whether new generating capacity is needed and in conducting environmental, health and safety reviews and the extent to which such governments or authorities and the public should participate in the choice of fuels for new generating facilities;

(3) the adequacy of current planning in the public and private sector for the siting of new electric power generating facilities and whether early notice and approval of such sites is needed and practicable, taking into consideration changing power needs, costs, land use planning, zoning and other local requirements;

(4) the adequacy and reasonableness of the methods used to estimate costs of nuclear power reactors, including decommissioning, fuel management, waste disposal, safety, health and safeguard costs and the extent to which the public is made aware of these costs;

(5) the adequacy and effectiveness of plans, if any, of the public and private sec-

tors for decommissioning nuclear power facilities;

(6) the existence of (A) delays associated with the siting, licensing and construction of nuclear power reactors, and (B) the reasons for such delays and the effect of licensing and construction delays on the cost of nuclear power, and the reasonableness and effect of setting deadlines or timetables for licensing actions, and the need for an interim operating license;

(7) the adequacy and safety of present and planned procedures for the transportation, disposal, safeguarding and containment of nuclear wastes, including the adequacy of sites for such disposal;

(8) the extent to which environmental, health and safety reviews of nuclear power reactors for which a license is sought should be conducted by state or Federal agencies, or both;

(9) the adequacy of public participation at the Federal and State levels in all decisionmaking concerning the siting or licensing of nuclear power reactors;

(10) the need for intervenor funding for Federal and State proceedings;

(11) the capacity of states to internally perform environmental assessments which comply with Federal standards;

(12) the advisability of locating nuclear power reactors away from heavily populated areas, and from areas that are not adjacent to national parks, monuments, recreational areas and national wildlife refuges;

(13) such other matters as the Commission deems appropriate.

(b) The report of the Commission shall include findings and conclusions concerning each of the matters referred to in subsection (a), together with such recommendations as the Commission deems appropriate.

SEC. 5. There is authorized to be appropriated $3,000,000 to carry out the study authorized by this Act.

SEC. 6. Every Federal agency, whether represented on the Commission or not, shall cooperate fully with the Commission and provide such information as the Commission may request subject to applicable laws. All meetings of the Commission shall be open to the public and the public may participate, at the discretion of the Chairman, in such meetings. Any delegate of any Federal representative of the Commission who participates in any meeting of the Commission shall be a presidential appointee. Each member of the Commission shall have full access to and copies of all documents and materials of the Commission.

UNAVOIDABLY ABSENT

HON. MARTHA KEYS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 31, 1977

Mrs. KEYS. Mr. Speaker, on Friday, October 28, 1977, I was unavoidably absent from the House. Had I been present, I would have voted on matters coming before the House as follows:

"Yea" on rollcall No. 711, by which the House agreed to resolve itself into the Committee of the Whole for consideration of H.R. 8200, legislation to establish a uniform law on the subject of bankruptcies.

"Aye" on rollcall No. 712, an amendment that retains the present court structure for dealing with bankruptcies, but expands the jurisdiction of bankruptcy judges by appeals courts, lengthens the terms of judges for 12 years, and places the U.S. trustees under the supervision of the Judicial Conference rather than the Justice Department.

"Aye" on rollcall No. 173, a motion that the Committee of the Whole rise.

OHIO AND ELECTION DAY REGISTRATION

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 31, 1977

Mr. DORNAN. Mr. Speaker, I have strongly opposed the measure to provide for election day registration because it would open up new opportunities for fraud and would create administrative chaos.

Various pressure groups in Ohio pushed through the State legislature a measure to provide for election day registration in the State. This measure was even passed over the veto of the Governor of Ohio. The voters of Ohio will have the opportunity to give their judgment on November 8 when they will have the chance to vote on repealing or keeping this new law.

The actual problems many of us feared on the national level from election day registration have already appeared in Ohio with the recent mayoral primary in Cleveland, Ohio. We discover alleged irregularities because of improper identification. The secretary of state of Ohio, Ted W. Brown, noted that his staff observed voters being registered with such items as welfare cards, college identification cards, expired driver's licenses, Canadian driver's licenses, bus passes, and marriage licenses. He added that the effect on the outcome of those persons who registered with improper credentials will never be known. It also took an average of 7 minutes to register each one of the individuals who decided to register on election day.

We can imagine the chaos and potential for fraud if an election day registration system was adopted as a national system. It is my hope that the people of Ohio will reject election day registration on November 8.

I would like to enter into the RECORD an article entitled "State Claims Snarl in Instant Vote Here" by Lee Leonard in the Cleveland Press on October 6, 1977. It does an excellent job illustrating the problem:

[From the Cleveland Press, Oct. 6, 1977]

STATE CLAIMS SNARL IN INSTANT VOTE HERE

(By Lee Leonard)

COLUMBUS.—Secretary of State Ted W. Brown said today large numbers of persons registered and voted without proper identification in Cleveland's mayoral primary Tuesday, but his office plans no action except to direct poll workers to be more careful at the November election.

Brown said he calculated that more than 10,000 Clevelanders took advantage of a new instant election day registration law to vote Tuesday, "many of them without proper identification and some without any identification."

He added, however, there was no evidence of fraudulent voting and that he is awaiting a report from the Cuyahoga County Election Board on the scope of the improper identifications.

Brown said his office was powerless to do anything about the alleged irregularities despite a roving force of 16 staff members who visited between 125 and 150 of Cleveland's 645 precincts during voting hours.

"We didn't want them (Cuyahoga County Election Board employees and officials) to think we were trying to run their election," explained Brown, whose office is responsible for administering Ohio's election law.

The Cleveland election, a non-partisan primary, involved the mayor and City Council. It was the first test of instant voter registration in Cleveland under the state law enacted last May.

Brown said the effect of the votes of improperly registered persons on the mayoral and councilmanic contests "will never be known. However," he added, "I don't think there was any attempt at fraudulent voting.

"We saw some of the finest and most competent poll workers imaginable in Cleveland," said Brown in his news release. "But in spite of a vigorous training program and detailed instructions issued by the Cuyahoga County Election Board, large numbers of persons voted without presenting proper identification.

"Our staff observed repeated instances of citizens being registered with welfare cards, college I.D.'s, Canadian drivers' licenses, California and Ohio birth certificates, a husband's driver's license, expired drivers' licenses, armed service discharge papers, city worker identification cards, Golden Buckeye cards, bus passes, Social Security cards, credit cards and even marriage licenses," said Brown.

"Votes cast by persons with improper credentials count just as much as any others," he said. "Their effect on the outcome of the Cleveland mayoral primary and the many councilmanic races will never be known."

Brown, who has opposed instant registration, said that he personally visited about 40 precincts throughout the city and actually saw only a dozen persons registering to vote. He said the rest of his staff witnessed few actual registration but got their information from pollworkers and their records.

By then, he said, it was too late to enforce the law. "Our people told the poll workers new registrants were supposed to have a valid Ohio driver's license, an Ohio identification card issued by the state Bureau of Motor Vehicles or the voucher of a person living in the same precinct," Brown said.

Brown said an average of 15 persons per precinct registered on-the-spot throughout the day, and that it took them an average of seven minutes each to register.

The secretary of state said he has no plans to reprimand election officials for allowing improper registrations.

Asked why the poll workers accepted improper identification after training sessions on the new law, Brown replied: "They probably didn't know, although they had their instructions. Maybe the people who wanted to register were big, husky guys and the ladies didn't want to challenge them."

PERSONAL STATEMENT

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 31, 1977

Mr. MAZZOLI. Mr. Speaker, because of previous commitments in my district,

I was absent for part of October 27, 1977, and October 28, 1977, and missed eight rollcall votes. Had I been present:

I would have voted "aye" on rollcall No. 707 on approving the conference report on the Federal Mine Security and Health Amendments Act of 1977.

I would have voted "aye" on rollcall No. 708 on final passage of the conference report on the National School Lunch Act and Child Nutrition Amendments of 1977.

I would have voted "aye" on rollcall No. 709 on adopting House Resolution 866 to amend the Rules of the House of Representatives to provide for television and radio coverage of the proceedings of the House.

I would have voted "aye" on rollcall No. 710 on the rule consideration of H.R. 8200, the bankruptcy reform bill.

I would have voted "aye" on approving the Journal of Thursday, October 27, 1977.

I would have voted "aye" on rollcall No. 711 to resolve the House into the Committee of the Whole to consider further the bill H.R. 8200, the Bankruptcy Reform Act.

I would have voted "no" on rollcall No. 712, the Danielson-Railsback amendment to the bill H.R. 8200.

I would have voted "aye" on rollcall No. 713 on a motion that the Committee of the Whole rise.

CHICAGO POLICE DEPARTMENT GREATLY AIDED SELECT COMMITTEE ON NARCOTICS ABUSE AND CONTROL

HON. MORGAN F. MURPHY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 31, 1977

Mr. MURPHY of Illinois. Mr. Speaker, on behalf of the Select Committee on Narcotics Abuse and Control, I would like to thank the Chicago Police Department for the cooperation and support that the department gave the select committee during the past few months. The Chicago Police Department was instrumental in making the committee's recent hearing in Chicago a success. The select committee believes that the department's contribution was highly significant because it provided a framework for the hearings.

The Chicago Police Department's Gang Crimes South unit provided the select committee with valuable documentation on how drug traffickers were using currency exchanges to launder large sums of money out of the country. Gang Crimes South also arranged for the select committee's staff to meet with a key member of the Herrera family, the leading heroin traffickers in the Midwest. Because of this information, the select committee was able to conduct a meaningful hearing in Chicago.

The Gang Crimes South unit made themselves available to assist the select committee in preparations for the hearings. The men of this unit, Comdr. Thomas Hughes, Sgt. Robert Klunk, and officers Gus Lett, Tom West, and Eugene Labiak devoted much of their off-duty time to meeting with and consulting the select committee.

The select committee realizes the great deal of personal sacrifice that the Chicago Police Department set forth to insure a productive hearing in Chicago. I will always remember the total dedication and support displayed by the Chicago Police Department in their assistance of the select committee. I greatly admire law enforcement officers who care as much about their jobs as do the members of the Chicago Police Department. I am proud to be from a city that has a professional and hard-working police department.

GEORGE MARDIKIAN—AN OUTSTANDING AMERICAN PASSES

HON. GEORGE E. DANIELSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 31, 1977

Mr. DANIELSON. Mr. Speaker, it was with great sorrow that I learned of the passing of a great American, George Mardikian of San Francisco, on October 23.

George Mardikian—all that he stood for and believed in—how can one put into words the breadth and depth of this remarkable human being and his achievements as well as his love of America, which was boundless.

His was a classic example of the American dream. An immigrant, he came to these shores in July 1922 and worked his way up to success and prestige. He never stopped singing the praises of our great and good country, never forgot the blessings of America, and his everlasting gratitude to his adopted land found its way into his words, his books and his speeches.

Mr. Speaker, on a more personal note, I first met George Mardikian in 1953, over 24 years ago, at his world famous Omar Khayyam's Restaurant in San Francisco, which he had opened in 1938. Since then we have frequently been in touch, and I have been much impressed by this great, yet humble, man.

His career in the restaurant business began as a dishwasher. He progressed to busboy, counterman, and restaurant manager. Then he opened his first restaurant, Omar Khayyam's, in Frensno, Calif. in 1932, just 10 years after he set foot on Ellis Island. Throughout his struggles to establish himself as a successful businessman, George was inspired by his beloved wife, Naz, who passed away just 2 months ago.

Long before my first meeting with George Mardikian, and since, his outstanding citizenship brought him many well-deserved honors and tributes. His generosity toward the less fortunate, his numerous civic contributions and his exemplary patriotic spirit will be long remembered.

Mr. Speaker and my colleagues, I know you join me in expressing our condolences and sympathy to his son, Haig Mardikian and his wife, Connie; and to his daughter, Anita Naz Mardikian; and other relatives and loved ones on their, and our, great loss.

AMERICA'S FARMERS: NEGLECTED ORPHANS

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 31, 1977

Mr. CARTER. Mr. Speaker, many of America's farmers are in serious difficulty. Corn prices per bushel have gone below the cost of production; the price of wheat is down; the price of soybeans has fallen 50 percent within this year. It is incumbent upon us as legislators to see that farmers receive such assistance as necessary to keep them farming. Furthermore, it must be made easier for young farmers to acquire farmland and machinery if we wish this wonderful segment of our society to survive and, I trust, flourish.

I include an article from the Lexington Herald-Leader by Mr. Henry Hornsby:

AMERICA'S FARMERS: NEGLECTED ORPHANS

(By Henry Hornsby)

The farmer is perhaps the greatest benefactor of humankind, yet he is cast in the outer darkness of appreciation, his contributions to society taken for granted. If he speaks a need, others deride him as a chronic complainer impossible of being satisfied.

Critics speak without understanding, not considering that farmers more than any other group exist under the sword of chance, continually at the mercy of the elements and the vagaries of forces born of man's doing.

The farmer is inspired to hope at planting time, yet his dreams can be washed away by unseasonal rains or burned up by prolonged drought. If the crop fails, he loses his shirt and a year's work. If the harvest is lush, prices drop and he must lower his sights to the level of breaking even and getting back his investment.

President Jimmy Carter made a recent junket through the West, seeking to arouse public support for his national energy plan. Whether he succeeded is not at issue here, sympathy being more with the farm groups which used his stops as forums for pleading their own causes and seeking redress of a recalcitrant economy.

Reports are lacking in specifics as to any promises, though it seems a logical assumption that the president at the least would have assured them of mention in his prayers.

It's a very old story. For more than a century, presidents and would-be presidents have contributed noble lip-service to farmers, yet in the hour of their need, help is directed elsewhere, limiting farmers to commiseration only from their own land.

"When tillage begins," said Daniel Webster in 1840, "other arts follow. The farmers, therefore, are the founders of human civilization."

In 1896, that perennial candidate William Jennings Bryan was saying, "Burn down your cities and leave our farms, and the cities will spring up again as if by magic. But destroy our farms, and the grass will grow in streets of every city in the country."

In the 1950s, on the eve of his second election as president, Dwight Eisenhower, said in a bid for the farm vote: "Farming looks mighty easy when your plow is a pencil and you're a thousand miles from the cornfield."

When it came his turn, John F. Kennedy said: "The farmer is the only man in our

economy who buys everything at retail, sells everything he sells at wholesale, and pays the freight both ways."

This is the bull's-eye of truth. Like the consumer, the farmer is caught in the trap of inflation. He pays whatever it takes simply because he must have supplies or go out of business and sells at whatever he can get because his stuff won't keep and the banker won't wait. The squeeze is forcing millions of small farmers to give up.

At the turn of the century, when Bryan was paying homage to the farmers, half the country's work force labored on the land. In Eisenhower's era, the figure was down to a third, and today—during the Carter regime—it's at about five per cent.

As the number of land tillers has gone down, the size of farms has tended to increase. Just 10 years ago the average was about 200 acres; today it's 300. Ownership is being concentrated in bigger holdings largely through absorbing the vacated land.

But there's another reason: As in manufacturing and real estate, foreign investors are now buying up all the large tracts of land they can find, changing the entire concept of American agriculture. The days of owner-operator seems doomed to oblivion.

The alien owners are converting their farmland into huge compounds supervised by land companies or banks. Management often brings in an outside operator who in turn imports his labor, thus disrupting the local economy and ignoring a community's welfare.

Foreign buyers deal generally through a Swiss bank, keeping the transaction secret and protecting themselves from penalties of their own governments. Though our government has legislation for disclosure of alien investments, it does not seem effective and a veil of secrecy confuses the record of ownership.

Money seems of little concern to these wealthy foreign purchasers. Their wheeling and dealing has hiked land prices beyond the reach of most resident farmers who seek to expand their own operations.

Protection against this new threat is a type of help the American farmer needs but is not getting, and government's indifference is tragic. Small farms and traditional farming are a hallowed institution and we are all the poorer for its going.

Sophocles said ignorant men don't know what good they hold in their hands until they've flung it away.

There seems a parallel in a nation's attitude toward its own homegrown farmers.

HIJACKING

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 31, 1977

Mr. DERWINSKI. Mr. Speaker, we all recognize the tragedies and near tragedies that have occurred as a result of terrorist skyjacking. There must be a concerted effort, with immediate support in the United Nations, to stamp out this wave of lawlessness.

An editorial, broadcast over Chicago radio station WBBM on October 19, clearly deals with the need for international cooperation to eliminate these acts of terrorism. The editorial follows:

HIJACKING

If the member countries of the United Nations don't adopt some rules to curb and deal with international hijackers, innocent people the world over will have to continue to endure this outrageous modern day brand of terrorism. The hijacking that took place in the last few days was enough to sicken freedom loving people from all countries, and the barrage of telegrams pouring in to the German government suggests how strongly people feel about the subject. It is almost unbelievable that innocent airline passengers and crew members could be subjected to this kind of abuse because a few angry terrorists want to make a point. It flies in the face of decency common to people of all nations.

The International Federation of Airline Pilots Association has decided on its own way of fighting back. The organization president called a two-day strike for next week if the UN doesn't agree to some proposals to crack down on international hijackings. We're certainly not usually in favor of strikes that disrupt governments of regular business activities, but we do understand why the pilots would be driven to this threat.

The UN should act as quickly as possible to work out some international rules against hijacking. We have been able virtually to eliminate them here in the United States with tight airport security, which admittedly is sometimes inconvenient to passengers, but essential nonetheless. Other nations could adopt similar security rules at their airports and they should.

These acts of terrorism are intolerable. The UN should act now to make them all but impossible.

That's our opinion. We'd welcome a reply.

WINNERS ON WHEELS: A TRIBUTE TO THE "SILVER WHEELS" WHEELCHAIR FOOTBALL TEAM

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 31, 1977

Mr. KEMP. Mr. Speaker, today I take great privilege in recognizing a most extraordinary group of individuals, the Silver Wheels of Buffalo, N.Y. The Silver Wheels hold benefit football games on the basketball courts of western New York to raise money for charities. However, there is a uniqueness about them; the team is composed entirely of physically handicapped students who play nonhandicapped opponents. I should say they only think of themselves as "inconvenienced," and I am proud of them.

The Silver Wheels wheelchair football team was founded in 1970 due to the unceasing efforts of Patrick Rowe, who handles all managerial duties and acts as president of the team. His dream was to offer a means of recreation for handicapped students, not only for the purpose of bringing the true capabilities of handicapped persons to the attention of the public, but also to instill confidence and develop the many potentialities of the handicapped members of the team.

Today, the roster of the Silver Wheels wheelchair football team is comprised of 16 high-spirited players; the age group spans from 11 to 27, and their disabilities include cerebral palsy and muscular distrophy. Since the founding day, they have raised over $8,000 to support such charities as the Muscular Distrophy Association, the Multiple Sclerosis Association, and the United Way.

Today, I would like you to join me in heralding the noble efforts of the Silver Wheels wheelchair football team. Setting their personal hardships aside, they give their all to help others. They are a truly remarkable example to all Americans. As an old, old football player myself, I can truly say that they symbolize to me and all who see them, the true competitive spirit of our Nation. They are winners in every sense of the word.

CONGRESSIONAL SALUTE

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 31, 1977

Mr. ROE. Mr. Speaker, I rise with deep pleasure and pride to give testimony to a good friend, community leader, outstanding journalist and great American, the Honorable John C. Sciranka of Passaic, N.J., whose standards of excellence throughout his lifetime in exemplary service to his fellowman is applauded by all of us. His achievements have been varied and many—of national and international renown—and today I especially would like to call to the attention of you and our colleagues here in the Congress his sterling record of performance and personal commitment on behalf of Slovak Catholics in America, in particular, and all of society, in general, that has enabled him to achieve the "Pro Ecclesia et Pontifice"—for the church and the pontiff—Award of His Holiness Pope Paul VI—adding additional stature to his lifetime accomplishments and projecting him as the first Slovak-American journalist to be so honored.

Mr. Speaker, the "Pro Ecclesia et Pontifice" medal is a distinction presented by the Holy Father to distinguished Catholic laymen. The medal dates back to 1888 when Pope Leo XIII presented the medal which bears the images of Saints Peter and Paul, to laymen who labored on behalf of the church. Since then the medal and certificate is presented by pontiffs to highly esteemed Catholic individuals.

During the 49th National Convention of the Slovak Catholic Federation of America, the representative organization of more than 3 million American Catholics of Slovak ancestry, the national president, Rev. Joseph V. Adamec, S.T.L., chancellor of the Roman Catholic Diocese of Saginaw, Mich., announced through the apostolic delegate to the United States, Archbishop Jean Jadot that His Holiness Pope Paul VI had awarded the "Pro Ecclesia et Pontifice" medal to Mr. John C. Sciranka.

In making the presentation before an audience of over 800 Slovak Catholic leaders from every part of the United States and Canada at the Gus Genetti Hotel in Wilkes-Barre, Pa., Father Adamec noted that our Holy Father wished to pay well-deserved tribute to Mr. Sciranka, who has dedicated his life to the cause of American Slovak fraternalism. Making the presentation along with Father Adamec was Archbishop Nicholas T. Elko, D.D., former Byzan-

tine Catholic Bishop of Pittsburgh and presently serving as Auxiliary Archbishop to the Roman Catholic Archdiocese of Cincinnati. Archbishop Elko praised the work of Mr. Sciranka. The Archbishop celebrated a Slovak Pontifical concelebrated mass with 50 other Slovak American priests at Sacred Heart Slovak Church in Wilkes-Barre, Pa., to open the convocation of Slovak Catholic leadership.

Mr. Speaker, John Sciranka, noted author and editor in American Slovak life, serves as editor of the Katolicky Sokol—Catholic Falcon—and Priatel Dietok—Children's Friend—official publications of the Slovak Catholic Sokol, a national fraternal benefit society of American Catholics of Slovak ancestry with a membership of 50,000. In addition, John serves as president of the Slovak Newspapermen's Association of the United States and president of the eastern region of the Slovak Catholic Federation of America, and editor of its official publication Dobry Pastier—Good Shepherd.

He was born on September 5, 1902, on the north side of Pittsburgh, formerly known as Allegheny City, the birthplace of the National Slovak Society. He attended St. Gabriel's Slovak School on the north side and studied journalism. As a youth he was employed by the American Slovak Gazette—Amerikansko Slovenske Noviny—the first Slovak newspaper in America founded in Pittsburgh on October 21, 1886, and in 1922 he became the assistant editor of Jednota, official publication of the First Catholic Slovak Union of United States of America and Canada. From 1924 he served for 10 years as editor of Slovak V Amerike, a daily newspaper published in New York City. He later became editor of the official publications of the Slovak Catholic Sokol, a position which he continues to hold.

In 1926 he became secretary of the Slovak Newspapermen's Association, which represented all Slovak newspapers in the United States. His half century of affiliation with this association was crowned in 1973 when he became president of this most distinguished organization of journalists. As an outstanding Slovak fraternalist since his early childhood, he holds membership in the Slovak Catholic Sokol, First Catholic Slovak Union, Pennsylvania Slovak Catholic Union, First Slovak Wreath of the Free Eagle, and the National Slovak Society. He has served as chairman of several of these organizations' national conventions and has served as toastmaster at many of their historic gatherings.

Through his efforts in 1937 a monument was erected in Passaic, N.J., to Gen. Milan R. Stefanik, noted Slovak astronomer and cofounder of the first Republic of Czechoslovakia. In 1965 he was instrumental in the naming of Sokol Square in Passaic to commemorate the 60th anniversary of the establishment of the Slovak Catholic Sokol. He is a member of the Catholic Press Association, the Passaic Historical Commission, the Mark Twain Literary Society, the American Catholic Historical Association, the U.S. Catholic Historical Society, and serves as a member of the press section of the National Fraternal Congress of America.

Through his initiative a communications room was dedicated at Scranton University in honor of the Reverend Joseph Murgas, the noted pioneer in wireless telegraphy who was known as the "radio priest." He also serves as a director of the Sister Miriam Teresa Demjanovich League of Prayer, a movement for the beautification of this Slovak American nun of Sisters of Charity, whose parents were born in Slovakia.

In June of 1970 he was a founding delegate of the Slovak World Congress in New York City. Since then he has been a delegate to all succeeding congresses held in Toronto, Canada; Chicago, Ill.; Rome, Italy and he is preparing for the fifth convocation of the Slovak World Congress slated for May of 1978 in Washington, D.C. He is chairman of the press section of this Slovak world body. An active fraternalist, he has attended 118 natinonal conventions of various American Slovak fraternal organizations. He organized the first Slovak Day at Fordham University, New York City on July 5, 1926 which was attended by 30,000 Slovaks.

A prolific writer, he has had over 300 of his articles published in the CONGRESSIONAL RECORD by various U.S. Senators and Congressmen. He is publicity director of the Slovak Heritage Festival of the State of New Jersey. The 1976 and 1977 festivals were held at the Garden State Arts Center.

In June of this year he attended the Cannonization ceremonies of St. John Nepomucene Nuemann, fourth bishop of Philadelphia, and personally thanked the Holy Father for his papal honor.

He is married to the former Anna M. Zuscin of New York City and resides in Passaic, N.J. He serves as a trustee of St. Mary's Slovak R.C. Church in Passaic.

Mr. Speaker, I appreciate this opportunity to call your attention to the lifetime of good works of an outstanding individual and know you will want to join with me in extending our warmest greetings and felicitations to John and his good wife Anna on this most important milestone of achievements in life's fulfillment and purpose.

It is truly a privilege and honor to seek this national recognition of John Sciranka for his noteworthy contributions to the quality of life which have truly enriched the educational and cultural endowments of our community, State, and Nation. We do indeed salute a good friend and great American, the Honorable John C. Sciranka.

SALUTE TO THE WEST GENESEE WILDCATS

HON. WILLIAM F. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 31, 1977

Mr. WALSH. Mr. Speaker, just over a year ago, the West Genesee High School "Wildcats" field band was acclaimed as the very finest in the United States in the toughest of national competition at St. Petersburg, Fla.

The rules of that competition do not allow 1 year's winner to participate the following year, but the 180-member group—known proudly as the Wildcats—are still bringing home awards that testify to their excellence.

The weekend of October 22–23, the West Genessee Wildcats took top honors at the Eastern States Invitation competition at Falls Church, Va., besting 10 other championship-caliber high school marching bands from North Carolina, Virginia, West Virginia, and New York.

More than 450 friends of the band—parents, teachers, administrators, and classmates—journeyed with the band from their homes in Camillus, N.Y., to cheer the Wildcats to victory.

I am proud to salute their achievement, and to share with you the honor and pride the Wildcats have brought to their school and to their community.

CARTER IMMIGRATION POLICY: AMNESTY FOR THE BAD, DEPORT THE GOOD

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 31, 1977

Mr. ASHBROOK. Mr. Speaker, the Justice Department is moving to deport 142 Mennonite families from Texas. Mennonites have proven themselves self-sufficient, good neighbors, and good citizens in every part of the world. Meanwhile, some 10,000 times that many aliens who sneaked across the border into the United States remain in this country, and President Carter has proposed immediate amnesty for a million of them. He has not been so generous with the Mennonites. Following his lead, in a combination of blatant laziness and simple immorality, the Justice Department prefers picking on a few Mennonites to the more difficult task of pursuing the millions who entered this country surreptitiously.

Not one of the purposes for which our immigration law was passed is served by this Justice Department action. Mennonites will take no American jobs. On the contrary, with their work in producing exportable crops and their repeatedly demonstrated self-sufficiency, they will create new jobs for Americans. Unlike illegal aliens, who begin their residence in this country by breaking the law, Mennonites have shown themselves law abiding citizens throughout the world.

The Texas Mennonites have come in the best tradition of immigrants to this country: They want to till the soil and to enjoy religious and cultural liberty. It is important to me that they feel that ours is still the best country in the world to pursue those aims. It would be tragic indeed if our immigration policy had become so warped that we would permit opportunists to remain in this country by the millions and take jobs from our

citizens, but deport those who come openly and for the highest purposes.

I have introduced a bill identical with that of Mr. EASTLAND's Senate bill, which would permit the Texas Mennonites to remain in this country. I ask my colleagues to support this bill, not only for the sake of the Texas Mennonites, but for the good of the American people as a whole.

THE CULTURAL TITHE

HON. TOM HAGEDORN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 31, 1977

Mr. HAGEDORN. Mr. Speaker, one of the fastest growing of all Federal programs is funding for the National Endowment for the Arts. During fiscal year 1971, after having been in existence for more than 5 years, total outlays for the Endowment were slightly in excess of $15 million. In fiscal year 1978, it is estimated that this figure will approach $150 million, while President Carter has pledged support for sharply increased funding in future years.

While it may be difficult for the "arts activists" in Washington to understand, one need not be an enemy of the theater or the ballet to suggest that the Endowment represents one of the most questionable and indefensible uses of taxpayer moneys that has yet been found. As Tom Bethell, an editor of Washington Monthly, recently observed in Harper's—

Federal funding of the arts thus also involves a subtle denigration of American culture. What it really boils down to is an appeal to tax the mobs listening to country-and-western, or rock, or soul, because we, the wonderful ones, have something rather more elevated on our minds that deserves your subsidy . . . Such government programs have very little to do with art, but a great deal to do with government trying to enlarge its scope and justify its existence.

The history of Federal involvement in so many other spheres of private endeavour would also seem to place the arts community on-guard for the sort of subtle corruption of the spirit, the mediocrity, and the censorship that Federal dollars will inevitably bring. One noted contemporary artist has observed:

The State has a way of expanding its paternalism until it reaches the point of menacing great artists for minor sins.

I would like to insert at this point the entire article by Mr. Bethell. It is not simply the taxpayer who stands to suffer from the National Endowment, but ultimately the intended beneficiaries themselves.

The article follows:

THE CULTURAL TITHE

(By Tom Bedell)

A new day is dawning in the arts. The New York Times Arts and Leisure section seems to be in no doubt about the matter. There is a "cultural renaissance" in the White House. Gone are the Patton movies and the days when Bob Haldeman did the booking (Merle Haggard, Zsa Zsa Gabor). "It really wasn't really flashy," recalled one frustrated cultureperson. Now comes President Carter, who unexpectedly one day took his family to hear "Madame Butterfly" at the Kennedy Center. Rudolf Serkin, the classical pianist, played at Carter's first state dinner. True, Rosalynn Carter is a Loretta Lynn lover, but one can overlook that. The important thing is that when the U.S. Marine Orchestra played Eine kleine Nachtmusik the President's eyes watered.

Whereupon the cultural bureaucracy's mouth watered. No doubt about it, more money would be flowing to Washington out of the pockets of that vast leisure-suited, beer-sipping, Dolly Parton-loving brigade dimly perceived to be dwelling in remote points south and west of the Potomac. Did someone mention federal funding of the arts? Washington is for it.

Don't forget Joan Mondale. She's pulling for the arts. In no time at all, out went the Rockefellers' Max Ernst bed and in came Claes Oldenburg, Willem de Kooning, and Robert Motherwell. Joan Mondale predicts that the Vice-President "will learn to relax and enjoy just the colors and the shapes and the forms and not worry about the storytelling content"—a "gigantic leap," she concedes. Joan has taken up for museums. "They enrich the mind and challenge the imagination," she says. "They conserve knowledge and give pleasure."

Nancy Hanks was thrilled. She is chairman of the National Endowment for the Arts. Her term of office expires this fall, and the city is almost giddy with rumors of her successor. (Liv Biddle? Wes Uhlman? Michael Straight? Or a dark horse, such as Peggy Cooper?) Some say Nancy Hanks wouldn't mind staying on. She said of Joan Mondale the other day: "The lady is a wonderful one who means exactly what she says, and whose interest in encouraging and assisting the arts is far deeper than that of a visitor."

Culture just keeps on exploding in Washington. There is an "arts cluster" at work in the White House. There is a cultural enclave at the State Department. Over at Commerce, even, a special assistant to the Secretary for Cultural Affairs has recently been appointed. The Kennedy Center is well on the way to replacing Washington Cathedral as a center of devotion. The National Endowment for the Arts and Humanities has grown from a $5 million enterprise to a $170 million bureaucracy in the past decade. And a new class of lobbyist—the "arts activist"—is beginning to raise its voice.

Statistics of "art growth" are lovingly cited by these activists: dance audiences up from 1 million to 15 million; major symphony orchestras up from 50 to 110, with the audience for symphony performances now reaching 26 million; museum attendance up to 50 million annually (at one point I saw the figure of 600 million museum visits cited, but the statistic quickly dropped from sight, no doubt in response to a cautionary memorandum from on high: with that size audience, perhaps funding would seem superfluous?).

Preachments on behalf of the arts have been similarly unrestrained. "I would suggest a $1 billion appropriation for the arts," Beverly Sills has said. Had a member of the business community made such an appeal for his industry, the press would have howled in protest over the conflict of interest. The response to Miss Sills was another round of applause.

In addition, the rhetoric emanating from the arts bureaucracies is calculated to plant the idea that exposure to "culture" is nothing less than a right, the exercise of which has been largely thwarted in the past by a government callously indifferent to the welfare of the people. This is the rhetoric of outreach, vital, valid, resource, priority, and update so familiar to perusers of cultural brochures—those dreary phrases of exhortation that are surely intended to inculcate guilt; we must implement input and impact youth and enrich quality of life.

What is the result of all this arts funding and arts growth? Wouldn't you know, the arts need more money. "The arts need help," Harold C. Schonberg advises in the New York Times. "Inflation is killing off arts organizations left and right. . . . It's a bad situation and the government is eventually going to have to do something about it." Beverly Sills says that there is a "money crisis" in the arts. In response, Rep. Frederick Richmond of New York, an arts activisit, is coming to the rescue with a bill, H.R. 1042. This is a proposal to establish an "income-tax checkoff" on tax returns. A box on tax forms would enable taxpayers to add to the taxes they owe, or subtract from the amount the government owes them, by a stated amount. Thus the proposal is not quite the same as the checkoff for Presidential campaigns, since it would add to government revenues—or perhaps it would only seem to. The plan also allows for making all such contributions deductible the following year. Richmond has already rallied about fifty Congressmen to his side as cosponsors. They are talking about a potential $1.7 billion annually for the arts if the bill is enacted. That would multiply present appropriations for the arts by ten. The arts bureaucrats are enthusiastic.

It may seem odd that Congressmen should be so eager to vote money for the arts—to ensure, in effect, that a ticket to "Madame Butterfly" will cost $10 instead of $15—given the relatively tiny number of constituents that seek such entertainment. The explanation is almost magically simple. Culture-seekers may be few, but they are usually rich and influential. They tend to be kingmakers at election time. Even in rural areas, where there exists only a handful of those for whom evening entertainment consists of dressing up in the latest fashions in order to see and be seen (with something appropriately cultural onstage), the same rule applies. It does the representatives in Washington no harm at all to keep in the good graces of these people.

In addition, as even the most superficial acquaintance with the Washington social scene makes plain, it's nice for the Congressmen when they come here, too. If you go to the Kennedy Center at all frequently you will soon lose track of the number of times you see Rep. John Brademas or Sen. Claiborne Pell in attendance. These are not merely men-about-town but chairmen of the subcommittees in the House and Senate that handles arts authorization.

One can't avoid noticing that the journalists are ready to applaud every step of the way when the topic is culture. Normally in this city something that so much as sniffs ever so faintly of conflict of interest is enough to cause inquiring journalistic nostrils to quiver with anticipation, but in the matter of the arts, journalists (many of whom are likely to be in attendance at the same performances) will only bark approval. David Broder, for example, noted in a 1973 column that the proposal to increase arts funding from $80 million to $145 million was a "fat target for the know-nothings" in Congress, one of whom inquired if there was "any allowance for Buck Owens, Merle Haggard or Grand Ole Opry." (You see the kind of country we live in?) But that Congressman was the exception. Most behaved themselves and did right by culture. Broder praised the "towering Midwestern Congressman" Albert Quie, who said on the floor: "Our creative artists have a vital role to play in helping to show mankind the way to oneness, brotherhood, and peace." Clap clap clap clap clap . . .

Well, you may ask, what's wrong with government funding of the arts? Hasn't it always been with us? Look at Cosimo de' Medici, the Margrave of Brandenburg, the Archduke Rudolf. The problem here is that the relationship of these arts patrons to the artists they employed was entirely different from the relationship between the govern-

ment and the artist today, so different as to make nonsense of the comparison. The European noblemen hired artists and composers much as they would hire servants—a point that today's arist (who in many cases is apt to regard himself as suspended somewhere between God and man) is not likely to relish.

The eighteenth-century artist attached to a court was a relatively respected member of the household, even if he was expected to use the tradesmen's entrance. He was expected to produce specific works for specific occasions—and he was expected to please (as Medici artists often wisely thought to include a Medici or two devoutly praying in the corner of a painting). By contrast, today's grantee artist, the beneficiary of government largesse, is not beholden to anyone, functioning almost entirely without oversight. He is a "free spirit," he will let you know, given to mocking contemporary mores—to biting the hand that feeds him.

What we have today is not hiring but funding. Any suggestion that this implies control (as it certainly did in earlier times) is vigorously refuted both by funders and artists. In any event, the mechanism of the intervening bureaucracy today is enough to ensure that there is no such control or patronage in the historic sense. And as arts appropriations increase, this is becoming more and more true. The principal philosophical debate raging in arts funding circles today concerns what one might call the Elite versus the Grass Roots. As Congressional appropriations increase, so does the inclination of the Congressman to see that a just portion of the money is spent in his state. This in turn has led to the establishment of state arts councils, which soon find themselves under political pressure to distribute the money to individuals at the grass roots level.

The result is that an increasing percentage of government arts money is being dribbled away on mime troupes, street theater, supergraphics on the sides of buildings, and hand presses that print up slim volumes of homemade poetry (on the best possible paper). The National Endowment for the Arts has only the vaguest idea where the money (currently about 25 percent of the total federal arts budget) ends up once it has given the statutory lump sum to each state arts council.

This satisfies the politicians, but not those in the Elite arts camp (Michael Straight, deputy chairman of the NEA, is an example). The Elite argues that if you are going to give money to the arts, you might as well give it out in lump sums to established institutions like the Metropolitan Opera or the big museums. Given the alternative—which appears to be in large measure the government sponsorship of whimsy, fashionable protest, and pure self-indulgence—the Elite has a point. But once that point is conceded, one faces a far more serious problem—one that, oddly enough, never seems to be brought up at all in discussions of government and the arts.

Funding elite cultural institutions runs directly counter to the great American contribution to culture, the expansion of its audiences. In nineteenth-century Europe, as the bourgeoisie was enlarged through education, industrialization, and the growth of cities, and more and more of the former peasants began wending their way into the concert halls and museums, there seems to have been a deliberate (or was it subconscious?) attempt by artists to resist this democratization. And the artists, in turn, were greatly encouraged by those critics and arbiters of taste who were eager to stay knowledgeably ahead of the pack. Art became ugly, esoteric, and frankly experimental. The masses saw it was not for them. They got the message (keep out).

At that point a wonderful and unexpected thing happened. The Muses, so slighted in Europe, jumped across the Atlantic and took up residence in the lowliest American quarters: the redlight district of New Orleans, the swinging-door saloons of Sedalia, Missouri, and tenant shacks in the Mississippi Delta. American culture was born at that moment—and its birth occurred with extraordinary speed. And from that moment on European culture was essentially dead, in the sense that the only thing left to do with it was preserve it in the formaldehyde of museums and concert halls.

American culture never did seem particularly "serious" or weighty precisely because it was so popular, but its great strength and radiance soon became apparent nonetheless, by the swiftness with which it reverberated around the world. "Culture" now really did become something that it had never been in Europe—something that everybody could enjoy (as long as you didn't mind being included in such a large audience—a big "if," admittedly). Another wonderful feature of the American development was that "culture" and "art" ostensibly never had anything to do with it. If you had talked to the early exponents of jazz, ragtime, the blues—movies, even—about the "art form" or theories of art, they would not have had the slightest idea what you were talking about. They would have been genuinely puzzled. They thought of themselves as entertainers making a living, as artisans rather than artists.

Unfortunately, however, this notion of culture as something that everyone could enjoy—and therefore as something that needed no government funding because it was so popular—never did appeal particularly to those who (as in Europe) saw in art an opportunity to stake out a claim to superior sensibility. And that, I fear, is the unstated intention behind federal funding of the arts. It is a fairly blatant attempt to restore (or at least preserve) European conceptions of culture that are either obsolete (in the sense that you can listen to Beethoven quite comfortably at home nowadays—some would say more comfortably—without having to join the Kennedy Center crowd) or else frankly elitist.

Federal funding of the arts thus also involves a subtle denigration of American culture. What it really boils down to is an appeal to tax the mobs listening to country-and-western, or rock, or soul, because we, the wonderful ones, have something rather more elevated on our minds that deserves your subsidy.

The Congressman who asked about funding Buck Owens too wasn't a know-nothing. He was right. I know there is an attempt under way in the arts bureaucracies these days to portray American culture as something that might have been truly brilliant had there not been so much wastage of talent—had the National Endowment only come into being sixty or seventy years earlier than it did. But don't talk to me about Outreach or Expansion Arts or Ethno- this or that, or about "enrichment" or "resources" or education programs in the schools, or about jazz pianist Billy Taylor teaching grantsmanship on behalf of the National Endowment instead of piano. Scott Joplin, King Oliver, Louis Armstrong, all the great figures of American art were not reached by, nor had they heard of, nor did they need, any such programs. Such government programs have very little to do with art, but a great deal to do with government trying to enlarge its scope and justify its existence.

KING COAL

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 31, 1977

Mr. CARTER. Mr. Speaker, I am deeply concerned about the Nation's energy problems. Like most Members of the House I have been involved with the formulation of the energy legislation, the National Energy Act, that is now in conference between the House and Senate. We have all worked our will on this very important legislation with the greatest concern and attention to the energy needs of the people that we represent. Although I did not disagree with the many tax provisions of the legislation and provisions that called for drastic price increases, I did wholeheartedly agree with the energy projections that call for a greater reliance on the use of other more abundant energy resources such as "King Coal."

Coal is the most abundant energy resource that the world has, besides of course, the Sun. Many geologists predict that there may be over 400 years of coal to burn obtainable in the Earth. However, Mr. Speaker, we must find better ways of using this vast energy resource.

Over the past few weeks I have been inserting in the RECORD information concerning new processes that are being used to utilize coal. Today, I am inserting in the RECORD information about a new process of using coal known as the Cottell Fuel Process or "burning water-in-oil emulsion containing pulverized coal process." The Cottell Fuel Process is the production of a fuel emulsion resulting from the ultrasonic agitation of a mixture of approximately 50 percent coal, 30 percent oil, and 20 percent water. It utilizes coal in a highly efficient manner; it can be used in a conventional oil burning furnace without modification, and the process of production of the fuel consumes very low amounts of energy.

I am pleased to insert into the RECORD for your attention, a report by Mr. W. David Shearer, Jr., president of Cottell Liquid Energy, Inc. The report follows:

CONCEPT DESCRIPTION

The concept of Cottell Liquid Energy, Inc., is aimed at the commercial production of a fuel emulsion resulting from the ultrasonic or sonic agitation of a mixture of approximately 50% coal, 30% oil, and 20% water (percentages determined by weight and not by volume). The product has been successfully produced on a modest scale at a Pilot Plant, located in Shelbyville, Kentucky, and burned in standard oil burning equipment at the Ohio Valley Aluminum Corporation with acceptable results utilizing a standard Monarch No. 6 fuel oil burner tip available on site with no further retrofit of the Ohio Valley furnaces.

Three basic properties make immediate commercial development a necessity. It utilizes coal in a highly efficient burn. It can be used in conventional oil burning furnaces without modification, and the process of production for the fuel consumes very low

amounts of energy. These features make it not only an answer to the United States energy self-sufficiency plan but is substantial boost to the economy of coal production areas.

While several processes currently in the Pilot Plant stage or the liquefaction and gasification of coal to produce clean burning, useful fuels, the processes generally require excessive amounts of energy to change the form of the coal. They rapidly deplete the resources we must conserve, and often discharge by-products which are harmful to the environment. The patented Cottell Fuel Process does not involve any of the adverse features now seen in existing liquefaction and gasification programs. The process utilizes the theory of exploding water droplets within coal and oil to facilitate a complete burn of an emulsion which can be created by the said sonic agitation. Since no change is made in the basic structure of the ingredients, except for coal pulverization, the amounts of energy required in the process is relatively insignificant. The nature of the burn is self-sustained and requires no special energy consuming equipment. The burn not only creates highly efficient radiant heat but also exhibits a well defined and desirable flame characteristic.

Four aspects of Plant facilities need some explanation and discussion. The most expensive part of the plant in both dollar cost and space requirements will be the equipment used to reduce the coal to a size required to enter the mixing stages. "Coal fines" or 0'' x ¾'' coal will be processed through a ratio type grinder, such as a hammer mill or a roller mill to reduce the coal size to approximately 90% passing 200 mesh and 100% passing 50 mesh. The possible use of a combination hammer or roller or rod mill and a reclassifier as a system for processing 0'' x 2'' coal is a reasonable alternative. Much information is available for the handling of the pulverized coal particles, even though this phase may create some safety problems due to the explosive nature of finely powdered coal. However, the pulverized coal is handled typically in a wet state which would indeed eliminate most of the hazard.

Introduction of the oil and water into the system requires only the storage and measurement handling system. The water storage would be typically in the coal; i.e., coal typically contains from 5 to 15% moisture. Should the plant be located where public utility water was available, there would be no storage problem and an electronic weighgate could be used to control the flow of daily consumption. The super heating of the water during the combustion stage of the fuel handling is a function of its purity and will indeed affect the energy required to vaporize the water. Therefore, some care should be taken to see that the water utilized in the process does not contain great amounts of impurities. Oil storage must be ascertained with an eye to availability of a constant imput of either No. 2, No. 4, or No. 6 fuel oils. Basic estimates for handling of these components would include pumps, pipes, and weighgates.

The resultant product is what may be termed as stable emulsion, in that it is not an emulsion in the purest sense of the word it is a complete suspension of coal particles in an emulsion of oil and water which will remain in its emulsified state over extended periods of time and even when exposed to temperature ranges normally considered standard for industrial application. During the production stages of the fuel, it will be standard practice to regularly add oil and water in somewhat excessive proportions. This will allow for a thorough mix and insure that the desired ratio is achieved. This is accomplished because of the fact that what is termed supernatant liquid such an unemulsified oil and water during the process will rise to the top of a storage tank and/or a holding tank in the final stages of production, due to the relative densities of the components. This supernatant oil and water will then be taken from the top of the storage and/or holding facility leaving only emulsified product for storage and/or shipment. The relative density of the components indeed makes it a simple task to separate most oil and water from the emulsified mixture by simple gravity overflow or other known techniques. The supernatant fluids will then be recycled through the process and will not be discarded.

Factors to be considered in determining a location for commercial facilities would include, but not necessarily be limited to, available transportation (truck, rail, and barge), qualified personnel, feed stock availability, and fuel consumers. Several sites possessing such qualities have been identified by Cottell Liquid Energy, Inc., and are under consideration as plant sites.

PILOT PLANT OPERATION

Since October of 1976, Cottell Liquid Energy, Inc., has operated a Pilot Plant facility for use in developing the Cottell Process, at the Ohio Valley Aluminum Company in Shelbyville, Kentucky. From rather crude beginnings, the Plant has evolved in terms of both hardware and the systems approach applied to the process for the past year. Modifications and improvements to the system have been brought about by utilizing the technical services available from the employees of CLE and from outside engineering help from such groups as Mason Hanger Silas Mason Company, Incorporated, of Lexington, Kentucky, and The Modulus of Jeffersonville, Indiana.

The Plant is now capable of producing fuel on a regular basis and such fuel proves very satisfactory for use in commercial burning application. The fuel has regularly been burned in furnaces 1–A and 5 of the Ohio Valley Aluminum Company. These are standard commercial furnaces used to melt down aluminum scrap. Burning is accomplished by means of a Monarch No. 6 fuel oil tip, with combustion air of approximately 40 PSI, the fuel under air pressure at approximately 120 PSI, and air for fuel atomization of approximately 90 PSI. Fuel is taken to furnaces in barrels and is extracted from said barrels by means of a simple centrifugal pump. There is nothing elaborate nor complicated in utilizing the Cottell Fuel in a commercial furnace and, in fact, any furnace equipped for No. 6 fuel oil combustion will require little, if any, retrofitting modification. During recent months, Plant employees have begun a systematic process of increasing production rates and quality of fuel produced, as well as steps to improve the burning characteristics and the efficiency of the fuel in the Ohio Valley furnaces. During this time frame, sophisticated pressure regulators were added to enhance production and screening devices were installed to eliminate passage of coal particles of a size capable of blocking any burner apparatus. It is assumed that such a practice will be required in the commercial production of the fuel on a large scale basis.

The production and the burning of the fuel has been observed by several distinguished visitors, including Al Warden, astronaut Apollo 15, NASA, representatives of Otiavoni Technical Services, representatives of Detroit Edison, representatives of Detroit Steel, representatives of Huntington Alloid, representatives of Wilson Engineering Company, and various other individual observers. Site visitation may be arranged by contacting the officers of Cottell Liquid Energy, Inc.

MARKETING PLAN

As per present corporate policy, Cottell Liquid Energy, Inc., is considering three alternatives in the marketing of Cottell Fuel. They are as follows:

The construction of a 500 ton per day production facility manufacturing Cottell Fuel for distribution by truck, rail, or barge to identified users. Prospective users with whom fuel utilization has been discussed include, but are not limited to, the following:

(a) Detroit Steel, New Boston, Ohio.

(b) Detroit Steel, Mansfield, Ohio.

(c) Allied Chemical, South Point, Ohio.

(d) Detroit Edison, Detroit, Michigan.

2. Another possibility for marketing Cottell Fuel most recently considered, calls for the design and development of skid-mounted production units including grinding, mixing, sonic reactor system, and pumping equipment, custom scaled for dedicated plant fuel production, i.e., for corporations such as Detroit Steel, Detroit Edison, and others who might have on site, a production unit capable of processing all emulsified coal, oil, and water necessary for the operation of the manufacturing facility. This would involve the placement, on site, of all necessary hardware in exchange for sale—lease back arrangement and a per gallon or per tonnage royalty on fuel processed.

3. Finally, there exists the prospect for the sublicensing of interested parties, authorizing them to practice the process patent in territories throughout the United States; e.g., Corporation "X" might be granted the sublicense for a territory such as, Indiana or a portion of the state, and such territory would be under their exclusive control as far as the rights to produce Cottell Liquid Fuel in said territory were concerned.

At the present time, near-term plans indicate that the corporation will be constructing, in the very near future, a 500 ton per day plant producing fuel for distribution as outlined in Point 1 above. To that end, corporate officials have been in contact with prospective users and have found that indeed, there is a need particularly in the upcoming winter months for the availability of an economical substitute for a No. 6 fuel oil. Prospective customers have outlined that during this past winter their fuel allocations particularly for gas and No. 6 oil will curtail to the point that in many cases plant shutdowns were required.

The next level of marketing expansion of Cottell Fuel will follow Points 2 and 3 above. This will include in the very near future discussions with appropriate suppliers and manufacturers relative to the prospect of manufacturing skid-mounted units for producing Cottell Fuel. Such hardware would then be distributed ot the prospective producer/users and further is a considered possibility in terms of relating to sublicensees. This is not to say, however, that sublicensees will be required to obtain hardware through Cottell Liquid Energy, Inc. However, if such hardware were readily available and reasonably priced and further such hardware was made available to the licensed corporation or a subsidiary thereof, the sublicensee might indeed find it advantageous. It is further not the intention fo Cottell Liquid Energy, Inc., to evolve into the business of selling hardware. We have an exclusive national license to practice the patent; and it is our opinion that it is through producing and possibly sublicensing others to produce that the real profits will lie.

INTERNATIONAL AGREEMENTS NEEDED TO COVER ACTIVITIES OF MULTINATIONAL ENTERPRISES

HON. SAM GIBBONS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 31, 1977

Mr. GIBBONS. Mr. Speaker, today I am introducing legislation which I hope will give us some badly needed impetus toward early approval of comprehensive international tax, trade, and other agreements relating to the operations of multinational enterprises.

I am doing this because I believe that we are long overdue in dealing with the implications of the internationalization of business and commerce.

This country has tried to accomplish some of the goals outlined in my legislation through such things as negotiations on tax treaties or even unilateral legislative action. However, not much has been accomplished. Further, unilateral action is not sufficient in the case of companies which operate across national boundaries.

My legislation proposes that the Congress take a critical look at the need for a framework of law to govern the international activities of multinational enterprises, as well as the actions of governments toward those enterprises. It authorizes and directs the President to begin negotiations with other countries on international agreements which would establish that framework of law.

Because I believe that we have delayed far too long in moving in this area, I am proposing a timetable of target dates by which I would hope that the President will be able to conclude satisfactory international agreements on multinational corporations with the European Community and with the other nations of the world.

I have proposed that we begin serious work on this effort first with the European Community for several reasons.

First, the principles of my legislation have evolved largely from discussions on multinationals with members of the European Parliament which I and other Congressmen have been involved in since 1973.

Second, I believe that the prospects for early agreements with the European Community on issues relating to multinational enterprises are relatively good.

As an indication of the European Community's interest in this, the European Parliament in April approved a resolution calling for their Council and Commission to begin negotiations toward legally binding international agreements to cover the activities of multinationals. The Parliament directed that the basis for these negotiations was to be the "Draft Code of Principles on Multinational Enterprises and Governments" which Mr. Erwin Lange of the European Parliament and I have co-authored. This draft code also serves as the basis for the legislation I am introducing today.

Third, a big share of the activities of multinational enterprises takes place within the borders of the European Community.

As the author of this legislation, I would like to point out that I consider this a discussion draft which we may be able to improve on. I welcome and would appreciate any constructive suggestions which might make the bill more workable.

Finally, I want to emphasize what I believe to be the importance and urgency of this undertaking.

Our economy and other economies of the world are in something of a fragile state at this point, and we are long overdue in making progress toward the framework of law and responsibility for multinationals and governments which I believe we must have.

Without such a framework, I fear the respect may be one of only inadequate and injurious dealings of one state with another—and even the possible elimination of private enterprises in multinational undertakings.

HALLECK RECALLS PRERETIREMENT DAYS

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 31, 1977

Mr. JACOBS. Mr. Speaker, the following article describes the Honorable Charles Halleck as a kind man. I can testify to that fact. Many the time during my first term in the Congress when Mr. Halleck took me aside and gave me excellent and nonpartisan advice. He cared about his party when he served in the Congress, but he cared about people very much more. And I am sure that an awful lot of people in and out of the Congress now care very much about Charlie Halleck.

[From the Indianapolis Star, Oct. 30, 1977]

HALLECK RECALLS PRE-RETIREMENT DAYS

(By Bill Shaw)

RENSSELAER, IND.—There was a time when Charlie Halleck had it all.

He represented Indiana's Second Congressional District in the House of Representatives for 34 unbroken years. During that time he became one of the most powerful and influential men in government.

He served as House minority leader for three terms and, when the Republicans took over the House, rose to the top post of majority leader for two terms.

During the Eisenhower years his power and prestige were virtually unchallenged, and he was one of those men whose decisions helped shape the course of history. He was Ike's trusted friend and closest Congressional confidant.

Democrat Lyndon Johnson, another close friend, even credited Charlie Halleck with lining up the necessary Republican votes in Congress to pass the historic 1964 Civil Rights Act, which forever changed the social climate in this country.

He could make or break politicians. One of those he helped make was Richard M. Nixon. Halleck was instrumental in Nixon's first political victory in California. And it was Charlie Halleck who raised the money Richard Nixon used to buy television time for the famous "Checkers Speech" which salvaged his political career.

There was much more, of course, for the man who made it to the cover of Time magazine in 1959.

But those days are gone forever now, because in 1968 Charlie Halleck, Mr. Republican, retired and returned to the modest home in Rensselaer with the American flag and the small stone GOP elephant on the front porch.

For several years, the phones never stopped ringing and the mail was delivered in bundles to his home and law office across the street from Jasper County Courthouse.

But slowly, bit by bit, little by little, the mail dropped off and the phone rang less and less. Now, there is almost no mail and the phone almost never rings.

Charlie Halleck, at 77, says he is a real lonesome man

"It all changed when Mommy died," the proud old statesman says. "Mommy" was his wife, Blanche, who suffered a fatal heart attack in 1973 and toppled into the Madison River in Montana while trout fishing with Charlie.

"I can't help looking back on losing Mommy out there. That awful time in Montana." Talking about his wife still makes him cry.

Charlie Halleck had always had three great loves in his life: Mommy and the family, politics and government, and hunting and fishing.

Politicians being the kind of people they are, they don't call on Mr. Republican much anymore. He holds no power and exerts no influence; he's been away from it a long time.

His two children, Charlie and Patricia, live in other parts of the country.

That leaves hunting and fishing, but Charlie's got arthritis in the knees and that limits his walking and that limits his outdoor activities.

"It gets tough sometimes. I had a world of friends, but they've all been dying off on me. I know I'm a has-been. My race has been run, I know that, but I try to keep active.

"I still get up early, read the papers and since Mommy died I've become an expert with the washer and dryer," Charlie says.

He still does a little hunting and fishing and a couple of weeks ago returned from a trip to Wyoming, where he bagged an antelope.

"Most of my old hunting and fishing pals and great friends have died though," he explains without a trace of self-pity. He just recognizes the way things are and sees no reason to try to hide it.

Charlie Halleck is a walking, talking history book. But he's also a gentleman from the old school of politics in which people don't tell on their friends.

"I could write a book that would be on the top of the bestseller list, but if I told the truth I'd have to hurt the hell out of some people and I won't do that and probably never will," he says.

He refuses to speak ill of anyone, even Richard Nixon, whom he went to bat for many times on behalf of Eisenhower.

"It was terrible," is all he will say about the mess Mr. Nixon got himself into. He prefers to say good things about people.

Lyndon Johnson was one of the best friends Charlie Halleck ever had, Eisenhower was the finest President, John Kennedy possessed great integrity, Nixon did well in some areas and Gerald Ford, well, he tried real hard, Halleck says with a slight grin.

And Halleck says he is pulling real hard for Jimmy Carter.

"He's learning, he's like a lot of these young guys who get elected and come in to change the government, the country and the world in a couple of days, but it can't be done overnight," the veteran politician says.

He still enjoys watching politics, but must be prodded into talking at any length about it. Because he is a humble man and because he has told the stories so many times, he would rather talk of other things.

He delights in taking visitors on tour of Jasper County, the place where he was born, and where his parents were born and buried and where his wife is now buried.

He drives his big, gleaming black Cadillac with great care, moving slowly over the country roads, bumping along and pointing out landmarks along the way.

"We used to have great barbeque picnics right over there in that grove of oak trees," he said pointing to a thicket. Mommy and I used to invite everyone out here and we'd sing songs and eat and have a great time.

"And over there is the country club, my Daddy founded it in 1924 and I helped clear the land." He eats most of his meals at the Curtis Creek Country Club these days.

And then he drives by his beloved St. Joseph College and the Charles A. Halleck Student Union Building.

When they laid the cornerstone of the building in 1962, 50,000 people came to honor Charlie, including the President of the United States, Dwight Eisenhower.

"It was just about my finest day," he says of that tribute. "Mommy cried. She's buried right over there," he says, passing the cemetery.

Back in his law office, which he hardly ever visits, are a few pictures of the great men he has known, but not as many as you would expect.

There is his favorite picture, a tattered black and white of his wife, which sits right on his desk, not like an ornament but more like a shrine.

And on the wall is a picture of Halleck striding down Pennsylvania Avenue with the great men of the House and Senate on that dark November day in 1963 when John Kennedy was buried.—"A very sad day," he says.

These days, Charlie Halleck is getting ready to make his annual trip to Lake Wales, Fla., where he has rented a small home in the citrus groves for years and where he goes to escape the Northern Indiana winters.

He would like to leave now but hates to miss the annual Indiana Society Dinner in Chicago in early December.

"They still remember me and invite me every year, it's kind of an ego-trip. They let me sit at the head table," says the man who once told presidents to come and see him.

THREE-WAY SOCIAL SECURITY TAX PROPOSAL BY CONGRESSMAN JAMES A. BURKE

HON. JAMES A. BURKE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 31, 1977

Mr. BURKE of Massachusetts. Mr. Speaker, I would like to bring to the attention of this body an article which appeared in the Boston Herald American, Saturday, October 29, authored by Mr. Wendell Coltin. This gentleman is a recognized authority on social security. His Social Security Mailbox column appears daily in the Boston Herald American and Sunday in the Boston Herald Advertiser. Over the years, Mr. Coltin has done an expert job of reporting on affairs concerning the elderly. Thousands of older citizens gain real benefit from the services provided by his column.

[From the Boston Herald American, Oct. 29, 1977]

BURKE PROPOSAL: THREE-WAY SOCIAL SECURITY TAX

(By Wendell Coltin)

Congressman James A. Burke (D) of Milton is not happy with the House-approved increase in Social Security taxes and is energetically campaigning for a system where workers and employers contribute one-third each with the federal government picking up the balance from a general revenue fund.

Burke, chairman of the House subcommittee on Social Security, said yesterday he feels the new tax faces a short life and will hopefully be restructured.

He said he voted for the new taxes reluctantly because of the importance of guaranteeing checks of beneficiaries and workers. But he has already started a campaign aimed at restructuring the SS financing system next year. His plan would lower the rate to 3.9 percent tax on full earnings.

"I want the traditional 50–50 sharing of the tax by workers and employers changed to a formula used in other free nations of the world," Burke said.

Under the bill passed by the House, the present 5.85 percent tax on employees and employers is due to be hiked to 6.05 percent on the first $19,900 of earnings in 1978 and go up in succeeding years until it reaches 6.55 percent on the first $30,000 in 1982. This year's maximum taxable earnings base is $16,500.

Rep. Burke said once the Carter administration and members of Congress realize what the problems are, they will see that when more than half the workers in the U.S. pay more into Social Security than income tax, "It will have to be restructured and high wage earners will have to pay their share."

He said his amendment to change the formula was voted down by the Rules Comm., 19 to 13, but he is picking up additional sponsors to augment the 150 votes he had for the proposed legislation last year.

He said he will refile his bill, which calls for cutting taxes on everyone earning under $35,000—workers and employers alike—and reduce the tax to 3.9 percent, "sorely needed especially here in the Northeast where many manufacturing jobs have been lost."

"I think it is grossly unfair that a person making $100,000 a year pays only a one percent tax on Social Security while the $10,000 category earner pays a six percent tax," Rep. Burke said.

"We have to shift the burden from the lower and middle income worker," he said, recalling that a few years ago he first proposed that the tax rate be reduced to 3.9 percent and that general revenue provide one-third of the financing. At that time, he said, he advocated a maximum taxable earnings base of $25,000.

He said the late Senator Robert F. Kennedy first proposed the formula change under which 3.9 percent on full earnings of employees is matched by their employers.

Under Burke's proposed tax rate reduction, a person earning $15,000 a year would pay $615 and so would his employer. "We can build up a $180 billion fund in 10 years and it would earn approximately $14 billion a year in interest," he said.

Mr. Speaker, the article which I have inserted is, as I have stated, written by Mr. Coltin who is considered an expert concerning our older citizens. There is in this article a statement saying that my amendment relating to the three-way social security tax voted down in the Rules Committee by a 19-to-13 vote, where in fact it was voted down in the Ways and Means Committee by that figure. I wish the RECORD to show this misstatement in his article.

BELLA ABZUG: DEMAGOG AT PUBLIC EXPENSE

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 31, 1977

Mr. ASHBROOK. Mr. Speaker, as absurd as it may seem, Bella Abzug has been appointed the voice of American womanhood. By whom? By the U.S. Government. Or should I more precisely say by President Carter. As presiding officer of the first federally funded convention to promote women's equality, costing taxpayers $5 million, she dismissed all opposition to ERA, abortion, and lesbian lib as "attempts by the ultra right, like the Ku Klux Klan, who still want to keep their women home washing the sheets." Using her federally provided podium Abzug said:

The KKK, the John Birch Society, the Mormon Church and the Right to Life anti-abortion group were among the groups "attempting to subvert the conference." (Washington Post, Oct. 27).

I am sure that members of the Church of Jesus Christ of Latter-day Saints are happy to see our Government paying to have them lumped in with the Ku Klux Klan. This flim-flam fools no one. The Klan has no credibility let alone any influence in any political circle.

Abzug also gives the Klan image to those who oppose abortion on demand. Here we see the spectacle of the entire hierarchy of the Roman Catholic Church and a majority of Protestants being lumped in with the Klan from a federally financed platform, without a word of protest from the Carter administration.

But it is not the Klan that really upsets the radical feminists. What Mrs. Abzug is upset about is that voters of both sexes have rejected the perversion of the women's movement which she represents. Not a single State has ratified the proposed Equal Rights Amendment since the issue was forecefully brought to public attention. The professional radicals had ERA sailing along freely until a grassroots movement stopped the leftist steamroller in its tracks. Mrs. Abzug blames this fact on an "ultra right" conspiracy. The fact is that the 5 million Federal dollars spent on Abzug's 4-day convention represent far more than the entire anti-ERA movement has expended since its inception. Nothing has exposed more nakedly the utter fraud of the "women's movement" claim to represent women's opinions in this country than the sudden stopping of the ERA steamroller.

Another Abzug steamroller which has been stopped by public opinion is gay lib. When what Abzug calls "lesbian rights" are actually brought to a vote, her pretensions to representing the popular will once again get smacked down solidly. This is what Abzug is upset about. Like all demagogs, Bella Abzug is an authoritarian using the rhetoric of democracy.

This totalitarian mentality is typical of those who have taken over the so-called women's movement. A special report of

the National Women's Political Caucus directs its operatives to "Never give your enemy an even break." Certainly Mrs. Abzug's labeling of her opponents as Ku Kluxers follows this party line perfectly.

American women might well wonder why the likes of Bella Abzug are installed in these high positions to speak for them. Ask Jimmy Carter. Most women do not consider abortion, lesbianism, pot, Federal child rearing, and her other "leading" issues as their issues. The not-so-feminist loud mouths speak for themselves, not for American women. Leaders like Phyllis Schlafly come much closer than any of the politically annointed feminists who get the top posts.

Besides Federal money and prestige, Abzug's army has other advantages to compensate for their lack of popular support. Her huge group of lesbian admirers do not have to concentrate on raising families, and can direct their frustrated energy into political activism. As a result, a movement which claims to represent women is being converted into a front for lesbian militancy. In her harangues, Abzug constantly insists that lesbian lib is indispensible to all women's rights.

According to Abzug, lesbians are an important and legitimate part of the "women's movement." But normal women who do not want their children taught by lesbians in schools are not part of the movement. Devout Catholic women are not. Conservative women are not. Mormon women are certainly not. With Bella Abzug as its spokeswoman, the "women's movement" has been perverted into a coalition of radical minorities. It is an outrage to see that perversion presented with Federal sponsorship as the point of view of American womanhood.

Oh yes, while she is throwing around labels she should be careful. Her association with the radical left and Communist front groups in our country would fill two pages of the RECORD. To her, the radical right is anyone to the right of Ho Chi Minh or Rap Brown.

It is the age-old liberal demagoger. Take the extreme left—that is where Bella stands—and put it in the middle of the road. Then measure anyone to the right by meters and bounds from that position so everyone you do not like is on the ultra right. Bella, you get the headlines, but you fool no one.

WATERWAY USERS TAX

HON. DOUGLAS WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 31, 1977

Mr. WALGREN. Mr. Speaker, recently the Economics Department of the University of Pittsburgh and the Greater Pittsburgh Chamber of Commerce released a study showing waterway users tax to be potentially devastating to consumers and industry.

The results of the study have made some Pittsburgh area residents livid. They claim their economy is already suffering heavily, because of below market price foreign steel inflation.

Congress is considering two pieces of users tax legislation. The Domenici proproposal would implement the equivalent of the 42-cent per gallon fuel tax proposed by the U.S. Department of Transportation. This tax could cost the Pittsburgh area indusry and consumers a minimum of $29 million per year according to the study. The second bill, H.R. 8309, recently passed by the House, calls for a 4-cent per gallon tax in 1979 with an increase to 6 cents per gallon in 1981.

I would like to bring to the attention of my colleagues some remarks of Justin Horan, president of the Greater Pittsburgh Chamber of Commerce, concerning the waterway users tax and the study results.

WATERWAY USERS TAX

Justin Horan, president of the chamber, stated that study results clearly show that Pittsburgh waterways are used more intensively than any other area of the Nation.

Horan said:

We carry 12.3 percent of the total tonnage carried on U.S. waterways, and we perform that service on only 1.3 percent of the navigable river miles. Without doubt, we are the busiest inland port in America.

Horan says that, due to heavy concentration of tonnage carried on a relatively short waterway system, any inequitable tax will impose an acute economic hardship on the Pittsburgh district.

He stated that the proportion of tonnage carried and the miles of river utilized places Pittsburgh at a distinct disadvantage. Under the proposed Senate version of the tax, revenues generated by the Pittsburgh district would be more than 50 percent greater than the amount spent to maintain and operate the district's system:

At a time when the steel industry is facing serious economic troubles, it is incomprehensible that Congress would consider a tax that would so adversely impact Pittsburgh, a nationally recognized center for the steel industry.

Said Horan,

Pittsburgh industry would be forced to pay for the maintenance and operation of much of the rest of America's waterway system, and that cost would be reflected in higher prices for Pittsburgh products. This, in turn, will mean a loss of competitive advantage and a potential downturn in the overall business climate of the region.

Horan concluded that—

The Senate version of the tax, which proposes a 42-cent per gallon fuel tax rate, is clearly discriminatory and would cripple the Pittsburgh economy. The House version would obviously be less harmful, but we would rather see a tax formula which established a more equitable accommodation for area which use the waterway system as intensively as does Pittsburgh.

OCCUPATIONAL THERAPY MEDICARE AMENDMENT

HON. LINDY BOGGS

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 31, 1977

Mrs. BOGGS. Mr. Speaker, the health care needs of our elderly citizens should be an item of high priority, deserving of special congressional attention. The retired people of this country have devoted most of their adult lives to working at their vocations, building a strong economy for America, and supporting through their taxes and social security payments, the vast programs of the Federal Government. After they retire from the work force they become the recipients of assistance from some of these programs, the most common one being medicare. Mr. Speaker, I believe our senior citizens are entitled to a retirement life of peace and dignity, free of fear and unnecessary institutionalization or hospital confinement. I have been aware for some years now that certain medicare restrictions on the coverage of occupational therapy services are preventing many of our elderly or disabled citizens from receiving the treatment they need to maintain their independence and avoid being institutionalized.

Occupational therapists are health professionals who specialize in increasing or maintaining the independence and productivity of the aged and the physically or mentally disabled. They provide services to these individuals when their ability to cope with the tasks of daily living are threatened or impaired by heart attacks, strokes, diabetes, serious burns, spinal cord injury, or emotional illness.

Under the present medicare law, these services are covered when provided to inpatients in hospitals and skilled nursing facilities, outpatients in clinics attached to approved hospitals, and recipients of home health care if they also require either intermittent skilled nursing or physical or speech therapy. I am pleased to introduce today, with many of my colleagues as cosponsors, a bill which would provide medicare coverage for occupational therapy services in any approved outpatient setting and which would eliminate the need for any prerequisite service under the home health benefit.

The equitable treatment of our elderly and disabled people, for whom the medicare benefits are intended, requires the enactment of this proposed legislation. A stroke victim's occupational therapy treatment should be a covered service whether provided in a hospital clinic or any other approved outpatient setting. Likewise, an elderly arthritic homemaker should not have to be hospitalized to receive protective splints and instructions from an occupational therapist, merely because she does not happen to need another skilled service which is required for her to receive this treatment at home.

Medicare recipients should not be subjected to the inconvenience and frustration caused by provisions which arbitrarily limit the setting in which the treatment can be received. Likewise, the patient who otherwise can be treated at home should not be deprived of access to needed occupational therapy services because no other treatment is required.

Occupational therapy has been recognized by the private insurance industry as a valuable service contributing to the

containment of today's health costs. Recently, the Health Insurance Association of America recommended to its 350 member-companies inclusion of occupational therapy services in health benefits plans.

HIAA and its Comprehensive Coverage Subcommittee, in a Medical Economics Bulletin, state:

> Occupational therapy is a professional health care service which when properly used can be instrumental in decreasing hospital confinement, disability, and the ultimate cost of health care . . . [occupational therapy] is a type of service which properly lies within the intended scope of broad Major Medical policies.

The HIAA statement is a followup action to its support of a resolution adopted by the National Association of Insurance Commissioners in December 1976. The NAIC resolution recognizes the role of the occupational therapist as a provider of health care services and recommends that any plan or program which reimburses or provides benefits for health care services consider for inclusion occupational therapy services.

It appears to me that, in view of the alarming increase in health care costs in recent years, we should consider carefully these recommendations of the private insurance industry and support coverage for services, such as occupational therapy, which have proven to be cost-effective as well as medically beneficial.

By conservative estimates, some 2.3 million noninstitutionalized elderly people are in need of home health assistance. Many of these services provided by occupational therapists are precisely those which homebound elderly people need and are currently not receiving. Frequently, the need for these services extends the length of hospital stay primarily because of the administrative difficulties attached to their provision in the home. Moreover, when occupational therapy services are not provided in a timely fashion, at home or in an accessible outpatient setting, additional disability or injury may occur, necessitating rehospitalization or institutionalization. Enactment of this bill would expedite the provision of these services to elderly and disabled people who require them to remain in control of their own lives and to continue to contribute to their families, their communities, and their country.

On several occasions in the past, the bill which I am introducing has been voted on favorably by the Senate Committee on Finance and the full Senate. However, it has not received the necessary attention from this House. I believe that immediate action on this bill is warranted. Speedy enactment of its provisions would reflect a commitment on our part to containing health costs, providing an alternative to institutionalization for our 22 million elderly Americans, and most importantly, helping assure them the life of freedom and independence they so richly deserve.

I insert a copy of the bill I am introducing:

H.R. —

A bill to amend title XVIII of the Social Security Act to authorize payment under the medicare program for occupational therapy services, whether furnished as a part of home health services or otherwise

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1814(a)(2)(D) of the Social Security Act is amended by inserting ", occupational," immediately after "physical".

(b) Section 1835(a)(2)(A)(i) of such Act is amended by inserting ", occupational," immediately after "physical".

(c) Section 1835(a)(2) of such Act is further amended—

(1) by striking out "and" at the end of subparagraphs (B) and (C);

(2) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof "; and "; and

(3) by adding after subparagraph (D) the following new subparagraph:

"(E) in the case of outpatient occupational therapy services, (i) such services are or were required because the individual needed occupational therapy services, (ii) a plan for furnishing such services has been established and is periodically reviewed by a physician, and (iii) such services are or were furnished while the individual is or was under the care of a physician.".

(d) The last sentence of section 1864(p) of such Act is amended by inserting "and occupational therapy services" after "speech pathology services".

SEC. 2. The amendments made by the first section of this Act shall be applicable in the case of services furnished on and after the first day of the first month which begins not less than thirty days after the date of the enactment of this Act.

FIFRA, "EXCLUSIVE USE," AND JUSTICE DEPARTMENT OPINION

HON. FLOYD J. FITHIAN

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 31, 1977

Mr. FITHIAN. Mr. Speaker, today, we are considering amendments to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). One of the most important aspects of this legislation is the implementation of a 5-year period of "exclusive use of data," in which the company or pesticide registrant would have sole proprietary use of that data. Although I would have preferred a mandatory licensing system with compensation spread over nearly 10 years, I supported this effort in the spirit of compromise so that the legislative process could be expedited.

In my view, this provision of the FIFRA amendments is very generous to the manufacturers of technical grade pesticides—generous perhaps to a flaw. It should be a continuing responsibility of the House Agriculture Committee to assure that our action today does not exacerbate the growing tendency toward oligopoly in the pesticide manufacturing industry.

The Department of Justice, in two letters to me, clearly have stated their objections to the "exclusive use of data," pointing out that it would be harmful to competition in the pesticide industry. If the FIFRA amendment proposed today do not reverse this trend, the Congress will have an obligation to return to this legislation with further corrective action. And this action might be necessary.

For the benefit of my colleagues in the House, I am inserting the two letters from the Department of Justice in the RECORD.

WASHINGTON, D.C.,
September 6, 1977.

Hon. FLOYD J. FITHIAN,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN FITHIAN: This is in response to the request of your staff for the views of the Department of Justice on the so-called "industry compromise" presented by the National Agricultural Chemicals Association ("NACA") regarding the trade secret and data compensation provisions in the Federal Insecticide, Fungicide, and Rodenticide Act.

As we have previously indicated in response to other inquiries, we find the NACA proposal to be unacceptable. The NACA proposal basically relies upon an "exclusive use of data" concept. While it may be true that use of data and patent rights are technically distinguishable, as NACA argues, we think it equally true that both entail potential monopoly and monopoly profits, and we adhere to our expressed views that exclusive use of data may be, for all practical purposes, an extension of a patent monopoly. Thus, we continue to oppose exclusive use of data, in the belief that its impact on the industry (and on consumers) would likely be comparable to the impact of the Act as discussed in the recent EPA report.

We would not attempt to predict the likely impact of NACA's limited data sharing proposal, to take effect in the event of additional data requirements, and in particular of the fall-back "equal" cost sharing concept. In any event, this concept appears to exclude new registrants.

In summary, we adhere to the views we have previously expressed. We also believe that Congress should keep in mind that a "compromise" among some segment of affected industries is not necessarily in the interest of the public.

Sincerely,

PATRICIA M. WALD,
Assistant Attorney General.

WASHINGTON, D.C.,
April 27, 1977.

Hon. FLOYD J. FITHIAN,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN FITHIAN: This is in response to your letter of April 22, 1977, concerning the competitive effects of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), a key area of concern to you and your colleagues as you consider proposed amendments to the Act. You ask for our evaluation of the "climate for competition" under present law, and enclose a copy of the recent EPA Report, "FIFRA, Impact on the Industry." You also ask for any comments we may have on conflicting proposals to resolve competitive issues.

The Antitrust Division prepared comments for the Agriculture Committee concerning aspects of FIFRA in a letter responding to an inquiry by Representative James P. Johnson. These comments were made part of the record of the oversight hearings on March 7. A copy of that letter is attached.

The Department of Justice supports the EPA's evaluation and conclusions with respect to the direct and indirect anticompetitive effects of the trade secret provisions of Section 10 of FIFRA.[1] We concur with EPA

[1] See pages 6, 9, 10, 11, 20-22 of the EPA Report.

It should be noted that the EPA raises two separate issues: (1) the access to or reliance upon safety, efficacy, environmental chemistry data ("test data"), without actual disclosure, which has been furnished to EPA by developers, and (2) the public disclosure of such data. The Department believes that the competitive issues hinge principally on the ability of applicants to use such test data to satisfy registration requirements.

that some expression of Congressional intent would be desirable to support the Agency's position on the issues relating to competition in the pesticide industry.

However, we feel that the EPA report has not fully explored all of the competitive issues, and we are opposed to certain recommendations made to EPA, as outlined in the Appendix to its Report.

1. Data Disclosure and Trade Secret Exemption. The EPA report examines the impact of the data licensing, public access, and trade secret provisions (§§3(c)(1)(D), 3(c)(2) and 10) of FIFRA [2] upon competition in the pesticide industry. The conflict between sections 3(c)(1)(D) and 10 has generated much of the controversy surrounding FIFRA. Ten suits have been filed in various federal courts to prevent the EPA from disclosing data which the data producing firms (i.e., developers) [3] claim are trade secrets and thus nondisclosable under § 10. Representative Johnson's request for the Antitrust Division's comments on FIFRA was prompted by a complaint that one major data producing firm was using the § 10 trade secret exemption to extend its patent monopoly past the expiration of its patents.

The Antitrust Division's letter to Mr. Johnson delineates its views concerning sections 3(c)(1)(D) and 10. The Division's letter concludes that the scope of the trade secret provisions of FIFRA may have been improperly extended in denying potential competitors access to test data prepared by developers. We agree with the position of EPA that "trade secret status should be routinely extended only to truly secret information concerning manufacturing processes (and, perhaps, to the list of deliberately-added inert ingredients in formulated, end-use products." [4]

2. *Extension of Patent Protection.* The data producing firms have argued that the generation and compilation of data necessary to register a new pesticide appreciably diminishes the duration of patent protection from the statutory 17-year period to about 12 years. This justifies, it is suggested, the broad interpretation of section 10: an effective extension of the patent period is necessary to make up for the time lost developing the data, and claiming trade secret status for all data provides that extension. A separate but related argument is that availability of the data (whether by opening the files, or by disclosure, or by allowing referencing of the data without actual disclosure) is a disincentive to development of new pesticides; therefore, disclosure is at the expense of research and development directed toward new and innovative pesticides. These considerations may be the basis for a recommendation to EPA (see Appendix of EPA Report, at 29) to lengthen patent protection, as one of several possible actions that would allegedly foster pest control research and development.

We find both industry arguments unconvincing. The former ignores the fact that patents of this nature are typically pending for several years before the patent is granted (when the period of protection begins to run), thus giving the patent owner considerable time to conduct testing necessary for registration. The latter is contrary to actual experience. The pesticide industry existed from 1947 through 1972 without any legislation protecting the confidentiality of registration data—a period during which the USDA and its successor, the EPA, freely and openly referred to all data in connection with applications for registration of pesticidal formulations similar to those previously registered. If there was a disincentive toward research and development, it did not manifest itself in any decline in new pesticide registrations. It is curious that the asserted need for protection of test data became evident only when significant numbers of pesticide patents began to run out. We find the disincentive argument somewhat disingenious.

We also find the extension of patent protection inconsistent with long-standing law accommodating the patent laws with our system of free competition. The courts have held that the patent grant, as an exception to the competitive system's general prohibition of monopolies, must be strictly confined to its boundaries. Attempts to extend the scope or duration of patent monopoly have been routinely struck down. See, e.g., *Brulotte* v. *Thys Co.*, 379 U.S. 29 (1964) (post-expiration royalties not permitted); *Hartford Empire Co.* v. *United States*, 323 U.S. 386 (1945) (pooling of patents to effect monopoly control of entire industry illegal). Any proposal having the effect of extending the patent protection beyond the statutory period would be inconsistent with existing law and with the spirit of free competition. Furthermore, since the inception of our patent laws, Congress has provided a single period of patent protection for all industries. We see no reason for a special exception for the pesticide industry.

3. Compensation. Section 3(c)(1)(D) requires that applicants compensate, or offer to compensate, owners of test data for use of data in processing their applications for registration. The use of compensation is not discussed at length in the EPA Report, perhaps because problems in determining what data is available for referencing have been so formidable that the issue of availability and compensation has not arisen frequently.

There are several considerations which bear on the issue of compensation for the use of test data. Patent owning, data producing firms may be amply compensated during the 15 to 17 year period in which they can exact monopoly prices from consumers. Prior to the 1972 FIFRA amendments, when generic producers could economically manufacture technical pesticides upon expiration of the patent, prices typically dropped dramatically upon patent expiration. For example, the price per pound of DDT fell to about ¼ of the pre-expiration price when competition was introduced, suggesting that monopoly profits were quite significant (and likely adequate to cover registration costs).

We think it should also be kept in mind that the compensation provisions could be used to effect anticompetitive ends in dealing with both competing manufacturers of technical pesticides and formulators of end-use products from the technical materials. There are inherent problems in determining what constitutes "reasonable" compensation for data. Thus, the provision could provide a tool for extending patent monopoly by pricing data out of reach of small competing manufacturers and for exercising control of the end-use and/or end-users after initial sale of the patented material.[5] We consider both types of action inconsistent with competitive policy.[6]

Finally, there is a serious question as to the appropriateness of requiring formulators to compensate developers for the use of test data, a cost which could be reflected in the price of technical-grade chemicals purchased from the developers. We agree with EPA that primary data compensation should be limited to "registrants of technical, rather than end-use products." [7]

4. Vertical Effects. The area of horizontal competition between manufacturers is the primary focus of the EPA report. However, FIFRA also provides a mechanism for control of certain vertical aspects of distribution of formulations of the technical material. FIFRA currently requires that each formulation of a pesticide be registered by each firm that distributes the formulation. Thus, if Firm A, the patent owner and producer of data for pesticide X, sells the technical form of X to Firm B, which desires to make a 50 percent concentration of X for use on soybeans, Firm B must obtain a registration for its 50 perecnt formulation. The majority of the data that Firm B would be required to provide relates to the technical form of X and would have been submitted to the EPA by Firm A when it registered X. If Firm B has Firm A's permission, it can reference this data and will need to provide only relatively inexpensive efficacy data relating to the particular concentration, target pests and protected crops. If, as is frequently the case, Firm A also markets a 50 percent formulation for use on soybeans, Firm B may incur no major expense at all in registering its formulation.

However, control over data by Firm A may allow it to control use of pesticide X by Firm B (perhaps exercised by insisting that Firm B market X only in certain formulations in which Firm A has no interest). Firm A may also use its control of data to attempt to limit resale of pesticide X to other firms. Thus, limits on availability of data can have serious anticompetitive effects in a vertical sense.

Rejection of the broad definition of trade secrets urged by the data producing firms would make most data available without the need for permission from the data producing firm. Elimination of the compensation requirement would further diminish the risk of vertical restraints, but a reasonable compensation provision that eliminates uncertainty as to price and is inapplicable to formulators would be inconsistent with antitrust principles.

5. Product Leverage. In its discussion of advantages which the patent owner enjoys over potential manufacturers upon expiration of a patent, the EPA report neglects one substantial advantage. The patent owner is, as the report suggests, likely to be a large chemical firm that may sell, in addition to its once-patented pesticide, a variety of pesticidal products (or other chemical products) through a distribution channel of independent formulators. A distributor might be dissuaded from purchasing the once-patented pesticide from a new, cheaper supplier by the risk of losing the broader product line offered by the original manufacturer. If this "product line leverage" rises to threats or requirements that the distributor continue to purchase the now unpatented pesticide or lose the full product line the antitrust laws may have been violated.

6. Impact of Reregistration. The reregistration process has a potentially destructive effect upon existing competition in the manufacture of technical pesticides. Prior to enactment of the 1972 amendments, several generic manufacturers obtained registrations on technical grade pesticides where patents

[2] For description of these provisions, see attachment, pp. 2-5.

[3] This term is used to identify firms that have produced data to support registration. These firms are generally large, R&D-oriented companies.

[4] See page 11 of EPA Report.

[5] See ¶ 4, *infra*.

[6] On February 23, 1977, the Department of Justice filed a proposed consent decree that would settle an antitrust action brought against Union Carbide charging restraint on resale and use of its technical pesticide carbaryl. The consent decree requires Union Carbide to assist formulators in obtaining registrations by making data available for EPA use. Union Carbide is also prohibited from collecting compensation for any data that has been used free of charge by another applicant. This free licensing provides an important precedent.

We also note that Union Carbide typically did not charge any fee for its vendees' use of its data on file with the EPA. Apparently Carbide saw no disincentive in the access to its data.

[7] See EPA Report at 20.

had expired and began to manufacture and market those pesticides. Registrations were obtained without submitting any support data. When these pesticides are called in for reregistration, however, each registration will have to be supported by adequate test data. Because practically all such data was submitted prior to 1970, compensation is not a barrier to continued competition, but availability of the data (through reference or disclosure) is a problem. (The data producing firms' position on trade secrets, if adopted by Congress, could eliminate what little competition does exist in the manufacture of technical grade pesticides.)

7. Data on Impurity Standards. The debate on impurity standards may be a forerunner of other similar problems in data referencing. We understand that at least one of the major data producing firms is prepared to assert that EPA may not use the firm's technical pesticide formula for comparison when registering a "me too" firm's version of the pesticide upon expiration of the patent. Thus, even if the "me too" manufacturer could properly reference all the required data, the original manufacture could prevent registration by prohibiting EPA from comparing the two technical formulae to determine whether the "me too" manufacturer's product contains more or different impurities.

8. Conclusion. The EPA report very adequately addresses the major competitive impasse in FIFRA—the interplay between sections 3(c)(1)(D) and 10. The Department of Justice would strongly oppose any attempt to resolve the problems by expanding patent protection through either lengthening the duration of patent protection or adoption of the broad definition of trade secrets urged by the data producing firms.

We understand that many of the problems discussed above are addressed in amendments to FIFRA being proposed by EPA. We hope our views will be of assistance to the Subcommittee in its consideration of the competitive issues presented by FIFRA.

Sincerely yours,

DONALD I. BAKER,
Assistant Attorney General,
Antitrust Division.

SANCTIONS FOR SOUTH AFRICA

HON. ROBERT L. F. SIKES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 31, 1977

Mr. SIKES. Mr. Speaker, the Washington Star, which is moderate in its political philosophy, has questioned the wisdom of sanctions for South Africa.

On Thursday, October 27, the Star published, in its editorial column, a studied approach to the problems which would arise from sanctions. The editorial provides an unusually keen insight into the generally indecisive policies of the United States on African questions.

I submit this article for reprint in the RECORD:

SANCTIONS FOR SOUTH AFRICA?

When he was asked recently to say why the United States presses South Africa harder on human rights issues than it does other alleged offenders, Iran and Brazil for instance, Mr. Zbigniev Brzezinski admitted that it was a tough question.

South Africa is a priority target for our moral hazing, Mr. Brzezinski suggested, because the "black-white" confrontation there could so easily become as ideological as racial: not only black-white but also "red-white," as he chose to put it.

Superficially, at least, President Carter's national security adviser seems to agree in part with Prime Minister Vorster. For as The Economist has lately characterized the Afrikaner view, "they are, they insist, the last bastion against communist control of southern Africa, which would mean an irrevocable strategic defeat for the West."

From common assumptions about that danger, however, Washington and Pretoria draw very different inferences. The U.S. takes the view that the South African government's recent repressive measures against the press and against South African political moderates, black and white, intensify the danger that South Africa's blacks will turn to communist states for political patronage. It is Pretoria's view that timely repression will dampen and discourage a political trend that is already visible, at least in its narrow focus.

This widening rift is quite disheartening to South Africa's Western friends, who regard Mr. Vorster's course as disastrous and—to be blunt about it—stupid. It certainly makes it no easier to think of American South African policy in measured terms. Yet we owe ourselves the duty of doing so.

We may be sure of one thing: The harsher the U.N. Security Council sanctions we support—and there is a clamor for harsh sanctions after last week's moves in South Africa—the more likely it is that the South African government will feel isolated and beleaguered, and the greater the resulting danger of irreconcilable black-white conflict.

It is admittedly not a comfortable situation for the U.S. For the past several years, we have run with both the hare and the hounds in African policy. At the Security Council, accordingly, we are caught up in a swirl of posturing and politics and there is immense pressure on the U.S. to reinforce its words with acts. The black African nations, though some of them are hardly models of solicitude for "human rights," are bent on obtaining the harshest sanctions they can get out of the recent repressions in South Africa: or at least the harshest that can be obtained without a Western veto.

The U.S., it appears, would like to persuade the Security Council to settle for a mandatory arms embargo—a measure of less practical than symbolic import, inasmuch as both this country and Great Britain already observe a voluntary embargo. An arms embargo would at least spare us the embarrassment of having to veto, or abstain from, a sanctions vote.

Even in the face of these political pressures, however, there are at least three solid issues the U.S. must face if we vote for sanctions.

The first is the probability that even mild sanctions—a mandatory arms embargo, for instance—would reinforce the reckless, go-it-alone mood that seems to prevail now in Pretoria.

The second is that sanctions would provide Mr. Vorster a ready-made rallying cry for the approaching November 30 elections, in which the Nationalists seek to consolidate and even enlarge their political power.

The third, more remote perhaps but equally real, is that insofar as it had any effect at all an arms embargo would add new incentives for the development of nuclear arms in South Africa: an eventuality we are at pains to head off.

In short, while a gesture may now be inescapable—indeed, in our unctuous talk about human rights we seem to have talked ourselves into an embarrassing position—American policy should be addressed above all to the realities of internal South African politics. Symbolic pressure from the outside may gratify South Africa's critics in the Security Council. But it will be but another burden for those of the political and business community inside that embattled country who are working to avert South Africa's political isolation from the West. That seems to us the immediate and crucial danger. And from such isolation, down the road, emerges the further danger that ideological conflict could become explosively mixed with racial conflict. Sanctions usually solve no problems. In this instance, they could bring others in train.

BALANCE(S) OF POWER: PART VII(b)—SOVIET TACTICAL AIR POWER

HON. JOHN BRECKINRIDGE

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 31, 1977

Mr. BRECKINRIDGE. Mr. Speaker, today's selection for the Balance(s) of Power series on Tactical Air Forces presents a substantive look at the Soviet tactical air arm, frontal aviation. The article, "Soviet Tactical Airpower," appeared in the Soviet Aerospace Almanac—March 1977—published by Air Force Magazine. The author, Colin Gry of the Hudson Institute, describes the organization and trends in the capabilities and doctrine of frontal aviation in the sector where the United States has greatest and most immediate cause for concern—NATO.

A complementary strength which receives due attention from Mr. Gray is the extensive ground-based air defenses being increasingly integrated with Soviet ground forces.

In sum, the article shows that there are emerging offensive and defensive TAC air capabilities which create Soviet strengths that must be offset if NATO forces plan to succeed in their mission.

Mr. Gray's article follows:

SOVIET TACTICAL AIRPOWER

(By Colin Gray)

While public attention in the West has tended to focus on the momentum of the Soviet strategic-forces buildup and the emergence of a blue-water naval capability, the no less dramatic improvement in Soviet tactical airpower has thus far failed to attract comparable expressed concern. Very often, the ominous turn-about in Soviet tactical airpower, or Frontal Aviation (*Frontovaya aviatsiya*), achieved since the late 1960s is subsumed in general references to "the growing threat in Europe."

That threat is indeed growing, as the current debate over NATO's possible vulnerability to a surprise attack attests, but by far the most dramatic shift in Warsaw Pack capabilities has lain in the change in orientation of its tactical air component. As recently as three years ago, some supposedly authoritative commentaries on the military posture of the Warsaw Pack took easy comfort from the then-traditional observation that there was a major favorable asymmetry for NATO in the rival, in-theater, air orders of battle. That pleasing thought was followed, typically, by an equally traditional reference to the clear *defensive* attitude of Pact Frontal Aviation. Whether or not there remains a favorable asymmetry in the theater air balance for NATO may be debated (and *not* just in terms of the rival aircraft inventories); what is beyond debate is that Soviet Frontal Aviation is well into the process of transforming itself from a force designed primarily to ensure local air superiority as a protective umbrella over Pact armies and their tactical and deep rear areas into a force capable of posing a truly major offensive threat to NATO ground forces and

their infrastructure throughout the European theater.

Although this discussion is focused on the Soviet element in the tactical air dimension in Europe, such an analysis makes no sense, if it is divorced totally from consideration of Soviet views of theater war. Soviet theater-war doctrine is nothing if not imbued with the "combined arms" spirit. The changes evident in the posture of Soviet Frontal Aviation speak loudly, if not always with total clarity, to Soviet expectations concerning the course of a war in Europe. The essential backdrop to this article is the realization that the Soviet Union does have a distinctive concept of theater war. Soviet strategic forces appear to be designed (even overdesigned) to serve, in the first and possibly only instance, as a counterdeterrent to the United States escalating a theater conflict to a homeland-to-homeland strategic exchange. The more robust that strategic counterdeterrent, the less inhibited Soviet military planners need be in their conduct of war in Europe.

THE AIR ORDER OF BATTLE

The Soviet Air Forces, VVS (*Voyennovozdushnyye sily*), have three components: tactical or Frontal Aviation, FA (*Frontovaya aviatsiya*); Long-Range Aviation, DA (*Dal'nyaya aviatsiya*); and Military Transport Aviation, VTA (*Voyenno-transportnaya aviatsiya*). The other major components of Soviet airpower, the air defense forces—PVO Strany (*Voiska protivovozdushnoi oborony strany*), and Naval Aviation, AVMF (*Aviatsiya voyennomorskogo flota*)—are, respectively, a separate service and an integral part of the Soviet Navy. In principle, the division of responsibilities between these five airpower components is fairly clear, but in practice major problems might arise. PVO *Strany* is charged with the defense of the Soviet homeland and the superior direction of the air defense resources of Warsaw Pact allies. However, Frontal Aviation also has a major air defense mission, and it is not inconceivable that, in the context of a war that had not touched Soviet territory or airspace directly, Frontal Aviation might be provided some assistance from PVO *Strany* and the medium-bomber resources of DA. The point of these remarks, aside from illustrating some plausible consequences of Soviet military organization, is to remind readers that Soviet (and some Pact-allied) Frontal Aviation does *not* comprise the totality of the air threat in and about Europe.

The deployment of Frontal Aviation (FA) matches closely that of the Ground Forces that it is designed to serve—indeed, FA, operationally, is subordinated to the front commander. Like the Ground Forces, FA is deployed by military district within the Soviet Union, and by "groups of Soviet forces" in four Warsaw Pact countries. In the event of war, it is envisaged that each Soviet "front" would have its assigned Air Army (VA). A "front" comprises a group of from two to seven armies, each army with three to four divisions.

Before examining what is known concerning the Warsaw Pact air order of battle in 1977, it is useful to outline a "typical" VA. The typical VA, supporting a "front" or a forward military district that might plausibly come to function as an operational "front," would dispose two fighter-bomber divisions and three interceptor divisions, with each division having three regiments of three squadrons each. (A squadron may have from twelve to sixteen aircraft, while the regiment would hold up to fifteen additional aircraft as an operational reserve.) The precise numbers cited below are to be treated with some reservation. They relate to a peacetime (though reasonably war-ready) deployment, they should decline marginally as a consequence of modernization, they change on a week-by-week basis for routine reasons, *and* they could alter quite markedly in a matter of a very few days in response to crisis stimuli.

The deployment of Soviet Frontal Aviation in Europe in 1976–77 is approximately as follows:

Designation (where known), assigned to, number of combat aircraft	
16th Va, Group of Soviet Forces in Germany	1,100
37th VA, Northern Group (Poland)	350
— Central Group (Czechoslovakia)	100
— Southern Group (Hungary)	275
13th VA, Leningrad Military (District (MD)	200
30th VA Baltic MD	300
1st VA, Byelorussian MD	300
57th VA, Carpathian MD	350
17th VA, Kiev MD	100
— Moscow MD	200
15th VA, Odesa MD	250
34th VA, Trans-Causcasus MD	300
Total	3,825

Frontal Aviation deployed in the Asian USSR is roughly 1,675 combat aircraft, for a grand total of 5,500. In addition, the Warsaw Pact allies contribute close to 2,300 combat aircraft, of which East Germany has 350; Poland, 750; Czechoslovakia, 500; Hungary, 150; Romania, 300; and Bulgaria, 250.

The Pact air forces of Eastern Europe are very heavily focused on the air defense mission. They are equipped predominantly with elderly MiG–17s and Su–7s and with the more modern MiG–21. The only Pact-allied air force to have been provided "third-generation" attack aircraft is Poland, which is reported to have ten squadrons of the variable-geometry (VG) Su–29 (or Su–17 when deployed with Soviet FA). Therefore, with only minimal exceptions, Pact-allied air forces should properly be viewed more as westward air defense extensions of PVO Strany, than as substantial additions to the strike capabilities of FA.

Before discussing the new aircraft types being deployed by FA, three distinctive emerging threats, complementary to the aircraft capabilities of FA, must be cited. First, the Soviet Ground Forces enjoy the services of a dense inventory of all-altitude, surface-to-air missile (SAM) defenses. These defenses, organic to the Ground Forces, release air resources for strike and reconnaissance missions, although, as specified below, they do pose major air battle management problems. Second, for deep strike missions, or for missions in a very hostile environment, FA is backed up not merely by the DA, but also by a force of 600 M/IRBMs (500 SS–4 MRBMs and 100 SS–5 IRBMs)—a force that appears to be on the brink of modernization with the deployment of the mobile and MIRVable SS–X–20 IRBM. NATO does not have a counterpart to this M/IRBM force, which is deployed on Soviet soil. Third, FA has begun to deploy a new assault-transport/gunship helicopter, the Mi–24 Hind (*see photo of the Mi–24 gunship on p. 98*). A large-scale delopment program for this system is under way. It has been reported that seventy-plus Hinds are deployed with the 16th VA in two regiments at Parchim and Stendal in East German. Should the Soviet Union decide that the helicopter gunship has a promising future as a close-support (and particularly anti-amour) weapon, FA aircraft resources could be released for other missions.

CAPABILITY TRENDS

It would be difficult to exaggerate the change in the air threat (and the threat to NATO air) over the past decade. The Soviet Union has not so much switched the focus of its FA to offensive missions as added new offensive capabilities to an evolving posture that retains a very strong air defense commitment, and shifted a good fraction of the air defense burden from FA to the organic SAM defenses of the Ground Forces. As general points, it is worth noting that the operational aircraft holdings of FA have increased by thirty percent since 1969, and that the overwhelming majority of tactical aircraft types currently in production are optimized for ground attack rather than air superiority missions.

Soviet air doctrine unequivocally retains its commitment to the early achievement of air superiority, and that commitment seems to be as genuine as it is sensible. But Western observers have to be impressed with the facts of the evolving air order of battle of FA. That evolution, as yet incomplete, is undeniably in the direction of a posture that accords ground attack (and relatively deep penetration for such attack) at least equal priority with local air superiority.

Until the 1970s, the ground-attack aircraft of Soviet FA have been characterized by short range, low payload, and a severe deficiency of electronic counter-measures (ECM). Recent developments have altered the ground attack profile of FA. The new Fencer-A, Flogger-D, and Fitter-C, in that order of importance, give Soviet FA a low-level interdiction capability that previously was missing. The VG Fencer-A, the first post-war Soviet aircraft type to be designed specifically for ground-attack missions, can reach all NATO targets within the European theater. Range-payload tradeoffs are, of course, complex, but by way of elementary example the Fencer-A can carry a payload of 6,000 pounds over an operating radius of 600 miles. In Western terms, the Su-19 Fencer-A may be thought of as a slightly scaled-down version of the F–111. With its terrain-avoidance radar and its laser range-finder, the Fencer-A, flying in a lo-lo-lo mode, poses a novel threat to NATO. Between 200 and 250 Fencer-As are now in service with FA in Europe.

Some 1,200 to 1,300 MiG-23S (Flogger-B) and B (Flogger-D) now are deployed with FA. These systems, with Fencer-A, will form the backbone of FA over the next decade. Flogger–B, the air-superiority version, is armed with a 23-mm twin-barrel GSh–23 cannon and four infrared and radar-homing AA–7 Apex and AA–8 Aphid air-to-air missiles. Flogger-D, the ground-attack version, has a six-barrel 23-mm rotary cannon, a laser designator, and terrain-avoidance radar. Flying in the exacting lo-lo-lo mode, Flogger-D would have a plausible operating radius of 250 miles. The Su–17/20 Fitter-C, a VG development of the Fitter-A, attest both to the Soviet interest in the ground-attack role and to dissatisfaction with the performance of the now-obsolescent Fitter-A. Fitter-C is a far more versatile aircraft than was its A model predecessor, above all in its takeoff and landing requirements. The Su-17/20, unlike the Su-7, can operate from emergency short fields for crisis and wartime dispersal.

Although Western sources tend to disagree on many details concerning Soviet FA, there is a marked and important consensus on the following conclusions: a major modernization program is under way with its primary focus on the improvement of ground-attack capabilities; traditional air-superiority missions have not been abandoned to the SAM system of the Ground Forces, impressive though those are. The Flogger-B is optimized for air defense tasks, while the Su-17/20 (Fitter-C) would appear to have air defense as an important secondary mission.

In addition, the days of clear NATO ECM (and ECCM) superiority are now definitely past. Soviet FA is capable, in large numbers, of flying *really* lo-lo-lo profiles so that ECM and ECCM is scarcely relevant; of enjoying ECM escort; and of deploying effective ECM onboard strike aircraft. Furthermore, Soviet

FA aircraft are housed on the ground in very hard shelters, and FA has the use of close to ninety major airfields in East Germany, Poland, and Czechoslovakia (and many more emergency dispersal fields).

Soviet FA has a small deployment of MIG–25 Foxbat-Bs (perhaps twenty aircraft) at Brieg in Silesia. This system, and the "A" interceptor version, have been the subjects of much ill-informed comment. Lt. Viktor Belenko's defection in 1976 with a Foxbat–A of PVO *Strany* settled most of the disputes over the technical characteristics of this system, and also raised questions of much wider importance. Above all, perhaps, Belenko was emphatic as to the total dependence of the pilot of a Foxbat–A upon positive ground control. If, reflecting the limitations of onboard radar and operating "style," it should prove to be a fairly general characteristic of Soviet air intercept operations that pilots are not permitted to proceed in the absence of real-time instruction, a major potential Achilles' heel in the effectiveness of FA (and PVO *Strany*) has been revealed and invites exploitation.

Overall, Soviet FA is evolving in a direction and at a pace that should give pause to those American commentators who have been in the habit of using the theater air balance as a major argument to excuse manifest deficiencies in NATO's ground forces.

GROUND-BASED AIR DEFENSES AND FRONTAL AVIATION

In the past decade there has been a major Soviet drive to provide all-altitude *organic* air defenses for the Ground Forces, which will provide continuous cover even for fast-moving armored forces. NATO's tactical air certainly has the capability to penetrate those defenses, but such a claim could mislead the unwary. Reasonably cohesive ground-based air defenses (in a fluid battle situation any air defense system is going to suffer some loss of cohesion, no matter how mobile it is supposed to be) on a scale and with the quality of those integral to the Group of Soviet Forces in Germany (GSFG), must impose heavy "virtual attrition" upon an enemy. Even if few kills are achieved by such a system, SAM-suppression sorties and ECM equipment represent sorties not flown against Soviet armor and loss of payload to that end. The principal mission of the Soviet mobile SAM and automatic cannon systems is not to shoot down aircraft. Rather it is to prevent NATO's tactical air from intervening decisively against the armored offensive in the critical opening days of a war. In short, the mission is to keep the damage imposed by NATO's tactical air down to a level that does not arrest the momentum of the attack.

The benefits to the Soviet forces of their dense SAM and tube antiaircraft artillery deployments are as obvious as are the costs. The benefits include the release of some Frontal Aviation for strike missions, and some reduction in the anticipated scale of the NATO tactical air threat. (FA need not be tied closely, as a general rule, to providing protective cover for the Ground Forces.) The costs include the diversion of Ground Forces resources to defensive as opposed to offensive shock-power roles, and the creation of major problems in air battle management. Despite careful planning friendly air traffic control, and despite reliable IFF equipment, virtually every NATO exercise—not to mention the graphic evidence provided in the Middle East in October 1973—shows that each side is going to lose a number of aircraft to its own ground-based air defenses. (Some recent NATO exercises have shown a higher kill rate against friendly aircraft than even the Syrians managed to achieve against the Israelis in 1973!) The more hostile the air defense environment, the greater the number of friendly aircraft that will be destroyed.

Theoretical solutions to this problem are not hard to devise, but they may fare ill in the confusion of a major war in Europe, with Soviet mobile ground-based air defenses deployed irregularly and fairly deep in NATO territory. A drastic though effective Soviet solution would be to adopt a "switch on/switch off" procedure for the SAMs and mobile cannons, with the ground-based air defense systems—at different times—being instructed to assume that everything in the air is either friendly or hostile. Such a procedure might rest upon an exaggerated assessment of the fault-proneness of IFF equipment and routines, and might overestimate Soviet unwillingness to accept aircraft losses to friendly action. But whatever the chosen Soviet solution or solutions, it is probably correct to claim that in many instances FA will be posed as many, if not more, problems by the impressive organic air defenses of the Soviet Ground Forces as by NATO air defenses. Soviet air doctrine attempts to minimize these problems by prescribing that interceptors operate only about 10,000 feet.

Notwithstanding the apparent fact that the Soviet military has opted for an air defense organic to the Ground Forces that might be capable of self-sufficiency *vis-à-vis* NATO's tactical air, FA does maintain (*and modernize*) a major force of manned interceptors. Confident NATO analysts should bear in mind that late models of the MiG–21 performed very creditably over North Vietnam (at least by comparison with the kill-ratios achieved by American pilots in "MiG Alley" over North Korea), that the VG MiG–23S (Flogger-B) would be a very formidable opponent, and that some of the resources of PVO *Strany* might be invoked on very short notice for combat duty in the European theater. American critics of SAC's manned bomber force would do well to recognize that the greater the manned bomber/standoff missile threat to the Soviet homeland, the less likely would it be that PVO *Strany* would release aircraft in aid of FA in Europe.

The accompanying diagram and table (*see p. 64*) indicate the character and density of the organic air defenses of the Soviet Ground Forces.

THEATER WAR

The marked improvement in the FA ground attack capability matches the discernible trend in Soviet doctrine for theater war. It is probable that Soviet military planners are not wedded to a single idea with respect to war in Europe—"one-variant war," as Nikita Khrushchev's rigid nuclear orientation was disparagingly termed by some Soviet military professionals. Whatever the circumstances of the outbreak of war, and whatever the scope of Soviet ambitions, the refurbished FA promises to be an asset of increasing value. The complementary and essential triplet of missions—reconnaissance, interceptions, and strike—will need to be accomplished in a European war at any level, and of any character.

Soviet theater-war doctrine is evolving, under the pressure of new theater and strategic capabilities, but this evolution should provide little comfort for Western governments. On the one hand, it is true both that the Soviet Union has purchased the military option of being able to wage a sustained nonnuclear campaign in Europe and that there are some signs that could be indicative of a willingness to wage a very restrained theater-nuclear war. Above all else, perhaps, the appearance of nuclear-capable artillery could mark a fairly dramatic change in the Soviet view of the proper role of nuclear fire support.

On the other hand, across-the-board modernization and augmentation of theater-war capabilities could sensibly be viewed in the West as evidence of Soviet determination to be able to do better what they had already planned to do. Also, and this is a point that merits widespread attention and debate, Soviet "style" in theater war should, to an important degree, reflect Soviet perceptions of the likelihood of an American strategic nuclear response to a NATO-European disaster. In the context of conflict in Europe, Soviet strategic forces should be seen, in the first instance, as a counter-deterrent. The kind of ordnance carried by FA, its depth of penetration, and the character of its targets, will depend in significant part on the credibility of American strategic nuclear intervention. Many factors should serve to restrain the theater-nuclear fire plan of the Soviet Union, but current trends in the strategic balance make it unlikely that the prospects of American strategic nuclear action will be one of them.

Although it is not possible to be certain just how the Soviet Union would prosecute a war in Europe, the following points are suggested by the diverse evidence available: a preplanned attack would be launched without prior reinforcement, so as to maximize surprise; the attack would be designed to unfold very rapidly; the Soviet objective would be victory in the theater; the Soviet decision on when, or whether, to introduce nuclear weapons would depend on NATO actions, the program of the offensive, and the Soviet understanding of the war's political character. With regard to nuclear weapons, the Soviet Union: has developed a concept of theater (nuclear) war; does not share Western ideas of escalation; sees nuclear weapons as being complementary to the primary territory-acquiring/holding function of Ground Forces; and believes, by way of contrast to NATO, that the character of a war should determine the choice of weapons and the manner of their use, rather than vice versa (the Western academic strategic heresy).

It is entirely possible, though far from certain, that the Soviet Armed Forces would execute their theater-nuclear fire plan as an immediate precursor to the Ground Forces' offensive. In this case it is more likely than not that most high-value NATO fixed targets would be struck by Scud-B and Scaleboard short-range ballistic missiles, and by M/IRBMs. The principal initial roles for FA would be preattack reconnaissance, the attack upon mobile targets (and particularly nuclear-capable weapon systems), and forward interception of NATO manned aircraft that escaped the first (missile) blow.

In the event of a Soviet decision to attempt a non-nuclear invasion—probably in the hope that a non-nuclear phase would last long enough to enable the first and second echelons of attacking armor to complete preattack assembly and breakthrough operations without nuclear attention by NATO—FA would have, plausibly, as its primary missions paralyzing NATO's C^3 and reducing NATO's means of nuclear delivery. Given the very capable organic air defenses of the Soviet Ground Forces, and the fact that those forces are still extremely artillery-heavy, the immediate necessity for FA to beat back NATO tactical air and provide close ground support should not be overwhelming.

More likely, if a good measure of tactical surprise were achieved by the Warsaw Pact offensive, Soviet FA—aside from its task of blunting the potential NATO theater-nuclear response—would be most usefully applied to isolating NATO's forward-deployed formations. A high-intensity conventional interdiction campaign against the tactical and deep rears of NATO forces could both deny (or help deny) reinforcing NATO units' access to the battlefield and, perhaps above all, help deny forward NATO forces an orderly fighting withdrawal. Fencer-As, Fit-

ter-Cs, Flogger-Ds, and perhaps Backfire-Bs could—flying lo-lo-lo profiles—isolate the battle area and create chaos in the NATO command/communication structure. In a nonnuclear environment, it would only be the penetrating aircraft of FA that could accomplish this in a very short time-span.

It is probably true to claim that tactical airpower cannot compensate fully for gross deficiencies in the holding capacity of Ground Forces. However, Soviet military planners have to assume, prudently, that NATO's tactical air might just be capable of making the difference between victory and defeat in the first days of a war. In other words, a commitment to a fairly expansive notion of air superiority is probably dictated by analytical considerations as well as by tradition. However, as noted earlier, *the* task for FA is to facilitate the operations of the Ground Forces. It could well be sufficient for FA to be active in the counterair role early in the war, in order to reduce the NATO sortie rate and the effectiveness of the sorties that were completed. In a nonnuclear context, FA, in combination with ground-based mobile (and fixed) air defenses, could not totally paralyze NATO's tactical aviation. But, the new ground-attack capability should help markedly to reduce the NATO sortie rate—and hence the weight of firepower that NATO could bring to bear promptly upon Soviet armor and transport/communication choke-points.

FA can properly be appraised only against the background of Soviet combined-arms doctrine for the conduct of theater war, and in the context of Soviet perceptions of the theater implications of trends in the strategic balance. Just as the improvements in Soviet Frontal Aviation are an integral part of the momentum of Soviet military modernization, so the appropriate NATO response must encompass all aspects of military posture.

TARGET AND DISASTER COVERAGE FOR OATS

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 31, 1977

Mr. ABDNOR. Mr. Speaker, on July 22 I offered an amendment to the 1977 farm bill, which was before the House for passage. My amendment was adopted without dissent and for the first time authorized full target price—deficiency—and disaster payment coverage for oats, placing oats on par with other major crops under the farm program.

To insure adoption of the amendment, however, it was necessary to make oats target and disaster coverage discretionary on the part of the Secretary of Agriculture. In other words, express congressional authorization was provided for oats to be fully included in the farm program—even to the point of disaster and deficiency payments for the 1977 crop—but the secretary was given the option whether to make the payments.

Since adoption of the amendment, my staff and I have endeavored to obtain assurances from USDA that it would be implemented for the 1977 as well as the 1978 crop. One of my specific efforts was a letter to the Secretary, in which 13 of my colleagues joined me in pointing out some of the potential adverse impacts if oats is not given equal consideration:

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 15, 1977.

Secretary BOB BERGLAND,
U.S. Department of Agriculture,
Washington, D.C.

DEAR BOB: We wish to convey to you our deep concern over the implications of the 1978 farm program if oats target price and disaster payments are not included, pursuant to the discretionary authority which will become law when the Food and Agriculture Act of 1977 is signed. We trust you are inclined to exercise this authority but we want to be certain you are aware of our interest in this matter.

Purely on the basis of equity, there is no logical ground for excluding oats from farm program coverage which is extended to other crops. Oats is an important crop in each of our Congressional districts, while in some it rivals wheat and corn in total value of production. The loss of income due to a disaster or disastrously low market prices is no less a burden on a producer whether it results from farming oats or one of the crops for which target and disaster coverage is mandated.

Equity is the simplest but by no means the only argument in support of oats target and disaster payments. It is our contention that the ramifications extend beyond the narrow economic self-interests of a producer or a Congressional district to include considerations of national importance. If oats is excluded from full program participation, we foresee the distinct possibility the following events will transpire:

1. Production of oats will drop dramatically. The incentive of target price protection for wheat, corn, barley and sorghum but not oats will force many farmers to abandon the growing of oats. This will be a decision not dictated by the marketplace but rather the administration of a Federal program.

2. The reduced availability of oats will result in higher prices that will be passed on to consumers of oat products. It has been estimated that the additional cost will be $.20–$.25 per bushel or $100,000,000 to $125,000,000 per year. With many of the oat consumers in the low to lower middle income range, the burden will fall most heavily on the group that can least afford it.

3. The acreage forced out of oats will not disappear. Rather, it will be diverted to wheat, corn, barley and sorghum—grains that will have target price protection. In the upper midwest, the major shift will be from oats to wheat. Treasury payments for wheat will surely be higher. In fact, with the current world wide surplus of wheat, the odds favor a greater payment exposure per acre of wheat than for oats.

Granted, these are only rough guesses and oversimplifications of what may actually occur. One thing is certain, however—excluding oats from program coverages afforded other crops constitutes a dislocation of the market which can only be expected to have adverse effects. Considering current and foreseeable market conditions, along with the new "allotment" provisions of the 1977 Act and especially set-aside requirements, the adverse effects on the oats market will surely be greatly magnified.

We urge, therefore, that you act as expeditiously as possible to implement full program coverage for oats upon enactment of the authority contained in the Food and Agriculture Act. The authority to make oats target and disaster payments for 1977 will be provided, and we respectfully suggest conditions justify that it be exercised. In any event we're sure you'll agree it is in the national interest that the program be fully implemented for 1978, and we look forward to your favorable response.

With warmest personal regards,

Sincerely,

Larry Pressler, Charles E. Grassley, Richard Nolan, Arlan Stangeland, Tom Hagedorn, Tom Harkin, Charles Thone, James Abdnor, Albert H. Quie, Mark Andrews, William Steiger, Berkley Bedell, Avin Baldus, Keith G. Sebelius.

Unfortunately, the reply I have received appears to close the door on the possibility of making disaster and deficiency payments on the 1977 crop and is less than optimistic as far as the 1978 crop is concerned:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., October 26, 1977.

Hon. JAMES ABDNOR,
House of Representatives,
Washington, D.C.

DEAR JIM: This is in response to your letter concerning 1977-crop oats being eligible for target price and disaster payments.

The Food and Agriculture Act of 1977 as passed by Congress provides the Secretary with authority to designate a payment rate for oats for the 1977 crop as well as for the 1978 through 1981 crops. The conferees indicated in their report that they did not anticipate that the Secretary would make use of this authority for the 1977 crop.

It would be difficult at this late date to authorize target levels for deficiency and disaster payments for the 1977 crop of oats. Oats have not been considered a program crop under previous legislation and therefore have not required an allotment or establishment of program yields. In addition, most of the crop has already been harvested, resulting in a lack of adequate information for determining disaster payments. These are the reasons for excluding the 1977 crop of oats from program benefits.

We have not decided exactly how oats will be treated for program benefits in 1978.

Sincerely,

JAMES C. WEBSTER,
Director, Congressional and Public Affairs.

Mr. Speaker, I recognize there may be procedural problems in implementing the amendment, particularly for the 1977 crop. There is simply no logical or justifiable reason for allowing these potential problems to result in discrimination against oats farmers, though.

I am disheartened by USDA's apparent unwillingness to give oats farmers the equal consideration they deserve, but I do not intend to abandon my efforts to persuade them to do so. The following comments which were made by me and my colleagues when my amendment was accepted on the floor of the House remain as valid today as they were then:

AMENDMENT OFFERED BY MR. ABDNOR

Mr. ABDNOR. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ABDNOR: Title V, section 501, page 15, line 12, after the words "by the Secretary," insert the words "data and" and on page 16, line 21, after the word "Secretary," insert the words oats and".

Mr. ABDNOR asked and was given permission to revise and extend his remarks.)

Mr. ABDNOR. In support of this amendment I would make the following points:

First. Corn, grain sorghums, barley, and wheat are eligible for target price payments—but not oats.

Second. In times of depressed market prices target price protection on other commodities but not oats constitutes a distortion of the market which may induce farmers to plant more acres of the other crops which are already in surplus and less of oats.

Third. Although I think the area of South Dakota where my farm is located as a winter wheat area, according to USDA's Agricultural Statistics, 1976, yearbook, in the recent years of 1973–75 South Dakota farmers planted nearly three times as many acres to oats as to winter wheat and harvested four times as many bushels of oats.

Fourth. In recent years, South Dakota has been the second largest producer of oats—Minnesota has been first in production of oats.

Fifth. Four States, South Dakota, Minnesota, North Dakota, and Iowa, respectively, plant about 50 percent of the national acreage of oats. South Dakota plants about 15 percent of the total alone. It is easy to understand why my colleagues may have overlooked oats since it may not be important to them, but it is a very important crop to South Dakota farmers.

Sixth. Nationally, in 1975, the acres harvested and value of production of corn, wheat, barley, soy beans, grain sorghum, and oats are:

	Acres (millions)	Value (millions)
Corn	77.9	$14,204.7
Wheat	69.66	7,497.43
Soybeans	53.6	7,000.34
Grain sorghum	15.48	1,782.31
Oats	16.65	940.24
Barley	8.7	913.95

Seventh. In South Dakota the acres harvested and value of production for corn, wheat, barley, soybeans, grain sorghum, and oats are:

	Acres (thousands)	Value (millions)
Wheat	3,003	$253,65
Corn	2,250	199.8
Oats	2,230	137.37
Barley	570	38.87
Soybeans	337	37.07
Grain sorghum	237	18.99

So in South Dakota oats is far more important than barley or grain sorghum and nearly as important as corn.

Eighth. Nationally, in 1975, the total value of production of oats was $904,244,000 and sales totaled $863,944,000. The bulk of the oats is consumed on the farm—404,683,000 bushels used for feed and seed versus 252,-179,000 bushels sold.

I suppose this could be used as an argument against providing target payments on oats, but I do not believe it is a valid argument because the economic value of the commodity on the market remains the same whether it is sold or not. Also, target payments for wheat, corn, barley, and grain sorgum are made on yield times allotment acres—not bushels sold.

Finally, much of the corn and barley produced is consumed or planted on the farm too. For example, in 1975 corn for feed and seed totaled 2,096,355,000 bushels versus 3,670,636,000 bushels sold; barley for feed and seed totaled 102,934,000 bushels versus 280,046,000 bushels sold; and grain sorgum for feed and seed totaled 176,612,000 bushels versus 581,842,000 bushels sold.

Ninth. As implied by the large percentage of oats consumed on the farm, target price and disaster payment coverage will provide a measure of additional assistance to America's stockmen, who have been among the most embattled of all farmers in the economic and environmental throes of drought and disastrous market prices. It will, in a small way, help to offset the negative gains they have been forced to endure in feeding animals for which they will be unable to recover their cost of production.

Tenth. In the 1977 farm bill we are moving to an allotment system based on current plantings, rather than historical and outdated allotments. In this context, and particularly with dismal market prospects, the target and disaster coverage inducement to plant wheat, corn, barley, soybeans and grain sorgum will be greatly magnified.

Eleventh. The market price for oats has dropped precipitously in recent months. According to USDA's Agricultural Marketing Service, the Minneapolis market price peaked at $1.93 per bushel in June 1976, declined to $1.62 in November of last year, and continued to decline to $1.38 in June of this year, the latest month for which their statistics are available.

Locally, in my hometown of Kennebec, S. Dak., the drop has been even more dramatic. The manager of the local elevator quoted me a price of 74 cents per bushel yesterday, down from $1.68 only 3 months ago! And prospects are bleak for any improvement in the market in the foreseeable future.

Mr. Chairman, I urge adoption of this vital amendment to bring greater equity to the oats farmers of America and a greater degree of uniformity to the farm program.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. ABDNOR. I am happy to yield to the gentleman from Washington.

Mr. FOLEY. I thank the gentleman for yielding.

This amendment has the support of the administration, and I personally accept the amendment and urge its adoption.

Mr. SEBELIUS. Mr. Chairman, will the gentleman yield?

Mr. ABDNOR. I yield to the gentleman from Kansas.

Mr. SEBELIUS. I thank the gentleman for yielding.

I commend the gentleman on his amendment and accept it on this side.

Mr. ABDNOR. I thank the gentleman.

Mr. ANDREWS of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. ABDNOR. I yield to the gentleman from North Dakota.

Mr. ANDREWS of North Dakota. I thank the gentleman for yielding.

I want to commend the gentleman on this amendment. This amendment is long overdue, because oats is one of the principal crops in certain areas of the country that cannot grow other food grains. It is an amendment which represents equity and fairness to those of us in the Upper Great Plains. I want to commend the chairman of the committee for accepting the amendment.

Mr. ABDNOR. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Dakota (Mr. ABDNOR).

The amendment was agreed to.

Yes, Mr. Speaker, on July 22 the amendment was agreed to, but whether our action will have any real benefit to America's oats farmers remains to be seen. In terms of the national population these farmers are relatively few in numbers. In terms of the national agricultural production there are other crops which are grown in greater quantities and are of greater total value. In the final analysis, though, I am afraid the determining factor may simply be that oats is grown in relatively few States and congressional districts.

But oat production is vital to certain areas, like South Dakota, and to certain farmers it is an indispensable means of livelihood. It is possible to question the overall wisdom of Government involvement in agriculture; but, given the farm program which is currently in force, there is just no excuse for continuing to discriminate against oats and, more particularly, those who produce it—not to mention their customers, who will also suffer from a failure to give oats full program coverage.

I urge those who agree to contact Secretary Bergland. It is not too late, but it is apparent USDA is going to require a considerable degree of prodding to overcome their current bias against implementation of the oats amendment.

FEDERAL STUDENT AID AND HOW IT GREW

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 31, 1977

Mr. FORD of Michigan. Mr. Speaker, the Subcommittee on Postsecondary Education, which I chair, has been conducting a series of hearings in an effort to determine the adequacy of coordination at the Federal level of student assistance prgrams. We are finding, as I suspected, that there is virtually no coordination here in Washington of funds distributed to students by the three large bureaucracies which deliver the bulk of the assistance—the Office of Education, the Veterans' Administration, and the Social Security Administration.

This is in large part due to the piecemeal manner in which the major programs were developed and have grown.

The Chronicle of Higher Education, in the second of a series of articles on student assistance by Anne C. Roark, recently contained a history of these programs and outlined some of the problems which my subcommittee has been reviewing. I am anxious that my colleagues have the opportunity to read this article, particularly as we look forward to the reauthorization of student aid programs in 1979.

I am particularly interested in the concluding remarks in the article by Ivan W. Parker who was the first financial aid officer at the University of Michigan. Mr. Parker foresees "a kind of GI bill for every college student because costs are going up too fast, and college is too much a part of the American dream for it to be any other way." His conclusion is an idea we have discussed in the subcommittee hearings, and I hope my colleagues will read this interesting and thought-provoking article.

I include the article "Federal Student Aid and How It Grew" in the RECORD at this point:

[From the Chronicle of Higher Education, Oct. 11, 1977]

FEDERAL STUDENT AID AND HOW IT GREW

(By Anne C. Roark)

ANN ARBOR, MICH.—Thirty years ago, when Ivan W. Parker awarded scholarships to a handful of academically talented students at the University of Michigan, he and his secretary worked alone in a condemned theater on the campus.

Today the university's $50-million student-aid operation is housed in a new office building. It resembles a small-town bank or tax-accounting office, with rows of analysts working from complicated computer printouts. They prepare checks to pay all or part of the cost of education for nearly 13,000 financially needy students, many of whom could not attend college without the assistance.

Mr. Parker is still here, and what he has seen and done since 1947 reflects the dra-

matic changes that have taken place in undergraduate financial aid all over the country.

"For one thing, maybe students are not as grateful as they used to be," Mr. Parker said recently. "Many of them have stopped thinking of financial aid as an honor. They've learned to expect that, if they need support for a college education, they should get it.

"In the olden days, I actually saw the people who donated the money. And I could walk across campus and call the students by name.

"We were pretty much on our own, able to use our own good judgment. The bad thing was that the process wasn't as open as it is now

VOLUMES OF COMPLEX REGULATIONS

"I often felt that some schools would give their award to Mary Brown just because her dad was on the school board. We just didn't ever hear about Thomas Jones, who was a much better student, or the student who really needed the money.

"Now an anonymous federal bureaucracy tells you what you have to do—in volumes of complex regulations. It is much more open. But there is, I guess you'd say, a price to pay for that.

"Students are not known by their names any longer. They have computer-identification numbers. I'm lucky if I see anyone I know."

These days Mr. Parker handles the university's athletic and privately endowed scholarships. Some three-dozen other people in his office concentrate their efforts on the federal government's student-assistance programs.

Undergraduate student assistance in the United States has grown from a tiny business in the 1940's to a multi-billion-dollar industry in the 1970's. Much of that increase has come from the federal government.

Only one major federal student-assistance program existed in the 1940's—the GI Bill. Now dozens of undergraduate student-aid plans are in operation, providing about $11-billion a year. The assistance takes the form of loans, grants, tax exemptions, and subsidized work programs, administered by such mammoth federal bureaucracies as the Veterans Administration, the Office of Education, and the Social Security Administration.

On college campuses, the change in status of student financial-aid programs has been dramatic. The ten-fold growth in student assistance that the University of Michigan experienced in 30 years is not unusual.

In fact, for many institutions, undergraduate financial aid has become one of their single largest sources of income.

Even today, however, many faculty members and administrators admit they give little thought to how that income is handled, and by whom.

Certainly, in 1947, when Mr. Parker became the University of Michigan's first financial-aid officer, few people knew much about what he did. He had only a handful of colleagues around the country and no real office of his own.

"In the early years, financial aid—what there was of it—was handled by a large number of offices at most institutions," said James White, director of financial aid for nearly 20 years at Oberlin College.

"If students wanted loans, they went to the treasurer, who reached in his desk drawer. If they wanted to work, they went to the dean of men or women, who might have gotten them jobs.

"If they wanted scholarships, they went to the dean of admissions, or the registrar, or, maybe, the dean of the college."

Few extremely needy students ever got to college in those days, according to most officials.

"When they hired me in 1947," said Mr. Parker, "the university was looking for a high-school principal, which I was, who liked to talk—which I did. They wanted me to tell young people about scholarships—so in a sense I was a recruiter. I went around and spoke at a lot of high-school assemblies to spread the word."

The "word" at many institutions in those days was that academically talented students could compete for a limited number of merit scholarships.

The idea of honoring (some observers said "paying") students for their academic accomplishments went back to the founding of the nation's oldest colleges and universities.

According to early records, most of those scholarships were supported by private gifts. Awards were made to recruit the talented—whatever their financial status.

Only in relatively recent times did the federal government become involved in subsidizing the cost of students' education. Even then, however, the support did not necessarily go to the students who needed it.

Those who were assisted were ones whose education could contribute to pressing "national goals," according to a 1976 study, *Congress and the Courts*, by Lawrence E. Gladieux, director of the Washington office of the College Entrance Examination Board and Thomas R. Wolanin, staff member of the House Subcommittee on Select Education.

WORK-STUDY STARTED IN 1930'S

As the national goals changed, the study pointed out, so did the federal government's student-aid policies.

Between the Civil War and World War II, for example, most federal support was concentrated in such areas as international exchange and vocational rehabilitation.

In the 1930's, the government added a work-study program as a way for the country to maintain a college-educated population despite the Great Depression.

During World War II, a federal student-loan program was established to encourage young persons to enter professions that had manpower shortages.

It was not until 1944—only three years before Ivan Parker arrived at Michigan—that financing a college education for large numbers of students became a major concern of the federal government.

When Congress passed the Servicemen's Readjustment Act of 1944, which created the GI Bill of Rights, many politicians argued that it was in the "national good" to provide special educational benefits for war veterans. Many, the argument ran, had had their college educations interrupted and needed "special assistance" to become fully productive citizens.

ERA OF $50 SCHOLARSHIPS

With the advent of the GI Bill and a number of other national student-assistance programs in the 1940's, colleges and universities began to pay more attention to their financial-aid services. Separate scholarship divisions were established and financial-aid officers, usually part-time, were designated.

Among the programs that Mr. Parker administered at Michigan was an annual $50 regents-alumni scholarship, which he used to recruit high-school students around the state.

By 1955, his office was also overseeing a national, privately financed program, the National Merit Scholarship. Underwritten by the Ford Foundation and sponsored by corporations and universities, the Merit Scholars program has continued to offer national competitive scholarships for undergraduate students for more than 20 years.

In the mid-1950's, however, the limitations of merit scholarships and the veterans' entitlement program were becoming increasingly evident to many aid officers.

Mr. Parker remembers describing to his colleagues and the board of regents the effect, around 1955, of the $50 merit awards:

"We're giving some scholarships to people who don't need them. To other people who need a lot of money, we're giving too litte—and, as a result, they can't come."

By the late 1950's, Michigan, like many other institutions, began to change its student-aid policies.

"There was still a scholarship for each high school in the state," said Mr. Parker. "But only some were set at $50. Others were set at the cost of tuition, some were at more than tuition, some at double tuition.

"It meant," he said, "that the quality student would at least get a $50 bill, even if his dad was president of the bank. But if the son of the bank janitor was also good, he might get enough money to enable him to do some part-time work, and be able to attend college."

Despite the individual efforts of institutions, it was not until after the Soviet Union launched the first man-made satellite, Sputnik, in 1957 that the U.S. government embarked on a broad program of financial aid for college students. The intent was to increase the pool of talented youths for the nation's universities, which politicians were afraid had fallen behind Russia's.

At the time, federal student-assistance programs consisted of the Korean War extension of the GI Bill and graduate training and fellowships for a limited number of students in specialized disciplines.

The new policy took shape in the form of low-interest student loans, enacted by the National Defense Education Act of 1958. The law and its name clearly stated the "national goals" of the federal support:

"The Congress hereby finds and declares that the security of the nation requires the fullest development of the mental resources and technical skills of young men and women."

FEAR OF A FREE RIDE

It was also what "sold" the loan program to Congressmen and Senators who feared that the loans, particularly with their special cancellation provisions for future teachers, would be little more than a "free ride" for students.

(Only much later, after the idea of aiding students had become firmly entrenched in the American way of life, was the name of the loan program changed to National *Direct* Student Loans.)

To administer the new loan program, colleges and universities all over the country began setting up separate financial-aid offices, bringing together under one roof—separate from other offices on their campuses—the various state, institutional, and federal programs.

How far the federal government would take the notion of need-based student assistance became a major political issue in Washington and on the campuses through the late 1950's and early 1960's.

Ironically, much of the pressure for increased federal assistance came from outside the campuses.

"Partly as a result of the success of the GI Bill, the attitudes of the American society toward postsecondary education began to change," said the recent report of an H.E.W. task force. "The desire for postsecondary education rose among middle and lower-income families, where previously it would have been considered unrealistic."

The enrollment boom that hit colleges and universities in the 1960's temporarily suspended the student-aid arguments in Washington and the state capitals. Lawmakers faced the more pressing problem of financing campus building projects and developing new institutions, particularly community colleges.

ARGUMENT FOR STUDENT CHOICE

During the early years of the Kennedy Administration, private colleges pressed the argument that students should have not only "access" to a college education, but also

"choice" among institutions—whatever their cost. Increased federal assistance for students, they felt, could bring that about.

Associations, representing state colleges and universities lobbied against federal support for students.

"Our early reservations came from fear of too much intervention, too much paperwork," Mr. Parker recalled. "Personally, I thought the more dollars I could find, the better it would be for students."

The state institutions' arguments were supported by conservative Congressmen, who continued to object to giving even the neediest students a free ride.

Complicating the issue of federal support for education was a longrunning debate over the constitutional ability—and desirability—of extending direct government support to church-related schools and colleges.

The result was that legislative proposals for need-based, non-repayable student grants were rejected in the early 1960's, but by 1964, the federal government had committed itself to new national goals—the "Great Society" and its "War on Poverty." The goals included a new policy of educating all persons, poor as well as rich, and the money to pay for it.

By 1965 the government was publicly committed to a policy of "equal opportunity for all persons" with the passage of major civil-rights legislation the year before. Education was seen by many politicians as the way to provide that opportunity, and student-assistance programs as the means to pay for it.

DRAMATIC SHIFT IN 1965

A College Work-Study program was enacted as part of President Lyndon B. Johnson's Economic Opportunity Act of 1964, guaranteeing more jobs for needy college students.

The most dramatic shift in federal policy came with the Higher Education Act of 1965, which authorized the first federal program of non-repayable grants of up to $1,000 to students from low-income families. Known as the Educational Opportunity Grant program, it was the predecessor of the current Supplemental Opportunity Grant program.

In response to the need for assistance for middle-income families, the act also created the Guaranteed Student Loan program. Under its provisions, the federal government began to insure loans made by banks and other lending agencies, thus encouraging them to lend to needy students who could not get the credit or collateral normally needed to secure commercial loans.

A variety of other programs to aid students also began to appear. In 1965 workmen's-compensation programs, such as the Social Security Benefit plan, extended monthly benefits to the unmarried 18- to 21-year-old children of deceased, disabled, or retired workers.

$3 BILLION INCREASE

As a result of all these new programs, by 1965 the federal government was spending $3.5-billion for student assistance—nearly $3-billion more than 10 years before.

As greater strain was placed on the federal budget in the 1970's, pressure grew for federal and state governments to increase student assistance.

Many educators said they were committed to the "package" approach to financing students' education. The financial-aid packages, which provided a combination of grants, loans, and work for needy students, provided the flexibility to reach a large number of students with differing financial needs.

Therefore, with the passage of the Education Amendments of 1972, which made major revisions in the Higher Education Act of 1965, new federal programs were added to the old ones. For example:

A new grant program, called Basic Educational Opportunity Grants, was created to insure that eligible college students would at least have a basic sum of money to attend college.

A Supplemental Opportunity Grants program was created to succeed the Educational Opportunity Grant program for needy students who required additional assistance—for example, to attend particularly expensive institutions.

A new State Student Incentive Grant program was also established in the 1972 Amendments to match funds appropriated by the states for their own scholarship programs.

STATE AID FOR PRIVATE COLLEGES

While the states had traditionally supported educational programs at state-run institutions, the incentive-grant program helped establish them as a major source of student financial assistance to be used at private and public institutions. The state grants provided nearly $650 million in grants last year to students.

The state programs tried to fill a role that, many aid officers believe, the federal government has avoided: giving students enough money to attend the colleges of their choice.

Nonetheless, many financial-aid officers have charged that the state student-assistance programs are less than equitable for many students. For example, half of all student-aid funds, according to the National Association of State Scholarship Programs, are provided by only five states: New York, Pennsylvania, Illinois, California, and New Jersey.

The allocation of federal funds, while based on strict formulas, has also led to gross inequities among institutions, aid officers say.

"Old, well-established programs with aggressive financial-aid officers consistently bring in the largest portion of the federal dollar for their students," observed one financial-aid officer, "Students in newer institutions or places with less aggressive aid officers are shortchanged."

Many students and their parents also argue that they still are not awarded enough money to keep pace with tuition increases. They also complain that the process of applying for aid is overly complex. Middle-class students feel they are overburdened with loans. Poor students find it difficult to obtain adequate loans.

Most say that efforts to improve the situation have been of little help.

POOR CREDIT RISKS

The Student Loan Marketing Association, for example, was created by the 1972 Amendments as a government-sponsored, privately run corporation to increase the number of student loans. While it has increased the money available for those loans, many banks and other commercial lending agencies continue to consider the neediest students poor credit risks.

Students also contend that little has been done to enforce the consumer-information provisions of the 1976 Amendments, which tried to protect students by informing them of their rights and responsibilities.

Financial-aid officers complain bitterly that their staffs are overworked and understaffed.

For each student who applies for assistance, they say, numerous and complex application forms must be processed. Each federal, state, and private program that institutions adminster requires applications and lengthy reports.

Beyond the large, undergraduate federal programs, financial-aid offices must also juggle graduate-student fellowships, public-health loans, athletic scholarships, alumni donations, and foundation grants.

INCONSISTENT REGULATIONS

Not only are financial-aid officers burdened with the problems of getting the money for their students; they also are plagued with what one observer called "inconsistent" and "overly intrusive regulations" to carry out the programs.

"With each program, more students could attend college," said P. Jerome Cunningham, direct or financial aid for 20 years at Wesleyan University. "Yet with each new federal program came a new set of complicated regulations.

"At first the federal government didn't tell us how to run the programs at all. Then they told us too specifically—in too much complex detail—who could get the money and how the institutions had to handle it."

Although some federal agencies have begun to simplify their requirements; they contend that many of the requirements are necessary to hold down the growing problems of fraud and abuse in these multi-billion-dollar programs.

Congress also has been concerned. One result has been major alterations in the Guaranteed Student Loan program, aimed at reducing the spiraling default rates and eliminating fraud.

Dramatic changes were also made in the GI Bill, re-authorized by Congress last year, in an attempt to cut down the abuses. The new measure required institutions to limit the enrollment of veterans in courses of study and to restrict their participation in new courses.

"The result of all these burdens for many financial-aid officers is that they have to follow formulas. Everything has to be fed into the computer. But some of these cases the computer just can't handle," said Paulette Stallworth, one of Mr. Parker's colleagues at the University of Michigan.

FUTURE AID FORMULAS

How those student-aid formulas will be altered in the years ahead is the central question for students, institutions, and the government.

While financial-aid officers, parents, and students say they would like to see funds for the programs increased dramatically, President Carter wants to cut down spending.

Legislators, for their part, say they are reluctant to make major changes in either direction.

Despite volumes of reports, they say, few data are available to show them what effect cutting a program, or increasing it, would have on specific students in specific parts of the country.

Barring a fiscal crisis or a drastic increase in fraud in the programs, Congress will not have to face that question again until 1979, when some of the major programs will expire.

But for Mr. Parker, who has been around longer and seen more than most, the direction is clear:

"My feeling for years has been—and I still believe it—that, as the time goes on, we're going to have college without tuition—a kind of GI Bill for every college student. Costs are going up too fast, and college is too much a part of the American dream, for it to be any other way. I have little worry about this country being over educated. And, despite their talk, I think the American people feel basically the same way."

DISADVANTAGED GROUPS, INDIVIDUAL RIGHTS

HON. ROBERT S. WALKER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 31, 1977

Mr. WALKER. Mr. Speaker, one of the most important rights that we, as Americans, possess, is the right to be judged as an individual, not as a member of some

group. Nowhere is this right more important than in the field of education, for if there is to be true equal opportunity in our society, admission to college and professional schools must be on the basis of a person's qualifications, not his race or religion.

In the past, this was not always the case. Too often, quotas were used by universities and colleges to set a limit on the number of people from certain ethnic and religious backgrounds who would be admitted—regardless of how many were qualified. Finally, after a long struggle, these quotas were eliminated. American students were at last judged only on the basis of their individual talents rather than on racial, religious or ethnic grounds.

Lately, however, there has been a disturbing revival of these quotas in the name of affirmative action. Once again, race is being substituted for academic qualifications in determining who will be admitted to our institutions of higher learning.

As a sponsor of H.R. 9286, a bill to eliminate the Federal sanction of such quotas, it is my belief that such racial bias serves only to increase racial and religious prejudices to the long-term detriment of our free society.

The editors of the New Republic, in a recent editorial, examined some of the many problems that are caused when quotas are used to discriminate against any group. I commend this thoughtful analysis of the reverse discrimination problem and suggest it is something my colleagues may wish to read:

[From the New Republic, Oct. 15, 1977]

DISADVANTAGED GROUPS, INDIVIDUAL RIGHTS

The *Bakke* case raises hard issues and divides Americans in unaccustomed ways. The legal issues are especially difficult and sometimes, from a layman's perspective, a little mysterious. But the issue of college and professional school admissions, and of "benign" discrimination generally, cannot be resolved by jurisprudential technicalities. We have to think about the character of American social life and about the moral limits on politics as well as the constitutional ones. The justices of the Supreme Court will have to do this too, for it is unlikely that the law will yield any clear answer to the questions Allan Bakke has put, unless it is elucidated in its largest sense.

Let us begin simply. The United States is a pluralist society: multi-racial, religiously and ethnically heterogeneous, a world of group experiences. We have not melted—and won't. Our social life requires mutual respect among divergent cultures. At the same time, we are a nation of individuals. Whether we accept or reject the communities from which we have sprung, we make our own way, we stand for ourselves. Our destinies are personal rather than collective. That is why rights refer to individuals under the constitution, and not to groups.

A pluralist society, a nation of individuals: the two are sometimes in tension, but they also go together. It is individualism that makes pluralism possible. If we had no recognized identities except as members of groups, every political disagreement and every personal conflict would raise the specter of civil war. And it is pluralism that makes individualism bearable, for if men and women stood only for themselves, without communal support, they would be frighteningly lonely and vulnerable.

So we strike a balance between two basic values, and it is a crucial feature of this balance that group identification should be voluntary. It may be the result of pressures internal to the group, but it should not be pressed on the individual from outside. In the U.S., we don't carry identity cards. We are uneasy with every kind of racial, religious, and ethnic classification—even when our sense of solidarity is very strong. To be classified is to be judged as a member, not as a particular person. That is doubly threatening: first to individual rights and then to the integrity of communal life. Classification for a purpose other than sheer description implies a hierarchy of classes. So it drives people to choose their groups, if they can, for reasons other than their private feelings and commitments. And it penalizes them if they can't or won't make the rewarded choices. Mostly they can't and won't: racial, religious, and ethnic identities are not easily shaken off. But the situation is no better when they can and will, for escaping, "passing" and even assimilation all have their own humiliations.

These are easy truths. Because American pluralism is distorted by racial and economic inequality, we know a great deal about the pain caused by hierarchial classification. Above all, we remember the quotas and other forms of officially sanctioned discrimination of only a few decades ago, which assigned individuals to privileged and unprivileged groups and required that they be treated differently without reference to their individual differences. Liberals fought a good fight against these evils in the 1940s and 1950s, a fight they substantially won. The quota system dismantled in those years was an especially crude defense mechanism for established white and Protestant elites. Members of those elites did not claim that Jews, Catholics, and blacks were untalented—if so, quotas would have been unnecessary—but rather that too many talented Jews, Catholics, and blacks were dangerous to the social order. They were wrong about that; the end of quotas achieved only a modest social transformation. It opened American society to individual advance and ethnic assertion. It cleared the way for more important struggles over the distribution of wealth and power. Ironically, it is because those struggles have not in fact produced a new social order that quotas are once again an issue in American life.

The new argument for quotas has this form: pluralism and individualism, it is said, are not enough. Some groups are so radically disadvantaged, have been hurt so badly by past oppression, that their members cannot develop their talents or compete successfully for places even in an open society. Openness is itself repressive; it serves to maintain the status quo. A new classification is necessary, a kind of "reverse discrimination." The last must be first, at least for a time, until they have thrown off the burdens of their history. There must be privileges for the oppressed: as quotas were once used to inhibit, now they must be used to guarantee the mobility of disadvantaged groups.

One reason to be wary about this argument is that it's not very likely that quotas can accomplish their putative end. The old quota system worked to keep new blood out of established elites; the new system might pump new blood in. But as an instrument to raise a whole community out of isolation and poverty, the quota system is unlikely to work. Quotas will guarantee mobility only to a small percentage of the members of disadvantaged groups, many of whom could make it on their own. It is unlikely to improve the lot of black or Hispanic-Americans generally. That would require a more far-reaching and radical strategy, aimed above all at achieving and sustaining full employment in the American economy. "Full employment," writes Robert Lekachman, "sucks into the labor force men and women who now struggle on welfare, food stamps, Social Security, and unemployment compensation. It pushed up the wages of low-paid people. . . . It is an especial boon to blacks, Hispanics, teenagers, and women. . . . A long spell of full employment would substantially narrow existing wide differentials between the earnings of these groups and those of white males."

The radical strategy would involve a major challenge to a kind of privilege that is more important than that of race and ethnicity, the privilege of wealth. Holding 15 percent of available medical school places open for "minorities" is, to say the least, less challenging—and that is the secret behind the attractiveness of quotas to many people who once would have thought 15 percent much too high a figure. This is why conservative university trustees and administrations find something like quotas a great convenience, and why liberal faculty members generally do not. The figure, of course, is low enough, if it is conceived as a way of avoiding more serious measures on behalf of (say) black teenagers, 50 percent of whom are unemployed and unlikely to be candidates for admission to medical school, or to find any other road out of the deprived life.

But a full-employment strategy is not in the cards, despite President Carter's campaign promises. Meanwhile quotas and other officially sanctioned racial restrictions on opportunity are already in force.

At the University of California Medical School at Davis, Allan Bakke found that he was excluded, because of his race, from competing for 16 of the 100 available places. These 16 places were reserved for members of minority groups, who were judged by a separate admissions committee employing its own set of standards. What are we to make of this sort of thing? It is, first of all, the work of well-meaning people, and it has a limited but laudable purpose: to increase the number of black and Hispanic-Americans practicing medicine, to build up the black and Hispanic middle class. But the method employed is one that was once used to uphold inequality and to set limits on individual self-development, and those who would reintroduce it carry a heavy burden of argument. There are a number of questions to which they have not yet given reassuring answers. Not to be coy, we don't think there are any reassuring answers. Assuming that this sort of arrangement is endorsed by the Supreme Court and duplicated in other areas of American life:

What groups should be helped? Black Americans are the easiest to talk about, for their ancestors endured years of slavery and radical oppression. But they are, even now, not the only newly favored group, and the logic of the argument cannot stop with them. Quotas must be numerical, and the numbers are fixed with reference to demographic proportionality. Any group that is not represented among doctors, lawyers, college professors, corporation executives, airline pilots (or, for that matter, among the members of symphony orchestras or the writers for The New Republic) in strict proportion to its representation in the population at large can plausibly be called disadvantaged. And if one such group is helped, why not another? If there are two admissions committees, why not three, or six? For the moment, there are *ad hoc* understandings that enable us to draw the line. But these are virtually certain to break down once lawyers, administrators, and officials from HEW get to work.

In any case, proportionality seems to use a sterile ideal. Isn't it strange to insist that a just society requires the exact replication of the social hierarchy in each of its groups? The values of pluralism stand in the way of such a program. Of course pluralism does not require that the Jews should all become doc-

tors, Protestants become bankers, and the blacks go into domestic service. But groups are different, and under egalitarian conditions they will generate different occupational profiles so long as individual members are free to make their own choices and so long as the rest of us treat them like everyone else.

How shall group membership be defined and enforced? If there are advantages to be had in this or that racial or ethnic classification, then ambitious men and women will seek to be appropriately classified. Quotas invite deception, and then they invite administrative checks on deception. This sort of thing is new in the U.S. In general, we allow individuals to label themselves. Census takers, for example, are instructed not to challenge anyone's ethnic self-identification. But already there are signs of change. In San Francisco, according to an article in the *Village Voice* of August 8, "53 officers calling themselves American Indians were summoned before the Equal Opportunity Commission and asked to prove their claim. All 53 were reclassified as white." This new style in "passing" is comic enough, though it is easy to imagine more disturbing cases. In Massachusetts, the Division of Personnel ruled, apparently on the basis of a "visual inspection," that a police officer who claimed to be black actually was white. How could its officials be sure? If there are to be official advantages dispensed on the basis of race, the official dispensers will have to find ways of making sure who qualifies, because the right of self-identification quickly would make a quota system unworkable. How will they do it?

How much help is called for? It isn't always a kindness to admit students to schools whose normal standards they cannot meet. This problem is not much talked about openly in our educational institutions, but it is already there, and festering. It is especially cruel to the large numbers of officially disadvantaged Americans who *can* meet the normal standards to brand then as if they can't. Their genuine achievements may not be recognized by their peers and perhaps not even by themselves. There will be problems of morale. There will be unnecessary dropouts. And at the end of the road, there will be too many low scores on medical boards, bar exams, civil service exams, etc. And then, predictably, it will be said that the tests have to be changed to make sure that the right numbers of the right people pass them. Indeed, standards for admission to this or that profession are no more absolute than standards for admission to this or that professional school. They can be fiddled with. They, too, have been fiddled with in the past. Why not, as with admissions committees, have two medical boards? Or two bar exams? There are no easy answers to questions like these, once one has started down the road to racial preference.

And finally the toughest question of all: *At whose expense is help to be given?* Quotas always impose costs: if places are held for one group of people, members of other groups are necessarily excluded from them, or rather individuals have been excluded because they happen not to be members of the group with newly ascribed privileges. More generally, if one group is given an official advantage, all others necessarily suffer a disadvantage. The system can hardly be designed so that only "oppressors" are excluded, as if we know who the oppressors are. The fate of young men and women is at stake, and they are classified according to their racial or ethnic identity, not according to their moral conduct. In fact, under present circumstances, it is the marginal candidates among white applicants who will lose out. And if it is true (or partly true) that academic marginality connects with social disadvantage, then it is the "white ethnics" who will lose out. Among the deprived of this country, white people still predominate. The real meaning of racial preference is not that the last should be first, *but that the last should be pushed ahead of the next-to-last*. And that is a grossly unfair way, even if it is a typical way, of dealing with social problems.

Quotas simply shift injustice one notch up the social hierarchy, leaving the basic inequalities of American society untouched. And they reintroduce racial and ethnic classifications that are certain to intensify and exacerbate the experience of inequality. They are more likely to foster than to overcome resentment—in part because they make resentment a plausible, even justifiable emotion.

This is the point on which the Supreme Court should focus its attention. For Allan Bakke's claim is precisely that he has been victimized because of his race. His claim isn't that he has a right, or that anyone does, to be admitted to medical school (though admission is the remedy he seeks), but rather that he has a right to be considered for admission as an individual, on the basis of his own qualifications. No doubt, universities and professional schools apply many criteria in the admissions process. And in our pluralist society, these criteria will have a differential impact on different groups. But it is critical to the success of a liberal pluralism that group membership itself is not among the permissible criteria of inclusion and exclusion.

This argument against quotas applies, unfortunately, to much of the effort that goes under the name of "affirmative action." Too often the difficult task of penerating the encrustations of past disadvantage in order to treat a candidate on his or her true merits is abandoned in favor of a simpleminded favoritism applied on the basis of race or sex. Any system that confers advantage on the unadorned basis of group membership—even if the particular individual has suffered none of the disadvantages for which the group is supposed to be compensated—is fatally flawed whether or not it features fixed numerical quotas.

But affirmative action need not be so simpleminded; and of course often it isn't. There are many ways of reaching out to the members of disadvantaged groups that are not only unobjectionable but positively called for in a society with a history of economic and racial oppression. The purpose of affirmative action is not and cannot be to guarantee advancement for the members of a particular group. Its purpose is to break down the patterns of prejudice and discrimination that once went along with and often have outlasted the old official discrimination; to make sure that talented individuals, from every social group, have a chance to shine. Admissions officers must look for personal strength—pride, energy, enterprise, compassion—with the understanding that these qualities are differently expressed in different cultures, and tested far more harshly in some parts of our society than in others. But personal strength, by definition, is an individual trait, not a group trait. It cannot be recognized unless all members of all groups are treated as individuals. It is difficult to do that, with any degree of fairness, in an inegalitarian society. But that is what doing justice requires. Beyond that, it still remains to create a society where pluralism is undistorted by hierarchy and where justice is easier to do.

THE CARGO SECURITY ACT

Hon. Theodore M. (Ted) Risenhoover

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 31, 1977

Mr. RISENHOOVER. Mr. Speaker, the problem of cargo security is a deep concern of mine and prompted me to cosponsor the Cargo Security Act proposed by our distinguished colleague, Mr. PICKLE. The need is dramatized in a story in the Daily Oklahoman of October 27. It said:

> Authorities in Oklahoma were looking Wednesday for a missing truck loaded with 15,000 pounds of military small arms ammunition that was to have passed through the state but is more than a day overdue at its Texas destination.
>
> Law enforcement officials said the cargo is on a semi trailer truck and is enough "to start a small war."

The story continues to explain that the truck was operated by the United Agricultural Transportation Association of America Marketing Co-op of Lynwood, Calif., and Ennis, Tex.

This brings up two problems, besides renewing the urgency of enactment of the Cargo Security Act.

First, the use of nonregulated co-op truckers for hauling this Government cargo is already illegal. Yet, we find the DOD is using this unregulated carrier to transport ammunition and explosives. The Daily Oklahoman story points up the disastrous nature of using these carriers. For years, the Interstate Commerce Commission has fought these illegal carriers while the Department of Defense was using their services. Last year, DOD assured me that it had quit using illegal co-ops and was channeling the delicate business of explosives' transportation to qualified, certified carriers. ICC officials, who feared and fought co-ops, claimed a victory.

Second, the DOD then strongly supported an application by four certified carriers who wanted to haul weapons and ammunition on irregular routes, which helps on both security and economy.

For months, the ICC—the same agency of Government which damned DOD for using co-ops—has refused to act on the authority requested so that regulated carriers can handle the shipments properly. An ICC hearing judge even issued an opinion opposing the authority—which the Justice Department, has blasted.

Mr. Speaker, the incident of the missing truckload of small arms and ammunition shows that this kind of bureaucratic ineptness by the ICC and the DOD's move back to illegal co-op carriers is serious business which threatens the lives and welfare of the people.

If the American people have doubts about their Government, they have good cause. If the American people have reasons to fear the effectiveness of their Government, they have good reasons.

Occasionally, the story hits the press. But, in the agencies, departments, and commissions of Washington, there are answers which demand courage and action. This is a good example.

FINANCIAL AID FOR COLLEGE STUDENTS

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 31, 1977

Mr. OTTINGER. Mr. Speaker, today, I am inserting in the RECORD the remain-

ing article from Sylvia Porter's recent series on financial aid for college students:

YOUR MONEY'S WORTH—UNUSUAL SOURCES OFFER COLLEGE AID

(By Sylvia Porter)

The number of young Americans whose families (and whose own earnings) can finance a higher education without outside financial aid is shrinking steadily as costs soar year after year. But there are sources of help, both from private and public sectors of our society—many of which you easily may overlook.

Several little-known or generally underestimated sources of private aid follow in addition to yesterday's list:

1. If you're a member of a labor union and have a child needing financial aid, check your labor union's local office.

2. If you work for a corporation, find out from its personnel office whether your company offers scholarships to children of employes. Ask corporations in your area and others identified in financial aid guides whether they also award scholarships to students who have no connection with the company. The number of corporations doing this may be a pleasant surprise to you.

3. Check civic and fraternal organizations for those sponsoring scholarships. They range from American Legion posts or auxiliary units to the Elks, Lions, Masons, Parent-Teacher Associations, and Daughters of the American Revolution. In most cases, scholarships are for children of members or those living in the community in which the organization is located. Investigate each source, however. In some instances, the children of members are the ones not eligible for awards.

4. If you're a member of a minority category, you often can get help from national organizations that offer scholarships and/or special counseling and referral srevices.

Among them are: Aspira Educational Opportunity Center, 214 West 14th St., New York, N.Y. 10011 (Puerto Rican); Bureau of Indian Affairs, Higher Education Program, Box 8327, Albuquerque, N.M. 87108; League of United Latia Citizens, National Education Service Centers, 400 1st NW, Washington, D.C. 20001; National Association for the Advancement of Colored People, 1790 Broadway, New York, N.Y. 10019; National Urban League, 55 E. 52nd St., New York, N.Y. 10022.

5. If you are a woman, you, too, have a few options in addition to the usual sources of student aid. Just since last year, athletic scholarships for women have soared 67 percent, with colleges and universities now offering more than $7 million for this purpose alone! The Business & Professional Women's Foundation in Washington, D.C., has programs for women only, such as the $50,000 Clairol Loving Care Scholarship Program. Clairol awards grants up to $1,000 for full-time and half-time women students over 30 years old. The Helena Rubenstein Foundation awards grants, but gives them to colleges and universities. Then the schools themselves select the women deemed worthy of receiving the awards.

You can get more details on opportunities for minorities and women from "Selected List of Post-secondary Education Opportunities for Minorities and Women." The booklet is free, is available from Carol Smith, Department of Health, Education and Welfare, Office of Education, Regional Office Building 3, Room 4092, Washington, D.C. 20202.

6. Perhaps your own family ancestry is your key to financial assistance for a higher education. Check the ethnic organizations that would be appropriate for you to contact.

Japanese students may be eligible for an award from the Japanese American Citizens League; Greeks, from the Daughters of Penelope; Armenians, from the Armenian General Benevolent Union of America. The possibilities warrant your pursuing further.

7. And finally, your geographic location alone might get you a scholarship. If, for instance, you're a graduate of a Colorado high school, the Gates Foundation may be able to help you. If you live near a Green Giant food processing plant, check on programs sponsored by the Green Giant Foundation. If you're a woman attending school in Southwestern Michigan, you may be able to win a scholarship from the Phillip Morris Scholarship Fund, 100 Park Ave., New York, N.Y. 10017.

CHECK AT COLLEGE ABOUT FEDERAL AID

(By Sylvia Porter)

A vast amount of financial aid for college costs, no matter what its source, is awarded through colleges. So the financial aid director at the school you want to attend is probably the best single source of information about available aid and application requirements.

Start by asking the college aid administration about the application process. You'll find vital basic facts in "The College Handbook," a directory of over 2,000 two- and four-year colleges, available for $8.95 from the College Board Publication Orders, Box 2815, Princeton, N. J., 08540.

Major federal government programs—largest and broadest aid programs of all, offering more than $3 billion in aid in 1977 alone—are outlined in a fact sheet, called "Five Federal Financial Aid Programs." It's free from the U.S. Office of Education, Room 1069, 400 Maryland Ave., SW, Washington, D.C. 20202.

1. Basic Educational Opportunity Grants (BEOG): A full $1.7 billion will be available to more than a million students under BEOG this year. A Basic Grant is awarded directly to your child for use at any college. Eligibility depends on your family's financial circumstances. but what you receive depends on the cost of the college chosen, with grants averaging $900 and running as high as $1,600 a year, or half the total cost of attendance, whichever is less.

Freshmen to seniors who are half- or full-time college students are eligibile and students at private, vocational and technical schools or who have high school equivalencies are eligible, too.

You're almost sure to qualify if your family's before-tax income is less than $13,000 a year, but apply even if it's somewhat higher, especially if yours is a large family.

You can now use a single form to determine your eligibility for this and other forms of aid. When you fill out the Financial Aid Form (FAF) as part of your application, check the appropriate "yes" box for a Basic Grant. Call toll free (800) 638-8700 for more facts about Basic Grants.

2. Supplemental Educational Opportunity Grants (SEOG): This program has $250 million this year for needy students. Awards range from $200 to $1,500 a year up to $4,000 for a four-year and $5,000 for a five-year program. The grant may not exceed one-half the total cost of college, nor one-half the aid provided. Colleges match the SEOG amount with grants from their own funds, loans and/or jobs. Get more details from the college financial aid director.

3. College-Work Study: This program provides summer and part-time jobs for students as part of the aid package. By working 15 hours a week while attending classes, or more during breaks and summer, your child can earn about $600 a year.

4. National Direct Student Loans: Although administered at colleges, 90 percent of NDSL money comes from the U.S. government. Financial aid directors determine who is eligible and amounts to be loaned, up to a maximum of $2,500 for students in the first two years and a total of $5,000 for a B.A. degree. Graduate or professional students can borrow up to $10,000. Students enrolled at least half-time can qualify; repayment and interest (3 percent a year) don't begin until nine months after you stop your studies. All or part of your loan may be canceled if you enter certain fields or the military.

5. Guaranteed Student Loan Programs (GSLP) and Federally Insured Student Loans (FISL): The U.S. government guarantees loans to students attending college at least half-time. Some states demand that students attend full-time to be eligible for state loan guarantees.

Students at vocational, trade, etc., schools also are eligible. The money, up to $2,500 a year or $7,500 total for undergraduates, is loaned by private lending institutions. If you need to borrow more than $2,000 or if your family's adjusted income is more than $25,000, your need must be verified by the college financial aid director. Your repayment at a maximum 7 percent loan interest begins nine to 12 months after you leave school. Repayment can be deferred if you join the Peace Corps, the military, or continue your studies.

In addition, you can qualify for Social Security benefits if your parents are deceased, disabled or retired, and if you are unmarried, a full-time student, and under 22. Last year, 800,000 students did qualify. Get details from your nearest Social Security office.

And finally, the GI Bill, although terminated in 1976, is still providing veterans with limited benefits to go to school. Contact your local Veterans Administration office.

STATES AND COLLEGES OFFER STUDENT LOANS AND GRANTS

(By Sylvia Porter)

If you're not eligible for aid through federal programs, you may be able to get help from your state or special college programs—assuming you can prove your need. Have your child pick up a Financial Aid Form from the school counselor and obey all deadlines. State programs offer more than $600 million in grants and many loan opportunities for residents.

1. The State Student Incentive Grant program (SSIG): Via which the U.S. government matches the state's grants to students. SSIG has been a vital program since '72. This year for the first time, all 50 states will share $60 million appropriated, up $16 million over '76. The average grant is $500, the maximum through SSIG is $1,500 a year. Check your scholarship agency in the state capital on such questions as: Can part-time and half-time students get awards, too? Can awards be used only at private colleges, public colleges, or both? Can grants be used at out-of-state colleges? When is the deadline for applications? What are the requirements?

1. College programs: Many have their own financial aid funds they give as part of their financial aid packages of grants, loans, and jobs. Expensive colleges usually have more money than lower cost ones, so in the end, the high-cost school may not be so high.

3. Cooperation Education: This complete educational plan includes career-related work as part of your curriculum. More than 1,000 colleges the nation over offer programs under which you alternate each semester or quarter between full-time study and full-time work. Or the entire student body may take an annual leave to work for six to eight weeks.

At a few schools, nearly all students are in cooperative education programs. For instance, Antioch College in Yellow Springs, Ohio; Northeastern, Boston, Mass.; University of Cincinnati, Ohio; Drexel University, Philadelphia, Pa.; La Guardia Community College, Long Island City, N.Y.; General Motors Institute, Flint, Mich. Working in a field directly related to your course of study is a superb way to get practical experience and ease your way into a better-than-ordinary job for a beginner in the future!

For a free copy of "Undergraduate Programs of Cooperative Education in the U.S. and Canada," write to National Commission for Cooperative Education, 360 Huntington Ave., Boston, Mass. 02155.

4. Loans by colleges: Colleges also may be able to offer you long-term loans at low interest rates and with tolerable repayment schedules, though the amount of the loan may be much less than from other sources. The loans can be short-term, too, or can take the form of postponed or deferred tuition. Interest rates generally compare favorably with rates charged by others; repayment after graduation may be geared to your income. Check directly with the college aid director about these loans and other special payment plans.

5. Other Loan Sources: If you qualify under none of these, you might try such sources of loans as civic or religious organizations credit unions, banks, insurance companies, and last, finance companies. Before you turn to a commercial lender, where rates are usually highest, check your local civic and religious organizations, consult the high school guidance counselor, community center, church, similar sources, and whatever loan your child assumes, get the answers to:

What is the simple interest rate on your loan—or how much will you be paying back, principal plus interests?

What extra charges are involved?

How long do you have to repay your loan and what will your monthly payments be? When do your payments begin?

Can you terminate the loan before your contract expires? How much notice must you give? Are there any penalties for this?

Does the loan contract contain a "balloon clause" under which a larger payment than the rest is tacked on at the end?

Does the contract include a clause providing for "wage assignments" or "garnishing," under which the lender can ask your employer to take out a specified sum from your monthly earnings and send it to the lender if you default on your loan? Turn down any contract that contains such a clause.

Are there any other restrictions on the loan?

TRIBUTE TO CHESTER A. AMEDIA OF YOUNGSTOWN, OHIO

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 31, 1977

Mr. CARNEY. Mr. Speaker, Mr. Chester A. Amedia is retiring from his position as executive director of the Youngstown Metropolitan Housing Authority today. I would like to take a few minutes to pay tribute to this outstanding citizen of my congressional district.

Since he became executive director in 1961, Mr. Amedia has directed the YMHA through a period of growth and increasing responsibility to our community. The authority has grown from 2 housing developments to 11 housing developments, comprising 2,153 housing units. This expansion has led to new initiatives in housing for the elderly and handicapped. Five new housing projects are presently in their planning stages.

Mr. Amedia began his more than 27-year association with the Youngstown Metropolitan Housing Authority while he was attending college. In 1950, he became superintendent of maintenance. He was promoted to the position of director of development, management, and maintenance operations in 1958.

During World War II, Mr. Amedia served his country with distinction. He joined the U.S. Air Force, and served in the Far East. His continually successful combat missions won him several military honors, including the Distinguished Flying Cross on two occasions. He remained in the Air Force until 1974, when he retired with the rank of full colonel.

A strong sense of civic pride has led Mr. Amedia to take an active interest in community affairs. He is former president of the Youngstown Rotary Club, and was chairman of the Youngstown Bicentennial Parade and Bicentennial Commission in 1976. In addition, Mr. Amedia has served on the boards of the Youngstown Area Community Action Council, the Easter Seal Society, and the Society for the Blind. As past president of the Mahoning County Project on Aging, he has encouraged the YMHA to develop housing projects for the elderly.

In recognition of Mr. Amedia's able leadership of YMHA and his other contributions to our community, he was given the Distinguished Alumnus Award by Youngstown State University, where he received his bachelor of science degrees in business administration and education. He has been named "Ambassador of the Year" by the Youngstown Chamber of Commerce. Mr. Amedia's ability to administer YMHA programs was further recognized when he received the Columbus Day Award for outstanding achievements in the field of community housing development.

Mr. Speaker, Chester A. Amedia has been an excellent administrator of the Youngstown Metropolitan Housing Authority, and a leader in making Youngstown a better place to live. On behalf of my constituents, I want to extend my appreciation to Mr. Amedia for his many contributions to our community. He will be missed, but I am sure that he will always respond to calls by the community for his services, counsel, and expertise. We all wish him many years of good health, happiness, and success.

ARGUMENT FOR CONSUMER PROTECTION AGENCY

HON. BOB ECKHARDT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 31, 1977

Mr. ECKHARDT. Mr. Speaker, during the debate on the Consumer Protection Agency, we have often heard that it should be the job of the regulatory agencies to represent the consumers. However, this viewpoint misunderstands the function of these agencies. They are decisionmakers and interpreters of the law and they can perform these functions well only when they are presented with competent advocacy on all sides of an issue.

The following letter from a number of regulators recognizes this proposition and makes a strong argument for adoption of the Consumer Protection Agency bill. I commend this excellent letter to the attention of my colleagues:

Hon. BENJAMIN S. ROSENTHAL,
House of Representatives, Chairman, Commerce, Consumer, and Monetary Affairs Subcommittee of the Committee on Government Operations, Rayburn House Office Building, Room B-377, Washington, D.C.

DEAR MR. CHAIRMAN: It is reassuring to know that some of the opponents of the Agency for Consumer Protection consider President Carter's regulatory appointments so exemplary as to remove any need for an agency for consumer protection.

We think their arguments miss the point. As regulators committed to the fair enforcement of the laws which Congress and the President entrusted to us, we need the benefit of enhanced consumer interest advocacy so that we can best inform our own decisionmaking. We are decisionmakers and interpreters of the law and these functions are performed best when the vigorous and skillfully prepared advocacy of the business interests affected by our decisions is balanced by facts supplied and arguments raised through competent and informed advocacy on behalf of consumer interests.

Each day we are beseiged by the pleadings of the special economic interests affected by our decisions. Through oral presentations, submission of pleadings, formal and informal communications, each regulator is presented with a vision of the world as seen through the eyes of business interests. Since our decisions may well affect their livelihoods, it is entirely appropriate that business interests be afforded their day before the regulators.

Yet we know from past sad experience that even the best intentioned regulator can be worn down by the sheer weight and onesidedness of such pleadings without the presentation of countervailing facts and the vigorous advocacy of countervailing views. No one is suggesting that the opportunity for business to be heard can or ought to be curtailed. But affording the same opportunity to an advocate for consumer interests is dismissed as a radical innovation.

Each of us will have to live with the Agency for Consumer Protection. We hope to be able to draw upon it for information relating to the interests of consumers, and benefit from its argumentation in testing the truth and probity of representations made to us by business representatives. Each of us recognizes that there will be times when the ACP will be critical of our own performance, will challenge the allocation of our priorities and wisdom of our decisions—even the quality of our commitment to the public interest.

Our decisions may be challenged; but we know that decisionmaking in the public interest requires the vigorous clash of competing perspectives. As non-elected officials, we must be held accountable to the public interest—and vigorous, informed public debate is one of the healthiest methods of assuring such accountability.

And so, while we may not learn to love it, we support the ACP and would welcome its participation in our regulatory decisionmaking.

Sincerely yours,

Michael Pertschuk, FTC, Chairman; Dan O'Neil, ICC, Chairman; Joseph R. Fogarty, FCC, Commissioner; Joan Claybrook, NHTSA, Administrator; Daniel E. Leach, Equal Employment Opportunity Commission, Commissioner; Eula Bingham, OSHA, Assistant Secretary; Sidney Harmon, Commerce Department, Undersecretary; Richard Frank, NOAA, Commissioner; Robert Hunter, HUD Federal Insurance Administration, Administrator; Donald Kennedy, FDA, Commissioner; and David Pittle, CPSC, Commissioner.

THE 125TH ANNIVERSARY OF LAW FIRM

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 31, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the fact that the law firm of Price, Postel, & Parma, is celebrating its 125th anniversary and is one of the oldest firms west of the Mississippi River. The following article appeared in the Santa Barbara News Press, October 17, 1977:

125-YEAR-OLD LAW PRACTICE HAS FIRM PLACE IN COMMUNITY

(By Marilyn McMahon)

Although the present members of the firm of Price, Postel and Parma can claim the distinction of practicing in one of the oldest law firms west of the Mississippi and certainly the first in the state, they are celebrating their 125th anniversary in much the same way they have always conducted their business—with quiet dignity.

The firm's long history of uninterrupted practice began when Charles Fernald established his law office in Santa Barbara nine years before the start of the Civil War.

Lured by the Gold Rush of 1849, Fernald, a native of North Berwick, Maine, left his law studies and came to California. The "enchantment" of prospecting soon wore off, and he resumed his legal education in San Francisco.

In 1852, on his way back to the East Coast, Fernald stopped in Santa Barbara and immediately was taken with the sleepy little community. Not much effort was necessary to persuade him to remain and help with law enforcement. Eventually he was named a county judge by the governor of California.

Judge Fernald and his family set the pattern for community involvement among the firm's partners which continues to the present time. His wife, the former Hannah Hobbs of North Berwick, was the founder of Trinity Episcopal Church, and one of their five children, Reginald, was publisher of the Morning Press newspaper.

The Fernald name remains prominent in Santa Barbara history. Their home, a showplace when it was located at 422 Santa Barbra St., has been moved to 412 W. Montecito St., where it and the Trussell-Winchester Adobe are now historical landmarks.

In 1867 Fernald was joined in his burgeoning practice by another Easterner, Jarrett T. Richards, who came to California because of "failing health."

Ironically, he survived 53 more years, and before he died from blood poisoning in an injured foot at the age of 77, he was active in the courts, politics, civic and club life.

Besides serving as mayor of Santa Barbara, he was founder of the exclusive Santa Barbara Club, and was its president for 15 years. He was also first grand knight of the Santa Barbara Knights of Columbus.

A member of the local bar association for 52 years, Richards was the one constant during the period from 1867–1920 as the firm name changed with the addition of partners such as Edmond G. Hammersly, Charles F. Carrier and John William Heaney.

It was Heaney who persuaded his longtime friend, A. C. Postel, to leave his law studies at Hastings College of the Law in San Francisco and join the firm in 1916.

"Jack told me that there was an exceptional opportunity for an ambitious attorney in Santa Barbara," recalled Postel, a healthy and robust 85 years old, as he relaxed in his sunny office.

Although now retired from the active practice of law, Postel spends three days a week in the firm's quarters overlooking the city.

"He advised me to seek admission to the bar immediately. In those days the examination consisted of a series of oral questions on the law posed by a panel of three appellate court judges.

"Looking back on it now, I have no regrets about accepting Heaney's invitation. But I sometimes regret not finishing law school to the point of graduation," the senior member of one of the top law firms on the West Coast commented wistfully.

As a new and thoroughly inexperienced attorney, Postel was paid the "munificent" sum of $150 per month.

"Of course, $150 was worth more in those days than at any time since," he said. "Besides, I don't think the partners could pay much more than that, as World War I was taking its toll on the community."

(Both Heaney and Postel interrupted their practices to join the renowned Santa Barbara military unit known as the Grizzlies. Postel recalled that the unit was "trained with broomsticks in a field near San Francisco" until it was shipped to France. Before returning to Santa Barbara in 1919, he studied international law at the Sorbonne in Paris.)

During his 60 years of practice, Postel, the senior member of the local bar, can remember countless nights when he and his associates went without sleep preparing for a court appearance or writing a brief.

To break the tedium or to celebrate legal conquests, there were occasional trips to the office library, where the most popular book was a tome titled, "California Reports, Volume 35." Carefully placed behind it was a bottle of expensive bourbon.

Harold A. Parma, who was born in Santa Barbara and is nearing his 50th year as a member of the firm, recalls that handball was more frequently used to relax at the end of a long day. The firm built a gymnasium in its Canon Perdido Street office, complete with shower facilities and, of course, a telephone.

Heaney was also responsible for attracting to the firm, Francis Price Sr., a dynamo who played a dominant role in legal, civic and social circles. Price joined the firm in January, 1918, and practiced until just before his death in April 1965.

His father, a judge, died when Price was 10 years old, and the young Price worked his way through school, getting up at 3 a.m. to do janitorial work so he could play on the high school rugby team.

While at Stanford University, his schedule was so grueling—he mowed lawns, cleaned porches, waited on tables and acted as a houseman at a dormitory—that one of the psychology professors used him as a human guinea pig in a study to determine effects of fatigue.

After graduating, and despite his demanding law practice, Price was also active in the Santa Barbara Foundation, Santa Barbara Historical Society, Old Spanish Days, Cottage Hospital, the Old Mission, Community Chest, Santa Barbara Board of Education, St. Vincent's Orphanage and Knapp College of Nursing.

During its colorful legal history, the firm has represented numerous prominent clients—Milo M. Potter, Frederick Forrest Peabody and Maj. Max C. Fleischmann, to name a few. But the single most famous case was the Gin Chow dispute between the city of Santa Barbara and Santa Ynez Valley ranchers over surplus water from the Santa Ynez watershed.

In 1924, F. W. Matthiessen, owner of the great San Marcos Ranch, filed a suit seeking an injunction to prevent any further removal of Santa Ynez water to Santa Barbara and Montecito, where it would be stored in Gibraltar Dam.

After the completion of Juncal Dam in 1928, a similar suit was filed by more than 100 Santa Ynez Valley property owners headed by the legendary Gin Chow, famous Chinese weather prophet of Lompoc. From then on, it was known as the Gin Chow case.

The city was represented by Price and Percy Heckendorf, his associate in the firm of Heaney, Price and Postel, and by W. G. Irving of Riverside, noted specialist in water litigation.

Hundreds of witnesses were called during the six months of trial. Records, maps and photographs, which made up the more than 250 exhibits, weighed more than one ton. The trial transcript covered 10,000 pages.

Airplane photographic surveys were submitted as evidence for the first time in a California court.

An overly simple statement of the legal issue facing the court was that the suit placed in question the right of the city of Santa Barbara and of Montecito to attempt to capture and utilize surplus waters which would otherwise flow into the Pacific Ocean.

Judge Frank Collier of Los Angeles, who heard the case, found that, indeed, they did, a decision reaffirmed by the California Supreme Court in a 39 page decision issued April 3, 1933.

The impact of the victory for Santa Barbara and Montecito was not lost on the local or national press. Locally, the financial benefit to the city was enormous. Had the Santa Ynez interests prevailed, the only alternative to the south coast communities would have been to share in the massive Boulder Dam project with Los Angeles and other areas to the south.

An article in the New York Times pointed out that the decision opened the way for the development of California's comprehensive water plan.

The current eruptions of violence involving the Hop Sing tong in San Francisco's Chinatown stirs a feeling of deja vu for Miss Marian Jones, who came to Heaney, Price and Postel as a file clerk in 1924 and retired in 1972 as office manager of Price, Postel and Parma.

"It was while the firm was occupying offices at 26 E. Carrillo St. that a tong war broke out in Santa Barbara in July, 1926," said Miss Jones, whose alert recollections and trim figure in a pantsuit belie her 80-plus years. "I can remember hearing the shots which were a block away."

Gin Han, American born Chinese merchant and member of the Hop Sing tong, was riddled with 10 bullets in front of 23 E. Canon Perdido St., in the heart of Santa Barbara's Chinatown.

The alleged murderer was Gin Bing Fu, member of the Bing Kong tong. (Termed "benevolent societies" by the Chinese and chiefly known to others through their wars, tongs originally were formed to protect Chinese lotteries and Chinese in the lottery business.)

After the murder, the first of its kind in Santa Barbara, Chinatown's streets remained deserted, doors barred and windows covered. Only those Chinese who belonged to no tong ventured outdoors.

It was the first case in California jurisprudence where occidentals were helped in a murder prosecution of an oriental by countrymen of the latter—tongmen preferred to settle matters their own way.

Atwell Westwick of Heaney, Price and Postel represented the Hop Sings, and W. P. Butcher was attorney for the Bing Kongs. (Both later became Superior Court judges, as did Heckendorf.)

Grand jury hearings lasted two and a half days, during which 14 Bing Kong tongmen stood near the door under police guard, while

six Hop Sings with special guard congregated on the lawn 100 yards away. Because of lack of evidence, no indictment was returned.

A month later bullets flew again when three members of the Los Angeles Bing Kong tong were jailed for attempted murder of Yu Moon, a Hop Sing, as he drove his car on East De la Guerra Street near the police station, which was then in City Hall.

Yu fired back, as did two motorcycle policemen on their way back to the station. A total of 30 wild bullets were fired. Amazingly, the only injury was to a woman who had her ankle grazed while sitting in front of her husband's store at the corner of De la Guerra and Anacapa Streets.

Also vivid in Miss Jones' memory is the day the big earthquake hit on a foggy morning in June, 1925.

"Our offices on the seventh floor of the Granada Building were a shambles, and the building was badly damaged. I walked up the stairs because the elevator was out of order," she said.

Out of the debris she and other members of the staff salvaged a set of code books, a typewriter and a notary seal; added a card table, chairs and beach umbrella; and several hours later, the firm was serving its clients on the lawn of the Lobero Theater at the corner of Anacapa and East Canon Perdido Streets.

The bulging scrapbooks and other mementos of the past kept by this prestigious firm over the past 125 years reflect more than the record of a law practice. They also mirror much of the community's history.

COMMENDS WORK OF LAW ENFORCEMENT OFFICIALS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 31, 1977

Mr. MAZZOLI. Mr. Speaker, I would like to take this opportunity to commend the recent work of law enforcement officials in the District of Columbia and in Louisville.

The District of Columbia Metropolitan Police and FBI officials recently concluded another massive undercover investigation which resulted in the recovery of more than $1 million in stolen goods and $60,000 in illegal drugs.

A similar undercover operation was recently concluded by law enforcement officers in my hometown of Louisville which resulted in the indictment of 256 people who peddled $3.2 million in stolen goods to police officers posing as fences. The Louisville operation was carried out by the Jefferson County Police Department and the U.S. Bureau of Alcohol, Tobacco, and Firearms with financial assistance from the Law Enforcement Assistance Administration.

These officials should be congratulated for their fine work. I hope that their sucessful operations will serve as a model for police officials in other cities.

Below is a recent article from the September 9, 1977, edition of the Washington Post which describes the District of Columbia operation:

D.C. HOODS STUNG AGAIN BY POLICE

(By Timothy S. Robinson and Alfred E. Lewis)

Washington area law enforcement officials announced yesterday that they had been conducting yet another massive undercover operation that attracted scores of criminal suspects who were conned into selling stolen property and drugs to undercover police officers.

In the fourth such operation in 18 months, undercover agents cruised the city in an ice cream truck and delivery vans and on motorcycles, purchasing what law enforcement officials said was more than $1 million in stolen goods and $60,000 in illegal drugs. As in previous operations, each transaction was taped by the undercover officers.

Aimed at locating and arresting fences who traffic in stolen goods and pushers who peddle narcotics, the latest operation, which was known as TRICONN, resulted in approximately 125 arrest warrants that were being served yesterday in the metropolitan Washington area. Sixty-seven persons had been arrested by early this morning, police said.

Among those caught up in the undercover operation were two D.C. jail guards who were charged with robbing two of the undercover officers during a transaction; a suspect in a $30,000 jewelry robbery in Wilmington, N.C.; the alleged Washington manufacturer of high-profit bootleg musical tapes; persons who sold new cars they had stolen from showrooms; a postal worker who sold checks he had stolen from the mail, and a barber who was charged with selling large quantities of drugs in his Benning Road NE. barbershop.

Although law enforcement's top officials here publicly praised the operation as a resounding success at the now-standard press conference called at the end of the operation, numerous sources involved in TRICONN said the results were far less than expected for an operation that lasted 14 months and cost about $200,000 in federal grant money plus large amounts of police overhead costs.

The $1 million property values, for example, is based on the estimated original retail value of the goods purchased instead of their street value, these sources said. In addition, every stolen credit card was automatically valued at $500 in an attempt to inflate the total value of items recovered, they added.

Also, despite claims by top law enforcement officials that many of those charged with selling drugs were "mid-level drug pushers," other law enforcement sources made it clear that most of the 50 persons charged with drug offenses were actually street-level addicts who sold drugs to support their own habits.

These sources added that the emphasis was shifted to drug cases and gun possession cases in the last few months of the operation in an attempt to boost TRICONN's arrest statistics after the operation was unsuccessful in penetrating high-level drug circles and major fencing operations.

However, none of this criticism of the operation was apparent yesterday when D.C. Police Chief Maurice Cullinane, U.S. Attorney Earl J. Silbert and FBI special agent-in-charge Nick F. Stames announced to assembled reporters at the fifth district police station yesterday that TRICONN had been concluded.

They said TRICONN was special because it showed a new undercover police mobility and unusual police ingenuity in going out to meet the criminals where they work—on the street—instead of forcing the criminals to come to a fixed warehouse or headquarters location, which had been the mark of three previous operations.

The first operation, with its flashy undercover police officers posing as out-of-town mafiosi, became known as Sting when it broke on Feb. 28, 1976. It ushered Washington into a new era of law enforcement, with the area's myriad law enforcement agencies banding together under Law Enforcement Assistance Administration grants to lure unwitting criminals into locations where they committed crimes that were secretly videotaped.

The first Sting, which resulted in nearly 160 prosecutions, operated out of a Northeast Washington warehouse not far from the one of TRICONN's offices.

Next came G.Y.A.—the initials stood for "Got Ya Again"—which was unveiled on July 6, 1978, and resulted in 140 arrest warrants. It was run largely by black undercover officers who used an auto parts store in the Shaw area as a front for their fake fencing operation.

The third operation was unveiled on Feb. 26, 1977, and dubbed "Highroller" because the police operatives were headquartered in a plush suite in the Shoreham Americana Hotel. Although only about 15 persons were charged in connection with the expensive Highroller operation, its customers were self-described, high-level professional thieves who bragged of connections with organized crime.

Meanwhile, TRICONN had been secretly operating since the summer of 1976. It got its name because it was the third operation directed by a special unit of the Metropolitan Police Department, while Highroller had not been directed by that same unit.

TRICONN also had its fixed bases of operation—a warehouse known as Delaney Enterprises at 1810 Edwin St. NW, where property was stored, and an office at 6527 Chillum Pl. NW—in addition to the roving 35 vehicles that were used to pick up merchandise from thieves who were too wary to come to a fixed location.

Cullinane said he believed the use of the vehicles "eliminated the last sanctuary" of thieves who thought they could avoid detection as long as they stayed out of warehouses that might be police operations.

"They might as well smile when they're violating the law," Cullinane said, adding that he believes criminals now have no way of avoiding police surveillance.

One of the most successful vehicles used, according to Cullinane and others, was the fully stocked ice-cream truck that the chief said sold ice cream to children at a profit while at the same time dealing with thieves.

As in previous operations, undercover officers working on TRICONN became involved in numerous unusual transactions during their 14 months of dealings with Washington's underworld.

Among the incidents recounted yesterday by police officials were:

The presentation of a letter to an undercover TRICONN officer from a group of friendly narcotics dealers, introducing the agent to a drug dealer in Thailand from whom he could purchase quality drugs. Also involved in the letter of introduction was a line of credit the undercover officer could establish with the dealer.

The issuance of arrest warrants for seven employees of the Central Delivery Service in Maryland, who reportedly were making drug deliveries to various locations in addition to their parcel deliveries.

Location of a stolen copying machine worth $22,000 that had been taken in a Virginia burglary.

Identification of a gang of juvenile and adult thieves who were directed by one man. Members of the gang were arrested when they were sent by TRICONN agents to burglarize the Edwin Place warehouse operated by TRICONN, only to be met there by a sign that said, "Welcome, Sting," and numerous police officers.

The arrest of a female post office employee who brought in hundreds of thousands of dollars in government checks she allegedly stole from the mail, including one stack of checks that totaled over $300,000.

The arrests of D.C. jail guards Ulysses Jones, 26, of 2853 Ontario Rd. NW, and Ronald A. Dock, 27, of 1000 Rittenhouse St. NW. Both men were charged with robbery for their alleged part in attempting to hold up two of the undercover agents during a drug transaction.

The arrest of Reginald Robinson, 29, of 1920 Dutch Village Dr., Landover, on charges of selling drugs at his "Mr. Natural" barbershop at 3911 Benning Rd. NE. Officers who searched Robinson's house after his arrest said they found large quantities of drugs there.

The undercover agents who worked in TRICONN used numerous disguises as they purchased goods from unsuspecting thieves. Sometimes the agents posed as out-of-town hoods, sometimes as members of motorcycle gangs, sometimes as telephone company employees, and sometimes as deliverymen.

Hundreds of police officers began making arrests in the TRICONN operation about 5 a.m. yesterday. One suspect was arrested after he successfully hid from police officers searching his home, but then made the mistake of calling TRICONN to tell undercover officers there that the police were looking for him.

A similar police undercover operation was revealed yesterday in St. Louis, Mo., and brings to approximately 30 the number of such operations that have been funded by LEAA grants.

FORESIGHT ON COAL

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 31, 1977

Mr. HARKIN. Mr. Speaker, the importance of increased coal production to the emerging national energy strategy has become apparent in recent months. For this reason, I am pleased to note in a recent editorial in the Des Moines Register that the State of Iowa has signed a long-term contract that will double the State's coal production.

This contract underscores the wisdom of the State's decision in 1974 to invest in coal research. In that year $3 million was awarded to the Energy and Mineral Resources Research Institute at Iowa State University to undertake the Iowa coal project. It was the research at an experimental coal-washing facility operated by the Iowa coal project which established that the sulfur content of Iowa coal could be reduced to meet Federal and State air pollution standards. This development removed the last remaining obstacle to burning Iowa coal in the State.

I would also point out to my colleagues that the Energy and Mineral Resources Research Institute has achieved lead laboratory status in restoration research on prime agricultural land. Iowa State has become perhaps the only university in the country to operate its own strip mine, using faculty, students, and private contractors. A coal beneficiation plant which produces about 70 tons of coal per hour has been built on campus. I visited the plant earlier this year and I was most impressed with the research being conducted there.

Mr. Speaker, I am proud of the initiative taken by Iowa and especially the work being conducted at Iowa State in the area of coal research. I want to share with my colleagues the editorial in the Des Moines Register which further elaborates on the work of the Iowa coal project.

The editorial follows:

[From the Des Moines Register, Sept. 15, 1977]

FORESIGHT ON COAL

Iowa's moribund coal-mining industry made an impressive turnaround recently when a major electric utility signed a long-term contract that will double the state's coal production. Iowa Electric Power & Light Co. of Cedar Rapids will pay $108 million over the next 10 years for an annual 500,000 to 800,000 tons of Iowa coal.

Last January several of the biggest of the state's remaining handful of mines closed, and some industry officials predicted that coal-mining in Iowa might come to an end within six months. Iowa coal has too high a sulfur content to meet federal and state air-pollution standards. It has been burned by a few utilities and public institutions in mixture with large amounts of low-sulfur western coal.

A month after the doleful predictions of January, plans were announced for a 300,000-ton annual capacity coal-washing plant to handle the production of several mines. (Coal-washing is a mechanical process in which coal is passed through water and the sulfur separated out by the difference in specific gravity between coal and sulfur.)

An experimental washing facility operated for the Iowa Coal Research Project by Iowa State University showed that the sulfur content of Iowa coal could be brought near the four per cent allowed by air-quality regulations (three per cent in 10 eastern counties).

Although Iowa coal and low-sulfur Wyoming coal both cost about $20 a ton at the mine, rail freight to Iowa Electric's generating plants from Wyoming is $15 and from Marion, Mahaska or Monroe counties only about $6. The Iowa coal produces more heat than Wyoming coal (but even though washed, it still must be mixed with western coal about six tons to one to meet air-quality standards).

National energy policy requires utilities to rely more on abundant coal and less on oil or gas. To the extent that Iowa coal can be used in Iowa, the benefit to the state's economy is obvious. Iowa Electric's long-term contract is a heartening expression of confidence and underscores the wisdom of the state's decision to invest in coal research.

IN SUPPORT OF H.R. 784

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, October 31, 1977

Mr. DODD. Mr. Speaker, I am submitting for the RECORD the text of my testimony before the House Committee on Agriculture in support of House Resolution 784, creating a Presidential Commission on Domestic and International Hunger. In the time that it would take for me to read these remarks, 10,000 more people will have died from malnutrition and its associated diseases. Many of us here in this Congress, and millions of Americans across this country support an intensified war on hunger to limit the further ravages of starvation.

The comments which follow address both the need for increased efforts with regard to the world food situation as well as some of the options we face, and I thank you, Mr. Speaker, for making them part of the RECORD:

Mr. Chairman, I thank you and the Members of this committee for giving me this opportunity to speak in support of H. Res. 784. This resolution, which I cosponsored, would create, as you well know, a Presidential Commission on Domestic and International Hunger and Malnutrition at a time that I feel is most opportune.

I say this because both this Congress and this administration are distinguishing themselves in their respective efforts to tackle three of the world's most critical long-term problems: nuclear proliferation, population growth, and world hunger.

While the President is going ahead with ambitious diplomatic initiatives designed to stem the tide of global nuclear arms development, this House has just voted—by an overwhelming majority—to create a Select Committee on Population. Further evidence of our growing sensitivity to these questions lies in the new directions being taken in our bilateral economic assistance programs: these no longer consist of large, capital-intensive projects, but are focusing, largely as a result of congressional action, on meeting basic human needs in the world's poorest countries. Last year, for example, the Congress mandated that 75 percent of the food provided on a sales basis under the food for peace program go to countries with per capita incomes of less than $300. In addition, we are currently in the process of establishing, in cooperation with the other major food suppliers, an international grain reserve which will serve as a cushion in times of acute shortages, and ultimately it is hoped, as a price stabilizer.

Despite all of these efforts, it must be said that the world food situation remains grim, and that it is a matter of great urgency that the United States, a key producer and exporter of foodstuff, show decisive leadership in coordinating a global policy aimed at alleviating the famine which is affecting no less than one-third of the world's population.

I am deeply disturbed by the very optimistic reports that have recently been circulating on the subject of the world food supply. Articles in the press have announced, in a somewhat misleading fashion, that this year will yield, as a result of favorable weather conditions and bumper crops, a net surplus of world foodstuff. While the production of food in the supplier nations may indeed be particularly impressive this year, this has very little to do with that product reaching those that need it most. We must not allow ourselves to forget that we are still in the dark ages in many areas—and that the technology of food production and distribution is unfortunately one of them.

In the 18th century, 10 million people died of starvation. By contrast, the bare facts have it that in this century of ours, in which scientific revolutions have dramatically altered millions of lives for the better, twelve million people have already starved to death—and there are still more than twenty-years to go before we enter the 21st century.

Some fifty nations in Asia, Africa and Latin America, comprising nearly one and a half billion people, cannot meet their basic food needs unaided. And of these fifty nations, thirty-three have been identified as famine-prone by the United Nations and are in desperate need of immediate and sustained assistance.

According to research conducted by the Overseas Development Council, nearly one

billion people live in absolute poverty. Of this billion, 750 million live in the low-income countries, 170 million in the world's richest countries. Lest we forget it, malnutrition and hunger exist here at home too, in what is still the world's most affluent nation.

In sum, there is no doubt whatsoever that the overall problem of world hunger needs attention and needs it now. The creation of a Presidential Commission would be the first necessary step in the organization of a well-targeted, hard-hitting attack on the many obstacles we face before we can really begin to wage a successful battle against domestic and international hunger.

We know that we must increase the amount of food aid that we provide; we also know that we need to direct this aid in a manner that does not disrupt ongoing development strategies in third world nations or constitute a disincentive to food production. Increased agricultural production by the developing countries themselves must in fact be one of the key aspects of any global food policy, since not only will it supply jobs and livelihood to many, but also because it will reduce the poor countries' dependence on the food-exporting nations and reduce their expenditures of scarce foreign exchange on basic agricultural commodities.

While we know too that it is essential that we provide some security in the availability of adequate food supplies as well as some stability in the price of grain on the world market, we do not yet know how best to set out doing any of these things, the creation of a Presidential Commission can get us started.

The special status and the special purpose of this Commission will not only put the problem in the public eye—where it belongs if any long-term impact is to be achieved—but also mobilize the best minds we have to present to the President and to this Congress a set of recommendations that we can begin to implement.

I also feel that the Commission can play an invaluable role by establishing, through its very creation, that domestic and international aspects of hunger and malnutrition cannot be separated, and that it is imperative that they both be treated by a single, integrated, long-term policy based on a thorough understanding of the inter-relationship that exists between the developed and the developing worlds.

For these reasons, Mr. Chairman, I feel that the creation of this Commission is the very least that we can do to help fight the ravages of world hunger. I thank you once more for giving me this opportunity to be heard, and I urge you and the members of this committee to adopt H. Res. 784. Thank you.

FORMER PRESIDENT OF SOUTH KOREA YUN'S LETTER TO PRESIDENT CARTER

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 31, 1977

Mr. FRASER. Mr. Speaker, it is not always easy for people in the United States to visualize how our foreign policy looks to those on its receiving end. Friendly governments receiving U.S. military and economic aid have easy access to our people. Often, however, they do not publicize the views of their countrymen critical of the status quo.

Yun Po-Sun is a former President of the Republic of South Korea. He strongly rejects the so-called Yushin system instituted by Park Chung Hee and he questions U.S. support for the authoritarian government that now rules his country.

Mr. Speaker, in the interest of giving wider circulation to one Korean patriot's view of United States-South Korean relations, a view that represents a significant current in the thought of South Korean democrats, I place in this RECORD a copy of President Yun's May 19, 1977, letter to President Carter:

MAY 19, 1977.

President JIMMY CARTER,
The White House,
Washington, D.C.

Mr. PRESIDENT: May the blessings of God be with you and your people.

Since World War II the United States and Korea have had a special relationship and a close alliance. This relationship has been legitimized and justified in the name of "unity of the free world." The United States, in order to keep Korea as part of the "free world," has deeply intervened in the political, economic and military activities of Korea. However during this period, oppression rather than democracy has flourished in Korea. In particular, since October of 1972, Korea has rapidly degenerated into a thoroughly "oppressive world" which can no longer be called a part of the "free world." Now, the facism which is based on totalitarianism and tyranny, has become the ideological basis of national politics.

Mr. Park Chung Hee, who received only 50 percent of the popular vote in the Presidential Election of April 1971, through the use of guns, tanks and martial law, destroyed the Constitution, dissolved the National Assembly, closed the campuses and prohibited gatherings of any kind, as well as any kind of criticism. All this in the year and a half following the election. By means of the Yushin Constitution, which he himself made, under the above-mentioned conditions, he was unanimously elected President, with only two abstentions. Of the 2,359 possible votes, he received 2,357. The political power which has ruled Korea since 1973 did not receive its mandate from the people, but imposed it through violence. The Yushin Constitution gives the President the power to implement "emergency decrees"—unlimited power which stands above the Constitution. Throughout the history of mankind, dictators have not had a more powerful tool: the National Security Law, which completely deprives the laborers of their right to collective bargaining and their right to collective action; the Social Security Law, which gives the administration the power to put dissenters into prison for life without a trial. As well as these laws which oppress human rights, including the laws and decrees mentioned above, complete control of the press, the judiciary, the National Assembly and the opposition party, is exercised by the administrtaion; and surveillance and repression of the campus, the Church and the labor movement is undertaken by intelligence agencies. This shows that Korea is now made up of those elements which all the "free world" has denied, that is, "no rights for the people" and "unlimited dictatorial power for one man." We do not want to think that this is something the United States, which has undertaken absolute influence over Korea, expected from the beginning. However, it is regretful that we must point out that this is the result of the relationship between Korea and the United States—a relationship which has lasted more than 30 years.

Since World War II the United States, in opposition to the will of our nation, took the initiative in dividing the Korean Peninsula into two hostile political systems. This division sentenced us to a destiny in which we have continuously suffered from oppression of human rights and from dictatorships which have always spoken of the "threat of invasion by the enemy." The logic of the cold war and the misleading view of the United States that anything which opposes the "communist devil" is all right, as in many places in the third world, has become one of the major reasons for corrupt, dictatorial regimes, such as that of Mr. Park Chung Hee in Korea.

The fact that pro-Japanese bureaucrats, military officials, and businessmen were able to gain power under the American administration significantly shows that the United States has, directly or indirectly, supported the military, the bureaucrats and the big businessmen who opposed social change and pursued social privileges as a countermeasure to the threat of communism. So much aid from the United States, including food aid under PL 480, has supported the limping Korean economic structure which is based on the low price of rice and low wages—a practice which has continued for more than thirty years. Nobody can deny that this contributed to the consolidation of the privileged ruling class. The American investors, as well the Japanese investors, have taken advantage of the low wages here in Korea and have enjoyed the benefits of a "favorable investment climate" which the Park regime offers. The fact that Gulf Oil Corporation offered millions of dollars as a political contribution to Mr. Park in 1971, when he was elected by only a small margin, implies many things to us in understanding the relationship between American investors and the repressive rule of Korea.

Due to technical support and cooperation by the United States, the Korean Central Intelligence Agency (KCIA) was able to gain competence at political investigations. The equipment, techniques and skills at quelling riots which are offered by the United States, have been very effctively used for the repression of peaceful demonstrations by the Korean people. During their attendance at University, a great number of our young people have shed tears due to the use of U.S.-made tear gas and pepper fog. Because of the Korean-Japan treaty, which the United States strongly pushed, the Korean economy was rapidly driven into a state of dependency on the Japanese. "Black adhesion" between the ruling classes of both Korea and Japan played a decisive role in the strengthening of the Park regime. The United States pulled the youth of Korea into the Vietnam War and Mr. Park was thus able to push through revision of the Constitution, in 1969, which enabled him to run for a third term in office, and the Yushin coup d'etat in 1972, without any hesitation. We must point out the fact that the tanks which advanced and remained in front of the National Assembly in October 1972 were made in the United States.

However, we do not intend to say that such dark aspects as these tell the whole story of the relationship between Korea and the United States. We are well aware of the fact that it is at least the outward stand of the United States to support and to encourage the development of the democratic system in Korea. The Constitution which was established in 1948 with the support of the American Military Administration was the first in Korean history to be based on parliamentary democratic principles. Most Koreans believe that in 1963 President Kennedy encouraged Mr. Park Crung Hee to return to civilian rule by threatening to stop all aid to Korea. However, in spite of this, the belief that the United States supports democracy in Korea is rapidly collapsing, especially in recent years.

In 1973, just after the establishment of the Yushin System, President Nixon warmly greeted Mr. Kim Jong Pil, Premier at the time, at the White House. At that time, Mr. Nixon made known his policy of "non-intervention," and he thus encouraged the Park regime and supported the Yushin Constitution. Since then the platitude "non-intervention" has become the stand of the United States administration, which shows silent support of the undemocratic, oppressive system in Korea. How can the United States, which has so deeply intervened in the internal politics of Korea, now use "non-intervention" as an excuse to avoid criticizing the dictatorship which the United States has supported? Since the establishment of the Yushin System, many Americans, including the President, high officials and elected representatives, have come to Korea and have praised the "economic development of Korea" and the "great leadership" of President Park. And they have supported the Yushin System. What else is the principle of non-intervention beyond the illicit connection between the rulers of the world towards the oppression of the people of the world, if praising and supporting a foreign ruler whom most people oppose is not called intervention, while criticizing is called intervention?

In other words, it is the Korean people themselves who are really refusing to allow interference from outside and so that they might determine their own destiny. However, we doubt that if the policy of the United States towards this government played a basic role in the political, economic and military support to the repressive system of Korea, then this can be seen as practical and concrete intervention which contradicts the "principle of non-intervention" that the United States outwardly upholds. This intervention was aimed at the establishment and support of an oppressive system and it has realized its purpose. In fact, we are now at the point of re-establishing a practical concept of intervention and a concrete concept of "non-intervention" from a new perspective.

We had hoped that your human policy might contribute to the establishment of truly friendly relations between the peoples of both Korea and the United States, cleansing the dark history of Korean-American relations. We want you to frankly admit the fact that many people in the third world which are under the influence of the United States, including Korea, have suffered from dictatorships and the oppression of human rights as payment for the interest and security of the United States. Therefore we want your human rights policy to become established on the basis of accepting moral responsibility for positive contributions in solving this tragedy. If this doesn't happen, the world might doubt and misunderstand your intentions regarding your human rights policy. We hope that your policy related to Korea will be established by your doing your best to push peace and unification, and to promote democracy and human rights in the Korean Peninsula recognizing that the Korean people should no longer be forced to accept fascism, which always outwardly talks about the "communist threat."

We of course admit that it might be too early to evaluate your human rights policy and your policy regarding Korea—related to the human rights problem. However, the process of the human rights policy up till now has given us doubts.

On several occasions you have openly criticized the oppression of human rights in both the Soviet Union and Czechoslovakia. You have even invited certain Soviet Union intellectuals to the White House or have sent them letters. On the other hand, though, your critical voice towards the oppression of human rights in those third world countries receiving aid as allies of the United States was, relatively speaking, far weaker. Yet the oppression of human rights, for which the United States carries heavy responsibility, could be substantially improved in accord with the wishes of the United States in countries such as Korea, the Philippines, Iran, Chile and so forth.

Your State Department is emphasizing "special treatment" toward the human rights problems of Korea and the Philippines, both of which are related to American security interests, and the Administration is pursuing a more reinforced support of the Park regime. In spite of the commitment which you expressed in your campaign speeches, the Pentagon is still speaking about the possible use of atomic weapons in the Korean Peninsula—which would likely completely destroy the Korean people—and your embassy here in Korea is emphasizing "quiet diplomacy." Regarding American Korea policy, which, outwardly at least, shows little sign of change from that of the Ford administration, the Park regime feels completely secure and continues its suppression of human rights.

International relations and national interests are limited, and the freedom of mankind and human rights are limitless. In the relationship between Korea and the United States, the Korean people have, for a long time, been treated simply as objects, means and instruments in carrying out of world policy for America's own "national interest." Through such signs as the exceptional treatment in the human rights problems and the reinforced and unconditional support of Park's regime as repayment for the withdrawal of the United States' troops, the Korean people have become concerned about whether they might again be sacrificed to the egotistical national interests of the United States—interests which have been newly evaluated under your administration. We hope that our concerns have no basis and we wish you to erase our concerns through positive action as soon as possible.

We hope that you will properly evaluate the desire of most of the Korean people who, besides rejecting a leftist dictatorship, also reject a rightist one—that is, the Yushin Constitution—and who want to live in a peaceful, unified and democratic fatherland. We therefore believe that you should carry out a fundamentally new policy which does not ignore our desires. We hope that you will openly and clearly express your stand in opposing the oppression of human rights and the Yushin Constitution here in Korea in a louder voice than when you criticized the oppression of human rights in the Soviet Union and in Czechoslovakia. Through this your human rights policy will be seen as not merely a tactic in reestablishing a new order of a great power by stirring up Eastern Europe, nor as a deceitful policy which is motivated by egotistical national interest in the United States in order to avoid its responsibility for the oppression of human rights in the third world by paying only lip service. We hope that your human rights policy will demonstrate that it arises from a pure and humble concern for the love of mankind and that it is the voice of a new American spirit which supports the freedom—a freedom which is growing among the people of the world.

I hope that you will give careful consideration to the content of this letter, and that God might guide you as you make important decisions about our country.

I hope that I will hear from you in the near future.

Yours sincerely,

(Mr.) PO-SUN YUN,
Former President.

SENATE COMMITTEE MEETINGS

Title IV of the Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, November 1, 1977, may be found in Daily Digest of today's RECORD.

MEETINGS SCHEDULED
NOVEMBER 2

9:00 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings to receive testimony on the possible effect of recombinant DNA research on the field of scientific inquiries.

5110 Dirksen Building

Energy and Natural Resources

To hold hearings on the nominations of Robert D. Thorne, of California, to be an Assistant Secretary for Energy Technology, and John M. Deutch, of Massachusetts, to be Director of the Office of Energy Research, both of the Department of Energy.

3110 Dirksen Building

Governmental Affairs

Permanent Investigation Subcommittee

To continue hearings concerning the awarding of labor union insurance contracts.

3302 Dirksen Building

Judiciary

Constitution Subcommittee

To hold oversight hearings on activities of the Civil Rights Commission.

2228 Dirksen Building

9:30 a.m.

Human Resources

To hold hearings on the nomination of Livingston L. Biddle, Jr., of the District of Columbia, to be Chairman of the National Endowment for the Arts, and James A. Krumhansl, of New York, to be an Assistant Director of the National Science Foundation.

4232 Dirksen Building

10:00 a.m.

Governmental Affairs

Intergovernmental Relations Subcommittee

To hold hearings to examine the impact of the current shortage of home insulation.

6202 Dirksen Building

Rules and Administration

To hold hearings and to consider the nominations of John W. McGarry, of Massachusetts, and Samuel D. Zagoria, of Maryland, each to be a member of the Federal Election Commission.

301 Russell Building

3:00 p.m.
Conferees
On S. 1585, to make unlawful the use of minors engaged in sexually explicit conduct for the purpose of promoting any film or printed matter.
Until 5:00 p.m. S-210, Capitol

NOVEMBER 3

9:00 a.m.
Energy and Natural Resources
To hold hearings on the nomination of Robert H. Mendelsohn, of California, to be an Assistant Secretary of the Interior.
3110 Dirksen Building

9:30 a.m.
Human Resources
Labor Subcommittee
To resume hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
Until 5:00 p.m. 4232 Dirksen Building
Judiciary
Separation of Powers Subcommittee
To resume hearings to receive testimony associated with executive branch negotiations for the disposition of property of the United States in the Isthmus of Panama.
1318 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on the nominations of Stella B. Hackel, of Vermont, to be Director of the Mint, and Joseph F. Timilty, of Massachusetts, to be Chairman of the National Commission on Neighborhoods.
5302 Dirksen Building
Foreign Relations
Closed session to receive a briefing on the SALT negotiations from Secretary of State Cyrus Vance.
S-116, Capitol
Governmental Affairs
To consider Reorganization Plan No. 2, to consolidate the State Department's Bureau of Cultural Affairs and the USIA into an Agency for International Communication; S. 1704, to provide for two additional Assistant Secretaries of Agriculture; S. 1730, to provide for an additional Assistant Secretary of the Treasury; S. 1264, the Federal Acquisition Act of 1977; H.R. 5054, to repeal the statutory requirement that appointments to competitive service positions in executive branch agencies in the Washington, D.C., area be apportioned among the States on the basis of population; S. 666, to provide early retirement benefits for non-Indian employees of the BIA and the Indian Health Service; H.R. 7766, to authorize the Mayor of the District of Columbia to enter into an agreement with the U.S. Postal Service with respect to the use of certain public air space in D.C.; and H.R. 7792, the Franked Mail Act of 1977.
3302 Dirksen Building

NOVEMBER 4

9:00 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Mortimer L. Downey III, of Virginia, to be Assistant Secretary of Transportation for Budget and Programs; to be followed by hearings on the nominations of Frank H. Neel, of Georgia, James R. Mills, of California, Harry T. Edwards, of Michigan, Charles Luna, of Texas, Anthony Haswell, of Illinois, and Ronald G. Nathan, of the District of Columbia, each to be a Member of the Board of Directors Corporation.
5110 Dirksen Building

9:30 a.m.
Human Resources
Labor Subcommittee
To continue hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
Until 5:00 p.m. 4232 Dirksen Building
Judiciary
Antitrust and Monopoly Subcommittee
To reconsider S. 1874, to allow consumers and other parties who have not dealt directly with an antitrust violator to recover their damages under the antitrust laws.
S-207, Capitol
Human Resources
Education, Arts, and the Humanities Subcommittee
To hold hearings on S. 1753, to extend and amend the Elementary and Secondary Education Act.
6202 Dirksen Building

NOVEMBER 8

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings to receive testimony on the possible effect of recombinant DNA research on the field of scientific inquiries.
5110 Dirksen Building

NOVEMBER 9

10:00 a.m.
Banking, Housing, and Urban Affairs
To resume oversight hearings on U.S. monetary policy.
5302 Dirksen Building

NOVEMBER 10

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings to receive testimony on the possible effect of recombinant DNA research on the field of scientific inquiries.
5110 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on U.S. monetary policy.
5302 Dirksen Building
Judiciary
Administrative Practice and Procedure Subcommittee
To hold oversight hearings on the implementation of the Freedom of Information Act.
2228 Dirksen Building

NOVEMBER 11

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on U.S. monetary policy.
5302 Dirksen Building

NOVEMBER 14

10:00 a.m.
Select Small Business
Monopoly and Anticompetitive Activities Subcommittee
To hold hearings on drug quality, competition, and government procurement of drugs.
1318 Dirksen Building

NOVEMBER 15

10:00 a.m.
Select Small Business
Monopoly and Anticompetitive Activities Subcommittee
To continue hearings on drug quality, competition, and government procurement of drugs.
1318 Dirksen Building

NOVEMBER 16

10:00 a.m.
Select Small Business
Monopoly and Anticompetitive Activities Subcommittee
To continue hearings on drug quality, competition, and government procurement of drugs.
1318 Dirksen Building

DECEMBER 13

10:00 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S. J. Res. 67, proposing an amendment to the Constitution with respect to the proposal and the enactment of laws by popular vote of the people of the United States.
2228 Dirksen Building

DECEMBER 14

10:00 a.m.
Judiciary
Constitution Subcommittee
To continue hearings on S.J. Res. 67, proposing an amendment to the Constitution with respect to the proposal and the enactment of laws by popular vote of the people of the United States.
2228 Dirksen Building

DECEMBER 15

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee.
To hold hearings on the United Nations conference on science and technology for development in 1979.
Until 5:00 p.m. 5110 Dirksen Building

CANCELLATIONS

NOVEMBER 9

10:00 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S. 1845, the Polygraph Control and Civil Liberties Protection Act of 1977.
2228 Dirksen Building

NOVEMBER 10

10:00 a.m.
Judiciary
Constitution Subcommittee
To continue hearings on S. 1845, the Polygraph Control and Civil Liberties Protection Act of 1977.
2228 Dirksen Building

SENATE—*Tuesday, November 1, 1977*

(Legislative day of Saturday, October 29, 1977)

The Senate met at 10:30 a.m., on the expiration of the recess, and was called to order by Hon. EDWARD ZORINSKY, a Senator from the State of Nebraska.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O Thou Lord of all worlds, we give thanks to Thee for all Thy saints and servants who have done justly, loved mercy, and walked humbly with their

God. For those who performed great deeds, wrought wonders, and advanced Thy kingdom, we give Thee thanks. As they have labored make us worthy to enter into their labors, to fight the good fight of faith, and at length enter into the promised land of light and love. Give us grace to follow in their footsteps as they have followed in the footsteps of Thy Son, and to be at home in that realm where the temporal and the eternal are one in Thy heavenly kingdom.

Through Him who died, arose, and is alive forevermore. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., November 1, 1977.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable EDWARD ZORINSKY, a Senator from the State of Nebraska, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. ZORINSKY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, Monday, October 31, 1977, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

INTERNATIONAL SAFE CONTAINER ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of a measure on the Unanimous Consent Calendar, Order No. 506.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

The Senate proceeded to consider the bill (S. 1597) to formalize common international safety requirements for the approval, examination, and inspection of containers, within the jurisdiction of the United States and used in international transport, to maintain a high level of safety of human life, to facilitate international container transport, and for other purposes, which had been reported from the Committee on Commerce, Science, and Transportation with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "International Safe Container Act".

SEC. 2. DEFINITIONS.

As used in this Act—

(a) The term "Secretary" means the Secretary of Transportation.

(b) The term "Convention" means the International Convention for Safe Containers, and the annexes thereto, done at Geneva, Switzerland, December 2, 1972.

(c) The term "container" shall have the same meaning as that term is defined in the Convention.

(d) The term "international transport" means the transportation of a container—

(1) to any place within the jurisdiction of the United States from a place within a foreign country;

(2) by United States carriers between two points both of which are outside of the United States; or

(3) from any place within the jurisdiction of the United States to any place within a foreign country.

(e) The term "United States" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the United States Virgin Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(f) The term "new container" means a container (other than a container specially designed for air transport) which is used or is designed for use in international transport, the construction of which began on or after September 6, 1977.

(g) The term "existing container" means a container (other than a container specially designed for air transport) which is used or is designed for use in international transport and which is not a new container.

(h) The term "owner" means a person who owns a container, or, if a written lease or bailment provides for the lessee or bailee to exercise the owner's responsibility for maintaining and examining the container, the lessee or bailee of a container, to the extent such agreement so provides.

(i) The term "safety approval plate" shall have the same meaning as that term is defined in annex I of the Convention.

SEC. 3. DUTIES OF AN OWNER.

(a) On and after the date the Convention enters into force for the United States, for new containers, and on and after the fifth anniversary thereof, for existing containers, the owner of each such container—

(1) who is domiciled and has his principal office in the United States, shall have each such container initially approved in accordance with the procedure established by the Secretary or by the administration of another contracting party to the Convention; and shall, thereafter, have each such container periodically examined, as provided in the Convention, in accordance with the procedure established by the Secretary; and

(2) who is either domiciled or has his principal office in the United States, shall have each such container initially approved in accordance with the procedure established by the administration of another contracting party to the Convention; and shall, thereafter, have each such container periodically examined, as provided in the Convention, in accordance with the procedure established by the administration of either the country where he is domiciled or has his principal office (so long as such country is a party to the Convention).

Any owner of either a new or existing container who is neither domiciled nor maintains a principal office in the United States, or in any other country which is a party to the Convention, may submit their containers for approval and periodic examination according to the procedure established by the Secretary.

(b) On and after the date the Convention enters into force for the United States, for new containers, and on and after the fifth anniversary thereof, for existing containers, the owner of such a container shall maintain such container so as to comply with the standards of the Convention.

(c) During the 5 years occurring immediately after the date the Convention enters into force for the United States, an owner of an existing container may have such container approved according to the procedure established by the Secretary, and have a safety approval plate affixed to it, if such container is found to meet the standards of the Convention.

SEC. 4. DUTIES OF THE SECRETARY.

(a) On and after the date the Convention enters into force for the United States, the Secretary shall enforce and carry out the provisions of the Convention, and, unless an earlier date is specifically provided, the provisions of this Act, in the United States.

(b) The Secretary shall, as soon as practicable after the date of enactment of this Act, promulgate, and from time to time, amend, those regulations he deems necessary for such enforcement. Such regulations, among other things, shall—

(1) establish procedures for the testing, inspection, and initial approval of existing and new containers and of designs for new containers, including procedures relating to the affixing, invalidating, and removal of safety approval plates for containers;

(2) establish procedures to be followed by owners of containers relating to the periodic examination of containers, as provided in the Convention; and

(3) provide a method for developing, collecting, and disseminating data concerning container safety and the international transport of containers.

(c) At any time after the date of enactment of this Act, the Secretary may—

(1) authorize the affixation of a safety approval plate to any container which, after examination, is found not to have a safety approval plate attached to it and which the owner has established meets the standards of the Convention;

(2) delegate and withdraw the delegation of authority to initially approve existing and new containers and designs for new containers, and to authorize the affixing of safety approval plates; and

(3) establish a schedule of fees to be charged and collected for services performed by the Secretary, or under authority delegated by the Secretary, relating to the testing, inspection, and initial approval of containers and container designs.

(d) Those delegations made under subsection (c)(2) may be made to any person, including any public or private agency or nonprofit organization. The Secretary before making any delegation under such subsection, shall promulgate regulations relating to—

(1) the criteria to be followed in selecting a person, public or private agency, or nonprofit organization as a recipient of delegated functions under such subsection;

(2) the manner in which such recipient shall carry out such delegated functions, including the records such recipient must keep, and a detailed description of the exact functions such recipient may exercise; and

(3) the review that will be carried out by the Secretary to determine that any recipient of delegated functions is performing properly the functions so delegated.

No recipient of authority delegated under such subsection may assess or collect, or attempt to assess or collect, any penalty for violation of any provision of this Act, the Convention, or any order of the Secretary issued under this Act, or issue or attempt to issue any detention or other order. Any records required to be kept by regulations pro-

mulgated by the Secretary under this subsection shall be available to the Secretary, for inspection, upon request.

(e) The Secretary shall, to the maximum possible extent, encourage the development and use of intermodal transport, using containers constructed to facilitate economical, safe, and expeditious handling of containerized cargo without intermediate reloading while such cargo is in transport over land, air, and sea areas.

SEC. 5 ENFORCEMENT.

(a)(1) On and after the date the Convention enters into force for the United States, to ensure compliance with this Act, and with the Convention, the Secretary may—

(A) examine, or require to be examined, new containers, and existing containers which are subject to this Act, is international transport, and test, inspect, and approve designs for new containers and new containers being manufactured;

(B) issue a detention order removing or excluding a container from service until the owner of the container establishes to the Secretary's satisfaction that the container meets the standards of the Convention, if the container is subject to this Act and does not have a valid safety approval plate attached to it, or if there is significant evidence that such a container bearing a safety approval plate is in a condition which creates an obvious risk to safety; and

(C) take whatever other appropriate action he deems necessary, including issuance of any necessary orders, to remove the container involved from service, or restrict its use, in those instances where he finds that a container is not in compliance with the provisions of this Act or the Convention but does not present an obvious risk to safety.

The Secretary may permit the movement to another location of a container which he finds to be unsafe or which does not have a valid safety approval plate affixed to it, under whatever restriction he considers necessary and consistent with the intent of the Convention, for repair or other appropriate disposition.

(2) Beginning on the fifth anniversary of the date the Convention enters into force for the United States, the Secretary may examine or require to be examined any existing container in international transport.

(b) The owner of the container involved in any action taken by the Secretary under this section with respect to an examination of a container, shall pay for or reimburse the Secretary for expenses arising from such actions, except for the costs of routine examinations of containers or safety approval plates. In addition, the owner of containers submitted to the procedure established by the Secretary for testing, inspection, and initial approval, and the manufacturers who submit designs of containers to the procedures established by the Secretary for testing, inspection, and initial approval shall pay for or reimburse the Secretary for the expenses arising from such testing, inspection or approval. Funds received by the Secretary in reimbursement shall be credited to the appropriations bearing the cost thereof.

(c) A container bearing a safety approval plate authorized by a country which is a party to the Convention shall be presumed to be in a safe condition unless there is significant evidence that the container creates an obvious risk to safety.

(d) Whenever the Secretary issues a detention or other order under this section, he shall promptly notify, in writing, either the owner of the container subject to such order, his agent, or, when the identity of such owner is not apparent from the container of shipping documents, the custodian. The notification shall reasonably identify the container involved, give the location of the container, and reasonably describe the condition or situation which gave rise to the order. An order issued by the Secretary under this section shall remain in effect until the container is declared by the Secretary, or under regulations promulgated by the Secretary, to be in compliance with the standards of the Convention, or until it is permanently removed from service, whichever first occurs.

(e) If there is reason to believe that a container to which there is affixed a safety approval plate issued by a foreign country was defective at the time of approval, the Secretary shall notify the country which issued the approval of such defect.

SEC. 6. PENALTIES.

(a) On and after the date the Convention enters into force for the United States, any owner, agent, or custodian who—

(1) has been notified of an order issued by the Secretary under section 5; and

(2) fails to take reasonable and prompt action to prevent or stop a container subject to that order from being moved in violation of that order;

shall be subject to a civil penalty of not more than $5,000 for each container so moved. Each day the container remains in service while the order is in effect shall be treated as a separate violation.

(b) The Secretary shall assess and collect any penalty incurred under this section, and, in his discretion may remit, mitigate, or compromise any such penalty. No penalty shall be assessed until after the person charged has been given notice and an opportunity for a hearing. In assessing, remitting, mitigating, or compromising a penalty the Secretary shall consider the gravity of the violation, the hazards involved, and the record of the person charged with the respect to violations of this Act or of the Convention. Upon failure of any person to pay any penalty assessed against him by the Secretary, the Secretary shall request the Attorney General to begin an action in any district court of the United States to recover the amount of the penalty unpaid.

SEC. 7. EMPLOYEE PROTECTION.

(a) No person shall discharge or in any manner discriminate against an employee because the employee has reported the existence of an unsafe container or reported a violation of this Act to the Secretary or his agents.

(b) An employee who believes that he has been discharged or discriminated against in violation of this section may, within 60 days after the violation occurs, file a complaint alleging discrimination with the Secretary of Labor.

(c) The Secretary of Labor may investigate the complaint and, if he determines that this section has been violated, bring an action in an appropriate United States district court. The district court shall have jurisdiction to restrain violations of subsection (a) of this section and to order appropriate relief, including rehiring and reinstatement of the employee to his former position with back pay.

(d) Within 30 days after the receipt of a complaint filed under this section the Secretary of Labor shall notify the complainant of his intended action regarding the complaint.

SEC. 8. AMENDMENTS TO THE CONVENTION.

(a) The Secretary of State, with the concurrence of the Secretary, may propose amendments to the Convention or may request a conference for amending the Convention in accordance with article IX of the Convention. An amendment communicated to the United States in accordance with article IX(2) of the Convention may be accepted for the United States by the President, with the advice and consent of the Senate. The President may make a declaration that the United States does not accept an amendment.

(b) The Secretary of State, with the concurrence of the Secretary, may propose amendments to the annexes of the Convention, may propose a conference for amending annexes to the Convention and shall consider and act on amendments to the annexes of the Convention adopted by the Maritime Safety Committee and communicated to the United States in accordance with article X(2) of the Convention. If a proposed amendment is approved by the United States, the amendment shall enter into force in accordance with article X of the Convention. If any proposed amendment is objected to, the Secretary of State shall promptly communicate the objection as provided in article X(3) of the Convention.

(c) The Secretary of State, with the concurrence of the Secretary, shall appoint an arbitrator when one is required to resolve a dispute within the meaning of article XIII of the Convention.

SEC. 9. AUTHORIZATION OF APPROPRIATION.

Beginning with the fiscal year ending September 30, 1979, and for each fiscal year thereafter, there are authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–552), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

PURPOSE AND BACKGROUND

It is the purpose of the bill (S. 1597) to implement the provisions of the International Safe Container Convention which was signed in Geneva, on December 2, 1972, and ratified by the Senate on September 15, 1976.

The Convention entered into force on September 6, 1977, for the following 12 countries which deposited their instruments of ratification:

France	East Germany
U.S.S.R.	New Zealand
Spain	Romania
Hungary	Ukrainian S.S.R.
Czechoslovakia	Byelorussia
West Germany	Bulgaria

In addition, Canada, the United Kingdom, Japan, and the Netherlands had indicated, as of that date, that they were in the process of so depositing their respective instruments of ratification.

It is usual for the United States to deposit its instruments of ratification only after the implementing legislation, if needed, has been adopted.

Until the Convention was entered into there were no international standards relating to the construction of safe intermodal cargo containers. The moving of cargo in international trade in containers is relatively a new practice. Simplified, it is the method of shipping cargo in large containers, 10- to

40-feet long, usually constructed of steel, aluminum, or reinforced plastic. These intermodal containers can be stacked in the holds of ships, placed on railroad flatcars, and carried by motorized trucks, without intermediate reloading. The record, to date, of the use of these containers indicates that these containers are quite safe.

Recently, however, several countries indicated that they were considering the establishment of standards relating to the construction of containers crossing their borders. In addition, insurors of containers became concerned that much of the time containers are beyond the physical control of the owners or lessees of the containers, and they may become damaged. The dangers that could result from the use of damaged or unsafe containers might grow. As a result these insurors were also interested in the standardization of container construction.

Since the United States now dominates the container construction industry, and almost half of the approximately 1.5 million containers now in use are owned by citizens of the United States, it is of great importance to this country that international standards be developed and enforced for the use of containers in international transport to reduce any risk to human safety and to facilitate the movement of these containers in international transport.

The Convention establishes minimum construction standards for safe containers in order to reduce or prevent any risk to human safety and to facilitate the movement in international transport of containers. It states that no party to the Convention will enforce, in international transport, any standards which are more stringent than the standards of the Convention.

Each country which is a party to the Convention is required to designate an agency of the government or another public or a private entity to be the administration responsible for the enforcement and administration of the Convention in that country. That agency or entity is responsible for establishing procedures for the inspection, testing, and approval of new containers (and container designs) and of existing containers. In addition, the administration establishes procedures for the periodic examination of containers. New containers are to be periodically examined every 2 years, with the first such examination coming 5 years after the container is manufactured. Existing containers are to be examined every 2 years.

The periodic examinations will be done by the owners of the containers, according to the procedures established by the administration. The costs of those periodic examinations will be borne by the owners of the containers. In fact, nearly all of the costs of enforcing this program are borne by the owners. Since the Convention provides that the testing, inspection, and approval of new containers may be delegated by the administration to any person, it is anticipated that much of this process will be delegated to an entity other than a Federal Government agency.

The Convention also provides that any container meeting the standards of the Convention will have a safety approval plate affixed to it. The safety approval plate will be recognized by each party to the Convention as indicating that the container bearing such plate is a safe container. Such a container will not be stopped in international transport because it is or may be unsafe, unless there is substantial evidence of an obvious risk to safety.

ESTIMATED COSTS

CONGRESSIONAL BUDGET OFFICE,
October 20, 1977.

1. Bill No.: S. 1597.

2. Bill title: International Safe Container Act.

3. Bill status: As ordered reported with amendment by the Senate Committee on Commerce, Science, and Transportation, October 18, 1977.

4. Bill purpose: S. 1597 requires that all containers used in international transport meet minimum safety standards and other requirements as prescribed by the International Convention for Safe Containers, done at Geneva, Switzerland on December 2, 1972. The Secretary of Transportation is directed to enforce the act and prescribe necessary regulations regarding initial container approval, the issuance and revocation of the safety approval plates and subsequent and periodic inspection of approved containers to ensure continued compliance. The act empowers the Secretary to issue detention orders for removing defective containers from service, and to assess and collect penalties for removal of a container in violation of a detention order. The bill authorizes the appropriation of such sums as are necessary for fiscal year 1979 and succeeding years.

5. Cost estimate:

Fiscal year:	*Thousands*
1978	[1] $25
1979	87
1980	92
1981	98
1982	103

[1] The bill does not authorize appropriations for fiscal year 1978. It is anticipated that costs incurred in fiscal year 1978 will be covered by existing funds.

The costs of this bill fall within budget function 400.

6. Basis of estimate: Most of the costs associated with this act (i.e., the costs of approving containers) are borne by container owners through contracting with a person or private agency for such inspection. The Department of Transportation (DOT) estimates that an additional $76,500 (in fiscal year 1978 terms) would be required for annual operating expenses related to the issuance of regulations and overall supervision of the act, and that Department personnel can perform necessary inspections in conjunction with other duties. Subsequent years' costs were calculated by adjusting the full fiscal year 1978 estimate for inflation. For the purpose of this estimate, it is assumed that the bill is enacted on or about April 1, 1978.

7. Estimate comparison: CBO has reviewed the DOT estimate of the cost of this bill, and has accepted that figure as the basis for this estimate.

8. Previous CBO estimate: On September 29, 1977, CBO prepared a cost estimate for H.R. 8159, as ordered reported with amendments by the House Committee on Merchant Marine and Fisheries, September 28, 1977. The estimated costs of this bill are the same.

9. Estimate prepared by: Patrick J. McCann.

10. Estimate approved by:

C. G. NUCKOLS,
(For James L. Blum,
Assistant Director for Budget Analysis).

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nomination of Michael J. Egan, of Georgia, to be Associate Attorney General.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, the nomination of Mr. Egan as described by the majority leader is cleared on our calendar and we have no objection to his confirmation.

DEPARTMENT OF JUSTICE

The second assistant legislative clerk read the nomination of Michael J. Egan, of Georgia, to be Associate Attorney General.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nominee was confirmed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be notified of the confirmation.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate resume legislative session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TRANSFER OF MEASURES TO UNANIMOUS CONSENT CALENDAR

Mr. ROBERT C. BYRD. Mr. President, there are three measures which are cleared for action by unanimous consent. They are Calendar Orders Nos. 516, 517, and 519, and I ask that the clerk transfer those three measures to the Unanimous Consent Calendar.

The ACTING PRESIDENT pro tempore. They will be so transferred.

CONSIDERATION OF MEASURES ON THE UNANIMOUS CONSENT CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the three measures which have been transferred to the Unanimous Consent Calendar, Calendar Orders Nos. 516, 517, and 519.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, these items are on our calendar approved for transfer, as the majority leader correctly indicated previously.

I note from my calendar that they apparently qualify in terms of the reporting requirements as well. Therefore, we have no objection to their consideration and passage at this time.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader.

DISAPPROVAL OF PROPOSED DEFERRAL OF BUDGET AUTHORITY

The resolution (S. Res. 282) disapproving the proposed deferral of budget authority for acquisition construction and improvements by the U.S. Coast Guard, Department of Transportation, was considered and agreed to, as follows:

Resolved, That the Senate disapproves the proposed deferral of budget authority (deferral numbered D 78-21) for acquisition, construction, and improvements by the United States Coast Guard, Department of Transportation, including funding for the Puget Sound Vessel Traffic System and follow-on work related to the Medium Endurance Cutter replacement program set forth in the special message transmitted by the President to the Congress on October 3, 1977, under section 1013 of the Impoundment Control Act of 1974.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-562), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

INTRODUCTION AND SUMMARY

This impoundment resolution disapproves the proposed deferral of budget authority. It is reported by the Appropriation Committee to the Senate under the provisions of title X of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93-344), July 12, 1974.

DEPARTMENT OF TRANSPORTATION

U.S. COAST GUARD

ACQUISITION, CONSTRUCTION, AND IMPROVEMENT

Deferral No.: 78-21—Date proposed: October 3, 1977

Available new budget authority	$236,000,000
Available other budget authority	33,435,000
Proposed deferral for part of year (scheduled for release ——)	----------
Proposed deferral for entire year	13,031,000

Presidential rationale for proposed deferral.—Funds totaling $13.0 million are being deferred in order to provide for completion, outfitting and furnishing in future years of projects started in 1978.

Committee recommendation and rationale.—The Committee recommends that the proposed deferral be overturned. The Committee does not agree that the necessary agreement between the United States and Canada on the projects system configuration will delay the obligation of the funds.

RESCISSION OF CERTAIN BUDGET AUTHORITY

The bill (H.R. 9019) to rescind certain budget authority contained in the message of the President of July 19, 1977 (H. Doc. 95-188), transmitted pursuant to the Impoundment Control Act of 1974, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-563), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE BILL

This is the third rescission bill reported by the Committee on Appropriations during fiscal year 1977 under the provisions of Title X of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93-344), July 12, 1974.

The message from the President of July 19, 1977, contains two rescission proposals. The Committee is recommending their approval.

A general discussion of the bill follows. Specific committee recommendations are explained in the chapters of this report by Appropriations Subcommittees. Further details concerning particular items can be found in the House Document (No. 95-188) cited above and in the printed hearings.

RESCISSION TOTALS

The budget authority recommended to be rescinded is $96,090,000, the same as proposed by the President. A summary table follows:

COMPARISON OF RESCISSIONS PROPOSED IN H. DOC. 95-188 AND COMMITTEE RECOMMENDATIONS

Department and activity	Amount proposed	Amount recommended for rescission by the House	Amount recommended for rescission by the Committee
Rescission No.:			
R77-16 Funds Appropriated to President: Foreign military credit sales	$21,090,000	$21,090,000	$21,090,000
R77-17 General Services Administration: Federal buildings fund	75,000,000	75,000,000	----------
Grand total	96,090,000	96,090,000	----------

CHAPTER I

SUBCOMMITTEE ON FOREIGN OPERATIONS

FUNDS APPROPRIATED TO THE PRESIDENT

FOREIGN MILITARY CREDIT SALES

Rescission No.: R77-16—Date proposed: July 19, 1977

Available new budget authority	$698,500,000
Available other budget authority	----------
Proposed rescission	—21,090,000
House action	—21,090,000
Committee recommendation for rescission	—21,090,000

Presidential rationale for proposed rescission: Change in financing of an ongoing program.

Explanation of Committee recommendation: The Committee notes and concurs with the House action recommending a rescission of $21,090,000 in budget authority available to the Foreign Military Credit Sales program as requested in Rescission Proposal No. R77-16. The $21,090,000 reduction results from changes in program plans that placed increased reliance on guaranteed loans rather than on direct credit during fiscal year 1977. Under the guarantee program, funds equal to 10 percent of the face value of the loans are obligated to guarantee loans provided to foreign aid recipients by the Federal Financing Bank or private lending institutions. In contrast, the full face value of the loans is obligated by the U.S. Government in direct credit transactions. The program would still operate at its full authorized level ($2,022.1 million) if the rescission is accepted because the proposal is concerned only with a change in the method of financing the loans and not in the level of loans.

CHAPTER II

SUBCOMMITTE ON TREASURY, POSTAL SERVICE AND GENERAL GOVERNMENT

INDEPENDENT AGENCIES

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDING FUND

ALTERATIONS AND MAJOR REPAIRS

Rescission No.: R77-17—Date proposed: July 19, 1977

Available new budget authority	$125,000,000
Available other budget authority	----------
Proposed rescission	—75,000,000
House action	—75,000,000
Committee recommendation for rescission	75,000,000

Presidential rationale for proposed rescission: Economic conditions have improved since appropriation of $125 million. Unemployment has decreased and activity increased in the construction industry. FY 1978 appropriation of $200 million will permit funding of planned high priority repairs and alterations of GSA facilities.

Explanation of Committee recommendation: The President has proposed rescission of $75 million of the $125 million appropriated in the Supplemental Appropriations Act, 1977 (Public Law 95-26) for alteration and major repairs to public buildings. The House has agreed to the rescission of these funds. By a record vote of 7 yeas to 1 nay, the Committee agreed to recommend concurrence with the rescission proposal of the President and the House bill.

The additional funding was appropriated to assist in preventing further decline in the appearance and safety of Federal buildings and to add meaningful jobs for the unemployed in the construction industry where the rate of unemployment was estimated to be over 17 percent. It was testified that 30,000 jobs could be created with the appropriation. It was the view of the Committee that these projects could be accomplished more economically today rather than by deferring to future years.

The President in proposing rescission of $75 million of the appropriation, maintains that subsequent to the enactment of Public Law 95-26, "economic conditions improved significantly with unemployment decreasing and activity increasing in the construction industry as well as in the general economy." He further cites the increased appropriation for these projects in fiscal year 1978. Although in recent years appropriations for these projects averaged approximately $100 million, the Independent Agencies Appropriations Act, 1978 (Public Law 95-81) included $200 million.

The Administration has expressed the commitment to support an annual funding level

of $200 million for alteration and major repair projects. The General Services Administration has testified that this program level will support an optimal level of work throughout the country and assist in reducing the backlog of work to be accomplished.

Approximately $20 million of the $125 million appropriation is under contract and obligated. An additional $30 million is planned to be awarded within 90 days. It is the view of the Committee that this amount, together with the $200 million available in the Fiscal Year 1978 appropriation, is the maximum amount which can be used effectively for repair and alteration activities in the current year.

SUBPENA AUTHORITY OF THE SELECT COMMITTEE ON ETHICS

The resolution (S. Res. 312) amending the subpena authority of the Select Committee on Ethics contained in section 3(d) of Senate Resolution 338, agreed to July 24, 1964, was considered and agreed to, as follows:

Resolved, That section 3(d) of S. Res. 338, Eighty-eighth Congress, agreed to July 24, 1964, is amended to read as follows:

"(d) Subpoenas may be issued (1) by the Select Committee or (2) by the chairman and vice chairman, acting jointly. Any such subpoena shall be signed by the chairman or the vice chairman and may be served by any person designated by such chairman or vice chairman. The chairman of the Select Committee or any member thereof may administer oaths to witnesses.".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–565), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The Ethics Committee requested a clarification of the subpena authority granted in Senate Resolution 338, 88th Congress, as amended, to assure that the committee chairman acting jointly with the vice chairman, can authorize the issuance of such subpenas without approval thereof by the full committee.

Senator Adlai E. Stevenson, chairman of the Select Committee on Ethics, testified at a hearing on October 26:

"We have sought to clarify the rules by making it clear that the chairman and the vice chairman of this committee have the authority to authorize, on behalf of the committee, the issuance of subpenas. The rule now appears to give that authority to the chairman, though it is ambiguous. And it is an authority, which, because of the nonpartisan nature of the work of this committee, and because it is a committee divided evenly between the two parties, I would prefer to exercise with my vice chairman.

"And the main reason for clarifying this authority on the part of the chairman, and with this suggestion, the vice chairman, is to enable the committee to act during recesses or during adjournments of the Senate.

"We cannot be certain at this point of the need, but it is clearly possible that during adjournment, and with no quorum of the committee present, it will become necessary to issue subpenas. Other committees do that routinely, the chairman acting on behalf of it. But I understand there is some question as to the validity of subpenas that are issued in that way. And I don't want nor do other members of the Ethics Committee want to take any chance about subpenas issued by this committee being subsequently held invalid."

By approving this resolution, it was the committee's judgment that its action in agreeing that a chairman and vice chairman, acting jointly, could authorize the issuance of subpenas should not be viewed as precedent setting or that the committee favors a conclusion that committee chairmen and/or vice chairmen or ranking minority members should be authorized to approve and issue subpenas in their own right and in the absence of approval of such specific issuances by the full committee itself. Heretofore, the position of the committee has been that committee chairmen should not be authorized to approve and issue subpenas by singular action.

It was the committee's judgment that the Ethics Committee's request presented a particular and unique fact situation because the select committee's membership is evenly divided between the two major political parties and is not a standing and legislative committee.

The committee noted that there would appear to be serious legal questions in any attempt by a committee, acting alone and without prior Senate authorization, to delegate to a chairman the authority to approve and issue subpenas.

BACKGROUND

The Constitution implicitly grants investigatory authority to the constitutionally recognized components of the legislative branch of the Government, the Senate and the House of Representatives. Committees and subcommittees of the Senate and House possess no independent constitutional power to conduct investigations. Such power is received by delegation from the parent body possessing constitutional investigatory authority, the Senate or the House. Such power is delegated by resolution or rule.

For purposes of a supportive position of its action recommended by this resolution, the committee noted that the U.S. House of Representatives earlier this year approved House Resolution 5 (95th Congress), which for the first time incorporated in the House rules the authority for a committee to delegate such authority to its chairman to approve and issue subpenas.

House records show that prior to the adoption of House Resolution 988 (93d Congress), on January 3, 1975, only five committees were authorized to issue subpenas by the Rules of the House. Other Committees were given subpena power by resolution at the beginning of each session. Apparently, the House felt that the subpena power was its own and had to be explicitly delegated to its committees and that its committees could not empower their chairmen to authorize subpenas absent the explicit delegation of such authority by the House itself. Opposition to such authority centered around the argument that the subpena was such a powerful and potentially abusive weapon that it should not be exercised by the chairmen alone.

An examination of rules adopted by committees of the House of Representatives indicates that some committees have delegated power to the chairmen to authorize subpenas while in others no provision for delegations has been made and thus the full committee must act to authorize issuance of a subpena.

SENATE RULES ON SUBPENAS

By approving this resolution, the Committee on Rules and Administration noted that by the Rules of the Senate (2 U.S.C. sec. 190 (b)), the Senate has delegated to standing committees the authority to issue subpenas but further delegation to a chairman is not explicitly authorized.

Therefore, it can be argued that a committee, unless specifically authorized by the Senate, has no power to delegate the subpena authority to its chairman. The committee further noted that in two instances the U.S. Court of Appeals for the District of Columbia Circuit held invalid subpenas issued by the chairman of the subcommittee of a Senate Committee (Internal Security Subcommittee) (*Shelton* v. *United States* 327 F.2d 601, 605–6 (1963)), (*Liveright* v. *United States*, 347 F.2d 473, 474–5 (D.C. Cir. 1965)).

Records indicate that the rules of several Senate standing committees purport to grant subpena issuing authority to a committee chairman although the Senate itself has not approved the delegation by such committees of that authority. The rules of other Senate standing committees are silent on this point, indicating that such committees probably wish to retain the subpena authority themselves or have not considered the precise subject matter.

Whether the Senate should amend its rules to authorize the delegation of authority to approve and issue subpenas to a committee chairman or adopt a resolution authorizing such delegation in a particular case (as this resolution recommends), is a question for determination by the Senate as to standing, select and special committees, as it so chooses.

CONCLUSION

By approving this resolution (S. Res. 312), it was this committee's judgment that it is not only appropriate but desirable and necessary for the Ethics Committee's chairman and vice chairman, acting jointly, to have such authority and as further elaborated upon by the following letter from that committee requesting approval for such authority and for the reasons set forth:

U.S. SENATE,
SELECT COMMITTEE ON ETHICS,
Washington, D.C., October 11, 1977.

Hon. HOWARD CANNON,
Chairman, Committee on Rules and Administration, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: On October 6, 1977 the Select Committee on Ethics unanimously recommended that the standing orders of the Senate immediately be amended to authorize the issuance of subpenas on behalf of the Select Committee on Ethics by the chairman and vice chairman acting jointly. The proposed amendment applies to subsection 3(d) of Senate Resolution 338, 88th Congress, agreed to July 24, 1964, as amended.

On behalf of the select committee, I request that the Committee on Rules and Administration consider our recommendation at your meeting scheduled for October 12 and favorably report it as an original resolution. Such action would facilitate Senate agreement to this resolution before adjournment.

The amendment requested by the select committee reads as follows:

"*Resolved*, That section 3(d) of Senate Resolution 338, 88th Congress, agreed to July 24, 1964, is amended to read as follows:

"(d) Subpenas may be issued (1) by the Select Committee or (2) by the chairman and vice chairman, acting jointly. Any such subpena may be issued over the signature of the chairman or any member designated by him, and may be served by any person designated by such chairman or member. The chairman of the select committee or any member thereof may administer oaths to witnesses."

This amendment, if agreed to, would authorize the chairman and vice chairman of the Select Committee on Ethics, acting jointly, and the committee in the alternative, to issue subpenas to require the at-

tendance of witnesses and the production of correspondence, books, papers, and documents. A subpena authorized by the chairman and vice chairman, or by the committee, then may be signed for issuance by the chairman alone or any select committee member designated by him, and may be served by any person designated by the chairman or the designated member. The amendment also retains present language of subsection 3(d) authorizing the chairman or any member of the committee to administer oaths.

Investigative duties of the select committee, including those performed for the committee by the Special Counsel for the Korean Investigation, may require the issuance of subpenas during the adjournment period or at other times when a majority of the committee is not available in Washington.

The present language of the subsection 3(d) appears to permit the chairman to issue subpenas, although that is not entirely clear, but in any case the nonpartisan character and mode of operation of the select committee require responsibility for issuing subpenas be held jointly by the chairman and vice chairman.

The need to clarify this subpena power prior to adjournment explains the urgency of this request.

We appreciate your assistance.

Sincerely,

ADLAI E. STEVENSON.

TIME LIMITATION AGREEMENT—S. 1976

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as the redwoods bill (S. 1976) is called up and made the pending business before the Senate, there be a time limitation of 2 hours on the bill to be equally divided between Mr. CRANSTON and Mr. ABOUREZK and Mr. HANSEN; and that there be a time limitation on any amendment of 1 hour; that there be a time limitation on any amendment in the second degree of 30 minutes; that there be a time limitation on any debatable motion, appeal, or point of order of 20 minutes, and that the agreement be in the usual form.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The text of the agreement is as follows:

Ordered, That when the Senate proceeds to the consideration of S. 1976, a bill to add certain lands to the Redwood National Park in the State of California, to strengthen the economic base of the affected region, and for other purposes, debate on any amendment in the first degree shall be limited to 1 hour, to be equally divided and controlled by the mover of such and the manager of the bill, debate on any amendment in the second degree shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill, and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 2 hours, to be equally divided and controlled, respectively, by the Senator from South Dakota (Mr. ABOUREZK) and the Senator from Wyoming (Mr. HANSEN): *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

REQUEST FOR TIME-LIMITATION AGREEMENT—S. 897

Mr. BAKER. Mr. President, there is one other item I would call to the attention of the majority leader. I understand it is possible or it may be possible to get a time limitation on Calendar Order No. 432, the so-called nonproliferation treaty.

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I must say, Mr. President, for the benefit of the Senate, I have no objection to the consideration of the bill, but I would like to set down a relatively short time limitation. I will try to negotiate that if I can today, and maybe later in the day we can get some sort of agreement on it as well.

Mr. ROBERT C. BYRD. Very well. That is Calendar Order No. 432, the nonproliferation matter.

Mr. BAKER. All right.

Mr. ROBERT C. BYRD. Mr. President, I will join with the distinguished minority leader in attempting to work out a time limitation on that as early as possible today on that bill, Calendar Order No. 432.

A SPECIAL PUBLIC SERVANT ENTERS A NEW PHASE OF HIS CAREER

Mr. ROBERT C. BYRD. Mr. President, in our society, a person often achieves special honor and esteem by doing extraordinary and heroic deeds. But one man in recent years proved that the majority of the American people still bestows honor on a public servant who simply fulfills the duties and responsibilities that his office lays upon him.

That man is Judge John J. Sirica. Judge Sirica's tenacity and perseverance in meeting his responsibilities as a Federal judge was one of the most salient elements in breaking the Watergate case. His expert and meticulous handling of the burglary at the Watergate complex was also one of the factors that led me to scrutinize the L. Patrick Gray nomination in such detail as I did. As a result of his conscientious attention to his duties as a judge, John J. Sirica has earned the respect of his fellow-citizens as a patriot and a man.

Yesterday, Judge Sirica ended his career as an active judge. He will continue to serve on the bench of the Federal district court as a senior judge, working a reduced schedule and choosing only those cases that interest him. After 30 years as a lawyer and 20 years as a judge, he has earned the freedom and time that will now be his.

Judge Sirica is the son of immigrant parents. In many respects, his biography is a classic American story. But he proves again the validity of the old American formula of hard work, discipline, and dedication to higher principle on which so much of the success of this Nation has depended.

Mr. President, as he enters semiretirement, I congratulate Judge Sirica on his long and distinguished career, and I wish him every possible future satisfaction and happiness. He has won the genuine esteem, respect, and appreciation of the American people.

Mr. President, I yield to the distinguished majority whip.

PRIVILEGE OF THE FLOOR

Mr. CRANSTON. Mr. President, I ask unanimous consent that Paula K. Watson and Hal Gross of the Budget Committee staff, be given privileges of the floor during consideration of and votes on H.R. 9375.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield back the remainder of my time under the standing order.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I have no requirement for my time, and no requests for time under the standing order, and I yield it back.

RECOGNITION OF SENATORS UNDER SPECIAL ORDERS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Alabama (Mr. ALLEN) is recognized for not to exceed 15 minutes.

THE PANAMA CANAL TREATIES—NO. 22

Mr. ALLEN. I thank the chair. Mr. President, on October 19, 1977, the subject of my Panama Canal talk—and I might say that was my 21st talk on this subject—was the visit to the White House made recently by Panamanian Dictator Omar Torrijos. I discussed in detail the lack of clarity in the unsigned joint communique issued at the conclusion of the dictator's visit, and I pointed out its failure to resolve any of the many ambiguities in the proposed Panama Canal treaties.

Specifically, Dictator Torrijos and President Carter had discussed the right of the United States to intervene in Panama to defend the canal after 1999 and the right of U.S. naval vessels to priority passage. As I explained in my remarks at that time, the so-called agreement reached by the two leaders has done virtually nothing to clarify existing ambiguities in both areas and, in fact, would further cloud both issues by introducing additional conflict in the separate interpretations of these treaty provisions by the two governments.

Of course, Mr. President, former Ambassador Linowitz and other administration spokesmen have either asserted or implied that the United States does have the right to intervene in Panama to protect the neutrality of the canal and that U.S. warships do have the right of priority transit of the Isthmus of Panama.

These assertions have been made, Mr. President, notwithstanding the words of

the treaties which seem certainly to indicate otherwise. In other words, Mr. President, former Ambassador Linowitz and other proponents of the treaties have insisted that the treaties have a meaning which would be viewed favorably here in the Senate and which might be acceptable to the people of the United States, but, Mr. President, unfortunately for proponents of these treaties, the Panamanians have refused to lie low while the documents are being sold up here in the United States. The Panamanians have been quite frank in stating their interpretations. In fact, Mr. President, starting back in August—in fact, on August 10, 1977, and again on August 24, 1977—Panama's chief treaty negotiator, Dr. Romulo Escobar Bethancourt, chose to publicize in Panama the exact limitations on the rights of the United States to take military action to protect the canal and to maintain its neutrality and on the rights of U.S. war vessels to priority passage. Fortunately, Dr. Escobar's remarks were subsequently made available to the Senate and have served to highlight the differing interpretations given to these very important defense provisions. Senators read with some amusement Dr. Escobar's rather indelicate comment:

If the gringos—

Referring to the United States—

If the gringos with their warships say, "I want to go through first," then that is their problem with the other ships.

Indicating that Dr. Escobar felt confident that we had no right of priority passage. That was not very diplomatic, Mr. President, but certainly clear in its meaning. Here we have expressed in no uncertain terms exactly how the Panamanians would view this so-called right of expeditious passage which has been trumpeted by certain of our treaty negotiators as a great diplomatic achievement. Similarly, Mr. President, we learned from Dr. Escobar's remarks—as early as August 10, 1977, back before we had even been told what was in the treaties—that Panama agreed to United States intervention to defend the canal only in the event such intervention was directed against "third countries"—not against Panama. We were even more baffled when we learned that former Ambassador Linowitz on the same day refused to comment on or to correct Dr. Escobar's assertion.

So, Mr. President, these differing interpretations, if indeed they are differing interpretations, have been in the works for some time now; in fact, these differences were quite evident even preceding the signing of the two treaties on September 7, 1977. But, Mr. President, when it later became obvious that the Senate would not allow the matter to be hazed over or swept under the rug, the proponents of the two treaties apparently thought that it would be wise to seek some clarification to allay the concerns of many of us here in the Senate, to assuage our feeling that the two documents ought to be capable of reasonable interpretation by reasonable men, to come up with the same interpretation and to persuade the citizens of the United States that these ambiguities would, in subsequent years, not be resolved in favor of the Panamanian interpretation with consequent disadvantages to our own national security. The unsigned clarifying document, however—and Senators, of course, know that this so-called agreement between Dictator Torrijos and President Carter was not signed—caused more problems than it solved and has thrown us into even deeper confusion in our attempts here in the Senate to ascertain the actual meaning of these truly mystifying provisions.

I regret to say, Mr. President, that a new element of further confusion has been gratuitously thrown into the brew by Dictator Torrijos. Apparently, Mr. President, a few days ago on October 21, 1977, Dictator Torrijos—in addition to again threatening the Senate in veiled terms with an armed attack on the canal should the Senate fail to ratify these treaties—in addition to that frequently heard threat, Torrijos in Panama made the following interesting comment giving his interpretation of the just-announced, unsigned communique. I quote what Torrijos said:

I don't want the canal unprotected but I don't want them (the Americans) to overprotect us to the point of interfering with our lives. I want to establish a system where we press a button here and a bell rings there when the attack is greater than our ability to handle it. I wouldn't say it's a right the U.S. has—I'd say they are obligated to come to the defense of the canal.

On these terms, we understood one another. Then we drew up in two minutes exactly what we wanted: You don't interfere in our internal matters, and leave me a button I can press in Panama, and then I want a loudspeaker at strategic command that they will hear when I do press the button.

So, Mr. President, this does not sound like much of a right we have obtained here in these treaties or in this subsequent so-called clarifying document. This is not much of a right if we are unable to take any action until a petty Marxist dictator elects to "press a button" to put American troops into action to look after his needs as he sees them. Not much of a right indeed, Mr. President.

In fact, on close analysis I would call this particular interpretation given by Dictator Torrijos an interpretation which would in practice impose an obligation on the United States to shore up his dictatorial regime rather than an interpretation which would grant to the United States, as I believe the majority of the Senate desires, a right to guarantee the neutrality of the canal with such appropriate military action as the United States, in accordance with its constitutional process, might itself unilaterally decide.

So we still have the question as to who reaches the decision for military presence by the United States. Torrijos says he is the man that presses the button, and that we do not have any right to determine when it is necessary for us to take action.

It is my contention that the United States should be allowed, at such times as it feels the canal is in danger, to have the right to send troops in to protect the canal.

The last thing, Mr. President, that I trust any of us would like to see given to Dictator Torrijos is the ability to "push a button" to commit U.S. troops to battle, and certainly, Mr. President, this is indeed a curious concession made to Torrijos if he does secure by these treaties the right to demand the presence of U.S. forces as it may suit his own interest, while the United States must wait idly by for the dictator's summons when the vital interests of the United States are being sacrificed to some yet-undisclosed Marxist project endangering the operation of the canal.

In other words, Torrijos sees the treaty and the unsigned agreement between him and President Carter as giving him the sole right to decide when American troops can come in to defend the canal, but he might be the aggressor himself. The Panamanians might decide to nationalize the canal, to take it over, and exclude U.S. shipping, U.S. warships. Naturally, he would not press a button, as he called it, to summon U.S. troops.

So we do not have any meeting of the minds yet, no matter how highly trumpeted the unsigned agreement.

What is going to happen, of course, is to amend the treaty, which I will get to in a moment.

Finally, Mr. President, in my judgment, the Senate ought to take note of the fact that the Panamanian plebescite for ratification of these treaties has already occurred. Naturally, therefore, there can be no binding legal effect given now to any extraneous signed executive agreement incorporating, or perhaps further clarifying, as they say, the so-called clarifying document already issued. Simply stated, a new signed executive agreement purporting to lay this matter to rest could have no binding legal effect since it would not have been in existence at the time of the Panamanian plebescite and since, therefore, the Panamanian people could not have been aware of its terms prior to their favorable vote for ratification.

Mr. President, the only way these questions can be resolved properly is for the Senate to undertake the duty of amending these treaties with precise language which sets forth exactly the rights of the United States, both with respect to priority passage for war vessels and as regards intervention to defend canal neutrality. Only by amendment and by subsequent renegotiation with Panama can the present impasse be resolved in a legally binding manner and in a manner which can form the basis for decent future relations with Panama. We cannot rely on the theory that might makes right. Our future rights must be clearly expressed if we are to avoid criticism in some future age for exerting power in excess of our internationally recognized legal authority. Additionally, Mr. President, only by precise amendment of these two provisions and of the many other ambiguous provisions found throughout both treaties—only by this careful process of amendment can the Senate discharge its full responsibility to the people of the United States to insure

the complete protection of our vital national security interest in the Panama Canal and in any other strategic waterway which might be constructed between the two seas.

INTERNATIONAL LABOR ORGANIZATION

Mr. ALLEN. Mr. President, I learned yesterday that President Carter has decided to terminate the membership of the United States in the International Labor Organization. President Carter is to be commended on this wise and courageous choice and certainly deserves our support for his decision to break with an organization which has come increasingly under Soviet dominance. In 1975 President Ford gave the required notice of the intention of the United States to withdraw from the International Labor Organization at the expiration of the mandated 2-year period. I believe President Ford's decision was amply justified by the actions of the ILO which predated that announcement. Certainly nothing has happened over the ensuing 2 years to justify remaining in the Organization, and President Carter was quite correct in rejecting the bad advice of the Department of State that the United States should extend its membership for an additional year.

The President's decision was undoubtedly difficult to reach since it is well known that the President believes in maximizing U.S. participation in international bodies, but in this case, certainly he has wisely concluded that the national interests of the United States can in no way be served by continued membership in the International Labor Organization.

Frankly, Mr. President, I hope the President's decision with respect to the ILO will be interpreted as a signal to the membership of the United Nations which continues the process of perverting the original goals of the United Nations and which continues to orient the policies of the United Nations with policies of the Soviet Union and international communism. In my judgment, Mr. President, the day has already long since come for the Senate to consider seriously the value of the continued membership of the United States in the United Nations inasmuch as that organization is following close on the heels of the ILO. So I do hope that the President's decision to pull the United States out of the ILO will in some measure have a sobering effect on at least some of the many irresponsible delegations now seated in the United Nations.

I yield back the remainder of my time, Mr. President.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TIME LIMITATION AGREEMENT—S. 897 (SUBSEQUENTLY VITIATED)

Mr. ROBERT C. BYRD. Mr. President, subject to its being waived by either the minority leader or myself within the next hour, I ask unanimous consent that, at such time as the bill, S. 897, dealing with policies on nonproliferation, is called up and made the pending business before the Senate, there be a time limitation thereon as follows: 4 hours on the bill, to be equally divided between Mr. RIBICOFF and Mr. PERCY; that there be a time limitation on any amendment of 30 minutes; that there be a time limitation on any debatable motion, appeal, or point of order, if such is submitted to the Senate for its consideration, of 20 minutes; and that the agreement be in the usual form.

The PRESIDING OFFICER (Mr. FORD). Without objection, it is so ordered.

Mr. BAKER subsequently said: Mr. President, I have just been advised that the unanimous-consent order we conditionally entered a few moments ago on the nuclear nonproliferation treaty must be vitiated, by request on my side.

So, if the majority leader will permit me, at this time I ask unanimous consent that the order for consideration and time limitation on the nuclear nonproliferation treaty be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the supplemental appropriation bill today, the Senate turn to calendar order No. 432, S. 897, the nonproliferation bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, this would mean that upon the disposition of the nonproliferation bill, I should like to return to the original agreement that the Senate then proceed to the consideration—it would not be today, of course—of the social security financing bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Then, I should like to propound this request: That upon the disposition of the social security financing bill, the Senate then proceed to consider either the Alcan pipeline bill or the Redwood Forest bill, or the medical students bill, whichever, under the circumstances at the time, seems to dictate proper action by the leadership.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUPPLEMENTAL APPROPRIATIONS, 1978

Mr. ROBERT C. BYRD. Mr. President, the distinguished minority leader and I have been considering what the regimen will be. I ask that the Chair lay before the Senate the unfinished business as scheduled.

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of the unfinished business, H.R. 9375, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (H.R. 9375) making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes,

The Senate proceeded to consider the bill.

LEGISLATIVE PROGRAM

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time I consume and that will be consumed by the distinguished minority leader not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, it is possible that the Senate will complete its work by the close of business Friday of this week, although I doubt it. I think we should entertain the probability of a Saturday session. In any event, it will be the intention of the leadership, after this week, to go over to Tuesday for a pro forma session only, and then to go over to Friday of next week, the 11th, for a pro forma session, with the understanding that, in that pro forma session, the distinguished minority leader and I be permitted to speak for 10 minutes between us, so as to be in a position to announce any developments that may have occurred in the interim with respect to progress on conferences and so on, but with no business to be transacted.

Then it would be our intention to go over until the 15th of November, with the possibility of some business to be transacted then, but if such were the case, Senators would be notified well in advance, by the statements by the minority leader and myself on Friday, the 11th; then to go over until the 18th of November for a pro forma session, with the proviso that there would be no business transacted in the Senate during the week of the 6th through the 12th; and no business transacted in the Senate during the week of the 20th through the 26th. This will allow conferees to work without interruption in conference on the various measures that are there.

I should emphasize that there are several measures yet remaining to be resolved in conference other than the five energy measures.

I ask unanimous consent at this time to have printed in the RECORD at this point a list of measures that are presently in conference, plus a list of those expected to be in conference, which should be resolved—hopefully before we adjourn sine die over to the second session—which, incidentally, will convene on January 19, 1978, instead of January 17, 1978, as earlier announced.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

CONFERENCE REPORTS

H.R. 5885—Rivers and Harbors Authorization.

S. 1019—Maritime Programs Authorizations.

H.R. 3199—Clean Water Act.
H.R. 4544—Black Lung Benefits Reform Act.
H.R. 9005—District of Columbia Appropriations.
S. 1339—ERDA Authorizations for Defense.
H.R. 6666—Legal Services Corporation Act.
H.R. 5146—Coal Conversion.
H.R. 5037—Energy Conservation.
H.R. 5289—Natural Gas Policy.
H.R. 4018—Public Utility Rates.
H.R. 7555—Labor-HEW Appropriations.
H.R. 5383—Age Discrimination.
H.R. 7—Career Education.
S. 1750—Saccharin Study and Labeling.
H.R. 8422—Rural Health Clinic Services.
S. 1863—Defense Supplemental Authorizations.
S. 1585—Sexual Exploitation of Children.
H.R. 3454—Endangered American Wilderness Act.
S. 1131—Nuclear Regulatory Commission Authorization.
S. 1316—Endangered Species Act Authorizations.
H.R. 5263—Energy Tax Act.
H.R. 9375—Supplemental Appropriations.
H.R. 9346—Social Security Financing Act.
H.R. 9710—Regulation Q.

Mr. ROBERT C. BYRD. Mr. President, there may be additional measures in conference as a result of further floor action this week in both the House and Senate which do not presently appear on the conference calendar. I hope to emphasize again and again that not only the five energy measures are in conference, but also there are other various important measures in conference. They are on the conference calendar, beginning on page 19 and extending through page 26, inclusive. I say once again, depending on the floor action during the remainder of this week in this body and in the other body, still other measures will be added to that conference list.

The purpose of the pro forma floor sessions is to allow conferees to work in conference without interruptions by quorum calls and rollcalls in the two Houses and thus expedite the action on the matters in the conference.

It is thought by the distinguished minority leader and myself that it would be well if we could outline at this point certain periods when Senators could be assured that there would be no floor action whatsoever. As I have said, the distinguished minority leader and I have presently determined that we would go over from the week of November 6 through 13 and the week of November 20 through 27, which is Thanksgiving week, with no votes and no action which would require Senators—those who are not involved in the conferences—to return to Washington if they have engagements planned in their home States or elsewhere.

As the distinguished minority leader and I are better able from time to time, on the basis of developments, to make further announcements, we shall do so.

Mr. ALLEN. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. ALLEN. Did I understand the Senator to say that the first business day after this week would be on the 15th of November?

Mr. ROBERT C. BYRD. Even that might not be a business day, but that would be the first possible business day that I can foresee at this time. An announcement, which would be more precise than any I can make at this time, as to whether or not November 15 will be a business day will be made by the distinguished minority leader and myself on, probably, the 11th of November, which will be a pro forma session otherwise. The leadership will take every measure, as much in advance as possible, to notify all Senators on both sides of the aisle as to actions on conference reports when they are expected to be called up.

Mr. ALLEN. I thank the majority leader.

Do I understand correctly that, after this week, business will be confined to action on conference reports?

Mr. ROBERT C. BYRD. Yes, business after this week will be confined to action on conference reports unless an emergency situation—which we do not foresee—should arise, or unless it is necessary to attempt to override a Presidential veto on a measure.

Mr. ALLEN. I thank the distinguished majority leader.

I commend him and the distinguished minority leader for working out this plan. I think it allows us to take action on the conference reports, but, at the same time, does allow us to go back to our States and visit with our people as we had planned to do in view of the anticipated earlier sine die adjournment.

Mr. ROBERT C. BYRD. Yes.

Mr. ALLEN. So I think this is a very fine plan to allow the conference committees to work, but still to allow Senators to fill the commitments in their home States.

Mr. ROBERT C. BYRD. Yes.

I thank the Senator for raising one additional point which I should stress, and I am sure the distinguished minority leader will probably want to do likewise.

I think I should stress, as has been brought out in this colloquy, that once this current week has passed, it will not be the intention of the leadership to call up any more calendar measures, because if we take one measure up, we will be pressured from various forces to take up other calendar measures. We would then find ourselves right back into the daily floor sessions, whereas the necessity is to avoid floor sessions so as to expedite the Senate-House conferences.

So after this week, there will be no more measures called up from the calendar, barring an emergency which we do not foresee, and, of course, as I say, if it should become necessary to override a Presidential veto, the distinguished minority leader and I will make that announcement so that our colleagues may be well aware of the intent.

Mr. YOUNG. Will the distinguished majority leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. YOUNG. How will the pending conference reports be handled? Will they all be handled at one time, or during one period, or will we be called back several different times?

We have five energy bills. Can we expect them to come back as one bill or five bills.

Mr. ROBERT C. BYRD. As to the energy items, they will come back to the Senate in separate conference reports.

In the House, they will be lumped together and voted on en bloc under the House rules, which we cannot do over here but the Senate will take those conference reports up separately.

Now, if the House conferees are willing to go ahead and sign the various energy conference reports—let us say, in connection with coal utilization, energy conservation, utility rate reform, and natural gas pricing—if they are willing to sign those conference reports and if Mr. JACKSON is of a mind to proceed on those one at a time, our members will be so alerted and we can proceed to take those up before we reach the final one or ones.

Mr. YOUNG. Will all the reports be taken up the same week or are we apt to have pro forma sessions between conference reports and come back for each one?

Mr. ROBERT C. BYRD. It would depend on whether or not the House conferees sign energy conference reports in advance or whether they intend to wait until all five conferences have been completed before they sign any of the conference reports.

I would hope we would be able to take up some of the conference reports on energy from time to time and advance to the final one, which presumably will be the energy tax conference report, but I think we will just have to wait and see.

But, in the meantime, I may say to my good friend from North Dakota, there may be other conference reports which will be ready.

For example, there is the Clean Water Act conference report. There is the black lung conference report, legal services, the District of Columbia appropriations and others—I do not know when they will be coming along. Labor-HEW, hopefully we will be able to do it this week, but I do not know.

But there are various other conference reports which may be coming along well in advance of the energy conference reports.

As a matter of fact, it may be that some of these conference reports would not necessitate a rollcall vote. The minority leader and I will attempt to determine this well in advance, and if conference reports are ready and the managers of those conference reports believe that no rollcall vote will be needed and we find no indications from other Members that they want a rollcall vote on those conference reports, we could very well handle them by voice vote without having Members come in from various States throughout the country.

Mr. YOUNG. I thank the Senator.

Mr. MAGNUSON. Will the Senator yield?

Mr. ROBERT C. BYRD. I yield to the Senator from Washington.

Mr. MAGNUSON. I am sorry, I did not hear all of this discussion between the minority leader and the majority leader on the program. But several Senators have been interested in one thing which involves the fact that next week they may leave, and when the Senator from Washington leaves, he is a long way away.

I am wondering if there is any plan on these conference reports to pile them

up, back to back, so that we would have a vote on a given day, and Senators could be notified so they might get here for the conference report, and that might apply to anyone here, not necessarily only those of us who come from long distances.

As the Senator points out, I just heard him say there may be some that will not require that.

Mr. ROBERT C. BYRD. Yes.

Mr. MAGNUSON. But if we start to pick them up as they come, otherwise, Senators will have many things to do in their home States, including the State of Washington, wondering whether they will have to sit here, as well, next week and just wait.

But I do not think the majority leader or the minority leader want to do that. So I hope there would be an accommodation, that we might have those that are going to require a rollcall, we might have them back to back on a given day with notification to the Senators, wherever they may be, that this will be done on a given day, and then they can all come for that if they want to come to vote.

I did not hear the beginning of the discussion.

Mr. ROBERT C. BYRD. That is the plan of the distinguished minority leader and myself. We will do everything we possibly can to accommodate all Senators by having back-to-back votes where possible.

Mr. MAGNUSON. Yes.

Mr. ROBERT C. BYRD. May I say to the distinguished Senator from Washington, we are going to try to work in accordance with that plan as much as possible.

Mr. MAGNUSON. The one we are discussing now, suggesting?

Mr. ROBERT C. BYRD. Yes.

Mr. MAGNUSON. Because there are many Senators that I know are going to leave this weekend, necessarily so, many of them, and they want to schedule their own itinerary, hoping that they may have to come back here for a given day, maybe, on conference reports.

Now, would that not be true on the energy, could we not have them all at the same time?

Mr. ROBERT C. BYRD. Well, I do not know about energy conference reports at this point. I would hesitate to say, "Yes," because it may very well be that Senator JACKSON, if he is able to get the House conferees to sign the conference reports, may want to proceed with two or three of his conference reports when they are ready. It may be otherwise.

I was saying, that as the minority leader and I are able to assess the developments in connection with these conferences, we would be in a position to alert all our Members well in advance so that they could make their plans to return.

Mr. MAGNUSON. Yes.

I am talking about sufficient time.

Mr. ROBERT C. BYRD. Yes.

Mr. MAGNUSON. It is not so much the time that is required to get here, but sufficient time so they can change their itineraries, so they will know what they can do at home, or wherever they may be.

Mr. ROBERT C. BYRD. Yes.

Mr. MAGNUSON. This is what I think is bothering a great number of Senators.

Mr. ROBERT C. BYRD. Well, the minority leader and I will attempt to make it as convenient for all Senators as possible to alter their itineraries.

Mr. MAGNUSON. Well, the two Senators always do this.

Mr. ROBERT C. BYRD. Yes.

Mr. MAGNUSON. But we were wondering what the scenario was going to be.

Mr. ROBERT C. BYRD. We were just trying to outline it. Next week there will be no votes, the week of Thanksgiving there will be no votes, but we have to put ourselves in a position, if the President should want to veto a matter, that he could not pocket veto it by virtue of our being out for 10 days.

So, with those possible contingencies in mind, we thought this might be the best approach.

Mr. BAKER. Mr. President, I think this is a good arrangement, and I thank the distinguished majority leader for agreeing to confer this morning on this subject and announcing the results of our conversation as soon as possible to the Senate, so that everyone can make his plans

I reiterate that I am convinced that these plans are firm and that people should feel free to go ahead and depend on them. I see the majority leader nodding his head in agreement on that.

Mr. President, I hope we can adopt some procedures suggested by the distinguished Senator from Washington and those that were conveyed to me privately a moment ago by the distinguished Senator from South Carolina (Mr. THURMOND), along the same line, elicited in an inquiry by the Senator from North Dakota.

I will work with the majority leader as he may wish, to try to see that our schedule is as accommodating as possible.

I congratulate the majority leader for arriving at this schedule and stating it early. In my view, it is a good arrangement.

MARITIME APPROPRIATION AUTHORIZATION ACT, 1978—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. INOUYE, I submit a report of the committee of conference on S. 1019 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1019) to authorize appropriations for the fiscal year 1978 for certain maritime programs of the Department of Commerce, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 26, 1977.)

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SUPPLEMENTAL APPROPRIATIONS, 1978

The Senate continued with the consideration of H.R. 9375.

The PRESIDING OFFICER. Who yields time?

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the committee amendments to H.R. 9375 be agreed to en bloc and that the bill as thus amended be considered as original text for the purpose of further amendment, with the usual proviso that no point of order shall be considered as having been waived by reason of agreeing to this request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, this is the first supplemental apropriation bill for fiscal 1978, which began on October 1.

Mr. STENNIS. Mr. President, may we have quiet and repose? The Senator is about to make an important statement, and we want to hear him. I do, and I am sure others do.

The PRESIDING OFFICER. The Senate will be in order.

Mr. MAGNUSON. I thank the Senator.

The House passed this bill on October 24. It was received in the Senate and referred to the Committee on Appropriations on October 26. In the meantime, the subcommittee chairmen involved in this very important matter had hearings, many of them for several days, with scores of witnesses. In the meantime, we were awaiting the House bill. The committee met on Friday morning and heard from all the subcommittee chairmen and reported the bill at the end of the day.

The budget requests considered by the committee in marking up this bill totaled $8,041,868,000, probably one of the largest supplemental appropriation bills, moneywise, at a beginning of a fiscal year that Congress has ever had before it.

In the bill, the committee ended up recommending an appropriation of $7,885,246,000. Thus, the bill is $156,622,000 under the budget requests.

There are 11 appropriation subcommittees represented in the bill, including the general provisions section. The bill recommended by the committee is $702,644,000 more than the House-passed bill; but the House did not consider a number of budget items sent up in the meantime to the Senate committee.

The major items in the bill are as follows: The Environmental Protection Agency construction grants, which is the largest item, $4.5 billion; other EPA programs, $132 million; Small Business Administration disaster loans, $1.4 billion,

and this larger amount was not considered by the House committee at the time they met; Federal Energy Administration, $276,344,000; Strategic Petroleum Reserve, $383,173,000.

Those five items, of course, are the great bulk of the bill, and some of them deal with the whole problem that has confronted Congress with respect to the energy package. We are getting down now—we had better pay attention to it—to some of the costs involved in this matter, and the costs are great.

Other items are as follows:

Department of HEW: Indochinese refugee assistance, $124 million; Community Services Administration, $200 million; Department of Interior: Surface mining reclamation and enforcement, $67,527,000; Energy Research and Development Administration: Clinch River breeder reactor project, $80 million; Defense programs, $369,900,000.

Mr. President, I will not take up further time of the Senate to go into the various items, since the various subcommittee chairmen will explain and cover the items in their remarks. In addition, the report covers all these items in detail, so I refer the membership to the report.

Mr. President, I yield to the Senator from North Dakota, who has a brief statement. I understand that the Senator from Mississippi would like to make a statement, also.

In some of these cases, the Appropriations Committee had a most difficult time. There are some authorizations that were not there: Some were in the middle of conference; some were on their way. But all those we dealt with seemed to have some urgency involved. These are matters the Senate will have to resolve today.

Normally, we do not appropriate money without an authorization or if we do and there is an emergency the appropriation is made subject to a proviso that it will not be spent until there is an authorization which may be in the making, may be now in conference, or on its way.

So with that I yield to the Senator from North Dakota.

The PRESIDING OFFICER (Mr. McINTYRE). The Senator from North Dakota is recognized.

Mr. YOUNG. Mr. President, the acting chairman of the Senate Appropriations Committee, the distinguished Senator from Washington, Mr. MAGNUSON, has in his report given considerable detailed information on this bill. I will only make a rather short summary of the bill.

Mr. President, originally the Appropriations Committee did not intend to take up a fall supplemental appropriations bill. Inasmuch as the new fiscal year (1978) began on October 1, there would normally be no need for a supplemental. However, as my colleagues will recall, the President sent up a budget amendment to terminate the B–1 bomber and increase the funding for the air launched cruise missile and other programs.

The termination of the B–1 was included in the defense appropriations bill for fiscal year 1978, and the funding request for the air-launched cruise missile and other items was deferred until the Armed Services Committees could hold hearings and authorize items requested. It is my understanding that the leadership agreed when this decision was made to include these add-on items in this supplemental.

Mr. President, I regret that President Carter has decided to discontinue the B–1 and delete any funds for it. The House, by a close vote, supported the action by the President. Many of us in the Senate feel strongly about the need to proceed with the B–1, but in view of action already taken, it would be useless. I do support the $20 million in this bill for the FB–111.

Mr. President, the budget request for the additional items for defense was $449 million. However, when the agencies downtown became aware that there was to be another supplemental bill, additional budget requests were submitted. This increased the requests which the Appropriations Committee had to consider to a total of $8 billion.

Mr. President, the point I am trying to make is that had the administration deferred their request for the additional defense items until next year, we may not have had the supplemental bill we are considering today. However, let me hasten to add that although most items in this bill are not urgent and could be taken up at a later date, there are items such as the Small Business Administration disaster loan program and the Indochinese refugee assistance program that are urgent at this time.

Mr. President, the committee in this bill has recommended approval of $7.8 billion of the $8 billion requested by the administration. This is $156.6 million below the budget request. The largest item contained in the total appropriation requested is $4.5 billion for the Environmental Protection Agency construction grants. This item was justified to the committee on the basis that some States will begin to run out of money for waste treatment facilities in the October-November-December time frame.

The next largest item in this bill is the $1.4 billion for Small Business Administration disaster loans. These funds are earmarked for farmers affected by the recent drought. As I mentioned before, this item is urgent to provide assistance to these farmers. Last, I would like to point out that $80 million is provided in the bill for the Clinch River breeder reactor project. This controversial program was recently authorized; and although the administration is against the continuation of the project, the committee agreed with the House to fund it at a minimum level to keep it alive.

Mr. President, I would hope the Senate will approve this bill as reported by the committee.

UP AMENDMENT NO. 1024

Mr. MAGNUSON. Mr. President, I send to the desk certain technical and perfecting amendments to correct printing errors in the reported committee amendments and I ask unanimous consent that these technical corrections be considered and adopted en bloc.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. MAGNUSON) proposes an unprinted amendment numbered 1024 as of a technical nature contained in the errata sheet.

Page 5, line 1, strike out "19" and insert: 15

Page 5, after line 3 insert: lines 1 to 5, inclusive, from page 6

Page 7, line 19, strike out "numbered" and insert: numeral

Page 19, line 16, strike out "PROCUREMENT" and insert: PROCUREMENT

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MAGNUSON. Mr. President, I shall add one thing to the RECORD here. There are, as I mentioned, certain items that gave us some trouble because of the authorization, but I also remind the Senate, as I think all of us do—the Senator from North Dakota, I, and the rest of us—there were some items that we set aside that could wait for the next supplemental.

It is getting so supplemental bills around here are getting bigger and more important sometimes than the regular fiscal year appropriation. But there are some items that we decided could wait and the budget could bring them up in the next supplemental which would probably be the end of February or March but long before fiscal 1979 appropriations.

I want the RECORD to show that.

I yield to the Senator from Mississippi such time as he wishes.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. STENNIS. Mr. President, I thank the Senator, and I shall not use much time. If I may, under the generous rule here, allow myself 5 minutes.

Mr. President, at this point now I shall cover one phase of this bill, chapter 8, which relates to military procurement that has been authorized by the supplemental authorization bill. It relates to various weaponry changes that were brought about by the President's decision to cancel the B–1. Those matters were thoroughly heard by our subcommittee of the Armed Services Committee. That bill came to the Chamber where it was passed by a large vote and went to conference with the House of Representatives, and there it was thrashed out. All these items were gone over, and a conference report was had and that report now reflects the concurrence and the support of all the conferees on the part of the Senate.

Unfortunately, Mr. President, up until this time we have not been able to get the conference report brought to the Chamber for final enactment of the bill.

So this conference report has been approved now on these authorizations by the conferees, but unfortunately we have not been able to get that conference report to the Chamber.

The Senator from New Hampshire has been here waiting for that. He is here today on account of this report, espe-

cially. But no one is to blame. The House of Representatives has just not finished its consideration, and as I understand we will take it up today.

Ordinarily, I would make a sharp exception here to the passage of these appropriations items on the ground that they had not been authorized. I think I would be speaking for virtually every Member, if not every Member of our committee, because we have taken the strong position that it is through the authorization process that the Senate primarily uses to get into the weaponry and then takes a second look in the appropriations, but in view of the fact that this conference report has been approved by all of the conferees, and I feel satisfied it will be approved—I think it will—by both bodies, under the circumstances I am considering that as equivalent to an authorization. Therefore, I am not going to interpose these objections or make a point of order that these items are not authorized. I think as a practical matter under the circumstances of this case that is the equivalent of authorization.

But I do not want it held against me as establishing a precedent in that field except under special circumstances.

So those remarks will apply in part also to some items in the public works chapter, chapter V, but I will mention that later.

Whenever the Senator from Washington brings up, if he is going to bring them up separately, chapter VIII relating to the military appropriations on the Subcommittee for Defense Appropriations, I am authorized to speak for the Senator from Arkansas (Mr. McCLELLAN) and for the committee. The Senator from North Dakota is the ranking minority member of that subcommittee. So I thank the Senator from Washington.

Mr. YOUNG. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. STENNIS. I yield.

Mr. YOUNG. I ask unanimous consent for Michael Shorr of Senator JAVITS' staff, to have the privileges of the floor during the consideration of this bill; and also Mike Crisp, of Senator BAKER's staff.

The PRESIDING OFFICER (Mr. PROXMIRE). Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, everyone was notified that we were going to bring this matter up at 11 o'clock. It is now 20 minutes to 12, and unless there are some further questions, the subcommittee chairmen have all done their work, and so have the ranking minortiy members of the subcommittee. I do not know of any questions on this matter, but I understand the Senator from New Hampshire has an amendment he would like to present.

Mr. STENNIS. If the Senator wants to take up an amendment, then I want to finish my remarks. I did not know whether we were to the point of taking up amendments.

Mr. MAGNUSON. I yield to the Senator from Mississippi.

Mr. STENNIS. All right, I will be through very shortly.

In reference to chapter VIII, these military items, let me emphasize that our hearings were very complete, and there was consideration of the entire matter about a carrier for the cruise missile, and the report also discusses some questions of the so-called penetrating bomber; and also other items related to the prospective program now concerning the cruise missile, which have all been reflected over and over in a very fine report on them.

I have a supplemental statement here relating to the appropriation, and it includes these items.

Chapter VIII recommends supplemental appropriations of $369,900,000 for the Department of Defense. The amount is $79,100,000 under the budget request and $124,570,000 below the House allowance. Every item and program recommended by the committee is within the total amounts of the agreement filed by the committee of conference on the fiscal year 1978 Defense Supplemental Appropriation Authorization Act.

As a consequence of his decision to cancel production of the B–1 strategic bomber, the President proposed recission of fiscal year 1977 procurement funds for the B–1 bomber and SRAM–B missile. The proposals were transmitted in accordance with the Impoundment Control Act of 1974. The House did not act on the proposals, thus, under the provisions of the act, the funds became available for obligation on October 4, 1977.

Under the long-standing authority and practice of the Committee on Appropriations to propose rescission of appropriations contained in appropriation acts, the committee, by a rollcall vote of 17 to 0, recommended the rescission of $462 million appropriated for fiscal year 1977 B–1 bomber production and $1.4 million for the production of SRAM–B missiles. The rescission deletes uncommitted funds for the first three production aircraft—No's. 5, 6, and 7—and allows for termination costs.

Along with the decision to cancel B–1 bomber production, the President requested additional fiscal year 1978 funds to accelerate initiatives associated with the strategic cruise missile program. The committee recommends the following funds for major items: B–52 bomber aircraft modifications, $33 million; air-launched cruise missile program acceleration, $64 million: Air Force research and development funds, including $53.9 million for the air-launched cruise missile program, $103 million for the Tomahawk air-launched cruise missile, $15 million for the air-launched cruise missile carrier, $10 million for the perimeter acquisition radar, and $20 million for FB–111H bomber prototype studies.

The Defense Subcommittee recommended FB–111H funds, and the full committee approved the recommendation by a vote of 13 to 5. The funds are intended to give the President the option of studying the use of modified FB–111's in the strategic bomber role. The committe does not consider this funding to be a commitment to the development of the FB–111H. A decision to complete development of the FB–111H prototypes is subject to the approval of Congress.

Mr. President, I do want to refer to a correction. I refer here to the FB–111H funds. The full Appropriations Committee in the statement I said approved it by a vote of 13 to 5. Since that time other members who could not be at the full committee meeting when the rollcall was had, three additional members, have expressed their approval and authorized me to count them in among those who are favoring that item that is in the bill.

There is another special item here included which is a section for the rescission of unspent funds in fiscal year 1977 on the B–1 bomber.

We have already taken the appropriations out of the bill for the B–1 bomber for fiscal year 1978, and the President has reported to me that there are not going to be any recommendations for any funds in fiscal 1979.

This amount here, in round numbers of $463 million, the old 1977 appropriation, is in the process of being made available for obligation now. So this appropriation bill has an amendment in it under the Senate rules. The Senate rules for many, many years have set forth the power and authority of the Appropriations Committee to recommend rescission of appropriations just like they have the authority to recommend the making of appropriations.

So the Appropriations Committee by unanimous vote has recommended the inclusion of rescission of the B–1 money for fiscal 1977. It was unanimous so far as those who passed on it are concerned, and I think all members have passed on it now except 3 anyway, so the membership, as I recall, which is 25 members, we have 22 supporting that section of the bill and no one opposing it.

I yield the floor.

UP AMENDMENT NO. 1025

Mr. McINTYRE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire (Mr. McINTYRE) proposes an unprinted amendment numbered 1025:

On line 19, page 20, delete "$260,500,000", and substitute therefor "$265,500,000."

This amount would raise the R. & D. appropriation for the F–111H from $20 million to $25 million.

Mr. McINTYRE. Mr. President, the purpose of this amendment would be to raise the amount presently in the bill from $20 million to $25 million for the FB–111H.

Mr. President, the Senator from California and I have on many occasions discussed the B–1 penetrating bomber, the FB–111H penetrator, and the concept of a mixed force.

I am happy to yield to the Senator from California, my good friend.

Mr. CRANSTON. I appreciate very much the cooperation of the Senator from New Hampshire.

What I want to do is to address some questions to the distinguished Senator from New Hampshire in his capacity as

chairman of the Subcommittee on Research and Development, a very important responsibility.

Mr. President, when President Carter decided in June to halt production of the B–1, he did so presumably for reasons of mission and cost—choosing instead to emphasize the strategic role of the B–52 or another standoff carrier equipped with cruise missiles. At the same time, the President indicated his desire to continue the B–1 program in its research, development, and testing phases to retain a viable alternative if the cruise missile system has technical difficulties or if there is a drastic change in United States-Soviet relations.

Recent statements, however, by the President and the Department of Defense have persuaded me that the administration wants to maintain a penetrating bomber capability, but at the expense of the B–1. Secretary of Defense Brown, in his press conference of October 4, admitted that—

> In a couple of years the option to produce the B–1 is going to get more difficult to exercise. Under those circumstances the Air Force has proposed that we might want to develop and test the FB–111H, not because it is more cost effective than the B–1, but because it may be a better way to preserve an option over an extended period should we later decide that we want a new penetrating bomber.

The Armed Services Committee has supported this position by recommending $20 million for the development and modification of the FB–111H.

Is that an accurate description of what has occurred?

Mr. McINTYRE. I would say to my good friend from California there has been some unfortunate misinterpretation of the President's decision on the B–1. His decision clearly rejected the idea of a pure penetrating bomber force.

But at the same time he supported the idea of continuing to have some penetrating bombers in the force, mixed with cruise missiles. In that crucial sense the penetrating bomber—in a mixed force—is by no means dead.

The Armed Services Committee, in extensive investigations, felt that a strong case could be made for a mixed bomber force, one consisting of standoff cruise missile carriers, as well as manned penetrating bombers and dual role aircraft. The committee believes that the mixed force concept provides the flexibility necessary in the ongoing arms control negotiations and works as a hedge against the future vulnerability bomber. For example, we said in our unanimous committee report: In a mixed force—

> Manned penetrating bombers combined with aircraft carrying Cruise missiles would be able to reach 100 percent of the target base. The mixed force therefore, enables the President, at SALT, to insist on critical restrictions on Soviet strategic forces in return for prudent limitations on ranges of strategic air-launched cruise missiles with the full confidence that this would not diminish the military effectiveness of our bomber force.

In this context, the committee favored the addition of $20 million for development of the FB–111H prototype, as one R. & D. candidate to insure that we will continue to have penetrators in a mixed force after the B–52's become less effective in the late 1980's.

I think that is the proper understanding of this mixed force concept.

Mr. CRANSTON. I thank the Senator. I wish to say I can understand the logic of a mixed bomber force. I would ask the Senator to clarify for me the precise intent of the Armed Services Committee and the administration regarding the manned penetrating bomber—and the FB–111H, in particular. Does the fact that the committee approved $20 million for the FB–111H lock us into a course of action on this issue? Does the committee mean to suggest that the FB–111H will be the answer to our long-term needs for a manned penetrating bomber?

Mr. McINTYRE. Again, the committee has made no commitment in this regard but has simply insured that the FB–111H is one alternative to be explored as our long-term requirements for a manned penetrating bomber—as part of a mixed bomber force—become established. As we noted in the committee report:

> The primary aircraft in the near term mixed force will continue to be the B–52.
>
> The programs in this bill will begin to modify some of them into cruise missile carriers, improve the survivability of those B–52's which will continue to be penetrators, and improve the B–52's navigation systems to make them more effective for the standoff, penetrating, and dual roles.

Mr. CRANSTON. I am very pleased with that response. It is my hope that what the Senator just said means that the committee will take a hard look at other candidates which could fill the role of the manned penetrating bomber. I might add that it seems to me to make little sense to foreclose the production option on the B–1 by deappropriating funds for planes 5 and 6 when the administration and the committee clearly plan to keep the manned penetrating bomber requirement alive for the indefinite future. Comparisons between the B–1 bomber and the FB–111H put the B–1 out in front in just about every respect. To cite a few examples, the B–1 can deliver twice as many weapons on target as the FB–111H at about one half the cost per weapon, and 61 B–1 aircraft, it is estimated, would provide effectiveness equal to 165 FB–111H aircraft. Even Secretary Brown noted that when the B–1 was compared with the FB–111H last spring, it was found to be "more effective, and, although more costly, also more cost-effective, and had been developed, whereas the FB–111H would require some additional development."

One point that is rather obvious is that we know more about the cost of the B–1 because its cost had been developed, whereas in the case of the FB–111H we are relying more on predictions and estimates, and we usually find them to be unreliable—and usually all too low at the outset.

Mr. McINTYRE. Let me respond, that while I agree with much of what the Senator from California has said regarding the capabilities of the B–1 bomber, I do not believe it is appropriate to apply the standards that would be required of a pure penetrating bomber force to a manned penetrating bomber in a mixed bomber force. These are two quite different bomber forces and the criteria we would use to compare the penetrating bombers in a mixed force may differ considerably from the analyses of the past.

Mr. CRANSTON. I grant that that observation is well-founded. It also points out the need to study, evaluate, and define new criteria which a manned penetrating bomber must be able to meet in the context of a mixed force. Would the Senator be willing to hold hearings in the Armed Services Committee early next session to explore these questions?

Mr. McINTYRE. I can assure my good friend from California that the Armed Services Subcommittee on Research and Development, which I chair, will continue to examine in depth just what our needs for manned penetrating bombers in a mixed force are likely to be in the long run and which of the several candidates will be best suited for that mission.

The committee noted in its report that—

> The idea of a mixed bomber force is not an immutable principle. The idea is at its heart quite flexible.
>
> The exact character of a future mixed force; how much of it should be standoff cruise missile carriers, penetrating bombers, or dual role aircraft; what particular systems should be incorporated into such a force; and, even the validity of the concept itself should be regularly reviewed and must be wedded very closely to future technology and to the future evolving threat. Nevertheless, while the idea is neither inflexible nor fixed forever, it is a product of intensive investigations by the committee, and the case for its utility now and for the plannable future is compelling.

Our hearings will be a part of next year's review of the DOD budget request for fiscal year 1979.

Mr. CRANSTON. I greatly appreciate having the cooperation of the Senator from New Hampshire on this matter. At this stage, it is crucial that the process for selecting a future manned penetrating bomber be kept open.

Any final decision should be the result of competitive procedures to assure us that whatever choice is made will be the best possible choice in terms of our Nation's defense needs and the performance standards expected to be met by a manned penetrating bomber.

I would add one final point. As standards are developed by the administration and the Armed Services Committee for a new manned penetrating bomber, I trust that the B–1 will be given a fair hearing. I do not believe it should be considered "untouchable" simply because the President decided against the concept of a pure penetrating bomber force. If the B–1 could be adapted to fill the mission of a bomber in the context of a mixed force, the committee should look at the feasibility of this alternative as well.

As the Senator well knows, the relationship between the FB–111H's and the B–1's is quite close. The FB–111H uses B–1 engines as well as some of the advanced navigational equipment devel-

oped for the B–1. One option could be to use some B–1's in a mixed bomber force, along with a larger number of FB–111H's. Another could be to modify the B–1 so it could be the plane basically used—instead of the FB–111H—as part of the mixed force.

I urge particularly that each of these options be explored when the committee has its hearings next year and looks into all of this.

I thank the Senator very much for his interest, his cooperation, and the fact there will be hearings in the spring. I look forward to participating in those hearings and again thank the Senator from New Hampshire for all he has done.

Mr. McINTYRE. Mr. President, I will say to the Senator from California, in closing, that we will try to give him an opportunity to be present at those hearings. Very sophisticated and difficult problems are raised in these hearings, and we would certainly be happy to have the distinguished Senator from California present.

Mr. President, it is with some considerable pride that I rise to urge the Senate to support the report on the defense supplemental appropriation bill for fiscal year 1978. This is the culmination of a great deal of effort by many individuals to insure that our future bomber force will be as effective a deterrent in the future as it has been in the past.

The effectiveness of our future strategic force will depend on the remarkable U.S. military technology which this bill supports. But, as important as this hardware is, it is not the prime significance of this bill.

The important contribution of this legislation is that it articulates a new planning concept for our future bomber force—a mixed bomber force. This mixed force will exploit U.S. air-launched cruise missile technology, but will mix these ALCM's with some penetrating aircraft, and will use them on both standoff and dual role aircraft, which penetrates while launching ALCM's.

This new planning concept offers three important advantages to our Government in this critical period after the President's B–1 decision.

First, for those of us who very much wished the President had decided to build the B–1, the mixed bomber force is reassuring because of its military effectiveness. Its use of both the cruise missile and penetrating bombers will deny the Soviet air defense the opportunity to concentrate financial and technical resources on either the cruise missile or the penetrating bomber elements of our force. The Soviets will be forced either to double their investment in air defense, and thereby reallocate resources currently devoted to strategic offense, or they will be forced to accept the reality of assured destruction from our strategic offense, or they will be forced to accept the reality of assured destruction from our strategic bomber forces because of the obvious inadequacy of their air defenses. In either case, deterrence is greatly enhanced.

Secondly, the mixed bomber force concept provides the President with important diplomatic flexibility at SALT. The Armed Services Committee said in its report, which was supported unanimously:

> If we were to depend on a dominant standoff cruise missile force and the range of cruise missiles is limited by agreement, the air breathing element of our strategic forces might not be able to reach some significant part of the Soviet target base. Target coverage might be further reduced if standoff cruise missile carriers were pushed further and further away from the Soviet Union by possible improvements in Soviet air defense or if the effective range of the cruise missiles were degraded for operational reasons. In a mixed force, however, manned penetrating bombers combined with aircraft carrying cruise missiles would be able to reach 100 percent of the target base. The mixed force, therefore, enables the President, at SALT, to insist on critical restrictions on Soviet strategic forces in return for prudent limitations on ranges of strategic air-launched cruise missiles with the full confidence that this would not diminish the military effectiveness of our bomber force.

Finally, the mixed bomber force is a concept that can permit our Government to make peace with itself on an issue that has divided it for years. The B–1 controversy posed inadequate alternatives—either we must have a pure penetrating bomber force made up of B–1's, or we must go to a standoff cruise missile force.

The first concept, rightly or wrongly, could not be supported politically, primarily because of its expense. The second alternative is inadequate, because by itself it forces a choice between supporting SALT or accepting a significant degradation in one leg of our triad.

It is time to make peace among ourselves. It is time to turn our back on old divisions and inadequate choices. It is time to revise mind sets that have divided us for years and to appreciate the military, diplomatic, and political utility of the mixed bomber force.

The Senate has done this. At first my Subcommittee on Research and Development which had been very much divided in the past, fashioned and decided to agree on this new concept. Then the Armed Services Committee of the Senate which had also been sharply divided in the past, agreed to this to support the mixed force unanimously. Then the Senate, as a whole, supported this bill with the broadest agreement.

This conference report demonstrates that the House as well is beginning to appreciate these advantages of the mixed bomber force. I, therefore, recommend its support by the Senate, and I hope and pray that the House, in its subsequent deliberations on the future bomber force, will also begin to end the divisions of the past and join with the Senate in its support of this mixed bomber force.

Mr. PROXMIRE. Mr. President, the FB–111H is a second-rate substitute for the B–1 or even as a penetrating bomber.

The joint strategic bomber study called it the least cost effective of all bomber/cruise missile alternatives studied.

Secretary Brown's B–1 study concluded that there was no merit in producing the FB–111H compared to the much more effective B–1.

The $20 million is just a downpayment on an Air Force plan to modify 65 existing FB–111H's by lengthening the body, installing B–1 engines, and B–1 avionics. Then they want to start up the production line and produce 100 new FB–111H's.

Two prototypes would be built first at a cost of $380 million. The $20 million in this bill is the downpayment on the $380 million. Continued development of the prototypes will cost an additional $195 million. Modification of the 65 aircraft will cost $1.75 billion. Production of 100 new aircraft will cost $4.18 billion. These are all official Air Force figures. The current program cost is $7 billion not including any changes, cost overruns, or modifications.

This is the same aircraft that has had early swing-wing problems that could be adversely affected by the added weight of the modification. It is the same aircraft that had a disasterous early record in Vietnam—crashing into the jungle on three successive occasions. In fairness, toward the end of the war, the F–111 did serve well on some deep interdiction missions.

The FB–111H is far less capable than the B–1 and even the existing B–52's.

It has half the cruise missile capability of the B–52.

It has half the short-range attack missile capability of the B–52.

It has a shorter range than the B–52 regardless of the type of mission—high- or low-level penetration.

It has one-half the payload of the B–1.

The FB–111H program would be a windfall to General Dynamics and would violate every major procurement regulation on the books dealing with competition. Why? Because the Air Force has admitted that there would be no competition for the production rights on the FB–111H. General Dynamics would be awarded the contract on a sole source basis. Likewise, there would be no competition for the engines. Other firms, notably Rockwell, have small bomber alternatives but would not be allowed to compete.

The FB–111H is really a new aircraft not just a modification.

It requires:

A significant wing modification;
New engines;
New landing gear;
New fuel tanks;
New nose; and
New avionics.

OMB sent a memorandum to the President on September 14 which outlined various bomber alternatives. It pointed out that the FB–111H was the least cost effective of all alternatives considered.

Therefore, we should not be enthusiastic about the promise of the FB–111H as a manned penetrating bomber of the future.

Mr. President, the argument is often heard that the FB–111H can carry about one-half of the payload of the B–1 at one-third the cost; 165 FB–111H's at $7 billion are equal in destructive capacity to 82 B–1's at $10.4 billion, it is said.

The answer to this argument is quite simple. Even accepting the equal effectiveness argument, there are hidden costs

in this comparison. For example, the FB–111H would require 165 tankers while the B–1 would only account for 82 tankers. Over 20-year operating costs, the FB–111H would be $4 billion more expensive than even this smaller force of B–1's ($17 versus $13 billion) and vastly more expensive than the existing B–52G's and H's.

The Air Force calculates the "one-third the cost" on the basis of the B–1 procurement cost of about $127 million each. Thus they totally ignore the research and development costs in this comparison. The real figure to use is the program unit cost—all costs of each program compared to each other. Using program unit costs, the B–1 at a buy of 81 would run at least $170 million each and probably closer to $200 million.

Neither aircraft looks good in that light.

Mr. McINTYRE. Mr. President, I am happy to yield at this point to the chairman of the committee.

Mr. STENNIS. Mr. President, I want to use about 3 minutes on this special time, from either side, it does not matter.

Mr. YOUNG. Mr. President, I yield the Senator from Mississippi such time as he may require.

Mr. STENNIS. I thank the Senator very much.

Mr. President, I have followed with interest the colloquy here on just what the FB–111H means, and so forth. Those matters have their place, but through experience, I have learned that sometimes a colloquy is used by someone else later to prove that the Senate was taking off in another direction.

So I call attention to the fact that the money for the B–1 rescinded in 1977, that has not been spent, is in this bill by a vote of 22 favorable votes out of 25 members of the Appropriations Committee, and there is really no contest here over that part of the bill. So that speaks for itself, with reference to the B–1 money.

I am one who supported the B–1, but I will just say that when the President of the United States made his decision, on which we required him to make a report under a statutory mandate, you might say, from Congress, then there was not any time to lose. We ought to move forward, and from the very next day, I made what little contribution I could to see what could be done toward moving forward in his program that he submitted to us within a few days.

As point No. 2, then, on this matter about the FB–111H that is in this bill and has the money in it, the $20 million, just let me relate this, and these things have happened pretty fast: That item was approved by the Research and Development Subcommittee of the Armed Services Committee. I am not a member of that subcommittee, but they presented it to me and explained the testimony and everything. I was impressed with it as a possibility.

My position was that we could not begin to launch a new weapons system without the approval of someone in the Pentagon, someone of position. We would just as well find out for certain what the attitude of the Secretary of Defense was.

I went over to see Mr. Brown. I took it up with him in that vein. Without committing himself or the Department of Defense in any way to anything further than what the subcommittee had proposed—and that was then resting on $20 million—his exact words were it would be all right with him for the Air Force to see what they could do with this proposition as to the FB–111H.

I asked him, so I could document it for the RECORD, if he would give me a letter on that subject matter. He did. That was placed in the record and has become a part of the history of the entire matter.

I am going into this now because if this FB–111H is approved, and this appropriation bill goes to conference, the Senator from Arkansas has already told me that he wants me to sit in his chair at that conference with respect to the defense matters. I am going to have to carry part of the job at least of justifying this in the appropriations conference.

There are those in the House who very honestly and strongly opposed this item. That is one reason why I am emphasizing here on the floor exactly what the situation is. I want the Senate to know. I want the conferees in the future to know that this matter has been fully gone into on the floor and there is nothing held back. That is the history of the transaction.

I think it very appropriate for the Senator from California to raise points about the B–1. I have no objection to that. I had not seen this memorandum, however, until we started. I did not know what was in it. I just want to be sure that we keep this in continuity.

(Mr. HOLLINGS assumed the chair.)

Mr. CRANSTON. Will the Senator yield?

Mr. STENNIS. I yield.

Mr. CRANSTON. I would like just to make one thing plain. As the Senator knows, I believe, I am not proposing to take any action at this point regarding the deappropriation. I am really speaking to a different point. If we are going to go to the concept of manned penetrating bombers and a mixed force, and I think there may be a great deal of validity to that concept, it seems to me that we should not rush into any decision as to what the manned penetrating bomber part of that mixed force will be. As the Senator noted in his remarks, all this happened rather swiftly.

The Senator from New Hampshire has simply indicated that he will explore in depth what plane or combination of planes, plural or singular, would be best in terms of the bomber concept of that mixed force. It might turn out that the FB–111H is best. It might turn out that the B–1 would fit in best. It might turn out that a combination of the two, a few B–1's and perhaps quite a few more of the FB–111H's, would be appropriate. It might also turn out that the FB–111H could be further modified, or that the B–1 can be further modified, and that one or the other might be the best plane for this purpose. I am simply urging that all of that be explored and no action be foreclosed.

Mr. STENNIS. That is very fine. If the Senator will yield me 1 additional minute, I will just add that along with this work about the FB–111H I insisted all the time, to get into the very innards of all these proposals, that we include money for what has become known now as an administration request for a carrier for the air-launched cruise missile. We finally got together on that and unanimously agreed on the $15 million.

In order to get both of them in the bill at some reasonable figure, that was worked out and we were able to recommend it to the Senate. We adopted it and the conferees adopted the same amount. So coming right along with the FB–111H has come along this cruise missile carrier. I think there are some funds over there now which are available for further consideration of the manned penetrating bomber. We did not try to cancel out any of those funds.

Mr. TOWER. Will the Senator yield for a brief comment?

Mr. McINTYRE. How much time remains on the amendment, Mr. President?

The PRESIDING OFFICER. The Senator from New Hampshire has 2 minutes remaining and the Senator from Washington has 3 minutes remaining.

Mr. McINTYRE. I yield 2 minutes.

Mr. TOWER. I have been a long-time supporter of the B–1 and have voted for it every time it has come to a vote, either in committee or on the floor. In supporting the money for the FB–111H I would want to make it very plain and very clear that we are not opting for the FB–111H. We simply want to build a prototype to see what we can use to fill in the gap.

The FB–111 was originally conceived as a transitional aircraft between the B–52 and the B–1. Of course, we produced about 75 of those which are currently in our inventory.

I would like to say that I am certainly just as interested as the Senator from California in making sure that we have the best penetrating aircraft regardless of what it is, regardless of where it is made. The important thing is that we have an effective weapons system that our professional military men feel they can live with and work with in the future.

Mr. CRANSTON. We are in full agreement and I appreciate the comments of the Senator very much.

Mr. McINTYRE. Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

UP AMENDMENT NO. 1026

(Purpose: To increase supplemental appropriations for the Energy, Research & Development Administration.)

Mr. MELCHER. Mr. President, I call up my amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER) proposes an unprinted amendment numbered 1026.

On page 10, after line 19 insert:

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

OPERATING EXPENSES—FOSSIL FUELS

For an additional amount for "Operating expenses—fossil fuels", $5,000,000.

Mr. MELCHER. Mr. President, this amendment——

Mr. STENNIS. Mr. President, will the Senator yield?

Mr. MELCHER. I yield.

Mr. STENNIS. Mr. President, I have no objection to this amendment.

Mr. MELCHER. Mr. President, this amendment simply adds $5 million to ERDA for fossil fuel research and development for the MHD process for the component parts which would be done in various locations throughout the country.

It will raise the level of funding for the national magnetohydrodynamics program for fiscal year 1978 to $75.5 million. For Montana and the Nation, MHD promises better use of our coal to produce electricity with system efficiencies 40 to 50 percent above conventional coal-fired powerplants. And it promises to do this with no air pollution and almost no water use.

In its original budget request ERDA asked for $86 million for the national MHD program in fiscal year 1978 which they felt represented the minimum needed to keep the program moving forward. The MHD community, and I concur, believed a funding level of $125 million was needed to move the national MHD program forward at the pace required in fiscal year 1978. My amendment to increase MHD authorization in S. 1340, the ERDA nonnuclear authorization bill, to this amount was narrowly defeated on the floor, and a subsequent amendment to increase authorization to $88.2 million carried by a substantial margin of 51 to 30. The House/Senate conference committee set the final 1978 authorization level at $76.8 million.

However, H.R. 7636 which made appropriations for the Department of the Interior and related agencies only included a $70.5 million funding level for MHD. In recent correspondence to the Senate Appropriations Committee, ERDA supported a supplemental appropriation of $5 million to keep the completion of the Montana Component Development and Integration Facility (CDIF), which is located at Butte and which is in the heart of the first phase of the MHD program, from slipping further behind schedule. According to ERDA, a $5 million supplemental appropriation would be allocated primarily to accelerate purchase and installation of test components for the CDIF and to prepare for the associated test program. This will allow for earlier CDIF testing with the facility at a comparatively more complete state of readiness. As a result, additional and superior CDIF data will be obtained before design commitments are made for the ETF (engineering test facility).

The ETF is the major mid-term goal of the MHD program and will demonstrate, at an appropriate size scale, the improved efficiency provided by MHD in an overall powerplant. Additional CDIF funding in fiscal year 1978 will allow an earlier ETF title I start—by several months—and reduce the level of risk. This could result in an eventual savings significantly greater than the supplemental appropriation of $5 million by eliminating the need for design change orders and reducing the amount of activation experimentation required.

More specifically, additional funding for the CDIF project would: first, allow for additional channel elements thereby permitting a more continuous CDIF testing schedule, second, provide for additional effort on CDIF coal combustor development, third, provide for a 6-month acceleration of CDIF superconducting magnet delivery, fourth, increase funding for CDIF component integration and CDIF interface hardware to match accelerated CDIF testing, and fifth, increase funding for seed/slag and/or other balance-of-place equipment so that more complete plant testing can be obtained at an earlier date.

It is imperative that the pace and scope of component development and its supporting activities be prevented from slipping further in order to avoid the situation where test hardware is not available for testing in a complete facility. This would cause unconscionable cost increases and prolonged stretch out of the MHD program.

Both the President and Congress have repeatedly affirmed their commitment to increasing the use of coal as a major response to the energy crisis. In this light, we cannot afford to drag our feet and let the realization of benefits that can be furnished by this important new coal technology continue to slip farther into the future. I hope that my colleagues too will see the need to reaffirm our commitment to MHD by approving this amendment.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. MELCHER. I yield.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from Montana did bring this proposal to the committee's attention during its consideration of the various supplemental budget estimates. There was support for an additional $5 million for ERDA's MHD program, but there was also a reluctance to include this additional funding since it was part of our recommendation in the regular bill that was lost in conference with the House. The $65.8 million already appropriated for MHD is $20 million over the fiscal year 1978 budget estimate and the original House allowance, and we anticipate there will be resistance to this added funding in conference on the supplemental.

However, the Senator from Montana discussed this matter with me, and it is clear from a statement furnished to the committee by ERDA that this additional funding can be effectively used to accelerate work on the component development and integration facility needed to move the MHD program along. Under the circumstances, I will be willing to accept the amendment and take it to conference.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MELCHER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GOLDWATER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that Bob Old and Fred Dawson, of my staff, be granted the privileges of the floor during the consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I ask unanimous consent that Jerry Bonham be granted the privilege of the floor during debate on the supplemental appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Are there further amendments?

Mr. STENNIS. Mr. President, do the Presiding Officer's remarks relate to the entire bill?

The PRESIDING OFFICER. Oh, yes.

PUBLIC WORKS

CHAPTER V

Mr. STENNIS. Mr. President, chapter V of the supplemental appropriations bill contains items under the initial jurisdiction of the Appropriations Subcommittee on Public Works, of which I am the chairman.

The committee recommendation for these items totals $104,450,000 in new budget obligational authority and a transfer of funds in the amount of $875,000. The total amount is $26,550,000 below the House bill allowance for this chapter and $104,450,000 over the budget estimates submitted.

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION (NOW DEPARTMENT OF ENERGY)

CLINCH RIVER BREEDER REACTOR PROJECT

The largest amount, $80,000,000, is for the Clinch River breeder reactor demonstration project. I believe the membership is very familiar with this item, as it has been an issue before the Congress this entire session; and, therefore, I do not intend to elaborate in detail on this committee recommendation. Congress has now passed and sent to the President the ERDA authorization for fiscal year 1978 which authorizes $80 million for this project. There have been a number of rollcall votes on both authorizations and appropriations in the House and the Senate on this issue, and by large majorities of about 2 to 1, the will of the Congress has been expressed. On this bill, the House voted to approve $80,000,000, the amount of the authorization. By a rollcall vote of 16 yeas to 5 nays, the committee recommends concurrence in the House bill allowance.

SOLAR ENERGY PHOTOVOLTAIC PROGRAM

The committee recommendation includes agreeing to $19 million of the House bill allowance for the photovoltaic program. This additional amount is for accelerated research and development of the photovoltaic effort, as called for in the recent action on the authorizing legislation and which was not acted on or contemplated in the authorization at the time the regular appropriation bill was considered.

ESTABLISHMENT OF DEPARTMENT OF ENERGY

Another item included in this ERDA portion of the Public Works chapter is to make funds available to pay for the relocation expenses necessary as a result of the establishment of the new Department of Energy. The President requested supplemental language to permit the use of funds previously appropriated and available in an amount not to exceed $17 million for these expenses. The House-passed bill included new budget authority in the amount of $17,000,000 rather than language as requested. The committee recommendation agrees with the President's request to use funds already available. It is the committee's understanding and intent that unobligated carryover funds, including revenues, from the fiscal year 1976 and fiscal year 1977 bills will be the source to pay these expenses.

CORPS OF ENGINEERS

The committee is again recommending an appropriation of $5,450,000 for the Alaska Hydroelectric Power Development Fund, as authorized by Public Law 94-587. This is seed money, so to speak, to implement a new financing mechanism to develop hydroelectric power resources. These funds would be used to guarantee obligations, in an amount not to exceed the appropriation, to be issued by an appropriate non-Federal public authority. Money received from the issuance of the obligations would be deposited in the fund and expended for the preconstruction planning of a proposed qualifying project to determine its feasibility. If found feasible and favorable, there would be no Federal liability. If unfavorable, the costs of the feasibility and phase I planning would be a Federal responsibility, as is the case now with all such projects.

The committee recommendation also strikes an administrative provision passed by the House which is no longer necessary due to the passage of another act dealing with coastal zone management activities in the State of Washington.

Another administrative provision included by the committee would prohibit the use of funds available to the Corps of Engineers to transfer construction responsibility for two on-going projects from the Charleston district to the Wilmington district.

BUREAU OF RECLAMATION

Now, for the Bureau of Reclamation, the committee recommends a transfer of funds from the construction and rehabilitation account to the Upper Colorado River storage project to restore funds reprogramed as a result of a condemnation action decided by a recent court decision. This restoration of funds is necessary in order to avoid disruption of work scheduled for award in the next few months. No new money is appropriated—it just moves the money already available.

The committee also recommends concurrence with the House provision extending the availability of funds for drought emergency assistance to November 30, 1977, as authorized by the Congress and as requested by the President.

Mr. President, the report explains all of these items in detail and I refer the membership to the committee report.

I want to emphasize one thing in reference to the chapter on public works. It is chapter 5, as I said.

There is one item there that has the authorization statute incomplete, the Clinch River breeder project. The Presiding Officer is very familiar with that, interested in it, and worked on it.

That is not completely authorized, Mr. President, in that the President has not signed the authorization bill, but it has been gone over many, many times by Congress in an authorization act that they have approved, the conferees approved, the House approved, and the Senate has approved it. It has gone to the President for his consideration, but it has not been acted on, one way or the other. It is a matter that has been hanging fire here all the year.

I think that, really, I have decided it is time for a decision to be made about it. I favored the $80 million with the limitations put on it in this authorizing language. I said in the full committee and I want to repeat here now that I shall forgo making a point of order about full authorization because, legislatively, it is fully authorized after about a year of consideration, at least, I think that it is an urgent part of our program here. I think this is sufficient to meet the requirements of authorization.

I thank the Chair, and I thank the Senator for his time.

CHAPTER I—AGRICULTURE, RURAL DEVELOPMENT AND RELATED AGENCIES

Mr. EAGLETON. The Agriculture chapter of H.R. 9375 includes new budget authority of $101,157,000 and authorizes an additional $100 million in insured loans. I will merely summarize the items included.

There is $145,000 for executive pay raises approved earlier this year and $4 million for very low-income housing repair grants. These grants are made to persons with incomes so low that they cannot afford 1 percent interest loans. Experience has shown a strong demand for these grants. Both of these items were requested for funding by the administration in the supplemental.

In addition, the committee took action on certain unbudgeted items which warrant special attention at this time.

First is an appropriation of $30 million for subscription to capital stock of the Federal Crop Insurance Corporation. A request for authorization is currently pending, although no formal budget request was received. The indication provided the committee was that the Corporation would be unable to pay indemnities within about 2 months because of heavy crop losses. The $30 million is the minimum needed to insure uninterrupted payments based on current projections.

The next item in the bill is $3,708,000 for the Agricultural Marketing Service for the food quality assurance program. This will enable implementation of a congressionally directed program within the specified time frame.

Authority to insure another $100 million in farm ownership loans is also recommended. Although $550 million in authority was provided in the basic 1978 appropriations bill, the strong demand and backlog makes the additional authority needed to meet more adequately the credit needs of agricultural producers.

The last two items recommended are $26,704,000 for emergency watershed and flood prevention activities under section 216 of the 1950 Flood Control Act, and $36,600,000 for the drought and flood conservation program. In both cases, there are specific applications pending for utilization of these funds to meet particular problems—in the former case, for emergency measures for runoff retardation and soil erosion prevention, and in the latter case, for drought-caused problems in 33 States.

I shall be happy to answer any questions my colleagues might have on chapter I of the supplemental.

Mr. ROBERT C. BYRD. Mr. President, for chapter II of the bill, the committee is recommending a total of $752.2 million in supplemental appropriations. This is a $546.8 million reduction in the budget estimates to date and is $285.8 million above the House allowance.

The recommended amounts include $89 million for the Department of the Interior and $663.2 million for related agencies.

FEDERAL ENERGY ADMINISTRATION

The biggest portion of this funding is for the Federal Energy Administration under related agencies. We recommended $659.5 million, which is $276.3 million above the House allowance and $562.4 million under the budget request. These reductions stem from several deficiencies in the budget request.

First, most of the budgeted program requests are not yet authorized.

Second, the new Department of Energy, of which FEA is now a part, is officially only a few days old and most of the key decisions on how these programs will be administered are still on the drawing board.

Third, the Department of Energy was created primarily to consolidate Federal energy programs to make them more efficient and cost-effective. The committee feels there are adequate resources available to the Department without the need for all of the $1.2 billion supplemental request FEA has advanced.

The committee's rationale for the various recommendations are detailed extensively in the report. Generally, an effort has been made to fund those unauthorized programs for which the intent of Congress is reasonably clear. Where serious doubt exists on the outcome of some proposals in the pending energy package—the oil equalization tax, and the nature of utility rate reform, for example—reductions are recommended. Similarly, where there was felt to be sufficient resources already available with the new DOE, additional cutbacks are recommended.

The Senate should be aware that the entire $293.6 million House committee recommendation for FEA salaries and expenses was knocked out on the floor on a point of order. The point of order was raised because most of the program

funding is not yet authorized. That is still the situation at this time, but we believe timely funding is needed now for these important energy programs.

The biggest single cut in the FEA's budget request is recommended in the strategic petroleum reserve. This is in agreement with the House and is based mainly on deleting the cost allowance for the questionable oil equalization tax. Our hearings also developed some real concern over whether the cost-inflation estimates of FEA were not themselves inflated.

In all cases, DOE will have ample opportunity to come back for a spring supplemental when it is better organized and has had some actual experience in program implementation.

OTHER PROGRAM CHANGES

Let me briefly highlight other money changes in the budget estimates and House allowances:

For the new Office of Surface Mining, we have included increases to implement the mineral institutes program that OMB excluded from the budget estimate, and we have beefed up the reimbursements for State start-up costs to a more realistic level.

For the Geological Survey, we reduced the $5 million request for Outer Continental Shelf data collection since much of the required information appears to be already available from non-Federal sources.

For the Forest Service, we have restored the $3.6 million for timber sale preparation that lapsed at the end of fiscal 1977. This is the amount that the Comptroller General declared to be an unreported rescission. In this case, a congressionally approved program increase was thwarted by OMB policy, and the restoration serves notice that we will not tolerate that kind of backdoor impoundment.

We have also added $2.6 million to the Fish and Wildlife Service under resource management. This is to assist Western States in rough fish eradication during the current drought period.

There are several other changes in chapter III, all of which are fully discussed in the committee report. I will be happy to answer any questions.

Mr. STEVENS. Mr. President, chapter III of the supplemental appropriations bill now before us contains the committee's recommendations for the Department of the Interior, the Forest Service, and the Federal Energy Administration. The committee considered budget requests in excess of $1.2 billion for the Federal Energy Administration. After a thorough review of the information presented by the agency at our hearings and taking into account our best estimates of the final outcome of the pending authorizing legislation, the committee recommendations reduce the budget request for the Federal Energy Administration by over $650 million. Once the Department of Energy is organized and functioning it may be necessary for the Congress to fund some items which we have deleted from the bill; however, sufficient resources are now available to the Department to efficiently carry out its responsibilities.

The supplemental contains the first funding for the newly authorized Office of Surface Mining Reclamation and Enforcement. We propose increasing the budget request and House allowance by $6.2 million which will be used to fund the mineral institutes and to increase the level of reimbursements to the States for the costs of enforcing the requirements of the act.

The sum of $6 million has been provided to the Fish and Wildlife Service and to the Bureau of Indian Affairs for construction and operation of fish hatcheries in the Pacific Northwest and Alaska. Federal support of these projects will do much to enhance and replenish the fishery stocks which were once the mainstay of the Northwest economy.

The total appropriations recommended for the Interior chapter is $752.2 million which is half a billion dollars under the budget request. Although this is a sizable reduction in dollar terms, we do not feel that we have compromised any of the programs under our jurisdiction. Rather, we have attempted to provide only those funds which truly merit consideration in a supplemental which are of an urgent nature and for which the funds can be obligated in a timely manner.

Mr. HOLLINGS. Mr. President, the committee approved supplemental appropriations of $1,407,500,000, but this includes the vitally needed $1,400,000,000 for the Small Business Administration's disaster loan fund which the Senate previously attached to the District of Columbia Appropriations Act. It now appears that the supplemental will be the first of these two bills to emerge from conference and we will be receding on the D.C. bill.

The committee's recommendations include a total of $2,668,000 to meet increased workloads of the Tax and Civil Divisions and Antitrust Division of the Department of Justice. These additional amounts are to be covered by transferring funds previously appropriated to the Law Enforcement Assistance Administration, which have reverted to the Federal Government after being granted to the States for a period of 3 years.

The committee has also provided $7,500,000 for the biennial surveys of registration and voting pursuant to the Voting Rights Act of 1965. The recommended amount is $500,000 more than the level approved by the House due to the designation by the Civil Rights Commission of 24 additional jurisdictions for inclusion in the survey.

The committee also recommends that $20,250 of the appropriation already made to the special representative for trade negotiations be authorized for official reception and representation expenses. Such expenditures were previously authorized for this office, but were not provided for during the consideration of the 1978 appropriations act.

Along the same line, we also approved a provision inserted by the House providing representation funds of $1,000 for fiscal 1977 and $6,000 for fiscal 1978 for the Commission on Security and Cooperation in Europe.

SMALL BUSINESS ADMINISTRATION

Mr. President, as of yesterday the Small Business Administration has completely exhausted the funds available for disaster loans. As our report indicates there is some $950,000,000 in applications on hand that cannot be processed until this appropriation is enacted. It is imperative that these funds be immediately appropriated and this vital assistance be made available to our farmers and other disaster victims.

Mr. CASE. Mr. President, I take this opportunity to briefly comment on a Senate amendment to H.R. 9375. I refer to the additional $18 million provided for the National Railroad Passenger Corporation, or Amtrak.

On September 20 of this year Amtrak submitted a request for $56.5 million to the Congress. On September 23, the DOT Appropriations Subcommittee held hearings on the Amtrak request. On September 28 we received a letter from Secretary Adams that he would not support this additional funding request. In its deliberation on the supplemental appropriations bill, the House saw fit not to include any funds for Amtrak.

Of the $56.5 million request, the committee has recommended $18 million. These funds would be used to restore train frequency reductions which are presently scheduled to become effective on October 30, 1977, November 6, 1977, and any subsequent frequency reductions. The amount does not cover the $10.6 million request for unanticipated inflation. The committee will take testimony at a later date on the impact of inflation after Amtrak has accumulated some operating cost data in fiscal year 1978. Also denied was the request for $20 million to forestall the cancellation of services on one or more long-distance routes.

In effect, the $18 million will buy us some time to review the procedures used by Amtrak in making the announced service reductions. The procedures employed to date result in frequency reductions affecting a large number of trains—somewhere in the neighborhood of 30—in order to realize a relatively small cost savings. In the railroad business, each route carries with it relatively high fixed or overhead costs such as maintenance of way and equipment. In order to realize any significant cost savings, it would be necessary to reduce the fixed costs, and this could best be accomplished through route restructuring. Although the conferees in the fiscal year 1978 DOT appropriations bill recommended this approach, Amtrak has decided otherwise. What it has done is, in effect, to make some financially marginal trains worse by reducing their frequency. At the same time, its analysis has ignored some of the national policy factors that were instrumental in creating Amtrak in 1971. For instance, the current analysis employed puts little emphasis on such critical transportation matters as the total passengers served, energy considerations, and the availability of other transportation modes. The procedures focus too heavily on the total dollar cost of each route rather than on these service considerations.

If these factors were adequately taken into account, I am sure that the service reductions slated for New Jersey would not have been proposed. The trains on the New York to Philadelphia run, as an example, carry 8,400 people per day at a cost of $10.5 million a year. The cuts announced by Amtrak involve the deletion of eight of these trains which would dislocate approximately 2,600 riders per day and save an estimated $1.9 million. I would like to point out to my colleagues that the New York to Philadelphia route carries more passengers than any of the other 37 Amtrak routes nationwide. In fact, it carries 20 times more passengers than the Chicago to Florida route and results in a smaller total deficit. It also carries 19 times the number of riders more than the Chicago to Los Angeles route, once again at a smaller cost. The trains slated for elimination on the New York to Philadelphia route carry six times the daily passengers carried by either the previously mentioned long-distance routes at approximately one-sixth the cost. Carrying the analysis one step further, if you look at Amtrak's 38 routes in terms of their deficit per passenger revenue mile, you find that the New York to Philadelphia segment ranks 17th out of 38. This means that 21 other routes result in a higher per passenger Federal subsidy for each mile traveled than the New York to Philadelphia route.

What I am driving at is that the criteria used by Amtrak for determining which trains to eliminate do not reflect the considerations originally envisioned in the creation and continuation of a national railroad passenger service.

I am a strong believer in the need for a national railroad passenger service. I believe that it is an important element of our transportation network and represents a national resource that must be preserved. I would like to see train service in this country improved and expanded. Such improvement, however, must be based on a realistic appraisal of what we now have and where we eventually want to go. It is for this reason that I have objected to the procedures employed by Amtrak in its attempt to cut costs and it is for this reason that I also strongly support the initiation of a study to optimize Amtrak's route structure. I do not believe that the national railroad passenger system of this country should be structured on the basis of our yearly appropriations activities. It should, instead, reflect the transportation needs of the Nation, the various regions and the States in addition to associated national policy considerations such as energy, the environment, and mobility.

Mr. BROOKE. Mr. President, I am glad to join with my distinguished chairman, Senator MAGNUSON, in recommending chapter IV—the Labor-HEW chapter—of the supplemental appropriations bill.

We have provided a total of $330,689,000 to meet a few urgent requirements. Most of the appropriation is for two programs for which there are particularly immediate needs: emergency energy assistance and Indochinese refugee assistance.

I was pleased that the committee agreed to the amendment which Senator MAGNUSON and I offered to provide $200 million for emergency energy assistance. Our amendment would make these funds available for grants to low-income families and elderly persons to help them avoid the threat of home heating shutoffs in the event of another severe winter. The funds are to be provided on a contingency basis. The money would be directed only to those areas found to have true energy emergencies. And any funds not needed will go back to the Treasury.

It is important to make these funds available now—at the outset of the winter. We provided funds for this purpose last year in the spring supplemental. As a result the funds did not get out until the winter had passed. Many of the poor only made it through the winter without heat shutoffs thanks to State moratoria on past due bills. But some States would not repeat such moratoria this winter. And this year many poor families and elderly citizens will be entering the winter season with high unpaid fuel bills held over from last year. If they are hit with unusually high heating costs again this winter, many will face shut off of their heat if they do not get help. So it is essential that we provide this assistance in this bill, in the event it is needed.

The administration concurs with this view. Thanks to the efforts of my distinguished colleague, Senator MUSKIE, the Office of Management and Budget has indicated its support for our amendment.

For the Indochinese refugee assistance program, we have recommended $124 million. This amount will provide for the first year of a 4-year phaseout—as envisioned in the reauthorization just passed by Congress and now awaiting the President's signature.

In addition, we have provided funds for several smaller requirements. We concurred with the House in providing $4,970,000 for the Department of Labor for additional positions to strengthen enforcement of the Fair Labor Standards Act, and to keep pace with the mounting workload of trade adjustment assistance petitions. And we provided $15 million in borrowing authority to HEW to meet mandatory payments to lenders on defaulted guaranteed student loans.

Mr. President, I think we have developed a responsible Labor-HEW chapter—one which includes only those items of a truly urgent nature. I urge the Senate to adopt it without change.

Mr. PROXMIRE. Mr. President, the supplemental appropriations legislation we have before us today includes $4,779,947,000 for the activities of the Environmental Protection Agency and the Veterans' Administration. Although this represents an increase of $149,447,000 over the amount provided by the House for programs funded under chapter II of the bill, the total amount approved by the Senate Appropriations Committee under this chapter is only $15,847,000 above the budget request.

The major item approved in committee is $4,500,000,000 for the waste treatment construction grant program. The committee has concurred in the funding provided by the House for this program. However the committee has changed the formula for the distribution of these funds in accordance with an EPA recommendation that the formula be based on the 1976 needs survey and with the provision that the formula will take effect only if authorization legislation has not been acted upon by the Congress by November 15 of this year. This language gives the authorizing committees a full and fair opportunity to arrive at their own formula for the distribution of the funds. I ask unanimous consent that a table setting forth the distribution of the funds under the formula approved by the committee be inserted in the RECORD at the conclusion of my remarks.

The committee also concurred with the House in providing $9,500,000 in unbudgeted funds for a promising wastewater effluent research and demonstration project in Lubbock, Tex. In addition, the committee agreed with House decisions to approve budget requests of $69,000,000 for section 208 areawide water quality planning grants, $16,000,000 for work on toxic pollutant effluent guidelines, and $5,000,000 for State veterans extended care facilities.

The committee recommended three additions to the House bill. The first provides $6,500,000 in supplemental funding for coal cleaning research. When added to the $31,000,000 approved by the House for coal control technology research and development this funding results in a total supplemental coal control technology appropriation of $37,500,000—$2,500,000 more than the administration requested.

The committee also agreed to recommend that $139,100,000 be appropriated to allow the VA to construct replacement hospital and nursing home facilities in Portland, Oreg., and Vancouver, Wash. These funds were initially requested in the fiscal 1978 budget submission but action on the request was deferred pending completion of an investigative study regarding the location of the replacement facilities. The study has been made, the report was issued after the House acted on the supplemental, and we are now ready to move along. Incidentally, this add-on accounts for the difference between the total budget requests considered by the House and the Senate under this chapter. Since the House did not even consider this deferred item, the funds were not counted as a part of the President's budget request package in the House.

Finally, the committee approved $3,487,000 in unbudgeted funds for added construction and staffing costs associated with a new VA affiliated medical school in West Virginia.

The bill also contains one minor change in chapter II which involves no additional funding. It simply allows the Consumer Information Center to exceed their initial estimate for travel by $5,000 because of new responsibilities created by shifting the costs of distributing their free publications from the Government Printing Office to the Center.

Mr. President, I think the entire Senate owes a debt of gratitude to the Senator from Washington, Mr. MAGNUSON, for the dispatch and efficiency with which he moved this supplemental legislation through the Appropriations Com-

mittee on Friday. He was pinch hitting for our respected chairman, Mr. McCLELLAN, and in my estimation he hit a home run.

That concludes my prepared remarks, Mr. President, I would be glad at this time to discuss the actions taken by the committee on chapter II or respond to further suggestions.

Mr. BAYH. Mr. President, chapter IX of H.R. 9375 contains an appropriation of $18 million for Amtrak. This increase in appropriations for Amtrak's operating deficits, when added to previous fiscal 1978 appropriations of $488,500,000 brings to $506,500,000 the amount available for this purpose. The President's amended budget request for fiscal year 1978 had asked for $500 million. Testimony was received from Amtrak and the Department of Transportation on Amtrak's supplemental request of $56,500,000 on September 23, 1977. DOT did not support the request of these additional funds and no budget estimate was received from the President. However, indications are that the administration would support the $500 million level contained in the President's original budget estimates. The accompanying report states that the committee directs the funds be used to restore frequency reductions originally scheduled to take place October 30, 1977, and that no further reductions be carried out. In addition, the report states that when service changes are contemplated during the balance of the fiscal year that State and local governments as well as the committee be consulted.

Also, most importantly, the committee states the belief that a complete reexamnation of the Amtrak route structure should be immediately undertaken with the idea in mind that optimal service, based on future projects of market conditions and population density, be established.

A general provision has been included as section 209 of title II of the bill which requires the Secretary of Transportation to proceed with the redesignation of certain withdrawn interstate segments, as required by the present highway acts.

The PRESIDING OFFICER. If there are no further amendments, the bill is ready for third reading.

Mr. BELLMON. Mr. President, I want to assure the Members of the Senate that the first supplemental appropriations bill for the 1978 fiscal year does not, of itself, threaten the recently approved budgetary ceilings of the second budget resolution. The bill provides $7.9 billion in budget authority and $1.9 billion in outlays. While the bill contains funding for some 10 functions of the Federal budget, 90 percent of both the budget authority and outlays provided will occur in only two functional categories. They are function 300, energy, environment and natural resources and function 450, community and regional development.

Within function 300 the supplemental funds EPA construction grants at $4.5 billion and $0.1 billion in budget authority and outlays respectively. Collectively, ERDA, EPA operating programs, and natural resource programs receive $300 million, and $100 million in budget authority and outlays respectively. Emergency fuel assistance under CSA is allocated $200 million in both budget authority and outlays. Finally, the strategic petroleum reserve within FEA receives budget authority of $700 million with presumed outlays of $100 million.

Within function 450, SBA disaster relief payments were funded at $1.4 billion in BA and $1.2 billion in outlays. It should be noted that even these higher levels of funding will probably prove inadequate and program needs could well run between $2 and $3 billion for the full fiscal year.

The first supplemental also includes the rescission of fiscal year 1977 funding for the B–1 bomber. The effect of that rescission is to reduce outlays by $200 million over the level which would have been reached in the absence of that action. Senator STENNIS should be commended for achieving this saving.

Finally, however, it must be pointed out that the funding assumed in this supplemental appropriations plus known later requirements are likely to result in levels of budget authority and outlays which exceed the ceilings of the budget resolution by more than a billion dollars. If we are to maintain the commitments made to those binding ceilings, we must be restrained in offering cost increasing amendments to this and to other bills yet to be considered. Not only must we show restraint, but we must also be very lucky with respect to the final levels of funding required for the SBA disaster relief program if the budget ceilings are to be respected.

I intend to vote in favor of this bill, but at the same time, I remain committed to the budget ceilings we have recently adopted.

Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished chairman of the Committee on the Budget (Mr. MUSKIE).

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR EDMUND S. MUSKIE

H.R. 9375, the bill under consideration today, is the first consolidated supplemental appropriations bill for fiscal year 1978. This bill provides $7.9 billion in budget authority and $1.9 billion in outlays for a variety of Federal activities.

I would like to thank Senator STENNIS for his leadership in gaining inclusion of the fiscal 1977 B–1 rescission in this supplemental. Rescission of the fiscal 1977 amount proposed by the President will save about $200 million in fiscal 1978 outlays in the national defense budget and help us maintain the second budget resolution ceiling for that functional category.

This supplemental bill incudes $200 million for emergency fuel bill assistance, a program I championed last year. This initiative is an important part of a national energy program.

Finally, I would like to commend the Appropriations Committee for its action to include $4.5 billion in this bill for EPA construction grants. These funds are sorely needed to continue our national priority of achieving clean water.

Enactment of this bill as reported will still leave the Appropriations Committee below its allocations under the second budget resolution by $13.6 billion in budget authority and $5.7 billion in outlays. However, when all known later requirements are accounted for, the committee is likely to be over its allocations by $1 billion and $1.5 billion, respectively. This potential overrun is the direct consequence of the extraordinary requirement for SBA disaster loans for which $1.4 billion in budget authority and $1.2 billion in outlays has thus far been requested by the President and included in this bill. Since the Senate has already acted on this requirement in an amendment to the District of Columbia appropriation bill, I will not discuss it today. However, I want to remind my colleagues that on the basis of our latest estimates for the budget as a whole, the second budget resolution spending ceilings may be exceeded by $1.2 billion in budget authority and $1.4 billion in outlays. I, therefore, strongly urge my colleagues to avoid worsening the situation by piling on amendments to H.R. 9375 and driving up the cost of the bill we are debating today.

Mr. BELLMON. Mr. President, the agriculture chapter of the supplemental appropriations bill (H.R. 9375) reflects what I believe to be sound restraint in the authorizing of additional budget authority.

Specifically, in two items, the committee's recommendation has been to pare back on previously suggested appropriations levels so that the amount in the chapter reflects on those needs clearly demanding action now. These items are the Federal Crop Insurance Corporation subscription to capital stock and the Soil Conservation Service emergency watershed protection (sec. 216) item.

In the case of the section 216 appropriation, the committee is recommending a decrease of $3.3 million from the House approved level. This additional funding was provided by the House to meet program requirements as a result of physical disasters which have not yet occurred. Rather than commit these funds now, however, the committee recommends that such appropriations await actual need and full justification by the Department.

The one item which concerns me most of all is the Federal crop insurance appropriation which was similarly reduced from the $50 million level requested for authorization to the level of $30 million which more accurately reflects the currently anticipated shortfall in the FCIC fund for fiscal year 1978. It may be necessary to provide additional funding for both these accounts later in the fiscal year, but it was the committee's intent to retain as much flexibility in the remaining allocation at this time so that all future needs could be assessed on the basis of their relative merits next year. Full funding of these items at this time would preclude such consideration.

Mr. President, on the Federal crop insurance item, this is one area which desperately needs the attention of the Senate. I hope we shall be able to see some activity toward restructuring or bringing the Federal crop insurance program in with other disaster programs. I was hoping that the Senator from Wisconsin might be able to come to the floor at this time, because I understand the Committee on Small Business is also considering a review of the disaster programs. But it is obvious to myself and other members of the Budget Committee that

here we have programs that are getting clearly out of line. They need careful review before we continue to spend such huge sums of money on them.

Mr. President, I believe that the type of restraint envisioned by the drafters of the Budget Reform Act is important here. It is necessary that we approach our actions on both the authorization and appropriations bills with restraint in mind if the congressional budget process is to function effectively.

Mr. President, I ask unanimous consent that Paula K. Watson and Becky Davies, of the Budget Committee staff, be granted the privilege of the floor during the consideration of and votes on H.R. 9375.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there further amendment?

Mr. MAGNUSON. Mr. President, the Senator from Arizona has an amendment that he wants to discuss.

UP AMENDMENT NO. 1027

Mr. DECONCINI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arizona (Mr. DECONCINI) proposes an unprinted amendment numbered 1027.

Mr. DECONCINI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 11, between lines 21 and 22, insert the following:

Employment and Training Administration

Employment and Training Assistance

For an additional amount for "Employment and Training Assistance", $40,000,000, to be expended for emergency assistance to individuals displaced from their jobs in the current recession in the copper industry.

Mr. DECONCINI. Mr. President, this amendment is designed to help alleviate the plight now confronting thousands of workers in the American copper industry. It provides an additional $40 million for local public service employment programs authorized by the Comprehensive Employment and Training Act. This would underwrite the creation of an extra 5,000 enrollments which, under the terms of my amendment, would be targeted for those who have lost their jobs in the copper industry.

Mr. President, the copper business in this country is in serious trouble. The recent worldwide recession, coupled with overproduction by State-owned copper mines abroad, has generated a surplus or "overhang" of over 2 million tons on the current copper market. As a result, the price of copper has plummeted below U.S. costs of production. American companies are being forced to curtail operations and unemployment among copper workers is reaching crisis proportions. Estimates of total unemployment in the copper industry stand at approximately 20,000. In my own State of Arizona, which, incidentally, accounts for approximately 64 percent of the total copper production in this country, the effects of this collapse of the copper market have been devastating.

Numerous groups and individuals have been in touch with me about the extent of the economic damage associated with the copper crisis. Their assistance and the firsthand information they have supplied are invaluable. E. S. "Bud" Walker, chairman of the Pima County Board of Supervisors, whose district has been especially hard hit, has been exceedingly helpful in this regard and his exertions on behalf of those who have lost their livelihood are in the best tradition of public leadership at the local level. But local resources are simply insufficient in the face of an economic calamity of such magnitude.

Additional Federal help is needed. Between 7 and 9 thousand people have been laid off and the rate of unemployment for some companies approaches, and in some cases, exceeds 50 percent. Just last month, Anamax Mining Co. announced that it will cut output by about 17 percent and reduce its workforce by over 25 percent (400 to 1,500).

Needless to say, the impact of such developments is not confined to the companies and workers directly involved; the economic lifeblood of communities and, indeed, entire regions is at stake. Furthermore, Mr. President, the people who have been thrown out of work in the recent cutbacks in the copper industry are, in the majority of instances, heads of households, the principal breadwinners upon whom their families depend for economic sustenance. This is the most pernicious and socially destructive form of unemployment. Next to the death of a loved one, it is perhaps the one thing that families dread the most and the psychological costs—the pain and self-reproach and loss of self-esteem—suffered by the breadwinner are beyond calculation.

I realize, Mr. President, that the problem of unemployment is not restricted to the copper industry. Joblessness is all too prevalent in every sector of the economic system, and almost no region of the Nation has managed to escape its effects. I submit, though, that the difficulties facing the copper workers are so exceptionally severe in both scope and concentration as to merit special attention. I hope, therefore, that the distinguished floor manager of the bill could see his way clear to accept the amendment I am proposing.

Mr. MAGNUSON. Mr. President, I appreciate what the Senator from Arizona is faced with out in his area. It is a very serious situation. It, of course, involves the question, I suppose, of imports of cheap copper from other countries.

We do have a piece of legislation on the books that reimburses workers who have been shut out or find themselves unemployed because of imports, but it takes a long time to establish that and we often appropriate money for that purpose. But the immediate problem that he has of trade assistance adjustment is not just before us right now, is that correct?

Mr. DECONCINI. The Senator from Washington is absolutely correct.

Mr. MAGNUSON. But the Senator makes a compelling case, of course, and I find myself in agreement with the objectives. Unfortunately, I must oppose it for what I regard equally compelling reasons.

To earmark CETA funds in this fashion would set a bad precedent for future appropriations for the program. The bulk of CETA funds are allocated to the States and local governments to use as they see fit.

In fact, the Labor Department just last week announced another $17.5 million of CETA funds to Arizona in addition to the $60 million already available for public service jobs in Arizona under CETA. A far better approach, in my judgment, is to follow up on the report language which my colleague (Mr. DECONCINI) persuaded the committee to adopt.

It is in the report language. This language, I believe, will serve to accomplish much of, if not what the amendment at hand seeks to achieve.

Mr. President, I ask unanimous consent that a copy of this language be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COPPER INDUSTRY

The Committee is gravely concerned about the deepening depression in the American copper industry. Unemployment among copper workers is reaching crisis proportions, and, thanks to an overhang of over 2 million tons resulting from excessive foreign production during the recent recession, no relief is yet in sight. In all probability, some of the job losses sustained in current contraction will prove to be permanent. The Committee, therefore, expects the Secretary to proceed forthwith with a timely and expeditious assessment of the need for additional Federal employment and training assistance in those areas bearing the brunt of the preciptious decline in domestic copper production. The Commitment also directs that a sufficient amount be drawn from the Secretary's discretionary balances and/or funds available for reprogramming in other CETA accounts to meet the needs identified in the Secretary's survey.

Mr. MAGNUSON. Mr. President, I urge the Senator from Arizona, in light of the difficulties posed by his amendment, to consider withdrawing it, and we will follow through on the report language on the bill.

Mr. DECONCINI. Mr. President, I thank the distinguished chairman and my colleagues in Washington for having a real concern and interest in this, and also thank again the chairman of the Appropriations Committee for his support to insure that language was put in the report.

Indeed, those workers who will receive some benefits also extend their thanks to Senator MAGNUSON.

In view of the assurances of the distinguished chairman with regard to obtaining a Labor Department compliance with the directive contained in the committee report, I will defer to his wishes and withdraw my amendment from further consideration.

Mr. MAGNUSON. I thank the Senator.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. MAGNUSON. Mr. President, I believe the Senator from Oklahoma did point this out, but the Senator from Maine is ill and in the hospital. We hope it is nothing serious, but he could not be here today. He did have some remarks he wished to make about this bill and it involves the $200 million for the Community Service Administration which will provide emergency energy assistance to low-income persons this winter and the funds will go for a continuation of the special crisis intervention program, which is called SCIP, which was developed by this body last winter.

Mr. President, I ask unanimous consent to have printed in the RECORD the Senator's remarks on this program, and an attached letter.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR MUSKIE

The supplemental appropriation we are now considering includes $200 million for the Community Services Administration to provide emergency energy assistance to low income persons this winter.

These funds will go for a continuation of the Special Crisis Intervention Program (SCIP) which was developed in this body last winter.

Just last month, my Subcommittee on Intergovernmental Relations, which has just concluded an examination of the nation's preparedness for the coming winter, recommended that the SCIP program be continued for another winter.

And last week, the Administration threw its support behind this supplemental appropriation for the CSA. In a letter to the distinguished Senator from Washington (Mr. Magnuson), James T. McIntyre, Acting Director of the Office of Management and Budget, said this appropriation would help the Administration carry out its commitment to assist low income Americans this winter with fuel bills they cannot afford to pay. A letter I have just received from Deputy Secretary O'Leary reiterates the Administration's support for this measure. I ask that a copy of this letter be printed in the Record at the conclusion of this statement.

Mr. President, last winter the SCIP program provided the same amount as is in this appropriation—$200 million—to help the poor and the near poor pay the cost of keeping warm. According to testimony my subcommittee heard, more than two million were certified for SCIP payments, and the states have obligated about 80 percent of their SCIP allocations to needy recipients.

While available evidence suggests that SCIP was generally successful, it was not perfect. For one thing, the program last winter came into existence too late—with the assistance not actually going out until summer. By acting today we will be correcting that critical deficiency of last winter's program.

Second, last winter we included a prohibition against any SCIP funds going for program administration. That prohibition was included to insure that all funds went to the needy. But it resulted in administrative delays in getting the assistance out to eligible applicants. So this new appropriation includes no such prohibition.

Finally, last winter this program was not as well targeted as it might have been. While funds went only to poor and near poor applicants, funds went into states experiencing normal or above normal temperatures—instead of being concentrated only in those states suffering below normal temperatures, where the assistance would have done the most good. This deficiency, too, will be corrected this year.

Let me describe how this winter's program will operate. Two hundred million dollars will be appropriated to the Community Services Administration for use through the coming winter. The funds will not flow automatically, to the states according to a set formula, as did last spring's appropriation. Rather, they will be used to provide assistance to eligible persons faced with a specific emergency situation. The discretion to determine the circumstances which constitute an emergency is vested in the Administrator of CSA, after consultation with the Secretary of the Department of Energy.

The approach—of treating specific emergencies rather than simply providing assistance to all who qualify—was selected because we are putting this program on line and ready to operate before the winter begins. This broad authority will allow this program to be used to meet the variety of energy related problems that are likely to arise this winter. The committee report includes some general guidelines for the CSA Administrator in this regard. She is urged for example, to take into account such factors as temperatures, fuel costs and unemployment. But, they are nothing more than guidelines. They do not offer specific thresholds or criteria for determining an emergency.

The Administrator must carefully monitor the situation within each State. She must take into account requests made by State and local officials. She must determine the existence of emergencies not only when they occur, but I encourage her to develop techniques to identify such emergencies before they occur.

In short, we are asking CSA, as we did after last winter's trauma, to take on a difficult job, but one that offers the best hope for those in our society for whom winter is a bleak prospect indeed.

DEPARTMENT OF ENERGY,
Washington, D.C., October 31, 1977.

HON. EDMUND MUSKIE,
Chairman, Subcommittee on Intergovernmental Relations, Committee on Governmental Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Secretary Schlesinger is vitally concerned that the U.S. Government take all necessary actions ahead of time to prepare for possible energy emergencies this winter. To this end, he set up an interagency task force for winter energy emergency planning, the progress and recommendations of which David Bardin and I reported to your Subcommittee on September 21, 1977.

I understand there is an amendment to H.R. 9375, the FY 78 supplemental appropriations bill, which contains a proposal that would provide $200 million for emergency assistance this winter. I understand that under this proposal the Community Services Administration would convey the funds to the states, that the assistance would be targeted to states most in need in the event of specific emergency conditions, and that any unused funds would revert to the Treasury if not needed. I support this proposal as an interim measure, and agree with you that such a program should be in place ahead of possible energy-related emergencies this winter in which costs for heating fuels may become unmanageable for some individuals.

While we support this proposal as an interim measure for this winter, I want to reiterate our support for rapid and favorable consideration of the Administration's proposed emergency assistance legislation.

The Office of Management and Budget advises that there is no objection from the standpoint of the Administration's program to the submission of this letter.

Sincerely,

JOHN F. O'LEARY,
Deputy Secretary.

Mr. EAGLETON. Will the distinguished Senator from the State of Washington yield?

Mr. MAGNUSON. I am happy to yield to the senior Senator from the State of Missouri.

Mr. EAGLETON. Mr. President, for the third time this year I find it necessary to address the Senate concerning the title X job opportunities program under the Public Works and Economic Development Act. Earlier this year, in the economic stimulus appropriations bill, the Congress directed the Secretary of the Department of Labor to continue to fund the 71 older worker projects out of his discretionary funds. When the bill was considered we were advised by the Department of Labor that 4,800 workers 50 years of age or older were employed in these 71 projects. Very recently, it has been brought to my attention that the Department of Labor is aware that there are, in fact, 5,350 workers involved in the 71 projects within the title X program.

Although I have repeatedly asked for written documentation of this problem, to date I have received no letter fully explaining the changes in figures. However, I have been verbally assured by the Department that the 5,350 job slot figure more accurately represents the job slot picture. Frankly, I am not troubled that the Department has come up with new figures—considering the complexity of this matter, this is understandable—what troubles me is the fact that the Department has discussed with various national contractors the possibility of terminating some jobs because it maintains that Congress specified that only "about 4,800" jobs be continued. In other words, the Department is seriously considering terminating about 50 jobs for older workers because Congress used in its report erroneous figures given to us by the Department of Labor.

I want the record to be perfectly clear that Congress desperately wanted and specified that all of the title X jobs in the 71 projects be continued. At the time, when we acted on this matter, the best information we had was that this accounted for the continuation of 4,800 jobs. For the Department now to say that they are not required to fund the number of jobs that actually exist (5,350 jobs) because Congress specifically mentioned "about 4,800 jobs" is ridiculous. The point Congress was and is still trying to make is that we want all 71 of the jobs projects under title X continued, regardless of the precise number of job slots. I would like to ask the distinguished chairman of the Labor-HEW Appropriations Committee, Mr. MAGNUSON, if he agrees that this was and still is the intent of Congress on this matter.

Mr. MAGNUSON. I agree totally with the Senator from Missouri. As the Senator from Missouri well remembers, on June 29 and May 5 of this year he and I stood on the Senate floor and discussed this same issue—title X. On those two

occasions, we were using the best information given to us by the Department of Labor when we discussed the continuation of the title X program. Now, I understand, that some of the figures we used in our discussion were in error. Certainly this is not the Department's fault—in fact, I commend Secretary Marshall and his staff for their diligence in discovering these new figures. Nevertheless, I want it clearly understood that Congress wants all of the title X jobs continued—whatever the actual number—until June 30, 1978. Effective July 1, 1978, the subcommittee is aware of the Department's plan to transfer a good number of these workers to the title IX, community services for older Americans program.

Mr. HATHAWAY. Mr. President, I would like to direct a few questions to my colleague from Washington regarding one particular section of this supplemental appropriations bill. That is section 209, which directs the Secretary of Transportation to redesignate those interstate highway miles which have been turned back from State and local governments. My colleague from Maine, Senator MUSKIE, and I earlier wrote to the acting chairman to express our interest in this section of the bill, and I am pleased to see that the committee included it in its reported bill.

As I understand it, the Secretary presently has authority to reallocate the mileage which is turned back to him; no decisions on such redesignations have been made for over 18 months, however. They are admittedly hard decisions, with many more requests for mileage than there are miles to distribute.

Despite the difficulty of the decisions, however, they need to be made. Although existing authority does provide for redesignation, the entire issue has recently been caught up in a policy review which would sidetrack existing law.

In light of this, I would like to confirm, if I may, that it was the committee's intent in section 209 to direct that the general redesignation authority of the Secretary be implemented, and that all of the mileage which has been, or will be, turned back to the Secretary be redistributed to be used in projects throughout the country.

Mr. MAGNUSON. Yes, that was the committee's intent. We directed the Secretary to begin redesignation as soon as possible, and to complete such reallocation of all of the turned-back mileage as expeditiously as possible.

Mr. HATHAWAY. I have asked my colleague from Washington specifically on this question, because we presently have a proposal pending in the U.S. Department of Transportation from the State of Maine for a mere 9 tenths of a mile of interstate mileage. The State has been hoping for redesignation for many months now since that is the only feasible way in which this nine tenths of a mile might be built. The project is a very worthy one; it is of the utmost priority with the State Department of Transportation, and with the communities of Bangor and Brewer where it would be located. The nine tenths of a mile would provide a bridge over the Penobscot River which separates Bangor and 395 with route 1A, the east-west route through the State.

The State's original request for completion of I–395 in this manner was in 1968, nearly a decade ago. It was included in a request for a portion of the then newly authorized 1,500 miles of interstate miles; Maine did not, however, receive any of its request. Now the completion of I–395 is at the top of the State's priorities, and the request has been reduced from the original 3 miles to under 1 mile, including only the mileage needed for the bridge itself, the major cost of the project.

At present, I–395 ends on the west side of the Penobscot River. In order to cross the river and continue east, whether going to the other side of the area, or on to the Canadian provinces or to the beautiful Acadia National Park, travelers must cut back north right through the downtown section of the city of Bangor, and then take one of two overloaded bridges which connect the Bangor and Brewer business districts. Only after going through the heart of both cities can a traveler pick up the route to continue east, as a result of the present end of the I–395 spur.

The nine-tenths of a mile which Maine would like to have would permit the building of a third bridge, connecting I–395 directly with the east-west highway on the eastern side of the river, and south of the existing bridges. It would, in essence, be the logical completion of the I–395 spur, rather than involving a new project.

The State of Maine has never received any redesignated interstate mileage. I know that there are worthy proposals in many different States, and that there is one for the Tacoma spur in Washington State. From what little I know of that project, I assume that the acting chairman would agree with me as to the great benefits there may be from just a very small amount of additional interstate mileage in a State.

I would hope of course, that when redesignation begins—and I hope that this amendment will assure that it will—that the project from Maine would receive the close attention and priority from the Secretary of Transportation. I feel that the arguments for the Maine project are compelling. It is a logical completion of the existing interstate; it has considerable safety benefits, from elimination of rail crossings to easing congestion to relieving air pollution problems in the area; and the State has proceeded with preliminary work so that it could be implemented with the least possible delay upon redesignation. Finally, the amount of mileage being requested—less than 1 mile—for this project should certainly be a factor in the Secretary's consideration of redesignation.

Finally, I might add that bridge rehabilitation and replacement has been of great concern to this administration. There are not nearly enough funds for the estimated need in this area, however, and in Maine in particular, there will not be funds for a project of the type which is being suggested. Redesignation of interstate mileage is the only feasible way of proceeding with this particular project in Maine. With one of the bridges over the river now 75 years old, two lanes, and unsafe for normally legal loads, this project can contribute to both our interstate system and to our need for safe and secure bridge crossings.

I want to thank the acting chairman for his indulgence in this matter; as he can tell from the length of my remarks, it is one of great importance to me, and to the citizens of the State.

Mr. MAGNUSON. I appreciate the concern of the Senator from Maine, and agree that the project he has described in Maine, and the one which he mentioned in my own State of Washington, are two projects which are certainly worthy of every consideration by the Secretary in making redesignation decisions. With the language in this bill, the Secretary will be directed to carry out his existing administrative responsibilities in regard to redesignation, eliminating any obstacles which he may have encountered in the exercise of that authority. I would hope that this provision will ultimately be part of the bill so that projects such as the one in Maine, and the one in Tacoma, will be eligible for redesignation. I shall certainly work for inclusion of this language in the final bill.

Mr. HATHAWAY. I thank my colleague from Washington for these assurances, and appreciate his time and attention to this matter.

Mr. MAGNUSON. Mr. President, on the HEW portion of the bill I have a few comments.

Mr. President, the committee recommends $330 million for the Labor-HEW chapter of this supplemental, compared to the $110 million budget request and $29 million House allowance.

We agreed with the House on the two Labor Department items, totalling $5 million, basically to strengthen trade adjustment activities and enforcement of minimum wage and overtime laws.

We also agreed with the House in providing $15 million in borrowing authority for the student loan insurance fund in the Office of Education.

However, we recommend deleting funds added by the House on a vote of 215 to 202 for intercultural centers at Georgetown and Tufts Universities, for which there was no budget request. Following a special hearing on this, I strongly felt that other priorities, such as those for the handicapped, needed funding long before these kinds of programs. In fact, we have a two-page list of reasons not to fund these programs at this time and an editorial from the Washington Post agreeing with the Senate position. Further, I should point out that not one committee member supports the funding of these projects at this time.

We added $324 million for two items not considered by the House: $200 million for an emergency fuel assistance program and $124 million for Indochinese refugee assistance. Both these programs have the support of the Carter administration, although they are recommending only $114 million for Indochinese refugees.

Mr. President, I recommend that the Labor-HEW committee recommendations be approved.

Mr. President, I yield to the Senator from Arkansas.

UP AMENDMENT NO. 1028

Mr. BUMPERS. Mr. President, I have an amendment at the desk and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS), for himself and Mr. HATFIELD, proposes an unprinted amendment numbered 1028.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 14, lines 6 and 7, strike "$99,000,000; of which $80,000,000" and insert in lieu thereof "$77,000,000; of which $58,000,000"

Mr. MAGNUSON. Can we have a copy of the amendment or will the Senator explain it?

Mr. BUMPERS. I will explain it. I do not intend to take very long in doing it.

Mr. MAGNUSON. All right.

Mr. BUMPERS. Mr. President, this is an amendment that would cut the $80 million appropriation in this bill for the Clinch River breeder to $58 million.

Mr. STENNIS. If the Senator will yield, what is the figure?

Mr. BUMPERS. $58 million.

The President originally asked $33 million. My preference would be zero.

But, Mr. President, we debated this issue extensively during the authorization measure and at that time, Senator CHURCH, who was the strong proponent of reducing the President's request for this project from $150 million to $75 million made some representations to the Senate about what that would do.

At that time, the Senate agreed to the $75 million figure. The House had $150 million and the conference agreed on $80 million. The appropriation bill also has $80 million in it.

But one of the arguments made at that time by the distinguished Senator from Idaho (Mr. CHURCH) was that this funding is to be accompanied by a suspension of the licensing procedure during the review period extending to the end of fiscal year 1978.

A further quote was that no funding is included for contracts for site preparation or construction, and further, and I quote, no new equipment procurements would be initiated during the review period. Now, the Senate agreed to that. It agreed to that because it did not envision an additional commitment for the Clinch River.

There is $87 million in carryover funds for the Clinch River project available at this time. Only $58 million is needed to reach a total of $145 million for fiscal year 1978, and that would accomplish what the Senate originally agreed to do.

Mr. President, there is plenty of room for debate about what this much money will accomplish. It is my thought that it will give the ability to start procuring long lead items and site preparation despite the fact that all the procedures have not gone forward.

Nobody here can say, with any degree of accuracy or sureness, that Clinch River is even a desirable site, if we all believed that the Clinch River was going to be the millennium.

Mr. President, I have been disturbed about the whole concept of breeder reactors for a long time. In our Energy Committee, we hear constantly that one of the biggest problems this country is facing—and all those who read the Washington Post last week saw this verified—is the disposal of spent fuel from light water reactors. We cannot even figure out what we are going to do, how we are going to get rid of the spent fuel that is coming out of the 55 or 56 commercial reactors in this country right now.

Here we are talking about a breeder that produces more plutonium, pure nuclear grade material, than it uses.

The President has said that he is opposed to the breeder for all time to come. I am not saying that I am opposed to it, and I am sure Senator HATFIELD is not saying that, either. What we are saying is this: "Wait a minute. Let's not go off half-cocked and start producing the most lethal substance the world has ever known, in massive quantities, before we know what we are doing and how we are going to dispose of it."

It is my belief, Mr. President, that the greatest threat to this Nation is nuclear incineration. We are moving inexorably toward that conclusion for the world as rapidly as we can. All we are doing by allowing that breeder to go forward is simply enhancing the possibilities of bringing the time closer when that holocaust can take place. It is just a matter of time until a Qadafi or an Amin lays his hands on enough plutonium to wreak more havoc than the world has ever known.

I am not going to make all those pious arguments I made when I debated this issue before, but I did not want this appropriation to go through unnoticed. I did not want anybody to think for an instant that I have lost sight of the goals I had talked about when we debated that authorization bill.

I do not know what the President is going to do. The Chair ruled yesterday that even if the President vetoes the authorization which is on his desk right now, a point of order to this appropriation would not lie.

Finally, Mr. President, I do not like to patronize my colleagues by reading to them; but the best source I have seen on this whole subject comes from a MITRE report. The MITRE report has been published for almost a year. Some of the finest economists and nuclear physicists in the country compiled this report, sponsored by the Ford Foundation. This is what their conclusion was:

Our analysis implies that the construction of a commercial demonstration plant is premature. However, even if this were not the case, the CRBR would probably not provide very convincing demonstrations of the goals stated for it. Begun in 1969, the CRBR project still has not begun construction and criticality is now predicted for late 1983 at the earliest. In the interim, cost estimates have escalated to nearly $2 billion, or roughly $5,000/kilowatt.

I point out that you can use solar energy through a photovoltaic system in this country for half of that cost right now.

The utility industry's lack of enthusiasm for the project may be reflected in its unwillingness to commit additional funds much beyond the $250 million originally pledged. Finally, the design for the CRBR, based on design studies conducted in the late 1960s and early 1970s, is about to be superseded by the new ERDA/EPRI cooperative design studies for the PLBR, the scheduled successor to the CRBR. It is thus difficult to escape the conclusion that the CRBR does not have a value consistent with the likely cost, even under the assumption, which we believe incorrect, that there is need for an urgent LMFBR commercialization program.

There is no question that the present version of the breeder stressed in the U.S. program, the plutonium-cycle LMFBR, will successfully generate power. It thus provides insurance against very high energy costs in the future. The hard question concerns the timetable on which a breeder might have sufficient economic merit, compared with other sources, to outweigh the potentially large social costs associated with a plutonium fuel cycle.

On the basis of our analysis, we conclude that there is little advantage in terms of economics or energy supply assurance in early commercial introduction of LMFBRs. Introduction of the breeder may be deferred for ten, twenty, or more years without seriously affecting the economic health or energy security of the United States. As long as there is a world market in low-enriched uranium, a similar conclusion appears to apply to other countries. The social costs associated with breeder introduction argue strongly for deferral.

The relaxation in the breeder timetable recommended here has implications for the nature of the U.S. strategy in research and development on fission alternatives. There is time to pursue a broader research and development program on the breeders and on more efficient converter reactors. Delay will permit the development of more successful breeders should they be needed. In such a program, the Clinch River project, as presently conceived, is not necessary and could be canceled without harming the long-term prospects of breeders. In fact, a premature demonstration could even be detrimental to these prospects.

Mr. President, if this were a document that had been produced by unknowledgeable people, by people who knew nothing about plutonium, about the generation of electricity by the use of either plutonium or uranium, if it had not been proposed by people who know what this country's energy needs are likely to be and the best sources from which to get those needs, I would not be reading it. But everyone I have talked to agrees that that is one of the finest, well-considered documents ever to be produced in this country.

For those reasons and others that I will not belabor, Mr. President, I sincerely hope that the Senate will be aware of what it is doing when it approves a continuation of that project.

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. BUMPERS. I yield.

Mr. HATFIELD. Mr. President, I associate myself with the Senator's remarks.

This matter has been discussed and debated many times. I am mindful today that we hear a great deal from our economic community about the fact that there is an intangible element known as confidence that is needed in order to get investments moving and developments proceeding. There is a lack of confidence today, and that is something we really cannot legislate. That is one of the great needs of the economic community.

Equally important is confidence in the political community. The American people have lost some of their confidence in government for varied reasons, but I think one of the reasons that strikes me most boldly today is the way the Senate marches up the hill and marches down the hill, up the hill and down the hill. What kind of signal can one get from the Senate on many of the actions we take here, other than one of confusion?

I think the Clinch River breeder reactor is a case in point. The Senate went on record very clearly that it wanted to stand still on the Clinch River breeder reactor. That was made clear by even the proponents of the reactor. The Senator from Arkansas quoted the Senator from Idaho, who was carrying the authorization bill when it was determined that we would go to $75 million in order to stand still.

It was pointed out that we have an $86 million carryover; and if you add $58 million to that, you come up with $144 million, which is the amount required to stand still; to keep the personnel on board, to continue planning and design at current levels, but to avoid further commitment to the project for the balance of this fiscal year.

What we are doing by including $80 million is adding more than is needed to do that, and by adding more we are contradicting what the Senate has already stated it wanted to do; namely, stand still. In this instance, standing still would mean not going ahead with licensing, site preparation, or new long lead procurement contracts.

With the $80 million level, DOE officials indicate each one of these three activities could proceed to some degree or another.

Some site preparation could occur near the end of the fiscal year, the licensing procedure can be continued, and new contracts for long lead items can be signed.

I might say to the Senator from Arkansas I offered this amendment, as he knows, in the Appropriations Committee, and it was voted down. And, interestingly, it failed primarily because of a lack of support from the majority side of the Appropriations Committee. This raises another point that is always and, I think, increasingly a concern of Democrats and Republicans alike in this country: Where does the administration really stand? Is it fully committed to its public position on the Clinch River project, or does its lack of activity on behalf of stopping the project in the legislative process indicate only a half-hearted commitment?

I am raising this not as a partisan question. I know the Senator from Arkansas had been in the vanguard of the effort to see that the Clinch River project is halted as requested by the President.

I also know that sometimes I find myself in the peculiar position of carrying the so-called administration position on an issue but not finding support from the majority party. Are they getting different signals than I am getting? I am not getting any special signals, I might say. I am only relying on public pronouncements made by officials representing the administration.

So this adds to the public's confusion. Where does the Senate stand? Where does the administration stand? Where does Congress stand on the Clinch River breeder reactor?

I think it is illustrative of the growing concern on the part of the public with the need for consistency in the economic community and in the political community because they cannot get clear signals as to what the policy is or should be or what the administration wants it to become.

I only wanted to add those comments in support of this amendment offered by the Senator from Arkansas this morning.

Mr. BUMPERS. Mr. President, I thank the Senator from Oregon for his support and for his always cogent comments about this issue.

I will simply conclude by saying that I know sometimes in the Senate we take on holy causes that we know do not have any chance of success. I really think that my position on this is on the side of the angels, but I also know to a reasonable degree and am certain that it is not shared by a substantial majority of my colleagues.

I could not sit idly by and allow this appropriation to sail through the Senate without making this argument which I hope will serve some useful purpose.

I have not had any signals from the President either. I discussed it with him a couple of times before the debate on the authorization bill and, of course, I had in mind the hope he would veto the authorization and I hope he will veto this appropriation bill. I have no way of evaluating what he will do with it.

But I feel strongly about it. The President and all of us in this body pontificate endlessly about the moral leadership of the United States. These words have a hollow ring unless the CRBR project is terminated.

Mr. PROXMIRE. Mr. President, I rise in support of my colleague's amendment opposing full funding for the Clinch River breeder reactor demonstration project.

In his April energy message President Carter announced that he would seek to cancel construction of the Federal Government's demonstration breeder reactor, the Clinch River project. I share the President's expressed concern about the proliferation of nuclear weapons which could be encouraged by this energy technology. The breeder reactor technology would facilitate proliferation through the production and end use of large amounts of plutonium.

I realize that plutonium is produced by conventional light water reactors as well as by breeder reactors. But the breeders produce twice as much plutonium as the conventional reactors, in fact producing more plutonium fuel than they consume.

Mr. President, I know that the plutonium which issues from both breeder and conventional reactors is not weapons grade material. In order to be used for making a bomb or for use as a fuel once again by breeders, the plutonium must be reprocessed, that is, separated out from associated wastes. It is this reprocessing stage of the nuclear fuel cycle inherent in the economics of breeder technology which is the key to proliferation. After the fuel from a breeder is reprocessed, it is sent to a fuel fabrication plant to be made into fuel rods for reuse in a breeder reactor. If the plutonium were stolen after reprocessing from the reprocessing plant or in transport to a fuel fabrication plant, it could be made into a nuclear weapon—some maintain by anyone with technical expertise and a graduate school understanding of physics or chemistry.

For these reasons, Mr. President, I fully support the President of the United States in his efforts to reduce the risk of proliferation associated with nuclear power development. I support his efforts to phase out Federal involvement in nuclear reprocessing and to defer commercialization of breeder technology. I urge my colleagues to support the Bumpers amendment.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BUMPERS. Mr. President, as I just pointed out, I am sure that no useful purpose will be served by pursuing this, but I wanted to make the record. I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

SEWAGE TREATMENT CONSTRUCTION FUNDS

Mr. DOLE. Mr. President, this supplemental appropriations measure will provide $4.5 billion to continue the Federal sewage treatment construction grant program. I have supported this highly beneficial program in the past and I continue to give it my enthusiastic support at this time.

Federal grants are awarded on a priority basis for individual projects and each project is eligible for 75 percent Federal assistance. My own State of Kansas has benefited greatly from these funds in past years, and will receive an allocation of $39,541,500 under the current supplemental bill. This is based on a nationwide allocation formula proposed by the Environmental Protection Agency which takes into account the relative need for various treatment facilities among the 50 States.

The Federal Water Pollution Control Act Amendments of 1972 mandated the cleanup of our Nation's waters through the elimination of direct discharges of municipal and industrial sewage. It be-

came necessary for the Nation's communities, both large and small, to construct or upgrade existing sewage treatment facilities in order to comply with the new Federal regulations. Recognizing the limited financial resources of municipalities for undertaking such construction, Congress authorized a very helpful 75 to 25 percent Federal-local cost sharing program for the treatment plants. Numerous communities have already benefited from the grants, and many more will benefit in the future.

There are, however, still a number of rural communities in Kansas which need to upgrade their sanitation facilities. Under the allocation formula authorized in this legislation, Kansas should be able to proceed with distribution of its share of Federal funds during the coming year. The total appropriation of $4.5 billion nationwide represents the first increment of a proposed 10-year $45 billion waste treatment effort for all 50 States.

There is no question that this assistance will be especially welcome and put to good use in the State of Kansas. I support the full appropriation as recommended by the committee, and urge its expeditious approval.

Mr. THURMOND. Mr. President, I am pleased to see that money for the Small Business Administration's disaster loan fund is included in the measure presently pending before the Senate.

Earlier this year, I toured several counties in my home State which were hardest hit by extended hot, dry weather conditions. I returned to Washington and alterted my colleagues to the situation which existed in South Carolina. Senators from other States affected by these conditions have also reported on the situation in their home States. I witnessed, as did other Senators, a most disturbing sight. In some areas, farmers' crop and livestock feed supplies were nearly wiped out.

Mr. President, today we have an opportunity to assist these farmers who face financial crisis. I am pleased that the total $1.4 billion which was estimated to be needed to service this program was included in this bill. The situation is serious, and many farmers face financial disaster. Without assistance, there will be many farmers who will have to quit farming, particularly younger farmers who have little capital with which to operate, and many who lease their land or have little equity in their land holdings.

I want to remind my colleagues that the Small Business Administration disaster loan program is not a welfare or giveaway project. This money will be repaid to the Treasury of the United States. Our assistance is imperative during this time of need for Americans who toil the fields to provide food and fiber for the consumers in this Nation. These farmers in many cases risk their complete livelihood on factors such as weather, over which they have no control.

This measure will provide the funds which will enable the Small Business Administration to get the money into the hands of the farmers. I urge that the Small Business Administration proceed as rapidly as possible in processing loan applications from these farmers.

I strongly support the funding of this disaster program.

Mr. HAYAKAWA. Mr. President, I regret that the Appropriations Committee, which voted to deappropriate the fiscal year 1977 funds for B–1 aircraft Nos. 5 and 6, has neglected to take into account the most recent developments in the SALT negotiations. According to newspaper accounts, the provisions of the tentative agreement will limit cruise missile range under a 3-year protocol. As currently being negotiated, the air-launched version of the cruise missile would be limited to 1,500 miles. This limitation is so severe as to weaken President Carter's argument for using the cruise missile in place of the B–1 bomber.

Testimony before the House Appropriations Committee revealed that a 1,500-mile limitation would prohibit the air-launched cruise missile from reaching the deep inland targets in the Soviet Union. Cruise missiles launched from aircraft 300 miles off the Soviet coast will not even reach the deep targets and we will never get as close as 300 miles. Future improvements in Soviet air defenses will further drastically reduce the target coverage.

Even the Armed Services Committees and the administration have made it clear that we will need a mix of manned, penetrating bombers and cruise missiles in the foreseeable future. This is evidenced by the fact that the President has given his full support for the initiation of a $20 million study to determine the feasibility of converting the F–111 to the FB–111H.

While I fully support cruise missile development, it cannot be disputed that it is still in the experimental stage and several years away from being an effective weapon. On the other hand, in the B–1 bomber we have a developed, tested system which is ready for production. The security of the United States is at stake. Can we be so foolhardy as to put all our eggs in one basket?

I, therefore, want to make it clear that I oppose the action of the Senate Appropriations Committee to cancel the production of B–1 aircraft Nos. 5 and 6. Termination of the B–1 program through the elimination of these aircraft would preclude full-scale production, should it be required, for 5 years or more. On the other hand, by completing planes 5 and 6, the Congress would insure that the President maintain a practical production option for at least 2 years. This is supported by a DOD study which states that production of planes 5 and 6 was its least risk option. Under this option, a decision could be made as late as 1980 to restart production and produce 240 B–1's for $28 billion.

Besides keeping our options open, these planes would be of invaluable service for experimentation and testing on structural tests, weapons integration, performance under a wide range of flight conditions, development of cruise missile launch technology, and continuation of other B–1 related high technology which could be used for other purposes.

In view of these facts and the concessions we are making in the tentative SALT proposals, I think it best serves U.S. interests to keep our options open.

Mr. THURMOND. Mr. President, it is my understanding that the committee has recommended a $18 million appropriation for the National Railroad Passenger Corporation. These funds are to be used to restore frequency reductions which were scheduled to become effective on October 30.

Among the routes which were to be reduced was one which serves South Carolina. The train is "The Champion."

Mr. President, I simply would like to direct this question to the manager of the bill: Does the $18 million Committee recommendation include money to restore the reduction for "The Champion"?

Mr. BAYH. The answer is yes—adequate funds are provided in the bill to cover the operating deficit of "The Champion." However, as you know, Senator THURMOND, the final vote on which trains will be restored is up to Amtrak's Board.

But, we have directed Amtrak to consult with the committee and appropriate state and local government prior to making and implementing any change in service.

Mr. THURMOND. Mr. President, I understand the House bill contains no funds to restore these reductions, and I hope the Senate conferees will stand fast in conference.

Mr. HATFIELD. I would like to ask my distinguished colleague from the State of Washington a question regarding some of the report language contained in this bill. I notice that in commenting on an amendment in the House bill relating to use of funds for processing permits in conflict with the approved coastal zone management program of the State of Washington that the Senate report clarifies that a somewhat parallel prohibition enacted as Public Law 95–136 does not apply to either pipelines or refineries. I appreciate that clarification, and it seems to be in accord with the intent of the amendment that was recently enacted as part of the Marine Mammal Protection Act authorization. I wonder if the language which pertains to receipt of permits for expansion or modification of marine terminal facilities could in any way be read to affect construction of such a terminal in the State of Oregon on the Columbia River.

Mr. MAGNUSON. I appreciate the concern of my colleague from the State of Oregon. I find it difficult to understand why this question should arise, but I can assure you that the amendment that was recently enacted does not apply to the State of Oregon or to any other State. It only applies to issuance of a permit for the construction or alteration of marine terminal facilities for increased transshipment of oil through the State of Washington. It has no application to tanker traffic per se, nor does it affect in any way the possible construc-

tion of such facilities in the State of Oregon or any other State. The State of Oregon is completely free to construct oil terminal facilities on the Columbia if it so chooses.

Mr. HATFIELD. I appreciate this explanation and look forward to continued cooperation with the Washington delegation on matters of mutual interest.

Mr. DOLE. Mr. President, the supplemental appropriations bill for fiscal year 1978 in chapter 1 contains a provision to increase the lending authority of the agricultural credit insurance fund by $100 million.

FARM OWNERSHIP LOANS

The $100 million increases the lending authortiy of the Farmers Home Administration from $550 million to $650 million for farm ownership loans during fiscal year 1978.

The farm ownership loan account has been short of needed funds for many years. In this time when farmers are experiencing disasters, inflation and low prices, it is imperative that Congress see that this program is adequately funded.

FARMERS WAITING 1 YEAR OR MORE

Farmers in my State of Kansas are having to wait more than 1 year to receive a farm ownership loan. To me this situation is not acceptable and it is particularly intolerable during a time of financial crunch for farmers. The Kansas Farmers Home Administration shut off the processing of these loans in May of 1977 because of the tremendous backlog. As of this date, they have not resumed processing and don't plan to for another month or two. When they do open up the processing, they expect to do so only on a limited basis.

Under the present procedures of not approving loans, farmers cannot even get their first mortgage loan from a private lender and obtain an interim loan from a bank to tide them over until FmHA comes through with their funds. When land comes up for sale, farmers cannot wait 1 year to commit themselves to buy it.

Kansas had 292 farmers awaiting over $12 million in loans when loan processing was shut off. There would have been enough loans approved by October 1, 1977, to use the entire fiscal year 1978 allotment for Kansas if processing had not been terminated. Kansas was allotted $20 million for 1978 to be used quarterly.

BACKLOG APPROACHES $300–400 MILLION

The exact severity of the farm ownership backlog cannot be determined. The Farmers Home Administration only allows a certain percentage of the year's allocation to be obligated each quarter. Many States have stopped or slowed down the processing of farm ownership loans. The official statistics showing a $188 million backlog is far below the real situation.

The backlog has been estimated at least $300 to $400 million. This is in addition to all the loans to be processed in fiscal year 1978. Farmers need approximately $900 million from the Farmers Home Administration in fiscal year 1978 to adequately finance their farm real estate purchasing and refinancing. Congress has only approved $550 million.

An additional $100 million increase in FmHA's borrowing capacity for these loans would give farmers $200 million in funds. Private loan institutions joined with FmHA and financed, on the average, 50 percent of each loan.

I wrote Senator HENRY BELLMON, ranking minority member of the Subcommittee on Agriculture and Related Agencies of the Senate Committee on Appropriations, and Senator THOMAS EAGLETON, chairman of the Agriculture and Related Agencies Subcommittee, on September 22, pointing out this extreme situation to them. I do not believe the size of the backlog was adequately known when the fiscal year 1978 appropriations were considered.

I appreciate Senator BELLMON and Senator EAGLETON's concern and understanding of this problem. They included the entire $100 million in the Agriculture Subcommittee's recommendation to the full Appropriations Committee.

The average Farmers Home Administration farm ownership loan is approximately $40,000. The supplemental $100 million would allow Farmers Home Administration to make approximately 2,500 additional loans in fiscal 1978. The 2,500 farm family certainly deserve our consideration. Many of them will be refinancing to save their farming operation.

The companion House appropriations bill does not contain any supplemental increase for this vital program. I am hopeful the conferees from both Houses will see the need for the entire $100 million and will adopt this provision in their final recommendation.

The entire $100 million is needed now by the farmers of our Nation. The entire $100 million needs to be retained by the conference committee.

Mr. President, I recommend this vital program for increased funding and urge my colleagues to vote in favor of this provision in the supplemental appropriations bill.

Mr. SASSER. Mr. President, I support the supplemental bill which is before the Senate today. This bill provides appropriations for needed and necessary programs of the Federal Government.

In particular, I am pleased that the Senate Appropriations Committee, of which I am a member, has approved funding to continue the Clinch River breeder reactor project in Tennessee.

The committee voted 16 to 5 to provide $80 million for this program which, I believe, is vital to this Nation's energy future.

This supplemental is the culmination of a year's effort to prevent this project from being cancelled as some have desired. The Congress, both the House and the Senate, has consistently voted against terminating this program, choosing instead to continue funding for the CRBRP.

The $80 million provided in this bill will keep the technical and scientific teams together. The action taken in this bill will keep the breeder on track, but it does delay construction of the project for another year.

The amount provided in H.R. 9375 is to be utilized as directed in the authorization bill which has already passed both Houses of Congress and is awaiting Presidential signature. Clearly there is no intention whatsoever that any of the funds in this supplemental shall be used to terminate or delay the project.

Mr. President, I call upon President Carter to sign both the authorization bill and the appropriations bill. The Congress has chosen to continue this program and the public clearly supports continued development of Clinch River. We have attempted to recognize the President's concerns with the potential of plutonium proliferation. We have attempted to compromise on this issue in order to keep this project alive and yet provide the administration with a bill that could be accepted.

Continuing the Clinch River breeder reactor project at this time does not commit this Nation to a plutonium economy. The CRBRP is simply a demonstration project. In no way does it commit us to commercialization on a liquid metal fast breeder reactor.

I believe that in this time of energy crisis, we should preserve our energy options and continue to develop this demonstration facility. It would be a serious mistake to halt development of any promising energy technology.

BREEDER REACTOR PROGRAM

Mr. DOLE. Mr. President, I support the committee's full recommendation for the Clinch River breeder reactor demonstration project—$80 million—which is the same amount authorized earlier by this Congress for the coming fiscal year. This amount will be enough to continue crucial procurement contracts for the reactor, although construction itself will be delayed until fiscal year 1979. This is a balanced and reasonable approach to this controversial project. I will oppose any effort to reduce the funds or to make them contingent on enactment of the authorization bill now before the President.

SUPPORT FOR CLINCH RIVER RESEARCH

In July of this year, I expressed my full support for continued funding of the breeder reactor demonstration program. Opponents of the Clinch River project have argued against the program on grounds that it will lead to proliferation of nuclear weapons. They fear that America's policy position against the international spread of nuclear explosives will be somehow undercut by proceeding with the Clinch River project.

Yet, France, Britain, and the Soviet Union already have these reactors and are well ahead of the United States in fast breeder reactor technology. Our abandonment of the Clinch River project will not slow proliferation of nuclear arms. The campaign against proliferation should proceed on different grounds. The nonproliferation of nuclear weapons is best encouraged through diplomacy, not restraint of technology.

VAST POTENTIAL

Mr. President, every year this Nation has grown more and more dependent upon foreign sources of oil. Conservation

alone is not enough to solve this Nation's energy problems. One way to meet our growing energy demands is to develop dependable alternate sources of energy. The breeder reactor is the only nuclear reactor that "breeds" more fuel than it consumes. The liquid metal fast breeder reactor does not contribute to the problem of storing vast amounts of nuclear wastes since it uses its own waste material as fuel.

The Clinch River project is a research program designed to demonstrate the liquid metal fast breeder reactor, which has a nuclear energy potential roughly equivalent to that of all U.S. coal reserves still in the ground. Some reports suggest that development of the breeder reactor program to its full potential could supply 1,280 year's worth of energy for the United States at the rate we now use it.

It is important to remember that the Clinch River breeder reactor demonstration program is only a research project. Support for the Clinch River project cannot be likened to a blind leap into the dangerous unknown. It is a calculated experimental step in the direction of solving America's energy problems, and I reaffirm my full support for continued funding of the demonstration program at this time.

MISSILES AND THE B–1 BOMBER

Mr. BARTLETT. Mr. President, today we are considering a supplemental appropriations bill which provides funds for the Carter administration's cruise missile alternative to a B–1 bomber force. In addition, through this legislation, the Appropriations Committee hopes to deappropriate fiscal year 1977 B–1 production funds which are now available. In short, this bill takes major steps designed to close out the B–1 program and accelerate the cruise missile for the future.

Given the importance of this legislation to our Nation's security, I think it important that passage of this bill be accompanied by a few comments on the President's decision to stop B–1 production. No fact seems more clear than that the President's decision to kill the B–1, made with great conviction and pleasure in the White House, is now haunted by an ever-continuing flow of evidence that it was an unwise decision.

Advocates of killing the B–1 bomber program originally argued that a pure force of cruise missile launchers could replace the manned penetrating bomber. Once the President had made his decision to stop B–1 production, however, the administration was unable to provide an adequate description of a future cruise missile force that could replace the planned B–1 bomber force. On the contrary, all of the evidence received by our Research and Development Subcommittee pointed inescapably to the conclusion that a "mixed force" of manned penetrating bombers and cruise missile launchers was the most effective means to maintain our bomber leg of the triad. Deploying both the penetrating bomber and the air-launched cruise missile permits the bomber and the cruise missile to help each other against enemy air defenses, as each causes difficulties for those defenses. Each part of the mixed force can use its best features to clear the way for the other part.

The manned penetrating bomber requires the Soviet Union to provide air defenses in depth and to make those air defenses sophisticated enough to deal with the electronic countermeasures and evasive action of the bombers. The short-ranged attack missiles (SRAM) carried by the manned bombers are almost impossible to intercept and are vital to attacking many heavily defended targets. The manned bomber can choose not to attack targets which have already been destroyed and can go on to attack alternative targets.

The air-launched cruise missile launched in the standoff mode forces the Soviet Union to develop long-range air defense systems and interceptors which will be capable of attacking standoff cruise missile carriers flying several hundred miles outside present air defenses. It forces the Soviet Union to develop expensive and powerful radars which can detect objects with extremely small radar cross-sections flying very close to the ground.

Given the importance of a "mixed force" of strategic weapons, I will continue to support the development of air-launched cruise missiles just as I will continue to support the development of manned bombers. However, it is a grave error to view the first generation cruise missiles as an absolute alternative to the proposed B–1 bomber force.

In looking at this appropriations bill, it should be noted that most of the funds requested are for research and development, not for procurement. The Carter administration's alternative to B–1 production is research and development of alternatives to the B–1. I would rather have had both. Recent reports of the Soviet strategic buildup are alarming, especially now that Secretary Brown has announced that the Soviet Union is developing another new generation of ICBM's even more modern than their SS–18's and SS–19's. Because the cruise missile is still in the research and development phase, its availability and effectiveness are uncertain.

The first generation cruise missiles are attrition weapons, depending on their small size and large numbers to overwhelm Soviet air defenses. "Live" tests under a variety of conditions and against different air defenses are necessary to determine the degree to which the United States can rely upon cruise missiles as substitutes for manned penetrating bombers which, unlike cruise missiles, can attack or confuse enemy air defenses.

All the testimony our subcommittee has received supports the concept of a "mixed force." How big a role cruise missiles will play in that force will be determined by the ability of cruise missiles to penetrate real air defenses. We know that cruise missiles can be shot down; the question is how easily. I understand that during the next 6 months the Defense Department will test cruise missiles against a variety of air defenses. I hope that these are realistic tests, demanding tests, and I hope that Congress has the results of these tests before it finishes with the fiscal year 1979 budget next year.

Because the cruise missile is still in research and development, test failures and delays can be expected. These problems reflect the experimental nature of the cruise missile program, not problems in management. For example, out of six tests of the Boeing air-launched cruise missile, only three were complete successes. Problems were experienced in the fourth test, and the final two tests were nearly total failures. After accomplishing all of the test objectives in 18 out of 22 previous tests, the General Dynamics Tomahawk cruise missile has experienced a rash of minor test failures and postponements. As a result of the competitive flyoff between the Boeing and General Dynamics air-launched cruise missiles, both programs will undoubtedly produce excellent weapon systems. However, it is still too early to tell how effective and how reliable these cruise missiles will be. The importance of this uncertainty is brought home when we read in the Soviet Union's Armed Forces daily, Red Star, that Soviet fighters and radar tracking stations are already training to engage cruise missiles.

Not only are we unsure of the effectiveness and reliability of our cruise missiles, but we are also unsure of the limitations which will be placed upon them at SALT. Apparently, heavy bombers carrying cruise missiles will be counted under the limit of 1,320 MIRVed systems. Since a limit of between 1,200 and 1,250 MIRVed ballistic missiles is expected, the United States would be limited to between 70 and 120 cruise missile carriers unless it chose to dismantle MIRVed ICBM's or SLBM's. This would mean a cruise missile force significantly smaller than that which the Defense Department said would be necessary to replace the B–1 bomber force. In addition, a possible 2,500-kilometer limit on the range of air launch cruise missiles would greatly reduce the area of the Soviet Union which could be targeted from stand-off cruise missile launchers. Worse, if a proposed range limit of 600 kilometers on ground and sea launched cruise missiles is a part of the next SALT agreement, a valuable and flexible contribution to our NATO defenses will have been undermined.

Indeed, the Carter administration will have reintroduced American theater weapons into strategic discussions while at the same time excluding Soviet theater weapons such as their MRBM's and IRBM's. In short, advocates of cruise missile development have maintained that, like the B–1 bomber, the cruise missile was flexible because it could be used for both strategic and tactical missions.

If the Carter administration continues its efforts to place such severe constraints upon the American cruise missile programs, then clearly the manned penetrating bomber must play a more important role in the "mixed force" of the future. Since the B–52 bombers cannot last forever, we must consider what will be the manned penetrating bomber to follow it. I think the answer is clear. The B–1 bomber is the best manned pen-

etrating bomber available today, and I do not believe that we have heard any testimony so far that proves me wrong.

In fact, the B–1 bomber is a superb weapons system both for penetration and for launching cruise missile. Since it can be used with either conventional or nuclear weapons, the B–1 bomber is flexible. Since it is too slow to deliver a disarming attack, it is stabilizing. Because it carries such a heavy payload so far, it assures the destruction of any enemy which should attack the United States. Because of its supersonic speed and hardness against nuclear effects, it does not invite attack as does the proposed wide-bodied cruise missile carrier.

Mr. President, the purpose of my remarks has been to alert my colleagues to the importance of the manned penetrating bomber in a mixed force of strategic weapons in the future. The first generation mixed force will call upon the old B–52 bomber both to penetrate the Soviet Union and to launch cruise missiles from outside Soviet air defenses. But what of the mixed force after the B–52s can no longer survive over the Soviet Union? What will be the penetrating bomber then?

Some say that a new generation of cruise missile will make both the penetrating bomber and the whole concept of a "mixed force" obsolete. I doubt that, and I speak as one who has fought hard to protect the advanced strategic air-launched missile (ASALM) program from delay. ASALM is the basis for our next generation of cruise missiles. In fact, long before President Carter came to the conclusion that the ASALM program should be accelerated by $14 million, our Research and Development Subcommittee had already accelerated ASALM by $13.1 million. The chairman of the subcommittee and I have long fought for the ASALM program, but we have also been strong supporters of the B–1 bomber.

Our support for manned penetrating bombers has not been based upon blind faith or tradition. On the contrary, the best information we can obtain continues to underscore the fact that a pure cruise missile force is less effective than a mixed force which can exploit the capabilities of manned bombers. We supported the B–1 because it was the best manned penetrating bomber available, and I still believe it is. In my opinion, we should be building the B–1 bomber force now to provide the penetrating arm of a mixed force built around the first generation cruise missiles. But the President thinks otherwise.

At the present time, the Carter administration says that it intends to continue B–1 R. & D. in the event that production of the B–1 should become necessary again in the eyes of the President. However, an important step in insuring that the United States could return to B–1 production, the completion of aircrafts Nos. 5 and 6, would be ended by the deappropriation of fiscal year 1977 production funds as proposed by this legislation. Indeed, that portion of this legislation which would prevent construction of the additional two aircraft—a step called the least risk option by the Defense Department—is designed to overcome a conscious decision by the House Appropriations Committee to take that least risk option by rejecting the President's rescission bill. Hopefully, his legislation will not place the B–1 bomber in R. & D. limbo until it is simply too expensive to consider opening up B–1 production again. At that point, we shall have to look for another successor to the old B52's, perhaps the stretched FB–111H, for which a little money is provided in this bill.

Mr. MAGNUSON. Mr. President, third reading.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. MAGNUSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, I ask for the yeas and nays on the passage of the bill.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. MAGNUSON. I yield back my time.

Mr. YOUNG. I yield back my time.

The PRESIDING OFFICER. The question is, Shall the bill, as amended, pass? The yeas and nays were ordered, and the clerk will call the roll.

The legislative clerk called the roll.

(Mr. INOUYE assumed the chair.)

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. MELCHER), the Senator from New Jersey (Mr. WILLIAMS) and the Senator from Connecticut (Mr. RIBICOFF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Connecticut (Mr. RIBICOFF) would each vote "yea."

I also announced that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

Mr. STEVENS. I announce that the Senator from Pennsylvania (Mr. HEINZ), the Senator from Nevada (Mr. LAXALT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT) is absent on official business.

The result was announced—yeas 90, nays 0, as follows:

[Rollcall Vote No. 607 Leg.]

YEAS—90

Abourezk	Ford	Metzenbaum
Allen	Garn	Morgan
Anderson	Glenn	Moynihan
Baker	Goldwater	Nelson
Bartlett	Gravel	Nunn
Bayh	Griffin	Packwood
Bellmon	Hansen	Pearson
Bentsen	Hart	Pell
Biden	Haskell	Percy
Brooke	Hatch	Proxmire
Bumpers	Hatfield	Randolph
Burdick	Hathaway	Riegle
Byrd, Harry F., Jr.	Hayakawa	Roth
	Helms	Sarbanes
Byrd, Robert C.	Hollings	Sasser
Cannon	Huddleston	Schmitt
Case	Inouye	Schweiker
Chafee	Jackson	Sparkman
Chiles	Javits	Stafford
Church	Johnston	Stennis
Clark	Kennedy	Stevens
Cranston	Leahy	Stevenson
Culver	Long	Stone
Curtis	Lugar	Talmadge
Danforth	Magnuson	Thurmond
DeConcini	Mathias	Tower
Dole	Matsunaga	Wallop
Domenici	McClure	Young
Durkin	McGovern	Zorinsky
Eagleton	McIntyre	
Eastland	Metcalf	

NAYS—0

NOT VOTING—10

Heinz	Melcher	Weicker
Humphrey	Muskie	Williams
Laxalt	Ribicoff	
McClellan	Scott	

So the bill (H.R. 9375), as amended, was passed.

Mr. MAGNUSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to H.R. 9375.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives thereon, and that the Presiding Officer be authorized to appoint the conferees on the part of of the Senate.

The motion was agreed to; and the Presiding Office (Mr. INOUYE) appointed Mr. MCCLELLAN, Mr. MAGNUSON, Mr. STENNIS, Mr. ROBERT C. BYRD, Mr. PROXMIRE, Mr. INOUYE, Mr. HOLLINGS, Mr. BAYH, Mr. EAGLETON, Mr. CHILES, Mr. HUDDLESTON, Mr. YOUNG, Mr. CASE, Mr. BROOKE, Mr. HATFIELD, Mr. STEVENS, Mr. MATHIAS, Mr. SCHWEIKER, Mr. BELLMON, and Mr. WEICKER conferees on the part of the Senate.

Mr. MAGNUSON. Mr. President, may I have the attention of the majority leader?

Mr. ROBERT C. BYRD. Yes.

Mr. MAGNUSON. For the information of the Senate, I have just arranged to have a conference with the House of Representatives on this bill tomorrow afternoon, so that we can get it done, I hope, before the weekend. I wanted that in the RECORD; and I hope all of the conferees will try to be there. We will have it over here on the Senate side, tomorrow afternoon at 3:30.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Washington for the announcement.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at this time there be a period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME LIMITATION AGREEMENT—H.R. 9710

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at 3 p.m. today the Senate proceed to the consideration of H.R. 9710, and that there be a time limitation on that bill of 1 hour, to be equally divided between and controlled by the Senator from Wisconsin (Mr. PROXMIRE) and the Senator from Massachusetts (Mr. BROOKE); that there be a time limitation on any amendment of 30 minutes, and a time limitation on any debatable motion, appeal, or point of order, if such is submitted to the Senate, of 20 minutes; and that the agreement be in the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Mr. President, reserving the right to object——

Mr. SCHMITT. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I yield to the Senator from New Mexico, if he wishes.

Mr. SCHMITT. Mr. President, I have concurred in this because there was a necessity for taking some action. I will not object, but I do hope that the chairman of the committee will try to the utmost of his ability, and I am sure he will, to see that these things come to the committee before we treat them here on the floor. I think it is important to have a full discussion on this matter. I hope we will have such a discussion at 3 o'clock.

I understand most of the objections to the measure, or probably all of them, will be taken care of. I will not object. I wanted to be sure that the distinguished chairman of the committee understood that I wish we had taken this through the committee first, but I understand the timing probably has.

Mr. PROXMIRE. I wholeheartedly agree with that, I will say to the Senator from New Mexico. But because of the late time in the session and the late time in acting on regulation Q, the devastating effect it could have on homebuilding makes it all very important. I definitely agree with the Senator.

Mr. SCHMITT. Mr. President, I will not object. I understand the chairman's position.

Mr. ROBERT C. BYRD. Mr. President, I believe that——

Mr. BROOKE. Will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. BROOKE. I believe we are ready now to agree to the unanimous-consent agreement which was propounded by the majority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, for the information of the Senator, there will be no rollcall votes prior to the hour of 3 p.m. today.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CRANSTON). Without objection, it is so ordered.

MERCHANT MARINE AMENDMENT

Mr. INOUYE. Mr. President, there is at the desk H.R. 7278, which was passed unanimously by the House. At this time, I ask unanimous consent that the Chair lay before the Senate a message from the House of Representatives on H.R. 7278.

The Presiding Officer laid before the Senate H.R. 7278, an act to amend section 10 of the Merchant Marine Act, 1936.

The PRESIDING OFFICER. Without objection, the bill will be considered as having been read twice by its title and the Senate will proceed to its consideration.

Mr. INOUYE. Mr. President, this measure passed the House by a vote of 412 to 3. We have been requested by the House to take this measure, as we are at the present time, without having to go through a referral to the Committee on Commerce, Science, and Transportation.

Mr. President, I have cleared this with the majority and minority members of the committee. It is a noncontroversial matter which will extend the provisions of Public Law 93-605, which expired, by its terms, on January 2, 1977. This is a law that authorizes the Secretary of Commerce to acquire mariner class vessels in exchange for obsolete vessels in the National Defense Reserve fleet.

I ask that this measure be favorably considered.

Mr. STEVENS. Mr. President, the statement of the Senator from Hawaii is correct. We have cleared this matter with all concerned on our committee and we have no objection to its immediate consideration.

Mr. INOUYE. I thank the Senator.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be offered, the question is on the third reading and passage.

The bill was ordered to a third reading, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. INOUYE). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. INOUYE). The Chair, on behalf of the Vice President, pursuant to Public Law 89-944, appoints the Senator from Vermont (Mr. STAFFORD) to the Senate Office Building Commission, in lieu of the Senator from New York (Mr. BUCKLEY), resigned.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

VITIATION OF ORDER FOR CONSIDERATION OF S. 897

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order to proceed to the consideration of the nonproliferation legislation at this time be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, at the request of Mr. BUMPERS and Mr. MCCLELLAN, I ask unanimous consent that the Senate go into executive session to consider the nomination which has been reported today from the Committee on the Judiciary, thus waiving the 1-day rule.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nomination will be stated.

THE JUDICIARY

The assistant legislative clerk read the nomination of Elsijane Trimble Roy, of Arkansas, to be United States district judge for the eastern and western districts of Arkansas.

The PRESIDING OFFICER. Without objection, the nomination will be considered.

The Senator from Arkansas.

Mr. BUMPERS. Mr. President, Judge Roy will be one of five women judges in the United States upon her confirmation. She will be the first member of a father-daughter membership in the Federal Judiciary in the history of the country. Her father served with great

distinction as a Federal judge in the eastern district of Arkansas for many years.

I regret that my distinguished colleague (Mr. McCLELLAN) cannot be present, because he shares my immense respect and esteem for Judge Roy. He has stated all of their relationships in her resumé to the Committee on the Judiciary this morning.

It is very seldom that two Senators have the opportunity to agree so unanimously and enthusiastically on any nomination, but Judge Roy's career is such that she evokes that sort of enthusiasm from all who have known her through her life, both professionally and in her private life. This is an opportunity for the Senate to confirm one of the outstanding women of this Nation. I am, indeed, honored to be here to make these remarks.

I thank the majority leader for asking for the unanimous-consent rule to be invoked so she could be considered while she is present in Washington this afternoon.

The PRESIDING OFFICER. Is there further discussion?

If not, without objection, the nomination is confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONTINUATION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senate continue with the consideration of morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Routine morning business transacted and additional statements submitted will be printed later in today's RECORD.)

RECESS FOR 30 MINUTES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the Senate, at 1:30 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ALLEN).

Mr. ROBERT C. BYRD. Mr. President, is the Senate still in morning business?

The PRESIDING OFFICER. Yes, that is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will please call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SASSER). Without objection, it is so ordered.

AUTHORITY FOR COMMITTEE ON FINANCE TO FILE REPORTS ON H.R. 7200 AND H.R. 5322 BY MIDNIGHT TONIGHT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Finance have until midnight tonight to file reports on H.R. 7200 and H.R. 5322.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Now, Mr. President, is there further morning business?

The PRESIDING OFFICER. There is no further morning business. Morning business is closed.

Mr. ROBERT C. BYRD. What is the measure to be taken up at this time?

ORDER TO CONSIDER H.R. 9346 TOMORROW

The PRESIDING OFFICER. Under the previous order, we will take up H.R. 9346.

Mr. ROBERT C. BYRD. Mr. President, that bill is not ready to be taken up today. I ask unanimous consent that at 9 o'clock tomorrow morning the Senate proceed to the consideration of that measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Now, Mr. President, what would be the order—the order would be now to proceed at 3 o'clock today, would it not, on Regulation Q?

The PRESIDING OFFICER. At 3 o'clock the Senate will proceed to the consideration of H.R. 9710.

Mr. ROBERT C. BYRD. Yes, that is true.

REGULATION Q

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed at this time to the consideration of that measure without any time running on the measure until 3 o'clock, and without any action being taken until 3 o'clock today.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

H.R. 9710, a bill to extend the authority for the flexible regulation of interest rates on deposits and accounts in depository institutions, to promote the accountability of the Federal Reserve System, and for other purposes.

The Senate proceeded to consider the bill.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

A 30-MINUTE RECESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 30 minutes.

There being no objection, the Senate, at 2:15 p.m., recessed until 2:45 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. SASSER).

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. H.R. 9710.

ORDER TO PROCEED TO CONSIDERATION OF H.R. 9346, THE SOCIAL SECURITY BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when H.R. 9710 is disposed of the Senate proceed to the consideration of the social security financing bill, H.R. 9346, with the understanding there be no action taken on it today, but that opening statements may be laid down.

The PRESIDING OFFICER. Without objection, it is so ordered.

REGULATION Q

The Senate continued with the consideration of H.R. 9710.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and I ask unanimous consent that the time be charged equally against both sides on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR THE ENERGY COMMITTEE TO HAVE UNTIL MIDNIGHT TO FILE REPORT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Energy Committee may have until midnight tonight to file its report on the Alcan pipeline, Senate Joint Resolution 82.

The PRESIDING OFFICER. Without objection, it is so ordered.

REGULATION Q

The Senate continued with the consideration of H.R. 9710.

Mr. PROXMIRE. Mr. President, what is the pending business?

The PRESIDING OFFICER. H.R. 9710 is the pending business.

Mr. PROXMIRE. Mr. President, H.R. 9710, as passed by the House of Representatives, would extend for 1 additional year the authority of the financial regulatory agencies to limit the rate of interest payable on time and savings deposits. Extension of this authority is necessary to help preserve the stability of our financial structure and to assist thrift institutions in raising funds for home construction.

Failure of Congress to extend this authority, popularly known as regulation Q, could precipitate a savings rate war between banks and savings and loan associations. Because savings and loan associations are locked into their portfolio of long-term mortgage investments, they could not compete as effectively for funds as could commercial banks.

As a result, a substantial amount of savings deposits could shift from savings and loan associations into commercial banks. The effect on the mortgage market and on home building could be devastating, especially at this period of economic uncertainty.

I hope, therefore, that the Senate will agree to a 1-year extension of the regulation Q authority proposed by the House of Representatives.

Mr. TOWER. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time consumed be equally charged.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FORD). Without objection, it is so ordered.

The Senator is recognized.

ORDER FOR THE PRINTING OF H.R. 5263

Mr. LONG. Mr. President, with regard to H.R. 5263, on which the Senate voted yesterday, I ask unanimous consent that the bill be printed with the amendments of the Senate numbered.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE RESOLUTION 313—ORIGINAL RESOLUTION REPORTED RELATING TO THE CONSIDERATION OF H.R. 5322

(Referred to the Committee on the Budget.)

Mr. LONG, from the Committee on Finance, reported the following original resolution:

Resolved, That (a) pursuant to Section 303(c) of the Congressional Budget Act of 1974, the provisions of Section 303(a) of such Act are waived with respect to the consideration of H.R. 5322, an Act to provide duty-free treatment for istle and with respect to the consideration of an amendment incorporating the text of H.R. 5322, as reported, if such amendment is offered on behalf of the Committee on Finance to H.R. 9346, an Act to amend the Social Security Act and the Internal Revenue Code of 1954 to strengthen the financing of the social security system, to reduce the effect of wage and price fluctuation on the system's benefit structure, to provide for the conduct of studies with respect to coverage under the system for Federal employees and for employees of State and local Governments, to increase the earnings limitation, to eliminate certain gender-based distinctions and provide for a study of proposals to eliminate dependency and sex discrimination from the social security program, and for other purposes; and

(b) That waiver of such Section 303(a) is necessary in order to enable the Senate promptly to consider changes in social security financing which are provided for in H.R. 5322, as reported by the Committee on Finance, which are urgently needed in order to assure that the program is adequately funded, and which first become effective in fiscal year 1979; and further

(c) That the provisions of Section 303(a) of the Congressional Budget Act of 1974 are also waived with respect to the consideration of (1) an amendment to either H.R. 5322 or H.R. 9346 offered by Senator Curtis to modify provisions related to the rates of tax imposed under chapters 2 and 21 of the Internal Revenue Code of 1954, to the amount of earnings subject to such taxes, and to the amount of earnings creditable in determining benefits under title II of the Social Security Act; (2) an amendment to either H.R. 5322 or H.R. 9346 offered by Senator Nelson relating to a refundable tax credit for public and non-profit employers; (3) an amendment to either H.R. 5322 or H.R. 9346 offered by Senator Danforth relating to a refundable tax credit for public and non-profit employers; (4) an amendment to either H.R. 5322 or H.R. 9346 offered by Senator Dole relating to modifications in the provisions under which benefits for certain persons under title II of the Social Security Act are reduced because of their earnings; and (5) an amendment to either H.R. 5322 or H.R. 9346 offered by Senator Roth relating to tax credits for expenses of higher education.

Mr. LONG. Mr. President, we will need a waiver under the Budget Act in order to take up the social security financing bill.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. TOWER. Mr. President, I ask that the time consumed by the Senator from Louisiana be charged to neither side on the regulation Q bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, the reason we need a waiver under the Budget Act is that we raise more money in the next fiscal year than would otherwise be the case. I do not think those budget-conscious Members on the Budget Committee or any other committee would want to object to the Committee on Finance helping balance the budget, so I would hope we could gain their consent to raise more money than under present law in this connection. I ask unanimous consent to report an original resolution from the Committee on Finance.

The PRESIDING OFFICER. Without objection, it is so ordered.

REGULATION Q

The Senate continued with the consideration of H.R. 9710.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the following members of the staff of the Senate Committee on Banking, Housing, and Urban Development be permitted access to the floor during the debate on the pending bill: Ken McLean, Bill Weber, Steve Roberts, Carolyn Jordan, Gary Welch, Jerry Buckley, Tony Cluff, Don Well, and John Collins.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Will the Senator withhold for just a moment?

The Senator may proceed.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time taken be charged to neither side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, the distinguished ranking minority member of the Committee on Banking, Housing, and Urban Development (Mr. BROOKE) was scheduled to serve as minority floor manager this afternoon on this important measure. Unfortunately, he is tied up with the continuing saga of the Labor-HEW conference and, therefore, has asked me to handle the minority side in his place.

I would, therefore, like to read his statement into the RECORD. This is the statement that Senator BROOKE had prepared for delivery into the RECORD.

STATEMENT OF SENATOR BROOKE

When the Senate Banking Committee last considered the question of interest rate controls, as a part of the pending Consumer Fi-

nancial Services Act, S. 2055, I proposed report language which was unanimously adopted by the Committee. The language is as follows:

". . . the committee continues to expect the financial regulatory agencies to move interest rates closer to market rates in an orderly manner in order to protect depository institutions from disintermediation and to assure a fair return to the saver."

It is impossible to predict what course the money markets will take over the next few months, but many feel that short term rates are likely to rise somewhat. And it is at times like this that an upward adjustment in interest rate ceilings could be helpful in preventing some disintermediation. Such an adjustment upward need not occur on all types of accounts, but selective adjustments could help provide a cushion for our financial institutions against some disintermediation.

It is clearly the intent of the Banking Committee that interest rate ceilings be adjusted to be as close to market rates as possible during periods of tight money, of course always keeping in mind the need to avoid insolvencies among our financial institutions. And as we take the extraordinary step of taking H.R. 9710 from the desk without referring it to Committee for hearings, or a markup session, or a report, I believe it is useful to make some legislative history on this point.

Our Committee has often wrestled with the subject of interest rate controls, which is commonly referred to, albeit inaccurately, as Reg Q authority, and I don't think anyone is completely comfortable with this form of government intervention. But it does not look like rate control authority will be abolished in the near future.

The Administration, I am told, is studying the question of what should be done about interest rate controls. And, of course, there is constant controversy between the thrift institutions and commercial banks over the differential. What the Banking Committee has suggested, and what we are discussing in this colloquy, by no means addresses all the issues involved in the "Reg Q" debate, but it is a modest interim step to deal with some of the problems created by Reg Q.

Mr. TOWER. Depositors who have $100,000 to invest are not subject to rate controls, but smaller depositors are, and this disparity is hard to justify. And small depositors are increasingly becoming aware of the disparity and finding alternative investments, such as the money market mutual funds. If this trend becomes more pronounced, of course, regulation Q will become ineffective in protecting financial institutions from the vagaries of the marketplace.

I hope that in the months ahead the financial regulatory agencies will act in accordance with the report language I have cited.

Thus speaks the Senator from Massachusetts (Mr. BROOKE).

Mr. PROXMIRE. Mr. President——

Mr. TOWER. Mr. President, I would like to yield at this point to the distinguished Senator from New Hampshire.

Mr. PROXMIRE. Very well.

Mr. McINTYRE. I thank the Senator from Texas.

Mr. President, I concur with my distinguished colleague from Massachusetts, Mr. BROOKE. The Congress should not be in the business of automatic extensions of regulation Q. My record in opposition to regulation Q is longstanding. Unfortunately, the debate over regulation Q often degenerates into the competitive question of the quarter-point rate differential; the real villain is rate control itself.

My support for the 1-year extension of regulation Q contained in H.R. 9710 should therefore not be construed as support of regulation Q itself. Rather, my primary interest is to see to completion several legislative thrusts currently underway which have a direct bearing on regulation Q. The primary one, of course, is S. 2055, the so-called NOW account bill, which is currently pending on the Senate Calendar and which I intend to move as soon as possible in the next session. Another pertains to alternative mortgage instruments which are the subject of hearings currently underway within the Subcommittee on Financial Institutions.

Therefore, I support the extension of regulation Q contemplated in H.R. 9710 only in order to allow these measures to be considered absent the tremendous controversy which would accompany a longer term extension at the present time.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. McINTYRE. Yes.

Mr. PROXMIRE. The Senators from Massachusetts and Texas, and I might also include the Senator from New Hampshire, are generally correct in their description of the report language adopted in S. 2055. The committee does believe and expect the regulation Q ceilings to be adjusted from time to time to prevent disintermediation and to assure a fair return to savers. While I certainly support these objectives, the financial regulators must also be mindful of other objectives in administering the regulation Q ceilings. One of these objectives, as indicated in the Financial Institutions Act of 1975 as passed by the Senate, is to assure an adequate supply of mortgage credit. The regulation Q ceilings should not be raised to the point where there would be a significant reduction in the supply of mortgage credit so as to impede the achievement of our national housing goals as outlined in the 1968 Housing Act.

Also, I think the regulators must be mindful of the ability of financial institutions to pay higher rates and particularly the ability of the savings and loan industry which has the bulk of their assets invested in long-term mortgages. Obviously, the regulators must carefully assess the effect of any increase on the earnings of the S&L industry before ordering an increase in the ceiling. Of course, the Home Loan Bank Board has an effective veto over any across-the-board rate increase since only the Board can approve a rate increase for the savings and loan industry. Without a corresponding rate increase by the Board, the bank regulatory agencies would be unable to raise the rate for commercial banks since this would have the effect of removing the statutory differential which only Congress can do.

Finally, I think the regulatory agencies must also consider the macroeconomic effects of raising the Q ceilings. Higher ceilings under regulatory Q could lead to an increase in the rates charged by lending institutions. They could also provide the Federal Reserve with more leeway to increase short-term rates without worrying about the impact of disintermediation on our financial structure. An increase in interest rates might be appropriate under circumstances when the economy is overheated and a policy of slower growth is called for. However, when the economy is sluggish and when the rate of economic growth is below its long run potential, an increase in the regulation Q ceilings might very well be counterproductive.

These are the factors which I believe the financial regulatory agencies must consider in administering the regulation Q ceilings. Hopefully, the time will come when we can eliminate the regulation Q ceilings entirely except, perhaps, in times of severe economic emergency. I know that is the long term objective of the Senator from Massachusetts and I share that objective.

Mr. JAVITS. Mr. President, will the Senator yield for a question?

Mr. TOWER. Mr. President, I yield the Senator from New York such time as he may require.

Mr. PROXMIRE. I am happy to yield to the Senator from New York.

Mr. JAVITS. Mr. President, is it not a fact that the committee is trying to tie the extension of regulation Q to the issue of general financial reform?

Mr. PROXMIRE. Yes. As a matter of fact, that is the reason why we have before us today reform legislation, though very limited, with regard to one controversial element, which I understand that Senator BROOKE and Senator TOWER expect to offer an amendment to meet, dealing with Senate confirmation of Presidenital appointments of the chairman and vice chairman of the board of governors of the Federal Reserve System. For the information of the Senate, I wish to announce that I intend to accept that amendment.

Mr. JAVITS. I am glad that the Senator is willing to do so, and I hope very much, too, that whatever other reform Senators might have in mind, I think the independence of the Federal Reserve is a very profound tenet of our system. That does not relate to other forms of coordination with our policy, but I do think the idea that it is independent is a very strong point in the American banking system. However, I hope very much the committee will not give up its amendment for the reform of the Financial Institutions Acts in their various forms, notwithstanding the language which has been imposed upon it in order to bring about this rather modest extension of regulation Q.

Mr. PROXMIRE. I can tell the Senator that as long as we have the distinguished Senator from New Hampshire as the ranking member, or almost the ranking member, of the Banking Committee, we will not, and other members of the committee feel the same way. We are going to have action to improve our financial institutions, because we must, and we are working in that direction.

Mr. TOWER. As a matter of fact, we have held regulation Q hostage to fi-

nancial reform for many months. I hope we can get some comprehensive reforms enacted.

As the Senator from New York knows, under the very able leadership of the Senator from New Hampshire, we passed a financial institutions reform bill 2 years ago, which the House proceeded to deep-six. It was based largely on the Hunt Commission recommendations. Much has happened in the intervening 2 years since the Hunt Commission reported, but I know the Senator from New Hampshire looks forward to the day when we will get some sort of comprehensive reform of our financial institutions.

Mr. JAVITS. The Senator is correct.

Mr. McINTYRE. Mr. President, since my name has been mentioned, I think perhaps I should take the floor. The Senator from New York can be assured that the whole problem of financial institution reform lies very heavily on my soul. I would like to see it. I have never seen such clinging to the past and to the status quo as in connection with this issue.

We have present on the floor of the Senate at the present time the delightful, intelligent, and courageous Senator from North Carolina, who said to me a while ago, "You are not trying to slip the NOW account across on me, are you?"

So there is some opposition, but hopefully in the next session we will be back with all our guns blazing.

Mr. JAVITS. I thank the Senator. May I say that we in the Foreign Relations Committee, in considering the problems of the world this morning, were discussing the so-called Witteveen facility, the International Monetary Fund, and the indebtedness to that fund by the less developed countries, now consisting of many billions of dollars, and the very serious problems consisting of rollover and the general sustaining capital of the member banks. There was discussed the problem of the coordination between the U.S banking system and the International Monetary Fund, which also, in various ways, contributes to the financial capability of these less developed countries.

All of this is complicated, of course, by a highly uneconomic price support. I hope the Senator will not mind if I lay that issue before him so that when he is thinking about it, working on comprehensive bank reform legislation, he may have in mind that, since the last bill, this horizon has enormously expanded.

In our banking system, we are very deeply involved in these loans abroad, let alone the float of some $90 billion, these fantastic figures in Eurodollars. I hope these issues may be taken into consideration because they directly affect the exchange value of the dollar, which is today in very grave trouble in terms of a falling dollar. These issues also gravely affect the profit position of the U.S. banks and their policymaking position in terms of the less developed countries and in terms of their big depositors, who are very heavily Arab oil companies.

This totally new complexion has come in the last couple of years. This, too, should be cranked into it. It makes it of much broader significance even than our own banking reform. I hope these connotations will be very much in the forefront of our domestic activities, such as Senator McINTYRE, Senator TOWER, and Senator PROXMIRE have referred to, and that they are being considered very carefully by the Foreign Relations Committee and the subcommittee of which Senator CHURCH is the chairman and I am the ranking member.

Mr. McINTYRE. The Senator can be assured that through the leadership of Senator PROXMIRE, and other members of the Banking Committee, the issue will be given careful consideration.

Mr. JAVITS. I thank the Senator.

May I say one further thing about the Federal Reserve item. Many of us felt, and it was no secret, that the big issue in terms of the world's financial stability involved whether or not the President acts to reappoint Dr. Burns or whether he takes some other course. Again, I hope that the President will realize the seriousness of his decision in terms of its impact upon the world of business and finance. This is a very important question. I hope very much the Senate and the President will realize the weight, the importance, which will be attached to his decision.

Mr TOWER. I certainly associate myself with the concern expressed by the distinguished Senator from New York, and I hope the President will indeed give very careful consideration for many reasons. including the one mentioned by the distinguished Senator from New York, that is, the confidence the financial communities in the rest of the world have in the United States.

UP AMENDMENT NO. 1029

(Purpose: To change the process for filing the offices of the Chairman and the Vice Chairman of the Board of Governors of the Federal Reserve System.)

Mr. President, I send an amendment to the desk and ask for its immediate consideration. I offer this amendment in behalf of Senator BROOKE.

The PRESIDING OFFICER (Mr. MORGAN). The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. TOWER), for Mr. BROOKE, proposes an unprinted amendment numbered 1029.

Mr. TOWER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out section 204 of the bill and insert in lieu thereof the following:

SENATE CONFIRMATION OF CHAIRMAN AND VICE CHAIRMAN OF BOARD OF GOVERNORS

SEC. 204. (a) The third sentence of the second paragraph of section 10 of the Federal Reserve Act (12 U.S.C. 242) is amended to read as follows: "Of the persons thus appointed, one shall be designated by the President, by and with the advice and consent of the Senate, to serve as Chairman of the Board for a term of four years, and one shall be designated by the President, by and with the consent of the Senate, to serve as Vice Chairman of the Board for a term of four years.".

(b) The amendment made by subsection (a) takes effect on January 1, 1979, and applies to individuals who are designated by the President on or after such date to serve as Chairman or Vice Chairman of the Board of Governors of the Federal Reserve System.

Mr. FORD. Will the Senator yield for a moment?

Mr. TOWER. I yield.

Mr. FORD. The distinguished Senator from New Hampshire remarked about the distinguished Senator from North Carolina commenting on the NOW accounts. I want to associate myself with the distinguished Senator from North Carolina.

Mr. TOWER. I will associate myself with both of them.

Mr. President, this amendment will delete section 204 of the House bill which makes the terms of the Chairman and Vice Chairman of the Fed coterminus with the President. Of course, the House, I believe, was desirous of allowing the President to have his own man as Chairman of the Fed. But I still think the drive of many of us to maintain the independence of the Fed is strong enough that we do not feel this would be a wise move. We feel the present system has worked successfully. This matter has been discussed with the manager of the bill, the distinguished Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I have long favored the independence of the Federal Reserve Board from the executive branch. It is a creature of the Congress. It is clearly, under the Constitution, our creature. We can abolish it. We can modify it. It is our responsibility. We have the money power, and we delegate it to the Federal Reserve Board.

I have opposed making the term of the chairman coterminus for a long time because I felt this would make the Reserve subject to the power of the President directly and explicitly. I enthusiastically support the amendment. I believe it is the right kind of action.

Incidentally, I think Senators should be under no illusion as to what this does. This amendment does provide that the confirmation of the chairman of the Federal Reserve Board shall be a function of the Senate for the first time. We have not done that before. It grandfathers in the incumbent chairman. There is great respect for Dr. Burns.

I think it might be a good thing for the country if we had a new chairman of the Federal Reserve Board, but I have the greatest admiration for Dr. Burns. If he is reappointed, I am sure he would have been confirmed overwhelmingly. But he would not be subject to confirmation if he is reappointed.

Mr. TOWER. That is correct.

Mr. PROXMIRE. At any rate, Mr. President, I am glad to accept the amendment, and I believe it is an excellent amendment.

Mr. TOWER. Mr. President, I ask unanimous consent that the statement by Senator BROOKE on the matter of this amendment be printed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR BROOKE

When Title II of H.R. 9710 was under consideration at hearings in the House Banking Committee, Federal Reserve Chairman Arthur Burns testified against the provision in the House bill providing that the term of Chairman of the Federal Reserve Board would be roughly co-terminous with that of the President with a 1-year lag. However, this provision is contained in Section 204 of H.R. 9710.

There are some very persuasive arguments against adopting the provisions of Section 204 of H.R. 9710:

The present procedures governing the term of the Fed Chairman have worked successfully and no clear need has been demonstrated for changing the procedures.

The purpose of the amendment apparently is to give the President his "own man" as Chairman of the Fed. This is inconsistent with the intent of the Federal Reserve Act to provide for a monetary authority that is non-political and independent of the White House.

The bill provides that if a Chairman does not finish his four-year term, then a new Chairman would be appointed only to fill out the unexpired term and not for a full four years. There are several problems here.

It might be difficult to find highly qualified candidates to fill out a short appointment. There would be instances where the President could not assure reappointment to a full term, for example, when the President was not running for reelection.

The office of Chairman might remain unfilled for a time until the President could make a full four-year appointment.

Congress designed the Federal Reserve to be insulated from politics. This provision, without any clear need, risks inserting a political dimension into the Federal Reserve.

The amendment which I have sent to the desk would eliminate the provisions in the House bill making the terms of the Chairman and Vice Chairman of the Federal Reserve Board roughly co-terminous with that of the President, while providing that every Chairman or Vice Chairman nominated on or after January 1, 1979 would be subject to confirmation by the Senate.

Mr. PROXMIRE. Mr. President, I yield to the Senator from Utah whatever time he desires.

Mr. GARN. I will be very brief, Mr. President. I will not oppose the extension of regulation Q. I would make the observation that as a member of the Banking Committee I made a motion sometime ago to take away the statutory authority for the Congress to set the differential, and to leave this up to the Federal Reserve Board. That motion failed in a 7 to 7 tie vote in committee. It was very close. I still feel very strongly that we ought to do that, take the statutory authority away, to keep from having it continue to come up, and people trying to attach other things to the extension of regulation Q. It becomes a Christmas tree.

I do hope that for next year, when we get back to this, I have placed people on notice now that I will again try to do away with the statutory authority and give it to the Federal Reserve Board.

It seems we are all agreeing with each other this afternoon. I certainly agree with the Senator from New York on the importance of the independence of the Federal Reserve System, and also the importance of the President's decision on whether he reappoints Chairman Burns or not. I think it is very evident around the country that the business community does not have very much confidence in the President as far as concerns business at this time or to balance the budget, even though he continues to talk about it. I hope he does recognize the seriousness as to a matter of confidence in the business community when this matter comes up.

Mr. TOWER. Mr. President, I yield back the remainder of my time on the amendment.

Mr. PROXMIRE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. TOWER. Mr. President, we find ourselves once again with the need to extend the authority to impose interest rate ceilings on time and savings deposits, better known as regulation Q. It is unfortunate that this is the case. Regulation Q prevents many depositors with small balances from receiving a market rate of return on their savings. It causes disintermediation when market rates rise above rate ceilings and funds flow around, or are withdrawn from, depository institutions. This prevents those institutions from continuing to meet the credit of their customers, severely disrupting the activities of certain sectors of the economy, particularly housing.

It is necessary to extend regulation Q because we have not given our Nation's depository institutions the flexibility they need to compete in the absence of interest rate ceilings. Even if interest rate ceilings did not exist, thrift institutions would find it difficult to continue competing for funds when market rates rise because their portfolios are comprised primarily of long term, fixed-rate mortgages. A rise in short term interest rates would cause a severe earnings squeeze for those thrift institutions even in the absence of interest rate ceilings.

In order to do away with regulation Q, we should give thrift institutions the expanded flexibility they need to compete for funds over all phases of the business cycle. It would be particularly useful to allow thrift institutions to offer alternatives to the standard fixed-rate mortgage. This would allow the mortgage portfolios of thrift institutions to reflect current market conditions and allow them to pay market rates on deposits. There are many different varieties of alternative mortgage instruments, including those with a variable rate, graduated or declining payments and rollover features. But, the virtue of each is that they would give thrift institutions increased flexibility in adjusting to changing market conditions. In addition, they allow thrift institutions to design mortgages to meet the individual needs of borrowers.

Senator CRANSTON and I have introduced a resolution that would call on the Federal Home Loan Bank Board to authorize Federal savings and loan associations to offer alternative and more flexible mortgages to the public. The Financial Institutions Subcommittee of the Committee on Banking, Housing, and Urban Affairs has already held 2 days of hearings on this proposal and is expected to hold more hearings early next year. Hopefully, the resolution, or some variation of it, will be adopted by Congress next year. This would allow Federal savings and loan associations a degree of flexibility they now lack. Eventually, it could lead to removal of interest rate ceilings, and the end of regulation Q extensions, altogether.

Mr. President, I am prepared to yield back the remainder of my time on the bill.

Mr. PROXMIRE. I have no request for time, Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. If there be no further amendment to be proposed, the question is on engrossment of the amendment and third reading.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 9710) was passed.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SOCIAL SECURITY FINANCING AMENDMENTS OF 1978

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 9346, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (H.R. 9346) to amend the Social Security Act and the Internal Revenue Code of 1954 to strengthen the financing of the social security system, to reduce the effect of wage and price fluctuation on the system's benefit structure, to provide for the conduct of studies with respect to coverage under the system for Federal employees and for employees of State and local governments, to increase the earnings limitation, to eliminate certain gender-based distinctions and provide for a study of proposals to eliminate dependency and sex discrimination from the social security program, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, there will be no action on this bill today, but it is hoped that Senators will come to the floor and make their opening statements on the social security financing bill. I think that will help to expedite the final action on it at some point tomorrow.

So that the cloakrooms may ascertain whether Senators are ready to make opening statements, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President,

for the information of the Senate, there will be no more rollcall votes today.

ORDER TO HOLD H.R. 8777 AT DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to hold H.R. 8777, the Appalachian Regional Development Act Amendments, at the desk.

Mr. TOWER. Mr. President, reserving the right to object I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT REQUEST FOR CORRECTION OF ERROR IN H.R. 5263

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, in the engrossment of the amendments of the Senate to the bill H.R. 5263, the Secretary of the Senate be authorized to omit the amendment—Unprinted Amendment No. 1020—proposed by Mr. LONG on October 31, 1977—relating to the effective date of title I of the bill. The amendment erroneously refers to title I of the bill as title II and refers to title II as title I, and, as corrected, duplicates the provisions of section 1091(a) of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

H.R. 9346 TAKEN DOWN—ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 9346, the social security measure, be taken down for the moment and that the Senate proceed with routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask, unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT TO SECTION 16(b) OF THE ALASKA NATIVE CLAIMS SETTLEMENT ACT

Mr. STEVENS. Mr. President, there is at the desk a bill, H.R. 8499, that I had previously asked be retained at the desk.

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. I have now cleared this measure with the distinguished majority leader. It is my understanding that he has cleared it with Senators on his side of the aisle, and I can assure Senators that I have cleared it for the minority.

I ask unanimous consent that H.R. 8499 be made the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 8499) to amend section 16(b) of the Alaska Native Claims Settlement Act.

There being no objection, the Senate proceeded to consider the bill.

Mr. STEVENS. Mr. President, I ask unanimous consent that the bill be considered as having been read for the second time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I have an amendment, and a statement in support of this amendment, dealing with the special relationship of the Sealaska Regional 1 Corp. and its selections in the withdrawal for the Klukwan Village Corp.

Mr. President, I rise today to speak in favor of H.R. 8499. This is a bill to correct a technical error in the omnibus amendments to the Alaska Native Claims Settlement Act which were passed last year. The amendment would allow the Sealaska Regional Corp. to make land selections in the withdrawal for Klukwan Village Corp. The Alaska Native Claims Settlement Act provided that regional corporations could make such selections within the withdrawals for any of the villages in their region following the completion of the village selections. This amendment corrects a technical error which has prevented Sealaska from making selections in the Klukwan withdrawal.

The Klukwan withdrawal has a special history. Normally, village selections are made in the area near the location of the village but in Klukwan's case, there was not sufficient available land for withdrawal. Consequently, other lands were withdrawn for Klukwan by act of Congress, and the language passed did not specifically provide that the region could make selections following the completion of Klukwan's village selections. This technical amendment is supported by the Department of the Interior and the State of Alaska and is not controversial. The timing of it is of particular importance because the deadline for the last selections pursuant to the Alaska Native Claims Settlement Act under section 14(h)(8) expires at the end of this year. This amendment must be passed this year or Sealaska will be unable to exercise its selection rights.

I would like to thank the chairman of the Energy and Natural Resources Committee, Senator HENRY JACKSON of Washington, and the ranking minority member of the committee, Senator CLIFFORD HANSEN of Wyoming, for their cooperation in bringing this matter to the floor for expeditious consideration. Without their help, the passage of this amendment would not be possible, and I thank the Senator from South Dakota, who chairs the select committee for his interest and cooperation.

I would like to propose an amendment to be added to H.R. 8499, which deals with another selection problem of the Alaska Native Claims Settlement Act. In the same act that authorized the special withdrawal for Klukwan, the Congress agreed to a complicated land exchange between the State of Alaska, the Federal Government, and the Cook Inlet Regional Corp. to settle a number of selection problems that had arisen in the Cook Inlet area. The legislation passed by Congress which authorized the land exchange was also agreed to by the Alaska State Legislature to insure the legality of the State's participation in the land exchange However, the ability of the State to authorize the State's participation in the Cook Inlet land exchange was challenged in the State court in Alaska. The Supreme Court of Alaska upheld the right of the State legislature to authorize State participation in the exchange earlier this year, but 18 months elapsed during the consideration of that suit during which time the administrative process necessary to implement the land exchange was held in abeyance.

My amendment, which I introduce on behalf of myself and Senator GRAVEL, will extend certain deadlines involving the implementation of the Cook Inlet land exchange 18 months, the amount of time which this exchange was delayed. The amendment would merely allow the Federal Government another 18 months to identify selection pools for Cook Inlet to choose from as originally envisioned in the legislation authorizing the Cook Inlet lands already patented to the State of Alaska which are involved in the land exchange shall be transferred to the Cook Inlet region with a patent subject to the reservation of any valid easements at a later date. This transfer would avoid adjudication of the specific boundaries of that land because that land has already been surveyed. The transfer of patented land would not preclude the establishment of easements, including those identified pursuant to section 17(b) of the Alaska Native Claims Settlement Act at a later date. All valid easements will be identified by the Secretary.

Since the Selaska/Klukwan amendment and the Cook Inlet land exchange amendment have not been subject to hearings by the Senate Committee on Energy and Natural Resources, I ask unanimous consent that certain backup documents, including letters from the State of Alaska and the Department of

the Interior supporting both amendments be placed in the record in order to establish an appropriate legislative history.

Mr. President, I would like to speak in favor of the amendment to be introduced by Senator GRAVEL. As a cosponsor of that amendment, I also am aware of the importance of this provision to certain regional corporations. If we believe in self-determination for Alaska's Natives, as exhibited by the passage of the Alaska Native Claims Settlement Act, then the Congress should allow regional corporations to assign future revenues due them under the Alaska Native Fund. Regional corporations are rapidly becoming important corporations in Alaska and the Nation's economy. The land base granted these corporations by the Claims Act, accompanied by development of the resources contained within these lands make these corporations an important part of the economic base my State. The normal congressional policy of not recognizing assignments of future revenues due from the Federal Government should be waived in this case because Congress has made a finding and determination that the Native corporations shall be independent corporate structures fully able to run their own affairs. I support Senator GRAVEL's amendment and ask that the Senate unanimously approve it.

UP AMENDMENT NO. 1030

(Purpose: To authorize the Secretary of the Interior to extend certain administrative deadlines established by the Act of January 2, 1976, as amended by the Act of October 4, 1976.)

The PRESIDING OFFICER. The Senator will send the amendment to the desk.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) for himself and Mr. GRAVEL proposes unprinted amendment numbered 1030.

Mr. STEVENS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment follows:

At the end of the bill add the following:

SEC. — (a) Subsection (b) of section 12 of the Act of January 2, 1976 (P.L. 94–204), as amended by the Act of October 4, 1976 (P.L. 94–456), is hereby amended to add at the end thereof the following new paragraphs:

Any provision of law to the contrary notwithstanding, if the Region, the Secretary, and/or the Administrator of General Services do not complete the nomination of lands referred to in subparagraphs (5) and (6) of this subsection by the dates set in subparagraphs I(C)(1)(b) and I(C)(2)(a) of the document referred to in this subsection, then, and in that event, these dates shall hereby automatically be extended by operation of this subsection for eighteen months. If these dates are hereby extended, the Secretary shall report to Congress at least thirty days prior to the occurrence of each such date as extended concerning the need for further remedial legislation.

Any provision of law to the contrary notwithstanding, the United States shall accept upon tender the State Deed of Title, including the State's legal descriptions, for lands to be reconveyed to the Cook Inlet Region, Inc., pursuant to subsection (a)(1) of this section without requiring further survey prior to acceptance. Unless the boundaries of such lands have been specifically identified in a survey approved by the State or Federal Government, such lands shall be described by a metes and bounds description, or by aliquot parts of the Federal rectangular survey system, based wherever possible upon the Federal surveys initially performed to effect transfer and patent of such lands to the State of Alaska. Upon acceptance of a State Deed of Title said lands are hereby withdrawn from entry under the public land laws. Within sixty (60) days the Secretary shall, without adjudication, issue conveyance to said lands of the interests conveyed by the State subject to any lawful reservations of rights or conditions contained in such State conveyance, as provided in the Terms and Conditions document, to Cook Inlet Region, Inc., with patent to issue thereafter immediately following approval of survey. The Secretary is authorized hereby to identify and reserve within two years after initial conveyance any easement he could have lawfully reserved prior to conveyance, and to issue immediately thereafter a revised conveyance reflecting such reservation, subject to the agreement of January 18, 1977, between the Secretary of the Interior, Cook Inlet Region, Inc., and certain of the villages contained therein. The Secretary may initiate such easement identification and reservation procedure before the tender of the State Deed Title, but initiation of such procedure shall not affect the timely issuance of conveyance by the Secretary as provided hereby.

(b) If any provision of this Act or the validity of the remainder of this Act, of section 12 of the Act of January 2, 1976 (P.L. 94–204), as amended, of the document referred to in section 12(b) thereof, and the duties and obligations of the Secretary of the Interior, the State of Alaska, and Cook Inlet Region, Incorporated, with respect thereto, shall not be affected thereby.

Mr. STEVENS. Mr. President, this is a technical amendment. It corrects a technical error, as I pointed out in my statement, which has prevented Sealaska Regional Corp. from making selections in the Klukwan withdrawal.

I thank particularly the Senator from South Dakota, who chairs the Select Committee on Indian Affairs, for his interest and cooperation, and the chairman of the Energy and Natural Resources Committee, Senator JACKSON, and the ranking minority member, Senator HANSEN of Wyoming, for their cooperation in allowing us to bring this bill, which affects only Alaska, to the floor at this time.

If there is no debate on this amendment, I move its adoption.

Mr. GRAVEL. Mr. President, I wish to comment on it.

Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABOUREZK. Mr. President, this amendment has been discussed with and concurred by the chairman of the Energy Committee, Senator JACKSON, and the ranking minority member, Senator HANSEN. Acting in behalf of the Energy and Natural Resource Committee, I accept this amendment. As chairman of the Select Committee on Indian Affairs I shall just go along with it.

Mr. STEVENS. I thank the Senator.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. GRAVEL. Mr. President, I am a cosponsor of this amendment, and I am also very appreciative that the leadership of the committee has been most accommodating in securing its passage, and I press its adoption.

I shall also have one amendment of my own to offer.

Mr. STEVENS. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment was agreed to.

UP AMENDMENT NO. 1031

(Purpose: To authorize the Secretary of the Interior to recognize assignments made by Alaska Native Regional Corporations of their rights to receive payments from the Alaska Native Fund.)

Mr. GRAVEL. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. GRAVEL) proposes an unprinted amendment numbered 1041.

Mr. GRAVEL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of this bill add the following new section:

SEC. 3. The Alaska Native Claims Settlement Act (85 Stat. 688), as amended (43 U.S.C. 1601), is further amended by adding a new section at the end thereof:

SEC. 31. (a) Notwithstanding the provision of section 3477 of the Revised Statutes, as amended (31 U.S.C. 203), the Secretary is authorized to recognize validly executed assignments made by Regional Corporations of their rights to receive payments from the Alaska Native Fund. Such assignments shall only be recognized to the extent that the Regional Corporation involved is not required to distribute funds pursuant to subsections (j) or (m) of section 7 of this Act.

(b) The Secretary shall not recognize any assignment under this section which does not provide that the United States reserves the right to assert against the assignee and successors of the assignee, any setoff or counterclaim which the United States has against the assignor Corporation.

(c) No stockholder of any Regional or Village Corporation shall have any claim against the Secretary or the United States as the result of any assignment duly recognized by the Secretary pursuant to this section.

Mr. GRAVEL. Mr. President, I understand this amendment has similarly been cleared with the leadership of the committee. What this amendment does would permit the regional corporations to assign future receipts that they will receive from the Federal Government as part of the payment of the land claims to secure funding for the ongoing commercial operations that they have.

This legislation has been asked for by a number of regions, in particular the Calista Corp. which needs this amend-

ment in order to secure the necessary financing for a large undertaking in the community of Anchorage.

I have telegrams from the Alaska Federation of Natives, Inc., the president of the Calista Corp., and also a letter from Forrest J. Gerard, Assistant Secretary for Indian Affairs supporting the language of this amendment.

I ask unanimous consent that these documents be printed in the RECORD.

There being no objection, the documents were ordered to be printed in the RECORD, as follows:

ANCHORAGE, ALASKA.

Senator MIKE GRAVEL,
Capitol Hill, D.C.:

This is official notice that the Alaska Federation of Natives, Inc., supports H.R. 4652 regarding assignability of Alaska Native funds.

BYRON I. MALLOTT,
President, Alaska Federation of Natives, Inc.

ANCHORAGE, ALASKA.

Senator MIKE GRAVEL,
Dirksen Building,
Washington, D.C.:

This is an offical support of the language in H.R. 4652 which we understand will be added to H.R. 8499 or in H.R. 9375.

MARTIN B. MOORE,
President, Calista Corp.

WASHINGTON, D.C.,
September 28, 1977.

Hon. TED STEVENS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STEVENS: During the September 21 hearing of the Senate Interior Appropriations Subcommittee, you indicated that you were considering proposing to add to a fiscal year 1978 supplemental appropriations bill the language of H.R. 4652. You asked that we advise you promptly as to any technical problems with the language of the bill and as to the position of the Interior Department on such a provision.

H.R. 4652 is a bill "to facilitate utilization by Alaska Native Regional Corporations of assignments of payments from the Alaska Native Fund pursuant to the Alaska Native Claims Settlement Act, (ANCSA) and for other purposes." It would add a new section 31 to the ANCSA to overcome the provisions of section 3477 of the Revised Statutes, as amended (31 U.S.C. 203), also known as the "Anti-Assignment Act". The Comptroller General in a November 16, 1976 decision (B–108439, copy enclosed) has interpreted that provision as precluding the United States from being bound by any assignment made by an ANCSA regional corporation of funds from future distributions to it under ANCSA from the Alaska Native Fund.

However, the maximum amount which a Regional Corporation could assign cannot be precisely calculated at this time. The provisions of section 7(j) of ANCSA (43 U.S.C. 1606(j)) require that not less than 50% of future distributions to the twelve Regional Corporations from the Alaska Native Fund shall be distributed among the Village Corporations and those stockholders who are not residents of those villages. Under section 1(a) of PL 94–204 (43 U.S.C. 1604 note) new Regional Corporation stockholders may be added and payment made to them as if they had been stockholders since the first payment was made on March 31, 1976. These retroactive payments will be accomplished by recomputing the distributions since March 31, 1976 and then adjusting the next distribution to compensate for previous overpayments or underpayments.

To avoid placing the Secretary in the position of having to estimate the maximum amount of a payment to a Regional Corporation which could be subject to an assignment, we recommend that the proposed new section 31 of ANCSA leave such determination to the Corporation and the assignee.

It should also be made clear that the United States assumes no potential liability to the stockholders because of a Corporation's assignment of future distributions to it. Therefore, we recommend that the new section 31 read as follows:

"SEC. 31. (a) Notwithstanding the provision of section 3477 of the Revised Statutes, as amended (31 U.S.C. 203), the Secretary is authorized to recognize validly executed assignments made by Regional Corporations of their rights to receive payments from the Alaska Native Fund. Such assignments shall only be recognized to the extent that the Regional Corporation involved is not required to distribute funds pursuant to section 7(j) or 7(m) of this Act.

(b) The Secretary shall not recognize any assignment under this section which does not provide that the United States reserves the right to assert against the assignee and successors of the assignee, any setoff or counterclaim which the United States has against the assignor Corporation.

(c) No stockholder of any Regional or Village Corporation shall have any claim against the Secretary or the United States as the result of any assignment duly recognized by the Secretary pursuant to this section."

We recommend enactment of the above provision as being consistent with the intent and purposes of the establishment of corporations pursuant to the Alaska Native Claims Settlement Act.

Sincerely yours,

FORREST J. GERARD,
Assistant Secretary for Indian Affairs.

Mr. GRAVEL. Mr. President, I press for the adoption of this amendment.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABOUREZK. Mr. President, I, as chairman of the Indian Affairs Committee, accept the amendment, and also accept it on behalf of Senator JACKSON and Senator HANSEN, the ranking members of the Energy and Natural Resources Committee. I also express support for the amendment in their behalf.

Mr. JACKSON. Mr. President, I am supporting the amendment of my colleague, the junior Senator from Alaska, but I do so reluctantly. This amendment would permit Native regional corporations created under the Alaska Native Claims Settlement Act to assign future revenues due them under the Alaska Native fund. Presently such an assignment is prevented by the Anti-Assignment Act. A number of regional corporations are suffering short-term financing problems which this amendment would help alleviate. In most cases long-term financing for the corporations is not a problem. Most of the regional corporations will receive additional, extensive revenues as part of the Settlement Act benefits and will also begin to accrue revenues from the land and resources they have selected under the Settlement Act. However, the monetary benefits are paid over an extended period of time as appropriated and few of the lands which the corporations have selected have yet been conveyed.

Several of the regional corporations, anxious to invest the revenues they have already received, have found themselves short of capital for the projects in which they have invested. Under the Senator's amendment, this short-term problem will be alleviated by permitting the assignment of Settlement Act revenues not yet received by the corporations. This will, of course, permit the borrowing of the necessary capital at reduced interest rates. The amendment would preserve the rights of the United States to assert, set off and counter claims. Furthermore the right of Native village corporations to distribution of Settlement Act revenues from the regional corporations would be insulated from assignment. The amendment would not change the existing schedule of payment for the total amounts to be paid to the Alaska Natives by the United States.

Finally, the Secretary is provided the discretion to accept assignments. As he is not required to honor all assignments, he is in a position to protect the wider interests of each corporation's stockholders and the Alaskan Native community.

I believe as many safeguards as is possible have been written into this amendment. I also have ascertained that the amendment enjoys the support of the Native regional corporations and the administration. I believe that the letter requesting enactment of this amendment from Assistant Secretary of the Interior for Indian Affairs, Forrest Gerard, has been made part of the record.

One of the underlying principles of the Alaska Native Claims Settlement Act and of much subsequent legislation in Indian affairs has been to permit the Alaska Natives and other American Indians to exercise the right of self-determination. The support that this amendment has and the continuing vitality of the principle of self-determination have overcome for me the reservations I have about this amendment. I do hope, however, that the board of directors of any regional corporation who wishes to assign its Alaska Native fund revenues will do so with a keen understanding of the significance of such an action. Each board of directors should understand that it is mortgaging the future of its corporation and of all the corporation stockholders when it makes such an assignment. Such an action cannot be undone by future boards of directors or by the stockholders themselves.

I hope and expect that such a weighty decisions is in each case taken only after full study and the pursuit of all other opportunities to obtain needed financing short of assigning future Settlement Act benefits.

Mr. ABOUREZK. Mr. President, the major purpose of the Alaska Native Claims Settlement Act of 1971 was to settle aboriginal land claims in Alaska and to provide mechanisms whereby Native peoples could successfully compete in today's economic world. The act organized Native corporations and provided a steady, reliable income source to these corporations from the Alaska Native fund. It was the intent of the act that these funds be utilized for investment projects in the same way in which

big businesses operate in our country—to insure long-term dividends for the Native stockholders.

A problem has now developed wherein the corporations are unable to maximize their borrowing ability at the banks due to the inability of the Federal Government to recognize assignments of the corporations' income which is assured from the Alaska Native fund. Because the corporations can not make these assignments, they are unable to qualify for lower interest loans which are vital to large capital investment projects. Thus, the purposes of the Claims Act are being seriously negated.

I think this amendment will clear up this problem and enable the Native corporations to get full value from their settlement. The amendment also contains the language necessary to protect the villages who obtain their settlement moneys from the regional corporations. I urge the leadership to accept this amendment and insure its swift passage.

Mr. STEVENS. Mr. President, I have substantial supporting documents for the amendment that has just been adopted and which I have cosponsored.

I state for the record that the amendment that Senator GRAVEL has just offered is one of the provisions that I had included in the supplemental appropriations bill passed earlier today. If the House accepts this bill, we will, of course, recede on that provision when the supplemental bill goes to conference either tomorrow or Friday.

But assuming the Chair will allow us to file the complete supporting documents, I ask unanimous consent that all of them be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATE OF ALASKA,
OFFICE OF THE GOVERNOR,
Juneau, September 28, 1977.

Hon. TED STEVENS,
U.S. Senate,
Russell Building, Washington, D.C.

DEAR SENATOR TED: Legislation currently before Congress would enable Sealaska Corporation to make certain land selections from within the recently described Klukwan Village selection area once that village has selected its land entitlement. Since this measure could be construed to potentially impact state concerns, this letter is to make it known that the State of Alaska supports the legislation.

Last week, the State of Alaska and Sealaska Corporation readily reached an understanding by which the State will be able to protect its interests in the area. In view of this agreement, the State support S. 1922. We are satisfied that selections in the area by Sealaska which do not contravene obvious state concerns are in the best interests of both Sealaska and the State.

I would be glad to elaborate on this brief message should you have any questions.

Sincerely,

JAY S. HAMMOND,
Governor.

DRAFT COMMITTEE REPORT TO ACCOMPANY COOK INLET REGION, INC., LEGISLATION

1. Concerning Section 1, the Committee finds that the litigation entitled *Galliet, et. al.*, v. *State of Alaska and Cook Inlet Region, Inc.*, (decided June 28, 1976, Civ. No. 76–1608 in the Superior Court for the State of Alaska, Third Judicial District; decided January 18, 1977, No. 3039 in the Supreme Court for the State of Alaska; appeal dismissed, June 20, 1977, No. 76–1490 in the Supreme Court of the United States; Judgment of Dismissal entered, Superior Court, State of Alaska, Third Judicial District, 76–1603, September 22, 1977) has so materially and substantially interrupted and delayed the implementation and the objectives Congress acted upon in authorizing the land exchange which was the subject of section 12 of the Act of January 2, 1976 (P.L. 94–204) and the document entitled "Terms and Conditions for Land Consolidation and Management within the Cook Inlet Area", as to frustrate its purpose.

The Committee therefore finds that it is necessary for Congress, in order to preserve the rights of the parties, to extend certain deadlines for nominations of certain lands and properties to pools for selection by the Cook Inlet Region, Inc. The case referred to above was filed on March 1, 1976 and was not finally dismissed until September 22, 1977, resulting in a delay of approximately 18 months, which is the period of time by which certain time related obligations may be extended by operation of this section. However, the dates are not extended outright; only if and when the original deadlines are not met shall they be extended automatically for 18 months by the operation of this section. This section also requires the Secretary of the Interior to report to Congress thirty (30) days before the deadline of these extensions on the need for other further remedial action which may then be necessary. The State of Alaska and the United States Department of the Interior have given their concurrence to this section.

2. Section 2 of this Act is intended to negate a problem which might otherwise interrupt the orderly conveyance of lands from the State of Alaska to the United States to Cook Inlet Region, Inc. (CIRI) under the terms of section 12 of P.L. 94–204 and the "Terms and Conditions" document by clarifying requirements of survey on such properties prior to their acceptance by the Secretary of Interior. The Secretary is directed to accept the State of Alaska's Deed of Title to such properties upon tender by the State without first requiring their survey. The Secretary is further directed to issue conveyance of such lands to CIRI within sixty (60) days of tender. After conveyance to CIRI, the Secretary is authorized and directed to complete the easement reservation process as otherwise foreseen in section 17(b) of the Alaska Native Claims Settlement Act, although he may initiate or complete this process before tender of Title by the State if this will not delay issuance of conveyance. The Secretary shall within two years of the initial conveyance publish his final decision respecting the easements to be reserved in the revised conveyance, and immediately thereafter issue said revised conveyance. The Committee feels the procedures set forth in this subsection are necessary to aid in the orderly and timely implementation of the "Terms and Conditions", and to prevent the previously patented lands CIRI is to receive from the State thereunder from being unduly delayed in the easement identification process, and at the same time protect the public's interest therein.

Nothing within this section shall be deemed to waive or excuse the Secretary's obligation to survey lands conveyed hereunder pursuant to Section 13 of the Alaska Native Claims Settlement Act, P.L. 92–203. The State of Alaska and the United States Department of the Interior have given their concurrence to this section.

3. It is the intent of Congress in passing this bill that the severability clause contained in Section 3 be interpreted liberally and be given maximum effectuation so as to protect the rights and interests of the parties to the "Terms and Conditions", in order to protect the integrity of their agreement which compromised substantial legal claims of the parties, and to prevent further unnecessary and destructive interruptions to its implementation.

STATE OF ALASKA,
DEPARTMENT OF NATURAL RESOURCES,
Juneau, October 12, 1977.

Hon. TED STEVENS,
U.S. Senator, Russell Building,
Washington, D.C.

DEAR SENATOR STEVENS: As you know, litigation, only recently concluded, resulted in substantial delay in implementation of the "Terms and Conditions for Land Consolidation and Management within the Cook Inlet Area" which was the subject of Section 12 of the Act of January 2, 1976 (P.L. 94–204).

Because of substantial delay, the State of Alaska supports Cook Inlet Region's proposal that Congress add to and amend certain provisions of the Act to preserve the rights and original intent of the parties in carrying out this land exchange.

Attached to this letter is a draft of a bill which we have reviewed. We support enactment of this bill as written.

I wish to memorialize here our understanding of one portion of Section 2 of this bill. That portion deals with the adjudication and reservation of easements. In discussing this provision with Cook Inlet Region, Inc., we are given to understand that after the United States accepts the State deed of title, the Federal Government shall convey to Cook Inlet Region, Inc. those same lands without further land description adjudication. This will prevent transfer of the lands from being unduly delayed in the easement or any other process.

However, the Secretary of the Interior is authorized to begin the easement designation prior to acceptance of the State deed of title. If that process has been completed prior to the initial conveyance to Cook Inlet Region, Inc., it is our understanding that the easements will be included in the initial conveyance. However, if the easement process has not been completed upon acceptance of the State deed of title, the Secretary is directed to execute an initial conveyance with a revised conveyance, to be issued within two years of the initial conveyance, identifying and reserving any easements he could have lawfully reserved at the time of initial conveyance. The two year period for identification and reservation of easements would begin at the time of initial conveyance and end at the time a Decision of Revised Conveyance is issued. At that time the normal appellate procedures would begin and would be available to any party aggrieved by the decision. It is intended that this bill would not compress or cut off that appellate process due to time constraints.

All other references in this section to conveyance procedures seem clear and need no further clarification.

Again, we support this specific bill as written. Our support is based in material part upon the understanding which has been set out in this letter in paragraph four (4). We would like these comments to become part of the legislative history of this bill.

Sincerely,

FOR ROBERT E. LERESCHE,
Commissioner.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., October 13, 1977.

Hon. TED STEVENS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STEVENS: Regarding your continuing interest in the implementation of the "Cook Inlet Land Trade," we have been in recent discussions with Cook Inlet Re-

gion, Inc., regarding the timeframes and other provisions in the Terms and Conditions for the land trade. Some problems have been identified primarily as a result of the time lost due to the litigation that ensued (Galliett v. State) after the original legislation was enacted.

It appears likely that legislation may be desirable to allow for adequate implementation of the Terms and Conditions in view of the decisions that must be reached by this Department, the General Services Administration, and CIRI in consultation with village corporations, and the State of Alaska. Among areas that have been identified are the timeframes involved in the identification of lands within both the Federal and State "selection pools" and in the description, survey and transfer of lands from the State through the Department to CIRI.

It is our understanding that CIRI has been discussing possible legislative proposals with you. I want you to be aware of our desire to complete the CIRI trade as rapidly as possible. Should you consider specific proposed legislation, I would be happy to initiate a formal position from the Department on such legislation upon your request.

Sincerely yours,

GUY W. MARTIN,
Assistant Secretary, Land and Water Resources.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., September 28, 1977.

Hon. TED STEVENS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STEVENS: During the September 21 hearing of the Senate Interior Appropriations Subcommittee, you indicated that you were considering proposing to add to a FY 1978 supplemental appropriations bill the language of H.R. 4652. You asked that we advise you promptly as to any technical problems with the language of the bill and as to the position of the Interior Department on such a provision.

H.R. 4652 is a bill "to facilitate utilization by Alaska Native Regional Corporations of assignments of payments from the Alaska Native Fund pursuant to the Alaska Native Claims Settlement Act, (ANCSA) and for other purposes." It would add a new section 31 to the ANCSA to overcome the provisions of section 3477 of the Revised Statutes, as amended (31 U.S.C. 203), also known as the "Anti-Assignment Act". The Comptroller General in a November 16, 1976 decision (B–108439, copy enclosed) has interpreted that provision as precluding the United States from being bound by any assignment made by an ANCSA regional corporation of funds from future distributions to it under ANCSA from the Alaska Native Fund.

However, the maximum amount which a Regional Corporation could assign cannot be precisely calculated at this time. The provisions of section 7(j) of ANSCA (43 U.S.C. 1606(j)) require that not less than 50% of future distributions to the twelve Regional Corporations from the Alaska Native Fund shall be distributed among the Village Corporations and those stockholders who are not residents of those villages. Under section 1(a) of PL 94–204 (43 U.S.C. 1604 note) new Regional Corporation stockholders may be added and payment made to them as if they had been stockholders since the first payment was made on March 31, 1976. These retroactive payments will be accomplished by recomputing the distributions since March 31, 1976 and then adjusting the next distribution to compensate for previous overpayments or underpayments.

To avoid placing the Secretary in the position of having to estimate the maximum amount of a payment to a Regional Corporation which could be subject to an assignment, we recommend that the proposed new section 31 of ANCSA leave such determination to the Corporation and the assignee.

It should also be made clear that the United States assumes no potential liability to the stockholders because of a Corporation's assignment of future distributions to it. Therefore, we recommend that the new section 31 read as follows:

"Sec. 31. (a) Notwithstanding the provision of section 3477 of the Revised Statutes, as amended (31 U.S.C. 203), the Secretary is authorized to recognize validly executed assignments made by Regional Corporations of their rights to receive payments from the Alaska Native Fund. Such assignments shall only be recognized to the extent that the Regional Corporation involved is not required to distribute funds pursuant to section 7(j) or 7(m) of this Act.

(b) The Secretary shall not recognize any assignment under this section which does not provide that the United States reserves the right to assert against the assignee and successors of the assignee, any setoff or counterclaim which the United States has against the assignor Corporation.

(c) No stockholder of any Regional or Village Corporation shall have any claim against the Secretary or the United States as the result of any assignment duly recognized by the Secretary pursuant to this section."

We recommend enactment of the above provision as being consistent with the intent and purposes of the establishment of corporations pursuant to the Alaska Native Claims Settlement Act.

Sincerely yours,

FORREST J. GERARD,
Assistant Secretary for Indian Affairs.

The Alaska Native Claims Settlement Act as amended 85 Stat. 608 is further amended by adding a new section 31 thereto as follows:

That section 16(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688), as amended, is further amended by inserting in the last sentence thereof, following the comma after the word "section" the following: "and from lands withdrawn by subsection (d) of this section for the Village Corporation for the village of Klukwan and not selected by such Village Corporation,".

STATEMENT OF RAYMOND V. BUTLER, ACTING DEPUTY COMMISSIONER OF INDIAN AFFAIRS

I am pleased to testify before this Subcommittee in support of H.R. 8499. Our report on the bill includes a suggested revision to achieve its intent and also correct an oversight in the enactment of the provision which H.R. 8499 would amend.

Our report on the bill includes a more detailed legislative history leading to the need for enactment of a bill such as H.R. 8499. I will not repeat that entire history now.

Simply stated, the Act of October 4, 1976 (PL 94–456) provided a special land withdrawal and selection process for Klukwan, Inc., a southeastern Alaska village corporation established pursuant to the Alaska Native Claims Settlement Act. It authorized the withdrawal of 70,000 acres of public lands so that Klukwan could select 23,040 of those acres.

However, the October 1976 Act was not drafted so that the Sealaska Corporation (which is the Region Corporation for Southeastern Alaska) could select land from among the 49,960 acres remaining after Klukwan's selection. Sealaska can make such selections from among the lands withdrawn for but not selected by other southeastern Alaska villages. H.R. 8499 is intended to permit such selections by Sealaska from among the unselected Klukwan withdrawal area. Enactment of H.R. 8499 would not increase the total amount of land that Sealaska is entitled to select but would give a greater area within which it can make selections.

It is urgent that the bill be enacted by this session of the Congress because under the terms of the Alaska Native Claims Settlement Act, Sealaska will have to make its selections before December 17, 1977. The revision of H.R. 8499 proposed in our report is intended to correct an unintentional oversight in the January 1976 (PL 94–204) amendment to section 16(b) of the Alaska Native Claims Settlement Act. That January 1976 amendment provides that lands to be received by Sealaska under section 14(h)(8) of ANSCA are to be selected from among those lands withdrawn under section 16(a) of ANSCA and which remain unselected after the village corporations have made their selections.

Placement of the January 1976 amendment in section 16 instead of in section 14(h)(8) of ANSCA created an ambiguity because of the formula in section 12(c) of ANSCA for the allocation of lands among the eleven Regional Corporations (excluding the Southeastern Regional Corporations for which separate provision is made). Under that formula, selections made under section 16 reduce the amount of land available to the eleven Regional Corporations under section 12(c). Before the January 1976 amendment, this reduction amounted to the village selection acreage only and constituted part of the total 40 million acres to be distributed under sections 12, 14, and 16 of ANSCA.

Therefore, the January 1976 amendment results in an apparently unintentional reduction in the amount of land for the eleven Regional Corporations. The recommended revision of H.R. 8499 in our report is designed to correct this problem while also achieving the purposes of the bill as introduced.

This concludes my prepared statement. I will be pleased to answer any questions the Committee may have.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., September 26, 1977.

Hon. MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for our views on H.R. 8499, a bill "To amend section 16(b) of the Alaska Native Claims Settlement Act."

We recommend that the bill be enacted if amended as suggested herein.

H.R. 8499 would amend section 16(b) of the Alaska Native Claims Settlement Act (85 Stat. 688), as amended, (hereinafter ANCSA) to permit Sealaska Corporation (Southeastern Alaska Regional Corporation) to select lands from the area withdrawn for the Village of Klukwan, except for the lands selected by the Village. The withdrawal area encompasses 70,000 acres, and the Village corporation has a selection entitlement of 23,040 acres.

Prior to the January 1976 amendments to ANCSA (Act of January 2, 1976), the Settlement Act provided for the distribution of 40 million acres in sections 12, 14 and 16 as follows:

22 million acres among the Village corporations under sections 12(a) & (b);

23,040 acres for each Village corporation in southeastern Alaska under section 16 (ten Villages—maximum 230,400 acres);

16 million acres, less acreage selected under section 16, to the Regional Corporations (except Sealaska); and

2 million acres for specified miscellaneous purposes with any balance remaining distributed among the 12 Regional corporations under section 14(h).

Section 9 of the Act of January 2, 1976 (89 Stat. 1145, 1150) amended ANCSA by authorizing the shareholders of Klukwan, Inc., a Village in Southeastern Alaska, to participate in ANCSA's benefits as if they

had not elected to acquire title to their former reserve, including the selection of land.

Section 10 of the January 1976 amendments (89 Stat. 1145, 1150) amended section 16(b) of ANCSA to provide that the allocations received by Sealaska under section 14(h)(8) of ANCSA would be selected and conveyed from lands withdrawn by section 16(a) of ANCSA that were not selected by the Village corporations, with the exception of lands of Admiralty Island in the Angoon Withdrawal area, and lands in the Yakutat and Saxman withdrawal areas without the consent of the Governor of Alaska.

With the exception of some small amounts of public domain land around the Village of Klukwan, section 10 of the January 1976 Amendments permitted Sealaska to make land selections pursuant to section 14(h)(8) of ANCSA primarily within the Tongass National Forest.

With enactment of section 10, Sealaska was precluded from selection of lands under section 14(h)(8) that were unreserved or unappropriated, but was allowed to select from National Forest or other lands within the Village withdrawals that were not selected by the Village Corporations. Thus Sealaska could select behind nine of the ten Villages, including Klukwan.

Section 1 of the Act of October 4, 1976 (90 Stat. 1934) further amended ANCSA by providing a special withdrawal and selection process for Klukwan, Inc. The October 1976 amendment added a new subsection (d) to section 16 of ANCSA to authorize the withdrawal of 70,000 acres of public lands so that the village of Klukwan could select 23,040 of those acres. However, the October 1976 amendments did not provide that Sealaska could select land from among the 46,960 acres remaining after Klukwan's selection, such as it can select from within withdrawal areas for the other southeastern Alaska Villages. Thus, the Klukwan withdrawal area was removed from the areas in which Sealaska could make its section 14(h)(8) selections. It is our understanding that H.R. 8499 is intended to correct this legislative oversight as to Sealaska's land selections.

H.R. 8499 is necessary because under sections 14(h)(8) and 16(b) of ANCSA Sealaska will have to select, before December 17, 1977, lands from areas withdrawn, but not selected by, the Native Villages in Southeastern Alaska. Thus, in order for Sealaska to be able to make selections from the Klukwan withdrawal area, legislation is needed before that date. However, this Department has certain technical problems with section 10 of the January 1976 amendments, which H.R. 8499 does not resolve.

Section 10 of the January 1976 amendments created an ambiguity with regard to section 12(c) of ANCSA. Part of the section 12(c) formula concerns allocations among the Regional Corporations based upon lands selected under section 16 of ANCSA. Since section 10 of the January 1976 amendments amended section 16(b) rather than section 14(h)(8) of ANCSA, section 10 could be interpreted to affect the formula, and thus the entitlements of the other Regions, under section 12(c) of ANCSA.

Thus, the selections in section 16 reduce the amount of acreage available to the Regional Corporations under section 12(c). Before the January 1976 amendments, this reduction amounted to the village selection acreage only and consisted of an integral part of the total 40 million acres. The January 1976 amendment adds to the section 16 selection acreage entitlement Sealaska receives under section 14(h)(8) creating a double count of some 200 to 400 thousand acres. In our judgment, this was an unintentional oversight.

To correct this oversight, yet also accomplish the purpose of H.R. 8499, we recommend that the following be substituted for the language in H.R. 8499:

SECTION 1. Section 16(b) of the Act of December 18, 1971 (85 Stat. 688, 705), as amended, is further amended by deleting the last sentence thereof.

SEC. 2. Section 14(h)(8) of the Act of December 18, 1971 (85 Stat. 688, 705), as amended, is amended by designating the existing paragraph as paragraph "(a)" and adding the following new paragraph "(b)":

"(b) Such allocation as the Regional Corporation for the Southeastern Alaska Region shall receive under this subsection shall be selected and conveyed from lands that were withdrawn by subsections 16(a) and 16(d) of this section and not selected by such Village Corporations, except lands on Admiralty Island in the Angoon withdrawal area and, without the consent of the Governor of the State of Alaska or his delegate, lands in the Saxman and Yakutat withdrawal areas."

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

GUY R. MARTIN,
Assistant Secretary.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., October 17, 1977.

Hon. MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: As you requested, here is our report on H.R. 8499, a bill "To amend section 16(b) of the Alaskan Native Claims Settlement Act."

The Department of Agriculture has no objection to enactment of H.R. 8499, if amended as suggested by the Department of the Interior.

The amendment proposed in H.R. 8499 and the alternate amendment recommended by the Department of the Interior would authorize Sealaska Corporation, which is the corporation established pursuant to the Alaska Native Claims Settlement Act to represent the natives of Sealaska Region, to select a portion of their land entitlement in the area withdrawn for selection by Klukwan, Inc., a village corporation. Pursuant to the Alaska Native Claims Settlement Act as amended, the Secretary of the Interior has withdrawn approximately 70,000 acres in the Prince of Wales Island area of Southeast Alaska (Tongass National Forest), from which Klukwan, Inc. will select its land entitlement of 23,040 acres. This withdrawal area is a substitute for Klukwan's original withdrawal area which surrounds the village of Klukwan. H.R. 8499 would authorize Sealaska Corporation to select any lands remaining in the substitute withdrawal area after Klukwan, has made its selection. It appears that Sealaska Corporation would retain selection rights in Klukwan's original area.

The effect of H.R. 8499, if enacted, would be to increase the total area from which Sealaska Corporation can select its entitlement. This would be consistent with the intent of section 10 of the Act of January 2, 1976 (89 Stat. 1145), which authorized Sealaska corporation to obtain its entitlement within the areas withdrawn for selections by village corporations. We view the amendment contained in H.R. 8499 as a conforming amendment. We defer to the Department of the Interior for an explanation of their proposed substitute amendment.

The Office of Management and Budget advises that there is no obligation to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

JOHN C. WHITE,
Deputy Secretary.

STATEMENT OF JOHN BORBRIDGE

My name is John Borbridge, Jr. I am president of Sealaska Corporation, the regional corporation organized under the Alaska Native Claims Settlement Act by the Natives of Southeast Alaska.

I appear today in support of H.R. 8499, which would permit Sealaska to select some of the lands to which it is entitled under section 14(h)(8) of the Settlement Act from the surplus lands withdrawn for the Klukwan village corporation pursuant to the amendment of the Settlement Act approved on October 4, 1976 (P.L. 94-456, 90 Stat. 1934, *see* 43 U.S.C. 1615(d)).

Under that amendment, 70 thousand acres have been withdrawn from which the Klukwan village corporation is entitled to select and receive a total of 23,040 acres. H.R. 8499 would authorize Sealaska to select from the approximately 47,000 acres of land that will remain in the withdrawal after the entitlement of the village corporation is satisfied.

If Sealaska is to have the right to select from among the surplus lands in the area withdrawn for Klukwan, it is essential that enabling legislation be enacted during this session of the Congress because Sealaska is required to complete its selection by December 18 of this year.

This is why, on behalf of the 15 thousand shareholders of Sealaska, I am especially grateful to the Chairman and members of this committee for holding this hearing at a time, I know, when you do not lack for work.

I would stress first that enactment of this bill will not increase Sealaska's entitlement to land nor affect the rights of any other Native corporation in any way. It will simply make available for selection by Sealaska, in accordance with its existing right under section 14(h)(8), the surplus lands in the area withdrawn for Klukwan.

We have discussed this bill with representatives of the Departments of Interior and Agriculture, with representatives of the State of Alaska, and with representatives of the Southeast Alaska Conservation Council, a coalition of eight of the principal environmental organizations in our area, including the Sierra Club and Friends of the Earth.

As far as we know, it is not opposed by anyone and is actively supported, at least, by the State under an agreement between Sealaska and the State to the effect that we will consult with and secure the consent of the Governor prior to making selections in the subject area. This agreement would seem also to meet the only concern relating to the bill that has been expressed by the Conservation Council.

It now appears that Sealaska Corporation will be entitled to select and receive upwards of 250 thousand acres of land under section 14(h)(8) of the Settlement Act. Section 16(b) of the Act as amended stipulates that this land shall be selected from the areas withdrawn for the village corporations in our region and not taken by them.

Klukwan is one of these villages. In October 1976, being informed that there was not sufficient land of suitable quality in the area originally withdrawn for Klukwan from which the village corporation might select the 23,040 acres to which it is entitled, Congress further amended the Settlement Act to require the Secretary of the Interior to withdraw 70 thousand acres elsewhere in Southeast Alaska from which the village corporation might select its land.

Due to an oversight on our part when the last Klukwan amendment was before the Congress, we did not seek the inclusion of language to permit Sealaska to exercise its selection rights under section 14(h)(8) on the surplus lands in the new area withdrawn for Klukwan.

As stated, this area comprises 70 thousand acres from which the village corporation is

entitled select and be conveyed 23,040. H.R. 8499 would permit Sealaska to exercise its existing selection rights under section 14(h)(8) on the approximately 47 thousand acres that will remain in the area after the village corporation has received the lands to which it is entitled, just as Sealaska is permitted to exercise such rights on the lands remaining in the other Southeast village withdrawal areas after the village corporations have made their selections.

While, as noted, Sealaska is required to complete its selections under Section 14(h)(8) of the Settlement Act by December 18, 1977, the Klukwan village corporation, under section 16(d), may have until April 4, 1978 to make its selections. Thus, though the right of the village corporation to be conveyed a total of 23,040 acres should be prior to Sealaska's right to be conveyed such of the lands remaining in the area as it selects and as are not taken by the village corporation, Sealaska in fact will probably have to make its selections in the area before the village corporation has done so.

The report of the committee should make clear that it is understood and intended that Sealaska may select in the area in advance of the village corporation on condition that selections of the village corporation, whether made before or after selections by Sealaska, shall take precedence over Sealaska's and that Sealaska's right to be conveyed such lands in the area as it selects is subordinate to the right of the village corporation to receive a total of 23,040 acres.

Again, I want to express our deep appreciation to the Chairman and members of the committee for making time in a schedule I know to be more crowded than Metro in the morning to consider this bill. I realize, in terms of other matters demanding your attention, that this bill is a small thing, but it is of great importance to the shareholders of Sealaska.

Thank you.

MEMORANDUM OF UNDERSTANDING AND AGREEMENT BETWEEN THE STATE OF ALASKA AND SEALASKA CORP.

The State of Alaska (hereinafter "State") and Sealaska Corporation (hereinafter "Sealaska") recite their joint understanding of facts and agreement as follows:

1. There is presently pending before Congress legislation which would authorize Sealaska to select under Section 14(h)(8) of the Alaska Native Claims Settlement Act (the "Act") land from the 70,000 acres of public land on Dall Island and Long Island in the Tongass National Forest withdrawn for selection by Klukwan, Incorporated. By amending Section 16(b) of the Act, this legislation would permit Sealaska to select land from the withdrawal area subject to the right of Klukwan to select 23,040 acres.

2. Pursuant to an agreement between the State and Klukwan, Incorporated dated August 26, 1976, Klukwan may not select any land from the withdrawal area without the consent of the State.

3. Sealaska and the State both desire to provide for an identical requirement of State approval of Sealaska selections from the withdrawal area in order to allow the State to protect its multiple interests in the area. Sealaska and the State also desire that the aforementioned legislation be approved by Congress during its current session and therefore do not wish to take any action, including amendment of the legislation, which might delay or jeopardize its passage.

4. The State supports a significant and meaningful selection from the withdrawal area by Sealaska. However, the State has expressed its concern to Sealaska that the legislation may not adequately protect several of the State's interests in the withdrawal area.

5. The State and Sealaska recognize that a comprehensive Alaska forest resources and practices act providing for state regulatory authority, mandating a program of state professional management and assistance services, and establishing broad management direction for forest land, is in the best long-term interest of both parties and their constituents.

6. Accordingly, representatives of both parties have discussed an agreement satisfactory to both and hereby agree as follows:

a. The State will not seek to have the legislation amended, or take any other action which might jeopardize its passage, during the present session of the Congress. In addition, the State will transmit a timely letter to the Chairman of the substantive committees and the members of the Alaska Congressional delegation expressing the State's support of the legislation.

b. Sealaska agrees that it will not make any selection from the Dall Island/Long Island withdrawal area without the consent of the Governor of Alaska or his designee. Such consent will not be withheld except where necessary to protect a legitimate State interest, after consultation with Sealaska.

c Sealaska agrees to publicly and continuously support forest resources and practices legislation as such is proposed by the Governor, and to take no action which might jeopardize passage of such legislation. Although the Governor's determination is final, the Governor or his representative shall consult with and discuss the proposed legislation with Sealaska and other interested parties, evaluate in good faith their comments and testimony, and consider such modifications as are recommended. Upon request of the Governor or his representative, Sealaska will transmit to the Legislature a letter of endorsement of the Governor's proposed forest resources and practices legislation.

7. The undersigned warrant that they are fully authorized to bind the entities they represent, and pledge to observe the provisions and intent of this Memorandum of Understanding and Agreement in full.

JOHN BORBRIDGE, Jr.,
President, Sealaska Corporation.
JAY S. HAMMOND,
Governor of the State of Alaska.
ROBERT E. LERESCHE,
Commissioner of Department of Natural Resources, State of Alaska.

Mr. STEVENS. Mr. President, if there are no other comments, I thank the Senator from Virginia for his patience in delaying the comments he was going to make so we could offer this amendment at this time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska (Mr. GRAVEL).

The amendment was agreed to.

The PRESIDING OFFICER. There being no further amendments, the question is on the engrossment of the amendments and third reading of the bill.

The bill was ordered to be read a third time, and was read the third time.

The PRESIDING OFFICER. The question is: Shall the bill pass?

The bill (H.R. 8499), as amended, was passed.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ABOUREZK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER DURING MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. HARRY F. BYRD, JR. I yield.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Senators may be allowed to make statements during morning business.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

NEED TO CHANGE ESTATE TAX CARRYOVER BASIS RULE

Mr. HARRY F. BYRD, JR. Mr. President, I invite the Senate's attention to one of the most far-reaching pieces of tax legislation ever enacted by the Congress.

It is obscured in the 1976 Tax Act, as part of the estate tax section, and is known as carryover basis.

Carryover basis operates so that the property of a decedent retains its original cost basis when it is passed to the decedent's heirs.

This means that property which was acquired many years ago at a low cost will retain that cost when it is passed from one generation to another. This is a dramatic departure from pre-1976 law whereby the basis of property acquired by a person was stepped-up to its fair market value at the individual's date of death.

The effect of the carryover basis provisions of the law is to introduce a tax on appreciation as part of the estate tax and to introduce a double tax at death, an estate tax and now an income tax.

The carryover basis provisions were not considered by the Senate Finance Committee or the Senate as a whole but were added in conference.

However, during this year, the Subcommittee on Taxation and Debt Management of the Finance Committee has held 5 days of hearings—4 last week and 1 in July, dealing primarily with carryover basis.

The complaints in regard to the carryover basis provisions of the 1976 Tax Act are tremendous. One of the best analyses of this legislation was a letter to the Senator from Wisconsin, Mr. NELSON, from Gerald M. Sheehan, assistant secretary of the La Crosse Trust Co., La Crosse, Wis., a community of approximately 40,000 persons. Later, I shall ask that this letter be inserted in the RECORD.

It is important, I think, that the Congress address this problem at the first opportunity.

Carryover basis needs to be examined closely for several reasons.

First, the current law is extremely complex and difficult to administer. For example, to arrive at the so-called fresh-start basis for nonmarketable securities and other assets, four complex sets of calculations are necessary. Because of its complexity, executives, bank trustees, attorneys, asssociates, and other persons who must deal with estate tax laws on a daily basis consider the current carryover basis law to be totally unworkable.

Second, the 1976 law was retroactive in effect. Taxpayers before 1976 counted on having a step-up in basis at death. Adequate records as to the original cost of all items acquired by a taxpayer are often nonexistent or very difficult to acquire.

Business transactions which were made and negotiated under the old law now must deal with a new set of rules which often change the terms of business deals which were carefully bargained for and negotiated.

Third, the carryover basis provisions discriminate against small businesses and farms and other forms of assets which do not have a readily ascertainable market value as of December 31, 1976. Because these nonmarketable assets must apply the fresh start formula, which prorates the appreciation in an asset over the life of the asset, the basis as of December 31, 1976 for these assets is constantly declining the longer the taxpayer owns an asset. A taxpayer is caught in the situation that the longer he lives the lower will be his cost basis for pre-1976 assets and the higher will be his tax.

Fourth, carryover basis causes severe liquidity problems which often mean that farms and small businesses must be sold to pay for the combined estate and income taxes which will occur at death. Instead of encouraging small businesses, carryover basis encourages smaller concerns to merge with larger ones since such an exchange can be accomplished on a tax-free basis and the owner of a small business can then acquire marketable securities which have a fixed basis as of December 31, 1976.

Fifth, carryover basis encourages persons to retain assets for many generations since the sale of these assets could be a large income tax consequence. Instead of freeing capital to be used from one business into another, carryout basis ties up this capital.

The 1976 act, insofar as the carryover basis provision is concerned, is so far-reaching and its ramifications so great that the Senate should have an opportunity to express itself on this issue.

The Finance Committee is presently considering H.R. 6715 the so-called Technical Corrections Act of 1977. This legislation does not deal with the fundamental problems associated with carryover basis, and there is no certainty that there is adequate time to consider H.R. 6715 during the time that remains this week.

As far as H.R. 6715 is concerned, the Senator from Virginia is willing to proceed now with H.R. 6715 or delay consideration to the beginning of the next session, whichever may be the wishes of the majority of the Finance Committee.

But if H.R. 6715 is to be considered, then the Senator from Virginia for himself, for the Senator from Kansas, Mr. DOLE, for the Senator from Nebraska, Mr. ZORINSKY, and for the Senator from Wyoming, Mr. HANSEN will offer an amendment which would provide for a 2-year deferral of the implementation of the carryover basis provision of the 1976 Tax Act from December 31, 1976, until December 31, 1978.

We suggest this approach since this would give the Congress the opportunity to look very closely as to whether carryover basis should be repealed or whether it is possible to make changes which would make the law more workable.

This proposal fits naturally into the Technical Corrections bill as it has been presented to the Senate by the House of Representatives.

While the Technical Corrections Act, H.R. 6715, has a title which indicates that it is technical in nature, there are, indeed, substantive changes of the tax laws in this legislation. Because H.R. 6715 does have many substantive provisions, because there is a need for immediate action with regard to carryover basis, and because it will give the Senate an opportunity for the first time to look at carryover basis, it is appropriate to consider changes in carryover basis in connection with H.R. 6715.

A 2-year deferral of the effective date of carryover provisions is very desirable and should be included as part of the Technical Corrections Act for the following reasons:

First. It is acknowledged by Treasury, Joint Committee on Taxation staff, and various concerned professional groups that current carryover basis law is essentially unworkable.

Second. To remedy the major problems in carryover basis is a very complex matter. Most interested parties identify the same problem areas but propose different solutions. Within the last week, two Senate bills, including S. 2228, of which I am a sponsor, have been introduced to cure these defects and to make carryover basis more workable. Differing views on each of these bills have been expressed by Treasury, Joint Committee staff, and professional groups.

Third. Adequately considered and well-developed amendments to make carryover basis workable will provide a long-term solution and mesh properly with the administration's proposals for tax changes which have been delayed until 1978.

Fourth. Joint Committee staff tax revenue projections indicate that a 2-year deferral of the effective date will produce no loss in tax revenue.

At this point, I ask unanimous consent that the letter to Senator NELSON from Mr. Sheehan of the La Crosse Trust Co. be inserted in the RECORD. I also ask that several other letters, which have been chosen from many letters and statements made to me as chairman of the Subcommittee on Taxation and Debt be included as in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

LA CROSSE TRUST CO.,
La Crosse, Wis., September 19, 1977.

HON GAYLORD NELSON,
Russell Office Building,
Washington, D.C.

DEAR SENATOR NELSON: It has come to our attention that the Ways and Means Committee will be considering technical changes in the Estate and Gift Tax area early in the week of September 19th. This seems an appropriate time for us to voice our strong disapproval of the carry over basis law enacted as part of the Tax Reform Act of 1976.

The Tax Reform Act has unquestionably imposed some very complex duties and responsibilities on Executors of estates and probably the most complex lies in the area of carry over basis. Needless to say the officers of our corporation have spent many hours of reading, discussion and listening to lectures in an attempt to understand the full impact of the carry over basis law and how to implement its commands. Few, if any, can honestly say they fully understand the procedure to be followed for compliance. What we do understand is that we are appalled by the complexity and problems created for fiduciaries under carry over basis. We pity the individual executor who will, no doubt, have to pay healthy fees to his attorney for help and advice to comply with carry over basis in an estate that prior to 1976 would not have been that complicated.

The following situations represent some of the problems we have encountered or foresee encountering.

CHATTELS

Stamp collections, coin collections, or works of art create an impossible situation. The cost of each separate item in a collection must be ascertained and each item separately appraised so that the "fresh start" basis can be determined by the time-apportionment formula.

SECURITIES

The problems of securing basis information for securities is mind boggling. The law allows for a step up basis for listed securities. This should seem to simplify, at least for pre 1977, the valuation of stock, but it doesn't. The Executor still must determine original cost basis for purposes of loss. The problem is compounded by the impossible task of proving basis for listed securities of stock splits, stock dividends, gifted securities, and dividend reinvestment programs. In our experience few deceased investors keep adequate records of pre 1977 investments to document their original basis. The same problems will occur for deaths after 1977 and will be further complicated by the fact that no step up basis will be afforded in these estates. Actual basis for post 1976 investments will be needed for gain and loss. There is no reason to believe that investors will keep any better records in the future than in the past. The fact is that individual investors are oftentimes unaware of the effect of current law or the burdens it places on their executors and even if aware, very few understand its meaning.

THE CLOSELY-HELD STOCK

Many closely held businesses have little or no cost records to aid the Executor of his estate.

REAL ESTATE

Cost basis of real estate may not always be as difficult to discover as are basis for securities, but this does not help us as to values, as to additions or improvements. Each addition is, of course, an addition for cost basis purposes. Finding the cost basis on each substantial improvement for purpose of time-apportionment determination of the "fresh start" value may be an impossible task. Even with the minimum basis step up of $60,000.00, many homeowners in our community, due to the surge of inflation in real estate values, may find themselves with a step up basis situation even with comparatively modest estates.

COST BASIS INFORMATION

The Executor is required to provide cost basis information to the IRS and beneficiaries of all items in the gross estate and failure to do so may result in cash penalties. In some cases, the executor may have a nominal probate estate but be subject to penalties

for failure to disclose to beneficiaries such data as to non-probate assets, such as joint and survivorship assets.

These are only a few objections that we have to the present carry over basis law and they are far from completely discussed in this letter. It is quite evident from our experience and understanding of this law that an estate with numerous holdings of routine assets may require pages of carry over basis adjustments. This paperwork would not even reflect the hours of searching the decedent's records for information in order to make these computations. It has been our experience that quite often this information must be found, if it exists at all, within piles of papers spread throughout the decedent's residence. Even when a spouse survives, the spouse knows or remembers little of this information. If the information can not be found easily, must the Executor check every scrap of paper in the residence before he can give up looking? Then where does he turn to find out the basis information?

The amount of record keeping as a result of the new law is incredible. The Executor will have to keep track of up to four different valuation figures (i.e. date of death, 6 months value, original cost basis, step up basis) and each beneficiary at least two (i.e. one for loss, one for gain). If ever a law was passed which, in its practical application, is totally unworkable, this is it.

We request that you consider this matter carefully and work toward repeal of the carry over basis law as enacted in the Tax Reform Act of 1976.

Sincerely,

GERALD M. SHEEHAN,
Assistant Secretary.

THE AMERICAN COLLEGE OF
PROBATE COUNSEL,
Los Angeles, Calif., August 1, 1977.

Hon. HARRY F. BYRD, Jr.,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR BYRD: On behalf of the American College of Probate Counsel, I wish to congratulate you and your Senate Finance Subcommittee on Taxation and Debt Management for holding the much-needed July 25th hearing on estate and gift tax problems arising from the Tax Reform Act of 1976.

As you mentioned at the July 25th hearing, the latter constituted the first opportunity for lawyers specializing in estate planning and probate practice to express their views on the problems which the 1976 Act causes for the middle-class family, the farmer and the small businessman.

We endorse the testimony of the four distinguished panelists at the July 25th hearing as to the most unfortunate consequences of carryover basis. The American public has expressed a growing uneasiness over the extended time and substantial cost of probate, and we, as practitioners in this area of the law, are keenly aware that we have an obligation to do all we can to meet their concern. We also know from experience that the preparation and audit of the Federal estate tax return has been the main cause for this delay and expense. In three separate appearances before the House Ways and Means Committee and the Senate Finance Committee in the spring and summer of 1976, our College stressed the need for greater simplicity in the estate and gift tax laws so that estates could be settled quickly and expeditiously. In our position paper addressed to the members of the Joint Senate-House Conference Committee on H.R. 10612 (the Tax Reform Act of 1976) we warned of the "many serious problems that the College believes will be created in the administration of tax laws, the probate process and the transmission of wealth from one generation to the next, if certain policy changes are not made in the estate and gift tax reform proposals."

The Act did take one big step toward eliminating the Federal estate tax as the bottleneck in the probate process by providing a higher exemption in the form of a credit and an increased marital deduction so that for deaths after 1980, estates of married taxpayers up to $425,625 (the sum of the $175,625 exemption equivalent to the new tax credit and the $250,000 marital deduction) escape Federal estate tax entirely. Thus, the need to deal with the Federal estate tax no longer exists in administering most estates.

But, ironically, the carryover basis provisions of the 1976 Act constitute a giant step backwards from the goal of achieving inexpensive and expeditious probate; not just for the large estate, but for all estates with carryover basis property in excess of $60,000. Executors who formerly could rely on date of death values for the basis of assets in the hands of a decedent's estate or beneficiaries must now attempt to determine the acquisition date and cost of every asset except for $10,000 of tangible personal property (if the executor makes the section 1023(b) election). Moreover, this same information is required for all substantial improvements to carryover basis assets. In an era when recordkeeping has been inadequate to begin with and the records were often discarded after three years, who is going to know the cost of a home handed down by gift through one or more generations or the date of installation, and cost, of subsequently installed furnaces, air conditioning, porches, etc.? It is true that section 1023(g)(3) provides that where decedent's basis is unknown, such basis shall be treated as being the fair market value of such property as of the approximate date of acquisition, but we must point out that such fair market value itself may be hard to determine, and, furthermore, the fiduciary will still be under pressure to determine the actual basis to see if it is greater than the assumed fair market value. All this examination of records, as well as the elaborate calculations required to determine the four separate adjustments to carryover basis provided by Section 1023 as to each carryover basis asset will greatly increase both the time and cost of probate for all estates, whether small, medium or large.

We should also like to stress another point made by the panel of expert witnesses on July 25th with respect to the adverse long-term effects of the carryover basis provisions of the 1976 Act. We are concerned that the sense of trust and confidence between the executor and the estate's beneficiaries will be greatly eroded, not only because the great complexity of these provisions will necessarily result in many errors in calculations, but also because changes in estate tax values on audit of the estate tax return will result in income tax deficiencies on returns because the income tax returns as filed cannot correctly show gain on the sale by the estate or the beneficiary of carryover basis assets until final determination of the federal estate tax values. Furthermore, the executor will be put to an impossible task in having to decide who is to receive high-basis assets, who receives low-basis assets and who receives cash from the estate. Obviously, executors are going to be faced with a sharply higher number of court contests of their accountings and malpractice suits against their attorneys will also greatly increase. We predict that many individuals will hereafter refuse to serve as executors and the field will be increasingly dominated by banks and trust companies, a result which we do not believe to be healthy.

The panel of experts on July 25th aptly pointed out how the farmer and small businessman "had been had" by the Tax Reform Act. In many instances the Act negates prior estate planning centering around the use of section 306 preferred stock and buy-sell agreements, since the percentage requirements for qualification for a section 303 redemption of a decedent's stock have been toughened, section 306 stock no longer qualifies for section 303, and carryover basis will cause both capital gains tax and minimum tax on redemptions, which were not previously taxed this way. The additional tax often cannot be paid from the proceeds of the redemption. Moreover, the qualification and recapture provisions of section 2032A make a special valuation of farms at use value a mirage in most instances; plus the belief of both Congress and the farmers that the latters' burdens had been eased is erroneous. It is also important to keep in mind that section 3(i) of the Technical Corrections Bill of 1977 introduces a concept of "indirect retention" of ownership of stock of closely held business which will negate the traditional gifting of such stock, either outright or in trust, as part of the estate plan for a small businessman.

The American College of Probate Counsel is hopeful that at the very least some of the worst defects of carryover basis can be cured by way of amendments to the Technical Corrections Bill. We enclose for your consideration certain legislative proposals which are part of the Statement we will file with the House Ways and Means Committee on that Bill.

We respectfully request that this letter and attachment be made part of the written record of the hearing of your Subcommittee on July 25, 1977. Accordingly, we are sending five copies to Mr. Michael Stern, Staff Director of the Committee on Finance.

The American College of Probate Counsel stands ready to assist you and your Subcommittee on any legislation affecting estate and gift taxation. Arthur Peter, Jr., is our Washington representative (785–1234).

Very truly yours,

FRANK S. BERALL,
Chairman, Estate and Gift Tax Reform Committee, American College of Probate Counsel.

PART II—SUGGESTIONS FOR ADDITIONAL AMENDMENTS

If the carryover basis concept is to remain in the law, we propose amendments (1) through (6) listed below:

(1) *Section 303 should certainly be amended so that the determination of the maximum amount of the redemption distribution takes into account all Federal and states income taxes attributable to gain on the redemption.*

(2) *Amend § 1212 to permit a capital loss carryover from a decedent to his estate and its beneficiaries in a manner similar to the concept of the pass through from an estate or trust of excess deductions under § 642 (h).* Although under prior law a capital loss carryover expired with a decedent's death, the step in basis for any appreciated property held by the decedent prevented this loss of the carryover from being a hardship to the estate and its beneficiaries. Now that the decedent's basis for appreciated property is carried over after his death, it will be very advantageous to arrange deathbed sales of sufficient appreciated property to offset existing capital losses and capital loss carryovers from prior years. Obviously, in most cases it will not be possible to accomplish this just prior to death, and the loss of the capital loss carryover, combined with the carryover of the decedent's basis for capital gains purposes, results in unfair treatment in such cases. We recommend that the same treatment be given to existing capital loss carryovers at the death of the decedent that is now given to them upon the termination of an estate or trust under § 642(h).

(3) *Grandfather all assets of a decedent which were owned by him on December 31, 1976, so that they will be subject to the old rules and get the full step-up (or step-down) at death.* This amendment would, as to such assets, eliminate the problems caused by inadequate records and would also remove the current unfair distinction between market-

able securities and other assets of the decedent.

(4) *Amend Section 1023(c) to provide that the estate tax adjustment will be made at the top rather than average rate, and amend Section 691(c) so as to return to the prior rule that this deduction is determined by comparing the actual Federal estate tax with what it would have been without the Section 691 item of income in the gross estate.* The calculations under existing law are geared to the average estate tax payable by the estate rather than the top estate tax bracket, so that even the smallest change by I.R.S. in the valuation of estate assets will require a recomputation of the estate tax adjustment to cost basis and the Section 691(c) deduction, and thus spawn a myriad of protective claims for refund of income tax.

(5) *Section 1023(b)(3) should be amended to increase the $10,000 exclusion for tangible personal property to such a level that carryover basis would no longer be a problem for such assets in estate of persons other than collectors.* (Writers of home owner's insurance should be able to supply the correct figure.)

(6) *Section 1023(d) should be amended to increase the minimum amount for carryover basis properties from $60,000 to $175,625* The $175,625 figure is the amount of the exemption equivalent to the full amount of unified credit available in 1981 and subsequent years, and it would appear logical to eliminate the complexities of carryover basis for all estates up to the same amount as will be exempt from Federal estate tax.

STATEMENT OF ERWIN N. GRISWOLD

My name is Erwin N. Griswold. I am domiciled in Belmont, Massachusetts, but for the past ten years have been resident in Washington, D.C., where I am now practicing law.

From 1929 to 1934, I worked for the Federal Government, in the Solicitor General's office. From 1934 until 1937, I was a member of the faculty of the Harvard Law School, and was Dean of that school from 1946 until 1967. In 1967, by appointment of President Johnson, I became Solicitor General of the United States. I held that office until June 1973, when I am retired.

Early in 1913, at the age of eight, I spent a period in the hospital when my appendix was removed. People brought me stamps and it was then that I began to collect stamps. At first it was simply a boyhood hobby. As I became older, though, I followed the stamp market closely, and was impressed with the fact that stamps can be a sound investment. I became well acquainted with the factors which make some stamps good investments, while others are not. I bought stamps from dealers and at auctions. This continued for a number of years, in a modest way, until there was an important change in the circumstances of my life.

In 1939, thirty-eight years ago, my wife had a serious case of infantile paralysis. She is completely paralyzed from the waist down. She is able to get about with crutches and braces, and with the use of a wheelchair. She does remarkably well, but she is severely handicapped. At the time of her illness, I was thirty-five and she was thirty-four, and we had two small children. I had heavy medical expenses, far exceeding my salary at the Harvard Law School. (As a matter of fact, it was my wife's case which led Randolph E. Paul, then General Counsel of the Treasury, to recommend to the Congress the adoption of the deduction for extraordinary medical expenses, now found in § 213 of the 1954 Code. I have never received any benefit from that deduction, since my wife's major medical expenses preceded the adoption of that provision.)

After my wife came home, my great concern was that there should be adequate provision to see that she was taken care of in the event that I was no longer here. I took out additional life insurance, and I tried to save and to make productive investments. Over the years, I invested more and more in stamps. There were two special reasons for this, apart from their investment potential: (1) they do not produce current income, and (2) they present almost no problem of conflict of interest.

Even as a law professor, I was concerned about possible conflicts of interest. This became even more important in later years when I was in Government service. In 1961, I was appointed a member of the United States Commission on Civil Rights by President Kennedy. I resigned this office in 1967, but then held the office of Solicitor General for nearly six years. Thus; I held federal office from 1961 to 1973, a period of twelve consecutive years. Particularly while I was Solicitor General, the ownership of shares in corporations, or indeed, the ownership of investment real estate, could frequently have raised conflict of interest questions. Consequently, I invested more and more in stamps. This had long since ceased to be a hobby. The stamps were kept in a safe deposit box. They have continued to be good investments, even when the market for securities has declined. Making adequate provision for my wife remained a primary concern for me, but as I was able to accumulate more and more, the pressure I felt about seeing that my wife would be properly cared for was slowly reduced.

No one else in my family is interested in stamps. It was always my expectation that my executor would sell the stamps, and I have left instructions with him about dealers who might be used for that purpose. I fully understood the value of the stamps would be included in my gross estate at the time of my death, and that was all right with me. I figured that there would be no problem about valuing them, because they would be sold shortly after my death.

One of the things that has given me great concern in connection with my efforts to provide for my wife has been ever-increasing inflation. Anything else that I have done has suffered from inflation. The insurance that I took out forty years and more ago served well for a while, but its purchasing power now is considerably reduced. Some municipal bonds which I purchased, as a part of the plan to avoid conflicts of interest, are worth less than I paid for them. It is, of course, wholly appropriate that there should be an estate tax on the value of the stamps. But is it not really, as a practical matter, double taxation to add an income tax, too, when the increment in value is, to a considerable extent, simply a reflection of the inflation which has occurred over the past twenty or twenty-five years?

In the fall of 1976, with little warning, and no public hearings on this matter, the estate tax provisions of the Tax Reform Act of 1976 were enacted, including the provision for carry-over basis. With respect to securities, this provided a new start on January 1, 1977. With respect to other property, though, it becomes necessary to determine the cost, and there is a complicated allocation of the increment over cost. I have made no count, but in my case, I would guess at least ten thousand items, probably more, will be involved in this process, bought at different times for various prices, some times as single items, but often in groups for an unallocated lump sum, with the groups often broken up and re-arranged. Moreover, for the most part, I have a few, if any, records. Some of these stamps were bought as long as sixty years ago. (Part of the money which I earned as a pageboy in the East Cleveland Public Library while I was in high school was used to buy stamps.) These early purchases do not aggregate a great deal, but beginning in the 1930s, I bought more actively. I kept no detailed record of these purchases. I did not think it was necessary, since I had no expectation of selling the stamps while I lived, and thought that the date of death value would be the relevant figure if they were sold after I died. To some extent, I suppose that I can reconstruct the cost of some of the items by using figures on my checkstubs, if I can find my checkstubs back over a period of thirty or forty years. That will be very difficult for me to do, and it could, at best, cover only a portion of the items.

Even if the records could be put together, the computations would be extraordinarily complicated. For each item, a cost and a date would have to be determined, then a sale price, which may require an allocation if all the stamps should be sold in a single lot, or in several lots. That allocation would require valuing each item, so as to determine the portion of the sale price allocable to each item. Then a gain would have to be determined for each item, and the resulting gain would have to be allocated over the period from the date of acquisition to the date of death. As I have said, there are at least ten thousand items, probably more. It would be very difficult for me to do this. It will be virtually impossible for my executor to do it.

I have worked in the field of taxation most of my life. I have argued many federal taxation cases for the Government before the Supreme Court. I fully understand what Justice Holmes meant when he said that "Taxes are what I pay for civilization." And I have no objection to paying my proper share. Somehow or other, though, I have not been able to escape the feeling that I have been caught rather badly, and that the effect of the change of the law in 1976, as applied to me, may be unfair, and beyond the contemplation of Congress when the carry-over basis provision was so hastily enacted.

Like many others, my basic purpose has been to see that my wife is properly provided for. This is not altogether easy in her case. She is already considerably handicapped, and her condition may become worse in later years. From some experience I have had, I know that if she should require around-the-clock attendants, it will be hard to keep the cost below $50,000 a year. If that should last for ten or twelve years, or more, the aggregate could be considerable.

My basic objective was to provide for my wife. I thought I had found a way to do this, and at the same time minimize conflicts of interest in my academic and government work. This was seeming to work out well until the fall of 1976. Now, the practical problem confronting me is a very serious one.

Could the carry-over basis, if it is to be used, be made applicable to property *acquired* after the enactment of the 1976 Act? Gain on property previously acquired would still be subject to income taxation when sold by living owners. And there would be notice so that adequate records could be kept for use where the sale was eventually made by an estate. I know of the proposal that there be an optional valuation method which uses a percentage figure for determining increase in value after January 1, 1977. But the percentage suggested is too high. And this method is unfair as to property held for a long time before 1977. Thus, the figure mentioned is eight percent, which is to be compounded. That would mean that if death occurs ten years after January 1, 1977, virtually the whole increment would be treated as having occurred after January 1, 1977. This is unrealistic when it is clear that much of the gain arose prior to that date. Surely a lower percentage should be used, and some way should be worked out to apply it in such a way that all of the pre-1977 gain will not soon be wiped out.

There is an appeal, I know, in the carry-over basis idea. But, it may be a matter of

carrying things to a dryly logical extreme. In view of the persistent inflation, it may be that the Federal Government gets its appropriate share when it takes an estate tax from a decedent's estate. To apply an income tax, too, on the gain which passes with the property and as a part of the property at the time of death, may be more than is appropriate. And the difficulties are especially great in a situation where there is no feasible way to establish the cost basis of much of the property involved.

Though these facts are necessarily highly personal, I present them for consideration by the Committee in the hope that they will show a concrete example of unforeseen consequences of the legislation enacted in 1976, and may lead the Committee to develop amending legislation which is more workable and more fair as a part of the over-all system of federal taxation.

STATEMENT OF THE AMERICAN FARM BUREAU FEDERATION

We appreciate this opportunity to submit Farm Bureau's comments on problems arising from the gift and estate tax revisions made by the Tax Reform Act of 1975.

Farm Bureau members have been actively involved in the past several years in seeking reform of the federal gift and estate tax law. Some measure of gift and estate tax relief was achieved for many of our members in the Tax Reform Act of 1976; however, taxes were increased for some farm and ranch estates and some difficulties are beginning to surface.

We wish to preface our comments and recommendations with a reminder that, at this time, we have had relatively little experience with the new gift and estate tax law. With many rules and regulations still pending and only a small number of our member families having had first-hand experience with the new law, it is difficult to assess the impact of the changes on farmers and ranchers.

The most common concern, by far, of farm and ranch families relates to the change which requires the use of a carryover basis for property acquired from a decedent in lieu of the previous practice of permitting the basis of such property to be stepped up to its fair market value at date of the decedent's death. This provision is especially hard on farmers and ranchers because the long holding period typical of farm property often results in substantial "gains" which represent an adjustment to inflation rather than an increase in real wealth.

The carryover basis imposes an excessive, and most unfair, burden on executors and heirs in cases where a decedent failed to keep adequate records or to leave such records where they can be found.

Farm Bureau will continue to urge repeal of the carryover basis.

The special provision allowing executors of the estates of owners of farms and other closely held businesses to value real property on the basis of its use as a farm or closely held business rather than its fair market value has created some difficulties. Some farmers and ranchers appear to be reluctant to allow the U.S. government to hold liens on their property as provided in the special use valuation section of the Tax Reform Act of 1976. This reluctance, coupled with the numerous rules and qualifications associated with the special use valuation, may severely limit the number of those who will decide to avail themselves of this section of the new law.

The repeal of the "contemplation of death" feature of the old law has created difficulties. While the old provision resulted in some litigation, it was generally accepted that an accidental or unexpected death would not affect a gift made within the previous three years. The current law includes in the estate all gifts made within three years of death, except those shielded by the annual exclusion, and requires reappraisal of such gifts at the time of death. Farmers and ranchers do not understand why the appraisal made the year the gift was made should not be allowed to stand.

Farm and ranch families also have a number of concerns which may, in part, reflect a lack of understanding of complicated legal provisions and which certainly indicate a need for IRS to publish an understandable explanation of the current law as it applies to farm estates. For example:

1. The increase in the marital deduction provided by the Tax Reform Act of 1976 has been well publicized and is widely understood. There is, however, a concern that the revised marital deduction may lull some taxpayers into a false sense of security. In many cases the objective of the farmowner is to pass his business on to his children; and the marital deduction merely postpones the estate tax until the death of the surviving spouse, at which time the children are faced with payment of the tax. We believe the marital deduction should be explained and publicized as a means of postponing estate taxes and not as a cure-all for estate tax problems.

2. The elimination of the specific $30,000 lifetime exemption for gifts is viewed by many Farm Bureau members as having an inhibiting effect on efforts to pass interests in farms and ranches to succeeding generations.

We believe this Committee should continue to explore the impact of the Tax Reform Act of 1976 on farmers and ranchers and take remedial action where necessary.

We respectfully request that our statement be made a part of the hearing record.

NORTHEASTERN BANK
OF PENNSYLVANIA,
Scranton, Pa., August 29, 1977.

Mr. MICHAEL STERN,
Staff Director, Committee on Finance, Dirksen Office Building, Washington, D.C.

DEAR SIRS: I wish to express my great dissatisfaction with the new carryover basis rules as promulgated by the Congress in the 1976 Tax Reform Act, more specifically, the new section 1023 of the Internal Revenue Code.

In 1969, the Treasury Department issued a lengthy study of the estate and gift tax law, together with recommendations for change in the law. The study was entitled, "Tax Reform Studies and Proposals," published February 5, 1969, jointly by the Committee on Ways and Means, and the Committee on Finance of the U.S. Senate. Many of the proposals approved by Congress in the 1967 Tax Reform Act were forecast in the 1969 study. One of the recommendations was a change in the existing law which permitted an estate value, and consequently the value passing to heirs, to be "stepped-up" to the value of the date of death or the alternate valuation, if elected.

The net result being, that since the estate tax was, in most instances, lower than the income tax that would have been paid if the property were sold prior to death, there was an element of untaxed appreciation. This has been termed a "tax-free" step-up in basis, and referred to by congressional and other reform proponents as a major tax loophole.

If indeed this was a tax loophole, it was the only real loophole available to the lower and middle income taxpayers. Unquestionably, it afforded a taxpayer a means of avoiding the payment of income tax upon the unrealized appreciation inherent in an asset by simply holding it until death.

Additionally, the thrust of the reform of the step-up rules rested upon two major points: (1) the then existing law discriminated against individuals who sold appreciated property prior to death and thereby forced them to build their estate with after tax dollars, and worked in favor of those who chose to retain their assets until death. (2) The then existing law was considered to foster an inducement for individuals who might otherwise dispose of appreciated property, to defer disposing of it.

I would direct my comments first to the effect the new section 1023 has had on the majority of the taxpayers, that is the small and middle income group. These are the people who have worked all their lives to accumulate a small, or moderate estate, consisting of a family home and a small amount of securities. The assets they hold were acquired generally for one purpose, to provide some income security and comfort in their declining years. They have not, nor have they intended to accumulate a vast fortune to be passed on to heirs at a low tax effect.

The four basic adjustments are an absolute nightmare to administer. Enclosed as Exhibit A, is a draft calculation worksheet, which indicates the data necessary to determine the basis of assets passing to heirs or beneficiaries, and delineates the four basic adjustments which must be performed on virtually every asset in an estate. In order to complete the four adjustments, there are as many as thirty-three separate steps which must be completed for each asset.

Let us now direct our attention in particular to some of the problem areas in determining basis, which estate executors must determine with respect to carryover basis property.

(*a*) The executor must determine the decedent's adjusted tax basis for all property includible in an estate, as well as the date of or approximate date of acquisition. How many of us now living have a record of the basis and acquisition date of all of our property, real and personal? Just try then, to imagine the problem of an executor in determining this information after an individual dies.

(*b*) The executor must also determine the fair market value of all such property as of the date of death, the alternate valuation date, and in the case of listed securities, as of December 31, 1976.

(*c*) The Executor must compute on an asset by asset basis, the amount of appreciation inherent in each asset.

(*d*) The executor must calculate the December 31, 1976 basis adjustment for all assets other than listed securities using the "Special Valuation Method". He must modify the basis of each asset to determine the tax add-on adjustment.

(*e*) The executor must keep estate beneficiaries informed of the correct Federal income tax basis of property received from a decedent, including his separate basis for gain and separate basis for loss.

The executor must of course, file the fiduciary income tax return to reflect the transactions for the estate during the periods of administrations, reflecting gains and losses of assets, which may have been sold to pay estate taxes. It is quite commonplace for this to be done prior to the time the estate valuation return is examined by the Internal Revenue Service. If IRS makes adjustments which change the estate values and estate tax, the executor must start all over again with his 33 step calculation of all assets receiving the tax add-on adjustment as well as filing an amended fiduciary tax return.

There is no easy or simple way for me to say the problems created by section 1023 are horrendous. To fully appreciate the problems, one must really sit down and try to go through the calculations required by this section of the law.

In addition, I believe that the subsequent returns filed by heirs to estate property will be replete with errors caused by the confusion over the separate basis for gains or loss.

My comments, of course, would be meaningless, unless I had some suggestion to accomplish the result that was sought by Congress. As mentioned in the first part of my letter, Congress sought to tax the previously untaxed appreciation in value of property, which occurred from the date of acquisition to the date of death. My suggestion is not a new one, but I sincerely believe it is a good one.

The alternative would be a flat rate or graduated rate capital gain tax upon unrealized appreciation to be collected as an additional estate tax, payable out of estate assets.

The alternative would be simple to apply, simple to compute, simple to administer, simple to enforce, and simple to collect.

The same exemptions and exceptions could be written into the alternative as were written into Section 1023.

I, therefore, implore the honorable members of Congress to reconsider section 1023 of the Code, and legislate a more simple alternative.

Respectfully submitted.

DALE F. HOFFMAN, C.P.A.,
Trust Officer, Assistant Secretary.

MCCORMICK, BARSTOW, SHEPPARD, COYLE & WAYNE,
Fresno, Calif., September 13, 1977.

Re 1976 Tax Reform Act.
Hon. HARRY F. BYRD, Jr.,
Committee on Finance,
Room 2227, Dirksen Building,
Washington, D.C.
(Attention of Michael Stern).

DEAR SIR: It is my understanding that the Senate Finance Committee is restudying the affect of the "carry-over basis" rules incorporated in the 1976 Tax Reform Act. As an attorney who has for many years engaged in estate and corporate planning in the San Joaquin Valley of California, I wish to add my comments.

When the 1976 Tax Reform Act was suddenly enacted, and we had an opportunity to study its provisions, we were appalled that Congress could enact such legislation without close consideration of the practical affect. While the change to a unified credit is in many cases laudable, the carry-over basis provisions of the law are nothing short of a tax disaster for many families with modest estates. They are especially disastrous for farmers and other small businesses, which are in fact the heart and soul of our nation.

It seems to me to be essential for the Congress to consider that a very large portion of the farms in the San Joaquin Valley are family owned businesses, many of which were acquired over the past 30 or 40 years and built through hard work and careful attention to expense. In the past few years, our area and other portions of the nation have experienced tremendous inflation in real property values, and that inflation is continuing in 1977 at a rapid pace. As a result, as a business, a farm in our area may become well over capitalized in land. In those cases, which are almost universal, the federal estate tax alone is virtually a disaster, and may often require a sale of the land simply to finance the tax liability on the death of the farmer. Superimposed by the 1976 Tax Reform Act is the carryover basis with the attendant capital gains tax on the sale. It can be easily demonstrated that a rather small farm in our area may become the subject of confiscation by tax within two generations, unless the farmer has the means and the health to insure himself sufficiently to pay the tax liability. Even in the latter case, it becomes of vital importance that the landowner carefully plan his insurance estate to avoid inclusion of the proceeds for estate tax purposes.

Congress apparently intended to provide relief from the foregoing catastrophe by means of Section 2032A of the Act. However, your Committee should consider the practical effect of Section 2032A in the real world. First and foremost, farm families must finance their operations, yet Section 6324B establishes a lien for the difference in the tax which can limit seriously farm financing. Second, many farmers have children who do not remain on the farm. The farmer's intention to benefit his children equally may be seriously frustrated by the necessity to make use of Section 2032A in order to preserve the business.

Finally, I am certain that you have had many comments on the fact that the Act frustrates the use of Section 303 of the Code. Here again, effective planning in order to protect a family business, which was the purpose of the Section in the first instance, is completely frustrated. In my experience of over 20 years of practice, I have found that people are willing to pay their share of taxes. However, the rules of the 1976 Tax Reform Act, when the impact is fully felt, can do nothing but produce an overwhelming reaction against the Congress and such confiscatory legislation.

A practical problem with the carryover basis of the Act should also be considered. In the case of farmers who have acquired land over many years, in most cases they have leveled the land, introduced irrigation, planted crops, or vines or trees, removed the same and replanted to other crops, and otherwise developed their properties to their highest potential. They have also acquired equipment and other personalty over the years. Under the carry over basis rules, the Congress has made it essential that the tax basis for the farms and improvements and equipment be determinable at death, or accept a fixed discount on market value. For clients who have consulted me since the 1976 Tax Reform Act concerning their estate plans, I have suggested that they consider and itemize the basis for everything they own. This is an almost impossible and highly impractical exercise for the great majority of farm owners. If it is not accomplished, however, heirs will apparently be at the mercy of the IRS on future audits. Again, the carry-over basis is neither fair, justified nor well considered in its practical application.

Those of us concerned in the foregoing matters and in the day to day provision of practical advice to our clients urge you to eliminate the carry-over basis provisions of the Reform Act, before businesses, farms and Congress' credibility in tax matters are all completely destroyed.

Very truly yours,

J. H. PERKINS.

CHRISTIAN HARDWARE CO.,
Athens, Ga., September 7, 1977.

Re: Tax Reform Act of 1976.
Mr. MICHAEL STERN,
Staff Director, Committee on Finance,
Room 2227, Dirksen Office Building,
Washington, D.C.

The present income tax and welfare structures are already such that it discourages a person to work and try to build an estate. Now, the straw that will break everyone is the "carry over basis" on estate taxes. If this clause is left in the act, it can do one thing and that is to remove all incentive to build an estate. It will cause problems never before seen in tax returns and administrative costs and at the same time produce very little revenue for the next 20 years or more.

Thousands of businessmen have already quit applying their best efforts to serving the community at the lowest cost simply because of the tax structure. The income tax takes 50% or so and then, at death, the estate taxes take an additional 50% or so. Yet, a loss by the taxpayer is borne 100% by him. Don't you admit that is rather poor odds?

After income taxes have been paid, there should be no estate taxes at all. But, if there is going to be one, for realities sake, eliminate the "carry over basis", which is double taxation plus some.

Your vote and influence along this line will be appreciated.

Yours truly,

R. FELTON CHRISTIAN.

WESTERN OHIO NATIONAL BANK & TRUST CO.,
Covington, Ohio, September 9, 1977.

Senator HARRY F. BYRD, Jr.,
Committee on Finance, Dirksen Office Building, Washington, D.C.
(Attention Michael Stern, Staff Director.)

GENTLEMEN: I am writing to express my concern as a trust officer about the carryover basis provision that was enacted as a part of the 1976 Tax Reform Act.

First of all, this provision has added an incredible amount of complications to an already complex tax picture. In some cases it will be an almost impossible task to try to establish basis for listed securities because of stock splits, stock dividends, tax-free exchanges and securities received by gift. Real Estate may not be too difficult to work with if no changes or improvements are made following acquisition. However, in reality, this is often not the case. And with each "substantial" improvement regarded as a separate improvement for purposes of the time-apportioned determination of the "fresh-start value", this can result in some very involved computations. There are other potential problems such as the inheritance tax adjustment when there are different rules for inclusion in the gross estate for Federal and State purposes.

Secondly, I am quite concerned about the effect of the new carry-over basis, i.e., the capital gains tax at death on family businesses. Unless some relief is forthcoming, it would appear that many, many businesses that have enjoyed a good appreciation simply cannot survive the strain caused by these additional capital gains taxes. I would strongly recommend the repeal of the current carry-over basis law.

Very truly yours,

CARL W. BOWMAN,
Trust Officer.

CAPITAL CITY IRON WORKS, INC.,
Richmond, Va., September 15, 1977.

Senator HARRY F. BYRD, Jr.,
Committee on Finance, Dirksen Office Building, Washington, D.C.
(Attention Michael Stern, Staff Director.)

DEAR SENATOR BYRD: My father and a partner started this business in 1913. My father and his partner are now dead. The business is now controlled by me and my brother. I am 67 years old and my brother is 62 years old.

I am writing because I am concerned about the effect of the new carryover basis, or the capital gains tax at death, on family businesses. I hope your judgment will cause you to decide to eliminate the carryover basis entirely, because:

1. It will cause serious multiple administrative and tax problems never foreseen.

2. It will destroy the incentive to build medium-sized business.

3. It would produce no meaningful revenue during the next 20 years.

4. It could wreck our business at our death.

I hope you will agree with me and will vote against the above proposed changes.

An expression from you will be appreciated.

Yours very truly,

P. J. CERVARICH, Jr., *President.*

RESOURCES INVESTMENT CORP.,
Denver, Colo., September 13, 1977.
Re comments on estate and gift tax revision.
Senator BYRD,
Committee on Finance,
Washington, D.C.
(Attention: Michael Stern, Staff Director).

DEAR SENATOR BYRD: I am a small business owner who has spent the last twenty (20) years of my life building a business for my family. This letter is being sent concerning the disastrous effect of the new carryover basis, i.e. the capital gains tax at death, on family businesses.

There are only two possible solutions:

1. The best solution would be to eliminate the "carryover basis", which (a) causes serious multiple administrative and tax problems never foreseen; (b) destroys the incentive to build medium-sized businesses; and (c) would produce no meaningful revenue during the next two decades.

2. The only alternative solution, as I see it, is to provide that the basis of assets be stepped up in an amount that would equal the total of the following estate liabilities by (a) funeral expenses, administration expenses; (b) estate taxes, and (c) inheritance taxes. These are the same items as those listed in Section 303, which authorizes the redemption of sufficient stock in a family corporation to raise funds to pay them. To be fair, this step-up of basis should apply to all estates, whether Section 303 can be used or not. Perhaps the best and most easily understood solution would be to let the executor select assets having a value equal to the Section 303 liabilities.

Looking at the realities of the situation there is no other solution, if Congress is to give effect to its oft-stated view that family businesses constitute the fundamental basis of our private enterprise system.

Sincerely,

ARTHUR J. PASMAS.

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 9 O'CLOCK TOMORROW MORNING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 9 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. NELSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HART). Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. NELSON. Mr. President, I ask unanimous consent that Mr. Scott Ginsburg and Miss Lori Hansen of my staff be given the privileges of the floor during the consideration of the social security amendments and the votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

ELEMENTARY SCHOOL IN GLADE DISTRICT, WEBSTER COUNTY, W. VA., IS DEDICATED—SENATOR RANDOLPH COMMENDS INITIATIVE OF LOCAL CITIZENS WORKING TOGETHER TO IMPROVE EDUCATION PROGRAMS

Mr. RANDOLPH. Mr. President, I think that Senators and Representatives, the Members of the Congress of the United States, are very often strengthened by their visits in their States and districts, on the occasions when we can be home, as it were, even while doing our work here on Capitol Hill.

It was my privilege on last Sunday afternoon to participate in the dedication of a consolidated elementary school in Glade district of Webster County, W. Va.

Perhaps someone reading the record of my remarks today might wonder why I take the time of the Senate, for perhaps 5 minutes, to explain such an experience. I do it because I am ever impressed, in the hill country of West Virginia, with the sturdiness of our people, who are constantly at work solving their problems and working together to strengthen the State and its institutions and bring about a better society.

On this occasion, Mr. President, we were, as I have said, dedicating an elementary school in that district. It is important that the record indicate that there was no Federal money involved in the construction of that beautiful and functional building. It is now serving, as the school year goes forward, more than 1,000 boys and girls at the elementary school levels. Within approximately a year or two, in that district, there will be perhaps 400 more young people in the school system in the building I have mentioned. So that is 1,500 boys and girls in that area of West Virginia who are part of our educational system.

How did they get the money to construct this excellent structure which cost approximately $1.7 million. They bonded themselves for it, Mr. President, together with the people of our State in passing a statewide school construction program. The Glade school funds came from Webster County's share of this program supplemented by county funds.

A bond issue, to carry in West Virginia, has to have more than 60 percent of the voters approving it—not 51 percent, but 60 percent. And the county approved not many years ago a bond issue for its comprehensive high school. These efforts are an indication of the understanding of the importance of having the children of Webster County taught the basics—not the frills; we need less of those. It is the basics of an education that will help them during their lives hopefully, in useful careers.

On that occasion of the Glade elementary school dedication, I recall for my colleagues, so that they may read it in the RECORD and so that those who read the Senate proceedings will know, that the principal of the high school introduced the teachers. Each teacher stood, the name of the teacher was given, and the subject or subjects taught by that teacher were announced. The teachers, almost 50 of them, were there. One or two were unable to be present.

The committee of 21 mothers who work in an organization, not against the teachers but with the teachers and with the children, were all present. Betty Bennett, a mother—I remember her as typical of the concerned mothers who were present on this occasion.

At that meeting—at that dedication—I sensed not only the strength of that area of West Virginia, but hopefully the strength of America in the future. I am a member of the Senate Subcommittee on Education, Arts, and Humanities. Members of this body are intensely interested in programs of education which are basic. Less frills, and more of the fundamental skills I, frankly, in my period of early schooling, had, and which I still think is not old-fashioned, but is very necessary these days.

Mr. President, I add this thought, and I expressed it at the dedication.

Recently in driving from my residence in Washington to the Capitol, I was behind an automobile and on the rear bumper was the sticker, "Have you hugged your kid today?" There was a question mark. "Have you hugged your kid today?"

Well, last Sunday afternoon with some 900 persons gathered in a rural community, I saw the answer. I sensed the answer. Boys and girls were there. They love this school building. They are not going to throw rocks through its windows.

All over America too often we are spending money at the beginning of every school year to replace the windows which have been broken by the boys and girls themselves.

That, Mr. President, will not happen in this community in West Virginia. It does not happen.

I saw there the teachers intensely interested, not only in their subject matter but in that rapport and wholesome discussion with pupils other than just the teaching of the Latin verb or the rule of geometry. They are teachers who are a part of the humanization of teaching and not just the routine computerization, which is too prevalent today.

I sensed that I had the answer to, "Have you hugged your kid today?"

Well, it was there, the pupils, with teachers, and with fathers and mothers joined together in a happy, joyful, and meaningful occasion.

The question was on a bumper sticker in Washington. I found the answer in this hills of my homeland, in Webster County.

Mr. President, the participation and commitment of many citizens in the development of this project are indicated in the dedication program which I ask unanimous consent to have printed in the RECORD.

There being no objection, the program was ordered to be printed in the RECORD, as follows:

GLADE ELEMENTARY SCHOOL OPEN HOUSE PROGRAM

WELCOME

On behalf of the staff and students of Glade Elementary School, it gives me great pleasure to welcome you to our Open House and Dedication Ceremony. We hope that your visit with us will be both enjoyable and informative.

Please feel free to tour the building and to talk to our staff. They will be happy to answer any questions you may have.

JAMES DURHAM, *Principal.*

PROGRAM

Welcome—Earl B. Sines, Superintendent.
Invocation—Rev. Gene Kirby.
Introductions—D. Boyd Dotson.
Presentations Keys—William E. Friend, Assistant Principal.
Teachers—James M. Durham, Principal.
Retired Teachers—Amelia Anderson, Board President.
Guest Speaker—Senator Jennings Randolph.
Music—Miss Lee English, Mr. Charles Kelly, Webster County High School Band.
Presentation of State Flag—A. James Manchin, Secretary of State.
Benediction—Rev. Bob Bondurant.

GLADE ELEMENTARY SCHOOL FACULTY AND STAFF

James M. Durham—Principal.
William E. Friend—Assistant Principal.
Barbara G. Ayers—Curriculum Coordinator.
Alan C. Babcock—Psychologist.
Mary K. Barger—Secretary.
Gwendolyn F. Carpenter—Secretary.
E.C.E.—Judith S. Cunningham, Marie Gothard, Jackilyn Cochran.
First grade—Joretta S. Armentrout, Jackie A. Miller, Eulajean Gross, Pamela J. Sickles, Cheryl Swope.
Second grade—Carol R. Bay, Linda Fleshman, Nancy Glover, Linda K. Given, Louise S. Plymale.
Third grade—Betty Jo Baughman, Thomas Cunningham, Patricia Mello, Linda Joyce Bean, Mary Jo Lang, Madonna Blyler, Sub.
Fourth grade—Susan G. Cressler, Regena R. Kavanagh, Mildred M. Gregory, Linda Root.
Fifth grade—David L. Bay, Karen Schneider, D. Ralph Carpenter, Frances Swope.
Sixth grade—Mary Anne Carpenter, Elizabeth Kay Moore, Rodney Lang, Mark Trimble, Virginia Fletcher, Sub.
Seventh and eighth grades—Roger D. Allen, Rhonda Sue Blanchfield, Harry H. Given, Janet Lucky, Allen L. Bell, Linda S. Dyer, Eunice Isabell, David Radcliff, Aileen White.
Special reading—Sandra L. Dooley (1–2); Karen A. Breighner (3); Susan Yeagle (LD 1–4); Linda Siciliano (LD 5–6); Loretta Koerlin (LD 7–8).
Special education—Sharon S. Hanna.
Special teachers—J. D. Holbrook, Leslie E. English, Judith A. Pugar, Mary E. Gladwell, Calla M. Ross, Charles Kelly, Charles Cox.
Aides—Barbara Bell, Gladys Groves, Freda Miller, Emogene Smith, Clarice Taylor, Patricia Green, Janet Hinkle, Patricia Miller, Betty Stanley, Avis Trump.
Cooks—Edna Barnhouse, Nannie Goff, Ruby Oxier, Grace Duckworth, Lena Johnson, Virginia Snyder, Reta Robinson.
Custodians—Vernon Armentrout, William Mollohan, Cecil Mullins.
County Superintendent of Schools—Earl B. Sines.
Webster County Board of Education—
Amelia Anderson, President, Eddie Hammon, Frank Jordan, H. L. "Pete" Rohrbough, James Bruffy.

Glade Elementary School, completed in the fall of 1976, is constructed on the site of the former Cowen High School football field. It is the consolidation of the four grade schools in Glade District—Cowen, Camden on Gauley, Erbacon, and Upper Glade. The building is open space design, 56,000 square feet. It houses a student body of approximately 1,080 pupils and comprises grades K through 8.

BUILDERS

A Builder builded a temple,
He wrought it with grace and skill;
Pillars and groins and arches,
All fashioned to work his will.
Men said, as they saw its beauty,
"It shall never know decay;
Great is thy skill, O Builder!
Thy fame shall endure for aye."

A Teacher builded a temple,
With loving and infinite care,
Planning each arch with patience,
Laying each stone with prayer.
None praised her unceasing efforts,
None knew of her wondrous plan,
For the temple the Teacher builded
Was unseen by the eyes of man.

Gone is the Builder's temple,
Crumbled into the dust;
Low lies each stately pillar,
Food for consuming rust.
But the temple the Teacher builded,
Will last while the ages roll,
For that beautiful unseen temple,
Was a child's immortal soul.

HATTIE VOSE HALL.

OPEN HOUSE COMMITTEE

Mrs. Brenda Adamy, Mr. Allen Bell, Mrs. Betty Bennett, Mrs. Susan Bennett, Mrs. Beth Bondurant, Mr. Ralph Carpenter, Mrs. Judy Cunningham, Mr. Tom Cunningham, Mr. James Durham, Mrs. Linda Dyer.

Miss Lee English, Mr. Bill Friend, Mr. Harry Given, Mrs. Barbara Hickman, Mrs. Regena Kavanagh, Mr. Charles Kelly, Mrs. Louise Plymale, Mrs. Sally Reeder, Mrs. Calla Ross, Mr. James Spencer, Mrs. Clarice Taylor.

WELL-DESERVED RECOGNITION FOR THE SPEAKER OF THE HOUSE OF REPRESENTATIVES

Mr. ROBERT C. BYRD. Mr. President, the position of Speaker of the House of Representatives is one which has deep roots in the tradition of parliamentary government, and especially in the British House of Commons. But the Speaker of the House of Representatives has evolved into a role of particular significance in American Government. Our Speaker must be a parliamentary expert, an arbiter, an executive, and a diplomat, all at once. He is a party leader, but he is also expected to voice the general opinion and feelings of at least 435 other Representatives, as well. His position carries great authority and enormous responsibility.

The Congress and the American people are fortunate that THOMAS P. O'NEILL, JR., of Massachusetts, is serving as the Speaker of the House at this time. Speaker O'NEILL has vast experience in representative politics. He has been representing his constitutents in Congress since 1952. Prior to that, he served in the Massachusetts General Court for 16 years.

Speaker O'NEILL represents a congressional district of wide social, economic, and ethnic diversity. During his long career, he has nurtured admirable charms and mastered practical skills that have equipped him well for the responsibilities that are now his. He is recognized and respected here and abroad as one of the real leaders in America today, and his record and reputation are ones of which he can be genuinely proud.

Mr. President, the November 1977 issue of the Reader's Digest features an excellent article on Speaker O'NEILL. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

"TIP" O'NEILL—SPEAKER OF THE HOUSE

(By Irwin Ross)

A huge, shambling, genial man with massive double chin, large red nose and an undisciplined thatch of white hair, he looks like a caricature of the cigar-waving, hamfisted "old pol." But Thomas P. ("Tip") O'Neill, Jr., Speaker of the House of Representatives, proves that appearances can be deceptive.

He has an excellent mind. He reads a fair amount (books included), listens a lot more. He can be sharply attentive when he looks drowsiest. He has an easy command of the issues of the day—and issues are more to him than the mere bargaining counters of politics. O'Neill lets no one forget, for example, that in 1967 he was first of the House leadership group to oppose the Vietnam war—which meant opposing the policies of his own President, normally rank heresy for a party regular.

Above all, he has the deft touch of the master politician. Since he took over in January, O'Neill has been making the Speakership the sort of power center it has not been for years. The Speaker is leader not only of the House, but of its dominant party—289 Democrats (to 145 Republicans) in the present chamber. In the hands of a determined man, the office is one of the most important in the land.

Outwardly, O'Neill is unlike the archetypal politician in only one particular: he is terrible with names. Once at the Denver airport he was greeted by Robert Redford, who finally realized that O'Neill did not recognize him, and so introduced himself. That night at a political dinner, O'Neill told the story on himself. But he flubbed the punch line: "And the fellow said his name was . . . Richard Rockford."

LATHERED EGOS

As party leader, O'Neill does not issue peremptory orders or browbeat; he has "dialogues" with people. Not that he is without some leverage. This largely consists of the power to grant or withhold favors—good space assignments in House office buildings, appointments to international delegations and to prestigious special committees.

The Speaker's hand has also been strengthened by a 1973 reform that subjects Democratic committee chairmen to the possibility of being voted out of their posts by the party caucus each time a new Congress convenes. Previously they had the ironclad protection of seniority, and often wielded dictatorial power in their own areas. Cutting the chairmen down to size has inevitably enhanced the power of the Speaker.

On the other hand, rank-and-file members of the House are no longer so deferential as they were two decades ago when the slogan was "If you want to get along, go along." Rebels then faced a bleak future. Today, there are few, if any, state and city bosses who can effectively put the squeeze on a recalcitrant member. Members are younger (about 60 percent are under 43), better educated, more independent. And so, unlike his predecessors, O'Neill is continually lathering egos, and he makes even more of an appeal to party loyalty and the national interest.

It is a role that comes naturally to him. He enjoys selling (insurance and real estate, before he came to Washington). He is genuinely gregarious, never happier than when

bending an elbow or trading anecdoctes, ever willing to show up at receptions or fund-raising cocktail parties for colleagues.

O'Neill's outgoing nature has caused him one notable embarrassment. Four years ago he agreed to attend a birthday party given in his honor, as the new majority leader, by South Korean businessman Tongsun Park. The matter would now be long forgotten except that Park has become the center of a storm of accusations about dubious contributions and bribes to Congressmen. O'Neill insists he never got a dime from Park, barely knew him, and accepted the invitation (after initially rejecting it) only because some House colleagues persuaded him to do so. It clearly meant something to them, and O'Neill has long been in the habit of indulging his friends. As Speaker, he has supported a full investigation of the Korean affair.

When he has something on his mind—as during this well-publicized matter—an air of preoccupation hangs over O'Neill like a heavy curtain Off the job, however, relaxation comes easy. He is a dedicated spectator sportsman—baseball, football horse racing. Eating is another passion. At Washington receptions, O'Neill has been known to take a drink, wander over to the buffet and consume three roast-beef sandwiches, then go off with friends to a chop house for a proper meal. He is six foot two, and his weight, usually around 260, has gone as high as 292

"HAD A FEVER"

Politics was a natural inheritance. His grandfather came to Boston from Ireland in the period of the potato famine and got a job in a brickworks. Both his father and his Uncle Bill notched their way up to become members of the City Council in Cambridge, Mass. (Tip's father also served as city superintendent of sewers.)

Born in 1912, Thomas, Jr., had his political debut at age 16, when he and a friend were assigned a precinct to get out the vote for Al Smith. At 22, as a Boston College senior, he ran for Cambridge City Council, and lost. But it was clear that he would try again. "I knew, then and there, he had a fever he couldn't get rid of," says the former Mildred Miller, his high-school sweetheart, whom he married in 1941.

The year after his City Council defeat, he ran for the state House of Representatives and won. Within ten years he was elected minority leader, and then in 1949 became the youngest Speaker in Massachusetts history. Party discipline was a stern matter among the Democrats in the State House. O'Neill once locked the doors of the chamber to prevent a rebellious member from absenting himself during a vote.

He was elected to the U.S. Congress in 1952, filling the seat vacated by John F. Kennedy when he ran for the Senate. The primary fight had been a tough one. With his Washington future uncertain, Mrs. O'Neill and their five small children stayed behind. For years, her husband shared a Washington apartment with Rep. Edward Boland of Springfield, Mass., an old friend. Their refrigerator contained orange juice, diet drinks and cigars. On Thursday nights, O'Neill would fly home. Not until early this year did Mrs. O'Neill finally move to Washington.

Early in O'Neill's second term, Speaker Sam Rayburn appointed him to the Rules Committee—at the urging of Majority Leader John W. McCormack, of South Boston. O'Neill was suddenly at the fulcrum of power. Known to be a confidant of McCormack, he soon became one of the most influential members of the House. And his position strengthened when McCormack became Speaker after Rayburn's death in 1961.

HOT ISSUES

Like the great majority of his colleagues, O'Neill long supported the Vietnam war. Then, in the spring of 1967, he accepted an invitation to argue the cause at Boston College, where his son Tommy and daughter Susan were students.

The audience gave him a rough time in the question period. Somewhat miffed, O'Neill declared that he had been briefed at the highest levels; he did some shameless name-dropping. Then a student got up and asked, "Have you ever been briefed by the other side?"

O'Neill brooded about the remark. Back in Washington, he talked to some opponents of the war, and also questioned middle-ranking bureaucrats in the agencies who had previously briefed him, asking for their private views. He was amazed at how many felt that U.S. policies were leading to a dead end. His views gradually—and totally—changed. In September he came out for an end to the bombing of the North, and for the use of U.N. machinery to bring peace as soon as possible.

Today, O'Neill finds himself positioned in the mainstream of his party—an old-style New Deal Democrat or, as he puts it, an "establishment liberal." The traditional urban politicians find him appealing, for he is one of them. But much of his strength has come from his ability to build a bridge to the "issue-oriented" younger members. Contributing to this were his efforts to change some of the House's archaic procedures.

In 1971, O'Neill successfully pushed an amendment to end unrecorded "teller votes" in the House, a device which allowed members to vote without any record of their stand. He also pushed the resolution in the Democratic caucus two years later to make it possible to unseat committee chairmen.

BIG PACKAGE

But it was early in the present session that O'Neill demonstrated the strength of his leadership by winning passage of a tough code of ethics. The year before, Rep. David R. Obey (D., Wis.), chairman of the Commission on Administrative Review, asked O'Neill how he felt about a new code. "Davey," O'Neill said, "if you're going to write one, go all the way—I want a damn good code I can be proud of. You produce it and I'll back it."

The code's most controversial provision limited outside earned income to $8,625 a year—15 percent of the Congressional salary, after its anticipated increase to $57,500. Five of the 11 Democratic members of the Rules Committee bitterly opposed the outside-earnings ceiling. It appeared the ethics code might die in committee.

O'Neill swiftly arranged a breakfast meeting. With Congress about to get a pay raise, he argued, the country expected a strict code of ethics, with a limit on outside earnings. Moreover, he had put his neck on the line, publicly promising a tough code, and now his colleagues—all of whom he had appointed to the Rules Commitee—had to come through for him. O'Neill prevailed, and the bill got to the House floor.

During the House debate, two very effective speeches against the earnings limitation were made. Then O'Neill got to his feet. "The issue before us," he argued, "is not unofficial office accounts, honorariums, outside income, earned or unearned. The issue is credibility, restoring public confidence in this Congress, in its membership."

As David Obey later put it, "When Tip O'Neill spoke, you could feel the air go out of the opposition." The entire ethics package passed, intact.

An equally stern test of O'Neill's leadership was his handling of President Carter's energy bill—a tough package because of its complexity and the variety of interests affected. The Speaker got special procedures set up, including an ad hoc committee to consider the bill, and a rule governing debate that would prevent the bill from being amended to death. In the final stages, he worked closely with the White House, even calling Carter, urging him to reach specific members who were wavering.

On August 5, the last day before the summer recess, the House passed a bill that was substantially what the President had asked for. A "legislative miracle," said the Washington *Post*. Carter got the news on Air Force One. He telephoned his congratulations, and also spoke warmly of his friendship with O'Neill—bringing tears to the eyes of the Speaker.

There will be other major tests—such as tax reform and welfare reform—of equal complexity and controversy. O'Neill's performance so far suggests he will be able to deliver for the White House. Meanwhile, the fact that he and the President get on well is a significant condition for the success of each. As 47th Speaker of the House, O'Neill has begun to put his stamp on American history.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

The PRESIDING OFFICER laid before the Senate a message from the President of the United States submitting the nomination of Michael H. Walsh, of California, to be U.S. attorney for the southern district of California, which was referred to the Committee on the Judiciary.

APPROVAL OF BILL

A message from the President of the United States announced that on November 1, 1977, he approved and signed the following:

S. 393. An act to provide for the study of certain lands to determine their suitability for designation as wilderness in accordance with the Wilderness Act of 1964, and for other purposes.

REPORT ON THE UNITED NATIONS—PM 127

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

I am pleased to send to the Congress this 31st annual report on the principal activities of the United States in the United Nations and its constituent organizations during calendar year 1976.

This report describes the main UN activities concerning issues affecting the

security and well-being of the American people, such as the Middle East, Southern Africa, Cyprus, law of the sea, North-South economic relations, food, the environment, drug control, science and technology, human rights, terrorism, and disarmament. It emphasizes the work of U.S. representatives in these forums and the positions they adopted, and it explains our government's stand on the issues. In sum, the report portrays an active year during which our country worked hard with others in the U.N. to advance the causes of peace, economic progress, and justice.

In the area of peace and security, the United Nations continued to serve as a valuable forum for the discussion of political disputes even where progress on the underlying issues was not always possible. In the Middle East and Cyprus, U.N. peacekeeping units performed their vital tasks while the search for a durable peace continued. The Security Council also worked to defuse other problems in such areas as Southern Africa, Djibouti, and the Comoros. In all, the Security Council met 113 times in 1976—more often than in any year since 1948, and twice as often as in 1975.

The 31st General Assembly adopted a number of resolutions in the area of disarmament and arms control. The two most significant of these were a resolution opening the Environmental Modification Convention for signature and one calling for a special session of the General Assembly in 1978 devoted to disarmament issues.

On the recommendation of the Security Council, and with U.S. support, Secretary General Kurt Waldheim was reappointed by the 31st General Assembly to a second 5-year term.

In the area of economic cooperation, the developing and developed countries continued efforts begun at the Seventh Special Session of the General Assembly to find common ground on a wide variety of issues. The UN Conference on Trade and Development (UNCTAD) held its fourth ministerial session in Nairobi and reached partial consensus on the critical issues of commodities, technology transfer, debt, and assistance to the poorest countries. The General Assembly also devoted considerable attention to economic questions. The United States cosponsored a resolution in the General Assembly calling for a UN Conference on Science and Technology for Development, to be held in 1979.

The UN's record with respect to human rights was disappointing. The unwarranted linking of Zionism with racism was an impediment to serious consideration of human rights matters and the U.S. continued to resist it by all possible means. In a number of cases, failure to take effective action belied the commitment to human rights that all UN members have accepted. International concern over human rights issues continues to broaden, however, and the acceptance of an international competence to consider these issues has become more firmly established.

During 1976, the United States participated in the International Labor Organization under the first year of its 2-year notice of intent to withdraw from the organization. A favorable development was the increased cohesion of the industrialized free market countries at the June 1976 conference, but I have yet to decide whether sufficient progress has been made to justify continued U.S. membership.

These were some of the most dramatic developments in the United Nations during the last year but there are a great many other UN activities discussed in this report. Much of this work—the "quiet side" of the United Nations—is not well known to the public because it is non-controversial and seldom reported in the news media. But these economic, social, and technical activities, which account for the use of nearly 90 percent of the total resources of the UN system, are of great importance to our prosperity, security, and well-being. They include such activities as:

—Establishing safety standards for international civil aviation;
—Maintaining a World Weather Watch;
—Improving health conditions and standards worldwide;
—Combatting ocean and air pollution;
—Improving international food standards and preventing the spread of plant and animal disease;
—Providing assistance to the less-developed countries; and
—Working to curb illicit drug production and abuse.

Since assuming the Presidency, I have pledged my Administration to full support for the work of the United Nations and to greater use of its machinery in the conduct of our foreign relations. The wide-ranging activities described above show clearly the importance of the work done by the UN and its associated agencies. It is work that cannot be accomplished by nations acting alone or even through bilateral diplomacy. It is only through multi-lateral forums such as the UN that many of the world's most pressing issues can be effectively approached.

I am proud of America's role in creating the United Nations, in advancing global cooperation through its various agencies, and in providing, over the years, the largest share of its financial support. As the UN begins its 33rd year, I welcome the opportunity to submit this report to the Congress and to reaffirm my Administration's commitment to this increasingly vital institution.

JIMMY CARTER.

THE WHITE HOUSE, *November 1, 1977.*

AMENDMENTS TO REORGANIZATION PLAN NO. 2—PM 128

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Committee on Governmental Affairs:

To the Congress of the United States:

I herewith transmit amendments to Reorganization Plan No. 2 of 1977, which I transmitted to you on October 11, 1977. Except as specifically amended hereby, Reorganization Plan No. 2 remains unmodified.

JIMMY CARTER.

THE WHITE HOUSE, *November 1, 1977.*

MESSAGES FROM THE HOUSE

At 3:15 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that the House has passed without amendment the bill (S. 1142) for the relief of Kam Lin Cheung.

The message also announced that the Speaker has appointed Mr. RODINO as an additional manager on the part of the House in the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1585) to amend title 18, United States Code, to make unlawful the use of minors engaged in sexually explicit conduct for the purpose of promoting any film, photograph, negative, slide, book, magazine, or other print or visual medium, or live performance, and for other purposes.

The House has passed the bill (H.R. 9710) to extend the authority for the flexible regulation of interest rates on deposits and accounts in depository institutions, to promote the accountability of the Federal Reserve System, and for other purposes.

The House has passed the following bills and joint resolution in which it requests the concurrence of the Senate:

H.R. 9710. An act to extend the authority for the flexible regulation of interest rates on deposits and accounts in depository institutions, to promote the accountability of the Federal Reserve System, and for other purposes;

H.R. 8499. An act to amend the Alaska Native Claims Settlement Act;

H.R. 4458. An act to amend certain provisions of the Internal Revenue Code of 1954 relating to distilled spirits, and for other purposes;

H.R. 2203. An act to amend the Great Lakes Fishery Act of 1956;

H.R. 2770. An act to amend section 142 of title 28, United States Code, relating to the furnishing of accommodations to judges of the courts of appeals of the United States;

H.R. 6782. An act to permit marketing orders to include provisions concerning marketing promotion, including paid advertisement, of raisins and distribution among handlers of the pro rata costs of such promotion;

H.J. Res. 611. A joint resolution to extend the authority of the Federal Reserve banks to buy and sell certain obligations.

The message further announced that the House has agreed to the following concurrent resolutions in which it requests the concurrence of the Senate:

H. Con. Res. 265. A concurrent resolution to endorse the Hermosillo declaration on combating traffic in drugs at the international level and urge the President to encourage other nations to cooperate in eradicating narcotics trafficking;

H. Con. Res. 387. A concurrent resolution reaffirming the commitment of the United States to obtain full compliance with the human rights provisions of the Helsinki Accords and to press for global commitment to human rights; and

H. Con. Res. 388. A concurrent resolution expressing concern about the recent acts of repression by the Government of the Republic of South Africa.

The message also announced that the House agrees to the amendment of the Senate numbered 2 to the amendment of the House to the bill (S. 1528) to amend section 2 of the Safe Drinking Water Act (Public Law 93–523) to extend and increase authorizations provided for public water systems; that the House agrees to the amendments of the Senate numbered 1 and 3, each with an amendment in which it requests the concurrence of the Senate.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions which were referred as indicated:

POM–371. Senate Joint Resolution No. 27 adopted by the Legislature of the State of California relative to genetic diseases; to the Committee on Appropriations:

SENATE JOINT RESOLUTION NO. 27
RELATIVE TO GENETIC DISEASES

Whereas, In 1976, the Congress enacted the National Sickle Cell Anemia, Cooley's Anemia, Tay Sachs, and Genetic Diseases Act (Title IV, P.L. 94–278); and

Whereas, The declared purpose of such act is the establishment of a national program to provide for basic and applied research, research training, testing, counseling, and information and education programs with respect to genetic diseases; and

Whereas, Funds have not yet been appropriated for funding such program; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Congress of the United States is requested to appropriate $30,000,000 for the fiscal year 1977, $30,000,000 for the fiscal year 1978, and $30,000,000 for the fiscal year 1979 for the purpose of making payments pursuant to grants to public and nonprofit private entities, for projects to establish and operate voluntary genetic testing and counseling programs and for grants to public and nonprofit private entities for the development and dissemination of educational materials relating to sickle cell anemia, Cooley's anemia, Tay-Sachs disease, cystic fibrosis, dysautonomia, hemophilia, retinitis pigmentosa, Huntington's chorea, and muscular dystrophy, as authorized by the National Sickle Cell Anemia, Cooley's Anemia, Tay Sachs, and Genetic Diseases Act; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

POM–372. Resolution No. 184 adopted by the Legislature of the Territory of Guam relative to requesting the U.S. Congress to adopt legislation appropriating funds for payment to Micronesians under the Micronesian Claims Act of 1971; to the Committee on Appropriations:

RESOLUTION NO. 184

Relative to requesting the United States Congress to adopt legislation appropriating funds for payment to Micronesians under the Micronesian Claims Act of 1971

Be it resolved by the Legislature of the Territory of Guam:

Whereas, Micronesian Claims Act of 1971 authorized payment to people of Micronesia in consideration of claims resulting from the various activities of the United States Government during the period December 7, 1941 to July 1, 1951; and

Whereas, the United States Congress appropriated money to partially pay those claims adjudicated by the Micronesian Claims Commission; and

Whereas, an unpaid balance of $36.9 million is still unpaid to Micronesians with valid claims; and

Whereas, until the United States Congress appropriates money necessary to pay these claims, they will go on unpaid; and

Whereas, as long as said war claims remain unpaid, an injustice perpetrated upon the people of Micronesia will continue; and

Whereas, the people of Guam fully support quest of their brothers and sisters in Micronesia for justice; now, therefore, be it

Resolved, that the Fourteenth Guam Legislature respectfully requests the United States Congress to appropriate moneys necessary to pay fifty percent (50 percent) of all awards under Title I and one hundred percent (100 percent) of all awards under Title II of the Micronesian Claims Act of 1971; and be it further

Resolved, that the Speaker certify to and the Legislative Secretary attest the adoption hereof and that copies of the same be thereafter transmitted to the Honorable Bethwel Henry, Speaker, House of Representatives, Seventh Congress of Micronesia; to the Honorable Tosiwo Nakayama, President of the Senate, Congress of Micronesia; to the Speaker of the United States House of Representatives; to the President Pro Tempore of the United States Senate; to the Honorable Henry M. Jackson, Chairman, Senate Committee on Energy and Natural Resources; to the Honorable Philip Burton, Chairman, House Subcommittee on National Parks and Insular Affairs; to the Honorable J. Bennett Johnston, Chairman, Senate Subcommittee on Energy Conservation and Regulation; to the Secretary of Interior; to the Director, Office of Territorial Affairs; to the Honorable Herman R. Guerrero, Speaker of the Fifth Northern Mariana Islands Legislature; to the Speaker of the Yap Legislature; to the Speaker of the Truk Legislature; to the Speaker of the Palau Legislature; to the Speaker of the Ponape Legislature; to the Speaker of the Marshall Islands Legislature; to the Director of the Office of Management and Budget, Washington, D.C.; to Representative Antonio B. Won Pat; and to the Governor of Guam.

POM–373. A resolution adopted by the Senate of the Commonwealth of Massachusetts memorializing the Federal Government and the Civil Aeronautics Board to grant certain landing rights in the city of Boston; to the Committee on Commerce, Science, and Transportation:

RESOLUTIONS MEMORIALIZING THE FEDERAL GOVERNMENT AND CIVIL AERONAUTICS BOARD TO GRANT CERTAIN LANDING RIGHTS IN THE CITY OF BOSTON

Whereas, Many thousands of citizens in Boston, Massachusetts and New England are desirous of visiting Israel, the Holy Land, as tourists, pilgrims, or on economic or cultural missions, but are greatly inconvenienced, as are people in other parts of the United States, because the El Al Israel Airlines may land only in New York City; and

Whereas, Boston, as the cradle of liberty and with a large Jewish population and the closest gateway to Europe and the Mideast, is deserving of a direct air link with the State of Israel; and

Whereas, Boston is a great cultural and historic area, steeped in the traditions of democracy, would attract and serve many visitors and tourists to the United States, and landing rights would provide substantial economic benefits to Massachusetts through a direct air link to Israel, the Holy Land, foster democratic values, stimulate trade and commerce; and

Whereas, Granting El Al Israel Airlines direct landing rights to Boston's Logan International Airport with its modern large-scale improvements, would reaffirm Boston as a major metropolitan gateway for world air travel, add to its growing reputation as one of the best overall airports, and increase the nation's ability to provide convenient and efficient air travel to and from the United States: Now, therefore, be it

Resolved, That the Massachusetts Senate urges that additional landing rights be granted to El Al Israel Airlines in the City of Boston; and be it further.

Resolved, That a copy of these resolutions be transmitted forthwith by the Clerk of the Senate to the President, Secretary of State and Secretary of Transportation of the United States and to the Chairman of the Civil Aeronautics Board, to the presiding officer of each branch of Congress and to the members of the Congress of the United States from the Commonwealth.

POM–374. Senate Joint Resolution No. 12 adopted by the Legislature of the State of California relative to hydrothermal power plants; to the Committee on Energy and Natural Resources:

SENATE JOINT RESOLUTION NO. 12

Relative to hydrothermal power plants

Whereas, The acknowledged energy crisis in this nation demands the early development of new, domestic, renewable energy resources; and

Whereas, Geothermal energy, based on existing data, has been shown to be a potentially significant means of generating environmentally sound, economic, electric energy; and

Whereas, California's Imperial Valley has been identified as a major reservoir of substantial geothermal energy suitable for commercial development; and

Whereas, Studies conducted for the Electric Power Research Institute reviewed numerous sites throughout the country and recommended a site in California, for construction of this nation's first hydrothermal demonstration power plant; and

Whereas, Said studies also establish the feasibility of the binary energy conversion process as well as its advantages over other processes for the reservoir conditions in California; and

Whereas, The development of geothermal resources and the associated high risk technology can best be accomplished through a cooperative effort by industry and local, state, and federal governments; now, therefore, be it

Resolved, by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to provide immediate federal funding for a hydrothermal binary cycle demonstration plant in California; and be it further

Resolved, That the Legislature of the State of California respectfully memorializes the President of the United States to take action through the appropriate agencies and departments of the executive branch of the federal government to require the earliest possible implementation of a hydrothermal binary cycle demonstration power plant in California: and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

POM–375. Senate Joint Resolution No. 21 adopted by the Legislature of the State of California relative to arson; to the Committee on the Judiciary:

SENATE JOINT RESOLUTION NO. 21

Relative to arson

Whereas, Arson has become one of the fastest growing crimes in the United States; and

Whereas, The number of arson fires now exceeds 100,000 per year, which is triple the rate of 10 years ago, and arson is increasing at 10 to 15 percent per year; and

Whereas, Arson is a violent crime that kills over 1,000 people and injures 10,000 more annually and causes estimated property loss in excess of $1.5 billion dollars per year; and

Whereas, Arson is a serious and substantial crime which poses grave risks to human life and property and nationally required reporting of arson as a major crime or Part I crime under the Uniform Crime Reporting System maintained by the Federal Bureau of Investigation in the United States Justice Department would assist local and state authorities in combatting arson; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Attorney General of the United States and the Director of the Federal Bureau of Investigation to reclassify or declare arson as a Part I crime under the Uniform Crime Reporting System; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Attorney General of the United States, and to the Director of the Federal Bureau of Investigation.

POM-376. Senate Joint Resolution No. 26 adopted by the Legislature of the State of California relative to veterans education benefits; to the Committee on Veterans' Affairs:

SENATE JOINT RESOLUTION No. 26—

Relative to Veterans Administration: veterans education benefits

Whereas, The California community colleges provide free educational opportunities for over 135,000 veterans; and

Whereas, Claims exceeding two million dollars ($2,000,000) have been levied against the colleges by the Veterans Administration for alleged late reporting of student attendance; and

Whereas, These claims are being imposed without recourse by the colleges to due process procedures, including, but not limited to, the right of judicial appeal, rights of discovery and cross-examination, and fair and impartial hearings; and

Whereas, Veterans Administration reporting requirements in effect require colleges to report in accordance with time-consuming, burdensome, and unnecessary requirements, contrary to the policies of all colleges and contrary to federal law which prohibits any supervision or control whatsoever over local educational institutions; and

Whereas, Federal policy requires colleges to verify that no more than 85 percent of students in a course receive federal aid, to impose educationally restrictive standards of progress on veterans, and to require colleges to violate policies of nonpunitive grading, contrary to federal law which prohibits any supervision or control whatsoever over local educational institutions; and

Whereas, Ambiguity in Veterans Administration reporting deadlines results in inequities due to different reporting calendars imposed by different Veterans Administration offices within California; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That collection of alleged overpayments to students of tuition-free California community colleges is a matter between the Veterans Administration and individual students, and should not, for federal administrative convenience, be a burden placed upon the colleges; and be it further

Resolved, That the Legislature of the State of California respectfully memorializes the President and the Congress to adopt a resolution directing the Veterans Administration to withdraw claims for late reporting against tuition-free public community colleges; and be it further

Resolved, That the Legislature of the State of California memorializes the Congress of the United States to enact legislation repealing rules which foster Veterans Administration supervision or control over a college's grading system, student progress standards, attendance reporting policy, and other internal affairs and institutional prerogatives; and be it further

Resolved, That the Legislature of the State of California respectfully memorializes the Congress of the United States to enact legislation which invokes judicial review and other due process procedures with respect to Veterans Administration claims against tuition-free public community colleges; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Administrator of Veterans Affairs.

POM-377. Resolution No. 77-144 adopted by the Council of the County of Maui, Hawaii, requesting Congress to continue subsidy to America's merchant marine ships; to the Committee on Commerce, Science, and Transportation.

POM-378. A resolution adopted by the California Federation of Women's Clubs regarding the International Women's Conferences; to the Committee on Foreign Relations.

POM-379. A resolution adopted by the California Federation of Women's Clubs urging an investigation as to the conduct of the Women's Year Conference; to the Committee on Foreign Relations.

POM-380. Resolution No. 95459 adopted by the Youngstown City Council, Youngstown, Ohio, supporting the Congress of the United States requested report for funds to help the National Cystic Fibrosis Foundation and the National Health Institute; to the Committee on Human Resources.

POM-381. A petition from John J. Yarnall, Wayne, Pa., submitting new evidence for Congressional Reference Case No. 2-72; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JACKSON, from the Committee on Energy and Natural Resources:

Without amendment:

S.J. Res. 82. A joint resolution to approve the Presidential decision on an Alaskan natural gas transportation system (Rept. No. 95-567).

By Mr. SPARKMAN, from the Committee on Foreign Relations:

With an amendment:

S. Con. Res. 60. A concurrent resolution expressing concern over recent actions in South Africa.

By Mr. HANSEN, from the Committee on Energy and Natural Resources:

With an amendment:

H.R. 2501. An act to provide for the amendment of the public survey records to eliminate a conflict between the official cadastral survey and a private survey of the so-called Wold Tract within the Medicine Bow National Forest, Wyoming (Rept. No. 95-568).

By Mr. DECONCINI, from the Committee on the Judiciary:

With an amendment:

S. 1315. A bill to amend title 28, United States Code, to provide more effectively for bilingual proceedings in all district courts of the United States, and for other purposes (Rept. No. 95-569).

By Mr. WILLIAMS, from the Committee on Human Resources:

With an amendment:

S. 2125. A bill to amend title IV of the Employee Retirement Income Security Act of 1974 to authorize the Pension Benefit Guaranty Corporation to extend, for not more than eighteen months, the date on which the corporation first begins paying benefits under terminated multiemployer plan (Rept. No. 95-570) (together with additional views).

By Mr. STENNIS, from the Committee on Armed Services:

Without amendment:

S. Res. 314. An original resolution authorizing supplemental expenditures by the Committee on Armed Services for inquiries and investigations (Rept. No. 95-571). Referred to the Committee on Rules and Administration.

By Mr. LONG, from the Committee on Finance:

With an amendment:

H.R. 5322. An act to provide duty-free treatment for istle (title amendment) (together with additional and minority views) (Rept. No. 95-572).

H.R. 7200. An act to amend the Social Security Act to make needed improvements in the programs of supplemental security income benefits, aid to families with dependent children, child welfare services, and social services, and for other purposes (title amendment) (Rept. No. 95-573).

By Mr. ABOUREZK, from the Select Committee on Indian Affairs:

With amendments:

S. 661. A bill to restore Federal recognition of certain Indian tribes, and for other purposes (Rept. No. 95-574). Without amendment:

H.R. 2719. An act to authorize the Secretary of the Interior to contract with the Middle Rio Grande Conservancy District of New Mexico for the payment of operation and maintenance charges on certain Pueblo Indian lands (Rept. No. 95-575).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Edward E. Masters, of Ohio, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Indonesia.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

POLITICAL CONTRIBUTIONS STATEMENT

Nominee: Edward E. Masters.

Post: Indonesia.

Contributions, Amount, Date, and Donee

1. Self: None.
2. Spouse: None.
3. Children and spouses: None.
4. Parents: None.
5. Grandparents: None.
6. Brothers and spouses: None.
7. Sisters and spouses: None.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

EDWARD E. MASTERS.

By Mr. EASTLAND, from the Committee on the Judiciary:

Robert P. LaRoche, of California, to be U.S. marshal for the eastern district of California.

G. William Hunter, of California, to be U.S. attorney for the northern district of California.

George L. Miller, of North Carolina, to be U.S. marshal for the middle district of North Carolina.

David T. Wood, of Guam, to be U.S. attorney for the district of Guam.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. WILLIAMS, from the Committee on Human Resources:

John Harold Fannin, of Rhode Island, to be a member of the National Labor Relations Board.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. STENNIS, from the Committee on Armed Services:

George A. Peapples, of Michigan, to be an Assistant Secretary of the Navy.

William J. Perry, of Virginia, to be Under Secretary of Defense for Research and Engineering.

Harold W. Chase, of Minnesota, to be Deputy Assistant Secretary of Defense for Reserve Affairs.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. STENNIS. Mr. President, from the Committee on Armed Services, I report favorably the nominations of Maj. Gen. Donald R. Keith, U.S. Army, to be lieutenant general; and Lt. Gen. Howard H. Cooksey, U.S. Army (age 56), for appointment to the grade of lieutenant general on the retired list; and Maj. Gen. Charles J. Simmons, U.S. Army, to be lieutenant general. Also, Col. Joe Leonard Cheatham, U.S. Army, to be brigadier general; and Maj. Gen. John R. Kelly, Jr., U.S. Air Force, to be lieutenant general; and Rear Adm. Levering Smith, U.S. Navy (age 67), for appointment to the grade of vice admiral on the retired list. Also, Maj. Gen. Richard Luther West, U.S. Army, to be lieutenant general; and there are 14 for appointment in the Reserve of the Air Force to the grade of major general and brigadier general (list beginning with William J. Crisler). I ask that these nominations be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. In addition, there are 615 in the Army of the United States, for promotion to the grade of colonel (list beginning with Rudolph E. Abbott); and there are 1,804 in the Army of the United States, for promotion to the grade of captain (list beginning Alvin D. Aaron). Also, there are 1,688 in the Army of the United States, for promotion to the grade of major (list beginning with Thomas Abercrombie); and there are 1,896 in the Air Force for promotion to the grade of lieutenant colonel (list beginning with Wilfred K. Abbott); and there are 10 in the Navy for permanent and temporary appointment to the grade of commander and below (list beginning with Mario M. Ecung). Also, there is Mark C. Hunt, U.S. Marine Corps, for appointment to chief warrant officer; and there are 507 in the Marine Corps and Marine Corps Reserve for appointment to the grade of lieutenant colonel and below (list beginning with Olen S. Akers), and there are 100 in the Army for promotion to the grade of colonel (list beginning with Roger L. Schenck). Also, there are 23 to be reappointed and appointed in the Navy and Naval Reserve as permanent and temporary commanders and below (list beginning with Wallace B. Williams); and there are 1,982 in the Navy for permanent and temporary promotion to the grade of lieutenant (junior grade) (list beginning with Gordon B. Aaseng). Also, there are 113 in the Navy and Naval Reserve for permanent and temporary promotion to commander and below (list beginning with Robert R. Abbe); and 670 in the Air Force for appointment to the grade of first and second lieutenant (list beginning with John W. Adams); and there are 56 in the Air Force and Air Force Reserve for appointment to the grade of colonel and below (list beginning with Walter L. Saur). Also, there are 286 in the Army of the United States for promotion to the grade of lieutenant colonel and below (list beginning with Roy S. Adaniya); and there are 337 for promotion in the Reserve of the Army and appointment in the Army to the grade of colonel and below (list beginning with Ardis M. Caswell). Also, there are 45 for appointment and reappointment in the Army in the grade of lieutenant colonel and below, and as permanent professors of the U.S. Military Academy (list beginning with John J. Costa); and there are 951 in the Navy and Naval Reserve for permanent and temporary promotion to the grade of commander (list beginning with Donald Abbey). Also, there are 320 in the Navy for permanent promotion to the grade of chief warrant officer (list beginning with William C. Abbruzzese); and Charles P. Erwin, Marine Corps, for appointment to the grade of first lieutenant. Also, there are 161 in the Navy to be permanent ensigns (list beginning with Major D. Bursey, Jr.). Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of September 27, 28, and 30; October 7, 17, 25, and 31, 1977, at the end of the proceedings of the Senate.)

By Mr. MCCLELLAN, from the Committee on the Judiciary:

Elsijane Trimble Roy, of Arkansas, to be U.S. district judge for the eastern and western district of Arkansas.

HOUSE BILLS AND JOINT RESOLUTION REFERRED

The following bills were each read twice by title and referred as indicated:

H.R. 2203. An act to amend the Great Lakes Fishery Act of 1956; to the Committee on Environment and Public Works.

H.R. 2770. An act to amend section 142 of title 28, United States Code, relating to the furnishing of accommodations to judges of the courts of appeals of the United States; to the Committee on the Judiciary.

H.R. 6782. An act to permit marketing orders to include provisions concerning marketing promotion, including paid advertisement, of raisins and distribution among handlers of the pro rata costs of such promotion; to the Committee on Agriculture, Nutrition, and Forestry.

H.J. Res. 611. A joint resolution to extend the authority of the Federal Reserve banks to buy and sell certain obligations; to the Committee on Banking, Housing, and Urban Affairs.

HOUSE CONCURRENT RESOLUTIONS REFERRED

The following concurrent resolutions were referred as indicated:

H. Con. Res. 265. A concurrent resolution to endorse the Hermosillo Declaration on Combating Traffic in Drugs at the International Level and urge the President to encourage other nations to cooperate in eradicating narcotics trafficking; to the Committee on Foreign Relations.

H. Con. Res. 387. A concurrent resolution reaffirming the commitment of the United States to obtain full compliance with the human rights provisions of the Helsinki Accords and to press for global commitment to human rights; to the Committee on Foreign Relations.

H. Con. Res. 388. A concurrent resolution expressing concern about the recent acts of repression by the Government of the Republic of South Africa; placed on the Calendar.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. SCHMITT:

S. 2267. A bill to establish a National Science Policy Commission, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. MATHIAS:

S. 2268. A bill to amend title XIX of the Social Security Act to permit States to disregard cost-of-living increases in the computation of an individual's income for purposes of determining an individual's eligibility for medical assistance under the medicaid program; to the Committee on Finance.

By Mr. MAGNUSON (for himself and Mr. PEARSON) (by request):

S. 2269. A bill to amend the Interstate Commerce Act to allow exemption from regulation when such regulation serves no public purpose, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CASE:

S. 2270. A bill to amend the Wild and Scenic Rivers Act to designate a segment of the Delaware River as a component of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SCHWEIKER:

S. 2271. A bill to amend the Trade Act of 1974 to provide that the President may not

reduce or terminate import relief if the Congress disapproves such action; to the Committee on Finance.

By Mr. McGOVERN:

S. 2272. A bill to authorize the Secretary of the Interior to supply hydroelectric pumping energy at the Missouri Basin Project pumping rate to irrigation projects in the Missouri River Basin which are constructed, operated, and maintained by irrigation districts organized under State law; to the Committee on Energy and Natural Resources.

By Mr. PELL:

S. 2273. A bill to confer on the Secretary of Energy jurisdiction over construction permits and operating licenses for liquefied natural gas facilities; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SCHMITT:

S. 2267. A bill to establish a National Science Policy Commission, and for other purposes; to the Committee on Commerce, Science, and Transportation.

NATIONAL SCIENCE POLICY COMMISSION ACT

Mr. SCHMITT. Mr. President, I am introducing today for appropriate reference to committee the National Science Policy Commission Act, a bill to establish a National Science Policy Commission, and for other purposes.

The bill would create, for a 2-year period, a Commission of nongovernment personnel who will prepare, among other things, an analysis of alternative policy positions; in essence, a cost-benefit study for various Federal science policy options. The Commission will also provide fact and opinion on such issues as the volatile "local preemption" matter.

All of us here today have lived and matured during the 20th century. It has, of course, been a politically turbulent time; but the greatest changes have occurred through our rapid utilization of modern technology. We have revitalized one of the unique characteristics that sets us apart in nature. The outward reflection of this characteristic is that we have the audacity to try to understand and adjust our place in the universe.

It is important that we recognize just how significantly the pace of human events is accelerating. No longer must mankind be comforted by the knowledge that only future generations will benefit by the present generation's great scientific efforts. No longer will the consequences of mankind's action or inaction be postponed beyond the existing generation.

While it is true that there has never before been a time when a single experiment could cause so much damage, it is also true that never has there been as great an opportunity to improve the quality and tenure of all human life. Thus we must recognize a need for balance in technological development between those who are concerned about unnecessarily impeding scientific investigation, and those who see in hazardous or potentially hazardous scientific research great risk to the safety of others.

The public controversy over recombinant DNA research is an excellent example of an area where this balance must be struck. Some warn of the possible creation of a genetic monster, immune to our natural defense mechanisms, as well as our so-called wonder drugs. In view of the potential for an enormously destructive outcome, what could possibly motivate us to continue recombinant DNA research? The answer, of course, is that millions of our fellow men and women die of starvation and disease each year. Recombinant DNA research may eventually be able to save these lives. So as we see, while there are costs, there are also benefits.

The question really become, "how do we maximize the benefit and minimize the risk?" and "is the minimum risk low enough?"

If we accept the principle that a balance must be struck between scientific research and a prudent regard for the public's safety, and if we agree that balance must be related to a comparison of risks and benefits, then we must concern ourselves with what role the Federal Government should play in determining general science policy.

The Government is responsible for funding a large amount of all scientific research. Because the Government shares a relatively larger amount of costs in state-of-the-art research which would be more likely to be classified as hazardous, its most direct impact is through policies for investing taxpayers research dollars. As a result, the Federal Government's spending policies create a form of de facto national scientific research policy.

Yet the Government faces very real problems in helping to formulate scientific policy. There are many who argue, and as a scientist I must admit to some personal concern, that such Federal involvment in scientific research has the potential for diminishing scientific freedom. The argue persuasively that such involvement will channel national talents into areas selected by Washington bureaucrats and not in the efficient manner dictated by competition in the private sector or among scientific interests. Now if scientific research were without risk or there were no obvious national needs, then it would be desirable to avoid a direct Federal role in science policy formulation.

But the truth is that efforts to expand our knowledge of our self and our role in the universe have never been without some risk. The examination of lunar rocks, for example, required a thorough potective protocol related to any potential contagion that might be carried by materials not a part of our terrestrial sphere. There are certainly more examples, some potentially harmful only to an individual researcher and some potentially harmful to millions of people—but necessary research itself is not always without potential risk.

It is reasonable, therefore, that the Science Technology and Space Subcommittee of the Commerce Committee should be directly concerned with the formulation of a general science policy for the Nation; especially with regard to potentially hazardous scientific research.

It is especially significant that the National Science Policy Commission Act is introduced today. Tomorrow, the Science, Technology, and Space Subcommittee will begin 3 days of examination of the policy issues associated with recombinant DNA research. Current DNA work almost assuredly falls within the scope of "potentially hazardous scientific research," in spite of the fact that more and more of the scientists associated with this work are claiming that experiments have eased their early misgivings.

There are certainly other issues of concern. Each year approximately 1,000 new chemicals are introduced into our environment, and yet, we know surprisingly little about many of the 30,000 or so in our present chemical inventory.

Such questions as:

First. To what extent should radioactive nuclides be used in scientific research and should there be any restrictions on such use?

Second. What is our current policy with regard to the use of human subjects in scientific research and is that policy consistent with the national interest?

To name a few, need answers. Perhaps, most importantly, the Commission will concern itself with the key question, "what role should Federal funding play in the formulation of science policy?"

The Science, Technology, and Space Subcommittee is charged with the responsibility for legislative oversight in national science policy matters. Also, it is important to note that policy relating to potentially hazardous scientific research is only one of many policy issues. Science policy is also affected by such programs as "zero-based budgeting" and Federal patent policy, to name but two. I believe in order to carry out its responsibility to the Congress and the American people, the subcommittee must have the expert advice and public input that can be best received through the proposed National Science Policy Commission. I hope that our colleagues will permit us the opportunity to use the commission approach.

Mr. President, I ask unanimous consent that a section-by-section analysis of the bill be printed at this point in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS—NATIONAL SCIENCE POLICY COMMISSION ACT

Sec. 2. (a) Congress finds that scientific and technological capabilities offer great hope for improving the quality of life for all mankind. Possible threats to mankind from various forms of potentially hazardous scientific research activities require the development of appropriate science policies which protect the public and yet, retain scientific progress. There is a need for a comprehensive reassessment and clarification of Federal science polices regarding potentially hazardous research activities.

Sec. 2. (b) The purpose of this Act is to establish a National Science Policy Commission to conduct a comprehensive study on Federal science policies regarding potentially hazardous scentific research activities and to submit a report to the President and the Congress containing its findings, conclusions, and recommendations.

Sec. 3. A National Science Policy Commission would be established. The Director of the Office of Science and Technology Policy would be a nonvoting ex officio member of

the Commission while the President, with the advice and consent of the Senate, would appoint 15 members to the Commission. Such members must be capable of critically assessing the status and potential of Federal science and technology policies and have broad and varied backgrounds, including science, academia, business, and the public interest. The Commission shall conduct a comprehensive study on Federal science policies regarding potentially hazardous scientific research activities. Such study shall include a review and analysis of (1) alternative means of formulating and implementing science policy relating to potentially hazardous scientific research activities; (2) the impact of Federal regulation of potentially hazardous scientific research activities, including scientific research related to recombinant deoxyribonucleic acid; (3) the appropriate scope of scientific responsibility and the freedom of scientific research as they relate to potentially hazardous scientific research activity; (4) ethical, legal, and political issues associated with the formulation and implementation of science policies relating to potentially hazardous scientific research activities; (5) public awareness of and appropriate level of involvement into the formulation of science policy on potentially hazardous scientific research activities; (6) appropriate state and local government involvement in the formulation and implementation of science policies relating to potentially hazardous scientific research activities; (7) cost and benefits associated with alternative science policies relating to potentially hazardous scientific research activities; (8) current and future directions of potentially hazardous scientific research activities; and (9) past and current protocols relating to potentially hazardous scientific research activities.

The Commission is required to submit within two years of the date of their first meeting a final report on the findings, conclusions, and recommendations of their study. Such report shall include: (1) a summary of the review and analyses made with respect to each of the areas of investigation examined by the Commission; (2) findings made with respect to each of the areas of investigation examined by the Commission; (3) recommendations for any changes in Federal science policies relating to potentially hazardous scientific research activities; (4) recommended Federal science policy alternatives relating to potentially hazardous scientific research activities; and (5) recommendations for any regulatory or legislative action which may be required to implement recommended Federal science policies.

The Commission is authorized to employ such staff as necessary and would have an Executive Director appointed by the Chairman with the approval of the Commission. The Commission would be authorized to establish such advisory committees as are necessary or appropriate to carry out specific analytical or investigative undertakings.

Except when deemed necessary for purposes of national security, all Commission meetings would be open to the public and timely notice of each such meeting would be published in the Federal Register. In addition, the Commission is required to hold public meetings at which time interested persons shall be afforded the opportunity to present their views on the subjects under consideration by the Commission.

Sec. 4. Sums not to exceed $2,000,000, to remain available until expended, are authorized to be appropriated to the Commission for the purpose of carrying out the provisions of this Act.

Sec. 5. Unless otherwise renewed, the authorities conferred in this Act terminate two years after the first meeting of the Commission.

By Mr. MATHIAS:

S. 2268. A bill to amend title XIX of the Social Security Act to permit States to disregard cost-of-living increases in the computation of an individual's income for purposes of determining an individual's eligibility for medical assistance under the medicaid program; to the Committee on Finance.

Mr. MATHIAS. Mr. President, the Social Security Act was conceived to enable older Americans to live relatively free of the threat that they would lack the financial resources to meet their basic needs. The Congress has seen fit to strengthen its commitment to the elderly over the years through successive modifications and improvements in the Social Security Act. Even now the President and the Congress are engaged in a dialog regarding the most efficient way to maintain a robust social security program. Americans, today as well as in the past, have consistently demanded that senior citizens be able to live out their lives in dignity.

In consideration of this goal Congress enacted cost-of-living increases so that those receiving social security could maintain a semblance of parity with the rate of inflation. It was never the intent of Congress that these increases be considered income raises in the traditional sense. For that reason, Congress has observed with growing alarm the unexpected repercussions these cost-of-living increases have had. Unfortunately, the increases have had the effect of exposing many individuals to the threat of losing their medical assistance, since the increase places them over the maximum allowable income level. In some cases, this has meant that an increase of no more than $2 or $3 resulted in the loss of thousands of dollars in critically needed medical coverage. Clearly, the Congress never intended to present elderly Americans with such a cruel dilemma.

History establishes a precedent for the amendment I will propose. The 92d Congress enacted a 20-percent social security increase in 1972. In its wisdom, however, it directed that the increase be disregarded for the purpose of medical assistance eligibility. Regrettably, subsequent cost-of-living increases were not disregarded. Most recently, Congress enacted Public Law 95–142 which specifically directed that, for those on supplemental security income and optional State supplemental income, all future cost-of-living increases be disregarded for the purpose of determining medical assistance eligibility.

I applaud the intent of Public Law 95–142, but I am disappointed that this law did not become retroactive for those senior citizens who lost their medical assistance due to cost-of-living increases between September 1972 and July 1977. I am therefore introducing a bill that will amend the Social Security Act in order to allow States the option of rectifying this oversight. My bill will allow States the option of returning medical assistance eligibility to those individuals who lost their eligibility due to cost-of-living increases before July 1977. This bill will go one step further in restoring to the Nation's retirement system its original humanitarian intent.

By Mr. MAGNUSON (for himself and Mr. PEARSON) (by request):

S. 2269. A bill to amend the Interstate Commerce Act to allow exemption from regulation when such regulation serves no public purpose, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. MAGNUSON. Mr. President, I introduce today, at the request of the Interstate Commerce Commission, and on behalf of myself and my colleague, Mr. PEARSON, a bill to amend the Interstate Commerce Act to allow exemption from regulation when such regulation serves no public purpose, and for other purposes.

I ask unanimous consent that the text of the bill, the letter of transmittal and the explanation and justification of the legislation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2269

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That—

SEC. 1. Section 12 of the Interstate Commerce Act (49 U.S.C. 12) is amended—

(1) in the first sentence of subparagraph 12(1)(b) by deleting "common carrier by railroad subject to this part" and substituting therefor "common or contract carriers or freight forwarders subject to parts I, II, III, or IV of this Act" and by deleting "provisions of this part" and substituting therefor "provisions of this Act".

(2) in the second sentence of subparagraph 12(1)(b) by deleting "provisions of this part" and substituting therefor "provisions of this Act".

OCTOBER 13, 1977.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, D.C.

Hon. HAROLD T. JOHNSON,
Chairman, Committee on Public Works and Transportation, U.S. House of Representatives, Washington, D.C.

DEAR MESSRS. MAGNUSON AND JOHNSON: As you know, the Railroad Revitalization and Regulatory Reform Act of 1976 (the 4–R Act) made a number of changes in the procedures of the Interstate Commerce Commission. Most of those changes were limited to the Commission's regulation of railroads, since the House Interstate and Foreign Commerce Committee, which reported out the underlying House bill, has jurisdiction over only one mode of surface transportation—railroads. Jurisdiction over the Commission's regulation of the other modes of surface transportation rests with the House Public Works and Transportation Committee. This has meant that many of the procedural reforms brought about by the 4–R Act have not been extended to cover proceedings involving motor carriers, domestic water carriers and freight forwarders.

One of the reforms enacted by the Congress in the 4–R Act was to authorize the Commission to exempt railroads from regulation, in whole or in part, when continued regulation is not deemed by the Commission to be in the public interest. Increasingly, we are of the view that this is a valuable power for the Commission to have in all areas of its regulation. Just recently I received the Report and Recommendations of a Commission Staff Task Force on Improving Motor Carrier Entry Regulation, and one of the Task Force recommendations is that the Commission seek legislation which would extend its exemption authority to the area of motor carrier regulation. The Commission agrees with the position of the Task Force

on this point, and we believe further that the exemption authority should be extended to include the remaining areas of our jurisdiction—domestic water carriers and freight forwarders.

At a time when the regulatory mandate of the Commission is under scrutiny both within and outside the agency, we believe that the measure proposed herein, if enacted, would be a significant step toward regulatory reform. Accordingly, we request your early introduction and consideration of this measure.

Sincerely yours,

A. DANIEL O'NEAL, *Chairman.*

EXPLANATION AND JUSTIFICATION

This bill would further amend section 12 of the Interstate Commerce Act, which was amended by section 207 of the Railroad Revitalization and Regulatory Reform Act of 1976 (the 4–R Act) to authorize the Commission to exempt railroads from regulation, in whole or in part, when continued regulation is deemed not to be in the public interest. The present bill would extend that exemption authority to all modes of surface transportation that are subject to the Commission's jurisdiction.

A considerable amount of controversy has been generated in recent years over the extent to which regulation of surface transportation is in the public interest. Congress, when it enacted section 207 of the 4–R Act, recognized that there are instances where the removal of regulatory controls is justified when such controls are not in the public interest and serve no useful public purpose. This exemption authority, which the Commission now has in the railroad area, permits the Commission to commit its resources more effectively to those areas where regulation is necessary and to allow exemption from regulation in those areas where regulation is unnecessary.

More recently, the entire question of the proper scope of regulation over motor carriers has come under scrutiny. I recently received a report from a specially-constituted Staff Task Force on Improving Motor Carrier Entry Regulation, which contains a number of recommendations relating to easing the process whereby applications for motor carrier operating authority are processed. The Staff Task Force report also contains recommendations directed at facilitating entry into the field by expanding exemptions from regulations or easing evidentiary burdens. The Commission is actively considering a number of these recommendations already and several rulemaking proceedings have commenced in order to secure public comment on the changes proposed by the Task Force report. It is expected that this process will result in a wide-ranging review of motor carrier regulation in general.

With specific reference to the bill proposed here, the Staff Task Force stated as follows (page 16):

We recommend that the Commission place the highest priority on seeking amendment of the Act to provide it with authority to exempt from regulation motor carrier operations found not to be of major significance in carrying out the national transportation policy. Such general exemption authority was granted to the Commission with respect to rail operations in 1976 and appears as section 12(1)(b) of the Act. A provision phrased in identical language and applicable to motor transportation should be enacted as soon as possible.

The Commission agrees with the position taken in the Staff Task Force report, and believes further that the general exemption authority should be extended not only to the motor carrier area but also to the remaining areas of the Commission's jurisdiction, domestic water carriers and freight forwarders. We believe this proposal would be beneficial in two respects: first, it would allow for the removal of regulatory controls when such controls are not in the public interest, and second, it would permit the Commission to commit its resources more effectively to those areas where regulation is necessary.

There are many ways in which the exemption authority could be exercised, some of which are suggested in the Task Force report. There are many relatively unique commodities, such as homing pigeons and race horses, the transportation of which is not likely to have any effect on the maintenance of an adequate and stable transportation system. Commodities such as these would be possible candidates for exemption.

Also, it could be that certain services because of their localized nature are simply not appropriate for Federal regulation. In this category would be such services as local mass transit motor bus or rail operations which cross State lines and passenger boat operations conducted on bodies of water located in more than one State. There may also be some other logical extensions of presently existing statutory exemptions.

Two important aspects of this legislation are first, that it allows the Commission if it finds it appropriate to remove some but not all regulatory requirements, and second, that it authorizes the Commission to reimpose regulation as the public interest should later require. These provisions give the Commission considerable flexibility to try innovative experimental programs to determine exactly what kind of less stringent regulation may work. A great deal of economic theory has been propounded concerning what might occur if regulatory requirements were eased. But there is little empirical information available on what the results of such changes might be. This proposal could provide a viable way to institute experiments leading to the gathering of such data while at the same time protecting the public from any unreasonable consequences of such experiments.

By Mr. SCHWEIKER:

S. 2271. A bill to amend the Trade Act of 1974 to provide that the President may not reduce or terminate import relief if the Congress disapproves such action; to the Committee on Finance.

Mr. SCHWEIKER. Mr. President, today I am introducing legislation to close a loophole in existing law by amending the Trade Act of 1974 to provide that the President may not reduce or terminate import relief granted under section 203 of the Trade Act if the Congress disapproves such action. This bill has been introduced in the House by Representative GARY MYERS.

By the terms of the Trade Act of 1974, Congress has the authority to override a Presidential rejection of an ITC recommendation, and to impose import relief on its own. However, once granted, the President may then limit or terminate import relief without the approval of Congress. This bill would simply close this obvious loophole in the Trade Act, and permit the Congress to also override a Presidential determination to terminate an existing system of import relief. Executive-legislative balance in the area of trade policy would be restored.

President Carter this summer initiated a review of the import relief that had been granted to the specialty steel industry by President Ford, on the recommendation of the International Trade Commission, in June 1976. The specialty steel industry has complied with the appropriate provisions of our trade laws. I am sure I can speak for many of my colleagues in saying that it would be totally unjustified to take away the relief, which has once again been affirmed as appropriate by the ITC, that the specialty steel industry attained only after a long and hard struggle.

Yet it is not only the specialty steel industry that might benefit from this legislation. Many basic industries, located in many States—steel, electronics, textiles, and footwear, to name a few—have been adversely impacted by a flood of foreign imports. This bill will allow the Congress to participate fully in the formulation of the trade policies that effect our entire economy, as was intended when the Trade Act was initially enacted. I believe all my colleagues agree with this principle, and I urge that this bill be supported.

By Mr. McGOVERN:

S. 2272. A bill to authorize the Secretary of the Interior to supply hydroelectric pumping energy at the Missouri Basin Project pumping rate to irrigation projects in the Missouri River Basin which are constructed, operated, and maintained by irrigation districts organized under State law; to the Committee on Energy and Natural Resources.

CONSTRUCTIVE IRRIGATION

Mr. McGOVERN. Mr. President, I am today introducing legislation which will authorize private irrigation projects, with the sanction of the governors of the individual States in the Upper Missouri River Basin, to utilize hydroelectric power generated at the Corps of Engineers Missouri mainstem dams. This power would be marketed to the Irrigation Districts at the Bureau of Reclamation's "preference customer" rate of 2½ mills. I am introducing this bill in the Senate today while my distinguished colleague in the House of Representatives, Congressman JAMES ABDNOR, is introducing similar legislation in that body, for two compelling reasons.

First, the drought the Missouri River Basin States experienced during 2 of the last 3 years has highlighted once again the need for irrigation in those States. This need is not so much to increase crop production as to stabilize it. Stabilization of agricultural production in Upper Missouri River Basin States has the effect of stabilizing the States' economies because agriculture is the primary industry.

South Dakota's farmers have long sought to stabilize and increase their crop production with irrigation, however, their efforts have often been frustrated.

Second, potential irrigators in the Upper Missouri Basin were encouraged when in 1944 the Congress passed the Flood Control Act, or as it later came to be known, the Pick/Sloan Missouri basin program. They were encouraged because development of the Pick/Sloan program was intended, in part, to provide irrigation on some 400,000 acres of land in the Upper Missouri Basin States. Yet, after over 30 years, no large-scale Federal irrigation development has taken place. There are many reasons, the main one being the time it takes the Federal Government to get moving in implementing these projects.

The greatest project South Dakota ever envisioned is known as the Oahe Unit. Originally, it was intended to ir-

rigate three-fourth of a million acres, yet in its lifetime this project has been studied, scaled-down, studied further, modified still further, restudied, authorized, reviewed, in effect reauthorized, studied again, started to be constructed, halted, rereviewed and currently hangs in limbo with the distinct possibility it may never be built and that if it is it will irrigate just over 100,000 acres. This has been a frustrating experience for South Dakota.

South Dakotans are, needless to say, becoming more skeptical about pinning their hopes on Federal assistance in building those great projects. Many of them have moved independently, and collectively, to initiate private developments. While these are hardly the grand irrigation schemes envisioned in the Pick/Sloan program, they will accomplish irrigation alongside the Missouri River and the goal of stabiilzing and increasing crop production.

But one of the main obstacles riverside irrigators face is the cost of pumping water out of the Missouri River trench anywhere from 200-500 feet up to their land on the river terraces. This bill would go a long way to remedying this situation and might offer the first really tangible evidence of Federal assistance in irrigation development.

Let us look for a moment to a specific example, of an irrigation project which could make use of the program contained in this bill. I offer the example of the Lake Andes-Wagner Irrigation District. These folks have wanted irrigation for a long time and in the mid-1960's the Bureau of Reclamation studied the feasibility of providing a project to irrigate their general area. The Bureau's report showed marginal feasibility based on strict Federal criteria.

Building upon the Bureau reports, the Irrigation District hired private engineering firms to make a feasibility study of a 73,000 acre project to take its water supply from behind Fort Randall Dam in Lake Francis Case. The construction cost would be financed by the sale of long-term bonds. It would not be dependent on Federal funding, and therefore, will miss out on two of the advantages the Federal Government offers irrigators on their projects—financial assistance in the form of Federal power revenues to repay the bulk of construction costs and their energy costs will be considerably higher than what pumping costs Federal irrigators would pay utilizing "preference customer" rates provided by the Bureau of Reclamation.

I believe the time has come for us to admit that if we cannot offer full-scale assistance in building these projects, we should offer what breaks we can provide to irrigators. This bill would accomplish this by providing these irrigators Federal power to pump the water at the Federal preference customer rate. This rate is 2½-mills per kilowatt-hour.

The 2½-mill rate was a critical feature of the plan for the original Missouri River basin projects as authorized in the 1944 Flood Control Act. Let us look for a moment at language contained in Senate Document 191 which provided the basis for authorization of the Flood Control Act:

> The population and prosperity of this region cannot be expected to expand without further irrigation development, made and operated at costs within the ability of the irrigators to pay. In the plan proposed, irrigation pumping with its incidental power requirements plays a large part. The cost of such power will be an important element in the irrigators' annual expenses, and must be low if success is to be achieved. Experience and study indicate that the cost per kilowatt-hour should not exceed 2½ mills of energy delivered to major project pumping plants.

These recommendations are as valid today as they were then, yet there is no Reclamation project in the upper Missouri basin taking advantage of this rate. We have simply not fulfilled our goals. Now we have an opportunity to assist those willing to get the job done, at no cost to the Federal Government. Therefore, I believe this concept should be extended to privately financed irrigation projects in the basin where, under provisions of this bill, the projects have the approval of the State Governor or Governors involved, where there is a long-term water supply contract with the Secretary of the Interior under terms and conditions similar to Reclamation irrigation projects, and where power is available without "taking away" any power from other Bureau preference customers.

There are precedents for this type of action in the Bonneville Power Administration, and on projects in Montana using Reclamation power yet which are not Reclamation projects.

By Mr. PELL:

S. 2273. A bill to confer on the Secretary of Energy jurisdiction over construction permits and operating licenses for liquefied natural gas facilities; to the Committee on Energy and Natural Resources.

LNG SAFETY—A LEGISLATIVE RESPONSE

Mr. PELL. Mr. President, Last month the Office of Technology Assessment released a report to Congress on the transportation of liquefied natural gas which closely examined a broad range of issues associated with the safety of LNG. The report to Congress raised questions about the adequacy of public participation in the process of selecting LNG terminal sites, the lack of standards which proposed LNG sites must meet before construction and operation, compensation to the public in the event of a serious liquefied natural gas accident, the adequacy of research on the risks of liquefied natural gas, and the specific need for navigational aids for current and proposed LNG tanker terminals.

The Office of Technology Assessment's report was prepared for the Senate because of concern over the rising imports of liquefied natural gas coming into the lower 48 States from Alaska and foreign sources, and the fact that in 15 to 20 years, 5 to 15 percent of the U.S. requirements for natural gas could be met by LNG. According to OTA, the importance of liquefied natural gas as a supplement to U.S. domestic energy requirements is illustrated by current liquefied naural gas usage and proposed development plans over the next decade. At present only one LNG tanker is regularly bringing liquefied natural gas into the United States, importing gas into the Boston, Mass., area. Two other tankers are exporting liquefied natural gas from Alaska to Japan. According to the Office of Technology Assessment's report.

> Nine more (LNG tankers) will join the U.S. trade early next year when import terminals under construction at Cove Point, Maryland, and Savannah, Georgia, begin operation, and five more when an import terminal at Lake Charles, Louisiana, is on line about 1980.

By 1985, the report concludes, some 41 tankers could be bringing the liquefied natural gas into U.S. ports.

Mr. President, in view of the significant findings of the Office of Technology Assessment's report and my review of the facts associated with the recent Federal Power Commission's action relating to a proposed LNG tanker terminal on Prudence Island, R.I., I am today introducing legislation which I believe will address a number of the principal concerns raised in the OTA report.

This legislation has been developed in close cooperation with Governor Garrahy of Rhode Island because of the deep concern and strong leadership role he has taken regarding the Federal Power Commission's action on Prudence Island. I want to commend Governor Garrahy for his vigorous efforts to address this serious problem.

Mr. President, the legislation I propose relating to LNG safety would require the Secretary of the Department of Energy to promulgate minimum standards for the location, construction, and operation of a liquefied natural gas facility. Such regulations would have to take into consideration factors including the proximity of the facility to populated areas, the level of traffic on affected waterways, public safety, and proposed land uses near the LNG facility—all of which are of vital importance to us in Rhode Island.

I expressed my concern over the Federal Power Commission's recent action relating to Prudence Island to the Senate on September 23 and have emphasized the need to coordinate the efforts of various Federal agencies over regulation authority for LNG facilities.

The legislation I am introducing today would vest authority for the approval of LNG facilities with the Secretary of the Department of Energy. In addition, recognizing individual State's concern over possible arbitrary decisions by the Department of Energy relating to LNG siting, the approval for such a facility would be conditioned on the specific approval of the Governor or appropriate State officials. The Secretary of the Department of Energy would be able to overturn a State's decision in this regard only if the facility was deemed necessary in the interest of national security. If such a determination is made, the Secretary, however, would be required to specify the national security considerations, as well as to address the concerns raised by the State which may relate to environmental protection, public safety, coastal zone management, land and water uses, and economic consideration. Furthermore, the final decision of the Secretary of the Department of Energy would be subject

to appeal by the State in the appropriate U.S. district court.

Recognizing also the lack of adequate time for response by State authorities and the public in LNG proceedings by the Federal Power Commission, my legislation would provide for adequate public participation by requiring that public hearings regarding an LNG facility be held on the local level and that the public have complete access within the State to all information relating to the application of an LNG facility submitted for approval.

Finally, to address the rising public concern over the tremendous risk associated with liquefied natural gas, the legislation I am proposing would consolidate the Federal research efforts on LNG safety under the Secretary of the Department of Energy and would also require that he consult with other agencies such as the U.S. Coast Guard and the Office of Pipeline Safety, who are also involved with various safety aspects of liquefied natural gas in order not to duplicate efforts. The legislation would also require the Secretary to make specific recommendations to Congress, if necessary, for appropriate LNG safety research funding. In addition, my legislation would direct the Secretary to report to Congress and make specific recommendations within 1 year regarding the development of an adequate compensation and liability fund to protect the public against risks associated with the transportation of liquefied natural gas and the operation of an LNG terminal.

I hope my colleagues will support this critically needed legislation.

ADDITIONAL COSPONSORS

S. 797

At the request of Mr. McGOVERN, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of S. 797, relating to the custody of children.

S. 1688

At the request of Mr. McGOVERN, the Senator from New Hampshire (Mr. McINTYRE) was added as a cosponsor of S. 1688, to amend title 38, United States Code.

S. 2224

At the request of Mr. MAGNUSON, the Senator from Connecticut (Mr. WEICKER) was added as a cosponsor of S. 2224, the National Oceanic and Atmospheric Administration Organic Act.

S.J. RES. 96

At the request of Mr. CRANSTON, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of Senate Joint Resolution 96, calling for a moratorium in implementing regulations pertaining to the 160 limitations on forms.

SENATE RESOLUTION 314—ORIGINAL RESOLUTION REPORTED AUTHORIZING SUPPLEMENTAL EXPENDITURES

Mr. STENNIS, from the Committee on Armed Services, reported the following original resolution which was referred to the Committee on Rules and Administration:

S. RES. 314

Resolved, That section 2 of Senate Resolution 142, Ninety-fifth Congress, agreed to June 14, 1977, is further amended by striking out the amounts "$483,700" and inserting in lieu thereof "$508,700" and "$61,000", respectively.

AMENDMENTS SUBMITTED FOR PRINTING

AMENDMENT NO. 1550

(Ordered to be printed and to lie on the table.)

Mr. JAVITS (for himself, Mr. HEINZ, Mr. CASE, and Mr. RIEGLE) submitted an amendment intended to be proposed by them to the bill (H.R. 5322) to provide duty-free treatment to istle.

AMENDMENT NO. 1551

(Ordered to be printed and to lie on the table.)

Mr. GOLDWATER (for himself, Mr. STONE, Mr. BAKER, Mr. DOLE, Mr. STEVENS, Mr. DeCONCINI, Mr. LAXALT, and Mr. HELMS) submitted an amendment intended to be proposed by them to the bill (H.R. 5322), supra.

AMENDMENT NO. 1552

(Ordered to be printed and to lie on the table.)

Mr. GOLDWATER (for himself, Mr. BAKER, Mr. DOLE, Mr. STONE, Mr. DeCONCINI, Mr. HELMS, and Mr. STEVENS) submitted an amendment intended to be proposed by them to the bill (H.R. 5322), supra.

SOCIAL SECURITY AMENDMENTS—H.R. 9346

AMENDMENT NO. 1553

(Ordered to be printed and to lie on the table.)

Mr. DANFORTH (for himself, Mr. RIBICOFF, Mr. PACKWOOD, Mr. LAXALT, Mr. DOLE, Mr. ANDERSON, Mr. FORD, Mr. LUGAR, Mr. SCHMITT, Mr. HATFIELD, and Mr. MATSUNAGA) submitted an amendment intended to be proposed by them to the bill (H.R. 9346) to amend the Social Security Act and the Internal Revenue Code of 1954 to strengthen the financing of the social security system, to reduce the effect of wage and price fluctuation on the system's benefit structure, to provide for the conduct of studies with respect to coverage under the system for Federal employees and for employees of State and local governments, to increase the earnings limitation, to eliminate certain gender-based distinctions and provide for a study of proposals to eliminate dependency and sex discrimination from the social security program, and for other purposes.

CAPITATION GRANTS TO MEDICAL SCHOOLS—S. 2159

AMENDMENT NO. 1554

(Ordered to be printed and to lie on the table.)

Mr. HATCH (for himself and Mr. HAYAKAWA) submitted an amendment intended to be proposed by them to the bill (S. 2159) to amend section 771 of the Public Health Service Act to require an increase in the enrollment of third-year medical students in the school year 1978–79 as a condition to medical schools' receiving capitation grants under section 770 of such act.

NUCLEAR NONPROLIFERATION ACT OF 1977

AMENDMENT NO. 1555

(Ordered to be printed and to lie on the table.)

Mr. McCLURE (for himself and Mr. STONE) submitted an amendment intended to be proposed by him to S. 897, a bill to strengthen U.S. policies on nonproliferation and to reorganize certain export functions of the Federal Government to promote more efficient administration of such functions.

AMENDMENTS NOS. 1556 THROUGH 1578

(Ordered to be printed and to lie on the table.)

Mr. McCLURE submitted 23 amendments intended to be proposed by him to S. 897, supra.

Mr. McCLURE. Mr. President, today I am introducing a series of amendments to S. 897, the Nuclear Nonproliferation Act of 1977. These amendments are the final product of a difficult process of review, analysis and negotiations surrounding this bill in the past month. On October 3, I filed an additional view to the joint report of the Committee's on Governmental Affairs, Energy and Natural Resources, and Foreign Relations on this bill. In that view I expressed grave concerns that this bill as reported could lead effectively to a moratorium on U.S. nuclear exports and thus be completely counterproductive for our nonproliferation policies. I also stated my belief that the procedures and criteria of the bill, at a minimum, would render the United States a wholly unreliable supplier of nuclear fuels and equipment, with resulting lack of predictability driving potential trading partners to other supplier nations. At the end of that view I stated that I would place a detailed analysis and criticism of the export licensing provisions of the bill in the CONGRESSIONAL RECORD as floor consideration of the bill approached.

Last Wednesday, October 26, I placed in the RECORD the promised, detailed analysis which was prepared at my request by the minority staff on the Energy and Natural Resources Committee. The analysis appears at page 35219 of the October 26 CONGRESSIONAL RECORD and is accompanied by my conclusions based on the analysis that the bill requires significant amendment to avoid the predicted results of a possible moratorium, unreliability of the United States as a nuclear export and, potentially, an eventual increase in proliferation.

Since the completion of that analysis, I have been involved in detailed discussions with Senator PERCY and Senator GLENN, two of the principal sponsors of this legislation, regarding remedies to the problems raised in the legal analysis. These discussions were precipitated by my extreme reluctance to attempt to resolve the many problems by amendment on the Senate floor in the very limited time available as we approached the end of the session. Fortunately, both Senator PERCY and Senator GLENN were sympathetic with my reluctance

and agreed to seek remedies in uncontested amendments. The following amendments, which are intended to be conceptual in nature, and subject to further technical refinement, are the result of that process, which involved almost 8 hours of meetings of myself with the other Senators and I am told additional hours of meetings of our respective staffs. I want to thank Senator PERCY and Senator GLENN and their staffs sincerely for their participation in that endeavor. It is because of their diligent effort that we now can proceed to complete Senate action on the bill before the recess.

I have received assurances that Senator PERCY and Senator GLENN will accept these amendments as floor managers for the bill. I believe that both Senators would agree with me that the individual amendments each are an improvement in the bill, and provide a measurable increase in the reliability of the United States. In the aggregate, the amendments to constitute a significant perfection of the export licensing process in the bill, thus achieving the goal of increased reliability and support for our overall nonproliferation policy.

It is important to recognize that many of these amendments are the product of toughly negotiated compromise between myself and Senator PERCY and Senator GLENN, and therefore do not necessarily represent my own personal position in every case. In many of the amendments, I would have gone much farther in effecting an affirmative remedy to problems raised in the legal analysis.

However, I do believe that these amendments will have the effect regardless of my own position or the other Senators' positions on the specific language, of placing those issues represented by the amendments into the conference on this bill. I would hope that the conference committee will seriously and conscientiously give consideration to these issues in seeking to assure that our export licensing procedures will provide reliability for U.S. exports.

I urge the support of each committee which has considered this bill during the past year and the full Senate for these amendments to insure that the ultimate product of congressional consideration will be a fully responsible piece of nuclear nonproliferation and nuclear export licensing legislation.

Thank you, Mr. President.

NOTICES OF HEARINGS

COMMITTEE ON HUMAN RESOURCES

Mr. WILLIAMS. Mr. President, I wish to announce that the Committee on Human Resources will hold a hearing on Wednesday, November 2, 1977, at 9:30 a.m. in room 4232, Dirksen Senate Office Building with respect to the nomination of Livingston L. Biddle, Jr., of the District of Columbia as Chairman of the National Endowment for the Arts.

Persons wishing to testify or to submit written statements should contact Dr. Franklin Zweig of the committee staff, 508 Senate Courts Building, Washington, D.C. 20510, (202) 224-9285.

FLOOD INSURANCE

Mr. EAGLETON. Mr. President, the Subcommittee on Governmental Efficiency and the District of Columbia wishes to announce hearings on the breakdown in recordkeeping and other problems of the national flood insurance program. The hearings will take place on Wednesday, November 9, and Thursday, November 10, at 9:30 a.m., in room 6226, Dirksen Senate Office Building. Persons wishing to testify should contact Mr. Hadley Roff, at the subcommittee office, 6222 Dirksen Senate Office Building, by noon Friday, November 4.

ADDITIONAL STATEMENTS

JIMMY CARTER AND THE GREAT DEPRESSION

Mr. GARN. Mr. President, the Nation never seems to be able to get away from the shadow of the Great Depression. It was an experience that colored my own life as I grew up, and has had a profound influence on most of us. Since it was so important, there have been many attempts to explain the origins of the Depression, and the crash of 1929 which touched it off. One of the most interesting has just been written by an editor of the Wall Street Journal, and will be published next spring. Jude Wanniski's account is important, I feel, because of its possible implications for public policy today. In many ways, we may face a situation similar to 1929.

Since the full account has not yet been published, I have not, of course, read it. The Journal did publish an excerpt last Friday, and it is on that excerpt that I base these few remarks.

As everyone knows, the stock market is a sensitive indicator. What is not as clear is exactly what is being indicated. Mr. Wanniski argues that it indicates the future profitability of the Nation's capital stock. That profitability is affected only incrementally by the actions of American businessmen and consumers, but there is one institution that can affect the future profitability of capital radically and immediately. That institution is the Federal Government, through regulatory actions and tax policy.

As a broad example, Congress recently passed the Clean Air Act Amendments of 1977. These amendments, requiring certain nonprofitable expenditures, and limiting or preventing certain profitable actions, affected the future profitability of the Nation's industrial capacity. Of course any impact such action would have on the stock market was anticipated, and had already been taken into account by investors long before final passage of the bill. The actual impact of the passage of the amendments is hard to see in what happened to stocks that day, and in any event, would have been mitigated by other actions taking place at the same time.

Wanniski argues that tax policy has an even more immediate impact on the stock market, and it is in the arena of tax policy that we may be heading in a direction parallel to 1929.

Wanniski correlates the actions of the Congress in considering the Smoot-Hawley Tariff Act, and other protectionits measures in 1929 and 1930 with the day-to-day fluctuations of the stock market. I confess that the correlation seems too pat: it is hard to believe that any thing is that simple. Nevertheless, the correlation is startling, and the fact that no one has noticed it until now does not mean that it does not hold. I am convinced in my own mind that tax policy, both national and international, has an enormous impact on the state of the economy, and on the way investors think about the economy.

In brief, the Wanniski thesis is that the collapse of October 1929 was produced by the collapse of the anti-tariff coalition in the Senate, even though the actual tariff was not enacted until 1930. As Wanniski traces the congressional actions of the day, the relationship to what the market was doing is striking. Even more compelling, to me, was his description of domestic tax action taken earlier in the decade, and its effect on the market, and on productivity and the state of the economy.

Now I have not done any detailed analysis of the market over the last few months, but it appears to me that if the Wanniski thesis is valid, we should be able to see it working out in the relationship between the backing and filling the administration has been doing on tax policy and the stock market's downward drift recently. In fact, the correlation struck me immediately, as I read the Wanniski article.

As word of the Carter tax proposals oozed out of the White House, the market drifted down. And why not? We heard strong talk about "closing loopholes," which generally means tax increases on the most productive sectors of the economy. Concretely, there was talk of taxing capital gains at ordinary rates, and the abandonment of the plan to eliminate double taxation of dividends. It is not hard to see why the market should conclude that the productivity of the Nation's capital stock was about to be dealt another mighty blow.

Then came the word that the whole package might be put off until next year. At the same time, there were rumors that, despite AL ULLMAN, there might be an across-the-board tax cut to stimulate the economy. The stock market responded with its best gain in months.

Of course, Congress had not been idle. The House had passed an enormous tax increase, in the disguise of an energy program. That action produced its negative effects on the stock market. The Senate Committee on Finance, however, stripped off the tax increases, and substituted encouragements to energy production. Whatever the wisdom of these, the market could see that they were better than what the House had done. Its fall was slowed.

The international front was seeing action at the same time, as the same protectionist snake oil was being peddled. Steel has been most insistent, but textiles, electronics, sugar, and other commodities are not far behind. The market took its sharpest drop as the Senate formed a "steel caucus" (of which I am a member), and we trotted off to the White House to discuss protection with the President. The sharpest rise in the

market coincided with the President's well-publicized resistance to tariffs and quotas (for which I applauded him) and his intention to rely on existing anti-dumping statutes instead. I would have preferred that he give more attention to the problems steel has with constant interference by Govenment, in the area of pricing, of safety regulation, of environmental protection, and so on, but at least we managed to avoid a disastrous protectionism, with which Republicans have had too much tendency to flirt.

As I say, I have not plotted these correlations myself in any detail. They remain only impressions I have had over the last few weeks. Some researcher who has the time might take a look to see to what degree they prove, or disprove, the Wanniski thesis (which I suppose we should begin to call the Wanniski Thesis). I would just like to make the point that the actions of the Congress in tax policy, regulatory policy, and environmental policy do have real impacts on the value of the capital stock of the Nation. The market recognizes those impacts, long before they are finalized by conference committees and the signature of Presidents. In considering energy policy, international trade, and tax revision, President Carter, and the Congress, must remember that fact. If we do not, we may, as Mr. Wanniski suggests, be fated to follow the path of 1929 right through another depression.

Mr. President, I ask unanimous consent that the entire Wanniski article from the Wall Street Journal be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE CRASH OF '29—A NEW VIEW

NOTE.—The last week of October 1929 remains forever imprinted in the American memory.

It was, of course, the week of the Great Crash, the stock market collapse that signaled the collapse of the world economy and the Great Depression of the 1930s. From an all-time high of 381 in early September 1929, the Dow Jones industrial average drifted down to a level of 326 on Oct. 22, then, in a series of traumatic selling waves, to 230 in the course of the following six trading days.

The stock market's drop was far from over; it continued its sickening slide for nearly three more years, reaching an ultimate low of 41 in July 1932. But it was that last week of October 1929 that burned itself into the American consciousness. After a decade of unprecedented boom and prosperity, there suddenly was panic, fear, a yawning gap in the American fabric. The party was over.

Why?

The following interpretation by Jude Wanniski, Associate Editor of the Journal, is adapted from his forthcoming book, "The Way the World Works: How Economies Fail, and Succeed," to be published next spring by Basic Books.

The most common explanation of the crash is that the market was overpriced, the victim of heedless speculators who had somehow lost their grip on reality in the mad rush for quick profits. But that explanation has never quite satisfied, either empirically or logically. There is no real sense in which the market can be "underpriced" or "overpriced." For every seller, there is always a buyer—at a price. The stock market, particularly the New York Stock Exchange, was and is too massive for any group of individuals to manipulate. At any moment, it is *fully* priced.

Technically, what the market measures in the process of absorbing information and translating it into a valuation of the market shares is the capital stock of the U.S. The market places a value on each company listed on its exchange, based on its calculations of that company's future income.

STOCK MARKET ANTICIPATES

The accent should be on "future." The market does not reflect past events, it reflects the probabilities of future events. It anticipates. From studies of stock splits, we know that the price of individual shares starts moving up, relative to other shares, about 12 months before a split. By the time the split is announced, nothing further takes place. The market has already fully discounted the event.

The most important information coming to the market is political news. Changes in underlying economic values tend to be glacial. But political news is volatile, because it can instantly and dramatically alter the future income of the companies whose stocks are listed on the exchange. On Nov. 22, 1963, for example, the day President Kennedy was assassinated, the industrial average fell 22 points. On recognition that a successful presidential transition had been made, it recovered all the lost ground the following day and gained 11 more.

If one accepts this rational model of stock market behavior, it's logical to believe that the market at its 1929 peak was exactly where it should have been, and that the crash resulted from some stupendous error in a relatively few political minds.

In particular, one would look first for an explanation in tax policies, the actions of government that most directly affect future income flows. Arthur B. Laffer of the University of Southern California has described the "wedge" of taxes between what workers produce with their efforts and the rewards they are allowed to keep. A change in the future wedge will be quickly reflected in stock markets. A 150-point slide in the Dow Jones industrials ended at noon on May 29, 1962, as news reached the market that the Kennedy administration would propose the tax cuts that spurred the economy in the 1960s. The industrials gained 50 points that afternoon.

SMOOT-HAWLEY TARIFF ACT

Looking back at the history of 1929, there is no dramatic increase in the domestic tax wedge to explain the market collapse. But there is also an international wedge—the tax on international transactions. And here there is a dramatic event, the gathering political momentum of what is now conceded to be the century's most disastrous piece of economic legislation. The Great Crash of 1929 anticipated the Smoot-Hawley Tariff Act of 1930. The calamitous declines of Monday, Oct. 28, and Tuesday, Oct. 29, followed immediately the collapse of the Senate coalition that had been the last barrier to the tariff.

To understand the crash, though, one must back up to review the boom years of the 1920s. The great Coolidge bull market got under way in earnest in 1924. The industrial average, which had taken four years to move from 90 to 106 in the first part of the 1920s, reached 134 at the end of 1924, 181 by the end of 1925 and, after a pause in 1926, 245 at the end of 1927.

These were not paper, "speculative" gains, for this was a period of phenomenal growth in the nation's capital stock. Between 1921 and 1929, GNP grew to $103.1 billion from $69.6 billion. And because prices were falling, real output increased even faster.

The boom coincided with sharp tax cuts. To pay for the first World War, income taxes had been boosted to a high of 77% on incomes over $1 million. An excess profits tax on business and a doubling of the normal corporate rate to 12% had also been imposed. In the 1920 elections, Warren Harding, pledging a return to normalcy and a reduction in taxes, won by the greatest landslide in American history up to that time.

Harding's Treasury Secretary, Andrew Mellon, engineered a tax cut—the top bracket was reduced to 56 percent in 1921 and then to 46 percent in 1922. Because this reduction in the domestic wedge was partly offset by the mild increase in tariffs the administration also pushed through, there was only mild expansion in the economy. But after Harding's death Calvin Coolidge succeeded to the presidency, and he quickly embraced Secretary Mellon's arguments for even more drastic tax reductions.

As Coolidge aptly explained in a speech to the National Republican Club in February 1924: "An expanding prosperity requires that the largest possible amount of surplus income should be invested in productive enterprise under the direction of the best personal ability. This will not be done if the rewards of such action are very largely taken away by taxation."

As it gradually became clearer through 1924 that the Coolidge tax bill to reduce the top income-tax rate to 25 percent had sufficient support for passage, the stock market began its unprecedented climb.

It's interesting that Great Britain, which did nothing to reduce the steep progressive income taxes introduced during World War I, experienced no boom at all during the 1920s. By contrast, Italy under Mussolini went from severe economic contraction to rapid expansion in 1923 as he cut the wartime personal tax rates back to 10 percent and cut back tariffs and internal excises. And the French, under a center-right coalition formed by Poincare, ended a financial crisis in 1926 by slashing the general income-tax rates in half, to 30 percent from 60 percent at the top.

Wealth brings its own problems, however. In the U.S., in particular, farmers were being hurt by the falling farm prices that were doing so much to raise the standard of living for the rest of the country. The Republican Party in 1928 looked at this phenomenon as something to be corrected by governmental action, and decided to attempt to adjust the imbalance in wealth between farm and city by raising the protective tariff on foreign agricultural products.

The U.S. from its earliest days had imposed tariffs as a source of revenue and as a protection for fledgling industry. But it was one thing to impose tariffs when the U.S. was a small debtor nation (and much of the tariff revenue was used to pay off the public debt, which in turn meant a decrease in future domestic tax liabilities). It was quite another matter for the U.S. to impose tariffs when, as a result of World War I, it had grown into the most powerful creditor nation in the world.

As tragic as the marginal farmer's plight might be, no GOP argument, political or economic, could justify higher tariffs. By restricting foreigners' ability to sell their goods in the U.S., the Republicans were making it more difficult for foreigners to pay off their debts to the U.S. and import goods from us. Over time, tariffs would, in essence, have the same inhibiting impact on investment and commerce as in increase in taxes.

Herbert Hoover signed the Smoot-Hawley Bill on June 16, 1930, but the stock market started anticipating the act as early as December 1928.

DOUBLE BLOW TO MARKET

The market was hit a double blow in the space of two days. On Dec. 5, after the market had closed. Coolidge announced there would be no further tax cut in the next budget. The industrial average dropped 11 points the next day. It fell another eight points the following day as word got out that the House Ways and Means Committee had scheduled hearings of 14 subcommittees

to take up tariff testimony, and that the hearings would cover all commodities, not just agriculture.

There was plenty of opposition to higher tariffs, though, and the market soon continued its upward climb, reaching 300 by year's end and continuing to climb until March 23, 1929, when real trouble began. The tariff hearings were under way. Hoover had been inaugurated March 4 and on March 24, a Sunday, the world got bad news on page 2 of The New York Times: Senator Jack Watson, the Republican Senate leader, predicted in an interview that it would be difficult to limit tariff increases to agricultural products. Senators, he noted, were being deluged by industries in their own districts for similar treatment. On Monday, the stock market broke heavily again.

There was more bad news on Tuesday, March 26. New York and New England's elected officials called on Hoover for tariff increases on rayon, cotton and related materials. Stocks crashed on record volume (8,246,740 shares), though a late rally stemmed the tide.

Interestingly, though The New York Times and other papers closely followed the tariff hearings—and the stock market's activity, of course—the two weren't linked. A typical headline in the Times was March 26's "Stock Prices Break Heavily as Money Soars to 14%." The front-page story blamed the sell off primarily on a tightening of credit; there was no mention of tariff matters, though a separate story on tariffs appeared on page 19. The reference to "money" going to 14% referred only to spot loans to individuals who had bought shares on margin and were having to raise fresh funds to cover their accounts. Long-term rates didn't rise. The Times and others would insist on linking money rates and stock prices right through the October crash.

Opposition to the tariff binge began to materialize in the Senate, and it appeared that a combination of progressive Republicans and Democrats would prevail against the Old Guard Republican protectionists. A procedural vote before the summer recess seemed to confirm this, and the stock market, reassured, resumed its climb, reaching 381 on Sept. 3. The Dow Jones industrials wouldn't see that level again for more than a quarter of a century.

The decline over the next several weeks was orderly; by Oct. 10, the market had drifted down to 352. On Oct. 22, the market even gained six points on news that antitariff forces had won a test vote to cut chemical tariff rates. But on Oct. 23, an hour before the market closes, disaster strikes: The market declines a stunning 21 points after news is out that the antitariff coalition has broken apart on the question of carbide rates. The carbide rates themselves are relatively unimportant; the vulnerability of the antitariff forces is the key. Yet the remarkable coincidence again goes unremarked in the next day's newspapers.

MORNING PANIC, AFTERNOON RALLY

On Thursday, Oct. 24, the antitariff forces suffer another setback; casein tariffs are raised 87%. John Kenneth Galbraith, in his book, "The Great Crash—1929," describes the day on Wall Street:

"The panic did not last all day. It was a phenomenon of the morning hours. . . . For a while prices were firm. Volume, however, was very large, and soon prices began to sag. Once again the ticker dropped behind. Prices fell farther and faster, and the ticker lagged more and more. By eleven o'clock the market had degenerated into a wild, mad scramble to sell. In the crowded boardrooms across the country the ticker told of a frightful collapse. . . . By eleven-thirty the market had surrendered to blind, relentless fear. This, indeed, was panic."

By afternoon, however, the antitariff forces had reassembled and pushed through amendments cutting other chemical rates. The stock market rallied and closed with only a 6½-point drop.

The following Monday morning's Times provides the hardest news yet that the antitariff coalition had been broken and the protariff coalition was in control. Not only did Senator Smoot predict the bill would survive. So did Senator Borah, until then leader of the antitariff forces, saying he thought "it is going to be made into a good bill." Worse yet, Democratic leader Simmons said the Democrats would do nothing to kill the bill, that the Republicans would have to take full responsibility.

In the day's trading, the DJI dropped 38 points in what the Times called a "Nationwide Stampede to Unload."

The following day, Black Tuesday, the industrials fall 30 points more, to 230, as all the reports coming out of Washington seem to be aimed at assuring the stock market that the tariff bill will not be killed. Senate Majority Leader Watson even complains that Democratic delays might be charged with responsibility for the crash in stocks!

RECOVERY ON TAX CUT

On Nov. 13, the market hits its low for the year, 198. A surprise 1-percent tax cut announced by Mellon shores up the market—it recovers to 263 by the end of December. But the Senate resumes work on the tariffs in the spring despite vigorous protests from U.S. trading partners; there is still hope that Hoover might veto the bill.

On June 13, the Senate approves by two votes the measures to increase tariffs on more than 1,000 items and sends the bill to Hoover. On this news, the stock market breaks 14 points to 230, precisely where it was on the bottom on Black Tuesday, Oct. 29. Hoover signs the bill and stocks tumble again. The market slide does not end until Franklin Roosevelt, a tariff foe, is nominated by the Democrats in 1932.

Most one-term Presidents only have time for one truly disastrous decision. Herbert Hoover squeezed in two. Having crimped international trade, he proceeded in 1932 to squeeze the domestic economy directly by pushing through Congress a measure to boost the income-tax rate back to 63 percent from 25 percent and piling on business taxes too. His aim was to reduce the budget deficit of the preceding 18 months, caused by the gathering slowdown. With ample help from the Democrats, Congress approved the tax increase.

Under Roosevelt, economic management was only slightly improved, for even as he and his party chipped away at Smoot-Hawley, they again and again added to internal taxation during the following eight years, and the depression lengthened into war.

BOWHEAD POPULATION DATA QUESTIONED

Mr. GRAVEL. Mr. President, I would like to express my concern over the unfortunate decision of our Government to support the International Whaling Commission moratorium on bowhead whaling by Alaskan Eskimos. The IWC moratorium was proposed upon evidence which is of a highly inexact nature. In addition, an unhealthy climate of emotionalism has been created by the environmental considerations involved. These two factors have combined to persuade the IWC and subsequently the U.S. Government to accept the position that the bowhead whale population is on the very brink of extinction.

The truth of the matter is that no one knows with any degree of certainty how many bowhead whales presently exist. The Eskimos who have lived with and hunted these creatures for more than a millennium are convinced from their observations that the bowhead population is actually increasing. No research conducted thus far proves otherwise.

I have just received from David M. Hickok, director of the Arctic Environmental Information and Data Center, a critique of the information upon which the IWC based its moratorium recommendation. The crux of this critique is that the available scientific data are not sufficiently complete to conclude that continued subsistence whaling will be detrimental to the bowhead whale stock. The data are altogether too speculative to warrant an immediate whaling moratorium. In describing the basis used by the IWC to reach their recommended bowhead moratorium, Mr. Hickok states:

Factual analysis (was) minimal. Hearsay, guess and emotion . . . ruled the day.

The proper course for this country would have been to file an objection to the IWC proposal. The process of filing such an objection is merely a part of the operational rules of the IWC. When the IWC recommends any action which a member nation believes to be unjustified, an objection is the accepted response.

Now the United States is placed in the awkward position of supporting the IWC moratorium while admitting at the same time it is unjust. This is evidenced by the fact that the Government already has a plan to request at least a minimum subsistence hunt for the Eskimos at the upcoming IWC meeting in December. If this plea by the U.S. delegation for restoration of the Eskimos whaling rights fails, a very embarrassing situation will no doubt ensue. Predictable litigation by the Eskimo community is certain to point out the uncertainty of the premises which were the basis of the IWC recommendation.

It seems obvious, Mr. President, that emotion prevailed over scientific fact in the process which produced this decision. As this critique clearly points out—

There is absolutely no factual evidence to document the status of bowhead stocks. The allegations of a decline cannot be substantiated and, in fact, the contrary may be true.

I wish to associate myself with this critique and ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ARCTIC ENVIRONMENTAL
INFORMATION AND DATA CENTER,
Anchorage, Alaska, October 21, 1977.

Dr. JAMES H. ZUMBERGE,
Chairman, Polar Research Board, Constitution Avenue NW., Washington, D.C.

DEAR DR. ZUMBERGE: I am today presenting to the Polar Research Board of the National Academy of Science a critique of the information provided for the International Whaling Commission and upon which it based its determination to remove the exception allowing the take of the bowhead whale by Alaska Eskimos. This report, prepared by Dr. Lawrence Underwood of the staff of AEIDC, has also been reviewed by other wildlife staff experts and myself, all of whom have considerable experience in arctic Alaska.

In summary, as Dr. Underwood's analysis illustrates, there is absoutely no factual evidence to document the status of bowhead whale stocks. The allegations of a

decline cannot be substantiated and, in fact, the contrary may be true.

As a member of the Alaska scientific community and a member of this board, I am greatly distressed by the actions of the government agencies involved in this issue. Factual analysis has been minimal. Hearsay, guess, and emotion have ruled the day. It is essential that our government, aided by the scientific community, determine the current status of bowhead whales and the limits of their acceptable harvest.

I strongly urge that this board act by resolution to foster and support a complex, many-faceted, well-financed, long-term scientific research program which will provide the knowledge necessary to protect whale stocks, avoid hardship to Alaska Eskimos, and diminish the likelihood of extreme societal schism in Alaska.

Sincerely,

DAVID M. HICKOK,
Director.

[From the Arctic Environmental Information and Data Center, University of Alaska]

CRITIQUE ON SELECTED BOWHEAD WHALE POPULATION STUDIES

(By Larry S. Underwood)

In June 1977 the International Whaling Commission (IWC), acting on the recommendations of its scientific committee, adopted a proposal to remove the treaty[1] exemption allowing Alaska Natives to take bowhead whales. The commission based its decision on analysis of provided technical information concerning the whale and concluded that:

1. The current population of bowhead whales is somewhere between 600 and 1,800 individuals;

2. The current population is less than 10 percent of the initial population of the species;

3. The Eskimo harvest of the bowhead whale has increased appreciably in the past few years due primarily to an increase in the hunting effort; and

4. The harvest risks for the species are unacceptably high.[2]

Based on these assumptions, the IWC recommended that no further harvesting be allowed after the fall 1977 hunt.

The government has recently picked a middle ground course of action. It will not file an objection with the IWC but will push for a limited Eskimo harvest in 1978. As it now stands, this action runs the grave risk of pleasing no one.

Few environmental issues in recent times have triggered greater public response (both in Alaska and the nation) than the IWC action. The first reaction of Alaska Natives was shock and anger. Some stated that they intend to continue harvesting no matter what the U.S. government or the IWC decides to do, stressing the importance of the bowhead to Eskimo culture. The coastal Eskimo culture has, in fact, been described as a "whale culture" (Federal Field Committee 1968).

The best evidence indicates that Eskimos have harvested the bowhead whale in coastal Alaska for at least the last 1,000 years (Bockstoce 1977) to 3,500 years (Marquette 1977 quoting Oswalt 1967). According to Bockstoce, the hunt, harvest, and distribution of the bowhead whale are the foundation of coastal Eskimo society and provides their staple food. The U.S. Public Health Service has estimated that the bowhead may be the source of as much as 80 percent of the total protein requirement of these people.

Occasionally, whales are unavailable to the Eskimo because of poor ice conditions or other reasons. In the past, hunting efforts shifted to other animals, for example, other marine mammals and caribou. Recently, however, the western arctic caribou herd has declined to such an extent that it cannot be relied upon to replace the protein normally provided by the whale. Suggested solutions have ranged from importing commercial red meat free from outside the region to giving the people more food stamps. These methods are not only costly but, more importantly, they deprive the people of their independence and cultural heritage. Most Natives flatly reject food substitutions as unworkable, unwanted, and unnecessary. They feel that this is analogous to trying to force Nebraskans to eat whale when they prefer their own abundant, traditional beef.

Some concerned organizations and the press reacted swiftly and, in many cases, extremely. Many feel a complete harvest moratorium is in order if the bowhead population is in fact being decimated. They point out that extinction would imperil Eskimo and whale alike. Some comments quoted in the press show either a total ignorance or disregard for the facts. For example, the president of the Greenpeace Foundation reportedly stated that the Eskimo no longer uses traditional means but now hunts in plastic boats to entertain tourists who observe the hunt from helicopters.[3] This is simply not true. Other newspaper articles stress the problems of the U.S. position in the international arena. They emphasize the importance of the issue in international politics and the potential threat to the effectiveness of the International Whaling Commission.

A number of federal agencies, including the department of commerce, state, and interior and the Council on Environmental Quality are considering the implications of the issue and options open to the government. A number of memos and departmental position papers have been circulated that indicate agency recognition of the potential seriousness of the problem.

The IWC action put the U.S. government in a classic dilemma. For several years the United States had pressed for whale conservation and strict limitation of commercial whaling around the world until whale stocks recover. At the same time, it has promoted a greater worldwide recognition of human, particularly minority, rights. Actions restricting the Eskimo whale harvest put these two policies in direct conflict.

The United States has two possible courses of action open to it. Under the conventions that established the IWC, the United States agreed to enforce IWC recommendations within its boundaries. Therefore, if the government does nothing, the IWC recommendations would automatically become official U.S. policy, possibly abrogating Native civil rights since they were excluded from the decision-making process.[4] Alternatively, the government could register an official objection to the IWC recommendation, and subsistence whaling by Alaska Natives could continue. This course of action, however, puts the U.S. commitment to protect whales in question and could profoundly and adversely affect global whale conservation programs.

Unfortunately, the positions of the Natives, some organizations, the press, and governmental officials are more often based on emotion than on careful examination of the facts. The welfare of the bowhead is lost in a sea of international politics, extremist doctrines, and minority rights. Lost are the basic questions: Can the bowhead whale sustain continued harvest? What is the current status of the population? What are the trends in this population? What impacts might continued harvesting have?

The purpose of this paper is to examine existing biological information that can help answer these basic questions. Data on the bowhead are not extensive, but those that do exist should be analyzed fully and made available to and considered by the decision makers.

BOWHEAD WHALE POPULATION

The most basic question concerns the current size of the bowhead whale population in the Bering Sea and Arctic Ocean regions. In the last four years a number of estimates have appeared in print. In 1974 Sergeant and Hoek reported that "present numbers. . . are not accurately known but are probably in the low hundreds *in this section of the species range*" (emphasis added). The section referred to is the eastern Beaufort Sea, especially the waters south and west of Banks Island. As will be shown below, there is no reason to believe that this segment constitutes the whole population. The data on which the estimate was based are not given in the article (indeed, the estimate appears only in the article's abstract!), but it is apparent that the estimate does not emerge from a systemaitc study of the whale.

Rice (1974), stated "These facts imply a minimum population of about 400." Exactly what facts were considered is not clear, but this estimate was apparently based on examination of catch statistics collected for the Barrow region by Maher and Wilimovsky (1963) and for Point Hope by Don C. Foote (unpublished). In addition to these data, Rice apparently collected observations during two seasons in the Point Hope area. Again the methods whereby the number 400 was derived are not given. It should be stressed that Rice intended that the number 400 be indicative of a minimum population only.

At the 1977 IWC meeting, Mitchell circulated the draft copy of a paper discussing, in part, the initial and present populations of the Bering Sea bowhead whale stocks. Because of the draft nature of this report, the author requested that it not be cited or referenced without his written permission. However, this report has been alleged to be one of the more important considerations used by the IWC and its scientific committee in developing its recommended moratorium on native harvest. Also, Mitchell's estimate of current populations has been widely quoted by the press. Since the report appears to have become public information, it will be discussed here. Mitchell reported, "My guess is that the entire Bering Sea stock now numbers around a thousand animals, perhaps less." Once again, methods used to arrive at this number are not presented. Apparently, the population estimate was based on general impressions from the literature, such as "human activity is great, sitings and number of strandings, school size, all are apparently minimal and indicate a population of relatively small size."

Two additional reports (Marquette 1977; Braham and Krogman 1977) address the question of bowhead whale population size. These National Marine Fisheries Service reports are based on two studies currently being conducted on whales in northern Alaska; one has been in process since 1973 and the other is in its second year. In both, observer teams have been on the ice with Eskimo whaling crews during spring whaling at Barrow and Point Hope. Some observer

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[1] International Whaling Convention of 1946 (revised 1976).

[2] U.S. Dept. of Commerce, NOAA, NMFS, August 1977. "International Whaling Commission's Deletion of Native Exemption for the Subsistence Harvest of Bowhead Whales." Draft environmental impact statement.

[3] *The Anchorage Times*, October 1, 1977. "Protester Criticizes Eskimos." p. 13.

[4] U.S. Dept. of the Interior, 1977. Initial evaluation of what action, if any, the U.S. must take before being bound by the International Whaling Convention (IWC) amendment concerning Bowhead Whales." Unpublished memorandum to Acting Director, Office of Trust Responsibilities, Bureau of Indian Affairs from Acting Solicitor for Alaska and Tribal Government, Division of Indian Affairs. July 14, 1977.

teams count whales as they pass these points during migration; others visit the whaling camps in spring and fall to collect biological specimens from harvested whales and gather additional information from native whalers. In 1976 and 1977 additional personnel conducted aerial surveys of the lead systems, particularly within 50 kilometers of shore.

Marquette reviewed the previous population estimates discussed above and reported other estimates including Fay (1975) "about 1,000 animals"; Durham (1973) "2,500 animals"; Harry (1973) "1,000 to 3,000 animals"; and Scheffer (1976) "around 2,000 whales". Again, methods of deriving these numbers are not discussed. Both Marquette and Braham and Krogman reports concluded that accurate estimates of the bowhead population cannot be made at this time due to scant data. In addition, both reported that as many as 800 bowhead whales may have migrated past Barrow during the spring 1977 survey period and further discuss that this number probably does not represent the total population.

It is apparent, then, that until recently there have been no systematic studies of bowhead whale populations conducted in northern Alaska. Studies that have been conducted primarily concern anatomy, whaling methods (Durham 1973; Bockstoce 1977), and a few discontinuous short-term studies done at Barrow, Wainwright, and Point Hope on whale migrations. A number of scientists have established population estimates in the literature, but in no case have these estimates been based on hard data but rather they are based largely on conjecture and speculation.

All field studies conducted on the bowhead whale have been limited in time and space; that is, observations on migrating whales have only been conducted during the time of Eskimo harvest. The tacit assumption in all these studies has been that all whales migrate past the observation points during these fixed periods of time. However, there is evidence that some whales migrate during other periods and into other areas. For example, Marquette as well as Braham and Krogman reported that the whale migration was in progress by the time observation teams and Eskimo hunters arrived on the ice in spring. There is no way of determining how many whales migrated earlier.

Native hunters and observers are forced off the ice by breakup conditions, usually in early May. In 1977 the migration was known to continue for at least three weeks after this period (Marquette 1977). Similar observations have been made in other years.

Nearly all spring observations have been made from the nearshore lead system. There is some evidence that migrations also occur in the offshore leads at least as far out as 80 kilometers (Durham 1973; Braham and Krogman 1973). Durham reported that in 1962, a year of unusual ice conditions at Barrow when shore leads opened later than usual, whales arrived at Banks Island before nearshore ice opened up to allow Eskimos to begin harvest.

Again, it has not been possible to determine what portion of the bowhead whales does not enter the Beaufort Sea or does not migrate along the shores of northern Alaska. Some may migrate northward from the Bering Sea into the Chukchi Sea and are more or less restricted to Siberian waters. The size of this population is not known.

Another piece of evidence also suggests that only a portion of the whale population has been surveyed. Eskimos mainly harvest young animals. Marquette reported that 58 percent of the animals taken by Eskimos are less than three years of age. His data would also suggest that approximately three quarters of the animals harvested are not sexually mature, i.e., they are probably less than four or five years old. There is a possibility, then, that the sexually mature males and females, particularly the females with calves, are migrating at other times and in other places and have not been surveyed.

Conclusions

Braham and Krogman and Marquette reported that in 1977 as many as 800 bowhead whales may have migrated past Barrow during the spring survey period which extended from 25 April to 2 June. Unfortunately, the significance of early, late, offshore and Chukchi Sea migrants cannot be determined. However, it seems likely that the number 800 represents only a segment of the total population.

The temptation to establish bowhead population estimates in the literature is great, but it seems obvious that any figure stated at this time is premature. Reliable population statistics should be studied before these important decisions are made. Scientists run a great risk of losing credibility if they use figures that are not supported by complete data. Bockstoce (1977) stated about as much as we can responsibly say about the level of population: "The bowhead is the species of great whale about which the least is known, and any attempt to estimate its numbers is bound to fall in the realm of sheer guess work."

INITIAL POPULATION SIZE

Finally, we need to know the carrying capacity of the bowhead whale's environment. The initial population size prior to commercial exploitation in the late 1800s is a possible indicator of carrying capacity. One suggested method of determining this has been to examine the catch records of the Yankee whalers to determine how many animals they harvested and to speculate on the residual population after exploitation. Rice (1974) may have been the first to attempt to do this. He reported that a preliminary examination of catch statistics indicated the initial population may have been between 4,000 and 5,000 individuals. Mitchell (1977) examined the same data and concluded that the initial population must have been between about 18,000 to 28,000. However, these studies and others (Bockstoce 1977; Marquette 1977) indicate that no extensive examination of log books and old Yankee whaling records have been made to date in determining these estimates.

Conclusions

Until an extensive survey is made of all existing commercial whaling records and the methodology validated, estimates of initial population size are at least as speculative as estimates of current population size.

TRENDS IN POPULATION

Another important question concerns bowhead whale population trends. Is the population stable, increasing, or decreasing? Since we lack information on the total number, it should be no surprise that we know even less about historic fluctuations. A possible indicator might be harvest statistics. Maher and Wilimovsky (1963) examined the catch records for Barrow from 1928 to 1960 and concluded that there had been no increase in population during this century. This statement has been widely quoted, including Rice (1963) and Mitchell (1977). Fay (1975) stated that the population "is thought to be increasing steadily" but gave no supportive data. Marquette (1977) presented catch statistics for bowhead whales taken by Eskimos and shore stations in northwestern Alaska from 1880 to the present.

Several observations can be made from these statistics. First, the number of whales harvested in the last several years have increased dramatically. The average harvest for the last seven years has exceeded 33 animals per year. Note that in the late 1880s and early 1900s, annual harvest of more than 30 animals were not uncommon. After 1910, however, years of unusually high harvest became relatively infrequent. Perhaps the most important observation is that the average harvest by 10-year periods shows a steady increase since 1930. If the decade 1920 to 1930 was one of unusually high harvests, such as often occur in years of favorable ice conditions, then the trend may have begun back as far as 1910 when commercial whaling ceased. Marquette stated that the growing annual kill may reflect an increase in abundance of bowhead whales.

It has been argued, however, that the increased harvest actually represents an increase in hunting effort. Certainly Marquette has been able to document a steady increase since 1973 in the number of active crews in Point Hope, Wainwright, and Barrow as well as other places. Unfortunately, data on the number of crews hunting before 1971 are difficult to obtain. However, most people who have lived in the region feel that this increase in hunting effort did not start until native employment associated with the Alaska pipeline and native land claims settlement became well established. Thus, previous to 1971–1973 the number of crews was relatively constant at approximately 20 for the Barrow area and perhaps another 20 from other areas of Alaska's Beaufort Sea.

Conclusion

One possible interpretation of these catch statistics is that the bowhead population is at least not decreasing and may actually be increasing (Marquette 1977). Unfortunately, until changes in level of effort and other conditions are documented, interpretations are dangerous. In summary, however, there is not enough evidence to document changes in population.

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CTX

Mr. GOLDWATER. Mr. President, during the course of hearings before the Tactical Air Power Subcommittee, the

matter of the Navy purchasing a CTX aircraft was heard. The CTX is a turbo-powered propeller-driven aircraft for light transport purposes. I thought the language contained in the subcommittee report made it clear that this purchase was to be for competitive bidding and in conference this was further discussed; and, though the language was changed, it was still my impression that it spelled out competitive bidding. When the conference report came to the Senate floor, Senator METZENBAUM and I engaged Senator STENNIS in colloquy, further bringing out the fact, in my mind, that the Navy purchase was to be made only after competitive bidding.

I wrote the Department of the Navy on September 30 regarding this, and today I received a letter in answer, indicating that the Navy chose to ignore the decision made in the subcommittee, the full committee, in conference, and on the floor of the Senate, and is now buying it, as they say, "in an interdepartmental purchase." What they have done is to merely buy what the Army is using; and, while I have indicated in my November 1 letter to the Secretary, that I can find no fault with this aircraft, having flown it and practically everything else that company has built, there are still other companies in this country that make aircraft which can fill this bill and should have been considered.

I ask unanimous consent that the correspondence I have had with the Navy and their answer to me be printed in the RECORD.

There being no objection, the correspondence was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., November 1, 1977.

Hon. W. GRAHAM CLAYTOR, Jr.,
Secretary of the Navy,
Department of the Navy,
Washington, D.C.

DEAR MR. SECRETARY: One month and one day after writing you about the CTX I receive a letter from you, and I suggest you ignore the one I wrote you yesterday because I probably wouldn't get an answer until Christmas.

Whoever in your department read the reports, the colloquy, etc., evidently missed the main point. That point is that there was to be competitive bidding for the aircraft the Navy is to acquire. There is no question, in my mind, that this is made perfectly clear by the colloquy on the Senate Floor, by long discussions in the Conference, hearings and by discussions with the Chairman of the Senate Committee.

I have nothing at all against the aircraft you indicate an interest in. In fact, I have flown it and have flown practically every model of aircraft this company has made. There are other companies, however, which make aircraft in this category which product, in my opinion is equal. This was the whole thought behind my efforts to spell out in the bill that this would be competitive bidding, and I was assured by the Chairman that this would happen. But now you have changed this concept to one of buying an interdepartmental aircraft.

It may be your conclusion that you have practiced bidding, but I can assure you it is not mine. Nor will it be accepted as such by those of us who work diligently to allow a little competition to creep into the Pentagon.

I am going to make some comments about this on the Floor of the Senate, and I am sending Chairman Stennis a copy of this letter because, in my opinion, your action is entirely outside the intentions of the Conference and the statements made on the Senate Floor.

Sincerely,

BARRY GOLDWATER.

DEPARTMENT OF THE NAVY,
Washington, D.C., Oct. 31, 1977.

Hon. BARRY M. GOLDWATER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR GOLDWATER: Thank you for your letter of September 30, 1977, regarding the CTX. We in the Department of the Navy have thoroughly reviewed the committee reports accompanying the fiscal year 1978 Department of Defense Authorization and Appropriations Bills. The legislative history, the colloquy and other aspects of the CTX received detailed attention. After careful evaluation of our requirements and all relevant factors including the various expressions of congressional guidance, it is our conclusion that it is in the best interest of the Navy to acquire, through a military interdepartmental purchase request, the aircraft that is common with the Air Force and the Army.

The Chairmen of the Senate and House Appropriations and Armed Services Committees are being advised of this decision by letter. A copy of the letter to the Chairman of the Senate Armed Services Committee is attached. I am sending Senator Metzenbaum a letter similar to this one.

Sincerely,

W. GRAHAM CLAYTOR, Jr.
Secretary of the Navy.

CLASSIFICATION DISPUTE

Mr. ABOUREZK. Mr. President, for the first time, so far as I know, two Federal agencies have disagreed about whether to declassify government information. The dispute between the National Security Agency (NSA) and the Justice Department concerns a proposed chapter of a book on counterespionage cases being written by Robert L. Lamphere, a former FBI special agent. The particular information at issue pertains to the interception by the United States of communications intelligence.

Mr. Lamphere submitted a draft of his chapter to the FBI, which, at the request of the NSA classified the information. Mr. Lamphere appealed that decision to the Justice Department's classification review committee. That committee voted 4 to 1—over the objection of the NSA—to declassify the information. Basically, the Justice Department position is that the information in Mr. Lamphere's manuscript is 30 years old and no longer warrants secrecy.

The NSA, however, insists the public has no right to know about the Government activity in question. NSA then sought reconsideration of the Justice Department's decision to clear the material for publication. The Justice Department Review Committee, still firm in its belief that the material should be declassified, referred the matter to the Interagency Classification Review Committee (ICRC) for a final administrative ruling.

On October 27, the ICRC agreed by a vote of 6 to 1 to settle the dispute. A decision on the merits is expected at the ICRC's next meeting tentatively set for November 30.

As chairman of the Administrative Practice and Procedure Subcommittee—which has an interest in issues involving access to Government information generally and in the Freedom of Information Act specifically—I am concerned about the outcome in this unusual case.

The decision in this unprecedented interagency dispute undoubtedly will have a great impact on the Government's classification policy and its application in Freedom of Information Act cases. Therefore, I wrote the ICRC on October 27 requesting that I be kept informed of developments in this case and of the eventual resolution of the matter.

Because of the important ramifications of this disagreement, I think all the Members of the Senate and the public also should be kept informed of this case. Therefore, I ask unanimous consent that my letter to the ICRC, the Justice Department correspondence on the issue, and an October 27 Washington Post article by George Lardner, Jr., explaining the dispute in more detail, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., October 26, 1977.

Dr. JAMES B. RHOADS,
Acting Chairman, Interagency Classification Review Committee, National Archives, Washington, D.C.

DEAR MR. RHOADS: It has come to my attention, as Chairman of the Administrative Practice and Procedure Subcommittee, that the Interagency Classification Review Committee currently is considering a dispute between the National Security Agency and the Department of Justice concerning classification of a proposed chapter of a manuscript being prepared for publication. The information in question pertains to the interception by the United States of communications intelligence.

I am informed that the Justice Department's Review Committee voted 4 to 1 to declassify the information and that the National Security Agency opposes the declassification.

This is the first time, as far as I know, that two federal agencies have disagreed on the question of declassifying information. Thus, your decision may have great impact on the government's classification policy and its application in Freedom of Information Act cases.

Consistent with this Subcommittee's interest in, and jurisdiction over, the Freedom of Information Act and issues concerning access to government information, I would like, as Subcommittee Chairman, to be kept informed of developments in this dispute and of the eventual resolution of the question.

I appreciate your cooperation in this matter.

Sincerely,

JAMES ABOUREZK,
Chairman, Subcommittee on Administrative Practice and Procedure.

DEPARTMENT OF JUSTICE,
Washington, D.C., September 14, 1977.

Mr. B. K. BUFFHAM,
Deputy Director, National Security Agency, Fort George G. Meade, Md.

DEAR MR. BUFFHAM: This is in response to your letter of August 15, 1977, requesting reconsideration by the Department Review Committee of its decision concerning the classification of the proposed chapter of—— manuscript.

At a meeting on August 16, 1977, the Committee considered your request that its initial decision to declassify the information be set aside. In light of your most recent communication and remarks made by Messrs. —— and —— of the National Security Agency, the Committee decided to refer this document to the Interagency Classification Review Committee for its determination as to

whether classification is warranted. The Committee will also advise the I.C.R.C. of the Committee's opinion that the information does not warrant classification.

I hope this matter can be resolved in the near future. If you have any questions concerning the Committee's decision, please do not hesitate to call.

Sincerely,

LEON ULMAN,
Chairman, Department Review Committee.

DEPARTMENT OF JUSTICE,
Washington, D.C., September 14, 1977.

DEAR ———: This is in further response to your letter dated May 3, 1977, requesting review by the Department Review Committee of Director Kelley's denial of your request to declassify certain classified information maintained by the Federal Bureau of Investigation.

In consultation with the National Security Agency, the Committee has reviewed the proposed chapter of your manuscript and has decided to refer this document to the Interagency Classification Review Committee for its determination as to whether classification is warranted. You will be advised of the Interagency Classification Review Committee's decision concerning the classification of the proposed chapter as soon as possible.

Sincerely,

LEON ULMAN,
Chairman, Department Review Committee.

DEPARTMENT OF JUSTICE,
Washington, D.C., September 14, 1977.

Dr. JAMES B. RHOADS,
Acting Chairman, Interagency Classification Review Committee, National Archives, Washington, D.C.

DEAR DR. RHOADS: On August 7, 1977, the Department Review Committee initially considered a request made by a former Special Agent of the Federal Bureau of Investigation, ——— to review Director Kelley's action concerning the classification of one proposed chapter of a manuscript being prepared for publication by ———. As the chapter contained information pertaining to the interception by the United States of communications intelligence, the National Security Agency was consulted as to whether classification of the document was warranted. Although the Agency's recommendation was in favor of classifying the document, the Department Review Committee, by a vote of 4–1, concluded that classification was not warranted in this case. At the request of the Agency, the Committee reconsidered this decision at its meeting on August 16, 1977. As there continues to be a disagreement between two interested government agencies as to the classifiability of the document in this case, the Committee, with the concurrence of the National Security Agency, has decided to refer this document to the Interagency Classification Review Committee for its determination.

The arguments representing each side of the classification issue are contained in the correspondence between the Department Review Committee ——— the National Security Agency and the Federal Bureau of Investigation, which are attached for your information. The proposed chapter with the FBI's classification (lined-out portions) is also attached. If you have any questions concerning this case, please do not hesitate to call.

Sincerely,

LEON ULMAN,
Chairman, Department Review Committee.

[From the Washington Post, Oct. 27, 1977]

EX-AGENT'S SPY BOOK TESTS SECRECY

(By George Lardner, Jr.)

One weekend last February, a Boston insurance company executive composed the tentative first chapter of a book he's been wanting to write for a long time. It is expected to come up for review today at a closed-door meeting in the Roosevelt Room of the White House.

The author is a former FBI official who was in charge of counterespionage investigations at the peak of the Cold War. His manuscript has touched off an unprecedented dispute within the rarefied bureaucracy in charge of government secrets.

The appropriate officials at the Justice Department have already voted to clear it for publication. But the National Security Agency wants to overturn the decision.

"This is hot . . . It's very, very interesting material," said one knowledgeable government official. "The NSA didn't even want anybody else to read it."

The working title of the book, written by former FBI special agent Robert L. Lamphere, is "The FBI vs. the KBG—the Unseen War" and the secrets at issue are more than 30 years old. They involve the interception of Russian intelligence communications, reportedly involving the case of Ethel and Julius Rosenberg who were electrocuted in 1953 after their conviction for conspiracy to commit espionage for the Soviet Union in time of war.

The dispute is now before the classification bureaucracy's court of last resort, the seven-member Interagency Classification Review Committee (ICRC), which has been meeting monthly at the White House in relative obscurity since it was established in 1972 under an executive order signed by President Nixon.

"Both sides have been putting forth their positions rather strongly," said Robert Wells, a retired Army colonel who serves as the ICRC's executive director. "I'm sure it will be given real full consideration."

The outlines of a backstage battle are contained in a set of letters written at the Justice Department last month and subsequently obtained by The Washington Post under the Freedom of Information Act.

Lamphere, now a vice president with the John Hancock Mutual Life Insurance Co. in Boston, elaborated in a telephone interview.

"I don't want to do anything that would hurt my government," the former FBI man emphasized. He said he is still open to persuasion, but he made clear he has yet to be convinced that publication of the chapter—the first of a proposed nine-chapter book—would do any harm.

From 1947 to 1955, Lamphere said he served in and became supervisor of a special FBI unit in charge of counterespionage investigations that included the Rosenberg case and that of Judith Coplon, a onetime Justice Department analyst tried on espionage charges in 1949. In 1950, Lamphere went to England to interview British scientist Klaus Fuchs whose conviction for passing atomic secrets to Russia prefaced the still controversial Rosenberg case.

At one point during the telephone interview, Lamphere said he was tired of reading again and again over the years about how innocent the Rosenbergs were, but he declined to comment when asked if the chapter at issue involved them. Whatever its subject, he said he wrote it in tentative form over a single weekend last February simply "to indicate how I intended to use my knowledge" and sent it off to the FBI to see if it would cause any problems.

"It's something of a lead-in to readers to help them understand what the book is all about. I think it adds a lot—the spark that would make the book much more interesting." He said he hoped to use the information elsewhere in the book as well, but "typically they [government officials] have seized on this [the draft] as the be-all and the end-all, which it isn't."

The episode illustrates the Byzantine complexities of the government's classification and declassification system. Under the 1972 executive order issued by President Nixon—which is about to be replaced by another being drafted for President Carter—every major department and agency has its own classification review committee to handle requests for the declassification of government secrets.

Over them all sits the Interagency Classification Review Committee, currently headed by the archivist of the United States, with a staff of eight and a $170,000-a-year budget to monitor the workings of the system. But it rarely has to bother with appeals. Since 1972, less than 3 per cent of the requests for declassification review prompted appeals to departmental review committees and less than 0.6 per cent got to the ICRC.

Officials say Lamphere could have gone to the courts instead, and probably still can, but for the moment, he says he is content to see how far he can get within the executive branch. One Justice Department expert speculated that the final decision might have to be made by President Carter.

Although it contains no government documents as such, the manuscript was apparently stamped "Top Secret" shortly after its arrival in Washington. The FBI saw that it involved communications intercepts within NSA's province and classified it at the code-breaking agency's behest.

"The thing was really very confused," recalled one member of the Justice Department review committee. "The FBI originally could have referred the material directly to NSA but instead they classified it themselves and it fell within jurisdiction of the Justice Department."

As a result, when Lamphere appealed the FBI action, the issue was bumped to the Justice Department committee which listened to a barrage of protests from NSA officials in August and remained distinctly unimpressed.

"As the chapter contained information pertaining to the interception by the United States of communications intelligence, the National Security Agency was consulted as to whether classification of the document was warranted," the Justice Department review committee's chairman, Leon Ulman, recounted in a Sept. 14, 1977, letter to acting ICRC chairman James B. Rhoads. "Although the agency's recommendation was in favor of classifying the document, the Department Review Committee, by a vote of 4 to 1, concluded that classification was not warranted in this case." The vote was taken Aug. 6.

NSA Deputy Director B. K. Buffham and his aides protested and won another meeting of the Justice Department committee last Aug. 16.

Ulman informed Buffham in another Sept. 14 letter that the Justice Department panel had decided to bump the issue to the ICRC as a result of the NSA's demands for continued secrecy, but he added that the Justice Department still felt "that the information does not warrant classification."

According to ICRC executive director Wells, the interagency panel will probably vote today simply on whether to accept the case. It may take another month or two to deal with the merits of it.

Fortunately for Lamphere, according to one Justice Department official, the dispute will be decided under the Nixon order rather than the one under consideration by Carter. For secrets more than 30 years old, the Nixon order demands declassification unless continued secrecy is "essential to the national security."

The Carter draft order removes that test and allows continued secrecy for any matter whose disclosure would be "demonstrably harmful" to the national security.

"It's doubtful that the NSA can show 'demonstrable harm.' But I don't think they could possibly show this [continued secrecy] is 'essential' to national security," the Justice Department official said.

NSA officials declined to comment, but they are apparently concerned about the outcome,

too. Said Lamphere: "There have been some efforts to discourage me from continuing my appeal."

HUMAN SERVICE

Mr. LUGAR. Mr. President, the Reverend R. T. Andrews, of Indianapolis, Ind., has distinguished himself as pastor of the Mount Zion Baptist Church repeatedly with superior accomplishments in the area of human service. The Mount Zion Baptist Church is one of the more beautiful churches in the city of Indianapolis and reflects the confidence of the membership in our citizens and commitment to serve as it is located in the innercity.

Every aspect of Mount Zion and Reverend Andrews reflects beauty, efficiency, and commitment to human service. A modern day care center serving 125 preschool children is a part of the Mount Zion complex. Other facilities include three apartment projects for the elderly and disabled. These provide over 200 units of attractive housing for persons on limited incomes. The Mount Zion Educational Training Center prepares persons over 45 for meaningful careers and new job opportunities.

The Mount Zion give yourself credit program is a college program which brings the university to the community in cooperation with Indiana Central University. In a special hot lunch program, Mount Zion under Reverend Andrews' leadership, has provided food for up to 6,000 persons per day. His most recent accomplishment was the opening of the beautiful new Mount Zion Geriatric Center which cares for over 100 inpatients. This well-equipped and professionally staffed center recently trained 30 CETA students in medical and paramedical careers. The many multi-million-dollar accomplishments of this dynamic leader and congregation are most noteworthy. The fact that he is nearing 92 years of age does not slow his pace. He is always planning for improved and expanded methods of showing love for his fellowman.

The trustees, officers, and faculty of Bishop College of Texas have chosen to honor Reverend Andrews as a 1977 recipient of the honorary doctor of humanities degree.

I am pleased to voice the sentiments of the citizens of Indiana in saying this great man deserves our special recognition for outstanding accomplishments in service to others.

THE GENOCIDE CONVENTION AND THE NEED FOR INTERNATIONAL LAW

Mr. PROXMIRE. Mr. President, on October 19, the Wall Street Journal printed an article on the activities of the Communist regime in Cambodia—the Khmer Rouge. Since coming to power in 1975, this government has concentrated its energies on a ruthless elimination of its enemies by any means possible. At present, the regime estimates that up to 160,000 of these "enemies" remain to be dealt with. In addition, the article points out that the government has now begun a widespread purge of the "enemies" within its own ranks. Although the reasons for such actions can probably never be fully explained, I suggest to my colleagues that this is a good example of what can occur when those in power feel and act as if they are responsible and accountable only to themselves.

I am convinced that until there exists a network of international agreements to protect the most basic human rights, such atrocities will probably continue. Although the United States has taken many steps toward creating such a network, we in the Senate have not done all that we can. The Genocide Convention, which has been before the Senate longer than any other single document, and which seeks only to protect the most fundamental of human rights, has not been ratified.

Mr. President, this article should serve as a striking reminder that blatant violations of human rights will not go away by themselves. I urge my colleagues to take immediate action to stop such activities by ratifying the Genocide Convention. I ask unanimous consent that this article in the Wall Street Journal be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ASIAN BLOOD BATH—CAMBODIA'S COMMUNIST REGIME BEGINS TO PURGE ITS OWN RANKS WHILE CONTINUING A CRACK-DOWN

(By Barry Kramer)

SURIN, THAILAND.—Since coming to power 29 months ago, the Cambodian Communists have gained a world-wide reputation for the brutal treatment given their non-Communist countrymen. Now the Khmer Rouge—literally, the Red Cambodians—are carrying their campaign of terror an extra step. They are killing one another.

Cambodian refugees, including several high-ranking Khmer Rouge defectors, interviewed at a camp here on the Thai side of Thailand-Cambodia border say that mass purges have been conducted in Northwest Cambodia in recent months against hundreds of Communist soldiers and cadre. The purge victims' fate apparently has been the firing squad.

Nor has the bloodletting stopped. According to two of the Communist defectors here, the victors in the party purge, the so-called "new" Khmer Rouge, since have redoubled efforts to seek out and execute Cambodians who served in the army or government of the deposed Lon Nol regime. Other targets are teachers, Buddhist monks and educated or wealthy Cambodians, the defectors say.

It's difficult to judge how accurate these refugee accounts are. The Communist defectors, for instance, no doubt have ample reason to discredit their former leaders. Yet such reports are the only source of information available about a country that has shut itself off from the outside world ever since the fall of its capital, Phnom Penh, to Khmer Rouge forces on April 17, 1975.

HIGH DEATH TOLL

Moreover, for months other refugees have been telling gruesome tales of forced evacuations of Cambodian cities, mass executions and widespread hunger and disease. Estimates based on the reports of those who have interviewed these refugees place the number of Cambodians who have died violently since the Communist takeover at between several hundred thousand and over one million.

Cambodia's new leaders don't deny that they are "eliminating" what they call "reactionaries." But the ruling Angka Leou, or Organization on High, which only recently acknowledged that it is synonymous with the Cambodian Communist Party, has contended that one million Cambodians died not at their hands, but in U.S. bombing raids prior to the Communist victory. And Pol Pot, who as premier and secretary-general of the Cambodian Communist Party has emerged as the country's strongman, said in a recent speech that "only the smallest possible number" of those who oppose the revolution are being killed.

However, even Pol Pot puts the remaining number of "enemies of democratic Cambodia" at 1% to 2% of the country's population, which he claims is currently eight million. That means between 80,000 and 160,000 Cambodians are still in danger of losing their lives.

AN IRONIC TURN

Whatever the magnitude of this bloodbath, it took an ironic turn earlier this year when the Khmer Rouge began to purge their own ranks. Military intelligence officials in Thailand believe the purge followed an attempted coup d'etat in Phnom Penh. Western diplomats, meanwhile, think the Cambodian Communists are trying to cleanse the Party of pro-Vietnamese elements now that the Cambodians are at odds with their Hanoi allies. Still others say Khmer Rouge leaders want to consolidate their own power by eliminating potential rivals.

In any case, eyewitness reports suggest, Communists as well as non-Communists aren't immune from harm under the new regime.

Hui Pan is a former bicycle repairman who rose through the Communist ranks to become a Khmer Rouge village chief at Dam Dek, a town of 3,700 in Siem Reap province. Interviewed at the Surin refugee camp, Mr. Pan says the purge began last February when all 50 or so Siem Reap province officials were suddenly ordered to report to Phnom Penh. Two weeks later, the ruling Angka Leou sent back word that all of these officials had been removed because they were "CIA agents" who had "killed many people so that the people wouldn't like Angka."

At first, says the dour-faced, 31-year-old Mr. Pan, "the people liked the new Khmer Rouge more than the old Khmer Rouge because the new Khmer Rouge distributed food that had been locked up by the old Khmer Rouge."

HARSH REPLACEMENTS

But the new officials sent to run Siem Reap soon showed they were more harsh than their predecessors, Mr. Pan says. "Under the old Khmer Rouge, perhaps 30% of the Lon Nol soldiers were killed. The new Khmer Rouge killed all the rest."

That wasn't all. Sometime in April, Mr. Pan continues, the new province officials began telling each village leader that "the chief wants to see you." The leaders went—and never returned. "In this way, all the old village chiefs (in Siem Reap) were betrayed," Mr. Pan says. He, too, was arrested in April and led away with his hands tied behind his back. However, Mr. Pan was able to cut his bonds and flee, reaching Thailand in late June.

Hui Pan's story is corroborated by Chuk Han, a 21-year-old Khmer Rouge artillery-unit commander who claims that betweeen April and July, when he himself fled the country, about 800 Khmer Rouge officers and men were "caught" in Oddar Meanchey province along the Thai border.

"Simple soldiers were led away with their hands tied behind their backs," Mr. Han recalls. "Officers weren't tied up until they reached Siem Reap."

Why were they arrested? "I don't know the big story but they told us the old Khmer Rouge wanted to make a 'new revolution,'" Mr. Han says. After the new Khmer Rouge were in control, he adds, "they told us the people have to work harder than ever before to find all the enemies of Cambodia. They began to catch all the old Lon Nol people and move them away."

Khem Chhommali, a 27-year-old former inspector in Lon Nol's national police who is now at Surin, claims to have seen a mass grave containing the bodies of 70 "old Khmer Rouge" executed near the village of Sray Snam in Oddar Menchey province. "We were told that the old Khmer Rouge wanted a coup d'etat, like the Soviet Union," he says.

Indeed, the new Cambodian leadership has been hostile toward the Soviet Union, perhaps because of Soviet influence in Vietnam and Laos. Although the Vietnamese Communists once aided the Khmer Rouge and used Cambodia as a sanctuary during the Vietnam war, the Cambodians historically have distrusted their eastern neighbors.

Today, in fact, this mutual dislike is said to be behind a series of recent clashes along the Cambodian-Vietnamese border. At one point, diplomatic sources inside Vietnam report, Cambodian troops besieged the Vietnamese border town of Chau Doc; in retaliation, the Vietnamese struck villages miles inside Cambodian territory.

Cambodia, whose major Communist ally is China, also has mounted bloody raids on border villages inside Thailand and has fought with the Laotians as well. Observers believe some of these military ventures represent an attempt by a still-insecure Cambodian regime to show its stronger neighbors that it can't be pushed around.

But the biggest reason for the border clashes seems to be Cambodia's desire to create a no-man's land along its borders, making it difficult for Cambodians to leave the country. The policy has worked. The flow of refugees, which has brought 15,000 Cambodians to Thailand and another 60,000 to Vietnam, has slowed to a trickle in the past few months. Escaping Cambodians not only must contend with Khmer Rouge patrols but also with mine fields placed along the Cambodian border. And in Thailand, armed villagers fearful of the Khmer Rouge, often shoot the escapees as spies.

REPORT FROM PANAMA

Mr. HANSEN. Mr. President, article XI of the Panama Canal Treaty provides that the Republic of Panama shall gain full jurisdiction over the Canal Zone as soon as the treaty enters into force. It further provides for a complete transfer of U.S. judicial, administrative, and regulatory authority within 30 months, even though the administration is emphasizing a 23-year period in which this will occur.

In my opinion, these provisions will not constitute an orderly transition. As I indicated in my statement recently before the Senate Foreign Relations Committee, I believe there are very few American citizens who will remain in the Canal Zone, knowing they will be under the jurisdiction of the Republic of Panama. Large numbers may return to the United States, leaving a void in the manpower support of the operations of the canal.

Mr. President, in a recent article by Mr. Egon Tausch of the U.S. Industrial Council, he notes there are about 34,000 U.S. citizens living in the zone, most of whom are directly connected with canal operations. Mr. Tausch further notes that since 1974, when former Secretary of State Kissinger announced the joint statement of principles, resignations of U.S. citizens have increased by 60 percent. In addition, according to an informal poll of U.S. citizens about their plans, 67.8 percent said they would not consider remaining if the zone is turned over to the Republic of Panama.

Mr. President, I believe the administration and the negotiators on both sides have failed to take into account the very real possibility that, should jurisdiction of all U.S. judicial, administrative, and regulatory authority be transferred within 30 months, as provided for under the treaty, there may, in fact, be very few left to operate the canal.

Mr. President, I ask unanimous consent that the full text of Mr. Tausch's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

REPORT FROM PANAMA: THE AMERICANS WHO OPERATE AMERICA'S CANAL

(By Egon Tausch)

(NOTE.—The author of this article is an author and attorney who spent his formative years in Latin America. Mr. Tausch served as an officer in Vietnam, taught at West Point, and has published in National Review and other journals. He recently visited the Panama Canal Zone to gather material for this report.)

One factor in the Panama Canal controversy which has been deliberately ignored by both the State Department and the media is the problem of the Canal Zone residents, or "Zonians."

There are about 34,000 U.S. citizens living in the Zone, most of whom are directly connected with Canal operations. It is a remarkably stable population, made up for the most part of children, grandchildren, and great grandchildren of Canal workers. Many have married Panamanians and others are naturalized U.S. citizens themselves. There is no labor-management dissension, unemployment, welfare, race issue, or crime problem in the Zone.

The Zone is not a duty assignment for its residents; it is their home which they have quite rightly believed would always be part of the United States. For obvious reasons, the State Department would like to forget about them.

Much has been made of the fact that the Canal will be turned over to Panama gradually; the Panamanians will not have full control until the year 2000. This has obscured the fact that the Zone itself, as distinct from the Canal, will be turned over within 30 days after the treaty is ratified. The Zonians have lived next door to the Panamanian police state and do not relish the though of living under it. Their attitudes must be taken into consideration before ratifying the treaties: Any timetable for the transition to Panamanian control of the Canal depends entirely upon the willingness of Zonian employees to stay and work after the Zone is under the jurisdiction of the Guardia Nacional. If they won't, the Canal will close down quickly and disastrously, regardless of any agreements to the contrary that U.S. and Panamanian negotiators might have made.

The Zonians have no intention of being ignored. They were the victims of the 1964 riots, sporadic violent incidents since then, including the bombings of American automobiles in November, 1976, and harassment by the Panamanian Guardia Nacional and secret police.

Now they find themselves an embarrassment to the U.S. Embassy in Panama, which has refused to permit the rights of these American citizens to strain relations with the Panamanian dictatorship.

"When we go into Panama to use their airport—we aren't allowed to use our own military field anymore—and get detained by the Guardia, we're all alone," says Mrs. James Fulton, president of the Pacific Civic Council in the Zone. Patrolman William Drummond adds, "If we get into any kind of trouble, we now know better than to call on our own embassy. We call the British. They don't have to pretend we don't exist."

Drummond, president of the Police Union and legislative chairman of the Central Labor Union and Metal Trades Council, had his two automobiles bombed in the terrorist attacks of 1976. The incident was attributed to the G-2, the intelligence arm of the Panamanian secret police. The U.S. Embassy in Panama speculated publicly that Drummond might have bombed his own cars to gain sympathy for the plight of the Zonians, a charge proven false when the other bombs went off and the terrorist notes were discovered. The Embassy never apologized to Drummond.

On February 11, 1977, Drummond was arrested by the G-2 at the Panama airport when he was on his way to testify in Washington on union business. He was detained and questioned in downtown Panama City for three hours. His release was obtained only because the arrest was reported by the protocol officer from the embassy, who had happened to witness it. The Ambassador decided not to make a point of such arrests for fear of endangering the treaties.

Shortly before the negotiators completed the treaties they authorized Gov. H. R. Parfitt of the Canal Zone to release a list of fifteen "assurances" to U.S. citizens in the Zone—points that were to be in any proposed treaty.

Among them was the following assurance concerning criminal justice: "In connection with offenses arising from acts of omission punishable under the laws of the Republic of Panama, United States Citizen employees and their dependents will be entitled to specific charges, cross-examination of witnesses and legal representation of choice.

Also, the State Department announced, a status-of-forces agreement would be included in the treaty, which would permit U.S. civilians to be tried by their own courts as is done by the military in other foreign countries. These assurances were repeated by every level of government and were even incorporated into a Department of Defense directive to the military.

In reality, the State Department negotiators were aware that Torrijos had consistently refused to consider any such assurances. These clauses had already been omitted from the early draft treaty at Torrijos' insistence.

The final treaty gives all authority over criminal justice—procedural and substantive, crimes of commission and crimes of omission—directly to Torrijos, with no safeguards for U.S. citizens, other than the right to serve their sentences in America if Panama agrees at a later date.

In the face of his repeated failure to get Panamanian agreement on these points, Ambassador Bunker continues to push the treaties by promising that a status-of-forces agreement will be forthcoming, somehow.

The residents of the Canal Zone feel a personal sense of betrayal by the U.S. government. They can vote only in presidential general elections, so their interests are centered on one issue—foreign policy. Secretary of State Henry Kissinger was profoundly disliked in the Zone, and the last television debate between Carter and Ford led the Zonians to believe that Dr. Kissinger's policies would be reversed by a Democratic administration. The Zone went solidly for Jimmy Carter. Now the President's representatives encounter only hurt hostility from the residents.

The Zonians have held rallies protesting the proposed treaties. More than 2,600 appeared at the last one before the treaties were signed. If any Zonians favor the treaties, they have yet to speak out. Despite their export knowledge of Canal operations and of conditions in the Zone, the residents have not been interviewed by the major U.S. news media. The Canal Public Information Office complains that it gives a representative list of Zonians to every reporter who calls

on the office, but none bother to visit the locals.

Some of the American reporters have resorted to denouncing the Zonians' stilt bungalows and commissaries-without-discounts as "unfair" luxurious living Unlike other Americans, the Zonians are expected by the press to live a Spartan existence, in return for the privilege of working on the Canal.

In actuality, the architecture and scenery of the Zone differs from that of Panama only in that it is kept clean and in good repair. The attack on Zonians is reflected in Time Magazine's report of a Canal pilot who "refuses to work for a dictator." The quote is preceded by the magazine's categorical opinion: "The Zonians' basic objections to the treaty range from chauvinistic to sentimental to mercenary."

State Department officials counter Zonian opposition to the treaties by calling the U.S. citizens "colonialists" or "racists," a charge which labor leader Drummond refers to as the last ditch effort of desperate bureaucrats. He, like many Zonians, is married to a Panamanian national.

Speculation about the evacuation of the Zone continues, without evidence of U.S. concern for keeping the Canal going.

Federal District Clerk Doris McClellan feels protective of her courthouse in the Zone. The daughter of Sen. John McClellan (D-Ark.) knows her way around Washington. "What right," she asks, "does the State Department have to abolish or give a federal court over to a foreign jurisdiction? We're under the Justice Department, not Foggy Bottom!" A Southern lady of the traditional mold, she gets angry when she envisions the future of her beloved courthouse under the rule of Gen. Torrijos and his henchmen of the Guardia. Indeed, the general will have little use for a court of justice within a governmental system which recognizes no civil rights whatever.

Miss McClellan is taking no chances with the historical honesty of the future occupiers of the Zone—she is sending all the deed records which prove ownership of the land, north for safekeeping.

Washington seems in no hurry to appoint a new federal judge for the Canal, making do with visiting judges in an obvious ploy to prepare for the turnover in case the treaties are ratified.

"What do they think they'd do with us? Send us home? Where is our home, if not here?" asks William Benny, a control house operator on the Canal. He and his wife were born in the Zone, and have no ties with other parts of the U.S. Benny will have to make his own plans for his family, and they won't be based on a timetable prepared in Washington.

The Governor of the Canal Zone and President of the Panama Canal Company is an Army general on leave of absence. The Zone Government and the Canal Company both operate under the general supervision of the Secretary of the Army. After completing his term, Gov. Parfitt will return to active duty, with a promotion if he hasn' made waves. He is prevented by his office from voicing Zonian complaints about the State Department or taking any position in regard to the proposed treaties. Nevertheless, his testimony before Congress during earlier hearings must have been unwelcome to those among his superiors who favor a gradual Panamanian takeover of the Canal.

Gov. Parfitt is painfully aware that the Canal must be closed if there are not enough U.S. employees who are willing to remain at a temporary job in a place that is no longer to be their home, under a repressive foreign regime, and with little or no support from their own embassy. The Governor testified that fear of the future was affecting the work force even before the treaty agreement was reached. Since the 1974 Kissinger announcement of the Joint Statement of Principles, resignations have increased by 60 percent.

"Although the number is not of such magnitude as to cause great concern, what we are concerned about is the trend—the fact that this could snowball and ultimately seriously affect our ability to perform the Canal's mission. . . . Prospective employees are wary in seeking employment with the Panama Canal when doubt exists as to the future security and tenure of their positions and the conditions which might prevail under a new treaty."

Even if other Americans were paid enough to induce them to move to Panama, they would require extensive training to become familiar with the 1910 technology of the Canal, simple as it is. And they would have to be integrated slowly into the regular workforce. If the treaties are ratified, there won't be a regular workforce to ease them into.

The U.S. Civic Councils, organizations of Canal Zone community representatives, polled 285 U.S. citizens about their plans. 62.8% said that they would not consider remaining if the Zone is given to Panama. "Many of our people now tell us that 'the day that the Canal Zone Police go, we go,' and also, more alarmingly, 'when the U.S. workers see the day getting closer that jurisdiction will be handed to Panama, you can expect to see the Canal shut down.'"

The only labor trouble that the Canal ever faced was a "sick-out" in March of 1976, which was a response to rumors of a new Canal treaty. As the Civic Councils reported, "Morale at that time was extremely low; this year we have to say honestly that our people are so demoralized that they are ready to give up and quit—a shutdown of the Canal, if it occurs, will not happen over a labor issue. It will result from apprehensive employees, who in their fear for their physical security, will simply leave their jobsites, go home and pack their suitcase . . ."

"The trouble with the State Department," concludes Pat Fulton of the Pacific Civic Council, "is that they want a new treaty as a 'symbol'. But the Canal is a thing!" Ideology and nationalism will not change the fact that if the Americans leave, the Canal will be dependent on Panamanian mechanical skills.

The Canal mechanism is simple, but it requires upkeep. There is no regular maintenance system in Panama. Pride is based on acquisition; maintenance is work performed for no visible result. The elaborate daily lake dredging and cleaning and lubricating procedures employed on the Canal are objects of amazement, and sometimes derision, among Panamanian visitors.

For years the United States has given preference in hiring, training, and promotion to Panamanian nationals. At the present time only two of the ship pilots are Panamanians, and not many others of that nationality have risen above menial labor positions. Far fewer than the quota provided for by the program apply for training; fewer still complete it.

Recently the United States acceded to Panamanian requests and gave up control of Bayano Dam, a source of energy and a necessary control valve on the lake which supplies the locks with water. The daily inspections of the dam ceased immediately after Panama took possession. Within a few months the dam became inoperable. Torrijos could find no Panamanians with the knowledge and skills to repair it and was forced to fly in a team of Yugoslavian engineers and mechanics. Since the repair of the dam, new cracks have appeared.

Panama has never conquered the problems of mechanical and administrative efficiency. The garbage collection system in Panama City is practically nonexistent; heaps of refuse rot in the tropical sun. Modern buildings have no hot water systems built in. Torrijos bought a new fleet of buses from Germany, but made no arrangements for mechanics or replacement parts. A year later, less than one-third of the buses were still running; the others were cannibalized for their parts and the bodies left abandoned along the streets.

The treaty negotiators could not entirely ignore the possibility of Zonian flight and the lack of skilled Panamanians to replace the American employees.

Consequently, the U.S. Embassy in Panama contracted the services of Mr. John L. Jackie to do a study of the impact of a new treaty on Canal Zone residents and how they might be convinced of its benefits. The political branch of the embassy worked with Mr. Jackie. The final report indicates that the methods of the Panamanian dictatorship are not completely alien to the State Department: "a lot of good press would be essential for success: in this situation we would make good use of the controlled press situation on the Isthmus. If it does not work, no propaganda will sell it. But it can be given at least an initial breath of promise through skillful manipulations of the available media."

Later the report adds, ". . . we would have to work closely with the Government of Panama to insure that their share of the participation would be handled with our goals in mind. We would not want a Government of Panama speaker who is going to rant about how glorious Panama's demands are; we would want someone who could communicate on a low-key level and who would be very reassuring."

Even such sophisticated Madison Avenue techniques might not work with Bill McConaughy, Senior Control House Operator and a highly respected mechanic. McConaughy has worked on the Canal all his adult life, as have his two brothers, their father, their grandfather, and their great grandfather, who helped build the Canal and whose Theodore Roosevelt Medal the descendants treasure. Bill's pride in the Canal is second only to his pride in America for having created it.

"Short of working on the Moonshot there's nothing I'd be prouder to do than what I'm doing here. We feel that way, and it doesn't wear off with time." After thinking a moment, he adds, slowly, "As long as the Canal is American."

CONVERSION OF FOSSIL FUELS TO ELECTRICITY

Mr. METCALF. Mr. President, Soviet Life is an official publication of the Russian Government circulated in the United States. It is published in English on a format very like that of the old Life magazine and contains articles about Russia for circulation abroad. Its counterpart, Amerika, is published in Russian and circulated in the U.S.S.R. containing similar articles about life in the United States. The exchange of these publications started as a part of the first Soviet-American exchange agreement in 1968.

A recent issue of Soviet Life contained an article on MHD. The initials stand for "magnetohydrodynamics," a process for the conversion of fossil fuels to electricity. It is a relatively new technology using very high heat with the result that pollutive material is almost completely consumed. The process has a greatly increased efficiency, fewer moving parts and decreased water consumption. The process which originated in the United States as a result of American research is not widely known in this country although substantial sums have already been spent on perfecting the process.

Elsewhere in the world, MHD is not so mysterious. Other nations have em-

barked on serious MHD research. Leading the pack is the Soviet Union, which made a strong commitment to its development many years ago. It constructed the world's first MHD electric power station in Moscow in 1964 and has since built a pilot plant which has fed power into the city's electric grid.

Although private companies have conducted research into MHD, mostly under government contract, for several years in the United States, our Government's commitment is less than 5 years old. U.S. scientists have cooperated with their Soviet counterparts in an exchange program, but leadership in the field of MHD research clearly belongs to the Soviets.

I think that Americans, who are paying the bill for our MHD effort, should not only know of the U.S. program but also what the Soviets are doing. Accordingly, I ask unanimous consent that a recent article in the publication Soviet Life entitled "Power Source of the Future?" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

POWER SOURCE OF THE FUTURE?

It is sometimes better to devise a totally new approach rather than improve on what has been done. Perhaps it was this consideration that prompted Soviet scientists in the late 1950s to develop a magnetohydrodynamic generator.

In this case the decision was largely forced, because it was practically impossible to improve upon the earlier system. By "earlier system" we mean the modern steam turbine stations which generate more than three-quarters of the electricity the world consumes. Over a period of many decades they have been improved to the limit. However, the limit is not high: Only about 40 per cent of the energy of a fuel is converted into electricity, the rest is wasted heat. In other words, the halls in which geologists make their forecasts about the reserves of oil, coal and gas, saying that our great grandchildren will inherit very little from us, the halls in which ecologists warn about environmental pollution are lighted with electricity generated through fuel combustion. Out of every metric ton* burned in the furnaces only 400 kilograms are efficiently converted into electricity, the remaining 600 are wasted.

Proceeding from this consideration, the magnetohydrodynamic installation looks tempting, because it is capable of raising the efficiency of a fuel-burning electric power station to 56 per cent. This would mean a three to two improvement in fuel performance, wasted fuel decreasing by a third.

How does the magnetohydrodynamic (MHD) generator operate? Incandescent products of combustion heated to the state of plasma—the state of conductive gas—pass between the poles of a magnet. An electric current is generated in this gas, as in any conductor. This is the principle behind the generator.

In the USSR the first MHD installation was developed at the Institute of High Temperatures, USSR Academy of Sciences, in the late 1950s. The power it generated could barely keep a bulb flickering.

Scientists were immediately faced with the problem of which road to take. They could have concentrated all their efforts on the development of the MHD generator—the heart of the future electric power station and the only fundamentally new element in it. This would have enabled them to solve the main problem in less time. Then they could cope with the other problems, which then appeared to be far simpler. American scientists decided to follow this line. Their Soviet Colleagues decided otherwise. Of course, the MHD generator is the heart of the station, they reasoned. But that was the only similarity with medicine. Obviously it would be impossible to transplant a new heart into an old body. It would be necessary to develop everything anew. Since this could not be avoided, would it not be better to build a model of the future station as a whole? This course involved a greater input of time, effort and money, but it was more reliable. It should be noted that this became clear only as time passed. In the beginning, the skeptics thought that this decision would only result in a waste of time, especially because rather big MHD generators were already working in the United States. But we're getting ahead of our story. Fifteen years have passed since our scientists entertained such doubts and engaged in these disputes. Today the Soviet installations are the biggest in the world. More than that, they are the only installations that reproduce the station as a whole. And American scientists now come to Moscow to work on them.

But let us get back to the early period. In 1964 the first pilot installation, known as the U-02, was completed in the building of an old electric power station located in the heart of Moscow. This was the world's first model of a MHD electric power station. It was to provide the answer to the question of whether or not it is expedient to build such stations.

The results were not only encouraging, they were unique. The scientists acquired a most abundant source of information. The U-02 was used for studying various designs and materials for MHD generators. The world's first air heater, which heated the air to a temperature of 2,000 degrees centigrade, has been developed here and is still functioning efficiently (if the fuel is burned in hot air, the temperature of the plasma increases correspondingly). A system for injection and removal of an ionizing agent has been developed, improved and investigated. (This proved necessary because the products of combustion are poor conductors at high temperatures. Therefore, potassium salts are added, which later have to be removed to prevent them from polluting the medium.) The problem of connecting the MHD generator with the city supply network was also solved. It was clear that the MHD generator was practicable. To make it workable, it was necessary to overcome a few rather serious technical difficulties. For instance, the materials for the MHD generator have to stand up to plasma temperatures of the order of 3,000 degrees centigrade, unprecedented in technology. The search for materials for the MHD generator was not simply a technical difficulty, it was more like an independent scientific problem, because it was necessary to develop the materials from the start.

About five years ago scientists at the Institute of High Temperatures, working in cooperation with scientists at the Physical Institute, developed a fundamentally new class of heat-resistant materials. These were not only far superior to the existing materials, but also had pre-set properties. And this is very important. Excellent electrodes with a long service life capable of transmitting high intensity currents were made of these materials.

The work on the U-02 installation showed that the scientists made a sound decision when they chose to design the station as a whole. It proved impossible to adapt a single element from the exiting equipment to the new system. As a result, the development of every element proved to be an independent problem. Soviet scientists worked on the solution of these problems in parallel with the main problem—the MHD generator itself. At the same time, the experience accumulated in the operation of the U-02 installation has shown that not all the newly developed elements could be used in a big station by the simple increase of dimensions. To solve many of the fundamental problems, it was necessary to build a larger installation with an output comparable to that of future generators.

A semi-commercial plant known as the U-25 was completed in 1971. It is obvious from the name of the plant that the output of the MHD generator was to be 25 megawatts. The desire to use standard equipment in many of the components of the plant amended the initial estimate to 20 megawatts. And this has been accepted as the design capacity. The U-25 is the only installation of its size in the world. Its units approach in large degree the blocks of the future MHD electric power stations.

Researchers spent the first few years determining the "temperament" of the installation, seeing how heterogeneous pieces of equipment functioned in a single complex and improving it. Though the experience of the U-02 helped, it left many questions unanswered. A sharp increase in capacity produced many new problems. For instance, it was established that the combustion chamber would have a potential of about 5,000 volts. It had to be insulated from the earth. This was not easy because the chamber was surrounded by numerous pipelines, it was rigidly connected by flanges with the hot air line on one side and the duct of the MHD generator on the other side. In addition, it functioned at a temperature of close to 3,000 degrees centigrade, conditions again unprecedented for technology. During an experiment, the insulation was ruptured and an arc flashed between the bolts fixing the chamber. Later I saw that one of the bolts—as thick as a handrail of a train car—had been narrowed by a third. However, had it not been for these "accidents," scientists would have not developed a combustion chamber that functions reliably at very high temperatures.

The researchers had to have unusual creative imagination and engineering skill to design and perfect as efficient a unit as the steam generator which, it seemed, offered no room for improvement for decades. (The steam generator is needed to consume the heat of the discharge plasma of the MHD generator. This plasma has a temperature of 2,000 degrees centigrade—too low to conduct the current, but enough to generate steam for a conventional steam turbine electric power station). A conventional steam generator of the latest design operates at 1,200 degrees. The new steam generator operates at 2,000 degrees The conventional generator has very little ash; if it works on natural gas, there is no ash at all. In the new generator there is a rather powerful stream of various alkaline metal compounds which are deposited in the form of a dense crust onto the tubes, and which threaten to corrode them. The research team, therefore, had to work on the steam generator as if it were a totally unknown unit.

These factors compelled the researchers to be careful when operating the installation. They would only run it for short periods and at less than maximum capacity, gradually increasing both capacity and running time. This is the way they test aircraft. First the pilot taxies it along the runway, then he will fly a circuit over the field and land it. However, in 1976 the installation started to operate at 20 megawatts. Since then the U-25 has put in 4,000 hours. In the course of several hundred hours, it supplied electricity directly into the network of the Moscow system, providing power for a big district of the capital.

However, not all the problems have been resolved. The design pattern for the MHD

*One metric ton equals 1,000 kilograms, and one kilogram equals 2.2 pounds.

generator has not yet been finally chosen. The simpler and more reliable patterns are not very efficient, and the more efficient patterns are somewhat complicated. A compromise solution has to be found. The installation itself is still being improved. And now the team is to try out the installation in operation at high capacity over a period of several days running.

The next immediate task will be to work on several versions of a commercial 1,000 megawatt electric power station. Such units are economical. Besides, they will be capable of varying loads within a considerable range. This means that they will be well adapted to the modern power supply systems, because power consumption varies widely between peak load hours and night time. The idea of using simplified MHD installations to cover peak loads or as emegency standby units is very tempting. A preliminary estimate shows that such installations are relatively cheap. Besides, they can be started in a matter of seconds.

As I pointed out above, the introduction of MHD stations will ensure a three to two improvement in fuel performance in power generation. This means that if all the steam turbine stations are turned into MHD stations with the help of a magic wand, the fuel resources in the world will be automatically increased by 50 per cent.

It is true that the MHD generator does not promise a radical solution to the energy problem, it only improves the efficiency of fuel. But, in the first place, this is not too bad. And, in the second place, the concrete findings secured today will not be so important for 21st century power engineering as the MHD method itself. Then, too, thermonuclear plasma may be made to work in an MHD generator. Obviously it will differ from the MHD generators we know today, but it will be born out of them, just as the intercontinental jets were born out of the gliders of the early 20th century. That is why scientists pin big hopes on the MHD generator. That is why they are engaged in large-scale international scientific and technological cooperation in this field. Soviet-American cooperation is being developed within the framework of an intergovernmental agreement. While you are reading this story, an American superconducting magnet (manufactured by the Argonne National Laboratory) will be installed at the U-25 plant. At the same time, Soviet-made equipment is being tested on American installations. Our two countries are regularly exchanging information in this field, and specialists are constantly visiting one another to exchange experience.

A few words about specialists. It would be only fair to write a separate article about them so that the equipment they produce does not push them into the background. Several hundred researchers at the Institute of High Temperatures, USSR Academy of Sciences, are now working on MHD problems. Out of all the scientists who started work on this big undertaking and of all those who were engaged in it later, I would like to single out Sergei Pishchikov, Deputy Director of the Institute for Scientific Work and head of the U-25 project. I would like to do this because you seldom meet a man whose biography repeats so accurately the record of his work.

Pishchikov was graduated from the Institute of Power Engineering. He worked there as assistant professor of electric power stations. He was an authority on conventional power generators. He never suspected there could be other types of generators. That was why an article titled "Electricity Out of a Plasma Stream," which appeared in *Izvestia* in 1961, whetted his interest. The article was signed by a man he did not know—Professor A. Sheindlin. He never dreamed he would become Academician Sheindlin's deputy 10 years later. The Academician was one of the scientific leaders in this area. The article had appeared in the summer and in the fall the head of his department summoned Pishchikov to tell him that a small team from another department was working on magnetic hydrodynamics. There were a number of purely electrical questions involved, and since they were all experts in the physics of heat, "Would you mind going there to help them, by way of cooperation?"

Pishchikov went and stayed. He made most of the calculations for the U-02 and the first estimates for the U-25. Most of the members of the team working on the problem had graduated from the institute a year or two before. Therefore, he as a man of 30 was regarded as one with experience and well advanced in age.

When the team began to build the U-02, Pishchikov became its first director. Under him the U-02 installation was a reliable "test ground" for the future U-25. It was a "test ground" for the personnel. Many of the researchers who acquired experience under him are with the team again. But now they are working on the U-25.

WATERWAY USER CHARGES—THE STUDIES

Mr. DOMENICI. Mr. President, it is sometimes argued that we should not move into a reasonable system of cost recovery from the inland barges because we do not know enough about the possible impacts of user charges. This argument ignores the numerous detailed studies concluding that the 100-percent Federal subsidy to the barge industry is unfair. These examinations date back to the days prior to World War II.

This avalanche of studies has picked up momentum in recent years, including a variety of comprehensive examinations by the Department of Transportation, the Army Corps of Engineers, and others.

There have even been recent assessments such as the DOT calculation that waterway traffic can be expected to increase by a minimum of 41 percent during the coming decade, even with the most severe assumptions on the user charge amendment offered by me.

My amendment No. 1460 to H.R. 8309 provides what, in effect, would be an operational study allowing for congressional review prior to imposition of any charges, as well as full monitoring during the phase-in of user charges.

To give my colleagues some idea of the scope and depth of the many studies and analyses on the need for waterway user charges, I ask unanimous consent that a list of 14 of these studies completed over the past few years be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

STUDIES AND POSITIONS ON WATERWAY USER CHARGES SINCE 1970

1. January 1971: Department of Transportation, "User Charges on Inland Waterways": "The argument for some user charge on ground of equity and efficiency is impeccable . . ."

2. June 1973: The National Water Commission. "Water Policies for the Future" recommended user charges to recover 100% of O&M and 100% of new capital expenditures: "There is no longer any rational justification for assumption by the Federal Treasury of the entire cost of construction, operating, and maintaining navigable waterways."

The report also stated: "First, a major weakness of the present program stems from deficiencies in the procedures by which it is determined whether or not a proposed waterway project would result in a justified addition to the national transportation system.

"Second, a major weakness of the legislative policies governing the present program is that they do not require beneficiaries to share in the cost of construction, operating, and maintaining Federal waterway projects.

"Third, the inland waterway system is inescapably an element of the national transportation system. Yet, the waterways are not planned, evaluated, or regulated as a part of the national transportation system."

3. July 1973—Department of Transportation, "Cost Sharing Alternatives for Inland Waterway Transportation Policy": Recommended a fuel tax on waterway users.

4. September 1975: Transportation Secretary Coleman, in a statement of National Transportation Policy:

"National inland waterway policy should be compatible with national transportation policy. It has become apparent from the increasing criticism of adversely affected carriers that use of the existing public investment criteria for the water mode is inequitable. Some common denominator is required against which public investments in alternative modes of transport can be assessed. Economic efficiency and considerations of equity also lead in the direction of some form of cost sharing. Insofar as it is practicable and administratively feasible, the identifiable beneficiaries of Federally improved and maintained waterways should bear some share of development and operating costs through a system of user charges."

5. November 1975: General Accounting Office, "Factors to Be Considered in Setting Future Policy for Use of Inland Waterways" found minimal impact and many benefits from imposition of user charges to recover operation and maintenance costs.

6. 1976: President Ford's Fiscal 1977 budget message recommends a system of user charges, making him the seventh consecutive president to recommend user charges.

7. May 1976—Department of Interior (undertaken by Virginia Polytechnic Institute and State University), "User Charges for Inland Waterways: A Review of Issues in Policy and Economic Impact"; "Under the most severe cost conditions, only 3 percent of the total traffic would move from the system."

8. June 1976: Department of Transportation: "Regional Market, Industry and Transportation Impacts of Waterway User Charges": "Predictions of substantial, generalized impacts on water carriers as the result of user charges appear unsupported . . .

9. September 1976: Iowa Department of Transportation: "Waterway User Charge," concluded that there was a need for use charges.

10. December 1976: Army Corps of Engineers' study (undertaken by CACI, Inc.) "Potential Impacts of Selected Inland Waterway User Charges":

"If government assumes part of the production costs within a particular market and does not recover its costs, the resulting market prices will not allocate resources as efficiently, causing a reduction in the nation's economy . . . A 100 per cent recovery tax would reduce the waterway's tonnage share for most bulk commodities" from the present level of "about 21 per cent to 19 per cent of total rail/waterway traffic of 1,285 million tons."

11. January 1977: Maritime Administration's Study (undertaken by Ernst and Ernst, Inc.), "Impact of User Charges Applied to Inland Waterways" examined various specific

questions that need to be answered before user charges are imposed; these questions were largely answered in the following report.

12. March 1977. Department of Transportation, "Modal Traffic Impacts of Waterway User Charges" (3 volumes):

"It was found that inland waterway ton-miles may be reduced as much as ten percent by the recovery of 100 percent of annual federal operating expenditures on rivers via a segment-specific toll. Adjustments by economic agents such as shippers, carriers and producers to the changes in transportation prices should act to lower these traffic impacts in the long-term . . .

"It was found that delivered commodity price impact rarely exceeded one or two percent for 100 percent recovery of federal OM&R expenditures and were more commonly only a fraction of one percent. Projected market forces other than user charges were generally found to have a more substantial impact than navigation cost recovery . . .

"A phased implementation of user charges would limit absorption of the tools by barge and terminal operators by allowing natural traffic growth to offset any traffic diversion caused by the tools and by permitting the orderly retirement of uneconomic facilities and equipment . . ."

13. April 1977, President Carter: "It is essential as a test of economic demand for existing and future facilities and in ensuring a balanced transportation system that the beneficiaries of the water projects pay their fair share of both construction and operating costs."

14. May 1977: Congressional Budget Office, "Financing Waterway Development: The User Charge Debate":

"Lower freight rates that are made possible by Federal subsidies have resulted in less traffic and lower revenues for railroads, pipelines, and trucks. Barge transportation is not the only freight mode that is subsidized, but the Federal subsidy provided to inland waterways is substantially larger as a percentage of revenues than those of its closest competitors."

THE PRICE OF BLOWING THE WHISTLE

Mr. LEAHY. Mr. President, on October 20 I introduced legislation to encourage whistleblowers—Federal employees who reveal incidents of abuse, illegal action, and waste—to report such abuses and to be protected from harassment and reprisals.

The whistleblower case raises very basic questions of "good government." We need to identify the personnel responsible for Government waste and illegal actions and hold those people accountable. We also need to insure, however, that the people in these high level, policy making positions, are aware of the situations and allegations.

Whistleblowing is often a question of allegiance. The agency would like to have all employees believe that their allegiance to the particular agency and, therefore, the need to hide problems or at least keep them totally "in-house." The Congress through statute, and individuals through their personal or professional ethics have defined a different priority. They have called for an allegiance to good, clean, honest government.

An article appeared in last Sunday's edition of the New York Times Magazine which outlines what happens to whistleblowers. I recommend it to my colleagues and ask unanimous consent that the article, written by Helen Dudar, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

EXHIBIT 1

THE PRICE OF BLOWING THE WHISTLE

(By Helen Dudar)

These former Government officials have two things in common: They didn't keep quiet when they believed the taxpayers interests were in jeopardy. Then, suddenly, they lost their jobs.

In the spring of 1974, Dr. Stanley Mazaleski, a Government scientist, began complaining about the sluggish pace at which his agency had set about designing safety standards for industrial workers exposed to carcinogenic chemicals. The following winter, Mazaleski's criticisms were leaked to the newspapers. Within a few months he was fired. And last May, after a two-year fight for reinstatement, he won a court decision ordering the Public Health Service to hold a new hearing. It was a modest victory, just enough to allow his attorney to try to open negotiations with the agency. After a while, the lawyer called with the report that he had been in touch with the agency's general counsel to no avail. "They said you're guilty," he told Mazaleski. "Guilty of what?" Mazaleski asked. "I don't know—they just said you're guilty."

Mazaleski's belief in his righteousness is whole and complete. He is driven by a fearsome persistence and by a mypoic refusal to acknowledge that the system can possibly be as "unfair" as it has so far been to him. He is a "whistleblower"—a rather casual term for a risky business. Mazaleski belongs to a haunted little tribe of Federal employees who have transgressed against the bureaucracy—who, having seen something seriously wrong in a Government operation, made a noise about it.

The penalty for going public, for telling Congress or a reporter or even a superior a few steps up the chain of command can be harsh. Mazaleski lost his position at an agency hearing which he was not even invited to attend. A more sophisticated way of dealing with the overzealous bureaucrat is to have his job abolished. If the dissident is too well known to be dismissed, he can be "promoted" into another section of the agency where his expertise is useless. If he is obscure but likely to make a public fuss, he can be effectively immobilized by demotion to a lesser, lower-paying job where his expertise is also wasted. On the other hand, it may be decided that his behavior has been erratic. In that event, his superior may insist that he consult a psychiatrist in the expectation that he will be found to be unstable and thereby eligible for a disability discharge. Of course, he can refuse to submit to an examination. But then he may be fired for insubordination.

Theoretically, a bureaucrat who testifies before Congress is automatically protected from reprisal. Firing him is literally a crime. In practice, the system is "unenforceable," according to an aide for a powerful Senator "What would you have the Senate do when a Pentagon employee testifies and is punished?" he asked. "Hold the Secretary of Defense in contempt?" A bureaucrat with a dismissal slip is entitled to a Civil Service hearing, but there the cards may be stacked, too.

The bureaucracy is a Goliath, and the machinery available to enforce its will is immense. Moreover, its will often extends far beyond its boundaries. A civil servant who has lost a post in a conflict that reached the press usually becomes unemployable. Advertised jobs in other Federal agencies prove to be illusory the day he applies; promising offerings in private enterprises that are dependent on the kindness of Government agencies vanish overnight. It takes merely a phone call to a former boss to learn that the applicant is considered just a trifle hard to get along with.

Most people have neither the heart nor the means to begin a fight that may last for years. They quietly resign, they accept early retirement, they shut up. A. Ernest Fitzgerald, a Defense Department cost analyst who eight years ago went before a Congressional committee and testified that a Lockheed cargo plane was costing $2 billion more than the contracted price, is perhaps the best known of contemporary whistleblowers. He has been battling the Pentagon for eight years and is a one-man advisory committee to scores of Federal employees who consider doing what he did in the interests of exposing waste and corruption. People go to him for guidance all the time. "I never advise them," he says. "I just tell them the probable consequences of going public. Most of them never do." Those who stay the course seem, on casual encounter, to be quite nondescript, the sort of people Fitzgerald is fond of assigning to mainstream America. They wear lapel flags, he says, lift weights and belong to the National Rifle Association. They are special, he goes on, because they can't stand stealing. Experience has transformed some of them into cranks—rather exalted cranks who can be nagging, verbose, obsessed and sometimes difficult to be with and yet who are wholly admirable in their gritty stubbornness. What sets them apart and gives them distinction is a sublime innocence, a pure and compelling attachment to schoolroom lessons in morality. It is wrong to cheat. It is a sin to lie. There is no compromise with evil. Deceivers will be punished. Good will triumph.

Once in a while it does. But the process is so long and so lonely and so consuming and the psychic pain is so profound that nothing finally can obliterate the scars. Friends are lost and careers are blighted. In suburban precincts where every other homeowner can be a Federal employee, neighbors cruelly cease to be neighborly. How do you explain to a 5-year-old child why he's the only kid on his Oak Ridge block who wasn't invited to the Easter-egg hunt? On occasion, even reason is forfeited. "I cringe when they come to see me," says a Congressional staff man who has tried to help some victims. "They are walking wounds."

The quality of the damage is discoverable when the clan assembles in one place, an event that occurred early this year in Washington. For almost two years, the Institute for Policy Studies, a well-known haven for respectably leftish thinkers and doers, has been working on a program to develop legislative, legal and financial protection for the civil servant who steps out of line in the provable interests of the public good. Last June, I.P.S. organized a two-day conference of whistleblowers. Two hundred came. Some of them merely bore personal grudges against agency supervisors but many of them had, in Fitzgerald's felicituous phrase, "committed truth" and had suffered for it. According to several accounts, the sessions took place in an atmosphere of such ranging anger and bitterness they could have been recorded as peaks and valleys on a seismograph. Moreover, the sense of futility projected by the conferees was almost gaudy in its intensity. Yet these people came and they stayed out of some freakishly inexhaustible hope that injustices could be remedied and that the system could be made to work.

What sustains that hope is unfathomable. The qualities they have in common hardly seem significant enough to illuminate any

corner of their experiences. They all apparently tend to be careful with money, if not downright cheese-paring. Their politics seem mostly centrist and nonideological, and they are engagingly oblivious to the irony of receiving the support of a leftist organization on the order of I.P.S. While not necessarily formally religious, many of them count themselves believers. With some exceptions, they share a certain lack of imagination. It did not, at the outset, occur to most of them to anticipate the fury of official vengeance.

The sign over Ernest Fitzgerald's door at the Pentagon reads "Deputy for Productivity Management." What, I ask, does a productivity manager do? Whatever he can, the best he can, enough to earn his $47,500 wage, he answers, but nothing like what he could do if he were allowed to exercise his skill and experience as a weapons cost analyst for the Air Force. Fitzgerald is, of course, a legend, the dean of Washington whistle-blowers and folk hero to Federal employees who would like to emulate him. Shortly after he testified about how the military patronage system wastes great sums of money on its munitions and aerospace purchases, his job was abolished. And the Civil Service Commission—the court of last resort within the Government—ruled he was not a victim of reprisal.

What followed was nearly four years of legal battles, protracted by Government delays and by its appeals at every point. Finally, in 1973, a U.S. District Court ordered his reinstatement. By then, Fitzgerald, who had kept busy lecturing, writing a book and working for two Congressional committees, figured the fight could cost him $400,000 in legal fees. He sued to collect. In 1976, a Federal judge ruled that the Government must bear the cost of a "blatantly improper actions" against Fitzgerald. Last May, the U.S. Court of Appeals agreed that the law requires that a wrongfully dismissed Federal employee be made "whole again" but does not permit the Government to pay his lawyers' bills. Fitzgerald, an industrial engineer who comes from Birmingham, Ala., is a remote but affable and jaunty-spirited man. However, difficult these years have been, he has resisted any sense of martyrdom. He loved his work and was good at it. But he observes that the 1969 dismissal "effectively ended my career" as if he were commenting on the high price of dry cleaning. What he does now is "baby" stuff, the kind of assignments he worked on when he was just out of college. "That's sad," I commented. "That's bad," he corrected me.

Why stay? Where would he go? Subconsciously, he supposes he knew that his decision to testify could abort his career, "but I hadn't really prepared for it." When he was fired, Fitzgerald went job hunting and found he had speedily been marked a bad guy." As time went on, the labeling became more imaginative. Eventually, he was to learn that the dossier the department had been building on him proposed that he was simultaneously a womanizer and a homosexual.

A registered democrat, Fitzgerald describes his ideology as "tightwadded." He has a wife who he says has been unstintingly supportive and three children who he believes have not suffered unduly from his career problems.

But "The Case," a multimillion-dollar damage suit against Defense Department officials responsible for the loss of his job eight years ago, occupies a good deal of his time. Luckily for Fitzgerald, he finds life irrepressibly comic. Late last winter, he was invited to address a gathering of Defense rank-and-file employees. The Defense supergrader, with his G–17 rating, faced 100 members of the American Federation of Government Employees who would normally see him as management. They loved him, they cheered him and they gave him an award—a silver whistle. Fitzgerald was enormously pleased. But he noticed that it had been mounted on a plaque, and thereby rendered inoperable.

Stanley Mazaleski's wife, Charlotte, tells him he can't win; his adversary is too powerful. Sometimes, Mazaleski thinks she may be right, but he can't give up. He really believes that "the truth will out." It has been more than two years since he was fired from his $17,800-a-year job with the Public Health Service, and his life is a shambles. A Ph.D. in preventive medicine, he could not find work in his field for 17 months. For a period, he worked nights as a security guard near his home in Monrovia, Md., and his teen-age daughter, eldest of his four children, took a job in a Hot Shoppe to help support the family. Last winter, money was so short that the family lived mostly on potatoes, which Mazaleski, a farm boy from Pennsylvania, had grown in the garden. The debts have piled up, and his creditors are pressing for payments he cannot make; the bank is threatening to foreclose the mortgage on his four-bedroom house; his marriage is desperately strained; friends have fallen away and relatives in Government service who are apparently nervous about their social connections exclude him from family gatherings.

In January, Mazaleski finally found work in Washington with the Environmental Protection Agency, but it is temporary and likely to end any day now. He writes letters incessantly to officials in and out of Government, beseeching help which never comes.

A large, genial, sad-eyed man, Mazaleski went to work for the National Institute of Occupational Safety and Health, a P.H.S. agency, four years ago. His job was to write reports on a variety of dangerous and possibly carcinogenic chemicals used in industry and to develop standards, required by new legislation, for protecting the health of workers exposed to these materials.

Before the year was out, Mazaleski was in trouble. He insisted, against considerable resistance by the medical authorities over him, that the chemical cadmium may cause prostate cancer. A year later, the professional literature proved him right. He said the industry should be required to keep medical records for 20 years on workers exposed to chloroform, a suspected cause of cancer and birth defects; over his protest, the N.I.O.S.H. management reduced the period to a worthless five years. He filed a grievance against a superior who had dealt rudely with him. He complained to superiors that evidence he needed for his work was being withheld. He wrote letters to Congressmen bemoaning delays in setting safety standards, delays that probably made life easier for industry but surely imperiled the health of millions of workers. His criticism found its way into The New York Times early in 1975.

In March 1975, he was fired for "marginal and substandard performance" and for "insubordination." Mazaleski's fate, said Albert R. Lauderbaugh, a senior P.H.S. official who tried to help settle the affair before it reached the firing stage, was "an almost classic example of management's reaction to an internal critic." Mazaleski's former boss, Dr. John May, insists, "His charges have no validity whatsoever. He was fired because he didn't do his job."

What is so bewildering to Mazaleski is that he had spent a lifetime doing the right thing. When the Korean War began, he was about to enter college and he gave up a scholarship to enlist in the Navy. After four years of service, he came home and worked hard on his father's farm, spending six years in evening studies to earn a college degree. He has always been a popular and successful student. He is 44, an exceedingly earnest man who believes in God, the Constitution and conservative government. Sitting in a cramped little office we had borrowed for the interview, I wondered aloud whether Mazaleski was the kind of householder who regularly hung out the American flag on patriotic holidays. Yes, yes, he did. And on Veterans Day, he related, he always took the family on a pilgrimage to Gettysburg National Park. Abruptly, Mazaleski's eyes filled with tears and for several minutes he could not talk.

In the spring of 1976, after President Ford said he wanted every man, woman and child in the country vaccinated against swine flu, the only scientific voice raised against the program belonged to Dr. J. Anthony Morris, a virologist. Even in intimate conversation, the voice is lecture-hall loud; the speech is fluent and precise, the tone self-confident, the inflections an echo of his boyhood in Maryland. Tony Morris, a Ph. D., is a vaccine specialist and he is especially knowledgeable about flu vaccine. He has worked productively and successfully for the Government for most of his life and he has been in trouble with the bureaucracy before for protesting rather insistently that there is no such thing as an effective flu shot—a judgment that could only bring unhappiness to the businesses that make flu vaccines and the doctors who inject them by the millions each year. Taking on the bureaucracy is, at best, risky; tangling with an entire administration is an act of breathtaking nerve. In his zeal to alert the public last year, Morris had seminars on the N.I.H. campus in Bethesda, Md., sent letters to newspapers and Federal health officials and talked to reporters. His message was that no evidence whatsoever existed that swine flu embodied the virulence of the 1918 pandemic and that, in any event, the vaccine on hand was totally worthless. Most serious of all, it was certainly dangerous. Morris could not predict that it would paralyze and kill anybody, but he did know and warn that it could cause a hypersensitivity in some people that would trigger a whole range of grave illnesses.

That is precisely what happened the following December. By then, Morris, at 58, had been fired from his $32,000 research job at the Bureau of Biologics by Food and Drug Administrator Alexander Schmidt. Schmidt found him guilty of "insubordination and inefficiency." Moreover, his behavior toward his colleagues and superiors "directly challenged the integrity of scientific progress." The Civil Service Commission has upheld the insubordination charge even while acknowledging that Morris's science was sound, and the case is now on its way into the courts.

In 35 years of Government service, Morris had prudently put away money for his retirement, savings that were to have financed travels with his wife. It's almost all gone. He is inflexibly cheerful about all this. Morris says he would rather have his problems than carry on his conscience the burdens of people killed or crippled as a result of a staggering sweep of official stupidity.

As an extremely reticent man, Morris does not like to talk about his experience in personal terms. But he was willing, finally, to share one lasting lesson of his life. "In 1940, I went to work for one of the truly great men of science, Joe Smadel." After training under Smadel, Morris moved on to other jobs, until Smadel called him back. Smadel had become associate director of the National Institutes of Health.

But Smadel had changed. He had been a dedicated and important advocate of polio vaccine since its release. But a research worker at N.I.H. discovered that the monkey kidney tissue in which polio vaccinne had been propagated contained a virus called SV–40 which caused tumors in hamsters. There was no way of knowing whether medical science had conquered polio at the risk of provoking a new affliction. "Joe Smadel couldn't believe it. It was a frightening thing. It's still frightening. That information was held up for two years before it was made public, and

I saw Joe Smadel fall apart under the pressure of keeping it quiet. He had gotten himself into a tremendous intellectual box. I said then that never, if I had anything to do about it, would I be caught in an intellectual box like Joe found himself in."

"I get a kick out of outfoxing the bastards. Where else could I be such a son of a bitch and be on the right side?" If there is an ideal position from which to pursue whistleblowing as a steady avocation, Dr. John Nestor occupies it. For 16 years, he has been bedeviling the Food and Drug Administration, which employs him. Since he is a bachelor, there is no family to worry about. He has a crusty self-assurance reminiscent of all the authoritative older-doctor roles Lionel Barrymore used to play. Rude, abrasive, difficult, obstreperous, rigid, inflexible—Nestor has been called all that and more. He will obligingly recite the complaints, observing that none of these flaws is as grievous as the official mendacity he sees all the time.

Nestor, now nearing 65, went to work for F.D.A. in 1961 as a reviewer of drugs for heart and kidney ailments. Nestor was not at F.D.A. long before he concluded that the agency was and had always been the captive of the industry it is supposed to regulate and so he has testified in numerous appearances at Congressional hearings.

In 1972, Nestor was "promoted" into the F.D.A. Office of Compliance—which oversees industry compliance with agency rules—an activity for which he had neither the appetite nor the experience. He has been kicking and fussing ever since. Three years ago, he and a dozen other F.D.A. employees appeared at a hearing before an inquiry conducted by Senator Edward Kennedy and offered testimony charging the agency with corrupt practices in drug approval and with the harassment of dissident employees. The complaints have been investigated, most recently by a special panel which delivered a 766-page report last April. It concluded that the charges were accurate. It also said that officials had lied. The report said Nestor was owed a formal apology, payment of his legal costs and a new position where his talents would be used. He is still waiting.

Nestor is an assiduous leaker. What he knows and what other agency employees feed him (Ernest Fitzgerald calls them "closet patriots") finds its way steadily into the files of Congressional investigators, consumer advocates and media folk. "Let me tell you," he commented over a beer, "the Freedom of Information Act hasn't opened up the Government. The duplicating machine has. I have kept very busy."

Al Louis Ripskis, a slender, mild-mannered bachelor of 40, now has the routine job of program analyst at the Department of Housing and Urban Development. "Paper-shuffling", he calls it contemptuously. The job has no psychic rewards, a dreary state of affairs for a man who went to Federal housing 16 years ago with more idealism than was good for him. But Impact fills the need.

Impact is a "leaksheet," a neatly mimeographed, $5-a-year report of almost everything that can go wrong at one public agency. Ripskis writes it with the help of anonymous regional correspondents, and on publication morning, before he signs in for work, he is to be found brashly hawking it on the sidewalk in front of H.U.D. Its subscribers include H.U.D. employees, some high agency officials he hopes to alert to the latest criticism, muckraking reporters in and out of Washington, the Office of Management and Budget and the Library of Congress. The H.U.D. Secretary gets one free. Ripskis says he is out of pocket about $3,000 a year on production costs.

In five years of publications, he has chronicled mismanagement, incompetence, waste and stupidity at this agency, assembling in print the kind of details that rarely get beyond the gossip hour around the water cooler. He flashily reported that a new housing project in Minneapolis lacked adequate elevators but had a brothel and that a high-ranking H.U.D. official seldom traveled anywhere without his mistress. In recent years, he has nagged at H.U.D. for its neglect of the lead-paint problem in housing. In the middle of President Ford's drive against inflation, Impact was reporting that H.U.D. Secretary Carla Hills had spent $82,000 for new air-conditioning for a conference room.

Born in Lithuania, Ripskis spent four years in a D.P. camp in Germany, and remembers it all: the dirt, the crowding, the lack of privacy. As a refugee in America, he lived in Chicago tenements. Out of school, Ripskis got a job with the Public Housing Administration in 1961, planning to stay no longer than two years. "It was to be my own domestic Peace Corps effort." But he began moving up the bureaucratic ladder and he was full of widely admired and widely ignored ideas for making public housing look more like homes than barracks. In 1965, after H.U.D. had become the umbrella agent for housing, Ripskis's innovative approaches carried him to Washington into a key task force called Social Concerns of H.U.D. The notion was that this time the Government was really going to build human concerns into public housing. Ripskis remembers that period as a wonderful time. The group, he says, wrote a wonderful report. And, in the end, it was interred wherever good Government reports go to die.

That and the fate of a H.U.D. co-worker laid the groundwork for Impact. The newsletter's predecessor was Quest, an in-house underground journal published by a friend who, as a result, was briefly exiled to Alaska. Setting out on his own soon after, Ripskis planned the way with canny caution. "I have managed to survive with a minimum of harassment, and it was not by accident. The critical choices came in the beginning. If they decide to fire you at the start, it's hard to reverse the bureaucracy once it gets rolling. But I started muckraking and kicking up a lot of publicity, and I became well known, so the department knew it would be bloody if they canned me."

Ripskis's modest success is instructive. The whistleblower must not only be strong and knowledgable, but exceptionally careful. Most people who wind up in the fraternity begin almost accidentally, expecting gratitude and encountering, instead, a stone wall of either indifference or hostility.

Some people have mused that the hazards were so great it might be sensible for the public-spirited bureaucrat to stay on the job, stay anonymous and simply "leak for life." That choice, of course, is made daily by hundreds of middle-management employees who became regular and protected sources for reporters and Congressional investigators. It's one way to serve the public interest without pain and intense public drama. What would recent American history have been, for exampe, without those grand panjandrums of whistleblowing, Daniel Ellsberg, who Xeroxed the Pentagon Papers, and Victor Marchetti, the first to tell us how the C.I.A. really works.

On the other hand, nothing about this activity guarantees it will fill a real need or gain wide public support. One of the celebrated whistleblowers of the early 1960's was Otto Otepka, the chief of security at the State Department, who earnestly believed that subversives held down Government jobs in his agency. He leaked confidential loyalty files to the Senate Internal Security subcommittee, which was still purusing "Reds" in Government. Otepka was demoted, wiretapped and harassed in other illegal ways. In that case, it was not the advocates of free speech or open government who came to his support; Otepka found his modest constituency in the John Birch Society.

As it stands now, the civil servant who squawks is apt to be regarded at worst as a Judas, at best as a foolish aberration. One of the main priorities of the I.P.S. Project for Government Accountability is to institutionalize whistleblowing, to create a climate where it is easier and even commonplace for a public servant to deliver up to the public details of waste and deceit in his agency.

"We don't want saints and heroes," says Ralph Stavins, an I.P.S. fellow who heads the project. "We want this made automatic and procedural."

The I.P.S. literature on the subject includes a flashy red-white-and-blue brochure with a cover exhorting Federal workers to "Point Out Illegality, Inefficiency and Waste." Its final words are from one of President Carter's campaign speeches. Ten days before the election, Carter declared, "I intend to seek strong legislation to protect our Federal employees from harassment and dismissal if they find out and report waste or dishonesty by their supervisors or others. The Fitzgerald case, where a dedicated civil servant was fired from the Defense Department for reporting cost overruns, must never be repeated."

A number of people, including Fitzgerald, took heart from that notice, but not much has happened lately to suggest a safer future. Carter's Civil Service Commission chairman, Alan Campbell, went to the conference and brought greetings from the President and extremely cautious expressions of his own sympathies. When I talked to him a few weeks later, Campbell said no legislation was ready and none likely to be until early next year. Moreover, while the Administration might eventually offer some protection to future whistleblowers, retroactivity for those who had suffered penalties was unlikely. But he felt it important to stress a new spirit in the commission demonstrated by a recent in-house inquiry. An investigation had just concluded that two officials in the General Services Administration in Philadelphia had been improperly demoted after protesting Nixonian abuses of the merit system. Exoneration had required a four-year fight. Campbell hopes the whole process can be accelerated.

Campbell's views on the entire subject are clearly divided. On the one hand, he has the Sisyphean job of getting the bureaucracy functioning more efficiently; on the other hand, he seems to see the task as separate from and possibly complicated by the problems of an individual bureaucrat who protests inefficiencies that make it hard to work efficiently. He had just come back from a tour of regional offices where he found middle-level management personnel complaining they were stifled by restrictions against penalizing employees. "If anything," he said, "one can argue that the system is too cumbersome if what you are concerned with is getting on with the job. A whistleblower may be a perfectly straight and absolutely right person or he may be a troublemaker. One can't assume."

In Campbell's view, there are "inevitable limitations" on employees' rights to speak out. After all, a middle-management executive in private industry who peaches on his boss can expect immediate dismissal. As an example of the Government's right to curtail free speech where it interferes with policy, he cites the Carter recall of General Singlaub from Korea. Campbell says he sees no real difference between a U.S. Army general objecting to the removal of U.S. troops from Korea and a Pentagon cost analyst telling Congress about a gross waste of public funds. But there is a difference: A general in the United States, by tradition, is forbidden to

make foreign-policy statements. A competent and honest bureaucrat is a permanent public servant who owes his allegiance to the Government and, beyond that, the taxpayer.

Campbell is thinking of moving the Civil Service appeals procedure into a separate agency so that the commission is no longer in the position of both making the rules and judging whether they have been violated. Otherwise, he is not entirely sure that any new law can be composed that would provide better protection than now exists. Congress does not entirely agree. At the most recent count, at least six legislators were considering new approaches to the problem. One is an I.P.S. model bill called "Openness in Government," which not only would pay legal costs to the wronged civil servant but would also punish his punisher.

A controversial proposal in the bill would set up an Office of Administrative Oversight, an ombudsman agency that would advise whistleblowers and investigate complaints of unfair, punitive treatment. Of course, that would mean yet another bureaucracy. And there is no telling how long it would be before some civil servant from the Office of Administrative Oversight blew the whistle on the ombudsman for whistleblowers.

Mr. LEAHY. The Civil Service Commission, under its new Chairman, Scott Campbell, has recognized the serious nature of the whistleblower issue. A CSC Task Force on Reorganization is expected to issue a report in the near future. I look forward to its release and I hope that the Congress will give expeditious treatment to the consideration of legislative remedies which could alleviate the legitimate whistleblower's problems.

I have spoken with Chairman RIBICOFF about this issue. The Senator from Connecticut is, of course, as well versed as any Member of this body concerning the seriousness of the problems facing Federal employees who report Government waste and abuse. I am confident that if the Senate Committee on Government Affairs is able to proceed with hearings on this matter, they will prove informative and productive.

It is time to proceed with resolving the problems. It is time to insure that in the future, any Government employee who reports abuse, waste, or illegal actions is dealt with as a responsible, dedicated public servant.

INTERNATIONAL LABOR ORGANIZATION

Mr. DOLE. Mr. President, the Senator from Kansas is pleased that today the President has decided not to extend the November 5 deadline for the United States' threatened withdrawal from the 58-year-old ILO.

Mr. President, it seems to me that the administration has decided to withdraw from the ILO for the same basic concerns I have had, that is, that the ILO which was originally designed as an organization in which workers, through their legitimate trade union representatives could negotiate with employers to achieve improved international labor standards, is no longer that kind of an organization.

The Senator from Kansas would like to make it very clear that he does not wish to dissolve the organization, but to impress upon the appropriate parties that we will not be associated with the organization until it returns to a credible and responsible status.

Mr. President, tomorrow I intend to offer a resolution supporting the action of the President in directing a U.S. withdrawal from the International Labor Organization, noting that his decision is consistent both with previous declarations of intent and congressional decisions; reaffirms the continued support of the United States for international activities which have as their purpose the advancement of workers rights and of human rights generally; and calls on the President to explore with governments, trade union organizations, and business organizations the prospect of U.S. reaffiliation with the International Labor Organization, consistent with the previously stated concerns of the United States.

MEHARRY MEDICAL COLLEGE: A NATIONAL RESOURCE

Mr. SASSER. Mr. President, Meharry Medical College is entering its second century and is facing an uncertain future.

Despite the efforts of Meharry's administration, this valued institution faces continued financial deficits and cutbacks in services. I want to commend Meharry President Lloyd Elam for his leadership and vision and his continuing commitment to see this school through these troubled times.

Meharry has raised tuition this year by more than 40 percent. The school receives a greater proportion of its financial support from private sources than any other medical institution in the country. Recently, Meharry employees agreed to receive reduced salaries in order to help ease the school's financial distress.

Yet, Meharry continues to need further financial support beyond its own resources.

I thank the Senate Appropriations Committee for recognizing the urgency of the problems at Meharry. Earlier in the year the committee recommended an expanded financial distress grant program and included language in the report accompanying the Labor-HEW appropriations bill directing the Health Resources Administration to give special consideration to the needs of Meharry. Recently, the committee approved a reprograming of an additional $1 million for Meharry.

In particular, I want to thank Senator WARREN MAGNUSON, the chairman of the Labor-HEW Subcommittee, and Senator EDWARD BROOKE, the ranking Republican member, for their assistance in securing these additional funds for this school.

Meharry Medical College is a national resource. More than half of this country's black physicians and dentists were educated at this college.

I believe we should continue to assist Meharry Medical College. Meharry graduates tend to locate in the underserved rural and inner-city areas of the Nation. Without Meharry, I believe it would be fair to say that hundreds of thousands of Americans would go without quality medical care.

Mr. President, the Chronicle of Higher Education recently published an article concerning Meharry Medical College. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A BLACK MEDICAL SCHOOL FACES FINANCIAL TROUBLES

(By Saundra Ivey)

(NOTE.—Educator of almost half of the black physicians and dentists in the U.S., Meharry Medical College is forced to cut salaries as it seeks more funds to provide health care for indigent patients.)

NASHVILLE.—The institution that is now Meharry Medical College began in 1876 in a basement room where George Hubbard, who was just completing his own medical studies, taught three young former slaves the alphabet along with physiology and anatomy.

Today Meharry—which in the last 100 years has educated almost half the black physicians and dentists in the United States—has a modern physical plant, largely the result of an expansion program that began in 1968 and that increased the value of the college's facilities from $12.5-million to $90-million.

Meharry also has a financial crisis.

President Lloyd C. Elam announced this past summer that some 500 employees were being asked to cut back their work schedules to 32 hours per week. He said the measure—in effect, a 20-per-cent salary cut for employees paid more than $10,000 per year—was a temporary one necessitated by the school's running 60 to 90 days behind in paying its bills. Some faculty members fear it may run longer, however.

Dr. Elam's announcement came after Meharry borrowed $400,000 from a local bank in January to meet cash-flow requirements, requested a $250,000 advance in July on the local government's payments for care of the indigent, and ended the 1976–77 fiscal year with a deficit of more than $5-million.

The college also had to increase its tuition from $2,750 to $4,000 a year. That is still below the mean tuition of $5,000 for private medical schools, but Meharry draws a large proportion of its students from poor families, requiring it to keep tuition down and to maintain a strong financial-aid program.

Meharry's financial troubles have aroused concern well beyond the city limits of Nashville.

One of only two predominantly black medical schools in the U.S.—the other is at Howard University—Meharry is seen by its supporters as an institution whose survival is critical to meeting the health-care needs of the country's black population, especially if the Supreme Court rules in the Bakke case that special admissions programs for members of minority groups are unconstitutional.

A number of factors have led to Meharry's troubles:

Like other medical schools, Meharry has been hit hard by inflation. In an era of escalating health-care costs, it must maintain a teaching hospital to provide clinical experience for its students.

The support Meharry receives from the federal government for student aid and some other programs has dropped dramatically. In 1972–73, officials said, Meharry received $1,972 per student from the federal government for expenditures. Last year, the figure was $927 per student.

The expanded physical plant is proving to be a mixed blessing. Meharry must simultaneously raise funds for still-needed con-

struction and for the operating costs of the new buildings it has put up—at a time when money seems harder to get, officials say.

Meharry is the largest single private provider of health care for the poor in Nashville. As a result, Meharry has subsidized its hospital's $12-million operating budget by as much as $1.5-million a year. The college has also become embroiled in a dispute with the local government, which reimburses it for care of the indigent.

It is that dispute which is most often cited by Meharry administrators in explaining the college's financial troubles. They say that the college's cash-flow problems have grown out of delays in payment for the case of indigent patients at its hospital, which is named after founder George Hubbard.

"Much patient care can't be paid until the patient is discharged," says Ralph H. Hines, Meharry's executive vice-president. "For example, if a patient is in the hospital for 10 days and his bill is $2,000, you wait 10 days to collect the money. But if the city covers the cost, it may be 60 days until you are reimbursed. Meanwhile, you have made the payments for the services."

RELATIONS WITH LOCAL GOVERNMENT

The same delays occur with payment from Blue Cross, Blue Shield, Medicare and Medicaid, he said. However, it is the relationship with the local government—which includes Nashville and several surrounding jurisdictions and is known as Metro—that both Mr. Hines and Dr. Elam consider primarily responsible for past and present cash-flow difficulties.

Because of budget problems caused by care for the indigent, Meharry had to draw on its endowment for operating expenses as early as the 1940's.

"That had to stop," says Mr. Hines, explaining Meharry's increased efforts to collect back pay from Metro for indigent care. Meharry contends that the city owes it $6 million for care of poor people between 1970 and 1975, while Metro claims the college did not properly document indigency for the patients in question.

"We've always given indigent care and not gotten paid," says A. P. Johnson, a physician who is also a Meharry faculty member, a member of its board of trustees, and the president of the college's alumni association.

"You can't tell a mother whose baby is sick that you won't treat her child because she doesn't have the money. The city has relied on us to treat a lot of the black population, yet they say they don't owe us. For years, we didn't have certification officers during certain hours. Who can say who's right? I only know the work was done."

While the dispute over the alleged $6-million debt seems unlikely even to be resolved, Metro has placed city officials at Hubbard Hospital on nights and weekends to certify the indigency of patients, a step that permits Meharry to increase its billings to the city.

Metro also has increased its budgeted allotment for Meharry this year, although college officials say the amount is still insufficient.

Meharry also has complained that the income level that Metro uses to define who is indigent is too low, since persons making more than that amount may still be so close to the poverty line that they cannot afford medical care.

It is in commenting on Meharry's relationship with the local government that faculty members and administrators most often mention race as a factor in the college's troubles.

While they say that race alone cannot explain a complicated political and financial situation, they add that to ignore it is to miss a subtle dimension of Meharry's problems.

For example, through a longstanding arrangement with the city of Nashville that was made formal in a 1959 contract, predominantly white Vanderbilt University's medical school has had virtually exclusive access to municipally owned General Hospital. The local government also contracted with Hubbard Hospital for the care of indigent patients in 1972.

"HISTORICAL ACCIDENT"

"The reason Metro entered a contract with Hubbard Hospital was the reality of the segregated hospital situation here," Mr. Hines says, "General Hospital, though by charter open, was essentially all-white." Thus, he said, Vanderbilt's dominant role at General "grows out of historical accident. Possession in nine-tenths of the law, and they were there when it was segregated."

The problem that presents for Meharry is one of having enough patients per student.

"You can have 10 students listen to someone's heartbeat and the heart is still there, but when one student takes out an appendix, it's not there for the other nine," says Matthew Walker, provost for external affairs.

Dr. Walker, who has trained more black American surgeons than any other person, was largely responsible for Meharry's affiliations with other hospitals, many of them black and outside Nashville, that have provided access to patient-care for the school's students.

For example, Meharry has sent students to such places as Mound Bayou Miss., an all-black Delta town, an experiment that has apparently provided valuable experiences for students, particularly in rural health care.

But sending students out of town also "creates hardships in student living costs and costs of supplemental faculty," Mr. Hines says.

"Since the city hospital [General] is a municipally owned corporation," he argues, "access should be available on equal terms."

STUDENT INVOLVEMENT

That belief prompted the involvement of a student group in recent negotiations between Meharry and the local government.

"It seemed to us that we were the stepchild," says Winston Griner, a fourth-year medical student who visited both Metro Mayor Richard Fulton and meetings of the Metro Hospitals Board during the negotiations. "The contract with Vanderbilt at General Hospital represented a history of exclusion and the vestiges of segregation. Why does Meharry have to ship students out of town when there are resources aplenty here?"

His view was supported by a mayoral task force that issued its report about a year ago. The Metro Hospital Board accepted a list of recommendations that, when implemented, will allow Meharry to make greater use of General Hospital. A senior clerkship program involving equal numbers of Meharry and Vanderbilt students was begun this year.

Although some students and faculty members have expressed impatience with the slowness with which the report's recommendations are being put into effect. Mr. Hines and Dr. Elam expressed confidence that an "equitable arrangement" for Meharry will be achieved.

PROPOSAL REJECTED

However, the task force rejected a proposal by Meharry that the city lease Hubbard Hospital for 20 years, paying operating expenses and assuming the more than $30-million in debts on the building. The college, under the proposed arrangement, would have provided professional staff and associated clinics.

The task force said it would be better to build a new city hospital than to lease Hubbard, which Metro would not own after the 20-year period. Meharry then proposed that the city lease 250 beds at Hubbard, but that also was rejected by the city.

In another attempt to resolve problems with Meharry, Mayor Fulton invited Wilbur Cohen, who was Secretary of Health, Education, and Welfare in the Johnson Administration, to come to Nashville as a consultant.

Mr. Cohen, now dean of the school of education at the University of Michigan, says he is trying to act as "a catalytic agent" in the situation, and hopes to "get the mayor, the [Metro] council, Meharry, and Vanderbilt to want to do certain things that could benefit all of them."

Meharry's actual loss of dollars may not have hurt it as much as its failure to receive the continued increases in support that college officials came to expect during the late 1960's, Mr. Cohen says.

"Optimism in the civil-rights-war-on-poverty period led them to expect a continued expansion that didn't occur," he explains. "They didn't gain what any reasonable person would have expected from the climate of the times.

"I don't think the judgment was bad, because it wasn't unrealistic to expect growth due to Medicare, Medicaid, and the recognition of need for black professionals and para-professionals in health care.

"They became the innocent victims, like Head Start, Community Action, and other programs."

When Mr. Cohen visited the city in March, it was reported that he had recommended a one-year moratorium on payments for the federally guaranteed loan for Hubbard Hospital as one possiblity for aiding Meharry.

Such a moratorium "would be helpful" but is not a final solution to Meharry's financial problems, Dr. Elam says. "If we collected for the [indigent] care," he adds, "we wouldn't have a problem on the loans."

Some local government officials complain that they are being given too much of the blame for Meharry's troubles. They suggest that the college brought some of its problems on itself by overbuilding.

"Of course we overbuilt," Dr. Elam says. "You build for the future, not the present. The hospital is 25 per cent larger than we need now, but we'll need it in the future."

However, he adds, "We still think Metro should pay for indigent care. First they said they thought our buildings were inadequate. Now we have new buildings, and payment is still a problem."

Meharry administrators emphasize their confidence in the institution's survival even as they talk about the factors that have led to its financial difficulties.

"Meharry is 101 years old, and it's had to struggle through many experiences," says Mr. Hines. "It survived because of the importance of the institution to the development of national resources, and I expect it to survive for many years to come."

FACULTY SUPPORTIVE

Faculty members have been generally supportive too.

The faculty senate has passed a resolution encouraging professors to continue their full work schedules at the reduced pay. Such support is based on commitment to Meharry's mission, says Axel Hansen, president of the Senate.

Like many black institutions, Meharry has attracted staff members who could make higher salaries elsewhere but who choose to remain where they are. College officials have estimated that if faculty and staff members received the competitive salaries and fringe benefits of most first-class medical schools, the difference since 1970 could be estimated at $1-million per year.

"Most people who work here could already be making more," says Henry Moses, a biochemist who says he usually receives at least five unsolicited job offers each year. "If people didn't care about Meharry and its mission, they wouldn't come here."

STUDENTS DECLINE OFFERS

The same is true of students, many of whom decline more lucrative scholarship

offers at other schools to attend Meharry, he adds.

That commitment is partly due to Meharry's emphasis on helping black and poor people and partly to the realities of the Meharry program, which many students believe offers them more attention and encouragement than they would get elsewhere.

Lawrence Prograis, a third-year resident, came to Meharry in 1970, partly because "I had seen what happened to some students who went to white medical schools. Lots weren't finishing, and I knew they were very bright. To do your best, you have to be psychologically comfortable, to feel at ease."

Support among the faculty and staff seems likely to remain high despite the salary cut—as long as the cut is temporary.

Theodore Allen, a third-year resident, said he is "not bitter" despite the fact that his salary, just above $10,000 and therefore eligible for the cutback, is now lower than that of residents who have less seniority. "But if the salaries aren't restored in November, I think there will be a lot of problems," he said.

Similar views were expressed by others, many of whom said they were moonlighting or that their spouses had taken part-time jobs. They said they would await the administration's announcement in November.

Overall, there appears to be a determination to "keep the faith" with Meharry.

For some faculty members, however, that determination has been undermined by a feeling that they did not participate fully in the decision to cut salaries.

LITTLE FACULTY CLOUT

Even loyal faculty members, Dr. Hansen says, believe the administration's action was a dramatic illustration that they "don't have much clout" in governance.

Being supportive would be easier, faculty members say, if the administration would be more open about what it is doing to meet the crisis. "I have the feeling that some positive things are going on, and we would like to know about it," Dr. Hansen says. "I guess they don't want to promise too much too soon."

In reply, Dr. Elam says the cutback decision was made after consideration of other options, such as permanent cutbacks in faculty size or programs.

In addition, he says, the board of trustees is trying to gradually build up the institution's working capital. Although it was known that committees of the board had met several times during the past few weeks, Dr. Elam declined specific comment on their plans for financial recovery.

LOOK TO GOVERNMENT

Most observers at Meharry look to private giving and government funds for the institution's salvation. "We need help from the private sector and the federal government," Mr. Hines says. "I expect we'll get it."

Sen. James Sasser, Democrat of Tennessee, announced late last month that he has obtained the approval of both a Senate subcommittee and the Department of Health, Education, and Welfare for a shift in funds that would give Meharry an additional $1-million.

That amount was added to a $3-million appropriation for financially distressed medical schools passed earlier this year. If approved by the House, as is expected, the $1-million will be available immediately .

Wilbur Cohen says he, too, will be an advocate in the effort to obtain federal support ofr Meharry and that he will talk to Secretary of Health, Education, and Welfare Joseph A. Califano, Jr., about it.

Meharry is "not just a Nashville responsibility or a Tennessee responsibility," he says. "It's a national and an international resource."

CONGRESS AND THE REPUBLIC OF KOREA

Mr. STEVENSON. Mr. President, I have been deeply concerned about the apparent failure of the Republic of Korea to cooperate with the congressional and Justice Department investigations of alleged improprieties involving representatives of that country in the Congress. The failure of the Koreans to cooperate portends an inability to ascertain all the truth and a deterioration in relations between the two countries.

I had intended this week to introduce a resolution expressing the sense of the Senate that U.S. representatives to the International Bank for Reconstruction and Development and the Asia Development Bank take into account Korean cooperation, or lack thereof, on these matters in acting upon requests for financing by those institutions for the benefit of the Republic of Korea. I had intended also to introduce a resolution expressing the sense of the Senate that the Eximbank should cease to consider more loans for the benefit of the Republic of Korea until its cooperation was forthcoming. Upon that resolution I planned to press for action in the Subcommittee on International Finance which I have the privilege to chair.

Mr. President, I have been reluctant to take such actions as these for fear that decisions with far reaching national security implications would be made for unrelated reasons. But, determined as I am that the Senate Ethics Committee get to the bottom of this matter, I felt I had no choice except to convince the South Koreans by the best means at hand of how strongly the Senate felt about its failure to cooperate. I am, therefore, pleased to report to the Senate that I have received indications through the Justice Department of a more cooperative attitude on the part of the Government of the Republic of Korea. It is too soon to say whether this attitude will facilitate the frank testimony of all the Korean nationals in whom we have an interest, but that possibility does exist. There is movement in the right direction now. And so I will not introduce these resolutions at the present time. My hopes that they will not be necessary are revived.

Full cooperation by the Republic of Korea will be appreciated by all Members of the Congress. If it is forthcoming, no matter what is disclosed, relations between our two countries will be much improved. If not, these resolutions, and I daresay others, will be in readiness.

MAJORITY LEADER BYRD DESERVES COMMENDATION FOR EVEN-HANDED LEADERSHIP DURING FILIBUSTER

Mr. RANDOLPH. Mr. President, Plato defined democracy as "a charming form of government, full of variety and disorder, and dispensing a sort of equality to equals and unequals alike." In recent weeks, we have seen examples of the variety and disorder which sometime accompany Senate debate of major issues.

During the 2-week filibuster early last month, there were moments when it appeared that reason would not triumph. It remained for the Senate leadership to calm the emotional storms and bring this body back on the track of deliberative discussion, to seek compromise and a spirit of cooperation where little seemingly existed.

It was this task that was so firmly undertaken by our majority leader, ROBERT C. BYRD. His leadership in bringing an orderly and coherent process to the Senate has received both praise and adverse comment.

But none of the commentary I have seen expressed any doubts about Senator BYRD's dedication to his role of leadership, nor to his sense of fairness in seeking to accommodate all views.

I believe an even-handed analysis of the events surrounding the natural gas deregulation debate and its aftermath is well stated in a recent editorial in the Dominion Post of Morgantown, W. Va. It concludes that Senator BYRD deserves commendation, not abuse, for his efforts to resolve what appeared to be an irresolvable situation.

I fully agree, and ask unanimous consent that the editorial be placed in the RECORD so that other persons know that the direction and dignity of the Senate remains intact, because of the firm and fair leadership of our good friend and admirable colleague, ROBERT BYRD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

BYRD HAS RIGHT TO BE ANGRY

Sen. Robert Byrd might well be wondering these days whether the abuse he puts up with as Senate Majority Leader is worth it: Having, with characteristic agility, engineered a compromise, and thereby defused the filibuster on natural gas which had plagued the Senate for two weeks, Byrd finally responded to his pro-filibuster critics in an unprecedented display of anger. He had tried every possible means to accommodate the filibusterers, he said on Monday, "and my words have fallen on deaf ears."

His voice quivering with emotion, he said: "I think that my colleagues have known me long enough to recognize that I always am as patient as one possibly can be . . . that I bend over backwards in an effort to accommodate every senator on both sides of the aisle . . . It is not the accommodation of a senator that is involved, it is the accommodation of the Senate itself."

Byrd, of course, was correct. And it is unfortunate that this man whose commitment to hard work, fairness and compromise should be so unjustly criticized on his attempts to end the filibuster when, as he gruffly told his colleagues, he did everything imaginable to appease the forces led by Abourezk and Metzenbaum.

As our readers are no doubt aware, we have not always agreed with Senator Byrd and we often wish he would give more expression to what we suspect are his essentially conservative instincts. But, as Majority Leader he sees his role differently, and that is his right. He has, consequently, sought repeatedly to put first and foremost the wishes of his fellow Senators and has chosen to function primarily to help the Senate express its will as a body in the most orderly and coherent manner.

To do so requires diligence, patience, a deep knowledge of the Senate itself and a sense of fair play—all of which Byrd has far in excess of that of the average man and even the average U.S. Senator. His ability to smooth over differences among his colleagues is unquestionable.

With this in mind, we find it despicable that those who would accept no compromise on the filibuster should take the Senator to task for his attempts to end it—and thereby criticize him for the very qualities which make him so indispensable to functioning of the Senate. He deserves their commendation, not their abuse.

COLMCILLE CHOIR FROM DERRY TO SING IN RUSSELL BUILDING ROTUNDA

Mr. KENNEDY. Mr. President, I want my colleagues to know that tomorrow, November 2, at 12:30 p.m., the Colmcille Choir of Derry in Northern Ireland, which is visiting Washington this week will present a program of Irish folk and choral music in the second-floor Rotunda of the Russell Senate Office Building.

The Colmcille Choir is an all-woman group which won the Irish Choral Championship in 1976 and placed fourth at the international competition in Wales.

The organization of the choir began a few years ago as a heartening response to the continuing violence and destruction in Northern Ireland. A distinguished local priest became concerned over the plight of the women in Derry as a result of the oppressive atmosphere of blackouts, check points, and constant daily violence. He established a center in Derry where women of the city could meet and sing, and the choir grew quickly from these beginnings to its current international renown.

I am pleased that this outstanding choir is able to be with us in the Rotunda tomorrow and I hope that Members of the Senate and their staffs will take the occasion to enjoy this fine program of Irish music by these inspiring women.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Harry D. Mansfield, of Tennessee, to be U.S. marshal for the eastern district of Tennessee for the term of 4 years vice Bruce R. Montgomery.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Tuesday, November 8, 1977, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

BUD WEBSTER COMPLETES 40 YEARS OF SERVICE

Mr. HANSEN. Mr. President, a longtime personal friend of mine C. E. "Bud" Webster of Cody, Wyo., today, November 1 completes 40 years of service in Wyoming as an automobile dealer for General Motors and Chevrolet.

Forty years of dedicated service has meant a great deal to generations of Wyoming people and I am pleased to have this means to salute his efforts and call attention to his achievement.

It is my understanding that no other car dealer has been in business for that length of time in Wyoming. And, to the best of my knowledge, only one auto dealer in the Rocky Mountain region exceeds Bud's record of service to the motoring public. It is a fine record and one in which he can be proud.

The qualities that have made Bud Webster successful—hard work, honesty, experience—are the same elements that make the free enterprise system work so well.

He is an outstanding citizen. Former chairman of the Wyomng Highway Commission, active in nearly every worthwhile community project, his talents, enthusiasm, and solid support have enriched the lives of many and made Cody and Wyomng better places in which to live.

Bud and Mrs. Webster are the parents of an outstanding family. A lawyer Ed, a doctor Bill, and a daughter Margaret.

FEDERAL RETIREMENT SYSTEMS TESTIMONY

Mr. HEINZ. Mr. President, earlier in the year I was pleased to cosponsor Senate Resolution 244 introduced by my good friend, the senior Senator from the State of Alaska, TED STEVENS. On Friday, the Civil Service and General Services Subcommittee of the Governmental Affairs Committee held hearings on Senate Resolution 244, which deals with the unfunded liability of our Federal retirement systems.

At that hearing we received strong words of support from the General Accounting Office on the approach established in Senate Resolution 244. The issue of unfunded liability is one that is of vital concern to us all, and one that we will be hearing a great deal more about as time goes on. However, I want to particularly point out that as matters now stand, the General Accounting Office contends that—

The Congress is not being provided realistic and consistent information on the cost of Federal retirement programs, thus its ability to make sound fiscal and legislative decisions on establishing, amending, and funding retirement and agency programs is inhibited.

Senate Resolution 244 would remedy this situation.

Mr. President, I ask unanimous consent that the entire written testimony of the General Accounting Office on Senate Resolution 244 be printed in the RECORD.

There being no objection, the supporting documents were ordered to be printed in the RECORD, as follows:

STATEMENT OF H. L. KRIEGER, ON SENATE RESOLUTION 244

Mr. Chairman and Members of the Subcommittee: I am pleased to be here to present the General Accounting Office's views on Senate Resolution 244, H.R. 3447, H.R. 6975, and H.R. 3755. It is our understanding that the primary concern of these hearings is Senate Resolution 244; therefore, I have confined my remarks to that Resolution. My statement, however, does include as attachments letters to the Chairman of the Committee on Governmental Affairs presenting our views on H.R. 3447, H.R. 6975, and H.R. 3755.

We strongly support the purpose of Senate Resolution 244 which is to study the major Federal retirement systems, using dynamic assumptions, to determine the extent of the present and future unfunded liability of each system, the method of financing each system, and the actions necessary to be taken to insure the solvency of each system. The study is to be made by the Secretary of the Treasury, and a report, including recommendations for legislation, is required to be made to the Congress by June 30, 1978.

The Subcommittee's members are undoubtedly aware of GAO's deep concern about Federal retirement systems. Beginning in 1974, we have issued a series of reports covering a number of issues related to basic policies, financing, administration, and benefits of the various retirement programs. Our latest report, entitled "Federal Retirement Systems: Unrecognized Costs, Inadequate Funding, Inconsistent Benefits," issued on August 3, 1977, reiterated an earlier recommendation for establishment of an overall policy to guide development and improvement of Government retirement systems. Without an overall policy, the benefit provisions and funding methods of the various retirement systems have developed on an inconsistent basis.

As the Resolution recognizes, funding of Federal retirement systems remains a serious and growing problem that needs further attention. Federal retirement systems funding requirements vary, and in most cases are less stringent than those imposed by law on private pension plans. Some systems provide for fully funding benefit rights as they accrue, some provide for partial funding, and some are completely unfunded. The reported unfunded liabilities for three major systems have grown from $157 billion in 1970 to $280 billion in 1976, an increase of 79 percent. Under existing funding provisions, the unfunded liabilities will continue to grow.

The Congress is not being provided realistic and consistent information on the cost of Federal retirement programs, thus its ability to make sound fiscal and legislative decisions on establishing, amending, and funding retirement and agency programs is inhibited. The costs and liabilities of Federal retirement programs are much greater than recognized by current costing and funding procedures. Usually, costs are determined on a "static" basis with little or no consideration given to the effect of general pay increases and annuity adjustments on ultimate benefit payments, resulting in a considerable understatement of benefit costs accruing each year. For the civil service retirement system alone, unrecognized retirement costs in 1976 amounted to an estimated $7 billion. In some programs, none of the currently accruing cost is recognized.

Costs not covered by employee contributions must ultimately be paid by the Government. When retirement costs are understated, the costs of Government operations and agency programs are also understated. One side effect of the underallocation of retirement costs to agency operations is the unrecognized subsidy that accrues to Government organizations whose programs are required by law to be financed by the users of their services. Understatement of retirement costs may also result in a tendency to adopt benefits which could jeopardize the affordability of the retirement systems.

The Congress, employees, and the taxpayers should not be misled by unrealistic estimates

of retirement costs. Our August 1977 report recommended that the Congress enact legislation requiring the costs accruing under all Federal retirement systems to be recognized and funded on a dynamic basis with full consideration of the effect of pay and annuity increases on future benefit payments. We further recommended that the difference between the dynamic costs and employee contributions be charged to agency operations.

The Resolution lists 11 systems to be covered by the study including 7 Federal staff retirement systems for civilian and military personnel, 3 District of Columbia retirement systems, and social security. The systems are described as "major Federal retirement systems." Social security is not a retirement system for Federal personnel and, in our opinion should not necessarily be considered in the same context as Federal staff retirement programs. In fact, most Federal civilian employees are precluded by law from participating in social security through their Federal employment. Similarly, some Federal employees participate in the District of Columbia retirement systems; however, the systems are generally limited to certain District personnel. Under "home-rule," the District has primary authority over the management of its retirement programs.

We would also point out that the Government operates five other retirement systems for its personnel in addition to the seven systems listed in the Resolution. These are (1) Central Intelligence Agency, (2) President, (3) Director of the Administrative Office of the U.S. Courts, (4) Director of the Federal Judicial Center, and (5) Comptroller General. Although most of these systems are small, you may wish to add these systems to the scope of the study and thereby cover all retirement systems for Federal personnel.

This concludes my statement, Mr. Chairman, and I and my colleagues will be pleased to answer questions.

SENATE RESOLUTION 82—THE ALCAN PROJECT

Mr. HATCH. Mr. President, there was a time in this country when energy was easy to obtain and therefore inexpensive. Relatively small amounts of capital were needed to finance such undertakings, for cheap oil abounded in shallow reservoirs; natural gas was a cheap almost unwanted byproduct of oil production, and cheap coal lay in fat seams beneath the Earth's surface. The catastrophic shortage of natural gas which occurred last winter attests that this time has passed. Now, most of the easily obtained hydrocarbons have been used, and we must go deeper and farther for our resources—at a greater cost.

For many weeks, this body has deliberated the means and methods for best solving this Nation's energy problem or crisis. The solutions advanced run to conservation schemes, conversion to alternate fuels, development of alternate energy sources—and other indirect approaches to the problem. The complexity of the deliberations and the tumult of the debate may have caused some of us to overlook the fact that the single, most straightforward answer to the problem is to increase the supply of natural gas. And so much the better to do this in the quickest most economic way possible. Mr. President, I submit that such a partial solution is now available to us. It is the early approval and expeditious completion of the Alaska natural gas transportation system, the Alcan project.

Let me review briefly with you some of the manifest advantages to be obtained from the Alcan project:

First, it will make available to the lower 48 States the gas from the Prudhoe Bay field, the largest petroleum accumulation yet discovered on the North American Continent. This field contains over 26 trillion cubic feet of proven gas, one-fifth of the Nation's total reserves.

Second, the project will enable Canada to access its Mackenzie River delta gas, increasing its ability to serve its own markets and to continue, at least, its current level of natural gas exports to the United States at the rate of 1 trillion cubic feet annually.

Third, it will bring Alaskan gas on stream reducing our dependence on foreign oil imports by approximately $2 billion a year and confer a net national economic benefit to the United States in excess of $5 billion.

Fourth, by 1980 the Alcan project will have created 20,000 new, directly and indirectly associated, jobs. These are meaningful, productive jobs which add to the gross national product and the national tax base. They are not public works or public jobs which merely transfer income. The western leg segment, depending on the size approved, will provide peak employment in direct construction of between 1,500 and 2,000 jobs. The northern borderline segment will provide about 4,000 jobs, and the Alaskan section will provide 10,000 such jobs. The operation and management of the completed system will provide a substantial number of permanent new jobs.

Fifth, assuming that appropriate terms and conditions are worked out with American pipe mills as expected, all of the line pipe used for the project in Alaska and the lower 48 States, will be purchased from American mills. This constitutes 741 miles of 48-inch diameter pipe in Alaska, 1,017 miles of 42-inch diameter pipe for the northern borderline segment, and 911 miles of 36-inch diameter pipe for the full version of the western leg. This demand can be an important and badly needed shot in the arm for our steel industry which is now badly depressed by the effects of unfair foreign competition.

Sixth, there will be substantial purchases of compressor station equipment, communications equipment, and all the appurtenant equipment, machinery, supplies, and incidental material needed for this immense construction project.

Seventh, there will be substantial additions to the ad valorum tax base of the various States, counties and cities where the project will install facilities;

Eighth, the project is environmentally and ecologically sound; and finally, and most importantly, the project is expected to be completed without any financing or financial guarantees from the Federal Government.

It is anticipated that financing will come from some of the project's major beneficiaries such as the producing companies who will be selling it their gas; the State of Alaska, which will be receiving substantial sums in severance taxes, royalties, and ad valorem taxes from the project; several American transmission companies which will have access to Alaskan gas because of the project; and some suppliers such as steel companies and equipment suppliers who have indicated an interest in taking an equity position in the project.

Mr. President, I submit that the need to complete this project is urgent, not only to provide additional gas supplies at an early date but to avoid large increases in construction costs that delays would entail. I ask the support of every Member of this body for the Alcan project.

CONSUMER CONTROVERSIES RESOLUTION ACT

Mr. McCLURE. Mr. President, I would like to make a few remarks about S. 957, the Consumer Controversies Resolution Act. These remarks should probably have been made a long time ago, but the press of business seems to have resulted in their continuing postponement.

I have chosen to speak now because I think it is important that the leadership and the managers of that legislation realize that the so-called compromise proposal which was revealed last week by the staff of the Senate Commerce Committee is intrinsically unsatisfactory to a substantial number of conservatives in the Senate. Our dissatisfaction will not be vitiated by minor changes and insignificant adjustments.

Specifically, many of us feel that S. 957 is an attempt to achieve many of the goals of the Consumer Protection Agency through a different legislative vehicle.

In fact, the Office of Consumer Redress, which in the new proposal has become the Dispute Resolution Resource Center, is in many ways more powerful than the Consumer Protection Agency could ever hope to be.

First, this center is endowed with open-ended grant of authority which would allow it, if it so desired, to promulgate rules and regulations impacting upon the substantive output of State consumer law.

Second, the center is endowed with the authority to fund nonprofit neighborhood legal service centers established, not for the purpose of consumer controversy resolution, but for the purpose of channeling consumer controversies into the litigative process.

Third, the legislation brings the Federal Government for the first time, into the process of regulating State courts.

Even S. 1262 does not purport to give a newly created agency the power to create new substantive rights. It does not give the Federal Government authority over State court systems. It does not provide open-ended funding for engagement in broad classes of litigation.

S. 957, despite assertions of its proponents, could easily be adapted to do all of these things within the ambit of its statutory language.

Specifically, if the proponents of a bill disclaim any intention to impact on the output of judicial forums, why do they insist on retaining jurisdiction for the Federal Trade Commission—the agency responsible for regulating the substance, rather than the procedure of court systems.

Why do they, in section 7 (e) (1) of the compromise proposal, extend funding to consumer advocacy lawyers, when in fact the goal of a small claims court system is to settle disputes untechnically and without the assistance of lawyers?

Why do they insist on retaining provisions which could arguably be used to exclude businesses from State small claims court systems?

Why do they retain tenure provisions which could possibly be used to require that judges in small claims court systems be experienced in consumer advocacy litigation?

Why do they retain the burdensome concept of a "consumer dispute," when that phrase is not in fact necessary to the achievement of the purposes of the act?

Why do they insist on retaining unfettered clearinghouse authority, which could arguably be used to promote causes pertaining to large classes of people, rather than claimants as individuals?

Why do they insist on retaining the open-ended grants of authority?

None of these aspects is necessary for an effective national program for encouraging the creation and development of State small claims court mechanisms.

In view of these open questions, I do not believe that my conservative colleagues are satisfied to trust in the good will and noble purposes underlying this legislation, simply allowing the bureaucratic process to take its course.

We made that mistake in connection with the Legal Services Corporation Act of 1974. And we watched the bureaucracy which we had created take advantage of every undotted "i" and uncrossed "t." We also saw some dots and crosses removed from language which we felt was clear on its face.

The watershed question with respect to S. 957 reduces to whether or not this is a bill for the creation of State mechanisms to impartially expedite justice.

But I fear that the proponents of this bill intend to employ it for outcome-determinative goals. I am not dissuaded from this notion by the failure of its sponsors to delete provisions with significant impact on State small claims courts, and which are unnecessary to the creation of a funding mechanism at the Federal level.

If the proponents of S. 957 are genuinely convinced that the goals of the act are what they say they are, then I should think they would be willing to sit down and assuage our fears with respect to the provisions I have mentioned.

I believe the so-called "compromise" proposal recently posited by the committee is a blatant red herring, proposed for no better reason than to scare us out of our wits.

Senator KENNEDY himself, who has not been known to agree with me on every issue, has suggested that there is no way such a proposal could get through the House. The Commerce Committee staff conceded to some of our staff members that they feel some of the open-ended grant provisions are unreasonable.

We will not be fooled into bargaining over blatantly foolish red herring provisions inserted only for bargaining purposes.

And we will not ignore the clear import of the statutory language, relying on the beneficent sentiments of the drafters.

If the proponents of S. 957 refuse to deal with Senate conservatives in good faith, then I am afraid that we will have to go through the fine points of S. 957, sentence by sentence, ramification by ramification. I already have 71 sentences and ramifications in mind, and I am sure others will occur to me as this issue progresses.

I do not want to be dilatory. But I feel that before the Senate passes another piece of legislation with far-reaching ramifications, we should, for a change, have an opportunity to learn exactly what we are voting on.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

There being no objection, the Senate, at 4:51 p.m., took a recess subject to the call of the Chair.

The Senate reassembled at 5:12 p.m. when called to order by the Presiding Officer (Mr. ROBERT C. BYRD).

RECESS UNTIL 5:45 P.M.

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate stand in recess until 5:45 p.m. today.

There being no objection, the Senate, at 5:13 p.m. recessed until 5:45 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. MATSUNAGA).

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ALLEN. Mr. President, acting in accordance with the wishes of the distinguished majority leader, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

There being no objection, at 5:46 p.m. the Senate took a recess, subject to the call of the Chair.

The Senate reassembled at 6:08 p.m., when called to order by the Presiding Officer (Mr. MATSUNAGA).

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

INTERNAL REVENUE CODE PROVISION AMENDMENT

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that H.R. 4458, which is held at the desk, be called up for consideration at this time.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 4458) to amend certain provisions of the Internal Revenue Code of 1954 relating to distilled spirits, and for other purposes.

Mr. HUDDLESTON. Mr. President, H.R. 4458 is the House version of S. 1717, which I have introduced here on this side. The bill is designed to make certain limited modifications in the tax code relating to the distilled spirits industry. Changes which it would effect will eliminate costly and time-consuming paperwork at present required of the industry and Government alike. As the Department of the Treasury has indicated in its report on H.R. 4458:

The changes proposed by the bill generally would have little revenue effect. Some merely permit tax exemptions or refunds to be obtained in a more efficient manner than is now possible.

Under existing procedures, an excise tax is normally determined and paid on distilled spirits which are destined for export and then later refunded by the Treasury when the product is actually exported. The most important change which the legislation before us would bring about is the termination of the unnecessary work involved on the part of both the distiller and the Government in shuffling funds back and forth under this procedure.

This is not a controversial bill. The Treasury Department has no objection to its enactment. Last year a bill which contained all the provisions of this legislation was passed by the House with no dissent and was reported out by the Senate Finance Committe, albeit too late for floor action. Yesterday, the House, by voice vote, passed H.R. 4458 under suspension of the rules. On October 14, the Senate Subcommittee on Taxation and Debt Management held hearings on S. 1717. On October 21, the full Senate Committee on Finance agreed to the substance of S. 1717 and a procedure whereby H.R. 4458 could be held at the desk after House passage, in order to expedite its consideration by the Senate. Thus, I strongly believe that there is a clear indication of across-the-board support for this legislation, and I, therefore, urge that we act upon it immediately.

Mr. President, this bill has been cleared by both sides of the aisle.

Mr. McCLURE. Mr. President, it is my understanding that there is no objection on this side of the aisle.

The PRESIDING OFFICER. Without objection, the bill will be considered as having been read the first and second times.

The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill (H.R. 4458) was read the third time, and passed.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. HUDDLESTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ALLEN. Mr. President, I move that the Senate stand in recess to the call of the Chair.

The motion was agreed to and, at 6:10 p.m., the Senate took a recess subject to the call of the Chair.

The Senate reassembled at 6:27 p.m. when called to order by the Presiding Officer (Mr. MATSUNAGA).

ORDER OF BUSINESS FOR TOMORROW

Mr. ROBERT C. BYRD. Mr. President, under the order previously entered, the Senate will come in at 9 a.m. tomorrow. Is that not correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Also, under the order previously entered, the Senate will proceed to the consideration of the social security extension bill at 9 a.m. Is that not correct?

The PRESIDING OFFICER. The Senator is correct.

ORDER FOR CONSIDERATION OF THE SOCIAL SECURITY EXTENSION BILL TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the social security bill after Mr. ALLEN has been recognized under the order previously entered for Mr. ALLEN on tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF BUDGET WAIVER RESOLUTION TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the budget waiver or waiver come over with respect to the Social Security Financing Act, the Senate proceed to the consideration thereof immediately.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION TO CALL UP SENATE JOINT RESOLUTION 82

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the majority leader may be authorized to call up the Alcan Resolution, Senate Joint Resolution 82, at any time.

The PRESIDING OFFICER. Without objection, it is so ordered.

SAFE DRINKING WATER AMENDMENTS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House on S. 1528.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives.

Resolved, That the House agree to the amendment of the Senate numbered 2 to the amendment of the House to the bill (S. 1528) entitled "An Act to amend section 2 of the Safe Drinking Water Act (Public Law 93-523) to extend and increase authorizations provided for public water systems."

Resolved, That the House agree to the amendment of the Senate numbered 1 to the amendment of the House to the aforesaid bill, with the following amendment:

In lieu of the matter proposed to be inserted by said amendment, insert:

(B)(i) In prescribing regulations under this section the Administrator shall, to the extent feasible, avoid promulgation of requirements which would unnecessarily disrupt State underground injection control programs which are in effect and being enforced in a substantial number of States.

(ii) For the purpose of this subparagraph, a regulation prescribed by the Administrator under this section shall be deemed to disrupt a State underground injection control program only if it would be infeasible to comply with both such regulation and the State underground injection control program.

(iii) For the purpose of this subparagraph, a regulation prescribed by the Administrator under this section shall be deemed unnecessary only if, without such regulation, underground sources of drinking water will not be endangered by any underground injection.

Resolved, That the House agree to the amendment of the Senate numbered 3 to the amendment of the House to the aforesaid bill, with the following amendment:

In lieu of the matter proposed to be inserted by said amendment, insert:

AGENCY PERSONNEL

SEC. 11. (a) Subsection (a) of section 5108 of title 5, United States Code, is amended by striking out "an aggregate of 3,243" and inserting in lieu thereof "an aggregate of 3,293."

(b) To the extent that the Administrator of the Environmental Protection Agency deems such action necessary to the discharge of his functions under title XIV of the Public Health Service Act (relating to safe drinking water) and under other provisions of law, he may appoint personnel to fill not more than thirty scientific, engineering, professional, legal, and administrative positions within the Environmental Protection Agency without regard to the civil service laws and may fix the compensation of such personnel not in excess of the maximum rate payable for GS-18 of the General Schedule under section 5332 of title 5, United States Code.

MONITORING OF UNREGULATED POLLUTANTS

SEC. 12. (a) Section 1412(e)(2) of the Public Health Service Act is amended by striking the word "and" at the end of clause (E) and by striking the period at the end of Clause (F) and inserting in lieu thereof: "; and", and by adding the following new clause at the end thereof: "(G) periodic assessments and evaluations of unregulated contaminants which may require continuous monitoring or regulation."

(b)(1) Section 1414(c) of such Act is amended by striking out "form and manner for giving such notice. Such notice" and inserting in lieu thereof "form, manner, and frequency for giving notice under this subsection. Notice under the first sentence of this subsection".

(2) Section 1414(c) is further amended by inserting: "The Administrator may also require the owner or operator of a public water system to give notice to the persons served by it of contaminant levels of any unregulated contaminant required to be monitored under section 1445(a)." after "issued by the system.".

(3) Section 1414(c) is further amended by striking out "thereunder" and inserting in lieu thereof "issued under this subsection".

(c) Section 1445(a) of such Act is amended by striking out "or" before "in administering", and by inserting before the period at the end thereof: ", in evaluating the health risks of unregulated contaminants, or in advising the public of such risks".

(d) Section 1445(b)(1) of such Act is amended by inserting "(A)" immediately after "person subject to", by striking out "or" after "1412" and inserting in lieu thereof ", (B) an", by striking out "(or person" and substituting the following: ", or (C) any requirement to monitor an unregulated contaminant pursuant to subsection (a), or person", and by striking out the parenthesis after "or other person" and substituting "referred to in clause (A), (B), or (C)".

EMERGENCY ASSISTANCE

SEC. 13. Section 1442(a)(2)(B) of the Public Health Service Act, as amended by section 9 of this Act, is further amended by striking out "respecting drinking water" and all that follows down through the period at the end thereof and substituting: "affecting public water systems (including sources of water for such systems) which the Administrator determines to present substantial danger to the public health. Grants provided under this subparagraph shall be used only to support those actions which (i) are necessary for preventing, limiting or mitigating danger to the public health in such emergency situation and (ii) would not, in the judgment of the Administrator, be taken without such emergency assistance. The Administrator may carry out the program authorized under this subparagraph as part of, and in accordance with the terms and conditions of, any other program of assistance for environmental emergencies which the Administrator is authorized to carry out under any other provision of law. No limitation on appropriations for any such other program shall apply to amounts appropriated under this subparagraph.".

CLEAN AIR ACT

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 14. (a) The Clean Air Act is amended as follows:

(1) in section 110(a)(2)(H) insert a semicolon at the end thereof;

(2) in section 110(a)(2)(J) strike out the comma at the end thereof and substitute a semicolon;

(3) in section 110(a)(5)(D) strike out "preconstruction or premodification";

(4) in section 110(a)(3) add the following new subparagraph at the end thereof:

"(D) Any applicable implementation plan for which an attainment date later than December 31, 1982, is provided pursuant to section 172(a)(2) shall be revised by July 1, 1979, to include the comprehensive measures and requirements referred to in subsection (c)(5)(B).";

(5) in section 110 redesignate subsections (g), (h), and (i) (as added by section 108 (g) of the Clean Air Act Amendments of 1977) as (h), (i), and (j), respectively;

(6) in section 110(j), as redesignated by paragraph (5) of this subsection, strike out "at such source will enable it" and substitute "will enable such source";

(7) in section 111(a) redesignate paragraph (7) (as added by section 109(f) of the Clean Air Act Amendments of 1977) as paragraph (8);

(8) in section 111 strike out subsection (j) and redesignate the following subsections accordingly;

(9) in section 111(j)(2), as redesignated by paragraph (8) of this subsection, strike out "(8)" and substitute "(B)";

(10) in section 113(b)(3) insert a comma after "coal conversion)" and after "smelter orders)"; and strike out "320" and insert in lieu thereof "324";

(11) in section 113(b)(3) (as amended by section 111(c)(3) of the Clean Air Act Amendments of 1977), insert "or" at the end thereof;

(12) in section 113(c)(1)(B) (as amended by section 111(d)(2) of the Clean Air Act Amendments of 1977), insert "or" at the end thereof;

(13) in section 113(c)(1)(D) insert a comma after "Act)" and insert a comma after "penalties)";

(14) in section 113(d)(1) strike out "an order for any stationary source which" and insert in lieu thereof "to any stationary source which is unable to comply with any requirement of an applicable implementation plan an order which" and strike out "any requirement of an applicable implementation plan" and insert in lieu thereof "such requirement";

(15) in section 113(d)(1)(E) insert ", unless exempted under section 120(a)(2)(B) or (C)," after "notifies the source that"; insert "effective July 1, 1979, as provided" after "noncompliance penalty"; and strike out "120" the second time it appears therein and insert in lieu thereof "120(b)(3) or (g),";

(16) in section 113(d)(2) insert after the first sentence thereof the following: "The Administrator shall determine, not later than 90 days after receipt of notice of the issuance of an order under this subsection with respect to any major stationary source, whether or not any State order under this subsection is in accordance with the requirements of this Act.";

(17) in section 113(d)(4)(A) insert a closing parenthesis after "111(a)(1)";

(18) in the last sentence of section 113(d)(5)(A) strike out "an additional period of" and insert in lieu thereof "an additional period for";

(19) in section 113(d)(8) strike out "or (3)" after "paragraph (1)";

(20) in section 113(d)(10) strike out "issued" and insert in lieu thereof "in effect"; and strike out "other" and insert in lieu thereof "Federal"; and strike out "or section 304" and substitute "and no action under section 304";

(21) in section 113(d)(11) strike out "(and approved by the Administrator)" and substitute "and in effect";

(22) in section 114(a)(iii) strike out "(except with respect to a manufacturer of motor vehicles or motor vehicle engines)" and insert in lieu thereof "(except a provision of title II with respect to a manufacturer of new motor vehicles or new motor vehicle engines)";

(23) in section 114(a)(1) insert "who owns or operates any emission source or who is" after "any person"; and insert "with respect to a provision of title II" after "208";

(24) in section 116 insert "(as in effect before the date of the enactment of the Clean Air Act Amendments of 1977)" after "and (f)".

(25) in section 119(a), add the following new paragraph at the end thereof:

"(3) For the purposes of section 110, 304, and 307 of this Act, any order issued by the State and in effect pursuant to this subsection shall become part of the applicable implementation plan.";

(26) in section 119(d)(3) strike out "319" and insert in lieu thereof "321";

(27) in the first sentence of section 119(e) strike out "such order" and insert in lieu thereof "an order under this section";

(28) in section 120(a)(2)(A)(i) insert "(whether or not such source is subject to a Federal or State consent decree)" after "plan";

(29) in section 120(a)(2)(A)(iii) insert ", or Federal or State consent decree" after "subparagraph (B)"; and strike out "or suspension." at the end thereof and insert in lieu thereof ", suspension, or consent decree";

(30) in section 120(a)(2)(B)(i) insert "section 113(d)(5) or" after "under" and insert "(as in effect before the date of the enactment of the Clean Air Act Amendments of 1977)" after "119";

(31) in section 120(a)(2)(B)(ii) insert "(as in effect before the date of the enactment of the Clean Air Act Amendments of 1977)" after "119(c)(1)";

(32) in section 120(b)(8) strike out "(6)" and substitute "(4)";

(33) in section 120(b)(2)(A) strike out "subsection (e)" and insert in lieu thereof "subsection (a)(1)(B)(i)";

(34) in section 120(b), after paragraph (9) insert: "In any case in which the State establishes a noncompliance penalty under this section, the State shall provide notice thereof to the Administrator.";

(35) in the next to last sentence of section 120(b) strike out "delayed compliance" and insert in lieu thereof "noncompliance"; strike out "publication of the proposed penalty" and insert in lieu thereof "receipt of notice of the State penalty assessment";

(36) in the last sentence of section 120(b) strike out "delayed compliance" and insert in lieu thereof "noncompliance"; and strike out "facility" and insert in lieu thereof "source";

(37) in section 120(d)(2)(A) insert "the economic value which a delay in compliance beyond July 1, 1979, may have for the owner of such source, including" after "no less than"; and strike out "which a delay in compliance beyond July 1, 1979, may have for the owner or operator of such source" and insert in lieu thereof "which such a delay may have for the owner or operator of such source";

(38) in section 120(e) insert a comma after "(b)";

(39) in section 126(a)(1) strike out ", relating to significant deterioration of air quality," and substitute "(relating to significant deterioration of air quality)";

(40) in section 162(a)(4) insert a comma after "size";

(41) in section 163(a) strike out "165(d)(2)(C)(iv)" and insert in lieu thereof "section 165(d)(2)(C)(iv))";

(42) in section 164(b)(2) insert "or is inconsistent with the requirements of section 162(a) or of subsection (a) of this section" after "this section",

(43) in section 164(e), insert "an" after "If any State affected by the redesignation of";

(44) in section 165(a)(1) strike out the colon at the end thereof and insert in lieu thereof a semicolon:

(45) in section 165(a)(3) insert, ", as required pursuant to section 110(j)," after "demonstrates";

(46) in section 165(b) insert "cause or" before "contribute"; and strike out "actual" before "allowable";

(47) in section 165(d)(2)(C)(ii) strike out "contrbute" and insert in lieu thereof "contribute";

(48) in section 165(d)(2)(C)(iii) strike out "quality related" and substitute "quality-related" and strike out the comma after "concentrations";

(49) in section 165(d)(2)(C)(iv) strike out "such sources" and substitute "such facility"; strike out "together with all other sources,"; and insert "cause or contribute to concentrations of such pollutant which" before "exceed";

(50) in section 165(d)(2)(D)(iii) strike out everything after "as may be necessary to assure that" down through the colon and insert in lieu thereof the following: "emissions of sulfur oxides from such facility will not (during any day on which the otherwise applicable maximum allowable increases are exceeded) cause or contribute to concentrations which exceed the following maximum allowable increases for such areas over the baseline concentration for such pollutant and to assure that such emissions will not cause or contribute to concentrations which exceed the otherwise applicable maximum allowable increases for periods of exposure of 24 hours or less on more than 18 days during any annual period:";

(51) in section 165(d)(2)(D) add the following new clause:

"(iv) For purposes of clause (iii), the term 'high terrain area' means with respect to any facility, any area having an elevation of 900 feet or more above the base of the stack of such facility, and the term 'low terrain area' means any area other than a high terrain area.";

(52) in the second sentence of section 168(b) strike out "in accordance with this definition" and insert in lieu thereof "(in accordance with the definition of 'commenced' in section 169(2))";

(53) immediately after section 168, strike out subpart 2 of part C of title I of such Act and insert such subpart after section 169;

(54) in section 169(2) add the following new subparagraph (C) at the end thereof:

"(C) The term 'construction' when used in connection with any source or facility, includes the modification (as defined in section 111(a)) of any source or facility.";

(55) in section 172(b)(4) strike out "paragraph (1)" and insert in lieu thereof "subsection (a)";

(56) in section 172(c) strike out "July 1, 1987" and insert in lieu thereof "December 31, 1987";

(57) in section 173(1)(A) strike out "facility" each place it appears and insert in lieu thereof "source"; strike out "from new" and insert in lieu thereof "from new or modified"; and insert "applicable" before "implementation plan";

(58) in section 173 strike out "and" after the semicolon in paragraph (2); strike out the period at the end of paragraph (3) and insert in lieu thereof "; and"; and add the following at the end thereof:

"(4) the applicable implementation plan is being carried out for the nonattainment area in which the proposed source is to be constructed or modified in accordance with the requirements of this part.";

(59) in section 176(a)(1) insert "national" before "primary";

(60) in section 202(a) strike out "(a) Except as otherwise provided in subsection (b)—

"(a)(1) Except as otherwise provided in subsection (b) the" and substitute "(a) Except as otherwise provided in subsection (b)—

"(1) The";

(61) in section 202(a)(3)(B) strike out "During the period of June 1 through December 31, 1979, and during each period of June 1 through December 31 of each third year after 1979," and insert in lieu thereof "During the period of June 1 through December 31, 1978, in the case of hydrocarbons and carbon monoxide, or during the period of June 1, through December 31, 1980, in the case of oxides of nitrogen, and during each period of June 1 through December 31 of each third year thereafter,";

(62) in the last sentence of section 202(a)(3)(B) striking out "of" before "from";

(63) in section 202(a)(3)(E) strike out "June 1, 1979," and insert in lieu thereof "June 1, 1978, in the case of hydrocarbons and carbon monoxide, and June 1, 1980, in the case of oxides of nitrogen,";

(64) in section 202(b)(1)(B), strike out "model year 1976" and insert in lieu thereof "calendar year 1976";

(65) in section 202(b)(1)(B)(i) strike out "United States" and insert in lieu thereof "other";

(66) in section 203(a)(3)(B), strike out the comma after "purchaser" and substitute a semicolon;

(67) in section 203(a)(4)(C), insert "or" after "person,";

(68) in the last sentence of section 203(a) insert a period after "215";

(69) in section 206(g)(3) insert "shall" after "(D)";

(70) in section 207(a) strike out "(3) The cost" and substitute:

"(3) The cost";

(71) in section 207(f), as added by section 212 of the Clean Air Act Amendments of 1977, strike out "(f)" and substitute "(h)";

(72) in section 207(h)(2) (as added by section 212 of the Clean Air Act Amendments of 1977 and redesignated in paragraph (65) of this section), strike out "as determined and" and insert in lieu thereof "as determined under";

(73) in section 211(f)(2) strike out "first"; and insert ", except as otherwise provided pursuant to a waiver under paragraph (4)" after "per gallon of fuel";

(74) in section 211(f)(4) insert "or the limitation specified in paragraph (2) of this subsection," after "subsection";

(75) in section 215(d) strike out "December 31, 1981," and insert in lieu thereof "December 31, 1980,";

(76) in section 302(e), insert a comma after "individual";

(77) in section 304(a)(3) insert "or modified" after "new";

(78) in section 304(f)(3) strike out "requirements" after "smelter orders)," and substitute "any condition or requirement"; and strike out "or" before "section 169A" and insert ", or" after "(relating to ozone protection)";

(79) in the first sentence of section 307(b)(1), insert "or requirement" before "under section 112,"; strike out "under section 111" and insert in lieu thereof "or requirement under 111,"; strike out "any rule or order issued under section 120 (relating to noncompliance penalties," and insert in lieu thereof "any rule issued under section 113, 119, or under section 120, or";

(80) in the second sentence of section 307(b)(1) insert "under section 111(j), under section 112(c), under section 113(d), under section 119, or" before "under section 120"; and insert "(as in effect before the date of enactment of the Clean Air Act Amendments of 1977)" after "119(c)(2)(A), (B), or (C)"; and insert "(including any denial or disapproval by the Administrator under title I)" after "under this Act";

(81) in section 323(d), strike out "eleven" and substitute "thirteen"; strike out "seven" and substitute "nine"; strike out, "by and with the advice and consent of the Senate";

(82) in section 324(j) insert after "(j)" the following: "The Commission may appoint and fix the pay of such staff as it deems necessary.";

(83) redesignate section 325 (as added by section 315 of the Clean Air Act Amendments of 1977) as section 327 and in subsection (b)(4) thereof, strike out "103(b)(5)" and insert in lieu thereof "103(a)(5)"; and

(84) in title III, add the following new section after section 325:

"CONSTRUCTION OF CERTAIN CLAUSES

"SEC. 326. The parenthetical cross references in any provision of this Act to other provisions of the Act, or other provisions of law, where the words "relating to" or "pertaining to" are used, are made only for convenience, and shall be given no legal effect.".

(b) The Clean Air Act Amendments of 1977 (P.L. 95-95) is amended as follows:

(1) in section 111, redesignate the second subsection (b) as paragraph (3) and redesignate existing paragraph (3) as paragraph (4);

(2) in section 129(a)(2)(C), strike out "January 1, 1979," and insert in lieu thereof "July 1, 1979.";

(3) in the next to last sentence of section 129(a)(2), strike "at" after "judgment";

(4) in section 129(c), strike out "subpart D" in each place it appears and insert in lieu thereof "part D of title I" and strike out "101" and insert in lieu thereof "110";

(5) in section 224(g) strike out "after 'engines'" and insert in lieu thereof "after 'engins'"; and

(6) in section 406(c) strike out "section 110 of this Act" and insert in lieu thereof "section 110 of the Clean Air Act".

Mr. ROBERT C. BYRD. Mr. President, normally the technical amendments to the Clean Air Act would be presented by the chairman of the Senate Environmental Pollution Subcommittee, the senior Senator from Maine. However, Senator MUSKIE is presently being treated for a pinched nerve and is unable to be on the Senate floor. He has prepared a statement which explains these amendments, and I ask unanimous consent that it, with attachments, be printed at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT OF SENATOR MUSKIE

The Clean Air Act Amendments of 1977 were passed by Congress August 4 immediately prior to the August recess. Because of the rush to produce this legislation prior to the date the automobile companies would begin to produce model 1978 cars, there was little time for the detailed proofreading that usually accompanies the production of a conference report. As a result, there are a number of punctuation errors, incorrect cross-references, grammatical errors, and other technical problems that exist in Public Law 95-95, the Clean Air Act Amendments of 1977. And there is some ambiguous language that should be clarified.

As a result of these inadvertent errors, we have brought before the Senate today a package of technical amendments to correct these errors.

It is not the purpose of these amendments to re-open substantive issues in the Clean Air Act. Those issues that were settled remain settled and the technical amendments do not reverse that. Those issues that were not settled by the 1977 amendments remain unsettled. These technical amendments are not designed to resolve issues that were not resolved in the legislative struggle that occurred over the last three years.

A brief explanation of each of the technical amendments will be placed in the record at the end of my statement. Because of the brevity of most of these amendments, it is difficult to read an amendment standing alone and understand the changes it makes. This brief explanation will provide a simple explanation for each amendment.

Most of the amendments originated as a result of discussions between House and Senate Committee staff and the Environmental Protection Agency as the Agency began attempting to implement the new amendments. Unsolicited comments have been received from the private sector. All of the comments of the Environmental Protection Agency and private citizens have been reviewed by the Committee staff. Many have been rejected because they attempt to raise policy issues. Only those amendments that are necessary to correct technical errors or unclear phrases have been retained in the package of amendments that is now before the Senate.

Members of the Environment and Public Works Committee have examined these amendments. If there were any questions about the legitimacy of an amendment, it was dropped from the list.

I urge the Senate to agree to these amendments.

An example of the kind of substantive amendments that have been rejected and have not been included in this package of amendments might be useful. The Clean Air Act Amendments of 1977 require that all new or modified major emitting facilities constructed in clean air areas must comply with the preconstruction review requirements of section 165 immediately upon enactment of the legislation. That is obvious on the face of the language of 165. It also flows from the language of 167, which requires EPA to take action to stop construction if it is not consistent with these new requirements. It is also clear from the last sentence in section 168 that sources constructed after enactment would have to be reviewed under the new amendments because they do not fall within the category covered by that last sentence.

To view this issue in any other way than the one I have described would be to negate the Congressional actions of the last two years on this subject. The Moss amendment of 1976 was an attempt to delay the implementation of Congressional policy and to leave in place the regulations of the Environmental Protection Agency. That proposal was soundly defeated in the Senate as well as in the House.

In spite of the clear Congressional intent on this issue, there have been suggestions that these technical amendments ought to include a substantive amendment which would make the provisions of section 165 not be applicable for at least a year or two. No such amendment is contained in this package. Congress has consistently rejected this notion, but the proponents of it have made one last attempt. It would be improper for these technical amendments to be used to reverse the policy established in the 1977 amendments, and it would be improper to characterize such a substantive change as a "technical" amendment.

The interpretation taken by the Environmental Protection Agency in the October 6, 1977 memorandum from David G. Hawkins and Marvin Durning to the Regional Administrators makes this clear. A copy of that memorandum is attached, along with other items of legal analysis which demonstrate that the correct interpretation of the 1977 amendments is that section 165 is to be applicable to sources immediately upon enactment. Unfortunately, as a result of strong pressure from the electric utility industry, EPA has announced that it is reversing the position taken in the October 6 memorandum. This issue appears to be headed to the courts for final resolution. I believe the October 6th Hawkins memo is the correct interpretation, but these technical amendments will not contain any language that addresses that issue.

PROPOSED AMENDMENTS TO THE CLEAN AIR ACT

(1) Corrects punctuation error.

(2) Corrects punctuation error.

(3) More clearly implements conference agreement to prohibit EPA review of indirect sources both before construction and after they have come into existence.

(4) Implements conference agreements to require cities with severe oxidant or CO problems to use transit funds available to them to help alleviate air pollution problems.

(5) Corrects subsection designation errors.

(6) Implements conference agreement that compliance with new source performance standards may be achieved by treatment of fuels before the fuel is consumed by the source.

(7) Corrects a paragraph designation error.

(8) Eliminates a subsection which is duplicated elsewhere in the statute.

(9) Corrects a subparagraph designation error.

(10) Adds punctuation and corrects an erroneous section reference.

(11) Corrects a grammatical error.
(12) Corrects a grammatical error.
(13) Corrects punctuation errors.
(14) Corrects erroneous omission in paragraph (1) of the requirement that delayed compliance orders may be issued only to sources unable to comply with requirements of an implementation plan.
(15) Corrects apparent inconsistency between section 113 and section 120 to make clear that sources meeting certain criteria will not be required to pay noncompliance penalties.
(16) Corrects omission of deadline for EPA to review certain delayed compliance orders, to conform to other time limits in the law.
(17) Corrects punctuation error.
(18) Corrects an error in syntax.
(19) Corrects a paragraph reference error.
(20) Clarifies that States may impose stricter requirements under State law on sources which have received Federal delayed compliance orders.
(21) Corrects erroneous parenthetical description.
(22) Corrects language which inadvertently removed auto manufacturing facilities from monitoring and other requirements applicable to other stationary sources.
(23) Corrects language which inadvertently removed unregulated stationary emission sources from monitoring and other requirements authorized under the law prior to 1977 to determine whether such sources should be regulated and, if so, at what levels.
(24) Corrects reference to old coal conversion extension section (sec. 119).
(25) Conforms issuance of smelter orders with delay orders for other sources by incorporating smelter orders into the SIP.
(26) Corrects section reference error.
(27) Corrects an unclear reference.
(28) Clarifies that a noncompliance penalty applies to any noncomplying source (which is not exempted) including a source which has received a Federal or State consent decree extending a final compliance date.
(29) Same effect as No. 28.
(30) Corrects erroneous omission of references to new coal conversion extension section (113)(d)(5), and clarifies reference to old coal conversion extension (sec. 119) prior to 1977 amendments.
(31) Clarifies reference to Section 119 to mean the coal conversion extension provision of the Clean Air Act prior to the 1977 Amendments.
(32) Corrects erroneous paragraph reference.
(33) Corrects erroneous subsection reference.
(34) Makes clear an implied requirement for a State to notify the Administrator of imposition of a noncompliance penalty.
(35) Changes inconsistent language—"delayed compliance" to "noncompliance"—to conform to usage elsewhere in this section.
(36) Same effect as No. 35; also changes inconsistent language—"facility" to "source"—to conform to usage elsewhere in this section.
(37) More clearly implements conference agreement on method of calculation of noncompliance penalty.
(38) Corrects punctuation error.
(39) Corrects punctuation error.
(40) Corrects punctuation error.
(41) Adds the word "section" to section reference.
(42) Clarifies apparent inconsistency so that the Administrator may disapprove PSD redesignations if they do not comply with two specified provisions of the law as well as on procedural grounds.
(43) Corrects grammatical error.
(44) Corrects punctuation error.
(45) Clarifies that an applicant for a construction permit need make only one demonstration that the proposed new source will comply with all requirements of the Act.
(46) Adds words "cause or" before the word "contribute" in order to conform to usage throughout the Act; eliminates an apparent inconsistency by striking "actual" from the phrase "actual allowable emissions."
(47) Corrects printing error in spelling.
(48) Corrects punctuation error.
(49) Conforms terminology with respect to pollution "sources" to that used elsewhere in this subsection and employs the phrase "cause or contribute" to pollution levels, to conform to terminology throughout the Act.
(50) More clearly implements conference agreement on the limitations imposed by the Breaux amendment.
(51) Implements conference agreement to define "high terrain" areas.
(52) Clarifies unclear reference.
(53) Corrects placement of subpart 2 of part C.
(54) Implements conference agreement to cover "modification" as well as "construction" by defining "construction" in part C to conform to usage in other parts of the Act.
(55) Corrects an erroneous reference.
(56) Corrects erroneous date to conform to the date elsewhere provided.
(57) Substitutes the term "facility" for "source" to conform to usage elsewhere in this section; also same effect as No. 54.
(58) Implements conference agreement that as a condition for granting a permit to construct in a nonattainment area, the State must be carrying out the requirements of its SIP in that area.
(59) Implements conference agreement to add the word "national" before "primary standard".
(60) Corrects printing misalignment and deletes duplicated phrase.
(61) Corrects erroneous date for start of period during which Administrator may revise an emission standard for heavy duty vehicles, so as to conform to the conference agreement for four year lead time.
(62) Eliminates an erroneous extra word.
(63) Requires study dates to conform to the dates as in No. 61 above.
(64) Implements conference agreement by changing "model year 1976" to "calendar year 1976", thus assure that American Motors would be eligible for extension of date for compliance with NO_x standard.
(65) Changes requirement that auto companies eligible for extension in No. 64, No. 66 buy pollution controls from U.S. manufacturers to permit purchase from non-U.S. companies. This is to avoid GATT problems.
(66) Corrects punctuation error.
(67) Corrects grammatical error.
(68) Corrects punctuation error.
(69) Restores an erroneously omitted word.
(70) Corrects misalignment.
(71) Corrects subsection designation.
(72) Corrects grammatical error.
(73) Implements conference agreement by clarifying that no manufacturer may sell gasoline with MMT greater than 1/16 gram/gallon concentration after November 30, 1977, unless a waiver is granted. Also applies the waiver provision to this 1/16 gram/gallon concentration limitation.
(74) Making the waiver discussed in No. 73 applicable to this 1/16 gram/gallon concentration limitation.
(75) Implements conference agreement by correcting error in a date.
(76) Corrects punctuation error.
(77) Implements conference agreement by clarifying that modified as well as new facilities may be the subject of citizen suits. This conforms to provisions throughout the Act.
(78) Implements conference agreement by putting "smelter orders" on same basis as other stationary source delay orders for purpose of citizen suits. Also makes punctuation correction.
(79) and (80) Implements conference agreement to make clear that judicial review is available for new provisions, as well as old, dealing with hazardous emissions standards and new sources and other requirements and for delayed compliance orders and penalties and smelter orders. Also implements conference agreement providing for review of grant or denial of locality applicable orders in the appropriate circuit court, and review of nationally applicable regulations in the D.C. Circuit Court.
(81) Eliminates the requirement for advice and consent of the Senate for appointment of National Air Quality Commission members; implements conference agreement by changing number of public members from seven to nine.
(82) Gives the Commission authority to hire staff.
(83) Eliminates identical section numbering of two different provisions.
(84) Clarifies lack of legal effect of parenthetical cross-references.

AMENDMENTS TO THE 1977 AMENDMENTS

The previous list amended the Clean Air Act rather than the 1977 amendments.
(1) Corrects typographical error in paragraph numbering.
(2) Corrects an erroneous date.
(3) Corrects grammatical error.
(4) Corrects erroneous cross-references.
(5) Corrects erroneous reference to the word "engines".
(6) Corrects improper reference to the 1977 Clean Air Act Amendments.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, D.C., October 17, 1977.

Hon. DOUGLAS COSTLE,
Administrator, Environmental Protection Agency, Washington, D.C.

DEAR DOUG: It appears there are some who wish to confuse the intent of the Congress with regard to implementation of the new nondegradation policy under the Clean Air Act Amendments of 1977. Some have suggested the Congress did not expect the provisions of the new amendments to be immediately effective. That is not true.

The Conference Committee recognized that there may be certain aspects of the new amendments which would require promulgation of regulations. In recognition of that possibility, we provided that the existing regulations should continue in effect (to the extent not inconsistent with the specific provisions of the new law) until new regulations could be promulgated.

Implicit in the effort of the Congress to deal with nondegradation was the intention to clearly specify the parameters of a nondegradation policy. Thus, we examined EPA's policy with respect to best available control technology, rejected it, and established a new requirement. We established more precise permitting and other preconstruction review requirements. We examined EPA's definition of the term "construction" and made the requirements more specific. We examined EPA's regulations with respect to incremental changes in air quality and established more specific and, in some cases, more stringent increments. All of these changes are to be immediately effective insofar as these provisions do not specifically require regulatory action to become effective.

It is true that the law requires continuity in regulation to avoid unnecessary delay and disruption. It is for that reason that the pre-construction review requirements of current regulation were specifically retained for facilities on which construction was commenced prior to enactment. This also makes clear that facilities which commence construction now must comply with the Act's immediately effective new provisions.

It is unnecessary to complicate a clear Congressional statement by a complex regulatory framework. It should be sufficient to simply notify each State and EPA regional office of the specific requirements of the statute and identify any areas in which

regulations are specifically required. Beyond the areas so identified, the statute should be immediately effective, and existing regulations null and void.

The Congress spent nearly three years rewriting the Clean Air Act. The new amendments are quite specific because we intended to avoid having legislation by regulation. It was our intent to set specific national air quality policy in law. We expect this intent of Congress to guide the Agency. And, we expect that expansive, new regulations would be held to an absolute minimum in order that the new law would be made immediately effective.

We would think that a simple guidance document which cites the legislative history and the intent of Congress could be distributed to the States and EPA regional offices with an annotated version of the new statute and any existing regulations which it references (to the extent not inconsistent with the new amendments). This should be sufficient to begin moving this program without triggering unnecessary litigation which would further delay implementation of the program.

Best personal regards.

Sincerely,

ROBERT T. STAFFORD,
Ranking Minority Member.
EDMUND S. MUSKIE,
Chairman, Subcommittee on Environmental Pollution, U.S. Senate.

U.S. ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., October 6, 1977.

Subject: Changes to PSD and Emission Offset Requirements.

From: David G. Hawkins, Assistant Administrator for Air and Waste Management; Marvin Durning, Assistant Administrator for Enforcement.

To: Regional Administrators, Regions I–X.

The Clean Air Act Amendments signed by President Carter on August 7, 1977, make certain changes to EPA's regulations for preventing significant deterioration (PSD) of air quality (40 CFR 52.21) and the emission offset ruling (41 FR 55524). We will be proceeding with amendments to these regulations as soon as possible. This memo outlines the changes that will be made, most of which became effective upon enactment of the 1977 Amendments. A forthcoming FEDERAL REGISTER notice notifying sources and the public of these changes is enclosed for your information.

The effect of the Act Amendments is to immediately expand the scope of the PSD reviews performed by EPA, both in terms of the number of sources affected and the requirements that must be met (in particular, the requirement for best available control technology for all pollutants regulated under the Act). Sources which commenced construction (as defined by the Act) on or after August 7, 1977 are subject to the immediately effective PSD provisions of the Act. Sources which have not yet received PSD permits must be reviewed in accordance with the immediately effective provisions described below. Sources which have already received PSD permits (either before or after August 7, 1977) must have their construction status as of August 7, 1977 determined. The PSD permit for any source which had not commenced construction prior to August 7, 1977 must be suspended and a review of the source must be conducted in accordance with the provisions described below.

The additional requirements imposed by these immediately effective changes to our PSD procedures may result in delays in processing permits which may disrupt the schedules for sources whose permits are pending or have recently been granted. We urge you to contact the sources in your Region which may be affected by these changes as soon as possible to inform them of the new requirements.

PSD (Part C, Sections 160–169):

General—Section 168 indicates that until a State submits an acceptable State Implementation Plan (SIP) revision for PSD, EPA's regulations remain in effect, except as they are inconsistent with Sections 162(a) (mandatory Class I areas), 163(b) (revised increments) and 164(a) (reclassification procedures). Section 168 also refers to the new statutory definition of "commenced" (as applied to construction) which should be considered immediately effective. Sources which commenced construction after June 1, 1975, and before August 7, 1977, should have been reviewed in accordance with 40 CFR 52.21, as it existed on August 7, 1977. Sources commencing construction on or after August 7, 1977, must be reviewed in accordance with the new Act Amendments. Thus, permits for sources which have not commenced construction as of August 7, 1977, must take into account the mandatory Class I areas (see Attachment 1), the new increments in Section 163(b), and should include a review against the national ambient air quality standards (163 (b)(4)) as well as the specified increments. As stated in Section 163(a), the revised increments of Section 163(b) may be exceeded once per year (except for the annual increments) at any given receptor site.

Applicability of Section 165 (other source types, BACT for other pollutants, pulblic hearings, etc.)—Section 165 by its terms establishes new requirements applicable to all major emitting facilities "on which construction is commenced after the date of enactment of this part." In apparent conflict with this clear statement is Section 168, which states that present EPA regulations are deemed amended to the extent they are inconsistent with specified portions of Sections 162, 163 and 164 but which does not mention Section 165. We have determined that the failure to reference Section 165 is not controlling and that Section 165 (up to subsection (e)) was intended to be effective upon enactment. Therefore, EPA's PSD regulations will be amended to immediately include preconstruction review of additional source types (as defined in Section 169(1)); public hearing, or opportunity for hearing, on each application; best available control technology for all pollutants regulated under the Act; and provisions for exemptions to the Class I increments. These provisions are applicable to affected sources that did not commence construction (as defined in Section 169(2)) before August 7, 1977.

Requirements for major sources of pollutants other than sulfur dioxide and particulate matter—Since Section 165 and the definition of major source in Section 169 are effective immediately, a PSD review for other pollutants regulated under the Act is now required. The other requirements of Section 165 are also applicable for such sources, i.e., public hearings analysis of associated growth. For pollutants other than SO2 and particulate matter, the principal requirement will be the use of best available control technology (BACT).

It will be necessary to establish as part of the PSD rulemaking procedures some de minimus emission level for activating the BACT requirement. In the interim, a de minimus level of 100 tons per year potential emissions should be used for all pollutants. For example, if a source is subject to PSD review either because it is one of the named sources or because it has potential emissions of 250 tons per year of a given pollutant, BACT is required only for those other pollutants whose potential emissions exceed 100 ton per year.

Although further guidance on determining potential emission rate will be necessary, a general definition is as follows:

"Potential emissions" means the emissions calculated using the appropriate uncontrolled emission factor in "Compilation of Air Pollutant Emission Factors" (AP-42) or based on actual source tests of similar equipment. That is, those emissions expected to occur without control equipment, unless such control equipment is necessary for the normal operation of the source. Annual potential emissions shall be based on the maximum annual rated capacity of the source, unless the source is subject to enforceable permit conditions which limit the operating rate and/or hours of operation. Other enforceable permit conditions on the type of amount of materials combusted or processed should also be used in determining the potential emissions of a source.

Starting date for applying increments—EPA's present regulations limit deterioration of air quality starting from January 1, 1975. The definition of "baseline concentration" (Section 169(4)) relies on measured air quality data which must be submitted with all permit applications after August 7, 1978. However, all major emitting facilities commencing construction after January 6, 1975, count against the applicable increments. With respect to whether area sources (nonmajor emitting facilities) count against the increments, we believe it is most appropriate to continue using the approach in EPA's PSD regulations as to what counts against the increments, with the exception of a January 6, 1975 (instead of January 1, 1975), starting date.

Since monitoring data will be required as part of a PSD application after August 7, 1978, sources applying shortly after this date will need to begin monitoring immediately. Therefore, you should be advising your States and prospective sources of this requirement. At this time, it appears that montoring for all criteria pollutants at the proposed site will be necessary, unless other monitoring data in the immediate vicinity are available. Additional guidance on the monitoring requirements will be published in the Part 51 PSD regulations.

Geographic applicability of PSD—EPA's present PSD regulations apply to 19 specific source types even in non-attainment areas, since long-range transport could violate applicable PSD increments (especially Class I) in adjacent clean air areas. PSD permits (including BACT requirements) should continue to be required in all areas of the country.

Precondition to reclassification—EPA's PSD regulations require that before a State may reclassify any area, it must first have accepted delegation of the administrative and technical portions of EPA's PSD regulations. The Act Amendments do not contain such a provision and EPA's regulations will be amended to remove this condition. All the procedural and review requirements of Section 164(b), (c), and (e) are immediately effective.

Classification of new national parks, international parks, and wilderness areas—It appears that unless Congress specifically makes a new national or international park or wilderness area Class I, the automatic designation will be Class II. However, we suspect that Congress would assign Class I status to most new areas of this type, especially if they exceed the size criteria in Section 162. Thus, for long-range planning by sources and States, you should advise them that such areas are likely to be classified Class I.

Stack height—Section 121, which adds a new Section 123 to the Act, limits credit for stack height to good engineering practice (GEP), which is defined as that height necessary to avoid atmospheric downwash, wakes and eddies. It indicates that GEP should generally not exceed two and one-half times the height of the source (subject to exemp-

tion based on appropriate showing by the source). EPA is required to issue regulations within six months to implement Section 121. Until these regulations are issued, we believe it is acceptable to allow credit for stack height according to the "two and one-half times" rule, unless the source can justify a higher stack.

Retroactive application of new stack height limitations—Any previous approval which was based on a stack height which exceeded GEP (two and one-half times height of source) must now be reexamined based on a GEP stack height if the source did not commence construction before August 7, 1977. Any subsequent PSD reviews will have to be based on a GEP stack height for the applicant as well as for any sources which have received previous PSD approval. That is if any increment would have been violated had all sources been limited to GEP stack heights, no additional sources would be allowed to locate in that area. As noted above, until there is further guidance on GEP, the "two and one-half times" rule should be used for defining GEP unless the owner or operator of the source demonstrates to the satisfaction of the Administrator, after notice and opportunity for public hearing, that a greater height is necessary.

EMISSION OFFSETS

Baseline—Section 129 indicates that until July, 1979, EPA's emission offset ruling (as it may be amended) remains in effect. However, the baseline for determining offset credit, effective immediately, is to be the existing SIP regulations at the time a permit application is submitted.

Source applicability—For purposes of the emission offset ruling, the Act contains a new definition of major source which covers sources with potential emissions of 100 tons per year. We will be amending the emission offset ruling as soon as possible to make this change. For those additional sources which would be subject to the offset requirements, this change would be applicable to such sources commencing construction after publication of the Federal Register notice (approximately January 1, 1978). Until this change is made, some smaller sources will be subject to PSD, but are not subject to the emission offset ruling. If these smaller PSD sources would cause or exacerbate a violation of an NAAQS, they must meet condition 3 and 4 of the offset ruling, even though they are not explicitly covered by the offset ruling.

We realize that several of the above changes may be disruptive and will increase the resource demands on your staff. Additional budget requests are being made for both the Regions as well as State program grants.

If our staffs can be of any help or if you have any questions on the issues discussed above, please contact Walt Barber (629-5315) or Ed Reich (755-2550).

Enclosure.

MANDATORY CLASS I AREAS UNDER 1977 CLEAN AIR ACT AMENDMENTS *

National Parks Over 6,000 Acres

Alaska—Mount McKinley 1,939,493.

Arizona—Grand Canyon 1,176,913; Petrified Forest 93,493.

California—Kings Canyon 459,994; Lassen Volcanic 105,800; Redwood 27,792; Sequoia 386,642; Yosemite 759,172.

Colorado—Mesa Verde 51,488; Rocky Mountain 263,138.

Florida—Everglades 1,397,429.

Hawaii—Haleakala 27,208; Hawaii Volcanoes 217,029.

Idaho—Yellowstone (Wyoming).

Kentucky—Mammonth Cave 51,303.

Maine—Acadia 37,503.

Michigan—Isle Royale 542,428.

Minnesota—Voyageurs 114,964.

Montana—Glacier 1,012,599; Yellowstone (Wyoming).

New Mexico—Carlsbad Caverns 46,435.

North Carolina—Great Smoky Mountains (Tennessee).

Oregon—Crater Lake 160,290.

South Dakota—Wind Cave 28,060.

Tennessee—Great Smoky Mountains 514,757.

Texas—Big Bend 708,118; Guadalupe Mountains 76,292.

Utah—Arches 65,098; Bryce Canyon 35,832; Canyonlands 337,570; Capitol Reef 221,896; Zion 142,462.

Virgin Islands—Virgin Islands 12,295.

Virginia——Shenandoah 190,535.

Washington—Mount Rainier 235,239; North Cascades 503,277; Olympic 892,578.

Wyoming—Grand Teton 305,504; Yellowstone 2,219,737.

National wilderness areas over 6,000 acres

Alabama—Sipsey 12,646.

Alaska—Bearing Sea 41,113; Simeonof 25,141; Tuxedni 6,402.

Arizona—Chiricahua National Monument 9,440; Chiricahua 18,000; Galiuro 52,717; Mazatzal 205,137; Mt. Baldy 6,975; Pine Mountain 20,061; Saguaro 71,400; Sierra Ancha 20,850; Superstition 124,117; Sycamore Canyon 47,757.

Arkansas—Caney Creek 14,344; Upper Buffalo 9,912.

California—Agua Tibia 15,934; Caribou 19,080; Cucamonga 9,022; Desolation 63,469; Dome Land 62,206; Emigrant 104,311; Hoover 47,916; Joshua Tree 429,690; John Muir 484,673; Kaiser 22,500; Lava Beds 28,640; Marble Mountain 213,743; Minarets 109,484; Monkelumne 50,400; Pinnacles 12,952; Point Reyes 25,370; San Gabriel 36,137; San Gorgonio 34,644; San Jacinto 20,564; San Refael 142,722; South Warner 68,507; Thousand Lakes 15,695; Ventana 95,152; Yolla-Bolly-Middle Eel 109,091.

Colorado—Black Canyon of the Gunnison 11,180; Eagles Nest 133,910; Flat Tops 235,230; Great Sand Dunes 33,450; La Garita 48,486; Maroon Bells-Snowmass 71,060; Mt. Zirkel 72,472; Rawah 26,674; Weminuche 400,907; West Elk 61,412.

Florida—Bradwell Bay 23,432; Chassahowitzka 23,360; Saint Marks 17,746.

Georgia—Cohutta 33,776; Okefenokee 343,850; Wolf Island 5,126.

Idaho—Craters of the Moon 43,243; Hells Canyon (Oregon) 193,840; Sawtooth 216,383; Selway-Bitterroot (Montana) 1,240,618.

Louisiana—Breton 5,000+.

Maine—Moosehorn 7,501.

Michigan—Seney 25,150.

Minnesota—Boundary Waters-Canoe Area 747,840.

Missouri—Hercules-Glades 12,315; Mingo 8,000.

Montana—Anaconda-Pintlar 157,803; Bob Marshall 950,000; Cabinet Mountains 94,272; Gates of the Mountain 28,562; Medicine Lake 11,366; Mission Mountains 73,877; Red Rock Lakes 32,350; Scapegoat 239,295; Selway-Bitterroot-U.L. Bend 20,890.

Nevada—Jarbridge 64,667.

New Hampshire—Great Gulf 5,552; Presidential Range-Dry River 20,000.

New Jersey—Brigantine 6,603.

New Mexico—Bandelier 23,267; Bosque del Apache 30,850; Gila 433,690; Pecos 167,416; Salt Creek 8,500; San Pedro Parks 41,132; Wheeler Peak 6,027; White Mountain 31,171.

North Carolina—Joyce Kilmer-Slickrock 14,033; Linville Gorge 7,575; Shining Rock 13,350; Swanquarter 9,000.

North Dakota—Lostwood 5,577.

Oklahoma—Wichita Mountain 8,900.

Oregon—Diamond Peak 36,637; Eagle Cap 293,476; Gearhart Mountain 18,709; Kalmiopsis 76,900; Mountain Lakes 23,071; Mount Hood 14,160; Mount Jefferson 100,208; Mount Washington 46,116; Strawberry Mountain 33,003; Three Sisters 199,902.

South Carolina—Cape Romain 28,000.

South Dakota—Badlands 64,250.

Tennessee—Joyce Kilmer-Slickrock (North Carolina).

Vermont—Lye Brook 12,430.

Virginia—James River Face 8,703.

Washington—Alpine Lakes 303,508; Glacier Peak 464,258; Goat Rocks 82,680; Mount Adams 32,356; Pasayten 505,524.

West Virginia—Dolly Sods 10,215; Otter Creek 20,000.

Wisconsin—Rainbow Lake 6,388.

Wyoming—Bridger 392,160; Fitzpatrick 191,103; North Absaroka 351,104; Teton 557,311; Washakie 686,584.

International Parks

New Brunswick, Canada — Roosevelt-Campobello 2,721.

National Memorial Parks

North Dakota—Theodore Roosevelt National Memorial Park 69,675.

* Total acreage shown for each area. States in parentheses indicate interstate park or wilderness areas; total acreage is listed for only one of the States involved.

1977 CLEAN AIR ACT AMENDMENTS IMMEDIATE REGULATORY CHANGES

Agency: Environmental Protection Agency.

Action: Notice.

Summary: This notice informs the public that the Clean Air Act Amendments of 1977 (Public Law 95-95) made certain immediate changes to the Environmental Protection Agency's procedures concerning the prevention of significant deterioration, the Agency's emission offset Interpretative Ruling and the Agency's tall stack policy. These changes were effective as of August 7, 1977, the date of the enactment of Public Law 95-95.

Effective date: August 7, 1977.

For further information contact: Darryl D. Tyler, Chief, Standards Implementation Branch, Control Programs Development Division, Office of Air Quality Planning and Standards, Environmental Protection Agency (MD-15), Research Triangle Park, North Carolina 27711 (919-541-5425).

Supplementary information: The Clean Air Act Amendments of 1977 added several immediately effective sections to the Clean Air Act dealing with three major topics—significant deterioration, emission offsets and tall stacks. These immediately effective provisions are summarized as follows:

PREVENTION OF SIGNIFICANT DETERIORATION (PSD)

(1) The Federal lands described in Section 162(a) are automatically classified as Class I areas.

(2) The new increments found in Section 163(b), for allowable increases in the pollutant concentrations for particulate matter and sulfur dioxide, are now effective. Also, the national ambient air quality standards act as a ceiling for all criteria pollutants. Additionally, the Administrator has determined that since Section 163(a) is integral to the implementation of 163(b), it is effective as of August 7. Section 163(a) provides an allowance that for any period, other than an annual period, the applicable increment may be exceeded during one such period per year at a given site. This allowance does not apply to the variance provisions of Section 165 (d) (2) (C) (iv) or Section 165(d) (2) (D) (iii).

(3) Section 164 is immediately effective. This includes the criteria of Section 164(a) which restrict the reclassification of Class II areas to Class III areas. Also, the provisions of Section 164(b), (c) and (e), which establish redesignation procedures and EPA review criteria are now effective.

(4) The major emitting facilities subject to PSD review under the new requirements

are those defined in Section 169 which had not commenced constructon (as defined also in Section 169) prior to August 7, 1977.

(5) Until States develop plans to implement the significant deterioration amendments, the Administrator will review preconstruction permit applications according to the preconstruction requirements of Section 165, paragraphs (a) through (d). These paragraphs add new and important review provisions which require public hearings on each permit and expand the pollutants subject to review through the application of best available control technology (BACT). Since Section 165 and the definition of major source in Section 169 are effective immediately, a PSD review for all pollutants regulated under the Act is now required. BACT must be required for any pollutant regulated under the Act if the source has potential emissions of 100 tons per year. The full requirements of Section 165 are applicable for such sources, including public hearings and analysis of associated growth, but not including an increments review for pollutants other than particulate matter and sulfur dioxide.

(6) The Administrator will continue to view PSD sources (now, as newly defined) in non-attainment areas so as to prevent the transport of any emissions which would cause significant deterioration in an affected clean area. Also, until States develop plans to implement the PSD and the non-attainment provisions of the Act, the Administrator will require BACT for all pollutants regulated under the Act for PSD sources in non-attainment areas. Furthermore, if any source in a non-attainment area subject to review under either the PSD or offset procedures would cause or contribute to concentrations exceeding a national ambient air quality standard, it must obtain emission offsets sufficient for a net air quality benefit (i.e., conditions 3 and 4 of the Agency's offset Interpretative Ruling, cited below).

(7) Section 165(d) adds new immediately effective criteria applicable to sources affecting Federal Class I areas. These include criteria for review by Federal Land Managers and variances from the Class I increments.

(8) Effective August 7, 1978, under Section 165(e), one year's continuous air quality monitoring data will be required for PSD permit approval unless the Administrator determines that a shorter monitoring period will suffice to determine whether a facility's emissions will exceed either an allowable increment or concentration.

NONATTAINMENT

Section 129(a)(1) of the 1977 Amendments changes the baseline for determining offset credit under the Agency's Interpretative Ruling as published in 41 FR 55524–30, December 21, 1976: This change establishes the applicable implementation plan of the State, in effect at the time of application for a permit by a proposed major stationary source or facility, as the offset baseline to be used for determination of appropriate emission offsets under the Interpretative Ruling.

STACK HEIGHTS

Section 121 of the 1977 Amendments adds a new section 123 to the Clean Air Act which establishes that the degree of emission limitation required for control of any air pollutant under an applicable implementation plan shall not be affected in any manner by so much of the stack height of any source as exceeds good engineering practice or any other dispersion technique.

These restrictions with certain exceptions are applicable to source stack heights constructed after December 30, 1970. The restriction limits the extent to which stack heights or other dispersion dependent techniques may be considered as a credit against the degree of emission reduction required under Section 110 (including PSD and nonattainment programs) of the Act.

The Administrator will apply the restrictions of this section to all significant deterioration and non-attainment permit reviews for sources which commenced construction after August 6, 1977. Also, the effects of any stack allowed since 1970 beyond the good engineering practice standard must be considered in implementing the PSD and nonattainment programs. This will include consideration of the effects on PSD increment usage and the effects on control strategy requirements of implementation plans for nonattainment areas.

RATIONALE

Since the recent amendments require the implementation of several sections prior to the development of State plans, the Administrator will be required to make immediate decisions regarding the preconstruction review of major emitting facilities. The Administrator considers that the implementation of the above criteria, as of August 7, 1977, is required by the direct language and the intent of the Clean Air Act Amendments of 1977. To the extent practicable, the Administrator will base the preconstruction review decisions according to the same criteria as will be required once State Implementation Plans are approved to implement the 1977 Amendments.

Section 129 (nonattainment) of the amendments is specific as to its immediate effect. Section 168 (PSD) of the amended Clean Air Act specifically enumerates Sections 162(a), 163(b) and 164(a) as superseding any inconsistent regulations currently in effect. The legislative history identifies a Congressional intent to immediately restrict EPA review of redesignations to a review of the procedures used. Therefore, the Administrator considers that both the review criteria and procedures of 164 (b), (c) and (e) are immediately effective. Also, Section 165 specifically states that the PSD permit requirements of that section apply to any "major emitting facility which is commenced after the date of enactment of this part." The Administrator considers that the intent of Congress in this regard is to insure consistency with the goals of the new increments and classifications to the greatest degree possible. Therefore, paragraph (a) of Section 163 and paragraphs (a) through (d) of Section 165 can and should be immediately implemented. Similarly, the stack height requirements in Section 123 are also immediately effective. To not make the criteria listed in this notice immediately effective would be counter to the intent of the Congress and the obligation of the Administrator to implement the PSD program until such time as the States can develop and implement their own program to prevent significant deterioration.

COMMENTS

EPA encourages all interested parties and the general public to comment on the implementation of these newly effective criteria. As soon as possible, the Agency will promulgate changes to the Federally promulgated regulations of 40 CFR 52 concerning PSD. In addition, EPA will propose regulations, in 40 CFR 51, to guide States in the preparation of appropriate State Implementation Plans. Comments should be addressed to Darryl D. Tyler at the address given in the "Further Information" section.

Authority: (Sections 110(a)(2)(B), 110 (c), 123, 160–169, 172, and 301(a) of the Clean Air Act as amended (42 U.S.C. 7410, 7423, 7470–7479, 7502, and 7601).

ENVIRONMENTAL DEFENSE FUND,
Denver, Colo., September 22, 1977.

ALAN MERSON,
Regional Administrator, U.S. Environmental Protection Agency, Denver, Colo.

DEAR MR. MERSON: On September 20, 1977 we contacted Mr. Gary Parish, of your staff, concerning whether the Homestake Mining Company's Pitch Project, a proposed open pit mine and mill for producing yellowcake uranium concentrate located in the Gunnison National Forest, Colorado, would be reviewed by EPA pursuant to the new statutory program designed to prevent significant deterioration of air quality (PSD).[1] While the existing PSD regulatory program[2] does not require mining and milling operations, such as the proposed Pitch Project, to obtain a PSD preconstruction permit,[3] the Clean Air Act Amendments of 1977 require all sources, including mining and milling operations, "with the potential to emit two hundred and fifty tons per year or more of any air pollutant" to obtain a PSD permit.[4]

Mr. Parish indicated that EPA is currently considering whether the preconstruction review requirements of the 1977 Amendments for new major emitting facilities are currently in effect, or whether the more limited existing regulatory program, which, pursuant to section 168 of the Clean Air Act, remains temporarily in force, precludes operation of the new PSD preconstruction requirements pending the adoption of state implementation plans (SIP). If the new preconstruction requirements for major emitting facilities do not become operative until a SIP has been approved, major sources regulated under the 1977 Amendments but not under the PSD regulations, such as the proposed Pitch Project, would escape PSD review during the interim period. The Environmental Defense Fund (EDF) believes that the intent of Congress and the express language of the 1977 Amendments clearly require all major emitting facilities on which construction had not commenced prior to the date of enactment of the 1977 Amendments to obtain a PSD preconstruction review permit in accordance with the requirements of the 1977 Amendments.

On August 7, 1977, President Carter signed into law the Clean Air Act Amendments of 1977. The Amendments contain a systematic and comprehensive PSD program.

Section 165(a) provides that: No major emitting facility on which construction is commenced after the date of enactment of this part may be constructed in any area to which this part applies unless—(1) a permit has been issued for such proposed facility in accordance with this part. . . .

The term "major emitting facility" includes, inter alia any sources "with the potential to emit two hundred and fifty tons per year or more of any air pollutant."[5] The term "commenced" as applied to the construction of a major emitting facility means that: . . . [T]he owner or operator has obtained all necessary preconstruction approvals or permits required by Federal, State, or local air pollution emissions and air quality laws or regulations and either has (i) begun, or caused to begin, a continuous program of physical on-site construction of the facility or (ii) entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the facility to be completed within a reasonable time.[6]

Under section 168, the existing EPA PSD regulations on preconstruction review remain in effect until such time as an applicable SIP is approved. While this section could be interpreted, if read in isolation from other sections of the 1977 Amendments, to mean that the requirements of section 165 do not become effective until a SIP is approved, when the Amendments are read fully and in context the legislative intent to require all new major emitting facilities as defined by

the 1977 Amendments to obtain a PSD preconstruction permit is clear. First, section 165(a) flatly states that no major emitting facility on which construction is commenced after the date of enactment of the 1977 Amendments may be constructed without a PSD preconstruction permit. Restricting PSD review to the more limited list of facilities found in the regulations would clearly violate this section.

Moreover, section 167 provides that: The Administrator shall . . . prevent the construction of a major emitting facility which does not conform to the requirements of this part . . . and which is not subject to an implementation plan which meets the requirements of this part.

Thus, Congress expressly provided for enforcement actions by EPA against new major sources which violate the applicable PSD requirements of the 1977 Amendments prior to the approval of a SIP. In order to ensure that EPA could take the actions required by section 167 against all new major sources regulated by the 1977 Amendments, Congress must have intended section 165 to be effective at the date of enactment or it would be impossible to determine the impact on air quality of those new major emitting facilities which are not regulated under the existing PSD program.

As will be evident from the following discussion, the proposed Pitch Project is a major emitting facility on which construction had not commenced prior to the date of enactment of the 1977 Amendments and should be required to obtain a PSD permit.

As we indicated earlier, the proposed Pitch Project is an open pit mine and mill for producing yellowcake uranium concentrate. The project is located approximately five miles south of Monarch Pass,[7] at an elevation between 8,800 and 11,400 feet.[8]

The proposed pit, when completed, will be one of the largest open pits for uranium mining in the western United States, approximately one mile long and 1800 feet wide at its widest point.[9] Pit walls will range from approximately 100 feet to 700 feet in height.[10] While the current proposal would disturb approximately 535 acres for mining and milling operations,[11] Homestake holds "under claim and lease" approximately 26,300 additional acres in the area of the proposed project [12] and the currently proposed pit will not be able to supply sufficient uranium ore for the proposed milling operation.[13]

The proposed project will degrade air quality by increasing ambient concentrations of particulates, sulfur oxides, ammonia, and radioactive materials.[14] Fugitive dust loading (particulates) from the proposed project alone will exceed 250 tons per year.[15]

The Colorado Air Pollution Control Division issued two fugitive dust and six emission permits for the proposed Pitch Project on August 26, 1977, approximately three weeks after the date of enactment of the 1977 Amendments.

Moreover, Homestake has not yet applied for or received a permit for the suspended particulates which will be released from the proposed uranium mill tailings piles.[16]

Homestake also has not obtained the required reclamation permit from the Colorado Mined Land Reclamation Board,[17] and the United States Forest Service, United States Nuclear Regulatory Commission and the State of Colorado are currently preparing an environmental impact statement (EIS) on the proposed Pitch Project pursuant to the National Environmental Policy Act of 1969 [18] prior to the issuance of the license for radioactive materials which is required for the milling operation.[19]

There are several practical reasons for EPA to review the proposed Pitch Project pursuant to the PSD provisions of the 1977 Amendments. First, the Colorado Air Pollution Control Division (Division) appears to be technically incapable of analyzing and developing abatement measures to mitigate the air quality impacts associated with uranium mining and milling operations. For example, the Division has not required Homestake to obtain a fugitive dust permit for *any* component of the milling operation. As a partial justification for this position, the Division's Director, William Auberle, has stated that: . . . Homestake has indicated to the Division that the first phase of the operation of the tailings pond would be entirely under water. . . . In the event the tailings pond should become a source of fugitive dust, as determined by our enforcement section, then a permit would be required.[20]

The Division's lack of understanding of the fugitive dust loading associated with uranium mill tailings is self-evident. Their position is the equivalent of not requiring an emission permit for a fossil fuel steam electric generating station until the facility goes on line, since the boiler is not an air contamination source until fired.

As EPA has correctly recognized: . . . [R]eleases from uranium milling operations include air borne particulates and vapor. Dusts containing uranium and uranium daughter products (thorium-230 and radium-226) are released from ore piles, *the tailing retention system*, and ore crushing and grinding ventilation system (emphasis added.) [21]

And as the United States Nuclear Regulatory Commission recently stated:

The principal impact on air quality resulting from [uranium] mill operations will be an *increase in suspended particulates originating from the tailings piles*. The fugitive dust from the piles will be raised and carried by the prevailing winds. Although this dust will consist of particulates larger than those in road dust, the conservative assumption is made that it will be dispersed in a similar manner (emphasis added) [22]

A more complete analysis of the Colorado Air Pollution Control Division's apparent inability to regulate adequately uranium mining and milling operations is found in EDF's "Comments on Homestake Mining Company's Applications to the Colorado Air Pollution Control Division for Emission Permits for the Pitch Project" (August 4, 1977).

A second reason EPA should review the proposed Pitch Project is the expected proliferation of uranium mining and milling operations in areas adjacent to the proposed Pitch Project.[23] An EPA determination that section 165 of the Clean Air Act is not currently effective would allow these operations to escape PSD review if they "commence construction" prior to the approval of Colorado's SIP revisions. This could result in the significant deterioration of air quality in the scenic area adjacent to Monarch Pass resulting in adverse economic impacts associated with a reduction in tourism.[24]

We appreciate your prompt consideration of this matter. If you should have any questions regarding our position, do not hesitate to contact us.

Sincerely,

MOHAMED EL-ASHRY, Pd.D.
DAVID MASTBAUM, Esq.

FOOTNOTES

[1] Clean Air Act Amendments of 1977, Pub. L. No. 95-564 § 127. All future citations to the PSD provisions in the 1977 Amendments will be to the section in the amended Clean Air Act.

[2] 40 C.F.R. § 52.21 (1976).

[3] 40 C.F.R. § 52.21(d) (1976).

[4] Clean Air Act § 169(1).

[5] *Id.*

[6] Clean Air Act § 169(2)(A).

[7] Dames and Moore, Environmental Report, Pitch Project, Saguache County, Colorado for Homestake Mining Company 1-1 (October 1976).

[8] *Id.* at 2-103.

[9] *Id.*, Appendix B at 6.

[10] *Id.*, Appendix B at 7.

[11] *Id.* at 2-3.

[12] *Id.*

[13] *Id.* at 1-2 to 1-3.

[14] Colorado Air Pollution Control Division, "Preliminary Analysis" (June 3, 1977).

[15] *Id.*

[16] Letter from William M. Auberle, Director, Colorado Air Pollution Control Division to David Mastbaum (Sept. 15, 1977) (Attached hereto as Appendix A).

[17] Rocky Mountain News, August 27, 1977, at 61, col. 1.

[18] 42 U.S.C. § 4321, *et seq.* (1970) (amended 1975).

[19] Letter from Craig Rupp, Regional Forester to Robert D. Siek, Associate Director, Colorado Department of Public Health (August 24, 1977).

[20] Auberle letter, *supra* note 16.

[21] U.S. Environmental Protection Agency, Environmental Analysis of the Uranium Fuel Cycle—Part I—Fuel Supply 26 (October 1973).

[22] U.S. Nuclear Regulatory Commission, Final Environmental Statement Related to Operation of the Bear Creek Project 4-1 (June 1977).

[23] Letter from Anthony Robbins, Executive Director, Colorado Department of Health, to Marcus Rowden, Chairman, U.S. Nuclear Regulatory Commission (August 3, 1977) (Attached hereto as Appendix B).

[24] *See, e.g.*, Richard G. Walsh, Analysis of Kaiparowits Power Plant Impacts on National Recreation Resources (National Park Service, March 1976).

COLORADO DEPARTMENT OF HEALTH,
Denver, Colo., September 15, 1977.

Mr. DAVID MASTBAUM,
Environmental Defense Fund,
Denver, Colo.

DEAR MR. MASTBAUM: The Air Pollution Control Division has completed its review of your letter of August 4, 1977 regarding the Homestake Mining Company's Pitch Project. As you may recall from the Air Pollution Control Commission meeting of August 25, 1977, the Division indicated that your concerns regard the Pitch Project were answered in the body of the complete Homestake application package. This information is available for public inspection upon receipt of a proper request. The applicant's submission contained, in part, the following data:

(1) Type of material being processed is uranium ore.

(2) The mill may process up to 600 tons per day of uranium ore.

(3) Maximum annual operating schedule, 260 days per year.

(4) Control equipment to be installed includes a scrubber and baghouse.

The project was also reviewed for fugitive dust emissions. Two reports prepared under EPA contract by PEDCo are used by the Division to assess fugitive dust. These reports are "Investigation of Fugitive Dust Sources, Emissions and Control", May 1973, EPA Contract 68-02-0044, Task Order 9; and "Investigation of Secondary Ambient Air Quality Standards Colorado", September 1973, EPA Contract 68-02-0044, Task Order 16. These documents may be obtained through EPA, Region VIII. The PEDCo reports provided the emission factors and control efficiencies used by the Division in their analysis. The applicant's analysis is substantially in agreement with the analysis prepared by the Division.

Through consultation and in writing, Homestake has indicated to the Division that the first phase of the operation of the tailings pond would be entirely underwater.

Homestake's letter to the Division of August 18, 1977 outlined an operating procedure that is acceptable to the Division. In the event the tailings pond should become a source of fugitive dust, as determined by our enforcement section, then a permit would be required.

It is not the privilege or responsibility of the Division to address concerns beyond the statutory limits as set forth in the Colorado Air Pollution Control Commission's regulations. Therefore, further review involving radiological health impact of the tailings pond is not within our purview. The Radiological Health Division will address this concern within their permit review process, and expanded coordination of our processes has been instituted.

We sincerely appreciate the concern shown by the Environmental Defense Fund on this project and urge you to continue monitoring the activities of the responsible regulatory agencies. If we can be of further assistance in providing information on the Pitch Project, please contact us.

Sincerely,

WILLIAM M. AUBERLE,
Director, Air Pollution Control Division.

COLORADO DEPARTMENT OF HEALTH,
Denver, Colo., August 3, 1977.

Mr. MARCUS ROWDEN,
Chairman, U.S. Nuclear Regulatory Commission, Washington, D.C.

DEAR COMMISSIONER ROWDEN: The State of Colorado, over the years, has been impacted by several AEC sponsored nuclear projects including the Rulison and Rio Blanco underground gas stimulation projects, the Rocky Flats plutonium facility, the Fort St. Vrain Reactor, and, probably the one that has had the greatest impact of all, the uranium milling industry. There is widespread feeling here in Colorado that because of the drain on State resources resulting from these projects, Federal assistance has been minimal and this subject should be seriously addressed regarding exiting facilities and most surely new proposed facilities.

The purpose of this letter is to request NRC assistance in the preparation, review, and analysis of the impact of the expanding uranium development in Colorado, both from the regional and Statewide aspect. As you know, one such proposed development is the Homestake Pitch Project. It is our feeling that this project will have long-term implications in uranium mining and milling activities in a region that is one of almost pristine quality. In addition, other inquiries have been received for locating milling operations in other locations in Colorado. Of primary concern are those projects related to in situ leaching methods.

Because of the magnitude of the effort to review and analyze the necessary information on each of these projects, it is the State of Colorado's position that a broad, almost generic, study and analysis be made of uranium industry development in Colorado.

This Federal-State problem is one of great concern. As an Agreement State who entered into agreement with the USAEC in 1968, before the NEPA was promulgated, no provision was made to staff such a capability within the program. For NRC to require an EIS in a non-agreement state, but to ignore this requirement in Agreement States, questions the basic need for the EIS process as a tool for careful, meaningful, and informed decision making. Certainly it appears that Agreement State programs become incompatible with NRC's program as a result.

Additionally, the Negative Declaration was based on an Environmental Assessment Report of limited scope. The EAR did not cover problems of the Pitch Project relating to radioactivity. Also, the EAR was based on an early conceptual plan put forward by Homestake and does not assess Homestake's plans as they stand at the present. The Negative Declaration also cited a lack of public controversy surrounding the Project. This lack of controversy may be explained by the fact that the Negative Declaration came more than six months before the Environmental Report assembled by Dames and Moore for Homestake. The absence of public knowledge or understanding about the Project resulted in the lack of controversy. In recent months, significant public controversy has been generated as more information became available to the public. My office, the Department of Natural Resources, and the Governor's office have received a number of letters from environmental groups and private citizens expressing concern over the possible impacts of the Project. Also, there are indications that there may be a number of additional uranium mines and/or mills within 50–100 miles of the Pitch Project. The proliferation of these operations is likely to have a profound impact on both Federal and private lands in the area. Therefore, it is essential that the U.S. Forest Service, NRC, the State, and local governments work together to assess the environmental and socioeconomic impacts of these operations and to devise the necessary mitigating measures.

It is interesting to note the joint effort accomplished by the NRC, the Forest Service and the Department of Interior in preparing the Bear Creek Project uranium mill EIS in our neighboring state of Wyoming, a non-agreement state. In the interest of a uniform regulatory approach to uranium milling and other Agreement State related programs in the Nation, it is necessary that the NRC assist the State in its license application and review of projects that are clearly considered a major Federal action or for other reasons require preparation of an EIS under the NEPA.

The Forest Service has indicated that they would be willing to work with Colorado and NRC in preparing an Environmental Impact Statement on this project.

We would appreciate meeting with you at an early date to discuss the situation and attempt to cooperatively set out a program that is responsible to both of our agencies' needs.

Sincerely,

———— ————,
(For Anthony Robbins, M.D., M.P.A.,
Executive Director).

Mr. RANDOLPH. Mr. President, presently pending before the Senate are amendments to S. 1528, the Safe Drinking Water Act Amendments of 1977.

The original version of this bill, approved by the Senate in May, extended through fiscal year 1978 the authorization for the safe drinking water program, which is administered by the Environmental Protection Agency. In July the House approved amendments to the Senate bill which provided for a 2-year reauthorization, extended for 2 years the date by which States must assume primary enforcement of the act, and made other substantive changes in the program. In August the Senate made additional changes in S. 1528 before sending it back to the House for approval. These increase the number of supergrade positions available to the EPA, place certain qualifications on the act's underground injection control program, and provide $16 million for safe drinking water research.

Consultations held by the Senate Committee on Environment and Public Works with the House Committee on Interstate and Foreign Commerce and the administration indicate that further clarifications in S. 1528 are required. The measure now before the Senate contains these modifications and has been approved by the House. In addition, this legislation is being used to enact technical changes in the Clean Air Act amendments (Public Law 95–95).

I briefly discuss these changes in the previously adopted version of the Safe Drinking Water Act.

S. 1528, as passed by the Senate in August, allocated to the Environmental Protection Agency a total of 150 supergrade positions, which could be exempted from ceilings imposed by civil service laws and regulations. The provision was intended to augment the Agency's cadre of senior management and scientific personnel—substantially smaller in proportion to Agency size than that of other Federal agencies which carry out similar regulatory functions.

There has been consultation on this matter with the EPA, the Office of Management and Budget, the Civil Service Commission, and the House Committee on Post Office and Civil Service. The Senate Environment and Public Works Committee and the House Commerce Committee have agreed to authorize a total of 80 new positions. Fifty of these will be provided by increasing the Government-wide quota on supergrades contained in 5 U.S.C. 5108 (a), and the Civil Service Commission has agreed that EPA will have first priority on assignment of these positions. Thirty additional supergrade positions will be provided directly to EPA and will be exempt from civil service laws and regulations.

The second amendment relates to the underground injection control (UIC) program under the Safe Drinking Water Act. In August the Senate approved language which directs the Administrator to avoid issuing UIC regulations which unnecessarily duplicate or disrupt existing State programs. This language was prompted by a concern over the effects of these requirements on the exploration for, and development of, oil and natural gas.

The amendments before the Senate clarify when a regulation would be unnecessarily disruptive or duplicative. According to the language approved by the Environment and Public Works Committee, a regulation would be disruptive only if it would be infeasible to comply with both the regulation and the State UIC program. Furthermore, a regulation would be deemed duplicative only if, without such regulation, underground sources of drinking water will not be endangered by any underground injection. Mr. President, these additions will insure protection of the public health without unduly disrupting existing State UIC programs or the national energy effort.

A third amendment, recommended by the National Academy of Sciences and the House Commerce Committee Subcommittee on Oversight and Investigations, authorizes the Administrator to require public water systems to monitor for sodium and other unregulated contaminants and to notify their customers concerning the level of this contaminant in their drinking water. The intent of the

provision is to insure that medically sensitive groups, such as heart patients, are able to avoid drinking water which may be harmful to them, but not to the general public. The Environmental Protection Agency currently recommends that States require monitoring for sodium, but it has no statutory authority for making this recommendation mandatory.

Finally, in August the Senate approved an authorization of $16 million for research and development activities under the Safe Drinking Water Act. However, that authorization has been included in the conference report on H.R. 5101, the Environmental Research, Development, and Demonstration Act of 1977, approved by the Senate on October 20—and has, therefore, been deleted from S. 1528.

Mr. President, I believe that acceptance by the Senate of S. 1528 with these amendments will insure the continued development of a national program to provide an adequate and contaminant-free supply of drinking water to all Americans.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. MUSKIE, I move that the Senate concur in the House amendments to the Senate amendments on S. 1528.

Mr. STEVENS. There is no objection.

The motion was agreed to.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in adjournment for 2 seconds.

The motion was agreed to, and, at 6:32 p.m., on Tuesday, November 1, 1977, the Senate adjourned for 2 seconds.

AFTER ADJOURNMENT

TUESDAY, NOVEMBER 1, 1977

The Senate met at 6:32 p.m. and was called to order by Hon. SPARK M. MATSUNAGA, a Senator from the State of Hawaii.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, November 1, 1977, be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

Mr. ROBERT C. BYRD. Mr. President, what is the unfinished business?

The PRESIDING OFFICER. The unfinished business is consideration of H.R. 9346.

Mr. ROBERT C. BYRD. That is the social security extension bill; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. NELSON. Mr. President, I have here several letters that have been written in support of the social security bill as reported from the Finance Committee.

The first one that I wish to have printed in the RECORD is from the National Council of Senior Citizens, Inc., from Mr. William R. Hutton, executive director, endorsing the social security bill as reported out of the Finance Committee.

The second letter is from the Secretary of Health, Education, and Welfare, Mr. Califano.

The third letter is from Mr. Robert Ball, Commissioner of Social Security from 1962 to 1973.

The fourth letter is from the National League of Cities and the United States Conference of Mayors.

The fifth letter is from the National Education Association.

The sixth letter is from Public Citizen.

The seventh letter is from the American Federation of Labor and Congress of Industrial Organizations.

The eighth letter is from the International Brotherhood of Teamsters.

The ninth letter is from the International Longshoremen's and Warehousemen's Union; and the final letter is from the American Association of Retired Persons/National Retired Teachers Association from Mr. Peter Hughes, legislative counsel for the associations.

I ask unanimous consent that these letters be printed in the RECORD in the order in which they were listed.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

STATEMENT OF THE NATIONAL COUNCIL OF SENIOR CITIZENS ON SOCIAL SECURITY FINANCING PROPOSALS

The National Council of Senior Citizens, a nonprofit, nonpartisan group representing over three million organized seniors, strongly supports expeditious passage of the Social Security Financing Amendments, with special favorable emphasis on the Nelson proposal to break parity between the employee and employer covered wage base. There is no magic in an equal division of shares and many other Western industrial nations successfully operate Social Security systems with unequal contributions. A larger employer share has the advantages of not imposing any further future liabilities on the system and avoiding further regressive taxation of lower and middle income workers. Additionally, the Nelson proposal offers adequate fiscal relief to state and local governments and private nonprofit organizations through a tax rebate equal to one-half of the difference between aggregate employer tax payments and aggregate employee tax payments.

We oppose the Danforth proposal which offers a tax rebate to public and private nonprofit units equal to ten per cent of the aggregate employer payroll tax liability as excessive, arbitrary, and an inefficient use of scarce resources.

We oppose the Curtis proposal to maintain parity since this approach requires unjustified and regressive tax rate increases above and beyond those already under consideration. Payroll tax rate increases unduly penalize lower and moderate earnings of workers and severely damage the political and economic acceptability of the Social Security program.

We urge prompt action—without crippling amendments—to restore public confidence in the Social Security system and in our government.

THE SECRETARY OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., October 31, 1977.

Hon. GAYLORD NELSON,
Chairman, Social Security Subcommittee, Committee on Finance, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Please accept my sincere thanks for the effective leadership you have provided in connection with the social security financing legislation. We are grateful to you and your colleagues for the action you have taken in approving legislation to deal with this vitally important issue.

I believe the Finance Committee bill reflects a responsible approach to social security financing; it embodies many of the principles contained in the Administration's own proposal. I hope we can continue to work together to preserve such concepts as disparity between the taxable wage base for employers and employees, and a tax rebate to non-profit employers that more nearly reflects the effects of the bill's new tax provisions than alternatives proposed in Committee.

We will be commenting in greater detail before the start of the House-Senate conference with respect to both bills.

It has been a pleasure to work with you and your colleagues on this important issue. We look forward to continuing cooperation in the effort to enact legislation to preserve the financial integrity of our social security system.

Sincerely,

JOSEPH A. CALIFANO, Jr.

OCTOBER 31, 1977.

Senator GAYLORD NELSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR NELSON: I am writing to express my strong support for the social security proposal that you developed and that has now been recommended to the Senate by the Senate Finance Committee. Your proposal seems to me to address both the short-range and the long-range problems of social security financing in a very sensible way.

I believe there are seven main principles that should be followed in strengthening social security financing, and your plan as reported by the Senate Finance Committee follows all seven.

1. Contribution rate increases should be kept to the minimum consistent with a sound plan. Rate increases have to be paid by all workers, those with low wages as well as those with high wages. I very much favor holding down the rate increases, as you have done, by increasing instead the proportion of payroll on which employers pay. Thus under your plan, you have been able to hold rate increases over present law (including hospital insurance under Medicare) to only 3/10ths of 1 percent of wages through 1984, to an additional 3/10ths of 1 percent through 1989, plus another .45 percent through 1994. This is a total of only .05 greater than would occur from moving up the presently scheduled rate for the year 2011 as recommended by the President. (The rate increases scheduled for 1995 and later are discussed in item 7 below.)

2. The maximum annual earnings on which employees pay and which are credited for benefit purposes should be increased somewhat. As the President pointed out both prior to his election and since, insofar as the income of the program is increased by raising the maximum earnings on which the individual pays contributions, the additional payments are made only by the highest paid 15 percent of workers in the country—the percentage who do not now have all their earnings covered for social security purposes. And, very importantly, those workers who pay on higher earnings receive greater pro-

tection and higher benefits because the additional earnings on which they pay are included in the computation of their benefits. The Senate Finance Committee proposal to increase the maximum amount of earnings counted for benefit and contribution purposes by four $600 steps is the same as the President's recommendation.

3. Employers should pay on a higher proportion of their total payrolls than would be the case if the maximum earnings base were raised equally for employers and employees. In this way the income to the system can be increased without at the same time incurring as great a liability for future benefits as would occur if the wage base were increased equally for employers and employees. This is true because it is the amount of earnings on which employees pay that is included in the benefit computation. Although this is something of a departure in the American social security system from the approximately equal division of costs between employers and employees in the past (employers now pay 48 percent of the cost, employees 47 percent, and the self-employed 5 percent), there are many other countries where the amount paid by employers and employees is not equal. This is the case in Belgium, Denmark, France, Italy, Norway, Portugal, Spain, Sweden and Great Britain.

There is no good reason why the employer contribution needs to be thought of as being attached to any particular employee and to be based on the idea of matching his contribution. The employer contribution can be thought of, rather, as a contribution to the system as a whole with more of it going to some employees than to others as is the case in most private pension plans and group insurance.

Your proposal does not greatly change the proportion of support between employers and employees. After its adoption, employers would pay about 50 percent of the cost of the system, employees about 45 percent, and the self-employed about 5 percent. Although the President recommended taxing the entire employer's payroll, the Senate Finance Committee plan has much the same effect for the next 15 years or so.

As I indicated earlier, the alternative to shifting to a system which taxes employers more than employees has to be either a greater increase in the contribution rate paid by all workers, a greatly increased earnings base on which higher-paid workers would both contribute and earn substantially increased benefits, or a major infusion of general revenues. Although I am sympathetic to the use of some general revenue financing in social security in the long run, it does not seem to me to be desirable at this time to put the social security system in competition with welfare reform, national health insurance and other needed programs that must necessarily be supported in considerable part from general revenue.

4. Any proposal for increasing the social security taxes of employers more than the contributions of employees should take into account that non-profit organizations and state and local governments do not have any way, as corporations do, of writing off up to nearly half of the increase under the corporation income tax laws. It seems to me, therefore, that your proposal to refund to these organizations from the general treasury 50 percent of that part of the employer's increased tax that exceeds the increase to be paid by employees is fair. It does not seem to me, however, that this is the time to consider relieving these organizations of, generally speaking, matching what employees pay.

5. Any proposal for strengthening the financing of social security should include a provision for stabilizing replacement rates, and thus substituting a predictable system of benefit computation for the present automatic provisions which are much too susceptible to the happenstance of how wages and prices move. The change to a wage-indexed system of benefit computation in the Senate Finance Committee proposal would, in itself, be enough reason to support this legislation. While guaranteeing to current contributors that they will receive benefits that are the same proportion of recent earnings when they retire as was true for workers retiring in 1976, the proposal reduces the estimated long-range actuarial deficit about in half. This is true because recent estimates of cost have assumed increases in wages and prices for the long-range future that under present law would result in benefits for many people that would actually exceed any wages they had ever earned. The proposal to base benefits upon average indexed monthly earnings as made by the President and incorporated in your proposal thus prevents unwarranted increases in the future while at the same time protecting the legitimate interest of present contributors.

6. The financing plan should build reserves to an adequate contingency level so that in the event of a recession it would be unnecessary to increase contribution rates at a time that would be undesirable from the standpoint of economic policy. Your proposal is estimated to gradually increase reserve levels over the next 10 years to somewhat over 50 percent of the next year's outgo, a reserve which is deemed to be fully sufficient according to recent studies of the Department of Health, Education, and Welfare.

7. Although in my opinion not absolutely essential, it seems to me desirable to bring the system into approximate actuarial balance according to the official cost estimates over the 75-year period for which the estimates are made. The Senate Finance Committee proposal does this (in fact it creates a small surplus) by increasing contribution rates in 1995, 2001 and 2011. My own view is that the estimates on which these calculations are based are unnecessarily conservative and that rate increases beginning in 1995 of the size proposed will not be needed. Nevertheless, as a matter of prudence, I support their inclusion in the law at this time. If the income is not needed, or if other sources of revenue are substituted, these scheduled increases can easily be rescinded.

All in all, it seems to me your proposal as recommended by the Senate Finance Committee meets well the seven principles I have outlined. Contribution rate increases are kept relatively low until 1995, and consideration can be given between now and then to the question of whether the additional scheduled increases are really needed. Modest wage base increases on both employees and the self-employed are included as recommended by the President. The larger increase in the wage base that you propose on the employer's side is what makes it possible to hold down the contribution rates and the employee wage base to the level that you have provided. Your proposal on this point is again quite similar to the President's recommendation. Your proposal for stabilizing the replacement rates through wage indexing seems to me eminently sound and quite similar to that proposed by the President, and the provision in your plan for the partial tax relief of nonprofit organizations and state and local governments seems to me to be an improvement over the Administration's recommendations. You have provided for the building of adequate reserves and the full restoration of the long-range actuarial balance of the system.

I hope very much that this legislation can be enacted quickly so as to relieve the concern which both social security beneficiaries and contributors to the program now have.

Sincerely yours,

ROBERT M. BALL,
Commissioner of Social Security, 1962–73.

NATIONAL LEAGUE OF CITIES,
U.S. CONFERENCE OF MAYORS,
Washington, D.C., October 28, 1977.

Hon. GAYLORD NELSON,
Chairman, Social Security Subcommittee, Senate Finance Committee, Dirksen Senate Office Building, Washington D.C.

DEAR SENATOR NELSON: It is expected that the Senate will attempt to conclude their deliberations on the 1977 Amendments to the Social Security Act some time prior to adjournment. As we indicated in an October 20th letter to Senator Long, there are several issues of significance to the nation's cities that remain to be resolved.

It is neither surprising nor new to indicate that the fiscal impact of federal legislation is of grave concern to cities which are in many cases already severely pressed to maintain existing services. Increases in the Social Security tax rate as well as the taxable wage base, however minimal, will nevertheless be felt at the local level.

We have reviewed both your proposal and others discussed in the Finance Committee and our research indicates that tax rate increases have a more significant cost impact on local budgets than do increases in the taxable wage base. Since we realize that steps must be taken to insure the viability of the Trust Fund, we would prefer to see your approach adopted.

We'd like to take this opportunity to commend you for your concern and interest in our views and offer our support for your tax rate and wage base proposal.

Sincererly,

ALAN BEALS,
Executive Director,
National League of Cities.
JOHN GUNTHER,
Executive Director,
U.S. Conference of Mayors.

NATIONAL EDUCATION ASSOCIATION,
Washington, D.C., November 1, 1977.

Hon. GAYLORD NELSON,
Chairman, Subcommittee on Social Security, Senate Committee on Finance, Washington, D.C.

DEAR SENATOR NELSON: The National Education Association is grateful for the actions taken by the Finance Committee with respect to protecting the solvency of the Social Security System. We are particularly pleased that the Committee did not recommend mandatory coverage for state and local public employees.

We believe that the structure of wage bases, tax rates, and tax relief you proposed in Committee are sound and should be enacted into law. Your proposals, as adopted by the Committee, benefit employees, who are hardest hit by the inherent regressivity of the tax. The tax credit provision you proposed also minimizes the impact on public employers, who will temporarily carry a proportionately larger share of the tax burden. We applaud your leadership as the Committee undertook the difficult task of fashioning a sound bill that provides the greatest possible degree of social equity.

Sincerely,

STANLEY J. MCFARLAND,
Director of Government Relations.

PUBLIC CITIZEN,
October 28, 1977.

DEAR SENATOR: We are writing concerning the Social Security Financing Bill, which will soon be voted on in the Senate.

In your consideration of this legislation, we urge you to vote against further increases in the payroll tax rate. Rate increases impact primarily on low and moderate income workers, many of whom already pay more in social security taxes than they do in federal income taxes. Furthermore, the combination

of the payroll tax and the income tax results in taxpayers earning between $10,000 and $50,000 paying at virtually the same rate of tax—rather than the progressive tax system we supposedly have.

On the other hand, we believe that increases in the wage base on which the payroll tax is assessed are a desirable way to finance the social security system. Wage base increases only affect upper income workers (the top 14% currently), and enhance the progressivity of the total federal tax system. In fact, we would favor complete elimination of the wage base ceiling, so that all workers would pay the same rate of payroll taxes. (Currently, high income workers pay at a far lower rate than average workers.) The Finance Committee bill has adopted with some modifications the approach proposed by the Administration of only raising the wage base for employer contributions. This has the advantage of not increasing future benefit payments, but it does not do as much for the progressivity of the total tax system.

When the bill comes to the floor, we strongly urge that you vote against the amendment to be offered by Senator Curtis. His proposal would eliminate the bill's increases in the employer wage base in favor of substantial hikes in the payroll tax rate. It would add to the tax burden on average workers in order to reduce the load on the better-off. This approach should be rejected.

Sincerely,

ROBERT S. MCINTYRE.

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, D.C., October 27, 1977.

Hon. GAYLORD NELSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: The Senate will soon be voting on the Social Security Amendments of 1977, designed to restore the financial soundness of the Social Security System. These proposals are constructive and show a responsible concern for the security of this nation's workers and their families. If enacted, they will assure American workers and retirees that the social security program will remain financially sound now and in the next century.

Though the bill has a number of provisions the AFL–CIO has opposed, it does deal responsively with the program's financial problems. The Senate should pass the bill as soon as possible and without any amendments that would endanger the financial integrity of the system.

We commend your leadership on this issue and pledge our support in behalf of your efforts to enact this legislation into law.

Sincerely yours,

ANDREW J. BIEMILLER,
Director, Department of Legislation.

INTERNATIONAL BROTHERHOOD OF TEAMSTERS,
Washington, D.C., October 28, 1977.

Hon. GAYLORD NELSON,
Chairman, Subcommittee on Social Security, Senate Finance Committee, U.S. Senate, Washington, D.C.

DEAR SENATOR NELSON: In the near future, the Senate will be considering the Social Security Amendments of 1977.

In our view, your leadership in this area has been most responsive to the needs of our members and all working people.

While some adjustments may be necessary, we believe your proposals will provide a fair and reasonable solution to this very important matter.

Thank you for your consideration in this matter.

Sincerely,

DAVID A. SWEENEY,
Legislative and Political Director.

INTERNATIONAL LONGSHOREMEN'S & WAREHOUSEMEN'S UNION,
Washington, D.C., October 28, 1977.

Hon. GAYLORD NELSON,
Chairman, Subcommittee on Social Security, Senate Finance Committee, U.S. Senate, Washington, D.C.

DEAR SENATOR NELSON: The Social Security Amendments of 1977 will soon be voted on in the Senate. Most of these proposals will correct the financial difficulties of the Social Security System. While labor opposes certain provisions in the bill, it goes a long way in solving the financal problems of the Social Security System. We therefore urge passage of the measure as soon as possible—without crippling amendments.

We commend your leadership in this matter, and be assured of our full support on behalf of your efforts to pass this bill.

Sincerely,

PATRICK F. TOBIN,
Washington Representative.

NATIONAL, RETIRED TEACHERS ASSOCIATION,
AMERICAN ASSOCIATION OF RETIRED PERSONS,
Washington, D.C., November 1, 1977.

Senator GAYLORD NELSON,
Chairman, Subcommittee on Social Security, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR NELSON: On behalf of our 12 million member organization, I wish to commend you for your diligent efforts in developing the social security financing package that has been favorably reported from the Finance Committee.

Since our members are primarily beneficiaries of the system, our first concern is that benefits continue to be paid without interruption. Not only will your package assure continued benefit payments, but it should restore to safer levels the assets of the contingency trust funds, thus reducing, if not eliminating, any anxiety on the part of current workers as to their realization of promised future benefits.

We wish to endorse specifically the "decoupling" provisions of the bill. The wage indexing approach should maintain over time the current 44 percent replacement ratio of benefits at retirement to gross earnings just prior to retirement.

We are also pleased with the step increases in the exempt amount of the social security earnings limitation. While these provisions do not go as far as we would like—namely, elimination of the earnings test—they certainly represent significant progress toward that goal.

Finally, we endorse the bill's departure from taxable wage base parity for employers and employees. Since social security is in need of much more revenue, we believe that it is better to levy a greater share of this increased tax burden on employers. Their increased tax liability is deductible in computing their income taxes. Also, departure from wage base parity will have the effect of holding down to some extent the long term liability of the social security system.

As you know, our Associations have consistently recommended that general revenues be used to finance a portion of the cost of social security cost-of-living adjustments. We also endorsed the Administration's proposal to use general revenues to replace payroll tax revenue that is lost to the system when unemployment rises above 6 percent. We continue to think that these two countercyclical general revenue devices are necessary to stabilize the social security programs and insulate them from the consequences of high inflation and unemployment—the primary causes of the short-term imbalance. We consider it unfortunate that this general revenue policy option has not yet attracted the degree of support it needs to make it viable legislatively.

While we are disappointed that this option was not included in the financing bill, we recognize that no social security financing package is, or can be, perfect and equally pleasing to all parties and interests concerned. Your package represents a reasonable combination of very difficult policy choices. It has our support.

Sincerely,

PETER W. HUGHES,
Legislative Counsel.

Mr. NELSON. Mr. President, I also ask unanimous consent that a statement explaining the social security bill as reported from the Finance Committee be printed in the RECORD immediately following the letters that I just asked unanimous consent to have printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

SOCIAL SECURITY FINANCING

Social Security is one of this nation's most important government sponsored programs. It is a retirement program providing financial security for older workers, their dependents and spouses. It is a disability insurance program providing workers of all ages with monthly benefits if they become disabled. It is a hospitalization program providing social security beneficiaries with hospitalization insurance. And it is a program providing monthly benefits to the family of a deceased worker who has been covered by social security.

Over 33 million people will receive social security benefits this year, while about 104 million workers and their employers will pay social security taxes in 1977.

The importance of the social security program to workers and retirees is underscored by the following statistics:

The average monthly benefits are $234 for a retired worker; $262 per month for a disabled worker, and $223 for an aged widow.

40 percent of all American workers pay more in social security taxes than they do in federal income taxes.

For about 70 percent of all single beneficiaries and for some 50 percent of all couples, social security benefits are their major sources of retirement income. ("Major source" of income is defined as at least 50 percent of all annual income.)

One out of every four individual beneficiaries and one couple out of every twelve depend upon social security for their sole source of retirement income. ("Sole source" of income is defined as at least 90 percent of all annual income.)

The Social Security programs are financed from an earmarked payroll tax which is referred to as the social security tax.

Social security payroll taxes are paid by employers, employees, and self-employed persons. The total social security payroll tax is a composite of three separate tax rates supporting: the old age and survivors insurance program (OASI); the disability insurance program (DI); and the hospital insurance program (HI or part A of medicare). Part B of medicare or supplementary medical insurance is also considered a "social security program" but is financed from premiums and general funds rather than from payroll taxes.

Each of the three components of the overall social security tax—OASI, DI, and HI—has a separate trust fund which receives all of the taxes generated by its portion of the overall tax and which can use those funds only to operate its own program. The two cash benefit programs, OASI and DI, are frequently considered together. Therefore, except where otherwise specified, the OASI and

DI systems will be combined (OASDI) for purposes of discussing social security financing legislation, and will exclude the HI system.

HOW SOCIAL SECURITY IS FINANCED

The social security program is financed by a tax on earnings paid by employees, employers and the self-employed. The schedule of taxes in present law is shown in the following table:

TABLE 1.—SOCIAL SECURITY TAX RATES

[In percent]

Year	Employee-employer, each			Self-employment		
	Cash benefits	Hospital insurance	Total	Cash benefits	Hospital insurance	Total
1977	4.95	0.9	5.85	7.0	0.9	7.9
1978-80	4.95	1.1	6.05	7.0	1.1	8.1
1981-85	4.95	1.35	6.30	7.0	1.35	8.35
1986-2010	4.95	1.5	6.45	7.0	1.5	8.5
2011 and after	5.95	1.5	7.45	7.0	1.5	8.5

For 1977 the tax rate is paid by employers and employees on the first $16,500 of an individual's earnings. In 1978, the amount will rise to $17,700. In future years the amount of earnings taxed will rise depending on the rise in average earnings from year to year. Estimates by actuaries of the social security system indicate that the taxable amount will rise as follows:

TABLE 2.—*Social security tax base**

Year:	*Taxable earnings*
1977	$16,500
1978	17,700
1979	18,900
1980	20,400
1981	21,900
1982	23,400
1983	24,900
1984	26,400
1985	27,900
1986	29,400
1987	32,200
2002	71,700

*These figures are calculated under the intermediate set of assumptions (used by the Social Security Trustees) which incorporates ultimate annual increases of 5¾ percent in average wages in covered employment and 4 percent in CPI, and ultimate unemployment rate of 5 percent, and an ultimate total fertility rate of 2.1 children per woman.

Under current law, social security is facing severe financial difficulties, both in the short-term and in the longer range. Therefore, it is necessary to make changes in the law to provide adequate financing for social security. The social security trust funds do not have current income sufficient to meet the obligations made to beneficiaries, and the trust funds do not have sufficient reserves to carry the social security program for much longer. In 1977 and 1978, the social security trust funds will run a $5.5 billion deficit each year.

Under projections of the current law, the actuarial estimates indicate that the Disability Insurance program will not have sufficient income to meet its obligations, the trust funds will not have sufficient reserves to pay benefits provided under present law. The Hospital Insurance trust fund is projected to be depleted in 1987. It is projected that trust fund reserves in the DI program will run out in 1979, and the OASI will exhaust its reserves in 1983.

The long-run, 75-year projection of the social security program also indicates that the present social security cash benefits program is seriously underfunded. The Board of Trustees of the Social Security program has reported that there is a long-term deficit in the OASDI program of 8.20 percent of taxable payroll. If this deficit were to be eliminated solely by increasing tax rates, a tax rate increase of 4.1 percent on employers and employees each would be required in 1977 and in each of the next 74 years. A rate increase of this magnitude would increase OASDI revenues by $66 billion in 1977 and even more in future years.

Over the 25-year period covered by the cost estimates, the HI program has an average deficit of 1.16 percent of taxable payroll. This is equivalent to $9.3 billion per year based on the 1977 taxable payroll.

To a great extent these deficits reflect an over-indexing problem in calculating future benefits. The legislation reported by the Finance Committee solves this over-indexing problem.

These statistics represent the magnitude of the financing problems facing the social security programs when averaged over the entire valuation period. The deficit at present and in the years immediately ahead is much smaller, but the ultimate deficit is much larger. The following table shows the deficits at various points in the future for the OASDI and HI programs.

TABLE 3a.—*Deficits of the Social Security cash benefits program (OASDI)*

	(1)	(2)
1977	1.01	$8
2000	4.01	32
2025	12.40	100
2050	15.03	121
Yearly average (1977–2001)	2.34	19
Yearly average (2002–2026)	7.67	62
Yearly average (2027–2051)	14.57	117
75-yr. average (1977–2051)	8.20	66

[1] Percent of taxable payroll.

[2] Dollar equivalent based on 1977 payroll levels (in billions).

TABLE 3b.—*Long-range (25-year) status of Hospital Insurance Trust Fund*

[*Estimates under present law (in percent of taxable payroll)*]

Average cost	3.96
Average tax rate	2.80
Actuarial balance	−1.16

Hospital Insurance Trust Fund balances under present law

[In billions]

Start-of-year balance:	
1978	$11
1979	12
1980	14
1981	14
1982	17
1983	19
1984	19
1985	17
1983	11
1987	6

[In billions]

Start-of-year balance as percent of outgo for year:	
1978	$55
1979	56
1980	53
1981	45
1982	50
1983	50
1984	44
1985	34
1986	20
1987	10

The point of this table is that additional funding would have to be provided to meet benefit costs over and above current revenues if the benefit structure of the cash benefits program were left unchanged. The amount of additional funding would be $8 billion in 1977 increasing each year to $121 billion (in constant 1977 dollars) by 2050. The alternative to providing this much additional funding is to change the structure of the program so that it pays out less in benefits.

CAUSES OF SOCIAL SECURITY'S FINANCIAL PROBLEMS

Over the past year or so, many people have questioned how the social security system got into its present condition. To answer this question, and to explore alternative solutions to the financial troubles of the social security system, the Senate Finance Committee's Subcommittee on Social Security held five days of hearings earlier this year. At these hearings, testimony was received from the Administration, leaders in business, labor, and small business, social security experts, the insurance industry and organizations representing older Americans. These witnesses agreed that the short-range problems of the social security system are the result of three factors: high rates of unemployment, excessively high inflation, and a mechanical problem of overindexing social security benefits for future beneficiaries.

As everyone knows, inflation and unemployment have caused severe dislocations throughout our economy. These related problems have plagued the social security system, and are the primary factors causing the social security trust fund's short-range financial shortfalls. Because unemployment has been higher in the last few years than anticipated, fewer people than expected have been contributing social security taxes to the trust funds, more have retired, or claimed disability insurance. High inflation, which has not been fully offset by rising wages, has only made matters worse. In 1972, Congress enacted an automatic cost-of-living adjustment to raise social security benefits automatically as the Consumer Price Index (CPI) increases. Due to high inflation, social security benefits have been automatically increased to a greater extent than had been projected just a few years ago.

Compounding social security's problems is a severe long-range deficit in the program. This deficit is the result of changing economic and demographic assumptions used for long-range projections of the social security trust funds' solvency, and can also be attributed to a faulty mechanism designed in 1972 to calculate future social security benefits.

In 1973, when the Congress last enacted major social security legislation, the estimates of the cost of the cash-benefits programs were based on demographic and economic assumptions which no longer appear realistic. At that time, social security cost projections assumed that the ultimate fertility rate would be 2.55 children per woman. Subsequent cost estimates were based on lower fertility rates. The initial reduction came in 1974 when a rate of 2.1 was assumed and a further reduction was made in 1976 when an ultimate fertility rate of 1.9 was used for the 1976 assumptions.

As for the economic assumptions made in 1973, the most significant were that after 1977 average earnings would increase at an annual rate of 5 percent while the CPI would increase at 2¾ percent a year. As early as the end of 1973, these projections were perceived as unrealistic. Therefore, the 1974 estimates were based on the assumption that the annual rise in the CPI would average 3 percent a year. The effect of this change, however, was offset to some degree by eliminating an 0.375 percent additional cost which had been included as a "safety factor" for years prior to 2011 in the 1973 estimates. By 1976, the assumptions had been changed to a 5.75 percent annual increase in average wages and a 4 percent annual rise in the CPI.

The long-range economic assumptions used for the 1977 estimates are basically

those used for the 1976 estimates. Significant changes, though, were made in the mortality and fertility assumptions. Mortality was assumed to improve, thus raising the cost of the program by 0.64 percent of taxable payroll. This increase in cost was offset by assuming that the fertility rate would rise to 2.1, the approximate rate at which the population eventually would neither grow nor decline.

The social security benefits formula also is the source of much of the long-term deficit. In 1972, the social security benefit formula was made too sensitive to changing economic conditions. The benefit formula was intended to keep future benefits on a par with those benefits being received by present beneficiaries, but it in fact has not worked that way. Future benefits are increasing more rapidly than intended. This is because the formula for calculating future benefits is tied to increases both in prices and wages. Because wages go up partly as a reflection of prices, workers retiring in future years receive double adjustments for inflation.

This problem has become known as over-indexing or double-indexing. Without corrective action by Congress, future retirees could receive social security benefits exceeding the highest wages they earned before retirement. This factor alone causes one-half of the long-term deficit.

The following table indicates how benefit levels and program costs have increased in the past and are projected to increase in the future if the present benefit formula is left unchanged.

TABLE 4.—HISTORICAL BEHAVIOR AND PROJECTIONS OF PRESENT PROGRAM

[Initial average benefit same as in present law; workers earnings records not indexed; benefit formula bend points not indexed; benefit formula factors CPI indexed (ad hoc increases prior to 1975)]

[In percent]

Year	Worker with average earnings [1]		Replacement rate for worker with—		Aggregate OASDI expenditures	
	Annual benefit in 1977 prices	Replacement rate	Low earnings [2]	High earnings [3]	As percent of payroll	As percent of GNP [4]
1955	$2,141	31	45	31	3.3	1.3
1960	2,493	33	45	30	5.9	2.3
1965	2,665	32	43	33	8.0	2.8
1970	2,987	34	46	29	8.1	3.4
1975	3,619	43	56	30	10.7	4.6
1979	4,415	46	58	35	10.9	4.5
1985	5,258	48	60	34	11.6	4.8
1990	5,766	49	63	36	12.4	5.1
1995	6,360	49	66	36	13.1	5.4
2000	7,273	52	76	38	13.9	5.7
2010	9,334	56	84	42	16.6	6.8
2020	11,733	60	91	44	21.6	8.9
2030	14,558	63	97	45	26.0	10.7
2040	17,892	66	102	47	26.7	11.0
2050	21,830	68	106	48	26.9	11.1
						Percent
Average medium-range cost (1977–2001)						12.2
Average medium-range revenue						9.9
Average medium-range deficit						−2.3
Average long-range cost (1977–2051)						19.2
Average long-range revenue						11.0
Average long-range deficit						−8.2

[1] Assumed to be 4 times the average 1st quarter covered earnings.
[2] Assumed at $4,600 in 1976 and following the trends of the average.
[3] Assumed at the maximum taxable under the program.
[4] Based on full employment and assuming taxable payroll equals 41.1 percent of GNP.

Note: The estimates in this table are based on the economic and demographic assumptions used in the intermediate cost estimate (alternative II) in the 1977 OASDI Trustee Report. The replacement rates pertain to workers with steady employment at increasing earnings and compare the annual retirement benefit at age 65 with the earnings in the year immediately prior to retirement.

DEALING WITH SOCIAL SECURITY'S FINANCIAL PROBLEMS

The goal of social security financing is to provide enough income to meet benefit payments, and to maintain a reasonable fund balance as a contingency reserve to carry the program through a recessionary period. In the past, it was believed that a fund equal to about one year's benefit payments was appropriate. In 1972, when the last major financing changes were made, the Social Security Advisory Council recommended that the fund be maintained at a level of 75 percent to 125 percent of one year's benefits. The Administration has indicated that it would be appropriate at this time to aim for a goal of about 50 percent of one year's benefits.

Dealing with the long-range deficit requires that additional revenues be made available to the trust funds in future years and that a structural change be made in the way of computing initial social security benefits, thereby reducing the overall cost of the program and making the social security benefit formula less sensitive to economic changes.

There are three basic methods to reduce short-range and long-range deficits in the social security program.

(1) Increase revenues by adjustments in the social security payroll tax and the wage base upon which these taxes are paid.

(2) Reduce social security benefits.

(3) Infuse general revenues directly into the social security programs or authorize the security trust funds to borrow from federal general revenues.

The Senate Finance Committee has agreed to a series of changes in the financing of social security designed to solve both the short-term and long-term deficits of the social security trust funds. The Finance Committee plan produces sufficient income to meet benefit obligations, and OASDI reserves sufficient to prevent the need for a direct infusion of general revenues, or the need to establish a borrowing authority from federal general revenues for the social security trust funds. Moreover, the Senate Finance Committee plan is in actuarial balance for the next seventy-five years, through the year 2051.

The Committee plan increases social security revenues over and above the revenues which would accrue under present law. It would do so with the following five changes:

1. Increase in amount of earnings subject to empoyer tax.—Under existing law, the employer share of the social security payroll tax is collected on the first $16,500 earned by each employee. This amount increases automatically in future years as wages rise and will increase to $17,700 in 1978. The Finance Committee provision would raise the base for employer taxes to $50,000 starting in 1979. The employer base will remain at $50,000 through 1984 and then increase in 1985 to $75,000. The base will remain at $75,000 until such time as the employee tax base reaches a level of $75,000. Current projections estimate that this will occur in the year 2002. Thereafter the two bases would be equal and would rise together in relation to the increases in average wages.

2. Increase in amount of earnings subject to employee (or self-employment) tax.—In addition to increasing the amount of wages subject to the employer tax, the Committee bill also includes an increase in the amount of annual earnings subject to the employee or self-employment tax. Under this provision, there will be a total of $2,400 in employee wage base increases over and above present law. Four separate $600 increases are scheduled in 1979, 1981, 1983, and 1985. As under existing law, the tax base for employees and self-employed persons will also be automatically increased as wage levels rise. The table below shows the projected tax bases:

TABLE 5.—AMOUNT OF EARNINGS SUBJECT TO SOCIAL SECURITY TAX

Years	Present law (employers, employees, self-employed)	Finance Committee plan	
		Employees/ self-employed	Employers
1978	$17,700	$17,700	$17,700
1979	18,900	19,500	50,000
1980	20,400	21,000	50,000
1981	21,900	23,100	50,000
1982	23,400	24,600	50,000
1983	24,900	26,700	50,000
1984	26,400	28,200	50,000
1985	27,900	30,300	75,000
2002 [1]	71,700	78,300	78,300

[1] Approximation.

3. Increase in the Tax Rate.—Present law provides for tax rate increases in 1978, 1981, 1986, and 2011. The Committee plan includes a rescheduling of two of these four increases and provides for additional tax rate increases in 1979, 1985, 1990, 1995, and 2011.

Under the Committee Plan, the 1989 tax rate for the cash benefit programs (OASDI) would be 5.65 percent each and the 1989 tax rate for Part A of Medicare (hospital insurance—HI) would be 1.40 percent, for a total tax rate of 7.05 percent. Under present law, the 1989 OASDI rate is 4.95 percent and the 1989 HI rate is 1.50 percent, for a total of 6.45 percent each.

Projections of the Hospital Insurance program are made for only 25 years into the future, whereas projections of the OASDI programs are made for 75 years. Neither present law nor the Committee Plan deals with the needs of the HI program beyond the mid-1980s. The Committee Plan, however, provides sufficient financing for the OASDI program to be fully funded for the next 75 years, through 2051.

The following schedule of tax rates has been approved by the Committee. These rates are compared with those which already are provided in present law.

TABLE 6.—SOCIAL SECURITY TAX RATES ON EMPLOYER AND EMPLOYEE (EACH)

[Percent]

	Present law			Committee bill		
	OASDI [1]	HI [2]	Total	OASDI [1]	HI [2]	Total
1977	4.95	0.90	5.85	4.95	0.90	5.85
1978	4.95	1.10	6.05	5.05	1.00	6.05
1979–80	4.95	1.10	6.05	5.085	1.05	6.135
1981–84	4.95	1.35	6.30	5.35	1.25	6.60
1985	4.95	1.35	6.30	5.65	1.35	7.00
1986–89	4.95	1.50	6.45	5.65	1.40	7.05
1990–94	4.95	1.50	6.45	6.10	1.40	7.50
1995–2000	4.95	1.50	6.45	6.70	1.40	8.10
2001–2010	4.95	1.50	6.45	7.30	1.40	8.70
2011 and after	5.95	1.50	7.45	7.80	1.40	9.20

[1] Old-age, survivors, and disability insurance.

[2] Hospital insurance.

4. Increase in social security tax rate for self-employment.—The Committee approved a tax rate increase for the self-employed which would restore the self-employment tax rate for cash benefits to the original ratio of one and one-half times the employee rate effective in 1981. When earnings from self-employment were made subject to the social security tax in 1950, the rate was set at one and one-half times the employee rate. At that time the employee rate was 1.5 percent and the self-employment rate was 2.25 percent. Over the years as tax rates were increased, the one and one-half to one ratio was maintained until 1973 when the cash benefit tax rate for the self-employed was frozen at 7 percent. (When the hospital insurance program was established the self-employment rate for that program was made equal to the employee rate and has remained equal as the total payroll tax rate has increased.)

5. Elimination of certain dual taxation requirements.—Under existing law businesses are ordinarily required to pay social security taxes and Federal unemployment taxes with respect to a given employee only up to the amount of annual wages referred to as the tax base. (Under the Committee bill, the tax base for the employer share of the social security tax would be increased to $50,000 effective in 1979. The base for Federal unemployment taxes is $6,000 after 1977.) Where a business is organized as a group of related corporations, however, an employee of any one of those corporations who performs services for more than one of them is treated for employment tax purposes as though he were employed by each of the corporations for which he performs services. Consequently, if his total wages from affiliated companies exceed the tax base, social security and unemployment taxes may be required to be paid in excess of an individual employee's wage base. The employer share of these taxes over the wage base is not refunded, while the employee share is refunded. The Committee agreed to a provision under which social security and unemployment taxes in excess of the taxable earnings base would not be paid in this type of situation.

INCREASING THE EMPLOYER'S WAGE BASE

The traditional approach to financing the social security cash-benefits programs has been to levy an equal tax on employers and their employees. In considering how best to raise the funds necessary to the short-term financial soundness of the system without at the same time providing an intolerable tax burden either now or in the future, the Finance Committee plan proposes to apply temporarily the payroll tax to a higher wage base on the employer than the employee. After 1985, as the employee base rises with increases in average wage levels, the difference between the employer and employee base will gradually narrow, until the tax bases are again equal.

One reason for doing this is that social security benefits are based on the amount of individual earnings taxed. While increases in the amount of employee earnings to be taxed serves to increase income to the trust funds in the early years, such adjustments over the long-term increase benefit costs so that much of the additional income is spent in later years. Employer taxes, on the other hand, do not increase the amount of earnings used to compute individual benefits. As a result, the additional income in the early years continues into the future without being offset by future benefit liabilities.

In deciding to increase the amount of earnings taxed to employers, the Committee considered a number of alternatives (including taxing total payroll), and with the aid of the actuaries, determined that the total package it had in mind could best be financed if the amount were to be increased to a maximum of $50,000 for each employer for 1979, increasing to $75,000 in 1985, and thereafter to remain at that level until the employee wage base is again equal to the employer's.

Other alternative methods to increasing the employer base are: (1) further increasing the tax rate paid by all workers and their employers; or (2) increasing equally the earnings base for all workers and their employers.

One of the proposals considered by the Finance Committee included a tax rate increase instead of the employer base increase. In that plan, the employer base would be set at the level of the employee bases approved by the Finance Committee, and additional tax rate increases would be imposed over and above those approved by the Committee.

The major drawback to this particular approach is that, in combination with other revenue raising elements in the Committee's plan, it places virtually all of the burden of additional social security revenues on tax rate increases.

The Committee plan relies heavily on tax rate increases already. By 1987, the tax rate would be 0.6 percent above the scheduled 1987 present law rate and 1.20 percent above the 1977 tax rate. By 1995, the tax rate would be 1.65 percent above the rate scheduled in present law, and 2.25 percent above the 1977 tax rate. Additional tax rates over and above present law also are scheduled again in 2001 and in 2011 under the Committee plan.

To compare the increase in only the employers' base to another method of increasing social security revenues, we looked at a plan which raises revenues by equal employee and employer base increases. This is the method that the House of Representatives used to increase revenues for the social security trust funds.

In order to produce revenues similar to those provided by the employer base increase, the equal employee-employer base would have to be raised to $31,800 in 1982. This is $7,200 higher than the 1982 employee base in the Committee plan. The employer and employee earnings base under this approach would increase after 1981 at the same rate as average wages rise, reaching a level of $42,600 in 1987. By way of comparison, the Committee plan pegs the employee base at $33,900 in 1987.

As compared to the Committee plan, increasing the base for the employer and employee equally imposes no additional tax burden on workers earning the average wage. It is therefore better for the average worker than is the tax-rate increase approach.

However, this plan does have a rather significant impact on the taxes paid by workers earning the maximum amount of covered wages. Under this plan, the worker earning the maximum would pay $2,648 in 1985, an increase of $890 above the tax for such a worker scheduled in present law, and of $527 above the tax such a worker would pay under the Committee plan.

To compare the effect on workers of the various approaches studied by the Finance Committee, the following table has been prepared:

IMPACT ON ANNUAL TAX PAYMENTS OF WORKER EARNING AVERAGE WAGE

			Increase over present law		
	Wage	Taxes under present law	Finance Committee (Nelson proposal) [1]	Curtis plan [2]	House bill [3]
1977	$10,001	$585			
1978	10,812	654			
1979	11,655	705	$10	$39	0
1980	12,486	755	11	42	0
1981	13,281	837	40	73	$33
1982	14,078	887	42	77	49
1983	14,888	938	45	97	52
1984	15,744	992	47	102	55
1985	16,649	1,049	117	175	108
1986	17,606	1,136	106	167	114
1987	18,619	1,201	112	177	121

IMPACT ON ANNUAL TAX PAYMENTS OF WORKER EARNING THE MAXIMUM WAGE

		Increase over present law		
	Taxes under present law	Finance Committee (Nelson proposal) [1]	Curtis plan [2]	House bill [3]
1977	$965			
1978	1,071	0	0	$133
1979	1,143	$53	$102	242
1980	1,234	54	107	333
1981	1,380	145	203	566
1982	1,474	149	211	640
1983	1,569	194	287	686
1984	1,663	198	297	731
1985	1,758	363	469	890
1986	1,896	367	479	958
1987	2,012	378	496	1,012

[1] Finance Committee plan as reported to Senate.

[2] Senator Curtis' financing plan as proposed in the Senate Finance Committee on Oct. 21, 1977. This plan is similar to the plan adopted by the committee with these exceptions: Parity between employer and employee wage base would be maintained, and additional tax rate increases over and above those scheduled in the committee plan would be imposed of 0.25 percent on employers and employees each in 1979, 0.1 each in 1983, and 0.1 each in 2011. The employer wage base would also be increased by $2,400 over and above present law. These increases would occur in 4 $600 increments in 1979, 1981, 1983, and 1985.

[3] H.R. 9346 as approved by the House of Representatives on Oct. 27, 1977.

This table demonstrates that the Committee plan is less expensive for an average worker or the worker earning the maximum taxable wages under social security than is a plan that relies almost exclusively on tax rate increases. The table also indicates that the Committee plan, when compared to a plan that includes equal employer-employee wage base increases, has a similar effect on the average wage earner, but is significantly less expensive for a worker earning the maximum taxable wage under social security.

FISCAL RELIEF FOR STATE AND LOCAL GOVERNMENTS AND PRIVATE NONPROFIT EMPLOYERS

The Finance Committee recognized that raising the employer wage base would have a detrimental effect on certain employers who cannot pass on the increased costs of social security except by increasing tuition rates, local or state taxes, or reducing their current level of services. Therefore, the Committee plan would give fiscal relief to state and local governments, public and private colleges and universities, and other private nonprofit institutions. Fiscal relief would be offered to these categories of employers by authorizing tax rebates to be paid out of general revenues in the amount of one-half of the difference between the aggregate liability of the employer and the aggregate liability of its employees.

The cost of this fiscal relief would be $151 million in 1979, $316 million in 1980, $324 million in 1981, and $344 million in 1982.

In 1979, for example, employers will pay social security taxes on the first $50,000 of each employee's salary. Employees will pay social security taxes on their first $19,500 of earnings. Under the Finance Committee's fiscal relief proposal, eligible employers would receive a tax rebate of 50 percent on all tax contributions they make on their employee's wages between $19,500 and $50,000.

This fiscal relief propcsal would therefore provide approximately the same financial benefits to eligible employers on the additional taxes to be imposed by increases in the employer wage base as are currently available only to private, profit making employers, who receive a federal income tax deduction based on their social security tax contributions.

SOCIAL SECURITY BENEFIT ADJUSTMENTS

The Committee Plan adjusts social security benefit payments through the following changes:

1. Decoupling and instituting a new wage indexed benefit formula.

The procedure used to compute benefits for new retirees would be decoupled effective in 1979. This would solve the unintended effect in the present law that overcompensates for inflation. Social Security replacement rates would be set at their 1976 levels, an amount calculated to be about 43 percent of an average worker's earnings the year before retirement. These replacement rates would be held constant thereafter.

Existing law calls for automatic cost-of-living increases in benefits effective each June and for increases in the tax base (based on changes in wage levels) each January (assuming that the Consumer Price Index rises by at least 3 percent). Each benefit increase is put into effect by a revision of the table in the law. Thus, each increase applies not only to people entitled to benefits for the month the increase is effective but also to everyone who will become entitled to benefits in the future.

The automatic "cost-of-living" benefit increase mechanism incorporated into the social security program by the 1972 amendments operates exactly as intended for persons on the benefit rolls. Once the initial benefit has been established, it is periodically increased by a percentage which restores its original purchasing power according to the official governmental index of purchasing power—the Consumer Price Index. The Committee bill proposes no change in this concept.

The "cost-of-living" adjustment mechanism, however, also increases the percentages in the formula for determining initial benefits in the future. Future benefits, however, are based on earnings which rise in part, as the result of increases in prices. Thus, wages which were increased to take account of rising prices are multiplied by a benefit formula which was also increased to take account of the same increase in prices.

For an example of how benefits are increased under present procedures, assume a program with a benefit equal to 50 percent of wages. In such a program wages of $100 would produce a benefit of $50. If wages and prices both rise by 10 percent, the individual who is on the benefit rolls will have his benefit increased to $55 and the person who is still working will have his $100 wage increased to $110. If the benefit formula is left unchanged, both individuals would qualify for a $55 benefit. But under present procedures the benefit formula is also increased to 55 percent and the person who will retire in the future with wages increased from $100 to $110 will get a benefit of $60.50 (55 percent multiplied by $110).

Under most reasonable projections of future economic conditions, benefit levels determined by the present-law mechanism will be much higher than what is necessary to simply adjust for inflation and will represent an ever-increasing percentage of the new retiree's wages in the year before he retires. For significant numbers of people, the benefits payable just after retirement would approach—and in many cases exceed—their wage levels immediately before retirement. It is this part of the current cost-of-living provisions that the committee bill would change.

The starting point for most proposals for dealing with the current long-term deficit of the social security system is a concept called "decoupling". Decoupling means that the automatic benefit increase mechanism in present law would continue to apply to keep benefits inflation proof after a person retires and begins to draw his benefits, but the formula for initially determining benefits at the time of retirement would no longer be automatically increased.

Decoupling by itself would make a substantial reduction in the long-term cost of the program but would also cause a significant reduction in the real value of future benefits. In order to forestall a reduction of this nature, the committee bill would provide that future benefits be based on "indexed" earnings, rather than the actual earnings that are used under the present law. This procedure involves the adoption of a new automatic mechanism for adjusting the formula for computing initial benefits which is designed to keep replacement rates at about existing levels.

The following table indicates the benefit structure, replacement rates and expenditures under the Finance Committee bill.

TABLE 7.—BENEFITS, REPLACEMENT RATES, AND EXPENDITURES UNDER COMMITTEE BILL, 1979-2050

[In percent]

Year	Worker with average earnings [1]		Replacement rate for worker with—		Aggregate OASDI expenditures	
	Annual benefit in 1977 prices	Replacement rate	Low earnings [2]	High earnings [3]	As percent of payroll	As percent of GNP [4]
1979	[5] $4,444	[5] 46	[5] 58	[5] 35	10.24	4.2
1985	4,711	43	54	30	10.54	4.3
1990	5,414	43	55	30	10.83	4.5
1995	5,580	43	54	30	11.09	4.6
2000	6,067	43	54	31	11.31	4.6
2010	$7,171	43	54	32	12.47	5.1
2020	8,472	43	54	32	15.24	6.3
2030	10,011	43	54	32	17.32	7.1
2040	11,830	43	54	32	16.84	6.9
2050	13,976	43	54	32	16.30	6.7

	Percent
Average medium-range cost (1977-2001)	10.81
Average medium-range revenue	11.85
Average medium-range deficit	+1.04
Average long-range cost (1977-2051)	13.80
Average long-range revenue	13.85
Average long-range deficit	+.05

[1] Assumed to be 4 times the average 1st quarter covered earnings.
[2] Assumed at $4,600 in 1976 and following the trends of the average.
[3] Assumed at the maximum taxable under the program.
[4] For 1979 and later, based on full employment and assuming taxable payroll equals 41.1 percent of GNP.
[5] Based on the present law benefit formula for all workers attaining age 62 before Jan. 1, 1979 (as in H.R. 8218).

Note: The estimates in this table are based on the economic and demographic assumptions used in the intermediate cost estimates (alternative II) in the 1977 OASDI Trustees Report. The replacement rates pertain to workers with steady employment at increasing earnings and compare the annual retirement benefit at age 65 with the earnings in the year immediately prior to retirement.

A basic change such as that which would be provided by the Committee bill also requires many substantial changes in provisions of present law, transitional provisions for the period during which the new system is implemented, and a number of conforming amendments to minimize possible disruptions that so basic a change in the benefit structure might otherwise produce.

2. Offset for pensions received from noncovered employers.

In response to recent Supreme Court decisions, which held unconstitutional a dependency test applied to men only, a new offset against pensions received from employers not covered by the social security system would be introduced. The Committee bill includes a provision which would reduce benefits payable under social security to dependent spouses by the amount of any civil service (Federal, State or local) retirement benefit payable to the spouse. The provision would apply only to individuals applying for spouses' social security benefits in the future and only if the dependent spouse had a civil service pension based on his or her own earnings in public employment which was not covered under the social security system.

As an example of how this provision will operate, assume the following facts: a widower, age 65, retires and is eligible to receive $600 a month from a public pension. He is not eligible for any Social Security

benefits. His deceased wife was covered by social security and therefore, under current law, the widower is entitled to a surviving spouse benefit of $136 a month. Because of the dollar for dollar public pension offset provided in this legislation, the widower will not be able to collect any of the Social Security benefit he otherwise would be entitled to based on his wife's record of employment.

3. Modification of retirement test and financing of the provision.

Social security beneficiaries who are under age 72 have their benefits reduced if their earnings exceed a certain amount. This is referred to as the social security retirement test. It is adjusted annually under present law to reflect changes in average wage levels.

In 1977, the amount which may be earned with no reduction in benefits is $3,000; it is expected to increase to $3,240 in 1978 and to $3,480 in 1979. The Committee approved an amendment to increase these levels to $4,500 in 1978 and to $6,000 in 1979. After 1979, the $6,000 level would increase automatically as wage levels rise. The Committee also agreed to increase the social security tax rate applicable to employers and employees, effective January 1, 1979, by the amount needed to fund the cost of the higher retirement test levels. These tax rate increases are incorporated in the tax schedule printed above in Table 6.

4. Elimination of retroactive payments which cause an actuarial reduction.

Persons applying for social security benefits are now allowed to elect to start their entitlement up to 12 months prior to the month in which they file an application. If these months are months prior to age 65, however, the retroactive benefits are obtained with the understanding that the beneficiary will receive a lower permanent benefit amount. This is because whenever social security benefits are paid before age 65, they are actuarially reduced. The Committee agreed to a provision under which retroactive benefits would not be permitted in cases involving entitlement before age 65.

5. Adjustment in method used in computing certain benefit increases.

Under the Committee plan, beneficiaries who are receiving actuarially reduced benefits will no longer receive more than the announced percentage increase in their benefit when a cost-of-living adjustment is made in all benefits.

Under the automatic cost-of-living benefit adjustment, some persons on the rolls receive, through a technicality, a cost-of-living increase which is more than the actual cost-of-living increase based upon their monthly benefits. This occurs because the automatic adjustment is applied to their basic benefit rate, which represents what would be paid to a beneficiary who began drawing benefits at age 65. If an individual begins getting benefits prior to age 65 and therefore accepts an actuarially reduced rate, subsequent benefit increases are now larger than necessary to keep that benefit-to-date.

The Committee agreed to modify the cost-of-living increase mechanism so that all persons on the rolls at the time of an increase would receive only the cost-of-living percentage increase applied to their actual monthly benefit checks.

6. Increased benefits for certain widows.

Social security benefits for individuals who continue working past age 65 are increased under present law by 1 percent for each year prior to age 72 that the worker did not receive benefits because the worker's earnings exceeded the social security retirement test. This delayed retirement increment is added to the individual worker's benefit when he retires or reaches age 72. At present, this retirement increment applies only to the worker's own benefit and is not transferrable to his survivors. The Committee adopted a provision under which any retirement increment would be added to the benefit payable to the widow or widower of such an individual.

GENERAL REVENUES

Using general revenues to help finance the social security program has been debated back and forth for many years. The President's legislative proposal on social security would have infused general revenues into the social security trust funds during periods of high unemployment. This approach was supported by many of the witnesses who testified at the Senate Finance Committee's hearings on social security earlier this year.

Before the August recess, however, the Senate Finance Committee voted 11 to 3 against using general revenues to fund the social security cash benefits program. This vote reflected the strong sentiment of members of the Finance Committee that the social security cash benefits program should be financed totally by payroll taxes. It was the general feeling among Finance Committee members that using treasury funds to support the present social security cash benefits program would create pressures in the future to increase benefits for social security recipients by the use of general revenues.

I supported the Finance Committee's position that general revenues should not be used directly to subsidize the cash benefits program.

In my judgment, however, a distinction should be made between using general revenues for the Hospital Insurance program and using them for the cash benefits program. Whether a beneficiary becomes ill and must enter a hospital is not at all related to payroll contributions. Rather, it is an incidence of one's health. Cash benefits, on the other hand, should and do reflect the earnings of the employee.

Under present law, the Hospital Insurance program (Part A of Medicare) will be depleted in 1987. Under the Finance Committee bill the Hospital trust fund will be depleted in 1988. This means that prior to 1987 or 1988 another source of revenue will have to be proposed to secure the solvency of the Hospital Insurance program.

Right now, general revenues are used to support a portion of the Medical Insurance program (Part B of Medicare). In 1976, general revenues will be used to support 70 percent of the cost of the Medical Insurance program. And in 1977, general revenues will be used to support almost 80 percent of the program.

For these reasons, I believe that federal general revenues should be used to support a part of the financing of the hospital insurance program. It should be emphasized, however, that the Senate Finance Committee bill does not include any general revenues for the support of the cash benefits program or for the use of the hospital insurance program.

It should be noted, however that general revenues support the Social Security system indirectly under present law. When employers deduct social security payments they contribute on behalf of their employees from their federal income tax returns. This deduction costs the general fund revenues it otherwise would receive. In the Committee bill, employers with high-paid employees will have to pay social security taxes on the earnings of these employees to a greater extent than they now contribute under current law. This will create an additional tax burden on these employers, but the increased burden will be fully deductible on these employers federal income tax returns. Therefore, the additional burden will be paid for, indirectly, by general revenues.

CONCLUSION

Mr. President, one of the most difficult decisions public officials have to make is the decision to increase the amount of taxes their constituents have to pay. Every tax dollar paid by a wage earner means one less dollar of income that can be used to pay for essential goods and services like food, clothing, housing and schooling. As the Senate Finance Committee considered the problems of the social security system, and finally adopted a financing bill, we continually kept in mind the goals of protecting the social security system from any threats of bankruptcy, keeping future benefit levels on a par with today's benefit levels, and renewing the American public's confidence in social security. In doing all of this, we also tried to keep additional taxes on every wage earner to a minimum.

The Finance Committee's bill requires every wage earner to pay more in taxes than under the current law. It was necessary to increase taxes because right now the social security system is inadequately financed. We felt that American workers would be willing to pay additional tax dollars if they could be assured that their parents and grandparents would continue to receive their monthly social security benefit checks and if they could be assured that the benefits to which they are entitled would not be diminished in the future.

In raising social security taxes for every American wage earner covered by social security, I believe we worked out a plan that would distribute the additional burden in a fair and equitable manner. Some people may argue over the method we used, but no one can say that we have not taken the difficult political route. We raised the additional money necessary to finance social security through taxes rather than turning to the general fund or by increasing the national deficit.

Mr. President, the financing plan adopted by the Senate Finance Committee is a responsible, comprehensive proposal to assure American workers and their families and all social security beneficiaries of a sound and secure social security program. The short-term deficits confronting the social security trust funds will be eliminated. The threat that the social security trust funds will go bankrupt has been eliminated. The Senate Finance Committee plan will place social security cash benefits programs in actuarial balance for the next 75 years based on current economic and demographic assumptions. No present beneficiary will suffer a social security benefit reduction, while future beneficiaries will be assured that their social security benefits will be available to them and their families should they retire, become disabled, or die.

These are the kinds of assurances all Americans have sought. They deserve no less.

Mr. DANFORTH. Mr. President, I should like to call the attention of the Senate to one problem inherent in the social security question, which I will bring up again tomorrow or the next day, at the appropriate time, in the form of an amendment. However, I believe it does require the attention of the Senate; therefore, while it may be a little repetitious to discuss it twice, I should like to make some fairly brief comments about it at this time. This is in respect to the effect of what we are about to do—as a matter of fact, the effect of programed increases in social security taxes that already are in the law on State and local governments and on nonprofit organizations.

In 1976, the aggregate social security tax liability for govermental employers and for nonprofit employers was $6.6 billion. Because of the changes which already are programed into law, together with what we are about to do, no matter which approach we take in solving the immediate crisis, the social security tax liability for this group of employers is scheduled to increase, so that in 1987 it will reach approximately $21.6 billion, or an increase in a little more than a decade of $15 billion, which is a 227-percent increase in social security tax liability for State governments, for local governments, and for nonprofit employers. That this is not a class of employers that can readily absorb such a significant increase hardly needs to be said.

Virtually every week we pick up the newspaper and find some new news on the financial status of large cities, school districts, and various charitable organizations. Yet, we are now facing the prospect—and will certainly face the prospect—of increasing the social security tax liability on this group of employers by well over 200 percent in a decade.

It should be said that there are a couple of points which differentiate governmental employers and nonprofit employers from employers in the profitmaking sector. One differentiating factor is that this group of employers has the option of getting out of social security. The Social Security Act and the Internal Revenue Code provide that local units of government, State governments, and charitable organizations have the right to get out of social security. In fact, since 1975, they have been getting out in increasing numbers. Therefore, there is a very strong likelihood that when we substantially increase the social security tax liability for this class of employers in the name of increasing revenues for the social security trust funds, the results could backfire.

The result could be that instead we accelerate the already too rapid departure of this group of employers from the social security system.

A second differentiating factor has to do with recoupment of part of the liability from general revenues.

For a profitmaking employer social security taxes are deductible from Federal income tax liability so that for a corporation which makes more than $50,000 a year, 48 percent of the social security tax liability can be recouped from general revenue by way of deduction from Federal income taxes. By contrast for local governments with schools and colleges and hospitals, Boy Scouts, United Way, and other employers, when their social security taxes increase, not one penny is recouped from the Treasury. So while a lot of attention has been directed at the fact that what we are doing is dealing a blow to all employers, not to mention employees, what we are doing is dealing a blow to all employers and we are dealing twice as heavy a blow to nonprofit employers and to governmental employers, because unlike the profitmaking sector, they will not be able to recoup a penny from the general revenue.

I am absolutely convinced that the people of our country want a first-rate education for their children. They want adequate medical care for themselves and their families when they get sick. They want first rate community services. They want good fire protection and police protection in case of emergency. They want good social services in the case of need.

I think that it is important to note that these services are not performed by Washington. They are performed throughout this country. They are performed in public school districts. They are performed in hospitals that are located in communities. They are performed by local fire and police departments. They are performed by the Red Cross. They are performed by boy scouts and girl scouts, Salvation Army, and other nonprofit organizations.

What we are about to do is to impose a tremendous additional burden on the very groups that are providing the services that are most needed by the people in this country, and I am concerned that unless some cushion is provided by way of amendments to this legislation that blow may be too severe. Therefore, Mr. President, I will offer an amendment at the appropriate time to the social security financing bill which would provide a recoupment for nonprofit employers and for State and local units of government from the Treasury, from the general revenue, equal to 10 percent of the total security liability for this class of employer.

Mr. President, I yield the floor.

RECESS UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 9 a.m. tomorrow morning.

The motion was agreed to and at 6:34 p.m., the Senate recessed until Wednesday, November 2, 1977, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate November 1, 1977:

DEPARTMENT OF JUSTICE

Michael H. Walsh, of California, to be U.S. Attorney for the Southern District of California for the term of 4 years, vice Terry J. Knoepp.

CONFIRMATIONS

Executive nominations confirmed by the Senate November 1, 1977:

DEPARTMEIIT OF JUSTICE

Michael J. Egan, of Georgia, to be Associate Attorney General.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

Elsijane Trimble Roy, of Arkansas, to be U.S. district judge for the eastern and western districts of Arkansas.

HOUSE OF REPRESENTATIVES—*Tuesday, November 1, 1977*

The House met at 12 o'clock noon.

Rabbi Harry Halpern, East Midwood Jewish Center, Brooklyn, N.Y., offered the following prayer:

Almighty God, who guides the destiny of men and nations, we invoke Thy blessing upon those assembled here to formulate the laws by which our countrymen live.

We are grateful to Thee for the privilege of living in this land where freedom and liberty are the lot of all.

May our representatives legislate in justice and equity so that security, prosperity, right, and truth may abide among us.

Unite all Americans into a bond of true brotherhood, banishing hatred and bigotry and safeguarding the ideals which are our country's glory.

May America continue to be a leader among nations in upholding the rights of free men everywhere and proffering a helping hand to the poor, the sick, the aged. May ours be the glorious role of pointing the way to a world of uninterrupted peace for all men. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills and a joint resolution of the House of the following titles:

On October 28, 1977:

H.R. 4836. An act to extend by 7 months the term of the National Commission on New Technological Uses of Copyrighted Works; and

H.R. 5675. An act to authorize the Secretary of the Treasury to invest public moneys, and for other purposes.

On October 31, 1977:

H.R. 7797. An act making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1978, and for other purposes.

On November 1, 1977:

H.J. Res. 573. Joint resolution commemorating Gen. Thaddeus Kosciuszko by presenting a memorial plaque in his memory to the

people of Poland on behalf of the American people; and

H.R. 3744. An act to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that act, and for other purposes.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 241. Concurrent resolution providing for the printing of 100,000 additional copies of the subcommittee print of the Subcommittee on Consumer Affairs of the Committee on Banking, Finance and Urban Affairs entitled "Give Yourself Credit: Guide to Consumer Credit Laws."

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 1316) entitled "An act to authorize appropriations for fiscal years 1978, 1979, and 1980 to carry out State cooperative programs under the Endangered Species Act of 1973," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. CULVER, Mr. MUSKIE, and Mr. WALLOP to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 330. An act for the relief of Librado Perez.

The message also announced that the Senate informed the House to disregard the request made by Senate Resolution 310 to return to the Senate the papers on S. 1528.

RABBI HARRY HALPERN

(Mr. SOLARZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SOLARZ. Mr. Speaker, I am pleased that we were able to have with us today as our guest clergyman Rabbi Harry Halpern, who is retiring after 49 years of distinguished service as the spiritual leader of the East Midwood Jewish Center in Brooklyn, N.Y.

Rabbi Halpern is a man of very impressive credentials. He not only has a law degree, but a doctor of divinity and doctor of Hebrew letters degree as well. During the period of time in which he served as the rabbi of the largest and most prestigious conservative congregation in our borough, he has been actively involved in literally every philanthropic and communal endeavor in our city. He is a past president of the New York Board of Rabbis and a past president of the Rabbinical Assembly of America. Rabbi Halpern has been a true leader of his people.

I am delighted at the fact that not only were we able for half a century to reap the benefit of his brilliance, his learning, and his teaching in Brooklyn, but now, at the end of his career as the rabbi of the East Midwood Jewish Center, the Members of the House have also been able to receive the benefit of his wisdom as well.

PRIVATE CALENDAR

The SPEAKER. This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

JENNET JUANITA MILLER

The Clerk called the bill (H.R. 1405) for the relief of Jennet Juanita Miller.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

CATHY GEE YUEN

The Clerk called the bill (H.R. 1777) for the relief of Cathy Gee Yuen.

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

PAZ A. NORONA

The Clerk called the bill (H.R. 1787) for the relief of Paz A. Norona.

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

KWONG LAM YUEN

The Clerk called the bill (H.R. 1798) for the relief of Kwong Lam Yuen.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

SUSAN SPURRIER

The Clerk called the bill (H.R. 4404) for the relief of Susan Spurrier.

There being no objection, the Clerk read the bill, as follows:

H.R. 4404

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Susan Spurrier shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

With the following committee amendment:

One page 2, line 1, after the words "birth under" strike out the remainder of the bill and insert in lieu thereof the following: "section 203(a) of the Immigration and Nationality Act or, if applicable, from the total number of such visas and entries which are made available to such natives under section 202(e) of such Act.".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JULIO ORITZ-MEDINA

The Clerk called the bill (H.R. 1422) for the relief of Julio Oritz-Medina.

There being no objection, the Clerk read the bill, as follows:

H.R. 1422

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provision of section 212(a)(31) of the Immigration and Nationality Act, Julio Ortiz-Medina may be issued a visa and admitted to the United States for permanent residence if he is found to be otherwise admissible under the provisions of that Act: *Provided,* That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

HILDEGARD G. BLAKELEY

The Clerk called the bill (H.R. 1450) for the relief of Hildegard G. Blakeley.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

KAM LIN CHEUNG

The Clerk called the Senate bill (S. 1142) for the relief of Kam Lin Cheung.

There being no objection, the Clerk read the Senate bill, as follows:

S. 1142

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of section 212(a)(25) of the Immigration and Nationality Act, Kam Lin Cheung may be issued a visa and admitted to the United States for permanent residence if she is found to be otherwise admissible under the provisions of that Act: *Provided,* That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act: *Provided further,* That a suitable and proper bond or undertaking, approved by the Attorney General, be deposited as prescribed by section 213 of the said Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

KAZUKO NISHIOKA DOWD

The Clerk called the bill (H.R. 4535) for the relief of Kazuko Nishioka Dowd.

There being no objection, the Clerk read the bill, as follows:

H.R. 4535

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Kazuko Nishioka Dowd shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, from the total number of such visas and entries which are made available to such natives under section 202(e) of such Act.

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

That, notwithstanding the provision of section 212(a)(23) of the Immigration and Nationality Act, Kazuko Nishioka Dowd may be issued a visa and admitted to the United States for permanent residence if she is found to be otherwise admissible under the provisions of that Act: *Provided,* That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

BRIAN HALL AND VERA W. HALL

The Clerk called the bill (H.R. 5099) for the relief of Brian Hall and Vera W. Hall.

There being no objection, the Clerk read the bill, as follows:

H.R. 5099

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of determining the tax liability of Brian Hall and Vera W. Hall, husband and wife, under section 1034 of the Internal Revenue Code of 1954, Brian Hall and Vera W. Hall shall be deemed to have sold their residence at 759 Foxkirk Road, Glendale, California, within eighteen months of the date of the purchase of their new residence at Laguna Beach, California, if they in fact sell such residence in Glendale, California, not later than six months after the date of the enactment of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DR. DARYL C. JOHNSON

The Clerk called the bill (H.R. 5097) for the relief of Dr. Daryl C. Johnson.

There being no objection, the Clerk read the bill, as follows:

H.R. 5097

Be it enacted by the Senate of House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Doctor Daryl C. Jonhson of Athens, Georgia, the sum of $847 in full settlement of all his claims against the United States for expenses incurred in 1972 and 1973 for storage of household goods during Doctor Johnson's service with the Newcastle Task Force of the Animal and Plant Health Inspection Service of the United States Department of Agriculture.

SEC. 2. No part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection wtih this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

With the following committee amendment:

Page 1, lines 3 through 11: Strike the language contained in lines 1 through 11 and insert in lieu thereof:

That the Comptroller General of the United States is authorized to settle and adjust the claim of Dr. Daryl C. Johnson, Atlanta, Georgia, for the amount to which he would be entitled under section 5724(a)(2), Title 5 of the U.S. Code and the regulations issued thereunder without regard to Section 6.2c of the Office of Management and Budget Circular A-56, revised August 17, 1971, and ¶ 2-8.2c of the Federal Travel Regulations (FPMR 101-7) May 1, 1973, representing expenses which he incurred in 1972 and 1973 for storage of household goods incident to his detail with the Newcastle Task Force of the Animal and Plant Health Inspection Service of the U.S. Department of Agriculture, San Gabriel, California, for the convenience of the Government.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

STEPHANIE JOHNSON

The Clerk called the bill (H.R. 7162) for the relief of Stephanie Johnson.

There being no objection, the Clerk read the bill, as follows:

H.R. 7162

Be it enacted by the Senate and House of Representatives of the United States of America in Congress asembled, That the Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, to Frankie M. James, of Seattle, Washington, the sum of $1,950 as legal guardian for and on behalf of Stephanie Johnson, in full settlement of all the claims of Stephanie Johnson against the United States arising out of the failure of the Department of the Army to pay a death gratuity awarded to Stephanie Johnson in 1966.

SEC. 2. No part of the amount appropriated in the first section of this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CAMILLA A. HESTER

The Clerk called the Senate bill (S. 1269) for the relief of Camilla A. Hester.

There being no objection, the Clerk read the Senate bill, as follows:

S. 1269

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of subchapter III of chapter 83 of title 5, United States Code (relating to civil service retirement), Camilla A. Hester, of Foley, Alabama, shall be deemed a widow within the meaning of subsection (a)(1) of section 8341 of such title, and if otherwise entitled to a survivor annuity under such section, shall be paid that annuity from September 28, 1972.

SEC. 2. Any amounts payable by reason of the first section of this Act with respect to any period prior to the date of the enactment of this Act shall be paid in a lump sum within sixty days after such date.

SEC. 3. No part of the amount authorized by this Act in excess of 15 per centum of the sums described in section 2 of this Act shall be paid or delivered to or received by an agent or attorney on account of services rendered in connection with this claim, and the same is unlawful, any contract to the contrary notwithstanding. A violation of this section is a misdemeanor punishable by a fine in an amount not to exceed $1,000.

With the following committee amendment:

Page 2, line 4: Strike "15" and insert "10".

The committee amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent to dispense with further reading of the Private Calendar.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

VETERANS' BENEFITS SHOULD BE GRANTED TO WOMEN'S AIR FORCE SERVICE PILOTS

(Ms. OAKAR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. OAKAR. Mr. Speaker, as a cosponsor of the bill to grant veterans' benefits to the gallant women who served as Women's Air Force Service Pilots in World War II, I join in urging that this House simply be given an opportunity to vote on this bill. While the WASP's are relatively few in number, the justice of their cause is undeniable. As pilots, they performed tasks identical to those performed by their male counterparts in the Air Corps, and the fact that 38 WASP's were killed in active service attests to their participation in hazardous duty. Just as they shared in the burdens of war, so they ought to share in the benefits accorded to those who served their country.

Both the Senate, by its recent approval of this measure, and the House, by its widespread cosponsorship of it, have shown their support for granting veterans' benefits to the WASP's. The House ought to have now a chance to give final approval to the measure, and I urge our colleagues on the Veterans' Affairs Committee to give us that opportunity.

DEPARTMENT OF DEFENSE RIGS TEST OF CRUISE MISSILE FURTHER CALLING INTO QUESTION ADMINISTRATION'S POSITION ON B–1 AND SALT TALKS

(Mr. KEMP asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KEMP. Mr. Speaker, 4 months ago, President Carter announced his decision to terminate production of the B–1 bomber in favor of the cruise missile as the air breathing leg of our strategic nuclear triad.

Crucial to the President's decision was the notion that the cruise missile was sufficiently far advanced to provide a wholly satisfactory substitute for the manned bomber. The U.S. cruise missile program is scheduled to undergo a series of tests against various American air defense systems to evaluate the capability of the cruise missile to penetrate a variety of defense systems. As a strong supporter of cruise missile technology I was disappointed to learn that one important experiment where the U.S. Tomahawk cruise missile was to be flown against the U.S. Hawk surface-to-air missile system in a "live" test was to be changed to a "dead" test where only a simulated firing would occur. The rationale for this change is simply that calculations made by the Department of Defense revealed that there was a high probability that the cruise missile would be shot down by the Hawk missile. To save the President the embarrassment of having the cruise missile shot down while the Congress was considering the recision of the fiscal year 1977 B–1 funding a simulated launch of the Hawk would be less embarrassing.

The administration's reluctance to conduct full-scale tests of the cruise missile undermines the administration's position on cruise missiles at the strategic arm limitation talks. An untested cruise missile offered as a replacement for the B–1 bomber, can scarcely be counted upon to be an effective source of influence in the negotiations.

Today, I have written to the Secretary of Defense requesting a full description of the cruise missile test program as it affects the ability of the cruise missile to penetrate active defenses, as well as a complete accounting of the rationale for any "dead," that is, simulated tests in the forthcoming cruise missile test series.

PANAMA CANAL GIVEAWAY PROPAGANDA CAMPAIGN

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RUDD. Mr. Speaker, the propaganda campaign to convince the American people that the United States should give away the Panama Canal struck a new low in deception today with large advertisements in four major U.S. newspapers, at an estimated cost of $36,000.

The advertisement sponsored by a group called Committee of Americans for the Canal Treaties, Inc., is appearing today in the Washington Post, the New York Times, the Los Angeles Times, and the Washington Star.

Mr. Speaker, this advertisement is full of outright falsehoods and deception.

It projects the "big lie" that Presidents Harry Truman and Dwight D. Eisenhower, along with other U.S. Presidents, favored a treaty to give away U.S. sovereignty, ownership, and control over the Panama Canal.

This is totally false. If these Presidents had thought that it was in our Nation's best interests to give away the canal—which they did not—they would have done it.

Nothing supports the outright deception of this advertisement that these Presidents would have supported the current proposed treaty to give away the current proposed treaty to give away the American canal in Panama.

This ad is replete with other falsehood and deception, such as the false statement that the proposed treaty guarantees that "the U.S. Navy will always go to the head of the line to pass through the canal in time of emergency."

I challenge any of the 152 people listed as members of the sponsoring committee—or anyone else—to show the American people any provision in the proposed treaties that makes such a guarantee.

There is no such provision. Nothing in the ambiguous, tricky language of the treaties guarantees that any American ship can go to the head of the line or pass through the canal in an emergency or at any other time.

If dictator Torrijos decides otherwise, the United States will have no such right. The treaties do not guarantee priority passage for American vessels, as claimed by this propaganda advertisement.

Mr. Speaker, this advertisement is a shameful and deceitful piece of propaganda. It deserves no credibility whatsoever.

The position taken by this sponsoring group may represent the views of a select few Americans in positions of power. But this certainly does not represent the view of the vast majority of the American people—who overwhelmingly believe that the United States should retain our sovereignty, ownership, and control of our canal through the Isthmus of Panama.

HOW'S THAT AGAIN?

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, no novelist, even one possessed of the most fertile and wild imagination, could create a world more zany than the one we now live in.

The Government of South Africa closes down certain newspapers, because it does not like their policies. The United Nations erupts in a frenzy of outrage at the Government of South Africa.

But wait a minute. A recent report of media trends in the Third World, "Mass News Media and the Third World Challenge," published by the prestigious Georgetown University Center for Strategic and International Studies shows that that the same Third World nations now denouncing South Africa for having a partially free press have themselves no free press and do not want one. According to the Wall Street Journal:

> . . . there's . . . a clear turn toward government ownership of media in Africa. . . . By the mid-1970's (UNESCO) was churning out papers disapproving of private media ownership and claiming that government control of the press was necessary. . . .

In other words, Third World African nations are using UNESCO to help them totally shackle a free press so that these nations can go to the United Nations and denounce South Africa for having a partially free press.

No fiction writer would ever get away with it.

MILITARY BENEFITS TO WOMEN'S AIR FORCE SERVICE PILOTS

(Mrs. HECKLER asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous matter.)

Mrs. HECKLER. Mr. Speaker, I rise today to ask the House to fulfill its duties by considering the issue of the Women's Air Force Service Pilots. The WASP's flew in World War II alongside such distinguished pilots as Senator BARRY GOLDWATER.

One of them recently wrote me her impressions of the House committee hearings on the WASP bill.

She said:

> For the first time, I began to realize how much we entrust to our elected officials to act for our best interests. You kept returning to basic issues and encouraged our faltering hearts to FIGHT.

The basic issue is this: The House of Representatives should be allowed to consider granting military benefits to WASP's when it considers the Senate's GI benefits bill tomorrow. Although I deeply respect the leadership of the Veterans' Affairs Committee, I have no respect for the process which deprives of the right to vote on this issue. I urge my colleagues to give us, the representatives of all the people, that privilege.

Mr. Speaker, for the 2d consecutive year the Senate has approved the granting of veterans' benefits for the Women's Air Force Service pilots of World War II. And for the 2d consecutive year the House is being denied right to vote on this issue.

In September the House for the first time since World War II held hearings on bills which would grant veterans' benefits to the WASP's. This Chamber—perhaps as soon as tomorrow—will shortly

be asked to vote on the conference report which contains this measure.

Mr. Speaker, we must vote to accept this provision. We must do this because the merits of the WASP cause are convincing and compelling.

In 1944 powerful lobbies succeeded in defeating a WASP militarization bill in the House by 19 votes. In the same year the Comptroller General issued a legal decision which stated that in authorizing the appointment of "qualified persons" as commissioned officers in the Regular Army the term "persons" did not include women: That it applied only to men. This absurd legal concept stands intact today. We must overturn it. Congress must vote to include women under the law.

Mr. Speaker, women are now admitted to our country's military academies. A group of women recently graduated from the U.S. Air Force Pilot Training School. The first such women to attain this distinction since the WASP's. The full talents and abilities of women in the military are now being recognized. But because the WASP's were ahead of their time. They were made the victims of injustice and inequality. It is now time to correct this injustice.

BENEFITS FOR WOMEN AIR FORCE SERVICE PILOTS

(Ms. MIKULSKI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. MIKULSKI. Mr. Speaker, I rise to join the gentlewoman from Massachusetts in urging consideration of this issue and that we consider pension benefits for the Women Air Force Service Pilots. During World War II over 1,000 women acted as lady auxiliary service pilots and performed a distinguished service with gallantry and patriotism. Thirty-eight women actually died in performing this Air Force military transport service.

We do a lot of things in this House of Representatives relative to veterans. We sometimes punish people for cowardice, but I believe we have to reward those people who have performed outstanding and distinguished military service. We should not do that only with a ticker-tape parade or a little hug or a citation that says: "Three cheers for you when we needed you," but also do it through veterans' benefits and pensions. These gallant women should be granted these benefits.

There are several hundred women who are alive today who were willing to volunteer in defense of their country. I do not think we can deny them their pensions, and also I do not think we can deny them the right to have the House of Representatives vote on their pensions. For this reason I join with the gentlewoman from Massachusetts in urging that we vote on this legislation.

CITIZENS COMMITTEE FOR THE RIGHT TO KEEP AND BEAR ARMS

(Mr. SEIBERLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SEIBERLING. Mr. Speaker, a number of my constituents have received communications from an organization entitled "Citizens Committee for the Right to Keep and Bear Arms," with a headquarters in Bellevue, Wash., and they are addressed in this manner:

From Congressman JOHN F. SEIBERLING—
Deliver to:

and then the name of the addressee.

Since this is an out-of-State mailing and by an organization that is obviously part of the gun lobby. I assume that such communications are going to constituents of many Members of the House all over the country. It seems to me that it is not only grossly unfair and misleading to make it appear, as one of my constituents pointed out, that the mailing is coming from a Congressman, but it is possibly a violation of the mail fraud statutes.

Mr. Speaker, I intend to have this investigated to see whether it violates the law or postal regulations, and, if it does, I would hope appropriate action would be taken to see that this kind of thing is stopped.

A DOUBLE STANDARD

(Mr. PANETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PANETTA. Mr. Speaker, there is nothing that undermines or does more harm ot our system of equal justice than the imposition of a double standard, one standard for the wealthy or the highly placed, and one standard for all others. Whether the name is Agnew or Kleindienst, Nixon or Helms, the same principle must be applied to all.

There is no question that the facts must be considered in each individual case. There is no question that individual backgrounds should be considered in determining an appropriate sentence; but there is a serious question when prosecution and defense attempt to impose a sentence upon the court, particularly as concerning perjury before the Congress. I commend the judge in this case for refusing to accept that agreement. I ask him to consider all the facts in freely deciding what is an appropriate plea to accept and what is an appropriate sentence, if not for the sake of the parties, for the sake of equal justice.

WOMEN'S AIR FORCE SERVICE PILOTS

(Mrs. FENWICK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. FENWICK. Mr. Speaker, I, too, would like to address the House for 1 minute on behalf of these women who served in the Second World War. They flew every kind of aircraft, the fastest fighter, the biggest transport. They trailed dummy targets through the sky so others could shoot at them. They did the work that was demanded of them in a time of war. They enlisted, thinking they were being part of the whole effort of the country.

I think it is a sad thing. As Woodrow Wilson said, "The business of the Government is justice," and this is not justice, as has been remarked here earlier. It is not just a question of the privileges and benefits involved. It is a question of feeling you are a part of the whole thing. It is a sad thing when 38 die, and they cannot be included under martial arrangements as persons. "Persons" does not apparently include women. There is something wrong here, and whether the House decides to include them or not, I think we must bring it to the floor for a vote.

WOMEN'S AIR FORCE SERVICE PILOTS

(Mrs. LLOYD of Tennessee asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. LLOYD of Tennessee. Mr. Speaker, I rise to ask that my colleagues in the House of Representatives consider an issue which strikes at the very heart of equality among citizens of our country. That is the issue of the Women's Air Force Service Pilots.

My distinguished colleague, the gentlewoman from Massachusetts, recently received a telegram from 25 WASP's, which says it all:

We WASPs who flew in World War II believe in our hearts we were a part of the military then and still believe the same way today. Please report H.R. 8701 with WASP amendment to the full House for a final vote this week.

Mr. Speaker, I urge my colleagues to allow the House to consider and vote on this important issue.

CITIZEN'S COMMITTEE FOR THE RIGHT TO KEEP AND BEAR ARMS

(Mr. BAUMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAUMAN. Mr. Speaker, the gentleman from Ohio (Mr. SEIBERLING) just referred to a mailing sent out by the Citizen's Committee for the Right to Keep and Bear Arms. The gentleman is rightfully concerned about this particular mailing. The committee is a reputable group, located in Bellevue, Wash. It has been in existence for a number of years and has a number of Members of Congress on its advisory board.

I, too, was concerned about the specific composition of this mailing and the way in which Member's names were being used. When it was called to my attention by some of my colleagues, I contacted the officials of the group immediately and explained to them this concern.

They explained to me that this was a printing error due to the process used in filling out the names of the addressees; that they ordered the mailing stopped as soon as they realized what had happened, and no further similar mailings would be made.

I can only conclude that no bad faith was involved in this, and every action

will be taken to correct the error. If it is not, appropriate official action should be taken to prevent the misuse of the names of Members of Congress.

MILITARY BENEFITS TO WOMEN'S AIR FORCE SERVICE PILOTS

(Mr. CHARLES H. WILSON of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHARLES H. WILSON of California. Mr. Speaker, for fear that only the ladies are going to be identified with this cause on behalf of the WASP organization, I too would like to join the ladies of the House of Representatives and ask for immediate action on the legislation pending, and to identify myself with this very important cause.

I would be happy to support the ladies, and any others who are involved in this particular legislation, to try to encourage the Committee on Veterans' Affairs to move the legislation as quickly as possible.

CALL OF THE HOUSE

Mr. ICHORD. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 724]

Alexander	Flowers	Metcalfe
Archer	Ford, Mich.	Mikva
Badillo	Frenzel	Quie
Boggs	Hefner	Roberts
Bolling	Hightower	Rosenthal
Burton, John	Holtzman	Rousselot
Cederberg	Howard	Roybal
Chappell	Jenrette	Ruppe
Chisholm	Jones, Tenn.	Scheuer
Clawson, Del	Kasten	Shuster
Collins, Ill.	Kastenmeier	St Germain
Conyers	Kelly	Stokes
Corcoran	Kemp	Teague
Diggs	Koch	Treen
Drinan	Krueger	Udall
Duncan, Oreg.	Le Fante	Wolff
Edgar	Long, La.	Wright
Edwards, Calif.	Lundine	Young, Alaska
Edwards, Okla.	McKinney	

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). On this rollcall 378 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

APPROVING INTERNATIONAL FISHERIES AGREEMENT WITH MEXICO

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 9794) to bring the governing international fishery agreement with Mexico within the purview of the Fishery Conservation Zone Transition Act.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. FORSYTHE. Mr. Speaker, reserving the right to object, I rise really to support this measure. It is a very important bill for this Nation. It is the first of these fisheries agreements in which we as a Nation really have an interest for our own fisheries, in addition to promoting friendly relations between Mexico and the United States.

Mr. Speaker, the United States and Mexico have just concluded a governing international fishery agreement which establishes the conditions under which Mexicans may be allowed to fish within the U.S. 200-mile zone. In this agreement Mexico has agreed that it will comply with all U.S. fishery management regulations. Mexico has also agreed that U.S. enforcement agents will be permitted to board and inspect Mexico's fishing vessels operating within our zone, that U.S. enforcement agents can make arrests and seizures for reasonable cause, that U.S. observers will be permitted on each vessel and that Mexico will reimburse the United States for the cost of these observers, that transponders or other position fixing devices will be placed on all Mexican fishing vessels if the United States so requests, that all fishing fees will be paid in advance, that agents to receive and respond to any legal process will be appointed and maintained in the United States, and that responsibility will be assumed for the reimbursement of U.S. fishermen whose vessels and/or gear are damaged by Mexican fishing vessels permitted to operate within our 200-mile zone.

This agreement is virtually identical to the 10 agreements approved in Public Law 95–6 and Public Law 95–8. If we do not approve H.R. 9794, the Mexican agreement cannot become effective until well into 1978, because congressional recesses of more than 3 days are excluded from the computation of the 60-day statutory waiting period established in the Fishery Conservation and Management Act. In view of this fact and in view of the fact that the Mexican agreement complies with the U.S. law, I urge the adoption of H.R. 9794.

Mr. LEGGETT. Mr. Speaker, will the gentleman yield?

Mr. FORSYTHE. I yield to the gentleman from California.

Mr. LEGGETT. I thank the gentleman for yielding.

Mr. Speaker, section 1 of H.R. 9794 would amend the Fishery Conservation Zone Transition Act, which became Public Law 95–6 as a result of legislation reported by the Congress in February of this year.

The amendment to that act, as provided by section 1 of the bill, would result in two things: First, the waiving of the 60-day congressional review period with respect to the Governing International Fishery Agreement—better known as a GIFA—recently entered into with Mexico; and, second, the reducing from 45 to 7 the days in which the Regional Fishery Management Councils and the public would have to comment on any application for fishing permits for vessels of Mexico.

Section 2 of the bill would provide that the amendments to the Fishery Conservation Zone Transition Act made by section 1 would take effect February 27, 1977. This would be in keeping with the requirements of that act, which require any such amendment to have an effective date of not later than February 28, 1977.

Mr. Speaker, the net result of this legislation is to allow Mexico to take advantage of the relief provided by the act—with respect to the congressional review period and the council comment period—just as we have allowed other countries to take advantage of this relief when we previously provided for congressional approval of GIFA's with Poland, East Germany, South Korea, Russia, Spain, Romania, Taiwan, Bulgaria, Japan (for 1 year only) and with the European Economic Community.

I should point out that the GIFA with Cuba and the second GIFA with Japan automatically went into force and effect on August 6 and October 4, respectively, after allowing the 60-day congressional review period to run its course.

Mr. Speaker, the GIFA with Mexico is in substantial compliance with the 200-Mile Fisheries Zone Act—just as the other 10 GIFA's were that the committee previously approved—and when the President transmitted it to the Congress he urged that favorable consideration be given to this agreement at an early date. This sense of urgency was also noted in our conversations with our former colleague, Patsy Mink, and in telegrams received from Mr. Bill Utz, executive director of the National Shrimp Congress; Mr. Bob Jones, executive director of the Southeastern Fisheries Association; Mr. Robert Mauermann, executive director of the Texas Shrimp Association; and Mr. John Mehos, chairman of the Gulf of Mexico Fishery Management Council, the council that would be the most concerned with this GIFA.

Mr. Speaker, with the likelihood that Congress will adjourn at the end of this week, failure to pass this legislation would require the GIFA to go through the 60-day congressional review period thereby resulting in Mexican vessels not being able to fish within our fishery zone until sometime in February or March of next year.

Mr. Speaker, I think it is imperative that we extend the same courtesy to Mexico that we have extended to other countries fishing in our 200-mile fisheries zone and the passage of H.R. 9794 would accomplish this purpose. In addition, it would allow Mexican vessels to begin fishing for certain excess stocks of fish during the remainder of this year and it would allow them to start fishing for excess stocks early next year along with vessels of other foreign countries.

Mr. Speaker, I urge the prompt passage of H.R. 9794.

Mr. MURPHY of New York. Mr. Speaker, will the gentleman yield?

Mr. FORSYTHE. I yield to the gentleman from New York.

Mr. MURPHY of New York. I thank the gentleman for yielding.

Mr. Speaker, the passage of H.R. 9794 would have the effect of immediately bringing into force the Governing International Fishery Agreement—better known as a GIFA—recently entered into with Mexico.

Mr. Speaker, as the Members will recall, the Committee on Merchant Marine

and Fisheries reported legislation late last year that resulted in the enactment of the Fishery Conservation and Management Act of 1976. That act—better known as the 200-Mile Fishery Zone Act—extended the fishery zone of the United States from 12 to 200 miles as of March 1, 1977. After that date, the act provides that no foreign fishing vessels will be authorized to fish within our 200-mile fisheries zone unless the foreign nation concerned has entered into a GIFA with the United States, has submitted an application for each of the fishing vessels planning to fish within these waters, has secured a permit for each of such vessels, and has paid the appropriate fees associated with the issuance of such permits.

To date, there have been 10 GIFA's signed with the United States and approved by the Congress. The GIFA's falling into this category are with the countries of Poland, East Germany, South Korea, Russia, Spain, Romania, Taiwan, Bulgaria, Japan (for 1 year only), and with the European Economic Community. The GIFA with Cuba was forwarded to Congress on May 17 of this year, and after waiting for the 60-day congressional review period to run its course, it went into effect on August 6 of this year. The second GIFA with Japan was forwarded to the Congress on June 2 of this year, and after allowing for the 60-day congressional review period, it went into effect on the 4th of October.

In addition, a Reciprocal Fisheries Agreement between the United States and Canada—which, incidentally, is not considered to be a GIFA—was approved by the House earlier this year and legislation to provide for its approval became public law on July 26 of this year.

Mr. Speaker, on the 7th of October, the President forwarded to the House a GIFA with Mexico. In his message to the Congress, the President urged that favorable consideration be given to this agreement at an early date. Since the Congress has acted promptly on the other GIFA's entered into with the United States and in view of the President's request, I think it is imperative that this same courtesy be extended to Mexico. H.R. 9794 would accomplish this purpose and it would result in the fishing vessels of Mexico being put on an equal basis with the fishing vessels of other countries which are permitted to fish within our 200-mile zone.

Mr. Speaker, the Mexican agreement is substantially the same as the GIFA's which have been previously agreed to by the Congress. Simply explained, the legislation would have the effect of terminating the 60-day congressional review period required by section 203 of the 200-Mile Fisheries Zone Act and it would reduce from 45 to 7 the number of days which the regional fishery management councils and the public would have to comment on any application for fishing permits submitted pursuant to such GIFA.

Mr. Speaker, I would like to emphasize that the passage of this legislation would in no way affect that provision of the law that allows foreign vessels licensed to fish in our waters to fish only for excess stocks of fish.

We have been in close touch with our colleagues on the Senate side, and I am advised that the Committee on Foreign Relations and the Senate Committee on Commerce, Science, and Transportation—the committees to which this legislation would be jointly referred after it passes the House—are planning to agree to our bill so that it can go to the President for his signature prior to adjournment.

Mr. Speaker, I sincerely hope the Members of the House will cooperate in the prompt passage of this legislation.

Mr. FORSYTHE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the bill, as follows:

H.R. 9794

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Fishery Conservation Zone Transition Act (Public Law 95-6) is amended—

(1) by striking out "and" at the end of paragraph (9);

(2) by inserting "and" immediately after the semicolon at the end of paragraph (10);

(3) by inserting immediately after paragraph (10) the following new paragraph:

"(11) the Government of Mexico Concerning Fisheries Off the Coasts of the United States, as contained in the message to Congress from the President of the United States dated October 7, 1977;"; and

(4) by striking out "(10)" in the last sentence of such section and inserting in lieu thereof "(11)".

SEC. 2. The amendments made by the first section of this Act shall take effect February 27, 1977.

The bill was ordered to be engrossed and read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed, H.R. 9794.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

THE ENVIRONMENTAL IMPACT OF PRESIDENT CARTER'S ENERGY PROPOSALS

(Mr. BROWN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of California. Mr. Speaker, in recent months I have been concerned about the environmental impact of President Carter's energy proposals. As chairman of the House Science and Technology Subcommittee on Environment and the Atmosphere, I have held hearings on environmental problems and the new energy plan, focusing on both the coal and nuclear fuel cycles.

In addition, I have asked the Congressional Research Service to analyze the degree to which energy-related Federal research and development is meeting our needs under President Carter's energy plan.

My main interest has been with the increased use of coal and resultant environmental effects of large quantities of nitrogen oxides and sulfur oxides emitted into the air.

It seems clear, as a result of all of our investigations, that we may have had a mismatch in our environmental funding areas We appear to have been funding projects in problem areas where there is little perceived concern.

In the coming year, the Environment and Atmosphere Subcommittee will be examining this problem and will make recommendations for better utilization of our Federal environmental monitoring program. Without an adequately funded and coordinated monitoring program, we never will be satisfied that our pollution control efforts are properly directed.

I welcome your input in this area and commend to you the report our subcommittee issued this week, "Environmental Challenges of the President's Energy Plan: Implications for Research and Development."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated and after those motions to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

CONSCIENTIOUS OBJECTION TO JOINING A LABOR ORGANIZATION

Mr. THOMPSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3384) to amend the National Labor Relations Act to provide that any employee who is a member of a religion or sect historically holding conscientious objection to joining or financially supporting a labor organization shall not be required to do so.

The Clerk read as follows:

H.R. 3384

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 19 of the National Labor Relations Act is amended as follows: (a) by striking out the words "of a health care institution" after the words "Any employee"; and (b) by adding a new sentence at the end thereof: "Proof of such payments must be made on a monthly basis as a condition of continued exemption from the requirement of financial support to

the labor organization, subject to such rules and regulations as the Board may prescribe.".

The SPEAKER pro tempore. Is a second demanded?

Mr. ERLENBORN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. THOMPSON) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. ERLENBORN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. THOMPSON).

Mr. THOMPSON. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, H.R. 3384 reflects an accommodation between basic rights created by the National Labor Relations Act and certain religious beliefs which prohibit membership in a union. It extends an exception that was made for employees in the health care industry to all employees who are covered by the National Labor Relations Act.

The National Labor Relations Act is based on the concept of majority rule. The union designated or selected for the purposes of collective bargaining "by a majority of the employees in a unit appropriate for such purposes" is the exclusive bargaining agent for all employees in the bargaining unit; and remains such unless and until it is voted out by a majority of the employees in a secret-ballot election called expressly for that purpose.

An obligation of fair representation accompanies the right of exclusive representation, and the union selected by the majority must represent all employees in the bargaining unit fairly and without hostile discrimination; whether or not the employee is a union member, whether or not the employee pays union dues.

To minimize the problem of the "free rider," that is the employee who would enjoy union representation without paying his fair share of the costs, section 8(a)(3) permits but does not require the employer and the union to agree that all employees must pay fair and reasonable union dues as a condition of continued employment.

This statutory framework, generally fair, has created a conflict between the dues-paying union member on the one hand, and employees who object to the payment of dues, because of religious beliefs.

H.R. 3384 seeks to accommodate these various interests and concerns.

H.R. 3384 extends and expands section 19 of the National Labor Relations Act, now limited to the health care industry. The amendment would apply to any person who can produce adequate verification of membership in a bona fide religion which historically has held conscientious objection to joining or financially supporting a labor organization. It would permit such a person to refrain from joining or financially supporting the labor organization on the condition that instead, the person would be required to pay in lieu of periodic dues and initiation fees an equivalent sum to a nonreligious charitable fund. Proof of such payments would be required on a monthly basis as a condition of continued exemption.

Members of the Seventh-day Adventist Church, for example, cannot, consistent with the traditional and historic teachings of that church, pay dues to unions. Other churches share the same traditional belief of prohibiting cooperation with the union selected by majority vote to represent their interests.

The bill would accommodate the religious beliefs of these persons and thereby reconcile the National Labor Relations Act with section 701(j) of the Equal Employment Opportunity Act as recently construed in *Cooper* v. *General Dynamics*, 533 F. 2d 163, Fifth Circuit decided June 9, 1976. Thus, the bill reflects the legislative determination that the alternative to the payment of union dues provided in the bill—

Reasonably accommodate/s/ . . . an employee . . . religious observance or practice without undue hardship.

Title VII, section 701(j), 43 United States Code, section 2000e(j). The option of allowing a qualifying individual the ability to pay the equivalent of dues to a nonreligious charity clearly constitutes a "reasonable accommodation" to the individual's religious beliefs.

The bill has widespread support and virtually no opposition. The labor movement has recognized that this bill represents a fair and just accommodation. Those who represent the members of the religious groups that are potentially affected by this bill are strongly supportive of the measure. And, of course, the bill was supported unanimously by the Education and Labor Committee. It is clear that H.R. 3384 deserves the overwhelming support of this body and I urge its passage.

Mr. DUNCAN of Oregon. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. Mr. Speaker, I congratulate the chairman, the gentleman from New Jersey (Mr. THOMPSON), the gentleman from Illinois (Mr. ERLENBORN), and the gentleman from California (Mr. DON H. CLAUSEN) for demonstrating this morning that what appeared to be irreconcilable differences can be reconciled by men of good will. I think the labor movement pointed us in this direction because they have for years approved on an ad hoc basis this solution to a difficult problem.

Finally I would like to call to the attention of this body the work my distinguished predecessor, Mrs. Edith Green, performed in this field in the 1960's when she was pointing in this direction. She should take great satisfaction that her objective has finally been accomplished.

Mr. THOMPSON. I hope the gentlewoman, our former distinguished colleague, is aware of this action. I certainly respected her attempt at that time. As a matter of historical fact, the former attempt to amend the act in this manner was not objected to by me on any ground of principle. It was objected to on the ground that it was not germane to the pending legislation.

Mr. DUNCAN of Oregon. If the gentleman will yield further, I would just like to say that the gentleman's contribution to this solution to the problem has been a very substantial one. He deserves a great deal of credit from those members of the religious organizations affected.

Mr. THOMPSON. I thank the gentleman from Oregon.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Speaker, I join the others in complimenting the distinguished gentleman from New Jersey, the chairman of the subcommittee that reported this legislation and all the Members on both sides of the aisle that reported it. It was unanimously reported from the Committee on Education and Labor, as the gentleman says. It is a measure that deserves the unanimous support of this House.

Mr. THOMPSON. Mr. Speaker, I thank the gentleman from Washington.

I might also add to the list of the gentleman from Oregon, our distinguished colleague, the gentlewoman from California (Mrs. PETTIS), who has been very active and interested in the outcome of this measure.

Mr. AUCOIN. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from Oregon.

Mr. AUCOIN. Mr. Speaker, I rise today to associate myself with the aim of H.R. 3384 and the concept of the "conscience clause."

While I was a member of the Oregon Legislature, I cast a vote in favor of a similar provision in State law and it is a pleasure to do so again, this time in Congress.

Working men and women should not have to choose between a job or their religion. Such a choice abridges the freedom of religion, one of the many basic rights we cherish and defend in this great Nation of ours.

It is a compliment to the gentleman from New Jersey, Mr. THOMPSON, and to the gentleman from Illinois, Mr. ERLENBORN, that this bill has been brought to the House floor expeditiously and with bipartisan support following the consideration of H.R. 8410, the National Labor Relations Act.

I also believe organized labor, and specifically the AFL–CIO, has shown wisdom in acknowledging the precedence of a conscience objection against joining a labor organization. Labor's accommodating position, which still preserves the integrity of the basic bargaining unit, is truly commendable.

Mrs. LLOYD of Tennessee. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON. I yield to the distinguished gentlewoman from Tennessee.

Mrs. LLOYD of Tennessee. Mr. Speaker, I, too, would like to compliment the distinguished chairman of this committee and others who have worked to bring this bill to the floor. I ask everyone to unanimously support it.

Mr. PERKINS. Mr. Speaker, I would like to commend my good friend, the gentleman from New Jersey, the chairman of the Subcommittee on Labor-Management Relations, for bringing the bill H.R. 3384 to the floor of the House. It is an appropriate and desirable amendment to our Nation's labor laws.

The bill is designed to accommodate the religious beliefs of those who conscientiously object to joining or financially supporting a labor organization. It is designed to protect the interests of those belonging to a religious organization or sect which historically holds such beliefs.

Under the National Labor Relations Act, where a union has been designated as the bargaining representative for a group of employees, it is the exclusive bargaining agent for all employees and has an obligation to represent all employees in the bargaining unit fairly and without discrimination. This is true whether or not the employee is a union member and whether or not the employee pays union dues.

Section 8(a)(3) of the act currently permits, but does not require, the employer and the union to enter into an agreement under which all employees must pay fair and reasonable union dues as a condition of continued employment. This statutory provision has generally worked and has generally been considered fair. It was designed to deal with the so-called "free rider"—the worker who would enjoy union representation without paying a fair share of the cost.

The current law, however, does not adequately meet the problem of the employee who objects to the payment of dues because of religious beliefs. The bill before us today, H.R. 3384, permits such a person to refrain from joining or supporting a labor organization on the condition that that person pay, in lieu of periodic dues and initiation fees, an equivalent sum to a nonreligious charitable fund. This option of allowing a qualified person to pay an equivalent sum in lieu of periodic dues and initiation fees constitutes a reasonable and fair accommodation to individually held religious beliefs.

I urge my colleagues to support this bill.

Mr. ERLENBORN. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in heartfelt support of this bill (H.R. 3384) and to express my sincere appreciation to the gentleman from New Jersey (Mr. THOMPSON), the chairman of the Labor-Management Relations Subcommittee, for taking this step to fulfill his oft-stated pledge to preserve the religious liberty of even the smallest groups which strictly adhere to matters of conscience.

H.R. 3384 amends section 19—which, I am proud to say, I authored in 1974—of the National Labor Relations Act by providing that all employees—not just employees of health care institutions—who are members of and adhere to teachings of a bona fide religion which has historically held conscientious objections to joining or financially supporting unions will not be required to do so, but may be required to contribute the equivalent in dues and fees to a nonreligious charity. Under H.R. 3384, proof of such payments must also be made.

The drive to enact this type of legislation began more than a decade ago, in 1965, when our esteemed former colleague, Edith Green, offered such an amendment to a bill to repeal section 14(b). Although her efforts were then ruled nongermane to the bill before the House, she and another former Congressman, Floyd Hicks of Washington, continued to press for this legislation throughout their congressional careers.

That drive—crusade, if you will—has been continued by others including myself, Chairman THOMPSON, Mr. DON H. CLAUSEN, Mrs. PETTIS, Mr. DUNCAN of Oregon, and Mr. STUMP, to name a few. H.R. 3384 is the result of these persistent efforts.

I know of no opposition to this bill. It has the acceptance of organized labor and management alike. Organized labor expressed its concern in 1965, when the AFL–CIO's executive council declared "it to be the policy of the AFL–CIO that unions should accommodate themselves to genuine individual religious scruples," and urged affiliated national and international unions to "adopt procedures for respecting sincere personal convictions as to union membership or activities" and "to undertake to insure that this policy is fully and sympatheticaly implemented by all local unions."

That position was reinforced a few weeks ago by George Meany, the president of the AFL–CIO, while testifying before the Subcommittee on Labor-Management Relations on H.R. 8410, the proposed Labor Law Reform Act. Mr. Meany stated:

> Our position on that I think has been clear for years, and I think it is a fair position on the people who have conscientious objections to joining unions. We think they should participate, that they are the beneficiaries of good contracts where we get good contracts. At the same time we want to recognize their obligations to their particular religion. So we say in effect that they should make a contribution not to us but to some charitable (organization) . . .

In view of our constitutional heritage, one may ask why such an amendment to the NLRA is necessary: Does not the Constitution protect our freedom of religion?

My answer is that yes, it does, but that the developing law has been interpreted to erode that freedom in a manner unforeseen by protectors of that freedom. Just questioning whether the exercise or practice of religious conscience may be denied under our national labor law is sufficient reason to set the record straight and amend our law to be compatible with our first amendment rights.

Specifically, amendment I of the Constitution reads:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or the press; or the right of the people peacably to assemble, and to petition the Government for a redress of grievances.

H.R. 3384 simply removes any question as to whether the first phrase of the first amendment has any meaning under our national labor law.

This bill is necessary to resolve any ambiguity between constitutional rights and union security provisions of our labor laws. In 1947, Congress passed the National Labor Relations Act, which contained in section 8(a)(3) a provision for union security—that provision is similar in content to the subsequently enacted section 2 eleventh of the Railway Labor Act, which represented a change in the direction of railroad industry bargaining away from consistently advocating "freedom of choice." Section 8(a)(3) of the NLRA allows a labor organization and an employer to enter into a collective bargaining agreement requiring, as a condition of continued employment, membership in the labor organization after 30 days, although "membership" has been since defined as the payment of dues and fees, uniformly required.

It is clear that the proviso to section 8(a)(3) was enacted to require the "free rider"—to pay his or her proportionate share of the cost of the benefits provided by collective bargaining. There was to be a sharing of the burden of maintenance by all of the beneficiaries of union activity. Protections were offered to safeguard the rights of dissenters in that their employment relationship could not be interfered with, except for their failure to tender the periodic dues and fees uniformly required.

Despite that attempt to protect dissenters, there were, unfortunately, no protections offered to a relatively unknown minority—and a very small minority at that. That is the minority of those who hold religious beliefs against joining or financially supporting labor organizations or similar organizations. To my knowledge there are seven such religious groups, including Plymouth Brethern IV and Mennonites. Probably the largest such religion is the Seventh-Day Adventist Church which has about 500,000 members. Others are the Amish, the National Association of Evangelicals, the Christian Missionary Alliance, and the Old German Baptists.

Those with such religious convictions are entitled to the exercise of those convictions. They should not have to choose between their religion and their jobs. Yet they often must. Let me list a few cases:

CURRENT SEVENTH-DAY ADVENTIST CASES REGARDING LABOR UNION MEMBERSHIP AGAINST RELIGIOUS CONVICTIONS

[A partial listing]

DARRELL NOTTELSON

After studying the counsel from the church more fully in 1974, Mr. Darrell C. Nottelson

of Menomonee Falls, Wisconsin, an employee of the A. O. Smith Corporation of Milwaukee, requested of the Smith Steel Workers Directly Affiliated Labor Union, 19806 AFL–CIO, to accommodate his religious beliefs by allowing him to contribute an amount equal to his union dues (about $6 a month) to a nonunion, nonreligious charity and to discontinue his membership in the union. Mr. Nottelson received unemployment compensation for a time but when it was contested by the A. O. Smith Corporation a hearing officer reversed his eligibility to receive unemployment compensation when Mr. Nottelson was billed for the $1,600 he had received. Mr. Nottelson lost his full retirement benefits which he would have been eligible for had he worked another two years. He was unable to find employment as a welder because of the high percentage of union shops in his profession. Mr. Nottelson's EEOC complaint served as the basis for a law suit which was heard September 2, 1977 before Judge Robert Warren, the United States District judge, Eastern District, Wisconsin.

WILMA HAYNES

Mrs. Haynes worked as a secretary at the Dallas & Mavis Forwarding Company in South Bend, Indiana, a nonunion employer. Following a successful certification effort by the Teamsters, the union negotiated a contract with the company containing a union security clause. All employees were required to join the union. Because of her religious beliefs Mrs. Haynes could not do this. On September 27, 1974 she authorized her dues to be withheld by the company and paid to a charity. The Teamsters turned down this arrangement. On November 8, 1974 she was dismissed. During the time Mrs. Haynes was under extremely high pressure prior to her dismissal she suffered heart irregularities that she felt and her physician felt was directly related to her emotional stress over her impending termination. The same Teamsters Local had previously allowed Mr. Jon Lamon, an employee of the Southern Michigan Cold Storage Company in South Bend to be exempt from the union security provisions of a contract they had just won. However, the Teamsters were unwilling to do it for Mrs. Haynes and insisted that she be dismissed.

BERNADINE BALD

After becoming convinced that she could no longer be a member of the Teamsters Local 959 in Anchorage, Alaska, Mrs. Bald, an employee of the RCA Alaska Communications, Inc., resigned from the union on September 1, 1974 and requested the option of paying her dues to a neutral charity. The union refused and Mrs. Bald was terminated in December of 1974. Her case is presently pending before the Supreme Court of the State of Alaska.

DORIS M'DANIEL

After starting work for the Essex Wire Company in Berrien Springs, Michigan, Mrs. McDaniel discovered that there was no accommodation for religious beliefs by the company or the International Association of Machinists when individuals held religious beliefs against joining or financially supporting a labor union. She was discharged on December 28, 1972. She instigated a charge of discrimination with the Equal Employment Opportunity Commission. Action was subsequently entered in the court of the Western District of Michigan in response to a motion to dismiss filed by the International Association of Machinists, Judge Fox dismissed the case on January 13, 1976. The case is presently on appeal before the Sixth Circuit Court of Appeals.

DUANE TERRELL BURNS

In 1970 Mr. Burns joined the Seventh-day Adventist Church. As he came to understand the teachings of the church and his relationship with other people and organizations, he determined that he could no longer remain a member of the United Transportation Union and resigned from the union on February 26, 1974. When the union declined to make an accommodation based on an alternate payment of dues to a charitable organization, Mr. Burns filed a complaint with the Equal Employment Opportunity Commission and filed suit in court on March 1, 1974. Mr. Burns has appealed his case from an unfavorable ruling of the district court of Arizona to the Ninth Circuit Court of Appeals where the case is now pending.

DAVID ANDERSON

In 1972 Mr. Anderson was fired by the General Dynamics Company in San Diego after he withdrew from the International Association of Machinists. He offered to pay the equivalent of dues to a neutral charity but his offer was declined. He was dismissed after having worked at the General Dynamics Plant following the successful efforts of the union to obtain a union security contract. Thus his dismissal came about by conditions beyond his control. Mr. Anderson lost the case in the Southern District of California and has appealed it to the Ninth Circuit Court of Appeals where the case is now pending.

CLARITA MICHAUD

Mrs. Michaud worked for the Oxford Paper Company which was sold in about April of 1976 to the Boise-Cascade Company. Thereafter she was confronted with a union security contract between the United Paper Workers of America and the company. She offered to pay the equivalent of dues to a charity but the union steadfastly refused. When it was evident that the matter would be the subject of litigation the union agreed to have a neutral escrow fund established to be certain that her dues were paid the same as other workers. Her case was lost in the Superior Court of Maine (Oxford County) and is presently on appeal to the Supreme Judicial Court of the State of Maine. She is continuing to work pending the outcome of the litigation.

ROBERT A. WONDZELL

Mr. Wondzell had been a member of the Lumber Production and Industrial Workers Union Local 2362 for about nine years while he was employed by the Alaska Wood Products Company in Wrangell, Alaska. During this time he became a member of the Seventh-day Adventist Church. Several years later he came under conviction that he should withdraw from the union and requested that he be accommodated by being allowed to pay his dues to a neutral charity. The union refused and the company discharged him on May 7, 1975. After filing charges of discrimination before the state and federal civil rights agencies he was issued a Right-to-Sue letter and entered action in the superior court for the State of Alaska. On October 15, 1975 the Judge found against him. His case is now on appeal to the Supreme Court of the State of Alaska.

HOWARD COOPER, RITA KIMBELL, AND HOWARD HOPKINS

These three Seventh-day Adventist Church members worked at the General Dynamics plant in Fort Worth. For a number of years there was no compulsory union membership requirement because Texas is a Right-to-Work state. However, the International Association of Machinists entered into a union security agreement with General Dynamics and petitioned for the discharge of the employees when they refused to join or support the labor union. The case went to the U.S. District Court for the Northern District of Texas where the three Seventh-day Adventist members lost. The case was appealed to the Fifth Circuit Court of Appeals where on June 9, 1976 the Court reversed the lower court's decision and remanded the case to the district court to determine accommodation on the facts of the case. The International Association of Machinists and General Dynamics appealed the decision to the U.S. Supreme Court. Without hearing the case the Supreme Court remanded the case during the summer of 1977 to the district court for determination of accommodation in harmony with its Title VII decisions. The case is now back in the district court for a hearing on the merits.

Religious liberty has always been, and should continue to be, a matter of the highest priority. Many Federal laws have provided special treatment because of personal religious belief. These include:

First. The Postal Reorganization Act of 1970;

Second. The Military Selective Service Act;

Third. The Immigration and Nationality Act;

Fourth. The Social Security Act;

Fifth. The Federal Aviation Act;

Sixth. The Civil Rights Act of 1964—title VII; 1968—housing; and 1972;

Seventh. The Jury Selection and Service Act;

Eighth. The Public Health Service Act Amendments of 1973; and

Ninth. The 1974 "health care" amendments to the National Labor Relations Act.

Some feel that the religious accommodation represented by this bill does not rise to the status of a first amendment issue. By recognizing that this bill accommodates the religious beliefs of those small sects I have mentioned, and thereby reconciling the National Labor Relations Act with the Equal Employment Opportunity Act, I believe that the first amendment constitutional rights are fully protected, for that is what the EEOA sought to accomplish. Certainly this bill accepts the principle of religious liberty as guaranteed by our Constitution, and implemented by the Equal Employment Opportunity Act; and it is clear the bill prefers that principle over any conflict with it raised by our national labor policy.

Enactment of this legislation will demonstrate the Federal Government's abiding concern for the preservation of religious liberty to all those who strictly adhere to the teachings of their religion, regardless of how small their numbers.

I urge my colleagues to support this bill.

Mr. Speaker, I yield to the gentleman from Alabama (Mr. EDWARDS).

Mr. EDWARDS of Alabama. Mr. Speaker, I thank the gentleman for yielding.

I have a question. The committee report refers to section 8(a)(3), which permits, but does not require, the employer and the union to agree that all employees must pay fair and reasonable union dues as a condition of continued employment.

I suspect that is with respect to an agency shop, where it is agreed to by both the union and the employers.

Mr. ERLENBORN. Yes, that is correct.

Mr. EDWARDS of Alabama. Mr. Speaker, if the gentleman will yield further, the bill in question amends section 19. Does this put a conscientious objector in any different position than the employee who does not care to join a union and who works for a company where there is no agreement between the union and the employer under section 8(a)(3)?

Mr. ERLENBORN. If I understand the gentleman's question, the only case where the acts we are considering would be necessary is where there is an agency shop agreement and the employee who belongs to one of these religions is then faced with making a choice between his job or his religion.

The SPEAKER pro tempore. The time of the gentleman from Illinois has expired.

Mr. ERLENBORN. Mr. Speaker, I yield myself 1 additional minute.

Mr. Speaker, if there is no agency shop agreement, there would be no necessity for the application of this act, because the employee would not be required to pay dues or join the union.

Mr. EDWARDS of Alabama. Will the gentleman yield further?

Mr. ERLENBORN. I will be happy to.

Mr. EDWARDS of Alabama. So that under section 8(a)(3), if the employer and employee had not bargained and agreed there would be an agency shop, then, a conscientious objector would not be required to pay anything to an organization under the present bill?

Mr. ERLENBORN. The gentleman, in my opinion, is correct. I think there are two situations: the union shop and the agency shop. The union shop, where the employee might be forced to join the union; the agency shop, where, although he is not forced to join the union, he is forced to pay initiation fees and dues to the union.

In both of those stiuations, this act would apply for the conscientious objector who belongs to a religion which prohibits him as a matter of conscience from doing so. He would, if it is so agreed between the union and employer, be required to pay the equivalent amount to a charity not connected either with the union or with his religion.

The SPEAKER pro tempore. The time of the gentleman from Illinois has again expired.

Mr. ERLENBORN. Mr. Speaker, I yield myself 1 additional minute.

I would ask the gentleman from New Jersey if he does not agree with the interpretation as revealed by the colloquy between myself and the gentleman from Alabama.

If I might just restate the question very succinctly, the only time this law would be necessary is if there is either a union shop or an agency shop agreement in effect. If there is a union that has been certified and is acting as the bargaining agent, but there is neither an agency shop or a union shop agreement between that union and the employer, the problem does not arise and the employee is not faced with the necessity of either joining or paying dues.

Mr. THOMPSON. The gentleman is quite correct.

Mr. ERLENBORN. I thank the gentleman.

Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. DON H. CLAUSEN).

Mr. DON H. CLAUSEN. Mr. Speaker, it gives me great pleasure to see the House of Representatives ready to affirm today one of our basic constitutional principles—the first amendment guarantee of free exercise of religion.

The concepts behind the religious freedom amendment have come to fruition because of the cooperation, commitment and resolute efforts in the Labor Management Subcommittee of the gentleman from New Jersey (Mr. THOMPSON), the gentleman from Illinois (Mr. ERLENBORN), the gentlewoman from California (Mrs. PETTIS) and the gentleman from Oregon (Mr. DUNCAN) and Mr. AUCOIN, Mrs. LLOYD of Tennessee and Mr. STUMP of Arizona—all have made significant contributions to insuring that we will have true religious liberty in our Nation's labor law. We have been working for 13 years on an effort initiated by our respected former colleague from Oregon (Mrs. GREEN).

They have demonstrated that they are champions of religious freedom and it has been my privilege and pleasure to coordinate this legislative effort with my good friends and colleagues in the House and with the religious groups directly affected by this legislation.

H.R. 3384 the "religious freedom amendment," would provide that any employee who is a member of a religion or sect historically holding conscientious objection to joining or financially supporting a labor organization, would not be required to do so. In effect, it would protect the rights of conscience of thousands of sincere people who believe it to be a violation of Biblical principles to join or financially support a labor union.

In the past we have passed legislation to protect the free exercise of religion. For instance, consider our laws providing for religious dissenters to military service, for religious dissenters to the social security program and for health-care workers. The religious freedom amendment will simply follow this precedent by permitting certain, relatively small, religious groups to freely exercise their religious beliefs without losing their jobs if they work under labor-management contracts with union security clauses. These religious bodies include the Amish, some of the Mennonite groups, the Old German Baptists, and Plymouth Brethren No. 4, and the Seventh-day Adventists.

In seeking the exemption from union shop agreements these people cannot be called "free-riders" for, in fact, they are in complete agreement with the provisions in this measure which provide that the full amount of union initiation and the full amount of union dues will be paid to a charity that is mutually acceptable to both the union and the people who, as a matter of conscience, cannot join the union.

Some may wonder why this legislation is necessary. Let me explain it this way.

Religious dissenters to membership in or financial support of labor organizations have had difficulties ever since the National Labor Relations Act required them to either join or financially support a labor organization. During the 1940's and 1950's individuals and at least one of the churches tried to make voluntary arrangements with labor organizations, but often the arrangements did not work satisfactorily.

Through the last few years several religious dissenters on this issue have sought protection through section 701 (j) of title VII of the Civil Rights Act of 1965. Their efforts in the courts to determine whether such accommodations are reasonable and do not cause undue hardship to the employer or the labor organization have met with mixed results. The Court of Appeals in the Fifth Circuit has ruled that a labor organization and an employer must try to accommodate. That case involved three employees with 20 or more years' work experience. However, in California, my home State, a Federal district court has upheld the firing of a worker with 22 years of experience who refused to either join or financially support a labor organization.

In Wisconsin, another worker was fired after nearly 30 years at the job, again over the conflict between his religious beliefs and a union-security clause. His case is now before a Federal district court. Thus some courts are extending title VII protection to these religious dissenters and others are not. It is up to us here in the Congress to show our intent that these people should be allowed to exercise their religious beliefs.

In 1974, when we amended the National Labor Relations Act to allow unionization of private health care institutions, we added a section 19 to the act which gave "conscience clause" coverage to these specific workers. The bill before us, H.R. 3384, the religious freedom amendment, amends section 19 so that it will cover all workers covered by the National Labor Relations Act.

This measure has received strong support from both sides of the aisle and from labor and management alike. In fact, George Meany, president of the AFL–CIO, while testifying before the Subcommittee on Labor-Management Relations on another House bill said the following about our amendment concept:

"Our position on that, I think, has been clear for years, and I think it is a fair position on the people who have conscientious objections to joining unions. We think they should participate, that they are the beneficaries of good contracts where we get good contracts. At the same time we want to recognize their obligations to their particular religion. So we say, in effect, that they should make a contribution, not to us, but some charitable (organization). . . .

Our hearts and our minds tell us this is a bill that merits our approval. In the true spirit of the first amendment free-exercise of religion clause of our Constitution, I urge my colleagues to join me in supporting H.R. 3384.

In my judgment, the greatest contribution to the social progress of mankind anywhere on Earth, has come as a result of the established guidelines in our Constitution. Of all the Constitutional amendments, I personally believe that first amendment has been the most constructive and protective of our basic and cherished freedoms. This measure is, in fact, simply a restoration to our Federal labor laws of the full constitutional guarantee of freedom of religion to practice religion.

The legislative effects of this measure go beyond permitting the free exercise of an individual's religious conscience in his employment. It is a reaffirmation by the Congress that we will take whatever steps are required to insure in every way the right of each American to worship his God in his own way. And, further, that no action by Government—directly or indirectly—will be allowed which would limit this right.

We do not need to share this viewpoint, indeed we do not even need to understand it to stand emphatically in support of these individuals' conscientious convictions.

Religious liberty does not mean, after all, simply to respect a man's religion. It means to protect his right to practice a religion we may not respect. Let us be remembered as statesmen who recognized this fact and who acted resolutely and intelligently in their defense of and for the cause of religious freedom in America.

Mr. THOMPSON. Mr. Speaker, will the gentleman yield?

Mr. DON H. CLAUSEN. I yield to the gentleman from New Jersey.

Mr. THOMPSON. I think also that the late and distinguished former Senator from Oregon, Wayne Morse, should be recognized at this time for his efforts over a long period of time to achieve the result which we hope is achieved today. Senator Morse was very deeply and vitally interested, and communicated with me on innumerable occasions on behalf of this legislation.

Mr. DON H. CLAUSEN. I am glad the gentleman made that observation.

Mr. DUNCAN of Oregon. Mr. Speaker, will the gentleman yield?

Mr. DON H. CLAUSEN. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. I feel remiss, and I want to thank the gentleman from New Jersey, for mentioning the fact of Senator Morse's participation. There was no one who spoke out more clearly or more loudly or at such length on behalf of the rights, not only of organized labor, but of the rights of people in religious minorities.

Mr. DON H. CLAUSEN. Mr. Speaker, I appreciate the comments of the gentleman from Oregon.

Mr. THOMPSON. Mr. Speaker, I have no further requests for time.

Mr. ERLENBORN. Mr. Speaker, I yield 5 minutes to the gentlewoman from California (Mrs. PETTIS).

Mrs. PETTIS. Mr. Speaker, I rise today in wholehearted support of H.R. 3384, the religious freedom amendment to the National Labor Relations Act. I should add that I am a cosponsor of an identical bill—H.R. 9368.

My sincere appreciation goes out to our distinguished colleague, the gentleman from New Jersey (Mr. THOMPSON), the chairman of the Subcommittee on Labor-Management Relations, who has been instrumental in getting this bill reported to the floor.

I also would like to credit our colleagues: Mr. DON CLAUSEN and Mr. JOHN ERLENBORN for their continued and enthusiastic support of this legislation.

Mr. Speaker, unlike many of us here today, I am not an attorney and neither am I an expert on constitutional law.

However, like every citizen of these United States, I hold dear the cherished words of the first amendment to the Constitution which guarantee us all the right to follow our respective religious faiths.

But I fear that many of my colleagues may not be aware that thousands of Americans whose religious beliefs prohibit them from joining labor organizations have had to choose between retaining their jobs or violating their religious consciences.

Sadly, many of sincere religious conviction have wound up on unemployment rolls because of their strong religious beliefs.

I am aware of at least 32 men and women in my congressional district who, during the past several years, have either lost or have been refused employment because of religious beliefs which prohibit them from financially supporting a labor organization.

As many of you may know, I am a Seventh-day Adventist and the tenets of my church strictly prohibit union membership.

This problem is not only encountered by Seventh-day Adventists, however, but it affects other religious bodies as well.

I should stress that it is not our desire to create a special class of religious "free riders" who will take advantage of benefits negotiated by labor or professional organizations without contributing to the support of these groups.

H.R. 3384 remedies this problem by requiring that employees whose sincere religious beliefs prohibit the monetary support of labor organizations be permitted to contribute to nonreligious charitable funds in place of periodic labor organization dues or initiation fees.

I would remind my colleagues that during testimony before the Subcommittee on Labor-Managment Relations in September, George Meany, the President of the AFL–CIO, endorsed this concept and that the 1965 AFL–CIO policy statement supports the "conscience clause" which is part and parcel of H.R. 3384.

However, I am sorry to report that not all member unions of the AFL–CIO have instituted a clear, consistent policy to accommodate those who may not join a labor union due to religious dissent.

H.R. 3384 would simply bring all labor organizations in line with AFL–CIO policy on this question. It is not an anti-labor measure by any means. It is, rather, an attempt to preserve the religious liberties which were guaranteed by our forefathers.

In debating this issue, it occurs to me that while the first amendment is intended to grant us the right of freedom of religion, economic conditions today are such that one can ill afford to give up his job to satisfy his religious conscience.

Yet, many have been forced to do just this and, therefore, the essence of the first amendment has been violated.

I ask my colleagues to vote in favor of H.R. 3384 and bring the protection of the first amendment to all our citizens who are covered by the National Labor Relations Act.

A nation such as ours that speaks out to the world on the question of human rights can ill afford to bring hardship and misery upon some of its working men and women because of their sincerely held religious beliefs.

Mr. THOMPSON. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I would like to commend the Public Affairs and Religious Liberties Department of the Conference of Seventh-day Adventists and, particularly, Mr. Melvin Adams, who testified before us. Unfortunately, I cannot name all the others who have taken such a great and consistent interest in this legislation.

Mr. DRINAN. Mr. Speaker, as we consider the religious freedom amendment to the National Labor Relations Act, we must reflect upon the fact that religious freedom lies at the heart of our system of Government.

The issue before us today is a simple one and yet extremely significant: Will we allow employees to exempt themselves from union membership for religious reasons? Mr. Speaker, our entire tradition of tolerance and pluralism argues strongly for a yes vote on the religious freedom amendment offered by Mr. THOMPSON.

The expansion and protection of religious freedom is so central to our democracy that I regard today's issue as clear-cut. By voting yes we are recognizing the deeply felt religious convictions of many of our citizens which prevent them from affiliating with labor organizations. To refuse to acknowledge and make allowances for these legitimate convictions is to say that our system of Government cannot brook dissent or diversity. That is hardly the message this House would want to send to the American people.

Mr. Speaker, I urge my colleagues to recognize the strong religious views held by some of our finest citizens which include conscientious objection to union membership. I urge a yes vote on H.R. 3384.

Finally, I believe the House will pass this legislation today and thereby signal not the end, but only an important step

toward a further expansion of religious freedom. I am hopeful that during the next session of Congress we will pass H.R. 8429, which I have introduced and which provides full protection of the law for those individuals whose religious beliefs preclude their working on Saturday. Under present law, employers may force their workers to labor on Saturday, despite any religious objection, under threat of dismissal. To state it bluntly, present law discriminates against Seventh-day Adventists, Orthodox Jews, and other groups who observe a Saturday Sabbath. Present law must be changed.

Mrs. LLOYD of Tennessee. Mr. Speaker, I would like to urge my fellow colleagues to support H.R. 3384, the religious freedom amendments, which we are considering under suspension of the rules today. This bill provides that any employee who belongs to a religion or group historically holding conscientious objections to joining or financially supporting a labor organization shall not be required to do so but instead will be required to pay a sum equal to and in place of periodic union dues and initiation fees to a nonreligious charitable fund.

Our Nation has remained the strong power that it is because the individual's rights and freedoms have been safeguarded and this most assuredly includes the right to freedom of religion under the first amendment. The freedom of religion is an important part of our American heritage and it is essential that we insure through legislation such as H.R. 3384 the protection of human rights and individual dignity.

There are those whose religious convictions will not allow them in good conscience to join labor unions or financially support them even if it results in the loss of a job or dislocation to a State where they would not be placed in such a situation. This amendment will simply give these people the freedom to continue to work under circumstances which will allow them to pursue their religious beliefs in good faith.

I am confident that my colleagues will recognize the importance of this legislation, and the vital need for the protections of constitutional rights which have served as a foundation for the progress of our great country. Let us not deny any American those inherent rights which all of us are so proud to enjoy as citizens of a country which was built on the belief that an individual's rights and freedoms must be our primary concern.

Mr. ERLENBORN. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, I rise in support of H.R. 3384. In 1974, the Congress adopted an amendment to the health care institution bill, Public Law 93-360, which provided that if any employee of a health care institution belonged to a religion or sect which historically held conscientious objection to joining or financially supporting a labor organization, the employee would not be required to do so. Instead, where there was negotiated a union security clause requiring membership or financial support, the employee of a health care institution could contribute the equivalent of dues and fees to a nonreligious charity set out in the collective-bargaining agreement, or if none were set out, could contribute to a nonreligious charity of his choice.

This bill expands those protections of religious freedom to all employees, not just employees of health care institutions, but all employees. It is a bill supported by both Republicans and Democrats. It is a bill that comports with the policy of the AFL-CIO set out in 1965. At that time the AFL-CIO executive council officially declared that unions should accommodate themselves to genuine individual scruples.

It has been argued that such a bill is unnecessary since the courts and the National Labor Relations Board have held that membership in a labor organization cannot be compelled under the union security provisions of the act. *Union Starch and Refining Co.* v. *NLRB*, (186 F. 2d 1008 (1951)). However, some religions or sects oppose financial support as well as membership. Accordingly, this bill makes clear that employees will not have to either join a labor organization or financially support unions if the religion or sect to which they belong prohibit such.

The bill, additionally, solves the problem of the alleged "free rider"—those who receive the benefit of union assistance, but do not contribute to its support. Instead of requiring equivalent support for the union, the bill requires the equivalent of dues and fees be contributed to a nonreligious charity. Therefore, the objecting employee does not get off without some contribution, but allows the employee to pay his fair share in a manner compatible with his conscience. All the employee must do is offer proof of his contribution in a manner set out in rules and regulations by the board.

H.R. 3384, therefore, resolves a longstanding conflict for employees who are members of various religious or sects which historically hold conscientious objections to joining or financially supporting unions. The conflict of making such employees choose between their religion or their jobs was incompatible with our constitutional rights and rights under the Equal Employment Opportunity Act.

It should be made clear that the religious do not object to unions as such, but they do object to sources of potential conflict, and to membership in organizations other than their church. This bill, which requires contributions to nonreligious charities, does not conflict with the beliefs of these small religious groups. The heritage of this country is based on majority rule with protection of minority rights. This bill recognizes and enhances this heritage.

But, it should also be made clear that the bill does not resolve all our conflicts regarding religious liberty and our national labor laws. However, it should be fairly clear that Congress endorses an accommodation to religious conscience to a degree not yet found in our court and board decisions. Hopefully, we can reach a greater accommodation to our Sabbatarians by the development of the law in the area of reasonable accommodation to an individual's religious beliefs. If not, then the Congress would have to act again.

The chairman of our subcommittee (Mr. THOMPSON) is to be applauded for bringing this bill to the floor. Not long ago, he committed himself to do so, and, consistent with that commitment, we see H.R. 3384 on the floor today. Along with Mr. THOMPSON are others who have worked hard to see this bill enacted, including Mr. ERLENBORN, Mrs. PETTIS, Mr. DON CLAUSEN, Mr. ROBERT DUNCAN, and former Members of Congress, Mr. Floyd Hicks and Mrs. Edith Green, who originally proposed such an amendment to the NLRA. I join them in their efforts and fully support the bill before us today. I urge my colleagues to support it as well.

GENERAL LEAVE

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent that all Members may have 3 legislative days in which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro temore. (Mr. BROWN of California). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER per tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. THOMPSON) that the House suspend the rules and pass the bill H.R. 3384.

The question was taken.

Mr. ERLENBORN. Mr. Speaker, on that I demand that yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

SILETZ INDIAN TRIBE RESTORATION ACT

Mr. RONCALIO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7259) to restore the Confederated Tribes of Siletz Indians of Oregon as a federally recognized sovereign Indian tribe, to restore to the Confederated Tribes of Siletz Indians of Oregon and its members those Federal services and benefits furnished to federally recognized American Indian tribes and their members, and for other purposes, as amended.

The Clerk read as follows:

H.R. 7259

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Siletz Indian Tribe Restoration Act".

SEC. 2. For the purposes of this Act—

(1) the term "tribe" means the Confederated Tribes of Siletz Indians of Oregon;

(2) the term "Secretary" means the Secretary of the Interior or his authorized representative;

(3) the term "Interim Council" means the council elected pursuant to section 5;

(4) the term "member", when used with respect to the tribe, means a person enrolled on the membership roll of the tribe, as provided in section 4 of this Act; and

(5) the term "final membership roll" means the final membership roll of the tribe published on July 20, 1956, on pages 5454–5462 of volume 21 of the Federal Register.

SEC. 3. (a) Federal recognition is hereby extended to the tribe, and the provisions of the Act of June 18, 1934 (48 Stat. 984) as amended, except as inconsistent with specific provisions of this Act, are made applicable to the tribe and the members of the tribe. The tribe and the members of the tribe shall be eligible for all Federal services and benefits furnished to federally recognized Indian tribes. Notwithstanding any provision to the contrary in any law establishing such services or benefits, eligibility of the tribe and its members for such Federal services and benefits shall become effective upon enactment of this Act without regard to the existence of a reservation for the tribe or the residence of members of the tribe on a reservation.

(b) Except as provided in subsection (c), all rights and privileges of the tribe and of members of the tribe under any Federal treaty, Executive order, agreement, or statute, or under any other authority, which were diminished or lost under the Act of August 13, 1954 (68 Stat. 724), are hereby restored, and such Act shall be inapplicable to the tribe and to members of the tribe after the date of enactment of this Act.

(c) This Act shall not grant or restore any hunting, fishing, or trapping right of any nature, including any indirect or procedural right or advantage, to the tribe or any member of the tribe, nor shall it be construed as granting, establishing, or restoring a reservation for the tribe.

(d) Except as specifically provided in this Act, nothing in this Act shall alter any property right or obligation, any contractual right or obligation, or any obligation for taxes already levied.

SEC. 4. (a) The final membership roll is declared open. The Secretary, the Interim Council, and tribal officials under the tribal constitution and bylaws shall take such measures as will insure the continuing accuracy of the membership roll.

(b)(1) Until after the inital election of tribal officers under the tribal constitution and bylaws, a person shall be a member of the tribe and his name shall be placed on the membership roll if he is living and if—

(A) his name is listed on the final membership roll;

(B) he was entitled on August 13, 1954, to be on the final membership roll but his name was not listed on that roll; or

(C) he is a descendant of a person specified in subparagraph (A) or (B) and possesses at least one-fourth degree of blood of members of the tribe or their Siletz Indian ancestors.

(2) After the initial election of tribal officials under the tribal constitution and bylaws, the provisions of the tribal constitution and bylaws shall govern membership in the tribe.

(c)(1) Before election of the Interim Council, verification of descendancy, age, and blood shall be made upon oath before the Secretary and his determination thereon shall be final.

(2) After election of the Interim Council and before the initial election of the tribal officials, verification of descendancy, age, and blood shall be made upon oath before the Interim Council, or its authorized representative. A member of the tribe, with respect to the inclusion of any name, and any person, with respect to the exclusion of his name, may appeal to the Secretary, who shall make a final determination of each such appeal within ninety days after an appeal has been filed with him. The determination of the Secretary with respect to an appeal under this paragraph shall be final.

(3) After the initial election of tribal officials, the provisions of the tribal constitution and bylaws shall govern the verification of any requirements for membership in the tribe, and the Secretary and the Interim Council shall deliver their records and enrollment matters, to the tribal governing body.

(d) For purposes of section 5 and 6, a member who is eighteen years of age or older is entitled and eligible to be given notice of, attend, participate in, and vote at, general council meetings and to nominate candidates for, to run for any office in, and to vote in, elections of members to the Interim Council and to other tribal councils.

SEC. 5. (a) Within forty-five days after the date of the enactment of this Act, the Secretary shall announce the date of a general council meeting of the tribe to nominate candidates for election to the Interim Council. Such general council meeting shall be held within sixty days after the date of the enactment of this Act. Within forty-five days after such general council meeting the Secretary shall hold an election by secret ballot, absentee balloting to be permitted, to elect nine members of the tribe to the Interim Council from among the nominees submitted to him from such general council meeting. The Secretary shall assure that notice of the time, place, and purpose of such meeting and election shall be provided to members described in section 4(d) at least fifteen days before such general meeting and election. The ballot shall provide for write-in votes. The Secretary shall approve the Interim Council elected pursuant to this section if he is satisfied that the requirements of this section relating to the nominating and election process have been met. If he is not so satisfied, he shall hold another election under this section, with the general council meeting to nominate candidates for election to the Interim Council to be held within sixty days after such election.

(b) The Interim Council shall represent the tribe and its members in the implementation of this Act and shall be the acting tribal governing body until tribal officials are elected pursuant to section 6(c) and shall have no powers other than those given to it in accordance with this Act. The Interim Council shall have full authority and capacity to receive grants from and to make contracts with the Secretary and the Secretary of Health, Education, and Welfare with respect to Federal services and benefits for the tribe and its members and to bind the tribal governing body as the successor in interest to the Interim Council for a period extending not more than six months after the date on which the tribal governing body takes office. Except as provided in the preceding sentence, the Interim Council shall have no power or authority after the time when the duly-elected tribal governing body takes office: *Provided*, That no authority to make payments under this Act shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts.

(c) Within thirty days after receiving notice of a vacancy on the Interim Council, the Interim Council shall hold a general council meeting for the purpose of electing a person to fill such vacancy. The Interim Council shall provide notice of the time, place, and purpose of such meeting and election to members described in section 4(d) at least ten days before such general meeting and election. The person nominated to fill such vacancy at the general council meeting who received the highest number of votes in the election shall fill such vacancy.

SEC. 6. (a) Upon the written request of the Interim Council, the Secretary shall conduct an election by secret ballot, pursuant to the provisions of section 16 of the Act of June 18, 1934 (48 Stat. 987), for the purpose of adopting a constitution and bylaws for the tribes. The election shall be held within sixty days after the Secretary has—

(1) reviewed and updated the final membership roll for accuracy, in accordance with sections 4(a), 4(b)(1), and 4(c)(1),

(2) made a final determination of all appeals filed under section 4(c)(2), and

(3) published in the Federal Register a certification copy of the membership roll of the tribe.

(b) The Interim Council shall draft and distribute to each member described in section 4(d), no later than thirty days before the election under subsection (a), a copy of the proposed constitution and bylaws of the tribe, as drafted by the Interim Council, along with a brief, impartial description of the proposed constitution and bylaws. The members of the Interim Council may freely consult with members of the tribe concerning the text and description of the constitution and bylaws, except that such consultation may not be carried on within fifty feet of the polling places on the date of the election.

(c) In any election held pursuant to subsection (a), the vote of a majority of those actually voting shall be necessary and sufficient for the adoption of a tribal constitution and bylaws.

(d) Not later than one hundred and twenty days after the tribe adopts a constitution and bylaws, the Interim Council shall conduct an election by secret ballot for the purpose of electing the individuals who will serve as tribal officials as provided in the tribal constitution and bylaws. For the purpose of this election and notwithstanding any provision in the tribal constitution and bylaws to the contrary, absentee balloting shall be permitted.

SEC. 7. (a) Any reservation for the tribe shall be established by an Act of Congress enacted after the enactment of this Act.

(b) Inasmuch as the reservation of the tribe has been terminated, the Secretary shall negotiate with the tribe, or with representatives of the tribe chosen by the tribe, concerning the establishment of a reservation for the tribe and shall, in accordance with subsections (c) and (d) and within two years after the date of enactment of this Act, develop a plan for the establishment of a reservation for the tribe. Upon approval of such plan by the tribal officials elected under the tribal constitution and bylaws adopted pursuant to section 6, the Secretary shall submit such plan, in the form of proposed legislation, to the Congress.

(c) To assure that legitimate State and local interests are not prejudiced by the creation of a reservation for the tribe, the Secretary, in developing a plan under subsection (b) for the establishment of a reservation, shall notify and consult with all appropriate officials of the State of Oregon, all appropriate local governmental officials in the State of Oregon and any other interested parties. Such consultation shall include the following subjects:

(1) the size and location of the reservation;

(2) the effect the establishment of the reservation would have on State and local tax revenues;

(3) the criminal and civil jurisdiction of the State of Oregon with respect to the reservation and persons on the reservation;

(4) hunting, fishing, and trapping rights of the tribe and members of the tribe, on the reservation;

(5) the provision of State and local services to the reservation and to the tribe and members of the tribe on the reservation; and

(6) the provision of Federal services to the reservation and to the tribe and members of the tribe and the provision of services by the tribe to members of the tribe.

(d) Any plan developed under this section for the establishment of a reservation for the tribe shall provide that—

(1) any real property transferred by the tribe or members of the tribe to the Secretary shall be taken in the name of the United States in trust for the benefit of the tribe and shall be the reservation for the tribe;

(2) the establishment of such a reservation will not grant or restore to the tribe or any member of the tribe any hunting, fishing, or trapping right of any nature, including any indirect or procedural right or advantage, on such reservation;

(3) the Secretary shall not accept any real property in trust for the benefit of the tribe or its members unless such real property is located within Lincoln County, State of Oregon;

(4) any real property taken in trust by the Secretary for the benefit of the tribe or its members shall be subject to all rights existing at the time such property is taken in trust, including liens, outstanding Federal, State, and local taxes, mortgages, outstanding indebtedness of any kind, easements, and all other obligations, and shall be subject to foreclosure and sale in accordance with the laws of the State of Oregon;

(5) the transfer of any real property to the Secretary in trust for the benefit of the tribe or its members shall be exempt from all Federal, State, and local taxation, and all such real property shall, as of the date of such transfer, be exempt from Federal, State, and local taxation; and

(6) the State of Oregon shall have civil and criminal jurisdiction with respect to the reservation and persons on the reservation in accordance with section 1360 of title 28, United States Code, and section 1162 of title 18, United States Code.

(e) The Secretary shall append to the plan a detailed statement describing the manner in which the notification and consultation prescribed by subsection (c) was carried out and shall include any written comments with respect to the establishment of a reservation for the tribe submitted to the Secretary by State and local officials and other interested parties in the course of such consultation.

SEC. 8. The Secretary may make such rules and regulations as are necessary to carry out the purposes of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. JOHNSON of Colorado. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Wyoming (Mr. RONCALIO) and the gentleman from Colorado (Mr. JOHNSON) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. Mr. Speaker, I yield 5 minutes to the gentleman from Oregon (Mr. AUCOIN), the author of the legislation.

Mr. AUCOIN. Mr. Speaker, I appreciate the gentleman's yielding me this time.

Mr. Speaker and Members of the House, the Confederated Tribes of Siletz Indians of western Oregon were among those Indian tribes singled out by Congress in the 1950's for the disastrous experiment of terminating tribal status. "Termination" was declared during this period to be the long-range goal of Federal Indian policy and it meant that the Federal Government would completely sever its special relationship with Indian tribes and absolve itself of all responsibility for the tribes' welfare and survival. Congress enacted 13 termination acts before it became apparent that the effects of termination on Indian people were the opposite of those hoped for. Rather than assimilation into the mainstream of society, terminated Indians found themselves trapped between two cultures—unable to attain economic self-sufficiency and no longer accepted as Indians by the Government.

For the Siletz people in Oregon, the results were predictable and disastrous. This act will give the Siletz people the tools they need to help themselves. Those tools include health and education benefits, but—just as important—the bill restores tribal identity. Tribal status is crucial to Indians. It is the cornerstone for their collective success. It is the vessel for their cultural survival. Mr. Speaker, there can be no justification for singling out a few Indian tribes for treatment vastly different from that accorded almost all other Indian tribes. That is precisely the result worked upon the Siletz by the 1954 Termination Act.

It is the historical misfortune of the Siletz people to have been, first, caught up in the ill-conceived national policy of termination in the 1950's and, second, to be engulfed by an entirely separate controversy of Indian hunting and fishing rights in the Pacific Northwest in the 1970's.

For this reason, it is important to understand not only what this act does, but also what it does not do.

This act does not restore any hunting, fishing or trapping rights. Nor does it grant, bestow or convey special rights of any other kind. It does not create or restore a reservation, and it acknowledges no reservation exists now.

What the bill does is remedy the severe economic and social consequences of the termination policy. It restores Federal tribal recognition, thus qualifying the Siletz for benefits afforded to other Indians. It also sets up the machinery to plan for the possibility of a small Indian reservation for the Siletz at a future date.

Let us consider for a moment the example of the Siletz—a small, powerless tribe that found itself manipulated into termination. The result was that the Siletz found themselves much worse off than before. Unemployment among Siletz Indians in Lincoln County has reached as high as 44 percent. The median annual income for Siletz Indian families is $3,333. Some 44 percent of Indians aged 17 to 25 did not finish high school and 23 percent of Indian school children come from broken homes.

But even though the tribe was ill-prepared for the realities of termination and many Siletz Indians floundered as alcoholism, divorce, unemployment, suicide, and school dropout rates soared, the Siletz people maintained their tribalism, their identity, and a sense of community that persists today. It is a strong bond that may never be broken. What restoration of tribal status will do is automatically qualify the Siletz for vocational, educational, and counselling benefits to overcome their problems once and for all.

Notwithstanding the broad support which this measure has received throughout Oregon, there have been objections to the bill, based on unfounded fears that it will somehow restore or enhance already existing hunting and fishing rights or that it will restore other special rights and immunities from State law. I and numerous authorities in the field of Indian law, including the Associate Solicitor for Indian Affairs for the Department of the Interior and the Congressional Research Service of the Library of Congress, have closely examined and re-examined these issues for 3 long years. They, and I, are absolutely satisfied the bill does not grant any hunting, fishing or trapping rights.

Likewise, this act does not restore or create a reservation or "Indian country." And, as the bill's author, let me say that it does not restore to the Siletz Indians any rights which require "Indian country" for their exercise—even though the Indians may have had those rights before 1954. The restoration or creation of a reservation or any "Indian country" could not conceivably occur without the passage of the separate legislation.

The Siletz Indians have pursued this legislation in an honorable and forthright manner. Reasonableness and compromise are themes which aptly characterize the tribe's approach to the development of this act. Time and time again objections to the bill were raised by representatives of various State, resource preservation, and commercial and sports fishing interests. In all instances, the tribe responded in a spirit of compromise and good faith and the bill has been amended numerous times to meet those concerns.

The Siletz people now stand fully prepared to accept the responsibilities which restored tribal status will place on them. And while the benefits which will be forthcoming under this act will provide much needed tools with which the tribe can begin to cope effectively with their socioeconomic problems—the key to the future success of the tribe and its individual members lies in the restoration of tribal status.

Our experience with termination has shown that before an Indian individual—or any individual for that matter—can function successfully in society, he must have a positive sense of who he

is. That identity and positive self-concept rarely exists among Indian people whose tribal identity has been stripped from them.

Pauline Bell Ricks, a Siletz Tribal Council member testifying before the Senate last year, made the point best when she said:

> . . . It will take a long time to heal the wounds and mend the rifts that have sapped the strength of our people. If restoration would come to us, we would once again be known as Indian people.
>
> Our children, born after termination, would have an identity a tribe to identify with. I cannot think of a more beautiful thing than to see our people walking tall and proud again.

Mr. Speaker, a similar version of this bill, introduced by my colleague Senator HATFIELD, has already passed the other body. I urge the support of my colleagues of this bill today.

Mr. RONCALIO. Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. MEEDS).

Mr. MEEDS. Mr. Speaker, I rise in strong support of H.R. 7259. I would like at the outset to commend the author of this legislation and its sponsor, the gentleman from Oregon (Mr. AUCOIN). I can think of no higher calling for a Member of this body than to do as he has done in representing one of the smallest minorities against some substantial opposition in his district. He has stood fast and has with his parliamentary skill, but mostly with his dogged determination, gotten this legislation to the floor. I think his constituents—all of them—should feel very proud of him.

Mr. Speaker, we have all witnessed the results of the policy of termination, a policy which this country adopted in the 1950's. The result of this policy are still causing problems such as the gentleman from Oregon has illustrated with the Siletz. A loss of self-identity, a loss of the kind of self-image that people really need to accomplish, has been brought about by this disastrous policy of termination.

I think everybody in this House knows that we do not have all of the answers about tribal government and about self-image and self-identity for Indians. But I think almost everyone would agree that the policy of termination has been a disaster for the Indians who have been terminated and for this country.

I am delighted to see in this second piece of legislation now on the floor a repudiation of that disastrous policy.

I personally am aware of the efforts of the Siletz Indians to regain their self-identity and to regain their tribal identity. It has been a long, suffering process. They have managed through very adverse circumstances to hold their people together, to hold their interest, to hold their drive and desire to receive their recognition as as a tribal entity again. I am delighted to see that the bill is on the floor today and I am hopeful that it will pass.

Also I would like to affirm what the gentleman from Oregon has pointed out, and I am sure no one would disagree, that I have probably about as much sensitivity to this issue as anybody in the House of Representatives; this bill does not confer any special fishing rights or hunting rights on the Siletz Indians, and believe me, I think I would know if the bill did. If anybody tells a Member that it does, he can just say that we have checked every source and I think every constitutional lawyer of any skill would agree that this legislation does not confer special hunting and fishing rights on these people. So it does not do that.

What does it do? It is going to confer some small amounts of money through the Bureau of Indian Affairs and Indian Health that these people otherwise would not be entitled to, amounts that other federally recognized tribes get on a per capita basis, and that is important to them. But the most important thing that the bill does is restore their sense of self-identity and belonging as Indian people, and this is important because unless one has a positive self-image of oneself that person is not going to be a contributing citizen to this country.

We will do them a favor and we will do ourselves a favor to restore that self-image that they need to have restored.

I urge the Members to vote for the bill.

Mr. RONCALIO. Mr. Speaker, I yield 5 minutes on such time as he may consume to the chairman of the full committee, the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Speaker. I rise in support of passage of the bill, H.R. 7259, restoring the Siletz Indians of Oregon to Federal recognition.

In 1954, Congress enacted legislation terminating Federal recognition of the Confederated Tribes of Siletz Indians and terminating the special trust relationship between the tribe and the United States.

The policy of termination was not a rational, well-designed policy to solve the many problems of the Indian people. It was policy born out of the frustration of Congress in solving those problems.

The feeling was that, if we terminated Indian tribes and cast the Indian people into the mainstream of American life, somehow those problems would magically disappear.

The policy was a disastrous failure. Neither the terminated Indians nor their severe social and economic problems disappeared.

In the 1950's, Congress terminated several tribes, including the Siletz. In most cases, the tribes selected were those which had made significant progress toward self-sufficiency. In almost every case, the members of those terminated tribes experienced a steady decline in their social and economic condition.

Mr. Speaker, the Indian people—both those who were terminated and those who were not—opposed the termination policy from its inception and oppose it today.

In the 1960's, the Kennedy-Johnson administration, recognizing the dismal failure of the policy, officially repudiated it and took the position that termination would not again be imposed upon an Indian tribe without its full, knowing consent. Succeeding administrations have adhered to that position.

But only Congress can rectify the failures of past termination acts. In 1973, the 93d Congress officially repudiated the termination policy when it passed the act of December 22, 1973, restoring the Menominee Indian Tribe of Wisconsin to Federal recognition.

H.R. 7259 will do the same for the Siletz Indians of Oregon. It will restore the tribe to Federal recognition. It will make the members of the Siletz Indian Tribe again eligible for the programs and services of the Bureau of Indian Affairs and the Indian Health Service. While protecting the rights and interests of other concerned parties, H.R. 7259 will permit the Siletz Indians to begin again the slow climb to tribal and individual self-sufficiency.

Mr. Speaker, I urge the Members to support passage of H.R. 7259.

Mr. JOHNSON of Colorado. Mr. Speaker, I rise in support of the bill.

I yield such time as he may consume to the gentleman from Maine (Mr. COHEN).

Mr. COHEN. Mr. Speaker, if I may have the attention of the gentleman from Arizona (Mr. UDALL) I would like to raise a couple of questions with respect to this bill.

In view of the questions now surrounding the Indian lawsuit against the town of Mashpee—one of the questions there is whether or not the plaintiffs are considered to be a tribe within the meaning of the Jon Intercourse Act of 1790. As I understand it, the recognition of this tribe would have no bearing upon the outcome of that litigation.

Mr. UDALL. Mr. Speaker, if the gentleman will yield, it will have no bearing whatsoever. The committee—and I think I speak for the manager of the bill—had no intention of casting any weight one way or the other on that problem, and I do not see any connection between the two.

Mr. COHEN. Mr. Speaker, it is also stated that the primary purpose of this bill is to restore Federal recognition and assistance to those tribes. As I understand it, we are seeking to restore educational and health and social benefits.

Mr. UDALL. That is correct.

Mr. COHEN. Would such recognition give rise to a status to bring legal action for water rights or mineral rights or land claims or any other type of legal action that is not now available to the individual Indians?

Mr. UDALL. The purpose of the bill is to leave them where they are with respect to those kinds of rights the gentleman has stated.

Mr. COHEN. In other words, there would be no retroactive restoration of any rights that they do not now possess as a nontribe?

Mr. UDALL. I fully concur.

Mr. COHEN. On page 5, section (c) indicates, it provides specifically that this Act shall not grant or restore any hunting, fishing, or trapping rights to the tribe or any member of the tribe.

I assume from the gentleman's remarks that it excludes mineral and land claims as well.

Mr. UDALL. The gentleman from Washington (Mr. MEEDS) has expressed that as vocally as it can be expressed and I concur with all the gentleman has said.

Mr. JOHNSON of Colorado. Mr. Speaker, I have no further requests for time.

Mr. RONCALIO. Mr. Speaker, I only take a minute to urge that we pass the legislation for the very good reasons we have heard. In my own opinion, it would seem to me, based on my experience in the law, that what is being restored here is a cancellation of the Termination Act which will put these Indians in precisely the place they were prior to the termination of the Guardian Word Statutes between the United States of America and the various members of the tribe. I believe that entails Federal regulation and I believe that entails all the other rights that would be inherent to the tribe which were existing prior to the Termination Act and that is the way I would answer the gentleman from Maine.

Mr. Speaker, the Siletz Tribe is composed of several small Indian tribes of western Oregon. In 1855, by Executive order, a 1.4 million-acre reservation was established for these tribes and they subsequently organized as the Confederated Tribes of Siletz Indians. By 1954, this large reservation had been reduced to approximately 7,900 acres and the tribal membership was approximately 900 persons.

In 1954, Congress passed legislation which terminated the Federal recognition of the tribe and the trust status of the reservation lands. This legislation was in keeping with the then-existing Federal policy of terminating as rapidly as possible the special status of Indian tribes.

The Siletz Termination Act was typical of the several termination acts passed in the early 1950's. A final roll of the tribe was prepared. Tribal assets were sold and the revenue used to make per capita payments to persons on the final roll. The trust status of the tribal and individually owned lands was terminated. The power of self-government was revoked and all general Federal and State laws were made applicable to the Siletz Indians.

Finally, the members of the tribe were made ineligible for special Federal benefits and programs which are generally administered through the Bureau of Indian Affairs and the Indian Health Service.

As the Siletz Termination Act was typical, so was the results. While the Siletz Indians were not rich prior to termination, they were making steady progress toward self-sufficiency. In fact, this was one of the criteria used in selecting tribal candidates for termination.

The 20 years since termination has treated the Siletz Indians in the same manner it has treated other tribes who have been terminated. All the social and economic indicators have shown a steady deterioration in their condition. For example, the unemployment rate for Siletz Indians living in the former reservation area is 43.8 percent with a median family income of $3,333. In 1974, 44 percent of the Siletz Indians between the ages of 17 and 25 had not finished high school.

In short, Mr. Speaker, the termination policy of the 1950's which the Congress repudiated in 1973 with the passage of the Menominee Restoration Act, is further discredited by the facts in the Siletz case.

H.R. 7259, as amended, will correct the error of 1954 by restoring Federal recognition of the tribe so that its members can again be eligible for the desperately needed programs of the Bureau of Indian Affairs and the Indian Health Service. This is necessary so that the Siletz Indians can again began the slow climb to social and economic independence. As importantly, Federal recognition will restore to the Siletz Indians their identity as Indians.

The bill seeks to restore to them the status they enjoyed prior to termination, with two important exceptions. First, the bill does not restore a reservation and the members will remain subject to the same laws governing other citizens of the State. The bill does provide, however, that the Secretary will look into the need for a reservation and make appropriate recommendations to the Congress at a later date.

Second, the bill does not affect, in any way, hunting and fishing rights. If the tribe had special hunting and fishing rights which legally survived termination, this bill does not abrogate those rights. If the tribe had such rights which were destroyed by the Termination Act, the bill does not restore such rights.

Mr. Speaker, I urge the Members to vote for passage of this bill.

Mr. COHEN. Mr. Speaker, will the gentleman from Wyoming yield?

Mr. RONCALIO. I would be happy to yield.

Mr. COHEN. Mr. Speaker, if there were claims that could be made prior to 1954, these would restore these claims?

Mr. RONCALIO. It would restore the opportunity to raise them if it were proper to raise them before 1954, in my opinion.

Mr. COHEN. Mr. Speaker, if the gentleman will yield further, if there were claims now being raised, for example, by a number of tribes, even going back to the 1790's, under the act the gentleman is saying if we restore recognition to the Siletz Tribe as a federally recognized tribe, they could raise any issue they could have prior to 1954 under this act?

Mr. RONCALIO. I believe it would.

Mr. Speaker, I yield to the gentleman from Oregon on that point.

Mr. AUCOIN. Mr. Speaker, there is nothing in this act that would restore or enhance the ability of this tribe or the members thereof to press a claim that could conceivably be pressed. It does not restore any standing. It does not improve their standing. It does not restore anything in that sense. It simply restores the Federal recognition of their tribal status and qualifies them for the benefits we mentioned.

Mr. COHEN. Mr. Speaker, if the gentleman will yield further, again that is not what the gentleman said a moment ago. The gentleman said it would restore whatever rights existed prior to 1954.

The question I raise and I asked specifically, will there be any retroactive restoration of any rights that do not now exist if, in fact, we pass this measure; would the Siletz Tribe be able to litigate a question that existed prior to 1954; for example, going back some decades or even centuries?

Mr. RONCALIO. Mr. Speaker, I would be happy to answer that.

Mr. Speaker, I assume that the members of the Siletz Tribe today have a right to bring an action, they have the right to do so if this legislation passes; so the answer is no, it does not give them anything they do not already have, neither does it take away anything that is a federally recognized right of the tribe if it gets a prior termination.

Mr. COHEN. Mr. Speaker, if the gentleman will yield further, that is the reason I raised the question. It is of significance to the Wampanog Tribe known; they brought a suit in Massachusetts against the town of Mashpee and one of the questions being litigated is are they, in fact, a tribe. That is why I raised the question. Can the Congress take action that would confer, in fact, on the Siletz Indians tribal status or Federal recognition which would relate retroactively back to another time?

Mr. RONCALIO. I do not know what the consequences would be, but it does not give them anything they do not now have.

Mr. JOHNSON of Colorado. Mr. Speaker, the gentleman referred to the Nonintercourse Act about the east coast Indians. This is a west coast situation and those tribes are governed by treaties with the Federal Government. Those tribes governed by that kind of situation were precluded from filing a claim after 1951 with the Indian Claims Commission. This tribe was terminated in 1954 and I do not see where there can be anything that has not already been filed with the Indian Claims Commission, because the time expired in 1951 and they could not file between 1951 and 1954.

I think the gentleman is raising a red herring and the east coast Indians problems do not apply.

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. RONCALIO. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Speaker, the gentleman has a real concern and we want to help with those concerns of the New England States. When the termination occurred in 1954, the Siletz Tribe did not cease to be a tribe.

They ceased to qualify for a whole range of Federal benefits and services that recognized tribes had. I concur with what the gentleman from Wyoming (Mr.

RONCALIO) said, that if this bill passes tomorrow, they have no more rights than they had today with respect to making claims against the United States, but they still remain a tribe. We do not get into this question of whether or not they were a tribe. They were a tribe before 1954, and after 1954 they are still a tribe today.

Mr. RONCALIO. The report filed with the legislation gives an excellent review of the numbers in the tribe at the time of the termination, and the numbers still alive. I think human compassion, as well as justice and equity, almost impels a vote for this legislation, and I urge its adoption.

Mr. JOHNSON of Colorado. Mr. Speaker, I yield 2 minutes to the gentleman from Maine (Mr. COHEN).

Mr. COHEN. Mr. Speaker, first of all let me say that I am not taking the rostrum to express objections to this matter. Second, because I have a particular concern that affects the State of Maine and many other States in New England, for that matter, my concern should not be categorized as being parochial in nature.

I have raised the issue about a number of lawsuits that are going to be filed. I simply raise this question so that we know full well what we do by passing this act, so that we know what it does, so that Mr. AUCOIN will not be coming here a year or so from now and saying that the tribes are coming through the back door instead of the front door which they cannot do now.

If in fact it sets no precedent; if in fact it grants the Federal recognition only for the purpose of entitling them to health, educational, and other social services, I certainly have no objection. I am simply trying to make the RECORD clear that the Congress by this action today is not restoring, retroactively, some right that goes back beyond 1954.

Mr. AUCOIN. Mr. Speaker, will the gentleman yield?

Mr. COHEN. I yield.

Mr. AUCOIN. I want to associate myself with the last statement of the gentleman from Maine. I want to assure him that the bill does precisely what he just stated, and I welcome his support for precisely the reasons he enunciated.

Mr. SKUBITZ. Mr. Speaker, I rise in support of H.R. 7259.

This bill restores federally recognized status to the Siletz Tribe of Indians of Oregon. It will make the tribe and its members eligible for the health, education, and job-related Federal services and assistance to which all other federally recognized Indian tribes are entitled.

Congress terminated the trust relationship between the Siletz and the United States in 1954. At that time Congress hoped that a policy of terminating the special Federal relationship with Indian tribes would accelerate the merging of Indians into mainstream America. However, as the historical record shows, that did not happen. Instead, the intended beneficiaries of termination more often than not suffered great psychic, social, and economic hardships as a result.

In 1970 President Nixon formally acknowledged the failure of the termination policy and initiated a policy of Indian self-determination without termination. Much worthy legislation has since been enacted to further self-determination, including restoration of the Federal status of one of the major terminated tribes, the Menominee Tribe of Wisconsin.

The adverse effects of termination on the Siletz Indians have been extensively documented in hearings before Senate and House committees during the past 2 years. The record shows that termination was a mistake for the Siletz, and that they have paid dearly for it. They believe that a major step to repairing the damage done to them as a tribe and as a people will be the passage of H.R. 7259. I must agree.

Mr. Speaker, H.R. 7259 is not a controversial bill. It is completely neutral on the potentially volatile issues of hunting and fishing rights. And it does not restore the reservation that was terminated in 1954. Rather, it provides for a study, public hearings, and an eventual recommendation to Congress by the Secretary of Interior regarding a reservation. Any new reservation would have to be created by a separate act of Congress in the future.

The bill enjoys widespread support. Local and State officials in Oregon, the State's two Senators, the Carter administration, the National Congress of American Indians all urge enactment.

The Senate passed its version of the Siletz bill by unanimous consent on August 5. The House Interior Committee reported H.R. 7259 on September 23 by voice vote. I strongly urge its passage.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wyoming (Mr. RONCALIO) that the House suspend the rules and pass the bill H.R. 7259, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. RONCALIO. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill (S. 1560) to restore the Confederated Tribes of Siletz Indians of Oregon as a federally recognized sovereign Indian tribe, to restore to the Confederated Tribes of Siletz Indians of Oregon and its members those Federal services and benefits furnished to federally recognized American Indian tribes and their members, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1560

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Siletz Indian Tribe Restoration Act".

SEC. 2. For the purposes of this Act—

(1) the term "tribe" means the Confederated Tribes of the Siletz Indians of Oregon;

(2) the term "Secretary" means the Secretary of the Interior or his authorized representative;

(3) the term "interim council" means the council elected pursuant to section 5;

(4) the term "member", when used with respect to the tribe, means a person enrolled on the membership roll of the tribe, as provided in section 4 of this Act;

(5) the term "final membership roll" means the final membership roll of the tribe published on July 20, 1956, on pages 5454–5462 of volume 21 of the Federal Register.

SEC. 3. (a) Federal recognition is hereby extended to the tribe, and the provisions of the Act of June 18, 1934 (48 Stat. 984), as amended, except as inconsistent with specific provisions of this Act, are made applicable to the tribe and the members of the tribe. The tribe and the members of the tribe shall be eligible for all Federal services and benefits furnished to federally recognized Indian tribes. Notwithstanding any provision to the contrary in any law establishing such services or benefits, eligibility of the tribe and its members for such Federal services and benefits shall become effective upon enactment of this Act without regard to the existence of a reservation for the tribe or the residence of members of the tribe on a reservation.

(b) All rights and privileges of the tribe and of members of the tribe (other than hunting, fishing, and trapping rights) under any Federal treaty, Executive order, agreement, or statute, or under any other authority, which have been diminished or lost under the Act of August 13, 1954 (68 Stat. 724), are hereby restored and such Act shall be inapplicable to the tribe and its members after the date of enactment of this Act.

(c) This Act shall not grant or restore any hunting, fishing, or trapping right of any nature, including any indirect or procedural right or advantage, to the tribe or any member of the tribe.

(d) Except as specifically provided in this Act, nothing in this Act shall alter any property right or obligation, any contractual right or obligation, or any obligation for taxes already levied.

SEC. 4. (a) The final membership roll is declared open. The Secretary, the Interim Council, and tribal officials under the tribal constitution and bylaws shall take such measures as will insure the continuing accuracy of the membership roll, in accordance with the terms of this Act and the tribal constitution and bylaws adopted pursuant to this Act.

(b)(1) Until after the initial election of tribal officers under the tribal constitution and bylaws, a person shall be a member of the tribe and his name shall be placed on the membership roll if he is living and if—

(A) his name is listed on the final membership roll;

(B) he was entitled on August 13, 1954, to be on the final membership roll but his name was not listed on that roll;

(C) he is not an enrolled member of any other tribe; or

(D) he is a descendant of a person specified in subparagraph (A) or (B) and possesses at least one-fourth degree of blood of members of the tribe or their Siletz Indian ancestors.

(2) After the initial election of tribal officials under the tribal constitution and bylaws, the provisions of the tribal constitu-

tion and bylaws and of this Act shall govern membership in the tribe.

(c)(1) Before election of the Interim Council, verification of descendancy, age, and blood shall be made upon oath before the Secretary and his determination thereon shall be final.

(2) After election of the Interim Council and before the initial election of the tribal officials, verification of descendancy, age, and blood shall be made upon oath before the Interim Council, or its authorized representative. A member of the tribe, with respect to the inclusion of any name, and any person, with respect to the exclusion of his name, may appeal to the Secretary, who shall make a final determination of each such appeal within ninety days after an appeal has been filed with him. The determination of the Secretary with respect to an appeal under this paragraph shall be final.

(3) After the initial election of tribal officials, the provisions of the tribal constitution and bylaws shall govern the verification of any requirements for membership in the tribe, and the Secretary and the Interim Council shall deliver their records and files, and any other material relating to enrollment matters, to the tribal governing body.

(d) For purposes of sections 5 and 6, a member who is eighteen years of age or older is entitled and eligible to be given notice of, attend, participate in, and vote at, general council meetings and to nominate candidates for, to run for any office in, and to vote in, elections of members to the Interim Council and to other tribal councils.

SEC. 5. (a) Within forty-five days after the date of the enactment of this Act, the Secretary shall announce the date of a general council meeting of the tribe to nominate candidates for election to the Interim Council. Such general council meeting shall be held within sixty days after the date of the enactment of this Act. Within forty-five days after such general council meeting the Secretary shall hold an election by secret ballot, absentee balloting to be permitted, to elect nine members of the tribe to the Interim Council from among the nominees submitted to him from such general council meeting. The Secretary shall assure that notice of the time, place, and purpose of such meeting and election shall be provided to members described in section 4(d) at least fifteen days before such general meeting and election. The ballot shall provide for write-in votes. The Secretary shall approve the Interim Council elected pursuant to this section, if he is satisfied that the requirements of this section relating to the nominating and election process have been met. If he is not so satisfied, he shall hold another election under this section, with the general council meeting to nominate candidates for election to the Interim Council to be held within sixty days after such election.

(b) The Interim Council shall represent the tribe and its members in the implementation of this Act and shall be the acting tribal governing body until tribal officials are elected pursuant to section 6(c) and shall have no powers other than those given to it in accordance with this Act. The Interim Council shall have full authority and capacity to receive grants from and to make contracts with the Secretary and the Secretary of Health, Education, and Welfare with respect to Federal services and benefits for the tribe and its members and to bind the tribal governing body as the successor in interest to the Interim Council for a period extending not more than six months after the date on which the tribal governing body takes office. Except as provided in the preceding sentence, the Interim Council shall have no power or authority after the time when the duly elected tribal governing body takes office.

(c) Within thirty days after receiving notice of a vacancy on the Interim Council, the Interim Council shall hold a general council meeting for the purpose of electing a person to fill such vacancy. The Interim Council shall provide notice of the time, place, and purpose of such meeting and election to members described in section 4(d) at least ten days before such general meeting and election. The person nominated to fill such vacancy at the general council meeting who received the highest number of votes in the election shall fill such vacancy.

SEC. 6. (a) Upon the written request of the Interim Council, the Secretary shall conduct an election by secret ballot, pursuant to the provisions of section 16 of the Act of June 18, 1934 (48 Stat. 987), for the purpose of adopting a constitution and bylaws for the tribes. The election shall be held within sixty days after the Secretary has—

(1) reviewed and updated the final membership roll for accuracy, in accordance with sections 4(a), 4(b)(1), and 4(c)(1),

(2) made a final determination of all appeals filed under section 4(c)(2), and

(3) published in the Federal Register a certification copy of the membership roll of the tribe.

(b) The Interim Council shall draft and distribute to each member described in section 4(d), no later than thirty days before the election under subsection (a), a copy of the proposed constitution and bylaws of the tribe, as drafted by the Interim Council, along with a brief, impartial description of the proposed constitution and bylaws. The members of the Interim Council may freely consult with members of the tribe concerning the text and description of the constitution and bylaws, except that such consultation may not be carried on within fifty feet of the polling places on the date of the election.

(c) In any election held pursuant to subsection (a), the vote of a majority of those actually voting shall be necessary and sufficient for the adoption of a tribal constitution and bylaws.

(d) Not later than one hundred and twenty days after the tribe adopts a constitution and bylaws, the Interim Council shall conduct an election by secret ballot for the purpose of electing the individuals who will serve as tribal officials as provided in the tribal constitution and bylaws. For the purpose of this election and notwithstanding any provision in the tribal constitution and bylaws to the contrary, absentee balloting shall be permitted.

SEC. 7. (a) This Act shall not be construed as establishing a reservation for the tribe, but any reservation for the tribe shall be established by an Act of Congress enacted after the enactment of this Act.

(b) The Secretary shall negotiate with the tribe, or with representatives of the tribe chosen by the tribe, concerning the establishment of a reservation for the tribe, and the Secretary shall, in accordance with subsections (c) and (d), develop a plan for the establishment of a reservation for the tribe and shall submit such plan, in the form of proposed legislation, to the Congress within two years after the date of enactment of this Act. The appropriate committees of the Senate and House of Representatives.

(c) To assure that legitimate State and local interests are not prejudiced by the creation of a reservation for the tribe, the Secretary, in developing a plan under subsection (b) for the establishment of a reservation, shall notify and consult with all appropriate officials of the State of Oregon, all appropriate local governmental officials in the State of Oregon and any other interested parties. Such consultation shall include the following subjects:

(1) the size and location of the reservation;

(2) the effect the establishment of the reservation would have on State and local tax revenues;

(3) the criminal and civil jurisdiction of the State of Oregon with respect to the reservation and persons on the reservation;

(4) hunting, fishing, and trapping rights of the tribe and members of the tribe, on the reservation;

(5) the provision of State and local services to the reservation and to the tribe and members of the tribe on the reservation; and

(6) the provision of Federal services to the reservation and to the tribe and members of the tribe and the provision of services by the tribe to members of the tribe.

(d) Any plan developed under this section for the establishment of a reservation for the tribe shall provide that—

(1) any real property transferred by the tribe or members of the tribe to the Secretary shall be taken in the name of the United States in trust for the benefit of the tribe and shall be the reservation for the tribe;

(2) the establishment of such a reservation will not grant or restore to the tribe or any member of the tribe any hunting, fishing, or trapping right of any nature, including any indirect or procedural right or advantage, on such reservation;

(3) the Secretary shall not accept any real property in trust for the benefit of the tribe or its members unless such real property is located within Lincoln County, State of Oregon;

(4) any real property taken in trust by the Secretary for the benefit of the tribe or its members shall be subject to all rights existing at the time such property is taken in trust, including liens, outstanding Federal, State, and local taxes, mortgages, outstanding indebtedness of any kind, easements, and all other obligations, and shall be subject to foreclosure and sale in accordance with the laws of the State of Oregon;

(5) the transfer of any real property to the Secretary in trust for the benefit of the tribe or its members shall be exempt from all Federal, State, and local taxation, and all such real property shall, as of the date of such transfer, be exempt from Federal, State, and local taxation; and

(6) the State of Oregon shall have civil and criminal jurisdiction with respect to the reservation and persons on the reservation in accordance with section 1360 of title 28, United States Code, and section 1162 of title 18, United States Code.

(e) The Secretary shall append to the plan a detailed statement describing the manner in which the notification and consultation prescribed by subsection (c) was carried out and shall include any written comments with respect to the establishment of a reservation for the tribe submitted to the Secretary by State and local officials and other interested parties in the course of such consultation.

SEC. 8. The Secretary may make such rules and regulations as are necessary to carry out the purposes of this Act.

MOTION OFFERED BY MR. RONCALIO

Mr. RONCALIO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. RONCALIO moves to strike out all after the enacting clause of S. 1560 and to insert in lieu thereof the text of H.R. 7259, as passed.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and

passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 7259) was laid on the table.

GENERAL LEAVE

Mr. RONCALIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

APPALACHIAN CHILD DEVELOPMENT

Mr. ROE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 8777) to amend the Appalachian Regional Development Act of 1965 to permit an extension of the period of assistance for child development programs while a study is conducted on methods of phasing out Federal assistance to these programs, as amended.

The Clerk read as follows:

H.R. 8777

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 202(c) of the Appalachian Region Development Act of 1965 is amended by striking out the period at the end of the seventh sentence and inserting in lieu thereof a comma and the following: "except that transitional funding not to exceed 75 per centum of annual operating costs may be approved for not more than two additional years of operations for child development demonstrations if the Commission finds that no Federal, State, or local funds are available to continue such demonstrations.".

SEC. 2. (a) The Appalachian Regional Commission and the Department of Health, Education, and Welfare shall make a full and complete investigation and study of the child development programs being assisted under the Appalachian Regional Development Act of 1965 to determine the source and nature of any problems in the phasing out of such Federal assistance to such programs and to recommend solutions to these problems, including procedures by which sponsorship of these programs can be turned over to State or private agencies, or both.

(b) The Appalachian Region Commission and the Department of Health, Education, and Welfare shall make a report to the Congress of their findings and recommendations under subsection (a) not later than one year after the date of enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. HAMMERSCHMIDT. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. ROE) and the gentleman from Arkansas (Mr. HAMMERSCHMIDT) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from New Jersey (Mr. ROE).

Mr. ROE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 8777 is a proposed amendment to the Appalachian Regional Development Act that is a stopgap measure to meet a particular emergency that threatens to close some of the Appalachian region child development centers. The bill will make it possible to continue Appalachian Regional Commission funding for child development programs that have exhausted their eligibility under section 202(c) of the Appalachian Act. Section 202(c) authorizes grant assistance for, among other things, innovative and comprehensive child development demonstration projects, but assistance under section 202(c) of the Appalachian bill is limited to 5 years of operations. A number of Appalachian child development centers are now in their 5th year under the program.

The Commission and the Appalachian States have, as a matter of policy, required successful demonstration projects to achieve financial self-sufficiency as soon as possible. The committee has supported this policy and its objective of securing other, permanent funding for successful projects that have demonstrated that they can effectively provide child development services.

Despite this policy, however, a number of excellent child health and day care centers in the region have exhausted their 5 years of eligibility and have not yet been able to achieve financial self-sufficiency. In most of these cases, it was expected that the projects would be able to qualify for assistance under permanent State and Federal programs, such as title XX of the Social Security Act.

The hearings of the Economic Development Subcommittee clearly showed, however, that administrative redtape and "startup" difficulties of these other programs has prevented some meritorious child development demonstration projects from receiving such aid. The subcommittee became convinced that a transition period should be provided in order to keep these projects going until Federal and State programs can be modified and simplified so that worthy projects can receive the assistance to which they are entitled under those other programs.

This amendment will allow the Governors and the Appalachian Commission to continue to support projects that have demonstrated their value and which have tried to achieve self-sufficiency but have not been able to qualify for permanent Federal and State assistance as yet. This amendment will hopefully keep good projects from being shut down while other sources of financial help can be arranged. The 2-year transition period proposed in this bill will extend the demonstration period to the end of the current authorization for the Appalachian Regional Commission. The Committee on Public Works and Transportation expects to hold hearings on extension legislation next year. This bill will not require any increase in Appalachian Regional Commission funding.

The bill also directs the Appalachian Regional Commission and the Department of Health, Education, and Welfare to study the child development programs being assisted under the Appalachian Regional Development Act and to investigate and determine the source and nature of problems that may prevent turning over complete sponsorship of such programs to State or local agencies. The Appalachian Regional Commission and the Department of HEW will report their findings and recommendations to Congress not later than 1 year after the date of enactment of this bill.

Mr. Speaker, I urge passage of H.R. 8777.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I wish to join with the distinguished chairman of the Economic Development Subcommittee, BOB ROE, in supporting this legislation. This bill will provide temporary assistance to continue a number of child development projects which have been funded through the Appalachian Regional Commission. Although present law authorizes grants to establish demonstration child development projects, such grants are limited to 5 consecutive years. The legislation before us today would extend this authority for 2 additional years.

During earlier subcommittee hearings on this subject, witnesses testified that ARC funds have been instrumental in setting up a wide range of child development programs in the Appalachian region. Aside from the obvious health and development benefits which have been provided to children who are served by this program, it has enabled working mothers to return to the job market, this adding to their economic stability and development. Testimony indicated present Federal, State and local funds are not readily available to continue some of these programs, although local leaders are continuing to seek alternative funding sources.

This bill, H.R. 8777, would not provide additional authorizations for this program. It would simply allow states to utilize some of their nonhighway funds to finance the continuation of child development projects if projects have been successful. The option of providing additional funds would remain a joint decision of Commission-State and local officials. Meanwhile, local officials would continue to develop new funding sources.

The success story of these programs is impressive. Officials of the Appalachian Regional Commission indicate that 90 percent of all child development projects funded through this demonstration program have become self-sufficient. In some cases they have been able to expand services. As a general rule, ARC is encouraging new projects of this kind to gain local support and seek additional financial assistance soon after their inception.

I support this push toward self-sufficiently. However, this legislation is needed now to provide transitory funding to projects which need a bit more

breathing room in order to gain other financial commitments.

Mr. CARTER. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Speaker, I thank the gentleman for yielding.

I, too, wholeheartedly support the legislation that is now before us, H.R. 8777. This legislation would provide for an extension of up to 2 more years for the transitional funding for child development demonstration programs authorized by the Appalachian Child Development Act of 1965. This legislation which I cosponsored is very worthy of the support of all Members of this body.

As Representative of a congressional district which encompasses much of Appalachian Kentucky, I know firsthand some of the problems which the long-term economic depression there has caused for the people, especially the problems as they relate to health.

While this is an area of Kentucky where night was once said to have come to the Cumberlands, a new day has been dawning since the establishment of the Appalachian Regional Commission. But while we have made great strides in addressing the unique needs of a people whose previous isolation and economic straits had prevented them from receiving proper medical care, I regret to say that many health problems remain, especially for the children of Appalachia.

Mr. Speaker, I see an urgent need for this Congress to continue the funding for the programs administered by the Appalachian Regional Commission which have given the children of this region a better chance at good health.

Under the Appalachia Regional Development Act of 1965, the ARC was authorized to provide grant assistance for the establishment and operation of child development demonstration projects. The ARC has administered more than 325 projects serving more than 300 out of 397 counties in Appalachia and more than 200,000 individuals. The programs are immunizing and nourishing thousands of America's children. They are also providing for the prenatal and education needs of the young mother.

Mr. Speaker, these projects truly are improving the health of the region and they need to continue. The extension of the funding for these child development demonstration programs is a must if we are to begin to realize improved health for these children.

Mr. Speaker, we must provide this small assistance. I support the passage of H.R. 8777 and urge my colleagues to do so.

Mr. ROE. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Ohio (Mr. APPLEGATE).

Mr. APPLEGATE. Mr. Speaker, I would like to take this opportunity to urge my distinguished and learned colleagues to support H.R. 8777, which will insure the continuation of the Appalachian child development programs for another 2 years while needed research is conducted into the problems associated with the alternate available sources of funding.

My personal knowledge of the fine outstanding results achieved by these programs has progressively grown over the years to the degree that now I am of the fervent belief that we cannot allow these programs to cease serving the families of Appalachia. I strongly stress to each of my respected colleagues that this is indeed an emergency matter and that we are dealing with an "11th hour" situation.

Also at this time, I would like to commend my distinguished colleague, Mr. ROBERT ROE of New Jersey, for his active attention and interest in this bill. Through him and by the prompt action given this bill, I believe that the Public Works Committee recognizes the fact that the 95th Congress must act on this legislation to continue the Appalachian child development programs or be accountable to both present and future generations in explaining why we failed to act while we still had the opportunity to preserve and continue the tremendous progress that had been made.

Through more than 325 projects, serving more than 300 out of 397 counties in Appalachia, in excess of 200,000 individuals have been served. The Appalachian child development programs include major fundamental and vital services which are immunizing and nourishing America's children, providing health and educational services for handicapped and special needs children, providing dental and medical care to children while allowing thousands of parents to enter the labor force in Appalachia.

It was the hope and theory of the Congresses before us that alternate sources of funding, Federal, State, or local, would be either found or created to absorb the essential financial funding. Unfortunately, this has not been the case. In many areas, due to attached regulations of some sources of funding, the quality of services are radically altered while the qualifications of the recipients are also changed. In all cases reported, adequate and needed services are not available to the so-termed working poor. The simplest form of definition of the problems attached to the principal source of alternate available funding, title XX of the Social Security Act, is that the scope of services covered under the title XX umbrella are far more limited with prohibitive restrictions attached and second, the complicated, time-consuming administrative disbursement mechanism for the reimbursement of title XX contracts is not only frustrating but also restraining in obtaining the quality of services to be provided.

These child development programs in many of our 13 Appalachian States are facing a critical and very apparent threat of being forced to close and thereby cease providing services to the children and families of this economically depressed region. The human investments we have made in the children of Appalachia promise to pay back enormous dividends to the region and to the Nation as a whole. Gentlemen, can we allow ourselves the right to throw these investments aside after so much has been done to protect and increase them?

These child development programs represent one of the soundest uses of our Federal dollar. The individuals we are talking about are people, not laboratory test subjects. They refuse, and rightfully so, to be treated as an experiment whose time has ended. They have discovered a new sense of pride and a new resourcefulness, they are really not asking much.

Mr. ROE. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from Tennessee (Mrs. LLOYD).

Mrs. LLOYD of Tennessee. Mr. Speaker, I rise in support of H.R. 8777, the child development amendments to the Appalachian Development Act. This legislation will give many of these child development programs in the Appalachian region an additional 2 years to attain the financial self-sufficiency required by the Appalachian Regional Development Act of 1965 and will maintain the viability of many child development service centers, which throughout the Appalachian region have become a primary source of educational and health assistance.

The important purposes of this program cannot be too greatly stressed—the early childhood nutritional health and educational assistance helps to greatly reduce infant mortality, retardation, illiteracy, and visual-audio afflictions while these centers also allow working families who previously were forced to rely on public assistance, to instead utilize these services while seeking employment opportunities.

Children from birth to 6 are targeted in these programs and are offered a range of services which include speech and hearing screening, counseling outreach programs, services for handicapped children, day care, nutrition education, and prenatal care services. It would certainly be a very real tragedy if many of these programs were forced to shut down for lack of the continuation of the Federal funding which they need to continue their move toward financial independence.

Without the approval of this legislation which would give these programs the extra time which they need to insure that funding mechanisms can be fully developed, there is a very real danger that the child development services will become an idea which proved to be workable and extremely beneficial, but whose failure resulted in the loss of enterprising early childhood assistance services, a swelling of the welfare rolls as many working mothers face the loss of day-care centers, and a corresponding negative impact on the great strides which the Appalachian region has taken toward economic and social progress in the past several years.

I urge my colleagues to join with me in endorsing the goals which H.R. 8777 sets forth—the continuation of those child development projects which has shown that this is a program which

works and achieves the purposes for which it was established.

Mr. HARSHA. Mr. Speaker, I am a cosponsor of this legislation, which would extend the authority granted the Appalachian Regional Commission to permit funding of child development projects for an additional 2 years, and I urge the House to act favorably on this measure. This bill is an emergency measure intended to provide stop-gap funding for child development projects which have been successful and have gained the support of local leaders and residents.

Past experience has demonstrated this program, operated through the Appalachian Regional Commission, provides more flexibility than many other programs of this nature. Thus ARC funds have been used to institute health and nutritional services as well as learning experiences which have been incorporated into the comprehensive day care and child development centers throughout the 13 Appalachia States. It is these types of projects which are now threatened. Despite a concerted effort by local leaders, other private, State or Federal funds offering this degree of flexibility have not yet been located. Efforts to obtain other funding sources have also been hindered because in recent years the increased cost of services for local governments has limited their ability to contribute additional local dollars. This legislation would allow States to continue successful programs while exploring other avenues of financial assistance. Without such assistance many such projects may have to close their doors.

It is important to clarify that this legislation is not aimed at establishing a permanent program to continue demonstration projects for an indefinite period of time. It should be viewed as a temporary measure to give additional support to worthy child development projects, while a study of alternative funding sources is being conducted and until the entire program can be reviewed in hearings on the overall Appalachian program next year.

Mr. FLIPPO. Mr. Speaker, I rise in support of H.R. 8777, a bill to authorize continued funding for the Appalachian Regional Commission child development program.

The Appalachian child development program provides Appalachian families with an innovative, effective system for child health and educational services in the parts of the 13-State Appalachian region where these services were previously unavailable. In addition, day-care facilities established under the program have allowed over 9,000 parents to go to work and help support their families. The records show that infant mortality has declined sharply in the region, and, for the first time, large numbers of poor children in Appalachia have access to preprimary education. All of this has been accomplished at a minimal cost to the Federal Government.

The child development program is an important part of the regional development program and the investments we have made in the children of this depressed region will pay back enormous dividends to tne region and to the Nation as a whole.

Mr. Speaker, this bill, H.R. 8777, will help prevent some of these child development centers from being closed because the Appalachian Regional Commission can only fund each center for 5 years. At the end of that time, centers are expected to be turned over completely for local and State sponsorship. Because of increasing costs and administrative difficulties with other Federal aid programs, some of the centers have not been able to meet this requirement. H.R. 8777 would provide a 2-year transition period so States can allocate Appalachian Regional Commission funds to help worthy projects from being closed.

This bill also directs the Appalachian Regional Commission and the Department of Health, Education, and Welfare to report to Congress within 12 months on the difficulties that the Child Development Centers are having in qualifying for other Federal assistance.

Mr. Speaker, I urge that H.R. 8777 be approved.

Mr. MILLER of Ohio, Mr. Speaker, I commend the Economic Development Subcommittee and its chairman, the Honorable ROBERT ROE, along with the full House Public Works and Transportation Committee for the monumental job they have done in bringing this bill before the House. As a cosponsor of this important legislation, I also want to commend my colleague from Ohio, Representative DOUG APPLEGATE, for the leadership he has provided in this undertaking.

The bill before us today, Mr. Speaker, permits the extension of assistance from the Appalachian Regional Commission—ARC—to local child development programs throughout the 13-state ARC chain. Under current statutes, ARC assistance is limited to a 5-year demonstration period. This bill will allow ARC participation in the child development effort to continue for an additional two years.

I will comment on the overall importance of the ARC child development program and its impact on Southeastern Ohio. The Ohio portion on the 13-state Appalachia chain consists of 28 counties forming the southeastern corner of the State. Traditionally, this region has been plagued by economic and social setbacks which are now being effectively overcome through local initiative and generous assistance from the Appalachian Regional Committee. The area—once the victim of industrial decay and massive outmigration—has, since 1970, experienced a new birth generated by a renewed interest in coal, a growth of vocational education, the development of programs which enable the working family to pursue employment opportunities while utilizing early childhood services programs.

People once deprived of jobs, who swelled welfare rolls, or left the region now have hope and reasons for optimism. While Ohio's population during the period 1970–75 increased by only 1 percent, the Ohio Appalachian area registered a 4.8 percent population jump. The fact that citizens of Appalachia, with a strong desire to remain close to their ancestry can now, in fact, find gainful employment without migrating is significant when considering that 2.2 million people left the Appalachian region during the decade 1950–60. During the next 10 years, another million persons left. With the seventies, however, the trend began reversing with increasingly bright industrial, business, and commercial development. The region—consisting of nearly 400 counties—now has more than 19 million residents and has recorded a population jump of more than three-quarters of a million people during the 1970–75 period.

The Census Bureau has also measured population increases in terms of "turnaround counties." That is, those counties which lost population in the sixties but are gaining in the seventies. Ohio has a total of 15 turnaround counties—all located in southeastern Ohio.

These statistics, showing an economic and social revival in Appalachia, indicated that 1970 was a key year. Things began to happen—good things. Programs were bearing fruit and the region began looking forward with hope rather than being constantly reminded of its depressing past. It is not coincidental that 1970 also marked the beginning of the ARC child development program. The Commission—and local project sponsors throughout the vast region—saw the need to provide early childhood assistance to youngsters of the region. Those directly involved in the creation of this program saw a twofold purpose: first, early childhood nutritional, health, and educational intervention which would greatly reduce infant mortality, retardation, illiteracy, and visual-audio afflictions; second, the opportunity for working families previously subsisting on public assistance to utilize child development centers while seeking job opportunities.

ARC's child development program offers the children of working families an extraordinary range of services targeted at children in the critical infant through 6 childhood years. It is estimated that 1.8 million children under 6 live in Appalachia. Programs include speech and hearing screening, services for handicapped children, day care, nutrition education, family counseling, outreach programs, and prenatal care services. Child development service centers located throughout the Appalachian area have become the hub of health and education assistance.

All Appalachian States currently offer child development programs that incorporate a multidisciplinary approach to providing health care and educational opportunities within the family structure. ARC programs facilitate linkages of existing services and agencies as well as adding services to complement those that are available.

An ARC goal has always been to leverage existing Federal programs to

meet the needs of the region. Because the region is striking in its diversity, its child development programs are flexible and varied. There are at least 20 different kinds of child development programs—I noted some of them earlier. Emphasis has been placed on innovative services and delivery mechanisms that respond to diversity. Projects have crossed State lines, linked private and public agencies, tested various kinds of administration and experimented with alternate service providers. Emphasis has also been on prevention of health and education problems as well as amelioration of these problems. Additional benefits have been the employment and training of over 8,000 persons in the service delivery system.

In my opening remarks, I mentioned that, under existing statutes, ARC assistance to locally coordinated programs is limited to 5 years. For the child development program in southern Ohio, that period ended October 1. Several other multicounty operations are experiencing the difficulties currently being faced in Ohio and, for that reason, this bill was offered to allow the child development program to continue for 2 additional years so that funding mechanisms can be fully developed to assure the continuation of the comprehensive services the program has offered to date.

I am convinced that a sufficient mixture of existing Federal, State, and local resources can be developed to allow ARC to withdraw from the program without jeopardizing the child development services currently available. In Ohio, that shift is more greatly dependent upon improving the administrative channels associated with funding under title XX of the Social Security Act than it is upon any increase in Federal funding. Title XX funding is available to Ohio, but local child development sponsors have told us that the administrative requirements tied to its use and the limits to which it can currently be invested will not permit the continuation of the program at its present successful level. In actuality, the hardships imposed by title XX requirements undercut the objectives of the child development effort. That is particularly sad when we consider that it is Appalachia's children who ultimately suffer.

Generally speaking, ARC's method of providing assistance has been an unwrinkled formula which permits a great deal of local latitude in child care services. Funding from alternate Federal-State sources—most notably title XX—is knotted with redtape, reimbursement procedures, and contractual stipulations.

We have worked closely with local project sponsors, with the State, with the U.S. Department of Health, Education, and Welfare, and the Commission in a determined effort to smooth the transition from ARC support to greater support under other Federal-State programs—such as title XX. Due to the significant differences between ARC and title XX administrative requirements and limitations, however, the switch has not materialized at this time. As a result, the child development program is threatened with extinction, and in its wake, Appalachia faces the loss of enterprising early childhood assistance services, a swelling of welfare rolls as today's working mothers face the loss of day care centers, and an ultimate negative impact on the monumental strides the region has taken toward economic and social progress since 1970.

It is not my intent to be dramatic, Mr. Speaker, in this overview of the child development program and its importance to the growth of Appalachia. The obvious, however, cannot be overlooked: Child development is associated with the overall picture of improvement in Appalachia and continue support from ARC until local program can operate more independently is a must. For that reason, I ask the House to approve this important legislation.

Mr. JOHNSON of California. Mr. Speaker, I rise in strong support of H.R. 8777, a bill to authorize continued funding for the more than 325 child development centers supported by the Appalachian Regional Commission in the 13-State Appalachian region.

The child development program was created in 1969 to provide Appalachian families with a comprehensive child service system designed to improve health, nutritional, and educational services in areas where these kind of services were not available. The program has been responsible for immunizing thousands of young children. It has made pre- and post-natal care available to mothers. Day care facilities established under the program have allowed over 9,000 parents to enter the work force and help support their families. Infant mortality has declined sharply in the region, and, for the first time, large numbers of poor children in Appalachia have access to preprimary educational opportunities. We consider this to be an extremely important part of the Appalachian regional development program.

Since its initiation, the child development program has provided tangible benefits to over 200,000 people in an economically depressed region at a very modest cost. No one can question that investments made in the children of Appalachia promise to pay back enormous dividends to the region and to the Nation as a whole. Like other aspects of the Appalachian program, we consider this as demonstration or a model we can use in other depressed areas.

Unfortunately, Mr. Speaker, many of these centers will face severe financial difficulties in the near future unless the Congress acts quickly.

Under current law, the Appalachian Regional Commission can assist in funding each center for no longer than 5 years. At the end of the demonstration period, centers are expected to be financially self-supporting. The great majority of the centers have been successful in finding other sources of funds but because of increasing costs and administrative difficulties with other Federal grant programs, some of the centers have not been able to meet this requirement. H.R. 8777 would permit the States to use their Appalachian Regional Commission funds for an additional 2 years to help worthy centers from being closed while arrangements are made for other sources of funding.

This bill also directs the Appalachian Regional Commission and the Department of Health, Education, and Welfare to investigate the difficulties these centers have encountered in finding other sources of support and report back to Congress within 12 months.

Mr. Speaker, I urge passage of H.R. 8777.

Mr. ROE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. ROE) that the House suspend the rules and pass the bill H.R. 8777, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the bill H.R. 8777, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

FEDERAL TAX LAWS TIMING REVISION

Mr. WAGGONNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7320) to revise miscellaneous timing requirements of the revenue laws, and for other purposes, as amended.

The Clerk read as follows:

H.R. 7320

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT OF 1954 CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 2. PERIOD FOR PAYMENT TO QUALIFY FOR DEDUCTIBILITY OF CERTAIN EXPENSES PAID TO RELATED TAXPAYERS.

(a) AMENDMENT OF SECTION 267.—Section 267 (relating to losses, expenses, and interest with respect to transactions between related taxpayers) is amended by adding at the end thereof the following new subsection:

"(e) RULE WHERE LAST DAY OF 2½ MONTH PERIOD FALLS ON SUNDAY, ETC.—For purposes of subsection (a)(2)—

"(1) where the last day of the 2½ month period falls on Saturday, Sunday, or a legal holiday, such last day shall be treated as falling on the next succeeding day which is not a Saturday, Sunday, or a legal holiday, and

"(2) the determination of what constitutes a legal holiday shall be made under section 7503 with respect to the payor's return of tax under this chapter for the preceding taxable year."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to payments made after the date of the enactment of this Act.

SEC. 3. INCREASE IN BASIS FOR AMOUNT OF GAIN RECOGNIZED TO THE DISTRIBUTING CORPORATION.

(a) AMOUNT DISTRIBUTED.—Clause (ii) of section 301(b)(1)(B) (relating to amount distributed in the case of corporate distributees) is amended to read as follows:

"(ii) the adjusted basis (in the hands of the distributing corporation immediately before the distribution) of the other property received, increased in the amount of gain recognized to the distributing corporation on the distribution."

(b) BASIS.—Subparagraph (B) of section 301(d)(2) (relating to basis in case of corporate distributees) is amended to read as follows:

"(B) the adjusted basis (in the hands of the distributing corporation immediately before the distribution) of such property, increased in the amount of gain recognized to the distributing corporation on the distribution."

(c) EFFECT ON EARNINGS AND PROFITS.—Paragraph (3) of section 312(c) (relating to adjustments for liabilities, etc.) is amended to read as follows:

"(3) any gain recognized to the corporation on the distribution."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions made after the date of the enactment of this Act.

SEC. 4. 60-DAY EXTENSION OF 12-MONTH PERIOD UNDER SECTION 337 WHERE THERE IS INVOLUNTARY CONVERSION.

(a) AMENDMENT OF SECTION 337.—Section 337 (relating to gain or loss on sales or exchanges in connection with certain liquidations) is amended by adding at the end thereof the following new subsection:

"(e) SPECIAL RULE FOR INVOLUNTARY CONVERSIONS.—If—

"(1) there is an involuntary conversion (within the meaning of section 1033) of property of a distributing corporation and there is a complete liquidation of such corporation which qualifies under subsection (a),

"(2) the disposition of the converted property (within the meaning of clause (ii) of section 1033(a)(2)(E)) occurs during the 60-day period which ends on the day before the first day of the 12-month period, and

"(3) such corporation elects the application of this subsection at such time and in such manner as the Secretary may by regulations prescribe,

then for purposes of this section such disposition shall be treated as a sale or exchange occurring within the 12-month period."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to dispositions of the converted property (within the meaning of clause (ii) of section 1033(a)(2)(E) of the Internal Revenue Code of 1954) occurring after the date of the enactment of this Act in taxable years ending after such date.

SEC. 5. EXTENSION OF PERIOD FOR MAKING SUBCHAPTER S ELECTIONS.

(a) AMENDMENT OF SECTION 1372(c).—Subsection (c) of section 1372 (relating to where and how subchapter S election may be made) is amended to read as follows:

"(c) WHEN AND HOW MADE.—An election under subsection (a) may be made by a small business corporation for any taxable year—

"(1) at any time during the preceding taxable year, or

"(2) at any time during the first month of the taxable year (or in the case of a corporation which was not in existence before the taxable year, at any time during the first 75 days of the taxable year).

Such election shall be made in such manner as the Secretary shall prescribe by regulations."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to elections made more than 60 days after the date of the enactment of this Act for taxable years beginning more than 60 days after such date of enactment.

(c) RETROACTIVE APPLICATION OF "PRECEDING TAXABLE YEAR" AMENDMENT.—

(1) IN GENERAL.—If—

(A) a small business corporation has treated itself in its return as an electing small business corporation under subchapter S of chapter 1 of the Internal Revenue Code of 1954 for any taxable year beginning before the date 60 days after the date of the enactment of this Act (hereinafter in this subsection referred to as the "election year"),

(B) such treatment was pursuant to an election which such corporation made during the taxable year immediately preceding the election year and which, but for this subsection, would not be effective, and

(C) at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe by regulations—

(i) such corporation makes an election under this paragraph, and

(ii) all persons (or their personal representatives) who were shareholders of such corporation at any time beginning with the first day of the election year and ending on the date of the making of such election consent to such election, consent to the application of the amendment made by subsection (a), and consent to the application of paragraph (3) of this subsection,

then paragraph (1) of the first sentence of section 1372(c) of such Code (as amended by subsection (a)) shall apply with respect to the taxable years referred to in paragraph (2) of this subsection.

(2) YEARS TO WHICH AMENDMENT APPLIES.—In the case of an election under paragraph (1) by any corporation, the taxable years referred to in this paragraph are—

(A) the election year,

(B) all subsequent taxable years of such corporation, and

(C) in the case of each person who was a shareholder of such corporation at any time during any taxable year described in subparagraph (A) or (B)—

(i) the first taxable year of such person ending with or within a taxable year described in subparagraph (A) or (B), and

(ii) all subsequent taxable years of such person.

(3) STATUTE OF LIMITATIONS FOR ASSESSMENT OF DEFICIENCY.—If the assessment of any deficiency in income tax resulting from the filing of an election under paragraph (1) for a taxable year ending before the date of such filing would be prevented, but for the application of this paragraph, before the expiration of one year after the date of such filing by any law or rule of law, then such deficiency (to the extent attributable to such election) may be assessed at any time before the expiration of such one-year period notwithstanding any law or rule of law which would otherwise prevent such assessment.

SEC. 6. TIME FOR FILING INCOME TAX RETURNS IN THE CASE OF ORGANIZATIONS EXEMPT FROM TAXATION UNDER SECTION 501(a).

(a) AMENDMENT OF SECTION 6072.—Section 6072 (relating to time for filing income tax returns) is amended by adding at the end thereof the following new subsection:

"(e) ORGANIZATIONS EXEMPT FROM TAXATION UNDER SECTION 501(a).—In the case of an income tax return of an organization exempt from taxation under section 501(a) (other than an employees' trust described in section 401(a)), a return shall be filed on or before the 15th day of the 5th month following the close of the taxable year."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to returns for taxable years beginning after the date of the enactment of this Act.

SEC. 7. PERIOD FOR DETERMINING WHETHER A TAXPAYER IS A FARMER OR FISHERMAN FOR PURPOSES OF THE ESTIMATED TAX.

(a) AMENDMENT OF SECTION 6073(b).—Subsection (b) of section 6073 (relating to time for filing declaration of estimated tax in case of farmers and fishermen) is amended to read as follows:

"(b) FARMERS OR FISHERMEN.—Declarations of estimated tax required by section 6015 from any individual—

"(1) whose estimated gross income from farming or fishing (including oyster farming) for the taxable year is at least two-thirds of the total estimated gross income from all sources for the taxable year, or

"(2) whose gross income from farming or fishing (including oyster farming) shown on the return of the individual for the preceding taxable year is at least two-thirds of the total gross income from all sources shown on such return,

may, in lieu of the time prescribed in subsection (a), be filed at any time on or before January 15 of the taxable year succeeding the taxable year."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to declarations of estimated tax for taxable years beginning after the date of the enactment of this Act.

SEC. 8. PERIOD OF LIMITATIONS FOR CREDIT OR REFUND WITH RESPECT TO CERTAIN CARRYBACKS.

(a) NET OPERATING LOSS OR CAPITAL LOSS CARRYBACKS.—Subparagraph (A) of section 6511(d)(2) (relating to special period of limitation with respect to net operating loss or capital loss carrybacks) is amended by striking out "with the expiration of the 15th day of the 40th month (or the 39th month, in the case of a corporation) following the end of" and inserting in lieu thereof "3 years after the time prescribed by law for filing the return (including extensions thereof) for".

(b) INVESTMENT CREDIT AND OTHER CREDIT CARRYBACKS.—

(1) Paragraph (4) of section 6511(d) (relating to special period of limitation with respect to investment credit carrybacks) is amended to read as follows:

"(4) SPECIAL PERIOD OF LIMITATION WITH RESPECT TO CERTAIN CREDIT CARRYBACKS.—

"(A) PERIOD OF LIMITATION.—If the claim for credit or refund relates to an overpayment attributable to a credit carryback, in lieu of the 3-year period of limitation prescribed in subsection (a), the period shall be that period which ends 3 years after the time prescribed by law for filing the return (including extensions thereof) for the taxable year of the unused credit which results in such carryback (or, with respect to any portion of a credit carryback from a taxable year attributable to a net operating loss carryback, capital loss carryback, or other credit carryback from a subsequent taxable year,

the period shall be that period which ends 3 years after the time prescribed by law for filing the return, including extensions thereof, for such subsequent taxable year) or the period prescribed in subsection (c) in respect of such taxable year, whichever expires later. In the case of such a claim, the amount of the credit or refund may exceed the portion of the tax paid within the period provided in subsection (b)(2) or (c), whichever is applicable, to the extent of the amount of the overpayment attributable to such carryback.

"(B) APPLICABLE RULES.—If the allowance of a credit or refund of an overpayment of tax attributable to a credit carryback is otherwise prevented by the operation of any law or rule of law other than section 7122, relating to compromises, such credit or refund may be allowed or made, if claim therefor is filed within the period provided in subparagraph (A) of this paragraph. In the case of any such claim for credit or refund, the determination by any court, including the Tax Court, in any proceeding in which the decision of the court has become final, shall not be conclusive with respect to any credit, and the effect of such credit, to the extent that such credit is affected by a credit carryback which was not in issue in such proceeding.

"(C) CREDIT CARRYBACK DEFINED.—For purposes of this paragraph, the term 'credit carryback' means any investment credit carryback, work incentive program credit carryback, and new employee credit carryback."

(2) Subsection (d) of section 6511 is amended—

(A) by striking out paragraphs (7) and (9), and

(B) by redesignating paragraph (8) as paragraph (7).

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) AMENDMENTS OF SECTION 6501.—

(A) Subsection (j) of section 6501 (relating to investment credit carrybacks) is amended to read as follows:

"(j) CERTAIN CREDIT CARRYBACKS.—

"(1) IN GENERAL.—In the case of a deficiency attributable to the application to the taxpayer of a credit carryback (including deficiencies which may be assessed pursuant to the provisions of section 6213(b)(3)), such deficiency may be assessed at any time before the expiration of the period within which a deficiency for the taxable year of the unused credit which results in such carryback may be assessed, or with respect to any portion of a credit carryback from a taxable year attributable to a net operating loss carryback, capital loss carryback, or other credit carryback from a subsequent taxable year, at any time before the expiration of the period within which a deficiency for such subsequent taxable year may be assessed.

"(2) CREDIT CARRYBACK DEFINED.—For purposes of this subsection, the term 'credit carryback' has the meaning given such term by section 6511(d)(4)(C)."

(B) Subsection (m) of section 6501 (relating to tentative carryback adjustment assessment period) is amended by striking out "subsection (h), (j), (o), or (p)" each place it appears and inserting in lieu thereof "subsection (h) or (j)".

(C) Section 6501 is amended by striking out subsections (o) and (p).

(2) AMENDMENTS OF SECTION 6601.—

(A) Paragraph (2) of section 6601(d) (relating to investment credit carryback) is amended to read as follows:

"(2) CERTAIN CREDIT CARRYBACKS.—

"(A) IN GENERAL.—If any credit allowed for any taxable year is increased by reason of a credit carryback, such increase shall not affect the computation of interest under this section for the period ending with the last day of the taxable year in which the credit carryback arises, or, with respect to any portion of a credit carryback from a taxable year attributable to a net operating loss carryback, capital loss carryback, or other credit carryback from a subsequent taxable year, such increase shall not affect the computation of interest under this section for the period ending with the last day of such subsequent taxable year.

"(B) CREDIT CARRYBACK DEFINED.—For purposes of this paragraph, the term 'credit carryback' has the meaning given such term by section 6511(d)(4)(C)."

(B) Subsection (d) of section 6601 is amended by striking out paragraphs (4) and (5).

(3) AMENDMENTS OF SECTION 6611.—

(A) Paragraph (3) of section 6611(f) (relating to investment credit carryback) is amended to read as follows:

"(2) CERTAIN CREDIT CARRYBACKS.—

"(A) IN GENERAL.—For purposes of subsection (a), if any overpayment of tax imposed by subtitle A results from a credit carryback, such overpayment shall be deemed not to have been made before the close of the taxable year in which such credit carryback arises, or, with respect to any portion of a credit carryback from a taxable year attributable to a net operating loss carryback, capital loss carryback, or other credit carryback from a subsequent taxable year, such overpayment shall be deemed not to have been made before the close of such subsequent taxable year.

"(B) CREDIT CARRYBACK DEFINED.—For purposes of this paragraph, the term 'credit carryback' has the meaning given such term by section 6511(d)(4)(C)."

(B) Subsection (f) of section 6611 is amended by striking out paragraphs (4) and (5).

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to carrybacks arising in taxable years beginning after the date of the enactment of this Act.

SEC. 9. STAY OF COLLECTION OF PENALTY UNDER SECTION 6672 WHERE BOND IS FILED.

(a) IN GENERAL.—Section 6672 (relating to failure to collect and pay over tax, or attempt to evade or defeat tax) is amended by striking out "Any person" and inserting in lieu thereof "(a) GENERAL RULE.—Any person" and by adding at the end thereof the following new subsection:

"(b) EXTENSION OF PERIOD OF COLLECTION WHERE BOND IS FILED.—

"(1) IN GENERAL.—If, within 30 days after the day on which notice and demand of any penalty under subsection (a) is made against any person, such person—

"(A) pays an amount which is not less than the minimum amount required to commence a proceeding in court with respect to his liability for such penalty,

"(B) files a claim for refund of the amount so paid, and

"(C) furnishes a bond which meets the requirements of paragraph (3),

no levy or proceeding in court for the collection of the remainder of such penalty shall be made, begun, or prosecuted until a final resolution of a proceeding begun as provided in paragraph (2). Notwithstanding the provisions of section 7421(a), the beginning of such proceeding or levy during the time such prohibition is in force may be enjoined by a proceeding in the proper court.

"(2) SUIT MUST BE BROUGHT TO DETERMINE LIABILITY FOR PENALTY.—If, within 30 days after the day on which his claim for refund with respect to any penalty under subsection (a) is denied, the person described in paragraph (1) fails to begin a proceeding in the appropriate United States district court (or in the Court of Claims) for the determination of his liability for such penalty, paragraph (1) shall cease to apply with respect to such penalty, effective on the day following the close of the 30-day period referred to in this paragraph.

"(3) BOND.—The bond referred to in paragraph (1) shall be in such form and with such sureties as the Secretary may by regulations prescribe and shall be in an amount equal to 1½ times the amount of excess of the penalty assessed over the payment described in paragraph (1).

"(4) SUSPENSION OF RUNNING OF PERIOD OF LIMITATIONS ON COLLECTION.—The running of the period of limitations provided in section 6502 on the collection by levy or by a proceeding in court in respect of any penalty described in paragraph (1) shall be suspended for the period during which the Secretary is prohibited from collecting by levy or a proceeding in court.

"(5) JEOPARDY COLLECTION.—If the Secretary makes a finding that the collection of the penalty is in jeopardy, nothing in this subsection shall prevent the immediate collection of such penalty."

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (a) of section 7421 is amended by inserting "6672(b), 6694(c)," after "6213(a),".

(2) Subsection (a) of section 7103 is amended by inserting after paragraph (3) the following new paragraph:

"(4) For a bond to stay collection of a penalty assessed under section 6672, see section 6672(b)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to penalties assessed more than 60 days after the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. FRENZEL. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Louisiana (Mr. WAGGONNER) and the gentleman from Minnesota (Mr. FRENZEL) will be recognized for 30 minutes each.

The Chair recognizes the gentleman from Louisiana (Mr. WAGGONNER).

Mr. WAGGONNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 7320 contains amendments relating to certain timing requirements of the Federal tax laws. These amendments have been developed from a list of legislative recommendations submitted by the American Bar Association, the American Institute of Certified Public Accountants, and various other groups including State and local bar and accounting associations.

The bill contains provisions relating to the time for payment of expenses owed to related parties when the time for payment falls on a Saturday, Sunday, or legal holiday; election of special corporate liquidation treatment for involuntary conversion; election of subchapter S status by a corporation; filing of unrelated business income tax returns for exempt organizations; determining the status of a taxpayer as a farmer or fisherman for estimated income tax purposes; claiming credits or refunds arising from carrybacks; and collection of the penalty for failure to pay over withholding taxes where a bond is furnished. In

addition to these seven timing provisions, the bill provides a basis adjustment for property distributions received by a corporation where gain is recognized by the distributing corporation.

All witnesses, including representatives of the Treasury Department, who testified at the hearings on this bill recommended its adoption.

It is estimated that the provisions of the bill will not have any significant revenue effect.

Mr. Speaker, this bill will improve a number of timing requirements of the tax laws. I urge that H.R. 7320 be adopted.

Mr. Speaker, I reserve the balance of my time.

Mr. FRENZEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 7320 which amends several provisions of the Internal Revenue Code, primarily those relating to timing requirements.

The bill is based upon recommendations made by the American Bar Association, the American Institute of Certified Public Accountants, as well as other interested professional organizations, and is the first legislation initiated by the Committee on Ways and Means Subcommittee on Miscellaneous Revenue Measures.

H.R. 7320 is supported by the Treasury Department, the American Bar Association, and the American Institute of Certified Public Accountants and I urge its immediate passage.

I have no further requests for time and I yield back the remainder of my time.

Mr. WAGGONNER. Mr. Speaker, I have no further requests for time. I yield back the remainder of my time.

Mr. Speaker, I move the previous question on the bill.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. WAGGONNER) that the House suspend the rules and pass the bill H.R. 7320, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WAGGONNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed, H.R. 7320.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

FEDERAL CROP INSURANCE AMENDMENTS

Mr. POAGE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 9704) to amend the Federal Crop Insurance Act, and for other purposes, as amended.

The Clerk read as follows:

H.R. 9704

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 504(a) of the Federal Crop Insurance Act, as amended, is amended to read as follows:

"SEC. 504. (a) The Corporation shall have a capital stock of $200,000,000 subscribed by the United States of America, payment for which shall, with the approval of the Secretary of Agriculture, be subject to call in whole or in part by the Board of Directors of the Corporation.".

SEC. 2. The Secretary of Agriculture shall undertake an immediate study of alternative programs which could be established for an all-risk, all-crop insurance to help provide protection to those suffering crop losses in floods, droughts, and other natural disasters, including alternative methods of administration, Federal assistance, reinsurance, rate setting and private insurance industry involvement, as well as variations on the existing crop insurance program, and such other matters as he determines are relevant, and shall report his findings and recommendations to the President for transmission to the Congress by March 1, 1978. The Secretary shall consult with the Secretary of Housing and Urban Development on behalf of the Federal Insurance Administration; the Secretary of Treasury and representatives of the private insurance industry in the course of the study and shall identify the views of each in forwarding his findings and recommendations to the President. Such sums, not exceeding $200,000, as are appropriated for fiscal year 1978 under section 504 of the Federal Crop Insurance Act, as amended, may be utilized to conduct such a study.

The SPEAKER pro tempore. Is a second demanded?

Mr. JOHNSON of Colorado. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. POAGE) will be recognized for 20 minutes, and the gentleman from Colorado (Mr. JOHNSON) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. POAGE).

Mr. POAGE. Mr. Speaker, I yield myself such time as I may consume.

This will would add $50 million to the capital stock of the Federal Crop Insurance Corporation. That stock is becoming dangerously low, and this is simply a matter of protecting it from reaching a point where it is exhausted. The Committee on Agriculture is presently studying a complete revision of crop insurance. It is hoped that we will be able to combine our present crop insurance and our present disaster programs into one program that will be fiscally sound. We have for a long time maintained a crop insurance program that we thought would meet that requirement, but we cannot meet it and cover all parts of the United States and take all kinds of risks. What we have actually done for a good many years is to supplement the crop insurance program with a kind of disaster program where we paid out of the Treasury to those farmers who suffered disasters in their production of their crop.

We have felt that this was not a very sound position. We are not in a position to give you a program that we think would meet all of these requirements at the present time. We are hopeful that if we can have a few months' time, we will be able to bring in a program that will combine these two undertakings and make them both sound in such a way that we can assure some kind of protection to all our farmers and assure that we have a sound program. To do that we must keep the existing program sound. That is what this bill does. I hope that the Members will see that we have the adequate capitalization of the Corporation to continue the work without any break until we can bring in the new bill.

Mr. Speaker, I reserve the remainder of my time.

GENERAL LEAVE

Mr. JOHNSON of Colorado. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the bill under consideration, H.R. 9704.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. FOLEY. Mr. Speaker, I rise in support of H.R. 9704. This bill would increase the capital stock of the Federal Crop Insurance Corporation by $50 million, and require the Secretary of Agriculture to provide to the Congress by March 1, 1978, the results of a study of alternative programs which could be established to provide farmers with all-crop, all-risk insurance protection.

The administration has requested this increased capital stock so that the Government can fulfill its contracts with farmers who purchased crop insurance. By December 31, 1977, the net capital position of the Corporation is expected to be a minus $7.2 million. Since the Corporation does not have borrowing authority, we can expect that unless H.R. 9704 is enacted some time in mid-December the Corporation will have to quit paying insurance indemnities to farmers who have purchased crop insurance coverage and who have paid premiums for that coverage.

As you know, the drought in this country has continued for the second year. Indemnities are expected to exceed premiums this year on corn by almost $16 million; on tobacco by $48.9 million; and on wheat by $8.2 million. The Corporation is required to pay indemnity claims within 30 days from the date the policyholder files his claim. Any failure to do so, because of the capital shortage, would cause irreparable damage to the reputation of the Federal crop insurance program. There is a clear need to authorize an additional $50 million in capital stock in order to protect the integrity of the program. A supplemental appropriation will, of course, be required to implement the authority contained in this bill.

The emergency nature of this legislation points out the necessity for reform

and revision of the Federal crop insurance program—an effort in which the Agriculture Committee is now involved. In fact, attached to this bill is an amendment offered by the ranking minority member of the subcommittee, ED MADIGAN, which requires the Secretary of Agriculture to report to Congress by March 1, 1978, on alternative ways to establish an all-crop, all-risk insurance program for farmers. He is to consult the Secretary of the Department of Housing and Urban Development in behalf of the Federal Insurance Administration, which has had experience in administering the flood and riot insurance programs, the Secretary of the Treasury, who has actuarial and financial management resources, and the private insurance industry which has evidenced an interest in participating in an expanded crop insurance program. His report will include findings and recommendations committee and the Congress in designing which will be of great interest to the Committee and the Congress in designing a new Federal crop insurance program.

Public hearings were held on H.R. 9704 on October 25 and it was unanimously approved by the Committee on Agriculture on October 26.

I want to remind my colleagues that the Federal crop insurance program is not a costly budget item. It is required by law to operate on a basis where premiums cover indemnities over a period of years and it has done that since 1948. In fact, the loss ratio from 1948 through 1975 was 0.98, meaning that for each dollar of premium income 98 cents was paid to farmers in indemnities.

Again, let me urge you to vote for this emergency measure and assure you that the committee will continue its diligent efforts to come up with a better program for future years.

Mr. STANGELAND. Mr. Speaker, I rise in support of H.R. 9704. I wish to commend the Agriculture Committee for their work on this bill. Not only have they wisely provided for additional capital stock to meet the indemnities caused by the adverse weather conditions, but they have proposed the first steps in developing a longer range solution to the problem of covering crop losses in the United States. I wish to call my colleagues attention to the study of alternative programs for establishing an all-risk, all-crop insurance to provide protection for those suffering crop losses due to natural disasters. Currently, only 28 crops are covered under Federal crop insurance. Under our present disaster programs only five crops are covered. However, there are at least 78 major crops grown in America, and these crops are grown in counties that are not under Federal crop insurance programs. If we are serious about helping the farmer we must consider a more comprehensive method of covering crop losses.

Public hearings were held on H.R. 9704 on October 25 and it was unanimously approved by the Committee on Agriculture on October 26.

I want to remind my colleagues that the Federal crop insurance program is not a costly budget item. It is required by law to operate on a basis where premiums cover indemnities over a period of years and it has done that since 1948. In fact, the loss ratio from 1948 through 1975 was 0.98, meaning that for each dollar of premium income 98¢ was paid to farmers in indemnities.

Again, let me urge you to vote for this emergency measure and assure you that the committee will continue its diligent efforts to come up with a better program for future years.

Mr. Speaker, it has been my conviction that the Federal Government should not be the only vehicle considered for implementing major programs. I am thankful that the Agriculture Committee has seen fit to require the USDA to consult with private, as well as Federal insuring entities, during its study of a new crop insurance program. It is only through coordination with the private sector that we will be able to provide a high level of service at a cost that is not exceedingly high for the taxpayer.

I am a farmer and would be directly affected by any increase in premiums under any new crop insurance program. But, as I have testified to twice before the Agriculture Subcommittee on Conservation and Credit, I feel that the time has passed when we, as farmers and as independent businessmen, can sit back and rely on the Government to come in and bail us out in case of disaster. I think the farmers want a comprehensive insurance program where they can insure themselves through private insurers or Government entities. The present system does not provide adequate coverage or the flexibility and freedom we desire.

I support the passage of this bill and am optimistic that the study it mandates will go far in meeting the future needs of American farmers.

Mr. MADIGAN. Mr. Speaker, it is essential that we pass H.R. 9704, authorizing an additional $50 million in capital stock for the Federal Crop Insurance Corporation. Without this additional capitalization, the Federal Crop Insurance Corporation will be unable to pay indemnities past December.

It has become obvious that we must, if we are going to develop an expanded crop insurance program which will attract larger premium participation among farmers. It is also obvious that an expanded program should take the place of disaster payments.

I feel it is important that we not rush into any insurance program without the benefit of a comprehensive study of all alternative approaches to crop insurance.

Despite a number of recent hearings held on crop insurance, it has become apparent that there is some confusion on the part of Congress and the administration as to what course to follow. It is also evident that the officials of the Department of Agriculture have not availed themselves of all possible information relating to the development of a sound crop insurance program. I feel that it is in the best interest of good legislation that we call upon the Secretary to consult with groups and individuals both within Government, such as the Federal Insurance Agency and the Department of the Treasury, as well as the private insurance industry who have experience and expertise in insurance and financial management.

To that end, we have authorized an expenditure of up to $200,000 from FCIC's capital stock to fund this study which will be submitted by March 1 of next year in order to facilitate the development and reporting of a well-written bill prior to the May 15, 1978, deadline imposed by the Congressional Budget Office.

Finally, I feel that the study embodied in this bill is essential in helping us to develop a well thought-out crop insurance bill that can be supported by Members of the House.

Mr. JOHNSON of Colorado. Mr. Speaker, I have no requests for time. I urge that the bill be passed.

Mr. POAGE. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. POAGE) that the House suspend the rules and pass the bill H.R. 9704, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1019) entitled "An act to authorize appropriations for fiscal year 1978 for certain maritime programs of the Department of Commerce, and for other purposes."

SMALL BUSINESS EMERGENCY DROUGHT DISASTER LOAN ACT OF 1977

Mr. SMITH of Iowa. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1306) to provide temporary authority to the Administrator of the Small Business Administration to facilitate water conservation practices and emergency actions to mitigate the impacts of the 1976–77 drought, as amended.

The Clerk read as follows:

S. 1306

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 7(b) of the Small Business Act is amended by striking from the first undesignated paragraph "October 1, 1978, shall be 3 per centum" and by inserting in lieu thereof the following: "January 1, 1978, shall be 3 per centum; and with respect to a disaster occurring on or after January 1, 1978, and prior to October 1, 1978, shall be 3 per centum on the amount of such loan not exceeding $40,000, and 5 per

centum on the amount of such loan over $40,000 but not exceeding $250,000".

Amend the title so as to read: "A bill to amend disaster loan interest rates."

The SPEAKER pro tempore. Is a second demanded?

Mr. STANTON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Iowa (Mr. SMITH) and the gentleman from Ohio (Mr. STANTON) each will be recognized for 20 minutes.

The Chair recognizes the gentleman from Iowa (Mr. SMITH).

Mr. SMITH of Iowa. Mr. Speaker, I rise in support of S. 1306 and urge the immediate passage of this bill.

The purpose of this bill is very simple; all it does is to increase from 3 to 5 percent the interest rate on SBA natural disaster loans in amounts between $40,000 and $250,000 to disaster victims other than homeowners on account of disasters occurring between January 1, 1978, and October 1, 1978. The interest rate paid by a homeowner for a loan to repair the primary residence remains 1 percent on the first $10,000 and 3 percent on the next $30,000; and the interest rate on all other small natural disaster loans, those under $40,000, remains at 3 percent.

The bill does not change the eligibility requirements for natural disaster loan assistance except so far as the higher loan payments necessitated by the increased interest rate might eliminate the ability to repay of a very, very few borrowers.

The committee recommendation to make this increase in interest rates is not a unanimous one. Some committee members opposed this increase and would probably oppose any increase. However, the committee felt that all of the Members of the House should be given the opportunity to express their views on interest rates.

The Federal assistance to natural disaster victims has varied in previous disasters. The interest rate on loans has ranged from a low of 1 percent to a high of 6⅝ percent. At times in the past the Government has provided grants by authorizing forgiveness of part of the loan. For example, victims of Hurricane Agnes in 1972 paid only 1-percent interest and also were eligible for $5,000 forgiveness.

SBA since 1953 has made almost 575,000 disaster loans for approximately $4 billion. Of this amount, $1.1 billion was forgiven, the major disaster being Hurricane Agnes for which the forgiveness totaled $477 million.

This year many areas of the country have been hit by floods and drought. The House recently passed a supplemental of $1.4 billion and many Members have expressed concern over its size. I too am concerned; but, when a disaster occurs, Federal loan assistance has always been provided to help the victims recover. This year many of the small businessmen who were disaster victims are agricultural producers, but there are also many small businesses in retailing, processing, and manufacturing this year. For example, in April, some areas of the United States experienced devastating flooding and it now appears that SBA loans to disaster victims in Virginia, West Virginia, and Kentucky will total $85 million; loans to flood victims in the Johnstown, Pa., area will total $80 million; loans to flood victims in the Kansas City area will total $65 million; and loans to victims of the New York City civil disorder will total $56 million.

In previous years the major disasters and the amount of loans made to the victims include: Hurricane Agnes (1972) $1.3 billion; Los Angeles earthquake (1971) $258 million; Hurricane Celia (Texas, 1970) $163 million; Hurricane Camille (1969) $162 million; and Hurricane Betsy (1965) $129 million.

Although the SBA natural disaster loan program has been explained many times, there is a lot of misunderstanding about it. Any victim, whether a homeowner, large business or small business, is eligible for a natural disaster loan from SBA to offset his net loss providing that the disaster was of sufficient magnitude to warrant a disaster declaration by the President or by the Administrator of SBA and the victim will rebuild or reinstate the business in the same community.

The loans are made to assist a disaster victim in repairing or replacing property damaged or destroyed by the disaster. The maximum amount of the loan is the loss less recoveries such as from insurance.

The loans are repayable in a maximum of 30 years. Most borrowers, however, do not get a 30 year loan as the actual term of the loan depends upon the applicant's ability to repay. This "ability to repay" test has resulted in the average disaster loan being for a much shorter period. While homeowner loans tend to be for a longer period, business loans may be for only a year or a few years. While an applicant for an SBA physical disaster loan is not required to show that he cannot obtain the loan elsewhere nor need he show that he does not have personal assets which could be used to replace the property destroyed by the disaster, SBA can and should take an applicant's assets into consideration in determining the ability to repay and hence in determining the length of the loan. Disaster victim with a substantial amount of liquid assets may have obligations coming due or a temporary cash flow problem caused by the unexpected disaster and be entitled to a loan; however, he is not entitled necessarily to a loan repayable in the same number of years as the applicant with little assets.

I strongly believe that the current SBA eligibility criteria are correct and proper. I do not believe that there should be a rigid "credit elsewhere" test applied as it would penalize those without assets who have maintained good credit ratings, reward those who have not tried to maintain good credit, be cumbersome to administer, and cause additional delay in the processing time for providing this loan assistance; and I believe that timeliness in the delivery of this assistance is essential.

In addition, however, I do not believe that a credit elsewhere test is a fair measure of need. It does not measure whether a local community needs businesses reestablished. Disaster loans are not only to assist the disaster victim but also to assist the community by providing a victim with the incentive to rebuild his business. In fact, it may be that we are not providing sufficient incentives to businessmen as I understand that in Johnstown some 40 percent of the business disaster victims have refused to take an SBA loan and reestablish their operations.

In addition, I believe that any type of a credit elsewhere test applied to individuals would be unfair. Many people have great pride in obtaining and maintaining good credit. Many of these people have very little net worth but through their hard work and prompt payment of bills have a good credit rating and could obtain a loan at a much higher rate from a local bank and yet they need a low-interest loan if they are to recover from the disaster. For example, last spring we heard testimony from a woman who lost her home in the April flooding in West Virginia. She had no assets but she did have a good credit rating and her local bank would have loaned her the money to rebuild her home. The higher bank interest rate and shorter term, however, would have taken almost half of her annual income to make loan payments. Certainly she is the type of individual who we should be assisting with low-interest Federal loans.

The Small Business Committee is examining the operation of Federal natural disaster assistance programs. I do not know what conclusions we will reach nor what changes, if any, will be recommended. Our review will be completed, however, prior to the end of the fiscal year which is when the low-interest-rate authority provided by Public Law 95–89 will expire. I believe that in the interim, in regard to disasters occurring after January 1, we should change the interest rate on nonhomeowner disaster loans and see how this proposed rate works.

In conclusion, the issue presented to the Members by this bill is a very simple one—should the interest rate on SBA natural disaster loans be increased for disasters occurring between January 1, 1978, and October 1, 1978, to more closely reflect the cost of money to the Federal Government. A yes vote means that a disaster victim should pay a higher interest rate; a no vote means he should not pay more.

Mr. STANTON. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. MCDADE).

Mr. MCDADE. Mr. Speaker, if I ever saw a wrong bill in the wrong place at the wrong time, this is it. This bill does not belong on the suspension calendar at all. It appears today, I know, only because there is great pressure being put on it by some members of the Budget Committee.

We cannot amend this bill. We can only debate it for about 40 or 45 minutes. What we are talking about is the disaster program for every citizen of the United States of America.

What is proposed by my friend, the chairman of the Committee on Small Business today, and I know reluctantly, is to raise, in some instances, interest rates up to the point of the cost of the money to the U.S. Treasury. That is wrong. I think the pressure comes to the gentleman and to us because there are a lot of Members in this Chamber, who are not here today listening to the debate, who have never walked through a disaster area; who have never seen what it does to a homeowner. They are not affected by this bill, I want to make that clear. They have never seen what it does to a small businessman or to a farmer who finds himself and his life work, through no fault of his own, through an act of God, destroyed.

There is no way that we are going to help that citizen by making him pay the cost of the money. We barely help him now with the disaster program, however prevalent the funds within the present structure that we have.

We need to have a totally new approach to disaster programs. We need to have, as has been suggested by the gentleman from Virginia (Mr. DAN DANIEL), by myself, by the gentleman from Pennsylvania (Mr. FLOOD), and by I do not know how many people that have lived through a disaster, a national disaster program. That is decided through means other than appropriations. That is what is causing this problem. The supplemental had $1.4 billion to try to take care of disasters, primarily in the rural areas of this country, for the first time making farmers eligible for SBA loans.

We have to understand what is at stake here and what is not. Interest rates are not at stake. What is at stake is what kind of qualifications we put on a farmer to be eligible for disaster assistance and what kind of qualifications we put on a small businessman.

Under the leadership of my friend, the gentleman from Iowa (Mr. SMITH), we brought out a bill that brought those tests a little bit closer together, but they are still different and we cannot remedy that in this bill.

If you were to be a farmer, let us say, from the State of Georgia who is suffering today, who has to come in to get a loan, you must pass what they call a "credit elsewhere" test. That means you have to be denied any possible credit anywhere else. If that should happen, then you might be eligible under the Farmers Home Administration.

The Small Business Administration uses a different test. That test is ability to repay. It is a good one. It is the ordinary one that we have used for years.

Let me give you two examples, if I can, of what they have done, using this SBA program as we wrote the law and rewrote it last year. Here is a business loan. The firm had a net worth of $1.9 million and came in asking for a loan of $268,000. Is that a giveaway? SBA said, "How soon can you pay it back?"

They finally made the repayment term 5 years. The fellow had to pay off the loan in 5 years. His yearly principal payment—now get this, a disaster victim—was $50,000 and his monthly payments were $4,889.16.

We had witness after witness in front of the committee who said, "If you don't give this flexibility to the SBA, businessmen are going to go down the drain. We cannot afford to pay 6⅝."

That is what they would have to pay on that loan, 6⅝. We passed a jobs bill for $4 billion through here almost unanimously. Here is a bill for $1,400 million to try to keep people in business with loans, with a repayment test in it, and all of a sudden we have a bill on the suspension calendar. We have to discuss it in 25 minutes, to decide the disaster policy of the United States.

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania has expired.

Mr. STANTON. Mr. Speaker, I yield 2 additional minutes to the gentleman from Pennsylvania.

Mr. McDADE. Let me give the Members another example of the current working of this law. There is a farmer from a southern town. He came into the SBA under this new provision and said, "I need help."

He had, after SBA went over his books—and believe me, and my friend from Pennsylvania who has just been through Johnstown, and I have been through the Agnes disaster—we can tell the Members that there is not anybody running around with a barrel of dollars to hand out. They established his loan amount at $200,000 on a net worth that the farmer had in non-liquid assets. He had land which was worth $500,000, and there was not a crop on it, not a penny of cash flow.

So, they gave him a loan of $200,000. They gave him 2 years to pay it back—2 years. His yearly principal payments on that loan are $100,000. Is that a giveaway program? His monthly payments were $8,833.33 under this program of trying to help a victim of a disaster get back into the mainstream and keep the economy going.

I am on the Small Business Committee because I share with my friend from Massachusetts (Mr. CONTE) and my friend from Iowa (Mr. SMITH) a desire to try to help the small business community in this country get along. There is a great statistic laying around here in this country which is, if every small business in this country would employ just one more person we would eliminate all unemployment in this country. Now, all of a sudden, on suspension of the rules, of all places, we are being asked to set a national policy that is going to drive that cost of money to that disaster victim up to 6⅝ percent.

Forget about it, disaster victims—farmers or small businessmen are already down. They will not exist, and there will be more unemployment in the land. I hope this bill will be defeated.

Mr. STANTON. Mr. Speaker, I yield such time as he may consume to the very distinguished and capable minority leader on our Small Business Committee, the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, I rise in support of S. 1306, as amended by our Committee on Small Business.

I want to emphasize, Mr. Speaker, that this bill will not cure all of the problems of the Federal Government's disaster relief programs. It is not intended to do so. As is openly admitted in our committee report on the bill, this measure is nothing more than a temporary means to provide some fiscal relief until our committee, working in cooperation with other committees of jurisdiction, has time to complete a comprehensive review and develop a legislative solution to the various aspects of the disaster relief program.

When I say the bill is meant to be "temporary," I mean just that. We are not going to insert this new provision in the law and let it sit there until we have a new wave of disasters.

The chairman of our committee, my good friend NEAL SMITH of Iowa, with my wholehearted support, will begin a comprehensive review just as soon as possible. The staff work is already underway. It is our sincere intent to have a comprehensive review completed before next summer. From comments made at our full committee meeting last Wednesday, we expect to have the cooperation of Members on both sides of the aisle in this effort.

All we want to do at this time is raise the business loan disaster interest rate, for disasters occurring after the first of the year, from 3 to 5 percent—except for the first $40,000 of the loan, which will remain at the current rate of 3 percent. This bill makes no changes in the interest rate for loans to homeowners.

It is no secret, Mr. Speaker, that this bill, even with its temporary nature, is a compromise. There are members of our committee and other Members of this body who feel that the interest rates should not be raised in any fashion. And there are also Members, myself included, who feel that the interest rates on these and other SBA loans should be at least the cost-of-money to the Government.

The bill does not satisfy everyone, but it is a very reasonable compromise. We have just voted to approve a supplemental appropriation, putting another $1.4 billion into SBA's disaster relief fund. More money will undoubtedly have to be provided after the first of the year. With those kind of outlays we simply have to pay some attention to the cost of subsidizing these loans. This bill does that by reducing the differential between the interest rate paid by the victims and that paid by the Government to come up with the money.

Mr. Speaker, I will say to the Members of this House that I am afraid that unless this bill is adopted we are going to kill the goose that laid the golden egg.

Mr. SMITH of Iowa. Mr. Speaker, I yield 5 minutes to the gentleman from Connecticut (Mr. GIAIMO).

Mr. GIAIMO. Mr. Speaker, I rise in support of this legislation. I want to commend the members of the committee and the chairman, the gentleman from Iowa (Mr. SMITH), for what I would say is the taking of the first step in the right direction. And let me quickly add that I think there are other steps which should be taken to get this disaster program on a sound basis. The raising of the interest rates from 3 percent to 5 percent, which this bill does, is a good step in that direction. I think that when we come back here in January, we must look at this entire disaster loan program. It is all well and good, I will say to my beloved and dear friends, the gentleman from Pennsylvania, to talk about the disaster problem, the horrors of a disaster and what happens to people who are involved in a disaster. I believe we should do everything we can to help them, but we should first determine whether or not the person needs help. If a person does not need a subsidized 3-percent loan from the Government, he should not be eligible to get one. To me it is inconceivable that we make these loans available to all people whether or not they have a demonstrated economic need, while an increase from 3 percent to 5 percent is an improvement, bear in mind that the Treasury is paying about 6.7 percent or 6.5 percent for money. So we are still making loans below their cost to the Federal Government and subsidizing the interest costs.

I recognize that there are problems insofar as the farm community is concerned. I recognize that there are problems with the Farmers Home Administration program wherein people have to demonstrate their inability to borrow money elsewhere.

I think we ought to look at the totality of disaster programs, not just the SBA disaster loan program, but we should include the Farmers Home Administration and also the grant programs. After all, we are talking about a situation where, I am told, about two-thirds of the counties of the United States qualify as disaster counties. We are talking about a program which we have funded up until this year at the rate of about $100 million or $150 million, and now it is estimated to have grown to about $3 billion.

Mr. Speaker, I think we had better be concerned about that and look further into this program.

Mr. McDADE. Mr. Speaker, will the gentleman yield?

Mr. GIAIMO. I yield to the gentleman from Pennsylvania.

Mr. McDADE. Mr. Speaker, we should, of course, be concerned, and, on the other hand, we should not fund any disaster program with but a token payment. The gentleman knows it is sophistry for the Committee on the Budget to set the level of funding at $150 million and then expect that to be what the demand is going to be in the country.

Not even the Committee on the Budget, in its ominpotent position, can tell us what funds are going to be needed. We fund a lot of acounts in this way. My friend, the gentleman from Connecticut (Mr. GIAIMO), knows that. We fund the budget for Interior in this way, and my friend knows about the funding for the Committee on Agriculture.

Mr. GIAIMO. Mr. Speaker, let me ask the gentleman if he is going to get me some additional time. If he is not, I wish he would get to the point.

Mr. McDADE. Mr. Speaker, the point is that the Committee on the Budget cannot be omnipotent. The gentleman does not know what amounts will be required, and we should not fund in this manner.

Mr. GIAIMO. Mr. Speaker, I have the gentleman's thoughts on that, and I will not yield further. I am running out of time.

It is not a matter of omnipotence. The Committee on the Budget is only trying to insure that we spend the taxpayers' money wisely.

All I am saying is that we have had this program, which from year to year was in the $100 million category of Federal programs, and now, since we have made farmers eligible for SBA disaster loans and since we have amended this law earlier this year making the interest rate 3 percent, we suddenly found that we have an expanded program which jumped from $100 million to somewhere in the neighborhood of $2 billion to $3 billion a year. And that is without people having to show that they have a need in order to get a 3-percent loan or that they cannot find the money elsewhere.

I submit that this is not a judicious expenditure of tax moneys when we reach that point, and we ought to look at those programs and see whether or not we can restructure them. I submit that the Small Business Committee is beginning to do that, and I commend the members of the committee for that. That is what they are doing here by increasing the loan rate from 3 percent to 5 percent.

I would hope that they will look at the total program next year. I would hope that they will look at the question of eligibility or institute a means test, if you will, to assure that only the needy will get this subsidized interest rate.

Mr. STANTON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Kentucky (Mr. CARTER).

Mr. CARTER. Mr. Speaker, I certainly rise in opposition to S. 1036, which would increase SBA and Farmers Home Administration business and farm disaster loan interest rates.

This past April, Mr. Speaker, my congressional district suffered from severe flooding. One town was destroyed. Many of the people I represent were left homeless and penniless.

It is my feeling that the Committee on Small Business and the Congress, in turn, responded wisely and with one answer this summer by lowering interest rates to 3 percent on the first $250,000. Now, just a few months later, we are being asked to support a drastic increase in disaster loans.

The rates under this bill would provide 3 percent loans on only the first $40,000 and 5 percent interest loans above that.

We all need to understand very clearly that we are not giving anything away. There is no "forgiveness" feature in the current law. All disaster loans will be repaid to the Federal Government with interest. Let us contrast this, let me say to my colleagues, to the action of our Government in dealing with foreign countries. Last year we loaned $800 million interest free. We are better in dealing with foreign countries than we are in dealing with our own people. We are better to developing countries than we are to our own people.

Furthermore, we gave over $58 million for disaster assistance to foreign countries.

It is my strong feeling that our own citizens deserve more than we give to those in foreign countries.

Mr. McDADE. Mr. Speaker, will the gentleman yield?

Mr. CARTER. I will be happy to yield to the gentleman from Pennsylvania.

Mr. McDADE. Mr. Speaker, I commend the gentleman for his statement, and I want to make it clear that this applies both to businessmen and to farmers.

Above a quarter of a million dollars, if a man has to come in for more than that on a loan, he pays 6⅝, not the 5 percent. It is 3 percent and 5 percent up to a quarter of a million dollars, and then it is 6⅝.

So, as the gentleman says, it is a drastic increase.

Mr. CARTER. Mr. Speaker, let us just look, if we will for a moment, at the $700 million given last year to Egypt; $700 million was given to Greece; $1 billion was given to Turkey; $70 million was given to Syria, and here we are crying right now because we are giving our own people, who are disaster-stricken, loans at 3 percent or less.

Mr. Speaker, this is a crying shame. How can we deny this to our people? I strongly urge the defeat of this legislation.

Mr. STANTON. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Louisiana (Mr. MOORE).

Mr. MOORE. Mr. Speaker, we sustained a disaster in my congressional district earlier this spring, which caused me to testify before the Committee on Small Business which ultimately produced a bill that we all supported, Public Law 95–89. We are seeking, in my opinion, to gut that law today.

That law went a long way toward helping the small businessman who is often destroyed by a disaster.

Mr. Speaker, in our recent disaster, I found small businessmen less apt to be able to rebound from a disaster than are the chain stores or the big businessmen with whom they are competing. Those people have complete insurance to cover business disruption, income loss, and to complete physical damage. The small businessman often cannot find it, cannot afford it, or just does not have it.

Mr. Speaker, the gentleman from Pennsylvania (Mr. McDADE) pointed out that this country made $800 million in

loans last year to foreign nationals. Just about 2 weeks ago, we approved an appropriation $5.2 billion to international lending institutions to lend foreign nationals to go into business in competition with our own small businessmen at interest rates of anywhere from three-quarters of 1 percent to 1 percent with forgiveness features and extra long terms.

Now, Mr. Speaker, we are talking about three times that amount of interest for our businessmen who were struck by disasters and nowhere as liberal terms.

Mr. Speaker, does anyone know how many disaster loans were made in the last fiscal year compared to this $5.2 billion or this $800 million which we gave away? The figure is only $395 million.

Mr. Speaker, I called the Small Business Administration today and learned that the loans they have in process right now for current disasters average over $84,000 per loan request. Those they have approved so far have averaged over $50,000 per loan. Therefore, if we cut this 3 percent loan rate down to the first $40,000, this is not just a pittance or a minor cut. We are cutting well into the average loan SBA is making, and possibly, thereby destroying the value of the program.

Mr. Speaker, if we cut this program, as has been proposed today in this bill, we are really aiming a tremendous blow at these small businessmen who were suffering from a situation we rectified a few months ago. I cannot understand the necessity for it or the reason for the change.

Mr. Speaker, I and other Members will soon be going home and will try to explain to our small businessmen why it is that they, the producers, the taxpayers, and the employers in our society, who are trying to keep from being swallowed up by big business, cannot be effectively helped by their Government after a disaster when it has loaned millions of dollars more, indeed billions of dollars, to neither producers, taxpayers or employers in this country nor even citizens but competitors with their tax dollars. There is no way to explain this gross inequity and no need to do so without this bill.

Mr. Speaker, I urge defeat of this bill.

Mr. LAGOMARSINO. Mr. Speaker, will the gentleman yield?

Mr. MOORE. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Speaker, I thank the gentleman for yielding.

The gentleman from Kentucky (Mr. CARTER) earlier said that we have given other countries disaster assistance. Thoe countries include Nicaragua, Guatemala, Romania, and Italy.

Mr. MOORE. We gave assistance to them; we gave them funds as grants, not loans.

Mr. LAGOMARSINO. We gave them loans, and there was no interest charged at all.

Mr. MOORE. That is correct.

Mr. LAGOMARSINO. Mr. Speaker, I agree with the gentleman from Louisiana (Mr. MOORE).

I think this is a very inappropriate action for us to be considering at this time.

Mr. STANTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 1306 as amended by the Small Business Committee because I believe it to be a very small move in the right direction in the most serious problem of assistance to the victims of a terrible happening. Most disasters are just what the name connotes. They are not ordinary every day setbacks to businesses, farmers, or homeowners. They can wipe out the efforts of a lifetime of hard work or in no time at all, do away with the biggest asset that most Americans possess, his home.

Yet today, Mr. Speaker, there are 17 separate disaster relief programs under 6 Cabinet departments and 13 agencies or bureaus. Such a situation is really intolerable. As diligent and as highly motivated as most civil servants are in managing these many programs, each disaster program is administered from the point of view of the bureau or agency which has the responsibility, it is conflicting, it is expensive; it is inefficient; and most of all it is bewildering to the victims. Because of the sunset provision in the existing provision of the small business authorization, we are fortunate enough to have the time to consider a general solution to this problem. Perhaps there should be one overall agency that not only should coordinate all of these programs, but administer them as well. Or should perhaps all of the disaster programs that affect farmers belong in the Department of Agriculture, all of the disaster programs that affect homeowners belong in HUD, and all of the disaster programs that affect small business belong in SBA. These are some of the ideas that should be seriously considered.

In the meantime however, we now have the situation that when a disaster victim is seeking help, he can shop the Government to see which program is the most profitable. For Example, the farmer is in the position of borrowing money from SBA at 3 percent and because SBA is sympathetic to his needs, can use other funds that now become available and invest it at a much higher rate. He does not go to another agency, for example, the Farmers Home Administration, which requires that, before he taps the Federal Treasury, he should not be able to obtain the credit elsewhere.

The raising of the interest rate to 5 percent on the amount exceeding $40,000 will not seriously burden the poorest disaster victim, but it will help the Small Business Administration almost recover the money it loans at its cost of borrowing. It is only the portion of the loan above $40,000 that will be subject to this still very low interest rate of 5 percent.

Since the Treasury has to borrow money to lend it, even under S. 1306 as amended, not counting administrative costs and defaults, the loss on each loan of the maximum amount will still be about $3,400.

Mr. Speaker, we are not talking about programs of welfare for the poorest and underprivileged in our society. Such programs indeed have a valid place. We are talking about the ability to gain emergency help from our Treasury at a rate that is reasonable and still far below the going commercial rates. Let us try to help the Federal Treasury to have enough money dollars to help those extremely needy persons under welfare programs without constantly increasing the tax burden on us all.

Mr. Speaker, I urge that we vote "aye" on S. 1306 as amended.

Mr. McDADE. Mr. Speaker, will the gentleman yield?

Mr. STANTON. I yield to the gentleman from Pennsylvania.

Mr. McDADE. I thank the gentleman for yielding.

I have the greatest respect for my friend, the gentleman from Ohio. The gentleman has summed up the case on this bill. We are having this bill come up under suspension of the rules. The law we passed is effective for a full year. We do need a full umbrella disaster program, and that is what we ought to do, not under suspension of the rules.

Mr. STANTON. I will be back in there with the gentleman. I appreciate his point of view, but the chairman of our committee, the Budget Committee, and all the rest, have said we have simply gone too far. This is a modest approach from 3 to 5 percent over $40,000, and that is all it is about.

Mr. Speaker, I yield back the remainder of my time.

Mr. SMITH of Iowa. Mr. Speaker, the gentleman from Louisiana mentioned the fact that the average loan is $84,000. What this bill will do to a businessman who borrows $84,000 is add $800 per year to the interest that he pays, which in turn will probably stretch out the loan over a few additional months or perhaps an additional year because the length of the loan is dependent upon the ability to repay. I think myself that it is much more important that a victim of a disaster be able to secure a loan immediately when there is a disaster and get back in business as soon as possible than to have a 5-percent loan instead of 3 percent on part of their borrowing. As the Members have heard on the floor here, some Members want to stay at 3 percent, some would like to have gone lower, some think the rate should be 6⅝ percent. There are even some who do not think there ought to be any program; they think they should go to the bank and get it at 9, 10, 11, or 12 percent loan and let the community die if it cannot respond without help. I think what we have here is a reasonable proposal, and I think it would be good to try it for a 9-month period. It only applies to those disasters which occur after next January 1 and before October 1, 1978. I think it would be good to acquire the experience of the change we are recommending for use when we consider a more extensive revision or extension next year, and I urge approval of the bill.

Mr. BEDELL. Mr. Speaker, I rise to express my concern with the Small Busi-

ness Administration Disaster Loan Act amendments which we are considering under suspension today. My concerns relate both to the House procedure under which the bill is being considered and the provisions in the bill which change interest rates on SBA disaster loans for farms and small businesses.

This legislation would increase the interest rates on SBA physical disaster loans which will be made for disasters occurring in the last 9 months of fiscal year 1978, January-October 1978. The legislation increases the interest rate from 3 percent to 5 percent on that portion of SBA loans over $40,000, but less than $250,000. While I believe that this is a commendable change, I do not feel that it goes far enough.

With the average SBA disaster loan falling within a range of between $8,000 to $12,000, this legislation, which increases the interest rate on loans above $40,000, will have little real effect. It is my belief that the decision to increase the interest rate to 5 percent should have been extended to include loans under $40,000 as well. Indeed, from my experiences with the credit needs of both small businessmen and farmers affected by drought, I believe it would not be unreasonable for us to consider a uniform rate set at the cost of money to the Government.

The original intent of the Federal disaster assistance program was not the creation of a primary loan agency within the Government. Rather, the purpose of this loan program was to serve as an avenue of last resort. However, by creating a program with terms as lucrative as our present disaster loan program has become, we have shifted from the original design of Congress into a much less responsible position.

Mr. Speaker, I come from an agricultural region, and serve on both the House Small Business Committee and the House Agriculture Committee. I believe that I recognize as clearly as any one the credit needs which must be met during adverse environmental conditions. But, I do not feel that the terms and provisions which have evolved within this loan program, and, which S. 1306 remedies insufficiently, are in the best interests of our Government or our people.

In my opinion, the Federal disaster loan program should provide assistance to small businesses and farmers in a timely and responsible manner during periods of adverse physical disaster, such as drought. Under the present program, we have established a sufficient repayment time of up to 30 years. However, as a business recovers during this time, I see no reason why the assisted business or farm should not be asked to repay the loan together with an interest rate of at least 5 percent, if not the cost of this money to the Government.

I know that the overwhelming majority of businessmen and farmers do not want a handout and that they are willing to pay their fair share for assistance through reasonable interest rates. It is important to emphasize that these are loans, not grants in aid. By asking for interest rates of 3 to 5 percent when it currently costs the Government 6⅝ percent for this money, means an unrecoverable out of Treasury cost to the Federal Government of between 1⅝ percent to 3⅝ percent.

Mr. Speaker, I believe that the consideration of today's legislation under a suspension of the rules is most unfortunate. It, unfortunately, allows no opportunity to offer an amendment making the increase in loan rates from 3 to 5 percent on loans under $40,000. This action would have made the legislation far more acceptable. However, since this further change is not possible, I would like to request that the Small Business Committees of the House and Senate review the disaster loan program next year with a thorough examination of the interest rate question. Such an examination would serve to bring the legislation more in line with our efforts in the way of fiscal responsibility.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa (Mr. SMITH) that the House suspend the rules and pass the Senate bill S. 1306, as amended.

The question was taken.

Mr. McDADE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

FURTHER MESSAGE FROM THE PRESIDENT

A further message in writing from the President of the United States was communicated to the House by Mr. Marks, one of his secretaries.

REQUEST FOR PERMISSION FOR COMMITTEE ON HOUSE ADMINISTRATION TO FILE REPORT ON HOUSE RESOLUTION 843, STUDY ON POPULATION GROWTH

Mr. DENT. Mr. Speaker, I ask unanimous consent that the Committee on House Administration may have until midnight tonight to file a report on House Resolution 843.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I wonder if the gentleman from Pennsylvania could tell us the subject of that legislation.

Mr. DENT. If the gentleman will yield, it is the resolution calling for a study on population growth. It asked for $70,000 for the balance of this year and $615,000 for next year. It cancels out any appropriation for next year and reduces the amount down to $63,000 for next year.

Mr. BAUMAN. If this permission is not granted, when might the resolution be called up?

Mr. DENT. After 3 days, and then of course it would be too late to do it.

Mr. BAUMAN. Mr. Speaker, there is no animosity toward the gentleman from Pennsylvania, but I object.

The SPEAKER pro tempore. Objection is heard.

HOUSE BEAUTY SHOP EMPLOYEE BENEFITS

Mr. DAVIS. Mr. Speaker, I move to suspend the rules and pass the resolution (H. Res. 315) to provide that employees of the House Beauty Shop shall be subject to the compensation classification system established by the House Employees Position Classification Act, and for other purposes, as amended.

The Clerk read as follows:

H. RES. 315

Resolved, That (a)(1) until otherwise provided by law and notwithstanding any other authority with respect to the jurisdiction and control over the management of the House Beauty Shop, the jurisdiction over the House Beauty Shop and authority over the direction and supervision of the immediate management and operation thereof shall be vested in the Committee on House Administration (hereinafter in this resolution referred to as the committee). The committee shall perform the duties vested in the select committee established in the first undesignated paragraph under the heading "HOUSE BEAUTY SHOP," under the general heading "HOUSE OF REPRESENTATIVES" of the Legislative Branch Appropriation Act, 1970 (Public Law 91-145; 83 Stat. 347), as such paragraph was in effect on the day before the effective date of this resolution.

(2) The immediate management and operation of the House Beauty Shop may be vested in such official or other authority, acting as the agent of the committee, as the committee may designate.

(3) The committee shall conduct semiannual reviews of the amounts charged for services provided by the House Beauty Shop, including comparisons between such amounts and amounts charged by commercial businesses for similar services. Any materials and information produced or obtained by the committee in connection with such reviews shall be available for public inspection.

(b) The select committee specified in subsection (a)(1) is hereby authorized and directed to transfer, as the committee may direct, all accounts, records, supplies, equipment, and assets of the House Beauty Shop which are in the possession or under the control of such select committee in order that all such items may be available for the maintenance and operation of the House Beauty Shop under the authority of, and as directed by, the committee.

(c) All authority, responsibility, and functions vested in, or imposed upon, the select committee specified in subsection (a)(2) in connection with the revolving fund established in the second undesignated paragraph under the heading "HOUSE BEAUTY SHOP" under the general heading "HOUSE OF REPRESENTATIVES" of the Legislative Branch Appropriation Act, 1970 (Public Law 91-145; 83 Stat. 347) shall be vested in, or imposed upon, the committee.

SEC. 2. Until otherwise provided by law, the House Employees Position Classification Act (2 U.S.C. 291 et seq.) shall apply to all positions of the House Beauty Shop. An employee in any such position shall be classified and paid a per annum gross rate of compensation as provided by such Act.

SEC. 3. (a) Subject to the enactment of the provisions of the resolution as permanent law and effective on January 3, 1978, section 3 of the House Employees Position Classification Act (2 U.S.C. 292) is amended—

(1) in paragraph (3) thereof, by striking out "and" at the end thereof;

(2) in paragraph (4) thereof, by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(5) all positions under the House Beauty Shop.".

(b) Subject to the enactment of the provisions of this resolution as permanent law and effective on January 3, 1978, section 8332 (b) of title 5, United States Code, relating to creditable service for retirement purposes, is amended—

(1) in paragraph (8) thereof, by striking out "and" at the end thereof;

(2) in paragraph (9) thereof, by striking out the period at the thereof and inserting in lieu thereof "; and";

(3) by adding at the end thereof the following new paragraph:

"(10) subject to sections 8334(c) and 8339 (i) of this title, service performed on or after December 6, 1967, and before the effective date of this paragraph as an employee of the House Beauty Shop, only if he serves as such an employee for a period of at least five years after such effective date." and

(4) by inserting after the fifth sentence thereof the following new sentence: "The Civil Service Commission shall accept the certification of the Clerk of the House of Representatives concerning service for the purpose of this subchapter of the type performed by an employee of the House Beauty Shop.".

SEC. 4. (a) The first undesignated paragraph under the heading "HOUSE BEAUTY SHOP" under the general heading "HOUSE OF REPRESENTATIVES" of the Legislative Branch Appropriation Act, 1970 (Public Law 91-145; 83 Stat. 347) shall not be effective in the Ninety-fifth Congress beginning on January 3, 1978.

(b) Subject to the enactment of the provisions of this resolution as permanent law and effective on January 3, 1978, the matter under the heading "HOUSE BEAUTY SHOP" under the general heading "HOUSE OF REPRESENTATIVES" of the Legislative Branch Appropriation Act, 1970 (Public Law 91-145; 83 Stat. 347) is amended by striking out the first undesignated paragraph thereof.

SEC. 5. The provisions of this resolution shall take effect on January 3, 1978.

The SPEAKER pro tempore. Is a second demanded?

Mr. DICKINSON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from South Carolina (Mr. DAVIS) and the gentleman from Alabama (Mr. DICKINSON) each will be recognized for 20 minutes.

The Chair recognizes the gentleman from South Carolina (Mr. DAVIS).

Mr. DAVIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to bring to this House a matter which was brought to the attention of our Subcommittee on Services early in this year. It concerns the House Beauty Shop and its employees and a situation which desperately needs redress.

This resolution is a very simple one. It really transfers the jurisdiction of the House Beauty Shop from the Select Committee on the House Beauty Shop to the Committee on House Administration effective January 3, 1978, thus dissolving the select committee. It transfers the employees of the shop to the payroll of the House of Representatives and makes them eligible for the employment benefits package with the stipulation that they must work at least 5 years in order to be eligible for the retirement program. At the end of that 5 years they will be allowed, if they wish, to buy back the time they have in employment prior to the enactment of this resolution up to 10 years in the retirement system.

The resolution also requires that the House Administration Committee conduct semiannual reviews of the prices charged by the House Beauty Shop including a comparison with prices charged by businesses for these services.

The purpose of this bill is to make sure no unfair competitive advantage is given to the beauty shop operators who operate in the office buildings of the House of Representatives.

At this time I call on the distinguished gentlewoman from California, the chairman of the House Beauty Shop Select Committee (Mrs. BURKE of California), to outline what we hope to accomplish by passage of this resolution today. I yield to the gentlewoman such time as she may consume.

Mrs. BURKE of California. Mr. Speaker, I am happy to represent the House Select Committee on the Beauty Shop in supporting House Resolution 315.

The effect of this resolution would be to put the House Beauty Shop under the jurisdiction of the House Administration Committee, thereby dissolving the Select Committee on the Beauty Shop. More importantly, passage of this measure will assure extension of the same privileges and rights of health and life insurance as well as civil service retirement to the House Beauty Shop personnel as exist for the remainder of those who work in supporting positions of the House of Representatives. This will best be accomplished, I believe, by coverage of the House Beauty Shop under the Employee Classification Act as called for in the resolution.

The history of the beauty shop reflects evaluation of what was considered to be a temporary, emergency solution to a problem into what has become an unfair acceptance of the status quo of the shop administered by the select committee.

The House Beauty Shop which operated as a private corporation from 1932 to December 3, 1967, came under Government ownership on December 11, 1967 via House Resolution 1000. This resolution authorized a $15,000 expenditure from the House contingency fund to buy initial supplies and equipment and established the select committee.

The $15,000 initial investment was repaid to the U.S. Treasury in September of 1970. Equipment, of course, belongs to the House management fees, employee salaries and shop expenses have been paid from shop receipts; over a 10-year period the House Beauty Shop has made in excess of $50,000 profit. Through 1976, $21,323 has been deposited by the shop to the General Fund of the U.S. Treasury. The House Beauty Shop is more than self-sustaining. Yet its employees, unlike those of the House restaurant employees, tour guides, elevator operators and other House support staff have remained outside the House of Representatives Classification System. They work for Members, Members' spouses and personnel staff devoid of benefits.

Under the current system operating in the House Beauty Shop, beauticians receive a commission of 50 percent of their gross receipts for the first 6 month they are employed. After 6 months of employment they earn 55 percent of their gross receipts and after 12 months they earn 60 percent. The beauticians are guaranteed a minimum salary of $110 a week, thus meeting the minimum wage requirement. Also, they may keep tips received.

The minimum salary for manicurists is $110 per week. The actual salaries are based on days worked and length of service. At present, two manicurists receive $30 per day ($150 per week) and one other receives $25 per day ($120 per week.)

At this time, Mr. Speaker, I would like to give an overview of cost and effects of implementing a transfer of the House Beauty Shop employees into the House Classification System. I ask unanimous consent that the details of the comparative statement of operations as prepared by the staff of the General Accounting Office be made a part of my statement.

Total Shop revenues for calendar year 1976 were $301,413. Salaries and expenses for the same period totaled $298,027, resulting in a net income of $3,696.

Anticipated revenues for 1977 are $329,126. This figure is based on shop income for the first 5 months of 1977 and is expected to increase by about $26,000 under the planned conversion. Current year sales exceed those for the comparable period in 1976 by about 10 percent.

Under the proposed conversion, the General Accounting Office projects salaries and expenses to total $346,349. This figure includes $15,454 for retirement benefits, $1,241 for life insurance, and $13,200 for health insurance.

A wage or salary schedule has been established to determine each employee's classification and compensation (see page 5 of the plan).

Beauticians' salaries are based on a rate of $4.15 per hour, or $8,632 per year for 40 hours a week. They will also receive a 60-percent commission on all sales in excess of $60 a day and a sales credit of $60 for holidays and leave days which currently number around 32 days per year.

Manicurists will receive $3.77 an hour and maids $3.41 an hour.

The receptionist and assistant manager will be salaried at $9,152 and $9,818 per year respectively. The manager of the shop will receive a salary of $22,575 per year.

In order to meet the additional costs required under the conversion, we have proposed price changes on selected beauty shop services by approximately 10 percent effective January 3, 1978. This will enable the shop to show a profit of $9,087. To further assure profitable, competitive shop operation, a provision of this resolution calls for semiannual price reviews of services.

Another significant feature of this resolution makes it possible for employees to buy-in civil service retirement retroactively if they continue House employment for 5 years after enactment of this legislation. Retroactive retirement is not only fair but consistent with credit for prior service which has been given National Guard technicians, Capitol guides employees of county committee offices of the Agricultural Stabilization and Conservation Service, employees of the Senate and House of Representatives who became subject to the civil service retirement system under the act of July 13, 1937, to name a few. As late as September 23, 1977, this body passed H.R. 9262 which allows retroactive civil service retirement for congressional campaign committee employees. These examples demonstrate that the policy of granting full retirement credit even upon enactment has been followed regardless of the number of employees involved or the pay system applicable to such employees.

Mr. DICKINSON. Mr. Speaker, will the gentlewoman yield?

Mrs. BURKE of California. I yield to the gentleman from Alabama.

Mr. DICKINSON. Mr. Speaker, I remember during the hearing there were several comments made relative to the discrimination between the sexes and of equal treatment, because the men were being served by having employees on the Hill to do their barbering and the ladies were being denied this, at least as a function of the House. I believe the gentlewoman will agree this is one of the arguments put forth.

I just want to make sure there is really no discrimination between the sexes now.

How many male employees do they have in the beauty shops?

Mrs. BURKE of California. I know of one male employee. There may be others.

Mr. DICKINSON. They do service the male Members?

Mrs. BURKE of California. There is no question of that, and there are men who are Members of Congress who use the beauty shop because it provides a full range of services.

Mr. DICKINSON. Can the gentlewoman provide us with approximately how many men use it?

Mrs. BURKE of California. I do not know, but there are some Members of the House who utilize it, and I think they will be willing to explain that.

Mr. DICKINSON. I was not asking the gentlewoman to give the names. Two of my chairmen, Mr. PRICE of Illinois and Mr. JONES of Tennessee, both assure me that they do not use the beauty shop. But, I was wondering if, in fact, there are some male Members who do. Could the gentlewoman give us some idea of the number?

Mrs. BURKE of California. I do not know that, but I know that the beauty shop provides all kinds of services. They do cut men's hair and provide services to Members of the House. Some of those Members who do not think that they need those services, if they should try the beauty shop, might be pleased with the results.

Mr. DICKINSON. If the gentlewoman is going into that business, I feel sure that her business gross will surely increase.

I thank the gentlewoman.

Mrs. BURKE of California. Mr. Speaker, I ask that the resolution be agreed to.

Mr. DICKINSON. Mr. Speaker, I yield 5 minutes to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. Mr. Speaker, I thank my colleague for yielding to me.

I am very sorry to stand on the floor of the House in opposition to anything that is proposed by my good friend, the gentlewoman from California, but I must tell the Members that I am amazed, I am aghast, at the idea that 28 beauty shop operators are going to be added to the 2,840,000 people who are already on the Federal payroll. I do not know what time of day we think it is. We have our constituents at home hardly able to pay their grocery bills, and we are proposing to add 28 Federal employees.

Now, there is no use saying it is not going to cost a dime. Look, one of the reasons for putting these beauty shop operators on the Federal payroll is that they will have benefits that they are not now able to get, such as proper health insurance and proper wages. In fact, I was told by one of the sponsors of this bill that one of the operators had to go on welfare because wages were inadequate. That is shocking.

What has the select committee been doing? Have they not been watching to see that people employed in the Capitol of the United States are getting proper wages? Are they not charging enough?

I have never been in the beauty shop, and I am afraid there are many people in this room who will say that they are not surprised. But, we have got to have some responsibility for the people who work here. I had not been in Congress 3 weeks before I began worrying about there being no seats in the elevators. I found that there was a difficulty there, but I began writing the Architect of the Capitol to get seats. This is our responsibility when people are working here. If they have not got proper health insurance, they should have it; if they have not got proper wages, they should have them. If they are servicing the Members of this House and the staff and the public, those who patronize the shop should pay enough to give those women proper working conditions. I do not think there is a Member of this House who would think otherwise.

But, to put them on the Federal payroll, I just ask the Members of the House, what is it going to look like back home? We are not Buckingham Palace. We do not need tax-supported wages for people in the beauty shop in the Capitol. If people are coming in from outside, fine. If Members of the House use it, fine. If staff members are using it, great, but let us have a properly operated shop which pays properly and which is not on the backs of the taxpayers.

I do not mean to get too vociferous about this, but as President Carter said, we are not royalty—we are not royalty. I think we have a convenient facility, and I am not against it. But we should not, surely, make the taxpayers pay for this or have them involved in any way, except perhaps through the free rent that we are supplying.

I do not know what the House is going to do. There are very few Members here now. Who is going to be manning the doors to ask for a "yes" or "no" vote? Who cares? How many people care about that impression the Congress makes in the public at large? Every time we are attacked in the press, we wonder why. We are attacked because of what we give ourselves, our so-called subsidized dining rooms, public-paid employees in our barber shops. But I tell the women in this Congress that if we do this the women are falling into the barber-shop trap, which was set 70 years ago when the time and the day were different. We are falling into the same old trap: everything for the people who have the power to get it for themselves. That is what is wrong here.

We have to keep people off the payroll. We have to have proper working conditions, because that is the responsibility of this Capitol; but we cannot put them on the backs of the taxpayers.

Mr. DAVIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, just a brief response to the gentlewoman from New Jersey (Mrs. FENWICK). I would say that when we talk about the subsidized restaurant, the restaurant this year will make about $175,000 profit going back into the Treasury, and these beauty shops will be making about $9,000 profit going into the Treasury. Yes, we are raising wages; yes, we are going to take care of these employees; we are going to cure those ills which the gentlewoman has talked about. But the proper way to do it is to have the proper controls of this body over those who work within the confines of this Capitol complex. By granting the Committee on House Administration full rights over all of the employees, that is what we are doing. We are just seeking basic equity.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. DAVIS. I yield to the gentlewoman from New Jersey very briefly.

Mrs. FENWICK. I thank the gentleman for yielding.

Mr. Speaker, I am not describing what is happening. But I am saying that this is what the press accuses us of. Above all, this is not the time to add to the Federal payroll. We ought to be getting people off. We are allowing the beauty shop to operate in the Capitol, and we should be responsible for the working conditions. But if profits now depend on substandard wages and no health insurance, what guarantees profits in the future when proper conditions are established?

Mr. DAVIS. Mr. Speaker, I appreciate the gentlewoman's attitude. I would say that if we can add people to the payroll and make a little bit of money, I am for it. There are not many other Government agencies which do it.

Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Speaker, it is not often that we have an opportunity to cast a vote that will improve House support services, overcome past injustice, strike a blow for equal employment, please our wives and our staffs and some of our colleagues—all without spending a penny of taxpayers' money.

House Resolution 315, of which I am a cosponsor, will accomplish all these things by bringing the House Beauty Shop and its employees under provisions of the House Employees Classification Act with oversight by the House Administration Committee. They are the last group of House support staff to be excluded and it is high time we corrected that oversight.

I commend the gentlewoman from California (Mrs. BURKE) for her effective work as chairman of the Select Committee on the House Beauty Shop and for her persistence in formulating this overdue change.

I would hope that the rest of our colleagues will see the inherent fairness and economy of our resolution and approve it by a large margin.

I am a strong supporter and cosponsor of this bill. I learned of my strong support in a conversation with a lobbyist to whom I happen to be married. But, seriously, this is a good bill, and I think it ought to be passed today.

Mr. Speaker, Members such as the gentlewoman from New Jersey (Mrs. FENWICK), who are opposed to the legislation on the grounds that we ought to be taking people off of the Federal payroll, ought to be sponsoring legislation to get the men in the barber shop off of the payroll.

Mrs. FENWICK. I am.

Mr. UDALL. Because it is a question of simple justice here. Are we going to have the same kind of services for the male Members of Congress, the male staff, the male lobbyists around here, and yet say to the women who are working on Capitol Hill that we are not going to have a comparable facility?

I hope, in the interest of consistency if we beat this bill, we will have the integrity to come forward with a bill that will take the barber shop out from under the present system.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. UDALL. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Speaker, I am in favor of it, and I will tomorrow at this time, if we can defeat this, introduce legislation.

Mr. UDALL. Has the gentlewoman introduced legislation before?

Mrs. FENWICK. If we defeat this, I will. I did not know this bill was coming up.

Mr. UDALL. The gentlewoman was critical with the committee because it had not done anything to justify the operation, and now, when it brings a bill up, she has nothing to offer.

Mr. DAVIS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Pennsylvania (Mr. DENT).

Mr. DENT. Mr. Speaker, the reason the committee which has jurisdiction over this particular matter has not acted sooner is that we usually act when we get requests from those who have authority, such as the select committee, which has authority over the beauty shop.

Long ago we discussed a proposition that was eminently unfair to the barbers, who are on the payroll and who are under the retirement pension system, and so forth. But at that time and over the years, there were very few female Members of the Congress of the United States, and it is only now, when we have a sizable contingent, that we are coming to have a greater number of beauticians on deck than there ever were before. And I do not see any reason why there will not be more distaff Members of the Congress in the future.

So, Mr. Speaker, I think the situation has come to the point where we are meeting the problem. We have reached the point where the problem must be met.

Mr. DICKINSON. Mr. Speaker, I yield 3 minutes to the gentlewoman from Massachusetts (Mrs. HECKLER).

Mrs. HECKLER. Mr. Speaker, I rise in support of this legislation.

As an early member of the Select Committee on the Beauty Shop some years ago, I would not have taken this position in the well to support Federal benefits for the personnel of the beauty shop. At that time, when Mrs. Martha Griffiths, one of our most distinguished colleagues, took over the chairmanship of this subcommittee, the beauty shop was not well operated, the system was not accountable, and in fact it was indeed an operation that did not belong under the Capitol dome.

Since that time we have instituted new leadership and new management. The beauty shop has returned a profit to the Congress during every year.

Under these circumstances, the question before this House today is not whether or not we ought to have a beauty shop or barber shops. The question before this House is whether or not we will provide equity for Federal employees.

I personally believe, as President Carter has said, that we need a reorganization of the Government. I do not believe in ever-spawning new branches of Government. I would like to cut back. But with the Government that exists, I believe that we must have equality and we must have equity.

At the present time there are four barber shops, those barber shops have existed for 50 or 60 or yea many years. These people have had Federal protection and Federal insurance, and they have paid into the retirement fund. The beauty parlor is the only operation under the Capitol dome that has contributed to the Federal Treasury but received no benefits.

At a later date, this Chamber will be considering all the perquisites provided to the Congress. I support the removal of both the beauty shop and the barber shops from Federal protection, and I will be introducing legislation to this effect. But we cannot in this legislation determine whether we will abolish beauty shops or abolish barber shops. The question is simply, under the circumstances, are we going to grant the same privileges to the employees in the beauty shop as other Congresses have to the employees in the four barber shops in the Capitol.

I will work to cut down the size of Government, but as of now I believe that we must grant this equity and support this legislation. It is meritorious. The system is accountable, and it is in the best interest of providing fairness and justice in this Government.

Mr. DICKINSON. Mr. Speaker, I yield 3 minutes to the gentlewoman from Maryland (Mrs. HOLT).

Mrs. HOLT. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I support this resolution. I feel strongly that the employees of the House beauty shop, who are all women, deserve the same employment opportunities that the barbers, the tour guides, and all the other personnel have.

This is not a matter of whether this service is absolutely needed or where it should be located, but it is a matter of equity for these women. Many of them are young women who have families. They are the sole support of those families. They are providing a service to all the dedicated staff people of this House, and I feel strongly that they should have their benefits, the benefits of health care, of insurance, and all the other things they need.

Mr. Speaker, I want to commend my colleague, the gentlewoman from California (Mrs. BURKE). She has worked for a long time to try to correct this inequity, and we thank the Committee on House Administration for bringing this resolution out today. I strongly urge that the Members support the resolution so that we can see equity done for these young women.

Mr. DICKINSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is with some mixed emotion that I speak on this resolution. I have decided to support it.

The arguments that have been put forth here are correct, for the most part. We have not had equity between the female and male employees on the Hill, but what the gentlewoman from New Jersey (Mrs. FENWICK) says is also true with respect to the perception on the part of the public. The press, of course, is always very anxious to pick up these little nitpicking things and blow them out of proportion. I am sure that, coming at this time in the year, this close to the end of the session, with other, more important pieces of legislation pending, the press will pick this matter up and perhaps have a field day with it. However, the fact is that the record has been made and the returns or the receipts of the fees charged have indicated a profit.

Mr. Speaker, assuming that they will continue at least at the present level, it will not cost the taxpayer anything. We will actually make a profit from it, at the same time affording the employees the

same privilege which we afford the barbers whom we have up here also.

So, Mr. Speaker, I am very much concerned about the perception of the impact that it could possibly have on the public. Perhaps this is coming at a wrong time; but if it comes 4 days later, it will be too late to be acted upon this year. We are all aware of that. Therefore, while we can have fun with it and make fun of it, I think, as a member of the committee who has to decide on this legislation, we came to the conclusion, reluctantly perhaps, that in order to be fair to all employees, we would have had to take the barbers off or to add these employees. I do not think it very realistic to say that the House should support action to remove the barbers. Perhaps we should, but that would be what we would have to do to effect equity between the two.

For that reason, Mr. Speaker, I am going to support the bill and I have supported the bill. However, I have to agree with my colleague and friend, the gentlewoman from New Jersey, that it comes at a bad time and that we may be embarrassed by it or will open ourselves to embarrassment.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Speaker, I thank the gentleman for yielding.

A 70-year-old wrong should not be used to justify a brandnew wrong.

Certainly we must try to remove the barbers from the payroll by attrition. The taxpayers really should have some representation here.

When we speak of profits, if profits are made now and the employees do not get proper wages or health coverage, then the profits are outrageous. The profits are iniquitous. We should be paying proper wages first and making sure that they have proper health coverage first.

We are talking about justice. Where is it? Where has it been? If we are going to plan to have profits continued on this basis of squeezing the employees, who wants it? That is not justice.

Mr. Speaker, I do not know how sober people in this House are contemplating such a move at this time. Certainly we must correct this situation. I am preparing something to get the barbers off the payroll by attrition. We cannot change the game for all of the people who have been employed, but at the same time we cannot continue this kind of goings-on in the Capitol of the United States when the people of this country are groaning under taxes.

Mr. DICKINSON. Mr. Speaker, I thank my colleague, the gentlewoman from New Jersey (Mrs. FENWICK), for her observations.

I think my credentials as a conservative might stand up under scrutiny.

Mrs. FENWICK. I know.

Mr. DICKINSON. I am, in fact, supporting this bill for the reasons put forth. It is quite obvious that this bill is not a simple one to handle because we have had to bring five staff people down here just to see that it is properly presented.

Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. DAVIS. Mr. Speaker, I yield 2 minutes to the gentlewoman from New Jersey (Mrs. MEYNER).

Mrs. MEYNER. Mr. Speaker, I rise in support of House Resolution 315. The facts have been articulately and cogently presented to you this afternoon and I commend the gentlewoman from California (Mrs. BURKE) for her efforts on behalf of this resolution and the employees of the beauty shop.

In addition to the practicalities of the situation, I ask my colleagues to consider another aspect of the issue. And that is what the exclusion of the beauty shop employees from the standard benefit plan constitutes flagrant discrimination. We are all aware of the allegations of discrimination on the "Hill," and I hope that we continue to act to end these unfair practices.

This discrimination is not only offensive, it is detrimental to the security of the beauty shop employees. Employees who have satisfactorily served the Members of the House and staff for many years. Employees who have operated a profitable business.

Mr. Speaker, the employees of the barber shop—an operation that runs in the red—are afforded the benefits of the employee classification system. In contrast, the employees of the beauty shop—an operation that runs in the black—are not. The exclusion of the beauty shop employees from the employee classification system is either a serious oversight, or an even more serious blatant discriminatory practice.

I am aware of some opposition to the resolution grounded in the fear that it would reflect poorly on our public images to place the beauty shop employees on the Federal payroll. While I have as much regard for the public image of this body as any other Member does, I cannot accept this argument. As I have indicated, I believe that the most counterproductive action we could take in relation to our public image is to continue to engage in discriminatory practices. What is at issue today is not our public image, but equity—fair employment. It would be unconscionable for us to sacrifice the financial security and equitable treatment of 25 loyal employees of the House, in the name of our public image.

Mr. Speaker, I urge my colleagues to put aside petty worries about unfavorable publicity and to adopt this resolution. Thank you.

The gentleman from Alabama brought up the subject of whether men ever use the beauty shop. They do, indeed. When I was in there recently, there was a gentleman getting a permanent wave.

Mr. DICKINSON. Mr. Speaker, will the gentlewoman yield?

Mrs. MEYNER. I yield to the gentleman from Alabama.

Mr. DICKINSON. I thank the gentlewoman for yielding.

Mrs. MEYNER. The gentleman from Alabama has very wavy hair and lots of it. He has the kind of hair women like to run their fingers through, so I do not think he would find it necessary to use that little private booth that is available to men in the House beauty shop.

Mr. DICKINSON. What I was inquiring about is if the gentlewoman can give me any idea of how many men use it? I have some suspicions, but can she tell me how much they add to the gross of the House beauty shop?

Mrs. MEYNER. I am not sure of the exact figures, but I would estimate a guess that more men use it than we think.

Mr. DICKINSON. Perhaps I should have asked my colleague, the gentleman from Arizona (Mr. UDALL) but I will get around to that later.

Mr. DAVIS. Mr. Speaker, I yield 1 minute to the gentlewoman from Tennessee (Mrs. LLOYD).

Mrs. LLOYD of Tennessee. Mr. Speaker, I rise in support of House Resolution 315. I would like to urge my fellow colleagues to support House Resolution 315 which we are considering under suspension of the rules today. The primary aim of this legislation is to extend the same privileges and rights of health and life insurance as well as civil service retirement to the House beauty shop personnel as exist for the remainder of those who work in supporting positions for the House of Representatives. This can be accomplished by placing employees of the House beauty shop under the Employee Classification Act through this resolution.

The House beauty shop is not just self-sustaining—it is an economically sound, profitable enterprise. Yet its employees are not eligible for the same benefits which other House employees, such as restaurant workers, tour guides, and elevator operators enjoy.

At this time, the personnel of the House beauty shop do not have group health, life, or retirement benefits. They only have access to a very minimal coverage for limited benefits in the event of accidents or illness but not in the case of extended illnesses or injuries. I feel that it is unfair to continue denying the latter kind of coverage and benefits to the last remaining group that offers services either directly or indirectly to this body.

I hope that my fellow colleagues will agree that approval of this resolution will eliminate a long-standing inequity and provide mutual benefits to the employees and Members of the House.

I yield back the remainder of my time.

Mr. DICKINSON. Mr. Speaker, I yield 1 minute to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I reserve the right to cast my vote as I think best on this legislation at the appropriate time, but I did want to observe, having watched the participants in this debate, that it brought to mind the old saying that a thing of beauty is a joy forever. With one self-confessed exception, I want to compliment the hairdos of all the ladies who spoke on this subject. They certainly are magnificent. They obviously prepared very carefully for the debate.

I will tell the gentlemen who use the beauty shop that if they will come to me privately, I will compliment each of them for their hairdos as well.

Mr. DAVIS. Mr. Speaker, the subcommittee worked long and hard on this. We did hold hearings on it. We amended the bill to make it what it is, an equitable bill. But the real issue before the House today is equity among House employees. This is what this resolution does, but it also brings in revenue. So it has got two good points to it, but the other main and third point is the fact that we have worked out something here which really produces good legislation and brings equity to all employees and no longer discriminates against 28 people who are employees of this House.

I urge passage of the resolution.

Mr. DICKINSON. Mr. Speaker, will the gentleman answer a question? I think it is something that ought to be put in the RECORD in order to do equity. It seems to me this must be a full-service beauty shop, and I know approximately what goes on in the barber shop but I am not sure what services are offered in the beauty shop. We heard testimony to the effect that they also did wigs. Is this correct?

Perhaps the gentlewoman from California can explain that? I understood they did wigs, and I am sure the gentlemen are included in this.

Mr. DAVIS. I am not certain, but it is a full-service beauty shop.

Mr. DICKINSON. Maybe the gentlewoman could help me on this point.

Mrs. MEYNER. Mr. Speaker, if the gentleman will yield, I am informed they do wigs and also hair pieces. Should anyone's little rug need a dry cleaning, I am sure that could be arranged.

Mr. DICKINSON. I wanted to be sure we are also included, and if anybody wants to send his hair out, I am sure that could also be provided for.

Mrs. MEYNER. I am sure the House beauty shop would provide those services for the gentleman from Alabama.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from South Carolina (Mr. DAVIS) that the House suspend the rules and pass the resolution (H. Res. 315), as amended.

The question was taken.

Mrs. FENWICK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, and the prior announcement of the Chair, further proceedings on this motion will be postponed.

UNLAWFUL CORPORATE PAYMENTS ACT OF 1977

Mr. ECKHARDT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3815) to amend the Securities Exchange Act of 1934 to make it unlawful for an issuer of securities registered pursuant to section 12 of such act or an issuer required to file reports pursuant to section 15(d) of such act to make certain payments to foreign officials and other foreign persons, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3815

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Unlawful Corporate Payments Act of 1977".

UNLAWFUL PAYMENTS BY ISSUERS OF REGISTERED SECURITIES

SEC. 2. (a) The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting immediately after section 30 the following new section:

"UNLAWFUL PAYMENTS TO OFFICIALS

"SEC. 30A. (a) It shall be unlawful for any issuer which has a class of securities registered pursuant to section 12 of this title or which is required to file reports pursuant to section 15(d) of this title to make use of the mails, or of any means or instrumentality of interstate commerce, corruptly to offer, pay, or promise to pay, or authorize the payment of, any money, or to offer, give, or promise to give, or authorize the giving of, anything of value to—

"(1) any foreign official for purposes of—

"(A) influencing any act or decision of such foreign official in his official capacity; or

"(B) inducing such foreign official to use his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality;

"(2) any foreign political party or official or any candidate for foreign political office for purposes of inducing such party, official, or candidate to use its or his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality; or

"(3) any person, while knowing or having reason to know that all or any portion of such money or thing of value will be offered, given, or promised, directly or indirectly, to—

"(A) any foreign official for purposes of—

"(i) influencing any act or decision of such foreign official in his official capacity; or

"(ii) inducing such foreign official to use his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality; or

"(B) any foreign political party or official thereof or any candidate for foreign political office for purposes of inducing such party, official, or candidate to use its or his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality.

"(b) Any issuer subject to the provisions of this section which violates subsection (a) of this section shall, upon conviction, be punished by a fine of not more than $1,000,000.

"(c)(1) Any officer or director of an issuer subject to the provisions of this section, or any natural person in control of such an issuer, who knowingly and willfully orders, authorizes, or carries out any act or practice constituting a violation of this section shall, upon conviction, be punished by a fine of not more than $10,000 or by imprisonment of not more than five years, or both.

"(2) Whenever an issuer is found to have violated subsection (a) of this section, any agent of such issuer who knowingly and willfully carried out the act or practice constituting such violation shall, upon conviction, be punished by a fine of not more than $10,000 or by imprisonment for not more than five years, or both.

"(d) Whenever a fine is imposed under subsection (c) of this section upon any officer, director, or agent of an issuer, or upon any natural person in control of such issuer, such fine shall not be paid, directly or indirectly, by such issuer.

"(e) As used in this section:

"(1) The term 'control' means the power to exercise a controlling influence over the management or policies of an issuer, unless such power is solely the result of an official position with such issuer. In determining whether a person controls an issuer for purposes of this section, any person who owns beneficially, either directly or through one or more controlled issuers, more than 50 per centum of the voting securities of an issuer shall be presumed to control such issuer, and any person who does not so own more than 50 per centum of the voting securities of an issuer shall be presumed not to control such issuer.

"(2) The term 'foreign official' means any officer or employee of a foreign government or any department, agency, or instrumentality thereof, or any person acting in an official capacity for or on behalf of such government or department, agency, or instrumentality. Such term does not include any employee of a foreign government or any department, agency, or instrumentality thereof whose duties are essentially ministerial or clerical.".

(b) Section 32(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78ff(a)) is amended by inserting immediately after "title" the first place it appears the following: "(other than section 30A)".

UNLAWFUL PAYMENTS BY OTHER DOMESTIC CONCERNS

SEC. 3. (a) It shall be unlawful for any domestic concern to make use of the mails, or of any means or instrumentality of interstate commerce, corruptly to offer, pay, or promise to pay, or authorize the payment of, any money, or to offer, give, or promise to give, or authorize the giving of, anything of value to—

(1) any foreign official for purposes of—

(A) influencing any act or decision of such foreign official in his official capacity; or

(B) inducing such foreign official to use his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality;

(2) any foreign political party or official or any candidate for foreign political office for purposes of inducing such party, official, or candidate to use its or his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality; or

(3) any person, while knowing or having reason to know that all or any portion of such money or thing of value will be offered, given, or promised, directly or indirectly, to—

(A) any foreign official for purposes of—

(i) influencing any act or decision of such foreign official in his official capacity; or

(ii) inducing such foreign official to use his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality; or

(B) any foreign political party or official thereof or any candidate for foreign political office for purposes of inducing such party, official, or candidate to use its or his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality.

(b) Any domestic concern which violates subsection (a) of this section shall, upon conviction, be punished by a fine of not more than $1,000,000.

(c) (1) Any officer or director of a domestic concern, or any natural person in control of such domestic concern, who knowingly and willfully authorizes, orders, or carries out any act or practice constituting a violation of this section shall, upon conviction, be punished by a fine of not more than $10,000 or by imprisonment for not more than five years, or both.

(2) Whenever a domestic concern is found to have violated subsection (a) of this section, any agent of such domestic concern who knowingly and willfully carried out the act or practice constituting such violation shall, upon conviction, be punished by a fine of not more than $10,000 or by imprisonment for not more than five years, or both.

(d) Whenever a fine is imposed under subsection (c) of this section upon any officer, director, or agent of a domestic concern, or upon any natural person in control of such domestic concern, such fine shall not be paid, directly or indirectly, by such domestic concern.

(e) Whenever it appears to the Attorney General that any person has engaged, is engaged, or is about to engage in any act or practice constituting a violation of subsection (a) of this section, the Attorney General may, in his discretion, bring a civil action in an appropriate district court of the United States to enjoin such act or practice, and upon a proper showing a permanent or temporary injunction or a temporary restraining order shall be granted without bond.

(f) As used in this section:

(1) The term "control" means the power to exercise a controlling influence over the management or policies of a domestic concern, unless such power is solely the result of an official position with such domestic concern. In determining whether a person controls a domestic concern for purposes of this section, any person who owns beneficially, either directly or through one or more controlled domestic concerns, more than 50 per centum of the voting securities of a domestic concern shall be presumed to control such domestic concern, and any person who does not so own more than 50 per centum of the voting securities of a domestic concern shall be presumed not to control such domestic concern.

(2) The term "domestic concern" means any corporation, partnership, association, joint-stock company, business trust, unincorporated organization, or sole proprietorship—

(A) which is owned or controlled by individuals who are citizens or nationals of the United States;

(B) which has its principal place of business in the United States; or

(C) which is organized under the laws of a State of the United States or any territory, possession, or commonwealth of the United States.

Such term does not include any issuer which is subject to section 30A of the Securities Exchange Act of 1934.

(3) The term "foreign official" means any officer or employee of a foreign government or any department, agency, or instrumentality thereof, or any person acting in an official capacity for or on behalf of any such government or department, agency, or instrumentality. Such term does not include any employee of a foreign government or any department, agency, or instrumentality thereof whose duties are essentially ministerial or clerical.

(4) The term "interstate commerce" means trade, commerce, transportation, or communication among the several States, or between any foreign country and any State, or between any State and any place or ship outside thereof. Such term includes the intrastate use of (A) a telephone or other interstate means of communication, or (B) any other interstate instrumentality.

The SPEAKER pro tempore. Is a second demanded?

Mr. BROYHILL. I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. ECKHARDT) and the gentleman from North Carolina (Mr. BROYHILL) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill we are considering today was unanimously reported out of the Subcommittee on Consumer Protection and Finance and the Interstate and Foreign Commerce Committee. A similar bill, S. 305, passed the Senate with unanimous consent on May 5, 1977. This legislation has the support of the administration.

H.R. 3815 would amend the Securities Exchange Act of 1934 to prohibit reporting companies from paying bribes to foreign officials, candidates for foreign political office, or foreign political parties. It would also prohibit such payoffs by domestic concerns not within the jurisdiction of the Securities and Exchange Commission.

The bill is in response to disclosures by approximately 400 corporations of having paid out over $300 million in corporate funds to foreign officials. Since 1975, largely through congressional hearings and Securities and Exchange Commission investigations, we have become acutely aware of the magnitude of the foreign bribery problem. The corporations engaging in this activity have included some of the largest and most widely held public companies in the United States; over 117 of them rank in the Fortune top 500 industrials. Sectors of industry typically making such payments are: Drugs and Health Care; oil and gas production; aerospace, airlines and air service; and food services.

During the 94th and 95th Congresses, the Subcommittee on Consumer Protection and Finance held hearings on this legislation which were attended by representatives of the Departments of State, Treasury, and Commerce, the Securities and Exchange Commission, the accounting profession, public interest groups and the bar. There emerged from those hearings a clear consensus that foreign bribery is a reprehensible activity. Such payments are counter to the moral expectations and values of the American public. They subvert the free market system by directing business to those companies too inefficient to compete in the traditional criteria of price, quality or service. They also create severe foreign policy problems for the United States. Companies making these payments sometimes put themselves in the position of making foreign policy, often with disastrous results for all concerned. Payments by Lockheed alone have had serious repercussions for the governments of Japan, Italy, and the Netherlands, with concomitant diplomatic problems for the United States.

Ironically, corporate foreign bribery is unnecessary. Secretary of the Treasury Blumenthal testified:

> Paying bribes . . . is simply not necessary to the successful conduct of business in the United States or overseas. My own experience as chairman of the Bendix Corporation was that it was not necessary to pay bribes to have a successful export sales program.

Nor is the Secretary's experience unique. Former SEC Chairman Hills testified:

> Indeed, we find in every industry where bribes have been revealed that companies of equal size are proclaiming that they see no need to engage in such practices.

Some have suggested that if U.S. corporations are prohibited from making such payments they will be placed at a competitive disadvantage vis-a-vis foreign firms. This is not the case. On February 28, 1977, the Wall Street Journal surveyed 25 large corporations which had disclosed making sizable questionable payments abroad and subsequently forbid their employees to do so. Not one of the 25 corporations reported a significant loss of foreign business when they ceased making questionable payments. The "When in Rome one must do as the Romans do" argument is simply not supported by the facts. Former Secretary of Commerce Richardson pointed out that, in a number of instances:

> Payments have been made not to "outcompete" foreign competitors, but rather to gain an edge over other U.S. manufacturers.

As a matter of fact, a Government investigation of some of those companies is presently underway to determine if such payments constitute antitrust violations.

Many U.S. corporations would actually welcome a strong antibribery statute because it would make it easier to resist corrupt pressures from foreign officials. Former Gulf Oil Co. Chairman Bob Dorsey testified:

> If we could cite our law which says we just may not do it, we would be in a better position to resist these pressures and refuse those requests.

I would like now to discuss the provisions of H.R. 3815. Briefly, the bill would prohibit U.S. corporations and their subsidiaries which are more than 50-percent owned from making payments, promises of payment, or authorization of money or anything of value to any foreign official, political party, candidate for office, or intermediary, where there is a corrupt purpose. The corrupt purpose must be to induce the recipient to influence any official act or decision of a government.

So-called "grease" or "facilitating" payments made to Government officials for the performance of primarily ministerial or clerical duties would not be proscribed by the legislation. While such payments may be reprehensible in the United States, your committee recognizes that they are not necessarily so viewed in the world and that it is not feasible for the United States to attempt unilaterally to eradicate these payments. Accordingly, H.R. 3815 has not attempted to reach them.

Violations of the bill by companies which report to the SEC would be investigated by that agency and their findings referred to the Justice Department for prosecution where appropriate. Violations by the remaining number of domestic concerns which do not report to the SEC would be investigated and prosecuted by the Justice Department. Since the Securities Exchange Act of 1934 provides the SEC with authority to enforce its provisions by civil injunction, similar authority is granted to the Justice Department.

Corporate officials who violate the provisions of this bill would be subject to criminal penalties of up to $10,000 and/or 5 years imprisonment. Corporations convicted of violating the proscription would be subject to fines of up to $1 million.

Mr. Speaker, I urge prompt passage of this most important legislation.

Mr. BROYHILL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, unfortunately, I cannot agree with the subcommittee chairman that this bill will do much to deter improper payoffs to foreign officials. Although I subscribe 100 percent to the policy underlying the bill—that is, that payment of bribes to foreign officials is conduct which cannot be condoned under any circumstances—I am concerned that the legislation, because of enforcement difficulties inherent in the bill will do little to effectively solve the problem. Enforcement difficulties arise because the payments could involve those made in foreign countries by non-U.S. citizens to other non-U.S. citizens. This is why the previous administration chose to recommend legislation which would require disclosure of these kinds of payments. I do believe that disclosure in combination with the other sanctions against such payments which exist in present securities, antitrust, tax, and criminal law would provide more effective deterrence against such payments.

I am also disappointed that the committee chose to split enforcement responsibility for the legislation between the SEC and the Department of Justice. In my view, it would be more appropriate to place responsibility for investigating and prosecuting violations solely within the hands of the Justice Department. This is true for several reasons. First, the Securities and Exchange Commission's primary mission is to protect investors and the Commission will be forced to rechannel its limited resources away from its more legitimate functions to investigating foreign bribery. Second, at the present time, responsibility for prosecuting domestic bribery rests solely in the hands of the Justice Department. I cannot see any reason for treating foreign bribery any differently.

Third, involvement of two agencies in enforcing the legislation with respect to different classes of companies could lead to inconsistent enforcement of the bill. Finally, I believe that the bill creates an inefficient system since both agencies will have to develop experienced enforcement staff with special knowledge in this area. I see no good reason for this kind of costly duplication of efforts between the two agencies. I believe that it would be much more desirable to centralize the enforcement of the statute in one agency in order to promote increased efficiency and to enhance the likelihood of more evenhanded enforcement.

These two concerns lead me to believe that this particular legislation is not the best way to get at a problem which we all believe must be solved.

MINORITY VIEWS TO H.R. 3815, UNLAWFUL CORPORATE PAYMENTS ACT

This legislation would prohibit U.S. corporations from making payments or promises of payments to foreign political or governmental officials. Payments falling within the scope of the bill must be made or offered with the purpose of corruptly influencing an act or decision of the foreign official or inducing that official to use his influence to affect a decision of a foreign government.[1] We support, without reservation, the goal of H.R. 3815, which is the elimination of foreign bribery. Certainly, any legislation which will restore public confidence in American business and will prevent a continuation of the practices which recently have been disclosed is desirable and should be enacted. We are concerned, however, that the approach adopted by H.R. 3815 is not the most effective to eliminate questionable foreign payments.

In general terms the bill makes certain payments unlawful and imposes criminal sanctions on the making of payments described in the bill. The criminalization approach is contrasted with the approach recommended by Former Secretary of Commerce Elliot Richardson which would have required disclosure of improper payments. We believe that adoption of the disclosure approach would, in no way, imply that payoffs will be condoned as long as they are disclosed. Rather, we believe that this approach would prove ultimately to be a much more effective deterrent than would the provisions of H.R. 3815. This is because the legislation will be extremely difficult, if not impossible, to enforce. Payments falling within the scope of the legislation would include payments made on foreign soil to foreign officials and most probably made by persons who are not U.S. citizens. Investigations of such payments certainly require the active cooperation of foreign individuals and governments. Without such cooperation, the difficulties of obtaining witnesses and evidence to successfully investigate and prosecute the case would be insurmountable.

The difficulties of the criminalization approach to dealing with the problems of questionable foreign payments were reiterated by Secretary of the Treasury Blumenthal when he testified before the Consumer Protection and Finance Subcommittee. At that time he stated:

"I have always felt that a criminal statute such as this one will not be easy to enforce, particularly because it does involve acts that take place in other countries, the whole question of extraterritoriality and gets you into questions of the availability of witnesses, gets you into the question of acts taken in other jurisdictions in which the laws are different . . . we must not underestimate the difficulties of enforcement that in any case will result from this kind of legislation."

Former Secretary of Commerce Elliot Richardson expressed similar fears which are highlighted in the report of the President's Task Force on Questionable Payments Abroad:

"The Task Force has concluded, however, that the criminalization approach would represent little more than a policy assertion, for the enforcement of such a law would be very difficult if not impossible . . . The Task Force has concluded that unless reasonably enforceable criminal sanctions were devised, the criminal approach would represent poor public policy."

We believe that legislation that cannot be effectively enforced will do little to deter payoffs. On the other hand, disclosure could be a very effective deterrent especially in combination with the other sanctions against such payments which exist in present securities, antitrust, tax and criminal law. We are concerned that the committee may have constructed a paper tiger which in the long run will do little to discourage conduct which we all believe has no place in the American business community.

We note that in this regard that the disclosure concept in the political area was finally utilized in the Federal Election Campaign Act of 1971. Its effect has been dramatic when compared to the nearly 50 years of benign neglect given unlawful political contributions prior to that time. Hopefully, H.R. 3815 will not be a law shielding corruption for 50 years before the effective deterrent to foreign bribery—full disclosure—is required.

The legislation also sets up a curious division in enforcement responsibilities between the Securities and Exchange Commission and the Department of Justice. This is because the bill amends the Securities Exchange Act of 1934 as well as the criminal code, thereby giving the SEC authority to enforce the provisions of the bill as they apply to companies regulated by the Commission with the Department of Justice enforcing the bill with respect to all other domestic companies falling within the scope of the bill. We believe that this split in enforcement responsibility is unwise for several reasons.

The investigation of illegal payoffs to foreign officials is at best only indirectly related to the SEC's primary responsibility which is the protection of investors. We are reluctant to see the Commission redirect its already limited resources away from carrying out its primary mission of protecting investors to investigating foreign bribery. This is especially true when there is another body within the government more suited to that role—that is, the Department of Justice. The bill gives the Justice Department enforcement authority with respect to those companies not regulated by the SEC. We see no good reason for establishing two different programs to enforce the act in two different Federal entities—the SEC and the Department of Justice. Certainly this aspect of the legislation does nothing to advance the cause of governmental efficiency.

Further, we note that responsibility for investigating and prosecuting domestic bribery cases rests solely within the Department of Justice. It remains a mystery to us why the committee would choose to split enforcement responsibility with respect to foreign bribery when enforcement authority for a related crime—domestic bribery—resides in the Department of Justice.

[1] It is our understanding that the bill is not intended to reach "facilitating" or "grease" payments such as a gratuity paid to a customs official to speed the processing of documents, payments made to secure licenses or permits which would be issued in any event, or payments made under duress to protect a business investment. Although these kinds of payments would not be proper in the United States, we realize that they are a recognized part of doing business in certain foreign countries and agree that any legislation should not attempt to eliminate such payments. The bill is only aimed at payments or promises made to induce an official to misuse his position wrongfully to direct business to the person making the payment or to obtain preferential legislation or regulations.

During committee consideration of this bill, it was argued that this split was necessary so that the committee could retain jurisdiction over the subject matter dealt with in the legislation. If protection of jurisdictional turf is the only thing at stake here, then only the Judiciary Committee need be concerned. However, we believe that the split in responsibility between the Justice Department and SEC which is now found in the bill could have an adverse impact on U.S. foreign policy. As pointed out above, H.R. 3815 does not affect domestic bribery—that is already unlawful under title 18. H.R. 3815 is a measure aimed exclusively at illegal foreign activity. Its enactment will invite employees of the SEC a—quasi-legislative agency—to be running all over the world either reincarnating the "ugly American" or creating SEC American foreign policy.

Those supporting this curious split of authority argue that the Department of Justice as a part of the Executive Branch might be more aware of the political ramifications of vigorous enforcement of the bill and would, therefore, fail to prosecute violators vigorously. If our colleagues in the Majority, however, are distrustful of the Department of Justice, the answer is certainly not placing in other agencies authorities that more properly belong in the Department of Justice. Indeed, such an approach merely delays making the Department of Justice a more even-handed law enforcement agency.

SAMUEL L. DEVINE.
JAMES T. BROYHILL.
CLARENCE J. BROWN.
JOE SKUBITZ.
JAMES M. COLLINS.
EDWARD MADIGAN.
CARLOS J. MOORHEAD.
NORMAN F. LENT.

There are one or two questions I would like to address to the chairman of the subcommittee, the gentleman from Texas, if I could have his attention.

One concern has been brought to my attention, which is that the bill does proscribe payments to foreign officials. It defines foreign officials, but in the definition it excludes ministerial and clerical employees. I wonder if the gentleman from Texas could give us a little bit better idea of what this actually means.

Mr. ECKHARDT. Will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from Texas.

Mr. ECKHARDT. The section is contained in the definition of the term "foreign official," which says:

Such term does not include any employee of a foreign government or any department, agency, or instrumentality thereof whose duties are essentially ministerial or clerical.

I think the key language there is essentially ministerial or clerical.

Mr. BROYHILL. What the gentleman is saying is that it may be permissible to make a facilitating payment to a clerk for the purpose of getting goods off a dock, as long as the payment is to a person who spends most of his time performing so-called ministerial functions?

Mr. ECKHARDT. That is right. And I think the gentleman should note that the exclusion is as to the person involved, rather than as to the act. So if a person's duties are essentially ministerial and clerical, the payment to him to do something like move goods off the dock, which he was probably under a ministerial duty to do anyway, would not constitute a bribe, because that person has no authority to do other than essentially ministerial and clerical duties. It may be that he has chosen not to do them, and in that sense his activity is by his volition. But the test is whether or not what he should do, that is, the duties assigned to him, are essentially ministerial and clerical.

Payments to him, for instance, to complete a form that ought, in equity, to be completed, to give everybody equal treatment, to move the goods off a dock which he will not move without a tip, a mordida, I think, as they call it in the Spanish language, a facilitating payment, or a grease payment, would not constitute a foreign bribe.

Mr. BROYHILL. The gentleman is talking about a payment that may have to be given to assure that his case or his document or his request is going to be considered, rather than be left at the bottom of the pile?

Mr. ECKHARDT. Precisely.

Mr. BROYHILL. This would not, in that case, be a payment that would be made for a "corrupt purpose"?

Mr. ECKHARDT. That is correct. I think it is excluded in two ways. The payment is not made for a corrupt purpose, and it is not made to the classification of persons to whom payments made may constitute foreign bribes.

Mr. BROYHILL. But, of course, we are talking about action that in this country we would not agree with. But everybody thought that this kind of activity is fairly common in other countries.

Mr. ECKHARDT. I think, from what I have heard, that is correct. And that is the reason we have been careful to draft a bill around those practices which may be common but which are not of the nature of bribing an official to perform a discretionary duty which he would not otherwise have done but for the bribe.

Mr. BROYHILL. Mr. Speaker, I have no further requests for time.

Mr. ECKHARDT. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. LUKEN).

Mr. LUKEN. Mr. Speaker, I rise in support of H.R. 3815 which would proscribe the payment by U.S. companies of bribes to foreign officials or political parties.

Over 400 corporations have admitted to making questionable or illegal payments well in excess of $300 million to foreign government officials, politicians, and political parties.

The payment of bribes to foreign officials casts a shadow on all U.S. companies abroad, lowering the esteem with which the U.S. businessman is held by citizens of foreign countries and giving credence to our enemies who claim that American enterprises exert a corrupting influence on the political processes of their nations.

H.R. 3815 will prohibit U.S. corporations subject to the Securities Exchange Act and any other domestic business concern from making corrupt use of the mails, telephone, or other means of interstate commerce to offer, pay, or promise any money or thing of value to any foreign official, foreign political party, or candidate for foreign political office for purposes of influencing any foreign government. The bill also will prohibit authorization of such payments and gifts by an officer, director, or owner of more than 50 percent of any corporation or domestic concern.

Violations will be subject to a maximum $1 million fine for corporations and $10,000 and/or 5 years' imprisonment for any officer, director, or owner of more than a 50-percent controlling interest. A firm could not pay the fine of a natural person. Any "agent" of a corporation, as distinct from a person in a policymaking position, must be shown to have "knowingly and willfully" carried out a violation before he will be subject to liability.

The Securities and Exchange Commission will have investigative authority over corporations it regulates, and the Attorney General will be responsble for any criminal prosecution. The Justice Department will investigate and prosecute domestic concerns not subject to SEC jurisdiction. The Attorney General will have injunctive authority similar to the SEC's against any domestic concern.

Mr. Speaker, the payment of foreign bribes runs counter to the moral expectations and values of this country. It is unfortunate that this legislation is necessary, however, all the evidence points to the fact that without it this practice would continue. Moreover, this express statutory prohibition should actually help U.S. corporations resist corrupt demands.

Mr. ECKHARDT. Mr. Speaker, we have no further requests for time on this side, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BROWN of California). The question is on the motion offered by the gentleman from Texas (Mr. ECKHARDT) that the House suspend the rules and pass the bill, H.R. 3815, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. ECKHARDT. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce be discharged from further consideration of the Senate bill (S. 305) to amend the Securities Exchange Act of 1934 to require issuers of securities registered pursuant to section 12 of such act to maintain accurate records, to prohibit certain bribes, and for other purposes, and ask for immediate consideration of the Senate bill.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 305

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—FOREIGN CORRUPT PRACTICES

SEC. 101. This title may be cited as the "Foreign Corrupt Practices Act of 1977".

SEC. 102. Section 13(b) of the Securities and Exchange Act (15 U.S.C. 78q(b)) is amended by inserting "(1)" after "(b)" and by adding at the end thereof the following:

"(2) Every issuer which has a class of securities registered pursuant to section 12 of this title and every issuer which is required to file reports pursuant to section 15(d) of this title shall—

"(A) make and keep books, records, and accounts, which accurately and fairly reflect the transactions and dispositions of the assets of the issuer; and

"(B) devise and maintain an adequate system of internal accounting controls sufficient to provide reasonable assurances that—

"(i) transactions are executed in accordance with management's general or specific authorization;

"(ii) transactions are recorded as necessary (1) to permit preparation of financial statements in conformity with generally accepted accounting principles or any other criteria applicable to such statements and (2) to maintain accountability for assets;

"(iii) access to assets is permitted only in accordance with management's general or specific authorization; and

"(iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

"(3) It shall be unlawful for any person, directly or indirectly knowingly to falsify, or cause to be falsified, any book, record or account made or required to be made for any accounting purpose, of any issuer which has a class of securities registered pursuant to section 12 of this title or which is required to file reports pursuant to section 15(d) of this title.

"(4) It shall be unlawful for any person, directly or indirectly—

"(A) knowingly to make, or cause to be made, a materially false or misleading statement, or

"(B) knowingly to omit to state, or cause another person to omit to state, any material fact necessary in order to make statements made, in the light of the circumstances under which they were made, not misleading

to an accountant in connection with any examination or audit of an issuer which has a class of securities registered pursuant to section 12 of this title or which is required to file reports pursuant to section 15(d) of this title, or in connection with any examination or audit of an issuer with respect to an offering registered or to be registered under the Securities Act of 1933.

"(5)(A) No duty or liability under paragraphs (2) through (4) of this section shall be imposed upon any person acting in cooperation with, and at the specific, written directive of, the head of any Federal agency or department responsible for matters concerning the national security of the United States: *Provided, however,* That this subparagraph (A) shall only apply to the extent that the requirements of paragraphs (2) through (4) of this section would result, or be likely to result, in the disclosure of information which has been classified by an appropriate department or agency of the United States for protection in the interests of the national security and only to the extent that such information is specifically related to the person's lawful cooperation. Every directive executed under this paragraph shall set forth therein the specific facts and circumstances concerning which provisions of this paragraph are to be invoked and, unless renewed in writing, every directive shall expire one year after issuance.

"(B) The head of the agency or department executing any directive pursuant to this paragraph shall maintain a complete file of all such directives and shall, on October 1 of each year, transmit to the President copies of all directives in force at any time during the prior year. The President shall review and certify that such directives involve classified activities or information and are in conformity with applicable statutes and Executive orders.".

SEC. 103. The Securities Exchange Act of 1934 is amended by inserting after section 30 the following new section:

"PAYMENTS TO OFFICIALS

SEC. 30A. It shall be unlawful for any issuer which has a class of securities registered pursuant to section 12 of this title or which is required to file reports pursuant to section 15(d) of this title, or any officer, director, employee, or stockholder thereof acting on behalf of such issuer, to make use of the mails or of any means or instrumentality of interstate commerce corruptly in furtherance of an offer, payment, or promise to pay, or authorization of the payment of, any money, or offer, gift, or promise to give or authorization of the giving of anything of value to—

"(1) any person who is an official of a foreign government or instrumentality thereof for the purpose of inducing that individual—

"(A) to use his influence with a foreign government or instrumentality, or

"(B) to fail to perform his official functions, to assist such issuer in obtaining or retaining business for or with, or directing business to, any person or influencing legislation or regulations of that government or instrumentality;

"(2) any foreign political party or official thereof or any candidate for foreign political office for the purpose of inducing that party, official, or candidate—

(A) to use its or his influence with a foreign government or instrumentality thereof, or

"(B) to fail to perform its or his official functions,

to assist such issuer in obtaining or retaining business for or with, or directing business to, any person or influencing legislation or regulations of that government or instrumentality; or

"(3) any person, while knowing or having reason to know that all or a portion of such money or thing of value will be offered, given, or promised directly or indirectly to any individual who is an official of a foreign government or instrumentality thereof, or to any foreign political party or official thereof, or any candidate for foreign political office, for the purpose of inducing that individual, official, or party—

"(A) to use his or its influence with a foreign government or instrumentality, or

"(B) to fail to perform his or its official functions,

to assist such issuer in obtaining or retaining business for or with, or directing business to, any person or influencing legislation or regulations of that government or instrumentality.".

PAYMENTS TO OFFICIALS

SEC. 104. (a) It shall be unlawful for any domestic concern, other than an issuer which is subject to section 30A of the Securities Exchange Act of 1934, or any officer, director, employee or stockholder thereof acting on behalf of such domestic concern to make use of the mails or of any means or instrumentality of interstate commerce corruptly in furtherance of an offer, payment, or promise to pay, or authorization of the payment of, any money, or offer, gift, or promise to give or authorization of the giving of anything of value to—

(1) any individual who is an official of a foreign government or instrumentality thereof for the purpose of inducing that individual—

(A) to use his influence with a foreign government or instrumentality, or

(B) to fail to perform his official functions, to assist such concern in obtaining or retaining business for or with, or directing business to, any person or influencing legislation or regulations of that government or instrumentality,

(2) any foreign political party or official thereof or any candidate for foreign political office for the purpose of inducing that party, official, or candidate—

(A) to use its or his influence with a foreign government or instrumentality thereof, or

(B) to fail to perform its or his official functions,

to assist such concern in obtaining or retaining business for or with, or directing business to, any person or influencing legislation or regulations of that government or instrumentality; or

(3) any individual, while knowing or having reason to know that all or a portion of such money or thing of value will be offered, given, or promised directly or indirectly to any individual who is an official of a foreign government or instrumentality thereof, or to any foreign political party or official thereof or any candidate for foreign political office, for the purpose of inducing that individual, official, or party—

(A) to use his or its influence with a foreign government or instrumentality, or

(B) to fail to perform his or its official functions,

to assist such concern in obtaining or retaining business for or with, or directing business to, any person or influencing legislation or regulations of that government or instrumentality.

(b) Any person who willfully violates this section shall upon conviction be fined not more than $10,000, or imprisoned not more than five years, or both: *Provided, however,* That in the case of a corporation the fine shall be not more than $500,000.

(c) As used in this section—

(1) the term "domestic concern" means an individual who is a citizen or national of the United States, or any corporation, partnership, association, joint-stock company, business trust, or unincorporated organization which is owned or controlled by individuals who are citizens or nationals of the United States and which has its principal place of business in the United States, or which is organized under the laws of a State of the United States or any territory, possession, or commonwealth of the United States; and

(2) the term "interstate commerce" means trade, commerce, transportation, or communication among the several States, or between any foreign country and any State, or between any State and any place or ship outside thereof, and such term includes the intrastate use of a telephone or other interstate means of communication or any other interstate instrumentality.

SEC. 105. Section 32(a) of the Securities Exchange Act of 1934 is amended—

(1) by inserting "(1)" after "except that"; and

(2) by inserting after "may be imposed" a comma and the following: "and (2) when such person is an issuer who violated section 30A, a fine not exceeding $500,000 may be imposed".

TITLE II—DISCLOSURE

SEC. 201. This title may be cited as the "Domestic and Foreign Investment Improved Disclosure Act of 1977".

SEC. 202. Section 13(d)(1) of the Securities Exchange Act of 1934 (14 U.S.C. 78m) is amended to read as follows:

"(d)(1) Any person who, after acquiring directly or indirectly the beneficial ownership of any equity security of a class which is registered pursuant to section 12 of this title, or any equity security of an insurance company which would have been required to be so registered except for the exemption contained in section 12(g)(2)(G) of this title, or any equity security issued by a closed-end investment company registered under the Investment Company Act of 1940, is directly or indirectly the beneficial owner of more than 5 per centum of such class shall, within ten days after such acquisition, send to the issuer of the security at its principal executive office, by registered or certified mail, send to each exchange where the security is traded, and file with the Commission, a statement containing such of the following information, and such additional information, as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors—

"(A) the background, and identity, residence, and citizenship of, and the nature of such beneficial ownership by, such person and all other persons by whom or on whose behalf the purchases have been or are to be effected;

"(B) the source and amount of the funds or other consideration used or to be used in making the purchases, and if any part of the purchase price or proposed purchase price is represented or is to be represented by funds or other consideration borrowed or otherwise obtained for the purpose of acquiring, holding, or trading such security, a description of the transaction and the names of the parties thereto, except that where a source of funds is a loan made in the ordinary course of business by a bank, as defined in section 3(a)(6) of this title, if the person filing such statement so requests, the name of the bank shall not be made available to the public;

"(C) if the purpose of the purchases or prospective purchases is to acquire control of the business of the issuer of the securities, any plans or proposals which such persons may have to liquidate such issuer, to sell its assets to or merge it with any other persons, or to make any other major change in its business or corporate structure;

"(D) the number of shares of such security which are beneficially owned, and the number of shares concerning which there is a right to acquire, directly or indirectly, by (i) such person, and (ii) by each associate of such person, giving the background, identity, residence, and citizenship of each such associate; and

"(E) information as to any contracts, arrangements, or understandings with any person with respect to any securities of the issuer, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guaranties of loans, guaranties against loss or guaranties of profits, division of losses or profits, or the giving or withholding of proxies, naming the persons with whom such contracts, arrangements, or understandings have been entered into, and giving the details thereof.".

Sec. 203. Section 13 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78m), is amended by adding at the end thereof the following new subsection:

"(g)(1) Any person who is directly or indirectly the beneficial owner of more than five per centum of any security of a class described in subsection (d)(1) of this section shall send to the issuer of the security and shall file with the Commission a statement setting forth, in such form and at such time as the Commission may, by rule, prescribe:

"(A) such person's identity, residence, and citizenship;

"(B) the number and description of the shares in which such person has an interest and the nature of such interest;

"(C) the time and manner of acquisition of such shares and subsequent transactions in such shares; and

"(D) such other similar information as the Commission may, by rule, prescribe as necessary or appropriate in the public interest or for the protection of investors.

"(2) If any material change occurs in the facts set forth in the statement sent to the issuer and filed with the Commission, an amendment shall be transmitted to the issuer and shall be filed with the Commission, in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.

"(3) When two or more persons act as a partnership, limited partnership, syndicate, or other group for the purpose of acquiring, holding, or disposing of securities of an issuer, such syndicate or group shall be deemed a "person" for the purposes of this subsection.

"(4) In determining, for purposes of this subsection, any percentage of a class of any security, such class shall be deemed to consist of the amount of the outstanding securities of such class, exclusive of any securities of such class held by or for the account of the issuer or a subsidiary of the issuer.

"(5) In exercising its authority under this subsection, the Commission shall take such steps as it deems necessary or appropriate in the public interest or for the protection of investors (A) to achieve centralized reporting of information regarding ownership, (B) to avoid unnecessarily duplicative reporting by and minimize the compliance burden on persons required to report, and (C) to tabulate and promptly make available the information contained in any report filed pursuant to this subsection in a manner which will, in the view of the Commission, maximize the usefulness of the information to other Federal and State agencies and the public.

"(6) The Commission may, by rule or order, exempt, in whole or in part, any person or class of persons from any or all of the reporting requirements of this subsection as it deems necessary or appropriate in the public interest or for the protection of investors.

"(h) The Commission shall report to the Congress within thirty months of the date of enactment of this subsection with respect to (1) the effectiveness of the ownership reporting requirements contained in this title, and (2) the desirability and the feasibility of reducing or otherwise modifying the 5 per centum threshold used in subsections (d)(1) and (g)(1) of this section, giving appropriate consideration to:

"(A) the incidence of avoidance of reporting by beneficial owners using multiple holders of record;

"(B) the cost of compliance to persons required to report;

"(C) the cost to issuers and others of processing and disseminating the reported information;

"(D) the effect of such action on the securities markets, including the system for the clearance and settlement of securities transactions;

"(E) the benefits to investors and to the public;

"(F) any bona fide interests of individuals in the privacy of their financial affairs;

"(G) the extent to which such reported information gives or would give any person an undue advantage in connection with activities subject to sections 13(d) and 14(d) of this title;

"(H) the need for such information in connection with the administration and enforcement of this title; and

"(I) such other matters as the Commission may deem relevant, including the information obtained pursuant to section 13(f) of this title.".

SEC. 204. Section 15(d) of the Securities Exchange Act of 1934 is amended by inserting immediately before the last sentence the following new sentence: "The Commission may, for the purpose of this subsection, define by rules and regulations the term 'held of record' as it deems necessary or appropriate in the public interest or for the protection of investors in order to prevent circumvention of the provisions of this subsection.".

MOTION OFFERED BY MR. ECKHARDT

Mr. ECKHARDT. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ECKHARDT moves to strike out all after the enacting clause of the Senate bill S. 305, and to insert in lieu thereof the provisions of H.R. 3815, as passed.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "to amend the Securities Exchange Act of 1934 to make it unlawful for an issuer of securities registered pursuant to section 12 of such act or an issuer required to file reports pursuant to section 15(d) of such act to make certain payments to foreign officials and other foreign persons, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 3815) was laid on the table.

GENERAL LEAVE

Mr. ECKHARDT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDING EMPLOYEE RETIREMENT INCOME SECURITY ACT

Mr. DENT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 9378) to amend title IV of the Employee Retirement Income Security Act of 1974 to postpone, for 2 years, the date on which the corporation first begins paying benefits under terminated multiemployer plans, as amended.

The Clerk read as follows:

H.R. 9378

Be it enacted by the Senate and House of Representatives of the United States of

America in Congress assembled, That (a) section 4082(c) of the Employee Retirement Income Security Act of 1974 (relating to effective dates; special rules) is amended—

(1) by striking "January 1, 1978" in paragraph (1) and substituting "July 1, 1979";

(2) by striking "January 1, 1978" in paragraph (2) and substituting "July 1, 1979";

(3) by striking "December 31, 1977" in paragraph (2)(B) and substituting "June 30, 1979";

(4) by striking "January 1, 1978" in paragraph (4) and substituting "July 1, 1979";

(5) by striking "December 31, 1977" in paragraph (4)(D) and substituting "June 30, 1979".

(b) Section 4082 of such Act is amended by adding at the end thereof the following new subsection:

"(d) The corporation shall present to the Committee on Education and Labor of the House of Representatives and the Committee on Human Resources and the Committee on Finance of the Senate a report which comprehensively addresses the anticipated financial condition of the program relating to mandatory coverage of multiemployer plans, including possible events which might cause the corporation to experience serious financial difficulty after July 1, 1979. Such report shall include an explanation of any alternative courses of action which might be taken by the corporation to insure proper coverage of multiemployer plans and the proper financing of the program relating to such plans. If the report contains recommendations for amendments to this title, such recommendations shall be fully explained, and shall be accompanied by explanations of other options for legislative change considered and rejected by the corporation. The report shall be presented by July 1, 1978."

The SPEAKER pro tempore. Is a second demanded?

Mr. ERLENBORN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. DENT) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. ERLENBORN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. DENT).

Mr. DENT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as amended, H.R. 9378 postpones, from January 1, 1978, to July 1, 1979, the date on which multiemployer pension plans become subject to mandatory termination insurance coverage. Concern has been expressed by the Pension Benefit Guaranty Corporation and representatives of multiemployer plans that a number of plans with large unfunded vested liabilities might terminate after January 1, 1978, imposing huge liabilities on the PBGC, thereby threatening the viability of the termination insurance program for multiemployer plans.

I would like to emphasize that under this bill the Pension Benefit Guaranty Corporation retains discretionary authority to cover multiemployer plans which terminate prior to July 1, 1979. The PBGC has had this discretionary authority to cover multiemployer plans since the enactment of ERISA in 1974.

The bill also requires the Pension Benefit Guaranty Corporation to issue a report to the Congress by July 1, 1978. This report will address the anticipated financial condition of the program relating to mandatory coverage for multiemployer plans, including possible events which might cause the corporation to experience serious financial difficulty after July 1, 1979.

The administration and Pension Benefit Guaranty Corporation have expressed support for this bill, as have the AFL–CIO and the National Coordinating Committee for Multiemployer Plans. No opposition to the bill has been brought to our attention.

By postponing mandatory coverage until July 1, 1979, this bill permits the development of a workable multiemployer plan termination insurance program that will fully protect the interests of plan participants.

Mr. ERLENBORN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, when ERISA was passed in 1974, we created the Pension Benefit Guaranty Corporation insurance for both single-employer plans and multiemployer plans. However, we recognized the difference between single-employer and multiemployer plans; and though we made insurance immediately applicable to the single employer, we deferred the effective date for multiemployer insurance until January 1, 1978.

The Pension Benefit Guaranty Corporation has made a study; and they have identified a substantial number of multiemployer plans that are in financial difficulty and can logically be expected to terminate shortly after the insurance coverage comes into effect. As a matter of fact some 3 percent of the plans, I believe, representing about $350 million in liabilities, can be expected to terminate shortly after the insurance becomes available. In the longer run, their study identifies $3.5 billion to $4 billion of potential liability for terminated plans.

Mr. Speaker, they have recommended that we delay the effective date of multiemployer insurance coverage until some plan can be devised and adopted to avoid this potential liability, which is not only a liability of the insurance corporation, but would necessarily be passed on to the multiemployer plans in higher insurance premiums.

Mr. Speaker, there is general agreement in our committee and on the other side, in the other body, that this is a reasonable request.

The gentleman from Pennsylvania (Mr. DENT) will offer an amendment in the nature of a substitute which will make the time 1½ years, which will conform to the wishes of the managers in the other body; and, as he pointed out, will avoid the necessity of a conference.

I fully support the effort of the gentleman from Pennsylvania and hope that the substitute will be adopted and that the bill will be passed.

Mr. Speaker, I have no further requests for time.

Mr. DENT. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. DENT) that the House suspend the rules and pass the bill H.R. 9378, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CONGRESSIONAL SALARY DEFERRAL

Mr. SOLARZ. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 9282) to provide that adjustments in the rates of pay for Members of Congress shall take effect at the beginning of the Congress following the Congress in which they are approved, and for other purposes.

The Clerk read as follows:

H.R. 9282

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a)(1) paragraph (2) of section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31), relating to congressional salary adjustment, is amended by striking out "Effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which" and inserting in lieu thereof "Effective at the beginning of the Congress following any Congress during which".

(2) Section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31), relating to congressional salaries, is amended by adding at the end thereof the following new paragraphs:

"(3) Adjustments in the rates of pay for positions referred to in paragraph (1) occurring under section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351–361) shall take effect at the beginning of the Congress following the Congress during which such rates of pay were recommended by the President under subsection (h) of such section (or, if later, the date prescribed by the President under subsection (1)(2)(A) of such section).

"(4) Adjustments described in paragraphs (2) and (3) taking effect at the beginning of any Congress shall be made in accordance with the following:

"(A) any adjustment under such section 225 shall be taken into account before determining any adjustment under paragraph (2); and

"(B) adjustments under paragraph (2) shall be made in the same order in which the corresponding adjustments in the General Schedule were made.

"(5) No Congressional employee (as defined in section 2107 of title 5, United States Code) may be paid at a rate in excess of the pay rate payable for Senators and Members of the House of Representatives.".

(b)(1) Section 225(h) of the Federal Salary Act of 1967 (2 U.S.C. 358) is amended—

(A) by striking out "include, in the budget" and all that follows through "Commission" and inserting in lieu thereof the following: "transmit to the Congress, within the first 15 days of January after the date on which the report and recommendations of the Commission are required to be submitted", and

(B) by striking out the second sentence thereof.

(2) Section 225(i) of the Federal Salary Act of 1967 (2 U.S.C. 359) is amended—

(A) in paragraph (1) thereof, by inserting ", except as provided in paragraph (2) of this subsection," before "become effective"; and

(B) in paragraph (2) thereof, by inserting "(A)" before "Any" and by adding at the end thereof the following new subparagraph:

"(B) Rates of pay for offices and positions within the purview of subparagraph (A) of subsection (f) of this section (other than the office of Vice President of the United States) shall take effect as prescribed in paragraphs (3) and (4) of section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31).".

SEC. 2. (a) It shall not be in order in either the House of Representatives or the Senate to consider any appropriation bill, budget, resolution, or amendment thereto, which directly or indirectly prevents the payment of increases in pay rates resulting from a pay adjustment deferred under the amendments made by the first section of this Act.

(b) For purposes of subsection (a), the term "budget resolution" means any concurrent resolution on the budget, as such term is defined in section 3(a)(4) of the Congressional Budget and Impoundment Control Act of 1974.

(c) The provisions of subsection (a) are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

SEC. 3. The provisions of this Act shall take effect on the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

POINT OF ORDER

Mr. BAUMAN. Mr. Speaker, I have a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. BAUMAN. Mr. Speaker, I make a point of order against the present consideration of the bill under suspension on the ground that the bill itself and the manner in which it was considered is in violation of Public Law 93–344, the Congressional Budget Act, specifically section 306.

Section 306 of the Budget Act says as follows:

No bill or resolution and no amendment to any bill or resolution dealing with any matter which is within the jurisdiction of the Committee on the Budget of either House shall be considered in that House unless it is a bill or resolution which has been reported by the Committee of the Budget of that House or from the consideration of which such committee has been discharged, or unless it is an amendment to such bill or resolution.

Mr. Speaker, the bill before us specifically, in section 2, seeks to repeal part of the jurisdiction of the Committee on the Budget. Specifically it says the following:

SEC. 2. (a) It shall not be in order in either the House of Representatives or the Senate to consider any appropriation bill, budget resolution, or amendment thereto, which directly or indirectly prevents the payment of increases in pay rates resulting from a pay adjustment deferred under the amendments made by the first section of this Act.

Mr. Speaker, the Budget Act is very clear that so far as the rules of procedure governing the Budget Act itself are concerned, that is within the jurisdiction of the Committee on Rules. This bill was reported by the Committee on Post Office and Civil Service, the committee of original jurisdiction, and I understand the jurisdiction was waived by the Committee on Rules. Nevertheless, section 306 makes it plain that since this bill, if it becomes statutory law, repeals part of the jurisdiction of the Committee on the Budget, it should have also been considered, in the opinion of the gentleman from Maryland, by the Committee on the Budget or their jurisdiction should have been waived. This was not done.

I would say further, Mr. Speaker, that if in fact any committee of the House is able to report a bill which prevents the Committee on the Budget from dealing with subject matters under that reporting committee's jurisdiction, then the Committee on the Budget in fact could be, over a period of time, destroyed as far as its capability of dealing with the Budget Act.

For all of those reasons, I make a point of order against consideration of this bill. I would further point out that section 306 does not deal with reporting or with whether or not the House can suspend the rules, but it forbids consideration by the House at any time of any legislation that repeals or changes the jurisdiction of the Committee on the Budget without that committee's acting upon it.

The SPEAKER pro tempore. Does the gentleman from New York desire to be heard on the point of order?

Mr. SOLARZ. I do, Mr. Speaker.

I have unbounded admiration for the parliamentary sagacity of my good friend, the gentleman from Maryland. Who am I, after all, to challenge the validity of this rather sophisticated parliamentary analysis? But may I suggest, Mr. Speaker, that the substantive merits of the gentleman's objection notwithstanding, the fact is that from a procedural point of view I do believe it has to be found wanting. The reason for that is that under the suspension of the rules, which are the terms under which the legislation is being considered, all existing rules of the House are waived, and to the extent that the provision to which the gentleman from Maryland referred is itself incorporated in the rules of the House, which do, after all, provide for the consideration of these budget resolutions, I would suggest that his objection is not relevant to this resolution and, therefore, is not germane.

Mr. BAUMAN. Mr. Speaker, may I be heard further?

The gentleman makes the contention that by making a motion to suspend the rules of the House, this wipes out a rule against consideration in any form, including the suspension of the requirements of the Budget Act. There is ample precedent in the House for situations in which the Chair has ruled that a bill may not even be brought up under suspension if it has not in fact been considered by the committee of proper jurisdiction. I refer the Chair to Hinds Precedents, volume 5, section 6848, page 925, in which it was ruled by the Chair that a committee, the Committee on the Census, could not bring up for consideration under a motion to suspend the rules a bill relating to the printing of a compendium of a census, because it had not been brought before the Committee on Printing.

It is quite obvious that this is a question of consideration. It is written into the statutory law that no such bill can be considered, and I am not aware that that rule of consideration can be suspended or repealed by a simple motion to suspend the rules. If, in fact, that is the case, the Budget Act is meaningless.

Mr. GIAIMO. Mr. Speaker, may I be heard on the point of order?

The SPEAKER pro tempore. The Chair recognizes the gentleman from Connecticut.

Mr. GIAIMO. Mr. Speaker, the charge has been made and the objection has been raised that this legislation, particularly section 2, invades the jurisdiction of the Budget Committee in that it purports to prohibit the Budget Committee from exercising its jurisdiction over budget resolutions insofar as they would apply to pay raises and cost-of-living increases. I must submit that that is a proper interpretation.

However, I do believe that the argument of the gentleman from New York that this matter is being brought up under suspension of the rules is a very valid one and that the House of Representatives can in its wisdom by a two-thirds vote suspend the rules and deprive the Budget Committee and in fact the Appropriations Committee of jurisdiction in effecting pay raises or cost-of-living increases by a two-thirds vote.

The SPEAKER pro tempore (Mr. BROWN of California). Are there any other Members who desire to be heard on the point of order? If not, the Chair is prepared to rule.

The gentleman from Maryland makes a point of order against the consideration of the bill H.R. 9282 under suspension of the rules on the grounds that section 306 of the Congressional Budget Act states that no bill or resolution nor amendment to any bill or resolution dealing with any matter which is within the jurisdiction of the Committee on the Budget of either House shall be considered in that House unless it is a bill or resolution which has been reported by the Committee on the Budget of that House or from consideration of which such committee has been discharged or unless it is an amendment to such a bill or resolution.

The Chair need not rule on the jurisdictional issue raised by the gentleman and points out to the gentleman from Maryland that under the specific provisions of section 904 of the Budget Act, the provisions of title III including section 306, which he cites, are stipulated as being an exercise of the rulemaking power of the House of Representatives with full recognition of the constitutional right of either House to change such rules so far as relating to such House at any time in the same manner and to the same extent as in the case of

any other rule of such House. It is the opinion of the Chair therefore that it is within the discretion of the Chair under rule XXVII to entertain a motion to suspend the rules and to consider the bill at this time. Of course, the precedent cited by the gentleman from Maryland applies only to a provision which is no longer in rule XXVII relating to motions to suspend the rules made by committees. Accordingly the point of order is overruled.

Mr. BAUMAN. Mr. Speaker, may I be heard further, at the sufferance of the Chair?

The SPEAKER pro tempore. The Chair will hear the gentleman.

Mr. BAUMAN. I thank the Speaker for permitting me to be heard further.

I would just point out that the Speaker has pointed out that it is within the prerogatives of the House to change the rules of the House, but this is not a rule of the House. It is a provision of a statute which is being waived, and while I would not appeal the ruling, I do not think that is a proper basis for the ruling.

The SPEAKER pro tempore. The specific provision which the gentleman states has the status of a rule of the House of Representatives under the statute and under the Constitution.

Is a second demanded?

Mr. DERWINSKI. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

Mr. BAUMAN. Mr. Speaker, I object to the second.

The SPEAKER pro tempore. Does the gentleman from Maryland object to the ordering of the second and request tellers?

Mr. BAUMAN. Yes; I do, Mr. Speaker.

The SPEAKER pro tempore. The question is on ordering the second.

The Chair appoints as tellers Mr. SOLARZ and Mr. BAUMAN.

The House divided, and tellers reported that there were—ayes 15, noes 17.

Mr. SOLARZ. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 167, nays 233, not voting 34, as follows:

[Roll No. 725]

YEAS—167

Addabbo	Brooks	Danielson
Akaka	Broomfield	Delaney
Alexander	Brown, Calif.	Dellums
Anderson, Calif.	Burke, Calif.	Derrick
Andrews, N.C.	Burke, Fla.	Dingell
Applegate	Burke, Mass.	Dodd
Ashley	Burlison, Mo.	Drinan
Badillo	Burton, John	Duncan, Oreg.
Baldus	Burton, Phillip	Eckhardt
Bellenson	Caputo	Edwards, Ala.
Benjamin	Carr	Edwards, Calif.
Biaggi	Cavanaugh	Eilberg
Bingham	Chappell	Evans, Colo.
Blanchard	Chisholm	Fary
Bonker	Clay	Fascell
Brademas	Collins, Ill.	Fisher
Breaux	Corman	Flood
Brodhead	Cornell	Florio
	Cotter	Ford, Mich.
	Forsythe	Mikva
	Fraser	Milford
	Fuqua	Miller, Calif.
	Gaydos	Mineta
	Gibbons	Mitchell, Md.
	Ginn	Mollohan
	Gudger	Moorhead, Pa.
	Harris	Mottl
	Hawkins	Murphy, Ill.
	Hefner	Murphy, N.Y.
	Heftel	Murtha
	Holland	Myers, Michael
	Holtzman	Natcher
	Howard	Nedzi
	Jenrette	Nix
	Johnson, Calif.	Nolan
	Jones, N.C.	Nowak
	Jordan	Oberstar
	Kastenmeier	Obey
	Krebs	Ottinger
	LaFalce	Patterson
	Le Fante	Pattison
	Lederer	Pease
	Leggett	Pepper
	Lehman	Poage
	Lloyd, Calif.	Preyer
	Long, La.	Price
	McFall	Rangel
	McHugh	Reuss
	McKay	Richmond
	McKinney	Rodino
	Maguire	Roe
	Mahon	Roncalio
	Mann	Rooney
	Markey	Rose
	Meeds	Rosenthal
	Meyner	Rostenkowski
		Roybal
		Ryan
		Scheuer
		Seiberling
		Shipley
		Simon
		Sisk
		Slack
		Smith, Iowa
		Solarz
		Spellman
		St Germain
		Stanton
		Stark
		Steers
		Stokes
		Thornton
		Tsongas
		Tucker
		Udall
		Van Deerlin
		Vanik
		Vento
		Waggonner
		Walgren
		Waxman
		Weaver
		Weiss
		Whalen
		White
		Whitley
		Wilson, Tex.
		Wolff
		Wright
		Young, Fla.
		Young, Mo.
		Zablocki

NAYS—233

Abdnor	Edgar	Lent
Allen	Emery	Levitas
Ambro	English	Livingston
Ammerman	Ertel	Lloyd, Tenn.
Anderson, Ill.	Evans, Del.	Long, Md.
Andrews, N. Dak.	Evans, Ind.	Lott
Annunzio	Fenwick	Luken
Archer	Findley	McClory
Armstrong	Fish	McCloskey
Ashbrook	Fithian	McCormack
Aspin	Flippo	McDonald
AuCoin	Flynt	McEwen
Bafalis	Foley	Madigan
Barnard	Ford, Tenn.	Marks
Baucus	Fountain	Marlenee
Bauman	Fowler	Marriott
Beard, R.I.	Frenzel	Martin
Beard, Tenn.	Gammage	Mattox
Bedell	Gephardt	Mazzoli
Bennett	Giaimo	Michel
Bevill	Gilman	Mikulski
Blouin	Glickman	Miller, Ohio
Boland	Goldwater	Minish
Bonior	Gonzalez	Moakley
Bowen	Goodling	Moffett
Breckinridge	Gore	Montgomery
Brinkley	Gradison	Moore
Brown, Mich.	Grassley	Moorhead, Calif.
Brown, Ohio	Guyer	Moss
Broyhill	Hagedorn	Murphy, Pa.
Buchanan	Hall	Myers, Gary
Burgener	Hamilton	Myers, John
Burleson, Tex.	Hammer-schmidt	Neal
Butler	Hanley	Nichols
Byron	Hannaford	O'Brien
Carney	Hansen	Oakar
Carter	Harkin	Panetta
Cederberg	Harrington	Patten
Clausen, Don H.	Harsha	Perkins
Cleveland	Heckler	Pettis
Cochran	Hillis	Pickle
Cohen	Hollenbeck	Pike
Coleman	Holt	Pressler
Collins, Tex.	Horton	Pritchard
Conable	Hubbard	Pursell
Conte	Huckaby	Quayle
Cornwell	Hyde	Quie
Coughlin	Ichord	Quillen
Crane	Jacobs	Rahall
Cunningham	Jeffords	Railsback
Daniel, Dan	Jenkins	Regula
Daniel, R. W.	Johnson, Colo.	Rhodes
Davis	Jones, Okla.	Rinaldo
de la Garza	Kazen	Risenhoover
Dent	Kemp	Robinson
Derwinski	Ketchum	Rogers
Devine	Keys	Rudd
Dicks	Kildee	Runnels
Dornan	Kindness	Ruppe
Downey	Kostmayer	Russo
Duncan, Tenn.	Lagomarsino	Santini
Early	Latta	Sarasin
	Leach	Satterfield
	Sawyer	Steiger
	Schroeder	Stockman
	Schulze	Stratton
	Sebelius	Studds
	Sharp	Stump
	Shuster	Symms
	Sikes	Taylor
	Skelton	Thompson
	Skubitz	Thone
	Smith, Nebr.	Traxler
	Snyder	Trible
	Spence	Ullman
	Staggers	Vander Jagt
	Stangeland	Volkmer
	Steed	Walker
		Walsh
		Wampler
		Watkins
		Whitehurst
		Whitten
		Wiggins
		Wilson, Bob
		Winn
		Wirth
		Wydler
		Wylie
		Yates
		Yatron
		Young, Alaska
		Zeferetti

NOT VOTING—34

Badham	Flowers	McDade
Boggs	Frey	Mathis
Bolling	Hightower	Metcalfe
Clawson, Del	Hughes	Mitchell, N.Y.
Conyers	Ireland	Roberts
Corcoran	Jones, Tenn.	Rousselot
D'Amours	Kasten	Teague
Dickinson	Kelly	Treen
Diggs	Koch	Wilson, C. H.
Edwards, Okla.	Krueger	Young, Tex.
Erlenborn	Lujan	
Evans, Ga.	Lundine	

Messrs. CARTER, LLOYD of California, MOLLOHAN, and RYAN changed their vote from "nay" to "yea."

Messrs. CONTE, WYDLER, RUSSO, and EDGAR, Mrs. HECKLER, Messrs. BAUCUS, WHITTEN, GONZALEZ, PANETTA, BENNETT, VOLKMER, EARLY, STRATTON, FORD of Tennessee, SPENCE, SAWYER, HAMMERSCHMIDT, HALL, MAZZOLI, YATES, AMBRO, HOLLENBECK, LONG of Maryland, THOMPSON, SKELTON, FOLEY, DICKS, ANNUNZIO, HANNAFORD, PERKINS, FITHIAN, McCORMACK, EVANS of Indiana, DE LA GARZA, MINISH, BRECKINRIDGE, SNYDER, MOAKLEY, RAHALL, and CARTER, Ms. OAKAR, Messrs. JEFFORDS, HANLEY, JONES of Oklahoma, RISENHOOVER, MATTOX, PICKLE, HILLIS, AMMERMAN, ALLEN, STAGGERS, DOWNEY, ZEFERETTI, ULLMAN, GIAIMO, MOFFETT, and PATTEN, and Mrs. SCHROEDER changed their vote from "yea" to "nay."

So a second was not ordered.

The result of the vote was announced as above recorded.

GENERAL LEAVE

Mr. DERWINSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the matter we have just considered.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. PRESSLER. Mr. Speaker, the charade of shifting votes on the pay bill this afternoon is disturbing. Equally disturbing is the fact that my colleague, Mr. ARMSTRONG of Colorado, and a member of the proper committee, was not recognized to bring H.R. 9282 to a proper vote. I want this House to vote on its pay. I was a cosponsor of H.R. 9282 but the very misleading language that was inserted by the committee made it a bill I could not support. The language inserted says that amendments cannot be offered in the future preventing automatic pay raises for Members of Congress.

Inflation rages in our country—in part because of the bad example Congress

sets. We all want Congress to be well paid—but we should vote on our increases as our Constitution requires. Anyone who analyzes the floor activity and vote here this afternoon will see that the House has once again swept the issue under the rug.

Mr. HARRIS. Mr. Speaker, the pay raise deferral bill before us today brings us closer to real reform of the way salaries of Members of Congress are set. H.R. 9282 would defer all pay raises for Members of Congress to the next elected Congress so that elected officials would not vote on their own pay.

CLEANING UP THE PAY-SETTING PROCESS

I have taken a number of actions to straighten out the problems surrounding the setting of salaries of Members of Congress.

First, early this session, in February 1977, I introduced H.R. 2991 to freeze the pay of Members of Congress until the House adopted strong and comprehensive ethics requirements governing our conduct. This bill also eliminated the automatic pay raises for Members of Congress, thus untying Members' pay from Federal employees' pay when Federal employees receive the annual comparability adjustment.

Second, on April 4, 1977, I voted for the conference report on H.R. 4800 which included a provision requiring a direct vote on the record on future pay raises of Members.

Third, on April 26, I voted to reduce the 1978 Federal budget to delete funds for a pay increase for Members of Congress; and on June 28, I voted for S. 964 which eliminated the October 1977 pay raise for Representatives and Senators.

Fourth, on June 29, 1977, I voted against the rule on the legislative branch appropriations bill because it procedurally barred a direct vote on the pay of Members of Congress for 1978.

Fifth, in the House Post Office and Civil Service Committee, I voted for H.R. 9282, which is before us today and which I will again support, a bill to defer to the next elected Congress any pay adjustment for elected officials.

Thus, with these changes, we are taking a more responsible approach to the problems of how the pay of Members of Congress is set. We knocked out the October 1977 pay raise. We have required direct votes on the record on all pay raises. And with this bill we are requiring any change in pay to apply to the next elected Congress, and not to the incumbents who are doing the voting. I believe these steps will create a fairer, more responsible and importantly, more accountable procedure.

NEED TO ELIMINATE THE FEDERAL EXECUTIVES PAY FREEZE THREAT

One of the remaining reforms we need to seriously address is the freeze on Federal executives' pay. In other words, we still have in a law freeze on the pay of top Federal executives, an arbitrary top limit on the amount top Federal employees receive.

From 1969 to 1977, Federal executives' pay was frozen at $36,000 and by 1976, the pay of over 15,000 top Federal employees was frozen. Their salary stayed at the same rate for a number of years while the cost of living jumped 48 percent. This meant that the concept of comparability—keeping Federal salaries comparable with those in private industry—was thwarted and the Federal Government lost top talent right and left, since salaries in the private sector were more attractive. The quadrennial increase early this year did alleviate the pay freeze situation a great deal, but it did not address the wisdom of putting an arbitrary lid on Federal executives' pay. Unless the Congress takes a hard look at this provision of law and develops a better system, we are going to lose many top management personnel in the Federal service. As a member of the House Post Office and Civil Service Committee, the committee having responsibility for Federal salaries, I will urge my colleagues to work with me on working toward a better pay procedure that does not include an arbitrary pay freeze.

Mr. ROBINSON. Mr. Speaker, it was entirely right and proper that the House refused today to bring up for consideration H.R. 9282, making pay raise adjustments for Members of Congress. The method by which the bill was denied consideration was a little unorthodox, but then the bill should not have been proposed for consideration under suspension of the rules in the first place. The fact that the House voted against bringing this bill up under suspension of the rules ought to be a clear signal to the leadership of the House that it should not push down the throats of the Members legislation which cannot stand on its own when brought before the House in the proper, established manner which allows for amendments.

There are several reasons why I oppose the bill as it was reported out of committee, and I think that the leadership was shortsighted if it believed that our constituents, the American people, would not be able to see through the guise of reform to a very real abuse of the legislative process.

First, as a member of the Appropriations Committee, I oppose the section of the bill which would modify the House rules to prohibit a separate challenge to a pay increase through the appropriations and budgetmaking processes. Such a prohibition is inconsistent with established procedure in the House and with the underlying philosophy of the authorization-appropriations process.

Any spending action must be approved or authorized by Congress before funds may be appropriated for it. The procedure contained in this bill would abolish discretionary action as to the second part of the process, as it would be out of order to consider an amendment to any appropriation bill or spending resolution which proposed the reduction of funding for pay raises. For this reason alone, the bill may be unconstitutional.

Second, I cannot condone the present practice of Congress which allows a pay increase for its Members to become law without a vote. While this certainly allows elected officials to return home to their districts where they can honestly—I use the word guardedly—say that they did not vote for whatever pay increase they just received, it is also an abrogation of their responsibility as elected officials to be truly responsible to their constituents for their actions.

Repeatedly, I have supported legislation which would require that Congress take a straightforward vote on any proposed increase in salary. This bill does not require this, as it should, if true reform is to take place.

Mr. Speaker, I want to make clear that I do not object to the primary purpose of this bill which is to defer any pay increase given to Members of Congress until the start of the succeeding Congress.

Before serving in the House of Representatives I was a State Senator, and took for granted article IV, section 5 of the Constitution of the State of Virginia which provides that the State legislature may not receive an increase in salary in the same session as the increase is given. According to the Congressional Research Service, 28 States have similar provisions in their constitutions, and 9 other States actually set limits on legislator salaries in their constitutions.

I can see absolutely no reason why the Congress of the United States cannot institute a principle which is now upheld in a clear majority of State legislatures.

I have sponsored legislation which would prohibit the current practice of Congress ever since I have been in Congress. Congress should not be allowed to have its salary raised before permitting the electorate to pass judgment on the worth of its recipients.

Mr. BAUMAN. Mr. Speaker, under leave to extend my remarks, I want to make it clear that I objected to and voted against ordering the second on the last proposed suspension only because I opposed section 2 of the bill and the suspension procedure would have permitted no opportunity for amendment.

The first section of the bill has my complete support in that it would defer any and all proposed pay increase for Members of Congress until the Congress next following its enactment. Thus sitting Members would not be able to benefit from their own votes for pay increases until submitting themselves to the electorate in their district. I have cosponsored such legislation myself.

The second section of the bill, however, can at best be called nefarious. It would prevent any Member in the future from offering any amendment which would have the effect of stopping funds for the quadrennial pay raise which might be recommended by the Presidential Commission, or from stopping funding for the annual cost of living pay raise granted to all Government employees and officials.

I hope that the majority leadership will see the will of the House and bring this bill back before us immediately after deleting section 2.

Mr. Speaker, at this point I include a news dispatch from the United Press concerning the vote just taken:

WASHINGTON.—The House, which quietly collected a $12,900 raise this year, Tuesday defeated a plan that could have opened the

way to annual cost-of-living congressional pay increases.

The House voted 233–167 against taking up a bill containing the cost-of-living clause under a procedure that would have barred offering amendments.

The basic measure, which had overwhelming support, provided any future pay raises Congress votes for itself would not take effect until the following Congress. Annual automatic raises were protected, however, by a separate clause in the bill.

The effort to clear the overall measure for consideration had garnered at least the needed 218 votes until Reps. Robert Bauman, R-Md., and William Armstrong, R-Colo., helped by Democrats Andy Jacobs of Indiana and Martha Keys of Kansas, spread word on the House floor of the annual pay increase protection clause.

A massive swing of votes from "aye" to "nay," which veteran observers said was unprecedented in number, suddenly turned victory into defeat for the measure.

It still could come up for a floor vote under a procedure allowing amendments but this is not expected this year.

The protective clause said no amendments could be offered to any appropriation bill or budget resolution to deny funds for that annual cost-of-living raise.

Mr. LUKEN. Mr. Speaker, I rise today to express my conviction that a sitting legislative body should not, either directly or by inaction, increase the salaries of its own Members.

On February 9, 1977, I expressed the same view to the ad hoc subcommittee on the congressional pay raise. At that time, I opposed the now-effective pay raise of $12,900, because I could not justify giving myself a salary jump amounting to more money than many of my constituents earn each year. It was also difficult for me to conceive how Congress, bent on reform, ethics, and candor, within the first month of its existence, purposely allowed former President Ford's proposed congressional pay raise to take effect without a vote in either the House or the Senate.

As a result of my opposition, I cosponsored legislation similar to section 1 of today's bill, which would not allow salary increases to become effective during term. I also supported title IV of the Federal Salary Act Amendments of 1977, requiring all salary increases to be passed by recorded vote in both the House and the Senate. This legislation was signed by the President on April 12, 1977.

Consistent with my past legislative efforts, I support section 1 of H.R. 9282, which provides that pay adjustments to which Members of Congress are entitled pursuant to recommendations of the Quadrennial Commission or annual adjustments under the Executive Salary Cost-of-Living Act be deferred until the next Congress convenes.

Deferring Members' pay adjustments until the succeeding Congress will permit the electorate to know exactly what a Member will be paid during the term for which that Member is running. Such a measure will also lessen the inherent and inescapable conflict-of-interest charges which Congress faces with respect to establishing its own rate of pay.

Although section 1 of H.R. 9282 is most commendable, I believe that section 2 has objectionable features. Section 2 provides that it shall not be in order in either House to consider any appropriation bill, budget resolution, or any amendment to any appropriation bill or budget resolution, which prevents the payment of increases in pay rates for Members of Congress.

Mr. Speaker, I believe that section 2 is improper, and should be considered separately from section 1. In essence, section 2 absolves the Congress from defending its position on salary adjustments, and in so doing, hinders the ability of Congress to review and amend its pay raise decisions. This section sets a dangerous legislative precedent which could limit the decisionmaking process not only on salary adjustments, but on other sensitive issues as well.

Also, section 2 prohibits the Congress from voting on annual cost-of-living increases. Under current law, there is no requirement for a vote in either House on these annual adjustments. In the past, amendments to legislative branch appropriations bills were the only means of voting on the cost-of-living salary increases for Members of Congress. Section 2 would make all such amendments out of order, thus constricting the only effective means we have of voting on these cost-of-living increases.

Therefore, it is unfortunate that H.R. 9282 is being brought to the floor under suspension. In lieu of my strong support for the deferral of pay increases until the succeeding Congress convenes, I must oppose H.R. 9282 on the basis that section 1 and section 2 should be considered separately.

Mr. FRENZEL. Mr. Speaker, H.R. 9282 was a great bill when it was introduced, but a funny thing happened to it on the way to the House floor.

The Post Office Committee amended the bill to so corrupt our appropriations process that annual cost-of-living increases for Congress could have been made effective without a vote of the House.

The amendment was bad, and obviously contrary to the will of the House, but the procedure under which the bill's manager sought to sneak it through the House was worse.

The bill came to us under the suspension procedure. Having been so scheduled by the Speaker, it could not be amended, and debate on it would be severely limited.

Bringing up this bill under suspension, a process supposedly reserved for noncontroversial bills, was a flagrant attempt to abuse House rules. The bill's manager paid the price. The House wisely, and decisively, voted against the suspension process.

As was pointed out by the gentleman from Colorado (Mr. ARMSTRONG), the manager could have brought up the bill under the usual procedure after the suspension procedure was rejected. The failure to do so can only support the conclusion that the leadership tried to sneak it through the House.

The conclusion is also supported by our dismal record of this year of passing pension increases without note and without schedule notice, of increasing our own allowances, and of passing salary increases without notes. Today's disaster is typical of our conduct all year.

The result is that that the deferral of congressional pay raises until after a congressional election is likely not to be passed. The failure of the original bill, and the failure of the concept of deferred salary raises, can then be laid squarely at the feet of the House leaders.

To pass the original bill only required the normal processes. The attempt to subvert the normal amendment and debate process has caused the death of a bill I have favored since I was elected.

I hope this bill will be brought back to the floor, without fancy footwork, without sneaky procedures, without corrupting amendments, so the House can work its will. Under normal circumstances it will pass easily.

Mr. STEERS. Mr. Speaker, I am in support of H.R. 9282. I am a sponsor of both this bill and its predecessor, H.R. 1365, the Congressional Pay Raise Deferral Act which was introduced on January 4 by CHUCK WHALEN.

This legislation implements the concept that Members of Congress should not vote on matters of direct, personal consequence. And what could be of more direct effect than an immediate change in our salaries? Yet, the current situation dictates that we must consider congressional salary changes in the context of immediate impact.

Needless to say, this has proved to be very embarrassing for me and other newcomers to Congress. Just weeks after we took office in January, we found that we were in line for a very substantial pay raise. And we got that raise without even having a chance to vote on it before it went into effect.

Well, I am pleased to note that we have since changed the statutes, to provide that record votes will occur before future pay raises can go into effect. Now this legislation, H.R. 9282, will provide the other needed element of reform. It will defer any future pay raise until the Congress following the one in which it is approved. In other words, after a pay raise is approved, a general election must occur before the Members of Congress can receive the higher salary.

I think it is worthwhile to note at this point that H.R. 9282 retains another key feature of the Whalen bill, a provision which I have strongly supported in private communications to members of the committee. I am referring to the pass-through provision for employees of the executive and judicial branches of Government.

As you know, the salaries of many top-level civil servants are tied to the congressional pay level. The legislation we are now considering provides that those salaries will be allowed to rise without delay during the period when congressional pay raises are deferred. Thus, only congressional salaries will be affected by H.R. 9282.

This is an important distinction, because we have tended in the past to penalize civil servants unjustly. For years, the so-called supergrades were caught in a financial bind resulting from the re-

fusal of the Congress to vote on changing its own salary. Now, we will have a mechanism that facilitates rational, timely consideration of the congressional salary issue and, at the same time, helps insulate the innocent bystanders from the fallout of our political machinations.

Mr. Speaker, I congratulate the gentleman from Ohio (Mr. WHALEN) on this occasion. I am pleased to see that he is able to take time away from his important work at the U.S. mission to the United Nations to be with us today, as we finally take up his proposal for congressional pay raise deferral legislation. And I also wish to express my appreciation to the gentleman from New York (Mr. SOLARZ) and the leadership for their roles in bringing this legislation before us.

I urge my colleagues to join in supporting H.R. 9282. This is an idea whose time has come.

Mr. FREY. Mr. Speaker, as a cosponsor and long time strong supporter of the Pay Raise Deferral Act. I would like to take this opportunity to urge my colleagues to pass this bill. Unfortunately, a prior commitment will prevent me from voting "yea" on this bill.

A sitting legislative body should not either directly or by taking no action at all, increase their salaries. It should instead defer the effective date of a congressional pay raise until the following Congress.

One of the reasons that I have voted against pay increases twice since 1975 and have both times returned my portion of the increase to the Treasury Department, is that it is just not fair to our constituents to continue to allow pay raises during the time we are sitting. This plus the need to set an example on holding spending down, dictated my past actions.

The bill before us would stop all the controversy we have every time the pay issue comes up. While I am not pleased with the procedural provision preventing a challenge to appropriations that would implement a previously approved salary increase, the important issue here is that we defer any increases and get a public vote on the issue.

Let us eliminate this conflict of interest we now have when we are asked to make a decision on the matter of pay raises.

Mr. SANTINI. Mr. Speaker, from the inception of the pay raise issue, I have supported the concept that Members of Congress should not vote for a pay raise that would become effective during their term of office. In this important general thrust, I support the Congressional Pay Raise Deferral Act.

Nevertheless, I do have serious reservations about the particular bill before us, H.R. 9282. At this point, I wish to state my reservations for the record.

I am concerned over the committee's inclusion of subsection (a) of section 2 of the bill. This provision, while still allowing us to vote on the pay increases recommended by the Quadrennial Commission, would preclude Members of Congress from exercising their discretion with respect to General Schedule cost-of-living increases, as has been done in the past via legislative branch appropriations bills. In fact, this has been the only effective means we have had to record our positions on these raises. The bill, as reported by the committee, would lump together three increases, while allowing us to vote on only one.

Although I am voting for passage of H.R. 9282, I will be closely scrutinizing this provision and its ramifications. In my opinion, such limitations would be more appropriately made through amendments to the Budget Control and Impoundment Act.

I urge my colleagues to support this much-needed legislation, at least as an interim approach to the problem.

Mr. MAZZOLI. Mr. Speaker, I rise in opposition to H.R. 9282, the Pay Raise Deferral Act—which seeks to change the procedure by which pay raises for Members of Congress are granted.

I am opposed to this measure even though I have cosponsored a bill very similar to it. Let me explain why.

This bill—which comes to the House floor under an unusual parliamentary procedure, prohibiting amendments—says that pay raises voted by Congressmen and Senators cannot take effect until the next Congress following the one in which the pay raise was voted.

This would require all Members of the House and one-third of the Senate to stand for reelection before they could reap the benefits of a pay raise they voted for themselves.

This is a good idea. And, I have sponsored legislation to accomplish this worthy purpose.

However, the bill does not stop there. It also says that a succeeding Congress cannot delete funds—earmarked to pay their salary increases—from the legislative appropriations bills (which provide money to run the Congress). In other words, the bill before us seeks to tie the hands of Congress.

This is a bad idea.

Conditions could change from one year to another. The stock market could crash. Yet, Congress—if this bill were to pass—could not, despite a clear need, refuse to spend the funds to pay for salary increases ordered by an earlier Congress.

This bill would prevent Congress from being fiscally responsible. That is not in the national interest, Mr. Speaker.

I strongly favor altering the current method of granting congressional salary increases. Three steps should be taken.

First, a congressional pay raise should be voted "up" or "down" in full public view. No secret votes, no "backdoor" pay raises.

Two, the pay raises—if any—should not take effect until the next Congress. Congressional recipients of pay raises would have to stand for an election before pocketing their higher pay checks. This way, the voters would have the final say in who would receive a pay increase.

And, third, a succeeding Congress should have the prerogative to review the actions of an earlier Congress. It should be able to withhold funds earmarked to pay for the salary increases, ordered by an earlier, Congress, in the event the national interest demands such cutbacks.

Since the measure before us satisfies only the first two of the above points—but not the third—I must respectfully oppose the measure even though on balance it is not a bad bill.

Mr. DERWINSKI. Mr. Speaker, the stated objective of this bill is to provide the legislative mechanism for deferring recommended or approved congressional pay adjustments. Actually, without benefit of language, H.R. 9282 involves itself with a much more fundamental issue—whether the three branches of the Federal Government really are equal.

Unquestionably, there is a need for providing Members with the means for considering congressional pay raises in a sane atmosphere. Unfortunately, the approach taken by the sponsors of this bill is unsatisfactory for a number of reasons.

In the first place, the bill perpetuates the policy of permitting executive, judicial and congressional salaries to qualify for the annual October comparability pay increases. These so-called cost-of-living pay increases were not intended for annual raises for departmental executives, Federal judges or Members of Congress.

Another flaw in the bill is the provision which singles out Members of Congress for a 22-month deferral of approved pay adjustments. During that congressional "holding" period, the pay of Federal executives, judges and congressional staff would continue to increase. If we defer the pay increases of Members of Congress until a congressional election has intervened, it seems equally sensible to provide the same ground rules for all three branches of Government.

If this bill had been brought to the floor under an open rule which would have permitted the House to work its will, I would have offered an amendment which would have corrected the deficiencies. Under my amendment, the 1981 Quadrennial Pay Commission would submit its recommendations to the President at the close of that fiscal year. The President's recommendation to Congress would be made in January 1982 for a vote of approval in both Houses as required by the Bartlett amendment. If the recommendation won approval, the pay of executive and judicial offices would be deferred until the beginning of the next fiscal year—October 1982—while the pay adjustment for Congress would be delayed until the beginning of the next following Congress—January 1983.

In closing the gap between the effective date for congressional pay increases and the effective date of judicial and executive pay adjustments, my amendment would have preserved the concept that all three branches of Government are equal. In passing this bill, we are saying Congress is less equal than the other two branches of the Federal Government.

The cost of the salary increases of the most recent quadrennial pay adjustment was $118 million—including those positions in executive, legislative, and judicial—covered by the review plus super grades. Of this, the cost of the legislative increase was $7 million.

According to Congressional Budget Office figures, the savings in fiscal year 1982 as a result of deferring Member's pay until the following year is $5.6 mil-

lion. Projecting the savings of all officers and employees pay deferred by my amendment, using 5.6 percent as representing the Member's portion of the total pay cost, savings would be $83 million for 1 fiscal year.

Since my amendment defers only the quadrennial adjustments, the annual pay adjustments are not built into this calculation.

I am enclosing for incorporation into the record a copy of my amendment:

Page 3, after line 2, insert the following:

(b) (1) Section 225(g) of the Federal Salary Act of 1967 (2 U.S.C. 357) is amended by striking out "not later than January 1 next following the close of the fiscal year" and inserting in lieu thereof "not earlier than September 24 or later than September 30 of the fiscal year".

Page 3, line 3, strike out "(b) (1)" and insert in lieu thereof "(2)".

Page 3, line 8, strike out "within the first 15 days of January after" and insert in lieu thereof "on or before January 15 next following".

Page 3, line 12, strike out "(2)" and insert in lieu thereof "(3)".

Page 3, line 16, after "before 'become effective'" insert "and by striking out 'after the thirtieth day following' and inserting in lieu thereof 'on or after October 1 next following'".

PARLIAMENTARY INQUIRY

Mr. ARMSTRONG. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. ARMSTRONG. Mr. Speaker, as I understand the action we have just taken, we have denied the gentleman from New York the right to bring up H.R. 9282 under a suspension of the rules, but may I address the following inquiry to the Chair: Would it not be in order at this time for the gentleman from New York to call up this bill with an amendment striking the offensive section on page 4? Would that be in order, Mr. Speaker? It is my understanding that that prerogative would ordinarily be extended to the gentleman if he chose to exercise it. So my question is: Does he have that option?

The SPEAKER pro tempore. The Chair has the discretion to recognize the gentleman from New York for that purpose if he desires to do so.

Mr. ARMSTRONG. Mr. Speaker, I note the gentleman is on his feet. I will be pleased to yield to the gentleman if he would care to ask me to.

PARLIAMENTARY INQUIRY

The SPEAKER pro tempore. Does the gentleman from Colorado have a further parliamentary inquiry?

Mr. ARMSTRONG. I do have a further parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state it.

Mr. ARMSTRONG. I understand that the Speaker has said it is within his discretion, that is, the Speaker's discretion, as to whether or not to recognize the gentleman for that purpose.

May I ask if I may be recognized for that purpose?

Mr. Speaker, in support of that inquiry, may I make the point that I think the overwhelming sentiment clearly demonstrates the will of the House to take up the bill.

Mr. Speaker, I think the sentiment of the House is evident. We want to take up the bill. It is only because one section of the bill is offensive.

The SPEAKER pro tempore. The gentleman is not in order, unless the gentleman has a further parliamentary inquiry.

Mr. ARMSTRONG. My inquiry, Mr. Speaker, is whether or not I may be recognized for that purpose of calling up this bill under a suspension of the rules.

The SPEAKER pro tempore. The Chair would normally recognize an appropriate Member of the committee having jurisdiction for that purpose.

The Chair is not in a position to recognize any Member for that purpose at this point.

For what purpose does the gentleman from Maryland rise?

Mr. BAUMAN. For no purpose at all, Mr. Speaker, just watching.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 9710. An act to extend the authority for the flexible regulation of interest rates on deposits and accounts in depository institutions, to promote the accountability of the Federal Reserve System, and for other purposes.

INTERNATIONAL SAFE CONTAINER ACT

Mr. MURPHY of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 8159) to establish uniform structural requirements for intermodal cargo containers, subject to the jurisdiction of the United States, designed to be transported interchangeably by sea and land carriers, and moving in, or designed to move in, international trade, and for other purposes, as amended.

The Clerk read as follows:

H.R. 8159

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "International Safe Container Act".

SEC. 2. As used in this Act—

(1) "Secretary" means the Secretary of Transportation;

(2) "Convention" means the International Convention for Safe Containers and the Annexes thereto (CSC), done at Geneva, December 2, 1972;

(3) "container" means an article of transport of the type as defined by the Convention;

(4) "international transport" means the transportation of a container—

(A) to any place within the jurisdiction of the United States from a foreign country;

(B) by United States carriers between foreign countries; or

(C) from any place within the jurisdiction of the United States to a foreign country;

(5) "United States" includes the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the United States Virgin Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States;

(6) "new container" means a container the construction of which commences on or after September 6, 1977;

(7) "existing container" means a container which is not a "new container";

(8) "owner" means the person who owns the container, or the lessee or bailee if a written lease or bailment agreement provides for the lessee or bailee to exercise the owner's responsibility for maintenance and examination of the container;

(9) "safety approval plate" means a safety approval plate as defined in annex I to the Convention.

SEC. 3. (a) A container subject to this Act is—

(1) a new container which is used or intended to be used in international transport; and

(2) an existing container which is still in use in international transport on September 6, 1982. An existing container may be made subject to this Act prior to that date at the owner's request if the container has been approved in accordance with this Act.

(b) A container specially designed for air transport is not subject to this Act.

SEC. 4. (a) All containers subject to this Act shall meet the minimum safety standards and other requirements prescribed by the Convention.

(b) The owner of any container subject to this Act shall have such container approved in accordance with this Act or by the administration of another contracting party to the Convention.

SEC. 5. (a) The Secretary shall, as soon as practicable after the date of enactment of this Act, issue regulations to carry out the purposes and provisions of this Act. Such regulations shall include, but need not be limited to, procedures for—

(1) the initial approval of containers or container designs meeting the safety standards of the Convention;

(2) the revocation of safety approval plates;

(3) the issuance of detention orders for serious violations and the issuance of orders for minor technical violations;

(4) the development, collection, and furnishing of appropriate data by owners and carriers, concerning the safety of containers subject to this Act; and

(5) the periodic examination of containers by owners to assure continued compliance with the safety standards of the Convention.

(b) The Secretary may, subject to such regulations as he may prescribe, delegate to any person, to any public or private agency, or to any nonprofit organization, the function of issuing approvals and the placement of safety approval plates. The name and address of the delegate, if other than the owner, together with the functions so delegated and the period of designation, shall be published in the Federal Register and otherwise publicized as appropriate. Any records required to be maintained by regulation shall be made available to the Secretary when requested.

(c) The Secretary may establish fees, for the performance of functions delegated in subsection (b), which may be charged for services associated with the necessary testing, inspection, approval, and rejection of containers.

(d) The Secretary shall be reimbursed by the owner of the container for any expenses arising from actions taken pursuant to a

detention order, or for any services listed in subsection (c) when performed by the Federal Government.

(e) Any fees or reimbursements received by the Secretary shall be credited to the appropriations bearing the cost thereof.

SEC. 6. (a) To assure compliance with this Act, the Secretary may carry out routine examinations of containers in international transport.

(b) If a container subject to this Act does not have a valid safety approval plate attached, the Secretary may issue a detention order to remove the container from service until the owner of the container establishes to the Secretary's satisfaction that the container meets the minimum safety requirements prescribed by the Convention.

(c) A container bearing a valid safety approval plate authorized by a country which is a party to the Convention shall be considered to be in a safe condition unless there is significant evidence that the container creates an obvious risk to safety. If there is significant evidence that a container bearing a valid safety approval plate is in a condition which creates an obvious risk to safety, the Secretary may issue a detention order to remove the container from service until it is restored to a safe condition.

(d) In conjunction with a detention order, the Secretary may take or order appropriate action to exclude or remove unsafe containers from commerce. The Secretary may permit the movement of an unsafe container to another location under whatever restrictions he considers necessary.

(e) The Owner or his agent or, when the identity of the owner of the container is not apparent from the container or shipping documents, the custodian, shall be promptly notified in writing by the detention order. The notification shall reasonably identify the containers involved, together with their location, and reasonably describe the condition which gave rise to the detention order. The owner, his agent, or the custodian may petition the Secretary, in a manner prescribed by regulation, for review and reconsideration of the detention order. The petitioner may, at his own expense, obtain and submit additional evidence and the opinions of independent evaluators to the Secretary for his consideration. The detention order shall remain in effect until withdrawn by the Secretary.

(f) If there is reason to believe that a container approved by a foreign country was defective at the time of approval, the Secretary shall notify the country which issued the approval.

(g) In any case where a container is in violation of this Act or of any applicable regulation, not involving an obvious risk to safety, the Secretary may, in lieu of a detention order, issue an appropriate order to correct the deficiency, which order shall be promptly complied with and a report of the corrective action made to the Secretary.

SEC. 7. (a) When a container is moved in violation of a detention order, issued pursuant to section 6, any owner, owner's agent, or custodian of the container who—

(1) has been notified in accordance with section 6(e), and

(2) fails to take reasonable and prompt action to prevent, or to terminate, such movement

shall be subject to a civil penalty not to exceed $5,000 for each container involved. Each day the violation continues shall be considered a separate violation.

(b) The Secretary may assess and collect the penalty provided for in subsection (a) and, in his discretion, may remit, mitigate, or compromise such penalty. No penalty shall be assessed unless the person charged has been given notice and an opportunity for a hearing. In determining the amount of the penalty, the Secretary shall take into consideration the gravity of the violation, the hazards involved, and the record of the person charged. Upon failure to collect a penalty the Secretary may request the Attorney General to commence an action for collection of the penalty assessed, in any district court of the United States.

SEC. 8. (a) No person shall discharge or in any manner discriminate against an employee because the employee has reported the existence of an unsafe container or reported a violation of this Act to the Secretary or his agents.

(b) An employee who believes that he has been discharged or discriminated against in violation of this section may, within thirty days after the violation occurs, file a complaint alleging discrimination with the Secretary of Labor.

(c) The Secretary of Labor may investigate the complaint and, if he determines that this section has been violated, bring an action in an appropriate United States district court. The district court shall have jurisdiction to restrain violations of subsection (a) of this section and order appropriate relief including rehiring and reinstatement of the employee to his former position with back pay.

(d) Within ninety days of the receipt of a complaint filed under this section the Secretary of Labor shall notify the complainant of his intended action.

SEC. 9. (a) The Secretary of State, with the concurrence of the Secretary, may propose amendments to the Convention or may request a conference for amending the Convention in accordance with article IX of the Convention. An amendment communicated to the United States in accordance with article IX(2) of the Convention may be accepted for the United States by the President, with the advice and consent of the Senate. The President may make a declaration that the United States does not accept an amendment.

(b) The Secretary of State, with the concurrence of the Secretary, may propose amendments to the annexes of the Convention, may propose a conference for amending annexes to the Convention, and shall consider and act on amendments to the annexes of the Covention adopted by the Maritime Safety Committee and communicated to the United States in accordance with article X(2) of the Convention. If a proposed amendment is approved by the United States, the amendment shall enter into force in accordance with article X of the Convention. If any proposed amendment is objected to, the Secretary of State shall promptly communicate the objection as provided in article X(3) of the Convention.

(c) The Secretary of State, with the concurrence of the Secretary, shall appoint an arbitrator when one is required to resolve a dispute within the meaning of article XIII of the convention.

SEC. 10. (a) The provisions of sections 4, 6, and 7 of this Act shall become effective on the date the instrument of ratification is deposited by the United States in accordance with the provisions of article VII of the Convention. The other provisions of the Act shall become effective on the date of enactment.

(b) The provisions of this Act or of any regulation hereunder shall be taken to be in addition to and not to derogate from the provisions of any other Act or regulation.

SEC. 11. (a) There are hereby authorized to be appropriated for fiscal year 1979 and for each succeeding fiscal year thereafter, such sums as may be necessary to carry out the provisions of the Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. RUPPE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. MURPHY) will be recognized for 20 minutes, and the gentleman from Michigan (Mr. RUPPE) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York, Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 8159, a bill to implement the International Convention for Safe Containers, 1972, as reported by the Committee on Merchant Marine and Fisheries.

The bill represents a legislative proposal from the Secretary of Transportation which was referred jointly to the Committee on Interstate and Foreign Commerce and the Committee on International Relations. Subsequent to that time, discussions with the other committees and with the Parliamentarian's office resulted in a unanimous-consent request by Chairman HARLEY O. STAGGERS of the Committee on Interstate and Foreign Commerce that the executive communication also be referred to the Committee on Merchant Marine and Fisheries, which has jurisdiction over the U.S. Coast Guard. The Coast Guard participated in drafting the proposal, was deeply involved in the drafting of the international convention which this proposal would implement, and will be the agency principally responsible for its enforcement.

This is new legislation to provide regulatory authority to govern the safe movement of intermodal cargo containers moving in international trade. International regulations were nonexistent and had been considered unnecessary due to the excellent safety record, achieved largely due to the effectiveness of principles developed in the U.S. private sector.

Notwithstanding this record, in recent years, a number of nations indicated their intention of developing unilateral regulations which would be applied to all containers crossing their borders. The convention signals concern and agreement by the international community that safe container regulations would best be developed on a common basis.

This legislation will enable the United States to ratify the convention, thereby permitting U.S. containers to continue to move freely in international trade. It will also provide the United States with the capability of carrying out a domestic program for approving containers, for issuing safety approval plates, for regulating and policing the approval process, and for removing defective containers from international trade. This authority will provide for control and enforcement measures to assure the continued safe movement of all containers.

The Subcommittee on Coast Guard

and Navigation, the Subcommittee on Merchant Marine, and the Committee on Merchant Marine and Fisheries have endorsed the bill, as amended, by unanimous voice vote. The Committee on Interstate and Foreign Commerce and the Committee on International Relations, after considering the action taken as reported, elected not to hold hearings or to file separate reports on the bill. Instead, the chairmen of these committees forwarded letters to the chairman of the Merchant Marine and Fisheries Committee, endorsing the action which had been taken. Copies of those letters are included in the report and should serve the purposes of the rule for action by all the committees to whom the bill was jointly referred. I want to thank my colleagues for their expeditious endorsement and complete support.

I now call upon the House to favorably act on H.R. 8159 to enable the United States to become a party to the International Convention for Safe Containers at the earliest possible date.

Mr. Speaker, at this time I would like to yield to our distinguished chairman of the Subcommittee on Coast Guard and Navigation, my colleague from New York (Mr. BIAGGI).

Mr. BIAGGI. Mr. Speaker, I urge the support of the House in passing H.R. 8159 as reported by the Committee on Merchant Marine and Fisheries and endorsed by the Committee on Interstate and Foreign Commerce and the Committee on International Relations.

This is new legislation which will implement the International Convention for Safe Containers, 1972, and the technical annexes thereto, and will provide the Secretary of Transportation with the regulatory authority for a coordinated approval, inspection, and enforcement program. The convention which will be implemented was ratified by the requisite 10 States on September 6, 1976, and, in accordance with its terms, the convention entered into force on September 6, 1977. The Senate gave its advice and consent to the convention on September 15, 1976; but, as yet, the United States has not deposited its instrument of ratification. In accordance with normal procedures, the deposit has been withheld pending the enactment of enabling legislation.

Since the convention has already come into force, it is important that the Congress enact enabling legislation and ratify the convention as soon as possible to permit maintaining uniformity in the handling of containers and their continued safe and unimpeded movement in international trade. There are approximately 1.8 million containers in worldwide use with about one-half of them being U.S. owned. The investment in U.S.-owned containers is estimated to be more than $1.5 billion, and this does not include the investment in merchant vessels or marine terminals with their special handling equipment.

Due to the number of existing containers which are scattered worldwide and the number of new containers being built in the United States, the industry requested authority to commence inspection and certification as soon as possible. This has been accommodated by establishing reasonable effective dates for various sections of the legislation.

During the course of the hearings, testimony from witnesses urged some minor changes to clarify measures relating to detention orders, notice requirements, expenses of owners, penalty assessments, and requirements for inspections. It was also found necessary to clarify the authority to promulgate regulations and to more clearly delineate responsibilities and delegations of authority. All testimony and statements, including executive branch comments, have approved enactment of this bill, and it essentially remains noncontroversial and has widespread support.

The bill establishes uniform structural requirements for intermodal cargo containers, which are designed to be carried interchangeably by sea and land carriers. They are intermodal because they are so constructed so that they can be placed in the cells of container ships for one segment of a trip, and travel on a truck chassis or move on a railroad flatcar for another segment of the trip.

Although relatively new, the marine cargo container industry has had remarkable success during its technological development within the past two decades. In order to maintain the high level of safety of human life in the handling, stacking, and transporting of these containers, it is now appropriate to formalize common international safety and engineering requirements. It also signals agreement that international standards are necessary to preclude the development of unilateral and differing standards.

The bill provides that all containers built after September 6, 1977, are considered new and would have to meet specified structural requirements. Existing containers are given an additional 5 years for inspection and marking with a safety approval plate. A container so marked will be able to move more readily in international commerce, since all parties to the convention are required to recognize this plate as presumptive proof that the container is safe. U.S.-owned containers will be required to meet the convention standards whenever they travel to and from a signatory state. Absent this legislation, the American container owner will be forced to seek approval from foreign authorities if his containers are to move in international trade as easily as the containers of his foreign competitors.

The legislation authorizes the Secretary of Transportation to designate nongovernment entities to perform the necessary approval inspections and periodic reexaminations of containers. Although the Secretary will regulate and supervise these procedures, the relationship between the person designated to approve containers and the container owner will be contractual.

It is believed that this legislation, in addition to eliminating the possibility of trade barriers among nations, will, with a minimum of regulation, provide the necessary authority to continue the safe international transport of containers and to preserve the technological advantages of containerization.

I urge passage of this legislation to underscore the U.S. policy of commitment to internationally acceptable safe standards and to assure that U.S. containers will continue to move freely in international trade.

Mr. MURPHY of New York. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Speaker, I rise in support of H.R. 8159, the International Safe Container Act.

H.R. 8159 implements the International Convention for Safe Containers, which was signed at Geneva on December 2, 1977. The deposit by the United States of its instrument of ratification awaits passage by the Congress of the enabling legislation embodied in H.R. 8159.

H.R. 8159 designates a U.S. authority to certify the safety of U.S. intermodal cargo containers, as required by the Convention. Failure to take this action would impede the movement of such containers in international commerce to the detriment of U.S. trade.

Pursuant to rule X of the rules of the House regarding committee jurisdiction, this legislation was referred jointly to the Committees on International Relations, Interstate and Foreign Commerce, and Merchant Marine and Fisheries.

In order to expedite the passage of this important legislation, the Committee on International Relations, which I chair, notified the Committee on Merchant Marine and Fisheries that the Committee on International Relations, without prejudice to its jurisdiction with respect to the content of the bill under clauses (k)(1) and (8) of rule X, had no objection to the consideration of H.R. 8159 on the House floor as reported by the Committee on Merchant Marine and Fisheries.

I wish to commend the distinguished subcommittee chairman, Mr. BIAGGI, and the chairman of the Merchant Marine and Fisheries Committee, Mr. MURPHY, for their thorough consideration of H.R. 8159 and their efforts to bring this legislation for action by the House.

Mr. Speaker, I urge the adoption of the bill.

Mr. Speaker, I am inserting at this point correspondence concerning H.R. 8159:

HOUSE OF REPRESENTATIVES, COMMITTEE ON INTERNATIONAL RELATIONS.
Washington, D.C., October 6, 1977.

Hon. JOHN M. MURPHY,
Chairman, Committee on Merchant Marine and Fisheries, Longworth House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing in response to your letter concerning H.R. 8159, the International Safe Container Act, which was referred jointly to the Committees on International Relations, Merchant Marine and Fisheries, and Interstate and Foreign Commerce, and was ordered favorably reported, as amended, by the Committee on

Merchant Marine and Fisheries on September 29, 1977.

In the Committee on International Relations, H.R. 8159 has been under the consideration of the Subcommittee on International Organizations, and the Subcommittee on International Economic Policy and Trade. I have consulted the chairmen of those subcommittees, Hon. Donald M. Fraser and Hon. Jonathan B. Bingham, who have advised me that they have examined the bill as reported by your committee and find further action by the Committee on International Relations unnecessary. I concur in their judgment and wish to inform you that the Committee on International Relations, without prejudice to its jurisdiction with respect to the content of the bill, pursuant to House rule X(k)(1) and (8), has no objection to the consideration of H.R. 8159 on the floor as reported by your committee.

The Committee on International Relations notes that the bill would implement the International Convention for Safe Containers, which was signed at Geneva on December 2, 1972, and came into force September 6 of this year. The Senate gave its advice and consent to the Convention on September 15, 1976. Hearings before the Committee on Foreign Relations produced no objection to ratification of the Convention. The deposit by the United States of its instrument of ratification awaits passage by the Congress of the enabling legislation embodied in H.R. 8159. The bill would designate a U.S. authority to certify the safety of U.S. intermodal cargo containers, as required by the Convention. Failure to do so would impede the movement of such containers in international commerce, to the detriment of U.S. trade. The Department of State has advised the Committee on International Relations that it supports the bill, as reported. The Department's comments are attached hereto. The committee has found no objection to the bill, either from the executive branch or from the general public.

I wish to commend the Committee on Merchant Marine and Fisheries for its thorough consideration of H.R. 8159, and I hope that expeditious passage of the bill by the Congress will enable the United States to become a party to the Convention at the earliest possible date. Members of this committee will be pleased to speak on behalf of the bill on the floor.

In order that the jurisdiction and comments of the Committee on International Relations on H.R. 8159 may be included in the legislative history of this legislation, I respectfully request that this letter and the attachments be included in the report on H.R. 8159 as filed with the House by your committee.

With best wishes, I am,

Sincerely yours,

CLEMENT J. ZABLOCKI,
Chairman.

DEPARTMENT OF STATE,
Washington, D.C., October 4, 1977.

HON. JONATHAN B. BINGHAM,
Chairman, Subcommittee on International Economic Policy and Trade, Committee on International Relations, House of Representatives.

DEAR MR. CHAIRMAN: You have asked for the Department's views on H.R. 8159, a bill to establish uniform structural requirements for intermodal cargo containers, subject to the jurisdiction of the United States, designed to be transported interchangeably by sea and land carriers, and moving in, or designed to move in, international trade, and for other purposes.

This proposed legislation implements the International Convention for Safe Containers (CSC) signed at Geneva on December 2, 1972. The U.S. Senate gave its advice and consent to the Convention on September 15, 1976, but as yet the United States has not deposited its instrument of ratification. To date, 12 nations, including the Federal Republic of Germany, France, Spain and the Russian S.F.S.R. have deposited their instruments of ratification; virtually all major U.S. trading partners, including the United Kingdom, Netherlands, Belgium, Japan, Norway, Sweden, and Denmark, are currently considering legislation to implement the CSC. The CSC came into force on September 6, 1977.

The Department of State worked closely with the Department of Transportation in all stages of drafting of H.R. 8159. The Department's position on this matter was outlined in a letter dated September 8 to Mr. Zablocki, chairman, Committee on International Relations. A copy of that letter is enclosed. The Department has no objections to the amendments to H.R. 8159 as reflected in the House Merchant Marine and Fisheries markup print of September 22, 1977 and is hopeful that prompt action will be taken to pass this legislation.

A similar letter has been sent to Mr. Fraser, Chairman, Subcommittee on International Organizations.

Sincerely,

DOUGLAS J. BENNET, Jr.,
Assistant Secretary for Congressional Relations.

Mr. RUPPE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to join my colleagues in urging the House to pass H.R. 8159, the international safe container bill.

H.R. 8159 will implement the International Convention for Safe Containers, and the annexes thereto, which was signed at Geneva in 1972. The convention establishes uniform structural requirements to insure a high level of safety of human life in the handling, stacking, and transportation of intermodal containers in the course of normal operations. The Senate gave its advice and consent to ratification on September 15, 1976. The convention, by its terms, entered into force internationally on September 6, 1977.

The safety record of intermodal container use has been very good. However, prior to the drafting of the convention, a number of nations indicated their intention to unilaterally adopt their own safety requirements. Had this occurred, conflicting standards for container construction would have resulted. The convention establishes internationally uniform standards of safety. The convention also specifically precludes unilateral regulation by contracting parties of any structural safety requirement or test contained in the convention.

A container approved in accordance with the convention will move readily in international commerce. Unless there is "significant evidence for believing that the condition of the container is such as to create an obvious risk to safety," the control a contracting party may exercise over an approved container is limited to verifying that the container carries a valid safety approval plate.

H.R. 8159 implements the convention by authorizing the Secretary of Transportation to prescribe regulations for the initial approval of containers, attaching a safety approval plate and periodic examinations of approved containers. The functions provided for by regulation may be delegated to a public or private entity. The bill also provides procedures for amending the convention and its annexes, and for appointing an arbitrator to settle disputes under the convention.

I urge your support for the passage of H.R. 8159.

Mr. TREEN. Mr. Speaker, I would like to join my colleagues in supporting H.R. 8159, the international safe container bill. This bill will implement the International Convention for Safe Containers, and the annexes thereto, signed in Geneva on December 2, 1972. By its terms, the convention came into force internationally on September 6, 1977. The Senate gave its advice and consent to ratification on September 15, 1976.

There has been a dramatic increase during the last decade in the use of large, intermodal freight containers. The increased efficiency in transportation and consequent savings in cost have been very attractive to the transportation industry. By 1978, it is estimated that the total number of intermodal containers in operation throughout the world (measured in 20-foot equivalent units) will reach 2 million. Approximately one-half of these containers are American-owned, and constitute an investment in excess of $1.5 billion.

The containerization movement has achieved an excellent safety record. This is largely due to the effectiveness of safety principles developed in the United States by the private sector. Notwithstanding this record, a number of nations indicated their intention to develop national regulations which would be applied to all containers transiting their borders. Concern over the adverse impact that unilaterally established construction requirements would have on containerization, and the desire to insure that safe operations would continue, motivated the drafting of the convention.

The Safety Convention specifies the structural requirements which transport containers must meet to assure a high level of human safety in the normal handling, stacking and transportation of such containers. H.R. 8159 provides that containers subject to the bill must meet the minimum safety standards described in the convention. Containers subject to the bill are new containers which are used in international transport and existing containers which are still used in international transport 5 years after the convention comes into force. International transport is defined to mean transportation of a container: First, into the United States from a foreign country; second, by U.S. carriers between foreign countries; and third, from the United States to a foreign country.

The Secretary of Transportation is authorized to prescribe regulations governing the initial approval of containers meeting the safety standards of the convention, attaching a safety approval plate and periodic examination of approved containers. The Secretary of Transportation can delegate to a public or private entity the functions provided for by the regulations.

To insure compliance with the bill, the Secretary can require inspection of a container in international transport. If a container does not have a valid safety approval plate, the Secretary may remove the container from service until the owner establishes that the container meets the minimum safety requirements of the convention. A container with a valid safety approval plate may be detained only where there is "significant evidence that a container creates an obvious risk to safety."

The owner or his agent, or where the identity of the owner of the container is not apparent, the custodian, must be promptly notified in writing of the detention order. When a container is moved in violation of a detention order a civil penalty may be imposed.

The bill provides that no employee may be discharged or discriminated against because he reported the existence of an unsafe container or reported a violation of the bill. The Secretary of Labor is given authority to hear and pursue complaints of wrongful discharges or discrimination.

Finally, procedures for amending the convention and its annexes, and for appointing an arbitrator to settle disputes under the convention, are provided for.

Mr. MURPHY of New York. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. RUPPE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MURPHY) that the House suspend the rules and pass the bill, H.R. 8159, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

SECURITIES INVESTORS PROTECTION ACT AMENDMENTS OF 1977

Mr. ECKHARDT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 8331) to amend the Securities Investor Protection Act of 1970, as amended.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Securities Investor Protection Act Amendments of 1977".

MEMBERSHIP OF SIPC

SEC. 2. (a) Section 3(a) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78ccc(a)) is amended to read as follows:

"(a) CREATION AND MEMBERSHIP.—

"(1) CREATION.—There is hereby established a body corporate to be known as the 'Securities Investor Protection Corporation' (hereafter in this Act referred to as 'SIPC'). SIPC shall be a nonprofit corporation and shall have succession until dissolved by Act of the Congress. SIPC shall—

"(A) not be an agency or estabishment of the United States Government; and

"(B) except as otherwise provided in this Act, be subject to, and have all the powers conferred upon a nonprofit corporation by, the District of Columbia Nonprofit Corporation Act (D.C. Code, section 29–1001 and fol.).

"(2) MEMBERSHIP.—

"(A) MEMBERS OF SIPC.—SIPC shall be a membership corporation the members of which shall be all persons registered as brokers or dealers under section 15(b) of the 1934 Act, other than—

(i) persons whose principal business, in the determination of SIPC, taking into account business of affiliated entities, is conducted outside the United States and its territories and possessions; and

(ii) persons whose business as a broker or dealer consists exclusively of (I) the distribution of shares of registered open and investment companies or unit investment trusts, (II) the sale of variable annuities, (III) the business of insurance, or (IV) the business of rendering investment advisory services to one or more registered investment companies or insurance separate accounts.

"(B) COMMISSION REVIEW.—SIPC shall file with the Commission a copy of any determination made pursuant to subparagraph (A)(i). Within thirty days after the date of such filing, or within such longer period as the Commission may designate of not more than ninety days after such date if it finds such longer period to be appropriate and publishes its reasons for so finding, the Commission shall, consistent with the public interest and the purposes of this Act, affirm, reverse, or amend any such determination of SIPC.

"(C) ADDITIONAL MEMBERS.—SIPC shall provide by rule that persons excluded from membership in SIPC under subparagraph (A)(i) may become members of SIPC under such conditions and upon such terms as SIPC shall require by rule, taking into account such matters as the availability of assets and the ability to conduct a liquidation if necessary.

"(D) DISCLOSURE.—Any broker or dealer excluded from membership in SIPC under subparagraph (A)(i) shall, as required by the Commission by rule, make disclosures of its exclusion and other relevant information to the customers of such broker or dealer who are living in the United States or its territories and possessions.".

(b) Section 3(f) of such Act (15 U.S.C. 78ccc(f)) is repealed.

POWERS OF SIPC

SEC. 3. Section 3(b) of such Act (15 U.S.C. 78ccc(b)) is amended—

(1) in paragraph (1), by striking out "court, State, or Federal" and inserting "State, Federal, or other court" in lieu thereof; and

(2) by striking out paragraph (3), redesignating paragraphs (4) through (8) as paragraphs (5) through (9), respectively, and inserting immediately after paragraph (2) the following new paragraphs:

"(3) to adopt, amend, and repeal, by its Board of Directors, such bylaws as may be necessary or appropriate to carry out the purposes of this Act, including bylaws relating to—

"(A) the conduct of its business; and

"(B) the indemnity of its directors, officers, and employees (including any such person acting as trustee or otherwise in connection with a liquidation proceeding) for liabilities and expenses actually and reasonably incurred by any such person in connection with the defense or settlement of an action or suit if such person acted in good faith and in a manner reasonably believed to be consistent with the purposes of this Act.

"(4) to adopt, amend, and repeal, by its Board of Directors, such rules as may be necessary or appropriate to carry out the purposes of this Act, including rules relating to—

"(A) the definition of terms used in this Act, other than those terms for which a definition is provided in section 16;

"(B) the procedures for the liquidation of members and direct payment procedures, including the transfer of customer accounts, the distribution of customer property, and the advance and payment of SIPC funds; and

"(C) the exercise of all other rights and powers granted to it by this Act;".

BOARD OF DIRECTORS

SEC. 4. (a) Section 3(c)(2)(C)(ii) of such Act (15 U.S.C. 78ccc(c)(2)(C)(ii)) is amended by striking out "associated with any" and all that follows through "group" and inserting in lieu thereof "associated with a broker or dealer or associated with a member of a national securities exchange, within the meaning of section 3(a)(18) or section 3(a)(21), respectively, of the 1934 Act, or similarly associated with any self-regulatory organization or other securities industry group,".

(b) Section 3(c)(5) of such Act (15 U.S.C. 78ccc(c)(5)) is amended to read as follows:

"(5) COMPENSATION.—All matters relating to compensation of directors shall be as provided in the bylaws of SIPC.".

BYLAWS AND RULES

SEC. 5. Section 3(e) of such Act (15 U.S.C. 78ccc(e)) is amended to read as follows:

"(e) BYLAWS AND RULES.—

"(1) PROPOSED BYLAW CHANGES.—The Board of Directors of SIPC shall file with the Commission a copy of any proposed bylaw or any proposed amendment to or repeal of any bylaw of SIPC (hereinafter in this paragraph collectively referred to as a 'proposed bylaw change'), accompanied by a concise general statement of the basis and purpose of such proposed bylaw change. Each such proposed bylaw change shall take effect thirty days after the date of the filing of a copy thereof with the Commission, or upon such later date as SIPC may designate or such earlier date as the Commission may determine, unless—

"(A) the Commission, by notice to SIPC setting forth the reasons therefor, disapproves such proposed bylaw change as being contrary to the public interest or contrary to the purposes of this Act; or

"(B) the Commission finds that such proposed bylaw change involves a matter of such significant public interest that public comment should be obtained, in which case it may, after notifying SIPC in writing of such finding, require that the procedures set forth in paragraph (2) be followed with respect to such proposed bylaw change, in the same manner as if such proposed bylaw change were a proposed rule change within the meaning of such paragraph.

"(2) PROPOSED RULE CHANGES.—

"(A) FILING OF PROPOSED RULE CHANGES.—The Board of Directors of SIPC shall file with the Commission, in accordance with such rules as the Commission may prescribe, a copy of any proposed rule or any proposed amendment to or repeal of any rule of SIPC (hereinafter in this subsection collectively referred to as a 'proposed rule change'), accompanied by a concise general statement

of the basis and purpose of such proposed rule change. The Commission shall, upon the filing of any proposed rule change, publish notice thereof, together with the terms of substance of such proposed rule change or a description of the subjects and issues involved. The Commission shall give interested persons an opportunity to submit written data, views, and arguments with respect to such proposed rule change. No proposed rule change shall take effect unless approved by the Commission or otherwise permitted in accordance with the provisions of this paragraph.

"(B) ACTION BY THE COMMISSION.—Within thirty-five days after the date of publication of notice of the filing of a proposed rule change, or within such longer period as the Commission may designate of not more than ninety days after such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or as to which SIPC consents, the Commission shall—

"(i) by order approve such proposed rule change; or

"(ii) institute proceedings to determine whether such proposed rule change should be disapproved.

"(C) PROCEEDINGS.—Proceedings instituted with respect to a proposed rule change pursuant to subparagraph (B)(ii) shall include notice of the grounds for disapproval under consideration and opportunity for hearing, and shall be concluded within one hundred eighty days after the date of publication of notice of the filing of such proposed rule change. At the conclusion of such proceedings, the Commission shall, by order, approve or disapprove such proposed rule change. The Commission may extend the time for conclusion of such proceedings for not more than sixty days if it finds good cause for such extension and publishes its reasons for so finding, or for such longer period as to which SIPC consents.

"(D) GROUNDS FOR APPROVAL OR DISAPPROVAL.—The Commission shall approve a proposed rule change if it finds that such proposed rule change is in the public interest and is consistent with the purposes of this Act, and any proposed rule change so approved shall be given force and effect as if promulgated by the Commission. The Commission shall disapprove a proposed rule change if it does not make the finding referred to in the preceding sentence. The Commisson shall not approve any proposed rule change prior to thirty days after the date of publication of notice of the filing thereof, unless the Commission finds good cause for so doing and publishes its reasons for so finding.

"(E) EXCEPTION.—Notwithstanding any other provision of this paragraph, a proposed rule change may take effect—

"(i) upon the date of filing with the Commission, if such proposed rule change is designated by SIPC as relating solely to matters which the Commission, consistent with the public interest and the purposes of this subsection, determines by rule do not require the procedures set forth in this paragraph; or

"(ii) upon such date as the Commission shall for good cause determine. Any proposed rule change which takes effect under this clause shall be filed promptly thereafter and reviewed in accordance with the provisions of subparagraph (A).

At any time within sixty days after the date of filing of any rule change which has taken effect pursuant to this subparagraph, the Commission may summarily abrogate such rule change and require that it be refiled and reviewed in accordance with the provisions of this paragraph, if the Commission finds that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this Act. Any action of the Commission pursuant to the preceding sentence shall not affect the validity or force of a rule change during the period it was in effect and shall not be reviewable under section 25 of the 1934 Act or deemed to be final agency action for purposes of section 704 of title 5, United States Code.

"(3) ACTION REQUIRED BY COMMISSION.—The Commission may, by such rules as it determines to be necessary or appropriate in the public interest or to carry out the purposes of this Act, require SIPC to adopt, amend, or repeal any SIPC bylaw or rule, whenever adopted.".

SIPC FUND

SEC. 6. (a) Section 4(a) of such Act (15 U.S.C. 78ddd(a)) is amended—

(1) in paragraph (2), by striking out "The" and inserting in lieu thereof "Except as otherwise provided in this section, the";

(2) by amending paragraph (2)(C) to read as follows:

"(C) Such confirmed lines of credit as SIPC may from time to time maintain, other than those maintained pursuant to paragraph (4).."; and

(3) by adding at the end thereof the following new paragraph:

"(4) OTHER LINES.—SIPC may maintain such other confirmed lines of credit as it considers necessary or appropriate, and such other confirmed lines of credit shall not be included in the balance of the fund, but amounts received from such lines of credit may be disbursed by SIPC under this Act as though such amounts were part of the fund.".

(b) Section 4(c) of such Act (15 U.S.C. 78ddd(c)) is amended—

(1) by striking out "or rule" each place it appears; and

(2) in paragraph (3), by striking out "(other than section 3(f))".

(c) Section 4(d)(1) of such Act (15 U.S.C. 78ddd(d)(1)) is amended by adding at the end thereof the following new subparagraph:

"(C) MINIMUM ASSESSMENT.—The minimum assessment imposed upon each member of SIPC shall be $25 per annum through the year ending December 31, 1979, and thereafter shall be the amount from time to time set by SIPC bylaw, but in no event shall the minimum assesment be greater than $150 per annum.".

(d) Section 4(e) of such Act (15 U.S.C. 78ddd(e)) is amended—

(1) by amending paragraph (2) to read as follows:

"(2) OVERPAYMENTS.—To the extent that any payment by a member exceeds the maximum rate permitted by subsection (e) of this section, the excess shall be recoverable only against future payments by such member, except as otherwise provided by SIPC bylaw."; and

(2) by amending paragraph (3) to read as follows:

"(3) UNDERPAYMENTS.—If a member fails to pay when due all or any part of an assessment made upon such member, the unpaid portion thereof shall bear interest at such rate as may be determined by SIPC bylaw and, in addition to such interest, SIPC may impose such penalty charge as may be determined by SIPC bylaw. Any such penalty charge imposed upon a SIPC member shall not exceed 25 per centum of any unpaid portion of the assessment. SIPC may waive such penalty charge in whole or in part in circumstances where it considers such waiver appropriate.".

(e) Section 4(f) of such Act (15 U.S.C. 78ddd(f)) is amended by striking out "examining authority as".

(f) Section 4(g) of such Act (15 U.S.C. 78ddd(g)) is amended by striking out the last two sentences and inserting in lieu thereof the following: "For the purposes of the next preceding sentence, (1) the fee shall be based upon the total dollar amount of each purchase; (2) the fee shall not apply to any purchase on a national securities exchange or in an over-the-counter market by or for the account of a broker or dealer registered under section 15(b) of the 1934 Act unless such purchase is for an investment account of such broker or dealer (and for this purpose any transfer from a trading account to an investment account shall be deemed a purchase at fair market value); and (3) the Commission may, by rule, exempt any transaction in the over-the-counter markets or on any national securities exchange where necessary to provide for the assessment of fees on purchasers in transactions in such markets and exchanges on a comparable basis. Such fee shall be collected by the broker or dealer effecting the transaction for or with the purchaser, or by such other person as provided by the Commission by rule, and shall be paid to SIPC in the same manner as assessments imposed pursuant to subsection (c) but without regard to the limits on such assessments, or in such other manner as the Commission may by rule provide.".

(g) Section 4(i) of such Act (15 U.S.C. 78ddd(i)) is amended to read as follows:

"(i) CONSOLIDATED GROUP.—Except as otherwise provided by SIPC bylaw, gross revenues from the securities business of a member of SIPC shall be computed on a consolidated basis for such member and all its subsidiaries (other than the foreign subsidiaries of such member), and the operations of a member of SIPC shall include those of any business to which such member has succeeded.".

PROTECTION OF INVESTORS

SEC. 7. (a) Section 5(a) of such Act (15 U.S.C. 78eee(a)) is amended by striking out paragraph (2) and (3) and inserting in lieu thereof the following new paragraphs:

"(2) ACTION BY SELF-REGULATORY ORGANIZATION.—If a self-regulatory organization has given notice to SIPC pursuant to subsection (a)(1) with respect to a broker or dealer, and such broker or dealer undertakes to liquidate or reduce its business either pursuant to the direction of a self-regulatory organization or voluntarily, such self-regulatory organization may render such assistance or oversight to such broker or dealer as it considers appropriate to protect the interests of customers of such broker or dealer. The assistance or oversight by a self-regulatory organization shall not be deemed the assumption or adoption by such self-regulatory organization of any obligation or liability to customers, other creditors, shareholders, or partners of the broker or dealer, and shall not prevent or act as a bar to any action by SIPC.

"(3) ACTION BY SIPC.—If SIPC determines that—

"(A) any member of SIPC (including any person who was a member within one hundred eighty days prior to such determination) has failed or is in danger of failing to meet its obligations to customers; and

"(B) one or more of the conditions specified in subsection (b)(1) exist with respect to such member,

SIPC may, upon notice to such member, file an application for a protective decree with any court of competent jurisdiction specified in section 21(e) or 27 of the 1934 Act, except that no such application shall be filed with respect to a member the only customers of which are persons whose claims could not be satisfied by SIPC advances pursuant to section 9.

"(4) EFFECT OF OTHER PENDING ACTIONS.—An application with respect to a member of SIPC filed with a court under paragraph (3)—

"(A) may, with the consent of the Commission, be combined with any action brought by the Commission, including an action by the Commission for a temporary receiver pending an appointment of a trustee under subsection (b)(3); and

"(B) may be filed notwithstanding the pendency in the same or any other court of any bankruptcy, mortgage foreclosure, or

equity receivership proceeding or any proceeding to reorganize, conserve, or liquidate such member or its property, or any proceeding to enforce a lien against property of such member.".

(b) Section 5(b) of such Act (15 U.S.C. 78eee(b)) is amended to read as follows:

"(b) COURT ACTION.—

"(1) ISSUANCE OF PROTECTIVE DECREE.—Upon receipt of an application by SIPC under subsection (a)(3), the court shall forthwith issue a protective decree if the debtor consents thereto, if the debtor fails to contest such application, or if the court finds that such debtor—

"(A) is insolvent within the meaning of the Bankruptcy Act, or is unable to meet its obligations as they mature;

"(B) has committed an act of bankruptcy within the meaning of the Bankruptcy Act;

"(C) is the subject of a proceeding pending in any court or before any agency of the United States or any State in which a receiver, trustee, or liquidator for such debtor has been appointed;

"(D) is not in compliance with applicable requirements under the 1934 Act or rules of the Commission or any self-regulatory organization with respect to financial responsibility or hypothecation of customers' securities; or

"(E) is unable to make such computations as may be necessary to establish compliance with such financial responsibility or hypothecation rules.

Unless the debtor consents to the issuance of a protective decree, the application shall be heard three business days after the date on which it is filed, or at such other time as the court shall determine, taking into consideration the urgency which the circumstances require.

"(2) JURISDICTION AND POWERS OF COURT.—

"(A) EXCLUSIVE JURISDICTION.—Upon the filing of an application with a court for a protective decree with respect to a debtor, such court—

"(i) shall have exclusive jurisdiction of such debtor and its property wherever located (including property located outside the territorial limits of such court and property held by any other person as security for a debt or subject to a lien);

"(ii) shall have exclusive jurisdiction of any suit against the trustee with respect to a liquidation proceeding; and

"(iii) except as inconsistent with the provisions of this Act, shall have the jurisdiction, powers, and duties conferred upon a court of bankruptcy by the Bankruptcy Act, together with such other jurisdiction, powers, and duties as are prescribed by this Act.

"(B) STAY OF PENDING ACTIONS.—Pending the issuance of a protective decree under paragraph (1), the court with which an application has been filed—

"(i) shall stay any pending bankruptcy, mortgage foreclosure, equity receivership, or other proceeding to reorganize, conserve, or liquidate the debtor or its property and any other suit against any receiver, conservator, or trustee of the debtor or its property, and shall continue such stay upon appointment of a trustee pursuant to paragraph (3);

"(ii) may stay any proceeding to enforce a lien against property of the debtor or any other suit against the debtor, including a suit by stockholders of the debtor which interferes with prosecution by the trustee of claims against former directors, officers, or employees of the debtor, and may continue such stay upon appointment of a trustee pursuant to paragraph (3);

"(iii) may stay enforcement of, and upon appointment of a trustee pursuant to paragraph (3), may continue the stay for such period of time as may be appropriate, but shall not abrogate, the right of setoff provided in section 68 of the Bankruptcy Act, and the right to enforce a valid, nonpreferential lien or pledge against the property of the debtor; and

"(iv) may appoint a temporary receiver.

"(3) APPOINTMENT OF TRUSTEE AND ATTORNEY.—If the court issues a protective decree under paragraph (1), such court shall forthwith appoint, as trustee for the liquidation of the business of the debtor and as attorney for the trustee, such persons as SIPC, in its sole discretion, specifies. The persons appointed as trustee and as attorney for the trustee may be associated with the same firm. SIPC may, in its sole discretion, specify itself or one of its employees as trustee in any case in which SIPC has determined that the liabilities of the debtor to unsecured general creditors and to subordinated lenders appear to aggregate less than $750,000 and that there appear to be fewer than five hundred customers of such debtor. No person may be appointed to serve as trustee or attorney for the trustee if such person is not disinterested within the meaning of paragraph (6), except that for any specified purpose other than to represent a trustee in conducting a liquidation proceeding, the trustee may, with the approval of SIPC and the court, employ an attorney who is not disinterested. A trustee appointed under this paragraph shall qualify by filing a bond in the manner prescribed by the applicable provisions of the Bankruptcy Act, except that neither SIPC nor any employee of SIPC shall be required to file a bond when appointed as trustee.

"(4) REFERENCE TO REFEREE IN BANKRUPTCY.—If the court issues a protective decree and appoints a trustee under this section, such court may, at any stage of the proceeding, refer the proceeding to a referee in bankruptcy to hear and determine any or all matters, or to a referee in bankruptcy as special master to hear and report generally or upon specified matters. Only under special circumstances shall a reference be made to a special master who is not a referee in bankruptcy.

"(5) COMPENSATION FOR SERVICES AND REIMBURSEMENT OF EXPENSES.—

"(A) ALLOWANCES IN GENERAL.—The court shall grant reasonable compensation for services rendered and reimbursement for proper costs and expenses incurred (hereinafter in this paragraph referred to as 'allowances') by a trustee, and by the attorney for such a trustee, in connection with a liquidation proceeding. No allowances (other than reimbursement for proper costs and expenses incurred) shall be granted to SIPC or any employee of SIPC for serving as trustee. Allowances may be granted on an interim basis during the course of the liquidation proceeding at such times and in such amounts as the court considers appropriate.

"(B) ALLOWANCES TO REFEREE IN BANKRUPTCY OR SPECIAL MASTER.—In the event a proceeding has been referred to a referee in bankruptcy or special master, the district judge may grant reasonable allowances to such referee in bankruptcy or a special master, in the manner provided for in a case filed under chapter X of the Bankruptcy Act as now in effect or as amended from time to time.

"(C) APPLICATION FOR ALLOWANCES.—Any person seeking allowances shall file with the court an application which complies in form and content with the provisions of the Bankruptcy Act governing applications for allowances under such Act. A copy of such application shall be served upon SIPC when filed. The court shall fix a time for a hearing on such application, and notice of such hearing shall be given to the applicant, the trustee, the debtor, the creditors, SIPC, and such other persons as the court may designate, except that notice need not be given to customers whose claims have been or will be satisfied in full or to creditors who cannot reasonably be expected to receive any distribution during the course of the liquidation proceeding.

"(D) RECOMMENDATIONS OF SIPC AND AWARDING OF ALLOWANCES.—Whenever an application for allowances is filed pursuant to subparagraph (C), SIPC shall file its recommendation with respect to such allowances with the court prior to the hearing on such application and shall, if it so requests, be allowed a reasonable time after such hearing within which to file a further recommendation. In any case in which such allowances are to be paid by SIPC without reasonable expectation of recoupment thereof as provided in this Act and there is no difference between the amounts requested and the amounts recommended by SIPC, the court shall award the amounts recommended by SIPC. In determining the amount of allowances in all other cases, the court shall give due consideration to the nature, extent, and value of the services rendered, and shall place considerable reliance on the recommendation of SIPC.

"(E) APPLICABLE RESTRICTIONS.—The restrictions on sharing of compensation set forth in the Bankruptcy Act shall apply to allowances.

"(F) CHARGE AGAINST ESTATE.—Allowances granted by the court, including interim allowances, shall be charged against the general estate of the debtor as a cost and expense of administration. If the general estate is insufficient to pay allowances in whole or in part, SIPC shall advance such funds as are necessary for such payment.

"(6) DISINTERESTEDNESS.—

"(A) STANDARDS.—For purposes of paragraph (3), a person shall not be deemed disinterested if—

"(i) such person is a creditor (including a customer), stockholder, or partner of the debtor;

"(ii) such person is or was an underwriter of any of the outstanding securities of the debtor or within five years prior to the filing date was the underwriter of any securities of the debtor;

"(iii) such person is, or was within two years prior to the filing date, a director, partner, officer, or employee of the debtor or such an underwriter, or an attorney for the debtor or such an underwriter; or

"(iv) it appears that such person has, by reason of any other direct or indirect relationship to, connection with or interest in the debtor or such an underwriter, or for any other reason, an interest materially adverse to the interests of any class of creditors (including customers) or stockholders,

except that SIPC shall in all cases be deemed disinterested, and an employee of SIPC shall be deemed disinterested if such employee would, except for his association with SIPC, meet the standards set forth in this subparagraph.

"(B) HEARING.—The court shall fix a time for a hearing on disinterestedness, to be held promptly after the appointment of a trustee. Notice of such hearing shall be mailed at least ten days prior thereto to each person who, from the books and records of the debtor, appears to have been a customer of the debtor with an open account within the past twelve months, to the address of such person as it appears from the books and records of the debtor, and to the creditors and stockholders of the debtor, to SIPC, and to such other persons as the court may designate. The court may, in its discretion, also require that notice be given by publication in such newspaper or newspapers of general circulation as it may designate. At such hearing, at any adjournment thereof, or upon application, the court shall hear objections to the retention in office of a trustee or attorney for a trustee on the grounds that such person is not disinterested.".

(c) Section 5 of such Act (15 U.S.C. 78eee) is amended by adding at the end thereof the following new subsection:

"(d) SIPC PARTICIPATION.—SIPC shall be deemed to be a party in interest as to all matters arising in a liquidation proceeding, with the right to be heard on all such matters, and shall be deemed to have intervened

with respect to all such matters with the same force and effect as if a petition for such purpose had been allowed by the court.".

GENERAL PROVISIONS OF A LIQUIDATION PROCEEDING

SEC. 8. Section 6 of such Act (15 U.S.C. 78fff) is amended to read as follows:

"SEC. 6. GENERAL PROVISIONS OF A LIQUIDATION PROCEEDING.

"(a) PURPOSES.—The purposes of a liquidation proceeding under this Act shall be—

"(1) as promptly as possible after the appointment of a trustee in such liquidation proceeding, and in accordance with the provisions of this Act—

"(A) to deliver customer name securities to or on behalf of the customers of the debtor entitled thereto as provided in section 8(c)(2); and

"(B) to distribute customer property and (in advance thereof or concurrently therewith) otherwise satisfy net equity claims of customers to the extent provided in this section;

"(2) to sell or transfer offices and other productive units of the business of the debtor;

"(3) to enforce rights of subrogation as provided in this Act; and

"(4) to liquidate the business of the debtor.

"(b) APPLICATION OF BANKRUPTCY ACT.—To the extent consistent with the provisions of this Act, a liquidation proceeding shall be conducted in accordance with, and as though it were being conducted under, the Bankruptcy Act. For purposes of applying the Bankruptcy Act to this Act, any reference in the Bankruptcy Act to the date of commencement of proceedings under the Bankruptcy Act shall be deemed to be a reference to the filing date under this Act.

"(c) DETERMINATION OF CUSTOMER STATUS.—In a liquidation proceeding under this Act, whenever a person has acted with respect to cash or securities with the debtor after the filing date and in a manner which would have given him the status of a customer with respect to such cash or securities had the action occurred prior to the filing date, and the trustee is satisfied that such action was taken by the customer in good faith and prior to the appointment of the trustee, the date on which such action was taken shall be deemed to be the filing date for purposes of determining the net equity of such customer with respect to such cash or securities.

"(d) APPORTIONMENT.—In a liquidation proceeding under this Act, any cash or securities remaining after the liquidation of a lien or pledge made by a debtor shall be apportioned between his general estate and customer property in the proportion in which the general property of the debtor and the cash and securities of the customers of such debtor contributed to such lien or pledge. Securities apportioned to the general estate under this subsection shall be subject to the provisions of section 16(5)(A).

"(e) COSTS AND EXPENSES OF ADMINISTRATION.—All costs and expenses of administration of the estate of the debtor and of the liquidation proceeding shall be borne by the general estate of the debtor to the extent it is sufficient therefor, and the priorities of distribution from the general estate shall be as provided in the Bankruptcy Act. Costs and expenses of administration shall include payments pursuant to section 8(e) and section 9(c)(1) (to the extent such payments recovered securities which were apportioned to the general estate pursuant to subsection (d)) and costs and expenses of SIPC employees utilized by the trustee pursuant to section 7(a)(2). All funds advanced by SIPC to a trustee for such costs and expenses of administration shall be recouped from the general estate as a first priority under the Bankruptcy Act.".

NEW SECTIONS OF THE SECURITIES INVESTOR PROTECTION ACT OF 1970

SEC. 9. The Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.) is amended by redesignating sections 7 through 12 as sections 11 through 16, respectively, and by inserting immediately after section 6 the following new sections:

"SEC. 7. POWERS AND DUTIES OF A TRUSTEE.

"(a) TRUSTEE POWERS.—A trustee shall be vested with the same powers and title with respect to the debtor and the property of the debtor, including the same rights to avoid preferences, as a trustee in bankruptcy under the Bankruptcy Act has with respect to a bankrupt and the property of a bankrupt. In addition, a trustee may, with the approval of SIPC but without any need for court approval—

"(1) hire and fix the compensation of all personnel (including officers and employees of the debtor and of its examining authority) and other persons (including accountants) that are deemed by the trustee necessary for all or any purposes of the liquidation proceeding;

"(2) utilize SIPC employees for all or any purposes of a liquidation proceeding; and

"(3) margin and maintain customer accounts of the debtor for the purposes of section 8(f).

"(b) TRUSTEE DUTIES.—To the extent consistent with the provisions of this Act or as otherwise ordered by the court, a trustee shall be subject to the same duties as a trustee in bankruptcy, except that a trustee may, but shall have no duty to, reduce to money any securities constituting customer property or in the general estate of the debtor. In addition, the trustee shall—

"(1) deliver securities to or on behalf of customers to the maximum extent practicable in satisfaction of customer claims for securities of the same class and series of an issuer; and

"(2) subject to the prior approval of SIPC but without any need for court approval, pay or guarantee all or any part of the indebtedness of the debtor to a bank, lender, or other person if the trustee determines that the aggregate market value of securities to be made available to the trustee upon the payment or guarantee of such indebtedness does not appear to be less than the total amount of such payment or guarantee.

"(c) REPORTS BY TRUSTEE TO COURT.—The trustee shall make to the court and to SIPC such written reports as may be required by the Bankruptcy Act, and shall include in such reports information with respect to the progress made in distributing cash and securities to customers. Such reports shall be in such form and detail as the Commission determines by rule to present fairly the results of the liquidation proceeding as of the date of or for the period covered by such reports, having due regard for the requirements of section 17 of the 1934 Act and the rules prescribed under such section and the magnitude of items and transactions involved in connection with the operations of a broker or dealer.

"(d) INVESTIGATIONS.—The trustee shall—

"(1) as soon as practicable, investigate the acts, conduct, property, liabilities, and financial condition of the debtor, the operation of its business, and any other matter, to the extent relevant to the liquidation proceeding, and report thereon to the court;

"(2) examine, by deposition or otherwise, the directors and officers of the debtor and any other witnesses concerning any of the matters referred to in paragraph (1);

"(3) report to the court any facts ascertained by the trustee with respect to fraud, misconduct, mismanagement, and irregularities, and to any causes of action available to the estate; and

"(4) as soon as practicable, prepare and submit, to SIPC and such other persons as the court designates and in such form and manner as the court directs, a statement of his investigation of matters referred to in paragraph (1).

"SEC. 8. SPECIAL PROVISIONS OF A LIQUIDATION PROCEEDING.

"(a) NOTICE AND CLAIMS.—

"(1) NOTICE OF PROCEEDINGS.—Promptly after the appointment of the trustee, such trustee shall cause notice of the commencement of proceedings under this section to be published in one or more newspapers of general circulation in the form and manner determined by the court, and at the same time shall cause a copy of such notice to be mailed to each person who, from the books and records of the debtor, appears to have been a customer of the debtor with an open account within the past twelve months, to the address of such person as it appears from the books and records of the debtor. Notice to creditors other than customers shall be given in the manner prescribed by the Bankruptcy Act, except that such notice shall be given by the trustee.

"(2) STATEMENT OF CLAIM.—A customer shall file with the trustee a written statement of claim but need not file a formal proof of claim, except that no obligation of the debtor to any person associated with the debtor within the meaning of section 3(a)(18) or section 3(a)(21) of the 1934 Act, any beneficial owner of 5 per centum or more of the voting stock of the debtor, or any member of the immediate family of any such person or owner may be satisfied without formal proof of claim.

"(3) TIME LIMITATIONS.—No claim of a customer or other creditor of the debtor which is received by the trustee after the expiration of the six-month period beginning on the date of publication of notice under paragraph (1) shall be allowed, except that the court may, upon application within such period and for cause shown, grant a reasonable, fixed extension of time for the filing of a claim by the United States, by a State or political subdivision thereof, or by an infant or incompetent person without a guardian. Any claim of a customer for net equity which is received by the trustee after the expiration of such period of time as may be fixed by the court (Not exceeding sixty days after the date of publication of notice under paragraph (1)) need not be paid or satisfied in whole or in part out of customer receipt of a written statement of claim satisfied from moneys advanced by SIPC, it shall be satisfied in cash or securities (or both) as the trustee determines is most economical to the estate.

"(4) EFFECT ON CLAIMS.—Except as otherwise provided in this section, and without limiting the powers and duties of the trustee to discharge obligations promptly as specified in this section, nothing in this section shall limit the right of any person, including any subrogee, to establish by formal proof or otherwise as the court may provide such claims as such person may have against the debtor, including claims for the payment of money and the delivery of specific securities, without resort to moneys advanced by SIPC to the trustee.

"(b) PAYMENTS TO CUSTOMERS.—After receipt of a written statement of claim pursuant to subsection (a)(2), the trustee shall promptly discharge, in accordance with the provisions of this section, all obligations of the debtor to a customer relating to, or net equity claims based upon, securities or cash, by the delivery of securities or the making of payments to or for the account of such customer (subject to the provisions of subsection (d) and section 9(a)) insofar as such obligations are ascertainable from the books and records of the debtor or are otherwise established to the satisfaction of the trustee. For purposes of distributing securities to customers, all securities shall be valued as of the close of business on the filing date. For purposes of this subsection, the court shall, among other things—

"(1) with respect to net equity claims, authorize the trustee to satisfy claims out of moneys made available to the trustee by SIPC notwithstanding the fact that there has not been any showing or determination that there are sufficient funds of the debtor available to satisfy such claims; and

"(2) with respect to claims relating to, or net equities based upon, securities of a class and series of an issuer which are ascertainable from the books and records of the debtor or are otherwise established to the satisfaction of the trustee, authorize the trustee to deliver securities of such class and series if and to the extent available to satisfy such claims in whole or in part, with partial deliveries to be made pro rata to the greatest extent considered practicable by the trustee.

Any payment or delivery of property pursuant to this subsection may be conditioned upon the trustee requiring claimants to execute, in a form to be determined by the trustee, appropriate receipts, supporting affidavits, releases, and assignments, but shall be without prejudice to any right of a claimant to file formal proof of claim within the period specified in subsection (a)(3) for any balance of securities or cash to which such claimant considers himself entitled.

"(c) CUSTOMER RELATED PROPERTY.—

"(1) ALLOCATION OF CUSTOMER PROPERTY.—The trustee shall allocate customer property of the debtor as follows:

"(A) first, to SIPC in repayment of advances made by SIPC pursuant to section 9(c)(1), to the extent such advances recovered securities which were apportioned to customer property pursuant to section 6(d);

"(B) second, to customers of such debtor, who shall share ratably in such customer property on the basis and to the extent of their respective net equities;

"(C) third, to SIPC as subrogee for the claims of customers;

"(D) fourth, to SIPC in repayment of advances made by SIPC pursuant to section 9(c)(2).

Any customer property remaining after allocation in accordance with this paragraph shall become part of the general estate of the debtor. To the extent customer property and SIPC advances pursuant to section 9(a) are not sufficient to pay or otherwise satisfy in full the net equity claims of customers, such customers shall be entitled, to the extent only of their respective unsatisfied net equities, to participate in the general estate as unsecured creditors. For purposes of allocating customer property under this paragraph, securities to be delivered in payment of net equity claims for securities of the same class and series of an issuer shall be valued as of the close of business on the filing date.

"(2) DELIVERY OF CUSTOMER NAME SECURITIES.—The trustee shall deliver customer name securities to or on behalf of a customer of the debtor entitled thereto if the customer is not indebted to the debtor. If the customer is so indebted, such customer may, with the approval of the trustee, reclaim customer name securities upon payment to the trustee, within such period of time as the trustee determines, of all indebtedness of such customer to the debtor.

"(3) RECOVERY OF TRANSFERS.—Whenever customer property is not sufficient to pay in full the claims set forth in subparagraphs (A) through (D) of paragraph (1), the trustee may recover any property transferred by the debtor which, except for such transfer, would have been customer property if and to the extent that such transfer is voidable or void under the provisions of the Bankruptcy Act. Such recovered property shall be treated as customer property. For purposes of such recovery, the property so transferred shall be deemed to have been the property of the debtor and, if such transfer was made to a customer or for his benefit, such customer shall be deemed to have been a creditor, the laws of any State to the contrary notwithstanding.

"(d) PURCHASE OF SECURITIES.—The trustee shall, to the extent that securities can be purchased in a fair and orderly market, purchase securities as necessary for the delivery of securities to customers in satisfaction of their claims for net equities based on securities under section 7(b)(1) and for the transfer of customer accounts under subsection (f), in order to restore the accounts of such customers as of the filing date. To the extent consistent with subsection (c), customer property and moneys advanced by SIPC may be used by the trustee to pay for securities so purchased. Moneys advanced by SIPC for each account of a separate customer may not be used to purchase securities to the extent that the aggregate value of such securities on the filing date exceeded the amount permitted to be advanced by SIPC under the provisions of section 9(a).

"(e) CLOSEOUTS.—

"(1) IN GENERAL.—Any contract of the debtor for the purchase or sale of securities in the ordinary course of its business with other brokers or dealers which is wholly executory on the filing date shall not be completed by the trustee, except to the extent permitted by SIPC rule. Upon the adoption by SIPC of rules with respect to the closeout of such a contract but prior to the adoption of rules with respect to the completion of such a contract, the other broker or dealer shall close out such contract, without unnecessary delay, in the best available market and pursuant to such SIPC rules. Until such time as SIPC adopts rules with respect to the completion or closeout of such a contract, such a contract shall be closed out in accordance with Commission Rule S6(d)-1 as in effect on the date of enactment of this section, or any comparable rule of the Commission subsequently adopted, to the extent not inconsistent with the provisions of this subsection.

"(2) NET PROFIT OR LOSS.—A broker or dealer shall net all profits and losses on all contracts closed out under this subsection and—

"(A) if such broker or dealer shows a net profit on such contracts, he shall pay such net profit to the trustee; and

"(B) if such broker or dealer sustains a net loss on such contracts, he shall be entitled to file a claim against the debtor with the trustee in the amount of such net loss.

To the extent that a net loss sustained by a broker or dealer arises from contracts pursuant to which such broker or dealer was acting for its own customer, such broker or dealer shall be entitled to receive funds advanced by SIPC to the trustee in the amount of such loss, except that such broker or dealer may not receive more than $40,000 for each separate customer with respect to whom it sustained a loss. With respect to a net loss which is not payable under the preceding sentence from funds advanced by SIPC, the broker or dealer shall be entitled to participate in the general estate as an unsecured creditor.

"(3) REGISTERED CLEARING AGENCIES.—Neither a registered clearing agency which by its rules has an established procedure for the closeout of open contracts between an insolvent broker or dealer and its participants, nor its participants to the extent such participants' claims are or may be processed within the registered clearing agency, shall be entitled to receive SIPC funds in payment of any losses on such contracts, except as SIPC may otherwise provide by rule. If such registered clearing agency or its participants sustain a net loss on the closeout of such contracts with the debtor, they shall have the right to participate in the general estate as unsecured creditors to the extent of such loss. Any funds or other property owed to the debtor, after the closeout of such contracts, shall be promptly paid to the trustee. Rules adopted by SIPC under this paragraph shall provide that in no case may a registered clearing agency or its participants, to the extent such participants' claims are or may be processed within the registered clearing agency, be entitled to receive funds advanced by SIPC in an amount greater, in the aggregate, than could be received by the participants if such participants proceeded individually under paragraphs (1) and (2).

"(4) DEFINITION.—For purposes of this subsection, the term 'customer' does not include any person who—

"(A) is a broker or dealer;

"(B) had a claim for cash or securities which by contract, agreement, or understanding, or by operation of law, was part of the capital of the claiming broker or dealer or was subordinated to the claims of any or all creditors of such broker or dealer; or

"(C) had a relationship of the kind specified in section 9(a)(5) with the debtor.

A claiming broker or dealer shall be deemed to have been acting on behalf of its customer if it acted as agent for such customer or if it held such customer's order which was to be executed as a part of its contract with the debtor.

"(f) TRANSFER OF CUSTOMER ACCOUNTS.—In order to facilitate the prompt satisfaction of customer claims and the orderly liquidation of the debtor, the trustee may, pursuant to terms satisfactory to him and subject to the prior approval of SIPC, sell or otherwise transfer to another member of SIPC, without consent of any customer, all or any part of the account of a customer of the debtor. In connection with any such sale or transfer to another member of SIPC and subject to the prior approval of SIPC, the trustee may—

"(1) waive or modify the need to file a written statement of claim pursuant to subsection (a)(2); and

"(2) enter into such agreements as the trustee considers appropriate under the circumstances to indemnify any such member of SIPC against shortages of cash or securities in the customer accounts sold or transferred.

The funds of SIPC may be made available to guarantee or secure any indemnification under paragraph (2). The prior approval of SIPC to such indemnification shall be conditioned, among such other standards as SIPC may determine, upon a determination by SIPC that the probable cost of any such indemnification can reasonably be expected not to exceed the cost to SIPC of proceeding under section 9(a) and section 9(b).

"SEC. 9. SIPC ADVANCES.

"(a) ADVANCES FOR CUSTOMER'S CLAIMS.—In order to provide for prompt payment and satisfaction of net equity claims of customers of the debtor, SIPC shall advance to the trustee such moneys, not to exceed $100,000 for each customer, as may be required to pay or otherwise satisfy claims for the amount by which the net equity of each customer exceeds his ratable share of customer property, except that—

"(1) if all or any portion of the net equity claim of a customer in excess of his ratable share of customer property is a claim for cash, as distinct from a claim for securities, the amount advanced to satisfy such claim for cash shall not exceed $40,000 for each such customer;

"(2) a customer who holds accounts with the debtor in separate capacities shall be deemed to be a different customer in each capacity;

"(3) if all or any portion of the net equity claim of a customer in excess of his ratable share of customer property is satisfied by the delivery of securities purchased by the trustee pursuant to section 8(d), the securities so purchased shall be valued as of the filing date for purposes of applying the dollar limitations of this subsection;

"(4) no advance shall be made by SIPC to the trustee to pay or otherwise satisfy, directly or indirecty, any net equity claim of a customer who is a general partner, officer, or director of the debtor, a beneficial owner of five per centum or more of any class of equity security of the debtor (other than a nonconvertible stock having fixed preferential dividend and liquidation rights), a limited partner with a participation of five per centum or more in the net assets or net profits of the debtor, or a person who, directly or indirectly and through agreement or otherwise, exercised or had the power to exercise a controlling influence over the management or policies of the debtor; and

"(5) no advance shall be made by SIPC to the trustee to pay or otherwise satisfy any net equity claim of any customer who is a broker or dealer or bank, other than to the extent that it shall be established to the satisfaction of the trustee, from the books and records of the debtor or from the books and records of a broker or dealer or bank, or otherwise, that the net equity claim of such broker or dealer or bank against the debtor arose out of transactions for customers of such broker or dealer or bank shall be deemed a separate customer of the debtor. To the extent moneys are advanced by SIPC to the trustee to pay or otherwise satisfy the claims of customers, in addition to all other rights it may have at law or in equity, SIPC shall be subrogated to the claims of such customers with the rights and priorities provided in this Act, except that SIPC as subrogee may assert no claim against customer property until after the allocation thereof to customers as provided in section 8(c).

"(b) OTHER ADVANCES.—SIPC shall advance to the trustee—

"(1) such moneys as may be required to carry out section 8(e); and

"(2) to the extent the general estate of the debtor is not sufficient to pay any and all costs and expenses of administration of the estate of the debtor and of the liquidation proceeding, the amount of such costs and expenses.

"(c) DISCRETIONARY ADVANCES.—SIPC may advance to the trustee such moneys as may be required to—

"(1) pay or guarantee indebtedness of the debtor to a bank, lender, or other person under section 7(b)(2);

"(2) guarantee or secure any indemnity under section 8(f); and

"(3) purchase securities under section 8(d).

"SEC. 10. DIRECT PAYMENT PROCEDURE.

"(a) DETERMINATION REGARDING DIRECT PAYMENTS.—If SIPC determines that—

"(1) any member of SIPC (including a person who was a member within one hundred eighty days prior to such determination) has failed or is in danger of failing to meet its obligations to customers;

"(2) one or more of the conditions specified in section 5(b)(1) exist with respect to such member;

"(3) the claim of each customer of the member is within the limits of protection provided in section 9(a);

"(4) the claims of all customers of the member aggregate less than $250,000;

"(5) the cost to SIPC of satisfying customer claims under this section will be less than the cost under a liquidation proceeding; and

"(6) such member's registration as a broker-dealer under section 15(b) of the 1934 Act has been terminated, or such member has consented to the use of the direct payment procedure set forth in this section,

SIPC may, in its discretion, use the direct payment procedure set forth in this section in lieu of instituting a liquidation proceeding with respect to such member.

"(b) NOTICE.—Promptly after a determination under subsection (a) that the direct payment procedure is to be used with respect to a member, SIPC shall cause notice of such direct payment procedure to be published in one or more newspapers of general circulation in a form and manner determined by SIPC, and at the same time shall cause to be mailed a copy of such notice to each person who appears, from the books and records of such member, to have been a customer of the member with an open account within the past twelve months, to the address of such person as it appears from the books and records of such member. Such notice shall state that SIPC will satisfy customer claims directly, without a liquidation proceeding, and shall set forth the form and manner in which claims may be presented. A direct payment procedure shall be deemed to commence on the date of first publication under this subsection and no claim by a customer shall be paid or otherwise satisfied by SIPC unless received within the six-month period beginning on such date, except that SIPC shall, upon application within such period, and for cause shown, grant a reasonable, fixed extension of time for the filing of a claim by the United States, by a State or political subdivision thereof, or by an infant or incompetent person without a guardian.

"(c) PAYMENTS TO CUSTOMERS.—SIPC shall promptly satisfy all obligations of the member to each of its customers relating to, or net equity claims based upon, securities or cash by the delivery of securities or the effecting of payments to such customer (subject to the provisions of section 8(d) and section 9(a)) insofar as such obligations are ascertainable from the books and records of the member or are otherwise established to the satisfaction of SIPC. For purposes of distributing securities to customers, all securities shall be valued as of the close of business on the date of publication under subsection (b). Any payment or delivery of securities pursuant to this section may be conditioned upon the execution and delivery, in a form to be determined by SIPC, of appropriate receipts, supporting affidavits, releases, and assignments. To the extent moneys of SIPC are used to satisfy the claims of customers, in addition to all other rights it may have at law or in equity, SIPC shall be subrogated to the claims of such customers against the member.

"(d) EFFECT ON CLAIMS.—Except as otherwise provided in this section, nothing in this section shall limit the right of any person, including any subrogee, to establish by formal proof or otherwise such claims as such person may have against the member, including claims for the payment of money and the delivery of specific securities, without resort to moneys of SIPC.

"(e) JURISDICTION OF DISTRICT COURTS.—After SIPC has published notice of the institution of a direct payment procedure under this section, any person aggrieved by any determination of SIPC with respect to his claim under subsection (c) may, within six months following mailing by SIPC of its determination with respect to such claim, seek a final adjudication of such claim. The district courts of the United States shall have original and exclusive jurisdiction of any civil action for the adjudication of such claim, without regard to the citizenship of the parties or the amount in controversy. Any such action shall be brought in the judicial district where the head office of the debtor is located. Any determination of the rights of a customer under subsection (c) shall not prejudice any other right or remedy of the customer against the member.

"(f) DISCONTINUANCE OF DIRECT PAYMENT PROCEDURES.—If, at any time after the institution of a direct payment procedure with respect to a member, SIPC determines, in its discretion, that continuation of such direct payment procedure is not appropriate, SIPC may cease such direct payment procedure and, upon so doing, may seek a protective decree pursuant to section 5. To the extent payments of cash, distributions of securities, or determinations with respect to the validity of a customer's claim are made under this section, such payments, distributions, and determinations shall be recognized and given full effect in the event of any subsequent liquidation proceeding. Any action brought under subsection (e) and pending at the time of the appointment of a trustee under section 5(b)(3) shall be permanently stayed by the court at the time of such appointment, and the court shall enter an order directing the transfer or removal to it of such suit. Upon such removal or transfer the complaint in such action shall constitute the plaintiff's claim in the liquidation proceeding, if appropriate, and shall be deemed received by the trustee on the date of his appointment regardless of the date of actual transfer or removal of such action.

"(g) REFERENCES.—For purposes of this section, any reference to the trustee in sections 7(b)(1), 8(d), 8(f), 9(a), 16(3) and 16(12) shall be deemed a reference to SIPC, and any reference to the date of publication of notice under section 8(a) shall be deemed a reference to the publication of notice under this section.".

COMMISSION FUNCTIONS

SEC. 10. Section 11(a) of such Act (15 U.S.C. 78ggg(a)), as redesignated by this Act, is amended by striking out "or regulations pursuant to section 3(e) and section 9(f)" and inserting "pursuant to section 3(e)(3) and section 13(f)".

EXAMINING AUTHORITY FUNCTIONS

SEC. 11. Section 12 of such Act (15 U.S.C. 78hhh), as redesignated by this Act is amended—

(1) by inserting ", or collection agent if a collection agent has been designated pursuant to section 13(a)," immediately after "examining authority" the first place it appears; and

(2) by inserting "or collection agent" immediately after "examining authority" the second place it appears.

FUNCTIONS OF SELF-REGULATORY ORGANIZATIONS

SEC. 12. Section 13(a) of such Act (15 U.S.C. 78iii(a)) is amended to read as follows:

"(a) COLLECTION AGENT.—Each self-regulatory organization shall act as collection agent for SIPC to collect the assessments payable by all members of SIPC for whom such self-regulatory organization is the examining authority, unless SIPC designates a self-regulatory organization other than the examining authority to act as collection agent for any member of SIPC who is a member of or participant in more than one self-regulatory organization. If the only self-regulatory organization of which a member of SIPC is a member or in which it is a participant is a registered clearing agency that is not the examining authority for the member, SIPC may, nevertheless, designate such registered clearing agency as collection agent for the member or may require that payments be made directly to SIPC. The collection agent shall be obligated to remit to SIPC assessments made under section 4 only to the extent that payments of such assessment are received by such collection agent. Members of SIPC who are not members of or participants in a self-regulatory organization shall make payments directly to SIPC.".

(b) Section 13(b) of such Act (15 U.S.C. 78iii(b)), as redesignated by this Act, is amended by inserting "and section 5(a)(2)" immediately after "section 5(a)(1)".

(c) Section 13(c) of such Act (15 U.S.C. 78iii(c)), as redesignated by this Act, is amended to read as follows:

"(c) INSPECTIONS.—The self-regulatory organization of which a member of SIPC is a member or in which it is a participant shall inspect or examine such member for compliance with applicable financial responsibility rules, except that—

"(1) if the self-regulatory organization is a registered clearing agency, the Commission may designate itself as responsible for the examination of such member for compliance with applicable financial responsibility rules; and

"(2) if a member of SIPC is a member of or participant in more than one self-regulatory organization, the Commission, pursuant to section 17(d) of the 1934 Act, shall designate one of such self-regulatory organizations or itself as responsible for the examination of such member for compliance with applicable financial responsibility rules.".

(d) Section 13(f) of such Act (15 U.S.C. 78iii(f)), as redesignated by this Act, is amended to read as follows:

"(f) FINANCIAL CONDITION OF MEMBERS.—The Commission may, by such rules as it determines necessary or appropriate in the public interest and to carry out the purposes of this Act, require any self-regulatory organization to furnish SIPC with reports and records (or copies thereof) relating to the financial condition of members of or participants in such self-regulatory organization.".

PROHIBITED ACTS

SEC. 13. (a) Section 14(a) of such Act (15 U.S.C. 78jjj(a)), as redesignated by this Act, is amended—

(1) by inserting "and penalty" immediately after "interest"; and

(2) by striking out "he" each place it appears and inserting "it" in lieu thereof.

(b) Section 14(b) of such Act (15 U.S.C. 78jjj(b)), as redesignated by this Act, is amended—

(1) by inserting "or for whom a direct payment procedure has been initiated" immediately after "Act" each place it appears; and

(2) in the subsection heading, by inserting "OR INITIATION OF DIRECT PAYMENT PROCEDURE" immediately after "TRUSTEE".

(c) Section 14(c) of such Act (15 U.S.C. 78jjj(c)) is amended to read as follows:

"(c) CONCEALMENT OF ASSETS; FALSE STATEMENTS OR CLAIMS.—

"(1) SPECIFIC PROHIBITED ACTS.—Any person who, directly or indirectly, in connection with or in contemplation of any liquidation proceeding or direct payment procedure—

"(A) employs any device, scheme, or artifice to defraud;

"(B) engages in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person; or

"(C) fraudulently or with intent to defeat this Act—

"(i) conceals or transfers any property belonging to the estate of a debtor;

"(ii) makes a false statement or account;

"(iii) presents or uses any false claim for proof against the estate of a debtor;

"(iv) receives any material amount of property from a debtor;

"(v) gives, offers, receives, transfers, or obtains any money or property, remuneration, compensation, reward, advantage, other consideration, or promise thereof, for acting or forebearing to act;

"(vi) conceals, destroys, mutilates, falsifies, makes a false entry in, or otherwise falsifies any document affecting or relating to the property or affairs of a debtor; or

"(vii) withholds, from any person entitled to its possession, any document affecting or relating to the property or affairs of a debtor,

shall be fined not more than $50,000 or imprisoned for not more than five years, or both.

"(2) FRAUDULENT CONVERSION.—Any person who, directly or indirectly steals, embezzles, or fraudulently, or with intent to defeat this Act, abstracts or converts to his own use or to the use of another any of the moneys, securities, or other assets of SIPC, or otherwise defrauds or attempts to defraud SIPC or a trustee by any means, shall be fined not more than $50,000 or imprisoned not more than five years, or both.".

LIABILITY, ADVERTISING, AND OTHER MISCELLANEOUS PROVISIONS

SEC. 14. (a) Section 15(d) of such Act (15 U.S.C. 78kkk(d)), as redesignated by this Act, is amended—

(1) by inserting ", officers, or employees" immediately after "Directors"; and

(2) in the subsection heading, by inserting ", OFFICERS, OR EMPLOYEES" immediately after "DIRECTORS".

(b) Section 15(e) of such Act (15 U.S.C. 78kkk(e)), as redesignated by this Act, is amended to read as follows:

"(e) ADVERTISING.—SIPC shall by bylaw prescribe the manner in which a member of SIPC may display any sign or signs (or include in any advertisement a statement) relating to the protection to customers and their accounts, or any other protections, afforded under this Act. No member may display any such sign, or include in an advertisement any such statement, except in accordance with such bylaws. SIPC may also by bylaw prescribe such minimal requirements as it considers necessary and appropriate to require a member of SIPC to provide public notice of its membership in SIPC.".

(c) Section 15(b) of such Act (15 U.S.C. 78kkk(b)), as redesignated by this Act, is repealed, and subsections (c) through (h) of section 15 are redesignated as subsections (b) through (g), respectively.

DEFINITIONS

SEC. 15. Section 16 of such Act (15 U.S.C. 78lll), as redesignated by this Act, is amended to read as follows:

"SEC. 16. DEFINITIONS.

"For purposes of this Act, including the application of the Bankruptcy Act to a liquidation proceeding:

"(1) BANKRUPTCY ACT.—The term 'Bankruptcy Act' means, except where the context indicates otherwise, those provisions of the Bankruptcy Act relating to ordinary bankruptcy (chapters I through VII) as now in effect or as amended from time to time, and includes the rules of bankruptcy procedure promulgated with respect to such provisions, but does not include the provisions of section 60e of the Bankruptcy Act, relating to stockbroker bankruptcies.

"(2) COMMISSION.—The term 'Commission' means the Securities and Exchange Commission.

"(3) CUSTOMER.—The term 'customer' of a debtor means any person (including any person with whom the debtor deals as principal or agent) who has a claim on account of securities received, acquired, or held by the debtor in the ordinary course of its business as a broker or dealer from or for the securities accounts of such person for safekeeping, with a view to sale, to cover consummated sales, pursuant to purchases, as collateral security, or for purposes of effecting transfer. The term 'customer' includes any person who has a claim against the debtor arising out of sales or conversions of such securities, and any person who has deposited cash with the debtor for the purpose of purchasing securities, but does not include—

"(A) any person to the extent that the claim of such person arises out of transactions with a foreign subsidiary of a member of SIPC; or

"(B) any person to the extent that such person has a claim for cash or securities which by contract, agreement, or understanding, or by operation of law, is part of the capital of the debtor, or is subordinated to the claims of any or all creditors of the debtor, notwithstanding that some ground exists for declaring such contract, agreement, or understanding void or voidable in a suit between the claimant and the debtor.

"(4) CUSTOMER NAME SECURITIES.—The term 'customer name securities' means securities which were held for the account of a customer on the filing date by or on behalf of the debtor and which on the filing date were registered in the name of the customer, or were in the process of being so registered pursuant to instructions from the debtor, but does not include securities registered in the name of the customer which, by endorsement or otherwise, were in negotiable form.

"(5) CUSTOMER PROPERTY.—The term 'customer property' means cash and securities (except customer name securities delivered to the customer) at any time received, acquired, or held by or for the account of a debtor from or for the securities accounts of a customer, and the proceeds of any such property transferred by the debtor, including property unlawfully converted. The term 'customer property' includes—

"(A) securities held as property of the debtor to the extent that the inability of the debtor to meet its obligations to customers for their net equity claims based on securities of the same class and series of an issuer is attributable to the debtor's noncompliance with the requirements of section 15(c)(3) of the 1934 Act and the rules prescribed under such section;

"(B) resources provided through the use or realization of customers' debit cash balances and other customer-related debit items as defined by the Commission by rule;

"(C) any cash or securities apportioned to customer property pursuant to section 6(d); and

"(D) any other property of the debtor which, upon compliance with applicable laws, rules, and regulations, would have been set aside or held for the benefit of customers, unless the trustee determines that including such property within the meaning of such term would not significantly increase customer property.

"(6) DEBTOR.—The term 'debtor' means a member of SIPC with respect to whom an application for a protective decree has been filed under section 5(a)(3) or a direct payment procedure has been instituted under section 10(b).

"(7) EXAMINING AUTHORITY.—The term 'examining authority' means, with respect to any member of SIPC (A) the self-regulatory organization which inspects or examines such member of SIPC, or (B) the Commission if such member of SIPC is not a member of or participant in any self-regulatory organization or if the Commission has designated itself examining authority for such member pursuant to section 13(c).

"(8) FILING DATE.—The term 'filing date' means the date on which an application for a protective decree is filed under section 5(a)(3), except that—

"(A) if a petition was filed before such date by or against the debtor under the Bankruptcy Act, or under chapter X or XI of such Act, as now in effect or as amended from time to time, the term 'filing date' means the date on which such petition was filed;

"(B) if the debtor is the subject of a proceeding pending in any court or before any agency of the United States or any State in which a receiver, trustee, or liquidator for such debtor has been appointed and such proceeding was commenced before the date on which such application was filed, the term 'filing date' means the date on which such proceeding was commenced; or

"(C) if the debtor is the subject of a direct payment procedure or was the subject of a direct payment procedure discontinued by SIPC pursuant to section 10(f), the term 'filing date' means the date on which notice of such direct payment procedure was published under section 10(b).

"(9) FOREIGN SUBSIDIARY.—The term 'foreign subsidiary' means any subsidiary of a member of SIPC which has its principal place of business in a foreign country or which is organized under the laws of a foreign country.

"(10) GROSS REVENUES FROM THE SECURITIES BUSINESS.—The term 'gross revenues from the

securities business' means the sum of (but without duplication)—

"(A) commissions earned in connection with transactions in securities effected for customers as agent (net of commissions paid to other brokers and dealers in connection with such transactions) and markups with respect to purchases or sales of securities as principal;

"(B) charges for executing or clearing transactions in securities for other brokers and dealers;

"(C) the net realized gain, if any, from principal transactions in securities in trading accounts;

"(D) the net profit, if any, from the management of or participation in the underwriting or distribution of securities;

"(E) interest earned on customers' securities accounts;

"(F) fees for investment advisory services (except when rendered to one or more registered investment companies or insurance company separate accounts) or account supervision with respect to securities;

"(G) fees for the solicitation of proxies with respect to, or tenders or exchanges of, securities;

"(H) income from service charges or other surcharges with respect to securities;

"(I) except as otherwise provided by rule of the Commission, dividends and interest received on securities in investment accounts of the broker or dealer;

"(J) fees in connection with put, call, and other option transactions in securities;

"(K) commissions earned from transactions in (i) certificates of deposit, and (ii) Treasury bills, bankers acceptances, or commercial paper which have a maturity at the time of issuance of not exceeding nine months, exclusive of days of grace or any renewal thereof, the maturity of which is likewise limited, except that SIPC shall by bylaw include in the aggregate of gross revenues only an appropriate percentage of such commissions based on SIPC's loss experience with respect to such instruments over at least the preceding five years; and

"(L) fees and other income from such other categories of the securities business as SIPC shall provide by bylaw.

Such term does not include revenues received by a broker or dealer in connection with the distribution of shares of a registered open end investment company or unit investment trust or revenues derived by a broker or dealer from the sale of variable annuities or from the conduct of the business of insurance.

"(11) LIQUIDATION PROCEEDING.—The term 'liquidation proceeding' means any proceeding for the liquidation of a debtor under this Act in which a trustee has been appointed under section 5(b)(3).

"(12) NET EQUITY.—The term 'net equity' means the dollar amount of the account or accounts of a customer, to be determined by—

"(A) calculating the sum which would have been owed by the debtor to such customer if the debtor had liquidated, by sale or purchase on the filing date, all securities positions of such customer (other than customer name securities reclaimed by such customer); minus

"(B) any indebtedness of such customer to the debtor on the filing date; plus

"(C) any payment by such customer of such indebtedness to the debtor which is made with the approval of the trustee and within such period as the trustee may determine (but in no event more than sixty days after the publication of notice under section 8(a)).

In determining net equity under this paragraph, accounts held by a customer in separate capacities shall be deemed to be accounts of separate customers.

"(13) PERSONS REGISTERED AS BROKERS OR DEALERS.—The term 'persons registered as brokers or dealers' includes any person who is a member of a national securities exchange.

"(14) PROTECTIVE DECREE.—The term 'protective decree' means a decree, issued by a court upon application of SIPC under section 5(a)(3), that the customers of a member of SIPC are in need of the protection provided under this Act

"(15) SECURITY.—The term 'security' means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, any collateral trust certificate, preorganization certificate or subscription transferable share, voting trust certificate, certificate of deposit, certificate of deposit for a security, any investment contract or certificate of interest or participation in any profit-sharing agreement or in any oil, gas, or mineral royalty or lease (if such investment contract or interest is the subject of a registration statement with the Commission pursuant to the provisions of the Securities Act of 1933), any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase or sell any of the foregoing, and any other instrument commonly known as a security. The term 'security' does not include any currency, or any commodity or related contract or futures contract, or any warrant or right to subscribe to or purchase or sell any of the foregoing.".

AMENDMENT TO THE SECURITIES EXCHANGE ACT OF 1934

SEC. 16. Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended by adding at the end thereof the following new paragraph:

"(40) The term 'financial responsibility rules' means the rules and regulations of the Commission or the rules and regulations prescribed by any self-regulatory organization relating to financial responsibility and related practices which are designated by the Commission, by rule or regulation, to be financial responsibility rules.".

TABLE OF CONTENTS

SEC. 17. The table of contents of the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.) is amended to read as follows:

"TABLE OF CONTENTS

"Sec. 1. Short title.
"Sec 2. Application of Securities Exchange Act of 1934.
"Sec. 3. Securities Investor Protection Corporation.
"Sec. 4. SIPC Fund.
"Sec. 5. Protection of customers.
"Sec. 6. General provisions of a liquidation proceeding.
"Sec. 7. Powers and duties of trustee.
"Sec. 8. Special provisions of a liquidation proceeding.
"Sec. 9. SIPC advances.
"Sec. 10. Direct payment procedure.
"Sec. 11. SEC functions.
"Sec. 12. Examining authority functions.
"Sec. 13. Functions of self-regulatory organizations.
"Sec. 14. Prohibited acts.
"Sec. 15. Miscellaneous provisions.
"Sec. 16. Definitions.".

The SPEAKER pro tempore. Is a second demanded?

Mr. BROYHILL. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. ECKHARDT) will be recognized for 20 minutes, and the gentleman from North Carolina (Mr. BROYHILL) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Securities Investor Protection Act, as many of my colleagues will recall, was enacted in December 1970 in response to a crisis within the brokerage community. After the bear market and back office paper crisis of 1968–70, the market dropped off sharply. During this time, a number of brokerage firms went out of business, and public confidence in the securities markets was badly shaken. In an effort to restore investor confidence, Congress adopted the 1970 act, creating the Securities Investor Protection Corporation (SIPC) to provide financial protection for customers of insolvent broker-dealers and to administer the new law. SIPC became the FDIC of the securities industry.

In the 7 years since its creation, SIPC has appointed 123 trustees. Through their experience, certain glaring deficiencies in the existing liquidation procedure have become evident. Accordingly, SIPC appointed a special task force to review the 1970 act and consider the need for amendments. H.R. 8331 essentially reflects the recommendations made by the task force. The amendments will streamline the otherwise liquidation procedures, and reduce the expense and administrative complexity of the process. In light of the fluctuating state of the stock market, and the potentially disastrous consequences for smaller broker-dealers of a precipitate downtown, we need more than ever before to insure SIPC's ability to liquidate insolvent broker-dealers quickly and efficiently. These amendments are very important, and very much in need by SIPC.

The bill would achieve a number of important changes. Among other things, it would increase the extent of SIPC protection for customers' cash and securities in an account with a broker-dealer. The act currently protects customer accounts up to a total of $50,000, with a ceiling of $20,000 for cash. H.R. 8331 would double the amount of protection, raising to $100,000 the total amount of protection, and to $40,000 the level of protection for customers' cash. There was unanimous sentiment that such an increase in the amount of protection was an important means of improving investor confidence in the securities markets.

In addition, the bill would seek to satisfy more adequately customer expectations, and also reduce the time and expense of liquidations by revising the procedure under certain circumstances.

Under the bill, the trustee would be required, to the extent he can do so in a fair and orderly market, to purchase securities on the open market in satisfaction of a customer claim for securities. One of the greatest shortcomings of the procedure under the 1970 act, to be remedied by this bill, is the failure to meet legitimate customer expectations of receiving what was in their account at the time of their broker's insolvency.

The bill would also authorize SIPC to transfer accounts from the insolvent broker-dealer to another broker to minimize disruption and permit customers to continue to exercise investment discretion.

In small liquidations, SIPC would have the authority to make payments directly to customers, instead of having to rely upon a court-appointed trustee. This procedure would allow SIPC to avoid the disproportionately large administrative expenses incurred in small liquidations.

The amendments would allow SIPC, or one of its employees, to be appointed trustee of an insolvent broker-dealer in certain small liquidations where the claims do not exceed $750,000 and where there are fewer than 500 customers.

The bill would continue the exemption from SIPC membership and from SIPC assessment for exclusive dealers in mutual fund shares and variable annuities. However, the bill would subject to limited assessment transactions in money market instruments, which were exempt from assessment under the 1970 act. Although transactions in those securities pose a limited risk to customer funds and securities, SIPC has experienced almost $2 million in claims for losses suffered on certificates of deposit and Treasury bills. Therefore, we have proposed only a limited assessment for money market instruments, at a rate based on the risk involved to customers and SIPC's loss experience in these securities since 1970. Such an approach would produce a very modest assessment.

In addition, H.R. 8331 would require the strict enforcement of subordinated lending agreements, thereby denying the status of "customer" for purposes of a SIPC liquidation to persons who have subordinated their capital by lending securities to a broker. This provision will not prevent customers from seeking rescission of their agreements where they suspect fraud may have occurred, but would simply prevent them from participating with other customers in the distribution of the assets of the insolvent broker.

Finally, the bill would authorize SIPC to require its members to identify themselves to the public through some minimal notice as SIPC members. We deem this provision necessary in light of continued exemption from SIPC membership of exclusive mutual fund and variable annuity dealers. The investing public should have the opportunity to make an informed decision as to whether or not to do business with a particular broker. Membership in SIPC can be an influential factor in that decision. The amendment concerning SIPC advertising, by bringing about additional public awareness of SIPC, is also designed to increase investor confidence in the Nation's securities markets.

The bill was reported unanimously out of the Consumer Protection and Finance Subcommittee on September 7. The full Commerce Committee likewise approved the measure unanimously. In addition to unanimous bipartisan support, the bill enjoys the support of SIPC, the SEC, and the securities industry.

Mr. BROYHILL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the chairman of the subcommittee has indicated, this bill would make a number of needed and technical changes in the Securities Investor Protection Act. Congress enacted the act creating the Securities Investor Protection Corporation (SIPC) in 1970, and since that time, it has become apparent that although the act for the most part is working well, certain procedures specified in the act have turned out to be unduly inflexible and inefficient. Therefore, the purpose of this bill is to make the act more responsive to investors and provide them with additional protection in the case of the failure of a broker-dealer.

In general terms, the act directs the Corporation to establish a fund made up of assessments imposed on broker-dealers, who are members of SIPC, which is available to pay claims of customers of brokerage houses which have failed. Since it was established in 1970, SIPC has returned approximately $277 millon in property to over 100,000 customers and has advanced more than $53 million from the SIPC fund to satisfy customer claims.

However, experience with those liquidations has highlighted areas where changes would be appropriate. For example, the legislation makes a number of changes designed to guarantee that customers' accounts are maintained as they existed prior to the liquidation. It would do this by allowing SIPC to go into the marketplace to replace securities if possible rather than returning cash to the customer. The bill also contains a number of provisions which are designed to expedite the liquidation process by eliminating cumbersome procedures that have proven to be unnecessary. Further, under the present terms of the act, each customer is limited to a total protection for securities and cash of $50,000 of which no more than $20,000 can be a claim for cash. The bill would increase the limits of SIPC protection to $100,000 and $40,000 respectively. By increasing the limits for customers' claims, it is our hope to increase investor confidence in the securities markets.

Under the present terms of the act, certain entities are excluded from SIPC membership, such as broker-dealers who exclusively sell mutual funds or variable annuities. After a great deal of discussion, we have decided to retain these exemptions, since it does not appear from the testimony presented at the hearings that mutual funds or variable annuities present the kind of risk created by general brokerage activities which are covered by SIPC.

Finally, the bill would give SIPC the authority to require broker-dealers to make known their SIPC membership to their customers. It should be emphasized that SIPC may require only the minimum amount of advertising necessary in order to guarantee that customers are aware of the firm's membership. For example, posting notices of SIPC membership in the brokerage firm probably would be appropriate under this provision. I am doubtful, however, whether requiring announcement of SIPC membership on television ads, for example, could be justified.

Mr. Speaker, in conclusion, I believe that the amendments made by this legislation are desirable. They go a long way toward clearing up problems which experience has shown exist under the original act and, therefore, I urge that the legislation be enacted.

Mr. ECKHARDT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. ECKHARDT) that the House suspend the rules and pass the bill H.R. 8331, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ECKHARDT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed, H.R. 8331.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

SAFE DRINKING WATER ACT AMENDMENTS

Mr. ROGERS. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 885) providing that upon the adoption of this resolution, the bill (S. 1528) entitled "An act to amend section 2 of the Safe Drinking Water Act (Public Law 93–523) to extend and increase authorizations provided for Public Water Systems" with the Senate amendments to the House amendment thereto be, and the same is hereby, taken from the Speaker's table to the end: First, that the Senate amendment numbered (2) be, and the same is hereby, agreed to; second, that the Senate amendment numbered (1) be, and the same is hereby, agreed to, with an amendment.

The Clerk read as follows:

H. RES. 885

Resolved, That upon the adoption of this resolution, the bill (S. 1528) entitled "An Act to amend Section 2 of the Safe Drinking Water Act (Public Law 93–523) to extend and increase authorizations provided for Public Water Systems" with the Senate amendments to the House amendment thereto be, and the same is hereby, taken from the Speaker's table to the end (1) that the Senate amendment numbered (2) be, and the same is hereby, agreed to; (2) that the Senate amendment numbered (1) be, and the same is hereby, agreed to with an amendment as follows:

Strike out the matter proposed to be inserted by Senate amendment numbered (1) and insert in lieu thereof the following:

"(B)(1) In prescribing regulations under this section the Administrator shall, to the extent feasible, avoid promulgation of requirements which would unnecessarily dis-

rupt State underground injection control programs which are in effect and being enforced in a substantial number of States.

"(ii) For the purpose of this subparagraph, a regulation prescribed by the Administrator under this section shall be deemed to disrupt a State underground injection control program only if it would be infeasible to comply with both such regulation and the State underground injection control program.

"(iii) For the purpose of this subparagraph, a regulation prescribed by the Administrator under this section shall be deemed unnecessary only if, without such regulation, underground sources of drinking water will not be endangered by any underground injection."; and (3) that the Senate amendment numbered (3) be, and the same is hereby, agreed to with an amendment as follows:

Strike out the matter proposed to be inserted by Senate amendment numbered (3) and insert in lieu thereof the following:

AGENCY PERSONNEL

SEC. 11. (a) Subsection (a) of section 5108 of title 5, United States Code, is amended by striking out "an aggregate of 3,243" and inserting in lieu thereof "an aggregate of 3,293."

(b) To the extent that the Administrator of the Environmental Protection Agency deems such action necessary to the discharge of his functions under title XIV of the Public Health Service Act (relating to safe drinking water) and under other provisions of law, he may appoint personnel to fill not more than thirty scientific, engineering, professional, legal, and administrative positions within the Environmental Protection Agency without regard to the civil service laws and may fix the compensation of such personnel not in excess of the maximum rate payable for GS-18 of the General Schedule under section 5332 of title 5, United States Code.

MONITORING OF UNREGULATED POLLUTANTS

SEC. 12. (a) Section 1412(e)(2) of the Public Health Service Act is amended by striking the word "and" at the end of clause (E) and by striking the period at the end of clause (F) and inserting in lieu thereof: "; and", and by adding the following new clause at the end thereof: "(G) periodic assessments and evaluations of unregulated contaminants which may require continuous monitoring or regulation."

(b)(1) Section 1414(c) of such Act is amended by striking out "form and manner for giving such notice. Such notice" and inserting in lieu thereof "form, manner, and frequency for giving notice under this subsection. Notice under the first sentence of this subsection".

(2) Section 1414(c) is further amended by inserting: "The Administrator may also require the owner or operator of a public water system to give notice to the persons served by it of contaminant levels of any unregulated contaminant required to be monitored under section 1445(a)." after "issued by the system.".

(3) Section 1414(c) is further amended by striking out "thereunder" and inserting in lieu thereof "issued under this subsection".

(c) Section 1445(a) of such Act is amended by striking out "or" before "in administering", and by inserting before the period at the end thereof: ", in evaluating the health risks of unregulated contaminants, or in advising the public of such risks".

(d) Section 1445(b)(1) of such Act is amended by inserting "(A)" immediately after "person subject to", by striking out "or" after "1412" and inserting in lieu thereof ", (B) an", by striking out "(or person" and substituting the following: ", or (C) any requirement to monitor an unregulated contaminant pursuant to subsection (a), or person", and by striking out the parenthesis after "or other person" and substituting "referred to in clause (A), (B), or (C)".

EMERGENCY ASSISTANCE

SEC. 13. Section 1442(a)(2)(B) of the Public Health Service Act, as amended by section 9 of this Act, is further amended by striking out "respecting drinking water" and all that follows down through the period at the end thereof and substituting: "affecting public water systems (including sources of water for such systems) which the Administrator determines to present substantial danger to the public health. Grants provided under this subparagraph shall be used only to support those actions which (i) are necessary for preventing, limiting or mitigating danger to the public health in such emergency situation and (ii) would not, in the judgment of the Administrator, be taken without such emergency assistance. The Administrator may carry out the program authorized under this subparagraph as part of, and in accordance with the terms and conditions of, any other program of assistance for environmental emergencies which the Administrator is authorized to carry out under any other provision of law. No limitation on appropriations for any such other program shall apply to amounts appropriated under this subparagraph.".

CLEAN AIR ACT

Technical and conforming amendments

SEC. 14. (a) The Clean Air Act is amended as follows:

(1) in section 110(a)(2)(H) insert a semicolon at the end thereof;

2) in section 110(a)(2)(J) strike out the comma at the end thereof and substitute a semicolon;

(3) in section 110(a)(5)(D) strike out "preconstruction or premodification";

(4) in section 110(a)(3) add the following new subparagraph at the end thereof:

"(D) Any applicable implementation plan for which an attainment date later than December 31, 1982, is provided pursuant to section 172(a)(2) shall be revised by July 1, 1979, to include the comprehensive measures and requirements referred to in subsection (c)(5)(B).";

(5) in section 110 redesignate subsections (g), (h), and (i) (as added by section 108(g) of the Clean Air Act Amendments of 1977) as (h), (i), and (j), respectively;

(6) in section 110(j), as redesignated by paragraph (5) of this subsection, strike out "at such source will enable it" and substitute "will enable such source";

(7) in section 111(a) redesignate paragraph (7) (as added by section 109(f) of the Clean Air Act Amendments of 1977) as paragraph (8);

(8) in section 111 strike out subsection (j) and redesignate the following subsections accordingly;

(9) in section 111(j)(2), as redesignated by paragraph (8) of this subsection, strike out "(8)" and substitute "(B)";

(10) in section 113(b)(3) insert a comma after "coal conversion)" and after "smelter orders)"; and strike out "320" and insert in lieu thereof "324";

(11) in section 113(b)(3) (as amended by section 111(c)(3) of the Clean Air Act Amendments of 1977), insert "or" at the end thereof;

(12) in section 113(c)(1)(B) (as amended by section 111(d)(2) of the Clean Air Act Amendments of 1977), insert "or" at the end thereof;

(13) in section 113(c)(1)(D) insert a comma after "Act)" and insert a comma after "penalties)";

(14) in section 113(d)(1) strike out "an order for any stationary source which" and insert in lieu thereof "to any stationary source which is unable to comply with any requirement of an applicable implementation plan an order which" and strike out "any requirement of an applicable implementation plan" and insert in lieu thereof "such requirement";

(15) in section 113(d)(1)(E) insert ", unless exempted under section 120(a)(2)(B) or (C)," after "notifies the source that"; insert "effective July 1, 1979, as provided" after "noncompliance penalty"; and strike out "120" the second time it appears therein and insert in lieu thereof "120(b)(3) or (g),";

(16) in section 113(d)(2) insert after the first sentence thereof the following: "The Administrator shall determine, not later than 90 days after receipt of notice of the issuance of an order under this subsection with respect to any major stationary source, whether or not any State order under this subsection is in accordance with the requirements of this Act.";

(17) in section 113(d)(4)(A) insert a closing parenthesis after "11(a)(1)";

(18) in the last sentence of section 113(d)(5)(A) strike out "an additional period of" and insert in lieu thereof "an additional period for";

(19) in section 113(d)(8) strike out "or (3)" after "paragraph (1)";

(20) in section 113(d)(10) strike out "issued" and insert in lieu thereof "in effect"; and strike out "other" and insert in lieu thereof "Federal"; and strike out "for section 304" and substitute "and no action under section 304";

(21) in section 113(d)(11) strike out "(and approved by the Administrator)" and substitute "and in effect";

(22) in section 114(a)(iii) strike out "(except with respect to a manufacturer of motor vehicles or motor vehicle engines)" and insert in lieu thereof "(except a provision of title II which respect to a manufacturer of new motor vehicles or new motor vehicle engines)";

(23) in section 114(a)(1) insert "who owns or operates any emission source or who is" after "any person"; and insert "with respect to a provision of title II" after "208";

(24) in section 116 insert "(as in effect before the date of the enactment of the Clean Air Act Amendments of 1977)" after "and (f)".

(25) in section 119(a), add the following new paragraph at the end thereof:

"(3) For the purposes of section 110, 304, and 307 of this Act, any order issued by the State and in effect pursuant to this subsection shall become part of the applicable implementation plan.";

(26) in section 119(d)(3) strike out "319" and insert in lieu thereof "321";

(27) in the first sentence of section 119(e) strike out "such order" and insert in lieu thereof "an order under this section";

(28) in section 120(a)(2)(A)(i) insert "(whether or not such source is subject to a Federal or State consent decree)" after "plan";

(29) in section 120(a)(2)(A)(iii) insert ", or Federal or State consent decree" after "subparagraph (B)"; and strike out "or suspension." at the end thereof and insert in lieu thereof ", suspension, or consent decree";

(30) in section 120(a)(2)(B)(i) insert "section 113(d)(5) or" after "under" and insert "(as in effect before the date of the enactment of the Clean Air Act Amendments of 1977)" after "119";

(31) in section 120(a)(2)(B)(ii) insert "(as in effect before the date of the enactment of the Clean Air Act Amendments of 1977)" after "119(c)(1)";

(32) in section 120(b)(8) strike out "(6)" and substitute "(4)";

(33) in section 120(b)(2)(A) strike out "subsection (e)" and insert in lieu thereof "subsection (a)(1)(B)(i)";

(34) in section 120(b), after paragraph (9) insert: "In any case in which the State establishes a noncompliance penalty under this section, the State shall provide notice thereof to the Administrator.";

(35) in the next to last sentence of section

120(b) strike out "delayed compliance" and insert in lieu thereof "noncompliance"; strike out "publication of the proposed penalty" and insert in lieu thereof "receipt of notice of the State penalty assessment";

(36) in the last sentence of section 120(b) strike out "delayed compliance" and insert in lieu thereof "noncompliance"; and strike out "facility" and insert in lieu thereof "source";

(37) in section 120(d)(2)(A) insert "the economic value which a delay in compliance beyond July 1, 1979, may have for the owner of such source, including" after "no less than"; and strike out "which a delay in compliance beyond July 1, 1979, may have for the owner or operator of such source" and insert in lieu thereof "which such a delay may have for the owner or operator of such source";

(38) in section 120(e) insert a comma after "(b)";

(39) in section 126(a)(1) strike out ", relating to significant deterioration of air quality," and substitute "(relating to significant deterioration of air quality)";

(40) in section 162(a)(4) insert a comma after "size";

(41) in section 163(a) strike out "165(d)(2)(C)(iv)" and insert in lieu thereof "section 165(d)(2)(C)(iv))";

(42) in section 164(b)(2) insert "or is inconsistent with the requirements of section 162(a) or of subsection (a) of this section" after "this section",

(43) in section 164(e), insert "an" after "If any State affected by the redesignation of";

(44) in section 165(a)(1) strike out the colon at the end thereof and insert in lieu thereof a semi-colon;

(45) in section 165(a)(3) insert ", as required pursuant to section 110(j)," after "demonstrates";

(46) in section 165(b) insert "cause or" before "contribute"; and strike out "actual" before "allowable";

(47) in section 165(d)(2)(C)(ii) strike out "contribute" and insert in lieu thereof "contribute";

(48) in section 165(d)(2)(C)(iii) strike out "quality related" and substitute "quality-related" and strike out the comma after "concentrations";

(49) in section 165(d)(2)(C)(iv) strike out "such sources" and substitute "such facility"; strike out "together with all other sources"; and insert "cause or contribute to concentrations of such pollutant which" before "exceed";

(50) in section 165(d)(D)(iii) strike out everything after "as may be necessary to assure that" down through the colon and insert in lieu thereof the following: "emissions of sulfur oxides from such facility will not (during any day on which the otherwise applicable maximum allowable increases are exceeded) cause or contribute to concentrations which exceed the following maximum allowable increases for such areas over the baseline concentration for such pollutant and to assure that such emissions will not cause or contribute to concentrations which exceed the otherwise applicable maximum allowable increases for periods of exposure of 24 hours or less on more than 18 days during any annual period: ";

(51) in section 165(d)(2)(D) add the following new clause:

"(iv) For purposes of clause (iii), the term 'high terrain area' means with respect to any facility, any area having an elevation of 900 feet or more above the base of the stack of such facility, and the term 'low terrain area' means any area other than a high terrain area.";

(52) in the second sentence of section 168(b) strike out "in accordance with this definition" and insert in lieu thereof "(in accordance with the definition of 'commenced' in section 169(2))";

(53) immediately after section 168, strike out subpart 2 of part C of title I of such Act and insert such subpart after section 169;

(54) in section 169(2) add the following new subparagraph (C) at the end thereof:

"(C) The term 'construction' when used in connection with any source or facility, includes the modification (as defined in section 111(a)) of any source or facility.";

(55) in section 172(b)(4) strike out "paragraph (1)" and insert in lieu thereof "subsection (a)";

(56) in section 172(c) strike out "July 1, 1987" and insert in lieu thereof "December 31, 1987";

(57) in section 173(1)(A) strike out "facility" each place it appears and insert in lieu thereof "source"; strike out "from new" and insert in lieu thereof "from new or modified"; and insert "applicable" before "implementation plan";

(58) in section 173 strike out "and" after the semicolon in paragraph (2); strike out the period at the end of paragraph (3) and insert in lieu thereof "; and "; and add the following at the end thereof:

"(4) the applicable implementation plan is being carried out for the nonattainment area in which the proposed source is to be constructed or modified in accordance with the requirements of this part.";

(59) in section 176(a)(1) insert "national" before "primary";

(60) in section 202(a) strike out "(a) Except as otherwise provided in subsection (b)—

"(a)(1) Except as otherwise provided in subsection (b) the" and substitute "(a) Except as otherwise provided in subsection (b)—

"(1) The";

(61) in section 202(a)(3)(B) strike out "During the period of June 1 through December 31, 1979, and during each period of June 1 through December 31 of each third year after 1979," and insert in lieu thereof "During the period of June 1 through December 31, 1978, in the case of hydrocarbons and carbon monoxide, or during the period of June 1 through December 31, 1980, in the case of oxides of nitrogen, and during each period of June 1 through December 31 of each third year thereafter,";

(62) in the last sentence of section 202(a)(3)(B) striking out "of" before "from";

(63) in section 202(a)(3)(E) strike out "June 1, 1979," and insert in lieu thereof "June 1, 1978, in the case of hydrocarbons and carbon monoxide, and June 1, 1980, in the case of oxides of nitrogen,";

(64) in section 202(b)(1)(B), strike out "model year 1976" and insert in lieu thereof "calendar year 1976";

(65) in section 202(b)(1)(B)(i) strike out "United States" and insert in lieu thereof "other";

(66) in section 203(a)(3)(B), strike out the comma after "purchaser" and substitute a semicolon;

(67) in section 203(a)(4)(C), insert "or" after "person,";

(68) in the last sentence of section 203(a) insert a period after "215";

(69) in section 206(g)(3) insert "shall" after "(D)";

(70) in section 207(a) strike out "(3) The cost" and substitute:

"(3) The cost";

(71) in section 207(f), as added by section 212 of the Clean Air Act Amendments of 1977, strike out "(f)" and substitute "(h)";

(72) in section 207(h)(2) (as added by section 212 of the Clean Air Act Amendments of 1977 and redesignated in paragraph (65) of this section), strike out "as determined and" and insert in lieu thereof "as determined under";

(73) in section 211(f)(2) strike out "first"; and insert ", except as otherwise provided pursuant to a waiver under paragraph (4)" after "per gallon of fuel";

(74) in section 211(f)(4) insert "or the limitation specified in paragraph (2) of this subsection," after "subsection";

(75) in section 215(d) strike out "December 31, 1981," and insert in lieu thereof "December 31, 1980,";

(76) in section 302(e), insert a comma after "individual";

(77) in section 304(a)(3) insert "or modified" after "new";

(78) in section 304(f)(3) strike out "requirements" after "smelter orders)," and substitute "any condition or requirement"; and strike out "or" before "section 169A" and insert ", or" after "(relating to ozone protection)";

(79) in the first sentence of section 307(b)(1), insert "or requirement" before "under section 112,"; strike out "under section 111" and insert in lieu thereof "or requirement under section 111,"; strike out "any rule or order issued under section 120 (relating to noncompliance penalties," and insert in lieu thereof "any rule issued under section 113, 119, or under section 120, or";

(80) in the second sentence of section 307(b)(1) insert "under section 111(j), under section 112(c), under section 113(d), under section 119, or" before "under section 120"; and insert "(as in effect before the date of enactment of the Clean Air Act Amendments of 1977)" after "119(c)(2)(A), (B), or (C)"; and insert "(including any denial or disapproval by the Administrator under title I)" after "under this Act";

(81) in section 323(d), strike out "eleven" and substitute "thirteen"; strike out "seven" and substitute "nine"; strike out ", by and with the advice and consent of the Senate";

(82) in section 324(j) insert after "(j)" the following: "The Commission may appoint and fix the pay of such staff as it deems necessary.";

(83) redesignate section 325 (as added by section 315 of the Clean Air Act Amendments of 1977) as section 327 and in subsection (b)(4) thereof, strike out "103(b)(5)" and insert in lieu thereof "103(a)(5)"; and

(84) in title III, add the following new section after section 325:

"CONSTRUCTION OF CERTAIN CLAUSES

"SEC. 326. The parenthetical cross references in any provision of this Act to other provisions of the Act, or other provisions of law, where the word "relating to" or "pertaining to" are used, are made only for convenience, and shall be given no legal effect.".

(b) The Clean Air Act Amendments of 1977 (P.L. 95-95) is amended as follows:

(1) in section 111, redesignate the second subsection (b) as paragraph (3) and redesignate existing paragraph (3) as paragraph (4);

(2) in section 129(a)(2)(C), strike out "January 1, 1979," and insert in lieu thereof "July 1, 1979,";

(3) in the next to last sentence of section 129(a)(2), strike "at" after "judgment";

(4) in section 129(c), strike out "subpart D" in each place it appears and insert in lieu thereof "part D of title I" and strike out "101" and insert in lieu thereof "110";

(5) in section 224(g) strike out "after 'engines'" and insert in lieu thereof "after 'engine'"; and

(6) in section 406(c) strike out "section 110 of this Act" and insert in lieu thereof "section 110 of the Clean Air Act".

The SPEAKER pro tempore. Is a second demanded?

Mr. CARTER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida (Mr. ROGERS) will be recognized for 20 minutes, and the

gentleman from Kentucky (Mr. CARTER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to urge my colleagues to suspend the rules and pass S. 1528 as amended by the Senate, with an amendment.

The Safe Drinking Water Act Amendments of 1977 passed the House on July 12, 1977, and were sent to the Senate. The Senate passed the bill on August 5, 1977, with three amendments. I am offering today an amendment which addresses several issues. We have worked with my colleagues across the aisle in formulating the components of the amendment. I appreciate their counsel and assistance.

As I stated on the floor of the House in July when we first considered this bill, it would extend authorities for several existing programs that are essential to assure the provision of safe drinking water for the citizens of this country. The bill also directs the Administrator of the Environmental Protection Agency to study alternative methods to provide and pay for safe drinking water and to study the effect of PCS's, trihalomethanes, and other toxic substances on sources of drinking water. These studies should supplement, but not delay, current or future control efforts. The bill also would extend the deadline for the attainment of primacy by States that have not done so and would permit States in the process of attaining primacy to receive program grants for public water system supervision programs.

I am offering today an amendment. Two parts of the amendment perfect and correct amendments to the bill passed by the Senate on August 5, 1977. Two other parts of the amendment add new sections to the bill. The remaining part of the amendment is technical in nature.

First, we propose to amend the Senate amendment pertaining to underground injection control programs. This amendment would carefully define and limit the effect of the Senate amendment on underground injection control regulations. It would provide that the Administrator's underground injection control regulations must, to the extent feasible, avoid promulgation of requirements which would unnecessarily disrupt State underground injection control programs which are in effect and being enforced in a substantial number of States. The amendment clearly defines what would constitute an unnecessary disruption of State programs and retains the basic and overriding requirement that the Administrator assure that underground drinking water sources—present and potential—will not be endangered by underground injection-related activities. This amendment has the support of the American Petroleum Institute and my colleagues on the other side of the aisle.

Second, we propose to amend the Senate amendment which would have authorized the appointment to the Environmental Protection Agency of 150 persons exempted from the civil service laws. Our amendment would reduce this amount to authorize the Administrator to appoint personnel to fill not more than 30 scientific, engineering, professional, legal, and administrative positions within the Environmental Protection Agency; these positions would be exempted from the civil service laws. Additionally, the amendment would expand the civil service pool by 50, from 3,243 to 3,293. This expansion would be earmarked for EPA. This amendment has the approval of the Office of Management and Budget, the Civil Service Commission, the Post Office and Civil Service Committee, and my colleagues on the minority side.

The third facet of the amendment would amend the bill by adding new section 12 which would authorize the Administrator to require periodic assessment and evaluation of unregulated contaminants of drinking water which may require continuous monitoring or regulation. Presently the act may be read to authorize the Administrator only to require monitoring of regulated pollutants—or those which he intends to regulate—those pollutants for which a maximum contaminant level has been set or those pollutants which require a treatment technique. New section 12 would clarify that the Administrator has the authority to require monitoring of unregulated pollutants which he deems potentially dangerous to health. The amendment would also permit the Administrator to require the owner or operator of the public water system to give notice to persons served by it—or other public notice—of contaminant levels of unregulated pollutants subject to monitoring requirements.

Finally, the amendment would amend section 1442(a) of the Public Health Service Act by authorizing the Administrator to provide technical assistance and make grants to States or publicly owned water systems to assist in responding to emergency situations affecting public water systems. Grants under this section would be used only to prevent, limit or mitigate danger to public health caused by an emergency and would be used only to initiate action that would not otherwise be taken without such emergency assistance. The Administrator would be authorized to implement this program in conjunction with other programs of assistance for environmental emergencies which he is authorized to carry out under any other provision of law.

The amendment also makes two essentially technical changes. First, the amendment deletes the $16 million research and development authorization that was contained in the Senate-passed bill. That amount has been separately authorized under the recent conference bill on EPA's research and development authorizations. Second, the amendment contains certain technical and conforming amendments to the Clean Air Act. These have been reviewed by all members of the conference committee—Senate and House, majority and minority—and have been found not to be objectionable in any respect.

For further elaboration of the amendment to S. 1528, as amended by the Senate, I am submitting a summary and statement of intent for the RECORD.

Mr. Speaker, I urge my colleagues to vote for this legislation. It would permit EPA to further its work in assuring that safe drinking water is provided and would enhance its mission significantly.

The material follows:

SUMMARY AND STATEMENT OF INTENT—AMENDMENTS TO THE SAFE DRINKING WATER AND CLEAN AIR ACTS

I. SAFE DRINKING WATER

Underground injection control

The House amendment makes several important changes in the Senate amendment on underground injection. The Senate amendment would have required the Administrator of EPA to review each State's existing underground injection control program prior to establishing national regulations under section 1421. The House amendment deletes this requirement. Promulgation of these national regulations has already been unduly delayed and the Senate requirement would have resulted in even greater delay.

Second, the Senate amendment would have prohibited the Administrator from duplicating State requirements. The House amendment deletes this prohibition. If some State requirements are effective to protect underground water sources, then these may form the partial basis of national underground source water protection requirements.

Third, the Senate amendment was vague and contained no definition of the term "unnecessarily disrupt." The House amendment defines these terms explicitly in a way which narrows the impact of the amendment and prevents unnecessary and improper legal challenges to the Administrator's regulations. In specific, the definition of the term "disrupt" in the House amendment limits the prohibition to those national requirements which are so inconsistent with specific requirements being carried out in a number of States that both the national and State requirements cannot be met. If both State and national requirements can be met, even at substantially greater cost, then the national requirements could not be deemed disruptive.

Moreover, the definition of "unnecessary" makes clear that a disruptive national regulation would be prohibited only if it were also "unnecessary". The burden of proof, of course, would be on the State which wished to challenge the regulation as both "disruptive" and "unnecessary" under this provision. Furthermore, this definition is consistent with, and reinforces, the provision contained in section 1421(b)(3)(C) that nothing in the entire section should be construed to override the Administrator's duty to protect underground water from any potential endangerment relating to underground injection.

Finally, the directive nature of this provision is underscored by including the words "to the extent feasible" in new section 1421(b)(3)(B)(i). These words were not included in the Senate amendment.

Studies

The House amendment contains certain provisions directing studies be undertaken under the Act. The Senate amendment contained identical provisions. In this respect, it is important to restate and emphasize the continued importance of two excerpts from the House Commerce Committee's report on this bill pertaining to these studies (*H. Rep. No. 95–338*, May 16, 1977). At page 8, the report emphasizes that these studies should be conducted with the assistance and involvement of public and nonprofit private groups. "One function of the Act should be to increase local, public involvement in recognizing and finding solutions to drinking water problems. This goal can be furthered by the Agency making special efforts to include citizens groups and other non-profit

locally-based concerns as recipients of grants or contracts" to plan and execute the studies. This statement of Committee intent is underlined and supported by the recent recommendation of the National Academy of Sciences that "EPA's current means of awarding grants and contracts should be used to a greater extent to solicit or sponsor citizen group research and public education relevant to regulatory issues." [NAS, Perspectives on Technical Information for Environmental Protection Vol. I, (1977), p. 49].

The House Committee report also explains that these studies are not meant to delay or otherwise affect regulatory or enforcement actions by EPA. Much too much delay has resulted already and these studies should supplement, rather than supplant, effective regulatory action.

Monitoring unregulated pollutants

While this provision is specifically intended for application in the case of sodium, where heart patients need to be aware of the sodium content of water for dietary purpose, the amendment is not limited by its terms or intent to that single pollutant. Furthermore, nothing in this amendment should be construed to alter pre-existing public notice requirements for regulated contaminants.

Supergrade amendment

Section 11 is a revision of the Senate amendment which would have provided the Administrator of EPA with special authority to appoint 150 additional personnel in the Agency. There have been extensive discussions and negotiations between the Civil Service Commission, OMB, and the Agency to determine the most critical needs for additional personnel and the most effective way of providing appointment authorities to meet those needs. The supergrade amendment is the result of those discussions.

It provides for an increase of 50 positions in the government-wide pool of GS–16, 17 and 18 positions allocated to the Executive branch agencies by the Civil Service Commission with the understanding that this increase will be allocated to EPA. In addition, the amendment provides the Administrator with authority to appoint 30 scientific, engineering, professional, legal and administrative personnel without regard to the competitive appointment and pay provision of title 5, United States Code.

The Administrator may pay such personnel up to the maximum rate payable for GS–18 (currently $47,500). The combination of these two authorities provides EPA with 80 additional supergrade and equivalent positions. The Post Office and Civil Service Committee concurs in this amendment.

II. CLEAN AIR TECHNICAL AND CONFORMING AMENDMENTS

Brief summary of the amendments

The following item-by-item summary explains the effect or purpose of each of the Clean Air Act amendments. Each number corresponds to the paragraphs of new section 14 of the bill:

(1) Corrects punctuation error.

(2) Corrects punctuation error.

(3) More clearly implements conference agreement to prohibit EPA review of indirect sources both before construction and after they have come into existence.

(4) Implements conference agreement to require cities with severe oxidant or CO problems to use transit funds available to them to help alleviate air pollution problems.

(5) Corrects subsection designation errors.

(6) Implements conference agreement that compliance with new source performance standards may be achieved by treatment of fuels before the fuel is consumed by the source.

(7) Corrects a paragraph designation error.

(8) Eliminates a subsection which is duplicated elsewhere in the statute.

(9) Corrects a subparagraph designation error.

(10) Adds punctuation and corrects an erroneous section reference.

(11) Corrects a grammatical error.

(12) Corrects a grammatical error.

(13) Corrects punctuation errors.

(14) Corrects erroneous omission in paragraph (1) of the requirement that delayed compliance orders may be issued only to sources unable to comply with requirements of an implementation plan.

(15) Corrects apparent inconsistency between section 113 and section 120 to make clear that sources meeting certain criteria will not be required to pay noncompliance penalties.

(16) Corrects omission of deadline for EPA to review certain delayed compliance orders, to conform to other time limits in the law.

(17) Corrects punctuation error.

(18) Corrects an error in syntax.

(19) Corrects a paragraph reference error.

(20) Clarifies that States may impose stricter requirements under State law on sources which have received Federal delayed compliance orders.

(21) Corrects erroneous parenthetical description.

(22) Corrects language which inadvertently removed auto manufacturing facilities from monitoring and other requirements applicable to other stationary sources.

(23) Corrects language which inadvertantly removed unregulated stationary emission sources from monitoring and other requirements authorized under the law prior to 1977 to determine whether such sources should be regulated and, if so, at what levels.

(24) Corrects reference to old coal conversion extension section (sec. 119).

(25) Conforms issuance of smelter orders with delay orders for other sources by incorporating smelter orders into the SIP.

(26) Corrects section reference error.

(27) Corrects an unclear reference.

(28) Clarifies that a noncompliance penalty applies to any noncomplying source (which is not exempted) including a source which has received a Federal or State consent decree extending a final compliance date.

(29) Same effect as #28.

(30) Corrects erroneous omission of references to new coal conversion extension section (113) (d) (5), and clarifies reference to old coal conversion extension (sec. 119) prior to 1977 amendments.

(31) Clarifies reference to Section 119 to mean the coal conversion extension provision of the Clean Air Act prior to the 1977 Amendments.

(32) Corrects erroneous paagraph reference.

(33) Corrects erroneous subsection reference.

(34) Makes clear an implied requirement for a State to notify the Administrator of imposition of a noncompliance penalty.

(35) Changes inconsistent language—"delayed compliance" to "noncompliance"—to conform to usage elsewhere in this section.

(36) Same effect as No. 35; also changes inconsistent language—"facility" to "source"—to conform to usage elsewhere in this section.

(37) More clearly implements conference agreement on method of calculation of noncompliance penalty.

(38) Corrects punctuation error.

(39) Corrects punctuation error.

(40) Corrects punctuation error.

(41) Adds the word "section" to section reference.

(42) Clarifies apparent inconsistency so that Administrator may disapprove PSD redesignations if they do not comply with two specific provisions of the law as well as on procedural grounds.

(43) Corrects grammatical error.

(44) Corrects punctuation error.

(45) Clarifies that an applicant for a construction permit need make only one demonstration that the proposed new source will comply with all requirements of the Act.

(46) Adds words "cause or" before the word "contribute" in order to conform to usage throughout the Act; eliminates an apparent inconsistency by striking "actual" from the phrase "actual allowable emissions".

(47) Corrects printing error in spelling.

(48) Corrects punctuation error.

(49) Conforms terminology with respect to pollution "sources" to that used elsewhere in this subsection and employs the phrase "cause or contribute" to pollution levels, to conform to terminology throughout the Act.

(50) More clearly implements conference on the limitations imposed by the Breaux amendment.

(51) Implements conference agreement to define "high terrain" areas.

(52) Clarifies unclear reference.

(53) Corrects placement of subpart 2 of part C.

(54) Implements conference agreement to cover "modification" as well as "construction" by defining "construction" in part C to conform to usage in other parts of the Act.

(55) Corrects an erroneous reference.

(56) Corrects erroneous date to conform to the date elsewhere provided.

(57) Substitutes the term "facility" for "source" to conform to usage elsewhere in this section; also same as #54.

(58) Implements conference agreement that as a condition for granting a permit to construct in a nonattainment area, the State must be carrying out the requirements of its SIP in that area.

(59) Implements conference agreement to add the word "national" before "primary standard".

(60) Corrects printing misalignment and deletes duplicated phrase.

(61) Corrects erroneous date for start of period during which Administrator may revise an emission standard for heavy duty vehicles, so as to conform to the conference agreement for four year lead time.

(62) Eliminates an erroneous extra word.

(63) Requires study dates to conform to the dates as in #61 above.

(64) Implements conference agreement by changing "model year 1976" to "calendar year 1976", thus assure that American Motors would be eligible for extension of date for compliance with NO_x standard.

(65) Changes requirement that auto companies eligible for extension in #64. #66 buy pollution controls from U.S. manufacturers to permit purchase from non-U.S. companies. This is to avoid GATT problems.

(66) Corrects punctuation error.

(67) Corrects grammatical error.

(68) Corrects punctuation error.

(69) Restores an erroneously omitted word.

(70) Corrects misalignment.

(71) Corrects subsection designation.

(72) Corrects grammatical error.

(73) Implements conference agreement by clarifying that no manufacturer may sell gasoline with MMT greater than 1/16 gram/gallon concentration after November 30, 1977, unless a waiver is granted. Also applies the waiver provision to this 1/16 gram/gallon concentration limitation.

(74) Making the waiver discussed in No. 73 applicable to this 1/16 gram/gallon concentration limitation.

(75) Implements conference agreement by correcting error in a date.

(76) Corrects punctuation error.

(77) Implements conference agreement by clarifying that modified as well as new facilities may be the subject of citizen suits. This conforms to provisions throughout the Act.

(78) Implements conference agreement by putting "smelter orders" on same basis as other stationary source delay orders for pur-

pose of citizen suits. Also makes punctuation correction.

(79) and (80) Implements conference agreement to make clear that judicial review is available for new provisions, as well as old, dealing with hazardous emissions standards and new sources and other requirements and for delayed compliance orders and penalties and smelter orders. Also implements conference agreement providing for review of grant or denial of locally applicable orders in the appropriate circuit court, and review of nationally applicable regulations in the D.C. Circuit Court.

(81) Eliminates the requirement for advice and consent of the Senate for appointment of National Air Quality Commission members; implements conference agreement by changing number of public members from seven to nine.

(82) Gives the Commission authority to hire staff.

(83) Eliminates identical section numbering of two difference provisions.

(84) Clarifies lack of legal effect of parenthetical cross-references.

AMENDMENTS TO THE 1977 AMENDMENTS

(The previous list amended the Clean Air Act rather than the 1977 amendments.)

(1) Corrects typographical error in paragraph numbering.

(2) Corrects an erroneous date.

(3) Corrects grammatical error.

(4) Corrects erroneous cross-references.

(5) Corrects erroneous reference to the word "engines".

(6) Corrects improper reference to the 1977 Clean Air Act Amendments.

Why certain proposed technical and conforming changes are not included

Several additional technical or conforming changes were considered, but not included, in the House amendment. The reasons for not including these amendments are explained below:

1. It was suggested that the apparent conflict between section 165 and 168 of the Clean Air Act, as amended, regarding the effective date of various provisions under the "prevention of significant deterioration" part C should be resolved by technical amendment. On this point, however, considerable controversy developed. While the terms of section 165 clearly seem to me to require case-by-case BACT review as of August 7, 1977, and while I believe that to be the intent of the conferees, I believed that technical and conforming amendments should not generate any significant controversy. Therefore, no such amendment is included in the House amendment.

In no event is there any intent to inhibit or prevent the Agency from revising its existing regulations to conform with the requirements of section 165. In fact, the Agency should do so as soon as possible. It is also expected that the Agency will act as soon as possible to revise its new source performance standards and the definition of "commenced construction" for the purpose of those revised standards to conform to the definition contained in part C.

2. It was suggested that the apparent conflict between the reading of some Senators and the House view on the visibility section (section 169A) should be resolved by a technical amendment. However, such an amendment seems unnecessary to me. The conference provision essentially adopted the House bill's approach. This is made clear at page 155 of the conference report. Nowhere in the conference report is it suggested that any limitation of the provision to existing sources was adopted by the conferees. While the report recognizes that "[a] major concern which prompted the House to adopt the visibility protection was the need to remedy existing pollution", it does not state nor does it imply that "existing sources" were the only concern. As the House Committee report makes clear, new sources were also of concern. (H. Rep. No. 95–294, pp. 204–207). What sense would it make to solve existing problems, but allow the same situation to develop as a result of new sources?

The conference committee, of course, did not want to subject new sources to two separate procedural steps under the PSD and visibility protection provisions. That is why the conference report states, "Issues with respect to visibility . . . in application to new sources are to be resolved within the procedures for prevention of significant deterioration." (emphasis added) But in the one-stop permit process for new or modified major sources, the substantive criteria and standards of both the PSD and visibility provisions would have to be met. This point is underscored by the statutory language of section 169A(a)(1) retaining as a national goal "the prevention of any future . . . impairment of visibility in mandatory Federal class I areas". Given this clear statement of legislative intent, I do not believe any technical or conforming amendment is necessary.

3. It was suggested by some that the status and enforceability of vehicle inspection and maintenance program should be addressed by a technical and conforming amendment. The basis for this suggestion was that discussion of this issue was largely ignored in the conference report and that in the rush to conclude the conference to resolve the new car emission standards issue in time for 1978 production the conferees failed to expressly accept or reject the House provision prohibiting the registration of vehicles in VIM areas which had not passed VIM tests.

I do not believe such a technical or conforming amendment is necessary for the following reasons. First, Congress clearly intended that the VIM programs be mandatory and enforceable, whether imposed under section 110 or under part D of title I. This is made clear by the amendment to the citizen suit provision of the Act contained in P.L. 95–95. That amendment specifically included "vehicle inspection and maintenance programs" as requirements which could be enforced by citizen suit.

Second, whatever the outcome of future litigation over the constitutionality of federally-mandated VIM programs, there can be no doubt under the 1977 Amendments that a State must adopt, implement and enforce a VIM program as a condition for getting a post-1982 attainment date for oxidants or carbon monoxide. If a State fails to do so, then permits for new or modified major stationary sources clearly may not be issued in nonattainment areas in the post-1982 period. There can be no doubt of the constitutionality of this scheme of conditioning attainment date delays on the effective implementation and enforcement of a VIM program by the State.

Third, I believe that under the law in existence prior to the 1977 Amendments, the Administrator was empowered under sections 110 and 113 to promulgate and enforce implementation plan provisions prohibiting the registration of vehicles subject to, but not in compliance with, VIM programs. I believe this view was generally shared by the conferees. Nothing in the 1977 Amendments restricted or altered that power of the Administrator. They simply were designed to underscore the need for broad and effective implementation of VIM programs.

4. One suggestion for a technical and conforming amendment was rejected as neither technical, nor conforming to the intent of the conferees. That suggestion was to limit the percentage reduction requirement under revised new source performance standards of sulfur oxides, thereby excluding particulates, NO_x, and other pollutants. This is plainly inconsistent with the intent of the House bill (see H. Rep. No. 95–294, pp. 188–192, particularly notes 8, 12). As the conference report makes clear, the House provision on revised new source performance standards, including percentage reduction requirements essentially prevailed in conference. Moreover, where the conferees intended to limit a given provision to a single pollutant, it did so expressly (e.g. the provision authorizing delays of SO_2 emission limits for smelters under specified circumstances).

5. Several technical amendments to the nonattainment provisions (part D of title I) were suggested but not included.

The first suggestion was that the Act be amended to make clear that a revised attainment date under section 172(a) would not be the basis for delaying the effective date of the emission limit for any source in effect prior to the adoption and submission of a plan revision under part D. This amendment was deemed unnecessary. Section 110(a)(2) of the Act made clear that each source had to meet its emission limits "as expeditiously as practicable" but not later than three years after the approval of a plan. This provision was not changed by the 1977 Amendments. It would be a perversion of clear congressional intent to construe part D to authorize relaxation or delay of emission limits for particular sources. The added time for attainment of the national ambient air quality standards was provided, if necessary, because of the need to tighten emission limits or bring previously uncontrolled sources under control. Delays or relaxation of emission limits were not generally authorized or intended under part D.

The second suggested technical amendment would have expressly provided that the noncompliance penalty requirements could not be circumvented by submitting a revised plan under part D, which substitutes more stringent emission limits effective in 1982 for those emission limits currently in effect and being violated by a source. I believe this general policy is implicit in the Act, when read as a whole, and, therefore, such an amendment appeared unnecessary. The reasons for my conclusion are partly those stated above and partly that Congress obviously did not want the mandatory nature of the noncompliance penalty to be so easily thwarted. This is particularly so in areas where national ambient air quality standards are being exceeded.

I believe proper administration of part D by the Administrator of EPA and by the States can and will eliminate this problem. Generally proposed plan revisions under part D should add, not substitute, more stringent emission limits for sources already subject to regulation. Any proposed plan revision which fails to meet this policy should be disapproved by the Administrator, at least insofar as the deletion of present emission limits and deadlines is concerned.

There may be some (relatively few) cases where exceptions to the policy set forth above should be permitted by the Administrator. But basically these should be carefully limited exceptions, e.g. based on the mutual inconsistency or incompatibility of pollution control technology to meet present standards currently and more stringent standards in the future. To the maximum extent feasible, the exceptions, if the Administrator determines that any are warranted, should be allowed under conditions which will effectuate rather than interfere with the noncompliance penalty policy and requirements of the Act.

6. Some questions have been raised concerning the intent and effect of amendment number (54). Its intent is stated in the summary above. Its effect is also to assure that sources which are ordered to convert to coal and undergo boiler modification to comply will not thereby automatically be subject to new source performance standards. Of course, under the part C the increase in emissions from coal converting sources would have to be counted against the maximum allowable increase levels, unless a temporary exemption were granted pursuant to section 163(c)(1).

Mr. JOHNSON of Colorado. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. I thank the gentleman for yielding.

It is my understanding that the amendment relating to the water recycling program has been stricken from this bill; is that correct?

Mr. ROGERS. It is not in here because it is in the other bill. The gentleman is correct.

Mr. JOHNSON of Colorado. It was not the intention of the managers to eliminate this because of a feeling that it should not be there but because it was included somewhere else for the EPA?

Mr. ROGERS. The gentleman is entirely correct.

Mr. JOHNSON of Colorado. I thank the gentleman.

Mr. ROGERS. Mr. Speaker, I reserve the remainder of my time.

Mr. CARTER. Mr. Speaker, I support this legislation. I think the chairman has explained it quite well.

Mr. Speaker, I support this legislation, the safe drinking water amendments, as modified by the House amendment to the Senate passed bill—S. 1528.

Mr. Speaker, most of the provisions in this measure have already been approved by the House when it passed H.R. 6827 by voice vote on July 12, of this year.

The new provisions, which I support, include the following:

A provision to strike the Senate amendment authorizing $16 million for research and development, because the EPA research and development conference bill already contains an identical authorization.

Provisions to clarify and amplify the intent of the Senate amendment on underground injection control programs to avoid unnecessary disruption of State underground injection control programs.

A provision which reduces the number of additional personnel for EPA from 150 to 80.

Authority for the Administrator of EPA to require periodic assessment and evaluation of unregulated contaminants which may require continuous monitoring or regulation, such as sodium.

Technical and conforming amendments to the Clean Air Act.

And an amendment to section 9 of the House-passed bill which authorizes emergency assistance. The amendment would not change the basic thrust of this authority, but would permit the Administrator to carry it out in conjunction with any other emergency program for environmental assistance. Moreover, the amendment states that—

> No limitation on appropriations for any such other program shall apply to amounts appropriated under this subparagraph.

This is to prevent any diminution of the drinking water emergency authority as a result of the appropriations process.

Mr. Speaker, this emergency assistance authority should be of particular interest to my colleagues and their constituents.

This section authorizes the Administrator of EPA to provide grants and technical assistance to States or publicly owned water systems in order to assist in responding to any emergency situation affecting public water systems; $8 million is authorized for fiscal year 1978 and $8 million is authorized for fiscal year 1979 to carry out this important authority.

Recognition of the need for such an emergency authority grew out of the unfortunate circumstances last summer in Louisville, Ky., which resulted in the shutdown of the sewage treatment plant and the consequent discharge of raw, untreated sewage into the Ohio River drinking water supplies of downstream communities.

Certainly we would hope that the number of such emergency situations in the future is small, but should they occur we have provided this emergency assistance authority to help address the problem.

Another section of particular interest to me is the section of the bill which directs the Administrator of EPA to undertake certain studies on drinking water contaminants.

During the course of our subcommittee hearings we determined that the by-products of the reaction of chlorine and humic acids—known as "trihalomethanes"—merit further study.

Therefore, the legislation directs the Administrator of EPA to study the reaction between humic acids and chlorine in drinking water and the effect of any reaction products on human health, including any carcinogenic effects.

This is a very important study and I look forward to receiving the results.

And, although there is no separate line item authorization, the committee would anticipate that approximately $2 million would be necessary to conduct a thorough study of this matter.

Mr. Speaker, this legislation contains many other important provisions which are designed to provide safe drinking water systems for the people of this country. There is one other provision which I would like to mention, and that is the training authority.

The legislation directs the Administrator of EPA to provide training and to make grants for training for personnel of State agencies which have primary enforcement responsibilities and for personnel of local agencies.

Moreover the bill recognizes the unique needs of rural water systems and directs the Administrator to take into account the training needs of such systems in making assistance available.

Mr. Speaker, I strongly support this training authority because it is sorely needed in many areas of our country. This assistance is needed to insure that safe drinking water systems are properly established and effectively enforced.

The bill authorizes a total of $71 million for fiscal year 1978 and $81 million for fiscal year 1979.

A question has been raised about the relationship between new section 1421 (b) (3) (A) and (B) under this amendment. Basically, subparagraph (B) places some limits on the type of national regulations which the Administrator may promulgate under section 1421. Subparagraph (A) says, in effect, that a State may deviate from the national requirements which are promulgated by the Administrator, if there is compelling local reason to do so and if the State's program is at least as effective as the national regulations in protecting underground source water. Both of these provisions, however, are subject to subparagraph (C), which makes clear that the Administrator's regulations and the responding State's programs must assure that underground source water will not be endangered.

In conclusion—I believe that these amendments are needed to help States implement more effective safe drinking water programs—and I urge favorable consideration of this measure.

I would like to ask a question or two of the gentleman from Florida, if I may have his attention.

For the study of the reaction of humic acid and chlorine, I asked that $2 million be directed in this matter. That will be included in this legislation; am I correct?

Mr. ROGERS. If the gentleman will yield, yes, those studies are included in this legislation.

Mr. CARTER. And $8 million.

Mr. ROGERS. For emergencies.

Mr. CARTER. In case of accidents?

Mr. ROGERS. Crises.

Mr. CARTER. Pollution in certain areas?

Mr. ROGERS. The gentleman is correct.

Mr. CARTER. With that understanding, certainly I support this legislation and urge its passage.

Mr. Speaker, I have no further requests for time, and I yield back the remainder of my time.

Mr. ROGERS. Mr. Speaker, I have no further requests for time.

Mr. STAGGERS. Mr. Speaker, the Safe Drinking Water Act Amendments of 1977 passed the House in July and passed the Senate in August with three amendments to the House bill. Today we will consider again this most essential bill. We are offering an amendment to the bill, which addresses several legislative concerns. This amendment has the approval of our distinguished minority.

S. 1528 is essential because it would continue existing Safe Drinking Water Act programs and provide for the creation of new programs which would assist in the provision of safe drinking water for all sources. The bill would authorize a study of the methods of compliance with safe drinking water standards and a study of various toxic pollutants of drinking water. It would provide for additional time within which States must attain primary enforcement responsibility and continue to receive public water systems supervision program grants. Additionally, the bill would provide a mechanism whereby emergency assistance could be provided to municipalities or drinking water systems that faced a crisis situation. The bill also directs the Administrator of EPA to provide training and make grants for training of personnel of State agencies so as to assist States in upgrading their public water systems.

Mr. Speaker, I urge my colleagues to support the passage of this bill which will continue to expand the efforts to provide safe drinking water for all Americans.

Mr. PICKLE. Mr. Speaker, I was happy to hear as part of your motion to suspend the rules, that you are offering an amendment to the bill to include provisions that will clarify that to the extent feasible EPA would have to avoid promulgating requirements that would unnecessarily disrupt State underground injection control programs. As you know, we had a colloquy on the floor of this House on November 19, 1974 when the Safe Drinking Water Act was first being debated. Our conclusion on that day was that the EPA should do nothing to lower, or stop, oil and gas production under State regulation unless drinking water was being contaminated.

Texas began regulation of the oil and gas industry early. The Texas Railroad Commission was designated the State agency for administering laws relating to oil and gas operations in 1919. As technology developed and as the industry grew, effective regulations were made to protect fresh water. For this reason, you were willing to insert in the RECORD a letter from Russell Train, the EPA head, saying that Texas' and Kansas' oil and gas regulatory agencies did a good job of regulating oil and gas related underground injections, and saying that these two States would comply with the act as written.

However, despite these clear statements made by Mr. Train when the regulation writers cranked up at EPA they said that salt water injection to increase production cannot be done unless there is a complete well history for every well, active and abandoned, in a half-mile radius. This record would even go to the technique used in plugging the inactive well, the casing used and all the other facts about the well.

When we tried to apply these regulations to the greatest oil field ever discovered in the continental U.S.A.—the east Texas oil field—it was found impossible to implement. Subsequently changes were made by EPA in the proposed regulations, but the point that I want to make is that EPA was again overstepping its statutory authority in its zeal to regulate. These regulations interfere with oil production and cause much uncertainty to the industry. None of this would be important if they were in fact protecting drinking water, but in this same east Texas oil field in the last 30-plus years, there has been only one incident of bad drinking water. It developed that the reason for this was that the individual who drilled the water well had drilled it incorrectly and when another well was put down within 100 feet the water was perfect.

I would now like to reaffirm that there shall be no EPA regulations interfering with or impeding oil and gas production unless they are essential to protect drinking water. Sometimes I wonder whether we are not strangling our citizens in redtape under the guise of protecting them. Many times our State agencies are much better qualified to deal with these problems. Again, EPA should avoid promulgating requirements that will unnecessarily disrupt State underground injection control programs which mean more energy.

Mr. MAGUIRE. Mr. Speaker, I have read the remarks of the Chairman of the Subcommittee on Health and Environment concerning the Safe Drinking Water Act Amendments and the technical and conforming changes to the Clean Air Act Amendments of 1977. I wish to note for the record that I concur in the gentleman's interpretation of the intent of the conferees on various points. In particular, I believe that it was indeed the intent of the conferees that case-by-case BACT review, required under section 165 of the act as amended, be effective immediately upon enactment.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. ROGERS) that the House suspend the rules and agree to the resolution (H. Res. 885).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

COMMISSION ON DOMESTIC AND INTERNATIONAL HUNGER AND MALNUTRITION

Mr. ZABLOCKI. Mr. Speaker, I move to suspend the rules and pass the resolution (H. Res. 784) expressing the sense of the House of Representatives that the President should establish a Commission on Domestic and International Hunger and Malnutrition, as amended.

The Clerk read as follows:

H. RES. 784

Whereas hunger and malnutrition remain daily facts of life for millions of people throughout the world;

Whereas there is a need to examine the relationship between increasing worldwide hunger and malnutrition and the *maldistribution of worldwide food resources*;

Whereas it is in the interest of the United States to reduce significantly hunger and malnutrition and to assist in the efforts of nations and people to improve the capability to feed themselves;

Whereas the economic, food, and development policies of the United States significantly affect the nutritional, social, economic, and political conditions of developed and developing nations;

Whereas the United States needs to develop a clearly defined and coordinated food and development policy that reflects the interrelationships between domestic and international hunger and malnutrition;

Whereas Americans are concerned about, and wish to make a valuable contribution to, the process of formulating policies to meet basic human needs; and

Whereas in this time of greater national emphasis on protecting basic human rights, there can be no higher priority than the preservation of life itself: Now, therefore, be it

Resolved, That the President should establish a Commission on Domestic and International Hunger and Malnutrition (hereafter referred to as the "Commission") so that the President and the Congress may better understand the pervasiveness of hunger and malnutrition and take necessary steps to counteract the problem.

SEC. 2. (a) The Commission should—

(1) establish clearly the causes of hunger and malnutrition and the relationship between domestic and international hunger and malnutrition;

(2) identify and evaluate existing Federal programs and policies related to hunger and malnutrition; and

(3) develop for the President and the Congress specific recommendations for policies and legislation to reduce significantly hunger and malnutrition throughout the world and assisting in implementing such recommendations.

(b) To carry out the purposes of subsection (1), the Commission should—

(1) assemble, correlate, integrate, and generate information and resources on food, hunger, malnutrition, and related concerns;

(2) assess the organization and structure of current programs which affect domestic and international hunger and malnutrition;

(3) analyze and present findings to the President, the Congress, and the public; and

(4) assist the President and Congress in implementing its findings, conclusions, and recommendations.

SEC. The Commission shall be a balanced membership composed of fifteen persons appointed by the President from individuals who represent diverse backgrounds.

SEC. 4. The Commission should—

(1) not later than six months after the date of the appointment of its final member, prepare and transmit to the President and the Congress an interim report on the progress achieved in implementing the provisions of section 2 of this resolution together with a schedule of activities and goals for the following six months;

(2) not later than one year after the date of appointment of its final member, prepare and transmit a report containing a detailed statement of findings, conclusions, and recommendations; and

(3) assist for a period of up to one year after the transmission of the final report in the implementation of its recommendations, and conduct an educational program to disseminate its findings to the people of the United States.

SEC. 5. The Clerk of the House shall transmit a copy of this resolution to the President.

The SPEAKER pro tempore. Is a second demanded?

Mr. JEFFORDS. Mr. Speaker, I demand a second.

Mr. BAUMAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

Mr. BAUMAN. Mr. Speaker, reserving the right to object, to whom should the second be given?

The SPEAKER pro tempore. Is the gentleman from Vermont opposed to the bill?

Mr. JEFFORDS. I am not, Mr. Speaker.

The SPEAKER pro tempore. Is the gentleman from Maryland opposed to the bill?

Mr. BAUMAN. I am, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Maryland qualifies.

Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. ZABLOCKI) and the gentleman from Maryland (Mr. BAUMAN) will each be recognized for 20 minutes each.

The Chair recognizes the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 784 is a simlpe resolution expressing the sense of the House.

It urges the President to establish a Commission on Domestic and International Hunger and Malnutrition, so that "the President and the Congress can better understand the pervasiveness of hunger and malnutrition and take necessary steps to counteract the problem."

The Commission would: First, establish clearly the causes of hunger and malnutrition and the relationship between domestic and international hunger and malnutrition; second, identify and evaluate Federal programs and policies related to hunger and malnutrition; and third, develop, for the President and Congress, specific recommendations for policies and legislation in this field and assist in implementing such recommendations.

The Commission would be composed of 15 members appointed by the President from diverse backgrounds.

It would make an interim report to the President and the Congress in 6 months, and a final report in 12 months. Thereafter, for up to a year, it would assist in the implementation of its recommendations and would be involved in disseminating its findings to the American public.

Mr. Speaker, I need not take much time of the House in citing the pressing need for improving our programs and policies to combat hunger and malnutrition. The great majority of Members have indicated their concern about this problem on various occasions. More than 250 Members are sponsors of this resolution, which was introduced by Mr. NOLAN.

It is a tragic fact that millions of persons suffer from hunger and malnutrition right here in the United States, one of the world's most affluent Nations and the leading food exporter.

Hunger and malnutrition are especially widespread among the populations of the poor developing countries, where the numbers of people receiving insufficient food and nutrition is estimated to be in the hundreds of millions.

Congress and the executive branch have taken numerous steps in the past to set up programs to combat hunger and malnutrition at home and abroad, and there is a mass of research information in this field.

But this is a very complex issue, and we need as clear an understanding of it as possible. We need a well defined and coordinated policy for conducting these programs. We will be looking for the recommendations of the Commission to this end.

House Resolution 784 was jointly referred to the International Relations and Agriculture Committees—and I wish to thank Chairman FOLEY and the distinguished members of the Agriculture Committee for the cooperation on this measure.

The Agriculture Committee held hearings, which included presentations from several members of the International Relations Committee among others.

The Agriculture Committee approved the resolution on October 26 by voice vote. The International Relations Committee approved the resolution the following day, also by voice vote.

Relatively minor amendments to House Resolution 784 were adopted by the two committees. The amendments of both are incorporated in the resolution as before the House.

One amendment, adopted by both committees, deletes the language on page 3, line 17, after word "backgrounds," so as to remove the specific references to types of qualifications of members to be appointed to the Commission.

The second amendment, adopted by the International Relations Committee, applies to the second whereas. It is designed to remove any inference that grain surpluses in the United States are a cause of worldwide hunger and malnutrition.

The executive branch has indicated it has no objection to House Resolution 784, although the resolution is not binding on the President.

The Commission would not duplicate existing efforts, such as the White House World Hunger Study Group is due to report by November 11. Rather, it is intended to operate in a broader area and make use of information such as that provided by the White House study.

The resolution does not authorize the appropriation of any funds. Its original sponsor (Mr. NELSON) has indicated that the President could finance the commission from discretionary funds available to the White House.

Mr. Speaker, this is a worthy measure and I urge its passage.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. ZABLOCKI. I am delighted to yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I thank the distinguished chairman for yielding.

The only question I have, I read the reports which were really only available this morning and I fail to see anywhere any estimate of the cost or per diem involved or whether the Commission would have a large or a small staff, what international travel they might be engaged in.

I wonder if there was any testimony at all presented to the committee on this point?

Mr. ZABLOCKI. The per diem, of course, would be the normal per diem established for commissions of this type.

The size of the commission would be at the discretion of the President. This resolution proposes 15 persons.

Mr. BAUMAN. So we do not know how many staff members might be employed over the 2-year period that this commission exists?

Mr. ZABLOCKI. This was not discussed by the committee members, as I remember. I am sure that because of the efficiency and the desire on the part of the executive branch to keep the staff at the minimum, the staff would not be very large.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana (Mr. HILLIS).

Mr. HILLIS. Mr. Speaker, I rise in support of the resolution. I do not think any of us in the Chamber could deny that we are touched by the appeal of human beings who cry out for help, whose fragile state of health is painfully evident in those regions of the world ravaged by drought, economic chaos, or other circumstances beyond their control. The fact remains: Millions upon millions continue the struggle for mere survival in environments which, certainly to them, must seem perpetually hostile and without hope.

I believe, as I am sure you do, that as Americans we have ingrained in us the notion that there is always hope, and that we should share it and help provide hope for those who are less fortunate. It is the custom and policy in the United States to offer the hand of friendship on an international basis to those who, lacking the resources to help themselves, truly need help. The establishment of a Commission on Domestic and International Hunger and Malnutrition is a gratifying step toward realizing what it is that binds all of mankind together under a common goal: To live our lives under the best environments we can create for ourselves.

A world study into why some nations and some peoples are not as fortunate as others may move us finally to solutions of global significance—not only in terms of feeding the world, but in terms of healing the great divisions which have increasingly made the prospects of world peace ever more difficult in modern times.

I hope that all my colleagues share my feelings. I believe it is important that the United States let the world know that we have not forgotten its less fortunate people.

Mr. BAUMAN. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I rise in support of House Resolution 784, a resolution establishing a Presidential Commission on World Hunger.

I would like to commend my distinguished colleague from Minnesota (Mr. NOLAN)—with whom I and approximately 260 of our colleagues introduced House Resolution 784—for his diligent and tireless efforts on behalf of House Resolution 784. It has been my pleasure to have worked with the gentleman in bringing House Resolution 784 before the House for consideration.

This Presidential commission—composed of members of the executive branch, Members of Congress, and concerned citizens—would have a threefold goal: First, establishing clearly the causes of hunger and the relationships between domestic and international hunger and malnutrition; second, identifying and

evaluating existing programs and policies related to hunger and malnutrition; and third, developing for the President and the Congress, specific recommendations for policies and legislation to markedly reduce hunger and malnutrition.

The problem of world hunger, and subsumed under that I refer to the hunger and malnutrition existing in this Nation as well, is multifaceted and replete with lingering manifestations which have heretofore proved resistant to our best efforts to eliminate them.

While many well reasoned but often divergent recommendations for combatting hunger have been advanced, agreement has crystallized around the conclusion that key policy decisions remain concerning implementing an intensified commitment to markedly attenuate the crisis of world hunger and malnutrition. We have also recognized the necessity for bearing in mind our responsibility to our Nation's farmers and consumers, to whom we must assure a fair and equitable price in the marketplace.

I am confident that a Presidential Commission on World Hunger can serve as a vehicle by which we can arrive at responsible and well-reasoned answers to these problems.

I might add also, that in a recent briefing before Congress, Dr. Peter Bourne, Special Assistant to the President, indicated that a mutually beneficial relationship could be established between the Presidential Commission on World Hunger and the Executive Working Group set up by the President to develop initiatives in the area of world hunger and malnutrition.

Accordingly, I urge that House Resolution 784 with amendments, as reported by the Committee on International Relations, be passed.

Mr. BAUMAN. Mr. Speaker, I yield 3 minutes to the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. Mr. Speaker, I rise in support of this resolution. I would like to point out that it passed the Agriculture Committee almost unanimously, with the exception of one vote—not a member of the minority—and so as far as I know, the minority on the Agriculture Committee supports this resolution.

With respect to the requested information about the cost, we did have some evidence and some idea of the cost before the Agriculture Committee. Of course, it first should be pointed out, as has already been pointed out, that the President has discretionary funds. These funds have already been appropriated, and it is up to him to use as many or as few of those funds as he desires on this commission. Second, as has also been pointed out already, there is a working committee which has been already put into operation by the President, which will take care of most of the staff work and cost.

Now, I would like to outline my reasons for supporting the establishment of a Presidential Commission on Domestic and International Hunger and Malnutrition.

Some concern has been expressed about having a commission. Why a commission? What value will a commission provide to this country with all the vast problems we have had? Because a commission of this type will focus attention on the problems of the world in an area where this Nation can do something. Being a nation which has nearly half of the prime agricultural land in the world, the bread basket of the world, we have the ability to assist other nations not only in providing them with food grown here but in showing them how to grow their own food.

More important, I believe it is important that we do have commissions in this area in order to get public participation beyond the scope of those who are normally participating in Government. We need that especially in this area where we are talking about problems of international dimensions. We have a tendency, which gives me great concern, in this Nation to look inward and to get away from world leadership and we just hope that these problems will go away. We feel we should be concerned only about ourselves.

In addition I would like to bring to the attention of my colleagues a very important issue and one that is very relative to what we are discussing today on the floor of the House. This is the subject of world food reserves, a problem which this Commission most likely will address.

There are three main issues to be considered in discussing a reserve proposal. I expect the Commission will give us guidance here. First is the availability and cost of acquiring stocks. Second, is the determination of what countries and under whose control—farmers, government, or a combination—the stocks would be held. And finally, identification of the mechanism which would trigger the accumulation and release of stocks.

Let me briefly discuss some of the problems. The global population continues to increase by 70 to 80 million people per year. World food production is barely increasing as fast as population. The UN's most seriously affected countries have suffered such severe food shortages during the past year that consumption has been reduced below the usual requirements. Approximately half a billion people remain malnourished.

There is also a severe shortage of infrastructure in many developing nations—they lack the facilities to transport, distribute, and store food.

The absence of adequate storage and other "infrastructure" is the most important limitation on the absorptive capacity of many nations, especially the poorest nations, to receive more of our badly needed food assistance. It is also a major disincentive to agricultural development. Farmers do not increase their output because they know there are no additional facilities to store and transport it.

I would also like to touch briefly on the subject of developing appropriate technology to facilitate the production of food, because this is also a very pertinent part of the relationship between our country and Third World countries.

The procedure would be twofold initially: First, in areas where there is already a reasonable chance of success for a known technology to solve a known problem, joint development and demonstration of the technology should begin as soon as possible. Second, in other countries and regions, survey teams composed of members of AID, ERDA, and recipient country representatives will do studies of the energy needs, uses, and resources in these areas. The results of the surveys will be included in a new information system whose purpose would be the transferability of new technologies from one like area of the world to another, accelerating the pace of rural energy development as much as possible.

The thinking behind the creation and direction of this proposed program is already well along in the agencies and was the subject of a memorandum of understanding signed by the Administrators of ERDA and AID last fall. The development of such technology is necessary to maximize the agricultural potential of these nations.

I also would like to raise my concerns over the increasing tendency of us to look inward and ignore the problems of others. This we cannot do. Whether we like it or not we are a world leader and in many respects dependent on others.

Therefore, I am hopeful that with the work of this Commission and the involvement of the public and people such as Harry Chapin and others we can generate a counter-movement to make people more aware of the need of this country to be involved in the international sector. That is a movement which I think is important if we are to protect ourselves in the future.

As has been pointed out, although this is a significant step forward, it is but a small step. As I know all of us realize, the hard work comes not just in finding out what the problem is or the recommendations and solutions, but also of generating the public support, the awareness, and the ability of our own Congress to react to provide the funds and the work that is necessary to implement the programs which will be necessary to end the problems of not only world hunger but national hunger.

At this time, I again want to commend Mr. NOLAN, Mr. GILMAN, and of course Harry Chapin. I also want to stress again that the best decision the President could make after the establishment of such a commission would be to put Harry Chapin on it because he has the leadership requirements to take on the challenges a job such as this would entail.

It will do credit to the Government and to the political system to show that when a group of people, led by Harry and the young people whom I have heard on the steps of the Capitol and at each of the concerts he has given, when they realize the system will perform when they want it to, when their cause is worthy, that has made his effort—whether or not the Commission ever does anything—a very worthwhile and creditable effort. From that point of view, I believe that he has done a great service to Congress, to the President, and to the young people who look to him for leadership.

For these reasons I urge the passage of this resolution. If we do not demonstrate continuing leadership in the area of food and hunger when we have an

abundance, how can we have any credibility as a world leader. I would hasten to add that this Nation has done much, more than any other nation, to help feed the world's hungry. We must continue to do so. Our record in this area is unsurpassed. Let us keep it that way.

Mrs. HECKLER. Mr. Speaker, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentlewoman from Massachusetts.

Mrs. HECKLER. Mr. Speaker, I wish to state that I strongly support this Commission. I think it serves the interests of the United States. It is motivated by humanitarian concerns, but I believe it also serves a national need. When we can do both at one time with an expert panel, it seems to me that such is the wisest course for this Government to take.

In my 3 years as a member of the House Agriculture Committee, I have become increasingly frustrated over the monumental lack of knowledge about nutrition, even in our own country. Finally, the House is scheduled to hold hearings on the subject of nutrition. I applaud that first step.

However, I believe that what we must do, as representatives of the people, is to arrive at a bold new approach to food and nutrition. We must first become knowledgeable about nutrition, then we must establish a national policy on nutrition that will be our guide for the programs we must consider and approve as the Congress of the United States.

The objective of these forthcoming nutrition hearings is simply to discover what we know about nutrition. I think I already know what these hearings will reveal: and that is that we know very little about nutrition.

There is an urgent need for a new nutrition-oriented national food policy and that is why I wholeheartedly support this resolution calling for a Commission on Domestic and International World Hunger and Malnutrition.

Although experts disagree, many climatologists are warning us that the weather will be increasingly variable over the next decade. This warning, if proved true, will vitally affect our food supply—and that of the world.

Even this country, with its great capacity for production of food is not immune from the specter of hunger.

Not only does the United States need to develop a clearly defined food and nutrition policy, but we must help develop an international policy as well. We all know how significantly the food and agriculture policies of the United States affect the world. We all know that we have the greatest agricultural production machine in the world—and yet hunger and malnutrition are increasing in the world at large.

Therefore, I feel this problem needs a focus—a forum where the issue will receive national, and worldwide attention. A Presidential Commission on Hunger would seek to establish the relationships between the problem of hunger and our policies here in the United States. It would also develop recommendations that the President and Congress can use to provide legislation that could reduce hunger and malnutrition throughout the world.

There is no more important problem that Congress could consider. Food and nutrition are basic to our survival and to our children's survival. Our policy must take into account, not only what we must do in the next few years, but what we must do to insure adequate food production in the next century.

My long interest in the problems of the consumer has caused me to take an ever-closer look at the problem of food and to realize that it is truly a global problem and a massive one. We must begin to address this problem now. The nutrition hearings the Agriculture Committee will hold are a first step, and this Presidential Commission is another first step. Therefore, I urge the Congress to approve this resolution calling for establishment of a Presidential Commission on Domestic and International Hunger and Malnutrition.

Mr. ZABLOCKI. Mr. Speaker, I yield 2 minutes to the distinguished chairman of the Agriculture Committee, the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, I rise in support of House Resolution 784 which, as the distinguished chairman of the Committee on International Relations has pointed out in his statement, was reported by both the Committee on Agriculture and the Committee on International Relations, and comes to the House today containing the amendments that were adopted in both committees. I strongly urge my colleagues to support this resolution.

I think, when the history of the decades of the past and the decades of the future are written, one of the great contributions of the United States will be reported as having been made not only to the welfare of its own citizens, but to hundreds and hundreds of millions of people around the world, will have been the commitment of the United States to eliminate hunger and malnutrition among the world's people.

We still face a great problem with population threatening constantly to outrun increases in food supplies. We could have in coming decades that great threat of world famine, which has been so deep a concern for many years. This country is uniquely gifted in its agricultural resources and great economic and moral influence in the world to make enormous contributions toward the solution of that problem.

This commission is an effort by the House to recommend to the President an ongoing examination of domestic and international world hunger and malnutrition.

The resolution introduced by Mr. NOLAN of the Committee on Agriculture was cosponsored by 258 Members of Congress, including 38 members of the House Committee on Agriculture.

Congress has long been committed to meeting the challenge of the problems addressed by House Resolution 784. This is evidenced by our established domestic food and nutrition programs and in our international food and economic assistance programs. Domestically, the most significant of these are the various child nutrition programs and the food stamp program. Internationally, the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480) has provided direct grants of food and concessional sales type financing. In addition, the United States has provided economic development and food assistance through the Agency for International Development, the World Bank, the International Monetary Fund, the World Food Program, and other bilateral and multilateral institutions.

The major thrust of the Commission would be to assess and evaluate U.S. policies and programs which affect domestic and international hunger and malnutrition. The purpose of the Commission, however, is not simply to study the problem of world hunger. The research is already there. Rather, the Commission will bring together and evaluate the numerous studies, reports, policies, and programs related to domestic and international hunger and malnutrition. In summarizing its findings, the Commission's comprehensive survey will serve as the basis for specific policy and legislative recommendations aimed at developing a clearly defined and coordinated national food, hunger, and nutrition policy.

The resolution is a call for action. It is anticipated that with the inputs of the Commission and the assistance the Commission would provide in implementing its findings and recommendations that a significant step will be taken in meeting the goals of the resolution.

Testimony received by the committee from Members of Congress, private citizens and outside organizations universally supported the resolution. The support was bipartisan in nature. The administration has indicated that it has no objection to the resolution.

Mr. Speaker, the legislation commends itself to all of the Members of the House. I would hope that all of the Members would give it an overwhelming vote of support.

Mr. Speaker, I want to commend the gentleman from Minnesota (Mr. NOLAN) who is the principal sponsor of the bill in the House, the Committee on Agriculture, and all of the Members on the majority side and on the minority side who support it, and also, of course, my distinguished colleague, the gentleman from Wisconsin (Mr. ZABLOCKI), the chairman of the Committee on International Relations, and his colleagues.

Mr. ZABLOCKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. NOLAN).

Mr. NOLAN. Mr. Speaker, I urge my colleagues to vote in favor of House Resolution 784, which calls upon the President to establish a Commission on Domestic and International Hunger and Malnutrition.

I would like to emphasize the fact that House Resolution 784 does not call for simply another routine study commission to research the problem of world hunger. The research is already there. Rather, the Commission proposed in House Resolution 784 would bring together and evaluate the numerous stud-

ies, reports, policies, and programs related to domestic and international hunger and malnutrition. In summarizing its findings, the Commission's comprehensive survey will serve as the basis for specific policy and legislative recommendations aimed at developing a clearly defined and coordinated national food policy.

The Carter administration already has established a world hunger working group—an executive branch interagency task force—"to coordinate a White House study of world hunger with other U.S. domestic and international food and agriculture policies." President Carter should be applauded for taking this initial step toward streamlining the administration's policy review process as it relates to world hunger and food and agriculture programs.

The working group will contribute a great deal to the Commission, but could not serve as a substitute for it. The Commission will have a larger responsibility to consider both domestic and international hunger and malnutrition. The Commission also will have a more balanced membership with wide public representation, thus assuring more active public participation in the policy review process and in making final recommendations to the President and to the Congress. In order to assure full cooperation between the President and Congress, both should consult each other on a regular basis regarding the composition and scope of the Commission.

Mr. DOWNEY. Mr. Speaker, will the gentleman yield?

Mr. NOLAN. I yield to the gentleman from New York.

Mr. DOWNEY. Mr. Speaker, the major catalyst for the passage of this resolution in support of a Presidential Commission on Domestic and International Hunger and Malnutrition has been the work of a hunger-action group which I have had the privilege of being associated with since my election to Congress. The name of the group is World Hunger Year (WHY).

I think it is fitting that this small phrase, WHY?, is the most important for outlining the reasons for this resolution and the massive support it has received in both Chambers of Congress.

Why a Presidential Commission?

The country and the Federal Government have become increasingly more aware of the need for a coherent and comprehensive national food policy. The increasing productivity of American farms coupled with continuing domestic and global hunger and malnutrition is a situation that defines a piecemeal approach. Food is the most basic of human needs, and this need demands a basic and thoroughly evaluated Government approach.

The first step in the formulation of a national food policy is a comprehensive and integrated analysis of the causes of world and domestic hunger. A Presidential Commission, with representation of all perspectives on this issue, will be a visible and functional vehicle for addressing this problem of far-reaching consequences.

A Presidential Commission will serve as a springboard for legislative action and public consideration of the entire hunger paradox. The Commission concept is not new, and it has sometimes failed. Yet, the continuing and growing importance of the issue, the need for compilation, coordination, and analysis and not "original research," and the vast potential for legislative and administrative followthrough clearly indicate that this Commission can succeed. I believe it will.

Why should the 95th Congress act?

The research, public interest, and Federal programs associated with the hunger problem have reached a certain type of threshold in recent years. Direction is needed. A comprehensive and integrated analysis of the causes of world and domestic hunger by the Commission can provide that direction. The time is ripe for elevating the consideration of this issue and to funnel our resources in a direction where they can accomplish the most.

A coordinated examination of available hunger research, a distillation of ideas and recommendations, the communication of these recommendations to the Congress, administration, and public, and assistance in implementing these recommendations constitute the blueprint for this Presidential Commission. It will mark a new beginning in America's effort to deal with the hunger issue.

It is new beginnings that is the theme of the Carter administration, and the congressional support for this resolution will show that this is a new beginning that receives support from legislators representing a multiplicity of interests and with varied perspectives. The basic problem of hunger in the world deserves no less.

Mr. NOLAN. I thank the gentleman for his remarks.

Mr. Speaker, there are a great many people and Members of the House who have worked to make this Hunger Commission resolution possible, and I thank all of them for the assistance they have given. I also want to thank the many private citizens and groups who supported and assisted with the work on the resolution. In particular I want to thank Mr. Harry Chapin and the World Hunger Year Group who have been a primary leader in contemporary efforts to eradicate hunger and malnutrition.

Mr. PRESSLER. Mr. Speaker, will the gentleman yield?

Mr. NOLAN. I yield to the gentleman from South Dakota.

Mr. PRESSLER. Mr. Speaker, I would also like to commend the gentleman from Minnesota (Mr. NOLAN) for bringing this resolution to the floor.

Mr. BAUMAN. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I cannot join with my well-intentioned colleagues in support of this resolution. Earlier I asked a question of the gentleman from Wisconsin (Mr. ZABLOCKI), the distinguished chairman of the Committee on International Relations, as to what the cost of this resolution might eventually be and how much in the way of staff would be required. We know, from the terms of the resolution, that not only will the Commission be given a year to report, but still a second year is allowed during which the report will be implemented and the Commission will educate the American people. So we have no idea how much this Commission will spend although I have heard the figure of $1 million a year. It is apparently up to the President, who has many times said he does not favor superfluous commissions. I know that upwards of 260 Members of the House have jointly sponsored this resolution, but an awful lot of Members of the House can get snookered very easily.

I am not impugning any Member who is a sponsor of this resolution, but when you ask a Member if he is against hunger, I guess I know what the answer will be. But the question here is not hunger but whether you are for or against a totally unnecessary commission, one we know nothing about, so far as its activities, and one which duplicates two similar activities which are already taking place, one on an international scale and one at the White House conducted by a special task force. I do not know how many of the Members here recall that on September 21, 1976, we adopted House Concurrent Resolution 737. That resolution expressed a sense of Congress that everyone in the world should have a nutritionally adequate diet. The resolution required the President to report to the Congress on U.S. food policies and foreign assistance levels consistent with the objectives set forth in the resolution.

Whether the President ever reported I was not able to determine. I assume the President abides by the law. But whether he did or not, we have before us a report on this pending resolution which was filed by the Committee on International Relations.

If the Member will refer to page 4 of the report they will see a letter from Douglas J. Bennet, Jr., Assistant Secretary for Congressional Relations, which says the President has already "established a Working Group on World Hunger," which is exploring many of the areas this resolution mandates be explored. The letter says that the President will submit a report by November 11. The letter also suggests that—

> It might be best, therefore, if the proposed Commission awaited the publication of this report before engaging in its own program of work.

In other words, this resolution is not even needed. It is already being done.

A similar position was taken by the Department of Agriculture. They also pointed out that the President has such a task force working.

Well, the Members may say that we really need another commission of experts instead of just a task force working on this. So I looked around and found out that the same Committee on International Relations published in 1976 a report entitled "The Implementation of the Recommendations of the World Food Conference." That report covers 77 pages. The report consists of no less than 22 specific recommendations as to exactly what must be done on an international and a national scale to deal with the problem of world hunger.

That report was the product of a 2- or 3-week conference in Rome, at which everybody had an absolutely marvelous time—and I am sure they were not at all hungry, because I happened to see some of the TV reports and saw some delegates enjoying themselves immensely during the rest periods between the arduous sessions at which these resolutions were adopted.

Mr. Speaker, all I am saying is that here we are again with another commission, one which sounds great and one which establishes a laudable goal. But it has all been done before. It has all been done before at the expense of the taxpayers of the United States, and we are going to vote today to do it over again, and again at the expense of the taxpayers of the United States.

I personally feel that the position taken by my dear friend, the gentleman from Texas (Mr. POAGE), during the deliberations and the hearings of the Committee on Agriculture is correct, and I refer the Members to his statement. This is what our friend, the gentleman from Texas (Mr. POAGE), said:

> I just want it on the record that as far as I'm concerned, I can see no purpose in the world for creating more—and this only one of dozens—of these commissions and committees and studies that are not going to accomplish a thing in the world. And I think everybody knows this is not going to accomplish anything.
>
> We all know there's hunger in the world; we all know there's poverty; and we'd all like to abolish it, but we can't just pass a law here and abolish hunger. You have to grow some food to abolish hunger. And we've grown plenty, so we are not faced with that.

Mr. Speaker, that is the point. We do not need this Commission. We do not know what it is going to cost. We have done this before, and some day, somehow, the revolution of the American taxpayer is coming. Maybe this is the resolution on which the revolution starts.

Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, I thank my colleague, the gentleman from Maryland, for yielding this time to me.

I would merely like to say that I concur 100 percent in what the gentleman from Maryland has said. I read the reports that came out of the Rome conference, and I think, rather than being productive, what they ended up with for the most part was a demand—and I underscore the word, "demand"—as to what the productive nations of the world shall do in the future to provide poorer nations with their needs.

Most of us feel that we should help other countries, and, for the most part, I think in the American tradition we would want to help them to help themselves. But that is a lot different than saying that we should just take everything we have and give it to other people, because in many cases that does not help them at all.

I certainly agree with the sentiments that were expressed regarding the question of the cost of this measure. Maybe there are some who think that the President will "bare-bones" this program. I do not happen to agree that he will. I have watched the campaign promises from last year that told how they were going to cut down the number of commissions from 1,900 to 200, but they found that could not be done.

I have watched the increase in payroll at the White House. From what I have seen, I am not at all sure that this will not be a costly item.

I would say, in the long run, to my colleague, the gentleman from Maryland (Mr. BAUMAN), that probably no great damage will be done. This reminds me of a statement that a former great Senator from Kentucky made in 1946 after the Congress passed the full employment bill.

Senator Alben Barkley was asked what would be accomplished. He said, "Why, simply this: Anybody wanting a job will have the right to go out and look for one."

In many cases with our legislation that is precisely what we end up with—something that looks like it is helpful, something that looks like it is progress, and when we strip it of its veneer, we find there is little more than 15 to 20 people getting together and being paid for being on a commission. A staff puts out a report, and then we go back to business as usual.

So I do not think there is much more here than window dressing. Yes, we want to do whatever we can in this country to combat hunger, but I am far more interested in helping other people to help themselves.

Mr. Speaker, I do not propose that we succumb to the demands of other nations of the world that we simply turn over our grain and our food and fiber to them.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. I would be glad to yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, with regard to the question of the cost, it has been estimated that $1 million in the first year's funding would come out of the President's discretionary fund, and that would be contingent, of course, upon staffing and other allowances that would be determined to be necessary.

Mr. ASHBROOK. Mr. Speaker, I wonder whether those same estimates were made by the people who years ago estimated the food stamp program in our country would cost a couple of hundred million dollars and now it is $6 billion.

I, for one, have been around here long enough so as not to be so sure that those estimates mean anything.

With respect to the reference made by my friend, the gentleman from New York (Mr. GILMAN), may I say that I think if the past is prolog, we find that these commissions talk in small figures but operate with high budgets.

Mr. ZABLOCKI. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. DE LA GARZA), a member of both committees, the Committee on Agriculture and the Committee on International Relations, who is doing a grand job, just a great job on both committees.

Mr. DE LA GARZA. Mr. Speaker, I thank the chairman.

Mr. Speaker, I would like to say that I support this resolution. Who can be against trying to do something about hunger and malnutrition?

However, Mr. Speaker, I do want to disassociate myself from two of the "Whereas" clauses.

One, fortunately, we were able to amend in the Committee on International Relations. That one would have, in effect, said that there is, paradoxically, a relationship between grain surpluses and malnutrition and hunger throughout the world.

I want it to be very clear and explicit, Mr. Speaker, that because the farmers in my district have one bumper crop and they cannot move the grain or they cannot sell the grain, it is not for that reason that people are hungry in Africa or in Central or South America or in Asia. We might have a good year for other reasons.

Mr. Speaker, I do not want the finger pointed at them. I know that conceivably this Commission could come to that conclusion and blame the farmers who are productive for causing hunger and malnutrition in other parts of the world.

Mr. Speaker, I want to disassociate myself also from the fourth paragraph which says "the United States significantly affect(s) the nutritional, social, economic, and political conditions * * *" of other countries because of our food policies.

Mr. Speaker, I tried taking that clause out in committee, but I did not succeed.

In my district I have conscientious, hard-working, industrious, productive farmers; and the fact that they are trying to feed their families does not in any way, in my estimation, make a tinkers damn with respect to whether we have an Idi Amin in Uganda or we have hunger or malnutrition in Asia or in other parts of the world.

Mr. Speaker, I know that this resolution will be read in the United Nations. It will be read in other areas.

One of the resolving clauses, section 2, subparagraph (1) says that the Commission should "establish clearly the causes of hunger and malnutrition and the relationship between domestic and international hunger and malnutrition."

Mr. Speaker, some one in the United Nations might point the finger at us because a poor family in South Texas tries to grow a crop, feed his family, work for and clothe his family, and have a nice home. Someone might say that those things are causing someone else somewhere in the world to go hungry.

Again, Mr. Speaker, I want to disassociate myself from any part of this resolution that conceivably could be used to point the finger at the productive farmer in America, saying that he is to blame for hunger at some other place in the world.

With respect to the rest of the resolution, of course, Mr. Speaker, as I said before, who can be against wanting to eradicate hunger throughout the world?

All of us are for that. But I want to be sure and perfectly clear that my farmers are not pointed at because there is unrest throughout the world, because there are social privileges for some and not for others, or because there is hunger in some other parts of the world.

Mr. BAUMAN. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. McEWEN).

Mr. McEWEN. I thank the gentleman from Maryland for yielding.

If I may have the attention of the gentleman from Texas who just spoke, Mr. DE LA GARZA, I would like to address an inquiry to him.

First, Mr. Speaker, I would like to associate myself with the concerns expressed by the gentleman from Texas, and I would like to propound a question to him. Particularly with regard to one of the whereases that the gentleman spoke to, the whereas that says "the economic, food, and development policies of the United States significantly affect the nutritional, social, economic, and politicial conditions of developed and developing nations"; and taking that last phrase "developed and developing nations" I would judge, Mr. Speaker, but I would state to the gentleman from Texas, that would seem to be all inclusive, that nations are either developed or, hopefully, if they are not, they are trying and, therefore, are developing. This would seem to indicate that what we do affects every nation in the world with regard to the matter of the inadequacy of a food supply.

My question to the gentleman from Texas, who is privileged to serve on both of these committees, is, what was the discussion on this? Just what is it that is being referred to here that we do that is apparently adversely affecting the rest of the world?

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. McEWEN. I yield to the gentleman from Washington.

Mr. FOLEY. I would like to say that I think it would be incorrect to read the whereas clause that the gentleman refers to as meaning that it is the report of the Committee on International Relations, or the report of the Committee on Agriculture, that what we do adversely affects developed or developing countries. Indeed, exactly the opposite is true. It has been the productivity of American agriculture that has made possible the feeding of hundreds of millions of people in the world who would otherwise not have food resources. And with respect to developed nations, our agricultural trade, which has benefited both the United States and provided the foodstuffs for countries such as Japan, which they do not raise for themselves, has mutually benefited both countries and aided their economic and social and political conditions. I would stand personally on the assumption that that is a very correct statement.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. BAUMAN. Mr. Speaker, I yield 2 additional minutes to the gentleman from New York, (Mr. McEWEN).

Mr. McEWEN. Let me say to the gentleman from Texas I am delighted to hear the distinguished chairman of the Committee on Agriculture say this, because these are the facts, that America has done much to feed this hungry world.

Mr. FOLEY. If the gentleman will yield further, there is no country in the world that has even approached the contributions of the United States in eliminating hunger and malnutrition around the world. I think it is to our great credit, and it ought to be continued, because we make no finer contribution to the political stability of the world.

Mr. McEWEN. I am delighted to hear my chairman say this. My concern arose because the original authors of the resolution had these words in there about "paradox," "burdensome grain surpluses," and "maldistribution." I guess reading the original language of the sponsors and then this language, I became concerned.

Mr. DE LA GARZA. Mr. Speaker, will the gentleman yield?

Mr. McEWEN. I yield to the gentleman from Texas.

Mr. DE LA GARZA. I thank the gentleman for yielding.

I agree with my chairman of the Committee on Agriculture, on what we have done. I beg to disagree with him as to how it will be interpreted. When did we last hear it said in the United Nations that the United States had fed the world? When did we last hear any other place in the world say that it was our farmer who has kept people from going hungry? When did we last hear thanks for the Marshall plan, for this plan, for the other plan, for the Public Law 480?

When have we heard that? We put the words in here. My chairman interprets them to mean they are positive. I agree with him, but they are not going to be interpreted as positive in any other place in the world because they have not been, and they are not going to start now.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. McEWEN. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I agree with the gentleman from Texas. I think the suggestion all through this is that there is terrible hunger in the world and the economic policies of this country affect not only the economic conditions but also the political conditions in other countries in the world.

Mr. ZABLOCKI. Mr. Speaker, I yield 2 minutes to the chairman of the Agriculture Committee, the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, I thank the gentleman from Wisconsin for yielding.

Surely in many areas of the world we are getting credit for what we do. That has been true as long as I have been a Member of Congress and as long as any Member sitting here has been, but we have spent $30 billion in concessional sales and food aid around the world, a record unmatched by any other country. I believe that contributes even more perhaps than the military security programs to conditions preserving military security and peace. But that should not deter us from working toward that end in the future.

Sometimes countries receiving international food aid have not done enough to help themselves. We ought to recognize that fact and encourage them to make their agriculture more effective. We cannot do everything. Some other countries have encouraged the recipient countries to do more. The International Fund for Agricultural Development is now receiving contributions from oil-rich countries that have no agricultural commodities to give but have funds to contribute toward solving world hunger.

I do not read this resolution as critical of the United States. In fact the United States has an unparalleled record in the world and has made great contributions to peace and security in the world.

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Speaker, I thank the gentleman from Washington for yielding.

I would like to ask the gentleman how he would answer what the gentleman from Maryland said a while ago about these other reports and the other Commissions and the letters that appear in the report from the administration saying that this resolution is not necessary or that the Commission created by this resolution is not necessary and that it duplicates work that has already been done.

Mr. FOLEY. I do not think the work is ever done, if I can tell the gentleman, because conditions internationally change constantly as they do domestically. What this does is suggest to the President the establishment of a Commission. The President is free to take that resolution and merge it with whatever other plans he might have for achieving the goals of the resolution.

What we are talking about here is an enormous problem not only domestically but, particularly, internationally as we look on another decade or so in which 60 million more people will be born in Asia alone. That is a problem we constantly have to face.

Mr. BAUMAN. Mr. Speaker, I yield 1 minute to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. Mr. Speaker, I do not know that I can say it in 1 minute, and perhaps this resolution can be merged with other plans the President may have and I may still vote for it. This resolution first came to me proposed by a certain organization. I was impressed with the idea until I read the leaflet they left with me. The final paragraph stated that "we can use the issue of world hunger to become molders of the future and change the system." Enclosed also was an article praising China and Cuba as having solved these problems. I wrote back that I had not been in Cuba lately but did not think China had solved those problems in a way that could be universally adopted.

Have I the assurance of the chairman that this is his resolution and not theirs? and that nobody is going to use the issue of world hunger—that terrible, cynical phrase—for anything; and that this Commission will be included and merged with the President's other sensible and prudent plans for taking care of a tragic situation in the world?

Mr. ZABLOCKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there were questions raised as to some of the correspondence

that the committees had received from the executive branch. Certainly, one could not expect the executive branch to say that they are not doing anything in this area; so their letters note that, indeed, our executive branch is working to reduce hunger and malnutrition through such organizations as the International Wheat Council, the Food and Agriculture Organization, the World Food Council and so forth. The correspondence further shows clearly that the President has instructed the Secretary of Agriculture to constitute a working group on food and agricultural policy in the executive branch, and a working group on world hunger which will report on what they have found.

But the executive branch communications state that they have no objection to this resolution; and I submit that this resolution gives the President some discretion to go further and beyond just getting the necessary data and information, and urges improvements which will deal with this very awesome problem of malnutrition and hunger.

Mr. Speaker, this is a worthy resolution. It does not mandate the President to form a Commission on Domestic and International Hunger and Malnutrition. It respectfully requests that the President do so.

I hope the Members will support this resolution overwhelmingly.

The Speaker. I yield whatever time I have remaining to the gentleman from Minnesota (Mr. NOLAN), the sponsor of the resolution.

Mr. NOLAN. Mr. Speaker, the assertion of the gentlewoman from New Jersey (Mrs. FENWICK) that this resolution was written by some group outside the Congress is erroneous. As the prime sponsor of this resolution, I want to assure the gentlewoman and the Members of the House that the resolution was written in consultation with farm groups, with religious groups, with business groups, with a wide variety of public interest groups, with the Office of the President and with the careful assistance of many Members of this House.

Mr. ALEXANDER. Mr. Speaker, the irony of people of our own Nation suffering from malnutrition or starvation when our producers are troubled by unsold quantities of basic foods, such as wheat and rice, is nothing less than a condemnation of our natural resource management and agricultural policies.

While I am a sponsor of the proposal before us, I am troubled about what it does not say about the job of the Commission.

In today's world as a whole, we still have enough fertile land to grow the food people need to survive. The fact is that in too many years we are growing more food in the United States than our system allows us to get into the hands of our people.

The bottlenecks and obstacles between producing food and consuming it come in a Heinz 57 variety.

Our farm production financing system is becoming so inadequate that it discourages small and mid-sized farming operations and encourages concentration of food production in the hands of fewer and fewer people. Since 1970 it is estimated that the farm population of the United States has decreased by 1.5 million persons.

Despite the fact that we are spending billions every year on our transportation networks, increasingly small shares of this investment are going into the parts of the system that connect farms with terminal collecting points such as country grain elevators. The highways over which the food and the materials and equipment for producing it actually move to or from the farm are often in such poor condition that two, three, and four trips must be made to transport loads our trucks have the capability of moving in one trip on adequate pavements.

The world's best Interstate Highway System, rail freight system, and waterway barge system cannot do the job that must be done if the secondary, rural highways are allowed to continue to go to potholes. As it is our highway system is deteriorating 50 percent faster than we repair, rehabilitate, or replace it.

Competition for essential production materials, such as nitrogen, and for processing materials, such as natural gas, is hampering our efforts to manage our food resources.

Conflicts between environmental protection needs and the need to store water supplies to fight droughts such as that which has plagued us during the past year and to control floods such as those which destroyed crops in 1972, hampered planting in 1973 and have caused heavy damage in Arkansas this fall are threatening our food production capacity.

Roller coaster behavior in farm gate prices for rice, soybeans, corn, wheat, beef, poultry, pork, and dairy products caused by uncoordinated Government policies, export embargoes, and moratoriums; labor organization decisions, and unwise speculation in private commodities markets are hampering producers efforts to bring stability to their farming operations.

A relatively new question mark in the future of the U.S. food production system is the increasing share of our farmland that is moving into the hands of foreign investors. In the years ahead, as the gap between food supplies and demand widens, what will be the marketing and production decisions of these landowners? How will these decisions affect our response to domestic and international food needs?

And, one final issue is the money to pay farmers for the food they raise. Many people in our own Nation, as well as those in other nations, simply do not, for one reason or another, have any or enough money to buy the food they need. The question is "Are the programs, such as food stamps and Food for Peace, that we are using now to help erase hunger the right programs?" Can we as a people continue to afford them? In the long run, do these programs harm our announced objective of increasing production, improving food distribution systems, and moving hunger from the endangered species list of problems to the list of extinct problems?

These are by no means all the problems the Commission must address. There are those questions about:

Ways to help food deficit nations improve their ability to grow the food their own people need;

Ways to teach individual families how to be sure the food they are eating is nutritionally balanced;

Ways to bring closer into balance population numbers and food supply numbers; and,

Ways to protect farmland owners from irresistible pressures to allow their acreage to be converted to urban sprawl.

And, the list could go on and on.

What I hope is that the Commission will address itself not only to the needs of consumers but to the needs of producers of food as well. What we must have is a comprehensive and coordinated food production and distribution policy that is equitable to all parties. We do not have such a policy now. Without this kind of policy our chances of overcoming hunger problems are reduced to the vanishing point.

Mr. CAPUTO. Mr. Speaker, as a cosponsor of House Resolution 784, I urge its adoption.

The goals of the Presidential Commission shall be: first, to establish clearly the causes of domestic and international hunger and malnutrition and their interrelationships; seconds, to identify and evaluate existing programs and policies that are concerned with hunger and malnutrition; and third, to present to the President and Congress specific recommendations for legislation to reduce hunger and malnutrition, and to outline specific steps for the development of a clearly defined and coordinated national food policy.

As long as hunger and malnutrition exist on Earth, we as a nation and a Congress must pursue reasonable solutions. We understand that this Commission alone will not solve worldwide problems of hunger and malnutrition; but I believe the Commission does hold the reasonable promise of alleviating some of the hunger and malnutrition now existing and, therefore, deserves our support.

GENERAL LEAVE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 784.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. ZABLOCKI. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. ZABLOCKI) that the House suspend the rules and agree to the resolution (H. Res. 784), as amended.

The question was taken.

Mr. BAUMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 3, rule XXVII, the Chair will now put the question on each motion on which further proceedings were postponed, in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 3384.
S. 1306.
House Resolution 315.
House Resolution 784.

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

CONSCIENTIOUS OBJECTION TO JOINING A LABOR ORGANIZATION

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 3384.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. THOMPSON) that the House suspend the rules and pass the bill, H.R. 3384, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 400, nays 7, not voting 27, as follows:

[Roll No. 726]

YEAS—400

Abdnor	Broyhill	Downey
Addabbo	Buchanan	Drinan
Akaka	Burgener	Duncan, Oreg.
Alexander	Burke, Calif.	Duncan, Tenn.
Allen	Burke, Fla.	Early
Ambro	Burke, Mass.	Eckhardt
Ammerman	Burlison, Mo.	Edgar
Anderson, Calif.	Burton, John	Edwards, Ala.
	Burton, Phillip	Edwards, Calif.
Anderson, Ill.	Butler	Eilberg
Andrews, N.C.	Byron	Emery
Andrews, N. Dak.	Caputo	English
	Carney	Erlenborn
Annunzio	Carr	Ertel
Applegate	Carter	Evans, Colo.
Archer	Cavanaugh	Evans, Del.
Armstrong	Cederberg	Evans, Ga.
Ashbrook	Chappell	Evans, Ind.
Ashley	Chisholm	Fary
Aspin	Clausen, Don H.	Fascell
AuCoin		Fenwick
Badham	Clay	Findley
Badillo	Cleveland	Fish
Bafalis	Cochran	Fisher
Baldus	Cohen	Fithian
Barnard	Coleman	Flippo
Baucus	Collins, Tex.	Flood
Bauman	Conable	Florio
Beard, R.I.	Conte	Flynt
Beard, Tenn.	Corman	Foley
Bedell	Cornell	Ford, Tenn.
Beilenson	Cornwell	Forsythe
Benjamin	Cotter	Fountain
Bennett	Coughlin	Fowler
Bevill	Crane	Fraser
Biaggi	Cunningham	Frenzel
Bingham	Daniel, Dan	Fuqua
Blanchard	Daniel, R. W.	Gammage
Blouin	Danielson	Gaydos
Boland	Davis	Gephardt
Bonior	de la Garza	Giaimo
Bonker	Delaney	Gibbons
Bowen	Dellums	Gilman
Brademas	Dent	Ginn
Breaux	Derrick	Glickman
Breckinridge	Derwinski	Goldwater
Brinkley	Devine	Gore
Brodhead	Dickinson	Gradison
Brooks	Dicks	Grassley
Broomfield	Diggs	Gudger
Brown, Calif.	Dingell	Guyer
Brown, Mich.	Dodd	Hagedorn
Brown, Ohio	Dornan	Hall
Hamilton	Meeds	Russo
Hammer-schmidt	Metcalfe	Ryan
	Meyner	Santini
Hanley	Michel	Sarasin
Hannaford	Mikulski	Sawyer
Hansen	Mikva	Scheuer
Harkin	Milford	Schroeder
Harrington	Miller, Calif.	Schulze
Harris	Miller, Ohio	Sebelius
Harsha	Mineta	Seiberling
Hawkins	Minish	Sharp
Heckler	Mitchell, Md.	Shipley
Hefner	Mitchell, N.Y.	Shuster
Heftel	Moakley	Sikes
Hillis	Moffett	Simon
Holland	Mollohan	Sisk
Hollenbeck	Montgomery	Skelton
Holt	Moore	Skubitz
Holtzman	Moorhead, Calif.	Slack
Horton		Smith, Iowa
Howard	Moorhead, Pa.	Smith, Nebr.
Hubbard	Moss	Snyder
Huckaby	Mottl	Solarz
Hyde	Murphy, Ill.	Spellman
Ichord	Murphy, N.Y.	Spence
Ireland	Murphy, Pa.	St Germain
Jacobs	Murtha	Staggers
Jeffords	Myers, Gary	Stangeland
Jenkins	Myers, John	Stanton
Jenrette	Myers, Michael	Stark
Johnson, Calif.	Natcher	Steed
Johnson, Colo.	Neal	Steers
Jones, N.C.	Nedzi	Steiger
Jones, Okla.	Nichols	Stockman
Jordan	Nix	Stokes
Kastenmeier	Nolan	Stratton
Kazen	Nowak	Studds
Kemp	O'Brien	Stump
Ketchum	Oakar	Symms
Keys	Oberstar	Taylor
Kildee	Obey	Thompson
Kindness	Ottinger	Thone
Kostmayer	Panetta	Thornton
Krebs	Patten	Traxler
LaFalce	Patterson	Trible
Lagomarsino	Pattison	Tsongas
Latta	Pease	Tucker
Le Fante	Pepper	Udall
Leach	Perkins	Ullman
Lederer	Pettis	Van Deerlin
Leggett	Pickle	Vander Jagt
Lehman	Pike	Vanik
Lent	Pressler	Vento
Livingston	Preyer	Volkmer
Lloyd, Calif.	Price	Walgren
Lloyd, Tenn.	Pritchard	Walsh
Long, La.	Pursell	Wampler
Long, Md.	Quayle	Watkins
Lott	Quie	Waxman
Lujan	Quillen	Weaver
Luken	Rahall	Weiss
McClory	Railsback	Whalen
McCloskey	Rangel	White
McCormack	Regula	Whitehurst
McDade	Reuss	Whitley
McEwen	Rhodes	Whitten
McFall	Richmond	Wiggins
McHugh	Rinaldo	Wilson, Bob
McKay	Risenhoover	Wilson, C. H.
McKinney	Robinson	Wilson, Tex.
Madigan	Rodino	Winn
Maguire	Roe	Wirth
Mahon	Rogers	Wright
Mann	Roncalio	Wydler
Markey	Rooney	Wylie
Marks	Rose	Yates
Marlenee	Rosenthal	Yatron
Marriott	Rostenkowski	Young, Alaska
Martin	Roybal	Young, Fla.
Mathis	Rudd	Young, Mo.
Mattox	Runnels	Zablocki
Mazzoli	Ruppe	Zeferetti

NAYS—7

Burleson, Tex.	Poage	Waggonner
Gonzalez	Satterfield	
McDonald	Teague	

NOT VOTING—27

Boggs	Ford, Mich.	Krueger
Bolling	Frey	Levitas
Clawson, Del	Goodling	Lundine
Collins, Ill.	Hightower	Roberts
Conyers	Hughes	Rousselot
Corcoran	Jones, Tenn.	Treen
D'Amours	Kasten	Walker
Edwards, Okla.	Kelly	Wolff
Flowers	Koch	Young, Tex.

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Del Clawson.

Mr. Jones of Tennessee with Mr. Corcoran of Illinois.

Mr. Koch with Mr. Goodling.

Mr. Wolff with Mr. Rousselot.

Mr. Roberts with Mr. Treen.

Mr. Lundine with Mr. Edwards of Oklahoma.

Mr. Levitas with Mr. Walker.

Mr. Ford of Michigan with Mr. Krueger.

Mr. Conyers with Mr. Kelly.

Mr. D'Amours with Mr. Kasten.

Mr. Flowers with Mrs. Collins of Illinois.

Mr. Hughes with Mr. Hightower.

Mr. GONZALEZ and Mr. McDONALD changed their vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b)3 of rule XXVII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all of the additional motions to suspend the rules on which the Chair has postponed further proceedings.

SMALL BUSINESS EMERGENCY DROUGHT DISASTER LOAN ACT OF 1977

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the Senate bill S. 1306, as amended.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa (Mr. SMITH) that the House suspend the rules and pass the Senate bill S. 1306, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device and there were—yeas 234, nays 170, not voting 30, as follows:

[Roll No. 727]

YEAS—234

Addabbo	Burke, Calif.	Edwards, Ala.
Akaka	Burke, Mass.	Edwards, Calif.
Alexander	Burleson, Tex.	English
Anderson, Calif.	Burlison, Mo.	Erlenborn
	Burton, Phillip	Evans, Del.
Andrews, N.C.	Butler	Evans, Ind.
Annunzio	Carney	Fary
Archer	Carr	Fascell
Ashley	Cavanaugh	Fenwick
Aspin	Chisholm	Fithian
AuCoin	Clay	Flippo
Baldus	Cochran	Florio
Barnard	Collins, Tex.	Flynt
Baucus	Conte	Foley
Beard, R.I.	Corman	Ford, Tenn.
Bedell	Cornell	Fountain
Beilenson	Cotter	Fraser
Benjamin	Crane	Frenzel
Bennett	Cunningham	Gammage
Bevill	Danielson	Gephardt
Biaggi	Davis	Giaimo
Blanchard	de la Garza	Gibbons
Blouin	Delaney	Ginn
Bonker	Dellums	Glickman
Bowen	Derrick	Gore
Brademas	Derwinski	Hall
Breaux	Dicks	Hamilton
Breckinridge	Diggs	Hanley
Brinkley	Dingell	Hannaford
Brodhead	Dodd	Harkin
Brooks	Drinan	Harrington
Brown, Calif.	Duncan, Oreg.	Harris
Broyhill	Early	Harsha
Buchanan	Eckhardt	Hawkins

Heckler
Heftel
Holland
Howard
Huckaby
Ichord
Ireland
Jacobs
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jordan
Kastenmeier
Kostmayer
LaFalce
Le Fante
Lederer
Lehman
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
McCloskey
McCormack
McDonald
McFall
McHugh
McKinney
Maguire
Mahon
Mann
Markey
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Mikulski
Mikva
Milford
Miller, Calif.
Mineta
Mitchell, Md.
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Myers, John
Myers, Michael
Nedzi
Nolan
Nowak
Oakar
Oberstar
Obey
Panetta
Patten
Pattison
Pease
Pepper
Pickle
Pike
Poage
Preyer
Price
Quayle
Rahall
Reuss
Richmond
Rodino
Rogers
Roncalio
Rose
Rosenthal
Rostenkowski
Roybal
Rudd
Russo
Ryan
Sarasin
Sawyer
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Simon
Sisk
Skelton
Slack
Smith, Iowa
Snyder
Solarz
St Germain
Stanton
Stark
Steed
Steiger
Stockman
Stokes
Stratton
Studds
Stump
Symms
Taylor
Thompson
Thornton
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Waggonner
Watkins
Weaver
Whitten
Wiggins
Wilson, C. H.
Wilson, Tex.
Wright
Yates
Young, Mo.
Zablocki
Zeferetti

NAYS—170

Abdnor
Allen
Ambro
Ammerman
Anderson, Ill.
Andrews, N. Dak.
Applegate
Armstrong
Ashbrook
Badham
Badillo
Bafalis
Bauman
Beard, Tenn.
Bingham
Boland
Bonior
Broomfield
Brown, Mich.
Brown, Ohio
Burgener
Burke, Fla.
Burton, John
Byron
Caputo
Carter
Cederberg
Chappell
Clausen, Don H.
Cleveland
Cohen
Coleman
Conable
Cornwell
Coughlin
Daniel, Dan
Daniel, R. W.
Dent
Devine
Dickinson
Dornan
Downey
Duncan, Tenn.
Edgar
Emery
Ertel
Evans, Colo.
Evans, Ga.
Findley
Fish
Fisher
Flood
Forsythe
Fowler
Fuqua
Gaydos
Gilman
Goldwater
Gonzalez
Gradison
Grassley
Gudger
Guyer
Hagedorn
Hammer-schmidt
Hansen
Hefner
Hillis
Hollenbeck
Holtzman
Horton
Hubbard
Hyde
Jeffords
Jenrette
Kazen
Kemp
Ketchum
Keys
Kildee
Kindness
Krebs
Lagomarsino
Latta
Leach
Leggett
Lent
Livingston
Lott
Lujan
Luken
McClory
McDade
McEwen
McKay
Madigan
Marks
Marlenee
Marriott
Martin
Michel
Miller, Ohio
Minish
Mitchell, N.Y.
Moore
Moorhead, Calif.
Moss
Mottl
Murphy, Pa.
Murtha
Myers, Gary
Natcher
Neal
Nichols
Nix
O'Brien
Ottinger
Patterson
Perkins
Pettis
Pressler
Pritchard
Pursell
Quie
Quillen
Railsback
Rangel
Regula
Rinaldo
Risenhoover
Robinson
Roe
Rooney
Runnels
Ruppe
Santini
Satterfield
Schulze
Sebelius
Shuster
Sikes
Skubitz
Smith, Nebr.
Spellman
Spence
Staggers
Stangeland
Steers
Teague
Thone
Traxler
Trible
Vander Jagt
Walgren
Walsh
Wampler
Waxman
Weiss
Whalen
White
Whitehurst
Whitley
Wilson, Bob
Winn
Wirth
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.

NOT VOTING—30

Boggs
Bolling
Clawson, Del
Collins, Ill.
Conyers
Corcoran
D'Amours
Edwards, Okla.
Eilberg
Flowers
Ford, Mich.
Frey
Goodling
Hightower
Holt
Hughes
Jones, Tenn.
Kasten
Kelly
Koch
Krueger
Levitas
Lundine
Rhodes
Roberts
Rousselot
Treen
Walker
Wolff
Young, Tex.

The Clerk announced the following pairs:

On this vote:

Mrs. Boggs and Mr. Roberts for, with Mr. Lundine against.

Mr. Jones of Tennessee and Mr. Wolff for, with Mr. Corcoran of Illinois against.

Mr. Ford of Michigan and Mr. Eilberg for, with Mr. Kelly against.

Mr. Hughes and Mr. Levitas for, with Mr. Walker against.

Mr. Conyers and Mrs. Collins of Illinois for, with Mrs. Holt against.

Until further notice:

Mr. D'Amours with Mr. Frey.

Mr. Flowers with Mr. Del Clawson.

Mr. Hightower with Mr. Edwards of Oklahoma.

Mr. Krueger with Mr. Goodling.

Mr. Koch with Mr. Kasten.

Mr. Rousselot with Mr. Treen.

Messrs. LUKEN, ANDERSON of Illinois, KILDEE, BOLAND, FOWLER, HEFNER, WHITLEY, McCLORY, and MARLENEE, Mrs. SPELLMAN, Messrs. GUDGER, McEWEN, WALSH, JOHN L. BURTON, AMMERMAN, FINDLEY, EVANS of Georgia, GOLDWATER, SANTINI, OTTINGER, RISENHOOVER, CAPUTO, MINISH, WHITE, and ERTEL changed their vote from "yea" to "nay."

Messrs. MILLER of California, MOFFETT, YATES, MAGUIRE and GLICKMAN changed their vote from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

HOUSE BEAUTY SHOP EMPLOYEE BENEFITS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution (H. Res. 315), as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from South Carolina (Mr. DAVIS) that the House suspend the rules and agree to the resolution (H. Res. 315), as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 273, nays 131, not voting 30, as follows:

[Roll No. 728]

YEAS—273

Abdnor
Addabbo
Akaka
Alexander
Allen
Ammerman
Anderson, Calif.
Andrews, N.C.
Annunzio
Applegate
Ashley
Aspin
AuCoin
Badham
Badillo
Baldus
Barnard
Baucus
Beard, R.I.
Bedell
Beilenson
Biaggi
Bingham
Blanchard
Blouin
Boland
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Brown, Ohio
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Carr
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clay
Cochran
Cohen
Corman
Cornell
Cotter
Danielson
Davis
Delaney
Dellums
Dent
Derrick
Dickinson
Dicks
Diggs
Dingell
Dodd
Dornan
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Erlenborn
Evans, Colo.
Evans, Ga.
Fary
Fascell
Findley
Fisher
Fithian
Flood
Florio
Flynt
Foley
Ford, Tenn.
Forsythe
Fowler
Fraser
Frenzel
Gammage
Gaydos
Gephardt
Giaimo
Gibbons
Ginn
Goldwater
Gonzalez
Gore
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Heckler
Hefner
Heftel
Holland
Holtzman
Horton
Howard
Hubbard
Jacobs
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jordan
Kastenmeier
Keys
Kostmayer
Krebs
Le Fante
Lederer
Leggett
Lehman
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Luken
McClory
McCloskey
McCormack
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Markey
Martin
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Michel
Mikulski
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Pa.
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Michael
Natcher
Neal
Nedzi
Nix
Nolan
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Preyer
Price
Pritchard
Pursell
Quie
Rahall
Rangel
Reuss
Richmond
Risenhoover
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Ryan
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shuster
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Solarz
Spellman
Staggers
Stark
Steed
Steers
Steiger
Stokes
Stratton
Studds
Thompson
Thornton
Traxler
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Waggonner
Walgren
Walsh
Waxman
Weaver
Weiss
Whalen
White
Whitley
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wright
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—131

Ambro
Anderson, Ill.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Benjamin
Bennett
Bevill
Bonior
Bonker
Broomfield
Brown, Mich.
Broyhill
Buchanan
Burgener
Burke, Fla.
Butler
Byron
Caputo
Carney
Carter
Cavanaugh
Cleveland
Coleman
Collins, Tex.
Conable
Conte
Cornwell
Coughlin
Crane
Cunningham
Daniel, Dan
Daniel, R. W.
de la Garza
Derwinski
Devine
Duncan, Tenn.
Edwards, Ala.
Emery
English
Ertel
Evans, Del.
Evans, Ind.
Fenwick
Fish
Flippo
Fountain
Fuqua
Gilman
Glickman
Gradison
Grassley
Hammer-schmidt
Hansen
Harsha
Hillis
Hollenbeck
Huckaby
Hyde
Ichord
Ireland
Jeffords
Jones, Okla.
Kazen
Kemp
Ketchum

Kildee	Myers, Gary	Spence
Kindness	Myers, John	St Germain
LaFalce	Nichols	Stangeland
Lagomarsino	Nowak	Stanton
Latta	Pease	Stockman
Leach	Pressler	Stump
Lent	Quayle	Symms
Livingston	Quillen	Taylor
Lujan	Railsback	Teague
McDade	Regula	Thone
McDonald	Rinaldo	Trible
McEwen	Robinson	Vander Jagt
Marks	Rudd	Volkmer
Marlenee	Runnels	Wampler
Marriott	Ruppe	Watkins
Mitchell, N.Y.	Santini	Whitehurst
Moore	Sarasin	Winn
Moorhead, Calif.	Satterfield	Wydler
	Sikes	Wylie
Mottl	Skelton	Young, Alaska
Murphy, Pa.	Snyder	

NOT VOTING—30

Boggs	Ford, Mich.	Krueger
Bolling	Frey	Levitas
Clawson, Del	Goodling	Lundine
Collins, Ill.	Hightower	Rhodes
Conyers	Holt	Roberts
Corcoran	Hughes	Rousselot
D'Amours	Jones, Tenn.	Treen
Edwards, Okla.	Kasten	Walker
Eilberg	Kelly	Wolff
Flowers	Koch	Young, Tex.

The Clerk announced the following pairs:

On this vote:

Mrs. Boggs and Mr. Roberts for, with Mr. Levitas against.

Mr. Jones of Tennessee and Mrs. Holt for, with Mr. Kelly against.

Until further notice:

Mr. Eilberg with Mr. Del Clawson.
Mr. Hughes with Mr. Edwards of Oklahoma.
Mr. Koch with Mr. Walker.
Mr. D'Amours with Mr. Corcoran of Illinois.
Mrs. Collins of Illinois with Mr. Treen.
Mr. Conyers with Mr. Rousselot.
Mr. Ford of Michigan with Mr. Krueger.
Mr. Flowers with Mr. Goodling.
Mr. Wolff with Mr. Frey.
Mr. Hightower with Mr. Kasten.

Messrs. AuCOIN and MILFORD changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

COMMISSION ON DOMESTIC AND INTERNATIONAL HUNGER AND MALNUTRITION

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution (H. Res. 784), as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. ZABLOCKI) that the House suspend the rules and agree to the resolution, House Resolution 784, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 364, nays 38, not voting 32, as follows:

[Roll No. 729]

YEAS—364

Abdnor	Ambro	Andrews, N.C.
Addabbo	Ammerman	Andrews, N. Dak.
Akaka	Anderson, Calif.	
Alexander	Anderson, Ill.	Annunzio
Allen		Applegate
Armstrong	Foley	Mineta
Ashley	Ford, Tenn.	Minish
Aspin	Forsythe	Mitchell, Md.
AuCoin	Fountain	Mitchell, N.Y.
Badillo	Fowler	Moakley
Baldus	Fraser	Moffett
Barnard	Frenzel	Mollohan
Baucus	Fuqua	Montgomery
Beard, R.I.	Gammage	Moore
Beard, Tenn.	Gaydos	Moorhead, Calif.
Bedell	Gephardt	
Beilenson	Giaimo	Moorhead, Pa.
Benjamin	Gibbons	Moss
Bennett	Gilman	Mottl
Biaggi	Ginn	Murphy, Ill.
Bingham	Glickman	Murphy, N.Y.
Blanchard	Gonzalez	Murphy, Pa.
Blouin	Gore	Murtha
Boland	Gradison	Myers, John
Bonior	Grassley	Myers, Michael
Bonker	Gudger	Natcher
Bowen	Guyer	Neal
Brademas	Hagedorn	Nedzi
Breaux	Hamilton	Nichols
Breckinridge	Hammer-schmidt	Nix
Brinkley		Nolan
Brodhead	Hanley	Nowak
Brooks	Hannaford	O'Brien
Broomfield	Harkin	Oakar
Brown, Calif.	Harrington	Oberstar
Brown, Mich.	Harris	Obey
Brown, Ohio	Harsha	Ottinger
Broyhill	Heckler	Panetta
Buchanan	Hefner	Patten
Burgener	Heftel	Patterson
Burke, Calif.	Hillis	Pattison
Burke, Mass.	Holland	Pease
Burlison, Mo.	Hollenbeck	Pepper
Burton, John	Holtzman	Perkins
Burton, Phillip	Horton	Pettis
Butler	Howard	Pickle
Byron	Hubbard	Pike
Caputo	Huckaby	Pressler
Carney	Hyde	Preyer
Carr	Ireland	Price
Carter	Jacobs	Pritchard
Cavanaugh	Jeffords	Pursell
Cederberg	Jenkins	Quie
Chisholm	Jenrette	Rahall
Clausen, Don H.	Johnson, Calif.	Railsback
	Johnson, Colo.	Rangel
Clay	Jones, N.C.	Regula
Cleveland	Jones, Okla.	Reuss
Cochran	Jordan	Richmond
Cohen	Kastenmeier	Rinaldo
Coleman	Kazen	Risenhoover
Conable	Kemp	Robinson
Conte	Ketchum	Rodino
Corman	Keys	Roe
Cornell	Kildee	Rogers
Cornwell	Kostmayer	Roncalio
Cotter	Krebs	Rooney
Coughlin	LaFalce	Rose
Cunningham	Latta	Rosenthal
Daniel, Dan	Le Fante	Rostenkowski
Daniel, R. W.	Leach	Roybal
Danielson	Lederer	Runnels
Davis	Leggett	Ruppe
de la Garza	Lehman	Russo
Delaney	Lent	Ryan
Dellums	Livingston	Santini
Dent	Lloyd, Calif.	Sarasin
Derrick	Lloyd, Tenn.	Sawyer
Derwinski	Long, La.	Scheuer
Dickinson	Long, Md.	Schroeder
Dicks	Lujan	Schulze
Diggs	Luken	Sebelius
Dingell	McClory	Seiberling
Dodd	McCloskey	Sharp
Dornan	McCormack	Shipley
Downey	McDade	Sikes
Drinan	McEwen	Simon
Duncan, Oreg.	McFall	Sisk
Duncan, Tenn.	McHugh	Skelton
Early	McKay	Skubitz
Edgar	McKinney	Slack
Edwards, Ala.	Madigan	Smith, Iowa
Edwards, Calif.	Maguire	Smith, Nebr.
Emery	Mann	Snyder
English	Markey	Solarz
Erlenborn	Marks	Spellman
Ertel	Marlenee	Spence
Evans, Colo.	Marriott	St Germain
Evans, Del.	Martin	Staggers
Evans, Ga.	Mathis	Stangeland
Fary	Mattox	Stanton
Fascell	Mazzoli	Stark
Fenwick	Meeds	Steed
Findley	Metcalfe	Steers
Fish	Meyner	Steiger
Fisher	Michel	Stockman
Fithian	Mikulski	Stokes
Flippo	Mikva	Stratton
Flood	Miller, Calif.	Studds
Florio	Miller, Ohio	Thompson
Thone	Walsh	Wilson, C. H.
Traxler	Wampler	Wilson, Tex.
Trible	Watkins	Winn
Tsongas	Waxman	Wirth
Tucker	Weaver	Wright
Udall	Weiss	Wydler
Ullman	Whalen	Wylie
Van Deerlin	White	Yates
Vander Jagt	Whitehurst	Yatron
Vanik	Whitley	Young, Alaska
Vento	Whitten	Young, Mo.
Volkmer	Wiggins	Zablocki
Walgren	Wilson, Bob	Zeferetti

NAYS—38

Archer	Flynt	Quayle
Ashbrook	Goldwater	Quillen
Badham	Hall	Rudd
Bafalis	Hansen	Satterfield
Bauman	Ichord	Shuster
Bevill	Kindness	Stump
Burke, Fla.	Lagomarsino	Symms
Burleson, Tex.	Lott	Taylor
Chappell	McDonald	Teague
Collins, Tex.	Mahon	Thornton
Crane	Milford	Waggonner
Devine	Myers, Gary	Young, Fla.
Evans, Ind.	Poage	

NOT VOTING—32

Boggs	Ford, Mich.	Krueger
Bolling	Frey	Levitas
Clawson, Del	Goodling	Lundine
Collins, Ill.	Hawkins	Rhodes
Conyers	Hightower	Roberts
Corcoran	Holt	Rousselot
D'Amours	Hughes	Treen
Eckhardt	Jones, Tenn.	Walker
Edwards, Okla.	Kasten	Wolff
Eilberg	Kelly	Young, Tex.
Flowers	Koch	

The Clerk announced the following pairs:

On this vote:

Mrs. Boggs and Mr. Jones of Tennessee for, with Mr. Roberts against.

Mr. Hughes and Mr. Ford of Michigan for, with Mr. Del Clawson against.

Mr. Lundine and Mr. Eilberg for, with Mr. Rousselot against.

Until further notice:

Mr. Wolff with Mr. Edwards of Oklahoma.
Mrs. Collins of Illinois with Mr. Eckhardt.
Mr. Conyers with Mr. Frey.
Mr. Hawkins with Mr. Walker.
Mr. Levitas with Mr. Treen.
Mr. Koch with Mr. Krueger.
Mr. Flowers with Mr. Goodling.
Mr. Hightower with Mr. Kelly.
Mr. D'Amours with Mrs. Holt.
Mr. Kasten with Mr. Corcoran of Illinois.

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate insist upon its amendments to the bill (H.R. 9375) entitled "An act making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon and appoints Mr. MCCLELLAN, Mr. MAGNUSON, Mr. STENNIS, Mr. BYRD of West Virginia, Mr. PROXMIRE, Mr. INOUYE, Mr. HOLLINGS, Mr. BAYH, Mr. EAGLETON, Mr. CHILES, Mr. HUDDLESTON, Mr. YOUNG, Mr. CASE, Mr. BROOKE, Mr. HATFIELD, Mr. STEVENS, Mr. MATHIAS, Mr. SCHWEIKER, Mr. BELLMON, and Mr.

WEICKER to be the conferees on the part of the Senate.

REPORT ON RESOLUTION AUTHORIZING FUNDS FOR STANDING AND SELECT COMMITTEES OF HOUSE OF REPRESENTATIVES

Mr. THOMPSON, from the Committee on House Administration, submitted a privileged report (Rept. No. 95–786) on the resolution (H. Res. 879) authorizing funds for the standing and select committees of the House of Representatives, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION AUTHORIZING CHAIRMAN OF COMMITTEE ON HOUSE ADMINISTRATION TO RETAIN COUNSEL TO INTERVENE IN CASE OF ATKINS AGAINST UNITED STATES

Mr. THOMPSON, from the Committee on House Administration, submitted a privileged report (Rept. No. 95–787) on the resolution (H. Res. 884) to authorize the chairman of the Committee on House Administration to retain counsel to intervene in the case of Atkins against United States, which was referred to the House Calendar and ordered to be printed.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I take this 1 minute for the purpose of inquiring of the distinguished majority leader as to what the program will be for the balance of today, for tomorrow, and for the balance of the week.

Mr. WRIGHT. If the gentleman will yield, Mr. Speaker, immediately following our colloquy, I will have two unanimous-consent requests. Then there will be two additional unanimous-consent requests.

Immediately thereafter, we will go into consideration of House Joint Resolution 621, the Alaska natural gas pipeline bill. We hope, and believe it reasonable to hope, that we can conclude that bill by 7 o'clock tonight. If we have not concluded it by 7 o'clock, we will rise at 7 o'clock this evening.

I shall ask unanimous consent that we may consider two district bills tomorrow, S. 1062, to change the fiscal year for the District of Columbia Armory Board, and H.R. 9544, which pertains to payments of certain District of Columbia indebtedness. I shall also ask unanimous consent that on Thursday we take a brief recess from 2:15 until 3 o'clock p.m. in order that we may informally receive Senator HUBERT H. HUMPHREY and pay tribute to him.

Aside from that, Mr. Speaker, the remainder of the business for this week remains as announced earlier. We will have three conference reports, on S. 1683, Defense Department supplemental authorization; on S. 1339, ERDA authorization for national security programs; and on H.R. 6010, aviation insurance extension legislation.

Legislation to be considered under the regular order will be House Concurrent Resolution 369, Pension Benefits Guaranty Corporation, and H.R. 9179, Overseas Private Investment Corporation amendments. We have four appropriation resolutions of deferral, all four pertaining to energy research and development matters.

We will also consider, probably on Thursday, H.R. 5646, ConRail medical payments, under an open rule, with 1 hour of debate. And H.R. 5798, Office of Rail Public Counsel authorization, under an open rule, with 1 hour of debate.

As I said, on Thursday, at approximately 2:30 p.m., the House will receive Senator HUBERT H. HUMPHREY.

It is possible that we may conclude the schedule on Thursday. If we can conclude it on Thursday, that will conclude the business for the week; and we would probably have only a pro forma session on Friday. If we are unable to conclude on Thursday, of course, there would have to be a legislative session on Friday.

Mr. MICHEL. Mr. Speaker, may I inquire of the distinguished majority leader whether, if we were able to conclude on Thursday, we would then go into pro forma sessions for the balance of the month, which would be on Monday and Thursday as distinguished from Tuesday and Friday. That matter would be of some interest to Members who may want to make particular plans.

Mr. WRIGHT. If the gentleman will yield further, Mr. Speaker, it is my understanding that the plan is to have those sessions on Tuesdays and Fridays. If there is any change we will certainly announce that change prior to our going into those sessions.

Mr. MICHEL. May I also inquire whether if we, perchance, do not conclude the pipeline bill tonight and it were carried over, would that be the first order of business tomorrow?

Mr. WRIGHT. If the gentleman will yield further, I think it would be. We would in any case expect to conclude that business before going into other business.

Mr. MICHEL. And it is the leadership's intention on the other side to make every effort to conclude our deliberations here, then, on Thursday; is that correct?

Mr. WRIGHT. It is the hope of the leadership that we can conclude legislation on Thursday.

One of the bills which had been announced earlier is not going to be brought up, and that may facilitate our activities.

Mr. MICHEL. Might I also inquire as to whether or not we would be coming in early on either tomorrow or Thursday.

Mr. WRIGHT. There is no present plan to ask unanimous consent to do that on Wednesday. We will, of course, be coming in at 10 a.m. on Thursday as usual.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, the distinguished majority leader said that one of the bills that had been announced as being on the calendar is not being brought up.

Do we understand that that bill is the Consumer Representation Act or whatever it is called today which is no longer going to be brought up?

Mr. WRIGHT. If the gentleman will yield further, Mr. Speaker, I think the gentleman from Maryland has correctly deduced the identity of the bill.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman.

Mr. MICHEL. I thank the gentleman.

MAKING IN ORDER TOMORROW REPORTS FROM COMMITTEE ON THE DISTRICT OF COLUMBIA

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that business in order under clause 8, rule XXIV, reports from the Committee on the District of Columbia, be in order tomorrow, Wednesday, November 2, 1977.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

RECESSING ON THURSDAY, NOVEMBER 3, 1977, TO INFORMALLY RECEIVE AND PAY TRIBUTE TO SENATOR HUBERT H. HUMPHREY

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that on Thursday, November 3, 1977, commencing at 2:15 o'clock p.m. until 3 o'clock p.m., the House may be in recess for the purpose of informally receiving and paying tribute to Senator HUBERT H. HUMPHREY.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

EXTENDING SUPERVISION OF THE U.S. CAPITOL POLICE TO CERTAIN FACILITIES OF THE OFFICE OF TECHNOLOGY ASSESSMENT

Mr. MINETA. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 2052) to extend the supervision of the U.S. Capitol Police to certain facilities leased by the Office of Technology Assessment.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. WALSH. Mr. Speaker, I reserve the right to object.

Mr. MINETA. Mr. Speaker, if the gentleman will yield, S. 2052 would extend the supervision of the U.S. Capitol Police to facilities leased by the Office of Technology Assessment at 600 Pennsylvania Avenue SE., Washington, D.C.

The Office of Technology Assessment staff are congressional employees currently housed in Senate and House facilities under the jurisdiction of the Capitol Police. The authority of the U.S. Capitol Police Force is generally recognized as being restricted to the confines of the Capitol Buildings and Grounds. Therefore, since the premises at 600 Pennsylvania Avenue SE. are located outside the boundary limits of Capitol Grounds, in order for the U.S. Capitol Police to be properly assigned to provide the appropriate security for the building to be used

by the Office of Technology Assessment, it is necessary for this legislative authority.

Supporting letters were received by the committee from Senator EDWARD M. KENNEDY and Representative LARRY WINN, Jr., chairman and vice chairman, respectively, of the Board of Technology Assessment, and by Chief James M. Powell of the Capitol Police, requesting favorable and expeditious action on this legislation since the OTA staff plans to relocate to the new location in November. During hearings by the subcommittee, Chief Powell stated that by providing security at this location would appear to necessitate the need for three additional officers. However, he does not wish to request any additional officers at this time since he is in the process of reassessing their total personnel deployment in an effort to make any appropriate changes consistent with the maintenance of adequate security but with a view toward conservation of manpower. The Senate passed the legislation on September 30, 1977, and I urge passage by the House.

Mr. WALSH. Mr. Speaker, I make the reservation of objection only to call to the attention of the Members that in the hearings held by the Committee on Public Buildings and Grounds that we queried Chief Powell, the head of the Capitol Police, as to the need for the additional officers if this bill is approved. He estimates that the additional protection will require three additional officers, but he has no intention of putting on additional officers at this time pending a reorganization study of the Capitol Police, so at this time there is no additional expense to the U.S. Government.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2052

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the supervision of the United States Capitol Police shall extend over that part or parts of the premises located at 600 Pennsylvania Avenue, Southeast, Washington, District of Columbia, leased by the Office of Technology Assessment. In carrying out such supervision, the United States Capitol Police shall have within such part or parts jurisdiction, concurrent with that of the Metropolitan Police of the District of Columbia, to provide security for the personnel and property of the Office of Technology Assessment within such leased premises, and to make arrest therein for the violation of the laws and regulations of the United States and the District of Columbia.

Mr. JOHNSON of California. Mr. Speaker, I rise in support of S. 2052, and would like to commend the gentleman from California (Mr. MINETA), chairman of the Subcommittee on Public Buildings and Grounds, and the gentleman from New York (Mr. WALSH), ranking minority member of the subcommittee, for their fine work on this legislation.

The committee has received letters of support from the board of the Office of Technology Assessment (OTA) and by Chief James M. Powell of the Capitol Police requesting favorable action on S. 2052, which would extend the supervision of the U.S. Capitol Police to facilities leased by OTA at 600 Pennsylvania Avenue SE. The OTA staff are currently located in Senate and House facilities under the jurisdiction of the Capitol Police and the new facility is located outside the boundaries of the U.S. Capitol Grounds. Therefore, since OTA is planning to occupy this building during November of this year, expeditious handling of this legislation is necessary in order to provide the protection required at this facility. OTA's leased facility is in a single, electronically protected building and the Capitol Police feel that the level of security required will not pose any undue burdens or liabilities. I urge passage of H.R. 8993.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MINETA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed, S. 2052.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

JAMES J. ROWLEY SECRET SERVICE TRAINING CENTER

Mr. MINETA. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 8993) to designate the Secret Service Training Center as the "James J. Rowley Secret Service Training Center."

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. WALSH. Reserving the right to object, Mr. Speaker—and I will not object—I take this time only to ask the chairman of the subcommittee to explain the purpose of this bill.

Mr. MINETA. Mr. Speaker, if the gentleman will yield, H.R. 8993 would designate the Secret Service Training Center at Beltsville, Md., as the "James J. Rowley Secret Service Training Center." Mr. Rowley devoted approximately 36 years of his life to his country as an employee of the Federal Government.

He joined the Federal Bureau of Investigation as a special agent with the U.S. Secret Service. In 1939, he was transferred to the Presidential Protective Division in Washington, D.C., and rose through the ranks attaining the position of Special Agent in Charge of that Division in 1947—a position he held until his appointment as Director of the U.S. Secret Service on September 1, 1961.

During Mr. Rowley's association with the Secret Service, he has served six Chief Excutives—Presidents Roosevelt, Truman, Eisenhower, Kennedy, Johnson, and Nixon.

During his distinguished career as Director of the U.S. Secret Service, Mr. Rowley supervised the creation of the Executive Protective Service in its transformation from the White House Police. Also, major additional responsibilities were assigned to the Service during his directorship including the protection of visiting heads of state and governments as well as the protection of foreign diplomatic missions. He retired after serving for over 12 years as Director on October 31, 1973.

The facilities at Beltsville were conceived by Mr. Rowley many years ago and he labored tirelessly in conjunction with various executive administrations and the Congress to achieve its fruition. In view of his long and distinguished career, and in view of his many years of outstanding service to the people of the country, it is fitting and proper that the Secret Service training facilities at Beltsville, Md., be named in his honor as "The James J. Rowley Secret Service Training Center."

I urge passage of H.R. 8993.

Mr. WALSH. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 8993

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secret Service Training Center at Beltsville, Maryland, shall hereafter be known and designated as the "James J. Rowley Secret Service Training Center". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the James J. Rowley Secret Service Training Center.

Mr. JOHNSON of California. Mr. Speaker, I rise in support of H.R. 8993, a bill to designate the secret service training center as the "James J. Rowley Secret Service Training Center."

Mr. Rowley was a distinguished employee of the U.S. Secret Service for approximately 35 years. He was appointed as a special agent with the U.S. Secret Service in 1938, and on September 1, 1961 was appointed Director of the U.S. Secret Service. He served in this capacity until his retirement on October 31, 1973. During his distinguished career as Director, Mr. Rowley received numerous citations and awards for his exceptional performance in his responsibility—the safeguarding of the life of the President of the United States.

I am pleased to join in recognizing the contribution James Rowley has made to our country and in paying tribute to him by designating the U.S. Secret Service Center located at Beltsville, Md., in his honor. I urge passage of H.R. 8993.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MINETA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise

and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

NAME CHANGE OF THE EXECUTIVE PROTECTIVE SERVICE

Mr. MINETA. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 8992) to amend title 3 of the United States Code to change the name of the Executive Protective Service.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. WALSH. Mr. Speaker, reserving the right to object, and I will not object, I take this time only to ask the chairman to explain the purpose of this bill.

Mr. MINETA. Mr. Speaker, if the gentleman will yield, the White House Police Force was formed in 1922 to protect the Executive Mansion and Grounds. In 1970, the name of the White House Police was changed to the Executive Protective Service and their duties and jurisdiction were expanded to include responsibility for the protection of foreign diplomatic missions in the Washington metropolitan area.

The Executive Protective Service is an integral part of the protective operation of the U.S. Secret Service. For some time, members of the Executive Protective Service have expressed their desire to become more closely associated with the U.S. Secret Service. In response to wishes of the force, a committee was formed in the Executive Protective Service and a poll of the members at EPA was taken to suggest a name which would more closely identify themselves with the Secret Service. The committee was made up of an Executive Protective Service inspector, three lieutenants, three sergeants, and three officers. In view of the number of organizations in the District of Columbia with the word "police" in their names, the name U.S. Secret Service Uniformed Division was selected as the most representative of an entity with the Secret Service.

The proposed name change will have no effect on the jurisdiction, the pay scale, retirement benefits, or any other benefit of the Executive Protective Service. It is exactly what it purports to be, merely a name change of an already existing entity. I urge passage of H.R. 8992.

Mr. WALSH. Mr. Speaker, I thank the chairman.

I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 8992

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 3 of title 3 of the United States Code is amended by striking out "Executive Protective Service" each place it appears in such chapter and inserting in lieu thereof at each such place the following: "United States Secret Service Uniformed Division". Any reference in any other law or in any regulation, document, record, or other paper of the United States to the Executive Protective Service shall be held to be a reference to the United States Secret Service Uniformed Division.

Mr. JOHNSON of California. Mr. Speaker, I rise in support of H.R. 8992 and would like to commend the gentleman from California (Mr. MINETA), chairman of the Subcommittee on Public Buildings and Grounds, and the gentleman from New York (Mr. WALSH), ranking minority member of the subcommittee, for their fine work on this legislation.

H.R. 8992 which was introduced pursuant to a request from the Director of the U.S. Secret Service was in response to wishes of members of the Executive Protective Service. They felt the name of "U.S. Secret Service Uniformed Division" would more closely identify themselves with the U.S. Secret Service. The proposed name change will have no effect on the jurisdiction or any other benefits now enjoyed by the Executive Protective Service, therefore, I urge adoption of this legislation since it is merely a name change of an already existing entity.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MINETA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 8422, MEDICARE AND MEDICAID REIMBURSEMENT FOR RURAL HEALTH CLINIC SERVICES

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 8422) to amend title XVIII of the Social Security Act to provide payment for rural health clinic services, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON S. 1131, AUTHORIZING APPROPRIATIONS TO NUCLEAR REGULATORY COMMISSION

Mr. UDALL. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on S. 1131 to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

ALASKA NATURAL GAS TRANSPORTATION SYSTEM

Mr. UDALL. Mr. Speaker, pursuant to section 8(d)(5) of Public Law 94–586, I call up the House joint resolution (H.J. Res. 621) approving the Presidential decision on an Alaska natural gas transportation system, and for other purposes, and ask unanimous consent that it be considered in the House as in the Committee of the Whole.

The clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 621

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the House of Representatives and Senate approve the Presidential decision on an Alaska natural gas transportation system submitted to the Congress on September 22, 1977, and find that any environmental impact statements prepared relative to such system and submitted with the President's decision are in compliance with the Natural Environmental Policy Act of 1969.

Mr. UDALL. Mr. Speaker, I move to strike the last word.

The SPEAKER pro tempore. The gentleman from Arizona is recognized for 5 minutes.

Mr. UDALL. Mr. Speaker, I rise in support of the President's decision and report to Congress on the Alaska natural gas transportation system. The vote today comes a year after we passed the Alaska Natural Gas Transportation Act and 40 days after we received the President's recommendation. I believe the diligence shown is a tribute to my colleague from Wyoming, Mr. RONCALIO, and my colleague from Michigan, Mr. DINGELL. Both these gentlemen recognized the importance of settling this issue with all due speed and have worked together to present the House with the resolution we shall vote on today.

When great reserves of natural gas were discovered beneath Prudhoe Bay on a scale never before found on this continent, it was obvious that the gas could not help the lower 48 until—and unless—we could find a method of transporting the gas to the south. Last winter's shortages have put an even keener edge on our need for natural gas. We hammered out the Alaska Natural Gas Transportation Act late in the last Congress, establishing a new process for making this important decision.

I believe the Congress should be congratulated for the system so established. The Attorney General, the Federal Energy Regulatory Commission, the EPA, and the Departments of the Interior, Agriculture, Transportation, and De-

fense have all studied the feasibility of this pipeline and helped define the President's decision. Everyone has said "go" and once the Congress gives its approval, the Alcan Consortium can begin. I believe this system has given all interested parties an opportunity to participate in the decisionmaking process and yet this project is proceeding at a satisfactory pace.

Unlike the oil pipeline, whose output we are struggling to transport to markets, the Alcan gas pipeline extends from Alaska directly into distribution systems in the lower 48 and covers a less treacherous route.

I also believe that we have learned—I certainly hope we have—from the difficulties of the TAPS line. Our committee report, for example, cites several changes in the inspection and oversight of construction and makes further recommendations concerning the coordination of construction and enforcement of regulations to minimize cost overruns and delays.

A special byproduct of the decision to route the gas line overland is our improved relations with Canada. Always an ally and friend, Canada has become reluctant to continue exporting petroleum to the United States. I believe that the treaty negotiated by the State Department and the conversations between our two governments have helped point out the economic interdependence of our two countries and show that in these days of resource scarcity we can both benefit from working together.

PARLIAMENTARY INQUIRY

Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. UDALL. Mr. Speaker, under the public law under which we are operating here today and in light of the unanimous-consent request to consider this in the House as in Committee of the Whole, is it my understanding that there is no time available to the managers on either side, that any Members desiring to be heard must make a pro forma motion to strike and will then be recognized?

The SPEAKER pro tempore. The gentleman is correct.

Mr. RONCALIO. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I rise in strong support of House Joint Resolution 621, introduced by myself and Messrs. UDALL, STAGGERS, and DINGELL and endorsing the President's selection of the proposed Alcan pipeline to deliver Alaskan North Slope gas to the lower 48.

As Members are aware, this resolution represents the culmination of the process set forth in the Alaska Natural Gas Transportation Act of 1976, which provided for the expedited consideration and selection of a system for the delivery of Alaskan North Slope gas to the lower 48 States. This process has worked with efficiency and good public input at all levels. My Subcommittee on Indian Affairs and Public Lands held hearings on February 17, March 17, 18, 29, and April 5, 1977, to monitor the special procedures set up under the Alaska Natural Gas Transportation Act and make certain that they were being complied with. Upon submission of the President's route recommendation, we held another 3 days of joint hearings with Mr. DINGELL's Subcommittee on Energy and Power. On the basis of these hearings, and the studies conducted in both the United States and Canada, I believe a speedy endorsement of the President's recommendation of the Alcan system is fully warranted.

I feel the President has made the correct decision in selecting Alcan and concur in the administration's findings that the Alcan route is: environmentally preferable; can deliver gas at a lower cost per unit to the consumer; is more reliable than a pipeline/marine tanker system; and will provide direct pipeline delivery of gas to the markets where it is most urgently needed. Indeed, if all goes well, gas deliveries to Dwight, Ill., will begin precisely 5 years from now, and deliveries of surplus Alberta gas may commence within 2 years. Contrary to the opinion of some who fear that the construction and operation of this pipeline through Canada will subject the project to delays, cost overruns, and the risk of interruption of service, I feel that this largest construction project in history will enhance our relations and produce substantial benefits for both nations.

TO BE BUILT BY PRIVATE SECTOR

The sponsors of the Alcan project, both United States and Canadian, propose to finance this enormous undertaking in the private financial sector without Government guarantees. Once financed, the responsibility of timely construction at reasonable cost also will fall on the private interests who have invested in the project. This is assignment of monumental proportions for the natural gas industry of the United States and Canada, for it must be remembered that the industry directly involved in this effort is the regulated natural gas industry and not the oil industry. The domestic natural gas industry is a much smaller industry than that composed of the multinational giant oil companies with but a fraction of the oil companies net asset values, net income, and net cash flow. If this project is to succeed as a private venture, there must be maximum cooperation between the gas industry itself, the private investment capital market, and the governmental agencies who will be most directly concerned with the regulation of the project and its financing and construction.

The Federal Energy Regulatory Commission and the Federal Inspector in particular, must strike a fair and acceptable balance between investor, consumer, and environmental interests. The President's decision lays down certain specific guidelines and principles in the form of conditions which can achieve that balance if they are properly implemented and administered. Both FERC and the Federal Inspector have been given great latitude and discretion in determining how they will implement and administer those principles to assure a successful project.

I am convinced that Congress expects, that those agencies employ discretionary powers they possess under the decision so as to make it possible for the sponsors to finance the project and to construct it in timely fashion at acceptable cost without imposing undue burdens on consumer or environmental interests. Ample latitude to do so is permitted them by the language of the decision detailing the conditions which must be met. The objective of making Alaskan gas available to the lower 48 States can be accomplished if the Government agencies employ both determination and imagination in seeking a result fair to all interests involved.

ALCAN PIPELINE PROJECT DELIVERED COST AND ALTERNATIVES

Mr. Speaker, there is no reasonable alternative by 1983 to the supply of natural gas energy that can be delivered from the North Slope of Alaska to the lower 48 States.

The only practical possibilities are for imported sources such as liquefied natural gas or oil. Both of these sources are contrary to the national long-term goal of becoming self-sufficient and are also high cost sources. Currently LNG contracts are already approaching $4 per million Btu and can be expected to escalate substantially in the future. Alaska gas, as a domestic source of energy will provide large net economic benefits for the Nation in contrast to both imported LNG and oil which will result in a balance of payments drain. The alternative of coal gasification is not practical by 1983 either since 10 plants of the size currently being considered would be required for the equivalent volume of Alaskan gas. Further, the cost of gas from this source is now estimated at about $4.50 per million Btu.

It can be expected that the field price for Alaskan gas has substantial flexibility to meet competitive conditions since the only alternative for the producers is costly reinjection accompanied with substantial fuel loss. The project sponsors have estimated that the cost of transportation in 1975 dollars during the first 5 years of operation would be about $1.40 per million Btu. The field price should be no higher than $1.45 per million Btu as now provided in H.R. 8444, with possibly an additional increment for cost of processing, which could be as low as zero with proper consideration of the value of liquid byproducts.

Distribution costs within each city should not be added to determine the delivered price. No new facilities will need to be added to existing distribution systems to deliver Alaskan gas. Therefore, it is not appropriate to add any cost. On the contrary, to the extent that Alaska gas increases supplies to distributors, the delivered cost per million Btu will actually decrease since the same total distribution costs will be spread over more volumes. It is like spreading fixed overhead costs over more sales.

The resulting delivered cost of $2.85 per million Btu is less than any alternative. Another important advantage is that the transportation cost portion even reflecting inflation will decline over time as the initial investment is depreciated.

In the fall of 1976 Congress determined that it was in the national interest to expedite deliveries of Alaskan gas. Noth-

ing has occurred in the meantime to change that determination other than the even greater need to get the job done as a result of the gas shortages experienced last winter.

I urge passage of House Joint Resolution 621.

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. RONCALIO. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Speaker, I have been asked, the majority leader announced earlier that we would rise at 7 o'clock if we had not finished this. It has been my undertstanding that probably we could finish this evening, but a number of Members have approached me that desire to be heard on the legislation, so I suspect it may go over until tomorrow and all we can do is hear from the gentleman from Ohio (Mr. BROWN), and the gentleman from Michigan (Mr. DINGELL), who played a major role in this legislation.

Mr. MOORE. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I support passage of this resolution because I support the building of the Alcan gas pipeline. I hasten to warn, however, that our support of this resolution should not be interpreted by anyone now or later as being support for the building of this pipeline regardless of how it is financed.

On page 127 of the President's report to the Congress which this resolution approves, the last sentence on the subject of financing reads as follows: "Federal financing assistance is also found to be neither necessary or desirable, and any such approach is herewith explicitly rejected." Therefore, the action of the House in approving this resolution is approving that specific language of this report as to the involvement of the Federal Government in financing the construction of this pipeline.

I am very skeptical that this pipeline can be constructed with private financing due to the governmental regulation of the price of the product being carried in the pipeline and the operation of the pipeline itself. These two factors are so depressive, that the small amount of private capital available today will not be attracted to this project. That being the case, the corporations constructing the pipeline will surely turn to Congress seeking Federal grants, loans, or loan guarantees. Any such Federal participation is not necessary. If this pipeline cannot be financed with private capital, it is due to excessive governmental regulation. The solution is not further Federal involvement—Federal financing—but less regulatory reform.

Therefore, we should vote for this resolution, we should build the pipeline without Federal financing, and we should do whatever is necessary to insure the availability of private financing. I fear though that we shall soon see the day when a request for Federal money is presented to us, and we should not vote for this resolution without a clear commitment that we do not intend now or later to have the Federal Government participate in the construction of this pipeline.

Mr. COLLINS of Texas. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I wonder if someone on the other side could speak on behalf of what is authorized in this legislation; someone perhaps who is the chairman? Is it the gentleman from Arizona (Mr. UDALL) or the gentleman from Michigan (Mr. DINGELL)?

Mr. DINGELL. Mr. Speaker, if the gentleman will yield, actually, the gentleman from Arizona, the chairman of the Committee on the Interior, is the Member who will be making the motion and who is, in effect, handling the bill; but I am sure the gentleman and I would be happy to respond to any questions.

Mr. COLLINS of Texas. Mr. Speaker, I have two basic questions. I sat in on the Alaska pipeline hearings. In listening to the hearings, there were two matters that left me perplexed and completely lacking a definite understanding. The crux of the problem is that this pipeline goes through Canada. Now, is it the committee's understanding that the Government of the United States is going to guarantee the financing of this pipeline, even though it goes through Canada?

Mr. DINGELL. Mr. Speaker, if the gentleman will yield further, there is no financial guarantee by the Federal Government. The only guarantees that exist with reference to the pipeline are embodied in a series of documents: first, the original authorization legislation passed by Congress; second, the approving legislation we bring before the House.

Third, is the Transit Pipeline Treaty we have with Canada which provides security for pipelines in the two nations.

Fourth, is the agreement with Canada signed by Secretary Schlesinger relating to the pipeline.

Last of all are the letters of understanding concerning this question.

Mr. COLLINS of Texas. Mr. Speaker, let me ask one other important question. Is there any financial guarantee expected from the companies that own the oil and gas in Prudhoe Bay; is it expected they will be forced to guarantee this $13 billion pipeline?

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Michigan.

Mr. DINGELL. There are none provided for in the President's decision. I can only speak for one Member of the House; but in the rather extensive hearings held before the two subcommittees, in which the gentleman from Wyoming (Mr. RONCALIO) participated, no such understanding was expressed at any point in the course of the proceedings.

Mr. COLLINS of Texas. One other point on the subject of taxes. This pipeline goes through Canada. Did we ever get any understanding out of the nation of Canada or the states of Canada that they would not raise taxes on the pipeline?

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. COLLINS of Texas. I am happy to yield.

Mr. DINGELL. The answer to the question is that, under the Transit Pipeline Treaty, there can be no increase in taxes on the Canadian portion of the Alcan pipeline which would not be applied to other pipelines in Canada.

I have to say that I have some apprehensions with regard to the provinces increasing taxes on the pipelines and everybody else, and then rebating taxes by special action to those who qualify. I have no reservations and no concerns on this particular point.

Mr. COLLINS of Texas. What the gentleman is really saying is that we have no tax agreement. Canada and Canadian states can tax and tax any way they decide at their discretion.

Mr. DINGELL. Put it this way: We are in about the same position we would be in under the same agreements which we have with the Canadians as we would be in building the pipeline in another country. I happen to think that we can trust the Canadians pretty much, and we have the best treaty and the best understandings that we can get.

Mr. COLLINS of Texas. I thank the gentleman.

Mr. MURTHA. Mr. Speaker, I move to strike the last word, and I rise in opposition to the amendment.

I am very concerned about the expeditious manner of handling this resolution. I know that we have had hearings, but in the work I have done on this particular resolution I am concerned about what the gentleman just mentioned; the fact that this is another Panama Canal right through Canada.

We are talking about the possibility of the Canadian Government controlling a large percentage of natural gas that comes from upper Alaska down through Canada to the United States by taxes, by probably using foreign steel as was used in the original Alaska pipeline, by putting tax money into Canada rather than into the United States and taking the land, which has not even been declared, by the Natives.

In the Interior Subcommittee of the Committee on Appropriations it was testified by the Alaskan Planning Commission that this route would never be built; that there would be at least a 5-year delay in building a pipeline through Canada. There was no question that the other route, the El Paso route—which was another proposal—would have been all-American. It would have followed the existing pipeline where the environmental impact statement had already been studied and made. In this, there is no environmental impact statement. There is no assurance that they can build this through the Native lands. There is a danger that they are going to run over the Natives, and they can always raise taxes.

If we want to run roughshod over the Canadians and cause ourselves more problems in the end, I say push this resolution through. Originally, there was called for 11 hours of debate in the initial resolution. We are already in the 5-minute rule. There is a possibility that the largest private project in the history of the world is going into operation with 10 minutes of debate on the floor of the Congress. I think that is a mistake.

Very few Members understand the tremendous number of jobs in this under-

taking. If this were built through Alaska, liquified and taken down through the ocean, it would provide almost 865,000 jobs. If it goes through Canada, we have no assurance of any Americans being employed in that operation. As a matter of fact, they will probably be mostly Canadians.

So, we are talking about a tax loss; talking about use of steel in the United States. We have formed a steel caucus with 155 Members, and in that caucus we are saying that there should be some sort of restriction on some imports. Yet, in this resolution, if it is accepted, we are saying to the company, "Buy the steel at the cheapest possible price and lay more Americans off."

Getting back to the environmental questions, we have no environmental impact statement. We have no agreement with the Natives, so we have the possibility, the very real danger, of building a pipeline over an area we are not familiar with, where plans have not been finalized, and then finally ending up with a pipeline in 10 years when we need the gas immediately. This gas coming from Alaska could provide enough natural gas to heat 24 million homes, and yet there is a possibility, in my estimation, of delaying this pipeline by 5 years in building it through Canada.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. MURTHA. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Let me just say that a year ago this House passed the Alaskan Natural Gas Transportation Act.

That act provided for a very thorough investigation by the Federal Power Commission. At that time there were three alternate routes proposed. Then the gentleman from Wyoming (Mr. RONCALIO) and his Subcommittee on Indian Affairs and Public Lands held very extensive hearings. I am not on his subcommittee, but I attended some of them because this affects the Middle West very importantly. It is perfectly clear to anybody who followed the hearings that the act was followed to the letter. The process is a very good one. It works, and it has produced a very sound result.

The SPEAKER. The time of the gentleman from Pennsylvania (Mr. MURTHA) has expired.

Mr. SEIBERLING. Mr. Speaker, I move to strike the last word.

Mr. Speaker, the gentleman from Pennsylvania (Mr. MURTHA) is absolutely right. This is an extremely important matter. We all ought to pay the maximum amount of attention.

As a Representative from the Middle West, and in view of what our part of the country went through last winter in the natural gas crisis, I can say that this is a matter of very grave concern to me, and to the other Representatives from that area. It is essential that we get the maximum supply of natural gas at the earliest possible date.

The fact is that there is no other proposition before us. The Arctic Gas Co., which is the one the Indians and the Eskimos in Canada were violently opposed to, and which in my view was both impractical and environmentally destructive, has dropped out, fallen by the wayside. The El Paso gas proposal, which was to bring the gas to tankers on the south slope of Alaska and then take them to the west coast, where there is already a surplus of gas, where they do not want a facility to handle it, El Paso has dropped out of it too. So there is no other game in town except the Alcan proposal.

If we look at this map, we can see that just as much of the pipe goes through Alaska under the Alcan proposal as would go under any other proposal. One of the things we put in the act when we passed it last year was that any system must have a fork that goes east of the Rockies as well as one west of the Rockies. If we look at this map we will see that that is what this plan does. The act does not require an environmental impact statement. However, the Federal Power Commission held extensive hearings. The administration then reviewed it and the President has sent it to us with his recommendations. The Canadian and the Provincial Governments have accepted it. Since the line will parallel the route of the Alcan Highway, the Natives in the Yukon had no serious objection to it.

Moreover, starting early this year, the gentleman from Wyoming (Mr. RONCALIO) held very extensive and thorough hearings in the subcommittee that he chairs, in which all aspects—environmental, economic, social, political, and technical—were carefully and thoroughly reviewed. Both his subcommittee and the full Interior Committee support this proposal on the basis of their own independent and exhaustive investigation.

Mr. RUPPE. Mr. Speaker, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Michigan.

Mr. RUPPE. I thank the gentleman for yielding.

Mr. Speaker, the gentleman is absolutely correct. We would be making a terrible mistake in the Midwest or in the East not to support the proposal that is before us today. We had extensive hearings on the subject. I believe I offered an amendment requiring an eastern leg to any system bringing gas down from Alaska to the continental United States. Let me say, also, there is a western leg mandated under the bill. Both the west coast and the east coast get their share of that gas. Under any other proposal, we in the Midwest would suffer. We would not fare as well.

Mr. SEIBERLING. There is no other proposal.

Mr. RUPPE. That is right.

Mr. SEIBERLING. If we kill this proposal, it is a question of starting all over again from scratch and losing at least another year, probably several years.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman for yielding.

Mr. Speaker, I just want to compliment the gentleman in the well (Mr. SEIBERLING) for his comments regarding this proposal. There has been considerable controversy and discussion on this. This is the survivor, the one that makes the most sense for the entire country. It meets our needs. I would ask for a positive vote on this.

Mr. MURTHA. Mr. Speaker, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Pennsylvania.

Mr. MURTHA. I thank the gentleman for yielding.

I certainly agree with the gentleman's concern, since the gentleman represents the Middle West, and if it were just to draw a line on the map, there would be no problem; but what I say is that the environmental impact statement in Alaska was held up for 4 or 5 years.

I see the same thing happening here, and everybody admits it will take another 5 years to build one.

So here we are talking about 10 years, and we need the natural gas today.

Mr. SEIBERLING. Mr. Speaker, if we kill this proposal now, it will take even more time.

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, the environmental impact statement has been filed. Further, it should be known by the House that all the other people who wanted to build a gas pipeline have withdrawn their plans.

This is the only option we have to get gas down to the district of the gentleman from Pennsylvania, (Mr. MURTHA). If the gentleman wants to vote this down for his people, that is, of course, his prerogative.

Mr. OBERSTAR. Mr. Speaker, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding.

I strongly support the Alcan gas pipeline. The Canadians have already announced they will cut off the gas supplies for our area by 1982, so this joint resolution makes good sense, and it is necessary.

Mr. SKUBITZ. Mr. Speaker, I want to express my support for H.J. Res. 621. This measure approves the President's decision to recommend construction of the Alcan trans-Canada pipeline project to bring natural gas from Prudhoe Bay, Alaska, to markets in the lower 48 States.

I am pleased that the procedure by which this decision was reached followed closely the timetable and criteria established by Congress last year in the Alaska Natural Gas Transportation Act. That legislation was intended to provide a process for a timely, thoroughly considered decision based on the best available information. The need for such an expedited process was clear in light of the confusion and delays that surrounded the authorization and construction of the trans-Alaskan oil pipeline.

The various Federal agencies charged with doing the work of researching and evaluating the competing gas transportation systems have done a commendable job. The Congress can be satisfied that the proposed Alcan project is viable and, most importantly, environmentally sound.

Congress has kept close watch over the decisionmaking process. The Interior Subcommittee on Indian Affairs and Public Lands held several oversight hearings earlier this year to monitor the effort.

Following submission of the President's recommendation in September, a special joint subcommittee from the Interior and Commerce Committees reviewed the basis for the decision. The joint subcommittee was satisfied that the procedures outlined under the Alaska Natural Gas Transportation Act have been properly followed and concurred with the wisdom of the decision to recommend Alcan. Compared to its competitors, the Alcan route clearly offers the greatest advantages and fewest disadvantages to the United States as well as to Canada. The joint subcommittee reported House Joint Resolution 621 by voice vote. The Interior Committee subsequently reported the resolution without dissent.

Mr. Speaker, approval of the Alcan route removes a major hurdle for the eventual transportation of Alaska gas to the energy-hungry lower 48. While other issues, including financing of the project, remain to be resolved, they are not before us at this time. The sole question posed by House Joint Resolution 621 is whether we approve the President's decision. The answer to that question is yes, and I therefore strongly urge adoption of this resolution.

Mr. FRENZEL. Mr. Speaker, this resolution, to approve the President's decision on the transportation of Alaskan natural gas, poses a problem for me and a number of my midwestern colleagues. We, as a group, have supported efforts dating back to 1973 to push a natural gas pipeline program through the Federal maze and into production.

I was both a signatory of the congressional petition urging facilitated efforts at the FPC and an early supporter of the Alaska Natural Gas Transportation Act under which we are operating today. Additionally, I have been in regular contact with a number of the officials involved in an effort to speed things up. This resolution answers our cry for action, but it may cause more problems than it solves.

In this bill we are suggesting that a 4,700-mile-long pipeline be constructed solely with private money to be raised from an already nervous risk capital market. As the market learns more about the circumstances of this proposal it may become even more skeptical.

It is important to remember that the plan before us is not necessarily the one which would have been selected had we been concentrating solely on our own national objectives. Indeed the major competing "on land" proposal was eliminated by a Canadian commission, for environmental and "sociological" reasons.

The present plan's future is clouded by a number of factors. First among them is the difference between the powers of the Central Government here and in Canada. Under their system, not only the Federal Government, but each of the Provinces and Territories crossed by the pipeline have right-of-way and licensing authorities, as well as taxation and tariff control.

Another factor is that our Federal Energy Regulatory Commission, under the DOE, has not really gotten off the ground yet. The prices set by this group will govern the eventual operation and flow of the pipeline. So there can be no price certainty against which to raise capital. Additionally, the producing companies and the State of Alaska have indicated their lack of interest, contrary to administration expectations, in a debt guarantee program. The crucial billion dollar gas processing plant has not obtained financing either. The inflation factor may well push the conservative $9.5 billion cost estimates into the $13 to $15 billion range.

In short, a peculiar form of the old catch 22 seems to be developing. We have an estimated 23 trillion cubic feet of badly needed natural gas sitting on the North Slope, but the producers would not negotiate contracts until they can get a price. Alcan cannot talk loans until they get contracts. The financial market cannot talk money until they see loan contracts.

I am not certain that we did not get the short end in the recent treaty negotiations, but I am certain that we need the gas. I am also not certain that private money will be able to see its way through the regulatory hurdles and reduced profit margins laid down by the ICC, but I am convinced that the line must be built.

The administration has let its choice be determined by Canada without receiving in turn assurances as to taxes, cost and licensing. The second administration responsibility that has not been carried out is the essential need to set firm prices, or to set a firm price policy, so the private money can be raised. If the promoters have to come for the Federal Government for money, there will be no one to blame but the administration.

I would not be surprised if we are here a year from now considering a measure to provide additional assistance or loan guarantees to the pipeline. At that time we may be forced to either grant such requests or, wishfully thinking, remove some of our unnecessary regulatory burden. But until that day I believe that we should give this procedure a chance because we may not be willing to grant the requested assistance later.

I urge my colleagues to support this bill, and am hopeful that the badly needed gas will be flowing to the heartland of this country as quickly as possible.

Mr. McCLORY. Mr. Speaker, today being the first day of November, winter is just around the corner and an energy bill is still a long way down the road. This fact, combined with the still vivid memory of last year's bitter cold winter and natural gas shortages, should provide us with ample inspiration to act favorably on the measure now before us—House Joint Resolution 621.

This resolution would approve the President's recommendation to select the Alcan Pipeline Co.'s proposal for the transportation of natural gas from Prudhoe Bay in Alaska to the lower 48 States. The Alcan route, which was selected over two major competing proposals, would follow the existing transportation corridors across Alaska and Canada to the Chicago area, with a western leg carrying gas to California.

The importance of approving the President's recommendation before the House adjourns for the year cannot be overemphasized. While the United States and Canadian Governments have agreed on the pipeline route, on cost-sharing arrangements, taxation, tariffs, et cetera, many arrangements still remain to be completed and much work remains to be done before Alaskan gas begins to flow to homes and businesses. Still to be completed are financing details, Energy Regulatory Commission final approval, field work, construction of the line, and more. Therefore, delay on our part will serve only to delay delivery of this much-needed American resource, while we as a Nation become more dependent than ever on foreign oil imports. It is estimated that Alaskan gas will help us to save more than 150 million barrels of foreign oil, valued at around $3 billion per year.

In addition, approval by the Congress of an environmentally safe, buried pipeline system will encourage further exploration for Alaskan North Slope gas.

Mr. Speaker, the Alcan proposal has the support of many environment-conscious individuals and groups, as well as the House Republican task force on energy. It would safely transport needed supplies of our own gas—especially to the areas hardest hit last year—and could begin service in the early 1980's. Under the plan agreed to by the United States and Canada, Canadian surplus gas could be made available by 1980.

While the resolution we are considering will not provide any additional natural gas this winter, a delay by the Congress could push the delivery date for Alaskan gas back an additional year. Therefore, I urge my colleagues from all regions of the country to support the resolution.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Joint Resolution 621.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Speaker, since there are a good many other Members who wish to speak, I am not going to move the previous question on the joint resolution.

Mr. Speaker, I move that we postpone further consideration of House Joint Resolution 621 until tomorrow.

The motion was agreed to.

STATEMENT OF REPRESENTATIVE NEAL SMITH

Mr. SMITH of Iowa. Mr. Speaker, I support H.R. 8588, to establish an Office of Inspector General within executive departments and agencies. I believe that it is essential to establish independent and objective units to conduct and supervise

audits and investigations of programs and operations, to promote efficiency in the administration of agency programs and operations, and to detect fraud and abuse in them. It is intended that such offices keep the head of the Office and the Congress fully informed on problems and deficiencies in the agency programs.

As a new young Member of Congress in 1959, I launched an investigation into grain storage abuses. As a result of these hearings and investigations, the Billy Sol Estes case and some costly activities of grain companies were exposed.

Shortly thereafter, Secretary of Agriculture Orville Freeman took office. In an effort to avoid Billy Sol Estes type cases in the future, Secretary Freeman was urged to establish, and subsequently did establish, what became known as an "Office of Inspector General" operating directly out of the Office of the Secretary. These inspectors had the authority to rove throughout the Department looking for and reporting on abuses. This permitted Secretary Freeman to be alerted to problems prior to their developing such gravity that they became both expensive to the Government and embarrassing to the administration.

I think this approach worked very well. However, a subsequent Secretary of Agriculture, Earl Butz, discontinued this office and parcelled out the responsibilities.

I believe this concept of establishing Office of Inspector General, should be applied to all agencies and departments. Establishment of such offices would not necessarily add personnel or increase Federal expenses because the man-years involved would be offset by reductions in the allocation for auditors and in-house personnel. The main difference would be that these inspectors would be independent and would report directly to the head of the agency or department.

As chairman of the Small Business Committee, I am particularly concerned about the Small Business Administration.

There is only one unit in SBA which conducts audits or investigations: The Office of Audits and Investigations. This Office has four divisions: External Audits, Internal Audits, Examinations and Compliance, and the Security and Investigations Division. SBA does not rely on outside organizations to prevent and detect fraud and program abuse.

In recent years the SBA assistance has emphasized the use of private funds backed by SBA guarantees. For example, the House recently passed a bill providing appropriations for SBA guaranteed loans of some $3 billion and guarantees of surety bonds of some $2 billion.

Although I believe that most of SBA's employees are competent and honest, all financial and contract assistance programs present some problems in detecting fraud and abuse; for example, submission of false information, disposal of collateral without the SBA's consent, and conspiracy between lender and borrower to use loan proceeds for an unauthorized purpose.

Previous congressional oversight investigations on SBA have indicated the necessity of an independent, internal watchdog, able to report to agency heads and the Congress on any irregularities. Since then, SBA programs have been increased significantly and thus the need for an inspector general is even greater today.

I believe an office would benefit the operation of SBA, the Congress and the House Small Business Committee in their oversight functions and I urge passage of this bill.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE RESOLUTION 843, PROVIDING FOR EXPENSES OF INVESTIGATIONS AND STUDIES TO BE CONDUCTED BY SELECT COMMITTEE ON POPULATION

Mr. DENT, from the Committee on House Administration, submitted a privileged report (Rept. 95–785) on the resolution (H. Res. 843) to provide for the expenses of investigations and studies to be conducted by the Select Committee on Population, which was referred to the House Calendar and ordered to be printed.

PERMISSION FOR SUBCOMMITTEE ON ADMINISTRATIVE LAW AND GOVERNMENTAL RELATIONS OF COMMITTEE ON THE JUDICIARY TO MEET TOMORROW DURING THE 5-MINUTE RULE

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that on tomorrow the Subcommittee on Administrative Law and Governmental Relations of the Committee on the Judiciary may be permitted to meet to take testimony, regardless of whether the House is meeting under the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 9375, SUPPLEMENTAL APPROPRIATIONS, 1978

Mr. MAHON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 9375) making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas? The Chair hears none, and, without objection, appoints the following conferees: Messrs. MAHON, WHITTEN, BOLAND, FLOOD, STEED, SLACK, MCFALL, LONG of Maryland, YATES, BEVILL, CEDERBERG, MICHEL, EDWARDS of Alabama, and COUGHLIN.

THIRTY-FIRST ANNUAL REPORT ON PRINCIPAL ACTIVITIES OF THE UNITED STATES IN THE UNITED NATIONS AND ITS CONSTITUENT ORGANIZATIONS DURING 1976—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations:

To the Congress of the United States:

I am pleased to send to the Congress this 31st annual report on the principal activities of the United States in the United Nations and its constituent organizations during calendar year 1976.

This report describes the main UN activities concerning issues affecting the security and well-being of the American people, such as the Middle East, Southern Africa, Cyprus, law of the sea, North-South economic relations, food, the environment, drug control, science and technology, human rights, terrorism, and disarmament. It emphasizes the work of US representatives in these forums and the positions they adopted, and it explains our government's stand on the issues. In sum, the report portrays an active year during which our country worked hard with others in the UN to advance the causes of peace, economic progress, and justice.

In the area of peace and security, the United Nations continued to serve as a valuable forum for the discussion of political disputes even where progress on the underlying issues was not always possible. In the Middle East and Cyprus, UN peacekeeping units performed their vital tasks while the search for a durable peace continued. The Security Council also worked to defuse other problems in such areas as Southern Africa, Djibouti, and the Comoros. In all, the Security Council met 113 times in 1976—more often than in any year since 1948, and twice as often as in 1975.

The 31st General Assembly adopted a number of resolutions in the area of disarmament and arms control. The two most significant of these were a resolution opening the Environmental Modification Convention for signature and one calling for a special session of the General Assembly in 1978 devoted to disarmament issues.

On the recommendation of the Security Council, and with U.S. support, Secretary General Kurt Waldheim was reappointed by the 31st General Assembly to a second five-year term.

In the area of economic cooperation, the developing and developed countries continued efforts begun at the Seventh Special Session of the General Assembly to find common ground on a wide variety of issues. The UN Conference on Trade and Development (UNCTAD) held its fourth ministerial session in Nairobi and reached partial consensus on the critical issues of commodities, technology transfer, debt, and assistance to the poorest countries. The General Assembly also devoted considerable attention to economic questions. The United States cosponsored a resolution in the General Assembly calling for a UN Conference on Science and Technology for Development, to be held in 1919.

The UN's record with respect to human rights was disappointing. The unwarranted linking of Zionism with racism

was an impediment to serious consideration of human rights matters and the US continued to resist it by all possible means. In a number of cases, failure to take effective action belied the commitment to human rights that all UN members have accepted. International concern over human rights issues continues to broaden, however, and the acceptance of an international competence to consider these issues has become more firmly established.

During 1976, the United States participated in the International Labor Organization under the first year of its two-year notice of intent to withdraw from the organization. A favorable development was the increased cohesion of the industrialized free market countries at the June 1976 conference, but I have yet to decide whether sufficient progress has been made to justify continued US membership.

These were some of the most dramatic developments in the United Nations during the last year but there are a great many other UN activities discussed in this report. Much of this work—the "quiet side" of the United Nations—is not well known to the public because it is non-controversial and seldom reported in the news media. But these economic, social, and technical activities, which account for the use of nearly 90 percent of the total resources of the UN system, are of great importance to our prosperity, security, and well-being. They include such activities as:

—Establishing safety standards for international civil aviation;
—Maintaining a World Weather Watch;
—Improving health conditions and standards worldwide;
—Combatting ocean and air pollution;
—Improving international food standards and preventing the spread of plant and animal disease;
—Providing assistance to the less-developed countries; and
—Working to curb illicit drug production and abuse.

Since assuming the Presidency, I have pledged my Administration to full support for the work of the United Nations and to greater use of its machinery in the conduct of our foreign relations. The wide-ranging activities described above show clearly the importance of the work done by the UN and its associated agencies. It is work that cannot be accomplished by nations acting alone or even through bilateral diplomacy. It is only through multi-lateral forums such as the UN that many of the world's most pressing issues can be effectively approached.

I am proud of America's role in creating the United Nations, in advancing global cooperation through its various agencies, and in providing, over the years, the largest share of its financial support. As the UN begins its 33rd year, I welcome the opportunity to submit this report to the Congress and to reaffirm my Administration's commitment to this increasingly vital institution.

JIMMY CARTER.

THE WHITE HOUSE, *November 1, 1977.*

AMENDMENTS TO REORGANIZATION PLAN NO. 2 OF 1977—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95–251)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Government Operations and ordered to be printed:

To the Congress of the United States:

I herewith transmit amendments to Reorganization Plan No. 2 of 1977, which I transmitted to you on October 11, 1977. Except as specifically amended hereby, Reorganization Plan No. 2 remains unmodified.

JIMMY CARTER.

THE WHITE HOUSE, *November 1, 1977.*

PERMISSION FOR COMMITTEE ON MERCHANT MARINE AND FISHERIES TO FILE REPORT

Mr. WEISS. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries may have until midnight tonight to file a report.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

LEGISLATION TO INCREASE TAX CREDIT FOR THE ELDERLY

(Mr. THORNTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THORNTON. Mr. Speaker, today I have introduced legislation which would increase the tax credit for the elderly, lower the age requirement and increase the amount of exclusion of gain on the sale of a residence, and make an allowance of personal exemption for certain parents residing with relatives. More than 1 out of every 10 Americans are senior citizens, and their numbers are growing at a far greater rate than our population as a whole. This legislation would afford tax relief for that segment of our population hardest hit by inflation, the elderly, who must spend proportionately more of their income on food, shelter, medical care, and other basic needs than their younger counterparts.

Under current law, an individual 65 years of age and over is allowed to deduct 15 percent of a maximum base figure from his taxes owed for a given tax year, with the income phaseout level beginning at $7,500 for a single person and $10,000 for a married couple. I have proposed that an individual be permitted to deduct 17 percent in 1978, 18 percent in 1979, 19 percent in 1980, and 20 percent thereafter from taxes owed for a given tax year, with the income phaseout level beginning at $10,000 for a single person and $12,000 for a married couple. In today's economy, an income of $10,000 to $12,000 is certainly not excessive for an elderly person or couple. I believe the income phaseout level should be increased to encourage, not discourage, savings and thritfy money management throughout one's lifetime.

This bill would also lower the age requirement for exclusion of capital gain on the sale of a residence from 65 to 60. This would better enable an older person to prepare for retirement by making it possible for an older home owner to sell his home and move to a smaller home or apartment before he actually retires without being penalized by a large capital gains tax. For similar reasons, we should increase the amount of exclusion on gain of a residence from $35,000 to $50,000 in order to compensate for rising housing costs.

The final provision in this legislation would allow an individual who provides one-half of the support of a father, mother, stepfather, or stepmother to take the $750 personal deduction for income tax purposes, without regard to income of the father, mother, stepfather, or stepmother. This would promote family unity and serve as an enticement and reward for children to be certain their parents are comfortably provided for in their old age.

Mr. Speaker, the President has stated that he will be proposing a tax reform package early next year to stimulate the economy and to provide for a fair distribution of tax burdens. He has also indicated that his proposals will recognize the impact of new and higher costs of social security. I believe we should recognize and make allowances for the catastrophic effects of inflation and higher costs of medical and health care for our senior citizens and I am introducing this legislation today in order to assure that these suggestions are considered as we discuss tax reform during the next session of Congress.

ANTIHIJACKING ACT OF 1974 MUST BE ENFORCED OR STRENGTHENED TO PROTECT AMERICANS TRAVELING ABROAD

(Mr. JOHN L. BURTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. JOHN L. BURTON. Mr. Speaker, there are times when dangerous events take place so frequently but so far away that we become accustomed to them and their tragic consequences. I fear that this may now be the case with skyjackings.

A very short time ago in picking up our newspapers and turning on our television news, we were barraged with constant reports of these acts of terror in far-off places involving foreign airlines. This combination of repetition and distance tended to deaden our sensibilities to the terrible possibilities for the human beings involved. What is more, the involvement of foreign airlines and alien terrorists in distant settings made it easy to overlook the large numbers of our fellow Americans engaged in travel on non-American-flag carriers, who are just as vulnerable as citizens of other lands. It is to Senator RIBICOFF's credit that he has

forcibly raised this issue. Moreover, it would appear that existing law allows us to act.

The need for such action came home to me when my close friends, Walter Karabian and John Gabriel and their wives, all of Los Angeles, were among those held hostage by the so-called Japanese Red Army in its skyjacking of a Japanese airline jet on its Paris-to-Tokyo flight. For several awful days their lives and those of their fellow passengers hung in the balance while these terrorists awaited the results of their demands. Fortunately, the hostages were spared. But the terrorists have been both joined by freed confederates and fortified by millions of ransom dollars. They can and will strike again. What is more, they have clearly served as an inspiration to others of their demented class.

Mr. Speaker, we must act to prevent these crimes with all their appalling potential. We have a statute on the books. It is Public Law 93-366. It is known as the Antihijacking Act of 1974. It empowers the Secretary of Transportation to take steps to assure that certain nations meet security standards established pursuant to the Convention on International Civil Aviation. The nations in question are those with whom we have either a bilateral air transport agreement or whose airline or airlines have a U.S.-issued foreign air carrier permit or permits. The steps which the Secretary of Transportation may take, with the agreement of the Secretary of State, involve withholding, revoking or imposing conditions on the operating authority of the airline or airlines of nations covered under the statute.

I have written to the Secretary of Transportation about this matter. The Subcommittee on Government Activities and Transportation of House Government Operations will attempt to determine how vigorously the Secretary's powers to protect traveling Americans have been used, and whether the statute is sufficient for the task or in need of strengthening.

Mr. Speaker, I hereby submit a copy of this letter to Secretary Adams for the RECORD:

HOUSE OF REPRESENTATIVES, GOVERNMENT ACTIVITIES AND TRANSPORTATION SUBCOMMITTEE OF THE COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, D.C., October 28, 1977.

Hon. BROCK ADAMS,
Secretary, Department of Transportation, Washington, D.C.

DEAR MR. SECRETARY: The most recent skyjackings have once again raised questions about the adequacy of foreign airport security procedures to protect U.S. citizens traveling abroad. The concern of Senator Ribicoff articulated at his recent press conference is typical, I am sure, of that which we all feel.

In both the fourth and fifth semi-annual reports submitted by your department to the Congress pursuant to P.L. 93-366—reports transmitted on September 20, 1976 and April 5, 1977—considerable apprehension about this problem is expressed. Indeed, words on page 5 of the first of the reports submitted under your tenure underscore this threat:

"The current threat may then best be summed up in the words of a Resolution on Aviation Security, adopted by the International Air Transport Association at its 32nd Annual General Meeting in Singapore in November 1976, which says 'the recent upsurge in incidents of unlawful interference indicates that considerable efforts have still to be made by governments and industry to improve security at airports. Civil aviation remains a particularly vulnerable target for those engaged in the taking of hostages and other acts endangering the lives and security of innocent members of the traveling public, airline pilots and staff and other transport workers and the equipment and/or other property utilized by them.'

The greatest danger remains in Europe, the Middle East and South America where terrorist groups have strengthened their coordination and contacts with other revolutionary groups."

The Subcommittee on Government Activities and Transportation of House Government Operations Committee is currently considering hearings on this subject which would focus on the authority given the Secretary of Transportation under the Anti-Hijacking Act of 1974. This authority is found in 49 U.S.C. 1515 as follows:

"Security standards in foreign air transportation; notice to foreign nation by Secretary of State of standards requirements; determination by Secretary of Transportation and notice to foreign nations of compliance with minimum standards and necessary remedial measures; effect of failure to take remedial measures.

(a) Not later than 30 days after August 5, 1974, the Secretary of State shall notify each nation with which the United States has a bilateral air transport agreement or, in the absence of such agreement, each nation whose airline or airlines hold a foreign air carrier permit or permits issued pursuant to section 1372 of this title, of the provisions of subsection (b) of this section.

(b) In any case where the Secretary of Transportation, after consultation with the competent aeronautical authorities of a foreign nation with which the United States has a bilateral air transport agreement and in accordance with the provisions of that agreement or, in the absence of such agreement, of a nation whose airline or airlines hold a foreign air carrier permit or permits issued pursuant to section 1372 of this title, finds that such nation does not effectively maintain and administer security measures relating to transportation of persons or property or mail in foreign air transportation that are equal to or above the minimum standards which are established pursuant to the Convention on International Civil Aviation, he shall notify that nation of such finding and the steps considered necessary to bring the security measures of that nation to standards at least equal to the minimum standards of such convention. In the event of failure of that nation to take such steps, the Secretary of Transportation, with the approval of the Secretary of State, may withhold, revoke, or impose conditions on the operating authority of the airline or airlines of that nation."

It would seem that this language empowers you, with the concurrence of the Secretary of State, to take strong steps to protect the lives of Americans engaged in foreign travel. To assure the Subcommittee of both the adequacy of the statute and the commitment of this and previous Administrations to its vigorous enforcement, we would appreciate answers to the following questions:

1. Did the Secretary of State notify the relevant countries by September 5, 1974 as was required by 49 U.S.C. 1515(a)?

2. Has the list of nations which were to have been notified by the Secretary of State changed since the initial notification?

3. If so, has subsequent notification been given to those newly covered?

4. Assuming that proper notification was given and has been kept current, which nations presently are on the notification list and which are not?

5. Under 49 U.S.C. 1515(b), how many consultations have been held by the Secretary of Transportation and with which nations?

6. If such consultation took place, what were the results, if any?

7. Are there any instances in which a Secretary of Transportation recommended either withholding, revoking, or imposing conditions on the operating authority of an airline or airlines of a "covered" nation?

8. If so, what were the results of these recommendations, if any?

9. What were the "minimum standards" of the Convention on International Civil Aviation referred to in 49 U.S.C. 1515(b) and are they sufficient to accomplish the goal of the statute?

10. Does the statute limit your authority to inspecting only those security measures for foreign origin flights to the U.S., or does it include all foreign air travel operations of "covered" nations? To use an example, is your authority in the case of Lufthansa limited to flights from Germany to the U.S.A. only, or flights from Germany to other countries as well?

11. What recommendations, if any, do you have for strengthening the statute?

Your prompt reply to these questions would be most appreciated.

Sincerely,

JOHN L. BURTON,
Chairman.

THE NEED FOR DEVELOPMENT OF RURAL AMERICA

(Mr. BEVILL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BEVILL. Mr. Speaker, the University of Alabama, in 1976, initiated an international publication dealing solely with rural health problems. This innovative undertaking, entitled, "Rural Health Communications," is published periodically by the Clearinghouse for Rural Health Services Research, which is headquartered on the university campus in Tuscaloosa, Ala. "Rural Health Communications" is distributed throughout the United States as part of a continuing effort to improve health services in the rural areas of the Nation. The publication is meeting with much success as a forum for the discussion of rural health matters.

Dr. Stephen Nye Barton directs this effort, and he and his staff are to be commended for the service they are providing.

Because the congressional district I represent is primarily rural, I was asked to submit an article for the July edition concerning rural development. If there are no objections, I would like to have my remarks included in the RECORD as well as another article prepared by Dr. Gwenyth R. Vaughn. Dr. Vaughn's article deals with Tel-Communicology, a program administered by the Veterans' Administration, which deals with hearing, speech, and language problems in rural areas:

THE NEED FOR DEVELOPMENT OF RURAL AMERICA

(By Congressman Tom Bevill)

The most effective way to increase the ability of rural people to purchase health services is through the improvement of economic conditions.

Consequently, any program aimed at improving the health facilities of rural citizens must be directly tied to efforts already underway which advocate maximum economic development of rural America.

Probably the two major problems confronting rural people in terms of health needs are the shortages of health manpower and the inability of many people to purchase adequate health care.

While health services for rural citizens have improved markedly during recent decades, they have by no means kept pace with advancements made in other, primarily urban, areas of the country.

To improve health services for rural people in the years ahead, it will be necessary to expand the supply of health workers, to improve the organization and administration of health systems, and to improve the ability of people to purchase health services.

A report researched by the Library of Congress advanced a fourfold rationale for increasing health services in rural areas.

First, improved health services are an essential community service and also essential to economic development.

Secondly, improving health services creates jobs and generates income for rural communities.

Thirdly, adequate health services assure rural people of the same access to these services as other people in the country enjoy.

And finally, there is the obvious rationale that adequate health services will lessen the harmful impact of illness, and in many instances, prevent it.

It seems the most acute need in rural health services is the need for doctors. A Gallup opinion survey revealed that rural citizens view the shortage of physicians as the single most important health problem facing rural communities today.

In that area, legislation commonly referred to as the rural health clinic bill has been introduced in both the U.S. Senate and the House of Representatives.

If approved, this proposal would permit Medicare reimbursement for small-town health clinics that use nurse practitioners or physician assistants.

Currently, Medicare requires continual on-site presence of physicians at these remote clinics even though the areas in which they are located are characterized by doctor shortages.

The thinking behind this legislation is aimed at helping millions of rural Americans who are presently being deprived of Medicare benefits to which they are entitled.

Unless some changes are made to the present system, several health clinics across the country may be forced to close due to the lack of Medicare reimbursement to cover the costs of providing health services to senior citizens.

If this issue is not properly addressed by Congress and the Executive Branch, the result would likely be that rural citizens will not only find themselves with a continuing shortage of doctors, but with a shortage of all health workers as well.

As was initially pointed out, improvement of rural health services is directly tied to the total economic development of the thousands of miles of sparsely populated land in this country.

The federal government, both at the executive and legislative levels, has and must continue to aid in this economic development.

As a Representative of a rural Congressional District, I am aware of the economic problems which confront residents of these areas daily.

I also monitor closely the manner in which our federal government is attempting to help rural residents cope with some of these problems.

The Appalachian Regional Commission (ARC) offers a good example of the assistance to which I refer.

During the past 12 years, probably no federal program has benefited the southern and eastern poverty regions more than the Appalachian Regional Commission.

The Commission came about as a result of the Appalachian Regional Development Act of 1965, which Congress adopted as part of an effort to revitalize the stagnant economy of Appalachia.

When the program was initiated, the Appalachian region was characterized as one of the poorest areas in the country. Today, thanks largely to the efforts of organizations like ARC, the region is on the move economically.

Stretching from southern New York to northern Mississippi, the Appalachian region encompasses the area surrounding the Appalachian Mountains, the oldest mountain chain in the United States. In all, ARC serves parts of 13 states.

During the years since the commission was conceived, one of the most striking changes in the region has been the reversal of its population trends.

For many decades prior to the 1960s, the region had consistently lost people to other areas of the country. Significant in this loss of population was the outmigration of young peple because of the area's lack of job opportunities.

In the early sixties, the Appalachian region was losing about 122,000 residents every year. In the late sixties, the figure had dropped to 90,000. Then at the beginning of this decade, the trend reversed itself and the number of people moving into the region began to outnumber those leaving.

Over the last five years, there has been an immigration of 60,000 persons annually to the region. Between 1965 and 1973, the region gained more than one million jobs in major industrial employment. The region's growth rate is now comparable to national figures and the Appalachian economy continues to show signs of expansion.

Another indication of the growth can be seen in the area's per capita income figures.

During the past 10 years, the region's personal income has risen by 89 percent, while the national figure was rising by only 81 percent. Countless other statistics point to a stimulated economy in the region and much of the credit for this must be attributed to the effort of the Appalachian Regional Commission.

Continued economic stimulation of this nature in rural areas will have an impact on all phases of the rural lifestyle as we have traditionally known it.

And if we continue to meet with success in these efforts to improve the entire spectrum of rural life, we can certainly expect to see the health services improve vastly in rural America.

That is certainly one of my foremost goals in the United States Congress. It is likewise a goal that must be attained if we are to carry on and improve a lifestyle that is uniquely American.

TEL-COMMUNICOLOGY: OUTREACH SERVICES FOR RURAL AMERICANS WITH COMMUNICATIVE DISORDERS

(By Gwenyth R. Vaughn, Ph.D.)

(Gwenyth R. Vaughn, Ph. D., Chief Audiology-Speech Pathology Service, Veterans Administration Hospital, Birmingham, Alabama; Director, Tel-Communicology Project; and Professor, Schools of Medicine and Dentistry, University of Alabama in Birmingham.)

More than twenty million Americans have hearing and speech disorders.[1] Many of the communicative disorders are related to critical shortages in rural health care delivery programs. In 1976, President Ford stated that 1,400 counties and regions, mostly in rural areas, suffered from a lack of health services.[2] At the same time, Presidential Candidate Carter pointed out that almost a third of the American population lived in rural areas and was served by less than 20% of the professional health personnel.[3] Rural residents with hearing and speech disorders are still underserved or unserved because they live in areas remote from audiology and speech pathology centers.

ACCESSIBILITY

Travel barriers limit accessibility to services and are inherent in traditional institution-centered health care programs. They are reflected in the expenditures of time, effort, and money by persons with communicative disorders or by members of their families who have to accompany them, thus losing a day at work.

Travel barriers affect the very young, the old, and the ailing. Restrictive physical conditions and severe weather often make long trips exhausting and inadvisable.

Inpatient care is generally not provided for persons with communicative disorders, unless the disorder is related to a medical or surgical problem.

AVAILABILITY

Not only are services inaccessible to rural populations, they are also unavailable. Although the number of professionals has increased, many facilities do not have funds to employ them. If the vast numbers of persons with speech, language, and hearing disorders were referred to the speech pathologists and audiologists presently employed by rehabilitation centers, hospitals, or public schools, the facilities would be overwhelmed. New approaches to the problem of health care delivery for persons with communicative disorders need to be considered, if quality care for rural populations is to become a reality.

TEL-COMMUNICOLOGY: INNOVATIVE OUTREACH SERVICES

The lack of availability and accessibility of health services for rural populations is a critical issue and must be addressed not only by private facilities but also by public agencies.

The Veterans Administration, as the largest health care system in the Western World, focuses upon developing ways to provide improved, expanded, and extended health care. The veteran population, including survivors and dependents, numbers 99.6 million. Great numbers of veterans reside in rural areas remote from treatment facilities with audiology and speech pathology centers. Veterans are an aging population; older persons tend to have increased hearing, speech, and language problems.

TEL-COMMUNICOLOGY

Tel-Communicology is an innovative health care delivery system that utilizes the telephone to provide supportive audiology and speech pathology services to veterans with hearing, speech, and language disorders. The intent of the Tel-Communicology programs is to enhance, not replace, traditional health care delivery systems.

Special procedures, materials, and adaptive devices are being developed that make it possible to treat many types of communicative disorders. The system is patient-centered rather than institution-centered.

Pilot studies show that veterans receiving the outreach programs of Tel-Communicology improve in their communicative skills in nearly every instance. Formal evaluation of Tel-Communicology as an effective health care delivery system is in progress.

HUMAN COMMUNICATION AND ITS DISORDERS

Communication enables and enhances most human activities. Functional communication contributes greatly to the achievement of educational potential, optimal job placement, and effective personal/social adjustment. Communicative disorders appear as isolated problems or in conjunction with

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Footnotes not included.

other disabilities; they result from disease, injury, aging, or psychosocial problems. Some communicative disorders signal the need for medical, surgical, psychological, or educational intervention. A voice disorder, for example, may indicate the presence of laryngeal cancer.

HEARING IMPAIRMENTS

Hearing loss is sometimes referred to as the great masquerader. Loss of hearing in the young may be confused with mental retardation, asphasia, or psychogenic problems. Reports on the high incidence of middle ear disease and accompanying hearing disorders among children on Indian reservations and in Alaska point up the need for increased rural health care.[4,5]

Some rural youth develop hearing defects as the result of noisy farm machinery. Others may have losses caused by music played at excessive levels, by working around jet airplanes, or from exposure to gun fire.

Associates of adults who were formerly normally hearing but who have had a gradual reduction in auditory functions may think the latter have lost their business acuity and social skills, or that they have become deliberately inattentive. In old age, severely hard of hearing adults are sometimes thought by others to be stubborn, "ornery," or suffering from psychiatric problems.

SPEECH IMPAIRMENTS

Speech impairments are many. They include articulation defects, stuttering and other rhythm disorders, and voice disorders. Cleft palate, cerebral palsied, and mentally retarded individuals often have communicative disorders that are composed of mixed articulation, voice, language, and hearing problems.

Alaryngeal speech problems. There are 5,000 new alaryngeal persons in the United States each year.[6] Approximately 40,000 alaryngeal persons live in the United States.[7] The impact of inadequate services for laryngectomes is often reflected in their inability to communicate with their families and friends and to achieve their vocational potential. Local speech pathology services for alaryngeal persons living in rural areas are nearly nonexistent.

LANGUAGE IMPAIRMENTS

Aphasia and other similar conditions are often associated with strokes, head injuries, and prenatal and perinatal oxygen lack. Persons suffering from these types of disorders may understand what is said to them but may not be able to express themselves satisfactorily They may have impaired ability to read, write, or use numbers. The high level of frustration of these persons and those around them usually increases even more, if the afflicted persons are also unable to understand what is being said to them.

Aphasia programs. One of the communicative disorders in which long-term care is crucial is aphasia. In 1965, the Joint Council Subcommittee on Cerebrovascular Disease of NINDS and the National Heart Institute indicated that the Nation's population included at least 2,000,000 individuals who had survived strokes. No reliable data were available concerning how many of these individuals were aphasic, but it appeared that 20 per cent of the stroke population had aphasic sequelae. If these numbers were added to the total for persons whose language disorders were due to tumor or to traumatic accidents, an estimate of 600,000 aphasic American adults would not be unrealistic. When this number is combined with the 1,500,000 children estimated to have a neurological involvement, the total of central communicative disorders would be well over 2,100,000.

SPECIFIC TELEPHONIC SYSTEMS

Tel–C. Tel–C is being used very effectively with veterans who have various types of speech, language, and hearing disorders. For sessions with the majority of veterans, only a telephone line and regular desk sets are needed. The system is installed and maintained by the local telephone company.

Tel-Aud. Tel-Aud is a procedure utilized in Tel-Communicology that allows the audiologist to call persons who have been fitted with hearing aids in order to check on how they are doing, to find out if the aids are functioning satisfactorily, and to identify specific problems they may be encountering. Thirty-eight veterans out of 179 who were called in a recent survey at the Birmingham VA Hospital were found to be having some difficulty with their aids and were recalled for further counseling and hearing aid check-ups.

In view of the cost involved in buying and fitting hearing aids, it is critical that proper, professional skills be available to the user in order to assure optimal results. Tel-Aud offers that kind of delivery system for the user, regardless of distance from the treatment facility; it also provides opportunities to counsel family members concerning some of the problems encountered by hearing impaired persons.

STARR. A system for testing audiological responses remotely (STARR) has also been developed by the Tel-Communicology Project. The Touch Tone® pad is used to control a specially designed audiometer that is placed next to the person being evaluated. This portable audiometer can be located in rural nursing homes or places central to children and adults needing services. The test can be administered by professionals from their offices in remote facilities. If the persons being tested need further evaluation, they are called into the facilities for traditional evaluation procedures.

Tel-Plus. In order to treat children and adults with aphasia and other language problems, a device known at Tel-plus (telephonic programmed learning utilization system) was developed at the Birmingham Veterans Administration Hospital. Tel-plus turns the telephone into a teaching machine. When the person at one end pushes a button on his Touch Tone telephone, a light appears in the clinician's console. This indicates the person's answer to a question that was posed by the clinician.

FUTURE APPLICATIONS

Telephonic outreach delivery systems should be implemented in rural educational programs.

Preschool programs. Children who are born with complex communicative disorders need early access to differential diagnosis as well as to continuity of treatment. Screening programs are essential if children with hearing deficits are to be identified. Programs of amplification, language intervention, and speech development must be initiated early in the children's lives. Language needs of hearing impaired, retarded, cr aphasic children must be monitored. Parents of atypical children need guidance if they are to provide optimal language environments. Through Tel-Communicology, many of the counseling services for parents and monitoring of young children in rural areas can be achieved on an outreach basis.

School programs. Special skills are needed to meet the needs of school-age children with communicative disorders. In the past, most deaf, blind, and mentally retarded children were sent to state schools. Some parents moved to urban centers where day school for atypical children were located.

The recent trend toward mainstreaming of atypical children has created a demand for services that are seldom available in rural areas. Few school systems are in a position to offer the variety of atypical programs needed by special students.

The possibility of providing telephone education services should be considered, particularly in rural areas where trained personnel is usually not available nor can be funded adequately. Tel-Communicology is an innovative approach to meeting the standards set forth in the new legislation aimed at providing comprehensive services to all handicapped children.

Adult programs. Middle aged and older adults often have communicative disorders that require frequent and intense clinician/client relationships, long-term treatment or maintenance, and periodic check-ups.

The cost of delivering traditional health care is beyond the reach of most clients, their insurance companies, and their government agencies. Tel-Communicology offers outreach programs that can supplement and enhance ambulatory care, hospital based home care, and independent living programs.

SUMMARY

Rights to services

Atypical rural populations of children and adults have rights to services. If these rights are to be respected, innovative health care delivery systems, such as Tel-Communicology, must be designed and evaluated. The traditional institution-centered services must become person-centered; specialists must be made available and accessible to children and adults who need special educational programs and treatment for communicative disorders.

The Tel-Communicology Project of the Audiology-Speech Pathology Service at the Birmingham VA Hospital was funded by the Veterans Administration Exchange of Medical Information Program. Four years of experience demonstrated the effectiveness of telephonic systems for supportive treatment and interim evaluation of veterans with hearing, speech, and language disorders. Accessibility and availability of quality services characterized this innovative health care delivery system. Utilization of telephonic systems reduced expenditures of time, effort, and money, and eliminated travel barriers.

Future applications of Tel-Communicology will include the delivery of services to rural areas, so that children and adults with hearing, speech, language, and educational problems will have quality programs and their rights to services will become a reality.

TRIBUTE TO THE HONORABLE HUBERT HUMPHREY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. MITCHELL) is recognized for 60 minutes.

Mr. MITCHELL of Maryland. Mr. Speaker, the Congressional Black Caucus is honored to take this special order to pay tribute to a national leader whose work, commitment, and dedication have bettered the lives of million of millions of Americans over the past 30 or more years. We join our colleagues in paying tribute to Senator HUBERT H. HUMPHREY.

I came to know this great human being long before I ever met him. I knew him through my brother and his wife, Clarence and Juanita Mitchell, who are his friends and, of course, are a part of the hundreds of thousands of people who love HUBERT HUMPHREY. So many, many times when the great issues of civil rights and human rights were dominating the Nation, I have heard Clarence and Juanita say, "Oh! but you know we can always count on Senator HUMPHREY." After careful reflection, I am sure that

the basis of the great admiration this Nation has for him is that HUBERT HUMPHREY can always be counted on.

The Congressional Black Caucus applauds Senator HUMPHREY for his strong and unwavering commitment to civil rights for all Americans, and for his work for full employment. Of course, Senator HUMPHREY's contributions to the Nation go far beyond these areas and have touched the lives of virtually everyone in the Nation.

As a black man, I think I feel more of the impact of his career than would some of my colleagues. The recall of his unswerving commitment to human rights comes through as made up of a series of slides. I cannot remember the time sequence but how well do I remember what he said and how he said it. Remember with me, "The time has come for America to walk forthrightly in the bright sunshine of human rights." Remember with me when he told an assemblage of black clergy, "This country is too great and too good for anyone to be without work, for any person to be hungry, for any child not to receive a full education." His voice was and is always the clarion call of conscience in the Democratic Party, in the U.S. Senate and, indeed, in the Nation and the world.

The words and phrases that have become hackneyed for far too many Americans have never lost their real meaning for Senator HUMPHREY. He believes, and it is abundantly clear that he does really believe, that Government should be of the people, by the people, and for the people. His career is a living monument to his belief, his real spiritual, not political, but spiritual belief that "all men are created equal and are endowed by their creator with the right—with the right to life, liberty, and the pursuit of happiness."

It is sophisticated for far too many people today to disbelieve in verities. To disbelieve in the ultimate good of truth; to disbelieve in the ultimate triumph of right; and to disbelieve in the ultimate triumph of man over those adversities, those discords, those conditions and those events which tend to blur the goodness of man while highlighting, at least temporarily, the present faults of mankind. HUBERT HORATIO HUMPHREY does not now, nor has he ever held to such disbeliefs. His was always the positive approach.

There is a popular song which contains some lines which well could be used to describe the Senator. He could say of himself, "I write the songs that make the whole world sing, I write the songs of love and special things, I write the songs, I write the songs."

HUBERT HUMPHREY has written and continues to write the song of a good and decent America, one freed of militarism and factionalism, one freed of hunger and poverty, one freed of discrimination and prejudice, an America free of all those things which shackle its potential for greatness.

Mr HAWKINS. Mr. Speaker, in the 15 years I have been a Member of the House, my activities have brought me into contact with many outstanding public servants and hard-working individuals who have devoted their lifetimes to the betterment of our society. I am, however, constantly amazed at the selfless devotion, political expertise, everlasting optimism, and unabashed enthusiasm of one man in particular, Senator HUBERT H. HUMPHREY.

Senator HUMPHREY's voice and strong determination have been at the heart of every major piece of social legislation since his first term in the Senate in 1949. The Senator has been an unequivocal supporter of the civil rights of every American citizen, and to his great credit, was the moving force behind the final Senate passage of the far-reaching Civil Rights Act of 1964, the bulwark legislation prohibiting discrimination on the basis of race, color, religion, sex, or national origin. In addition, the Senator provided key leadership roles during the enactment of the 1960's poverty programs, medicare and medicaid legislation, and youth employment initiatives, such as the highly successful Job Corps program.

Upon his return to the Senate in 1971, Senator HUMPHREY continued working tirelessly to formulate Government policies which would aid those people in our society who most needed assistance. Just recently, the Senator aided in the passage of the Youth Employment and Demonstration Projects Act of 1977, legislation which will greatly expand employment and training opportunities for the unemployed young people in our country who are finding it increasingly more and more difficult to enter and stay in the labor market.

Of extreme importance to me personally, is the fact that I have had the great opportunity of working very closely with the Senator on S. 50/H.R. 50, the Full Employment and Balanced Growth Act of 1977, a measure coauthored by Mr. HUMPHREY and myself.

Through the recent years of our nurturing and formulating this most significant piece of legislation, I have come to know Mr. HUMPHREY as a truly dedicated person, in the most pure sense. Through unfailing efforts to establish full employment as the centerpiece of our national economic policy, the Senator's personal qualities have provided inspiration to millions of Americans, myself included.

Today, I would like to pay tribute to my friend HUBERT HUMPHREY by welcoming him back to Washington with open arms, and expressing to him, on behalf of myself and the millions of grateful Americans, our heartfelt "thanks!" to the man with the beautiful heart and eternal smile.

Mr. RANGEL. Mr. Speaker, today we are here to honor a great American, Senator HUBERT H. HUMPHREY.

Usually when one is paying tribute to a fine American, a long list of accomplishments always accompanies that tribute. Instead of just listing Senator HUMPHREY's accomplishments, I think it is also important to look into the past and try to establish why certain men become so great.

In Mr. HUMPHREY's life, he has held a wide variety of jobs and occupations. Many go through life with but one or two different perspectives. I think maybe the Senator's public career has been enriched and enlightened by the many experiences he benefited from as a result of working in other jobs. As a workingman, teacher, mayor, Senator, and Vice President, HUBERT HUMPHREY has seen firsthand through these many experiences, the problems that confront everyday Americans. The urban plight, race relations, poverty, and unemployment have all been concerns deeply imbedded in this man's heart. Throughout his career as one of America's leaders, he has never stopped fighting on behalf of people who are faced with these injustices.

When the civil rights issue was unheard of in the fourties and fifties, HUBERT HUMPHREY was taking action which clearly illustrated his strong moral character and his desire to make the equality concepts found in our Constitution a reality for all and not just a few. The Congressional Black Caucus is especially grateful for his untiring efforts in that area: The black man today has gained a greater degree of respect and, looking back, the Senator's tireless efforts had much to do with the legislative success of the movement.

To have a strong America, the morale of our people must be high. Realizing this, Senator HUMPHREY's full-employment goal is one that many are in favor of, but few have acted upon. None has pushed further in this arena more than the man we are honoring today. What finer tribute would there be for this statesman than for his colleagues to pass the Humphrey-Hawkins employment bill.

The end result of this type of genuine concern can only be good. I think we all know that our colleague's dedication to aid the average American's pursuit to a more productive life is shown by his presence here in Washington.

I think Mr. HUMPHREY's insight and concern for Americans in his private life, has been definitely reflected in those programs and pieces of legislation he has chosen to support in his public life.

Speaking for myself, I want to thank Senator HUBERT HUMPHREY for being a public servant who is not afraid to champion the causes of the powerless. If one judges a great man by the number of lives he has touched in a positive way, then HUBERT HUMPHREY most certainly is at the top of the list.

Mr. CLAY. Mr. Speaker, it is a privilege indeed, to have this opportunity to add these words of praise to the countless others in honor of a great American and an even greater man.

This country is most fortunate to have the services of Senator HUBERT H. HUMPHREY. For nearly four decades he has championed the cause of the Nation's poor and oppressed. He is a friend to the hopeless and gives help to the helpless. His dedication to the creation of a better world is unsurpassed.

HUBERT H. HUMPHREY is the embodiment of those character traits found in the fathers of our country. He has brought this Nation to the threshold of greatness that was the dream of earlier great Americans. Senator HUMPHREY has fathered civil rights legislation to ease

the burden of minority groups. He has sponsored labor legislation to improve working conditions for the laborers in this country. He is always on the side of those who need the most help.

I am pleased to join the Congressional Black Caucus in paying tribute to this great American and superior human being.

Miss JORDAN. Mr. Speaker, there is no way to catalog Senator HUBERT HUMPHREY's contributions to this country and to the world. Of those contributions which are part of the public record, there are not enough pages in the CONGRESSIONAL RECORD to list them all. Even if they could be listed, the list would be incomplete. Senator HUMPHREY knows the value of contributing anonymously. He knows that sometimes it is more important to let others take credit for his work. So even if we could list his public contributions, the list would miss his private contributions. We would miss the quiet advice to a new Senator or President, we would miss the messages relayed to foreign heads of state, we would miss the drafting of the artful compromises. And having missed his private contributions, any list is necessarily incomplete.

HUBERT HUMPHREY is my friend. I value his friendship. I know of no better way to pay tribute to him than to thank him for being the man that he is. Thank you, Senator.

Mr. GIAIMO. Mr. Speaker, in welcoming Senator HUBERT HUMPHREY back to Congress, I can pay him a tribute that could be paid to few, if any other, legislators in Washington. It is simply this: We all noticed that you were gone for awhile. When you are absent, a void is created that nobody else can fill. The substitute for HUBERT HUMPHREY has not been born.

In the 19 years that I have had the privilege of knowing and working with Senator HUMPHREY, I have noticed one aspect of his personality that again could apply to few, if any other, lawmakers here. It is simply this: I have never observed anyone in Congress who could not work harmoniously with HUBERT HUMPHREY. I am certain that the way in which he balances sunny cooperation with no compromise on principles is the envy of us all. Perhaps his ability is a measure of how deeply he loves his fellow human beings. Perhaps that is what the politics of joy is all about.

Mr. QUIE. Mr. Speaker, it is a pleasure to join my colleagues of the Congressional Black Caucus in taking time out to pay tribute to a national leader whose work, commitment and dedication have improved the lives of millions of American for more than three decades.

Senator HUBERT H. HUMPHREY has pushed for such programs as medicare, Head Start, the Community Mental Health Act, the 1965 Elementary and Secondary Education Act and more.

Back in 1947, during his first term as mayor of Minneapolis, Humphrey helped organize the Americans for Democratic Action (ADA), a group that helped him win national attention for a strong civil rights plank at the 1948 Democratic National Convention in Philadelphia.

The 1948 edition of "Facts on File Yearbook" describes it this way:

> The last day of the convention, July 14, was marked by turmoil over the civil rights plank in the platform. President Truman had agreed to back down from proposed legislation to protect the Negro in order to keep the South from revolting.
>
> The revised resolution merely endorsed civil rights legislation along the lines of the 1944 convention. It called on Congress to grant civil rights legislation protection for Negroes within "Constitutional limits," language which most of the South was willing to accept.

But Mayor HUMPHREY's Americans for Democratic Action, which claimed 123 delegates, teamed up with the Congress of Industrial Organization's political action committee, which claimed 75, to lead opposition to the administration-backed watered-down resolution.

Led by former Representative Andrew J. Biemiller, Mayor HUBERT H. HUMPHREY of Minneapolis and Mrs. Esther Murray of California, the issue went to the floor, where the trio offered a substitute plank calling for congressional action to stop lynching, abolish the poll tax and Negro segregation, and obtain fair employment practices in the States.

"We are 172 years late in acting," said HUMPHREY, who met with defiant cries from some southern delegates. The Humphrey substitute plan was eventually adopted, 651½ to 582½, even though some members of the Mississippi and Alabama delegation walked off the convention floor.

This kind of vision, compassion, and leadership, in the face of enormous odds, is what we as a Nation have come to expect from HUBERT H. HUMPHREY. It is not so much his constant display of exuberance; it is more of an ability to cast aside—to ignore— such elements as pettiness or self-pity, that make him such a giant among men.

It is this special capacity that makes him endeared in so many American hearts.

Mr. Speaker, I now yield to the distinguished gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. I thank my colleague for yielding, and I hope very much that my few remarks may be included with those of the others who want to speak about this man.

I think there is nobody more loved in our Nation. He is an optimist—as he says himself, an incurable optimist. He looks for the best, and he finds the best in all of us. He is one of those who never gives up, never admits total defeat, never admits that things are as they are and, therefore, must remain in the same way. He has something eternally youthful about him, saying that tomorrow can be better if we just believe and love one another. I think people would not have to look far as to why HUBERT HUMPHREY is beloved and respected. He loves his country. He loves his fellow man. It is no wonder we love him.

Mr. MITCHELL of Maryland. Mr. Speaker, I yield now to the gentleman from New York (Mr. WEISS).

Mr. WEISS. Mr. Speaker, I appreciate the gentleman from Maryland yielding to me. I want to extend my appreciation to my friend and colleague, the gentleman from Maryland, for taking this special order and allowing us to participate in this tribute to the great American Senator HUBERT HUMPHREY.

For the bulk of my adult life I have looked to Senator HUMPHREY for leadership in all matters affecting the welfare of this country. I remember that he led the fight for the Democratic Party to go on record on behalf of civil rights at a time when that had not been accepted by not only all Americans but also not even by the Democratic Party itself.

Today he leads the fight for full employment and full nourishment for all Americans.

(Mr. WEISS asked and was given permission to revise and extend his remarks.)

Mr. MITCHELL of Maryland. Mr. Speaker, it is my pleasure to yield to my distinguished colleague, the gentleman from California (Mr. PANETTA).

Mr. PANETTA. Mr. Speaker, I join my colleagues in paying tribute to Senator HUBERT H. HUMPHREY, a truly great statesman and outstanding leader whose accomplishments over the past 30 years reflect the growth of this Nation's commitment to protecting and defending the human rights of its people. Many areas of national policy have benefited from Senator HUMPHREY's leadership. But the area of civil rights is the one closest to me and is the one for which I pay him special tribute today.

HUBERT HUMPHREY was the first to bring human and civil rights to the conscience of the American people. It was his insistence on the inclusion of the civil rights amendment to the party platform at the Democratic National Convention of 1948 that sparked anew the struggle for racial equality before the law.

It is interesting to look back at the measures Mr. HUMPHREY was supporting during his first term as Senator. The ideas that he advocated are now a part of our daily lives, indeed a part of the Constitution of this Nation.

In the late 1960's as Director of the Office of Civil Rights in the Department of Health, Education and Welfare, it was my duty to enforce title VI of the Civil Rights Act—an act that was nursed to life by Senator HUMPHREY. It was during my tenure in that office that I learned first hand of what the struggle for equal rights was all about. I cannot sufficiently express my admiration for the strength and courage of Senator HUMPHREY. I can only say "Thank God" for his courage, his dedication, and his contributions to this Nation.

I include excerpts of his remarks on the issue of civil rights:

THE QUOTABLE HUBERT H. HUMPHREY

(Compiled and edited by Perry D. Hall and the staff of Quote)

CIVIL RIGHTS

> . . . There are those who say to you—we are rushing this issue of civil rights. I say we are 172 years late. There are those who say—this issue of civil rights is an infringement on states rights. The time has arrived for the Democratic party to get out of the shadow of state's rights and walk forthrightly into

the bright sunshine of human rights. (As Mayor of Minneapolis Addressing the Democratic National Conv., Philadelphia, July 14, 1948 Supporting his Civil Rights Amendment to the Party Platform.)

. . . We can rejoice that the time has arrived when millions of Negro Americans can step out of the shadows, and walk forthrightly into the bright sunshine of human rights. But a man too long walled off from his fellows cannot easily adjust his senses and his capacities to the light—and the heat—of equality. This generation of Americans has the task, and the priceless opportunity, of walking side by side with the Negro American as he strides into that bright sunshine and stands erect. (White House Conference "To Fulfill These Rights" June 1, 1966.)

. . . In a few short years, we have traveled down a road studded with landmarks: historic Supreme Court decisions, legislative victories, executive actions. And as we have traveled that road, we have seen thousands of acts of heroism, large and small, by the brave and determined Americans who made that journey with us—men and women of both races struggling to secure the reality of freedom, equality and human dignity. (White House Conference "To Fulfill These Rights" June 1, 1966.)

. . . Twenty million Americans will no longer be pacified by slogans or tokens. They will not be satisfied—they shall not be moved—nor should they be. For "Freedom Now" is not a catchword for a minority of Americans. It is a moral imperative for all Americans. (White House Conference "To Fulfill These Rights" June 1, 1966.)

. . . We should have learned by now that laws and court decisions can only point the way. They can establish criteria of right and wrong. And they can provide a basis for rooting out the evils of bigotry and racism. But they cannot wipe away centuries of oppression and injustice—however much we might desire it. (White House Conference "To Fulfill These Rights" June 1, 1966.)

. . . We cannot avoid the realization that many times our deeds have not matched our words—that there still exists a tragic gap separating promise from performance in many crucial areas of civil rights policy. The blame for that gap cannot be laid at the feet of any single person, or institution. Every major segment of society has contributed to maintaining this gap between promise and performance. (White House Conference "To Fulfill These Rights" June 1, 1966.)

. . . I urge you, as I urge all Americans, to view the civil rights movement not in the harsh glare, the distorted reflection of today's headlines, but rather in the more balanced perspective of history . . . Do not allow your convictions to be uprooted, your steadfast course altered by the occasional excesses, the temporary aberrations which, history tells us, must be experiences in any great movement toward social justice. (White House Conference, "To Fulfill These Rights," June 1, 1966.)

. . . We marched, (and I underscored the word "we") and fought for the end to lynching. We marched and fought against separate and unequal education, and segregated lunch counters, and for a seat in the front of the bus rather than the back of the bus. There have been defeats. But, my fellow Americans, there have been many more victories. (NAACP National Convention, Los Angeles, California, July 6, 1966.)

. . . There are no instant solutions to problems generations in the making. But there are certain problems demanding priority, yes, immediate attention as we strive to translate legal promises of equality and freedom into reality. (NAACP Convention, Los Angeles, California, July 6, 1966.)

. . . The Negro American asks: Are my children attending better schools? Do I hold a better job or any job? Do I have a voice in the life of my city, in my neighborhood? Am I a first class citizen, a man among men in my own eyes and in the eyes of my family? These are the questions that are being asked. And until a man can truthfully answer "yes" to these questions, we should not expect him to consider the battle won or the struggle ended. And neither should we. For what is left for such a man when the dust of the march is settled? Where today the slogans of a better world spring from his lips, tomorrow there may be nothing but the taste of ashes. (NAACP Convention, Los Angeles, California, July 6, 1966.)

. . . We must strive to perfect one citizenship, one destiny for all Americans. That's our goal. Integration must be recognized as an essential means to ends that we are seeking—the ends of freedom and justice and equal opportunity for all Americans. (NAACP National Convention, Los Angeles, California, July 6, 1966.)

. . . Facts and statistics cannot convey the sense of anxiety and terror which grips the heart of a brave 9 year old Negro girl attending for the first time a newly integrated school—or the hopelessness of an unemployed Negro father who realizes his family will receive more money on welfare than he can provide with his limited skills. (Howard University, Washington, D.C., September 19, 1966.)

. . . Facts and statistics, taken alone, can never, never indicate the relief that sweeps over a Negro husband and wife as their sick child is taken to the newly integrated community hospital where first-class medicine is practiced—or the joy and hope that is born anew as a Negro family leaves a rat-infested tenement for a fairly-priced, clean apartment in a safe and attractive neighborhood. (Howard University, Washington, D.C., September 19, 1966.)

. . . The wrongs and evils of generations cannot be corrected easily or without sacrifice—just as a mighty storm cannot pass without creating turbulence and unrest. But after that storm comes the brilliant sunshine of a new day—and with the sunshine comes renewed faith and strength. (Howard University, Washington, D.C., September 19, 1966.)

. . . Housing. People of all races and backgrounds must have the opportunity to purchase or rent housing. Without having to brave insult, indignity and even violence. (National Fellowship Awards Dinner, Philadelphia, Pennsylvania, May 23, 1966.)

. . . There is a tendency—to which we Americans are prone—to think that it is sufficient to put laws in the statute books. It is not. Laws must be enforced. But even more, they must be observed. That means changing people's minds, opening them up to the wrongs, which, consciously or unconsciously, they have done their fellow Americans. The synagogues and the churches have worked nobly to this purpose, and I appeal to them to redouble their efforts. This is a responsibility for every individual American, as well. In the prophetic tradition, each of us must be able to look to himself and say, in the words of the Prophet Nathan: "Thou art the man!" (Adas Israel Synagogue, Washington, D.C., December 10, 1966.)

Mr. MITCHELL of Maryland. Mr. Speaker, I am delighted to yield to my distinguished colleague, the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Speaker, I thank my colleague, the gentleman from Maryland, for yielding and I commend him for taking this special order to pay tribute to the senior Senator from Minnesota (Mr. HUMPHREY).

Woodrow Wilson once said that a man is as great as the number of persons who believe in him. By Wilson's definition, my friend and esteemed colleague, Senator HUBERT HUMPHREY, must rank as one of the greatest men this country has seen. I am honored to join Congressman PARREN MITCHELL and other members of the Congressional Black Caucus in this tribute to our great leader.

From the time HUBERT HUMPHREY was mayor of Minneapolis, more than 30 years ago, he has been in the forefront of the strugle for social and economic justice in this Nation. In 1945, as mayor, he recognized the injustices and appointed a council on human relations to zero in on the problems. During the 1948 Democratic Convention, he was not afraid to lose votes by speaking out strongly for a civil rights plank in the party platform. And when the Civil Rights Act became an issue, within Congress and across the country, he never hesitated to stand up and provide the solid leadership we needed.

Senator HUMPHREY has always been a stickler for the old-fashioned vritues and maybe that is why believing in him is easy. So many Federal programs to help people—like medicare, Headstart and the Community Mental Health Act—are in operation today because HUBERT HUMPHREY fought for them. Long before others in the field even thought about the problem, he recognized the intrinsic value of education and the fact that State and local governments could not bear the full costs alone. He declared education to be the right of all citizens and called for a Federal guarantee of full education opportunities. He taught us that schooling is necessary to break the cycle of poverty eroding our Nation and so many lives. And he pointed out the most important lesson of all—that education is an investment for all of us, with full repayment through increased productivity and a more fully developed national potential.

Because of him, the Federal Government agreed to accept its responsibility to education and the general public understood more clearly the necessity of quality education programs for everyone. The America we know and have today is largely due to his guidance and influential leadership.

I am proud to know and work with Senator HUMPHREY and I join you in welcoming him back to Washington. HUBERT HUMPHREY has shown us once again that he is a man to believe in. I am only glad that my children and your children and children throughout the world have the opportunity to know him and realize what greatness is.

Mr. MITCHELL of Maryland. Mr. Speaker, I am delighted to yield to my colleague, the gentleman from Hawaii (Mr. HEFTEL), and I apologize to the gentleman because I got him out of order.

Mr. HEFTEL. Mr. Speaker, it is my extreme pleasure to join with PARREN MITCHELL and my colleagues in the House of Representatives in paying tribute to one of the greatest leaders in the history of our country. HUBERT HORATIO HUMPHREY has served the people of Minnesota, the people of the United States and the nations of the world. He is a good Democrat but he is an even better man.

Seldom has one individual so successfully embodied the qualities of compassion, humility, and wit. And, he has used those qualities to better this world while often being scorned for his actions. Such selflessness has known no bounds, yet has rarely received acclaim.

Since the 1940's, HUBERT HUMPHREY has been involved with and a leader in the civil rights struggle. He fought for civil rights when the cause was not visible, when it was not fashionable and when it was not safe. Its success today is due in no small part to the man we are now honoring.

The Democratic Party owes much to HUBERT HUMPHREY. The party has become a stronger and more viable entity under his leadership and direction. Through his work and example, it has truly become a party of the people. As a leading spokesman of the Democratic Party, the Senator from Minnesota has preached the word of good government of the people, by the people and, especially, for the people. He has translated an 18th century document into a 20th century reality.

I must not feel sorry for HUBERT HUMPHREY for he does not feel sorry for himself. I cannot contemplate his political defeats or fret his continuing fights with uncontrollable disease. Instead, I see a source of strength and energy in a time of doubt, an example of determination and victory in a time of struggle.

HUBERT HUMPHREY is, himself, the America for which he has fought so hard. He has won us the battles and is now showing us how to win the war.

Mr. FORD of Tennessee. Mr. Speaker, I rise today to pay tribute to Senator HUBERT H. HUMPHREY of Minnesota. For over 30 years HUBERT HUMPHREY has been involved in the governmental affairs of this country. He is a man of vision with the sense of social responsibility and political acumen needed to transform ideas into legislation. First elected to the Senate as a Democrat in 1948, he served as majority whip from 1961 to 1964. For the next 4 years he served as Vice President under President Lyndon B. Johnson. After an unsuccessful bid for the Presidency of the United States in 1968, Senator HUMPHREY returned to the University of Minnesota to teach political science. In 1970 he was again elected to the U.S. Senate as he continued his career in public service.

Senator HUMPHREY first gained national attention during the 1948 Democratic convention by espousing his long-held beliefs concerning civil rights. His impassioned speech in support of a maverick civil rights plank in the Democratic platform calling for broad legislative action was highly controversial and was done at great risk to his career. Now his vision is common to all thinking men and women.

The first bill the Senator introduced in 1949 was a proposal to establish medical insurance for the aged through social security. It would be 16 years before the country would heed his words and enact the medicare legislation. Senator HUMPHREY in the mid-fifties sought programs which became part of the Kennedy legacy. The Peace Corps and the Arms Control and Disarmament Agency remain from these efforts.

After another round in the battle against cancer Senator HUMPHREY has returned to his rightful place in the Senate where he displays the incredible vitality that is his trademark. One of the priorities he will continue to work for is the Humphrey-Hawkins full employment bill. I support him fully in his efforts to gain administration support of measures to bring meaningful job opportunities to all Americans.

Mr. Speaker, it is always a pleasure to pay tribute to Senator HUBERT HUMPHREY not only for his legislative achievements but also for the strength of his human spirit.

Mr. FUQUA. Mr. Speaker, I rise to join my colleagues in paying tribute to a man who is truly a living legend. A man whose unswerving dedication to the betterment of this Nation has touched the lives of virtually every one of us and will continue to do so as he returns to his duties in the U.S. Senate.

I am speaking of course of Senator HUBERT H. HUMPHREY.

This Nation and indeed this Congress is indebted to the energetic leadership of Senator HUMPHREY, a debt that would be difficult to repay. A valued legislator of exceptional ability, this gentleman has served more than three decades in public life, a milestone few of us are privileged to achieve.

He is an articulate spokesman, a dedicated national leader and an elegant statesman whose foresight is unequaled in modern history. A progressive leader always in the forefront of change, his perception and insight have been sharpened by the many years of devoted service.

To be sure, there are those of us here who have disagreed in the past, and will so in the future, with this distinguished gentleman from Waverly, Minn.

But there is no doubt, from both sides of the aisle and both sides of the issues, we all admire and respect him.

In short, HUBERT H. HUMPHREY is a great American.

Mr. NEDZI. Mr. Speaker, if it were possible, tens of thousands of people in my district would gladly line up to shake Senator HUMPHREY's hand and to say, "We love you, we need you."

Michiganders and Minnesotans have long had close ties, especially we Democrats. We have worked together at national conventions and at the National Committee.

I suppose it goes back to 1948, when a young HUBERT HUMPHREY came to national attention with a dramatic speech at the Democratic National Convention and G. Mennen Williams won an upset victory for Governor in Michigan.

Minnesota Democrats were frequently invited to our State, in fat years and lean. In addition to Senator HUMPHREY, there was Orville Freeman, Gene McCarthy, Miles Lord, and Eugenie Anderson, among others. From the Michigan side, during the 1950's there was Williams, Blair Moody, Phil Hart, Neil Staebler, Pat McNamara, Adelaide Hart, and Margaret Price. All were active on the national scene.

Indeed, I first saw HUBERT HUMPHREY in person in May in 1953 when we Michigan Young Democrats brought him in for what turned into a sold-out dinner at Dairy Workers' Hall in Detroit. I remember that he had 30 minutes of air time on radio station CKLW. When that was over, he rolled up his sleeves and gave us an additional 45 minutes. We loved it.

HUBERT HUMPHREY then, and HUBERT HUMPHREY now, has that rare quality of making us feel good to be in politics. He stretched our minds that night in 1953, and he has been doing it ever since.

As one who supported him for President in more than one national campaign, I am proud to say I am a HUBERT HUMPHREY man.

HUBERT HUMPHREY can rally the Congress and the people of America. And both need rallying right now. Lead us on, HUBERT.

Mr. WAMPLER. Mr. Speaker, I cannot miss an opportunity to express my deep admiration and respect for Senator HUBERT H. HUMPHREY, who is a man strong in character and dedicated in principle.

I want to join with my colleagues to welcome him back to Washington, and to his work in the Senate, after his long ordeal against a disease which would have grounded a lesser man. His determination and stamina are further evidence of his strength of character.

Although Senator HUMPHREY and I are of different political persuasions, and often disagree philosophically, we have, more often than not, worked toward the same goals. I have served with him several times on conference committees, usually dealing with agricultural matters, and have found him a hard driving, but very fair negotiator.

He has served his country well, in good times and bad, as Senator, Vice President, Presidential candidate, and again as Senator from Minnesota. He has won the devotion of his constituents, the gratitude of the Nation, and the respect and friendsnip of all his colleagues and associates.

May his long years of service to the country earn for him the inner joy and peace that comes to a man who knows, in his heart, he has given his best.

Mr. CONTE. Mr. Speaker, it is a pleasure to join with my colleagues in welcoming back to the Congress a beloved public servant and a good friend, the distinguished Senator from Minnesota, HUBERT H. HUMPHREY.

Today, as we all know, is a very special day for the Senator as we dedicate a building in the Nation's Capital in his name and in recognition of his contributions to good government.

Needless to say, those contributions have been many over the years and continue to be made every day. His career of public service has ranged from his tenure as mayor of the city of Minneapolis, to his term as Vice President of the United States, to his long and productive labors as a Member of the Senate.

But beyond his dedication to service, there is the fighting spirit of the man that has come to be admired by all Americans. Unfortunately, as we know

too well, the "happy warrior of the political battelfield," Senator HUMPHREY, has a personal fight to regain his robust health. This is a battle that his colleagues of all political persuasions join him in fervent prayers for victory.

However, today we are just delighted to have him back among us. I am very pleased to join my colleagues in expressin a hearty "welcome back" to Senator HUMPHREY.

Mr. WEAVER. Mr. Speaker, President Carter has called him the No. 1 Democrat. But that is too narrow, too limited. HUBERT HUMPHREY belongs to everyone. The spirit he has brought to our public life is the best of everything we like to characterize as American.

Not for HUMPHREY the politics of hatred and division. Others all over the world are trying to gain their political ends by taking something from others—up to and including their lives. For HUBERT HUMPHREY the job of life, of achievement, of making the most of abilities, above all of taking advantage of the incredible range of opportunity offered by American life, all these have been both his accomplishment and his contribution.

In Presidential campaigns, in Senate campaigns, in legislative campaigns, he has appealed to the best in us, not the worst. His record on behalf of civil rights, competitive enterprise, a decent life for the elderly, for an end to nuclear testing, for peace in the world will all be retold. But as much as his specific legislative accomplishments, it is the style and meaning he has personified for which he is cherished.

Surely goodness and mercy will follow him all the days of his life, for he deserves no less from his fellow citizens.

Mr. KILDEE. Mr. Speaker, I would like to take this opportunity to express my admiration and respect for the senior Senator from Minnesota, the Honorable HUBERT H. HUMPHREY. I am adding my voice to those of my colleagues in the House of Representatives who are honoring Senator HUMPHREY today with their tributes, welcoming him back to Washington, where he has always exercised great influence on worthy causes and been esteemed for his honor and his leadership.

Senator HUMPHREY's unwavering and long-time commitment to civil rights for all Americans has touched the lives of everyone in this Nation, and I am filled with a sense of gratitude that such a man as he was available to fill the ranks of national leadership when our times required such a leader of moral courage, good judgment and vision. He has been dedicated to the concept that this Nation must make a meaningful commitment to full employment. More than 22,000 people in my district were unemployed on the average during 1976, and uncounted thousands of others were underemployed. An effective full employment program would ease their plight and restore their right to a meaningful life through productive labor.

I join others in public recognition today of the leadership and dedicated public service for which Senator HUMPHREY has always been known.

Mr. COTTER. Mr. Speaker, I am proud to join the Congressional Black Caucus in this tribute to Senator HUBERT H. HUMPHREY.

Many intolerable injustices in American society are now past history because HUBERT HUMPHREY worked and fought for progressive legislation. The Civil Rights Act and most Federal programs for America's poor and dispossessed bear the mark of his legislative skill.

HUBERT HUMPHREY'S contribution is far from finished, and this is fortunate for America because many complex tasks remain undone. Millions of Americans, because of their race, their language or the place of their birth are still denied equal opportunity in housing, education and employment. So I welcome Senator HUMPHREY back to his rightful place in the U.S. Senate.

Mr. LEDERER. Mr. Speaker, I want to join with my colleagues in the House to support this motion introduced by Congressman MITCHELL honoring a great and beloved American, Senator HUMPHREY.

Senator HUMPHREY was the candidate of choice by many Philadelphians on many occasions. This was especially true in the Senator's bid for the Presidency in 1968.

Philadelphians have long cherished the friendship of this noble man who has fought for the working man all his life. My fellow residents of the city of Philadelphia will never forget his effort to improve the lives of urban dwellers. Senator HUMPHREY has always been loved by those of us who knew and understood his commitment to the improved quality of city life.

One might say that Senator HUMPHREY is truly a brother to my City of Brotherly Love, Philadelphia.

I am honored to join with the Members of this House and my fellow countrymen to pay special honor to this special man and to wish him and his family all the very best.

Mr. GLICKMAN. Mr. Speaker, I rise to pay tribute to a man who is without a doubt one of this Nation's greatest assets. Over the last quarter century, HUBERT HUMPHREY has done more to assure the protection of the civil rights of this Nation's population than any other. The strides he has helped to bring in the area of civil rights have been tremendous. I am sure that, in light of his constant optimism, he had hoped for more, but thanks to his energy and drive incredible progress has been made.

Without the groundwork in securing the human rights of all Americans laid through HUBERT HUMPHREY'S efforts I doubt that President Carter today would be able to address without hypocrisy the issue of human rights' violations abroad. We all know that the battles fought by HUBERT HUMPHREY to bring about equal opportunity at home were not easy ones. The President owes him a great debt for having laid that groundwork.

And, with the President, every American owes thanks to this outstanding human being. And he is first and foremost a human being. Fortunately for all of us, he chose a career in public service and was able to impart some of his own humanitarianism to this Nation.

Mrs. SCHROEDER. Mr. Speaker, I would like to include the following essay by Joseph Kraft in the special order honoring Senator HUBERT HUMPHREY.

I think the editorial speaks for itself.

[From the Washington Post, Oct. 30, 1977]

KEEPER OF THE CONSCIENCE

(By Joseph Kraft)

The glowing tributes paid to Hubert Humphrey last week express more than high personal regard. They also reflect an uneasy sense of something missing from the Senate, and perhaps the country at large.

I mean persons of national stature who also serve as keepers of the national conscience. That is to say, leaders who can rally the country in times—not of danger, which is relatively easy—but of confusion.

It is especially important now to see Sen. Humphrey, warts and all. He might not have made a good President. He lacks the killer instinct and the capacity to hurt those who would do him in. Hence his inability to stand up to Lyndon Johnson on Vietnam.

If not a downright poor politician, moreover, his sense of timing is at least erratic. He took on John Kennedy and George McGovern at the wrong moments in 1960 and 1972. He did not know how to take on Jimmy Carter in 1976.

Good nature has occasionally made him a poor judge of people. Certainly no man ever derived less luster than Humphrey from his staff. Finally, he does not even make a pretense of efficient management. "I'm a fellow who likes to set out the big building blocks," he often said of himself. "I let other people come along and apply the mortar."

On the big building blocks, though, he has no peer. In season and out, when it was popular and when it was unpopular, Hubert Humphrey has been right on the great issues of the time. He has been right on civil rights—from his debut on the national scene at the 1948 Democratic convention to the present. He has been right on arms control from the early 1950s, when it was a loser, to the full flush of détente and after. He has been at all times right about using the power of government to promote economic welfare and better living conditions.

Only extraordinary personal qualities have enabled Humphrey to stay so long with issues that went into fashion and out. It has happened to me more than once to have written stupid things that rightly provoked his ire. But anger waned with its expression.

Humphrey nurses no grudges and bears no malice. He is the foremost national example of good will at work. His own case provides the rationale for what he calls the politics of joy.

His undoubted belief in the goodness of mankind has vaulted his personal interest above self-interest to the level of the public interest. His causes have sprung from the heart; they have not been ego trips. Whatever his stance, Hubert Humphrey has not been a man whom other people long hated, feared or mistrusted.

Thus a career hitched to great issues has survived their ups and downs, and positively thrived in periods of uncertainty and doubt. In good times or in bad, a senator who stood with Humphrey never had to fear losing a thread from the toga. Win or lose, groups that backed Humphrey maintained a respectable position. Right or wrong, he could be trusted.

The absense of trust, in the Senate particularly but also in political life generally, now makes his example shine more brilliantly. The Senate is currently torturing itself on the energy question. Why? Because producer interests do not trust a President who reneged on a pledge to deregulate natural gas, and consumer interests do not trust the basic instincts of the Majority Leader and the chairman of the Finance Committee.

Nor is the lack of confidence a transient matter of the personalities temporarily hold-

ing down positions of power. Television is the principal medium by which political leaders now attain national stature. It smiles upon those who know how to package themselves in ways that play on the half-conscious hopes and fears of the massed audience. It deals woe unto those who specialize, as Humphrey has done, in deliberate articulation on identifiable issues.

So an almost desperate timeliness reinforces the praise of Humphrey on his merits. Neither in the Senate nor in the country shall we see his like soon again—if ever.

Mr. ANNUNZIO. Mr. Speaker, few men have more profoundly affected the course of American public life over the past three decades than HUBERT HUMPHREY. He has won a place unique in the hearts of our people and in the annals of the Nation. He has earned that place by force of moral character, by boundless energy in behalf of the common good, and by holding before men and women the example of leadership untainted by selfish advantage. The respect and esteem in which he is held by his colleagues in both Houses of Congress and from both parties reflect the sentiments of the Nation as a whole and, indeed, of people's good will throughout the world. To millions across the globe he has embodied the ideals and aspirations of American democracy as very few men or women in this or any century.

The record of his service to State and Nation, service which has continued in the midst of serious illness, is an impressive one. Few other States have produced and maintained a congressional delegation of such distinction as has Minnesota, and within that delegation HUBERT HUMPHREY has been outstanding. The political idealism of the Democratic Farmer-Labor Party in the forties found expression in a sweeping victory in 1948, carrying HUBERT HUMPHREY into the Senate. He brought with him invaluable wartime experience as head of the Minnesota branch of the War Production Administration and as assistant regional director of the War Manpower Progress Committee. He had taught earlier at the University of Minnesota, where he had received his B.A. in 1939. He earned his M.A. at Louisiana State University in 1940. During the war he also served as professor in the Army Air Force training program at Macalaster College.

As mayor of Minneapolis from 1945 to 1949, he acquired insight into the problems and challenges of urban administration, insight which influenced his Senate career. His political concerns led him in 1949 to act as cofounder of Americans for Democratic Action, providing national leadership for a policy of liberal social reform, vigorously anti-Communist, and animated by his lifelong passion for social justice.

In the Senate he served with great distinction and was chosen as majority whip from 1961 to 1964, at which time he resigned to accept the Office of Vice President of the United States in the administration of President Lyndon Johnson. His own Presidential aspirations had led him into the West Virginia and Wisconsin primaries 4 years earlier, in which he lost to the then Senator John Kennedy.

Narrowly defeated in his campaign for the Presidency by Richard Nixon in 1968, he returned to the Senate in 1971. The bitterly contested primaries of 1972 may be said to have resulted in his turning away from Presidential ambitions to concentrate on that role which has become truly his own: national and international statesman and eloquent spokesman for political liberalism in the Senate and beyond. He is a major figure in the American scene, consulted by responsible leaders who value his counsel in such areas as foreign policy, economic affairs, agricultural concerns, and civil and human rights.

No other political figure has proven to be so durable, so effective, and so productive. Through the ups and downs of public life, HUBERT HUMPHREY has maintained an ebullient and optimistic image, inexhaustibly hopeful, and confident, grounded in a deep love for America and a commitment to freedom and dignity for all her citizens.

His character and career alike are a vindication of democracy in an era marked by new forms of tyranny, political disillusion, and small-minded partisanship. At this time in his long and distinguished career, sustained by the love of his wife and family and by the faith he has inspired among millions of people here and abroad, he must share that sense of fulfillment of which Shakespeare wrote:

> . . . I feel within me
> A peace above all earthly dignities;
> A still and quiet conscience.

Mr. METCALFE. Mr. Speaker, it is a great pleasure to rise under the special order of Mr. MITCHELL to join my colleagues of the Congressional Black Caucus in a salute to Senator HUBERT H. HUMPHREY.

Memories of his civil rights speech at the 1948 Democratic National Convention still linger in the Nation's black community. That was a convention where civil rights forces were fighting for a plank that was very mild by today's standards, but where some of the Southerners threatened to walk out if the plank was adopted. The 37-year-old Mayor of Minneapolis, turning the convention around, argued from the podium:

> There are those who say to you—we are rushing this issue of civil rights. I say we are 172 years late. There are those who say—this issue of civil rights is an infringement on states rights. The time has arrived for the Democratic party to get out of the shadow of state's rights and walk forthrightly into the bright sunshine of human rights.

In the Senate when the great civil rights issues came in the late 1950's and the 1960's, he was there and out front. Those years produced the Civil Rights Acts of 1957 and 1959, and he floor-managed the Civil Rights Act of 1964 through the inevitable filibuster. He was there, shaping the bills in the committees and in the cloakrooms and protecting them clause by clause, phrase by phrase, and word by word. Later as Vice President he helped with the Voting Rights Act of 1965. All of these measures changed the face of America, not completely but clearly for the better.

Speaking at the 1966 White House Conference entitled "To Fulfill These Rights," the then Vice President of the United States said:

> We can rejoice that the time has arrived when millions of Negro Americans can step out of the shadows, and walk forthrightly into the bright sunshine of human rights. But a man too long walled off from his fellows cannot easily adjust his senses and his capacities to the light—and the heat—of equality. This generation of Americans has the task, and the priceless opportunity, of walking side by side with the Negro American as he strides into that bright sunshine and stands erect.

And always the man of moral leadership, he went on to say:

> Twenty million Americans will no longer be pacified by slogans or tokens. They will not be satisfied—they shall not be moved—nor should they be. For "Freedom Now" is not a catchword for a minority of Americans. It is a moral imperative for all Americans.

Always the man of vision, the Vice President at the 1966 NAACP National Convention in Los Angeles articulated the agenda that is still before us:

> The Negro American asks: Are my children attending better schools? Do I hold a better job or any job? Do I have a voice in the life of my city, in my neighborhood? Am I a first class citizen, a man among men in my own eyes and in the eyes of my family? These are the questions that are being asked. And until a man can truthfully answer "yes" to these questions, we should not expect him to consider the battle won or the struggle ended. And neither should we. For what is left for such a man when the dust of the march is settled: Where today the slogans of a better world spring from his lips, tomorrow there may be nothing but the taste of ashes.

Of course civil rights was never all Senator HUMPHREY was doing. There is the Peace Corps, the Arms Control and Disarmament Agency, medicare, food for peace, the Nuclear Test Ban Treaty, and a good deal more. He has been the moving force behind them all.

It has always seemed to me that Senator HUMPHREY represents the very best attributes of American legislators. Not only has he been a prolific liberal Senator, pushing hard for the programs that have made his party, the Democratic Party, great. He has also planted the seeds for legislation which will become law only after years of legislative work. These seeds he listed in 1972 as elements of a new Bill of Rights for all Americans at a civil rights symposium sponsored jointly by the Lyndon Baines Johnson Library and the University of Texas:

> The right to a meaningful life free from poverty.
>
> The right to full and equal protection of the law.
>
> The right to productive and gainful employment.
>
> The right to economic, political and social opportunity free from the obstruction of discrimination based on race, creed, or sex.
>
> The right to a clean and decent neighborhood.
>
> The right to life free from violence and terrorism.
>
> The right to privacy, free from official or private invasion.
>
> The right to safety, including protection of person and property.
>
> The right to quality education at all levels, free from segregation.

The right to live in good health under a system of comprehensive insurance providing and assuring modern health care for all.

The right to be free of hunger.

The right to recreation.

The right to a clean and wholesome environment.

Throughout his years of public service in Minneapolis, in the U.S. Senate, and in the Vice Presidency, Senator HUBERT HORATIO HUMPHREY has set extraordinary standards and goals which continue to serve as guideposts for all who are committed to moving toward a society which recognizes the human and civil rights of everyone.

Mr. BINGHAM. Mr. Speaker, on October 3, 1977, Senator HUBERT H. HUMPHREY sent the following letter to his colleagues in the Senate:

DEAR COLLEAGUE: I wish to support the conclusion of the Carter Administration that the OPIC programs significantly contribute to the implementation of U.S. economic developmental objectives and should be continued. Our challenge is to maximize OPIC's developmental effectiveness without the cost of doing so being either the exportation of U.S. jobs for abandonment of OPIC's self-sustaining operations. The Administration proposes to meet this challenge through prudent management and by further focusing the policies governing OPIC's operations. This approach is feasible and should be supported by the Congress.

In the three years since Congress last extended OPIC's operating authority, dramatic changes in the economies of developing nations, the large increases in oil prices, and world-wide recession have demonstrated the increasing importance of private foreign investment to the development process. To help meet the economic needs of these countries, private foreign investment provides vital productive capital, including the training in industrial skills, badly needed managerial expertise, and technology and technical knowhow that accompany it. These benefits are measurable in terms of the development of exchange reserves, host country revenues through taxation, development of the country's natural and human resources, jobs and access of local industries to world markets.

While believing strongly in the New Directions mandate of the U.S. AID program, I think we should recognize that private foreign investment should complement AID programs, not duplicate them. Thus, I agree fully with the suggestion of the Subcommittee staff that OPIC's mandate be rewritten to emphasize its developmental objectives, complementarity with other development assistance programs, U.S. and foreign, and preferential consideration to activities in IDA countries, the poorest developing countries.

It is also essential that as part of new legislative authority for OPIC, the requirement for complete turn over by 1980 of OPIC's underwriting and management functions to the private sector be rescinded and instead OPIC be encouraged to make equitable arrangements for mutual risk sharing with the private sector. This will allow OPIC's present experiments with private sector participation to continue without forcing OPIC out of business by 1980 under the terms of the present legislation. Witnesses of the Subcommittee hearings on OPIC agreed that it would not be possible to achieve privatization of OPIC's operations in the foreseeable future.

Finally, I believe that it would be useful to permit OPIC to experiment with the use of its own resources for financing minerals operations and surveys. However, it is important to place certain limitations on the amounts that can be used for these purposes to ensure that OPIC encourages a variety of developmental projects.

I am confident that these changes will sharpen OPIC's developmental impact without undermining the flexibility and creativity we expect from private investment. For these reasons, I urge my colleagues to support the legislation proposed by the Administration, with the few changes I have suggested.

Sincerely,

HUBERT H. HUMPHREY.

Mr. DERWINSKI. Mr. Speaker, it is a privilege for me to join with my colleagues in paying tribute to a great American—HUBERT H. HUMPHREY.

Having served in Congress for many years, I have always respected Senator HUMPHREY's great accomplishments when he was Vice President, and before and since that tenure as a Senator. I am pleased to join in commending him as one of the outstanding Members of Congress in American political history.

His long record of devoted public service is a fine example of the positive spirit that is reflected in the best of American political traditions. During his years of brilliant public service, HUBERT HUMPHREY has constantly been a strong and eloquent voice for freedom, liberty, and human dignity. He is a man who has made us aware in our own time of the true strength of our country's ideals.

He is a man truly respected for his strong convictions and great determination which have contributed to his effective legislative leadership.

I am pleased to welcome Senator HUBERT HUMPHREY back to Washington, I express my sincere hope that his outstanding service for the people of Minnesota and the Nation will continue for a long time to come.

Ms. BURKE of California. Mr. Speaker, I take great pride in joining my colleagues in the House in this tribute to Senator HUBERT HUMPHREY. I doubt that there is a single American who does not owe a debt of gratitude to the Senator from Minnesota. Every major piece of reform legislation, every bill which has called for better schools, hospitals, expanded educational and work opportunities, has had his endorsement and active support.

He has a very special place in the hearts of minority Americans for his leadership in the fight for civil rights, a cause which he first championed at the Democratic Convention in 1948. The heat of controversy has never deterred Senator HUMPHREY from the pursuit of justice. During the emotional debate of the 1964 Civil Rights Act, he took to the floor to summarize extemporaneously the compelling reasons for enactment of this legislation. He spoke then, as always, from the heart.

Senator HUMPHREY, by his presence in the Senate, has enlarged our capacity for understanding. He has challenged us, individually and as a nation, to meet the highest standards of justice and fairness. Thus, it is with heartfelt thanks and gratitude that I join my colleagues in welcoming Senator HUMPHREY back to Washington. We have missed him.

Mr. RODINO. Mr. Speaker, it is a privilege for me with my colleagues in this deserved tribute to Senator HUBERT HUMPHREY, who I have known since we entered Congress together in 1949. President Jimmy Carter has called HUBERT "America's Number One Democrat," and he is indeed an American institution.

As our children and grandchildren study the history of the civil rights movement in our country, they will notice that one man's name appears in the political sphere before any others to champion the cause of equal rights for all Americans. HUBERT HUMPHREY aroused the Nation's conscience to discard the "go slow" approach to obtaining civil rights for all citizens. He was a leader when we sorely needed one.

HUBERT HUMPHREY's "politics of joy" translates into the American ideals of friendly competitiveness, irrepressible optimism, compassion, generosity, and warmth. He is that special statesman who truly educates his constituents—and HUBERT HUMPHREY's constituents are all of us. He points out our failings, especially when we fall short of treating each other justly, with a sense of dignity. Yet, he is perpetually reminding us that things are not as bad as they may seem, if only we work at making them better. Constantly prodding us to improve our human condition, HUBERT HUMPHREY has been an inspiration to two generations of Americans.

He has fought most of the political wars worth fighting over the past 30 years and he continues today. Here in Washington, we fully recognize the value of his leadership. HUBERT HUMPHREY keeps American politics healthy and upbeat. When we salute him, we profess our finest aspirations for our country.

Mr. Speaker, when I see HUBERT HUMPHREY in action, I am reminded of another eloquent spokesman for American democracy, Supreme Court Justice Oliver Wendell Holmes, who said in 1884:

I think that as life is action and passion, it is required of a man that he should share the passion and action of his time at peril of being judged not to have lived.

Mr. Speaker, HUBERT HUMPHREY has always lived at the center of the action and passion of our times and we have been uplifted by his presence.

Mr. MIKVA. Mr. Speaker, I want to thank my distinguished colleague from Maryland (Mr. MITCHELL) for taking out this special order to honor Senator HUMPHREY. There are very few Members of Congress who possess the same degree of affection and respect from their colleagues that Senator HUMPHREY maintains. There are even fewer Members who deserve such warm feelings.

For many of us, Senator HUMPHREY was the spark who quickened our interest in public service and politics. From his first appearance on the national scene in the 1948 Democratic Convention, he represented a new spirit of commitment to justice for all Americans. He was a catalyst for the generation of men and women for whom World War II marked a turning point in the affairs of the United States.

We looked to Senator HUMPHREY as the symbol of that most vital of our national characteristics—faith in our ability to meet the challenges of the future. During the past 30 years, Senator HUM-

PHREY has continued to be the mainspring for combating injustice and oppression.

There have been others on the national scene who have spoken glowingly about the future, but so many of them have either become despairing of world affairs or else have ignored reality. Senator HUMPHREY has never avoided the tough issues. His optimism is the more remarkable and inspiring because for all his successes, he has been just as gracious in defeat, and just as determined to overcome the loss the next time around.

I have always thought that the depth of Senator HUMPHREY's commitment and his unshakable belief in the power of the people to do good are grounded in an unsurpassed confidence in the democratic process. He has been willing to confront the most controversial of issues for over 30 years, and able to maintain his integrity, his sense of fairness, and his sense of humor, because of his great respect for the judgment of the American people. This is the most important quality a public servant can possess. And, for those of us in public life, his commitment to the people has been and will continue to be a goal to be sought as well as a source of strength to sustain us.

Mr. WINN. Mr. Speaker, I would like to take advantage of a rare opportunity and pay tribute to an outstanding individual, Senator HUBERT H. HUMPHREY. Senator HUMPHREY is one of those unique individuals who has unselfishly devoted himself to the American public; a devotion that has improved the quality of life for everyone in this Nation. I am especially honored to participate with Senator HUMPHREY on the Office of Technology Assessment Board. His inherent wisdom and concern for people has contributed substantially to performing assessments that have immediate impacts. The OTA foods program is a perfect example of those assessments. This program category's existence can be credited to Senator HUMPHREY.

I join my colleagues in saying welcome back to Washington. You have been missed and we look forward to your further contributions.

Mr. LEGGETT. Mr. Speaker, all of our lives have been bettered by the visions and accomplishments of Senator HUBERT H. HUMPHREY. I am pleased that the Members of the House have been given the opportunity this afternoon to express our sincere appreciation for his many important contributions to our country. A man who has dedicated four decades of his life to the service of his Nation deserves the warmest praise the House of Representatives can offer. As mayor of Minneapolis, Vice President of the United States, the senior Senator from Minnesota, HUBERT HUMPHREY has served his country well.

In his lifetime, HUBERT HORATIO HUMPHREY has overcome many obstacles. His personal sacrifices to maintain his family's pharmacy during the depression of the 1930's and his persistence in overcoming the shortsighted opposition to his civil rights program are examples of the integrity of this outstanding individual.

If there is one ultimate truth about Senator HUMPHREY, it is that he has always been truly a man ahead of his time. When he came to Washington as the freshman Senator from Minnesota, he was the first Democratic Senator from that State in over 100 years. In retrospect, this is the least of his accomplishments.

At the forefront of his party, HUBERT HUMPHREY was typically insistent and succeeded in nailing a civil rights plank into the Democratic platform in 1949. The cause of civil rights has been a lifetime one, and along the road many have joined his fight.

He has been described as a brilliant mind with a warm heart, an "internationalist," and a politician of high principle. To the poor and disadvantaged, to the sick and the old of this country, the name HUBERT HUMPHREY is synonymous with civil rights, Job Corps, and health care. To the poor of the world, he represents food for peace and the Peace Corps.

Not many generations have been as blessed as ours. We have known some great men and women in our time, but even so, few will stand as giants through our history. Among the giants of our time stands HUBERT H. HUMPHREY. He is a man whose ideas are dedicated to the people and are reflected in the brightness of their faith and hope. A moderate man of steadfast commitment, a humble man of great accomplishment, a compassionate man of unbending convictions—an American of whom we can all be proud.

The thought that we may be without him is dark. Senator HUMPHREY's ebullient personality and staccato voice have graced our Capitol for nearly three decades. Through all his years and all his battles, Senator HUMPHREY never lost faith in our political system, always keeping his sense of humor and capacity for tears. HUBERT HUMPHREY has often stated that he believes democracy should be known for its beginnings rather than for its endings. His visions and dreams will continue to lead the Congress and the American people in the decades to come, but our beginnings will be more difficult without him.

Mr. MAZZOLI. Mr. Speaker, much has been said in tribute to Senator HUBERT H. HUMPHREY and, yet, when one thinks of his countless contributions, there is much yet to be said.

Through the years, there have been those who have disagreed with Senator HUMPHREY's philosophy and his goals. There have been those who have questioned his methods and his politics. But no one has ever questioned Senator HUMPHREY's intentions.

He has touched all of our lives with his unending strength, with his love and his compassion. He has conscientiously served his Nation and his constituency. He is an honorable man.

He was in the forefront when leadership was demanded to advance the civil rights cause. Leadership is now demanded to find jobs for the unemployed. And, where is HURBERT HUMPHREY? He is in the forefront with his full-employment jobs legislation.

He makes me proud to be a Democrat, but more importantly, he makes me proud to be an American.

I join my House colleagues in thanking Senator HUMPHREY for his leadership, his encouragement, and his contributions toward making this world a better place in which to live.

Congratulations on a job well done, Senator.

Mr. STOKES. Mr. Speaker. I commend the gentleman in the well, the chairman of the Congressional Black Caucus, PARREN J. MITCHELL, for having provided all of us in the Congressional Black Caucus with the opportunity to pay tribute to an outstanding American.

Senator HUBERT H. HUMPHREY, the distinguished Senator from Minnesota, has recently made a triumphant return to the Nation's Capital after a brief but deeply felt absence. I am certain that all of you assembled here today will share my sentiments when I say that it is good to have him home.

HUBERT HORATIO HUMPHREY is a hero in every sense of the word. His name is indelibly etched across the annals of modern political history. As Vice President of the United States, Senator, diplomat, and standard bearer of the Democratic Party, his name has become synonymous with integrity, strength, and guts.

Mr. Speaker, Senator HUMPHREY, in all of his political incarnations, has always championed the cause of disenfranchised Amercans: The poor, the black, the aged, the minority. His legislative efforts on their behalf and on behalf of all Americans, are legendary. Many of the Federal programs and initiatives we take for granted today, such as medicare, the Department of Housing and Urban Development, Federal scholarship programs, Project Head Start, Job Corps, et cetera, exist through his efforts. Virtually every legislative issue of national importance—health, education, employment, arms control, energy, social security, nutrition, civil rights—carries the hallmark of HUBERT H. HUMPHREY.

May I also add, Mr. Speaker, since the inception of the Congressional Black Caucus, Senator HUMPHREY has consistently collaborated with us on legislative issues of crucial importance to black Americans. One of his greatest contributions, in my estimation, has been his sponsorship of H.R. 50, the Full Employment and Balanced Growth Act of 1977, along with our distinguished colleague, Representative AUGUSTUS HAWKINS of California. No doubt this legislation will stand as a shining example of the Senator's unswerving commitment to the fundamental principals of Democracy.

At this time, Mr. Speaker, I would like to ask my colleagues to join me in lauding Senator HUMPHREY. I have always had enormous respect and a deep personal regard for this distinguished gentleman. In these past months, he and his lovely family have gone through a severe trial. Yet, brave and stalwart as ever, HUBERT HUMPHREY refused to be floored and has emerged the ultimate victor. My colleagues, let us wish the dynamic Senator well in the months ahead. He is truly a giant among men, and I am honored to be his friend.

Mr. FINDLEY. Mr. Speaker, I will cherish all my life the fact that my name is linked with that of Senator

HUMPHREY in legislation, particularly title XII of the Foreign Assistance Act, the famine prevention program. It is known as the Humphrey-Findley program and I prize that link more than words can express.

Linkage occurred on another legislative endeavor, a bill calling for a convention of NATO nations which hopefully would propose a tighter unity of peoples committed to individual liberty. This initiative, unhappily, did not progress beyond the committee stage. Public opinion was not ready for it. It was daring, innovative, promising, but perhaps ahead of its time.

But Senator HUMPHREY has had not just successes. He has had some failures over the year. So it is a particular satisfaction to reflect that I have had legislative linkage with a great citizen in times of both joy and disappointment.

The famine prevention program is in the formative months. Its bureaucratic mechanics are just now being put together. Earlier this year the Senator and I joined together for special ad hoc hearings to gage the progress and to help it along.

The Senator continues, despite his health problems, to give this program his attention. This is not surprising, because all his life Mr. HUMPHREY has kept in highest priority activities that carry the greatest potential for feeding the hungry, and in these vital months when the machinery of this program is being fashioned and test-driven, I know he will continue to give it the zeal and zest which symbolizes his public service.

To me, HUBERT HUMPHREY is Mr. Public Servant in all the splendor that term inspires.

The vineyards call, HUBERT. There is work to be done.

During his hospitalization, Senator HUMPHREY sent me a message, "Keep working on famine prevention. I love you." This touching note makes me understand the great outpouring of affection and good will that is occurring today on the House floor.

Mr. BURKE of Massachusetts. Mr. Speaker, I think it is fitting that we take this time today to honor a man who has given of himself for the benefit of his fellow Americans more than anyone I know. He has consistently been at the fore of governmental efforts to upgrade the physical and spiritual well-being of people all over this country. Although he has served his beloved Minnesota with the dignity and excellence which has been typical of that State's Members of Congress over the years, he has always been national in outlook, carefully weighing the best interests of the Nation.

In many ways, HUBERT HUMPHREY has spoken to the collective conscience of this country. He advocated reform in civil rights, labor law, and our relations with the Russians long before it was fashionable. If he has suffered in any way politically, it was because he was ahead of his time on the major issues that affect this Nation.

As we all know, his is the politics of joy. It could be no other. It is the most obvious extension of the man. HUBERT HUMPHREY always manages to put the needs of others before his own personal considerations. In the face of pressing personal concerns, my good friend thought enough to call me and give me warm words of encouragement during my hospitalization this past July. My conversation with him gave me a tremendous boost. Words cannot express the deep gratitude and appreciation with which I received his encouragement.

And so at this time, I would like my colleagues in the House to join with me in a tribute to this compassionate public servant.

Mr. ROGERS. Mr. Speaker, it is an honor for me to pay tribute to a great American on this memorable day for the House of Representatives. HUBERT HUMPHREY has a record of leadership and courage equalled by few in the annals of our Nation.

Through all of his responsibilities—as mayor of Minneapolis, as U.S. Senator, as Vice President, and as a universally recognized national and international leader—this man has demonstrated a superior quality: fearless conviction for that in which he believes. Adversary and ally alike have never doubted Senator HUMPHREY's courage. He has been a champion of unpopular causes and a challenger of insurmountable odds during his long years of public service.

Never was his courage better displayed than in his determination to return to his legislative duties. Through his illness he has received support and stoic dedication from his remarkable family, including his gracious wife Muriel and his sister Frances, my long time friend.

In saluting this statesman, I underscore the privilege it continues to be to serve with him in Congress.

Mr. BALDUS. Mr. Speaker, Many people in western Wisconsin think of HUBERT HUMPHREY as Wisconsin's third Senator.

Everyone, everywhere, appreciates HUBERT HUMPHREY for his ideals and efforts and have gained from them. We in western Wisconsin have gained most from his concern about rural issues and the needs of the farmers, because he was witness to the damage done to the land and to the people by the dust bowls of the late twenties and early thirties.

We have felt a certain pride over the years as our neighboring Senator fought for equality and for programs that would help to improve the quality of life for everyone.

And that is HUBERT. He has witnessed the hardships that this Nation has faced, the problems that caused turmoil and confusion. And he remembered, and those memories fueled and directed his course of action. Always he is there to fight to improve. Under his leadership we have forged new frontiers, such as civil rights, voting rights, the space program, the full employment act.

We have to wonder how our Nation would have been different if HUBERT HUMPHREY had only gotten a few more votes in 1968 and beaten Richard Nixon. But, rather than ponder what could have happened, in true Humphrey form, we learn from what did happen and strive to correct past oversights. Never discouraged, but accepting the realities and working with renewed dedication and resolve.

We in the United States look to HUBERT for inspiration. But we in western Wisconsin will long remember him as our third Senator.

Mr. MINETA. Mr. Speaker, I rise today to join with everyone in honoring a great American, a great man, a great Democrat. When I think about the Democratic Party, what it stands for, what it has accomplished, and what it seeks to do, I realize that all of these things are embodied in one man: Senator HUBERT H. HUMPHREY.

Speaking out for civil rights long before it was fashionable to do so; recognizing the needs of the poor, the hungry and the old, and striving to improve the quality of their lives; fighting for human rights before it was a label for a national policy; Senator HUMPHREY has led us to always strive for the best we can achieve. He has inspired us to believe that defeat does not mean failure, that the time for effort is always now.

Though chided even by himself for speaking too often, too loud, and too long, we know that he has always had a great deal to say, that we always needed to hear what he had to tell us, and that the values he expoused were embodied in the philosophy which we all believe.

The United States is a better place for having had this great man leading us to follow his determined course. As we cannot judge our Nation's growth by the gross national product alone, but must also look to the efforts that have been made to meet the real human needs of the Nation, we should look at Senator HUMPHREY as the trumpeter who has led us to fight for what we know in our heart is right, just, and necessary, no matter how difficult. It is not easy to carry the banner for these causes year after year, to suffer defeat yet carry on with determination. But thank God Senator HUMPHREY has done it. We are all much better for it.

Mr. WIRTH. Mr. Speaker, I rise today to honor one of the extraordinary men of our time, Senator HUBERT HUMPHREY, who we are privileged to have with us in this Chamber today.

Mr. Speaker, I will be brief in my remarks. I want simply to say that throughout some of the most tumultous years in this country's history, years marked too often by strife and bitterness, HUBERT HUMPHREY has exemplified and reminded us of our better instincts. In the midst of partisan political battles Senator HUMPHREY's voice has always been heard reminding us of our duty as public servants: to help those in this country who cannot help themselves. His compassion, determination, and selfless commitment to this country are and will be for many years the standard by which our leaders are judged. And all of our lives are better today because of Senator HUMPHREY's service.

Senator, we are honored to have you here today. Our prayers are with you.

Mr. OTTINGER. Mr. Speaker, I am pleased to join with the Members of this House to honor our esteemed Senate colleague, HUBERT HUMPHREY.

Much has already been said about HUBERT's lengthy list of legislative accomplishments—and deservedly so. His

never-ending fights on behalf of the handicapped, elderly and minorities have made it possible for these groups to receive the attention, self-respect and help they deserve. Without his efforts, the programs we now have in this country and that we now take for granted would be sorely lacking.

Despite his stature as a statesman and leader, HUBERT is never too busy to talk to anyone. One of his greatest attributes is this ability to offer comfort, advice or to lend an ear for fresh ideas. When the Environmental Study Conference was in the process of expanding to include Senators, HUBERT was among the first to offer moral support and to urge his colleagues to be responsive and join. Any cause which he takes up is pursued with 100 percent of his attention and energy—you are always lucky to have him on your team.

In the process of organizing for the Environmental Study Conference, I learned another remarkable thing about HUBERT; he is never too busy to make his own phone calls. This may not sound like much, but for one who has a demanding schedule such as his, this means a great deal. He has an uncanny ability to learn and remember names and takes the time, too, to talk with the staffs of other Members.

Throughout HUBERT'S many years of public life, he has never once let his title or "position" affect him or the way he interacts with others. One of the nicest things that can be said about him is that as his achievements and recognition mount, HUBERT HUMPHREY somehow manages to become more modest, more open and more human as the years go by. He is a good teacher to have around and I hope he will never let us forget what can and needs to be done.

Mrs. SPELLMAN. Mr. Speaker, for more than a quarter of a century, the presence of Senator HUBERT H. HUMPHREY has ennobled both politics and public life in the United States.

Since he first stepped from the sidewalks of Minneapolis onto a broader stage at the 1948 Democratic National Convention, he has never wavered in his determination to "help those among us least able to help themselves." He has had many a stunning success in that continuing struggle, but enough heartbreaking defeats to have embittered a lesser man.

But bitterness is not an ingredient in his makeup. He has met both adversity and advancement—whether for himself or in a cause—with a remarkable mix of grace and good will.

That same happy mixture was everywhere in evidence on November 1, 1977, when the North Portal Building of the Department of Health, Education, and Welfare was formally dedicated as the Hubert Humphrey Building. It is a peculiarly fitting tribute because the continued health, the improved education, and the general welfare of the people of the United States have always been in the eye of the hurricane called HUBERT.

The dedication matched the man: No high-sounding oratory; neither false humility nor puffed-up pride. It was vintage HUMPHREY—a happy man accepting an honor in the same gracious spirit in which it was offered.

So much has been said in praise of Senator HUMPHREY that it is difficult to add new notes to the chorus. Still, one cannot be silent in the face of his enormous contributions to the betterment of the citizens of this land.

He has, I believe, touched the lives of each and every one of us with an idea, with legislation, or sometimes just with healing good humor. The hours I have spent in his company are among the most treasured times of my life. And the lessons I have learned from working with him have enriched me immeasurably.

One searches for a title, a combination of words, that will somehow capsule the man. But he defies capsulization. HUBERT HUMPHREY is that very rare person who serves as the conscience of a nation without making anyone uncomfortable. While so many labored to build walls between people, he structured only bridges.

Perhaps there is a word for him after all. It is a word, like him, that is happy, unpretentious and giving. It is a word that describes his relationship with just about everybody—the meek as well as the mighty.

The word is friend.

Mr. WEISS. Mr. Speaker, our country is very fortunate to have had HUBERT HUMPHREY as one of its public servants during the past four decides. He has played a major role in reshaping the political and social currents of mid-20th century America. While it would be impossible to list all of his accomplishments in this brief a space, it would be equally impossible to do justice to Mr. HUMPHREY without paying tribute to his civil rights work. As he once told an interviewer:

> It was not an easy course to follow. I think it's fair to say I was ahead of my time.

But his concern for the public good went beyond his legislative accomplishments. His indomitable spirit and resilience set an example for everyone fighting for changes in the American social fabric. One need only to look at the last 10 years of his political career to see that spirit in action.

For most politicians, losing the Presidency by as small a margin as Mr. HUMPHREY did in 1968 would have driven them into retirement. But HUBERT HUMPHREY has always been more than a politician. Instead of retiring, content to be an elder statesman, he returned to serve his country in the U.S. Senate. More importantly, his service there upon his return has been far from perfunctory, as exemplified by his work on the Humphrey-Hawkins Full Employment Act, a bill which, as has often been the case with Senator HUMPHREY'S proposals, addresses itself to one of the country's most pressing needs.

HUBERT HUMPHREY'S acute sense of injustice and tenacious intellect have combined to create a great impact on American life, one which will remain with us a long time. For HUBERT HUMPHREY has been there when America needed him most and—as is characteristic of truly great men—often when our Nation needed him and did not know it. America owes its undying affection and gratitude to him.

Mr. KOSTMAYER. Mr. Speaker, not too long ago, in an interview with the Washington Post, HUBERT HUMPHREY remarked: "What I want more in life than anything else now is respect."

I join my colleagues in the House today, Mr. Speaker, to pay Senator HUMPHREY a measure of that respect he deserves.

His yearning at this time in his long career, not for power, nor wealth, but instead for something simpler, though not necessarily any easier to earn—recognizes the reality that no matter how much one achieves in life, when you really get right down to it—respect, love and friendship mean more than anything else.

HUBERT HUMPHREY for all his successes and disappointments, or maybe because of them, has won the respect, love and friendship of the American people.

Our tribute to him here today in this Chamber is really more a reflection and representation of the esteem which his fellow countrymen hold for this distinguished Minnesotan.

Because of its enormity, one cannot begin to compile a list of the significant legislative accomplishments HUBERT HUMPHREY has attained in his time in Washington. But one needs no such list to know whose lives those achievements have touched.

It is the oppressed whose cause he has championed, the poor for whom he has been a fighter, the disadvantaged who have had him as an advocate and the underprivileged for whom he has been a protector. The rich, the privileged, the lucky few, have come to be wary of him and with good reason.

The results of his efforts have almost universally been to bring about a better America, a more compassionate America, a stronger America.

His leadership has taken him from the mayor's office of his hometown to within a hair of the Presidency.

But many others have risen to those heights, and higher—why then, this great feeling of love and affection for HUBERT HUMPHREY?

I think Senator HUMPHREY answered that question himself in that Washington Post interview.

Speculating on how history would remember him, he said he hoped to be recognized as an "effective" man in government: "That I was a decent man, that I knew my job, that I knew how to get things done and that I did important things in government," he added.

The affection and love felt by his colleagues and by millions around the world demonstrate that HUBERT HUMPHREY has met his high standards.

My political relationship with HUBERT HUMPHREY began on a sour note, Mr. Speaker, when in 1968 I picketed an appearance by the Vice President in Allentown, Pa. That was at the tail end of a long and difficult campaign for the Presidency when our party and our country were terribly divided. I was 22 years old then, Mr. Speaker, and very angry

with HUBERT HUMPHREY. And with a good deal of doubt, I cast my first vote for President for him anyway; now I look back upon that single vote as perhaps my proudest.

GENERAL LEAVE

Mr. MITCHELL of Maryland. Mr. Speaker, it might be propitious if at this point I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks in the RECORD on this special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. MITCHELL of Maryland. Mr. Speaker, may I simply indicate that after the 5 legislative days have passed and these tributes have been bound into a book, we will make every effort to secure the signatures of those who made statements here or submitted statements for the RECORD on this special order, and that will be presented to our dear friend, the senior Senator from Minnesota (Mr. HUMPHREY).

THE DANGERS OF CONTINUED UNILATERAL DISARMAMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. SIKES) is recognized for 30 minutes.

Mr. SIKES. Mr. Speaker, there is a consensus of opinion in and out of the Department of Defense that America's defense budget is to be cut in the fiscal year 1979 program. This has created consternation in many quarters. Defense leaders are dismayed at the thought that they may be expected to cope with mounting Soviet superiority without an increase in the American effort. This was the pattern in fiscal year 1978 when President Ford's budget was substantially cut by the Carter administration. President Carter's budget was reduced further by Congress. The President canceled the B–1 program, among other actions which lessened America's defense capability. All of this has caused serious concern in the Western world about America's attitude toward defense. In cold reality, additional cuts in the next fiscal year could induce additional adventurism on the part of the Soviets or their satellites. It is to be hoped that the new budget will show an increase in constant dollars for America's military effort. There should be no question but that an increase is needed.

During a recent debate in this Chamber, the words of John F. Kennedy in his inaugural address on January 20, 1961, were recalled. At that time, the new President said:

> Only when our arms are sufficient beyond doubt can we be certain that they will never be used.

President Kennedy was later to live through the proof of that philosophy during the period of confrontation with the Soviet Union over the placement of Soviet missiles in Cuba. During those tense days we determined that it was exactly our capability "sufficient beyond doubt" which forced the Soviets to meet us eyeball to eyeball and be the first to blink. We all learned something about deterrence in that crucial time. I am very concerned that the lesson has been forgotten. Unfortunately, there is little doubt that those who do not remember history are condemned to repeat it.

I rise today to speak out on what I consider to be a most unfortunate trend in this administration—the reduction of spending for defense programs whether they be real monetary reductions in projects or personnel, a stretchout of present programs over more extended periods of time, or the outright cancellation of important programs. We do not need to refer to any specific program when reviewing this subject. The proposals of the administration in the past 9 months, and those which are being widely reported as forthcoming from ranking officials in the Defense Department and the Executive Office leave no doubt that the defense budget for the next fiscal year will again show a reduction in constant dollars, a cutback in manpower, and lower rates of weapons procurement. This is a policy which can increasingly damage the Nation's ability to carry out foreign policy commitments and necessary actions in the national defense. As a colleague from the other side of the aisle, who sits with me on the Defense Appropriations Subcommittee, stated recently, not only are the proposed levels of spending decreasing, but there is also no assured indication that there is a master plan for forthcoming defense expenditures.

I have been a Member of Congress for many years. During that time, I have seen a myriad of philosophies regarding our Defense Establishment. Repeatedly, I have seen defense spending strongly supported in times of national danger. I have seen sharp curtailment in times of peace. This is the most costly type of defense. I hope we are not slipping gradually into a repetition of that pattern. I have, during all of my service, believed that the defense of this Nation was of vital importance and should be maintained at all costs. I find that many military leaders today are seriously concerned with what now appears to be a dangerously low future course of military spending.

Prior to speaking on specifics, I would like to digress for a moment and talk about our Nation's past status as a leader and where we seem to be today. As the Chairman of the Joint Chiefs of Staff, Gen. George S. Brown, reported to Congress in his Military Posture statement for fiscal year 1978.

> For nearly a decade at the outset of the nuclear era, the United States held a monopoly on nuclear weapons—and for some time thereafter the preponderance of strategic nuclear power. Today, owing to massive growth in Soviet strategic nuclear capability, rough equivalence has resulted. Each side has sufficient nuclear capability to inflict massive damage upon the other.
>
> This situation has significant consequences for the coming years.
>
> The importance of maintaining this rough strategic equivalence argues for continuing research and development and other programs which help ensure against technological surprises.

The proposals of the Ford administration recognized the dangers inherent in not funding the defense portion of the budget in increasing terms. The annual Department of Defense fiscal year 1978 report, signed by then Secretary Donald Rumsfeld indicated that there was recognition that the Soviet Union, for whatever purposes, was engaged in a serious, steady, and sustained effort which, in the absence of a U.S. response, would make it the dominant military power in the world.

A DOD report states:

> Neither the high quality of U.S. technology and weapons nor the considerable talents and skills of the men and women of the armed forces will continue to make up for the quantitative advantages of such an adversary.

Apparently, it was with just such thoughts in mind that President Ford presented his budget for fiscal year 1978 calling for total obligational authority of $123.1 billion and outlays of $110.1 billion. At that time, the proposed real growth in total obligational authority from fiscal year 1977 to fiscal year 1978 was about 6.3 percent. Again, the Defense Department cautioned that real growth between fiscal year 1978 and fiscal year 1982 "should continue to be substantial." I would add that another of Mr. Rumsfeld's thoughts was correct and is as viable today. It is that the ability of the United States to afford such expenditures is not in question; that, indeed, we cannot afford to withhold the resources required for strength, stability, and peace.

And it is not as if the cost for this strength was unnecessarily high. As a percentage of our gross national product, defense and military assistance spending outlays are less than 6 percent; as a percentage of net public spending they are around 16 percent for defense of this Nation. Yet, even at these reduced levels, we now hear that some in the present administration talk about no more than a 3-percent growth in the defense outlay category. Three percent added to the present low budget is miniscule. This cannot be a plan which insures our national defense at adequate levels. There are also those who base this planned reduction in expenditure on the basis that the Soviets are prepared to take action for future cuts in their own military program. To me, this is wishful thinking. I find no substance in fact for a hope of serious reduction in Soviet military spending which already is substantially higher than ours.

Now let us consider the recent reports of what the programs for the Navy may or may not include for the upcoming year, the results of which could threaten naval strength in the years to come. Some of the proposals are reported to be a reduction in the plan of the Marine Corps to purchase an upgraded version of the Harrier aircraft, reduced numbers of Marine aircraft squadrons, a 1-year slippage in the program for the purchase of the Navy's newest fighter, the F–18, a delay of some years in the development

of the Navy vertical/short takeoff and landing aircraft, and the termination of the new class of amphibious ships, the landing ship docks (LSD's).

I fear that this is another example of the lack of realistic planning in the defense establishment. This year we heard the Chief of Naval Operations indicate that the Navy would prefer to have a fourth nuclear-powered *Nimitz* class aircraft carrier. Yet, on the recommendations of the Navy and defense officials, the Congress rejected the big carrier and approved the concept of building smaller, less capable conventional platforms. Since these smaller carriers would not have the capability of accepting present-day aircraft on their decks, it follows that the Defense Department would want to move out on the development of the vertical takeoff aircraft. These are the aircraft that would operate from the smaller carriers. The fact is we are studying only—not building—the new aircraft. This could leave the Navy with two small carriers and no aircraft to deploy aboard them.

The Defense Appropriations Subcommittee was faced with the same question of Defense Department planning on the issue of the B–1. First we are told that the B–1 was canceled because a cruise missile-equipped B–52 or some other platform would answer the question of the availability of a manned penetrating bomber. There was also a statement that the manned penetrating bomber was not as important because of the range of the cruise missile itself. Yet the administration soon followed with a proposal from Secretary Brown that some $20 million be provided for the development of the FB–111H, the grandson of the TFX, which would be used as a penetrating bomber. No official as yet fully clarified the question repeatedly raised by Defense Department officials on the necessity of a manned penetrating bomber in the Nation's Triad program.

Thus it is more than a little disturbing that serious defense cuts may be in prospect. But what is more disturbing, and what is growing more and more apparent, is the lack of coordinated thought that seems to go into the plans which are provided to this Congress. Realize if you will that the recent B–1 decision by the House to eliminate fiscal year 1978 funds for B–1 production was made only after the President had called a number of Members to enlist their support; after departmental heads had personally warned Members of the risk of the delay or loss of needed funds for their districts in the supplemental bill; and only after the Speaker himself asked the House to trust the President's decision and support him on the issue. I suggest to you that I would like nothing more than to support the President and his administration, but it is getting increasingly difficult to do so when we consider that the B–1 had been acclaimed as essential by ranking officials up to the very date on which the President canceled the program. It has been a bargaining chip of primary importance in the SALT talks because the Soviets have feared it more than any other weapon with the possible exception of the cruise missile. To compound the question, there is now a growing uneasiness that an effective, long-range cruise missile may be offered up as a sacrifice to the Soviets in advance of hard bargaining at the SALT talks.

And let us not delude ourselves into thinking that any disarmament talks are going to result in the Soviets making realistic reductions in their forces. Listen to what the Chairman of the Joint Chiefs of Staff says about the Soviets:

> While Soviet-United States relations may be characterized by a general relaxation of tension, the Soviets must be expected to continue to probe for targets of opportunity. The Soviets will seek to exploit crises when such action serves their interests, while avoiding direct military confrontation. As the Soviets pursue their efforts to enhance their position in the overall balance of military power, we should expect hard bargaining in negotiations, an expansion of bilateral cooperation, and strenuous efforts by the Soviets to acquire advanced technology, some of which has significant military application.
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> The Soviets may become bolder and more aggressive as they perceive their relative military capability improving. The 1981–82 period appears to be critical in this regard.
>
> Continued improvements in Soviet forces imply that war-fighting and war-winning capabilities are fundamental Soviet military goals. As the Soviets approach such capability, they may well be inclined to test U.S. resolve. We therefore must be prepared to maintain an adequate military balance.

Consider briefly that in numbers the Soviets lead us in every aspect of general purpose forces with the exception of one. They lead us in numbers of tanks, combat divisions, artillery, surface combatants, general purpose submarines, and tactical aircraft. We lead the Soviets only in numbers of helicopters. The Soviets show marked gains in nuclear capability. Unless these trends can be reversed, it will be very difficult for the United States to effectively or credibly threaten to use nuclear weapons or general purpose forces as a prop for peacekeeping. And let us not try to confuse the numbers issue with the tired discussion of our numbers being less, but far superior. Soviet weapons are constantly being improved. Some of theirs are better than ours. Few are inferior. For a long time we took refuge in our technological superiority. This is effective only when there is ample time to develop and deploy new weapons. Now there is mounting evidence of great advances in Russian technology. We know there is a major effort by the Soviets to achieve breakthroughs in postnuclear technologies, including high-energy laser weapons and the charged-particle beam. Some news accounts state they already are in production by the Soviet defense industry. Let us not kid ourselves. If the Soviets outdistance us in these areas, and they will unless we continue to fully fund this Nation's research and development efforts, there will be little to stop their advances in any area of the world. The emerging imbalance might easily result in a Soviet tendency to test this Nation—and if that day comes you and your children will be glad for every dollar we have put into this Nation's defense programs. At the least, we should not allow ourselves to be placed in the position that the Soviets found themselves in 1962. In that confrontation, they backed down. We do not want America to have to back down in the next confrontation.

Throughout this discussion I am not asking for money to be dumped willy-nilly into the defense establishment, although such action would be in keeping with what is done in some of the other Government programs. What I am seeking is reconsideration of our national defense goals and a comprehensive plan to bring those goals to fruition. It seems that this Nation—and, indeed, many Western countries—has developed a preoccupation with social and economic issues, and views defense capabilities as irrelevant. Some writers of insight have been correct in stating that it has been fashionable in recent years to suggest that the principal problems of our age relate not to military balances or to defense, but instead to issues such as raw materials, energy, inflation, and monetary reform. Surely this would be true if there were not a drive by communism to extend its influence throughout the world—a drive which has achieved much more success than we seem willing to acknowledge. Africa is a positive illustration. The Soviets there have far outdistanced the United States and other Western powers. Surely the security of the United States must be related to both defense and economic terms.

Additionally, just making the guns versus butter decision is not going to indicate superior planning or decisionmaking effort on the part of the United States. Within the defense establishment itself there are a number of issues which must be resolved before specific programs are examined. One which comes to mind instantly is the issue of manpower costs. General Brown mentions the "people" question as one of the four areas of major consideration in any decisions on defense spending. While the people quotient has not previously been viewed in any strategic equation other than end-strengths, today's situation requires that the human component be determined. As he states in the fiscal year 1978 defense posture statement:

> This report, and the budget request you are considering include a number of people-related issues. I am aware of the very real pressures to keep defense costs down, and of the significant portion of the budget that goes to personnel programs. The need to examine every program and every cost for its contribution to security is acknowledged. Yet, I caution against striking at the people-related programs simply because they are the largest target. Prudence in managing funds is an agreed objective—and we are not being prudent if we do not provide for the needs of the good people upon whom we rely for an effective military establishment.

Stated much more simply, without an adequate number of people, military and civilian, it is not possible to maintain and operate the intricate and sophisticated equipment required by today's military forces. Deadlined and inoperable equipment is useless. Frequently, there has

been criticism in the media about ships, planes, tanks, or other equipment which are not operable. In all together too many instances this is caused by inadequate numbers of personnel; simply not enough people to do the job required.

The number cut by Congress from personnel in the fiscal 1978 budget is far too great. Yet, there is apparently to be a further cut imposed through the administration's budget for fiscal year 1979. The military leaders simply do not know how to absorb these cuts and provide efficient and adequate defense for America. One of the reasons for the present efforts on the part of some individuals to unionize members of the Armed Forces stems directly from a perception on their part that the benefits of service careers have been steadily decreasing. Many in the military are attracted to the unionization idea as a result of past "open seasons" on the military benefit system. Civilian employees are subject to the same apprehension about their future security as employees of the military establishment.

These individuals are no different than other people. Just as you would fight for the benefits which you feel you deserve, so will these individuals. The danger is that not only will there be an eventual degradation in the desire to serve, but younger citizens will no longer perceive the military as a career upon which they can rely. This is a formula for the failure of the All Volunteer Force concept for the military. Similarly a rapidly accelerating of contracting out defense activities would be a formula for the loss of skills and expertise required for long-time successful military programs.

Our Nation cannot allow Soviet capabilities to continue expanding and U.S. capabilities to retrench—as they have over the past decade—without inviting an imbalance and a major crisis. This is unilateral disarmament—a very dangerous practice. Yet it is one in which we are engaging year after year.

We do not need to keep step-for-step pace with Soviet military expenditures. But present U.S. policies contrasted to Soviet policies are making us more vulnerable to attack or to a confrontation year by year. A further reduction of support for the defense sector of our national budget is not going to improve our position.

To take a final leaf from former Secretary of Defense Rumsfeld:

The world of today is no longer one of many great military powers. There are only two major powers—the United States, which is the primary champion of freedom, self-determination, and international pluralism, and the Soviet Union, which has an imperial domain already sprawled over two continents and is the primary advocate of a command economy, centralized control, and the subjugation of the individual to the State.

DEMAGOGUERY AT THE WHITE HOUSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. HAMMERSCHMIDT) is recognized for 10 minutes.

Mr. HAMMERSCHMIDT. Mr. Speaker, on October 27, Economists for Responsible Energy Policy, representing some of the most eminent scholars in the field of economics today, inserted into the Washington Post the following commentary on President Carter's October 13 news conference on energy policy. This editorial is an acutely perceptive analysis of the controversies surrounding passage of the administration's energy package, which I thought might be of interest to my colleagues.

Providing the necessary incentives to encourage and generate domestic exploration and development of adequate energy resources is what I am sure all of us desire. I therefore submit "Demagoguery At the White House" to the attention of this body in the hope that it will intensify a national commitment toward development of a realistic United States energy policy:

[From the Washington Post Oct. 27, 1977]

DEMAGOGUERY AT THE WHITE HOUSE

Not since Richard Nixon left the White House has the public witnessed an outburst quite like President Carter's at his recent news conference on energy. The President heaped invective upon his opponents, denounced oil companies as "war profiteers" and declared that defeat of his energy program and removal of natural gas price controls will mean "the biggest rip off in history."

As responsible economists of all parties, we deplore discussion of important national issues in these terms. We believe that the President's intemperate language reveals the essential weakness of his case.

The issue is not oil companies versus the people. And one does not need to be a fan of the oil companies to recognize that. Every signer of this statement has been critical of the oil industry. We strongly oppose the current system of controls and import subsidies that adds millions of dollars to the income of oil refiners. We believe in a competitive oil industry free from monopoly.

We think the best way to achieve the goals of energy conservation and limited imports from OPEC is to let the market set prices—with rewards going to those who serve consumers most efficiently. Mr. Carter wants the bureaucracy to set prices and to distribute the rewards politically.

Under Carter's plan the lobbyists he deplores really would have the ability to "rip-off" the public. This possibility has certainly been recognized by some of the oil companies themselves. Contrary to public impression, not all the oil companies have been fighting the Carter program. They see the possibility that it would protect them from competition as well as grant them direct subsidies.

The so-called "energy program" would be the largest peacetime tax increase in history. It would make many billions more dollars of tax revenue available for lobbyists to seek—as well as mandate an expensive bureaucracy which would increase the overhead costs of making energy available to consumers. Already the Department of Energy is to cost $10 billion annually—a sum roughly equal to the combined aftertax earnings of America's major oil companies.

Mr. Carter would use taxes to raise the domestic price of oil to the world level. This is his way of eliminating the subsidy we are now paying through the "entitlement program" for the import of foreign oil. A far better way to achieve the same goal is to let the market set the price. This would provide the domestic owners of oil, many of whom are not large oil companies, with the same incentive to produce oil which we currently provide to OPEC. It makes no sense to say that OPEC oil producers can receive $12 or $13 per barrel when American producers are limited to $5 per barrel. But this is exactly what the President's tax on crude oil would do.

If the market is allowed to set the price, this will bring forth additional energy supplies which will lead to lower prices in the future. But if the cost to the consumer goes up due to a tax increase, it will go up now and permanently. There is no increased production. The consumer's only hope under the Carter plan is that bureaucrats in the Department of Energy will somehow be more enterprising and efficient at bringing forth energy supplies than all of the many energy companies operating under the spur of profit and competition. Does anyone really expect this to be true?

There is no energy crisis in the U.S. today, but there is an energy problem. It was created by political manipulation and price controls in energy markets. Former President Nixon deserves much of the blame for imposing these controls on oil as part of his general price control program in 1971. The controls on natural gas that created the crisis of last winter date from more than 20 years ago. And the present system of oil taxes and subsidies was passed by Congress and signed into law by President Ford in 1975. Now a Democratic President seeks to perpetuate the mistaken policies of his Republican predecessors.

At the very time that the Carter Administration is opposing de-control and thus denying the public the right to purchase American gas at $2.20 per MCF, the Department of Energy is making long-term deals to import natural gas from Algeria and Indonesia at $3.50 per MCF.

Angry rhetoric from Mr. Carter will not persuade a reasonable citizen that it is better for our economy to spend $3.50 for gas than it is to spend $2.20.

Perhaps with more serious reflection, Mr. Carter may come to realize this himself. Perhaps he will return to his pre-election position that controls, which are a major cause of our energy problems, should be eliminated.

Congress has been told that it must rush to pass Mr. Carter's current energy plan. "This is the moral equivalent of war." And what is that? William James, from whom President Carter borrowed the phrase, defined "the moral equivalent of war" as nonmartial suffering, something which involves "discomfort and annoyance, hunger and wet, pain and cold, squalor and filth." We do not believe that the American people deserve to have "discomfort, pain, squalor, etc." imposed upon them by their government.

ECONOMISTS FOR RESPONSIBLE ENERGY POLICY
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A TRIBUTE TO HERBERT ROBACK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 30 minutes.

Mr. BROWN of Ohio. Mr. Speaker, during the August recess of the current session the House of Representatives lost one of its most skilled and dedicated staff members upon the passing of Herbert Roback.

As a longtime member of the House Committee on Government Operations, I had the opportunity and privilege to work with Herb Roback on a host of legislative issues and investigative projects. First as subcommittee staff director and then as full committee staff director for the majority Herb's professionalism objectivity, and writing skill enabled him to rise above partisan and parochial differences and enabled the members he served to write legislation and oversight reports which were truly definitive.

On September 20, a memorial service was held for Herb Roback in one of the committee rooms of the Government Operations Committee. A transcript of the remarks made during that service has been prepared, and because of Herb's outstanding contribution to the House of Representatives as an institution over several decades, I feel it is appropriate, Mr. Speaker, to include these remarks in the RECORD for the benefit of all of our colleagues:

MEMORIAL SERVICE FOR HERBERT ROBACK

On Tuesday, September 20, 1977, a Memorial Service was held for Herbert Roback. Michael McGinn, a friend and colleague, presided.

Mr. MCGINN. Friends, we are gathered here with fond memories to pay loving tribute to our dear friend, Herbert Roback. May I present Congressman Frank Horton, Chairman of the Commission on Federal Paperwork, for which Herb worked through the last days of his life.

Mr. HORTON. Thank you, Mike. This is a very sad occasion in many ways but also, in many other ways, it is a very happy occasion because of the fact that we all had the opportunity to work with a person who meant so much to us. Today we are honoring him—probably what we should have all done while he was alive.

It is difficult to eulogize a public servant or a scholar or a soldier or a brilliant legislative tactician or an expert on the workings of democratic government or to eulogize a good friend. But it is much more difficult to eulogize a man who was all of these qualities in their finest and most superlative sense.

I first met Herb Roback during the first month of my service in the Congress in January 1963, when I was assigned to serve on the Government Operations Subcommittee on Military Operations, of which he was the Staff Director. Never before that date or since have I met a man or woman whose thoroughness, brilliance, or whose dependability came close to approaching that of Herbert Roback.

I will never forget that the very first hearings I participated in were the ones on communications satellites and had to do with whether or not we were going to participate in what is now called Comsat. In all of my experience as a trial lawyer, and subsequently in the experience I have had in the Congress, I never saw a more brilliant questioner than Herbert Roback on a very difficult subject—the Comsat issue.

To recount the settings in which Herb and I have worked closely together would be to recount a biography of Herb Roback during the past 15 years.

In addition to the Military Operations Subcommittee, when Chet Holifield and I helped to create and later serve on the Commission on Government Procurement, Herb Roback was there. His judgment, his turn of phrase and his unique ability to perceive and synthesize the essence of whatever subject matter he dealt with are clearly engraved on the work product and on the accomplishments of the Procurement Commission. I really don't think we could have had the success that we had with the Procurement Commission had it not been for the work and inspiration and the dedication of Herb.

When Chet Holifield became Chairman and I Ranking Minority Member of the Government Operations Committee, Herb Roback was there as the Staff Director, where he served until Chet's retirement from the Congress. By then I had already learned that whenever Herb Roback had a hand in the preparation of a piece of legislation or a committee report or any written product, that product was likely to be the most definitive work that could be done by anyone on that particular subject.

I also recall very well our Subcommittee's trip to Vietnam and Southeast Asia in 1968 when Herb accompanied us. On that occasion I learned another remarkable thing about the man we honor today. No matter how complex or controversial or unpleasant was the subject matter we were examining, to see that subject matter through Herb Roback's eyes was to see it as it really was. Herb, throughout his decades of service to the people of America, as a soldier and as an official of the Congress had no axes to grind, no grudges to bear, no personal agendas to complete. His work and his preparation were the essence of objectivity, of concern for facts and of a desire to advance the public good through the procedures and institutions of a democratic system of government which he loved so dearly and served so well.

More recently when we created the Commission on Federal Paperwork and I was elected its Chairman, I turned to Herb to serve as the Director of Studies of the Paperwork Commission—the position he held at the time of his death. There are no words that I can use to adequately express the depth and breadth of Herb's contribution to the work and wisdom of the Paperwork Commission and its staff. His years of experience working in the vineyards of governmental practices and procedures, and his brilliant ability to recall past facts and circumstances and apply them to the present and future made him at once the rudder, the brake and the beacon which helped to guide the Commission in pioneering its way through subject matter which no governmental body had ever before attempted to traverse so thoroughly.

In all of this and despite all of the recognition he received as a civil servant, as a writer and published authority on Government, and as a senior congressional staff member with all of the trappings and privileges and power at his finger tips, through all of this, Herb Roback was never one to seek credit or recognition or glory or even notice for himself or for his own work.

In this day and age when so many of our institutions, our public officials and our national leaders are the target of incessant criticism and cynicism, and when the search for heroes and for people whose lives and ideals we can model ourselves after is so much more difficult than it was in past eras of our Nation's history, the life and work of Herb Roback can truly be described as the life and work of a silent, and perhaps little known, and yet tremendously significant national hero. We, as a Nation, have tended to forget the ideal urged upon us by the late President Kennedy, when he said, "Ask not what your country can do for you, but ask what you can do for your country." Herb probably epitomized that more than anyone I know.

Herb Roback never approached a task selfishly, he never looked at the task for what was in it for him. It is ironic that most Americans do not know and never can know the true significance of all that Herb Roback did for America.

He was a man, who in battle and as a prisoner of war, was true to his country and his ideals. He was a true and loyal servant to those he served in the Congress. He was true to his loving wife, Arline. But most of all, Herb was true to the Constitutional principles of free representative government and to his own high standards of scholarship and honesty in all that he did. There may never be a large monument in Washington

built in the memory of Herbert Roback, and yet his monuments stand everywhere—the Department of Transportation, the Department of Housing and Urban Development, the Office of Federal Procurement Policy, the findings and recommendations of the Procurement Commission, the findings and recommendations and the work of the Paperwork Commission, a host of long-standing reforms in our Nation's defense establishment, the strong thread of objective governmental oversight, which is the lifeline of the Government Operations Committee, and whatever strong accomplishments may yet be recorded by the Paperwork Commission and the other institutions he served. These are the monuments that have been erected and will continue to be there, serving to remind us of the work of Herb Roback in the Congress of the United States and in these various other activities in which he took part.

All of these in a very real sense are living monuments to the brilliance and service of this fine human being. I have no question that God has received his spirit in the truest sense of honesty, dignity and excellence which molded and guided that spirit during Herb's lifetime.

I would just like to say one other thing of a very personal nature, and I told Herb this. It looked at one time as though—especially being the Minority Leader of the Government Operations Committee—that I might some day become the Chairman of the Government Operations Committee if the House would have gone Republican. I said to Herb at that time, to show you how I felt about him, I said, "Herb, I never know what is going to happen in an election, but if it ever would happen, you would be the person that I would want, that I would like to see as the Staff Director." That is the way I felt about him. He was a true friend, a hard worker. With all the people in this room who have written reports, there is nobody who can write a report like Herb Roback, and make sure that it was sound, substantiated by the facts, and that it was a report that we could be proud of in our Government Operations Committee.

I saw Herb the last time at one of the meetings of the Paperwork Commission just before his death. I guess the Good Lord must have touched me and said you must, at this point, recognize him because I had him stand up and I spoke about his brilliant work as Director of Studies for the Paperwork Commission, and gave him that public recognition before those who were there in attendance at the formal Commission meeting because I felt so strongly about the fine work he had done. And even until his last days, he was working hard at the task which is still incomplete.

From my own personal standards, I want to say that he is a person that will be missed. I have already missed him, and I'm going to miss him a lot in the future. I know that I speak for all of us when I say—here was a man we are proud that we knew, a man we are proud that we worked with, and a man that we will never forget.

Mr. McGINN. Comptroller General Elmer B. Staats has had a long personal and professional relationship with Herbert Roback, both through the Government Operations Committee, several commissions, and outside of government through the National Academy of Public Administration.

Comptroller General ELMER B. STAATS. If one were to select one word to characterize our late and widely respected colleague, Herb Roback, I believe that word would be "sage." Samuel Johnson defined a sage in the 18th century as a philosopher, a man of gravity, and a symbol of wisdom, qualities in which Johnson himself was well-equipped. Herb Roback, too, was all of these, particularly as they can be applied to someone as closely associated with "The Hill" as Herb was for many, many years. In my associations with Herb Roback, I found him temperate in his views of national affairs and political events, substantive in his appraisals of men and situations, and wise concerning how the Congress operates, the needs of its Members, and the importance of its place as one of the three foundations of the Government of the United States. On such matters Herb Roback was singularly well-informed and he shared what he understood.

Herb Roback, to those who worked with him or knew him well, was in many ways the sage of Capitol Hill in the decades that he served in the Congress.

Herb had something else in common with Samuel Johnson. Both were superb writers. Johnson could reduce almost any abstruse subject to clarity in a few sentences. With equal skill, Herb Roback could cut through the thickets of complicated defense questions. The reports he wrote for the House Committee on Government Operations will stand as models of clarity, simplicity, and common sense for others to follow. Somewhere it is written that "pure reason avoids extremes and requires one to be wise in moderation." This sentence is pure Roback. He avoided extremes, he was moderate but no less forceful in his counsel, and he brought to public service those commodities of wisdom, substance and philosophical balance that are all too scarce today.

The Commission on Government Procurement was a significant effort that I had the opportunity and pleasure to work with Herb Roback. Congressman Chet Holifield was Vice-Chairman of the Commission and I was a member. I think it is fair to say that Herb and Congressman Holifield were truly the "fathers" of the Commission. From the hearings on the bill that eventually passed in late 1969 to create the Commission, through the several phases of the Commission deliberations, the issuance of the Commission report, and in the followup on the recommendations of the Commission, Herb stood as an invaluable counsel, aide, not only to Congressman Holifield, but also to me, other members of the Commission, and the Commission staff.

The Commission proceedings demonstrated Herb's deep insight into the workings of Government and his dedication to finding ways to make Government more efficient, effective, and responsive to the needs of the people. Without the benefit of Herb's questions and advice the Commission's proceedings and its final report would clearly not have achieved the quality they had. The fact that many of the Commission's recommendations have already been adopted, and that the Commission's report today stands as the authoritative centerpiece for any discussions of procurement reform owes much to Herb Roback's influence.

Herb Roback was elected to membership in the National Academy of Public Administration in 1972. He was an acknowledged authority in management improvement and reorganization of the executive branch. His participation in symposiums on the "President and Executive Management" and "Ethics in Public Service" was perceptive and his incisive comments during panel discussions were invaluable in reaching the panels' consensus. Herb Roback was a major contributor to the Academy's Publication entitled "The American Presidency: The Dilemmas of Shared Power and Divided Government." He authored one of the first selected papers published by the Academy entitled "Problems and Prospects in Government Reorganization."

Herb's final contribution to better Government was his work as Director of Studies of the Commission on Federal Paperwork. The Commission's final report will be issued shortly. Here again Herb made a major contribution.

We honor Herb Roback today as an outstanding public servant. His major contributions to better Government will long stand the Country well. We in the General Accounting Office will miss him greatly as we know you will also.

Mr. McGINN. Herbert Roback's closest friend and long-time employer and confidant in Washington was certainly Chet Holifield, Chairman of the Committee on Government Operations of the House of Representatives.

Mr. HOLIFIELD. We are here today to express our admiration and our affection for our dear friend, Herb. We are here to express our sympathy and affection to Arline and the members of Herb's family. My remarks today will be brief but I want to pause here to say that if I was on the floor of the House, I would say that I want to associate myself with the remarks of my two good friends, Frank Horton and Elmer Staats.

Herb was my co-worker for twenty years in the legislative and administrative tasks of the House Committee on Government Operations. He was my Staff Director for the Subcommittee on Military Operations and Reorganization of the Executive Branch of Government for fifteen years. When I became Chairman of the Full Committee on Government Operations, Herb became Staff Director for the Full Committee during the following five years of my congressional service.

Herb's knowledge of the structural organization of the Federal Government and its proper function was superior to any person I have ever known. Working together we were responsible for scores of Presidential reorganization plans, the purpose of which was to improve the economy and efficiency of government operations.

We worked together to create two cabinet level departments—the Department of Housing and Urban Development and the Department of Transportation. We also created a number of government commissions: The Commission on Government Procurement—and the Chairman of that Commission, the Honorable Perkins McGuire, is here today to attest to his respect for the work that Herb did on that particular Commission—and the Commission on Federal Paperwork were the last two commissions established. Herb worked on the Paperwork Commission, as Frank Horton has told you, until a few days before his death. His Chairman, my friend, Congressman Frank Horton and his staff members will attest to his persistent determination to help finish the Commission's Final Report, and his thoughts will be embodied in many places in that report, I am sure. He worked until his final days although his physical pain and weakness increased daily.

I believe Herb's uniqueness was demonstrated most in his relations with his fellow members of the staffs on which he served. He earned their respect and cooperation by the example he set in the long hours he worked, the remarkable capacity he had as a skilled writer to bring together the complicated matters upon which he worked, and the quality of judgment he used in selecting his staff personnel for their respective assignments.

Herb was a quiet man: In all our years together, I never heard him raise his voice in anger against any person. There was never any doubt that he had a fine sense of humor, but his humor was devoid of sarcasm or animosity toward other individuals.

Earlier I spoke of some of the legislative goals which we attained by working together. I want to make it very plain that whatever accomplishments we had would not have been possible if I had not had Herb by my

side. No Congressman can succeed in discharging the important duties of his office without the help of competent staff. In a sense then this tribute of respect and gratitude which I feel for Herb's professional capability, is also a tribute to the daily contribution of all dedicated staff people in Government. Without their competence and dedication the function of our complicated Federal Government would come to a grinding stop.

Herbert Roback was a unique and remarkably gifted man. I was fortunate to have Herb as my right-hand assistant for almost twenty-five years. He was my wisest counsellor. As the years passed by our friendship grew and my respect for him increased. We became as brothers and Cam and I considered Arline as our sister.

Yes, it is true, all of us will miss him deeply, but we can be comforted in the knowledge that Herbert Roback was a builder of a better world for all of us.

We who were privileged to know him and walk the pathway of life for a time with him, are better for that experience. Our memories of this quiet, honorable and gentle man will be our precious heritage.

Mr. MCGINN. Joseph Hochstein has been a leader of the Jewish community in the Washington area for many years. He will present a reading from Herb's funeral service, which was held last month.

Mr. HOCHSTEIN. I will read from the funeral service that was conducted for Herbert Roback on August 19, 1977. This was a service in the Jewish tradition and included readings from the Bible, from the Talmud, and from contemporary readings.

This selection that I will read is from a twentieth century thinker, the late Rabbi Leo Baeck:

We live in a clearness surrounded by mystery. . . . We are these men upon this earth. It is our home, and its circumference includes us. Upon it, we are born, generation after generation; and upon it, we die, grave after grave. For the earth exists in many years, and we, in but the few. It existed before us, it will exist after us. It carries us and reaches out to us. It holds fast to everything upon it by the strength of its attracting power.

But a miracle exists upon it, exists in human beings who live upon it. The miracle leads outward and upward and is stronger than everything terrestrial. It is the miracle of the spirit, of the created human who becomes creative, fashioning within the fashioned.

It is a miracle of the thinking human being. The spirit of men who dwell upon the earth, upon this star, travels into the All and takes up its foundation there. There, man cogitates. He takes space and time, which embrace all the stars, and makes them his tool. Comparing and measuring, investigating and counting, contemplating that which has come out of the thoughts of a higher power, he determines passage and duration. He recognizes the rule of the law, the constantly returning sanction of the enduring. A great definiteness, a great clarity appears before him; and he moves forward, from definiteness to definiteness, from clarity to clarity. He stands in the All and walks in the All. Such is the miracle of the thinking spirit.

Mr. MCGINN. That concludes this Memorial Service. Thank you all for coming.

Mr. BROOKS. In his years of service with the House of Representatives, and particularly with the Committee on Government Operations, Herb Roback demonstrated unfailing dedication to duty and a high sense of responsibility. All those who served on the committee during those years learned to appreciate the quality of his work, his loyalty to Congress as an institution, and his devotion to the cause of good government.

As chairman of the committee I have written a letter to Mrs. Roback on behalf of the committee members, and I would like to include the letter in these remarks:

Mr. Speaker, the letter is as follows:

AUGUST 26, 1977.

DEAR MRS. ROBACK: On behalf of the Committee on Government Operations and with a sense of deep sorrow, I extend to you our heartfelt sympathy for the loss you have suffered.

In his capacity as Staff Director of the Military Operations Subcommittee and then the full Committee on Government Operations, Herb Roback will always be remembered for his devotion and outstanding contribution to the work of the committee for 20 years.

It was a privilege to have known him and he will be missed but well remembered by his many friends.

Sincerely,

JACK BROOKS,
Chairman.

GENERAL LEAVE

Mr. BROWN of Ohio. Mr. Speaker, I ask unanimous consent that all Members may have permission to extend their remarks on the subject of my special order today in memory of the late Mr. Herbert Roback.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

HELSINKI'S UNFULFILLED PROMISE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. STEERS) is recognized for 5 minutes.

Mr. STEERS. Mr. Speaker, today I rise to bring to my colleagues' attention the plight of an elderly Soviet physician who is dying a lonely, painful death in the Soviet Union, because that country fails to abide by the Helsinki Declaration.

Dr. Isaac Zlotver first applied for permission to emigrate with his wife 5 years ago, but they were refused and refused consistently for many years. In June of this year, I sent a letter to the emigration official in Sverdlosk, urging that, for humanitarian reasons, the Soviet Union permit this sickly couple to be reunited with their family already outside Russia. The letter I wrote follows:

HOUSE OF REPRESENTATIVES,
June 21, 1977.

Colonel TREFINO,
Sverdlosk OVIR, Vlitza Lenina 17, Sverdlosk, RSFSR, USSR

DEAR COLONEL TREFINOV: It has been brought to my attention that Isaac and Dina Zlotver, a couple who have, for the past five years, been repeatedly denied permission to emigrate so that they may join their children and grandchildren, are now extremely ill.

The Zlotver couple have served the Soviet Union well for forty-five years. As physicians, they have devoted their lives to working for the health of Soviet citizens. They are now old and dying, and are asking the State for little more than permission to emigrate. Surely you can appreciate the humanitarian aspects of this case.

Therefore, I hope you will facilitate matters so that they may, in these last years of their lives, finally join their grandchildren.

Thank you for your time in consideration of this most important matter.

Yours sincerely,

NEWTON I. STEERS, Jr.

Mr. Speaker, I received no response to this letter; however, I received the tragic news that Dina Zlotver had died of cancer, leaving her husband alone in the Soviet Union.

I then petitioned the Secretary General of the Soviet Union, Leonid Brezhnev, with 30 of my colleagues, to allow Dr. Zlotver, who is dying of cancer, to emigrate from the Soviet Union and be reunited with his family. Dr. Zlotver's request to emigrate was once more denied.

Since that time, I have learned of another incident of Russian callousness and cruelty in its treatment of this ailing Soviet physician. Dr. Zlotver was traveling across Russia to visit his mother, who still lives in Russia, when he was accosted by agents of the KGB, and forced to return to Sverdlosk. Upon his return, Dr. Zlotver's physical condition understandably worsened, and he had to return to the hospital.

While I understand he has left the hospital, Dr. Zlotver is still terminally ill and very, very alone in Russia. The repeated refusal of the Soviet Union to allow this man to emigrate is yet another example of Helsinki's unfulfilled promise.

SUPPORT GROWS FOR THE KENNEDY TAX RATE REDUCTION AS THE BEST TAX REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 10 minutes.

Mr. KEMP. Mr. Speaker, I was pleased to read in this evening's paper that Chairman Charles Schultze of the Council of Economic Advisers has said that the administration will propose tax cuts next year. Although the size and type of cuts were not disclosed, this adds momentum to the growing support for immediate tax return to get the economy moving again.

Treasury Secretary Blumenthal, for example, recently said:

There is a big constituency in the country for tax reduction, but not for tax reform, except as reform is used as a code word for reduction.

And Prof. Paul Samuelson has said:

I suggest the effort begin soon to stretch out this recovery in the way that John F. Kennedy acted successfully to make the 1960s the best epoch of the postwar period for jobs, capital formation and profits.

The Kennedy program, of course, was an across-the-board reduction in individual and corporate income tax rates. Thus when Arthur Burns calls for "a bold

policy approach" like that developed by John F. Kennedy, it means across-the-board, permanent tax reduction.

As Burns said:

If we were to launch a policy response now that was just as unambiguously positive in its implications for profitability, I for one would have little doubt about our economy's capacity to shake off its malaise. As every recent study of our Nation's investment needs has emphasized, we are confronted with an enormous capital-formation challenge for the years ahead. If we have the good sense to create hospitable conditions for saving and investing, I truly believe ours could become an age of sustained progress in employment and well-being.

Unfortunately, the administration's programs so far are in the exact opposite direction. Instead of lowering taxes, taxes are being raised by inflation as well as on energy and social security dramatically. The adverse effect these actions are likely to have on the economy cannot be overestimated.

The reason is that taxes of all kinds constitute a "wedge" between effort and reward that raises costs and reduces aftertax income, for both individuals and businesses and discourages both. This wedge was reduced during the Kennedy administration and led to a real growth in capital investment in our economy, as the following table shows:

GROSS BUSINESS FIXED INVESTMENT IN THE UNITED STATES, 1962-66

[Dollar amounts in billions]

Period	Producers' durable equipment	Nonresidential structures	Total	
			Amount	Percent of GNP
1961	$28.7	$18.4	$47.1	9.0
1962	31.8	19.4	51.2	9.1
1963	34.0	19.6	53.6	9.0
1964	38.2	21.5	59.7	9.4
1965	45.1	26.1	71.3	10.4
1966	52.2	29.2	81.4	10.8

Source: National Income and Product Accounts (NIPA) published by the Bureau of Economic Analysis, U.S. Department of Commerce, Table 1.1.

Since 1966, however, there has been an explosive growth in the tax wedge, as this table shows:

Federal, State, and local tax-transfer programs

[In billions of dollars]

Program	Outlays	
	1966	1976
Financed by payroll taxes:		
Old age, survivor's and disability insurance (OASDI)	$19.8	$74.5
Other government retirement and disability payments*	11.6	38.2
Unemployment insurance	1.9	14.7
Medical and supplementary hospital insurance	1.0	18.4
Workmen compensation	0.5	1.6
Financed by income taxes and borrowing:		
Interest on the public debt	8.5	21.4
Aid to families with dependent children	1.9	9.9
Veterans readjustment, unemployment and life insurance	0.8	5.9
Aid to the aged, blind, and disabled	2.2	5.2
Federal aid to nonprofit institutions and students, etc	1.0	5.1
Food stamps	0.1	4.7
State and local other aid	0.9	3.8
Foreign aid	2.3	3.2
Black lung benefits	-----	1.0
Special unemployment benefits	-----	0.9
Net subsidies to government enterprises	2.5	0.8
Total	$54.9	$201.1
Percent of GNP	7.3	12.3

*Includes railroad, civil service, and military retirement and disability benefits, veterans' pensions and disability benefits, and municipal pensions.

Source: NIPA tables 3.1 and 3.12.

The inflation of the last decade is largely responsible for the vast increase in Government tax revenues over this period. By pushing people up into higher tax brackets and extracting more than a proportional increase in taxes, the Government is able to increase income tax revenues 1.5 percent for every 1 percent rise in the consumer price index.

Likewise, business taxes rise daily as inflation overstates inventories and understates depreciation expenses, thereby creating illusory profits upon which taxes must be paid. Thus the rate of taxation as applied to real economic profits, rather than nominal profits, has greatly exceeded the statutory rate in recent years:

Taxation of corporate profits

[In percent]

Period	Ratio of profit taxes accruing to:	
	Reported profits	Economic profits
1962	44.7	44.7
1963	45.5	45.1
1964	43.2	42.8
1965	41.1	41.2
1966	41.7	42.3
1967	42.0	43.0
1968	46.1	48.2
1969	47.5	51.5
1970	48.2	54.6
1971	46.0	51.9
1972	43.2	47.4
1973	42.1	51.8
1974	41.3	67.6
1975	40.6	53.9
1976	41.3	52.8

Source: NIPA Table 1.13, except that economic profits have been adjusted to double-declining balance depreciation.

This is why Arthur Burns emphasized the necessity for restoring profitability for American business as the key to solving our economic malaise.

Of course, higher profits are central to an expansion of employment. As John Maynard Keynes said more than 50 years ago:

Unemployment . . . exists because employers have been deprived of profit. The loss of profit may be due to all sorts of causes. But short of going over to communism, there is no possible means of curing unemployment except by restoring to employers a proper margin of profit.

In this sense, profit may be considered synonymous with incentive. Therefore, what we must do is restore incentive to both workers and investors in our economy. And this is done by increasing the aftertax reward for work and investment by reducing tax rates across the board.

But in order to expand economic growth tax reduction must be done properly. It does no good to give out tax rebates, as President Carter and President Ford before him, proposed earlier this year, because it does nothing to restore incentive and effect future production decisions. It becomes only a stimulus to demand which will only result in inflation, rather than employment or investment. A proper tax reduction proposal would be an across-the-board, permanent reduction in the tax rates. In this way, people and businesses will know that their incomes will be increased not just temporarily, but permanently in direct proportion to their productive and investment efforts. It becomes a stimulus to output and production rather than demand, or in other words, it expands the supply side of the economy.

I sincerely hope that those who are now talking so much about tax cuts understand this important distinction. I know that Mr. Blumenthal and Arthur Burns do, as do other important economists like Dr. Michael Evans, who recently said:

I feel that a permanent tax cut would have approximately twice the impact of a jobs creation program and four times the impact of a tax rebate.

This is why I have made permanent tax rate reduction the basis for my Tax Reduction Act, which is exactly modeled

after the tax rate reduction program proposed by President Kennedy in the early 1960's.

As Burns and Samuelson have both said, this kind of approach will do more to restore personal and business investment confidence—which President Carter is concerned about—than anything else this Government could do. The stock market would react instantly, and the expansion of jobs and investment would be enormous. Rather than raise taxes retroactively as the 1975 tax reform and 1965 tax reform packages did it should follow the Kennedy example which lowered all personal rates by 30 percent, cut the business tax rates by 8 percent and encouraged faster depreciation of equipment and machinery.

Let us really get the economy moving again by uniting around a simple but profound idea, restoring incentive in America to both the workers and investors.

Then we can balance the budget by stimulating real economic expansion and the additional revenues which would result.

LUCY THE MARGATE ELEPHANT OFFICIALLY DEDICATED AS NATIONAL HISTORIC LANDMARK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. HUGHES) is recognized for 5 minutes.

Mr. HUGHES. Mr. Speaker, on October 30 I was fortunate enough to participate in the dedication ceremonies of Lucy the Margate Elephant when she was officially dedicated a National Historic Landmark. Lucy is one of only 32 National Historic Landmarks in New Jersey and is the first to be so dedicated in Atlantic County. I would like to share with you a copy of my remarks on this most historic occasion.

Ladies and gentlemen, distinguished guests, I am very happy to be with you today on this proud, happy, and historic occasion that officially dedicates Lucy the Elephant as a National Historic Landmark.

This designation is the most important and prestigious way our country has to recognize the significance of a particular site.

Lucy is truly a splendid example of Victorian Americana. This rather whimsical creation of wood and tin the size of a six story building takes us back in time to a more gentle era when the world turned a little more slowly and we took time to enjoy the simple things.

Old and young alike are continually enthralled by Lucy's charms. To see Lucy in all her ornate glory has to brighten anyone's day. Older people are taken back in time and remember the pleasant incidents of the past that are associated with visiting Lucy when she was younger.

Lucy's younger visitors are awed by her size and enchanted with the possibility of having a picture taken with this fairy tale figure. And those of us in between can forget our cares and troubles for awhile and contemplate Lucy's unique attributes.

One of the world's ancient philosophers once observed that a person who neglects learning in his youth, loses the past and is dead for the future.

That statement is as true for communities as it is for individuals. We are still a young people and must not neglect the learning of the past. Lucy's contribution—providing sheer delight to her many visitors will not be forgotten.

Far too often, we become busy and caught up with all the things that are wrong with the world. Lucy brings us back to our senses. She evokes the thought of family outings, strong family ties, the pride of workmanship, and an appreciation of the wit and wisdom of another time.

Lucy the Elephant epitomizes what is right with America. And that is why it is more important than ever that we begin to emphasize the positive things that are part of our rich heritage. We need to maintain a healthy perspective and outlook on life.

I'm not talking about dwelling in the past, or stubbornly clinging to old ways that are no longer a possibility. I am talking about saving the good in the past to build upon our future.

That's the way I look at historic places. They are part of our rich heritage for future generations—something to be preserved, added to in a positive way, and then passed on so that others might enjoy this heritage. And what can be more important than passing on a smile from one generation to the next.

I would like to take this opportunity to congratulate the Save Lucy Committee, the City Fathers of Margate and the many citizens who have worked hard to bring about Lucy's renovation. I want to pay special tribute to Josephine Harron and Sylvia Carpenter, for without their dedication and determination we would not be here today. Their recognition of the important historical aspects of this monument to enjoyment and their efforts have now made it possible for us and for future generations to enjoy the accomplishments of the past. Vive La Lucy.

THE NEED TO ACT NOW ON ADULT CARE HOMES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 10 minutes.

Mr. PEPPER. Mr. Speaker, the House Select Committee on Aging, which I am privileged to chair, has been looking into the development of the so-called adult care home industry. What we have found are gross deficiencies, outrageous abuses in these homes as well as certain provisions of Federal law which may adverely effect as many as a half-million elderly and handicapped Americans.

You will recall that on September 8, 1977, I made a statement here before my colleagues which detailed many of the findings of our committee with respect to adult care homes. On that same occasion, I introduced H.R. 8999—a comprehensive bill designed to ameliorate many of the serious problems uncovered at our committee's hearings.

Unfortunately, due to the major reform nature of that bill, and due to the heavy time constraints upon all of us this session, that bill will probably not receive full consideration by the Ways and Means Committee this year. While this fact is understandable, certain significant, though admittedly technical provisions of that bill do warrant immediate attention. Toward that end, I am today introducing, with my distinguished colleague from Maine (Mr. COHEN), a streamlined bill which addresses these two most urgent technicalities of law. I am especially pleased that Mr. COHEN, who serves as ranking minority member of the Health Subcommittee of the Select Committee on Aging, has joined me in this effort. Further, the Department of Health, Education, and Welfare informs me that the administration also supports this legislation. This new bill leaves for future consideration, the other more long-range reforms contained in H.R. 8999.

Current law requires that effective October 1, 1977, the Social Security Administration reduce supplemental security income payments to individuals living in adult care homes which are not in compliance with state standards. The amount of the reduction would be equal to the amount of any State supplement made to SSI recipients in these facilities. This provision was added to law last year in an effort to deter individuals from moving into or staying in unlicensed or substandard facilities. Unfortunately, this provision appears to have been enacted without the benefit of current information. Our committee hearings have revealed that this provision of law may work an extreme hardship upon thousands of elderly and handicapped, while at the same time not accomplishing its desired goal.

Reducing these payments will further impair the SSI recipients already subpoverty level ability to pay for housing. Because of the current acute shortage of licensed facilities, the existing law may force these recipients to seek care in more expensive, less appropriate nursing home settings and thereby further drain State and Federal funds. It is not only an enforcement measure based upon limited if not erroneous information, but it inappropriately places the burden for enforcement upon those most in need of care and protection.

Finally, since not all States offer supplements to the basic SSI payment, existing law would treat individuals residing in different States unequally.

The current law also specified that States must have in effect by October 1, 1977, standards to regulate the facilities that comprise this industry. The State regulations are required to meet certain criteria established by the Secretary of HEW.

This provision of law was added last year and was done with every good intention. Nevertheless, the provision was added without benefit of the information our committee has recently developed. To be more specific, in order for the States to comply with this provision, the Secretary of HEW had to first establish Federal regulations on which the States were to base their standards.

Our committee has discovered that although the Secretary of HEW has made a good faith effort to develop these regulations as promptly as possible, the process is not yet complete. The States have had therefore, no Federal guidelines after which to fashion their regulations.

In a number of instances authority to promulgate such regulations had to be granted by State legislative bodies to the appropriate State departments. Since some State legislatures only meet biannually, they were not in a position to comply with the relatively short time span the law allowed for this process.

As a consequence, many States, although actively working to establish the appropriate regulatory mechanisms have not yet had either the benefit of the Federal guidelines or the time to establish their own regulatory system. The current law mandates that these steps were to have been completed by October 1, 1977. Since it has not been possible to complete this work the current law places the States and ultimately the Federal Government in a position whereby massive class action damage suits could be brought against them for failure to comply with the law and to protect the health and welfare of individuals living in these adult care homes.

Mr. Speaker, my bill addresses these two technical provisions of law that can harm thousands of elderly and handicapped and that may inadvertantly provide the grounds for costly and unnecessary damage suits against units of State and Federal Government.

As you know, I am committed to seeing that the health and welfare of these individuals is protected, and it is my position that they will be best served by abolishing the provision that seeks to place enforcement responsibilities on the backs of those who can least afford it, and by guaranteeing that the Federal and State licensure and certification of these facilities proceeds in an orderly fashion.

VETO ON CLINCH RIVER URGED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of California. Mr. Speaker, I have made no secret about my position in favor of vetoing the Clinch River breeder reactor project. This measure must be acted on by President Carter this week, because the ERDA authorization bill is now on his desk.

Meanwhile, the supplemental appropriations bill moves along in the Congress where the pro-Clinch River forces appear determined to bypass the normal congressional authorization/appropriations process, as well as bypass the constitutional right of a President to veto an act of Congress.

The Los Angeles Times has been closely following this situation, and in today's paper restated the reasons for vetoing the ERDA authorization bill. I urge my colleagues to read this editorial, since it concerns a matter of great importance to most of the Congress:

[From the Los Angeles Times, Nov. 1, 1977]

A NUCLEAR THREAT TO CREDIBILITY

President Carter should veto the legislation, now on his desk, that would authorize proceeding with the breeder reactor project at Clinch River, Tenn. If he doesn't, he will suffer an irretrievable loss of credibility on his program to suspend U.S. work on plutonium-fueled power reactors, and to persuade other nations to do the same.

The President is convinced—and so are we—that if a dangerous increase in the number of nations with nuclear weapons is to be avoided, the movement toward the use of plutonium as reactor fuel, especially in breeder reactors, must be headed off.

Recognizing that there will be no chance of persuading other nations to impose such a ban unless the United States sets the example, the Carter Administration has proposed to halt work on the breeder reactor project at Clinch River.

Unfortunately, pro-breeder lobbyists have managed to sell a lot of congressmen on the ludicrous proposition that proceeding with the Clinch River project would make it easier to persuade other governments to suspend their own plutonium-reprocessing and breeder-reactor projects. This is mischievous reasoning; such an approach would only give other governments an excuse to go ahead without regard for the weapon-proliferation danger.

Ignoring White House entreaties, the House and Senate included $80 million for Clinch River in the fiscal 1978 authorization bill for the Energy Research and Development Administration. That measure now sits on the President's desk.

Anticipating a possible veto, the House has passed an appropriations bill that includes a rider providing $80 million for the Clinch River project even if Carter vetoes the ERDA authorization measure. The Senate will vote on a similar rider within a few days. The anti-Administration forces are assuming that the supplemental appropriations bill, which contains money for a wide variety of federal programs, is vetoproof. They may be right.

We urge the President to heed the advice of Rep. George E. Brown Jr. (D-Calif.), the leader of the pro-Administration forces on this issue in the House, that he veto the ERDA bill forthwith. This might well head off an appropriation for Clinch River and, failing that, would leave Carter in a good position to argue that he is not constitutionally required to spend the money.

If he allows the Clinch River authorization to become law as part of the ERDA bill, it will be hard for anyone—in Congress or abroad—ever to take his antiplutonium posture seriously again.

SENATOR HUMPHREY WELCOMED BACK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. RUSSO) is recognized for 5 minutes.

Mr. RUSSO. Mr. Speaker, as we take time today to welcome Senator HUMPHREY back to Washington, a little phrase from my past keeps running through my mind. It is a phrase associated with those years when tidiness not only was not considered a virtue, but might well be an embarrassment if your friends saw your baseball mitt on the proper hook on the wall rather than on the floor. It is a difficult time for mothers, to say the least, and eventually, I would hear these words of slight rebuke: A place for everything, and everything in its place.

Well, today I have a deep and abiding sense of relief. Somehow the world seems a little less tidy and confused. Senator HUMPHREY is back in his place in the Senate, and how right that is.

This man is a heavyweight. When he is not here doing what he does best—inspiring, legislating, leading, creating—he is missed. When he is around, you know it. Anyone in the vicinity gets caught up in that special energy he projects and in the richness of his thoughts. Besides that, he is just plain fun.

When Senator HUMPHREY visited the Third District of Illinois, I realized exactly how much he was capable of—for one thing, he was capable of exhausting the Third District Representative. I treasure the time we spent together. What a pleasure it is to see his warmth and generosity with people firsthand and what an opportunity to share conversations with a man of such wisdom.

I saw that wisdom as the inevitable outgrowth of a life devoted to full participation. The Senator has always worked to understand, not as a passive observer, but as a potential agent of change. He has in the process developed tremendous character and courage and a philosophy that is never compromised no matter how tough the battle in which he finds himself. That philosophy is based on the dignity of the human spirit and the compassion of one person for another.

What a joy and a blessing it is to have him back here with us where he belongs.

STATUS OF BLACK LUNG BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia (Mr. RAHALL) is recognized for 5 minutes.

Mr. RAHALL. Mr. Speaker, for my colleagues who are not aware, the Fourth Congressional District of West Virginia which I am proud to represent, is the major coal producing area in the Nation. Many of my constituents who are miners, their families and widows of former coal miners have benefited from laws that were passed in this Chamber. However, Mr. Speaker, a new crisis faces these individuals and I believe it must be brought to the forefront.

The first piece of legislation that I put my name to upon coming to Congress last January, was the Black Lung Reform Act of 1977. I did so knowing that just as the United States needs a sound energy policy, it also needs a sound compensation policy for those who have suffered economic, mental, and physical anguish from a disease which can only be contracted from a lifetime of labor in our Nation's mines.

I was encouraged when on March 31, of this year, the House Education and Labor Committee under the chairmanship of my good friend, CARL PERKINS, reported the black lung bill, H.R. 4544, to the House floor. However, my pleasure was very shortlived.

For almost 6 months, this extremely important legislation gathered dust in the House Rules Committee. Delay followed delay, until after much compromise, the bill was passed by the House on September 19.

Thanks to the fine leadership of Senators ROBERT C. BYRD and JENNINGS RANDOLPH, the Senate passed the measure the very next day. On September 28, a House-Senate conference was called.

It is now November. The first session of the 95th Congress is drawing to a close and no final conference report has been reached.

I would like to ask my colleagues, Mr. Speaker, their suggestions as to how I am to answer the widow of a coal miner who died from black lung, that no new bill will come out of Washington this year? How am I to answer the miner, who's speech is interrupted by constant coughing. Do I tell him that Congress was too busy with the energy bill? I would just like to remind by colleagues, that the coal miner will be expected to do a great deal to relieve the energy crisis in this country, in the coming years.

I urge, Mr. Speaker, the members of the conference committee on black lung to move more swiftly with their deliberations, because as each day goes by, the more a coal miner will suffer from the delay.

ADDRESS OF ZBIGNIEW BRZEZINSKI, THE TRILATERAL COMMISSION, BONN, GERMANY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS) is recognized for 5 minutes.

Mr. BRADEMAS. Mr. Speaker, on October 25, 1977, President Carter's distinguished Assistant for National Security Affairs, Zbigniew Brzezinski, spoke in Bonn, Federal Republic of Germany, to member of the Trilateral Commission. Dr. Brzezinski's remarks on that occasion provide a valuable description of the foreign policy objectives of the Carter administration, as well as a penetrating analysis of the new world in which that foreign policy must be designed and implemented. I offer Dr. Brzezinski's remarks for insertion in the RECORD:

AMERICAN POLICY AND GLOBAL CHANGE

(By Zbigniew Brzezinski)

I want to use this opportunity to speak of American policy and of global change. In doing so, let me stress, first of all, the underlying continuity of that policy. Since 1945, the United States, with its allies, has been engaged in an effort to create a more congenial international setting for our values, for our interests, and for our future. But we have done this while the international political system has felt the pressures of two simultaneous trends: an intense ideological and power conflict, and a remarkable expansion in the scope of its participation, produced by the waning of empires and the resulting tripling in the number of nation-states. This conjunction—of conflict rooted in ideology, power, and national ambitions, with a sudden expansion in international participation—has made for extraordinary turbulence in world affairs.

Nonetheless, our basic commitments have remained unchanged from administration to administration. This is especially the case with our collective security—and our commitment to common defense remains a central and constant element in our policy. What has changed is the international context in which we have sought to maintain these commitments. The nature of that change has often presented us with enormously complex problems of analysis, and even of values. In reacting to global change, what factors should we stress and why? In an area of such rapid change, with some of that change involving values clearly in conflict with our own traditions, is it more important to preserve the status quo, or to try to shape that change in directions that preserve our interests and enhance our values? Or is it possible to do some of both?

OBJECTIVES OF THE CARTER ADMINISTRATION

Each administration has answered these questions somewhat differently, thereby setting for itself somewhat different priorities. Today, while emphasizing the underlying continuity in American foreign policy, I wish to share with you some thoughts on how the new Carter Administration defines its objectives, and how it responds to continuing as well as to new global dilemmas.

In broad terms, the Carter Administration set for itself four basic priorities:

1. To overcome the crisis of the spirit;

2. To help shape a wider and more cooperative world system;

3. To resolve conflicts that left unresolved are not likely to be contained;

4. To engage governments and peoples in responding to new and key global dilemmas.

1. Overcoming the crisis of the spirit

In some regards, the crisis of the spirit in recent years has been specifically American; in a larger sense, it has been part of the broader malaise of the West; in some respects, it is related to the political awakening of mankind, which has had the effect of transforming heretofore seemingly universal Western values into an apparently parochial perspective. As a crisis of historical confidence, and of international relevance to a world that seemingly rejects Western values, its essence has been well expressed by Herman Hesse writing in Steppenwolf:

"Human life is reduced to real suffering, to hell, only when two ages, two cultures and religions overlap. . . . There are times when a whole generation is caught in this way between two ages, two modes of life, with the consequence that it loses all power to understand itself and has no standard, no security, no simple acquiescence."

In its specific American dimension, the crisis of the spirit was stimulated by the Vietnamese War and by the constitutional and moral crisis of Watergate. In Western Europe and Japan, the very pace of the efforts to overcome the traumatic legacies of World War II may still have played a role. Raymond Aron has also recently pointed at the broader implications of this crisis: "A hedonistic civilization, so shortsighted as to devote itself only to the material satisfactions of the day, condemns itself to death when it is no longer interested in the future, and loses thereby its sustaining sense of history."

AMERICAN IDEALS

This is why the new American President put so much emphasis, as early as in his Inaugural Address, on "the new spirit." Faced with a world that was losing faith in America, by the widespread global phenomenon of anti-Americanism, the new Administration put high on it list of priorities the need to revive both American confidence and the spiritual relevance of the West to emerging global dilemmas. We sensed that, for far too long, the United States had been seen—often correctly—as opposed to change, committed primarily to stability for the sake of stability, preoccupied with the balance of power for the sake of the preservation of privilege. We deliberately set out to identify the United States with the notion that change is a positive phenomenon; that we believe that change can be channeled in constructive directions; and that internationally change can be made compatible with our own underlying spiritual values.

The emphasis we have put on human rights is derived from this perspective. We believe that human rights is an idea whose historic time has come. Throughout the world, because of higher literacy, better communications, and a closer sense of interdependence, people are demanding and asserting their basic rights. This phenomenon manifests itself—though in different ways and with differing priorities—in the Far East and in Southern Africa; in Latin America and in Eastern Europe and the USSR; and it has asserted itself in recent years in our own society on the racial front and it is also making itself felt in other advanced industrial democracies. We do not make the acceptance of our view of human rights a precondition for specific bilateral relationships; nor do we wish to prescribe our specific norms for other societies. But we do believe that these two words "human rights" summarize mankind's social progress; that they represent the genuine historical inevitability of our time; and that neither the United States nor the West should be ashamed of our commitment to the advancement of human rights.

In addition, the revival of popular American concern for events beyond our shores derives in part from the special emphasis that the Administration has placed on relating our foreign policy goals to deeper American values. The reawakened American concern for human rights thus not only reflects the deep convictions of the President and of most Americans; this concern has also played a significant role in overcoming widespread popular disillusion and cynicism about foreign policy, thus enabling the United States again to play a more constructive role across a broad range of international issues.

SEVERAL DIMENSIONS

I believe it is fair to say that the crisis of the spirit in the United States is coming to an end. The changing outlook of the United States on the world today has several dimensions:

A revival of American optimism. This is not the mere expectation of good fortune expressed in Bismarck's remark that "a special providence seems to look after drunks, fools, and Americans." Rather, it reflects confidence in the basic strength of our position in the world and of the moral character of that position.

A reawakening of American idealism. President Carter does not shrink from affirming our basic values at home and abroad. Americans support him in that. We do not seek to impose our principles on others, but we do not intend to be silent about the things that we believe in deeply. More, by reaffirming our commitment to basic notions that man is entitled to certain basic human rights, and that the Western democratic system gives people the greatest opportunity for self-expression, we contribute to the spiritual revival of the West. A West that believes only in material consumption has a message of no relevance to the rest of the world. A West that stands for genuine liberty and self-fulfillment of the individual has a message and the necessary point of departure for a dialogue with the rest of the world about basic human needs—material, social, political, and technological.

A rekindling of America's commitment to reform. The current international situation demands a creative effort to devise new habits of conduct and new institutions for dealing with regional and global problems. We accept this challenge with enthusiasm rather

than resignation, recognizing that we cannot design solutions unilaterally nor engage the interests and efforts of others without patient and thorough consultations.

I believe that the last ten months have already seen a significant reduction in anti-Americanism abroad. I believe the new, and confident, American approach to world affairs, rooted in our values, is beginning to reestablish the basis for an American role that can truly be morally just and politically effective.

2. Toward a wider and more cooperative world system

For us, the point of departure for America's involvement in the world is our relationship with Western Europe and Japan. The bonds of interest and sentiment which link our destinies have a special character. We share a commitment to democratic procedures, civil rights, the market system, open societies. We confront the common problems of post-industrial societies. We are not merely occasional allies; we are permanent friends. If we are determined to reassert American leadership in world affairs, we conceive of it as shared leadership; no one country today can have a monopoly or even predominance of wisdom, initiative or responsibility.

EUROPE AND JAPAN

Because of this understanding and belief, we set out immediately in January to bring relations with Europe and Japan to the forefront of U.S. foreign policy. This was the symbolism—and the substance—behind Vice President Mondale's trip, beginning only 96 hours after the Inauguration. And it was the reason the President made his first foreign trip to Western Europe, whose unity we strongly favor, for the three summits with our major partners. We sought to consult on the many issues with which we are vitally concerned, first and foremost with our industrial state partners.

Our objective in this is not a pursuit of identical policies. But together we must relate our respective national security policies and our economic policies to common efforts to promote reconciliation among nations and to more effective international economic cooperation. In dealing with each other, moreover, we must acknowledge a higher standard of mutual concern than normally marks relations between sovereign states. We must accept a greater commitment to consult, and to adjust our national policies in the light of their impact on our key partners.

The economic Summit last May was a useful forum for consulting regarding our economic policy. The NATO Summit developed joint steps to enhance our collective security. Furthermore, in Presidential Directive No. 18, the President recently recommitted the United States to a policy of forward defense in Europe and to continued security of our allies in the Far East. But that commitment needs to be defined and refined in the light of changing circumstances, and both its strategic as well as tactical implications will require greater cooperation and joint reevaluation in the years ahead.

Similarly, we must jointly face the danger that the advanced world will soon confront an energy crisis of mounting proportions, and all of us—and especially the United States, must develop conservation and innovation on an increasingly urgent basis.

A secure and economically cooperative community of the advanced industrial democracies is the necessary source of stability for a broad system of international cooperation. We are aware of the pitfalls of constructing a geometric world—whether bilateral or trilateral or pentagonal—that leaves out the majority of mankind who live in the developing countries. A global structure that would ignore this reality would be inhumane, for it would reflect indifference to the hardships of others; it would be unrealistic, for we cannot ignore scores of nations with whom we are increasingly interdependent; and it would be damaging in the long run, for the problems that we neglect today will come back in a more virulent form tomorrow. We are therefore seeking to create a new political and international order that is truly more participatory and genuinely more responsive to global desire for greater social justice, equity, and more opportunity for individual self-fulfillment. We believe that paying greater attention to this dimension of foreign policy is not only in our own self-interest, and indispensable to an effective working of the global economy; to us it also represents a return to some of the deepest values and historical roots of our own country, while re-establishing the relevance of the West to mankind's universal condition.

LATIN AMERICA, AFRICA, AND ASIA

It is in this spirit that the new Administration has sought to put our relations with Latin America and with Africa on a new plane. We have abandoned the traditional device of formulating a new slogan to encapsule U.S. relations with Latin America. Instead, we have emphasized that we respect the diversity of the Latin American nations; that we seek to relate to them on a bilateral basis in most cases, on a regional basis when useful, and on a global basis in regard to problems which are more universal. I believe that most Latin American nations respect and welcome this approach. They see in it the rejection of traditional U.S. paternalism and the beginning of more mature and normal relations, similar to those which the United States has with other nations of the world.

Regarding Africa, we have sought, and I believe successfully, to identify ourselves with the just aspirations of black Africans. We have broken with the posture of indifference and insensitivity which at times in the past characterized American attitudes toward those aspirations. In so doing, I believe that we are also making it easier for the United States, as for the West in general, to play a creative role in dealing with some international problems that today confront the African community.

In Asia, where the United States will continue to play a major role, we are encouraged by the progress made in some parts of this vast region. The emergence of ASEAN, the growing prosperity of the Pacific Basin, the constructive character of recent Japanese initiatives are welcome developments, which will cumulatively contribute to a healthier international order.

In brief, our approach to developing nations is characterized by our willingness to actively seek solutions to remaining "anti-colonialist" issues; by our engagement in the search for answers to the more structural problems of North-South relations; by our desire to collaborate closely with the increasingly influential emerging states; and by our desire to make foreign aid more responsive to the needs of the world's poorest peoples.

DEALING WITH THE COMMUNIST WORLD

At the same time, a wider and more cooperative world system has to include also that part of the world which is ruled by Communist governments. One-third of mankind now lives under Communist systems, and these states have to be assimilated, to the extent that they are willing, into a wider fabric of global cooperation. The objective is thus to assimilate East-West relations into a broader framework of cooperation, rather than to concentrate on East-West relations as the decisive and dominant concern of our times. In the 1950s, world affairs were dominated by an intense confrontation between the U.S. and the Soviet bloc. In the 1960s, world affairs were dominated by growing diversity in the Communist world and by a competitive relationship between the United States and the Soviet Union. And in the early 1970s, many foreign observers became concerned that the next era would be marked by efforts to create a U.S.-Soviet condominium. An enduring thread runs through these generalizations; whether marked by confrontation, competition, or the feared prospect of a condominium, the nature of U.S.-Soviet relations tended to dominate American foreign policy and, indeed, world affairs.

This should no longer be, or need be, the case. East-West relations, notably U.S.-Soviet relations, involve and will continue to involve elements of both competition and cooperation. We are quietly confident about our ability and determination to compete, economically, politically, and militarily. But managing a relationship that will be both competitive and cooperative cannot be permitted to dominate all our perspectives. Today, we do not have a realistic choice between an approach centered on the Soviet Union, or cooperation with our trilateral friends, or on North-South relations. Indeed, each set of issues must be approached on its own terms. A world where elements of cooperation prevail over competition entails the need to shape a wider and more cooperative global framework. We did not wish the world to be this complex; but we must deal with it in all of its complexity, even if it means having a foreign policy which cannot be reduced to a single and simplistic slogan.

This is why we will seek to engage the Soviet Union in wider forms of cooperation. As President Carter said at Notre Dame University, we desire a detente that will be both comprehensive and reciprocal. We desire cooperation in the Indian Ocean, in the Middle East, and in Europe, as well as on wider global issues. We also want to contain the arms race. The arms race is costly, and dangerous.

We seek to reduce—and to keep reducing—the level of strategic armaments on both sides, to freeze the improvement of weaponry on both sides, and to achieve an agreement in which each side is responsive to more specific strategic concerns of the other. I believe that the next SALT agreement will, in some measure, reflect these three objectives; it will thus provide a useful basis for seeking even more ambitious limits in SALT III, perhaps also paving the way to more comprehensive security negotiations in the European context, beyond the MBFR negotiations.

No architecture for a more stable and just world order would be complete without taking into account the proper role of the People's Republic of China. We recognize not only that peace in East and Southeast Asia depends upon a constructive Sino-American relationship, but that China can help immensely in maintaining a global equilibrium as well. Mutual interest, not sentiment, brought our two countries closer together. We must continue working to make our relationship closer still. Normalization in that relationship is necessary, but even short of it both sides should find it useful to develop a closer consultative relationship, so that each side adequately understands and takes into account the legitimate global concerns of the other. In fact, a deeper consultative relationship can result in an approach to world affairs that is mutually reinforcing and increasingly cooperative.

3. Resolving conflicts

The third major objective that we set for ourselves last January was to focus on the three major issues which in our judgment contain the greatest potential for destructive escalation.

PANAMA CANAL

The first of these involves the future of the Panama Canal. To most Panamanians and to many Latin Americans this issue is perceived as a vestige of U.S. colonialism, a perspective widely shared in the Third World as well. I must candidly say that the effort to obtain a new treaty which would phase out the U.S. presence in the Canal Zone, and which will permit Panama to increase its participation in the operation and defense of the Canal, while retaining for the United States ultimate security responsibility, is not a popular matter in the United States. Yet the new Administration recognizes that efforts to maintain the status quo would poison our relations with Latin America and eventually even jeopardize our ability to keep the Canal open. We are thus determined to demonstrate that the most powerful nation in the world is willing to work with one of the world's smallest nations to fashion a relationship based on partnership and mutual respect. We also hope thereby to demonstrate that watertight zones of big power predominance are an historical anachronism, a point which may have some relevance to some other parts of the world as well.

SOUTHERN AFRICA

The second major issue we faced last January was in Southern Africa. There we confront the danger that racial conflict might also become before long an ideological war, with external involvement. In cooperation with the African states, we seek in Southern Africa to promote a solution based on justice. Majority rule and one man-one vote reflect our fundamental view of man as a spiritual entity that transcendentally is truly equal to all others. And we are willing to play a continuing role in solving the problems of Southern Africa, on terms acceptable to the people who live there. In Zimbabwe this means supporting a rapid transition to majority rule; in Namibia, it means assumption power by an African government resting on the will of the majority. We recognize also that the situation in the Republic of South Africa is much more complex and will take much more time to resolve. We know that the issue of South Africa involves a fundamental conflict of philosophy, history, and self-definition. We are anxious to help create conditions that will make accommodation to a new reality—one more in keeping with the spirit of the times—as peaceful and palatable to those most affected as is possible.

We are also determined to do our part to make certain that Africa in general does not become the terrain for ideological conflict. This is why we insist that major powers refrain from interference and from fueling conflicts, whether in Southern Africa or the African Horn. The problems of this continent are painful enough without infecting them with ideological issues derived from another age and from other continents.

THE MIDDLE EAST

The third crucial problem on which we determined to concentrate was in the Middle East. Continued conflict in that region poses a direct threat to international peace, while increasingly radicalizing Israel's neighbors. Such conflict poses a danger as much to Europe and to Japan as to the United States, not to speak of Israel itself. We also perceived that an opportunity existed to move more rapidly towards truly a genuine peace. The Israelis, who have fought so courageously for their survival and to whose survival every morally sensitive person must be committed, have often stated that territories occupied in 1967 were being held until their Arab neighbors were prepared to undertake full scale peace commitments. Our administration, therefore, building on the step-by-step arrangements attained by the previous U.S. administration, has sought to elicit and to crystallize growing Arab moderation, thereby making possible direct negotiations between the parties. We hope that a full scale conference may be convened before too long, and that in the meantime all parties will maintain a posture of moderation, bearing in mind that sometimes excessive precision on details is an enemy of accommodation.

The road ahead, however, will be extraordinarily difficult, and we recognize this fact. I believe that Europe and Japan, and indeed most of mankind, share our commitment to promoting a settlement, and in different ways they, too, can exercise a constructive influence in pleading for the necessary spirit of moderation needed to settle a conflict so pregnant with political and moral complexities.

4. Responsiveness to new global dilemmas

Finally, our major objective has been to join with others in increasing the level of global sensitivity to two key problems which, in our judgment, have been given inadequate attention in the past. They are nonproliferation and conventional arms transfers.

NUCLEAR NONPROLIFERATION

Our nuclear nonproliferation policy recognizes two needs: to help each nation to secure the energy it needs, and to stop the spread of nuclear weaponry. Thus our policy is not designed to impose artificial prohibitions on the inevitable spread of an essential technology. Rather we have to induce nations to take a fresh look at the problems of the plutonium fuel cycle, and to concentrate greater attention on the technical alternatives which we believe exist. The policy rests on a firm economic and technical base which has two key elements. First, the energy plans of many nations—particularly the developed states—are based on what we regard as inflated estimates of future energy demand. Second, we think that global reserves of uranium and thorium are much larger than was previously estimated.

Our analysis of these considerations impels us to the conclusion that the reprocessing and reuse of plutonium at this time would be premature—in the U.S. and elsewhere. Therefore, last spring, the President postponed reprocessing in the U.S. for the indefinite future, and proposed an International Nuclear Fuel Cycle Evaluation in which developed and developing states could jointly examine these and related issues in an effort to reach mutually agreed answers. I am pleased to report that last week more than 35 nations convened in Washington for the first meeting of this historic undertaking.

CONVENTIONAL ARMS TRANSFERS

We also wish to raise the level of awareness about the dangers involved in growing conventional arms transfers. These transfers have more than doubled over the past decade. Not only has there been a dramatic increase in the volume of arms, but those sold today are of ever increasing sophistication. While only a handful of states produce such weapons, the number of nations which seek to purchase them is increasing rapidly. The momentum continues to build, despite the enormous burden that is levied on an already faltering world economy. The tragic irony is that resources diverted from economic and social development to buy arms may undermine the very security the arms are intended to purchase.

The United States is moving to meet this global threat to the welfare of mankind. We have begun to restrain our arms exports; at the same time, realizing that we cannot deal with this global problem alone, we intend to work with other suppliers to cut back on the flow of arms and the rate at which advanced weapon technologies spread. Equally important, we hope to work with arms importers to reduce the demand for more numerous and costly weapons. While we remain ready to provide our friends with the necessary means for self-defense, we are determined to do what can be done to reverse the spiraling increase of arms exports.

Since the beginning of this Administration, we have been fully aware that these two problems are complex; that they will require a sophisticated strategy to be worked out over many years; and that they also may complicate relations with our friends and allies represented here. Yet none of us can afford to ignore the implications of failing to deal effectively with either nonproliferation or arms transfers; just as economic interdependence is now a new fact of life for the United States, so this political interdependence is affecting us all.

REAL PROGRESS HAS BEEN MADE

In these four areas, I have tried to indicate major issues and ideas that have influenced our approach to foreign policy this year. I do not claim that we have succeeded in reaching our goals. Some of them may not be attained during the life of this Administration. But I believe that real progress has been made:

1. Anti-Americanism has waned; there has been a revival of historical confidence in the United States and about the United States; our commitment to human rights is helping to restore genuine meaning to the word democracy, and thus the democracies' relevance to the world.

2. We have made some progress in fulfilling the Summit decisions of last May, but we need to do more, especially in regards to economic growth and the avoidance of protectionism.

We have improved somewhat the climate of North-South relations and placed our relations with Latin America and Africa on a more cooperative and mature basis.

We have also made progress in our continuing efforts to put U.S.-Soviet relations on a stable and equitable basis, without generating the extremes of public euphoria or hostility. Indeed, today we are negotiating on a wider variety of bilateral issues than probably at any previous time in U.S.-Soviet relations.

3. We have signed a just treaty with Panama and are now seeking its ratification; we have engaged U.S. prestige and influence in the effort to obtain fair solutions to Southern African problems; we have made progress in obtaining Israeli and Arab willingness to negotiate on the three key issues in the Middle Eastern conflict: namely, the nature of peace, the relation between territorial and security arrangements, and the Palestinian question. I believe all the parties now realize that the U.S. is serious in its desire to promote a comprehensive peace settlement.

4. We have adopted self-imposed restraints on our arms exports through the obligation to reduce our totals from year to year; we are now engaged in negotiating self-restraint arrangements with other countries. We have also succeeded in generating genuine interest in nonproliferation, despite—and perhaps even because of—the friction that this issue initially produced.

A WIDE RANGE OF ISSUES

If there is a single common theme to our efforts, it is this: after World War II our foreign policy, by necessity, was focused primarily on issues connected with the Cold War. This gave it a sharp focus, in some cases making it easier to mobilize public opinion. A concentrated foreign policy could be supported by public emotion.

Today we confront a more difficult task, which calls for support based on reason. We must respond to a wider range of issues—some of which still involve the Cold War—issues stemming from a complex process of global change. A concentrated foreign policy must give way to a complex foreign policy, no longer focused on a single, dramatic task—such as the defense of the West. Instead, we must engage ourselves on the distant and difficult goal of giving shape to a world that has suddenly become politically awakened and socially restless.

The struggle for the shape of the future thus has strong parallels to the experience of Western democracies in the last century and a half. And it is that experience which offers a measure of hope for a more rational and just accommodation on a vastly more complex and larger scale basis. That accommodation, which over time can acquire the character of a genuine global community, cannot be blueprinted in advance; and it will only come about through gradual changes both in the outlook and in the objective conditions of mankind. It is our confident belief that liberty and equity can indeed creatively coexist. It is our confident view of the future that democracy—in its many manifestations and with its own many stages of development—comes closest to meeting the genuinely felt needs of mankind. It is our confident judgment that our collaboration can enhance the chances that the future destiny of man is to live in a world that is creatively pluralistic.

NOVEMBER 1: REQUESTS FOR TRADE BARRIER REDUCTIONS—THE START OF THE TRADE TALKS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

Mr. VANIK. Mr. Speaker, today, November 1, most of the major trading nations of the world are submitting to each other lists of requests for concessions on nontariff measures in agriculture and industry and for tariff reductions in agriculture. Requests and offers on industrial tariffs and draft international codes on the principal nontariff measures are scheduled to be tabled in December and January.

This important step marks the beginning of hard and specific negotiating in the 4-year old series of talks known as the Tokyo Round Multilateral Trade Negotiations (MTN). This first step involves the submission by the United States to its trading partners of detailed lists of products on which we want them to reduce their agricultural tariffs or to reduce or eliminate their nontariff measures so that we may more easily sell our goods to them. Conversely, the other nations of the world are submitting lists to us of items on which they would like us to reduce our nontariff measures or agricultural tariffs.

During the next several months, an interagency task force will be studying the requests that foreigners have made and their offers to us. We will be studying the health of all the different sectors of our economy. We will determine areas where we can make tariff reductions without harming the domestic industry. In areas where the economic data proves that tariff reductions would be harmful, we will reject all or part of the foreign requests.

The end result of the multilateral trade negotiations should be freer and fairer world trade. Since the United States has a nonoil trade surplus in agricultural and industrial goods—we export more than we import—it is to our advantage to encourage further trade.

I believe that the outcome of the specific bargaining in these negotiations, which finally begins in earnest today, will help the American and world economy.

I would like to advise Members that a number of industries will probably be very concerned that foreigners are asking us to reduce our tariffs in particular areas. The fact that a foreign country asks for a tariff concession does not automatically mean that that request will be granted. There is a well-established interagency "exceptions exercise" coordinated by the Office of the Special Representative for Trade Negotiations. This group is currently reviewing all the economic evidence available to determine whether "exceptions" of specific products from the tariff-cutting process are justified. A major ingredient used by the interagecny committee in developing the "tariff offers-exceptions lists" to be tabled January 15, as well as our requests to foreign countries, is the economic advice and evidence which representatives of the agricultural and industry sector advisory groups—established under the Trade Act—have been invited to submit to the Government.

Any company, union, or industry which feels it would be hurt if we reduce our tariffs over a number of years on specific items it produces and whose representative has not already participated in the 4 years of meetings under the Trade Act advisory process is invited to contact the Director of the Industry Consultations Policy Staff, Office of International Trade Policy, U.S. Department of Commerce, room 3036, Washington, D.C. 20230.

We should all remember that while a trade negotiation involves uncertainty and is a compromise process, the vast majority of American industries, our economy, and our Nation as a whole have a great deal to gain from the successful conclusion of these talks.

The staff of the Subcommittee on Trade of the Committee on Ways and Means stands ready to assist any Members of the House who may have questions about the trade negotiating process which is now beginning. Please feel free to contact Mr. Harry Lamar, staff director of the subcommittee, at 233 Cannon HOB.

RABBI HARRY HALPERN

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. HOLTZMAN) is recognized for 15 minutes.

Ms. HOLTZMAN. Mr. Speaker, this afternoon the House heard a moving and eloquent invocation offered by Rabbi Harry Halpern of the East Midwood Jewish Center. I am proud that Rabbi Halpern is among my constituents and I am pleased that my colleagues had the opportunity to hear this extraordinary man. He has given 48 years of dedicated, selfless service to the East Midwood Jewish Center and to the surrounding community.

Rabbi Halpern has recently been awarded the Rabbi Max Arzt Distinguished Rabbinic Service Citation by his alma mater, the Jewish Theological Seminary. It is an honor which he richly deserves and a fitting tribute to his long and distinguished career.

I am saddened to note, however, that Rabbi Halpern will be retiring at the end of January. We will all miss him deeply.

ROTC REFORM

(Mr. HANNAFORD asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. HANNAFORD. Mr. Speaker, I am introducing legislation today to correct a deficiency in our Reserve Officer Training Corps. Under present law the Defense Department is permitted to establish junior ROTC programs only if 100 U.S.-born students express their intention to participate. Junior ROTC programs are established at the high school level. For a senior ROTC program (at the college and junior college level) students do not have to be American citizens to be included in the number required for establishment of a program.

The discrimination against foreign-born high-school students is unfair and unnecessary. We permit foreign residents to enlist and we count foreign resident students for the establishment of senior ROTC programs. By allowing foreign resident students to be counted for the establishment of junior ROTC programs at the high-school level we will provide encouragement and educational opportunities to those young men and women who are sincerely interested in pursuing a military career. Such a move would also be to the advantage of our All Volunteer Armed Forces.

ESTABLISHING OFFICE OF CONSUMER REPRESENTATION

(Mr. MIKVA asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MIKVA. Mr. Speaker, legislation to establish an Office of Consumer Representation will be before the House this week. Because of outspoken criticism from certain business and corporate groups, the original bill which would have instituted an Agency for Consumer Protection has been modified to meet a number of their concerns. Even so, there continue to be strong objections to setting up a consumer agency.

I feel, however, Mr. Speaker, that a number of the criticisms of the Agency are unfounded. I would like to bring to the attention of my colleagues a letter, signed by a group of attorneys with experience in consumer suits, which discusses many of the criticism of the consumer representation office. I think that the Members will see from the lawyers' arguments that the Office of Consumer Representation will bring a number of necessary improvements in the regulatory process in allowing consumer participation in agency proceedings.

I include this letter in the RECORD:

JUNE 30, 1977.

Congressman JACK BROOKS,
Chairman, Committee on Government Operations, House of Representatives, Washington, D.C.

DEAR CONGRESSMAN BROOKS: An increasingly active and vocal lobbying campaign is being waged against H.R. 6805, the bill to create an Agency for Consumer Protection. Its opponents claim that such an agency, having the power to gather information from business and to intervene on behalf of consumers in federal agency proceedings, will result in undue additional expense, delay, and confusion, will needlessly harass business, and will impede the workings of the regulatory process.

We are practicing lawyers who have appeared or otherwise participated in federal executive and administrative proceedings for many years. In our view, these concerns are unfounded and we share President Carter's belief that the opposition campaign against the ACP is ill-advised.

By training and experience, lawyers, more than most, appreciate the defects of a decisional process which fails to provide adequate representation of the various competing interests. Because the consumer interest is fragmented and under-financed, it is seldom effectively represented in the process of reaching and reviewing government regulatory decisions that substantially affect consumers.

A situation in which a major interest group in society is inadequately represented within the regulatory process is not only unfair to that group but may lead to unwise and incompletely analyzed decisions. We believe that an institutionalized, adequately financed consumer advocate would improve rather than impede the regulatory process by bringing to light and forcefully advocating ideas and arguments that would not otherwise be fully explored. In this sense, the proposed Agency for Consumer Protection will contribute to a more efficient and responsible government process.

Several major objections to the bill have been cited which warrant response:

1. It is asserted that there are no criteria in the bill for defining the consumer interest which the ACP will represent. Section 16(4) defines the term "interests of consumers" with great particularity: "any concerns of consumers involving the cost, quality, purity, safety, durability, performance, effectiveness, dependability, and availability and adequacy of choice of goods and services offered or furnished to consumers; and the adequacy and accuracy of information relating to consumer goods and services (including labeling, packaging, and advertising of contents, qualities, and terms of sale)."

2. It is argued that there will be no effective check against abuse of the authority granted to the ACP. But, as now carefully refined, the legislation contains rigorous safeguards. The Administrator is required to refrain from intervening in any proceeding unless he determines in a public written statement containing his findings that "such intervention is necessary adequately to represent the interest of consumers," and states "the specific interests of consumers to be protected." The Administrator must comply, like every other party, with all agency statutes and rules governing timing and manner of intervention or participation in such proceedings. Where the Administrator has not intervened or participated in an agency proceeding, he may not obtain judicial review until he has petitioned the agency for rehearing or reconsideration of its action, and the court may, in any event, reject ACP's petition to review the agency action if it finds that this "would impede the interests of justice." (Section 6.)

3. It is suggested that the proposed ACP may be unconstitutional because its intervention before independent regulatory agencies might constitute improper executive interference. This fear is unfounded. Intragovernmental conflicts are not unusual (e.g., Department of Justice intervention in ICC, CAB, FCC proceedings), and have repeatedly been litigated before the Supreme Court without constitutional impediment.

4. It is said that it is undemocratic to vest in a single unelected official the authority to represent, legally and politically, the interests of all the people. The Act confers no such comprehensive and unconfined powers. The Administrator's duties and functions are carefully circumscribed. He is given no decision-making powers. He acts only as an advocate, and only on behalf of specifically defined consumer interests. His actions are subject to agency statutes and rules of general applicability. Any abuses of his authority are subject to judicial review. Like all officers in the executive branch, he may be removed at will by the President. His every action will be subject to the oversight of Congress and the agency's charter, under the terms of the statute, lapses in 1982.

5. Finally, it is said that the ACP will have limitless powers to harass business with burdensome, repetitive, useless and unfair demands for information. In fact, the discovery powers of the agency are carefully defined and sharply limited. In contrast to the usual investigative powers of regulatory agencies, the ACP may only ask questions and request information, and only where necessary to protect health or safety, or to uncover fraud or substantial economic injury to consumers. It cannot inspect documents or compel the testimony of witnesses; it must define with particularity the purpose for which the information is requested; it cannot exercise even its restricted gathering authority if the information is a matter of public record or available at another agency; small business is exempt. Most importantly, it has no power to issue subpoenas or compel production of information. If a recipient balks, the agency may seek a federal court order, but the order will be granted only if the agency proves in court its need for the requested information.

While we do not believe the ACP will be a panacea for all regulatory ills, we do believe that it will provide a useful, cost-beneficial technique for advocating the legitimate interests of consumers, for monitoring deficiencies in the administrative process, and for improving the quality of agency decision-making. For these reasons, we support enactment of this legislation.

Very truly yours,

Joan Z. Bernstein, Sheldon Cohen, Kenneth Cox, Philip Elman, Ronald Goldfarb, Mary Gardiner Jones, Stuart Land, Harry McPherson, Michael Nussbaum, Robert Pitofsky, Stanford Ross, Thomas Troyer, Robert Skitol, Robert Wald.

LOWERING AGE REQUIREMENT FOR EXCLUSION OF GAIN ON SALE OF PERSONAL RESIDENCE

(Mr. MIKVA asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MIKVA. Mr. Speaker, today I am introducing a bill to amend the Internal Revenue Code of 1954 to lower from 65 to 55 the age requirement for the exclusion of gain on the sale of a personal residence.

Section 121 of the Internal Revenue Code provides for an exclusion from gross income for a limited amount of gain received from the sale or exchange of a personal residence, provided that the taxpayer is at the time the event occurs: 65 years of age or older, and that the property was used for the principal residence for 5 of the 8 years just prior to the sale of the property.

When the code was enacted in 1954, section 121 was established to help retired people who sold their homes. At that time, 65 was the commonly accepted age of retirement. The trend today, however, is toward an earlier retirement age. In 1954, the percentage of persons in the labor force between the ages of 55 and 65 was 13.9 percent. By 1976, this figure had dropped to 12.4 percent. Every year there has been a decrease in the percentage of people working. One main factor in this decrease is caused by the number of people between the ages of 55 and 65 who choose to retire, rather than continue working. The accepted age of retirement is decreasing more every year.

The cost of this bill, in terms of lost revenues, would be minimal. The Joint Committee on Taxation estimates that the decrease in tax receipts would be $80 million in 1978, $81 million in 1979, $82 million in 1980, and about $83 million in 1981 and 1982.

In view of the national trend toward earlier retirement, the high cost of maintaining a home, and the increased cost of living, I urge your support of this legislation. With the number of homeowners between the ages of 55 and 65 somewhere around 13,000,000, this legislation would be a good way of helping a large amount of people at an extremely low cost.

The bill follows:

H.R. 9869

A bill to amend the Internal Revenue Code of 1954 to lower from 65 to 55 the age requirement for the exclusion of gain on the sale or exchange of a residence

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) paragraph (1) of section 121(a) of the Internal Revenue Code of 1954 (relating to gain from sale of residence of individual who has attained age 65) is amended by striking out "age of 65" and inserting in lieu thereof "age of 55".

(b) The section heading of section 121 of such Code is amended by striking out

"AGE 65" and inserting in lieu thereof "AGE 55".

(c) The table of sections for part III of subchapter B of chapter 1 of such Code is amended by striking out "age 65" in the item relating to section 121 and inserting in lieu thereof "age 55".

(d) Sections 1033(g)(3), 1934(k), 1038(e)(1)(A), 1250(d)(7)(B), and 6012(c) of such Code are each amended by striking out "65" and inserting in lieu thereof "55".

(e) The amendments made by this section shall apply to sales or exchanges after the date of the enactment of this Act in taxable years ending after such date.

CONFERENCE REPORT ON S. 1131

Mr. UDALL submitted the following conference report and statement on the bill (S. 1131) to authorize appropriations for the Nuclear Regulatory Commission for the fiscal year 1978, and for other purposes.

CONFERENCE REPORT (H. REPT. NO. 95–788)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1131) to authorize appropriations for the Nuclear Regulatory Commission for the fiscal year 1978, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

AUTHORIZATION

SECTION 1. (a) There is authorized to be appropriated to the Nuclear Regulatory Commission (hereafter in this act referred to as the "Commission") to carry out its functions and authorities under the Atomic Energy Act of 1954 (42 U.S.C. 2017) and the Energy Reorganization Act of 1974 (42 U.S.C. 5875) for the fiscal year 1978 to remain available until expended $297,740,000 to be allocated as follows:

(1) For "Nuclear Reactor Regulation", not more than $41,480,000;

(2) For "Standards Development", not more than $12,130,000;

(3) For "Inspection and Enforcement", not more than $33,050,000;

(4) For "Nuclear Materials Safety and Safeguards", not more than $22,090,000;

(5) For "Nuclear Regulatory Research", $148,900,000;

(6) For "Program Technical Support", $10,180,000; of which an amount not to exceed $600,000 is authorized for a fellowship program pursuant to section 5 of this Act.

(7) For "Program Direction and Administration", not more than $29,910,000.

(b) Of the total amount authorized under section 1(a), the Commissioners may, by majority vote, reallocate among program activities specified in subsection (a) or pursuant to the authority granted in subsection (d) an amount not exceeding $10,000,000 except that the amount transferred from any of the major program activities specified in subsection (a) shall not exceed 15 per centum of the amount so specified. Prior to any reallocation of an amount in accordance with the provisions of this subsection, where such amount is in excess of $500,000, the Commission shall inform the appropriate congressional committees. Such reallocation may be made notwithstanding the limitations of subsection (a).

(c) No amount authorized to be appropriated for contracts for research, studies, and technical assistance on domestic safeguard matters under subsection (a) including any amount reallocated under subsection (b) may be used for such contracts and no amount authorized to be appropriated under this subsection may be used by the Office of Nuclear Regulatory Research for such contracts until a statement supporting the need for such research, study, or technical assistance has been prepared and published by the Commission.

(d) No amount authorized to be appropriated for contracts for regulatory research related to advanced reactor safety under this act may be used for such contracts except as directed by the Commission, following consideration by the Commission of any recommendation that may be made by the ACRS regarding the proposed research.

(e) In the event that the license application is withdrawn or funding for the continuation of the Clinch River Breeder Reactor project is not authorized or appropriated, the total authorization in subsection (a) shall be reduced by $2,700,000.

(f) In the event that further construction of the facility at Barnwell, South Carolina, for the purpose of providing plutonium to be used as fuel is canceled or deferred, the total authorization in subsection (a) shall be reduced by $2,100,000.

COMMISSION PERSONNEL

SEC. 2. Section 201 of title II of the Energy Reorganization Act of 1974 is amended by adding the following new subsection at the end thereof:

"(h) The Commission shall prepare and submit to the Congress a quarterly report which documents, for grades GS–11 or above:

"(1) the number of minority and women candidates hired, by grade level;

"(2) the number of minority and women employees promoted, by grade level;

"(3) the procedures followed by the Commission in preparing job descriptions, informing potential applicants, and selecting from candidates the persons to be employed in positions at grade GS–11 or above; and

"(4) other steps taken to meet provisions of the Equal Employment Act.

The first such quarterly report shall be submitted to the Congress no later than January 31, 1978, and subsequent reports shall be submitted prior to the end of one calendar month after the end of each calendar quarter thereafter.".

UNRESOLVED SAFETY ISSUES

SEC. 3. Title II of the Energy Reorganization Act of 1974, is amended by adding the following new section at the end thereof:

"UNRESOLVED SAFETY ISSUES PLAN

"SEC. 210. The Commission shall develop a plan providing for the specification and analysis of unresolved safety issues relating to nuclear reactors and shall take such action as may be necessary to implement corrective measures with respect to such issues. Such plan shall be submitted to the Congress on or before January 1, 1978 and progress reports shall be included in the annual report of the Commission thereafter.".

IMPROVED SAFETY SYSTEMS RESEARCH

SEC. 4. (a) Section 205 of the Energy Reorganization Act of 1974 is amended by adding the following new subsection at the end thereof:

"(f) The Commission shall develop a long-term plan for projects for the development of new or improved systems for nuclear powerplants.".

REACTOR SAFETY RESEARCH STUDY

SEC. 5. Section 29 of the Atomic Energy Act of 1954 is amended by adding the following at the end thereof: "In addition to its other duties under this section, the committee, making use of all available sources, shall undertake a study of reactor safety research and prepare and submit annually to the Congress a report containing the results of such study. The first such report shall be submitted to the Congress not later than December 31, 1977.

ACRS FELLOWSHIP PROGRAM

SEC. 6. To assist the Advisory Committee on Reactor Safeguards in carrying out its functions, the committee shall establish a fellowship program under which persons having appropriate engineering or scientific expertise are assigned particular tasks relating to the functions of the committee. Such fellowship shall be for 2-year periods and the recipients of such fellowships shall be selected pursuant to such criteria as may be established by the committee.

ORGANIZATIONAL CONFLICTS OF INTEREST

SEC. 7. The Commission shall by December 31, 1977, promulgate guidelines to be applied by the Commission in determining whether an organization proposing to enter into a contractual arrangement with the Commission has a conflict of interest which might impair the contractor's judgment or otherwise give the contractor an unfair competitive advantage.

COOPERATIVE RESEARCH FUNDING

SEC. 8. Moneys received by the Commission for the cooperative nuclear safety research programs may be retained and used for salaries and expenses associated with those programs, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), and shall remain available until expended. Funds may be obligated for purposes stated in this section only to the extent provided in appropriation acts.

TRANSFER OF FUNDS

SEC. 9. Transfers of sums from salaries and expenses may be made to other agencies of the Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred may be merged with the appropriations to which transferred.

APPROPRIATIONS

SEC. 10. Notwithstanding any other provision of this act, no authority to make payments under this act shall be effective except to such extent or in such amounts as are provided in advance in appropriation acts.

Amend the title so as to read: "A bill to authorize appropriations for Nuclear Regulatory Commission for the fiscal year 1978, and for other purposes.

And the House agree to the same.

MO K. UDALL,
JONATHAN B. BINGHAM,
PAUL E. TSONGAS,
BOB BAUMAN,
Managers on the Part of the House.

GARY HART,
JENNINGS RANDOLPH,
MIKE GRAVEL,
WENDELL ANDERSON,
DANIEL PATRICK MOYNIHAN,
JAMES A. MCCLURE,
ROBERT T. STAFFORD,
PETE V. DOMENICI,
HOWARD H. BAKER, JR.,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the Senate and the House at the conference on the disagreeing vote of the two Houses on the amendment of the House to the bill, S. 1131 to authorize appropriations for activities of the Nuclear Regulatory Commission, and for other purposes, submit the following joint statement to the Senate and the House in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The House amendment struck all after the enacting clause and insert a substitute text. The differences between the Senate bill and the House amendment are noted below, and the substitute agreed to in Conference is discussed. Minor, technical and clarifying changes are not discussed.

INTRODUCTION

S. 1131, the bill to authorize appropriations for the Nuclear Regulatory Commission for fiscal year 1978, and the House amendment thereto presented the Committee of Conference with two fundamentally different approaches to the authorization process. The Senate bill, as amended, remained similar in structure to the bill proposed by the administration and introduced in both Houses, i.e., the bill authorizes a "lump sum" amount for the Commission's total program. The companion bill in the House of Representatives (H.R. 3455) was amended by striking fully the text of the original bill and inserting specific line-item authorizations for each of the Commission's seven major programs. The House bill also included procedures for the reallocation of limited sums between these line-item categories. In addition, both the Senate bill and the House amendment included specific directions regarding certain of the Commission's programs.

The conferees agreed to adopt the approach of the House amendment but various modifications were made to assure sufficient funding of Commission programs and to give the Commission adequate flexibility to assure its smooth operation. A discussion of the specific actions by the conferees follows.

SECTION 1.—AUTHORIZATION

The conference report authorizes a total of $297,740,000 for salaries and expenses of the Nuclear Regulatory Commission for fiscal year 1978. This represents a compromise between the House authorization of $301,950,000 and the Senate authorization which lay between $292,840,000 and $299,640,000, depending on the status of the Clinch River Breeder Reactor and the Barnwell fuel reprocessing plant. The allocation of these funds by program is summarized in the table below:

NRC—FISCAL YEAR 1978, COMPARISON OF AUTHORIZATION AMOUNTS

[In thousands of dollars]

Program	Senate, S. 1131 [1]	House, H.R. 3455	Conference substitute
Nuclear reactor regulation	(41,480)	39,390	41,480
Standards development	(12,130)	10,630	12,130
Inspection and enforcement	(36,050)	34,759	33,050
Nuclear materials safety and safeguards	(22,090)	17,246	22,090
Nuclear regulatory research	(148,400)	121,226	148,900
Advanced reactor safety research	----	17,185	----
Research and technical assistance on safeguards	----	15,000	----
Program technical support	(10,180)	17,204	10,180
Program direction and administration	(29,310)	29,310	29,910
Total obligation direct program	[2] 292,840–299,640	301,950	297,740
Reimbursable program	350	350	350
Total obligations	[2] 292,840–299,990	302,300	298,090
Reimbursements received from other Federal agencies	350	350	350
Total authorizations	292,840–299,640	301,950	297,740

[1] The Senate bill contained only a total authorization figure. The breakdown by program is from the Senate committee report.

[2] The Senate bill contained a provision reducing the authorization by $3,700,000 if construction of the Clinch River Breeder Reactor is not authorized and reducing it by $3,100,000 if further construction of the Barnwell fuel reprocessing plant is canceled. Thus the total authorization under the Senate bill could be as low as $292,840,000, or as high as $299,640 000.

Budget categories

The Senate bill contained a single line item authorization. The House amendment contained a breakdown of the total authorization into line items for major budget categories. The conferees agreed to retain the breakdown into budget categories as specified in the original NRC budget request.

Reallocation authority

The House amendment specified that $10,000,000 could be reallocated among budget categories subject to the conditions that the amount reallocated from a major program activity should not exceed 10 percent of the amount authorized for such activity and that the appropriate committees of Congress should be informed prior to any realiocation in excess of $200,000. The conferees agreed that the percentage should be increased to 15 percent, and that the reallocation amount requiring notification of the appropriate committees of Congress should be increased to $500,000.

Safeguards contracts

The Senate bill contained no restrictions upon the amount authorized for contracts for research, studies and technical assistance on domestic safeguards matters. The House amendment contained a separate budget category for such contracts in which the amount authorized was $15,000,000. The House amendment also prohibited reallocation from other major budget categories to safeguards-related contracts. The conferees, in agreeing to eliminate the separate budget category for contracts concerning domestic safeguards matters, also agreed that the legislative history should make clear that the total amount expended by the Commission upon such contracts should not exceed $15,000,000.

Advanced reactor safety research

The Senate bill contained no conditions concerning approval by the Commission of regulatory research related to advanced reactor safety. The House amendment required Commission approval of contracts for such research, contingent upon receipt by the Commission of a recommendation from the Advisory Committee on Reactor Safeguards supporting the proposed research. The conferees agreed that the recommendation from the Advisory Committee on Reactor Safeguards should be discretionary and that the Commission should consider any such recommendation in its deliberations concerning approval of such research.

Clinch River breeder reactor

The authorization in the conference substitute is calculated to allow for obligations of $2,700,000 related to the Clinch River Breeder Reactor project, with a contingency provision that the authorization shall be reduced by $2,700,000 if the license application is withdrawn or the funding for the continuing of the Clinch River Breeder Reactor project is not authorized or appropriated. The authorization in the Senate bill was calculated to allow for obligations of $3,700,000 related to the Clinch River Breeder Reactor project, with a similar contingency provision. The House bill contained no funding related to the CRBR. The conferees adopted the Senate position, remaining neutral on the question of whether the Clinch River Breeder program should or should not be canceled or deferred. In view of the delays that have already taken place in that program, the conferees reduced the total authorization by $1,000,000 and accordingly reduced the contingency figure to $2,700,000.

Fuel reprocessing

The authorization in the conference substitute is calculated to allow for obligations of $2,100,000 related to the Barnwell, South Carolina, fuel reprocessing plant, with a contingency position that the authorization shall be reduced to $2,100,100 if further construction of the facility for the purpose of providing plutonium to be used as fuel is canceled or deferred. The authorization in the Senate bill was calculated to allow for obligations of $3,100,000 related to the Barnwell facility, with a similar contingency provision. The House bill contained no funding related to the Barnwell facility. The conferees adopted the Senate position, remaining neutral on the questions of reprocessing nuclear fuel and recycling plutonium. In view of the delays that have already taken place in that program the conferees reduced the total authorization by $1,000,000 and accordingly reduced the contingency figure to $2,100,000.

Inspection and enforcement

The authorization in the Senate bill was calculated to allow for obligations of $6,000,000 to implement a new program of resident inspectors at every site. The House amendment specifically allocated $6,000,000 for additional personnel in the Office of Inspection and Enforcement. While not including a specific allocation for this purpose, the Conferees endorsed the general plans of the NRC for a resident inspector program. It is understood that implementation is now expected to require $3,000,000 in fiscal year 1978. Prior to stationing any inspector full time at a licensee facility the Commission shall provide to the appropriate committees of Congress a plan showing the utilization of the inspector force and the training program for inspectors, including the actions which will be taken to assure the objectivity of inspectors.

International programs

The conferees understand that, in response to a suggestion of the House International Relations Committee, $85,000 from funds appropriated to the Commission for fiscal year 1978, in addition to sums already programed, will be administratively transferred to the Office of International Programs in order to enhance the ability of that office to fulfill its role regarding nuclear exports.

SECTION 2—COMMISSION PERSONNEL

The Senate bill contained no provisions concerning Commission personnel. The House amendment required quarterly reports concerning the Commission's efforts to fulfill its obligations to assure equal opportunity employment. The conferees, noting apparent inadequacies in the Commission's equal opportunity employment program, agreed on a requirement for equal employment opportunity reports which were somewhat less detailed than those required by the House amendment. The House amendment also required that the Commission reduce the number of positions at grade GS–16 and above. The conferees agreed to delete this requirement, but expressed their interest in the study which is now in progress on the large number of supergrade positions at the Commission.

SECTION 3—UNRESOLVED SAEFTY ISSUES

The House amendment required development of a plan to resolve generic safety issues. The conferees agreed to a requirement that the plan be submitted to the Congress on or before January 1, 1978. The conferees also expressed the intent that this plan should identify and describe those safety issues, relating to nuclear power reactors, which are unresolved on the date of enactment. It should set forth: (1) Commission actions taken directly or indirectly to develop and implement corrective measures; (2) fu-

ture actions planned concerning such measures; and (3) timetables and cost estimates of such actions. The Commission should indicate the priority it has assigned to each issue, and the basis on which priorities have been assigned.

SECTION 4—IMPROVED SAEFTY SYSTEMS RESEARCH

The House amendment required the preparation of a plan for the development of new or improved safety systems of nuclear power plants and the Conferees agreed to the House provision.

The Senate report identified the need for the Commission to take initiative in the development of improved safety and safeguards for nuclear fuel facilities as well as nuclear power plants. The conferees endorsed this concept, although they did not specifically include safeguards or fuel cycle facilties in the mandatory improved safety systems research plan.

The conferees also expressed the intent that the plan include brief descriptions of the projects which are proposed, the need for each project, a timetable for its implementation, the cost of the project, and other pertinent information. The initial plan should be submitted to the Congress within 120 days after enactment, and should be updated annually and submitted to the Congress by February 1 of each year.

The conferees agreed that the Commission, in developing the plan, should coordinate with the Department of Energy or other agencies which are conducting similar efforts and any actions taken to implement such a plan should take into account related activities in progress at other agencies.

SECTION 5—REACTOR SAFETY RESEARCH STUDY

The conferees agreed to a provision of the House amendment calling for an annual report on the Commission's reactor safety research program.

SECTION 6—ACRS FELLOWSHIP PROGRAM

The conferees agreed to a provision in section 5 of the House amendment establishing a fellowship program under the aegis of the Advisory Committee on Reactor Safeguards. Section 1(a)(6) of the conference report provides an authorization of up to $600,000 for the purpose of implementing the fellowship program. The conferees also intend that 15 additional personnel positions be made available to the agency to accommodate persons hired under this provision. These may be permanent or temporary positions, as appropriate.

The conferees agreed that the fellowship program is intended to facilitate the committee's independent evaluation of reactor safety issues. The ACRS fellowship program will help alleviate unnecessary delays in the licensing process. The persons in the fellowship program would be under the direct supervision of the ACRS. The ACRS shall utilize the fellowship personnel to assist in preparation of the annual reactor safety research study and such other analyses of research data as needed to assist the ACRS in carrying out its duties in a timely manner.

SECTION 7—ORGANIZATIONAL CONFLICTS OF INTEREST

The Senate bill contained no provisions concerning organizational conflicts of interest. The House amendment required the Commission to promulgate guidelines for determining whether an organization proposing to enter into a contractual arrangement with the Commission has a conflict of interest which might impair the contractor's judgment or otherwise give the contractor an unfair competitive advantage. The conferees agreed to retain the conflict of interest provision in the House amendment. The conferees further agreed that the Commission's conflict of interest guidelines could be modelled on those which Congress had previously adopted for the FEA and ERDA. These guidelines are as follows:

(a) The Commission shall, by rule, require any person proposing to enter into a contract, agreement, or other arrangement, whether by competitive bid or negotiation, under this Act or any other law administered by it for the conduct of research, development, evaluation activities, or for technical and management support services, to provide the Commission, prior to entering into any such contract, agreement, or arrangement, with all relevant information, as determined by the Commission, bearing on whether that person has a possible conflict of interest with respect to—

"(1) being able to render impartial, technically sound, or objective assistance or advice in light of other activities or relationships with other persons, or

"(2) being given an unfair competitive advantage.

Such person shall insure, in accordance with regulations prescribed by the Commission, compliance with this section by any subcontractor (other than a supply subcontractor) of such person in the case of any subcontract of more than $10,000.

"(b) The Commission shall not enter into any such contract, agreement, or arrangement unless it finds, after evaluating all information provided under subsection (a) and any other information otherwise available to the Commission that—

"(1) it is unlikely that a conflict of interest would exist, or

"(2) such conflict has been avoided after appropriate conditions have been included in such contract, agreement, or arrangement; except that if the Commission determines that such conflict of interest exists and that such conflict of interest cannot be avoided by including appropriate conditions therein, the Commission may enter into such contract, agreement, or arrangement, if the Commission determines that it is in the best interests of the United States to do so and includes appropriate conditions in such contract, agreement, or arrangement to mitigate such conflict.

"(c) The Commission shall publish rules for the implementation of this section, in accordance with section 553 of title 5, United States Code (without regard to subsection (a)(2) thereof) as soon as practicable after the date of the enactment of this section, but in no event later than 120 days after such date."

SECTION 8—COOPERATIVE RESEARCH FUNDING

The conference report contains this provision, which is identical to that in both Senate and House bills.

SECTION 9—TRANSFER OF FUNDS

The conference report contains this provision, which is identical to that in both Senate and House bills.

SECTION 10—APPROPRIATONS

The conferees adopted this provision from the House bill, which makes expenditures under this act contingent on appropriations, and assures conformity with the Congressional Budget Act of 1974. The Senate bill did not contain a comparable provision.

NUCLEAR REGULATORY COMMISSION SPACE NEEDS

The conferees are greatly concerned about the dispersal of NRC offices in nine locations. This results in direct added costs of $5 million per year, and, more importantly, it substantially impedes communication within the agency. In recognition, however, of the progress that has been made with the General Services Administration in bringing about a permanent consolidation at a single site in the near future, the conferees followed the Senate bill and did not include a specific provision on NRC space needs. The House bill provided for consolidation at two sites, and granted leasing authority to the NRC. The Senate bill contained no comparable provision.

MO UDALL,
JONATHAN B. BINGHAM,
PAUL E. TSONGAS,
BOB BAUMAN,
Managers on the Part of the House.

GARY HART,
JENNINGS RANDOLPH,
MIKE GRAVEL,
WENDELL R. ANDERSON,
DANIEL PATRICK MOYNIHAN,
JAMES A. MCCLURE,
ROBERT T. STAFFORD,
PETE V. DOMENICI,
HOWARD H. BAKER, JR.,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 8422

Mr. ULLMAN submitted the following conference report and statement on the bill (H.R. 8422) to amend titles XVIII and XIX of the Social Security Act to provide payment for rural health clinic services, and for other purposes.

CONFERENCE REPORT (H. REPT. NO. 95-790)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 8422) to amend titles XVIII and XIX of the Social Security Act to provide payment for rural health clinic services, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

MEDICARE AMENDMENTS

SECTION 1. (a) Section 1832(a) of the Social Security Act is amended—

(1) by striking out "paragraph (2)(B)" in paragraph (1) and inserting in lieu thereof "subparagraphs (B) and (D) of paragraph (2)"; and

(2) by striking out the period at the end of paragraph (2)(C) and inserting in lieu thereof "; and" and by adding the following new subparagraph at the end of paragraph (2):

"(D) rural health clinic services."

(b) Section 1833(a) of such Act is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by inserting "(except those services described in subparagraph (D) of section 1832(a)(2))" in paragraph (2) after "1832(a)(2)";

(3) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(4) by inserting the following new paragraph after paragraph (2):

"(3) in the case of services described in section 1832(a)(2)(D), 80 percent of costs which are reasonable and related to the cost of furnishing such services or on such other tests of reasonableness as the Secretary may prescribe in regulations, including those authorized under section 1861(v)(1)(A)."

(c) The Secretary of Health, Education, and Welfare (hereinafter in this Act referred to as the "Secretary") shall conduct a study of the feasibility and desirability of imposing a copayment for each visit to a rural health clinic for rural health clinic services under part B of title XVIII of the Social Security Act, instead of the deductible and coinsurance amounts otherwise re-

quired under section 1833 of such Act with respect to the provisions of such services. The Secretary shall report to the appropriate committees of Congress, not later than one year after the date of enactment of this Act, on such study and on any recommendations he may have for changes in the provisions of part B of title XVIII of the Social Security Act to reflect the findings of such study.

(d) Section 1861 of such Act is amended by adding at the end thereof the following new subsection:

"Rural Health Clinic Services

"(aa)(1) The term 'rural health clinic services' means—

"(A) physicians' services and such services and supplies as are covered under section 1861(s)(2)(A) if furnished as an incident to a physician's professional service,

"(B) such services furnished by a physician assistant or by a nurse practitioner and such services and supplies furnished as an incident to his service as would otherwise be covered if furnished by a physician or as an incident to a physician's service, and

"(C) in the case of a rural health clinic located in an area in which there exists a shortage of home health agencies, part-time or intermittent nursing care and related medical supplies (other than drugs and biologicals) furnished by a registered professional nurse or licensed practical nurse to a homebound individual under a written plan of treatment (i) established and periodically reviewed by a physician described in paragraph (2)(B), or (ii) established by a nurse practitioner or physician assistant and periodically reviewed and approved by a physician described in paragraph (2)(B),

when furnished to an individual as an outpatient of a rural health clinic.

"(2) The term 'rural health clinic' means a facility which—

"(A) is primarily engaged in providing rural health clinic services;

"(B) in the case of a facility which is not a physician-directed clinic, has an arrangement (consistent with the provisions of State and local law relative to the practice, performance, and delivery of health services) with one or more physicians (as defined in subsection (r)(1)) under which provision is made for the periodic review by such physicians of covered services furnished by physician assistants and nurse practitioners, the supervision and guidance by such physicians of physician assistants and nurse practitioners, the preparation by such physicians of such medical orders for care and treatment of clinic patients as may be necessary, and the availability of such physicians for such referral of and consultation for patients as is necessary and for advice and assistance in the management of medical emergencies; and in the case of a physician-directed clinic, such clinic has one or more of its staff physicians perform the activities accomplished through such an arrangement;

"(C) maintains clinical records on all patients;

"(D) has arrangements with one or more hospitals having agreements in effect under section 1866 for the referral and admission of patients requiring inpatient services or such diagnostic or other specialized services as are not available at the clinic;

"(E) has written policies, which are developed with the advice of (and with provision for review of such policies from time to time by) a group of professional personnel, including one or more physicians and one or more physician assistants or nurse practitioners, to govern the services referred to in subparagraph (A) which it provides;

"(F) has a physician, physician assistant, or nurse practitioner responsible for the execution of policies described in subparagraph (E) and relating to the provision of the clinic's services;

"(G) directly provides routine diagnostic services, including clinical laboratory services as prescribed in regulations by the Secretary, and has prompt access to additional diagnostic services from facilities meeting requirements under this title;

"(H) in compliance with State and Federal law, has available for administering to patients of the clinic at least such drugs and biologicals as are determined by the Secretary to be necessary for the treatment of emergency cases (as defined in regulations) and has appropriate procedures or arrangements for storing, administering, and dispensing any drugs and biologicals;

"(I) has appropriate procedures for review of utilization of clinic services to the extent that the Secretary determines to be necessary and feasible; and

"(J) meets such other requirements as the Secretary may find necessary in the interest of the health nd safety of the individuals who are furnished services by the clinic.

For the purposes of this title, such term includes only a facility which (i) is located in an area that is not an urbanized area (as defined by the Bureau of the Census) and that is designated by the Secretary either (I) as an area with a shortage of personal health services under section 1302(7) of the Public Health Service Act or (II) as a health manpower shortage area described in section 332(a)(1)(A) of that Act because of its shortage of primary medical care manpower (ii) has filed an agreement with the Secretary by which it agrees not to charge any individual or other person for items or services for which such individual is entitled to have payment made under this title, except for the amount of any deductible or coinsurance amount imposed with respect to such items or services (not in excess of the amount customarily charged for such items and services by such clinic), pursuant to subsections (a) and (b) of section 1833, (iii) employs a physician assistant or nurse practitioner, and (iv) is not a rehabilitation agency or a facility which is primarily for the care and treatment of mental diseases. A facility that is in operation and qualifies as a rural health clinic under this title or title XIX and that subsequently fails to satisfy the requirement of clause (i) shall be considered, for purposes of this title and title XIX as still satisfying the requirement of such clause.

"(3) The term 'physician assistant' and the term 'nurse practitioner' mean, for the purposes of paragraphs (1) and (2), a physician assistant or nurse practitioner who performs such services as such individual is legally authorized to perform (in the State in which the individual performs such services) in accordance with State law (or the State regulatory mechanism provided by State law), and who meets such training, education, and experience requirements (or any combination thereof) as the Secretary may prescribe in regulations.".

(e) Any private, nonprofit health care clinic that—

(1) on July 1, 1977, was operating and located in an area which on that date (A) was not an urbanized area (as defined by the Bureau of the Census) and (B) had a supply of physicians insufficient to meet the needs of the area (as determined by the Secretary), and

(2) meets the definition of a rural health clinic under section 1861(aa)(2) of the Social Security Act, except for clause (i) of such section,

shall be considered, for the purposes of titles XVIII and XIX of the Social Security Act, as satisfying the definition of a rural health clinic under such section.

(f) Section 1862(a)(3) of such Act is amended by striking out "in such cases" and inserting in lieu thereof "in the case of rural health clinic services, as defined in section 1861(aa)(1), and in such other cases".

(g) Section 1861(5)(2) of such Act is amended—

(1) by striking out "and" at the end of subparagraph (C)(ii);

(2) by inserting "and" at the end of subparagraph (D); and

(3) by adding the following new subparagraph at the end thereof:

"(E) rural health clinic services;".

(h) The second sentence of section 1861(s) of such Act is amended by inserting ", a rural health clinic," after "physician's office".

(i) Section 1864(a) of such Act is amended—

(1) by inserting "or whether a facility therein is a rural health clinic as defined in section 1861(aa)(2)," in the first sentence after "home health agency,";

(2) by inserting "rural health clinic," in the second sentence after "nursing facility,";

(3) by inserting "rural health clinic," in the last sentence after "facility," the first and second times it appears; and

(4) by striking out "such facility" and inserting in lieu thereof "such health care facility, rural health clinic".

(j) The amendments made by this section shall apply to services rendered on or after the first day of the third calendar month which begins after the date of enactment of this Act.

MEDICAID AMENDMENTS

SEC. 2. (a) Paragraph (2) of section 1905(a) of the Social Security Act is amended to read as follows:

"(2)(A) outpatient hospital services, and (B) consistent with State law permitting such services, rural health clinic services (as defined in subsection (l)) and any other ambulatory services which are offered by a rural health clinic (as defined in subsection (l)) and which are otherwise included in the plan;".

(b) Section 1905 of such Act is amended by adding after subsection (k) the following new subsection:

"(l) The terms 'rural health clinic services' and 'rural health clinic' have the meanings given such terms in section 1861(aa), except that (1) clause (ii) of section 1861(aa)(2) shall not apply to such terms, and (2) the physician arrangement required under section 1861(aa)(2)(B) shall only apply with respect to rural health clinic services and, with respect to other ambulatory care services, the physician arrangement required shall be only such as may be required under the State plan for those services.".

(c) Section 1902(a) of such Act is amended—

(1) by striking out the semicolon at the end of paragraph (13) and inserting in lieu thereof "; and", and by adding at the end of such paragraph the following new subparagraph:

"(F) for payment for services described in section 1905(a)(2)(B) provided by a rural health clinic under the plan of 100 percent of costs which are reasonable and related to the cost of furnishing such services or based on such other tests of reasonableness, as the Secretary may prescribe in regulations under section 1833(a)(3), or, in the case of services to which those regulations do not apply, on such tests of reasonableness as the Secretary may prescribe in regulations under this subparagraph;"; and

(2) by inserting ", or by reason of the fact that the plan provides for payment for rural health clinic services only if those services are provided by a rural health clinic" before the semicolon at the end of paragraph (23).

(d) Section 1910 of such Act is amended—

(1) by amending the heading to read as follows: "CERTIFICATION AND APPROVAL OF SKILLED NURSING FACILITIES AND OF RURAL HEALTH CLINICS";

(2) by striking out "(a)" and inserting in lieu thereof "(a)(1)";

(3) by striking out "(b" and inserting in lieu thereof "(2)"; and

(4) by adding at the end thereof the following new subsection:

"(b)(1) Whenever the Secretary certifies a facility in a State to be qualified as a rural health clinic under title XVIII, such facility shall be deemed to meet the standards for certification as a rural health clinic for purposes of providing rural health clinic services under this title.

"(2) The Secretary shall notify the State agency administering the medical assistance plan of his approval or disapproval of any facility in that State which has applied for certification by him as a qualified rural health clinic.".

(e) Section 1866(c)(2) of such Act is amended by striking out "section 1910" and inserting in lieu thereof "section 1910(a)".

(f)(1) The amendments made by this section shall (except as otherwise provided in paragraph (2)) apply to medical assistance provided, under a State plan approved under title XIX of the Social Security Act, on and after the first day of the first calendar quarter that begins more than six months after the date of enactment of this Act.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act.

DEMONSTRATION PROJECTS FOR PHYSICIAN-DIRECTED CLINICS IN URBAN MEDICALLY UNDERSERVED AREAS

SEC. 3. (a) The Secretary shall provide, through demonstration projects, reimbursement on a cost basis for services provided by physician-directed clinics in urban medically underserved areas for which payment may be made under title XVIII of the Social Security Act and, notwithstanding any other provision of such title, for services provided by a physician assistant or nurse practitioner employed by such clinics which would otherwise be covered under such title if provided by a physician.

(b) The demonstration projects developed under subsection (a) shall be of sufficient scope and carried out on a broad enough scale to allow the Secretary to evaluate fully—

(1) the relative advantages and disadvantages of reimbursement on the basis of costs and fee-for-service for physician-directed clinics employing a physician assistant or nurse practitioner;

(2) the appropriate method of determining the compensation for physician services on a cost basis for the purposes of reimbursement of services provided in such clinics;

(3) the appropriate definition for such clinics;

(4) the appropriate criteria to use for the purposes of designating urban medically underserved areas; and

(5) such other possible changes in the provisions of title XVIII of the Social Security Act as might be appropriate for the efficient cost-effective reimbursement of services provided in such clinics.

(c) Grants, payments under contracts, and other expenditures made for demonstration projects under this section shall be made in appropriate part from the Federal Hospital Insurance Trust Fund (established by section 1817 of the Social Security Act) and the Federal Supplementary Medical Insurance Trust Fund (established by section 1841 of the Social Security Act). Grants and payments under contracts may be made either in advance or by way of reimbursement, as may be determined by the Secretary, and shall be made in such installments and on such conditions as the Secretary finds necessary to carry out the purpose of this section. With respect to any such grant, payment, or other expenditure, the amount to be paid from each trust fund shall be determined by the Secretary, giving due regard to the purposes of the demonstration projects.

(d) The Secretary shall submit to the Congress, no later than January 1, 1981, a complete, detailed report on the demonstration projects conducted under subsection (b). Such report shall include any recommendations for legislative changes which the Secretary finds necessary or desirable as a result of carrying out such demonstration projects.

(e) As used in this section, the terms "physician assistant" and "nurse practitioner" have the meanings given such terms in section 1861(aa)(3) of the Social Security Act.

REPORT BY THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE ON MENTAL HEALTH AND OTHER CENTERS

SEC. 4. (a) The Secretary shall submit to the Congress, no later than six months after the date of enactment of this Act, a report on the advantages and disadvantages of extending coverage under title XVIII of the Social Security Act to urban or rural comprehensive mental health centers and to centers for treatment of alcoholism and drug abuse.

(b) The report submitted under subsection (a) shall include evaluations of—

(1) the need for coverage under such title of services provided by such centers;

(2) the extent of present utilization of such centers by individuals eligible for benefits under such title;

(3) alternatives to services provided by such centers presently available to individuals eligible for benefits under such title;

(4) the appropriate definition for such centers;

(5) the types of treatment provided by such centers;

(6) present Federal and State funding for such centers;

(7) the extent of coverage by private insurance plans for services provided by such centers;

(8) present and projected costs of services provided by such centers;

(9) available methods for assuring proper utilization of such centers;

(10) the effect of allowing coverage for services provided by such centers on other providers and practitioners; and

(11) the need for any demonstration projects for further evaluation of the need for coverage for services provided by such centers.

ACCESS TO CERTAIN TAX RETURN INFORMATION BY THE NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH

SEC. 5. Subsection (m) of section 6103 of the Internal Revenue Code of 1954 (relating to disclosure of taxpayer identity information) is amended to read as follows:

"(m) DISCLOSURE OF TAXPAYER IDENTITY INFORMATION.—

"(1) TAX REFUNDS.—The Secretary may disclose taxpayer identity information to the press and other media for purposes of notifying persons entitled to tax refunds when the Secretary, after reasonable effort and lapse of time, has been unable to locate such persons.

"(2) FEDERAL CLAIMS.—Upon written request, the Secretary may disclose the mailing address of a taxpayer to officers and employees of an agency personally and directly engaged in, and solely for their use in, preparation for any administrative or judicial proceeding (or investigation which may result in such a proceeding) pertaining to the collection or compromise of a Federal claim against such taxpayer in accordance with the provisions of section 3 of the Federal Claims Collection Act of 1966.

"(3) NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH.—Upon written request, the Secretary may disclose the mailing address of taxpayers to officers and employees of the National Institute for Occupational Safety and Health solely for the purpose of locating individuals who are, or may have been, exposed to occupational hazards in order to determine the status of their health or to inform them of the possible need for medical care and treatment.".

TRANSFER OF PUBLIC HEALTH SERVICE HOSPITAL IN TEXAS

SEC. 6. If the Secretary acquires the Space Center Memorial Hospital in Nassau Bay, Texas, for the purpose of transferring to it the activities and functions of the Public Health Service hospital in Galveston, Texas, the Secretary may close the Public Health Service hospital in Galveston, Texas.

And the Senate agree to the same.

AL ULLMAN,
HARLEY O. STAGGERS,
DAN ROSTENKOWSKI,
PAUL G. ROGERS,
JAMES C. CORMAN,
RICHARDSON PREYER,
JOHN J. DUNCAN,
TIM LEE CARTER,
Managers on the Part of the House.

RUSSELL B. LONG,
HERMAN E. TALMADGE,
WILLIAM D. HATHAWAY,
ROBERT DOLE,
BOB PACKWOOD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 8422) to amend titles XVIII and XIX of the Social Security Act to provide payment for rural health clinic services, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

1. SUBSTITUTION OF PART B DEDUCTIBLE WITH COPAYMENT FOR RURAL HEALTH CLINIC SERVICES

House bill.—The House bill contains no comparable provision.

Senate amendment.—The Senate amendment authorizes the Secretary to waive the part B deductible with respect to rural health clinic services and to require in lieu thereof copayments not to exceed $3 a visit and $60 a year, where he determines that such an alternative approach would be less costly.

Conference agreement.—The conference agreement requires the Secretary of Health, Education, and Welfare to study the feasibility and desirability of imposing a copay-

ment for each visit to a rural health clinic instead of the medicare deductible and coinsurance. The Secretary is to report to the appropriate committees of Congress, not later than one year after the date of enactment, on such study and on any recommendations. The conferees note that the intent of the study is to evaluate approaches to the use of copayment that will not result in additional cost either to beneficiaries or rural clinics.

2. PRIMARY CARE PRACTITIONER

House bill.—The House bill uses the term "primary care practitioner" to describe the nurse practitioners, physician assistants, medex and other practitioners whose services would be covered under the bill.

Senate amendment.—The Senate amendment deletes the term "primary care practitioner" and uses in lieu thereof the terms "nurse practitioner" and physician assistant".

Conference agreement.—The conference agreement accepts the Senate amendment. It is the intent of the conferees that the services of a nurse midwife furnished through an otherwise eligible rural health clinic be covered as rural health clinic services.

3. COVERAGE OF HOME HEALTH SERVICES FURNISHED BY CERTAIN CLINICS

House bill.—The House bill contains no comparable provision.

Senate amendment.—The Senate amendment provides that, where there exists a shortage of home health agencies, the rural health clinic services covered under medicare and medicaid could include any or all of the services presently covered by a home health agency regardless of whether a clinic could offer any of the skilled services (nursing care, speech therapy or physical therapy) presently required of home health agencies.

Conference agreement.—The conference agreement provides that, where there exists a shortage of home health agencies, the rural clinic services covered under medicare and medicaid could include part-time or intermittent nursing services and related supplies, to the extent permitted in regulations, furnished by a registered nurse or a licensed practical nurse to homebound patients, provided such services are furnished under a written plan of treatment (i) established and periodically reviewed by a physician, or (ii) established by a nurse practitioner or physician assistant and periodically reviewed and approved by a physician. It is the intent of the conferees that licensed vocational nurses shall be considered as licensed practical nurses for the purposes of this provision.

4. PHYSICIAN SUPERVISION ARRANGEMENT

House bill.—The House bill requires the rural health clinic to have an arrangement with one or more physicians under which the physician periodically reviews the services furnished by the nurse practitioner or physician assistant and prepares such medical orders for care the treatment of clinic patients as is necessary.

Senate amendment.—The Senate amendment modifies the House bill by providing that the medical orders are to be prepared jointly by the physician and the nurse practitioner or physician assistant.

Conference agreement.—The conference agreement accepts the House provision. The conferees note that medical orders are appropriately prepared by a physician. However, patient care plans, which involve nursing functions, are ordinarily prepared in consultation with the nurse practitioner and physician assistant.

5. CLINIC POLICIES

House bill.—The House bill requires a rural health clinic to have policies to govern the provision of covered services which are developed (and periodically reviewed) with the advice of a group of professional personnel, including one or more physicians and one or more nurse practitioners or physician assistants.

Senate amendment.—The Senate amendment substitutes for the House provision the requirement that the clinic have written policies to govern the management of the clinic and the services it furnishes.

Conference agreement.—The conference agreement accepts the House provision with a modification to clarify that the policies are to be written.

6. EXECUTION OF POLICIES

House bill.—The House bill requires a rural health clinic to have a physician or primary care practitioner responsible for the execution of policies relating to the provisions of the clinic's services.

Senate amendment.—The Senate amendment has no comparable provision.

Conference agreement.—The conference agreement accepts the House provision.

7. CLINICAL LABORATORY SERVICES

House bill.—The House bill requires each clinic to provide routine diagnostic services, including such clinical laboratory services as are prescribed by the Secretary. The House bill also provides that a clinic's laboratory shall be treated as a physician's office for the purpose of licensure and meeting any health and safety standards for clinical laboratories established by the Secretary.

Senate amendment.—The Senate amendment modifies the House bill to delete the requirement with respect to the provision of clinical laboratory services.

Conference agreement.—The conference agreement accepts the House provision.

8. EMERGENCY DRUGS

House bill.—The House bill requires the clinic to have available for administration at least such drugs and biologicals as are determined by the Secretary to be necessary for the care and treatment of emergency cases.

Senate amendment.—The Senate amendment has no comparable provision.

Conference agreement.—The conference agreement provides that a clinic is to have such drugs and biologicals available as are determined by the Secretary to be necessary for treatment of emergency cases to the extent allowed by State and Federal law.

9. UTILIZATION REVIEW

House bill.—The House bill contains no comparable provision.

Senate amendment.—The Senate amendment requires a rural health clinic to have appropriate procedures for utilization review.

Conference agreement.—The conference agreement requires clinics to have procedures for the review of utilization of services to the extent the Secretary determines necessary and feasible.

10. ELIGIBLE CLINICS

House bill.—The House bill defines a rural health clinic as one located in a rural area designated by the Secretary as having medically underserved populations under section 1302(7) of the Public Health Service Act.

Senate amendment.—The Senate amendment defines a rural health clinic as a facility located:

(1) in a rural area designated by the Secretary as having medically underserved populations under section 1302(7) of the Public Health Service Act,

(2) in an area (other than an urbanized area as defined by the Bureau of the Census) in which the supply of medical services is not sufficient to meet the needs of individuals therein, or

(3) in an urbanized area (so defined) if the majority of patients served by such facility reside in an area described in paragraph (1) or (2).

Conference agreement.—The conference agreement provides that clinics are eligible which are located in areas which are not urbanized and which have been designated by the Secretary as—

(1) having medically underserved populations (under title XIII of the Public Health Service Act), or

(2) primary medical care manpower shortage areas (under title III of the Public Health Service Act).

The agreement also provides for the eligibility of any private, nonprofit health care clinic which meets the requirements for a rural health clinic, except that it is not located in either of the shortage areas described above, and on July 1, 1977—

(A) was located in a nonurbanized area, and

(B) was located in an area where the supply of physicians was insufficient (as determined by the Secretary).

11. GRANDFATHERING OF CLINICS

House bill.—The House bill provides that a clinic which qualifies as a rural health clinic and is located in an area which subsequently loses its designation as a rural or medically underserved area would continue to be eligible for medicare and medicaid reimbursement as a rural health clinic.

Senate amendment.—The Senate amendment has no comparable provision.

Conference agreement.—The conference agreement accepts the House provision.

12. REVIEW OF CAPITAL EXPENDITURES

House bill.—The House bill contains no comparable provision.

Senate amendment.—The Senate amendment provides that rural health clinics would be subject to review of capital expenditures under programs established pursuant to section 1122 of the Social Security Act.

Conference agreement.—The conference agreement accepts the House position with the understanding that review of capital expenditures in ambulatory settings will be considered at a later date.

13. COMPREHENSIVE OUTPATIENT MENTAL HEALTH CENTERS

House bill.—The House bill requires the Secretary to carry out a demonstration project to provide reimbursement for services furnished in organized centers offering comprehensive mental health services.

Senate amendment.—The Senate amendment requires the Secretary to submit a report, not later than April, 1978, on the advantages and disadvantages of extending medicare coverage to mental health centers.

Conference agreement.—The conference agreement accepts the Senate provision with the modifications that the report is to be submitted within 6 months after enactment and the study is to include, with separate evaluations, centers for treatment of alcoholism and drug abuse. The conferees expect the Secretary to conduct demonstration projects, under the authority of section 222 of Public Law 92-603, to provide coverage for preventive services furnished by rural health clinic services.

14. ARRANGEMENT FOR CLINICS UNDER MEDICAID

House bill.—The House bill clarifies that the requirement that clinics must agree not to charge medicare patients for covered items or services except for the amount of the medicare part B deductible or coinsurance is not applicable for the purposes of reimbursement under medicaid. The House bill also clarifies that services offered by a clinic which are covered only under the medicaid program are to be subject to title XIX requirements for physician arrangements for supervision and related activities.

Senate amendment.—The Senate amendment contains no comparable provision.

Conference agreement.—The conference agreement accepts the House provision.

15. MEDICAID EFFECTIVE DATE

House bill.—The House bill provides that the State medicaid plan of all States which authorize the medical practice of nurse practitioners or physician assistants is to provide reimbursement for rural health clinic services beginning the first calendar quarter beginning more than six months after the date of enactment.

Senate amendment.—The Senate amendment further provides that, if legislation is required to conform the State plan, the requirement is to be effective the first calendar quarter beginning after the close of the State legislative session.

Conference agreement.—The conference agreement accepts the Senate amendment.

16. DISCLOSURE OF MAILING ADDRESSES TO NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH

House bill.—The House bill contains no comparable provision.

Senate amendment.—The Senate amendment would authorize the Secretary of the Treasury, upon written request, to disclose mailing addresses to officers and employees of the National Institute for Occupational Safety and Health (NIOSH) solely for the purposes of locating and determining the vital status of persons who, in their occupations, are, or may have been, exposed to a hazardous substance and referring sick or injured workers for medical care and treatment.

Conference agreement.—The conference agreement includes the substance of the Senate amendment with a technical amendment which clarifies the language of the Senate amendment and which restructures the pertinent section (6103(m)) of the Internal Revenue Code. The conference agreement is not intended to allow the disclosure of the mailing addresses of any taxpayer for any other studies that have been or will be undertaken by NIOSH, except for the specific purpose stated in the conference report.

AL ULLMAN,
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PAUL G. ROGERS,
JAMES C. CORMAN,
RICHARDSON PREYER,
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TIM LEE CARTER,
Managers on the Part of the House.

RUSSELL B. LONG,
HERMAN E. TALMADGE,
WILLIAM D. HATHAWAY,
ROBERT DOLE,
BOB PACKWOOD,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. ED JONES of Tennessee (at the request of Mr. WRIGHT), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BROWN of Ohio) to review and extend their remarks and include extraneous material:)

Mrs. HECKLER, for today, for 5 minutes.

Mr. DON CLAUSEN, for 30 minutes, today.

Mr. HAMMERSCHMIDT, for 10 minutes, today.

Mr. BROWN of Ohio, for 30 minutes, today.

Mr. WHALEN, for 5 minutes, today.

Mr. STEERS, for 5 minutes, today.

Mr. KEMP, for 10 minutes, today.

(The following Members (at the request of Mr. WEISS) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. HUGHES, for 5 minutes, today.

Mr. PEPPER, for 10 minutes, today.

Mr. BROWN of California, for 5 minutes today.

Mr. COTTER, for 5 minutes, today.

Mr. RUSSO, for 5 minutes, today.

Mr. RAHALL, for 5 minutes, today.

Mr. BRADEMAS, for 5 minutes, today.

Mr. MOORHEAD of Pennsylvania, for 5 minutes, today.

Mr. VANIK, for 5 minutes, today.

Mr. BINGHAM, for 10 minutes, today.

Ms. HOLTZMAN, for 15 minutes, today.

Mr. FORD of Tennessee for 5 minutes, today.

Mr. MCHUGH, for 5 minutes, November 2, 1977.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. BROWN of Ohio) and to include extraneous matter:)

Mr. CORCORAN of Illinois.

Mr. COLEMAN.

Mr. MCEWEN.

Mr. FREY.

Mr. SYMMS in three instances.

Mr. MADIGAN.

Mr. STEERS.

Mr. ARCHER in two instances.

Mr. ABDNOR.

Mr. YOUNG of Alaska.

Mr. DORNAN.

Mr. WYDLER.

Mr. MITCHELL of New York.

Mr. MOORE.

Mr. GILMAN.

Mr. STOCKMAN.

(The following Members (at the request of Mr. WEISS) and to include extraneous matter:)

Mr. HAMILTON in 10 instances.

Mr. DRINAN in two instances.

Mr. HOLLAND in three instances.

Mr. AUCOIN in three instances.

Mr. KILDEE in two instances.

Mr. BYRON in 10 instances.

Mr. ROSENTHAL in 10 instances.

Mr. SISK.

Mrs. LLOYD of Tennessee in five instances.

Mr. ANDERSON of California in three instances.

Mr. GONZALEZ in three instances.

Mrs. BURKE of California.

Mr. SIMON in three instances.

Mr. FISHER in 10 instances.

Mr. NOLAN in two instances.

Mr. PANETTA.

Mr. EDGAR.

Mr. VOLKMER.

Mr. GLICKMAN.

Mr. RUSSO in two instances.

Mr. MITCHELL of Maryland.

Mr. FLIPPO.

Mr. RYAN in two instances.

Mr. LEGGETT.

Mr. PATTISON of New York.

Mr. SANTINI.

Mr. WAXMAN in two instances.

Mr. MATTOX.

Mr. STARK in two instances.

Mr. SCHEUER in four instances.

Mr. WEISS.

Mr. BONKER.

Mr. MCDONALD in two instances.

Mr. YOUNG of Missouri.

Mr. STUDDS.

Mr. BURKE of Massachusetts.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 330. An act for the relief of Librado Perez; to the Committee on the Judiciary.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1403. An act to authorize the Secretary of the Interior to convey the interest of the United States in certain lands in Adams county, Miss., notwithstanding a limitation in the Color-of-Title Act (45 Stat. 1069, as amended; 43 U.S.C. 1068);

H.R. 2527. An act to authorize the Secretary of Agriculture to convey certain lands in the Sierra National Forest, Calif., to the Madera Cemetery District;

H.R. 2849. An act to suspend until July 1, 1978, the rate of duty of mattress blanks of latex rubber, and for other purposes;

H.R. 3373. An act to extend for an additional temporary period the existing suspension of duties on certain classifications of yarns of silk, and for other purposes;

H.R. 3387. An act to extend certain Social Security Act provisions, and for other purposes; and

H.R. 3461. An act for the relief of Chin-Ho An.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 810. An act granting an extension of patent to the United Daughters of the Confederacy;

S. 1019. An act to authorize appropriations for fiscal year 1978 for certain maritime programs of the Department of Commerce, and for other purposes;

E. 2118. An act to authorize the Secretary of Agriculture to convey certain homesites within the Chugach and Tongass National Forests, Alaska; and

S. 2208. An act to amend the Federal charter of the Big Brothers of America to include Big Sisters International, Inc., and for other purposes.

BILL PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on October 31, 1977, present to the President, for his approval, a bill of the House of the following title:

H.R. 1139. To amend the National School Lunch Act and the Child Nutrition Act of 1966 in order to revise and extend the summer food program, to revise the special milk

program, to revise the school breakfast program, to authorize the Secretary of Agriculture to carry out a program of nutrition information and education as part of food service programs for children conducted under such acts, and for other purposes.

ADJOURNMENT

Mr. MITCHELL of Maryland. Mr. Speaker, I move that the House do now adjourn.

The motion was agree to; accordingly (at 7 o'clock and 22 minutes p.m.), the House adjourned until tomorrow, Wednesday, November 2, 1977, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2617. A letter from the Acting Comptroller General of the United States, transmitting a report on the incorrect classification as a rescission (R78–1) of certain criminal justice and corrections grant funds in connection with the President's proposal for their transfer from the Law Enforcement Assistance Administration to other activities of the Department of Justice, and reclassifying the proposed action as a deferral of budget authority, pursuant to section 1015 (b) of Public Law 93–344 (95–252); to the Committee on Appropriations and ordered to be printed.

2618. A letter from the Assistant Secretary of Defense (Comptroller), transmitting a report covering the third quarter of fiscal year 1977 on receipts and disbursements pertaining to the disposal of surplus military supplies, equipment, material, and for expenses involving the production of lumber and timber products, pursuant to section 712 of Public Law 94–212; to the Committee on Appropriations.

2619. A letter from the Chairman, Equal Employment Opportunity Commission, transmitting a report on the planned reorganization of the Commission; to the Committee on Education and Labor.

2620. A letter from the Chairman, Board of Trustees, Harry S. Truman Scholarship Foundation, transmitting the Foundation's 1976–77 annual report, pursuant to section 13(b) of Public Law 93–642; to the Committee on Education and Labor.

2621. A letter from the U.S. Commissioner of Education, Department of Health, Education, and Welfare, transmitting a report on the veterans' cost-of-instruction program, pursuant to section 126(d) of Public Law 94–482; to the Committee on Education and Labor.

2622. A letter from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting proposed final regulations for veterans' cost-of-instruction payments to institutions of higher education, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

2623. A letter from the Administrator of General Services, transmitting a draft of proposed legislation to amend the Federal Property and Administrative Services Act of 1949 to authorize transportation for certain persons engaged in the continuity of Government program; to the Committee on Government Operations.

2624. A letter from the Deputy Administrator of Veterans' Affairs, transmitting a report on the agency's disposal of foreign excess property during fiscal year 1977, pursuant to section 404(d) of the Federal Property and Administrative Services Act of 1949, as amended; to the Committee on Government Operations.

2625. A letter from the Secretary of the Interior, transmitting notice of the receipt of a loan application from the Farmington Pressurized Irrigation District, Farmington, Utah, pursuant to section 10 of the Small Reclamation Projects Act of 1956; to the Committee on Interior and Insular Affairs.

2626. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on International Relations.

2627. A letter from the President, National Safety Council, transmitting a report on the audit of the financial transactions of the Council for the year ended June 30, 1977, pursuant to section 15 of Public Law 83–259; to the Committee on the Judiciary.

2628. A letter from the Secretary of Transportation, transmitting the 5-year report on the air traffic controler career program, pursuant to section 9 of Public Law 92–297; to the Committee on Public Works and Transportation.

2629. A letter from the Secretary of Transportation, transmitting the semiannual report on the effectiveness of the civil aviation security program, covering the first half of calendar year 1977, pursuant to section 315 (a) of the Federal Aviation Act of 1958, as amended (88 Stat. 415); to the Committee on Public Works and Transportation.

2630. A letter from the Administrator of General Services, transmitting a prospectus proposing alterations at the Lexington, Ky., U.S. Post Office-Courthouse, pursuant to section 7(a) of the Public Building Act of 1959, as amended; to the Committee on Public Works and Transportation.

2631. A letter from the Comptroller General of the United States, transmitting a report on the need to improve congressional overview and evaluation for military aircraft used for training, replacement, and overhaul (LCD–77–423, October 28, 1977); jointly, to the Committees on Government Operations, and Armed Services.

2632. A letter from the Acting Comptroller general of the United States, transmitting a report on coffee production and marketing systems (ID–77–54, October 28, 1977); jointly to the Committees on Government Operations, Agriculture, and International Relations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. H.R. 7928. A bill to authorize the Secretary of Commerce to sell two obsolete vessels to Mid-Pacific Sea Harvesters, Inc., and for other purposes (Rept. No. 95–784). Referred to the Committee of the Whole House.

Mr. DENT: Committee on House Administration. House Resolution 843. Resolution to provide for the expenses of investigations and studies to be conducted by the Select Committee on Population; with amendment (Rept. 95–785). Referred to the House Calendar.

Mr. THOMPSON: Committee on House Administration. House Resolution 879. Resolution authorizing funds for the standing and select committees of the House of Representatives (Rept. No. 95–786). Referred to the House Calendar.

Mr. THOMPSON: Committee on House Administration. House Resolution 884. Resolution to authorize the chairman of the Committee on House Administration to retain counsel to intervene in the case of *Atkins* against *United States*. (Rept. 95–787). Referred to the House Calendar.

Mr. UDALL: Committee of Conference. Conference report on S. 1131 (Rept. No. 95–788). Ordered to be printed.

Mrs. SPELLMAN: Committee on Post Office and Civil Service. H.R. 9471. A bill to amend title 5, United States Cole, to provide that Japanese-Americans shall be allowed civil service retirement credit for time spent in World War II internment camps (Rept. No. 95–789). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee of conference. Conference report on H.R. 8422 (Rept. No. 95–790). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANNUNZIO (for himself, Mr. FARY, Mr. MCHUGH, Mr. MURPHY of Illinois, and Mr. PRICE):

H.R. 9859. A bill to make additional immigrant visas available for immigrants from certain foreign countries, and for other purposes; to the Committee on Judiciary.

By Mr. BRINKLEY:

H.R. 9860. A bill to establish a program for providing talking books to the blind and handicapped; to the Committee on Education and Labor.

By Mr. BRINKLEY (for himself, Mr. VENTO, Mr. NICHOLS, Mr. TREEN, Mr. BADHAM, Mr. SIMON, Mr. JOHN T. MYERS, Mr. LOTT, Mr. NEAL, Mr. CHARLES WILSON of Texas, Mr. EILBERG, Mr. MITCHELL of New York, Mr. GLICKMAN, Mr. CLEVELAND, Mr. BALDUS, Mr. TSONGAS, Mr. ERTEL, Mrs. LLOYD of Tennessee, Mr. SPENCE, Mr. CHAPPELL, Mr. GEPHARDT, Mr. ROBINSON, Mr. CAPUTO, Mr. BEVILL, and Mr. KEMP):

H.R. 9861. A bill to incorporate the Gold Star Wives of America; to the Committee on the Judiciary.

By Mr. BRINKLEY (for himself, Mr. BARNARD, Mr. EVANS of Georgia, Mr. FLYNT, Mr. FOWLER, Mr. GINN, Mr. JENKINS, Mr. LEVITAS, Mr. MCDONALD, Mr. MATHIS, Mr. GUYER, Mr. DICKINSON, Mr. WHITEHURST, Mr. DUNCAN of Tennessee, Mr. LAGOMARSINO, Mr. MOAKLEY, Mr. WALKER, Mr. HYDE, Mr. DORNAN, Mr. SKELTON, Mr. OTTINGER, Mr. WON PAT, Mr. LLOYD of California, Mr. JOHNSON of Colorado, and Mr. WINN):

H.R. 9862. A bill to incorporate the Gold Star Wives of America; to the Committee on the Judiciary.

By Mr. BRINKLEY (for himself, Mr. CORNWELL, Mr. LUKEN, Mr. VANDER JAGT, Mr. MANN, Mr. HUGHES, Mr. KRUEGER, and Mr. FLORIO):

H.R. 9863. A bill to incorporate the Gold Star Wives of America; to the Committee on the Judiciary.

By Mr. CARTER:

H.R. 9864. A bill to amend the Consolidated Farm and Rural Development Act for the purpose of reducing the interest rates on operating loans made after the effective date of this act, and for other purposes; to the Committee on Agriculture.

By Mr. HANNAFORD:

H.R. 9865. A bill to amend title 10, United States Code, to eliminate the requirement that students in Junior Reserve Officer Training Corps units be citizens of the

United States; to the Committee on Armed Services.

By Mr. HILLIS:

H.R. 9866. A bill to amend the Internal Revenue Code of 1954 to allow taxpayers to treat certain federally required nonproductive expenditures as not chargeable to capital account and as currently deductible; to the Committee on Ways and Means.

By Mr. HYDE (for himself, Mr. ALLEN, Mr. RYAN, and Mr. CHARLES WILSON of Texas):

H.R. 9867. A bill to have an inscription and appropriate medals, ribbons, and tributes placed upon the crypt at the National Cemetery at Arlington, Va., reserved for an American soldier who lost his life in Southeast Asia during the Vietnam era, and whose identity is unknown; to the Committee on Veterans' Affairs.

By Mr. MICHEL (for himself, Mr. ASHBROOK, Mr. BEVILL, Mr. DAN DANIEL, Mr. MILLER of Ohio, Mr. O'BRIEN, Mr. RUDD, Mr. SIKES, Mr. SPENCE, Mr. WAGGONNER, and Mr. YOUNG of Florida):

H.R. 9868. A bill to provide for the personal safety of those persons engaged in furthering the foreign intelligence operations of the United States; to the Committee on the Judiciary.

By Mr. MIKVA:

H.R. 9869. A bill to amend the Internal Revenue Code of 1954 to lower from 65 to 55 the age requirement for the exclusion of gain on the sale or exchange of a residence; to the Committee on Ways and Means.

By Ms. OAKAR (for herself, Mr. BADILLO, and Mrs. SPELLMAN):

H.R. 9870. A bill to provide rules respecting the use by depository institutions of electronic fund transfers; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ST GERMAIN:

H.R. 9871. A bill to amend title II of the Social Security Act to reduce from 5 years to 2 years the amount of coverage which an individual must generally have had within a specified 10-year period in order to qualify for disability insurance benefits and the disability freeze; to the Committee on Ways and Means.

H.R. 9872. A bill to amend title II of the Social Security Act to provide that an individual with 20 years of covered work may qualify for disability insurance benefits and the disability freeze without regard to when the work was performed; to the Committee on Ways and Means.

By Mr. THORNTON:

H.R. 9873. A bill to amend the Internal Revenue Code of 1954 to increase the amount of the credit for the elderly, to lower the age requirement for the exclusion of gain on the sale or exchange of a residence, and for other purposes; to the Committee on Ways and Means.

By Mr. WHITEHURST:

H.R. 9874. A bill to amend the Internal Revenue Code of 1954 to provide tax-saving incentives for savings accounts established for the purpose of purchasing a home; to the Committee on Ways and Means.

By Mr. ABDNOR (for himself, Mr. THONE, and Mr. PRESSLER):

H.R. 9875. A bill to authorize the Secretary of the Interior to supply hydroelectric pumping energy at the Missouri Basin project pumping rate to irrigation projects in the Missouri River Basin which are constructed, operated, and maintained by irrigation districts organized under State law; to the Committee on Interior and Insular Affairs.

By Mr. BEARD of Rhode Island:

H.R. 9876. A bill to amend the Natural Gas Act to provide that no certificate for the construction or extension of any liquefied natural gas facility may be granted unless the State or States in which such facilities are located have been approved by the affected States; to the Committee on Interstate and Foreign Commerce.

By Mr. FLORIO (for himself, Mr. MOAKLEY, Mr. EILBERG, Mr. AKAKA, Mr. HUGHES, Mr. HARRINGTON, Mr. MURPHY of New York, and Mr. MAGUIRE):

H.R. 9877. A bill to amend section 242 of the National Housing Act to eliminate the present exclusion from the hospital mortgage insurance program of hospitals which primarily serve patients with drug and alcoholic conditions or mental disorders; to the Committee on Banking, Finance and Urban Affairs.

By Mr. GIBBONS:

H.R. 9878. A bill to authorize, direct, and encourage the President to enter into international agreements in the areas of tax, trade, and commerce insofar as they deal with multinational enterprises, and to provide that trade agreements insofar as they affect multinational enterprises should be consistent with certain principles; jointly, to the Committees on International Relations, and Ways and Means.

By Mr. HALL (for himself and Mr. MURPHY of New York):

H.R. 9879. A bill to amend the Internal Revenue Code of 1954 to exclude from unrelated business taxable income amounts derived by any college or university from the broadcasting of any sporting event; to the Committee on Ways and Means.

By Mr. HYDE:

H.R. 9880. A bill to amend title 18, United States Code, relating to the production of false documents or papers of the United States, and the use of false information in obtaining official documents and papers of the United States, involving an element of identification; to the Committee on the Judiciary.

By Mr. JOHNSON of California (for himself, Mr. ROBERTS, and Mr. DON H. CLAUSEN):

H.R. 9881. A bill authorizing an increase in the monetary authorization for nine comprehensive river basin plans; to the Committee on Public Works and Transportation.

By Ms. MIKULSKI:

H.R. 9882. A bill to require that the Secretary of Transportation shall study the future rail freight service needs of the Northeast corridor; to the Committee on Interstate and Foreign Commerce.

H.R. 9883. A bill to amend the Merchant Marine Act, 1920, in order to provide that the coastwise laws shall extend to the Virgin Islands with respect to the transportation of crude oil, residual fuel oil, and refined petroleum products; to the Committee on Merchant Marine and Fisheries.

By Mr. PEPPER (for himself and Mr. COHEN):

H.R. 9884. A bill to eliminate the recently enacted benefit reduction which is provided for supplemental security income benefit recipients in certain long-term care institutions when such institutions do not meet the State standards established under section 1616(e) of the Social Security Act, and to postpone the effective date of such section 1616(e); to the Committee on Ways and Means.

By Mr. RAILSBACK (for himself, Mr. MURPHY of Illinois, and Mr. O'BRIEN):

H.R. 9885. A bill to eliminate racketeering in the sale and distribution of cigarettes, and for other purposes; to the Committee on the Judiciary.

By Mr. SIMON (for himself and Mr. MARKS):

H.R. 9886. A bill to amend the Federal Railroad Safety Act of 1970 to require the locomotive of all trains to be equipped with strobe lights; to the Committee on Interstate and Foreign Commerce.

By Mr. SMITH of Iowa (for himself and Mr. NOLAN):

H.R. 9887. A bill to amend the Rural Development Act of 1972 to require that loan guarantees from the Farmers Home Administration be no less favorable to borrowers than those offered by the Department of Housing and Urban Development; to the Committee on Agriculture.

By Mr. TSONGAS:

H.R. 9888. A bill to establish domestic livestock grazing fees on federally owned lands at fair market value; to the Committee on Interior and Insular Affairs.

By Mr. MAHON:

H.J. Res. 643. Joint resolution making further continuing appropriations for the fiscal year 1978, and for other purposes; to the Committee on Appropriations.

By Mr. McCLORY:

H.J. Res. 644. Joint resolution to amend the Constitution to provide for representation of the District of Columbia in the Congress; to the Committee on the Judiciary.

By Mr. CORCORAN of Illinois:

H. Con. Res. 392. Concurrent resolution to encourage a comprehensive program promoting foreign sales of American agricultural commodities; jointly, to the Committees on Agriculture, and International Relations.

By Mr. ABDNOR (for himself, Mr. STUMP and Mr. FRENZEL):

H. Res. 886. Resolution expressing the sense of the House with respect to a reorganization of the Department of Housing and Urban Development; to the Committee on Banking, Finance and Urban Affairs.

By Mr. FLOOD:

H. Res. 887. Resolution relative to customs duties on textile, apparel, and fiber products; to the Committee on Ways and Means.

By Mr. MANN (for himself, Mr. APPLEGATE, Mr. BENJAMIN, Mr. DIGGS, Mr. DODD, Mr. DOWNEY, Mr. EVANS of Delaware, Mr. FARY, Mr. FLOOD, Mr. FUQUA, Mr. GAYDOS, Mr. HALL, Mr. ICHORD, Mr. KOCH, Mr. LUJAN, Mr. MCFALL, Mr. MARKS, Mr. MOAKLEY, Mr. MICHAEL O. MYERS, Mr. PANETTA, Mr. PRICE, Mr. SCHULZE, Mr. SIMON, Mr. STRATTON, and Mr. WYDLER):

H. Res. 888. Resolution relative to customs duties on textile, apparel, and fiber products; to the Committee on Ways and Means.

By Mr. MATHIS:

H. Res. 889. Resolution to establish a Select Committee on International Terrorism; to the Committee on Rules.

By Mr. MICHEL (for himself, Mr. BROOMFIELD, Mr. BURGENER, Mr. CARTER, Mr. CLEVELAND, Mr. COHEN, Mr. COLLINS of Texas, Mr. CONABLE, Mr. CORCORAN of Illinois, Mr. DUNCAN of Tennessee, Mr. EMERY, Mr. ERLENBORN, Mrs. FENWICK, Mr. FISH, Mr. GRADISON, Mr. JEFFORDS, Mr. KINDNESS, Mr. LAGOMARSINO, Mr. LENT, Mr. MILLER of Ohio, Mr. MOORHEAD of California, Mr. RINALDO, Mr. RUDD, Mr. SEBELIUS, and Mr. STANTON):

H. Res. 890. Resolution providing for the House of Representatives to determine with specific guidelines what constitutes an official expense prior to the $5,000 increase of a Member's official expenses allowance; to the Committee on House Administration.

By Mr. MICHEL (for himself, Mr. VANDER JAGT, and Mr. WHITEHURST):

H. Res. 891. Resolution providing for the House of Representatives to determine with specific guidelines what constitutes an official expense prior to the $5,000 increase of a Member's official expenses allowance; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. NOLAN introduced a bill (H.R. 9889); for the relief of Sang Yun Yoon, which was referred to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

332. By the SPEAKER: Petition of the New England Section of the American Society for Engineering Education, Hanover, N.H., relative to creation of a Science Court; to the Committee on Science and Technology.

323. Also, petition of the city council, New York, N.Y., relative to recombinant DNA research; jointly, to the Committees on Interstate and Foreign Commerce, and Science and Technology.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 6805

By Mr. BLOUIN:

Page 22, line 5, strike out the colon and insert in lieu thereof the following: "(except to communicate information under paragraph (1)(B) or (2) of this section".

Page 22, line 5, insert "agency" after "any".

Page 33, line 12, strike out "and (B)" and insert in lieu thereof "(B) export and import policies, (C)".

Page 33, line 15, strike out "(2) in any proceeding concerning" and insert in lieu thereof "(D)".

Page 33, line 16, insert before the period the following: ", or (2) in any agency proceeding under the Export Administration Act of 1969 relating to any agricultural commodity".

By Mr. LEVITAS:

In section 6(a) of the amendment in the nature of a substitute offered by the gentleman from Texas, insert immediately after the first sentence thereof the following new sentence: "Whenever the Administrator intervenes or otherwise participates in any such proceeding or activity and such proceeding or activity may substantially affect more than one interest of consumers, the Administrator shall seek to represent each interest of consumers substantially affected.".

In section 6(d) of the amendment in the nature of a substitute offered by the gentleman from Texas, strike out paragraphs (2) and (3) and insert in lieu thereof the following:

(2) The Administrator may institute, or intervene as a party in, a proceeding in a court of the United States involving judicial review of any Federal agency action in which the Administrator did not intervene or participate if such court finds that such agency action adversely affects a substantial interest of consumers and, in the case of an intervention, that such consumers' interests would not otherwise be adequately represented in a judicial review of such action.

(3) The participation of the Administrator in a proceeding for judicial review of a Federal agency action shall not alter or affect the scope of review otherwise applicable to such agency action. Nothing in this subsection shall be deemed to grant to the Administrator a right of judicial review of any Federal agency action greater than the right to seek such review which is available to private persons. In any case in which the Administration intervenes under paragraph (2), the court shall likewise permit the intervention of any person who has a substantial interest affected by such proceeding and whose interest the court determines is not otherwise adequately represented in such proceeding.

In section 6(d)(4) of the amendment in the nature of a substitute offered by the gentleman from Texas strike out ", except that" and everything that follows through "regulatory nature".

In section 7 of the amendment in the nature of a substitute offered by the gentleman from Texas, strike out subsections (a) and (e), redesignating subsections (b), (c), and (d) as subsections (a), (b), and (c), respectively, and in subsection (b) (as redesignated) strike out "subsection (b)" and insert in lieu thereof "subsection (a)".

In section 17 of the amendment in the nature of a substitute offered by the gentleman from Texas, strike out ", or to a labor dispute" and everything that follows through "Labor Management Relations Act, 1947 (29 U.S.C. 171)".

In section 17 of the amendment in the nature of a substitute offered by the gentleman from Texas, strike out ": *Provided*, That" and everything that follows through the remainder of such section and insert in lieu thereof a period.

Insert at the end of section 6 of the amendment in the nature of a substitute offered by the gentleman from Texas, the following new subsection:

(j)(1) Notwithstanding any other provision of law, the head of any agency which has conducted a rule-making proceeding in which the Administrator has intervened or otherwise participated pursuant to subsection (a) shall, simultaneously with the promulgation or repromulgation of any rule or regulation pursuant to such proceeding, transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in paragraph (2), no such rule or regulation shall become effective if—

(A) within 90 calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule or regulation promulgated by the Administrator of the Environmental Protection Agency dealing with the matter of , which rule or reulation was transmitted to Congress on .', the blank spaces therein being appropriately filled; or

(B) within 60 calendar days of continuous session of Congress after the date of promulgation, one House of Congress adopts such a concurrent resolution and transmits such resolution to the other House, and such resolution is not disapproved by such other House within 30 calendar days of continuous session of Congress after such transmittal.

(2) If at the end of 60 calendar days of continuous session of Congress after the date of promulgation of a rule or regulation subject to paragraph (1), no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the rule or regulation, and neither House has adopted such a resolution, the rule or regulation may go into effect immediately. If, within such 60 calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the rule or regulation may go into effect not sooner than 90 calendar days of continuous session of Congress after its promulgation unless disapproved as provided in paragraph (2).

(3) For the purposes of paragraphs (1) and (2) of this paragraph—

(i) continuity of session is broken only by an adjournment of Congress sine die; and

(ii) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of 30, 60, and 90 calendar days of continuous session of Congress.,

(4) Congressional inaction on or rejection of a resolution of disapproval shall not be deemed an expression of approval of such rule.

H.R. 9179

By Mr. LONG of Maryland:

Page 4, strike out line 24 and all that follows through line 2 on page 6 and insert in lieu thereof the following:

(A) in subsection (a) by inserting "to the maximum extent practicabe" after "(a)";

(B) by striking out subsection (l) and by redesignating subsection (m) as subsection (l);

(C) in subsection (l), as redesignated by subparagraph (B) of this paragraph, by striking out the period at the end thereof and inserting in lieu thereof "; and;" and

(D) by adding at the end thereof the following new subsection:

"(m) In order to promote United States investment in projects which are economical and make effective use of the natural and labor resources of the poorest countries, and which, as a result, will encourage the development of entrepreneurship among the poorest people in the developing countries, to provide at least 50 percent of all insurance, reinsurance, guaranties, financing, or other financial support authorized by section 234 of this Act, for investment projects which substantially meet the following requirements;

"(1) The project is to be implemented in a less developed friendly country or countries.

"(2) The people who will benefit most from the project are those who are unemployed or underemployed, those who, if they are landowners, own only a small plot of land of not to exceed 15 hectares (or about 37.5 acres), or those who, if self-employed, employ not more than twenty workers.

"(3) The cost per workplace per job should be not more than twice the per capita gross national product.

"(4) The project meets the basic needs of the poor with respect to food, clothing, housing, or light industrial goods.

'(5) If the project involves transfer of technology to the country or area involved, such technology is light capital technology, that is, it is energy-saving, labor-intensive, and makes the most appropriate use of indigenous materials and skills.

"(6) The project will not result in the control by a few persons of large amounts of land or other economic resources.".

Page 6, line 7, strike out "(n)" and insert in lieu thereof "(m)".

Page 6, line 21, strike out "(n)" and insert in lieu thereof "(m)".

H.R. 9718

By Mr. MATHIS:

Amend the purpose statement to read a bill "To establish an Office of Consumer and Small Business Representation and to reorganize certain consumer programs in order to secure within the Federal Government effective protection and representation of the interests of consumers and small businesses, and for other purposes."

Amend the title to read "Consumer and Small Business Representation and Reorganization Act of 1977".

Insert "and small businesses" after the word "consumers" in the following places:

Page 1, lines 6 and 7.

Page 2, lines 5, 18, and 19.

Page 5, line 17.
Page 8, lines 6, 11, and 22.
Page 9, lines 1, 5, 10, and 14.
Page 13, line 7.
Page 18, line 4.
Page 25, lines 13 and 18.
Page 16, line 20.
Page 17, lines 2, 5, and 20.
Page 30, line 21.

Strike "Office of Consumer Representation" wherever it appears and insert in lieu thereof "Office of Consumer and Small Business Representation".

Insert "and small business" after the word "consumer" in the following places:

Page 5, line 12.
Page 7, lines 7 and 11.
Page 15, line 19.
Page 16, line 11.
Page 14, line 15.

Insert "or small businesses" after the word "consumers" in the following places:

Page 9, lines 17, 19, and 23.
Page 11, lines 8 and 16.
Page 12, line 12.
Page 14, lines 19 and 22.
Page 25, line 1.

On page 8, line 8, insert "and producers" after the word "consumers".

On page 12, line 13, insert "or small businesses' " after the word "consumers' ".

On page 24, amend lines 22 and 23 to read "Protection of Consumer and Small Business Interests in Administrative Proceedings".

On page 26, line 8, strike "the consumer" and insert in lieu thereof "consumers and small businesses".

On page 29, line 21, strike "the" and insert "small business" after the word "consumer".

On page 28, line 22, insert "or small business" after the word "consumer".

On page 31, lines 4 and 5, delete "and any concerns of small business entities that are consistent with those of consumers" and insert in lieu thereof the following: "and any concerns of small businesses involving the fiscal, monetary, and regulatory policies of the Federal Government".

On page 31, change paragraph (5) to read as follows: 'The term "small business" shall have the same meaning as set forth in section 3 of the Small Business Act (15 U.S.C. 632) and regulations issued pursuant thereto.'

EXTENSIONS OF REMARKS

GODFREY DEWEY, FATHER OF LAKE PLACID WINTER SPORTS

HON. ROBERT C. McEWEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 1, 1977

Mr. McEWEN. Mr. Speaker, it is with great sadness that I call to the attention of the House the recent death of Dr. Godfrey Dewey, a world-renowned educator-sportsman, of Lake Placid, New York. It was Dr. Dewey who was responsible for bringing the 1932 winter Olympic games to Lake Placid, a community which is now preparing itself for the 1980 games.

Dr. Dewey died October 18. He had reached his 90th birthday on September 3.

Tributes paid to this great sportsman and intellectual were many. I want to call to your attention two of them, the first from the October 20 issue of the Lake Placid News and the second, an editorial from the October 21 issue of the Watertown, N.Y., Daily Times:

[From the Lake Placid (N.Y.) News, Oct. 20, 1977]

DR. DEWEY WIDELY MOURNED

Eulogies from friends and officials throughout New York State this week paid tribute to Dr. Godfrey Dewey, Lake Placid's educator-sportsman who died at midnight Tuesday in Lake Placid Memorial Hospital.

Governor Hugh L. Carey said:

"I was sorry to hear of the death of Godfrey Dewey in Lake Placid. Dr. Dewey brought the 1932 Olympics to Lake Placid and was considered the father of the winter sports program in the North Country area. The groundwork he laid so carefully in 1932 was instrumental in the selection of Lake Placid as the site for the 1980 Olympics.

"Like his father, who was the founder of the Dewey Decimal System, in use in libraries across the world, Godfrey Dewey was a great leader and admired by all who knew him. His passing is a great loss to the people of Lake Placid, the state and the nation."

And while Dr. Dewey had been ill in the Placid Memorial Hospital for some time, local friends were nonetheless stunned at his death only a month past his 90th birthday.

Longtime friend and president of the Lake Placid Olympic Organizing Committee for the 1980 Winter Games, Ronald M. MacKenzie, telephoned a message from his room in the Continental Hotel in Lausanne, Switzerland, where he is meeting with the International Olympic Committee at its headquarters. Mr. MacKenzie said:

"Lake Placid has suffered a great loss in the passing of Godfrey Dewey. His foresight as president of the third Olympic Winter Games provided for much of Lake Placid's economic future and the basis for Lake Placid's renown as one of the world's great winter sports communities. The present 18th Olympic Winter Games program was largely predicated upon sports facilities created by Dr. Dewey for the 1932 Olympic Winter Games.

"He will be sorely missed as he has provided valuable counsel to the present Olympic Committee at Lake Placid. The Olympic sports facilities now under construction for 1980 are an appropriate monument to his memory."

Another longtime friend and admirer of Dr. Dewey, North Elba supervisor John A. Shea, who won two gold medals in speed skating during the 1932 Games, also mourns the loss.

"The community of Lake Placid-North Elba suffers a great loss in the death of Dr. Godfrey Dewey," Mr. Shea said. "Dr. Dewey was the father of the 1932 Winter Olympic Games. Single handedly, he brought the Games to Lake Placid. His visions of the benefits which would be brought to this area were fulfilled. The economic endowments of his vision are now understood.

"The Lake Placid Club which he represented so well was a great contributor to making Lake Placid the Switzerland of America. Dr. Dewey continued to be active in community affairs and was one of those people responsible for Lake Placid becoming a convention center. He sponsored the new convention addition to the North Elba Park District Arena. His interest and continued activity in the field of tourism, promotion of community recreation and a program of sporting events made him a principal actor in obtaining the 1980 Winter Olympic Games for Lake Placid.

"His confidence in the future of Lake Placid has been a great inspiration to his fellow citizens. We have lost one of our most respected citizens."

At the Lake Placid Club, secretary George Carroll echoed the praise of others. He said of Dr. Dewey:

"He is a man who certainly left his mark on this community through his efforts in winter sports and bringing the 1932 Winter Olympics to Lake Placid. He is missed by everyone."

[From the Watertown (N.Y.) Daily Times, Oct. 21, 1977]

GODFREY DEWEY

Had Godfrey Dewey been able to attend the groundbreaking ceremonies in preparation for the 1980 Winter Olympics last April, he would have savored every minute of it. He would have reminisced about days long gone by, when his efforts were primarily responsible for bringing the 1932 Olympic games to Lake Placid. Now dead at the age of 90, his activities in behalf of the community and the Lake Placid Club, which his father, Melvil, founded, will be recalled by his old friends and acquaintances.

He and his father were an integral part of the history of Lake Placid. His efforts on behalf of the 1932 Olympics were recalled here recently by George Carroll of the Lake Placid Club, who knew him well. Dr. Dewey was an imposing man, literally and figuratively, as was evidenced by his work leading to the Olympics 45 years ago. His interest in sports, particularly winter sports, was immense, and his interest in education was equally strong, evolving and developing naturally from a family whose contribution to education was exceptional.

Here were two men, father and son, who had meaning for and to the North Country. The father, especially, had strong ties to Jefferson County and Adams Center, his birthplace. His work in Lake Placid and the founding of the Lake Placid Club left their imprint on the community which is felt to this day. As an educator, Melvil was innovative. He invented the Dewey Decimal System. He believed in simplified spelling and urged its adoption. His faith in easier spelling was so strong that he shortened his first name to Melvil, dropping the last two letters—le—the customary and accepted use, disregarding the fact he was christened Meville.

The achievements of the elder Dewey have been recognized repeatedly over the decades. He has a firm hold in history, particularly that of New York State and the North Country.

The son of a distinguished father, Godfrey Dewey will also be remembered as a distinguished citizen of Lake Placid. His achievements, too, have been indelibly recorded in the community and the Lake Placid Club with which he was associated so long.

MRS. ROSEMARY DAVISON RECEIVES AWARD

HON. HAROLD L. VOLKMER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 1, 1977

Mr. VOLKMER. Mr. Speaker, it has been brought to my attention that the Landmarks Association of St. Louis will present their Distinguished Service Award to Mrs. Leslie (Rosemary) Dav-

ison of Florissant, Mo. This award is in recognition of the work Mrs. Davison has done in the area of historic preservation of buildings in the Florissant Valley area.

Rosemary Davison was a founding member of the Florissant Valley Historical Society and Friends of Old St. Ferdinand. While she was president of the Historical Society, Taille le Noyer was preserved. Old St. Ferdinand's Shrine was restored during her 9 years as president of the Friends of Old St. Ferdinand. Mrs. Davison founded the Heritage Foundation, which preserved Old Coldwater School, a one room brick structure in North St. Louis County. In 1968 she formed, and has served continuously as president of Historic Florissant, Inc., an organization that has been responsible for the preservation and restoration of the Narrow Gauge Railroad Station, the Archambault House and the John B. Myers House. She also serves as vice president of Old Florissant, Inc.

Rosemary Davison served on the board of freeholders, which wrote the new charter for the city of Florissant. She is now the city clerk of Florissant, serving in that capacity since 1963. She has been active in the Chamber of Commerce, serving as a director. She chairs a committee with the responsibility of unifying the community and in this capacity has served as coordinator of the Valley of Flowers Festival for the past several years.

I congratulate Rosemary Davison on receiving a well deserved award.

LET THE AMERICAN FARMER HELP THE ECONOMY

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 1, 1977

Mr. CORCORAN of Illinois. I have today introduced a concurrent resolution which encourages President Carter and his administration to promote a comprehensive program to expand the sale of American agricultural commodities abroad. The American agricultural industry is facing probably one of its worst economic setbacks in years, due in part to the decrees and policies of the Federal Government. The Congress recently passed, and the President signed into law, S. 275, which is a wide-ranging agricultural program for this country during the next 4 years. Although this law will have some beneficial effects on the agricultural industry, it does not go far enough in insuring that the American farmer will continue to receive a fair return from the sale of his products either at home or abroad.

My concurrent resolution presents several widespread problems which are of utmost concern to the farmers of this country and offers solutions to the problems raised. This country has often been referred to in the past as the "breadbasket of the world." It is certainly true that this country has been fortunate in possessing some of the most fertile land for agrarian purposes in the world. I am indeed extremely proud to represent a part of the United States which contains some of this excellent farmland.

During a period in which we are concerned with the effects of industrial imports into this country, our Government should be making every effort to open up further avenues of trade abroad. This resolution will not only aid the American farmer and the more unfortunate people abroad, but it will also assist in reducing the deficit in the American balance of international payments and improve the stability of the American economy.

At this time, I would like to insert in the RECORD the full text of this concurrent resolution:

H. CON. RES. ——

Concurrent resolution to encourage a comprehensive program promoting foreign sales of American agricultural commodities

Whereas American agriculture and the production of food and fiber, worth $82 billion last year, constitute the most basic and indispensable industry in the economy of the United States; and

Whereas the net income after cost of production for American farmers in 1977 is projected by the United States Department of Agriculture to be less, when adjusted for inflation, than farmers received in 1936, the lowest net income in 41 years, with 2,750,000 American farmers sharing an average net income worth $5,721 for each farmer in 1967 dollars; and

Whereas the parity ratio is at the lowest level since 1932; and

Whereas the majority of American farmers prefer a market-oriented approach to farming and the economy; and

Whereas the deficit in the U.S. balance of international payments is expected to be nearly $25 billion in 1977 and American agricultural exports are the major export commodity of the Nation; and

Whereas American farmers are now being restricted by acreage controls and government-mandated idling of land after an era of full crop production for commodity sales abroad during the early 1970's; and

Whereas estimates of export sales of feed grains abroad during 1977–1978 will total 1400–1500 million bushels as compared to 1650 million bushels in 1976–1977, causing a reduction of income for the American farmer; and

Whereas loan support levels and target price levels should be set to reflect competitive sales of commodities on the world market; and

Whereas $800 million, earmarked for this year's PL 480 Food for Peace Program, is being delayed by an inter-agency group on human rights and foreign assistance, causing a reduction in commodity sales abroad; and

Whereas farm-related production expenses have increased enormously in recent years for all farming necessities including seed, fertilizer, machinery, herbicides, labor and energy, while farm income has declined; and

Whereas there exists abroad numerous opportunities for sales of American agricultural commodities which if pursued and properly developed could result in a reduction of existing grain surpluses, thus producing a rise in agricultural commodity prices which have plunged below actual costs of production: Now therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress of the United States hereby requests the President of the United States, the Secretary of Agriculture, and all appropriate officials of the United States Department of Agriculture, the Foreign Agricultural Service, and the Department of State to formulate and implement a plan for the expansion of sales of American agricultural commodities abroad, including Food for Peace sales and place less emphasis on developing huge grain reserves domestically;

Further Resolved that the Congress hereby requests agricultural attaches and officials at United States embassies to seek out and report to the Secretary of Agriculture all possible opportunities for agricultural commodity sales in the nations in which they are located;

Further Resolved that the Congress requests that the President make certain that all export ports are open and fully operable and that he use existing Federal labor laws to implement such policies;

Further Resolved that the Congress hereby requests the President of the United States to transmit to the Congress a report of a plan formulated and implemented under the authority of this concurrent resolution no later than six months after the enactment of this resolution.

GOVERNMENT KNOWS BEST?

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 1, 1977

Mr. ABDNOR. Mr. Speaker. Does Government know what is good for citizens?

The answer is "No!" but from some of the decisions we have forced on the public, they are any number at the Federal level who appear to think otherwise.

Government's good intentions have been proved wrong in the matter of mandating the fireproofing of children's sleepwear. The hasty solution prescribed for the tragedy of children dying or being horribly scarred because their nightclothes caught fire has been found to be more than wanting. While saving children from flames it exposes them to cancer—with all its potential consequences.

While initial results from airbags impresses some with the potential of affording greater safety to automobile operators and passengers, I remain unconvinced that the record yet warrants mandating their mass production.

Government does not always know best. This editorial from the Buffalo, N.Y., Evening News, October 18, 1977, states the case succinctly:

TOO HASTY ON AIR BAGS

In declining to overturn Transportation Secretary Brock Adams' order mandating air bags in all autos by the 1984 model year, Congress has unwisely frozen the auto industry into a particular safety-coercion device without awaiting any conclusive arguments for its choice over alternative crash protections.

Before forcing every motorist to buy an inflatable bag for his own protection, both houses would have been far better advised to defer final decision until an unfamiliar and controversial device is put to adequately comprehensive tests under practical driving conditions.

So far as it goes, the safety experience with air bags tested on a limited number of cars appears generally impressive, but the hazards of failure to inflate, or accidental inflation, under mass production conditions cannot be dismissed.

Advocates contend that the $112 or so estimate of the added cost for a bag-equipped car will be offset by the savings in auto insurance premiums. While this may be so, the actual unit cost remains largely guesswork, and the estimate ignores the additional cost to motorists for maintenance or replacement of bags once these inflate.

The heart of the controversy, though, reaches beyond such technical and cost considerations to a larger issue—that of whether it is sound government policy to force upon the auto industry and upon every motorist a complex safety device that at best provides only limited protection. This smacks all too much of 'government knows best.'

Government, to be sure, does have a legitimate role in encouraging safety measures beyond the individual motorist's discretion—as in car and road design—to hold down highway carnage. But in presuming to substitute compulsion for individual choice, the administration and Congress run the risk of impeding refinement of technology, currently showing promise, in automatic seat belt systems as potentially superior alternatives to air bags. So the heart of the controversy is not whether research should proceed on air cushion restraints—certainly it should—but whether Washington should mandate these before the evidence is in on the soundest safety choice.

LUBAVITCHER REBBE CELEBRATES WITH CONGRESSIONAL PLAUDITS

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 1, 1977

Mr. WAXMAN. Mr. Speaker, on November 13, 1977, a unique U.S. Congress tribute-banquet will be held in Los Angeles to honor the Lubavitcher Rebbe in his 75th year. I am privileged to serve as chairman of the tribute. The honorary chairmen of the event are our U.S. Senators ALAN CRANSTON and S. I. HAYAKAWA.

In his person and pastorate, the Lubavitcher Rebbe, Rabbi Menachem Mendel Schneerson has reconciled paradoxes and resolved contradictions. He has pursued simultaneously the divine verities of the Torah and the modern values of citizenship in a democracy. Rabbi Schneerson is a master of the mysteries of the Lurianic Kabbalah and of Chabad Chassidus. Yet the Rebbe has inspired in his followers a phenomenal ability to conquer the most intractable problems of the mundane world.

We, in southern California, have seen a most fruitful partnership between the Chabad-Lubavitcher disciples of the Rebbe and government agencies.

Best known is the comprehensive Chabad-Lubavitch drug rehabilitation program. Approved and partially funded by the National Institute of Drug Abuse, the Chabad drug rehabilitation program serves drug abusers of every race, nationality, and creed with medical, psychological, occupational, and social work services.

The Chabad-Lubavitch vocational rehabilitation program is approved and partially supported by the city of Los Angeles under the Comprehensive Education and Training Act. This program provides job training for the hardcore unemployed.

The Chabad-Lubavitcher movement also maintains senior citizens programs, a network of community centers, campus outreach programs, and an intensive Torah education operation.

Earlier this year, under the chairmanship of House Speaker THOMAS P. O'NEILL, JR., and Senator HUBERT H. HUMPHREY, a U.S. Congress reception was held in Washington. There 66 Senators and 134 Congressmen saluted Rabbi Menachem M. Schneerson as part of the worldwide celebration of the Rebbe's 75th year.

I have had the profound personal privilege of working closely with the Rebbe's followers in Los Angeles. I know the extent to which they derive their general spiritual guidance and day-to-day direction from their leader. They have been able to overcome all odds because their work has always been not merely a human undertaking, but a service of the Almighty under the direction of His servant, Rabbi Schneerson. I trust my colleagues join me in saluting Rabbi Schneerson and in wishing him much strength and good health.

WHAT OTHERS SAY ABOUT ALASKA

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 1, 1977

Mr. YOUNG of Alaska. Mr. Speaker, as you know, the Subcommittee on General Oversight and Alaska lands is currently considering legislation which will shape Alaska's future. Among the proposals is one advanced by Secretary of the Interior Cecil Andrus which calls for the addition of over 91 million acres of land to the National Park, Wildlife Refuge, Forest and Wild and Scenic River Systems in the State of Alaska. In addition, this proposal would create 103 million acres of wilderness or wilderness study areas and 84 million acres of areas of environmental concern, which would be managed to be compatible with existing land areas. What this means in plain language is that 187 million acres, over half the State of Alaska, would be managed as wilderness lands.

There is a growing concern throughout the Nation that we are acting too fast in locking up all of Alaska's land. I would like to share with you an article from the Cincinnati Enquirer that was reprinted in Alaska:

OTHER VIEWS—GOING TOO FAR

Secretary of the Interior Cecil D. Andrus could be taking too big a chunk out of Alaska if an administration proposal to create a wilderness area there becomes law.

The secretary is asking Congress to set aside one-fourth of Alaska—an area about equal to the size of California—for national parks, wilderness areas and wildlife refuges, parts of Alaska like the Arctic National Wildlife Range in Northern Alaska near Prudhoe Bay's oilfield, an area thought to hold oil and natural gas, would be included. Designating it as a wilderness area precludes its use as an oil and gas field. Other areas would be so designated by federal law as to make the forests on them and the minerals under them unusuable. Still other parts of Alaska included in the administration's proposals, says Rep. Don Young, R-Alaska, would be closed to recreational use and hunting.

That is the core of the argument against plans to establish 91.8 million acres of Alaska's 375 million acres as federally protected. There is a fear on the part of business interests in Alaska that any plan to have the federal government formally protect a major portion of the state will limit Alaska's recreational uses and limit its economic development.

Secretary Andrus, on the other hand, argues that establishing 10 new national parks and expanding three existing ones, as well as adding nine new wildlife refuges and expanding five others, would keep Alaska from the kind of development that has been seen in other states.

But the issue of Alaskan development ought not be decided entirely by the secretary of the interior and by the Congress. It is an issue on which business and native interests in Alaska ought to have a voice.

NEW ENGLAND COMMITTEE OF CLERGY AND LAITY CONCERNED FOR ISRAEL, PROTESTS JOINT UNITED STATES-SOVIET MIDDLE EAST INITIATIVE

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 1, 1977

Mr. DRINAN. Mr. Chairman, the joint declaration of the United States and the Soviet Union of Otober 1, which described the principles and objectives of a new Middle East peace conference, represents a serious setback toward peace in the Middle East.

Both procedurally and substantively, the joint American-Soviet statement imposes upon Israel concessions of a far more important and immediate nature than those imposed on the Arab countries. It further casts into doubt traditional American positions in support of Israel.

The stubborn insistence on the convening of the Geneva Conference in 1977, apparently despite the costs, is a classic example of misplaced priorities. The goal is peace, not getting all of the parties to the dispute to a conference table before midnight on December 31, 1977. There are now indications that the Geneva Conference will not convene until next year, if at all.

I wish to lend my full support to the activities of a group dedicated to peace in the Middle East, the New England Committee of Clergy and Laity Concerned for Israel. That group is circulating a letter to President Carter urging him to reverse the very disturbing ele-

ments of the October Soviet-American communique. I have added my name to this letter, and I hope that many others who desire to see a secure Israel will do the same.

The text of the letter follows:

OCTOBER 28, 1977.

DEAR MR. PRESIDENT, as Americans and as Christians, we are at one with you in the desire to see peace established and human rights respected everywhere. We are especially at one with you in the desire to bring peace to the troubled Near East.

The joint United States-Russian declaration, however, confirms our fear that the Administration has been swayed by Arab rhetoric and threats. Before the 1967 War, none of the Arab governments favored an independent Palestinian state. We are convinced that even today the support of Arab rulers is far from whole-hearted.

Several Arab countries, know, after all, from exeprience what the PLO's presense in their midst entails. In the last 30 years, the bloodiest battles in the Near East were fought between the PLO and King Hussein's Army, and again, between the PLO and Lebanese Christians.

If we ignore this lesson of history and help establish a state ruled by the PLO we will not bring peace to the area. Instead, we will create a center of unrest, nay, a volcano. Once the PLO has achieved its immediate aim of a separate state, it will seek to expand, thereby endangering the sovereignty of Israel as well as of Jordan. Moreover, in alliance with Moscow, it will carry revolution to other Arab lands.

Thus the upheavals and catastrophes we seek to banish will engulf first the Near East and then—we shudder to think—many other parts of the world. Even to invite the PLO to the Geneva Conference is to reward murder, indeed, promote Terror International.

We beg you, Mr. President, to act wisely and firmly. As a world power we have grown fearful of our own might and are, therefore, tempted to yield where yielding is wrong. We must never do so for some momentary, Chamberlain-like success. Naiveté in a statesman is sin; it spells disaster.

We are addressing this letter to you, Mr. President, with fear and trembling about the future. And we must disclaim responsibility before God and the world for the evil that will befall it, should we rush into an ill-conceived peace.

EXPLANATION ON MISSED VOTES

HON. LEO J. RYAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 1, 1977

Mr. RYAN. Mr. Speaker, on September 29 and on October 4, I was unavoidably absent when the House voted on two issues on which I would like to be officially recorded.

On September 29, the House rejected by a vote of 109 to 207 (roll No. 608) an amendment to the ERDA national security programs authorization bill, H.R. 6566. The amendment sought to prohibit the use of funds for any enhanced radiation weapon or the "neutron bomb." I would have voted "yes" on the amendment.

On October 4, during consideration of House Resolution 799, the rule for the Labor Reform Act of 1977, H.R. 8410, the previous question on the resolution was agreed to by a vote of 267 to 152 (roll No. 623). In accord with my other votes in support of the Labor Reform Act, I would have voted "yes" on the previous question.

INTEREST IN MUDD CASE CONTINUES

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 1, 1977

Mr. SIMON. Mr. Speaker, some of us in the House and in the Senate are trying to get justice done for the Mudd family, whose name has been sullied by the wrongful conviction of Dr. Samuel Mudd as a conspirator in the assassination of President Lincoln.

The evidence is overwhelming, both that he had nothing to do with it and that he did not receive a fair trial.

I think my colleagues will be interested to read the article written by Jim Bishop, who wrote the book "The Day Lincoln Was Shot," who is certainly one of the leading scholars of Lincoln's death.

The plea for justice for Dr. Mudd is now before President Carter, who, I understand, has referred the matter to the Justice Department. It has often been said that "justice delayed is justice denied," but, in this case, while we do not rectify the scales of justice by declaring a man innocent more than a century later, we can rectify the scales of justice a little, anyway.

This column appeared in newspapers around the Nation:

[From the Los Angeles Harold Examiner, Sept. 15, 1977]

THE DOCTOR WASN'T GUILTY

(By Jim Bishop)

There is a petition before President Carter to pardon Dr. Samuel Mudd, the physician who bound John Wilkes Booth's ankle after he shot President Lincoln. Was Mudd a party to the conspiracy? Let us look at the known facts.

Mudd was a wispy bearded farmer who lived between Waldorf and Bryantown in Maryland. In the Civil War, Maryland was a free state although thousands of its citizens were sympathetic to the South.

Sam Mudd seldom practiced medicine. His interest was in real estate and horse trading. The actor-assassin, whose aspiration was not to kill Mr. Lincoln, but to kidnap him and hold him prisoner and thus assure the faltering South of an "honorable peace," rode single mount out of Washington many times.

He needed an escape route. Booth decided on the Navy Yard bridge down to Silesia and Pomfret and Port Tobacco. There he would rent a boat to cross into Virginia with his august prisoner.

Booth was introduced to Dr. Mudd, who tried to sell a farm. The actor pretended to be interested. He was invited to spend the night at the Mudd home.

Shortly after 10 on the night of April 14, 1865, John Wilkes Booth shot the President between the left ear and the spine. The plot to kidnap had been abandoned. Lincoln slumped. Booth jumped from the box to the stage, catching a spur in a treasury flag which decorated the presidential box.

He broke his left ankle and hobbled offstage. Mr. Booth planned to ride hard for Port Tobacco, 18 miles south. Insufferable pain disorders the brain. He remembered Samuel Mudd, a physician. He told David Herold, a young co-conspirator, that he could not continue.

Booth had thought of almost everything. He carried a pocket compass and a disguise. The two dismounted at Mudd's farm. Booth put on gray whiskers and a huge muffler. He did not trust Mudd. The doctor was self-righteous.

He worked a 500-acre farm. He was a churchgoer, one who prayed in the fields. Once he had owned 11 slaves. When a black refused an order, Dr. Mudd drew a pistol and shot the man in the leg.

Of one thing Booth was certain. He was far ahead of his news. No one around Bryantown had heard that Lincoln had been shot. Herold walked the lather off the two horses.

The actor realized that, if Mudd recognized him, sooner or later the doctor would learn that John Wilkes Booth had assassinated a great president. The physician was the type of arch-religionist who, even though his sympathies were with the South, would tell the authorities about the injured leg.

Davey Herold pounded on the door at 4 a.m. The doctor responded in his nightshirt, holding a candle. "Who is it?" "Two strangers riding to Washington." A friend had taken a bad fall.

A doctor's duty is to heal, to preserve life. He knew the beard was false because it kept sliding to one side. He asked no questions. The boot was cut off with surgical scissors. There was a lump of purpled flesh above the instep.

Mudd got some heavy pasteboard, wet it, and glued it to the ankle. John Wilkes Booth and Herold were invited to stay for breakfast. In a fatigue of pain, the actor fell asleep in an easy chair. The doctor was suspicious when the patient asked for a razor to trim his beard.

It didn't seem reasonable that a man in pain would think of shaving. Later, John Wilkes Booth and Herold left, riding hard down dirt roads toward Virginia.

The assassination sent a wave of hysteria through the people up to the highest echelons of government. Prisoners were tried with black hoods on their heads and cannon balls attached to a leg. Some were hanged. Some were imprisoned. Dr. Samuel Mudd was convicted and exiled to a mosquito-infested prison at Dry Tortugas. His defense was that he had not realized the injured man was Booth, and he had not heard that Lincoln had been shot.

When yellow fever broke out in the prison in August, 1867, Dr. Mudd did heroic work among the prisoners. For this, President Andrew Johnson commuted his sentence.

The historic facts show that Dr. Mudd was not guilty of conspiracy. His crime was adhering to his oath as a physician. A presidential pardon will not rest his bones now. But it should be granted . . .

MINORITY TRUCKERS

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 1, 1977

Mr. MITCHELL of Maryland. Mr. Speaker, the plight of minority truckers in this country is a sad commentary on the Federal Government accepting its responsibility to insure the participation of minority truckers in the trucking industry, especially the transportation of Government cargo.

It seems to me that this Congress and the Interstate Commerce Commission should honor their moral and public responsibility to minority truckers, and pursue every possible avenue to have

minority truckers included in the mainstream of the transportation industry.

Congress and the Interstate Commerce Commission should tenaciously seek to assist minority truckers in achieving economic parity in the American trucking industry.

Therefore, I think it is fitting and proper that the Minority Trucking Transportation Development Corp. will hold its second annual convention at the Hyatt Regency Hotel in Washington, D.C., to focus attention on the plight of the minority truckers.

I urge you to take a few minutes and attend this convention during November 3–5, 1977, to show the minority truckers that Members of Congress are concerned about their plight and have come to find out what needs to be done to address the needs of minority truckers.

You may obtain information on the scheduled events of the convention by calling the Minority Truckers Convention Headquarters at the Hyatt Regency Hotel, 737–1234.

ALCOHOL FUELS

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 1, 1977

Mr. STEERS. Mr. Speaker, I was fortunate the other day to receive a report on alcohol fuels from a constituent of mine, Dr. Alfred A. Bacher, Ph. D., P.E., of Bethesda, Md. Recently I joined with our colleagues, Congressmen GLICKMAN and NOLAN on a bill that would encourage the use of alcohol fuels. I feel that this report blends perfectly with the goals in the Alcohol Fuel Encouragement Act of 1977. I recommend to all of my colleagues that they read this excellent report:

ALCOHOL AS A FUEL ALTERNATIVE

(By Alfred A. Bacher, P.E., Ph. D.)

Present gasoline consumption probably can be reduced 10 to 15 percent by the use of another combustible fuel, alcohol, which could be produced from a variety of available materials. These materials include a large number of products, such as corn stalks, which are now being wasted and are available throughout the United States. Their full utilization (or recycling) as fuel would help the nation to achieve, at least for the time being, a partial independence from imported fuels and would assist in maintaining the much needed availability of automotive fuels. Such production would help to bridge the gap until some of the newer fuels, now being developed, are fully available in commercial quantities.

Alcohol, or specifically, methanol and ethanol, when blended with gasoline, would substitute for up to 15 percent of the presently used motor fuel. The technology to employ blends of alcohols with gasoline is readily available and has been practiced abroad for many years. These so-called alcohol fuels, first employed in European countries during the First World War, were afterward used to replace scarce petroleum fuels, and still later, to partially replace expensive imported fuels. These steps were taken not only to improve the domestic supply situation but to reduce the outflow of currency for foreign products. The United States could improve its export-import balance in the same way.

It is well known that petroleum is a constantly diminishing energy source, and that its foreign producers are capitalizing on this fact, especially since the United States and the other Western nations depend greatly on mobility to maintain their economies. To preserve this mobility, which results in a high gasoline consumption, one must look for other energy sources.

The industry which would produce the alcohol fuel to insure our continued mobility needs stimulus from the Government; otherwise the risk would be unsurmountable. Without Government assistance, the general public might refuse to accept these new fuels, looking upon them instead as another industry invention for financial gain. Therefore, the role played by the Government is extremely important and requires an imaginative approach.

The "Economics of Scarcity" is the approach so far proposed to solve the problem of the diminishing supply of automotive fuels. The general assumption motivating these moves is that by increasing the cost to the consumer, the use of the commodity will be reduced and the problem will be solved. Such a solution assumes that the general public is the "Bad Guy," selfish, thoughtless, and uncaring about the existing problem; a fellow to be punished and forced to do what the "White Father" tells him. It would be more rational to extend the diminishing supply with a domestically produced fuel manufactured from existing domestic raw materials.

Very little attention has so far been paid to the already-existing technology—to extend the availability of automotive fuels by including the addition of alcohol fuels, especially since the alcohol would not only be produced from domestic raw materials, but also manufactured from raw material sources suitable for such production and wasted at the present time.

The American Automobile Association (AAA), which represents a large fraction of the American motoring public, is one of the few groups to stress this important alternate fuel. At a recent meeting of the House Ways and Means Committee, AAA representatives pointed out that by blending alcohols with gasoline, a material supply economy would result in the President's goal to reduce the gasoline consumption by 10 percent. In actuality, an economy of 15 percent is probably achievable, and one not requiring any radical changes to the existing automobile engines, their efficiencies, or public habit. In addition, significant side benefits from the blending of alcohols with gasoline will be realized, as is discussed later. Senators Charles Percy (R-Ill.) and Jacob Javits (R-N.Y.) and columnist Jack Anderson are among those recommending alcohol fuel as an energy alternative.

The use of alcohol blended with gasoline in Europe goes back more than sixty years, when it was added in 15 percent proportion to the conventional motor fuel. The largest use of alcohol motor fuels was in the final stages of the Second World War when it provided the energy source for the German war machine. These alcohols were either ethanol, manufactured by the fermentation of starchy agricultural commodities, or "wood sugars," produced by hydrolysis of cellulose, and from methanol manufactured by the classical wood distillation. European countries turned to alcohol fuels to satisfy at least some of their fuel demand and to produce it from domestically available raw materials.

In the United States, the use of alcohol as a motor fuel is not new either. It has been employed in high performance racing engines for many decades.

The auto manufacturer in the U.S., however, has made very little effort in this direction. It has been left to foreign car producers to adapt their engines for the use of alcohol fuels. Volkswagen has embarked on a sizable test effort and development program and is said to be prepared to market automobiles, in Europe and the U.S., especially adapted to alcohol-gasoline blends. In France, Berliot, manufacturer of large commercial vehicles, has tested a large truck, said to be run on a large variety of combustible materials, including alcohol and alcohol-gasoline mixtures.

Naturally, there are some obstacles which have to be overcome. Neither methanol nor ethanol are available now in large enough quantities to satisfy their present use, let alone their application in alcohol-gasoline blends to fuel automobiles. Methanol is now primarily used as a chemical intermediary product for the manufacture of other chemicals, and the largest portion is already spoken for. Ethanol, which has been previously manufactured by fermenting agricultural crops, is now produced by synthesis, and its supply would also be inadequate for blending with gasoline.

Because of the relatively limited supply situation, which also reflects itself in the cost factor, the economics of alcohol-gasoline fuels does not look too favorable, even though the constantly increasing purchase price of gasoline has helped considerably to increase the feasibility. Most evaluators, both in Government and industry, point out that alcohol-gasoline fuels are more costly. Such analysis is based only on the present situation and does not take into account that alcohol fuel prices would be much lower if: (1) the production capacity for alcohol were greatly increased; (2) surplus raw materials and presently wasted and waste products were used for alcohol manufacture; and (3) the taxation of alcohol used in fuels would be adjusted to the same level as that for petroleum products. There are some other arguments which would help the use of alcohol in fuels, but these are the main points.

The capital expenditures for increasing the production facilities for methanol and ethanol would be considerable. During the Second World War, however, when alcohol was needed for the manufacturer of synthetic rubber and other purposes, several large facilities were built, one in Philadelphia and another in Omaha. If these plants could be rehabilitated, the supply situation would be improved. Another facility, located in Oregon, was used for the conversion of wood waste into "wood sugar," which could be used as a raw material for alcohol production. If these closed-down facilities could be reactivated, the required capital investment would be reduced. Nevertheless, even if we had to start from scratch and build entirely new facilities we would be doing just what we did during the Second Word War. When we then had an urgent requirement for alcohol, we built the necessary alcohol production facilities by using government funding. I believe that this capital expenditure could be justified, especially since it would use surplus agricultural crops and waste materials for alcohol production.

What are the domestic raw material sources now available for alcohol production in the United States? They are:

(a) Agricultural Crops;

(b) Molasses (a by-product of sugar manufacture);

(c) Cellulosic Materials, including waste from wood products, manufacture, underbrush, dead timber, etc., waste paper and cardboard;

(d) Agricultural Waste, such as corn stalks;

(e) Municipal and many Industrial Wastes.

As this program developed, many additional sources would be found and used.

AGRICULTURAL CROPS

The Administration is now campaigning to reduce crop production in order to reduce surpluses. How about allowing a free enlarged production, with the surpluses going into alcohol manufacture? Naturally, an effort must be made to determine the amount needed for human and farm animal consumption and that for alcohol production. Such an approach would make more sense and be more productive than one establishing agricultural production quotas. This production of agricultural commodities could be further increased by growing non-consumable agricultural crops on land now being used for land application of municipal waste effluents and sludges. This approach, which is not new and has been proven (Muskegon, Michigan; Chicago, Illinois, etc.) is now being advocated by the Environmental Protection Agency as one of the viable solutions for the treatment of municipal waste streams and sludges. Opponents of this approach claim that it might cause spreading of communicable diseases and bring heavy metals and other materials present in the waste stream into the food chain. But if crops—grown on land irrigated with sewage or where sewage sludge has been applied—were classified as non-consumable and used only for the production of fuel-alcohol, this argument would be invalid. It is more sensible to employ land application and ensuring purification of sewage effluents and sewage sludge application to land for the production of non-consumable crops than it is to dump these materials into our rivers or seas, or to burn them. Such an approach would not only be more productive but would also reduce the amount of money now needed for wastewater treatment facilities and sewage sludge disposal. Monetary savings could go towards the capital investment needed for the alcohol production facilities.

MOLASSES

This commodity is often in surplus in parts of the U.S. where sugar is being manufactured. The use of this commodity for alcohol production is based on an established technology.

CELLULOSIC WASTE MATERIALS

The timber industry, especially in the western states, creates a large stockpile of wood waste, for which there is little use at present. This wood could be converted by hydrolysis into fermentable sugars, which could then serve as raw materials for alcohol production. The technology needed here is well established and is waiting to be used. The same technology applies to the use of other waste woods—underbrush, dead timber, etc.—now entirely wasted and often hindering the development of forests. Proper and economical harvesting techniques must be developed, but I have no doubt that American ingenuity will be able to solve the problem. A proper collection system and salvage from municipal waste must also be developed for waste paper and cardboard. Once we do this, such paper wastes could also be converted into "wood sugar," to be used as raw material for alcohol production.

AGRICULTURAL WASTE

Could be also treated in the same way as the waste cellulosic materials. A collection strategy and logistics require development.

MUNICIPAL AND MANY INDUSTRIAL WASTES

Could serve also in many cases as raw material sources, and here, too, the obstacles are the segregation of useable products, the collection strategy and logistics, and the delivery of useable materials to conversion plants.

All in all, there are many existing raw materials which could, and definitely should, be utilized to assist in our effort to obtain Energy Independence by converting them to fuel-alcohol.

What about "Side Benefits?" The obvious ones are that: (1) We would utilize many of the so-called waste materials, converting them into a useable and needed commodity; (2) There would be no need to curtail the agricultural production; (3) In the case of production of "non-consumable" crops used for the manufacture of alcohol fuels, skyrocketing construction costs for complicated treatment and "ultimate disposal" facilities would be eliminated; (4) We would develop a better forestry approach by harvesting and utilizing underbrush and dead timber; (5) We would most probably obtain some income from paper, cardboard, and other waste, once the proper collection and distribution systems were developed; and (6) Recycling of the useable portion of municipal solid waste would reduce the cost of waste disposal and the ever-increasing need for disposal facilities.

SUGAR PRICE SUPPORT PROGRAM

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 1, 1977

Mr. NOLAN. Mr. Speaker, since August 5, 1977, the Carter administration has delayed implementation of the congressional sugar price support program. Recently, the administration has indicated that it will carry out its legal responsibility to implement the de la Garza sugar amendment. According to assurances which administration officials have made both to Senator DOLE and to me, "the administration is committed to full implementation of the so-called de la Garza program not later than November 8" of this year.

As the following letter to President Carter indicates, the administration has a constitutional obligation to fully implement the de la Garza sugar program.

WASHINGTON, D.C.,
November 1, 1977.

Hon. JIMMY CARTER,
President, The White House,
Washington, D.C.

DEAR MR. PRESIDENT: On October 19, 1977, the Administration promised Senator Dole that the congressional sugar price support program would be implemented by November 8, 1977. In addition, the enclosed letter sent to me by an official in the Department of Agriculture also states that "the Administration is committed to full implementation of the so-called de la Garza program not later than November 8." The letter goes on to state that, "With respect to the imposition of a tariff or quota to protect the new program, that matter is under active consideration and a decision is expected soon."

The Department of Agriculture has announced its intention to comply with the sugar provisions of the 1977 farm bill by establishing a sugar purchase and loan program. USDA officials have also informed the White House that the sugar purchase and loan program will not work unless the President announces tariffs or quotas to reduce the excessive flow of imported sugar. I respectfully submit that the Administration will have failed to fully implement the de la Garza program unless tariffs or quotas are announced.

As I have pointed out on several occasions, the Food and Agriculture Act of 1977 does not give the Administration the discretion either to delay implementation of the de la Garza program or to implement the program in a manner not authorized by Congress. The Conference Report which accompanies the 1977 farm bill clearly establishes the fact that the Conferees expect the Administration to support the price of sugar either through an import management program which utilizes import fees and duties, or, if necessary to maintain the market price of sugar at no less than 52.5 percent of parity, through the additional authority provided under Section 22 of the Agriculture Act of 1933.

The Conferees were well aware that mandating an import management program to support the price of sugar would lead domestic sugar processors and users to immediately increase their imports of foreign sugar before the establishment of import fees or duties to raise the price of sugar to 13.5 cents per pound. For this reason, the Conferees called for the de la Garza amendment to be implemented "as soon as possible—even before the Act is signed into law." The Conferees also noted that the Department of Agriculture "has the authority under existing law to carry out the price support program required by this amendment to the Agriculture Act of 1949."

Given the level of sugar stocks in the United States on August 5, 1977 (the day the Conference Report was signed), the Conferees expected the Administration to "utilize existing authority of the law to implement immediately upon the bill becoming law an import fee, or duty, which—when added to the current import duty—will enable raw sugar to sell in the domestic market at not less than the effective support price." Instead, the Administration failed to take any steps under existing authority, as the Conferees expected, to assure the prompt and smooth implementation of the sugar price support program.

The Conferees hoped that import fees or duties would be adequate to support the price of sugar at the effective support price. But the Administration's failure to promptly implement the de la Garza program authorized by Congress has allowed sugar imports to rise rapidly, thus reducing the effectiveness of fees or duties as a means to raise the domestic market price of sugar to 52.5 percent of parity. If import fees or duties are inadequate, the President is expected to utilize existing authority under Section 22 to establish import quotas. In any case, the Food and Agriculture Act requires that the price of sugar be supported only by an import management program which "will enable raw sugar to sell in the domestic market at not less than the effective support price."

The Administration has assured us that it will fully implement the de la Garza program. But the Administration's record of unkept assurances regarding the congressional sugar price support program leads me to believe that Members of Congress cannot overstate the fact that the President has a Constitutional obligation to implement the de la Garza program in the manner authorized by Congress.

Sincerely,

RICHARD NOLAN,
Member of Congress.

WASHINGTON, D.C., *October 27, 1977.*

Hon. RICHARD NOLAN,
House of Representatives,
Washington, D.C.

DEAR MR. NOLAN: Secretary Bergland has asked me to acknowledge receipt of, and thank you for, the copy of your recent telegram to the President, signed by 28 other Members, regarding implementation of the sugar program contained in the 1977 farm bill. We have delayed responding in the hope that some of the issues could first be resolved.

As you are by now aware, the Administration is committed to full implementation of the so-called de la Garza program not later than November 8. In the meantime the interim payments program has been implemented and should bridge the gap between the start of harvest and implementation of the de la Garza program.

With respect to the imposition of a tariff or quota to protect the new program, that matter is under active consideration and a decision is expected soon.

We appreciate your interest.

Sincerely,

ROBERT R. STANSBERRY, Jr.,
Acting Director, Procurement and Sales Division.

OFFICE OF CONSUMER REPRESENTATION

HON. EDWARD W. PATTISON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 1, 1977

Mr. PATTISON of New York. Mr. Speaker, the following article, from the August 25, 1977, Washington Post, shows the serious imbalance in the amount of contact that industry representatives have with Federal agencies compared to the amount of contact consumer groups have with these agencies.

There is nothing wrong with the efforts of industry representatives to express their interests and concerns to agency people. These efforts should not be curtailed.

What this article demonstrates, however, is the need for consumers to have some counterpart to these industry groups, such as the proposed Office of Consumer Representation. This would help insure that the views and problems of consumers are fairly presented, and enable the agencies to make more informed and balanced decisions:

UNITED STATES REGULATORS CONTACTS IN 1976 MOST OFTEN WITH INDUSTRY

(By Susan W. Stewart)

Federal regulatory commissioners met with industry representatives 10 times as often as with consumer spokespersons during 1976 according to a Common Cause report released yesterday.

Forty-six per cent of the commissioners' meetings with outside groups were with industry representatives, while only 4 per cent were with spokespersons for consumer and other non-industry groups, according to the report, which is based on a study of 39 commissioners appointment records.

Forty-four per cent of the 39 commissioners who opened their appointment books for Common Cause recorded no consumer contacts during the year.

The report said the findings raise "serious questions of agency bias." It called the preponderance of industry-agency contact "a serious imbalance in the viewpoints presented to federal regulatory commissioners."

Common Cause is a political action organization that says it lobbies for citizens' interests.

Federal Communications Commission member John H. Quello released a statement yesterday criticizing what he called "the over-simplistic conclusions" in the study.

Quello—who according to the study had 61 contacts with industry representatives and 8 with non-industry spokespersons—said he rejected "the presumption that commissioners are unduly influenced by an appointment or a meeting."

His statement pointed out that most industry groups met with his agency to compete not with consumers' views but with another industry's viewpoints.

The Common Cause reports release coincides with lobbying efforts for passage of a bill establishing an agency authorized to represent consumers in regulatory agency actions.

President Carter has endorsed establishment of a consumer protection agency, and bills providing for it have passed committees in both houses of Congress.

The report also advocated federal funding for "public intervenors," non-industry representatives who would appear before agencies to promote consumer causes. Bills which would provide $10 million a year for that purpose are deadlocked in congressional committees, according to the report.

Although entitled "With Only One Ear," the Common Cause report said it did not intend to single out individual commissioners for criticism of their heavy industry contacts, but rather to document a "trend" in representation before regulatory agencies.

"We're not saying there's any wrongdoing here," said Bruce Adams of Common Cause, "but this is a reflection of the nature of consumer interest in regulatory agency matters.

"In the consumer sector, a lot of people are affected in a limited way by agency actions, as opposed to industry where a few are affected a lot," he said.

Six of the 39 commissioners who responded to the survey pointed out that few or no consumer groups contact them for appointments, and that this, "rather than inhospitable attitudes" on the part of agencies, is the reason for the lack of contact with consumers.

The report also called for an executive order requiring commissioners and other federal officials to keep comprehensive logs of their contacts with individuals seeking to influence agency action.

A draft copy of such a regulation has been released by the White House to various federal agencies for comment. The President's order would extend the logging requirement to cabinet and independent agency officials.

The Common Cause survey, which covered 50 commissioners in 11 regulatory agencies, comes on the heels of a July congressional study of formal agency proceedings. The congressional study also found that public participation in regulatory agency proceedings accounts for only one-tenth of outside participation, with industry making 10 times as many formal appearances.

GOTCHA AGAIN

HON. E. THOMAS COLEMAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 1, 1977

Mr. COLEMAN. Mr. Speaker, I have repeatedly expressed the opinion of most of my Sixth District constituents in calling for a sharp decrease in Federal spending and a tough stance in checking Federal regulation of our daily lives.

North Missourians are attuned with most Americans in demanding a stop to the continual gouging of their pocketbooks in the name of improved programs or additional Federal benefits. An excellent case in point is last week's action to increase social security taxes. I opposed the social security package because I do not believe that the American people can stand yet another tax increase on top of our annual inflation rate. However, a majority of my colleagues did not agree with me, so once again the average taxpayer is threatened with more dollars flowing from his paycheck into the inefficient bureaucracy here in Washington.

A newspaper publisher in my district, Mr. George Williams of the Daily News-Bulletin in Brookfield, Mo., very eloquently expressed the fears and disgust of many Americans in an editorial entitled "Gotcha Again." I would like to share Mr. Williams' remarks with my colleagues:

GOTCHA AGAIN

Next year your Social Security payment, that weekly chunk which comes out of your check, will go up again.

Not only that, but so will the amount your employer pays, for he matches the amount taken from your salary each week.

In many cases today the amount paid to Social Security is more than the amount withheld in taxes. And it can do nothing but get worse.

In fact, the amount, which is now 5.85 cents out of every dollar you earn for you, another 5.85 cents paid by your employer, will go up a total of about .20 cents Jan. 15, to 6.05 each—quite a whopping big amount to be paying so you can collect the miserly amount now being paid by Social Security.

It's also strange how the stories change as the years go by. Originally—and I was around when SS started—this was to be your retirement pay, the total amount the average man and wife was to need for the later years.

But now it's only a "supplemental income", and, according to the administration governing its payment, "was always meant to be just part of what you needed for retirement." NUTS!!

That wasn't the way it was sold to the American people—not at all. Nor was that the story until just recently, when suddenly the added, added, added benefits were more than the fund could pay.

It is, of course, too late to change the fund's course. And undoubtedly Congress will take more and more from your paycheck each year—and from your employer's business.

And no matter what the dreamers in Washington say, the added expense of doing business will have to be passed along to the consumer, regardless. For no matter what anyone thinks, the business which doesn't make an overall profit will not be around very long—and when it reaches a point where it ceases to do so, it will soon be only a memory.

GOOD EXAMPLE

Social Security is one of the best examples I can think of which demonstrates why I oppose any new program from or by Washington.

Let the bureaucrats get a toe in the door and it isn't long until the full foot's there—then the leg, the hip and so on. And usually the overall picture looks so bad in the end that most people wish the thing had never come up in the first place.

You can go up and down the line—unemployment compensation, regulation of public utilities, withholding taxes, the Postal Service, the Occupational Safety and Health Administration (OSHA), workmen's compensation: each and every one of these has grown into a monster, and nearly every year sees an increase in the scope and cost.

Freedom is only an illusionary thing these days. And even though I can criticize, if some politicians and bureaucrats had their way, I would be unable to do so.

Washington—or at least part of it, including some of our elected officials—would like nothing better than to stifle free talk, the unfettered printed word.

SOCIAL SECURITY FINANCING DILEMMA

HON. JAMES A. BURKE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 1, 1977

Mr. BURKE of Massachusetts. Mr. Speaker, I would like to include in the CONGRESSIONAL RECORD a timely and incisive commentary which was written by Mr. Thomas Wicker for the New York Times News Service and was published in the Boston Herald American over the weekend.

Mr. Speaker, Mr. Wicker succinctly points out the burden new social security taxes will bring to bear on our workers and our economy. I believe we all are beginning to see the ramifications of these costly taxes. Mr. Wicker rightly emphasizes the regressivity of the payroll tax. I would add to his comments a further telling observation—that payroll tax as it increases will prove a double burden on the poorer employees. The payroll tax increases the cost of labor without increasing its productivity and any economist will tell us this is a prime disincentive for employing unskilled workers.

Mr. Speaker, I stand in this Chamber again today with a proposal to ease these burdens—to reduce this regressive tax and to encourage greater employment. Mr. Wicker perceives the wisdom of general Treasury funds for social security financing and I hasten to note that he cogently disabuses the notion that such a widely practiced technique turns the social security system into some sort of welfare program. I submit, Mr. Speaker, that we have more to fear from unemployment and welfare costs resulting from high social security taxes than we should fear from using a tripartite general revenue financing formula.

Mr. Speaker, I would be remiss if I failed to remind my colleagues that the social security system benefits the Nation as a whole. In this regard my proposal to use general funds from the Treasury for social security does more than allow us to cut tax rates and thereby increase the lower paid worker's spending power. It does more than cut taxes for employers and thereby make employment of workers productive and profitable once again. It is in fact an explicit recognition of the great social benefits all Americans enjoy from social security. For if there were no social security, where would we find the funds to provide old-age and disability protection? It is a national burden simply beyond the capacities of State and local governments.

Mr. Speaker, I strongly recommend Mr. Wicker's commentary for the edification of every Member and every citizen who reads these proceedings. I believe Mr. Wicker is echoing a growing sentiment in this Nation that can no longer be evaded by empty platitudes and rationalizations.

The article follows:

SOCIAL SECURITY FACING DILEMMA

(By Tom Wicker)

NEW YORK.—It seems not to have occurred to many members of the House of Representatives that the Social Security system is not an isolated entity, a thing set apart. It is an integral and important part of the federal budget and the tax structure and therefore has great impact upon the overall economy.

Yet the bill the House has just passed, aimed at keeping the Social Security trust funds solvent for the rest of this century, could have critical inflationary impact, worsen unemployment problems, dampen buying power and still not eliminate the gravest long-term threat to the ssytem's integrity.

The House bill—which may yet be improved in the Senate and in conference between the two houses—would raise both the Social Security tax rate and the wage base on which the tax is levied, in succeeding steps through 1987. By that year, employees and their employers would each pay a 7.1 percent tax on the employee's first $42,600 in earnings—or $3,024.60 each. Even for, say, a worker who made $15,000 in 1987, employer and employee each would pay $1,065, compared with $877.50 this year.

These increases would triple the amount of tax paid for the highest-salaried employees. On the employers' side they will surely be passed through to consumers in higher prices, thus as employer payroll taxes rise steadily over the next decade, so will upward pressure on prices.

This may seem a small point, but it isn't, employer payroll taxes were approaching $50 billion annually at the beginning of this year, and the increases the House would mandate could have great cumulative effect by 1987. And as the economist George L. Perry once observed in another context, "If you don't think half a point (of inflation) is enough to bother with, you might as well stop worrying about inflation."

As the scene shifts to the Senate, more study ought to be given to President Carter's proposal that the wage base on which employers pay taxes should be the entire amount of an employee's wages, while the base on which employees pay tax should rise only slightly, with tax rates for both not rising at all. The administration argues that employers would pay less tax that way than if the tax rate were increased on a smaller wage base—possibly an important anti-inflationary point.

The House also insisted on retaining the so-called "insurance principle," more properly the "insurance myth." This is the idea that Social Security benefits are earned by worker contributions, and that to support the system with general fund revenues would be to turn it into a "welfare" program.

In fact, benefits usually far surpass contributions. And to retain the insurance myth, the tax rate already has been raised to a level that hits low-income persons hard—particularly since the tax is regressive, the affluent and the poor paying at the same rate. These ever-increasing payroll taxes not only drive up prices, they also reduce purchasing power and thus are twice a burden on the economy. Why should not consideration be given to reducing those burdens through supplementary general fund revenues, perhaps at first and what collections would have totaled at 6 percent unemployment. This would be nothing more than restoring to Social Security revenues what a slack economy had taken from them.

In the long run, the basic problem of the Social Security system—the continuing and projected decline in the number of working persons relative to the number of retired people—probably can be solved only by supplementary infusions of Treasury funds. Why should this be construed as coverting the system into "welfare"?

The House bill did leave the door slightly open to later use of general fund revenues by providing for automatic Treasury loans to the old age and disability trust funds if either fell below 25 percent of annual outlays. Such loans would have to be repaid, however, by the familiar device of a tax-rate increase.

Still another defect of the House bill is its removal of the ceiling on amounts that retired persons can earn without loss of Social Security benefits. The present ceiling may be too low, but to remove it altogether would increase the outflow of benefit payments when taxes are having to be raised to increase revenues.

GREENVILLE SHRINE HOSPITAL CELEBRATES HALF CENTURY OF SERVICE TO CHILDREN

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 1, 1977

Mr. FUQUA. Mr. Speaker, this year marks a half century of service for a most remarkable institution, the Greenville Unit of the Shriners Hospitals for Crippled Children in Greenville, S.C.

Nestled in this picturesque Piedmont mountain city is a brick structure which has been a haven of hope for 17,500 crippled children since it was first opened on September 1, 1927.

It would be impossible to recount the contributions of the tens of thousands who have made what began as only an ambitious dream into a living, breathing center for the care of those who are often referred to as the "least of these."

Yet, in a real sense, this hospital and all of its sister institutions are more than bricks and mortar. Anyone can build a building, few can give that structure the degree of excellence and the unselfish love which has made this particular crippled childrens' hospital so special in the hearts and minds of those who know of its accomplishments.

I have a very special interest in this particular hospital.

First and foremost, because it is the haven of hope for those children in all of Florida and particularly for those children that my own temple, Morocco of Jacksonville, Fla., seeks to help.

Second, the first patient admitted in 1927 is a resident of my congressional district, J. T. Glisson of Evinston, Fla.

And my administrative assistant, Herb Wadsworth, was a patient over a period of 13 years from the time he was 27 months old until after the age of 15. These are only indicative of those I personally know who have received from the ministering hand and heart of those who have made this institution a gleaming jewel in the crown of achievement of the Shriners of North America.

Today, after half a century, we remember the late W. W. Burgiss, successful Greenville businessman, who gave the funds to build this hospital to serve crippled children. The Duke Endowment, founded by the late James Buchanan Duke, provided the funds for the completion of the structure, when the securities

given by Mr. Burgiss suffered financial reverses and additional moneys were needed. In both cases it is not the amount, but the intent that is so noteworthy.

Yet these bricks and mortar are only a shell. What would life have been for those 17,500 children if someone had not cared.

The guiding light of all these endeavors was a man known to his children as "Uncle Johnny." John M. Holmes was more than just the first board chairman, he was the guiding spirit whose uncomprising quest for quality set a standard of excellence which continues today, long after he has finished his work in this life.

Uncle Johnny served from 1926 until 1947. He was succeeded by his close friend, J. Ed Hart, again known to the children as "Uncle Ed."

Their work has been carried on by four other chairmen, Wideman E. Durham, 1947–67; J. P. Lowry, 1969–71; George A. Weathers, 1971–77; and now the present chairman, Robert R. Scales, Jr., who began his service in 1977.

Few realize the magnitude of the contributions of these men, giving time when they did not have time to give, for a calling which required the best they had to give.

It is remarkable that the hospital has had only two chief surgeons. The late Dr. J. Warren White served from 1927 to 1949 and was a surgeon of genius rank. The accomplishments of this man in the field of orthopedics would be enough for several lifetimes. Yet for those children who so trusted and loved him, it was the man with the uncommon good humor and a love they felt deeply which set him apart for them.

It is remarkable that Dr. White was succeeded by a surgeon of equal rank, Dr. Frank H. Stelling III, who has served as chief surgeon since 1949. What accomplishments, what advances in medical science have come from the inspired leadership of these two men in 50 years of service.

Last year, one of the finest and most dedicated ladies ever to trod the Earth completed a life of service that we are seldom privileged to perceive. She was Miss Luella Schloeman, the second superintendent of the hospital, and if ever there was a person who had the depth to give entirely of themselves, it was this talented and able lady.

Miss Byrd Boehringer Holmes was the first superintendent, starting with the opening of the hospital in 1927 and serving until 1929 when she married Uncle Johnny. This gentle lady had a determination for excellence that set the tone for the hospital, and she was the wisest investment that Uncle Johnny ever made. She has been a guiding spirit for the hospital for half a century and no words of gratitude could ever be adequate for the accomplishments of this remarkable couple.

Miss Schloeman came to the hospital as Miss Boehringer's assistant and succeeded her in 1929. From then until 1963, Miss Schloeman brought administrative perfection with an uncanny degree of perception of the needs of her children to that position. When she retired in 1963 she was succeeded by Miss Alma M. Uhrhammer who continues in the tradition of excellence established by her predecessors.

Ceremonies marking the golden anniversary of the hospital came September 11 of this year. Many were the men and women across this land whose hearts were in Greenville that day because they know what the Shriners and those who have served the hospital for half a century have done.

Those men in the funny red fezes have a deeper significance for those who have been the beneficiaries of this work. It was evident in the ceremonies that a very private note of gratitude for tens of thousands who have doned the sword and crescent, and in so doing, have participated in one of the remarkable organizations known to man—and whose soul is its hospitals.

It is not enough to remember the past. To do so would be to break faith with those who have gone before.

The greatest contribution of the Greenville Shrine Hospital and all of its sister institutions—including the three brilliant Burns Institutes—has been the advances made to medical science. No one can know how many children will not have to bear lives of suffering and pain because of these contributions.

And yet the task at hand is not at an end.

Shriners today do not face the uncharted seas of their predecessors, but in the founding of its Burns Institutes, those funny little men parading in Arabic costume have proved themselves no less willing to meet the needs of today than did their predecessors.

Let me quote from a recent speech:

Today, we can learn from the past, but we have not the time to rest upon our laurels.

"Our greatest contribution has not been the children we have treated, but the attention we have brought to their plight. When Shrinedom took upon itself what seemed an insurmountable burden, it was an area which this Nation had neglected. Today, because of that concern on the part of the American people, we have difficulty filling our hospitals.

"All I can say is, thank God.

"Think if you will of the advances in medical science that have come out of our work.

"Thank if you will of the tens of thousands, so many yet unborn, who will receive from the heart of Masonry and the ministering hand of the Shrine.

And what of the children.

Recently, Miss Dorothy Wallace, another of those contributions cannot be measured, wrote a former patient. "You say such nice things about we folks who have staffed the hospital in your time, but don't forget, you dear children did so much for us, teaching us much with your bravery and love."

Miss Wallace retired in 1957 as the laboratory and X-ray technician at the hospital, having assumed that position in 1939. But she was so much more, she was called upon for every task at the hospital except running the furnace. She has memories as she, in her 85th year, contemplates a life of service to others.

But maybe, just maybe, a former patient named Herbie Hedgepath said it best when he said "I love her very much." He was making a statement for many, many more who would like to express a humble note to a great and good lady.

Many a former patient's heart filled with pride as they looked upon the front row of honored guests during that ceremony September 11. There was Miss Holmes, Miss Reba Morris, the first secretary and later bookkeeper, Mrs. Mary Brown, the first schoolteacher, W. D. (Pop) Priddle, brace maker and engineer extraordinary, and Walter Thompson, cast room and operating room orderly.

For those who knew, these honored guests represented so many more who have made this hospital what it is and what it will be.

Maybe, just maybe, it is not possible for humans to reach that unreachable star, but on September 11, at a Shrine hospital in Greenville, S.C., we proved that we can come close when you have people who are dedicated, who care, and are determined to do.

Anyone fortunate enough to attend knew they had the privilege of participating in something very special.

EUNICE AND RAY TUTTLE, OF LOS ANGELES, CALIF.

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 1, 1977

Mr. WAXMAN. Mr. Speaker, it gives me the warmest pleasure to bring to your attention Eunice and Ray Tuttle, of Los Angeles. These two citizens go their quiet ways, year after year, doing good deeds, giving of themselves without fanfare, and expecting no reward in return. I know Eunice and Ray Tuttle because they have both been, for many years, active in the administration of the Hollywood-Highlands Democratic Club, of which I am also a member. The Tuttles in characteristic modesty decline to permit us to honor them on a more formal occasion. I am happy to take this means of letting them know how much they are both loved and valued.

Ray was born in Asotin, Wash., the third of four children, on May 8, 1892. He was raised on a ranch and continued his love for farming during all of his active working years. He attended a one-room school, eventually putting himself through Washington State College in Pullman by organizing a band and playing the fiddle. Ray always had a flair for writing, and decided to become a teacher. He was teaching in Sylvana, Wash., when he met Eunice, who was also a teacher. Eunice was a fine singer and musician, and later became a professional on the staff of NBC in Seattle. After their marriage, Ray persuaded Eunice to go back to the farm, which, being a city girl, she hated. Cooking for 30 hired hands, doing farm chores was not her idea of a romantic life. But they both stayed until a hailstorm wiped out a crop of wheat and their year's work. They then moved on to an apple and cherry orchard with their

two young daughters, Karen and Laverne. When the farm failed, they moved to Walla Walla. Ray became a salesman for a barn and poultry equipment company, and stayed for more than 35 years, traveling constantly. His talent for writing stood him in good stead, since he still corresponds with the countless friends he made during those years.

While money was short during the Depression and the family had to do without luxuries, Ray and Eunice saw to it that their daughters received musical training. The lessons were considered a necessity and not an indulgence to this music-loving family. Today both daughters are accomplished professional musicians in high repute.

At 65, Ray retired and he and Eunice moved to Los Angeles. Although Ray continued to work for a while, the interests of both Ray and Eunice shifted to politics, which has been their main focus for the last 20 years. Realizing his community's needs and the necessity for personal involvement, Ray became an active member of the Hollywood American Civil Liberties Union and the Wilshire-Hollywood Fair Housing Council, and in his spare time he continued to write prose and poetry and to study creative writing at UCLA.

The Tuttles' primary interest, however, became the Hollywood-Highlands Democratic Club. They helped to found it, and each has held several offices. Eunice built the membership and welcomed visitors to the club meetings. Ray took over, and still writes and edits the club paper, the "Hollywood Cue." His comments and trenchant writing style attract wide attention from other groups and individuals in the community. The involvement of Ray and Eunice with the cause of justice is total.

It is difficult to evaluate the qualities of the Tuttles. It is not enough to call Eunice a perfect lady, Ray a perfect gentleman and in the best sense of those terms, also a perfect couple—which they are; or to call them generous and selfless and giving—which they are. One would just have to feel fortunate for having the privilege of knowing them, of feeling their love and of offering ours in return. I ask the Members to join me in honoring these two exceptional human beings, Eunice and Ray Tuttle.

SMALL BUSINESSMAN IN AMERICAN LIFE—AN ESSAY BY CONGRESSMAN LEE HAMILTON OF INDIANA

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 1, 1977

Mr. HAMILTON. Mr. Speaker, I prepared an essay on the small businessman for The Indiana Bildor, a publication of the Home Builders Association of Indiana, Inc. The essay is inserted in the CONGRESSIONAL RECORD for the benefit and use of my colleagues at this point:

The small businessman has played a vital role in American life. Any good textbook of economic history will set out his contributions in detail. The small businessman founded the great commercial centers in the east and pushed the frontiers of the nation west. He built an economy that has made for pride at home and envy abroad. He provided the individual inventions and technological innovations that have determined the very nature of modern society. In short, he has played a major role in shaping America.

Regretably, too many people today think about small business solely in terms of the past. When we read about business in the newspapers or see it discussed on a television show, the focus is all too often on the so-called corporate giants whose names have become household words. If small business comes up at all, it is usually referred to as a forerunner of some great enterprise.

Somewhere along the line we have grown used to ignoring a number of important facts about business in America. There are approximately 13 million small businessmen at work today and they compromise a full 97% of the number of businesses in existence. Small business provides more than 55% of all employment in the private sector, over 50% of all new patents, about 48% of the total output of business and nearly 43% of the gross national product.

Behind these impressive statistics there are other facts not easily expressed in percentages. Small business stimulates competition in the marketplace, reduces inflation and gives the public reasonable prices, higher quality, greater efficiency and a wider choice of goods and services. It also encourages the development of new management techniques, promotes political decentralization and performs special business functions, such as short runs and custom designs, that cannot be carried out by large corporations. America would be a much different and much less desirable place to live in if the independent entrepreneur were to disappear from our midst.

Notwithstanding his central position in the economy, the small businessman has his troubles. Besides the day-to-day worries of buying and selling goods and services, he is heavily taxed, overregulated and sometimes hard-pressed just to keep his doors open to customers. Soaring costs of operation, the product liability crisis, a lack of capital for expansion or improvement and a host of other problems keep him guessing. The situation of the new entrepreneur is especially critical: about 30% of all new businesses fail within a year and about 50% collapse after two years. Were this not enough, there would be the element of unfairness. Big business and big labor seem to get what they want from Washington, but who speaks for the small businessman? The very government agency intended to help him, the Small Business Administration, sometimes seems to have turned a deaf ear. Its advocacy powers have not been used and its programs are not far-reaching.

Although many small businessmen are pessimistic about the future, there are reasons for optimism. During the past year there have been subtle changes in Washington which may herald a period of improved relations between government and small business. For example, the House of Representatives recently defeated common situs picketing and cargo preference initiatives and passed a bill to revitalize the Small Business Administration. A healthy concern for small business has been apparent in the recent actions of such diverse executive agencies as the Office of Management and Budget, the Internal Revenue Service and the Department of Labor, all of which are moving to reduce government paperwork. Also, lobbyists for trade associations representing small business are becoming more active and are effectively putting forward the views of their constituents on a wide variety of issues. Finally, small businessmen themselves are being heard. Many Members of Congress remark that they have never received so much mail from the small businessmen of their districts or met with small business groups more frequently. If these trends continue, they cannot help but make a difference.

In order to see exactly what the potential for progress is, it might be helpful to examine two issues of interest to small businessmen: taxes and paperwork. According to a recent survey of the Center for Small Business (Chamber of Commerce), these two issues are very much on the minds of America's independent entrepreneurs.

Equitable tax treatment remains a principal problem for small business. With many large corporations paying less than 30% of their taxable income in taxes and some small firms paying over 50%, the tax code has a definite competitive advantage for big business. The complexity of the code favors those who have the resources to hire special attorneys, accountants and consultants. There are also strong indications that the code has become an incentive to corporate concentration and a threat to small business. In addition, there has not been enough progress in tax reform for small business. When Congress considers business tax reform, it tends to confine its efforts primarily to the corporate sphere even though corporations make up only 14% of the business community.

Recent legislation shows that substantive tax relief is a live possibility. During the past three years Congress has increased the corporate surtax exemption, reduced the corporate tax rate, raised the investment tax credit, loosened restrictions in Subchapter S corporations, lowered the interest rate on deferred estate tax, extended the payment period for estate tax, increased the automatic estate tax exemption and provided for two new employment tax credits. This is a good record in anyone's book, though there is much more to be done.

Small businessmen are awaiting President Carter's tax proposals with a mixture of anticipation and misgiving. The President will probably submit his legislation to Congress sometime after completion of action on the energy bill, so the wait may not be long. Of course, small businessmen hope that major changes will be favorable and will not erode the gains already made.

At this writing, the proposals are expected to contain $5 billion to $7 billion in tax cuts for business. The cuts may be achieved through a further reduction in the corporate tax rate, partial relief from the "double taxation" of corporate dividends and a further increase in the investment tax credit. Special benefits might be provided to small business in the form of simpler depreciation escape from the tax on accumulated earnings and easier rules under which small corporations could be taxed as partnerships. It is not possible to predict how Congress will react to such proposals, but I am hopeful that Congress and the President will give special consideration to tax changes that will help small business.

Small businessmen agree that government paperwork has gotten out of hand. Business tax forms seem to grow more complex by the year. Unbelievable reporting requirements make employee retirement plans almost impossible to administer. The entrepreneur who applies for a modest loan guarantee is buried in an avalanche of paper. Many small businessmen have concluded that the sole purpose of the government is to harass them with its unnecessary, frivolous and duplicative paperwork.

A recent report showed that businesses spend from $25 billion to $32 billion per year filling out government forms. Small business shoulders about 75% of the cost. Experts believe that the wasted portion of this paperwork "price tag" could provide permanent employment in the private sector for as many as one million jobless Americans.

Although a rapid decrease in the amount of paperwork cannot be reasonably expected, public officials are becoming increasingly sensitive to the problem. The sensitivity is due in no small part to the work of the Commission on Federal Paperwork, a temporary, bi-partisan group whose purpose was to help bring the problem under control. By the time it went out of existence on October 3 of this year, the Commission had made 770 "anti-paperwork" recommendations to Congress, the President and various executive agencies. The disposition of the recommendations—330 adopted at a first-year savings of more than $3.5 billion), 418 still under active consideration and 22 rejected—holds a promise of relief to small businessmen. One of the most important achievements of the Commission deserves to be highlighted: Commission-backed legislation, now Public Law 94–202, will allow employers to report wages annually rather than quarterly beginning next year. The dollar savings from this recommendation alone will be immense.

The Commission on Federal Paperwork was a temporary group, but the effort to overcome paperwork and pointless harassment of business must continue. Many members of the House of Representatives, myself included, have made the effort a central part of our legislative programs this year. So far hundreds of bills to reduce government paperwork and regulation have been introduced, and some of the measures are faring quite well. For example, amendments to a 1978 appropriations bill exempt farms employing ten or fewer workers from Occupational Safety and Health Act (OSHA) regulations and forbid OSHA officials to issue citations during the first inspection of a workplace unless ten or more violations are found in the workplace. Other legislation addresses the nagging problems of the Employee Retirement Income Security Act (ERISA). The bill would reduce needless expenses, duplication and delay by placing a single executive agency in charge of the administration of ERISA. Action on this bill may take place early in the next session of Congress.

The work of the small businessman is hard, but his personal rewards and the value of his contribution to society are great. He has his troubles, but he can overcome them. Perhaps more than ever before, now is the time for the small businessman to seize the initiative and to make his voice heard. Sympathetic ears will take note of what he says.

INVITING A CRISIS

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 1, 1977

Mr. SYMMS. Mr. Speaker, the Carter administration is stumbling into a battle—perhaps more correctly called a crisis—that is likely to dwarf the Panama Canal or the energy controversies. What I am talking about, Mr. Speaker, is the emerging SALT agreement with the Soviet Union. President Carter and his negotiators, Paul Warnke, Adam Yarmolinsky and Cyrus Vance, are about to initial an agreement that will institutionalize a heavy margin of Soviet strategic nuclear superiority over the United States and prohibit the United States from doing anything that could redress the imbalance. For example, the new agreement will guarantee the Soviet Union an advantage in missile throwweight on the order of 10 to 1, while precluding the United States from testing and deploying the new MX advanced ICBM that could restore the balance.

The rapid deterioration in the Carter-Vance-Warnke negotiating posture from the March 1977 SALT proposal is shocking. In return for scrapping the concessions asked of the Soviets in the March proposal, the U.S. negotiators are giving larger concessions of their own. These new American concessions, although some are subtle, have enormous implications for the future security of the United States. I strongly suspect, Mr. Speaker, that the weaker U.S. position and the stiffer Soviet position in these negotiations results in large part from President Carter's decision to cancel production of the B–1 strategic bomber. As I have emphasized many times in the past, the B–1 bomber offered the only chance to redress or control Soviet superiority until the MX ICBM was deployed. But, now it appears that the Carter administration will negotiate away the MX; and future negotiations with the Soviets will become even more difficult with the Soviets taking even stronger, more uncompromising positions as they obtain more and more strategic leverage.

The situation was described fairly well in a recent editorial in the Wall Street Journal entitled "Inviting a Crisis." The editorial follows:

INVITING A CRISIS

Even as President Carter tries to reassure the nation he has no new initiatives up his sleeve, he is stumbling into a battle likely to dwarf energy, Panama and the rest of his current troubles. Indeed, the emerging strategic arms agreement is likely to provoke the sharpest treaty battle since the epic bitterness over the League of Nations.

While the Soviets are trying to squeeze out a few more drops of blood in the current talks at Geneva, the concessions they won in the Carter-Gromyko bargaining a month ago already insure major opposition in the Senate. The concessions go far beyond anything the Russians would have dreamed of winning from former Secretary of State Kissinger. The draft provisions are open to a whole series of objections, any one of them serious enough to call for a treaty's defeat.

Crucial limitations would be utterly impossible to verify, for instance, allowing the Soviets to cheat with impunity. The terms already agreed to would limit the American cruise missile so sharply the promising weapon might not even be worth developing. The treaty would undercut the administration's commendable efforts to revitalize the NATO alliance, instead insuring the further demoralization of our European allies. It would guarantee the Soviets an advantage in missile throw weight on the order of 10–1, posing a severe threat to the American Minuteman missile while precluding substitutes such as the proposed MX missile. Each of these points deserves extended discussion.

The most immediately worrisome aspect of the new agreement, though, is the message it conveys to the Soviets about Mr. Carter and his administration. Last March the administration offered what it regarded as sensible arms control measures. The Soviets rejected these proposals out of hand. The administration's response was to go limping back again and again with new and successively weaker proposals. On the most important issues on the table, the Soviets stonewalled for six months while the Americans caved.

Take, for example, the issue of heavy missiles. The Soviets have 308 heavy missiles, each about seven times the payload of a Minuteman. The U.S. has no such huge missiles, and under the treaty would be prohibited from building any. Since it's difficult to see the utility of such weapons for any purpose except a first strike against the other side's missiles, the Carter administration set out in March to get some limit on this threat in return for concessions on the cruise missile.

In March the U.S. asked for a limit of 150 Soviet heavy missiles, asking them to tear down half the force. By May, the U.S. was willing to allow them to keep the whole force, provided only 190 heavy missiles carried multiple warheads (MIRV). Since this is about the current number of heavy missiles with MIRV, the U.S. in essence asked for a freeze on heavy missiles. When the Soviets rejected the 190 number, the U.S. tried a heavy MIRV limit of 220. With that rejected, it tried 250. Finally, when Mr. Gromyko arrived in town, the U.S. dropped the whole idea.

Similarly, in March the U.S. insisted on specific treaty provisions on how the Soviets could use their Backfire bomber, which they insist is not an intercontinental weapon though it can fly from the Soviet Union over the U.S. to Cuba without refueling. By September the U.S. agreed to keep Backfire out of the treaty if the Soviet would make a separate promise not to increase its production rate, even though they refuse to say what the current production rate is.

To buy the limits on heavy missiles and Backfire sought last March, the U.S. offered a cruise-missile concession limiting the range of air, land and ground-based cruise missiles to 2,500 kilometers. Bombers carrying cruise missiles would not have been counted against the agreed number of MIRV missiles. In the September agreements, if the U.S. builds more than about 120 such bombers it must tear down Minuteman or submarine MIRV missiles. And land-based and sea-based cruise missiles would be limited to a practically useless range of 800 kilometers. In return for scrapping the concessions asked of the Soviets, the Americans are giving larger concessions of their own.

The March proposals were in themselves open to serious question, so the September agreements are drawing serious opposition as they are explained to the Senate. But putting aside the effect on the strategic posture in 1985, the collapse of the American negotiating position raises dangers in 1977. The lack of resolution Mr. Carter displayed to the Soviets between March and September invites them to try pushing him around throughout the world.

"RIP-OFF": THE FOURTH "R"

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 1, 1977

Mr. DORNAN. Mr. Speaker, over the last 2 decades we have tried many experiments to improve education: education for minority children, busing, learning center, television teaching. You name it. We have tried it. We have tried everything, that is, except returning control of education to parents.

It is hard to imagine any more frustrated, disappointed, ripped-off consumers than the parents who, having paid for public education, find it has not taught their children to read, has not even kept them physically safe in

the schoolyard, and has not prepared them to get a job when they graduate. Students by the millions are being pushed through the public schools without acquiring the essentials of learning. There once was a time, as W. E. B. DuBois so vividly portrayed in "The Souls of Black Folk," when the emancipated workers of the South would gather at night around the hearthfire to study, word by word, the pages of their Bible, teaching one another to read. They knew that learning was liberation. That is as true today as it was then, but those fires are flickering out, and so is that passion for education among a generation of young Americans, white and black, who have been betrayed by academic hustlers who replaced reading and writing with rapping and relevance.

Mr. Speaker, I recently came across an excellent article by Mrs. Jo-Ann Abrigg in which she cogently addressed the many problems facing America's schoolchildren and the American educational system.

Mr. Speaker, as Mrs. Abrigg so correctly pointed out,

No longer can we, who are footing the exorbitant bill for education, accept the "amazement" of the educationalists as they are confronted with scholastic test results. Nor, should we, as parents, stand by silently and watch these so-called "educational experts" grasp for new and more outlandish reasons as they attempt to explain away their educational failures.

It is time that we once again involve students and their parents in the education process. One way to do that is through power. Parents must be allowed the power and resources to guide their youngsters' schooling by choosing the education that is right for them. That is why I have cosponsored Congressman JAMES DELANEY's bill, H.R. 3403, the Tuition Relief Act which would give parents a choice between a tax deduction or credit for the tuition they pay, for themselves or their children, at any level of schooling, from first grade to graduate school. H.R. 3403 is a parental bill of rights which recognizes that free choice in education begins at home, not in the minds of those double-domed intellectuals who for the past two decades have wreaked havoc on the minds of our children and destroyed the once-fabled American educational system.

I commend to my colleagues' attention Mrs. Abrigg's article, and I ask for your thoughtful consideration and support for H.R. 3403, the parental bill of rights.

IN THE NAME OF EDUCATION

(By Jo-Ann Abrigg)

When school bells ring each fall, bright-eyed healthy American youngsters are sent off by loving parents to be educated in the American public school system.

What will these children learn? What will they read? What will they comprehend? Or, more important, what will they not learn? Based on the experience of past years, what will not be happening in many classrooms? If statistics remain the same—and according to the series of educational reports recently published by the Los Angeles Times—there is no reason to expect much differentiation:

Some 35 percent of those who have completed five years of school will be functionally illiterate. Children will not able to add, subtract, multiply or divide. Scholastic Aptitude Tests will continue their drastic decline in scores. All the disastrous educational innovatives of the 60s, found to be failures in the early 70s will still be very much in existence. Textbook publishers, responding to a changing market in college texts, will continue to use simplified language in their books because large numbers of college students simply cannot read the English language well enough to understand textbooks previously used and understood by college students. One-third of our young men will flunk the Armed Forces Qualifying Examination, which means they can neither read, write, spell, or compute on a 5th grade level. National publications and weekly magazines will continue to print articles about the shocking state of education. Brig. Gen. William Woodyard, Dean of the faculty of the Air Force Academy, has stated that more than 300 freshmen cadets will have to take remedial courses in English and mathematics.

Many students who graduated from high school with top grades will find that they can't make it in college—even with their college textbooks now written at a 9th grade level. Many college graduates who receive their diplomas this year will find out that they were not actually given the academic prerequisites necessary for a productive life in the working world, but simply received their diplomas based on inflated grades of A or B, due to the fact that their college didn't give anyone a grade lower than C, making it impossible for anyone to fail. James Kilpatrick, noted columnist put it quite bluntly: "We are raising a whole nation of "culturally disadvantaged children" and "education is a sordid, sorry racket."

What is actually going on across our land in the name of education? In a country where concerned citizens have been willing to be taxed to the tune of over $85 billion a year to provide education for the future generation, where young Americans should have had and could have had the greatest education in the history of Western civilization, how is it possible that such statistics could be making headlines?

No longer can we, who are footing the exorbitant bill for education, accept the "amazement" of the educationists as they are confronted with scholastic test results. Nor, should we, as parents, stand by silently and watch these so-called "educational experts" grasp for new and more outlandish reasons as they attempt to explain away their educational failures.

When Bishop Fulton Sheen wrote that Watergate might have been more indicative of our educational system rather than our political system, he touched on the real basis for the mess in public education. There is one very basic reason: that education has been redefined—and is rapidly being redesigned. Where once it was the responsibility of the schools to foster the intellectual development of the child by providing essential basic skills, by cultivating the mind of each child to seek the systematic knowledge produced through centuries of academic endeavor, and by instilling our heritage and our culture, the purpose of education today is to use the child as a means by which society can be changed. Education is now defined as a "change of behavior," and "to educate" means "to modify behavior." The question that logically must follow is, "change to what?" To what extent shall we modify the child in order to change our society?"

Who is responsible for this redesigning of education in order to implement this change? The answers to these questions can be found by researching educational programs, textbooks, teachers' manuals, materials used in teacher in-service training workshops, and the NEA Journals and Task Force Reports. These sources provide a clear-cut answer to the questions "Who is redesigning education and why?", "To what are we changing the behavior of the school child and why?," and "What methods will be used to bring about this change?"

BEHAVIORISM AND HUMANISM

There are two trends or movements producing the major portion of public education today; one comes from the School of Behavioral Psychology, and is referred to as Behaviorism. The other finds its base in the American Humanist Association and the School of Humanistic Psychology (also called Third Force Psychology) and is referred to as Secular Humanism, or the religion of Humanism.

Behaviorism and Humanism have indeed become the major factors in public education today. As they rise to the surface, more and more parents and many dedicated teachers are becoming alarmed at just what education is producing through the adoption of these two trends. Many parents are withdrawing their children from public schools. Many concerned teachers are doing their very best to protect their own students from the influence of these trends in the programs and textbooks they have been mandated by school administrations to teach.

At the same time, there are many parents, teachers, board members and administrators who are either unaware of these trends, or are initiating and promoting programs utilizing Behaviorism and Humanism without understanding their implications or ramifications.

The School of Behavioral Psychology was founded in 1913 by John B. Watson. Behaviorism stands for the extension of the methods and point of view of Animal Psychology and states that man must be regarded as simply an animal, nothing more. The Behaviorism states unequivocally that the human being has no mind, no consciousness, no soul, no instincts, no native intelligence, no special talents or inherited gifts, and no emotions. The Behaviorist believes that man is simply a whole living organism reacting to his whole natural environment, and that all of his activities can be explained by one who regards him as a stimulus-response machine. According to the Behaviorist, man's whole system of behavior is built up from a few simple reactions by the important process of conditioning. The conditioning process is one of the most important factors in Behaviorism.

Conditioning is a method of learning by which a specific response is continuously given to a specific stimulus until it is learned and, therefore, becomes a conditioned reflex or response. The specific stimulus can be a material or physical stimulus (as in the often-quoted canine conditioning experiments of Pavlov, where the conditioned dog salivated simply at the sound of a bell). Or, the specific stimulus can be words, groups of words, phrases, or even a specific facial expression, which through the conditioning process will eventually elicit a specific response or reaction. Conditioning can be done on an individual basis, or it can be applied to groups. With groups, it is then referred to as "group reflexology." With "group reflexology," the individual loses his own identity and becomes one of the group, accepts the interaction of the social group or "peer group" as his own, and becomes conditioned to thinking like the group and reacting with his "peer group" to a given stimulus. One very important original response or original behavior to a specific stimulus is changed or altered or modified through the conditioning process. In other words, a Behavior Modification takes place.

BEHAVIOR MODIFICATION

Thus, from the School of Behavioral Psychology, we find the formula or method

which forms the basis for Behavior Modification, which is promoted in thousands of classrooms across this country. When we talk about modifying or altering or changing behavior, we must ask, changing behavior to what and why? One needs only to read the writings, philosophies, and ideologies of the Behaviorists to find this answer. From the time of J. B. Watson, to Pavlov and Bekterev, the Russian Behaviorists, up to the present time with Benjamin Bloom, who helped design the Elementary and Secondary Act of 1965 (known as ESEA Title Funding), Dr. Jerome Bruner, who wrote the controversial MACOS program, and Dr. B. F. Skinner, author of Walden II and Beyond Freedom and Dignity, we find in the School of Behavioral Psychology an elitist attitude that they must not be content with merely understanding the human animal and predicting and controlling him through conditioning, but the Behaviorist must also alter and "improve" man. This knowledge of conditioning must be used to manage the human race. The Behaviorist is sold on the theory that, IF he has the power to condition all human animals, then he will have the ultimate power to control mankind and design a future Utopian society.

What will this future Utopian society be like? Who is utilizing the techniques of Behavioral Psychology, such as conditioning, to design and produce a future Utopia? Most important, is it a society which we as freedom-loving, God-fearing Americans desire as a replacement for our present society, imperfect though it may be?

The second movement making a tremendous impact on education today, the American Humanist Association, is a relatively small organization. Those referred to as Third Force Psychologists and Secular Humanists actually make up a very small portion of our country's vast population. But when you delve into the backgrounds and philosophies of the nationally known spokesmen for education today, those who are writing educational books and journals, speaking at teachers' conferences, designing behavior modification programs, and holding the leading in-service training workshops across this country, we find that the secular Humanists are doing an impressive job of directing public education.

THE RELIGION OF HUMANISM

Humanism is a religion, and has been so declared even by the U.S. Supreme Court. It is a way of life, a philosophy, an all-encompassing ideology. The Humanist Manifesto states that there is no God, every man is his own creator, there is no right or wrong, ethics are situational, there are no absolutes, there must be no feeling of individuality, the individual must be trained to think of himself as part of a group willing to be manipulated for the good of society rather than for individual gain or achievement. Under humanism there must be no patriotism, no feeling of nationalism developed, because all society must eventually be conditioned to accept living in a global collectivist economy under a one-world government.

The first American to use public education to promote Humanism was John Dewey, who also served as President of the American Humanist Association. Horace Mann, one of the founders of public education, stated: "What the Church has been for medieval man, the public school must become for democratic and rational man. God would be replaced by the concept of the public good." Beginning in the early 1930's, John Dewey and his many disciples of progressive education have continually promoted and increased the impact of Humanism on public education. These include Dr. George Counts, who initiated Social Studies in the curriculum (instead of the individual subjects of geography, civics, economics, and political science); Dr. Abraham Maslow, whose Third Force Psychology formed the basis for the National Training Laboratories; J. L. Moreno, who developed Psychodrama and sociograms (and who states that through Role Playing and Psychodrama we can rid ourselves of the God-syndrome); Dr. Carl Rogers of the Western Behavioral Sciences Institute, well-known for its many forms of sensitivity training; Dr. Lester Kirkendall and Dr. Mary Calderone, Directors of SIECUS, well-known for many objectionable sex education programs; B. F. Skinner, father of modern Behaviorism, who is also on the Board of Directors of the American Humanist Association and was named Humanist of the Year; Dr. Sidney Simon of the Center for Humanistic Education, author and promoter of Values Clarification Programs in the schools; Dr. William Glasser, whose so-called "educational philosophy" was rapidly placed in many classrooms under the title "Schools Without Failure" and "Reality Therapy"; and Dr. Robert Carkhuff, who has been making the rounds with teacher-training sessions and his human and educational development series.

Because of their own alien ideology, the Humanists are designing education today from the basic premise that children, by the time they enter school, have been indoctrinated by their parents and their church with certain beliefs, attitudes, standards and values (so-called middle class values) such as belief in God, belief in moral standards of right and wrong, patriotism, individualism, competition, achievement—and that these beliefs and values have no place in a future one-world Utopian society. The Humanistic educationists have designed what they refer to as "psychological education" to develop the whole child "emotionally, socially, and psychologically." In order to accomplish this, they have "borrowed" from the Behaviorists the psychological techniques which produce conditioning.

Thus, we find this psycho-social philosophy as the basis for the Hawaii Master Plan for Education (which has been reproduced as a blueprint for use across this country), which states that all classrooms must now be considered "mental health clinics," all teachers must be looked upon as "Mental Health Clinicians," and all students must be regarded as "patients." Then, through the use of psychological techniques which produce behavior modification, the students will be conditioned to an acceptance of the religion of Humanism, which is basic to a one-world government.

This same philosophy is the basis for the Michigan State University project sponsored by the U.S. Department of Health, Education, and Welfare called BSTEP—Behavioral Science Teacher Education Program. BSTEP is the specific program designed to produce elementary teachers who will use psychological techniques to condition the minds of their students, after they themselves have been conditioned on the college campus.

SCHOOLS TURNED INTO CLINICS

Then too, the NEA followed with its report, "Education for the 70's," which said, "Schools will become clinics whose purpose is to provide individualized, psycho-social treatment for the student, and teachers must become psycho-social therapists." "This will include biochemical and psychological mediation of learning, as drugs are introduced experimentally to improve in the learner such qualities as personality, concentration, and memory. Children are to become the objects of experimentation." This has already come about with (1) the thousands of children who have been given Ritalin and other tranquilizers to improve their classroom behavior, (2) the endless listings and categorizing of "learning disabilities," and teachers across the country who have already adopted the role of psycho-social therapists.

The Humanists and Behaviorists with their elitist attitude believe that, if they can just take children from their parents by the age of two, it will be much easier to condition and develop children with the "right" set of attitudes and values. This philosophy is the basis for the tremendous amount of child advocacy legislation being written to promote federal day care centers, state-run nursery schools, Senator Mondale's Child and Family Services Act of 1975, and the proposal by the NEA and the American Federation of Teachers that all children begin school by the age of three.

In the meantime, the Humanists and Behaviorists continue to design programs that begin in Kindergarten. The combination of these two schools of thought have made it clear that the chief concern of the schools should not be to teach the child knowledge and skills, but to work on his psyche so that he will fit into the specific mold they have designed. These educationists endeavor to influence the child's feelings and emotions, attitudes and values, rather than teach him factual knowledge.

Is it any wonder that more and more parents and dedicated teachers are expressing alarm at what is going on in the name of education? Against this background of present day educational philosophy, let's take a quick look at specific programs, methods, and techniques found in the classrooms.

One of the most popular methods being utilized is called "open-ended discussions" and "problem-solving group discussions." Discussions must be about "relevant" issues such as racial equality, poverty, free speech, sexual freedom, academic freedom, war, ecology, women's lib, homosexual liberation, death, abortion, the occult, witchcraft, suicide, the pill, drugs, family planning, friendship, love, and taxes. These moral, emotional, or social issues either replace or are added into discussions on basic academic subjects.

TOTAL ATTITUDINAL CHANGE

The Behavior Modification that takes place is called Total Attitudinal Change, a specified goal of the Behaviorists and Humanists. During these discussions, the teacher must adopt the role of psychosocial therapist, in which he or she must remain non-directive, and non-judgmental (in other words, there is no right or wrong). Without any absolutes (there are none), without any basic truths (there are none), without any guidance or direction from the non-judgmental teacher, the group of students "solves" all of these relevant issues. They bring uninformed opinions into discussion, keep exchanging them, finally come up with an uniformed answer based on nothing absolute, and feel that they have solved the relevant issue. The immensity of this modification in attitudes can be realized when you recognize the fact that these open-ended discussions are utilized in sex education, drug education, family life series, human development programs, dimensions in personality courses, values clarification programs, health programs, social studies series, and many English courses and reading series. Beginning in Kindergarten and continuing through high school, these programs continuously "modify" the children in their attitudes, standards, values, and beliefs. They alienate them from basing any opinions or decisions on Christian-Judeo morals and values taught by the home and church.

Through these specific programs which produce Total Attitudinal Change, the Humanist philosophy of Situational Ethics is promoted to the extent that young children become conditioned to thinking only in terms of "the situation" rather than the Ten Commandments. The only true authority presented in the conclusion of open-ended discussions in the classroom is, "What do you, the child, think?" Or, "What does the peer group decide?" There are no right

and wrong answers, there are no basic truths, and there are no absolutes.

The ideas are introduced, through stories, group discussions, social studies, visual aids, and reading materials, that Mothers and Fathers are old-fashioned, Mothers and Fathers have strange ideas or hangups about different things, the morals that Mom and Dad and the church preach are not really relevant to today's society, everything is moving so quickly today that older people just can't keep up with the changing times, and, besides, look at the mess the world is in today, and, after all, who got us into all these problems! The older folks obviously don't know very much, but you young children are brighter than any others! In order to accomplish things in today's society, you must be relevant and base your thoughts and actions on the "situation,"—not an old and out-moded Christian values and morals, that certainly haven't solved the problems of the past and hold no hope for the future.

"MODIFYING YOUR CHILD"

How long do you think it will take for this type of education to "modify" the young child's previously held values and beliefs, particularly if the parents are unaware of what is happening in the classroom?

There are many other techniques being used to change and modify the child, such as: Psychodrama, Role Playing, Role Reversal, Soliloquy, Group Dynamics, Encounter Group Sessions, Sensitivity Training Sessions, "All About Me" Diaries, Daily Journals, reality therapy, magic circles, self-actualizing sessions, and values clarification programs. These techniques are incorporated into many different courses and at all different grade levels. All these techniques were designed and utilized originally by licensed psychiatrists treating emotionally disturbed patients in the controlled situation of mental clinics and hospitals. Now we find them being used in classrooms by teachers, playing the role of amateur psychologists, on normal, healthy, well-adjusted American children who have never been diagnosed as in need of psychological help.

Concerned parents in different sections of this country, while raising their voices against some of the more notorious pornographic materials found in the schools, have not, unfortunately, voiced protests against the utilization of psychological techniques being used on their children. Yet these techniques can cause irreparable emotional damage when used by amateurs and can condition our children to an anti-Christian-Judeo philosophy and religion.

Other specific psycho-social educational programs have been sold to school administrators, parents, and taxpayers as "answers to the problems we face in society," "cures for social ills," "helping the child seek his self-identity" and "preventing future delinquents and mental patients." These programs are called "Open Classrooms" (an educational philosophy, not an architectural design), I.G.E. (individually guided education, which sounds great, but in too many instances there is very little guidance for academic subjects). "Schools Without Failure" (so far there hasn't been any success). Education in Human Sexuality, Drug Education, Focus on Self-Development, Social Sciences, Concepts & Values; the Ginn 360 and 720 Reading Series; Supplementary Readers such as Arrow, Tab, Scope, Read, Scholastic Scope, Junior Scholastic, Career Education (don't mistake it for a new vocational program: its true purpose appears to be a behavioral design to program a child from "womb to tomb"); the NEA programs for our Bicentennial year (Declaration for Interdependence to make all American children interdependent on a one-world global society, and to wipe away from their minds any pre-existing notions that there is something marvelous and superior about our United States); programs such as MACOS and Exploring Human Nature (designed with our tax dollars through the National Science Foundation); and a new one implemented in 24 states this year with our tax dollars: Meeting Modern Problems and A New Model Me.

ABOVE ALL, BE "RELEVANT"

Our teenagers can't discuss philosophy or the classics, or the history of our country, but they know everything there is to know about sex, drugs, the problems of America, pollution, abortion, ecology, population control, and the paperback books that have made four-letter words common in the classrooms.

Literature which promotes the beauty of the English language, teaches our heritage, uplifts the mind, and has its basis in morality, is no longer considered "Relevant" by the educationists. If children are never given good classical literature to read—only pornographic garbage; if they are never given a chance to hear and learn about good music—only hard rock; if they never have an opportunity to view good art—only mod splashes on canvas; if they are never shown the beauty of this country—only its problems; if the beauty of love and sex in marriage is never stressed—only descriptions of lust, rape, and deviate sexual activity; they will be conditioned only for the society of the Humanists and the Behaviorists.

As Bishop Fulton Sheen said, "A person who has no contact with real precious stones, has no criteria by which to judge synthetic stones." If everyone sets his own watch to suit his relevant "situation", will there ever be a correct time?

After reviewing many of today's textbooks, one can't help but ponder this thought: Would we as parents knowingly hire a babysitter to come into our home and systematically teach our children the exact opposite of what we believe? Would we permit that babysitter to spoon-feed garbage to our child? Of course not.

Yet—in the name of education—we, as parents, are indeed paying taxes to school systems that hire teachers and purchase educational programs that fill our children's *minds* with garbage and utilize psychological techniques to condition our children to an anti-Christian Judeo philosophy and religion.

Loud cries are constantly heard about our country's monopolies—the monopolies of utilities, oil companies, and big business. These monopolies are nothing compared to the ever-growing monopoly on the most precious commodity that this country has—the minds of our children. This monopoly is produced, promoted, and perpetuated by the elitist Behaviorist and Humanist educationists.

When the Supreme Court took God out of the classroom, the elitist educationists replaced Him with the religion of Humanism. We, the people of America, are the only ones who can protect our children from futuristic manipulation by these elitists.

But we must begin now—we can't wait for the next generation to take action. By then they will have been "educated" to conform to the new definition of education, and educated to hold allegiance only to man and to a one-world government. They will never even know that they were misled. They may never know America the Beautiful. Above all, they might never know God.

(NOTE.—Jo-Ann Abrigg is the president of the Committee for Positive Education. She has her B.A. in Psychology from De Pauw University and is the mother of four children. This was a speech given at the annual conference of the Eagle Forum, St. Louis, October 10, 1976.)

CONYER'S STATEMENT DESERVES ATTENTION

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 1, 1977

Mr. SIMON. Mr. Speaker, one of our most eloquent Members, whose voice has been raised for the cause of justice in our society, is our colleague from Michigan, Representative JOHN CONYERS. A few weeks ago, he testified before the Budget Committee, and I am inserting his prepared remarks into the RECORD. He says a few things that should be of concern to all of us. Among other things, he says:

> The most serious shortcomings of the budget process has been the neglect of its priority-setting purpose. The Congress continues to deal with budget choices largely according to the old yardstick of incrementalism, working at the margin of existing programs and making monetary adjustments to the budget base.

In a sense, our colleague is wrong in that no matter what changes are made, there will be a certain amount of incrementalism. But, fundamentally, he is right, and my feeling is that we can only deal effectively with something more than incrementalism if we project a budget for a number of years at a time, and a figure of 5 years that has been recommended from time to time strikes me as a sensible one.

Representative CONYERS says that we must raise the fundamental questions which relate to values when we determine how we spend the money: "What are the basic ends of Federal activity? What are the most pressing social needs and the conditions which interfere most with the achievement of society's enduring purposes?"

A little later, he adds these significant words: ". . . we live in a society of vastly unequal opportunities and access to resources, and, therefore, it is imperative that the Federal Government chooses among limited resources and contending claims in order to give priority to those activities which are most important and of most lasting value."

He summarizes his criticism with this sentence: "What we call priorities are, at best, priorities of the past, that reflect conditions 20 or 30 years ago and choices made 20 or 30 years ago, . . . that are carried forward in each subsequent budget by way of incrementalism and tinkering."

I hope my colleagues will take the time to read his testimony. It is not testimony that will receive anywhere near the kind of attention his recent brief confrontation with President Carter received, but, if his remarks to the Budget Committee are taken seriously, they can have infinitely greater impact on the processes of Congress and on the priorities of the Nation.

The testimony follows:

TESTIMONY OF REPRESENTATIVE JOHN CONYERS

Mr. Chairman and Members of the Budget Committee, I appreciate this opportunity to

express some thoughts about the Congressional budget process after its first two full years of operation. Though I have not always voted for budget resolutions, I believe the budget process holds tremendous potential in enabling Congress to shape its own budget priorities in the context of national goals and needs and to raise public awareness of the decisive role the budget performs in the activity of government and in economic life.

The Congressional Budget and Impoundment Act of 1974 has five major goals: 1) to foster Congressional fiscal discipline and budget control; 2) to increase the effectiveness of federal programs; 3) to promote equitableness and efficiency in tax policy, particularly tax expenditures; 4) to establish in a deliberate and explicit manner federal budget priorities; and (5) overarching these, to provide Congress and the American people with the fullest information and resources with which to make and evaluate budget decisions.

I will deal with only two of these purposes in my remarks: the goal of defining and setting priorities, as stated in Sec. 2(4) of the Act; and the role of the budget process in raising citizen awareness of the manner in which budgets allocate resources and the extent to which such allocations are fair and effective in meeting national goals.

The budget process is accomplishing some of these goals, but seriously neglecting others, in particular the goal of defining and setting priorities. There are two explanations for this mixed performance that warrant discussion. One is historical. The Budget Act was mainly the result of concern over loss of Congressional budget control, specifically the persistent attempt by a former President to undermine Congress' constitutional responsibilities to tax and spend, and alarm in certain quarters at mounting budget deficits. The greatest emphasis, therefore, has been placed on budget control.

The second explanation is essentially political. Any budget process is a triumph of stability, extending past decisions into the future. In any given year there is not a great amount of discretion over spending unless existing policy is changed. Any fundamental alteration of the budget can occur only if the law, and the political forces supporting the existing law, have first been changed. Those who seek to transform the budget and its underlying priorities have a far greater task than those who seek to maintain the budgetary status quo.

The several goals of the Budget Act should be viewed in a political context. The goal of fiscal discipline and of budget control is a conservative's overriding concern, and the goal of setting and revising priorities in the context of national needs in an overriding concern of liberals. This latter goal has been shortchanged, in my view, both because of the inherently conservative nature of budgets and the far greater difficulty of implementing change through the budget than maintaining the budgetary status quo.

The goal of budget control is being accomplished to a great extent. Congress has put an end to arbitrary presidential impoundments. For the first time outlays are being systematically monitored, and careful controls have been placed on backdoor spending. The Congress now has an impressive informational and analytical capability in CBO and the Budget Committees. The goal of program effectiveness has also evolved. The heightened interest in sunset laws and zero-based budgeting has, no doubt, been stimulated by the budget process. However, while human resource programs are coming under greater scrutiny, I have not witnessed a similarly intense concern about military spending programs. By shedding greater public light on tax expenditures and the process by which they are established, which in the past has been one of the more hidden of legislative activities, the budget process will add momentum to efforts at tax reform and can have an impact on making federal spending overall more genuinely redistributive. I was disappointed in this connection when the Senate Committee considering sunset legislation excluded tax expenditures.

The most serious shortcoming of the budget process has been the neglect of its priority-setting purpose. The Congress continues to deal with budget choices largely according to the old yardstick of incrementalism, working at the margin of existing programs and making monetary adjustments to the budget base. We have not done nearly enough to define and order priorities according to national needs; or to anticipate and plan for future needs so that we may judge the desirability and effectiveness of existing programs. The Congressional Budget Office's series on budget options represents a beginning in this endeavor, but it does not go far enough, nor does it appear that the Budget Committees have incorporated sufficiently CBO's underlying method of identifying priorities into its own deliberations.

Establishing federal priorities in the context of national needs involves at least three separate operations in my view. The first would examine past policies and the consequences, intended or unintended, of those policies in each area for which a priority has been set. For example, if priority is given to significantly reducing unemployment, there should be examination of those periods such as during the late 1940s and the 1960s when both unemployment and inflation were remarkably low, and the extent to which fiscal policy contributed to those conditions. The determination or priorities and the policies to achieve them should reflect the cumulative experience of the past, and what that reveals about the limits and the possibilities of future action.

A second operation involves current policy. CBO has pinpointed three critical questions in order to determine spending priorities: 1) what share of national output should be devoted to federal program and how much should the federal government stimulate or restrain the economy; 2) how should federal resources be allocated among different functional areas; and 3) how should the federal government affect the distribution of resources among individuals and economic activities?

In order to answer these questions, we have to raise some even more fundamental ones, which relate to values. What are the basic ends of federal activity? What are the most pressing social needs and the conditions which interfere most with the achievement of society's enduring purposes? It is difficult to see how the federal government can determine priorities without first assessing needs? And how can it assess needs if it does not have a concept of what is paramount or important according to some ordering of values?

During the debate on the second budget resolution a month ago, I recall a colloquy with the distinguished Chairman of the Budget Committee. I stated I could not vote for a budget resolution that countenanced 7 percent and more unemployment, and which promised very little relief in the coming year. The Chairman responded that the budget Committee, indeed, had given top priority to job creation and significantly reducing unemployment. I was merely pointing out that unless the Budget Committees and the Congress establish a goal, a target, for reducing unemployment—let us say to x percent within a specified period, or to be implemented in stages within the fiscal year under consideration—in my view we neither have established an employment priority nor created the possibility of actually achieving that priority we profess commitment toward. Either we say to ourselves that reducing unemployment is so overriding a goal that it justifies focusing our activities and policies on the fastest and most efficient way to achieve that goal, or else we admit our unwillingness to make unemployment our leading priority or implement it forcefully. I submit there is a vast difference between committing ourselves to budgetary action around the top priority of significantly reducing unemployment, on the one hand, and improvising action around a concern to reduce unemployment, on the other.

Let me illustrate this point in the context of the priority of full employment. If it were the case that achieving full employment were the overriding national goal and federal budgetary priority, we would then have to consider whether or not federal spending contributes adequately to this priority. Besides the issues of fiscal and tax policy, the rate of economic growth, and the share of national output that has to be devoted to economic stimulus, we also have to consider the targets of federal spending that are most likely to contribute to achieving full employment. For example, we would have to consider the extent of reallocation of resources necessary from capital-intensive activities such as defense production to labor-intensive activities such as housing construction. We would have to examine programs within a given function that hold the greatest payoff in terms of job creation, particularly for the long-term unemployed.

Obviously, there will always be several priorities reflected in the budget, and some of which are in contention. But unless we focus on concrete goals and targets, and the policy instruments to achieve these, we will not be in a position to determine what has to be traded-off, or sacrificed, and how the several priorities are related to one another. Indeed, it is the case that we make decisions in a world of limited resources, that we live in a society of vastly unequal opportunities and access to resources, and, therefore, it is imperative that the federal government chooses among limited resources and contending claims in order to give priority to those activities which are most important and of most lasting value. Needless to say, I believe full employment should be the top priority of government today. One reason I consider the Hawkins/Humphrey Full Employment Bill so vital is that it creates for the first time a mechanism for defining and ordering priorities, integrates fully the budget process with overall economic policy, and enables Congress to anticipate and plan for future needs and resources.

A third necessary operation in determining budget priorities is then to anticipate and plan for future needs. The budget process permits more accurate assessments of the long-range costs of particular spending decisions, but to my knowledge we have not moved much farther in the direction of anticipating needs. All of us have read estimates of public capital needs over the next 10 or 20 years—for example, $600 billion to build an adequate energy supply; $400 billion to reach the national housing goal of 25 million new homes by 1980; or $4 to $11 billion, depending on the comprehensiveness, for a national health insurance system. Yet for the most part we make budgetary decisions without a grasp of overall needs and resources.

The question undoubtedly will be asked: Congressman, while the Budget Committees and Congress should be more deliberate and explicit in determining priorities, the fact is that priorities, implicit or explicit, are reflected in every budget decision that is made. What you are saying is that you disagree with existing budget priorities. Of course, I disagree with the choices or priorities we have made up to now. As long as un-

employment is as high as it is, I will dissent from budget resolutions. However, I do not believe the present method of arriving at budget decisions is adequate on its own terms. What we call priorities are at best priorities of the past, that reflect conditions 20 or 30 years ago and choices made 20 or 30 years ago, such as in the area of national security, that are carried forward in each subsequent budget by way of incrementalism and tinkering. Our current method of making decisions is a haphazard one. The budget distributes resources to almost all claimants, sometimes with generosity or extravagance, other times with stinginess. We pretend in this way to satisfy all goals. But there really is no ordering of goals, or priorities, and coherence in the way we allocate resources, that would enable us to evaluate what is being accomplished and how well. We have already a great many goals specified in the law that go unmet because our budget process is not really sychronized with our policy process. As examples, the national housing goal of 25 million new homes by 1980 which we are not able to achieve under current policy; the maximum employment goal in the 1946 Employment Act which most would agree has been abandoned. Under our present method I do not think the decisions we make fully spell out those underlying "priorities" we approve of and the implications and consequences of the decisions we make. I am suggesting this Committee influence the Congress to deal more forthrightly with value questions, priorities, and the necessary tradeoffs implicit in our budget choices. The Budget Act provided an opportunity for the first time to reevaluate the budget agendas we inherited from the past, that do not address the needs of the present. If we choose to, we have the ability to revise the agenda. To this end let me make a few proposals. CBO's budget option reports contain a graph that shows the composition of federal spending. I would like to see a second graph that shows the composition of unattended social needs such as the gap between employment opportunity and demand for jobs, the gap between the share of national income that goes to the lowest quintile and the median income, the gap between existing functional illiteracy and full literacy.

I recommend that the Budget Committee or CBO develop an inventory of social indicators, complementing the economic indicators, that measure social distress. This would enable Congress to analyze national needs and develop a method for relating needs to policy and to budget choices, and to anticipate future needs as they arise.

Second, I recommend that the Budget Committee or CBO develop an analysis of what would be required to reduce unemployment two or three percent within the next year or two, in terms of necessary changes under current policy or, more likely, necessary changes in current policy. Such an analysis would examine what economic sectors and federal programs have the greatest payoff in creating jobs, what types of resource-allocation or -reallocation would contribute most to significant expansion in employment opportunity, and what level of federal spending is required to accomplish the goal.

Mr. Chairman, I believe the new budget process offers great possibilities in helping the Congress establish its budget priorities in the context of meeting national needs. These hearings are performing a vital function. In concluding, I want to inform the Committee that 50 or so Members have called upon the Institute for Policy Studies to undertake a comprehensive examination of the Federal budget and alternatives to it that hold the promise of achieving the urgent national goals of full employment, balanced economic growth, and a decent standard of living for all Americans. I am pleased to inform you that Transaction Press of Rutgers University will publish this study at the beginning of next year. A shorter layman's version will be made available to schools and citizens groups. And it appears at this point that we may be able to interest some Members in holding citizen budget hearings in their districts and persuade educational television stations to broadcast these hearings. I am very excited about the uses of this budget study in generating much-needed citizen discussion of, and participation in, what surely is one of the most critical activities of government. In this regard the Budget Committee may wish to consider holding budget hearings prior to deliberation on the First Budget Resolution in key areas of the country to permit citizens to participate more directly in the budget process.

Thank you for this opportunity and I look forward to the third year of operation of the Congressional budget process.

HIGH-ACID FRUITS AND WINEMAKING

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 1, 1977

Mr. AuCOIN. Mr. Speaker, yesterday I introduced legislation which would allow all high-acid fruits to be ameliorated up to 60 percent for the purpose of winemaking. The degree of amelioration allowed would be determined on a sliding scale according to the acid level in the fruit.

This legislation was prompted by a request from one of my constituents, Mr. Speaker, who owns a winery in Nahalem, Oreg. This gentleman would like to make wine from cranberries. Unfortunately, current law makes this difficult. The law says fruit and berry wines may be ameliorated up to 35 percent—with the exceptions of loganberries, currants, and gooseberries which, because of their high acidity, are specifically allowed an amelioration of up to 60 percent. High-acid fruits other than these three exceptions can be ameliorated more than 35 percent, but they must be labeled "substandard." Obviously, the marketability of any wine labeled "substandard" will be difficult if not impossible.

Grape wines, in contrast to berry wines, do not need to be ameliorated because they have a natural acid-sugar balance. A greater degree—above 35 percent—of amelioration in high-acid fruits for winemaking purposes enhances the taste of the wine. Amelioration means adding water to cut the natural acidity and adding sugar which is converted to alcohol by yeast.

This legislation could mean a new industry in wines made from high-acid fruit. In Oregon alone, there are 20 to 30 producers of cranberries. According to the Oregon State Department of Agriculture, some 900 acres of cranberries are harvested annually in Oregon with each acre yielding an average of 100 barrels.

Winemaking is a new and growing industry in Oregon. A change in the existing law is needed if the industry is to realize its full potential.

Mr. Speaker, I would like to ask unanimous consent that the bill be inserted in the RECORD at this point:

H.R. —

A bill to amend the Internal Revenue Code of 1954 to provide, for purposes of determining proper cellar treatment for natural wine, that wines made exclusively from cranberries or other highly acidic berries and fruit other than grapes shall be entitled to a volume of ameliorating material not in excess of 60 percent

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subparagraph (D) of section 5384(b)(2) of the Internal Revenue Code of 1954 (relating to amelioration and sweetening limitations for natural fruit and berry wines) is amended to read as follows:

"(D) Wines which are made exclusively from berries or fruit other than grapes and which contain not less than 12.5 grams of acid for each liter in juice shall be entitled to a volume of ameliorating material not in excess of 60 percent (in lieu of 35 percent)."

SEC. 2. The amendment made by the first section of this Act shall take effect on the date of the enactment of this Act.

THE BIENNIAL BUDGETING ACT OF 1977

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 1, 1977

Mr. PANETTA. Mr. Speaker, I wish to insert the text of my testimony before the Task Force on the Budget Process of the Committee on the Budget, October 6, 1977, for the benefit of my colleagues.

Since becoming a Member of this House, one of my chief concerns has been the shortness of time available for oversight of the Federal bureaucracy and the Federal budget. I believe that the constant frenetic pace at which we operate allows little or no time for us to fulfill our oversight responsibilities. The result is the ever-burgeoning budget which is a source of distress to virtually every Member.

Many Members have proposed sunset and zero-based budgeting bills as a means of regaining control over the budget. These are worthy proposals, but I believe unless we make some fundamental changes in the budget timetable, we will never have enough time to make them work.

The fundamental change that I am proposing is to switch to a 2-year fiscal period and budget schedule, essentially retaining the basic framework of the Congressional Budget Act, but stretching it out over a 2-year period and building in time for oversight by each of the committees. I believe this approach would give us the time we need to conduct thorough review of the budget, curb wasteful spending, and bring the bureaucracy under control.

To provide for a 2-year budget schedule. I have introduced H.R. 9077, the Biennial Budgeting Act of 1977. Under its provisions, the first 6 months of the first year of each 2-year congressional

term would be devoted to formal oversight of programs and agencies by the committees of each House. The second 6 months of the first year would be provided for the reporting by the Budget Committees of the first budget resolution and the reporting by the legislative committees of all authorizing legislation. The second year would be used for the passage of any new authorizing bills and, only later, when the authorizing bills have been adopted, would the Congress vote on appropriations bills. The bill retains the seventh day after Labor Day—second session—as the deadline for consideration of appropriations bills and retains the same schedule as the Congressional Budget Act of the adoption of the second budget resolution.

Besides giving us time for our oversight job, such a proposal would allow us more time for the fulfillment of our other responsibilities to our districts. Perhaps most importantly, 2-year budgeting would benefit State and local governments by giving them more certainty of Federal funding levels for a longer period of time. This would allow them to make more careful, considered plans for the spending of those Federal funds. I believe that is a possible benefit of biennial beudgeting that none of us can afford to ignore.

Mr. Speaker, each of us knows only too well the intense frustrations our constituents feel at the size of both the budget and their own tax bills. We feel their pressure on our actions daily. They are not saying that they want us to dismantle every program that comes up for review; they simply want to know that their tax dollars are being spent as efficiently and effectively as possible with minimal waste. That is an assurance we will not be able to give them unless we give ourselves the time to devote serious attention to the budget and to each of the programs for which we appropriate funds.

I urge my colleagues to give serious consideration to the benefits of biennial budgeting.

The text of my testimony follows:

TESTIMONY OF THE HONORABLE LEON E. PANETTA

Mr. Chairman, members of the Task Force, thank you very much for the opportunity to speak before you today.

First of all, let me join the other witnesses who have commended the Budget Committee for the outstanding job it has done. As each of you knows so well, it is no small feat to report out the $500 billion budget resolutions in the time that is available. When added in with the very thorough job of oversight that you must do, the whole process seems unimaginably difficult. You have earned the respect and esteem of your colleagues.

Although I come before you to outline the provisions of a bill to reform the Congressional Budget Act, I want you to know that those provisions are in fact based on the belief that the basic guiding principles of the Budget Act do work. This year, for example, you were able to cut some $6 billion off the projected national debt for the year in the Second Concurrent Budget Resolution, simply through closer scrutiny of economic and budgetary fluctuations as the year progressed. You and the process met the test: more oversight does and did lead to better control over the size of the budget.

It is with that observation in mind that I propose the Biennial Budgeting Act of 1977, H.R. 9077. It is my firm belief that by stretching our present budget process out over a two-year period we will allow greater time for oversight and gain even tighter control of the budget.

My conversations with members of the Budget and Appropriations Committees and my own experience with the budget resolutions convince me that no one really feels we have enough time to review the budget and oversee existing programs and policies, let alone enough time thoroughly to go over new program proposals to see whether they are really needed. The very fact that there are some 20,000 bills introduced during each Congress, coupled with Committees' oversight responsibilities and with extension of on-going programs, makes meaningful oversight and review almost impossible. The result is that outdated and ineffective programs keep slipping through, while new programs are not given the time and attention they deserve. Moreover, members of the Budget and Appropriations Committees are pushed to the very limit of their abilities in coping with the situation, while other members, given about two weeks to look over the First Budget Resolution before floor consideration, fall to drawing sharp and bitter partisan lines, instead of fully debating the budget.

H.R. 9077, the Biennial Budgeting Act, attempts to address this problem by stretching the present timetable over a two-year period, with the building in of formal oversight activities by the Committees and the requirement that consideration of new authorizing legislation be completely finished before any appropriations measures are brought before the House. I believe this approach would give us the time we need to conduct thorough review of the budget, curb wasteful spending and bring the bureaucracy under control.

In brief, under the provisions of H.R. 9077, the first six months of the first year of each two-year congressional term would be devoted to formal oversight of programs and agencies by the Committees of each House. The second six months of the first year would be provided for the reporting by the Budget Committees of the First Budget Resolution and the reporting by the legislative committees of all authorizing legislation. The second year would be used for the passage of any new authorizing bills and later, only after adoption of authorizing legislation, would the Congress adopt appropriation bills. The bill retains the 7th day after Labor Day (second session) as the deadline for consideration of appropriations bills and retains the same schedule as the Congressional Budget Act for adoption of the Second Budget Resolution.

(For your convenience, I might note that the timetable I am proposing is found on pages 3 and 4 of H.R. 9077, a copy of which is attached.)

Biennial budgeting is not an entirely new concept. For many years, Senator Warren Magnuson of Washington introduced a bill to split each congressional session into separate authorizing and appropriating sessions, with the idea of allowing more time for oversight. Pursuant to the provision of the Congressional Budget Act, both OMB and the Congressional Budget Office have studied the concept of advanced appropriations in some detail.

There are, as you may know, a number of controversies surrounding the biennial budgeting approach. One central concern is what would happen to the Budget and Appropriations Committees: would they exercise more or even less oversight if their responsibilities were stretched over a two-year period? This is a valid point and one that I think can be answered quite simply. Both Committees have members and staff with substantial training and expertise with regard to both budgeting and broad economic policy. Yet at the present time, these talents are under-utilized by a system that forces them to spend considerable time every single year on non-controversial budget items, allowing them proportionally less time for controversial issues and for study of the impact of the budget on the economy. Although the CBO report on biennial budgeting was mixed, it did address this question forthrightly:

"The arguments against two-year appropriations revolve mainly around possible diminution of Appropriations Committee oversight and the difficulty of forecasting a program's warranted level of resources for 24 compared to only 12 months ahead. But if the Committees did not have to spend so much time each year on routine 'budgetary,' they would in fact have more time for their oversight work, leading to more rather than less oversight. Unexpected demands can always be accommodated by supplemental appropriations."

The same point is substantially true for all the other Committees, for whom the first half of each year is devoted to hurried evaluation of both present and new programs, with a heavy floor schedule relegating any further Committee oversight to the back seat. In the first session of each Congress, this situation is made more critical by the presence of a substantial number of first-termers with little or no familiarity with many of the issues with which they are confronted.

A related and also important question is how the role of the executive branch and OMB would change under two-year budgeting. In its report on biennial budgeting, OMB expressed concern that the necessity of forecasting budgetary needs of agencies in advance would not only result in a greatly increased work load, but would also mean that its forecasts would be far less accurate. The Office also worried that the lack of experience of agencies in planning two-year budgets would result in the agencies' "packing" their budgets to allow for possible shortfall before the end of the two-year fiscal period.

Let me address these concerns. First, H.R. 9077 retains the annual budget message by the President to Congress. In effect, the President will outline his two-year budget in his first message to Congress, with the second message at the beginning of the second session becoming a "revised" budget. Thus the President and OMB will have input twice into the budget process and will still be presenting their final budget message some 9 months before the start of the two-year fiscal period. I think this approach addresses both the worry about accuracy of forecasts as well as about workload: the executive branch in effect doubles its input into the Congressional budget process, while its workload will only increase in connection with preparations for the first budget message in the first session.

I might also note with regard to the OMB's concern about accuracy and about overbudgeting by the executive branch agencies that we "already make a great many budget decisions on the basis of future plans, predictions, and estimates," as the Congressional Budget Office has noted. These estimates are carefully computed and very often accurate. When they are not accurate, we provide rescissions or supplemental appropriations, which are still possible under the provisions of H.R. 9077. I might add that I think both rescissions and supplementals will be less frequent under two-year budgeting, simply because everyone does have more time to look at what they're doing and this includes OMB. Further, as you all know, some 70 percent of the Federal budget is determined ahead of a given fiscal year, which leaves only 30 percent of the budget to which concerns about advance appropriations apply.

One very exciting benefit that we might gain from biennial budgeting is the greater financial security such a system would provide state and local governments. According to a study conducted for the Congressional Budget Office by consultants Peak, Marwick, and Mitchell and Co., state and local governments, faced with continual delays and uncertainty with regard to Federal assistance on which they are so dependent, often are forced to make poor decisions on their own budgets and on program design and implementation. They often "under-spend," out of fear that subsequent-year appropriations will be cut and often lose funds at the end of a fiscal year as a result. Clearly, everyone loses under such a system.

The potential benefit of biennial budgeting is that it would allow these bodies more certainty of funding for a longer period, thus allowing them to make more careful plans for spending the funds. The General Accounting Office, in a 1971 letter to Senator John McClellan noted: "While we believe that advance funding is particularly important for grant-in-aid programs to states and local agencies, it would also be desirable for many other types of programs and activities of the Federal government where firm planning prior to the beginning of the appropriation year is a significant factor in the successful execution of such programs and activities." The Peak, Marwick, Mitchell–CBO study notes:

"If properly applied, advanced budgeting should have a beneficial effect upon all aspects of program management and should ultimately produce more effective programs. The intergovernmental partnership in program delivery should be strengthened, the beneficiaries of programs should be better served, and the taxpayers in general should get more for their money."

That study goes on to single out one-year advanced appropriations as probably the most widely suited form of advanced budgeting to achieve these ends. One-year advanced appropriations is, of course, basically another name for biennial budgeting.

Perhaps the most controversial aspect of the present annual budget system is the constraint it places on the Appropriations Committees. While all the authorizing committees and the Budget Committees feel the pressure of time on their deliberations, this is aggravated most severely for the Appropriations Committees who must wait until everyone else is very nearly finished with their legislation before they can really begin their final considerations of appropriations bills. To some extent, this is an unavoidable problem inherent in the appropriating process, but to the extent that it can be alleviated, it should be. H.R. 9077 addresses the issue by requiring that all committee authorizing legislation be reported out by December 31 of the first session. This gives the Appropriations Committees a *full* four and one half months to prepare their bills, instead of the roughly two months provided by the present March 13 committee report deadline. While this doubles the time given Appropriations, I might note that the Appropriations Committees will be free the entire first year of the Congress to prepare for their legislation and will also be free to follow closely the actions of the various committees during mark-ups that year.

There is another issue raised regarding biennial budgeting—the propriety of an arrangement whereby one Congress appropriates funds for the entire duration of the next Congress. While this issue has some superficial significance, I would observe that we do appropriate into another Congress every other year under the present system and that, given the fact that 70 percent of the budget is committed years in advance, the practice of appropriating into and beyond the next Congress is a fairly well-accepted practice at the present time. Further, of course, there is nothing to prevent future Congresses from adopting new budget resolutions for the on-going two-year fiscal period (Sec. 304 of P.L. 94–344) or from adopting rescission or supplemental appropriations bills.

I think I have touched on the principal issues surrounding biennial budgeting. I hope I have addressed them to your satisfaction. It is my hope that this bill will receive your most serious consideration and that it will serve as a talking point for full evaluation of the present budget system and the alternatives to it. Certainly, if we do come up with a new budget system—and I fully appreciate your concerns about opening the process to a free-for-all series of amendments—it will not be without the expertise and full contributions of the members of this committee, as well as the members of Rules and Appropriations.

I do want to reiterate my conviction that two-year budgeting will give us more time for oversight of present programs and more time for thoughtful planning of a new budget. The extra time will, I think, compensate for the concerns raised about the difficulty of forecasting spending in advance and will largely eliminate our reliance on supplemental appropriations and Third Budget Resolutions. It would, in fact, give the Budget and Appropriations Committees the time they need to do their jobs the way they want to, as well as allowing even more participation by the executive branch than is now possible. The benefits to state and local governments predicted by the GAO and the CBO study are, I think you will agree, tremendously exciting.

I think there is a widespread recognition within the House that the budget process is basically sound and can only be improved by more time for oversight. But despite this fact, the budget grows and taxpayers resent this as they fork over their hard-earned money with no perceptible improvement in government services. We feel their pressure daily on our actions. But in objecting to high taxes and runaway spending, Americans are not asking their government be dismantled. They are saying that they have every right to expect that the dollars we appropriate on their behalf will be handled efficiently and effectively.

We reflect the frustrations of our constituents every day on the floor of the House. Everyone here has made a real effort to analyze current spending at the same time he or she is considering new spending measures. Some Members have used "knee-jerk" voting against all new spending measures as a way of calling for budget control and oversight. But neither approach can really work in the long run.

We must adopt a system that allows Congress enough time to give the budget the serious attention it deserves or we will never get in under control. There are worthy proposals before the House to create a zero-based budgeting system and to establish "sunset laws" that would give all Federal programs a limited life cycle. I support these measures as one way of coping with the present situation, but I believe they will be ultimately useless unless we provide time for Congress to exercise its oversight responsibilities fully. By moving to a two-year budget we can gain that time and make significant progress in getting the budget under control.

PROCEDURAL VOTE ON PAY RAISE

HON. W. HENSON MOORE

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 1, 1977

Mr. MOORE. Mr. Speaker, today I voted "no" on the procedural vote to grant a second on H.R. 9282. I support fully the objective of that bill to delay any congressional pay raise approved by Congress to the succeeding Congress. I have voted against every pay raise since I have been in Congress partly for that reason.

I voted not to consider that bill today, however, because under suspension, it cannot be amended and there exists in that bill a reprehensible provision preventing amendments against future pay raises. Only by denying a second and forcing this bill to come up under regular rules can an amendment be offered to strike that provision. That is why I voted no as I fully support the rest of the bill.

YOUNG ISRAEL: A SUCCESSFUL EMPLOYMENT PROGRAM

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 1, 1977

Mr. SCHEUER. Mr. Speaker, in times when critics arise to find fault with Government sponsored programs designed to alleviate unemployment, it is incumbent to state for the record those exemplary achievements that give credit to the U.S. Department of Labor. As an example of a viable outstanding program, we submit the record of the Young Israel Employment Bureau, a nonsectarian undertaking sponsored by the National Council of Young Israel with its national headquarters in New York City and branch operations in 17 States. It operates employment bureaus in six States: New York, Ohio, Michigan, Missouri, California, and Florida.

In 1929, it established its first employment bureau designed to find jobs for all people regardless of ethnic background. During and immediately after the war years, it added a veterans division to the employment bureau with the particular concern with the unique problems of the returning veterans, in the field of education, employment, and social adjustment. In 1966, the employment bureau applied to the U.S. Department of Labor and received its first federally funded on-the-job training program (OJT). Subsequently, it has successfully executed 12 employment contracts under the outstanding leadership of Ephraim H. Sturm, the founder and director of the program.

With the advent of CETA, Young Israel spun off its national programs in Los Angeles and in Dade County, Fla., as independent CETA operations. The records will clearly indicate that the local CETA programs are far more costly than the same operation when administrated as part of the national program.

This program called for placing 70 people in each of the above cities with reimbursement for training costs to be given for 35 slots in each area and the additional 35 slots in each area for nonreimbursable OJT. Each area was serviced by one job developer at $9,816 annual salary or $188.76 per week, and a secretary with the annual salary of $6,165 or $188.55 per week. This is far

lower than the normal amount of $15,000 for a job developer and $8,500 for a secretary. In addition, there are the normal fringe benefits which amount to approximately 9 percent.

Reimbursement averages $600 per trainee. On a matching 1-to-1 basis this means actually that the reimbursement cost is only $300 per trainee. The normal amount of reimbursement nationally and under CETA is well over $1,500.

The national program was continued with Detroit, Cleveland, and St. Louis as basis. On July 14, 1977, they completed the program with 120 percent record.

The entrance rate ranged from the $3 minimum requirement to $6 for reimbursable trainees and from $2.90 to $4 for nonreimbursable ones.

The trainees were placed in the type of program which will lead to the learning of a particular skill and talent. The following are examples of the type of positions in which trainees are placed: Office machines mechanics, carpet cutters, clerk-typists, orthopedic shoe fitter, auto mechanics, secretaries, bookkeepers, metal fabricator, butchers, machinists, medical assistants, geriatric nurses, jewelers, store managers, security officers, et cetera. We note that in the foreseeable future these areas will need workers.

This OJT program including the reimbursable funds costs only $185,656.

One can't judge statistics without yardsticks. Let us, therefore, suggest the following: The average retention rate is approximately 60 percent; 70 percent is considered good. Their retention rate is over 90 percent.

The mean cost for reimbursement for training is $1,500, Young Israel's is $300 with the training period being equal. CETA programs are happy with an 80 percent performance and Young Israel's is over 100 percent.

On July 15, 1977, the U.S. Department of Labor once again recycled the Young Israel Employment Bureau national program for the above-mentioned three cities. It is to the credit of the U.S. Department of Labor for recognizing the Young Israel's national program service as a yardstick in evaluating the efficacy of local CETA-sponsored programs. I should acknowledge the efforts of the Honorable Ernest Green, the assistant secretary for employment and training, and his staff for recognizing the uniqueness of dedication and achievements of the Young Israel National OJT programs.

Mr. Speaker, I make this statement to indicate the progress and achievement that can be obtained by experienced, dedicated employment service under the sponsorship of the U.S. Department of Labor.

END OF LONG ORDEAL

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 1, 1977

Mr. STARK. Mr. Speaker, much has been made of President Carter's legislative failures and lack of political expertise during his first 10 months in office. Indeed I have not been silent on this matter, joining the criticism of Members of Congress, the press, former members of the Washington community and the American public. But last Friday President Carter showed me that, in very human terms, he can be an effective representative of the highest ideals of the U.S. Government. On an issue which does not get much press coverage, and which will never be hailed as a crucial legislative victory of his first year in office, President Carter took action which directly affects the lives of many hundreds of U.S. citizens in an important, positive way.

Last Friday, in a Rose Garden ceremony, President Carter signed S. 1682, the legislation which implements the United States-Mexico exchange of prisoners treaty. His signature on this bill signaled the end of a long ordeal for hundreds of U.S. citizens incarcerated in Mexico and their loved ones in this country. One couple, whose son has been jailed in Mexico for 2½ years, and who have been among the most active parents working to secure legal and human rights for U.S. citizens in Mexico, flew out from California to witness the culmination of many years of hard work and immense emotional investment.

Unfortunately, Dulles was fogged in Friday morning, and the couple spent 2 hours—between 7 and 9 a.m.—circling the airport. When they finally landed they hurried to get a cab to the White House, only to find themselves in the midst of an enormous traffic tieup. In bumper-to-bumper traffic they changed clothes and hoped to be present for at least part of the bill signing ceremony. They arrived at the White House as the ceremony ended—in time to see the last witnesses leaving the Rose Garden.

President Carter was apparently sensitive to the couple's disappointment at missing the ceremony, because he immediately asked to see them. When they visited me later Friday afternoon, they were ecstatic about their talk with President Carter and moved by his genuine concern and sensitivity. His warm, personable manner, and his apparent understanding of their emotional hardship throughout their son's imprisonment reassured the parents that our Federal Government is accessible to the private citizen and concerned about the needs of each individual. I know that the Marshalls will long remember their visit with President Carter and that they will always have a great deal of respect for the humanity of the man in the Oval Office.

FINANCIAL STATUS OF CONGRESSMAN ROBERT W. EDGAR

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 1, 1977

Mr. EDGAR. Mr. Speaker, as a firm believer in financial disclosure of public officials and candidates, I am submitting for the RECORD a listing of Mrs. Edgar's and my assets and liabilities, as well as our income and taxes. I am including both 1975 and 1976 data:

FINANCIAL STATEMENT OF CONGRESSMAN AND MRS. ROBERT W. EDGAR

ASSETS	December 31, 1975	December 31, 1976
Savings account	$49.52	$361.97
Cash on hand in checking account	689.10	1,872.17
Mortgage escrow account	380.59	433.50
1971 Volkswagen	1,400.00	1,000.00
1975 Ford Granada	2,500.00	2,100.00
House in Broomall, Pa	37,000.00	40,000.00
House in Arlington, Va	60,000.00	70,000.00
House goods and miscellaneous personal property	11,000.00	13,000.00
U.S. Civil Service Retirement Fund	2,930.41	6,275.41
Total assets	115,949.62	135,043.05

LIABILITIES	December 31, 1975	December 31, 1976
Mortgage on house in Broomall, Pa	19,370.92	18,950.51
Mortgage on house in Arlington, Va	56,750.00	55,808.06
Personal loans	958.95	----------
Total liabilities	77,079.87	74,758.57

TAXES	1975	1976
Federal	4,579.01	2,694.00
Pennsylvania (State)	782.01	1,264.51
Pennsylvania (local)	646.80	729.26
Virginia (local)	403.96	875.44
Total taxes	6,411.78	5,563.21

INCOME	1975	1976
Salary as a Member of Congress	39,072.08	44,600.00
Interest on savings account	28.59	13.15
Honorarium	----------	200.00
Total income	39,100.67	44,813.15
Net worth	38,869.75	60,284.48

BOTTLE BILL

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 1, 1977

Mr. AuCOIN. Mr. Speaker, I am extremely pleased to be able to report today that Pepsi Cola is now admitting publicly that passage of returnable container legislation—the "bottle bill" as it is known—will not materially affect either the company's sales, or its profits.

Mr. Speaker, this is most significant, for the chairman of the board of Pepsi Cola, Mr. Donald Kendall, has been one of the most implacable foes of the "bottle bill."

I cannot speak for Mr. Kendall and report he now actually supports the "bottle bill." But one of the points most often made by opponents of this legislation is that beverage industry sales and profits will decline if such a law were passed by the States or the Congress.

PepsiCo, Inc., is seeking a merger with Pizza Hut, Inc., and has issued a prospectus concerning this merger. As we all know, a prospectus must be eminently fair in describing the financial condition of the companies involved, and its potential problems. In the prospectus concerning the PepsiCo-Pizza Hut merger, then, Pepsi says no particularly adverse impact is anticipated even if the "bottle bill" should become law everywhere. Here is a paragraph from the prospectus that confirms this point:

Legislation has been adopted in four States which, although not uniform, has the effect of restricting the types of containers in which beverages can be sold and mandates a deposit on all containers, whether reusable or not. Similar legislation has been periodically introduced in Congress, and is pending or expected to be introduced in many States.

While it is not possible to predict whether restrictive container legislation will be adopted in other States or at the Federal level, PepsiCo believes that it will be able to earn an adequate return on the investment which might be required by it as a result of restrictive container legislation and does not anticipate a material adverse impact on the sales or profits of its soft drink business if such legislation is adopted.

Mr. Speaker, I am one of the sponsors of the returnable container legislation pending in the House. I believe it is important that Members be aware of the Pepsi statement, especially coming as it does in the kind of publication where the company is duty-bound to be straightforward and forthright.

The language included in the prospectus has come to me from a gentleman charged with the responsibility of administering the 5-year-old Oregon "bottle bill," Mr. William T. Moore, Jr. In an accompanying letter to me, Mr. Moore perfectly describes the impact of returnable container legislation of the kind I am sponsoring.

He writes:

As Administrator of Oregon's "bottle bill," I can say that it works, is not difficult to implement, and the transition within the beverage industry from one-way to reusable containers can be accomplished without the adverse effect on our economy that is predicted by some elements.

It would seem, Mr. Speaker, that PepsiCo, Inc., now agrees with at least the latter part of that statement, and I believe the Congress should take note.

THINK POSITIVE

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 1, 1977

Mr. ARCHER. Mr. Speaker, the following editorial was recently brought to my attention and I think it would be well worth reading by my colleagues in Congress:

THINK "POSITIVE"?

(The following is an eloquent commentary on big government written recently by Warren T. Brookes in the Boston Herald American. With their permission, excerpts are reprinted here.—MARVIN STONE, EDITOR)

During the past few years, it has become fashionable in the media, generally, to refer to any politician who votes against major spending programs as "negative," or "lacking in compassion."

Similarly, politicians who regularly vote for vast government social enterprises are regarded as "positive" or "compassionate" or "liberal" (i.e. "for the people").

What is "positive" about a government that runs annual deficits of over 50 billion dollars—and prints money to finance them?

What is "posiitve" or "compassionate" about a constant inflation rate of nearly 7 per cent—a rate a which half of your life savings are destroyed every 10 to 12 years?

What is "positive" about a government whose regulations now cost consumers more than 100 billion dollars a year?

What is "positive" about government health programs that have singlehandedly driven the nation's spending on health care from 5 per cent of the GNP to nearly 9 per cent, in just 10 years?

What is "positive" or "liberal" about a Social Security System that is now taking more from the taxpayers than they can ever get back—and is still going bankrupt?

What is "public" about a public education system that now spends over $1,500 a year per student—and doesn't teach them how to read, write, or do arithmetic?

What is "positive" or "compassionate" about a welfare system that is turning millions of Americans into helpless wards of the state, and encouraging millions of others to choose dependency instead of work?

What is "positive" about a government whose total accumlated long-term debt and obligations are over 5 trillion dollars—more than the total worth of the economy?

What is "positive" about a government energy policy that succeeds only in putting millions of people out of heat and work in the middle of a severe winter?

What is "positive" about more than 4 billion dollars in known welfare abuse, error and fraud?

What is "positive" about a nation where there are nearly 85 full-time dependents or employes of government for every 100 productive private taxpayers?

What is "positive" or "compassionate" about government housing and urban-development programs that have only accelerated urban decay, and isolated the poor in bleak warehouses?

What is "positive" about a government which is printing money at a rate more than twice as fast as the nation's economy is growing?

What is "positive" or "liberal" about asking government bureaucrats to make decisions for you, which you are better able to make for yourself—and at much lower cost?

What is "positive" about government policies that first create energy shortages, and then demand billions in new taxes to "solve" them, that create a crisis, and demand even more power and control to "alleviate" it?

In short, what is "positive" or "compassionate" or "liberal" about big government, with all its trappings of bureaucratic power, waste and arrogance, with all its constant threats to individual freedom, privacy and expression?

We think we know what Thomas Jefferson would have said to these rhetorical questions. In 1801 he wrote:

"Every man wishes to pursue his occupation and to enjoy the fruits of his labors and the produce of his property in peace and safety, and with the least possible expense. When these things are accomplished, all the objects for which government ought to be established are answered."

HAPPY WARRIOR RETURNS

HON. JIM MATTOX

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 1, 1977

Mr. MATTOX. Mr. Speaker, in recognition of a man whose efforts and abilities have never failed to stand up to the beliefs this country was founded upon, I submit the following editorial from the Dallas Morning News. It is my sincere pleasure to say that of all the men and women who have come to serve in the Congress of the United States of America, few, if any, are as devoted and as deserving as Mr. HUMPHREY. I believe the editorial says the rest. I would also like to note a Dallas Times Herald editorial cartoon by Bob Taylor. Unfortunately the cartoon cannot be reproduced in the RECORD. It expresses similar sentiment. The illustration—depicting a Congress ailing from special interests, lobbies, and susceptibility, features an ebullient HUBERT H. HUMPHREY brightening the gloomy sickroom with a "get-well visit." Thank you HUBERT:

HAPPY WARRIOR RETURNS

The emotional and unrestrained welcome home the nation's capital gave Hubert H. Humphrey upon his return to the Senate was richly deserved.

Seldom has such a genuine and spontaneous outpouring of affection and warmth surrounded Capitol Hill as it did Tuesday when colleagues, friends, staff members and total strangers embraced the Happy Warrior from Minnesota.

The former vice president and presidential candidate did not have to return to his Senate desk. Ill with inoperable cancer, Humphrey could have remained at home surrounded by family and friends. Yet he chose to return.

After all, has not Washington been his home? And is the Senate not where he has spent the finest of his political hours and where, in the time he has remaining, he really wants to be?

The News has opposed Humphrey's brand of liberal politics but we have regarded him

as a friendly adversary, a man who adds something to the public debate.

There is something special about Hubert Humphrey. Democrat or Republican, it is hard not to like this exuberant man from the Midwest.

Humphrey himself said it best. "I'm pleased as punch to be with you today." Hubert, so are we all.

THE U N. AND THE COUNTER-REVOLUTION

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 1, 1977

Mr. SYMMS. Mr. Speaker, very recently, on October 24, some groups in the country celebrated United Nations Day. However, I feel that there is little cause for celebration. Rather, I feel that it is time for Americans and most of all our elected officials to take a hard look at the United Nations and at its activities.

The August 1976 issue of the Economic Education Bulletin, published by the American Institute for Economic Research, is devoted to a study of the United Nations and the benefits (or lack thereof) to the United States from participation in the U.N.

The text of the bulletin reads as follows:

THE U.N. AND THE COUNTERREVOLUTION

Two hundred years ago an embryo nation of a little more than 3,000,000 persons occupied part of the eastern coastal area extending from southern Maine to northeastern Georgia of what now is the United States. All but 10 percent of those people lived in small villages and remote areas. Only six cities had populations exceeding 8,000; and inhabitants of the largest, Philadelphia, numbered only 42,000.

To the north of this new Nation was Canada, which was a colony of the great European power from which independence had just been won. In the south and southwest a vast area, including what is now Florida and much of the great Mississippi Valley, was held by Spain, another great European power. Within a few years Napoleon, Emperor of still another European power, was to claim the Mississippi area for France. Compared with those giants of the times, the new Nation was but a pygmy, about equal in population to that of each of the smaller nations of Europe.

Nevertheless, the people of this new Nation somehow found the courage to stand alone. Instead of seeking an arrangement whereby the ruler of one of the three great European powers would have been their Emperor and protector, the inhabitants resolved to create a new society in the family of nations. A Constitution was formulated and finally adopted in 1789, and the United States of America was born.

The objectives of the new Nation as outlined specifically and implicitly in its Constitution were revolutionary: they involved overturning the old and establishing the new in the affairs of mankind. The citizens of the new Nation would be equally subject to the law and would cooperate voluntarily by means of free competition with special privilege for none and equality of opportunity for all. With those objectives so clearly carved in the foundation stone of the new Nation, the United States stood alone in a largely hostile world, a world organized far differently and with greatly different objectives.

From origins that were humble in size but magnificent in design, the United States advanced within a century and a half to an unchallenged position of power among all the countries of the earth. During that period of advance, the United States received little aid from other countries and, except for war efforts, provided little help to them. Essentially this Nation stood alone; during that time, repeated assertions that it could not stand alone in a hostile world were rejected in practice and refuted by events.

After World War II, however, the situation changed markedly. U.S. officials misguided the Nation into a maelstrom of international scheming by committing the United States to membership in the United Nations.

WHO CONTROLS THE UNITED NATIONS?

A crucial aspect of the United Nations' operations is that of control. On certain important substantive matters (as differentiated from procedural matters on which the majority rules) two-thirds of the members present and voting can decide an issue. However, the two-thirds rule is vitiated by the fact that a simple majority can determine that many questions can be decided by a ". . . majority of the members present and voting." Thus the door is open to rule by a simple majority even on questions highly important to the United States if deemed "not important" by the General Assembly. A critical question therefore is, What countries can control a majority of the votes in the United Nations General Assembly?

According to the most recent data available to us, 141 countries comprise the membership of the United Nations. Each member country has one vote in the U.N. General Assembly, regardless of the size of its population. Thus, Sao Tome and Principe, with a recent population of about 80,000, has a voting power in the General Assembly equal to that of the United States, which has about 212,800,000 inhabitants. Therefore, the one-nation, one-vote policy in the General Assembly provides each citizen of Sao Tome and Principe with about 2,660 times the voting power of each U.S. citizen. (See the accompanying table for such voting weights as of mid-1975.)

Since the total membership of the U.N. General Assembly is 141 countries, 71 comprise a simple majority of the controlling body of the United Nations. *The total population of the smaller 71 countries is only about 146,690,000, or about seven-tenths of the U.S. population.* Yet the combined vote of those countries is 71 times the single vote of the United States, and the representatives of those countries have the voting power to impose their will on the 212,800,000 citizens of the United States. That this situation is not in the best interests of U.S. citizens seems obvious to many now, as it has been to us for many years.

In July 1975 Secretary of State Henry Kissinger acknowledged this adverse situation in a speech delivered before the Institute of World Affairs. He said:

". . . With the quantum leap to the present membership of 138, the past tendencies of bloc politics have become more pronounced and more serious. The new nations, for understandable reasons, turned to the General Assembly, in which they predominated, in a quest for power that simply does not reside there.

"The Assembly cannot take compulsory legal decisions. Yet numerical majorities have insisted on their will and objectives even when in population and financial contributions they were a small proportion of the membership. . . ."

Members of the United Nations, their populations (in thousands), and the voting power of each citizen in relation to that of each U.S. citizen*

Member:	Population	Vote
Sao Tome Principe	80	2,660.0
Qatar	90	2,364.0
Grenada	110	1,935.0
Maldives	123	1,730.0
Bahamas	200	1,064.0
Iceland	220	967.0
United Arab Emirates	220	967.0
Bahrain	240	887.0
Barbados	240	887.0
Cape Verde	250	851.0
Equatorial Guinea	310	687.0
Malta	316	673.0
Luxembourg	340	626.0
Swaziland	480	443.0
Gambia	510	417.0
Gabon	520	409.0
Guinea-Bissau	520	409.0
Fiji	560	380.0
Botswana	660	322.0
Cyprus	660	322.0
Oman	750	284.0
Malagasy Republic	765	278.0
Guyana	770	276.0
Mauritius	875	243.0
Kuwait	930	229.0
Lesotho	1,020	209.0
Congo	1,031	206.0
Bhutan	1,035	206.0
Trinidad & Tobago	1,060	201.0
Mauritania	1,290	165.0
Mongolia	1,400	152.0
Panama	1,630	131.0
South Yemen	1,630	131.0
Liberia	1,670	127.0
Cent. African Republic	1,720	124.0
Costa Rica	1,920	111.0
Jamaica	2,000	106.0
Nicaragua	2,080	102.0
Togo	2,170	98.0
Singapore	2,236	95.0
Libya	2,350	91.0
Albania	2,420	88.0
Paraguay	2,570	83.0
Jordan	2,620	81.0
Sierra Leone	2,710	79.0
Lebanon	2,780	77.0
Honduras	2,930	73.0
Dahomey	3,030	70.0
Uruguay	3,030	70.0
Ireland	3,090	69.0
Somalia	3,090	69.0
New Zealand	3,106	69.0
Laos	3,260	65.0
Israel	3,330	64.0
Burundi	3,680	58.0
Chad	3,950	54.0
El Salvador	3,980	54.0
Norway	4,000	53.0
Rwanda	4,120	52.0
Guinea	4,310	49.0
Senegal	4,320	49.0
Niger	4,480	48.0
Haiti	4,510	47.0
Dominican Republic	4,560	47.0
Finland	4,680	46.0
Zambia	4,750	45.0
Ivory Coast	4,770	45.0
Malawi	4,900	43.0
Denmark	5,130	42.0
Bolivia	5,470	39.0
Guatemala	5,540	38.0
Mali	5,560	38.0
Tunisia	5,564	38.0
Upper Volta	5,900	36.0
Cameroon	6,400	33.0
Yemen	6,480	33.0
Ecuador	6,501	33.0
Syria	7,120	30.0
Austria	7,530	28.0
Cambodia	7,890	27.0
Saudi Arabia	8,100	26.0

* As of mid-1975.

Member:	Population	Vote
Sweden	8,177	26.0
Bulgaria	8,706	24.0
Portugal	8,740	24.0
Greece	8,960	24.0
Byelo, SSR	9,003	24.0
Mozambique	9,030	24.0
Cuba	9,090	23.0
Ghana	9,610	22.0
Belgium	9,757	22.0
Chile	10,410	20.0
Hungary	10,460	20.0
Iraq	10,770	20.0
Uganda	11,170	19.0
Venezuela	11,630	18.0
Malaysia	11,700	18.0
Nepal	12,320	17.0
Kenya	12,910	17.0
Australia	13,542	16.0
Netherlands	13,598	16.0
Sri Lanka	13,680	16.0
Czechoslovakia	14,690	15.0
Tanzania	14,760	14.0
Peru	15,380	14.0
Algeria	16,280	13.0
Morocco	16,880	13.0
East Germany	17,170	12.0
Sudan	17,324	12.0
Afghanistan	18,800	11.0
Romania	21,030	10.0
Yugoslavia	21,160	10.0
Canada	22,659	9.4
Colombia	23,950	8.9
Zaire	24,220	8.8
South Africa	24,920	8.5
Argentina	25,050	8.5
Ethiopia	27,240	7.8
Burma	29,560	7.2
Iran	31,960	6.7
Poland	33,690	6.3
Spain	35,220	6.0
Turkey	36,270	5.9
Egypt	36,420	5.8
Thailand	41,020	5.2
Philippines	41,500	5.1
Ukrainian SSR	47,136	4.5
France	52,510	4.0
Italy	55,586	3.8
United Kingdom	55,930	3.8
Mexico	58,120	3.7
West Germany	62,040	3.4
Pakistan	68,120	3.1
Bangladesh	71,317	3.0
Nigeria	79,759	2.7
Brazil	107,661	2.0
Japan	109,670	1.9
Indonesia	127,590	1.7
United States	212,800	1.0
U.S.S.R	250,900	0.8
India	586,270	0.4
China	800,000	0.3

THE "TROJAN HORSE" OF THE TWENTIETH CENTURY

In an article first published in 1958 and now included in an Institute booklet[1] we pointed out:

"Western civilization as we know it today is the outcome of a great revolution that followed the acceptance of new ideas and that accompanied the progress toward individual freedom including equality of opportunity and economic justice for all men. However, virtually complete freedom as herein described has not yet been reached except in relatively small areas of the world and even there only for brief periods.

"Perhaps primarily because we of this civilization have stopped short of the goal, the results have in part been an inequitable distribution of currently produced wealth. In the minds of many, not even the material progress made possible by the great revolution can offset the results that seem so evil. Either not realizing that the goal had never been reached or not understanding that the evils they deplored were attributable to imperfect freedom, many leaders in thought and action sought to turn back; thus the counterrevolution was born.

"The counterrevolution is in progress throughout the world. It is clearly recognized as communism; but fascism, various socialist governments, the New Deal, and the welfare state all have grown from the same roots."

In another article, first published in 1966 and also included in the aforenoted booklet, we concluded:

"Nations, that is to say the governments of nations, are the actual members of the United Nations. By far the most of those governments are committed to the counterrevolution, to the ages-old notion that man exists to serve the State. Protesting good intentions, such governments do not hesitate to rob Peter in order to buy Paul's vote (wherever Paul's vote is considered). Such governments insist that the fetters of a constitution, the hinderance of a truly independent supreme judicial body, and inalienable rights for citizens are anachronisms in the modern world. . . .

"Thus we come to the crux of the situation. The United Nations is so organized that no person capable of intelligent analysis should expect it to do otherwise than strengthen the counterrevolution. The United Nations will endeavor to pillage the assets of Western civilization, especially those of the United States, and to dissipate those assets throughout the rest of the world in a vain effort to make socialism 'work.' The 'Trojan Horse' of the twentieth century may achieve slightly longer terms in office for the numerous governments concerned, but at the expense of billions of individuals who will continue to pay the price on an increasing scale for abandoning the only road to a better world."

ANOTHER VIEW OF THE UNITED NATIONS

So flagrant have become the abuses of developing and communist countries in pressing their will upon the United States through the United Nations that even some "liberals" have spoken against those practices. Dr. Daniel Patrick Moynihan has been the most notable of these. He gained instant national attention in March 1975 by severely criticizing some practices of the developing countries in an article published in *Commentary* magazine. The popularity of his views increased after he was appointed U.S. Ambassador to the United Nations on June 30, 1975.

In the aforementioned article, Dr. Moynihan noted that the United States regularly has found itself among a small minority in the U.N. General Assembly during recent years. He attributed this development to the expansion of the U.N. membership from the original 51 members to the current 141 members, with the great majority of them led by persons who hold the common belief that they have a right to make claims on the wealth of other countries.

According to Dr. Moynihan, since many of the recently independent countries were former British colonies, the leaders of those countries accept the deceivingly popular notions espoused by the Fabian socialists of Great Britain. In the June 1975 *Reader's Digest* condensation of his *Commentary* article, Dr. Moynihan described two key aspects of British socialism in these words:

"First, it contained a suspicion of, almost a bias against, economic development. The fundamental assertion was that there was plenty of wealth to go around if only it were fairly distributed. Redistribution, not production, remained central to the ethos of British socialism. Profit became synonymous with exploitation.

"The second point about socialist doctrine as it developed in Britain was that it was anti-American. More anti-American, surely, than it was ever anti-Soviet. The reasons for this are not obscure. The British were not overmuch admiring of Americans in that era, nor we of them. In part their attitude began as aristocratical disdain. But more importantly, America was seen as quintessentially capitalist."

At a later point in the *Reader's Digest* article, Dr. Moynihan asked why the developing countries joined the communist countries in assailing U.S. policies. He conjectured.

"First, the developing nations could ally with the totalitarians because so many, having edged toward authoritarian regimes, faced the same problems the communists would have encountered with a liberal (in the sense of libertarian) analysis of civil liberties. Secondly, the developing nations had an interest in deprecating the economic achievements of capitalism, since almost none of their own managed economies was doing well."

Although the United States often has been outvoted in the General Assembly, representatives of this Nation often have acquiesced in or even actively supported U.N. actions clearly at odds with the principles of liberty and voluntary cooperation that helped make this Nation great. We describe below some recent examples of counterrevolutionary economic policies of the United Nations.

DECISIONS FOR REDISTRIBUTION

Since the early 1960's, U.N. decisions concerning economic development have revealed ever more clearly the goal of redistributing the accumulated and currently produced wealth of the member countries.

In December 1974, the General Assembly adopted a "Charter of Economic Rights and Duties of States." The stated purpose of this charter is "to promote the establishment of the new international economic order, based on equity, sovereign equality, interdependence, common interest and co-operation among all states. . . ." Who could take issue with that seemingly noble purpose?

One of the sections of this charter deals with foreign investments. The U.S. Council of the International Chamber of Commerce analyzed this section of the charter and concluded that:

"This Charter, among other things, encourages nationalization of foreign property and the likely substitution of state corporations for foreign-owned private enterprise. It set forth the notion of reparations for alleged colonial or neo-colonial 'coercions' of the past. . . . The Charter endorses expropriation without compensation. It rejects international adjudication of economic disputes between a host government and a foreign investor. . . ."[2]

Last September the General Assembly held a special session to consider problems of economic development. The preamble of the resolution adopted at that session recalled the purpose of the Charter of Economic Rights, and the resolution set forth some working objectives. With reference to funds for development, the resolution stated that such funds "need to be increased substantially, their terms and conditions ameliorated and their flow made predictable, continuous and increasingly assured so as to facilitate the implementation by developing countries of long-term programs for economic and social development." The resolution added that those funds should be given without any obligation on the part of the recipient countries to use the funds in the donor countries.

With reference to international monetary

[1] "Can Our Republic Survive?" *Economic Education Bulletin*, Vol. IX, No. 4, May 1969, $1.00.

[2] Quoted in *Barron's* for June 2, 1975.

reform, the resolution recommended that there be a link between new allocations of Special Drawing Rights and development assistance.[3] It specified that "arrangements for gold should be consistent with the agreed objective of reducing the role of gold in the system and with equitable distribution of new international liquidity." Some changes consistent with this objective are contained in the new international monetary arrangements agreed upon by the International Monetary Fund members in Jamaica on January 8, 1976.[4]

The Fourth Session of the United Nations Conference on Trade and Development (UNCTAD IV) concluded a lengthy session in Nairobi, Kenya on May 31, 1976. The *demands* made by officials of the developing countries at that meeting included a price-support system for basic commodities funded by both industrialized and developing countries. Those officials demanded that industrialized nations force private companies to make available to the developing countries the latest technological advances, to train persons in developing countries in advanced skills, and to restrict the "brain drain" from developing countries.

The most obvious redistributive demand made in Nairobi involved the rescheduling and cancellation of debts of some developing countries. One arrangement suggested was that the debts of 29 poorest countries be cancelled and those of another 40 developing countries be extended without payments of principal or interest to the end of this decade. If this suggestion were adopted, some people would have to absorb the losses involved. Those people clearly would be the taxpayers of the industrialized nations.

Although representatives of these nations acceeded to none of these demands made at the Nairobi meeting, they did agree to negotiate further about them with officials of the developing countries later this year. One observer of the Nairobi meetings concluded that these officials thus had won half the battle; for now that representatives of the industrialized nations have agreed to negotiate about these matters, officials of the developing countries probably will have some of their demands met.

The resolve of officials of the developing countries to achieve their demands was revealed in a statement by the representative of Jamaica and spokesman for such countries, Herbert Walker, when he declared that "the future of cooperation depends on getting results." In contrast, the feeble opposition of representatives of the industrialized nations to these demands was revealed in the following account in the *Wall Street Journal* for June 1, 1976 of their response to the demands:

"Some delegates said they had 'real doubts' that the U.S., Germany, Britain and Japan really are willing to talk about commodities support and debt forgiveness at the planned meetings.

"Germany, for its part, professed its belief in the free-market system. Britain said it didn't want to be 'railroaded' into a common fund.

"The four had intended to make a joint statement underlining their own interpretation of the conference results. But outcries from Third World delegates who say leaked copies of the comparatively tough text persuaded Common Market officials to press for suppression of the statement.

"They prevailed on Luxembourg's prime minister, Gaston Thorn, current chairman of the Common Market's top decision-making body, to call West German Chancellor Helmut Schmidt and British Prime Minister James Callaghan to secure their rejection of the text.

"In the end, Paul Boeker, deputy head of the U.S. Delegation, read it alone to the final session. He emphasized that all the U.S. had agreed to was 'consultations prior to a decision whether to enter into negotiations' on a common fund."

Further clear evidence that officials of the developing countries have continued to pursue counterrevolutionary goals is a recommendation adopted by the United Nations Conference on Human Settlement on June 11, 1976 in British Columbia. The delegates at that conference recommended severe restrictions on the private ownership of land. According to *The New York Times* for June 12, 1976, the delegates declared:

"Land, because of its unique nature and the crucial role it plays in human settlement, cannot be treated as an ordinary asset, controlled by individuals and subject to the pressures and inefficiencies of the market. . . ."

"Private land ownership also is a principal instrument of accumulation and concentration of wealth and therefore contributes to social injustice; if unchecked it may become a major obstacle in the planning and implementation of development schemes."

What was the U.S. response to this proposal? *The New York Times* reported that the U.S. delegation said that "the land-management proposals were not inconsistent with established national practices in the United States."

CONCLUSION

The evidence presented here suggests that if the counterrevolution described earlier in this report is to be stopped and reversed, U.S. authorities must learn what has fostered economic progress and what has impeded it; what has best served, and presumably therefore will best serve, the economic interests of the United States; and what actions undertaken by and proposed for the United Nations must be opposed. Continuation of past practices probably will result in the ultimate success of the counterrevolution and the demise of Western civilization.

[3] See "SDR's—No More Pretense" in *Research Reports* for December 22, 1975 for our comments about this suggestion.

[4] See "The 'New' International Monetary System" Parts I and II in *Research Reports* for February 2 and 9, 1976 for a description of and comments about these arrangements.

WHY AMBASSADOR ANDREW YOUNG SHOULD BE IMPEACHED

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 1, 1977

Mr. McDONALD. Mr. Speaker, 10 Members of this House have cosponsored a resolution calling for the impeachment of Andrew J. Young as U.S. Ambassador to the United Nations. During the confirmation hearings on his appointment as our U.N. Ambassador, I had the opportunity to appear as a witness against Mr. Young's confirmation and pointed to his consistent record of extremism as a reason to reject his nomination. I emphasized that Mr. Young was so committed to hard line political positions against those of the United States that he could not in good conscience support the interests of our country. I felt that he would carry out his own policies, not those of the American people. Mr. Young assured me saying, "I know you don't agree with me on the United Nations, but I want to work to earn your support." He repeated this statement to the Senate Foreign Relations Committee as an indication of his newfound "moderation." We soon found out that it was my ominous prediction, not Andrew Young's promise, that was fulfilled.

During my testimony against Mr. Young's nomination, I pointed to the fact that he had a long and close friendship with the leader of a terrorist group in South Africa, Robert Mangaliso Sobukwe. Young had two of Sobukwe's adult children living in his home while they studied in this country. Young has made it clear that this is a political act, not a charitable gesture. On January 15, 1977, he appeared on the television program "America's Black Forum" and said he was raising the children of Pan Africanist Congress leader Robert Sobukwe who "are living with me and going to school in Atlanta. That kind of program could be a Government sponsored program." He went on to say, "There should be a plan, right now, to train leadership to be able to run South Africa once majority rule comes." Early in September, the son of PAC leader Sobukwe living with Ambassador Young and the daughter of Albert Luthuli, leader of the rival South African terrorist organization called the African National Congress (ANC) accepted the annual award of Mr. Young's old organization, the Southern Christian Leadership Conference, on behalf of the "Children of Soweto'" who had engaged in violent, planned rioting during the past year which resulted in the deaths of many innocent people.

This kind of activity encourages the terrorists since it promises to train their children to rule.

United Nations Ambassador Young has encouraged terrorism in other ways as well. George W. Ball, certainly not a conservative, pointed out in an article in the October issue of the Atlantic Monthly that during Ambassador Young's recent trip to South Africa:

> At the offices of the United States Information Agency, in a meeting consisting mostly of blacks, Ambassador Young is reported to have responded to an emotional occasion by condoning, and even encouraging, the use of violence to establish black majority government as soon as possible.

Even in his public statements, Ambassador Young has never condemned terrorist violence. Instead, he treats both terrorist violence and his own activities as legitimate tactics toward the same goal. In a speech in Maputo, Mozambique, on May 19, 1977, Mr. Young said:

> . . . those of us committed to negotiated settlement should be respected for the tactics that we attempt to utilize and that even when there are differences it is very hard to adapt tactics of armed struggle to the problems of negotiated settlements. People who engaged in negotiated settlements hardly have the moral right to tell the people who are engaged in armed struggle how to run their paths and determine their freedom.

He further reiterated this concept in Lagos, Nigeria, on August 25, 1977, when

after claiming that he did not believe in violence he said, "And yet, I have never condemned another man's right to take up arms in pursuit of his freedom." In the context of the so-called "liberation struggles" in Africa, "taking up arms" means murdering women and children in terrorist atrocities.

Ambassador Young said on the CBS Network program, "Who's Who," on January 25, 1977, that he believes:

Most colored peoples of the world are not afraid of communism. Maybe that's wrong. But communism has never been a threat to me. I have no love for communism. I could never be a communist. I could never support that system of government. But it's never been a threat. Racism has always been a threat. And that has been the enemy of all of my life and everything I know about life.

Mr. Young's personal emotional fixation on racial animosity of whites against blacks has so warped his judgment that he cannot see that Communist totalitarianism is a brutally oppressive of the black people of Mozambique and Angola as it is of the yellow people of Cambodia, Laos, Vietnam, and China, as it is of the white people of Estonia, Czechoslovakia or Romania or the multi-racial people of Cuba. And indeed, apparently basing his decisions not on the basis of objective moral judgments, but merely on the color of the opposing parties, Mr. Young has repeatedly expressed support for the Communist terrorist "national liberation" organizations seeking control of Rhodesia and southern Africa.

Ambassador Young's attitude toward the Communists goes further than merely not considering them a threat. His widely reported public statement in support of Cuban aggression in Angola as surrogates for the Soviet Union is a case in point. The New York Times of May 15, 1977, reported that Ambassador Young had received an informal invitation to visit Cuba. According to the Times,

Mr. Young said the informal invitation had been tendered probably because of a recent statement he made that he regarded the Cuban forces in Angola as being a "stabilizing" force there.

Following this, Young told the Associated Press in London, as reported in the Washington Star of May 26, 1977, that Cuba's new intervention in Ethiopia was a good thing because, he said,

I guess I think maybe the Cubans might be a little more rational than the Ethiopians at this point.

He hoped the Cuban troops would end the bloodshed in Ethiopia: perhaps he is unaware that wherever the Cuban Communists have gone they have caused more killing and the suffering of more innocent people.

While the world watches in horror, the Vietnamese Communists are systematically murdering their conquered political opponents and holding tens of thousands of others in slave labor camps, Ambassador Young boasts of the help he gave the Communists in their drive to conquer South Vietnam. On September 20, 1977, he spoke at the United Nations to welcome the Communist delegation from Vietnam. He pointed to his role in the anti-Vietnam movement and of helping "to cut off funds" to the people of Vietnam that would have enabled them to defend themselves against Communist aggression.

During my testimony against Andrew Young's confirmation as this country's United Nations Ambassador, I introduced a film of Mr. Young's appearance on ABC television on April 13, 1970. At that time he stated:

That it may take the destruction of western civilization to allow the rest of the world to really emerge as a free and brotherly society and if the white west is incapable of brotherhood with colored peoples and so this small body of colored peoples, black people within the white west, may be the revolutionary vanguard that God has ordained to destroy the whole thing.

Ambassador Andrew Young took an oath to uphold and defend the Constitution of the United States. He has violated that oath by his activities promoting the destruction of western civilization. He should be impeached.

FORGET THE ALAMO?

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 1, 1977

Mr. ARCHER. Mr. Speaker, the President's recent pronouncement that Texas was bought from Mexico just as Alaska was purchased from Russia has, needless to say, generated a great deal of comment in the Lone Star State. Columnist Lynn Ashby of the Houston Post responded to the President's comments with the following commentary entitled, "Carter Tells the Plains Truth About Texas." I commend it to my colleagues attention:

CARTER TELLS THE PLAINS TRUTH ABOUT TEXAS

Texans and Mexicans alike are rather surprised to learn that Texas was bought from Mexico, just as Alaska was purchased from Russia.

This historical discovery, which will require the rewriting of virtually every American history textbook, was revealed by President Carter over the weekend during a speech in Denver. In defending his proposed Panama Canal treaty, the President announced:

"We have never bought it, it has not been ours. We are not giving it away. There is no semblance between the status of, say, the Panama Canal Zone and Texas or Alaska, that were bought and paid for and over which we have always had sovereignty."

Well, well. This is, indeed, a shock. To think that all this time we have been lied to. But monumental historical revelations by presidents are not new. Remember President Gerald Ford's discovery that eastern Europe is not under the domination of the Soviet Union. No doubt 100 million eastern Europeans—hearing this starting announcement on hidden shortwave receivers—would have danced in the streets if the Russians would have let them.

President Carter's news was not accepted by certain nonrevisionists. Dr. L. Tuffly Ellis of the Texas State Historical Association has retorted: "The United States certainly did not pay for Texas. Texas won its independence and became a republic in 1836," he declares, obviously continuing the myth and incapable of admitting his past mistakes. "It was recognized by Great Britain, the United States and other countries, even though Mexico never recognized it. Then it was annexed and joined the Union in 1845."

Sen. John Tower, another perpetrator of the preposterous, fired off a hot letter to the White House: "The independence of the Republic of Texas was purchased with the red blood of patriots . . . and not U.S. dollars.

The White House, clearly in possession of heretofore secret historical sources, is sticking to its guns. Claudia Townsend, a White House spokesman, stated flatly: "We paid Mexico for it."

Now, this creates a bit of a sticky wicket if Carter is right. Because if the U.S. paid a lot of money to Mexico for Texas, the Mexican people never heard of it. This could lead one to assume that Santa Anna pocketed the funds, which is ridiculous in the extreme. But it could create political unsettlement south of the Rio and may cause some of its citizens to seek shelter on this side of the river. Such immigration might be detrimental to Texas.

Ms. Townsend of the White House, revealing even more background, points out that in 1848, after the Mexican War, the U.S. paid Mexico $21 million as part of the peace settlement. In return, Mexico formally relinquished all the land it had lost in the war, including California and Texas. And this clearly shows that the U.S. bought Texas from Mexico. This, in turn, means that there never was a Republic of Texas, for the U.S. would hardly have paid for something it could have obtained free and clear through simple annexation. Washington isn't full of dummies, you know.

There is another point. Texas, at the time, had more land than money. So the U.S., always eager to help out a new state, generously bought the western third of Texas in 1850 for $12.7 million. Today that area is known as the eastern two-thirds of New Mexico, the eastern half of Colorado, plus parts of Wyoming, Oklahoma, and Kansas.

Texas must now be forced to call the whole deal off, in light of this new information from Carter. It must take back the land and give back that $12.7 million. This, of course, would mean that Sen. Tower would then have to represent a state which stretched from Brownsville past Albuquerque and up to Cheyenne, Texas. I don't think the senator would like that, and I'm sure Carter wouldn't.

Well, it is quite a blow to Texans. To think that we were "bought and paid for," as the president put it, like so many Alaskans and Californians. It is humiliating, but one cannot argue with White House historical discoveries.

One might only hope that the White House historians will come upon a dusty treaty showing that we bought the Panama Canal, too. And maybe Acapulco, the Left Bank of Paris and Red Square. Considering these recent historical revelations, nothing is impossible.

As for Texas, we simply must come to grips with the transparently clear fact that history has lied to us. This will require a few adjustments, such as the names of various parks, streets, counties and cities. And some statues will need to be replaced. Not to mention a formal apology to Prince Charles for wasting all his time in San Antonio touring a meaningless Spanish mission. His ire might be mollified if we explain that President Carter has it on good authority that Britain never sold the U.S.

In any event, we Texans are left with no

choice but to set the record straight. Out goes the San Jacinto Battlefield, that figment of our ancestors' imagination. Out goes the Alamo, another monument to mythology. President Carter made one thing perfectly clear, the U.S. has always had sovereignty over us.

He is right. There was no Republic of Texas. No Travis. No Bowie. No Crockett, Sam Houston probably concocted the whole bizarre story after a three day binge. Or maybe he returned to Tennessee for a visit and someone said, "Hey Sam whatcha been doing?" So Sam, thinking on his feet, fabricated the first Tall Tale of Texas.

Our task is clear. The Plains truth is that we must forget the Alamo.

MINIMIZING THE MINIMUM WAGE

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 1, 1977

Mr. RUSSO. Mr. Speaker, I want to share with my colleagues an article published recently in the First Chicago World Report, a publication of the First National Bank of Chicago, discussing the economic issues connected with minimum wage legislation. The article brings into focus the true scale of minimum wage employment in this country by emphasizing that increases in the minimum wage have little direct impact on overall inflation. In fact, when the minmium wage falls to levels below the poverty line, we run the risk of increasing the number of Americans who are forced to seek public assistance, thus placing added pressures on public funds.

It is our country's policy to protect America's working poor by providing a minimum wage which insures just treatment by employers and a livable wage for a person's hard work.

I commend this article to my colleagues attention:

MINIMIZING THE MINIMUM WAGE

Every few years, the U.S. goes through the ritual of adjusting minimum wage laws. And just as regularly, the business and labor communities engage in exaggerated discussions about either the dire consequences or marvelous benefits that can be expected as a result. In fact, increases in the minimum wage have typically been quite modest, compared with increases in other wages or prices, and the effects have been fairly innocuous.

To judge by the hyperbole surrounding minimum wage legislation, one might suppose that the fate of the Republic would be decided by a change of a few cents in one direction or another. A prominent business economist claims that an increased minimum wage would add two million to the ranks of the unemployed and 3% to consumer prices. A labor leader suggests that failure to increase the minimum wage would swell the welfare rolls. Someone else tells us that a higher minimum wage would boost consumer purchasing power, and thus increase employment.

Consider the simple idea that higher minimum wage rates must mean higher wage rates in general, and therefore more inflation. Evidence does not support this contention that overall wage rates rise any faster than they otherwise would in years that the minimum wage is increased. Nor is there logic to show why employers would (or how they could) raise everyone's pay just because the minimum wage was increased. Moreover, the complaint that an increase in the minimum wage will increase total wages paid ("labor costs") is somewhat inconsistent with the simultaneous claim that many fewer workers will actually get those higher wage rates.

Finally, although prices might ultimately have to rise in a few industries in which low-wage workers are an important part of costs, such a relative price increase is not inflation. If people pay more for hamburgers, they will have a little less money left with which to buy other things—total demand and overall inflation remain unaffected.

Arguments about the employment effects of a minimum wage rate have likewise been exaggerated. The minimum wage could not cause much unemployment for the simple reason that very few workers are affected by the law and increases have been small and infrequent. On the other side, however, the argument that a higher minimum wage increases consumer purchasing power depends on the questionable assumptions that an increase in wages per hour is not offset by a reduction in hours of work offered, and that the income gain of those who receive the higher wages is not offset by the income loss of the consumers who ultimately pay the higher wage.

At the present time, a little over three million workers (out of more than 90 million) are directly affected by the minimum wage. Nearly half of all employees were not even covered by the federal minimum wage law before 1961—40% until 1966, and 20% since—so that the effect of the law on total employment was even smaller in the past than it is today.

The portion of the work force that might possibly experience adverse employment effects from a higher minimum wage is tiny in comparison with cyclical causes of variations in employment.

A legislated increase in the wage floor would ultimately have to be recovered in higher prices in the few affected low-wage industries. Hamburgers in fast food franchises, for example, would be a bit more costly. If that resulted in fewer hamburgers being sold, then job opportunities in that business would grow less rapidly.

The size of such employment effects, however, remains unclear. If minimum wages are little higher than what would naturally result from employers bidding for labor, then there would be little employment effect. If there was little effect in one year, then a subsequent increase in the minimum wage that just kept pace with the rise in the affected prices would still have no appreciable effect.

Estimated effects of the minimum wage on teenage unemployment have not adequately accounted for the enormous growth in the number of teenagers that the civilian job market has had to absorb. The population aged 16–19 soared from 9.2 million to 17 million in the past two decades, and the shrinkage of the armed forces since the Vietnam era has reduced a major source of teenage employment. Still, the leading studies only attribute 13% to 17% of teenage unemployment to the largest past increases in the minimum wage.

To keep things in perspective, it is important to recognize the high turnover of teenage employment. In June, for example, 69% of the teenage unemployed had been out of work less than five weeks.

There has nonetheless been substantial support for a lower minimum wage rate for teenagers. Under such a system, an employer would naturally choose a 19-year-old over someone who is 20 and equally unskilled. Bending the law to aid teenagers at the expense of adults might create more problems than it would solve.

On the other hand, the fact that the minimum wage mainly affects teenagers undercuts the argument that it is an effective tool against poverty, since teenage workers are rarely family heads and are not necessarily from poor families.

Many of the discussions of an increase in the minimum wage lose sight of a simple fact: those currently working at the minimum wage rate would get a raise in pay. Since such people far outnumber the most extreme estimates of the number who might find it harder to find work at the higher wage, they deserve some consideration in a balanced assessment of the net effect.

SOVIET JUSTICE

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 1, 1977

Mr. SCHEUER. Mr. Speaker, at the conclusion of my remarks I have appended an article from New York Magazine entitled "Defending Yuri Orlov." The article tells the story of a British attorney's efforts to defend a Russian professor, Yuri Orlov, against charges that, as of now, have not been made.

Professor Orlov has been a longstanding critic of the Communist Party's politics in the Soviet Union. After being fired from his university job he set up a commission to monitor adherence by the Soviets to the Helsinki accords. It was this latest action which led directly to his arrest.

The article documents a peculiar kind of justice. The British barrister, John McDonald, has not yet been able to see his client. He has not yet been able to talk to his client on the telephone. And he has no real familiarity with Russian law or with the charges against Professor Orlov. The dogged persistence of this British attorney must be complimented.

One might be tempted to ask why Professor Orlov's wife retained a foreign attorney. A Soviet attorney in exile answered this question as follows: Orlov should tell the court that he did not wish to make things difficult for a Russian lawyer. Therefore, he retained foreign counsel who would not be afraid to put in a plea of not guilty.

Mr. Speaker, the quality of Soviet justice has long since ceased to amaze me. I commend this article to my colleagues:

DEFENDING YURI ORLOV

A friend in London writes:

John Macdonald is a well-organized forty-five-year-old British barrister and Queen's Counsel who acquired a client in Moscow last March and has wanted very much to visit him. When Macdonald applied to the Soviet Embassy in London in April for a visa, the staff kept his passport for ten days, then turned down his request. He is now about to ask again for a visa. Although Macdonald has experience in working for faraway clients, he has never defended a man before a court that he, the lawyer, was not permitted to set foot in. Macdonald thinks of himself as an ordinary commercial lawyer, but he has an interest in the rights of indi-

viduals against governments (he is chairman of the British Association of Liberal Lawyers), and he recently served as counsel to the Banaban Islanders in the Pacific, helping them win the offer of a settlement of six million pounds for losses that resulted from the exploitation of their island by phosphate-mining companies. His Russian client is Professor Yuri Orlov, a fifty-three-year-old physicist who has been in trouble on and off with the Soviet authorities for criticizing Communist Party policies. In January, 1974, after founding a Soviet unit of Amnesty International, and after writing a letter to Brezhnev defending the dissident Andrei Sakharov, Professor Orlov lost his job at the Institute of Theoretical and Experimental Physics in Moscow; for the next couple of years he earned a living coaching students for university-entrance exams. In May, 1976, Professor Orlov helped set up a citizens' group of eleven to promote and monitor Soviet observance of those sections of the Helsinki Accords dealing with human rights. On February 10th of this year, Professor Orlov was arrested. Seven or eight other members of Orlov's group and other such groups have also been arrested. However, Ludmilla Alexeyeva, in whose apartment Orlov was arrested, was allowed to leave the Soviet Union and is now in New York. On March 28th, when she was in London, she asked Macdonald to defend Yuri Orlov.

Macdonald at first had doubts. Would it make matters worse for Professor Orlov to have a foreign lawyer? Would it be possible for the lawyer to communicate with his client? But by April 11th, when he spoke on the telephone with Irina Valitova, Orlov's wife, and she implored him to defend her husband, he had already decided to do so. He has since talked with her several times. She speaks a little French, and calls from a public-telephone box in Moscow. Her own phone was cut off a year ago. Calling Moscow is difficult, Macdonald says. Sometimes the phone rings and is answered, and then, when you announce your name to the person who answered, it goes dead. Often, when a call is put in from Russia to a Western number that the authorities are concerned about, no connection is made. Mrs. Orlov has not been allowed to see her husband since his arrest, or talk with him by phone, or even leave a letter for him at Lefortovo Prison, in Moscow, where he is confined. However, in the last week of June she was questioned at the Lubyanka headquarters of the K.G.B. security police and was told that her husband had been charged with spreading "deliberately false fabrications defaming the Soviet state and social order."

In his panelled chambers in a quiet quadrangle of Lincoln's Inn, in London, Macdonald has been familiarizing himself with aspects of the Soviet legal system. Books on Soviet law sit on his desk. He has talked with Soviet lawyers who have left Russia and with Russians in exile, like Vladimir Bukovsky, who have experienced Soviet practice through arrest, prison, trial, and confinement in mental hospitals. Under Soviet law, a person may be kept in prison for nine months while he is under investigation. During this period, he often has to share a prison cell with a man who is an informer. At the end of the period, having had little chance to prepare a defense, he is taken before a court with no jury but with a judge and two civilians (called "people's assessors") who all vote on the verdict and with a lawyer "representing" the Soviet people. The prisoner is supposed to have a chance to meet a relative before trial. He may be defended by anybody of whom the court approves. Macdonald says, "There is nothing in the Soviet code to say you can have a foreign lawyer, and nothing to say you can't. However, I soon realized that even if I should be allowed to go to Moscow I would be a thundering liability to Orlov in a Moscow court. I speak three or four words of Russian. I would get shouted at by the judge. I have had to work out a different sort of defense."

Macdonald believes that Orlov will probably be charged under Article 190–1 of the Soviet Code, which deals with "the systematic circulation . . . of fabrications known to be false which defame the Soviet state and social system," and that he may be punished by a sentence of up to three years. The Soviet authorities no doubt assume that imposing such a penalty on Orlov would discourage dissent. Orlov and Andrei Amalrik, a Soviet writer now in the United States, had realized that the Helsinki Accords—though not the most forthright of international agreements—could be turned to good use in Russia. The Soviet government, with arbitrary thoroughness, had publicized the Accords, and, having said that it would respect such human rights as freedom to travel and communicate, had laid itself open to the charge of failing to do so. Orlov is said by his friends to have great organizing ability. He is an approachable man, who listens well. People from all walks of life, and from all over the Soviet Union, have been in contact with him. Under his leadership, the Moscow Helsinki group made possible a form of dissent not confined to intellectuals—a form seen in other Eastern-bloc countries but never before in the Soviet Union. The Soviet government is thus exceptionally worried about Orlov's effect.

Macdonald's campaign for the defense has been conducted on two fronts. He says, "First, I've gathered evidence to show the truth of what the Helsinki group has been alleging—in other words, to show that the reports they've published are true and therefore are not defamations or slanders. I want Mrs. Orlov to have this evidence, so that she can give it to her husband. I also, of course, would like to see Professor Orlov and advise him, so that he may defend himself in court. His friends feel that he could do a good job if he had the material." Macdonald's second front is necessary because he believes that the Russians will probably not let him in. "I doubt if they will name a date for the trial," he says. "I think they will spring it on Professor Orlov quietly, and before the Belgrade conference on the Helsinki Accords resumes this fall. I imagine the trial will be in Moscow, and, although a few of Orlov's friends may be able to get into the courtroom, the intiative will remain entirely with the Soviet authorities. I therefore decided to start presenting my client's defense here in London and, by publicizing it as widely as I could, insure that his case was heard."

On June 13th, two days before the first, agenda-arranging session of the Belgrade conference opened, Macdonald made a detailed presentation of Orlov's defense at the Institute of Physics in Belgrave Square; members of the institute had offered him the space as a way of showing their support for their Russian colleague. At the Institute of Physics, before an invited jury of diplomats, lawyers, and journalists, Mr. Macdonald questioned a number of Russians, who had come from new homes in such places as France, California, Israel, and Germany. They testified to psychiatric abuse, mistreatment in hospitals, prisons, and camps, interference with telephone calls and letters, the persecution and harassment of religious communities, the separation of families, and the difficulty or impossibility of leaving the country. The witnesses included Vladimir Bukovsky, Andrei Amalrik, the mathematician Leonid Plyushch, and the poet Natalya Gorbanevskaya, who all declared their willingness to be summoned to give evidence in the Soviet court or at a Soviet consulate in the country they were living. Ludmilla Alexeyeva, who had served with Orlov in the Moscow group for almost a year, came from New York to testify about how she had gathered evidence for several reports she had worked on (the group published nineteen full-scale reports): for one she had travelled in Lithuania to investigate in person the troubles of a number of Roman Catholic children who had been expelled from their school for visiting a priest. A young woman named Lydia Voronina described a three-week trip she had made to Asiatic Russia, under the close surveillance of the K.G.B., to examine the hardships of two Christian Pentecostal communities. The hearing at the institute in Belgrave Square brought about the largest gathering of Russian dissidents to take place in the West in recent times. According to many observers, it was a moving occasion. Four television crews were there, but the ensuing press coverage was spotty. Next day, the tabloid *Daily Mail* gave the hearing its entire front page, but the *Guardian* didn't mention it at all. Macdonald says, "There is a strong feeling in the British press that nothing can be done about Russia—let them get on with it. Besides, many editors believe that none of their readers understand Russian names." But he adds, "If a fair-minded person reads the Orlov groups' original reports and couples them with the evidence given at the institute hearing, he can't avoid the conclusion that the reports were well researched and written in a sincere belief in their truth."

Macdonald is now conducting a postal battle with the Soviet authorities. He has sent off dossiers of the hearing evidence to the Russian Embassy in London and to the office of the Chief Procurator, in Moscow. He has used registered mail, with prepaid requests for advice of delivery, and recently received word from the Russian Embassy that his mail has been received by the Procurator's office. He has sent similar bundles of evidence to Mrs. Orlov in the same manner, and has written to the Russian Ambassador in London telling him that he has done so and that he will be interested to see if Mrs. Orlov receives them. He has not heard that she has, and he has had no reply from the Ambassador about this. He intends to pursue the matter to find out why the Russians are not fulfilling their obligations under international postal agreements. Macdonald has also written the Chief Procurator, R. A. Rudenko, a one-lawyer-to-another letter, in which he passes on the greetings of the British Lord Chancellor, Lord Elwyn-Jones, with whom Rudenko served on the Allied bench at the war-crime trials in Nuremberg. Macdonald asks Rudenko to look into the Orlov matter, and reminds him that holding persons incommunicado without publishing charges against them is the sort of conduct that Rudenko and Elwyn-Jones would have condemned at Nuremberg. He has not heard from Rudenko, or from the Moscow College of Advocates, to which he addressed a letter asking for information about Orlov's case.

Macdonald says, "It's a tragedy that in a political trial in Moscow today there are no lawyers who are prepared to ask for an acquittal. One distinguished Russian woman lawyer, Sophie Kallistratova, who defended several dissidents, including General Grigorienko, is reported to have joined the Helsinki group and to have lost her right to appear in political trials. As for the judges, they appear to do their best in ordinary civil or criminal trials, but in political cases they seem to resign themselves to the dictate that the state comes before all else. Even so, I should think that the need to explain away the failure to make an independent, just decision must have been uncomfortable for them from time to time. One Russian lawyer, now in exile, has said to me that Professor Orlov, when he is asked why he has

accepted a foreign legal adviser, should tell the court that he didn't want to make life difficult for a Soviet lawyer—that he thought it better to get an outsider, who would not be embarrassed by declaring in court that his client was innocent and that the state, therefore, was in the wrong."

TRIBUTE TO DR. ROSALYN S. YALOW, RECIPIENT OF THE 1977 NOBEL PRIZE IN PHYSIOLOGY AND MEDICINE

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 1, 1977

Mr. BIAGGI. Mr. Speaker, let us and our colleagues here today reflect but for one moment on an event of almost 3 weeks ago, one-quarter of the globe distance away. The place was Stockholm, Sweden. The date was October 13, 1977. There was an announcement for the world, and we can imagine that it was made in this way. The 1977 Nobel Prize in Physiology and Medicine is awarded to an American, Dr. Rosalyn S. Yalow of the Bronz, N.Y., a physicist and Veterans' Administration career research scientist at the Kingsbridge VA Hospital.

That occasion has extraordinary meaning for so very many people. It was a day for mankind, her country, the Bronx, the U.S. Veterans' Administration, the Kingsbridge Hospital, her many devoted colleagues, and especially her family. There was only the regret, that the honor of that day could not be shared with her former associate, the late Dr. Solomon A. Berson, who was mentioned in the Nobel citation.

Mankind reaped the benefit of her work. She helped to maintain the recent American dominance of the Nobel medical tribute. A Bronxite was now a citizen of the world. She was a part of the greatest recognition ever accorded to the VA medical research program, highlighting the expertise and professionalism of the VA medical system. It was the culmination of 30 years of scientific research at the Kingsbridge facility. She excels as a giant among her peers. She is yet only the second woman to receive the medical prize, and the third to win a Nobel award this year. In the words of her proud son, Benjamin:

> You can't say somebody deserves something like this, but she deserves it.

Her loving mother, Carla Sussman of Far Rockaway, added that she "has been a very good daughter who has never neglected anyone."

Yes, Dr. Yalow had given humanity a very special gift, her work, principally, the discovery and development of a method of analysis called radioimmunoassay (RIA). The technique has revolutionized the chemical understanding of human physiology. The Nobel citation called her research "pioneering work of the highest level," opening "new vistas" leading to "formidable" developments in understanding disease.

Thomas Edison described his career as "99 percent perspiration and 1 percent inspiration." On the afternoon of October 14, at the Kingsbridge Hospital, his definition was altered slightly. Dr. Yalow, after admitting that she "shook for an hour" upon learning the news, acknowledged the admiration of the world by offering her own hypothesis. "Well, I can tell you it is 99.5 percent perspiration." No one in that room, or those who knew or were to read or hear of the account of her work, would doubt the extent of her dedication and personal commitment to her work.

Rosalyn Yalow has lived in the Bronx for all of her 56 years. Her academic career began at Public School 51. She was to graduate from Walton High School and Hunter College, and to win her Ph. D. in physics at the University of Illinois in 1945. It was at Illinois that she met her husband, Dr. Aaron Yalow, who is professor of physics at New York's Cooper Union College of Engineering. The Yalows have raised two children, Benjamin, 25, a systems analyst at the City University of New York, and Elanna, 23, a third-year graduate student at Stanford University.

Dr. Yalow's career is as outstanding as it is diversified, and it is difficult to be brief here for such an illustrious subject. Her offices include: Teacher of physics at the University of Illinois and Hunter College; consultant to hospitals, the Bronx VA facility, and Lenox Hill; diplomat to the American Board of Radiology in 1951, and services as a physiscist for two decades at the VA Bronx institution. Dr. Yalow has been senior medical investigator for the Veterans' Administration since 1972; director of the Solomon A. Berson Research Laboratory since 1973, and chief of the nuclear medicine service since 1970, both positions at the Bronx Veterans' Administration Hospital, as well as distinguished service professor of the Mount Sinai School of Medicine in New York.

Dr. Rosalyn Yalow has made many contributions in notable leadership capacities to the most highly respected scientific and professional institutional and organizational councils and committees throughout this Nation for two decades. She offered her expert assistance to our Government on the subject of career education. She performed editorial services for publications of the highest technical caliber. She served as a member of the National Academy of Sciences, to name but one of her honorary professional memberships. In addition, Dr. Yalow has held distinguished lectures for educational, scientific, and professional audiences throughout our country, and in Canada, for many years.

It is awesome to think that the Nobel Prize has been called a crowning cap to Dr. Yalow's long list of accomplishment awards. She has received the tributes of chemists' societies and diabetes assoications many times over. The most recent honors, showing the magnitude and scope of the accolades thrust upon her throughout her career include: A number of honorary doctor of science degrees; the Federal Woman's Award (1961); the Gairdner Foundation International Award (1971); the Veterans' Administration Exceptional Service Award (1975); the Sustaining Membership Award of the Association of Military Surgeons (1975); very notably, the Albert Lasker Basic Medical Research Award (1976), and the "La Madonnina" International Prize of Milan this year.

We have had an opportunity to admire the nature of the person, and learn of her extensive background. Now let us take a look as lay people at the essence and importance of her work, toward our own understanding and appreciation.

Radioimmunoassay is considered to be one of the most important advances in 20 years in basic research, which has been directly applied to clinical medicine. It is in use in over 4,000 laboratories in this country alone, and also in thousands abroad, for identifying, and measuring the concentration of, hundreds of substances. The substances are both pharmacologic, such as drugs, and biologic, including among others, hormones, viruses, vitamins, and enzymes contained in blood, tissue extracts, and other biologic fluids of the human body, as well as in animal, vegetable, and plant life.

Radioimmunoassay is an application of nuclear physics in medicine. It uses immunology and radioactive isotopes to measure the body substance concentration. It is performed by using antibodies, molecules that are produced by the body's immunological system. A specific antibody will combine only with a specific molecule, such as a hormone. In radioimmunoassay, antibodies, for the hormone to be measured, are injected into the body. The first injection is followed by an injection of a radioactive form of the hormone. The concentration of the hormone can be determined by measuring how much of the radioactive hormone binds to the antibody.

One might ask, How is this discovery by Dr. Yalow significant? Blood and tissues contain many chemical substances, including hormones, vitamins, enzymes, and others which are vital to the body's functioning, but whose concentration is too low, or whose chemical properties are too similar to those of other body substances, to be measurable without radioimmunoassay. Therefore, the role of these substances in health and disease could not previously be clearly understood.

Now by measuring the differences between what is normal in biologic materials in health, and what is abnormal in them in disease, radioimmunoassay can determine what changes have taken place between the normal and the disease states, and thus contribute to the clinical diagnosis of a disease.

One may offer another question. What is the meaning in the relationship between radioimmunoassay and hormones, the partnership most often referred to and described when discussing this technique?

Hormones are chemicals produced in

one part of the body, that usually travel through the bloodstream, to affect the action of another part of the body. Radioimmunoassay was first developed in 1959 for the measurement of the peptide hormone, insulin, in the blood of diabetics. It resulted in the unexpected demonstration that, unlike the juvenile-type diabetic, the adult-type diabetic has a higher than usual level of insulin in the blood. Until that time, it was believed that adult diabetics also had an insulin deficiency. Radioimmunoassay revealed that the elevated blood sugar in adult diabetics is due to some still unknown factor interfering with the action of insulin, and not to insulin deficiency.

What are some other applications of RIA in studies on the role of hormones? They include: The determination as to whether the small size of certain children is due to their having an inadequate amount of a hormone concerned with growth, and whether their growth rate could be increased by treatment with growth hormone; the determination as to whether excessive steroid production by the adrenal gland is due to a tumor of the gland, or to a message from an overactive pituitary; whether or not sterility is due to a failure to properly produce or secrete sex hormones, and whether or not a high level of calcium in the blood, which often leads to kidney stones, is due to excessive secretion of the calcium-regulating parathyroid hormone.

What are still further uses of RIA? RIA methodology has extended beyond the study of the regulation of hormone secretion into virtually all medical specialties. It has become the method of choice for screening of the blood in blood banks for possible contamination by the major virus responsible for producing hepatitis in transfused patients. It has been used to measure the degree of protection which antirabies injection affords the victim of a bite. It has been employed to determine if drugs or antibiotics, which were prescribed for treatment, are present in the circulatory system at levels adequate for therapeutic effectiveness. It has been used to determine whether drug abuse of heroin, methadone, LSD, or other such drugs has taken place, and to detect whether lethal drugs, such as curare, have been surreptitiously administered.

To briefly conclude, the advent of the technique of radioimmunoassay gives physicians and investigators in all areas of biologic science a tool which has brought about an explosion of new information leading to fresh insight and understanding in almost every aspect of medicine and physiology.

Apart from my family, I get the biggest kick out of discovering something. The ultimate satisfaction is what you do with your hands. And I'm still full of ideas for things to do.

It was Dr. Yalow's way of explaining that even now, there will be no changes in her exceptional life.

I know that you, Mr. Speaker, and all of my colleagues here today, join me in extending to Dr. Yalow our very best wishes for her happiness and continued success in all that she undertakes. We are so grateful for all that she has accomplished, and place our trust in the fact that her work still goes on.

BOLDT DECISION/PRESIDENTIAL TASK FORCE

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 1, 1977

Mr. BONKER. Mr. Speaker, all of us in Congress are capable of speaking out against the Boldt decision—which I do not support—by calling for abrogation of treaties with the Indians. I know the decision is unfair and discriminatory. Boldt's interpretation of the treaty language has had a serious impact on the salmon and steelhead resources of our State, and has disrupted one of its major industries.

Speeches and accusations will not solve this complex problem. Legislation which attempts to give the President authority beyond that provided by the Constitution will not stand a chance of enactment by the Congress. Responsible action and a reasoned approach to negotiated settlement of differences can be effective. This is the course that the majority of the Washington congressional delegation has chosen and is supporting.

The problems caused by the Boldt decision cannot be solved with the suddenness with which the decision was handed down. However, I feel carefully considered agreements will be more lasting and acceptable by everyone than abrupt action that is cosmetic and could be overturned easily in court.

This belief persuaded the delegation that all branches of the Federal Government should be involved in studying the extent of the effect of the Boldt ruling on the fishing industry of the Pacific Northwest and its implications on our ability to sustain the steelhead and salmon resources for future generations. The delegation carried its request for full Federal Government involvement to President Carter who agreed immediately to appoint a task force to undertake the awesome job of restoring order to fishing activities in our State.

Thunderbolt announcements of achievements are not going to be forthcoming from the task force. None of its members is seeking publicity or is interested in trying the case in the media. It is using a low-key approach to understand the problems, to discover solutions, and to persuade everyone to cooperate in working out agreements that satisfy everyone.

We could, I suppose, just throw Federal dollars into the State, but that would not help much if every aspect of what we are attempting to accomplish is not carefully evaluated. If we invested several millions of dollars in fish production and ballyhooed the massive numbers of fish that were released we would be applauded. But if a comprehensive plan is not developed first to consider the capacity of the system into which the fish are released, the effect on fish already in the system, their health and probability of survival, and the timing of their return so they can be harvested practically, our efforts would be, and should be, ridiculed by those knowledgeable about fish biology.

The task force is working with fish experts throughout western Washington to develop such a plan. It is operating in an atmosphere of suspicion and controversy because fishing seasons are underway even while negotiations and factfinding efforts continue. And, because the task force is called upon to make interim recommendations, it is regarded inevitably as biased toward one party to the controversy or another.

The promise of the task force is that it can call upon the full resources of the Federal Government to meet whatever obligations it incurs as it signs agreements and proposes Federal aid. Fortunately, we have the technological ability and the environment of our State is such that harvest levels can be increased adequately to meet the additional needs. And, the Boldt decision has forced everyone to recognize and focus in on the many other problems facing our fish resources that are not related to the Indian treaties.

I do not know what recommendations the task force will make to the President and to the Congress. I have no illusions that everything it proposes will be acceptable to everyone involved. I do know that everyone will have to give a little. No one can hope to get everything he feels he has a right to expect. I hope every interested person will cooperate to the greatest extent possible to give the task force and Congress the best chance to arrive at solutions.

As I said, they cannot be indiscriminate, stopgap measures. And I am sure, given the expertise of those on the task force and those in the State with whom the task force is working, that the options that are recommended will represent the most workable approach to finding answers to this most complex issue.

HELMS PLEA BARGAIN

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 1, 1977

Mr. WEISS. Mr. Speaker, the plea-bargaining deal concluded yesterday between former CIA Director Richard Helms and the Justice Department is reminiscent of the darkest days of Watergate.

Once again, the Nation is witnessing a Government-sanctioned effort to afford special treatment to a powerful individual who, by his own admission, is guilty of serious criminal offenses.

And once more this sorry spectacle is being defended by the Nation's top law enforcement officials in the name of "national security."

To his credit, Judge Barrington Palmer stated his refusal to be bound by the Helms-Bell agreement which, in Helms' own words, stipulates "there is to be no jail sentence and I will be able to continue to get my pension from the U.S. Government."

By pleading "no contest" to the charges against him, Helms acknowledged that he did, indeed, direct a destabilization program intended to prevent the democratic election in Chile in 1970 of Salvador Allende. Such an outrageous attempt by U.S. officials to subvert a nation's political processes and wound its economy must not be implicitly sanctioned by slapping the wrist of its chief architect.

A plea of "no contest" on misdemeanor charges is also not an acceptable resolution to acts of perjury before a congressional committee. If Helms is permitted to avoid a full trial by jury, the Justice Department will have encouraged other Government witnesses to circumvent the truth when their actions are challenged by Congress.

The full story of U.S.-CIA involvement in the 1973 coup resulting in the overthrow of the democratically elected Allende government will also remain shrouded in speculation if Helms is not brought to trial.

And failure to try Helms can only lead the American people to again conclude that a double standard of justice prevails in our country: Lenient and favored treatment for the well-connected and strict accountability to our laws for everyone else.

In rationalizing its disgraceful deal with Helms, the Justice Department cited possible disclosure of national secrets as a prime motive for its refusal to press the case. This well-worn excuse will no longer withstand serious scrutiny.

Is "national security" to be invoked every time a current or former Government official faces criminal accusations or punishment for offenses?

Are there not overriding national interests to be served by conducting a thorough, open review of the events leading to Helms' indictment?

The Justice Department can ill afford to foster the public impression that it is sinking into another Watergate morass.

THE ADMINISTRATION'S "SALT" POSTURE IS "INVITING A CRISIS"

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 1, 1977

Mr. KEMP. Mr. Speaker, the Wall Street Journal has consistently provided the most thoughtful and best informed editorial commentary on the Strategic Arms Limitation Talks of any national publication. It was, therefore, no surprise when they editorialized on the character of the recent Carter-Gromyko accords which are to lead to a second round set of SALT accords, presumably later in the year.

The editorial correctly, in my view, notes the most chilling consequences of the unwise arms limitation policy being pursued by the Carter administration; namely, that the "lack of resolution Mr. Carter displayed to the Soviets between March and September invites them to try pushing him around throughout the world." The account provided by the Journal of the collapse of the President's negotiating position on virtually every point of significance in the SALT negotiations underscores the danger the Nation faces at the hands of America's arms control negotiators. As one who supported the administration's SALT posture in March, I am appalled at the unilateral retreat by our SALT negotiators.

I insert the text of the Wall Street Journal editorial in the RECORD at the conclusion of my remarks:

INVITING A CRISIS

Even as President Carter tries to reassure the nation he has no new initiatives up his sleeve, he is stumbling into a battle likely to dwarf energy, Panama and the rest of his current troubles. Indeed, the emerging strategic arms agreement is likely to provoke the sharpest treaty battle since the epic bitterness over the League of Nations.

While the Soviets are trying to squeeze out a few more drops of blood in the current talks at Geneva, the concessions they won in the Carter-Gromyko bargaining a month ago already insure major opposition in the Senate. The concessions go far beyond anything the Russians would have dreamed of winning from former Secretary of State Kissinger. The draft provisions are open to a whole series of objections, any one of them serious enough to call for a treaty's defeat.

Crucial limitations would be utterly impossible to verify, for instance, allowing the Soviets to cheat with impunity. The terms already agreed to would limit the American cruise missile so sharply the promising weapon might not even be worth developing. The treaty would undercut the administration's commendable efforts to revitalize the NATO alliance, instead insuring the further demoralization of our European allies. It would guarantee the Soviets an advantage in missile throw weight on the order of 10–1, posing a severe threat to the American Minuteman missile while precluding substitutes such as the proposed MX missile. Each of these points deserves extended discussion.

The most immediately worrisome aspect of the new agreement, though, is the message it conveys to the Soviets about Mr. Carter and his administration. Last March the administration offered what it regarded as sensible arms control measures. The Soviets rejected these proposals out of hand. The administration's response was to go limping back again and again with new and successively weaker proposals. On the most important issues on the table, the Soviets stonewalled for six months while the Americans caved.

Take, for example, the issue of heavy missiles. The Soviets have 308 heavy missiles, each about seven times the payload of a Minuteman. The U.S. has no such huge missiles, and under the treaty would be prohibited from building any. Since it's difficult to see the utility of such weapons for any purpose except a first strike against the other side's missiles, the Carter administration set out in March to get some limit on this threat in return for concessions on the cruise missile.

In March the U.S. asked for a limit of 150 Soviet heavy missiles, asking them to tear down half the force. By May, the U.S. was willing to allow them to keep the whole force, provided only 190 heavy missiles carried multiple warheads (MIRV). Since this is about the current number of heavy missiles with MIRV, the U.S. in essence asked for a freeze on heavy missiles. When the Soviets rejected the 190 number, the U.S. tried a heavy MIRV limit of 220. With that rejected, it tried 250. Finally, when Mr. Gromyko arrived in town, the U.S. dropped the whole idea.

Similarly, in March the U.S. insisted on specific treaty provisions on how the Soviets could use their Backfire bomber, which they insist is not an intercontinental weapon though it can fly from the Soviet Union over the U.S. to Cuba without refueling. By September the U.S. agreed to keep Backfire out of the treaty if the Soviets would make a separate promise not to increase its production rate, even though they refuse to say what the current production rate is.

To buy the limits on heavy missiles and Backfire sought last March, the U.S. offered a cruise-missile concession limiting the range of air, land and ground-based cruise missiles to 2,500 kilometers. Bombers carrying cruise missiles would not have been counted against the agreed number of MIRV missiles. In the September agreements, if the U.S. builds more than about 120 such bombers it must tear down Minuteman or submarine MIRV missiles. And land-based and sea-based cruise missiles would be limited to a practically useless range of 600 kilometers. In return for scrapping the concessions asked of the Soviets, the Americans are giving larger concessions of their own.

The March proposals were in themselves open to serious question, so the September agreements are drawing serious opposition as they are explained to the Senate. But putting aside the effect on the strategic posture in 1985, the collapse of the American negotiating position raises dangers in 1977. The lack of resolution Mr. Carter displayed to the Soviets between March and September invites them to try pushing him around throughout the world.

THE SPREAD OF ARSON

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 1, 1977

Mr. SCHEUER. Mr. Speaker, in 1976 the New York City Fire Department was called an to extinguish a total of 6,779 reported arson fires, a staggering average of more than 19 every day. A few years ago arson was confined to the South Bronx alone, but now, arson is common in such communities as Bushwick, the lower East Side of Manhattan, South Jamaica, Coney Island, and Flatbush.

At the same time that the arson rate has risen so rapidly, the New York City Fire Department is also faced with a bewildering increase in false alarms.

Ten years ago there were 37,414 false alarms in New York City. In 1976 there were 209,132 or 573 every day of the week or 24 every hour of the day or 2 in the time it is taking me to make this 5 minute speech. False alarms account for almost half of the activities of the New York City Fire Department.

In the wake of the city's fiscal crisis the size of the fire department has dropped from 10,585 in 1966 to just over 8,000 today. Thus, New York's firemen find themselves in the unenviable position of having to answer more than five times as many false alarms, a growing number of arson blazes, and the rising number of legitimate accidental fires with only 80 percent of the manpower the department had in 1966.

Mr. Speaker, New York magazine published a fine tribute to the city's fire department earlier this fall. It was entitled: "The Blaze in Bushwick. Will the Burning Ever Stop?" I commend it to my colleagues' attention:

THE BLAZE IN BUSHWICK: WILL THE BURNING EVER STOP?

(By Thomas Plate)

It is 4:07 Saturday morning in Bushwick and fire fighters of Battalion 28 Engine Company 271 have settled wearily into their racks. Firemen, when they sleep, make almost as much noise as monks at chant. It is a somnolent serenade from hard-core snores, semiconscious mumblers, and those blessed few caught up in the restless throes of a dreamy embrace from Raquel Welch.

But no one is sleeping here tonight. You can tell from the utter silence. The men lie in their racks with eyes wide open, waiting for the rude alarms that never seem to cease this sultry night. The quiet in the cavernous rack room, heavy with the full, dank odors of men still sweating from the last run, is eerie—and ominous.

As if on cue, the squawk box comes alive. Its coded commands have the sound of a whip being cracked on the cold concrete apparatus floor. Even before the Brooklyn borough dispatcher gets through all the numbers, the firemen of Engine Company 271 know it is for them. Running down the stairs—they hardly ever shoot down the fire pole anymore—they realize why the call-box numbers sound so familiar. They have already responded to the box twice today. "Christ Almighty," says Fireman Ed McAvoy, the pipe-smoking house philosopher, climbing aboard the huge Mack pumper, "don't those guys ever sleep?"

Acting Chief of Battalion 28 Charles Groth in his white chief's hat, the battalion chauffeur, and the reporter pile into the firehouse-red station wagon with the big "28" on the back. Suddenly both vehicles activate sirens and flasher lights and barrel out of the firehouse on Himrod Street in Brooklyn, with the truck of Ladder Company 124, next door, right on their tail.

"Where's the box?" asks the chief, picking up the radiotelephone to check in with the Brooklyn dispatcher.

"Irving and Palmetto," says Bill Murphy, the chauffeur and aide. He tells the chief, wearily, that 271 has already had two dumb runs there tonight alone—the first a false alarm, the second a trivial trash fire in a Dempsey Dumpster.

"Oh, Christ," says the chief. The 28 Battalion, which has four engines, two ladders, and the Bushwick section of Brooklyn and Ridgewood section of Queens, is not unfamiliar with false alarms. Of its 297 runs in a recent month, 113 were MFA's—malicious false alarms, in the Fire Department's terminology. You never know, but this sure looks like one of them.

The vehicles converge on Irving and Palmetto. The location of the box is only a block or so from the Myrtle Avenue stop on the Fourteenth Street subway line.

Suddenly, as if for no reason at all, the chief says: "Oh, s _ _ t!"

Now everyone sees it.

A huge twisting tower of fire and black smoke; and then, as they get closer, flames searing, radiating out from the building in trouble, illuminating the sky. For a moment, as they turn onto Irving, it looks like about a third of Brooklyn is on fire.

The chief, coolly now, as if ordering a pizza, tells the dispatcher: "Brooklyn, this is 28. We got a 10–75." That is to say a real fire.

But what the firemen of Battalion 28 really have, in the parlance of the trade, is an "Oh s _ _ ter."

The arsonist is becoming as common a figure in our city as the mugger—and even more a contemporary sign of the times. Last year, according to Deputy Chief Fire Marshal John Barracato, there were 6,779 reported arson fires in the city (out of 56,127 structural fires), leaving in their wake whole blocks and even entire neighborhoods wiped out, as if they had been blasted directly by firebombs from enemy bomb bays. A few years ago, the arson problem was confined largely to the South Bronx. Now it is increasingly evident that what ails the Bronx is a disease that is spreading through the city—in Bushwick, in Manhattan Valley below Columbia University, on the Lower East Side of Manhattan, in South Jamaica, in Coney Island, in Flatbush—like, well, wildfire.

At the same time that the New York Fire Department is responding to a record number of arsons, its motivation, self-respect, and its collective sanity are being challenged by a bewildering wave of false alarms. Ten years ago—during 1966—there were 37,414 false alarms. Last year there were 209,132. In some fire companies in the city, false alarms account for a staggering two thirds of all runs. Citywide, they account for 49 percent of all incidents. The tab for the false alarm last year was a large item in the department's total budget of $380 million.

Against the rising surge of arson on the one extreme and malicious false alarms on the other, the Fire Department seems to be barely holding its own. A decade ago, there were 10,585 firemen in the city. Now there are a few more than 8,000. The inference is clear: Whether in Battalion 11 in Manhattan Valley, Ladder Company 147 in Flatbush, Ladder Company 126 in South Jamaica, or Battalion 28 in Bushwick—four of the hotter units in the Fire Department right now—firemen are doing a great deal more with less.

Fireman Ralph Giuliano—the chief's aide and chauffeur—is in the kitchen, cooking dinner. Dinner is ravioli and homemade meat sauce. Giuliano, at 34, is the third-youngest fireman in the house—a measure of the net impact of the hiring freeze and the effect of attrition on the median age of the New York City fireman.

When Bushwick was deemed to be a soft assignment, the kitchen was upstairs, on the third floor, and entire meals would go uninterrupted. But after Bushwick started heating up, the firemen, largely with their own funds, built an addition on the back of the firehouse. Now, instead of having to slide down three floors of fire pole with a stomach full of undigested food, the firemen of 271 can walk through a door and there's the rig. But they still haven't solved the increasingly unpleasant problem of meals growing cold.

Battalion 28's activity these days is perhaps best measured by the activity of its two ladder companies. Last year, 28's Ladder Companies 124 and 112 finished first and second, in that order, on the *citywide* chart for truck companies in terms of numbers of runs. In fireman's parlance, these are known as trucks, and the men who operate them as "truckies." The fire trucks with the hose lines that are attached to the hydrants are known as engine companies, or pumpers. In the city there are 136 ladder companies (a company consists of the rig and the manpower needed to run it on a 24-hour, seven-day-a-week basis).

For the first three months of the year, Battalion 28 dealt with 99 serious building fires—better than one a day. Many of the fires were officially designated "suspicious". The eye confirms the idea that these figures do not lie. A tour of some blocks in Bushwick is a sickening, depressing experience. Block after block of burned-out buildings, lots filled with rubble (the cemetery of dead homes), three-story houses now only partially occupied standing alongside a burned-out skeleton of a building. Viewed from the air, the desperate stretch perpendicular to Greene Avenue might look like the spine of some huge dead fish.

Fireman Don Lombardi, 44, of Engine 271 says, "The city, in my opinion is trying to sweep this problem under the rug, but do we realize what we're losing? We're losing neighborhoods."

Supervising Fire Marshall John Regan is holding forth in the firehouse. The cooperation between the city's fire marshals and the firemen is rarely as close as it should be, but Regan is in the kitchen tonight because (a) he likes to eat; (b) he's a close buddy of the chief's; and (c) he's in charge of the Bushwick area arson surveillance.

Regan, a huge, barrel-chested man with an easy manner, a soft touch and evident street smarts, says: "Last year it was the South Bronx. This year it's Bushwick. We came here a month ago and Battalion 28 was getting maybe twelve a week [fires of suspicious origin]. Now it's down to six, because ours is not a covert operation. We go out on the street, stop people going into vacant buildings—why should anyone want to enter a vacant building, right?—and generally put the word out on the street that we're here.

"The first few weeks, we sat on a few alarm boxes that were being worked to death. We pulled eight kids off the street one night and took them down to the eight-three precinct. We asked them why they did it. One guy said he had nothing better to do. A few others said they liked firemen.

"In a place like Bushwick, and in all the arson centers, there are three types of fires, by time of day. Generally, the early-afternoon fires are set by the children—getting out of school, looking for trouble. The fires later in the evening are generally set by the welfare recipients, wanting to relocate—they wait until dark, pack their belongings, take them to a relative's, then go back and torch their apartment. Then Welfare gives them anywhere up to $2,000 to get settled in a new place.

"The very late evening-early morning fires are set by professionals or semi-professional torches. These guys may be working for the landlords. You get one of these jobs, you know you've been to a fire. Usually the landlord'll tell them: 'Make sure you get the roof good. If you don't get the roof, you don't get paid.' You see, when the roof goes, the insurance company pays off. No building is habitable without a roof, obviously."

Twenty-four hours later. Fire Marshal John Regan is chomping cheerfully on a piece of pastry.

"We're looking for an informant named Wolfman," he said. "Now listen, you can't miss him. . . ." Regan then proceeds to de-

scribe the informant in hilarious but necessarily confidential detail.

"A torch?" asks Joe Re, of 271.

"No, he's pro-firemen, hates the arsonist. But he's supposed to know something about those Evergreen fires."

Regan goes to the coffee machine.

For smoke alone, "the worse fire is from a mattress fire," says Joe Manduca, Engine 271. "It'll punish us more than two or three rooms fully involved. It's a damned chemical smoke, and it burns your eyes like a bitch. You would put your mask on, but then you lose your vision and your hearing. You can't see for beans, and your breathing inside the mask drowns out all sound. You walk into walls, fall over furniture. You're like a blind bird. You try not to use it."

Nine minutes past midnight on a nippy Friday. A mattress fire on Wilson Avenue. The truckies from Ladder 124 storm to the second floor via the fire escape, locate the mattress, pitch it out the window to the sidewalk below. There a hoseman dumps a million gallons of water on it.

A truckie comes out of the building and coughs up phlegm.

It is Easter night. Captain Robert Turner is the acting 28 Battalion chief. He is tall, impressively articulate, and black. He is president of the Vulcan Society, the Association of Black Firefighters. In a predominantly white fire department, there could be a chip on his shoulder, but if there is one, it doesn't show.

It is around 7 p.m. Battalion 28 is standing in front of a three-story apartment house on Central Avenue. But this is an easy one. A woman evidently started two separate fires in her apartment (the odds are statistically astronomical that two separate fires can start in the same building *accidentally*). It is a holiday and the woman was lonely. So she started a fire.

The old woman is huddled up in a fetal position in the hallway at the top of the staircase on the second floor. She is sobbing and shaking. A black cop from the 83rd precinct shakes her, roughly. "Get up, get up," mutters the cop. "Your husband left you, that's all. You're just no good."

Turner sees the cop shaking the woman. "Hey, what's the matter with you?" he says to the cop. "Can't you see his woman needs help?"

The chief and the cop go a few rounds on this, the cop loudly, Turner softly. For just a moment it looks like Turner is going to bop the police officer over the head with a fire hose, but suddenly the black cop backs off, wheels away from Turner, and stalks down the stairs.

Turner than goes over to the women and puts his arm around her. She stops sobbing, looks up at him through tearful, hurt-filled eyes. It is Easter, and she is no longer alone.

It is about four on a hot afternoon in Brooklyn, and there are alarms all over the borough—and all over Bushwick. The men of Engine 271 are returning to the station house, from a simple two-and-two. A fire in an air shaft between buildings. Twenty minutes.

The dispatcher comes on the air: "Phone alarm. Noll and Wilson. Two-seventy-one . . ." The numbers are not all out but Al Danz, the driver, has activated the siren and steps on the gas. The traffic is thick and surly, and no one seems to give a damn. Danz mutters under his breath, swerves onto Wilson, and then, down the block, sees it: a huge, vicious, determined fire, shooting out from a three-story corner building. Jack Claudio, in the back of the rig, steels himself mentally for a long two-alarm ordeal.

There is a hydrant on the curb, several yards from the burning corner building, but flames flick out at it. The firemen cannot hook up.

A line is stretched from clear across the intersection to another hydrant. Even though the firemen are standing well away from the action, the heat is almost enough to melt everyone's helmet.

The firemen of 271 dash into exposure four (the building to the right). It seems obvious to them, even from the outside, that there is a common cockloft. A ladder company arrives, makes the same quick calculation, and follows 271's line in.

The firemen run up the stairs through smoke and heat, aiming to get directly to the third floor and then hack their way through the ceiling. It is here they must meet the fire and beat it. Otherwise it will spread down the block. There are six more buildings attached to the corner building by the common attic tunnel of the cockloft. In ten minutes, the entire block could be burning, and only the corner building, where the fire was set, is unoccupied.

People are streaming out of the other buildings onto the street.

Engine 271 and Ladder 124 reach the third floor, and they can feel the heat all around them. Now they have to be careful and alert. A truckie sticks his long pole with the hook on the end into the ceiling and methodically, viciously, begins pulling it down. Plaster falls everywhere. All of a sudden, given a fresh supply of air, the hidden fire in the cockloft explodes with a fury, the flames dancing out like tentacles from a freightened octopus.

But the hosemen from 271 had expected this. The minute they see the first tentacle of fire, they pull back a lever on the nozzle and blast the fire to hell. The stream of water gushes from the FT-2 hose and pounces on the flames up above the ceiling. Steam flares throughout the cockloft and settles down like dust on the firemen. For a moment no one can see anything.

At that moment, another ladder crew, on the roof, is digging its four-inch circular saw into tar and wood and gunk. A hole is quickly opened, and some of the smoke starts miraculously draining upward. Visibility begins to improve. Though hours of work yet remain, they have stopped the fire's most treacherous advance. The building on the corner is lost, but the block is saved—until, of course, the next arson.

On the street, one chief says to the other, "In six months, this block will be a ghost town." He explains to a stranger: "When one building goes, eventually they all go. The arsonists work them one by one. It's like pushing over dominoes."

In the basement, firemen are searching for hidden flames under the first-floor floorboards. By now, so much water has dripped down from the building that when one firemen asks before wading in from off the street, "How deep is it?" a firemen iside responds drolly, "Better pull your collar up." It was only a slight exaggeration.

The smoke in the basement is acrid, almost as bad as the mattress smoke. The firemen are bobbing around, like sea dolphins in their thigh-high boots, turnout coats, and smoky, black, hard-plastic hats. For some reason, they are cracking jokes, laughing. One runs out of the basement with a nosebleed. Another needs air. But still they are goofing around. It is strange.

In a few minutes, it's over. "Good stop," Chief Edward Borst says from the street to no one in particular. But he is pleased.

Up in the tower ladder, Angelo Catalano, still aiming the nozzle and directing water on the steaming building, is blowing kisses with his left hand to the building. "If this was an arson," he says, carefully hedging into the conditional while smiling, "the fire perhaps started on the stairwell—maybe either poured down the stairs from the scuttle on the roof, or rode up from the first floor. It all depends which way Gasoline Gomez wanted to run after dropping the match." ("Gasoline Gomez" is the fireman's catchall name for New York's growing corps of arsonists.)

An hour later, back at the firehouse, the men of 271 and Chief Borst, having washed and scraped the smoke and grime off their bodies, are sitting at the dining table, rapidly wolfing down Italian sweet sausages made by chef Giuliano and escarole-and-bean soup prepared by Giuliano's mother.

Chief Borst says: "They're using fire as a social weapon".

No one says anything.

Unlike the NYPD, the New York Fire Department does not seem to be such a culture of bosses, in either actual operation or spirit. Very major operational decisions can be made, and often are, by the lowliest fireman, in the absence of supervision. And a chief, like a truckie, goes into a fire building. At a fire there are no wallflowers. In the firehouse, the chief eats with the troops. He is respected but his presence makes no one uptight or circumspect.

John Regan, eating a piece of deep-dish apple pie, has some announcements. All assembled in the rec room listen.

The fire marshal says: "The cops busted those two Puerto Rican kids whose father snitched. They also arrested the landlord". A fireman claps. "And"—Regan pauses for dramatic effect—"and also an agent".

"A what?" asks Len Piro.

"An agent. He works for one of the Bushwick community corporations. He fixes up the landlords with the arsonists. Sort of Operation Match."

Regan leaves with the flourish of the good news and with three other marshals climbs into the Dodge van parked in front of the firehouse. "We had a kid up in the Bronx last year," he says. "He admitted doing 51 fires, at $5 a pop. He was on welfare. I guess he needed more money.

"Then we had the woman who eight times torched her own apartments. And each time she got relocation money. The first time, she got $2,000. She took the dough and went to the Caribbean and bought some land. The second time she got $1,500 and went down there again. This went on and on. You know, for the life of me, I can't figure out why Welfare doesn't straighten out its act."

The van stops at a corner on Wilson Avenue. Regan points to a burned-out building next to a laundry. "There was a torch job here a few weeks ago. Half the occupants ran out in the middle of the night, half naked. It was a cold night too. But someone couldn't sleep and smelled the smoke. They were lucky."

Back at the firehouse. A false alarm. Trucks and engines return. "In the old days," says a fireman coming back on the rig, "when that bell hit, you flew out of the firehouse. Now, with all the false alarms, and all the other bull, you wonder who's crazier, the guy pulling the false alarm or us for running to the rig. It's demoralizing, really demoralizing."

The fire at Irving and Palmetto—the "oh s__ter"—is not in hand. It has been surrounded and drowned.

Jack Granville, of 271, says: "You know, this is not just the third time I've been here. It's the fourth. About six years ago, at night, we lost a woman and her child. It was the third building down, but with the damn common cockloft the fire spread and she suffocated asleep from the smoke."

He points out the corner building.

In that building now, a lonely old woman, with white hair and curlers, her face squished

together like a half-melted marshmallow, is leaning out of her second-floor window, gazing down at the chaotic scene of fire trucks, firemen, and the spaghetti tangle of hoses. She wipes the smoke—and the hurt—out of her eyes. She looks like she can't figure out what is going on. It's 5 a.m., and the sun is coming up. It's a new day in New York.

MEMORIAL SERVICES FOR ANDREW SKRYPECK—1895–1977

HON. DONALD J. MITCHELL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 1, 1977

Mr. MITCHELL of New York. Mr. Speaker, on Saturday, November 12, in New York Mills, N.Y., a special memorial service will be held for Andrew Skrypeck, who earned the respect of his comrades and special recognition from the United States in the form of the Distinguished Service Cross for extraordinary heroism in military operations against an armed enemy of the United States at Fismes, France, October 5, 1918. At that time, Mr. Skrypeck was serving as a private in the U.S. Army.

In order that my colleagues might have a better appreciation of the sacrifice made by the man being honored at the forthcoming memorial service, I am at this point including in the RECORD an excerpt of a report provided me by his son, Rev. Stanley Skrypeck:

ANDREW SKRYPECK—SERVICE NUMBER 1340
(1895–1977)

"This is to certify that the President of the United States of America, pursuant to Act of Congress approved July 9, 1918, has awarded to Andy Skrypeck the Distinguished Service Cross for Extraordinary Heroism in Military operations against an armed enemy of the United States at Fismes, France, August 5, 1918, while serving as pvt., Med. Det. 125th Inf. 32nd Div. A.E.F.

"Given under my hand at the City of Washington, this eighteenth day of December 1925.

"Recorded with the Office of The Adjutant General, Robert C. Davis (signed).

"Dwight Davis (signed), Secretary of War."

The above is an extract from the certificate awarded to my father, Andy Skrypeck, which I personally received from him and brought to this country. He also gave me The Distinguished Service Cross and the Battle Awards Medal with bars of the places where he fought for the United States which he loved and always cherished as his country until his death.

Andrew Skrypeck, the son of John and Victoria Milas Skrypeck, was born on May 28, 1895, in Pustynia, Austria-Poland. Relatives from the United States, his mother's sister Mary and her husband Joseph Janetski, not having any children, brought Andy, in his teens, to the United States where he lived with them, going to school and working. In 1917, at age 22, he was living at 227 Clippert Ave., Detroit, Michigan, where he volunteered to join the Army and served in the 125 Infantry, 32nd Division A.E.F. Medical Detachment. He entered September 21, 1917, and trained at Camp Custer, Battle Creek, Michigan, Service Number 1340. On May 21, 1919, he received an honorable discharge. He became a citizen of the United States of America on November 24, 1920, while residing at 408 First Ave. S.W., Cascade County, Great Falls, Montana. (Act of Naturalization 1330776, Petition Volume 7, Number 1383.)

While visiting his parents, Andrew met his future wife, Mary Kantor; they were married on October 1, 1924, in Debica, Straszyncin, Poland.

After returning to the United States, he received on December 18, 1925, The Distinguished Service Cross in Washington, D.C. It is recorded in the book entitled "Congressional Medal of Honor; the Distinguished Service Cross and the Distinguished Service Medal, issued by the War Department." (Since April 6, 1917 up to and including General Orders No. 126, War Department, November 11, 1919. Compiled in the Office of the Adjutant General of the Army, 1919, Washington Government Printing Office, 1920, War Department Document No. 948, Office of the Adjutant General.)

On page 335 of this book the following states: "Andy Skrzypeck, private, Medical Detachment, 125 Infantry. For extraordinary heroism in action southwest of Fismes, France, August 5, 1918. During the forward movement of the 1st Battalion, 125 Infantry, a large number of the company to which he was attached were wounded while crossing an open field. At this point the artillery fire was very accurate and intense, but he disregarded all possibilities of personal injury and remained upon the field until he had administered first aid to all his fallen comrades."

Further, it is recorded in a book entitled "The 32nd Division in the World War: 1917–1919, issued by the Joint War History Commission of Michigan and Wisconsin." Copyright 1920, by the Wisconsin History Commission, Madison Wis. On page 297 there is a list of Distinguished Service Cross–125th Infantry–recipients with the name PVT. Andy Skrzypeck, D.S.C. in the first column.

Because of sickness of his father, and his only brother Joseph had been killed while serving in the Austrian Army during World War I, he felt obligated to return to Poland to assist his parents. Subsequently, his father died, necessitating a longer than anticipated stay. He became responsible for caring for his mother and working the family farm. In the meantime, his own family was growing. Eight children were born. The intention, however, was to eventually return with the family to the United States.

On September 1, 1939, Germany invaded Poland, and on the very next day, his life was endangered. Being an American citizen and veteran, he was forced to go underground for months. But the Gestapo finally arrested him and his wife, in the presence of their children, along with many Jewish neighbors. Near the end of the war, they were released; they had survived but returned in very poor health, having gone through inhuman tortures, beatings, and hunger. The children, during that time, had lived alone in fear, poverty, hunger, and a horrible nightmarish existence. In Post-War Poland, conditions did not improve. But life had to continue, and he had to fend for himself and his family. There were the constant dreamed discussions about coming to the U.S.A., but the circumstances were such that it was impossible to leave Poland. He continued to work the small farm, the only means of supporting the family.. It was not until 1960, when I, his son, the Rev. Stanley Skrzypek, who by that time had come to the United States and was a pastor in a parish in Middleport, Pa., was able to intervene in his behalf in order for him to receive a Veteran's Pension. He continued to receive this benefit until his death on May 13, 1977. On May 16, 1977, he was buried in a simple ceremony in Debica, Poland, in the family plot beside his wife and three of his children, without any recognition or representation of the U.S.A. Even I was unable to be there.

U.S. OFFICIALS CONCLUDE SAUDI ARABIA LACKS ABILITY TO ABSORB SOPHISTICATED MILITARY EQUIPMENT

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 1, 1977

Mr. DRINAN. Mr. Speaker, the United States continues to pour some of the most advanced technology military equipment in the world into Saudi Arabia, despite the fact that the Saudis do not now have nor will they in the near future possess the capability to use these weapons.

The principal problem is that there are virtually no trained technicians in Saudi Arabia able to operate this equipment. Today's edition of the New York Times contained an article by Bernard Weinraub quoting defense sources as saying that the program to train Saudis in the operation and maintenance of these highly complex weapons systems is falling woefully short of its goals. At least 1,600 Saudi technicians were scheduled to be trained by the end of 1979; it now appears that only 500 will be sufficiently skilled to deal with U.S.-made weapons by that time.

Despite the absence of qualified personnel to utilize the equipment, the United States apparently plans to expand its military sales to Saudi Arabia. In August, reports surfaced of the transfer of 60 F–15 Eagle fighters to the Saudi Government. Congressman BENJAMIN ROSENTHAL and I wrote a letter to the President urging him not to approve this totally unjustifiable sale of the most sophisticated fighter aircraft in the world to a nation which will not for many years have the ability to use it, but which might transfer it to allies which do have the capacity to turn these American-made planes against Israel in the event of another outbreak of fighting in the Middle East.

Other Congressmen and Senators also expressed their disapproval, and in October reports surfaced that the sale of F–15 aircraft to Saudi Arabia had been deferred. The sale of the slightly less sophisticated F–16's, however, remains a very real possibility. But, according to today's edition of the New York Times, U.S. defense officials have stated flatly that Saudi Arabia will not be able to utilize F–16's for the foreseeable future.

The transfer of some of the most advanced and deadly weapons in the world to a nation which cannot hope to use them for many years raises several serious problems, in addition to the overriding issue of possible transfer to allies

in time of war. If the Saudis cannot hope to operate these weapons, who will? Will Egyptians and Palestinians and others be imported to help train and man the aircraft and other armaments? Will some of the most sophisticated weapons in our arsenal be exposed to security risks? Will large numbers of American instructors and their families be placed in areas of the world where they could easily become involved in an armed conflict? The answer to this last question is surely affirmative; many thousands of Americans are presently in Saudi Arabia to help train Saudi personnel. A weapons transfer as significant as the reported F–15 or F–16 sales would surely cause the number of U.S. citizens in this vulnerable position to increase dramatically.

I hope that President Carter will not exacerbate this serious problem by providing any additional, highly advanced military equipment to Saudi Arabia until such time as the Saudis themselves are able to utilize it. To do otherwise would threaten the security of Israel and place U.S. citizens in a most dangerous position.

I commend to the attention of my colleagues Mr. Bernard Weinraub's analysis of this growing problem in today's New York Times:

AIDES IN UNITED STATES FEEL SAUDIS LACK SKILLS TO USE NEW ARMS

(By Bernard Weinraub)

WASHINGTON.—Saudi Arabia is running into difficulty handling the military supplies purchased from the United States, raising questions about the Saudis' ability to absorb advanced arms over the next few years, according to Pentagon and Congressional sources.

The State Department is now studying these difficulties. Next month, a group of Congressional staff aides is scheduled to visit Saudi Arabia, which is a leading buyer of American arms.

According to defense sources, at least 1,600 Saudi technicians were scheduled to be trained by the end of 1979 to work on fighter aircraft. But, the sources said, it now appears that only 500 will be trained, stirring concern about the Saudis' ability to operate and maintain new planes.

At the same time, Pentagon plans to spur Saudi naval expansion have been set back because of a lack of personnel. The target date for the training Saudis to operate and maintain landing craft was originally set for 1981. The date has been revised to 1983.

Saudi Arabia, the West's principal supplier of oil and a key nation in Middle East peace negotiations, has contracted more than $12 billion of American arms and military construction from 1950 to 1976. Only about $1.6 billion worth, or 13 percent, was delivered by the end of last year, according to the United States Comptroller General.

Construction represents the largest part of the military sales agreements. Weapon purchases include M–60A1 tanks, armored personnel carriers, antitank and antiaircraft missiles, howitzers and F–5 tactical fighters.

About $3.6 billion of the military assistance program is designed to modernize the Saudi army and introduce mechanized infantry brigades. About 4,000 Americans, mostly civilians, are connected with the military training program.

Saudi training programs began in the early 1970's, but officials now concede that the Americans were unprepared for the relative backwardness of that nation of manpower in that nation of 5.6 million. Training programs are proceeding at a slower pace than planned, officials said.

"There are simply too few people in the manpower pool to absorb what we're giving them," said one Congressional source.

A defense source observed: "Finding Saudi candidates is the problem. There just aren't that many people to train. There are months when we're training seven students at a time, when we should be training 25. There are insufficient people in the pipeline."

Although Iran, another major purchaser of American arms, also faces difficulties because of shortages of skilled technicians, officials say that the problems in Iran have lessened and the manpower pool is larger than in Saudi Arabia.

What especially concerned some members of Congress, as well as Pentagon officials, is the plan to sell to Saudi Arabia either the F–15 supersonic fighter, the most advanced intercepter in the Air Force inventory, or the less advanced F–16. The planes are designed to replace the Saudi's British-manufactured Lighting air defense interceptors, which are becoming obsolescent.

The scale of the problems facing Saudi Arabia is underlined by the fact that a squadron of F–15's needs 270 people to maintain it. A squadron of F–16's—a total of 18 planes—needs 218 technicians. The Saudis have requested 60 F–15's, or about three squadrons.

"Whether they buy F–15's or F–16's, how are they going to produce the number of highly skilled people that you need to maintain these planes," asked one defense official. "They're talking about 60 planes. How do you manage that?"

Compounding the problems are concerns involving security. Officials fear that an influx of "third-country nationals" can pose security questions. For the F–15, for example, the United States has agreed to supply several weapons that are still shrouded in secrecy.

THE LIBERALS' DILEMMA

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 1, 1977

Mr. DORNAN. Mr. Speaker, there is never a good time to talk about abortion. Of course, if a tenuous majority on the Supreme Court had not taken the law into its own hands in 1973 by capriciously ruling that the constitutionally guaranteed right to life does not extend to unborn Americans, no Member of the Congress would have to talk about abortion. Human life in all stages of development, would be sacrosanct and safe.

But like it or not, the Supreme Court has made abortion a burning item on our national agenda. It haunts this Congress. It surfaces, time and again, in floor amendments. It is now on the point of strangling the Labor-HEW appropriations bill. Like any evil deed covertly done, it will remain to trouble and distress us until it is brought to light, renounced, and—like slavery—relegated to the shameful past.

More and more Americans realize that and are unafraid to say so. One of the most forceful examples is a recent column by Steve Dunleavy in the National Star of September 27, 1977. It says it all. I ask unanimous consent that Mr. Dunleavy's trenchant analysis be printed in the RECORD:

LIBERALS LOVE TO PAMPER KILLERS BUT NOT BABIES

(By Steve Dunleavy)

There are a few things you can be certain of: The world is round, the sun sets in the west—and some damned liberals talk with forked tongues.

Since the Vietnam war, I've had a rather widely stated distaste for liberals—those who lost in the streets what the U.S. Army was winning on the battlefield.

So, whatever I may now write could be legitimately regarded as suspect. I am not a dispassionate, objective observer, but I want you to hear me out.

There are animals in the prisons of this country who have murdered little girls and little boys, who have deprived a mother of a daughter or a son.

These killers live in jails that have television sets and playing fields, and where they're served three meals a day.

They do all this because a liberal lobby says capital punishment is wrong and barbaric. These liberals say two wrongs don't make a right. They say the death penalty does not deter violent and murderous crimes.

That's what some liberals say. Yet these same liberals have a curiously inconsistent attitude about the right to life.

They don't mind keeping someone comfortable who has killed and slaughtered. But they would stop a child from coming into this world.

The doctor's scalpel wielded on an unborn baby seems more attractive to them than an electric chair for someone who has snuffed out life in another human being.

But, they go further. The liberals among us seem to believe they also have the right to "pull the plug" on a person who is gravely ill. They would let a doctor, another human being—not God, but another human being—decide whether a person is so ill there is no use fighting to save his life.

So they pull the plug, taking away life-sustaining equipment that keeps a person on this earth.

So, one should hear now from Mrs. Margaret Browne of Atlanta, Ga. Mrs. Browne was farewelled into a deep coma last year. For three months, she was regarded as a vegetable.

If this woman had been in certain northeastern liberal cities, there is every chance someone would have "pulled the plug" on her, saying: "Oh well, it's for her own good."

But Mrs. Browne is very much alive today, and she has plenty to say about who has the right to "pull the plug."

Her coma could have been interpreted by some giants of intellect in the liberal northeast as hopeless. Some said it was.

But she completely recovered. One day she was clinging to life with her fingernails, and next day she was walking around, normal and alive.

Her grim and frightening experience has prompted her to mount a dramatic campaign to stop any move in the state of Georgia to pass a "euthanasia bill" letting anybody decide about anybody else: "Okay, put them out of their suffering, pull the plug."

Her anger will be heard in the Georgia Legislature next month. And she deserves to be heard all over this country.

"All I say is this," said Mrs. Browne. "Nobody in this country knows enough about

life and death to make a decision on when a person is going to die or when a person makes up their mind to live."

You work it out. On the one hand, they want to stop little people from being born and they want to hasten the end of the old or helpless.

But if some beast is a mass murderer, he has every chance in the world to live to a ripe old age.

Abortionists' scalpels are okay, they say. Pulling the plug on an old mother is okay. But please in the name of humanity don't execute a killer.

Like I said, you work it out.

THE PANAMA CANAL

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 1, 1977

Mr. GILMAN. Mr. Speaker, on September 7, 1977, President Carter and General Omar Torrijos of Panama officially signed the proposed treaties calling for a new relationship between our two nations regarding the future use of the Panama Canal.

Many of my constituents, and many citizens throughout our land, have expressed concern about the manner in which these treaties were negotiated. They question whether the new treaties provide sufficient protection of our Nation's vital interests in the operation and defense of the canal. There is also a feeling in Washington that the administration has shown little if any regard for the wishes of the Congress and those of the American people.

Now that the proposed treaties have been drafted, signed, and are awaiting approval by the Senate, we should take a long, careful look at just what we as a nation have been asked to do. We should examine these proposals dispassionately, without any partisan prejudices, and each citizen should evaluate whether it is in the best interests of our nation to accept these treaties.

This important decision will ultimately be reflected in the actions of the Senate which must formally ratify or reject the treaties and the House of Representatives which must act upon enabling legislation.

The President and the executive branch have made their decision and are proceeding to influence the American public of the wisdom of their determination. With a majority of congressional opinion clearly in opposition to their efforts, it was no coincidence that the treaties were first made public soon after the Congress had recessed for a month long period during last August.

The elaborately staged treaty signing ceremony was a further example of the extensive resources at the President's disposal for persuading the Nation to accept these proposals. The well organized signing festivities were timed to provide a maximum impact upon public opinion before the Congress would be able to even begin its assessment of the treaties.

Despite the historical and legal precedence that, according to the Constitution, requires the Congress to approve the disposition of U.S. property, the executive branch has by this treaty virtually circumvented the rights and responsibilities of the Congress in this matter. These awesome powers that exist in the Presidency and the executive bureaucracy with regard to the conduct of our foreign affairs should not be allowed to interfere with the ultimate power that resides with the people in our form of government.

In analyzing the proposed Panama agreements, it is vital to insure that their effect would not result in a complete loss of American influence and control over the single water passage between the Atlantic and Pacific Oceans. The ultimate loss to our Nation in economic and strategic terms due to a lack of influence in the future of the Panama Canal is immeasurable.

There is substantial diversity of opinion among the military leaders and advisers in this country with regard to the proposed treaties. It is argued that the military importance of the canal is declining at a time when there is an increasing need to transfer ships, men, and material from ocean to ocean due to the reduced size of our Atlantic and Pacific fleets.

In a recent letter to the President, four distinguished former Chiefs of Naval Operation, including the former Chairman of the Joint Chiefs, Admiral Thomas H. Moorer, expressed concern that the proposed treaties were contrary to U.S. interests, stating:

> Contrary to what we read about the declining strategic and economic value of the Canal, the truth is that this inter-oceanic Waterway is as important, if not more so, to the United States than ever.

They continued,

> The Panama Canal represents a vital portion of our U.S. Naval and maritime assets, all of which are absolutely essential for free world security.

The often stressed response to the many questions regarding the future security of the canal and its use as an open neutral waterway is our reliance on the "Neutrality Treaty." This separate document was designed to provide the United States with an indefinite unilateral right to determine if and when the neutrality has been violated and to take any action—including military—that we may determine to be necessary. Our right to respond in defense of the canal extends to all nations including even Panama if that nation acts to violate the canal's neutrality. There have been strong reservations about whether in fact that right exists or if its implementation would ever be practical or legal.

I believe that it would be better for this country not to have any treaty at all than one which is meaningless and could be the source of continued irritation and conflict.

Of further concern regarding the treaty is the economic significance of the canal. With a current transit rate of approximately 13,700 ships per year, the future usage projections indicate an increase up to 26,000 transits by the year 2000. The economic benefits from the canal usage as opposed to the added 8,000-mile trip around the Cape Horn are significant. In addition, U.S. reliance on this vital waterway could result in an economic crisis if we were denied use or if the canal was made inoperable.

It has been estimated that of all cargo that transits the canal in ships of all flags, about 60 percent to 70 percent are bound to or from U.S. ports. Well over half of all ships using the canal are coming from or going to the United States. Under present conditions 96 percent of the world's shipping can transit the canal. For these reasons, it is easy to perceive the significant role that the canal plays in our economic system.

It is difficult to downplay the economic importance of the canal to the United States at a time when Alaskan oil has begun to flow south. When the Alaskan pipeline reaches its full capacity, the west coast will be unable to accommodate the entire volume. It is estimated that by 1980 approximately 45 percent of our Alaskan oil will be shipped through the canal to the east coast. This added commerce will result in an additional 700 canal transits of oil by 1982. Until such a time that an adequate pipeline across the United States is constructed, the much needed oil must be shipped through the canal to the rest of the Nation. In the interim, the unhindered use of the canal remains economically critical to the United States.

Since we are being asked to entrust to Panama the future operation and defense of the canal and the guarantee of its access and neutrality, it is only fitting and proper that we be fully aware of the nature of the Panamanian Government. A close look raises some doubts and questions about its ability to adequately assume the responsibilities of the canal conferred by the proposed treaties.

The present government in Panama is a military dictatorship that achieved its power by the overthrow of a democratically elected government. It has exercised that power in such a manner that has led Freedom House, an internationally respected organization that monitors and ranks all nations on the basis of human rights, to rate Panama on the same level as the Soviet Union. On their human rights scale, Panama, in fact, ranks lower than even Cuba, Argentina, and Chile with the lowest rating in all of Latin America.

Human rights considerations have been the basis for the denial of the sale of military weapons to repressive nations—nations that might use such weapons to suppress their citizens and to increase their power. Can we now in good faith provide the political and economic weapons to allow this type of government to consolidate its grip on Panama. The present treaty is a legally binding and workable document and will so remain until such time as we can be assured that all the citizens of Panama will democratically share the benefits of a new treaty arrangement.

We need to be certain that any new treaty will foster human rights and will enhance a return to democracy. This is particularly important in the canal considerations, having been asked to entrust a vital national economic and security asset with a foreign nation and being asked to insure the rights and protection of the many U.S. citizens remaining in that country.

The economic stake that the United States has invested in the canal and that required under the new treaties cannot be overlooked. At the present time, the United States has an overall investment in Panama of more than $7 billion. This total will have increased to $9.3 billion by the end of the century, the date we are to turn over this investment to Panama. In addition, the new agreements require the United States to increase the payments, loans, credits, and military assistance to Panama over the length of the treaty to reach the sum of $2.262 billion. The transfer of such huge sums in capital investments requires the closest oversight to insure that such action is in the best interest of the American people. The call for additional sums totaling $2.262 billion demands justification that has as yet not been provided.

On two occasions I have had the opportunity to inspect the Panama Canal, at which time I met with officials from the Government of Panama, the American Embassy, the U.S. Armed Forces, and the Panama Canal Co. During a recent factfinding mission to six key nations in South America, we engaged in discussions with governmental leaders concerning the importance and future of the canal. As a result of these visits and meetings, I am more convinced than ever that the canal continues to play an important role in serving our Nation and the world as a commercial waterway and that it is vital to international commerce.

The Panama Canal has been and should continue to be maintained and operated as an international public trust. Steps should be taken to isolate it from the international political arena as long as it remains vital to our security and that of the Western Hemisphere.

Dissatisfaction with the original treaty language and its interpretation has been the source of conflict and ill will throughout its 70 years of existence. It is precisely this irritant that we are seeking to remedy through the proposed agreements. It would be tragically ironic if we approved a new treaty whose vital elements are once again the subject of differing interpretations.

As recently stated by columnist Roscoe Drummond in the October 19, 1977 issue of the Christian Science Monitor:

The Carter-Torrijos interpretations are clear and exact. As far as they are concerned they have resolved the differences admirably.

But the pertinent provisions of the treaties themselves are vague and quibble-laden.

How long will the newly-accepted interpretations last? There can be no assurance that they will last any longer than Mr. Carter and General Torrijos are the effective leaders of their own governments.

General Torrijos has never been elected head of Panama. He came to office by a military coup and he may exit by another military coup next week or next year. President Carter, by constitutional law, cannot be president after 1984.

The neutrality treaty, which contains the disputed provisions on defense and transit, does not come into effect until the year 2000. Neither President Carter nor General Torrijos will be in office when their agreement is intended to be operative.

If this agreement cannot be made an integral part of the treaty itself, then at the very least this treaty should not be enacted into law by the legislatures of both the U.S. and Panama.

Having recently participated in extensive hearings by the Committee on International Relations on the proposed treaties, I am not fully convinced that we have fully explored all of the alternatives for a new agreement with Panama. While in Panama, I raised this very point with Panamanian President Lakas. At that time I stated that rather than terminate completely by the year 2000 we should consider a different approach—allowing for shorter periods to review and revise the agreement, and including a toll rate and earnings increase for Panama to provide a more equitable share of income and employment. In addition, lesser issues relating to the use of lands and waters and jurisdiction over the Canal Zone, would be given due consideration on their own merits and altered in an atmosphere less charged with emotion.

Today, our Nation provides the one certain guarantee that the canal will remain open to the commerce of the world. We have been and should continue to seek alternatives which recognize the legitimate aspirations of the Panamanian people without compromising our ability to meet our own security obligations. A peaceful and practical solution can be found to insure the continued use of the canal as an instrument of commerce and peace as well as a tool of Panama's progress and economic independence. Unfortunately, the proposed treaties do not provide such necessary guarantees and assurances. Accordingly, in good faith, I cannot support their ratification.

OUR BAD NEIGHBOR TREATY

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 1, 1977

Mr. SIMON. Mr. Speaker, the respected opinion journal of Roman Catholic moorings, Commonweal, recently had an editorial about the Panama Canal treaties that contains eminent good sense.

I hope my colleagues will take the time to read it.

OUR BAD NEIGHBOR TREATY

Someone once wrote that the American people would do anything for Latin America except read about it. That pretty much matches our experience here; when you talk about Latin America, you are talking into a dead mike.

That is why it is strange that so much excitement is being generated by the Panama Canal issue. During his almost successful try for the Republican nomination, Ronald Reagan ran the issue up the flagpole and saluted it almost nightly, and he got great mileage out of it. Now Senator Strom Thurmond and his conservative colleagues are warming up for a repeat performance, with an expensive mass media campaign in the works and old master Reagan is back on stage making threatening noises.

One way or the other, the canal issue promises to liven things up in the months ahead. On second thought, though, maybe it is not surprising that the canal can raise high blood pressure from Maine to California. For the uninformed and the nationalistic, this is one of those Fourth of July, American-as-apple-pie issues which bring out the worst in us. The canal issue brings back pictures of Teddy Roosevelt and the big stick and evokes memories of happier days.

With defeat in Vietnam rankling and the threat of Taiwan disengagement on the horizon, it is really no wonder that the canal has become a great conservative cause. Indeed, President Carter will be lucky if he wins this one.

This is not to say that Mr. Carter's case on the canal is weak—far from it. Two treaties are proposed, one guaranteeing the permanent neutrality of the canal and the other involving details about its operation until the year 2000. Transfer of the canal to Panamanian control does not take place until the end of this century. The United States will have a permanent right to defend the neutrality of the canal from any threat. U.S. warships will have a permanent right to transit the canal expeditiously and without conditions—although in fact the military significance of the canal has become largely nil.

In reality, the proposed treaties enhance U.S. security interests, and at relatively small cost, because the operation of the canal at this point is more threatened by possible Panamanian disorders or even guerrilla warfare than by external threats, which in any case the U.S. is allowed to counter by the terms of these treaties. Further, all U.S. civilians in government jobs in the canal are guaranteed their jobs until retirement.

In short, the proposed pacts are strongly advantageous to the United States—so much so, in fact, that leftists and nationalist groups in Panama are planning to campaign against them on the ground that too many concessions have been made to Washington. These groups are particularly disturbed by the fact that U.S. troops can remain in Panama for the balance of the century and that the U.S. has the right to intervene even after that date in order to defend the canal's neutrality.

Above all, however, the case for the new canal arrangement rests on the immorality of trying to cling to the colonial status quo. Here we agree with the American Catholic bishops who in 1976 collectively said that "a moral imperative exists to fashion a new treaty which respects the territorial integrity, sovereignty and economy of Panama, and dissolves the vestiges of a relationship which more closely resembles the colonial politics of the nineteenth century than the realities of an interdependent world of sovereign states."

In contrast to this view, one conservative U.S. senator was quoted as saying about the Panama Canal, "We stole it fair and square." That about sums up the U.S. historic role in this matter, whatever our contributions since that time, and it also sums up the general outlook of too many of the objectors to the new treaty.

Nonetheless, President Carter is not without supporters on this issue. Serious foreign policy commentators have for years pointed out the deep resentment throughout Latin

America at our exploitive role in Panama, and they have spelled out in detail the likelihood and consequences of serious disorders in Panama if the new treaties are not confirmed by the Senate. In this matter, former President Ford and Henry Kissinger are backing Mr. Carter in the national interest, and their words should carry some weight with moderates.

As for Catholics who may be in doubt on the issue, we hope they will accept the reasoning of the American bishops when they state that the basic question involved in a new treaty is the acknowledgment in principle and in fact of Panamanian sovereignty over its own territory. "The terms of the 1903 treaty acknowledge the principle of Panamanian sovereignty, but prevent its exercise in any form in the Canal Zone. Without rehearsing the history or terms of the treaty, we simply would affirm that the moral, legal and political realities of international life today render the 1903 treaty an anachronism."

An anachronism indeed, and the sooner we are rid of it, the better.

THE TAX GOBLIN LURKING IN THE WHITE HOUSE

HON. DAVE STOCKMAN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 1, 1977

Mr. STOCKMAN. Mr. Speaker, in recent years the term "tax reform" has increasingly come to mean higher taxes and lower economic growth. The evidence is quite striking. During the 1960's, when tax rates were reduced substantially and strong incentives for capital formation were adopted, the average real GNP growth rate was 4.7 percent. By contrast, after three or four major tax reform bills since 1970, the average growth rate has plummeted to 2.3 percent. Nearly all of the serious problems we have attempted to grapple with in this session—unemployment, inflation, the social security financing problem—have been seriously exacerbated by this disasterous drop in the trend rate of GNP growth.

The Carter administration now proposes to add fuel to the fire by taxing capital gains as ordinary income. The major adverse consequences of such a reform have been cogently summarized in a recent issue of Dollars and Cents by Eleanora Kettler.

Warning that although Halloween is over "a goblin may be seen hiding among the President's new tax reform proposals," she suggests that "the heartbeat of entrepreneurial activity will register a straight line on economy's electrocardiogram," if the President's proposal to tax capital gains as ordinary income.

Mr. Speaker, the threat posed by the administration's plan could not be stated more vividly. I commend this article to my colleagues for their consideration. I might also add that Ms. Kettler is well qualified to write on this topic: She learned her economics from her father, our colleague JOHN ANDERSON, who for many years has been one of the most eloquent voices in this House in behalf of prudent, conservative economic policies:

CAPITAL GAINS FOOLISHNESS

(By Eleanora Kettler)

Though Halloween is past, a goblin may be seen hiding among the President's new tax proposals—the new tax on capital gains, which the Administration has grotesquely masked as ordinary income. President Carter wants to tax capital gains as ordinary income up to a maximum rate to 50%.

Capital gains are not ordinary income. They are, however, a source of income vital to entrepreneurs, struggling new technology companies, and in the larger framework, the health of the economy. Without the incentive of a capital gains provision we are likely to witness the emergence of a new group of investors—who will refuse the risk involved in financing new businesses. It does not require a great deal of imagination of foresee the consequences of such consolidated conservatism among investors: the heartbeat of entrepreneurial activity will register a straight line on the economy's electrocardiogram. It is important to unmask this goblin before he arrives at our doorstep and we unwittingly hand over our capital.

The theory behind the present capital gains provision is perfectly sound. Investment is vital to the maintenance of a healthy economy. It creates jobs and advances our standard of living. When successful, investors realize capital gains. But investments are risky, frequently resulting in financial losses. Thus, as taxes on successful investments are increased, fewer individuals will accept that risk. Historically, experts have recognized that low tax rates are necessary to encourage badly needed investment. In fact, all other western nations currently tax such gains at lower rates than does the U.S.

Only in recent years have tax reformers developed the theory that capital gains is an insidious loophole for wealthy investors, and this accusation distorts the truth. Carter fails to mention the fact that half of the people paying capital gains taxes make less than $15,000 per year, with half of all capital gains accruing to people with incomes of less than the $30,000 level.

Unlike ordinary income, capital gains may be the result of many years of waiting and many years of unrewarded compensation while one's venture capital is tied up. Taxing a gain which may have arisen over a period of years is absurd. Not only is the investor likely to be pushed into a higher tax bracket by the gain, but much of the so-called gain may be due to inflation.

Take for example an investor who buys a plot of land for $1000. At an inflation rate of 5%, the value of the land will increase to $1287 in five years. If the investor sells the land for that price, he will have to pay a capital gains tax on the $288 in "profit"—even though in fact he has realized no gain, since the value of his investment has not changed in real terms and he has realized only an illusory profit due entirely to inflation. Many capital gains thus are only "paper gains," and it is plainly unfair to tax investors on them.

Capital gains income therefore differs from ordinary income because:

1. Substantially more risk is incurred earning capital gains because investor equity is at stake.

2. Gains made over a period of years are taxed in a bracket determined by the size of the gain in the year the gain is taken. (The tax law allows individuals to average income for a period of four years.)

3. The basis for calculating capital gains is not indexed for inflation but ordinary income tends to rise with inflation, through cost-of-living raises.

The present Administration's argument for equating capital gains with normal income ignores these facts.

Lastly, can the entrepreneur and the investor in high technology companies survive Carter's proposed trade-off of abolishing capital gains preferences in return for a lower ceiling on ordinary income? This appears highly unlikely. Already evidence of a decline in investment can be charted back to the Tax Reform Act of 1969 when an attempt to seal off the "loophole" came by increasing taxes on capital gains. Leaving no stone unturned, Congress then managed to tax the untaxed half of the capital gain by 15%. This caused the capital gains tax to jump to 42.5% under the worst circumstances, in addition to any state and local taxes, which may take another 2% to 6%.

The entrepreneur and the investor in high technology companies rely more heavily than other institutions on reinvesting a good deal of their earnings in their own enterprises, to promote rapid growth. Both of these investors incur a high risk over a long investment period before receiving any compensation. The WEMA Capital Formation Task Force in a recent study found that the current erosion of investment capital in high technology companies has been caused largely by recent increases in capital gains taxes.

Shutting the door on the capital market's ability to support high technology companies is contrary to the President's goal of improving energy technology. Further, by denying the entrepreneur a reasonable incentive to invest in new enterprises, the proposed chance will retard advanced procedures for producing existing goods and services and prevent future innovations in industry. By taxing capital gains as ordinary income, we will all be worse off.

THE SOCIAL SECURITY BILL

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 1, 1977

Mr. STUDDS. Mr. Speaker, one of the most critical issues which the House has considered this year is the problem of financing social security. This program affects directly more Americans than any other function of the Federal Government.

I believe that it would be a serious mistake for us to fool ourselves into thinking that we have adequately resolved the problems facing social security through the recent passage of the social security financing reform bill.

Before we will be able to claim that social security is even remotely an equitably financed and successful program, we will have to restructure the system completely, and take a new look at the purposes and finances of each segment of social security as it presently exists.

Few issues have generated as much correspondence from my constituents as has this problem. The following statement—which I hope will be of interest to my colleagues—details my views on the recent social security bill:

HOUSE APPROVES SOCIAL SECURITY FUNDING CHANGES

This past Thursday, a bill purporting to restore financial stability to the social security system was approved by the House of Representatives by a vote of 275 to 146. I

voted for this bill—but with absolutely no enthusiasm. The legislation was hailed by its authors in the Ways and Means Committee as a comprehensive resolution—both long-range and short-range—of the serious financing problems confronting our social security trust funds. In my opinion, it is no such thing—and it constitutes, at best, only a band-aid and mercurochrome solution to our most immediate and pressing problem, namely the projected exhaustion of the disability trust fund as early as 1979. It is only because of the absolute necessity that Congress address this problem immediately—and thereby assure our elderly citizens that the funds on which they depend will remain solvent—that I voted for this bill.

I cast my vote with extreme reluctance, however, because the bill, as approved, would increase the highly regressive social security payroll tax—a tax which I believe to be the least fair of all federal taxes and which constitutes an unfair and increasingly intolerable burden both on working people and on their employers. I feel strongly that the entire financing system is in dire need of serious reform. And it is absolutely essential that the Congress address itself to this when considering comprehensive tax reform legislation next year. Toward this end, I plan to cosponsor legislation in the next session of Congress to finance the Disability Insurance and Hospital Insurance Trust Funds (Medicare) through general revenues.

The social security crisis has been precipitated in large measure by factors over which we have little control. Since 1975, it has been necessary to dip into the accumulated reserves of the trust funds in order to pay out benefits due each year. This is due primarily to a combination of unexpectedly high unemployment, which curtails social security revenues, and equally high rates of inflation which causes automatic increases in social security benefits. Furthermore, the sharp decline in the birth rate, along with an increase in life expectancy and a trend toward earlier retirement, means that within the next century, one beneficiary could be supported by as few as one or two contributing workers.

An alternative program, offered on Thursday by House Republics, offered an approach I could more easily support. I voted for this amendment (which unfortunately was defeated overwhelmingly) because it would have kept payroll tax rates at their currently scheduled levels, and would have provided for transfer of general revenue funds to the Hospital Insurance (Medicare) Trust Fund. Since Medicare provides health care to older and disabled citizens, whether or not they are eligible for social security, I believe it makes sense not to rely solely upon social security revenues to finance the program. Another aspect of the alternative proposal was the extension of social security coverage to all federal workers, including members of Congress who are now unfairly exempt from the program, mandating an intensive study of the mechanics of integrating them into such a system without causing any worker a loss of benefits or an unfair increase in taxes.

By a vote of 386 to 38, the House deleted from the version it finally passed a similar, and highly controversial provision, which would have brought not only federal employees, but state and local government workers, and employees of nonprofit organizations under social security coverage. The exclusion of these groups of workers has resulted in two major problems for the social security system: windfall social security benefits from outside or second careers despite a minimum contribution to the system, and large gaps in coverage for those who work under both civil service and social security retirement systems, often resulting in smaller disability and survivor benefits, or even no pension at all for some.

I strongly believe that we must enact "universal coverage" for every worker, since it is unfair for those who benefit from the system not to contribute their fair share. I felt compelled, however, to vote against the "universal coverage" provision of the Ways and Means Committee bill because it raised serious constitutional questions about state and local government participation in a federal taxation program, and because it would cause severe difficulties for states, such as Massachusetts, which have chosen not to be included in the system, and which already suffer from severe fiscal problems with their pensions. Furthermore, I believe that the Ways and Means Committee acted far too precipitously on this issue, without providing an opportunity for those affected to voice their concerns, and without assuring workers caught in the transition to universal coverage that they would not suffer any ill effects.

I fully intend to support universal coverage for all workers—but not until the Congress and state and local governments have had an opportunity to work together to design the transition in an orderly and fair manner, and the workers affected know exactly what to expect. The Ways and Means Committee bill did not provide for this—and our teachers and other state and local government employees in Massachusetts had every reason to be concerned about their failure to do so.

Finally, let me repeat my hope that the approach adopted by the House this week will not be viewed as the final answer to the problems confronting the social security trust funds—and my pledge to do all I can next year in the effort for genuine reform. We must find a way to provide for the needs of our retired population without overburdening our working population and our business community with an essentially regressive tax.

JOSEPH H. VATTEROTT HONORED

HON ROBERT A. YOUNG

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 1, 1977

Mr. YOUNG of Missouri. Mr. Speaker, last week, more than 500 St. Louisans joined together to honor Joseph H. Vatterott, a businessman, philanthropist, and humanitarian. Mr. Vatterott was honored by the American Jewish Committee Appeal for Human Relations, which gave him its Human Relations Award.

The award was presented for Mr. Vatterott's efforts to improve relations between individuals and groups through his civic, business, and religious life and for the ecumenical spirit he has fostered through service to higher education, hospitals, and minority business opportunity programs.

The award was a fitting tribute to a great American, and I am honored to insert in the RECORD a recent profile of Mr. Vatterott by Charles Oswald, the prize-winning investigative reporter and feature writer of the St. Louis Globe-Democrat.

The Globe-Democrat article follows:

PROFILE OF MR. VATTEROTT

A plaque on the wall behind the desk of Joseph H. Vatterott reads in part: "Press on. Nothing in the world can take the place of persistence."

The plaque was given to Vatterott by his youngest son, Joseph H. Vatterott Jr. and in many ways characterizes Vatterott's own indefatigable drive to success.

That tremendous dedication and energy has brought Vatterott to the top of the St. Louis business world and made him one of the most tireless fund raisers for local and national charitable causes.

The same dedication and energy that caused him to spend two days a week for five years working relentlessly to raise $15 million for the St. Louis University-Ford Foundation Challenge grant during the early 1960s.

The same type of dedication exemplified by Vatterott during his 10 years of service as a hospital trustee and fund raiser for the National Jewish Hospital at Denver, a nonsectarian, free hospital which provides treatment for persons suffering from respiratory diseases.

For his efforts on behalf of St. Louis University he received the 1965 prestigious St. Louis Award. In 1968 he received an equally distinguished award for his service to the National Jewish Hospital—just two of many awards Vatterott has received for public service.

But, the Rev. Paul C. Reinert, S.J., chancellor of St. Louis University and a longtime friend of Vatterott says it best:

"He has the innate urge to be helpful. 'What will it do for me?' or 'What kind of people will I be helping?' are questions that never seem to occur to him. When asked to serve, his first impulse is to say 'Yes, I'll help,' and hence his major problem has always been that he can't say 'no' to a worthy cause."

And at the age of 68, Vatterott shows no signs of slackening in either his business or charitable activities.

He arrives at his Clayton-based realty, building and management company office early, attired in a crisp white shirt, conservative tie and plaid business suit.

He's been up since 5 a.m. briskly walking a mile-and-a-half on a treadmill in his Chesterfield home, attending daily Mass at St. Anselm's chapel on the grounds of St. Louis Priory School and eating a leisurely breakfast with his wife of 42 years, Mrs. Margaret Flaherty Vatterott.

The "up with the chickens" work ethic is a vestige of Vatterott's early life on his parents' 20-acre farm in an area of North St. Louis County near what is now Overland.

Vatterott, one of 11 children (six brothers and four sisters), had chores to perform before school....

Another important ethic Vatterott was taught by his father, the late Charles F. Vatterott Sr., was charity.

"I think the important point is that my dad always taught us that you really owe 10 per cent to the church . . . A lot of us don't really do the things we should in life, but I listened to my dad....

Vatterott was not quite 21 years old when he and his younger brother, Gregory, set out to build their first houses.

"We built three little frame houses out there in Pine Lawn. We learned how to do it first-hand," he said referring to the carpentry, painting, roofing and cement work.

"We built those three houses and we made $700 a piece on them. That was an awful lot of money back in those days," Vatterott recalled....

In the late 1930s, Vatterott struck out on his own, building subdivisions in Webster Groves, Glendale, Florissant and St. Ann.

In all, Vatterott estimates his company has constructed more than 1,500 homes in the city and county over the years. . . .

It was 1952 when Vatterott became active in the Community Chest (the forerunner of the United Way) at the urging of his close friend, Norman George.

"He said 'there have been no Catholics involved in the Community Chest and we'd like to have you help us', I said 'I'll be glad to do it,'" Vatterott recalled.

"That's when I got involved with so many of the Jewish people in our community—and a more charitable and fine group I've never met. . . .

That spirit of ecumenism exhibits itself daily in Vatterott's busy world.

"I'm of the opinion that we're growing much closer together. There used to be a lot of bigotry but I think St. Louis is one of the best cities (for religious and racial harmony) in the U.S.

"I can see us one day down the line as one unit and this is the way God wants it . . . We pray for one another, we work with one another and we don't question a person's color, religion or nationality," Vatterott said.

But, actions speak louder than words and Vatterott has lived out his philosophy.

When he and his brother, Charles, built a golf course in St. Ann in the early 1950s it was one of the first in the area to be fully integrated.

In 1955, when Vatterott built the first Holiday Inn in St. Louis—the first of nine he would build—the clause "Caucasians Only" was striken from the registration form opening the inn to all races.

In addition to his tireless work for St. Louis University, for which he received the 1963 Fleur de Lis Medal, and his efforts on behalf for the National Jewish Hospital and Cardinal Glennon Memorial Hospital for Children, Vatterott has other mountains to climb.

Since 1971, he has been the driving force behind the Development and Expansion Campaign of the St. Louis Archdiocese working closely to raise millions of dollars here with Cardinal John J. Carberry.

Vatterott, also chairman of the lay board of the new DePaul Medical Center, is in the midst of an $8 million fund raising drive for that hospital.

Vatterott has personally given hundreds of thousands of dollars to St. Louis University, the Catholic Church and other charities in addition to donating thousands of hours of his own time to charitable and civic endeavors.

In 1956, Vatterott was made a Knight of Malta by Pope Pius XII, one of the highest honors given to Catholic laymen in recognition of their contributions.

He is also a Knight of the Holy Sepulchre and has served on the boards or is a member of the Catholic Charities of St. Louis, the White House Retreat League and the Legion of One Thousand Men of the St. Louis Archdiocese.

THE PANAMA CANAL

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 1, 1977

Mr. McDONALD. Mr. Speaker, one of the sad things that come into the debate over the proposed Panama Canal Treaty is that somehow the United States has been guilty of wrongdoing in Panama and we need to atone for past sins. This, of course, echoes the Marxist view. The Panama Canal was and is a proud achievement in our Nation's history and stands as a permanent U.S. contribution to the progress of the world. This is one of the many reasons that President Carter is having difficulty in selling the American people on paying a leftist dictator to take it off our hands. The instinctive feelings of the American people are correct on this issue and those who feel we have something to be ashamed of in Panama are wrong. An editorial in the Wall Street Journal of August 15, 1977, discusses this aspect of the treaty matter and I now include it at this point in the RECORD for the edification of my colleagues:

THE PANAMA CANAL

David McCullogh, author of a widely-hailed history of the building of the Panama Canal, commented recently that if archaeologists in the future should come upon the canal with the water gone and just the locks still there, they'd have to say: "My God, what a civilization must have built this!"

And of course they would be right. The canal ranks among the greatest engineering feats of history. Counting the fruitless efforts of the French, it was 44 years in the building, costing some $400 million and over 25,000 lives.

Even in the Space Age, the canal remains impressive; its six sets of 1,000-foot-long locks that lift ships 85 feet to cross a shallow mountain range and return them to sea level again; its two great artificial lakes for storing the millions of gallons of water necessary for the locks; its annual traffic of 14,000 ships on a 50-mile transit between two great oceans. Much of the original equipment still is in use, 63 years after the canal opened for business.

The canal was more than an engineering miracle. Its construction involved sanitation and medical techniques that transformed a pestilential jungle into one of the healthiest areas of the world. The death rate from yellow fever—a terrible scourge in the Americas for more than four centuries—fell from 40 per 1,000 canal workers in 1906 to seven per 1,000 in 1914. Malaria admissions to Canal Zone hospitals fell more than 90 percent in that period. By the time the canal opened in 1914 the Canal Zone's annual death rate was less than half that of the U.S.

For all their greatness the engineering feats of G. W. Goethals and the medical accomplishments of Carlos Finlay, Walter Reed and William Gorgas were only part of the story. The canal also was the product of an American brimming with self-confidence, believing it could do anything it set out to do.

One has the sense that our own age is more jaded. Hand-wringing over the future has become fashionable in intellectual salons and it is a mark of sophistication to disparage achievements of the past. Such circles now label the Canal Zone a "colonial enclave" peopled by ugly Americans, and air guilts over Teddy Roosevelt's use of the Navy to support Panama's revolt against Colombia, which had owned the isthmus, in 1903.

It is forgotten that such power plays were the norm in that era of manifest destiny. They are not unknown even in our own era, as post-World War II events in Hungary, Czechoslovakia, Angola, etc, will attest.

But even if you believe that it is anachronistic for the U.S. to maintain a zone of authority stretching across a small, sovereign nation, there was little need for the breast-beating and mea culpas that accompanied the U.S. negotiations that now have provided a draft treaty that would turn over the canal to Panama by the year 2000.

From all indications, the administration faces a tough fight in selling its treaty to the Senate. Public opinion polls show that Americans overwhelmingly favor keeping the canal. Even if that were not true many Senators will no doubt find the treaty overgenerous in its willingness to pay the Panamanians so liberally to take the canal off our hands.

It might help for the administration to make it abundantly clear that the U.S. concessions are prompted by a desire to promote goodwill in this hemisphere rather than by misplaced feelings of guilt and atonement. But it may be a little late for that. A rejection, if it comes, will be not just an ungenerous act, but a repudiation of those who have counseled that the American record in Panama is something for which we owe the world an apology.

SENATE—*Wednesday, November 2, 1977*

(Legislative day of Tuesday, November 1, 1977)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. DENNIS DECONCINI, a Senator from the State of Arizona.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O Lord God of heaven and of Earth, quicken our ears to hear and our eyes to see the signs of Thy presence not only in temples where we worship, but in this Chamber and the rooms where we work. Make known Thyself to us in consultations, in debates, in our coming in and our going out, and in the moment of silence. May those who are daring and innovative derive wisdom from those who are rich in experience. And may those seasoned by years of service find fresh inspiration from the throbbing aspirations of those more recently committed to the tasks. And may we be faithful to Him who was born of the spirit, spent His life for every burden bearer, and ever lives to give grace and power to those who serve Him in sincerity and truth. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., November 2, 1977.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DENNIS DECONCINI, a Senator from the State of Arizona, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. DECONCINI thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, Tuesday, November 1, 1977, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I have no need for my time.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. BAKER. Mr. President, I have no need for my time under the standing order, and I yield it back.

SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Alabama (Mr. ALLEN) is recognized for not to exceed 15 minutes. The Senator from Alabama.

SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

Mr. ALLEN. Mr. President, with the majority leader's permission, I would like to use part of my time in making inquiry about the leadership plan of pushing the social security revisions through before the recess. Is that the plan of the leadership?

Mr. ROBERT C. BYRD. That is the intention, yes.

Mr. ALLEN. I would hope that would not take place because I believe we are seeing here in Congress the largest peacetime tax increase in the history of our country from the energy taxes and the social security raises, and I do not believe the full Senate has had an opportunity to deliberate these tremendous changes inasmuch as the bill was not reported from the committee until yesterday.

Just to pass something and allow the conference to work on it without the Senate having an opportunity to put more input into it, I believe would be unwise.

We now have the opportunity of going home, visiting among our constituents, talking to them about this tremendous change in the social security taxes, and this measure is something I do not believe is necessary this year. Sometime next year would be plenty of time. I believe this plan needs just a little bit more baking in the oven before it is thrown out here before the Senate while we have our minds on getting back home and visiting among our people.

I am hopeful that this bill will not be rushed through here. I am not saying the majority leader is trying to rush it through, I do not mean that, but requiring the Senate to consider this bill in the rush to adjourn, whether this most important bill, one that in instances increases the tax burden of wage earners by 200 percent over the next few years, whether we should rush this through prior to adjournment.

I would hope the distinguished majority leader would give serious consideration to waiting until next year on this most important bill.

Mr. ROBERT C. BYRD. Mr. President, I certainly can appreciate the reasoning behind the statement by the distinguished Senator from Alabama.

On the other hand, it is the reasoning of those of us who feel that action should be taken in this session—and this includes the President of the United States and his administration—that unless he has before him the impact of the social security financing taxes as well as the energy taxes, he will not be in a good position to formulate whatever tax reform initiatives he wishes to propose to the Congress at the beginning of the next session.

At the leadership dinner with the President last night he really reiterated his hope that Congress would act on social security financing this year.

As far as I am concerned, we do not have to do it today. I think we should certainly get started on it today, debate it today, and Senators may offer amendments, but we still have Thursday, we have Friday, and we have Saturday.

I know of no other measure that the Senate is bound to take action on before going out other than the Alcan pipeline, and that should not take very long.

But while there are measures that the leadership would hope to complete action on before the close of business Saturday, they are not of such a necessity as is the social security financing bill. So the Senator can be assured that there will be no effort to rush the bill through, for example, today. We can spend tomorrow, we can spend Friday, and we can spend Saturday. It seems to me in that length of time the Senate would have had ample opportunity to debate the measure, the implications of it, and any amendments that Senators would wish to offer.

Mr. ALLEN. I thank the distinguished majority leader.

It is my observation that the people throughout the country are just now waking up to the tremendous burdens they are going to be asked to assume under the social security tax revisions. Whereas the social security system was once looked on as a haven of security for the people, it is beginning to be looked on as a tremendous burden for the working people of our country.

I just feel that we ought to have sort of a cooling-off period here where we can give the people an opportunity to be advised to a greater extent than they now are as to just what is involved in this bill.

Also apparently the House and Senate have two different views of the approach, one having an equal distribution of the tax and the other one having it more placed on business and on the employees.

I am certainly hopeful that the majority leader would not insist on final action on this bill prior to the recess.

Mr. ROBERT C. BYRD. Mr. President, I would hope that the Senate will be able to complete its action on this bill because I think we would be criticized severely if Congress went home without taking action on the social security financing measure and the energy tax measure. If we do not finish it this week I think we ought to consider staying until we finish because I do not want Congress to be subjected to the criticism of not having acted on a situation that cries out for action and attention, and in view of the fact that, as I say, the President has asked for it and wants action on it, and who needs to have before him the implications of the social security financing legislation as well as the tax implications of the energy package before he can be in a position to formulate his tax reform package the next year, whatever one may call it, whatever his tax initiatives may be.

I think without this bill he is not in that position, and it would delay whatever action should be taken in that regard at the beginning of the year.

So it would be my hope that, in view of the fact that we do have 4 days yet in this week in which to deliberate on this bill, and the only other measure which I see as absolutely necessary before we go out being the Alcan pipeline legislation, it seems to me that would give us ample time to deliberate; and I hope that, with that much time assured, the distinguished Senator from Alabama would feel somewhat reassured as to the deliberations that will be employed in connection with this matter.

Mr. ALLEN. I thank the distinguished majority leader, and I appreciate his assurances. On the other hand, we will be acting on a bill that would last on into the next century, supposedly, and the social security fund, even though it is not taking in as much as it is now paying out, is in no danger of collapse, possibly in the next decade, certainly in the next 2 or 3 years; and I would hope, again, that we might have a greater length of time to consult with our constituents as to the route that we should follow on these revisions.

I recognize the need to have a solvent fund, but I do not see the need of insisting on passage of a bill in the next 3 or 4 days.

Mr. MORGAN. Mr. President——

Mr. ALLEN. If the Senator would like me to yield to him, I have the next 15 minutes.

Mr. MORGAN. If the Senator will yield, momentarily.

Mr. ALLEN. Yes.

Mr MORGAN. Mr. President, I want to add my voice of concern to that of the distinguished Senator from Alabama about the taking up of the social security bill at this particular time. I do not know what the bill is, or what is before me. My staff has made diligent efforts all this week to find out what be before us. There are no committee reports, as I understand it. The Democratic policy

committee has not given us any information that I have been able to locate, and I know of no piece of legislation pending in this Congress that has caused me to receive more mail, unless it is the Panama Canal issue, than the social security bill.

As I read the Washington Post, and that is all I know about what the House did, that bill has imposed, over a period of time, something like $284 billion in new taxes. I am just not in a position to vote intelligently on that measure. If the leadership thinks we ought to take it up, then I hope we will make no effort to leave here this week, that we are not going to rush into it, and will stay here 2 or 3 weeks, if we have to, because to the people of North Carolina the social security bill and the problems arising from it are paramount in their minds.

For that reason, I would ask the leadership, if they should decide to take it up, not to obtain or seek any unanimous-consent agreements, at least unless I am available on the Senate floor, and I will try to stay on the floor as much as I can; because if this should come up I frankly will have to educate myself on the floor of the Senate, and, you know, you cannot do that very well under a time limitation.

Mr. ROBERT C. BYRD. The Senator has my assurance that there will be no effort to secure any time limitation agreement in relation to that measure without his being contacted first.

Mr. ALLEN. Mr. President, I hope the majority leader will include the Senator from Alabama in that assurance.

Mr. ROBERT C. BYRD. Surely.

Mr. ALLEN. I will say to the distinguished majority leader that I have complete confidence in his assurances, because during the almost 9 years that I have had the privilege of working with the distinguished majority leader, he has never gone back on a commitment. So I feel completely assured. As the distinguished majority leader knows, we have the Rules Committee meeting and the Judiciary Committee meeting, and it is not possible for Members to be on the floor at all times.

Mr. ROBERT C. BYRD. This Senator has not changed in that regard.

PANAMA CANAL TREATIES—NO. 23

Mr. ALLEN. Mr. President, having used most of my time, I ask unanimous consent that my 23d speech on the Panama Canal, 21 of the others having been delivered on the floor, and I believe 1 inserted in the RECORD——

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield at that point?

Mr. ALLEN. Yes.

Mr. ROBERT C. BYRD. Mr. President, if the distinguished Senator from Alabama would like to have some additional time on his speech, I will be glad to yield to him on my time.

Mr. ALLEN. I thank the distinguished Senator. I do not believe it will be necessary.

I ask unanimous consent that my 23d speech be printed in the RECORD as if delivered on the floor, and I do call attention to the fact that 21 of these speeches have been delivered.

The ACTING PRESIDENT pro tempore. Without objection, the Senator's speech will be inserted in the RECORD.

Mr. ALLEN. Mr. President, on Thursday, October 13, 1977, I addressed the Senate on the subject of a report in the Washington Star that the Department of Justice had confirmed the existence of a sealed narcotics indictment in the eastern district of New York against Moises Torrijos, brother of the Panamanian dictator, Omar Torrijos. At that time, I went into some detail in describing the events in 1971 which appear to have led to the indictment of Moises Torrijos sometime during the year 1972, and I noted—as have others—the peculiar fact that Moises Torrijos found it inconvenient to come to the United States for the gala signing of the proposed Panama Canal treaties, notwithstanding his brother's position as Panamanian Chief of State or his own governmental positions as an Ambassador and as the current Panamanian information officer for the proposed canal treaties. More particularly, I expressed my own continuing concern that the U.S. Department of Justice may not be pursuing vigorously the prosecution of Moises Torrijos because of political considerations.

Now, Mr. President, the purpose of a sealed indictment is to keep secret from the person indicted the fact that he is under indictment until such time as the individual is within the jurisdiction of the State seeking his prosecution. But, Mr. President, once the existence of an indictment has become a matter of public knowledge and indeed once the person indicted is personally aware of the fact of his indictment, there is absolutely no good purpose served by continuing to cloak in a veil of secrecy the specifics of the offenses charged.

So, I would hope that the Attorney General will soon see fit to unseal this secret, sealed indictment against Moises Torrijos so that the American people can be made aware of the detailed charges made against him. The American people have very properly been made aware in great detail of the charges made against Tongsun Park, and certainly the same standards should apply in this particular case. So I would hope that the indictment against Moises Torrijos will be made public, either by the Department of Justice or by the U.S. District Court for the Eastern District of New York, and I would hope that it would not be necessary for interested parties to petition the court for information on this subject which should be of great interest to the citizens of the United States.

Certainly, Mr. President, no claim could now be made that Moises Torrijos is unaware of his indictment inasmuch as that fact has been widely reported here in the United States and, I might add, Mr. President, because presumably Moises Torrijos has known of this indictment for some time—in fact, has probably known of this indictment from a time very soon after it was handed down by the grand jury there in the eastern district of New York. So, Moises Torrijos knows of this indictment and very probably knows of the details of this indictment. Yet, the American people have been kept in the dark. And I do feel that this is a subject about which the people of this country should be advised inasmuch as this subject does appear to touch on the conduct of high government officials of a government with which the United States would jointly operate and defend this vital national asset, the Panama Canal.

You know, Mr. President, the year following the negotiation of the Panama Canal Treaty of 1903, our Government took the prudent step of negotiating with Panama a document entitled "A Treaty for the Mutual Extradition of Criminals." This Extradition Treaty of 1904 provides the mechanism for the extradition of persons charged with or convicted of certain specific enumerated crimes.

Mr. President, we do not know the details of the charges against Moises Torrijos, so it is difficult to determine from reading the language of the Extradition Treaty of 1904 whether that treaty would provide for extradition of Moises Torrijos to the United States. But we do not have the same problem here that we have in the case of Tongsun Park because we do at least have an extradition treaty with Panama for the extradition of criminals, and we do not have a treaty with South Korea for that purpose.

But, Mr. President, the Department of Justice has not seen fit to exercise the rights of the United States under this treaty of 1904 to seek the extradition of Moises Torrijos. So it must follow that the crime or offense charged against him is not one of the crimes or offenses enumerated in the extradition treaty. And indeed, Mr. President, if you do examine the treaty of 1904 in detail, as I have done and as I am sure many other Members of the Senate have done since this case came to light, you will find that among the 13 categories of crimes enumerated in the extradition treaty, the treaty does not cover trafficking in drugs.

I suppose, Mr. President, that the reason for that omission is relatively simple. In 1904, the United States was not beset by the problems and the tragedies generated by and associated with the lives and activities of some 400,000 heroin addicts. In 1904, it was possible to walk the streets of Washington, D.C., or New York City late at night without fear of violent attack by a heroin addict desperate to obtain the means to support his deadly habit. In 1904 the suicide rate among teenagers was not escalating by a factor of 300 percent as it has done in the United States over the past decade, nor in 1904 were significant numbers of soldiers and sailors in the Army and Navy subverted and destroyed by addic-

tion to hard narcotics. So in 1904 our negotiators did not give extradition for trafficking in drugs very high priority.

But this, Mr. President is not 1904; this is 1977, and our country continues to lose ground in its grim and unsuccessful struggle against the drug trade. This is 1977, Mr. President, and our country continues to see the fabric of its society rent by the venality of drug profiteers.

Some elitist leaders of oppressed foreign populations might assert that drug addiction is a problem confined to ghettos and, therefore, not a problem worthy of serious attention or significant moral concern. But, Mr. President, the horror of a death from addiction to heroin, the horror of drug-motivated violent crime cannot be dismissed on those false grounds by the people's representatives in the Congress of the United States. Our duty is to strike against this disease at every opportunity.

In 1971 and 1972, the Subcommittee on the Panama Canal of the House Committee on Merchant Marine and Fisheries conducted a careful investigation of drug trafficking in the Republic of Panama. A briefing at that time given to the subcommittee by the Bureau of Narcotics and Dangerous Drugs contained the following information:

Panama is one of the most significant countries for the transshipment of narcotic drugs to the United States. Its geographic location facilitates the illicit traffic because it is a terminus for air and sea transport. Additionally, domestic and international telecon facilities are well developed. The significance of Panama is evidenced by the fact that during the past twelve months, 641 pounds of heroin were seized in the United States which had transited through Panama. This 641 pounds consists of only four single seizures and does not include seizures of less than 100 pounds.

I regret to report, Mr. President, that my own study of this subject indicates to me that little, if anything, has changed since the time that information was provided. But to illustrate the magnitude of the problem, Mr. President, I should also quote the following passage from this same report of the Bureau of Narcotics and Dangerous Drugs:

It is clear that the Republic of Panama has not and is not paying sufficient attention to narcotic enforcement activities to achieve notable results. This may be due to high level apathy, ignorance *and/or collusion*.

So, Mr. President, this matter of the involvement of high Panamanian officials in trafficking in heroin has, therefore, been the subject of official concern for some time, and the Bureau of Narcotics and Dangerous Drugs, which is now the Drug Enforcement Administration, was seeking without much success as far back as 1971 to obtain the full cooperation of the Government of Panama in rooting out these wrongdoers who were and are creating such enormous suffering here in the United States.

As early as September of 1971, the Bureau of Narcotics and Dangerous Drugs was conducting narcotics information training for the members of the Panamanian Central Narcotics Unit, and before the end of 1971 the Bureau had extracted from the Republic of Panama an agreement to examine the feasibility of entering into a new extradition treaty to include drug violations. Unfortunately, Mr. President, that agreement to examine the feasibility of an extradition treaty for drug offenses had about as much effect as would this agreement in these proposed treaties to examine the feasibility of a sea level canal. In other words, Mr. President, they agreed to study the feasibility of extraditing drug offenders, and they did not agree to anything else.

And now it is 1977, and in spite of intense diplomatic negotiations on every imaginable subject, we still have no treaty for the extradition of drug traffickers, not that anyone should be particularly surprised inasmuch as the brother of the Maximum Leader down there would presumably be one of the first to be extradited. So we are not surprised, Mr. President, but many of us are outraged because we in the United States still have the problem of 400,000 heroin addicts being fed on heroin funneled through Panama.

Mr. President, even though the negotiators for the United States do not seem to have given this subject a second thought, the negotiators for the Republic of Panama were concerned—very concerned—about treaty provisions affecting jurisdiction of offenses involving trafficking in drugs. In fact, Mr. President, the negotiators for the Republic of Panama were so concerned about the treatment of drug offenses and the jurisdiction of Panama over drug offenders that they insisted that Panama be given in the proposed Panama Canal Treaty primary jurisdiction for all crimes involving the trafficking of drugs even within what is now the Panama Canal Zone and even if the offender were a U.S. national.

This specific assertion of jurisdiction of offenses involving trafficking in drugs is set forth in article XIX of the executive agreement in implementation of article III of the Panama Canal treaty, and it is also set forth, with respect to military personnel, in article VI of the executive agreement in implementation of article IV of the treaty. In both cases, it is also clearly specified that an individual charged by U.S. authorities with trafficking in drugs must be handed over to Panamanian authorities upon their request.

I am sure all Senators share my hope that Panama is insisting on jurisdiction over crimes involving trafficking in drugs out of a genuine desire to suppress the drug trade rather than from the more base motives which might be inferred from some of the revelations of the past weeks and months, but the point is, Mr. President, no provision whatsoever in these proposed treaties is made for the extradition of drug offenders who are sought by the United States and who have obtained refuge in Panama. This omission has occurred notwithstanding the many thousands of Panamanians residing in the United States who travel frequently beween the two countries, this omission has occurred notwithstanding also the many U.S. citizens with dual Panamanian citizenship, and this omission has occurred notwithstanding the fact that as far back as 1971 the Bureau of Narcotics and Dangerous Drugs obtained the agreement of the Government of Panama to examine the feasibility of obtaining drug offense extradition rights—notwithstanding all these factors, our negotiators have not provided in these proposed treaties for this important extradition provision.

As I have often noted, Mr. President, I can see virtually nothing in these treaties which accrues to the benefit of the United States. Why, at least, could we not have obtained the right to extradite drug offenders who are charged with violating our laws and who are found in the Republic of Panama? After proposing to give to Panama one of our most valued national assets and after proposing to pay to Panama several billion dollars for taking the gift, I do find it more than passing strange that we could not even obtain an agreement from Panama that narcotics offenders could be extradited.

So, Mr. President, I hope we can rectify this shortcoming. I propose to amend the pending Panama Canal treaty to provide for the mutual extradition of persons charged with or convicted of trafficking in drugs. I have prepared this amendment as one of a series of amendments I intend to propose to correct the errors and omissions of our negotiators. Mr. President, I have prepared this amendment for introduction because I believe this amendment, when considered in the Senate, will bring into focus a problem of massive proportion which must be addressed and solved before any new agreement can be entered into with Panama in which it is provided that the United States and Panama will jointly operate and defend the vital Panama Canal.

The proposed amendment, along with the other amendments I intend to offer, will of course be referred to the Committee on Foreign Relations, chaired by my distinguished senior colleague, Senator JOHN SPARKMAN. I know that the members of the Committee on Foreign Relations will give this amendment together with all others very serious and very careful consideration, and knowing that fact I respectfully suggest to the distinguished chairman of the committee that hearings on this amendment might aid in surfacing information for the committee to enable its members to assess accurately the need for its adoption. In my judgment, this amendment is clearly needed, other amendments are clearly needed, and I hope that these needed amendments will receive the full support and backing of Senators who recognize that the Senate must assume responsibility for putting into these treaties what the Department of State has left out and for taking from these treaties the many provisions negotiated

by the Department of State which do violence to our national interest.

I thank the Chair, and yield back the remainder of my time.

SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume the consideration of the unfinished business, H.R. 9346, which the clerk will state.

The assistant legislative clerk read as follows:

Calendar No. 515, a bill (H.R. 9346) to amend the Social Security Act and the Internal Revenue Code of 1954 to strengthen the financing of the Social Security System, and so forth, and for other purposes.

The Senate resumed the consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MORGAN. Mr. President, I ask unanimous consent that Mr. Tom Polegard, of my staff, be granted the privileges of the floor during the consideration of H.R. 9346, and any votes thereon.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MORGAN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that Mr. Ralph Cooper, of the staff of Senator HEINZ, be granted the privileges of the floor during the consideration of the social security bill and any votes thereon.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECESS UNTIL 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 10 a.m. today.

There being no objection, the Senate at 9:35 a.m., recessed until 10 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. LEAHY).

The PRESIDING OFFICER. The Chair recognizes the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, the Senate is awaiting action by the Finance Committee and the Budget Committee with relation to the social security financing bill which is pending before the Senate, and inasmuch as there apparently needs to be more time, at least for the moment, given to the Finance Committee and the Budget Committee, I suggest, unless the minority leader has some business at this point or something to say, the Senate recess for another half hour.

Mr. BAKER. Mr. President, I think it is a good idea.

It is essential, of course, that we have the budget waiver if we are to proceed with the social security bill. I understand the two committees are busily engaged in trying to unravel that problem.

So we might proceed to the consideration of an item that is on the unanimous-consent calendar if the majority leader wishes, but I am told that needs a budget waiver as well, so I guess we have to await the Budget Committee on that.

Mr. ROBERT C. BYRD. All right.

RECESS UNTIL 10:32 A.M.

Mr. ROBERT C. BYRD. Mr. President, in order to give the Finance Committee and the Budget Committee some additional time, I ask unanimous consent that the Senate stand in recess for 30 minutes.

There being no objection, the Senate, at 10:02 a.m., recessed until 10:32 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ZORINSKY).

Mr. ROBERT C. BYRD. Mr. President, will the Chair recognize the distinguished Senator from Arizona?

Mr. GOLDWATER. Mr. President, I ask unanimous consent that I may address myself to two subjects not related to current business. I will not consume over 5 or 6 minutes.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. ROBERT C. BYRD. Will the Senator yield for a unanimous-consent request?

Mr. GOLDWATER. Yes.

COMMITTEE MEETING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, and this has been cleared with the distinguished minority leader, that the Judiciary Committee be authorized to meet this afternoon between the hours of 1:30 p.m. and 3:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Arizona.

THE HELMS BARGAIN

Mr. GOLDWATER. Mr. President, this morning's Washington Post so succinctly stated the case of Richard Helms that at the proper point in my remarks, I will ask to have it printed. Many people in the Congress and people in the media have never seemed to understand how the director of an intelligence agency operates. He is directly under the Commander in Chief, and that is the President of the United States. Every action he performs in cooperation with or in opposition to a foreign government is ordered by the Commander in Chief, and the director, whoever he is, either carries out the orders or turns in his suit.

During the course of many hearings held before the Church committee and before the present Intelligence Committee, I have asked the various former heads of the CIA and other intelligence groups whether they would lie to protect the Commander in Chief, and the answer was universally yes. To do otherwise would be placing the reputation of the Office of the President in jeopardy because full disclosure by any of these directors of orders received by them from the Commander in Chief would create a misunderstanding between other countries and our own and possibly raise unwarranted doubts in the minds of American citizens.

Mr. Helms, in my opinion, has performed a great service for the United States throughout his career in various governmental posts and as a private citizen. His work should be applauded as well as others who have served as he has, not character assassinations, not injustices, but the thanks of the American people. Therefore, I ask that the editorial to which I referred, dated November 2, 1977, be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 2, 1977]

THE HELMS BARGAIN

The bargain consummated by the government and former CIA Director Richard M. Helms represents a kind of minimal political equation. As he stated afterwards, Mr. Carter wanted to uphold the authority of the law and the Congress (by prosecuting Mr. Helms for failing to testify to the Senate fully and accurately) and to prevent the spilling of national security secrets (by arranging a plea bargain short of a trial). Mr. Helms wanted to protect, as much as possible, his freedom and his reputation and, not ignobly, his pension. To do this he pleaded "no contest" to two misdemeanor criminal charges arising from his testimony on Chile before the coup there in 1973, and the government accepted his plea.

We don't quarrel with this bargain. The administration and Mr. Helms must live with it. But we do question the post-bargain explanation offered by the White House and much of the instant "liberal" comment on the deal. For it is not enough to say that the law was upheld and the nation's secrets were protected. That formulation misses the dilemma that made this case genuinely agonizing to conscientious people. "I found myself in a position of conflict," Mr. Helms told

the court. "I had sworn my oath to protect certain secrets. I didn't want to lie. I didn't want to mislead the Senate. I was simply trying to find my way through a very difficult situation in which I found myself."

It is easy, even tempting, to overlook that Mr. Helms—by his oath of secrecy to the CIA, by his professional commitment to the work and method of the CIA, by his devotion to what you might call the theology of secrecy then guiding the CIA—found it impossible in conscience to tell the Senate openly what the CIA had done covertly in Chile in 1970. One reason for his reluctance, it needs to be noted, is that at the time of his testimony, in 1973, the same sort of secret, presidentially directed operations against the Allende government were still under way. It also needs to be noted that the operations in 1973, as well as those in 1970, had been subjected to all the secret—and lamentably lax—oversight that the Congress at that time was prepared to require.

Mr. Helms, in other words, was being asked to compromise not just past covert activities but also continuing activities of which a select handful of congressional overseers had already been informed in exactly the manner of Congress's own choosing. The great public debate over CIA misdeeds, moreover, had not yet begun.

Later, wisely, the country changed the rules to ensure that secret operations would be conducted only with the orderly and explicit (and still secret) consent of Congress. Mr. Helms was caught up in the change. But that is not so much an indictment of him as an irony of our times: The national interest that formerly required him to make and keep secrets is now seen to require his humiliation for having pursued it faithfully in the past. To us, this calls not for vengeance but a measure of humility, and some sadness. It is, therefore, painful to see Sen. Frank Church (D-Idaho) misperceiving and degrading the occasion by accusing the administration of protecting Mr. Helms by a "double standard." It does not escape our notice that the same point is being made elsewhere on this page today by our colleague Herblock.

We are not saying that Mr. Helms should have been let off scot-free. The integrity of testimony under oath to a committee of Congress needs to be upheld as a matter of principle. But neither do we think he should have been prosecuted more severely. He had, after all, sworn a prior oath to defend the integrity of the agency of which he was the director. There was, in short, no way for Mr. Helms to meet the real double standard in this case—the irreconcilable conflict, if you will growing out of an abrupt and profound change in the political climate—between the congressional permissiveness and acceptance of secrecy in 1970 and for years before that, and the insistence much later on forthright, public discussion of covert CIA activities. That he chose in this dilemma to remain faithful to his commitment to the CIA, at the expense of his obligation to a committee of the Congress, does not diminish our estimate of him as an honorable man.

SOUTH AFRICA

Mr. GOLDWATER. Mr. President, on another subject, I noticed in the morning paper that the Senate Committee on Foreign Relations has passed out two concurrent resolutions, one a resolution relating to the death of Steve Biko in South Africa, and the other one, a concurrent resolution, expressing concern about the recent acts of repression by the Government of the Republic of South Africa.

Mr. President, I think these resolutions are highly out of order. I do not defend what South Africa feels is right in their own minds and the way they conduct their Government, but I do not think it is any business of the United States to try to change the governments of other countries of this world. I believe we have enough problems in the United States concerning relations between people, the way our Government operates, and the shortcomings of our Government to occupy our time before we run around this world sticking our nose into every other country in the world and trying to tell them what they should be doing.

This resolution, as passed by the House, will be before us sometime, though I do not know just when that will be. I am making my remarks now, however. The resolution concerns repression by the Government of South Africa.

Mr. President, if I am here, I would like to offer an amendment, and I might, that will include the People's Republic of China. Every day we pick up the press and we read of another 100 people being killed, murdered, in Red China, and yet our President and our State Department are breaking their backs to get in bed with Red China.

If we say that the Government of South Africa is repressive because one man has been killed—and I do not condone that—then what should we be doing about Red China? Yes, what should we be doing about Russia? People cannot vote in Russia the way they want to. People have no freedom of religion in Russia. We have been nice to the Russians for the last 40 years, put up with their lies, put up with their deceit, put up with their corruption around this world. Yet we condemn one of our best friends in this whole world, the Government of South Africa who, I might remind you, Mr. President, could, if they were of the mind to, totally destroy the currency of our country. They own and have under their soil probably more gold than all the combined countries and lands of this world. If they ever undertook to mine it all and start buying up our dollars and say, "Pay up in gold," we would be broke. But they have been decent about these things. They have been decent to us. They have been our allies in war. We have called upon them. They have supported us, and we have supported them. Yet all of a sudden this body is going to be asked to support resolutions condemning friends in this world.

Mr. President, we do not have a lot of friends left in this world. If we go around kicking the few we have left, we are not going to have any. The United States will be standing alone in a world dominated by the governments that demand slavery, such as Cuba.

Now we hear Members of this body asking for freer trade with Cuba. What have they done to justify it?

We hear people extolling the advantages of a treaty with Panama. What has Panama done for its own citizens?

Human rights? I sometimes have to laugh when the President talks about human rights because, as I said last week, I do not know whether he understands them or whether he is talking out of both sides of his mouth. To condemn a country that has practiced for years a form of government that we have never found anything wrong with, again which I do not think many of us condone but, nevertheless, it is their government, to criticize other governments like South Africa for the abuse of human rights and not point the finger at Russia, Red China, Cuba, and every country that oppresses human rights around this world, to me is doubletalk, and I do not like it.

Mr. President, in conclusion, a letter was written to the Honorable CARDISS COLLINS in the House. I know it has been made available to every Senator. It was written by Carl Nöffke, the Information Counselor of South Africa. I ask unanimous consent that this letter be printed at this point in my remarks, together with other statements by South African officials.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OCTOBER 27, 1977.

Hon. CARDISS COLLINS,
U.S. House of Representatives,
Cannon House Office Building,
Washington, D.C.

DEAR MRS. COLLINS, I have read a copy of the Concurrent Resolution on South Africa, proposed by you and circulated to Members of the House of Representatives. The resolution totally distorts South Africa, its peoples, recent events and the South African Government.

Robert Ardrey, renowned author and anthropologist, said a few days ago that South Africa was the whipping boy of the world. He believes that the theory of redirected aggression is responsible for the intense international criticism of South Africa.

Mr. Ardrey, in an interview with The (Johannesburg) Citizen of October 15, 1977, also said:

"The human rights issue in South Africa is a constant international complaint. But from Eastern Europe right across to Vladivostok and China, there are no human rights."

Mr. Ardrey is perfectly right. According to Freedom House, New York—which I am sure you will consider a competent, expert body—South Africa was rated among the top third of countries upholding human rights in 1976.

Your resolution represents a caricature of South Africa, which does not exist in reality. Admittedly, the South African Government took drastic steps last week to prevent further lawlessness which was generated by the June 1976 disturbances and to obviate bloodshed and even human disaster in South Africa.

All the steps taken followed a long and careful analysis of the individuals and organizations concerned. All alternatives were considered but in view of the actions of the persons and organizations involved, none were acceptable.

The individuals detained cannot, by any yardstick, be described as the leaders of South Africa. At best a small number of those detained can be described as leading figures in certain small, unrepresentative organizations. Not one political party, be it black, colored, Asian or white, was outlawed nor a single political leader.

I mentioned the caricature of South Africa which your resolution represents. In view of the hysterical campaign mounted against South Africa by the mass media in this country, one can well understand that facts are being grossly misrepresented. But Americans who visit South Africa, be they black or white, return with a different point of view.

By accepting the self-determination of all its peoples, South Africa is in fact far more advanced in coping with the immense problems in a multinational society than our critics would give us credit for.

I beg you, even at this late hour, to examine South Africa again, with fairness and objectivity.

As I stated previously, many American visitors to South Africa return with a complete change of mind. Only today, a well-known retired U.S. admiral, who has just returned from South Africa on his first visit there, said that the distortion of South Africa is criminal.

Let us also consider the views of a European liberal. Prosper J. Ego, editor of the Dutch magazine StaVast, recently spoke out quite eloquently for South Africa after a visit. He is a Dutch liberal with a keen, sharp mind and is married to an Indonesian. He is very critical of "petty apartheid" (social discrimination).

On his return to the Netherlands he published two hard-hitting two-page articles on his impressions of the country.

In his first article he dealt with South African jails. He concluded that South Africa had no need to apologize for its penal system.

"In fact, the opposite is true. South Africa deserves a cum laude for it. Many countries could hold the South African prison system up as a shining example for their own prison systems."

His opinion reflects the considered views of penologists of international repute who have studied the South African penal system.

In an article on Soweto he had criticism to offer. He did not like "the somewhat monotonous character" of the government-built houses. But he pointed out that among the simple houses there were luxurious ones which richer blacks had built themselves.

In visiting Soweto "we discovered a friendly and open attitude towards us and a visit to a creche was very touching," he said.

There is no doubt in Mr. Ego's mind that there are forces in South Africa who are using the explosive situation to further their own causes.

"They have no real concern for the welfare of the blacks, but they are posing as such because this suits their strategy for the overthrow of the government. This happens all over the world, that through chaos, unrest, violence and destruction these forces are trying to create a revolution."

"This is why they are boycotting South Africa, because to remove credit facilities, to discourage investments in South Africa, will remove South Africa's ability to build up its infrastructure—which in turn creates joblessness and violence," Mr. Ego wrote.

He also had this to say:

"Our visit to Soweto has taught us that the world is treating South Africa in a most unfair manner because the white community in South Africa is much more concerned about the fate of the non-whites than any of those hypocritical world reformers would have us believe.

"Whatever South Africa does, is bad in their eyes. We are nevertheless convinced that the future of the non-whites in a peacefully developing South Africa would be much better guaranteed than if the outside world had its way."

You can discard or accept these views. My hope is that you will take a fresh look at South Africa.

In conclusion, I attach brief statements by the South African Prime Minister, the Minister of Justice, the Secretary for Information and the head of the Bureau for State Security on the recent actions in South Africa.

Yours sincerely,

CARL NÖFFKE,
Information Counsellor.

STATEMENTS

1. STATEMENT BY MINISTER OF JUSTICE J. T. KRUGER, OCTOBER 20, 1977

It is abundantly clear for all to see and to appreciate to what extent that prediction (of a dangerous situation in South Africa made by a Commission of Inquiry in 1973) had already come true. Even to the most naive, it must by now be clear that the riots which broke out in the country last year and have flared up sporadically since, were not spontaneous. The grievances that were initially said to have caused them, have long since faded into the background. New grievances, new objectives and new processes are focused upon almost from day to day to ensure that the unrest continues and to attempt to create the desired state of anarchy. A relatively small group is taking the lead in all this, but use is made of a number of organizations, many of which come and go, and of many human instruments who sometimes in all good faith allow themselves to be involved. In the process too much damage has already been done and too much suffering has been caused for too many innocent men, women and children. The most serious consequence of course has been the loss of lives. In addition the way of life of whole sections of the community has been disrupted and the standard of living of others ruined.

Black people have been hardest hit. The time has come when mere preventative measures against these physical manifestations of this campaign of hate are no longer sufficient. By and large, police action has been successful, but it is only the pawns that are caught. The big organizers keep themselves in the background and continue to use revolutionary climate and to organize unrest. Other revolutionaries, like the South African Communist Party and its partner, the ANC, (African National Congress), are also now trying to exploit the situation for their own ends.

Against this background committees consisting of a regional magistrate as chairman and two other lawyers as members, were appointed in terms of Section 17 of the Internal Security Act, 1950 to make factual reports in relation to certain organizations and publications. The facts contained in these reports leave no doubt that the activities of the organizations mentioned serve, interalia, as means for expressing views, the publication of which is calculated to endanger the maintenance of public order. It was consequently decided to declare the organizations unlawful and to prohibit their publication.

Many of these organizations which are declared unlawful, if judged merely by their names, do commendable work. The public is warned not to be misled hereby. The sweet-sounding names and aims of these organizations only serve as a smoke screen to cover their subversive activities.

Secondly, it has also been decided to act against those persons whose activities endanger the maintenance of public order. Restrictions will be imposed on some of these persons but where this proves to be insufficient as a preventative measure, resort will be had to the powers of detention contained in Section 10(1)(A) Bis of the Internal Security Act of 1950.

The Government is determined to ensure that the peaceful co-existence of people in South Africa is not disturbed by a small group of anarchists. The situation will, therefore, be watched closely and, should it become necessary, new measures will be considered. Persons who believe that the Government will allow itself to be intimidated or prescribed to are making a big mistake.

2. STATEMENT BY PRIME MINISTER JOHN VORSTER, OCTOBER 21, 1977

In a speech Mr. Vorster supported the action taken by the Minister of Justice, Mr. Jimmy Kruger, and said that he would have done the same thing had he still been Minister of Justice, because South Africa's safety and security were paramount.

"When it comes to steps to safeguard the future of South Africa, to safeguard law and order, to safeguard lives and to protect the property of people, then you certainly don't want a government which looks at votes" (referring to the upcoming general election on November 30, 1977 in South Africa).

"I am aware what certain organizations are planning and where certain organizations wish to take South Africa," he said.

Mr. Vorster also referred to a statement by U.S. State Department spokesman Hodding Carter III that the action on the part of the South African Government will lead to a review of relations between the United States and South Africa. Mr. Vorster's response was:

"I am not interested. As far as I'm concerned, it is totally irrelevant. The Carter Administration has for ten months now been trying to make policy for us. It will be nice for a change if they make their own policy," he said, adding that "then we will at least know where we stand and what the policy is."

3. STATEMENT BY SECRETARY FOR INFORMATION, DR. E. M. RHOODIE, OCTOBER 20, 1977

The decision by the Cabinet to ban and restrict certain publications and individuals had been preceded by month-long discussions, Dr. E. M. Rhoodie said.

"Relatively speaking the South African press is still amongst the freest in Africa."

According to a U.N. official report "there are press codes in only 20 of the 160 states of the world," he stated. "In the Argentine, a bi-monthly magazine was closed down a month ago, not by law but by executive decree."

Dr Rhoodie pointed out that "not one South African newspaper mentioned this event" and that "it was ignored by the world press".

Citing double standards in judging South Africa, Dr. Rhoodie went on as follows:

"Nigeria . . . in June simply nationalized foreign-owned magazines without compensation."

He added that "the unrest and violence in South Africa is planned. The incitement of racial feelings and the polarization between black and white are dangerous. But, should normality return and the threat to law and order recede, I am sure that the Government would reconsider the position of the publications that had been closed."

4. STATEMENT BY HEAD OF THE BUREAU FOR STATE SECURITY, GENERAL J. H. VAN DEN BERGH, OCTOBER 20, 1977

General van den Bergh stated that if peace and order were not restored, it was only logical that the Government would have to take even stricter action to prevent disturbances.

"The Government cannot tolerate this sort of disturbance indefinitely. The Government can be expected to take stern action against disorderliness and even sterner action if thuggery and disorderliness does not stop."

Regarding the banning of The World and Weekend World, General van den Bergh

said: "One only has to read what these newspapers published in recent years to realize the degree of incitement that has been going on."

General van den Bergh said he regretted the unfavorable world reaction, but this was once again a case of double standards being applied. When terrorism occurred in South Africa it was approved and even encouraged by donations, but when terrorism occurred in other countries it was condemned and a great fuss was made about it.

Mr. GOLDWATER. I thank the leader for his generosity in allowing me to have this time.

SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

The Senate continued with the consideration of H.R. 9346.

Mr. LONG. Mr. President, I report an original resolution from the Committee on Finance. Under the regular procedures, it will be referred to the Budget Committee.

Mr. President, the purpose of this resolution is to authorize the consideration by the Senate of the Finance Committee's recommendations on social security financing as an amendment to H.R. 9346 in the nature of a substitute.

Mr. President, I send to the desk the committee bill as an amendment to the pending bill.

The PRESIDING OFFICER. Is the Senator offering it as an amendment?

Mr. LONG. Yes.

Mr. President, the members of the Budget Committee have already voted on the resolution I have just reported and they have approved it. They will be here shortly, I am sure, to report that they agree with the resolution. At that point, we can go ahead with the consideration of this matter.

Meanwhile, I ask unanimous consent that during the consideration of the social security financing bill, the following staff members be granted access to the floor:

From the staff of the Committee on Finance: Michael Stern, Joe Humphries, Bill Galvin, George Pritts, and David Swoap.

From the staff of the Congressional Research Service: Frank Crowley and Margaret Malone.

UP AMENDMENT 1032

(Purpose: To strengthen the financing of the social security system, to reduce the effect of wage and price fluctuation on the system's benefit structure, to increase the earnings limitation, and for other purposes.)

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an unprinted amendment in the nature of a substitute numbered 1032.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE; REFERENCE TO ACT

SECTION 1. (a) This Act (together with the following table of contents) may be cited as the "Social Security Amendments of 1977".

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TITLE I—PROVISIONS RELATING TO THE OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM

PART A—PROVISIONS RELATING TO FINANCING

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Sec. 103. Employment tax increase; increase in self-employment tax; reallocation among trust funds.
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Sec. 105. Maximum benefits.
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PART B—GENERAL PROVISIONS

Sec. 121. Liberalization of earnings test.
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Sec. 125. Limitation on retroactive benefits.
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Sec. 128. International agreements with respect to social security benefits.
Sec. 129. Coverage of nonprofit organizations which failed to file waiver certificates.

TITLE II—MISCELLANEOUS

Sec. 201. Studies and reports.
Sec. 202. Appointment of hearing examiners.
Sec. 203. Report of Advisory Council on Social Security.

TITLE III—PROVISIONS RELATING TO CERTAIN STATE WELFARE AND SERVICE PROGRAMS RECEIVING FEDERAL FINANCIAL ASSISTANCE

Sec. 301. Fiscal relief for States and political subdivisions thereof with respect to costs of welfare programs.
Sec. 302. Incentive adjustments for quality control in Federal financial participation in aid to families with dependent children programs.
Sec. 303. Access to wage information.
Sec. 304. State demonstration projects.
Sec. 305. Earned income disregard.

(b) Whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision without specification of Act, the reference is to a certain or other provision of the Social Security Act.

TITLE I—PROVISIONS RELATING TO THE OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM

PART A—PROVISIONS RELATING TO FINANCING

APPLICATION OF EMPLOYER EXCISE TAX TO WAGES IN EXCESS OF CONTRIBUTION AND BENEFIT BASE

SEC. 101. (a) Section 230(c) is amended by adding at the end the following sentence: "For purposes of the employer tax liability under section 3111 of the Internal Revenue Code of 1954 and section 3221(b) of such Code in the case of railroad employment, the contribution and benefit base referred to in paragraph (1) of section 3121(a) of the Internal Revenue Code of 1954 is deemed to be $50,000 with respect to remuneration paid during calendar years 1979 through 1984, and with respect to calendar years after 1984 $75,000 or (if higher) the contribution and benefit base as determined under this section without regard to the provisions of this sentence.".

(b) Section 230(b) is amended by striking out "shall be" in the matter preceding paragraph (1) and inserting in lieu thereof "shall (subject to subsections (c) and (d)) be".

INCREASE IN CONTRIBUTION AND BENEFIT BASE FOR EMPLOYEES

SEC. 102. Section 230 is amended by adding at the end the following new subsection:

"(d) Except as otherwise provided by the last sentence of subsection (c) and except for purposes of determining employer tax liability under section 3221(a) of the Internal Revenue Code of 1954, for calendar years 1979, 1981, 1983, and 1985 the contribution and benefit base shall be equal to the amount determined under subsection (b) but as augmented for each such year (and carried forward thereafter) by $600; and the amount of such base for any such year as so increased shall be deemed to be the amount of such base for such year for purposes of determining any increase, under the preceding provisions of this section, in such base for any succeeding year.".

EMPLOYMENT TAX INCREASE; INCREASE IN SELF-EMPLOYMENT TAX; REALLOCATION AMONG TRUST FUNDS

SEC. 103. (a) TAX ON EMPLOYEES.—

(1) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—Paragraphs (1) and (2) of section 3101(a) of the Internal Revenue Code of 1954 are amended to read as follows:

"(1) with respect to wages received during the calendar years 1974 through 1977, the rate shall be 4.95 percent;

"(2) with respect to wages received during the calendar year 1978, the rate shall be 5.05 percent;

"(3) with respect to wages received during the calendar years 1979 and 1980, the rate shall be 5.085 percent;

"(4) with respect to wages received during the calendar years 1981 through 1984, the rate shall be 5.35 percent;

"(5) with respect to wages received during the calendar years 1985 through 1989, the rate shall be 5.65 percent;

"(6) with respect to wages received during the calendar years 1990 through 1994, the rate shall be 6.10 percent;

"(7) with respect to wages received during the calendar years 1995 through 2000, the rate shall be 6.70 percent;

"(8) with respect to wages received during the calendar years 2001 through 2010, the rate shall be 7.30 percent; and

"(9) with respect to wages received after December 31, 2010, the rate shall be 7.80 percent.".

(2) HOSPITAL INSURANCE.—Paragraphs (2) through (4) of section 3101(b) of the Code are amended to read as follows:

"(2) with respect to wages received during the calendar year 1978, the rate shall be 1.00 percent;

"(3) with respect to wages received during the calendar years 1979 and 1980, the rate shall be 1.05 percent;

"(4) with respect to wages received during the calendar years 1981 through 1984, the rate shall be 1.25 percent;

"(5) with respect to wages received during the calendar year 1985, the rate shall be 1.35 percent; and

"(6) with respect to wages received after December 31, 1985, the rate shall be 1.40 percent.".

(b) TAX ON EMPLOYERS.—

(1) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—Paragraphs (1) and (2) of section 3111(a) of the Code are amended to read as follows:

"(1) with respect to wages paid during the

calendar years 1974 through 1977, the rate shall be 4.95 percent;

"(2) with respect to wages paid during the calendar year 1978, the rate shall be 5.05 percent;

"(3) with respect to wages paid during the calendar years 1979 and 1980, the rate shall be 5.085 percent;

"(4) with respect to wages paid during the calendar years 1981 through 1984, the rate shall be 5.35 percent;

"(5) with respect to wages paid during the calendar years 1985 through 1989, the rate shall be 5.65 percent;

"(6) with respect to wages paid during the calendar years 1990 through 1994, the rate shall be 6.10 percent;

"(7) with respect to wages paid during the calendar years 1995 through 2000, the rate shall be 6.70 percent;

"(8) with respect to wages paid during the calendar years 2001 through 2010, the rate shall be 7.30 percent; and

"(9) with respect to wages paid after December 31, 2010, the rate shall be 7.80 percent.".

(2) HOSPITAL INSURANCE.—Paragraphs (2) through (4) of section 3111(b) of the Code are amended to read as follows:

"(2) with respect to wages paid during the calendar year 1978, the rate shall be 1.00 percent;

"(3) with respect to wages paid during the calendar years 1979 and 1980, the rate shall be 1.05 percent;

"(4) with respect to wages paid during the calendar years 1981 through 1984, the rate shall be 1.25 percent;

"(5) with respect to wages paid during the calendar year 1985, the rate shall be 1.35 percent; and

"(6) with respect to wages paid after December 31, 1985, the rate shall be 1.40 percent.".

(c) TAX ON SELF-EMPLOYMENT INCOME.—

(1) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—Subsection (a) of section 1401 of the Code is amended to read as follows:

"(a) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—In addition to other taxes, there shall be imposed for each taxable year, on the self-employment income of every individual, a tax as follows:

"(1) in the case of any taxable year beginning after December 31, 1972, and before January 1, 1978, the tax shall be equal to 7.00 percent of the amount of the self-employment income for such taxable year;

"(2) in the case of any taxable year beginning after December 31, 1977 and before January 1, 1979, the tax shall be equal to 7.10 percent of the amount of the self-employment income for such taxable year;

"(3) in the case of any taxable year beginning after December 31, 1978 and before January 1, 1981, the tax shall be equal to 7.05 percent of the amount of the self-employment income for such taxable year;

"(4) in the case of any taxable year beginning after December 31, 1980, and before January 1, 1985, the tax shall be equal to 8.00 percent of the amount of the self-employment for such taxable year;

"(5) in the case of any taxable year beginning after December 31, 1984, and before January 1, 1990, the tax shall be equal to 8:50 percent of the amount of the self-employment income for such taxable year;

"(6) in the case of any taxable year beginning after December 31, 1989, and before January 1, 1995, the tax shall be equal to 9.15 percent of the amount of the self-employment income for such taxable year;

"(7) in the case of any taxable year beginning after December 31, 1994, and before January 1, 2001, the tax shall be equal to 10.05 percent of the amount of the self-employment income for such taxable year;

"(8) in the case of any taxable year beginning after December 31, 2000, and before January 1, 2011, the tax shall be equal to 10.95 percent of the amount of the self-employment income for such taxable year; and

"(9) in the case of any taxable year beginning after December 31, 2010, the tax shall be equal to 11.70 percent of the amount of the self-employment income for such taxable year.".

(2) HOSPITAL INSURANCE.—Paragraphs (2) through (4) of subsection (b) of section 1401 of the Code are amended to read as follows:

"(2) in the case of any taxable year beginning after December 31, 1977, and before January 1, 1979, the tax shall be equal to 1.00 percent of the amount of the self-employment income for such taxable year;

"(3) in the case of any taxable year beginning after December 31, 1978, and before January 1, 1981, the tax shall be equal to 1.05 percent of the amount of the self-employment income for such taxable year;

"(4) in the case of any taxable year beginning after December 31, 1980, and before January 1, 1985, the tax shall be equal to 1.25 percent of the amount of the self-employment income for such taxable year;

"(5) in the case of any taxable year beginning after December 31, 1984, and before January 1, 1986, the tax shall be equal to 1.35 percent of the amount of the self-employment income for such taxable year; and

"(6) in the case of any taxable year beginning after December 31, 1985, the tax shall be equal to 1.40 percent of the amount of the self-employment income for such taxable year.".

(d) ALLOCATION TO DISABILITY INSURANCE TRUST FUND.—

(1) ALLOCATION OF WAGES.—Section 201(b)(1) of the Social Security Act is amended by striking out all that follows clause (F) and inserting in lieu thereof the following: "(G) 1.550 per centum of the wages (as so defined) paid after December 31, 1977, and before January 1, 1979, and so reported, (H) 1.500 per centum of the wages (as so defined) paid after December 31, 1978, and before January 1, 1981, and so reported, (I) 1.650 per centum of the wages (as so defined) paid after December 31, 1980, and before January 1, 1985, and so reported, (J) 1.900 per centum of the wages (as so defined) paid after December 31, 1984, and before January 1, 1990, and so reported, (K) 2.100 per centum of the wages (as so defined) paid after December 31, 1989, and before January 1, 1995, (L) 2.400 per centum of the amount of the wages (as so defined) paid after December 31, 1994, and before January 1, 2001, (M) 2.700 per centum of the amount of the wages (as so defined) paid after December 31, 2000, and before January 1, 2011, and (N) 3.00 per centum of the amount of the wages (as so defined) paid after December 31, 2010, and so reported, which wages shall be certified by the Secretary of Health, Education, and Welfare on the basis of the records of wages established and maintained by such Secretary in accordance with such reports; and".

(2) ALLOCATION OF SELF-EMPLOYMENT INCOME.—Section 201(b)(2) is amended by striking out all that follows clause (F) and inserting in lieu thereof the following: "(G) 1.090 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1977, and before January 1, 1979, (H) 1.040 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1978, and before January 1, 1981, (I) 1.2375 per centum of the amount of self-employment income (as defined) so reported for any taxable year beginning after December 31, 1980, and before January 1, 1985, (J) 1.425 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1984, and before January 1, 1990, and (K) 1.575 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1990, and before January 1, 1995, (L) 1.800 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1994, and before January 1, 2001, (M) 2.035 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 2000, and before January 1, 2011, and (N) 2.250 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 2010, which self-employment income shall be certified by the Secretary of Health, Education, and Welfare on the basis of the records of self-employment income established and maintained by the Secretary of Health, Education and Welfare in accordance with such returns.".

COMPUTATION OF PRIMARY INSURANCE AMOUNT

SEC. 104. (a) Section 215(a) is amended to read as follows:

"(a)(1)(A) The primary insurance amount of an individual (except as otherwise provided in this section) is equal to the sum of—

"(i) 92 per centum of the individual's average indexed monthly earnings (determined under subsection (b)) up to the amount established for purposes of this clause by subparagraph (B),

"(ii) 33 per centum of the portion of the individual's average indexed monthly earnings which exceeds the amount established for purposes of clause (i) but does not exceed the amount established for purposes of this clause by subparagraph (B), and

"(iii) 16 per centum of the individual's average indexed monthly earnings to the extent that they exceed the amount established for purposes of clause (ii),

rounded in accordance with subsection (g), and thereafter increased as provided in subsection (i).

"(B)(i) In the case of an individual who becomes eligible for old-age or disability insurance benefits, or who dies before becoming so eligible, in the calendar year 1979, the amounts established with respect to subparagraphs (A)(i) and (A)(ii) are $180 and $1,075, respectively.

"(ii) In the case of an individual who becomes eligible for old-age or disability insurance benefits, or who dies before becoming so eligible, in a calendar year after 1979, each of the amounts established with respect to subparagraphs (A)(i) and (A)(ii) shall equal the product of the corresponding amount established with respect to the calendar year 1979 under clause (i) of this subparagraph, and the quotient obtained by dividing—

"(I) the average of the wages (as defined in section 230(e)) of all employees as reported to the Secretary of the Treasury for the second calendar year preceding the calendar year for which the determination is made, by

"(II) the average of the wages (as so defined) of all employees as reported to the Secretary of the Treasury for the calendar year 1977.

"(iii) The amounts established under clause (ii) shall be rounded to the nearest $1.00, except that an amount that is a multiple of $0.50 but not a multiple of $1.00 shall be rounded to the next higher $1.00.

"(C)(i) No primary insurance amount computed under subparagraph (A) may be less than the greatest of—

"(I) the amount in the first line of column IV in the table of benefits contained (or deemed to be contained) in this subsection as in effect in December 1978.

"(II) the amount determined under subsection (i) (except subclause (III) of this clause) with respect to this subparagraph, or

"(III) an amount equal to $9 multiplied by the individual's years of coverage in excess of 10.

"(ii) For purposes of the preceding clause, the term 'years of coverage' means the number (not exceeding 30) equal to the sum of (I) the number (not exceeding 14 and disregarding any fraction) determined by dividing (a) the total of the wages credited to the individual (including wages deemed to be paid prior to 1951 to such individual under section 217, compensation under the Railroad Retirement Act of 1937 prior to 1951 which is creditable to such individual pursuant to this title, and wages deemed to be paid prior to 1951 to such individual under section 231) for years after 1936 and before 1951 by (b) $900, plus (II) the number equal to the number of years after 1950 each of which is a computation base year (within the meaning of subsection (b)(2)(B)(ii)) and in each of which he is credited with wages (including wages deemed to be paid to such individual under section 217, and compensation under the Railroad Retirement Act of 1937 or the Railroad Retirement Act of 1974 which is creditable to such individual pursuant to this title, and wages deemed to be paid to such individual under section 229) and self-employment income of not less than 25 percent of the maximum amount which, pursuant to subsection (e), may be counted for such year.

"(D) In each calendar year after 1978 the Secretary shall publish in the Federal Register, on or before November 1, the formula for computing benefits under this paragraph and for adjusting wages and self-employment income under subsection (b)(3) in the case of an individual who becomes eligible for an old-age insurance benefit, or (if earlier) becomes eligible for a disability insurance benefit or dies, in the following year, and the average wages (as described by subclause (I) of subparagraph (B)(ii)) on which that formula is based. With the initial publication required by this subparagraph, the Secretary shall also publish in the Federal Register the average wages (as so described) for each year after calendar year 1950.

"(2)(A) A year shall not be counted as a year of an individual's death or eligibility for purposes of this subsection or subsection (i) in any case where such individual was entitled to a disability insurance benefit for any of the 12 months immediately preceding the month of such death or eligibility (but there shall be counted instead the year of the individual's eligibility for the disability insurance benefit to which he was entitled in such 12-month period).

"(B) In the case of an individual who was entitled to a disability insurance benefit for any of the 12 months before the month in which he became entitled to an old-age insurance benefit, became reentitled to a disability insurance benefit, or died, the primary insurance amount for determining any benefit attributable to that entitlement, reentitlement, or death is the greater of—

"(i) the primary insurance amount upon which that disability insurance benefit was based, increased in the case of the individual who so became entitled, became reentitled, or died, by each general benefit increase (as defined in subsection (i)(3)) and each increase provided under subsection (i)(2) that would have applied to that primary insurance amount had the individual remained entitled to that disability insurance benefit until the month in which he became entitled, reentitled, or died, or

"(ii) the amount computed under paragraph (1)(C).

"(C) In the case of an individual who was entitled to a disability insurance benefit for any month, and with respect to whom a primary insurance amount is required to be computed at any time after the close of the period of the individual's disability (whether because of that individual's subsequent entitlement to old-age insurance benefits, or to a disability insurance benefit based upon a subsequent period of disability, or death), the primary insurance amount so computed may in no case be less than the primary insurance amount on the basis of which he most recently received a disability insurance benefit.

"(3)(A) Except as otherwise provided by paragraph (4), paragraph (1) applies to—

"(i) an individual who was not eligible for an old-age insurance benefit prior to January 1979 and who in that or any succeeding month—

"(I) becomes eligible for that benefit,

"(II) becomes eligible for a disability insurance benefit, or

"(III) dies, and

"(ii) an individual described in clause (i) who was eligible for a disability insurance benefit for a month prior to January 1979, (except to the extent that paragraph (4)(A) otherwise provides).

"(B) For the purposes of this title, an individual is deemed to be eligible for an old-age insurance benefit beginning in the month in which he attains age 62, or for a disability insurance benefit for months beginning in the month in which a period of disability began as described in section 216(i)(2)(C), unless less than 12 months have elapsed since the termination of a prior period of disability in which case the month of eligibility with respect to the prior period of disability shall be considered the month of eligibility.

"(4) Paragraph (1) does not apply to the computation or recomputation of a primary insurance amount for—

"(A) an individual who was eligible for a disability insurance benefit for a month prior to January 1979 unless, prior to the month in which there occurs the event described in clause (i)(I), (i)(II), or (i)(III) of paragraph (3)(A), there occurs a period of at least 12 consecutive months for which he was not entitled to a disability insurance benefit, or

"(B)(i) an individual who had wages or self-employment income credited for a year before 1979 and who was not eligible for an old-age or disability insurance benefit, or did not die, prior to January 1979, if in the year for which the computation or recomputation would be made the individual's primary insurance amount would be greater if computed or recomputed—

"(I) under section 215(a), as in effect in December 1978, in the case of an individual who becomes eligible for an old-age insurance benefit prior to 1984, or

"(II) as provided by section 215(d), in the case of an individual to whom such section applies.

"(ii) For purposes of determining under clause (i) which amount is the greater.

"(I) the table of benefits in effect in December 1978 shall apply without regard to any increase in that table which becomes effective (in accordance with subsection (i)(4) for years after 1978 except as provided in subsection (i)(2)(A)(iii), and

"(II) the individual's average monthly wage shall be computed as provided by subsection (b)(4).

"(5) With respect to computing the primary insurance amount, after December 1978, of an individual to whom paragraph (1) does not apply (except in the case of an individual described in paragraph (4)(B)), this section as in effect in December 1978 remains in effect.".

(b) Section 215(b) (except the caption thereof) is amended to read as follows:

"(b)(1) The amount of an individual's average indexed monthly earnings is equal to the quotient obtained by dividing—

"(A) the total (after adjustment under paragraph (3)) of his wages paid in and self-employment income credited to his benefit computation years (determined under paragraph (2)), by

"(B) the number of months in those years.

"(2)(A) The number of an individual's benefit computation years equals the number of elapsed years, reduced by five, except that the number of an individual's benefit computation years may not be less than two.

"(B) For purposes of this subsection—

"(i) the term 'benefit computation years' means, in the case of any individual, those computation base years, equal in number to the number determined under subparagraph (A) of this paragraph, for which the total of the individual's wages and self-employment income, after adjustment under paragraph (3), is the largest;

"(ii) the term 'computation base years' means, in the case of any individual, the calendar years after 1950 and prior to the earlier of—

"(I) in the case of an individual entitled to old-age insurance benefits, the year in which occurred (whether by reason of section 202(j)(1) or otherwise) the first month of that entitlement;

"(II) in the case of an individual who has died, the year succeeding the year of his death;

except that such term excludes any calendar year entirely included in a period of disability; and

"(iii) the term 'number of elapsed years' means, in the case of any individual, except as otherwise provided by section 104(j) of the Social Security Amendments of 1972 (Public Law 92-603), the number of calendar years after 1950 (or, if later, the year in which the individual attained age 21) and before the year in which the individual died, or, if it occurred after 1960, the year in which he attained age 62; except that such term excludes any calendar year any part of which is included in a period of disability.

"(3)(A) Except as provided by subparagraph (B), the wages paid in and self-employment income credited to each of an individual's computation base years for purposes of the selection therefrom of benefit computation years under paragraph (2) is deemed equal to the product of—

"(i) the wages and self-employment income credited to such year, and

"(ii) the quotient obtained by dividing—

"(I) the average of the wages (as defined in section 230(e)) of all employees as reported to the Secretary of the Treasury for the second calendar year (after 1976) preceding the earliest of the year of the individual's death, eligibility for an old-age insurance benefit, or eligibility for a disability insurance benefit (except that the year in which the individual dies, or becomes eligible, shall not be considered as such year if the individual was entitled to disability insurance benefits for any month in the 12-month period immediately preceding such death or eligibility but there shall be counted instead the year of the individual's eligibility for the disability insurance benefit to which he was entitled in such 12-month period), by

"(II) the average of the wages (as so defined) of all employees as reported to the Secretary of the Treasury for the computation base year for which the determination is made.

"(B) Wages paid in or self-employment income credited to an individual's computation base year—

"(i) which occurs after the second calendar year specified in subparagraph (A)(ii)(I), where applicable, or

"(ii) in a year which under subsection (f)(2)(C) is considered to be the last year of the period specified in subsection (b)(2)(B)(ii),

are available for use in determining an individual's benefit computation years, but without applying subparagraph (A) of this paragraph.

"(4) In determining the average monthly wage of an individual whose primary insurance amount is computed (after 1978) under section 215(a) or 215(d) as in effect (except with respect to the table contained therein) in December 1978, by reason of subsection (a)(4)(B), this subsection as in effect in December 1978 remains in effect, except that paragraph (2)(C) (as then in effect) is deemed to provide that 'computation base years' include only calendar years in the period after 1950 (or 1936, if applicable) and prior to the year in which occurred the first month for which the individual was eligible (as defined in subsection (a)(3)(B) of this section as in effect in January 1979) for an old-age or disability insurance benefit, or died. Any calendar year all of which is included in a period of disability shall not be included as a computation base year.".

(c) Section 215(c) (except the caption thereto) is amended to read as follows:

"(c) This subsection, as in effect in December 1978, shall remain in effect with respect to an individual to whom subsection (a)(1) does not apply by reason of the individual's eligibility for an old-age insurance or disability insurance benefit, or the individual's death, prior to 1979.".

(d)(1) The matter in section 215(d) which precedes subparagraph (C) of paragraph (1) is amended to read as follows:

"(d)(1) For the purpose of column I of the table appearing in subsection (a) of this section, as that subsection was in effect in December 1977, an individual's primary insurance benefit shall be computed as follows:

"(A) The individual's average monthly wage shall be determined as provided in subsection (b) of this section, as in effect in December 1977 (but without regard to paragraph (4) thereof), except that for purposes of paragraphs (2)(C) and (3) of that subsection (as so in effect), 1936 shall be used instead of 1950.

"(B) For purposes of subparagraphs (B) and (C) of subsection (b)(2) (as so in effect), the total wages prior to 1951 (as defined in subparagraph (C) of this paragraph) of an individual who attained age 21 after 1936 and prior to 1951 shall be divided by the number of years (hereinafter in this subparagraph referred to as the 'divisor') elapsing after the year in which the individual attained age 21 and prior to the earlier of 1951 or the year of the individual's death. The quotient so obtained is deemed to be the individual's wages credited for each of the years included in the divisor except—

"(i) if the quotient exceeds $3,000, only $3,000 is deemed to be the individual's wages for each of the years included in the divisor, and the remainder of the individual's total wages prior to 1951 (I) if less than $3,000, is deemed credited to the year immediately preceding the earliest year used in the divisor, or (II) if $3,000 or more, is deemed credited, in $3,000 increments, to the year in which the individual attained age 21 and to each year consecutively preceding that year, with any remainder less than $3,000 credited to the year prior to the earliest year to which a full $3,000 increment was credited; and

"(ii) no more than $42,000 may be taken into account, for purposes of this subparagraph, as total wages after 1936 and prior to 1951.".

(2) Section 215(d)(1)(D) is amended to read as follows:

"(D) The individual's primary insurance benefits shall be 40 per centum of the first $50 of his average monthly wage as computed under this subsection, plus 10 per centum of his average monthly wage; increased by 1 per centum for each increment year. The number of increment years is the number, not more than 14 nor less than 4, that is equal to the individual's total wages prior to 1951 divided by $1,650 (disregarding any fraction).".

(3) Section 215(d)(3) is amended (A) by striking subparagraphs (A) and (B), and (B) by striking the dash after "individual" and inserting the text of the stricken subparagraph (B).

(4) Section 215(d) is amended by adding at the end the following new paragraph:

"(4) The provisions of this subsection as in effect in December 1977 shall be applicable to individuals who become eligible for old-age insurance or disability insurance benefits or die prior to 1978.".

(e) Section 215(e) is amended—

(1) by striking out "average monthly wage" each time it appears and inserting "average indexed monthly earnings or, in the case of an individual whose primary insurance amount is computed under section 215(a) as in effect prior to January 1979, average monthly wage," and

(2) by inserting immediately before "of (A)" in paragraph (1) the following: "(before the application in the case of average indexed monthly earnings, of subsection (b)(3)(A))".

(f)(1) Section 215(f)(2) is amended to read as follows:

"(2)(A) If an individual has wages or self-employment income for a year after 1978 for any part of which he is entitled to old-age or disability insurance benefits, the Secretary shall, at such time or times and within such period as he may by regulation prescribe, recompute the individual's primary insurance amount for that year.

"(B) For the purpose of applying subparagraph (A) of subsection (a)(1) to the average indexed monthly earnings of an individual to whom that subsection applies and who receives a recomputation under this paragraph, there shall be used, in lieu of the amounts of those earnings established by clauses (i) and (ii) of subparagraph (B) of that subsection, the amounts that were (or, in the case of an individual described in subsection (a)(4)(B), would have been) used in the computation of the individual's primary insurance amount prior to the application of this subsection.

"(C) A recomputation under this paragraph shall be made as provided in subsection (a)(1) as though the year with respect to which it is made is the last year of the period specified in subsection (b)(2)(B)(ii), and subsection (b)(3)(A) shall apply with respect to any such recomputation as it applied in the computation of such individual's primary insurance amount prior to the application of this subsection.

"(D) A recomputation under this paragraph with respect to any year shall be effective—

"(i) in the case of an individual who did not die in that year, for monthly benefits beginning with benefits for January of the following year; or

"(ii) in the case of an individual who died in that year, for monthly benefits beginning with benefits for the month in which he died.".

(2) Section 215(f)(3) is repealed.

(3) Section 215(f)(4) is amended to read as follows:

"(4) A recomputation is effective under this subsection only if it results in a primary insurance amount that is at least $1.00 higher than the previous primary insurance amount.".

(4) There is added at the end of section 215(f) the following new paragraph:

"(7) This subsection, as in effect in December 1978, shall continue to apply to the recomputation of a primary insurance amount computed under subsection (a) or (d) as in effect (without regard to the table contained in subsection (a)) in that month, and, where appropriate, under subsection (d) as in effect in December 1977. For purposes of recomputing the primary insurance amount under subsection (a) or (d) (as thus in effect) with respect to an individual to whom those subsections apply by reason of paragraph (B) of subsection (a)(4) as in effect after December 1978, no remuneration shall be taken into account for the year in which the individual initially became eligible for an old-age insurance or disability insurance benefit or died, or for any year thereafter.".

(g)(1) Section 215(i)(2)(A)(ii) is amended to read as follows:

"(ii) If the Secretary determines that the base quarter in any year is a cost-of-living computation quarter, he shall, effective with the month of June of that year as provided in subparagraph (B), increase—

"(I) the benefit amount of each individual who for that month is entitled to benefits under section 227 or 228,

"(II) the primary insurance amount of each other individual on which benefit entitlement is based under this title, and

"(III) the total monthly benefits based on each primary insurance amount and permitted under section 203 (which shall be increased, unless otherwise so increased under another provision of this title, at the same time as the primary insurance amount on which they are based) or, in the case of a primary insurance amount computed under subsection (a) as in effect (without regard to the table contained therein) prior to January 1979, the amount to which the beneficiaries may be entitled under section 203 as in effect in December 1978, except as provided by section 203(a)(6) and (7) as in effect after December 1978,

but shall not increase a primary insurance amount that is computed under subparagraph (C)(i)(III) of subsection (a)(1) or a primary insurance amount that was computed prior to January 1979 under subsection (a)(3) as then in effect. The increase shall be derived by multiplying each of the amounts described in clauses (I), (II), and (III) (including each of those primary insurance amounts or benefit amounts as previously increased under this subparagraph) by the same percentage (rounded to the nearest one-tenth of 1 percent) as the percentage by which the Consumer Price Index for that cost-of-living computation quarter exceeds that Index for the most recent prior calendar quarter which was a base quarter under paragraph (1)(A)(ii) or, if later, the most recent cost-of-living computation quarter under paragraph (1)(B). Any amount so increased that is not a multiple of $0.10 shall be increased to the next higher multiple of $0.10.".

(2) Section 215(i)(2)(A) is amended by adding at the end the following new clause:

"(iii) In the case of an individual who becomes eligible for an old-age insurance or disability insurance benefit, or dies prior to becoming so eligible, in a year in which

there occurs an increase provided in clause (ii), the individual's primary insurance amount (without regard to the time of entitlement to that benefit) shall be increased (unless otherwise so increased under another provision of this title) by the amount of that increase and subsequent applicable increases, but only with respect to benefits payable for months after May of that year.".

(3) Section 215(i)(2)(D) is amended by striking out all that follows the first sentence, and by inserting instead the following: "He shall also publish in the Federal Register at that time a revision of the amount referred to in subparagraph (C)(i)(I) of subsection (a)(1) and that shall be the amount determined for purposes of such subparagraph (C)(i)(II) under this subsection.".

(4) There is added at the end of section 215(i) the following new paragraph:

"(4) This subsection, as in effect in December 1978, shall continue to apply to subsections (a) and (d), as then in effect, with respect to computing the primary insurance amount of an individual to whom subsection (a), as in effect after December 1978, does not apply (including an individual to whom subsection (a) does not apply in any year by reason of paragraph (4)(B) of that subsection, but the application of this subsection in such cases shall be modified by the application of subclause (I) of clause (ii) of such paragraph (4)(B)). For purposes of computing primary insurance amounts and maximum family benefits (other than primary insurance amounts and maximum family benefits for individuals to whom such paragraph (4)(B) applies), the Secretary shall publish in the Federal Register revisions of the table of benefits contained in subsection (a), as in effect in December 1978, as required by paragraph (2)(D) of this subsection, as then in effect.".

(h)(1) Section 230 of the Social Security Act is amended by adding after subsection (d) (as added by section 102 of this Act) the following new subsection:

"(e) For purposes of subsection (b), the term 'wages' for years after 1976 shall have the meaning assigned to such term by section 3401(a) of the Internal Revenue Code of 1954 and section 3121(a) of such Code (but without regard to the operation of section 230 of the Social Security Act as specified therein) to the extent that they are excluded from such section 3401(a). For years before 1977, the term 'wages' shall be determined under regulations to be promulgated by the Secretary.".

(2) The amendment made by paragraph (1) shall be applicable to determinations of the Secretary of Health, Education, and Welfare, under section 230 of the Social Security Act effective in the case of calendar years after 1978.

MAXIMUM BENEFITS

SEC. 105. (a) The matter in section 203(a) preceding paragraph (2) thereof is amended to read as follows:

"(a)(1) In the case of an individual whose primary insurance amount has been computed or recomputed under section 215(a)(1) or (4), or 215(d), as in effect after December 1978, the total monthly benefits to which beneficiaries may be entitled under section 202 or 223 for a month on the basis of the wages and self-employment income of that insured individual shall, except as provided by paragraph (3), (but prior to any increases resulting from the application of paragraph (2)(A)(ii)(III) of section 215(i)) be reduced so as not to exceed—

"(A) 150 percent of the individual's primary insurance amount up to the amount that is established with respect to this subparagraph by paragraph (2),

"(B) 272 percent of the individual's primary insurance amount that exceeds the amount to which subparagraph (A) applies but does not exceed an amount established with respect to this subparagraph by paragraph (2).

"(C) 134 percent of the individual's primary insurance amount that exceeds the amount to which subparagraph (B) applies but does not exceed an amount established with respect to this subparagraph by paragraph (2), and

"(D) 175 percent of the individual's primary insurance amount that exceeds the amount established by paragraph (2) with respect to subparagraph (C).

Any such amount that is not a multiple of $0.10 shall be increased to the next higher multiple of $0.10.

"(2)(A) For individuals who become eligible for old-age or disability insurance benefits or who dies in the calendar year 1979 the amounts established with respect to subparagraphs (A), (B), and (C) of paragraph (1) are $236, $342, and $449, respectively (not counting as the year of death or eligibility for purposes of this paragraph the year of the individual's death or eligibility if the individual was entitled to a disability insurance benefit for any of the twelve months immediately preceding the month of such death or eligibility, but counting instead, the year of eligibility for such disability insurance benefit).

"(B) For individuals who become eligible for such benefits or who dies in a calendar year after 1979 the amount established with respect to each of those subparagraphs shall equal the product of the corresponding amount established for 1979 by subparagraph (A) of this paragraph and the quotient obtained under subparagraph (B)(ii) of section 215(a)(1). Such product shall be rounded in like manner as is prescribed by section 215(a)(1)(B)(iii).

"(C) In each calendar year after 1978 the Secretary shall publish in the Federal Register, on or before November 1, the formula applicable under this subsection to individuals who become eligible for old-age insurance benefits, become disabled, or die in the following calendar year.

"(3)(A) When an individual to whom this subsection applies would (but for the provisions of section 202(k)(2)(A)) be entitled to child's insurance benefits for a month on the basis of the wages and self-employment income of one or more other individuals, the total of benefits shall not be reduced under this subsection to less than the smaller of—

"(i) the sum of the maximum amounts of benefits payable on the basis of the wages and self-employment income of all of those individuals, or

"(ii) an amount equal to the product of 1.75 and the primary insurance amount that would be computed under section 215(a)(1) for that month with respect to average indexed monthly earnings equal to one-twelfth of the contribution and benefit base applicable to employees and the self-employed determined for that year under section 230.".

(b) Paragraph (2) of section 203(a) (prior to the amendment made by subsection (a) of this section) is redesignated as subparagraph (B) (of paragraph (3)), its three lettered subparagraphs are respectively redesigned as clauses (i), (ii), and (iii), the word "paragraph" in the redesignated clause (i) is stricken and the word "subparagraph" is inserted in lieu thereof, its initial word is stricken and "When" inserted instead, and ", or" as it appears at the end thereof is stricken and a period inserted instead.

(c) The matter following clause (iii) of the redesignated subparagraph (B) is amended to read as follows: "but in any such case (I) subparagraph (A) of this paragraph shall not be applied to such total of benefits after the application of clause (ii) or (iii), and (II) if section 202(k)(2)(A) was applicable in the case of any such benefit for a month, and ceases to apply for a month after such month, the provisions of clause (ii) or (iii) shall be applied, for and after the month in which section 202(k)(2)(A) ceases to apply, as though subparagraph (A) of this paragraph had not been applicable to such total of benefits for the last month for which clause (ii) or (iii) was applicable.".

(d) Paragraph (3) of section 203(a) (prior to the amendments made by the preceding provisions of this section) is redesignated as subparagraph (C) (of paragraph (3)), and its initial word is stricken and "When" inserted instead.

(e) The matter in section 203(a) that follows paragraph (3) (prior to the amendments made by the preceding provisions of this section) and precedes paragraph (4) (prior to the amendments made by the preceding provisions of this section) is stricken and there is inserted instead the following:

"(4) In any case in which benefits are reduced pursuant to the preceding provisions of this subsection, the reduction shall be made after any deductions under this section and after any deductions under section 222(b). Whenever a reduction is made under this subsection in the total of monthly benefits to which individuals are entitled for any month on the basis of the wages and self-employment income of an insured individual, each such benefit other than the old-age or disability insurance benefit shall be proportionately decreased.".

(e) Paragraph (4) of section 203(a) (prior to the amendments made by the preceding provisions of this section) is redesignated as paragraph (5), its initial word is stricken and "Notwithstanding" inserted instead, and ", or" at the end thereof is stricken and a period inserted instead. Subparagraph (A) of such paragraph (4) is amended by striking out "and section 202(q)" therein. The matter following subparagraph (B) of such paragraph and preceding the next numbered paragraph is a portion of the redesignated paragraph (5), and shall be indented accordingly.

(f) Paragraph (5) of section 203(a) (prior to the amendments made by the preceding provisions of this section) is repealed, except with respect to an individual who became eligible for a monthly benefit (as defined in section 215(a)(2)(A)) or died prior to 1979.

(g) Following paragraph (5) of section 203(a) (as amended by this section) there are added the following new paragraphs:

"(6) In the case of any individual who is entitled for any month to benefits based upon the primary insurance amounts of two or more insured individuals, one or more of which primary insurance amounts were determined under section 215(a) or 215(d) as in effect (without regard to the table contained therein) prior to January 1979 and one or more of which primary insurance amounts were determined under section 215(a)(1) or (4), or 215(d), as in effect after December 1978, the total benefits payable to that individual and all other individuals entitled to benefits for that month based upon those primary insurance amounts shall be reduced to an amount equal to the product of 1.75 and the primary insurance amount that would be computed under section 215(a)(1) for that month with respect to average indexed monthly earnings equal to one-twelfth of the contribution and benefit base determined under section 230 for the year in which that month occurs.

"(7) Subject to the preceding paragraph, this subsection, as in effect in December 1978, shall remain in effect with respect to a primary insurance amount computed un-

der section 215 (a) or (d), as in effect (without regard to the table contained therein) in December 1978, except that a primary insurance amount so computed with respect to an individual who first becomes eligible for an old-age or disability insurance benefit (as defined in section 215(a)(2)(A)) or dies, after December 1978, shall, instead, be governed by this section, as in effect after December 1978.".

PAYMENTS TO CERTAIN PUBLIC AND NONPROFIT EMPLOYERS

SEC. 106. (a) Part A of title XI of the Social Security Act is amended by adding at the end thereof the following new section:

"PAYMENTS TO CERTAIN PUBLIC AND NONPROFIT EMPLOYERS

"SEC. 1132. (a) The Secretary shall, in the case of any State having an agreement under section 218 of the Social Security Act, or any organization described in section 501(c)(3), which is exempt from tax under section 501(a) for the taxable year, pay to each such State or organization (subject to the availability of funds appropriated under the provisions of subsection (c)) an amount determined under subsection (b). In order to receive a payment under this section, a State or organization shall file a claim with respect to the taxable year in such form, manner, and at the time prescribed by the Secretary by regulations. The Secretary shall certify to the Secretary of the Treasury the name and address of each State or organization eligible to receive such payment, the amount of such payment, and the time at which such payment should be made, and the Secretary of the Treasury, through the Fiscal Service of the Treasury Department, shall make payments in accordance with the certification of the Secretary.

"(b)(1) The amount payable to a State under subsection (a) for the taxable year shall (subject to the provisions of subsection (c)) be equal to 50 percent of that portion of the amount paid by such State under the provisions of section 218(e)(1)(A) with respect to remuneration paid to individuals as employees of such State (or any political subdivision thereof) during the taxable year, which amount—

"(A) was paid as the amount equivalent to the taxes which would be imposed by section 3111 of the Internal Revenue Code of 1954 if the services of employees covered by such State's agreement under section 218 constituted employment as defined in section 3121 of such Code, and

"(B) was paid with respect to remuneration paid to individuals as employees of such State (or any political subdivision thereof) which remuneration was in excess (with respect to any individual during the taxable year) of the contribution and benefit base applicable with respect to such taxable year, under the provisions of section 230 as such section applies to employees.

"(2) The amount payable under subsection (a) to an organization described in section 501(c)(3) of such Code, which is exempt from tax under section 501(a) of such Code for the taxable year, shall be equal to 50 percent of that portion of the taxes paid by such organization under section 3111 of such Code, which taxes—

"(A) were paid with respect to remuneration paid to individuals as employees of such organization during the taxable year, and

"(B) were paid with respect to remuneration paid to individuals as employees of such organization which remuneration was in excess (with respect to any individual during the taxable year) of the contribution and benefit base applicable with respect to such taxable year, under the provisions of section 230 as such section applies to employees.

"(c) There are authorized to be appropriated such sums as are necessary to carry out the provisions of this section. If the sums appropriated for any fiscal year for making payments under this section are insufficient to pay in full the total amounts which States and organizations are authorized to receive under this section during such fiscal year, the maximum amounts which all such States and organizations may receive under this section during such fiscal year shall be ratably reduced. In case additional funds become available for making such payments for any fiscal year during which the preceding sentence is applicable, such reduced amounts shall be increased on the same basis as they were reduced.

"(d) Any State receiving a payment under the provisions of this section shall agree to pay (and any such payment shall be made on the condition that such State pay) to any political division thereof a percentage of such payment which percentage shall be equal to the percentage of the amount paid by such State under section 218(e)(1)(A) for which such State was reimbursed by such political subdivision.".

(b) The amendments made by this section shall be effective with respect to taxable years beginning after December 31, 1978.

CONFORMING CHANGES

SEC. 107. (a) Section 202(m)(1) is amended to read as follows:

"(1) In any case in which an individual is entitled to a monthly benefit under this section on the basis of a primary insurance amount computed under section 215(a) or (d), as in effect after December 1978, on the basis of the wages and self-employment income of a deceased individual for any month and no other person is (without the application of subsection (j)(1)) entitled to a monthly benefit under this section for that month on the basis of those wages and self-employment income, the individual's benefit amount for that month, prior to reduction under subsection (k)(3), shall not be less than that provided by subparagraph (C)(I) or (C)(II) (whichever is greater) of section 215(a)(1). In any case in which an individual is entitled to a monthly benefit under this section on the basis of a primary insurance amount computed under section 215 as in effect (without regard to the table contained therein) prior to January 1979, that monthly benefit shall be determined under this section as in effect as prescribed by section 215(a)(5) and increased under subsection (i)(4).".

(b) Section 217(b)(1) is amended by inserting "as in effect in December 1978" after "section 215(c)" each time it appears, and after "section 215(d)".

(c) Section 224(a) is amended in the matter following paragraph (8) by inserting "(determined under section 215(b) as in effect prior to January 1979)" after "(A) the average monthly wage".

(d) Section 1839(c)(3)(B) is amended to read as follows:

"(B) the monthly premium rate most recently promulgated by the Secretary under this paragraph, increased by a percentage determined as follows: The Secretary shall ascertain the primary insurance amount computed under section 215(a)(1), based upon average indexed monthly earnings of $900, that applied to individuals who became eligible for and entitled to old-age insurance benefits on May 1 of the year of the promulgation. He shall increase the monthly premium rate by the same percentage by which that primary insurance amount is increased when, by reason of the law in effect at the time the promulgation is made, it is so computed to apply to those individuals on the following May 1.".

(e) Section 202(w) of such Act is amended—

(1) by inserting after "section 215(a)(3)" in paragraph (1) (in the matter preceding subparagraph (A)) the following: "as in effect in December 1978 or section 215(a)(1)(C)(III) as in effect thereafter";

(2) by inserting "as in effect in December 1978, or section 215(a)(1)(C)(III) as in effect thereafter," after "paragraph (3) of section 215(a)" in paragraph (5); and

(3) by inserting "(whether before, in, or after, December 1978)" after "determined under section 215(a)" in paragraph (5).

(f) Section 104(j)(2) of the Social Security Amendments of 1972 is amended by striking out "215(b)(3)" and inserting in lieu thereof "215(b)(2)(B)(iii)".

EFFECTIVE DATE PROVISIONS

SEC. 108. The amendments made by the preceding provisions of this Act (other than section 104(d) and 106) shall be effective with respect to monthly benefits and lump-sum death payments under title III months after December 1978. The amendments made by section 104(d) shall be effective with respect to monthly insurance benefits of an individual who becomes eligible for an old-age or disability insurance benefit or who dies after December 31, 1977.

PART B—GENERAL PROVISIONS

LIBERALIZATION OF EARNINGS TEST

SEC. 121. (a) Section 203(f)(8)(B) of the Social Security Act is amended by striking out "The exempt amount" in the matter preceding clause (i) and inserting in lieu thereof "Except as provided in subparagraph (D), the exempt amount".

(b) Section 203(f)(8) of such Act is further amended by adding at the end thereof the following new subparagraph:

"(D) Notwithstanding any other provision of this subsection, the exempt amount—

"(i) shall be $375 for each month of any taxable year ending after 1977 and before 1979, and

"(ii) shall be $500 for each month of any taxable year ending after 1978 and before 1980.".

(c) No determination or publication of a new exempt amount shall be required to be made under section 203(f)(8)(A) of the Social Security Act, and no notification with respect to an increased exempt amount shall be required to be given under the last sentence of section 203(f)(8)(B) of such Act, in the calendar year 1978 but such a determination, publication, and notification shall be required in calendar years after 1978 and shall be made or given as though the dollar amounts specified in clauses (i) and (ii) of section 203(f)(8)(D) of such Act (as added by subsection (b) of this section) had been determined (for the taxable years involved) under such section 203(f)(8)(B).

(d) Subsections (f)(1), (f)(3), (f)(4)(B), and (h)(1)(A) of section 203 of such Act are amended by striking out "$200 or".

(e)(1) The amendments made by this section shall be effective (subject to the provisions of paragraph (2)) with respect to taxable years ending after December 31, 1977.

(2) Prior to October 1, 1978, title II of the Social Security Act shall be administered as if the amendments made by this section had not been enacted.

WIDOW'S AD WIDOWER'S INSURANCE BENEFITS IN CASES OF DELAYED RETIREMENT

SEC. 122. (a) Section 202(e)(2)(A) of the Social Security Act is amended (1) by inserting "(as determined after application of the following sentence)" after "primary insurance amount", and (2) by adding at the end thereof the following new sentence: "If such deceased individual was (or upon application would have been) entitled to an old-age insurance benefit which was increased (or subject to being increased) on account of delayed retirement under the provisions of subsection

(w), then, for purposes of this subsection, such individual's primary insurance amount shall be deemed to be equal to the old-age insurance benefit (increased, where applicable, under section 215(f) (5) or (6) and under section 215(i) as if such individual were still alive in the case of an individual who has died) which he was receiving (or would upon application have received) for the month prior to the month in which he died, and (notwithstanding the provisions of paragraph (3) of such subsection (w)) the number of increment months shall include any month in the months of the calendar year in which he died, prior to the month in which he died, which satisfy the conditions in paragraph (2) of such subsection (w).".

(b) Section 202(e)(2)(B)(i) of such Act is amended by inserting "and section 215(f)(6) were applied, where applicable," immediately after "living".

(c) Section 202(f)(3)(A) of such Act is amended (1) by inserting "(as determined after application of the following sentence)" after "primary insurance amount", and (2) by adding at the end thereof the following new sentence: "If such deceased individual was (or upon application would have been) entitled to an old-age insurance benefit which was increased (or subject to being increased) on account of delayed retirement under the provisions of subsection (w), then, for purposes of this subsection, such individual's primary insurance amount shall be deemed to be equal to the old-age insurance bentfit (increased, where applicable, under section 215(f) (5) or (6) and under section 215(i) as if such individual were still alive in the case of an individual who has died) which she was receiving (cr would upon application have received) for the month prior to the month in which she died, and (notwithstanding the provisions of paragraph (3) of such subsection (w)) the number of increment months shall include any month in the months of the calendar year in which she died, prior to the month in which she died, which satisfy the conditions in paragraph (2) of such subsection (w).".

(d) Section 202(f)(3)(B)(i) of such Act is amended by inserting "and section 215(f)(6) were applied, where appropriate," after "living,".

(e) Section 203(a) (as amended by section 105(g)) is further amended by adding at the end thereof the following new paragraph:

"(8) when—

"(A) one or more persons were entitled (without the application of section 202(j)(1) and section 223(b)) to monthly benefits under section 202 or 223 for December 1977 on the basis of the wages and self-employment income of an individual;

"(B) the benefit of at least one such person for January 1978 is increased by reason of the amendments made by section 109 of the Social Security Amendments of 1977; and

"(C) the total amount of benefits to which all such persons are entitled under such section 202 are reduced under the provisions of this subsection (or would be so reduced except for the first sentence of section 203(a)(4)).

then the amount of the benefit to which each such person is entitled for months after December 1977 shall be increased (after such reductions are made under this subsection) to the amount such benefit would have been if the benefit of the person or persons referred to in subparagraph (B) had not been so increased.".

(f) The amendments made by this section shall be effective with respect to monthly insurance benefits under title II of the Social Security Act for months after December 1977.

REDUCED BENEFITS FOR SPOUSES RECEIVING GOVERNMENT PENSIONS

SEC. 123. (a)(1) Section 202(b)(2) of the Social Security Act is amended by inserting after "subsection (q)" the following: "and paragraph (4) of this subsection".

(2) Section 202(b) of such Act is amended by adding at the end thereof the following new paragraph:

"(4)(A) The amount of a wife's insurance benefit for each month as determined after application of the provisions of subsections (q) and (k) shall be reduced (but not below zero) by an amount equal to the amount of any monthly benefit payable to such wife (or divorced wife) for such month which is based upon her earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b)(2)) if, on the last day she was employed by such entity, such service did not constitute 'employment' as defined in section 210.

"(B) For purposes of this paragraph, any periodic benefit which otherwise meets the requirements of subparagraph (A), but which is paid on other than a monthly basis, shall be allocated on a basis equivalent to a monthly benefit (as determined by the Secretary) and such equivalent monthly benefit shall constitute a monthly benefit for purposes of subparagraph (A). For purposes of this subparagraph, the term 'periodic benefit' includes a benefit payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.".

(b)(1) Section 202(c)(1) is amended—

(A) by striking out subparagraph (C);

(B) by inserting "and" at the end of subparagraph (B); and

(C) by redesignating subparagraph (D) as subparagraph (C).

(2) Section 202(c)(2) is amended to read as follows:

"(2)(A) The amount of a husband's insurance benefit for each month as determined after application of the provisions of subsections (q) and (k) shall be reduced (but not below zero) by an amount equal to the amount of any monthly benefit payable to such husband for such month which is based upon his earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b)(2)) if, on the last day he was employed by such entity, such service did not constitute 'employment' as defined in section 210.

"(B) For purposes of this paragraph, any periodic benefit which otherwise meets the requirements of subparagraph (A), but which is paid on other than a monthly basis, shall be allocated on a basis equivalent to a monthly benefit (as determined by the Secretary) and such equivalent monthly benefit shall constitute a monthly benefit for purposes of subparagraph (A). For purposes of this subparagraph, the term 'periodic benefit' includes a benefit payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.".

(3) Section 202(c)(3) is amended by inserting after "subsection (q)" the following: "and paragraph (2) of this subsection".

(c)(1) Section 202(e)(2)(A) of such Act is amended by striking out "paragraph (4)" and inserting in lieu thereof "paragraphs (4) and (8)".

(2) Section 202(e) of such Act is amended by adding at the end thereof the following new paragraph:

"(8)(A) The amount of a widow's insurance benefit for each month as determined (after application of the provisions of subsection (q), paragraph (2)(B), and paragraph (4)) shall be reduced (but not below zero) by an amount equal to the amount of any monthly benefit payable to such widow (or surviving divorced wife) for such month which is based upon her earnings while in the service of the Federal Government or any State (or any political subdivision thereof, as defined in section 218(b)(2)) if, on the last day she was employed by such entity, such service did not constitute 'employment' as defined in section 210.

"(B) For purposes of this paragraph, any periodic benefit which otherwise meets the requirements of subparagraph (A), but which is paid on other than a monthly basis, shall be allocated on a basis equivalent to a monthly benefit (as determined by the Secretary) and such equivalent monthly benefit shall contribute a monthly benefit for purposes of subparagraph (A). For purposes of this subparagraph, the term 'periodic benefit' includes a benefit payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.".

(d)(1) Section 202(f)(1) is amended—

(A) by striking out subparagraph (D); and

(B) by redesignating subparagraphs (E), (F), and (G) as subparagraphs (D), (E), and (F), respectively.

(2) Section 202(f)(2) is amended to read as follows:

"(2)(A) The amount of a widower's insurance benefit for each month (as determined after application of the provisions of subsection (q), paragraph (3)(B) and paragraph (5) shall be reduced (but not below zero) by an amount equal to the amount of any monthly benefit payable to such widower for such month which is based upon his earnings while in the service of the Federal Government or any State (or any political subdivision thereof, as defined in section 218(b)(2)) if, on the last day he was employed by such entity, such service did not constitute 'employment' as defined in section 210.

"(B) For purposes of this paragraph, any periodic benefit which otherwise meets the requirements of subparagraph (A), but which is paid on other than a monthly basis, shall be allocated on a basis equivalent to a monthly benefit (as determined by the Secretary) and such equivalent monthly benefit shall constitute a monthly benefit for purposes of subparagraph (A). For purposes of this subparagraph, the term 'periodic benefit' includes a benefit payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.".

(3) Section 202(f)(3)(A) is amended by striking out "paragraph (5)" and inserting in lieu thereof "paragraphs (2) and (5)".

(4)(A) Section 202(f)(7) is amended by striking out "paragraph (1)(G)" and inserting in lieu thereof "paragraph (1)(F)".

(B) Section 226(h)(1)(B) is amended by striking out "subparagraph (G) of section 202(f)(1)" and inserting in lieu thereof "subparagraph (F) of section 202(f)(1)".

(5) Section 202(p)(1) is amended by striking out "subparagraph (C) of subsection (c)(1), clause (i) or (ii) of subparagraph (D) of subsection (f)(1), or".

(e)(1) Section 202(g)(2) of such Act is amended by striking out "Such" and inserting in lieu thereof "Except as provided in paragraph (4) of this subsection, such".

(2) Section 202(g) of such Act is amended by adding at the end thereof the following new paragraph:

"(4)(A) The amount of a mother's insurance benefit for each month to which any individual is entitled under this subsection shall be reduced (but not below zero) by an amount equal to the amount of any monthly benefit payable to such individual for such month which is based upon such individual's earnings while in the service of the Federal

Government or any State (or political subdivision thereof, as defined in section 218 (b)(2)) if, on the last day such individual was employed by such entity, such service did not constitute 'employment' as defined in section 210.

"(B) For purposes of this paragraph, any periodic benefit which otherwise meets the requirements of subparagraph (A), but which is paid on other than a monthly basis, shall be allocated on a basis equivalent to a monthly benefit (as determined by the Secretary) and such equivalent monthly benefit shall constitute a monthly benefit for purposes of subparagraph (A). For purposes of this subparagraph, the term 'periodic benefit' includes a benefit payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.".

(f) The amendments made by this section shall apply with respect to monthly insurance benefits payable under title II of the Social Security Act for months beginning with the month in which this Act is enacted, on the basis of applications filed in or after the month in which this Act is enacted.

EMPLOYEES OF MEMBERS OF RELATED GROUPS OF CORPORATIONS

Employer Social Security Tax Liability

SEC. 124.(a) Section 3121 of the Internal Revenue code of 1954 (relating to definitions for purposes of the Federal Insurance Contributions Act) is amended by adding at the end thereof the following new subsection:

"(s) CONCURRENT EMPLOYMENT BY TWO OR MORE EMPLOYERS.—For purposes of sections 3102, 3111, and 3121(a)(1), if two or more corporations concurrently employ the same individual and compensate such individual through a common paymaster, each such corporation shall be considered to have paid as remuneration to such individual only the amounts actually disbursed by it to such individual and shall not be considered to have paid as remuneration to such individual amounts actually disbursed to such individual by another of such corporations.".

(b) Section 3306 of the Internal Revenue Code of 1954 (relating to definitions in respect of unemployment tax) is amended by adding at the end thereof the following subsection:

"(p) CONCURRENT EMPLOYMENT BY TWO OR MORE EMPLOYERS.—For the purposes of sections 3102, 3111, and 3306(b)(1), if two or more corporations concurrently employ the same individual and compensate such individual through a common paymaster, each such corporation shall be considered to have paid as remuneration to such individual only the amounts actually disbursed by it to such individual and shall not be considered to have paid as remuneration to such individual amounts actually disbursed to such individual by another of such corporations.".

Effective Date

(c) The amendments made by this section shall apply with respect to wages paid after December 31, 1978.

LIMITATION ON RETROACTIVE BENEFITS

SEC. 125. (a)(1) The first sentence of section 202(j)(1) of the Social Security Act is amended by striking out "An individual" and inserting "Subject to the limitations contained in paragraph (4), an individual" in lieu thereof.

(2) Section 202(j) of such Act is further amended by inserting at the end thereof the following new paragraph:

"(4)(A) Except as provided in subparagraph (B), no individual shall be entitled to benefits under subsection (a), (b), (c), (e), or (f) for any month prior to the month in which he or she files an application for such benefits if the effect of entitlement to such monthly benefit would be to reduce, pursuant to subsection (q), the amount of the monthly benefit to which such individual would otherwise be entitled for the month in which such application is filed.

"(B)(i) If the individual applying for retroactive benefits is applying for such benefits under subsection (a), and there are one or more other persons who would, except for subparagraph (A), be entitled for any month, on the basis of the wages and self-employment income of such individual and because of such individual's entitlement to such retroactive benefits, to retroactive benefits under subsection (b), (c), or (d) not subject to reduction under subsection (q), then subparagraph (A) shall not apply with respect to such month or any subsequent month.

"(ii) If the individual applying for retroactive benefits is a surviving spouse or surviving divorced spouse, and is under a disability (as defined in section 223(d)), and such individual would, except for subparagraph (A), be entitled to retroactive benefits as a disabled surviving spouse or disabled surviving divorced spouse for any month before he or she attained the age of 60, then subparagraph (A) shall not apply with respect to such month or any subsequent month.

"(iii) If the individual applying for retroactive benefits has excess earnings (as defined in section 203(f)) in the year in which he or she files an applicaton for such benefits which could, except for subparagraph (A), be charged to months in such year prior to the month of application, then subparagraph (A) shall not apply to so many of such months immediately preceding the month of application as are required to charge such excess earnings to the maximum extent possible.

"(iv) As used in this subparagraph, the term 'retroactive benefits' means a benefit to which an individual becomes entitled for a month prior to the month in which application for such benefit is filed.".

(3) Section 226(h) of such Act is amended by adding at the end thereof the following new paragraph:

"(4) For the purposes of determining entitlement to hospital insurance benefits under subsection (b) in the case of an individual described in clause (iii) of subsection (b)(2)(A), the entitlement of such individual to widow's or widower's insurance benefits under section 202 (e) or (f) by reason of a disability shall be deemed to be the entitlement to such benefits that would result if such entitlement were determined without regard to the provisions of section 202(j)(4).".

(b) The amendments made by subsection (a) shall be effective only with respect to monthly insurance benefits under title II of the Social Security Act to which an individual becomes entitled on the basis of an application filed after the date of enactment of this Act.

DELIVERY OF BENEFIT CHECKS

SEC. 126. (a) Title VII of the Social Security Act is amended by adding at the end thereof the following new section:

"DELIVERY OF BENEFIT CHECKS

"SEC. 708. Notwithstanding any other provision of this Act, when the normal day for delivery of benefit checks under title II or XVI of this Act would, but for the provisions of this section, fall on a Saturday, Sunday, or legal public holiday (as defined in section 6103 of title 5, United States Code), benefit checks for such month shall be mailed for delivery on the first day preceding such normal delivery day which is not a Saturday, Sunday, or legal public holiday, without regard to whether the delivery of such checks is made in the same calendar month in which such normal day for delivery would occur.".

(b) The amendment made by subsection (a) of this section shall be effective on the date of enactment of this Act.

ACTUARIAL REDUCTION OF BENEFIT INCREASES TO BE APPLIED AS OF TIME OF ORIGINAL ENTITLEMENT

SEC. 127. (a) Section 202(q)(4) of the Social Security Act is amended by striking out all that follows subparagraph (B) and inserting in lieu thereof the following: "then the amount of the reduction of such benefit (after the application of any adjustment under paragraph (7)) for each month beginning with the month of such increase in the primary insurance amount, shall be computed under paragraph (1) or (3), whichever applies, as though the increased primary insurance amount had been in effect for and from the month for which the individual first became entitled to such monthly benefit reduced under such paragraph (1) or (3).".

(b) Section 202(q) of such Act is amended by adding at the end thereof the following new paragraphs:

"(10) For purposes of applying paragraph (4), to monthly benefits payable for any month after December 1977, to an individual who was entitld to a monthly benefit as reduced under paragraph (1) or (3) prior to January 1978, the amount of reduction of such benefit for the first month for which such benefit is increased by reason of an increase in the primary insurance amount of the individual on whose wages and self-employment income such benefit is based and for all subsequent months (and similarly for all subsequent increases) shall be increased by the percentage increase in such primary insurance amount (such increase being made in accordance with the provisions of paragraph (8)). In the case of an individual whose reduced benefit under this section is increased as a result of the use of an adjusted reduction period or an additional adjusted reduction period (in accordance with paragraphs (1) and (3) of this section), then for the first month for which such increase is effective and for all subsequent months, the amount of such reduction (after the application of the previous sentence, if applicable) shall be reduced—

"(A) in the case of old-age, wife's and husband's insurance benefits, by multiplying such amount by the ratio of (i) the number of months in the adjusted reduction period to (ii) the number of months in the reduction period,

"(B) in the case of widow's and widower's insurance benefits for the month in which such individual attains age 62, by multiplying such amount by the ratio of (i) the number of months in the reduction period beginning with age 62 multiplied by 19/40 of 1 percent, plus the number of months in the adjusted reduction period prior to age 62 multiplied by 19/40 of 1 percent, plus the number of months in the adjusted additional reduction period multiplied by 43/240 of 1 percent to (ii) the number of months in the reduction period multiplied by 19/40 of 1 percent, plus the number of months in the additional reduction period multiplied by 43/240 of 1 percent, and

"(C) in the case of widow's and widower's insurance benefits for the month in which such individual attains age 65, by multiplying such amount by the ratio of (i) the number of months in the adjusted reduction period multiplied by 19/40 of 1 percent, plus the number of months in the adjusted additional reduction period multiplied by 43/240 of 1 percent to (ii) the number of months in the reduction period beginning with age 62 multiplied by 19/40 of 1 percent, plus the number of months in the adjusted reduc-

tion period prior to age 62 multiplied by 19/40 of 1 percent, plus the number of months in the adjusted additional reduction period multiplied by 43/240 of 1 percent,

such decrease being made in accordance with the provisions of paragraph (8).

"(11) When an individual is entitled to more than one monthly benefit under this title and one or more of such benefits are reduced under this subsection, the preceding paragraph of this subsection shall apply separately to each such benefit reduced under this subsection before the application of subsection (k) (pertaining to the method by which monthly benefits are offset when an individual is entitled to more than one kind of benefit) and the application of this paragraph shall operate in conjunction with paragraph (3).".

(c)(1) Section 202(q)(7)(C) of the Social Security Act is amended by striking out "because" and all that follows and inserting in lieu thereof "because of the occurrence of an event that terminated her or his entitlement to such benefits,".

(2) Section 202(q)(3)(H) of such Act is amended by inserting "for that month or" after "first entitled".

(d) The amendments made by this section shall be effective with respect to monthly benefits payable for months after December 1977.

INTERNATIONAL AGREEMENTS WITH RESPECT TO SOCIAL SECURITY BENEFITS

SEC. 128. (a) Title II of the Social Security Act is amended by adding at the end thereof the following new section:

"INTERNATIONAL AGREEMENTS

"Purpose of Agreement

"SEC. 233. (a) The President is authorized (subject to the succeeding provisions of this section) to enter into agreements establishing totalization arrangements between the social security system established by this title and the social security system of any foreign country, for the purposes of establishing entitlement to and the amount of old-age, survivors, disability, or derivative benefits based on a combination of an individual's periods of coverage under the social security system established by this title and the social security system of such foreign country.

"DEFINITIONS

"(b) For the purposes of this section—

"(1) the term 'social security system' means, with respect to a foreign country, a social insurance or pension system which is of general application in the country and under which periodic benefits, or the actuarial equivalent thereof, are paid on account of old age, death, or disability; and

"(2) the term 'period of coverage' means a period of payment of contributions or a period of earnings based on wages for employment on a self-employment income, or any similar period recognized as equivalent thereto under this title or under the social security system of a country which is a party to an agreement entered into under this section.

"Crediting Periods of Coverage; Conditions of Payment of Benefits

"(c)(1) Any agreement establishing a totalization arrangement pursuant to this section shall provide—

"(A) that in the case of an individual who has at least 6 quarters of coverage as defined in section 213 of this Act and periods of coverage under the social security system of a foreign country which is a party to such agreement, periods of coverage of such individual under such social security system of such foreign country may be combined with periods of coverage under this title and otherwise considered for the purposes of establishing entitlement to and the amount of old-age, survivors, and disability insurance benefits under this title;

"(B)(i) that employment or self-employment, or any service which is recognized as equivalent to employment or self-employment under this title or the social security system of a foreign country which is a party to such agreement, shall, on or after the effective date of such agreement, result in a period of coverage under the system established under this title or under the system established under the laws of such foreign country, but not under both, and (ii) the methods and conditions for determining under which system employment, self-employment, or other service shall result in a period of coverage; and

"(C) that where an individual's periods of coverage are combined, the benefit amount payable under this title shall be based on the proportion of such individual's periods of coverage which was completed under this title.

"(2) Any such agreement may provide that—

"(A) an individual who is entitled to cash benefits under this title shall, notwithstanding the provisions of section 202(t), receive such benefits while he resides in a foreign country which is a party to such agreement; and

"(B) the benefit paid by the United States to an individual who legally resides in the United States shall be increased to an amount which, when added to the benefit paid by such foreign country, will be equal to the benefit amount which would be payable to an entitled individual based on the first figure in (or deemed to be in) column IV of the table in section 215(a) in the case of an individual becoming eligible for such benefit before January 1, 1979, or based on a primary insurance amount determined under section 215(a)(1)(C)(i) (I) or (II) in the case of an individual becoming eligible for such benefit on or after that date.

"(3) Section 226 shall not apply in the case of any individual to whom it would not be applicable but for this section or any agreement or regulation under this section.

"(4) Any such agreement may contain other provisions, which are not inconsistent with the other provisions of this title and which the President deems appropriate to carry out the purposes of this section.

"Regulations

"(d) The Secretary of Health, Education, and Welfare shall make rules and regulations and establish procedures which are reasonable and necessary to implement and administer any agreement which has been entered into in accordance with this section.

"Reports to Congress; Effective Date of Agreements

"(e)(1) Any agreement to establish a totalization arrangement entered into pursuant to this section shall be transmitted by the President to the Congress together with a report on the estimated number of individuals who will be affected by the agreement and the effect of the agreement on the estimated income and expenditures of the programs established by this Act.

"(2) Such an agreement shall become effective on any date, provided in the agreement, which occurs after the expiration of the period, following the date on which the agreement is transmitted in accordance with paragraph (1), during which each House of the Congress has been in session on each of 90 days; except that such agreement shall not become effective if, during such period, either House of the Congress adopts a resolution of disapproval of the agreement.".

(b)(1) Section 1401 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new subsection:

"(c) RELIEF FROM TAXES IN CASES COVERED BY CERTAIN INTERNATIONAL AGREEMENTS.—During any period in which there is in effect an agreement entered into pursuant to section 233 of the Social Security Act with any foreign country, the self-employment income of an individual shall be exempt from the taxes imposed by this section to the extent that such self-employment income is subject under such agreement to taxes or contributions for similar purposes under the social security system of such foreign country.".

(2) Sections 3101 and 3111 of such Code are each amended by adding at the end thereof the following new subsection:

"(c) RELIEF FROM TAXES IN CASES COVERED BY CERTAIN INTERNATIONAL AGREEMENTS.—During any period in which there is in effect an agreement entered into pursuant to section 233 of the Social Security Act with any foreign country, wages received by or paid to an individual shall be exempt from the taxes imposed by this section to the extent that such wages are subject under such agreement to taxes or contributions for similar purposes under the social security system of such foreign country.".

(3) Section 6051(a) of such Code is amended by adding at the end thereof the following new sentence: "The amounts required to be shown by paragraph (5) shall not include wages which are exempted pursuant to sections 3101(c) and 3111(c) from the taxes imposed by sections 3101 and 3111."

(4) Notwithstanding any other provision of law, taxes paid by any individual to any foreign country with respect to any period of employment or self-employment which is covered under the social security system of such foreign country in accordance with the terms of an agreement entered into pursuant to section 233 of the Social Security Act shall not, under the income tax laws of the United States, be deductible by, or creditable against the income tax of, any such individual.

COVERAGE OF NONPROFIT ORGANIZATIONS WHICH FAILED TO FILE WAIVER CERTIFICATES

SEC. 129. (a)(1) Section 3121(k)(5) of the Internal Revenue Code of 1954 (relating to constructive filing of certificate where refund or credit has been made and new certificate is not filed) is amended—

(A) by striking out "prior to the expiration of 180 days after the date of the enactment of this paragraph," in subparagraph B and inserting in lieu thereof "prior to January 1, 1978,"; and

(B) by striking out "the 181st day after the date of the enactment of this paragraph," and "such 181st day" in the matter following subparagraph (B) and inserting in lieu thereof in each instance "January 1, 1978,".

(2) Section 3121(k)(7) of such Code (relating to payment of both employee and employer taxes for retroactive period by organization in cases of constructive filing) is amended—

(A) by striking out "prior to the expiration of 180 days after the date of the enactment of this paragraph" and inserting in lieu thereof "prior to January 1, 1978,";

(B) by striking out "the 181st day after such date," and inserting in lieu thereof "January 1, 1978,"; and

(C) by striking out "prior to the first day of the calendar quarter in which such 181st day occurs" and inserting in lieu thereof "prior to that date".

(3) Section 3121(k)(8) of such Code (relating to extended period for payment of taxes for retroactive coverage) is amended—

(A) by striking out "by the end of the 180-day period following the date of the enactment of this paragraph" and inserting in lieu thereof "prior to January 1, 1978,";

(B) by striking out "within that period"

and inserting in lieu thereof "prior to January 1, 1978"; and

(C) by striking out "on the 181st day following that date" and inserting in lieu thereof "on that date".

(b)(1) Section 3121(k)(4) of the Internal Revenue Code of 1954 (relating to constructive filing of certificate where no refund or credit of taxes has been made) is amended by adding at the end thereof the following new subparagrpah:

"(C) In the case of any organization which is deemed under this paragraph to have filed a valid waiver certificate under paragraph (1), if—

"(i) the period with respect to which the taxes imposed by sections 3101 and 3111 were paid by such organization (as described in subparagraph (A)(ii)) terminated prior to October 1, 1976, or

"(ii) the taxes imposed by sections 3101 and 3111 were not paid during the period referred to in clause (i) (whether such period has terminated or not) with respect to remuneration paid by such organization to individuals who became its employees after the close of the calendar quarter in which such period began, taxes under sections 3101 and 3111—

"(iii) in the case of an organization which meets the requirements of this subparagraph by reason of clause (i), with respect to remuneration paid by such organization after the termination of the period referred to in clause (i) and prior to July 1, 1977; or

"(iv) in the case of an organization which meets the requirements of this subparagraph by reason of clause (ii), with respect to remuneration paid prior to July 1, 1977, to individuals who became its employees after the close of the calendar quarter in which the period referred to in clause (i) began,

which remain unpaid on the date of the enactment of this subparagraph, or which were paid after October 19, 1976, but prior to the date of the enactment of this subparagraph, shall not be due or payable (or, if paid, shall be refunded); and the certificate which such organization is deemed under this paragraph to have filed shall not apply to any service with respect to the remuneration for which the taxes imposed by sections 3101 and 3111 (which remain unpaid on the date of the enactment of this subparagraph, or were paid after October 19, 1976, but prior to the date of the enactment of this subparagraph) are not due and payable (or are refunded) by reason of the preceding provisions of this subparagraph. In applying this subparagraph for purposes of title II of the Social Security Act, the period during which reports of wages subject to the taxes imposed by section 3101 and 3111 were made by any organization may be conclusively treated as the period (described in subparagraph (a)(ii)) during which the taxes imposed by such sections were paid by such organization.".

(2) Section 3121(k)(4)(A) of such Code is amended by inserting "(subject to subparagraph (C)" after "effective" in the matter following clause (ii).

(3) Section 3121(k)(6) of such Code (relating to application of certain provisions to cases of constructive filing) is amended by inserting "(except as provided in paragraph (4)(C))" after "services involved" in the matter preceding subparagraph (A).

(c) In any case where—

(1) an individual performed service, as an employee of an organization which is deemed under section 3121(k)(4) of the Internal Revenue Code of 1954 to have filed a waiver certificate under section 3121(k)(1) of such Code, on or after the first day of the applicable period described in subparagraph (A)(ii) of such section 3121(k)(4) and before July 1, 1977; and

(2) the service so performed does not constitute employment (as defined in section 210(a) of the Social Security Act and section 3121(b) of such Code) because the waiver certificate which the organization is deemed to have filed is made inapplicable to such service by section 3121(k)(4)(C) of such Code, but would constitute employment (as so defined) in the absence of such section 3121(k)(4)(C),

the remuneration paid for such service shall, upon the request of such individual (filed on or before April 15, 1980, in such manner and form, and with such official, as may be prescribed by regulations made under title II of the Social Security Act) accompanied by full payment of all of the taxes which would have been paid under section 3101 of such Code with respect to such remuneration but for such section 3121(k)(4)(C) (or by satisfactory evidence that appropriate arrangements have been made for the payment of such taxes in installments as provided in section 3121(k)(8) of such Code), be deemed to constitute remuneration for employment as so defined. In any case where remuneration paid by an organization to an individual is deemed under the preceding sentence to constitute remuneration for employment, such organization shall be liable (notwithstanding any other provision of such Code) for payment of the taxes which it would have been required to pay under section 3111 of such Code wtih respect to such remuneration in the absence of such section 3121(k)(4)(C).

(d) Section 3121(k)(8) of the Internal Revenue Code of 1954 (relating to extended period for payment of taxes for retroactive coverage), as amended by subsection (a)(3) of this Act, is amended to read as follows:

"(8) EXTENDED PERIOD FOR PAYMENT OF TAXES FOR RETROACTIVE COVERAGE.—Notwithstanding any other provision of this title, in any case where—

"(A) an organization is deemed under paragraph (4) to have filed a valid waiver certificate under paragraph (1), but the applicable period described in paragraph (4)(A)(ii) has terminated and part or all of the taxes imposed by sections 3101 and 3111 with respect to remuneration paid by such organization to its employees after the close of such period remains payable notwithstanding paragraph (4)(C), or

"(B) an organization described in paragraph (5)(A) files a valid waiver certificate under paragraph (1) by December 31, 1977, as described in paragraph (5)(B), or (not having filed such a certificate by that date) is deemed under paragraph (5) to have filed such a certificate on January 1, 1978, or

"(C) an individual files a request under section 3 of Public Law 94–563, or under section 3 of the Act which added paragraph (4)(C) of this subsection, to have service treated as constituting remuneration for employment (as defined in section 3121(b) and in section 210(a) of the Social Security Act),

the taxes due under sections 3101 and 3111 with respect to services constituting employment by reason of such certificate for any period prior to the first day of the calendar quarter in which the date of such filing or constructive filing occurs, or with respect to service constituting employment by reason of such request, may be paid in installments over an appropriate period of time, as determined under regulations prescribed by the Secretary, rather than in a lump sum.".

(e) The first sentence of section 3 of Public Law 94–563 (in the matter following paragraph (3)) is amended—

(1) by inserting "on or before April 15, 1980," after "filed"; and

(2) by inserting "or by satisfactory evidence that appropriate arrangements have been made for the repayment of such taxes in installments as provided in section 3121(k)(8) of such Code" after "so refunded or credited".

(f) Section 3121(k)(4)(A)(i) of the Internal Revenue Code of 1954 (relating to constructive filing of certificate where no refund or credit of taxes has been made) is amended by striking out "or any subsequent date" and inserting in lieu thereof "(or, if later, as of the earliest date on which it satisfies clause (ii) of this subparagraph.)".

(g) The amendments made by subsections (a), (b), (d), (e), and (f) shall be effective as though they had been included as a part of the amendments made to section 3121(k) of the Internal Revenue Code of 1954 by the first section of Public Law 94–563 (or in the case of the amendments made by subsection (e), as a part of section 3 of such Public Law).

TITLE II—MISCELLANEOUS

STUDIES AND REPORTS

SEC. 201. (a) The Secretary of Labor, in consultation with the Secretary of Health, Education, and Welfare, shall immediately study the need to develop a special Consumer Price Index for the elderly. Not later than 6 months after the date of enactment of this Act, the Secretary of Labor and the Secretary of Health, Education, and Welfare shall each submit to the Congress a report of his findings and recommendations with respect to the need for such an index, together with an estimate of the financial impact that such an index would have on the costs of the programs established under the Social Security Act.

(b)(1) The Secretary of Health, Education, and Welfare, in consultation with the Task Force on Sex Discrimination in the Department of Justice, shall make a detailed study, within the Department of Health, Education, and Welfare and the Social Security Administration, of proposals to eliminate dependency as a factor in the determination of entitlement to spouse's benefits under the program established under title II of the Social Security Act, and of proposals to bring about equal treatment for men and women in any and all respects under such program, taking into account the practical effects (particularly the effect upon women's entitlement to such benefits) of factors such as—

(A) changes in the nature and extent of women's participation in the labor force,

(B) the increasing divorce rate, and

(C) the economic value of women's work in the home.

The study shall include appropriate cost analyses.

(2) The Secretary shall submit to the Congress within six months after the date of enactment of this Act, a full report on the study carried out under paragraph (1).

APPOINTMENT OF HEARING EXAMINERS

SEC. 202. The persons who were appointed to serve as hearing examiners under section 1631(d)(2) of the Social Security Act (as in effect prior to January 2, 1976), and who by section 3 of Public Law 94–202 were deemed to be appointed under section 3105 of title 5, United States Code (with such appointments terminating no later than at the close of the period ending December 31, 1978), shall be deemed appointed to career-absolute positions as hearing examiners under and in accordance with section 3105 of title 5, United States Code, with the same authority and tenure (without regard to the expiration of such period) as hearing examiners appointed directly under such section 3105, and shall receive compensation at the same rate as hearing examiners appointed by the Secretary of Health, Education, and Welfare directly under such section 3105. All of the provisions of title 5, United States Code, and the regulations promulgated pursuant thereto, which are applicable to hearing ex-

aminers appointed under such section 3105, shall apply to the persons described in the preceding sentence.

REPORT OF ADVISORY COUNCIL ON SOCIAL SECURITY

SEC. 203. Notwithstanding the provisions of section 706(d) of the Social Security Act, the report of the Advisory Council on Social Security which is due not later than January 1, 1979, may be filed at any date prior to October 1, 1979.

TITLE III—PROVISIONS RELATING TO CERTAIN STATE WELFARE AND SERVICE PROGRAMS RECEIVING FEDERAL FINANCIAL ASSISTANCE

FISCAL RELIEF FOR STATES AND POLITICAL SUBDIVISIONS THEREOF WITH RESPECT TO COSTS OF WELFARE PROGRAMS

SEC. 301. Section 403 of the Social Security Act is amended—

(1) in subsection (a), by adding at the end thereof the following new paragraph:

"In the case of calendar quarters beginning after September 30, 1977, and prior to April 1, 1978, the amount to be paid to each State (as determined under the preceding provisions of this subsection or section 1118, as the case may be) shall be increased in accordance with the provisions of subsection (l) of this section."; and

(2) by adding at the end thereof, the following new subsection:

"(l)(1) In the case of any calendar quarter which begins after September 30, 1977, and prior to April 1, 1978, the amount payable (as determined under subsection (a) or section 1118, as the case may be) to each State, which has a State plan approved under this part, shall (subject to the succeeding paragraphs of this subsection) be increased by an amount equal to the sum of the following:

"(A) an amount which bears the same ratio to $93,500,000 as the amount expended as aid to families with dependent children under the State plan of such State during the month of December 1976 bears to the amount expended as aid to families with dependent children under the State plans of all States during such month, and

"(B)(i) in the case of Puerto Rico, Guam, and the Virgin Islands, an amount equal to the amount determined under subparagraph (A) with respect to such State, or

"(ii) in the case of any other State, an amount which bears the same ratio to $93,500,000, minus the amounts determined under clause (i) of this subparagraph, as the amount allocated to such State, under section 106 of the State and Local Fiscal Assistance Act of 1972 for the most recent entitlement period for which allocations have been made under such section prior to the date of enactment of this subsection, bears to the total of the amounts allocated to all States under such section 106 for such period.

"(2) As a condition of any State receiving an increase, by reason of the application of the foregoing provisions of this subsection, in the amount determined for such State pursuant to subsection (a) or under section 1118 (as the case may be), such State must agree to pay to any political subdivision thereof which participates in the cost of the State's plan, approved under this part, during any calendar quarter with respect to which such increase applies, so much of such increase as does not exceed 90 per centum of such political subdivision's financial contribution to the State's plan for such quarter.

"(3) Notwithstanding any other provision of this part, the amount payable to any State by reason of the preceding provisions of this subsection for calendar quarters prior to April 1, 1978, shall be made in a single installment, which shall be payable as shortly after October 1, 1977, as is administratively feasible.".

INCENTIVE ADJUSTMENTS FOR QUALITY CONTROL IN FEDERAL FINANCIAL PARTICIPATION IN AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAMS

SEC. 302. (a) Section 403 of the Social Security Act is amended by adding after subsection (l) (as added by section 301 of this Act) the following new subsection:

"Incentive Adjustments in Federal Financial Participation

"(l) If the dollar error rate of excess payments of aid furnished by a State under its State plan, approved under this part, with respect to any six-month period, as based on samples and evaluations thereof, is—

"(1) at least 4 per centum, the amount of the Federal financial participation in the expenditures made by the State in carrying out such plan during such period shall be determined without regard to the provisions of this subsection; or

"(2) less than 4 per centum, the amount of the Federal financial participation in the expenditures made by the State in carrying out such plan during such period shall be the amount determined without regard to this subsection, plus, of the amount by which such expenditures are less than they would have been if the erroneous excess payments of aid had been at a rate of 4 per centum—

"(A) 10 per centum of the Federal share of such amount, in case such rate is not less than 3.5 per centum,

"(B) 20 per centum of the Federal share of such amount, in case such rate is at least 3.0 per centum but less than 3.5 per centum,

"(C) 30 per centum of the Federal share of such amount, in case such rate is at least 2.5 per centum but less than 3.0 per centum,

"(D) 40 per centum of the Federal share of such amount, in case such rate is at least 2.0 per centum but less than 2.5 per centum,

"(E) 50 per centum of the Federal share of such amount, in case such rate is less than 2.0 per centum.".

(b) Payments may be made under the amendments made by subsection (a) only in the case of periods commencing on or after January 1, 1978.

ACCESS TO WAGE INFORMATION

SEC. 303. (a) Part A of title IV of the Social Security Act is amended by inserting after section 410 the following new section:

"ACCESS TO WAGE INFORMATION

"SEC. 411. (a) Notwithstanding any other provision of law, the Secretary shall make available to States and political subdivisions thereof wage information contained in the records of the Social Security Administration which is necessary (as determined by the Secretary in regulations) for purposes of determining an individual's eligibility for aid or services, or the amount of such aid or services, under a State plan for aid and services to needy families with children, approved under this part, and which is specifically requested by such State or political subdivision for such purposes.

"(b) The Secretary shall establish such safeguards as are necessary (as determined by the Secretary under regulations) to insure that information made available under the provisions of this section is used only for the purposes authorized by this section.".

(b) Section 3304(a) of the Federal Unemployment Tax Act is amended by redesignating paragraph (16) as paragraph (17) and by inserting after paragraph (15) the following new paragraph:

"(16)(A) wage information contained in the records of the agency administering the State law which is necessary (as determined by the Secretary of Health, Education, and Welfare in regulations) for purposes of determining an individual's eligibility for aid or services, or the amount of such aid or services, under a State plan for and and services to needy families with children approved under part A of title IV of the Social Security Act, shall be made available to a State or political subdivision thereof, when such information is specifically requested by such State or political subdivision for such purpose, and

"(B) such safeguards are established as are necessary (as determined by the Secretary of Health, Education, and Welfare in regulations) to insure that such information is used only for the purposes authorized under subparagraph (A);".

(c) Section 402(a) of the Social Security Act is amended—

(1) by striking out the word "and" at the end of paragraph (27);

(2) by striking out the period at the end of paragraph (28) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by adding at the end thereof the following new paragraph:

"(29) Effective October 1, 1979, provide that wage information available from the Social Security Administration under the provisions of section 411 of this Act; and available (under the provisions of section 3304(a)(16) of the Federal Unemployment Tax Act) from agencies administering State unemployment compensation laws, shall be requested and utilized to the extent permitted under the provisions of such sections; except that the State shall not be required to request such information from the Social Security Administration where such information is available from the agency administering the State unemployment compensation laws".

(d) The amendments made by this section shall be effective on the date of the enactment of this Act.

STATE DEMONSTRATION PROJECTS

SEC. 304. Section 1115 of the Social Security Act is amended—

(1) by inserting "(a)" after "SEC. 1115.";

(2) by redesignating subsections (a) and (b) as paragraphs (1) and (2) respectively; and

(3) by adding at the end thereof the following new subsection:

"(b)(1) In order to permit the States to achieve more efficient and effective use of funds for public assistance, to reduce dependency, and to improve the living conditions and increase the incomes of individuals who are recipients of public assistance, any State having an approved plan under part A of title IV may, subject to the provisions of this subsection, establish and conduct not more than three demonstration projects. In establishing and conducting any such project the State shall—

"(A) provide that not more than one such project be conducted on a statewide basis;

"(B) provide that in making arrangements for public service employment—

"(i) appropriate standards for the health, safety, and other conditions applicable to the performance of work and training on such project are established and will be maintained,

"(ii) such project will not result in the displacement of employed workers,

"(iii) with respect to such project the conditions of work, training, education, and employment are reasonable in the light of such factors as the type of work, geographical region, and proficiency of the participant, and

"(iv) appropriate workmen's compensation protection is provided to all participants;

"(C) provide that participation in any such

project by any individual receiving aid to families with dependent children be voluntary.

"(2) Any State which establishes and conducts demonstration projects under this subsection, may, subject to paragraph (3), with respect to any such project—

"(A) waive, subject to paragraph (3), any or all of the requirements of sections 402(a)(1) (relating to statewide operation), 402(a)(3) (relating to administration by a single State agency), 402(a)(8) (relating to disregard of earned income), except that no such waiver of 402(a)(8) shall operate to waive any amount in excess of one-half of the earned income of any individual, and 402(a)(19) (relating to the work incentive program);

"(B) subject to paragraph (4) use to cover the costs of such projects such funds as are appropriated for payment to any such State with respect to the assistance which is or would, except for participation in a project under this subsection, be payable to individuals participating in such projects under part A of title IV for any fiscal year in which such demonstration projects are conducted; and

"(C) use such funds as are appropriated for payments to States under the State and Local Fiscal Assistance Act of 1972 for any fiscal year in which such demonstration projects are conducted to cover so much of the costs of salaries for individuals participating in public service employment as is not covered through the use of funds made available under subparagraph (B).

"(3)(A) Any State which wishes to establish and conduct demonstration projects under the provisions of this subsection shall submit an application to the Secretary in such information as the Secretary may require. Such State shall be authorized to proceed with such project (i) when such application has been approved by the Secretary, or (ii) forty-five days after the date on which such application is submitted unless the Secretary, during such forty-five-day period, disapproves such application.

"(B) Notwithstanding the provisions of paragraph (2)(A), the Secretary may review any waiver made by a State under such paragraph. Upon a finding that any such waiver is inconsistent with the purposes of this subsection and the purposes of part A of title IV, the Secretary may disapprove such waiver. The demonstration project under which any such disapproved waiver was made by such State shall be terminated not later than the last day of the month following the month in which such waiver was disapproved.

"(4) Any amount payable to a State under section 403(a) on behalf of an individual participating in a project under this section shall not be increased by reason of the participation of such individual in any demonstration project conducted under this subsection over the amount which would be payable if such individual were receiving aid to families with dependent children and not participating in such project.

"(5) Participation in a project established under this section shall not be considered to constitute employment for purposes of any finding with respect to 'unemployment' as that term is used in section 407.

"(6) Any demonstration project established and conducted pursuant to the provisions of this subsection shall be conducted for not longer than two years. All demonstration projects established and conducted pursuant to the provisions of this subsection shall be terminated not later than September 30, 1980.".

EARNED INCOME DISREGARD

SEC. 305. (a) Section 402(a)(7) of the Social Security Act is amended by striking out "any expenses" and inserting in lieu thereof "any child care expenses".

(b) Section 402(a)(8)(A)(ii) of the Social Security Act is amended to read as follows:

"(ii) in the case of earned income of a dependent child not included under clause (i), a relative receiving such aid, and any other individual (living in the same home as such relative and child) whose needs are taken into account in making such determination, (I) the first $60 of earned income for individuals who are employed at least forty hours per week, or at least thirty-five hours per week and are earning at least $92 per week, and (II) the first $30 of earned income for individuals not meeting the criteria of subclause (I), plus (III) in each case, one-third of up to $300 of additional earnings, and one-fifth of such additional earnings in excess of $300, except that in each case an amount equal to the reasonable child care expenses incurred (subject to such limitations as the Secretary may prescribe in regulations) shall first be deducted before computing such individual's earned income (except that the provisions of this clause (ii) shall not apply to earned income derived from participation on a project maintained under the programs established by section 432(b)(2) and (3)); and".

(c)(1) The amendments made by this section shall become effective on January 1, 1978.

(2) A State plan for aid and services to needy families with children shall not be regarded as failing to comply with the requirements imposed with respect to approved State plans under part A of title IV of the Social Security Act, and the amounts payable to any State under such part shall not be decreased, solely because such State plan fails to comply with the requirements of paragraph (7) or (8) of section 402(a) of the Social Security Act as in effect after the date of enactment of this Act and prior to January 1, 1978, if such State plan complies with the requirement of such paragraphs or amended by this section.

Mr. STEVENS. Mr. President, is it the Senator's intention to adopt that as original text for the purposes of further amendment?

Mr. LONG. That is my intent. I am not aware of any objection to it. But I think I shall wait until more Senators are here. In due course, I shall make that motion.

Mr. STEVENS. That is the Senator's intention?

Mr. LONG. Yes, sir; in due course, I think I shall ask for it.

Mr. President, the Committee on Finance has reported to the Senate a bill which will restore the financial soundness of the social security system and make certain other significant improvements in that program.

For the past few years concern has been expressed over the financial situation of the social security program. When reports of difficulties in the program were first announced, the Committee on Finance undertook a thorough examination of the problem. We appointed panels of actuaries and economists to give us independent evaluations of the seriousness of the problem. We conducted hearings on what needed to be done and we carefully reviewed proposals put forth by the administration and by others to meet the problems that had been identified.

The bill the committee has developed represents a responsible and complete answer to the financing crisis. It does not solve all the problems of the social security program. There are major issues in the disability insurance area and in other aspects of social security which Congress will have to deal with in future years. But this bill does restore the program to a completely sound financial status in both the short-run and over the traditional 75-year financial period. If we enact this legislation, we will have returned to the traditional and desirable situation in which we can assure those who are covered by the program that it will be able to deliver the benefits it promises even if no further changes are ever made in it.

The committee considered and rejected proposals to take the easy way out by letting the social security program become dependent in part on treasury borrowing. The committee rejected this approach because it is an unsound approach. It would erode the confidence that people have in the permanence of social security, since it could no longer be demonstrated that the social security system would generate the revenues to meet benefit obligations. And it would end the discipline under which the Congress has always raised the specific taxes needed to pay for the benefits we have provided.

The social security program has enjoyed great acceptance by those who pay the taxes to support it precisely because Congress has always treated it with great care and responsibility. We have always provided sufficient funding to meet the obligations of the system on the basis of the best estimates the actuaries can give us. Unfortunately, changes in population growth rates and changes in economic conditions have caused the actuaries to modify their predictions in a way which has adversely affected the financing of the program. In large part, the current financial difficulties arise from these changed estimates and from the fact that the automatic benefit increase mechanism enacted in 1972 is unduly sensitive to changes in economic estimates.

The committee is now proposing a new schedule of taxes which reflects the more realistic estimates currently made by the actuaries. We are also proposing a new benefit adjustment mechanism which should be less sensitive to any future changes in economic estimates. The Finance Committee bill, in addition to modifying the benefit formula and the tax schedules, also contains a number of other changes in the social security program, including a substantial increase in the amount of earnings that retired persons can have without losing any of their social security benefits.

The committee bill also makes several important changes affecting public assistance. These provisions are supported by the administration, for one which relates to the amount that people can earn and still retain their eligibility for welfare payments. But otherwise, the administration supports what we have done here. The committee amendment would provide fiscal relief for State and local welfare costs and incentives for

States to reduce their error rates, allow States to run demonstration projects on making employment more attractive for welfare recipients, and give States access to wage information for purposes of determining eligibility for welfare benefits.

In addition, the committee bill includes the provision relating to the earned income disregard for welfare recipients I mentioned, which differs from a provision with similar intent proposed by the administration.

I ask unanimous consent that there be printed in the RECORD at this point an excerpt from the committee press release summarizing the provisions of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

FINANCING PROVISIONS

Revised benefit formula for future retirees.—A substantial part of the long-range social security deficit under present law results from unintended effects of the automatic cost-of-living increase mechanisms adopted in 1972. The Committee has agreed to make the existing law cost-of-living increase provisions apply only to individuals who are already on the benefit rolls at the time each increase occurs. To assure that the value of benefits for new retirees is maintained, the Committee has agreed to a new formula for computing initial benefits. This new formula will avoid the over-indexing which was characteristic of the present-law formula. Under the new formula, persons retiring in the future will have their benefits determined on the basis of their previous wages after those wages have been adjusted to reflect changes in wage levels ocurring in the economy. This approach is generally referred to as wage indexing. The formula adopted is designed to maintain benefit levels as a percent of preretirement income at approximately the same ratio as applied in the case of persons who retired in 1976.

Increase in amount of earnings subject to employer tax.—Under existing law, the employer share of the social security payroll tax is collected on the first $16,500 earned by each employee. This amount increases automatically in future years as wages rise and is expected to increase to $17,700 in 1978. The Committee provision would raise the base for employer taxes to $50,000 starting in 1979. The employer base will remain at a flat $50,000 through 1984 and then increase in 1985 to $75,000. The base will remain at a flat $75,000 until such time as the employee tax base reaches a level of $75,000. Thereafter the two bases would be equal and would rise together in relation to the increases in average wages. It is projected that the $75,000 base would remain in effect until sometime after the turn of the century. (Increasing the amount of wages subject to social security taxes would also result in a similar increase under the railroad retirement program. Since the railroad program has a higher tax rate for employers than for employees (related to certain segments of the benefit structure which are based on labor-industry negotiations), the Committee agreed to limit the applicability of this provision in the case of the railroad system. Under the Committee amendment the increased employer tax base would apply only to that part of the employer tax rate which is equivalent to the social security tax rate.)

Increase in amount of earnings subject to employee (or self-employer tax).—In addition to increasing the amount of wages subject to the employer tax, the Committee also approved an increase in the amount of annual earnings subject to the employee or self-employment tax. Under the amendment, there will be four $600 increases over present law levels in 1979, 1981, 1983, and 1985. As under existing law, the tax base for employees and self-employed persons will also be automatically increased as wage levels rise. The table below shows the projected tax bases under this amount.

AMOUNT OF EARNINGS SUBJECT TO SOCIAL SECURITY TAX

Years	Present Law (employers, employees, self-employed)	Committee amendment	
		Employees/ self-employed	Employers
1978	$17,700	$17,700	$17,700
1979	18,900	19,500	50,000
1980	20,400	21,000	50,000
1981	21,900	23,100	50,000
1982	23,400	24,600	50,000
1983	24,900	26,700	50,000
1984	26,400	28,200	50,000
1985	27,900	30,300	75,000

Tax rate increase.—The Committee also approved a modification of the social security tax rate schedules to bring in additional revenue. In order to bring in the revenue in a manner related to the projected outgo of the system, the modified tax rate schedule provides for a series of increases occurring in different years starting with 1979. The tax rate increases approved by the Committee would result in a revised tax rate schedule as shown in the table below. The changes in the Hospital Insurance (HI) rates shown in the table will, in combination with the tax base changes also approved by the Committee, leave the Medicare trust funds in roughly the same position as under existing law. (There would be a small net outflow from the Hospital Insurance fund to the cash benefits fund, but this would not change the year in which the Hospital Insurance fund is projected to become exhausted under present law.)

SOCIAL SECURITY TAX RATES ON EMPLOYER AND EMPLOYEE (EACH)

[In percent]

	Present Law			Committee amendment		
	OASDI [1]	HI [2]	Total	OASDI [1]	HI [2]	Total
1977	4.95	0.90	5.85	4.95	0.90	5.85
1978	4.95	1.10	6.05	5.05	1.00	6.05
1979–80	4.95	1.10	6.05	4.085	1.05	6.135
1981–84	4.95	1.35	6.30	5.35	1.25	6.60
1985	4.95	1.35	6.30	5.65	1.35	7.00
1986–89	4.95	1.50	6.45	5.65	1.40	7.05
1990–94	4.95	1.50	6.45	6.10	1.40	7.50
1995–2000	4.95	1.50	6.45	6.70	1.40	8.10
2001–2010	4.95	1.50	6.45	7.30	1.40	8.70
2011 and after	5.95	1.50	7.45	7.80	1.40	9.20

[1] Old-age, survivors, and disability insurance.
[2] Hospital insurance.

Increase in social security tax rate for self-employment.—When earnings from self-employment were made subject to the social security tax in 1950, the rate was set at one and one-half times the employee rate. At that time the employee rate was 1.5 percent and the self-employment rate was 2.25 percent. Over the years as tax rates were increased, the one and one-half to one ratio was maintained until 1973 when the cash benefit tax rate for the self-employed was frozen at 7 percent. (When the hospital insurance program was established the self-employment rate for that program was made equal to the employee rate and has remained equal as the rate has increased.) The Committee approved an amendment which would restore the self-employment tax rate for cash benefits to the original ratio of one and one-half times the employee rate effective in 1981.

Payments to State and local Governments and nonprofit organizations.—The Committee decision described above concerning the employer tax base will result in a higher amount of annual earnings being subject to the employer share of social security taxes than to the employee share starting in 1979. The Committee agreed to partially offset the impact of this increase on nonprofit organizations and State and local Governments by authorizing payments equal to 50 percent of their increased tax liability resulting from that change. In other words, the payment would equal 50 percent of the difference between the employer's social security tax liability and the employee's social security tax liability for such organizations or Governments.

OTHER SOCIAL SECURITY PROVISIONS

Modification of retirement test and financing of the provision.—Social security beneficiaries who are under age 72 have their benefits reduced if their earnings exceed a certain amount which is adjusted annually to reflect changes in average wage levels. The amount which may be earned with no reduction in benefits is $3,000 in 1977 and is expected to increase to $3,240 in 1978 and to $3,480 in 1979. The Committee approved an amendment to increase these levels to $4,500 in 1978 and to $6,000 in 1979. After 1979, the $6,000 level would increase automatically as wage levels rise. (The 1978 increase would be applicable to the entire year but any additional benefits resulting from the change would not become payable until after September 30, 1978.) The Committee also agreed to increase the social security tax rate applicable to employers and employees, effective January 1, 1979, by the amount needed to fund the cost of the higher retirement test levels. These tax rate increases are incorporated in the tax schedule printed above.

Benefits for dependent spouses.—The Committee approved an amendment which would reduce benefits payable under social security to dependent spouses (including surviving spouses) by the amount of any civil service (Federal, State or local) retirement benefit payable to the spouse. The provision would apply only to individuals applying for spouses' social security benefits in the future and only if the dependent spouse had a civil service pension based on his or her own earnings in public employment which was not covered under the social security system.

Increased benefits for certain widows.—Social security benefits for individuals who continue working past age 65 are increased under present law by 1 percent for each year prior to age 72 that the worker did not receive his benefits because of the social security retirement test. This delayed retirement which is added to the individual worker's benefit when he does retire or reach age 72 presently applies only to the worker's own benefit and is not passed through to his survivors. The Committee approved an amendment under which any such increment would also be added to the benefit payable to the widow or widower of such an individual.

Elimination of certain dual taxation requirements.—Under existing law, businesses are ordinarily required to pay social security taxes and Federal unemployment taxes with respect to a given employee only up to the amount of annual wages referred to as the tax base. (Under a provision described above, the tax base for the employer share of the social security tax would be increased to $50,000 effective in 1979. The base for Federal unemployment taxes is $6,000 after 1977.) Where a business is organized

as a group of related corporations, however, an employee of any one of those corporations who performs services for more than one of them is treated for employment tax purposes as though he were employed by each of the corporations for which he performs services. Consequently, if his wages exceed the tax base, social security and unemployment taxes may be required to be paid in excess of the wage base. The employer share of these taxes over the wage base is not refunded. The Committee agreed to an amendment under which social security and unemployment taxes in excess of the tax base would not be paid in this type of situation.

Delivery of social security checks.—The Committee approved an amendment which would assure timely delivery of social security checks when the normal delivery day falls on a weekend or legal holiday. Under present procedures, checks are generally delivered on the third of each month. In some cases when the third falls on a weekend or public holiday, the beneficiary may not receive (or may be unable to cash) the check until after the third. Under the Committee amendment, whenever the third of the month falls on a weekend or legal holiday, social security checks would be delivered on the Friday before the weekend (or on the day preceding the holiday).

Limitation on retroactive social security benefits.—Persons applying for social security benefits are now allowed to elect to start their entitlement for up to 12 months prior to the month in which they file an application. If these months are months prior to age 65, however, the retroactive benefits are obtained at the cost of a lower permanent benefit amount since benefits paid before age 65 are actuarially reduced. The Committee agreed to an amendment under which retroactive benefits would not be permitted in cases involving entitlement before age 65.

Benefit increases as applied to reduced benefits.—Under the automatic cost-of-living benefit increase provisions, some persons on the rolls, through a technicality, receive an increase which is larger than the increase in the cost of living. This occurs because the percentage increase is applied not to the actual benefit amount but to the basic benefit rate (called "primary insurance amount") which represents what would be paid to a retired worker if he began drawing benefits at age 65. If an individual begins getting benefits prior to age 65 and therefore accepts an actuarially reduced benefit rate, subsequent benefit increases will be larger than is necessary to keep that benefit up-to-date.

The Committee agreed to modify the cost-of-living increase mechanism so that all persons on the rolls at the time of an increase would receive the same percentage increase applied to their actual benefit amounts.

International social security agreements.—The Committee agreed to a provision which authorizes the President to enter into agreements with other countries to coordinate the social security protection provided for people who work under the social security programs of both the U.S. and the other country. A similar provision was agreed to by the Committee and the Senate in 1973 but did not become law. The Committee decision differs from the earlier provision in that it would allow either House of Congress to disapprove the agreement by simple resolution. Such action would have to be taken within 90 days after the agreement is submitted to the Congress.

Temporary administrative law judges.—The Committee agreed to a provision under which certain temporary administrative law judges appointed to hear SSI claims some years ago will be appointed as regular administrative law judges in recognition of the experience they have had in the temporary positions. This provision carries out the intent of legislation previously enacted. (P.L. 94-202).

Deemed coverage of certain nonprofit organizations.—Legislation enacted in the last Congress (P.L. 94-563) deemed certain nonprofit organizations to have waived their immunity from social security taxation. These were organizations which had been paying social security taxes even though they had failed to properly waive their immunity. The Committee agreed to an amendment correcting certain problems created by last year's legislation. The Committee provision would allow organizations affected by P.L. 94-563 additional time to make certain elections and would also eliminate certain retroactive liability for social security taxes which was inadvertently created.

Social security advisory council.—The Committee agreed to extend the reporting date for the next advisory council on social security. Under existing law, the report is due to be filed by January 1, 1979. The Committee agreed to allow an additional 9 months (until October 1, 1979) for the completion of this report.

Study of spouses benefits.—The Committee agreed to require the Secretary of Health, Education, and Welfare, in consultation with the Task Force on Sex Discrimination in the Department of Justice, to study and report on proposals to eliminate dependency as a factor in the determination of entitlement to spouse benefits under the social security program, and proposals to bring about equal treatment of men and women under the program, taking into account the practical effects (particularly the effect upon women's entitlement to such benefits) of such things as changes in the nature and extent of women's participation in the labor force, the increasing divorce rate, and the economic value of women's work in the home.

Study of consumer price index.—The Committee also agreed to require the Secretary of Labor, in consultation with the Secretary of Health, Education and Welfare, to study the need to develop a special consumer price index for the elderly.

PROVISIONS AFFECTING PUBLIC ASSISTANCE

Fiscal relief for State and local welfare costs.—The Committee agreed to provide $374 million in additional Federal funding of welfare costs as a means of providing fiscal relief to State and local Governments for fiscal year 1978. Each State would receive a share of that total on the basis of a two-part formula. Half of the fiscal relief funds would be distributed to each State in proportion to its share of total expenditures under the program of aid to families with dependent children (AFDC) for December 1976, and half would be distributed under the general revenue sharing formula.

In some States, local units of Government are responsible for meeting part of the costs of the AFDC program. The fiscal relief payments to those States under this provision would have to be passed through to local Governments. However, States would not be required to pass through an amount in excess of 90 percent of the amount of the welfare costs for which the local Government was otherwise responsible.

Quality control and incentives to reduce errors.—The Committee amendment would establish a program of fiscal incentives as part of the AFDC quality control program to encourage States to reduce the level of their dollar error rates with respect to eligibility and overpayment of aid paid under the approved State plan. Instead of applying sanctions on the States, the dollar error rates would be used as the basis for a system of incentives, which would give the States motivation for expanding their quality control efforts and improving program administration. Under the amendment, States which have dollar error rates of, or reduce their dollar error rates to, less than 4 percent but not more than 3.5 percent of the total expenditures would receive 10 percent of the Federal share of the money saved, as compared with the Federal costs at a 4 percent payment error rate. This percentage would increase proportionately as shown in the following table:

If the error rate is:	
At least 3.5 percent but less than 4 percent	[1]10
At least 3 percent but less than 3.5 percent	20
At least 2.5 percent but less than 3 percent	30
At least 2 percent but less than 2.5 percent	40
Less than 2 percent	50

[1] The State would retain this percent of the Federal savings.

Demonstration projects.—The Committee amendment broadens and makes more explicit the provision of present law relating to State demonstration programs. The objectives of the new demonstration authority would be to permit States to achieve more efficient and effective use of funds for public assistance, to reduce dependency, and to improve the living conditions and increase the incomes of persons who are on assistance—or who otherwise would be on assistance. These objectives would be achieved through experiments designed to make employment more attractive for welfare recipients.

This provision is similar in intent to an amendment approved by the Senate in 1973. It would limit States to not more than three demonstration projects. One of the projects could be statewide, and none of the projects could last for more than two years. The amendment would permit States to waive the requirements of the AFDC program relating to (1) statewideness; (2) administration by a single State agency; (3) the earned income disregard; and (4) the work incentive program. The State could request a waiver of any or all of these requirements on its own initiative. The waiver would be considered approved at the end of 45 days unless the Secretary disapproved it within a 45-day waiting period.

Access to wage information for AFDC verification.—The Committee amendment would improve the capacity of States to acquire accurate wage data by providing authority for the States to have access to earnings information in records maintained by the Social Security Administration and State employment security agencies. Such information would be obtained by a search of wage records conducted by the Social Security Administration or employment security agencies to identify the fact that amount of earnings and the identity of the employer in the case of individuals who were receiving AFDC at the time the earnings were received. The Secretary of Health, Education, and Welfare would be authorized to establish necessary safeguards against improper disclosure of the information. Beginning October 1979, the States would be required to request and use the earnings information made available to them under the Committee amendment.

Earned income disregard.—Under present law States are required, in determining need for aid to families with dependent children, to disregard the first $30 earned monthly by an adult, plus one-third of additional earnings. Costs related to work—such as transportation, child care, uniforms, and other items—are also deducted from earnings in calculating the amount of the welfare benefit.

The Committee bill requires States to dis-

regard the first $60 earned monthly by an individual working full time—$30 in the case of an individual working part-time—plus one-third of the next $300 earned plus one-fifth of amounts earned above this. Child care expenses, subject to limitations prescribed by the Secretary, would be deducted before computing an individual's earned income. Other work expenses could not be deducted.

Mr. LONG. Mr. President, in order to expedite the proceedings on this bill, I ask unanimous consent that the committee amendment be agreed to and that the bill as thus amended be considered original text for the purpose of further amendment.

Mr. CURTIS. Reserving the right to object, and I do not expect to object, may I inquire, if we follow this procedure, even though we have agreed to the committee amendments en bloc, an amendment is in order to strike out or change any one of them?

Mr. LONG. That is right, an amendment in the first degree or in the second degree or a substitute for the bill could all be considered.

Mr. CURTIS. The distinguished Senator on my right (Mr. GOLDWATER) may be offering an amendment relating to the retirement, the amount of earnings a beneficiary can have and still get his social security benefits. This would not prejudice such a move at all, would it?

Mr. LONG. No, but I think that in fairness I ought to caution every Senator that the Committee on Finance has already run afoul of the Budget Committee in trying to bring our recommendations on this bill before the Senate. We had requested that the Budget Committee give us a waiver so the Senate could consider a similar type of amendment by Mr. DOLE of Kansas. That matter was being debated in the Budget Committee at the time I left there, just 20 minutes ago.

I suspect that the Senator may find these matters subject to a contest with the Budget Committee. They may make a point of order under the Budget Act, which could deny the Senator the right to offer his amendment. What I am requesting would not in any way prejudice the Senator's right to offer an amendment, but what the Budget Committee is considering may give him some problem.

Mr. GOLDWATER. The question I have in mind does not require any advice from the Chair, just from the committee chairman. We have now substituted a House bill and we are going to act on that. The House bill contains in substance the amendment I have in mind. If we take the House bill, there is no need of my talking about my amendment. Is that right?

Mr. LONG. It is not quite the way the Senator thinks it is at the moment. At this moment, we are asking that our bill be substituted for the House bill. If the committee amendment should not prevail, then we would, of course, be considering the House bill.

I should think, I say to the Senator, that if the committee bill fails, a point of order can be raised by the Budget Committee against that very provision in the House bill to which the Senator makes reference.

I do not pretend to be an expert on section 303 of the Budget Act, which I believe might be the one that the Budget Committee would rely upon to make a point of order.

Mr. GOLDWATER. Could they not make a similar judgment or ruling against the entire bill because it does far exceed the budget?

Mr. CURTIS. If the Senator will yield right there, there is no increase in benefits in this bill. There are extensive changes. The amendment that I will offer will increase revenues. Of course, it is not in the bill at this time, but I found that the Budget Committee, in their infinite wisdom and their guardianship over the Finance Committee, required a waiver before I could offer an amendment that might bring in some funds to save a deficiency in the budget.

I have no criticism of individual members of that committee, but I think we need some reform in our procedure.

Mr. GOLDWATER. I stand corrected. I made the wrong statement, excess of the budget. I change that to in the long run, it is going to cost American taxpayers a hell of a lot more money.

Mr. LONG. This may come as a surprise to the Senator, and I know it comes as a surprise to most Senators: We had to obtain a waiver from the Budget Committee in order to raise some money in order to reduce the deficit in the social security program.

Mr. GOLDWATER. Not a bad idea.

Mr. LONG. By virtue of the waiver of the Budget Committee, we are presenting our amendment to raise money and also to do some of the type things the Senator has in mind, insofar as we have been able to agree on it.

Mr. GOLDWATER. Would the Senator suggest then that I wait and see what happens and what procedures we follow, because we may find ourselves someplace along the line having a Senate bill, at which point I think my amendments would be proper?

I do not know whether it would be proper parliamentarywise to offer an amendment that is already contained in the bill we are discussing.

Mr. LONG. The Senator can certainly offer an amendment. There is nothing to keep him from doing that. But I believe that unless the Budget Committee sees fit to grant a waiver on it, the Senator will find there will be objection made on the basis that it is contended that would violate the Budget Act.

Mr. CURTIS. Will the Senator yield there?

Mr. LONG. Yes.

Mr. CURTIS. I think I can summarize it in this manner.

Insofar as the Finance Committee is concerned, there is nothing about the pending unanimous-consent request that would preclude the distinguished Senator from Arizona from offering his amendment.

Mr. LONG. That is right.

Mr. CURTIS. On the other hand, any procedure we take here will not be binding on the Budget Committee. They still may come in and may or may not raise an objection to it.

I would like to ask this question——

Mr. LONG. The Budget Committee has agreed to a waiver of the committee bill, and also agreed to a waiver so that the Senator from Nebraska can offer two amendments he has in mind to offer, which would implement his approach to the social security financing.

Mr. CURTIS. But the pending unanimous-consent request, did that include substituting the committee bill for the House bill?

Mr. GOLDWATER. No, I do not think so.

Mr. LONG. Yes, it does.

Mr. CURTIS. It does?

Mr. GOLDWATER. When it is ready.

The Senator says it did?

Mr. CURTIS. May we have it read again, just the unanimous-consent request?

Mr. LONG. That the committee amendment be agreed to and that the bill as thus amended be considered original text for the purpose of further amendment.

Mr. CURTIS. That is just an amendment to the Senate bill, is that right?

Mr. LONG. That is an amendment to substitute the Finance Committee proposal for the House bill.

The PRESIDING OFFICER. The language is amendable.

Mr. LONG. It would then be amendable in the first and second degree.

Mr. GOLDWATER. Would the Senator answer a further question?

My amendment, as well as the amendment contained in the House bill, would not take effect until 1982. So the 1978 budget would not be affected. Could the Budget Committee raise any question on that?

Mr. LONG. It may be that it would not run afoul the budget process at all. But they are not here at this moment and when they come over we will be in a better position to hear from them.

The PRESIDING OFFICER. Is there objection?

Mr. LONG. May I say to the Senator that I just cannot advise him on it because I am not the best authority, and if I sought to speak for the Budget Committee I would do it great peril.

Mr. GOLDWATER. I understand, and we will be patient.

Mr. LONG. I thank the Senator.

Mr. GOLDWATER. Of course, the Senator could take the amendments and avoid all the confusion.

Mr. LONG. If I sought to take that amendment without the Budget Committee being here, then I would find myself in even deeper trouble than I have been in with that committee on other occasions. So I would prefer to take their advice.

The PRESIDING OFFICER. Is there objection?

Without objection, the amendment of the Senator from Louisiana is agreed to as original text.

The bill is open to further amendment.

If there be no further amendment—

Mr. CURTIS addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. CURTIS. Mr. President, there are a number of proposals or amendments to the social security law embodied in the bill that comes from the Senate Finance Committee. In the overall, I think that they will improve the budget situation so far as the social security fund is concerned, rather than deplete it.

One of the reasons for our deficit, and only one, is the provision referred to as decoupling where the effects of inflation are actually treated twice in order for the automatic raises.

That is taken care of and, probably, in the long run, that would pay the cost of all the other provisions in the bill.

Many of these provisions deal with specific and more or less individual cases that have arisen, not that we are legislating for individuals, we are legislating in generalities. But it is the individual case that usually calls to the attention of the Congress a deficiency in the law.

Mr. President, the main controversy in this bill will be over social security financing. In a way, the system is complex. But, on the other hand, it can be easily understood.

This year, the social security fund will pay out about $6 billion more than it takes in. Next year it will be a little worse. The question is, how do we meet this financial need of the social security system?

There is a very simple answer available. A tax increase of one-half of one percent on employer and employee would take care of the immediate needs and take care of the long-range deficiency. It is that simple.

However, there is a reluctance to impose taxes. I think it is a misguided one.

I believe that the smartest political vote is to send word out to the country that we are running behind here, we are going to meet it forthrightly and guarantee it to all the people that we are not going to allow serious trouble in the social security fund. I think that is what the people over 65 want. I believe that those between 55 and 60 would like that. I think everybody would—even though they resent higher taxes.

You either meet it forthrightly or you dodge it in some roundabout way. Several dodges have been suggested. One is that you dip into the general fund. When you do that, it becomes a welfare payment.

The particular angle advanced by the committee is, "Let's load this on the employers only." Well, my hunch that if the social security financing proposed by the Finance Committee becomes law, they will be back in here repealing it in less than 6 months, because it will create havoc with employers all over.

Nebraska is a rather small State populationwise, but what the committee proposed will increase the social security taxes to be paid by the University of Nebraska a million dollars a year. Other institutions are in the same situation.

What happened when we voted not to dip into the general fund for social security? I respect and honor the committee for so deciding. They said, "Let's increase the wage base on the employers only up to $100,000." At the present time, everybody pays social security taxes on $16,500. "Let's reach in and get more money from the employers, by raising them."

Aside from a burden that they cannot bear, consider how unfair it is. A business or an institution that has a great many highly paid people might have their social security taxes raised by as much as 80 percent. Another employer who does not have any highly paid employees pays nothing toward meeting this problem. There, Mr. President, is the simple problem.

I thank the leadership of the Senate for calling this session so that the distinguished Senator and I can talk to each other about this. No other Senators are here except my distinguished friend, the Senator from Oklahoma (Mr. BELLMON), and Mr. HOLLINGS. They are here to look after the Finance Committee, in their jurisdiction of the Budget Committee; and I am pleased to know that they have granted ttheir consent for the Senator from Nebraska to offer an amendment to increase the taxes and assure that these benefits can be paid. I appreciate that very much. I was concerned that perhaps they would not grant the waiver. However, sometime before we vote on this matter, I hope that the leadership, with the great power and influence vested in them, will get some Senators here, because their constituents want the social security law to be made sound.

Mr. President, nothing has happened in social security that surprises anybody who knows anything about it. Congress went for a long time expanding social security, paying medicare out of the payroll tax, expanding it to survivorship, increasing benefits, and the taxes were low. Well, there comes a day when you have to pay for that.

What the social security system is going through right now is the same experience that assessment life insurance companies went through in the early part of this century. They would start an assessment life insurance company, and every time they had a claim to pay, they would assess all the other members enough to pay that claim. It was great. All their members were young people. They were taking in a lot of new members; not very many of them died; so the assessment was low.

The money rolled in at a very low assessment; there were few claims to pay, and they were in good shape.

Then came a day when those members became older and were going to die, and the inducement for new members to join faded, because they were coming in at a time when there were many bills to pay.

That is exactly the situation of social security. For years and years, after I became a Member of Congress, the maximum tax for an employee to pay was $30 a year. The maximum tax that an employer had to pay on an employee was $30 a year. Why not? They did not cover the present aged at that time. They were taking in new members by law all the time, and the money rolled in. The promoters of the welfare state said, "Ah! Look at the billions of dollars we have. It's fine." They knew what they were doing. They knew they could expand it before people realized the cost of it. Well, it is here.

Social security has a lot of good virtues, and one is that it is a retirement system for people to exist in dignity. It is not welfare.

The minute you change it and dip into the general fund, you have ruined it; because after the appropriating process goes along here, somebody is going to get up and say, "We can't pay it to certain groups. The tax is too high." Also, if you load it heavily against the employer, the same result will occur. It has been received in dignity because everybody paid. It was not from general funds. Half of it was paid by employers and half of it by employees.

The committee first voted to raise the employers' tax to $100,000. Now they have retreated a little and have said, "We will just raise it to $75,000 and take that in two steps."

I hold in my hand a letter. By chance, this is the one I took from my file first, I want the distinguished Senator from Wisconsin to know. It is from the Wisconsin Telephone Co.:

> In response to your request regarding the effect of a higher FICA wage base for employers only in 1979, please be advised that this proposal would increase our social security taxes almost $2 million over the current schedule for 1979.

That was at the $100,000 ceiling. Not many people are paid more than $75,000 and less than a $100,000 in the Wisconsin Telephone Co. So it would be just about as burdensome—not quite, perhaps, but just about as burdensome—at the present figure of $75,000 being reached in two steps.

Mr. President, I repeat that if this measure is passed by Congress, they will be in here in less than 6 months, repealing it. It is an unbearable burden. The country will not stand for it, and we should not enact it.

I yield the floor.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that during the consideration of the social security bill, the following members of the staff of the Budget Committee have the privilege of the floor: John McEvoy, Karen Williams, George Merrill, and Michael Joy.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, the letter read by the distinguished Senator from Nebraska concerning the Wisconsin telephone company as well as all of the other letters read into the RECORD compare the increased cost of social security payments under the pending legislation reported to the Senate by the Finance Committee to 1977 social security liabilities. They do not compare the increased costs that they are going to pay against the proposal that was adopted in the House of Representatives, to Senator CURTIS' proposal or to any other proposal. So these letters distort the future liability of these employers. Since the 1977 social security liability for employers and employees will be changed under provisions of current law, the figures cited in these letters are improperly used.

Second, these letters all ignore the fact that 87 percent of all wages in America are already covered by social security; in other words, the taxable earnings base already covers 87 percent of them, so all kinds of businesses, millions of them, are going to pay less money under the proposal which increases the base of only the employer to $50,000 in 1979 and $75,000 in 1985, as opposed to the alternative which increases payroll taxes on all of them. So this has to be looked at in its proper perspective, recognizing that many employers will pay less taxes; whereas, some others will pay more. Those who will pay more will not pay as much more as they state in their letters because they are comparing it to their 1977 liability. Their social security liability is going to be increased under present law.

Next these letters ignore the fact, of course, that 100 percent of the social security tax liability is deductible from these employers Federal income tax returns. Those in the 50-percent tax bracket are only paying 50 percent of the additional social security liability. Furthermore, when the employer pays on a higher earnings base, that does not increase the retirement benefit of his employees. That is to say, the amount that the employer pays in excess of what the employee pays on the earnings base does not increase the retirement benefit of the employee, thus avoiding a long-term obligation—an obligation which employers evenutally will have to pay one-half of in order to support the retirement benefits of those employees.

Mr. President, I wish to have printed in the RECORD a group of letters that have been written to me in support of the Finance Committee social security financing proposals.

Mr. President, I shall ask unanimous consent, after simply reading the organizations that have sent these letters, that the letters be printed in the RECORD.

Mr. President, the first letter is a letter from the National Retired Teachers Association and the American Association of Retired Persons. There is a letter from Mr. Califano, the Secretary of Health, Education, and Welfare; a letter from the American Federation of State, County, and Municipal Employees; a letter in some detail from Mr. Robert Ball, the Commissioner of Social Security from 1962 to 1973; a letter from the American Federation of Labor and Congress of Industrial Organizations; a letter from the organization Public Citizen; a letter from the National Education Association; a letter from the International Brotherhod of Teamsters, Chauffeurs, Warehousemen and Helpers; a letter from the International Longshoremen and Warehouse Union; a letter from the National Council of Senior Citizens; a letter from the National League of Cities and the U.S. Conference of Mayors.

I ask unanimous consent that these letters be printed at this point in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. CURTIS. Mr. President, reserving the right to object and, of course, I shall not object, but I wish to ask the distinguished Senator this: I listened very closely. Is it true there are no letters in that packet from employers? Now some of those associations may incidentally have a few employees, but there is no one that has to bear the burden of this tax who has written an endorsement. They are all employees or present recipients. Is that right?

Mr. NELSON. There are also beneficiaries, as well as mayors, who have the responsibility to raise local revenues to pay for the social security program.

Mr. CURTIS. Were there some mayors in there?

Mr. NELSON. The National League of Cities and the U.S. Conference of Mayors.

Mr. CURTIS. Do they report the cities endorsing what the association has said?

Mr. NELSON. No, they did not name any cities. However, as the Senator knows, the Finance Committee discussed the impact of the proposal that the distinguished Senator from Nebraska made and compared it to the one that I made. The Finance Committee considered the impact on the cities, and as the Senator will recall, the fiscal impact, under the proposal of the Senator from Nebraska, in comparison to the proposal that I have made, was greater on all cities but three.

Mr. CURTIS. If the Senator has such a statement I would like to have the figures in support of that spread out including their payroll and how they arrive at such a figure.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL RETIRED TEACHERS ASSOCIATION, AND THE AMERICAN ASSOCIATION OF RETIRED PERSONS,
Washington, D.C., November 1, 1977.

Senator GAYLORD NELSON,
Chairman, Subcommittee on Social Security, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR NELSON: On behalf of our 12 million member organization, I wish to commend you for your diligent efforts in developing the social security financing package that has been favorably reported from the Finance Committee.

Since our members are primarily beneficiaries of the system, our first concern is that benefits continued to be paid without interruption. Not only will your package assure continued benefit payments, but it should restore to safer levels the assets of the contingency trust funds, thus reducing, if not eliminating, any anxiety on the part of current workers as to their realization of promised future benefits.

We wish to endorse specifically the "decoupling" provisions of the bill. The wage indexing approach should maintain over time the current 44 percent replacement ratio of benefits at retirement to gross earnings just prior to retirement.

We are also pleased with the step increases in the exempt amount of the social security earnings limitation. While these provisions do not go as far as we would like—namely, elimination of the earnings test—they certainly represent significant progress toward that goal.

Finally, we endorse the bill's departure from taxable wage base parity for employers and employees. Since social security is in need of much more revenue, we believe that it is better to levy a greater share of this increased tax burden on employers. Their increased tax liability is deductible in computing their income taxes. Also, departure from wage base parity will have the effect of holding down to some extent the long term liability of the social security system.

As you know, our Associations have consistently recommended that general revenues be used to finance a portion of the cost of social security cost-of-living adjustments. We also endorsed the Administration's proposal to use general revenues to replace payroll tax revenue that is lost to the system when unemployment rises above 6 percent. We continue to think that these two counter-cyclical general revenue devices are necessary to stabilize the social security programs and insulate them from the consequences of high inflation and unemployment—the primary causes of the short-term imbalance. We consider it unfortunate that this general revenue policy option has not yet attracted the degree of support it needs to make it viable legislatively.

While we are disappointed that this option was not included in the financing bill, we recognize that no social security financing package is, or can be, perfect and equally pleasing to all parties and interests concerned. Your package represents a reasonable combination of very difficult policy choices. It has our support.

Sincerely,

PETER W. HUGHES,
Legislative Counsel.

THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE,
Washington, D.C., October 31, 1977.

Hon. GAYLORD NELSON,
Chairman, Social Security Subcommittee, Committee on Finance, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Please accept my sincere thanks for the effective leadership you have provided in connection with the social security financing legislation. We are grateful to you and your colleagues for the action you have taken in approving legislation to deal with this vitally important issue.

I believe the Finance Committee bill reflects a responsible approach to social security financing; it embodies many of the principles contained in the Administration's own proposal. I hope we can continue to work together to preserve such concepts as disparity between the taxable wage base for employers and employees, and a tax rebate to non-profit employers that more nearly reflects the effects of the bill's new tax provisions than alternatives proposed in Committee.

We will be commenting in greater detail before the start of the House-Senate conference with respect to both bills.

It has been a pleasure to work with you and your colleagues on this important issue. We look forward to continuing cooperation in the effort to enact legislation to preserve the financial integrity of our social security system.

Sincerely,

JOSEPH A. CALIFANO, JR.

AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES,
Washington, D.C., November 1, 1977.

Hon. GAYLORD NELSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR NELSON: The Senate Finance Committee has produced a Social Security financing bill which we believe is far superior to that which passed the House last week. We understand that your good work made this possible.

However, we do not believe that the Committee bill goes far enough in recognizing the effect that both the wage base and the tax rate increases contained in it will have on already hard pressed state and local jurisdic-

tions. Those are jurisdictions which provide most responsibly for their employees retirement by participating in the Social Security System.

Although the Committee bill offers these jurisdictions some relief from the increased burden resulting from contributions made on behalf of their higher salaried employees, it is silent on the increased burden attributable to lower paid employees—by far the majority of the workers. For these reasons we feel that Senator Danforth's amendment will serve to make an already good Social Security financing package even better.

We would like to take this opportunity to congratulate you on your foresight in scheduling hearings this year on the issue of universal coverage. We hope that these hearings will begin to correct the misinformation surrounding universal coverage which were so evident in the House. Fairness to all workers and beneficiaries means that benefits and costs of the Social Security system should be shared by all workers. We look forward to the opportunity to work with you in developing suitable legislation in this area.

Sincerely,

WILLIAM B. WELSH,
Executive Director for Governmental Affairs.

OCTOBER 31, 1977.

Senator GAYLORD NELSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR NELSON: I am writing to express my strong support for the social security proposal that you developed and that has now been recommended to the Senate by the Senate Finance Committee. Your proposal seems to me to address both the short-range and the long-range problems of social security financing in a very sensible way.

I believe there are seven main principles that should be followed in strengthening social security financing, and your plan as reported by the Senate Finance Committee follows all seven.

1. Contribution rate increases should be kept to the minimum consistent with a sound plan. Rate increases have to be paid by all workers, those with low wages as well as those with high wages. I very much favor holding down the rate increases, as you have done, by increasing instead the proportion of payroll on which employers pay. Thus under your plan, you have been able to hold rate increases over present law (including hospital insurance under Medicare) to only 3/10ths of 1 percent of wages through 1984, to an additional 3/10ths of 1 percent through 1989, plus another .45 percent through 1994. This is a total of only .05 greater than would occur from moving up the presently scheduled rate for the year 2011 as recommended by the President. (The rate increases scheduled for 1995 and later are discussed in item 7 below.)

2. The maximum annual earnings on which employees pay and which are credited for benefit purposes should be increased somewhat. As the President pointed out both prior to his election and since, insofar as the income of the program is increased by raising the maximum earnings on which the individual pays contributions, the additional payments are made only by the highest paid 15 percent of workers in the country—the percentage who do not now have all their earnings covered for social security purposes. And, very importantly, those workers who pay on higher earnings receive greater protection and higher benefits because the additional earnings on which they pay are included in the computation of their benefits. The Senate Finance Committee proposal to increase the maximum amount of earnings counted for benefit and contribution purposes by four $600 steps is the same as the President's recommendation.

3. Employers should pay on a higher proportion of their total payrolls than would be the case if the maximum earnings base were raised equally for employers and employees. In this way the income to the system can be increased without at the same time incurring as great a liability for future benefits as would occur if the wage base were increased equally for employers and employees. This is true because it is the amount of earnings on which employees pay that is included in the benefit computation. Although this is something of a departure in the American social security system from the approximately equal division of costs between employers and employees in the past (employers now pay 48 percent of the cost, employees 47 percent, and the self-employed 5 percent), there are many other countries where the amount paid by employers and employees is not equal. This is the case in Belgium, Denmark, France, Italy, Norway, Portugal, Spain, Sweden and Great Britain.

There is no good reason why the employer contribution needs to be thought of as being attached to any particular employee and to be based on the idea of matching his contribution. The employer contribution can be thought of, rather, as a contribution to the system as a whole with more of it going to some employees than to others as is the case in most private pension plans and group insurance.

Your proposal does not greatly change the proportion of support between employers and employees. After its adoption, employers would pay about 50 percent of the cost of the system, employees about 45 percent, and the self-employed about 5 percent. Although the President recommended taxing the entire employer's payroll, the Senate Finance Committee plan has much the same effect for the next 15 years or so.

As I indicated earlier, the alternative to shifting to a system which taxes employers more than employees has to be either a greater increase in the contribution rate paid by all workers, a greatly increased earnings base on which higher-paid workers would both contribute and earn substantially increased benefits, or a major nifusion of general revenues. Although I am sympathetic to the use of some general revenue financing in social security in the long run, it does not seem to me to be desirable at this time to put the social security system in competition with welfare reform, national health insurance and other needed programs that must necessarily be supported in considerable part from general revenue.

4. Any proposal for increasing the social security taxes of employers more than the contributions of employees should take into account that non-profit organizations and state and local governments do not have any way, as corporations do, of writing off up to nearly half of the increase under the corporation income tax laws. It seems to me, therefore, that your proposal to refund to these organizations from the general treasury 50 percent of that part of the employer's increased tax that exceeds the increase to be paid by employees is fair. It does not seem to me, however, that this is the time to consider relieving these organizations of, generally speaking, matching what employees pay.

5. Any proposal for strengthening the financing of social security should include a provision for stabilizing replacement rates, and thus substituting a predictable system of benefit computation for the present automatic provisions which are much too susceptible to the happenstance of how wages and prices move. The change to a wage-indexed system of benefit computation in the Senate Finance Committee proposal would, in itself, be enough reason to support this legislation. While guaranteeing to current contributors that they will receive benefits that are the same proportion of recent earnings when they retire as was true for workers retiring in 1976, the proposal reduces the estimated long-range actuarial deficit about in half. This is true because recent estimates of cost have assumed increases in wages and prices for the long-range future that under present law would result in benefits for many people that would actually exceed any wages they had ever earned. The proposal to base benefits upon average indexed monthly earnings as made by the President and incorporated in your proposal thus prevents unwarranted increases in the future while at the same time protecting the legitimate interest of present contributors.

6. The financing plan should build reserves to an adequate contingency level so that in the event of a recession it would be unnecessary to increase contribution rates at a time that would be undesirable from the standpoint of economic policy. Your proposal is estimated to gradually increase reserve levels over the next 10 years to somewhat over 50 percent of the next year's outgo, a reserve which is deemed to be fully sufficient according to recent studies of the Department of Health, Education, and Welfare.

7. Although in my opinion not absolutely essential, it seems to me desirable to bring the system into approximate actuarial balance according to the official cost estimates over the 75-year period for which the estimates are made. The Senate Finance Committee proposal does this (in fact it creates a small surplus) by increasing contribution rates in 1995, 2001 and 2011. My own view is that the estimates on which these calculations are based are unnecessarily conservative and that rate increases beginning in 1995 of the size proposed will not be needed. Nevertheless, as a matter of prudence, I support their inclusion in the law at this time. If the income is not needed, or if other sources of revenue are substituted, these scheduled increases can easily be rescinded.

All in all, it seems to me your proposal as recommended by the Senate Finance Committee meets well the seven principles I have outlined. Contribution rate increases are kept relatively low until 1995, and consideration can be given between now and then to the question of whether the additional scheduled increases are really needed. Modest wage base increases on both employees and the self-employed are included as recommended by the President. The larger increase in the wage base that you propose on the employer's side is what makes it possible to hold down the contribution rates and the employee wage base to the level that you have provided. Your proposal on this point is again quite similar to the President's recommendation. Your proposal for stabilizing the replacement rates through wage indexing seems to me eminently sound and quite similar to that proposed by the President, and the provision in your plan for the partial tax relief of non-profit organizations and state and local governments seems to me to be an improvement over the Administration's recommendations. You have provided for the building of adequate reserves and the full restoration of the long-range actuarial balance of the system.

I hope very much that this legislation can be enacted quickly so as to relieve the concern which both social security beneficiaries and contributors to the program now have.

Sincerely yours,

ROBERT M. BALL,
Commissioner of Social Security, 1962–73.

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, D.C., October 27, 1977.

Hon. GAYLORD NELSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: The Senate will soon be voting on the Social Security Amendments

of 1977, designed to restore the financial soundness of the Social Security System. These proposals are constructive and show a responsible concern for the securtiy of this nation's workers and their families. If enacted, they will assure American workers and retirees that the social security program will remain financially sound now and in the next century.

Though the bill has a number of provisions the AFL–CIO has opposed, it does deal responsively with the program's financial problems. The Senate should pass the bill as soon as possible and without any amendments that would endanger the financial integrity of the system.

We commend your leadership on this issue and pledge our support in behalf of your efforts to enact this legislation into law.

Sincerely yours,

ANDREW J. BIEMILLER,
Director,
Department of Legislation.

PUBLIC CITIZEN,
Washington, D.C., October 28, 1977.

DEAR SENATOR: We are writing concerning the Social Security Financing Bill, which will soon be voted on in the Senate.

In your consideration of this legislation, we urge you to vote against further increases in the payroll tax rate. Rate increases impact primarily on low and moderate income workers, many of whom already pay more in social security taxes than they do in federal income taxes. Furthermore, the combination of the payroll tax and the income tax results in taxpayers earning between $10,000 and $50,000 paying at virtually the same rate of tax—rather than the progressive tax system we supposedly have.

On the other hand, we believe that increases in the wage base on which the payroll tax is assessed are a desirable way to finance the social security system. Wage base increases only affect upper income workers (the top 14% currently), and enhance the progressivity of the total federal tax system. In fact, we would favor complete elimination of the wage base ceiling, so that all workers would pay the same rate of payroll taxes. (Currently, high income workers pay at a far lower rate than average workers.) The Finance Committee bill has adopted with some modifications the approach proposed by the Administration of only raising the wage base for employer contributions. This has the advantage of not increasing future benefit payments, but it does not do as much for the progressivity of the total tax system.

When the bill comes to the floor, we strongly urge that you vote against the amendment to be offered by Senator Curtis. His proposal would eliminate the bill's increases in the employer wage base in favor of substantial hikes in the payroll tax rate. It would add to the tax burden on average workers in order to reduce the load on the better-off. This approach should be rejected.

Sincerely,

ROBERT S. MCINTYRE.

NATIONAL EDUCATION ASSOCIATION,
Washington, D.C., November 1, 1977.

HON. GAYLORD NELSON,
Chairman, Subcommittee on Social Security, Senate Committee on Finance, Washington, D.C.

DEAR SENATOR NELSON: The National Education Association is grateful for the actions taken by the Finance Committee with respect to protecting the solvency of the Social Security System. We are particularly pleased that the Committee did not recommend mandatory coverage for state and local public employees.

We believe that the structure of wage bases, tax rates, and tax relief you proposed in Committee are sound and should be enacted into law. Your proposals, as adopted by the Committee, benefit employees, who are hardest hit by the inherent regressivity of the tax. The tax credit provision you proposed also minimizes the impact on public employers, who will temporarily carry a proportionately larger share of the tax burden. We applaud your leadership as the Committee undertook the difficult task of fashioning a sound bill that provides the greatest possible degree of social equity.

Sincerely,

STANLEY J. MCFARLAND,
Director of Government Relations.

INTERNATIONAL BROTHERHOOD OF TEAMSTERS,
Washington, D.C., October 28, 1977.

HON. GAYLORD NELSON,
Chairman, Subcommittee on Social Security, Senate Finance Committee, U.S. Senate, Washington, D.C.

DEAR SENATOR NELSON: In the near future, the Senate will be considering the Social Security Amendments of 1977.

In our view, your leadership in this area has been most responsive to the needs of our members and all working people.

While some adjustments may be necessary, we believe your proposals will provide a fair and reasonable solution to this very important matter.

Thank you for your consideration in this matter.

Sincerely,

DAVID A. SWEENEY,
Legislative and Political Director.

INTERNATIONAL LONGSHOREMEN'S AND WAREHOUSEMEN'S UNION,
Washington, D.C., October 28, 1977.

HON. GAYLORD NELSON,
Chairman, Subcommittee on Social Security, Senate Finance Committee, U.S. Senate, Washington, D.C.

DEAR SENATOR NELSON: The Social Security Amendments of 1977 will soon be voted on in the Senate. Most of these proposals will correct the financial difficulties of the Social Security System. While labor opposes certain provisions in the bill, it goes a long way in solving the financial problems of the Social Security System. We therefore urge passage of the measure as soon as possible—without crippling amendments.

We commend your leadership in this matter, and be assured of our full support on behalf of your efforts to pass this bill.

Sincerely,

PATRICK F. TOBIN,
Washington Representative.

[From the National Council of Senior Citizens, Inc., Washington, D.C.]

STATEMENT OF THE NATIONAL COUNCIL OF SENIOR CITIZENS ON SOCIAL SECURITY FINANCING PROPOSALS

The National Council of Senior Citizens, a nonprofit, nonpartisan group representing over three million organized seniors, strongly supports expeditious passage of the Social Security Financing Amendments, with special favorable emphasis on the Nelson proposal to break parity between the employee and employer covered wage base. There is no magic in an equal division of shares and many other Western industrial nations successfully operate Social Security systems with unequal contributions. A larger employer share has the advantages of not imposing any further future liabilities on the system and avoiding further regressive taxation of lower and middle income workers. Additionally, the Nelson proposal offers adequate fiscal relief to state and local governments and private nonprofit organizations through a tax rebate equal to one-half of the difference between aggregate employer tax payments and aggregate employee tax payments.

We oppose the Danforth proposal which offers a tax rebate to public and private nonprofit units equal to ten per cent of the aggregate employer payroll tax liability as excessive, arbitrary, and an inefficient use of scarce resources.

We oppose the Curtis proposal to maintain parity since this approach requires unjustified and regressive tax rate increases above and beyond those already under consideration. Payroll tax rate increases unduly penalize lower and moderate earnings of workers and severely damage the political and economic acceptability of the Social Security program.

We urge prompt action—without crippling amendments—to restore public confidence in the Social Security system and in our government.

NATIONAL LEAGUE OF CITIES AND THE U.S. CONFERENCE OF MAYORS,
October 28, 1977.

HON. GAYLORD NELSON,
Social Security Subcommittee, Senate Finance Committee, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR NELSON: It is expected that the Senate will attempt to conclude their deliberations on the 1977 Amendments to the Social Security Act some time prior to adjournment. As we indicated in an October 20th letter to Senator Long, there are several issues of significance to the nation's cities that remain to be resolved.

It is neither surprising nor new to indicate that the fiscal impact of federal legislation is of grave concern to cities which are in many cases already severely pressed to maintain existing services. Increases in the Social Security tax rate as well as the taxable wage base, however minimal, will nevertheless be felt at the local level.

We have reviewed both your proposal and others discussed in the Finance Committee and our research indicates that tax rate increases have a more significant cost impact on local budgets than do increases in the taxable wage base. Since we realize that steps must be taken to insure the viability of the Trust Fund, we would prefer to see your approach adopted.

We'd like to take this opportunity to commend you for your concern and interest in our views and offer our support for your tax rate and wage base proposal.

Sincerely,

ALAN BEALS,
Executive Director,
National League of Cities.
JOHN GUNTHER,
Executive Director,
U.S. Conference of Mayors.

Mr. NELSON. May I say to the Senator what we did was ask the National League of Cities to check some cities and find out—they selected them, we did not—what would be the impact upon the cities of the proposal by the Senator from Nebraska and the proposal that I had presented to the Finance Committee. They selected 14 cities; of those 14 cities, the fiscal impact of the proposal I made was more beneficial to 11 of the 14 cities. Under my proposal, they did better, from their viewpoint, than under the proposal of the Senator from Nebraska.

I ask unanimous consent that that table be printed at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Employer tax liability for selected cities under alternative social security financing plans (1979)

	Current law ($000)	Percent increase Nelson	Curtis Plan 2
Anchorage, AK	1,279	15.2	7.5
New Haven, CT	207	1.3	5.4
Wilmington, DE	643	3.5	5.9
Savannah, GA	846	1.8	5.5
New Orleans, LA	3,589	3.3	5.5
Kansas City, MO	3,368	8.5	8.9
Lincoln, NE	1,842	29.2	31.8
Omaha, NE	1,550	6.3	2.7
Poughkeepsie, NY	360	1.9	5.6
Portland, OR	3,200	15.6	7.1
Houston, TX	6,812	4.6	5.7
Richmond, VA	4,318	3.3	5.8
Milwaukee, WI	4,370	4.6	6.0
Cheyenne, WY	171	4.7	8.9

Source: Computations based on data supplied by the National League of Cities.

This table demonstrates that these selected municipalities would have lower total social security tax liability under the Nelson social security financing plan than under the Curtis Plan No. 2 in most instances (11 of 14 cities).

Nelson Plan: Finance Committee plan modified by the inclusion of a $50,000 employer wage base effective in 1979 and $75,000 in 1985.

Curtis Plan: Finance Committee plan modified by the inclusion of additional tax rate increases of 0.25 for employers and employees each in 1979, 0.1 each in 1983, and 0.1 each in 2011 in lieu of the $100,000 wage base. Wage bases for employers and employees would be increased by a total of $2400 between 1979 and 1985.

Mr. CURTIS. There will be no objection under my reservation.

Now, the present social security tax is a little less than 6 percent on employers. To raise it a half percent would be raising it by one-twelfth, but if you raise the wage base up to $100,000, I am sure you are going to get a much bigger raise than that, but I appreciate having the information, and I do not wish to delay the distinguished Senator in his presentation.

Mr. DANFORTH. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. NELSON. I yield to the distinguished Senator from Missouri without losing my right to the floor.

Mr. DANFORTH, Mr. President, I ask unanimous consent that Allen Moore and Nancy Altman of my staff have the privileges of the floor during the proceedings on this bill and votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, will the Senator yield for some questions?

Mr. NELSON. Yes, I would be glad to yield.

Mr. DANFORTH. There is no doubt, is there, that whatever we do, whether it is the approach that the Committee on Finance has taken or the approach that Senator CURTIS has suggested, the combination of increases already programed in the law that is now on the books, and increases which we are going to vote on will be very substantial for State and local units of government?

Mr. NELSON. The Senator is absolutely correct. As a member of the Committee on Finance, he is well aware, having studied the question closely, that the fund is in dire need of money, and that as of now, as of this year, it will run a $5.5 billion deficit; that is to say, there will be $5.5 billion more paid out than coming in. Next year there will be another social security deficit of $5.5 billion. The current law increases in social security liability plus those increases proposed in this bill, as well as all other proposals that I have studied—including the one adopted by the House—will have a substantial impact on all contributors to the social security fund. Employers and employees, municipalities, States, charitable organizations, universities and colleges, without exception, will have to pay more social security taxes.

Mr. DANFORTH. Unfortunately, there is no popular way to raise money, is there?

Mr. NELSON. If the Senator can think of a popular way to raise money, I would steal the idea right now and propose it.

Mr. DANFORTH. On the table the Senator has just referred to and had inserted in the RECORD, is it my understanding that the increase in social security liability reflected in this table is derived solely from the bill that is now before us or the alternative to the bill proposed by the Senator from Nebraska?

Mr. NELSON. That is correct. I think the two proposals they were looking at were Senator CURTIS' second proposal and the pending proposal. They were not looking at, if that is the Senator's question, the proposal made by the Senator from Missouri reflecting the refundable tax credit.

Mr. DANFORTH. No, that was not the question I was asking. My point is that already in the law, even if we were to do absolutely nothing, there are very considerable increases in both social security tax rates and the base, and if we did absolutely nothing those programed increases for future years are in the law and would, in fact, be realized over a period of time.

Mr. NELSON. That is correct. As a matter of fact, the payroll tax increases and the wage base increases in the pending legislation are relatively small compared to what is already in the present law.

In fact, the present law requires that the wage base increase automatically on a formula, as the Senator knows. Next year, it will increase from $16,600 to $17,500, and it is projected to increase to $71,000-plus in the year 2001.

All this bill adds to employees' taxable wage lease is another $2,400, as does the proposal of the Senator from Nebraska.

So the Senator is correct, the amount of the increase in payroll taxes and the taxable earnings base in the pending legislation, and in the legislation that has been suggested by the Senator from Nebraska, is relatively modest compared to those increases which are currently established in the law.

Each of the proposals raising additional income—the proposal by the Senator from Nebraska, the House proposal and the proposal now before the Senate—was simply aimed at eliminating the projected deficits in the social security cash benefits programs.

Each proposal I have looked at does that very well. Senator CURTIS' proposals are in balance all the way to the year 2050. The proposal that is pending here, the proposal the Committee on Finance reported to the full Senate, based on the social security trustees' intermediate economic and demographic assumptions, keeps the fund in balance to the year 2050, with a slight surplus of 0.06 percent of payroll in fact. The House bill does not go that far; it leaves a deficit of 1.6 percent of taxable payroll, as an average, in each of the next 75 years.

Mr. DANFORTH. Referring to the table for a moment, take the first figure here, which happens to be Anchorage, Alaska. Where it says on this chart that the percentage increase for Anchorage, Alaska, under the Nelson proposal, which is the committee proposal, would be 15.2 percent, and under the Curtis plan would be 7.5 percent, those are increases that would result solely from what we are about to do, and they would be increases, as I understand it, over and above the considerably larger increases that are already in the law.

Mr. NELSON. That is correct.

Mr. DANFORTH. Is it also fair to say in addition to municipalities, school districts, not-for-profit organizations, schools, colleges, universities, hospitals, charitable organizations, and the like, are also going to incur a very substantial increase in social security tax liability?

Mr. NELSON. Exactly the same increase as every private employer in this country will experience.

Mr. DANFORTH. With the exception that whereas a profitmaking employer can recoup 48 percent, if it is a corporation making over $50,000 a year, 48 percent from the general revenue because his social security taxes paid are deductible from Federal income taxes, a not-for-profit organization not paying income taxes, therefore, would not have the deduction available, and the effect of a social security tax increase on that group of employers would be roughly twice as great.

Mr. NELSON. Yes. Let me say, however, that this argument really does not stand up too well under analysis because these categories of employers do not pay Federal income taxes. The reason that State and local governments, colleges and universities, and other nonprofit organizations cannot deduct increases in social security is because they do not pay any Federal taxes against which they can take a deduction.

If you went to any foundation in America, if you went to any charitable organization, State or local government, or if you went to any private college and said to them, "We are going to give you the same break that General Motors and other private employers get. You pay taxes on your income and we will allow you to deduct from your taxes your business expenses, including social security," they would all say, "No."

On the other hand, if you walked over

to General Motors or General Electric or any other private employer and said, "We will give you the tax break that we give to all the charitable organizations, all the private colleges, and all the foundations. If you would like this tax treatment, you do not have to pay taxes, but you will also not be able to write off your social security tax from your overhead," they would all agree immediately.

Mr. DANFORTH. It is true, however, is it not, that despite the fact that, say, New York City does not pay Federal income taxes, it has for some time been in a very precarious financial situation?

Mr. NELSON. I do not think anybody denies that.

Mr. DANFORTH. And it is true, is it not, that Buffalo, N.Y., despite the fact that it does not pay Federal income taxes, is in a very precarious financial situation? And it is true further that the Toledo, Ohio, school district, despite the fact that it does not pay Federal income taxes, is in a very precarious financial situation, and so are many colleges, many hospitals——

Mr. NELSON. May I interrupt the Senator a moment? I do not know how Toledo gets into the picture. They may be in very serious trouble with their pension plan, but they do not have social security, so they do not come under the provisions of this bill.

Mr. DANFORTH. They were some of the smart public officials who did not exercise the option to get in or to get out.

Mr. NELSON. What is the point of the argument of mentioning Toledo, when they are not covered by social security in the first place?

Mr. DANFORTH. But the Senator would not contest, would he, that a number of school districts, municipalities, and other not-for-profit organizations are operating on a thin margin?

Mr. NELSON. I would be glad to concede that, and I know that the distinguished Senator from Missouri would also concede that there are many millions of employers in this country who are on a thin margin also, and some who are losing money; so whatever the Senator says about these nonprofits applies with equal force to many other employers, I am sure several millions, who are not making much of a profit or no profit. So, yes, that is true.

Mr. DANFORTH. My point is simply this, and I will make it at greater length later on, and then let the Senator move on with his comments, and I apologize for interrupting him at such length: My point is simply that for this group of employers, not-for-profit employers, school districts, State and local governments, they will be facing, between last year's social security tax liability and the tax liability 10 years from now, a 227-percent increase in their social security tax liability, only a small fraction of which will be derived from what we are doing in this bill, and that, unlike profit-making employers, they do not have the possibility of recouping approximately 48 percent of their social security tax liability from the general fund, from the Treasury, by way of income tax deductions.

Mr. NELSON. Yes. May I ask a question for clarification? Is that figure, the 227-percent increase, a dollar increase 10 years from now, above what the cost is now?

Mr. DANFORTH. In 1976, last year, the social security tax liability for State and local governments and not-for-profit organizations, in the aggregate, was $6.6 billion. In 1987, 10 years from now, it is programed to be, under the bill now before us, $21.6 billion, which would be an increase of 227 percent.

Mr. NELSON. I thank the Senator for clarifying the record on that. What one has to keep one's eye on is that cost-of-living increases—inflation—plays some funny games.

The fact of the matter is that the average employee will probably be paying two, three, or four times as many dollars in social security a few years down the line than now; but those are inflated dollars, one must keep in mind. I will get the figure for the RECORD. I would simply point out that about every 14 years the average salary doubles. So if you go out 14 years, and then 20 years, and beyond, pretty soon you have people paying five times as much social security, but they are getting six times as much income, and it presents a rather confusing distortion to the situation.

Incomes will be over $100,000 sometime between the years 2010 and 2020, for the average worker in the country. So to say that the average employee in the country would be paying $5,000, or $10,000, in social security would shock you, until you realize what inflation is doing to his income and will continue to do, unless inflation stops. Mr. President, no one anticipates that inflation will stop, although we all dearly hope that it will slow up.

In 1977, the worker earning the average wage was earning $10,001. These figures are projected by the economists based on assumptions of increasing inflation and other factors. In 1980, the average wage, according to their figures, will be $12,486. By the year 2000, 23 years from now, the average wage, instead of being $10,001, will be $38,512. Continuing the same projection, in the year 2050 the average income worker will be receiving $630,395.

(Mr. McGOVERN assumed the chair).

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. NELSON. Yes.

Mr. CURTIS. How much of that increase is real increase, and how much is inflation, and upon whose authority can we rely that the inflation will not be any more than that?

Mr. NELSON. These are the figures of the social security actuaries. We asked for them because we recognized that dollar figures would be used, and if you were talking about an average employee, say, with an income of $10,000, paying whatever he pays now in social security and then all of a sudden he is going to be paying six times as much some time in the future, it is not six times as much in real dollars.

I ask unanimous consent that the chart to which I have referred be printed in the RECORD at this point.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

PROJECTIONS OF EARNINGS OF DIFFERENT WORKERS

	Worker earning average wage	Social security earnings base	$15,000 earner	Average wage in 1977 prices
1977	$10,001	$16,500	$15,000	$10,001
1980	12,486	20,400	19,267	10,745
1985	16,649	27,900	24,971	11,766
2990	22,019	39,900	33,025	12,787
2000	38,512	69,900	57,762	15,115
2010	67,512	122,100	101,258	17,893
2020	117,815	213,600	176,705	21,095
2030	206,065	373,500	309,067	24,926
2040	360,420	653,100	540,576	29,451
2050	630,395	1,142,400	945,498	34,800

NOTES

1. The "average wage" shown here is the "1st quarter annualized average." That is, it is total social security wages in the 1st quarter of the year divided by the number of workers in the 1st quarter, the result multiplied by 4. Since almost nobody reaches the earnings base in the 1st quarter, this procedure provides a reasonable estimate of average total (nontaxable as well as taxable) earnings. This is the wage which is used to compute the replacement rate of the average worker in all the decoupling tables. It is also the wage we used to compute tax payments for the average worker.

2. The earnings bases are those produced by the Finance Committee plan. Figures for years after 1990 are approximate.

3. All projections use the alternative II assumptions contained in the 1977 trustee's report. After 1981, wages are assumed to grow at 5.75 percent per year. This is the assumption set that al of the short- and long-range cost estimates made this year havel been based upon.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator from Wisconsin yield before he gives the chart away?

Mr. NELSON. Yes.

Mr. HARRY F. BYRD, JR. I was somewhat startled at the figures just stated by the Senator from Wisconsin. I am not sure whether I caught the full import of them. Would the Senator from Wisconsin mind restating that situation?

Mr. NELSON. The actuaries of the social security system took the 1977 average wage, which is $10,001 nationwide. They used this figure, and assumed that all wages would increase at the rate of 5.75 percent a year.

This is the assumption that all of the short- and long-range cost estimates in the 1977 Social Security Trustees' report have been based upon. So, of course, it might be 6 percent, or it might be 4 percent. Why they are using 5.75 percent, I have no notion.

Using these assumptions you go, from year to year, from a 1977 average wage of $10,001 to an average wage in the year 2000 of $38,512, to an average wage in the year 2050 of $630,395.

I only make that point because, I repeat, I am sure that figures will be tossed around here showing how huge the dollar figures will be. Beginning in the year 2000, the average worker, then earning $38,000, can more easily pay three times as much social security as he does now on $10,000.

Mr. HARRY F. BYRD, JR. If the Senator will yield, those figures dramatize just what inflation is doing to this country. A 5.5-percent inflation, which the figures are based upon, would lead the Senator from Virginia to believe those figures are probably low, that it will be much greater than the average indicated by the Senator.

Mr. NELSON. I hope not. Historically, they have not been. One of the problems with the current law is that they made

some assumptions back in 1971 and 1972 based upon a lower rate of inflation, but an inflation rate which seemed to be correct for the future, because it had been projected upon the past. Suddenly, as the Senator knows, we got into a situation that this country had never been in before, that is to say, a very high inflation rate and a very high unemployment rate at the same time. Usually, if there is high unemployment, there is low inflation.

The Senate Finance Committee bill corrects the so-called double indexing problem in the current law.

If the Senator is correct, the figures are low. But I would point out to the Senator that I can recall when I was going to college in the 1930's. I worked for 22.5 cents per hour. The minimum wage in a couple of years is going to be $3. That is 15 times as much as I earned. We did not have a minimum then, and there were people making less than I was.

If we apply $10,000 times 15, we are at $150,000. That has already happened at a low rate of inflation.

Mr. HARRY F. BYRD, JR. The rate of inflation has occurred since 1972.

Mr. NELSON. That is when the great inflation rate started. Everybody misjudged it. That is why we should not pay too much attention to what the economists say, but instead, rely upon the Senator's good judgment and opinion.

Mr. ALLEN. Will the Senator yield?

Mr. NELSON. Yes, I will yield for a question.

Mr. ALLEN. Would it be convenient for the Senator to answer several questions at this time?

Mr. NELSON. If I am able to answer, I will be happy to answer.

Mr. ALLEN. Earlier today I engaged in a colloquy with the distinguished majority leader concerning the necessity for action at this time on the social security amendments. It seems with the social security amendments and the energy taxes combined, Congress is embarking on the largest peacetime and possibly even wartime increase in taxes in the history of this country. With this tremendous tax increase in the offing, I just wonder why it is necessary to act at this time before we even have a report from the committee in our hands, explaining just what the bill does, and that is how I would class the action we are embarking upon now—why emergency action is needed.

In pursuance of that assessment, I would like to inquire of the distinguished floor manager as to the amount of money now in the social security fund.

Mr. NELSON. I will see if we have that information with us. As I said earlier, the current projection is that the fund will have an outgo over income of about $5.5 billion in 1977, and a little more than that in 1978.

Mr. ALLEN. Apparently, to go on, the fund is being depleted at this time, and I am sure that depletions will escalate over the years. It is being depleted around $6 billion. Yet I would feel there is available in the fund far in excess—does the Senator now have the figure?

Mr. NELSON. We have found the figures here, yes.

Mr. ALLEN. I will not hazard a guess if the Senator now has the figure as to the amount now in the fund.

Mr. NELSON. At the end of 1976 there was $41.1 billion in the fund. That year showed an outgo in excess of income of $3.2 billion.

In 1977, the projection is that there will be $35.5 billion in the fund, which will show, for this year, an estimated outgo over income of $5.6 billion.

In 1978, the estimate is $28 billion in the fund, with an outgo over income of $6.9 billion.

In the year 1979, $20.7 billion in the fund with an outgo of $7.9 billion over income.

In the year 1980, $11.6 billion in the fund with an outgo of $9.1 billion in excess of revenues.

At the end of the year 1981, $10 billion in the fund with an outgo of $11.5 billion in excess of revenues.

So it will go from a balance of $41 billion at the end of 1976 to a balance of $10 billion at the end of 1981 if we do not provide additional funding.

The proposal before us does provide all the necessary funding plus an "adequate balance," depending upon what an adequate balance is.

Mr. ALLEN. Then with some $35 to $40 billion on hand now, and at the current rate of depletion, it would completely cover the matter of about $1.5 billion if this matter is carried over for 3 months. Is that a fair statement?

Mr. NELSON. By how much?

Mr. ALLEN. $1.5 billion.

Mr. NELSON. That might be so.

Mr. ALLEN. That would be 3 months, one-fourth of $6 billion. It would be somewhere in the neighborhood of $1.5 billion as a further depletion.

It just seems to me that there is no great emergency here when we are seeking to add tens of billions if in fact not hundreds of billions of dollars to the tax load of the American workers.

That leads me to my second question I would like to ask the distinguished manager of the bill. I believe these figures are computed for the next 9 or 10 years, is that not correct, to 1986?

Mr. NELSON. Which figures? Which figures is the Senator talking about?

Mr. ALLEN. The figures of the added taxes. They are figured on to the year 2000, I believe, when they increased rates.

Mr. NELSON. The bill does contemplate the necessary increases in tax base for the employers and employees, and tax rates to carry social security to the year 2050.

Mr. ALLEN. I am not talking about tax rate or tax bases. What I would like to know is, over the next 10 years, how much increased taxes will be levied upon employers and employees under, first, the House bill, and, second, the Senate bill, over the amount of taxes now being levied on the American workers? How much will the bills bring in?

Mr. NELSON. The Senator is saying how much taxes are levied on the employer——

Mr. ALLEN. How much additional.

Mr. NELSON. In the House and Senate bill in excess of what are levied now.

Mr. ALLEN. To put it more simply, how much more money will the proposed legislation, both House and Senate, bring into the Treasury than would be brought in under current rates?

Mr. NELSON. Between 1979 and 1983, $72.2 billion in additional revenues will be brought into the fund by the Senate Finance Committee bill over what would be brought into the fund under the current law. Present social security law has built-in wage base and tax rate increases already in it.

Mr. ALLEN. So $73 billion——

Mr. NELSON. $72.2 billion.

Mr. ALLEN. I misunderstood.

Mr. NELSON. If the Senator is going to round it off, round it off at $72 billion.

Mr. ALLEN. Well, $72 billion over the next 5 years, is that correct?

Mr. NELSON. From 1979 to 1983. Well, it is from right now to 1983; the first tax rate increase over and above the current law does not become effective until January 1979.

Mr. ALLEN. Would it be 6 years, then?

Mr. NELSON. Between now and 1983, it is $72.2 billion over what the current law would bring in. But this current proposal does not levy any additional taxes over current law effective prior to January 1, 1979.

Mr. ALLEN. Yes; but it would be $72 billion over—is it a 5- or 6-year period?

Mr. NELSON. It would be during a 6-year period.

Mr. ALLEN. Well, I shall not argue that.

That will be $12 billion a year, then, additional taxes. Is that right?

Mr. NELSON. It is very close, within $200 million.

Mr. ALLEN. That is under the Senate bill?

Mr. NELSON. That is correct.

Mr. ALLEN. How much would come in under the House bill?

Mr. NELSON. The House bill raises about the same amount as the Senate bill. All of the bills are raising revenues by escalating the taxable wage base on both sides, although in different ways, and tax rates, but they raise about the same amount of money. The Senator from Nebraska is here to speak for himself. My recollection is that his proposal would raise about the same amount, too.

Mr. CURTIS. None of them goes into effect this year. So far as delay until January, I do not think the fund would lose anything.

Mr. ALLEN. If it will not go into effect until next year, then it would really just be 5 years, I assume.

Does not, then, the collection of taxes greatly escalate beyond that 5-year period? Could the Senator give the estimate on the next 5-year period of additional taxes over current law?

Mr. NELSON. The actuary did not provide us the dollar figures for the next 10 years. We have the actual tax rate and wage base increases, but not the dollar figures.

I might say to the Senator that I regret that we do not have these other

figures. There are a number of other figures that I would like to have, but over the past 2 or 3 weeks, the computers and the statisticians have been working with the House. My limited staff has been making its requests and some of the things we would like to have, we do not have, though we believe we have the vital statistics that are necessary for anyone to consider this bill. We shall get the additional dollar figures beyond 1985.

Mr. ALLEN. Would it be possible, then, during the day, to get the costs—that is, the additional tax—over the next 5 years?

Mr. NELSON. We have the additional taxes——

Mr. ALLEN. The additional costs, then.

Mr. NELSON. The additional dollars over the next 5 years?

Mr. ALLEN. Yes.

Mr. NELSON. Raised by the additional social security taxes, or raised as a consequence of current law, plus additional taxes?

Mr. ALLEN. No, sir, I believe the Senator stated the other was the amount of additional taxes over current law and current provided-for increases?

Mr. NELSON. That is correct. That is the figure the Senator wants?

Mr. ALLEN. Yes, that is the figure I want. I would hazard a guess that that will escalate to where twice the additional taxes will be levied, based on increases plus additional taxes, plus the inflation that can be looked for in that time.

Mr. NELSON. I do not know what the figure would be, but the Senator is correct: It will be, in dollar figures in the next 5 years, much more because of inflation and increases in the taxable wage base and an increase in tax rates.

Mr. ALLEN. One other question arises from the chart the Senator put in a moment ago. I believe that he said that around the year 2000, a worker who had made $10,000 a year would be receiving $630,000?

Mr. NELSON. No.

Mr. ALLEN. What was that figure suggested?

Mr. NELSON. The average salary today is $10,001 a year, for the year 1977. In the year 2000, projected upon the assumptions used by the social security trustees of a 5.75 percent per year increase in wages, it would put the average worker at $38,512 in the year 2000.

Mr. ALLEN. What is the $630,000?

Mr. NELSON. In the year 2050, using the same projections, that salary rises, as the Senator can see, exponentially to $630,395.

Mr. ALLEN. Is that the salary he would be receiving or the social security benefit?

Mr. NELSON. That would be the average wage, the nationwide average wage.

Mr. ALLEN. Does the Senator not think it might be well to wait until the average worker is making that kind of money before he levies this tremendous tax on them? They are not making that kind of money now.

Mr. NELSON. I say to the distinguished Senator from Alabama, that is what we did. We increased the tax rate in the year 2000, and increased the tax rate in the year 2011. If the Senator is still around in 2011, I shall leave it up to him to defend that rate in that year.

Mr. ALLEN. But they are also increased starting next year. That is putting a heavy load on the worker and the employer.

Mr. NELSON. I understand that. I have, only twice in my whole career, had to make a vigorous fight for an increase in taxes. The other time was about 16 years ago and it very nearly drove me out of office, and this one may. But the fact is we have to have the revenues to finance social security.

We have two choices. The first one Congress will never accept and neither would the Senator from Alabama, in which we let the funding go bankrupt. That is not even under consideration, and never has been.

There is another way to do it. That is to use price indexing instead of wage indexing, which means that we, at a much lower tax, can keep the fund sound. But each succeeding year, the average replacement rate—that is, what the average person will get back as a percentage of his lifetime wages—will go down from what it is in this bill, 43 percent—down, down, down,—until it gets down to 26 percent in 2050, because of all the other factors and inflation. However, even price indexing would not solve the short-range deficits confronting social security.

So, if the Congress were to make a decision, and that is what the public wanted, we would not have to raise social security taxes or wage bases nearly so high in the future if, in fact, when people retire, they were going to have an average retirement of 26 percent of their final earnings as a benefit rather than an average of 43 percent. That way, we could avoid future taxes.

Professor Hsiao recommended price indexing. He testified before the Finance Committee in favor of this approach. I do not agree with him. A replacement rate of 26 percent would be totally inadequate for the average person to retire upon, whereas 43 percent may be within the ball park as what one can live on adequately, considering that social security benefits are indexed for inflation after retirement, so that the beneficiary does not lose purchasing power.

Mr. ALLEN. Does the Senator feel the urgency and the critical nature of the social security fund warrants such speedy action as is taking place with respect to the passage of this bill?

(Mr. GRAVEL assumed the Chair.)

Mr. NELSON. Each individual, I suppose, has his own barometer for what he might consider a state of emergency.

As of 6 or 7 years ago, it was the policy to attempt to maintain the social security trust funds at never below 75 percent of 1 year's payout and not in excess of 125 percent.

That was thought to be enough flexibility so that if we ran into some economic situation—which we did, high unemployment, high inflation, an unanticipated change in the fertility rate—the trust funds would continue to be solvent.

We are now paying out a little less than $90 billion a year; 1.25 times that amount would peg the trust funds at around $125 billion.

There were people who thought that was not enough.

Now, on that precise point, the social security trust funds are down to $41 billion, which as of 6 or 7 years ago, I think would upset most people. So how much below that do we want to go before we start acting?

There is another factor, I might say to the Senator, that he is as well aware of as is every Member of the Senate and the House. Perhaps I have received a little bit more mail, because I have been working on this bill than I would otherwise have from my constituents, because they see it in the paper, but from talking to Members, I note all of them are receiving mail from people who sincerely are concerned that the fund is not going to be solvent when they retire.

I have gotten some very serious mail saying, "We don't trust you elected officials at all and I have paid money into social security for years and I know that 10 years from now, 5 or 20 years from now, there'll be no money there."

They mean it. They are sincere. They are concerned because, after all, when one reaches retirement age, cannot work any more, where does his money come from?

So we have all kinds of people who are retired—22 million Americans—who also are concerned. I think it is very important to them to settle the question as to the security of the fund as soon as possible.

I think it is very important to act on social security financing legislation this year. The House has passed a bill. The Senate Finance Committee has reported a bill to the Senate. I think it is important that the headlines do not read, "Senate postpones action on social security," because there are 104 million people paying into the social security fund, 33 million people drawing benefits from the social security fund, and all kinds of them worrying whether or not we are really going to settle the issue of the security of the fund.

Now, there are no warrants around here. We can increase the wage base tax equally or not increase the base at all. We can have a combination, increasing the base and increasing the taxes together. We can have a higher taxable wage base on the employer than the wage base on the employee, plus payroll tax increases. That is about all of the combinations we have got.

Some people prefer one approach and some another.

But I think it is awfully important to assure people that this issue is now settled for their lifetime—at least for another 75 years.

Mr. ALLEN. If the Senator will yield, on these mailings the Senator has gotten by those who are wondering about the security of the fund, I would hazard a guess that very few of those writers suggested raising their taxes in order to make the fund sound, did they?

Mr. NELSON. I have, in 30 years in politics, yet to receive a letter from a constituent demanding an increase in taxes. When I get that one—I was going to say I would retire, but I know some-

body out there would send one in to me, so I will not—I shall frame it.

Mr. ALLEN. The Senator mentioned that he felt there would be considerable alarm and frustration and other conditions of that sort if they read in the paper that the Senate postpones action on the social security bill.

I wonder if that would upset them more than the headline saying, "Senate adds $12 billion in additional taxes on the American worker and employee."

Which does the Senator think would shock them more?

Mr. NELSON. Well, if we got right down to the end of the gangplank and we said to them, "Do you want to have no social security fund or do you want to pay some more taxes and be protected," I have no doubt they will say, "We'll pay the taxes."

I do not think the Senator from Alabama would find otherwise.

Mr. CURTIS. Will the Senator yield to me at that point?

Mr. ALLEN. I thank the distinguished Senator. I appreciate that.

Mr. CURTIS. Would the Senator yield to me at that point? I would like to ask a question.

Mr. NELSON. I yield to the Senator, without losing my right to the floor.

Mr. CURTIS. I thank my distinguished friend.

I believe that the greatest shock that could come to the American people would be a continuing fear that the Congress would not grapple with this problem and come up with an answer that would set their fears at rest, the fears of the people who are now retired, those who are about to retire, as well as the younger person.

I am also convinced that if the American people were asked, and it is difficult to state any questionnaire truly objectively, but I believe if they were asked, "Is it necessary to raise some taxes to make good on the commitments everybody has relied on?" I do not think there is any question but what they would stand up and take their medicine and say, "Let's have it."

I thank my distinguished friend for yielding and I commend him on his answer, while nobody likes taxes and nobody likes an increase, I think the sentiment of the American people is that they do not want commitments made in the social security field to be defeated.

I thank my distinguished friend for yielding.

Mr. HOLLINGS. Will the Senator yield so that we might make a record and perhaps get an understanding with respect to the budget resolution and the impact on the budget of certain amendments which may be presented?

As the manager of the bill knows, we are here as a result of a formal resolution filed by the Finance Committee and approved by the Budget Committee with respect to H.R. 5322 and two Curtis amendments.

I thought it may be well at the initial stage—we have somewhat passed the initial stage—but I thought it may be well to point out the fact that the Budget Committee is trying their level best to hold certain budget procedures in place with respect to the overall good of the budget process and the intent of the Senate, on the one hand, and take care of the social security problem on the other.

As the distinguished manager of the bill knows, the Budget Committee, for the past couple of years, has been admonishing the responsible committees to come forward with some kind of legislation to make fiscally sound our social security system.

In the second concurrent resolution, in making the same admonition, we cautioned against the impact of increased taxes during fiscal year 1978 as a result of the recovery.

On September 13, when we enacted the second concurrent resolution, we said, "Let not those taxes fall during this particular fiscal year, as being very destructive and deteriorative of the economic comeback we are all trying to support."

The Finance Committee has brought the social security bill to the floor; but in so doing, on yesterday, as the Senator knows, they asked in a formal resolution for a waiver not only for the social security bill itself, but also, with five proposed amendments, some dealing with proposed tax credits and others dealing with the phaseout of outside earning limitation, and the Budget Committee was not allowed to amend the resolution.

We acceded on last evening and conferred with the Finance Committee chairman and the leadership. As a result of that conference, the Finance Committee presented an amended resolution, stating at the time that they are only asking for a waiver of the particular bill that is now before us and two amendments by Senator CURTIS which have been approved.

Upon inquiring at that time about the disposition of the Danforth amendment and the Nelson amendment and the others dealing with refundable tax credits, we were told by the distinguished chairman of the Finance Committee that they were going to be modified, so as not to comprise really refundable tax credits. It was stated that rather than nontax paying charitable institutions being taxed at the same rate and the money then being refunded, the Senator from Wisconsin was going to diminish the tax rate or impact as concerns those institutions. A tax credit is particularly in the purview of the Budget Committee. It is within the Finance Committee, and no waiver is necessary.

Similarly, the Senator from Missouri (Mr. DANFORTH) explained that rather than appearing to tax at the same rate and then refund, he was going to diminish the rate of tax impact upon those particular institutions.

We have that first resolution still referred to us, and we are trying to act in good faith with the Finance Committee. We have no formal resolution, but the Senator from Kansas (Mr. DOLE) is a member of both the Finance Committee and the Budget Committee, and he is very much concerned about his amendment.

We understand that the Senator from Texas has an amendment, and there are other amendments. We are trying to be consistent and fair.

Perhaps one principal purpose in trying to get an understanding with the distinguished manager of the bill at this time is that if we in the Budget Committee could see them in a group sometime today, we could act as we have with the Finance Committee, one way or the other.

I know that the Senator from Wisconsin cannot tell when a Senator is going to call up an amendment, but I have been seated here all morning, trying to respond to the requirements of the Budget Committee and the distinguished chairman, Senator MUSKIE, who is ill at the present moment. However, I would hate to have to sit here all day and wonder. I wonder whether we can reach some understanding so that we can handle those amendments that would require a waiver.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. HOLLINGS. I yield.

Mr. CURTIS. Does the Budget Committee have any concern or any obstacle with respect to approving an amendment that does not call for increased expenditures of any sort?

Mr. HOLLINGS. Or increased budget authority.

Mr. CURTIS. By any method. Suppose there is an amendment that does not affect the outgo of the fund in any manner. Does the Senator have a concern about those amendments?

Mr. HOLLINGS. Generally, no, if it is a tax credit. That is a permissible amendment, and that is what we are dealing with, and that is what is on the floor.

Mr. CURTIS. I am trying to find out whether or not the Budget Committee is interposing any objection to amendments that might be offered that in no way diminish the fund, either by a credit or an authorization or an appropriation or a benefit paid. To say it another way, the Budget Committee's concern is primarily with those proposals that cost the fund money.

Mr. HOLLINGS. They do not just cost money. What they really do is delay the impact to ensuing fiscal years beyond the present fiscal year, 1978. When it takes effect in 1979, we have not had the opportunity to look at its impact with respect to the entire budget for fiscal year 1979. We have not enacted, for example, the first concurrent resolution, and that has reference to section 303(a) of the Budget Act.

Mr. CURTIS. I am directing my question to those types of amendments that do not now or in any future year increase the expenditures or the obligations of the fund. Does the Budget Committee have any concern about those?

Mr. HOLLINGS. I have tried to emphasize the fact that new spending authority may be granted.

Mr. CURTIS. No; I am excluding anything that possibly could cost——

Mr. HOLLINGS. If spending authority amends the bill in the form of a tax credit, it may not be subject to the point of order.

Mr. NELSON. Is the Budget Commit-

tee concerned about a levy of increased taxes?

Mr. CURTIS. That is my next question.

Mr. HOLLINGS. We granted a waiver for the levy of increased taxes beyond fiscal 1978, and that is what the waiver refers to.

Mr. CURTIS. What I want to know is this: By what authority do we have to get a waiver to increase taxes?

Mr. HOLLINGS. Because it affects fiscal year 1979, without the enactment of the first concurrent resolution.

Section 303(a) says that it shall not be in order, in either House, to introduce or consider any bill or resolution which provides new budget authority for a fiscal year, an increase or decrease in revenues to become effective during the fiscal year, an increase or decrease in the public debt limit to become effective during the fiscal year, or new entitlement spending authority, until the adoption of the first concurrent resolution on the budget for that fiscal year.

Mr. CURTIS. I always had the idea that the prime responsibility of the Budget Committee was to hold down expenditures, to balance the budget. For the life of me, if somebody wants to help in that task, I do not know why there would be any opposition.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. CURTIS. I yield.

Mr. McCLURE. I think the Senator may be correct in saying that that is the prime concern of the Budget Committee, to get control of budgetary expenditures. I suspect that most people were looking at the size of the deficit and whether or not we had a balanced budget when we did that. But the Budget Act does more than that, too. It requires the Budget Committee to look at the economic effects of congressional actions, so we determine what the total effect of Federal Government expenditures may be. That is one of the reasons why we get into such things as loan guarantee programs that will have an economic effect, although there is no direct expenditure on the part of the Government. We need to be more involved in that than we have been.

However, I think it would be incorrect to say that the Budget Committee just deals with the size of the budget or the size of the budget deficit.

Mr. HOLLINGS. The Budget Act makes us responsible in every regard, not only for budget authority, not only for outlays, but also for what are called tax credits or revenues—all four, every phase of that budget.

Mr. CURTIS. I appreciate the fact that the Budget Committee waived my amendment, because I want to help the Budget Committee. If we meet this obligation that we have toward the social security fund, it will not only improve the social security fund but also will improve our position in the unified budget.

I appreciate the waiver.

I thank my distinguished friend for yielding.

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. HOLLINGS. There is a modification, I say to the Senator from Nebraska and Senator from Oregon. For example, with respect to the Roth amendment, we discussed that modification because it was presented to us in the form of a resolution from the Finance Committee. In the first year, fiscal year 1978 there is an impact of $175 million in the level already approved in the second concurrent resolution. If the Roth amendment only applied to 1978 it would be permissible and not require that waiver. But since it impacts upon ensuing fiscal years, getting up by 1982 to a $2.3 billion spending program, then section 303(a) applies and a waiver is needed.

So, depending on the subject of the amendment itself, as well as fiscal years that it affects it is the Budget Committee's responsibility to make that kind of ruling.

Excuse me. I yield to the Senator from Oregon.

Mr. HATFIELD. Mr. President, will the Senator yield for a unanimous consent agreement?

Mr. HOLLINGS. I will yield the floor.

Let me yield for a unanimous-consent agreement.

Mr. HATFIELD. Mr. President, I ask unanimous consent that Tom Getman, of my staff, be accorded the privilege of the floor during debate on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, will the Senator yield to me for a unanimous-consent request?

Mr. HOLLINGS. I yield.

Mr. FORD. Mr. President, I ask unanimous consent that Donna Smith, of my staff, be accorded the privilege of the floor during debate and vote on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I seek the attention of our distinguished friend and manager of the bill, Senator NELSON. If I could get the attention of the manager of the bill, will the Senator from Wisconsin in some measure try to correlate presentation of these amendments so that we will not be sitting here like a jack-in-the-box, jumping up and down on points of order? We are trying to work with the various staffs on the Dole amendment and the Tower amendment. If he will correlate them and determine whether or not they request a waiver of section 303(a) in a formal resolution, and if there are other amendments, and I am sure there are many, as the Senator from Nebraska has indicated, that are not subject to any budget resolutions or inhibitions, then we could proceed in that fashion.

Mr. METZENBAUM. Mr. President, will the Senator yield for a unanimous-consent requests?

Mr. HOLLINGS. I yield.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that Marc Asch, of my staff, be accorded the privilege of the floor during consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so orderd.

Mr. METZENBAUM. I thank the Senator.

Mr. HOLLINGS. Mr. President, I take it that other Senators have far more interesting requests.

Mr. NELSON. I was just agreeing on another amendment.

Mr. HOLLINGS. Yes.

Mr. NELSON. Mr. President, I do not know what amendments are pending.

Mr. HOLLINGS. I see.

Mr. NELSON. I am only familiar with the amendments that were raised in the Finance Committee involving Senator DANFORTH and Senator CURTIS, as well as other amendments the Senator has mentioned.

I wish to cooperate. We may be able to get a unanimous-consent agreement at some stage in which we would agree upon the order of taking up some of these amendments.

Mr. HOLLINGS. Yes. That would be the prerogative of the manager of the bill. That would not be necessary except that I wish to be protected by unanimous-consent agreement rather than just sitting here. We are not trying to order the proceedings but let us look at the Senator's own amendment. As I understand it that has been modified, is that right?

Mr. NELSON. That is actually in the committee bill.

Mr. HOLLINGS. That is taken care of in the committee bill?

Mr. NELSON. That has the so-called refund, and so forth. It is now just an authorization. It is not a refundable tax credit.

Mr. HOLLINGS. It is not in budget authority so it is taken care of in the bill?

Mr. NELSON. That is taken care of in the bill.

Mr. HOLLINGS. All right.

Mr. NELSON. I do not know where the Budget Committee stands with respect to Senator DANFORTH's amendment and Senator DOLE's amendment, which are not in the bill, or Senator CURTIS' amendment.

Has that been settled?

Mr. HOLLINGS. No. That is the point. It is not settled and apparently at this time we would have to raise points of order against those amendments. We are trying to cooperate with the managers of the bill and the leadership in expediting action on the social security bill within the confines that the Senate knows and our Budget Committee knows the fiscal impact of these various amendments. In essence, we really do not act until someone presents us a resolution asking for a waiver. I am not sure, but the Senator from Kansas may have prepared one. I think he was preparing one since we discussed it in the committee earlier this morning. We were also wondering about the Senator from Texas and some of the others. But we will work with the Senator's staff and see if we cannot facilitate the movement and treatment of these amendments that may require a waiver.

What the Budget Committee will do I am not sure.

Mr. NELSON. I have no notion what amendments might be raised other than those we know about. I think the Senator from Kansas may want to say something in a moment. But is the Senator suggesting someone may call up an

amendment? I am no expert on the technicalities of what has to pass through the Budget Committee as a resolution. Would the Senator desire that the manager of the bill ask for a quorum call whenever an amendment is called up?

Mr. HOLLINGS. If the Senator does not mind, something along that order would be appropriate at this time.

Mr. NELSON. I will be glad to do that.

Mr. HOLLINGS. I thank the Senator very much.

Mr. NELSON. If the Senator from South Carolina will yield, the majority leader wishes to take up the budget resolution waiver.

Mr. ROBERT C. BYRD. The waiver that is at the desk.

Mr. HOLLINGS. I yield.

That is right. We can adopt that waiver.

Mr. BELLMON. Mr. President, I ask unanimous consent that Mr. Ed King of Senator BARTLETT's staff be granted floor privileges.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, I believe consent was given to proceed with the budget waiver or waivers at any time in respect to the social security financing bill; is that correct?

The PRESIDING OFFICER. One has been reported.

Mr. ROBERT C. BYRD. Then, Mr. President, I ask that the Senate proceed to the consideration of the waiver at this time on Senate Resolution 315.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

S. Res. 315, waiving section 303(c) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 5322, a bill providing additional financing for the social security system.

The Senate proceeded to consider the resolution.

The PRESIDING OFFICER. Under the law, there is a 1-hour time limit. Who yields time?

Mr. HOLLINGS. Mr. President, if I can, I will paraphrase the resolution of approval of the budget waiver with respect to H.R. 5322 and the Curtis amendments.

Section 303(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House or the Senate to consider any bill or resolution or any amendment thereto providing new budget authority, new spending authority, or changes in revenues or public debt for a fiscal year until the first concurrent resolution on the budget for such fiscal year has been adopted.

Mr. STONE. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. HOLLINGS. I yield.

Mr. STONE. I ask unanimous consent that Mary Repper, of my staff, have the privileges of the floor during the votes and debate on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Since H.R. 5322 provides for an increase in revenues which would not become effective until fiscal 1979, a resolution waiving section 303(a) of the Budget Act with respect to consideration of this bill must be adopted before the bill can be considered by the Senate. The Committee on Finance has reported such a resolution seeking waiver of section 303 as it would otherwise apply to H.R. 5322 and certain amendments thereto. In reporting favorably on the resolution waiving section 303 of the Budget Act to H.R. 5322, the Budget Committee is recommending that the Senate proceed to full consideration of the bill but is not prejudging the merits of its provisions.

The primary purpose of this bill is to finance the severe short- and long-range deficits facing the social security trust funds. To meet these deficits, the Finance Committee elected to rely on a combination of lowering benefits and raising future social security payroll taxes. The committee flatly rejected a Carter proposal to use, for the first time, countercyclical grants to the trust funds from the general fund. The committee did accept, in modified form, another key Carter proposal under which employers will pay taxes on a higher level of wages than do employees. (Under present law employees and employers pay taxes on the same level of wages.)

The Budget Committee is extremely reluctant to recommend the adoption of resolutions waiving section 303(a) of the Budget Act. One of the major purposes of the Congressional Budget Act was to bring the Federal budget under better control. Through the adoption each year of the first and second concurrent resolutions on the budget, Congress sets fiscal policy and national priorities for the fiscal year.

If legislation affecting spending or revenues for a future fiscal year is considered prior to the adoption of the first concurrent resolution on the budget for that year, to that extent Congress loses control of the spending and priority decisions for that year prior to adoption of a congressional budget for that year. However, the Budget Act recognized that in some situations it may be appropriate to consider such legislation before the adoption of the first concurrent resolution.

Consideration of H.R. 5322 is consistent with the congressional budget which Congress enacted 1 month ago.

Congress specifically considered the matter of social security financing legislation in adopting that budget.

I ask unanimous consent that the paragraph with respect to the second concurrent resolution for the fiscal year budget 1978 on page 9; and also that the paragraph with respect to the second concurrent resolution for the year 1978 as reported to the Senate on page 18 be included for ready reference at this point in our presentation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

The conference substitute provides no increase in budget authority for the social security trust funds. It is unclear, at this time, whether any of several possible reforms will be adopted. The conferees recognize that a major problem exists in the financing of social security and urge that the responsible committees report legislation putting social security on a sound financial footing for both the short term and long term. It should be emphasized that the conference substitute does not assume an increase in social security taxes during fiscal year 1978, since the conferees believe that any major increase in such taxes could not be justified given the present state of the economy.

The recommended revenue floor does not assume any additional FY 1978 revenues from social security tax increases. While the Committee is concerned over the long-term solvency of the social security trust funds, the Committee believes it would be imprudent to impose additional taxes for 1978 since the trust funds will remain solvent in the coming year without any tax increase, and since raising payroll taxes in 1978 could retard significantly the continuing economic recovery.

Mr. HOLLINGS. The conference report accompanying the second budget resolution explicitly recognized the major financing problems of the social security system and urged "that the responsible committees report legislation putting social security on a sound financial footing for both the short term and long term."

The conferees, however, explicitly rejected any increase in social security taxes during fiscal year 1978 on the ground that "any major increase in such taxes could not be justified given the present state of the economy." Congress endorsed these recommendations of the budget conferees in enacting the second concurrent budget resolution. This Finance Committee bill is consistent with that judgment which Congress made in adopting the second budget resolution.

The Budget Committee has concluded that consideration of this bill is consistent with the congressional budget which Congress enacted 1 month ago.

Under these circumstances, the committee believes Senate consideration of H.R. 5322 is consistent with the congressional budget process and recommends that the resolution be adopted.

Mr. President, the Senate Budget Committee met this morning to consider resolutions reported by the Committee on Finance waiving important provisions of the Congressional Budget Act as they apply to the Finance Committee's social security financing proposal, and certain amendments which the Committee on Finance seeks to have considered in conjunction with that proposal.

The Budget Act was intended to give Congress control over Federal budget decisions. A vital part of that control depends on preserving future year budget choices against piecemeal legislation enacted before a congressional budget is adopted for such a future year.

To the extent today's decisions mortgage future year budget choices—without looking at all the needs that future year's budget resolutions will set before us—we lost control of Federal spending. And the growth, complexity, and uncontrollable cost of Government become inevitable.

The Budget Act provides a point of order to limit such piecemeal mortgag-

ing of our Nation's fiscal future. This point of order lies against legislation which provides new spending, taxes, or entitlements which become effective in a year until a congressional budget has been adopted for that year.

The Finance Committee's social security financing proposal and amendments proposed for consideration by the Finance Committee in connection with it, enact new taxes which will very significantly affect our Nation's economy and the budget, beginning a year from now in fiscal year 1979. Because these tax provisions mortgage next year's budget before any congressional budget resolution for that year has been adopted, they are subject to a point of order under the Budget Act.

The Budget Act also provides, however, that if a committee reports legislation which it believes is so important that we should mortgage future budget choices, it can report a resolution seeking to waive the Budget Act point of order which would otherwise lie against the bill. Such resolutions are referred to the Budget Committee. The Senate decides whether to open the door to this future mortgaging legislation by voting such resolutions after they are reported by the Budget Committee.

The Finance Committee has reported a resolution which waives application of the Budget Act point of order to taxes raised by the social security financing legislation. Originally, the Finance Committee requested five other waivers of the Budget Act point of order in the case of certain Finance Committee members' amendments which also mortgage future revenues or future spending decisions.

The Budget Committee met both yesterday and this morning to consider this series of waiver resolutions. Regrettably, no copy of the report on this legislation was available to us. We did not even have a cost estimate from the Committee on Finance as to one of the amendments sought to be cleared for Senate action through these waivers.

Nonetheless, we wanted to accommodate the leadership to the extent we could, consistent with our obligations under the Budget Act. After a meeting with Senator LONG, the distinguished chairman of the Finance Committee, the committees agreed that the Finance Committee would report another resolution requesting waivers for only the bill and a substitute amendment from Senator CURTIS. So the Budget Committee has favorably reported the waiver resolution which clears for Senate consideration the social security financing bill and a substitute amendment to be offered to it by the ranking Republican member of the Finance Committee, Senator CURTIS.

The Budget Committee has strong reservations about the other waiver requests originally reported by the Finance Committee which would authorize consideration of very costly future mortgaging amendments.

Two of these amendments involve multibillion dollar refundable tax credits which are properly the jurisdiction of the Committee on Appropriations.

Two of the others would result in very significant future spending to which the Government should not become committed prior to consideration of other spending needs in those future years as determined in the course of developing budget resolutions for those years.

My purpose in making this statement, Mr. President, is to explain the reasoning of the Budget Committee in regard to the action it took on the Finance Committee requests.

THE BILL ITSELF

The waiver resolution favorably reported by the Budget Committee authorizes Senate consideration of the Finance Committee's social security financing proposals themselves. They are incorporated in an amendment to H.R. 5322, a House-passed tariff bill which the Finance Committee has chosen as the vehicle for Senate consideration of these financing amendments.

Adoption of this waiver resolution is necessary for the Senate to consider the social security financing amendments themselves.

Consideration of these amendments is consistent with the congressional budget which Congress enacted 1 month ago.

Congress specifically considered the matter of social security financing legislation in adopting that budget.

The conference report accompanying that resolution explicitly recognized the major financing problems of the social security system and urged "that the responsible committees report legislation putting social security on a sound financial footing for both the short term and long term."

This position was consistent with the Senate position on the second budget resolution.

The conferees, however, explicitly rejected any increase in social security taxes during fiscal year 1978 on the ground that "any major increase in such taxes could not be justified given the present state of the economy." Congress endorsed these recommendations of the budget conferees in enacting the second concurrent budget resolution. This Finance Committee amendment is consistent with that judgment which Congress made in adopting the second budget resolution.

The social security tax increases proposed by the Finance Committee amendment would not become effective until fiscal year 1979. It is this deferral of the effective date of these new taxes, as urged in the conference report on the second budget resolution, which requires a waiver under section 303.

In view of the congressional determination incorporated in the second budget resolution regarding these new taxes to improve the social security trust fund financing, the purpose of section 303(a) has been served with respect to these tax increase proposals. Congress and its Budget Committees have examined the impact of imposing new social security taxes in the near future. In the second budget resolution, a determination was made that the taxes should be imposed but that they should be deferred beyond fiscal year 1978. The Finance Committee amendment which imposes these taxes in fiscal year 1979 is consistent with the budget resolution. The Budget Committee believes that, under these circumstances, no point of order should lie against its consideration.

THE ALTERNATIVE TAX AMENDMENT

The waiver resolution the Budget Committee has favorably reported also authorizes Senate consideration of the alternative tax amendment in the nature of a substitute to the Finance Committee's social security financing amendments.

These amendments suggest a tax alternative to the social security financing proposals contained in the Finance Committee amendment.

The Budget Committee recommends favorable consideration of the waiver resolution applicable to the alternative tax amendment to assure that the Senate is able to debate both points of view—the committee amendment and that offered by its ranking minority member—in considering the appropriate form of social security financing to be adopted.

The committee notes in approving this waiver resolution that the alternative tax amendment, like the committee amendment itself, would not take effect until fiscal year 1979 and thus, requires waiver of section 303(a).

Mr. President, the Budget Committee has serious concerns about floor amendments which would create new entitlement legislation costing billions of dollars. These amendments would be subject to a point of order under section 303(a). The committee will keep close watch on these and other amendments to assure compliance with the Budget Act.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. HOLLINGS. I yield.

Mr. McCLURE. Mr. President, I ask unanimous consent that Jan Olson of Senator HAYAKAWA's staff and Tom Hill of my staff be accorded privileges of the floor at all stages of the proceedings on this budget waiver resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, I make the same request for Bob Boyd of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, I ask unanimous consent that Jerry Gauche of Senator GRAVEL's staff be permitted the privileges of the floor during the consideration of the pending legislation and the votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I do not have any objection to the comments just made by the distinguished Senator from South Carolina, and the consideration of the budget waiver resolution.

The PRESIDING OFFICER. Who is yielding time?

Mr. DOLE. I yield myself——

The PRESIDING OFFICER. The Senator does not have any time.

Mr. HOLLINGS. I yield the Senator from Kansas whatever time he may desire.

Mr. GOLDWATER. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. GOLDWATER. Are we operating under a time limitation?

The PRESIDING OFFICER. Under the law, there is a 1-hour time limitation on this resolution.

Mr. DOLE. Just on the resolution, there is no time agreement on the bill itself.

The PRESIDING OFFICER. Just on the waiver resolution.

Mr. DOLE. In order to establish the record, there was a Finance and Budget Committee meeting this morning. A number of amendments, were discussed including the amendment of the distinguished Senator from Arizona, Senator GOLDWATER, which would remove the earnings limitation on social security. I appreciate the careful consideration given to that point of view by the distinguished Senator from South Carolina and the distinguished Senator from Oklahoma.

We were unable to reach any agreement on whether or not there should be a waiver granted on that particular amendment or on the amendment of the distinguished Senator from Texas (Mr. TOWER), who hopes to offer a substitute for the pending legislation. As I understand the situation nothing in the Tower amendment violates the Budget Act except again the earnings limitation provision.

Now, Mr. President, there is a change in the earnings limit in the bill offered in the committee by the distinguished Senator (Mr. BENTSEN). It seems to this Senator and, I think, the Senator from Arizona and the Senator from Texas (Mr. TOWER) that the Budget Committee, made policy decision, and not a decision based on the Budget Act.

We would hope that there would be an opportunity later in the day for the Budget Committee to meet again and consider not only a waiver of the Goldwater-Dole-Ketchum amendment but also the Tower amendment and any other amendments that may be offered to H.R. 9346, in order to prevent any objections to considering the resolution. The Senator from Kansas wants to serve notice that unless there can be some consideration by the Budget Committee of the amendments of other Senators I will not yield to any time agreements on the pending bill. In fact, it may be best to put off the bill until next January. A number of us are prepared to talk at length, if necessary, to put this bill off until January unless we can have the cooperation of our colleagues to give all Senators a chance to present our amendments.

If the Budget Committee states that there will not be any amendments that the Budget Committee cannot agree upon, there is in effect, a closed rule. We are precluded from bringing up our proposal if it has any budgetary effect at all.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. GOLDWATER. I thank the distinguished Senator from Kansas for his comments and for his help on this whole matter.

I point out that this is not, incidentally, a new matter. We have had this proposal before the committee in the last three Congresses, and I have never had the courtesy of being called for a hearing.

I would call to the attention of my colleagues on the Budget Committee one other facet: I have rewritten my amendment so that this will not be done overnight; it will be done in a gradual way, so that the limitation will go off completely in 1982. I would further call the attention of my colleagues to the fact that, contrary to what we have been told in the past, this will not have a deleterious effect upon the budget.

In the long run, when people receiving social security are allowed to work, to earn enough to live on, it will offset; what losses there are will be made up by increases in the internal revenue income.

I remind my colleagues of one more thing: This is not general fund money we are talking about. This is money that has been paid in to a special account, though Lord knows where it is or what shape it is in. I cannot find anyone who can tell me if there is a box somewhere with social security funds in it, or how much there is in it. My hunch is that it is already bankrupt, and we are just talking in the clouds when we say we are going to forestall bankruptcy.

All my amendment attempts to do is get people the money that they are entitled to. I do not think it is constitutionally or morally right for us to say to a retired person. "You have to give up $2 of social security for every dollar you earn to make a living," when that money belongs to him. It is the same as if we tried to tell an insurance company what they can do with the money I have paid into an insurance program for my wife and my family.

This is all we are trying to do, and I do not see where the Budget Committee can have any real concern about this, because it does not affect the budget. If it does affect the budget, I suggest that the social security fund is already bankrupt and we had better start trying to find a new way and a better way, if we are going to continue having it.

So I would hope that later on today the Budget Committee can meet and make it possible, without floor action, to consider the Tower amendment, the Dole amendment, my amendment, and others that might be offered in the same vein. But I merely add my voice to what the Senator from Kansas has said: Unless they do this, there will not be any limitation agreement on time. We can be here until Christmas. I have nothing better to do, and I can talk along with the best of you.

(Applause from the galleries.)

Mr. DOLE. Mr. President, let me suggest to the Senator from Arizona——

The PRESIDING OFFICER. Will the Senator suspend? The Chair admonishes the galleries that its occupants are guests of the Senate. There will be no expressions of approval from the galleries during the deliberations of the Senate.

Mr. DOLE. The Senator from Kansas would only note that once the provisions of this bill reach the ears of the countryside there will be demonstrations across the country, not just in the Senate gallery. Once people find out how much their taxes are going to be increased, particularly small businessmen and employers, there will not just be demonstrations in the gallery; they will be heard from all across the country.

To get back to what the Senator from Arizona was suggesting, the social security program is a retirement program. We are talking about removing the earnings limitation only for those aged 65 to 72. Some are opposed to removing the limit as a matter of principle, but that is not a matter for the Budget Committees to determine.

Mr. BELLMON. Mr. President, will the Senator yield?

Mr. DOLE. I yield to the Senator from Oklahoma.

Mr. BELLMON. The Budget Committee acted on the only available requested item before it this morning. The Senator from Kansas, the Senator from Arizona, and the Senator from Texas will have to get a request together, and we will be happy to act upon it. But we had only one request before us, the request of the Finance Committee.

Mr. DOLE. As the Senator from Kansas pointed out, we are trying to get one together. I frankly think the Budget Committe could have taken care of it. The Senator from Kansas was there——

Mr. BELLMON. How could we have acted, without a request before us?

Mr. DOLE. It was included in the original resolution.

Mr. BELLMON. We approved the resolution from the Finance Committee, which is the only thing we had before us.

Mr. DOLE. I would just suggest that we think we ought to have the same consideration that other Senators received.

Mr. BELLMON. You will have that consideration when you get your request together.

Mr. GOLDWATER. Mr. President, will the Senator yield for a question on that point?

Mr. BELLMON. I yield.

Mr. GOLDWATER. If the Senator from Oklahoma will remember, not many hours ago the Budget Committee approved an increase to $8,800. I am told by the Senator from Kansas that the amount of $6,000 is already in the Senate bill. So, some place along the line, either you were not at the Budget Committee meeting——

Mr. BELLMON. I was at the Budget Committee meeting, and the figure we approved was on a request from the Senate Finance Committee, which anticipates raising the earnings limit up to $8,880 by the year 1985.

Mr. GOLDWATER. But it was considered. Frankly, I did not think it was necessary for the proponent of an amendment like this to appear before the Budget Committee, because it does not involve general funds.

Mr. DOLE. But, it involves the idea. According to the committee, there is a budget impact. That is the way the act is worded, that is the way the staff inter-

prets it, and that is the way the committee proceeded.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. DOLE. I yield to the Senator from Texas.

Mr. TOWER. I appreciate the statement just made by our colleague from Oklahoma. I am sure he wants to act fairly and correctly in this matter, and I take what he says at face value. I think it would be wise for the Budget Committee to reconvene and consider these requests.

I might add that all that is happening now tends to reinforce the opinion that I have that for the sake of legislative efficiency and expediency and getting something done, and passing a certain volume of legislation, we probably are not deliberating as carefully and intently on this legislation as we should, and we certainly are not back in our constituencies, finding out what the people think about it.

I think while the whole social security matter is now pending would be a good time for us to quit and go home, and find out how people are reacting. Some people have the view that we ought to stay up here every day, all day, every year, and legislate, that that is our job. But it is really more than that.

It is our job to reflect the views, the concerns, and the aspirations of our constituents. I submit that we cannot do that sitting here in the Senate Chamber day after day after day. Sure, we can read our mail and respond to our phone calls, but there is nothing like getting on the ground with people and responding to their questions and their comments.

I think that the Senate, if it did the statesmanlike thing, would consider putting this bill over until January, until all of us have had a chance to suggest the various proposals that have been advanced, all well motivated proposals, and have a chance to go back home and talk with people about it, and see how they feel about these matters.

I think that the volume of legislation that we pass is not going to be the criterion by which we are judged by the people of this country. It is the quality of legislation which we pass in this Congress.

I wish the leadership would give some consideration to taking this bill over until January, until we can all do some study and reflection on it, refine whatever proposals we have, and get the opinions of the people who count, the people of the United States of America.

Mr. DOLE. Does the Senator from Kansas still have the floor?

The PRESIDING OFFICER. Yes.

Mr. BELLMON. Will the Senator from Kansas yield for 1 minute?

Mr. DOLE. Yes.

Mr. BELLMON. I would like to join the Senator from Texas in his comments. To further set the record straight on the responsibility of the Budget Committee in this matter, let me just say that our hope is to get together all amendments which will have a budgetary impact before we have another meeting. We cannot have a meeting every time a Member decides to offer an amendment. We would like to know what amendments are going to be offered and try to deal with them in an orderly way.

One of the problems is that this bill has come to the floor under hasty and unusual circumstances.

Mr. DOLE. There is not even a committee report.

Mr. BELLMON. It makes it difficult for us to follow the requirements of the budget law, which is what we are trying to do.

Mr. DOLE. There is not a committee report. All there is is a press release. That requirement was obviated by certain procedural steps which have been taken. It does seem to the Senator from Kansas, now that the Senator from Oklahoma has indicated again that we should consider all possible amendments at one time, as a member of the Budget Committee I can certainly appreciate that. There was an effort this morning to indicate, at least, that we would put the Tower, Dole, and Goldwater amendments together and then introduce a resolution and agree to procedure. But the committee adjourned before that issue could be resolved.

As the Senator from Kansas indicated, we should have an opportunity to present our amendments. We do have the opportunity despite the Budget Act. We can appeal the ruling of the Chair. I believe Senator GOLDWATER has 38 to 45 cosponsors. I assume the amendment would prevail. There is some real question whether we should remove the total cap. The Senator from Kansas believes we should look at that very carefully. I would also hope we would have a chance to consider these amendments in due course.

Mr. President, I yield the floor.

Mr. TOWER. Mr. President, I ask unanimous consent that Cindy Root and Pam Turner of my staff be granted the privileges of the floor during the consideration of this measure and the votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. NELSON. Mr. President, I am prepared to yield back my time.

Mr. HOLLINGS. Mr. President, I am prepared to yield back my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the resolution.

The resolution (S. Res. 315) was agreed to, as follows:

S. RES. 315

Resolved, That (a) pursuant to Section 303(c) of the Congressional Budget Act of 1974, the provisions of Section 303(a) of such Act are waived with respect to the consideration of H.R. 5322, an Act to provide duty-free treatment for istle and with respect to the consideration of an amendment incorporating the text of H.R. 5322, as reported, if such amendment is offered on behalf of the Committee on Finance to H.R. 9346, an Act to amend the Social Security Act and the Internal Revenue Code of 1954 to strengthen the financing of the social security system, to reduce te effect of wage and price fluctuation on the system's benefit structure, to provide for the conduct of studies with respect to coverage under the system for Federal employees and for employees of State and local Governments, to increase the earnings limitation, to eliminate certain gender-based distinctions and provide for a study of proposals to eliminate dependency and sex discrimination from the social security program, and for other purposes; and

(b) That waiver of such Section 303(a) is necessary in order to enable the Senate promptly to consider changes in social security financing which are provided for in H.R. 5322, as reported by the Committee on Finance, which are urgently needed in order to assure that the program is adequately funded, and which first becomes effective in fiscal year 1979; and further.

(c) That the provisions of Section 303(a) of the Congressional Budget Act of 1974 are also waived with respect to the consideration of two amendments to either H.R. 5322 or H.R. 9346 offered by Senator Curtis to modify provisions related to the rates of tax imposed under chapters 2 and 21 of the Internal Revenue Code of 1954, to the amount of earnings subject to such taxes, and to the amount of earnings creditable in determining benefits under title II of the Social Security Act.

SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

The Senate continued with the consideration of H.R. 9346.

The PRESIDING OFFICER. The Senate will resume the unfinished business, H.R. 9346.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I rise for the purpose of a clarifying statement with respect to the provision in the committee bill having to do with the earned income disregard, as it is known in the language of welfare regulations.

The committee has adopted a measure which will result in a substantial savings in expenditures, and in response to a long recognized need for some change in these matters. The administration also has a proposal with respect to the earned income disregard which is both to and different from that which the committee adopted. It was addressed to the same problem, but it yields a smaller savings. The administration, understandably, feels strongly about its position and would hope that, in the end, it will be adopted. I have publicly stated my own preference for this outcome and my willingness to assist in bringing it about. Perhaps we shall have an opportunity on the floor during the next several days.

In any case, I should like to state that we on the committee understand that we may expect the administration position to be expressed to us in a conference committee. Of course the outcome would then remain for the conferees to determine.

I thank the Chair for recognizing me.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHURCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ANDERSON). Without objection, it is so ordered.

Mr. CHURCH. Mr. President, I ask unanimous consent that David Affeldt be accorded the privilege of the floor during consideration of the social security financing amendments of 1977 and any votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHURCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LEAHY). Without rejection, it is so ordered.

Mr. HATFIELD. Mr. President, I speak on behalf of Senator DANFORTH'S amendment. The aggregate tax that will result from our action here today for State and local governments and nonprofit organizations in the next 10 years is a figure triple what the tax is today. For organizations and governing units which already pay their dedicated workers at subsistence levels this will mean a burdensome tax obligation increase from $6.6 billion to $21.6 billion over the next crucial decade.

Nonprofit institutions cannot recoup a portion of their social security taxes as do profitmaking employers.

Health care, educational, and missionary institutions must have aid in relieving the tremendous pressures to hold down the cost of their services despite rapidly rising costs of goods and support suppliers.

We are all very aware, and constantly reminded, of the financial crisis confronting our city and State governmental agencies.

To be abundantly practical, the Oregon State and local governments will incur a tax liability of approximately $83 million under this social security financing bill. As it is presently written these agencies, and the nonprofits, will receive no comparable deductions or tax credits to the corporations' 48-percent rebate.

If Mr. DANFORTH'S amendment is adopted, the Oregon governmental agencies will receive a 10 percent or $8.3 million reduction in their social security tax liability.

I commend my colleague's perception of the need and his wise contribution to this piece of legislation.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that Susan Irving, of my staff, be accorded the privilege of the floor during consideration of this bill and any votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. RIBICOFF. I am pleased to yield.

Mr. NELSON. Mr. President, I ask unanimous consent that John Haynes, of Senator ANDERSON'S staff, be granted the privilege of the floor during the course of consideration of the pending legislation and votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON. Mr. President, will the Senator yield for a similar purpose?

Mr. NELSON. I am pleased to yield.

Mr. EAGLETON. Mr. President, I ask unanimous consent that Mr. Steve Raling and Miss Sally Brain be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1033

Mr. RIBICOFF. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Connecticut (Mr. RIBICOFF) proposes unprinted amendment numbered 1033.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 75, after line 22, at the end of subsection (b) of section 129, insert the following:

(4) section 3121(k)(4) is amended by striking out the word "date" in subparagraph (B)(ii) and inserting in lieu thereof the words "first day of the calendar quarter"

Mr. RIBICOFF. Mr. President, I have discussed this amendment with the distinguished managers of the bill, and I hope that they find their way to accept it.

Last year Congress moved to deal with the problem faced by a number of nonprofit organizations that had paid social security taxes without filing the required waiver.

In this legislation Congress allowed those organizations in this position who had obtained refunds to choose whether or not to file a new waiver or to participate in the system. However, the legislation required not only that refunds be received prior to September 9, 1976, but also that they be for a period after July 1, 1973.

A number of organizations—on the advice of the Internal Revenue Service—had applied for refunds only for the period up through June 30, 1973. These organizations were told by the IRS to obtain a refund for the quarter ending June 30, 1973, and then to apply for later refunds. The so-called "Ottinger bill" however classifies these organizations as not having received a refund. Thus they are denied certain choices. This amendment would allow refunds received by the deadline for the earlier quarter to count.

Mr. NELSON. Mr. President, the staff has examined the amendment as proposed by the Senator from Connecticut. It simply involves a technical mistake that was made, and this amendment would rectify it and, as manager of the bill I have no objection to it.

Mr. CURTIS. Mr. President, if the Senator will yield, I will say we have no objection to it. We favor the amendment.

Mr. BELLMON. Mr. President, will the Senator yield for a question?

Mr. RIBICOFF. I would be pleased to.

Mr. BELLMON. What is the cost of the amendment?

Mr. RIBICOFF. I think the cost is minimal. It merely protects them from retroactive liability, but my understanding is there is no cost involved.

Mr. BELLMON. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Connecticut.

The amendment was agreed to.

Mr. EAGLETON. Mr. President, I intend to move to commit the pending bill to the Committee on Finance with instructions to report the bill back forthwith to the Senate so as to authorize appropriations out of general revenues to cover not less than 4 percent of the total cost of the bill. Before I make that motion I would like to state my reasons for offering the same.

Mr. President, in my role as chairman of the Subcommittee on Aging I am well aware of the positive effect social security has on the lives of the 33 million Americans who receive social security benefits. Since 1975 expenditures from the social security cash benefits program have exceeded income and this unfortunate situation will continue unless Congress takes corrective action. Without changes, it is well understood that the disability insurance (DI) funds will be exhausted by 1979 and the funds supporting the old age and survivors insurance (OASI) program will be completely exhausted by 1983. This uncertainty in the financial integrity of the social security trust fund cannot be allowed to continue because the confidence of the 104 million working Americans whose payroll taxes support the system (combined with equal contributions from employers) will continue to decline. Because of President Carter's leadership, Congress is finally addressing itself to the very difficult but necessary question—How can we best change the financing formula of the social security system in order to protect the financial integrity of the system?

Last week, the House responded to this question by passing legislation that would substantially increase (over present law) the amount of taxes paid into the social security system by both employees and employers. Some experts have estimated that about $10 billion in extra taxes will

be paid by employees and employers per year. Employees at the high income level will have their social security taxes tripled in the next 10 years while the poor and/or average wage earner will see his taxes increased by 50 percent by 1985. The effect that these higher taxes will have on businesses is very uncertain. Many businessmen in my State have advised me that the House bill leaves them with only four possible solutions: First, raise their prices significantly to pay for the extra cost; second, fire employees; third, cut back or eliminate fringe benefits; fourth, reduce wages. None of these alternatives are particularly appealing to our Nation's economy.

Now, I would like to address myself to the proposal presently pending before the Senate. In its wisdom, the Senate Finance Committee has decided that the best way to restore the financial integrity of the social security trust fund is to require employers to pay $30 billion to $35 billion more in social security taxes than employees over the next 5 years. This change violates the so-called parity rule under which employees and employers have paid exactly the same amount of taxes since the system began. The committee contends that this proposal is preferable to the House-passed measure because it decreases the tax burden on the average wage earner at the expense of the employer who is able to pay his staff a better-than-average salary.

Mr. President, in theory this argument may be persuasive but I am afraid that in the hard, cold world of dollars and cents this proposal may cause more problems than it resolves. Two questions come to mind immediately: What effect will this tax increase have on the unemployment rate? What effect will this tax increase have on our Nation's economy? Obviously, no one knows the precise answers to these serious questions, but apparently President Carter is so concerned with the effect that this tax increase may have on the economy that he has delayed sending to the Hill his tax reform package. Last week, President Carter was reported to have said to a group of newspaper editors that the taxes have to be raised so the social security system "won't go broke," and he added that he will act to offset their effect next year by proposing tax cuts as part of his general tax revision plan.

If Congress votes to substantially increase payroll taxes, and then gives taxpayers a break on their personal income taxes next year to compensate for the increase in social security taxes, I submit that we are simply deluding ourselves into thinking that the funds are not coming out of general revenues. General revenues will be diminished by the amount given back to the taxpayer in the form of a rebate of credit on income taxes, and the money collected from the wage earner in payroll taxes will be deposited into the social security trust funds.

I have opposed the revenue sharing program on these same grounds; money is sent from taxpayers to Washington and we turn around and send it back to the States and local communities again. I often get letters from constituents asking me to explain the logic of the general revenue sharing program, and I simply cannot tell them why taxes have to go to Washington to end up in St. Joseph or Springfield, Mo.

Mr. President, an article by Tom Wicker in the New York Times of November 1, 1977 raised this important point I have been discussing. Mr. Wicker states that President Carter's comment that a tax cut may be necessary next year to mitigate the economic effects of the social security program raises—

> . . . the question why Mr. Carter had not pushed more strongly for use of general revenues, rather than higher payroll taxes, to bolster the Social Security system. What's the ultimate difference between income tax cuts to compensate for higher payroll taxes, and the transfer of general revenues to Social Security? And is anybody really thinking through the intricate relationships between such problems as stimulating the economy, holding down inflation, Social Security reform and general tax reform?

Mr. President, we all agree that the integrity of the social security trust fund must be protected. I submit that the solutions to the social security funding problem offered by the Senate Committee on Finance and the House are both inappropriate. Both proposals could cause our economy more problems than they solve. I suggest that the Senate needs to take a hard close look at the idea of using general revenue funds as a partial way of restoring the financial integrity of the social security trust fund. Certainly the payroll tax paid by both employees and employers needs to remain as the primary means of financing the social security system. However, both the House and Senate bills have continued to rely exclusively on the payroll tax to the point where the new tax burden for both employees and employers may cause very serious problems for our economy (and hardships for millions of wage earners).

Mr. President, I am afraid that the pending bill and its related bill passed by the House have raised social security taxes beyond the breaking point for the average American worker and employer. We are simply asking too much from these people. I know that many of my colleagues are opposed to using general revenue funds to finance social security because it is argued that this will make social security "another welfare program" and it will destroy the feeling among social security recipients that they are paying for their own retirement. In actual practice, we all know that each worker is not paying for his/her own retirement—rather the working person is paying for the benefits received by someone already retired. This same process will be repeated when the present worker retires and has his benefits paid by a younger worker.

Mr. Presdient, I am well aware that general revenue is not a bottomless pit of dollars—I know that this money is contributed out of the same pocket of those people who contribute to social security. However, I think we must put our priorities in proper perspective—first, the social security system must be protected; second, we must finance the system in such a way that is not harmful to the Nation's economy.

The rapid rise in payroll taxes embodied in the Finance Committee's proposals could have severe economic effects. If these increases are enacted, most employers will probably choose to shift the costs forward and increase their prices of their products or services. A report printed in May by the Senate Budget Committee concludes that—

> Increases in payroll taxes may therefore contribute to inflation. In addition, since the rise in prices reduces consumer real income, total consumer demand will decline in real terms and this will reduce production and employment.

Computer simulation studies done by the Budget Committee indicated that the payroll tax, if shifted forward by companies raising their prices, would have twice the negative effects on employment of an equivalent increase in personal income taxes.

As my colleagues know, the economy is not growing as rapidly as we would like. No one would propose an increase in personal income taxes now because this would depress the economy. In fact, the administration and others are calling for tax cuts early next year to keep the recovery on track. Personal income taxes are far more equitable than payroll taxes, and do not have the inflationary effect associated with rising payroll taxes. If additional revenue is needed for the social security system, on these grounds I would prefer that the money temporarily comes from general revenue.

I further contend that it is blatently unfair to consider giving tax cuts to all Americans when not all Americans are contributing to the financing of the system. Therefore, it seems to me that if the President determines a tax cut to be necessary he provide the tax cut only to those people who are forced to pay higher social security taxes or, what I would prefer, an authorization of appropriations to help cover the cost of the system.

Mr. President, I feel so strongly about this issue that I shall be compelled in a moment to move to recommit this bill to committee with instruction that the committee report back forthwith a bill which authorizes the spending of general revenues to cover not less than 4 percent of the total cost of the bill. Certainly, general revenue funding should only be used as a last resort and some sort of upper ceiling (tied perhaps to the unemployment rate) needs to be established so that we do not depend too heavily on general revenues.

President Carter has suggested that general tax cuts will be necessary to offset the payroll tax increases. I feel strongly that a better way to deal with this problem is to transfer funds directly from general revenue to insure the solvency of the social security system.

Mr. President, I move the adoption of my motion to recommit the pending bill to the Committee on Finance with instructions to report the bill back to the Senate before the end of this session, amended so as to authorize appropria-

tions out of general revenues to cover not less than 4 percent of the total cost of the bill.

That concludes my remarks at this time, Mr. President, I intend to make a motion shortly.

Mr. CURTIS. Mr. President, will the distinguished Senator yield?

Mr. EAGLETON. Yes.

Mr. CURTIS. The Senator has not yet offered his motion to recommit, has he?

Mr. EAGLETON. No; I am going to offer my motion to recommit in a few minutes, subject to the wishes of the Senator from Nebraska.

Mr. CURTIS. I thank the Senator. Does the motion to recommit call for reporting back forthwith?

Mr. EAGLETON. Yes, forthwith.

Mr. CURTIS. So, in other words, the Senator is not getting this issue involved in the discussion as to whether or not this bill ought to be finished now or wait until January?

Mr. EAGLETON. The Senator is absolutely correct. It is forthwith, for immediate action.

Mr. CURTIS. I appreciate that, because there is a restlessness around here to not act on this bill now, but to adjourn sine die; and I would not want an important decision such as whether or not general funds should be used for social sceurity to depend on whether or not we are anxious to get rid of it for a few months; so I commend the Senator for following that pattern.

Does the Senator believe that we can start to finance social security out of general funds and discontinue it at a later time?

Mr. EAGLETON. Yes, if it is geared to an unemployment rate. I would devise a formula that said whenever unemployment exceeded 5.5 percent, or make it 6 percent, then there would be an infusion of general revenue funds under those circumstances, but that when unemployment decreases to a more acceptable level, I would decouple it and take the general revenue out at that time.

Mr. CURTIS. That is almost like the administration's original proposal; is it not?

Mr. EAGLETON. Yes.

Mr. CURTIS. And the Senator is aware that the Finance Committee turned that down?

Mr. EAGLETON. Yes, I am aware.

Mr. CURTIS. Is the Senator aware that the financing proposal now before the Senate has never been supported by a majority vote of the Finance Committee?

Mr. EAGLETON. I knew there was a whole range of differing feelings on the Finance Committee, and that no one idea was adequate to get a majority.

Mr. CURTIS. The Senator is very kind to answer my question in that fashion, and I appreciate it. I ask him this: In turning to the general fund to restore the social security funds, does the Senator expect to increase taxes to replenish the general fund, or is he indicating just an increase in the deficit, the national debt?

Mr. EAGLETON. The latter, for the moment.

Mr. CURTIS. I again commend the Senator on his frankness.

In other words, Mr. President, I think this: I think the word is to go out across the land, "We are willing to send out your social security checks, but we are doing it by increasing the national debt."

Mr. President, the social security program is at a crossroads. We should either reduce benefits or increase taxes.

I thank the Senator for yielding.

Mr. EAGLETON. Let me speak briefly to the Senator from Nebraska before yielding to my colleague from Missouri. The Senator from Nebraska has stated what the word is that should go out to the 200 million-plus Americans about social security.

I say that if the Finance Committee bill is enacted this afternoon, or whenever it is enacted, the word should go out that although temporarily the social security system has been tidied up, the impact it will have on our economy is so negative in nature that early on next year, President Carter is going to be compelled to recommend to Congress some kind of a tax cut in order to confront a bit better the increase engendered by the Finance Committee's bill.

So whatever we do here today, I say to my colleague from Nebraska, some word will have to go out, whatever the word is.

Mr. CURTIS. I am not for the so-called committee bill reported by the Finance Committee.

Mr. EAGLETON. I thank my colleague. I yield to the Senator from Missouri.

Mr. DANFORTH. When this bill was in the Finance Committee, the Secretary of HEW testified on behalf of the administration's proposal, which called for I suppose what the Senator is now suggesting, namely, a draw on the general fund of the Treasury.

Mr. EAGLETON. I changed it a little bit.

Mr. DANFORTH. It is the same idea.

The point was made in the Finance Committee that there was one problem with the general fund, that is, that the cupboard is bare. We are now running a very substantial deficit and we have a very substantial national debt. Therefore, one approach which was taken was that if we have to raise real money for the social security trust fund rather than just printing press money, instead of using the payroll tax route we could impose a surcharge on the income tax. That is, when taxpayers would compute their income tax, they would add 3 percent over and above the computation. That money would then be earmarked for the social security trust fund.

It was argued in the Finance Committee that the benefit of such a proposal was that it was a progressive form of taxation. That is, whereas the payroll tax is regressive, it is a fixed rate and it taxes the first x number of dollars of an employee's wages, a surcharge on the income tax spreads the burden more equitably throughout the income brackets. It allows those who have the good fortune of having a relatively high income to pay relatively more.

The most popular of all approaches would be to keep the benefits going without any tax increase at all.

I wonder if the Senator would consider modifying his proposal to provide for a surcharge on the income tax. In that event, I might consider supporting the Senator.

Mr. EAGLETON. The Senator's suggestion is an excellent one, second only to mine. It is a very good alternative idea. Part of the problem of adding on the surtax would be from an economic point of view how do we add on the surtax in November 1977 and then have the President and the Congress say we are probably going to have to have a tax cut in February or March of 1978?

Mr. DANFORTH. I think the Senator has raised a very good point. As the Senator knows, last March I was privileged to offer an amendment, along with the senior Senator from New York (Mr. JAVITS), which would have provided for a permanent tax cut as an alternative to the $50 rebate. It is my position, and it has been for a long time, that the American people are paying too much in taxes. I am pleased to see that the President is now considering withholding his income tax proposals to find out what happens with respect to energy taxes and social security taxes. They do have to be treated as a bundle, with their total impact on the economy.

It seems to me that since we have only the social security tax before us right now, we should deal with that as a problem which requires a real economic treatment and not just sort of a funny money approach, and then get to the question of the interrelationship between the various taxes next January.

If, in fact, the need is to replenish the fund from somewhere at this point, if any approach of raising $70 billion over 5 years is unpopular, I wonder if the Senator might reconsider his position and offer an amendment which would direct the Finance Committee to report back with a surcharge on the income tax.

Mr. EAGLETON. I will make a deal with my distinguished colleague. If he will support me on this one and it fails, I will then support him on his, on the eve of his failure.

I think the Senator from Missouri makes a very valid point. He commends the President for postponing his tax message, and I believe wholeheartedly the President is right in that postponement. The Senator from Missouri is correct. The President, in deciding what his tax reform package will be, has to take into account what at that time will be energy tax proposals. He will have to take into account whatever we do with the social security system. Those two actions are absolute prerequisites for the President to make his recommendations on the overall tax bill next spring.

Mr. President, I am prepared to make my motion at this time.

Mr. CURTIS. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. CURTIS. Is a motion to recommit debatable?

The PRESIDING OFFICER. It is.

Mr. EAGLETON. Mr. President, I move to commit the pending bill to the Committee on Finance with instructions to report the bill back forthwith with an amendment to authorize appropriations out of general revenues to cover not less than 4 percent of the total cost of the bill.

Mr. BELLMON. Mr. President——

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NELSON. Will the Senator yield for a unanimous-consent request?

Mr. BELLMON. I yield.

Mr. NELSON. Mr. President, I ask unanimous consent that Mr. Bob Hoyer, of the Finance Committee staff, be granted the privileges of the floor during consideration of the pending measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, I appreciate the objective which the Senator from Missouri has. There are, however, some points I would like to raise which need to be considered before this matter is put to a vote.

First of all, at the present time I believe most Americans look upon social security as a kind of insurance program for the working people of the country. They do not look upon it as a welfare program or as a program paid for by other than those who benefit from it. The only way we have to put general revenue funds into social security is to borrow the money. The Nation is already running a $60 billion deficit. If we undertake to take money out of the general revenue fund, all we do is add to the deficit and in this way increase pressures in areas we are already trying to help.

Also, the requirement to raise payroll taxes imposes at least some discipline upon the Members of Congress. We are tempted to raise social security benefits to be paid for by borrowing money. We do not feel the same kind of restraint in raising taxes to pay for our deficit.

I believe this amendment would remove one of the most important restraints we have in Congress to keep us from letting the social security program get completely out of hand.

To me one of the most important arguments made here is that it shows it is sort of ridiculous for us to try to move this complicated legislation in such a hasty manner. I do not believe anyone has had time to fully consider what we are doing here.

While I do not support the purpose of the motion of the Senator from Missouri, I would support it if he would agree to recommit the bill with instructions that it not be brought back until February. I think we have not had a chance to consider what we are proposing to do, or give the people of the country a chance to realize what is at stake. I believe we could act in a far more intelligent manner at that time.

I believe general revenue financing for social security may sound like a good idea and certainly is a fast way to get money into the system, but it certainly is not going to add to the fiscal stability of the country, nor is it going to be, in my judgment, a long-range benefit to the social security system. If we start this process, we are going to find ourselves raising the benefits time after time, paying for it with borrowed money and, in the long run, causing chaos in the whole system.

Mr. President, I ask unanimous consent that Mr. Bob Fulton of the Budget Committee staff may have access to the floor during consideration of this measure.

The PRESIDING OFFICER (Mr. RIEGLE). Without objection, it is so ordered.

Mr. DANFORTH. Will the Senator yield for a question?

Mr. BELLMON. I am happy to yield.

Mr. DANFORTH. I believe the Senator is the ranking minority member of the Budget Committee. Is that correct?

Mr. BELLMON. That is correct.

Mr. DANFORTH. I was briefly a visitor at that committee this morning, trying to work out a budget waiver situation with respect to a form or variation of an amendment that I propose to offer some time later in the day, or maybe tomorrow. I was told that on my previous version, a point of order would have been raised under the budget resolution. I wonder, if my amendment had been subject to a point of order, why would not Senator EAGLETON's amendment have been subject to a point of order?

Mr. BELLMON. It is my opinion, Mr. President, that the Eagleton amendment is subject to a point of order. If that matter can be firmly established, a point of order will be raised before a vote is taken.

Mr. NELSON. Mr. President, the concept of using general fund moneys is not a new one. I do not, personally, view it as a bad idea per se. As I understand it, the Senator from Missouri is recommending that the bill—I hope the Senator will correct me if my ear was getting inaccurate vibrations—be recommitted to the Finance Committee; that general fund moneys be infused to the extent of 4 percent of the total annual social security cost, which would be about 4 percent of around $90 billion, or about $3.6 billion. Is that right?

Mr. EAGLETON. I have not computed all the figures. That sounds pretty close to correct, but I want to emphasize that I am only talking about measures of program cost over the present law.

Mr. NELSON. And the infusion of general fund moneys would be triggered by some level of unemployment.

Mr. EAGLETON. Correct.

Mr. NELSON. I think that if we were going to use general fund moneys, as a matter of fact, that would be the way to do it. I am a little puzzled as to why the Senator would want to send it back to committee to have us deal with that question, in any event, rather than offer an amendment on the floor.

The committee did consider a modest amount of general fund moneys which I proposed respecting the concept of transferring hospital insurance money to the cash benefits trust funds, and allowing the general fund to pick up the slack. But that was voted down unanimously.

Mr. EAGLETON. The Senator from Wisconsin did not support his own amendment.

Mr. NELSON. After I looked at it, I thought it was a bad idea. That is what I think of the amendment of the Senator from Missouri.

I think the problem the Senator has is that there is an awful lot of talk on the floor of the Senate about the taxes being too high in this bill; we have to be more responsible; and we should not give more benefits. Well, I want to see the votes of those people who are saying the taxes are too high when we come to the floor with the amendment to eliminate the earnings limitation test. I hope that the Senator from Missouri will recognize that we have levied very high taxes now, and the Senator is here expressing his concern about them. I am concerned, too. I happen to be more concerned about bankrupting the system. I think the taxpayers and the recipients want the system to be sound, and we have levied a tax to do so.

But I am going to be interested to see what will happen in the next 2 days. Along will come the amendment to eliminate the earnings limitation. Almost all of the benefits will go to those who are already well off.

In fact, we are going to have a situation, for all those who vote for it, in which lawyers, doctors, professors, and engineers—who are making $20,000, $30,000, $50,000, $100,000 or $200,000—it does not matter—are going to be able immediately to draw an "annuity" when they reach age 65, while the poor fellow who is struggling to keep his family going is paying for it all.

It will be interesting to see how the votes fall on the Senate floor for those who say that the taxes are too high in this bill; yet, when they vote to eliminate the retirement test, they are going to raise the taxes another $1 billion to $2 billion a year over what the Senate Finance Committee has recommended with its $6,000 earnings limitation.

Then we are going to have an expensive disability amendment, on the floor, which is going to cost some more money. And all of those who are telling us that the taxes are too high are likely to be some of the same ones who are going to vote to increase the disability benefits while they are crying crocodile tears about the burden of the taxes on the workers in the bill before the Senate.

Then we shall take up Senator DANFORTH'S general revenue sharing proposition, which would go into the general fund from another angle. I guess the two Senators from Missouri must have gotten together to find out how much they could get out of that general fund. The junior Senator from Missouri would reach in for 10 percent of all the taxes paid by States, municipalities, colleges, charities, private colleges, and give it back to them. In fact, he would give them back more than the increased social security taxes they are going to pay.

Senator DANFORTH'S amendment would use $14 billion of general revenues between now and 1987. The cost of that amendment will start at about $1 billion a year. It will cost $2.2 billion a year in 1987 and the cost will continue to go up. That is one opening in the general fund which does not give one additional penny of benefits to a single old person, or any other beneficiaries. It all goes to the muncipalities, States, and the colleges.

Now we have the senior Senator from

Missouri, who wants to reach into the general fund on the other side and trigger the infusion of general funds when the unemployment rate gets to a certain level. On principle, I do not object to that, myself. But what scares the life out of me is all the Senators who will come down to the floor and complain and cry about the taxes in this bill, who will also vote for bigger expenditures, and then leave the floor claiming that they have done something for the betterment of mankind.

This bill, and the amendment that will be called up by the Senator from Nebraska—with which I disagree—his bill, this bill, and the bill in the House, at least have the virtue that those who brought them to the floor brought them to the floor with enough money to pay for them. I think when we come to the floor with these amendments that are coming down here, they ought to hang a tax on them to pay for them.

Mr. DANFORTH. Will the Senator yield for a unanimous-consent request?

Mr. NELSON. I yield.

Mr. DANFORTH. Mr. President, I ask unanimous consent that Peter Truza of the Human Resources Committee staff, Barbara Washburn of Senator JAVITS' staff, and Mary Ann Simpson of Senator STEVENS' staff be granted privilege of the floor for the remainder of the consideration of this bill and for votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that Edward Beck of my staff be granted privilege of the floor during consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATSUNAGA. Same request for Karen Langley of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, the same request for Judy Hefner of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, I want to repeat that I do not object in principle to the idea of infusing general funds with the trigger mechanism for unemployment. I wish that the senior Senator from Missouri would offer such an amendment on the floor.

I am puzzled a bit, however, as to how a tax on the employer and the employee to restore the balance in the fund is inflationary, whereas a tax on the same taxpayers to put money in the general fund to support social security is not inflationary. How is it that those dollars that we get from the taxpayers and the workers—104 million of them—are inflationary dollars, whereas reaching into the General Treasury and running the deficit up another $3.4 billion a year is somehow noninflationary?

I suppose we can get an economist to argue any side of any question we can think of. But that one does puzzle me a little bit.

Mr. President, if this is a motion to refer the bill back to the committee, I certainly will at the appropriate moment move to table it.

Mr. EAGLETON. Mr. President, I thank my colleague and I will be brief. Then we will get to a motion to table.

First, let me say I certainly agree with my colleague from Wisconsin on this question of removing the earnings limitation and I have said I agree with him with respect to increasing the disability benefits. I shall vote with him against removing the earnings limitation and against beefing up the disability provision. He is absolutely correct on that.

We will hear all the crocodile tears, as he says, about the system going broke, it is running out of money.

I suspect the Senator from Wisconsin is absolutely correct, around 4 or 5 this afternoon or tomorrow a large number of Senators will vote to bankrupt the system even more. The Senator from Wisconsin is absolutely correct.

I am reserving judgment on whether I will support the Danforth amendment. I will watch how he votes on mine.

To answer the economic issue, if I may have the attention of the Senator from Wisconsin, the economic justification is contained in one very pithy sentence from the Budget Committee report of May 19, 1977:

Evidence on what actually happens is somewhat sketchy. However, there is a growing number of economists who believe that considerable forward shifting does, in fact, take place.

Mr. President, I ask unanimous consent that a full discussion of this economic issue be printed in the RECORD at this point, which means further excerpts from the Budget Committee report of May 19 of this year.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXCERPTS FROM BUDGET COMMITTEE REPORT

II. ECONOMIC EFFECTS OF PAYROLL TAXES

Built-in stability

Both social security and unemployment insurance programs are credited with acting as automatic fiscal stabilizers. In the case of social security this automatic stabilizing effect occurs on the revenues side because the revenues go up and down automatically as business activity expands and contracts. In the case of UI the stabilizing effect comes mainly from the benefit side. By cushioning the fall in labor income as unemployment increases the program prevents consumer expenditure from falling by as much as would otherwise be the case, thereby moderating the recession. Similarly, during the upswing the reduction in UI benefits prevents labor income from rising as rapidly as it otherwise would, so that the rise in consumer spending is moderated. This helps to prevent recovery from being too rapid and lessens the danger of inflation. The net effect of the automatic stabilizers is to reduce the amplitude of fluctuations in economic activity and to stabilize the level of employment.

The importance of social security and UI for economic stability cannot be overemphasized. In 1973, a year of prosperity, the receipts of the UI trust funds exceeded benefit payments by $2.4 billion. During the recession year of 1975, the surplus was converted into a deficit of $9.2 billion. Therefore, from peak to trough the economy benefited from a stabilizing budgetary swing of $11.6 billion due to the UI program alone.

Unfortunately, the recent and prospective tax increases that were described in the previous section have the effect of reducing the stabilizing power of social security and UI. In the case of UI, for example, annual tax collections have actually increased from 1973 to 1976 (from $6.5 billion to $7.8 billion) despite the enormous economic deterioration that occurred during that time. Recovery is facilitated and employment is increased when UI benefits enable unemployed workers to maintain their purchasing power. But these favorable developments are negated to the extent that benefits are financed by higher taxes.

Hardly anyone would advocate raising personal income tax rates during a recession for the purpose of recapturing the revenue loss that the recession has caused. Yet such perverse policy is quite common in the case of payroll taxes, even though the increased payroll taxes may do more harm to the economy than an equivalent increase in the personal income tax.

Antijobs biases

The existing system of employer payroll taxation creates a number of anti-jobs biases. An employer who wishes to expand output will find it in his interest to do this by utilizing his existing work force more intensively rather than by hiring new workers if his existing workers receive wages in excess of the payroll tax base. Any increase in wage payments above the base entails no additional payroll tax, whereas the hiring of a new worker will force the employer to pay additional taxes.

A second bias created by the present system is that it provides an incentive to introduce technology that utilizes highly skilled workers at high wages rather than less highly skilled workers at lower wages. For example, if worker A is paid $20,000 and produces exactly as much as the combined output of workers B and C, each of whom earn $10,000, it will pay the employer to hire worker A because he must pay payroll tax on the full $20,000 earned by B and C but only on $16,500 if he hires worker A.

By far the worst problems created by payroll taxes stem not from their magnitude, but from the fact that they have been increasing very rapidly during a period of slack in the economy. This trend is interfering with recovery and may also be a partial explanation for the continuation of unacceptable rates of inflation.

An employer payroll tax increase may lower profits; it may be shifted backward and reflected in lower wages; or it may be shifted forward and reflected in higher prices. If the payroll tax increase is absorbed by employers and reflected in lower profits and dividends, its effects would be similar to an increase in business income taxes. If the tax is shifted backward and reflected in lower wages its effects would be roughly equivalent to a rise in the personal income tax of a kind that impinges on labor income.

Forward shifting and stagflation

Evidence on what actually happens is somewhat sketchy. However, there is a growing number of economists who believe that considerable forward shifting does, in fact, take place. Where business sets prices by a fixed percentage markup over costs, a rise in payroll taxes will raise the prices of goods and services in the short run because employers will view such tax increases as increases in their labor costs. Increases in payroll taxes may therefore contribute to inflation. In addition, since the rise in prices reduces consumer real income, total consumer demand will decline in real terms and this will reduce production and employment. Therefore, rising payroll taxes may be one source of stagflation, as the simultaneous presence of inflation and high unemployment has come to be called.

Computer simulation studies conducted by the staff compared the effect of a rise in employer payroll taxes with an equal increase in the personal income tax. The simulations

showed that the payroll tax, if shifted forward, reduces employment by twice as much as an equivalent yield increase in the personal income tax. Moreover, the payroll tax increase raises the rate of inflation in the short run, whereas the income tax increase tends to lower it.[1]

Reliable quantitative estimates of the impact of increased payroll taxes on prices and employment require more information on the shifting of the tax burden than is presently available. However, it is important to recognize that payroll taxes will have adverse effects on production and employment regardless of whether and how they are shifted. It is therefore desirable to avoid increasing these taxes during a period of economic slack.

III. EMERGENCY FINANCIAL ASSISTANCE FOR SOCIAL INSURANCE PROGRAMS

The financial position of the social insurance trust funds creates a serious dilemma for policy. Many trust fund accounts are in debt or badly depleted and in need of additional receipts; but the added payroll taxes that could provide these receipts would be harmful to the recovery and might add to inflation as well.

In principle, social insurance trust fund accounts should accumulate surpluses during periods of prosperity when unemployment is low, whereas benefit payments should exceed contributions during recession when unemployment is high. Financial soundness of the programs suggests that tax rates and bases should be set at levels that provide approximate balance between receipts and outflows over an extended period of time. This implies that tax rates and wage bases would be established in harmony with the anticipated average level of unemployment expected over that period. Long-run balance would then be attainable without necessitating tax increases during moderate recessions such as those experienced between 1945 and 1973.

Abnormal recession loss

The current recession is abnormal in comparison with earlier postwar recessions. As a consequence of this, the trust fund accounts have been much more severely depleted than had been anticipated. As a result, the tax rates that would be needed to catch up with and overcome the cumulative deficits would be so burdensome that they would act as a serious impediment to recovery and price stability in the next decade. Recovery would then require that other fiscal measures such as income tax reduction and/or expenditure expansion be used to offset the adverse impact of the higher payroll taxes. Elimination of the trust fund deficits would therefore merely change the composition of the budget deficit without having much effect on its overall magnitude.

Mr. EAGLETON. Mr. President, I am finished with what I have to say on this. I think the Senator from Wisconsin wishes to move to table my motion to report back forthwith.

Mr. DOLE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOLE. Mr. President, does a motion to postpone take precedence over a motion to recommit?

The PRESIDING OFFICER. It does. The Chair advises that it does.

Mr. NELSON. Mr. President, there is no time limitation on this, I understand.

The PRESIDING OFFICER. No, there is no time limitation.

Mr. NELSON. Mr. President, I move——

Mr. BELLMON. Will the Senator withhold that motion?

Mr. CURTIS. Yes, I would like to say something.

Mr. NELSON. Yes.

Mr. BELLMON. Mr. President, I ask the Senator from Missouri if he would consider accepting a modification for his motion so that the report back would come in January?

Mr. EAGLETON. That was my original idea, I say to the Senator from Oklahoma. I had that in mind and then I was advised that that would look like I was not willing to face up to the issue here and now. So I changed gears and made it forthwith.

Once that matter is tabled, as I presume it will be, perhaps another motion to recommit, or commit, rather, and report back in January or February would be in order.

I would prefer to go to bat on mine right now and get my defeat out of the way.

Mr. CURTIS. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. CURTIS. Mr. President, I hope that the motion of the distinguished Senator from Missouri will not prevail. I commend him for his forthrightness and his intellectual honesty in laying right out on the table what he has in mind.

We have a problem in social security. In people's anger, they say, "Oh, the system is failing," and so on. Well, it is not much different than it always has been. It has never been a paid-up annuity. They have collected from the workers and self-employed and the employers enough to pay for those who were not working. But, in the meantime, we voted a great many benefits and increased benefits and have not collected enough money.

Now we will receive about $82 billion in the fund. This year we are short $6 billion. But if we go on having a shortage of $6 billion this year and more next year, and so on, there is nothing but disaster ahead.

The Senator from Nebraska believes a half percent increase in taxes on employer and employee would take care of many of our long-range problems.

Frankly, I think that is the smartest political vote anyone can make. But I am not sure the Senate is ready to vote on any such arrangement.

But, above all, we should not vote to finance social security out of the general fund.

I commend the distinguished Senator. He says that he has no notion that we will levy taxes to flow into the general fund, but rather, that we will finance this by increasing the deficit and the national debt.

Are we ready to send word to the people out over the land, the social security beneficiaries and others, that we are going to pay their social security by merely voting a bigger deficit?

I do not think this Senate is ready to do that and I hope that they will turn this down with an overwhelming vote.

Mr. President, increasing taxes is so painful that there is a tendency to want to run away from it.

Somebody says, "Let's take it out of the general fund." Somebody else, says, "Let's soak the employers." Somebody has suggested that we change the retirement age. To change the retirement age and do it fairly, there would have to be enough lead time so that it would not affect anyone for a long, long time, and that would not help our financial program. Many of us never want to retire and probably never will. But what about a man who has worked hard all his life, who has earned his living with his hands, has worked at a hard job and possibly a disagreeable job, who has looked forward to retirement at 65, who hears over the news or reads in the newspaper that the politicians, instead of facing the realities of the cost of social security, are going to change the rules and that he cannot retire until he is 68? Is that fair?

It is true that we are living longer, and sometimes retirement is not good for people. If we make that change, it should have enough lead time so that it does not affect the person who is halfway toward retirement, but it should be invoked far down the line.

There is also a tendency to want to juggle figures within the system. Right now, we are collecting a little more money than we need in the health insurance fund that pays medicare. The transfer of those funds or the excess over to the retirement and disability funds would meet our needs for a few years. That still stays out of the general fund. It does not tip the balance between employer and employee, but even at that, it does not solve the problem.

I am not too critical of those who do not want to act on this bill at this time. it is confusing. I think they were entitled to have the Finance Committee recommend something. But we never have been able to get a majority vote on anything. The most votes that any proposal got was 9, and there are 18 members.

Mr. President, let us work our will as best we can; or, if the committee should deliberate more and call in people, that is all right. But let us not here, in a period of unrest, with adjournment pending, vote to change the whole concept of social security. Individuals have drawn that social security check with dignity. They have not felt that they were on welfare, because everybody pays. It is self-contributing. The employers pay half and the employees pay half. That is worth hanging on to.

Mr. LONG. Mr. President, will the Senator yield?

Mr. CURTIS. I am happy to yield to the distinguished chairman.

Mr. LONG. The Senator made reference to the desirability of the committee recommending something. It is well to point out that, while the committee reached a tie vote between the approach advocated by the Senator from Wisconsin (Mr. NELSON) and that of the Senator from Nebraska (Mr. CURTIS), never-

[1] See U.S. Senate Committee on the Budget, *Budget Issues*, "Policies To Reduce Inflation," June 1976, pp. 16–18, for quantitative estimates of the unemployment and inflation effects of alternative policies and discussion of the effect of payroll tax changes on the economy.

theless, I think the committee was overwhelming in feeling that one of the two should be approved. The Curtis proposal is the traditional approach that has been used for a number of years.

Mr. CURTIS. I think the record should be corrected in that regard. What I should have said is that those of us who had the benefit of the hearings and worked for this for sometime should have striven a little harder to get a substantial majority in support.

Mr. LONG. Let me make it clear that even though I will vote to support the position of the present manager of the bill, Mr. NELSON, if the Curtis amendment should carry I will still very cheerfully and enthusiastically support the bill. It does not bother me particularly which of these two approaches we use, provided we are responsible and undertake to raise the money to pay for these benefits.

What I think we should avoid more than anything else is what they did in England, where they would in effect pay for the benefits out of inflation.

That is basically what you are doing when you try to finance a social security program with deficit financing. Some people say, "Pay for social security out of the general revenue." But there is no general revenue to pay for it.

Mr. CURTIS. That is right.

Mr. LONG. The general revenue funds this year are minus $60 billion. So all one can do, if he says not to put the tax money up and pay for it out of our pockets, is to tell the Federal Reserve to print more money. After a while, you will find that you cannot run the printing presses as fast as the value of your money declines, and you will meet yourself coming back.

If we want to avoid the mistake that imperiled Britain, before it began to move back toward fiscal responsibility, we had better not get into that trap to begin with.

Mr. CURTIS. I thank the distinguished Senator.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. CURTIS. I yield.

Mr. GOLDWATER. Mr. President, at this point in the debate, I should like to have a few questions cleared up that have been bothering me for a good number of years. I think that with the chairman of the Finance Committee, the chairman of the subcommittee, and the ranking Republican, I should be able to get an answer which I have not been able to get from downtown.

In the last 4 or 5 years, we have had several commissions meet on the subject of social security. Some of them have said that social security is in no danger. Others have said that social security is in danger.

Last week or 10 days ago, in Arizona, the minority leader of the House said that the social security fund was more than $3 trillion in the red. I cannot verify that one way or the other. I should like to have these very simple questions answered.

First, where are funds held?

Mr. CURTIS. The reserve is held in the Treasury of the United States, in a special account, in Government bonds. In the opinion of the Senator from Nebraska, there is no place else to put them.

Mr. GOLDWATER. Has the Senator ever verified that?

Mr. CURTIS. I beg the Senator's pardon.

Mr. GOLDWATER. Has this ever been verified?

Mr. CURTIS. No. I have not gone down there and looked around.

[Laughter.]

Mr. GOLDWATER. Has any member of the committee or the committee staff actually seen any bookkeeping that would say, "X billions of dollars are held in Government bonds"?

Mr. NELSON. There is an annual trustees' report filed each year on the status in each of the four funds.

Mr. GOLDWATER. Where is it filed? I have asked the Social Security for these answers, and I have not received them, and they do bother me.

The purpose of my questioning is not to be critical—I think that period passed long ago—but to find what the truth is before we embark on a long, extended period of debate which intends to solve a social security problem, if one exists, and I think it does.

Are the members of the committee satisfied that there is money in the social security account to pay the recipients of social security?

Mr. CURTIS. I am told there is enough money in there, together with what will come in, to pay through 1983. The present reserve, plus anticipated receipts, will carry us through to 1983.

Mr. GOLDWATER. When this social security system started, if my memory is correct, the theory was that every four people donating to social security—I should say investing in social security, because it is not a donation—would support one recipient. Is that the correct formula?

Mr. CURTIS. I am informed that it is about 3 to 1 now, and in 25 years it will be 2 to 1.

Mr. GOLDWATER. I thought it was less than 3 to 1 now. That would have been my next question. In fact is it not approaching 1 to 1?

Mr. CURTIS. Not yet.

Mr. GOLDWATER. Not yet. But we are coming to that.

Mr. CURTIS. That depends on what Congress does.

One of the most distinguished men who ever served in this body was a gentleman from New England, Senator Saltonstall. He was not one of those hardline Arizona conservatives.

Mr. GOLDWATER. He was a conservative, though.

Mr. CURTIS. But he was a responsive, progressive individual who sometimes voted more liberally than I could. But he came before the Finance Committee and said: "Do not enact medicare and pay for it by the social security payroll tax." He went further. He said, "It will take all that tax can bear for a decent retirement amount."

He was so right.

And today we are adding on to the social security tax of every worker in the land to pay the hospital and medical bill of the wealthiest people in the country if they happen to be over 65, and many people over 65 are better off than they have ever been in their lives. Senator Saltonstall was so right.

Mr. GOLDWATER. Just one more question. I did not want to get off into that subject. I happen to agree with Senator Saltonstall. He was one of my idols when I came here as a relatively young man many years ago, and he has been proven right time and again.

What concerns me—and I think we should level with the American people—is we are going to sit here and have a lot of debate, a lot of rhetoric, and we are not going to do much about the situation involving social security in my opinion. In my humble opinion, the social security fund is nearly bankrupt and some might even argue that it is that way today.

I have no way of proving it, and when I find that the committee can only offer the fact that an annual report is made, I take their word for it, but I still believe that we have to do something far more than we are aiming at. This is another reason I think that the suggestion made by the Senator from Oklahoma and many others bears fruit that this bill should go back for full hearings and it should not be reported back to this body until we have something meaningful to offer the American people, not just upping the taxes—taxes are way too high now—but making sure that we can say to all of us, to all people who are looking forward to social security being recipients in their older ages that they are going to get the money. This really disturbs me because social security, in my opinion, is not the only retirement fund in trouble, but it is one fund that should not be in trouble because this money was never intended to be used for any other purpose than to pay back the people who paid it in. It is not like tax funds. It is not in the general fund. It is there to pay the people back who wanted to invest in it for a retirement. So I think we should level with the American people, and I hope throughout this debate we can keep getting back to this one question. What is the shape we are in? I happen to think it is pretty bad.

Mr. NELSON addressed the Chair.

Mr. CURTIS. Mr. President, I think the Senator from Nebraska has the floor.

I wish to reply to that. The situation is bad; there is no question about that. Anytime you have an operation that is running behind $6 billion a year and going to run behind more in the future unless we do something, it is bad.

One of the mistakes that has been made is that social security was conceived as a plan whereby people paid in their taxes and their employer paid in his taxes and that money would be held and it would grow and pay their benefit. It has never been that. It is a social program levying a tax on everyone who works to pay a social benefit to those who do not.

Some years ago when Commissioner Cohen appeared before our committee, he and I disagreed on many items of social security, but he would always give you an answer. He was honest as he saw it. I said:

What assurance do the future beneficiaries have that they will ever get their benefits?

He said:

The assurance is that a particular generation of taxpayers will tax themselves to pay it.

And that is honest.

Now we have reached a point where people say, "We do not want to pay it any more."

I think that much of the blame belongs to the politicians who have gone out and told the people, "This is an insurance plan, this money is there, it is going to pay your benefit," rather than telling them that this is a tax, and this is the reason that you find the social security tax in two places in the book. The social security tax can be found in the Internal Revenue Code and also in the social security provisions.

It is not an insurance plan at all. Maybe it should have been. I do not know. I believe if they had and the Government had collected all this money and held it and caused it to grow until people got old enough to retire pretty soon the Social Security Administrator would have sufficient wealth at his command so that, if he invested it in anything other than Government bonds, he would have controlled every corporation in the land. The Government cannot run a business. They never have been able to.

But all of those theories are just theories at this point.

We come back to the pending business of the move by the distinguished Senator from Missouri and the issue is clearcut: Shall we pay social security benefits from the general fund under an understanding that we will not increase the general fund but will merely add to the deficit and to the debt? I think it would be well that the Senate have a vote on that and find out.

The Senator from Nebraska has voted against so many social security benefit bills that I have never been in a campaign where I have not had to defend the position that I was against all social security.

Just before the 1972 election, we had a vote to raise benefits by 20 percent. That vote is part of our trouble today. A distinguished Member of the other body sent us a bill to increase benefits by 5 percent and made a tax adjustment for it. In the meantime someone whispered to him that he could be President of the United States and so he announced, "I am for a 20-percent increase, and my original tax computations will take care of it." They did not. We are $6 billion short this year. I voted against that on the eve of my last election, but I tell you it gives me a good feeling. I sleep better about these things.

I believe with Senator Saltonstall that we should not tax the workers of the land to pay hospital medical bills for everyone just because they happened to be born at a certain time. That is part of our trouble. But I am not here to spend my time telling you "I told you so."

Mr. MORGAN. Mr. President, will the Senator yield?

Mr. CURTIS. I will yield in just a moment.

A few minutes ago I was called to the telephone, and one of the broadcasting networks asked me my position on this bill. I told them. Their representative said:

Well, Senator, if it goes on like this we are going to have the welfare state in a few years.

I said:

My good man, we have had it for years. The bill is just now coming in.

The trouble with the alarm back home is that it is 10 or 15 years late. I am not critical of the people because they did not get the facts.

Now I yield.

Mr. MORGAN. The Senator alluded to the fact that in 1972 before the election Congress increased the benefits by 20 percent. I wonder, perhaps, if that is one of the reasons why the increased taxes recommended in this bill do not become effective next year, which just happens to be an election year, but are put off until the following year? Do you think maybe the election year had something to do with it?

Mr. CURTIS. I do not think there is any question about it.

Mr. MORGAN. The fact that we are not in need of the increased taxes sufficiently to put them in effect immediately, would that not indicate that the urgency of this bill is not such that it would require us to act immediately?

Mr. CURTIS. A part of the Senator's question for answer should be directed to the Budget Committee. I think they have some ideas on that.

But while I have no objection to current increases in taxes with enough leadtime to inform everybody, this Congress has not done that well in the past. In the 1976 tax act we taxed a lot of people retroactively on some transactions that were just morally wrong.

So I have no objection whatsoever to moving the date up. I do think it should be far enough in advance for people to know and make adjustment, and never retroactively.

But I think that represents a feeling that it is bad politics to raise taxes. Well, it is. It is kind of difficult. But I think it is worse politics to say to the American people that we are going to run away from this problem, we are going to try to figure some way out of the mess so it will not be necessary.

Mr. DANFORTH and Mr. MORGAN addressed the Chair.

Mr. DANFORTH. Mr. President, will the Senator yield for a unanimous-consent request?

The PRESIDING OFFICER. The Chair heard first the request of the Senator from North Carolina.

Mr. MORGAN. Mr. President, I yield to the Senator from Missouri for the purpose of making a unanimous-consent request.

Mr. DANFORTH. Mr. President, I ask unanimous consent that Jeff Marston of Senator HAYAKAWA's staff be extended privileges of the floor during the proceedings on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORGAN. Mr. President, I shall not speak very long, but I am vitally concerned about the matter that is now pending before us because I do not believe there is any program that has ever been enacted in the history of the Congress that has been more meaningful to the people of America than the social security program.

I travelled the byways and highways of my State and of the Nation, and it is a program in which the people take a great deal of pride. They do not consider it—as the distinguished Senator from Nebraska mentioned—as a social program. They consider it an investment that they made for their future. I do not begrudge them 1 penny we pay them. In fact, I support it.

I said in the beginning, Mr. President, that as a State senator in North Carolina I probably voted for more expenditures than any member of the State Senate of North Carolina during the period of time I was there.

But, Mr. President, I never voted for expenditures where I was not willing to vote for taxes to pay for them, and that is something I find totally and completely lacking in this Congress.

Just this past week we passed a so-called energy bill that is going to cost the taxpayers $40 billion. But nobody seemed to be concerned about where the money was coming from. "Oh, just leave it to the Finance Committee. We will work it out with the conference committee. It will all come out in the wash. Take our word for it."

That was at a time when we already are some $50 billion to $60 billion in the red in this Congress, and now I do not know where we are going to come out.

Now we are saying we have to have more money. I am ready and willing to vote the necessary taxes to carry on the social security program in the way in which it was intended to be carried out. But it ought to be done on a permanent basis, with a full understanding of what we are doing.

Mr. President, this afternoon, since I have been sitting here, the Committee on Finance bill has been placed on my desk. For several days we have been trying to find out what was in it. We were told by one of the staff members of the Committee on Finance, "You do not need the printed language of the bill to know whether or not you are going to vote for it." I guess we were supposed to find out from the newspapers, and I did find out some of the things from a newspaper in North Carolina this morning.

When I arrived at my desk I had a call from Tabor City from a small businessman who said:

We were down at the coffee shop this morning for a coffee break, and we read in the Charlotte paper where the employers are now going to have to begin to pay a greater share of the unemployment tax.

He said:

Senator, we are having to pay unemployment taxes; we are having to pay social security taxes. We are about taxed out of business. I run a small florist shop with 15 employees, and I cannot stand much more.

But here we are with a bill delivered to my desk at 1:30, and we are supposed to be able to pass intelligently on this

bill. I know what the answer is, "Oh, leave it to the conference committee."

What is the conference committee doing now on the energy proposal? Nobody knows. I suspect when we vote to ratify them that we will not really know what is in those conference reports.

I say if there is no more urgency or if the urgency for new taxes is not sufficient to put the taxes into effect until after next year's election, then the urgency to consider this bill is not sufficient for us to have to vote on it and pass on it when we have had it in our possession for about 1½ hours.

I think it is an insult to the Members of the Senate. I have had mail on this, perhaps as much or more mail on this piece of legislation and on this program as any other I have had, except for the controversial issue of the Panama Canal. But we are going to rush pell-mell into it. We are going to complete it this week.

One of the provisions in this bill, I am told—I have not been able to find it in the hour and a half it has been here—is to correct a technical error that was made when the bill was passed 5 years ago. They called it a technical amendment. It is necessary, we were told, only because Congress made a mistake 5 years ago.

Well, if we pass this bill this week we are going to be making some more technical mistakes and more technical errors, and they are going to have to be corrected somewhere down the line.

I agree with a great deal that my distinguished colleague from Missouri had to say in his remarks concerning the motion that he made. But I cannot agree with him, and I do not agree with those who say we ought to go into the general revenue fund to support a program that was intended and meant to be self-sustaining. They say, "Oh, it is temporary." I challenge you to show me a half dozen temporary programs that have ever been enacted by Congress or by the Senate that have ever been repealed.

If we ever get into the general revenue program then you are going to have a real social program. If we ever get away from the idea that the employee and the employer are to pay the taxes in equal amounts, then again you are going to find a greater and a greater demand every election year to raise the benefits because the employer is paying the greater share.

Mr. President, I respect my leadership, and I know the leadership has a job to do. We have legislation to get out of the Senate. But there comes a time when I just think we ought to stop and say, "We are not going to go into this matter until we know what it is all about," and if it means staying here until Christmas day, then, fine, I do not mind staying here until Christmas day. I would rather not do it, but I think it is important that we do that, if necessary, so that we will have some understanding of what is going on.

So I am going to vote, whenever the time comes and in whatever way, against the Senator from Missouri's motion to commit mainly because I do not believe we ought to go into the general revenue fund. But I am prepared to vote to postpone or to commit or to stay here until Christmas day until we come out with a social security bill that will have the confidence of the people of this Nation.

Mr. EAGLETON. Mr. President, I shall speak for about a minute or a minute and a half, and then, if no other Senator wishes to speak, I presume Senator NELSON will make his motion to table my motion to commit.

Senator LONG, Senator CURTIS, and Senator GOLDWATER, in succession, had a brief colloquy with respect to being candid with the American people. Mr. GOLDWATER said he wanted to level with the American people. I think that is commendable, and I think that is what we should do.

So let me level with the American people as to what the result will be if we pass either the Nelson plan or the Curtis plan, because we will have a vote on the Curtis plan sometime today or tomorrow.

If either of those plans is adopted, we go to conference with the House of Representatives, and the social security bill comes back from the conference, it is inevitable that next spring, maybe in March or April or so, there will have to be a tax cut in order to rectify the negative economic impact that will come about as a result of either the Nelson or the Curtis plan, or the House plan.

So let us do level with the American people. Once these plans are adopted, at the end of this calendar year, 1977, there is going to have to be and President Carter will have to recommend some form of tax cuts to counteract what we are doing from a negative economic point of view.

Mr. President, that is leveling with the American people. What is not leveling with the American people is to pretend that we do not want to put general revenue into this fund, and it is insurance, and all of the other appropriate cliches. The most forthright, direct, and candid way to level with the American people is to say, at the time when we are discussing social security, when there is an unacceptably high level of unemployment, as there is now, of 6.9 percent or 7 percent, during that unacceptably high unemployment period some general revenues will be used to shore up the fund and—further leveling with the American people—that if we do not do that, we are going to have to have, 3 months or 6 months later, a tax cut to make up for the adverse economic impact of either the Nelson plan, the Curtis plan, or the House plan.

So, from my point of view, recommitting the bill with instructions that the committee report back forthwith a general revenue provision of not less than 4 percent of the total amount of the bill, is the most direct, straightforward, and candid way to level with the American people.

Mr. President, I have said all I intend to say.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). The Senator from Kansas.

Mr. DOLE. Mr. President, the Senator from Kansas, as a member of the Senate Finance Committee and also the Senate Budget Committee, agrees with nearly everything the distinguished Senator from Missouri has said except as to the method he would finance the program.

The Finance Committee has discussed what the Senator from Missouri proposes. It has been rejected; and in its place we now have the proposal of the distinguished Senator from Wisconsin and the proposal of the distinguished Senator from Nebraska, which will be offered either this year or next year as an amendment.

As you look at the House version and the Senate version of the bill, my attention has been called to a comment published today by the Chamber of Commerce of the United States, which does represent the business community in many areas. The comment states that the House version of the social security tax bill is preferable to the Senate version. The Senate bill would slow economic growth, reduce family income and the number of jobs available. This opinion, the article indicates, is based on data provided by chief economist Jack Carlson of the Chamber of Commerce, who cites certain data developed in the national chamber forecasting center, by comparing the economic impact of both bills on each of the 50 States and the District of Columbia.

Mr. Carlson states, among other things, that because the investment would be less and inflation somewhat higher, the Finance Committee bill would cause the economy to grow slower by 0.8 percent by 1980; family income would be $272 lower, and there would be 400,000 fewer jobs. He indicates that each State would be better off with the House provision for taxing employers and employees equally. He states that New York would suffer a $222 loss of family income under the House bill, and would suffer a $303 loss under the Senate Finance Committee substitute bill.

He states, based on data available to the Chamber of Commerce forecasting center, that the loss of jobs in New York would be about 28,000 under the Senate bill, and also indicates that regionally, the northern industrial States would suffer more than the Southern and Western States.

This is a statement by an expert in his field, and I think perhaps these are statistics that we should take notice of.

The Senator from Kansas does not know of any easy way to get out of the dilemma we are in, whether or not we postpone action until next year. I think the one advantage postponement would be to give the American people an opportunity to see just what the Congress has in mind for them.

I would also commend the Finance Committee, particularly Senators NELSON and CURTIS, for trying to come up with a proposal—especially when there was the very close vote in committee, 9 to 9. That could be brought to the Senate floor. It seems to me that any way the Senate acts will be met with some disfavor, because we are going to have to increase taxes, and whether we do it

directly or indirectly, as the Senator from Missouri suggests, probably does not make too much difference.

Mr. MORGAN. Mr. President, will the Senator yield for a question?

Mr. DOLE. Yes.

Mr. MORGAN. Since the Senator from Kansas sits on the Finance Committee, I wonder if he could help me interpret an article I read in the morning paper about a $400 million fiscal relief measure in the bill, which I am unable to understand. Will he tell me how it relates to the social security tax?

Mr. DOLE. Well, the Senator from Kansas probably cannot explain it as well as the Senator from New York, who offered the proposal. I understand the final figure was agreed upon after some consideration in the committee. It is really only $374 million; I think there has been some increase since that statement, particularly since the news story appeared, but there is now an actual computation.

It is money that goes back to the States, which according to the formula would be about $374 million. The amount is the result of negotiation between the Senator from New York (Mr. MOYNIHAN), the Secretary of HEW, Mr. Califano, and the Senator from Louisiana (Mr. LONG).

The Senator from Kansas was not privy to that discussion. I am not sure whether the Senator from Wisconsin was there when this matter was discussed. But it was, however, a part of the package and added to the social security bill. Beyond that, the Senator from Kansas cannot enlighten the Senator from North Carolina.

Mr. MORGAN. I thank the distinguished Senator.

Mr. DOLE. I might just say that hundreds of millions of dollars never seem to faze us much in the Senate Finance Committee. As the Senator from North Carolina pointed out, we voted last week to tax the American people, or to give away—someone has to pay for it—$40 billion, and that is a conservative estimate. The Senator from Kansas did not vote for that bill, because I had the same fear expressed by the Senator from North Carolina. The energy bill has to go to conference, and someone is going to pay. No one can pay but the American people, and I have not had many letters this year saying, "Please vote to raise my taxes." Maybe I have not read all my mail, but I cannot remember a single letter to the Senator from Kansas saying, "Senator, please vote to raise my taxes." But even without those letters, we are going to raise their taxes on energy, we are going to raise their taxes on social security, we are going to have welfare reform next year and tax reform next year, and all in all, this is becoming a very taxing administration.

Mr. MORGAN. I might say to the Senator from Kansas that North Carolina operates, and has for generations, on a balanced budget. We provide benefits and we pay for them. I might say to the Senator, as a result of it, unemployment in North Carolina was 4.5 percent just recently. This very week, one of the work incentive programs, designed to provide welfare recipients with jobs, was determined to be one of the best in the Nation. I cannot help but believe that a part of those benefits flows from the policy of operating on a sound fiscal basis.

Mr. DOLE. I certainly agree with the Senator from North Carolina. I have learned more and more about what a great State North Carolina is.

Mr. MORGAN. Will the Senator from Wisconsin explain the $400 million package, what the purposes of it are, and how it works?

Mr. NELSON. That is not part of the social security package. I am only handling social security. The Senator is talking about an amendment to another part of the bill before the Senate.

Mr. MORGAN. Is it an amendment to the bill which is pending now, or is it an amendment which came out of the Finance Committee? I am going by the Washington Post, which is not always authoritative.

Mr. NELSON. I do not have any material on that amendment since I am only handling the social security tax aspects of the bill.

Mr. MORGAN. I appreciate the position of the distinguished Senator.

What I am trying to say is that this bill contains so much and we have had so little time to digest it, that is one more reason why we should delay it. It also points up the fallacy of the statement made to my staff member by one of the Finance staff members that you really do not have to go through a bill to find out whether one is for it or not.

Mr. NELSON. That particular bill is a welfare fiscal relief proposal. It was a separate piece of legislation added to the social security bill after some lengthy negotiations with the Carter administration, in which I was not in any way involved. The Senator is referring to that legislation. It is not part of the social security legislation we are talking about. It is merely an amendment to it. My preference would have been to handle it separately.

Mr. MORGAN. I am somewhat a neophyte in the procedures of the Senate, but it would appear to me that this is a matter which probably should be considered by the Appropriations Committee. Does that make any kind of sense to the distinguished Senator? That is, rather than being considered by the Finance Committee.

Mr. NELSON. Once it is authorized, the money will have to be approved by the Appropriations Committee. The Finance Committee is the appropriate committee.

Mr. MORGAN. If I can pursue it a little further, maybe the Human Resources Committee would be more properly the authorizing committee.

Mr. NELSON. As a matter of fact, the welfare reform legislation has been referred to both the Human Resources Committee and the Finance Committee. But the Finance Committee is responsible for those aspects of the legislation which involve taxes and welfare benefits.

Mr. MORGAN. But normally speaking, an appropriation of $400 million for fiscal relief would normally have been authorized by the Human Resources Committee?

Mr. NELSON. No.

Mr. MORGAN. The Finance Committee would normally be the authorizing committee?

Mr. NELSON. Yes.

Mr. MORGAN. That would be for operating the local welfare departments and the State welfare departments? The Finance Committee has more expertise than the Human Resources Committee?

Mr. NELSON. That is within the Finance Committee.

Mr. President, I move to lay this motion on the table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion of the Senator from Missouri. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Iowa (Mr. CULVER), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. MELCHER) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Utah (Mr. GARN), and the Senator from New Mexico (Mr. SCHMITT) are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT) is absent on official business.

The result was announced—yeas 74, nays 16, as follows:

[Rollcall Vote No. 608 Leg.]

YEAS—74

Allen	Griffin	Nelson
Baker	Hansen	Nunn
Bartlett	Hart	Pearson
Bellmon	Hatch	Pell
Bentsen	Hatfield	Percy
Biden	Hayakawa	Proxmire
Brooke	Heinz	Randolph
Burdick	Helms	Ribicoff
Byrd, Harry F., Jr.	Hollings	Roth
	Huddleston	Sarbanes
Byrd, Robert C.	Javits	Sasser
Cannon	Johnston	Schweiker
Case	Kennedy	Sparkman
Chafee	Laxalt	Stafford
Chiles	Leahy	Stennis
Church	Long	Stevens
Cranston	Lugar	Stone
Curtis	Magnuson	Talmadge
Danforth	Mathias	Thurmond
Dole	Matsunaga	Tower
Domenici	McClure	Wallop
Eastland	McIntyre	Weicker
Ford	Metzenbaum	Williams
Goldwater	Morgan	Young
Gravel	Moynihan	Zorinsky

NAYS—16

Abourezk	Eagleton	Metcalf
Anderson	Glenn	Packwood
Bayh	Haskell	Riegle
Clark	Hathaway	Stevenson
DeConcini	Jackson	
Durkin	McGovern	

NOT VOTING—10

Bumpers	Inouye	Schmitt
Culver	McClellan	Scott
Garn	Melcher	
Humphrey	Muskie	

So the motion to lay on the table the motion to commit was agreed to.

Mr. NELSON. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. CURTIS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CURTIS. Mr. President, I ask unanimous consent that Mr. Gerry Rosen of Senator GRIFFIN's staff, Alan Holmer and John Colvin of Senator PACKWOOD's staff, be granted privilege of the floor during consideration of this measure and voting.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, I ask unanimous consent that Gale Picker of Senator BENTSEN's staff be granted privilege of the floor during the course of the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I ask unanimous consent that Romano Romani and John Mulkey of my staff be granted privilege of the floor during consideration of this issue and votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURKIN. Mr. President, a similar request for Claire Engers of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I ask unanimous consent that Hargrave McElroy, of my staff, be granted privilege of the floor during debate and votes on the social security financing bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, I ask unanimous consent that Connie Maffin, of my staff, be granted privilege of the floor during any business undertaken today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask unanimous consent that a member of Senator HANSEN's staff, Margo Carlisle, be accorded the privilege of the floor during discussion of H.R. 9346 and votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CURTIS addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. CURTIS. Mr. President, I seek recognition, and I would appreciate having the attention of Senators.

The PRESIDING OFFICER. The Senate is not in order. Will the Senator from Nebraska delay until the Senate is in order?

Would the Senators in the aisles take their seats?

The Senator from Nebraska.

Mr. CURTIS. Mr. President, I will be introducing an amendment which will meet this problem, social security financing, by raising the tax rate on employers and employees by a half of 1 percent, half on each one.

Mr. President, this amendment will be submitted today. I am perfectly willing that we agree on a time to dispose of it tomorrow, but I would want a little while to discuss it again tomorrow.

But at this point, I ask uanimous consent that a memorandum prepared by me, entitled "Social Security Financing," which discusses the problem, the suggested solutions, desirable guidelines, and some of the characteristics of the program, which contains the rationale for my amendment be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SOCIAL SECURITY FINANCING

PROBLEM

This year the Social Security Fund will pay out about six billion dollars more than it takes in. Next year it is expected to be a little larger deficit and there are long range deficiencies.

SUGGESTED SOLUTIONS

Payments From the General Fund.—The objections to this are self-evident. The General Fund has such a huge deficit—it would also make the program a welfare program rather than a self-financing retirement program.

Overload the Employers.—The majority opinion on the Finance Committee would have you raise on employers only the present wage base of $16,500 per year to $50,000 in 1979 and then within a few years to $75,000. This will place an intolerable burden on employers. It will discriminate against employers who have a sizeable portion of their employees in high-paying brackets. It would be very burdensome on colleges, universities, states and municipalities and on mutual life insurance companies. It violates the long-practiced pattern of equal sharing of the load between employers and employees.

Overload the Middle Class.—The present wage base to which the tax is applied is $16,500. When a financial need is met by increasing the wage base, as contrasted to raising the tax, the burden falls upon about 17 percent of the higher paid employees. An example of these factors can be illustrated as follows:

Under existing law the wage base will automatically be increased to $23.400 per year in the year 1982. Under the House bill they would raise this to $31.800. This $8,400 increase would mean a raise in social security taxes for the employees affected by this raise of about $529.00 per year. It would not mean any raise for those employees who are paid less than the current wage base. In contrast, if in 1982 the employee receiving $23.400 had his tax raised one-half of one percent, his increase would only be $117. It would mean that there would be an increase in tax for all social security taxpayers. The justification for that is mentioned below.

Transfer of Funds.—Right now the health insurance fund which finances medicare is having a slight surplus while the retirement and disability fund has the deficit. A transfer of funds would relieve the present deficit but then both funds would run out of money in their reserves at the same time four or five years from now.

DESIRABLE GUIDELINES

Retirement benefits now are received by our people with dignity because it is a self-contributory system. The people are uneasy by reason of the present problems in financing. We need to restore their confidence. This involves the confidence of people of all ages and is not limited to the retired or those who will retire in a few years. It may be that a courageous and forthright position on social security financing will be a political plus rather than a political liability. The guidelines that have been followed for almost four decades have been based upon these principles:

1. Everybody pays.
2. There are no general funds involved to make it a welfare program.
3. Employers and employees each carried one-half of the load of the system.

BALANCE IN THE PROGRAM

The Social Security program has been constructed to tip a balance in favor of the lower paid workers. The benefit schedule gives the best bargain to the lower paid. The lower paid worker or self-employed person gets more for the dollar he pays in than the higher paid employee. This is as it should be. Also, it must be remembered that a few years ago the Committee on Finance caused the "Earned Income Credit" to be enacted. Every employee or self-employed person gets a credit on his income tax of ten-percent of his earned income (not ten percent of his tax) to a limit of $4,000. The credit is reduced by 10 percent of adjusted gross income in excess of $4,000. This was enacted for a dual purpose. It was to reward the person who works as compared to the person who is on welfare or has other income, and secondly, it is based on the fact that there are no personal exemptions in applying the social security tax and, in a sense, it reimburses the low-paid person for the social security tax that he has paid. These two balancing factors should be considered when an effort is being made to increase revenues by changing the rate of taxation as contrasted to raising the wage base.

Mr. President I believe that this financial need of the social security system should be met in a forthright manner and I have two proposals either of which would do that.

Curtis plan No. 1: A half of a percent tax increase on both employer and employee, together with the other changes which are not in controversy, would meet the present deficit and the long-range needs of the program. This could be done by imposing a raise of .2% in taxes in 1979 and a .3% in 1980.

Curtis Plan No. 2: This is a combination of tax rate increase and wage base increase. It calls for a .25% tax increase in 1979 plus four increases in the wage base for both employer and employees of $600 each (in 1979, 1981, 1983, and 1985). This, too, would meet the immediate and long-range needs.

Mr. CURTIS. Mr. President, my amendment is simple. It would increase the tax by one-half percent on employers and increase the tax by one-half on employees.

My purpose in printing this memorandum in the RECORD is so that the Members reading the RECORD in the morning will be able to understand what is being proposed.

Mr. ZORINSKY. Will the Senator yield for a unanimous-consent request?

Mr. CURTIS. I am happy to yield to my colleague.

Mr. ZORINSKY. Mr. President, I ask unanimous consent that a member of my staff, Grayson Fowler, be granted privilege of the floor during consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1034

(Purpose: Relating to social security tax rates and wage base.)

Mr. CURTIS. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nebraska (Mr. CURTIS) proposes an unprinted amendment numbered 1034.

Mr. CURTIS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out section 101 of the Act.

Strike out section 102 of the Act.

Strike out section 103 of the Act (together with the caption thereto) and insert in lieu thereof the following:

EMPLOYMENT TAX INCREASE; INCREASE IN SELF-EMPLOYMENT TAX; REALLOCATION AMONG TRUST FUNDS

SEC. 103. (a) TAX ON EMPLOYEES.—

(1) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—Paragraphs (1) and (2) of section 3101 (a) of the Internal Revenue Code of 1954 are amended to read as follows:

"(1) with respect to wages received during the calendar years 1974 through 1978, the rate shall be 4.95 percent;

"(2) with respect to wages received during the calendar year 1979, the rate shall be 5.235 percent;

"(3) with respect to wages received during the calendar years 1980 through 1984, the rate shall be 5.535 percent;

"(4) with respect to wages received during the calendar years 1985 through 1989, the rate shall be 5.835 percent;

"(5) with respect to wages received during the calendar years 1990 through 1994, the rate shall be 6.385 percent;

"(6) with respect to wages received during the calendar years 1995 through 2000, the rate shall be 6.885 percent;

"(7) with respect to wages received during the calendar years 2001 through 2010, the rate shall be 7.285 percent; and

"(8) with respect to wages received after December 31, 2010, the rate shall be 7.685 percent.".

(2) HOSPITAL INSURANCE.—Paragraphs (2) through (4) of section 3101(b) of the Code are amended to read as follows:

"(2) with respect to wages received during the calendar year 1978 through 1980, the rate shall be 1.10 percent;

"(3) with respect to wages received during the calendar years 1981 through 1985, the rate shall be 1.35 percent; and

"(4) with respect to wages received after December 31, 1985, the rate shall be 1.50 percent.".

(b) TAX ON EMPLOYERS.—

(1) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—Paragraphs (1) and (2) of section 3111(a) of the Code are amended to read as follows:

"(1) with respect to wages paid during the calendar years 1974 through 1978, the rate shall be 4.95 percent;

"(2) with respect to wages paid during the calendar year 1979, the rate shall be 5.235 percent;

"(3) with respect to wages paid during the calendar years 1980 through 1984, the rate shall be 5.535 percent;

"(4) with respect to wages paid during the calendar years 1985 through 1989, the rate shall be 5.835 percent;

"(5) with respect to wages paid during the calendar years 1990 through 1994, the rate shall be 6.385 percent;

"(6) with respect to wages paid during the calendar years 1995 through 2000, the rate shall be 6.885 percent;

"(7) with respect to wages paid during the calendar years 2001 through 2010, the rate shall be 7.285 percent; and

"(8) with respect to wages paid after December 31, 2010, the rate shall be 7.685 percent.".

(2) HOSPITAL INSURANCE.—Paragraphs (2) through (4) of section 3111(b) of the Code are amended to read as follows:

"(2) with respect to wages paid during the calendar year 1978 through 1980, the rate shall be 1.10 percent;

"(3) with respect to wages paid during the calendar years 1981 through 1985, the rate shall be 1.35 percent; and

"(4) with respect to wages paid after December 31, 1985, the rate shall be 1.50 percent.".

(c) TAX ON SELF-EMPLOYMENT INCOME.—

(1) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—Subsection (a) of section 1401 of the Code is amended to read as follows:

"(a) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—In addition to other taxes, there shall be imposed for each taxable year, on the self-employment income of every individual, a tax as follows:

"(1) in the case of any taxable year beginning after December 31, 1972, and before January 1, 1979, the tax shall be equal to 7.00 percent of the amount of the self-employment income for such taxable year;

"(2) in the case of any taxable year beginning after December 31, 1978 and before January 1, 1980, the tax shall be equal to 7.952 percent of the amount of the self-employment income for such taxable year;

"(3) in the case of any taxable year beginning after December 31, 1979 and before January 1, 1985, the tax shall be equal to 8.302 percent of the amount of the self-employment income for such taxable year;

"(4) in the case of any taxable year beginning after December 31, 1984, and before January 1, 1990, the tax shall be equal to 8.752 percent of the amount of the self-employment income for such taxable year;

"(5) in the case of any taxable year beginning after December 31, 1989, and before January 1, 1995, the tax shall be equal to 9.577 percent of the amount of the self-employment income for such taxable year;

"(7) in the case of any taxable year beginning after December 31, 1994, and before January 1, 2001, the tax shall be equal to 10.327 percent of the amount of the self-employment income for such taxable year;

"(8) in the case of any taxable year beginning after December 31, 2000, and before January 1, 2011, the tax shall be equal to 10.927 percent of the amount of the self-employment income for such taxable year; and

"(9) in the case of any taxable year beginning after December 31, 2010, the tax shall be equal to 11.527 percent of the amount of the self-employment income for such taxable year.".

(2) HOSPITAL INSURANCE.—Paragraphs (2) through (4) of subsection (b) of section 1401 of the Code are amended to read as follows:

"(2) in the case of any taxable year beginning after December 31, 1977, and before January 1, 1981, the tax shall be equal to 1.10 percent of the amount of the self-employment income for such taxable year;

"(3) in the case of any taxable year beginning after December 31, 1980, and before January 1, 1986, the tax shall be equal to 1.35 percent of the amount of the self-employment income for such taxable year; and

"(4) in the case of any taxable year beginning after December 31, 1985, the tax shall be equal to 1.50 percent of the amount of the self-employment income for such taxable year.".

(d) ALLOCATION TO DISABILITY INSURANCE TRUST FUND.—

(1) ALLOCATION OF WAGES.—Section 201(b)(1) of the Social Security Act is amended by striking out all that follows clause (F) and inserting in lieu thereof the following: "(G) 1.550 per centum of the wages (as so defined) paid after December 31, 1977, and before January 1, 1979, and so reported, (H) 1.500 per centum of the wages (as so defined) paid after December 31, 1978, and before January 1, 1981, and so reported, (I) 1.650 per centum of the wages (as so defined) paid after December 31, 1980, and before January 1, 1985, and so reported, (J) 1.900 per centum of the wages (as so defined) paid after December 31, 1984, and before January 1, 1990, and so reported, (K) 2.100 per centum of the wages (as so defined) paid after December 31, 1989, and before January 1, 1995, (L) 2.400 per centum of the amount of the wages (as so defined) paid after December 31, 1994, and before January 1, 2001, (M) 2.700 per centum of the amount of the wages (as so defined) paid after December 31, 2000, and before January 1, 2011, and (N) 3.00 per centum of the amount of the wages (as so defined) paid after December 31, 2010, and so reported, which wages shall be certified by the Secretary of Health, Education, and Welfare on the basis of the records of wages established and maintained by such Secretary in accordance with such reports; and".

(2) ALLOCATION OF SELF-EMPLOYMENT INCOME.—Section 201(b)(2) is amended by striking out all that follows clause (F) and inserting in lieu thereof the following: "(G) 1.090 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1977, and before January 1, 1979, (H) 1.040 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1978, and before January 1, 1981, (I) 1.235 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1980, and before January 1, 1985, (J) 1.425 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1984, and before January 1, 1990, and (K) 1.575 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1990, and before January 1, 1995, (L) 1.800 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1994, and before January 1, 2001, (M) 2.025 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 2000, and before January 1, 2011, and (N) 2.250 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 2010, which self-employment income shall be certified by the Secretary of Health, Education, and Welfare on the basis of the records of self-employment income established and maintained by the Secretary of Health, Education, and Welfare in accordance with such returns.".

Mr. CANNON. Will the Senator yield for a unanimous-consent request?

Mr. CURTIS. I am happy to.

Mr. CANNON. Mr. President, I ask unanimous consent that Bruce Eggers, of my staff, be granted privilege of the floor during consideration of this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. I thank the Senator for yielding.

Mr. CURTIS. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. CURTIS. Is the amendment I just sent to the desk now the pending business?

The PRESIDING OFFICER. The amendment offered by the Senator from Nebraska (Mr. CURTIS) is the pending business.

Mr. CURTIS. I yield the floor, Mr. President.

Mr. NELSON. Mr. President, social security is one of this Nation's most important Government-sponsored programs. It is a retirement program providing financial security for older workers, their dependents and spouses. It is a disability insurance program providing workers of all ages with monthly benefits if they become disabled. It is a hospitalization program providing social security beneficiaries with hospitalization insurance. And it is a program providing monthly benefits to the family of a deceased worker who has been covered by social security.

Over 33 million people will receive social security benefits this year, while about 104 million workers and their employers will pay social security taxes in 1977.

The importance of the social security program to workers and retirees is underscored by the following statistics:

The average monthly benefits are $234 for a retired worker; $262 per month for a disabled worker, and $223 for an aged widow.

Forty percent of all American workers pay more in social security taxes than they do in Federal income taxes.

For about 70 percent of all single beneficiaries and for some 50 percent of all couples, social security benefits are their major sources of retirement income. ("Major source" of income is defined as at least 50 percent of all annual income.)

One out of every 4 individual beneficiaries and 1 couple out of every 12 depend upon social security for their sole source of retirement income. ("Sole source" of income is defined as at least 90 percent of all annual income.)

The social security programs are financed from an earmarked payroll tax which is referred to as the social security tax.

Social security payroll taxes are paid by employers, employees, and self-employed persons. The total social security payroll tax is a composite of three separate tax rates supporting: The old age and survivors insurance program (OASI); the disability insurance program (DI); and the hospital insurance program (HI or part A of medicare). Part B of medicare or supplementary medical insurance is also considered a social security program but is financed from premiums and general funds rather than from payroll taxes.

Each of the three components of the overall social security tax—OASI, DI, and HI—has a separate trust fund which receives all of the taxes generated by its portion of the overall tax and which can use those funds only to operate its own program. The two cash benefit programs, OASI and DI, are frequently considered together. Therefore, except where otherwise specified, the OASI and DI systems will be combined (OASDI) for purposes of discussing social security financing legislation, and will exclude the HI system.

HOW SOCIAL SECURITY IS FINANCED

The social security program is financed by a tax on earnings paid by employees, employers and the self-employed. The schedule of taxes in present law is shown in the following table:

TABLE 1.—SOCIAL SECURITY TAX RATES

[In percent]

Year	Employee-employer, each			Self-employment		
	Cash benefits	Hospital insurance	Total	Cash benefits	Hospital insurance	Total
1977	4.95	0.9	5.85	7.0	0.9	7.9
1978–80	4.95	1.1	6.05	7.0	1.1	8.1
1981–85	4.95	1.35	6.30	7.0	1.35	8.35
1986–2010	4.95	1.5	6.45	7.0	1.5	8.5
2011 and after	5.95	1.5	7.45	7.0	1.5	8.5

For 1977 the tax rate is paid by employers and employees each on the first $16,500 of an individual's earnings. In 1978, the amount will rise to $17,700. In future years the amount of earnings taxed will rise depending on the rise in average earnings from year to year. Estimates by actuaries of the social security system indicate that the taxable amount will rise as follows:

TABLE 2.—*Social security tax base**

Year:	*Taxable earnings*
1977	$16,500
1978	17,700
1979	18,900
1980	20,400
1981	21,900
1982	23,400
1983	24,900
1984	26,400
1985	27,900
1986	29,400
1987	32,200
2002	71,700

* These figures are calculated under the intermediate set of assumptions (used by the Social Security Trustees) which incorporates ultimate annual increases of 5¾ percent in average wages in covered employment and 4 percent in CPI, and ultimate unemployment rate of 5 percent, and an ultimate total fertility rate of 2.1 children per woman.

Under current law, social security is facing severe financial difficulties, both in the short term and in the longer range. Therefore, it is necessary to make changes in the law to provide adequate financing for social security. The social security trust funds do not have current income sufficient to meet the obligations made to beneficiaries, and the trust funds do not have sufficient reserves to carry the social security program for much longer. In 1977 and 1978, the social security trust funds will run a $5.5 billion deficit each year.

Under projections of the current law, the actuarial estimates indicate that the disability insurance program will not have sufficient income to meet its obligations, and the trust funds will not have sufficient reserves to pay benefits provided under present law. The hospital insurance trust fund is projected to be depleted in 1987. It is projected that trust fund reserves in the DI program will run out in 1979, and the OASI will exhaust its reserves in 1983.

The long-run, 75-year projection of the social security program also indicates that the present social security cash benefits program is seriously underfunded. The Board of Trustees of the social security program has reported that there is a long-term deficit in the OASDI program of 8.20 percent of taxble payroll. If this deficit were to be eliminated solely by increasing tax rates, a tax rate increase of 4.1 percent on employers and employees each would be required in 1977 and in each of the next 74 years. A rate increase of this magnitude would increase OASDI revenues by $66 billion in 1977 and even more in future years.

Over the 25-year period covered by the cost estimates, the HI program has an average deficit of 1.16 percent of taxable payroll. This is equivalent to $9.3 billion per year based on the 1977 taxable payroll.

To a great extent these deficits reflect an overindexing problem in calculating future benefits. The legislation reported by the Finance Committee solves this overindexing problem.

These statistics represent the magnitude of the financing problems facing the social security programs when averaged over the entire valuation period. The deficit at present and in the years immediately ahead is much smaller, but the ultimate deficit is much larger. The following table shows the deficits at various points in the future for the OASDI and HI programs.

TABLE 3a.—*Deficits of the social security cash benefits program (OASDI)*

	(1)	(2)
1977	1.01	$8
2000	4.01	32
2025	12.40	100
2050	15.03	121
Yearly average (1977–2001)	2.34	19
Yearly average (2002–2026)	7.67	62
Yearly average (2027–2051)	14.57	117
75-yr. average (1977–2051)	8.20	66

[1] Percent of taxable payroll.

[2] Dollar equivalent based on 1977 payroll levels (in billions).

TABLE 3b.—*Long range (25-year) status of hospital insurance trust fund—estimates under present law*

[In percent of taxable payroll]

Average cost	3.96
Average tax rate	2.80
Actuarial balance	−1.16

Hospital insurance trust fund balances under present law

[In billions]

Start-of-year balance:	
1978	$11
1979	12
1980	14
1981	14
1982	17
1983	19
1984	19
1985	17
1986	11
1987	6
Start-of-year balance as percent of outgo for year:	
1978	$55
1979	56
1980	53
1981	45
1982	50
1983	50
1984	44
1985	34
1986	20
1987	10

The point of this table is that additional funding would have to be provided to meet benefit costs over and above current revenues if the benefit structure of the cash benefits program were left unchanged. The amount of additional funding would be $8 billion in 1977 increasing each year to $121 billion (in constant 1977 dollars) by 2050. The alternative to providing this much additional funding is to change the structure of the program so that it pays out less in benefits.

CAUSES OF SOCIAL SECURITY'S FINANCIAL PROBLEMS

Over the past year or so, many people have questioned how the social security system got into its present condition. To answer this question, and to explore alternative solutions to the financial troubles of the social security system, the Senate Finance Committee's Subcommittee on Social Security held 5 days of hearings earlier this year. At these hearings, testimony was received from the administration, leaders in business, labor, and small business, social security experts, the insurance industry and organizations representing older Americans. These witnesses agreed that the short-range problems of the social security system are the result of three factors: high rates of unemployment, excessively high inflation, and a mechanical problem of overindexing social security benefits for future beneficiaries.

As everyone knows, inflation and unemployment have caused severe dislocations throughout our economy. These related problems have plagued the social security system, and are the primary factors causing the social security trust funds' short-range financial shortfalls. Because unemployment has been higher in the last few years than anticipated, fewer people than expected have been contributing social security taxes to the trust funds, more have retired, or claimed disability insurance. High inflation, which has not been fully offset by rising wages, has only made matters worse. In 1972, Congress enacted an automatic cost-of-living adjustment to raise social security benefits automatically as the Consumer Price Index (CPI) increases. Due to high inflation, social security benefits have been automatically increased to a greater extent than had been projected just a few years ago.

Compounding social security's problems is a severe long-range deficit in the program. This deficit is the result of changing economic and demographic assumptions used for long-range projections of the social security trust funds' solvency, and can also be attributed to a faulty mechanism designed in 1972 to calculate future social security benefits.

In 1973, when the Congress last enacted major social security legislation, the estimates of the cost of the cash-benefits programs were based on demographic and economic assumptions which no longer appear realistic. At that time, social security cost projections assumed that the ultimate fertility rate would be 2.55 children per woman. Subsequent cost estimates were based on lower fertility rates. The initial reduction came in 1974 when a rate of 2.1 was assumed and a further reduction was made in 1976 when an ultimate fertility rate of 1.9 was used for the 1976 assumptions.

As for the economic assumptions made in 1973, the most significant were that after 1977 average earnings would increase at an annual rate of 5 percent while the CPI would increase at 2¾ percent a year. As early as the end of 1973, these projections were perceived as unrealistic. Therefore, the 1974 estimates were based on the assumption that the annual rise in the CPI would average 3 percent a year. The effect of this change, however, was offset to some degree by eliminating an 0.375 percent additional cost which had been included as a "safety factor" for years prior to 2011 in the 1973 estimates. By 1976, the assumptions had been changed to a 5.75 percent annual increase in average wages and a 4-percent annual rise in the CPI.

The long-range economic assumptions used for the 1977 estimates are basically those used for the 1976 estimates. Significant changes, though, were made in the mortality and fertility assumptions. Mortality was assumed to improve, thus raising the cost of the program by 0.64 percent of taxable payroll. This increase in cost was offset by assuming that the fertility rate would rise to 2.1, the approximate rate at which the population eventually would neither grow nor decline.

The social security benefits formula also is the source of much of the long-term deficit. In 1972, the social security benefit formula was made too sensitive to changing economic conditions. The benefit formula was intended to keep future benefits on a par with those benefits being received by present beneficiaries, but it in fact has not worked that way. Future benefits are increasing more rapidly than intended. This is because the formula for calculating future benefits is tied to increases both in prices and wages. Because wages go up partly as a reflection of prices, workers retiring in future years receive double adjustments for inflation.

This problem has become known as overindexing or double-indexing. Without corrective action by Congress, future retirees could receive social security benefits exceeding the highest wages they earned before retirement. This factor alone causes one-half of the long-term deficit.

The following table indicates how benefit levels and program costs have increased in the past and are projected to increase in the future if the present benefit formula is left unchanged.

TABLE 4.—HISTORICAL BEHAVIOR AND PROJECTIONS OF PRESENT PROGRAM

Initial average benefit same as in present law; workers earnings records not indexed; benefit formula bend points not indexed; benefit formula factors CPI indexed (ad hoc increases prior to 1975)

[In percent]

Year	Worker with average earnings [1]		Replacement rate for worker with—		Aggregate OASDI expenditures	
	Annual benefit in 1977 prices	Replacement rate	Low earnings [2]	High earnings [3]	As percent of payroll	As percent of GNP [4]
1955	$2,141	31	45	31	3.3	1.3
1960	2,493	33	45	30	5.9	2.3
1965	2,665	32	43	33	8.0	2.8
1970	2,987	34	46	29	8.1	3.4
1975	3,619	43	56	30	10.7	4.6
1979	4,415	46	58	35	10.9	4.5
1985	5,258	48	60	34	11.6	4.8
1990	5,766	49	63	36	12.4	5.1
1995	6,360	49	66	36	13.1	5.4
2000	7,273	52	76	38	13.9	5.7
2010	9,334	56	84	42	16.6	6.8
2020	$11,733	60	91	44	21.6	8.9
2030	14,558	63	97	45	26.0	10.7
2040	17,892	66	102	47	26.7	11.0
2050	21,830	68	106	48	26.9	11.1
						Percent
Average medium-range cost (1977–2001)						12.2
Average medium-range revenue						9.9
Average medium-range deficit						−2.3
Average long-range cost (1977–2051)						19.2
Average long-range revenue						11.0
Average long-range deficit						−8.2

[1] Assumed to be 4 times the average 1st quarter covered earnings.
[2] Assumed at $4,600 in 1976 and following the trends of the average.
[3] Assumed at the maximum taxable under the program.
[4] Based on full employment and assuming taxable payroll equals 41.1 percent of GNP.

Note: The estimates in this table are based on the economic and demographic assumptions used in the intermediate cost estimates (alternative II) in the 1977 OASDI Trustees Report. The replacement rates pertain to workers with steady employment at increasing earnings and compare the annual retirement benefit at age 65 with the earnings in the year immediately prior to retirement

DEALING WITH SOCIAL SECURITY'S FINANCIAL PROBLEMS

The goal of social security financing is to provide enough income to meet benefit payments, and to maintain a reasonable fund balance as a contingency reserve to carry the program through a recessionary period. In the past, it was believed that a fund equal to about 1 year's benefit payments was appropriate. In 1972, when the last major financing changes were made, the Social Security Advisory Council recommended that the fund be maintained at a level of 75 percent to 125 percent of 1 year's benefits. The administration has indicated that it would be appropriate at this time to aim for a goal of about 50 percent of 1 year's benefits.

Dealing with the long-range deficit requires that additional revenues be made available to the trust funds in future years and that a structural change be made in the way of computing initial social security benefits, thereby reducing the overall cost of the program and making the social security benefit formula less sensitive to economic changes.

There are three basic methods to reduce short-range and long-range deficits in the social security program.

First. Increase revenues by adjustments in the social security payroll tax and the wage base upon which these taxes are paid.

Second. Reduce social security benefits.

Third. Infuse general revenues directly into the social security programs or authorize the social security trust funds to borrow from Federal general revenues.

The Senate Finance Committee has agreed to a series of changes in the financing of social security designed to solve both the short-term and long-term deficits of the social security trust funds. The Finance Committee plan produces sufficient income to meet benefit obligations, and OASDI reserves sufficient to prevent the need for a direct infusion of general revenues, or the need to establish a borrowing authority from Federal general revenues for the social security trust funds. Moreover, the Senate Finance Committee plan is in actuarial balance for the next 75 years, through the year 2051.

The committee plan increases social security revenues over and above the revenues which would accrue under present law. It would do so with the following five changes:

First. Increase in the amount of earnings subject to employer tax.—Under existing law, the employer share of the social security payroll tax is collected on the first $16,500 earned by each employee. This amount increases automatically in future years as wages rise and will increase to $17,700 in 1978. The Finance Committee provision would raise the base for employer taxes to $50,000 starting in 1979. The employer base will remain at $50,000 through 1984 and then increase in 1985 to $75,000. The base will remain at $75,000 until such time as the employee tax base reaches a level of $75,000. Current projections estimate that this will occur in the year 2002. Thereafter the two bases would be equal and would rise together in relation to the increases in average wages.

Second. Increase in amount of earnings subject to employee (or self-employment) tax.—In addition to increasing the amount of wages subject to the employer tax, the committee bill also includes an increase in the amount of annual earnings subject to the employee or self-employment tax. Under this provision, there will be a total of $2,400 in employee wage base increases over and above present law. Four separate $600 increases are scheduled in 1979, 1981, 1983, and 1985. As under existing law, the tax base for employees and self-employed persons will also be automatically increased as wage levels rise. The table below shows the projected tax bases:

TABLE 5.—AMOUNT OF EARNINGS SUBJECT TO SOCIAL SECURITY TAX

Years	Present law (employers, employees, self-employed)	Finance Committee plan	
		Employees/ self-employed	Employers
1978	$17,700	$17,700	$17,700
1979	18,900	19,500	50,000
1980	20,400	21,000	50,000
1981	21,900	23,100	50,000
1982	23,400	24,600	50,000
1983	24,900	26,700	50,000
1984	26,400	28,200	50,000
1985	27,900	30,300	75,000
2002 [1]	71,700	78,300	78,300

[1] Approximation.

Third. Increase in the Tax Rate.—Present law provides for tax rate increases in 1978, 1981, 1986, and 2011. The committee plan includes a rescheduling of two of these four increases and provides for additional tax rate increases in 1979, 1985, 1990, 1995, and 2011.

Under the committee plan, the 1989 tax rate for the cash benefit programs (OASDI) would be 5.65 percent each and the 1989 tax rate for part A of medicare (hospital insurance—HI) would be 1.40 percent, for a total tax rate of 7.05 percent. Under present law, the 1989 OASDI rate is 4.95 percent and the 1989 HI rate is 1.50 percent, for a total of 6.45 percent each.

Projections of the hospital insurance program are made for only 25 years into the future, whereas projections of the OASDI programs are made for 75 years. Neither present law nor the committee plan deals with the needs of the HI program beyond the mid-1980's. The committee plan, however, provides sufficient financing for the OASDI program to be fully funded for the next 75 years, through 2051.

The following schedule of tax rates has been approved by the committee. These rates are compared with those which already are provided in present law.

TABLE 6.—SOCIAL SECURITY TAX RATES ON EMPLOYER AND EMPLOYEE (EACH)

[Percent]

	Present law			Committee bill		
	OASDI [1]	HI [2]	Total	OASDI [1]	HI [2]	Total
1977	4.95	0.90	5.85	4.95	0.90	5.85
1978	4.95	1.10	6.05	5.05	1.00	6.05
1979–80	4.95	1.10	6.05	5.085	1.05	6.135
1981–84	4.95	1.35	6.30	5.35	1.25	6.60
1985	4.95	1.35	6.30	5.65	1.35	7.00
1986–89	4.95	1.50	6.45	5.65	1.40	7.05
1990–94	4.95	1.50	6.45	6.10	1.40	7.50
1995–2000	4.95	1.50	6.45	6.70	1.40	8.10
2001–2010	4.95	1.50	6.45	7.30	1.40	8.70
2011 and after	5.95	1.50	7.45	7.80	1.40	9.20

[1] Old-age, survivors, and disability insurance.

[2] Hospital insurance.

Fourth. Increase in social security tax rate for self-employment.—The committee approved a tax rate increase for the self-employed which would restore the self-employment tax rate for cash benefits to the original ratio of one and one-half times the employee rate effective in 1981. When earnings from self-employment were made subject to the social security tax in 1950, the rate was set at one and one-half times the employee rate. At that time the employee rate was 1.5 percent and the self-employment rate was 2.25 percent. Over the years as tax rates weer increased, the one and one-half to one ratio was maintained until 1973 when the cash benefit tax rate for the self-employed was frozen at 7 percent. When the hospital insurance program was established the self-employment rate for that program was made equal to the employee rate and has remained equal as the total payroll tax rate has increased.

Fifth. Elimination of certain dual taxation requirements.—Under existing law businesses are ordinarily required to pay social security taxes and Federal unemployment taxes with respect to a given employee only up to the amount of annual wages referred to as the tax base. Under the committee bill, the tax base for the employer share of the social security tax would be increased to $50,000 effective in 1979. The base for Federal unemployment taxes is $6,000 after 1977. Where a business is organized as a group of related corporations, however, an employee of any one of those corporations who performs services for more than one of them is treated for employment tax purposes as though he were

employed by each of the corporations for which he performs services. Consequently, if his total wages from affiliated companies exceed the tax base, social security and unemployment taxes may be required to be paid in excess of an individual employee's wage base. The employer share of these taxes over the wage base is not refunded, while the employee share is refunded. The committee agreed to a provision under which social security and unemployment taxes in excess of the taxable earnings base would not be paid in this type of situation.

INCREASING THE EMPLOYER'S WAGE BASE

The traditional approach to financing the social security cash benefits programs has been to levy an equal tax on employers and their employees. In considering how best to raise the funds necessary to the short-term financial soundness of the system without at the same time providing an intolerable tax burden either now or in the future, the Finance Committee plan proposes to apply temporarily the payroll tax to a higher wage base on the employer than the employee. After 1985, as the employee base rises with increases in average wage levels, the difference between the employer and employee base will gradually narrow, until the tax bases are again equal.

One reason for doing this is that social security benefits are based on the amount of individual earnings taxed. While increases in the amount of employee earnings to be taxed serves to increase income to the trust funds in the early years, such adjustments over the long-term increase benefits costs so that much of the additional income is spent in later years. Employer taxes, on the other hand, do not increase the amount of earnings used to compute individual benefits. As a result, the additional income in the early years continues into the future without being offset by future benefit liabilities.

In deciding to increase the amount of earnings taxed to employers, the committee considered a number of alternatives (including taxing total payroll), and with the aid of the actuaries, determined that the total package it had in mind could best be financed if the amount were to be increased to a maximum of $50,000 for each employer for 1979, increasing to $75,000 in 1985, and thereafter to remain at that level until the employee wage base is again equal to the employer's.

Other alternative methods to increasing the employer base are: Further increasing the tax rate paid by all workers and their employers; or increasing equally the earnings base for all workers and their employers.

One of the proposals considered by the Finance Committee included a tax rate increase instead of the employer base increase. In that plan, the employer base would be set at the level of the employee bases approved by the Finance Committee, and additional tax rate increases would be imposed over and above those approved by the committee.

The major drawback to this particular approach is that, in combination with other revenue raising elements in the committee's plan, it places virtually all of the burden of additional social security revenues on tax rate increases.

The committee plan relies heavily on tax rate increases already. By 1987, the tax rate would be 0.6 percent above the scheduled 1987 present law rate and 1.20 percent above the 1977 tax rate. By 1995, the tax rate would be 1.65 percent above the rate scheduled in present law, and 2.25 percent above the 1977 tax rate. Additional tax rates over and above present law also are scheduled again in 2001 and in 2011 under the committee plan.

To compare the increase in only the employers' base to another method of increasing social security revenues, we looked at a plan which raises revenues by equal employee and employer base increases. This is the method that the House of Representatives used to increase revenues for the social security trust funds.

In order to produce revenues similar to those provided by the employer base increase, the equal employee-employer base would have to be raised to $31,800 in 1982. This is $7,200 higher than the 1982 employee base in the committee plan. The employer and employee earnings base under this approach would increase after 1981 at the same rate as average wages rise, reaching a level of $42,600 in 1987. By way of comparison, the committee plan pegs the employee base at $33,900 in 1987.

As compared to the committee plan, increasing the base for the employer and employee equally imposes no additional tax burden on workers earning the average wage. It is, therefore, better for the average worker than is the tax rate increase approach.

However, this plan does have a rather significant impact on the taxes paid by workers earning the maximum amount of covered wages. Under this plan, the worker earning the maximum would pay $2,648 in 1985, an increase of $890 above the tax for such a worker scheduled in present law, and of $527 above the tax such a worker would pay under the committee plan.

To compare the effect on workers of the various approaches studied by the Finance Committee, the following table has been prepared:

IMPACT ON ANNUAL TAX PAYMENTS OF WORKER EARNING AVERAGE WAGE

			Increase over present law		
	Wage	Taxes under present law	Finance Committee (Nelson proposal) [1]	Curtis plan [2]	House bill [3]
1977	$10,001	$585			
1978	10,812	654			
1979	11,655	705	$10	$39	0
1980	12,486	755	11	42	0
1981	13,281	837	40	73	$33
1982	14,078	887	42	77	49
1983	14,888	938	45	97	52
1984	15,744	992	47	102	55
1985	16,649	1,049	117	175	108
1986	17,606	1,136	106	167	114
1987	18,619	1,201	112	177	121

IMPACT ON ANNUAL TAX PAYMENTS OF WORKER EARNING THE MAXIMUM

		Increase over present law		
	Taxes under present law	Finance Committee (Nelson proposal) [1]	Curtis plan [2]	House bill [3]
1977	$965			
1978	1,071	0	0	$133
1979	1,143	$53	$102	242
1980	1,234	54	107	333
1981	1,380	145	203	566
1982	1,474	149	211	640
1983	1,569	194	287	686
1984	1,663	198	297	731
1985	1,758	363	469	890
1986	1,896	367	479	958
1987	2,012	378	496	1,012

[1] Finance Committee plan as reported to Senate.

[2] Senator Curtis' financing plan as proposed in the Senate Finance Committee on Oct. 21, 1977. This plan is similar to the plan adopted by the committee with these exceptions: Parity between employer and employee wage base would be maintained, and additional tax rate increases over and above those scheduled in the committee plan would be imposed of 0.25 percent on employers and employees each in 1979, 0.1 each in 1983, and 0.1 each in 2011. The employer wage base would also be increased by $2,400 over and above present law. These increases would occur in 4 $600 increments in 1979, 1981, 1983, and 1985.

[3] H.R. 9346 as approved by the House of Representatives on Oct. 27, 1977.

This table demonstrates that the committee plan is less expensive for an average worker or the worker earning the maximum taxable wages under social security than is a plan that relies almost exclusively on tax rate increases. The table also indicates that the committee plan, when compared to a plan that includes equal employer-employee wage base increases, has a similar effect on the average wage earner, but is significantly less expensive for a worker earning the maximum taxable wage under social security.

FISCAL RELIEF FOR STATE AND LOCAL GOVERNMENTS AND PRIVATE NONPROFIT EMPLOYERS

The Finance Committee recognized that raising the employer wage base would have a detrimental effect on certain employers who cannot pass on the increased costs of social security except by increasing tuition rates, local or State taxes, or reducing their current level of services. Therefore, the committee plan would give fiscal relief to State and local governments, public and private colleges and universities, and other private nonprofit institutions. Fiscal relief would be offered to these categories of employers by authorizing tax rebates to be paid out of general revenues in the amount of one-half of the difference between the aggregate liability of the employer and the aggregate liability of its employees.

The cost of this fiscal relief would be

$151 million in 1979, $316 million in 1980, $324 million in 1981, and $344 million in 1982.

In 1979, for example, employers will pay social security taxes on the first $50,000 of each employee's salary. Employees will pay social security taxes on their first $19,500 of earnings. Under the Finance Committee's fiscal relief proposal, eligible employers would receive a tax rebate of 50 percent on all tax contributions they make on their employee's wages between $19,500 and $50,000.

This fiscal relief proposal would, therefore, provide approximately the same financial benefits to eligible employers on the additional taxes to be imposed by increases in the employer wage base as are currently available only to private, profit-making employers, who receive a Federal income tax deduction based on their social security tax contributions.

SOCIAL SECURITY BENEFIT ADJUSTMENTS

The committee plan adjusts social security benefit payments through the following changes:

First. Decoupling and Instituting a New Wage Indexed Benefit Formula.—The procedure used to compute benefits for new retirees would be decoupled effective in 1979. This would solve the unintended effect in the present law that overcompensates for inflation. Social security replacement rates would be set at their 1976 levels, an amount calculated to be about 43 percent of an average worker's earnings the year before retirement. These replacement rates would be held constant thereafter.

Existing law calls for automatic cost-of-living increases in benefits effective each June and for increases in the tax base (based on changes in wage levels) each January (assuming that the Consumer Price Index rises by at least 3 percent). Each benefit increase is put into effect by a revision of the table in the law. Thus, each increase applies not only to people entitled to benefits for the month the increase is effective but also to everyone who will become entitled to benefits in the future.

The automatic cost-of-living benefit increase mechanism incorporated into the social security program by the 1972 amendments operates exactly as intended for persons on the benefit rolls. Once the initial benefit has been established, it is periodically increased by a percentage which restores its original purchasing power according to the official governmental index of purchasing power—the Consumer Price Index. The committee bill proposes no change in this concept.

The cost-of-living adjustment mechanism, however, also increases the percentages in the formula for determining initial benefits in the future. Future benefits, however, are based on earnings which rise in part, as the result of increases in prices. Thus, wages which were increased to take account of rising prices are multiplied by a benefit formula which was also increased to take account of the same increase in prices.

For an example of how benefits are increased under present procedures, assume a program with a benefit equal to 50 percent of wages. In such a program wages of $100 would produce a benefit of $50. If wages and prices both rise by 10 percent, the individual who is on the benefit rolls will have his benefit increased to $55 and the person who is still working will have his $100 wage increased to $110. If the benefit formula is left unchanged, both individuals would qualify for a $55 benefit. But under present procedures the benefit formula is also increased to 55 percent and the person who will retire in the future with wages increased from $100 to $110 will get a benefit of $60.50 (55 percent multiplied by $110).

Under most reasonable projections of future economic conditions, benefit levels determined by the present-law mechanism will be much higher than what is necessary to simply adjust for inflation and will represent an ever-increasing percentage of the new retiree's wages in the year before he retires. For significant numbers of people, the benefits payable just after retirement would approach—and in many cases exceed—their wage levels immediately before retirement. It is this part of the current cost-of-living provisions that the committee bill would change.

The starting point for most proposals for dealing with the current long-term deficit of the social security system is a concept called decoupling. Decoupling means that the automatic benefit increase mechanism in present law would continue to apply to keep benefits inflationproof after a person retires and begins to draw his benefits, but the formula for initially determining benefits at the time of retirement would no longer be automatically increased.

Decoupling by itself would make a substantial reduction in the long-term cost of the program but would also cause a significant reduction in the real value of future benefits. In order to forestall a reduction of this nature, the committee bill would provide that future benefits be based on "indexed" earnings, rather than the actual earnings that are used under the present law. This procedure involves the adoption of a new automatic mechanism for adjusting the formula for computing initial benefits which is designed to keep replacement rates at about existing levels.

The following table indicates the benefit structure, replacement rates, and expenditures under the Finance Committee bill:

TABLE 7.—BENEFITS, REPLACEMENT RATES, AND EXPENDITURES UNDER COMMITTEE BILL, 1979–2050

[In percent]

Year	Worker with average earnings [1]		Replacement rate for worker with—		Aggregate OASDI expenditures	
	Annual benefit in 1977 prices	Replacement rate	Low earnings [2]	High earnings [3]	As percent of payroll	As percent of GNP [4]
1979	[5] $4,444	[5] 46	[5] 58	[5] 35	10.24	4.2
1985	4,711	43	54	30	10.54	4.3
1990	5,144	43	55	30	10.83	4.5
1995	5,580	43	54	30	11.09	4.6
2000	6,067	43	54	31	11.31	4.6
2010	$7,171	43	54	32	12.47	5.1
2020	8,472	43	54	32	15.24	6.3
2030	10,011	43	54	32	17.32	7.1
2040	11,830	43	54	32	16.84	6.9
2050	13,976	43	54	32	16.30	6.7

	Percent
Average medium-range cost (1977–2001)	10.81
Average medium-range revenue	11.85
Average medium-range deficit	+1.04
Average long-range cost (1977–2051)	13.80
Average long-range revenue	13.85
Average long-range deficit	+.05

[1] Assumed to be 4 times the average 1st quarter covered earnings.
[2] Assumed at $4,600 in 1976 and following the trends of the average.
[3] Assumed at the maximum taxable under the program.
[4] For 1979 and later, based on full employment and assuming taxable payroll equals 41.1 percent of GNP.
[5] Based on the present law benefit formula for all workers attaining age 62 before Jan. 1, 1979 (as in H.R. 8218).

Note: The estimates in this table are based on the economic and demographic assumptions used in the intermediate cost estimates (alternative II) in the 1977 OASDI Trustees Report. The replacement rates pertain to workers with steady employment at increasing earnings and compare the annual retirement benefit at age 65 with the earnings in the year immediately prior to retirement.

A basic change such as that which would be provided by the committee bill also requires many substantial changes in provisions of present law, transitional provisions for the period during which the new system is implemented, and a number of conforming amendments to minimize possible disruptions that so basic a change in the benefit structure might otherwise produce.

First. Offset for pensions received from noncovered employers.—In response to recent Supreme Court decisions, which held unconstitutional a dependency test applied to men only, a new offset against pensions received from employers not covered by the social security system would be introduced. The committee bill includes a provision which would reduce benefits payable under social security to dependent spouses by the amount of any civil service (Federal, State, or local) retirement benefit payable to the spouse. The provision would

apply only to individuals applying for spouses' social security benefits in the future and only if the dependent spouse had a civil service pension based on his or her own earnings in public employment which was not covered under the social security system.

As an example of how this provision will operate, assume the following facts: a widower, age 65, retires and is eligible to receive $600 a month from a public pension. He is not eligible for any social security benefits. His deceased wife was covered by social security and therefore, under current law, the widower is entitled to a surviving spouse benefit of $136 a month. Because of the dollar for dollar public pension offset provided in this legislation, the widower will not be able to collect any of the social security benefit he otherwise would be entitled to based on his wife's record of employment.

Second. Modification of retirement test and financing of the provision.—Social security beneficiaries who are under age 72 have their benefits reduced if their earnings exceed a certain amount. This is referred to as the social security retirement test. It is adjusted annually under present law to reflect changes in average wage levels.

In 1977, the amount which may be earned with no reduction in benefits is $3,000; it is expected to increase to $3,240 in 1978 and to $3,480 in 1979. The committee approved an amendment to increase these levels to $4,500 in 1978 and to $6,000 in 1979. After 1979, the $6,000 level would increase automatically as wage levels rise. The committee also agreed to increase the social security tax rate applicable to employers and employees, effective January 1, 1979, by the amount needed to fund the cost of the higher retirement test levels. These tax rate increases are incorporated in the tax schedule printed above in table 6.

Fourth. Elimination of retroactive payments which cause an actuarial reduction.—Persons applying for social security benefits are now allowed to elect to start their entitlement up to 12 months prior to the month in which they file an application. If these months are months prior to age 65, however, the retroactive benefits are obtained with the understanding that the beneficiary will receive a lower permanent benefit amount. This is because whenever social security benefits are paid before age 65, they are actuarially reduced. The committee agreed to a provision under which retroactive benefits would not be permitted in cases involving entitlement before age 65.

Fifth. Adjustment in method used in computing certain benefit increases.—Under the committee plan, beneficiaries who are receiving actuarially reduced benefits will no longer receive more than the announced percentage increase in their benefit when a cost-of-living adjustment is made in all benefits.

Under the automatic cost-of-living benefit adjustment, some persons on the rolls receive, through a technicality, a cost-of-living increase which is more than the actual cost-of-living increase based upon their monthly benefits. This occurs because the automatic adjustment is applied to their basic benefit rate, which represents what would be paid to a beneficiary who began drawing benefits at age 65. If an individual begins getting benefits prior to age 65 and therefore accepts an actuarially reduced benefit rate, subsequent benefit increases are now larger than necessary to keep that benefit up-to-date.

The committee agreed to modify the cost-of-living increase mechanism so that all persons on the rolls at the time of an increase would receive only the cost-of-living percentage increase applied to their actual monthly benefit checks.

Sixth. Increased benefits for certain widows.—Social security benefits for individuals who continue working past age 65 are increased under present law by 1 percent for each year prior to age 72 that the worker did not receive benefits because the worker's earnings exceeded the social security retirement test. This delayed retirement increment is added to the individual worker's benefit when he retires or reaches age 72. At present, this retirement increment applies only to the worker's own benefit and is not transferrable to his survivors. The committee adopted a provision under which any retirement increment would be added to the benefit payable to the widow or widower of such an individual.

GENERAL REVENUES

Using general revenues to help finance the social security program has been debated back and forth for many years. The President's legislative proposal on social security would have infused general revenues into the social security trust funds during periods of high unemployment. This approach was supported by many of the witnesses who testified at the Senate Finance Committee's hearings on social security earlier this year.

Before the August recess, however, the Senate Finance Committee voted 11 to 3 against using general revenues to fund the social security cash benefits program. This vote reflected the strong sentiment of members of the Finance Committee that the social security cash benefits program should be financed totally by payroll taxes. It was the general feeling among Finance Committee members that using Treasury funds to support the present social security cash benefits program would create pressures in the future to increase benefits for social security recipients by the use of general revenues.

I supported the Finance Committee's position that general revenues should not be used directly to subsidize the cash benefits program.

In my judgment, however, a distinction should be made between using general revenues for the hospital insurance program and using them for the cash benefits program. Whether a beneficiary becomes ill and must enter a hospital is not at all related to payroll contributions. Rather, it is an incidence of one's health. Cash benefits, on the other hand, should and do reflect the earnings of the employee.

Under present law, the hospital insurance program (part A of medicare) will be depleted in 1987. Under the Finance Committee bill the hospital trust fund will be depleted in 1988. This means that prior to 1987 or 1988 another source of revenue will have to be proposed to secure the solvency of the hospital insurance program.

Right now, general revenues are used to support a portion of the medical insurance program (part B of medicare). In 1976, general revenues will be used to support 70 percent of the cost of the medical insurance program. And in 1977, general revenues will be used to support almost 80 percent of the program.

For these reasons, I believe that Federal general revenues should be used to support a part of the financing of the hospital insurance program. It should be emphasized, however, that the Senate Finance Committee bill does not include any general revenues for the support of the cash benefits program or for the use of the hospital insurance program.

It should be noted, however that general revenues support the social security system indirectly under present law. When employers deduct social security payments they contribute on behalf of their employees from their Federal income tax returns. This deduction costs the general fund revenues it otherwise would receive. In the committee bill, employers with high-paid employees will have to pay social security taxes on the earnings of these employees to a greater extent than they now contribute under current law. This will create an additional tax burden on these employers, but the increased burden will be fully deductible on these employers' Federal income tax returns. Therefore, the additional burden will be paid for, indirectly, by general revenues.

CONCLUSION

Mr. President, one of the most difficult decisions public officials have to make is the decision to increase the amount of taxes their constituents have to pay. Every tax dollar paid by a wage earner means one less dollar of income that can be used to pay for essential goods and services like food, clothing, housing, and schooling. As the Senate Finance Committee considered the problems of the social security system, and finally adopted a financing bill, we continually kept in mind the goals of protecting the social security system from any threats of bankruptcy, keeping future benefit levels on a par with today's benefit levels, and renewing the American public's confidence in social security. In doing all of this, we also tried to keep additional taxes on every wage earner to a minimum.

The Finance Committee's bill requires every wage earner to pay more in taxes than under the current law. It was necessary to increase taxes because right now the social security system is inadequately financed. We felt that American workers would be willing to pay additional tax dollars if they could be assured that their parents and grandparents would continue to receive their monthly social security benefit checks and if they could be assured that the

benefits to which they are entitled would not be diminished in the future.

In raising social security taxes for every American wage earner covered by social security, I believe we worked out a plan that would distribute the additional burden in a fair and equitable manner. Some people may argue over the method we used, but no one can say that we have not taken the difficult political route. We raised the additional money necessary to finance social security through taxes rather than turning to the general fund or by increasing the national deficit.

Mr. President, the financing plan adopted by the Senate Finance Committee is a responsible, comprehensive proposal to assure American workers and their families and all social security beneficiaries of a sound and secure social security program. The short-term deficits confronting the social security trust funds will be eliminated. The threat that the social security trust funds will go bankrupt has been eliminated. The Senate Finance Committee plan will place social security cash benefits programs in actuarial balance for the next 75 years based on current economic and demographic assumptions. No present beneficiary will suffer a social security benefit reduction, while future beneficiaries will be assured that their social security benefits will be available to them and their families should they retire, become disabled, or die.

These are the kinds of assurances all Americans have sought. They deserve no less.

Mr. HARRY F. BYRD, JR. Mr. President, in my judgment, the social security program is more important to more people than any other Federal program.

Social security was enacted in 1935. During the intervening 42 years it has become a basic and integral part of the lives of the American people.

Retired and disabled Americans who receive social security benefits; working Americans who pay into the program with the expectation of ultimately receiving social security benefits; American businessmen who help to finance social security through their employer portion of the tax, each have an important stake in social security.

The Congress has a deep obligation to protect the solvency of the social security trust fund.

When social security was established 42 years ago, it was funded on the principle that one-half of the total social security tax would be paid by the employer and one-half would be paid by the employee. The employee, of course, would be the beneficiary of the total amount.

This basic principle continues to this day.

For many years the social security tax on both employer and employee was fixed at a figure that would provide the social security trust fund with a balance equal to approximately 1 year of benefits. To state it another way, if $80 billion of benefits are to be paid over a period of a year, then the reserves in the trust fund would approximate that amount.

What has happened in the last few years is that Congress has increased benefits to a greater degree than taxes. Thus, at the present time the social security trust fund has reserves of somewhat less than 6 months.

So that the reserves do not deteriorate further, it is necessary that the trust fund be replenished.

Although the income will not quite equal the outlays for 1977, there still will be a reserve in the trust fund of approximately $36 billion.

It is important for the Congress to address the question of additional funds before the reserves drop significantly below 50 percent of annual benefits.

The Carter administration has responded to this question by proposing the use of general revenues to finance social security. This approach has been rejected since the inception of social security, and is contrary to the whole principle of social security funding.

Social security always has been self-financing. This is an important reason why social security has, up to this time, been a program upon which the social security recipients could depend.

The Senate Finance Committee overwhelmingly voted down the Carter approach.

Indeed, there are no general revenue funds available to use for social security. There are only deficits.

To finance social security out of general revenues would mean the use of printing press money, which would undermine the integrity of the social security system. It would mean that contributions to the social security fund would be at the whim of political decisions on an annual basis. This could seriously jeopardize the stability of the program—and could transform social security into a welfare-type program.

The Finance Committee under Senator LONG's leadership wisely rejected the use of general revenue funds for social security.

I want to pay tribute to the committee chairman, Senator LONG, for his leadership in strong opposition to using general revenues.

In place of the plan to use general revenues, the committee has approved a carefully thought-out plan developed by the able Senator from Wisconsin (Mr. NELSON).

The plan approved by the Finance Committee would increase the social security tax rate for both employers and employees in stages rising from the present level of 5.85 to 6.6 percent in 1981 and to 9.2 percent by 2011.

But the tax burden would not fall equally upon employers and workers. The rates would be the same for both groups, but the Nelson program would boost the wage base—the maximum amount of pay subject to the tax—much more rapidly for employers than for employees.

The employer wage base, now $16,500, would shoot up to $50,000 in 1979 and to $75,000 in 1985. In contrast, the employee wage base would not reach $33,900 until 1987 and would not equal the employer rate of $75,000 until after the year 2000. The result, of course, would be that between 1979 and 2000, employers would be carrying a significantly larger share of the direct cost of social security than would employees.

The primary rationale for such an approach is that a greater tax upon employers than upon employees would be politically more acceptable than taxing both groups equally.

The Nelson plan departs from one of the fundamental principles of social security, which is that social security taxes should be shared equally by employee and employer, although the employee receives the total benefit.

While the Nelson plan has less direct impact on the paycheck of the worker than the existing tax formula, a realistic appraisal will show that consumers—including workers and social security beneficiaries—will pay higher prices for many goods and services, because businesses will be forced to increase prices to offset the additional cost of their social security contributions.

But my main concern about the Nelson proposal is that the social security beneficiaries, present and future, would be much better off were the Congress to adhere to the traditional social security concept of taxes shared equally by employee and employer.

For more than four decades, the equal-contribution principle has stood the test of time. It has widespread acceptance on the part of the public, employers and workers alike. Plans, budgets, and expectations of millions of Americans are based on this simple and equitable formula.

I have considerable reservations about tinkering with the philosophy of share-and-share-alike in financing of social security.

I am prepared to support an increase in social security taxes to finance the increased benefits voted by the Congress.

If social security benefits are increased—and it has been necessary to increase the benefits from time to time as Government-stimulated inflation has increased the cost of living—these increased benefits must be paid for.

The social security fund can be appropriately replenished by an equal increase in the tax on employer and employee. Such a tax would be preferable to the Nelson approach.

At the same time, the most important objective must be to obtain adequate financing to preserve the social security system.

The social security program is too important to too many people to allow the reserves to drop to dangerously low levels.

AMENDMENT OF THE URBAN MASS TRANSPORTATION ACT OF 1964

Mr. WILLIAMS. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 8346, to amend the Urban Mass Transportation Act of 1964 to revise the program of Federal operating assistance provided under section 17 of such act.

The PRESIDING OFFICER laid be-

fore the Senate H.R. 8346, an act to amend the Urban Mass Transportation Act of 1964 to revise the program of Federal operating assistance provided under section 17 of such act.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the bill be considered as having been read twice by title and that the Senate proceed to its immediate consideration.

There being no objection, the Senate proceeded to consider the bill.

UP AMENDMENT NO. 1035

(Purpose: To increase commuter rail assistance and passenger rail assistance.)

Mr. WILLIAMS. Mr. President, I send to the desk an amendment on behalf of myself, Senator BROOKE, Senator HEINZ, Senator NELSON, Senator MOYNIHAN, Senator PERCY, Senator SARBANES, Senator ROBERT C. BYRD, Senator STEVENSON, Senator ROTH, and Senator JAVITS.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Jersey (Mr. WILLIAMS), for himself and others, proposes an unprinted amendment numbered 1035.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

Section 1. Section 17 of the Urban Mass Transportation Act of 1964 is amended—

(1) by striking out "50 percent" in subsection (d)(4) and inserting in lieu thereof "80 percent";

(2) by striking out "and" at the end of subsection (d)(3);

(3) by striking out the period at the end of subsection (d)(4) and inserting in lieu thereof "; and";

(4) by inserting the following new paragraph after subsection (d)(4):

"(5) 50 percent for the 24-month period succeeding the period specified in subparagraph (4) of this subsection.";

(5) by striking out the last sentence of subsection (d); and

(6) by striking out "$125,000,000" in the first sentence of subsection (f) and inserting in lieu thereof "$185,000,000" and by amending the second sentence of such subsection to read as follows: "There are authorized to be appropriated for liquidation of the obligations incurred under this section not to exceed $40,000,000 by September 30, 1976, $95,000,000 by September 30, 1977, $125,000,000 by September 30, 1978, $155,000,000 by September 30, 1979, and $185,000,000 by September 30, 1980.".

SEC. 2. The Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new section:

"SEC. 18. (a) The Secretary shall provide financial assistance annually for the purpose of reimbursing States, local public bodies and agencies thereof for the cost of financially supporting or operating rail passenger service provided by railroads designated as class I.

"(b) Financial assistance under subsection (a) of this section shall not be available to support (1) intercity rail passenger service provided pursuant to an agreement with the National Railroad Passenger Corporation under section 403(b)(2) of the Rail Passenger Service Act of 1970, as amended (45 U.S.C. 562(b)); and (2) rail passenger service required by section 304(c)(4) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744(c)).

"(c) The Secretary shall distribute financial assistance authorized by subsection (a) pro rata on the basis of the passenger-miles attributable to each eligible rail passenger service, except that (1) for the purposes of such apportionment in no case shall any State, local public body or agency thereof supporting or operating rail passenger service eligible for assistance under this section be credited with more than 30 per centum of the total passenger miles eligible for such assistance for the calendar year ending immediately prior to the commencement of the Federal fiscal year for which the distribution is made, and (2) no Federal grant for the payment of subsidies for operating expenses shall exceed 50 per centum of the total operating losses of such service.

"(d) Financial assistance authorized by subsection (a) may be applied to the payment of operating expenses or programs to correct deferred maintenance within the meaning of section 304(e)(5)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744(c)), but in no case may it exceed the total of the amounts applied by the grantee from its own funds to the payment of operating expenses and programs to correct deferred maintenance for the same fiscal period.

"(e) Financial assistance provided pursuant to subsection (a) of this section shall be subject to such terms, conditions, requirements, and provisions as the Secretary may deem necessary and appropriate.

"(f) To finance assistance under this section, the Secretary may incur obligations on behalf of the United States in the form of grants, contract agreements, or otherwise, in such amounts as are provided in appropriations Acts, in an aggregate not to exceed $20,000,000. There are authorized to be appropriated for liquidation of the obligations incurred under this section not to exceed $20,000,000 by September 30, 1979, such sum to remain available until expended.".

Mr. WILLIAMS. Mr. President, on June 23, the Senate passed S. 208, the National Mass Transportation Assistance Act of 1977. As the principal sponsor of this bill, I am especially pleased that the Senate passed S. 208 by voice vote and after only limited debate.

In my judgment, the prompt Senate consideration and passage is actually a barometer of steadily increasing public support for mass transit. All over the country, urban mass transportation is being revitalized and improved. In addition to the long-recognized potential of mass transit to contribute to the solution of problems in urban rehabilitation, environmental quality, and economic development, there is now—as never before—widespread support for mass transit as a result of our serious energy problems and our increasing dependence on foreign petroleum.

For these reasons, S. 208 would provide new capital grant authority, provide additional funds for operating assistance, extend operating assistance to nonurbanized areas, reaffirm and strengthen the Federal commitment to provide accessible public transportation for elderly and handicapped persons, increase the number of transit managerial training fellowships available, expand the definition of "construction" in the capital grant program to include preliminary engineering, require the Secretary to convert outstanding capital loans into grants, require the Secretary to provide, by February 1, 1980, a detailed estimate of major capital grants to be made in fiscal years 1980–84, and expand and extend the Federal subsidy to commuter rail services.

Unfortunately, the House of Representatives has not recognized the seriousness of current problems or the need for prompt action. No action has been taken on S. 208.

Instead, the House has passed H.R. 8346 which proposes two changes in section 17 of the Urban Mass Transportation Act, dealing with the commuter rail program. First, the bill provides for an increase in the Federal share of the operating subsidies as now provided in section 17(d)(4) from 50 to 80 percent for the last 180 days of the program. Second, the bill would delete the present requirement that any applicant for assistance must provide assurance to the Secretary of Transportation that the service for which assistance is sought will be continued after the subsidy program terminates.

S. 208 contained two key provisions concerning the commuter rail provisions of the Urban Mass Transportation Act. S. 208 extended the present program for 2 years, providing additional annual authorizations of $30 million for both fiscal years 1979 and 1980. In addition, the Senate-passed bill added a new section 18 to provide additional operating assistance to rail commuter services which are not eligible under section 17 for 1 year.

Mr. President, I believe there is a great deal of urgency in enacting S. 208 as soon as possible. I regret that the administration and the House Public Works Committee do not share this sense of urgency. Postponing action on a major mass transit legislation can only compound the problems our Nation faces and exacerbate the problems our States and local government are having in providing effective alternatives to the private use of the automobile.

However, there are especially critical problems in the section 17 emergency operating assistance program. Passage by both the House and Senate of legislation dealing with the program reflects this concern. And while the approaches are different, they are entirely consistent and compatible.

Therefore, the amendment which I am offering with Senators ROBERT BYRD, BROOKE, HEINZ, STEVENSON, MOYNIHAN, PERCY, SARBANES, JAVITS, and ROTH would combine the provisions of H.R. 8346 and the selected provisions of S. 208 which deal with emergency commuter rail assistance. The result is a commuter rail bill which serves both the interests of commuter rail service operators and riders across the country and the national interest in continuing service to millions of commuters without fear of interruption.

With the passage of this amendment, the Congress would be preventing the interruption or elimination of rail passenger service in New Jersey, Massachusetts, Rhode Island, New York, Delaware, Indiana, and Pennsylvania and extending such assistance for the first time to areas around the country.

Mr. President, pending the completion of work on a major long-term mass transportation bill, the Senate should assure that further inaction does not jeopardize the present program. I urge my colleagues to reaffirm their support for the mass transit program by quickly passing this amendment.

Mr. President, the bill that came to us from the House of Representatives amends section 17 of the Urban Mass Transit Act. Essentially, it would increase the percentage of Federal contribution for the last 6 months of the existing commuter rail operating assistance program from 50 to 80 percent. It has that limited effect. Our amendment would add to H.R. 8346 the commuter rail provisions of S. 208.

The Senator from Pennsylvania is most familiar with the House-passed bill and the provisions of the amendment that we are offering to it. Obviously, it incorporates the House provision and improves it by adding what the Senate already has passed in S. 208.

Mr. HEINZ. Mr. President, I commend the distinguished Senator from New Jersey (Mr. WILLIAMS) for his leadership in bringing this matter before the Senate at this time. The Senator from New Jersey has been recognized throughout the country as one of the proponents and leaders of mass transit. I think that was recognized when he brought before this body, earlier this year, S. 208, which was passed overwhelming by the Senate.

Unfortunately, the House of Representatives did not see fit to act on S. 208, notwithstanding the fact that there were a number of adjustments that absolutely had to be made without causing fiscal chaos for State and local governments and without causing hundreds of thousands of commuters tremendous inconvenience and hardship.

The amendment to H.R. 8346 which the Senator from New Jersey brings before us today is the bare minimum necessary to avoid that chaos and hardship, and I commend him for it.

I also commend the ranking minority member of our committee, Senator BROOKE, who has asked me to be the minority floor manager of this measure. It will mean a great deal to my State, Pennsylvania, and to many other States.

I am extremely grateful for the leadership of the Senator from New Jersey in working closely with all of us who are concerned and for the many hours that he and his staff have put in. I also recognize the work done by the House, particularly by Represenative EDGAR of Pennsylvania, on the House Public Works Committee.

Mr. President, I support the amendment in the form of a substitute to H.R. 8346, which has been offered by the distinguished Senator from New Jersey. This amendment is cosponsored by the Senator from Massachusetts, the ranking minority member of the Banking Committee. I am pleased to cosponsor the amendment as well. This bill amends section 17 of the Urban Mass Transportation Act of 1964. The purpose of section 17 is to maintain the commuter rail services which were adversely affected by the reorganization of rail carriers under the Regional Rail Reorganization Acts of 1973 and 1976. Section 17 provided for $125 million in funds to keep rail commuter service operating in the affected regions of the country.

Beginning in April of 1976, the Consolidated Rail Corporation (ConRail) was required to perform commuter services for the first 6 months, after which State and local agencies took over the operation of the commuter rail system. Federal assistance was provided at a 100-percent level for the first year, a 90-percent level for the next year, decreasing to 50 percent for the last 6 months of the program. This program was due to expire in September of 1978.

This amendment provides for an increase from 50 to 80 percent in the Federal share of commuter rail service costs starting on April 1 of 1978 and continuing for the next 180 days. This bill also deletes the requirement in section 17(d) of the Urban Mass Transportation Act of 1964 which provided that no Federal assistance could be given for the last 180 days of the program without assurance by the State or local agency that the rail service will be continued after the section 17 program has terminated.

In addition, the amendment provides for a 2-year extension of the section 17 program with 50 percent Federal funding for that period, and a new authorization of $30 million a year for fiscal 1979 and 1980.

Finally, this amendment provides for a new section 18 program to provide operating assistance to rail commuter lines not eligible under section 17. An authorization of $20 million is provided for fiscal 1979 and the funds will be distributed by formula to cover operating deficits of eligible commuter rail systems.

Mr. President, a number of State and local commuter lines would face the serious possibility of termination or severe cutbacks in service without this legislation.

Passage of this bill, as amended, will go a long way to insure the continuation of the Nation's commuter rail network. Without the modification and extension of the section 17 program and addition of the section 18 program contained in H.R. 8346, there would be major disruption in commuter transit services throughout the Nation.

In my own State of Pennsylvania for example, reduction or curtailment of commuter rail services would adversely affect over 125,000 commuters a day and over 30 million commuters annually in the Philadelphia metropolitan area. This would leave little option, other than the automobile, available as an alternative within the entire seven county area.

The discontinuation of such transit services would serve to undermine much of what is being accomplished in the Philadelphia area in the related fields of energy conservation, sound environmental policies and efforts to revitalize the city of Philadelphia and its older suburbs.

A viable transportation system is by no means a panacea for all of our urban ills, of course. However, if we allow the commuter rail network throughout the country to falter or stop, it will serve as an indication of the superficiality of our commitment to not only the Nation's transit but energy, environmental, and urban revitalization needs as well.

H.R. 8346, as amended, will provide the administration and the Congress the additional time necessary to address the full range of mass transportation issues which confront us without disrupting the operation of existing transit systems.

There is no question in my mind at least, that a more long-term answer to the problems of operating mass transit facilities—including the commuter rail network—must be found. State and local governments simply cannot be expected to bear the full burden of financing all the costs associated with operating these systems.

It is important to understand some of the history surrounding the commuter rail system in order to gain a perspective and fully understand the importance of the legislation which we are now considering. In 1976, with the passage of the Rail Revitalization and Regulatory Reform Act, it was recognized that in many cases the subsidy required to continue local commuter services under the cost allocation plan required by the act and developed by the Rail Services Planning Offices (RSPO) of the Interstate Commerce Commission would be significantly higher than the subsidies previously paid by local transit authorities to the private railroads.

For example, in the Philadelphia area, the Southeastern Pennsylvania Transit Authority (SEPTA) had been paying the Penn Central and Reading Railroads approximately $26 million a year during fiscal years 1975 and 1976 prior to the start of ConRail operations on April 1, 1976. Based on the RSPO standards, ConRail has now estimated that the present cost of continued operation will be over $50 million a year.

Congress recognized the financial problems that would be created for local governments and transit authorities in continuing even a minimal level of commuter rail services without some assistance. As a result, section 17 of the Urban Mass Transportation Act was added in 1976.

The Congress is recognizing today, with passage of H.R. 8346, that the assistance initially provided is not sufficient to continue commuter rail services beyond September of next year. In fact it is entirely possible, at least in Pennsylvania, that the services would be discontinued as of April 1, 1978, without some additional assistance. This is true despite significant management improvements, substantial increases in the base fare, increased ridership, and an extensive capital improvements program.

If we as a nation are serious about our commitment to provide transportation alternatives in our major metropolitan areas, we must insure that existing mass transit systems—much of which has been constructed without Federal funds—are maintained.

Mr. WILLIAMS. Mr. President, I applaud the diligence of the Senator from Pennsylvania in response to our rail

passenger needs. He has been most constructive.

I have nothing further, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. Are there further amendments?

Mr. RANDOLPH addressed the Chair.

The PRESIDING OFFICER. Does the Senator from West Virginia have an amendment?

Mr. RANDOLPH. I have no amendment. I wish to be recognized.

The PRESIDING OFFICER. Is it satisfactory to go to third reading?

Mr. RANDOLPH. Yes.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

Mr. ROTH. Mr. President, this is a vitally important proposal to my home State of Delaware, as well as the residents of southern Pennsylvania, because it will permit the continuation of commuter rail service in the region. Without this bill it is doubtful whether service would be able to continue because of the drastic increases in fares which would be required.

Because of the bankruptcy of the northeastern railroads and the resulting reorganization, it was necessary for the Congress to provide a temporary subsidy to some hard-pressed commuter lines like the Southeastern Pennsylvania Transportation Authority. This program of support is scheduled to phase down from the present 90 percent level to 50 percent next April, then to zero after September 1978. I agree that SEPTA should become a self-supporting entity, but this cannot be accomplished overnight.

SEPTA has demonstrated its ability to maintain a high level of ridership while other transit use is declining, so it makes no sense to continue an approach that would result in enormous fare increases, and almost certainly be accompanied by reductions in ridership. This bill as modified will extend the transition period so that the conversion from a subsidized operation to a self-supporting one will not be so abrupt.

By passing this bill, the Senate will be rendering a genuine service not only to the thousands of Delawareans and Pennsylvanians who otherwise would be faced with the possible loss of an economical and efficient means of transportation, but to the many residents of other States confronted with the same problem. This bill helps not just Delaware and Pennsylvania, but several other States as well.

Mr. President, if there is no objection, I would like to include in the RECORD, a letter which I received on this subject from our transportation secretary, George Jarvis.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATE OF DELAWARE,
DEPARTMENT OF TRANSPORTATION,
Dover, Del., October 12, 1977.

Hon. WILLIAM V. ROTH, Jr.,
U.S. Senator,
Washington, D.C.

DEAR SENATOR ROTH: The Urban Mass Transportation Act, as amended, provides Federal financial assistance for the costs of rail passenger service operations in accordance with the Regional Rail Reorganization Act of 1973. Through use of these funds, the Southeastern Pennsylvania Transportation Authority (SEPTA), with a service agreement with the Consolidated Rail Corporation (ConRail), has been able to continue to provide rail commuter service to Delaware from the metropolitan Philadelphia area.

Outlined in Section 17 of the Urban Mass Transportation Act, as amended, is a two and one half year Federal subsidy schedule for commuter rail operations. The subsidy program began on April 1, 1976. In summary, the timetable calls for:

1. 100 percent subsidy for the first year of operations from April 1, 1976 to April 1, 1977.

2. 90 percent subsidy for the second year of operations from April 1, 1977 to April 1, 1978.

3. 50 percent subsidy for the first half of the third year from April 1, 1978 to September 27, 1978.

The 50 percent subsidy level then falls to zero on September 27, 1978.

The Amtrak Northeast Corridor Improvement Program will improve the Wilmington Station, which is used by the SEPTA/ConRail commuters. In addition, we plan to advertise very shortly a contract for the construction of a pedestrian overpass to improve access to the Claymont Station. Also concerning the Claymont Station, we are currently seeking available Federal funds for the reconstruction of the badly deteriorated vehicle parking facility located there. The station is heavily patronized by "park and ride" commuters.

The scheduled reductions of Federal operational assistance may bring commuter rail service to a halt in this region. SEPTA seems unable to meet the drastic increases in funds this would require. A possible immediate short-term solution would be to raise the scheduled fifty percent subsidy to eighty percent. This is the intent of House Bill # 8346, which is scheduled to come to a vote the week of October 18, 1977.

For your information, I have enclosed the comments of Mr. James J. McConnon, SEPTA Chairman of the Board, in reference to Secretary Brock Adam's statement regarding this bill. Mr. McConnon's letter is a good summary of SEPTA's current financial plight.

I urge you to support House Bill # 8346, and others that may continue commuter rail operating subsidies. It would be a shame to lose rail commuter service in one area while UMTA is supporting the construction of commuter rail systems in other areas.

An identical letter has been sent to the other members of the Delaware delegation.

Sincerely,

GEORGE JARVIS,
Secretary.

Enclosure.

The bill was read the third time.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. RANDOLPH. Mr. President, I use this opportunity because I think it is appropriate to the general subject matter to indicate the priority which I believe is absolutely necessary for Congress to take and for the administration to take in reference to the immediate need to rebuild the roadbeds of the rail systems of the United States.

The Senator from Pennsylvania (Mr. HEINZ) is knowledgeable on this subject. I note his presence in the Chamber. He has, with other Members, been active in working for a solution to this problem.

I recall what the Civilian Conservation Corps did in the period of the depression in the 1930's. We need such a program in the rebuilding of the roadbeds of the rail systems of this country. Tens of thousands of unemployed men could work now, as did the CCC workers, on projects vital to the economic strength of the country.

Senator DURKIN has been an ardent advocate of action. The New Hampshire legislator has offered an amendment, in which I have joined. It passed this body on the Coal Conversion bill and is now in conference between the Senate and House. We are working together to hold this amendment of $100 million to rehabilitate the roadbeds of our rail system.

I have stressed on this floor several times, and I repeat, that we are moving our coal trains at the slow speed of 14 miles an hour because of the inadequacy of the trackage. The passenger trains now operating on Amtrak, are constantly being derailed. Lives are being lost, and in the shipping of freight, precious cargoes are actually being destroyed when the derailments take place.

I hope some methodology within the Senate and within Congress can be worked out to solve this national need. Many of us have been working toward the finalization in an all-out effort to rebuild, to rehabilitate, to strengthen the roadbeds, to do this is crucial.

Less and less personal motor cars will perhaps be used by our people in the coming months. We will need our American railroads to fill the gap to greater degree than we have needed them for the last 15 or 20 years.

Yes, I am in earnest. The movement of people and products is necessary through the strengthening of the roadbeds and the rails throughout America.

Mr. President, I reemphasize that it is necessary that the rails are made safe to carry the passengers and the cargo over the rail systems of our country. If we wait too long we will do a disservice to America, to our economic well-being, to pressing energy needs and to the public we serve.

Mr. HEINZ. Mr. President, will the Senator yield?

Mr. RANDOLPH. I yield.

Mr. HEINZ. I compliment the Senator from West Virginia on his statement. It is entirely accurate. I know that it has been a concern of his for a number of years. In fact, I well remember the hearings, in the committee jointly chaired by the Senator from West Virginia and the former Senator from Indiana, on the concept of putting tens of thousands of unemployed Americans to work, to rehabilitate the roadbeds.

Mr. RANDOLPH. That is what we did with the CCC.

Mr. HEINZ. That is exactly what we did with the CCC, and of course the CCC worked quite satisfactorily.

Here we have a priority of national importance, of great national need. That is

a commonly shared perception. There is the opportunity again to kill two birds with one stone—unemployment on the one hand; our rail rehabilitation needs and safety needs on the other.

I particularly recognize the Senator from West Virginia not only as someone who brought, through the hearings I mentioned last year, this matter to the attention of this body but also someone who, along with the former Senator from Indiana, was successful in getting that legislation to pass this body last year as a number of us were similarly engaged in the House of Representatives. The Senator from West Virginia is a cosponsor this year of legislation of which I am privileged to be the principal sponsor—S. 1419 the rail jobs bill—that is now pending before the Senate Commerce Committee.

I join the Senator from West Virginia in urging the attention of our colleagues to this matter.

I thank the Senator for yielding.

Mr. RANDOLPH. I thank the able Senator.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall the bill pass?

The bill (H.R. 8346), as amended, was passed, as follows:

H.R. 8346

Strike out all after the enacting clause and insert:

SECTION 1. Section 17 of the Urban Mass Transportation Act of 1964 is amended—

(1) by striking out "50 percent" in subsection (d)(4) and inserting in lieu thereof "80 percent";

(2) by striking out "and" at the end of subsection (d)(3);

(3) by striking out the period at the end of subsection (d)(4) and inserting in lieu thereof "; and";

(4) by inserting the following new paragraph after subsection (d)(4);

"(5) 50 percent for the 24-month period succeeding the period specified in subparagraph (4) of this subsection.";

(5) by striking out the last sentence of subsection (d); and

(6) by striking out "$125,000,000" in the first sentence of subsection (f) and inserting in lieu thereof "$185,000,000" and by amending the second sentence of such subsection to read as follows: "There are authorized to be appropriated for liquidation of the obligations incurred under this section not to exceed $40,000,000 by September 30, 1976, $95,000,000 by September 30, 1977, $125,000,000 by September 30, 1978, $155,000,000 by September 30, 1979, and $185,000,000 by September 30, 1980.".

SEC. 2. The Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new section:

"SEC. 18. (a) The Secretary shall provide financial assistance annually for the purpose of reimbursing States, local public bodies and agencies thereof for the cost of financially supporting or operating rail passenger service provided by railroads designated as class I.

"(b) Financial assistance under subsection (a) of this section shall not be available to support (1) intercity rail passenger service provided pursuant to an agreement with the National Railroad Passenger Corporation under section 403(b)(2) of the Rail Passenger Service Act of 1970, as amended (45 U.S.C. 562(b)); and (2) rail passenger service required by section 304(c)(4) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744(c)).

"(c) The Secretary shall distribute financial assistance authorized by subsection (a) pro rata on the basis of the passenger-miles attributable to each rail passenger service, except that (1) for the purposes of such apportionment in no case shall any State, local public body or agency thereof supporting or operating rail passenger service eligible for assistance under this section be credited with more than 30 per centum of the total passenger miles eligible for such assistance for the calendar year ending immediately prior to the commencement of the Federal fiscal year for which the distribution is made, and (2) no Federal grant for the payment of subsidies for operating expenses shall exceed 50 per centum of the total operating losses of such service.

"(d) Financial assistance authorized by subsection (a) may be applied to the payment of operating expenses or programs to correct deferred maintenance within the meaning of section 304(e)(5)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744(c)), but in no case may it exceed the total of the amounts applied by the grantee from its own funds to the payment of operating expenses and programs to correct deferred maintenance for the same fiscal period.

"(e) Financial assistance provided pursuant to subsection (a) of this section shall be subject to such terms, conditions, requirements, and provisions as the Secretary may deem necessary and appropriate.

"(f) To finance assistance under this section, the Secretary may incur obligations on behalf of the United States in the form of grants, contract agreements, or otherwise, in such amounts as are provided in appropriations Acts, in an aggregate not to exceed $20,000,000. There are authorized to be appropriated for liquidation of the obligations incurred under this section not to exceed $20,000,00 by September 30, 1979, such sum to remain available until expended.".

Mr. WILLIAMS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

The Senate continued with the consideration of H.R. 9346.

The PRESIDING OFFICER. The question now recurs on the amendment offered by the Senator from Nebraska (Mr. CURTIS).

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. WILLIAMS be recognized for 3 minutes.

The PRESIDING OFFICER. The Senator from New Jersey (Mr. WILLIAMS) is recognized.

AMENDMENT TO THE HIGHER EDUCATION ACT OF 1965

Mr. WILLIAMS. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 9512.

The PRESIDING OFFICER laid before the Senate H.R. 9512, an act to amend the Higher Education Act of 1965 to include the Trust Territory of the Pacific Islands in the definition of the term "State" for the purpose of participation in programs authorized by that act, which was read twice by its title.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

Are there amendments to the bill?

Mr. WILLIAMS. There are no amendments.

The bill was considered, ordered to a third reading, read the third time, and passed.

Mr. WILLIAMS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TIME-LIMITATION AGREEMENT—SENATE JOINT RESOLUTION 82

Mr. ROBERT C. BYRD. Mr. President, I have cleared this request with the distinguished minority leader, with the distinguished Republican whip, with the distinguished Senator from Washington (Mr. JACKSON), and with the distinguished Senator from New Hampshire (Mr. DURKIN).

I ask unanimous consent that there be a time limit on the Alcan pipeline resolution, Senate Joint Resolution 82, with the understanding that the time of 1 hour and 15 minutes be equally divided between Mr. JACKSON and Mr. STEVENS and that there be 15 minutes under the control of Mr. DURKIN.

The PRESIDING OFFICER. Is there objection?

Mr. CURTIS. Mr. President, reserving the right to object.

I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO RETURN TO CONSIDERATION OF H.R. 9346

Mr. ROBERT C. BYRD. Mr. President, I have already received unanimous consent to call up Senate Joint Resolution 82 at any time. I shall call it up now, and I ask unanimous consent, which I do not need to do, that upon the disposition of that measure the Senate return to the consideration of the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

Mr. ROBERT C. BYRD. Mr. President, I call up Senate Joint Resolution 82 and ask for its immediate consideration.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 82) to approve the presidential decision on an Alaska natural gas transportation system.

The Senate proceeded to the consideration of the joint resolution.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and I ask unanimous consent that the time not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Washington (Mr. JACKSON) is recognized.

Mr. JACKSON. Mr. President, last year Congress passed special legislation to expedite the decisionmaking process for selecting a transportation system to transport gas from Alaska's North Slope to markets in the lower 48 States.

The Alaska Natural Gas Transportation Act of 1976 created a four-step process for selecting a gas transportation system.

The Federal Power Commission was directed to make a recommendation to the President by May 1, 1977 as to which route it preferred. Then, various Federal officers and agencies and States and local officials were to submit their comments on the FPC's recommendation by July 1, 1977. A Presidential decision was to be submitted to Congress by September 1, 1977 unless he needed to exercise some discretionary authority to delay the recommendation. Finally, both the Senate and the House of Representatives were to review the President's recommendation and to pass a joint resolution if they agreed with it. If not, the President would have been required to submit a new recommendation.

The President's recommendation to designate the Alcan pipeline project for approval was submitted to the Congress on September 22, 1977. Accompanying that decision was an agreement between the United States and Canada covering principles applicable to a northern natural gas pipeline. I introduced Senate Joint Resolution 82 on that same day. The required text of the resolution is set forth in the Alaska Natural Gas Transportation Act.

The Committee on Energy and Natural Resources held 5 days of hearings on the President's recommendation. The committee met yesterday to review the issues presented during the hearings and to consider the joint resolution.

Reservations about the viability of the Alcan project have been expressed and are contained in the committee's hearing record. However, considering the record taken as a whole, we believe the advantages involved in giving Alcan a chance to succeed far outweigh the risks involved in reopening the complex process which led to the President's decision.

I am particularly concerned whether the agreement on principles signed by the United States and Canada will bind the Provinces of British Columbia, Alberta, and Saskatchewan. The agreement commits the Provinces to cooperate and to sign individual agreements with the Federal Government. Those individual agreements have not yet been completed.

Under Canadian law, a treaty is not the supreme law of the land as it is in the United States under the Missouri versus Holland doctrine. Therefore, the Provinces are not bound by the treaty that the Senate ratified this summer which prohibits discriminatory taxation from being imposed upon any hydrocarbon pipeline. Thus, it is absolutely essential that the Canadian Federal Government take the steps necessary to bind the Provinces—if they can—to accept the principles elaborated in the treaty and in the agreement.

The committee has prepared a synopsis of the "Issues Before the Congress" section of the report on Senate Joint Resolution 82. It summarizes the concerns about the project that were raised during our hearings. Those concerns are spelled out in greater detail in the Committee Report No. 95–567. I ask unanimous consent that a copy of the synopsis be printed at this point in the RECORD.

There being no objection, the synopsis was ordered to be printed in the RECORD, as follows:

SYNOPSIS OF "ISSUES BEFORE THE CONGRESS" SECTION ON COMMITTEE REPORT 95–567 ON S.J. RES. 82

CAN THE PROPOSED PROJECT BE PRIVATELY FINANCED, OR WILL FEDERAL FINANCIAL ASSISTANCE BE NECESSARY?

The President's Decision requires private financing.

The President contemplates participation by the State of Alaska and the North Slope producers, though the producers may not hold an equity position for antitrust reasons.

Secretary of Energy Schlesinger and Assistant Secretary of the Treasury Altman both testified that the project can be privately financed, even without participation by the State of Alaska or the producers.

Alcan asserts that the project can be privately financed.

While the Committee has reservations about the ability of the Alcan project sponsors to secure the necessary private financing, we are recommending approval of the President's Decision based upon the unqualified assertions made by the Administration and Alcan officials.

The Committee cautions the Administration and the sponsors against taking a back door approach to Federal financing. Financial gimmicks involving consumer risk-taking via the Federal Treasury or via special tariffs will not be tolerated by the Congress.

WHAT IS THE COST OF SERVICE OF THE PROPOSED PROJECT?

The President's Decision assumes that the throughput for sales will average 2.4 billion cubic feet per day over the life of the pipeline.

Based upon that average, the cost of service for the Alcan Pipeline Project would average $1.04 per thousand cubic feet in 1975 dollars.

The President estimates that the El Paso Pipeline Project would have had an average cost of service of $1.21 per thousand cubic feet in 1975 dollars.

One witness, Dr. Todd Doscher, asserted, in effect, that the President's throughput assumptions are absolutely incorrect. The most likely throughput for sales will be 2.0 billion cubic feet per day at best.

The State of Alaska and the producers agree with the 2.0 bcf per day throughput figures.

There is a great debate over the effect that gas production will have on the ultimate recovery of oil from the reservoir.

Doscher asserts that gas production could cost as much as 2–4 billion barrels of oil. The actual effect will not be known until the field has been operating for some time. Therefore, he believes that a decision authorizing the pipeline should be delayed.

The State of Alaska and the producers believe the gas production will not affect the ultimate recovery of oil by more than 1%.

The State of Alaska and the producers agree that more information about the performance of the reservoir is desirable, but feel that production plans allow for the gathering of that information without jeopardizing the early construction of the pipeline.

The principal reason for the disagreement is whether you assume that a substantial water injection program will be implemented in a timely fashion in order to offset the reservoir pressure loss resulting from gas production.

The State of Alaska has the legal authority to insist upon a water injection program.

If the State does not insist upon a water injection program, the Federal Energy Regulatory Commission could require such a program as a condition to granting the final certificate of public convenience and necessity.

The Committee believes that such a requirement must be imposed upon the producers by appropriate authorities before a final construction go-ahead is given.

Gas sales averaging 2.0 billion cubic feet per day may not require the 48" pipeline contemplated by the President's Decision. A 42" pipeline could be more appropriate.

F.E.R.C. will have the final responsibility for determining whether to authorize construction of a 48" or 42" line prior to granting the final certificate of public convenience and necessity.

WHAT IS THE ENVIRONMENTAL IMPACT OF THE PROPOSED PROJECT?

Of the three routes originally proposed, Alcan's appears to promise the least environmental impact if proper mitigative actions are taken.

Construction of the pipeline will have some adverse environmental impact.

The Council on Environmental Quality has reviewed the draft environmental impact statement on the Alcan Pipeline Project. It believes the EIS is sufficient to meet the requirements of the National Environmental Policy Act.

The Senate Joint Resolution makes the finding that the environmental impact statement is sufficient to meet the requirements of NEPA. That finding is required to be included in the resolution by the Alaska Natural Gas Transportation Act.

WILL ANY ADDITIONAL LEGISLATION BE NECESSARY PRIOR TO THE TIME CONSTRUCTION BEGINS?

There are at least three areas where additional legislation may be necessary prior to construction.

First, legislation may be required to establish the wellhead price for Alaska gas.

Second, the President intends to submit a limited reorganization plan pursuant to authority in the Reorganization Act of 1977. The reorganization plan will consolidate the authorities and powers of several Federal agencies and departments in the office of the Federal Inspector. Congress will have 60 legislative days to review the reorganization plan before it goes into effect.

Third, legislation may be required if the President chooses to recommend any waivers of law pursuant to the term of the Alaska Natural Gas Transportation Act.

WHAT ISSUES PERTAINING TO THE PROPOSED PROJECT WILL REMAIN UNRESOLVED AFTER CONGRESS ACTS TO APPROVE THE PRESIDENT'S RECOMMENDATION?

The President's Decision assumes that the gas producers will build a gas conditioning plant on the North Slope. The producers contend that the gas transmission companies should pay for its construction. F.E.R.C. has the authority to resolve the dispute.

The President's Decision recommends establishment of a variable rate of return tied to the size of the cost overruns that are incurred during construction. F.E.R.C. and the Canadian National Energy Board have the authority to implement the concept.

The Agreement on Principles signed by the United States and Canada includes statements by the Governments of the Province of British Columbia, the Province of Alberta, and the Province of Saskatchewan that they are willing to cooperate with the Government of Canada to facilitate construction of the Alcan Pipeline through their respective Provinces.

The statements commit the Provinces to negotiate Federal-Provincial agreements establishing the specific details of the agreements between the National Government and the Provincial Governments. Those agreements have not been completed.

Under Canadian law a treaty is not the supreme law of the land as it is in the United States under the Missouri v. Holland doctrine. Therefore, the Provinces are not bound by the Treaty which prohibits discriminatory taxation from being imposed upon any hydrocarbon pipeline. Thus it will be necessary for the Federal Government to take the steps necessary to bind the Provinces to accept the principles elaborated in the Treaty and in the Agreement.

The U.S. Embassy in Ottawa, in consultation with the National Energy Board, contends that the Alcan Pipeline Project is an inter-provincial undertaking clearly within the competence of the Government of Canada. They believe there is a high probability that the Canadian courts would disallow any attempt by a Province to interfere with construction of a Federally-approved pipeline by withholding eminent domain, or in any other way.

While the Committee is not entirely satisfied with the current situation, we are willing to rely upon the good faith assurances that the necessary agreements between the Provinces and the Federal Government will be concluded promptly and that the Federal Government will be responsible for the performance required by the Agreement between the United States and Canada.

The Agreement on Principles between the United States and Canada commits each government to "endeavor to ensure that the supply of goods and services to the Pipeline project will be on generally competitive terms." The Committee received testimony that Canadian authorities are interpreting that provision to mean that Canadian steel will be used for the Canadian portions of the line and that United States steel will be used for the United States portion of the line. The committee does not agree with that interpretation and desires that there be open competition between United States and Canadian firms for the supply of goods and services to the entire pipeline project. Therefore, the Committee urges the Administration to pursue this matter in every proper way and to go back to the Canadians to resolve the content issue.

CONCLUSION

As this report makes clear, the Committee has a number of concerns about the Alcan project. Given the economic and political uncertainties we have discussed, it is not unreasonable to suggest that the future of the project is by no means assured.

At the same time, given the timetable established by Congress in the Alaska Natural Gas Transportation Act of 1976, it would be unrealistic to expect that all these issues could be resolved before Congress is required to act on a Presidential Decision.

On the basis of the record before it, Congress must now decide whether to approve or disapprove the President's Decision in favor of the Alcan route. The Act offers no other options.

Reservations about the Alcan Project have been expressed and are contained in the Committee's hearing record. However, considering the record taken as a whole, we believe that the advantages involved in giving Alcan a chance to succeed far outweigh the risks involved in reopening the complex process which led to the President's Decision.

The North Slope field contains fully one-fifth of the Nation's natural gas reserves. There is an urgent national interest in making those reserves available for productive use.

The Alcan project, if it can be implemented, has enormous potential for meeting national energy needs in the 1980's and beyond.

We therefore recommend that the Senate approve S.J. Res. 82.

Mr. JACKSON. Mr. President, the Alcan project, if it can be implemented, has enormous potential for meeting national energy needs in the 1980's and beyond. I therefore urge the Senate to approve Senate Journal Resolution 82.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. GLENN). Who seeks recognition?

Mr. STEVENS. Mr. President, I yield myself such time as I may require.

Mr. President, the issue before us is whether or not we should approve the President's recommendation on the Alcan pipeline system. The history has been recited by my good friend, the distinguished chairman of the Committee on Energy and Natural Resources, Senator JACKSON.

Mr. President, first of all I want to thank the distinguished Senator from Washington, Mr. JACKSON, for his courtesy in permitting me to sit in with his Committee on Energy and Natural Resources, even though I am not a member of that committee, on their hearings and deliberations regarding this pipeline proposal. The selection of a route to ship natural gas from my State to the South 48 has been an issue that has been of vital concern to me and to the residents of my State for some time, and I appreciate the interest of the chairman in seeking the views of Alaska, even though neither I nor my colleague from Alaska is on his committee.

As the Senate is well aware, the Alcan proposal chosen by the President is not the route that I supported. I, together with the residents of my State, and the State government, favored the El Paso project. It would have provided greater benefits to Alaska and we believed that it would have provided the greatest benefit to the Nation, all things considered.

However, it is now clear that there is only one transportation system left before us and that is the Alcan proposal. The Arctic System was eliminated by action taken earlier by the National Energy Board of Canada, and after the President's recent selection of the Alcan proposal, the El Paso system withdrew itself from contention.

We can reconsider an LNG route from Tidewater, Alaska, to the west coast if, for any reason, the Alcan pipeline is not built or completed.

Mr. President, I urge the Senate to pass this resolution approving of the President's decision in favor of the Alcan route, now that there is no other route that is available.

There are many questions about the Alcan proposal and the Executive agreement with Canada. I have asked many questions myself—not to be antagonistic, but to have these points clarified and made part of the record so we could know what we are getting into when we approve this project. I think that the record should show that we are aware of these problems but that we approve this proposal with the understanding that the administration will continue to work on these problems, especially those involving the governments of Canada.

The relationship between the Federal Government of Canada and the Provinces is different from the system we have in the United States. The Canadian Provinces are not bound by treaties entered into by the Federal Government. This could pose problems to the pipeline.

One of the largest unresolved issues is "Canadian content." It is the announced policy of Canada to maximize the involvement of Canadian manufacturers, suppliers, contractors, labor, and capital in projects in Canada. The National Energy Board recommended that this policy be extended to Canadian portions of the Alcan line. Foothills Pipeline Co. has testified it intends to give preference to Canadian firms. According to the Canadian Government, the pipeline through Canada will mean an expenditure of more than $7 billion in the Yukon and Alberta alone. Two Canadian steel corporations, Stelco and Interprovincial Steel, have both been earmarked to produce the pipe for the 2,000 miles through Canada.

But the agreement barely addresses the question of Canadian content, other than on page 60 where it states simply that "each Government will endeavor to insure that the supply of goods and services to the pipeline project will be on generally competitive bases." The question here is whether or not the competition ranges across the border, opening the contracts to bidding in both nations.

Considering that the Alcan route means an additional deficit in the balance of payments of about $10 to $12 billion, American labor should have a fair share of those contracts awarded inside Canada. For example, U.S. Steel is building a plant in Baytown, Texas, with the capability of producing 48-inch pipe. Will this plant have an opportunity to bid on the contracts for the pipe? That is a question I hope the administration will continue to work on.

I am also concerned that contractors with extensive experience in building the

trans-Alaska oil pipeline will be allowed to participate in the construction of the pipeline that is to be paid for by American consumers.

Mr. President, let me point out that the very first building material ordered for the Alaska oil pipeline was for preconstructed camps in which the employees could live while they were working on that pipeline. Those camps were preconstructed by the Atco Co. in Canada, and I remember the great hue and cry that was raised in Alaska as the first money was spent for those camps and material started coming in from Canada.

We were told that because we wanted competitiveness, and the Canadians were competitive in the production of those camps, that they had been acquired in order to keep the costs down for American consumers.

I feel certain that American companies can, in some instances, underbid their Canadian counterparts, and they should be allowed to do so. Our companies should be able to compete freely with the Canadian companies in terms of material, supplies, and manpower that would be necessary to build our pipeline through Canada.

As I have said before, Mr. President, this is a two-way street. There are a great many items now that are being procured in Canada for use in the United States. I, for one, intend to start making an inventory of those. If there is not competition in this pipeline, I think we should find some way to deny business being conducted by Canadian firms in this country, since this business leads to higher unemployment in our country as far as the particular types of contracts involved are concerned.

I do not make that as an idle threat. I think that if we intend to put $7 billion to $10 billion into Canadian soil, the very least we can ask for is equivalent treatment as far as competition is concerned.

Another question is that of whether or not the production of gas from Prudhoe Bay will jeopardize the ultimate recovery of oil. The producer companies and the state division of oil and gas conservation were unanimous in their testimony before the Energy Committee that gas production would not jeopardize oil recovery, if appropriate steps are taken. These appropriate steps could, and probably will, include waterflooding. But that will not be known until more experience is gained from the reservoir. I see no need for the Federal Government to require a water flooding program at this point. The division of oil and gas conservation has sufficient authority under the State conservation statute to prevent waste, and it will protect this reservoir.

Finally, there is the question of financing. Will Alcan be able to obtain the necessary financing through the private capital market? This will be the acid test, in my opinion, of the viability of the Alcan proposal. We should approve the President's decision and let Alcan face this test. If Alcan fails, then we can consider other alternatives.

I discussed many of these points in my testimony before the Senate Energy Committee on September 27. I ask unanimous consent that my prepared testimony be reprinted in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. STEVENS. Again, Mr. President, I urge the Senate to agree to this resolution. This is a positive step that we can take to increase our Nation's supply of natural gas. We cannot afford any further delay. I support the recommendation of the committee.

In closing, Mr. President, let me add to the request for printing in the RECORD the request to have printed the testimony of the director of the Division of Oil and Gas Conservation of the State of Alaska, and the testimony of the producing companies concerning the very vexatious questions raised by the so-called Doscher Report concerning whether or not the production and sale of gas from this reservoir would reduce the ultimate recovery of oil. I think all concerned need to have that in the RECORD so that they will note the fact that we have considered the testimony of all concerned in reaching the conclusion that this matter should be reported to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. STEVENS. Once again I thank my good friend the Senator from Washington (Mr. JACKSON) for permitting me to participate in the markup and consideration of this resolution, and in the framing of the report that has been filed by his committee. We are, I think, justly concerned that the record clearly show that some questions were raised, but that notwithstanding those questions, the decision has been made to approve the President's decision on the Alcan pipeline.

I, for one, believe that this is a great resource, that there will be additional oil and gas resources discovered in our State. We are but on the threshold of providing the United States with a substantial increment in its supply and prove reserves of oil and gas.

I hope those who are concerned with this resolution will take into account that we will soon face in the Senate, probably not until next year, but in this Congress, the question of whether or not almost 146 million acres of Alaska land are to be set aside, as some want it to be aside as wilderness, national parks, wildlife refugees, wild and scenic rivers, or national forests. To take that action before we have completed the inventory of the remaining 13 sedimentary basins of Alaska that are capable of producing oil and gas, or before we have inventoried the other minerals and materials in Alaska would be unfortunate.

There are some lands that need to be added to the category of national interest lands. But I hope the Senate will think carefully about the proposals being made to have wholesale withdrawals of Alaskan lands which could prevent the utilization of our great oil, gas, and mineral potential for the preservation, security, and viability of the system that has maintained the United States for so long.

I support this resolution because I believe we have no alternative but to support it. And I support it with full knowledge that, in connection with the Canadian portions of this proposal, two of the most distinguished Canadians I have ever met have been involved. I think the Alberta Gas Trunkline Co. and its president, Mr. Blair, and the Westcoast Transmission System and its president, Mr. Phillips, are men of experience, dedication, and knowledge in the gas field. If we have to go through Canada, as we now must, I am pleased that they will be directing the efforts of the Canadians in this regard. I think that if the Canadian Government listens to them, then we will in fact have equity in consideration of our proposals for contracting and for management of labor in that country.

It is a matter of deep concern to many people in this country that we are going to, by virtue of this decision of the President, increase our deficit in our balance of payments and increase our potential for unemployment. Even worse, Mr. President, I think history may well show that the President's decision has created, at least for subsequent American generations, a new Panama Canal question; because after we have used the gas of the North Slope, after we have exhausted the gas resources that this pipeline can carry to the South 48, the pipeline that will have been paid for by the American consumers will still be in Canadian soil. The question of future use of our pipeline and whether or not our consumers should get any dividend from the pipeline they have paid for if it is used in the future by Canadians to transport Canadian gas to Canadian consumers, is not answered by the agreement between the United States and Canada.

That is unfortunate. I personally raised that question with members of the administration and with the President himself, and I think it is a question that has the potential to cause serious disruptions between the United States and Canada in the future. For now we have no option but to proceed with this pipeline, and I urge the Senate to pass the resolution that has been presented by the Senator from Washington.

EXHIBIT 1

STATEMENT BY SENATOR TED STEVENS

Mr. Chairman, I thank you for the opportunity to testify before your committee today and I especially thank you for permitting me to sit with the Members of the Committee during these hearings. As you know, the selection of a route to ship natural gas from my state to the South 48 has been an issue that has been of vital concern to me and to the residents of my state for some time.

We are here to look into the President's decision on the selection of the Alcan proposal. I am sorry that the one alternative, the one option left to the U.S. in case of default by Alcan, has withdrawn its application. If for any reason the Alcan pipeline is not built or completed, I hope we can reconsider an LNG route from Tidewater, Alaska, to the West Coast.

In any case, Mr. Chairman, I am not here to discuss the all-American concept of transporting natural gas. We in Alaska take some comfort in the fact that the most favorable

of the two Canadian routes was selected. The effort by Arctic Gas to ship Alaska's natural resources out of our state without benefit to the people of Alaska was defeated—primarily, however, by Canadians. This is a fact we shall not forget.

We won but only if the Congress can be assured that in fact the Alcan pipeline will be built and built without delay. There is a very real possibility that the Alcan pipeline may not be built under the circumstances foreseen by the Administration as expressed by Dr. Schlesinger to this committee yesterday.

In the brief time I have today, let me outline some of my concerns which have led me to question the optimistic timetable for the Alcan pipeline expressed by Secretary Schlesinger:

FINANCING

Mr. Chairman, there is serious question that this project can be built with the financing scheme presented in the Presidential Report. The President has predicated his assessment for Alcan's financeability on the assumption that the State of Alaska and the producer companies of the North Slope will participate in equity ownership and debt guarantee of the pipeline. I told Dr. Schlesinger this yesterday and I think it bears repeating today—to my knowledge, the State of Alaska has no intention at this point to participate in any financing of the Alcan line nor have the producers indicated their willingness to participate. In fact, a week prior to the President's decision, the Governor of the State of Alaska wrote the President stating the state had no intention of financially involving itself in the Alcan project. The Governor also said that even if he were to change his mind, it was unlikely the legislature would approve such a plan.

Similarly, none of the major producers of the North Slope natural gas have stepped forward and indicated a willingness to participate in either the equity ownership or a debt guarantee of Alcan as is indicated in the Presidential Report.

I personally asked all of the producers of North Slope gas if they were willing to participate in financing the all-American project and in no instance did I receive any indication that they were willing to do so.

The report's financial analysis concludes that the project can be privately financed. However, when asked, Dr. Schlesinger testified that their conclusion was based on ⅛ of the gas. He conceded the Administration had not seriously considered the State's options of keeping their ⅛ of the royalty gas within the State. The report may have erroneously concluded that there were sufficient incentives for the State to commit its ⅛ of the gas to the Alcan line. I am told that the State's Commissioner of Revenue, who will testify before the Committee later this week, believes that the inherent risks in the Alcan line, put with the opportunity for gas-based industries within the State, may result in the State's selling only a portion of its gas or none at all.

The residents of my state pay the highest price for the use of natural gas in the United States. I am sure that they cannot be faulted for demanding that the State exercise its options to use ⅛ of the gas for their own use rather than take payment for the royalty gas. So, Mr. Chairman, in view of that possibility, I urge the Committee to take exception to the President's report with respect to the financeability of the Alcan line.

Mr. Chairman, we all understand that delay will increase the costs of service to the consumer. Financing aside, there are other reasons to believe that there will be substantial delay in the construction of the Alcan pipeline. We cannot permit history to repeat itself. As everyone knows, we suffered from a four year delay because of court action and Congressional approval with the trans-Alaska pipeline and it is my hope that this will not happen. But, there are problems with regard to Canadian approval, Native claims, and provincial conditions that may well result in untimely delay. Therefore, it is reasonable to assume that there will be cost overruns resulting from actions that the builders of this pipeline will have no control over. Understandably then, the variable rate of return which this report states is the incentive to the builders to keep costs down are only one part of a very complicated problem. Without even questioning the adequacy of the variable rate of return concept, it is questionable whether the incentive to prevent delay will in fact have any impact on those who may cause the delay. In fact, it might be said that the provinces themselves might profit from delay. At this point, it is of little benefit to question the filings of each of the applicants and the interpretation of the Departments which concluded that there would be a 17c cost of service benefit should the Alcan be built. But, the President has overlooked the inevitability of LNG facilities being built in Alaska. As you know, we have fifteen highly potential oil and gas basins in Alaska on and off shore. Seventy percent of the outer continental shelf is off Alaska. The estimated potential recoverable gas offshore Alaska alone totals more than 188 tcf. These reserves will have to be transported by LNG. It is reasonable to assume that the American consumer will bear the cost of the LNG facilities which have to be built to transport Tidewater gas.

The Alaska Natural Gas Transportation Act of 1976 provided for a limitation of judicial review. The President was authorized to submit a waiver of all laws which he felt need to be waived to expedite issuance of permits for a pipeline. The President's decision requested waiver of only two provisions of Federal law. I suggest this Committee and its competent staff will want to review all other applicable laws to determine if the President's request is all inclusive if we are to avoid delay.

CANADIAN FEDERAL/PROVINCIAL APPROVAL

I am surprised, Mr. Chairman, that according to Dr. Schlesinger and the President's report, the only commitment that the U.S. has from the provinces is a "statement" of agreement in principle and an offer to "cooperate" under the terms of the Hydro Carbon Treaty ratified last month by the Senate.

I direct your attention to page 81 of the President's report in which the Province of British Columbia says that the extent of cooperation with any agreement must still be worked out. Dr. Schlesinger said yesterday that the letters of exchange have yet to be completed.

Because of strong provincial autonomy in Canada, this executive agreement is founded on a very thin thread, far too thin and far too weak to assure compliance by the provinces. One need only look into history.

One such example is the Columbia River Treaty. Following signing of the treaty, British Columbia held up the project until it received nearly a quarter of a billion dollars for a non-related project—the Peace River dam. It was a classic provincial finesse and a valuable lesson to be learned by the Americans.

The concern we in the Congress should have is that the provinces have a far greater degree of leverage in extracting concessions from Ottawa than any state has on the Administration in Washington. Regardless of the agreement between the U.S. and Canadian governments, we must realize that it is not binding on the provinces. Ottawa cannot unilaterally preclude the provincial legislatures from exercising their lawful rights to impose direct taxes on this pipeline. And the U.S. would have difficulty holding the Canadian government liable for the provincial right of the provinces to levy whatever lawful direct taxes they wanted on portions of the line that cross their land.

Although I would be glad to discuss this at some length under questioning, there are statements by B.C. to extract every penny possible from the pipeline.

For example, former Premier and candidate David Barrett told an emergency debate in the B.C. legislature that it should impose a right-of-way charge of $842 million for crossing B.C. territory and for the resulting "social upheaval" in the northern regions of the province—an area of unsettled Native claims. Although the payment of Native claims is prohibited, according to Dr. Schlesinger, under the terms of the agreement, the province might levy such a charge as a right-of-way fee or a direct tax, such as a property tax—to pay for the settlement and implementation of Native Claims, as it did to pay for another non-related project such as the Peace River dam in the Columbia River Treaty.

Mr. Chairman, the possibility that another Columbia River Treaty snafu may develop is all too real. The only assurance the Administration has from Canada and the provinces is that they intend to "cooperate." Perhaps this Committee should ask the provincial leaders themselves if the provinces will submit to Congress statements concerning what they intend to extract from the pipeline consortium, and ultimately the American people. Perhaps we should ask them what added charges they are going to put on the line and ask B.C. whether it will pay the settlement and implementation of the Nishga Indians from funds derived from the pipeline.

The sorry thing about this arrangement with our neighbors to the North is that it is in the form of an executive agreement. The largest project ever undertaken by private financing in the history of mankind is submitted not as a formal treaty or protocol for the advice and consent of the Senate as such international agreements are usually handled, but by an agreement between two Chiefs of State.

LABOR AND CANADIAN CONTENT

Mr. Chairman, I want to briefly touch on another nettlesome problem that has not been solved but one which may cause a great deal of concern to the American people.

Noticeably absent from the agreement is any mention of "content"—that is the nationality of labor and material used in the construction of the line. Can we assume by omission that the Canadians intend to build their portion of the line lock, stock and barrel? Mr. Chairman, according to the NEB, they are indeed planning just that. According to the Canadian Government, the pipeline through Canada will mean an expenditure of more than $7 billion in the Yukon and Alberta alone. Two Canadian steel corporations, Stelco and Interprovincial Steel, have both been earmarked to produce the pipe for the 2,000 miles through Canada.

Yet, Mr. Chairman, the agreement barely addresses the question of Canadian content, other than on page 60 where it states simply that "each government will endeavor to ensure that the supply of goods and services to the pipeline project will be on generally competitive basis." The question here is whether or not the competition ranges across the border opening the contracts to bidding in both nations.

Considering that the Alcan route means an additional deficit in the balance of payments of about $10 to $12 billion, American labor at least should have a fair share of those contracts awarded inside Canada. For example, U.S. Steel is building a plant in Bay Town, Texas, with the capability of producing 48 inch pipe. Will this plant have an opportunity to bid on the contracts for the

pipe? That is a question that is as yet unanswered, in my opinion, Mr. Chairman.

I am also concerned that contractors with extensive experience in building the trans-Alaska pipeline will be allowed to participate in the construction of the pipeline that is to be paid for by American consumers.

I have attempted here to delineate some of the concerns I have and those which are problems to the completion of this line. That there are benefits to both nations from the Alcan line is unquestioned. But I want to caution this committee and the Congress that although this agreement has been touted as an example of international goodwill and cooperation between the United States and Canada, it may well have the opposite effect. Indeed, unless we are absolutely certain that all the questions have been answered and all the problems solved prior to our approval of the President's decision, then, Mr. Chairman, I fear that we are faced with the prospect of having no pipeline at all.

I want to stress that we in Alaska want to work with Alcan to make certain that there is actually a pipeline from the North Slope to the South 48. We will do everything we can to make sure that Alcan is welcomed in our state. But, Mr. Chairman, I also hope that we are assured here in Washington that the line will be built.

As I stated, I am very concerned about the possibility of delay—delay which the President himself in his letter of transmittal to the Congress said would "greatly increase the total cost of the pipeline."

Mr. Chairman, I ask that the record remain open for my submission of detailed questions to the Administration.

Thank you.

Exhibit 2

TESTIMONY OF O. K. GILBRETH, JR.

Mr. Chairman, other distinguished Senators, Ladies and Gentlemen. My name is O. K. Gilbreth, Jr. and I am Director of the State of Alaska's Division of Oil and Gas Conservation in the Department of Natural Resources and Chairman of its Oil and Gas Conservation Committee. Our office is located at 3001 Porcupine Drive, Anchorage, Alaska 99501. With me today is Mr. Hoyle Hamilton, our Chief Petroleum Engineer, who is also a member of the Oil and Gas Conservation Committee, Dr. H. K. van Poollen, President of H. K. van Poollen and Associates who is a consultant for the State, and Robert H. Loeffler, who has been counsel to the State in the gas pipeline proceedings.

My primary responsibility as Director of the State Division of Oil and Gas Conservation is to regulate oil and gas industry operations to prevent the physical waste of oil and gas in the State and to protect the correlative rights of all interests in an oil and gas field. Our goal is to regulate production in a manner which will insure that maximum recovery of hydrocarbons is achieved and physical waste is avoided.

I presented testimony to the Federal Power Commission during its hearing on the Alaska gas pipeline similar to the testimony I am presenting here today. I also accompanied the State's Commissioner of Natural Resources when he presented testimony on the subject of production rates from the Prudhoe Bay Field before the Senate Interior and Insular Affairs Committee in February, 1976.

First, I will address briefly a history of the field and the State's preparation for exercising its regulatory responsibilities with respect to the field, next I will respond to the five questions your Committee addressed to us, and finally I will comment upon several points made by Professor Todd Doscher in his testimony to this Committee and in his report for the State of Alaska's Legislative Affairs Agency.

After the Prudhoe Bay Field was discovered, our assessment of the reservoir content, size, configuration and fluid properties suggested to us that the reservoir probably would be rate sensitive and that the rate of gas withdrawal might affect oil recovery. For that reason, in 1972 we recommended to the legislature that the State undertake an independent reservoir study of the Prudhoe Oil Pool using reservoir models to simulate the reservoir performance of the Pool. Funds were appropriated for that purpose and the State hired the firm of H. K. van Poollen and Associates of Littleton, Colorado to assist in this analysis. The van Poollen firm was selected because it is one of the foremost firms in the Nation specializing in petroleum engineering and reservoir simulation.

Generally, State personnel did the geological and mapping work and some of the basic reservoir engineering. The van Poollen organization performed a large part of the reservoir analysis and made the simulation runs which predict reservoir performance. Our Chief Petroleum Engineer, Mr. Hamilton, has supervised this work and maintained overall control of the project since inception. During the five years of this study, the State has spent approximately one-half million dollars in addition to several thousand manhours on accumulating and analyzing the reservoir data.

Because of the vast size of the Prudhoe Bay Field, it was realized early in the development of the field that it would be very difficult to protect correlative rights in the reservoir under conventional operations. Consequently the parties holding interests in the field joined to form a unit, as authorized by State law, so that the reservoir could be operated in an efficient and economical manner. In essence, this is achieved by operating the field as a single large lease with two operators, Atlantic Richfield Company and BP Alaska, Inc. The unit agreement, to which the State is a party by virtue of its status as an owner of a royalty interest in the field, was approved and signed by the State in May of this year and became effective retroactively to April 1. In agreeing to the Unit Agreement the State was acting in its proprietary capacity as lessor of the field and as owner of a royalty interest in the field.

Earlier this year the operators also requested approval of the Oil and Gas Conservation Committee of their plan to operate the Prudhoe Bay Field. On May 5, 1977, a public hearing was held by the Alaska Oil and Gas Conservation Committee to determine the acceptability of the operators' plans, to determine the proper initial rates of production for the reservoir and to adopt field rules regarding operation of the Prudhoe Oil Pool. As a result of that hearing Conservation Order No. 145 was issued by the Oil and Gas Conservation Committee. A copy of that order is attached to this testimony as Exhibit 1. The order contains many requirements to secure data during start-up and the initial production periods to aid in determining proper methods of operation of this reservoir.

The order requires that the operators obtain many bottom hole pressures in the early years of production and the securing of other data to aid in the surveillance of the gas/oil and water/oil contact movements. These requirements are designed to ensure that adequate information is obtained during the early life of this reservoir and to permit future operations to be undertaken in a manner to achieve the greatest ultimate recoveries.

Large volume production from this field started on June 20, 1977, but due to problems at Pump Station 8 the anticipated rates of production have not yet been realized. Data are already being gathered however to aid in matching computer predictions to actual field performance data.

With this as a background, we turn to the five questions that we understand the Committee would like to have addressed in our presentation.

1. Existing reports and data pertaining to producers plans for operating the field.

In October of 1976 the operators filed with the State their proposed plan of operations. Basically they plan to develop the reservoir on 160-acre spacing with initial production rates of 0.6 million barrels per day for six months, 1.2 million barrels per day for approximately twelve months and then increasing the rate to approximately 1.5 to 1.6 million barrels a day until production decline is reached. The plan provides for gas pipeline deliveries of 2.0 Bcf/D as soon as gas pipeline facilities are available and a conditioning plant can be approved and constructed. The plan also contemplates selective injection of produced water into the Prudhoe Oil Pool when those volumes become significant. Although a final commitment cannot be made yet because of the need to gain operating experience with this Pool, the plan anticipates that water injection from sources outside the Pool will be initiated within five to nine years after the start of oil production.

Our study shows us that the Prudhoe Bay reservoir will be rate sensitive. By this we mean that the ultimate oil recovery from the reservoir would be affected by the net withdrawals from the reservoir and in some cases even by the rate of withdrawal. If oil, gas and water are removed without their reservoir volume being at least partially replaced, a reduction in oil recovery will result. If the reservoir voidage caused by production is replaced, then recoveries will be increased and can be maximized by the volume injected. Accordingly, we believe that fluids must be injected into the reservoir to supplement the natural recovery mechanism and that reservoir performance must be monitored closely and withdrawals controlled to achieve the maximum oil recovery. It is therefore obvious that if gas is to be sold, fluids or gases must be injected into the reservoir. The level of gas sales will be determined by the volume of fluids injected. In this respect, our studies do not differ significantly from those of the operators.

Our reservoir study—commonly referred to as the van Poollen Report—which leads to these conclusions was not undertaken for the purpose of dictating to the operators how the field must be operated. Rather, it was done to provide us with a guide to evaluating the operators proposal to manage the field.

The van Poollen Report was supplied to the Federal Power Commission and to all parties, including the competing pipeline applicants, in the Federal Power Commission Alaska gas pipeline proceeding.

2. The possible effects of gas withdrawal at rates between 1.5 and 2.6 million cubic feet per day correlated with oil production between 1.2 and 2.0 million barrels per day.

After the operators filed the proposed operating plan, the State utilized it to update Alaska's model of the Prudhoe reservoir and made several additional computer runs. These additional runs may be found in a February 1977 supplement to our reservoir study titled "Prediction of Reservoir Fluid Recovery Sadlerochit Formation Prudhoe Bay Field, Supplement A." By using the later data, we were able to make more definitive runs than had been made before. Our reports studied gas withdrawal rates of two (2) to five (5) billion cubic feet per day (i.e., gas sales of 1.5—3.75 Bcf/Day), correlated with oil production between 1.2 to 1.8 million barrels per day. We also studied oil recovery with no gas sales.

We looked at the effect of gas production and sales on ultimate oil recovery from the

reservoir. Our analyses showed that if fluids are not returned to the reservoir to replace the voidage, ultimate oil recovery is reduced. In this case, the greater the gas sales rates, the greater is the loss in ultimate oil recovery.

We also looked at the effects of water injection in the event of gas sales. If gas sales are kept at a constant rate of 2 billion cubic feet per day, there will be an increase in oil recovery with water injection. Early start of water injection will give a slightly higher oil recovery than a delay of several years but the advantage is slight. Our cases included some in which no gas sales were made and water was injected. These cases showed oil recovery about the same as would result from gas sales with larger volumes of water injection.

These analyses show that gas production rates in excess of 2.7 billion cubic feet per day, which would give gas sales rates in excess of 2 billion cubic feet per day, would cause a significant reduction in ultimate oil recovery unless very large volumes of fluids are returned to the reservoir. As a practical matter, it may not be possible to inject enough fluids to permit sustained sales rates very much in excess of 2 billion cubic feet per day.

3. An evaluation of a successful injection program, utilizing water or carbon dioxide, instead of natural gas produced from the field.

Once the Prudhoe Bay reservoir is producing at a normal rate it will be necessary to have at least two and maybe more years of production to achieve a degree of reliability in forecasting the best future method of operation for this reservoir. Mr. Doscher has suggested that carbon dioxide be considered as an injection fluid in this field for enhanced recovery. No one knows at this time, including Mr. Doscher, what the best recovery mechanism will be. It is just as possible that the best recovery methods will incorporate either water, enriched gas, solvents, fire, steam, chemicals or inert gases or some combination of these.

It should be noted that many of these methods of recovery show some promise to aid in the production of substantial amounts of additional oil. Many of these exotic methods however have not yet been proven in the field and current economics will not permit their use. Some are at the technological and economic edge of the state of the art. As the price of oil is increased, they become more attractive and possible. Certainly with the tremendous volumes available at Prudhoe, neither the State nor the operators have to be told to consider these possibilities.

We are convinced that some fluids must be injected into the reservoir. However, until enough production history is available to validate the reservoir simulation programs, we do not believe it is possible for anyone to say what the ultimate method of operation of the reservoir should be. We have required that operators secure voluminous data which will help define the reservoir parameters. As is our right and our responsibility, we will exercise continuing jurisdiction over the operation of the field and will require that the method ultimately chosen by the operators be one that will achieve that greatest recoveries from the reservoir consistent with sound engineering and operating practices.

4. What type of producing plan appears to be most appropriate to insure the maximum production of both oil and gas over the expected life of the field.

Water injection as contemplated by the operators of the Prudhoe Bay field has proved to be one of the most reliable techniques for maximizing oil recovery in fields all over the world. This does not mean that other techniques should be ruled out even though they may be currently uneconomic or not technically feasible at this time. One such technique, the injection of CO_2, is being considered. The produced gas in the Prudhoe Bay Field does contain approximately twelve percent CO_2 which could be removed and injected into the reservoir. We have not ruled out any recovery techniques yet, nor have we foreclosed use of alternative techniques by our authorization of an initial operating plan.

Our opinion is that proceeding as we have will not result in any irreversible damage to recoveries. During the first five years of operation, or until the approximate time that a gas line could become operational, we estimate that the decrease in reservoir pressure would amount to approximately ten percent of the original pressure. By that time we will know if and to what degree the decline must be arrested or if it should be reversed.

If, in the future, a better method of operation is indicated we believe that the maximum recoveries still can be achieved. We believe the free gas saturation to be established by permitting the reservoir pressure to drop will be beneficial to a water or gas injection project. If some other type of project is undertaken and the free gas saturation is not needed, it can be eliminated simply by rebuilding reservoir pressure by injection. This has been done many times in other fields. As a matter of fact, our own Swanson River Field in Alaska, which is a very large field by conventional standards, has an extremely efficient recovery and it was operated in this manner. The field produced for some period of time before a miscible gas injection project was initiated. The recoveries have far exceeded most expectations.

In short, we do not believe that a pressure decline of the magnitude we have described would have any long term detrimental effects on ultimate oil recovery and we certainly do not agree with Mr. Doscher that there would be losses in the magnitude of billions of barrels.

5. What the likely rate of gas production will be for each year over the expected life of the field.

If the plan of operations as proposed by the operators is followed, with significant water injection, our work indicates that a gas sales rate of two Bcf/D starting in approximately five years could be sustained over the remaining life of the field.

In summary, Mr. Chairman, let me say that the State of Alaska is aware of the many unknowns in producing this reservoir and of many possibilities in the mode of operations. We have made a completely independent and comprehensive study of this reservoir. We have concluded that the present proposal of production rates of 2.7 billion cubic feet per day which will provide about two billion cubic feet of gas for sale will not be detrimental to recoveries if satisfactory fluid volumes are injected in a reasonable time. This depends on the plans of the operators. It is our intent to maintain a close surveillance of the reservoir performance and require operations that will achieve the greatest recoveries.

Now I would like to comment on certain aspects of Mr. Doscher's testimony. To begin with, it is important to distinguish between the basic engineering conclusions reached by Mr. Doscher in his report and the broader more philosophical and policy pronouncements contained in his report. Basically, as a petroleum engineer, I find little dispute with Mr. Doscher when he describes what is still unknown and must be learned, as operations continue. Our plan is to learn more and act accordingly. It is on policy matters where I cannot agree with Mr. Doscher's approaches. For example, Mr. Doscher says: "No operating plan should be approved or committed to by the State at this time which does more than assure the minimum orderly development of the field to attain crude oil production at the rate required for successful operation of the Aleyska Pipe Line." I see two problems with that statement. First is the assumption that our approval of an operating plan was, or should be, motivated by a desire to ensure successful operation of the Alyeska Pipeline. Our approval of a plan is based on conservation of hydrocarbons in the reservoir. If successful operation of the Alyeska line needed 1.5 million barrels/day and the reservoir could only produce at 1.0 million without loss of ultimate recovery, then we would be legally required to limit production to 1.0. Happily, this is not the case.

The second problem with Mr. Doscher's statement is that it implies that the State has committed to more than is necessary. That is not the case. Conservation Order No. 145 clearly indicates the Conservation Committee is concerned about production rates of the reservoir, will retain continuing jurisdiction, and will review and require adjustments in the operating plans if additional information indicates adjustments are appropriate.

I believe what Mr. Doscher would have had the Conservation Committee do is remain totally silent on the question of gas production. While that certainly was possible, I believe such course would have been irresponsible in light of the National concern and interest in the question. We choose instead to share our knowledge on this point and to make the clear decision to proceed in a manner consistent with good conservation practices.

I disagree sharply with Mr. Doscher's statement that there will be a loss of two billion barrels of oil if the pipeline is approved. Mr. Doscher has not substantiated this figure with any studies and has not furnished technical data on which this opinion is based. To the contrary, our own studies have been substantial and we can reach no such conclusion based on any information available to us assuming that a water injection program is implemented to maintain field pressure.

As we see it, the basic question is whether a pipeline decision should be deferred until more is learned about the performance of the Prudhoe Bay Reservoir. The State of Alaska, based on what we know today—i.e., our own studies, Mr. Doscher's two draft reports and testimony here, the material presented to it in its regulatory capacity, and its own professional judgment—believes there is no sound technical reason to delay provided that the operators adopt and implement a source water injection program by the time gas sales start. If the operators do not implement a source water injection program, then gas sales will have to be limited or postponed in order to avoid jeopardizing ultimate oil recovery.

We agree that more information about the performance of the reservoir is desirable. But the State's plan allows for the gathering of that information without jeopardizing the early construction of the pipeline. It does so without substantial risk to the ultimate recovery of oil from the reservoir, and without unnecessary delay in the bringing of a major new gas supply to lower forty-eight users.

[State of Alaska, Exhibit No. 1, Conservation Order No. 145, Prudhoe Bay Field, Prudhoe Oil Pool, June 1, 1977]

STATE OF ALASKA, DEPARTMENT OF NATURAL RESOURCES, DIVISION OF OIL AND GAS CONSERVATION

Re: The request of Atlantic Richfield Company and BP Alaska, Inc. to present testimony to determine new pool rules and amend existing rules for the Prudhoe Oil Pool.

It appearing that:

1. The referenced companies applied by letter received March 30, 1977, for a hearing to adopt new or amend existing pool rules.

2. Notice of public hearing was published in the Anchorage Daily News on April 2, 1977.

3. A public hearing was held in the Ramada Inn, Anchorage, Alaska on May 5 and 6, 1977.

4. The hearing record was continued until the close of business on May 16, 1977. Additional data was received.

Findings:

1. Rules pertaining to the Prudhoe Oil Pool have been included in Conservation Order Nos. 98–B, 130, and 137.

2. Administrative approvals 98–B.3, 98–B.6, 98–B.7, and 98–B.8 written pursuant to Conservation Order No. 98–B, Rule 8 are currently in effect.

3. Waivers pertaining to blowout prevention practices written pursuant to Conservation Order No. 137, Rule 2 are currently in effect.

4. The applicants propose to raise and lower the vertical pool limits of the Prudhoe Oil Pool to include the "Put River Sandstone" and Ivishak Shale respectively.

5. No drill stem tests or production tests have been conducted in the "Put River Sandstone" or the Ivishak Shale.

6. No analysis of fluid from the "Put River Sandstone" or the Ivishak Shale are presently available to the Committee.

7. The areal extent of the Prudhoe Oil Pool as defined on March 12, 1971, in Conservation Order No. 98–B, is considerably larger than the area now proven to be productive by the drilling of additional wells since that time.

8. Most producing wells in the Prudhoe Oil Pool are deviated holes to minimize the number of drilling pads.

9. The applicants propose to eliminate reference to acreage spacing requirements but request that at least 2000 feet be maintained between the pay opened in the well bore in all wells in the Prudhoe Oil Pool.

10. The applicants propose that a distance of 1000 feet be maintained between the pay opened in any well and the boundary of the Prudhoe Oil Pool.

11. Data from the early production performance is needed for the proper regulation and operation of the reservoir.

12. Performance must be accurately observed and quickly analyzed for a timely assessment of reservoir behavior.

13. Performance during the first two years will be used to design the water flooding projects and will be vital in formulating and implementing future operating plans.

14. A reservoir surveillance program can provide for monitoring both reservoir and production data.

15. Monthly production tests will monitor changes in well productivity, gas-oil and oil-water ratios, and provide basic data for reservoir performance studies.

16. The reservoir is complex with many discontinuous interbedded shales.

17. The reservoir is underlain by a heavy oil or tar zone of varying thickness.

18. Some areas of the reservoir contain many faults.

19. The reservoir pressure data will provide information on well flow efficiency, reservoir permeability, reservoir discontinuities, and the need for a pressure maintenance program.

20. The use of specialized transient pressure testing techniques such as pulse testing, vertical permeability tests, and interference tests may prove useful.

21. Specific wells may be selected which are located outside the main area of the Sadlerochit oil column to monitor the pressure in the gas cap, the aquifer, the Eileen area, and the Sag River gas cap.

22. The applicants have agreed to a common datum plane of 8800 feet subsea for all pressure surveys.

23. Changes in the gas-oil fluid contact movement in the reservoir with response to production would provide information on shale continuity, effective vertical permeability, displacement efficiency of oil by gas and define areas of poor natural recovery.

24. Preliminary studies indicate that early run open hole or cased hole neutron logs may provide a suitable base log for monitoring the movement of the gas-oil contact by comparison with a later cased hole neutron log run in the same well.

25. Open hole neutron logs have already been run on the majority of wells.

26. Cased hole neutron logs have already been run in a number of wells and will continue to be run in selected wells until this technique is confirmed.

27. Monitoring the movement of the oil-water contact should help to determine the extent of water influx from the aquifer, identify areas of peripheral water influx and allow determination of the water displacement efficiency.

28. Monitoring the oil-water contact should provide information to help define locations where water injection would be beneficial.

29. A program is now in progress to evaluate the capability of monitoring the oil-water contact with one of three different methods, such as the Thermal Decay Tools (T.D.T.) or the Neutron Lifetime Log (N.L.L.), the Carbon-Oxygen Log and the Gamma Ray Log.

30. The capability of these methods to monitor the changing oil-water contact has not been demonstrated as yet.

31. The contribution of each of the various perforated intervals in each producing well may be determined through downhole spinner flow meter surveys.

32. A reliable assessment of the rate of the production from the various lithologic subdivisions within the reservoir will assist in the determination of the effectiveness of the well completions to drain the reservoir.

33. Numerous computer reservoir simulation model studies of the Sadlerochit Formations have been made by the State and the working interest owners. In these studies the offtake rates of oil and gas and the injection rates of gas and water have been varied.

34. The Trans-Alaska Pipeline will have an initial capacity of 1.2 million barrels per day and should be ready to accept oil near mid 1977.

35. The applicants have submitted a Plan of Operations which includes proposed average annual offtake rates of 1.5 million barrels per day for oil plus condensate production and 2.7 billion cubic feet per day for gas.

36. Production facilities to support an average oil offtake of 1.2 million barrels per day will be installed by the last quarter of 1977. Additions are planned during 1978 and 1979 to support an average oil offtake rate of 1.5 million barrels per day plus condensate production, when pipeline capacity is available.

37. Gas sales in large volumes from the Prudhoe Bay Field will not be possible until a gas conditioning plant and a large gas sales pipeline are constructed.

38. The completion of a large gas sales pipeline and plant to condition gas is estimated at approximately five years from start of oil production.

39. Until a large gas sales pipeline is available, all produced gas, except that used as fuel in the field and small local gas sales, will be reinjected into the gas cap.

40. Gas will be used to supply the operating requirements of the Prudhoe Bay Field, the first four pump stations of the Trans-Alaska Pipeline and other minor local fuel needs.

41. To meet pipeline sale quality it will be necessary to remove carbon dioxide from the gas.

42. Water production will be minimal initially and will be disposed of by injection into sands of Cretaceous age.

43. When water production becomes significant, the applicants plan to file a secondary recovery application for the injection of this water into the Prudhoe Oil Pool.

44. Injection of produced water into the Prudhoe Oil Pool could begin within two years after start of oil production.

45. The applicants will proceed with design and implementation studies concurrently with injectivity tests and reservoir data gathering to shorten the implementation time for a source water injection system.

46. The Sadlerochit Formation aquifer exhibits the best reservoir qualities near the Prudhoe Bay Field area and progressively deteriorates away from the field.

Conclusions:

1. To avoid confusion it would be desirable to consolidate the outstanding Pool rules effecting the Prudhoe Oil Pool into one order. Conservation Orders Nos. 98–B, 130, and Rule 2 of Conservation Order No. 137 should be canceled and the relevant portions included in Conservation Order No. 145.

2. Administrative Approvals 98–B.3, 98–B.6, 98–B.7, and 98–B.8 should remain in effect and will be applicable until stable production from the field is attained or until the time period stipulated expires.

3. Waivers pertaining to blowout preventers written pursuant to Conservation Order No. 137, Rule 2 should remain in effect.

4. There are insufficient data to justify raising or lowering the vertical limits of the Prudhoe Oil Pool, as proposed by the applicants, to correspond with the vertical limits of the Prudhoe Bay (Permo-Triassic) Reservoir as described in the Prudhoe Bay Unit Agreement.

5. The areal extent of the Prudhoe Oil Pool should be identical to the initial participating area of the Prudhoe Bay Unit which is described as the Prudhoe Bay (Permo-Triassic) Reservoir in the Unit Agreement.

6. A rule eliminating acreage spacing in the Prudhoe Oil Pool should facilitate present and future additional recovery operations and enable the unit operators to develop the productive capacity to meet the planned throughput of the Trans-Alaska Pipeline.

7. A distance of 2000 feet between the pay opened in the well bore in all wells in the Prudhoe Oil Pool should maintain an adequate drainage area, not unnecessarily restrict bottomhole target locations and protect correlative rights and prevent waste.

8. A distance of 1000 feet between the pay opened in any well and the boundary of the Prudhoe Oil Pool will protect correlative rights.

9. To gather the data necessary for proper regulation and operation of the reservoir, a rigorous surveillance program of reservoir performance should be accurately observed and assessed especially during the first two years of operation. The surveillance program should also provide guidelines for a long term key well surveillance program.

10. A surveillance program should include monitoring the reservoir pressures, gas-oil and oil-water contact movements, production tests, gas-oil and water-oil ratios, and productivity profiles of individual wells.

11. A gas-oil contact movement monitoring program, based on a comparison of open hole neutron base logs to be later compared with neutron logs run in the same wells should be attempted.

12. The data obtained during the first two years could lead to a key well program of periodic surveys that may adequately monitor the gas-oil contact movements.

13. Monitoring the movement of the oil-water contact is desirable to evaluate the water influx in the reservoir and the applicability of water injection systems. Three methods are potentially applicable as means of monitoring the movement of the oil-water contact. These methods are the Ther-

mal Decay Tools or the Neutron Lifetime Log, the Carbon-Oxygen Log and the Gamma Ray Log. The program to evaluate the relative capability of these logs should be continued and should any method be demonstrated capable of adequately monitoring the changing water saturations in the reservoir, a key well program should be set up.

14. Downhole spinner flow meter surveys to determine well productivity profiles should help determine the effectiveness of completions and provide information on reservoir drainage.

To provide the necessary productivity profile data a base line survey should be run on each well with later follow up surveys on each well.

15. The injection of produced water into the sands of Cretaceous age will not contaminate fresh water sources or endanger other natural resources.

16. Studies of the aquifer have indicated that it probably will not offer much pressure support.

17. Reservoir studies have shown that both produced water injection and source water injection into the Prudhoe Oil Pool should increase oil recovery.

18. Reservoir studies have shown that large scale source water injection will probably be necessary to maximize oil recovery.

19. The planned reinjection of gas into the Sadlerochit gas cap prior to large gas sales will help to maintain reservoir pressure and will not adversely affect ultimate recovery.

20. The Plan of Operations proposed by the applicants which include average annual offtake rates of 1.5 million barrels per day for oil plus condensate production and 2.7 billion cubic feet per day for gas are consistent with sound conservation practices based on currently available data.

21. After field and local fuel requirements and the removal of carbon dioxide and liquids from the produced gas, it is estimated that a gas production rate of 2.7 billion standard cubic feet per day will yield 2.0 billion standard cubic feet per day of pipeline quality gas.

22. Production history will be needed to locate water injection wells and to refine reservoir model studies.

23. The offtake rates approved by the Committee at this time must be established without the benefit of production history. Therefore, these offtake rates may be changed as production data and additional reservoir data are obtained and analyzed.

Now, therefore, it is ordered that the rules hereinafter set forth apply to the following described area referred to in this order as the affected area:

UMIAT AND MERIDIAN

T. 10N., R. 12E., sections 1, 2, 3, 4, 10, 11, 12.

T. 10N., R. 13E., sections 1 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 24.

T. 10N., R. 14E., sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 36.

T. 10N., R. 15E., all sections.

T. 10N., R. 16E., sections 5, 6, 7, 8, 17, 18, 19, 20, 29, 30, 31.

T. 11N., R. 11E., sections 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 24, 25.

T. 11N., R. 12E., all sections.

T. 11N., R. 13E., all sections.

T. 11N., R. 14E., all sections.

T. 11N., R. 15E., all sections.

T. 11N., R. 16E., sections 30, 31, 32.

T. 12N., R. 11E., sections 15, 16, 17, 18, 19, 20, 21, 22, 25, 26, 27, 28, 29, 30, 32, 33, 34, 35, 36.

T. 12N., R. 12E., sections 23, 24, 25, 26, 27, 28, 33, 34, 35, 36.

T. 12N., R. 13E., sections 19, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36.

T. 12N., R. 14E., sections 25, 26, 27, 28, 29, 31, 32, 33, 34, 35, 36.

T. 12N., R. 15E., sections 27, 28, 29, 30, 31, 32, 33, 34.

Rule 1—Pool Definition

The Prudhoe Oil Pool is defined as the accumulations of oil that are common to and which correlate with the accumulations found in the Atlantic Richfield-Humble Prudhoe Bay State No. 1 well between the depths of 8,110 and 8,680 feet.

Rule 2—Well Spacing

In the affected area, no pay shall be opened in a well closer than 2,000 feet to any pay opened in another well in the Prudhoe Oil Pool or be nearer than 1,000 feet to the boundary of the affected area.

Rule 3—Casing and Cementing Requirements

(a) Casing and cementing programs shall provide adequate protection of all fresh waters and productive formations and protection from any pressure that may be enconntered, including external freezeback within the permafrost.

(b) For proper anchorage and to prevent an uncontrolled flow, a conductor casing shall be set at least 75 feet below the surface and sufficient cement shall be used to fill the annulus behind the pipe to the surface.

(c) For proper anchorage, to prevent uncontrolled flow and to protect the well from the effects of permafrost thaw, a string of surface casing shall be set at least 500 feet below the base of the permafrost section but not below 2,700 feet unless a greater depth is approved by the Committee upon showing that no potentially productive pay shall be used to fill the annulus behind the pipe to the surface.

The surface casing shall have minimum post-yield strain properties of 0.9 percent in tension and 1.26 percent in compression.

(d) If the surface casing does not meet the strain requirements in (c) above, the integrity of the well shall be protected from the effects of permafrost thaw by running an inner string of casing also set at least 500 feet below the base of the permafrost section and properly cemented except that the two casing strings shall not be bonded together within the permafrost section. This inner string of casing shall not be utilized as production casing.

(e) Other means for maintaining the integrity of the well from the effects of permafrost thaw may be approved by the Committee upon application.

(f) Production casing shall be landed through the completion zone and cement shall cover and extend to at least 500 feet above each hydrocarbon-bearing formation which is potentially productive. In the alternative, the casing string may be set and adequately cemented at an intermediate point and a liner landed through the completion zone. If such a liner is run, the casing and liner shall overlap by at least 100 feet and the annular space behind the liner shall be filled with cement to at least 100 feet above the casing shoe, or the top of the liner shall be squeezed with sufficient cement to provide at least 100 feet of cement between the liner and casing. Cement must cover and extend at least 500 feet above each hydrocarbon-bearing formation which is potentially productive.

(g) Casing and liner, after being cemented, shall be satisfactorily tested to not less than 50 percent of minimum internal yield pressure or 1,500 pounds per square inch, whichever is less.

(h) No well shall be produced through the annulus between the tubing and the casing unless a cement sheath extends from the top of the pay to the shoe of the next shallower casing string.

Rule 4—Blowout Prevention Equipment and Practice

(a) The use of blowout prevention equipment shall be in accordance with good established practice and all equipment shall be in good operating condition at all times.

All blowout prevention equipment shall be adequately protected to ensure reliable operation under the existing weather conditions. All blowout prevention equipment shall be checked for satisfactory operation during each trip.

(b) Before drilling below the conductor string, each well shall have installed at least one remotely controlled annular type blowout preventer and flow diverter system. The annular preventer installed on the conductor casing shall be utilized to permit the diversion of hydrocarbons and other fluids. This low pressure, high capacity diverter system shall be installed to provide at least the equivalent of a 6-inch line with at least two lines venting in different directions to insure downwind diversion and shall be designed to avoid freeze-up. These lines shall be equipped with full-opening butterfly type valves or other valves approved by the Committee. A schematic diagram, list of equipment, and operational procedure for the diverter system shall be submitted with the application Permit to Drill or Deepen (Form 10–401) for approval. The above requirements may be waived for subsequent wells drilled from a multipledrill site.

(c) Before drilling below the surface casing all wells shall have three remotely controlled blowout preventers, including one equipped with pipe rams, one with blind rams and one annular type. The blowout preventers and associated equipment shall have 3000 psi working pressure and 600 psi test pressure.

(d) Before drilling into the Prudhoe Oil Pool, the blowout preventers and associated equipment required in (c) above shall have 5000 psi working pressure rating and 10,000 psi test pressure rating.

(e) The associated equipment shall include a drilling spool with minimum three-inch side outlets (if not on the blowout preventer body), a minimum three-inch choke manifold, or equivalent, and a fill-up line. The drilling string will contain full-opening valves above and immediately below the kelly during all circulating operations with the kelly. Two emergency valves with rotary subs for all connections in use will be conveniently located on the drilling floor. One valve will be an inside blowout preventer of the spring-loaded type. The second valve will be of the manually-operated ball type, or any other type which will perform the same function.

(f) All ram-type blowout preventers, kelly valves, emergency valves and choke manifolds shall be tested to required working pressure when installed or changed and at least once each week thereafter. Annular preventers shall be tested to 50% recommended working pressure when installed and once each week thereafter. Test results shall be recorded on written daily records kept at the well.

Rule 5—Automatic Shut-in Equipment

Upon completion, each well shall be equipped with a suitable safety valve installed below the base of the permafrost which will automatically shut in the well if an uncontrolled flow occurs.

Rule 6—Pressure Surveys

(a) Prior to initial sustained well production, a static bottomhole pressure survey shall be taken on each well.

(b) Between 90 and 100 days after commencement of sustained pool production, the applicants shall perform an initial key well bottomhole transient pressure survey on one specific well on each producing pad or drill site. Another survey of the same type shall be conducted each 90 days thereafter.

(c) Within the first six months following the initial sustained well production, the applicants shall conduct a transient pressure survey on each well.

(d) A semi-annual transient pressure survey shall be conducted on one well in each governmental section from which oil is being

produced. This is in addition to the pressure surveys conducted in (b) and (c) above.

(e) A long-term key well pressure survey will be formulated and implemented in approximately two years from the start of production based upon evaluation of data submitted under (a), (b), (c), and (d) above.

(f) Data from the above mentioned surveys shall be filed with the Committee by the fifteenth day of the month following the month in which each survey is taken. Form No. 10–412, Reservoir Pressure Report, shall be utilized for all surveys with attachments for complete additional data. Data submitted shall include but is not limited to rate, pressure, time, depths, temperature, and other well conditions necessary for complete analysis for each survey being conducted. The pool pressure datum plane shall be 8800 feet subsea. Bottomhole transient pressures obtained by a 24 hour build-up or multiple flow rate test will be acceptable.

(g) Results and data from any special reservoir pressure monitoring techniques, tests or surveys shall also be submitted as prescribed in (f) above.

(h) By administrative order the Committee shall specify additional pressure surveys if the survey program designated in this rule is found to be inadequate.

Rule 7—Gas-Oil Ratio Tests

Between 90 and 120 days after substantial production starts and each six months thereafter a gas-oil ratio test shall be taken on each producing well. The test shall be of at least 12 hours duration and shall be made at the producing rate at which the operator ordinarily produces the well. The test results shall be reported on gas-oil ratio test form P–9 within fifteen days after completion of the survey. The Committee shall be notified at least five days prior to each test.

Rule 8—Gas Venting or Flaring

The venting or flaring of gas is prohibited except as may be authorized by the Committee in cases of emergency or operational necessity.

Rule 9—Gas-Oil Contact Monitoring

Open hole and cased hole neutron logs shall be run in selected wells to confirm gas-oil contact movement unless this technique is proved unworkable or an alternative approach is recommended and accepted by the Committee.

The wells selected for this neutron log survey to be there with a summary of the survey analyses shall be submitted to the Committee by January 1, 1978, and each six months thereafter. The Committee may also specify additional wells to be surveyed should they decide the survey program being followed is inadequate.

The cased hole neutron logs run shall be filed with the Committee by the fifteenth day of the month following the month in which the logs were run.

Other methods of monitoring the gas-oil contact movement may be approved if they show to be more effective.

A long term key well gas-oil contact movement monitoring program may be formulated and implemented in approximately two years from start of production if a workable technique is found.

Rule 10—Oil-Water Contact Monitoring

(a) A report on the evaluation program to determine the oil-water contact monitoring capability of the Thermal Decay Tools or the Neutron Lifetime Log, the Carbon-Oxygen Log and the Gamma Ray Log shall be submitted to the Committee by January 1, 1978.

(b) If the capability of monitoring the change in oil-water contact movement can be demonstrated by one or more of these methods, a key well program shall be set up by the applicants subject to the approval of the Committee.

Rule 11—Productivity Profiles

(a) A spinner flow meter survey shall be run in each well during the first six months the well is on production.

(b) A follow up survey shall be performed on a rotating basis so that a new production profile is obtained on each well periodically. Nonscheduled surveys shall be run in wells which experience an abrupt change in water cut, gas-oil ratio, or productivity.

(c) The complete spinner survey data and results shall be recorded and filed with the Committee by the 15th day of the month following the month in which each survey is taken.

(d) By administrative order the Committee shall specify additional surveys should they determine the surveys submitted under (a), (b) and (c) above are inadeqaute.

Rule 12—Changing the Affected Area

By administrative approval the Committee may adjust the description of the affected area to conform to future changes in the initial participating area.

Rule 13—Orders Cancelled

Conservation Orders Nos. 98–B, 130, and Rule 2 of Conservation Order No. 137 are hereby cancelled. Portions of Conservation Orders Nos. 98–B and 137 are made part of this order and the hearing records of these orders are also made part of the hearing record of this order.

Rule 14—Approvals Redesignated

Administrative Approvals made pursuant to CO 98–B, Rule 8 and the waivers made pursuant to Conservation Order No. 137, Rule 2 remain in effect and will now be authorized by this order.

Rule 15—Pool Offtake Rates

The maximum annual average oil offtake rate is 1.5 million barrels per day plus condensate production. The maximum annual average gas offtake rate is 2.7 billion standard cubic feet per day, which contemplates an annual average gas pipeline delivery sales rate of 2.0 billion standard cubic feet per day of pipeline quality gas when treating and transportation facilities are available. Daily offtake rates in excess of these amounts are permitted only as required to sustain these annual average rates. The annual average offtake rates as specified shall not be exceeded without the prior written approval of the Committee.

Annual average offtake rates mean the daily average rate calculated by dividing the total volume produced in a calendar year by the number of days in the year. However, in the first calendar year that large gas offtake rates are initiated, following the completion of a large gas sales pipeline, the annual average offtake rate for gas shall be determined by dividing the total volume of gas produced in that calendar year by the number of days remaining in the year following initial delivery to the large gas sales pipeline.

STATEMENT OF E. G. HOULSTON, BP ALASKA, INC.

My name is George Houlston. I am the Manager of Reservoir Engineering for BP Alaska. BP Alaska operates in the Prudhoe Bay Field on behalf of The Standard Oil Company of Ohio.

I am here today in response to your request to take testimony concerning recommendations made before this Committee on October 12, by Dr. Todd Doscher. My statement today has been prepared to clarify BP/Sohio's position in regard to the points raised before this Committee.

Many studies on the Prudhoe Bay Field have been performed. Indeed, the claim has been made that this Field has been studied more than any other prior to production. In my opinion the most comprehensive review of the work performed on Prudhoe Bay Field was presented by the Working Interests and the Consultants to the State of Alaska, at the Conservation Hearing held in Anchorage on May 5 and 6. Those proceedings are a matter of public record.

The Prudhoe Bay Field is estimated to contain some 22.9 billion barrels of stock tank oil in place. By far the most significant portion of this in place oil, some 22.2 billion stock tank barrels, is to be found in the Sadlerochit formation. The other .7 billion stock tank barrels are located in the Sag River and Shublik formations which overlie the Sadlerochit. Major geologic faults appear to partition the reservoir between the Main Area of the Field and the West End or Eileen Area. The Field is thus subdivided by geologic formation and by area.

The Main Area Sadlerochit contains 21.4 billion stock tank barrels, and it is this accumulation which has been the subject of intensive study by the Working Interests in the Field and by other interested parties. It has been estimated that oil reserves of about 8.6 billion stock tank barrels will be recovered from the Main Area Sadlerochit. The estimated oil reserves for the entire field amounts to some 9.4 billion stock tank barrels. These include .5 billion stock tank barrels of condensate recovered from gas cap gas and .3 billion barrels from the Sag River and Shublik formations and the West End Sadlerochit.

Gas cap gas in place in the field amounts to 26.5 trillion cu. ft. at standard surface conditions. A further 17.1 trillion cu. ft. of gas is in place as solution gas. Some 26.5 trillion cu. ft. of hydrocarbon gas are considered to be recoverable and 300–400 million barrels of gas liquids. The heating equivalent of these reserves amounts to about 5 billion barrels of crude oil.

BP Alaska, acting on behalf of Sohio Petroleum, has viewed production from the field as a matter of maximizing total hydrocarbon recoveries. The studies we have conducted have been aimed towards formulating sound reservoir management policies consistent with that objective. Our studies have concentrated primarily on the Main Area Sadlerochit reservoir. The oil recoveries estimated in reservoir simulation calculations do not include the 800 million barrels of oil and condensate recoverable from other sources in the Field.

The studies we have conducted have included not only reservoir fluid flow considerations but also other factors which influence reservoir performance such as well density, surface facility operating conditions and capacities, gas lifting or pumping of oil wells, and the injection of gas and water. Ultimate hydrocarbon recovery is the outcome of collectively exercising these development options to varying degrees and at appropriate times throughout the life of the Field.

Based on current reservoir information and proven methods of recovery our studies have led us to a plan of operations which incorporates the following major elements:

(i) Production of oil at an average rate of 1.2 MMB/D increasing to 1.5 MMB/D when pipeline capacity is available.

(ii) The re-injection of gas produced in excess of that needed for fuel and sales.

(iii) The delivery of 2 BCF/D of sales gas as soon as a gas pipeline and a plant to condition the gas to specification can be completed. (Currently estimated to be some time during 1983).

(iv) The drilling of wells on 160-acre spacing or closer if necessitated by reservoir performance.

(v) The re-injection of produced water into the reservoir and the probable supplementing of such water with source water within seven years from the start of oil production (i.e., 1984 or earlier).

(vi) The installation of lower pressure

gathering and separation systems and artificial lift facilities.

(vii) A very intensive program of reservoir surveillance and testing to compare forecasted against actual performance on a continuous basis.

By implementing this plan of operations it is anticipated that peak production rates from the Field could be sustained for seven or eight years and deliveries of gas could be held at 2 BCF/D for about 25 years. In all the cases we have studied, oil production declines when gas handling facilities can no longer cope with the gas produced with the oil. It should be possible to manage and operate the reservoir within the framework of this plan to achieve a recovery of about 40% of the original oil in place after 25 years and about 72% of the gas originally in place over 40 years.

After 25 years of oil production our simulation models indicate residual oil saturations in the original oil column which are mainly in the range of 25–45%. Earlier testimony given to this Committee to the effect that residual oil saturations in our simulation runs were extremely low, approaching zero, can be categorically dismissed as without foundation and in complete contradiction to sworn testimony presented by BP Alaska to the Division of Oil and Gas Conservation, State of Alaska.

Scope may well exist for improving recoveries by applying methods of enhanced recovery, when such methods have been proven in the field. The plan of operations should not diminish the viability of any such prospective schemes. The Working Interests will remain continuously alert to all promising schemes for additional recovery.

In developing the present plan of operations, we investigated many variations in oil offtake, gas sales and water injection. In contrast to some opinions expressed, our studies have shown that the timing of gas sales at a rate of 2 BCF/D affects ultimate oil recovery only slightly. We estimate a possible loss of oil recovery on the order of 1% of the oil in place or just over 200 million barrels over 25 years of oil production. Over the same period, more than twelve times the heating equivalent of the "lost" oil could be recovered through gas sales. We conclude that the rather sweeping quality judgment that the sale of gas is detrimental to ultimate oil recovery, is thoroughly misleading when considered out of the context of the level and timing of gas sales, the associated oil offtakes and all the other developments which are planned to promote recovery from the Field.

We have tested our plan of operations against oil offtakes of 1.2 to 1.8 MMB/D and gas sales of 2 BCF/D starting as soon as a gas line and conditioning plant can be completed. Again, from our studies we expect only slight variations in ultimate oil recoveries after 25 years of production.

At oil offtake rates of 1.5 MMB/D, we have studied the effects of gas sales at 2.5 BCF/D commencing as soon as a gas pipeline is available. This resulted in a lower oil recovery of about one and one-quarter per cent after 25 years. Using an earlier reservoir description we also investigated extreme cases of no gas sales and sales of 3.5 BCF/D. In the cases of no gas sales, water was still injected though at a lower rate, and recovery obtained was about one and one-half per cent higher than with sales at 2 BCF/D. At gas sales of 3.5 BCF/D recovery fell by about 5% but this run was performed with the same water injection rate as the 2 BCF/D gas sales rate. A more successful outcome would have been possible but was not pursued.

We have concluded that gas sales at 2 BCF/D should not cause concern in regard to ultimate oil recovery. At this stage, any proposal to sell gas at 2.5 BCF/D by 1983 we would approach with caution, and we would actually oppose any scheme to sell gas at 3 BCF/D as early as 1983.

It is recognized that the forecasting of reservoir performance with little or no production history in a field as large as Prudhoe Bay is subject to uncertainty. We have had to rely heavily on our reservoir simulation studies to predict detailed reservoir behavior. However, the experience that has been gained from operating other fields similar to Prudhoe Bay has been specially valuable in assessing the validity of our model predictions. We are confident that our near term assessment of Prudhoe Bay performance is a reasonable one.

Looking to the longer term, in many of the reservoir simulation model runs we have made, the differences in oil recovery arising between hypothetical reservoir management options do not become fully apparent until after about 15–20 years of oil production have taken place. There is every reason to expect, therefore, that there will be time and scope to adapt our plan of operations to ensure that hydrocarbon recoveries are maximized. The intensive reservoir surveillance and testing program which we will be undertaking will provide the control information necessary for those purposes.

The Working Interests in the Prudhoe Bay Field have acquired unusually detailed reservoir information prior to production. This has been very fully utilized and very considerable efforts have been devoted to studying the Field and developing the plan of operations. Although the results of the studies performed by the Working Interests are not the same in numerical detail, all the Working Interests have drawn similar conclusions in regard to how the Field should be produced.

Mr. Chairman, I submit that this consensus view is a sound technical basis to support the sale of Prudhoe Bay gas as soon as a pipeline and conditioning plant can be constructed.

DIRECT TESTIMONY BEFORE THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, OCTOBER 25, 1977

Mr. Chairman, Committee Members, I am Dr. Terry Koonce, Alaska Operations Manager for the Western Division of Exxon Company, U.S.A. Prior to assignments in Exxon's Production Department, I spent 10 years with Exxon's production research affiliate. For more than half of this time I was directly involved in and managed reservoir research and engineering studies for Exxon's worldwide operating affiliates. I appreciate the opportunity to appear before this Committee and to testify on a subject so vital to the Nation's energy supply.

INTRODUCTION

Exxon believes strongly that it is in the common best interest of the Nation and all concerned, including the producers, to maximize recovery of both oil and gas at Prudhoe Bay and elsewhere. We firmly believe that the plan of operation developed for the Prudhoe Bay Field is sound and that the estimated oil recovery of 40 percent will be achieved.

Exxon's experience in other fields supports this relatively high recovery efficiency. While we do not operate the Prudhoe Bay Field, we have a substantial working interest in the oil and gas and are assisting the operators with the technical skills necessary to maintain an operating plan that maximizes recovery.

DATA BASE

Exxon participated in drilling the discovery well in 1968; since that time, massive amounts of data have been collected and thoroughly analyzed to develop the best possible description of the Prudhoe Bay Field. Exxon, in conjunction with its research affiliate, has independently analyzed rock and fluid properties. Reservoir rock properties have been determined from more than 10,000 samples from over 40 wells and confirmed by approximately 50 production pressure tests. Fluid distribution in the reservoir is based on the rock samples and over 70,000 feet of well logs from 175 wells. Fluid properties have been derived from over 40 samples of the oil and gas in the reservoir. Displacement efficiencies have been determined from extensive lab tests, many of which were conducted at reservoir temperature and pressure conditions using actual reservoir rock and fluids.

Using this data base, we have been actively involved in conducting independent reservoir performance studies necessary for development of a field operating plan. We have taken into account comparisons with other producing fields and have employed proven reservoir engineering technology, including the use of the most advanced models and simulator techniques available. Exxon alone has devoted about 50 man-years and 700 hours of computing time to Prudhoe Bay reservoir studies.

OPERATING PLAN

Our studies support the operating plan for the Prudhoe Bay Field which includes:

First, an annual average oil offtake rate of 1.5 million barrels per day when oil pipeline capacity is available. Our studies have shown essentially the same oil recovery for oil offtake rates ranging from 1.2 to 1.8 million barrels per day. At the planned offtake rate, oil production is projected to decline after 1987 at a normal rate of about 14 percent per year.

Second, the plan includes gas pipeline deliveries of 2.0 billion cubic feet per day as soon as a gas transmission system can be completed. It is estimated that this gas delivery can be sustained for 20 to 25 years before declining.

Third, low pressure and artificial lift systems are planned when needed to maintain productive capacity, and

Fourth, injection of produced water into the reservoir is planned as soon as those volumes become significant, now estimated to be within 2 to 4 years. Additionally, injection of water from a source external to the reservoir can begin within about 7 years when additional oil recovery benefits are confirmed and the optimum injection locations and volumes are determined. This timing is adequate to achieve maximum benefits of waterflooding.

The detailed studies supporting this plan were presented to the State of Alaska Division of Oil and Gas Conservation and their consultant during the course of technical meetings requested by the Division in 1975 and 1976 and were summarized at the public pool rules hearing in Anchorage on May 5 and 6, 1977.

SURVEILLANCE

We are confident that the approved operating plan has sufficient flexibility to accommodate variations in reservoir performance from that predicted. The key to recognizing these variations and optimizing the operating plan is a thorough program of reservoir surveillance and testing. Such surveillance activities include monitoring pressures, gas-oil contact movement, oil-water contact movement, and individual well performance. These activities have been approved by the State of Alaska Division of Oil and Gas Conservation and are incorporated in the field rules.

TERTIARY RECOVERY

In the course of our reservoir performance studies, the possible application of tertiary recovery programs has also been considered. Exxon maintains a considerable research effort devoted to developing viable tertiary recovery techniques, but we know of no such techniques that would be applicable at Prudhoe Bay on a fieldwide basis. The indus-

try has many field tests of tertiary processes underway in more mature fields in the lower 48. As such research and development continues, we will examine the potential use of tertiary recovery methods in the Prudhoe Bay Field.

DOSCHER TESTIMONY

I would like to comment briefly now on Dr. Doscher's testimony. In June and July of this year, reservoir engineers from Exxon, and well as BP and ARCO, met twice with Dr. Doscher. The purpose of the meetings was to allow him to review the studies which served as the basis for the operating plan approved by the State of Alaska. At the close of those discussions, Dr. Doscher took no exception to the approved operating plan for the field, which includes gas sales. We are not aware of any independent analyses that he had conducted at that time or has conducted since that time. Consequently, we do not understand how, based on existing studies, he could have reached the conclusions he stated before this Committee on October 12.

As we previously testified before the State of Alaska, our studies show that there is sufficient operational flexibility to make gas sales of 2.0 billion cubic feet per day without adversely affecting ultimate oil recovery.

Simulation studies conducted independently by the field operators and numerous consultants for the State of Alaska, the Department of Interior, and gas pipeline applicants also support the preferred plan of operation for the field including early gas sales.

It is unfortunate that confusion has arisen in the proceedings of this Committee in spite of such overwhelming evidence. In Exxon's view the Committee should move forward in its consideration of the gas pipeline with confidence that Prudhoe Bay gas can be produced without adversely affecting oil recovery.

CONCLUSIONS

In conclusion, the approved operating plan for the Prudhoe Bay Field meets the major objectives we feel are important.

First, it provides for the timely development of the total Prudhoe Bay energy resource, both oil and gas. The earliest possible development of Prudhoe Bay gas is extremely important since it represents 12 percent of proven domestic gas reserves. The Department of Interior and Federal Power Commission have stated that Prudhoe Bay gas is competitive with alternative energy sources and its development has a positive net national economic benefit.

Second, the reservior will be managed to achieve the maximum recovery of both oil and gas, consistent with sound engineering practices.

Third, the plan provides the flexibility necessary to respond to actual reservoir performance so as to maintain efficient recovery of oil and gas from the field.

In view of the critical need for domestic energy supplies, Exxon believes the prompt and efficient development of Prudhoe Bay oil and gas resources is in the common best interest of the producers, the State of Alaska, and the Nation.

STATEMENT OF ATLANTIC RICHFIELD CO. BEFORE THE COMMITTEE ON ENERGY AND NATURAL RESOURCES, U.S. SENATE, OCTOBER 25, 1977

My name is Howard Koch. I am a graduate of Northwestern University with a Ph. D. in chemical engineering. Since 1949 I have been employed by Atlantic Richfield Company and am currently Manager of Engineering of Atlantic Richfield Company's North American Producing Division. For the past eight years I have been heavily involved in Atlantic Richfield's efforts to explore and develop the Prudhoe Bay Field in Alaska and I have been responsible for and directed many studies of the reservoir and its performance.

As you know, Atlantic Richfield operates the eastern one-half of the Prudhoe Bay Field and BP Alaska, Inc., operates the western portion. As owner of approximately ⅕ of the crude oil and approximately ⅓ of the natural gas in the field, Atlantic Richfield is deeply concerned with maximizing ultimate recovery of all hydrocarbons producible from the field. We believe that all of the produced substances are extremely valuable and should be made available to U.S. consumers at the earliest practicable date consistent with good reservoir management. We further believe that our development plan which has been approved by the State of Alaska satisfies all of these prerequisites.

The Prudhoe Bay Field, discovered in 1968, is by far the largest oil and gas field producing in the United States. Its recoverable hydrocarbon reserves have an energy equivalent of over 80 quadrillion BTU's. Because of the significance of this vast energy resource, the major working interest owners, the Alaska Division of Oil and Gas Conservation and others, have independently evaluated plans for production of this field.

Many reports have been written concerning the optimum development of the Prudhoe Bay Field. In October 1976, the working interest owners prepared and submitted a report entitled "Techical Considerations—Prudhoe Bay Unit Operating Plan, North Slope Alaska" to Mr. O. K. Gilbreth, Director, Division of Energy and Minerals Management—State of Alaska.* This report contained a summary of the work conducted by Atlantic Richfield as well as BP Alaska, Inc.; Exxon, U.S.A.; and The Standard Oil Company (Ohio). The major conclusions in this report concerning plans for production of the Prudhoe Bay Field are consistent with the conclusions contained in H. K. Van Poollen studies conducted for the State of Alaska. Specifically, these reports concluded that the optimum producing plan for the Prudhoe Bay Field includes the early sale of natural gas.

We wish to outline for you today the major objectives we strived to achieve in developing our plans for producing the Prudhoe Bay Field and to comment upon Dr. Doscher's remarks before this committee. One of our key objectives is the development of both the oil and gas reserves as efficiently as possible.

The proved hydrocarbon reserves at Prudhoe Bay represent approximately 30% of the Nation's liquid reserves and 12% of the Nation's natural gas reserves. For this reason, another prime objective in the development of our operating plan for the field included conservation of the total energy resource. Therefore, as required by State Law and as directed by our own management, we plan to produce the reservoir in a manner consistent with sound engineering practices designed to achieve maximum economic recovery of oil and gas and to prevent waste.

State Law requires that the proposed plan of production protects correlative rights; i.e., that each working interest owner is afforded an opportunity to produce, without waste, its just and equitable share of the oil and gas. The working interest owners and the State have agreed that the production plan, including the early sale of gas from the field, will provide for this protection.

Finally, our plans for producing the field should be as flexible as possible so that we can react promptly to anomalies in reservoir behavior to assure efficient recovery of oil and gas from the field.

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*See Exhibit A—"Technical Considerations, Prudhoe Bay Unit Operating Plan—North Slope Alaska."

To achieve these aforementioned basic objectives, i.e., timely development, conservation of resources, protection of correlative rights and flexibility to adapt to observed performance, we have combined our reservoir studies with engineering judgment gained through worldwide experience, to formulate our present reservoir management plan.

We developed the production plan by studying the effects of alternative development plans, through the use of mathematical reservoir models. Through the use of these sophisticated reservoir engineering tools, it is possible to study various aspects of field performance including such things as oil and gas production rates, gas and water injection rates, infill drilling, tubular equipment selection, artificial lift alternatives, gathering system pressures and reservoir description. The evaluation of reservoir description and its effect on our operating plan decisions is perhaps the most powerful advantage to using these mathematical models.

A question has been raised concerning the reliability of a reservoir model in the absence of production history. Although it is true that the availability of production history can provide a useful check of a study and a basis for modification, Atlantic Richfield has a high degree of confidence in its reservoir model predictions, especially when these models are used to compare different methods of reservoir management. Two reasons exist for this high degree of confidence. First, because of the long period of time between discovery and commencement of deliveries to TAPS, the operators have drilled wells over a rather large area of the reservoir. As a result of this, we have secured unusually detailed reservoir descriptive information and have compiled specialized studies including geologic history, rock data, fluid sample data and log data. These data were used to determine in-place volumes of oil and gas as well as for the determination of reservoir performance. Rarely is such quality and quantity of reservoir data available prior to any sustained production from a field. A portion of these data pertaining to individual well performance, has been verified through the use of individual well models in matching actual drawdown and buildup tests performed in the fields. Although a limited amount of data under sustained production is now available, actual well performance matches our predictions.

Second, confidence in our reservoir model predictions has been gained through sensitivity testing. In sensitivity testing our objective was to identify those reservoir parameters having the greatest effect on ultimate recovery and define those parameters to the fullest extent possible. Our application of this approach and the subsequent followup work, both field and laboratory, has given us an extra degree of confidence in our forecast of Prudhoe Bay performance. Although some adjustments may be made in the model as production history is accumulated, our current forecasts are adequate to demonstrate the viability of our current operating plan.

I would like to briefly outline the major elements as well as explain the expected general performance of the field under our operating plan. This plan anticipates crude oil deliveries to TAPS of 1.5 million BOPD when pipeline capacity is available.

Injection facilities were installed for the reinjection of all produced gas in excess of that needed for field and pipeline fuel to conserve gas for future sales and to comply with the State of Alaska's nonflaring order. Current gas injection capacity of 1.2 billion cubic feet per day (BCFD) will be expanded to handle up to 2.0 BCFD by mid-1979.

Gas pipeline deliveries of 2.0 BCFD can be commenced as soon as a gas transmission system can be completed. Testimony before the Congress concludes that the most likely

date that gas can be delivered into a pipeline system will be 1983. Our reservoir model studies have shown us that the field can be managed so that gas deliveries at that time will be non-injurious to the reservoir.

Current water production volumes are very small and are being injected into the shallower Tertiary/Cretaceous sands. When this produced volume becomes significant it will be reinjected into the portions of the Sadlerochit reservoir exhibiting low natural depletion recovery. It is anticipated that this operation will commence in 1981. Through optimum redistribution of the produced water, the benefits of the natural water influx will be maximized. We plan to supplement this produced water injection with additional volumes of water from an outside source when our current estimates of recovery benefits can be verified along with the substantiation of its economic viability.

Some of the reservoir performance characteristics which were repeatedly revealed in our model studies are:

1. A small volume of natural water influx. This anticipated volume will be substantially less than that required to fully maintain reservoir pressure. Poor aquifer response is expected because we have noticed a degradation of rock properties in the aquifer.

2. Although all the natural recovery mechanisms (gravity drainage, gas cap expansion, solution gas drive and natural water influx) will be operating, the gravity drainage mechanism will be dominant and lead to efficient fieldwide recoveries.

3. The expansion of the gas cap is dramatic in the first several years of production. It not only moves in a vertical direction at the rate of about 25 feet per year, but it also moves horizontally along the top of the formation and underneath continuous shale barriers. This horizontal movement can occur over several miles and is a result of the rather low formation dip (1 to 2 degrees). This gas cap expansion in the early years will expose a large percentage of the wells to a free gas saturation.

4. The expansion of the gas cap will result in a large volume of gas cap gas being produced through the oil wells. This means that a rather large volume of gas will be reinjected in the absence of a gas pipeline.

5. The advance of the gas-oil contact, to a large degree, controls the onset of oil production decline. Since the expansion of the gas cap is largely a function of oil zone withdrawals, we have seen in our models that the timing of anticipated gas sales has little or no impact on the point of oil decline.

6. We do not anticipate any oil migration into the original gas cap as a result of gas cap shrinkage because of the substantial voidage accumulated by the oil rim prior to gas sales, and because of the smaller cap voidage rate in the early years of gas sales.

I would now like to specifically discuss some of our reservoir model results and how they have led to our plan of operation for the Prudhoe Bay Field. Although a considerable effort has been expended over the last eight years by my company in determining various aspects of producing the field, I would like to emphasize only two areas of interest: gas sales and source water injection.

There are two major considerations when evaluating the timing of gas sales. Those are:

Is there a market for the gas now? (The Prudhoe Bay natural gas and gas liquids reserves (to be discussed in detail hereafter) amount to 26 trillion cubic feet and 400 million barrels respectively, the energy equivalent of approximately 4.7 billion barrels of crude oil, or over ½ of the crude oil reserves.)

In the opinion of experts appearing before the Congress there is no doubt that there is a market for this gas now, and delivery should commence as soon as a gas pipeline system is completed.

The next consideration is: What effect does the timing of gas sales have on ultimate recovery of hydrocarbons? (If you will remember, conservation was one of our major objectives in determining the optimum plan of operation for the field.)

In evaluating the effects of gas sales timing on crude oil reserves, reservoir model studies were made with different timing assumptions for the commencement of gas sales. From the studies, we found that the ultimate crude oil recovery could increase in the order of 1% of the original oil-in-place if gas sales were deferred from 1982 to 1992 and if no additional measures were taken to offset the loss. This finding represents the maximum impact that gas sales timing could have on ultimate crude oil recovery. To focus on this potential 1% loss only would be a mistake, for it would disregard other hydrocarbons in the reservoir that are as valuable as oil.

To fully evaluate the effects of early gas sales, we must also consider natural gas liquid recovery. These natural gas liquids will be removed in the conditioning of the field gas to meet gas pipeline specifications. We estimate that approximately 400 million barrels of these natural gas liquids can be removed. The volume of these liquids that can be delivered to the consumer through TAPS, however, is dependent upon a number of variables including oil throughput rate. If gas is sold early in the life of the field while the oil pipeline is at capacity, more of these liquids can be transported with the oil. If, on the other hand, gas sales are delayed until a point of low oil throughput rate, some of these liquids will be reinjected into the reservoir and probably not recovered.

Permit me to summarize the conservation aspects of gas sales timing. Potential adverse effects on crude oil recovery amount to approximately 1% of the original oil-in-place if gas sales timing is varied from 1982 to 1992. By way of comparison, this is less than 1/20 of the loss estimated by Dr. Doscher. We believe that such a potential loss in recovery would be offset in actual field operations by varying the number and location of producing wells, the areal distribution of oil offtake rates and the locations and volumes of water injection, and further be offset by the shipment of natural gas liquids with crude oil in TAPS during the early stage of field production. We estimate that the loss in natural gas liquids would amount to approximately 125 million barrels for a delay in sales from 1982 to 1992, a loss not considered by Dr. Doscher in his review. With a three year deferral of gas sales as proposed by Dr. Doscher the loss in natural gas liquids could be about 45 million barrels.

Potential reduction in oil recovery from any reservoir due to the early sale of gas has been a subject of considerable discussions in the field of petroleum reservoir engineering. There is one general conclusion that can be drawn concerning this early gas sale: i.e., the withdrawal of associated gas can cause a reduction in oil recovery if nothing is done to replace the energy. Beyond that, however, no other conclusions should be drawn. This potential reduction can only be estimated through a thorough analysis of the drive mechanisms that are present in a particular reservoir. One excellent method in accomplishing this is through the use of mathematical reservoir models.

In our analysis, the effect of gas sales at Prudhoe Bay was small for the following reasons:

1. The dominant recovery mechanism is gravity drainage. Gas is such a drive mechanism does not act as an expulsive force to drive the oil out of the pore spaces. Instead, the gas merely expands to fill the empty pore spaces as the oil drains out.

2. Prudhoe Bay crude is both a low shrinkage and relatively low viscosity oil.

3. Even with the earliest anticipated gas sales date (1983) approximately 30% of the ultimate oil reserves will have been recovered.

4. The normal dangers of gas cap shrinkage will not be a problem at Prudhoe Bay, due to the expansion of the gas cap in the early years of production combined with a rather modest cap voidage rate immediately after sales commence.

It has been stated to this Committee that the producers have calculated small gas sale effects due to low residual oil saturations left behind the invading gas cap. In our studies, these residual saturations range from 20 to 30%. We submit not only that such saturations are reasonable, but we also believe that an analysis of gas sale effects is not strongly dependent upon these saturations.

Turning now to water injection for Prudhoe Bay, a much more complex problem. Gas sales effects are mainly related to pressure-volume relationships and can be easily evaluated with fluid properties and in-place volume considerations. An optimized waterflood, on the other hand, will require more study including the location of water injection wells and injection rates. These optimum volumes and locations can best be determined through the analysis of actual field production history.

Our current estimate of incremental waterflood recovery is about 4% of the original oil-in-place. This incremental recovery benefit was forecasted with an injection program assumed to commence in 1984 with daily injection of 2 million barrels of water. Preliminary design studies are currently underway so that implementation time can be substantially reduced once a decision is made to waterflood the reservoir.

Laboratory work has been done by our Research Department in evaluating carbon dioxide as a possible means of tertiary recovery for Prudhoe Bay. Essentially, we found that miscibility pressure is considerably in excess of initial reservoir pressure. Although some additional work has been done with liquid petroleum gas enrichment of the CO_2 to lower miscibility pressures, reservoir characteristics of the Sadlerochit reservoir may limit its use to the shaly portions of the formation. Although no firm estimates of incremental recovery benefits have been made by my company, it is our opinion that these benefits would be smaller than those attributed to conventional water flooding. Since it appears that CO_2 has some possibility for enhanced recovery in North Slope reservoirs, continuation of our studies is planned.

To summarize, Atlantic Richfield believes that the optimum production plan for the Prudhoe Bay Field includes early gas sales combined with a source water injection program. We have proposed and the State of Alaska has approved a gas sales rate of 2 BCFD beginning as soon as a gas transportation system is completed. We (and the State of Alaska) have found that gas deliveries of this volume will be non-injurious to the reservoir. Gas deliveries in excess of 2 BCFD must be approved by the State of Alaska. In addition, we feel that supplemental source water injection is certainly a means of increasing ultimate oil recovery. If our current estimates of incremental crude oil recovery benefits are substantiated along with the economic viability of the project, we anticipate that a source water injection program will be commenced as early as 1984. Accumulation of actual field production history will be invaluable in selecting the optimum volume as well as the optimum locations for this water. Again, approval of such an injection program will lie in the hands of the State of Alaska.

You have requested that we estimate the gas delivery rates over the life of the field. If gas pipeline deliveries are commenced in 1983, we believe that the field will be capable of delivering gas at a rate of at least 2.0 BCFD for approximately 25 years.

I appreciate having an opportunity to appear before your committee today. Thank you.

Mr. JACKSON. Mr. President, I yield 5 minutes to the distinguished Senator from Alaska (Mr. GRAVEL).

Mr. GRAVEL. Mr. President, I compliment the distinguished junior Senator from Washington on this measure. I can recall, 3 years ago, when he initiated the thought that what we ought to do is have legislation to expedite the initiation of this project, that legislation went to the Commerce Committee and its fate was decided within the Commerce Committee, but I recall vividly that he and his staff were the pioneers in that area.

I think today that the legislation he has brought to this floor with alacrity is very responsible, and again I commend him for handling the issue with dispatch, so that the project planning could be brought to fruition. I think that is due largely to his direction within the committee.

I as a Senator, as a citizen of Alaska, and as an American citizen thank the Senator from Washington for the leadership he has exercised in this regard. I must say that on occasion I have been critical of some of the Senator's energy policies, but on this occasion I must say I have nothing to criticize and have only good comments to make. I think they have done a good job. I think the financing is sort of left open, not because of any language in the resolution, but left open by circumstances.

The situation is one where the companies are now able to go out and work their will. If they do get into some difficulty in securing financing, they obviously can come back for assistance in solving that particular problem. I am sure Senator JACKSON will take up that issue at the proper time.

I testified before the committee and have been extended courtesies by the chairman of the committee. I thank him for those courtesies. He has been most gracious concerning our participation as Alaskans. He has been most sensitive to the problems as we understand them.

The issue which is left unsettled, which will eventually be settled, is the issue as to how to truly handle the adverse risk of a portion of the pipeline. Will it be the companies themselves, will it be the consumers, or will it be through the Federal Government guaranteeing the construction of the pipeline. I think if the issue does come back to us, and I fear it will, it will offer us an opportunity to handle it.

Judging from my colleague, and the record of the Senator from Washington, with respect to his vigilance in behalf of the consumers, I think we may eventually see a Federal guarantee in this regard. I think the Federal guarantee would only be a paper transaction. It would have the impact of reducing the interest cost of the construction of the pipeline hundreds of millions of dollars, and the benefit of that paper transaction would be for the consumers to pay a lesser cost.

Mr. JACKSON. Will the Senator yield for a unanimous-consent request?

Mr. GRAVEL. I will be happy to yield.

Mr. JACKSON. I ask unanimous consent, Mr. President, that Betsy Moler and George Dowd, of the Energy Committee staff, be granted the privileges of the floor during consideration of the pending joint resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I want to thank the Senators from Alaska (Mr. GRAVEL and Mr. STEVENS) for their cooperation and help during the 5 days of hearings we held on the subject of the Canadian gas pipeline matter. Both Senators have been most cooperative and helpful.

Mr. GRAVEL. I thank the Senator.

I would only add, Mr. President, that one of the issues creating a malaise in the Nation today is that we have located the oil pipeline in the wrong locale. I do not think that is the case. I think the oil pipeline is in the proper locale. I think if it were not for the actions of the Government, we would not have an "energy surplus" on the west coast of the United States. Certainly, we have unmet refinery capacity there and we have other unmet needs. I hope when we get a system in operation we will not experience that problem.

With respect to the gasoline, I think it adds a certain balance, even though I was not on this side, to bring the gas down through the continental part of the United States to the central part of the United States so that that same charge made on the oil line could not be made on the gas line. I think that in itself will have a very salutary, beneficial, and psychological impact on the consumers or the attitudes of the citizens toward the distribution of energy on the continent.

I do not have the same concerns about a line going through Canada as some have. Certainly, if there are people in the world that we can trust, those people have to be the Canadians, our closest friends. I would say that the fact of building the gas line through that country may be the first major step toward the establishment of a continental energy policy.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. GRAVEL. Will the Senator yield 2 additional minutes?

Mr. JACKSON. I yield.

Mr. GRAVEL. A continental energy policy would make good sense. It is unfortunate that we have not come to one yet and that we hold to the artificial political boundaries which exist, where we find ourselves in the situation where the Canadians, to satisfy their future energy needs, have to cut off deliveries of oil to Northern Tier refineries. That, I believe, is the first step of showing the weakness of not having such a policy.

Now that we will have a gas line which will be constructed through Canada, and we have an oil line to go through the State of Maine, and servicing the large metropolitan area of Montreal, hopefully these will be the necessary steps which integrate all facets of the energy situation between Canada and ourselves.

I believe we should keep in mind the great tar sands of Canada withstand the possibility of satisfying our energy needs beyond what we could begin to project. We talk in terms of developing other sources of energy in this country, oil shale and the like, and yet oil shale would not be competitive at all were the Canadians to aggressively produce these tar sands.

Mr. President, I again want to thank the chairman for what I believe to be an outstanding job. I hope the Senate will agree to this joint resolution. I think it is important that we agree to it before we go into adjournment because a good part of the planning for this project, the large expenditures of money, in order of $40 million, $50 million, or $100 million, will be underway, and the project will well be on its way toward realization by the time we reconvene in the middle of January.

Mr. DURKIN. Will the Senator yield for a question?

Mr. GRAVEL. I am happy to yield.

The PRESIDING OFFICER. Who yields time?

Mr. JACKSON. Mr. President, in my absence, Senator DURKIN will handle my part of the time.

Mr. DURKIN. Will the Senator from Alaska yield for a question?

Mr. GRAVEL. I yield.

Mr. DURKIN. The question is this: In light of the Doscher report, in light of the report of the committee, in light of the very, very substantial and serious questions raised, does the Senator think this pipeline will ever be built?

Mr. GRAVEL. I am convinced that it will be built. There is no question in my mind at all.

Mr. DURKIN. Does the Senator think it can be built without a Federal loan guarantee, without Federal tax dollars and/or a combination of an all events tariff?

Mr. GRAVEL. I think what will happen is that the private sector will go out—and we will find out in the marketplace—to see if they can get the financing without some type of Government participation.

Mr. DURKIN. So if I understand the Senator's answer correctly, it is that this pipeline can be built without one single dollar of Federal loan guarantees or Federal taxpayers or socking it to the consumers with an all-events tariff.

Mr. GRAVEL. My good friend from New Hampshire editorializes when he says socking it to the consumers with an all-events tariff. What an all-events tariff means is that if you want some gas, you should be willing to pay for what it costs to get that gas to you. If paying the price of getting the gas to you is socking it to you, fine, that is what is going to happen.

There is nothing wrong with that. If I want some natural gas in my house, I have to pay for it. Maybe there is some magic formula where we can find a way to subsidize it.

I know one way that we can help the consumer in this regard. If we gave a Federal guarantee, what we would be doing would be merely a paper transac-

tion and we would not have to appropriate one sou. But the guarantee itself would probably save several hundreds of millions of dollars in interest that would have to go to the construction costs. Since that interest will be saved, then the cost of transportation will be less. Therefore, the consumers will pay less. So, by a simple act of Government, which is no more than a paper transaction, we could avoid socking it to the consumers, but that would have nothing to do with the transportation of natural gas. That would have to do with the high interest rates that exist in our free enterprise system.

Mr. DURKIN. Will the Senator yield for another question?

Mr. GRAVEL. Yes.

Mr. DURKIN. How would the Senator describe, or what is his definition of an all-events tariff? My understanding of an all-events tariff and the evil, the vice, of the all-events tariff is that the consumer can be socked for the gas whether it is delivered to him or not.

Mr. GRAVEL. Let us put it this way: Let us take a colloquy between the Senator standing there and me standing here. I have something that he wants. We have to build a system to get it to him. This Senator says, "Do you want my gas?" I say, "Fine. I am prepared to give it to you, but it is going to cost $10 to get it to you over there."

Is the Senator going to pay the $10 to get it to him? What he is saying is, "No, no, what we do is, I will buy it f.o.b. my desk over there."

All I am saying is that he is the one who wants it; therefore, he should be at risk. That is really what an all-events tariff is, placing it on the people who want the tariff. They are the ones who take the risk, not the people who sell it. The people who sell it do not have the economic wherewithal to take that risk. Unless he takes that risk, he will not get that product.

Mr. DURKIN. But it is one thing to pay the wellhead price for that gas, which, I might point out, has not been established yet. It is another thing to add to that wellhead price a cost for transportation. But the all-events tariff, if Mr. Doscher is correct that taking gas out of the Prudhoe field in the amount proposed at this time will result in up to 6 billion barrels of gas being rendered unrecoverable under today's technology in the Prudhoe Bay field, then we run the risk of that pipeline never being completed and we run the risk of having consumers—my consumers and other consumers in the Midwest—being stuck with the bill for that pipeline, even though it does not produce enough gas to light the pilot light down in the private dining room in the Senate.

Mr. GRAVEL. First of all, an all-events tariff certainly would not absolve the various utilities and the various producers of committing to sell the gas. That could be part of the quid pro quo.

I think the easiest way to solve my colleague's problem is for him and me to offer an amendment to have a Federal guarantee.

Mr. DURKIN. It will be a cold day in hell before I see a Federal guarantee come in and bail out this project.

Mr. GRAVEL. I say to my colleague, we are not bailing out anything. He wants the gas and we are going to try to get it to him.

Mr. DURKIN. I can assure my good friend from Alaska that I will resist any Federal payment, any Federal loan guarantee, or all-events tariffs with all my ingenuity and durability.

I voted yesterday in committee to report this resolution out, voted favorably. I did so so we could give McMillan & Co.—not the TV show, but the pipeline group—the opportunity to raise the money in the private sector. But if they cannot, I want it known here and now that this is one Senator—I do not stand alone—that will resist with all my ability, ingenuity, and durability sticking the Federal taxpayer or the gas consumer with the bill for this pipeline.

Mr. GRAVEL. My colleague and I have nothing irreconcilable in this regard. We just will not sell him any gas. There is no big deal. He does not have to take it. Nobody has a gun at his head. If we cannot build the pipeline, he will not get any gas.

And you know something? I will not shed a tear. Because if people do not have enough brains to get out and get the resources to their people, then, you know, it is just tough.

Mr. DURKIN. I might point out that that is why some of us are concerned about bringing Mexican gas on the line just as fast as possible at a much lower cost.

Mr. GRAVEL. I am for that. In fact, I think that is one of the great things that has happened, the total ambivalence of the present energy policy that we have, where the Senate will not vote more than $1.70 an Mcf, but we permit the Federal Power Commission to have contracts with the Mexicans to supply gas at $2.60 an Mcf. That makes a lot of sense. I am for that because, if we do not have enough brains to get our own gas, at least, let us help the Mexicans.

Mr. DURKIN. Mr. President, what is the time situation? It seems to me I have 15 minutes reserved for myself and we are in the other half of the chairman's time. What is the time situation?

The PRESIDING OFFICER. Senator Stevens has 21 minutes. The Senator from New Hampshire has, of the combined time of his own and that of the bill, a period of 3 minutes. Fifteen minutes of his personal time remain on the bill.

Mr. GRAVEL. Will my colleague permit me 1 or 2 minutes just to finish up?

Mr. DURKIN. I yield 2 minutes to my friend from Alaska on the floor manager's time.

Mr. GRAVEL. Let me just say in response, summing up on the questions, I think this is an eminently sound project, one. Two, it is going to get some gas to the consumers if we do not let the bureaucracy and the policymakers truly get in the way. There is only one simple way to get the product to the consumers. That is that someone has to pay for it. The person to pay for it is the consumer. If it is not a competitive price, then we should not build the project.

I think with the scarcity of natural gas we will have in this country, the price will be competitive. I think the people who will build the pipeline are all as experienced and able as anyone in the world. They are in a command position. The only problem that can run them afoul, as I have stated earlier, is the problem of financing. If this Government chooses not to aid in the financing, either through permitting the consumers to take the responsibility in question, which is truly theirs, or to help the consumer through the proper guarantees, then, so be it. We can leave that gas in the ground. There will come a time when it will be usable. In point of fact, we might well build a pipeline through Alaska at that time and export it to some other parts of the world.

Whatever is decided, I want to commend my colleague as a member of the committee, because I think the committee did the right thing. I think they are taking this in stages. I think it is too complex an issue to digest all at once. But the fact is that they have come out with alacrity, that the resolution is before us, the company is ready to act, should act, and will act, and if there are problems, they will come back to us, as is the case, and we shall have a chance to work our policy will, whether that policy be right or wrong.

I thank my colleague. I yield the floor.

Mr. DURKIN. Mr. President, I yield myself 5 minutes.

I voted in committtee, with some reservations, to report out the Alcan resolution. I have agreed to a rather short time limitation on this. There are some serious questions that every Member of the Senate should be concerned with.

I voted yesterday, and I think many members of the Senate Energy Committee voted, to report out the resolution, because the resolution was an up-or-down consideration. There was no room for amendment, there was no room to add, divide, subtract, or what have you. Really, we are faced with an up-or-down situation.

I do not think anyone in the Energy Committee wants to go back to the drawing board and get in the hassle of whether it will be the El Paso plan, the Arctic plan, whether it is going to be the Alcan plan, and for that reason we reported it out with a goodly number of caveats that are in that report.

That report is a very unusual report. That report flags an awful lot of issues that the financiers are going to look at very closely.

I seriously question that pipeline will be built in light of the serious questions raised in the Senate Energy Committee Report. However, I do feel that Mr. McMillan and his consortium have worked very hard.

One of the strong points of their plan was that it did the least damage. It did not require any Federal money. They stated they would not need any all-events tariff. The President assumed they would not need Federal tax money loan guarantees in approving the Alcan proposal.

But I think most of us on the committee voted to report it out to give them a chance to go to the private financing

markets to see if they could make this project.

But one thing, I think at least my own personal feeling, that if they try to stick an all-events tariff proposition in at some future date, if they come back looking for Federal loan guarantees, if they come back looking for Federal tax dollars to complete that Alcan gas pipeline, that there will be strong and determined resistance on the floor of the Senate because there are some serious unanswered questions.

Who is going to finance the project? Alcan says the producers should contribute. The producers say the Federal Government should help. The President said the State of Alaska should help. The State of Alaska is reluctant to participate.

We get to the next question, which is a major question. I do not think anyone here argues that the oil in the Prudhoe Bay field is much more important to the security of this country than the gas is at this particular time in history.

Dr. Todd Doscher, a respected geologist, 25 years of experience with Shell, completed a draft report which says that because of the unique characteristics, geological characteristics of the Saddlerochit Reservoir, if we take the gas out now in the amount needed to fill that pipeline, we could lose 2 billion barrels from primary recovery and up to 4 billion barrels of oil from tertiary recovery will be unrecoverable under today's technology.

This country could not afford to lose 6 billion barrels of its proven oil reserves. That oil is more important to Alaska, that oil is more important to New Hampshire, that oil is more important to the lower 48, than the gas at this particular time.

Dr. Doscher suggested that we wait 3 years and get some operating data from the Prudhoe Bay field. Because of its unique quality, the old models do not apply.

We asked the GAO to take a look at Dr. Doscher's report and they said, "At this time, we can't say whether he is right or wrong."

We asked the producers and the State of Alaska to come in and respond. The producers, ARCO and BP, conceded 200 million barrels may well be lost in primary recovery due to early gas sales as proposed.

Dr. Doscher is not someone who shows up every Halloween with stories of impending doom. He is a very well respected geologist and the testimony before the Senate Energy Committee did not refute the major allegations in his report.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. DURKIN. I yield myself 5 minutes more.

I thank the Chair.

So, we run the risk, Mr. President, of losing up to 6 billion barrels of Alaskan oil which is sorely needed in this country, in the lower 48.

There is no wellhead price yet set for that gas.

We run the risk of having Federal tax dollars being used to complete the project.

We run the risk of ruining the Prudhoe Bay field, at least making unrecoverable up to 6 million barrels of necessary, needed oil.

We run the risk of having that gas cost $5, $6, or $7 an Mcf., not anywhere near what the price the President was talking about—$1.75 just a few weeks ago—that gas could run to $5, $6, or $7 an Mcf.

The Mexicans have found that they have an abundance of oil and gas. In fact, the most recent Oil Daily of October 31, cites a study that Mexico has sufficient oil to last 200 years based on current consumption.

Mexico can sell all the oil it can to whoever wants to buy, no matter what their political philosophy, as the interest of Mexico demanded.

We have in the RECORD a submission I put in last Friday, October 28, indicating that the Mexicans have an abundance of natural gas.

One of the aspects of the Mexican proposal that intrigues me is to utilize the existing gas transmission facilities, coming out of Texas, and the Southwest, and branching off the Midwest to West, and especially my area in the East.

So the reports are that the Mexican gas pipeline which is being constructed will be able to deliver gas to the United States as early as late 1979.

The Alcan pipeline cannot be completed until substantially after that, 1983 at the earliest.

So the indications are that the Mexican gas will be offered to us at $2.25 or $2.50 an Mcf. I cannot for the life of me understand why the oil and gas industry in this country does not want to aggressively pursue it.

There are allegations that the oil octopus does not want to buy Mexican gas because then they cannot capitalize the cost of the pipeline.

I point out, under present estimates, the oil industry will recapture their $10 billion investment in the Alaska oil pipeline in 5 years. That is a pretty good turnaround, a pretty quick return. I wish some of the things I bought would return the principal in 5 years.

So, Mr. President, the situation is that there is another very serious aspect. I know the President, himself and the Senator from Ohio, has been very concerned with the impact on our steel industry. But there is no assurance that even though two-thirds of this pipeline is going to be in Canada, and the American consumer is going to pay for it, we will pay for cultural benefits and dislocations, and what have you, in the Canadian provinces, but there is no certainty today, as I stand here right now, that the United States steel industry, even though American consumers will be called upon to foot this bill, there is no assurance the United States steel industry can go in and bid on that pipe. No assurance American industry can go in and compete. No assurance there will be open competition for the employees as well as the products and equipment used on the pipeline.

This is something the Senate Energy Committee report requested the administration take up with our brothers to the North just as soon as possible.

Mr. President, I do not think anyone is trying to torpedo this. But I do want to set the stage that I, for one, and others on the committee, do not feel that this pipeline will ever be constructed.

The PRESIDING OFFICER. The Senator's additional 5 minutes have expired.

Mr. DURKIN. I yield myself such time as I require out of the manager's time.

So I think the reason we are standing here today, the reason that very unusual report came out of the Senate Energy Committee, was to announce loud and clear that there are some problems, but we want to give Mr. McMillan the opportunity to obtain the financing in the private sector. But there will be a determined resistance on the part of this Member and some other Members if the Alcan consortium comes back looking for an all-events tariff which asks the consumer to pay, whether he gets the gas or not, or whether they come back seeking a Federal loan guarantee, or seeking Federal dollars to keep this project moving.

With that caveat, with those restrictions, with those assumptions and red flags, I intend to vote for the proposal to give the Alcan consortium the opportunity to seek private financing.

One of the strong points besides the fact that the Alcan route posed the least environmental harm is that the proposal of Mr. McMillan and his group contemplated that there would be no Federal involvement dollarwise, and no need for an all-events tariff.

I think we should give him the opportunity to fulfill his quest, so long as he knows that there will be determined resistance to looking for a Federal bailout, or asking the consumers in New Hampshire, New England, the east coast, and other parts of this country to pay for that pipeline whether they get 10 cents worth of gas or not.

Mr. President, I am prepared to reserve the remainder of my time. I know that Senator STEVENS is vitally interested in this matter. He has worked diligently with the Senate Energy Committee, even though he is not a member, in trying to resolve this matter, as has his colleague, Senator GRAVEL.

Mr. STEVENS. Mr. President, we have no further requests for time. I have made my statement and support the resolution.

I hope we can have a vote now, unless the Senator from New Hampshire or the Senator from Washington desires to make further comment.

Mr. DURKIN. No. The Senator from Washington (Mr. JACKSON) is at a meeting with Secretary Brown.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DURKIN. Mr. President, I suggest the absence of a quorum, merely for the opportunity to check with Senator JACKSON.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. DURKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURKIN. Mr. President, I am prepared to yield back the remainder of my time, if the others are.

Mr. STEVENS. Mr. President, it may be that a Member on this side wishes to make a statement. I will ascertain that, if we may have a moment.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. DURKIN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DURKIN. The House has passed a resolution, and it is on the way over here. It is the same resolution. How do we expedite it?

The PRESIDING OFFICER. The Chair does not understand the Senator.

Mr. DURKIN. I am not sure I understand my question.

The House has passed a similar resolution this afternoon. I think it is in order for a unanimous-consent request at this time to take up the House measure as soon as it gets here, so that both can be sent to the President today.

The PRESIDING OFFICER. The procedure for the Senator from New Hampshire would be to request that this resolution be laid aside and take up the House resolution when it arrives.

Mr. STEVENS. Mr. President, I ask unanimous consent to have my time back.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Senator has 8 minutes.

Mr. STEVENS. Mr. President, I just want to yield time to the Senator from South Dakota, so that I can be certain that the Member I mentioned does not wish to comment. There seems to be some question about that.

I yield 7 minutes to the Senator from South Dakota. I will report to the Senate immediately.

The PRESIDING OFFICER. The Senator is recognized for 7 minutes.

(Mr. McGOVERN's remarks made at this point are printed later in today's RECORD.)

TRANSPORTATION OF ALASKAN GAS

Mr. BAKER. Mr. President, America is extremely fortunate to have vast reserves of oil and natural gas in Alaska. Today we have an opportunity to approve the President's proposal for transporting the Alaskan gas to the lower 48 States.

Last winter's gas curtailments have underlined the urgent need for increased production, and the building of the Alcan pipeline will be an important step toward assuring that our homes and factories will get the gas they need in the future.

I intend to vote in favor of Senate Joint Resolution 82 because I feel that America's need for increased energy production is urgent. I hope the Alcan project will be able to complete its 4,800 mile pipeline on schedule and within their cost estimates of around $10 billion.

America's need for increased gas production is so great that I am sorry that the President did not consider going forward with both the Alcan project and the El Paso project simultaneously. Both proposals had their strengths and weaknesses, and it would be unfortunate if we were denied access to our Alaskan gas reserves because we had put all of our eggs in one basket.

While current estimates indicate that the El Paso proposal would have been more costly than the Alcan project, the El Paso proposal did have the advantage of being a "made in America" route. The El Paso route would have assured American labor and industry of having a fair chance of obtaining the jobs and contracts which would result from this huge construction project. It would also have made interruptions and price increases impossible as a result of decision of other governments.

Nonetheless, the need for natural gas is so great that I will support and endorse every reasonable effort to provide adequate supplies to heat our homes, run our factories, and insure the stability of America's jobs. I hope that all involved in the project will work to see it to a speedy and successful conclusion.

Mr. HUMPHREY. Mr. President, I rise to urge an overwhelming vote by my colleagues in support of the President's decision of the Alcan pipeline. The Alcan pipeline is a key link in our Nation's continuing efforts to secure fossil fuels to heat our homes and offices, to fertilize our fields and to reduce our painfully exposed dependence on foreign fuel sources.

Construction of this pipeline will be a gigantic undertaking, the largest single project in history. It will face a number of technical barriers as the proposed high pressure system is developed and then laid. It faces some hurdles in gaining sufficient private sector financing. It now appears that such private support will be forthcoming and I hope events bear those indications out, because it is extremely unlikely that public funds would ever be committed to the project.

Alcan faces a sizable hurdle, as well, in satisfying environmental objections—in successfully building a 5,000-mile-long line without permanently marring the environment.

However, the President, the House of Representatives, and the Senate Energy Committee have determined that Alcan can overcome these hurdles.

I hope they are right.

I hope they are right because we badly need the enormous reserves of gas available in Alaska—equal to 4 or 5 percent of our U.S. consumption for a generation. As my colleagues know, we do not have large reserves of easily accessible natural gas. But, we do indeed have large reserves of expensive, hard-to-reach methane in the gulf coast geopressure, geothermal deposits. But, these large reserves will only be produced, refined to pipeline quality and transported at prices well in excess of $3 per Mcf. The gas and oil companies have assured us of that. The only other sources of gas are imported LNG and our Alaska fields.

If we are to avoid becoming unduly dependent on foreign, dangerous LNG, we must have access to our Alaskan reserves quickly—and Alcan does that.

It has been argued that this Alaskan gas will be too expensive. But, the facts are these: Alcan is designed to deliver gas at about $3.50 per Mcf—comparable if not cheapter than liquefied natural gas from abroad. This price is also in the midrange of current estimates for geopressure methane.

The point: We will be paying a price for new or imported natural gas which is comparable or higher than Alcan-Alaskan gas.

The Alcan system promotes a stronger Canadian/American relationship, too. As all neighbors do, we have had good and bad years with one another. But Alcan—as now designed—will be of good benefit to both of us.

It will enable American consumers now receiving Canadian gas exports to continue using that gas. Without Alcan, these Canadian exports—which equal about 6 percent of total U.S. consumption—would have ceased almost immediately. The result would have been a serious shortfall in consumer gas availability in the northern tier States, the Pacific Northwest, and California. These areas would have received replacement gas from elsewhere in the United States, of course, so all consumers, wherever they lived, would have borne the supply reduction in some fashion.

Alcan will also enable American consumers to continue to use natural gas for home heating and other purposes into the foreseeable future despite declining reserves outside Alaska. As I have said earlier, Alcan will supply a quantity of gas comparable to 4 or 5 percent of present consumption for as long as a generation.

Alcan will benefit Canadian consumers, as well. Canada has relatively large gas reserves located, however, in the polar regions and not now economically accessible. Alcan changes that. By piggy-backing on Alcan, this Canadian polar gas can be delivered to Canadian consumers far cheaper than with any other transport system.

Finally, American consumers will benefit from Alcan even before it is completely built. If the southern portions of this new line are constructed in the near future, excess Albertan gas will become available to the United States. While these volumes are only available temporarily, they will become available to us in a most timely fashion. In effect, this early delivery of temporary Albertan gas means that we can receive new gas volumes from the north beginning next year, not in 1981 or 1982.

Let me now speak on the alternative systems proposed to deliver Alaskan gas to the lower 48. The Arctic plan was well-engineered and essentially comparable to Alcan, except environmentally. Because Alcan uses existing transportation corridors, its construction will have the smallest possible adverse environ-

mental impact. Arctic, however, could have crossed some virgin territory and was a bit longer than Alcan, as well.

The El Paso proposal raised many more questions. There were quite serious technical questions surrounding the proposed gigantic gas liquefaction and gasification facilities. It would have been more expensive for consumers than Alcan. Most importantly, perhaps, it would have closed the door on Canadian gas exports by the mid-1980's. Without the access to her polar gas deposits provided by Alcan, as I have noted, Canada would have ceased all gas exports to the United States within a decade. This gas averages 2.7 billion cubic feet a day—and it would have been lost had El Paso been selected. Interestingly enough, only 2 bcf or so of gas would have been made available by the El Paso alternative. In effect, El Paso would have caused the United States to lose more gas than they could gain from Alaska.

I believe the President has made the correct choice in selecting Alcan. And, I urge my colleagues to reaffirm that decision.

Mr. BAYH. Mr. President, it is a pleasure to rise today in support of Senate Joint Resolution 82, approval of which is necessary to implement the President's decision for a go-ahead on the proposed Alcan pipeline to deliver Alaskan North Slope gas to the Lower 48.

Action on this resolution could not be more timely. As we are all aware, the Senate has spent much of its time during the last months debating the crucial issue of how to assure that American towns and cities, and farms and factories, will not often again suffer the hardships and dislocations experienced last winter as a result of natural gas shortages.

Natural gas is a critical component of the Nation's total energy supply, making up about one-third of all energy used in this country. Although many of us have differed about the best way to provide ourselves an adequate supply of natural gas as we gradually move toward use of alternative and more plentiful fuels, all of us agree that we must do everything possible to reduce the probability of continued gas curtailments in the winters ahead. One critical factor in giving us this assurance will be prompt access to our Alaskan gas and continued exports of Canadian gas until we can manage comfortably without it.

Recognizing the need to act quickly to build a transportation system to bring our Alaskan gas south, last year the Congress passed the Alaska Natural Gas Transportation Act which established special procedures for selecting an Alaskan gas transportation system. At the time we passed the act, there were three competing system proposals. The exhaustive selection procedures prescribed by the act, as well as those undertaken by the Canadian Government, have clearly indicated the superiority of the Alcan project over the others. In fact, Alcan's two competitors—Arctic Gas and El Paso—have voluntarily withdrawn as a result of this extensive scrutiny and the strong support for Alcan evident within the executive and legislative branches of our Government.

Early in September, the President formally recommended the Alcan route to the Congress. Responsibility for prompt action, which will permit a quick start on construction, now rests with those of us who sit in the Congress, for we must confirm the President's decision before it can be implemented. I urge the Senate to approve the President's decision today.

Mr. President, President Carter's choice of Alcan reflects its superiority in almost every respect. Its advantages include:

Low cost of service;

Early delivery of Alaskan gas;

Even earlier delivery of new volumes of Canadian gas;

The possibility of continued Canadian gas exports to this country;

Clear cut environmental superiority;

Private financing of the system;

Direct pipeline delivery of Alaskan gas to regions both east and west of the Rocky Mountains;

A high degree of safety and reliability;

Significant savings in the amount of gas required as fuel for the transportation system.

I will not go into these advantages in depth. The President's report on Alcan, as well as his task force, describes them fully. In addition, I circulated a fact sheet to every Senator in September which I would like to submit for the RECORD, which describes Alcan's advantages in some detail. Instead, I would like to take this opportunity to comment on two particular points—the project's financing and the possibility of continuing Canadian exports of gas to the United States.

The President's decision specifies that the Alcan project will be financed without any Federal Government or consumer guarantees. The administration envisions that the equity funds for the project will be provided by gas transmission and distribution companies. Both Alcan and the administration anticipate that the necessary equity and debt can be raised because of the economic desirability of Alaska gas and the viability of the Alcan transportation system. Nonetheless, the President's report does indicate that because of the possible cost overruns associated with a project of this magnitude and character, it may be necessary for some sort of cost overrun guarantees to be extended to creditors to assure them that overruns will not lead to abandonment of the project.

In addition to the question of debt guarantees, there is still the outstanding question of financing for the gas-conditioning plant which will be necessary to remove carbon dioxide and valuable liquid hydrocarbons from Alaska gas before it can be transported through the pipeline.

Mr. President, in hearings before the Senate Energy Committee I indicated that I thought it only reasonable that those benefiting from the project share some of the costs and risks associated with it. During the administration's study of this problem, and Senate hearings on it, the beneficiaries of the Alaska gas transportation system were clearly identified. Chief among such beneficiaries are the Prudhoe Bay gas owners who will realize substantial profits—up to $20 to $25 billion according to the Secretary of Energy, Mr. Schlesinger—from Alaska gas sales. It seems to me that asking them to assist in financing the project is reasonable and equitable, in addition to being in their self-interest, in light of their vast financial holdings and the profits they will realize from the project. The only alternative to this financial support is for the Federal Government or gas consumers to take up the financial burden.

The President's report has clearly pointed out that Federal guarantees would be inappropriate: they would set an unnecessary precedent for large energy projects; cause all taxpayers to subsidize the project when all will not receive benefits from it; reduce incentives for sound management practices; and place the Government in the conflicting roles of guarantor and regulator.

As the President's report also points out, the risks of noncompletion or service interruption should not be borne by consumers. To ask consumers to assume this risk does not seem warranted, especially when other parties with a strong business interest and the opportunity to profit from the project, stand by and refuse to assume any of the burden at all. Simple justice seems to me to suggest that major beneficiaries of the project should be willing to help get it off the ground before we reach further into the pockets of American consumers.

I also think that the producers should pick up the tab for the costs associated with the gas-conditioning plant which must be constructed on the North Slope. Producers normally assume responsibility for such plants in the lower 48, and absorb such costs as part of their production costs, with consumers paying for this service as part of the established area rate for gas. These precedents should carry over to the Alaskan situation as well, and the price of Alaskan gas should include the processing costs, as gas prices in the lower 48 do.

While several of the North Slope oil companies have indicated some interest in constructing and operating the conditioning plant, others have indicated no interest in assisting in the financing of the project, despite the bonanza it will be for them. I agree wholeheartedly with the Attorney General that the oil companies should own no equity and have no control over the pipeline, for antitrust reasons. But I also strongly believe it is quite proper for these large oil companies to help support this project with their immense financial resources. They will recover their investment, as will any other bondholder. But in addition, the oil companies stand to receive $20 to $30 billion from the sale of this gas.

Mr. President, leaving the question of financing for the moment, I would like to comment on two attractive and unique assets associated with the Alcan proposal: the ability to deliver significant amounts of additional gas to the United States by the winter of 1979–80 and the hope of continued Canadian exports to the United States in the coming decades.

Alcan has already contracted for up to 800 million cubic feet of additional Canadian gas daily from Alberta for delivery to the lower 48 starting in the winter of 1979–80. By planning to start construction of the southern end of the pipeline first, Alcan can distribute this desperately needed Canadian gas to the lower 48 by the winter of 1979–80 and continue these deliveries until the northern segments of the pipeline are built to bring our own Alaskan gas south in the winter of 1982–83.

In addition, Alcan offers the possibility of continued imports of Canadian gas. In its latest analysis of Canada's gas demand/supply protections, the Canadian National Energy Board has indicated that access to Canadian frontier reserves will be necessary to avoid curtailment and eventual cutoffs of present Canadian gas exports to the United States. Construction of the Alcan system will give the Canadians access to their northern frontiers economically at the time they decide it is in the best interest of both our countries. Thus, selection of Alcan offers the most certain way to avoid reduction or cessation of present imports—a cessation of up to 2.7 billion cubic feet of gas per day—which, should it occur, would not even be entirely offset by new Alaskan gas flows. Put another way, within a decade or so, gas supplies totaling 5.1 billion cubic feet may be available daily as a result of an Alcan selection.

Finally, Mr. President, I would like to emphasize the importance of prompt congressional action on the energy package so that the Alcan project can be started. Any delay will increase the cost of building the pipeline because of inflation, and postpone the availability of Alaskan and the additional volumes of Canadian gas to U.S. markets. If we act quickly, by the winter of 1979–80 Alcan can be delivering up to 800 million cubic feet of Canadian gas per day to the United States. When the pipeline begins full operation in 1983, it will carry up to 2.4 billion cubic feet of Alaskan gas per day. This represents a potential new supply of domestic gas of 876 billion cubic feet per year.

In contrast, delay on natural gas pricing policy will only put off the early payoffs likely to flow from the Alcan project. An essential step which must be taken before financing can be committed and construction started is the negotiation and approval of contracts for the sale of Alaskan gas. It is highly unlikely that such contract agreements will be reached until there is some certainty as to the Federal pricing policy.

In this regard, Mr. President, I would like to express my own view that deregulation of Alaskan gas, or a price much beyond the current national regulated average of $1.45, would be very unfortunate for the American consumer. Alaskan gas was discovered 9 years ago. It is there with the Alaskan oil and is readily accessible. Indeed, it must eventually be disposed of if the producers are to efficiently use their oil reserves, and not spend large sums of money on gas reinjection programs. To provide them windfall profits through deregulation would be a clearly unnecessary incentive, be most unfair to American consumers, and probably only add more uncertainty to the ultimate cost of Alaskan gas.

With this said, Mr. President, I would indicate that I am fully aware that late in the hearings process one witness raised reservations about building the pipeline at all, and questioned whether or not gas production would interfere with oil recovery on the North Slope. In my view, the Energy Committee has acted responsibly in taking these last minute allegations under serious consideration. The committee called in the GAO to evaluate these contentions, and has inserted language in its report, which makes this information available to the public. In addition, the report indicates its interest in making sure that no final certificate is issued for the Alcan pipeline by the Federal Energy Regulatory Commission until these charges are evaluated calmly and rationally, and steps are taken to assure that gas production does not interfere with efficient and maximal development of our Alaskan oil resources.

The terms of the Alaska Natural Gas Transportation Act of 1976 require the Congress to approve or disapprove the President's decision in favor of the Alcan route. We cannot delay this decision without unduly harming the Alcan project, nor can we amend the conditions established in the President's report. The committee has decided, even given its serious consideration of the last minute assertions that gas production may affect oil recovery rates, to approve the Alcan proposal because it feels that the advantages of the Alcan line far outweigh its disadvantages, and that remedial action, if necessary, can be taken before actual construction of the line begins. I concur completely.

I think my colleagues will all agree that the acid test of this pipeline will be in the private money markets. Investors will not put up the capital necessary to build this pipeline, nor would Alcan, if it is not a viable project in the national interest. Nor would FERC approve Alcan's final certificate if this were not the case.

I believe that we here in the Senate have met our responsibilities by conducting complete and impartial hearings. The chairman of the Energy Committee early took a position of neutrality, even as some of the rest of us were taking sides on this issue, and has conducted the necessary investigations and hearings with complete integrity, impartiality, and thoroughness. I salute him for this, even though I was supporting the Alcan proposal at a much earlier date. He has served the Senate and the country well by the role he has played in this decision-making process.

I urge my colleagues to support this resolution of approval and am hopeful we will begin realizing the benefits it has to offer our Nation at an early date. I hope that the Congress, led by the committee, will oversee the construction of the Alcan system so that we can be sure that both Alcan and the executive branch are doing their jobs.

Mr. President, I ask unanimous consent that the fact sheet be printed in the RECORD.

There being no objection, the fact sheet was ordered to be printed in the RECORD, as follows:

FACTSHEET—THE ALCAN NATURAL GAS PIPELINE PROJECT

On September 8, the President announced his selection of the Alcan system to transport natural gas from Alaska's North Slope to the lower 48 states. Under the provisions of the Alaska Natural Gas Transportation Act of 1976, Congress has the responsibility for approving this decision by joint resolution within 60 calendar days.

The President's decision on a transportation system for Alaska natural gas required a choice between two radically different alternatives. Originally, three major proposals for transporting Alaska gas—those advanced by Arctic Gas, Alcan and El Paso—were submitted to the Federal Power Commission. One of these, Arctic Gas' proposal to bring gas across the Arctic National Wildlife Range and then down Canada's Mackenzie Valley, was eliminated by environmental objections and decisions of the Canadian government. Significantly, the U.S. Arctic Gas sponsors then decided to support Alcan due to their belief that Alcan promises the earliest and lowest cost delivery, the fewest adverse environmental consequences, and the possibility of access to Canadian frontier reserves.

The second, the Alcan system selected by the President, will be an all-pipeline system which will parallel the Alyeska oil pipeline from Prudhoe Bay, Alaska to Delta Junction, which is near Fairbanks. From there, it will follow the Alcan highway into Canada and existing transportation corridors to the U.S. border. Canada will be able, at a future date, to connect its Mackenzie Delta reserves to this system by a new pipeline known as the Dempster link.

The Alcan system includes western and eastern legs in the lower 48. The western leg will deliver gas to the states of the Far West while the eastern leg will carry gas directly to the Midwest, from where it can be transported on the East. Thus, Alcan satisfies the requirement, which the Congress imposed last year, for direct delivery of Alaska gas both east and west of the Rocky Mountains.

In the third proposal, El Paso advanced a combined pipeline-liquefied natural gas (LNG) system. The El Paso pipeline would follow the Alaska line to Alaska's south coast. The gas would be liquefied there and then shipped by cryogenic (super cooled) supertanker to California, where it would have to undergo a regasification process.

The President's decision is a reflection of Alcan's superiority over the competing El Paso proposal in almost every respect. This fact sheet lays out the relevant considerations concerning the most critical factors involved in the selection of the Alaska natural gas transportation system.

1. COST OF SERVICE

The cost of service, which includes all operating charges and annualized capital costs, measures the cost of transporting gas.

Alcan has a clear advantage in cost of service for Alaska gas, which is the most important factor in system selection. The Administration's estimate as to Alcan's 20 year average cost of service, which includes an allowance for substantial cost overruns, is $1.03 to $1.05 per million BTU's (MMBtu) in 1975 dollars. Alcan's own estimates as to cost of service are significantly lower, but even if the higher estimates for Alcan are used, El Paso's cost of service would be 16 percent greater. The Administration's estimates as to El Paso's cost of service is $1.19 to $1.21 per MMBtu in 1975 dollars.

Similarly, the Federal Power Commission and the Federal government task force which

commented to the President on July 1 found that Alcan would be the less expensive means of transporting Alaska gas. The FPC's cost estimates were 79 cents per MMBtu for Alcan and $1.09 for El Paso; the task force's estimates were $1.09 per MMBtu for Alcan and $1.26 per MMBtu for El Paso.

If escalated costs—the costs that will actually be incurred at the time the project is built—are used, Alcan's cost of service advantage becomes even greater. This results from the greater labor intensiveness of the El Paso project which causes El Paso's construction costs to increase with inflation faster than Alcan's.

2. EARLY DELIVERABILITY

Alcan offers important advantages with respect to early deliverability, which is critical for alleviating the existing natural gas shortage.

If the Alcan project is approved soon, we will likely begin receiving additional volumes of Canadian gas during the winter of 1979–80 and Alaska gas in the winter of 1982–83. The 1979–80 delivery date is possible because Alcan has already contracted for additional Canadian gas from Alberta for delivery to the lower 48. The Canadian government has indicated that this gas can be sold to the United States and that it will permit the prompt start of construction of the southern end of the pipeline system. Thus, additional Canadian gas can be distributed to the lower 48 by the winter of 1979–80 and these deliveries can be continued until completion of the entire pipeline system for bringing our own Alaska gas south. Additional amounts of Canadian gas delivered through the southern part of the Alcan pipeline could amount to as many as 800 million cubic feet per day.

By contrast, El Paso's presently predicted completion date is 1984. Thus, Alcan will be able to deliver additional volumes of Canadian gas and our own Alaska gas long before the El Paso system could become operational.

3. CONTINUED CANADIAN GAS EXPORTS

Only Alcan offers the possibility of continued Canadian exports of natural gas to the United States in the coming decade. Canada now supplies some 5 percent—2.7 billion cubic feet per day—of U.S. gas consumption. These Canadian exports are greater than the 2.4 bcf per day of new Alaska gas flows that will be available through the proposed transportation system. Further, in some areas, Canadian exports constitute a sizable portion of total supplies—for example, 65 percent in Washington and Idaho, and 45 percent in Oregon and California.

Canada's National Energy Board has indicated that indefinite continuation of these exports would require the curtailment of domestic Canadian consumer deliveries. In order to avoid such curtailments, exports to the U.S. may have to be cut back as early as 1982 or 1983 and completely stopped by 1989, which would have a devastating effect. The most effective means to avoid such cutbacks in the early 1980's is for the United States to facilitate Canadian access to its frontier reserves. If Canada is able to utilize these presently inaccessible reserves, it will be better able to continue exports to the United States and supply its own domestic needs. The Alcan route will facilitate such access, thus substantially decreasing the possibility of cutbacks of exports to the U.S.

The El Paso system could not assure the continuance of exports from Canada since it would not affect the accessibility of any of the Canadian frontier reserves. Thus, selection of the El Paso system could lead to an actual reduction in gas supplied to the lower 48; the 2.4 bcf per day of Alaska gas would be more than offset by the loss of 2.7 bcf per day of Canadian gas.

4. ENVIRONMENTAL CONSIDERATIONS

In addition to greater economic benefits, the Alcan project is environmentally preferable. Thus, this decision does not require the normal trade-off of environmental preferences against higher costs. By utilizing an all-pipeline system which largely follows existing corridors, Alcan assures minimal disruption of the environment.

By contrast, El Paso will create significant environmental impacts, primarily from the liquefaction and vaporization facilities which are not required for an all pipeline system.

The facilities which would be needed in Alaska to liquefy the gas would be located at Gravina Point in one of the greatest areas of seismic hazard in the world. As the Federal Power Commission noted, El Paso has not provided sufficient information to determine whether a seismically safe system has been developed.

Further, the Alaska liquefaction facility would discharge large quantities of heated water into Prince William Sound, thus threatening aquatic life. The FPC, concluded, in its recommendation to the President, that "an acceptable solution to the heat discharge problem for the El Paso proposal has not been proposed."

Enormous siting problems are presented by the California legislation has been considering two bills for expedited LNG terminal siting. A compromise has reportedly been worked out whereby the plant which will benefit from the expedited siting procedure will have to be located at a remote coastal site. The only presently acceptable site is Point Conception, which El Paso has sought to utilize for Prudhoe Bay gas. However, the compromise legislation limits the facility to a size which would only accommodate LNG under contract from Indonesia and Alaska's Cook Inlet. Thus, the El Paso project is effectively prevented from utilizing the expedited siting procedure. At the least, this will substantially delay the El Paso project; further, it creates substantial uncertainty as to whether California will permit any onshore LNG terminal for the El Paso project. Major environmental questions will therefore have to be resolved in deciding this siting issue.

In addition to the impacts from the liquefaction and vaporization facilities, the El Paso proposal would affect the Chugach National Forest, a de facto wilderness area on Alaska's southern coast. El Paso would have to construct a large liquefaction facility and approximately 43 miles of pipeline across previously undisturbed terrain. The impact of this construction and of consequential development would be significant.

Alcan's environmental superiority has been recognized by all agencies and interested parties which have reviewed the Alaska gas transportation proposals. The Council on Environmental Quality, in its report to the President, found that Alcan "is the most environmentally acceptable" proposal while the El Paso alternative "presents risks to the environment, public safety and to system integrity not present in the overland corridors." Indeed, the Council on Environmental Quality concluded that there was not enough information to determine whether the El Paso proposal was environmentally acceptable. Similarly, the Interagency Task Force on Environmental Issues reported to the President that Alcan's route appears to promise the least environmental impact.

Other agencies and groups have reached the same conclusion. The Federal Power Commission unequivocally found that the "Alcan route promises the least environmental impacts . . ." The Conservation Intervenors in the FPC proceedings (the Sierra Club, the Wilderness Society, the National Audubon Society and the Alaska Conservation Society), stated that ". . . if a pipeline must be built, the public interest would be best served by an all-overland pipeline system that follows the Alyeska Oil Pipeline, the Alcan Highway and other existing utility corridors in Canada." Finally the Canadian agencies which have examined the Alcan proposal—the National Energy Board, the Berger Commission, and the Hill Inquiry—have all concluded that Alcan's environmental impacts in Canada are acceptable.

5. CAPITAL COSTS

Alcan has estimated that its capital costs, including both eastern and western legs, will be $7.6 billion in 1975 dollars. The Administration's estimate, which includes provisions for substantial cost overruns, is $8.8 billion. These figures include a portion of the estimated costs of a segment of the "Dempster link" between Dawson and Whitehorse, which will be built sometime in the future to allow Canada to access her frontier Mackenzie Delta reserves. As is discussed below, the U.S. will not provide the investment capital when this segment is constructed, but will pay a portion of the annual cost of service when operations commence.

The Dempster link will be a separate Canadian project and it is not appropriate to consider any other part of its costs as part of Alcan's capital costs. Indeed, when the Dempster link connects Canada's Mackenzie Delta gas reserves to the Alcan system and Canadian gas begins to flow through Alcan, a portion of the costs of the joint project will be allocated to the users of the Canadian gas, thus reducing the capital costs of the Alaska gas transportation system.

El Paso has estimated its capital costs to be $6.6 billion in 1975 dollars and the Administration's estimate is $7.6 billion but these figures may be unrealistically low. First, El Paso has assumed that it can construct the necessary facilities to accomplish its complex displacement plan for $400 million. However, the Mexican government has recently announced that it will be selling large amounts of Mexican gas to the United States. These volumes of Mexican gas will take up existing excess capacity in pipelines delivering gas to the east. Therefore, additional facilities and additional capital costs will be required to transport Alaska gas from the west coast of the United States to those areas of the country which need it.

El Paso's capital costs are also based on optimistic assumptions with respect to the construction of a liquefaction plant at Gravina Point, Alaska and a vaporization plant in California. The development of a seismically safe design and of an adequate water cooling system to avoid pollution in Prince William Sound may well require a substantial increase in presently projected investment. The uncertainties surrounding the location of the vaporization plant in California make judgments as to the validity of the estimated capital costs for that facility quite difficult. However, it is clear that if an offshore facility is required, substantial increases in capital costs, as well as extensive delays, will result.

6. FINANCING

The Alcan project can be privately financed without U.S. or Canadian government guarantees. The same cannot be said of the El Paso project since it would, at the very least, require substantial taxpayer support in the form of U.S. government guaranteed financing of the proposed tanker fleet. In addition, El Paso has proposed an "all events" tariff or rate structure. Under this type of tariff, the consumer would bear all or a part of the credit risks stemming from the possibility that the project would not be completed or that gas deliveries would be interrupted for an extended period of time.

The President's decision requires the Alcan project to be privately financed in its entirety: neither the U.S. or Canadian governments nor the consumer will be called upon to provide financial guarantees. The financial backing will come from the other primary beneficiaries of the project, such as,

the gas transmission companies, the State of Alaska, and the gas producers. Alcan will have to demonstrate that acceptable provisions have been made against the risk of noncompletion before construction can begin. The return on the equity invested in the system will be based upon a variable rate of return designed to provide incentives to avoid cost overruns and minimize costs consistent with sound pipeline management.

Finally, it is clear that Alcan can obtain the necessary project financing from Canadian and U.S. sources. Alcan's present financing plans will require Canadian bank loans of $510 million and Canadian long term debt of $419 million. These amounts are well within the capacity of each of these Canadian capital markets. Similarly, demands on U.S. capital markets will not be beyond the capacity of those markets.

7. DIRECT DELIVERY VERSUS DISPLACEMENT

Alcan proposes direct delivery by pipeline to the areas of the country in need of additional natural gas. El Paso proposes to ship the Alaska gas to the west coast, where it is not needed. El Paso would then move it by a complex displacement scheme from the Los Angeles area on the far edge of the nation's gas transmission system to the remainder of the nation. Displacement has never before been attempted nor relied upon on such a massive scale.

Displacement, the delivery of gas for transportation at one location and the redelivery of an equivalent amount of gas at another location, creates physical, contractual and regulatory complexities which increase as more companies and greater distances are involved. Even less massive displacement efforts than those proposed by El Paso have not succeeded. For example, during the emergency gas shortage last winter, shippers in the western U.S. made gas available to eastern shippers through displacement. Although significant volumes of gas were delivered in this fashion, additional volumes of gas which were desperately needed in the east and available in the west could not be delivered because of facility limitations.

In addition, El Paso's difficulties with displacement have been exacerbated by the Mexican government's recent announcement of its intent to sell major volumes of Mexican gas to U.S. shippers. Initial deliveries of Mexican gas to the United States will commence in 1979 and will utilize the presently existing excess capacity in the South Texas pipelines. Thus, El Paso will not be able to utilize this existing excess capacity, as it had previously planned, with the result that additional facilities and greater delivery costs for displaced Alaskan gas will be required.

In sum, displacement is an inadequate means for delivering gas over long distances and is an unsatisfactory basis for long term delivery of Alaska gas reserves.

8. WESTERN LEG

The President's decision provides for a full western leg for the Alcan system, which will transport Alaska gas directly to the states of the Far West. The western leg will run from the Canadian border to Antioch, California, near San Francisco. Its exact capacity will be determined at a later date but in time for the western leg to be operational when the main line comes on stream. Parts of the western leg will be built early to permit additional volumes of Canadian gas for which Alcan has already contracted to be shipped to the far west.

Authorization of the western leg will assure equitable distribution of the Alaska gas and of the additional volumes of Canadian gas. This will enable all regions of the country to share in this new source of gas; no region will be forced to rely on older sources whose declining production may not provide an adequate long-term supply.

9. SAFETY AND RELIABILITY

As both the Federal Power Commission and the Administration have noted, an all-pipeline system, such as Alcan, is inherently more reliable than an LNG system. The complexity of the liquefaction and regasification facilities and tanker shipments—all of which are required for an LNG system—create a substantial probability of service interruption. Indeed, Western LNG, the sponsor of El Paso's California regasification facilities, has urged that two or more facilities be constructed because of "the very real possibility of an event which could cause the plant to shut down."

An LNG system also presents significant public safety risks. Although El Paso has vigorously asserted the safety of its system, the Council on Environmental Quality concluded that the "analyses of LNG public safety risks on the record are inconclusive." This contrasts with the established safety record of natural gas pipelines.

10. ENERGY EFFICIENCY

When both Alaska and Canadian gas are flowing, the Alcan system will deliver 92.1 percent of the Alaska gas entering the system. El Paso will be able to deliver only 89.1 percent. The difference is 600 trillion Btu's (600 billion cubic feet) over the first 20 years. The annual savings—30 billion cubic feet—would be sufficient to heat over 245,000 homes.

11. EMPLOYMENT IMPACTS

El Paso has claimed that its project will create many more jobs than will Alcan. Specifically, it has asserted that it would create 730,000 person-years of employment in comparison to only 235,000 person-years for Alcan. However, the Federal Agency Task Force on National Economic Impact reported to the President that the relative difference between the two systems is considerably smaller. It found that El Paso would provide 271,000 person-years of employment while Alcan would provide 240,000 person-years. Although El Paso will provide more employment for Americans, the difference is not nearly as significant as El Paso suggests.

12. CANADIAN ISSUES

The Canadian aspects of the Alcan system have been the subject of a number of arguments that Canada would exert improper control over the pipeline system or impose discriminatory taxes on it. These arguments are simply not supported by the facts.

In the first place, there is nothing in the history of U.S.-Canadian relations that would indicate the likelihood of such action by the Canadian government. Alcan will improve these relations; as Energy Secretary Schlesinger has noted, the Alcan system will be "mutually beneficial to the two countries and . . . the start of a new era in Canadian-American relationships." Second, as a practical matter, Canada has no incentive to take such action since a substantial portion of its oil and gas cross the U.S. by pipeline. Finally, the recent U.S.-Canadian Treaty on Transit Pipelines and Agreement in Principle on the Alcan project negotiated last month will ensure that Canada does not exercise improper control or impose discriminatory taxes.

Transit pipeline treaty

This treaty, which was ratified by the Senate in August, applies to all hydrocarbon pipelines of one signatory that cross the territory of the other signatory. It establishes, as a matter of treaty law, the principle that each signatory shall treat the pipelines of the other in a non-discriminatory manner.

Agreement in principle

Following ratification of the Transit Pipeline Treaty, representatives of the Canadian and American governments engaged in extensive negotiations concerning the Alcan project. The result of these negotiations was an Agreement in Principle between the U.S. and Canada which applies the Treaty's general principle of non-discrimination to the Alcan project and also resolves other key issues concerning the project. The basic components of this agreement include:

(a) Routing.—In July, Canada's National Energy Board recommended a realignment of the Alcan route so that it would pass through Dawson, Yukon Territory in order to facilitate Canadian access of her frontier gas resources through construction of a "Dempster Link" from Dawson to the Mackenzie Delta. As a result of the inter-governmental negotiations, the realignment was dropped. The pipeline in Canada will follow the original Alcan highway route.

In exchange for Canada's agreement not to require this route diversion, the Agreement provides that the U.S. portion of the project will pay between two-thirds and 100 percent of the costs of service of the segment of the Dempster link orginally recommended by the Canadian Energy Board. The exact share of these U.S. costs for this small segment of the Dempster link will be determined by the cost overruns on Alcan construction in Canada. The lower the cost overruns on the Alcan system, the higher the U.S. portion's share of the cost of this segment. This cost sharing agreement creates new incentives—on a portion of the project within Canada's jurisdiction and not otherwise subject to U.S. control—which could significantly lower the cost of service to the U.S. and enhance the project's financibility.

(b) System efficiency—A higher capacity pipeline in Canada through which both will be installed south of Whitehorse, the point at which the Dempster link from the Mackenzie Delta will connect with Alcan. A joint testing program will evaluate the technical feasibility, safety and reliability of alternatives to the proposed 1260 p.s.i. 48-inch design in order to permit transportation of higher volumes of Alaska and Canadian gas.

(c) Cost sharing.—For that part of the pipeline in Canada through which both Alaska and Canadian gas will flow, cost of service will be allocated in proportion to the volumes of gas transported for each country. This will enable the cost of service for Alaska gas to be reduced and will benefit both countries.

(d) Taxation and Other Costs.—Canada's NEB also proposed that a special fund for indirect socio-economic costs of pipeline construction in the Yukon be established. As a result of the inter-governmental negotiations, it was decided that these costs will be paid out of tax revenues, which will be determined in accordance with mutually-agreed upon rules. The Agreement in Principle provides that the Yukon Territory property tax will be levied at the same rate as the property tax in Alaska. This tax will be subject to a fixed ceiling of $30 million Canadian annually (as adjusted for inflation).

Such an approach is appropriate since it embodies the principle that the costs of a project should be borne by its beneficiaries. In recent years, the U.S. has come to realize that large construction projects create major secondary effects and has taken steps to compensate those who are adversely affected. Examples are the Coastal Zone Management Act Amendment, the Strip Mining Act, and the OCS bill recently passed by the Senate.

Other charges will include only those direct costs normally paid by pipelines, such as highway maintenance caused by the moving of heavy equipment.

Mutual benefits

The joint pipeline project has a number of advantages over alternatives which were considered by each country. The advantages to the U.S. have been described above and include such factors as lower costs, environmental superiority, and earlier gas de-

livery. Advantages to Canada include lower costs of transporting Mackenzie Delta reserves, the ability to phase development and construction, and additional time to prepare for the social impacts of pipeline access to the Mackenzie Delta.

Native claims

A final Canadian issue, the native claims dispute in the Yukon, deserves brief mention. It has been erroneously asserted that Canada will attempt to force U.S. consumers to pay the cost of settling this dispute and that the settlement would delay pipeline construction by three to four years.

The Canadian Government, however, has informed the United States that it regards the settlement of the Yukon native claims as an exclusive Canadian responsibility and that no charges related to the settlement of such claims will be levied against the pipeline.

The arguments as to a three to four year construction delay arise from a misunderstanding of the Lysyk Inquiry report to the Canadian government on native claims issues in the Yukon. This report recommended a four year moratorium on pipeline construction, beginning August 1, 1977. The Canadian government has since reduced the moratorium period to 3½ years and has clearly indicated that it does not apply to preconstruction activities so that Alcan will be able to undertake all steps except actual construction during the moratorium. Thus, Alaska gas will begin to flow January 1, 1983. Further, this moratorium will not affect earlier deliveries of additional Canadian gas, which has already been contracted for by Alcan.

13. POTENTIAL DELAYS IN CONSTRUCTION OF THE EL PASO SYSTEM

Any potential minor delay in constructing the Yukon segment of the Alcan system must be compared to several potentially serious sources of dely for the El Paso proposal. The most serious results from the controversy surrounding siting of the California vaporization facility. As discussed above, the bill now under consideration in the California legislation would not enable El Paso to benefit from an expedited siting procedure. In addition, this legislation creates substantial uncertainty as to whether California will permit any onshore LNG terminal for the El Paso project. If an offshore location is required, delays of as much as 8 to 10 years might result since the necessary technology for an offshore facility is not yet available.

Should this legislation not be enacted, lengthy delays are still likely. The onshore locations that are being considered would require a choice between concerns for public safety and the environment. In addition, the sponsor of the California vaporization facilities has indicated that two such facilities will be necessary despite California law which provides that only one such facility can be sited in California. Resolution of this controversy could take time and lead to extensive delays even under existing law.

Another potential source of delay concerns the design of the Gravina Point liquefaction facility. The Federal Power Commission found that El Paso has not yet proved that it can design a seismically safe liquefaction facility for this location. Further, the problem of heated water discharges has not been solved. Resolution of these problems will not be easy and could significantly add to the time required for completion of this facility.

No LNG project anywhere near the size of that proposed by El Paso has ever been attempted. The massive scaling up to complex technology required by the much larger El Paso proposal could also lead to delays. Finally, implementation of El Paso's proposed displacement scheme could be a further source of delay, particularly in view of the changes necessitated by imports of gas from Mexico.

Mr. BIDEN. Mr. President, as the Senate approves the President's recommendation to designate the Alcan pipeline project to transport natural gas from Alaska's North Slope, I am reminded of this body's debate 4 years ago on the trans-Alaska oil pipeline.

Unlike the Alcan pipeline route before us today, the trans-Alaska pipeline was conceived without proper foresight regarding potential environmental impact, a realistic expectation of costs, and most importantly, the pipeline's ability to deliver crude oil to those crude-short areas of this country.

When the Senate voted on the trans-Alaska pipeline I was one of only five who opposed final passage of S. 1081 authorizing the project. At that time I stated that it was quite clear to me "that little if any Alaskan oil would find its way directly to the east coast of the United States." Mr. President, I am sorry to say my prognosis was correct. As a recent article in the Washington Post has documented, the trans-Alaska pipeline has given us a number of oil supply problems. Precious Alaskan crude oil adds to a burgeoning west coast glut, while importing regions of the country like the Middle Atlantic and Northeastern States become more heavily dependent on foreign crude oil supplies.

Mr. President, I take no pleasure in pointing out the mistakes we have made in the past with respect to addressing our national energy needs. However, I think it is important to realize that sometimes hasty action is not in the country's best interests.

Mr. President, I ask unanimous consent that a copy of my floor remarks from the trans-Alaska pipeline debate of July 18, 1973, and the attached Washington Post article of October 17, 1977 be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the CONGRESSIONAL RECORD, July 18, 1973]

THE TRANS-ALASKA PIPELINE

Mr. BIDEN. Mr. President, yesterday the Senate voted on final passage of S. 1081, the bill often referred to as the trans-Alaska pipeline bill. At that time, I issued a statement explaining my position on that bill. I ask unanimous consent that my statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR JOE BIDEN ON THE TRANS-ALASKA PIPLINE BILL

When the so-called Alaska Pipeline Bill was reported out from the Senate Interior Committee, I had every hope that during the course of floor consideration an acceptable bill would evolve that would make available the vast stores of urgently needed crude oil to be found in Alaska, but assuring that reasonable environmental standards, would be maintained. As it has turned out, the bill was not improved as a result of floor consideration, but rather its effectiveness was actually lessened.

The need in this country for additional crude oil is beyond question. It became quite clear to me in the course of debate that little if any Alaska oil would find its way directly to the East Coast of the United States. However, anything that would help bring more oil anywhere into the country, without reliance on the OPEC countries, would help eventually on a nationwide basis. I therefore supported and still do support the need to get the oil out of Alaska and into the other 48 continental States.

During floor consideration, I supported a number of amendments that I believed could improve the bill. Undoubtedly the most important of these was one offered by Senator Mondale. His amendment would have held the Alaska pipeline in abeyance while two things were done: (1) preliminary discussions were held with Canada about an alternate route across Canada to bring the crude oil to the mid-west and (2) a study was made by the prestigious National Academy of Sciences of the relative merits of the Alaska route and the alternative trans-Canada route. The National Academy of Sciences would be required to report back to Congress less than a year after passage of the act. On the basis of its study, Congress could then select one or both of the routes. While a year may seem like a considerable delay, this approach seemed fastest and most reasonable when one considers that such a study would have eliminated the likelihood of litigation. There is presently pending litigation in the courts (and it is likely that more will be brought) that may well delay the beginning of any pipeline much longer than one year.

Another factor in my support of the Mondale amendment was that a trans-Canada pipeline would deliver the crude oil to Chicago, much closer to the areas of fuel shortages and much closer to the East Coast. It seemed reasonable to me that this pipeline would do more to help us in Delaware than would the Alaska pipeline. In fact, there was substantial discussion that oil from Alaska would travel through the Alaska pipeline to ships which would take much of it to Japan. Japan in turn would be expected to secure rights to a similar amount of crude from the Middle East which would be shipped by tanker to the East Coast. So there we would be still dependent on the OPEC nations while Japan got American oil, and while even more pressure built up to build superports off the Delaware coast. Thus it made eminently good sense to me to support a thorough study of the trans-Canada line in terms of the East's problem. In addition, it might provide a route which would do less damage potentially to the environment.

Unfortunately, the Mondale amendment was defeated, opposed by the groups that insisted that Alaskan oil must be delivered their way and no other way. I also supported an alternative proposal by Senator Eagleton. This one, like the Mondale amendment, also called for negotiation with Canada and a study of the alternative routes. However, unlike the Mondale amendment, it would not have held up construction of the Alaska line pending the outcome of the study. For my purposes, even this amendment might have been satisfactory since it would have assured an impartial study of the trans-Canada route which I believed would be most beneficial to the East Coast. Unfortunately, again a majority of my colleagues disagreed and this amendment was also defeated.

At this point, while discouraged about the lack of consideration being given to the Mid-West and East, I was still prepared to vote for the bill. Then, unfortunately, another amendment was offered which made the bill highly unpalatable from a legal and moral point of view.

The first provision of the amendment said that all action previously taken by all Federal agencies was regarded as satisfactorily complying with the provisions of the National Environmental Policy Act. This Act is the basic law which assures our Nation of clear air, good water, and a healthy environment. I had never seen, been presented with

or read the evidence that everything done so far conformed to the provisions of the NEPA. In fact, this very question is currently under litigation in the courts. So I was being asked to override the jurisdiction of the court and make a finding of which I had no firsthand knowledge. Further, I was being asked to vote for a terrifying precedent that whenever a Senator did not like proceedings under the NEPA, all he had to do was come and get Congress to override the law. If we are serious about clean air and clean water, we cannot cavalierly override our environmental statutes. In fact, as a member of the Air and Water Pollution Subcommittee of the Senate Public Works Committee, I feel a special obligation to uphold from indirect attack the environmental law of our country.

The Gravel amendment had a number of other unfortunate provisions including authorization to issue all licenses, permits, etc. for the pipeline, a highway, and three airports without regard to the NEPA or any other provision of law. This was an amazingly wide open grant of power, because we could not really be sure what provisions of law we were waiving. A further provision said that the Secretary of the Interior could change the pipeline route if necessary without regard to the NEPA, a potentially more outrageous assault upon the NEPA than the initial mandate of the route by Congress. Finally, the amendment in effect provided that any further permit issuances or other actions by the Secretary of the Interior or other Federal agency could not be subject to judicial review, even though patently illegal.

This amendment also passed by a vote of 49 to 48. In a subsequent vote which would have permitted a reconsideration of the vote on the amendment, the vote was 49 to 49, and Vice President Agnew cast the deciding vote which cut off further consideration of the amendment.

An effort was also made to adopt an amendment which would have by-passed regular court procedures in any litigation involving this bill. Fortunately, this amendment failed, but it indicates the frame of mind of those attempting to get this bill passed.

Under the circumstances, I felt that, despite my great desire to make Alaskan crude oil available to the American public, I could not go along with a bill that so blithely ignored alternative routes that might have served Delaware better, and that did so much damage to our hard-won environmental statutes.

[From the Washington Post, Oct. 17, 1977]

OIL GLUT LOOMS IN WEST AS PIPELINE PLANS FALTER

(By Lou Cannon)

SEATTLE.—All proposals to transport Alaskan crude oil from West Coast ports to oil-short refineries in the Midwest by building new pipelines, have been blocked by a combination of environmental victories, political maneuvers and procedural delays.

These actions, many unrelated, have assured the West Coast of a huge oil oversupply that threatens to become a glut by early spring. And they have pitted companies that lack refinery capacity on the West Coast, such as Standard Oil of Ohio (Sohio), against refinery-laden companies, such as Atlantic Richfield (ARCO).

And the effort to find a spot somewhere in the West to build such a pipeline has promoted open conflict between the Carter administration and that of California's Gov. Edmund G. (Jerry) Brown Jr. and also between the Washington congressional delegation and Gov. Dixy Lee Ray.

It is not certain whether any West Coast oil pipeline will ever be built. What is certain is that without one, Sohio, with 50 per cent of the production from the Alaskan pipeline, faces years of costly oil transportation by tanker through the Panama Canal to Eastern and Gulf Coast ports.

A high-ranking oil company official said last week that the emerging oil surplus would be even worse except for the "fortuitous accident" that severly damaged Pump Station No. 8 on the Alaskan pipeline July 18.

This explosion sharply reduced pipeline production, which now is 700,000 barrels of crude oil a day. But when the pump station is reopened, probably in March, production will increase to 1.2 million barrels daily.

Even with Pump Station No. 8 shut down, the daily surplus on the West Coast is now 400,000 barrels of oil a day, most of which now reaches East Coast ports through the canal. With the increased output from Alaska and a small amount more from California, the surplus could be as high as a million barrels of oil a day by spring.

While the oil surplus grows, pipeline proposals have been killed, delayed or stalled on the drawing boards. Here is the status of the four existing proposals:

Trans Mountain Pipeline—This pipeline, which would have started at the ARCO refinery at Cherry Point, Wash., near Bellingham and would have extended 714 miles through an existing line to Edmonton, Alberta, for redistribution to Midwest points, was the No. 1 target of the influential Coalition Against Oil Pollution because it would have increased tanker traffic in Puget Sound.

Trans Mountain died a quiet death Oct. 5 when Sen. Warren G. Magnuson (D-Wash.) slipped through an amendment to the Marine Mammals Protection Act that prohibited any new crude oil facility in Puget Sound east of Port Angeles. Only an unexpected veto of the bill by President Carter could resuscitate this pipeline plan.

Kitimat Pipeline—Washington State officials, anxious to export their potential problems, were optimistic for a long time that headache of the pipeline would be borne by Canada, where a consortium led by Koch, Murphy, Ashland and Continental Oil companies had proposed a pipeline extending from Kitimat, British Columbia, to Edmonton. But Koch, the largest participant, has pulled out and the application was recently withdrawn in the face of anticipated Canadian opposition. It is uncertain whether it will be revived.

Northern Tier Pipeline—With Trans Mountain dead and Kitimat on the critical list, this proposal to build a 1,500-mile pipeline from Port Angeles, Wash., to Clearbrook, Minn., should be very much alive. But even Northern Tier's most ardent supporters in Washington State say they are puzzled by the company's failure to submit an amended application that meets zoning and environmental objections in Clallam County, where the pipeline would originate. Northern Tier also faces a host of local and state objections and a possible veto by Gov. Ray, who is angry over Magnuson's amendment killing the Trans Mountain project. In separate interviews, Ray and officials of the Coalition Against Oil Pollution, who agreed on nothing else, expressed doubt that this pipeline would be built.

Northern Tier is the brainchild of independent Montana oilman Michael Curran and of subsidiaries of Burlington Northern and St. Paul and Pacific Railroad companies. Public officials in Washington State are now saying openly that Northern Tier seems to lack either the interest, expertise or major oil company backing necessary to guide the project through its many legal and political obstacles.

"We were promised detailed photos and information on the pipeline routing by Northern Tier a year ago," says Alexander W. Mackie, a deputy prosecutor who is representing six Washington counties in the pipeline siting process. "We haven't heard a word from them since."

Sohio Pipeline—The California connection for sending Alaskan oil eastward would begin with a huge terminal in Long Beach and extend 800 miles to Midland, Tex., where refineries that now process high-sulfur oils from the Mideast are well-suited to processing the high-sulfur Alaskan crude oil. But the line that Sohio would use to transport this oil now brings natural gas to California, and the state is insisting on assurances from the Carter administration that gas would be available from Canada to meet future needs.

Sohio, a subsidiary of British Petroleum (BP) has been tied up on its Long Beach application for more than a year. Its stock has been under heavy trading pressure throughout the summer because of its problems in disposing of its West Coast surplus. Tom Quinn, the aggressive director of the California Air Resources Board, says that no permit will be approved unless the natural gas problem is solved and unless the federal government permits the state to regulate strictly oil tankers coming into California waters from Alaska.

Because the Los Angeles basin is one of the most air polluted areas in the world, the air resources board also has required that Sohio make "tradeoffs" for the air pollution the terminal might cause through evaporating hydrocarbons and oil spills.

Early in September, Quinn defined the principal tradeoff as the installation of a "scrubber" and ammonia-injection equipment at a Southern California Edison power plan in Los Angeles County. So far, Sohio has balked at the cost, which has been estimated at $90 million, including operational costs.

The fact that the long-delayed Sohio terminal proposal is alive at all at such a potential tradeoff cost is testimony to the $2-a-barrel cost of transporting oil through the Panama Canal where the oil must be transferred from big ocean-going tankers to smaller ships which can negotiate the canal's narrow locks. Costs of meeting the air pollution tradeoffs required by California have been estimated at from 25 cents to $1 a barrel, depending on who is doing the estimating.

"We need a long-term solution to the supply problem, and it's certainly not the Panama Canal," said Sohio President J. D. Harnett in an interview last week. Officially, at least, Harnett expresses optimism that the terminal ultimately will be approved.

Lacking West Coast refineries, Sohio is caught in a double crunch between competing oil companies and the political infighting of the Carter and Brown administrations.

ARCO, with a fifth of the Alaskan oil production, has few worries about the surplus which ARCO vice president Lud M. Cook last week described as "not a glut but a happy situation." That's because ARCO has ample West Coast refinery capacity.

Exxon, with another fifth of the Alaskan pipeline production, has negotiated an agreement with Standard Oil of California to take a substantial portion of its Alaskan crude at its Benicia, Calif., refinery.

Sohio's application has the backing of Energy Secretary James Schlesinger, but this has not been a particular help in California where Brown often acts as if his state were a sovereign nation. Some politicians think the problem had been complicated because Quinn, who managed Brown's 1974 gubernatorial campaign, was considered for a high

energy post in the Carter administration and reportedly rejected because of his ties to Brown.

Carter administration officials tend to view any action of the Brown administration as reflecting the motivations of a governor whom they believe to be running for president and who defeated Carter in every primary where the two men faced in 1976. Brown administration officials say that Carter neither understands nor cares about a region of the country that was swept by President Ford.

Both beliefs are caricatures which contain a grain of truth. But in the case of the crowded Long Beach harbor, where an oil tanker exploded last Dec. 17 with 59 casualties, there is little doubt that Quinn's opposition is genuine as well as political.

"I won't feel good if this project is approved," Quinn said in an interview. "To allow these oil companies to make a few more dollars at the expense of the health and well-being of half the people in California is outrageous. Creative people in Washington just wouldn't want to locate an oil terminal in Long Beach."

Quinn traces the problem to the original approval of the Alaskan oil routing to Valdez in 1973. One option then considered was a route across Canada to the oil-hungry northern midwest. But at President Nixon's insistence, Vice President Agnew broke a tie in the Senate in favor of an all-Alaska pipeline on the grounds that the West Coast needed the oil and national security would be jeopardized if it didn't get it. Midwestern senators who lost the battle were led by Walter F. Mondale of Minnesota.

"This is a classic example of a government-created disaster, which a new administration in Washington has failed to correct," Quinn said.

Indeed, from the West Coast point of view, the new administration made the problem much worse when the solution favored by the oil companies of selling Alaskan oil to Japan in exchange for Japan-bound oil imports on the East Coast.

As in most issues involving the oil companies, the fundamental issue is one of costs and profits. Sohio has been unwilling to solve its surplus problems by sharply reducing the price of Alaskan oil. Its apparent concern is that any sharp discount would advertise the West Coast oil glut, and start a price competition that one analyst described as "the moral equivalent of a gasoline price war."

"The problem is that oil companies are trying to institutionalize their profit margins at a time of high supply," said another knowledgeable industry source.

Environmentally-conscious West Coast politicians at this point seem unconvinced that the region they represent should become the dumping ground for Alaskan oil. Here in Washington, Magnuson is a hero for putting in the amendment which stopped Trans Mountain. Some of Ray's supporters think she could enhance her popularity by blocking Northern Tier.

"The plain truth is that nobody wants an oil port," says Peter L. Buck, the Seattle attorney for a coalition of environmentalists, labor unionists and businessmen who are fighting the Port Angeles oilport that would be used by Northern Tier. "It's a dirty facility with no benefit to the community where it's located."

Or, as Thurston County (Olympia) deputy prosecutor Mackie puts it, in recounting a concern that the Northern Tier pipeline might create an oil spill hazard near the waters of the Olympia brewery at Tumwater:

"What are they supposed to do? Change their slogan from 'It's the Water' to 'It's the Goo'? That kind of question is a real concern up here."

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Mr. President, I thank the Senate for its patience and yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

The joint resolution is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading and was read the third time.

Mr. ROBERT C. BYRD. Mr. Presdent, I ask unanimous consent that when the House resolution, House Joint Resolution 621, comes over, and it is anticipated that it will arrive in the Senate Chamber shortly, the yeas and nays which have been ordered on Senate Joint Resolution 82 be transferred to House Joint Resolution 621, and it be taken up immediately and without further intervening motion or debate the Senate proceed to vote thereon, it being the same language and being expected in the Senate Chamber shortly.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, it is statutory language. It has to be in the same form and certainly there is no objection to the majority leader's request.

Mr. DURKIN. Mr. President, reserving the right to object, and I shall not object, but I am concerned that by adopting this process we not in any way undercut the very serious questions in the report of the Senate Energy Committee which accompanied the Senate's measure, and it is my understanding that that report will still be part and a very important part of the legislative history even though we adopt the resolution coming over from the House of Representatives.

Mr. STEVENS. Mr. President, the report of the Senate has been filed in connection with the subject matter, and it is simply routine, to put aside the Senate measure that has been reported by the committee and instead pass the measure that has already been approved by the House of Representatives.

I assure my friend that it is my understanding that that Senate report applies to this resolution no matter whether it is a House resolution or Senate resolution.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request by the majority leader?

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays on House Joint Resolution 621 at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the yeas and nays on Senate Joint Resolution 82 be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

MR. NITZE'S RECKLESS BEHAVIOR

Mr. McGOVERN. Mr. President, I cannot help but react to an appalling act of recklessness and irresponsibility on the part of a supposedly responsible, prominent American and former Government official.

I refer to the press conference conducted yesterday by Mr. Paul Nitze, acting on behalf of a group calling itself the Committee on the Present Danger. According to news accounts, Mr. Nitze apparently announced with some pride that he was disclosing hitherto secret details on our strategic arms limitation negotiations with the Soviet Union.

A few years ago, Federal law enforcement officials conducted an intensive manhunt across the country for Daniel Ellsberg, who caused the Pentagon papers to be published. Those papers related to the past history of our policy in Vietnam.

Now a former Deputy Assistant Secretary of Defense and member of our SALT delegation, who plainly should know better, is blaring out details of sensitive negotiations which are presently underway. Regardless of Mr. Nitze's attitude on the talks, I think that is inexcusable conduct.

This might be a bit more understandable if the Carter administration had been refusing to keep appropriate people in Congress and elsewhere apprised of the American posture in the talks and on the outstanding issues. But I know of no case in which any Member of Congress or anyone else with the necessary security clearances has been denied that information. Secretary Vance has made himself available for numerous briefings and interrogations on Capitol Hill—including sessions outside the Foreign Relations Committee, which will have committee jurisdiction over any SALT agreement that might be negotiated.

Apparently someone made the mistake of keeping even Mr. Nitze informed.

So there has been ample opportunity for alarmists and optimists alike to hear what is going on and to press their views on the Carter administration. And if the administration negotiates a treaty Mr. Nitze does not like—which I frankly expect will be the case with any treaty that it is possible to negotiate—then there will also be ample time for him to oppose it.

So we have to wonder at the purpose here. It is hard to avoid the conclusion that Mr. Nitze's love for arms competition has cost him his judgment. I think the real danger he and his committee and their sponsors are concerned about is not that the Soviets will gain any meaningful advantage in arms, but that the gravy train of arms spending might be depleted if the SALT talks succeed.

Whatever the motivation, such behavior moves in the direction of sabotaging these critical discussions. I remain an advocate of keeping the American people informed to the fullest possible extent on the content and the conduct of our foreign policy. But anyone who is at all familiar with the history of these nego-

tiations since March of this year must be aware of the needless complications that are generated by premature disclosures. That is especially the case when tentative positions are involved.

We would be much better served if people who want no agreement would simply say so, and thus openly declare their hostility to the aspiration of the Carter administration, the majority of Members of Congress, and the vast majority of the American people.

Mr. President, there is no way that any reasonable person would read the sensitive information that Mr. Nitze released to the press yesterday with regard to the SALT negotiations without being aware that this was an irresponsible and reckless act on the part of this gentleman that can only have the effect of complicating an already difficult negotiating task and perhaps sabotaging those negotiations at a very crucial time.

I took the floor today simply to express my own strong personal disapproval of this kind of conduct. It has nothing to do with my view of what Mr. Nitze thinks about the talks or what he does not think about them, but simply to make clear that this kind of irresponsible action has no place, in my judgment, in the conduct of negotiations or the way we react to them.

SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

The PRESIDING OFFICER. The Senate will now return to the unfinished business, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (H.R. 9346) to amend the Social Security Act and the Internal Revenue Code of 1954 to strengthen the financing of the social security system, to reduce the effect of wage and price fluctuation on the system's benefit structure, to provide for the conduct of studies with respect to coverage under the system for Federal employees and for employees of State and local governments, to increase the earnings limitation, to eliminate certain gender-based distinctions and provide for a study of proposals to eliminate dependency and sex discrimination from the social security program, and for other purposes,

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The pending question is on agreeing to the amendment of the Senator from Nebraska (Mr. CURTIS).

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

Mr. ROBERT C. BYRD. Mr. President, the Senate has advanced to third reading of Senate Joint Resolution 82 on the Alcan pipeline. The companion House measure, which is House Joint Resolution 621, and which is identically the same as Senate Joint Resolution 82, is expected in the Chamber momentarily. The yeas and nays have been ordered on House Joint Resolution 621, and I ask unanimous consent, in order that the Senate might proceed with its rollcall vote, that the yeas and nays be vitiated on House Joint Resolution 621, and I shall shortly ask for the yeas and nays again on Senate Joint Resolution 82; and that upon the disposition of Senate Joint Resolution 82, and the arrival in this Chamber of House Joint Resolution 621, House Joint Resolution 621 be called up immediately without intervening motion or debate, voice-voted, and the motion to reconsider laid on the table.

The PRESIDING OFFICER. Is there objection?

Mr. JOHNSTON. Reserving the right to object, is the Senator suggesting that we go ahead and vote now on the pending resolution?

Mr. ROBERT C. BYRD. Yes.

The PRESIDING OFFICER. The law precludes the motion to reconsider.

Mr. ROBERT C. BYRD. The Chair is correct.

I ask unanimous consent that House Joint Resolution 621 at that time be called up, considered as having been passed, that is if Senate Joint Resolution 82 is passed.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Now, Mr. President, I ask for the yeas and nays on Senate Joint Resolution 82.

The PRESIDING OFFICER. Does the Senator first ask unanimous consent to proceed to Senate Joint Resolution 82?

Mr. ROBERT C. BYRD. Yes.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 82) to approve the Presidential decision on an Alaska natural gas transportation system.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is: Shall the joint resolution pass?

Mr. ROBERT C. BYRD. Mr. President, this will be the last rollcall vote of the day.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

(Mr. CANNON assumed the chair.)

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Florida (Mr. CHILES), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Rhode Island (Mr. PELL) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) would vote "yea."

Mr. STEVENS. I announce that the Senator from Indiana (Mr. LUGAR), the Senator from Kansas (Mr. PEARSON), and the Senator from New Mexico (Mr. SCHMITT) are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT) is absent on official business.

The result was announced—yeas 87, nays 2, as follows:

[Rollcall Vote No. 609 Leg.]

YEAS—87

Abourezk	Garn	Metzenbaum
Allen	Glenn	Moynihan
Anderson	Goldwater	Nelson
Baker	Gravel	Nunn
Bartlett	Griffin	Packwood
Bayh	Hansen	Percy
Bellmon	Hart	Proxmire
Bentsen	Haskell	Randolph
Biden	Hatch	Ribicoff
Brooke	Hathaway	Riegle
Burdick	Hayakawa	Roth
Byrd, Harry F., Jr.	Heinz	Sarbanes
	Helms	Sasser
Byrd, Robert C.	Hollings	Schweiker
Cannon	Huddleston	Sparkman
Case	Humphrey	Stafford
Chafee	Jackson	Stennis
Church	Javits	Stevens
Clark	Johnston	Stevenson
Cranston	Laxalt	Stone
Culver	Leahy	Talmadge
Curtis	Long	Thurmond
Danforth	Magnuson	Tower
DeConcini	Mathias	Wallop
Dole	Matsunaga	Weicker
Domenici	McClure	Williams
Durkin	McGovern	Young
Eagleton	McIntyre	Zorinsky
Eastland	Melcher	
Ford	Metcalf	

NAYS—2

Hatfield	Morgan

NOT VOTING—11

Bumpers	Lugar	Pell
Chiles	McClellan	Schmitt
Inouye	Muskie	Scott
Kennedy	Pearson	

So the joint resolution (S. J. Res. 82) was passed, as follows:

S.J. RES. 82

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the House of Representatives and Senate approve the Presidential decision on an Alaska natural gas transportation system submitted to the Congress on September 22, 1977, and find that any environmental impact statements prepared relative to such system and submitted with the President's decision are in compliance with the National Environmental Policy Act of 1969.

FEDERAL INSECTICIDE ACT

Mr. LEAHY. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1678.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 7073) insisting upon its amendment to the bill (S. 1678) to amend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, and requesting a conference

with the Senate on the disagreeing votes of the two Houses thereon.

Mr. LEAHY. I move that the Senate disagree to the amendment of the House and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. TALMADGE, Mr. EASTLAND, Mr. ALLEN, Mr. STONE, Mr. LEAHY, Mr. DOLE, Mr. HAYAKAWA, and Mr. LUGAR conferees on the part of the Senate.

WOLD TRACT SURVEY, MEDICINE BOW NATIONAL FOREST, WYO.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 523.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2501) to provide for the amendment of the public survey records to eliminate a conflict between the official cadastral survey and a private survey of the so-called Wold Tract within the Medicine Bow National Forest, Wyoming.

The Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources with an amendment:

That, notwithstanding any other provision of law, the Secretary of Agriculture is authorized and directed, subject to the provisions of section 2, to convey, without consideration, by quitclaim deed, all right, title, and interest of the United States in and to the following described lands, totaling 4.264 acres, more or less:

(1) Beginning at a point on the right-of-way line of State Highway Numbered 230 which bears north 89 degrees 36 minutes west 66.0 feet from the center section 4, township 12 north, range 78 west, sixth principal meridian, Wyoming, as set by the Bureau of Land Management survey of 1964; thence north 89 degrees 36 minutes west a distance of 1,250.0 feet to a point which is referenced by a brass cap set 1.58 feet south; thence from said point north 0 degrees 16 minutes west a distance of 51.0 feet to the old corner as set; thence north 88 degrees 09 minutes east, along the property line as originally staked a distance of 1,264.8 feet to a point on the west right-of-way line of State Highway Numbered 230; thence in a southerly direction along the west right-of-way line of State Highway Numbered 230 through a 3 degree curve to the left a distance of 1000.8 feet to the point of beginning. Said tract contains 2.19 acres, more or less.

(2) Beginning at a point which bears north 43 degrees 46 minutes west a distance of 54.65 feet from the northeast corner of the southwest quarter northwest quarter of section 4, township 12 north, range 78 west, sixth principal meridian, Wyoming; thence from said point of beginning south 87 degrees 57 minutes west a distance of 1,168.0 feet; thence south 89 degrees 51 minutes east distance of 1,169.0 feet; thence north 1 degree 56 minutes east a distance of 40.0 feet to the point of beginning. Said tract contains 0.536 acres, more or less.

(3) Beginning at the old corner (iron pipe) which bears south 24 degrees 26 minutes west a distance of 80.75 feet from the new brass cap at the northwest corner of the southeast quarter northeast quarter of section 5, township 12 north, range 78 west, sixth principal meridian, Wyoming; thence from said point of beginning north 87 degrees 57 minutes east a distance of 33.0 feet to a point on the west line of the southeast quarter northeast quarter of said section 5; thence south 0 degrees 11 minutes east a distance of 1,250.3 feet to the southwest corner of the southeast quarter northeast quarter of said section 5; thence north 88 degrees 50 minutes west a distance of 1.7 feet; thence north 1 degree 37 minutes west a distance of 1,251.0 feet to the point of beginning. Said tract contains 0.498 acres, more or less.

(4) Beginning at the quarter corner common to sections 4 and 5, township 12 north, Wyoming; thence south 88 degrees 13 minutes west a distance of 1,320.0 feet; thence north 1 degree 37 minutes west a distance of 68.4 feet; thence south 88 degrees 50 minutes east a distance of 1.7 feet to the Bureau of Land Management sixteenth corner; thence south 88 degrees 50 minutes east a distance of 1,320.66 feet to the point of beginning. Said tract contains 1.04 acres, more or less.

SEC. 2. The Secretary of Agriculture shall convey, to each owner of record whose lands adjoin any of the lands described above, that portion of the lands described above which were included in that owner's deed to the adjoining lands as a result of the erroneous survey conducted in 1954 by W. E. Zipfull (or Zipfel).

The amendment was agreed to.

The bill, as amended, was passed.

The title was amended so as to read:

"An Act to eliminate a conflict between the official cadastral survey and a private survey of the so-called Wold Tract within the Medicine Box National Forest, State of Wyoming."

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HANSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now proceed, under the order previously entered, to the consideration of House Joint Resolution 621, the Alcan pipeline resolution.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 621) approving the Presidential decision on an Alaska natural gas transportation system, and for other purposes.

The PRESIDING OFFICER. The question is, Shall the joint resolution pass?

The joint resolution (H.J. Res. 621) was passed.

SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

The Senate continued with the consideration of H.R. 9376.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

Mr. MATHIAS. Will the Senator withhold that?

Mr. ROBERT C. BYRD. I withhold that.

Mr. MATHIAS. Mr. President, I ask unanimous consent that during the debate on the social security bill and votes thereon, Ralph Oman and Kent Steinkamp of my staff be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

What is the will of the Senate? The pending business is H.R. 9346, an amendment by the Senator from Nebraska.

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

Mr. HELMS. Will the Senator withhold that?

Mr. CURTIS. Yes.

Mr. HELMS. Mr. President, I ask unanimous consent that Mr. Howard Segermark of my staff may be granted the privilege of the floor during discussion of the social security measure and any votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I suggest the absence of a quorum, Mr. President.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, there is a budget waiver resolution at the desk with reference to S. 2230, the Federal Crop Insurance Act, which is on the Unanimous-Consent Calendar.

I ask unanimous consent that the Senate proceed now to the consideration of that budget waiver resolution, Senate Resolution 308.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 308) was read, considered by unanimous consent, and agreed to as follows:

S. RES. 308

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to consideration of S. 2230, a bill to amend the Federal Crop Insurance Act. Such waiver is necessary because the bill increases, upon enactment, the capital stock of the Federal Crop Insurance Corporation from $150,000,000 to $200,000,000. Without this legislation, the Federal Crop Insurance Corporation will be unable to meet its contractual obligations to insured farmers who suffer crop losses. Severe drought conditions are persisting in areas of the Midwest and the Southeast. Unanticipated losses resulting from indemnity claims by farmers in these areas are depleting the Corporation's operating capital, and thereby impairing the Corporation's ability to function.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the calendar beginning with new reports.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, the calendar at my desk shows that all of the nominations following new reports on pages 1, 2, 3, 4, and 5, and all of the nominations on the Secretary's desk are cleared for consideration and confirmation by us.

Mr. ROBERT C. BYRD. Mr. President, I thank the minority leader.

I ask unanimous consent if it is, therefore, agreeable, that the nominations beginning with new reports and continuing through page 6 be considered en bloc with the understanding that in the RECORD they be shown as having been acted upon separately.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations will be stated.

DEPARTMENT OF STATE

The legislative clerk read the nomination of Edward E. Masters, of Ohio, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Indonesia.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

NATIONAL LABOR RELATIONS BOARD

The legislative clerk read the nomination of John Harold Fanning, of Rhode Island, to be a member of the National Labor Relations Board.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF JUSTICE

The legislative clerk read the nomination of G. William Hunter, of California, to be U.S. attorney for the northern district of California.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The legislative clerk read the nomination of David T. Wood, of Guam, to be U.S. attorney for the district of Guam.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The legislative clerk read the nomination of George L. Miller, of North Carolina, to be U.S. marshal for the middle district of North Carolina.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The legislative clerk read the nomination of Robert P. LaRoche, of California, to be U.S. marshal for the eastern district of California.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF DEFENSE

The legislative clerk read the nomination of George A. Peapples, of Michigan, to be an Assistant Secretary of the Navy.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The legislative clerk read the nomination of Harold W. Chase, of Minnesota, to be Deputy Assistant Secretary of Defense for Reserve Affairs.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The legislative clerk read the nomination of William J. Perry, of Virginia, to be Under Secretary of Defense for Research and Engineering.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

U.S. AIR FORCE

The legislative clerk read the nomination of Maj. Gen. John Raymond Kelly, Jr., to be lieutenant general.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The legislative clerk read the nomination of Brig. Gen. Billy M. Jones to be major general.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The legislative clerk read the nomination of Brig. Gen. Billy M. Jones to be major general.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The legislative clerk read the nomination of Col. Jose A. Bloise to be brigadier general.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The legislative clerk read the nomination of Col. Joseph M. Cheshire to be brigadier general.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The legislative clerk read the nomination of Col. Calvin M. Edwards to be brigadier general.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The legislative clerk read the nomination of Col. William P. Gast to be brigadier general.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The legislative clerk read the nomination of Col. James C. Hise to be brigadier general.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The legislative clerk read the nomination of Col. John L. Hoar to be brigadier general.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The legislative clerk read the nomination of Col. Billie G. Hollowell to be brigadier general.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The legislative clerk read the nomination of Col. Raymond E. Lilley to be brigadier general.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The legislative clerk read the nomination of Col. Robert A. Neal to be brigadier general.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The legislative clerk read the nomination of Col. Ben L. Patterson, Jr., to be brigadier general.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The legislative clerk read the nomination of Col. Philip W. Strope to be brigadier general.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The legislative clerk read the nomination of Col. Marvin A. Thorson to be brigadier general.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

U.S. ARMY

The legislative clerk read the nomination of Maj. Gen. Donald Raymond Keith to be lieutenant general.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The legislative clerk read the nomination of Lt. Gen. Howard H. Cooksey, to be lieutenant general.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The legislative clerk read the nomination of Maj. Gen. Charles James Simmons to be lieutenant general.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The legislative clerk read the nomination of Col. Joe Leonard Cheatham to be brigadier general, Dental Corps.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The legislative clerk read the nomination of Maj. Gen. Richard Luther West to be lieutenant general.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

U.S. NAVY

The legislative clerk read the nomination of Rear Adm. Levering Smith to be vice admiral.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

The legislative clerk proceeded to read sundry nominations in the Air Force, Army, Navy, and Marine Corps placed on the Secretary's desk.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to move en bloc to reconsider the vote by which the nominees were agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nominees were confirmed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask that the President be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, has there been any morning business today?

The PRESIDING OFFICER. There has been no period for morning business.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business and that Senators be permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 10 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 810. An act granting an extension of patent to the United Daughters of the Confederacy;

S. 1019. An act to authorize appropriations for fiscal year 1978 for certain maritime programs of the Department of Commerce, and for other purposes;

S. 2118. An act to authorize the Secretary of Agriculture to convey certain homesites within the Chugach and Tongass National Forests, Alaska;

S. 2208. An act to amend the Federal charter of the Big Brothers of America to include Big Sisters International, Inc., and for other purposes;

H.R. 1403. An act to authorize the Secretary of the Interior to convey the interest of the United States in certain lands in Adams County, Miss., notwithstanding a limitation in the Color-of-Title Act (45 Stat. 1069, as amended; 43 U.S.C. 1068);

H.R. 2527. An act to authorize the Secretary of Agriculture to convey certain lands in the Sierra National Forest, Calif., to the Madera Cemetery District;

H.R. 2849. An act to suspend until July 1, 1978, the rate of duty on mattress blanks of latex rubber, and for other purposes;

H.R. 3373. An act to extend for an additional temporary period the existing suspension of duties on certain classifications of yarns of silk, and for other purposes;

H.R. 3387. An act to extend certain Social Security Act provisions, and for other purposes; and

H.R. 3461. An act for the relief of Chin-Ho An.

The enrolled bills were subsequently signed by the President pro tempore.

At 10:32 a.m., a message from the House of Representatives delivered by Mr. Berry announced that the House insists upon its amendment to the bill (S. 1678) to amend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. FOLEY, Mr. DE LA GARZA, Mr. BROWN of California, Mr. SKELTON, Mr. BRECKINRIDGE, Mr. HIGHTOWER, Mr. ENGLISH, Mr. FITHIAN, Mr. JENRETTE, Mr. THORNTON, Mr. AMMERMAN, Mr. WAMPLER, Mr. THONE, Mrs. HECKLER, Mr. GRASSLEY, and Mr. MARLENEE were appointed managers of the conference on the part of the House.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 9375) making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. MAHON, Mr. WHITTEN, Mr. BOLAND, Mr. FLOOD, Mr. STEED, Mr. BEVILL, Mr. CEDERBERG, Mr. MICHEL, Mr. EDWARDS of Alabama, and Mr. COUGHLIN were appointed managers of the conference on the part of the House.

The message further announced that the House has passed, without amendment, the bill (S. 2052) to extend the provision of the U.S. Capitol Police to certain facilities leased by the Office of Technology Assessment.

At 1:20 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that the House has passed without amendment the bill (S. 854) to authorize the Secretary of Commerce to sell two obsolete vessels to Mid-Pacific Sea Harvesters, Inc., and for other purposes.

The message also announced that the House agrees to the amendment of the Senate to the bill (H. 9710) to extend the authority for the flexible regulation of interest rates on deposits and accounts in depository institutions, to promote the accountability of the Federal Reserve System, and for other purposes.

The message further announced that the House insists on its amendments to the bill (S. 1316) to authorize appropriations for fiscal years 1978, 1979, and 1980 to carry out State cooperative programs under the Endangered Species Act of 1973, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. MURPHY of New York, Mr. LEGGETT, Mr. AKAKA, Mr. BONIOR, Mr. GINN, Mr. RUPPE, and Mr. FORSYTHE were appointed managers of the conference on the part of the House.

The message also announced that the Speaker has appointed Mr. NATCHER and Mr. CONTE as additional managers on the part of the House in the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9375) making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes.

At 3:25 p.m., a message from the House of Representatives delievered by Mr. Hackney announced that the House has passed the bill (H.R. 3384) to amend the National Labor Relations Act to provide that any employee who is a member of a religion or sect historically holding conscientious objection to joining or financially supporting a labor organization shall not be required to do so, in which it requests the concurrence of the Senate.

At 4:40 p.m., a message from the House of Representatives delivered by Mr. Berry announced that:

The House has passed without amendment the bill (S. 1062) to amend section 441 of the District of Columbia Self-Government and Governmental Reorganization Act.

The House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the amendment of the Senate to the bill (H.R. 6010) to amend title XIII of the Federal Aviation Act of 1958 to expand the types of risks which the Secretary of Transportation may insure or reinsure, and for other purposes.

The House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1863) to authorize appropriations during the fiscal year 1978 for procurement of aircraft and missiles, and research, development, test, and evaluation for the Armed Forces, and for other purposes.

The House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1359) to authorize appropriations to the Energy Research and Development Administration for national defense programs for the fiscal years 1977 and 1978, and for other purposes.

The House has passed the joint resolution (H.J. Res. 621) approving the Presidential decision on an Alaska natural gas transportation system, and for other purposes, in which it requests the concurrence of the Senate.

At 6:04 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that the House has passed the bill (S. 305) to amend the Securities Exchange Act of 1934 to require issuers of securities registered pursuant to section 12 of such act to maintain accurate records, to prohibit certain bribes, and for other purposes, with amendments in which it requests the concurrence of the Senate.

The message also announced that the House has passed the bill (H.R. 9794) to bring the governing international fishery agreement with Mexico within the purview of the Fishery Conservation Zone Transition Act, in which it requests the concurrence of the Senate.

HOUSE BILL REFERRED

The following bill was read twice by title and referred to the Committee on Human Resources:

H.R. 3384. An act to amend the National Labor Relations Act to provide that any employee who is a member of a religion or sect historically holding conscientious objection to joining or financially supporting a labor organization shall not be required to do so.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LONG, from the Committee on Finance:

S. Res. 315. An original resolution waiving section 303(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 5322, a bill providing additional financing for the social security system. Referred to the Committee on the Budget.

By Mr. EASTLAND, from the Committee on the Judiciary:

Without amendment:

S. Res. 225. A resolution to refer the bill (S. 1894) entitled "A bill for the relief of California Canners and Growers, a nonprofit cooperative association organized under the Agricultural Code of the State of California" (Rept. No. 95-576).

With amendments:

S. 1154. A bill for the relief of Jin Syen Suh (Rept. No. 95-577).

By Mr. MAGNUSON (for Mr. McCLELLAN), from the Committee on Appropriations:

Without recommendation:

S. 1976. A bill to add certain lands to the Redwood National Park in the State of California, to strengthen the economic base of the affected region, and for other purposes (Rept. No. 95-578).

By Mr. DECONCINI, from the Committee on the Judiciary:

Without amendment:

H.R. 2770. An act to amend section 142 of title 28, United States Code, relating to the furnishing of accommodations to judges of the courts of appeals of the United States (Rept. No. 95-579).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation:

With amendments:

S. 1547. A bill to amend the Communications Act of 1934, as amended, with respect to penalties and forfeitures, and to authorize the Federal Communications Commission to regulate pole attachments, and for other purposes (Rept. No. 95-580).

By Mr. HOLLINGS, from the Committee on the Budget:

Without amendment:

S. Res. 308. A resolution waiving section 402(a) of the Congresional Budget Act of 1974 with respect to the consideration of S. 2230 (Rept. No 95-581).

By Mr. ABOUREZK, from the Select Committee on Indian Affairs:

With an amendment:

S. 1215. A bill to provide for grants to Indian-controlled postsecondary educational institutions, and for other purposes (title amendment) (Rept. No. 95-582).

By Mr. ABOUREZK, from the Committee on the Judiciary:

With an amendment:

S. 1792. A bill to amend the Administrative Conference Act (Rept. No. 95-583)

By Mr. ALLEN, from the Committee on the Judiciary:

With an amendment:

S. 1503. A bill to provide for the payment of losses incurred as a result of the ban on the use of the chemical Tris in apparel, fabric, yarn, or fiber, and for other purpose (Rept. No. 95-584).

By Mr. GRAVEL, from the Committee on Environmental and Public Works:

S. 2281. An original bill authorizing an increase in the monetary authorization for nine comprehensive river basin plans (Rept. No. 95-585).

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that today, November 2, 1977, he presented to the President of the United States the following enrolled bills:

S. 810. An act granting an extension of patent to the United Daughters of the Confederacy.

S. 1019. An act to authorize appropriations for fiscal year 1978 for certain maritime programs of the Department of Commerce, and for other purposes.

S. 2118. An act to authorize the Secretary of Agriculture to convey certain homesites within the Chugach and Tongass National Forests, Alaska.

S. 2208. An act to amend the Federal charter of the Big Brothers of America to include Big Sisters International, Incorporated, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. ANDERSON (for himself and Mr. HUMPHREY):

S. 2274. A bill to authorize deficiency payments for certain farmers who were unable to produce in 1977 acreage allotment commodities because of insufficient moisture; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. EASTLAND:

S. 2275. A bill to provide the basis for assuming and discharging the financial risks involved in all sales and purchase transactions of livestock marketing in commerce; to declare certain acts unlawful; to safeguard against unfair and illegal marketing practices; to identify, maintain and uphold business standards and practices which are based upon free, open and competitive factors in all transactions; to provide penalties for violations; to create and empower a livestock marketing commission to administer and enforce the Act; and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. RIBICOFF:

S. 2276. A bill to authorize the issuance of substitute Treasury checks without undertakings of indemnity, except as the Secretary of the Treasury may require; to the Committee on Governmental Affairs.

By Mr. SPARKMAN (by request):

S. 2277. A bill to authorize a special security assistance program for the modernization of the armed forces of the Republic of Korea, and for other purposes; to the Committee on Foreign Relations.

By Mr. HUMPHREY (for himself and Mr. BELLMON):

S. 2278. A bill to establish an international emergency food reserve; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. McGOVERN (for himself and Mr. MATHIAS):

S. 2279. A bill to facilitate the economic adjustment of communities, industries and workers to civilian-oriented initiatives, projects and commitments when they have been substantially and seriously affected by reductions in defense contracts, military facilities and arms export which have occurred as a result of the Nation's efforts to pursue an international arms control policy and to realign defense expenditures according to changing national security requirements, and to prevent the ensuing dislocations from contributing to or exacerbating recessionary effects; jointly, by unanimous consent, to the Committee on Government Affairs, the Committee on Finance, the Committee on Human Resources, and the Committee on Armed Services.

By Mr. STONE:

S. 2280. A bill to authorize the Secretary of the Air Force to convey certain real property for use as a permanent site for the Air Force Enlisted Men's Widows and Dependents Home; to the Committee on Armed Services.

By Mr. GRAVEL, from the Committee on Environment and Public Works:

S. 2281. An original bill authorizing an increase in the monetary authorization for nine comprehensiev river basin plans; placed on the Calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ANDERSON (for himself and Mr. HUMPHREY):

S. 2274. A bill to authorize deficiency payments for certain farmers who were unable to produce in 1977 acreage allotment commodities because of insufficient moisture; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. ANDERSON. Mr. President, one of the most important features of the Food and Agriculture Act of 1977 (Public Law 95-113) is the provision permitting farmers to receive deficiency payments on the basis of planted rather than allotted acres.

This was a long overdue reform. We have eliminated an outdated allotment system which has unduly restricted farmers in their planting decision. By making this reform, we are finally providing our farmers the flexibility to respond to changing market conditions.

Unfortunately, this welcome change does not become effective until the 1978 crop year. This reform does not aid farmers who have just harvested crops for which they have no allotment. As we know too well, these farmers face an extremely depressed market offering prices well below the cost of production. In my home State of Minnesota, for example, farmers are receiving a dollar less than the cost of production for a bushel for wheat. The situation is almost as serious for feedgrains.

Mr. President, if I believed that I could offer legislation that could pass the Congress and would change this standard from allotted to planted acreage this year, I would introduce such a bill. But, I am aware of the fact that many farmers prefer an allotment approach and that the 1977 crop year began with all parties aware of the Department of Agriculture's policies concerning allotments. So, if this approach is not feasible, we can at least grant relief to those farmers who were, in effect, forced to plant without an allotment by circumstances beyond their control. That is the purpose of S. 2274.

The fact is that drought, which is now mainly blistering the South and West, has been a fact of life for other parts of the Nation since 1974. This has meant a serious depletion of the subsoil moisture that is so necessary for growing most crops. In many cases farmers were forced to plant crops needing relatively little subsoil moisture if they were to have any crop at all in 1977.

Mr. President, the problem is that these farmers have been forced to forgo planting the crops for which they have an allotment, and instead have had to plant a crop for which they do not have an allotment. For example, farmers in drought areas who have corn or other feed grain allotment determined that there was simply not enough soil moisture to give these crops a fighting chance to survive. And so they planted wheat, even though they had no wheat allotment. These farmers now must dispose of their wheat crop without the benefit of the $2.90-per-bushel target price which can now be claimed by farmers who had a wheat allotment.

S. 2274, which I am introducing along with Senator HUMPHREY, attempts to remedy this problem. The bill instructs the Department of Agriculture to make deficiency payments to a farmer on planted crops for which he had no allotment in 1977, provided that the farmer possessed an allotment for another crop which could not be planted because of inadequate subsoil moisture conditions within his county. The Secretary, through the Agricultural Stabilization and Conservation Service (ASCS), will determine which counties had subsoil moisture deficiencies during the 1977 planting season.

Mr. President, Congress has acted to meet drought problems with alacrity and fairness during these past several drought years. Just last week the Senate passed H.R. 9090. This bill brought benefits to farmers in the drought areas of the South and West. It did little to help many midwestern farmers, but the bill had the support of virtually everyone in Congress who has a farm constituency, because we know what drought means. Very shortly, the Congress will consider an emergency measure to replenish the depleted capital stock of the Federal Crop Insurance Corporation so that it can make disaster payments for which farmers have paid premiums. These bills are an equitable response to the worst drought since the 1930's. What we are proposing in S. 2274 is that farmers forced to plant a crop without an allotment be given the same fair treatment as other drought-stricken farmers. We are not reopening issues settled in the 1977 farm bill. We are asking that Congress take reasonable steps to solve a problem over which many farmers simply had no control.

Mr. President, I am saddened that S. 2274 will not help all farmers who do not have sufficient allotment acreage. I recognize the hardship they are enduring in this very bleak year of depressed prices. But for the moment S. 2274 appears to be the only proposal which has even the slightest chance of receiving favorable consideration in the next several months. I urge the Senate to give this proposal its most serious attention.

Mr. President, I ask unanimous consent that the text of S. 2274 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2274

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Notwithstanding any other provision of law and subject to the provisions of section 2 of this Act—

(a) The Secretary of Agriculture shall pay to producers on a farm who, because of insufficient subsoil moisture to produce a commodity for which the farm has an acreage allotment, plant for harvest in 1977 another commodity in lieu of the acreage allotment commodity an amount equivalent to the payment the Secretary would be required to pay the producers under any price support program in effect for 1977 for the commodity actually planted if (1) a farm acreage allotment had been in effect for such commodity and (2) the producers are otherwise eligible for payments on such commodity.

(b) The amount of the payment made for any farm under this Act shall not be computed on any acreage in excess of the acreage allotment that the producers were unable to produce.

SEC. 2. (a) Payments under this Act may be made only with respect to the 1977 crop of any commodity.

(b) Producers shall not be eligible for payments under this Act unless the county in which their farm is located is designated by the Secretary of Agriculture as a county in which producers were unable to plant for harvest, because of insufficient subsoil moisture, the 1977 farm acreage allotment for a commodity for which payments were authorized under a price support program in effect for the 1977 crop of such commodity.

SEC. 3. The Secretary of Agriculture is authorized to issue such rules and regulations as may be necessary to carry out the provisions of this Act.

SEC. 4. The Secretary of Agriculture shall carry out the program authorized by this Act through the Commodity Credit Corporation.

Mr. HUMPHREY. Mr. President, I rise in support of Senator ANDERSON's bill which would allow farmers to transfer allotments from crops that they normally would grow to crops they were forced to grow because of insufficient subsoil moisture.

This legislation is needed in light of reforms that are a part of the Food and Agriculture Act of 1977 which was recently signed into law. Without this bill, farmers who were forced to grow something other than a normal crop would be left without target price protection.

In essence, this is a drought relief proposal because of the requirement that the change in cropping pattern be caused by inadequate subsoil moisture.

Senator ANDERSON has made an eloquent and strong case for his bill. It is unfortunate that this change could not have been written into the farm bill. But, as Senator ANDERSON said in his statement, this added measure could not be considered at that time.

I would like to commend Senator ANDERSON's leadership in proposing this bill. I will do what I can in my capacity as a member of the Committee on Agriculture, Nutrition, and Forestry to insure that it receives favorable consideration.

By Mr. EASTLAND:

S. 2275. A bill to provide the basis for assuming and discharging the financial risks involved in all sales and purchase transactions of livestock marketing in commerce; to declare certain acts unlawful; to safeguard against unfair and illegal marketing practices; to identify, maintain and uphold business standards and practices which are based upon free, open and competitive factors in all transactions; to provide penalties for violations; to create and empower a livestock marketing commission to administer and enforce the Act; and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

LIVESTOCK MARKETING REFORM ACT OF 1977

Mr. EASTLAND. Mr. President, I introduce a bill at the request of the National Livestock Marketing Association. The association has worked for many months putting together the bill. It has held regional meetings of its members across the country to discuss and refine the provisions.

Livestock producers have suffered severe monetary losses in recent years. I understand that this bill addresses their problems along with many others in the marketing field.

I am introducing the bill so that its provisions can be evaluated by other segments of the livestock industry in hearings along with other proposals before the Congress. Every avenue needs to be explored to improve our livestock marketing laws. The producer needs a fair return. The marketing, processing, and distribution segments of the industry must be healthy and efficient to assure an adequate supply of reasonably priced food to our consumers.

By Mr. RIBICOFF:

S. 2276. A bill to authorize the issuance of substitute Treasury checks without undertakings of indemnity, except as the Secretary of the Treasury may require; to the Committee on Government Affairs.

Mr. RIBICOFF. Mr. President, at the request of the Department of the Treasury, I am introducing legislation to authorize the issuance of substitute Treasury checks without undertakings of indemnity, except as the Secretary of the Treasury may require.

The Deputy Secretary of the Treasury advises that existing law requires that an undertaking of indemnity be obtained by the Secretary of the Treasury before a substitute Treasury check can be issued to replace an outstanding Treasury check which has been lost, stolen, destroyed, mutilated, or defaced. The proposed legislation would eliminate that requirement, unless the Secretary determines that it is necessary. He advises further that enactment of this proposed legislation would eliminate delays, inconvenience to the public, an unwarranted administrative burden, and unnecessary expenditures involved in the clerical work required.

I ask unanimous consent that the text of the bill and the accompanying statement setting forth the need for this legislation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2276

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (a) of section 3646 of the Revised Statutes (31 U.S.C. 528(a)) is amended by striking out "upon receipt and approval by the Secretary of the Treasury of an undertaking to indemnify the United States, in such form and amount and with such surety, sureties or security, if any, as the Secretary of the Treasury may require;".

(b) Subsection (b) of such section is amended to read as follows:

"(b) The Secretary of the Treasury may, before issuance of a substitute check, require from the owner or holder of the check an undertaking to indemnify the United States, in the form and amount and with the surety or security the Secretary believes necessary.".

THE DEPUTY SECRETARY OF THE TREASURY,
Washington, D.C., October 5, 1977.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill, "To authorize the issuance of substitute Treasury checks without undertakings of indemnity, except as the Secretary of the Treasury may require." A comparative type is also enclosed for your convenient reference.

Section 3646(a) of the Revised Statutes, as amended (31 U.S.C. 528(a)), requires that an undertaking of indemnity be obtained by the Secretary of the Treasury before a substitute Treasury check can be issued to replace an outstanding Treasury check where the check has been lost, stolen, destroyed, mutiliated or defaced. In the undertaking the claimant agrees to reimburse the Federal Government if both the original and substitute checks are cashed. Section 3646(b) (31 U.S.C. 528(b)) lists five exceptions to the requirement for an undertaking of indemnity, but nevertheless authorizes the Secretary of the Treasury to require such an undertaking, even in the excepted situations if essential to the public interest. Section 3646(c) (31 U.S.C. 528(c)) requires an undertaking of indemnity if a check is drawn on a foreign depository.

The proposed legislation would eliminate the requirement that undertakings of indemnity be obtained. The current requirement unnecessarily delays for weeks, or even months, the settlement of valid claims from members of the public for relatively small amounts of money. Under the proposed change including the enactment of a new subsection (b), the Secretary of the Treasury would have discretionary authority to require an undertaking of indemnity. However, the undertaking of indemnity requirement of subsection (c) would continue in effect.

At present substitute check claims not included in the five exceptions provided in subsection (b) constitute between seven and eight percent of the claims processed by this Department. The undertakings which are obtained are generally without sureties, private or corporate, because of the small amounts involved. Therefore, the undertaking of indemnity provides only the promise of the claimant to reimburse the amount of any overpayment caused by the cashing of both the original and substitute checks. Technically, the undertakings have some significance in view of the fact that they obligate the claimant to refund the proceeds of the checks whether or not he or she has received an overpayment. However, they are not of practical significance because the Department does not as a rule seek reimbursement from a claimant who has not participated in the negotiation of the original check. The Department does not use the undertakings as a legal basis for taking action against a claimant in the event of a double payment, but instead relies solely upon the grounds of the overpayment itself.

A total of $18,000 per year is expended for clerical time and supplies in the procurement of these undertakings for a small amount of cases. Since the Federal Government receives no benefit whatever from them, this administrative burden is unwarranted. Moreover, elimination of the delays and inconvenience which the public experience in the settlement of claims would be the significant benefit of the legislation.

Of the exceptions appearing in subsection (b), only the fourth is of concern since the other exceptions are of limited applicability and this Department does not now and would not in the future use Treasury's discretionary authority to require bonds of indemnity in the situations described in the exceptions. That fourth exception provides that indemnity will not be required unless the check exceeds $200. This amount was established by the Act of December 3, 1945, 59 Stat. 592, which raised it from $50. In the intervening 30 years, the dollar amount of checks has escalated dramatically. In a survey taken in August, 1975, 1,500 checks were chosen at random, and 41.4 percent of them exceeded $200. What was in 1945 a small percentage of checks has now become nearly a majority. The same survey showed that 2.5 percent of the checks exceed $500, 1.3 percent exceed $750, and .9 percent exceed $1,000. The Department believes that these figures indicate the need to eliminate the requirement for undertakings of indemnity, except in the discretion of the Secretary of the Treasury, rather than to raise the amount of the exception provided. A newly established amount would soon become outdated if check amounts continue to escalate. The Secretary of the Treasury already has the authority under subsection (d) to issue regulations. If the proposed bill is enacted, the Secretary of the Treasury would exercise that authority to establish the criteria for undertakings of indemnity.

It would be appreciated if you would lay the proposed bill before the Senate. An identical draft bill has been transmitted to the Speaker of the House of Representatives.

The Department has been advised by the Office of Management and Budget that there is no objection from the standpoint of the Administration's program to the presentation of this proposed legislation to the Congress.

Sincerely,

ROBERT CARSWELL.

By Mr. SPARKMAN (by request):

S. 2277. A bill to authorize a special security assistance program for the modernization of the armed forces of the Republic of Korea, and for other purposes; to the Committee on Foreign Relations.

Mr. SPARKMAN. Mr. President, by request, I introduce for appropriate reference a bill to authorize a special security assistance program for the modernization of the armed forces of the Republic of Korea, and for other purposes.

The bill has been requested by the President of the United States and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the section-by-section analysis of the bill and the letter from the President of the United States to the President of the Senate dated October 21, 1977.

There being on objection, the material was ordered to be printed in the RECORD, as follows:

S. 2277

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Special International Security Assistance Act of 1977".

TRANSFERS OF DEFENSE ARTICLES AND DEFENSE SERVICES

SEC. 2. (a) The President is authorized, until December 31, 1982—

(1) to transfer to the Republic of Korea, without reimbursement, such United States Government-owned defense articles as he may determine which are located in Korea in the custody of units of the United States Army scheduled to depart from Korea; and

(2) to furnish to the Republic of Korea, without reimbursement, defense services (including technical and operational training) in Korea directly related to United States Government-owned defense articles transferred to the Republic of Korea under this section.

(b) Any transfer under the authority of this Act shall be made in accordance with all the terms and conditions of the Foreign Assistance Act of 1961 applicable to the furnishing of defense articles and defense services under chapter 2 of part II of that Act, except that no funds heretofore or hereafter appropriated under that Act shall be available to reimburse any agency of the United States Government for any such transfer or related services.

SUBSTITUTION OF DEFENSE ARTICLES IN SHORT SUPPLY

SEC. 3. In order that transfers of defense articles under section 2 will not cause significant adverse impact on the readiness of the Armed Forces of the United States, the President is authorized, in lieu of such transfers, to transfer additional defense articles from the stocks of the Department of Defense, wherever located, to the Republic of Korea to compensate for the military capa-

bility of defense articles withdrawn from Korea in any case where he determines that—

(1) the transfer of specific defense articles located in Korea would have a significant adverse impact on the readiness of the United States Armed Forces;

(2) the defense capability provided by those defense articles is needed by the Armed Forces of the Republic of Korea in order to maintain the military balance on the Korean peninsula; and

(3) a comparable defense capability could be provided by less advanced defense articles in the stocks of the Department of Defense which could be transferred without significant adverse impact on the readiness of the United States Armed Forces.

The President shall report to the Congress each determination made under this section prior to the transfer of the defense articles described in such determination.

REPORTS TO CONGRESS

SEC. 4. The President shall transmit to the Congress, together with the presentation materials for security assistance programs proposed for each fiscal year through and including the fiscal year ending September 30, 1983, a report describing the types, quantities and value of defense articles furnished or intended to be furnished to the Republic of Korea under this Act.

SECTION-BY-SECTION ANALYSIS OF THE SPECIAL INTERNATIONAL SECURITY ASSISTANCE ACT OF 1977

I. INTRODUCTION

The special International Security Assistance Act of 1977 (hereinafter "the Bill") provides a one-time authority to the President to transfer equipment of the United States Army in Korea to the armed forces of the Republic of Korea. Over the next five years, these non-reimbursable transfers, together with the foreign military sales program will increase the combat capability of the Korean armed forces, and will thereby assist them in maintaining the capacity to deter and resist armed attack after United States ground forces are withdrawn from Korea. This strengthening of Korean ground forces to substitute for the capabilities of the United States Armed Forces being withdrawn is essential to maintain the military balance on the Korean peninsula and to preserve peace and stability in North East Asia.

II. PROVISIONS OF THE BILL

Section 1. Title

This section states that the bill may be cited as the Special International Security Assistance Act of 1977.

Section 2(a). Transfers of defense articles and defense services

This subsection, consisting of two paragraphs, grants to the President authority until December 31, 1982 to transfer to the Republic of Korea, without reimbursement, certain defense articles and defense services, as specified below:

(1) Defense articles—The articles which may be transferred are those determined by the President from among United States-owned defense articles in the custody of United States Army units scheduled to depart from Korea. No dates are specified for the departure schedule of U.S. forces because that schedule cannot be predetermined with precision at this time. However, it is the intention of the Bill that transfers would be made by U.S. units in connection with their departure.

(2) Defense services—The defense services which may be furnished are those to be provided in Korea which are directly related to the defense articles transferred under paragraph (1). These services, including technical and operational training, are to ensure that the articles transferred are in serviceable condition and that the Korean forces will be able to use and maintain the articles transferred to them under the Bill. For the most part, the services to be provided will be those which could be performed under the second sentence of section 515(a) of the Foreign Assistance Act of 1961, i.e., routine functions by regular units of the U.S. Armed Forces designed to bring about standardization with a defense treaty ally.

Section 2(b). Terms and conditions of transfers.

This subsection establishes two separate controls over the transfers to be made under the Bill.

First, the subsection specifies that the transfers will be made in accordance with the terms and conditions which apply under the Foreign Assistance Act of 1961 (the FAA). This means that the articles and services may be furnished only for the purposes specified in section 502 of the FAA, that the conditions of eligibility in section 505(a) of the FAA (such as those concerning use and transfer) will apply, and generally, that the administration of transfers under the Bill will be the same as the administration of grants under the Military Assistance Program. In particular, the administration of these transfers will be subject to section 502B of the FAA, which directs that security assistance programs be carried out in a manner which will promote and advance human rights and avoid identification of the United States with governments which deny their people internationally recognized human rights and fundamental freedoms.

Second, this subsection provides that funds appropriated under the FAA may not be used to reimburse the transferring U.S. agency. Thus, to the extent the Army may wish to replace any of the items transferred to Korean forces, procurement of the replacement items would be financed from funds appropriated to the Department of Defense rather than from FAA funds. Similarly, no reimbursement would be made to any agency furnishing defense services in connection with the transfer of a defense article under the Bill.

Section 3. Substitution of defense articles in short supply.

This section authorizes the President, under specified conditions, to furnish to the Republic of Korea certain defense articles which are not in the custody of units of the United States Armed Forces departing from Korea. This additional authority is intended to permit United States-owned defense articles which are needed by the U.S. Armed Forces to be withdrawn from Korea, thereby preserving the readiness of our own forces, without undue loss of Korea's defensive strength. In order to compensate for the loss of defense articles to be withdrawn, this section authorizes the President to transfer other defense articles from the stocks of the Department of Defense. This authority may be exercised only in a situation where the President determines and reports to Congress that the following three conditions are met—

(1) specific defense articles must be withdrawn from Korea rather than transferred in order to avoid a significant adverse impact on U.S. force readiness;

(2) the Korean armed forces need the defense capability of the articles to be withdrawn in order to maintain the military balance on the Korean peninsula; and

(3) there are less advanced articles in the stocks of the Department of Defense which could compensate for the loss of the articles to be withdrawn, whose transfer would not cause significant adverse impact on U.S. force readiness.

It is expected that this authority will be used only in a few exceptional cases. For example, it is presently planned to substitute M48 tanks for the M60 tanks now in the Eighth Army inventory. Where the authority is used, as in the case of the tanks, it may be that the number and type of defense articles withdrawn will differ somewhat from the number and type of defense articles transferred in order to provide a comparable defense capability for the Korean armed forces.

Section 4. Reports to Congress

This section requires that the annual security assistance congressional presentation material include a report to Congress on the implementation of the Bill. The report will describe the types, quantities and values of the articles transferred and to be transferred under the Bill. This will provide Congress with an opportunity to monitor and evaluate this program throughout its implementation, and to consider other security assistance for Korea in light of the transfers made or to be made under the Bill.

THE WHITE HOUSE,
Washington, D.C., October 21, 1977.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: I am transmitting today for the consideration of the Congress legislation which will authorize the transfer of certain United States-owned defense articles to the Republic of Korea. A draft bill and a section by section analysis of its provisions are enclosed.

In the Korean War the independence and security of the Republic of Korea were preserved at a cost of 34,000 American lives and many billions of dollars. Since then, a major objective of United States foreign policy has been the avoidance of renewed hostilities and the maintenance of peace on the Korean peninsula. Our security relationship with the Republic of Korea, which has been the cornerstone of this policy, has consisted of three principal elements—our 1954 Mutual Defense Treaty, a program of military and economic assistance, and the presence of United States Armed Forces in Korea.

Peace and stability in Northeast Asia are vital to our national interests, and stability on the Korean peninsula is essential to that goal. I am determined, therefore, to maintain our commitment to the security of the Republic of Korea. However, our security relationship is not a static one, and the specific ways in which we seek to accomply our basic policy objectives must be evaluated in light of present circumstances.

Within this context, I have concluded that the withdrawal of U.S. ground combat forces from Korea over a four to five year period can be accomplished in a manner which will not endanger the security of the Republic of Korea. So long as it is conducted in a way which will assure continued peace and stability in Northeast Asia, the ground force withdrawal is a natural evolution of our ongoing security relationship. Both governments have understood that the presence of U.S. ground forces was not permanent and is related directly to the maintenance of the military balance. With appropriate assistance, such as that included in the legislation I am proposing, the Republic of Korea will be able to assume a large share of its defense burden and assume the tasks of U.S. units being withdrawn.

I have established a tentative schedule for the withdrawal of ground combat forces: 6,000 men, including one brigade of the Second Division, will be withdrawn by the end of 1978. The remainder of the ground forces will be withdrawn incrementally with the final withdrawal taking place in 1981 or 1982. U.S. air forces will remain in Korea with a small U.S. Army element to provide communications, intelligence and logistic support to our forces and those of the ROK.

My decision to withdraw U.S. ground combat forces from Korea rests on certain basic considerations:

Korea's impressive economic growth over the past decade and the corresponding increase in Korea's ability to defend itself;

Our continued firm determination to maintain our basic security commitment to Korea, and to retain a significant military presence there, composed mainly of air and key support units, together with the continuing presence of U.S. naval units in the area; we believe that these forces, as well as the major U.S. forces remaining in the Western Pacific, provide a clear and visible U.S. deterrent to North Korean miscalculation;

Our assessment of the broader international context of the Korea question, particularly the pattern of interrelationships between the great powers in the area;

Our readiness, subject to Congressional consultations and approval, to take appropriate actions to assure that the ground force withdrawal does not weaken Republic of Korea defense capabilities.

The decision to withdraw ground combat forces from Korea has involved full consultations with the Korean Government. The Governments of Japan and other friendly nations in Asia have been kept fully informed, both of our withdrawal intentions and of continuing firm commitment to Korean security. We have made it clear to both the People's Republic of China and the Soviet Union that the withdrawal decision signals no weakening of our commitment. The North Korean Government should be in no doubt about our position.

The legislation I am proposing is designed to help make certain that Korean defense capabilities are not weakened by our ground force withdrawal. It provides for the transfer of certain U.S.-owned military equipment (primarily in the custody of U.S. forces in Korea) and related services to the Korean Government, without reimbursement. We envisage at most the transfer of equipment with a depreciated value of about $800 million.

Even with this no-cost transfer, the withdrawal will require the Korean Government to devote a larger share of its financial resources, both foreign exchange and local currency, to defense. In my judgment, the transfer provided for in the draft legislation will ease the incremental fiscal burden of withdrawal on the Korean Government to an amount which can be borne without diverting excessive resources from the high priority task of economic development.

The bill provides that the President shall transmit an annual report to the Congress, through the five-year period during which the anticipated equipment transfer will take place, detailing the types, quantities and value of defense articles furnished to Korea under this Act.

The transfer of equipment to the Korean Government to be authorized by the bill will ensure that the withdrawal of U.S. ground forces is accomplished in a way that will not disturb the stability that must be maintained in the region. Since the initial phase of that withdrawal will take place in 1978, I urge the Congress to enact promptly the proposed legislation.

Sincerely,

JIMMY CARTER.

By Mr. HUMPHREY (for himself and Mr. BELLMON):

S. 2278. A bill to establish an international emergency food reserve; to the Committee on Agriculture, Nutrition, and Forestry.

INTERNATIONAL EMERGENCY FOOD RESERVE

Mr. HUMPHREY. Mr. President, today I am introducing with the distinguished Senator from Oklahoma (Mr. BELLMON) legislation which would authorize the creation of an international emergency food reserve.

Three years ago this month the United Nations World Food Conference proclaimed a bold objective that "within a decade no child will go to bed hungry, that no family will fear for its next day's bread, and that no human being's future and capacities will be stunted by malnutrition."

Unfortunately, we have not made major progress toward this goal. The Overseas Development Council, an independent research organization, estimates that, in spite of the current bumper harvests worldwide, 450 million people will go to bed hungry at some point during this year. As we know too well, these people are too often left totally dependent on the vagaries of weather as to whether they will be able to harvest a crop for their own food needs.

Earlier this year I introduced legislation, S. 1219, which constituted a small but significant step on the road toward partially insulating the world's poor against the vagaries of climate. This bill, called the Domestic and International Food Security Act of 1977, would have created, in essence, two reserves, one to smooth out the boom and bust of the domestic farm economy and the other for international emergencies.

The Senate Committee on Agriculture, Nutrition, and Forestry integrated the basic provisions of this bill into S. 275, the Food and Agriculture Act of 1977. Unfortunately, the international emergency reserve was deleted in conference because of a jurisdictional problem.

The day after this important provision was deleted I wrote to the Secretary of Agriculture, encouraging him to use available discretionary authority to initiate such a reserve. After a brief interlude, the administration stated that it lacked sufficient authority to create such a reserve. Shortly after that, the administration announced that it would seek legislation for an international emergency food reserve.

Mr. President, the administration has yet to send forth a bill. While one will be forthcoming, I believe that it would be useful for the representatives of the American people to have a variety of legislative options from which to choose. Therefore, I, along with Senator BELLMON decided to offer a bill that contained basically the same international emergency food reserve provision that was included in S. 275 that passed the Senate last May 24.

The bill that I am offering today with Senator BELLMON makes several improvements in the original bill that I introduced on April 21. The reason that this bill is superior lies in the input that I received from the Senator from Oklahoma, particularly when the Senate was considering the farm bill this past May 24.

As a result of this cooperative effort, Senator BELLMON has decided to join with me in introducing this important measure today.

I would like to discuss some of the changes that were made in response to the concerns of the Senator from Oklahoma, because these changes improve the bill in that stronger assurances are made to farmers without diminishment of the humanitarian aspects that are so essential.

This bill makes it virtually impossible for the Commodity Credit Corporation to use the stocks accumulated for this reserve to depress farm prices. As we know, the CCC has acted in just this manner in the past, dumping stocks on the market just when the market begins to recover from a depressed state.

This bill requires that these stocks not be used for domestic purposes. The administration has begun to implement the domestic provisions of S. 1219 that became law, thereby obviating the need to use stocks intended for an international emergency reserve for domestic purposes.

While this bill has been improved from the perspective of the farmer, thanks to the contribution of the Senator from Oklahoma, it still represents a strong commitment by this Nation to the hungry people of this planet.

By acting favorably on this bill, the Congress will be furthering the commitment of the American people to eradicating hunger. This also will be an indication of the commitment of this Nation to the establishment of an international system of food reserves.

Food made available through this reserve can be used for disaster and developmental purposes.

The bill that I introduce today with Senator BELLMON will be, I am sure, only one of a series of bills. A companion to this measure will be offered today in the House of Representatives by Representative MATTHEW F. MCHUGH, who earlier introduced H.R. 9045, the only previous international emergency food reserve bill introduced since this summer.

Mr. President, I was one of many in attendance at the 1974 World Food Conference in Rome. That Conference offered the poor and desperate people of this world some new hope. It is tragic that we have not made many promising moves toward turning that hope into reality. By offering this bill, Senator BELLMON and I are affording the Members of this Chamber an opportunity to make good on this pledge.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2278

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "International Emergency Food Reserve Act of 1977".

SEC. 2. Section 111 of the Agricultural Act of 1949 (91 Stat. 953; 7 U.S.C. 1445f) is amended to read as follows:

"INTERNATIONAL EMERGENCY FOOD RESERVE

"SEC. 111. (a) The President is authorized to enter into negotiations with other nations to develop an international system of food reserves to provide for humanitarian food relief needs, and to establish and maintain a food reserve, as a contribution of the United States toward the development of such a system, to be made available in the event of food emergencies in foreign countries. The reserve shall be known as the International Emergency Food Reserve.

"(b) The Secretary shall, as soon as practicable, build minimum stocks of food (including processed and blended foods insofar as practicable) for the International Emer-

gency Food Reserve of no less than two million tons as an indication of the commitment of the United States to the establishment of an international system of food reserves. Pursuant to an international agreement on food reserves, the Secretary is authorized to increase the stocks to a level not greater than six million tons.

"(c) As soon as practicable, following the effective date of an international agreement on food reserves, the Secretary shall adjust the maximum level of stocks to such level as may be established as a provision of the United States participation in such international agreement. The Secretary shall reestablish such reserve to the level prescribed under the respective cases provided for above by the earliest possible date following any action under subsection (d) which has drawn the reserves to a level less than two million tons. Such reserve may be acquired by the Commodity Credit Corporation as the result of defaults on loans made under price support programs administered by the Secretary. The Secretary may also acquire such reserve through purchases by the Commodity Credit Corporation on the market to the extent that quantities acquired by the Commodity Credit Corporation under price support operations are inadequate.

"(d) Food in the International Emergency Food Reserve may be disposed of only under the following circumstances:

"(1) Such food may be used for the purpose of providing humanitarian relief in any foreign country which suffers a major disaster, as determined by the President.

"(2) Such food may be used for the purpose of assisting any developing country to meet its food requirement in any year in which there has been such a severe shortfall in food production, as determined by the Secretary, as to warrant the use of United States food for such purpose.

"(e) Notwithstanding any provision of this Act, the Secretary shall provide for the periodic rotation of stocks of the International Emergency Food Reserve to avoid spoilage and deterioration of such stocks, using programs authorized by the Agricultural Trade Development and Assistance Act of 1954, as amended, but any quantity removed from the reserve for rotation purposes shall be promptly replaced with an equivalent quantity. Notwithstanding any other provision of law, none of the stocks of food in the International Emergency Food Reserve shall be included in the Secretary's determination of the carryover of wheat, feed grains, rice, or soybeans.".

By Mr. McGOVERN (for himself and Mr. MATHIAS):

S. 2279. A bill to facilitate the economic adjustment of communities, industries, and workers to civilian-oriented initiatives, projects, and commitments when they have been substantially and seriously affected by reductions in defense contracts, military facilities, and arms export which have occurred as a result of the Nation's efforts to pursue an international arms control policy and to realine defense expenditures according to changing national security requirements, and to prevent the ensuing dislocations from contributing to or exacerbating recessionary effects; jointly, by unanimous consent, to the Committee on Governmental Affairs, the Committee on Finance, the Committee on Human Resources, and the Committee on Armed Services.

DEFENSE ECONOMIC ADJUSTMENT ACT

Mr. McGOVERN. Mr. President, since 1963, when I first came to the Senate, I have been trying to find a way to encourage the transfer of our excess military spending to peacetime, civilian-oriented pursuits. We are told that reduction of the defense budget will mean the loss of jobs and economic disaster for affected communities. The truth is that reductions in arms spending could mean more jobs, not less, for the American people. According to a study conducted by the Bureau of Labor Statistics, several nondefense industries create more employment per $1 billion spent than do defense industries. Although defense spending for fiscal year 1978 will amount to almost 25 percent of the Federal budget and over half of all R. & D. funds will be spent in defense-related activities, we are still faced with high unemployment and vast unmet needs in our society. The concentration of some of our best engineering and scientific talent in defense work has contributed to the difficulty U.S. industry has in competing commercially with other industrialized countries.

It is true that cancellation of certain weapons systems, closing of military bases, our hoped-for success in the SALT talks, and the President's stated intention to reduce arms sales abroad could have a significant impact on our economy which would be keenly felt in many communities unless there is a workable plan for a smooth transition from defense to civilian projects.

The bill I am proposing today does not specify any cuts or changes in the defense budget. It simply provides for standby conversion plans which can be put into action if and when defense activity is halted or severely cut back at any particular facility. It will focus on assistance to the workers whose lives are disrupted and the needs of the entire community inevitably affected by that disruption.

I believe it is workable and will be successful, because the planning will be done at the local level, actively involving those directly affected and most knowledgeable of the resources and needs of that particular community. But beyond this, I believe it is a way to insure a vital economy; to give priority to the long neglected areas of housing, transportation, and civilian services; to assure job security to the employed; and to put more Americans back to work.

The distinguished Senator from Maryland (Mr. MATHIAS) has joined with me in this effort as a cosponsor of the measure being introduced today.

I ask unanimous consent that the text of the bill and a section-by-section analysis of the bill be printed at this point in the RECORD.

There being no objection, material was ordered to be printed in the RECORD, as follows:

S. 2279

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Defense Economic Adjustment Act".

DECLARATION OF PURPOSE AND POLICY

SEC. 2. (a) The Congress finds and declares that the United States during the past two and one-half decades made heavy economic, scientific, and technical commitments for defense; that these commitments led to the development of specialized skills and business practices not directly applicable in the civilian sector of the economy; that as these commitments are modified to take account of changing requirements for national security and domestic needs, careful preparation is necessary if serious economic dislocations are to be avoided; and that the economic ability of the Nation and of management, labor, and capital to adjust to changing security needs is consistent with the general welfare of the United States.

(b) It is the purpose of this Act to provide the means through which the United States can promote orderly economic adjustment which will (1) minimize the dislocation of workers, communities, and industries, (2) assure that the dislocations do not compound recessionary trends, and (3) encourage conversion of technologies and managerial and worker skills developed in defense production to the service of projects in the civilian sector.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "Council" means the Defense Economic Adjustment Council established under section 101 of this Act.

(2) "Defense agency" means the Department of Defense, the Energy Research and Development Administration, or the National Aeronautics and Space Administration.

(3) "Defense contract" means any contract entered into between a person or nonprofit organization and a defense agency to furnish defense material or services to such agency, and any contract entered into between a person or nonprofit organization and any foreign country or person acting on behalf of a foreign country to furnish defense material or services to or for such country pursuant to the Arms Export Control Act, or similar Act.

(4) "Defense contractor" means any person having not less than 5 per centum of the organization's labor force engaged in the furnishing of defense material pursuant to the terms of the defense contract or subcontract and for whom such contract or contracts, including any under negotiation, represents more than 20 per centum of the total plant business.

(5) "Defense facility" means any private plant or other establishment (or part thereof) used under a defense contract or engaged in the production, repair, modification, maintenance, storage, or handling of defense material, or any Government-owned military facility such as a base, fort, shipyard, or depot.

(6) "Defense material" means any item of weaponry, munitions, equipment, or specialized supplies or services intended for use by a defense agency or for sale to or for the use of a foreign country which has primarily military application.

(7) "Defense service" means the research, development, production, test, inspection, or repair of any defense material for use by a defense agency or pursuant to a defense contract.

(8) "Displaced" or "displacement" means with respect to any worker of a defense facility or defense agency the separation, on a permanent or temporary basis, of such worker from employment with such facility or agency.

(9) "Fund" means the Workers Economic Adjustment Reserve Trust Fund established by title III of this Act.

(10) "Person" means any corporation, firm, partnership, association, individual, or other entity.

(11) "State" includes the District of Columbia and the Commonwealth of Puerto Rico.

(12) "State agency" means the agency of a State which administers its unemployment compensation law, approved by the Secretary

of Labor under section 3304 of the Internal Revenue Code of 1954.

(13) "Substantially and seriously affected" means any community in which more than 5 per centum of its labor force is directly employed by a defense facility or contractor in furnishing specialized materials or services under a defense contract.

TITLE I—DEFENSE ECONOMIC ADJUSTMENT COUNCIL ESTABLISHMENT

SEC. 101. (a) There is established in the Executive Office of the President the Defense Economic Adjustment Council which shall be composed of—

(1) the Secretary of Commerce;

(2) the Secretary of Labor;

(3) the Secretary of Health, Education, and Welfare;

(4) the Secretary of Housing and Urban Development;

(5) the Secretary of Transportation;

(6) the Chairman of the Council of Economic Advisors;

(7) six representatives of the business-management community who represent non-defense business to be appointed by the President; and

(8) six representatives of labor union organizations to be appointed by the President.

(b) The Secretary of Commerce shall be Chairman of the Council, shall preside over meetings of the Council and shall designate a member of the Council to preside in the absence of the Chairman.

(c)(1) An Office of Economic Adjustment shall be established within the Executive Office of the President to provide staff support for the Council with a maximum staff size of fifteen. The Office shall be headed by an Executive Secretary who shall be appointed by the President (after consultation with the Council) and who shall be compensated at the rate provided for grade 18 of the General Schedule under section 5332 of title 5, United States Code.

(2) The members of such staff and any task force established by the Council shall include marketing specialists, production engineers, plant layout experts, urban planning experts, and manpower training experts. At the request of the Council, the staff and any task force established by the Council shall carry out such duties as the Council may prescribe.

(3) The Council may appoint and fix the compensation of such personnel as it deems advisable. The Council may procure temporary and intermittent services to the same extent as authorized by section 3109 of title 5, United States Code.

(4) The Council is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality, information, suggestions, estimates, and statistics to carry out the Act, and each such entity shall furnish such information, suggestions, estimates, and statistics directly to the Council upon request made by the Chairman.

(d) Members of the Council who are officers or employees of the Federal Government shall receive no additional compensation by virtue of membership on the Council. Other members appointed to the Council shall receive compensation at the rate of not to exceed $135 per diem when engaged in the performance of duties of the Council. While away from their homes or regular places of business in the performance of services for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

DUTIES

SEC. 102. (a) The Council shall—

(1) encourage the preparation of concrete plans for civilian-oriented public projects addressing vital areas of national concern (such as mass transportation, housing, education, health care, environmental protection, renewable energy resources, etc.) by the various civilian agencies of the Federal Government, as well as by State and local governments;

(2) supervise the establishment in the Department of Labor of a Job Information Bank intended to coordinate State, local and Federal employment services so as to serve as a resource on civilian job information for workers released from defense-related employment as a result of the shifting or reduction, or both, of defense-related expenditures;

(3) prepare suggestive lists, by geographic region and area of specialization, of organizations and individual consultants in fields such as marketing, facilities design, organization, production engineering, and engineering economy whose major professional experience has been in civilian-oriented activity, and furnish such lists to local Alternative Use Committees upon their request, without explicit or implicit endorsement of the personnel so listed;

(4) prepare and distribute a Conversion Guidelines Handbook, not to exceed 300 pages in length, which shall—

(A) include a discussion of the basic problems involved in the retraining, reorientation and reorganization of personnel (managerial, technical, administrative and production) and the redirection of physical plants for efficient, civilian-oriented productive activity;

(B) outline the basic requirements of programs for professional retraining of managerial personnel in order to reorient them to the management of civilian, market-oriented enterprise;

(C) outline the basic requirements for a program of professional retraining of technical personnel in order to effectively reorient them to the prevailing conditions of research, product design and production operations within civilian-oriented facilities;

(D) outline the basic requirements for the length and nature of occupational retraining for production workers and junior level administrative employees;

(E) include illustrative case studies of successful conversion to efficient civilian-oriented production, or references thereto;

(F) provide a checklist of critical points requiring attention at each stage of the conversion process;

(G) contain an annotated bibliography of conversion related works; and

(H) be revised, as necessary, every two years; and

(5) perform such other duties as are imposed upon the Council by this Act; and

(6) promulgate such regulations as may be necessary to carry out the provisions of this Act.

TITLE II—ALTERNATIVE USE COMMITTEES ESTABLISHMENT

SEC. 201. (a) There shall be established at every defense facility employing at least 200 persons, and at every business concern having at least 20 per centum of gross revenue due to business resulting from any defense contract or contracts, an Alternative Use Committee to undertake economic conversion planning and preparation for the employment of the personnel and utilization of the facilities in the event of a reduction or elimination of any defense facility or the curtailment, conclusion or disapproval of any defense contract, resulting in substantial and serious unemployment.

(b) In the case of a defense facility that is a Government military installation, the Alternative Use Committee shall consist of at least nine members, an equal number of whom shall (1) be designated by the base commander, (2) represent the civilian employees of the installation, and (3) represent the local community and interested citizens as designated by the chief executive officer of the local government of the community, but shall not include any individuals employed at the military installation.

(c)(1) In the case of a defense facility that is not a governmental military installation, and of any defense contractor subject to subsection (a), there shall be included in each defense contract provisions to assure that an Alternative Use Committee is established in accordance with the provisions of this subsection.

(2) The Alternative Use Committees shall consist of at least nine members, an equal number of whom shall be named by—

(A) the management of the facility,

(B) the non-management employees of the facility, and

(C) the chief executive officer of the local community government, representing the local community, interested citizens, but shall not include any individuals employed at the defense facility.

(d) The funds for performing the planning and reporting requirements imposed under this title as applied to defense contractors, including market research, independent studies and the employment of specialized personnel, shall be paid from funds derived from the military contract or base operating costs at a rate equal to $50 per employee per year in the first year and $25 per employee per year in subsequent years. Office space shall also be provided by the management of the facility, without charge.

FUNCTIONS OF THE ALTERNATIVE USE COMMITTEES

SEC. 202. (a) The Alternative Use Committee shall—

(1) evaluate the assets of the defense facility and the resources and requirements of the local community in terms of physical property, manpower skills and expertise, accessibility, environment, and economic needs;

(2) develop and review at least once every two years detailed plans for the conversion of the facility to efficient, civilian-oriented productive activity to be carried out in the event the facility is substantially and seriously affected by a government decision to reduce, modify, or close the facility, conclude any defense contracts, or disapprove a license to sell or export defense materials to non-government parties;

(3) provide occupational retraining and re-employment counseling services for all employees to be displaced by the implementation of a conversion plan or closing of the facility, beginning 18 months before the date of commencement of the implementation of that plan or the permanent closing of that facility; and

(4) dissolve itself and return all of its assets to the control of the management of the facility immediately upon final completion of the conversion process.

ADMINISTRATIVE PROVISIONS

SEC. 203. (a) The Alternative Use Committees may hire staff personnel as well as any specialists it may determine necessary.

(b) The Alternative Use Committees are authorized to obtain a complete and detailed inventory of all land, buildings, capital equipment, and other equipment, including its condition, and are authorized to obtain information regarding the occupations and skills of all civilian employees of the facility.

CONVERSION PLANS

SEC. 204. (a) The conversion plans shall—

(1) be so designed as to maximize the extent to which the personnel required for the efficient operation of the converted facility can be drawn from personnel with the types and levels of skill approximating skills levels and types possessed by civilian personnel employed at the defense facility prior to its conversion;

(2) specify the numbers of civilian personnel, by type and level of skill, employed at the facility prior to conversion, whose continued employment is not consistent with

efficient operation of the civilian-oriented converted facility;

(3) specify the numbers of positions, by level and type of skill, if any, that will be needed at the converted facility because personnel employed at the pre-converted facility do not possess the levels or types of skills required;

(4) indicate in detail what new plant and equipment and modifications to existing plant and equipment are required for the converted facility;

(5) include an estimate of financing requirements and a financial plan for the conversion; and

(6) provide for completion of the entire conversion process within a period not to exceed 2 years.

TITLE III—ECONOMIC ADJUSTMENT FUND ESTABLISHED

SEC. 301. There is hereby established in the Treasury of the United States a trust fund to be known as the "Workers Economic Adjustment Reserve Trust Fund".

DEPOSITS INTO THE FUND

SEC. 302. (a) The Federal Government shall not enter into any defense contract with any defense contractor to furnish defense material or services to a defense agency, nor shall it permit the sale of such defense material or services to or on behalf of any other country, unless the defense contractor fulfills a requirement to pay to the Fund an amount equal to one and a quarter percent per year of the value of the contractor's gross revenue on such sales.

(b) Amounts paid by a defense contractor pursuant to this section shall be deposited in the Fund.

MANAGEMENT OF THE FUND

SEC. 303. (a) It shall be the duty of the Secretary of the Treasury to invest such portion of the moneys in the Fund as is not, in the judgment of the Secretary, required to meet current withdrawal requirements. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 per centum next lower than such average rate. Such obligations shall be issued only if the Secretary of the Treasury determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States on original issue or at the market place, is not in the public interest.

(b) Any obligation acquired by the Fund (except special obligations issued exclusively to the Fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be reduced at par plus accured interest.

TITLE IV—ECONOMIC ADJUSTMENT ASSISTANCE FOR WORKERS CERTIFICATION

SEC. 401. (a) All displacements affecting more than 5 per centum of workers employed by a defense contractor attributable, in whole or in part, to a reduction of the volume of defense work in such facility shall upon certification by the local Alternative Use Committee be reported by the management of the firm or government facility to the State employment office acting as Agent for the administration of the employees benefit program.

(b) Any worker (or union representing such worker) of a defense contractor in a report filed by such contractor pursuant to subsection (a) of this section (or by any matter relating to such worker's certification, or failure to be so certified, or such worker's eligibility for such conversion benefits, or the kind or amount thereof), shall be entitled to appeal such matter to the Secretary of Labor, or, if such worker is in a State which has entered into a contract with the Council pursuant to section 403 of this Act, to the appropriate State agency.

ENTITLEMENT TO BENEFITS

SEC. 402. (a) Any worker certified pursuant to section 401 of this Act as eligible for adjustment benefits by reason of such worker's displacement from a defense contractor shall be entitled, for the two-year period following displacement, to whichever of the following benefits are applicable:

(1) Compensation, on a weekly basis, sufficient, when added to any benefits which such worker receives or is entitled to receive for such weekly period under any Federal or State unemployment compensation program (or any plan of such worker's employer providing for such benefits) by reason of such worker displacement, and any earnings during such weekly period from other employment, to maintain an income at a level equal to 90 per centum of the first $20,000 per year and 50 per centum of the next $5,000 in excess of $20,000 for that year of that worker's regular annual wages (based on a forty-hour workweek, or, in the event a defense contractor has a regular workweek payable at straight-time wage rates other than forty hours, for such regular workweek) prior to that worker's displacement.

(2) Vested pension credit under any applicable pension plan maintained by the defense contractor from which such worker was displaced, for the period of that worker's employment with such facility, and the two-year period following that worker's displacement, during which two-year period, for the purpose of the Employee Retirement Income Security Act of 1974 and the corresponding provisions of the Internal Revenue Code of 1954 (relating to a qualified plan) such worker shall be treated as if such worker were employed by such contractor on the same basis as such worker was employed on the day preceding such worker's displacement; except that pension credit during such two-year period shall be reduced to the extent of vested pension credit earned with another employer during such two-year period.

(3) Maintenance of any hospital, surgical, medical, disability, life (and other survivor) insurance coverage which such individual (including members of such individual's family) had by reason of employment by a defense contractor prior to such displacement; except that if such worker so displaced is otherwise employed during such two-year period, such worker shall be entitled to receive benefits under this paragraph to the extent necessary to provide such worker with the same protection described in this paragraph as such worker (including family members) would have had if such worker had not been displaced.

(4) Retraining for civilian work providing pay and status as comparable as possible to the employment from which such worker was displaced or retraining under titles I, II, or III of the Comprehensive Employment and Training Act of 1973.

(5) Retraining for civilian work, approved by the Secretary of Labor or, in the case of a worker in a State which has entered into a contract with the Council pursuant to section 403 of this Act, by the State agency, and reimbursement for all reasonable relocation expenses as specified in regulations prescribed by the Secretary of Labor incurred by such worker in moving to another location in order to take advantage of an employment opportunity to which such worker is referred, or which is determined to be suitable, by the Secretary of Labor or, in the case of a worker in a State which has entered into a contract with the Council pursuant to section 403 of this Act, by the State agency.

(6) No individual shall be eligible for more than one conversion related program of benefits.

(b) All managerial and technical employees who have spent more than 50 per centum of the ten years preceding implementation of the conversion plan working in defense-related industry or at military bases must participate in or have completed a program of professional retraining meeting the requirements specified in the Conversion Guidelines Handbook of the Defense Economic Adjustment Council in order to be eligible for the special financial assistance, relocation aid and special job information services provided by this Act. All other employees may elect to enter such a program.

STATE AGREEMENTS

SEC. 403. (a) The Council is authorized to enter and shall, on behalf of the United States, enter into an agreement with a State, or with any agency administering the unemployment compensation law of any State approved by the Secretary of Labor under section 3304 of the Internal Revenue Code of 1954, which—

(1) as agent of the Council, shall upon certifications and other determinations required in section 401 of this Act, make such payments and provide such benefits as are authorized by section 402 of this Act, on the basis provided for in this Act, and shall otherwise cooperate with the Council and other State agencies in carrying out the provisions of this Act; and

(2) shall be reimbursed for all benefits paid pursuant to such agreement and all administrative costs incurred in carrying out such agreement.

(b) (1) There shall be paid to each State agency which has an agreement under this section, either in advance or by way of reimbursement, as may be determined by the Council, such sum as the Council estimates the agency will be entitled to receive under such agreement for each calendar month, reduced or increased, as the case may be, by any sum by which the Council finds that its estimates for any prior calendar month were greater or less than amounts which should have been paid to the agency. Such estimates may be made upon the basis of statistical sampling, or other method as agreed upon by the Council and the State agency.

(2) The Council shall from time to time certify to the Secretary of the Treasury for payment to each State agency which has an agreement under this section sums payable to such agency under paragraph (1) of this subsection. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payments to the agency, in accordance with such certification, from the Fund.

(3) All money paid a State agency under any such agreement shall be used solely for the purposes for which it is paid; and any money so paid which is not used for such purposes shall be returned, at the time specified in such agreement, to the Treasury.

(c) In any case involving a worker entitled to benefits under section 402 who is in a State with respect to which there is no agreement pursuant to this section, the Secretary of Labor shall, under regulations prescribed by the Secretary, administer such benefits on behalf of such worker. The Secretary of Labor, in administering such benefits, shall, from

time to time, certify to the Secretary of the Treasury for payment to such worker the amounts of such benefits to which such worker and the Secretary of the Treasury shall make payments to such worker, in accordance with such certification, from the Fund.

LIMITATION ON BENEFITS

SEC. 404. In no case shall any displaced worker be eligible for benefits under section 402(a) of this Act unless such worker agrees (1) to maintain, on a current basis, during the period of his displacement, an active registration with the Secretary of Labor or an appropriate State employment agency, as the case may be, and (2) to accept any employment, determined by the Secretary of Labor or agency, as the case may be, to be suitable, to which such worker is referred by the Secretary of Labor or such agency. No such benefits shall be paid under this Act to any worker who fails to maintain such registration or to accept such employment.

TREATMENT OF UNEMPLOYMENT COMPENSATION

SEC. 405. In no case shall any adjustment benefits paid pursuant to this Act be taken into consideration in determining eligibility for unemployment compensation under any Federal or State unemployment compensation law or in determining the amount of entitlement thereunder.

TERMINATION OF BENEFITS

SEC. 406. Adjustment benefits shall terminate when a worker eligible for benefits obtains employment providing 90 per centum of the first $20,000 per year and 50 per centum of the next $5,000 in excess of $20,000 for that year of that worker's previous wages or two years after displacement, whichever occurs sooner.

TITLE V—USE OF CERTAIN RESEARCH FUNDS

AMENDMENT TO PUBLIC LAW 91-441

SEC. 501. (a) Section 203(a) of the Act of October 7, 1970 (Public Law 91-441) is amended by—

(1) inserting "or, in the opinion of the Defense Economic Adjustment Council, a potential relationship to an urgent national requirement in a designated nondefense sector," after "function or operation";

(2) inserting "or the Defense Economic Adjustment Council" after "Department of Defense" in paragraph (1); and

(3) adding at the end of such section 203 the following:

"(f) The Defense Economic Adjustment Council shall be required to define urgent national requirements for nondefense sectors of the economy, and shall be required to include in the designation, any areas so defined by the Congress. Research and development related to energy and fuel efficiency shall be considered a designated area.".

(b) Section 204 of such Act is amended by inserting "or, in the opinion of the Defense Economic Adjustment Council, a potential relationship to an urgent national requirement in a designated nondefense sector of the economy" after "military function or operation".

TITLE VI—AUTHORIZATION OF APPROPRIATIONS

APPROPRIATIONS AUTHORIZED

SEC. 601. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

DEFENSE ECONOMIC ADJUSTMENT ACT

(Summary of Provisions)

I. PURPOSE

To provide advance planning for effective conversion of defense-related industries to productive civilian activity, and to provide economic adjustment assistance to affected communities, industries, and workers which may be substantially and seriously affected by reductions in defense expenditures.

II. DEFINITIONS

Defines terms used in bill. Defines "substantially and seriously affected" for communities and contractors, so that bill covers those who would be hardest hit by reductions in defense expenditures and would have the most difficulty in adjusting.

III. TITLE I—ESTABLISHMENT OF COUNCIL

Sec. 101: Establishes a Defense Economic Adjustment Council in the Executive Office of the President, membership to include Cabinet officers, representatives of business-management community, and representatives of labor union organizations. The Secretary of Commerce is Chairman.

Sec. 102: Defines duties of Council as follows: encouraging preparation of plans for civilian-oriented public projects addressing vital areas of national concern; supervising establishment of Job Information Bank in Department of Labor to coordinate State, local and Federal employment services; preparing lists of organizations and consultants engaged in civilian-oriented activity for use by local conversion committees; and preparing and distributing a Conversion Guidelines Handbook.

IV. TITLE II—ESTABLISHMENT OF ALTERNATIVE USE COMMITTEES

Sec. 201: Establishes local Alternative Use Committees to undertake economic conversion planning and preparation for employment of personnel and utilization of facilities in the event of reductions in defense spending resulting in substantial and serious unemployment; and provides a fund for performing these duties to be derived from the military contract or base operating costs.

Sec. 202: Describes functions of Alternative Use Committees: evaluating assets of defense facility and resources and requirements of local community; developing and reviewing plans for conversion to civilian-oriented productive activity; and providing occupational retraining and counseling services for displaced employees.

Sec. 203: Authorizes the Alternative Use Committee to hire staff personnel; to obtain an inventory of all land and equipment, including its condition; and to obtain information regarding the occupations and skills of all civilian employees of the facility.

Sec. 204: Requires that conversion plans be designed to most efficiently use civilian personnel employed at the facility prior to conversion; requires detailed listing of any new plant and equipment and modification to existing equipment needed for conversion; requires an estimate of financing requirements and financial plan for conversion; and provides for completion of entire conversion process within a period not to exceed two years.

V. TITLE III—ESTABLISHMENT OF ECONOMIC ADJUSTMENT FUND

Sec. 301: Provides for establishment in Treasury of a trust fund to be known as the "Workers Economic Adjustment Reserve Trust Fund".

Sec. 302: Requires defense contractors to pay to the Fund an amount equal to one and a quarter percent per year of their gross revenue.

Sec. 303: Requires the Secretary of the Treasury to invest that portion of the Fund not required to meet current withdrawals.

VI. TITLE IV—ECONOMIC ADJUSTMENT ASSISTANCE FOR WORKERS

Sec. 401: Requires that all displacements affecting more than five percent of the workers be reported to the State employment office or agency acting as Agent for administration of employees' benefits programs.

Sec. 402: Provides eligible workers with two year entitlement to applicable benefits: compensation on a weekly basis to maintain an income equal to ninety percent of the first $20,000 per year and fifty percent of the next $5,000 in excess of $20,000; vested pension credit; maintenance of hospital, surgical, medical, disability, and life insurance coverage; retraining for civilian work; and necessary relocation expenses. Requires all managerial and technical employees who have spent more than fifty percent of the ten years preceding implementation of the plan to participate in a professional retraining program in order to be eligible for benefits.

Sec. 403: Authorizes the Council to reimburse a State or administering agency (acting as agent of the Council) for all benefits paid.

VII. TITLE V—USE OF CERTAIN RESEARCH FUNDS

Sec. 501: Amends Defense Authorization Act of 1970 to expand kinds of independent research and development which can be funded in a defense contract to include projects which the Council believes have a potential relationship to an urgent national requirement in a designated non-defense sector. Council and Congress permitted to designate non-defense R&D which can be funded.

VIII. TITLE VI

Authorizes appropriation of sums which may be necessary to carry out provisions of this Act.

Mr. McGOVERN. Mr. President, on the advice of the Parliamentarian, because of the diverse character of this bill, I ask unanimous consent that the measure be jointly referred to the Committees on Governmental Affairs, Finance, Human Resources, and Armed Services.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. STONE:

S. 2280. A bill to authorize the Secretary of the Air Force to convey certain real property for use as a permanent site for the Air Force Enlisted Men's Widows and Dependents Home; to the Committee on Armed Services.

Mr. STONE. Mr. President, I am today proud to introduce before the Senate legislation which has been introduced in the House of Representatives by my colleague, Congressman ROBERT SIKES, to provide property on which to construct and develop permanent facilities for Air Force enlisted men's widows and dependents. This legislation will authorize the Secretary of the Air Force to convey certain real property for use as a permanent site for the Air Force Enlisted Men's Widows and Dependents Home. The proposed development is to be similar to the Air Force Foundation for Retired Air Force Officers' Widows in San Antonio, Tex., and the Army Distaff Home in Washington, D.C. A nominal fee will be paid for the property.

The Enlisted Men's Widows and Dependents Home Foundation, Inc., is a nonprofit, charitable organization formed for the purpose of establishing a residence for elderly widows and widowers of Air Force enlisted retired personnel, and Air Force enlisted retired couples aged 62 years and above. Younger widows of active duty enlisted men and their dependent children needing the Foundation's help may be accepted on a temporary basis immediately upon the death of

a husband. Any elderly widow or widower whose spouse was a retired Air Force enlisted person, Regular, Reserve, or Air National Guard, is eligible to apply for residence.

The policy of the Foundation is to assist those persons whose earnings are insufficient to pay the fair market value for rentals and continue to meet their personal needs and obligations. As a general rule, the cost for rent does not exceed 30 percent of the resident's annual income. The top monthly rent is $170 for a two-bedroom unit and $150 for a one-bedroom unit. This price is paid by anyone with a total income in excess of $6,500 per year. Total income includes pensions and social security. At the other end of the spectrum, the bottom is open. This means there are many residents who cannot afford to pay the fair market value; however, these persons are provided a subsidy for their rent.

Much of the ability of the Foundation in assisting these persons is dependent upon donations. The main source of the funds is derived from an annual Air Force assistance campaign which, in 1977, brought $615,000 to the Foundation; however, funds were also obtained from the Air Force Association, Air Force Sergeants Association, officers and NCO wives clubs, and other service oriented organizations. In 1977, the Eglin Chapter of the Air Force Association sponsored a Bob Hope benefit show which provided over $26,000 for the Foundation.

A survey of Air Force installations indicated that Eglin Air Force Base would be an ideal site for the home. The excellent climate and economic environment were major contributing factors in the site selection. Eglin AFB is an area of 722 square miles or 460,575 acres. These boundaries in several locations are uneven and a recent Executive order survey indicated a need for adjustment of base boundaries.

The selected site is on the perimeter of the reservation and in a locale suitable from the standpoint of its proximity to a hospital, a commissary, and other field facilities. It is not required for any foreseeable Air Force or defense need. The site is adjacent to State highway 85, is elevated and dry and has all county utilities. The tract consists of 79 acres which is considered necessary for current building plans and to accommodate future growth. To obtain a loan for actual construction, it will be essential for the Foundation to have title to the property. The Air Force is holding the land in abeyance pending congressional action.

Present plans call for a 200-unit complex, including efficiencies and 1- and 2-bedroom apartments, a community center, and recreational facilities; a chapel, a library, and an on-premises infirmary and related treatment center.

Action was not completed on the bills Congressman SIKES introduced earlier for this purpose. The Foundation was in the process of development and was unable at that time to provide the necessary proof of occupancy and financing. The picture has now changed. The Foundation has made tremendous progress since purchasing a temporary facility in Fort Walton Beach, Fla., in 1975. This project, which contains 100 units consisting of 84 two-bedroom apartments and 16 one-bedroom apartments, is now fully occupied and there is a waiting list of prospective tenants.

I am hopeful this legislation will be favorable considered at an early date. Action is needed now. The Foundation has proven its ability to successfully operate the temporary facility, and the additional units to be provided by this legislation are needed to accommodate those now waiting for homes. I urge support for this meritorious project.

ADDITIONAL COSPONSORS

S. 1215

At the request of Mr. ABOUREZK, the Senator from Arizona (Mr. GOLDWATER) and the Senator from New Mexico (Mr. DOMENICI) were added as cosponsors of S. 1215, the Tribally Controlled Community College Assistance Act.

S. 1315

At the request of Mr. DECONCINI, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 1315, to amend title 28, United States Code.

S. 1547

At the request of Mr. HOLLINGS, the Senator from Oregon (Mr. PACKWOOD), the Senator from New Mexico (Mr. SCHMITT), and the Senator from Nebraska (Mr. ZORINSKY) were added as cosponsors of S. 1547, the Communications Act Amendments of 1977.

S. 2204

At the request of Mr. GRAVEL, the Senator from New York (Mr. JAVITS) was added as a cosponsor of S. 2204, to amend the Internal Revenue Code.

S. 2233

At the request of Mr. DECONCINI, the Senator from New Mexico (Mr. SCHMITT) was added as a cosponsor of S. 2233, the Copper Environmental Equalization Act of 1977.

S. 2236

At the request of Mr. RIBICOFF, the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Texas (Mr. BENTSEN), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Vermont (Mr. STAFFORD), and the Senator from North Dakota (Mr. YOUNG) were added as cosponsors of S. 2236, the Omnibus Antiterrorism Act of 1977.

SENATE RESOLUTION 302

At the request of Mr. MCINTYRE, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of Senate Resolution 302, expressing the sense of the Senate with respect to a reorganization of the Department of Housing and Urban Development.

S. CON. RES. 51

At the request of Mr. HUMPHREY, the Senator from Florida (Mr. CHILES) was added as a cosponsor of Senate Concurrent Resolution 51, relating to Americans missing in action.

S.J. RES. 70

At the request of Mr. RANDOLPH, the Senator from Idaho (Mr. CHURCH) was added as a cosponsor of Senate Joint Resolution 70, the National Architectural Barrier Awareness Week.

AMENDMENT NO. 1550

At the request of Mr. JAVITS, the Senator from New Jersey (Mr. WILLIAMS) and the Senator from Rhode Island (Mr. CHAFEE) were added as cosponsors of amendment No. 1550 to be proposed to H.R. 5322, to provide duty-free treatment of istle.

SENATE RESOLUTION 315—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

(Referred to the Committee on the Budget.)

Mr. LONG (from the Committee on Finance) submitted the following resolution, which was referred to the Committee on the Budget:

S. RES. 315

Resolved, That (a) pursuant to section 303(c) of the Congressional Budget Act of 1974, the provisions of section 303(a) of such Act are waived with respect to the consideration of H.R. 5322, an Act to provide duty-free treatment for istle and with respect to the consideration of an amendment incorporating the text of H.R. 5322, as reported, if such amendment is offered on behalf of the Committee on Finance to H.R. 9346, an Act to amend the Social Security Act and the Internal Revenue Code of 1954 to strengthen the financing of the social security system, to reduce the effect of wage and price fluctuation on the system's benefit structure, to provide for the conduct of studies with respect to coverage under the system for Federal employees and for employees of State and local governments, to increase the earnings limitation, to eliminate certain gender-based distinctions and provide for a study of proposals to eliminate dependency and sex discrimination from the social security program, and for other purposes; and

(b) That waiver of such section 303(a) is necessary in order to enable the Senate promptly to consider changes in social security financing which are provided for in H.R. 5322, as reported by the Committee on Finance, which are urgently needed in order to assure that the program is adequately funded, and which first become effective in fiscal year 1979; and further

(c) That the provisions of section 303(a) of the Congressional Budget Act of 1974 are also waived with respect to the consideration of two amendments to either H.R. 5322 or H.R. 9346 offered by Senator Curtis to modify provisions related to the rates of tax imposed under chapters 2 and 21 of the Internal Revenue Code of 1954, to the amount of earnings subject to such taxes, and to the amount of earnings creditable in determining benefits under title II of the Social Security Act.

SENATE RESOLUTION 316—SUBMISSION OF A RESOLUTION TO THE CONSIDERATION OF H.R. 9346

(Referred to the Committee on the Budget.)

Mr. CHURCH (for himself and Mr. DOMENICI) submitted the following resolution:

S. RES. 316

Resolved, That the provisions of section 303(a) of the Congressional Budget Act of 1974 are waived with respect to consideration of an amendment relating to cost-of-living increases under social security intended to be proposed by Mr. Church (for

himself and other Senators), to either H.R. 5322 or H.R. 9346, or both. Such waiver is necessary in order to enable the Senate to consider changes in the provisions of the Social Security Act relating to cost-of-living increases in old age and survivors' insurance benefits.

AMENDMENTS SUBMITTED FOR PRINTING

SOCIAL SECURITY AMENDMENTS—H.R. 9346

AMENDMENT NO. 1580

(Ordered to be printed and to lie on the table.)

Mr. McINTYRE (for himself and Mr. DURKIN) submitted an amendment intended to be proposed by them to the bill (H.R. 9346) to amend the Social Security Act and the Internal Revenue Code of 1954 to strengthen the financing of the social security system, to reduce the effect of wage and price fluctuation on the system's benefit structure, to provide for the conduct of studies with respect to coverage under the system for Federal employees and for employees of State and local governments, to increase the earnings limitation, to eliminate certain gender-based distinctions and provide for a study of proposals to eliminate dependency and sex discrimination from the social security program, and for other purposes.

AMENDMENT NO. 1581

(Ordered to be printed and to lie on the table.)

Mr. GOLDWATER (for himself, Mr. HATFIELD, Mr. STONE, Mr. BAYH, Mr. DOLE, Mr. STEVENS, Mr. DECONCINI, Mr. THURMOND, Mr. LAXALT, and Mr. HELMS) submitted an amendment intended to be proposed by them to the bill (H.R. 9346), supra.

POLICIES ON NONPROLIFERATION—S. 897

AMENDMENTS NOS. 1581 THROUGH 1612

(Ordered to be printed and to lie on the table.)

Mr. McCLURE. Mr. President, today I am introducing a series of 31 amendments to S. 897, the Nuclear Non-Proliferation Act of 1977. These amendments are the final product of a difficult process of review, analysis, and negotiations surrounding this bill in the past month. On October 3, I filed an additional view to the joint report of the Committee's on Governmental Affairs, Energy and Natural Resources, and Foreign Relations on this bill. In that view I expressed grave concerns that this bill as reported could lead effectively to a moratorium on U.S. nuclear exports and thus be completely counterproductive for our nonproliferation policies. I also stated my belief that the procedures and criteria of the bill, at a minimum, would render the United States a wholly unreliable supplier of nuclear fuels and equipment, with resulting lack of predictability driving potential trading partners to other supplier nations. At the end of that view I stated that I would place a detailed analysis and criticism of the export licensing provisions of the bill in the CONGRESSIONAL RECORD as floor consideration of the bill approached.

Last Wednesday, October 26, I placed in the RECORD the promised, detailed analyis which was prepared at my request by the minority staff of the Energy and Natural Resources Committee. The analysis appears at page 35219 of the October 26 CONGRESSIONAL RECORD and is accompanied by my conclusions based on the analysis that the bill requires significant amendment to avoid the predicted results of a possible moratorium, unreliability of the United States as a nuclear export and, potentially, an eventual increase in proliferation.

Since the completion of that analysis, I have been involved in detailed discussions with Senator PERCY and Senator GLENN, two of the principal sponsors of this legislation, regarding remedies to the problems raised in the legal analysis. These discussions were precipitated by my extreme reluctance to attempt to resolve the many problems by amendment on the Senate floor in the very limited time available as we approached the end of this session. Fortunately, both Senator PERCY and Senator GLENN were sympathetic with my reluctance and agreed to seek remedies in uncontested amendments. The following amendments are the result of that process, which involved almost 8 hours of meetings of myself with the other Senators and untold additional hours of meetings of our respective staffs. I want to thank Senator PERCY and Senator GLENN and their staffs sincerely for their participation in that endeavor. It is because of their diligent effort that we now can proceed to complete Senate action on the bill before the recess.

I have received assurances that Senator PERCY and Senator GLENN will accept these amendments as floor managers for the bill—I believe that both Senators would agree with me that the individual amendments each are an improvement in the bill, and provide a measurable increase in the reliability of the United States. In the aggregate, the amendments to constitute a significant perfection of the export licensing process in the bill, thus achieving the goal of increased reliability and support for our overall nonproliferation policy.

It is important to recognize that many of these amendments are the product of toughly negotiated compromise between myself and Senator PERCY and Senator GLENN, and, therefore, do not necessarily represent my own personal position in every case. In many of the amendments, I would have gone much farther in effecting an affirmative remedy to problems raised in the legal analysis. However, I do believe that these amendments will have the effect regardless of my own position or the other Senators' positions on the specific language, of placing those issues represented by the amendments into the conference of this bill. I would hope that the conference committee will seriously and conscienciously give consideration to these issues in seeking to assure that our export licensing procedures will provide reliability for U.S. exports.

I urge the support of each committee which has considered this bill during the past year and the full Senate for these amendments to insure that the ultimate product of congressional consideration will be a fully responsible piece of nuclear nonproliferation and nuclear export licensing legislation. Thank you Mr. President.

I ask unanimous consent that the amendments be printed in the RECORD.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1582

On page 104, line 15, amend subsection 4(a)(5) to read:

" 'physical security measures' means measures to reasonably ensure that source or special nuclear material will only be used for authorized purposes and to prevent theft and sabotage;".

AMENDMENT NO. 1583

On page 106, line 19, through 109, line 14, strike section 104 and insert in lieu thereof new section 104, as follows:

"SEC. 104 (a) Consistent with section 105 of this Act. the President shall institute prompt discussions with other nations and groups of nations, including both supplier and recipient nations, to develop international approaches for meeting future worldwide nuclear fuel needs. In particular, the President is authorized and urged to seek to negotiate as soon as practicable with nations possessing nuclear fuel production facilities or source material and such other nations and groups of nations as may be deemed appropriate, with a view toward the timely establishment of binding international undertakings providing for:

(1) the establishment of an international nuclear fuel authority (INFA) with responsibility for providing agreed upon fuel services and allocating agreed upon quantities of fuel resources to ensure fuel supply on reasonable terms in accordance with agreements between INFA and supplier and recipient nations;

(2) a set of conditions as called for in subsection (d) under which international fuel assurances under INFA auspices will be provided to recipient nations, including conditions which will ensure that the transferred materials will not be used for nuclear explosive devices;

(3) devising, consistent with the policies set forth in section 403 of this Act, feasible and environmentally sound approaches for the siting, development, and management under effective international auspices and inspection of facilities for the provision of nuclear fuel services, including the storage of special nuclear material;

(4) the establishment of repositories for the storage of spent nuclear reactor fuel under effective international auspices and inspection;

(5) appropriate financial arrangements regarding transactions carried out under INFA;

(6) the establishment of arrangements under which nations placing spent fuel in such repositories would receive appropriate compensation for the energy content of such spent fuel if recovery of such energy content is deemed necessary or desirable; and

(7) sanctions for violations of the provisions of or for abrogation of such binding international undertakings.

(b) The President shall submit to Congress not later than six months after the date of enactment of this Act proposals for initial fuel assurances, including creation of an interim stockpile of uranium enriched to less than 20 per cent in the uranium isotope 235 ("low-enriched uranium") to be available for transfer pursuant to a sales

arrangement to nations which adhere to strict policies designed to prevent proliferation when and if necessary to ensure continuity of nuclear fuel supply to such nations. Such submission shall include proposals for the transfer of low-enriched uranium up to an amount sufficient to produce 100,000 MWe years of power from light water nuclear reactors, and shall also include proposals for seeking contributions from other supplier nations to such an interim stockpile pending the establishment of INFA.

(c) The President shall, in the report required by section 103, also address the desirability of and options for foreign participation, including investment, in new United States uranium enrichment facilities. This report shall also address the arrangements that would be required to implement such participation and the commitments that would be required as a condition of such participation. This report shall be accompanied by any proposed legislation to implement these arrangements.

(d) The fuel assurances provided by this section shall be exclusively for the benefit of nations that adhere to strict policies designed to prevent proliferation. In negotiating the binding international undertakings called for in this section, the President shall, in particular, seek to ensure that the benefits of such undertakings are available to non-nuclear-weapon states only if such states accept IAEA safeguards on all their peaceful nuclear activities, do not manufacture or otherwise acquire any nuclear explosive device, do not establish any new enrichment or reprocessing facilities on a national basis, and place any such existing facilities under effective international auspices and inspection.

(e) The report required by section 601 shall include information on the progress made in any negotiations pursuant to this section.

(f)(1) The President may not enter into any binding international undertaking negotiated pursuant to subsection (a) which is not a treaty until such time as such proposed undertaking has been submitted to the Congress and has been approved by concurrent resolution.

(2) The proposals submitted to Congress pursuant to subsection (b) for the transfer of low-enriched uranium up to an amount sufficient to produce 100,000 MWe years of power from light water nuclear reactors shall lie before the Congress for a period of sixty days of continuous session (as defined in subsection 130g.) and shall be referred to the appropriate committees of the Senate and the House of Representatives, but such proposals shall not go into effect if during such sixty-day period the Congress adopts a concurrent resolution stating in substance that it does not favor the proposals. Such proposals shall be considered pursuant to the procedures set forth in section 130 of this Act for the consideration of Presidential submissions.

AMENDMENT No. 1584

On page 110, line 5, after "committed" insert, "to continued strong support for the principles of the Treaty on the Non-Proliferation of Nuclear Weapons,"

AMENDMENT No. 1585

On page 112, line 1, through line 16, strike section 203.

AMENDMENT No. 1586

On page 114, line 20, strike "TECHNOLOGY TRANSFERS".

AMENDMENT No. 1587

On page 114, line 13, insert "a" immediately after "Sec. 111.";

On page 114, line 19, delete "person.".", and insert in lieu thereof the following: "person: *Provided*, That nothing in this section shall require that licensing of the distribution of byproduct material by the Department of Energy under section 82 of this Act."

On page 114, between lines 19 and 20, add a new subparagraph (b) as follows:

"(b) The Department of Energy shall not distribute any special nuclear material, source material, or byproduct material under section 54, 64 or 82 of the 1954 Act other than under an export license issued by the Nuclear Regulatory Commission until (1) the Department has obtained the concurrence of the Department of State and has consulted with the Arms Control and Disarmament Agency, the Nuclear Regulatory Commission, and the Department of Defense under mutually agreed procedures which shall be established within not more than ninety days after the date of enactment of this provision and (2) the Department finds based on a reasonable judgment of the assurance provided and the information available to the U.S. Government, that the criteria in subsection 127 a. or their equivalent and any applicable criteria in subsection 128 are met, and that the proposed distribution would not be inimical to the common defense and security."

AMENDMENT No. 1588

On page 115, line 2, after the comma, insert "including a specific authorization in a subsequent arrangement under section 303,".

AMENDMENT No. 1589

On page 115, line 12, after the period insert. "Such procedures shall include at a minimum the procedural details including time limitations comparable to those of Executive Order 11902, February 2, 1976. The processing of any subsequent arrangement proposed and filed as of October 3, 1977 shall not be delayed pending the development and establishment of procedures to implement the requirements of this section."

AMENDMENT No. 1590

On page 115, line 15, strike the first period and insert in lieu thereof, ": *Provided further*, that the export of component parts as defined in subsection 11v.(2) or 11cc.(2) shall be governed by sections 109 and 126 of this Act."

AMENDMENT No. 1591

On page 115, line 17, insert the following immediately after "Sec. 303." and make confirming changes wherever necessary in section 303:

"Chapter 11 of the 1954 Act, as amended by sections 304, 305, 306, 307, and 308, is further amended by adding at the end thereof the following:

"SEC. 131. SUBSEQUENT ARRANGEMENTS.—"

On page 116, beginning on line 24, delete "shall include—" and insert in lieu thereof "means arrangement entered into by any agency or department of the United States Government with respect to cooperation with any nation or group of nations (but not purely private or domestic arrangements) involving—"

On page 117, line 1, delete "United States Government".

On page 117, line 9, insert the following immediately after "Act" "which is not subject to the procedures set forth in Section 111(b), Section 126, or Section 109(b)".

On page 164, line 13, insert the following immediately after "act": "or arrangements pursuant thereto".

AMENDMENT No. 1592

On page 115, line 23, after "Director" insert ", Commission".

On page 116, line 6 and 7, strike "After consultation with the Commission, notice" and insert in lieu thereof "Notice".

AMENDMENT No. 1593

On page 118, line 7, after the period, insert the following new subsection,

"(4) All other statutory requirements under other sections of this Act for the approval or conduct of any arrangement subject to this subsection shall continue to apply and any other such requirements for prior approval or conditions for entering such arrangements shall also be satisfied before the arrangement takes effect pursuant to subsection (a)(1)."

AMENDMENT No. 1594

On page 120, line 6, after the period, insert the following new subsection (c),

"(c) The Secretary of Energy within not more than ninety days after the enactment of this section shall establish orderly and expeditious procedures which are mutually agreeable to the Secretary of State, the Secretary of Defense, the Director of the Arms Control and Disarmament Agency, and the Nuclear Regulatory Commission for making the determinations and notifications required by this section. Such procedures shall include at a mimimum procedural details, including time limitations comparable to those of Executive Order 11902, February 2, 1976. Further, such procedures shall specify that the Director must declare within five days of the receipt of a copy of a proposed subsequent arrangement whether he intends to prepare a Nuclear Proliferation Assessment Statement, and if he intends to prepare such Statement an additional thirty days to do so, unless pursuant to the Director's request, the President formally waives the thirty day requirement and notifies the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate of such waiver and the justifications therefor."

AMENDMENT No. 1595

On page 116, line 7, strike "such".

On page 116, at the end of line 13, add the following:

"The determinations made under this section shall not be subject to subchapter II of chapter 5 of title 5 of the United States Code. Determinations made under this section by the Secretary of Energy shall be subject to judicial review in accordance with chapter 7 of title 5 of the United States Code: Provided that all such determinations by the Secretary of Energy shall be final unless determined upon judicial review to be unlawful by the reviewing court pursuant to 5 U.S.C. 706(2) (A) through (D).

[NOTE: There remains disagreement over the application of Sec. 706(2) (C) and (D), with Sen. McClure favoring not applying (C) and (D).]

AMENDMENT No. 1596

On page 120, line 13, insert the following immediately after "special nuclear material,": "including distributions of any material by the Department of Energy under section 54, 64, or 82, for which a license is required or requested, and"

On page 120, beginning on line 15, delete "and" and all that follows through "Energy," on line 19.

On page 120, line 22, delete "export, exemption, or distribution" and insert in lieu thereof "export or exemption".

On page 121, line 8, delete "license," and insert in lieu thereof "license or".

On page 121, delete line 9 and insert in lieu thereof "exemption will".

On page 121, line 16, delete "license," and insert in lieu thereof "license or".

On page 121, delete line 17 and insert in lieu thereof "the exemption would".

On page 121, line 25, delete "or distribution".

On page 124, delete line 1 and delete "and" in line 2.

AMENDMENT No. 1597

On page 121, line 2, after the period insert, "The Secretary of State within ninety days after the enactment of this section shall establish orderly and expeditious procedures for the preparation of the executive branch judgment which are mutually agreeable to the Secretary of Energy, the Secretary of Defense, and the Director of the Arms Control and Disarmament Agency. Such procedures shall include at a minimum procedural details, including time limitations comparable to those of Executive Order 11902, February 2, 1976.

AMENDMENT No. 1598

On page 122, line 9, and on page 140, line 8, strike "the evidence" and insert in lieu thereof, "other information available to the Federal Government, including the Commission".

AMENDMENT No. 1599

On page 123, line 23, strike the period and insert in lieu thereof, ": *and Additionally Provided*, that the Commission is authorized to (1) make a single finding under this subsection for more than a single application or request, where the applications or requests involve exports to the same country, in the same general timeframe, of similar significance for nuclear explosive purposes and under reasonably similar circumstance and (2) make a finding under this subsection that there is no material changed circumstances associated with a new application or request from those existing at the time of the last application or request for an export to the same country, where the prior application or request was approved by the Commission using all applicable procedures of this section, and such finding of no material changed circumstance shall be deemed to satisfy the requirement of this paragraph for finding of the Commission. The decision not to make any such finding in lieu of the findings which would otherwise be required to be made under this paragraph shall not be subject to judicial review."

AMENDMENT No. 1600

On page 124, line 3, strike, "that the application or request therefor is acceptable, and".

AMENDMENT No. 1601

On page 125, line 10, strike the period, and insert in lieu thereof, "; *and Provided further*, That the procedures established pursuant to this section shall provide that the Commission shall immediately initiate review of any application for a license under this section and to the maximum extent feasible shall expeditiously process the application concurrently with the Executive Branch review, while awaiting the final executive branch judgment. In initiating its review, the Commission may identify a set of concerns and requests for information associated with the projected issuance of such license and shall transmit such concerns and requests to the executive branch which shall address such concerns in its written communications with the Commission. Such procedures also shall provide that if the Commission has not completed action on the application within sixty days after receipt of an executive branch judgment that the proposed export or exemption is not inimical to the common defense and security or that any export in the category to which the proposed export belongs would not be inimical to the common defense and security because it lacks significance for nuclear explosive purposes and, if action has not been completed by the end of the sixty days, the Commission must formally provide the applicant with an explanation of the need for further time, including a description of any remaining issues to be considered. If the Commission has not completed action by the end of an additional sixty days (a total of one hundred and twenty days from receipt of the executive branch judgment), the President may, upon a finding that further delay would be excessive and upon making the findings which would otherwise have been required of the Commission or, if he is unable to make those findings, upon a finding that withholding the proposed export would be seriously prejudicial to the achievement of the United States non-proliferation objectives or would otherwise jeopardize the common defense and security, he may declare by Executive Order that such application is approved, subject to the Congressional review procedures set forth in the immediately preceding proviso."

AMENDMENT No. 1602

On page 126, insert the following immediately after "Commission" on line 15: "; *Provided further*, That until the regulations required by this subsection have been promulgated, the Commission shall implement the provisions of this Act under temporary procedures established by the Commission."

AMENDMENT No 1603

On page 126, after line 21, insert a new subsection to read as follows:

"(d) Within sixty days of the date of enactment of this Act, the Secretary of State shall, in consultation with the Secretary of Energy, the Director and the Commission, promulgate guidelines for adequate physical security measures to be applied to facilities and material referred to in paragraph (a)(3) of section 127 of the 1954 Act. Such guidelines shall be no less stringent than any guidelines contained in or promulgated pursuant to any international agreement, including an agreement for cooperation, to which the United States is a party."

On page 127, after line 26, add a new sentence to read as follows: "Following the effective date of guidelines promulgated pursuant to section 304(d) of the Nuclear Nonproliferation Act of 1977, physical security measures shall be deemed adequate if such measures are in compliance with such guidelines."

AMENDMENT No. 1604

On page 139, line 23, strike "The" and substitute in lieu thereof "Subject to the provisions of subsection c. of this section, the".

On page 140, line 20, insert a new subsection c. to read as follows:

"c. No determination by the Commission that a component part is especially relevant from the standpoint of export control shall be effective until thirty days after the Commission notifies the Secretary of Energy of such determination. If, prior to the expiration of such thirty days, the Secretary of Energy finds that the Commission's determination should be amended in whole or in part, he shall so notify the Commission and the President, and the determination of the Commission shall not take effect for a period of 15 days thereafter (plus any period for congressional review provided by this subsection). During such 15 day period, the President shall review the Commission's determination and the Secretary's finding, and may amend the Commission's determination in whole or in part: Provided, that any such Presidential amendment shall be submitted to the Congress for a period of sixty days of continuous session (as defined in subsection 130(g) of this Act), and shall be referred to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate. If during such sixty day period the Congress adopts a concurrent resolution stating in substance that the Congress does not favor the amendment of the President, the Commission's determination shall take effect immediately. If no such concurrent resolution is adopted during such sixty-day period, by the Congress, the amendment of the President shall take effect at the expiration of such period. Any such amendment of the President shall be considered pursuant to the procedures set forth in section 130 of this Act for the consideration of Presidential submissions."

On page 140, line 21, redesignate subsection c. as subsection d.

AMENDMENT No. 1605

On page 140, line 20, after the period, insert, ": *Provided*, That a specific license shall not be required for an export pursuant to this section if the component, item or substance is covered by a facility license issued pursuant to section 126 of this Act".

AMENDMENT No. 1606

On page 141, line 23, insert the following, "(d) the amendments to section 109 of the 1954 Act made by this section shall not affect the approval of exports contracted for prior to November 1, 1977 which are made within one year of the date of enactment of such amendments."

AMENDMENT No. 1607

On page 150, line 13, insert the following new subsection,

"f. If after the date of enactment of the Nuclear Nonproliferation Act of 1977, the Congress fails to disapprove a proposed agreement for cooperation which exempts the recipient nation from the requirement set forth in subsection 123(a)(2), such failure to act shall constitute a failure to adopt a resolution of disapproval pursuant to subsection 128 b.(3) for purposes of the Commission's consideration of applications and requests under section 126(a)(2) and there shall be no Congressional review of any subsequent license or authorization with respect to that state until the first such license or authorization which is issued after twelve months from the elapse of the sixty-day period in which the agreement for cooperation in question is reviewed by the Congress."

AMENDMENT No. 1608

On page 154, insert the following between lines 13 and 14:

"(d) nothing in this section shall be interpreted to require international control or supervision of any U.S. military activities."

AMENDMENT No. 1609

On page 156, line 19, after the comma, insert, "and to cooperate with other nations in protecting the international environment from radioactive, chemical, or thermal contamination arising from nuclear activities."

AMENDMENT No. 1610

On page 164, line 14, after the period, insert

"(c) Except where otherwise provided, the provisions of this Act shall take effect immediately upon enactment regardless of any requirement for the promulgation of regulations to implement such provisions."

AMENDMENT No. 1611

On page 117, line 20, after "to" insert "all" and on Page 118, line 2, after "material" insert, ", and additionally, to the maximum extent feasible, will attempt to expedite such consideration."

AMENDMENT No. 1612

On page 102, line 23, through page 103, line 2, strike subsection 2.(e).

NOTICES OF HEARINGS

SUBCOMMITTEE ON SEPARATION OF POWERS

Mr. ALLEN. Mr. President, I wish to announce that the Subcommittee on Separation of Powers of the Committee on the Judiciary, on Tuesday, November 15, 1977, will hold hearings to receive the testimony of Richard N. Cooper, Under Secretary of State for Economic Affairs, on certain Executive agreements associated with the proposed Panama Canal treaties, at 10 a.m., in room 1114, Dirksen Senate Office Building.

ADDITIONAL STATEMENTS

OPPOSITION TO SENATE CONCURRENT RESOLUTION 59 CONCERNING MEXICAN NATURAL GAS PIPELINE FUNDING

Mr. BENTSEN. Mr. President, on October 19 Senator STEVENSON, the chairman of the Subcommittee on International Finance, introduced Senate Concurrent Resolution 59 to deny Export Import Bank Financing for an important Mexican natural gas pipeline unless Mexico agreed to lower the price of gas it is willing to sell to this country.

The introduction of Senate Concurrent Resolution 59 was duly noted in Mexico, and shortly thereafter the Mexicans broke off negotiations with U.S. companies on the supply of natural gas.

This apparent cause and effect relationship is eloquent testimony to the influence of the senior Senator from Illinois and to the ramifications of any action taken on the floor of the Senate.

Mr. President, I think we can all agree that it would be nice to have abundant supplies of cheap natural gas in this country. We would all like to see the price of imported oil reduced. We would like to decrease our dependence on imported sources of energy.

For the past two decades we have regulated the price of interstate natural gas in an effort to hold down prices; we succeeded only in creating curtailments and inhibiting production. Now we have a proposal that seeks to regulate the price of Mexican natural gas through economic coercion. We are saying to a friendly government with which we share an 1,800 mile border: "Sell us your gas at a price we determine to be reasonable, or we will not provide financing to help you build the pipeline."

At the same time we will continue to purchase liquified natural gas from Algeria and sell it at prices that range between $3.50 and $4.50 per Mcf and bring our own gas from Alaska at a cost approximating $3.

One does not have to be a scholar of Mexican affairs to appreciate that the government and people of Mexico are sensitive, extremely and justifiably sensitive, to even the appearance of meddling or pressure by this country in their affairs. I can say with little fear of contradiction that the Government of Mexico will determine how, where, and at what price its energy resources will be marketed.

Nor does one have to be an energy expert to understand that this Nation's requirements for natural gas outstrip our current capacity to produce. We import gas from Mexico. We import gas from Canada. We import liquefied natural gas from Algeria. Still, we have shortages and curtailments.

Mexico has abundant supplies of natural gas which, at least until the introduction of Senator STEVENSON'S resolution, she was prepared to sell to the United States at a price acceptable to U.S. suppliers and the Mexican Government. Mexico has the capacity to produce up to 4 percent of our natural gas consumption by the year 1982—some 2 billion cubic feet per day. As the events of last winter clearly demonstrate, we need that gas.

Mr. President, I make two points. First, Mexico does not have to sell natural gas to the United States. Mexico's internal energy requirements are growing at a rapid rate. They can use their natural gas domestically. They can use it to produce ammonia and petrochemicals, and then they can compete with us for the international market in those products. To the extent that Mexico uses its natural gas domestically, they free up more oil for eventual export. And we have a pretty good idea of what that oil will cost, and ships will carry it to the nation that pays a competitive price.

Second, as long as we are forced to spend scarce resources on imported energy, I would prefer to spend money in Mexico, where there is a demonstrable need for capital, rather than in the Middle East where the requirement is less apparent.

We are destined to share this continent with Mexico, a nation that in 60 years could be more populous than the United States. The futures of Mexico and the United States of America are irrevocably intertwined. There are few elements of foreign policy as important to this country as a stable, secure, prospering Mexico. And Mexico's energy resources are crucial to that nation's ability to deal with present and future problems.

The United States is a logical customer for Mexican energy, but I doubt very much whether we shall ever be a favored customer. I question whether the Government and people of Mexico are prepared to subsidize American consumers of natural gas. I doubt very much whether the Mexican Government and people will look with favor on any attempt by Congress to force Mexico to sell natural gas to us at prices less than we pay other nations.

Mr. President, I believe we should be looking for innovative, creative, and productive ways in which we can work together with Mexico to assist in her industrial, agricultural, and economic development; avenues of cooperation that are consistent with Mexican sensitivities and requirements.

Instead, with Senate Concurrent Resolution 59, we seem bent on the sort of sterile confrontation that serves the best interests of neither party. Denying Export-Import Bank financing for the Mexican gas pipeline will not result in cheaper gas for the consumers of Illinois. It will simply result in less total gas available for the consumers of this country. It will also establish an unfortunate precedent in United States-Mexican bilateral relations, creating biases that will be difficult to overcome.

The basic fallacy of Senate Concurrent Resolution 59 is the assumption that Mexico can be bludgeoned into reducing the price of a product it does not have to sell, a product that will become an increasingly valuable asset with time. The approximate $2.60 price that was being negotiated with Mexico was based on the price of No. 2 fuel oil delivered in New York. It is a well-known fact that this price would have to be approved by the Federal Energy Regulatory Commission in any case.

By adding the requirement for a congressional determination that the price is fair and reasonable, and by using the threat of withholding financing to enforce that condition, Senate Concurrent Resolution 59 will jeopardize the future of a very important relationship and establish a precedent for the sort of economic coercion Mexico has traditionally resented and rejected.

POSTAL WORKERS OF OWENSBORO, KY.

Mr. FORD. Mr. President, every year the postmen of my hometown of Owensboro rally to assist the annual fundraising drive for the Wendell Foster Center, a nonprofit residential community for the cerebral palsied. For many years now, the postmen have played a vital part in helping the center meet its financial obligations and this year alone the postmen collected more than $31,000 for the home.

I am extremely proud of the civic spirit demonstrated by the postmen of my community, under the leadership of Postman Norman Tucker and Postmaster William Pence. Our community is much the better because of it, and I ask unanimous consent that this letter from the chairman of the center's board of directors, Ann Murphy Kincheloe, to Postmaster General Bailar describing our postmen's dedicated efforts in behalf of a worthy cause be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WENDELL FOSTER CENTER,
Owensboro, Ky., October 24, 1977.

Hon. BENJAMIN F. BAILAR,
Postmaster General, L'Enfant Plaza West, S.W., Washington, D.C.

DEAR MR. BAILAR: The Board of Directors of the Wendell Foster Center, Owensboro, Kentucky, call to your attention the unique contribution our postmen make to a unique facility.

The Wendell Foster Center is a non-profit residential community for the cerebral palsied. The history of the Center, founded by Wendell and Edith Foster is outlined in the attached pages from our personnel brochure. To our knowledge, the Foster Center is one of only two such facilities in the United States.

Over the 30 years of its existence, the Foster Center has been supported by donations from our friends, minimal monthly tuition, and from our annual "Spastics Week" fund drive in September.

Since 1958, the "Postman's Walk" has been a vital part of our fund drive. Our Owensboro postmen spend two nights during "Spastics Week" retracing their routes—rain or shine—collecting donations for the Foster Center. Without the thousands of dollars they have collected for us annually, the Center would have ceased to operate years ago.

Our Owensboro postmen collected $31,183.45 this year to ensure once again we can continue to care for our special people, many of whom have known no other home.

Postman Norman Tucker has spearheaded the Postman's Walk for many years. The Board of Directors of the Wendell Foster Center urge you as Postmaster General of the United States to give special recognition to Mr. Tucker, the Owensboro postmen and Postmaster William Pence, for their unselfish efforts over the years.

The Wendell Foster Center is often referred to as the "character and conscience" of the Owensboro community. Our Owensboro postmen certainly reflect this.

The image of the postman in Owensboro stands very tall indeed.

Sincerely,

ANN MURPHY KINCHLOE
Mrs. James Kinchloe,
Chairman, Board of Directors.

NEW GOLD CLAUSE FREEDOM—PRESS ENTHUSIASM

Mr. DOMENICI. Mr. President, on Friday, October 28, the President signed H.R. 5675, a bill which included the text of S. 79, a bill I cosponsored with Senator JESSE HELMS and others.

S. 79 states simply that the joint resolution of June 5, 1933 which forbade gold ownership and gold clause contracts, shall not apply to obligations entered into after the date of enactment. Congress allowed gold ownership back in 1974, and now Americans can enter into enforceable contracts calling for payment in gold or dollars measured in gold.

Because of the 1937 Supreme Court decision, Holyoke Water Power Co. against American Writing Paper and the 1938 case, Guaranty Trust against Henwood, the 1933 gold clause prohibition was extended to contracts calling for payment in a foreign currency. This limit on contract freedom is now also void.

The interest in the new freedoms Americans now have is great, and there have been several articles written on this topic. Three of them which I have seen give well-deserved credit to my good friend, Senator JESSE HELMS, the chief Senate sponsor of S. 79, and the Senator who offered to H.R. 5675, the amendment containing the gold clause freedom bill.

I know also, that the Institute on Money and Inflation provided great assistance to him and the others who favored this important bill. The Institute supplied the research and back-up analyses that made the bill's proponents able to convince their colleagues of the merits of this legislation.

Mr. President, I ask unanimous consent that articles from the New York Times, the Washington Post and Business Week Magazine be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

THE U.S. GOLD-CLAUSE LEGISLATION

(By Clyde H. Farnsworth)

WASHINGTON.—If President Carter goes along, and it is expected that he will, Americans will soon be permitted for the first time since 1933 to write contracts in which payments are linked to the value of gold.

Though the Treasury does not agree, some specialists in the gold market are convinced this move will bring a new respectability to the metal by making it into a hedge against future declines in the dollar's value from inflation. Gold prices have risen sharply in the commodity markets as a result.

Gold-clause legislation originally proposed by Senator Jesse A. Helms, a North Carolina Republican, passed the House of Representatives last week after clearing the Senate in identical form earlier this year.

The President will probably sign the bill because the Treasury had supported it, arguing that this was just another step toward removing the mystique of gold by treating it as any other commodity that people can buy and sell or use as they will.

The bill is depicted as a logical extension of the right to own gold, which Americans were permitted to do on Jan. 1, 1975, after years of heated debate.

A gold clause in future long-term business pacts, such as bond issues, lending agreements or rental contracts, "would not have undesirable monetary effects," a Treasury position paper asserted.

There are others, however, who sense that the implications of this latest effort in the demythification of gold will be much broader.

Charles Stahl, editor of Green's Commodity Market Comments, asserted, for example, that the new legislation would restore the gold standard to private contracts. And Conrad Leslie, the Chicago commodity market analyst, asserted that the legislation represented "a sleeping giant that has come to the front so rapidly no one can fully understand the implications."

"In my mind," Senator Helms added, "use of gold-clause contracts will be a clear warning that people are tired of irresponsible Government monetary and fiscal policies. If gold clauses begin to be widely used, it will be time for Government to restore integrity to the dollar."

An illustration of the way the gold clause would work occurs in one ship-leasing contract already worked out by a charter company to become effective once the President signs the bill.

Should the dollar's value against gold fall by, say, 20 percent when the lease is renewed in three years, the dollar payments under the contract would increase by the 20 percent. The payments are assessed on the basis of the London market price for gold.

Fifteen years ago the French Government sold a bond, called the Rente Pinay (after French Finance Minister Antoine Pinay) pegged to the price of gold. The interest rate was very low, but the gold price has risen so much in the intervening period that the Government is losing a good deal more than it raised. As a result, only one French gold-pegged bond issue has been sold.

Lawyers for American utilities, meanwhile, suggest that their enterprises might soon offer gold-backed bonds, which they think would be salable at several percentage points below current bond-rate levels.

Gold prices are today around five times what they were before the decision was taken in the late 1960's to permit the gold market to fluctuate freely.

Prior to that time, the gold price had been pegged by governments at $35 an ounce.

Though some European powers, notably France, Belgium and Switzerland, believe almost theologically that the gold price eventually should be pegged again and currencies tied to gold's new value, American market analysts think this is unlikely.

Zurich bankers and other European analysts, such as Jacques Rueff, a former French Finance Minister, assert that widespread use of gold in private contracts will hasten the return of a monetary gold standard—especially if oil countries demand a gold clause in their contracts with industrial countries.

For months the oil countries have been discussing formulas for protecting their petrodollar earnings against inflation. They have been considering for instance, demanding payment in special drawing rights, a monetary unit that represents a basket of leading currencies.

But more recent reports from Europe have suggested that oil-producing states, following the latest depreciation of the dollar against some European currencies, are showing increasing interest in gold, even though there is no certainty gold will hold its value.

The International Monetary Fund has a four-year project under way to sell 25 million ounces of gold to raise money for a trust fund for poor countries. Only about a quarter of this gold has already been disposed of. Other potential sales hang over the market. When Americans were given the right to own gold, the Treasury announced that from time to time it would sell American monetary gold. It has so far held only two gold auctions, both in 1975.

One sale came in January as gold was near its peak of almost $200 an ounce. The second in June was at $165 an ounce.

Other central banks have also been sellers of gold. Green's Commodity Market Comments reported that 200 tons of monetary gold were sold in 1976, apart from sales by the Soviet Union and China. Austria, Canada and South Africa are among Western countries listed as sellers, in addition to the I.M.F.

The possibility that gold can go down as well as up was brought home in the 20 months following the opening up of the market to Americans. Prices fell in this period from nearly $200 to $103 an ounce.

So long as there is a downside risk, American analysts believe there will be little inclination of oil countries to demand a gold clause. There is a possibility, however, that, with their large petrodollar earnings, the oil countries could decide to establish a link between gold and paper currencies, creating a dramatic new, monetary situation.

The United States remains strongly opposed to setting any new fixed price for gold because this would not only restore gold's monetary role but also represent a boon to the Soviet Union and South Africa, the world's biggest producers.

TIES GROWING BETWEEN DOLLAR AND GOLD

(By Colleen Sullivan)

Will the U.S. dollar return to the gold standard?

Formally, perhaps not. But some members of the business community are betting on the increasingly strong ties between gold and the dollar in light of an amendment tacked onto the Tax and Loan Account legislation now awaiting President Carter's signature.

The so-called gold clause, originally proposed by Sen. Jesse Helms (R-N.C.) would permit U.S. citizens for the first time since 1933 to write contracts linking the payments to the value of gold.

The gold clause is cited by New York and London metals traders as a major cause of the recent spiral in gold prices to over $160 from a low of $112 in mid-1976. It also has part of shipping and grain companies, who are among the international traders suffering losses on long-term contracts as the dollar plummets against other currencies.

One small New York commodities firm announced this week that it plans to offer its clients and employees the option of being

paid in gold or its dollar equivalent once the legislation is signed into law.

"We're coming back to basics," said Joseph Diliberto, president of Macro International Group Ltd. "We feel that right now the dollar is under a lot of pressure and we expect it to continue. But the rising price of gold is a more stable standard for payment."

Diliberto said he thinks the dollar will ultimately recover to be the strongest world currency, but "not until 1979 or 1980." Until then, he's betting with the gold bugs.

He said the firm will pay client balances and salaries of those employees requesting it the dollar equivalent of the London gold fix following their payment request. The price of gold is fixed twice daily by dealers in that capital.

Treasury officials have supported the legislation on the basis that it will "treat gold like any other commodity." It also is an extension of the legislation permitting Americans to own gold, which was enacted Jan. 1, 1975 after years of debate.

Treasury officials do not agree with many commodity analysts' view that the gold clause comes close to a remonetarizing the dollar to a gold standard.

A metals specialist at a leading New York brokerage said Thursday, "It establishes gold as the standard for contract. In the commercial world, then, gold is the standard for the dollar. To argue otherwise is strictly a semantic debate."

The interest in gold is sweeping into other financial areas as well. Some utilities reportedly are considering offering gold-backed bonds at several percentage points below current bond-rate levels because of the greater stability of the metal over the dollar.

Treasury officials stressed last week that the U.S. remains opposed to a formal restoration of the gold standard or to setting a fixed price for gold because of the advantages it would give to South Africa and the Soviet Union, the world's major producers.

THE U.S. LEGALIZES MULTICURRENCY DEALS

As the U.S. dollar flirted with new lows in the foreign exchange markets this week, foreigners got a strange kind of gift from Washington—a new way to assure they are paid by Americans without having to pick up the exchange-rate risk posed by the plummeting of American currency.

It all came through repeal of an obscure federal law. Back in 1933, when the U.S. went off the gold standard, Congress further locked the door against gold transactions by stating that no contract would be enforceable in U.S. courts if it required payment in gold or a dollar equivalent to gold at a fixed gold price.

In the late 1930s, the Supreme Court added the interpretation that is largely responsible for the law's present importance: The court declared that no contract would be enforceable if it stipulated payment in the dollar equivalent of one or more foreign currencies at a fixed rate of exchange. That ruling outlawed "multiple-currency contracts."

This week a bill repealing the so-called "gold clause" of 1933 was on President Carter's desk. It makes it permissible to index contracts, domestic and international, to gold or other currencies.

Long-term IOUs. A few Americans will do just that. Federal officials report that a condominium operator in Florida has been contemplating the indexing of payments on his units to changes in the dollar value of gold. And in New York, a small commodity trading company, Macro International Group Ltd., has announced a policy of letting employees index their salaries to gold. Unless the U.S. inflation rate really skyrockets, however, most Americans will go on taking payment in unadjusted dollars.

Contracts with foreign parties involving foreign exchange risks may be another story, especially in the securities area. The repeal will probably have the greatest impact on dollar-denominated long-term bond issues where a sweetener is needed to sell to foreigners worried about the dollar.

Multiple currencies. The index used in such long-term IOUs will not tie to gold. Says Washington consultant Edward M. Bernstein: "I would expect the real effect of the legislation not to involve gold but rather the multiple-currency contract. Because of the instability of the gold price, nobody would enter into a contract in which he agrees to pay in gold. Gold is a showpiece, but it is not used."

Multiple-currency contracts have always been legal overseas, and in this decade they have sprouted whenever the dollar was depressed.

One sign of international market concern about the plunging U.S. dollar appeared in London this week when White, Weld & Co. and Crédit Suisse altered the terms of a dollar-denominated bond issue they are floating to give investors the option of taking their payment in Deutschemarks instead of dollars—the first such optional dollar issue in a decade.

So far, no large entity trading in the markets has come forward to propose payment tied to the price of gold. However, the gold-selling Soviet government has made inquiries in Washington about the removal of the gold clause, and there is speculation among gold supporters that, if the dollar keeps going down, oil-producing countries may someday insist on gold-value payments.

A mere commodity? Views on the future of gold are now contradictory. Repeal of the gold clause was sponsored by Senator Jesse Helms (R-N.C.), as an amendment to a pending bill. He believes widespread use of the gold clause might push the U.S. back toward the gold standard. "The gold-clause freedom is a way station between paper-backed money and real money," says Helms.

Repeal was also supported enthusiastically by the Treasury Dept., which thinks gold is already sufficiently demonetized to be treated just like any other commodity. Says Thomas W. Wolfe, former head of the Treasury's Office of Domestic Gold & Silver Operations: "Out of pure lethargy, the gold clause was not repealed in 1974, when Americans were permitted to buy gold. Treasury was relieved when Helms boldly put it on the bill."

Now that multicurrency contracts are legal here, they will be getting another kind of evaluation—and not just by the marketplace. The Securities & Exchange Commission may be forced to ponder the fiduciary responsibilities of U.S. companies proposing to take on the open-ended obligation of making payments in hard foreign currencies. And bank examiners will have to weigh how they will value multicurrency assets and liabilities in U.S. banks.

COMPLIANCE WITH THE HELSINKI ACCORDS

Mr. STONE. Mr. President, the 12 clubs of the Heart of Florida District of Sertoma International have passed a resolution calling for the accordance of basic human rights for Soviet citizens in compliance with the Helsinki agreement.

As a member of the Commission on Security and Cooperation in Europe, which has the responsibility of monitoring the Helsinki Final Act, I have personally urged that human rights be a central issue at the Belgrade conference and, therefore, highly commend the Sertoma International Clubs on their action. I ask unanimous consent that their resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION

Whereas, the USSR, United States, and 31 other signatory nations in 1975 signed the Helsinki Accord resolution;

Whereas, this resolution established certain human rights of the signatory' citizens, be they of diverse religious beliefs, color, or ethnic backgrounds;

Whereas, the USSR has shown a callous disregard of the Human Rights of their Ukrainian citizens, and others; Mykola Rudenko; Oleksiy Tykhy, Mukola Matusevych, Myroslav Marynouch; and others, who were monitoring the USSR's observance of the implementation of these rights;

Whereas, their imprisonment and incarceration, along with other activists, show a complete disrespect and contempt of the agreement signed by their own Secretary General, Leonid Brezhnev;

Be it resolved, that the twelve clubs of the Heart of Florida District of Sertoma International call upon the Secretary General to procure freedom for these and others so falsely imprisoned persons, and restore their Human Rights, all in accord with the Helsinki Accord.

THE NAVY'S CTX DECISION

Mr. GOLDWATER. Mr. President, today I received a letter from the Honorable W. Graham Claytor, Jr., Secretary of the Navy, advising me that the Navy was going to acquire its CTX aircraft without the benefit of open competition.

I am deeply disappointed that the Secretary has elected to proceed with this procurement in this manner, particularly after Senator METZENBAUM and I engaged Senator STENNIS in a colloquy on this matter on July 14, 1977, during consideration of the fiscal year 1978 DOD authorization conference report.

As Senator METZENBAUM and I pointed out to the Secretary of the Navy in our letter of September 30, 1977:

Even the most casual reading of the entire colloquy can only lead one to the conclusion that it was the intent of the conferees that the CTX be procured through competitive procedures.

Mr. President, contrary to this very specific legislative guidance set forth by three Members of this body, and with no other guidance of comparable weight, the Secretary of the Navy has elected to proceed with the CTX procurement in a sole source manner. I am not unaware of the language contained in the House Appropriations Committee report on the fiscal year 1978 DOD military procurement appropriations bill, which directed that the Navy buy the aircraft that is common to the Army and Air Force. However, Mr. President, there is nothing legally binding about committee report language, and I suggest that our colloquy on the floor, which provided a distinct clarification of this matter to the Senate, and the joint Metzenbaum-Goldwater letter to the Secretary of the Navy, should have been more than adequate guidance to the Navy that the CTX should be a competitive procurement.

Mr. President, this would be an entirely different matter if some of my colleagues and I were insisting that the

Navy buy a specific aircraft. But, to the contrary, we are only trying to get the Navy to follow normal competitive procurement procedures which, through the years, have proved to be the cheapest way for the Government to buy its goods and services. However, from the response of the Secretary of the Navy it has become evident to me that Navy is not interested in pursuing the most economical way of procuring its required goods and services. It is by these intended actions indicating to me a serious disregard for how the money of the taxpayers should be treated.

Mr. President, I take this opportunity to inform my colleagues that I shall be watching this future sole source procurement by the Navy as closely as I can. I will insist that the aircraft that Navy acquires as the result of its military interdepartmental purchase request to the Army be exactly like the aircraft now being delivered to the Army and Air Force. The Navy has testified that it would desire to incorporate larger engines into the airframe, enlarge the cargo door, and make other minor avionics and instrumentation modifications. I will strenuously object to any change of this sort and I will vote against any future request for funds for these or similar purposes.

Mr. President, I am now exploring the possibility of asking the General Accounting Office to examine whether or not a procurement of this type falls within the guidelines of the armed services procurement regulation, and whether a procurement of this type is the most economical way to proceed.

Finally, Mr. President, there are those in the Congress who support the Navy and the course of action it now intends to take. They are the ones who are pointing this procurement toward the Beech C–12 aircraft, which is currently being bought by Army and Air Force. I have no doubt that the Beech C–12 is a fine aircraft. I will accept that as a solid fact. But, I do have to ask the question, that if the Beech is the best aircraft, why will its supporters not allow it to compete with others in an open competition? Is there some concern that it would not win?

Now, Mr. President, what additional cost adjustments will be made in the ongoing C–12 purchase by the Army/Air Force when Navy adds an additional 66 aircraft to that purchase? Will there be an adjustment to the overall contract, and will the purchase price of the Navy aircraft be based on its total buy plus those already bought by Army/Air Force or, will Navy not receive any price reduction based on these considerations?

Mr. President, these are just a few of the considerations I have over what I believe to be a most unwise decision. During the next budget cycle, I shall be examining all of the Navy's procurement programs and where they are proceeding in a sole source manner, I shall not hesitate to bring that matter to the attention of the Senate.

CHAIRMAN BURNS' ADDRESS

Mr. TALMADGE. Mr. President, Arthur Burns, Chairman of the Federal Reserve System, addressed the Founder's Day program at Gonzaga University in Spokane on October 26 and made some very though-provoking comments and observations on corporate profits and inflation.

I recommend this address to the attention of my colleagues in the Senate and ask unanimous consent that it be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

THE NEED FOR BETTER PROFITS

(By Arthur F. Burns)

It is a pleasure for me to be here on the campus of Gonzaga University to participate in this celebration of Founder's Day. I am also pleased to be able to join you in honoring a great teacher of economics, Dr. Graue. It is eminently fitting that Dr. Graue's contribution to economic understanding should be noted today not only by festivity but also by serious economic discussion.

In consonance with that, I would like to address a feature of our current economic environment which, as long as it persists, could well prove an insurmountable barrier to the achievement of full employment in our country. I refer to the fact that the profits being earned by American business are at an unsatisfactory level.

It is both striking and disturbing, I believe, that profits get relatively little attention these days from economists. I have the impression that the economics profession has almost forgotten that ours is still predominantly a profit-motivated economy in which, to a very large extent, whatever happens—or doesn't happen—depends on perceived profit opportunities. Certainly, the preoccupation in the Nation's capital tends to be with other matters. The slightest hint, for example, of emerging trouble for the economy will promptly unloose a flood of fiscal and monetary proposals, virtually all predicated on the notion that what is crucial is governmental manipulation of aggregate demand. Seldom does anyone pause to ask what should be a compellingly obvious question—namely, whether lack of confidence in profit opportunities on the part of our profit-oriented businessmen and investors may not be the essential cause of difficulty.

My own judgment is that a deep-rooted concern about prospective profits has in fact become a critical conditioner of economic performance in our country. If I am right in thinking so, actions taken in Washington to enlarge the already huge budget deficit in the interest of more consumer spending are likely to be of little sustained benefit in reducing the level of unemployment. That was a principal reason why I felt no lasting benefit could flow from the $50 rebate that was under consideration early this year.

If poor profitability is adversely affecting economic performance, we should expect business firms to exercise great caution in embarking on capital-investment projects. No businessman is likely to add to his plant or equipment if the promise of a decent return is not present. The current expansion of the over-all economy, while otherwise generally satisfactory, has been marked by notably weaker investment spending than was characteristic of previous recoveries. In the two-and-a-half years of this expansion, real capital outlays have increased only half as much as they did, on average, over like periods in the previous five expansions. The shortfall has been especially marked in the case of major long-lived industrial construction projects, and it has occurred even in industries—such as paper and basic chemicals—in which the rate of utilization of industrial capacity is well advanced.

Unless the willingness of businessmen to invest in new plant and equipment increases decisively, the expansion of economic activity now under way will continue to lack balance. And that, I need hardly add, will make it more uncertain whether the expansion is going to continue at a sufficient pace to bring unemployment down significantly, or—for that matter—whether the expansion itself will long continue.

The weakness of profits in recent years is not the only cause of investment hesitancy, but it is unquestionably a very important cause. To be sure, many people have a contrary impression about the general level or the trend of profits. In fact, the most commonly cited profits figures—the so-called book profits that businesses report to their stockholders—have risen spectacularly in the last few years, and in total are currently running just about double their level a decade ago. But these raw profit figures are misleading and they should never be taken at face value.

In actuality—as the more sophisticated observers of corporate finances know—raw profit numbers have become virtually meaningless as a guide to corporate affairs because of the way in which inflation distorts the calculation of profits. Under historical cost accounting—the method used widely for inventory valuation and universally for capital-asset valuation—the true costs of producing goods in an on-going business are far from fully captured. Rather, they are significantly understated with respect to both the drawdown of materials from inventory and the consumption of capital assets. And when costs are understated on an accounting basis, profits of course are overstated, that is to say, the reported total of profits contains an element of inflationary fluff that in no sense enlarges a firm's ability to pay dividends or add to retained earnings.

The practical consequence of the inflationary fluff on a company's fortunes is decidedly negative, since taxes have to be paid on the "phantom" portion of profits. Quite obviously, this has lessened the ability of corporations to add to their capital investment without borrowing. The tax drain has become very large in recent years because of the enormous understatement of costs. For 1976, for example, the Commerce Department estimates that the replacement cost of inventories used up by nonfinancial corporations exceeded by $14 billion the materials expenses claimed for tax purposes. More striking still is the Department's estimate for last year of the amount by which depreciation charges based on historical cost fell short of the replacement cost of the capital assets consumed. That estimate came to nearly $36 billion, making the combined understatement of costs from these two sources $50 billion in 1976.

The huge understatement of costs that arises because of inflation cannot be ignored by anyone seriously concerned with corporate earnings. Once account is taken of the distortions wrought by inflation—and when an offsetting adjustment is also made to allow for the changes over time in Treasury depreciation rules—we find that the level of corporate profits was overstated in 1976 by about $30 billion, and that this resulted in an overpayment of some 10 to 12 billion dollars in income taxes. True economic profits of corporations are thus very different from reported book profits.

Just how poor the trend of profits has recently been is clearly indicated by the fact that in each year from 1968 through 1975 the after-tax "economic profits" of nonfinancial corporations from domestic operations were, in the aggregate, consistently below the levels reached during 1965–1967. A new high level of these profits was indeed reached during 1976, but even that achievement is decidedly unimpressive when profits are expressed as a rate of return on the amount of equity capital in use. So far in

the inflation-riddled 1970's, the after-tax rate of return on stockholders' equity has averaged only about 3¼ per cent when the tangible assets portion of equity capital is valued, as it should be, on a replacement cost basis. That figure is lower by two percentage points than the average rate of return for the 1950's and 1960's. Despite a sizable recovery from the recent recession, the rate of return on the equity investment in our corporations appears to be running currently at a level not significantly different from the depressed average so far this decade.

Anyone who wonders why capital spending has been so halting or why stock prices have behaved so poorly for so long would be well advised to study this dismal record of what American business has been earning. Historically, there has been an impressively close correlation between the rate of return on stockholders' equity and the rate of real investment. The linkage between the rate of return on equity and the behavior of equity prices is looser, but it still suggests that professional investment managers are no longer being deceived by the inflationary fluff in profit numbers. The stock market, by and large, has not been behaving capriciously; instead it has been telegraphing us a message of fundamental importance.

At any given point in time, investment activity and stock market behavior are conditioned, of course, by much more than current profit readings. What is ultimately decisive in determining the behavior of investors and businessmen is not the rate of return currently earned on past investments but rather expectations about future earnings. Very often current earnings are an excellent proxy for expectations about future earnings; sometimes they are not. My judgment is that businessmen and investors at present have a sense of doubt and concern about the future that is even greater than would be justified by the low level of true economic profits.

One telling piece of evidence that this is so is the pronounced hesitancy of businessmen in going forward with capital-spending projects that involve the acquisition of long-lived assets. The investment recovery that we have experienced so far in this cyclical expansion has been heavily concentrated in relatively short-lived capital goods that promise quick returns—trucks, office equipment, and light machinery, for example. Major investment projects that cannot be expected to provide payback for many years encounter serious delays in getting management's approval. Indeed, the decline of industrial construciton that set in during the recent recession continued through the first quarter of this year—two years after general economic recovery got under way—and has not yet turned around decisively enough to establish a clear trend.

Many businessmen have a deep sense of uncertainty about what the longer future holds and, as a consequence, are discounting expected future earnings more heavily than they ordinarily would in their investment calculations. The special degree of risk that businessmen see overhanging new undertakings means that they often will not proceed with a project unless the prospect exists for a higher-than-normal rate of return. This is not only skewing investment toward short-lived assets; it is also fostering an interest in mergers and acquisitions—something that does not require waiting out new construction undertakings. There has been a noticeable pickup in merger activity recently, but such activity generates neither additional jobs nor additional capacity for our Nation's economy.

The reasons why businessmen appear to be assigning special risk premiums to major investment undertakings are complex, and I certainly cannot deal with them exhaustively today. But I would like at least to touch on the conditioning influences that seem most important—beyond, of course, the critical fact that current corporate earnings, properly reckoned, are discouragingly low.

My frequent discussions with businessmen leave little doubt in my mind that a strong residue of caution in businessmen's thinking has carried over from the recession of 1974–75. I think it is fair to say that the present generation of business managers had developed an inordinate degree of faith in government's ability to manage and sustain economic expansion. When they discovered that that faith was not justified, the experience was sobering—particularly for the not inconsiderable number of businessmen who had imprudently expanded debt in the froth of the earlier prosperity. Moreover, the lingering sense of unease produced by the severity of the recession has been deepened by the sluggishness of the subsequent recovery in much of the world economy outside the United States. In contrast to the widely-shared conviction of just a few years ago that the business cycle had been mastered, a surprising number of businessmen are now seized by concern that the world economy may have entered a downphase of some long cycle. One factor sparking such speculation is apprehension that the quantum jump in energy prices may be affecting the world's growth potential to a more serious extent than was originally thought likely.

More troublesome still, the specter of serious inflation continues to haunt the entire business community. The fear that inflation will not be effectively controlled is indeed a key reason for the high risk premiums that businessmen nowadays typically assign to major investment undertakings. Increasingly, businessmen understand the severity of the burden they are carrying on account of the taxation of "phantom" profits. They also have learned the hard way—from the frenetic conditions of 1973–74—that inflation is totally inimical to a healthy business environment. Having little basis for projecting how inflation will affect their enterprises and fearful that government may in time resort to direct controls once again, they feel bewildered in attempting to judge their future costs or their future selling prices. Because of that, they yearn for some solid piece of evidence that inflation will be tamed. They are troubled because no such evidence is yet at hand.

Added to these concerns is the fact that businessmen have had great difficulty in evaluating the implications of the major policy initiatives that are being considered this year. Businessmen cannot at this juncture confidently judge what kinds of energy will be available in the years ahead. Nor do they yet have any firm basis for assessing what kinds of tax incentives or disincentives may apply to particular energy uses. They are concerned that innovations in Social Security financing now under consideration may end the traditional rule under which employer and employee taxes have been the same and, as a consequence, lead to multi-billion dollar increases in the Social Security levies they have to pay. They suspect, moreover—as do many others—that the revamping of welfare programs wil prove much more expensive than is now being estimated and that still additional taxes on businesses will be imposed as a means of financing reform. And the daily rumors about impending tax reform, among which ending of preferential treatment of capital gains is frequently emphasized, have contributed to a mood of unease in both corporate board rooms and the stock exchanges. So too has the expectation that a serious campaign for a costly undertaking in national health insurance may start next year.

I strongly suspect that the ability of businessmen to assimilate new policy proposals into their planning framework has now been stretched pretty far. In fact, I seldom talk with a businessman these days who does not, in one way or another, voice concern about his inability to make meaningful projections of corporate costs and earnings for the years immediately ahead.

The implications of the matters on which I have been dwelling—the behavior of profits and the state of mind of the business community—appear to have escaped a good many people. Economic analysts who insist, for instance, that capital spending will automatically catch fire as capacity margins diminish are, in my judgment, thinking too mechanically. Much will depend on the process by which the economy reaches more intensive utilization of resources—especially on government's role in that process.

I also think that analysts endeavoring to assess capital-spending prospects—and indeed prospects for the economy generally—may be neglecting a sensitive cyclical development. I refer to the fact that, whereas prices charged by business generally advanced more rapidly than did the costs incurred by business in the early stages of this expansion, that is no longer the case. This, of course, means that profits per unit of output have stopped rising and may indeed have begun to fall—a development typical of the more advanced staged of business-cycle expansions and one that is certainly not conducive to vigorous capital-investment activity. I know enough about business-cycle behavior to avoid at this time the inference that a sustained profits squeeze is emerging. We have here, nevertheless, an incipient imbalance in the economic situation that ought to concern us. And it is one more compelling reason to ask if national policy does not need to be more explicitly oriented to the strengthening of profitability and the encouragement of capital formation.

The last time business investment in fixed capital was as weak as it has been since 1973 was in the late 1950's and early 1960's. I believe there are some policy lessons we can profitably draw from that period. There was a great deal of concern at that time that a phase of deep-seated economic malaise had set in, with worry voiced that sluggishness in business investment might well prevent the economy from attaining full employment. The parallels with today—both in objective fact and in assessment—are close in many respects, the major differences being that profit rates were not as low then, nor was inflation comparably troublesome.

A bold policy approach—predicated on the need for stimulation of capital investment—was then developed, with one of President Kennedy's early messages to Congress calling for enactment of an innovative tax device, namely, the investment tax credit. The Revenue Act of 1962 brought the tax credit into being. That same year witnessed a reinforcement of investment incentives in the form of significant liberalization of Treasury depreciation rules. This investment-oriented thrust of policy was followed, moreover, by recommendations for broadly based income tax reductions for both businesses and individuals, and they ultimately were embodied in the Revenue Act of 1964. Taken together, those actions of the early 1960's were sensitively responsive to conditions that have many similarities to the situation in which we now find ourselves. And what is particularly worth recalling, those actions soon had the consequence of strengthening dramatically both investment activity and the general economy.

If we were able to launch a policy response now that was just as unambiguously positive in its implications for profitably, I for one would have little doubt about our economy's capacity to shake off its malaise. As every recent study of our Nation's investment needs has emphasized, we are confronted

with an enormous capital-formation challenge for the years ahead. If we have the good sense to create hospitable conditions for saving and investing, I truly believe ours could become an age of sustained progress in employment and well-being.

The doubts and uncertainties that now prevail in the business and investing community reflect, in large part, irritation or annoyance at what is viewed as governmental myopia. They must not be interpreted as being indicative of business timidity. That enormous vitality and dynamism still exist in our business system is attested by the extraordinary fact that, despite the weakness of profits in recent years and the cumulating anxieties about the future, our economy has actually generated nearly seven million jobs since the spring of 1975—nearly all of them, I should add, in private industry.

The practicality of so many initiatives in this Administration's first year is arguable, but the President's leadership also bespeaks a seriousness of purpose that in the end may bring lasting benefits to our Nation. We have been through a year of animated policy debates—a year, I think, of useful growth in the perception of how plausible but divergent objectives can be practically blended. The basic reform this country now needs is the creation of an environment with many new job opportunities for our people. I expect the dust of controversy to settle and that constructive legislation will follow.

I do not mean to suggest that encouragement of investment through a bold tax policy is all that is needed. Such encouragement is vital, to be sure, and it will undoubtedly make a difference in the willingness of businessmen to invest in new plant and equipment. But the effort at eliminating the high risk that now attaches to investment must be of broader reach. It must go to the array of concerns of the business community about energy policy, about environmental codes, about governmental regulations at large, and—above all—about inflation.

I cannot overstate the importance of unwinding the inflation that is continuing to plague our economy. There is a paramount need for avoiding new cost-raising measures by government, of which the recently legislated increase of the minimum wage is only the most recent very troublesome example. Fiscal and monetary policies need to be conducted in ways that will quiet rather than heighten inflationary expectations. On the fiscal side, this means that great caution will have to be observed both in giving up tax revenues and in program initiatives entailing new expenditures. As a practical matter, expenditures on some existing programs may therefore have to give way. We simply dare not take steps that would result in any appreciable enlargement of our already swollen budget deficit. That could only excite unease in the business and financial community.

On the monetary side, I want to assure you that we at the Federal Reserve fully appreciate the critical linkage between money creation and inflation. We have no intention of letting the money supply grow at a rate that will add fuel to the fires of inflation. On the contrary, we are determined to bring about a gradual reduction in the rate of money expansion to a pace compatible with reasonable price stability. That cannot be done quickly because of the powerful inflationary pressures that have become embedded in our economic life over so many years; but I assure you that it will be done if the Federal Reserve retains—as I expect it will—the independence from political pressures on which the Congress has so wisely insisted across the decades. That does not mean that the Federal Reserve is preoccupied with the objective of monetary firmness. Our obligation to foster financial conditions that favor the expansion of job opportunities is clear and I assure you this is very much on our minds. We constantly keep probing for that delicate balance between too much and too little money.

The increase of short-term interest rates that has occurred since late April has served to check what would otherwise have been an explosion of the money supply. By taking measures to check the growth of money, we have demonstrated that we remain alert to the dangers of inflation. As a consequence, long-term interest rates, which nowadays are extremely sensitive to expectations of inflation, have remained substantially stable. Had we not taken steps to bring the money supply under control, I have little doubt that fears of inflation would now be running stronger, and that long-term interest rates, which play such a significant role in shaping investment decisions, would therefore now be higher than they in fact are. In that event, of course, the continuance of economic expansion would be less secure.

We at the Federal Reserve always welcome advice on how best to proceed. Ours, however, is the responsibility to act in the monetary area, and we intend to exercise that responsibility in ways that promote the long-run as well as the immediate interests of this Nation.

KEY TO CHARTS

(Not printed in RECORD)

Business outlays for plant and equipment, constant dollars

Outlays are current dollar expenditures for new plant and equipment by U.S. businesses, divided by the implicit price deflator for nonresidential fixed investment. Excludes outlays by agricultural business; real estate; medical, legal, educational, and cultural services; and nonprofit organizations. Data source: Department of Commerce, Bureau of Economic Analysis.

Domestic profits after tax, nonfinancial corporations

Reported profits are after-tax profits from domestic operations of U.S. nonfinancial corporations as derived by the Department of Commerce primarily from Internal Revenue income tax reports. Economic profits are "reported profits" adjusted to exclude inventory profits and to compensate for the difference between depreciation reported for tax purposes and the estimated replacement cost of fixed assets used in production. Data source: Department of Commerce, Bureau of Economic Analysis.

Economic profits, nonfinancial corporations

Economic profits on a current dollar basis are measured as above. The constant dollar series is generated by dividing current dollar economic profits by the implicit price deflator for gross domestic business product. Data source: Department of Commerce, Bureau of Economic Analysis.

Rate of return on stockholders' equity, nonfinancial corporations

The rate of return is measured as economic profits divided by net worth (with tangible assets valued at replacement cost). Net worth for each year is the average of beginning and end-of-year levels. Data sources: Department of Commerce, Bureau of Economic Analysis; Federal Reserve Flow-of-Funds Accounts.

Profitability and investment, nonfinancial corporations

Rate of investment is measured as the percentage change in net fixed capital assets (i.e., equipment and structures) valued in 1972 dollars. Rate of return on stockholders' equity is measured as above. Data source for rate of investment: Department of Commerce, Bureau of Economic Analysis.

WATERWAY USER CHARGES: WHY PERCENTAGE RECOVERY IS ESSENTIAL

Mr. DOMENICI. Mr. President, as my colleages prepare to consider their position on the issue of waterway user charges and my amendment No. 1460 to H.R. 8309, I would like to explain why I believe it is essential that any effective system of user charges must involve percentage cost recovery.

When fully implemented in fiscal year 1990, my amendment would recover 100 percent of the operation and maintenance expenditures on the inland waterway, plus 50 percent of the new construction costs. The House bill carries a straight fuel tax, that would now recover something less than 10 percent of the spending by the Corps of Engineers on waterway projects. That percentage under the House bill, of course, could vary considerably, depending on expenditure levels.

The difference in the dollar return is significant. The Carter administration finds it so significant that the President would be forced to veto approval of locks and dam 26 if user charges are set at the low dollar levels in the House bill.

I am convinced that such differences in the level of dollar recovery can be resolved in the conference to the President's satisfaction should my amendment prevail.

But I must point out that the philosophical approach in how user fees are calculated also has a great significance. The distinction is important in terms of national policy on waterway development, and as a mechanism to avoid future squabbles over whether every new navigation project is truly "needed." Under present law, and even under the House bill, there is nothing to temper the barge companies appetite for more expensive, gold-plated facilities each year.

But under my alternative, I believe we have a workable alternative that benefits the taxpayers. The philosophical linchpin of my approach—the one adopted by the Senate last June—is its requirement for percentage cost recovery. By linking user charges to expenditures, my amendment would create, for the first time, an interest among the barge companies in development and utilization of the most cost-effective inland waterway system.

Only when user charges are so linked to expenditures can we anticipate any discipline in the development of necessary new navigation work. Only when user charges are tied to expenditures will there be any interest among the barge companies in holding down Federal costs.

In other words, my amendment—not the House approach—will engender a sense of financial responsibility among the barge companies toward the cost of waterway development. We might even see the beneficiaries of waterway spending serving, for the first time, as a watchdog against waste.

Barge lobbyists are flooding the Hill these days with the assertion that my amendment imposes a 46 cents-a-gallon tax. That is wholly untrue. It is untrue on its face because none of us can predict what level of waterways expenditures the barge industry will need and be willing to assist in financing in 1990 and thereafter.

As I mentioned, the House approach ignores this important linkage. Under the House bill, barge companies would pay their tax—possibly $30 million to $40

million yearly—no matter what the Federal taxpayers spent on waterway development. Waterway expenditures could catapult to well over $1 billion a year; the barge companies would pay their few millions. Or waterway spending could drop to practically nothing, with barge taxes riding along at the same level. Neither situation appears fair to me.

Congress has established an expenditures-user charge relationship in practically every other type of water resources and transportation program. This protects the taxpayer from excessive demands through the vigilance of the users themselves. Such a sense of vigilance also needs to be instilled in the inland waterway program.

FLOOD INSURANCE CLARIFIED

Mr. EAGLETON. Mr. President, on October 12, President Carter signed into law the Housing and Community Development Act of 1977 (Public Law 95–128). Title 7 of that act contains the Eagleton amendment to the flood insurance program. That amendment will bring some relief to the 3,500 communities around the country which are presently under sanctions because they have not agreed to enforce HUD-dictated land-use controls in their flood designated areas.

In order to correct some misunderstanding about the effect of my amendment, I want to discuss today three questions which have frequently been raised about the legislation.

The first question is whether communities which do not participate in the flood insurance program will be denied all forms of disaster assistance including such emergency help as temporary housing and rescue operations. The answer to that can be found in the provision of the National Flood Insurance Act, 42 U.S.C. 4003, in which the prohibition against disaster assistance for nonparticipating communities is defined to "exclude assistance for emergency work essential for the protection and preservation of life and property performed pursuant to the Disaster Relief Act of 1970 or any subsequent act of Congress which supersedes or modifies the Disaster Relief Act of 1970." My amendment in no way changes that definition. Communities which fail to participate in the flood insurance program will be ineligible for disaster assistance which involves Federal grants and loans for repair or reconstruction of buildings. But, all other forms of emergency assistance provided by disaster relief laws will be available regardless of whether the community or property owner in question has bought flood insurance.

The second issue I want to address is the argument made by opponents of my amendment that some communities will drop out of the flood insurance program, authorize a massive building program in their flood plain and then come back into the flood insurance program, thus qualifying all the new construction for the subsidized insurance rate. There is absolutely no substance to that charge. Section 103 of the Flood Insurance Act amendments of 1973 (Public Law 93–234) provides as follows:

(c) Notwithstanding any other provision of this title, the chargeable rate with respect to any property, the construction or substantial improvement of which the Secretary determines has been started after December 31, 1974, or the effective date of the initial rate map published by the Secretary under paragraph (2) of section 1360 for the area in which such property is located, whichever is later, shall not be less than the applicable estimated risk premium rate for such area (or subdivision thereof) under section 1307(a)(1).

This provision of the law says very clearly that any new construction begun after a community has received its final flood map can be insured only at actuarial rates and experience has shown these rates to be prohibitively expensive.

Having explained what my amendment does not do, I would like for the record to clarify what it does do.

The Eagleton amendment repeals section 202B of the Flood Insurance Act. That section prohibited any bank, savings and loan institutions, or credit union which is regulated or insured by the Federal Government from making any loan for construction in a flood prone area unless the community and the property are participating in the flood insurance program. My amendment eliminates this sanction and requires only that banks notify borrowers of the flood prone designation of the property and further to advise the borrower that the property is ineligible for Federal construction assistance including the forms of disaster assistance discussed earlier.

Thus, the community which has compelling reasons for not participating in the flood insurance program—there are 3,500 such communities today—will at least have access to private bank credit to undertake such renovation and construction as may be necessary in the affected areas. It is a way of restoring some local option to the program while maintaining strong incentives for participation.

SALT TALKS

Mr. TOWER. Mr. President, the strategic arms limitation talks continue to be an issue of great concern to many Members of this body. Though no final agreement has been forwarded to the Senate for ratification, the administration has permitted certain details related to the ongoing discussions to be divulged through the public media. This is no departure, I must note, from the regrettable approach to the SALT negotiations shown over the past several months by the new administration in publicly professing and exhibiting the eagerness of our Government to achieve a new SALT treaty.

If there are lessons to be learned from our experiences in dealing with the Soviet Union in the arms control arena since 1972, it is, first, that the Soviet Union will seek to exploit arms control agreements in ways to serve their own purposes, and second, that for a treaty to provide for equitable arms control, there can be no question or uncertainty as to the critical process of verification. A third lesson is that the Soviets are stubborn negotiators and refrain from expressing any public eagerness or yearning for a new treaty. To the contrary, their leadership has consistently maintained an extremely circumspect posture with regard to these negotiations. They have not issued promising statements of anticipation concerning the day-to-day developments in the SALT negotiations. And their principal leader has never been quoted as saying that he would not permit certain weapons systems to stand in the way of an arms control agreement.

Unfortunately, the Carter administration demonstrates a limited understanding of these important lessons. In this regard, I invite the attention of my colleagues to an editorial appearing yesterday in the Wall Street Journal entitled, "Inviting a Crisis" and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From The Wall Street Journal, Nov. 1, 1977]

INVITING A CRISIS

Even as President Carter tries to reassure the nation he has no new initiatives up his sleeve, he is stumbling into a battle likely to dwarf energy, Panama and the rest of his current troubles. Indeed, the emerging strategic arms agreement is likely to provoke the sharpest treaty battle since the epic bitterness over the League of Nations.

While the Soviets are trying to squeeze out a few more drops of blood in the current talks at Geneva, the concessions they won in the Carter-Gromyko bargaining a month ago already insure major opposition in the Senate. The concessions go far beyond anything the Russians would have dreamed of winning from former Secretary of State Kissinger. The draft provisions are open to a whole series of objections, any one of them serious enough to call for a treaty's defeat.

Crucial limitations would be utterly impossible to verify, for instance, allowing the Soviets to cheat with impunity. The terms already agreed to would limit the American cruise missile so sharply the promising weapon might not even be worth developing. The treaty would undercut the administration's commendable efforts to revitalize the NATO alliance, instead insuring the further demoralization of our European allies. It would guarantee the Soviets an advantage in missile throw weight on the order of 10–1, posing a severe threat to the American Minuteman missile while precluding substitutes such as the proposed MX missile. Each of these points deserves extended discussion.

The most immediately worrisome aspect of the new agreement, though, is the message it conveys to the Soviets about Mr. Carter and his administration. Last March the administration offered what it regarded as sensible arms control measures. The Soviets rejected these proposals out of hand. The administration's response was to go limping back again and again with new and successively weaker proposals. On the most important issues on the table, the Soviets stonewalled for six months while the Americans caved.

Take, for example, the issue of heavy missiles. The Soviets have 308 heavy missiles, each about seven times the payload of a Minuteman. The U.S. has no such huge missiles, and under the treaty would be prohibited from building any. Since it's difficult to see the utility of such weapons for any purpose except a first strike against the other side's missiles, the Carter administration set out in March to get some limit on

this threat in return for concessions on the cruise missile.

In March the U.S. asked for a limit of 150 Soviet heavy missiles, asking them to tear down half the force. By May, the U.S. was willing to allow them to keep the whole force, provided only 190 heavy missiles carried multiple warheads (MIRV). Since this is about the current number of heavy missiles with MIRV, the U.S. in essence asked for a freeze on heavy missiles. When the Soviets rejected the 190 number, the U.S. tried a heavy MIRV limit of 220. With that rejected, it tried 250. Finally, when Mr. Gromyko arrived in town, the U.S. dropped the whole idea.

Similarly, in March the U.S. insisted on specific treaty provisions on how the Soviets could use their Backfire bomber, which they insist is not an intercontinental weapon though it can fly from the Soviet Union over the U.S. to Cuba without refueling. By September the U.S. agreed to keep Backfire out of the treaty if the Soviets would make a separate promise not to increase its production rate, even though they refuse to say what the current production rate is.

To buy the limits on heavy missiles and Backfire sought last March, the U.S. offered a cruise-missile concession limiting the range of air, land and ground-based cruise missiles to 2,500 kilometers. Bombers carrying cruise missiles would not have been counted against the agreed number of MIRV missiles. In the September agreements, if the U.S. builds more than about 120 such bombers it must tear down Minuteman or submarine MIRV missiles. And land-based and sea-based cruise missiles would be limited to a practically useless range of 600 kilometers. In return for scrapping the concessions asked of the Soviets, the Americans are giving larger concessions of their own.

The March proposals were in themselves open to serious question, so the September agreements are drawing serious opposition as they are explained to the Senate. But putting aside the effect on the strategic posture in 1985, the collapse of the American negotiating position raises dangers in 1977. The lack of resolution Mr. Carter displayed to the Soviets between March and September invites them to try pushing him around throughout the world.

A TRIBUTE TO SENATOR HUMPHREY

Mr. DECONCINI. Mr. President, I rise on this occasion to offer into the RECORD a letter to the Honorable HUBERT H. HUMPHREY from the Democrats of Pinal County, Ariz. I am doing so, Mr. President, because I believe that the letter, a tribute to Senator HUMPHREY, sets forth in very simple yet eloquent terms how much we, the people of Arizona, the people of the West, and the people of the United States, not just now, but for generations to come, are indebted to this outstanding gentleman and statesman.

I ask unanimous consent that this material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PINAL COUNTY DEMOCRATS,
Florence, Ariz., October 5, 1977.

Hon. HUBERT H. HUMPHREY,
U.S. Senator,
Senate Wing, U.S. Capitol,
Washington, D.C.

DEAR SENATOR HUMPHREY: As the beloved "Happy Warrior" of the Democratic Party, you have made great contributions to our country and to our party. It may require the perspective of years to truly assess the total impact of Hubert Humphrey.

For now, we can honestly say that you set an example for us to follow; we all feel a little more pride in being Americans and Democrats, because Hubert Humphrey is both of these.

We were happy to stand at your side in 1968, and you inspired us to greater efforts to attain our common goals. It now appears that you are facing an even more dangerous and implacable enemy. Please know that Hubert Humphrey is still our man; we remain at your side, and you are never far from our hearts and our prayers.

From the Democrats of Pinal County, Arizona.

CARL GUILLIAMS, *Chairman.*
MARLENE WHITE,
Vice Chairwoman.
VICTORIA ANA VILLA VERDE,
Secretary.
BOB BROWN, *Vice Chairman.*
JIM DON, *Treasurer.*

STATE MEMORIALS REQUESTING A CONSTITUTIONAL CONVENTION

Mr. MCGOVERN. Mr. President, last year I inserted in the record a historical survey of the convention method of amending the Federal Constitution. Today, I want to share with my colleagues a work which examines in more detail one aspect of the article V convention option, the actual State application process.

It is a troubling study.

It documents the fact that the applications are a tangle of differing State procedures and occasional oversights. The procedures used by the Congress in processing the applications are scarcely any better.

The study, written by Jim Stasny who prepared the earlier convention survey, shows that Congress simply has not acted to establish guidelines for a constitutional convention. The most startling finding is that, if put to the test, there is no guarantee that Congress could even properly count the existing applications and decide whether or not they are valid. My own State of South Dakota, submitted an application for a convention earlier in the year. The legislature followed solid, commonsense procedures and they were fortunate, besides; both the Senate and the House duly noted receipt of their applications. Not all States have been so fortunate and that is a source of real concern to me.

I am frank to say I do not necessarily agree with all the observations made in this study. It is not my present view that a convention would be to our national advantage. But there is little arguing with Mr. Stasny's assessment that the convention process stands "on the constitutional frontier of unanswered questions." At the very minimum, I believe the Congress needs to take immediate stock of its procedures for processing State applications. Those procedures need to be made more consistent and reliable.

Mr. President, I ask unanimous consent that the article on convention applications be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD as follows:

STATE APPLICATIONS FOR A CONVENTION TO AMEND THE FEDERAL CONSTITUTION JANUARY 1974–SEPTEMBER 1977: COMPILATION AND COMMENT

I. INTRODUCTION

Article V specifies two methods of amending the Federal Constitution. The method under which all amendments have been adopted to date requires that both Houses of Congress, by a two-thirds vote, approve amendments for ratification by three-fourths of the state legislatures or by conventions called for that purpose. Through August of 1977, 9,210 amendments have been proposed through this procedure.[1]

The second method requires that, on the petition of two-thirds of the state legislatures, Congress "shall call" a convention for the purpose of amending the Constitution. The Constitution has never been amended through this process. As a consequence of its untested character, much speculation and uncertainty surrounds its use.[2] Even at the foundation level of counting the state applications themselves, problems have arisen because of the inconsistent procedures of the separate Houses of Congress and the unpredictable practices of the state legislatures in submitting their applications.

Since 1789, Congress has received 374 requests from the states for a convention.[3] But in the twenty years since 1957, Congress has received 191 such requests, more than fifty-one percent of the total. Sine January of 1974 alone, thirty-two memorials have been submitted.[4] Of those thirty-two, one dealt with the private ownership of gold (California 1974); one dealt with the use of public funds for secular education (Massachusetts 1974); one dealt with the tenure of Federal judges (Tennessee 1977); two with the item veto in appropriations bills (Virginia 1977 and Tennessee 1977); three concerned busing (Massachusetts 1974, Kentucky 1975, and Massachusetts 1976); three dealt with the coercive use of federal funds (Nevada 1975, Oklahoma 1976, and Tennessee 1976); ten were on the subject of abortion (Indiana 1974, Missouri 1975, Louisiana 1976, South Dakota 1977, Utah 1977, Rhode Island 1977, Arkansas 1977, Massachusetts 1977, New Jersey 1977, and Guam 1977); and eleven asked an amendment requiring a balanced federal budget (Arkansas 1975, Virginia 1975, Mississippi 1975, Louisiana 1975, Indiana 1976, Georgia 1976, South Carolina 1976, Delaware 1976, Virginia 1976, Arizona 1977 and Tennessee 1977).

The mechanism triggering efforts to summon a convention is frequently a dynamic social issue to which the Congress has not responded either through statute or the primary amendment mode. During such times, a frustrated segment of the public seems to sense more clearly the remoteness of Washington in general and Congress in particular. Anti-busing groups as well as pro-life forces (and, earlier in the century, proponents of the direct election of U.S. Senators) have marched on Washington only to find they were unable to convince two-thirds of the membership of each House to act favorably on their amendments. These groups have discovered Article V provides an alternative means of promoting amendments by lobbying legislators at the state rather than national level. State legislators are far more accessible to more people than a Member of Congress sealed tight in Washington ten months of every year. Moreover, in terms of the amendment process, state legislatures have a combined theoretical parity with the Congress.

The purpose of this paper is to provide a complete listing of the thirty-two applications submitted since 1974; compare House and Senate practices for handling the appli-

Footnotes at end of article.

cations and identify the characteristics of states when submitting their memorials; identify some of the problems attending the application process and list legislative proposals on the convention issue.

II. SENATE PRACTICES ON MEMORIALS AND PETITIONS

Rule VII of the Standing Rules of the Senate controls the manner in which the Senate deals with memorials and petitions.

Reception of memorials and petitions makes up part of the Morning Business.[5] While memorials and petitions are technically laid before the full Senate by the presiding officer,[6] he makes no formal announcement of their receipt. They are presented by bringing them to the Clerk's desk, or by delivering them to the Secretary of the Senate. With the approval of the presiding officer, they are entered in the Journal and the Congressional Record and appropriately referred.[7] Despite this practice, at least one application (California 1974) was noted in the House portion of the Congressional Record but failed to appear in either the Journal or the Record of the Senate. The Senate Judiciary Committee advises they have no record of ever having received such memorial.

The presentation of memorials and petitions follows the reading of the Senate Journal, the presentation of reports and communications from the heads of departments and such bills, joint resolutions and other messages from the House of Representatives as may remain on the table undisposed of from any previous day's session. Their reception precedes the reports of standing and select committees.[8]

Memorials from State legislatures are printed in full in the Senate section of the Congressional Record [9] and a memorial may not be received unless signed.[10] In the Senate, the practice is to list memorials from state legislatures under the heading "PETITIONS".

Until the start of the 95th Congress, the Senate had no orderly means of cataloguing memorials submitted by the States. But on December 16, 1976 in a memo from the Secretary of the Senate a new system of control numbers for petitions and memorials was announced to take effect January 4, 1977.

According to the memorandum, petitions and memorials are to be combined into one category and assigned numbers preceded by the initials "POM".[11] Under the new system petitions and memorials go first to the office of the President of the Senate who dates them. They are next sent to the Parliamentarian who assigns the control number and makes the appropriate committee referral.[12] The Official Reporter then inserts them into the Congressional Record and the Bill Clerk sees to it that the appropriate committee physically receives the memorial or petition. This provision appears to be in contravention of Rule VII, paragraph (6) which directs that memorials are to be kept in the files of the Secretary of the Senate.

The December 16, 1976 memo also specifies that the Journal Clerk is to receive a list of the "petitions placed before the Senate and printed in the Record each day."

The new system is an improvement over the previous procedure. Prior to its adoption the Senate had no numbering system whatever for these documents. Even the sharp-eyed had to read cautiously to detect in the Congressional Record where one petition ended and another began. Nevertheless, the new system is still less than adequate. For one thing, it is much too fragmented and involves too many processing steps. For another thing, petitions and memorials are still lumped together under the single heading, "PETITIONS". More importantly, there is still no separate category for distinguishing memorials which request Congress to summon a convention for the purpose of amending the Constitution.

Memorials from the State legislatures are, at best, political statements which have small impact and no binding effect on the Congress. However, the Article V applications for a convention are constitutionally authorized instruments which, in the aggregate, impose a specific duty on the Congress. There, at least, ought to be a separate means of counting and tracking the memorials from the States which request a convention.

III. HOUSE PRACTICES ON MEMORIALS AND PETITIONS

Under the Rules of the House of Representatives, Memorials are treated under Rule XXII, paragraph (4) and Petitions are treated under Rule XXII, paragraph (1). They are listed separately and numbered sequentially in the body of House portion of the Congressional Record following the introduction of bills and resolutions at the conclusion of the day's proceedings. It is the practice to have memorials brought to the attention of the House by the Speaker.

Resolutions of State legislatures and/or primary assemblies of the people are received as memorials.[13] They are filed with the Clerk of the House [14] but the office of the Clerk advises they do not, in fact, retain them. Rather, they are transferred to the Speaker who refers them (through the Parliamentarian) to the appropriate committee where they are filed.

Rule XXII, paragraph (4) of the House Rules specifies that memorials and their titles shall be entered on the Journal and printed in the Congressional Record of the next day. *In practice, however, the process is reversed.* According to the House Journal Clerk's Office, staff members clip memorials printed in the Record and subsequently enter them on the Journal.

The office of the Bill Clerk actually prepares the briefs of the memorials that appear in the Record. The Bill Clerk receives the memorials from the Parliamentarian's office and assigns them the number which appears in the Record.[15] He sees to it that the memorial is physically delivered to the committee to which it has been referred.[16]

IV. THE CONVENTION APPLICATIONS: ANOMALIES IN THE CONGRESS AND THE STATE LEGISLATURES

Of the thirty-two applications for a convention received by the Congress since 1974, the texts of all but one (California 1974) were located. Of the remaining thirty-one, sixteen were directed by the respective state legislatures to the Speaker of the U.S. House of Representatives and the President of the United States Senate.[17] Eleven applications were directed to the attention of the Secretary of the Senate and the Clerk of the House.[18] Of the remaining four applications, three were addressed to the Congress without specifying an officer of either House [19] and one was addressed only to the members of the state's congressional delegation.[20]

Of the sixteen applications directed to the President of the Senate and the Speaker of the House, eleven were noted in the Congressional Record by both Houses.[21] Four of the remaining five applications (Arkansas 1975, Tennessee 1976, Massachusetts 1976, and Tennessee 1977 on item veto in appropriations bills) were printed in full by the Senate. One, the 1976 Louisiana application on abortion was printed only by the House.

Of the eleven applications addressed to both the Clerk of the House and the Secretary of the Senate, all but one (the 1974 Indiana application on abortion) were noted in the Record by both the House and Senate. This suggests that when applications are directed to the Secretary of the Senate and the Clerk of the House, they are more likely to be properly received by both Houses of Congress than when they are sent to the presiding officer of each House.

Nevertheless, the principal convention procedure bills introduced in the Congress since 1953, specify that applications for a convention be addressed to the President of the Senate and the Speaker of the House.[22] This provision was included in both S. 215 which passed the Senate 84 to 0 on October 19, 1971 and in S. 1272 which passed the Senate without debate on July 9, 1973.

The provision directing memorials to the Speaker and the President of the Senate also appears to be at variance with established practice in the House of Representatives. Rule XXII of the House directs that memorials be delivered to the Clerk, a procedure dating from 1842.[23] Rule VII, paragraph 2 of the Standing Rules of the Senate similarly notes that Senators having memorials may deliver them to the Secretary of the Senate.

In sum, established procedures in the House and the Senate give to the Clerk and the Secretary the responsibility for the technical processing of the memorials. Moreover, the record shows that since 1974, the Clerk and the Secretary have been shown to be more reliable in handling state memorials than the Speaker and the Vice-President. The clear inference is that future legislation providing guidelines for a constitutional convention should direct that memorials be sent to the Secretary of the Senate and the Clerk of the House.

The question also arises as to whether memorials for a convention, in order to be valid, need to be recorded by both Houses in either the Journal or the Congressional Record. This is another of the myriad unresolved questions attending the convention process. Nevertheless, the legislative proposals on this subject offered in Congress over the years providing as they do for reference of applications to both Houses, imply that the validity of an application would at least be suspect if not officially received and noted by both Houses.

The State memorials received by Congress since 1974 illustrate a variety of problems. The two primary areas of concern are the inconsistent treatment accorded the memorials by both Houses of Congress and the occasional peculiar procedure followed by the state legislatures when submitting their applications. The following examples demonstrate some of those problems.

Guam

On July 1, 1977 the Senate formally acknowledged in the CONGRESSIONAL RECORD its receipt of a memorial from the Legislature of Guam calling for a constitutional convention to draft an amendment on abortion. Article V of the Federal Constitution specifies that ". . . on the application of the Legislatures of two-thirds of the several States Congress shall call a convention for proposing amendments . . ." The problem here, of course, is that Guam is not a State. It is an organized unincorporated territory with a non-voting delegate to the House of Representatives.[24] It is very likely its application would not survive a challenge to its claim to be a valid Article V memorial.

Indiana

In February of 1977 the Indiana legislature sent a memorial to the Congress dealing with abortion. In it, Indiana simply reminded the Congress that in 1973 their Legislature had requested that a constitutional convention be summoned to propose an abortion amendment. The 1977 reminder went on to note that, "thorough an oversight the earlier resolution was not transmitted to Congress". The fact is, there actually had been no oversight at all. The memorial had indeed been submitted at the end of 1973 and was printed in full in the CONGRESSIONAL RECORD of January 21, 1974.

Footnotes at end of article.

This is a case where a state legislature apologized for an oversight it had not committed. The only oversight in this instance is that the original Indiana memorial was not recorded in the House portion of the CONGRESSIONAL RECORD.

Rhode Island

The treatment of the Rhode Island memorial for a convention to propose an amendment on abortion vividly illustrates the kind of mechanical mix-ups that can plague the application process.

May 13, 1977 the House gave notice in the CONGRESSIONAL RECORD that it had received the Rhode Island memorial.[25] On May 19, 1977 the House printed another notice that Rhode Island had submitted a second memorial for a convention on abortion.[26] It was not possible to determine from the abbrievated notice in the RECORD whether these were, in fact, separate memorials or an accidental double entry of the same memorial. On May 26, 1977 the House Judiciary Committee advised (in a telephone conversation) that no cover letter accompanied either memorial. In fact, the memorials were in the form of two xerox copies of the *identical* document which came to be printed twice in the House section of the RECORD. There was no ready explanation of how this dual printing came about.

Rhode Island's problems, however, were not confined to the House of Representatives.

In the Senate, two identical Rhode Island memorials on abortion were not only printed on the *same day*; they were printed on facing pages (15808 and 15809 of the May 20, 1977, CONGRESSIONAL RECORD) and numbered POM–188 and POM–190. A phone conversation with personnel in the Secretary of the Senate's office revealed that the two copies were received on different days. It was their position that they are only obligated to submit memorials for the RECORD.

They felt it was up to the Judiciary Committee to see how they are counted. An aide in the Secretary's office suggested that if the memorials from one state were identical they would only be counted once even though they may have been printed more than once. Otherwise, he said, it might be possible for one State to submit 34 memorials and force a convention.

South Carolina, Arizona, Virginia

On February 26, 1976 the Senate printed in full the memorial of South Carolina requesting a convention to propose an amendment to balance the federal budget.[27] On February 26, they printed it again.[28] There are at least two possible explanations for why that took place. It may have been a simple oversight by the office of the Secretary of the Senate or the Public Printer.

The more likely explanation is that since the South Carolina Memorial requested that Congress submit an amendment *and* summon a convention, the memorial may have been printed twice to reflect both options under Article V. This, of course, raises the question of whether the South Carolina application qualifies as a valid convention request. It would have to be decided whether a memorial which requests both modes of amendment and which makes the convention method the section choice can be counted in the tally of states requesting a convention.

The same kind of question can be raised about memorials from Virginia and Arizona. In March of 1976, the Senate received and printed a memorial from Virginia regarding a possible constitutional amendment to require a balanced federal budget.[29] The primary intent of the memorial was to request Congress "to prepare and submit to the several states" an amendment on the subject. However the memorial also included the following paragraph:

Resolved further, That, alternatively, this Body makes application and requests that the Congress of the United States call a constitutional convention for the specific and exclusive purpose of proposing an amendment to the Federal Constitution requiring in the absence of a national emergency that the total of all Federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated Federal revenues for the fiscal year . . ."

The June 14, 1977 memorial from Arizona poses a nearly identical dilemma. After requesting that Congress prepare and submit an amendment requiring a balanced federal budget, paragraph 2 provides, "That, in the alternative, the Congress of the United States call a constitutional convention to prepare and submit such an amendment to the Constitution."

It would appear that each of these three memorials from Virginia, Arizona, and South Carolina would at least be subject to challenge by reason of their dual requests. At the very least, it is another of those speculative questions that remains to be finally resolved.

Oklahoma

The House of Representatives on June 7, 1977 printed in the Congressional Record a notice that it had received a memorial from the Oklahoma State Legislature.[30] The memorial asked for a constitutional convention to propose an amendment prohibiting the federal government from imposing "coercive" restrictions as a precondition for receiving federal dollars.

No corresponding application was recorded in the Congressional Record by the Senate. However, a copy of the original application was obtained from the files of the House Judiciary Committee. The copy shows that the resolution was not directed to either the Speaker of the House, the President of the Senate, the Clerk of the House or the Secretary of the Senate. The memorial did, however, direct that copies be distributed to all the members of the Oklahoma Congressional delegation.

Since one member of the delegation at the time was House Speaker Carl Albert, that likely explains its appearance in the House Record. Had it not been for that coincidence it is highly probable that no record whatever would have been made in the Congress of this memorial.

Tennessee

Among the states submitting applications for a constitutional convention since 1974, no state has had greater misfortune than Tennessee.

On February 17, 1976 the complete text of their memorial requesting a convention to propose an amendment dealing with the coercive use of federal funds was printed in the Senate section of the Congressional Record.[31] No corresponding application ever appeared in the House Record as a memorial formally constituting an application from Tennessee for a constitutional convention on this topic.

The same thing happened to Tennessee again in 1977. The legislature memorialized Congress to summon a convention in order to propose an amendment giving the President an item veto in appropriations bills. The Senate printed the memorial in full in the Congressional Record of July 1, 1977.[32] The House did not record the receipt of a similar memorial despite the fact that the Tennessee legislature directed that a certified copy be sent to the Speaker of the House.

Tennessee submitted two other constitutional convention memorials in June of 1977. One requested a convention for the purpose of proposing an amendment to require a balanced budget.[33] The other asked for a convention for the purpose of proposing an amendment to fix the terms of federal judges.[34] Both memorials were noted in the Congressional Record by the House of Representatives on June 10, 1977.

In neither case, however, was a corresponding application recorded in the Congressional Record by the Senate. The omissions are the more peculiar in view of the following excerpt which appeared in both of the Tennessee memorials:

". . . it is requested that receipt of this application by the Senate and the House of Representatives of the Congress of the United States be officially noted and duly entered upon their respective records, and that the full context of this resolution be published in the official publication of both the Senate and the House of Representatives."

In both cases, however, the memorials were addressed to the Senate and the House of Representatives rather than to an official or the presiding officer of either House.

In addition to the memorials already mentioned, there were a number of others which ran into trouble. Arkansas in 1975 requested a convention for the purpose of proposing an amendment to require a balanced federal budget.[35] Masschusetts in 17976 wanted a convention to consider a busing amendment. In both cases, the memorials were printed in full in the Senate portion of the Congressional Record while no mention was made of either memorial in the House. The practical impact of not having the memorial noted in the Record by the House is that it is, therefore, not printed in the Journal since the Journal Clerk merely clips the Record as a source of information on memorials.

Utah experienced reverse treatment. The memorial of their state Legislature on abortion was noted twice in the House portion of the Record on May 3 and May 4, 1977. The Louisiana memorial dealing with abortion was recorded by the House of Representatives but no corresponding application was mentioned in the Congressional Record by the Senate.[36]

This brief survey of the thirty-two state memorials requesting conventions since 1974 indicates that sixteen of them either contained challengeable defects or were procedurally mishandled by either the state legislatures, the United States Senate or the House of Representatives.

But the questions do not end here.

Ten of the memorials received since 1974 specifically allow the state to later rescind its memorial. Although the American Bar Association believes the states should have the option, the opinion is by no means unanimous.[37] On February 15, 1977, Acting Assistant Attorney General John Harmon wrote to Robert J. Lipshutz, Counsel to the President on the power of a state to rescind its ratification of a constitutional amendment. This question of ratification is, obviously, much different from and of considerably more moment than the withdrawal of a memorial requesting a convention. Nevertheless, an excerpt from the letter illustrates that the overall issue of rescission is very much an open question:

"If the issue should arise in connection with the Equal Rights Amendment, it seems virtually certain that the question will be put to Congress again. The functions of the Secretary of State with respect to constitutional amendments have been statutorily conferred on the Administrator of GSA . . . However, the very fact that this function is vested in the GSA Administrator is indicative of its ministerial nature . . . In those circumstances, the Administrator would either have to follow the precedent established by Congress in 1868, i.e., that a State cannot withdraw its ratification, or submit the issue to Congress."

Beyond this question is still another of

Footnotes at end of article.

whether or not the states can limit the subject matter of a convention. Fifteen of the memorials received since 1974 direct that the convention would be for the "sole and exclusive" purpose of considering a particular amendment. The majority of the thirty-two memorials include the text of a proposed amendment.

The main problem with state applications specifying exact language is the objection that a convention called to consider a predetermined amendment would, in effect, become part of the ratifying process. Senator Robert Kennedy criticized the states' insistence on specificity as:

". . . an attempt by the various State legislatures to force Congress to call a convention which can only act mechanically to approve or disapprove a specific amendment. The attempt is to make the convention merely an intial step in the ratifying process instead of a deliberative meeting to seek out solutions to a problem. The word 'propose' cannot be stretched to mean 'ratify'. The Congress cannot properly accept and become part of any prepackaged effort to short cut the amendment process." [28]

But as in so many of the issues surrounding the Article V convention process, there is no agreement on this issue. The legislation passed by the Senate in 1973, S. 1272, did, however, direct that a convention can be called only when at least two-thirds of the state submit applications dealing with the same subject.

V. MAJOR LEGISLATIVE PROPOSALS DEALING WITH THE ARTICLE V CONVENTION PROCESS AND THE HANDLING OF STATE MEMORIALS

Since the initiative for a convention is lodged in the state legislatures, an imminent convention could easily catch the nation by surprise. The confusion would be compounded if there were no adequate guidelines for the conduct of a convention. Yet, despite the fact that the issue stands on the constitutional frontier of unanswered questions, Congress has still to enact convention legislation.

The Senate has twice passed convention procedure bills without comparable House action. The following measures deal generally with the convention process and the excerpts shown deal generally with the handling of the memorials.

A. Constitutional Convention Act of 1953 (Appears in Staff Report to the House Committee on the Judiciary, "Problems Relating to State Applications for a Convention to Propose Constitutional Limitations on Federal Tax Rates", 82d Congress, 2d Session, 1952, pages 21–24.)

Section 2(C)

"Within sixty days after a resolution is adopted by a state legislature under subsection (b) the Secretary of the State shall transmit to the Congress two petitions . . . one addressed to the President of the Senate (or to the Secretary of the Senate if the Senate is not in session) and one to the Speaker of the House (or the Clerk of the House if the House is not in session) . . .

Section 2(D)

"Each petition and notice received under subsection (c) shall be referred to the Committee on the Judiciary of the Senate, if addressed to the President or Secretary of the Senate, or to the Committee on the Judiciary of the House of Representatives, if addressed to the Speaker or Clerk of the House. At the beginning of each session of Congress, the Chairman of the Committee on the Judiciary of the Senate shall report to the Senate and the Chairman of the Committee on the Judiciary of the House shall report to the House, concerning the petitions and notices received under subsection (c) within the preceding seven years, and shall cause to be printed in the Congressional Record the text of such petition and notice which has not previously been so printed. Such report shall state the total number of such petitions calling for a convention to propose a general revision of the Constitution; the total number of such petitions calling for conventions to propose amendments of a limited nature (together with the total number received with respect to each such amendment); the date of receipt of each such petition; which, if any such petitions have been rescinded; and such other information as the Chairman considers appropriate.

B. Brickfield Proposal (Appears in *Problems Relating to a Federal Constitutional Convention*, House Committee on the Judiciary, 85th Congress, 1st Session, 1957, page 75.)

Section 2. The legislature of a State, in making application for a constitutional convention under Article V of the Constitution of the United States, shall, after adopting a resolution pursuant to this Act, petition the Congress stating, in substance, that the legislature favors the calling of constitutional convention for the purpose of—

(a) proposing a general revision of the Constitution of the United States; or

(b) proposing one or more amendments of a particular nature of the amendments to be proposed.

Section 3

(a) For the purpose of adopting a resolution pursuant to section 2, the State legislature shall adopt its own rules of procedure.

(b) Questions concerning the State legislative procedure and the validity of the adoption of a State resolution cognizable under this Act are determinable by the State legislature and its decisions thereon are binding on all others, including State and Federal courts and the Congress of the United States.

(c) A State resolution adopted pursuant to this Act is effective without regard to whether it is approved or disapproved by the Governor of the State.

Section 4

(a) Within 60 days after a resolution is adopted by the legislature of the State the secretary of state of the State, or if there be no such officer, the person who is charged by the State law with such function, shall transmit to the Congress of the United States two copies of the application, one addressed to the President of the Senate, and one to the Speaker of the House.

(b) Each copy of the application shall contain—

(1) the title of the resolution,

(2) the exact text of the resolution, signed by the presiding officer of each House of the legislature, and

(3) the date on which the legislature adopted the resolution and shall be accompanied by a certificate of the secretary of state of the State, or such other person as is charged by the State law with such function, certifying that the application accurately sets forth the text of the resolution.

C. S. 215. Federal Constitutional Convention Procedures Act (Introduced by Senator Ervin; passed the Senate October 19, 1971 by a vote of 84 to 0).

Section 2. The Legislature of a State, in making application to the Congress for a constitutional convention under Article V of the Constitution of the United States on and after the enactment of this Act, shall adopt a resolution pursuant to this Act stating, in substance, that the legislature requests the calling of a convention for the purpose of proposing one or more amendments to the Constitution of the United States and stating the nature of the amendment or amendments to be proposed.

Section 3

(a) For the purpose of adopting or rescinding a resolution pursuant to section 2 and section 5, the State legislature shall follow the rules of procedures that govern the enactment of a statute by that legislature, but without the need for approval of the legislature's action by the Governor of the State.

(b) Questions concerning the adoption of a State resolution cognizable under this Act shall be determinable by the Congress of the United States and its decisions thereon shall be binding on all others, including State and Federal courts.

Section 4

(a) Within thirty days after the adoption by the legislature of a State of a resolution to apply for the calling of a constitutional convention, the secretary of state of the State, or if there be no such officer, the person who is charged by the State law with such function, shall transmit to the Congress of the United States two copies of the application, one addressed to the President of the Senate, and one to the Speaker of the House of Representatives.

(b) Each copy of the application so made by any State shall contain—

(1) the title of the resolution;

(2) the exact text of the resolution signed by the presiding officer of each house of the State legislature; and

(3) the date on which the legislature adopted the resolution; and shall be accompanied by a certificate of the secretary of state of the State, or such other person as is charged by the State law with such function, certifying that the application accurately sets forth the text of the resolution.

(c) Within days after receipt of a copy of any such application the President of the Senate and the Speaker of the House of Representatives shall report to the House of which he is presiding officer, identifying the State making application, the subject of the application, and the number of States then having made application on such subject. The President of the Senate and Speaker of the House of Representatives shall jointly cause copies of such application to be sent to the presiding officer of each house of the legislatures of every other State and to each Member of the Senate and the House of Representatives of the Congress of the United States.

D. S. 1272 (Introduced by Senator Ervin; passed the Senate on July 9, 1973, it is identical in its provisions for applications for a convention to S. 215, above.)

E. Other notable legislative suggestions generally consistent with those already described in terms of the sections regulating the procedure for submitting memorials, include:

1. S. 1973, "The Federal Constitutional Convention Procedures Act" introduced by Senator Hathaway on June 11, 1973.

2. H.R. 7008 and H.R. 8560, identical bills entitled, "Federal Constitution Convention Amendment Act", introduced by Congressman Hyde on May 9, 1977 and July 27, 1977, respectively.

3. S. 1880, the "Federal Constitutional Procedures Act", (identical to H.R. 7008 and H.R. 8560 above) introduced by Senator Helms on July 18, 1977.

4. S. 1815, the "Federal Constitutional Convention Procedures Act", (identical to S. 1272 above), introduced by Senator Ervin on May 22, 1975.

5. H. Con. Res. 28, introduced by Congressman Pettis on January 14, 1975, calls for the convening of a convention but sets no guidelines for the state memorials.

6. H. Con. Res. 340, introduced August 5, 1977 (on request) by Congressman Lent, calls for a convention but does not set guidelines regulating the submission of memorials.

Note: The choice of a concurrent resolution for this purpose is questionable. Although concurrent resolutions are often used to authorize actions within the common ministerial orbit of both Houses, this meas-

Footnotes at end of article.

ure would have sizeable impact on State legislatures, as well. In any case, current resolutions "do not become law, are not used to enact legislation, and are not binding or of legal effect." (See generally, "Concurrent Resolutions: A Discussion of Their Force and Effect Beyond the End of the Congress by Which They Are Passed", by Jay Shampansky, Legislative Attorney in the American Law Division of the Library of Congress, June 9, 1976.)

VI. RECOMMENDATIONS

A. The House might reassess its procedure to make certain that when it receives a memorial from a state requesting amendment of the Constitution, the printing of the memorials by title in the Congressional Record include both the subject matter of the desired amendment and a specific notation that a convention is requested, if such be the case. Ideally, the House should also print in full each memorial requesting a convention.

B. The Senate might revise its procedures to require that on January 31 and July 30 of each year, it print in full a complete listing of citations to pages in the Congressional Record at which appeared memorials from the states requesting a convention since the last previous listing. Such listing would include the date, page number, state, subject matter of the memorial and a cross reference to the page number in the House section of the Congressional Record at which the House noted receipt of the identical application. The list would be prepared by the Secretary of the Senate.

3. Both Houses might note and reaffirm that the originals of all such applications are to be retained by the offices of the Secretary of the Senate and the Clerk of the House with copies to be filed with the Judiciary Committees of their respective Houses.

4. The Congress might direct that model guidelines for use by the states in submitting applications for a constitutional convention be prepared and distributed to the secretary of state of each of the states. The guidelines should not suggest any limits on the subject matter of such applications but deal only with ministerial questions such as:

a. to whom the applications should be sent in the Congress;

b. the signatures of state officers required on the application, and;

c. the number of days the legislatures have from the adoption of their resolutions until the time they must be submitted to the Congress.

VII. COMMENT

There has never been a constitutional convention called under Article V. But there have been some near misses. In 1967, for example, state memorials requesting a convention on the reapportionment controversy came within one of the total that, theoretically, would have required Congress to call a convention.

Just prior to the Civil War, a convention to amend the Constitution actually did assemble in Washington, D.C. By February 4, 1861, seven states had already seceded from the Union and their respesentatives were gathering in Montgomery, Alabama to form a Confederacy and draft a new constitution. Meanwhile, on the same day, delegates representing twenty-one states were meeting in Washington at the invitation of the State of Virginia. Known as the "Peace Convention", it was called to propose amendments which, in turn, were to be submitted to the Congress. The convention presided over by former President John Tyler, met for nineteen days and produced one amendment. The seven-section amendment, however, was rejected by the Senate while the House of Representatives refused to consider it. Among the amendment's several sections were provisions authorizing the continued existence of slavery south of the "parallel of 36° 30' north latitude" and generally prohibiting Congress from regulating, abolishing, or controlling slavery in those areas where it then existed.[39]

The convention was clearly not a gathering authorized by Article V of the Contitution. But it did illustrate two of the factors still associated with Article V applications for a convention. For one thing, the applications tend to become more frequent when Congress will not respond to an emotional national issue. Secondly, the application process under which states actually request a convention tends to hinge on grass-roots efforts.

Illustrations of the grass-roots character of the convention movement are plentiful. In 1899, for example, the drive was just beginning for an amendment providing for direct election of U.S. Senators. Faced with a Congress that would not submit such an amendment to the states, the Pennsylvania State Legislature created a standing committee "to confer with legislatures of other states regarding the election of United States senators by popular vote" by the passage of an amendment through a constitutional convention.

Today, there is evidence of a comparable grass-roots push for a convention. Of the thirty-two memorials submitted to the Congress since 1974, seventeen specified that copies of their memorials should be circulated in each of the other state legislatures.

Americans for a Constitutional Convention, based in New York, now publishes a monthly newsletter, "Convention Call", which charts the progress of convention applications on abortion and encourages other states to apply.

In 1972, with anti-busing sentiment at its height, the National Committee for a Constitutional Amendment to Prohibit Forced Busing was formed in Washington, D.C. Chaired by Wayne Connally, brother of former Treasury Secretary, John Connally, the Committee's goal was to get ". . . 34 state legislatures to approve to resolution calling for a constitutional convention to develop the desired amendment" on busing.[40]

Other cause-oriented groups also promote the idea of a constitutional convention as a means of furthering their goals. For example, Congressman McDonald of Georgia has proposed an amendment to the Constitution "which would put an end to the Government engaging in business enterprises that are not Constitutionally authorized." Among those unconstitutional businesses, Congressman McDonald lists TVA, the Commodity Credit Corporation, and the Federal Crop Insurance Administration. Backers of the amendment, according to Mr. McDonald, are engaged in an active campaign to lobby state legislatures to ask Congress for a convention at which the amendment could be considered.[41]

Aside from the grass-roots nature of the constitutional convention proposal, it also tends to reappear at times of national reaffirmation. Aside from the 1861 Peace Convention, calls for a convention accompanied both World War I and World War II. Near the end of World War I, articles appeared in national magazines favoring a constitutional convention to update and reform the system of American government.[42] During World War II it was suggested that a convention be summoned to sit throughout the war as a "democratic gathering to which would come all those who seek revision of our constitutional arrangements." [43]

In 1937 with war tensions growing the United States commemorated its 150th year of life under the Constitution. In an article for the *North American Review*, Malcolm R. Eiselen wrote, "Nothing worse could befall the nation . . . than to make this year's celebration merely a complacent eulogy and uncritical exaltation of the Constitution . . . How fitting it would be, on this anniversary occasion, to summon a second convention for an intelligent and comprehensive re-examination in the light of experience and altered conditions of the workings of the Nation's Charter." [44]

In 1887, the United States staged a three-day celebration in Philadelphia marking the Centennial of the Constitution [45] and with the Bicentennial only ten years away, proposals for constitutional review are already beginning to emerge.[46]

Senator Abourezk has recently called for a constitutional amendment providing for the initiative on a national scale. Although no one has publically raised the prospect of promoting the amendment through the state legislatures, the initiative concept of returning a stronger voice to the people is clearly compatible with the grass-roots character of the convention option. Moreover, Senator Abourezk, in 1975, introduced a constitutional convention procedures bill identical to the Senate-passed Ervin bill of 1971.

The point of this glance at convention history is that, while the idea has never really caught the public imagination, there always seems to be continuing support for it. For the last twenty-years, convention calls have generally issued on questions reflecting the conservative viewpoint. More important, however, than the philosophy behind the memorials is the fact that the Congress has yet to act on guidelines for a convention. When they did act during the emotionally charged battle over reapportionment, the Senate ruled out any court review of convention decisions and gave to the Congress final authority on questions surrounding an *individual state legislature's procedures* used to adopt a resolution forwarding a memorial to the Congress. Beyond that, the bill was so narrow it virtually banned the option of a general convention.

This is not to say that such a general convention is needed. It is to say, however, that it is time the Senate reconsider its earlier action and that Congress open to fresh hearings the entire question of a constitutional convention. It should be done at a time when passions are cool. It should certainly be done soon.

Footnotes at end of article

FIGURE I

STATE MEMORIALS REQUESTING A CONSTITUTIONAL CONVENTION, JANUARY 1974 TO SEPTEMBER 1977

State	Subject	Noted in House	Received by Senate	Sent to:	Share with other State legislatures
Indiana	Abortion		Jan. 21, 1974, CR vol. 120, p. 14	Clerk and Secretary	No
Massachusetts	Use of public funds for secular education.	Mar. 18, 1974, CR vol. 120, p. 7014	Mar. 21, 1974, CR vol. 120, p. 7687	Speaker and President of Senate	No
Do.	Busing	May 1, 1974, CR vol. 120, p. 12562	May 6, 1974, CR vol. 120, p. 13130	do	Yes.
California	Private ownership of gold	Sept. 11, 1974, CR p. 30714			

State	Subject	Noted in House	Received by Senate	Sent to:	Share with other State legislatures
Arkansas	Balanced budget		Mar. 10, 1975 p. 5793	Speaker and President of Senate	No.
Virginia	do	Feb. 27, 1975, p. 4730	do	do	No.
Mississippi	do	Apr. 29, 1975, p. 12168	Apr. 29, 1975, p. 12175	Clerk and Secretary	Yes.
Missouri	Abortion	May 7, 1975, p. 13433	May 5, 1975, p. 12867	do	No.
Nevada	Coercive use of Federal funds	June 16, 1975, p. 19117	June 26, 1975, p. 21065	Speaker and President of Senate	No.
Louisiana	Balanced budget	July 23, 1975, p. 24412	July 28, 1975, p. 25311	Clerk and Secretary	Yes.
Kentucky	Busing	Sept. 22, 1975, p. 29630	Sept. 8, 1975, p. 27821	do	Yes.
Indiana	Balanced budget	Jan. 28, 1976, p. 1400	Jan. 26, 1976, p. 931	do	No.
Georgia	do	Feb. 16, 1976, p. 3161	Feb. 6, 1976, p. 2740	do	Yes.
Tennessee	Coercive use of Federal funds		Feb. 17, 1976, p. 3316	Speaker and President of Senate	No.
South Carolina	Balanced budget	Feb. 23, 1976, p. 4090	Feb. 25, 1976, p. 4329 and Feb. 26, 1976, p. 4546.	do	No.
Delaware	do	Mar. 4, 1976, p. 5572	Feb. 25, 1976, p. 4329	Clerk and Secretary	Yes.
Virginia	do	Mar. 25, 1976, p. 8019	Mar. 29, 1976, p. 8336	Speaker and President of Senate	Yes.
Massachusetts	Busing		Apr. 7, 1976, p. 9735	do	No.
Oklahoma	Coercive use of Federal funds	June 7, 1976, p. 16816		State congressional delegation	No.
Louisiana	Abortion	July 22, 1976, p. 23550		Speaker and President of Senate	Yes.
Virginia	Item veto	Mar. 28, 1977, p. 9299		do	Yes.
South Dakota	Abortion	Apr. 18, 1977, p. 11041	Apr. 22, 1977, p. 11888	do	No.
New Jersey	do	Mar. 30, 1977, p. 9603	Apr. 5, 1977, p. 10481	Clerk and Secretary	Yes.
Utah	do	May 3, 1977, p. 13301 and May 4, 1977, p. 13471.	May 2, 1977, p. 13057	Senate and House of Representatives	Yes.
Rhode Island	do	May 13, 1977, p. 14649 and May 19, 1977, p. 15539.	May 20, 1977, pp. 15808, 15809	Speaker and President of Senate	Yes.
Arkansas	do	May 16, 1977, p. 14825	May 20, 1977, p. 15808	Clerk and Secretary	Yes.
Arizona	Balanced budget	June 14, 1977, p. 18869	June 14, 1977, p. 18873	Speaker and President of Senate	Yes.
Tennessee	do	June 10, 1977, p. 18419		Senate and House of Representatives	Yes.
Do	Terms of Federal judges	do		do	Yes.
Massachusetts	Abortion	June 23, 1977, p. 20659	July 1, 1977, p. 22002	Clerk and Secretary	Yes.
Guam	do	June 27, 1977, p. 20945	July 1, 1977, p. 22001	Speaker and President of Senate	Utah only.
Tennessee	Item veto		July 1, 1977, p. 22002	do	Yes.

FOOTNOTES

[1] *Proposed Amendments to the Constitution of the United States of America*, 91st Congress, 1st Session, Senate Document No. 91–38, page VII. See also, unpublished compilations of the Senate Library.

[2] See for example: Hearings Before the Subcommittee on Separation of Powers of the Committee on the Judiciary, United States Senate, on "S. 2307, Federal Constitutional Convention," 90th Congress, 1st Session, October 30 and 31, 1967; see also, *Michigan Law Review*, Vol. 66, No. 5, March 1968; see also; James N. Stasny, "Toward a Civically Militant Electorate: A National Constitutional Convention" (excerpts) appearing in the April 1, 1976, *Congressional Record*, Vol. 122, No. 48, page 8984.

[3] See for example: *State Applications Asking Congress to Call a Federal Constitutional Convention*, House Committee on the Judiciary, 87th Congress, 1st Session, July 1, 1961; see also, *Federal Constitutional Convention*, "States Ask for Federal Constitutional Convention," Senate Document No. 78, 71st Congress, 2d Session, February 1, 1930; Fred P. Graham, "The Role of the States in Proposing Constitutional Amendments," American Bar Association Journal, Vol. 49, December 1963, page 1175; "State Applications to Congress for Convention to Propose Constitutional Amendments," Congressional Research Service, June 12, 1973 and *Addendum*, July 2, 1974; "Amendment of the Constitution By the Convention Method Under Artile V," Final Report of the American Bar Association's Special Constitutional Convention Study Committee, Chicago, 1974.

[4] See Appendix for complete listing of the 32 memorials as they appeared in either the *Congressional Record* or in the original state resolutions.

[5] Floyd M. Riddick, *Senate Procedure*, page 542, *Rules of the United States Senate*, Rule VII, paragraph 1.

[6] *Rules of the United States Senate*, Rule VII, paragraph 1.

[7] Floyd M. Riddick, *Senate Procedure*, pages 781–82.

[8] Rule VII, paragraph 1.

[9] Riddick, *op. cit.*, page 328; Rule VII, paragraph 6.

[10] Riddick, *op. cit.*, page 275; Rule VII, paragraph 5.

[11] There are two other categories besides POM. One category is "Executive Communications" with the initials EC and the other category is "Presidential Messages" with the initials PM. Under each category the first item receives the number one with subsequent items numbered consecutively.

[12] Memorials from states requesting a convention to propose an amendment to the Constitution are always referred to the Judiciary Committee.

[13] Jefferson's Manual, page 183, Section XIX, paragraph 389.

[14] Rule XXII. paragraph 1.

[15] *Background Information on Administrative Units, Member's Offices, and Committees and Leadership Offices*, House Document No. 95–178, 95th Congress, 1st Session, page 9.

[16] Supra note 12.

[17] (1974) Massachusetts on busing and Massachusetts on public funds for secular education; (1975) Arkansas, Virginia, Nevada; (1976) Tennessee, South Carolina, Virginia, Massachusetts, Louisiana; (1977) Virginia, South Dakota, Rhode Island, Arizona, Guam and Tennessee on item veto in Appropriation's bills.

[18] (1974) Indiana; (1975) Mississippi, Missouri, Louisiana, Kentucky; (1976) Indiana, Georgia, Delaware; (1977) New Jersey, Arkansas, Massachusetts.

[19] (1977) Utah, Tennessee on balanced budget and Tennessee on Federal judges.

[20] Oklahoma 1976.

[21] (1974) Massachusetts in two instances; (1975) Virginia, Nevada; (1976) South Carolina, Virginia; (1977) Virginia, South Dakota, Rhode Island, Arizona, and Guam.

[22] See "Constitutional Convention Act of 1953" in Staff Report to the House Committee on the Judiciary, *Problems Relating to State Applications for a Convention to Propose Constitutional Limitations on Federal Tax Rates*, 82d Congress, 2d Session, 1952, pages 21–24; See also S. 1272 which passed the Senate July 9, 1973; S. 1973 introduced June 11, 1973; Cyril Brickfield, *State Applications Asking Congress to Call a Federal Constitutional Convention*, House Committee on the Judiciary, 87th Congress, 1st Session, July 1, 1961, page 34–36.

[23] Rules of the House of Representatives, page 561.

[24] By coincidence Guam is now in the midst of a constitutional convention of its own to draft a constitution for local self government.

[25] *Congressional Record*, May 13, 1977, page 14649.

[26] *Congressional Record*, May 19, 1977, page 15539.

[27] *Congressional Record*, February 25, 1976, page 4329.

[28] *Congressional Record*, February 26, 1976, page 4546.

[29] *Congressional Record*, March 29, 1976, page 8336.

[30] *Congressional Record*, June 7, 1976, page 16816.

[31] *Congressional Record*, February 7, 1976, page 2930.

[32] *Congressional Record*, July 1, 1977, page 22002.

[33] *Congressional Record*, June 10, 1977, page 18419.

[34] *Congressional Record*, June 10, 1977, page 18420.

[35] *Congressional Record*, March 10, 1975, page 5793.

[36] *See Congressional Record*, May 3, 1977, page 13301 and May 4, 1977, page 13471.

[37] "Amendment of the Constitution by the Convention Method Under Article V," Special Constitutional Convention Study Committee of the American Bar Association, page 33.

[38] *Congressional Record*, April 19, 1967, page 10116.

[39] See generally L. E. Chittenden, *Report of the Debates and Proceedings of the Peace Convention Held at Washington, D.C.*, February 1861, D. Appleton & Company, 1864.

[40] *Houston Chronicle*, January 15, 1973, page 4.

[41] *Congressional Record*, October 9, 1975, page 32635. For further discussion of citizen's role in promoting a convention, see John E. Bebout, "The Citizen as Institution Builder" in *National Civil Review*, V. 66, January 1977.

[42] See Bouck, White, *The Outlook*, August 22, 1917, page 613; See also Lewis Mayer, "Should We Remake the Constitution?" in *The New Republic*, August 17, 1918.

[43] Alexander Hehmeyer, *Time for Change*, pp. 6 and 34.

[44] Malcolm R. Eiselen, "Dare We Call a Federal Convention?", in the North American Review, Vol. 244, No. 1, 1937, page 27.

[45] *History of the Celebration of the One Hundredth Anniversary of the Promulgation of the Constitution of the United States.* (Philadelphia 1889.)

[46] Conley Dillon, "American Constitutional Review: Are We Preparing For the 21st Century?" in *World Affairs*, Summer, 1970, pages 5–24.

TOWARD NORMAL AND ENDURING UNITED STATES RELATIONS WITH CHINA—A SPEECH BY SENATOR EDWARD KENNEDY

Mr. HUMPHREY. Mr. President, a vital facet of our foreign policy is the continued importance of normalization of relations with the People's Republic of China.

An important contribution to understanding the issues involved in normalization is contained in a speech delivered by our distinguished colleague, the senior Senator from Massachusetts (Mr. KENNEDY). The speech was delivered to the Boston World Affairs Council on August 15 of this year.

Senator KENNEDY places special emphasis on the parallel nature of American and Chinese interests when he notes:

. . . We are both seeking a balance of forces which is a prerequisite to international peace. We both support a strong Europe; we both oppose the 'hegemony' of any power in Asia and worldwide; we both oppose external intervention and seek national self-determination in southern Africa.

All are vital issues—all will have a bearing on the future course of peace and stability in the world. Therefore, I think it is particularly important to emphasize that this mutuality of interest serves as a solid basis for accelerated normalization of relations between our two nations.

Most importantly, however, are Senator KENNEDY's views on the issue of Taiwan—an issue on which there is significant sensitivity both here and abroad. They are as follows:

First, we should make clear unilaterally our continuing opposition to use of force against Taiwan. We should reaffirm our expression in the Shanghai Communique of our "interest in a peaceful settlement of the Taiwan issue by the Chinese themselves." Our entire Asia policy must be designed to maintain peace in the Western Pacific.

Second, unless and until there is a peaceful accommodation between Taiwan and the mainland, we should continue to ensure that Taiwan has access to supplies needed for self-defense.

Third, we should encourage the Chinese to indicate unilaterally that they will be patient and will continue to prefer peaceful means of reunification with Taiwan . . .

Finally, if Taiwan chooses eventually to establish peaceful contacts with China, including expansion of its trading relationship, we should welcome this as a first step in the peaceful resolution of differences among the Chinese themselves.

I am convinced an approach along these lines makes it possible for Taiwan's prosperity and security to be maintained, while we normalize relations with the People's Republic of China.

This approach would take account of the interests and concerns of the Chinese on both sides of the Taiwan Strait.

The Chinese, in turn, should be expected to be sensitive to our interests and concerns.

For China, this surely means flexibility in the implementation of what it asserts are the necessary principles of normalization, once these are accepted by the United States: a flexibility that will lead it not to oppose reasonable steps by the United States to provide for a prosperous and peaceful Taiwan. For Taiwan, this surely means recognition that the substance is far more important than the form of its relationship with us.

Mr. President, this is a careful and thoughtful analysis of a very sensitive issue, and I commend Senator KENNEDY for the manner in which he has articulated this concern.

While I have touched only briefly on two points raised by the distinguished Senator in his speech, I believe the entire address merits our thoughtful consideration.

Mr. President, I ask unanimous consent that the speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

(Address by Senator EDWARD M. KENNEDY)

TOWARD NORMAL AND ENDURING UNITED STATES RELATIONS WITH CHINA

General Gavin, Dean Gullion, Professor Fairbank, Ladies and Gentlemen:

It is a great pleasure to be here today to address such a distinguished group and to meet again with so many old friends. Two years ago I had the honor of coming here to the World Affairs Council to receive the Christian A. Herter Memorial Award. It is very good to be back.

Next week, Secretary of State Vance will depart on one of his most important overseas trips—to the People's Republic of China. It is more than five years now since the first hopeful opening between the world's most populous nation and ours, the world's most powerful.

I come here today to call for the completion of the process begun in Peking and Shanghai in 1972. We should take immediate steps toward early and complete normalization of relations between the United States and the People's Republic of China—that is, the establishment of full diplomatic relations between our two countries.

As long ago as 1966, a small number of us in Washington called for new directions in our China policy. In 1969, in New York, I spelled out a policy of peace with China, replacing our previous policy of political, diplomatic, and economic antagonism toward one of the world's most important nations.

By that time an increasing number of Americans had begun to favor renewed diplomatic, economic, scientific and cultural contacts with the People's Republic, as well as withdrawal of our opposition to Peking's entry into the United Nations as the representative of China.

Four years later, in 1973, we could welcome the contacts we and Peking had finally established, as a result of the 1972 Shanghai Communique. We could welcome Peking's presence in the United Nations. I then called in Washington for establishing full diplomatic relations with Peking.

Today in Boston, four years later still, there has not been very much real progress in U.S.-China relations since 1973. Despite promising beginnings, we failed to carry forward our mutual commitment to normalize relations—at a time of increasing turbulence on both the American and the Chinese domestic scenes.

The new Administration now has a major opportunity to overcome the inertia of the past four years. It is now timely for the President and Secretary Vance to begin negotiations necessary to complete the process of normalization, preferably by early 1978. With flexibility and a willingness to compromise on both sides, this historic aim will be realized.

Let me discuss the key elements of the historical background, the prospects and implications of normalization, and proposals for the future agenda of U.S./China relations.

HISTORICAL PERSPECTIVE

It is not an overstatement to say that the close historic relationship between China and the United States was a casualty of the Cold War. It is now time for us to overcome the tragic consequences of that era and return to more cooperative relations with China.

Before 1950, despite ups and downs in our relationship, Americans had become deeply committed to friendship with the Chinese people—to their brave efforts to defend the integrity of their nation against Western and Japanese imperialism, to their courageous struggle to overcome the blight of poverty and civil war. Millions of Chinese lost their lives in their common cause with the United States in World War II. It was primarily America's vision of China's global importance that led to China's selection as one of the five permanent members of the UN Security Council in 1945.

Then after the Chinese Communist Revolution in 1949, we entered an unprecedented period of confrontation that included violent conflict between Chinese and Americans and their allies. The irony was that neither country had intended to fight the other.

The United States was drawn into the Korean War, because of North Korean aggression supported by the Soviet Union. China intervened only four months later, in response to the advance of our own forces towards its own territory. And the Korean War in turn triggered our military intervention in Taiwan. Before the Chinese intervention in Korea, we sent the Seventh Fleet into the Taiwan Strait six months after our government had concluded that we should not re-involve ourselves in the Civil War between the Nationalists and the Communists.

The Korean conflict also precipitated our fateful decision to increase support of the French military forces in Indochina. In the following decade this decision led us, in the name of containing Chinese Communism, to inflict countless casualties in Indochina and to suffer grievously ourselves. Even though we and the Chinese never fought each other directly after the Korean Armistice, in effect we were combatants by proxy in Vietnam. Yet, now that the Indochina conflict has ended, we see that Vietnam insists upon being as independent of China as China is of the USSR.

Against the tragic background of Sino-American conflict, successive American Presidents have tried, but failed, to establish a new relationship between the United States and China.

President Truman was at first determined to extricate the United States from intervention in the decades-long Chinese civil war, but reversed his course when the Korean conflict broke out.

President Kennedy was deeply interested in developing a new relationship with China, but he did not live long enough to undertake his planned overtures to the People's Republic.

President Johnson took steps to signal to Peking about potentially new directions in our foreign policy, but both the Chinese Cultural Revolution and the Vietnam War proved to be insuperable barriers.

TOWARD NORMAL RELATIONS

Finally, by the beginning of the 1970s, China's emergence from the Cultural Revolution, the deepening of the Sino-Soviet split, and America's reappraisal of its overall Asia policy permitted a new opening of relations under the Shanghai Communique.

President Nixon and Secretary Kissinger deserve great credit for having made this historic opening with Chairman Mao and Prime Minister Chou En-lai in 1972.

When he arrived in Washington to open the Liaison Office that substitutes for an embassy, the first Chinese Ambassador stated that China and the United States were ending a twenty-year "detour" in their relationship. But other detours—brought on by Watergate, Vietnam, the deaths of Mao Tse-tung and Chou En-lai, and last year's Presidential campaign—repeatedly intervened to prevent the two countries from continuing on the main road.

Today, with new leaders in Washington and Peking, and with mutual efforts, we and the Chinese can fulfill what has eluded us in the past.

President Carter stated at Notre Dame on May 22nd that "It is important that we make progress toward normalizing relations with the People's Republic of China. We see the American-Chinese relationship as a central element of our global policy and China as a key force for global peace." Secretary Vance has an opportunity to pursue this goal in Peking next week, and he deserves our strong support.

I believe Secretary Vance's objective in Peking should be to work with the Chinese to normalize relations as soon as possible, because it is in our national interest, because it is right, and because it is feasible to do so.

OUR NATIONAL INTEREST IN NORMALIZATION

It is inevitable that China will play a growing role in the world arena—a role that befits one of the world's oldest civilizations and a nation with almost one-fourth of the world's humanity. This role can be a constructive one: a role for peace and for economic progress.

Despite the sharp differences in our rhetoric and often in our positions, many American and Chinese interests are parallel. We are both seeking a balance of forces, which is a prerequisite to international peace. We both support a strong Europe; we both oppose the "hegemony" of any power in Asia and worldwide; we both oppose external intervention and seek national self-determination in southern Africa.

The fact that China's positions are often in opposition to our own should not deter us from endeavoring to narrow them whenever possible.

In Asia, the United States desires peace, stability and economic and social progress: in Korea, in Southeast Asia, in South Asia.

Worldwide, the U.S. wishes to reduce and eventually eliminate nuclear weapons, we wish to bring about a historic transformation from reliance on military might to the fulfillment of basic human needs. Such a transformation is inconceivable without China, the world's largest nation and the newest nuclear power—and also a nation which has made major economic strides against the most formidable odds.

Our interests in all these areas require that we act now to consolidate and improve our relations with China—a nuclear power that can tip the scales of world peace or world war.

Improved U.S./China ties have important implications for our relations with the Soviet Union. I believe that our relationships with both Communist powers are too important, to us and to the world, to permit improvements in relations with one to undermine improvements in relations with the other.

The Chinese and the Soviets are engaged in a major dispute that has territorial, ideological, security and other roots. Its origins can be traced back to the anti-Chinese imperialism of the Czars, to Soviet dominance and insensitivity to the Chinese Communists, to the mutual hostility between Mao and Stalin's successors, and more recently to the border conflict in 1969.

The United States did not create this dispute. For us to attempt to manipulate it would be self-defeating and dangerous. But it has created a new objective reality, in which U.S. policy is critically important in affecting the triangular relationship.

Today, improsed US relations with one Communist power are likely to create at least some incentive for the other to improve relations with the United States. But unless the US continues to try to improve relations with both Peking and Moscow, the situation could change.

Recent historical experience indicates that our relationships have risen and fallen together, 1972 and 1973 were years of good US relations with both Moscow and Peking reflecting not only the key triangular process, but the international environment and our bilateral relationships. Since 1974 new problems have arisen in US relations with both.

It should now be our national objective to initiate a new period that leads to improved relations with both. Normalization of relations with China can be a key to this critical triangular process. Renewed detente with the Soviets should be furthered by improved relations with the Chinese.

THE TERMS OF NORMALIZATION

Normalization of relations with China is not only right for the United States, but right for Taipei and Peking. Peking's position on US/China ties has long been clear. It favors normalization as soon as the United States ends its three official ties with the Republic of China on Taiwan. We must end our military presence there, our defense treaty, and our formal diplomatic relations with the island.

Peking insists that, even if countries continue trade and other relationships with the Nationalists on Taiwan, no country can expect to maintain formal diplomatic relations with both the rival government on Taiwan and the People's Republic of China. This background not only of a half-century of Chinese civil war, but also of the long-standing Chinese belief that China should be a unified nation, free of foreign forces, and that Taiwan is part of China.

Both Peking and Taipei have steadfastly insisted that there is only one China. Both have claimed sovereignty over all of China. Neither is prepared to ratify the partition of China.

This is the basic historical and legal context shaping China's relations, not just with the United States but with all nations. The United States accepted the proposition that Taiwan should be Chinese over thirty years ago—in the Cairo Declaration of 1943 and in the Potsdam Proclamation of 1945, which stated that Taiwan should be restored to China following fifty years of Japanese occupation. In 1972, we stated in the Shanghai Communique that we do not challenge the claim of all Chinese that there is only one China and that Taiwan is part of it. Today, we cannot recognize two governments as the Government of China.

The overwhelming bulk of China's people is in fact under Peking's rule and not Taipei's. All of our major allies, including Japan, recognize the People's Republic of China exclusively, as does China's principal enemy the Soviet Union. Just as in the case of our belated recognition of the USSR in 1933, recognition of the PRC will be facing a basic fact of international life. It will signal neither approval nor disapproval of the Government and its policies.

Those who say normalization of relations with Peking will mean abandonment of Taiwan are doing both Taiwan and the United States a great disservice. Even after normalization, we can and will maintain unofficial relations with Taiwan—and Taiwan should continue to thrive. This is a prosperous island of over 16 million people, enjoying growing economic ties with almost all industrialized and many developing countries. Its prosperity has increased despite its diminishing diplomatic ties with the outside world. Its gross national product last year reached over $14 billion and its two-way trade with the United States over $4 billion. I am confident that we can maintain a healthy economic relationship with Taiwan after normalization of our relations with Peking.

At no time has Peking asked us to cut our unofficial ties with Taiwan. Rather, Chinese leaders have repeatedly suggested the reverse—that we adopt the "Japanese model". Under this model Tokyo has maintained an unofficial presence on Taiwan and continued—indeed expanded—its economic and other ties with both Chinese sides, since it established diplomatic relations with Peking and abandoned all official and treaty ties with Taipei in 1972.

A modified form of this Japanese model should be a basis for our future ties with China and Taiwan. It will enable us to maintain our substantial relations with Taiwan on an unofficial level—without contradiction of the one-China principle advocated by both Taipei and Peking.

The situation of Japan, of course, differs from that of the United States in that Japan has never assumed a security commitment to Taiwan since giving up the island in 1945. We must therefore go beyond the Japanese formula in fostering a peaceful solution to the Taiwan issue. There is no question in my mind that the security of the people in Taiwan, and the peaceful resolution of the relationship between the island and the mainland, should remain unchanged by normalization. The United States has made clear that it opposes the use of force in the Taiwan area and that it strongly believes any solution must be a peaceful one. We can and should remain constant in this.

As a result of substantial U.S. military assistance over the years, Taiwan possesses a significant defensive capability. One hundred miles of water separate it from the mainland. And the People's Republic has not built sufficient amphibious forces to cover that distance—a better clue to its real intentions than its rhetoric about its "right" to use force to solve domestic disputes. These facts of life make it natural for us to withdraw the remainder of our military forces from Taiwan. Those have already been reduced from over 10,000 men in 1972 to fewer than 1400, without destabilizing the present situation.

Taiwan's self-defense capability, China's preoccupation with the Soviet military threat and the high political and military costs that military action against Taiwan would involve for Peking—not to mention its uncertainty as to what our own response might be—make the PRC extremely unlikely to resort to force to take the island. Indeed, for 15 years, neither Chinese side has directly attacked the other. In effect, a de facto truce prevails over the Taiwan Strait.

Our defense treaty with Taiwan, which was concluded at the height of the Cold War in 1954, would no longer have effect when we establish relations with Peking as the Government of China. However, the absence of a formal defense treaty need not cast doubt on the basic fact that Americans will continue to have a deep sense of concern and responsibility about Taiwan's security and will base our policy on the premise that a peaceful resolution of its future is essential. Nor does the existence of a defense treaty necessarily guarantee the US security commitment, since it remains for the President and the Congress to decide whether or not the circumstances call for a response on our part—and what type of response would be wise.

It is in the best interest of both Taiwan and the United States not to equate our formal defense relationship with the security of the island.

Over the years ahead, improved US relations with Peking and increased stability throughout Asia will contribute more to Taiwan's security—and to a hopeful future for the island and its people—than clinging to a treaty that is now clearly outdated.

With creative diplomacy, the United States can confirm a clear interest in the well-being of the people of Taiwan after normalization and can take tangible steps to ease any

psychological impact of normalization on Taiwan.

First, we should make clear unilaterally our continuing opposition to use of force against Taiwan. We should reaffirm our expression in the Shanghai Communique of our "interest in a peaceful settlement of the Taiwan issue by the Chinese themselves." Our entire Asia policy must be designed to maintain peace in the Western Pacific.

Second, unless and until there is a peaceful accommodation between Taiwan and the mainland, we should continue to ensure that Taiwan has access to supplies needed for self-defense.

Third, we should encourage the Chinese to indicate unilaterally that they will be patient and will continue to prefer peaceful means of reunification with Taiwan. In the past, Chou En-lai often commented that decades may be necessary to resolve Taiwan's status. Last March, Vice Premier Li Hsien-nien confirmed that the Chinese will have to be patient with regard to Taiwan.

We should welcome such unilateral statements. But it is neither necessary nor useful to try to extract an explicit reunification of force from Peking. To do so would directly challenge China's insistence, as a matter of principle, that the Taiwan question is an internal Chinese matter. Even if obtained, any assurance would be so general as to be virtually meaningless. Let us focus instead on the realities that will deter military attack on Taiwan.

Finally, if Taiwan chooses eventually to establish peaceful contacts with China, including expansion of its trading relationship, we should welcome this as a first step in the peaceful resolution of differences among the Chinese themselves.

I am convinced an approach along these lines makes it possible for Taiwan's prosperity and security to be maintained, while we normalize relations with the People's Republic of China.

This approach would take account of the interests and concerns of the Chinese, on both sides of the Taiwan Strait.

The Chinese, in turn, should be expected to be sensitive to our interests and concerns.

For China, this surely means flexibility in the implementation of what it asserts are the necessary *principles* of normalization, once these are accepted by the United States: a flexibility that will lead it not to oppose reasonable steps by the United States to provide for a prosperous and peaceful Taiwan. For Taiwan, this surely means recognition that the substance is far more important than the form of its relationship with us.

In the final analysis, the Taiwan issue is one for the Chinese themselves to resolve over time. The United States has, and should have, no other fundamental interest than that this resolution be a peaceful one. We lack—and do not aspire to—the power to impose an American solution on Taiwan. The reality is and should remain that we look forward to and encourage a peaceful settlement of the Taiwan issue; we oppose any forcible attack on Taiwan. We do not contest the claim both in Peking and in Taipei that Taiwan is part of China, even if the U.S. itself takes no stand at present on the legal status of Taiwan. We cannot be indifferent to how the Taiwan problem is ultimately solved, because any military solution would harm the people of the island and could have seriously destabilizing effects in the region. The official and the legal relationships can and should be adjusted to these realities.

THE FEASIBILITY OF NORMALIZATION

Therefore, normalization of relations with China is both right and in our national interest. And it is feasible to do it now—to establish a new, normal and enduring relationship.

There is no better opportunity, since the original China opening in 1972, for us to fully normalize relations with China. This Administration is still young enough to make a commitment that it can carry out, and it can build upon as a legacy for its successors. If we manage to do so, this will enable us to engage Mao's successors in a fruitful relationship that should enhance our security and that of our allies in Asia.

In Peking, Mao's so-called "revolutionary" line—calling for unremitting opposition to Soviet power and improving ties with the United States—still continues to characterize Chinese foreign policy. But it would be foolhardy for us to assume that this cannot change in the future. The Chinese have a right to expect us to move forward with normalization when five years have passed since the Shanghai Communique. If we do not move forward now, our relations with China may well deteriorate, confronting us with a new and difficult situation.

Too many times has delay undone the plans of Presidents to establish a new relationship with China. Let us not permit inertia once again to dictate our China policy—or an absence of one.

This is the best time to normalize relations not only for the United States and China, but for Taiwan as well. Obviously Taiwan would prefer that we maintain official relations with it. But its present strength and prosperity, Taiwan's present governance by an effective Premier, and the political detente which we can consolidate with China—these all argue for developing substitute, unofficial ties between our country and the island now. If there is further delay, the circumstances of normalization—which our interests clearly demand at some point—could well become less favorable.

There are significant dangers in a failure to normalize relations with China. And these dangers are likely to increase over time.

The longer US-China relations remain at a stand still, as they have over the past four years, the more likely will Peking be to question the value of the US connection. Internal critics will argue that China compromised itself by permitting Liaison Offices to be established and maintained while Taiwan still enjoyed diplomatic representation and expanded consular ties with the United States. From no other country has China accepted such a half-way house and we cannot assume that it will continue to do so indefinitely.

The internal debate could also highlight the Soviet military threat and perceived Western shortcomings in containing it. Chinese frustration with the US over Taiwan might eventually overcome Mao's strong anti-Soviet legacy and lead over time to a limited detente between China and the USSR.

The results of any realignment, even a gradual one of limited proportions, could be far-reaching. We could forfeit a historic opportunity to establish a new relationship with China. China might become more inclined to emphasize forceful rather than peaceful reunification with Taiwan. Conceivably the Soviets could become even less accommodating than now in Europe and also in arms control negotiations. We should bear in mind that over forty Soviet army divisions are stationed in the Far East. They could be used elsewhere. Tensions would surely rise, and the risk of conflict could increase. All countries would ultimately be the losers, including China and the USSR.

We should not expect normalization to result in instant agreement on the issues dividing us from China. In this, as in relations between China and Taiwan, the resolution of differences will be a slow process. But normalization will remove a key obstacle to a significant and enduring relationship between the United States and China.

Clearly, the pace and the scope of US/China relations after normalization will depend on a large number of factors, internal and external, only some of which will be under our control at any one time. For the forseeable future, our world role—including our relationships with our allies, our readiness to balance Soviet military power, and our negotiating role in such troubled areas as the Middle East and southern Africa—will be a major Chinese concern, and a basic consideration both in how seriously they take our actions and how closely they are willing to work with us. But, over time, a normal and enduring US/China relationship will obviously enhance a parallelism in pursuit of many of our respective interests.

In normalizing relations, we should consult closely with our friends and allies—particularly those most directly affected. We must consult closely with Japan, our major ally in the region. For the first time in this century, the United States can develop strong and constructive ties with both Japan and China. And we can and should assure South Korea and our other allies that our security commitments in the region remain unaltered.

When Secretary Vance goes to Peking, he should be able to act upon the following agenda for US-China relations:

First, set an early date for complete withdrawal of our few remaining military forces (less than 1,400 men) from Taiwan. There is no military need for them to remain, and there is benefit in their leaving by a specific date.

Second, begin the negotiating process required to achieve full normalization of U.S./China relations, as soon as possible, preferably no later than 1978. This will make it possible for all concerned—China, Taiwan and the United States—to undertake a smooth transition to normalization.

Third, pending complete normalization, negotiate a final settlement of the question of U.S. financial claims against China and Chinese assets that have been frozen in the U.S. since 1949. This action will help to augment our economic ties, and it could be symbolically important in making progress toward normalization itself.

Fourth, increase both government-to-government and people-to-people contacts and exchanges; prepare the way for reunification of families; and expand U.S./China trade opportunities in both the agricultural and industrial fields. We must be prepared for progress to be gradual, but any forward movement will help to consolidate our new bilateral relationship, without undermining our economic and other non-governmental ties with Taiwan.

Fifth, develop with Congress the political and legal steps required for continuing ties with Taiwan on an unofficial basis. As a member of the Senate, I pledge my full support as we adjust U.S. statutes to permit maintenance of the full range of unofficial ties with Taiwan.

When the United States Congress returns from its August recess, I intend to introduce a resolution in support of normalization under these conditions.

More generally, we should look forward to expanding discussions with the People's Republic on the full range of strategic, political and economic issues, at the regional and global levels. One of the most important of these for China and the United States is movement toward a peaceful settlement in Korea. Over time, we should find ways to further the North/South economic dialogue as it relates to basic human needs, and to engage in effective arms control and disarmament.

That is for the future. For the present, I am convinced of the importance of our overcoming the legacy of the Cold War and establishing a normal, enduring relationship of significance between the United States and the People's Republic of China. We should move forthrightly to fulfill the vision

of the Shanghai Communique, to establish relations which befit the central importance of our two countries in the world arena.

WASHINGTON, D.C., INTERNATIONAL RACE FOR "HORSE OF THE WORLD" HONORS

Mr. MATHIAS. Mr. President, on Saturday, November 5, the 26th running of the Washington, D.C., International Race will take place at the Laurel Race Course in Laurel, Md. The International is for 3-year-olds and up and brings together champion thoroughbreds from around the world.

It is a colorful spectacle and an exciting event. I can think of few more enjoyable ways to spend an autumn afternoon. I commend this race to Senators as excellent therapy after a strenuous week in this Chamber; and trust that we shall have resolved all urgent national problems by post time so that we can attend with a clear conscience.

Former Secretary of State Henry A. Kissinger, when he made the presentation to the winner of the 1975 Washington, D.C., International Race at the Laurel Race Course, made this statement:

> The Washington, D.C. International is just another attempt to bring better understanding and good will among many people from many countries because thoroughbred racing does bring out the fact that many people from different lands share the same interests, pursuits and attitudes and we think that's all for the good.

The scope of international acclaim for this race is evidenced by the participation of 23 countries since its inception in 1952. To date these nations have been represented: Argentina, Australia, Belgium, Brazil, Canada, Denmark, England, France, West Germany, Hungary, Ireland, Italy, Japan, Mexico, New Zealand, Norway, Peru, Singapore, Sweden, U.S.S.R., Uruguay, Venezuela, and the United States.

The Washington, D.C. International was conceived by John D. Schapiro, president of the Laurel Race Course, with the idea in mind that the best horses of each country, meeting on the turf—which is the natural footing for thoroughbreds—and at the classic distance of a mile and a half, should have the opportunity to compete for the world championship, as in other sports. This event is an invitational affair and the foreign and American contenders must be winners of important races and possess outstanding records.

The International has accomplished many important "firsts" for American racing. It was the first race anywhere in the world outside Great Britain where the silks of the Royal Family of England were in competition. It was the first race in the United States to include a horse owned by the late Sir Winston Churchill. It was the first race anywhere to lure Russian thoroughbreds from behind the Iron Curtain and it did so for 8 years.

It was the first race in America to have representatives owned by two Presidents of Ireland. It was the first race in America to draw entries from the late Prince Aly Kahn, and later Karim Aga Kahn. It was the first race in America since 1923 in which an English Derby winner appeared. It is the first race anywhere in the world where horses from four continents met in a single race.

Perhaps the greatest testimony to the high esteem with which the International is held throughout the world is the list of owners whose stable silks has appeared on the Laurel scene. Included were Paul Mellon, Nelson Bunker Hunt, Baron Guy de Rothschild, Raymond Guest, A. G. Vanderbilt, C. V. Whitney, and Lord Iveagh. From all corners of the world, leading trainers and jockeys have all been represented in this equine championship event.

We in Maryland are proud of the global popularity of this great thoroughbred classic. Racing in the United States crowns its best 3-year-old thoroughbreds through the Triple Crown. Now, the world crowns its best horse via the International Crown, comprised by the King George IV and Queen Elizabeth Stakes at Ascot, England; the Prix de L'Arc de Triomphe at Longchamp, France; and the final jewel, the Washington, D.C., International at Laurel.

Yes, this race is Maryland's own, being staged by Marylanders on Maryland soil. It carries the name of Maryland all over the world, something no other sporting event in the State does, because racing, unlike other American sports, is known far and wide. And the Washington, D.C., International, by its very name, is of prime importance to the vast amount of people all over the globe who have a strong affinity for the sport of horseracing.

TAX REFORM: ENDING THE EXPENSE ACCOUNT LIVING ABUSE

Mr. KENNEDY. Mr. President, one of the major reforms contemplated in President Carter's tax reform package is a change to end the abuses involved in so-called expense account living, especially the three-martini lunch.

Today's Los Angeles Times contains an excellent and entertaining column by Mike Royko of the Chicago Daily News on the subject. In his column, Mr. Royko makes clear that the tax deduction for the martini lunch is a Federal subsidy, or, as he notes, a form of Federal welfare for high-paid executives.

Mr. President, I believe that this sort of tax deduction has no place in the Internal Revenue Code, and that it should be repealed as a top priority in our forthcoming tax reform legislation. Mr. Royko's column deftly demonstrates the absurdity and inequity of the deduction, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, Nov. 2, 1977]

END THE (HIC) SHREE-MARTINI LUNSCH? NEVER!

(By Mike Royko)

CHICAGO.—Though President Carter has put his tax-reform proposals on the back burner, just the thought that he may eliminate the write-off for the three-martini lunch still has people steamed up. According to the U.S. Chamber of Commerce, they're so mad that his entire program may eventually suffer.

I doubt that. Over the years, I've done some research on this general subject. Not taxes, but the drinking of martinis and other refreshments. And it is my impression that the average American is self-reliant and independent, and manages to get sloshed without any help from the federal government in the form of a write-off.

So why would they care if corporate boozers no longer get what amounts to a federal subsidy every time they have a squirt?

And they probably don't buy the argument that three-martini lunches or postwork cocktails are essential to doing business.

People do business all the time without buying each other martinis. I have holes in my roof, so a roofer recently came around to look at it and quote a price. He didn't take out a pint and offer me a swig. If he had, I don't think he would have been able to deduct that swig from his taxes. Nor would it have helped him get the business, because I'd be afraid that he would fall through the roof into the kitchen sink.

So why do we have this tradition of corporations feeling that the federal government should assume part of the cost of their executives getting loaded at noon, or while they are weaving down the street during a convention? If an ordinary sot wanders into a topless joint and buys some young thing a quart of champagne, he winds up with a hangover and a screaming wife. The conventioner winds up with a tax break.

Besides, most of them aren't drinking those three martinis to close a big deal or make a sale. They have them in order to calm their nerves so that they can go back and face a harrowing afternoon of protecting their backs from other executives. Or to steady their hand for a try at someone else's back.

So how does that make their three martinis any more a necessity than the eye-opener taken each morning by Mr. Grobnik, Sias Grobnik's father?

Mr. Grobnik could have argued that the eye-opener was a business necessity because he had a nerve-wracking job that he couldn't face without a liquid propellant.

He worked for many years as the quality-control inspector in a garbage-can factory. Every 30 seconds a new can would tumble off the assembly line. Two men would pick it up, turn it upside down, and lower it over Mr. Grobnik's head. He would twirl around five times, looking for holes in it.

That's all he did from morning until quitting time. He spun around and around, peering at the inside of garbage cans.

In order to endure this terrible professional stress, he would begin each day by slipping in the side door of Fat Frank's tavern and having a hardboiled egg and what could be called a two-shot breakfast. During his noon break he would have a two-swigs-from-the-Jim-Bean-pint lunch. And after work, to wind down and stop twirling, he would have an aperitif, usually a boilermaker.

These should have been considered legitimate business expenses, since he couldn't pursue the essential business of earning his paycheck without them. But he wasn't permitted to write them off, while the president of the garbage-can company could deduct his martinis. And nobody ever lowered a can over the president's head.

This inequity continues today. Millions of workers have jobs that give them frazzled nerves. But they can't claim their lunchtime snapper or after-work six-pack on their tax records. And for many people of modest means, the tax savings probably would mean a lot more than it does to General Motors or Standard Oil.

Ending or reducing the three-martini write-off doesn't mean that executives and businessmen would have to abstain. They could get the same results by buying liquor

in bulk quantities, issuing every executive a hip flask, and telling them to sneak a nip when the waiter wasn't looking.

Smart consumers have been doing that for years. I have a frugal friend who eats a $1.25 lunch every day in a Wimpy's, but with the help of his hip flask he sometimes walks back to his job on all fours.

I'm really surprised at the Chamber of Commerce people. They are the kind who yell the loudest when they think that welfare checks are getting too high. Now they defend a form of welfare for thirsty corporate vice presidents. They must be turning into socialists.

Or drinking too many martinis.

SALT ANALYSIS

Mr. GARN. Mr. President, Mr. Paul H. Nitze, former SALT negotiator and Deputy Secretary of Defense, yesterday held a press conference on the latest strategic arms limitation proposals. At that meeting, Mr. Nitze released a comprehensive analysis of the latest SALT proposals and consequences of such an agreement. This thoughtful and somber appraisal should be read by each of my colleagues and I ask unanimous consent that the presentation, as well as the Washington Post article of November 2, 1977, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CURRENT SALT II NEGOTIATING POSTURE

The negotiations are intended to produce a SALT II Treaty, a Protocol, and a Statement of Principles.

1. THE SALT II TREATY

The Treaty is to run for eight years, counted presumably from the date of expiration of the Interim Agreement of 1972—that is, to October 3, 1985. Significant points regarding its contents—including matters agreed on for inclusion and matters still under negotiation—follow:

a. The aggregate number of strategic nuclear launch vehicles (SNLVs) *—i.e., launchers for intercontinental ballistic missiles (ICBMs), plus launchers for submarine launched ballistic missiles (SLBMs), plus heavy bombers—is to be limited initially to 2,400 each for the United States and the Soviet Union.

b. The extent and pace of reduction from the initially authorized total of 2,400 SNLVs are not as yet settled. The United States proposes a reduction to a number in the range of 2,160 by October 3, 1980. The Soviet Union proposes a reduction to 2,250 by 1982. A compromise is still to be negotiated.

c. Within the permitted aggregate number of SNLVs, a sublimit of 1,320 will be placed on the number of launchers for ICBMs carrying multiple independently-targeted reentry vehicles (MIRVs), launchers for MIRVed SLBMs, and heavy bombers carrying armed air-launched cruise missiles (ALCMs) of intermediate range. (With respect to ICBMs, intercontinental range is specified as being 5,500 kilometers or more. No specification has been agreed as to the range cutoff distinguishing SLBMs classed as SNLVs and submarine-launched missiles considered to be for tactical use only. With respect to the definition of "heavy" bomber, of "armed," and of "range" in connection with ALCMs, see (i) below.)

d. A sublimit is to be placed on the number of MIRVed ICBM launchers plus MIRVed SLBM launchers, but the specific number is still under negotiation. The United States proposes a limit of 1,200. The Soviet Union proposes a limit of 1,250.

e. A sublimit of 820 is to be placed on the number of MIRVed ICBM launchers. The United States' proposal was for a limit of 800, the Soviet Union proposed a higher limit; 820 has now been accepted by both sides. Within this 820 limit, the Soviet Union will be permitted to have a number of modern large ballistic missile (MLBM) launchers equal to their present force level—which is 308 or 326, depending on whether 18 operational MLBM launchers at the Soviet test range are counted. The United States—which has no MLBM launchers—will be permitted none in the future. Ballistic missiles with useful payloads (throw-weight) greater than that of the Soviet SS-19 will be considered to be MLBMs, and ballistic missiles with useful payloads greater than that of the Soviet SS-18 will be banned.

f. The Soviet BACKFIRE bomber is not to be counted within the number of SNLVs. The Soviet Union has indicated willingness to make an informal declaration—outside the contractual forms of the Treaty—of intentions not to employ the BACKFIRE in an intercontinental role, not to deploy it in a fashion threatening the United States, and not to raise the production rate above the present level, which the Soviet Union refuses to disclose. According to Soviet assertions, planned increases of the BACKFIRE's asserted present operational radius of 2,200 kilometers will not be large enough to give it an unrefueled intercontinental operational radius. (No U.S. bombers are capable, without refueling, of striking their designated targets within the USSR and returning to the bases from which they took off.)

g. Soviet heavy bomber variants (these are heavy bombers, numbering 90 to 100, reconfigured for reconnaissance and antisubmarine roles but still retaining their bomb bays) are not to be counted against the permitted aggregate of SNLVs. A question not as yet determined concerns whether United States B-52 bombers in protective storage are to be counted. At lower levels, Soviet negotiators have insisted that the B-52s concerned must be counted or destroyed, but the question has not been raised at higher levels.

h. The rules governing what ICBM launchers are to be counted launchers for MIRVed missiles are still being negotiated. Such rules are of potential importance in determining whether all or only a portion of the SS-18 launchers deployed by the Soviet Union are to be counted as being launchers for MIRVed missiles.

i. The testing and deployment of armed ALCMs with a range greater than 600 kilometers is to be restricted to heavy bombers and the development, testing, and deployment of all armed cruise missiles with a range greater than 2,500 kilometers is to be banned, at least during the period of the Protocol. These provisions, however, involve problems of definition and interpretation not as yet settled. Which of the pertinent definitions and limitations are to appear in the Treaty and which in the Protocol has also not been settled.

No specification of a cutoff line to distinguish "heavy" bombers from other bombers has been agreed. In the Soviet view, both sides "know" what today are "heavy" bombers—to wit, B-52s and B-1s for the United States, and BEARS and BISONS for the Soviet Union. Under this interpretation, the question whether any future bomber is to be classified as "heavy" and therefore qualified as a carrier of permitted ALCMS is to be determined by agreement between the two sides. The United States position on this subject is reported to be that each side will declare which of its bombers are to be counted as "heavy."

In the Soviet interpretation, United States FB-111H bombers and wide-body jets, not having been agreed by both sides to be "heavy" bombers, are disqualified for carrying ALCMs with the pertinental capabilities. In the United States' interpretation, such aircraft are eligible as carriers of such ALCMs on the condition of their being unilaterally declared to be "heavy" and counted against the restrictions on the numbers of SNVLs and, as appropriate, of MIRVed launchers.

Whether all bombers of a type eligible for carrying such ALCMs or only those assigned to such a role are to be counted against the limits imposed on MIRVed launchers has apparently not been discussed in the negotiations. Almost any bomber capable of carrying external weapons is readily adaptable for carrying such ALCMs.

The meaning of "armed," whether it is to cover not only nuclear but also conventional warheads during the full Treaty period or only during the Protocol period is not yet settled.

The United States has proposed that cruise missile "range" be defined as "maximum system operational range"—that is, the maximum range when the cruise missile is employed in its normal designed operational mode—and that each side specify what the maximum operational range of its cruise missile is. The Soviet side has suggested that "range" be defined as range to fuel burnout on the intended operational profile.

j. Excess ICBMs and storage facilities at launching sites and the development, testing, and deployment of rapid reload systems will be prohibited.

k. Provisions to restrict or forbid the transference to third countries of equipment and technology within the purview of the SALT II limitations are still being negotiated. It is understood that the Soviet side is urging acceptance of a provision prohibiting transfer to third parties of weapons limited by the Treaty, and of components, blueprints, and technology pertinent to such weapons.

l. Obligations for reciprocal disclosures of pertinent data are still being negotiated. Up to now the Soviet Union has insistently withheld disclosure of such data.

m. Obligations to refrain from interfering with techniques unilaterally controlled by the respective sides for verification of performance of the other side are still being negotiated.

2. THE PROTOCOL

The Protocol is to be in effect for three years, but the base date is still undetermined. The United States' proposal favors the date of expiration of the Interim Agreement of 1972—thus with the terminal date to be October 3, 1980. The Soviet Union's preference is for the base date to be the date of the exchange of ratifications, whenever that may occur. To have the date of signature as the base date has been suggested as a compromise. Significant provisions agreed on for inclusion or still subject to negotiation are as follows:

a. Testing, development, and deployment of armed cruise missiles with a range exceeding 2,500 kilometers will be banned—irrespective of whether they carry nuclear or conventional charges. Whether the definition of cruise missile range is to appear in the Treaty or in the Protocol has not yet been decided.

b. Testing and deployment of cruise missiles with a range greater than 600 kilometers on platforms other than heavy bombers will be banned. This provision, however, is the focus of differences between the two sides. The United States has proposed that the testing and deployment of such missiles, including the TOMAHAWK missile, originally designed for ship launch, be permitted on heavy bombers including

*The phrase strategic nuclear delivery vehicles (SNDVs) is often, but less precisely, used to describe this aggregate.

wide-body jets, within such other limits as prescribed by the Treaty and the Protocol. The Soviet Union is understood to insist on banning the testing of all cruise missiles designed for ship or ground launch and on excluding wide-body jets as heavy bombers within the meaning of the provision.

c. A ban on testing and deployment of "new' ICBMs is still under negotiation. It is understood that the United States' proposal calls for no testing of types not tested, and no deployment of types not deployed at the time the agreement is signed. The Soviet position is that there be no testing of MIRVed new types. The United States formulation would prohibit testing of mobile ICBMs whether single or MIRVed; the Soviet formulation would appear to permit the testing and deployment of new ICBMs, whether or not mobile, if not MIRVed. After the expiration of the Protocol, the Treaty language would permit the development, testing, and deployment of mobile ICBMs, but they would have to be counted under the pertinent limits. Both sides apparently are agreed that the testing of mobile launchers for mobile ICBMs during the Protocol period is not prohibited, provided that no missile is fired from the launcher. The specifications of what constitutes "testing," what is a "new" missile, and what is a missile "type" are yet to be worked out.

d A ban on testing or deployment of new SLBMs except for TRIDENT I and SSNX–18 (a new Soviet SLBM with a range to be as great as that of our projected TRIDENT II missile, the testing of which would be prohibited) will be included.

3. THE STATEMENT OF PRINCIPLES

The negotiations for the next stage in SALT, with the Principles serving as guidelines, are anticipated to follow-on soon after the completion of SALT II.

a. The United States has proposed the following principles, or targets:

A reduction in the aggregate number of SNDVs to a range of 1,800 to 2,000.

A reduction in the MIRVed missile launcher limit to a range of 1,000 to 1,100.

A lowered MIRVed ICBM launcher sublimit.

An MLBM launcher limit lower than the present Soviet deployed number.

Provisions further restricting the development, testing, and deployment of new ICBMs and SLBMs.

Provisions restricting the flight testing of ICBMs and SLBMs.

Further restrictions on strategic defenses, including air and civil defenses.

Steps to strengthen verification.

b. It is understood that the Soviet Union is not prepared to agree to any fixed numerical targets. It is understood that the Soviet Union wishes to put primary emphasis on limiting United States and allied theater nuclear weapons capable of reaching the Soviet Union.

CONSEQUENCES OF AN AGREEMENT: SUCH AS THAT FORESHADOWED BY THE CURRENT SALT II NEGOTIATING POSTURE IN THE CONTEXT OF RECENT DEFENSE POLICY DECISIONS

1. THE ICBM BALANCE TO BE EXPECTED BY 1985

(a) The MIRVed ICBM Balance.—The U.S. has closed down the MINUTEMAN III production line and has delayed the initial operating capability (IOC) date of the MX missile to 1986. Therefore, there is essentially no possibility of the U.S. having any deployed MIRVed ICBM launchers by the expiration date of the Treaty in 1985 other than the 550 MINUTEMAN III silos currently deployed. Some improvement of the accuracy of the MINUTEMAN III is planned and it has been planned to substitute MARK–12A warheads, with a somewhat higher yield, for a portion of the MARK–12 warheads currently deployed on the MINUTEMAN IIIs. It is possible, however, that the restrictions on testing or deploying "new" missiles to be included in the Protocol could include modifications of old missiles and delay or prohibit either or both of these changes. The useful payload of the MINUTEMAN III is approximately 2,000 pounds. The maximum number of reentry vehicles on the MINUTEMAN III is three RVs. The aggregate useful payload (throwweight) the U.S. MIRVed ICBM force in 1985 will therefore not exceed 550 x 2,200, which equals approximately a million and a quarter pounds. The aggregate number of MIRVed ICBM warheads in the U.S. force will not exceed 550 x 3, which equals 1,650 RVs.

The USSR is permitted by the proposed terms of the agreement to deploy in excess of 300 MLBMs and approximately 500 SS–19s, –17s, or follow-on MIRVed ICMBs of approximately the same size. It is possible, however, depending on the counting rules finally agreed, that they would choose to deploy some hundred or more of their MLBMs as single RVs with very high yields in excess of 20 megatons, and therefore would be more likely to deploy some 200 or so MIRVed SS–18s, some 220 MIRVed SS–17s, and some 400 SS–19s. The SS–18s have a useful payload approximating 16,000 pounds, the SS–17s and –19s have a useful payload approximating 7 to 8,000 pounds, respectively. The SS–18s can deploy as many as eight to ten RVs, the SS–17s four RVs, the SS–19s six RVs. It can therefore be anticipated that the aggregate throwweight of the Soviet Union's MIRVed ICBM force will approximate eight million pounds of throwweight by 1985, and that the number of RVs deployed on those MIRVed missiles will approximate 5,000, each RV having a yield several times that of the U.S. RVs. There is no reason to believe that the accuracy of the Soviet MIRVed RVs by 1985 will be significantly less than that of the MINUTEMAN III RVs. The U.S. is developing its more radical accuracy improvements for incorporation in the MX missile.

Until Soviet accuracy is improved to better than approximately a fifth of a mile it will be difficult for them to eliminate more than half of the Minuteman silos in an initial strike, even if they target two of their RVs on each silo. When their accuracy approximates a fifteen hundredth of a mile, in excess of 90 percent of our silos would be vulnerable to such a two-on-one attack. A two-on-one attack would require less than half of the MIRVed ICBM RVs they are expected to have available by 1985. If and when their accuracy approximates a tenth of a mile, in excess of 90 percent of our silos would be vulnerable to an attack by a single RV against each silo, provided that additional RVs are programed to substitute for missiles that fail during their launch phase.

If we were to use all our Minuteman IIIs, assuming improved accuracy and the substitution of MARK–12A for MARK–12 RVs, against Soviet silos it is unlikely we could destroy more than 60 percent of them.

(b) The UnMIRVed ICBM Balance.—By 1985 the U.S. is expected to have 450 Minuteman II, each with a throwweight of less than 2,000 pounds and carrying a single RV in the megaton range. These would give us approximately a million pounds of throwweight and 450 megatons of yield in our unMIRVed ICBM force. In addition, we may choose to maintain the 54 TITAN missiles which were deployed prior to 1965. They have an aggregate throwweight of approximately a half-million pounds and an aggregate yield of some 400 megatons.

If the Soviets reserve 100 or more of their MLBMs (SS–18s or follow-on large missiles) for large single RVs, these would have an aggregate throwweight exceeding one million six hundred thousand pounds and an aggregate yield approximating 2,500 megatons. In addition, the Soviet side could be expected to retain some 300 to 400 SS–11 missiles (or follow-on "small" missiles) with a total throwweight of approximately one million pounds and an aggregate yield of maybe another thousand megatons. (If they deploy a follow-on "small" missile in this time frame, these numbers could be substantially higher.)

2. THE SLBM BALANCE IN 1985

(a) MIRVed SLBMs.—By 1985 the U.S. should have approximately the following MIRVed SLBMs: 31 Poseidon boats, each with 16 missiles, each missile carrying eight to ten RVs; 10 Trident boats, each with 24 missiles, each carrying approximately eight RVs, each RV with a substantially longer range (4,000) miles, and each RV with more than double the yield of the 40 kiloton Poseidon RV.

We can thus be expected to have 41 nuclear-propelled SLBM submarines with some 740 tubes and some 6,000 RVs. Some 60 percent of these might be at sea at any given time, giving us some 3,600 RVs at sea. Assuming a reliability rate of 80 percent, this amounts to some 2,900 at-sea reliable RVs, representing an aggregate yield of approximately 300 megatons. In the event of a crisis it should be possible to increase the at-sea force by some 25 percent.

The Soviet side will be authorized approximately 400 MIRVed SLBMs if they deploy the full 820 MIRVed ICBMs which they are likely to be authorized. It is expected that the new Soviet Typhoon submarine will be significantly larger than the present Soviet SLBM submarines and will carry 20 to 24 missiles.

It is probable, however, that the U.S. will continue to have a lead in the number of MIRVed SLBM tubes and RVs into the 1985 time period. However, the accuracy and yield of U.S. SLBM RVs is substantially less than that of its ICBMs and is expected to continue to be so beyond 1985. The U.S. SLBM force does not now have and is not expected by 1985 to have any significant capability against Soviet hard targets, such as hardened silos.

b. UnMIRVed SLBMs.—The U.S. is expected to phase out its unMIRVed Polaris force by about 1985 and thus will have no or very few unMIRVed SLBMs by that time.

The Soviet Union, on the other hand, is expected to retain some 500 unMIRVed SLBM tubes. Some of these may carry MRVs as our Polaris missiles do today. Such missiles may be as useful as MIRVed missiles against area targets that are not very hard, such as airfields.

3. THE BOMBER/CRUISE MISSILE BALANCE IN 1985

The B–1 issue was incorrectly stated by the administration as being a choice between relatively cheap cruise missiles and expensive B–1s. Cruise missiles of intermediate range have to be launched from some kind of platform. The Executive Branch's position is that this should be an aircraft. Thus, one requires a bomber/cruise missile system consisting of bombers that are based so that their prelaunch survivability is likely, bombers that are hardened so that it becomes difficult to barrage their escape routes, bombers that are able to penetrate close enough to the target to launch cruise missiles without being shot down, bombers that are able to launch enough cruise missiles to overload the defenses, and cruise missiles able to penetrate area and local defenses, and accurate enough to kill the targets they are aimed at. The cruise missile is thus only part of the system. The bomber that launches it is an equally essential part of the system. The system is greatly improved if some of the bombers are able to penetrate the defenses sufficiently to launch SRAMs or gravity bombs.

The B–1 program having been cancelled, the 1985 bomber/cruise missile balance de-

pends critically on whether a Soviet barrier defense around the northern perimeter, and of the eastern and western flanks, of the Soviet Union against B–52s is possible, upon the number of B–52s equipped with cruise missiles that we deploy and the range limitation on air-launched cruise missiles (ALCMs).

Recent analyses indicate that a barrier defense against B–52s may be possible out to many hundreds of miles beyond the Soviet periphery. The Executive Branch, which earlier thought a 2,500-kilometer range was adequate, believes that this range limit may not be sufficient beyond 1981. The problem thus becomes one of being able to prevent the 2,500-kilometer range limitation being fixed in the Treaty and the precedent being set in the Protocol from being carried over beyond the term of the Protocol, as happened to the wholly unequal MLBM provisions in the Interim Agreement, which were carried over to Vladivostok and thence to the new agreement.

The terms of the new agreement suggest that we contemplate deploying 120 B–52s equipped with ALCMs. Otherwise we will have to phase out significant numbers of MIRVed MINUTEMAN IIIs or of POSEIDON SLBMs in order to make room for additional B–52s under the 1,320 ceiling. It is highly unlikely that the Air Force or the Navy would recommend doing so.

With 120 deployed B–52s it would be unlikely that more than some 50 percent would be on continuous alert or that more than some 70 percent could be brought to readiness under conditions calling for fully-generated strategic forces.

The Soviet Union faces a much simpler problem. The U.S. has no substantial air defenses and the BACKFIREs deployed are not to be counted under the proposed launcher limits. Even if BACKFIRE production is limited as proposed by the United States, the potential by 1985 of the Backfire to deliver megatonnage on U.S. targets is substantially greater than the U.S. capability to deliver megatonnage on Soviet targets with B–52s carrying cruise missiles.

Whether the FB–111H (which is 40 percent the size of the Backfire) can penetrate depends in part on whether U.S. tankers can survive in sufficient numbers for the required multiple refueling of the FB–111Hs.

4. THE DEFINITION AND VERIFICATION PROBLEM

It is impossible to verify compliance unless what is to be limited and the nature of the limitation have been clearly defined and the definition agreed in depth between the parties.

As can be seen from the current state of the negotiation, difficult if not insuperable, problems in definition are evident. What is a "heavy" bomber? Apparently what each side says it is. What is the range of a cruise missile? Apparently what each side says is its range in its intended normal operational mode. What bombers capable of carrying cruise missiles are to be counted under the 1,320 ceiling? In effect, what each side says should be counted. What launchers capable of carrying MIRVed missiles are to be counted under the 820 ceiling? The answer is not yet clear, but possibly only those in silo fields in which other MIRVed missiles have been deployed. What is the permitted production rate of BACKFIRE bombers? Presumably the current rate; but the Soviet side will not say what that is. What is the permitted throwweight of a "small" missile; i.e., below what would cause it to be classed as an MLBM? Apparently the throwweight of an SS–19. But the Soviets will not tell us what they assess that to be. Etcetera.

Even were the limitations clearly defined, compliance is in many cases difficult to verify. How do you verify the range of a cruise missile, no matter how precise the definition? How do you distinguish an ALCM from a GLCM or SLCM, or assure that an ALCM cannot be launched from a sea- or land-based launcher? How do you distinguish a transporter/erector for an SS–20 from one for an SS–16? How do you determine that a new missile having the throwweight of an SS–19 and carrying the SS–19 bus, with but a single RV, is not capable of being deployed as a MIRVed missile? How do you determine that retired missiles or missiles taken out of retired launchers or extra newly-produced missiles are not stockpiled and available for relatively prompt deployment on soft pads or reloaded in launchers using the cold launch technique?

5. THE PASSIVE DEFENSE AND CIVIL DEFENSE ASPECTS OF THE PROBLEM

The U.S. has put its ABM efforts very much on the back burner. The Soviet Union has continued to expand its efforts in ABM research and development and is significantly increasing the capabilities of its ABM "early warning" radars around the periphery of the USSR. This is permitted under the ABM Treaty, on the assumption that, in the event of war, this network, being close to the periphery, could be destroyed. It is also assumed that the powerful radars in the Moscow area could, with some effort, be destroyed. However, the number of U.S. RVs required for these tasks is rarely taken into account.

Even more important are the civil defense aspects of the problem. Everyone who has studied the problem carefully agrees that a well executed civil defense program can potentially reduce casualties and damage by a factor of roughly ten. There is now little doubt that the Soviet Union is working on civil defense much harder than was realized by the Executive Branch as recently as two years ago.

6. THE BREAK-OUT PROBLEM

Fred Ikle, former director of ACDA, in an article in the October issue of Fortune magazine, reminds us that the essential effort in the ABM Treaty negotiation was to assure that neither side could break out of the agreement and rapidly deploy a significant ABM defense. That was why the main emphasis was on preventing deployment of a widespread ABM-capable radar network, the element requiring the longest lead-time.

The Executive Branch seems largely to have forgotten this break-out problem in connection with the current negotiations. They seem to be satisfied with provisions that would make rapid break-out by the Soviet Union entirely feasible.

The proposed provisions designed to limit Soviet ability to reload their silos could not be counted on to be effective for any extended period of time.

The U.S. negotiators appear to rely on such phrases as "cruise missiles can be carried only by heavy bombers." Those who actually have worked on and designed cruise missiles say that any bomber with hard points on its wings can rapidly be converted to carry missiles and that any cruise missile operable from a plane can rapidly be adapted to be launched from ground- or sea-based launchers.

They seem not to be concerned with the potential conversion to a damage-limiting ABM system of new air defense systems, designed to counter the U.S. SRAM/cruise missiles.

7. THE CONTINUING NEGOTIATION PROBLEM

The most important problem may well be that of future negotiations and the context in which those negotiations are apt to take place.

It is noteworthy that the Soviet Union does not propose to reduce the aggregate of its nuclear delivery vehicles below 2,400 until after the expiration of the Protocol. Is it inconceivable that in the event we do not wish to renew certain provisions of the Protocol when it expires, the Soviets might see some necessity to review the treaty terms?

With the worsening nuclear balance projected for the period covered by the Treaty, how do we expect later to negotiate a SALT III Treaty more favorable to us than what is now negotiable? Do we really believe that the Soviets will agree to an extension of the Treaty which allows us to deploy a mobile MX system in 1986 and thereby reverse the overwhelmingly favorable ratios they would have attained by 1985? What incentives would there by for them to do so?

8. THE IMPACT OF THE AGREEMENT UPON THE U.S. ABILITY TO REVERSE CURRENT TRENDS

The Vladivostok Accord did not restrict the ability of the U.S. to deploy the B–1, the Minuteman III and the MX missile in a mobile mode, Trident II, or ALCMs, GLCM, or SLCMs. It did not restrict the USSR from deploying those new weapons systems it planned to deploy, but neither did it restrict us from deploying those weapon systems necessary to maintain stability and rough equivalence, and thus reversing current trends.

Recent U.S. program decisions plus the terms of the probable SALT agreement make it virtually impossible to maintain crisis stability, rough equivalence, or to reverse presently unfavorable trends during the period of the agreements.

It is argued by some that all the restrictions in the Protocol, as they apply to the U.S., are of little significance; they do not keep us from doing anything we want to do during the next three years, and the Protocol will expire in three years and thereafter will not affect us. Does the Soviet side look at it that way? Once something is agreed at the highest level by both sides, they act on the presumption it will continue indefinitely, unless payments greater than the cost of giving up the provision are made to them elsewhere. At all times, they expect the pressure of the real correlation of forces, as they affect the two sides, to be reflected in the agreements reached.

Once we have agreed to a three-year ban on the deployment of mobile missiles, it becomes uncertain that that ban can be eliminated in future negotiations. Under the now most likely provisions of a SALT II agreement we run a high risk of having no B–1, no cruise missiles adequate in numbers and range to penetrate Soviet defenses, no follow-on to the aging MINUTEMAN III, and a SLBM force at sea of less than 25 boats, each constituting four percent of our only reliable deterrent power and thus worth enormous Soviet efforts to negate.

9. THE RELATION OF THE STRATEGIC NUCLEAR BALANCE TO THE THEATER BALANCE, CONVENTIONAL AND NUCLEAR

At all times since World War II the Soviet Union has been in a superior position as to non-nuclear force relationships on the European central front and on the northern and southern flanks. This has, in part, been due to geography, the USSR enjoying the central position and interior lines, and, in part, to the greater effort that has been made by the USSR and its Warsaw Pact partners than has been made by the NATO partners.

In the years up to the early 1950's this was offset by the U.S. nuclear monopoly. Later the conventional deficiency was in large measure offset by U.S. superiority in theater nuclear weapons. Today that theater superiority has disappeared and it has proved necessary to assign certain of our strategic nuclear forces, such as a number of our POLARIS/POSEIDON submarines to cover NATO targets and thus maintain a theater balance. As the Soviets deploy increasing numbers of SS–20 MIRVed missiles and BACKFIRE and other bombers, maintaining a theater nuclear balance will become increasingly difficult. More and more of our surviving strategic nuclear

forces will be called upon for assignment to that task. This consideration is rarely taken into account when the strategic nuclear balance is being examined; it should be.

There could, moreover, be a serious negative effect upon the evolution of the conventional balance due to the SALT II agreement. The European NATO countries have hoped to exploit the cruise missile technology in its theater, conventional weapon applications. The fact that cruise missiles with a range greater than 600 kilometers are to be limited in SALT favors the Soviet side; it supports the erroneous Soviet claim that weapons with ranges up to 5,500 kilometers are not "strategic" if in Soviet hands while those over 600 kilometers in range are strategic if in NATO hands.

In specific terms, the SALT II agreements may prevent the U.S. from transferring technology important to the conventional defense of Europe because of limitations on the transfer of weapons, components, or technical information relating to weapons limited by the SALT Treaty.

10. THE POLITICAL AND DIPLOMATIC CONSEQUENCES OF A SHIFT IN THE STRATEGIC NUCLEAR BALANCE

Some proponents, rather than taking exception to the main thrust of the analysis contained in the preceding nine sections, argue a different series of points along the following line:

(a) The U.S.'s March comprehensive proposal leaned over backward in attempting to be fair to the Soviet Union. It offered them complete assurance against any significant counterforce threat from the United States while not assuring comparable protection for the United States.

(b) That proposal was wholly unacceptable to the USSR, and any proposal which would in fact assure stability and rough equivalence at lower levels of nuclear armaments would be even more unnegotiable.

(c) To insist on such an equitable agreement would assure that there would be no success, at least in the next few years, in negotiating a SALT II set of agreements. Such a delay would risk a breakdown of détente.

(d) They believe it to be wiser to negotiate the best deal that is now reachable, preserve at least the outward forms of détente, and open the way to follow-on negotiations for a better deal in the future.

(e) And in any case, a deterioration in the state of the strategic nuclear balance will have no adverse political or diplomatic consequences.

To those who lived through the Berlin crisis in 1961, the Cuban crisis in 1962, or the Middle East crisis in 1973, the last and key judgment in this chain of reasoning—that an adverse shift in the strategic nuclear balance will have no political or diplomatic consequences—will come as a shock. In the Berlin crisis of 1961 our theater position was clearly unfavorable; we relied entirely on our position of strategic nuclear superiority to face down Chairman Khrushchev's ultimatum. In Cuba the Soviet Union faced a position of both theater inferiority and strategic inferiority; they withdrew the missiles they were deploying. In the 1973 Middle East crisis, the theater and the strategic nuclear balances were more balanced; both sides compromised.

It is hard to see what factors in the future are apt to disconnect international politics and diplomacy from a consideration of the underlying real power balances. The nuclear balance is only one element in the overall power balance. But in the Soviet view, it is the fulcrum upon which all other levers of influence—military, economic, or political—rest.

[From the Washington Post, Nov. 2, 1977]

SALT CRITIC REVEALS DETAILS OF ARMS TALKS

(By Susanna McBee)

Paul H. Nitze, a leading opponent of Carter administration negotiating policy in the current strategic arms limitation talks (SALT) with the Soviet Union, yesterday released what he said were new details in the discussions.

Nitze, a SALT negotiator himself from 1969 to 1974 and a former deputy secretary of defense, made the disclosure at a news conference called by the Committee on the Present Danger. The committee is a year-old nonprofit organization which contends that the Soviet Union may be achieving Strategic military superiority over the United States.

Nitze said he was releasing his analysis of the SALT negotiations because he feels U.S. acceptance of certain provisions would leave this nation "in deep trouble" in the nuclear weapons balance with the Russians.

His statement, which one administration official said would make the SALT negotiations "more difficult," included the following details:

By Oct. 3, 1980, the United States would limit to 2,160 the number of strategic nuclear launch vehicles—intercontinental ballistic missiles, launchers for submarine-launched ballistic missiles plus heavy bombers. The Soviets want a reduction to 2,250 reached by 1982. The numbers had been made public; the dates had not.

The Soviet Union "has indicated willingness to make an informal declaration"—apart from a SALT treaty—"of intentions not to employ the Backfire (a controversial bomber) in an intercontinental role, not to deploy it in a fashion threatening the United States." The Soviets' willingness has been reported; the idea of a declaration had not.

Lower-level Soviet negotiators have insisted that U.S. B-52 bombers be counted in the overall launch vehicle figure or be destroyed, but the question has not been raised among higher-level negotiators.

Soviet negotiators say U.S. FB-111H bombers, which are smaller than B-52, should be disqualified from carrying cruise missiles; the United States says they should be eligible as long as they are counted as heavy bombers.

The United States wants a three-year protocol that would accompany a SALT treaty to expire Oct. 3, 1980; the Soviet Union wants the expiration date to be based on whenever the document is ratified. Both sides seem to be compromising on using the date of signing as the base date.

The administration official, who declined to be identified, said Nitze's release of "great amounts of detail purporting to be negotiating positions cannot make it easier for us to negotiate with the Russians. It can't help but make it more difficult."

Jeremy Stone, director of the Federation of American Scientists, charged that Nitze had issued "a shockingly precise statement of current negotiating difficulties.

"I hope it won't be a forerunner to massive hemorrhaging of negotiating details that would sabotage the SALT treaty," he said. The federation generally favors the U.S. effort on limiting strategic arms.

Nitze said he did not believe that the details he released were classified.

ENERGY TAX ACT OF 1977

Mr. BIDEN. Mr. President, on Monday I voted for final passage of the Energy Tax Act of 1977 in order to give the Senate and House conferees an opportunity to work out an acceptable energy tax package—an essential component of a comprehensive national energy policy.

The Finance Committee bill as reported to the Senate was not a good bill—it provided for $40 billion in tax credits, many of which enduced little energy conservation and offered unnecessary tax breaks to energy producers.

ENERGY TAX CREDITS

As the recorded votes on various sections of this bill reflect, I voted consistently to remove and/or reduce every unnecessary and wasteful industry tax credit adopted by the Finance Committee. I supported those efforts to dismantle the "Christmas tree" character of the bill by voting to strip the bill of section 1054 which gave the conferees a blank check to negotiate wholesale subsidies of questionable merit. I also voted against every specific blatant private interest raid on the Treasury—as in intercity bus credits and the 40 percent refundable business energy tax credit. It was clear to me that these measures would cost the consumer "billions" of dollars, and would do little to conserve energy or produce additional energy supplies.

AID FOR THE ELDERLY

I did, however, support those provisions in the energy tax act which enabled the average American to cope with rising energy costs by offering refundable tax credits of 20 percent on the first $2,000 of expenditures on home insulation and other energy conserving components. I also supported an energy cost relief measure for older Americans—many of whom live on limited, fixed incomes. This provision, which the Senate approved, provided individuals age 65 or older with a tax credit of $75 per year. The credit would be gradually phased out for persons with adjusted gross incomes between $7,500 and $12,500.

OIL/GAS USER TAX

I am pleased the Senate voted to accept the industrial oil and gas user and gas tax amendment which I cosponsored. This amendment, which I believe is an important refinement of an administration proposal, would conserve 1.2 million barrels of oil equivalent per day by 1985 by taxing those industrial and utility users of oil and natural gas which could convert to other sources of energy. Rebates of these taxes would be available to those taxed industrial and utility users for those expenses undertaken in converting to alternative fuels. I believe this amendment would significantly help reduce U.S. dependence on imports of foreign oil.

CRUDE EQUALIZATION TAX

Mr. President, although the crude oil equalization tax (COET) was voted down by the Finance Committee, I believe the center of debate on this question has overlooked the most important elements of the tax. With domestic oil product prices presently at or near world price levels, it is obvious that any equalization tax could not be fully passed through to fuel consumers by significant price increases. In fact, in a study prepared at my request, the Library of Congress has

projected that the cost of an equalization tax "might even be fully absorbed by refiners." Since COET would result in only small product price increases at the consumer level, there would be correspondingly small price-induced conservation effects. Therefore, the central goal of a COET would not be conservation, but a streamlining of the regulatory process through a phase-out of the cumbersome entitlements program, and by reducing refiner margins which have risen under the unworkable oil product price control system.

OIL PRICE DECONTROL

I opposed all attempts throughout consideration of this bill to decontrol prices of certain categories of domestically produced oil. To allow producers a threefold price increase for old oil would do little to add to our domestic energy supply, and seriously erode consumer buying power. Should additional price incentives be needed to increase production from certain marginal wells, then I believe the Energy Committee should be charged with examining whatever amendments to the Emergency Petroleum Allocation Act might be required and make those recommendations to the full Senate.

ENERGY TAX CONFERENCE REPORT

Mr. President, although I voted for final passage of the Energy Tax Act of 1977, I do not intend to vote for "any" conference report which the Finance Committee returns to this body. Rather, I will scrutinize the report closely and vote favorably on it only if the final product helps meet our energy conservation and production targets without undue enrichment of producers and significant economic dislocation of consumers.

Mr. President, I believe the people of this country expect us to attend to our Nation's deteriorating energy position. I have voted for final passage in that interest.

A NEED FOR A MORE RESPONSIBLE STANCE ON SALT NEGOTIATIONS

Mr. DOLE. Mr. President, I would like to call to the attention of my colleagues an editorial that appeared in yesterday's Wall Street Journal. The editorial delineates the technical complexities of the ongoing SALT negotiations with the Soviet Union. Although many of the issues surrounding strategic arms control are difficult for the public to understand, the outcome of these issues remain vital to the position of our national security.

An important consideration in these negotiations is the attitude and the posture of the Carter administration. Perception remains an important part of arms control and therefore it should be imperative that the United States demonstrate that we have the will and the determination to defend ourselves. If the administration "caved-in" during the talks, as the editorial suggests, the Soviets may be led to believe that our national will is weakening and view this as an opportunity to further enhance their strategic position at our expense.

However, the editorial fails to point out the responsibility for ratifying the treaty lies with the Senate. The ratification process is our responsibility to insure that the treaty will protect our national interests and will achieve increased security of the United States and its allies. There is no reason why we cannot send our negotiators back to the negotiating table to reconcile our discrepancies if we judge the treaty not to be in our best interests.

At this time, I would like to submit for the RECORD the editorial printed in yesterday's Wall Street Journal Entitled "Inviting a Crisis". I think this editorial shows the need for taking a stronger and tougher stance in the talks with the Soviet Union in order to safeguard our national security interests. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

INVITING A CRISIS

Even as President Carter tries to reassure the nation he has no new initiatives up his sleeve, he is stumbling into a battle likely to dwarf energy, Panama and the rest of his current troubles. Indeed, the emerging strategic arms agreement is likely to provoke the sharpest treaty battle since the epic bitterness over the League of Nations.

While the Soviets are trying to squeeze out a few more drops of blood in the current talks at Geneva, the concessions they won in the Carter-Gromyko bargaining a month ago already insure major opposition in the Senate. The concessions go far beyond anything the Russians would have dreamed of winning from former Secretary of State Kissinger. The draft provisions are open to a whole series of objections, any one of them serious enough to call for a treaty's defeat.

Crucial limitations would be utterly impossible to verify, for instance, allowing the Soviets to cheat with impunity. The terms already agreed to would limit the American cruise missile so sharply the promising weapon might not even be worth developing. The treaty would undercut the administration's commendable efforts to revitalize the NATO alliance, instead insuring the further demoralization of our European allies. It would guarantee the Soviets an advantage in missile throw weight on the order of 10-1, posing a severe threat to the American Minuteman missile while precluding substitutes such as the proposed MX missile. Each of these points deserves extended discussion.

The most immediately worrisome aspect of the new agreement, though, is the message it conveys to the Soviets about Mr. Carter and his administration. Last March the administration offered what it regarded as sensible arms control measures. The Soviets rejected these proposals out of hand. The administration's response was to go limping back again and again with new and successively weaker proposals. On the most important issues on the table, the Soviets stonewalled for six months while the Americans caved.

Take, for example, the issue of heavy missiles. The Soviets have 308 heavy missiles, each about seven times the payload of a Minuteman. The U.S. has no such huge missiles, and under the treaty would be prohibited from building any. Since it's difficult to see the utility of such weapons for any purpose except a first strike against the other side's missiles, the Carter administration set out in March to get some limit on this threat in return for concessions on the cruise missile.

In March the U.S. asked for a limit of 150 Soviet heavy missiles, asking them to tear down half the force. By May, the U.S. was willing to allow them to keep the whole force, provided only 190 heavy missiles carried multiple warheads (MIRV). Since this is about the current number of heavy missiles with MIRV, the U.S. in essence asked for a freeze on heavy missiles. When the Soviets rejected the 190 number, the U.S. tried a heavy MIRV limit of 220. With that rejected, it tried 250. Finally, when Mr. Gromyko arrived in town, the U.S. dropped the whole idea.

Similarly, in March the U.S. insisted on specific treaty provisions on how the Soviets could use their Backfire bomber, which they insist is not an intercontinental weapon though it can fly from the Soviet Union over the U.S. to Cuba without refueling. By September the U.S. agreed to keep Backfire out of the treaty if the Soviets would make a separate promise not to increase its production rate, even though they refuse to say what the current production rate is.

To buy the limits on heavy missiles and Backfire sought last March, the U.S. offered a cruise missile concession limiting the range of air, land and ground-based cruise missiles to 2,500 kilometers. Bombers carrying cruise missiles would not have been counted against the agreed number of MIRV missiles. In the September agreements, if the U.S. builds more than about 120 such bombers it must tear down Minuteman or submarine MIRV missiles. And land-based and sea-based cruise missiles would be limited to a practically useless range of 600 kilometers. In return for scrapping the concessions asked of the Soviets, the Americans are giving larger concessions of their own.

The March proposals were in themselves open to serious question, so the September agreements are drawing serious opposition as they are explained to the Senate. But putting aside the effect on the strategic posture in 1985, the collapse of the American negotiating position raises dangers in 1977. The lack of resolution Mr. Carter displayed to the Soviets between March and September invites them to try pushing him around throughout the world.

SUPPORT OF H.R. 9375

Mr. HUMPHREY. Mr. President, yesterday the Senate passed H.R. 9375, a supplemental appropriations bill for fiscal year 1978, by a 90 to 0 vote. I am pleased with this bill, particularly provisions that deal with the farm ownership loan program of the Farmers Home Administration.

As my colleagues on the Committee on Agriculture, Nutrition, and Forestry know, this is a very important program. With skyrocketing interest rates, this is the only vehicle available to many young people to acquire the necessary capital to get into farming. And with the average age of farmers in America now exceeding 50 years, it is important that young people get into agriculture.

We, in the Congress, simply have not given this program adequate resources in the past. Early this year it became apparent that many States would deplete their fiscal year 1977 funds for this program long before the fiscal year ended. The backlogs of approved applications are large and growing.

At this time, we have enough applications for the entire fiscal year 1978 farm allocation for the State of Minnesota. A similar situation exists in a number of other States. What this means is that an individual filing an application under this program in Minnesota today has

little hope of any positive action until the fall of 1978. In response to this crisis, Senators EAGLETON and BELLMON took the lead in adding $100 million for the farm ownership program in this supplemental appropriations bill.

Mr. President, the action of the Senate yesterday is doubly important, given the fact that the House bill contains no appropriation for the farm ownership program. I am hopeful that the conferees will accept the Senate provision on this measure. Without it, this program simply will not be adequately funded.

This is an important family farm program. The Members of this Chamber are aware of the need to preserve and to enhance, where possible, the contribution of the family farm unit to American agriculture. By adopting the Senate provision on the farm ownership loan program, the conferees can strengthen the efforts of this Government to help the institution of the family farm.

ASIAN COMMUNISM WANTS NO PEACE

Mr. GARN. Mr. President, Douglas Pike, author of "Viet Cong" and a book on the history of Vietnamese Communism, has said that "the single most important thing about Vietnam is to understand it." What is true of Vietnam is also true of Asia—and particularly the Association of Southeast Asian Nations (ASEAN), which includes the Philippines, Indonesia, Singapore, Thailand, and Malaysia.

Despite two long and tumultous decades of extensive involvement in Southeast Asia, we still have an insufficient, and at times erroneous, understanding of the area. This inadequacy was caused to some degree by our disregard for the opinions expressed by regional leaders, but mostly by our total reliance on so-called Asia experts—both inside and outside the administration—in formulating Asian policy.

The end of the Vietnam war has not, regrettably, put an end to that deficiency. As a matter of fact, following an analysis of post-Vietnam Asia, the State Department has sent high officials into ASEAN capitals with the message that ASEAN normalization of relations with the Indochina states is the only way to maintain peace and stability in the area. From the reports I have received from ASEAN, the State Department's call for one-way détente is a reenactment of the 1973 Paris agreements on Vietnam. How can ASEAN coexist peacefully with an Indochina ideologically committed to a theory of noncoexistence?

Last year, Vietnam boycotted the first ASEAN summit meeting. It did so again this August when ASEAN chiefs of government assembled in Kuala Lumpur, Malaysia. By coincidence, Malaysia is the first developing country to successfully defeat a Communist-led insurgency.

The Malaysian Communists, under the leadership of pro-Peking Chin Peng, are, with support from Peking and Hanoi, reviving their bid for revolutionary power. At the same time, negotiations for normalization of relations are being conducted between non-Communist and Communist countries in the area.

As far as negotiations with communism are concerned, I would like to refer my colleagues to a speech delivered on July 27, 1977, in Taipei by former Malaysian Prime Minister Tunku Abdul Rahman to the Chinese Political Science Association. In his address, Tunku Rahman recalled his interesting experiences of December 1955 in conducting negotiations with Chin Peng, leader of the Malaysian Communist Party. In 1949 the Malayan Communist Party (MCP) broke out in open rebellion against the British Government in Malaya and then fought the Malaysian Government after the country's access to independence from 1957 to 1960.

Chin Peng is still continuing the armed rebellion. On August 2, the so-called voice of the Malayan revolution, a clandestine radio station located in southern China, broadcast a message sent by the MCP to the Central Committee of the Chinese Communist Party, headed by Chairman Hua Kuo-feng, on the 50th anniversary of the founding of the Chinese People's Liberation Army. In this message, the MCP says that—

> Under the leadership of the Central Committee headed by Comrade Chin Peng, the MCP adheres to the road pioneered by Chairman Mao: "Surround the cities from the countryside and seize political power by armed force."

Analyzing the current trends in non-Communist countries, former Prime Minister Rahman said that there has been a movement toward "a changeover to rightwing politics":

> Today there are many countries which find themselves in the Communist camp, some through force of circumstances, others by inclination. In the first category are those countries which feel that they owe their dependence to the Communists, so rightly or wrongly, they feel they are under obligation, and as a matter of gratitude to align with the Communist powers. In the second category, however, there are these countries who of their own volition went over to the Communists when they had no other reason for doing so, other than to show that they are openly hostile to the powers whom they call imperialist, that is, Britain, America and France, but in fact the Communists are also imperialists, worse than the others, because those who are in their grip enjoy no freedom. In fact from my own experience the countries which practise socialism whereby they have absolute control, over all national matters, including economy, are finding themselves unable even to buy the barest necessities of life. Many of the countries which have gone left are now turning right. This is proved by the elections that have taken place in some of these countries—the right wing parties have been returned with astounding success, which clearly shows the peoples' frustration in the so-called socialist state. For these reasons there appear to be a trend in political thinking for a changeover to right wing politics.
>
> We take, for instance, the case of Prince Sihounak of Cambodia, whom I used to know well, and who said to me that he was not a Communist but he had more trust in the Communists than in the Americans or Western powers. I said to him that I held the opposite view, because if the Communists ever took over his country he would die 10,000 deaths. On the other hand if the Communists were to take my country I would die but once. Strange as it may appear, nothing has been heard of Sihanouk.

Mr. President, I would emphasize the importance of this speech by Tunku Abdul Rahman to my colleagues and ask unanimous consent that it be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

TUNKU SPEAKS: MALAYSIA YESTERDAY AND TODAY

(By Tunku Abdul Rahman)

I have spent many years in politics, first as a fighter for independence, then as Prime Minister of my country and afterwards struggled hard against our ruthless enemy, the Malayan Communist Party, who first broke out in open rebellion against the British government in Malaya in 1949 and then fought us after Malaya's independence from 1957 to 1960. Those years of struggle against the Communists were years of violence involving destruction of life and property costing the nation many millions of dollars in expenditure.

Their typical modus operandi included extracting money from estate owners, maiming or killing as active reprisals for failure to comply with their demands, wrecking trains passing through deep jungle, ambushing army and police vehicles, burning estates and harassing tin miners. These forms of terrorism were intended to pave the way for a general revolt, the plan being to get one region of Malaya under Communist control and then to extend this domination to the whole country and ultimately to take over the country as a Communist state. They had laid their plans well in advance, having cached large quantities of arms in the jungle dropped by the allies.

The plan however did not work, for when the people of Malaya themselves were promised freedom by the British in a constitutional way the people rallied to their cause. I met the leader of the Communist Party of Malaya in a place called Baling and asked him and his men to give up the struggle and save the country from further bloodshed and destruction to property and to come out and join the rest of the people of Malaya to help run the country if he could foreswear allegiance to the Communists. But he refused. Chin Peng however was honest and out-spoken enough to come out with a statement in which he made it clear that, since between the Communists and non-Communists there can never be true friendship, there can never be co-existence and there can never be real understanding. So he being a Communist and I being a non-Communist there could never be any hope of our ever getting together and working together for Malaya. And so he returned to the jungle to continue the fight for a Communist take over of Malaya while I returned to carry on with my demand from the British government for an immediate hand over of the country to us, the people of Malaya, and give us the right to carry on the fight against the Communists.

That was in December 1955 but I must make it clear that I did not offer Chin Peng complete freedom to form a political party and participate in political elections which we proposed to have, because in the first place Chin Peng and his party had caused so much loss of life, destruction of property and had carried on a reign of terror for almost seven long years. To grant him complete immunity would have been to invite trouble, for if the Communist party were given freedom to participate in political activities in the country they would use the same forceful tactics and other forms of in-

timidation to gain their end. They could never be expected to abide by any democratic principle as understood by us. So I asked him and his men to surrender and then return to China where they would be given political asylum and perhaps on a long term basis where they might be made to work out a plan for a come back to Malaya.

I was prepared to take that risk, for it would have given us a respite to prepare ourselves for the take over of the independence of the country. They refused these terms of surrender and, as I said, they preferred to continue the fight but the sting had gone out of them.

By the grace of God and with His kind mercy the people's eyes were opened to the Communists real aim and design to take over Malaya under Communist rule, which meant that they would deny the people of Malaya freedom of worship, freedom of movement and even freedom of thought. So we were determined to fight them.

The meeting with Chin Peng marked the beginning of an all out "war" against the Communists and for ultimate independence of Malaya.

COMMUNISTS DEFEATED

I was the Chief Minister of the country then with partial authority to participate in the counci. of war which was called "The Operations War Council" and the result that was achieved was astounding. News of Communist movements flowed in regularly, as a result of which government troops were able to make contact with the enemy and success was achieved everywhere.

When independence was given to Malaya the "war" continued for two years with absolute success for the government. In July 1960 the Communist defeat was complete. It was a stroke of good luck for Malaya, for no country had ever fought the Communists and had won such a convincing victory. We were proud of our achievement and proceeded with our plan to build for ourselves a happy home.

After that we gave much of our time and effort to help our Vietnamese friend, president Ngoh Din Diem, who was carrying on a war against North Vietnam with varying success. I was able to contribute whatever help I had at my disposal, but I must say here that the American way of fighting the Communists in Vietnam and the British way in Malaya differed a great deal.

You will remember during the British administration they were carrying out the war alone, but after the first general election I was returned as Chief Minister and we had a share in the Government of the country. They invited me to take part in the prosecution of the war against the Communists. In the war council I had a big say, but I understand that Ngoh Din Diem didn't have much say. According to my understanding, the Americans dictated the terms of the war and directed its prosecution, including the policy, so there was a lot of difference and misunderstanding between Ngoh Din Diem as the leader of the country and the American allies. Finally, you know the rest of the story. Ngoh Din Diem was assassinated, the government was taken over by Nguyen Cao Ky, and the Americans ran the war, I must say, on their own.

The war went rather badly for South Vietnam and finally there was a complete takeover by the Communists in April 1975, followed soon after by the takeover of Cambodia and Laos by the Communists.

The question that is faced by the rest of Southeast Asia today is whether the Communists will overrun the whole of the region. This I must say, would not be easy; in the first place, in the case of Vietnam, it started off with the partition between the Communist North Vietnam and the South non-Communist Vietnam and the war started in real earnest for the control of the whole country.

In Cambodia it started off with the upheaval in the country with the overthrow of the Prince Sihanouk pro-Communist regime. This led to the war between the anti-Communists, and the Communists won. And in the case of Laos it started off with two parties, the Communists and the anti-Communists. In all these countries the Communists had the better of the anti-Communists and finally with better organization the Communists won the day.

On the other hand, the remaining countries in Southeast Asia, namely, Thailand, Malaysia, Singapore, Indonesia, Philippines and Burma are non-Communists. There are no two rival parties based on Communist ideology properly established or supported to take over the countries. These countries run their own government in their own way under their own system, administration, and politics which have satisfied their people. Any attempt by the Communists to bring about rebellion would be met with very strong countermeasures which invariably succeed in defeating the Communists with ease.

At one time President Sukarno showed favor for the Communists, but the Muslim population refused to accept a regime which recognised no freedom of worship. After that no Communist has made any attempt to show strength in any shape or form.

In Malaysia and Thailand, the two countries are joining hands to wipe out any remnants of the Communists in the border of Thailand and Malaysia, and their operations have met with great success. The people are enjoying life with a strong and stable economy in both countries, and while this state of affairs continues it is hard for the Communists to convince the people to take up arms in their support.

It followed too in the Philippines where under President Marcos the country is enjoying good and stable government. He is cleaning up the country, establishing law and order, and providing a better life for the people and a stronger economy for the country. The only fault with the Philippines is that they don't give religious freedom to those who are non-Christians, as a result of which there is rebellion by the minority Muslims to preserve their identity and to keep their lands and homes in the south intact from Christian domination. If the Philippines could settle this issue amicably, it would offer the Communists no opportunity to cash in on their troubles in the south.

ASEAN'S 10TH ANNIVERSARY

On August 8, 1977, ASEAN celebrates its 10th anniversary. At this historic meeting the five governments of Indonesia, Philippines, Thailand, Singapore, and Malaysia will renew their solemn undertaking to strengthen the foundation of ASEAN in order to achieve a prosperous and peaceful community of Southeast Asian nations.

It might just be possible for these five nations to take stock of the fighting that has been going on for so many years in the South Philippines between the government forces and the Muslims.

The Philippines government might welcome any suggestion from the four partners white or yellow or of different faiths. So long warfare which has taken toll of life and limbs of people of the same race but of different creeds, bearing in mind their is no fault for a person to be born black, blue, white or yellow or of different faiths. So long as they are happy to live a peaceful life, they are entitled to equal and fair treatment.

Religions are created by God to bring peace and human dignity to man, and the Muslim religion is one which creates the brotherhood which is so deeply seated and strongly embedded in their bodies and souls.

Why should the government of the Philippines deny these people the right as citizens of their country to full liberty to worship and practice their religion?

The time when religious warfare existed is long past and gone. Today the need for man to live in peace and understanding and with the best of goodwill with one another is so very great, in particular in this region of Asia where the threat from forces which recognize no God threatens a takeover of Southeast Asia and of the world itself.

Singapore and Malaysia are holding their own. The population of Singapore is mainly Chinese but the Prime Minister is aware that Singapore must have democracy of a kind best suited to Singapore and her people which has absolute freedom to think and to do what they want provided they do not abuse democracy. Naturally they are as much against the Communists as are the Malaysians, and so far they have been successful in keeping the Communists down. Singapore has its own way of dealing with the Communists and their rebellious elements, and I must say they have been successful in keeping them quiet. Burma has a military dictatorship, but perhaps their country demands it. Whatever it is, the Communists have no say or any control there.

These countries in Southeast Asia are not likely to fall under Communist domination except through direct and open aggression. Nothing short of war. Now this would lead to the question which is not for the small peoples to answer but rather for the big powers to deal with.

BIG POWERS

Will the big powers allow domination of races for political reason or for the satisfaction of power crazed nations? After all, Southeast Asia is potentially rich in natural resources and the combined natural wealth can be a great asset and of vital importance to the highly industrialised nations with tin, rubber, minerals, oil, and timber to feed their plants. If this potential wealth should fall into the hands of Communist powers, other nations will be deprived of the use of these potential resources.

The well-being and integrity of Southeast Asia must be protected by other big Western powers and they must make it their business to prevent countries in this region from falling into the Communist orbit. The fact is—it is not for the Americans alone to safeguard and guarantee the independence of these countries, but it is important for other Western powers and for Japan to hold themselves responsible for the integrity of these countries in Southeast Asia.

When the ASEAN countries asked for this region to be declared a neutral zone, the superpowers should have come forward and given the guarantee readily and willingly, for the integrity of these countries in Southeast Asia is of vital importance to them all.

Today there are many countries which find themselves in the Communist camp, some through force of circumstances, other by inclination. In the first category are those countries which feel that they owe their dependence to the Communists, so rightly or wrongly, they feel they are under obligation, and as a matter of gratitude to align with the Communists powers. In the second category, however, there are these countries who of their own volition went over to the Communists when they had no other reason for doing so, other than to show that they are openly hostile to the powers whom they call imperialist, that is, Britain, America and France, but in fact the Communists are also imperialists, worse than the others, because those who are in their grip enjoy no freedom. In fact from my own experience the countries which practise socialism whereby they have absolute control, over all national matters, including economy, are finding

themselves unable even to buy the barest necessities of life. Many of the countries which have gone left are now turning right. This is proved by the elections that have taken place in some of these countries—the right wing parties have been returned with astounding success, which clearly shows the peoples' frustration in the so-called socialist state. For these reasons there appears to be a trend in political thinking for a changeover to right wing politics.

We take, for instance, the case of Prince Sihanouk of Cambodia, whom I used to know well, and who said to me that he was not a Communist but he had more trust in the Communists than in the Americans or Western powers. I said to him that I held the opposite view, because if the Communists ever took over his country he would die 1,000 deaths.

On the other hand if the Communists were to take my country I would die but once. Strange as it may appear nothing has been heard of Sihanouk. Perhaps he is a very disilluisoned man and is living a quiet life under the Communist regime.

CAMBODIAN REFUGEES

I have been looking after Cambodian Muslims, who sought political asylum in Malaysia and from them I heard that thousands of Muslims had been killed and the religious leaders in particular suffered the extreme penalty for their faith in God. Muslims were forced to eat the food which is forbidden to them and live with non-Muslims. Mosques were turned into pigstys.

I have taken this matter up with the Red Cross organisation of the United Nations, but I doubt anything can be done for them. Because of these atrocities committed in the new territories they have taken over in Southeast Asia, the Communists are not likely to win adherents to their cause. Refugees from all these countries are taking shelter in Thailand and asking for shelter in Malaysia daily. They bring tales of horrors taking place in their countries. In such a situation I do not think any country in Southeast Asia would want to join those regimes.

Even in football, they have used their political power to dictate terms to others. I remember those days when we had Taiwan with us in the Asian Football Confederation with these other countries. Football in Asia had made tremendous progress and had won admiration at home and abroad. But as a result of Communist interference we are now being expelled by the world football body, FIFA, and I am also not offering myself as the president of the Asian Football Confederation.

A take over by the Communists of Southeast Asia would close the sea lanes connecting the east and west, namely the Straits of Malacca to all other shipping. I am sure other Western powers are aware of the importance of keeping these straits free for all time.

To sum up, Southeast Asia will not easily be a fuse pot for an explosive Communist inspired rebellion, at least not for a long long time, if ever. I am convinced that the big powers will not meekly surrender the region to the powergreedy Communists. One thing that they must make sure is that the flow of natural wealth from Southeast Asia and the free passage of the Straits of Malacca are available to them.

GOV. MELDRIM THOMSON: "THE TESTING ISSUE OF AMERICA'S FUTURE HAS BECOME THE PANAMA CANAL"

Mr. HELMS. Mr. President, Gov. Meldrim Thomson has stated eloquently what millions of Americans believe to be at the crux of the American people's determination not to give away the Panama Canal: "The testing issue of America's future has become the Panama Canal."

Governor Thomson has traveled throughout this Nation, speaking to audiences from coast to coast. He also has traveled to the Panama Canal Zone and has seen first hand the operations of our canal.

Governor Thomson knows that Americans see the Panama Canal as the litmus test of whether the United States will remain the predominant force for freedom in our world; or whether we will give in to the demands of giveaway and concession.

He recently expressed his concern and the concerns of millions of Americans over the future of our canal in a speech to the 59th National Convention of the American Legion. There, the Governor pointed out that—

Under the misguided leadership of a craven Department of State we have seen the sacrifices made and the victories won in World War II frittered away in the treaties of Teheran, Yalta, Potsdam and Helsinki.

Since the war to end all wars, we have witnessed the lights of liberty extinguished in 31 countries around the world. In recent years, we have raised and supported new communist nations. At the same time, we have coerced and harassed old and loyal allies.

No wonder, as Governor Thomson points out, that Americans have had enough. Enough of diplomatic sellouts; enough of old friends abandoned; enough of America retreating around the world!

Governor Thomson's address to the American Legion is an important analysis of why Americans do not want to give away their canal at the Isthmus of Panama. I urge my colleagues to ponder carefully the message of Governor Thomson.

Mr. President, I ask unanimous consent that the address of Gov. Meldrim Thomson to the 59th National Convention of the American Legion, entitled "Dawn or Dusk," be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

DAWN OR DUSK

(By Gov. Meldrim Thomson, Jr.)

Commander Rodgers, Honorable Delegates to the 59th Annual convention of the American Legion:

Twenty-nine hundred miles southeast of us the sun rose this morning, as it does every day, on the American Canal in Panama before it was seen on the east coast of Florida.

Did its rising portend the dawn of a new era for this land of ours?

Or will the setting of the sun beyond the Rockies a few hours hence herald the fading dusk of an America once great and strong.

There is no group of citizens to whom I would rather entrust the answers to those two questions than to you, the working guardians of American liberty!

Behind us lies the rich history of two successful centuries of growth from a fledging coastal nation of 13 states to a great world power.

As we cross history's threshold into our third century, what kind of a future do we and our posterity face?

Will we stand brave and firm for freedom in the real world of spreading communism or crawl into historical obscurity before the hysterical howling of world opinion?

The answer to these vital questions will be found in our response to the demand of the communist affiliated dictator, General Omar Torrijos, that we give to the Republic of Panama the Canal, its locks and appurtenances—plus a yet unspecified indemnity for the 62 years of use of that which by treaty we have held "to the entire exclusion of Panama" and "in perpetuity."

Under the misguided leadership of a craven Department of State we have seen the sacrifices made and the victories won in World War II frittered away in the Treaties of Teheran, Yalta, Potsdam and Helsinki.

Since the war to end all wars we have witnessed the lights of liberty extinguished in 31 countries around the world.

We have fought two ghastly no-win wars with hands and feet tethered while leaving more than a hundred thousand young Americans in the silent death of battle.

In recent years we have raised and supported new Communist nations.

At the same time we have coerced and harassed old and loyal allies such as the Republic of China, Israel, Rhodesia and South Africa.

Now comes Omar Torrijos and his National Guard strongarm goons and says to Americans, either give us back that which we ceded to you forever or we shall take it from you by guerrilla warfare and with the support of Latin America and third world opinion.

Thus, today the testing issue of America's future has become the Canal.

Will America continue her flight from greatness or will we, in the spirit of our Founding Fathers, draw the line of reckoning at the Big Ditch and there stand firm against the rising tide of communism in the Caribbean.

Have we become so spineless, so cowardly that we jump when any tiny foreign power, bent upon blackmail, snaps its corrupt fingers?

If so, then former Undersecretary of State, George Ball, was right when in 1962 at the dedication ceremony on the opening of the $20 million Thatcher Ferry Bridge that crosses the Canal at Balboa, said in effect:

"Here, in this place destiny changes horses."

If Ball's analogy to destiny changing horses proves correct, and the proposed Treaty becomes a reality, then I suggest that America will have dismounted from a Seattle Slew and climbed atop a Panama burro!

EMOTIONAL ISSUE

We are told by our give-away boys in the State Department that the Canal issue has become needlessly entwined with emotionalism.

Treaty negotiator Sol Linowitz was recently quoted as saying that the opposition to the treaty is one of emotionalism; it is one of great ignorance on the part of the American public.

He sounds much like the group of American businessmen with whom I talked in Panama City early last June.

About the many government instigated instances of Panamanian youth tearing down and desecrating Old Glory these money-hungry merchants said, "They are just kids blowing off steam!"

Back in 1964 when the Panamanian public desecrations of the American Flag began our public officials should have issued an order similar to the one given by John Dix, the New Hampshire born custom official in New Orleans at the outbreak of our Civil War.

Dix said: "If any one attempts to haul down the American Flag, shoot him on the spot."

The Canal has been a proud part of our heritage for three-quarters of a century.

It is important to our economy; vital to our national security!

It has been as much a part of the national sovereignty as Florida, Alaska, and all of the central and western states acquired under the Louisiana and Gadsden purchases.

Recently Henry Kissinger, the architect of American compromise, accommodation and surrender, described the proposed give-away of the Canal as a response not only to wisdom and statesmanship but also of "patriotism".

Imagine it! Kissinger thinks it's patriotic to relinquish the Canal!

Why that is like winning the Nobel Prize for Peace by the simple technique of surrendering all in Vietnam.

Contrast the un-American words of former Secretary of State Kissinger with that truly great American statesman Charles Evans Hughes who in 1923, in speaking on America's right to the Canal, suggested that it was unthinkable that any American President or Secretary of State would ever surrender any part of the rights which the United States had acquired under the Treaty of 1903".

Yes, Linowitz is right.

This brazen attempt to rip out a vital organ of our body politic is as fraught with emotion to any true patriot as the defilement of the American Flag.

Let us pray that the emotion that prompted John Paul Jones defiantly to cry from his sinking ship, "I have not yet begun to fight;" or that grand sentiment that inspired Stephen Decatur to toast, "Our country: in her intercourse with foreign nations may she always be right; but our country right or wrong", lead our United States Senators to respond to the Treaty proponents with the same eloquent defiance to the Germans demand for surrender used by General Anthony C. McAuliffe at the Battle of the Bulge—"Nuts!"

WHY A TREATY

Why the great haste to cede our sovereignty in the Canal Zone to the Republic of Panama?

While we are told by Ambassador Ellsworth Bunker and Sol Linowitz that world public opinion demands a new treaty, and while we have been incessantly proded by Panama government instigated riots, I believe that the true reason is that our government is once again surrendering to the relentless pressure of world communism.

By the 1903 Hay-Bunau Varilla Treaty the Canal and its Zone were given to America "in perpetuity".

We presided as mid-wife at the birth of Panama. Part of the consideration for this service was the Canal Treaty. Now the grown child would renege on its birth service but shows no inclination to return as part of Colombia.

Article III of the 1903 Treaty declares that "the Republic of Panama grants to the United States all the rights, power, and authority within the zone mentioned . . . which the United States would possess and exercise if it were the sovereign of the territory within which said lands and water are located, to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority."

That language clearly cedes sovereignty over the Canal Zone to the United States forever.

In 1907 our United States Supreme Court confirmed our title to the Canal Zone in the case of Wilson v. Shaw.

"It is hypocritical", the court said, "to contend that the title of the United States is imperfect, and that the territory described (the Canal Zone) does not belong to this nation because of the omission of some of the technical terms used in ordinary conveyances of real estate".

It was not until 1974 that United States officials, led by Kissinger in his eight point outline for a treaty, agreed upon with foreign minister Juan Tack, suggested that the United States did not have sovereignty over the Canal Zone.

Linowitz contends by the magic of legal sophistry that the United States in the 1936 Treaty relinquished the sovereignty created by the 1903 Treaty by the use of the words "territory of the United States under the jurisdiction of Panama".

A careful reading of the entire treaty will convince any reasonable mind that this language was an inaccurate description of our sovereignty and, more important, was never intended to change it.

A FEW BASIC FACTS

For almost four centuries men schemed and dreamed of building a canal to carry ships between the Atlantic and Pacific Oceans rather than follow the 7,000 mile route around Cape Horn.

As long ago as 1524 Charles V of Spain ordered the first survey for a proposed canal route over the Isthmus of Panama.

One of the first of many American presidents to become involved with the Canal was Ulysses S. Grant who sent a naval expedition to survey the Isthmus at Darien in 1870.

The French for two decades under Ferdinand De Lesseps, the builder of the Suez Canal, tried to construct a sea level canal across the Isthmus.

When they failed Theodore Roosevelt led Americans in an engineering and managerial feat that was the moon shot of the beginning of the century.

To Panama we paid $10 million to obtain the Canal in perpetuity.

From the bankrupt French Canal Company we bought its rights and properties to the Canal for $40 million.

And to Colombia we paid $25 million in 1922, to the disgust of Teddy Roosevelt.

We built a 51 mile Canal with three sets of locks at each end capable of raising and lowering ships 85 feet.

The chamber of each lock is 110 feet wide and 1,000 feet long. The gates to each lock are 7 feet thick and 10 stories high.

Each filling of a lock requires 52 million gallons of water and takes 8 minutes to fill by gravity.

In the building of the Canal enough earth was moved to fill a ditch 10 feet deep and 50 feet wide, stretching from New York to Los Angeles.

After an expenditure of almost $400 million, the building of the world's largest earth dam and the creation of the largest man made lake, the Canal was ready to transit the first ship, the S.S. Ancon, on August 15, 1914.

Since building the Canal the United States has spent about $7 billion in improvements, maintenance and investments.

Under our sovereign operation of the Canal it has always been available to all nations except our enemies in times of war.

The tolls have been reasonable and uniform. Only twice in 63 years of operation have we raised the tolls; once in 1973 from 90 cents per ton to $1.08 and again in 1975 from $1.08 to $1.29.

Since we have lost $27 million on the operation of the Canal from 1973 through 1976, we must wonder what would happen to the tolls if Torrijos were to gain control of the Canal and raise them drastically to produce much needed revenue.

Two months ago I partially transited the Canal on a Danish container vessel carrying a payload of 13,000 tons. She was 690 feet long and 100 feet wide. Her toll charge was $26,000. She saved a quarter of a million dollars by avoiding the extra 10 day journey around the Horn.

WE NEED THE CANAL

The Canal is important to America's economic growth and essential to our national security.

Last year about 13,000 ships transited the Canal. This is almost twice the number that used the Canal the year after World War II.

The Canal can handle 96 percent of the World's shipping.

The Canal has been of great economic value to the consumers of America. For example, 42 percent of all cargo going through the Canal originates in the United States and 21 percent of all cargoes are destined for our nation.

Approximately 30 percent of all physical commodities transiting the Canal are energy related, such as petroleum, coal and coke.

Next month it is anticipated that three large tankers a day will transit the Canal bearing Alaskan oil from Prudhoe Bay to the energy hungry eastern seaboard.

Dare we leave such an important transportation link in our economy to a dictatorial communist leaning regime that has so poorly managed its internal affairs that it now must pay 40% of its annual budget to debt services?

We do not have a two ocean navy. Former Secretary of the Navy William Middendorf and other naval experts have made that clear. Hence, the Canal is vital to our national security for the movement of naval vessels from one ocean to the other.

The Canal can handle 98% of all of our naval vessels, including our nuclear submarines. Only our large aircraft carriers cannot make the transit.

After the Singlaub incident we all know that the President keeps a headlock on the military. Active commissioned officers will either say what the administration desires or remain silent.

Therefore, we must look to our retired officers for the most accurate and honest appraisal of the importance of the Canal to our security.

Earlier this month four retired admirals each of whom had served as chief of naval operations; namely Arleigh Burke, Thomas H. Moorer, Robert B. Carney, and George W. Anderson wrote to the President as follows:

"We note that the present Panamanian Government has close ties with the present Cuban Government which in turn is closely tied to the Soviet Union.

"Loss of the Panama Canal which would be a serious setback in war would contribute to the encirclement of the United States by hostile naval forces and threaten our ability to survive."

I don't know about you, but I find the testimony of those four respected Admirals far more convincing on the question of the importance of the Canal to America's future safety than anything that might be said by Linowitz, Kissinger, Ford or Carter.

INTERNATIONAL EXPLOITERS

Ambassadors Linowitz and Bunker say that the American public is ignorant about the Panama Canal issue.

They are right if they are speaking about the details of the proposed treaty. These two representatives of our international clique of bankers have refused to answer many vital questions put to them by our Congressmen.

But if they are speaking about the importance of the Canal to the United States they are dead wrong.

The great majority of Americans know that we paid more for the real estate of the Zone than we did for either Florida or Alaska and that America alone built the Canal and has successfully operated it as a great international waterway ever since.

Yes, and these hard working, taxpaying Americans recognize the value of the Canal to the future of our nation.

I tell you, Sir, that regardless of the secretive and cowardly plans of the give-away boys, the average American means to hang on to the Panama Canal forever!

And if that means driving from the seats of power those public officials who would place the welfare of the Republic of Panama above that of the United States, then we shall be about that great task at once.

For practical purposes Panama is bankrupt.

When Torrijos grabbed the reins of power in 1968 without benefit of an election the public debt was $160 million. Now it stands at $1.4 billion.

The current budget for Panama is $607 million. Estimated revenues of $346 million fall far short of the budget. Current debt service is $221 million.

The list of banking creditors of the Panama Government reads like an International Bankers Who's Who.

It includes the Narody Bank of Moscow, the London Branch of the Chase Manhattan Bank, Citicorp International Bank of London, International American Development Bank, Continental Bank of Chicago, the Export Import Bank of Washington, the Marine Midland Bank, and the Agency for International Development.

All of these banks are vitally interested in the success of the proposed treaty. They see the American taxpayer as eventually picking up the tab for bailing Torrijos out of hock.

But I believe the taxpayers of this land are plain sick and tired of dancing to the tune fiddled by our errant diplomats.

I was told recently by American businessmen in Panama that they had a good dictatorship and that a new treaty would help their business.

Some of these businessmen were like representatives of those American multi-national corporations who supplied Russia with the technology and machinery that made it possible to supply Vietnam with the materials of war used against our American soldiers.

Too often, and with disastrous results for this country, businessmen follow the dollar instead of the flag!

Some of the businessmen with whom I talked suggested that their American companies would lobby for a new treaty with Panama.

I hope that if they do the taxpayers and working people of this nation will mount the biggest boycott in the history of America against all companies that place price above principle.

CONCLUSION

Gentlemen, we have accommodated ourselves to or retreated before communism since World War II, now communism is on our southern doorstep.

The time is here when we must forget world opinion, which incidentally has never contributed one depreciated dime to the tax bill of America.

Let us think America for Americans.

Let us stop worrying about corrupt, blackmailing dictatorships throughout the world, and instead charge our public officials with the welfare of our own citizens.

Whether we admit it or not communism is at war with what remains of the free world.

In his great address before the Congress General Dougals MacArthur recognized this elementary fact of modern life.

He warned, "The Communist threat is a global one. You cannot appease or otherwise surrender to communism in Asia without simultaneously undermining our efforts to halt its advance in Europe".

If we mean to remain a land of the free then we must immediately regain the initiative from the communist forces of the world.

We can do this best by making our stand at the Big Ditch.

Instead of a public debate over a proposed Giveaway Treaty of the Canal, we should demand of our public officials an immediate severance of diplomatic relations with the Republic of Panama as long as it tolerates the flagrant disregard of human rights by its present dictatorial regime!

Gentlemen, I respectfully challenge you to join me in sending to the Halls of Congress an emphatic and reverbirating "NO" to the give-away of our Panama Canal.

RE: INITIATIVE CONSTITUTIONAL AMENDMENT

Mr. ABOUREZK. Mr. President, the New York Times, on Sunday, October 30, published an article on its front page concerning direct democracy. Quoting from people who have had extensive experience in using the initiative/referendum/recall process on the State and local level, the article explores the positive and negative aspects of these processes. The article goes on to discuss the issue of a national initiative process which has recently become the subject of considerable attention from the press and the public because of the constitutional amendment that Senators HATFIELD, GRAVEL, and I introduced in July.

In conclusion, the article indicates that there are certain problems that are posed by a national initiative, but given the advantages it offers, it would be a worthwhile addition to our governmental process.

Mr. President, I ask unanimous consent that the text of this article be printed in the RECORD.

There being no objection, the text of the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 30, 1977]

MORE AND MORE, VOTERS WRITE LAW

(By Les Ledbetter)

SAN FRANCISCO, Oct. 28.—Two months ago, voters in Madison, Wis., removed a judge from the bench because of remarks he had made after a rape trial. It was the first such recall from office in 15 years.

Last month, San Diego voters decided to close a nude beach.

Next month, voters here will be asked to decide 22 issues that range from the restoration of a swimming pool and expansion of the airport to the banning of billboards and the purchase of a hotel.

Contracts with city workers are on the ballot here as well, and only last-minute maneuvering saved the voters from being asked to decide the color of police cars.

Across the nation and especially in the West, in a manner and number not seen before, the ballot is increasingly being used for recalls, initiatives, referendums and constitutional amendments that were once left to local legislatures.

Twenty-three state and hundreds of cities now permit direct legislation by voters, and the trend seems to be growing. Direct voter legislation, rooted in town meetings and the Progressive Era, may even have a nationwide future under a constitutional amendment to permit national initiatives, proposed by Senators James Abourezk, Democrat of South Dakota, and Mark O. Hatfield, Republican of Oregon.

"It's a resurgence of the populist style," said William J. D. Boyd, assistant director of the National Municipal League in New York City, as he tried to explain the expanding use of direct voting on issues. "Even New York and Rhode Island and the whole bunch of Eastern states that have consistently rejected this kind of government are charged up over proposals to permit more recalls and initiatives."

Praised by almost everyone as evidence of increasing public participation in government, direct legislation nevertheless has its critics, who worry that legislative democracy may be damaged.

"We've had representative government for 200 years," said State Senator Wayne A. Baker of Connecticut, who opposes direct legislation because of the "mischief" it can inspire.

His position, echoed by many politicians and political observers, was that the public can be emotionally swayed on certain issues that the legislative process would scrutinize more carefully and that direct legislation can be used to produce bad laws that voters do not fully understand.

For example, an antipornography initiative on the Washington state ballot this fall, denounced by lawyers there as unconstitutionally broad, seems to have support from residents anxious about pornography.

TAXES AND MORALITY

"Taxes and morality are always popular ballot issues here," said the Washington Secretary of State, Bruce Chapman, who supports direct legislation even though needed tax measures are regularly repealed by the electorate.

Corey Bush, the outgoing press secretary for Mayor George Moscone here, said that he could put any issue on the California state ballot for $325,000.

"You can buy your way on the ballot," said Mr. Bush. "How populist is that? I'd like to see someone make an issue of all these issues being put on the ballot."

Direct initiatives permit voters to put a measure on a ballot by obtaining a given number of petition signatures; if approved, the measure becomes law. Indirect initiatives permit citizens to petition their legislatures to act on a measure before it is placed on a ballot. Thirteen states permit direct initiatives, five permit indirect initiatives and three permit both forms.

Referendums permit voters to review laws passed by the legislature, usually before they go into effect; 38 states and two territories permit some form of referendum. Eighteen states permit constitutional initiatives by the public, and all states appear to have some process for recalling public officials, the most negative of the ballot actions.

The most common form of direct legislation by local voters nationwide is the local millage or property taxes or school assessments, under which the electorate can express displeasure by disapproving the local budget and thus withholding funds.

STEMMED FROM CORRUPTION

Direct legislation began in 1898 in South Dakota and grew during the early 1900's as progressives found state and local legislatures corrupt or subject to private interests.

The idea was that if elected representatives did not carry out the will of the people, then other people should be able to initiate their own legislation; if the representatives passed laws contrary to the will of the people, then the public could hold referendums to repeal such laws; and if the representatives greatly offended the people, then the public could recall them from office.

"American people think they have only one right, that of voting people into office," said Dr. George P. C. Chu, assistant professor of political science at the University of Detroit. "Actually they have four: election, recall, ini-

tiative and referendum. More and more they are coming to realize their right to recall. People should consider the recall, referendum and initiative as means of democracy. They have direct control over their government by using them."

Dr. Jack Dennis, political science professor at the University of Wisconsin in Madison, where a local judge was recalled this summer, agreed that recalls are "a recently enhanced weapon in controlling the actions of elected officials."

But Judge Warren A. Grady, chairman of the Wisconsin Board of County Judges, said recalls are "almost always emotional affairs and based on single decisions" and argued against their use to "second guess" officials.

Mr. Boyd said the Municipal League has modified its original position supporting direct democracy, taken in the early 1900's, because of the dangers of abuse. And he said that the league now favors an indirect form of initiative like that in Massachusetts, which requires that the Legislature be petitioned for action first before an item goes on the ballot.

Dr. Marvin A. Harder, a political science professor at the University of Kansas in Lawrence, agreed that direct initiatives have not worked very well "because it has been used as a means of evading politically tough issues."

Almost everyone interviewed said that recall and initiative votes had increased in recent years, but they disagreed about both the reasons and the results.

Professor Alan Altshuler, chairman of the political science department at the Massachusetts Institute of Technology, said the trend came about "because the volume of government activity is growing and citizen organizations are growing."

"People are far less inclined to take a legislative defeat as final," he said. "They are more willing to go out and get signatures. On the whole, though, the referendum is a poor way to enact legislation."

DISTRUST IS CITED

Some political observers saw the increased use of direct democracy as a result of distrust of politicians and the legislative process. Others interviewed said the growing number of issues on the ballot resulted from questions that legislators would not address or could not decide. And still others saw these processes as ways in which special interest groups could bring their proposals before the public for passage or place pressure on legislators.

In California, for example, the Legislature has often been pressured into passing laws dealing with atomic energy and farm labor by initiatives that were placed on the state ballot.

On some issues everyone agreed that direct * * * was the best and * * * democratic route to a law. But even the most staunch advocates of the processes felt that these populist avenues of government could be wasteful if used to deal with minor issues, abused in dealing with emotional issues and time-consuming when used to avoid the usual legislative avenues.

Many worried about the effects of the increased use of ballot legislation, contending that it might repulse as many voters as it involved by confronting them with constant voting and complicated issues, that the expense could drive up government costs and that it could be used to harry and threaten officials.

Nevertheless, most of the abuses cited were considered minor in comparison with the benefit of having citizens become more involved with their government. Almost everyone interviewed thought the idea of direct democracy was sound. Even in the South, where property tax assessments are about the only form of direct legislation permitted, such successes were seen as generally beneficial to a democratic society.

ECONOMIST VIEWS "EFFICIENT" BUREAUCRACY

Mr. HELMS. Mr. President, in the Washington Star yesterday, November 1, Thomas Sowell commented impressively on the common view that the Federal bureaucracy is inefficient. Mr. Sowell pointed out that in terms of the bureaucrat's chief goals, the bureaucracy is very efficient.

He suggests the obvious—that the average taxpayer is by no means as well off as the average bureaucrat.

Mr. Sowell also outlines the fact that a bureaucrat looks upon his own efficiency very differently from that of the taxpayer. As he says, "Fan-dancing is a very inefficient way of circulating the air in a room, but it is a very efficient way of transferring money from the pockets of the viewers to the pocket of the performer."

Mr. President, I ask unanimous consent that Mr. Sowell's article, "Who Says Bureaucracy's Inefficient?" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Star, Nov. 1, 1977]

WHO SAYS BUREAUCRACY'S INEFFICIENT?

(By Thomas Sowell)

Wouldn't it seem strange if A were always accusing B of stupidity and inefficiency, while B's income was higher than A's, B's income was growing faster than A's, and B's power over A was constantly increasing?

This is precisely the situation as regards the public (A) which criticizes government bureaucrats (B). The public has all too many reasons to be unhappy and angry with bureaucrats. But to blame problems in Washington on stupidity and inefficiency among government officials is to misunderstand what is happening.

Government employees are better paid than private employees, have lower unemployment rates, and fatter pensions. As for their workload, when was the last time you saw a civil servant perspiring on the job? (President Nixon doesn't count.) The highest income county in the United States is in a suburb of Washington. Recent polls show personal optimism about the future higher in the Washington area than in the country at large—and that optimism is well placed, as regards their own future. Bureaucracy is a growth industry. This has been true over the years, regardless of which party was in power, and regardless of whether the particular president was called "liberal," "conservative," or a "born again" Christian out to reform "the mess in Washington."

Conservatives used to have the inside track on criticizing high-living Washington functionaries who mouthed egalitarian platitudes over caviar and filet mignon. Now the plush Washington lifestyle has become a scandal to liberals as well. The New Republic recently devoted a whole issue to exposing the luxurious lifestyle of Washington bureaucrats, their expense-account living, and the double standard that permits them to prescribe quotas and busing for the rest of the country while sending their own children to one of the most segregated school systems in the country.

The bureaucracy, with its financial security and special privileges, is, if anything, far too smart and too efficient in promoting its own interest. The rest of us would do well to get smart and understand how it happened.

In order to know if people are "efficient" or "inefficient," you have to know what they are trying to do. Fan-dancing is a very inefficient way of circulating the air in a room, but it is a very efficient way of transferring money from the pockets of the viewers to the pocket of the performer. The government is not fan-dancing, but there is a similar emphasis on going through tantalizing motions that promise more than is delivered.

The crucial mistake is to assume that the government's purpose is our purpose. We may see something "wrong" in the world and imagine that it follows, as the night follows the day, that "there ought to be a law"—and a program and an agency to carry out the law, to protect us from whatever evil is in vogue at the moment. Now, things have been going wrong ever since we got off on the wrong foot in the Garden of Eden, but hope springs eternal that some new collection of bureaucrats will put a stop to it. This hope is the inexhaustible raw material from which bureaucratic empires are built.

Efficiency means getting the most output with the least input. But bureaucrats are paid according to how many other bureaucrats work under them, and how big a budget they administer. This is called being paid for the level of responsibility. Obviously, the more people hired and the more money spent to get a given job done, the higher the level of responsibility and therefore the higher the salary. To call overstaffing and unnecessary paperwork "inefficiency" or stupidity in this context is to miss the whole point.

What we may call bureaucratic delay is someone else's job protection and his boss' salary justification. The same people can move tremendous numbers of pieces of paper with great speed, as they do in government agencies where thousands of numbers racket bets are collected, coordinated, and paid off every day.

Bungling? When was the last time government workers missed getting their paychecks, in full and on time? Confusion? When was the last time government workers' unions failed to torpedo reforms that would cost jobs? Few things have been as much criticized as the welfare system and the education system, and yet the only reforms that have any political chance in these areas must—first and foremost—assure the jobs, power, and appropriations of the existing bureaucrats.

Efficient? Very.

CORPORATE SOCIAL REGISTER

Mr. ALLEN. Mr. President, several days ago I was very distressed to read several newspaper articles reporting that the Department of Commerce intends to publish a so-called social performance index for U.S. corporations. At first, I assumed that the story was incorrect since obviously the Department of Commerce has no authority whatsoever to rate American private businesses by some off-the-wall index based on the subjective judgment of a bunch of bureaucrats at the Department of Commerce. But I have discovered, Mr. President, that unbelievable as it may seem, these stories were true; the Department of Commerce seriously intends to publish a social performance index of American private businesses.

This plan is about the most half-baked idea to come down the pike in this session of Congress—and there have been plenty of half-baked ideas. I, certainly, for one, have got a lot of questions about how this social performance index would be compiled and used and even more questions regarding who would make the decisions in rating corporations. Would a corporation pay the Government for the right to use in its advertising that it rated higher on the social performance index than some other competitor corporation? Would bureaucrats hold out to corporations the carrot that a decision to implement some yet-undisclosed bureaucratic program would guarantee to a corporation a higher rating on this inane social register? Would bureaucrats wave the stick of a low rating for failure to comply? Would the Government publish for the highest rated corporations the fact of their high rating so that the corporations could receive the commercial benefits of presumed good publicity? Would this social register of U.S. private corporations be distributed to the public free of charge by the Consumer Public Information Office out in Pueblo, Colo., or would consumers be required to write in for a copy? All of these questions would have to be answered, Mr. President, if the Department of Commerce—if the Secretary of Commerce—does actually plan to pursue this incredible project.

I might add in concluding, Mr. President, that in my judgment serious constitutional issues are raised when the Government gets into the business of rating private industry. I recognize that in the United Kingdom the Queen of England is permitted to give endorsements, in effect, to particular firms by stating that a particular firm is the purveyor of a particular product by appointment to Her Majesty. But, Mr. President, the United States is a republic and the Federal bureaucracy had best stay out of the business of rating or endorsing particular products or companies. Let us leave that, Mr. President, to baseball players and to movie stars.

I ask unanimous consent that there be printed in the RECORD three articles describing these incredible plans announced down there at the Department of Commerce.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 20, 1977]

CORPORATE SOCIAL REGISTER PLANNED

WASHINGTON, Oct. 19.—The Commerce Department plans to publish a social performance index for corporations to show how well they meet such social needs as minority hiring and environmental controls, the Secretary of Commerce, Juanita M. Kreps announced today.

Secretary Kreps said the purpose of the index was both to make sure corporations got credit for the constructive things they did and also to prod those who are lagging in their social performance to do a better job.

Besides minority hiring and environmental controls, the index would show corporate responsiveness to consumer complaints, product testing and purchasing from minority-operated companies. Secretary Kreps said the index was being developed with the cooperation of the Business Roundtable, a business organization.

Secretary Kreps said corporations that pursued profits motives alone might not be doing themselves or society a favor. Ignoring social needs may actually increase costs and reduce profits because it brings on government regulations, she said.

"The dramatic dollar costs that regulatory schemes generate are well known to business and non-business leaders," said the Secretary, whose role as a representative of the Carter Administration before the nation's business leaders has grown substantially since the resignation of Budget Director Bert Lance.

She said that to prevent "further oppressive regulation, the public and the legislatures must be persuaded that business can address the social consequences of their actions far better on their own than with the help of the Government."

PRIVATE SECTOR SUFFERS

"When corporations pursue only the narrowest, short-run objectives and when business is held in low public esteem, the private sector on which we all depend suffers," she said in remarks prepared for the Chief Executive Officers Conference at Duke University in Durham, N.C.

She announced several other initiatives as part of a six-part Commerce Department program "to enhance business leadership in corporate social performance."

She said Mayor Coleman Young of Detroit and Coy G. Eklund, president of the Equitable Life Assurance Society of the United States, would head a commission to study ways of dealing with structural unemployment problems. Such problems include the high degree of unemployment among black youths and the concentration of unemployed in some cities.

[From the Washington Star, Oct. 20, 1977]

SOCIAL PERFORMANCE INDEX ON WAY

The Commerce Department plans to publish a social performance index for corporations to show how well they meet such social needs as minority hiring and environmental controls, Secretary of Commerce Juanita M. Kreps said yesterday.

Kreps said the purpose is both to make sure corporations get credit for the constructive things they do, and also to prod those who lag in social performance to do a better job.

Besides minority hiring and environmental controls, the index would show corporate responsiveness to consumer complaints, product testing and purchasing from minority-operated firms. Kreps said the index is being developed with the cooperation of the Business Roundtable, an influential business organization.

Corporations which pursue profit motives alone may not be doing themselves or society a favor. Ignoring social needs may actually increase costs and reduce profits because it brings on government regulations, Kreps said.

"The dramatic dollar costs that regulatory schemes generate are well-known to business and non-business leaders," said Kreps, whose role as a representative of the Carter administration before the nation's business leaders has grown substantially since the resignation of Budget Director Bert Lance.

She said that to prevent "further oppressive regulation, the public and the legislatures must be persuaded that business can address the social consequences of their actions far better on their own than with the help of the government."

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She said Mayor Coleman Young of Detroit and Coy Eklund, president of the Equitable Life Assurance Society, will head a commission to study ways of dealing with structural unemployment problems. Such problems include the high degree of unemployment among black youths and the concentration of unemployed in some cities.

Secretary Kreps disclosed she has appointed a "task force to deal on a continuing basis with corporate social performance."

Kreps provided little detail of how the social performance index would work, and a Commerce Department spokesman said plans for the index are still somewhat vague.

But the spokesman said the index probably would be published annually, and would include a listing of those corporations whose social performance is poor, as well as those whose record is good.

[From the Washington Post, Oct. 20, 1977]

CORPORATIONS WARNED ON IGNORING SOCIAL ROLE

(By Barry Bryant)

DURHAM, N.C., Oct. 19.—Secretary of Commerce Juanita Kreps and Vernon Jordan, executive director of the National Urban League today said that corporations would face declining profits if they failed to play a greater role in improving society.

Speaking to a conference of corporate executives sponsored by Duke University, Kreps said the Commerce Department plans to develop an index that would evaluate corporate contributions to society and "help bring about an improvement in the behavior of less progressive firms."

She said the index would describe corporate performance in fields ranging from environmental control to affirmative action.

Later in interviews Kreps and Jordan called for sharply increased corporate contributions to non-profit and philanthropic organizations. They urged that 5 per cent of pre-tax profits, the maximum charitable deduction for corporations, be set as a goal for corporate giving.

Last year corporations gave $1.4 billion in direct contributions to universities, foundations, cultural groups and other philanthropic organizations—amounting to 1.2 per cent of pre-tax profits, according to Jim Harris, director of public affairs for Allied Chemical Corporation.

Initial reaction to the 5 per cent goal from several executives was cool, with some saying that their programs for giving were already adequate.

John D. Harper, chairman of the executive committee for Aluminum Company of America, said that "without adequate profits, we are unable to give more." Alcoa now gives 0.35 per cent of domestic profits to charity.

"We've got shareholders to think of," said O. Pendleton Thomas, chairman of B. F. Goodrich. "We can't give 5 per cent without being severely criticized."

John D. Rockefeller III, representing the foundation viewpoint, differed, saying that the private nonprofit sector was in danger of takeover by government if the support from business did not increase.

"Philanthropic giving has been going down," he said, adding that giving was less now than in 1960. Business had, he said, developed a "habit of taking the (private, nonprofit) sector for granted."

Jordan charged in his speech that the

retreat of corporations from social issues during the recent recession indicated "the marginal role the corporate sector places on broad national social concerns."

Black unemployment results in loss of potential consumption, higher taxes, rising crime and endangered urban assets for business, Jordan said. He said he believed corporations could increase their giving substantially.

Kreps said that resistance by corporations to increased corporate giving may decrease within the next five years. Corporations will come to realize that long-run neglect of social concern will hurt profits, she said.

Kreps said widening of the corporate role in the field of social responsibility would increase profits in the long run, adding that "the future of the corporation and that of the public are inevitably linked."

The conference was attended by about 70 chief corporate executives.

APPALACHIAN CHILD DEVELOPMENT CENTERS

Mr. SPARKMAN. Mr. President, recently I had the honor to join with the Senator from Ohio, Mr. METZENBAUM, and others in introducing legislation, which would continue assistance to child development centers funded under the Appalachian Regional Development Act. This worthwhile legislation is necessary because the Appalachia Regional Commission (ARC) only had authority to fund these child development centers for 5 years, after which they were to be self-sufficient. Unfortunately, due to the economic conditions presently facing our country, self-sufficiency for these child development centers is unrealistic. It is imperative, if these centers are to remain in existence, that Commission funding continue to be made available to them.

Let me digress a moment and explain why this program is so important. Through more than 300 of the almost 400 counties in Appalachia, the ARC's child development programs are serving more than 200,000 individuals in such ways as immunization and nourishment, prenatal care, education for young mothers, and other services. The State of Alabama developed a comprehensive child development program in 22 of our 35 Appalachian counties in 1972. The program has been invaluable to the 2,500 preschool children served and their families.

Comprehensive child care centers in Alabama provide over 2,000 children of low-income families with educational, nutritional, social and health care services which would not be otherwise available to them. One additional advantage of the program is that it allows thousands of parents residing in Appalachian areas to enter the labor force as productive workers.

Appalachia, as we all know, is one of the poorest, if not the poorest, sections of our country. The Appalachia Regional Commission was created in order to bring some cohesiveness to the Federal effort to eliminate that poverty. The Commission deserves tremendous praise for the progress it has made in coordinating these programs over the past few years. While the ARC has done an outstanding job, the job is by no means complete. For example, in the central part of the region, intestinal parasites infect an estimated 50 percent of the children, and throughout Appalachia the infant mortality rate is 6 percent higher than the rest of the Nation.

There is still a long way to go in the fight against poverty and disease in Appalachia, but it may prove to be a losing battle if the ARC funding for the child development centers is cut off. While it is clear that a large number of the programs have reduced their dependence on ARC funding over the last few years, they have not been able to become totally self-sufficient.

Further, while many other parts of the Nation can rely upon local contributions, Appalachia is not able to raise funds from its already poor citizenry. If these child development programs lose their ARC funding they will have one of two choices available to them: Either they will have to substantially reduce the number of individuals served in their programs, or they will have to shut down completely. Neither of these options will assist in the fight to end the disease and poverty in Appalachia.

The legislation now being discussed provides us, the American people, with a chance to continue the fight in Appalachia. The bill would extend the ARC funding at 1975 levels through fiscal year 1979, and it would direct the ARC to investigate the difficulties in turning over complete sponsorship of the program to State or private agencies and reporting their findings to Congress. Some of the programs have been able to achieve self-sufficiency. What we in Congress, and the American people, need to know is how this was done and how we can make all of these programs self-sufficient.

These programs represent one of the best uses of the taxpayer's dollar. A recent study conducted by Columbia University showed that each $1 spent on child development programs prevents 94 cents of public assistance aid, and the cost to the Government per year per child is approximately $119.

These programs must not be allowed to die. I urge my colleagues to join me in supporting this vital legislation and its quick enactment.

NOVEMBER 2: AN HISTORIC DATE

Mr. MATHIAS. Mr. President, November 2 has been a date of no small significance in the history of our Nation. On this date in 1863 President Abraham Lincoln received an invitation to make "a few appropriate remarks" at the dedication of the new national cemetery at Gettysburg. "Although the time was short (November 19th)," a Civil War almanac tells us, "and the invitation obviously somewhat of an afterthought, the President accepted."

That invitation and Lincoln's acceptance resulted in his eloquent call to preserve the Union, the "Gettysburg Address."

November 2 also has been an important date for us in more recent times. On that date in 1948, the citizens of Minnesota chose HUBERT H. HUMPHREY for the U.S. Senate. What a gracious and enduring gift that was to us all.

It was appropriate that again on November 2 last year Minnesota told us they were renewing the Humphrey lease on his home with us here in the Senate.

In the Baltimore Sun of this past Sunday, Ernest B. Furgurson deftly outlined the significance of Senator HUMPHREY and his leadership in a column titled "HHH: Honor and Irony . . ."

A quote he repeats from the actor Lorne Greene is quite fitting. He said,

When history weighs the great social advances of our time, the impact of a man who never became president may outweigh them all.

That man, of course, is Senator HUBERT H. HUMPHREY.

On this most appropriate date, I ask unanimous consent that Pat Furgurson's column "HHH: Honor and Irony" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From The Baltimore Sun, Oct. 30, 1977]

HHH: HONOR AND IRONY

(By Ernest B. Furgurson)

WASHINGTON.—Most politicians are actors, and some actors are politicians. Thus it was reasonable that the most telling single line about Hubert Humphrey among all the accolades poured on him these past weeks came from the senator's close friend, the actor Lorne Greene.

"When history weighs the great social advances of our time," Mr. Greene said at a testimonial dinner for the Minnesotan, "the impact of a man who never became president may outweigh them all."

And indeed it may. For many of the things Hubert Humphrey originated or fought for were considered too radical or avant-garde when he first brought them up. Then when time and politics moved along, and eventually caught up with him, his best ideas became law during someone else's presidency.

They include Medicare, the Peace Corps, youth conservation programs, Food for Peace, the Arms Control and Disarmament Agency, the wilderness system, and urban renewal. And however long he has talked, however persuasively he has preached and bargained, he has never hogged credit for all those achievements. The only major legislation ever to bear his name is the Humphrey-Hawkins full employment bill, yet to be given a final hearing and vote.

But whether that becomes law or not, Mr. Humphrey already has his monument on the books, and it will last longer than the new Health, Education and Welfare building that is being named for him.

It does not bear his name. It is not a single law, although one milestone act of Congress symbolizes it. It is the progress of civil rights in America from 1948, when the rest of the country first heard of Hubert Humphrey, to 1977, when he came back to Washington the other day for which could be his final weeks of public life.

Of course there were others. Martin Luther King, Jr. took the issue to the streets and struck the national conscience with his refusal to return violence in kind; Lyndon Johnson was the man who went to the well of the House of Representatives and made his ultimate commitment by declaring, "We shall overcome."

But in the summer of 1948, Dr. King was a young student just out of Morehouse University, about to enter Crozer Theological

Seminary; his Montgomery bus boycott would not begin until 1955. And in 1948, Lyndon Johnson was dissembling on every issue in his close primary against Coke Stevenson; elected, he still was not to see the light until the mid-Fifties, when as majority leader he assembled support for a very moderate civil rights bill indeed.

That was the summer when Mr. Humphrey also was running for the Senate. As mayor of Minneapolis he already had pushed through the first local fair employment act in the country. And at his party's convention in Philadelphia on July 14, he made a historic speech declaring that "the time has arrived in America for the Democratic Party to get out of the shadow of states' rights and walk forthrightly into the bright sunshine of human rights." He prevailed, forcing the Dixiecrats out of the hall, and national politics has never been the same.

In the Senate, he soon acknowledged that in his enthusiasm he was spreading himself too thin. So he throttled back, deciding to "specialize' merely in foreign policy, disarmament, farm programs, health improvement, labor, welfare and civil rights. He became expert in them all. But the one closest to his heart was the last on the list.

When, a few weeks ago, he was asked what he considered his greatest work, he said without hesitation, "My perseverance in the field of civil rights, from the day I was mayor of Minneapolis to the time of the passage of the 1964 Civil Rights Act. It was not an easy course to follow. I think its fair to say I was ahead of my time.

That is true. He was ahead of his time, but if he had not been out front the nation would have lagged even more destructively behind. And the most painful irony of his great career is that after all those years of being ahead of his time, when his rightful turn came for the White House, he missed it because the temporary custodians of his own party spurned him for being too old-fashioned.

History already has proven what a mistake they made.

THE GENOCIDE CONVENTION: A PRACTICAL MEANS TOWARD AN IDEAL END

Mr. PROXMIRE. Mr. President, the business of the Senate can be said to be uniting the need to be practical with the desire to achieve ideals. I believe that the Genocide Convention is a prime example of how these often conflicting goals can be met.

History shows that when the ability to conduct affairs practically has been given highest priority, the results have often lacked focus and direction. On the other hand, concentrating energies on an ideal goal has proven to be of little value if it ignores the need to come up with practical proposals. In fact, I submit that true progress toward solving difficult problems can only be made when ideal ends and practical means are brought together.

Mr. President, the need to unite the practical and the ideal is especially important for the further advancement of human rights. I am convinced that the Genocide Convention would do this well. It takes a firm grasp of the ideal that no individual should be killed simply because of membership in a national, ethnical, racial, or religious group, and that no attempt to do so can go unpunished. But it seeks to move toward this ideal by practical methods. First, it respects the sovereignty of every nation and the importance of national laws. Second, it makes a comprehensive and unambiguous definition of what constitutes an act of genocide. Finally, it gives clear instructions as to how impartial justice shall be dispensed should such crimes occur. I might add that in each case, the document upholds many of the time-proven convictions and practices of the U.S. Constitution and judicial system.

Mr. President, if the ideal of guaranteed and inviolable human rights is to be achieved, it will have to be done through practical means. Over the past 28 years, 82 nations have come to the conclusion that the Genocide Convention provides some of these means. I urge my colleagues to take an important practical step towards the protection of human rights by ratifying this convention immediately.

THE PANAMA CANAL TREATIES: THE BEST ANSWER

Mr. CRANSTON. Mr. President, we originally built the Panama Canal to assure open access for the United States and the rest of the world to a passage between the Atlantic and Pacific. I support ratification of the treaties because I believe they represent the best method of protecting this open access which is so important to our economic interests and our national security.

I know many Americans, including Members of the Senate, are either opposed at this time to ratification, or remain undecided. To those who oppose the treaties or who are in serious doubt, I submit that there are at least three concerns which must be resolved in order to support the proposition that we not ratify the new Panama Canal treaties. These issues are of great concern to me because they each pertain to a serious threat to an assured free and open passage between the Atlantic and Pacific Oceans.

First, it appears that the chief opponents to the Panama Canal treaties outside the United States are Communists, Castroites, and leftwing radicals. This is particularly true in Panama, where the Castroites and leftwing radicals led the fight against the approval of the treaties in the Panamanian plebiscite. Does not the fact that the most strongly anti-U.S. elements in Panama are the most strongly opposed to the treaties suggest that the treaties are in our best interests?

Second, under the Panama Canal treaties the United States has the exclusive right to develop with Panama a sea-level canal anywhere in the country of Panama. The feasibility study on the question of a sea-level canal completed in 1970 found that the two most suitable routes for such a canal were both in Panama—one 10 miles from the present Canal and the other the canal itself. If the treaties are not ratified, what is to prevent the Japanese, with their engineering expertise, and the Arabs, with oil dollars, from joining hands to build a sea-level canal elsewhere in Panama to the exclusion of the United States? Or, what if the Soviet Union were to join in such an enterprise with the Panamanians? Under article XII of the treaties, the United States has the security of knowing that no foreign power, whether hostile or friendly, will build or control a sea-level canal in Panama.

Third, while the Panama Canal would not have been built without the ingenuity, leadership, and sweat of the United States, the Panamanians believe that Panama belongs to the Panamanians and that the canal is on Panamanian soil, or that, at the very least, the canal physically divides their country and that their country must be united. If the treaties are not ratified, this Panamanian nationalism may well result in efforts—not led by the Panamanian Government, but by antigovernment and Communist forces—to sabotage the canal in guerilla activity which could escalate into a military conflict. Ratifying the treaties offers far greater assurances that we can avoid this result, while guaranteeing forever the right of the United States to defend the Canal. If the treaties are not ratified, how many American troops and how many American lives should be expended to defend the canal against what Panamanians deem to be Panamanian national self-interest?

It seems to me that to pose these three concerns is really to answer them.

First, it is in the best interests of the United States to ratify the treaties. The Castroites and left-wing radicals know this even if some of us feel bound by our historic past to the exclusion of recognizing our own present self-interest.

Second, the United States needs and must retain the exclusive right to develop with Panama a sea-level canal anywhere in that country.

Third, it is unrealistic to expect Panama to accept the physical division of its country. We would never accept such a presence by a foreign power bisecting the United States.

Thus how do we further our own best interests in a free and accessible Panama Canal whle maintaining the right to defend the canal and our own right to preferential passage in time of emergency?

By agreeing with our opponents and enemies that the treaties should not be ratified? By abandoning to foreign powers the right to build a competitive sealevel canal? By committing American troops and lives to an effort to suppress Panamanian nationalism?

No, none of these.

I submit that the best answer at this time is ratification of the Panama Canal treaties, thereby guaranteeing forever a free and open Panama Canal under the protective umbrella of our Armed Forces. The treaties are the best available assurance of continued unfettered and fair access to the canal by the world and for the United States, while protecting and maintaining all the legitimate interests of the United States in the Panama Canal.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

John A. Roe, of Iowa, to be U.S. Marshal for the Northern District of Iowa for the term of 4 years vice Melvin A. Hove, term expired.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Wednesday, November 9, 1977, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SASSER). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SOIL CONSERVATION ACT

Mr. HUDDLESTON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 106.

The Presiding Officer laid before the Senate the amendments of the House of Representatives to the bill (S. 106) to provide for furthering the conservation, protection, and enhancement of the Nation's land, water, and related resources for sustained use, and for other purposes.

(The amendments of the House are printed in the RECORD of June 6, 1977.)

UP AMENDMENT NO. 1037

Mr. HUDDLESTON. Mr. President, I move that the Senate concur in the amendments of the House with amendments which I now send to the desk.

The PRESIDING OFFICER. The amendments will be stated.

The legislative clerk read as follows:

The Senator from Kentucky (Mr. HUDDLESTON) proposes an unprinted amendment numbered 1037.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 20, of the House engrossed amendments, strike out "framework" and insert in lieu thereof "set of guidelines".

On page 8, between lines 20 and 21, of the House engrossed amendments, insert a new subsection as follows:

"(b) Commencing with the fiscal year ending September 30, 1982, the President shall, not later than thirty days after the submission of the budget for each fiscal year, prepare and transmit to Congress a report expressing in qualitative and quantitative terms the extent to which the programs and policies projected under the budget meet the statement of policy submitted under subsection (a) of this section. In any case in which the budget recommends a course which fails to meet the statement of policy, the President shall set forth in his report under this subsection the reasons for requesting Congress to approve the lesser program or policies presented in the budget.".

On page 8, line 21, of the House engrossed amendments, strike out "(b)" and insert in lieu thereof "(c)".

On page 10 of the House engrossed amendments, strike out lines 1 and 2 and insert in lieu thereof the following:

"SEC. 10. The provisions of this Act shall terminate on December 31, 1985.".

Mr. HUDDLESTON. Mr. President, I urge that the Senate accept the House version of S. 106, the Land and Water Resources Conservation Act of 1977, with amendments which assure that the process of establishing work priorities for land and water conservation by the Department of Agriculture is tied to the budget.

I think these amendments retain the fiscal integrity of this measure, which the distinguished Senator from Mississippi (Mr. EASTLAND) and I felt were essential from the time we began working on this bill 3 years ago.

Staffs of the House Agriculture Committee, the Senate Committee on Agriculture, Nutrition, and Forestry, and the administration met this afternoon to iron out differences between the two Houses of Congress and the White House on the bill. Administration officials were most cooperative in understanding that a program of work for the Soil Conservation Service would be meaningless unless it were tied in some way to the budget process.

The representatives of the committees and the administration agreed on what would be acceptable language. The alterations represent a compromise which lies between the House and Senate versions of the bill and I do not expect opposition to this proposal either from the House or the White House.

President Carter has proven himself to be a great conservationist, and I believe this bill is consistent with his philosophies of conservation, while at the same time putting Federal resources where they will do the most good.

Mr. President, I move adoption of the amendment.

Mr. President, this matter has been cleared on both sides of the aisle and represents a working out of differences between the House and Senate and the White House.

I move the adoption of the amendment.

Mr. BAKER. Mr. President, I am happy to say to the Senator from Kentucky that the matter indeed is cleared on our calendar, and we have no objection to proceeding to its consideration.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

QUORUM CALL

Mr. HUDDLESTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE LEGISLATIVE ACHIEVEMENTS JANUARY 4 TO NOVEMBER 2, 1977

Mr. ROBERT C. BYRD. Mr. President, in the last 2 months, the Senate has concerned itself almost exclusively with the primary issue of this Congress. It has debated, amended, and passed the five important measures encompassing the key elements of a national energy plan.

During the first 2 weeks of September we agreed that new electric utility and major industrial plants must burn coal, which is in abundant supply domestically, instead of natural gas or oil which must be imported. We also passed voluntary and mandatory energy conservation provisions as a means of significantly reducing the rate of growth in energy consumption. During the last 2 weeks of October, we considered natural gas pricing policy which would protect consumers and yet give an incentive for increasing supplies of natural gas. As passed the Senate, natural gas prices would be deregulated immediately for new onshore wells and in 5 years for new offshore wells, while old gas prices would continue under the present system.

In early October, the Senate agreed to provisions which seek to terminate public utility pricing policies which discourage conservation, such as block pricing, without infringing upon the authority of State public utility commissions. In this bill, the Senate recognized the special needs of the elderly living on fixed incomes by requiring that public utilities supply older citizens with electricity at the lowest cost afforded any other class of consumer.

On the last day of October the Senate passed tax incentives to encourage energy conservation, by individuals and businesses, and to increase production of oil, natural gas and other, more exotic, domestic sources of energy.

Concurrently, Senate and House conferees have been meeting daily to resolve the differences in the respective versions of the energy conservation bill. They have resolved differences on most of the conservation provisions and have begun consideration of coal conversion which will be followed by conference consideration of utility rate reform, natural gas pricing, and energy tax provisions.

The Senate debate on the national energy policy brought divergent opinions to the surface as we sought the most effective course of action to prevent national energy shortages which could again result in school closings, factory layoffs, and, in the extreme, death for some Americans who cannot afford to heat their homes. I submit that neither the President's plan, nor the House-passed version, nor the Senate's plan has all the answers. The program which the conferees will report for our approval will be the product of more heated debate and compromise. But it will contain, I am confident, the most constructive proposals from each of these plans.

Although we went through a hard and, at times, painful process to agree upon the energy proposals, I feel certain that the Nation will profit from the careful and the full airing the Senate gave these issues.

The Senate has long recognized the need for a comprehensive national energy policy. In 1961, at the urging of my distinguished colleague from West Virginia, Senator RANDOLPH, the Senate established a national fuels and energy study group to focus on energy issues—an action that predated by 10 years the first Presidential message on energy. Since that time, the Congress has enacted 84 energy-related public laws even though former Republican Presidents felt compelled to veto 12 measures important to energy policy. The following listing indicates the extent of our concern with the issue:

91ST CONGRESS (1969–1970)

1. Public Law 91–158, Interstate Oil Compact Commission, 2-Year Extension, S.J. Res. 54.
2. Public Law 91–173, Coal Mine Health and Safety Act of 1969, S. 2917.
3. Public Law 91–245, Oil and Gas Leases, S. 1193.
4. Public Law 91–581, Geothermal Steam Act of 1970, S. 368.
5. Public Law 91–631, National Mines and Minerals Policy Act, S. 719.

92D CONGRESS (1971–1972)

6. Public Law 92–84, Atomic Energy Commission Authorization, 1972, H.R. 9388.
7. Public Law 92–307, Temporary Operating Licenses for Nuclear Powerplants, H.R. 14655.
8. Public Law 92–314, Atomic Energy Commission Appropriations, 1973, S. 3607.
9. Public Law 92–401, Natural Gas Pipeline Safety Act of 1968, H.R. 5065.
10. Public Law 92–500, Federal Water Pollution Control Act Amendments of 1972, S. 2770.
11. Public Law 92–583, Coastal Zone Management Act of 1972, S. 3507.
12. S. Res. 45, to establish the Senate National Fuels and Energy Policy Study Group.

93D CONGRESS (1973–1974)

13. Public Law 93–28, Economic Stabilization Act Amendments of 1973; Voluntary Petroleum Allocation, S. 398.
14. Public Law 93–60, AEC Authorization, S. 1994.
15. Public Law 93–74, NASA Authorization, H.R. 7528.
16. Public Law 93–87, Federal-Aid Highway Act, S. 502.
17. Public Law 93–88, Euratom Corporation Act of 1958 Amendments, S. 1993.
18. Public Law 93–119, Oil Pollution Act Amendments, H.R. 5451.
19. Public Law 93–153, Mineral Leasing Act of 1920, Amendments, and Trans-Alaska Oil Pipeline Authorization, S. 1081.
20. Public Law 93–159, Emergency Petroleum Allocation Act of 1973, S. 1570.
21. Public Law 93–182, Emergency Daylight Saving Time Energy Conservation Act of 1973, H.R. 11324.
22. Public Law 93–208, G.I. Bill Benefits During Energy Crisis, S. 2794.
23. Public Law 93–239, Highway Speed Limit Reduction, H.R. 11372.
24. Public Law 93–245, Supplemental Appropriations; Naval Petroleum Reserves, H.R. 11576.
25. Public Law 93–248, Intervention on the High Seas Act, S. 1070.
26. Public Law 93–249, Fuel Cost Pass-Through for Truckers, S.J. Res. 185.
27. Public Law 93–275, Federal Energy Administration, H.R. 11793.
28. Public Law 93–276, AEC Authorization Act, S. 3292.
29. Public Law 93–316, NASA Authorization Act, H.R. 13998.
30. Public Law 93–319, Energy Supply and Environmental Coordination Act of 1974, H.R. 14368.
31. Public Law 93–322, Special Energy Research and Development Appropriations for 1975, H.R. 14434.
32. Public Law 93–377, AEC Omnibus Legislation of 1974, S. 3669.
33. Public Law 93–383, Housing and Community Development Act, S. 3066.
34. Public Law 93–386, Aid to Energy Affected Small Businesses, S. 3331.
35. Public Law 93–403, Natural Gas Pipeline Safety Act, as Amended, Additional Appropriations, H.R. 15205.
36. Public Law 93–409, Solar Heating and Cooling Demonstration Act of 1974, H.R. 11864.
37. Public Law 93–410, Geothermal Energy Research, Development, and Demonstration Act, H.R. 14920.
38. Public Law 93–426, Defense Production Act of 1950, 2-year extension, S. 3270.
39. Public Law 93–434, Emergency Daylight Saving Time Energy Conservation Act of 1973, Amendments, H.R. 16102.
40. Public Law 93–438, Energy Reorganization Act of 1974, H.R. 11510.
41. Public Law 93–454, Federal Columbia River Transmission System, S. 3362.
42. Public Law 93–473, Solar Energy Research, Development and Demonstration Act of 1974, S. 3234.
43. Public Law 93–482, Duty Free Entry of Methanol for use as Fuel, H.R. 11251.
44. Public Law 93–485, International Nuclear Cooperation Act, S. 3698.
45. Public Law 93–496, National Railroad Passenger Corporation, H.R. 15427.
46. Public Law 93–511, Emergency Petroleum Allocation Act of 1973 Extension, H.R. 16757.
47. Public Law 93–514, Nuclear Information Annual Report, S. 3802.
48. Public Law 93–522, Sequoia National Park Hydroelectric Project, H.J. Res. 444.
49. Public Law 93–577, Federal Nonnuclear Energy Research and Development Act of 1975, S. 1283.
50. Public Law 93–627, Deep Water Ports Act, H.R. 10701.
51. Public Law 93–643, Federal-Aid Highway Act Amendments of 1975—Fuel Exports to U.S.S.R., S. 3934.
52. Public Law 93–646, Export-Import Bank Act Amendments, H.R. 15977.
53. S. Res. 138, National Consumer Effort to Save Gas.
54. S. Res. 249, Oil Price Increase.
55. S. Res. 279, Washington Energy Conference.

94TH CONGRESS (1975–1976)

56. Public Law 94–12, Tax Reduction Act of 1975; Repeal of Depletion Allowance, H.R. 2166.
57. Public Law 94–18, Nuclear Regulatory Commission Authorization, S. 994.
58. Public Law 94–79, Nuclear Regulatory Commission Authorization, S. 1716.
59. Public Law 94–139, TVA Bonding Authority, H.R. 9472.
60. Public Law 94–163, Energy Policy and Conservation Act, S. 622.
61. Public Law 94–180, Public Works—ERDA Appropriations 1976, H.R. 8122.
62. Public Law 94–187, ERDA Authorization 1976, H.R. 3474.
63. Public Law 94–197, Nuclear Accident Indemnity, H.R. 8631.
64. Public Law 94–227, International Petroleum Exposition, S.J. Res. 59.
65. Public Law 94–258, Naval Petroleum Reserves Production Act of 1976, H.R. 49.
66. Public Law 94–269, ERDA Supplemental Authorization 1976, S. 3108.
67. Public Law 94–291, Nuclear Regulatory Commission Authorization, S. 3107.
68. Public Law 94–332, Federal Energy Administration Extension, S. 3625.
69. Public Law 94–355, Public Works—ERDA Appropriations, 1977, H.R. 14236.
70. Public Law 94–364, Motor Vehicle Information and Cost Savings Act, S. 1518.
71. Public Law 94–730, Coastal Zone Management Act Amendments, State grants, S. 586.
72. Public Law 94–377, Federal Coal Leasing Amendments Act, S. 391.
73. Public Law 94–385, Energy Conservation and Production, H.R. 12169.
74. Public Law 94–413, Electric and Hybrid Vehicle Research, Development and Demonstration Act of 1976, H.R. 8800.
75. Public Law 94–422, Land and Water Conservation Fund Act, S. 327.
76. Public Law 94–477, Natural Gas Pipeline Safety, H.R. 12168.
77. Public Law 94–493, Interstate Oil and Gas Compact, S.J. Res. 126.
78. Public Law 94–586, Alaskan Gas Transportation, S. 3521.

95TH CONGRESS (1977)

79. Public Law 95–2, Natural Gas Emergency, S. 474.
80. Public Law 95–36, Deepwater Ports, S. 891.
81. Public Law 95–39, ERDA Nonnuclear Authorization, 1977, S. 36.
82. Public Law 95–70, FEA Authorization, S. 1468
83. Public Law 95–87, Stripmining Reclamation, H.R. 2.
84. Public Law 95–91, Department of Energy, S. 826.

In this session, the Senate has passed 26 energy bills. Among the 9 already enacted into law is the establishment of the cabinet-level Department of Energy. This act accomplished the merging of some 50 energy-related functions of various Federal agencies including those of the FEA, ERDA, and the FPC to facilitate a coherent administration of a national energy policy. A status check of the 26 bills the Senate has passed follows:

ENACTED: 10

Deepwater Ports Extension (H.R. 6401, P.L. 95–36).

ERDA Nonnuclear Authorization, 1977 (S. 36, P.L. 95–39).

Export Control—Arab Boycott (H.R. 5840, P.L. 95–52).

FEA Authorization (S. 1468, P.L. 95–70).

Natural Gas Emergency (S. 474, P.L. 95–2).

Urgent Power Supplemental Appropriation (H.J. Res. 227, P.L. 95-3).
Strip Mining (H.R. 2, P.L. 95-87).
Department of Energy (S. 826, P.L. 95-91).
Public Works—Energy Research Appropriation (H.R. 7553, P.L. 95-96).
Clean Air (H.R. 6161, P.L. 95-95).

SENT TO PRESIDENT: 2

ERDA Nuclear/Nonnuclear—Civilian (S. 1811, P.L. 95- .)
Mine Safety (S. 717, P.L. 95-).

IN CONFERENCE: 6

ERDA Nuclear—Military (S. 1339).
Coal Conversion (H.R. 5146).
Energy Conservation (H.R. 5037).
Natural Gas Pricing (H.R. 5289)
Public Utility Rate Reform (H.R. 4018).
Energy Taxation (H.R. 5263).

PASSED SENATE, NOT HOUSE: 8

Alaska Pipeline Destruction (S. 1496).
Educational Institution Energy Saving Grants (S. 701). Provisions are now in energy conservation bill.

ERDA Nonnuclear Authorization, 1978—Civilian (S. 1340). Provisions are now in S. 1811.

ERDA Nuclear Authorization—Civilian/Military (S. 1341).

ERDA Synthetic Fuel Loan Guarantee Program (S. 37).

Outer Continental Shelf (S. 9).
Pipeline Destruction (S. 1502).
Radiation Exposure (S. 266).

Aside from energy matters, the Senate enacted into law a $34 billion tax cut early in the session, appropriated $20 billion to create jobs and increase job opportunities and reduce unemployment, enacted a $14.6 billion housing assistance and community development program, increased the minimum wage over the next 4 years to $3.35, rationalized Senate committee jurisdictions, and adopted an official code of conduct for Senators and staff which requires extensive financial disclosure.

In all, the Senate has dealt effectively with issues vital to all Americans and issues essential to an effectively functioning Senate. This record of achievement could not have been possible without the dedication and hard work of Senators on both sides of the aisle. I take this opportunity to express my appreciation to the distinguished minority leader, Mr. BAKER, and the assistant minority leader, Mr. STEVENS, for their cooperation and assistance.

I thank all my colleagues for their devotion to their responsibilities, their friendship, and their sense of accommodation. I look forward to an equally productive 2d session of the 95th Congress.

A more complete listing of the legislative accomplishments of the Senate is contained in a report prepared by the Democratic Policy Committee. I ask unanimous consent that this report be inserted in the CONGRESSIONAL RECORD at the conclusion of my remarks, and that all of this be printed as a Senate document complete with subsequent actions taken by the Senate and House during the remainder of the session.

SENATE LEGISLATIVE ACHIEVEMENTS

95th Congress, 1st Session

(Prepared by Senate Democratic Policy Committee, ROBERT C. BYRD, Chairman)

SENATE ACTIVITY

Days in Session	162
Hours in Session	1102: 14
Total Measures Passed	635
Private Laws	10
Public Laws	151
Treaties	5
Confirmations	64, 837
Record Votes	609

Symbols: (VV)—Passed by Voice Vote; numbers in parenthesis indicate number of record vote on passage, conference report, or reconsideration.

AGRICULTURE

Disaster Loan Exemptions.—Exempts disaster payments made in connection with the 1977 crops of wheat, feed grains, upland cotton, and rice from the payment limitations in the Agricultural Acts of 1970 and 1949 of $20,000 each for wheat, feed grains, and upland cotton, and of $55,000 for rice. H.R. 9090—Public Law 95- , approved ——, 1977, (575)

Federal Crop Insurance Corporation Capital.—Amends the Federal Crop Insurance Act to increase the authorized capital stock of the Federal Crop Insurance Corporation from $100 million to $150 million in order to replenish its operating capital which was nearly exhausted as a result of indemnity payments to insured farmers for crop losses during the 1976 drought and harsh winter of 1977. S. 955—Public Law 95-47, approved June 16, 1977. (VV)

FIFRA.—Extends through fiscal year 1979 the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and authorizes therefor $54.5 million for fiscal 1978 and such sums as necessary but not to exceed $70 million for fiscal 1979; limits the scope of the prohibition against the use of a pesticide in a manner inconsistent with its labeling by providing four specific exceptions; amends the provision relating to the use of data submitted by an applicant for registration of a pesticide which relies on the test data submitted by another applicant by extending to the data owner a right to compensation for use of the data for 7 years after its original submission and establishes a procedure for settling compensation disputes by binding arbitration; eliminates the prohibition against the use of data submitted to the Environmental Protection Agency in order to obtain registration which contains "trade secret" information in processing the application of another person for the registration of a similar pesticide; establishes procedures governing the generation of data needed to maintain existing pesticide registration, including provisions requiring all registrants of a pesticide to take appropriate steps to secure the necessary additional data, arrangements by which the necessary data can be submitted jointly by the registrants to avoid the waste involved in duplicative testing, and the settling of disputes over cost-sharing arrangements by binding abitration;

Authorizes "generic" registration of pesticides; directs the Administrator to establish a simplified system for registering pesticides and exempts applicants who purchase registered technical grade or manufacturing-use pesticides for formulation into end-use products from requirements pertaining to the submission of data to determine safety and from the obligation to pay compensation for use of the data; authorizes the Administrator of EPA to waive registration requirements pertaining to the submission of data relating to the efficacy of pesticides in considering an application for registration; authorizes the conditional registration of pesticides during the period in which data needed for complete registration are being generated if the conditional registration would not significantly increase the risk of any unreasonable adverse effect on health or the environment; permits the Administrator to classify all pesticides prior to the completion of the reregistration required by the 1972 amendment, in order that States may proceed with programs for the training and certification of applicators; permits the Administrator to conduct programs for the certification of applicators of pesticides in States which do not have an approved State plan by October 20, 1977; directs the Administrator to consider restricting a pesticide's use or uses as an alternative to cancelling a registration; requires the Administrator to issue a notice of intent to cancel a conditional registration if the condition upon which the registration was based had not been satisfied within the time provided; requires the Administrator to submit an annual report by February 15 of each year beginning with fiscal 1979 on the total number of applications for conditional registration, those approved, and the conditions upon which they were approved; limits the prohibition against public disclosure of "trade secret" information only to data relating to the manufacturing process or the identity or percentage quantity of inert ingredients which data could nonetheless be made public if necessary to protect against an unreasonable risk of injury to health or the environment;

Modifies the civil penalty provisions of the act and authorizes the Administrator to issue a warning in lieu of a civil penalty in certain cases; gives the States primary enforcement responsibility with Federal enforcement permitted only if the State is not carrying out regulation and enforcement provisions in accordance with the act; authorizes cooperative agreements with Indian tribes and clarifies the provision relating to the use of the services of the Cooperative State Extension Services to inform and educate all pesticide users of the provisions of the Act; extends to January 1, 1981, the Scientific Advisory Panel; establishes "professional applicators" as a class to which provisions of the Act apply and defines the term as an applicator who applies pesticides for hire; requires applicators to keep certain records and includes their business premises among the establishments subject to inspection by designated agents of the Administrator; provides that a non-registered pesticide or device intended for export would be misbranded if the label did not contain the phrase "Not Registered for Use in the United States"; requires the registration of establishments that produce pesticides or active ingredients from which they are produced for export; and requires the Administrator, within nine months, to submit a report to the Congress on the feasibility of assessing and collecting fees to cover the costs of the pesticide registration program. S. 1678—Passed Senate July 29, 1977; Passed House amended October 31, 1977; in conference. (VV)

Grain Inspection.—Amends the United States Grain Standards Act to facilitate and improve the implementation of the amendments made in 1976 (Public Law 94-582); establishes a temporary 12-member committee (representing farmers, consumers and all segments of the grain industry) to advise the Administrator of the Federal Grain Inspection Service (FGIS) on the implementation of the 1976 act, and provides for its termination 18 months after the date of enactment; eliminates the requirement that grain merchandisers and elevator operators using grain inspection or weighing services maintain certain itemized types of records of their operations for a five-year period and requires them instead to keep only such records as the Administrator may prescribe for administration and enforcement; repeals, effective October 1, 1977, the authority for the charging of fees for Federal supervision of grain inspection and weighing and provides instead for funding of these activities through the regular appropriations process; makes several technical amendments; and prohibits effective May 1, 1977, subclassing

of the hard red winter wheat on the basis of color, kernel content, or percentage of dark, hard and vitreous kernels. S. 1051—Passed Senate March 30, 1977. *NOTE*: (Provisions contained in S. 275, Omnibus Farm Bill, which became Public Law 95–113.) (88)

Land and Water Resources Conservation.—Establishes a mechanism for making long-range policy to encourage the wise and orderly development of the Nation's soil and water resources; requires the Secretary of Agriculture to (1) prepare an appraisal of the Nation's land, water and related resources and (2) develop a national land and water conservation program setting forth the direction for future soil and water conservation efforts on the Nation's private and non-Federal lands by December 31, 1979, and to update them each fifth year thereafter; requires that the appraisal and the program together with a detailed statement of policy intended to be used in framing budget requests for Soil Conservation Service activities be transmitted to Congress on the first day it convenes in 1980 and at each 5-year interval thereafter; requires that programs established by law be carried out in accordance with the statement of policy unless either House adopts a disapproval resolution within 90 days of receipt; provides that Congress may revise or modify the statement of policy, and the revised or modified statement of policy shall be used in framing budget requests; requires, beginning with the fiscal 1982 budget, that requests sent by the President to Congress governing Soil Conservation Service activities express the extent to which the projected programs and policies meet the statement of policy approved by Congress; requires the President to set forth reasons for requesting Congress to approve a lesser program or policy where budget recommendations fail to meet the established policy; and requires the Secretary to submit to Congress beginning with fiscal 1982, an annual report evaluating the program's effectiveness. S. 106—Passed Senate March 23, 1977; Passed House amended June 6, 1977; Senate agreed to House amendment with amendment November 2, 1977. (vv)

Omnibus Farm Bill.—Extends for 4 years through fiscal year 1981 the basic price support programs for wheat, feed grains, cotton, rice, and wool, the food stamp program, and the Food for Peace Program (P.L. 480); extends for three years the authorization for the Environmental Protection Agency to regulate pesticides; and establishes a new charter and clearer direction for the Federal role in agricultural research;

Payments Limitation.—Places a limitation of $40,000 on the total payments which a person may receive annually under one or more of the programs for wheat, feed grains, and upland cotton for the 1978 crops, $45,000 for the 1979 crops, and $50,000 each for the 1980 and 1981 crops instead of the present $20,000 ceiling; limits such payments for rice to $52,250 for the 1978 crops, and $50,000 each for the 1979, 1980 and 1981 crops instead of the present $55,000 limitation;

Commodity Programs.—Milk—sets the price support at 80 percent of parity adjusted semiannually but reviewed quarterly through March 31, 1979; Wool—updates the support levels to 85 percent of the formula; Wheat—sets the target price in 1977 at $2.90 per bushel and the target price in 1978 at $3.00 per bushel unless the crop is 1.8 billion bushels or less in which case it will be $3.05 per bushel with an increase thereafter if the cost of production exceeds that level; Feedgrains—sets the target price levels for corn at $2.00 per bushel in 1977 and $2.10 in 1978 and any increases thereafter will be based on cost of production, and ties the target level for other feedgrains to corn; Cotton—establishes a target price of 51.1 cents per pound for 1978 to increase in subsequent years in relation to cost of production increases; Peanuts—establishes a national acreage allotment and a minimum national poundage quota; sets up a price support program for producers through loans, purchases or other operations; Soybeans—requires price support loans for producers on the 1978 through 1981 crops at a level determined appropriate by the Secretary; Sugar—requires the prices of the 1977 and 1978 crops of sugar beets and cane to be supported at 52.5 to 65 percent of parity, but not less than 13.5 cents per pound, raw sugar equivalent;

Grain Reserves.—Requires the Secretary to formulate a producer storage program on original or extended price support loans for wheat and feedgrains at the same support level as provided by the 1949 Act, as amended, repayable in 3 to 5 years; authorizes the President to negotiate a system of food reserves for humanitarian food relief and to maintain such a reserve of food commodities as a contribution of the United States to the system; expands the authority of the Secretary to acquire commodities for disposition in the event of national disasters; makes the following changes in the farm storage facility loan program: authorizes the Secretary of Agriculture to use guarantees on secured loans as well as direct loans as a means of assisting farmers to construct or purchase onfarm facilities; permits the making or guaranteeing of loans for the construction of facilities to store high moisture grain and forage crops, as well as dry grain; and requires, with respect to direct loans, that the borrower put up security for the loan and base the interest rate charged to farmers on the rate charged the Commodity Credit Corporation;

Emergency Feed Program.—Authorizes the Secretary to implement an emergency feed program to assist producers in preserving and maintaining livestock;

Food for Peace Program (P.L. 480).—Extends the program through 1981 and increases the annual authorization to $750 million but allows carryover of unobligated funds of only the preceding calendar year; prohibits payment of commissions to selling agents; (additional changes in the program are contained in S. 1520, the Foreign Aid Authorization bill);

Food Stamp Reforms.—Eliminates the purchase requirement; limits participation to households whose incomes and other financial resources are determined to be a substantial limiting factor in permitting them to obtain a nutritionally adequate diet; establishes a standard deduction of $60 a month for each eligible household and an additional deduction of 20 percent of all earned income; allows a household to claim (1) a dependent care deduction, (2) a deduction for shelter expenses in excess of 50 percent of household income, or (3) a combination of both deductions; provides that in no event could the amount claimed for dependent care or excess shelter or both exceed $75 per month, an amount indexed to the Consumer Price Index; requires unemployed participants to seek employment; requires a 60-day period of ineligibility for a household whose head voluntarily terminates employment; eliminates automatic, categorical eligibility of welfare recipients; gives Indian tribal organizations greater authority over food distribution programs on reservations; increases incentives for States to root out program abuse and improve administration; authorizes pilot projects to improve administration; and extends authority to purchase commodities and establishes the Federal share of administrative costs for the Commodity Supplemental Food Program;

Food and Agricultural Research.—Expands support for research programs, improved dissemination of research findings, increased efficiency and coordination of Federally-funded food and agricultural research including nutrition research and animal health research; establishes a new program of grants for high-priority agricultural research to be awarded on the basis of competition among scientific research workers and all colleges and universities; establishes a new program of grants for facilities and instrumentation used in agricultural research; establishes a new program of education grants and fellowships to strengthen training and research programs in the food and agricultural sciences, to be awarded on the basis of competition;

Grain Inspection.—Adds the language of S. 1051, which amends the United States Grain Standards Act with respect to record-keeping requirements and supervision fees, and establishes an advisory committee to provide advice to the Administrator of the Federal Grain Inspection Service;

Other Provisions.—Amends the authorizations for several existing rural development and conservation programs and contains other provisions including those relating to the inclusion of aquaculture and human nutrition as functions of the Department of Agriculture, beekeepers indemnity, ice cream milk content standards, and the importation of filberts. S. 275—Public Law 95–113, approved September 29, 1977. (169, 362)

Rabbit meat inspection.—Makes rabbit meat inspection mandatory at Federal cost, by extending, with certain exceptions, the provisions of the Poultry Products Inspection Act to rabbits and rabbit products, effective October 1, 1978. H.R. 2521—Public Law 95– , approved 1977. (VV)

Tobacco Quotas.—Amends the Agricultural Adjustment Act of 1938 to increase from 50 percent to 80 percent the amount of the farm acreage allotment for Flue-cured tobacco which must be planted on farms desiring to lease acreage-poundage quotas after June 14 of any year. H.R. 3416—Public Law 95–54, approved June 25, 1977. (VV)

Tomato Standards.—Amends section 8e of the Agricultural Adjustment Act of 1933, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, to require that imported tomatos conform with pack-of-container standards imposed on domestic tomatos under marketing orders. S. 91—Passed Senate July 25, 1977. (VV)

Wheat and Feed Grains Loan Levels.—States as the sense of the Senate that the Secretary of Agriculture should exercise his authority under existing law to increase the loan levels for the 1977 crop of wheat and feed grains. S. Res. 193—Senate agreed to June 22, 1977. (VV)

Wheat Producers Assistance.—Provides temporary emergency assistance to wheat producers who planted prior to January 1, 1977, in order to prevent further increases in carryover stocks resulting from record U.S. wheat production and decreasing U.S. exports; requires the Secretary of Agriculture to carry out, through the Commodity Credit Corporation, a special wheat acreage grazing and hay program for the 1977 crop whereby a wheat producer who elects to participate may designate an acreage of cropland on his farm, of not to exceed 40 percent of the wheat acreage allotment, for grazing purposes or hay production only; requires that the producer designate the specific acreage on the farm to be so used; directs the Secretary to pay any participating producer an amount determined by multiplying the number of acres placed in the program times the projected yield established for the farm

times $1; makes the producer ineligible for any other payments or price supports, including deficiency payments and disaster payments under section 107 of the Agricultural Act of 1949, on that portion of the wheat allotment placed in the program; provides that such acreage shall be deemed to have been planted for harvest for the purposes of wheat acreage history; and authorizes the Secretary to issue the necessary regulations to carry out this act. S. 650—Passed Senate March 16, 1977. (60)

Wheat Referendum.—Defers the wheat marketing quota referendum for the 1978 crop, which by law must be held no later than August 1, until 30 days after the adjournment of Congress or October 15, whichever is earlier, in order to provide additional time for enactment of legislation, presently being considered by Congress, for the 1978 and subsequent wheat crops which would eliminate the need for a referendum. S. 1240—Public Law 95–48, approved June 17, 1977. (VV)

APPROPRIATIONS

Fiscal 1977

Continuing.—Extends the continuing resolution (Public Law 94–473) which expires on March 31, 1977, until April 30, 1977, to provide financing authority for the following programs traditionally funded under the Departments of Labor, and Health, Education, and Welfare Appropriations Act: higher education; National Health Service Corps; home health services; emergency medical services: library resources; teacher corps; alcohol abuse and alcoholism prevention, treatment and rehabilitation; health professions educational assistance; D.C. medical and dental manpower; activities under title VI of the Comprehensive Employment and Training Act; vocational education; and National Institute of Education; and amends the resolution to provide such amounts as necessary for the calendar quarter ending March 31, 1977, for general revenue sharing payments to State and local governments. H.J. Res. 351—Public Law 95–16, approved April 1, 1977. (VV)

Economic Stimulus.—Makes economic stimulus appropriations in the total amount of $20,101,484,000 in new budget obligational authority for fiscal year 1977; includes the following to implement the economic stimulus proposals recommended by the President in his message of January 31, 1977:

Public Works Projects.—$4 billion for acceleration of local public works projects;

Revenue Sharing Program.—$4,991,085,000 for revenue sharing payments for the last three quarters of fiscal 1977;

Antirecession Financing.—$632.5 million for increased antirecession payments under Public Law 94–369 to States and local governments in areas of high unemployment to assist them in maintaining basic services;

Public Service Employment.—$7.987 billion for public services jobs which will expand the present Comprehensive Employment and Training Act (CETA) public service programs from the current 310,000 jobs to 600,000 jobs by September 30, 1977, and 725,000 jobs by December 31, 1977;

Targeted Employment and Training Programs.—$1.438 billion for programs targeted to youth, veterans and those in need of new skills; and

Older Americans.—$59,400,000 for an additional 14,800 jobs for community service employment for Older Americans;

In addition, includes the following appropriations: $95 million for production of NASA's third shuttle orbiter; $300 million for the construction grants reimbursement program for sewage treatment plants; $175 million for a drought assistance program contingent upon enactment of authorizing legislation; $35 million increase in the obligation limitation on airport development grants; $366 million for various programs authorized under the Federal-Aid Highway Act; $50 million for the Northeast Corridor improvement program to speed up construction currently underway; and $2 million for IRS accounts collection and taxpayer service. H.R. 4876—Public Law 95–29, approved May 13, 1977. (130)

Supplemental.—Makes supplemental appropriations in the total amount of $28,923,859,260 for fiscal year 1977 for almost every department and agency of the Federal Government including appropriations to cover costs associated with the October 1, 1976, general government pay raise. H.R. 4877—Public Law 95–26, approved May 4, 1977. (98)

Urgent Disaster Supplemental.—Makes urgent supplemental appropriations of $200 million for fiscal year 1977 for disaster relief activities resulting from the severe weather conditions prevalent throughout the nation. H.J. Res. 269—Public Law 95–13, approved March 21, 1977. (VV)

Urgent Power Supplemental.—Make urgent power supplemental appropriations of $6.4 million for fiscal year 1977 for the Department of the Interior, Southwestern Power Administration, for power purchases caused by critically low stream flow conditions in the area served by the Administration; and removes the restrictions in Public Laws 94–355 and 94–373 which limit the use of funds appropriated to ERDA subject to enactment of authorizing legislation to assure the continued funding of essential energy research development and demonstration programs. H.J. Res. 227—Public Law 95–3, approved February 16, 1977. (VV)

Fiscal 1978

Agriculture.—Appropriates $12,749,378,000 in new budget authority for the Department of Agriculture and related agencies for fiscal year 1978; includes $441,202,000 for the Animal and Plant Health Inspection Service and $1 million for the Farmers' Home Administration for planning and evaluation of housing program; contains funding for domestic food programs; appropriates $50 million for fiscal year 1977 to be immediately available for the Agricultural Conservation Program in drought areas in the Southeast; and contains other provisions. H.R. 7558—Public Law 95–97, approved August 12, 1977. (VV)

Continuing—District of Columbia.—Makes continuing appropriations for fiscal year 1978 for the operations and activities of the municipal government of the District of Columbia until enactment of the 1978 D.C. appropriation bill. S.J. Res. 90—Passed Senate October 12, 1977. *NOTE*: (Provisions are contained in H.J. Res. 626, Public Law 95–130). (VV)

Continuing—Labor-HEW.—Makes continuing appropriations for fiscal year 1978 for the Departments of Labor and Health, Education and Welfare and related agencies until enactment of the 1978 Labor-HEW appropriations bill. S.J. Res. 91—Passed Senate October 12, 1977. *Note:* (Provisions are contained in H.J. Res. 626, Public Law 95–130.) (VV)

Continuing—Labor, HEW, D.C., Foreign Aid.—Makes continuing appropriations for fiscal year 1978 for the Departments of Labor and Health, Education, and Welfare, the operations of the District of Columbia, and for salaries and related personnel benefits of employees carrying out functions under the Foreign Assistance and Related Programs Appropriations Act which shall be available from October 1, 1977, until enactment of their respective appropriations or October 31, 1977, whichever is earlier. H.J. Res. 626—Public Law 95–130, approved October 13, 1977. (VV)

Defense.—Appropriates $109,752,766,000 in new budget obligational authority for the Department of Defense for fiscal year 1978 including the pay, allowances, and support of military personnel, operation and maintenance of the forces, procurement of equipment and systems, and research, development, test and evaluation; omits funding for procurement of the B–1 bomber; includes $95.6 million for a clerk-hire subsidy of military commissaries; bars the use of funds to consolidate undergraduate helicopter pilot training; prohibits funds to support ROTC units not meeting minimum enrollment criteria; limits the number of military personnel in non-appropriated fund activities such as post exchanges and officers' clubs; limits the number of enlisted aides for general flag officers to a total of 300 for the Department of Defense; permits funds for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) to pay for psychiatric nursing and nurse-midwife services; and prohibits pay raises that would cause pay of wage board employees to exceed prevailing rates in the private sector but stipulates that no employee's pay shall be reduced from current levels. H.R. 7933—Public Law 95–111, approved September 21, 1977. (308)

District of Columbia.—Appropriates $399,116,000 in Federal funds and $1,340,431,800 in District of Columbia funds for a total of $1,739,547,800 for fiscal year 1978 for the operations and activities of the District of Columbia; contains second supplemental appropriations for fiscal 1977 of $7,378,500 payable from District funds; deletes funding for land acquisition for a Civic Center for the District; and adds a new title III making supplemental appropriations for fiscal year 1977 of $1.4 billion for the Disaster Loan Fund of the Small Business Administration which shall remain available until expended. H.R. 9005—Passed House September 16, 1977; Passed Senate amended October 4, 1977; In conference. (VV)

Foreign Aid.—Appropriates a total of $6,772,654,000 for foreign assistance and related programs for fiscal year 1978 including funds for foreign economic and military assistance, foreign military credit sales and the Export-Import Bank; includes $13 million for disaster assistance to Romania for fiscal year 1977; tightens the terms of U.S. development and security assistance loans so that loans reflect the varying potential for improvement among the national economies of aid recipients and provides that some loans will be for 20 or 30 years rather than a standard 40 years; requires that unobligated balances brought forward from prior years will be used for the same purposes unless Congress is so notified; places a limitation of $115 million on the U.S. contribution to the United Nations Development Program; prohibits the U.S. from making a contribution to the United Nations University; appropriates $675,850,000 for foreign military credit sales of which $1 million is for Israel; prohibits the use of Export-Import Bank funds for exporting nuclear equipment to countries other than nuclear weapons that detonated a nuclear explosive after the date of enactment; prohibits U.S. direct aid and Export-Import Bank funds to be used to aid nations that granted sanctuary to international terrorists; places a limitation of $3 million on funds to be available for the United Nations Decade for Women; prohibits international military education and training funds for Argentina; prohibits military aid, training, or credit sales to Ethiopia or Uruguay; bans credit sales to Argentina, Brazil, El Salvador and Guatemala; limits military assistance to the Philippines to $18.1 million in fiscal year 1978, credit sales to $1.85 million, and education and training to $700,000; includes $50 million for the Sahel Development Program and limits U.S. assistance to 10 percent of

total cash contributions to this drought-stricken area; includes security supporting assistance in the amount of $785 million for Israel, $750 million for Egypt, $93 million for Jordan, $90 million for Syria, $300 million for Portugal, $80 million for Southern Africa Special Requirements Fund, $20 million for Lebanon, and $15 million for Cyprus; provides $2 billion for international development banks which is a billion dollar increase above fiscal year 1977; states sense of the Congress language establishing appropriate levels for the "U.S. share" of future contributions to the international development banks; and limits the 1978 contribution to international banks until U.S. Executive Directors' salaries now ranging from $78,820 to $83,830 are reduced to $50,000, the salary of the Assistant Secretary of the Treasury. (NOTE.—House conferees agreed to the compromise after receiving assurances from the President that he would direct U.S. officials at the international banks to vote against loans to Vietnam, Cambodia, Laos, Uganda, Cuba, Mozambique, and Angola.) H.R. 7797—Public Law 95–148, approved October 31, 1977. (346,571)

HUD.—Appropriates a total of $69,370,554,000 in new budget authority for fiscal year 1978 which includes $7,538,644,000 for the Department of Housing and Urban Development of which $150 million is for disaster assistance; $39,144,000 for the Consumer Product Safety Commission; $848,803,000 for the Environmental Protection Agency; $4,017,940,000 for the National Aeronautics and Space Administration; $861,300,000 for the National Science Foundation; $17,770,282,000 for the Veterans' Administration; $6,854,924,000 for revenue sharing; and $1,400,000,000 for anti-recession financing; contains a provision to prohibit the use of government vehicles to drive Federal officials other than the Secretary of Housing and Urban Development between home and work; provides that no government consultants shall be paid in excess of the rate paid a GS–18 civil servant unless authorized by law; and prohibits the use of funds by EPA to administer or promulgate any program to tax, limit or otherwise regulate parking that is not specifically required pursuant to subsequent legislation. H.R. 7554—Public Law 95–119, approved October 4, 1977. (237)

Interior.—Appropriates a total of $10,026,349,000 for the Department of the Interior and related agencies for fiscal year 1978; includes significant increases in natural resources program, the Department's energy and minerals programs directed at the safe and environmentally sound development of energy resources both onshore and on the outer continental shelf, and the Forest Service; contains increased funding for energy programs outside the Interior Department with the major part directed to the Strategic Petroleum Reserve and programs benefiting American natives that are administered by Interior and HEW with emphasis on health, educational, and economic opportunities and the wise management of their natural resources; expands support for programs enhancing the Nation's cultural resources and for specific programs for the arts and humanities, historic preservation, the Smithsonian Institution, and others; and contains other provisions. H.R. 7636—Public Law 95–74, approved July 26, 1977. (221)

Labor-HEW.—Authorizes a total of $60,168,561,000 in new budget authority for fiscal year 1978 with $5,679,187,000 for the Department of Labor, $53,185,557,000 for the Department of Health, Education, and Welfare, and $1,303,837,000 for related agencies;

Makes significant increases over the Administration's budget requests for the following: employment and training assistance programs, with primary emphasis on creating jobs for unemployed youths; the Occupational Health and Safety Administration to provide for an additional 100 Federal compliance staff members; health programs for community health services, preventive medicine, research and training; elementary and secondary education programs to provide title I grants to disadvantaged students, impact aid for schools in Federally affected areas, and emergency school aid to help school districts encountering special desegregation problems; higher education programs, particularly the basic opportunity grant, the direct student loan programs and a one-time demonstration project for law school clinical experience programs; the Head Start program; aging programs; rehabilitation programs; community service programs; and the Corporation for Public Broadcasting;

Makes significant decreases in the administration's budget requests for the Bureau of Labor Statistics, pub'ic assistance, and the Social Security Administration;

Contains a provision restricting the use of public funds for abortions; and prohibits the use of funds appropriated by this act to require the transportation of students, reorganization of school grade structures, pairing of schools, or clustering of schools for the purpose of achieving racial desegregation. H.R. 7555—Passed House June 13, 1977; Passed Senate amended June 29, 1977; House agreed to conference report August 2, 1977; Senate agreed to conference report August 4, 1977, with abortion provisions remaining in disagreement; House agreed to 2d conference report October 12, 1977; Senate agreed to 2d conference report October 12, 1977, insisting on its amendment prohibiting funds for abortions except where the life of the mother would be endangered if the fetus were carried to term or in the case of rape or incest, or if the woman or fetus would suffer health damage; In 3d conference; On October 27, the Senate defeated S. Res. 307 instructing Senate conferees to accept House abortion language. (265, 583)

Legislative.—Appropriates a total of $990,067,800 for the Legislative Branch for fiscal year 1978; includes $653,395,000 for Congressional operations and $336,672,200 for related agencies totalling $20,520,700 for Congressional operations and related agencies; deletes $55 million for the extension of the West Front of the Capitol and includes language instructing the Architect of the Capitol to ascertain which operations currently housed in the Capitol could be relocated to the office buildings and to prepare plans and drawings in detail with cost estimates for restoration of the West Front; provides that virtually all 1977 costs associated with the March 1, 1977, pay raise be absorbed through savings; includes changes in Senatorial allowances, as mandated by the Official Code of Conduct Amendments of 1977, S. Res. 110, and reduces the 1978 budget request for Senate activities by $12 million; consolidates the clerk-hire and the so-called S. Res. 60 allowances into a single allowance which will afford maximum flexibility to Senators in utilizing funds authorized for employment; retains the S. Res. 60 provisions for accessibility to committee files and meetings and certain reductions for committee chairmen and ranking minority members effective October 1, 1977; revises the current Consolidated Office Expense Allowance to provide more flexibility to Senators and to create a fixed allowance for each State; adds to the categories of expenses for which Members may be reimbursed: per diem and travel for Members and staff in the U.S. on official business, travel on official business in Washington, D.C. and in the vicinity of the home State office; and sets aside one-tenth of each Member's allowance to meet any other official office expense; makes each Senator eligible for two WATS telephone lines to be paid out of the contingent fund of the Senate; increases allowances by 10 percent although the consumer price index has risen 42.5 percent since last adjustment; allows an employee to be on the payroll of more than one Senator; directs that a supplement to the Congressional Directory be printed during second sessions rather than a new edition; reduces from 100 to 50 the number of recipients per Senator of free copies of the Congressional Record and requires publication of their names on the Record; eliminates a requested $250,000 subsidy for the Senate Restaurant with the intent of balancing the budget through price increases and improved management; phases out the 34 elevator operator jobs on automatic elevators at a savings of $292,000; and contains other provisions. H.R. 7932—Public Law 95–94, approved August 5, 1977. (296)

Military Construction.—Appropriates $2,977,720,000 for military construction for the Department of Defense for fiscal year 1978 which provides the necessary funding for the planning, design, construction, alteration and improvement of military facilities worldwide, both for active and Reserve forces, including military family housing; provides certain types of community impact assistance as well as assistance to members who face loss on the sale of private residences due to installation realignments; includes $8.5 million for all energy consumption metering programs; and provides for the U.S. share of NATO infrastructure construction costs. H.R. 7589—Public Law 95–101, approved August 15, 1977. (VV)

Public Works—Energy Research.—Appropriates $10,350,669,000 for public works for water and power development and energy research for fiscal year 1978; provides $5,978,155,000 for Energy Research and Development Administration (except for fossil fuel and certain conservation programs) in title I; provides $2,728,242,000 water resources development programs (including power) and related activities of the Department of the Army, civil functions—Army Corps of Engineers' civil works program; provides $785,168,000 for the Department of the Interior's Bureau of Reclamation and Power agencies; provides $802,849,000 for related independent agencies and commissions including the Appalachian Regional Commission and Appalachian regional development programs, the Federal Power Commission, the Nuclear Regulatory Commission, the Tennessee Valley Authority; and the Water Resources Council in title IV; includes funding for 9 water resources projects which the President had removed from the budget and omits new construction starts of such projects; omits funds for the Clinch River Breeder Reactor; bars production of enhanced radiation weapons until the President certifies to Congress that production of these weapons is in the national interest, with the proviso that the Congress, by concurrent resolution, may disapprove such production within 45 days following Presidential certification. H.R. 7553—Public Law 95–96, approved August 7, 1977. (284)

State-Justice-Commerce. — Appropriates a total of $7,709,432,000 in new budget authority for fiscal year 1978 including $1,234,970,000 for the Department of State; $2,300,619,000 for the Department of Justice; $1,923,275,000 for the Department of Commerce; $444,318,000 for the Judiciary; and $1,806,250,000 for related agencies including the Arms Control and Disarmament Agency, the International Trade Commission, the Small Business Administration, the Equal Employment Opportunity Commission, and the Legal Services Corporation; makes fiscal year 1977 supplemental appropriations totalling $211,515,000 for certain agencies with the major portion of the appropriation to re-

plenish the Small Business Administration's disaster loan fund; and prohibits the use of funds for implementation of the President's pardon program for Vietnam-era draft resisters. H.R. 7556—Public Law 95–86, approved August 2, 1977. (242)

Transportation.—Appropriates $6,196,609,023 for fiscal year 1978 for the Department of Transportation (including the Coast Guard, Federal Highway Administration, National Highway Traffic Safety Administration, Federal Railroad Administration, Urban Mass Transportation Administration, and Materials Transportation Bureau) and for related agencies (including the National Transportation Safety Board, Civil Aeronautics Board, Interstate Commerce Commission, Panama Canal Zone Government, United States Railway Association, Washington Metropolitan Area Transit Authority, and the National Transportation Policy Study Commission). H.R. 7557—Public Law 95–85, approved August 2, 1977. (230)

Treasury-Postal Service.—Appropriates a total of $7,478,254,000 in new budget obligational authority for fiscal year 1978 of which $2,842,714,000 is for the Treasury Department, $1,695,540,000 is for the Postal Service, $71,697,000 is for the Executive Office of the President, and $2,868,303,000 is for certain independent agencies; contains reductions in the number of permanent personnel positions in the Treasury Department based on the Presidential memorandum of March 1, 1977, restricting hiring until new personnel ceilings have been established and provides that if the ceilings established are lower than the committee recommendations the funds may not be used for other purposes without approval of the Appropriations Committees; and directs the Secretary of the Treasury to study the practice by Treasury Department agencies relating to the use of official Government vehicles by personnel and report to the committee by January 1, 1978. H.R. 7552—Public Law 95–81, approved July 31, 1977. (222)

ATOMIC ENERGY AND NASA

NASA authorization.—Authorizes $4,049,429,000 for the National Aeronautics and Space Administration for fiscal year 1978 of which $3,041,500,000 is for research and development, $160,940,000 is for the construction of facilities, and $846,989,000 is for research program and management; includes funds to support the following new programs: (1) 5 space shuttle orbiters, (2) development of the shuttle-launched space telescope for research in astronomy, (3) a third generation earth resources survey spacecraft, Landsat-D, to carry an advanced scanning instrument, (4) initiation of a search and rescue satellite system in cooperation with Canada, and (5) initiation of a Jupiter orbiter probe mission; provides continued funding of the Space Shuttle; and includes the second funding increment for a fuel efficient aircraft technology development program designed to decrease fuel consumption of commercial jet transports by 50 percent. H.R. 4088—Public Law 95–76, approved July 30, 1977. (VV)

Nuclear Regulatory Commission Authorization.—Authorizes $299,640,000 for fiscal year 1978 for the Nuclear Regulatory Commission; includes $41,480,000 for nuclear reactor regulation, $12,130,000 for standards development, $36,050,000 for inspection and enforcement, $22,090,000 for nuclear materials safety and safeguards, $148,400,000 for regulatory research, $10,180,000 for program technical support, and $29,310,000 for program direction and administration; provides for a reduction in appropriations if (1) the Clinch River Breeder Reactor Project is cancelled or indefinitely deferred, (2) the license application is withdrawn or further construction is cancelled for the fuel reprocessing plant at Barnwell, S.C., and (3) plans for commercial fuel reprocessing and plutonium recycle are cancelled; and directs the Administrator of the General Services Administration to study and report to the Environment Committee by June 15, 1977, on the feasibility of consolidating the NRC which is presently housed in nine buildings throughout the Washington metropolitan area. S. 1131—Passed Senate May 25, 1977; Passed House amended September 12, 1977; In Conference report filed. (VV)

BUDGET

Deferrals

Coast Guard: Disapproves the proposed deferral of $13,031,000 in budget authority for the Coast Guard. S. Res. 282—Senate agreed to November 1, 1977. (VV)

Rescissions

Helium purchases.—Rescinds $47.5 million in contract authority for helium purchases under Public Law 87–122 as recommended by the President in his message of September 22, 1976, for which purchase contracts were terminated by the Interior Department in 1973 and the contract authority therefore is no longer needed. H.R. 3347—Public Law 95–10, approved March 10, 1977. (VV)

Second Budget Rescission.—Rescinds $644,050,000 of the $941,278,000 in budget authority recommended by the President in his message of January 17, 1977, as follows: Department of Defense-Military—$143.6 million in retired pay, $452.6 million in Naval shipbuilding and conversion because of the decision not to procure the fourth nuclear powered aircraft carrier (CVN–71) or convert the nuclear powered cruiser USS Long Beach to the Aegis air defense weapons system, and $145.35 million for Air Force procurement because of termination of the Advanced Logistics System (ALS); $41.5 million in funds appropriated to the President for foreign military credit sales; and $12 million for the Department of State contributions for international peacekeeping activities because of the lower budget levels established by the U.N. General Assembly; and disapproves $277,228,000 as follows: Department of Commerce—$525,000 for salaries and expenses of the U.S. Travel Service and $1.5 million for operations, research and facilities of the National Oceanic and Atmospheric Administration to continue surveys, mission and cost analysis and initiation of design and engineering studies for OCEANLAB; and $6,803,000 for the Department of Transportation for retirement pay for the Coast Guard. H.R. 3839—Public Law 95–15, approved March 25, 1977. (VV)

Third Budget Rescission.—Rescinds $96,090,000 in budget authority as recommended by the President in his message of July 19, 1977, of which $21,090,000 is a reduction in the foreign military credit sales program resulting from changes in the program plans that placed reliance on guaranteed loans rather than on direct credit during fiscal 1977 and $75,000,000 is a reduction in the GSA general building fund. H.R. 9019—Public Law 95– , approved 1977. (VV)

RESOLUTION

Third Budget Resolution, 1977: Revises the Second Budget Resolution (S. Con. Res. 139) for fiscal year 1977 setting the level of revenues at $347.7 billion, outlays at $417.45 billion, deficit at $69.75 billion, budget authority at $472.9 billion and public debt at $718.4 billion; contains an adequate funding level to permit enactment of up to $13.8 billion in tax legislation stimulus as proposed by the administration and $3.7 billion in increased outlays to produce jobs in areas of high unemployment; sets a level of budget authority at $1.1 billion and outlays at $760 million for EPA construction grants, railroad and highway construction and improvement in recreational facilities; sets the following levels of funding for the relief of individuals and families hard hit by the recession and the harsh winter: (1) $1.8 billion in budget authority and outlays for direct payments to recipients of social security, SSI, and railroad retirement, or any similar stimulus proposals, (2) $508 million in budget authority and $508 million in outlays to extend the Federal supplemental benefits program for the unemployed, and (3) $200 million in budget authority and $200 million in outlays for Federal assistance to low- and moderate-income families to help them meet fuel costs during the winter emergency; includes adequate levels of budget authority for housing to support increased reservations for a total of 360,000 dwelling units for low- and moderate-income families; and makes the following revisions to the totals for budget authority and outlays contained in the Second Budget Resolution to reflect savings which have been achieved and additional costs which have arisen under existing programs (in billions of dollars):

National Defense—BA: $108.8 instead of $112.1, O: $100.1 instead of $100.65;

International Affairs—BA: $7.9 instead of $8.9, O: $6.8 instead of $6.9;

General Science, Space, and Technology—BA: $4.5 instead of $4.6, O: $4.4 instead of $4.5;

Natural Resources, Environment, and Energy—BA: $18.7 instead of $18.2, O: $17.2 instead of $16.2;

Agriculture—BA: $2.3 instead of $2.1, O: $3.0 instead of $2.2;

Commerce and Transportation—BA: $17.3 instead of $17.2, O: $16.0 instead of $17.4;

Community and Regional Development—BA: $14.8 instead of $9.55, O: $10.55 instead of $9.05;

Education, Training, Employment and Social Services—BA: $30.4 instead of $24.0, O: $22.7 instead of $22.2;

Health.—BA: $40.6 instead of $40.5, O: $39.3 instead of $38.9;

Income Security—BA: $170.9 instead of $155.9, O: $141.3 instead of $137.2;

Veterans Benefits and Services.—BA: $18.9 instead of $20.3, O: $18.1 instead of $19.5;

Law Enforcement and Justice.—BA: $3.5, O: $3.6;

General Government.—BA: $3.5 instead of $3.6, O: $3.5;

Revenue Sharing and General Purpose Fiscal Assistance.—BA: $7.6, O: $7.7;

Interest.—BA: $38 instead of $39.6, O: $38 instead of $39.6;

Allowances.—BA: $0.8 instead of $0.7, O: $0.8;

Undistributed offsetting receipts.—BA: −$15.6 instead of −$16.8, O: −$15.6 instead of −$16.8. S. Con. Res. 10—Action complete March 3, 1977. (38)

First Budget Resolution, 1978.—Sets the level for total budget outlays for fiscal year 1978 at $460.95 billion, estimated revenues at $396.3 billion, new budget authority at $503.45 billion, and the estimated deficit at $64.65 billion as compared to the President's estimates of $462.6 billion in budget outlays, $404.7 billion revenues, $506.2 billion in new budget authority, and a proposed deficit of $57.9 billion; sets the appropriate level of the public debt at $784.9 billion and the amount by which the statutory amount may be increased at $83.6 billion; for estimated revenues (1) assumes the level of fiscal stimulus in fiscal 1978 provided in the Tax Reduction and Simplification Act as agreed to by House and Senate conferees; (2) accepts a $65 million allowance for miscellaneous tax and tariff legislation; (3) considers the entire cost of the earned income credit as a reduction of revenue; and (4) postpones the treatment of tax credits in excess of

recipients tax liabilities until development of the second budget resolution; recommends outlays for budget programs by function for fiscal year 1978 as compared with the President's proposed budget outlays as follows:

National Defense.—$110.0 billion as compared to $112.8 billion;

International Affairs (conduct of foreign affairs, foreign information and exchange activities, the Peace Corps, Food for Peace, and nonmilitary foreign assistance).—$7.3 billion as compared to $7.2 billion;

General Science, Space and Technology.—$4.7 billion, which is the same estimate submitted by the President;

Natural Resources, Environment, and Energy.—$20.0 billion as compared to $20.9 billion;

Agriculture.—$4.35 billion as compared to $4.4 billion;

Commerce and Transportation.—$19.4 billion as compared to $19.9 billion;

Community and Regional Development.—$10.8 billion as compared to $9.9 billion;

Education, Manpower, and Social Services.—$27.2 billion as compared to $27.0 billion;

Health.—$44.3 billion as compared to $44.6 billion;

Income Security (social security and unemployment insurance, retirement systems for Federal and railroad employees and assistance programs for the needy).—$146.7 billion as compared to $148.7 billion;

Veterans Benefits and Services.—$20.2 billion as compared to $18.8 billion;

Law Enforcement and Justice.—$3.85 billion as compared to $3.8 billion;

General Government.—$3.85 billion as compared to $4.0 billion;

Revenue Sharing and General Purpose Fiscal Assistance.—$9.7 billion, which is the same estimate submitted by the President;

Interest.—$43.0 billion as compared to $40.9 billion;

Allowances (includes Federal pay increases for civilian agencies and other expenditures which cannot be reasonably assigned to other functions).—$1.9 billion as compared to $1.2 billion; and

Undistributed Offsetting Receipts (includes receipts from rents and royalties on leases on the Outer Continental Shelf and other deductions from outlays which cannot be reasonably assigned to other functions).—$16.3 billion in undistributed offsetting receipts in the Congressional budget as compared to $16.0 billion in the President's budget. S. Con. Res. 19—Action completed by both Houses May 17, 1977. (137,142)

Second Budget Resolution, 1978.—Revises the First Budget Resolution for fiscal year 1978 setting the level of revenues at $397 billion, budget authority at $500.1 billion, outlays at $458.25 billion, deficit at $61.25 billion, and public debt at $775.45 billion; makes the following revisions to the totals for budget authority and outlays in the First Budget Resolution to reflect savings which have been achieved and additional costs which have arisen under existing programs (in billions of dollars): National Defense—Budget Authority (BA): $116.4 instead of $8.5, Outlays (O): $110.1 instead of $111.0;

International Affairs.—BA: $8.0 instead of $9.3, O: $6.6 instead of $7.3;

General Science, Space and Technology.—BA: $4.9 instead of $9.0, O: $4.7 as in the First Budget Resolution;

Natural Resources, Environment and Energy.—BA: $24.6 instead of $20.7, O: $20.0 as in the First Budget Resolution;

Agriculture.—BA: $2.1 instead of $2.2, O: $6.3 instead of $4.35;

Commerce and Transportation.—BA: $20.4 instead of $20.0, O: $19.6 instead of $19.4;

Community and Regional Development.—BA: $8.2 as in the First Budget Resolution, O: $10.6 instead of $10.8;

Education, Training, Employment and Social Services.—BA: $26.3 instead of $26.8, O: $26.4 instead of $27.2;

Health.—BA: $47.7 instead of $47.9, O: $44.2 instead of $44.3;

Income Security.—BA: $178.8 instead of $179.9, O: $146.1 instead of $146.7;

Veterans Benefits and Services.—BA: $19.9 instead of $20.25, O: $20.2 as in the First Budget Resolution;

Law Enforcement and Justice.—BA: $3.8 as in the First Budget Resolution, O: $4.0 instead of $3.85;

General Government.—BA: $3.8 as in the First Budget Resolution, O: $3.85 as in the First Budget Resolution;

Revenue Sharing and General Purpose Fiscal Assistance.—BA: $9.6 instead of $9.8, O: $9.7 as in the First Budget Resolution;

Interest.—BA: $41.7 instead of $43.0, O: $41.7 instead of $43.0;

Allowances.—BA: $0.9 instead of $0.8, 0: $1.0 instead of $0.9;

Undistributed Offsetting Receipts.—BA: —$16.8 instead of—$16.6, O: —$17.1 instead of —$16.3. H. Con. Res. 341—Action completed September 16, 1977. (361)

CONGRESS

Capitol police jurisdiction.—Amends the act of July 31, 1946, as amended, to include certain specified areas and portions of streets within the U.S. Capitol Grounds in order to strengthen Capitol Police jurisdiction over traffic and other matters for security purposes. S. 1859—Passed Senate July 20, 1977. (VV)

Extends the supervision and protection of the U.S. Capitol Police over the employees and facilities of the Office of Technology Assessment located at 600 Pennsylvania Avenue, S.E., Washington, D.C. S. 2052—Public Law 95– , approved 1977. (VV)

Congressional Campaign Committee Employee Retirement Credit.—Amends title V, U.S.C., to provide that a congressional employee may credit not to exceed 10 years of service as an employee of the Democratic Senatorial Campaign Committee, the Republican Senatorial Campaign Committee, the Democratic National Congressional Committee or the Republican National Congressional Capaign Committee for Civil Service Retirement purposes provided the required deposits for such service are made to the fund; and makes the provisions of this act applicable to an employee who retires on or after the date of enactment. S. 992—Passed Senate March 5, 1977. (VV)

Ernest Gruening Statue.—Accepts, in the name of the United States, the statue of the late Senator Ernest Gruening, presented by the State of Alaska, for the National Statuary Hall collection; expresses the appreciation of the Congress for the contribution; and provides for the temporary placement of the statue in the rotunda of the Capitol with appropriate ceremonies to mark the occasion. S. Con. Res. 25—Action complete September 23, 1977. (VV)

Joint Committee on Atomic Energy Abolishment.—Abolishes the Joint Committee on Atomic Energy and provides for the disposition of its staff and the transfer of its statutory functions and authority to other congressional committees having jurisdiction over the development, utilization or application of atomic energy; and makes necessary and conforming amendments to certain laws which pertain to the Joint Committee. S. 1153—Public Law 95–110, approved September 20, 1977. (VV)

Joint Committee on Congressional Operations Abolishment.—Abolishes the Joint Committee on Congressional Operations effective September 30, 1977, and transfers its duties and responsibilities to the Senate Committee on Rules and Administration. S. 1608—Passed Senate July 12, 1977. (VV)

Joint Economic Committee Study.—Directs the Joint Economic Committee, or any of its subcommittees, to investigate past and prospective changes in the United States and world economies and their impact on the economies of the United States and other nations and to report to Congress their recommendations for meeting the economic policy requirements of the United States; authorizes the Committee to hire expert professional staff and supporting assistants as well as individual consultants and organizations and to sit and act during sessions of the present Congress whether or not either House is recessed or adjourned; and authorizes therefor $900,000 for the period July 1, 1977, through December 31, 1978, of which not to exceed $250,000 may be expended prior to December 31,.1977. H. Con. Res. 248—Action completed by both houses July 18, 1977. (VV)

State Taxation of Members of Congress.—Adds a new section 113 to title 4, U.S.C., effective with respect to all taxable years, which provides that no State in which a Member of Congress maintains a place of residence to attend sessions of Congress may for State income tax purposes treat the Member as a resident or domiciliary or treat his Congressional salary as income for services performed within or from sources within that State unless the Member represents the State. H.R. 6893—Public Law 95–67, approved July 19, 1977. (VV)

CONSUMER AFFAIRS

Debt Collection Practices.—Amends the Consumer Credit Protection Act to add a new title entitled the "Fair Debt Collection Practices Act" to protect consumers from a host of unfair, harassing, and deceptive debt collection practices; prohibits a debt collector from: (1) contacting third parties other than to obtain location information except the consumer's attorney, a credit reporting agency, the creditor, the creditor's or debt collector's attorney, or any other person to the extent necessary to effectuate a post-judgment judicial remedy; (2) engaging in any conduct which harasses, oppresses or abuses any person; (3) using any false, deceptive or misleading representations; (4) using any unfair or unconscionable means; (5) attempting to collect a disputed debt until the consumer receives verification of the debt; and (6) applying payments to disputed debts; provides that if a consumer notifies a debt collector in writing that he refuses to pay a debt or wishes the debt collector to cease further contacts the debt collector must so cease except to notify the consumer of the debt collector's or creditor's further actions; requires that actions on real property be brought in the judicial district in which the property is located and actions on personal suits be brought either where the contract was signed or where consumer resided; provides that a debt collector who violates the act is liable for actual damages plus costs and reasonable attorney's fees; permits the court to award up to $1,000 in individual actions, and up to $500,000 or 1 percent of the debt collector's net worth, whichever is less, in class actions; provides the following two defenses for debt collectors: (1) good faith reliance on an FTC advisory opinion and (2) bona fide error notwithstanding procedures to avoid the error; provides that a court may award reasonable attorney's fees to a defendant if it finds that the consumer brought a suit in bad faith or for harassment; sets a 1-year statute of limitation on bringing actions; places enforcement of the act with the FTC and the Federal bank regulatory agencies; prohibits the promulgation of any additional rules or regulations pertaining to debt collectors;

requires the FTC to report annually to the Congress on the Act's effectiveness and administrative enforcement; annuls state laws only if inconsistent to Federal; allows the FTC to exempt any collection practices within any State if they are subject to substantially similar requirements; and provides that the act shall take effect within 6 months of enactment. H.R. 5294—Public Law 95-109, approved September 20, 1977. (VV)

CRIME-JUDICIARY

Child Adoption and Child Abuse Prevention.—Facilitates the removal of barriers to interstate adoptions and the placement of children with special needs in permanent adoptive homes; directs the Secretary of HEW to appoint an advisory board to recommend model adoptive legislation and procedures to facilitate interstate adoption of children, on the basis of which, the Secretary would promulgate uniform regulations, and encourage each State to adopt comprehensive assistance legislation based on the model plan; establishes within HEW an administrative arrangement to provide an adoption information exchange system and to coordinate departmental programs as well as to carry out education and training programs; and provides for a 4-year authorization of $5 million for fiscal year 1978 and such sums as necessary for the succeeding three fiscal years;

Extends for 2 years the authorizations for the Child Abuse Prevention and Treatment Act at the existing $25 million level; authorizes $2 million for each of fiscal year 1978 and 1979 for programs and projects designed to prevent, identify, and treat sexual abuse of children, including programs involving the treatment of family units; makes it possible for the Secretary to increase funding for State programs beyond the present 20-percent maximum, while at the same time providing a 20-percent minimum for State grants; includes research efforts in the 50-percent expenditure earmark now applicable only to demonstration projects; permits 3-year research grants made with funds obligated from a single year's appropriation, and requires public participation in the establishment of research priorities; provides for special consideration for continued funding of certain demonstration projects funded by HEW which are of proven effectiveness and of regional or national significance; redefines the term "child" to take into account situations where the State statute definition waives from the Federal definition therefor making the State ineligible for Federal grants; encourages States to obligate their grants on a more expeditious schedule; provides for greater exchange of information among Federal agencies on the Advisory Board on Child Abuse and Neglect concerning planned activities; provides for public membership on the Board; and requires submission by the Board to the President and the Congress of a comprehensive plan detailing the goals and objectives of child abuse prevention and treatment programs, and seeking to achieve maximum coordination of the goals and activities of all Federal and non-Federal programs in this field. H.R. 6693—Passed House September 26, 1977; Passed Senate amended October 28, 1977. (VV)

Child Pornography.—Amends title 18, U.S.C., making it a Federal offense for anyone to use children under the age of 16 in the production of pornographic materials; proscribes the interstate transportation of persons under 18 years of age for the purpose of engaging in prostitution by extending the Mann Act's provision against female prostitution to include juvenile males; and amends the penalty provisions regarding mailing, importation, or transportation of obscene materials to increase the penalties up to 10 years' imprisonment or $10,000 or to 15 years and $15,000 for second offenses where the materials adjudged obscene involved the use of children under 16 engaging in sexually explicit conduct. S. 1585—Passed Senate October 10, 1977; Passed House amended October 25, 1977; In conference. (553)

Drug Enforcement Administration.—Amends the Comprehensive Drug Prevention and Control Act of 1970 to extend for 2 years, through fiscal 1979, the Drug Enforcement Administration at an authorization of $182 million for fiscal 1978 plus such additional amounts as necessary for salary increases and other employee benefits authorized by law, and such sums as necessary for fiscal 1979. S. 1232—Passed Senate June 6, 1977. (VV)

Amends the Controlled Substances Act of 1970 to extend for 2 years, through fiscal 1979, the Drug Enforcement Administration at an authorization of $188 million for fiscal 1978 and $215 million for fiscal 1979; and repeals the additional $6 million annual authorization under section 103 of the Controlled Substances Act for additional enforcement personnel in the Bureau of Narcotics and Dangerous Drugs. H.R. 5742—Public Law 95-137, approved October 18, 1977. (VV)

Federal Rules of Criminal Procedure.—Approves with modifications certain amendments to the Federal Rules of Criminal Procedures proposed by the Supreme Court on April 26, 1976, and disapproves other such amendments;

Changes rule 6(e), which deals with the secrecy of grand jury proceedings, to allow disclosure information of grand jury proceedings to personnel deemed necessary by an attorney for the government to assist in the performance of his duty to enforce Federal criminal law; changes rule 23(b), which deals with cases tried by juries of less than 12 persons, to allow the parties to stipulate that a valid verdict may be returned by a jury should the court find it necessary to excuse one or more jurors after the trial commences, and changes rule 23(c), which deals with cases tried without a jury, to require that a request for a special finding be made prior to the general finding and to allow findings to be made orally; disapproves the Supreme Court's proposed changes to rule 24 which deals with the number of peremptory challenges to prospective jurors; changes rule 41(c), which deals with the issuance of search warrants, to provide for a telephone search warrant procedure; amends the present removal to Federal Court statute to minimize the disruption and unnecessary delay in State criminal procedures that can result from dilatory petitions for removal; and specifies the effective dates of the proposed modifications. H.R. 5864—Public Law 95-78, approved July 30, 1977. (VV)

Jefferson F. Davis Citizenship.—Restores posthumously full rights of citizenship to Jefferson F. Davis effective December 5, 1968. S. J. Res. 16—Passed Senate April 27, 1977. (VV)

Juvenile Justice.—Strengthens and extends for 3 years, the program established by the Juvenile Justice and Delinquency Prevention Act of 1974 with authorization levels of $150 million, $175 million, and $200 million for fiscal years 1978, 1979, and 1980, respectively; extends the definition of "juvenile delinquency program" to include programs for all youths who would benefit from services designed to reduce delinquent conduct; reaffirms Congressional intent that the provisions of the act are to be administered through the Office of Juvenile Justice and Delinquency Prevention; changes the title of the head of the Office from Assistant Administrator to Associate Administrator and upgrades the position to the Executive Schedule, Level 5, to emphasize the importance of the position; affirms the authority of the Associate Administrator of the Office to administer LEAA juvenile justice funds subject to delegation and direction by the Administrator of LEAA; retains the Office's National Institute for Juvenile Justice and Delinquency Prevention and strengthens the scope of its activities particularly in the area of training;

Gives increased emphasis and recognition to the proper roles of the National Advisory Committee for Juvenile Justice and Delinquency Prevention and the Coordinating Council on Juvenile Justice and Delinquency Prevention; provides for the addition of the Commissioner of the Office of Education and the Director of ACTION to the statutory membership of the Council, and states that the Director of the Special Action Office for Drug Abuse Prevention shall be replaced on the Council by the Director of the Office of Drug Abuse Policy; expands the scope of representation of the advisory committee and requires that future appointments to the committee include at least three youth members who have been under the jurisdiction of the juvenile justice system; provides for more significant input at all levels from persons who, by virtue of their training or experience, have special knowledge concerning the prevention and treatment of juvenile delinquency and the administration of juvenile justice; makes changes to the formula grant program intended to fine tune this modified grant program, to clarify ambiguous language in the 1974 act, and to assist States to more effectively expand formula grant funds according to priority areas identified in the States' juvenile justice plan; requires that, beginning in fiscal year 1979, not more than 7.5 percent of a State's total formula grant allotment may be used to cover the costs of planning, administration, or any pre-award activities, and that any grant funds used for these purposes must be matched on a dollar-for-dollar basis from State or local funds; provides that formula grant program funds will cover 100 percent of the approved cost of any program or activity effective October 1, 1978; extends eligibility for State formula grant pass-through funds to local private agencies which have applied to the appropriate units of local governments for funding and have been denied; provides one additional year for States to comply with the deinstitutionalization requirements of the program; requires that all facilities for juveniles be monitored in order to determine whether they are properly classified as juvenile detention and correctional facilities or as other types of facilities where status offenders may be placed; provides that participating States shall provide the Associate Administrator with a review of the extent of compliance with deinstitutionalization requirements; provides that States in compliance with the deinstitutionalization requirement shall have preference for reallocated formula grant funds;

Provides that 25 percent, rather than 25-50 percent, of Part B funds be allocated for the special emphasis program, and expands its scope to include activities to help prevent school violence and vandalism, to promote youth advocacy, and to assist State legislatures to develop legislation to achieve State compliance with the act; increases the minimum private agency share of special emphasis funding from 20 to 30 percent;

Prohibits the use of formula grant funds to match other LEAA funds, but allows the formula grant funds to be used as match for other Federal juvenile delinquency program grants; provides that the Administrator's authority to require a matching contribution extends to grants for the concentration of Federal efforts and programs of

the National Institute for Juvenile Justice and Delinquency Prevention, but not to grants for special emphasis programs; requires that program records be kept confidential; authorizes funding at the level of $25 million for fiscal years 1978, 1979, and 1980 for the extension of the Runaway Youth Act to enable the Secretary of HEW to increase assistance to local groups which operate temporary shelter care programs in areas where runaways tend to congregate; and contains other provisions. H.R. 6111—Public Law 95–115, approved October 3, 1977. (VV)

Mississippi Court Terms.—Amends section 104(a)(1), title 28, U.S.C., to provide for holding terms of the U.S. District Court for the Eastern Division of the Northern District of Mississippi at Aberdeen, Ackerman, and Corinth. S. 662—Passed Senate April 7, 1977. (VV)

North Dakota Judicial District.—Amends title 28, U.S.C., to realign the judicial districts of North Dakota by transferring Bottineau, McHenry and Pierce Counties from the Northeastern Division to the Northwestern Division and transferring Sheridan and Wells Counties from the Southeastern Division to the Northwestern Division in order to reduce the average distance which litigants, attorneys, and jurors in these counties must travel to the nearest place of holding court by approximately 100 miles. S. 195—Passed Senate May 24, 1977. (VV)

Northern Marianas District Court.—Implements article IV of the covenant to establish a Commonwealth of the Northern Mariana Islands in political union with the United States by establishing the District Court of the Northern Mariana Islands; specifies the jurisdiction of the court, both original and appellate; and authorizes such sums as necessary to carry out the act. S. 2149—Public Law 95– , approved 1977. (VV).

Omnibus Judgeships.—Provides for the appointment of 110 additional permanent district court judges in 65 specified judicial districts; creates three temporary district court judgeships, for a minimum of 5 years, in the Eastern District of Kentucky, Southern District of West Virginia, and Eastern District of Florida; divides the fifth circuit into a new fifth circuit consisting of Alabama, Florida, Georgia, and Mississippi which would have 14 judges, and a new eleventh circuit consisting of Louisiana and Texas which would have a total bench of 12 judges; creates a total of 35 new circuit court judgeships distributed as follows: one new judgeship in the first circuit; two in the second circuit; one in the third circuit; three in the fourth circuit; five for the revised fifth circuit; two for the sixth district; one for the seventh circuit; one for the eighth circuit; ten for the ninth circuit; one for the tenth circuit; and six for the new eleventh circuit; contains a "report back" provision which requires the Judicial Council of the Ninth Circuit Court to make recommendations for a solution to the unique problems of that circuit within one year of the date on which the tenth new judge is appointed; authorizes the Administrative Office of the United States Courts to upgrade and reclassify eight employee positions; and amends existing law to require that actions brought against rail or motor carriers on claims for damage or delay to shipments be subject to a minimum jurisdictional amount of $10,000 for each bill in lading, in order to prevent abuse of the Federal judicial process by persons bringing such actions simply as a means of tolling the statute of limitations while settlement negotiations are undertaken. S. 11—Passed Senate May 24, 1977. (VV)

Prisoner Exchange With Canada and Mexico.—Provides the statutory framework to implement the treaties with Canada (Ex. H, 95th–1st) and Mexico (Ex. D, 94th–1st) providing for the transfer of prisoners convicted of crimes in a foreign country so that they may serve their sentence of confinement or supervision in their home nation; directs that the transfer and custody of prisoners under this treaty shall be carried out by the Attorney General; requires that any person transferred to or from the United States must appear before a U.S. magistrate or judicial officer to verify that he has willingly and knowingly agreed to be transferred; grants any person who is to appear at a verification proceeding the right to be advised by counsel, and provides for a court appointed council for indigents; makes American citizens returning to this country as prisoners eligible for parole pursuant to U.S. law and regulations; provides that an American citizen returning home under this treaty will not waive his right to bring a writ of habeas corpus in a U.S. court, but when voluntarily transferring he would not gain opportunity to collaterally attack his foreign conviction in a U.S. court; and provides that if an American returning to this country is freed by U.S. courts before his foreign sentence has expired, he may be delivered back to foreign authorities to complete his term. S. 1682—Public Law 95–144, approved October 28, 1977. (VV)

Public Safety Officers Group Life Insurance.—Establishes a nationwide program of group life insurance for public safety officers that would be under the control of the Law Enforcement Assistance Administration but purchased from one or more life insurance companies, with provision for reinsurance by other underwriters; defines "public safety officer" as any person employed by a State or unit of general local government as a policeman, corrections officer, criminal or juvenile delinquency court officer or firefighter but excludes from coverage those already eligible under the FEGLI program or participating in the SLGI program; sets the amount of group life and accidental death and dismemberment insurance at the amount of the officer's salary plus $2,000, with a minimum coverage of $10,000 and a maximum of $32,000; terminates a policy 2 months after separation or discontinuance of pay with provision for conversion to an individual policy for the group life portion without medical examination at prevailing rates; provides for a Federal contribution of up to one-third the cost of the premium with the State or local government to contribute the same portion or all of the premium not covered by the Federal Government and any balance due after government contributions to be withheld from the officer's salary; provides that insurance in force on the date of death of an enrolled officer would be paid to the beneficiary designated in writing received in his employer's office prior to his death and, if there is no beneficiary designated, the funds would pass under criteria set out in the bill; provides that a State or unit of general local government with a program of group life insurance in existence at any time during the first year after the effective date of this act would be eligible for Federal assistance of up to one-third the cost of the premium; establishes an Advisory Council on Public Safety Officers Group Life Insurance to review the administration of the program and advise the LEAA on matters of policy; waives sovereign immunity to obviate any civil suit problems; and creates a fund in the Treasury known as the public safety officers' group insurance revolving fund. S. 262—Passed Senate September 16, 1977. (VV)

Sex Discrimination on Basis of Pregnancy.—Amends title VII of the Civil Rights Act of 1964 to make clear that the prohibitions against sex discrimination in the act include discrimination in employment on the basis of pregnancy or pregnancy-related disabilities; provides that these provisions will take effect immediately upon enactment except that, with regard to fringe benefit plans they are to take effect by July 1, 1980 180 days after enactment whichever is greater; provides that for a period of 1 year or until the expiration of any applicable collective bargaining agreement, employers may not reduce existing benefits as a means of coming into compliance; and provides that where employees and employers share the cost of presently existing benefits, employers are permitted to apportion the cost of any benefit required as a result of this legislation. S. 995—Passed Senate September 16, 1977. (385)

Tax and Loan Accounts—IMF—ESF.—Authorizes the Secretary of Treasury to invest excess operating cash balances, which are now held interest-free, in Treasury tax and loan accounts at commercial banks, in either interest-bearing obligations of financial institutions holding such accounts or obligations of the United States and of agencies of the United States with such investments in obligations of depository institutions bearing rates of interest prescribed by the Secretary; permits savings and loan associations and credit unions to participate in the tax and loan account system which is now limited to commercial banks and mutual savings banks; permits savings and loan associations and credit unions which are federally or state chartered insured to act as depositories of public money and fiscal agents of the United States; provides that timely deposits of income tax withholding and tax payments in savings and loan associations and credit unions shall be taken as a timely filing and payment of tax; and

Requires Congressional approval before added International Monetary Fund (IMF) gold can be used for the IMF Trust Fund for less developed countries and before any new trust fund may be established which specifically aids a single member or group of IMF members; improves Congressional oversight of U.S. Government activities regarding participation in the international monetary system and U.S. foreign economic policy by directing the President to provide appropriate information to the Congressional committees having jurisdiction over these matters; requires the President to provide Congress with a written determination any time money is used from the Exchange Stabilization Fund for loans in excess of a 6-month period; and repeals the joint resolution of June 5, 1933, which prohibited private ownership of gold. H.R. 5675—Public Law 95– , approved 1977. (VV)

U.S. Magistrates.—Enlarges and amends the current jurisdictional provisions for U.S. magistrates in order to improve access to the Federal courts for the less advantaged;

Allows magistrates to finally determine civil cases, upon the consent of the parties involved; authorizes a magistrate to "conduct any or all proceedings in any jury or nonjury civil matter"; specifies appeal and review procedures available to an aggrieved party in a civil matter decided by a magistrate;

Qualifies the existing discretion of district courts to select and appoint magistrates by: directing the Judicial Conference to promulgate standards for qualification and selection procedures of magistrates; requiring that all subsequent magistrate appointments must conform to these standards; providing that the qualifications of full-time magistrate appointees must also be approved by the judicial council of the circuit before the appointment takes effect; and requiring that all magistrates must have been admitted to practice of law for at least five years; extends statutory prohibitions on outside activites to all full-time and part-time magistrates who exercise the new case-

dispositive jurisdiction provided for in the bill; extends the existing provisions for payment of certain litigation expenses for indigents in proceedings before a district judge to proceedings before a magistrate;

Expands jurisdiction of magistrates to try minor criminal offenses to include all misdemeanors; eliminates the requirement for defendant consent to a magistrate conducting the trial in a petty offense case; allows the conduct of jury trials in misdemeanor cases before a magistrate where the court has specifically designated the magistrate to proceed in that manner; permits magistrates to sentence young adults and youthful offenders if the commitment imposed does not exceed the maximum term for an adult convicted of the same offense; provides that the procedural requirements of the Juvenile Delinquency Act do not apply to single petty offense cases in which terms of commitment or imprisonment are not usually imposed; and contains other provisions. S. 1613—Passed Senate July 22, 1977. (VV)

DEFENSE

Coast Guard Authorization.—Authorizes $1,262,521,000 for fiscal year 1978 for the Coast Guard for the procurement of vessels and aircraft, construction and improvement of shore and offshore facilities, alteration and removal of obstructive bridges, aids to navigation, pollution abatement, administrative expenses, and operating expenses; authorizes a year-end strength for active duty personnel of 39,145; authorizes an average military student load of 5,506; includes funds for the recent Presidential program of boarding and inspecting oil tankers, reactivation of Coast Guard cutters to be used as back-up vessels in the enforcement of the 200-mile Fishery Conservation Zone, enforcement of the Fishery Conservation and Management Act of 1976, a search and rescue mission capability at the Portage, Mich., Coast Guard station, two additional ice-breaking tugs and one large ice-breaker, procurement of 2 short-range recovery helicopters for the search and rescue station at Cordova, Alaska, the procurement of radar and other equipment for a continuation of various vessel traffic systems, and the study of oil spill containment in high seas or fast rivers; restores funds which the Coast Guard expended as a result of the unanticipated winter storm damage; adds a new section which permanently authorizes the Coast Guard to continue to present accounting procedure of merging prior year "Operating Expenses" and "Reserve Training" appropriations with current year appropriations for the same purposes; authorizes the Coast Guard to contribute funds to the North Marin County Water District in California for the construction of a sewage treatment plant; authorizes the Coast Guard to accept money from the city of Baltimore, Maryland, for use in replacing Coast Guard facilities which will be removed by the city incident to a road improvement project; re-extends an exemption from Coast Guard inspection for fishing tender and cannery tender vessels in the States of Alaska, Oregon, and Washington and authorizes the commandant of the Coast Guard to assist HEW in providing medical emergency helicopted transportation services to civilians. H.R. 6823—Public Law 95–61, approved July 1, 1977. (VV)

Defense Procurement Officers.—Amends the Defense Production Act of 1950, as amended, to prohibit employment of any former Federal procurement official, for a 2-year period after leaving the U.S. Government, with any Government contractor over which that official has exercised substantial official authority; exempts individuals who were involuntarily terminated through reductions in force or similar personnel cutbacks and those individuals who left the Government prior to the effective date of this act; gives the Civil Service Commission the authority to coordinate administration of the act; authorizes the Commission, upon application of a contractor or former Government procurement official, to issue an advisory opinion, within 30 days, as to the applicability of the act with an interim opinion to be filed within 10 days after receipt of an application; authorizes the Commission to find that proposed compensation or employment would not violate the intent of the act; provides criminal defense to any individual or contractor if the Commission granted a favorable opinion or failed to file a timely advisory opinion; grants the Commission the authority to convene hearings, issue subpenas, and take testimony pursuant to a review of an application for an advisory opinion; authorizes the Commission to review status and enforcement of provisions relating to the conduct of Government employees and recommend additional legislation to the Congress; and makes the act effective October 1, 1979. S. 695—Passed Senate October 11, 1977. (VV)

Defense Production Extension.—Extends for two years, through fiscal 1979, the titles of the Defense Production Act of 1950, as amended, which contain the sole authority for a number of programs designed to maintain the national defense production base in peacetime, prepare for mobilization, provide a pool of trained manpower for war production management, provide uniform cost accounting standards for negotiated defense contracts, provide for the examination of national policy with regard to material supplies and shortages, and continue the Joint Committee on Defense Production. S. 853—Public Law 95–37, approved June 1, 1977. (VV)

Deputy and Under Secretaries of Defense.—Eliminates one of the two positions of Deputy Secretary of Defense and establishes the position of Under Secretary of Defense for Policy; and changes the title of the Director of Defense Research and Engineering to that of Under Secretary of Defense for Research and Engineering. S. 1372—Public Law 95–140, approved October 21, 1977. (VV)

Medical Personnel Special Pay.—Extends until September 30, 1978, the current authority to provide certain pay for physicians and dentists in the uniformed services as follows: a special pay for physicians and dentists ranging from $100 per month to $350 per month depending on length of service, a variable incentive pay for physicians below the rank of general or admiral who execute active duty agreements not to exceed $13,500 per year for each year of agreed service, and a continuation pay for physicians of the rank of general or admiral and for dentists who execute active duty agreements not to exceed 4 months basic pay; and reinstates the special pay of $100 a month for all optometrists and veterinarians on active duty. S. 1731—Public Law 95–114, approved September 30, 1977. (VV)

Military Construction Authorization.—Authorizes $3,724,718,000 for construction and other related authority for the military departments, and the Office of the Secretary of Defense within and outside the United States; contains authority for the construction of new projects which will create an estimated 50,000 jobs in the construction industry and to operate and maintain the current inventory of military family housing; contains funds for upgrading the chemical weapons storage sites; contains nearly $200 million for selected projects designed to conserve energy and to control pollution at military installations; encourages the utilization of solar energy where practical and economically feasible for projects authorized by this act; includes $70 million for a test program which will meter energy consumed in individual military family housing units in order to establish, once feasibility is demonstrated and after Congressional review, reasonable energy consumption ceilings and to assess occupants for any consumption in excess of the established ceiling; specifies the guidelines which should be included in the program; includes $7.3 million for construction of support facilities for personnel stationed at Diego Garcia; increases from $400,000 to $500,000 DOD authority for new minor construction projects without specific authorization; establishes permanent procedures for accomplishing base realignments at military installations employing more than 500 civilian personnel; makes these procedures applicable to relocating functions and civilian personnel positions if the authorized level of such personnel is to be reduced by 1,000 or 50 percent of the authorized strength, whichever is smaller, except if the reductions result from work load adjustments or other similar causes; requires that DOD notify Congress of any proposed action, comply with the provisions of the National Environmental Policy Act of 1969, submit a detailed justification for any final decision, and defer implementation for 60 days following notification of the final decision; authorizes the Secretary to enter into contracts for periods not to exceed 10 years for the purchase of fuel derived from waste products; provides that commissary surcharge funds may be used to provide new commissaries and renovate existing commissaries anywhere in the world; authorizes $2 million for the construction of visitors facilities for the U.S.S. Arizona memorial in Hawaii; and contains other provisions. S. 1474—Public Law 95–82, approved August 1, 1977. (VV)

Military Enlistment and Reenlistment Bonuses.—Amends chapter 5, title 37, U.S.C. to extend for 15 months, from June 30, 1977, to September 30, 1978, present law authorizing the armed services to pay enlistment and reenlistment bonuses to selected enlisted personnel who possess a critical skill or to those who enlist for service in a critical skill including the combat arms; and adds a provision whereby a member would forfeit his bonus if he becomes technically unqualified in the skill for which the bonus was paid unless it is the result of an injury, illness, or other impairment which is not a result of his own misconduct. H.R. 583—Public Law 95–57, approved June 29, 1977. (VV)

Military Procurement Authorization.—Authorizes a total of $36.1 billion for fiscal year 1978, for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces; continues funding of submarine-based missiles, land-based ICBM's and manned bombers to maintain the strategic balance with the Soviet Union; increases funds for Naval shipbuilding including several new initiatives; contains funds to improve the deterrent and fighting capabilities of NATO without increasing the commitment of American ground forces; establishes a Naval Shipbuilding Commission to study and report to the President and Congress on current naval policies and procedure together with its recommendations on a more efficient and cost-saving means of procuring vessels; prohibits the use of funds after fiscal 1980 for the development or procurement of any main battle tank, mechanized infantry combat vehicle, armored personnel carrier, armored self-propelled artillery vehicle, or armored self-propelled air defense artillery vehicle which does not possess collective system protection for all occupants against chemical and radiological agents; sets the end-strength for active duty personnel at 2,085,100, the average strength of the Selected Reserve at

868,900, the end strength of civilian personnel at 1,018,600 with authority for the Secretary to exceed the limit by 1¼ percent, and the average military student load at 248,894; sets at $313.20 the monthly pay for a cadet or midshipman; directs the Secretary to expand the job classifications to which female members of the Armed Services may be assigned; authorizes a test educational bonus program for the Selected Reserve and requires quarterly reports to Congress; requires the Secretary to maintain at least one ROTC unit in each State; includes $95,250,000 for programs of the Defense Civil Preparedness Agency; provides that females who become members of the Armed Forces will incur the same 6-year statutory obligation as males; eliminates the requirements for annual inspections of National Guard units and for quadrennial physical examinations for members of the Fleet Reserve and the Fleet Marine Corps Reserve; extends the authority to provide financial assistance of $100 a month to officer candidates under the Marine Corps Platoon Leaders Class program; extends to October 1, 1979, the President's authority to transfer to Israel by sale, credit sale, or guaranty aircraft and equipment to counteract military assistance provided to other countries in the Middle East, and authorizes the Secretary to restock Armed Forces inventories with equivalent aircraft and equipment; requires the Secretary to submit to the Armed Services Committees by October 1 of each year a full accounting of all experiments and studies conducted by DOD in the preceding 12-month period which involved the use of human subjects for testing chemical or biological agents and requires the Secretary to notify the Committees 30 days after final approval and 30 days prior to initiation of plans to conduct such tests; prohibits such experiments involving civilians unless local officials are notified in advance and a period of 30 days has expired; prohibits DOD from increasing the percentage of funds allocated to private research and development contracts pending submission of a study to Congress or March 15, 1978; prohibits the use of funds for advertising the Special Discharge Review Program for certain Vietnamera individuals; reduces the authorized levels of generals and admirals to 1,073 over a 3-year period beginning fiscal 1978 and provides for a like reduction in the number of civilian personnel grades GS 13–18; requires the Secretary to submit a report with the fiscal 1979 authorization request on the required number of general officers as well as any justification for deferring the proposed reductions; provides for congressional consideration of modifications in U.S. Strategic Arms Programs which the President may recommend to facilitate negotiation or agreement in the Strategic Arms Limitation Talks; requires the Secretary to report to Congress on the proposed sale or transfer of defense articles from active forces' inventories or current production valued at $25 million or more; and provides that retiring military and civilian personnel (of Grade GS–13 or above) in the procurement field may submit written suggestions for methods to improve procument policy. H.R. 5970—Public Law 95–79, approved July 30, 1977. (144)

Military Procurement Supplemental Authorization.—Authorizes $373.37 million in supplemental funds for fiscal year 1978 for military procurement of aircraft and missiles at $97 million and research and development, test, and evaluation for the Air Force and Defense agencies at $277.47 million which were necessitated by the cancellations of the B–1 bomber and the request for funds for the cruise missile program. S. 1863—Passed Senate October 7, 1977; Passed House amended October 12, 1977; House agreed to conference report November 2, 1977. (550)

Military Unionization.—Amends chapter 49, title 10, U.S.C. to make it unlawful for a member of the Armed Forces to join a military union or to solicit or maintain membership, knowing the activities or objectives of the organization; makes it unlawful for a labor organization to enroll military members, to solicit or accept dues or fees, to negotiate or bargain with the Government for military members, or to represent military members in grievance proceedings; prohibits any military or civilian official of the Department of Defense from negotiating or bargaining with a purported military union or from authorizing union activities on Government property; and prohibits any individual from bargaining on behalf of military members, from using military property for purposes outlawed elsewhere in the bill, or organizing or carrying out a strike or other concerted action involving military members against the Government. S. 274—Passed Senate September 16, 1977. (388)

DISASTER ASSISTANCE

Disaster Relief Programs.—Amends the Disaster Relief Act Amendments of 1974 to extend the authorizations for the Federal disaster assistance programs of the Federal Disaster Assistance Administration, which expire on June 30, 1977, through fiscal year 1980. H.R. 6197—Public Law 95–51, approved June 20, 1977. (VV)

Drought Emergency Authority.—Provides temporary authorities to the Secretary of the Interior to facilitate emergency actions to mitigate the impacts of the 1976–77 drought conditions affecting irrigated lands in the western States; authorizes the Secretary, acting through the Bureau of Reclamation and the Bureau of Indian Affairs, to: (1) study available means to augment, utilize, or conserve Federal reclamation and Indian irrigation projects water supplies and to undertake connstruction (which must be completed by November 30, 1977), management, and conservation activities to mitigate drought damage, (2) acquire water supplies by purchase from willing sellers and redistribute the water to users based upon priorities he determines, and (3) undertake evaluations and reconnaissance studies of potential facilities to mitigate the effects of a recurrence of a drought emergency and make recommendations to the President and Congress; provides that payment for water acquired from willing sellers be at negotiated prices; directs the Secretary to determine the priority of need in allocating the acquired or developed water; authorizes the Secretary to defer without penalty, the 1977 installment charge payments, including operation and maintenance costs, owed to the U.S. on Federal reclamation projects, with the costs to be added to the end of the repayment period which may be extended if necessary; requires that this program be coordinated, to the extent practicable, with emergency and disaster relief operations conducted by other Federal agencies under existing provisions of law; requires the Secretary to report to Congress by March 1, 1978, on all expenditures made under this act; authorizes the Secretary to make interest-free five year loans to individual irrigators for construction, management and conservation activities or acquisition of water; authorizes $100 million to carry out the water purchase and reallocation (water bank) program of which 15 percent shall be available to carry out other programs authorized by this act; and provides that up to 15 percent of fiscal 1977 funds available to the Secretary for the Emergency Fund Act may be used for non-Federally financed irrigation projects, 5 percent for State Government drought emergency programs, and $10 million for the purchase of water. S. 925—Public Law 95–18, approved April 7, 1977. (54)

Amends Public Law 95–18 to remove constraints on the allocation of funds for drought assistance and permit the use of funds already appropriate for the programs authorized in a more effective and timely manner; and authorizes the Secretary to waive all or any portion of the repayment of loans made if the recipient agrees to undertake a program of water conservation. S. 1935—Public Law 95–107, approved August 17, 1977. (VV)

Drought Emergency Relief.—Authorizes $225 million in grant and loan authority to the Economic Development Administration for assistance to States, Indian tribes or units of local government with a population of 10,000 or more for drought-related projects; includes among the permissable activities for which grants may be made the improvement or expansion of existing water supply facilities, construction of new facilities, well drilling or impoundment where appropriate, transportation of water by pipeline, and purchase of water if it is the most economic method of providing the needed supply; gives the Secretary of Commerce authority to designate areas eligible for assistance; limits grants to 50 percent of the cost of any project and provides that loans shall be at 5 percent interest for not to exceed 40 years and at terms determined by the Secretary; directs the Secretary to consider the relative needs of the applicants giving priority to communities facing the most severe problems; permits obligation of funds for drought impacted projects conducted by eligible applicants during fiscal year 1977 if they are compatible with the purposes of the act; permits funds to be obligated to December 31, 1977, and requires that projects be completed by April 30, 1978; and extends the time allowed for convening the White House Conference on Balanced Growth and Economic Development from 12 to 18 months after the date of enactment of Public Law 94–487. S. 1279—Public Law 95–31, approved May 23, 1977. (VV)

Small Business Disaster Loans.—Authorizes $50 million to the Small Business Administration to make disaster loans to relieve economic injury caused by the 1976–77 drought at a 5 percent rate of interest and up to 30 years; permits SBA to make loans for short term construction projects to improve water conservation practices or to rehabilitate, replace, or augment water supply facilities adversely affected by the drought; makes eligible for such loans farms and businesses in drought-designated areas as determined by the President, Secretary of Agriculture, or the Administrator of SBA; requires that a small business, to be eligible, must demonstrate that it has suffered or is likely to suffer substantial economic injury without the assistance provided under this act; and requires that loan applications must be submitted and approved before October 1, 1978, all assistance funds committed before October 1, 1978, and short term projects completed by November 30, 1978. S. 1306—Passed Senate August 4, 1977. (VV)

Soil Erosion Prevention.—Authorizes the Secretary of Agriculture to undertake emergency measures for runoff retardation and soil erosion prevention to safeguard lives and property from floods, drought, and erosion whenever fire or any other natural occurence has caused a sudden impairment of a watershed; authorizes the establishment of an emergency fund in the Treasury for use of the Secretary in carrying out these measures and authorizes therefor such sums as necessary; and makes the bill effective October 1,

1978. S. 1462—Passed Senate August 5, 1977. (VV)

DISTRICT OF COLUMBIA

D.C. Armory Board.—Amends the Home Rule Act to allow the Armory Board of the District of Columbia, which manages Robert F. Kennedy Stadium and the D.C. Armory, to operate under a fiscal year coinciding with the calendar year, rather than the October 1–September 30 fiscal year required of all city government agencies in order to accommodate the special seasonal nature of the revenues earned by the concerns, and changes the tiling date for the Board's annual reports from January to July. S. 1062—Public Law 95) approved 1977. (VV)

D.C. Bonds.—Adds a new subsection to the section of the Home Rule Act authorizing the issuance of revenue bonds to provide that payments made pursuant to acts authorizing such bonds may be made without further authorization or approval. S. 1063—Passed Senate May 26, 1977. (VV)

D.C. Borrowing Authority.—Amends the Home Rule Act to extend until October 1, 1979, the District's interim authority to borrow from the U.S. Treasury to finance its capital improvements projects; changes from November 1 to February 1 of each fiscal year the date by which the Mayor must submit to the Council of the District a complete financial statement and report for the preceding fiscal year; and makes procedural and technical changes to the act respecting qualifications for appointment to the Commission on Judicial Disabilities and Tenure, and to the Judicial Nomination Commission. S. 1061—Passed Senate June 13, 1977. (VV)

Contains identical provisions as in S. 1061 and includes a provision which repeals the authority of the District to borrow from the U.S. Treasury with respect to a sewer connection to Dulles International Airport, which project is now complete. H.R. 6530—Public Law 95–131, approved October 13, 1977. (VV)

D.C. Reciprocal Tax Collection.—Authorizes any State, territory or possession to bring suit in the Superior Court of the District of Columbia to recover any tax lawfully due and owing to it, if a reciprocal right is accorded to the District by the State, territory or possession. S. 1103—Passed Senate May 26, 1977. (VV)

Federal Water and Sewer Payment.—Allows the District of Columbia to collect the amount of money owing from the Federal Government for water and sewer services in its next fiscal year's budget. S. 1322—Public Law 95–122, approved October 6, 1977. (VV)

George Washington University.—Restates completely the charter of the George Washington University, substituting a more adequate, flexible and modern document for the original charter granted in 1921; cites the school's purposes and states explicitly that a policy of nondiscrimination must govern its pursuit of those objectives; enumerates the specific powers of the University to control and direct its operations; vests management of the University in a board of trustees which shall have authority over all personnel and activities of the University; provides for the appointment of an executive committee; gives the trustees the power to merge the university with other nonprofit organizations; and ensures the continuity of the school's corporate status. S. 1060—Public Law 95– , approved 1977. (VV)

ECONOMY-FINANCE

Council on Wage and Price Stability.—Extends the Council on Wage and Price Stability to September 30, 1979, and increases its authorization from $1,700,000 to $2,210,-900 for fiscal years 1978 and 1979; directs the Council, in the course of its public hearings, to emphasize the purpose of controlling inflation; indicates that full employment is one of the objectives of the anti-inflation programs; directs the Council to review information about and analyze the effects on the U.S. economy of U.S. participation in international trade and commerce, changing patterns of supplies and prices of commodities in the world market, investment of U.S. capital in foreign countries, short-and long-term weather changes in the world, interest rates, capital formation, and changing patterns of world energy supplies and prices; makes it clear that voluntarily submitted data has the same amount of protection and confidentiality as data submitted pursuant to a subpena or periodic report order; and strengthens the language requiring the Council to maintain the confidentiality of trade secrets and other business information submitted to it. S. 2056—Passed Senate September 21, 1977. (VV)

Extends for two years, through fiscal 1979, the Council on Wage and Price Stability Act of 1974, as amended, which established the Council on Wage and Price Stability to monitor inflationary price and wage movements in the private sector of the economy and well as inflationary activities of the agencies and departments of the Federal Government. H.R. 6951—Public Law 95–121, approved October 6, 1977. (VV)

European Trade.—States the sense of the Senate that the President should: (1) express concern about, and seek negotiations to terminate, the regulations adopted by the Council of European Communities which damage U.S. exports of dried prunes, and other processed fruits and vegetables; (2) seek to accelerate consideration of the U.S. complaint instituted under article XXIII of the General Agreement on Tariffs and Trade should negotiations fail; (3) put the European Communities on notice that the U.S. intends to exercise its rights under the General Agreement on Tariffs and Trade to take retaliatory measures against these restrictive regulations if they are not removed; and (4) seek ot obtain agreement from the European Communities that similar restrictive regulations on U.S. exports of other agricultural products will not be imposed in the future. S. Res. 76—Senate agreed to September 16, 1977. (VV)

Export Administration—Arab Boycott.—In title I, authorizes $14,033,000 for the extension of the Export Administration Act of 1969, through fiscal year 1979; requires a review of the export control lists, rules, and regulations issued under the Act, to be submitted not later than December 1, 1978; authorizes the Secretary of Defense to recommend his approval of an export license application whenever he determines that the export would be detrimental to U.S. national security; exempts agricultural commodities purchased for export and stored in the United States from subsequent export restrictions if such storage will not have a serious domestic inflationary impact; requires a study of the national security impact of the export of technical information to restricted countries within 6 months of enactment and adds other reporting and notification requirements of the act;

Excludes petroleum products refined in the U.S. foreign trade zones or in Guam from any quantitative limitations imposed for short supply purposes unless the Secretary of Commerce limits such exports; prohibits export of Alaskan oil except (1) for exchanges of crude oil in similar quantity, for convenience or increased efficiency in transportation, with governments of adjacent foreign states, or for oil that is temporarily exported for increased efficiency of transportation across part of an adjacent foreign state and reenters the United States, or (2) where the President publishes and submits to Congress 60 days prior to export an express finding that the export of such oil is in the national interest and in accord with the provisions of the Export Administration Act of 1969; allows a 60-legislative-day period for any such action to be vetoed by either House of Congress prior to any export; provides that any contract for the export of such oil may be terminated any time that U.S. petroleum suppliers are seriously threatened;

Reaffirms Congressional intent that the secrecy provisions of the act do not abridge the inherent right of Congress to acquire information obtained under the act; directs the Secretary of Commerce to undertake a review of unilateral and multilateral export controls and to submit the results to Congress by December 31, 1978; requires that monitoring of exports for short supply purposes commence at a time adequate to insure that sufficient data will be available to permit achievement of the act; increases the penalties applicable to violations of the Export Administration Act and otherwise improves the administration of U.S. export controls;

In title II, seeks to prevent most forms of compliance with foreign boycotts; prohibits refusal to do business with blacklisted firms and boycotted friendly countries pursuant to foreign boycott demands; prohibits discrimination against any U.S. person on the grounds of race, religion, sex, or national origin in order to comply with a foreign boycott; prohibits U.S. persons from furnishing information about any person's race, religion, sex or national origin for foreign boycott enforcement purposes; provides for public disclosure of requests to comply with foreign boycotts; requires domestic U.S. persons who receive such requests to disclose publicly whether they are complying with such requests; provides that these provisions apply to all domestic concerns and persons, including intermediaries in the export process;

Exempts from the antiboycott provisions transactions in which a unilateral and specific selection is made by a boycotting country, or national or resident thereof; allows United States persons residing in a foreign country to comply with the laws of that country with respect to his activities exclusively therein; permits a negative certification with respect to carriers or route of shipment in order to comply with requirements protecting against war risks and confiscation; allows compliance with immigration or visa requirements with respect to the individual and members of his family; permits U.S. persons to comply with requests for information pertaining to securing or maintaining employment in a boycotting country; preempts all State foreign boycott laws; provides a 2-year grace period for agreements in effect on or before March 1, 1977, with three additional 1-year extensions available in cases where good faith efforts are being made; and generally strengthens U.S. law against foreign boycotts to reduce their domestic impact. H.R. 5840—Public Law 95–52, approved June 22, 1977. (140)

Export-Import Bank.—Extends from June 30, 1978, to September 30, 1978, the operating authority of the Export-Import Bank in order to conform to the new fiscal year; requires the Bank to obtain the State Department's advice on whether Bank Credits are consistent with U.S. human rights policy; directs the Bank to cooperate with other U.S. government agencies in international negotiations directed toward mutual reduction of government subsidized export financing; requires a 25-day Congressional review period before the Bank may loan or guarantee any export transaction involving nuclear power, enrichment, reprocessing, research, or heavy water production

facilities; prohibits the Bank from approving future financial transactions involving support for exports to a country which the Secretary of State determines has violated International Atomic Energy Agency nuclear safeguards or agreements with the U.S. concerning transfers of nuclear materials or has exploded a nuclear device (except Britain, France, China, and Russia) unless the President determines that it would be in the national interest, and Congress has 25 days to review the transaction; and prohibits the Bank from supporting the export of liquid metal fast breeder nuclear reactors and nuclear fuel reprocessing plants. H.R. 6415—Public Law 95- , approved 1977. (VV)

Financial Institutions Regulatory Agencies.—Strengthens the supervisory authority of the Federal banking agencies over financial institutions and their affiliates;

Empowers the regulatory agencies to issue cease-and-desist orders under the Financial Institutions Supervisory Act of 1966 against individuals directly without the necessity for naming the corporate financial institution; authorizes the imposition of civil penalties of up to $1,000 per day against a financial institution or individual for violating a final cease-and-desist order; authorizes the divestiture of a nonbank subsidiary of a bank holding company if the nonbank or noninsured subsidiary constitutes a serious risk to the financial safety, soundness or stability of the subsidiary bank or insured savings and loan association; requires that loans to insiders be aggregated with loans to companies they control and, when aggregated, may not exceed the lending limitations on loans to a single borrower under Federal law in the case of a national bank or applicable State law in the case of State-chartered bank; requires approval by two-thirds of the banks' board of directors for insider loans over $25,000 with substantially the same terms as loans prevailing in the market; authorizes the removal of an officer or director of a financial institution if the individual has demonstrated a willful disregard for the safety or soundness of the institution and provides that an officer or director who has been suspended or removed after a hearing upon an indictment or conviction of a crime involving dishonesty or breach of trust may appeal to the U.S. Court of Appeals;

Prohibits interlocking management and director relationships, with certain specified exceptions, among depository institutions including commercial banks, savings and loan associations, savings banks and trust companies; prohibits interlocking relationships between a depository institution having assets in excess of $1 billion and a depository institution with assets in excess of $500 million; authorizes the Federal Reserve to exempt by rule interlocking management or director relationships among financial institutions where the effect would be procompetitive;

Requires prior approval of the FDIC for a State-insured nonmember bank to establish a foreign branch or invest in a foreign bank; clarifies the authority of the bank regulatory agencies to examine bank service contractors; makes it a crime to forcibly assault or intimidate a financial institutions regulatory official;

Proscribes revolving door employment practices by the heads of the financial institutions regulatory agencies and provides increases in salary for these officials to encourage them to complete their terms of office;

Amends the Federal Credit Union Act to transfer management of the National Credit Union Administration from a single Administrator to a three-member board, appointed by the President with the advice and consent of the Senate, to serve for fixed terms; requires each Federal Credit Union to pay an annual operating fee to the Administration to defray expenses of the Board; requires Federal Credit Unions to make financial reports to the Board at least annually; and

Amends section 5202 of the Revised Statutes to provide for the regulation of standby letters of credit, guarantees, surety agreements and certain acceptances issued by commercial banks. S. 71—Passed Senate August 5, 1977. (VV)

Foreign corporate bribes and domestic disclosure.—Amends the Securities Exchange Act of 1934 to require companies subject to the jurisdiction of the Securities and Exchange Commission to maintain accurate records, prohibit certain bribes, and expand and improve disclosure of ownership of the securities of U.S. companies;

In title I, requires companies subject to SEC jurisdiction to maintain strict accounting standards and management control over their assets; prohibits the falsification of accounting records and the deceit of accountants auditing the books and records of such companies; makes it a crime for U.S. companies to bribe a foreign government official for the specified corrupt purposes; imposes a maximum fine of $500,000 on companies and $10,000 and 5 years imprisonment on individuals for violation of the criminal prohibitions;

In title II, requires those persons who already file reports with the SEC when they own more than 5 percent of the shares in a U.S. company to identify their residence, citizenship, and the nature of their beneficial ownership; provides for the development of a comprehensive system in publicly held companies; requires the Commission to consolidate the various beneficial ownership reporting requirements of the Securities Exchange Act into a centralized nonduplicative system for the collection of such information, and to tabulate and make it available to regulators and the public; requires the Commission, within 30 months of enactment, to report to Congress with respect to the effectiveness of the ownership reporting requirements and the desirability and feasibility of reducing or otherwise modifying the 5-percent disclosure threshold giving appropriate consideration to specified regulatory and public policy; and provides the Commission with authority to assure that the jurisdictional effectiveness of section 15(d) of the Securities Exchange Act is not inappropriately limited because of the use of nominee and street name registration of securities. S. 305—Passed Senate May 5, 1977; Passed House amended November 1, 1977. (vv)

Interest Rates (Regulation Q)—Federal Credit Unions.—Extends from March 1, 1977, until December 15, 1977, existing authority (commonly known as Regulation Q) under the Interest Rate Control Act by which Federal financial regulatory agencies set interest rate ceilings on deposits in financial institutions under their respective jurisdictions; extends until August 31, 1977, the Treasury Department's authority to borrow funds from the Federal Reserve System;

Modernizes the powers of Federal credit unions under the Federal Credit Union Act in order that they may provide more contemporary financial services to their members; considers demand deposits accounts of state chartered credit unions as member accounts, if they qualify pursuant to state law, thus making them eligible for Federal share insurance; establishes varying self-replenishing lines of credit to member borrowers; removes the distinction between secured and unsecured loans and raises the maximum loan maturities to 12 years (currently 5 years on unsecured loans and 10 years on secured loans); empowers the board of directors to establish their own loan maturity and collateral requirements; removes the $2,500 maximum amount for unsecured loans; provides the necessary flexibility to meet members' needs in accordance with the applicant's creditworthiness and the credit union's soundness rather than arbitrary loan ceilings; permits real estate loans with maturities up to 30 years; and includes the following restrictions on such lending authority: (1) loans must be secured by a first lien, (2) loans must be for a one-to-four family dwelling, (3) the dwelling must be the principle residence of the borrower, and (4) the sales price must not exceed 150 percent of the median sales price of residential property to be determined on a market area basis; allows loans with maturities of up to 15 years for the purchase of mobile homes used as the member's residence, or for the repair, alteration or improvement of a member's residence; permits Federally guaranteed or insured loans, such as the VA guaranteed mobile home loans, with maturities as specified in those statutes; increases the officials' borrowing limit on unsecured loans from $2,500 plus pledged shares to $5,000 plus pledged shares and permits them to guarantee or endorse up to the same amounts without board approval; clarifies the existing provisions regarding the penalty for excess interest and the provision regarding loan amortization; ensures that a member may repay his or her loan prior to maturity with no penalty; authorizes loans to other credit unions and credit union organizations; and contains other provisions. H.R. 3365—Public Law 95-22, approved April 19, 1977. (VV)

International Trade Commission.—Authorizes $11.5 million to the U.S. International Trade Commission for fiscal year 1978; provides that the President will designate one Commissioner as Chairman and one Commissioner as Vice-Chairman, each to serve for 2-year periods, except that the individual the President designates may not be of the same party affiliation as his predecessor; makes the Chairman responsible for all administrative functions of the Commission subject to disapproval by a majority vote of the Commission; and authorizes the Commission to continue publication of its reports on synthetic organic chemicals until 1981. H.R. 6370—Public Law 95-106, approved August 17, 1977. (VV)

Public Debt Limit.—Increases the temporary debt limit from $300 billion to $352 billion for the six month period ending March 31, 1978, making a total permanent and temporary debt limit of $752 billion. H.R. 9290—Public Law 95-120, approved October 4, 1977. (502)

Regulation Q.—Extends until December 15, 1978, the authority for various Federal financial regulatory agencies to establish flexible ceilings on rates paid by financial institutions on time and savings deposits (regulation Q); sets forth clear guidelines for monetary policy and establishes regular oversight hearings focused on the Federal Reserve's plans for the growth of the monetary and credit aggregates during the current year and its expectations for the Nation's economic performance; doubles the number of Reserve bank directors who will represent the public at large; extends current conflict of interest statutes to Federal Reserve officers and employees; permits the Federal Reserve Board to extend current conflict of interest statutes to Federal Reserve officers and employees; permits the Federal Reserve Board to extend for 3 successive 1-year terms the current 2-year period within which a holding company or bank must divest shares of another bank acquired in the regular course of securing or collecting a debt previously contracted in good faith; and requires Senate confirmation of the Chairman

and Vice-Chairman of the Federal Reserve Board.

H.R. 9710—Passed House October 31, 1977; Passed Senate amended November 1, 1977. (VV)

Securities and Exchange Commission Authorizations.—Amends the Securities Exchange Act of 1934 to increase the authorization for fiscal year 1977 from $55 million to $56.5 million. S. 1025—Public Law 95–20, approved April 13, 1977. (VV)

Authorizes $58,290,000 for fiscal year 1978 to the Securities and Exchange Commission. H.R. 3722—Passed House May 17, 1977; Passed Senate amended May 25, 1977; House requested conference July 19, 1977. (VV)

Small Business Amendments—Disaster Relief Loans.—Amends the Small Business Act to authorize a total of $1.4 billion for fiscal 1978 and $1.565 billion for fiscal 1979 for the Small Business Administration; sets levels of $2 billion for the surety bond guarantee program, $4 million for the lease guarantee program, $150 million for pollution lease guarantees, and $171 million for salaries and expenses; places ceilings for the first time on SBA lending programs except for the physical and economic injury disaster loans which are open ended authorizations;

Eliminates SBA's obligation to pay interest on capital appropriations to the Real Estate Lease Guarantee Revolving Fund, the Surety Bond Guarantee Revolving Fund and the Pollution Control Lease Guarantee Revolving Fund; eliminates the authority to invest temporarily idle funds except for fees from the Pollution Control Lease Guarantee Revolving Fund; requires the submission of certain reports to the Senate and House Small Business committees and others to the Senate Select Committee on Small Business, the President of the Senate and the Speaker of the House; requires SBA's annual report to break out the assistance provided to socially and economically disadvantaged individuals; requires SBA to specify the Administration's goals for the next fiscal year with respect to minority small business and to make recommendations to improve such assistance; authorizes SBA to finance residential or commercial construction or rehabilitation for sale but provides that such loans may not be used primarily for land acquisition; authorizes SBA to undertake, for a period of 5 years, a small business concern's obligation to make required payments under a SBA loan if the business would become or remain insolvent without such a suspension; requires the business to repay the amounts that become due during the suspension and authorizes SBA to extend the maturity date of the loan to coincide with the suspension; expands SBA's displaced business loan program by authorizing SBA to make displaced business loans to small concerns suffering substantial economic injury as a result of displacement by a State or local government or public service entity which exercises its right of eminent domain; authorizes SBA economic injury loans, upon the request of the Governor of the State, to small business concerns in an area affected by a natural disaster even if the extent of the disaster was not sufficient for a disaster declaration by the President, Secretary of Agriculture, or Administrator of SBA; authorizes the Administrator, upon certification by a State Governor, to lend up to $100,000 to a small business concern in an impacted area which would otherwise become insolvent because of the magnitude of economic dislocations or natural disasters;

Lowers the interest rate on physical disaster loans from the period July 1, 1976, to October 1, 1978, for the uninsured damaged portion of a principal residence and property from the present rate of 6⅝ percent to the following: 1 percent on the first $10,000 of the loan and 3 percent on the next $30,000 of the loan; reduces to 3 percent on the first $250,000 the interest rate on all loans to other applicants; makes similar reductions in the Farmers Home Administration disaster loan programs; reduces to 3 percent on the first $25,000 the interest rate on economic injury disaster loans; authorizes SBA to increase the principal of a loan by not to exceed $2,000 in order to insulate property which was damaged or destroyed during the period April 1, 1977, to January 1, 1978, whether or not the property was insulated at the time of the damage.

Authorizes SBA to certify a small business company's ability to perform a specific government contract; provides that a contract may not be withheld for any reason without referring the matter to SBA for a determination and that the contract must be awarded if SBA issues a certificate of competency; directs the contracting procurement agency for set-aside contracts in excess of $1 million to reduce the dollar amounts of each contract in excess of that amount in order that SBA may issue a surety bond guarantee; and directs that priority be given to labor surplus areas when awarding small business set-aside contracts. H.R. 692—Public Law 95–89, approved August 4, 1977. (VV)

Small Business Associate Administrator for Women's Business.—Establishes within the Small Business Administration, a level V position of Associate Administrator for Women's Business Enterprise who shall report directly to the Administrator and be charged with broad policy responsibilities in providing assistance to women within small business concerns to insure that the unique problems of women entrepreneurs are represented at the policy making level and are fully considered in the administration of SBA's varied assistance programs. S. 1526—Passed Senate August 5, 1977. (VV)

Small Business Development Centers.—Establishes a small business development center program within SBA to aid in the growth and development of new and existing small businesses; authorizes SBA to make grants to a State to defray 75 percent of the cost of developing and operating a development center program which will provide smaller concerns with a broad range of advice, information and assistance and to fund 100 percent of the cost of developing and operating regional centers; requires a State, in order to participate, to submit for SBA's approval, a plan containing specified information; creates a Small Business Management and Technical Assistance Division within SBA headed by an Associate Administrator for Management and Technical Assistance; provides for the appointment of a Deputy Associate Administrator whose sole responsibility shall be the administration of the program; creates a 17-member Small Business Development Center Advisory Board (with 12 of the members to be appointed by the President to serve for staggered 3-year terms) to advise the Deputy Associate Administrator with regard to policies and management of the program; establishes State and regional center advisory boards; authorizes SBA to make grants to universities, public and private organizations, and business concerns to undertake research to identify and solve managerial, economic, and other problems affecting small business; authorizes $8 million for fiscal year 1979 and $15 million annually for fiscal 1980 through 1982 for State and regional center program grants, plus an additional $5 million annually for fiiscal 1979 through 1982 to fund research grants; provides that not to exceed 5 percent of the funds authorized may be used for administration expenses; and requires that a complete evaluation of the program be submitted to the Senate and House Small Business Committees not later than 3 years following enactment and annually thereafter. S. 972—Passed Senate August 5, 1977. (VV)

Small Business Loan Ceilings.—Amends the Small Business Act to increase the fiscal year 1977 authorization ceilings for the following SBA financial assistance programs: Business Loan and Investment Fund from $6 billion to $7.4 billion, Economic Opportunity Loans from $450 million to $525 million, and Small Business Investment Company Program from $725 million to $887.5 million; and amends the Small Business Investment Act of 1958 to increase the fiscal year 1977 ceiling on the Surety Bond Guarantee Program from $56.5 million to $110 million. H.R. 2647—Public Law 95–14, approved March 24, 1977. (VV)

Tax and Loan Accounts—IMF—ESF.—Authorizes the Secretary of Treasury to invest excess operating cash balances, which are now held interest-free in Treasury tax and loan accounts at commercial banks, in either interest-bearing obligations of financial institutions holding such accounts or obligations of the United States and of agencies of United States with such investments in obligations of depository institutions bearing rates of interest prescribed by the Secretary; permits savings and loan associations and credit unions to participate in the tax and loan system which is now limited to commercial banks and mutual savings banks; permits savings and loan associations and credit unions which are Federally or State chartered and Federally or State insured to act as depositories of public money and fiscal agents of the United States; provides that timely deposits of income tax withholding and tax payments in savings and loan associations and credit unions shall be taken as a timely filing and payment of tax; and

Requires Congressional approval before added International Monetary Fund (IMF) gold can be used for the IMF Trust Fund for less developed countries and before any new trust fund may be established which specifically aids a single member or group of IMF members; improves Congressional oversight of U.S. Government activities regarding participation in the international monetary system and U.S. foreign economic policy by directing the President to provide appropriate information to the Congressional committees having jurisdiction over these matters; requires the President to provide Congress with a written determination any time money issued from the Exchange Stabilization Fund for loans in excess of a 6-month period; and repeals the joint resolution of June 5, 1933, which eliminated private ownership of gold. H.R. 5675—Public Law 95–147, approved October 28, 1977. (VV)

White House Conference on Small Business.—States as the sense of the Senate that the President should convene a White House Conference on Small Business to develop recommendations that will increase public awareness of the importance of small business; identify the problems of new, small, and independent business enterprise; and suggest appropriate governmental actions to encourage and maintain the economic interests and potentials of the small business community in order to strengthen the overall economy of the Nation. S. Res. 105—Senate agreed to March 28, 1977. (VV)

EDUCATION

Career Education Incentives.—Provides Federal financial incentives to States to develop, implement and strengthen career education program to ensure that education will be more closely related to the work world and career preferences of individuals: authorizes $50 million for fiscal year 1979, $100

million each for fiscal 1980 and 1981, $50 million for fiscal 1982 and $25 million for fiscal 1983 to State and local educational agencies to implement career education programs in elementary and secondary schools; reserves 5 percent of these funds for administration at the Federal level and for model programs, 1 percent for evaluation, and 1 percent for career education information; provides for the allocation of funds to the States on the basis of each State's 5 to 18-year-old population with a minimum of $125,000 annually; permits each State, except for minimum allotment States, to use a maximum of 25 percent of funds received in fiscal 1979 for State administration and leadership activities, and a maximum of 15 percent for such purposes during the remaining period of Federal participation, with the balance distributed to local educational agencies; requires States, except minimum allotment States, to employ designated personnel to administer the program; grants minimum allotment States the discretion to utilize Federal funds received as they see fit provided the uses comply with Federal requirements; requires all States to provide increasing percentages of non-Federal funds over the 5-year period; specifies the permissible uses of funds at both the State and local levels; requires each State applying for funds to submit annual applications, a one-time State plan, and subsequent amendments to the plan as necessary; makes the State Educational Agency the administering agency for programs funded under this bill; authorizes $15 million annually over the 5-year period to postsecondary institutions, public agencies, or private nonprofit entities for postsecondary education demonstration projects having national significance or unusual promise in promoting career education at the postsecondary level; requires an annual evaluation by the Commissioner of Education to determine those methods best fulfilling the purposes of the act; and makes the Office of Career Education in the U.S. Office of Education the administering unit at the Federal level. H.R. 7—Passed House April 5, 1977; Passed Senate amended October 20, 1977; In conference. (VV)

Education Amendments.—Extends for 1 year, through fiscal 1979, programs of Federal aid to elementary and secondary education which include the following titles of the Elementary and Secondary Education Act of 1965: Title I—Financial Assistance to Local Educational Agencies for the Education of Children of Low-Income Families; Title II—School Library Resources, Textbooks, and Other Instructional Materials; Title III—Supplementary Educational Centers and Services, Guidance, Counseling, and Testing; Title IV—Libraries, Learning Resources, Educational Innovation, and Support; Title V—Strengthening State and Local Educational Agencies; Section 807—Dropout Prevention Projects; Section 808—Grants for Demonstration Projects to Improve School Nutrition and Health Services for Children from Low-Income Families; and Section 811—Consumers' Education Programs; and extends through fiscal 1979 the Adult Education Act, Title II of the National Defense Education Act of 1958, and the carryover authority contained in section 412(b) of the General Education Provisions Act. S. 1752—Public Law 95–112, approved September 24, 1977. (VV)

Education of the Handicapped.—Extends certain programs under the Education of the Handicapped Act for 5 years, through fiscal year 1982, with authorizations for each of fiscal years 1978 through 1982, respectively, as follows: (1) Part C, Centers and Services to Meet Special Needs of the Handicapped—$76 million, $80 million, $86 million, $89 million, and $93 million; Part D, Training Personnel for the Education of the Handicapped—$77 million, $82 million, $87.5 million, $92.5 million, and $97.5 million; Part E, Research in the Education of the Handicapped—$20 million, $22 million, $24 million, $26 million, and $28 million; Part F, Instructional Media for the Handicapped—$24 million, $25 million, $27 million, $29 million, and $29 million; and provides the authority for the Bureau of Education to support model education projects for all handicapped children under section 641 of the act. H.R. 6692—Public Law 95–49, approved June 17, 1977. (VV)

Grand Canyon National Park School Aid.—Authorizes the Secretary of the Treasury to establish a special fund to hold a portion of the annual concessionaires' fees from the Grand Canyon National Park; and authorizes the Secretary of the Interior to draw from that fund for the purpose of providing educational services to dependents of persons working in the Grand Canyon National Park. S. 2076—Passed Senate September 9, 1977. (VV)

Higher Education.—Amends the Higher Education Act of 1965 to include the Trust Territory of the Pacific and Northern Mariana Islands in the definition of "State" for the purpose of participation in programs under the Act. H.R. 9512—Public Law 95– , approved 1977. (VV)

Higher Educational Technical Amendments.—Makes technical and miscellaneous changes to the higher education provisions contained in the Education Amendments of 1976 (Public Law 94–482). H.R. 6774—Public Law 95–43, approved June 15, 1977. (VV)

Vocational Education Amendments.—Makes a number of technical amendments to title II of the Education Amendments of 1976, Public Law 94–482, dealing with printing and clerical errors and changing certain reporting dates; removes the $25 million a year limit for State administrative expenses and authorizes funds under the basic State grant for this purpose with the requirement that States match Federal funds used; requires States to set forth in their State plan the amount of Federal funds it plans to retain at the State level for administration; and gives each local recipient the option of using a percentage of Federal funds which is equal to the percentage of Federal funds in their vocational education program or to use any amount of Federal funds as long as they are matched by State appropriated funds for administrative expenses. H.R. 3437—Public Law 95–40, approved June 3, 1977. (VV)

ELECTIONS

Campaign Act Amendments.—Amends the Federal Election Campaign Act of 1971 to substantially reduce the number of reports required to be filed with the Federal Election Commission; raises the threshold above which detailed information with respect to contributions and expenditures must be reported from $100 to $250 and, with respect to independent expenditures, from $100 to $250; makes changes in the law to strengthen the role of political parties in future elections; contains language to encourage a candidate to support his political party's Presidential candidate by providing that the costs of listing or mentioning the name of any Presidential nominee by any other candidate in his campaign material will not be considered as a contribution in-kind prohibited by the act; permits the transfer of excess campaign funds to a political party committee without limitation, contains provisions to improve the act in regard to political action committees; and contains several administrative provisions to facilitate more expeditious handling of complaints; authorizes $250,000 in fiscal year 1978 to reimburse States for the additional costs of receiving and preserving Federal campaign reports; and changes the statute of limitations from 3 years to 5 years with regard to violations of Campaign Act. S. 926—Passed Senate August 3, 1977. (331)

Federal Election Commission Authorizations.—Authorizes $7,811,500 for activities of the Federal Election Commission for fiscal year 1978. S. 1435—Public Law 95–127, approved October 17, 1977. (VV)

Overseas Citizens Voting Rights.—Amends the Overseas Citizens Voting Rights Act of 1975 and the Federal Voting Assistance Act of 1955 to improve the administration and operation of these laws; vests the authority and responsibility for collecting and disseminating absentee voting information to citizens overseas in the President's designee (currently the Secretary of Defense) under the Federal Voting Rights Assistance Act; authorizes utilization of the same ballot application and free airmail postage provisions presently contained in the Federal Voting Assistance Act for all citizens residing overseas; provides the designee with the authority to revise the absentee registration and ballot application forms currently recommended for use by military personnel and civilians temporarily residing abroad and to develop a single form which could also be used by citizens covered by the Overseas Voting Act; provides that any balloting material sent from the United States to persons covered by either act or returned by them to this country shall be sent by priority airmail or by the most expeditious postal service available; directs the designee to publicize and notify appropriate citizens and State election officials of the availability of free postage and the expedited mail delivery of balloting material; and provides that the exercise of the right to register or vote in Federal elections by citizens residing overseas shall not affect the determination of his place of residence or domicile for the purpose of any tax imposed under Federal, State, or local law. S. 703—Passed Senate May 9, 1977. (VV)

EMPLOYMENT

Age Discrimination in Employment.—Raises the upper age limit of the Age Discrimination in Employment Act from 65 to 70, effective January 1, 1979; prohibits the application of a mandatory retirement age of less than 70 which is contained in a seniority system or an employee benefit plan; requires the secretary to conduct a study on the effects on raising the Act's upper age limit to 70, and the feasibility of raising the Act's upper age limitation above 70 or reducing the current lower age limitation of 40; permits the compulsory retirement of management or highly compensated employees at the age of 65 or above if they will receive an employer-provided annual retirement benefit of at least $20,000 exclusive of social security; permits colleges and universities to maintain compulsory retirement policies for faculty at age 65 or above with unlimited tenure; provides that the effective date of the prohibition against mandatory retirement between the ages of 65 and 70 if such policies are contained in collective bargaining agreements which are in effect on September 1, 1977, shall be delayed until the termination of the contract or January 1, 1980, whichever occurs first; makes clear that where a bona fide occupational age qualification has been established, an employer may lawfully require mandatory retirement at that specified age; recreates the Advisory Committee on Sheltered Workshops to the Department of Labor; guarantees the availability of jury trials in private actions brought under the Act; and places a 2-year limitation on the period during which the statute of limitations could

be waived by the Administrative actions of the Department of Labor. H.R. 5383—Passed House September 23, 1977; Passed Senate amended October 19, 1977; In conference. (567)

CETA.—Extends the authorization of sums as may be necessary for all titles of the Comprehensive Employment and Training Act (CETA) through fiscal year 1978; extends the amendments to title VI made by the Emergency Jobs Programs Extension Act of 1976, which provide that each prime sponsor of a public service employment program may use its allocation, first, to sustain its existing member of public service job holders under the Act, and shall thereafter fill any additional public service jobs with low-income persons unemployed for at least 15 weeks who have been receiving or are eligible for unemployment compensation, and also provide that 50 percent of title VI job vacancies due to attrition must meet those eligibility requirements, but the remaining 50 percent may be filled under the original title VI requirements (15 days unemployment in areas having 7 percent or higher unemployment rates, and 30 days unemployment in other areas). H.R. 2992—Public Law 95–44, approved June 15, 1977. (VV)

Emergency Unemployment Compensation.—Extends the Emergency Unemployment Compensation Act to October 31, 1977, to provide a maximum of 13 weeks of emergency benefits (which combine with the 26 weeks of regular and 13 weeks of extended benefits for a total of 52 weeks of unemployment benefits) in States where the insured unemployment rate is 5 percent or more, with a phase-out under which individuals eligible before October 31, 1977, may continue to receive benefits until January 31, 1978; extends until April 30, 1977, the maximum 26 week program now in effect (which combine with 26 weeks of regular and 13 weeks of extended benefits for a total of 65 weeks of unemployment benefits) in order to avoid terminating benefits for certain participants in that program; provides that the cost of emergency unemployment compensation paid after March 31, 1977, be met from nonrepayable general revenues without the present law requirements that the costs ultimately be met from Federal Unemployment Tax;

Provides that, in addition to any eligibility requirements of State law, an individual would be disqualified from receiving emergency benefits for failing to (1) actively seek work, (2) apply for any suitable work which was referred by the State agency, or (3) accept any offer of suitable work; defines suitable work as that which (1) is within the capabilities of the claimant, (2) meets conditions of present Federal law, (3) meets the conditions of State law and practices pertaining to suitable or specific disqualifying work such as unreasonable travel distance or threat to morals, health, or safety, (4) pays wages equal to Federal or State minimum wage, (5) pays gross average weekly remuneration equal to the individual's weekly unemployment benefits plus any Supplemental Unemployment benefits he might be entitled to, and (6) was listed with the State employment service or offered in writing; allows a State to waive these requirements if an individual furnishes satisfactory evidence that prospects for obtaining work within a reasonable period of time in his or her occupation are good;

Establishes new statutory authority and procedures for the treatment of fraud and erroneous payments; disqualifies applicants submitting false or erroneous information; requires States with certain exceptions, to recover any overpayments made to individuals; makes fraud in connection with the program a Federal crime and imposes a fine of up to $10,000 and imprisonment for up to 5 years;

Provides for State implementation of changes made by this act; requires each State to enter into a modification if its present agreement within 3 weeks after the Secretary of Labor proposes the modification to the State; provides that if modification is not entered into, the Unemployment Compensation Program in that State would expire within the last week which ends on or before March 31, 1977; permits Kentucky, which does not have a scheduled meeting of its legislature during 1977, to defer until 1979 compliance with certain requirements of the act;

Simplifies administration by terminating an individual's entitlement to emergency benefits two years after the end of the benefit year for which regular benefits were payable; extends for two years, through 1979, the moratorium under which the Federal unemployment tax is automatically increased to recapture any loan to a State which is unpaid after 2 years; prohibits benefits to an individual who was illegally working at the time he earned his eligibility; allows States to deny unemployment compensation to teachers during brief mid-year vacation periods if the teacher was employed by the school system immediately before the start of the vacation and has reasonable assurance of the employment continuing at the conclusion of the vacation; makes clear that groups of local governments are to be provided the same options for financing unemployment compensation as those provided to single government units; extends from September 30, 1979, to March 31, 1980, the provision continued in public Law 94–566 which requires States to reduce the unemployment benefits of an individual by the amount of any public or private pension including social security and railroad retirement annuities in order to conform this enactment date with the final reporting extension granted the National Commission of Unemployment Compensation; extends the time by which the National Commission on Unemployment Compensation must submit its interim report from March 31, 1978, to September 30, 1978, and the time by which it must submit its final report from January 1, 1979, to July 1, 1979; and amends present law to require an affirmative vote of the Senate and the House to make effective the President's quadrennial recommendations regarding the salary increases of Members of Congress, the Federal judiciary, Cabinet officials and other top Federal personnel. H.R. 4800—Public Law 95–19, approved April 12, 1977. (82)

Public Works Employment.—Authorizes an additional $4 billion to extend the program of grants to State and local governments to provide jobs through construction in places with the most distressing levels of unemployment as originally authorized under Title I of the Public Works Employment Act of 1976; provides that 65 percent of the funds be allotted on total numbers of unemployed and 35 percent on the basis of the relative severity of unemployment, with States' participation in the 35 percent allocation only if their unemployment rates exceed 6.5 percent for the most recent 12 month period; provides that no State shall receive less than three-fourths of 1 percent nor more than 12.5 percent; requires that within a State 70 percent or more of the funds be spent in areas with rates of unemployment above the national average and 30 percent for areas with rates below the national average but above 6.5 percent; provides a $70 million set aside for grants that were not received, considered or rejected solely because of an error by a U.S. employee or officer; contains a 2½ percent setaside for Indian and Alaskan Natives projects to insure a substantial fund for such projects while permitting high-unemployment non-Indian communities a competitive chance to be awarded projects in States with Indian communities; includes the transportation of water to drought-stricken areas within the term "public works project" and permits an applicant who received a grant to substitute one or more projects for the project for which the grant was made under certain conditions approved by the Administrator; requires that all articles, materials and supplies used in a project be produced and made from substances mined or produced in the U.S. except in certain cases; requires a grant applicant to expend 10 percent of the funds for minority business enterprises if available within project areas; requires that priority and preference be given to pending applications resulting in energy conservation; repeals the provision permitting the Secretary to consider the unemployment rate in adjoining areas from which the labor force for a project may be drawn; ensures that all laborers and mechanics employed on projects are paid the prevailing wage rate under the Davis-Bacon Act; requires the Secretary to consider only those applications for grants submitted on or after December 23, 1976, and before the date of enactment except for applications from the Trust Territory of the Pacific, Indian tribes and Alaska Native Villages or any applicant if a sufficient number of applications were not received; requires the Secretary of Commerce to study public works investment in the U.S. and report his findings to Congress within 18 months of enactment; requires the promulgation of regulations assuring special consideration to the employment of qualified disabled and Vietnam-era veterans;

Mandates, in Title II, the obligation of funds for water resource projects for fiscal 1977 (with the exception of the Meramec Dam in Missouri) and states congressional intent not to uphold any prospective budget rescissions or deferrals regarding these projects; provides that the rates of interest or discount used to access the return on Federal investment in projects carried out by the U.S. Army Corps of Engineers or the Department of Interior Bureau of Reclamation be those established by the Water Resources Development Act of 1974 or by prior law authorizing such projects. H.R. 11—Public Law 95–28, approved May 13, 1977. (48, 126)

Youth Employment and Training.—Adds a new youth employment title VIII to the Comprehensive Employment and Training Act of 1973 (CETA), as recommended by the President as part of his economic recovery package, and authorizes such sums as may be necessary to carry out the new title over a 3-year period; creates, in title I, a National Young Adult Conservation Corps to provide work for unemployed youths in the Nation's public lands and water; establishes, in title II, a variety of employment, training, and demonstration programs to explore methods of dealing with the structural unemployment problems of the Nation's youth; authorizes the establishment of youth incentive entitlement pilot projects for economically disadvantaged youth to provide part-time employment and/or training for youths between the ages of 16 and 19 who resume or maintain attendance in secondary school for the purpose of acquiring a high school diploma or its equivalent; authorizes the establishment of youth community conservation and improvements projects to put unemployed youths to work for a period not to exceed 12 months on the rehabilitation or improvement of public facilities, neighborhood improvements, weatherization and basic repairs to low-income housing, and conservation, maintenance, or restoration of natural resources on non-Federal public lands; and authorizes support for employment and training pro-

grams designed to enhance job prospects and career opportunities for young persons, including activities involving useful work experience opportunities in community betterment and appropriate training and services such as outreach, counseling, occupational information, institutional and on-the-job training, and transportation assistance;

Specifies the wage rates to which employed youths are entitled; prohibits full time employment to youths who have not attained the compulsory school attendance age; permits full time employment when school is not in session; requires the Secretary of Labor to submit a report to the Congress on the progress of the programs by March 15, 1978; disregards a youth's earnings in determining the family's eligibility to participate in Federal or Federally-assisted welfare programs;

Requires the Secretary of Labor to take steps to increase CETA participation by disabled veterans and Vietnam-era veterans under 35 years of age; and provides that, in filling teaching positions in public schools with financial assistance under CETA title II (public service employment in high unemployment areas) or title VI (Jobs Corps), each prime sponsor shall give special consideration to unemployed persons with previous teaching experience who are certified by the State and who are otherwise eligible under CETA. H.R. 6138—Public Law 95-93, approved August 5, 1977. (170)

ENERGY

Alaska Pipeline Destruction.—Amends title 18, U.S.C., to make a Federal crime the willful destruction or attempt to destroy the Trans-Alaska pipeline system with a fine of not more than $15,000 and/or 15 years imprisonment. S. 1496—Passed Senate July 18, 1977. (VV)

Alaska Pipeline ("AL-CON").—Approves the President's decision on an Alaska natural gas transportation system submitted to the Congress on September 22, 1977, which authorizes private construction of a natural gas pipeline through Canada, and finds that any environmental impact statements prepared relative to the system and submitted with the President's decision are in compliance with the National Environmental Policy Act of 1969. H.J. Res. 621—Public Law 95- , approved 1977. (VV)

Coal Conversion.—Prohibits certain new electric power plants and major fuel burning installations (MFBI's) capable of a fuel heat rate input of at least 100 million Btu's per hour or an aggregation of units which together are capable of a fuel heat rate input of 250 Btu's per hour from using natural gas or petroleum as their primary energy source except for fuel required for startup testing, flame stabilization, feedstock uses and direct-fire uses;

Requires existing electric powerplants and MFBI's capable of using coal or other fuels with fuel heat input rates of at least 100 million Btu's per hour, or an aggregation of coal capable units of fuel heat input rates exceeding 250 million Btu's per hour, or units which cannot use coal capable of fuel heat input rates of at least 250 Btu's per hour to cease using natural gas as their primary energy source after January 1, 1990, and not to increase the proportional use of natural gas before that date; exempts existing powerplants and MFBI's with fuel rates of less than 300 Btu's from the petroleum provisions;

Provides that any existing facility which uses coal after April 19, 1977, may not increase its use of petroleum unless the appropriate State certifies that such an increase is necessary for compliance to the Clean Air Act; authorizes the Administrator to order existing powerplants and MFBI's capable of using combinations of coal or other fuels with natural gas or petroleum, to use minimal amounts of natural gas or petroleum; prohibits plants using petroleum as the primary energy source as of April 20, 1977, from converting to natural gas; extends coal conversion provisions of the Energy Supply and Environment Coordination Act of 1974 which allows the Administrator to order coal conversions by facilities capable of using coal prior to 1990;

Provides temporary exceptions of up to 5 years to facilities: (1) if coal or fuels other than gas or petroleum are not available; (2) if adequate coal or other fuel transportation facilities are not available; (3) if necessary air pollution equipment and facilities are not available; (4) where the use of natural gas is necessary to achieve or maintain an ambient air quality standard; or (5) if existing plants need additional time to employ synthetic fuels or innovative technologies;

Provides permanent exemptions from the petroleum provisions to facilities: (1) if coal and fuels other than natural gas or petroleum are not available; (2) if the cost of using coal or other fuels substantially exceeds the cost of using oil; (3) if physical, environmental or legal factors preclude compliance; (4) if the facility is constructed for only standby emergency operation; (5) if a cogeneration facility cannot obtain economic and other benefits if coal or other fuels are used; or (6) if such an exemption would be in the public interest;

Provides that new electric peakload powerplants are to be granted permanent exemptions from petroleum prohibitions if the facility will be operated for peakload purposes only, and from natural gas prohibition in any area where a national ambient air quality standard has not or will not be attained; allows intermediate-load powerplants to be exempted from the petroleum prohibitions if constructed in nonattainment areas, if greater than 36-percent efficient, and if convertible to coal derived fuels when available; mandates that permanent exemptions from petroleum prohibitions are to be granted to MFBI's if satisfactory product quality control would be jeopardized or product requirements cannot be met by the use of coal or fuels other than gas and petroleum; requires applicants seeking permanent exemptions for new electric powerplants to consider alternate sites where coal and other fuels could be used or the possibility of purchasing electric power instead of using petroleum;

Requires existing powerplants and MFBI's to file annual compliance reports beginning January 1, 1980; allows electric utility systems using intrastate gas to submit a system compliance report rather than individual reports; empowers the Administrator to compensate any existing facility which in the absence of such compensation would otherwise be entitled to a permanent exemption; authorizes the Administrator to make direct loans and loan guarantees to facilities for air pollution control devices necessitated by coal conversion;

Provides that a facility prevented from using natural gas under contract may sell its rights at a price to be determined, but to include an amount to compensate the company which transports the gas; contains provisions which allow facilities to use natural gas or petroleum in emergency situations; authorizes assistance for additional public facilities and services in regions impacted by coal producton expansion and to report thereon to the Congress; requires the Administrator to monitor coal prices and to report thereon to the Congress; authorizes $100 million for rehabilitation of minor and branch railroad lines which transport coal and coal products; and

Suspends the duty on imports of competition bobsleds and luges. H.R. 5146—Passed House July 18, 1977; Passed Senate amended September 8, 1977; In conference. (356)

Deepwater Ports.—Extends through fiscal year 1980 the annual $2.5 million authorization under the Deepwater Port Act of 1974 which established a licensing and regulatory program governing offshore deepwater port development beyond the territorial limits of the United States. S. 891 (identical to H.R. 6401)—Passed Senate May 17, 1977. H.R. 6401—Public Law 95-36, approved June 1, 1977. (VV)

Department of Energy.—Creates a cabinet-level Department of Energy (DOE) to permit coherent administration of the national energy policy with a Secretary, one Deputy Secretary, one under Secretary (with responsibility for energy conservation), and eight Assistant Secretaries; establishes within the Department (1) the Energy Information Administration to gather, analyze and distribute energy data and to implement a system of mandatory reporting by major energy-producing firms of information related to the economics of energy supply; (2) the Economic Regulatory Administration to administer regulatory functions which the Secretary deems appropriate and which do not fall exclusively within the jurisdiction of the Federal Energy Regulatory Commission; (3) an Office of Inspector General to promote efficiency and prevent fraud and abuse within DOE; (4) the Office of Energy Research; and (5) the Leasing Liaison Committee, composed of an equal number of members from the DOE and the Department of Interior, to provide for cooperation and consultation between the two Departments; provides that the GAO shall audit the DOE;

Transfer of Functions.—Transfers to and vests in the Secretary all functions of the Federal Energy Administration, the Energy Research and Development Administration, and the Federal Power Commission, except those functions transferred to the Federal Energy Regulatory Commission; four Regional Power Marketing administrations and the power-marketing functions of the Bureau of Reclamation currently under the Department of Interior; authority under the Outer Continental Shelf Lands Act, Mineral Lands Leasing Act, Mineral Leasing Act for Acquired Lands, Geothermal Stream Act of 1970 and the Energy Policy and Conservation Act related to the leasing of energy resources onshore and offshore; functions relating to fuel supply and demand analysis currently under the Bureau of Mines; authority for development and promulgation of new building conservation standards now vested in the Secretary of HUD; Commerce Department programs to promote voluntary industrial energy conservation; jurisdiction over three naval oil reserves and three naval oil shale reserves currently administered by the Department of Defense; authority currently vested in the Interstate Commerce Commission related to the transportation of oil by pipelines; and authority to publish guidelines for the Rural Electrification Administration on the issuance of loans or loan guarantees for generation and transmission facilities;

Retains the responsibility for promulgation of automobile efficiency standards within the Department of Transportation, but requires the Secretary of Transportation to give the Energy Secretary 10 days in which to provide written comment on any standard prior to its implementation; leaves responsibility for policing clean air standards with the Environmental Protection Agency; continues responsibility for actual leasing of resources for the extraction of energy sources from public land in Interior, but places control over all economic terms and conditions of such leases in DOE; provides that nothing in the transfer of Federal leasing functions

from Interior to DOE shall be construed as affecting Indian lands and resources or as transferring the responsibility of the Secretary of Interior concerning such lands and resources; requires cabinet-level departments and agencies with conservation responsibilities to designate a principal conservation officer within their Department; provides that the responsibility for the promotion of vanpooling and carpooling shall be transferred to the Secretary of Transportation;

Federal Energy Regulatory Commission.—Creates within the Department, independent of the Secretary's control, a five-member Federal Energy Regulatory Board, with its members appointed by the President, subject to Senate confirmation; prohibits members from engaging in any other business while serving on the Commission; provides that the Commission shall have sole jurisdiction over the establishment and enforcement of rates and charges for the transmission and sale of electricity and natural gas, and authority to license hydroelectric power plants; provides that either the Secretary or the Commission may propose a rule pertaining to functions within the exclusive jurisdiction of the Commission and that the Secretary can set reasonable time limits for completion of a rulemaking proceeding before the Commission; provides that the Secretary shall have jurisdiction over the import and export of natural gas and electricity, emergency interconnections and curtailment priorities;

Provides that the Secretary shall have sole power to propose oil pricing actions, and that all such proposals must be referred immediately to the Commission which has sole power to make such final decisions on the proposal; provides that the Commission can either agree to an oil pricing proposal (in which case the Secretary may issue the rule), amend the proposal (in which case the Secretary may accept the changes and issue the final rule or reject the changes and not issue the rule), or reject the proposal (in which case the Secretary may not issue the rule); provides that during an energy crisis the President may grant the Secretary temporary exclusive pricing authority;

Miscellaneous.—Contains general administrative and procedural provisions governing rulemaking and other proceedings of the Department, and other provisions to eliminate or minimize conflicts of interest within the Department; requires the President to submit a proposed national energy policy plan by April 1, 1979, to be updated biennially thereafter; provides that the act shall become effective 120 days after the Secretary assumes office, or earlier as the President may prescribe; and requires the President to submit to the Congress a comprehensive review of each program in the Department by January 15, 1982, for Congressional review with respect to authorizing legislation for fiscal year 1983. S. 826—Public Law 95–91, approved August 4, 1977. (148, 323)

ERDA Nonnuclear Authorization—Civilian, 1977.—Authorizes a total of $4,946,261,000 for the Energy Research and Development Administration for fiscal year 1977, of which $1,175,671,000 is designated for nonnuclear scientific research and programs, and $3,770,590,000 is designated for non-weapon nuclear scientific research programs; includes: $461,801,000 for fossil energy; $286.2 million for solar energy; $65.7 million for geothermal energy; $221 million for conservation research and development; $10 million for a high Btu pipeline gas demonstration plant; $5 million for a fuel gas low Btu demonstration plant; and $10 million for solar energy projects; authorizes funds for numerous plans to make improvements to comply with safety regulations; contains authorizations for capital equipment not related to construction to replace obsolete or worn-out equipment and to purchase certain new equipment to meet the needs of expanding programs and new technology at ERDA installations; provides an additional $50 million for the clean boiler fuel demonstration plant authorized by Public Law 94–187 and $15 million for the 5 megawatt solar thermal test facility authorized by Public Law 94–187; provides guidelines under which funds for fossil energy programs may be utilized; deauthorizes authorized fossil energy projects which were not appropriated within 3 full fiscal years; allows the Administrator to assist in the demonstration of the production of synthesis gas, methane, methanol, anhydrous ammonia, and similar energy intensive products from municipal waste by entering into agreements with units of local government or persons proposing to construct facilities for the manufacture of such products; provides authority by which ERDA may reprogram funds between major program areas; directs ERDA to relate the funds authorized and appropriated in annual authorization and appropriation measures to the objectives and goals of the various enabling legislation under which the Agency operates; amends the Federal Nonnuclear Energy Research and Development Act of 1974 to transfer responsibility for preparation of demonstration project water assessments from ERDA to the Water Resources Council; requires the Administration to classify the recipients of ERDA contracts into various categories including: Federal agency, non-Federal governmental entity, profitmaking enterprise, nonprofit enterprise, and nonprofit education institution; authorizes the establishment of a small grants program to promote the research, development, and demonstration of energy related systems and technologies appropriate to the needs of local communities; requires the Administrator, in consultation with EPA, to report to the Congress on the environmental monitoring, assessment and control efforts related to its various energy demonstration projects;

Authorizes $464,302,000 for work in biomedical and environmental research, operational safety, environmental control technology, the materials sciences, and molecular mathematical and geosciences portion of the basic energy sciences program and program support; provides $26.7 million for plant and capital equipment obligations including construction, acquisition, or modification of facilities, land acquisition, and acquisition and fabrication of capital equipment not related to construction; prohibits ERDA from starting projects if the current estimated cost exceeds the original estimated cost by more than 25 percent;

Authorizes ERDA to transfer sums from its "Operating Expenses" to other agencies for work for which the moneys were appropriated; authorizes "Operating Expenses" and "Plant and Capital Equipment" as no year funds; authorizes any Government-owned contractor operated laboratory, energy research center or other laboratory performing functions under contract to ERDA to use a reasonable portion of its operating budget for funding employee suggested research projects up to the pilot plant state of development; permits ERDA to contract for advanced architect/Administrator services for construction projects essential to meet the needs of national defense or the protection of life, property, health or safety prior to congressional authorization; requires any officer or employee of ERDA in a policy making position to report certain known financial interests in various energy technologies and related resources; directs the Administrator to develop regulations that would avoid conflicts of interest in ERDA contracts with private persons or organizations involved in energy research and development; and authorizes the establishment of a National Energy Extension Service. S. 36—Public Law 95–39, approved June 3, 1977. (VV)

ERDA Nonnuclear Authorization—Civilian, 1978.—Authorizes a total of $2,496,762,000 for fiscal year 1978 for ERDA nonnuclear related programs and certain support activities for both nuclear and nonnuclear programs; provides $977.15 million for the fossil energy development program to direct research of extraction, utilization, and conversion of coal, oil and natural gas, and oil shale and in-site coal gasification (of which $88 million is for research in magnetohydrodynamics); $131.8 million for the geothermal energy development program: $384 million for solar energy development programs (of which $7.5 million is earmarked for design works for small community applications); $372.8 million for energy conservation research and development programs to develop and demonstrate technologies for end-use conservation and conversion efficiency; $249.9 million for the environmental research and development program to assure that environmental, health and safety standards are maintained as new energy technologies are introduced; and $379.4 million for general program management and support. S. 1340—Passed Senate June 13, 1977. NOTE: (Comparable provisions are contained in S. 1811 which became Public Law 95– .) (195)

ERDA Nuclear Authorization—Joint Applications.—Authorizes $392,050,000 for fiscal year 1978 for operating expenses and plant and capital equipment for three ERDA military programs (laser fusion, space applications and naval reactors) which have potential for civilian energy applications. S. 1341—Passed Senate June 29, 1977. (VV)

ERDA Nuclear Authorization—Military.—Authorizes a total of $1,780,436,000 for fiscal year 1977 and $2,030,144,000 for fiscal year 1978 for certain Energy Research and Development Administration (ERDA) programs which have military applications; includes funding of the three national defense programs: (1) weapons activities—supporting the operation of the three weapons laboratories; research on advanced weapons and the full scale development of the following 7 weapons—B–61 and B–61–4 tactical bombs, Trident I missile warhead, full fuzing option strategic bomb, Mark 12–A warhead, 8-inch artillery projectile, and common warhead for land attack cruise missiles and short range attack missile; continued development of improved nuclear test detection methods necessary to monitor compliance with the limited Test Ban Treaty, Threshold Test Ban Treaty and Peaceful Nuclear Explosives Treaty; operation of the Nevada Test Site and the related costs of tests of advanced weapons concepts; maintenance and reliability assessment of the current weapons stockpile, production engineering for new weapons, nuclear materials recycle and recovery and security measures to protect nuclear shipments; and production of the following 9 new weapons for the war reserve: B–61–3, B–61–4, and B–61–5 tactical bombs, Lance enhanced radiation warhead, Trident I missile warhead, full fuzing option strategic bomb, Mark 12–A warhead, 8-inch artillery projectile, and common warhead for the land attack cruise missiles and the short range attack missile; (2) special materials production—supporting 3 reactors which produce enriched weapons grade uranium, plutonium and tritium; R & D associated with special materials production and management of radioactive wastes; and surveillance, maintenance and management of production reactor waste; and (3) nuclear explosives applications—supporting develop-

ment of understanding of applications of nuclear explosives for peaceful purposes; includes $411,344,000 for plant and capital equipment; provides for cost variations in the authorized amounts for projects; provides authority to merge funds appropriated in different years for the same requirement category; directs that funds appropriated pursuant to this act remain available until expended; authorizes ERDA to proceed to design any project subject to the total amount authorized for the activity; authorizes ERDA to retain monies received from outside sources and use them for operating funds; and authorizes ERDA to transfer funds to other agencies supporting its programs. S. 1339—Passed Senate May 22, 1977; Passed House amended September 29, 1977; Senate agreed to conference report November 2, 1977. (VV)

ERDA Nuclear/Nonnuclear Authorization—Civilian.—Authorizes a total of $6,161,445,000 for civilian energy research and development and plant and capital equipment for the Energy Research and Development Administration for fiscal year 1978; includes $636.6 million for R&D in Fossil energy, $344.9 million for solar energy, $124.5 million for geothermal energy, and $228.8 million for nuclear research; includes $80 million for the Clinch River Breeder Reactor with the sitpulation that funds not be used to terminate or plan to terminate the project; authorizes a program whereby the Administrator may guarantee loans for the conversion of biomass into desirable forms of energy including synthetic fuels with the outstanding indebtedness not to exceed $300 million at any one time and a loan guarantee program for the demonstration of technologies to produce alternative fuels from coal, oil shale and other domestic resources; prohibits the use of funds to return any foreign spent nuclear fuel to the United States except in an emergency with Congress given the opportunity to disapprove the return; changes the basis for government charge for uranium enrichment services to prevent unreasonable increases in the price or uranium; and contains other provisions. S. 1811—Public Law 95– , approved 1977. (VV)

ERDA Synthetic Fuel Loan Guarantee Program.—Amends the Federal Nonnuclear Energy Research and Development Act of 1974 to establish a loan guarantee program to be administered by the Energy Research and Development Administration (ERDA) whereby the Administrator may guarantee the payment of interest and principal of bonds, debentures, notes, and other obligations issued for the purpose of financing the construction and initial operation of commercial-sized demonstration facilities for the conversion of biomass into synthetic fuel or other useable forms of energy; authorizes guarantees of up to 75 percent of the total project cost and, during the construction and start up period, up to 90 percent; limits the total outstanding indebtedness that may be guaranteed at any one time to $300 million; requires ERDA, before approving an application, to notify the appropriate State and local governmental officials and to give the Governor of the State an opportunity to make his recommendation respecting the facility; prohibits ERDA from guaranteeing a project if the Governor recommends against it; authorizes the Administrator, in the event of default, to complete the project and assume management of the facility including the authority to sell the products or energy produced; provides that any patents and technology resulting from the facility will be treated as assets in cases of default and requires that the guarantee agreement contain a provision assuring their availability to the Government if needed to complete the facility; and requires ERDA to submit a report of the proposed guarantee and facility to the appropriate committees of Congress which shall have 90 days to disapprove by passage of a disapproval resolution. S. 37—Passed Senate March 31, 1977. (VV)

Energy Conservation Policy.—Establishes both voluntary and mandatory energy conservation programs designed to significantly reduce the rate of growth in domestic energy consumption;

Residential Provisions.—Requires electric and natural gas companies, pursuant to a plan filed with the FEA by each governor, to (1) offer to inspect and advise each customer about the energy conservation measures appropriate to the residential building that the customer owns or occupies, (2) provide the customer with a list of installation contractors and lending institutions which have been certified under the provisions of the State plan, (3) arrange, at the request of the customer, for the installation and financing of the measure chosen and collect from the customer the associated costs on a regular utility billing cycle; requires unregulated utilities to file individual plans directly with the administrator; prohibits any electric and natural gas utility company from installing or financing energy conservation measures unless it provided these services prior to enactment or unless State law requires or explicitly permits a utility to do so;

Amends the National Housing Act to include public utilities allowed to provide financing for conservation measures as financial and lending institutions under the home improvement loan program; authorizes the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association to purchase loans for residential energy conservation measures; authorizes the Government National Mortgage Association to purchase up to $15 billion in 90 percent federally-insured loans for residential conservation loans of up to $2500 to be granted to persons of all income groups; establishes a revolving fund of $100 million administred by the Secretary of HUD to provide loans for installation of residential solar heating and cooling equipment; establishes a loan program within HUD for energy conservation improvements to multi-family housing;

Consumer Products Efficiency Standards.—Requires the Administrator of the FEA to establish mandatory energy efficiency standards by January 1, 1980, for refrigerators, refrigerator-freezers, freezers, water heaters, room air-conditioners, furnaces and other home heating equipment, and clothes dryers; grants discretionary authority to the FEA Administrator to set standards for dishwashers, televisions, clothes washers, humidifiers, dehumidifiers, and other products which consume at least 150 kwh/year per household or 4.2 billion kwh per year; exempts small businesses from the standards for up to two years; provides that State standards shall be superceded whenever a Federal standard is implemented; allows a State or a manufacturer to appeal to the Administrator regarding a standard;

Federal Energy Initiatives.—Authorizes $15 million per year for fiscal years 1978, 1979, 1980, and 1981, and $3 million for fiscal year 1982 for the establishment of a vanpooling program for Federal employees to be administered by the FEA; allows the General Services Administration (GSA) to acquire 6,000 vans for the vanpooling program; provides that charges for participation in the program are to be adjusted so that all costs to the government will be repaid within 8 years;

Requires GSA to establish life cycle capital and operating cost methods for all Federal buildings; provides that in leasing buildings, the Federal government must give preference to buildings with solar heating and cooling equipment or energy efficient buildings; authorizes $100 million through fiscal year 1980 for development by the FEA of a program to demonstrate solar heating and cooling in Federal buildings; authorizes $98 million through September 30, 1981, for procurement by the FEA of photovoltaic solar electric generation systems; provides that all passenger vehicles purchased by the Federal government must be equipped, to the extent possible, with passive restraint systems;

Additional Programs.—Requires the FEA to set energy efficiency standards for new industrial electric motors and pumps and to develop the procedures and labeling requirements for fourteen other categories of energy intensive industrial equipment within specified time periods; allows the FEA Administrator discretionary authority as to which classes of pumps and motors and other categories shall have standards mandated; sets minimum mileage standards for new automobiles of 16 miles per gallon in model year 1980, 17 mpg in 1981, 18 mpg in 1982, 19 mpg in 1983, 20 mpg in 1984, and 21 mpg in 1985; sets penalties for noncompliance with absolute automobile efficiency standards and doubles penalties for noncompliance with fleet average fuel economy requirements; authorizes $100 million per year for fiscal years 1979 and 1980 to continue energy conservation programs operated by State governments through Federal grant programs established by the Energy Policy and Conservation Act of 1975; authorizes $65 million for fiscal year 1978 and 1979 to assist local governments in planning and implementing energy conservation measures in buildings other than schools or hospitals;

Energy Saving Grants for Schools.—Adds the provisions contained in S. 701. Energy Saving Grants for Schools, which passed the Senate on July 20, 1977, which establishes, for fiscal years 1978–1981, the following three programs of matching grants to provide Federal financial assistance to institutions of higher education, public elementary and secondary schools to assist them in meeting the emergency caused by the high costs of fuel, fuel shortages, and harsh weather conditions: $300 million for energy conservation measures including insulation, remodeling and renovation (50 percent Federal—50 percent applicant); $50 million for demonstration projects for innovated energy conservation projects (66⅔ Federal—33⅓ percent applicant); and $150 million for technical assistance for energy saving programs involving planning, studies or the temporary employment of special personnel (50 percent Federal—50 percent applicant). H.R. 5037—Passed House July 18, 1977; Passed Senate amended September 13, 1977. (Note: H.R. 5037 was a private bill to which the Senate attached the Energy Conservation Act, S. 2057, and the Energy Saving Grants for Schools, S. 701.)

Energy Saving Grants for Schools.—Establishes, for fiscal years 1978–1981, the following three programs of matching grants to provide Federal financial assistance to institutions of higher education, public elementary and secondary schools and private non-profit emergency caused by the high costs of fuel, fuel shortages, and harsh weather conditions: $300 million for energy conservation measures including insulation, remodeling and renovation (50 percent Federal—50 percent applicant); $50 million for demonstration projects for innovated energy conservation projects (66⅔ percent Federal—33⅓ percent applicant); and $150 million for technical assistance for energy saving programs involving planning, studies or the temporary employment of special personnel (50 percent Federal—50 percent applicant). S. 701—Passed Senate July 20, 1977.

NOTE: (Comparable provisions are contained in H.R. 5037, Energy Conservation.) (VV)

Energy Taxes.—Sets forth an energy taxation policy to encourage energy conservation, expansion of domestic energy sources, and conversion to coal fuel sources by utilities and industrial installations;

Residential Tax Credits.—Includes a refundable tax credit of 20 percent of the initial $2,000 of expenditures on home insulation and other residential energy conserving components for a maximum credit of $400; provides a refundable tax credit of up to $75 per year for persons 65 years and older for residential energy costs; entitles homeowners to a refundable tax credit for renewable energy source equipment, which includes solar, wind and geothermal energy systems of 30 percent of the first $2,000 of expenditures and 20 percent of the next, $8,000 for a maximum credit of $2,200; provides, through 1982, a refundable tax credit of 25 percent of the cost of home heating oil, with a maximum annual credit of $150.

Business Energy Investment Credit.—Contains a business energy investment credit which provides an additional 15 percent refundable credit for certain alternate energy property (equipment involved in the use of a substance as a fuel or feedstock other than oil, natural gas, or a derived product) and an additional 10% refundable credit for certain specially defined energy property (equipment which reduces energy consumption when added to an existing production or processing) during the period between April 19, 1977 and January 1, 1986; provides that charitable, educational, religious and other tax exempt organizations, as well as State and local governments, are eligible to receive the credit;

Additional Incentives.—Contains language which is intended to give the conferees flexibility, with respect to any new taxes which may be in the bill agreed to by the conferees, to use a portion of the revenues raised by such taxes to provide tax and other economic incentives for increased production, conservation, and conversion;

Oil and Gas Users Tax.—Imposes an excise tax on the industrial and utility use of oil and natural gas of $6 per barrel by 1985 or the equivalent amount to bring gas to the same price; limits this tax to new electric powerplants and major fuel-burning installations and existing facilities which are capable of burning coal;

Energy Trust Fund.—Provides that a portion of any funds which may be raised by new taxes in the bill be used for an energy trust fund, to finance outlays for energy production, energy conservation and energy-efficient forms of transportation;

Other tax provisions.—Extends through September 30, 1985, the existing 4-cent-per-gallon tax on gasoline and other motor fuels, which otherwise is scheduled to decline to 1½ cents per gallon after September 30, 1979; removes the 2-cents-per-gallon refund or credit for gasoline and other fuels for motorboat and other nonbusiness, off-highway use; exempts from the 4-cent gasoline tax gasoline-alcohol blends (gasahol) if such blends contain at least 10 percent ethanol and/or methanol and if the alcohol is made from agricultural or forestry products, and reduces the tax rate to 3 cents per gallon for gasahol containing alcohol made from other products (such as coal); contains a $300 tax credit for the purchase of electric cars for personal use; provides an exemption from income tax of employees for energy-efficient transportation provided by employers; exempts rerefined lubricating oil from the excise tax on new oil; extends the existing 10-percent investment tax credit to business insulation; increases the rate of percentage depletion from 5 percent to 10 percent for peat used directly or indirectly for fuel; allows percentage depletion and expensing of intangible drilling costs for geothermal energy rules similar to existing provisions for oil and gas; provides 10-percent depletion and expensing of intangible drilling costs and geological and geophysical costs for geopressurized methane gas; contains a $3 per barrel tax credit for production of shale oil, and a 50-cent per mcf credit for production of geopressurized methane gas and gas from other nonconventional sources; provides a permanent exemption from the minimum tax for intangible drilling costs to the extent of oil and natural gas production income; allows a tax exemption for industrial development bonds used for bioconversion facilities and for coal liquifaction and gasification facilities;

Nontax provisions.—Requires an annual report to the Congress by the President on the energy saving and revenue effects of the bill; and limits the President's power to impose tariffs, license fees, or quotas on crude oil imports to wartime or actual hostilities and limits his authority to adjust imports of refined petroleum products to adjustments necessary for national security, and allows a two-House veto by Congress within 30 days. H.R. 5263—Passed House July 18, 1977; Passed Senate amended October 31, 1977. (606)

Federal Energy Administration Authorization.—Extends through fiscal year 1978 the authorities under the Federal Energy Administration Act; includes $1.210 billion to permit 250 million barrels of crude oil to be placed in the Strategic Petroleum Reserve by the end of calendar year 1978; contains $1.8 million for the appliance labeling program under the Energy Supply and Environmental Coordination Act of 1974 and extends FEA's authority to require certain facilities which presently burn oil and gas to convert to coal; adds provisions limiting the powers of the regional counsels of FEA; establishes general procedures to be followed with respect to the use of commercial standards by the FEA; and requires the Administrator within 120 days of enactment, to publish regulations which would require prospective FEA contractors to disclose all relevant data which could cause a possible conflict of interest in carrying out activities for FEA. S. 1468—Public Law 95–70, approved July 21, 1977. (VV)

Natural Gas Emergency.—Authorizes the President to declare a natural gas emergency if he finds that a severe shortage exists or is imminent in the United States which would endanger the supply of natural gas for high-priority uses and the exercise of his authorities is reasonably necessary to assist in meeting requirements for such uses; provides that these authorities shall terminate when the President finds that shortages no longer exist and are no longer imminent;

Emergency Allocation.—Authorizes the President, during a declared natural gas emergency, to require (1) any interstate pipeline to make emergency deliveries or transport interstate natural gas to any other interstate pipeline or a local distribution company served by an interstate pipeline; (2) any interstate pipeline to transport interstate natural gas from one interstate pipeline to another or to any local distribution company served by an interstate pipeline; or (3) the construction and operation by any pipeline of necessary facilities to effect deliveries or transportation; directs the President, in issuing such orders, to consider the availability of alternative fuel to users of the interstate pipeline ordered to make deliveries and to determine that they would not have an adverse effect on the natural gas supply or exceed the transportation capacity of the pipeline; provides that these authorities shall terminate by April 30, 1977, or after the President terminates the emergency, whichever is earlier;

Emergency Sales at Deregulated Prices.—Authorizes interstate pipelines or local distribution companies to purchase supplies of natural gas for delivery before August 1, 1977, from intrastate pipelines at unregulated prices as reviewed by the President for fairness and equity; provides that these purchases could be delivered from intrastate pipelines and any producer of natural gas not affiliated with an interstate pipeline unless such natural gas was produced from the Outer Continental Shelf, and the sale or transportation of the gas was not, immediately prior to the date of the contract for purchase of the gas, certificated under the Natural Gas Act; authorizes the President to require, by order, any interstate or intrastate pipeline to transport gas and operate facilities necessary to carry out emergency purchase contracts;

Miscellaneous.—Authorizes the President to subpoena information to carry out his authority under the Act; contains antitrust protection provisions available as a defense against civil or criminal action brought against any person for violation of the antitrust laws with respect to action taken pursuant to a Presidential order; gives the Temporary Emergency Court of Appeals exclusive jurisdiction to review all cases including any order issued or other action taken under this act; imposes civil penalties of up to $25,000 a day for violations of orders and $50,000 a day for willful violations; directs the President to require weekly reports which shall be made available to the Congress on prices and volume of natural gas delivered, transported or contracted for, and to report to Congress by October 1, 1977, on all actions taken under this act; and authorizes the President to delegate all or any portion of the authority granted to him to such executive agencies or officers he deems appropriate. S. 474—Public Law 95–2, approved February 2, 1977. (21).

Natural Gas Pricing.—Amends and extends the Natural Gas Act altering the pricing structure of domestic natural gas in order to encourage increased development, production, and conservation of U.S. natural gas resources;

New Onshore Natural Gas.—Provides that for the next two years the price of new onshore natural gas shall not exceed the current cost of No. 2 fuel oil (approximately $2.01 per thousand cubic feet at the beginning of 1978) as determined by the Federal Energy Regulatory Commission (FERC) and thereafter deregulates the price of new onshore natural gas; defines "new natural gas" as gas which is sold or delivered in interstate commerce for the first time on or after January 1, 1977, including reservoirs discovered by deeper drilling of an existing well, or gas produced from wells initiated on or after January 1, 1977, and completed within an extension of a previously discovered reservoir regardless of whether or not the leases covering the previously discovered reservoirs were committed to the interstate market; excludes from the definition of new natural gas that gas from reservoirs with wells prior to January 1, 1977, which was wrongfully withheld from sale or delivery in anticipation of higher prices.

OCS New Gas.—Authorizes FERC to establish national price ceilings on new natural gas from the Outer Continental Shelf (OCS) sold or delivered on or after January 1, 1977, through December 31, 1982, and deregulates new offshore natural gas thereafter; provides that FERC shall consider the following factors when setting the national price ceiling on new offshore gas; (1) the prospective costs of exploration, development, production, gathering, and sale of new OCS gas; (2) the rates necessary to encourage optimum development of OCS gas resources; (3) the rates necessary to promote sound conservation practices in natural gas consumption; and

(4) the rates necessary to protect consumers from prices in excess of what is necessary to achieve the goals of increased production and conservation; authorizes FERC to allow prices in excess of the national ceilings for new offshore gas which is unusually expensive to extract or produce; requires FERC, pending the establishment of a national price ceiling, to issue on a monthly basis, interim price ceilings for new offshore gas equivalent to the average first sale price for domestic new crude oil (approximately $2.67 per thousand cubic feet at the beginning of 1978); provides that any company which sells or delivers gas while the interim price ceiling is in effect shall have the benefit of the national ceiling thereafter if it is higher, but shall not have to reduce its rates for such deliveries or sales if the national ceiling is lower;

Curtailment.—Provides that, in cases of natural gas curtailment, residential users, small users, hospitals, and similar users vital to public health and safety shall have first priority to available natural gas; users who need gas to perform essential agricultural, food processing, and food-packaging purposes shall have second priority, and industrial users for which natural gas is essential for users (other than boiler fuel) for which there is no practical substitute shall have third priority; specifies certain limitations on FERC in implementing curtailment policies;

Incremental Pricing.—Provides for incremental pricing whereby companies which transport gas must allocate for rate purposes the cost of lower priced old oil to residential users, small users utilizing less than 50 mcf on a peak day, users performing functions vital to public health and safety, and essential agricultural users until the resulting rates to low-priority users for natural gas equals the costs of substitute fuel oil;

Contains provisions requiring the commission to report to the Congress annually on specified aspects of natural gas pricing policies. H.R. 5289—Passed House July 18, 1977; Passed Senate amended October 4, 1977; In conference. (VV)

Outer Continental Shelf.—Declares that the Outer Continental Shelf (OCS) is a vital national resource reserve held by the Federal Government for all the people, which should be made available for expeditious and orderly development, subject to environmental safeguards, in a manner consistent with maintenance of competition and other national needs; directs the Secretary of Interior to prepare a five-year comprehensive leasing program to facilitate environmentally-safe development of the OCS while assuring receipt of fair market value for publicly owned oil and gas resources; provides a mechanism for separation of exploration from development and production so that Federal, State, and local government officials can assess the political, environmental, social, and economic impact of proposed development in order to resolve any problems prior to production; contains other provisions to increase Coastal states participation in OCS policy development; directs the Secretary of Interior to contract for exploratory drilling where he determines that such drilling is necessary to gain better information about OCS reserves; requires an independent Presidential investigation of all domestic crude oil and natural gas; authorizes the Secretary to modify the bidding system with the proviso that either House of Congress may veto any such change; reduces the maximum amount of bonus bids permitted under the law from 66.67 percent to 50 percent and requires the use of new leasing systems on an experimental basis; provides that at least 20 percent of offshore production be set aside for independent refiners;

Provides that an OCS lessee is liable for the total cost of control and removal of spilled oil; creates a new strict liability rule for damages from oil spills from any offshore facility or any vessel carrying oil produced offshore; sets maximum liability amounts for a lessee or holder of a right-of-way at $35 million and for a vessel owner at $150 per gross registered ton unless such damage resulted from gross negligence or willful misconduct or violation of a safety or construction regulation; creates the Offshore Oil Compensation Fund, which is liable for the balance of damage and which receives its funds from a fee of 3 cents per barrel on oil produced from the OCS; requires that any company permitted to conduct exploratory activities on the OCS submit to the Government all data which it collected about oil and gas resources, including interpretive data, and requires the Secretary to keep all proprietary data confidential until public availability of the data would not damage the competitive position of the permittee; directs the Secretary and the Coast Guard to establish safety and environmental protection standards for equipment used for development of OCS resources; increases criminal penalties for willful violations of the act; and establishes a Fishermen Contingency Fund to provide compensation for damage to commercial fishing vessels and gear caused by OCS development. S. 9—Passed Senate July 15, 1977. (293)

Pipeline Destruction.—Amends title 18, U.S.C., to make a Federal crime the willful destruction or attempt to destroy any interstate pipeline system used in the transportation of gas or oil in interstate commerce with a fine of not more than $15,000 and/or 15 years imprisonment. S. 1502—Passed Senate July 18, 1977. (VV)

Public Utility Rate Reform—Requires State regulatory authorities and non-regulated utilities which have sales of more than 750 million kilowatt-hours of electricity annually or 10 billion cubic feet of natural gas annually, to provide, on a bi-annual basis, information to the Secretary of Energy covering those factors which affect daily and seasonal peak loads, the costs of serving various classes of consumers, and varying consumption patterns within a service area; authorizes the Secretary to reimburse a regulatory authority or utility for the costs of gathering required information which it does not already collect; allows the Secretary to exempt parties from the reporting requirements;

Authorizes the Secretary to intervene at his own initiative in proceedings before a state regulatory authority or in administrative proceedings by a non-regulated utility which relate to utility rates or rate design in order to advocate policies which will encourage energy conservation, optimize efficient use of electric generation facilities, and encourage equitable rates to consumers; provides that the Secretary may appeal or seek judicial relief from decisions on rate making by state regulatory commissions only at the invitation of a party in the proceeding; authorizes the Secretary to give written notice of his recommendations in cases where non-regulated utilities set rates without any proceedings open to intervention; requires the Secretary to examine methods used by utilities for determining the costs of service and to analyze the extent to which such methods reveal the costs attributable to daily and seasonal demand and the probable impact upon costs of additional peak-period capacity, additional gross demand, or additional service connections; requires the Secretary to consider the potential advantages of load management systems and rate-making methods including but not limited to cost of service rates, elimination of declining block rates, time-of-day rates, mechanical load management systems, seasonal rates and interruptible rates to commercial or industrial customers; requires FEA to file an annual report to Congress on activities relating to electric utility rate provisions of the act;

Provides that utilities must extend to persons 62 years of age and older a basic amount of electricity at the lowest cost afforded any other class of consumer, and requires the Department of Energy to explore long-run incremental pricing as an alternate utility rate design.

Directs the Secretary, in consultation with the Federal Energy Regulatory Commission, to carry out a study and report to Congress on gas utility rate design; requires the Secretary to develop and transmit to Congress within 12 months proposals to improve gas utility rate design;

Requires the Secretary to recommend guidelines to State regulatory authorities for requiring State regulated electric utilities to purchase and sell electricity to qualifying cogenerators or small power producers; provides the Secretary with authority to exempt cogenerators and small power producers with capacity below 30 megawatts from Federal regulation as an incentive to achieve the purposes of the act; provides that no exemption may be granted to any power producer who intends to offer for sale output of more than 30 megawatts of generating capacity at any single geographical site;

Requires the Secretary to report to Congress within 270 days after enactment on the additional financial burden the act will place on State regulatory authorities; establishes the National Regulatory Research Institute, which is to be a non-profit unit of the Ohio State University, to provide economic and technical research to State regulatory authorities on utility regulation issues; exempts certain low-head hydroelectric demonstration projects from the requirement to obtain a license under the Federal Power Act; authorizes $10 million to enable the Secretary to make loans for feasibility studies for small hydroelectric projects and existing dams to municipalities, electric cooperatives, industrial development agencies, non-profit organizations, and any other persons; provides that a gas utility may keep any gas which it saves through conservation measures for use in the same service area; authorizes such sums as necessary to carry out the act for fiscal years 1979, 1980, and 1981; authorizes such sums as necessary to carry out provisions of title II of the Energy Conservation and Production Act relating to electric utility rate design for fiscal years 1979 and 1980, and to establish the National Regulatory Research Institute; and

Suspends until the close of June 30, 1980, the duty on certain doxorubin hydrochloride antibiotics. H.R. 4018—Passed House July 18, 1977; Passed Senate amended October 6, 1977; In conference. (533)

Radiation Exposure.—Extends the program of the Energy Research and Development Administration (ERDA) to provide financial assistance to limit radiation exposure resulting from the widespread use of sand containing mill tailings in the construction of approximately 500 public and private buildings in the Grand Junction, Colorado area; calls for a cooperative arrangement with the State of Colorado whereby ERDA is authorized to provide 75 percent of the costs of the program; extends the deadline for applying for remedial work under the program from 4 to 7 years; provides that property owners who removed mill tailings at their own expense prior to the date of enactment and without the administrative determination required may apply for such reimbursement within the first year of enactment; permits the State of Colorado to waive the requirement that it perform the remedial work; and increases the au-

thorization therefor from $5 million to $8 million. S. 266—Passed Senate April 4, 1977. (VV)

Stripmining Control and Reclamation.—Establishes a program for the regulation of coal surface mining activities and the reclamation of coal mined lands, under the administration of the Office of Surface Mining Reclamation and Enforcement in the Interior Department, to assure that surface coal mining operations—including exploration activities and the surface effects of underground mining—are conducted so as to prevent or minimize degradation to the environment and that such surface coal mining is not conducted where reclamation is not feasible; sets forth a series of minimum uniform requirements for all coal surface mining on both Federal and state lands which deal with (1) preplanning (requires that an operator applying for a permit do certain research regarding adjacent land uses, the characteristics of the coal and the overburden, and hydrologic conditions and requires inclusion in his application of the planned methodology and timetable for the operation in a reclamation plan); (2) mining practices (requires that mining methods be used which will minimize or obviate environmental damage or injuries to public health and safety including restrictions on the placement of overburden, blasting regulations, water pollution control requirements, and waste disposal standards); and (3) postmining reclamation (requires reclamation and restoration of the mined land to its premined condition including backfilling and regrading to approximate original contour, restoration of water quality and quantity, revegetation to pre-mining conditions and elimination of erosion and sedimentation with certain exceptions) provides that these minimum Federal standards be administered and enforced by the States and by the Secretary of the Interior on public lands; authorizes funds to assist States in improving their regulatory and enforcement programs; provides for Federal enforcement of a State program if a State fails to comply with the Act;

Authorizes $200,000 in 1978, $300,000 in 1979 and $400,000 thereafter for 5 years in matching funds to each State to establish a state mining and mineral resources research institute to conduct research and train mineral engineers and scientists;

Provides for the protection of scarce and vital water resources in the permit application requirements, reclamation standards and provisions for designation of areas unsuitable for mining; provides for a mechanism on both State and Federal lands for citizens to petition that certain areas be designated as unsuitable for surface coal mining; prohibits stripmining of lands which cannot be reclaimed under the standards of the Act; prohibits stripmining in national parks and recreational areas (except for such lands which do not have significant forest cover within those national forests west of the 100th meridian) and areas which would adversely affect such parks; prohibits stripmining 300 feet from an occupied building, 100 feet from a public road, or 500 feet from an underground mine; permits certain variances to the mining-reclamation standards of the bill;

Requires with regard to lands where the Federal government owns the coal but not the surface estate that the surface owner must give written consent to the stripmining of the Federally-owned coal deposits; provides that if the surface and mineral estates are in private ownership, disputes shall be settled by State law;

Requires the Secretary of Interior to issue interim regulations for environmental standards within 90 days; waives provisions of the National Environmental Policy Act of permanent standards one year after enactment; requires EPA approval of air and water quality regulations; requires compliance by all new mines within 6 months; exempts mining operators with under 100,000 tons annual production from compliance with the interim environmental standards until January 1, 1979;

Bans strip mining on alluvial valley floors if it disrupts farming and the quantity and quality of the water supply except for (1) undeveloped range lands which are not significant to farming; (2) those lands the regulatory authority finds have neglible impact on the agricultural production of the affected farm; and (3) those surface coal mining operations in commercial production during the past year or for which a permit has been approved prior to enactment; requires a coal exchange program for fee coal located in alluvial valleys;

Requires that applicants seeking to stripmine on prime farmland demonstrate to the State regulatory authority that they have the technological capability to restore the mined area, within a reasonable time, to equivalent or higher levels of yield as nonmined prime farmland soils in the surrounding area under equivalent levels of management;

Establishes a fund to be used to reclaim abandoned mined lands which will be derived from a reclamation fee levied on every ton of coal mined at 35 cents per ton for surface mined coal and 15 cents per ton for all coal mined by underground methods or 10 percent of the value of the coal at the mine, whichever is less; requires that 50 percent of all fees must be allocated to the State or Indian reservation from which it was mined; applies to lignite coal a fee of the lesser of either 10 cents per ton or two percent of the value of the coal;

Provides that, beginning no later than 6 months from the date of enactment continuing until a State program has been approved or a Federal program has been implemented, the Secretary is required to carry out a Federal enforcement program which includes inspection and enforcement actions in accordance with the act; and contains comprehensive provisions for inspections, enforcement notices and orders, administrative and judicial review, penalties, and citizen participation. H.R. 2—Public Law 95-87, approved August 3, 1977.

ENVIRONMENT

Clean air.—Amends the Clean Air Act, as amended, as follows:

Auto Emission Standards.—Extends for 2 additional years, for model years 1978 and 1979, the existing interim auto emission standards of 1.5 grams per mile for hydrocarbons (HC), 15 grams for carbon monoxide (CO), and 2 grams for nitrogen oxides (NO_x); requires 1980 model cars to meet emission standards of .41 gram for HC, 7 grams for CO, and 2 grams for NO_x; requires 1981 model cars to meet the final emission standards set by the 1970 Clean Air Act of .41 grams for HC, 3.4 grams for CO, and 1 gram for NO_x; authorizes EPA to waive the 1 NO_x standard to a level not to exceed 1.5 grams per mile beginning in model year 1981 (1) to encourage the production of new engines (such as the diesel) and emission systems not using precious metal catalysts, or (2) for small manufacturers who produce less than 300,000 cars and who must purchase this pollution control technology from another manufacturer (American Motors); authorizes EPA to grant a 2-year waiver of the CO standard to 7 grams; reduces warranties for emission-control devices from 5 years and/or 50,000 miles to two years and/or 24,000 miles;

Delayed Compliance.—Authorizes EPA and the States to issue enforcement orders extending compliance schedules for stationary sources until July 1, 1979; limits extension of compliance to nor more than 3 years delay, except in case of innovative technology (5 years), coal conversion extensions, or smelter orders; automatically subjects noncomplying sources to a penalty after July 1, 1979, equal to the cost of compliance to eliminate any economic advantage of delay;

Non-Deterioration.—Provides that areas where air quality is presently cleaner than the existing standards shall be protected by non-deterioration standards; designates the most carefully protected areas as Class I areas and other areas as Class II and III ares; provides a mechanism for States to redesignate lands from class I to II or III; provides that the following areas are not eligible for Class III designation if the area is over 10,000 acres: national monuments, primitive areas, preserves, wild and scenic rivers, wildlife refuges, lakeshores, seashores, parks, wilderness areas and any new areas subsequently designated into these categories; allows a State to redesignate any Federal land as a Class I area without the concurrence of any Federal authority; allows an Indian tribe to designate its land as Class I;

Defines "significant deterioration" in all clean air areas as a specified amount of additional pollution measured by increments of sulfur oxides and particulates; exempts facilities otherwise subject to the nondegradation provisions which emit less than 50 tons per year of total pollutants from the increment requirements; provides that States issue construction permits to new major emitting facilities in clean air areas (with EPA acting in the role of monitor of State actions) requiring the use of best available control technology; requires new sources locating in Class II areas to demonstrate to the State that they will not exceed the Class II pollution increments, or adversely affect the air quality values in any nearby Class I area; allows a State Governor to waive compliance with the Class I standards if computer models show in advance that the standards would not be exceeded for 18 days annually with the right of the Secretary of Interior to object and a final decision to be made by the President within 90 days;

Nonattainment Areas. — Requires new sources proposed for construction in nonattainment areas (where pollution levels exceed the public health standards) to meet a number of conditions prior to approval of construction; requires that such sources meet the lowest achievable emission rate; requires that emission reductions from existing sources more than offset the emissions from the new source; requires that existing sources use all reasonably available controls; provides that sources may only be approved after July 1, 1979, if a State implementation plan exists, the source is in compliance with its requirements, and the plan assures the attainment of the health standards within 3 years; makes available an extension until 1987 for States that cannot show attainment of the oxidant and carbon monoxide standards within 3 years; provides waiver from the source-by-source emission offset requirement available to a State under limited conditions; and

Other.—Requires a review of the air quality criteria for existing ambient air quality standards which shall be completed by December 31, 1980 and subsequently every 5 years thereafter; allows a state to temporarily suspend State implementation plan requirements where necessitated by energy or economic emergencies under specified conditions; authorizes the President to require major noncomplying industrial coal burners to utilize coal supplies that are locally and regionally available instead of importing low-sulfur Western coal if necessary to avoid local economic disruption, after

taking into account the final cost to the consumer; and contains other provisions. H.R. 6161—Public Law 95–95, approved August 7, 1977. (190)

Clean Water.—Amends the Federal Water Pollution Control Act Amendments of 1972 including the following provisions:

Waste Treatment Construction.—Authorizes $26.5 billion through 1982 in Federal grants to local municipalities for construction of sewage treatment plants; increases the flexibility of the Administrator of the Environmental Protection Agency (EPA) and the States in determining the best cleanup techniques; extends for 5 years, until July 1, 1983, the deadline for communities to meet clean water standards if they have been unable so far to obtain Federal funds for construction;

Industrial Standards.—Allows the Administrator of EPA to grant a "reasonable" time for compliance with the 1977 deadline and to set up a compliance schedule; allows EPA to grant an extension of the 1977 deadline for achieving the "best practicable technology" up to 18 months to a source whose facilities are under construction but not completed by July 1, 1977, and who in good faith has tried to meet the requirements;

Oil Spill Liability.—Increases the jurisdiction for oil spills out to 200 miles and the limits of liability for cleaning up oil spilled from tankers or oil terminals; sets a minimum of $500,000 for liability from an oil cargo vessel and limits liability to $150 a gross ton; raises liability for onshore and offshore handling facilities to $50 million from $8 million;

Penalties for Non-Compliance.—Sets fines for pollution sources in an amount equal to the economic value of noncompliance in order to remove any economic advantage which might accrue to an industry which does not comply with the law beginning July 1, 1979;

Phosphate Use.—Limits the amount of phosphates contained in laundry detergents, dishwashing compounds, and water conditioners sold in the Great Lakes region and requires a study by EPA to determine whether a national phosphates limitation program should be enacted;

Wetlands Protection.—Modifies the controversial wetlands protection provisions by exempting such activities as farming and ranching and allowing the States to control disposal of dredge and fill materials; and

Community Flexibility.—Allows communities to use property tax or another payment scheme to charge residential users for waste treatment if the charges are in proportion to use and if the consumer is notified of his contribution to support the waste treatment facility. H.R. 3199—Passed House April 5, 1977; Passed Senate amended August 4. 1977; In conference. (336)

Earthquake Hazards Reduction.—Establishes a national earthquake hazards reduction program under the direction of the President to minimize the loss and disruption resulting from future earthquakes; specifies the objectives of the the program which includes the following four elements: (1) a research element dealing with fundamental earthquake risk analysis for land-use consideration, hazards assessment, and engineering and research to reduce earthquake vulnerability; (2) an implementation plan to be prepared within 6 months setting year-by-year targets through at least 1985, specifying roles for Federal agencies, and recommending appropriate roles for State and local units of government, individuals, and private organizations; (3) a State assistance program allowing assistance to the States under the Disaster Relief Act of 1974; and (4) the opportunity for wide sectors of the population to participate in the formulation and implementation of the program; provides for public involvement in the program; calls for cooperation among a number of Federal agencies including the U.S. Geological Survey and the National Science Foundation; requires the President to report annually to the Congress on progress achieved in the program; and authorizes therefor $1 million, $2 million and $2 million for fiscal years 1978, 1979 and 1980 respectively, which is in addition to any authorizations for similar purposes included in other acts. S. 126—Public Law 95–124, approved October 7, 1977. (VV)

Endangered Species.—Extends through fiscal year 1980 the authorization for section 6(1) programs under the Endangered Species Act of 1973 at a rate of $9 million for the Department of the Interior and $3 million for the Department of Commerce to assist States in developing programs for the protection of threatened and endangered species of fish, wildlife, and plants. S. 1316—Passed Senate May 25, 1977; Passed House amended October 18, 1977; In conference. (VV)

EPA Authorization.—Authorizes a total of $253,603,000 for the environmental research and development program conducted by the Environmental Protection Agency for fiscal year 1978 as follows: $35 million for air quality; $92.5 million for water quality under the Federal Water Pollution Control Act; $16 million for water supply activities under the Safe Drinking Water Act; $25 million for solid waste disposal; $10.8 million for pesticides under the Federal Insecticide, Fungicide and Rodenticide Act; $830,000 for radiation under section 301 of the Public Health Service Act; $8.2 million for toxic substances under the Toxic Substance Control Act; $31.273 million for interdisciplinary activities; $19 million for program management; $10 million for a long-term R&D program; $2 million for training of environmental health scientists; and $3 million for Gulf Coast air quality studies; includes the $35 million supplemental request for funds necessary to implement energy-related R&D in the National Energy Plan; provides the legislative and statutory mandate for EPA's Science Advisory Board consisting of nine members, appointed by the Administrator for staggered terms, to provide scientific advice, advise the Administrator on the adequacy and reliability of the technical basis for rules and regulations and comment on the Agency's 5-year plan for environmental research, development and demonstration; directs the Administrator to coordinate EPA's programs of environmental research with those of other agencies; directs the Council on Environmental Quality in consultation with the Office of Science and Technology Policy to study all aspects of the coordination of environmental research and development and to submit a report of its findings to the President and Congress by May 31, 1978, and requires the President to report to Congress by September 30, 1978, his recommendations for implementation; instructs EPA to implement each recommendation contained in a November, 1976, report prepared for the Subcommittee on the Environment and Atmosphere relating to various problems within EPA's research program unless the Administrator determines otherwise; and requires Agency employees who perform duties pertaining to environmental research and development or who have known conflict of interest to file statements with the Administrator concerning such interests. H.R. 5101—Public Law 95– , approved 1977. (VV)

Great Plains Conservation.—Amends effective October 1, 1978, section 16(b) of the Soil Conservation and Domestic Allotment Act, which provides for a Great Plains conservation program by (1) striking the provisions in current law that no new conservation contracts may be entered into after December 31, 1981, thus making the Great Plains conservation program permanent; (2) making the program available to all farmers in eligible States, not just those in counties classified as "semi-arid; and (3) amending the authorization to carry out the program by deleting the current $300 million limitation on total appropriations and $25 million limitation on annual appropriations and authorizing instead, such sums as necessary. S. 896—Passed Senate August 3, 1977. (VV)

Marine Mammal Protection.—Extends through fiscal year 1978 the Marine Mammal Protection Act of 1972 and authorizes therefor $2.05 million for the Department of the Interior of which $1.2 million is for research grants in subjects relevant to the protection and conservation of marine mammals, $11.5 million for the Department of Commerce of which approximately $5 million would fund a 100 percent observer program on all large tuna-purse seine vessels in order to determine the status of porpoise populations and establish a permissible quota of porpoises whcih may be taken by tuna fishermen, and $2 million for the Marine Mammal Commission; makes it unlawful for any person or vessel to take any species of whale in commercial fishing within the 200-mile U.S. fishery conservation zone established by the Fishery Conservation and Management Act; and prohibits any Federal employee from approving any modification which would increase the volume of crude oil capable of being handled at any terminal, dock, or other facility in or adjacent to Puget Sound in the State of Washington with the exception of oil to be refined for consumption in that State. S. 1522—Public Law 95–136, approved October 18, 1977. (VV)

National Advisory Committee on Oceans and Atmosphere.—Repeals the Act of August 16, 1971, which established a National Advisory Committee on Oceans and Atmosphere and establishes a new and smaller National Advisory Committee on Oceans and Atmosphere (NACOA) to replace it, consisting of 18 members (which is reduced from 25 in the original act) appointed by the President for staggered 3-year terms; sets more stringent qualifications for membership by requiring that each member be an expert or otherwise knowledgeable in either oceanic matters, atmospheric matters, or both; provides for the transfer of the personnel, positions, records, and unexpended funds to the new Committee; directs the Committee to undertake a continuing review of national ocean policy (on a selective basis), coastal zone management, and the status of U.S. marine and atmospheric science and service programs and advise the Secretary of Commerce with respect to the National Oceanic and Atmospheric Administration; requires the Committee to submit a report by June 30 of each year to the President and Congress and such other reports as may from time to time be requested; gives the Secretary of Commerce 60 days (instead of 90 days) to review and comment on the annual report; directs the Secretary to provide administrative support and services to the Committee; and authorizes $520,000 for fiscal year 1978. H.R. 3849—Public Law 95–63, approved July 5, 1977. (VV)

Noise Control.—Authorizes $10.9 million for general technical assistance, regulatory and administrative responsibilities under section 19 of the Noise Control Act of 1972 and $2.1 million for research and development for fiscal year 1978. S. 1511—Passed Senate May 18, 1977. (VV)

Ocean Dumping.—Amends the Marine Protection, Research and Sanctuaries Act of 1972 to authorize a total of $11.3 million for fiscal year 1978 of which $4.8 million is for title I of the act which specifies how ocean dumping shall be regulated, $6 million for title II which deals with the research aspects needed to support a limitation on dumping harmful materials into the ocean, and $500,000 for title III which provides for the desig-

nation and regulation of marine sanctuaries; and provides that the dumping into ocean waters of municipal sewage sludge which may unreasonably degrade the marine environment shall be ended as soon as possible, and in no case continue beyond December 31, 1981. H.R. 4297—Public Law 95– , approved , 1977. (VV)

Ocean Pollution Research.—Establishes a comprehensive Federal program of ocean pollution research and monitoring; designates the National Oceanic and Atmospheric Administration as the lead Federal agency for ocean pollution research and monitoring; provides for the assistance of the Director of the Office of Science and Technology policy, through the Federal Coordinating Council for Science, Engineering, and Technology, in coordinating, on a continuing basis, the Federal program of ocean pollution research and monitoring; requires the Administrator to submit annually to the President and Congress a report on all Federal ocean pollution and monitoring efforts; and authorizes therefor $5 million for fiscal 1978 and $6 million for fiscal 1979 to the National Oceanic and Atmospheric Administration. S. 1617—Passed Senate August 3, 1977. (VV)

Safe Drinking Water.—Extends the Safe Drinking Water Act of 1974 through fiscal year 1979 and authorizes therefor a total of $71 million for fiscal 1978 and $81 million for fiscal 1979 which includes: $17 million annually for studies, technical information and training, $35 million for fiscal 1978 and $45 million for fiscal 1979 for grants to States for water supply supervision programs, $10 million annually for grants to States for underground water protection programs, $8 million annually for special emergency assistance, and $1 million annually for survey of rural water supplies;

Allocates a total of 80 new supergrade positions to EPA; requires EPA to submit to Congress, within 18 months of enactment, a report relating to costs of implementing the Act and an analysis of the present and projected availability of an adequate and dependable supply of safe drinking water; requires the National Academy of Sciences to report every 2 years on the maximum safe contaminant levels and potential contaminants; and requires EPA to conduct studies on reaction between humic acids and chlorine in drinking water and on other toxic substances in water;

Directs the Administrator to make grants for free training to personnel of State and local agencies and those who work for public water systems, and to enable individuals to qualify for such positions provided at reasonable cost; authorizes EPA to make grants to states if the State is making diligent effort and significant progress toward primary enforcement; provides for EPA retention and reallocations to other States of 25 percent of grants if primary enforcement is not assumed by fiscal 1980; extends for an additional 270 days the current 270 day period for State submission of applications for primary enforcement responsibility for the underground drinking water sources program; requires Federal agencies to comply with all State and local requirements respecting drinking water and underground injection programs; directs the Administrator to avoid disrupting or duplicating existing State law when establishing regulations governing underground injection control; provides that any State or local government may bring suit in State courts to enforce any requirement of safe drinking water or the underground injection program; and authorizes the Administrator to make grants to alleviate emergency drinking water situations. S. 1528—Passed Senate May 24, 1977; Passed House amended July 12, 1977; Senate agreed to House amendment with amendments August 5, 1977. (VV)

Sea Grant Program.—Extends through fiscal 1978 the authorization for the national sea grant program as follows: $50 million for the basic sea grant program; $5 million for the national program, and $3 million for the international program. H.R. 4301—Public Law 95–58, approved June 29, 1977. (VV)

Toxic Substances.—Provides a compensation system, administered through the States, so that the victims of chemical contamination incidents involving food, livestock or poultry may be more fully compensated for the economic and personal damages they suffer; provides a mechanism for a State to apply for Federal grants of up to 75 percent of the amount a State pays injured victims of a chemical accident; provides that States may apply for Federal assistance for farming operations that would be hard hit by any quarantine or condemnation actions taken against their crops, livestock or poultry; permits consumers who unknowingly are exposed to the toxic chemicals through consumption of tainted food products to apply to the Environmental Protection Agency for assistance; establishes a chemical emergency response team to develop a framework and timetables to assure that the Federal response to chemical contamination incidents is coordinated and adequate when a chemical emergency occurs; requires, within 9 months of enactment, a survey of all resources and procedures which may be used to test toxic chemical substances or mixtures be undertaken and the results submitted to the President and Congress; requires that a reporting system be established to provide the response team with timely, accurate information indicating the need for testing toxic chemicals, requires that contingency plans be developed within 1 year describing the manner in which the response team will determine whether chemical substances will be tested and how to respond to a situation of chemical contamination or potential contamination; and increases the authorization to $50 million for fiscal 1978 and $100 million for fiscal 1979. S. 1531—Passed Senate October 31, 1977. (VV)

Western States Conservation.—Amends, effective October 1, 1978, section 16(b) of the Soil Conservation and Domestic Allotment Act, which provides for a Great Plains conservation program in the States of Colorado, Kansas, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming by (1) extending the program into all 22 contiguous States west of the Mississippi River; (2) authorizing farmers and ranchers participating in the program to utilize program funds to improve irrigation systems to conserve water; and (3) adding a condition to cost-sharing contracts under the program that farmers or ranchers who destroy permanent conservation measures installed on farms or ranches under the program forfeit all rights to Federal disaster payments for farm production losses. S. 1614—Passed Senate August 3, 1977. (VV)

FISHERIES

Atlantic tunas.—Extends for an additional 3 years, until 1980, the Atlantic Tunas Convention Act of 1975 which implemented an international convention governing fishing for tuna and tuna-like fishes in the Atlantic Ocean and authorizes therefor such sums as necessary; and redefines the term "fishery zone" to mean the 200-mile fishery zone described in Public Law 94-265. H.R. 6205—Public Law 95-33, approved May 26, 1977. (VV)

Commercial fisheries.—Extends the Commercial Fisheries Research and Development Act for 2 years, through fiscal 1980, and increases the annual authorization for fiscal year 1978 and the two subsequent years as follows: $10 million for section 4(a) general programs (increased from $5 million); $3 million for section 4(b) which provides funds on an emergency basis if there is a commercial fishery disaster or serious disruption affecting future production due to a resource disaster arising from natural or undetermined causes (increased from $1.5 million); and $500,000 for the section 4(c) program of grants to develop new commercial fisheries (increased from $100,000). H.R. 6206—Public Law 95-53, approved June 22, 1977. (VV)

Fishermen's protection reimbursement program.—Extends the provisions of the Fishermen's Protective Act of 1967 which expires October 1, 1977, to October 1, 1979; establishes a Federal Government loan program whereby the Secretary of Commerce may make a loan after October 1, 1977, to the owner or operator of any U.S. vessel to replace or repair vessels or gear lost, damaged, or destroyed by any foreign vessel; conditions loans upon assignment to the Secretary of all rights of recovery and directs the Secretary with the assistance of the Attorney General, to take appropriate actions to collect on any right assigned to him; cancels repayment of a loan if it is determined that the owner or operator was not at fault; and provides that loans may be granted for any damage which occurred after October 1, 1976. S. 1184—Passed Senate May 24, 1977; Passed House amended October 18, 1977. (VV)

Fishery Agreement with Canada.—Amends the Fishery Conservation Zone Transition Act by adding a new section giving Congressional approval of the Reciprocal Fisheries Agreement between the United States and Canada during the period of March 1, 1977, to December 31, 1977; authorizes Canadian vessels and nationals to fish within the Fishery Conservation Zone of the United States, or for anadromous species and Continental Shelf fishery resources of the United States beyond the zone only when the fishing is carried out pursuant to the provisions of the Agreement; waives the requirements of title II (relating to foreign fishing and international fishery agreements) and the penalty provisions in section 307 of the act; requires any person who owns or operates a United States fishing vessel and engages in fishing to which the agreement applies or any person who directly or indirectly receives fish in sufficient quantities as determined by the Secretary of Commerce, to submit to the Secretary such statistics as he may request; authorizes the Secretary, after consultation with the Secretary of State, to issue regulations as necessary regarding the collection of such statistics; and provides that any person violating the act or regulations issued pursuant thereto would be deemed to be committing an act prohibited by section 307 of the Act and subject to a civil penalty of up to $25,000. H.R. 5638—Public Law 95– , approved 1977. (VV)

Fishery Conservation Zone Transition.—Gives Congressional approval of the fishery agreements between the United States and the People's Republic of Bulgaria, the Socialist Republic of Romania, the Republic of China, the German Democratic Republic, the Union of Soviet Socialist Republics, and the Polish People's Republic; provides that these agreements will enter into force on the date of enactment of this joint resolution; waives the 60-day Congressional review period; limits to 7 days the 45 day period for review and comment on application permits required of the Regional Fishery Management Councils created under the Fishery Conservation Zone Act during 1977 for those applications received by the Council on or before the date of enactment and those received by the Council from the Secretary of State after the date of enactment to provide for an orderly transition from the 12 mile to 200 mile fishing limit; waives, until May 1, 1977, the requirement that foreign fishing vessels have a valid permit on board and permits the Secretary to waive the fee required before fishing permits may be issued if he

is satisfied that the foreign nation will pay the fee before May 1, 1977; and repeals, effective March 1, 1977, the Northwest Atlantic Fisheries Act of 1950. H.J. Res. 240—Public Law 95–6, approved February 21, 1977. (VV)

Gives Congressional approval of the fishery agreements between the United States and Spain, Japan, South Korea, and the countries of the European Economic Community (Iceland, France, Italy, Luxembourg, the United Kingdom, Denmark, Belgium, West Germany, and the Netherlands); contains essentially the same provisions as H.J. Res. 240 (Public Law 95–240) to provide for an orderly implementation of foreign fishing within the 200-mile fishery zone of the United States after March 1, 1977, including the 7-day period of comment by the Fishery Management Councils and the public with respect to applications for permits, the May 1 extension of time for the payment of fees and permit requirements, and waives the 60-day Congressional review period. H.R. 3753—Public Law 95–8, approved March 3, 1977. (VV)

GENERAL GOVERNMENT

Age Discrimination Report—Nutrition Programs for Elderly.—Amends the Age Discrimination Act of 1975 to extend for 6 months, until November 1977, the time in which the U.S. Commission on Civil Rights must submit its report on unreasonable discrimination based on age in programs and activities receiving Federal financial assistance; authorizes the Commission for a 90-day period following transmittal of its report to provide technical assistance and information to Government officials; and

Amends the Older Americans Act to extend the surplus commodities provision of the title VIII nutrition program for the elderly through fiscal year 1978 in order that it will coincide with the authorization period of the other programs of the act; and gives States the option to receive cash in lieu of such commodities. H.R. 6668—Public Law 95–65, approved July 11, 1977. (VV)

Alaska Native Claims Amendments.—Amends the Alaska Native Claims Settlement Act making technical corrections to allow the Sealaska Regional Corporation to make land selections in the withdrawal for Klukwan Village Corporation; extends certain deadlines involving the implementation of the Cook Inlet land exchange for eighteen months; and permits regional corporations to assign future receipts due them under the Alaska Native funds so that they may qualify for lower interest loans.

H.R. 8499—Passed House October 31, 1977; Passed Senate amended November 1, 1977. (VV)

Associate Attorney General.—Amends chapter 31, title 28, U.S.C., to authorize the President to appoint, with the consent of the Senate, an Associate Attorney General who is authorized to exercise the duties of the office of Attorney General upon the absence or disability of the Attorney General or Deputy Attorney General, or in the event of a vacancy in those offices; continues the authority of the Attorney General to designate the further order of succession from among the Solicitor General and the Assistant Attorneys General; and adds the position of Associate Attorney General to those Government offices compensated at Level III of the Executive Schedule. S. 2089—Public Law 95–139, approved October 19, 1977. (VV)

Big Brothers-Big Sisters of America.—Amends the Original Federal Charter of Big Brothers of America to recognize the merger with Big Sisters International, Inc.; and enables Big Brothers to acquire the assets of Big Sisters upon discharging or satisfactorily providing for the payment and discharge of all the liabilities of the corporation. S. 2208—Public Law 95– , approved , 1977. (VV)

Center for the book.—Establishes a Center for the Book in the Library of Congress, under the direction of the Librarian of Congress, which will be supported by private gifts to provide a program to stimulate public interest and research in the role of the book in the diffusion of knowledge through such activities as a visiting scholar program accompanied by lectures, exhibits, publications, and any other related activities. S. 1331 Public Law 95–129, approved October 13, 1977. (VV)

Civil Rights Commission Authorization.—Raises the authorization limitation for the Civil Rights Commission from the present annual maximum of $9,540,000 to $10,480,023 for fiscal year 1978 plus such additional amounts as may be necessary for salary increases and other employee benefits authorized by law. H.R. 5845—Public Law 95–132, approved October 13, 1977. (VV)

Commission on Malnutrition and Hunger.—States the sense of the Senate that the President should establish a 2-year, 15-member Commission on Domestic and International Hunger and Malnutrition to establish the causes of hunger and malnutrition, identify and evaluate Federal programs and policies, and develop for the President and Congress specific recommendations for policies and legislation to reduce malnutrition and hunger; requires the Commission to submit an interim report within 6 months and its final report within 1 year; and provides that the Commission, in the year following transmission of its final report shall assist in implementing its recommendations and conduct an educational program to disseminate its findings and recommendations. S. Res. 271—Senate agreed to October 20, 1977. (VV)

Commission on New Technological Uses of Copyrighted Works.—Extends from December 31, 1977, to July 31, 1978, the date by which the National Commission on New Technological Uses of Copyrighted Works must submit its final report to the President and Congress. H.R. 4836—Public Law 95–146, approved October 28, 1977. (VV)

Daughters of the Confederacy Patent Renewal.—Extends for 14 years design patent number 29,611 which is the insignia of the United Daughters of the Confederacy. S. 810 Public Law 95– , approved , 1977. (VV)

Federal Assistance Program Information.—Increases the availability of information about Federal domestic assistance programs by requiring the Director of the Office of Management and Budget (OMB) to: (1) establish and maintain a data base containing specified information on all Federal domestic assistance programs; (2) develop and maintain a computerized information system to provide for the widespread availability of information contained in the data base by computer terminal facilities; and (3) publish annually a catalog of Federal domestic assistance programs containing information from the data base, a detailed index and any other information deemed appropriate; authorizes therefor $1.2 million for the first year; $1.7 million the second year and $2.2 million the third year;

Amends section 201 of the Intergovernmental Cooperation Act of 1968 to give OMB the responsibility to insure that information is provided to the States through their Governors or designated information centers on Federal financial assistance; requires the Director to report his recommendations to Congress for improving, consolidating and further developing Federal financial information systems; and requires the General Accounting Office to submit a report to Congress 1 year after enactment on actions taken by OMB to implement this act and, within 2 years in enactment, a progress report including an evaluation of its effectiveness and any legislative recommendations. S. 904—Passed Senate May 17, 1977. (VV)

Federal Grants and Cooperative Agreements.—Distinguishes assistance relationships as a class from procurement relationships by restricting the term "contract" to procurement and the terms "grant", "grant-in-aid" and "cooperative agreement" to assistance; requires each executive agency to use a contract grant or cooperative agreement which would reflect more precisely the relationship between the Federal Government and the recipient as follows: (1) contract—when the principal purpose of the instrument is the acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government, (2) grant—when the principal purpose is the transfer of money, property, services or anything of value to the recipient to accomplish a public purpose authorized by Federal statute and there is no anticipated substantial involvement between the executive agency and the recipient during performance of the contemplated activity, and (3) cooperative agreement—when the principal purpose is the transfer of money, property, services, or anything of value of a recipient to accomplish a public purpose authorized by Federal statute and substantial involvement is anticipated between the executive agency and the recipient during performance of the contemplated activity; directs the Office of Management and Budget to undertake a study to develop a better understanding of alternative means of implementing Federal assistance programs and to determine the feasibility of developing a comprehensive system of guidance for such programs and report its findings to Congress within two years; authorizes the Director of OMB to issue government-wide guidance and to manage agency implementation; and repeals, effective 1 year after enactment, the Grants Act (42 U.S.C. 1891 and 1892). H.R. 7691—Passed House September 27, 1977; Passed Senate amended October 1, 1977. (VV)

Federal Home Loan Bank Board Members.—Amends the Federal Home Loan Bank Board Act, as amended, to permit a board member, whose term expires, to continue to serve on the board for an additional 30 days or until his successor is appointed, whichever occurs first. S.J. Res. 63—Public Law 95–56, approved June 29, 1977. (VV)

Amends the Federal Home Loan Bank Act to extend for an additional 15 days the term of the member of the Federal Home Loan Bank Board which expired on July 31, 1977, in order to permit the Board to obtain a quorum for transacting business until the new prospective chairman can be sworn into office. S.J. Res. 79—Public Law 95–90, approved August 4, 1977. (VV)

Former President's Staff.—Increases from $96,000 to $150,000, effective October 1, 1977, the annual authorization to pay salaries for staff of former Presidents for the 30-month period following the expiration of Transition Act funds. H.R. 9354—Public Law 95–138, approved October 18, 1977. (VV)

GAO Audits of IRS and ATF.—Amends the General Accounting and Auditing Act of 1950 to provide that the General Accounting Office may conduct management and financial audits of the Internal Revenue Service and the Bureau of Alcohol, Tobacco, and Firearms; contains provisions to insure the confidentiality of information including Congressional oversight and penalties for unauthorized disclosure; and requires the Comptroller General to submit to the Senate Finance and Governmental Affairs Committees, the House Ways and Means and Government Operations Committees, and the Joint Committee on Taxation, every six months, the names and titles of GAO employees having access to tax returns and information; to submit as frequently as possible results of the audit; and to submit annually a report of his findings and recommendations which must also include the procedures established for protecting the confidentiality of tax return information and the scope and sub-

ject matter of the audit. S. 213—Public Law 95–125, approved October 7, 1977. (VV)

Hawaiian Native Claims Settlement Commission.—Establishes an Aboriginal Hawaiian Claims Settlement Study Commission to conduct a study, for submission to Congress within 1 year of enactment, of the culture, needs, and concerns of the Aboriginal Hawaiians; the nature of the wrong committed against, and the extent of the injuries to, the Aboriginal Hawaiians by reason of the incident in 1893 when the U.S. naval representative, acting without the authority or knowledge of the Congress or President, unlawfully committed and deployed U.S. Armed Forces in support of the overthrow of the lawful Government of Hawaii; and various means to remedy such wrong. S.J. Res. 4—Passed Senate October 20, 1977. (VV)

Indochina Refugee Assistance.—Extends the Indochina Migration and Refugee Assistance Act of 1975 through fiscal year 1981; authorizes such sums as necessary to carry out the domestic provisions of the Migration and Refugee Assistance Act of 1962 with respect to refugees from Cambodia, Vietnam or Laos; authorizes the use of funds under the act to reimburse State or local public agencies for the non-Federal share of costs for those refugees who qualify under the AFDC or medicaid program; provides 100 percent reimbursement for fiscal 1978 to States and localities for refugee cash assistance, medical assistance, social services and State-local administrative costs and phases down such assistance for the subsequent three fiscal years by providing for reimbursement at the rate of 75, 50 and 25 percent respectively, of the 1978 cost; authorizes $25 million to remain available until expended for special projects and programs to be administered by State or local public agencies or by private voluntary agencies participating in the Indochina Refugee Assistance Program to assist refugees in resettling and in gaining skills and education necessary to become self-reliant; and eliminates obsolete reporting requirements and requires annual rather than quarterly reports to the Congress. H.R. 7769—Public Law 95–145, approved October 28, 1977. (VV)

Intelligence Activities Authorization.—Authorizes such amounts as specified in a classified report prepared by the Senate Select Committee on Intelligence for fiscal year 1978 for intelligence activities of the United States Government including specific amounts for activities of the Central Intelligence Agency, the Defense Intelligence Agency, the Office of the Secretary of Defense, the National Security Agency, the military service, the Department of State, the Department of the Treasury, the Energy Research and Development Administration, the Federal Bureau of Investigation, and the Drug Enforcement Administration; authorizes $8.95 million for the Intelligence Community Staff for fiscal 1978 which supports the Director of the C.I.A. in fulfilling his responsibilities for overall management and direction of the intelligence community and the Policy Review Committee of the National Security Council; sets at 170 the end-strength of full time employees for the Intelligence Community staff; and authorizes $35.1 million for the Central Intelligence Agency Retirement and Disability System for fiscal 1978. S. 1539—Passed Senate June 22, 1977. (VV)

Kennedy Center Authorization.—Authorizes $4.7 million for the John F. Kennedy Center for the Performing Arts, to remain available until expended, for the Secretary of the Interior, acting through the National Park Service, to correct leaks in the roof, in terraces, kitchen, and East Plaza Drive and the damage which has resulted from these leaks; gives the Center approval authority over contracts let by Interior Department; and authorizes $4 million for fiscal year 1978. S. 521—Public Law 95–50, approved June 20, 1977. (VV)

Kennedy Presidential Library.—Authorizes the Administrator of General Services to accept land, buildings, and equipment that have been or may be offered to the United States without reimbursement, for the purpose of maintaining, operating and protecting as part of the National Archives system a Presidential archival depository located next to the University of Massachusetts campus on Columbia Point in Boston in memory of John Fitzgerald Kennedy. H.J. Res. 424—Public Law 95–34, approved May 26, 1977. (VV)

Library Services and Construction.—Extends through fiscal year 1982 the Library Services and Construction Act and authorizes therefor $110 million for fiscal 1978, $140 million for fiscal 1979, and $150 million each for fiscal 1980–1982 for title I grants for library services; such sums as necessary for fiscal 1978–1981 and $97 million for fiscal 1982 for title II grant for public library construction; $15 million for fiscal 1978, and $10 million each for fiscal 1979–1982 for title III grants for interlibrary cooperation; and such sums as necessary for fiscal 1978–1982 for grants for older readers services; retains current use and allocation of funds but adds a provision directing that a portion of title I appropriations in excess of $60 million be reserved for urban libraries (which are defined as public libraries in incorporated areas with populations exceeding 100,000) with the allocation of funds divided to guarantee each urban center a proportionate share in the same ratio as its populaiton relates to that of the State; prohibits a State from using funds received pursuant to an urban resource library program in place of existing funds spent on the program; revises the hold harmless base year date regarding library services to the handicapped from fiscal 1971 to the second preceding fiscal year for which a determination is made; and provides that remodeling funds under library construction programs may be used to remove architectural barriers to the handicapped and to make library structures more energy efficient. S. 602—Public Law 95–123, approved October 7, 1977. (VV)

National Science Foundation Authorization.—Authorizes $879.35 million for fiscal year 1978 to the National Science Foundation and an additional $4.9 million in foreign currencies which the Treasury Department determines to be in excess to the normal requirements of the U.S.; includes (1) $246.8 million for mathematical and physical sciences and engineering; (2) $210.5 million for astronomical, atmospheric, earth, and ocean sciences; (3) $47.5 million for the U.S. Antarctic Research Program; (4) $142.5 million for biological, behavioral, and social sciences; (5) $4.5 million or 2 percent of the funds for (1), (2), and (4), whichever is less for basic research stability grants; (6) $83.3 million for science education programs; (7) $75.85 million for Research Applied to National Needs (RANN), with not less than 25 percent of these funds to be earmarked for applied social research and policy-related scientific research and not less than 12.5 percent earmarked for the Small Business Innovation Program; (8) $20.9 million for scientific technological, and international affairs; (9) and $47.8 for program development and management;

Contains provisions to support interaction between academic and industry researchers, and to emphasize the activities of the Office of Science and Society; earmarks $4.5 million for programs directed to minority graduate students; ccntains certain requirements designed to protect pre-college students involved in research funded by the agency; establishes financial disclosure procedures to guard against possible conflicts of interest on the part of NSF employees; requires the National Science board to submit an annual report to Congress; and contains other provisions. H.R. 4991—Public Law 95–99, approved August 15, 1977. (VV)

Postal Deficiencies.—Authorizes the U.S. Postal Service to compromise, release, or discharge, in whole or part, the individual liabilities of certain specified postmasters and retired postmasters to the United States for amounts resulting from the mailing at an improper rate, prior to 1969, of newspapers published by Fountain-Warren Publishers of Attica, Indiana. H.R. 1613—Public Law 95– , approved 1977. (VV)

Presidential Reorganization Authority.—Extends for three years from the date of enactment, the authority of the President under chapter 9, title 5, U.S.C., to submit reorganization plans to Congress proposing the reorganization of agencies in the executive branch; expresses Congressional intent that the President provide appropriate means for public involvement in reorganization; requires that the President, on a continuing basis, examine the organization of all agencies of the executive branch and determine what changes are necessary to accomplish the purpose of the statute;

Provides that reorganization plans may: create new agencies, transfer or consolidate the whole or part of agencies or their functions to other agencies, abolish all or part of the functions of an agency except any enforcement function or statutory program, change the name of an agency, authorize an agency official to delegate any of his functions, and provide that the head of an agency be an individual, commission or board with a fixed term not to exceed 4 years;

Requires that each plan be based upon a Presidential finding stated in a message to Congress that the proposed action is necessary to accomplish one or more of the purposes of the statute; requires that the message specify, with respect to each plan, the reduction of or increase in expenditures likely to result from the plan, as well as any improvements in the effectiveness or efficiency of the government anticipated as a result of the plan;

Prohibits the use of reorganization authority to: create a new executive department, abolish an executive department or an independent regulatory agency, abolish any function mandated by Congress through statutes, increase the term of an office beyond that provided by law, create new functions not authorized by pre-existing statutes, or continue a function beyond the period authorized by law;

Requires the President to submit each plan, which must deal with only one logically consistent subject matter, to both Houses of Congress simultaneously for referral to the Senate Governmental Affairs Committee and the House Government Operations Committee; requires the Chairman of the respective committee to introduce a disapproval resolution whenever a reorganization plan is submitted to assure that there will be a resolution for the Committee to act on and to report either favorably or unfavorably a disapproval resolution for each proposed plan; provides that plans shall become law at the end of 60 calendar days of continuous session of the Congress or if specified, at a later date, unless either House passes a resolution of disapproval or prior to that time if both Houses defeat a disapproval resolution; requires the committees in both Houses to file recommendations on each plan with the full House within 45 days and provides, if the committee has not done so the resolution will automatically be discharged from further consideration and placed on the calendar; specifies that no more than three reorganization plans may be pending in the Congress at any one time;

Allows the President to (1) amend a plan

within the first 30 days after submission if neither committee has ordered reported a disapproval resolution or made any other recommendations on the plan, or (2) withdraw a plan at any time prior to the conclusion of the 60 day period;

Provides that any member may move to proceed to consider a disapproval resolution once it has been reported or discharged; limits to 10 hours floor debate on a disapproval resolution and on appeals and motions made in connection therewith, and makes motions to postpone consideration or amend the resolution out of order;

Provides that suits brought against an agency affected by a reorganization plan or regulations or other actions taken by an agency under a function affected by the plan shall not abate as a result of the plan, except in the case where the function is abolished: specifies that plans may provide for the transfer or other disposition of affected records, property, and personnel, and for the transfer of unexpended appropriations if the funds will be used for their original purpose; and requires that unexpended funds revert to the U.S. Treasury. S. 626—Public Law 95–17, approved April 6, 1977. (40).

Privacy Protection Study Commission Extension.—Extends the life of the Privacy Protection Study Commission from July 10, 1977, to September 30, 1977, to provide additional time for the printing of a set of appendix volumes for its final report. S. 1443—Public Law 95–38, approved June 1, 1977. (VV).

Smithsonian Institution—Canal Zone Biological Area.—Increases from $350,000 to $750,000 the annual authorization for the Canal Zone Biological Area (the Barro Colorado Island Facility of the Tropical Research Institute of the Smithsonian Institution). S. 1031—Passed Senate May 2, 1977. (VV).

U.S. Territories.—Provides for the continuance of the civil government of the Trust Territory of the Pacific Islands by authorizing $90 million for fiscal 1978, $122.7 million for fiscal 1979, and $112 million for fiscal 1980 in addition to such amounts authorized but not appropriated for fiscal years 1975 through 1977; authorizes $13,515,000 for government of the Northern Marianas until the separate funding provisions of their Covenant become effective; authorizes payment of adjudicated claims and final awards made by the Micronesian Claims Commission under title I of the 1971 act contingent upon Japan's payment of 50 percent of these claims and authorizes the full payment of awards under title II of the act with any interest which the Commission was not authorized to make excluded; authorizes $12.5 million for the rehabilitation and resettlement of Eniwetok Atoll; provides for compensation to the people of Rongelap and Utirik Atolls in the Marshall Islands for radiation exposure resulting from a thermonuclear detonation on Bikini Atoll on March 1, 1954; authorizes $25,000 to each individual who has developed hypothyroidism or a radiation-related malignancy, $1,000 to each person or heir who was an inhabitant of Utirik Atoll at the time of exposure, and not to exceed $25,000 in compassionate compensation to an individual who has suffered a physical injury from a radiation-related cause; authorizes the Secretary of Interior to provide adequate medical care and treatment to any person who has a radiation injury or related illness with the costs to be assumed by ERDA; directs the Secretary to report to Congress by December 31, 1980, on any additional compassionate compensation that may be justified for those individuals continuing to suffer from radiation-caused illnesses or injuries;

Authorizes $15 million for a grant to the Government of Guam to assist in typhoon rehabilitation, upgrading and construction of public facilities, and maintenance of essential services; authorizes Guam to use funds provided under this act as its matching share for Federal programs and services; authorizes for 5 fiscal years beginning in fiscal 1978, $1 million annually for the Guam Development Fund; provides for the Secretary to assume the costs of the Guam comptroller effective October 1, 1977; allows Guam to impose a separate tax on all taxpayers of not to exceed 10 percent of their annual income tax obligation to the Government of Guam; grants jurisdiction to the district court of Guam to review individual claims arising from U.S. land acquisitions in Guam immediately after World War II; requires an individual to prove that he received less than fair value for his land by the United States and provides that claims of individuals who received payment for their land in judicial condemnation proceedings shall remain res judicata and the district court will not have jurisdiction to review their awards; authorizes $25 million to enable the Guam Government to purchase the new Medical Center of the Marianas to replace the Guam Memorial Hospital;

Provides for the Secretary to assume the costs of the Comptroller General of the Virgin Islands; allows the Virgin Islands Legislature to vary the present 6 percent ad valorem custom duty on the importation of articles into the Virgin Islands; extends to Guam and the Virgin Islands certain programs that will be extended to the Northern Marianas by the Commonwealth Covenant; directs the Secretary to submit to Congress by January 1 1978 a report on Federal programs available to U.S. territories in order to determine the feasibility of extending to Guam and the Virgin Islands those programs extended to the Northern Marianas by the Commonwealth Covenant; authorizes a one-time payment of $15 million to Guam and an additional $14 million to the Virgin Islands for tax revenue losses; and provides for the consolidation of block grants to the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific and the Government of the Northern Marianas. H.R. 6550—Public Law 95–134 approved October 15, 1977. (VV)

GOVERNMENT EMPLOYEES—FEDERAL OFFICIALS

Ethics in Government.—Establishes a mechanism for the appointment of a temporary special prosecutor to deal with (a) matters concerning the President, Vice President, Members of Congress, and other high-level officials, and (b) matters which may directly and substantially affect the partisan political or personal interests of the President, the Attorney General, or the President's party and in which there exists a conflict of interest within the Justice Department; contains a general provision requiring any officer or employee of Justice to disqualify himself from cases in which he could have a conflict of interest; creates an Office of Government Crimes within the Justice Department to deal with abuses of office committed by government officials, violations of Federal lobbying, elections, and conflicts-of-interest laws, and other matters; provides that the director of this Office shall be appointed by the President and confirmed by the Senate;

Provides that an individual who has played a leading partisan role in the election of a President cannot be appointed Attorney General or Deputy Attorney General; sets forth procedures to be followed by the Attorney General with respect to any investigation of influence peddling by the Korean Government;

Establishes an Office of Congressional Legal Counsel to represent Congress and, with the consent of Congress, protect the vital interests of Congress in matters before the courts; provides that the Congressional Legal Counsel and the Deputy Congressional Legal Counsel will be appointed by the joint leadership and must be approved by both houses, and that neither position may be filled by persons who have been Congressional members, candidates, employees or persons who have served in Congressional campaigns within the preceding three years;

Requires annual financial disclosure reports be filed by the President, Vice President, Members of Congress, justices and judges of the U.S. and D.C. government, officers and employees of the executive branch at the GS–16 level or greater; officers and employees of the legislative and judicial branches compensated at a rate equal to or greater than the GS–16 pay rate; members of a uniformed service compensated at a rate equal to or greater than the grade 0–7 pay rate, candidates for Federal elective office, and Presidential appointees subject to advice and consent of the Senate; specifies the required contents of such disclosure reports; creates various offices to monitor compliance with this statute; sets criminal penalties for knowing and willful falsification or omission and civil penalties for failure to file or accidental omissions;

Establishes an Office of Government Ethics within the Civil Service Commission with primary responsibility for implementing financial disclosure requirements throughout the executive branch; provides that the director of this Office shall be appointed by the President with the advice and consent of the Senate;

Revises the current statute concerning restrictions on post service activities by officials and employees of the executive branch by imposing a new restriction which prohibits, for a period of one year following termination of government service, a former top-level official from contacting his former department or agency on any matter pending before the department or agency; and makes other minor modifications to the statute. S. 555—Passed Senate June 27, 1977. (245)

Federal Comparability Increases.—Denies the October 1 cost-of-living increase to Members of Congress, the Supreme Court Justices and other members of the Judiciary, Cabinet officials, and top Executive personnel who received the March 1 quadrennial pay increase under which salaries were increased as follows: Members of Congress from $44,600 to $57,500; Cabinet officers from $63,000 to $66,000; the Vice President, Speaker, and Chief Justice from $65,000 to $75,000; the President Pro Tempore and Majority and Minority Leaders from $52,000 to $65,000; circuit court judges from $44,600 to $57,500; district judges from $42,000 to $54,500; subcabinet assistants from $44,600 to $57,500; and other top Federal personnel from $42,000 to $52,000. S. 964—Public Law 95–66, approved July 11, 1977. (44)

Librarian of Congress.—Amends the provisions of the Annual and Sick Leave Act of 1951, as amended, to exclude the Librarian of Congress from the provisions of the act in order to treat the Librarian as the head of an agency for both pay administration and leave purposes. S. 1626—Passed Senate September 9, 1977. (VV)

Secret Service Protection of Former Federal Officials.—Authorizes the Secret Service to continue to furnish protection to certain former Federal officials (Secretaries Kissinger and Simon and Vice President Rockefeller) or members of their immediate families who received such protection immediately preceding January 20, 1977, if the President determines that they may be in significant danger, and provides that such protection shall continue for a period determined by the President but not beyond July 20, 1977, unless otherwise permitted by law. S.J. Res. 12—Public Law 95–1, approved January 19, 1977. (VV)

HEALTH

Clinical Laboratories.—Extends and expands the existing program of mandatory

licensure to all laboratories (except those under the jurisdiction of the Department of Defense or the Veterans' Administration) soliciting and accepting specimens for laboratory analysis; authorizes the Secretary of Health, Education, and Welfare to license those laboratories meeting quality assurance standards; authorizes the Secretary to promulgate standards and regulations to assure the quality, accuracy, and reliability of laboratory testing; authorizes the Secretary to delegate his licensure authority to states with primary enforcement responsibility to implement laboratory quality assurance programs at least equal to the Federal program; authorizes the Secretary and any State with primary enforcement responsibility to take necessary actions against laboratories not meeting the quality assurance standards; authorizes the Secretary to establish an Office of Clinical Laboratories to provide a uniform regulatory program for all laboratories subject to Federal jurisdiction; authorizes the Secretary to establish an advisory council to advise, consult with, and make recommendations to the Office of Clinical Laboratories concerning the development of quality assurance standards and the implementation of such standards; authorizes the Secretary to exempt physicians' office laboratories under certain conditions where physicians file an attested application with the Secretary, including but not limited to a description of the qualifications of non-physician laboratory personnel, the quality and type of tests conducted, and the score of proficiency examinations taken by such personnel, or where the laboratory participates in an approved proficiency testing program; authorizes the Secretary to waive from the personnel standards laboratories located in and serving rural areas; authorizes the Secretary and any State with primary enforcement responsibility to utilize the services of private, nonprofit entities for the provision of inspection and proficiency testing services; authorizes $15 million annually to permit the Secretary to provide technical and financial assistance to States to become States with primary enforcement responsibility; authorizes the Secretary to inspect laboratories without a warrant solely for the purpose of determining compliance with the promulgated national standards; authorizes the Secretary to seek revocation of a laboratory's license where it is found that the laboratory has engaged in kickbacks, bribes, or false, fictitious, or fraudulent billing practices; prohibits discrimination by any licensed laboratory against any employee who has become involved in any activity concerning allegations that the laboratory is in violation of this section; authorizes the Secretary to exempt laboratories which are primarily engaged in biomedical or behavioral research, or where the sole purpose of the tests or procedures performed is to determine insurability for insurance; authorizes $1 million annually to permit the Secretary to make grants and contracts for projects and studies respecting clinical laboratory methodology and utilization; authorizes increased penalties for failure to comply with the national standards and for any fraudulent activities undertaken in connection with obtaining reimbursement under titles XVIII and XIX of the Social Security Act; authorizes one year experimental demonstration competitive bidding in State medicaid programs under title XIX of the Social Security Act; and authorizes citizen suits for alleged violation of compliance with the law. S. 705—Passed Senate July 28, 1977. (VV)

Public Health Programs—Biomedical Research.—Authorizes a total of $3.357 billion to extend through fiscal year 1978, without major substantive modifications, the assistance programs under the Community Mental Retardation and Community Mental Health Centers Act and the programs under the Public Health Service Act, including biomedical research; computes the authorizations for these programs generally on a formula of the higher of the fiscal 1977 authorization or the fiscal 1977 appropriation plus 20 percent;

Establishes five supergrade positions for the National Institute on Alcohol Abuse and Alcoholism in order to attract highly qualified senior level scientific personnel; increases the number of National Cancer Institute consultants from 100 to 151; authorizes the Secretary of Health, Education and Welfare to develop minimum public health standards to maintain preventive health care programs; directs the Secretary to arrange for studies of international health issues and opportunities and to submit a final report by January 1, 1978; authorizes an additional $67.5 million to enable the Secretary to make grants for construction and modernization projects to assist public hospitals to meet life and safety codes and avoid loss of accreditation; prohibits payments under medicare and medicaid to health maintenance organizations which memberships are made up of a majority of individuals who are recipients of such benefits; requires the Secretary of HEW to take into account unusual local conditions which inhibit access or availability of personal health services in designating medically underserved populations for the purpose of making grants and awarding contracts for community health services; reaffirms Congressional intent that the existing prohibition on the use of funds under the authority of the Public Health Service Act other than section 1004 (relating to authorizations for family planning research) includes the administrative costs of family planning research activities;

Amends the Health Professions Educational Assistance Act to provide for equity in student loan programs, scholarship programs, and payback provisions for medical students within the National Health Service Corps (NHSC) who had made commitments under previous legislation; amends the definition of a health professions educational institution eligible to participate in the guaranteed student loan program to provide that an institution would be eligible for the program if it received or was eligible to receive capitation support in the previous fiscal year; assures that all physicians graduating from medical schools accredited by the Liaison Committee on Medical Education are treated equally; provides that individuals with obligated service to the NHSC may participate in residency training programs as officers in the regular or reserve corps of the Public Health Service prior to fulfilling the obligated service in an underserved area; permits an area Health Education Center to conduct training in general pediatrics as well as in family medicine and general internal medicine; allows the Secretary to repay, in return for service in a health manpower shortage area, educational loans obtained by health professions students before October 12, 1976; guarantees that students who graduated from two-year U.S. medical schools will be treated the same as U.S. students who completed 2 years at a foreign medical school when transferring to degree-granting institutions; authorizes construction assistance for the establishment or expansion of regional health professions programs; provides that traineeships in emergency medicine for graduate medical education students shall provide for tuition and fees and such stipends and allowances that the Secretary of HEW may deem necessary; reinstates the Indian Health Scholarship program; modifies amendments to the Immigration and Nationality Act to ensure that actions by HEW officials will be consistent with the intentions of Congress in regard to the so-called "f" visa training program which sets standards for alien graduates of foreign medical schools enrolling in the United States to study and practice medicine; and amends the Public Health Service Act to conform certain provisions of the student loan program with those in the NHSC;

Increases to $399,864,200 the authorization for the maternal and child health grant programs under the Social Security Act and extends through fiscal 1980 the authority for 100 percent Federal financing of medicaid skilled nursing and intermediate care facility inspection and enforcement costs; extends for 1 month until August 30, 1977, the date by which the Committee on Mental Health of the Elderly must make its report to Congress to coordinate its actions and recommendations with the Presidential Commission on Mental Health; provides that States shall not receive less than their 1976 formula grant allotments under the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act; and authorizes $140 million for preventive family planning project grants and $5 million for the Sudden Infant Death Syndrome Counseling and Information Services. H.R. 4975—Public Law 95-83, approved August 1, 1977. (131)

Saccharin Study.—Requires a study and evaluation of the health risks and benefits of saccharin and issues relating to its use, labeling and advertising;

Prevents the Secretary of Health, Education and Welfare from removing saccharin from the market for 18 months, unless new evidence showing unreasonable health risks becomes available during that time, thereby preventing the Food and Drug Administration's ban on the sale of saccharin products from going into effect on October 1;

Requires a warning label on all food products containing saccharin and allows the Secretary to prescribe the methods by which the statement is to be fixed to the label; requires vending machines to have the same warning; and requires stores where saccharin is for sale in food products which are not for immediate consumption to post more detailed information conveying the current state of knowledge concerning saccharin and provides for the expeditious development of that statement by the Secretary. S. 1750—Passed Senate September 15, 1977; Passed House amended October 17, 1977; In conference. (382)

HOUSING

Housing and Community Development.—Amends the Housing and Community Act of 1974 and authorizes a total of $14,678,975,000 for housing programs through fiscal year 1980;

Community development.—Authorizes $12.4 billion for extension of the community development program through fiscal 1980 with funding levels for the basic block grant program of $3.5 billion for fiscal year 1978, $3.65 billion for 1979, and $3.8 billion for 1980; provides that not less than $197 million be made available for low-cost housing projects, and not less than $120 million be used for housing for the elderly and handicapped; provides a dual formula method of allocation which permits communities to use either poverty or age of housing stock as the primary indicator of need; authorizes $400 million for the creation of an urban development action grant program (UDAG) to aid seriously distressed cities over the next 3 years; provides that priority for UDAG funds be given to impacted cities and urban counties most in need based upon a formula which uses the proportion of housing stock built prior to 1940 as the primary indicator of need; authorizes $100 million annually for the next 3 years for completion and financial close-out of urban renewal projects; allows multiyear funding to small cities; permits a town or township to be deemed a city if all incorporated places within its boundaries enter into agreements with

it to undertake essential community development and housing assistance activities; sets aside 25 percent of the urban action funds for use by smaller cities with populations under 50,000; authorizes $60 million for the loan rehabilitation program and $75 million for the comprehensive planning program;

Housing assistance and related programs.—Provides $1.2 billion in new contract authority for low-income housing programs and limits the amount of assistance to be used on existing rather than new housing; authorizes $685 million for public housing operating subsidies; permits HUD to make assisted housing payments for new or rehabilitated housing units beyond 60 days in an FHA-insured project; provides that loans for housing and related facilities for elderly and handicapped persons assisted under section 202 be made without regard to mortgage insurance limits contained in the National Housing Act; permits interest reduction subsidies for section 235 cooperatives to increase the availability of cooperative housing projects for low-income families; authorizes $60 million for policy development and research and $15 million for the urban homesteading program; extends the flood insurance program for 1 year, with several modifications, including a provision allowing communities which choose to not participate in the flood insurance program to continue to have access to conventional forms of financing;

Mortgage credit.—Extends through fiscal year 1978 the following mortgage credit programs authorized under the National Housing Act: insurance of financial institutions, general insurance program, housing for moderate income and displaced families, homeownership for lower income families, rental cooperative housing for lower income families, experimental financing, armed services housing, mortgage insurance for land development, and mortgage insurance for group practice facilities; extends through fiscal 1978 the authority to set FHA interest rates (Public Law 90–301) and the National Flood Insurance Act of 1968;

Increases the maximum loan amount for FHA-insured mortgages and for loans made by chartered savings and loan associations to adjust for the inflation in the costs of homes, mobile homes, and home improvements; decreases the downpayment requirements for FHA-insured loans; lowers the FHA mortgage insurance premium paid by nonprofit teaching facilities hospitals; provides for the expansion of the experimental graduated payment mortgage program; amends the Government National Mortgage Association emergency tandem plan to correct problems in the program and give it greater flexibility, particularly for use in urban areas and for housing rehabilitation;

Community reinvestment.—Authorizes the Community Reinvestment Act which requires Federal financial regulatory agencies in the course of examining the institutions they regulate to assess each institution's performance in meeting the credit needs of its primary savings service area, to the extent consistent with sound business operations; provides that regulations resulting from the Act will become effective no later than 390 days after its enactment;

Rural housing.—Amends the Housing Act of 1949 to extend through fiscal year 1978 the housing programs under the Farmers Home Administration (FmHA); increases by $25 million the low rent housing for domestic farm labor and low income repair loans programs;

Modifies the guaranteed loan program of FmHA to completely separate the guaranteed loan program, both in operation and funding, from the insured (direct) loan program; restricts the guaranteed loan program to persons with above average incomes, thereby asserting Congressional intent that FmHA use the direct loan program for low- and moderate-income persons; makes interest rates on guaranteed loans negotiable between the borrower and the lender in order to increase the program's attractiveness to private lenders;

Authorizes $10 million in fiscal 1978 for the mutual and self-help housing program; provides, for the first time, special authorizations for rural housing for the handicapped; authorizes congregate housing for elderly and handicapped persons and families; requires that at least 60 percent of FmHA loans made pursuant to section 502 (single family) and section 515 (rental) programs benefit persons of low income; requires the establishment of a research capacity within FmHA; mandates the implementation of a rural rent subsidy; expands the definition of "rural area" to include smaller communities with standard metropolitan statistical areas which have a serious lack of mortgage credit; and states explicitly that property subject to a lien by the United States or held by the FmHA is taxable by State and local jurisdictions. H.R. 6655—Public Law 95–128, approved October 12, 1977. (177, 513)

Mortgage Insurance.—Extends for 30 days, to July 31, 1977, the authority of the Secretary of Housing and Urban Development to: insure mortgages or loans under certain HUD-FHA mortgage or loan insurance programs under the National Housing Act, administratively to set interest rates for FHA-insured mortgage loans, enter into new flood insurance contracts; and extends certain authorities under title V of the Housing Act of 1949 with respect to FHA's rural housing program. H.J. Res. 525—Public Law 95–60, approved June 30, 1977. (VV)

Extends from July 31, 1977, to September 30, 1977, the authority of the Secretary of Housing and Urban Development to: insure mortgages or loans under certain HUD-FHA mortgage or loan insurance programs under the National Housing Act, administratively set interest rates for FHA-insured mortgage loans to meet the market at rates above the statutory maximum, and enter into new flood insurance contracts under the National Flood Insurance Act of 1968; and extends through September 30, 1977, certain authorities under title V of the Housing Act of 1949 with respect to FHA's rural housing programs. S.J. Res. 77—Public Law 95–80, approved July 31, 1977. (VV)

Neighborhood Reinvestment Corporation.—Establishes a National Neighborhood Reinvestment Corporation as a public, nonprofit corporation administered by a board of directors composed of the Chairman of the Federal Home Loan Bank Board (as Chairman of the Corporation), the Secretary of Housing and Urban Development, a Governor of the Federal Reserve Board, the Chairman of the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the National Credit Union Administrator; authorizes the Corporation to adopt its own internal rules and subjects it to the Freedom of Information Act; provides for open board meetings unless closed by majority vote; directs the Corporation to continue the work of the Urban Reinvestment Task Force in sponsoring Neighborhood Housing Services programs and to continue development of Neighborhood Housing Services of America as a secondary market operation; makes the Corporation responsible for assuring compliance by its local grantees with substantive provisions of applicable law; authorizes the Corporation to contract with the Office of Neighborhood Reinvestment of the Federal Home Loan Bank Board for personnel and staff support and gives it the usual corporate powers, including the power to sue and be sued, hold property, invest funds, and other powers necessary to carry out the act; authorizes the Office of Management and Budget to review and modify the Corporation's budget request; requires the Corporation to publish an annual report, to arrange for an annual audit, to audit grantees and contractors, and to cooperate with the General Accounting Office; authorizes therefor $15 million for fiscal year 1979, $20 million for fiscal 1980, and $30 million for fiscal 1981; and authorizes the Corporation to accept non-Federal funds, which must be reported and accounted for separately. S. 1724—Passed Senate September 9, 1977. (VV)

Supplemental Housing Authorizations.—Authorizes additional funds for housing assistance for lower income Americans in fiscal year 1977; extends the riot insurance and crime insurance programs; and establishes a National Commission on Neighborhoods;

Increases, in title I, the authorization for section 8 rental assistance, the major housing program for lower income Americans, by $378 million for a total of $1,228,050,000; increases operating subsidy funds for public housing projects by $19.6 million to pay for this winter's unexpectedly high heating costs; extends the contract period for new, privately developed section 8 housing from 20 to 30 years in order to attract more private financing; authorizes such appropriations as may be necessary for reimbursement of the FHA general insurance fund for loses on the sale of foreclosed properties from the FHA inventory; contains a $10 million increase for a total of $15 million for the HUD urban homesteading program as a means of attracting additional rehabilitation funds into neighborhoods and disposing of the HUD inventory of foreclosed properties; increases from $500 million to $1.341 billion the ceiling for loses incurred by the Federal Housing Administration General Insurance Fund; extends HUD's authority to write crime insurance and riot reinsurance policies through September 30, 1978, and authorizes continuation of policies in force before April 30, 1978, through September 30, 1981; extends from April 30, 1978, to September 30, 1978, the date that the Secretary must submit a plan for the liquidation and termination of these programs; deletes the requirement whereby mortgages may be insured under section 220 of the National Housing Act only if the property is located in an area which has a workable program for community development; makes clear that mortgages insured under section 221(d)(4) of the Act may be executed by a mortgagor which is a public body or agency, or a cooperative, limited dividend corporation or other entity, private nonprofit corporation or association, as well as a profit motivated entity, as defined by the Secretary; and

Authorizes, in title II, $1 million for the establishment of a National Commission on Neighborhoods to assess existing policies, laws and programs having an impact on neighborhoods and make recommendations regarding investment in city neighborhoods, community government participation, economically and socially diverse neighborhoods, rental housing, and rehabilitation of existing structures, among other issues. H.R. 3843—Public Law 95–24, approved April 30, 1977. (VV)

INDIANS

Ak-Chin Water Settlement.—Provides emergency water relief on a temporary basis to the Ak-Chin Indians in Central Arizona by authorizing a feasibility study and, based on its findings, construction of a Federal wellfield and pipeline to the Reservation from nearby Federal land; reaffirms U.S. obligation to provide a permanent supply of water on a date certain; provides that the Ak-Chins, in exchange for a permanent supply of water, would waive all past and future claims against the U.S., Arizona, and other parties concerning both ground and surface water rights; and authorizes $500,000 for the feasibility study and $42.5 million to cover

the Federal well-field and delivery system. S. 1582—Passed Senate October 11, 1977. (VV)

American Indian Policy Review Commission.—Extends from February 18, 1977, to May 18, 1977, the period of time in which the American Indian Policy. Review Commission must submit its final report to the Congress and increases the authorization therefor from $2.5 million to $2.6 million. S.J. Res. 10.—Public Law 95–5, approved February 17, 1977. (VV)

Cheyenne-Arapaho Lands.—Declares that two separate tracts of excess Government land, totaling approximately 107 acres, located in Canadian and Custer Counties, Okla., be held in trust for the Cheyenne-Arapaho Tribes of Oklahoma and authorizes the Secretary of the Interior to accept, upon request from the tribes, the fee simple title to lands conveyed to them pursuant to the acts of September 14, 1960, and May 18, 1968, to be held in trust for the tribes. S. 1291—Passed Senate June 9, 1977. (VV)

Creek Nation Land.—Declares that 5 acres of Federally-owned land in McIntosh County, Okla., be held in trust by the United States for the Creek Nation of Oklahoma. S. 947—Passed Senate June 9, 1977. (VV)

Ely Indian Land.—Declares that 90 acres of Federally-owned land located in White Pine County, Nev., be held in trust for the Ely Indian Colony in Ely, Nev. S. 103—Passed Senate June 9, 1977. (VV)

Fallon Paiute and Shoshone Land.—Provides for the transfer of two separate tracts of land, totaling 2,700 acres to be held in trust by the United States for the Paiute and Shoshone Tribes of the Fallon Indian Reservation, Fallon, Nevada, to provide sufficient irrigable land to enable the Tribes to make full use of their water rights; directs the Secretary of the Interior to develop irrigation facilities for the lands; and authorizes $5.4 million for construction under the act. S. 785—Passed Senate October 17, 1977. (VV)

Indian Business Development Program.—Amends the Indian Financing Act of 1974 to extend the Indian Business Development Program for 2 years, through fiscal year 1979, at an annual authorization of $14 million. H.R. 4992—Public Law 95–68, approved July 20, 1977. (VV)

Indian Claims.—Extends to April 1, 1980, the statute of limitation under which the U.S., as trustee, can bring Indian claims for monetary damages which arose prior to the enactment of the original statute in 1966 on land claims by Indian tribes, bands and groups. S. 1377—Public Law 95–103, approved August 15, 1977. (VV)

Extends for an additional month, until August 18, 1977, the statute of limitation under which the U.S. as trustee, can bring Indian claims for monetary damages which arose prior to the enactment of the original statute in 1966 on land claims by Indian tribes, bands and groups. H.J. Res. 539—Public Law 95–64, approved July 11, 1977. (VV)

Indian Claims Commission.—Authorizes $2,250,000 for the Indian Claims Commission for fiscal year 1978; adds a new section to facilitate the transfer of cases from the Indian Claims Commission to the U.S. Court of Claims; confers upon the Court the powers of the Commission to set fees for attorneys representing Indian tribes or claimants and to obtain information and documents from Government agencies and congressional committees; provides that final judgments of the Court shall be paid as other Court of Claims judgments are paid; provides that cases transferred to the Court shall be subject to review by the Supreme Court; provides that the law establishing a revolving loan fund for tribes to obtain expert witnesses in Commission cases shall remain applicable to transferred cases; and increases from 15 to 16 the number of Court of Claims Commissioners. H.R. 4585—Public Law 95–69, approved July 20, 1977. (VV)

Indian Rights to Arkansas Riverbed.—Directs the Secretary of the Interior to enter into an agreement with the Cherokee, Choctaw, and Chickasaw Nations of Oklahoma for the use, lease, or purchase by the United States of their rights in the Arkansas Riverber; directs the Secretary to utilize, as a basis for the terms of any agreement, the value of the property rights as determined by appraisals conducted by the Secretary and provides for payment of not less than the appraised value of the property rights involved; directs the Secretary to take such action as necessary to immediately carry out any agreement; and authorizes therefor $177 million. S. 660—Passed Senate June 30, 1977. (VV)

Pueblo Lands.—Authorizes the 19 Pueblos Tribes of New Mexico to convey all of their rights and interests in 11.6 acres of land in Albuquerque, New Mexico, to the United States to be held in trust jointly for them. S. 1509—Passed Senate September 29, 1977. (VV)

Siletz Indian Tribe Restoration.—Extends Federal recognition to the Confederated Tribes of the Siletz Indians, Oregon; makes the provisions of the Indian Reorganization Act of June 18, 1934, applicable to the tribe and the tribe and its members eligible for all Federal services and benefits without regard to the existence of a tribal reservation or its members residing on a reservation; directs that a specified area, comprising seven counties, in Oregon be considered a reservation for the purpose of determining the eligibility of tribal members for those Federal services and benefits requiring residency on a reservation; restores to the tribe all rights and privileges, other than hunting, fishing and trapping, under any Federal treaty, Executive order, agreement, or statute, or under the act of August 13, 1954, which terminated the tribe; provides a procedure by which membership in the tribe is to be established; provides for an election to adopt a constitution and bylaws and to elect tribal officials as provided in the constitution and bylaws; directs the Secretary of the Interior to negotiate with all interested parties to develop a plan for the establishment of a reservation, and to submit the plan, in the form of proposed legislation, to the appropriate Congressional committees within two years of enactment; and authorizes the Secretary to promulgate such rules and regulations as necessary to carry out the act. S. 1560—Passed Senate August 5, 1977; Passed House amended November 1, 1977. (VV)

Sioux Black Hills Claim.—Authorizes the U.S. court of claims to review, without regard to the technical of res judicata or collateral estoppel the determination of the Indian Claims Commission entered February 14, 1974, that the act of February 28, 1877, effected a taking of the Black Hills portion of the Great Sioux Reservation in violaton of the fifth amendment. S. 838—Passed Senate May 3, 1977. (VV)

Te-Moak Shoshone Land.—Transfers 80 acres of land from the United States to the Te-Moak Bands of Western Shoshone Indians to be held in trust by the United States in order to provide a home for the Wells Indian Community, a group of the Te-Moak Band who are presently landless. S. 667—Public Law 95–133, approved October 15, 1977. (VV)

Wichita Tribal Land Claim.—Authorizes the Indian Claims Commission to consider claims by the Wichita Indian Tribe and affiliated bands with respect to aboriginal title to lands which were acquired by the United States without payment of adequate compensation. S. 773—Passed Senate May 5, 1977. (VV)

Zuni Lands.—Directs the Secretary of the Interior to acquire through purchase, trade or otherwise the 618.41 acres in the State of New Mexico upon which the Zuni Salt Lake is located and hold such land in trust for the Zuni Indian Tribe; confers jurisdiction upon the Court of Claims to hear and determine an aboriginal land claim that the Tribe failed to file with the Indian Claims Commission under the Act of August 13, 1946, which established that forum; and authorizes the Tribe to purchase and exchange lands in the States of New Mexico and Arizona notwithstanding the restrictions in the act of May 25, 1918, expressly prohibiting further expansion of Indian reservations in these States. S. 482—Passed Senate May 3, 1977. (VV)

INTERNATIONAL

Abu Daoud.—States as a sense of the Senate that the release by France of Abu Daoud, a known terrorist who is accused of having planned the murder of Olympic athletes in Munich in 1972, is harmful to the effort of the community of nations to stamp out international terrorism; further states that the United States should consult promptly with France and other friendly nations to seek ways to prevent a recurrence of a situation in which a terrorist leader is released from detention without facing criminal charges in a court of law; and directs the Secretary of the Senate to provide a copy of this resolution to the Secretary of State for transmission to the Government of France. S. Res. 48—Senate agreed to January 26, 1977. (13)

Arms Control and Disarmament Agency.—Authorizes a total of $16.6 million for the Arms Control and Disarmament Agency (ACDA) for fiscal year 1978, including $11.05 million for program operations, $3.55 million for external research and public affairs, and $2 million for the purpose of furthering the nuclear safeguards and program activities of the International Atomic Energy Agency; creates a new executive level IV position, Special Representative for Negotiations, to be appointed by the President with the advice and consent of the Senate to serve as the Alternate Chairman of the U.S. SALT delegation and to take part in other negotiations; removes the requirement that all ACDA contracts and grants be with U.S. institutions and persons; allows the agency an exception from the appointment and classification provisions of the Civil Service System in order to allow the agency to compete effectively for employees with other Federal agencies; permits ACDA employees to accept reimbursement for work-related travel and expenses; adds a new section 37 to the Arms Control and Disarmament Act which states the sense of Congress that adequate verification compliance with the terms of arms control agreements should be an indispensable part of any such agreement, and requires the ACDA Director to report to Congress his determinations as to the veritability of the components of arms control proposals, any degradation of veritability in existing arms control agreements, and the amount of agency resources expended on the verification task. H.R. 6179—Public Law 95–108, approved August 17, 1977. (220)

Belgrade Conference.—States as the sense of the Congress that the U.S. delegation to the preparatory Belgrade meeting, beginning on June 15, 1977, should make every effort to insure that the agenda adopted for the subsequent meeting on the Conference on Security and Cooperation in Europe provides for proper, straightforward and serious exchange of views among the participating States on the application of the principles of the Final Act of the Helsinki Conference as well as on compliance and noncompliance with all of its provisions, including the presentation and thorough discussion of all violations of the Final Act, especially those related to universal humaitarian ideals. H. Con. Res. 249—Action completed June 15, 1977. (VV)

States the sense of the Senate that the U.S. representatives to the Helsinki Accords Review Conference should indicate to the Soviet Union and other states represented

at the Conference the official concern of the U.S. over the treatment of Anatoly Scharansky, Yuri Orlov, and others who sought to monitor compliance with the Helsinki Accord. S. Res. 198—Senate agreed to July 12, 1977. (VV)

Canadian-U.S. Relations.—Expresses the sense of the Senate that the President should bring to the attention of the Government of Canada the adverse effect on the United States broadcasting industry of recent provisions of the Canadian tax code. S. Res. 152—Senate agreed to September 8, 1977. (VV)

Harp Seal Killings.—Urges the Canadian Government to reassess its present policy of permitting the killing of newborn harp seals in Canadian waters which is considered by many citizens of the U.S. to be cruel and, if continued at the current high level, may cause the extinction of that species of seal. H. Con. Res. 142—Action complete April 6, 1977. (VV)

International Cooperation on Nuclear Proliferation.—Commends the President for his stated intentions to give diplomatic priority to the pursuit of nonproliferation measures; endorses and strongly supports active consultations with world leaders on the highest level to: (1) curb the spread of nuclear enrichment and reprocessing facilities and otherwise discourage the diversion of nuclear energy from peaceful uses to nuclear weapons or other nuclear explosive devices, (2) achieve universal acceptance of international safeguards on all peaceful nuclear activities, as well as to seek international cooperation to improve the packaging and handling of high-level wastes and to provide for international storage of plutonium, spent reactor fuel, and other sensitive nuclear materials, (3) explore possible international arrangements for the provision of nuclear fuel services to help meet the legitimate energy needs of cooperating states, (4) reach agreement on sanctions to be applied against any nation which seeks to acquire a nuclear explosives option, and (5) strengthen the safeguards of the International Atomic Energy Agency; and pledges prompt Senate action on legislation to enact a clear statement of goals for U.S. nonproliferation policy providing guidance and support to these Presidential diplomatic initiatives, and to establish a clear statutory framework for the development and implementation of U.S. nuclear export policy. S. Res. 94—Senate agreed to April 28, 1977. (VV)

International Development Assistance—Food for Peace.—Authorizes $1,646,800,000 for fiscal year 1978 for bilateral development assistance, international disaster assistance programs, operating expenses for the United States Agency for International Development (AID) and voluntary U.S. contributions to international organization;

Authorizes $200 million for the initial U.S. contribution to the Sahel Development Program which combines the resources of more than 12 donors and 8 recipient countries in a long term development effort in the Sahel region of Africa; continues the New Directions aid policies initiated by the Congress in 1973 which require that U.S. assistance be channeled directly to aid the poor people in developing countries; extends the Housing Investment Guaranty Program through fiscal year 1979 and combines the separate Latin American and worldwide guaranty authorities; extends through fiscal 1978 the Agricultural and Productive Credit and Self-Help Community Development Programs; authorizes the following housing guaranty programs for fiscal year 1978: Israel—$25 million, Portugal—$15 million, and Lebanon—$10 million, notwithstanding the fact that these countries are not otherwise receiving development assistance; provides $30 million to continue U.S. assistance for the relief, rehabilitation, and reconstruction assistance for victims of the Italian earthquake; improves U.S. population planning programs by providing for their integration with U.S. health and other development assistance programs; bars the use of funds for assistance to or reparations for Vietnam, Cambodia, Laos, or Cuba and directs the President to continue to try to obtain an accounting of MIA's; repeals various provisions of the Foreign Assistance Act prohibiting assistance to countries which furnish assistance to or trade with Cuba or Vietnam; bars funds for involuntary sterilizations; establishes an International Energy Institute;

Includes a separate title to strengthen the economic development and trade expansion aspects of the Food for Peace program (Public Law 480) and to clarify the humanitarian intent of the program; repeals the present exclusion from title I sales program of those countries or exporters which trade with Cuba or North Vietnam; removes the restriction on title I sales to the United Arab Republic; changes the title I sales allocation formula by requiring that 25 percent of the food aid commodities provided in each fiscal year be allocated to countries other than those with a per capita gross national product of $520 instead of $300 or less and by allowing the Secretary of Agriculture to reallocate some portion of title I financing if he certifies to Congress that the quantity of commodities that would be required to be allocated could not be used effectively to carry out humanitarian or development purposes of title I; permits the Secretary to finance projects to aid in the utilization, distribution, and storage of U.S. agricultural commodities; increases the annual minimum of agricultural commodities to be shipped under title II of Public Law 480 from 1.3 to 1.5 million metric tons; requires that 1.3 instead of 1 million metric tons of this amount be distributed through the U.S. voluntary agencies and the world food program; creates a new food for development program; expands and refines the "grantback" authority provided in 1975; permits the President to waive the repayment of title I obligations under a carefully developed plan for utilization of the proceeds raised by the recipient government from the sale of title I commodities upon its own market; and makes various other improvements. H.R. 6714—Public Law 95-88, approved August 3, 1977. (207)

International Emergency Economic Powers.—Revises and delimits the President's authority to regulate international economic transactions during wars or national emergencies under section 5(b) of the Trading with the Enemy Act of 1917; restricts such authority to wartime situations with provision for continuation of existing exercises of authority; removes the authority to control certain economic transactions during a Presidentially declared national emergency; grandfathers the exercise of authorities already being exercised until September 14, 1978, which is 2 years from the date of enactment of the National Emergencies Act but provides that these authorities could be extended for unlimited 1-year periods if the President determines it to be in the national interest; enables the President to continue to control transactions with certain countries (Cuba and Vietnam) and to block assets of certain countries (People's Republic of China); insures that Presidential determinations to extend or terminate existing uses of authorities will not be subject to provisions of this act or the National Emergencies Act including provisions for termination of emergency authority by concurrent resolution of the Congress; increases the maximum criminal fine for violations to $50,000;

Grants authority to the President to regulate certain categories of international economic transactions during future national emergencies and prescribes procedures to be observed in the exercise of such authority; enables the President to apply emergency controls to transfers of funds, transfers by non-U.S. nationals, or transfers of articles clearly not intended to serve humanitarian purposes; restricts the exercise of emergency controls in order to enable U.S. persons to make humanitarian contributions in accordance with their consciences but not to permit transfers which subvert, contravene, or preclude effective exercise of emergency authority; requires the President to consult with Congress prior to and during the exercise of emergency authority, and to provide detailed reports on the basis for emergency authority and his exercise of such authority; authorizes the President to issue such regulations as necessary to exercise the authorities; provides a maximum civil fine of $10,000 for violation of regulations and maximum penalties of $50,000 and/or 10 years imprisonment for willful violation; and provides that blocked assets may continue to be blocked by the President despite termination of a state of emergency unless Congress specifies otherwise. H.R. 7738—Public Law 95- , approved 1977. (VV)

International Financial Institutions.—Provides a total of $5.125 billion in multiyear authorizations for continued participation by the United States in six international financial institutions which includes $1.57 billion for the World Bank to be spread over three years; $2.4 billion for the International Development Association to be spread over three years; $112 million for the International Finance Corporation to be spread over three years; $814 million for the Asian Development Fund to be spread over three years; and a $50 million one-year authorization for the African Development Fund with a provision directing the Secretary of the Treasury to begin discussions with other donor nations for the purpose of setting amounts for future replenishments and of reviewing the voting structure within the Fund;

Instructs U.S. representatives to all international financial institutions to use their voice and vote to channel aid to projects which address the basic human needs of people in the recipient country; requires U.S. representatives to oppose all assistance to any country which engages in consistent patterns of gross violations of internationally recognized human rights or which provides refuge to airline hijackers unless the assistance is directed specifically to programs which serve basic human needs of the citizens of such country; requires the U.S. Executive Directors to consider several additional factors in carrying out their duties: (1) the extent of cooperation of a country in permitting unimpeded investigations of alleged human rights violations by specified international organizations; (2) U.S. actions on bilateral assistance due to human rights considerations; (3) the extent to which economic assistance directly benefits needy people; (4) whether a country has detonated a nuclear device or is not a State Party to the Treaty on Nonproliferation of Nuclear Weapons, or both, and (5) in dealing with requests from Vietnam, Laos, or Cambodia, the responsiveness of these governments in providing a more substantive accounting of American MIAs; requires U.S. representatives to oppose loans or other assistance for expanding foreign production of palm oil, sugar, or citrus crops for export if such production will cause injury to U.S. producers of the same, similar, or competing agricultural commodities; contains language to clarify that all funds to international financial institutions, including multiyear authorizations and pledges for callable capital, are subject to the annual appropriations process; and directs U.S. officials to try to maintain salaries in these institutions at levels near to comparable positions in the

United States. H.R. 5262—Public Law 95–118, approved October 3, 1977. (203)

International Security Assistance.—Authorizes a total of $3,195,900,000 ($53 million below the Administration's request) in 1978 budget authority for eight programs to finance international security programs totaling $4,579,100,000;

Military programs.—Provides $228.9 million to the military assistance program which includes funds for military aid to Greece ($33 million), Portugal ($25 million), Spain ($15 million), Turkey ($48 million), the Philippines ($20 million), Jordan ($55 million), Indonesia ($15 million), and Thailand ($8 million); continues the phasedown of the military assistance advisory group program by reducing the number of groups from 34 to 17 and establishing a worldwide personnel ceiling of 865; retains the provision which states that no military personnel performing military functions may operate in any foreign country unless specifically authorized by Congress; authorizes the assignment of overseas management teams in fifteen countries; provides $31 million for the international military education and training program; provides $677 million to finance foreign military sales credits to 29 countries, with direct credits of $500 million to Israel and $20 million to Zaire, and with all loans to other countries to be financed through the Federal Financing Bank; states that a policy of restraint in U.S. arms transfers shall not impair Israel's deterrent strength or undermine the military balance in the Middle East;

Economic programs.—Authorizes $1.89 billion for the security assistance program to provide economic assistance for 15 countries and recommends that such programs be subject to the "new directions" criteria of the Foreign Assistance Act which requires that aid be channeled directly to aid the poor people in developing countries; provides $20,000 in security supporting assistance for disaster relief in Lebanon; provides that not less than $300 million of the amount authorized for Israel shall be available only for budgetary support on a grant basis; adds a new section 533 to the Foreign Assistance Act of 1961 to create an $80 million Southern Africa Special Requirements Funds to address the economic problems caused by the conflict in that region and prohibits the use of such funds for assistance in Mozambique, Angola, Tanzania, or Zambia unless the President determines that such aid would further U.S. policy interest; authorizes a balance of payments support loan to Portugal not to exceed $300 million to assist in stabilizing the Portugal economy; provides $25.0 million to continue the Middle East special requirements fund with $12.2 million of that amount earmarked for the Sinai support mission;

Narcotics control and contingency funds.—Provides $39 million for international narcotics control, with the understanding that $12.5 million will be used for programs in Mexico; requires the Department of State to review the narcotics control assistance program in Burma; provides $5 million for the President's Contingency Fund to give the Administration some flexibility in dealing with national security;

Other provisions.—Prohibits military assistance, training, and credits to Ethiopia and Argentina; exempts Australia, Japan, and New Zealand from the license requirement contained in the Arms Export Control Act for the export of major defense equipment; includes a statement of Congressional intent to authorize $100 million for a Zimbabwe Development Fund when progress toward an internationally recognized settlement will so permit; prohibits funds to promote any military or paramilitary operations in Zaire; prohibits economic assistance to any supplier or recipient of nuclear technology or equipment unless both agreed to place the transferred equipment under multilateral auspices when available, and that the recipient agreed to place all nuclear activities under international safeguards; authorizes such sums as may be necessary in fiscal year 1978 to carry out international agreements relating to defense cooperation with Greece and Turkey, and raises to $175 million the FMS credits and sales ceiling for Turkey contained in the Foreign Assistance Act; authorizes additions to stockpiles of defense articles in foreign countries of $270 million, with the entire amount earmarked for War Reserve Stocks of ammunition for Korea, a bookkeeping shift requiring no appropriation; and requires the termination of the sale of defense articles and services for one year to any country granting sanctuary to international terrorists unless U.S. national security justifies continuation of such sales. H.R. 6884—Public Law 95–92, approved August 4, 1977. (209)

National Academy of Peace and Conflict.—Establishes a 1 year Commission to study proposals for establishing the National Academy of Peace and Conflict consisting of 9 members, three each appointed by the President pro tempore of the Senate, the Speaker of the House, and the President, to conduct a study to consider whether to establish a National Academy of Peace and Conflict Resolution; the size, cost and location of the Academy; the effects the establishment of the Academy would have on existing institutions of higher education; the relationship which would exist between the Academy and the Federal Government; the feasibility of making grants and providing other forms of assistance to existing institutions of higher education in lieu of, or in addition to, establishing the Academy; and alternative proposals, which may or may not include the establishment of the Academy, to assist the Federal Government in accomplishing the goal of promoting peace; and authorizes therefore $500,000. S. 469—Passed Senate June 17, 1977. (VV)

OPIC.—Extends until September 30, 1981, the basic operating authority of the Overseas Private Investment Corporation, a wholly owned U.S. government corporation created by Congress in 1969 by which the government insures U.S. investment in developing countries against the risks of inconvertibility of local currency into dollars and expropriation loss due to war or revolution; eliminates the requirement that OPIC transfer its insurance operation to private companies; permits OPIC to seek private coinsurance on equitable terms when this is consistent with OPIC's basic objectives as a developmental agency; and

Removes the present prohibition against OPIC's use of its own funds in promoting or financing mineral surveys or projects to permit OPIC to undertake a limited program of involvement in encouraging investments in non-fuel raw materials in oil-importing less developed countries. S. 1771—Passed Senate October 25, 1977. (577)

Peace Corps Authorization.—Authorizes $82.9 million to finance the operation of the Peace Corps for fiscal year 1978 and $1 million for increases in salary, retirement, or other employee benefits authorized by law. S. 1235—Public Law 95–102, approved August 15, 1977. (VV)

Portugal—Military Assistance.—Modifies the existing statutory limitations on the allocation of military assistance funds for fiscal year 1977 contained in section 504(a)(1) of the Foreign Assistance Act of 1961, as amended, to add Portugal to the list of eligible countries and specify that $32.25 million be allocated to that country to upgrade its armed forces which were debilitated as a result of prolonged colonial wars in Africa. S. 489—Public Law 95–23, approved April 30, 1977. (VV)

Regulations to Prevent Collisions at Sea.—Provides the necessary statutory authority to implement the provisions of the "Convention of International Regulations for Preventing Collisions at Sea, 1972" (Ex. W. 93d–1st) by specifying the means by which the Regulations will come into force and effect for the United States, ensuring coordination with the international implementation of the Regulations, and providing legal notice to interested persons through publication in the Federal Register; repeals Public Law 88–131 and replaces it with a congressional authorization for the President to proclaim the International Regulations and to establish the effective date of the Regulations, Annexes thereto, and any subsequent amendments, by publishing the proclamation in the Federal Register; provides for executive and legislative review of any proposed amendment to the Regulations and Annexes by requiring the President to notify Congress of the Proposal, including the date before which objections must be received by the International Maritime Consultative Organization (IMCO) and provides that either House of Congress may adopt a disapproval resolution within 60 days of receipt of a notification or 10 days before the last date on which an objection must be communicated to IMCO; provides that the regulation will be applicable to and must be complied with by all U.S. vessels, both public and private, while operating on the high seas; makes the regulations inapplicable to vessels operating in U.S. waters covered by the Inland Rules of the Road, the Navigation Rules for the Great Lakes and their connecting and tributary waters, and the Western Rivers rules which are established by both statute and Coast Guard regulations; requires U.S. vessels to comply with the international regulations if a foreign state has not exercised its recognized right to promulgate different rules; directs the Secretary of the Navy to require a vessel to comply as closely as possible to requirements of the international regulations which he certifies cannot be complied with without interfering with the special functions of the vessel; permits the Secretary of the Navy to establish special rules for sound and light signals for ships of war or vessels in convoy provided that they not be mistaken for signals authorized in the Regulations; authorizes the Secretary of the Department in which the Coast Guard is operating to promulgate reasonable rules and regulations to implement the act and international regulations and to establish special rules for sound and light signals for fishing vessels operating as a fleet; and imposes two separate civil penalties of not more than $500 each for violations. H.R. 186—Public Law 95–75, approved July 27, 1977. (VV)

Rhodesian Chrome.—Amends the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome by nullifying the effect of Section 203 (the so-called Byrd amendment) of the Armed Forces Appropriations Act of 1972, Public Law 92–156, which permitted the importation into the United States of chromium and other strategic minerals from Rhodesia, despite mandatory U.N. sanctions against trade with that country which the United States supported by its vote in the United Nations Security Council and by Executive Order 11419; prohibits the importation into the United States of Rhodesian commodities and products as specified in that Executive Order, of July 29, 1968, as well as steel mill products containing Rhodesian chromium in any form; establishes an enforcement mechanism which requires a certificate of origin for these products confirming that they do not contain chromium from Rhodesia; and authorizes the President to suspend the act if he determines that it would encourage meaningful negotiations and further the peaceful transfer of government from minor-

ity to majority rule in Rhodesia. H.R. 1746—Public Law 95–12, approved March 18, 1977. (59)

Romanian Earthquake.—States as a sense of the Senate that the United States should join with other nations and international, public, and private organizations to assist the people of Romania following the 1977 earthquake; and expresses deepest sympathy to the victims and their families on behalf of the people of the United States. S. Con. Res. 12—Action complete March 17, 1977. (VV)

Romanian Earthquake Authorization.—Authorizes $20 million to the President for fiscal year 1977, to remain available until expended, for the relief and rehabilitation of refugees and other earthquake victims in Romania; requires the President to transmit a report to the Foreign Relations Committees of the Senate and House 60 days after enactment and quarterly thereafter on the obligation of authorized funds; and states that nothing in this act shall be interpreted as endorsing any measure undertaken by the Government of Romania which would suppress human rights as defined in the Conference on Security and Co-operation in Europe (Helsinki Declaration) Final Act and the United Nations Declaration on Human Rights or as constituting a precedent for or commitment to provide development assistance to Romania and requires that the Romanian Government be so notified. H.R. 5717—Public Law 95–21, approved April 18, 1977. (VV)

SALT II Agreement.—Authorizes the President to proceed in accordance with the declaration of the Secretary of State of September 23, 1977, declaring the intention of the United States not to take any action inconsistent with the provisions of the SALT I Interim Agreement of 1972 and with the goals of the SALT II negotiations provided that nothing be construed preventing any action or prohibiting any weapons system development, procurement or deployment authorized by Congress; and requires the Secretary of State to report to Congress, at least every six months, on the exact status of negotiations for the SALT II agreement. S. Con. Res. 56—Senate agreed to October 19, 1977. (VV)

Soviet Detention of Robert Toth.—States as the sense of the Senate that the U.S. should continue to press the Soviet Government for a complete accounting of the circumstances which precipitated the detention of Robert C. Toth, a Los Angeles Times staff member, and that appropriate means should be taken to obtain the safe return of Mr. Toth to the United States. S. Res. 194—Senate agreed to June 15, 1977. (VV)

Soviet Expulsion of George A. Krimsky.—States as the sense of the Senate that: (1) the Soviet expulsion of Associated Press reporter George A. Krimsky is contrary to the spirit of the Helsinki Declaration respecting the rights of journalists; (2) the decision serves only to obstruct the implementation of the free flow of information provisions contained in the Declaration; (3) the action only invites and justifies steps of a reciprocal nature by the U.S. Government; and (4) the U.S. and Soviet Governments should seek greater communication in this area to prevent similar events of a counterproductive nature from occurring in the future; and directs the Secretary of the Senate to transmit a copy of this resolution to the President for the Department of State to convey directly to General Secretary Leonid Brezhnev of the Central Committee of the Soviet Communist Party. S. Res. 81—Senate agreed to March 4, 1977. (VV)

Soviet Freedom of Emigration.—Conveys to the Soviet Government the sustained interest of the American people regarding Soviet adherence to the Helsinki Declaration, including their pledge to facilitate freer movement of people, expedite the reunification of families, and uphold the general freedom to leave one's counrty. S. Con. Res. 7—Action complete March 22, 1977. (39)

State Department Authorization.—Authorizes $1,693,308,000 for fiscal year 1978 for the operations of the State Department (including the Office of Foreign Buildings), the U.S. Information Agency (USIA), and the Board for International Broadcasting (which makes grants to Radio Free Europe/Radio Liberty);

Facilitates compliance by the United States with the Helsinki Agreement by requiring that the Secretary of State recommend the necessary waiver for any prospective visitor to the United States who could be subject to the denial of a visa solely for reason of political affiliation with the exception of the right of continued denial of entry to any person whom the Secretary judges to be a threat to U.S. security;

Strengthens the ability of the Board for International Broadcasting to oversee and set broad policy direction for Radio Free Europe/Radio Liberty, Inc.;

Provides that (1) U.S. policy toward Korea should be arrived at jointly by the President and the Congress; (2) any implementation of the President's policy of phased troop withdrawal from Korea should be consistent with the security interests of South Korea and the interests of the United States in Asia, notably Japan; (3) such policy should involve appropriate consultations between the United States and governments directly involved; and (4) any implementation of such policy shall be carried out in regular consultation with Congress;

Contains provisions to encourage the State Department to assist Americans incarcerated abroad and requires an annual report to Congress on the prisoners' status, including an assessment of the performance of Embassy and consular personnel in assisting them;

Provides that any new Panama Canal treaty or agreement negotiated with funds appropriated under this title must protect the vital interests of the United States in the Canal Zone and in the operation, maintenance, property, and defense of the Panama Canal;

Repeals existing law which authorizes suits against U.S. consular officers for damages resulting from neglect or failure to perform any duty imposed by law or by an order pursuant to the law in a timely fashion;

States the sense of the Congress that negotiations toward the normalization of relations with Cuba be conducted in a deliberate manner and on a reciprocal basis; that the vital concerns of the United States with respect to the basic rights and interests of U.S. citizens whose persons or property are the subject of negotiations be protected; and that Cuban policies and actions regarding the use of military and paramilitary personnel beyond its borders and the Cuban government's disrespect for human rights are among elements which must be taken into account during negotiations;

Strengthens the Foreign Gifts and Decorations Act of 1966 by clarifying existing ambiguities as to who is covered by establishing certain reporting and publication requirements and by increasing penalties for noncompliance; prohibits the President from making a commitment to provide any reparations or aid to Vietnam and prohibits funds for reparations or aid to Vietnam and directs the President to take all possible steps to obtain a final accounting of POWs and MIAs. H.R. 6689—Public Law 95–105, approved August 17, 1977. (219)

State Department Supplemental Authorization.—Provides a supplemental authorization of $89.5 million for the Department of State for fiscal year 1977 as follows: (1) $60 million to pay U.S. dues and assessments to UNESCO for 1975 and 1976, in arrears because of Congressional action suspending further payments until the President certified that UNESCO's policies were in line with its objectives and less political, and part of the 1977 assessment, (2) $11,325,000 for aid to Soviet and East European refugees not settling in Israel and $7.4 million for the Indochinese Refugee Program administered by the United Nations High Commissioner for Refugees to continue U.S. support of 80,000 refugees in Thailand who arrived from Vietnam, Cambodia and Laos in 1975, and (3) $10,775,000 to provide for the construction of 108 apartment units for the U.S. mission in Cairo—36 for the State Department and 72 for AID; authorizes the Secretary to use appropriated funds to provide emergency medical attention, dietary supplements, and other assistance to U.S. citizens incarcerated abroad; requires that the Chairman or Vice-Chairman of the Senate and House delegations to the four interparliamentary union groups (Canada-U.S., Mexico-U.S., North Atlantic Assembly, and Interparliamentary Union) be a member of their respective foreign affairs committee; increases from 18 to 24 the size of the delegation to the North Atlantic Assembly and specifies that no more than 7 of the 12-member Senate delegation be of the same political party; and amends Public Law 94–203 (known as the Case Act which requires the Secretary of State to transmit the text of any international agreement other than a treaty to Congress within 60 days after the agreement has entered into force with respect to the United States) to require any department or agency entering into an international agreement on behalf of the United States to transmit the text of the agreement to the Department of State within 20 days following the date on which the agreement was signed. H.R. 5040—Public Law 95–45, approved June 15, 1977. (VV)

1984 Summer Olympics.—Advises the International Olympic Committee that the Congress would welcome the holding of the 1984 Summer Olympic games at Los Angeles, California, the site designated by the United States Olympic Committee; and expresses the hope of the Congress that the U.S. will be selected as the site for the 1984 games and pledges cooperation and support toward their successful fulfillment. H. Con. Res. 368—Action complete October 7, 1977. (VV)

Uganda—Human Rights.—Expresses the sense of the Senate that the actions of the current regime in Uganda violating the human rights of its citizens and residents deserve condemnations by the world community and by the Organization of African Unity; urges all nations supplying lethal arms to Uganda to halt all deliveries of weapons; and urges the U.S. Ambassador to the United Nations to request that the situation in Uganda be investigated by an appropriate agency of the United Nations. S. Res. 175—Senate agreed to May 25, 1977. (VV)

Vietnam POW's and MIA's.—Directs the President, as Commander in Chief of the Armed Forces, to require an accounting of all military personnel presently categorized on personnel rosters of the various branches of the U.S. Armed Forces as prisoner of war, missing in action, or killed in action in Southeast Asia; directs the President, by executive order, to require the Secretary of State to pursue enforcement of the Paris agreement of January 27, 1973, states that the Congress, having passed Public Law 88–408 authorizing the deployment of U.S. Armed Forces for the maintenance of international peace and security in Southeast Asia, recognizes a corresponding duty and obligation to determine the fate of missing or unaccounted for Americans; requires that the President, through the Secretary of State, hold the Democratic Republic of Vietnam and the Provisional Revolutionary Government of the Republic of South Vietnam responsible to account for and provide information

not otherwise available to satisfactorily dispose of the POW/MIA problem in accordance with the Paris agreement or seek alternatives that might resolve the question; and requires responsible officeholders in the executive and legislative branches to address the authority of their office toward a satisfactory resolution of the problem, make a public accounting, and remove any question as to the integrity of their function. S. Con. Res. 2—Senate agreed to February 21, 1977. (VV)

States as a sense of the Congress that the honor of those Americans who upheld the dignity of the law and served in the U.S. Armed Forces should be reaffirmed and that the Government should do everything possible to address the problems of those who served during the Vietnam war; and urges that there be established, in view of the recent issuance and a general pardon for U.S. draft evaders of the Vietnam war era, a Presidential Task Force on Missing in Action and Prisoners of War to propose courses of action to achieve the fullest possible accounting for all Americans listed in a missing status in Southeast Asia, including the return of remains, and to make recommendations concerning Federal policies relating to POW's and MIA's. S. Con. Res. 3—Senate agreed to February 21, 1977. (VV)

World Assembly on Aging.—States as the sense of the Senate that the President should instruct the United States delegation to the United Nations to work with the delegations of other nations to call for a World Assembly on Aging and a World Year on Aging for not later than 1982. S. Res. 238—Senate agreed to October 5, 1977. (VV)

LABOR

Black Lung Benefits.—Amends title IV of the Federal Coal Mine Health and Safety Act to improve the black lung benefits program established thereunder, and to impose an excise tax on the sale or use of coal;

Title I—Black Lung Benefits Reform Act.—Seeks to simplify and expedite the refiling of claims under the revised benefits standards by individuals whose claims were previously denied; allows these claims to be filed without regard to certain time limitations otherwise applicable and be retroactive to the time of the initial claim but not before January 1, 1974; requires the Secretary of Labor to provide to a denied claimant specific reasons for the denial; modifies the definitions of "pneumoconiosis" to include the sequelae of the disease and respiratory and pulmonary impairment arising out of coal mine employment as presently interpreted by the Social Security Administration; modifies the definition of "miner" to expand the coverage of the program to include workers around a coal mine, processors and transporters of coal, and coal mine construction workers; provides for the Secretary of Labor to revise the regulations defining what constitutes disability for purposes of the black lung program and setting forth the criteria for determining whether the definition is met; prohibits a finding that a miner was not disabled at the time of his death solely on the basis that he was actually employed at that time; permits a miner to apply for benefits while still employed although he would not be permitted to receive the benefits until after his employment terminates; permits the use of affidavits in determining the disability of deceased miners in the absence of other sufficient evidence; authorizes the establishment of Labor Department field offices to assist claimants with their claim filing and processing in the field; makes permanent a $10 million annual authorization for the establishment and operation of clinical facilities for the treatment and examination of miners with respiratory impairments paid directly from the Treasury and not from the Black Lung Disability Fund; provides that the Black Lung Disability Fund would pay all eligible claims with respect to miners whose last coal mine employment was before January 1, 1970; provides that the Federal Government be reimbursed from the Fund for all previous part C payments; expands the situations under which coal mine operators who acquire mines from previous operators would be required to assume liability (concurrently with the prior operator) for the payment of black lung benefits to individuals previously employed in the mine which has a retroactive effect, applying to changes in ownership taking place since December 31, 1969;

Title II—Black Lung Benefits Revenue Act.—Imposes a one-percent *ad valorem* manufacturers excise tax on the sale of coal by the producer; provides that the tax does not apply to lignite;

Establishes a Black Lung Disability Fund in the Treasury, administered by the Secretary of the Treasury supported from tax revenues, appropriated repayable advance and investment income; provides that the fund pay benefits for which it is responsible including part C benefits expended by the Secretary of Labor, repayment of advances to the fund, including interest and all expenses of operation and administration under part C; makes the fund effective October 1, 1977 and authorizes the IRS to disclose to the National Institute for Occupational Safety and Health the mailing address of taxpayers for the purpose of locating individuals exposed to occupational hazards. H.R. 4554—Passed House September 19, 1977; Passed Senate amended September 20, 1977; In conference. (vv)

Mine Safety and Health.—Strengthens the national mine safety and health program by providing uniform administration and enforcement for the entire mining industry under a single act administered by the Department of Labor;

Repeals the Metal and Non-Metallic Mine Safety Act of 1966; amends the Federal Mine Safety and Health Act of 1969 (the Coal Act) to make its enforcement and administrative provisions applicable to the entire coal and non-coal mining industry; transfers the responsibility for the administration and enforcement of the mine safety and health program from the Department of the Interior to the Department of Labor:

Provides a streamlined mechanism for the promulgation of mandatory safety and health standards by imposing time limitations on each step of the standard-making process; vests all standard-making authority in the Secretary of Labor who may use Advisory Committees for the development of standards; provides for public comment and hearings on standard proposals and for judicial review of promulgated standards; contains provision for improved health standards and authorizes the Secretary of HEW, through NIOSH, to prepare criteria to be used in their development; gives the Secretary of Labor authority to issue emergency temporary standards in situations of grave danger to miners, without going through the statutory standards setting process;

Establishes an independent Federal Mine Safety and Health Review Commission which is assigned all administrative review responsibilities and authorized to assess civil penalties; imposes strict time limitations on each step of these processes; authorizes the courts to enforce routine agency determinations that are not appealed within the statutory time limitation;

Requires each operator to have a Secretary-approved safety and health training program which provides at least 40 hours of training for new underground miners, 24 hours of training for new surface miners, and 8 hours of annual retraining for all miners; requires that any miner who is assigned a new task be trained in the safety and health aspects of the new task; requires that such training be provided at the owner's expense, during normal working hours and that miners be compensated for their expenses in cases where the training is given away from the mine;

Requires at least four inspections each year for all underground mines in their entirety, at least two inspections a year for all surface mines in their entirety, and at least one spot inspection every 5 working days for particularly hazardous mines; expands miners' participation in inspection by authorizing their representatives to participate in the annual inspection and any pre- or post-inspection conferences held at the mine; permits miners to request inspections in writing if they suspect a hazardous situation; requires the Secretary to notify the mine operator of any violation of the health and safety standards with a time period within which the violation must be fully abated; authorizes the inspector to issue an order closing all or a portion of a mine affected by certain violations and if a pattern of violations exists; expands the coverage of those presently protected against discriminatory actions under the Coal Act to include applicants for employment; and provides a variety of civil and criminal penalties. S. 717—Public Law 95– , approved 1977. (231)

Minimum Wage Increase.—Amends the Fair Labor Standards Act of 1938 to increase the minimum wage rate to $2.65 on January 1, 1978, $2.90 in 1979, to $3.10 in 1980, and to $3.35 in 1981; increases the minimum wage in Puerto Rico for employees at wages between $2 per hour and $2.29 by $.25 in 1978 and by $.30 in 1979 and each year thereafter until parity is reached; and for those at wages less than $2 per hour increases the minimum wage by $.20 in 1978 and by $.25 in 1979 and each succeeding year until $2.30 per hour after which it will be increased by $.30 until parity is reached; establishes a Minimum Wage Study Commission to conduct a study of specific economic and employment effects of changes in minimum wage and overtime provisions; requires a report within 1 year on the effects of eliminating all minimum wage and overtime exemptions with regard to conglomerates; reduces from 50 percent to 40 percent in 1980 and to 40 percent in 1981 the credit against the minimum wage which an employer may credit against payment of the minimum wage to employees who receive more than $30 per month tips; excludes concessioner employees in national parks, refuges and forests from the minimum wage and overtime exemption presently provided for amusement and recreational establishments with overtime exemption limited in that overtime compensation would be required for more than 56 hours per week and preserved as it applies to private entities engaged in providing services and facilities directly related to skiing; repeals overtime exemption in case of shade-grown tobacco employees; revises overtime exemption for cotton ginning and sugar employees and requires overtime pay for employment in excess of 10 hours a day and 48 hours in a workweek for the entire 14 workweek period; retains the existing exemption for baby sitters who are employed on a casual basis; authorizes the Secretary of Labor, within certain guidelines to waive child labor restrictions for employment of children as hand harvest agricultural laborers paid on a piece rate basis if the Secretary finds that the use of 10 and 11-year old children is necessary to prevent severe economic disruption of an applicant's industry; increases the small business sales test which exempts small businesses from minimum wage coverage from $25,000 to $275,000 effective July 1, 1978, to $325,000 July 1, 1980, and to $362,500 December 1, 1981; exempt from minimum wage and overtime compensation requirements employees

of organized camps and religious or nonprofit educational conference centers operated on a seasonal basis; and increases from 4 to 6 the number of students an employer may hire at a special minimum wage and requires simplification of the forms necessary for hiring such students. H.R. 3744—Public Law 95–151, approved November 1, 1977. (549)

Steel Industry.—Reaffirms Senate support for existing laws restricting unfair or subsidized competition from imports, particularly the Antidumping Act of 1921 and the Trade Act of 1974, and urges the President to direct Federal agencies to enforce vigorously and aggressively existing laws to prevent cases of dumping, trade discrimination, and other forms of unfair competition that have an adverse impact on the American steel industry. S. Res. 279—Senate agreed to October 12, 1977. (VV)

MEMORIALS, TRIBUTES, AND MEDALS

Alex Haley.—Honors and pays tribute to Alex Haley for his exceptional achievement in writing *Roots* and extends to him the highest praise of the Senate. S. Res. 112—Senate agreed to March 14, 1977. (VV)

Alf Landon's 90th Birthday.—Extends, on behalf of the Senate, warm wishes to Alf Landon on the occasion of his 90th birthday, September 9, 1977; expresses admiration and gratitude to Governor Landon for his many years of distinguished service to the people of Kansas and the United States; and expresses appreciation for his contributions as Governor of Kansas, presidential candidate, statesman, progressive and venerable leader of his political party, civic leader, humanitarian and successful businessman and for his interest in young people. S. Res. 259—Senate agreed to September 9, 1977. (VV)

Benjamin Whitcomb Independent Corps of Rangers.—Extends best wishes of the Senate to the Benjamin Whitcomb Independent Corps of Rangers on the occasion of the reenactment, on August 19, 1977, of the Revolutionary War Battle of Bennington, Vermont, and commends the Rangers for their continuing educational efforts in connection with the Revolutionary War. S. Res. 241—Senate agreed to August 3, 1977. (VV)

Brooks Robinson.—Honors and pays tribute to Brooks Robinson on the occasion of Brooks Robinson Appreciation Day, Sunday, September 18, 1977, at Memorial Stadium, Baltimore, Maryland. S. Res. 262—Senate agreed to September 16, 1977. (VV)

Carl T. Hayden.—Pays tribute to the Honorable Carl T. Hayden on the occasion of the one hundredth anniversary of his birth, October 2, 1977. S. Res. 275—Senate agreed to September 30, 1977. (VV)

Charles A. Lindbergh.—Honors Charles A. Lindbergh for his service to our country in peace and war, and expresses appreciation for his leadership and advocacy in the conservation of natural resources and for his daring and courageous contributions to the field of aviation and aeronautical science. S. Res. 177—Senate agreed to May 19, 1977. (VV)

Cora Rubin Lane 100th Birthday.—Expresses the gratitude and appreciation of the Senate to Cora Rubin Lane for her long and outstanding service as an assistant to Senator William E. Borah and expresses best wishes to her on the occasion of her 100th birthday. S. Res. 162—Senate Agreed to May 3, 1977. (VV)

Courtney C. Pace.—Commends Courtney C. Pace, administrative assistant to Senator James O. Eastland, for his long, faithful and outstanding service to the Senate and to his State and Nation. S. Res. 280—Senate agreed to October 4, 1977. (VV)

Frances G. Knight Retirement.—Commends Frances G. Knight upon her retirement as Director of the Passport Office, Department of State, for her diligence and outstanding performance to the Nation during a landmark career of public service. S. Res. 231—Senate agreed to July 27, 1977. (VV)

Francis R. Valeo Retirement.—Commends Francis R. Valeo for his long, faithful and exemplary service as an employee of the Senate and his ten years of service as Secretary of the Senate. S. Res. 133—Senate agreed to April 1, 1977. (VV)

General Draza Mihailovich Monument: Authorizes the Secretary of the Interior to permit the National Committee of American Airmen Rescued by General Draza Mihailovich to construct and maintain a monument to General Mihailovich on Federal land in the District of Columbia in recognition of the role he played in saving the lives of approximately 500 United States airmen in Yugoslavia during World War II; and provides that the location and design of the monument shall be subject to the approval of the National Capital Planning Commission, the Fine Arts Commission, and the Secretary of the Interior. S. 244—Passed Senate June 29, 1977. (VV)

General Thaddeus Kosciuszko.—Provides as an expression of esteem and gratitude by the American people, that the plaque to be erected in the Wawel Cathedral in Krakow, Poland, on October 17, 1977, in the memory of General Thaddeus Kosciuszko, shall be presented by the Ambassador of the United States to Poland on behalf of the American people as a gift to the people of Poland. H.J. Res. 573—Public Law 95–149, approved November 1, 1977. (VV)

Encourages the Secretary of the Interior to accept donations of suitable markers recognizing the role of General Thaddeus Kosciuszko in the American Revolutionary War. S. Con. Res. 44—Senate agreed to October 27, 1977. (VV)

Gerald R. Ford Building.—Names the Federal building located at 110 Michigan Avenue, N.W., in Grand Rapids, Mich., the "Gerald R. Ford Building". S. 385—Public Law 95–25, approved May 4, 1977. (VV)

Henry Ford.—Marks the occasion of the 75th anniversary of the first mass-produced motor vehicle by the elder Henry Ford as an appropriate time to recognize his unique industrial statesmanship. S. Res. 215—Senate agreed to June 29, 1977. (VV)

Hubert H. Humphrey Building.—Authorizes the naming of the Department of Health, Education and Welfare South Portal Building in Washington, D.C. as the "Hubert H. Humphrey Building". S. 2169—Public Law 95–141, approved October 23, 1977. (VV)

Jackie Robinson.—States the sense of the Senate to commemorate the 30th anniversary of Jackie Robinson's entry into major league baseball and join in the celebration of the week of July 18 through 25, 1977, in paying tribute to Jackie Robinson and what he symbolized to so many Americans. S. Res. 223—Senate agreed to July 18, 1977. (VV)

Jaycees International Conference.—Commends the "Old Sourdough Jaycees" of Anchorage, Alaska, the U.S. Jaycees, and the Jaycee International for bringing together Jaycee leaders around the world who have contributed to the betterment of mankind. S. Res. 137—Senate agreed to April 6, 1977. (VV)

Lieutenant General Ire C. Eaker Medal.—Authorizes the President to present, on behalf of the Congress, to Lieutenant General Ira C. Eaker, U.S.A.F. (retired), a gold medal of appropriate design in recognition of his distinguished career as an aviation pioneer and Air Force leader; provides a $5,000 authorization therefor; and authorizes the Secretary of the Treasury to have duplicate medals struck in bronze and sold at cost. S. 425—Passed Senate May 13, 1977. (VV)

Lou Brock.—Pays tribute to Louis Clark Brock for his outstanding achievements in major league baseball especially for his new major league record of 893 career bases stolen; and recognizes and commends him for his outstanding contributions to the people of this nation, his exemplary conduct on and off the baseball playing field, his founding and active participation in the Lou Brock Boys' Club of St. Louis, and his service as a member of the Board of Directors of the Big Brothers and Sisters of America. S. Res. 260—Senate agreed to September 12, 1977. (VV)

Marian Anderson Medal.—Authorizes the President to award to Marian Anderson, in the name of the Congress, a gold medal with suitable emblems and inscriptions in recognition of her highly distinguished and impressive career; provides that bronze duplicates of the medal shall be coined and sold under regulations prescribed by the Secretary of the Treasury; and authorizes therefor $2,500. H.J. Res. 132—Public Law 95–9, approved March 9, 1977. (VV)

Mike Monroney Aeronautical Center.—Designates the Federal Aviation Administration Aeronautical Center in Oklahoma City, Oklahoma, as the "Mike Monroney Aeronautical Center". S. 1640—Passed Senate June 8, 1977. (VV)

Motion Picture Academy 50th Anniversary.—Congratulates the Academy of Motion Picture Arts and Sciences for its past achievements on the occasion of its 50th anniversary on May 11 and extends best wishes for the future. S. Res. 168—Senate agreed to May 11, 1977. (VV)

Nez Perce War Commemoration.—States as the sense of the Senate that June 17, 1977, is to be a day for the commemoration of the Nez Perce War of 1877 and for the remembrance of the courage and honor of the Nez Perce during the long tortuous maneuvers of 1877. S. Res. 19—Senate agreed to June 16, 1977. (VV)

Philip A. Hart, Death of.—Expresses the sorrow of the Senate over the death of Senator Philip A. Hart, of Michigan. S. Res. 15—Senate agreed to January 4, 1977. (VV)

President and Mrs. Ford.—Congratulates and commends President and Mrs. Ford on their exemplary conduct as President and first lady and for their dedicated public service to the Nation during their entire career of public service. S. Res. 22—Senate agreed to January 10, 1977. (VV)

President Ford.—Commends President Ford for the manner and integrity with which he carried out his responsibilities and wishes him Godspeed in his new and active life. S. Res. 38—Senate agreed to January 18, 1977. (VV)

President-elect Carter.—Extends best wishes to President-elect Jimmy Carter and to all those who will serve in his administration. S. Res. 23—Senate agreed to January 10, 1977. (VV)

Roman L. Hruska Meat Animal Research Center.—Designates the United States Department of Agriculture Meat Animal Research Center located near Clay Center, Nebraska, as the "Roman L. Hruska Meat Animal Research Center." S. 409—Passed Senate July 12, 1977. (VV)

Rosalynn Carter.—Congratulates the President on his selection of Rosalynn Carter as his recent emissary to Latin America and commends her on her performance as a representative of the people of the United States. S. Res. 195—Senate agreed to June 16, 1977. (VV)

St. Patrick's Parish Anniversary.—Commemorates the people of St. Patrick's Parish, in Pottsville, Pennsylvania, who this year are celebrating the 150th anniversary of the founding of the parish. S. Res. 116—Senate agreed to March 17, 1977. (VV)

Vice President Rockefeller.—Commends Vice President Rockefeller for the manner and integrity with which he carried out his responsibilities and wishes him Godspeed in his new and active life. S. Res. 37—Senate agreed to January 18, 1977. (VV)

William A. Ridgely Retirement.—Commends William A. Ridgely upon his retirement as financial clerk of the Senate for his lengthy, faithful and outstanding service. S. Res. 236—Senate agreed to July 28, 1977. (VV)

William O. Douglas Memorial.—Dedicates the canal and towpath of the Cheasapeake and Ohio Canal National Historical Park to Justice William O. Douglas; directs the Secretary of the Interior to provide the necessary identification to inform the public of contributions of Justice Douglas and to erect and maintain within the exterior boundaries of the Park an appropriate memorial; and authorizes such sums as necessary to carry out the act. S. 776—Public Law 95–11, approved March 15, 1977. (VV)

NATURAL RESOURCES—NATIONAL HISTORIC SITES

Bull Run Reserve.—Authorizes the Secretary of Agriculture to permit, under the provisions of the Multiple Use-Sustained Yield Act of 1960, general recreational access and geothermal explorations for six months within a 42,500 acre area of the Bull Run Reserve, Mount Hood National Forest, Oregon. H.R. 7606—Public Law 95–55, approved June 25, 1977. (VV)

Cibola National Forest.—Increases the boundary of the Cibola National Forest in New Mexico to include four separate tracts adjacent to the forest which comprise approximately 25,975 acres. S. 553—Passed Senate October 29, 1977. (VV)

Eleanor Roosevelt National Historic Site: Authorizes the Secretary of the Interior to establish 175 acres, including the Val-Kill estate in Hyde Park, New York, as the Eleanor Roosevelt National Historic Site to commemorate the life of Eleanor Roosevelt as well as provide a location for the conduct of studies and seminars relating to the issues with which she was concerned. H.R. 5562—Public Law 95–32, approved May 26, 1977. (VV)

Fort Union Trading Post National Historic Site.—Increases from $613,000 to $8.5 million the authorization ceiling for the Fort Union Trading Post National Historic Site in North Dakota and Montana of which $73,000 is for land acquisition and $8,427,000 for development facilities at the site with the stipulation that these funds will not be available until October 1, 1978, and that no funds for the reconstruction of the fort may be expended until the Secretary has determined, based on historical documentation, that reconstruction can be accomplished with a minimum of conjecture. S. 491—Passed Senate October 29, 1977. (VV)

George W. Norris Home National Historic Site.—Authorizes the Secretary of the Interior to acquire by donation or purchase with donated funds the home of Senator George William Norris (who, among other achievements, authored the 20th amendment to the Constitution which deals with Presidential and Congressional terms and the sessions of Congress, and the legislation which established the Rural Electrification Administration) in the State of Nebraska and to establish it as the "George W. Norris Home National Historic Site". S. 1828—Passed Senate July 11, 1977. (VV)

Land and Water Conservation Fund.—Amends the Land and Water Conservation Fund Act of 1965 to establish a special account for use in acquiring the backlog of lands previously authorized for inclusion in the national park system and certain similar Federal areas; increases the authorized level of the fund from $600 million to $900 million in fiscal year 1978 and from $750 million to $900 million in fiscal 1979 with the additional $450 million to be credited to the special account and to remain available until appropriated; provides that prior acquisition ceiling limitations on authorized areas may be exceeded in any one fiscal year by up to $1 million or 10 percent of the statutory limitation, whichever is greater; permits preacquisition work such as title searches, mapping, and other preliminary work which does not interfere with the rights of private landowners if Congressional authorization appears to be imminent; authorizes the Forest Service to use Land and Water Conservation Fund moneys to purchase land in the Big Thompson Canyon at pre-flood value; and gives the Secretary the authority to (1) make minor boundary adjustments in units of the national park system with such authority to expire 10 years from the date of enactment of the authorizing legislation establishing the boundaries, and (2) accept adjacent lands outside park boundaries by donation. H.R. 5306—Public Law 95–42, approved June 10, 1977. (VV)

Legionville National Historic Site.—Provides for the establishment of a Legionville National Historic Site in Beaver County, Pennsylvania, consisting of 22 acres to be administered by the Secretary of the Interior as a unit of the national park system. S. 1104—Passed Senate October 29, 1977. (VV)

Public Works on Rivers and Harbors—Waterways User Fee.—Authorizes the construction, repair, and preservation of certain public works of the Corps of Engineers on rivers and harbors for navigation and flood control; includes authorization (either construction or Phase I engineering) for 15 projects developed by the Corps of Engineers, modifications to previously authorized projects, and general legislative items; increases monetary authorizations for eleven river basins which will cover anticipated funding requirements for fiscal year 1978;

Authorizes the reconstruction of Locks and Dam 26 on the Mississippi River at Alton, Illinois, by replacing it with a new dam and a single 1,200 foot lock with contingencies for a second lock, at an estimated cost of $421 million;

Establishes, for the first time in U.S. history, a system of user charges to be paid by the commercial cargo vessels that use the 25,000 miles of Federally built and maintained inland waterways; provides that the user charge plan recover 50 percent of Federal expenditures for construction of navigation aids such as locks and 100 percent of operational and maintenance costs of the inland waterways; and provides that the charges be phased in over 10 years beginning October 1, 1979, unless Congress disapproves by concurrent resolution within 90 days. H.R. 5885—Passed House May 17, 1977; Passed Senate amended June 22, 1977; Senate requested conference June 24, 1977. (235)

Reclamation Projects.—Authorizes $31,050,000 for fiscal year 1978 for continuing construction of the distribution system and drains of the San Luis Unit, Central Valley project, California and provides for the establishment of a task force to review the management, organization and operation of the Unit and to report to Congress by January 1, 1978, the results of an examination of certain specified issues. H.R. 4390—Public Law 95–46, approved June 15, 1977. (VV)

Recreation permits.—Establishes uniform and objective policies and procedures to be employed by the Forest Service in issuing and administering permits for ski area and other commercial outdoor recreation facilities and services on national forest lands; removes permits for ski area facilities and services from any acreage limitations providing instead a separate procedure for such areas having more than 3,000 acres; continues the present maximum permit term of 30 years and allows the renewal of the permit at any time during the permit's term if substantial investment is to be made by the permittee with the requirement that there must be six month's public notice prior to the renewal; authorizes the Secretary to suspend or terminate a permit if the permittee has breached the terms and is given due notice and a reasonable opportunity to correct the violation or if the lands are needed for another use; requires the Secretary to submit to the Congress within six months proposed regulations setting forth the conditions and procedures for the issuance of permits and provides certain congressionally mandated conditions and procedures which are to be included; requires that the permittee pay annual fees for the use of the lands to which the permit applies; increases from 25 to 50 percent the State's share of these fees; requires that the share be paid directly to affected local government rather than to the State, and widens the permissible use of the funds from construction of roads and schools only to construction of any public facility and provision of any public service; contains provisions whereby a permittee may increase a charge to the public for use of his principal facilities and services; provides for public disclosure of any memoranda, financial statement, or other materials concerning historical or financial data or information of commercial opposition to proposed increases in charges to the public; provides that structures, fixtures, or improvements not owned by the U.S. to which a permit applies, are the property of the permittee who may remove them and assign, transfer, encumber or relinquish their title; authorizes the Secretary to furnish, on a reimbursement of appropriation basis, all types of utility service on forest reserve lands to concessioners and permittees; contains a provision concerning maintenance of records and provisions of access to them by the Secretary and Comptroller General and requires that such records be kept for six years unless they are mandated to be kept longer in another statute; and contains other provisions. S. 1338—Passed Senate July 13, 1977. (VV)

River Basins.—Authorizes $3,905,000 for fiscal year 1978 to carry out the comprehensive river basin planning program of the U.S. Water Resources Council in those areas and river basins where river basin commissions have not been created, and to finance work on national water assessments. H.R. 6752—Public Law 95–41, approved June 6, 1977. (VV)

Increases the authorization for the Brazos River Basin in Texas to $7.5 million and the San Joaquin River Basin in California to $6 million which funds are appropriated but not authorized in order to permit contractors to continue work under their present contracts and allow the Corps to let additional contracts that were scheduled to be awarded in October. S. 2001—Public Law 95–104, approved August 15, 1977. (VV)

Sabine River Compact.—Gives Congressional consent to the amendment to the Sabine River Compact, entered into by the States of Texas and Louisiana, which would permit the Sabine River Authorities of the respective States to address themselves to the problems of pollution abatement and saline intrusion in the water sources within their jurisdiction, subject to the powers already vested in them under the existing agreement. H.R. 1551—Public Law 95–71, approved July 23, 1977. (VV)

Sawtooth National Recreational Area.—Increases the authorization ceiling for land acquisition for the Sawtooth National Recreation Area in Idaho from $19,802,000 to $27,802,000. S. 791—Passed Senate October 27, 1977. (VV)

Timber Sales.—Requires the Secretary of Agriculture to select the bidding method on Forest Service timber that will foster open and fair competition, that will insure that the Federal government will receive the appraised value of the timber, and that takes into consideration the economic stability of

communities whose economies are dependent on such national forest materials; authorizes the Secretary to select or alter the bidding method as he determines necessary; requires that in oral auctions, only prospective purchasers whose written sealed bids which are equal to or in excess of the appraised value of the forest timber may participate in the oral bidding process; and requires the Secretary to monitor bidding, and to report any instances of possible collusive bidding practices to the Attorney General. S. 1360—Passed Senate September 14, 1977. (VV)

Tinicum National Environmental Center.—Amends the Tinicum National Environmental Center Act which provided for the preservation of the tidal marshland in Pennsylvania to extend the boundaries of the center and increase the authorization to develop the center and complete the land acquisition from $3,850,000 to $11,100,000. H.R. 2817—Public Law 95– , approved 1977. (VV)

Water Resources Development—Saline Water Conversion.—Reinstates for fiscal year 1978 the authorization for grants under title II of the Water Resources Act of 1964, as amended, for an institute, center, or equivalent agency at a college or university in each State to carry out water resources and technology; and extends through fiscal year 1978 the Saline Water Conversion Act of 1971 and authorizes therefor $21.95 million plus an additional $40 million for four projects which demonstrate the technology of desalination of which two must utilize underground brackish water. H.R. 4746—Public Law 95–84, approved August 2, 1977. (VV)

Water Resources Management.—States the sense of the Senate that no new national water resources management policy shall be implemented without Congressional concurrence, and no proposed regulations shall take effect for six calendar months. during which Congress is in session, from the time of publication in the Federal Register and of notification to the Congress by the Executive Branch; provides that the Executive Branch shall transmit all recommendations and proposals to the States and to make all materials pertaining to regional hearings available to them; gives States two months to develop their responses and recommendations to the Executive Branch and to transmit them to the Water Resources Council and appropriate Congressional committees; provides States with an additional month to meet within river basin or regional commissions for recommendations of regional water resources management policies which should be transmitted to the Water Resources Council and appropriate Congressional committees; and gives Congress three months to hold hearings on the establishment of a national water resources management policy. S. Res. 284—Senate agreed to October 5, 1977. (VV)

White River National Forest.—Increases by 2,416 acres the boundary of the White River National Forest in Colorado and authorizes $2.6 million for the purchase of 789 of these acres. S. 2101—Passed Senate October 29, 1977. (VV)

Wilderness areas

Endangered Wilderness.—Designates 14 additional units comprising 1.25 million acres of national forest land to the National Wilderness Preservation System as follows: 56,430 acres in the Coronado National Forest, Arizona, to be known as the Pusch Ridge Wilderness; 333,100 acres of land in California just south of Sequoia National Park to be known as the Golden Trout Wilderness; 21,250 acres of the Los Padres Forest in California to be designated as the Santa Lucia Wilderness area; 4 additions totalling 61,000 acres to the existing Ventana Wilderness also in the Los Padres; and 80,000 acre wilderness in the White River National Forest in Colorado, to become the Hunter-Fryingpan Wilderness; 37,000 acres of land near Albuquerque, New Mexico, in the Cibola Forest, to be known as the Monzano Mountain Wilderness; 30,930 acres of the Cibola also located near Albuquerque, which will be called the Sandia Mountain Wilderness; 29,567 acres outside Salt Lake City, Utah, to be called the Lone Peak Wilderness; 3 areas in Oregon, previously passed by the Senate in S. 658, the Oregon Omnibus Wilderness Act; an 82,400 acre addition to the Kalmiopsis Wilderness, a 33,000 acre addition to the Mt. Hood Wilderness area, and a 185,000 acre wilderness area along the Washington-Oregon border, to be known as the Wenaha-Tucannon Wilderness; an area in Oregon's Willamette National Forest known as the French Pete additions to the Three Sisters Wilderness; and 206,000 acres in Idaho, to be known as the Gospel-Hump Wilderness; provides for the study of additional public lands for inclusion in the wilderness system; and makes certain clarifying amendments regarding administration of the system. H.R. 3454—Passed House September 12, 1977; Passed Senate amended October 20, 1977; in conference. (573)

Oregon Wilderness.—Designates additional land for inclusion in the following wilderness areas: Kalmispsis Wilderness, Siskiyou National Forest, Oregon—82,400 acres, Wenaha-Tucannon, Umatilla National Forest, Washington and Oregon—185,000 acres, and Mt. Hood Wilderness, Mt. Hood National Forest, Oregon—33,000 acres and designates the proposed Hidden Wilderness area, Willamette and Mt. Hood National Forests, Oregon, for study for possible inclusion in the National Wilderness System under the interim management of the Secretary of Agriculture. S. 658—Passed Senate July 20, 1977. (VV)

Wilderness areas studies

Montana Wilderness.—Directs the Secretary of Agriculture to study 9 areas of land totaling approximately 973,000 acres located within the following National Forests in Montana to determine their suitability for designation as wilderness under the provisions of the Wilderness Act of 1964: Beaverbrook National Forest—West Pioneer Wilderness and Taylor-Hilgard Wilderness; Bitterroot National Forest—Bluejoint Wilderness and Sapphire Wilderness; Kootenai National Forest—Ten Lakes Wilderness and Mt. Henry Wilderness; Lewis and Clark National Forest—Middle Ford Judith Wilderness and Big Snowies Wilderness; and Gallatin National Forest—Hyalite-Porcupine-Buffalo Horn Wilderness; requires the Secretary to complete the studies and report his findings to the President within 5 years of enactment who is to submit his recommendations with respect thereto to the Congress within 7 years of enactment; and directs the Secretary to administer the areas so as not to diminish their presently existing wilderness character and potential until Congress determines otherwise. S. 393—Public Law 95–150, approved November 1, 1977. (VV)

Wildlife Refuges.—Extends through fiscal year 1980 the authorization for the acquisition and development of the San Francisco Bay National Wildlife Refuge in California (consisting of approximately 21,000 acres), the Tinicum National Environmental Center in Pennsylvania (consisting of approximately 1,200 acres), and the Great Dismal Swamp National Wildlife Refuge in Virginia (consisting of approximately 107,360 acres). H.R. 5493—Passed House May 16, 1977; Passed Senate amended May 24, 1977. (VV)

NOMINATIONS

(Action by Roll Call Vote)

Griffin B. Bell, of Georgia, to be Attorney General.—Nomination confirmed January 25, 1977. (10)

Joseph A. Califano, Jr., of the District of Columbia, to be Secretary of Health, Education, and Welfare: Nomination confirmed January 24, 1977. (7)

Charles D. Ferris, of Massachusetts, to be a Member of the Federal Communications Commission: Nomination confirmed October, 10, 1977. (554)

Peter F. Flaherty, of Pennsylvania, to be Deputy Attorney General: Nomination confirmed April 5, 1977. (99)

James B. King, of Massachusetts, to be a Member of the National Transportation Safety Board: Nomination confirmed October 10, 1977. (555)

Ray Marshall, of Texas, to be Secretary of Labor.—Nomination confirmed January 26, 1977. (12)

Paul C. Warnke, of the District of Columbia, for rank of Ambassador for SALT negotiations and to be Director of the Arms Control and Disarmament Agency.—Nominations confirmed March 9, 1977. (41 and 42)

Andrew J. Young, of Georgia, to be U.S. Representative to the United Nations.—Nomination confirmed January 26, 1977. (14)

PROCLAMATIONS

American Business Day.—Designates May 13 of each year as "American Business Day". S.J. Res. 40—Passed Senate April 27, 1977. (VV)

Day of Prayer.—Designates the third Thursday in December of 1977 as "National Day of Prayer". S.J. Res. 81—Passed Senate September 22, 1977. (VV)

Family Week.—Designates that week in November which includes Thanksgiving Day as "National Family Week". H.J. Res. 372—Public Law 95–100, approved August 15, 1977. (VV)

Gifted and Talented Children Week.—Designates the week beginning November 13, 1977, as "National Gifted and Talented Children Week". S.J. Res. 88—Passed Senate October 7, 1977. (VV)

Grandparents Day.—Designates the first Sunday of September of each year as "Grandparents Day". S.J. Res. 24—Passed Senate May 16, 1977. (VV)

Law Student Recognition Day.—Designates November 8, 1977, as "National Law Student Recognition Day". S.J. Res. 80—Passed Senate October 10, 1977. (VV)

Lupus Week.—Designates the Week of September 18 through 24, 1977, as "National Lupus Week." H.J. Res. 24—Public Law 95–72, approved July 25, 1977. (VV)

Medical Laboratory Week.—Designates the second week of April of each year as "National Medical Laboratory Week." S.J. Res. 78—Passed Senate October 29, 1977. (VV)

School Volunteers.—Requests the President to issue a proclamation recognizing the contributions made by the thousands of Americans who are voluntarily working to improve the quality of education in the United States. S.J. Res. 62—Passed Senate June 13, 1977. (VV)

Sickle Cell Month.—Designates the month of September, 1977, as "National Sickle Cell Month." S.J. Res. 71—Passed Senate August 3, 1977. (VV)

SENATE

Commission on the Operation of the Senate.—Extends for an additional 30 days, until April 1, 1977, the Commission on the Operation of the Senate. S. Res. 93—Senate agreed to February 24, 1977. (VV)

Committee Reorganization.—Amends the Standing Rules of the Senate to reorder and rationalize the jurisdictions of Senate committees, effective February 11, 1977, among 15 standing committees and 6 other special, select or joint committees; abolishes the Aeronautical and Space Sciences Committee and transfers its jurisdiction to a newly created Committee on Commerce, Science, and Transportation; abolishes the District of Columbia Committee and the Com-

mittee on Post Office and Civil Service and transfers their jurisdictions to a newly created Committee on Governmental Affairs; transfers the jurisdiction of the former Interior Committee to an Energy and Natural Resources Committee; transfers the jurisdiction of the former Public Works Committee into a new Environment and Public Works Committee; transfers the jurisdiction of the former Labor and Public Welfare Committee to a new Human Resources Committee; continues the existence of the Special Committee on Aging with membership reduced to 9 in the next Congress; continues the existence of the Select Committee on Nutrition and Human Needs until December 31, 1977, after which its jurisdiction will be transferred to the Committee on Agriculture, Nutrition and Forestry; establishes a temporary Select Committee on Indian Affairs to consider all legislation relating to Indians for the duration of the 95th Congress after which its jurisdiction will be transferred to the Human Resources Committee;

Limits the number of committee and subcommittee memberships a Senator can hold generally to two major or class "A" committees and one class "B" committee and eight subcommittees thereof; prohibits committees from establishing subunits other than subcommittees; permits the Majority and Minority Leaders to temporarily increase the sizes of committees to ensure majority party control; allows Senators to serve on joint committees where such service is required to be from members of a committee on which such Senator serves; prohibits Rules Committee members from serving on any joint committee unless the Senate members of such committees are required by law to be from the Rules Committee; exempts members of the Budget Committee during the 94th Congress from certain assignment limitations during the 95th Congress; continues grandfather rights for Senators who are serving on three standing committees as a result of an exemption in the Legislative Reorganization Act of 1970 to continue to do so during the 95th Congress; allows the chairmen and ranking minority members of the Post Office and Civil Service Committee and the District of Columbia Committee to serve on the Governmental Affairs Committee and two other committees of the same class, as long as their service on Governmental Affairs remains continuous; prohibits a Senator from serving as Chairman of more than one standing, select, special, or joint committee unless the jurisdiction is directly related to that of the standing committee he chairs; prohibits Senators from serving as chairman of more than one subcommittee of each standing, select, special or joint committee; limits members to two class A committee or subcommittee chairmanships and one class B committee or subcommittee chairmanship, effective at the beginning of the 96th Congress; requires that not later than July 1, 1977, the appropriate standing committees shall report legislation terminating the statutory authority of the Joint Committees on Atomic Energy, on Congressional Operations and on Defense Production; requires that the appropriate standing committees report recommendations not later than July 1, 1977, with respect to the Joint Committees on the Library and on Printing; allows Senators to serve on joint committees considered for termination pending final disposition of the issue;

Provides for sequential and joint referral of bills that cross jurisdictional lines based on motions by the Majority and Minority Leaders, instead of by unanimous consent; provides for a computerized schedule of committee meetings by the Rules Committee; permits committees to meet without special leave until the conclusion of the first 2 hours of a meeting of the Senate or 2:00 p.m., except for the Appropriations and Budget Committees which may meet at any time without special consent; requires that morning meetings of committees and subcommittees be scheduled for one or both of two periods, one ending at 11:00 a.m. and a second beginning at 11:00 a.m. and ending at 2:00 p.m.; provides for continuous review of the committee system by the Rules Committee in consultation with the Majority and Minority Leaders; prohibits consideration of committee amendments to bills when the amendments are not in the jurisdiction of the committee proposing them; requires committee reports to contain an evaluation of the regulatory impact which would be incurred by individuals and businesses in carrying out the provisions of the bill; provides for the transition of staff from abolished or realigned committees to the new committees and provides for salary and tenure of committee staff during a transition period; provides that committee staff reflect the relative numbers of majority and minority members and that one-third of the committee staffing funds be allocated to the minority members for compensation of minority staff; provides that such adjustment be made over a four-year period beginning July 1, 1977, with not less than one-half being made in 2 years; provides for funding of increases in the expenditures of new committees resulting from this resolution; incorporates provisions of S. Res. 60 of the 94th Congress relating to individuals appointed by Senators to assist them with committee work; provides for the rereferral of measures according to the realigned jurisdictions; and provides that legal references to old committees are to be construed as referring to their successors. S. Res. 4—Senate agreed to February 4, 1977. (36)

Deputy President Pro Tempore.—Establishes, effective January 5, 1977, the Office of Deputy President Pro Tempore which shall be held by any Senator who is a former President or Vice President of the United States; authorizes the President Pro Tempore and the Deputy President Pro Tempore each to appoint an administrative assistant, a legislative assistant and an executive secretary; authorizes the Sergeant at Arms to provide and maintain an automobile for use by the Deputy President Pro Tempore and to employ a driver-messenger; and authorizes the Secretaries of the Conferences of the Majority and Minority each to appoint two staff assistants in each office. S. Res. 17—Senate agreed to January 10, 1977. (VV)

Names Hubert H. Humphrey of Minnesota Deputy President Pro Tempore of the Senate, effective January 5, 1977. S. Res. 27—Senate agreed to January 11, 1977. (VV)

Financial Disclosure Under Rule 42.—Amends S. Res. 110, to provide that Rule 42, the public financial disclosure provisions, would take effect on January 1, 1978, instead of October 1, 1977; provides that each person covered by old Rule 44 would make financial reports under its provisions for all of 1977 instead of the first three quarters of 1977; requires each person covered by Rule 42 to disclose real property, personal property holdings, personal liabilities, patent rights or interest in patent rights, outside positions held and post Government employee agreements, which is the same information required for the first filing under title III of S. 555, January 1, 1978; requires Senators and others who become candidates for nomination or election to the Senate as defined in rule 42 in 1977 or 1978 to disclose the same information a Senator or other covered person who is not a candidate is required to disclose under rule 42; makes rule 42 also apply to a Senator, officer, or employee, compensated at a rate in excess of $25,000, who is employed for 60 days between January 1 and May 1, 1978, and any employee designated under rule 49 to handle campaign funds between January 1 and May 1, 1978; and incorporates into the Senate Rules the blind trust provision of S. 555 which states the requirements of a qualified blind trust. S. Res. 265—Senate agreed to September 29, 1977. (VV)

Joint Committee on Atomic Energy Abolishment—Transitional Accommodations.—Establishes until March 31, 1979, an Office of Classified National Security Information under the policy direction of the majority and minority leaders and the chairman of the Rules Committee and the administrative direction of the Secretary of the Senate which shall be responsible for safeguarding national security information and other restricted data of the Joint Committee on Atomic Energy; authorizes the Office to classify and declassify information within the guidelines developed for restricted data by the responsible executive agencies and to establish a central repository in the Capitol for safeguarding such data; directs the office, within 30 days of enactment, to furnish the Senate Armed Services, Energy, Environment and Foreign Relations Committees with a listing of all records, data, charts, and files to be transferred and to indicate which committee may have jurisdiction; directs the chairmen of the committees involved to resolve any jurisdictional problems which may arise; and makes necessary conforming amendments to certain laws which pertain to the Joint Committee on Atomic Energy. S. Res. 252—Senate agreed to August 5, 1977. (VV)

Political Fund Raising.—Amends paragraph 1 of rule XLIX of the Standing Rules of the Senate to permit those two assistants of a Senator designated to solicit campaign funds to also receive, be the custodian of, or distribute such funds. S. Res. 188—Senate agreed to June 13, 1977. (VV)

Senate Delegation to the Middle East.—Authorizes the President of the Senate to appoint a special delegation of not to exceed 12 members of the Senate upon the recommendation of the Majority and Minority Leaders to visit certain countries of the Middle East and other areas as needed to conduct a study on U.S. economic and security interests in those areas, and authorizes $45,000 for expenses therefor which shall be paid from the contingent fund of the Senate. S. Res. 256—Senate agreed to August 5, 1977. (VV)

Senate Delegation to South America.—Authorizes the President of the Senate to appoint, upon the recommendation of the Majority and Minority Leaders, a special delegation of not to exceed 12 members of the Senate to visit certain countries in South America and other areas as needed to conduct a study on U.S. economic and security interests in those areas, and authorizes therefor $45,000. S. Res. 221—Senate agreed to July 15, 1977. (VV)

Senate Ethics Code.—Amends the Standing Rules of the Senate to create a Code of Official Conduct; amends Senate Resolution 338, the original resolution establishing the Select Committee on Ethics, to provide for additional procedures for enforcing the new Code as well as other laws and rules of the Senate; and directs other Senate committees to study certain matters related to this resolution;

Public Financial Disclosure.—Requires Senators, candidates for the Senate, officers and employees of the Senate earning in excess of $25,000 per year to file a report listing their earned income and the sources and categories of value of their income, other than earned income, and all other interests, assets, and holdings held for the purposes of investment or income production;

Gifts.—Prohibits knowingly accepting a gift or gifts having an aggregate value of over $100 during a year from any individual or organization defined as having a "direct interest in legislation;"

Outside Earned Income.—Limits outside earned income of a Senator, officer or employee earning over $35,000 to 15 percent of

the person's salary; limits each honorarium to $1,000 for Senators and to $300 for officers and employees; allows Senators or staff to accept honoraria up to $25,000 if immediately donated to a tax-exempt charity;

Conflict of Interest.—Bars the use of one's official position to introduce or aid the progress of legislation the principal purpose of which furthers one's own financial interest; allows Members or staff who earn over $25,000 to provide professional services for compensation if not affiliated with a firm or association and if their work is not carried out during regular Senate office hours; directs committee employees earning over $25,000 to divest themselves of any holdings which may be directly affected by the actions of the Committee for which they work unless permitted by their supervisor and the Ethics Committee; prohibts Senators from lobbying the Senate for one year after leaving the Senate; applies a similar prohibition to employees lobbying the Committee or office for which they worked;

Unofficial Office Accounts.—Abolishes unofficial office accounts, those accounts defined as not including personal funds of a member, official funds, political funds and reimbursements;

Foreign Travels.—Prohibits "lame duck" travel by a defeated or retiring member; prohibits receipts of counterpart funds where there has been reimbursement from another source; restricts per diem allowance to food, lodging and related expenses and places the responsibility on the person receiving the per diem to return any unused funds;

Franking Privilege—Radio-TV Studio—Senate Computer.—Prohibits mass mailings and the use of the radio-TV studios within 60 days of an election; requires the use of official funds to purchase paper, to print, and prepare mass mailings under the frank; requires a Senator to register mass mailings annually for public inspection; prohibits the use of Senate computer to store names identified as campaign workers;

Political Activity by Officers and Employees.—Restates the present ban on staff soliciting or receiving campaign contributions; allows a Senator to name one assistant each in his Washington and State office to receive and handle campaign funds;

Discriminatory Employment Practices.—Prohibits discrimination on the basis of race, color, religion, sex, national origin, or state of physical handicap in employment practices in the Senate;

Enforcement.—Sets forth procedures for the Select Committee on Ethics in investigating complaints of violation of the Code and enforcing its provisions;

Further Studies.—Requires the Appropriations Committee to report within 120 days regarding an adjustment of official allowances; requires the Finance Committee to report within 120 days on the tax status of funds raised and expended to defray ordinary and necessary expenses of Members; directs the Rules Committee (1) to report within 120 days on the desirability of promulgating rules providing for: (a) periodic audits by GAO of all committee and office accounts; (b) a centralized recordkeeping system of accounts, allowances, expenditures and travel expenses of all committees and offices; (c) suggested accounting procedures for committee and office accounts; and (d) public disclosure and availability of information on the accounts of all committees and offices in a form which segregates the allowances and expenses of each committee and office; (2) to report within 120 days on the desirability of requiring that only official Senate funds may be used to pay for any expenses incurred by a Senator in the use of the radio-TV studios; and (3) to study laws relating to contributions made by officers or employees as well as on proposals to prohibit the misuse of official staff in election campaigns and report thereon within 180 days; requires the Governmental Affairs Committee to report (1) within 180 days regarding employee discrimination complaints and the desirability of establishing rules requiring "blind trusts" by members, officers and employees of Senate and (2) within 120 days regarding the use of simplified form of address for franked mail; and directs the Foreign Relations Committee to report in 90 days on the problem of travel, lodging and other related expenses provided members and staff paid for by foreign governments where it is not possible to procure transportation, lodging or other related services or to reimburse the foreign government for those purposes. S. Res. 110—Senate agreed to April 1, 1977. (94)

Severance Pay for Displaced Senate Employees.—Provides severance pay for certain committee staff members whose service as an employee of the Senate was terminated solely and directly as a result of the reorganization of Senate committee staffs caused by the Committee Reorganization Amendments of 1977. S. Res. 239—Senate agreed to August 5, 1977. (VV)

Special Committee on Official Conduct.—Establishes a temporary Special Committee on Official Conduct composed of fifteen members appointed by the President pro tempore of the Senate (eight appointed upon the recommendation of the majority leader and seven upon the recommendation of the minority leader, with the chairman designated by the majority leader and the vice chairman by the minority members) to conduct a complete study of all matters relating to standards of conduct of Members, Officers and employees of the Senate in the performance of their official duties including standards for: (1) annual public disclosure of income, assets, debts, gifts, and other financial items; (2) restrictions on, or the elimination of, outside income from honoraria, legal fees, gifts and other sources of financial or in-kind remunerations; (3) conflicts of interest arising out of investments in securities, commodities, real estate, or other sources; (4) office accounts, and excess campaign contributions; (5) Senate travel; and (6) engaging in business, professional activities, employment, or other remunerative activities, so as to avoid any conflict with the conscientious performance of official duties; requires the Committee to submit a report of its findings by March 1, 1977, together with a resolution setting forth, by way of proposed amendments to the Standing Rules of the Senate, a Code of Official Conduct for Members, officers, and employees of the Senate;

Provides that on March 1, 1977, after the conclusion of routine morning business, the resoution shall become the pending business of the Senate under a 50 hour time limitation with a 2 hour time limitation on amendments thereto and 1 hour on amendments in the second degree, debatable motions or appeals; provides that amendments not germane to the bill will not be received; states that motions to limit debate are not debatable and that motions to table or recommit are out of order;

Authorizes the Committee to utilize the facilities and services of the staff of any other committee and provides that expenses of the Committee shall be paid from the contingent fund of the Senate. S. Res. 36—Senate agreed to January 18, 1977. NOTE: (On March 3, 1977, the Senate, by unanimous consent, extended until midnight, March 7, 1977, the time for the Committee to file its report and provided that the leadership may call the resolution up on March 8, 1977, or any time thereafter.) (VV)

Teamsters' Pension Fund.—Authorizes the Committee on Human Resources to inspect and receive any tax return, return information, or other tax related matter held by the Secretary of Treasury with respect to the Teamsters' Central States Southeast and Southwest Area Pension Fund, and any related matter which the committee demonstrates, to the satisfaction of the Secretary, contains or may contain information directly relating to its study and oversight proceedings. S. Res. 139—Senate agreed to April 22, 1977. (VV)

SOCIAL SERVICE-WELFARE

Child Care Program Extension.—Extends through fiscal year 1978 certain provisions relating to the title XX social services program which otherwise would expire September 30, 1977, including provisions which: add $200 million in child care funding, and authorize states to use part of these funds for the employment of welfare recipients in child care jobs; allow an income tax credit of 20 percent of wages paid (up to $1,000) to employers who hire welfare recipients for child care jobs; set Federal staffing standards for preschool child care facilities; and permit certain aspects of treatment of addicts and alcoholics to be funded under the social service program and require special confidentiality standards for such program;

Modifies the protective and vendor payment provisions of the Aid to Families with Dependent Children Program to allow a State Agency to make such payments in cases where the recipient is judged incapable of managing funds for up to 0 percent of AFDC case load rather than 10 percent; provides that Federal matching funds cannot be denied to any State because it exceeded the previous 10 percent limitation on joint payments, or because it did not comply with other specified conditions; extends to employees of a central State agency employed to provide specialized services to schools provisions of the State Unemployment Compensation Program which specify that the school employees are not ordinarily eligible for unemployment benefits during regular vacation periods; increases to 90 percent Federal participation in State administrative costs to implement the Indian Health Care Improvement Act; increases by 6 months, to July 1, 1978, the period for allowing depreciation for expenditures to rehabilitate low income rental housing; extends for 2 years the exclusion from income of amounts received under the Armed Forces Health Professional Scholarship Program and similar programs; protects disaster victims from having their SSI benefits reduced or terminated because they received assistance to replace damaged property; permits employment agencies placing companion sitters to be exempt from the Internal Revenue Code requirements imposed on employers in regard to unemployment taxes; and contains provisions to protect the sitters rights under the unemployment compensation and social security programs. H.R. 3387—Public Law 95—, approved 1977. (564)

Legal Services Corporation.—Authorizes $205 million for fiscal year 1978 and such sums as may be necessary for fiscal years 1979 and 1980 for extension of the Legal Services Corporation; allows judicial review of decisions of the Legal Services Corporation; entitles a business or individual who prevails in a civil action and whose total assets or income is below certain levels to awards for attorney's fees in cases where the U.S. is a party; permits the Corporation to represent a client in a civil action in which the client's status as a conscientious objector is at issue; authorizes the Corporation to undertake, by grant or contract, training and technical assistance, and clearinghouse activities; permits research activities to be undertaken by grant contract but excludes broad general legal or policy questions unrelated to representation of eligible clients by grant or contract; requires client representation on the

national board and on the local boards of Legal Service Corporation recipients to insure sensitivity to client needs in establishing priorities; makes recipient staff attorneys subject to the mandates of the Hatch Act that are applicable to other government employees by eliminating the additional restrictions which currently apply; and allows Corporation lawyers to represent people who were denied representation in the past simply because the subject matter of the cases did not appeal to lawmakers, regardless of the merits of those cases under the Constitution and other statutues, such as the new authority to represent juveniles in a broad range of cases and to provide legal assistance to those involved in desegregation proceedings relating to schools. H.R. 6666—Passed House June 27, 1977; Passed Senate amended October 12, 1977; In conference. (561).

Medicare Coverage for Rural Health Clinics—NIOSH.—Provides coverage under part B of medicare for rural health clinic services and mandates coverage of these clinic services in State medicaid programs; directs the Secretary of HEW to submit a report to Congress by April 1, 1978, on the advantages of extending such coverage to urban or rural mental health centers; and permits the Internal Revenue Service to continue to furnish the National Institute of Occupational Safety and Health (NIOSH) with addresses of taxpayers for the sole purpose of assisting NIOSH in locating persons previously employed in occupations exposing them to known or suspected occupational hazards and referring sick or injured workers for medical care and treatment. H.R. 8422—Passed House October 17, 1977; Passed Senate amended October 19, 1977; Conference report filed. (VV)

Medicare-Medicaid Anti-Fraud.—Strengthens the capability of the government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs;

Program Penalty Sanctions.—Modifies the penalty provisions in existing law which relate to those persons providing services under medicare and medicaid; reclassifies misdemeanors as felonies and increases penalties to a maximum fine of $25,000 and/or five years imprisonment; clarifies the types of financial arrangements and conduct classified as illegal; permits States to suspend the eligibility of medicaid recipients convicted of defrauding the program; requires the Inspector General of HEW to include in his annual report an evaluation of the effort of the Department of Justice in the investigation and prosecution of fraud in the programs together with any recommendations; requires the Secretary of HEW to suspend from participation under medicare and medicaid, for a period he deems appropriate, an individual practitioner who has been convicted of a criminal offense involving medicare or medicaid;

Disclosure of Information.—Requires the participating entity, as a condition of participation or certification in either medicare, medicaid, the maternal and child health program, or health-related entities providing services under title XX of the Social Security Act, to disclose annually to the Secretary or appropriate State agency the identity of any person who has a five percent or more ownership interest in the entity; requires providers of services to disclose similar ownership information about any subcontractor of which five percent or more is owned by the provider; requires a provider to comply with a specific request by the Secretary or the medicaid State agency for full and complete information as to any significant business transaction between it and any subcontractors or between it and wholly-owned suppliers, and in the case of subcontractors having more than $25,000 in annual business transactions with a provider, compliance would be required with similar requests related to ownership information pertaining to the subcontractor; requires all institutional providers of services to disclose, in the application for participation or certification, the names of owners, officers, directors, agents, or managing employees who have been convicted of fraud against the medicare, medicaid, or State social service grant programs; authorizes the Comptroller General to issue subpoenas to obtain necessary information and facilitate review of Social Security Act health programs and upon resistance or refusal by an individual to obey a subpoena, to request a court order requiring compliance with the subpoena; requires any provider of services participating in medicare to notify the Secretary of its employment of an individual who, at any time during the preceding year, was employed in a managerial, accounting, auditing, or similar capacity by a medicare fiscal intermediary or carrier that services the provider; allows Federal access to the records of persons or institutions providing services under medicaid in the same manner that such access is presently provided to State agencies;

Professional Standards Review.—Includes several provisions designed to clarify the nature and scope of PSRO review responsibilities, to enhance their capacity to perform reviews of the necessity and appropriateness of services more effectively, and to improve the administration and coordination of review activities to assure that program funds are properly expended;

Administrative Reform.—Requires the Secretary to establish for each of the different types of health services institutions a uniform system for the reporting of such items as cost of operation, volume of services, rates, capital assets and bill data for use by medicare and medicaid providers to be phased in by type of provider; repeals the program review team provisions of present law and gives its functions with respect to the quality and utilization of services to the Professional Standards Review Organizations; provides for 90 percent Federal matching funds for fiscal years 1978 through 1980 subject to an annual maximum payment of one percent of medicaid expenditures in a State or $500,000 whichever is greater for expenditures to establish and operate State medicaid fraud control units to prepare and prosecute cases of suspected fraud and abuse; authorizes the Secretary to arrange for demonstration projects designed to develop improved programs for detection, investigation, and prosecution of fraud and abuse; requires States to make provision in their State medicaid plan for claims payment procedures which ensure that 90 percent of the bills submitted by eligible noninstitutionally-based providers will be reimbursed within 30 days, and 99 percent within 90 days effective for calendar quarters beginning July 1, 1978; directs the Comptroller General to conduct a comprehensive review of the administrative structure for the processing of medicare claims; authorizes the Secretary to assign providers to available intermediaries and to designate a regional or national intermediary for a class of providers if he determines the administration of the program would be more effective and efficient based on developed standards; provides that standards and criteria established shall not have the effect of excluding an intermediary solely because it operates in one State; establishes a medical support program under which medicaid applicants and recipients may be required by a State to assign their rights to medical support or indemnification to the State; requires, as a condition for participation in the programs, a skilled nursing or intermediate care facility to establish and maintain a system to assure the proper accounting of personal patient funds which provides for separate and discrete accounting for each patient with a complete accounting of income and expenditures;

Other Medicaid and Medicare Amendments.—Modifies the requirements of current medicaid law concerning review of care delivered in institutional facilities; waives for calendar quarters ending prior to January 1, 1977, all penalties against States for noncompliance and waives all penalties assessed for noncompliance during calendar year 1977 if a State meets the requirements by December 31, 1977; provides that the penalties for States not in compliance by December 31 shall be determined by taking into account the proportion of medicaid patients in homes that were not reviewed to all medicaid patients in homes to be reviewed; specifies procedural requirements for the Secretary to carry out the validation requirements in a more timely fashion; modifies the requirements pertaining to the composition of medical review teams in skilled nursing facilities to conform then with those requirements applicable to intermediate care facility review; authorizes, under certain circumstances, reimbursement to a Veterans' Administration hospital for care provided to a nonveteran medicare beneficiary; requires the Secretary to report to Congress, within 12 months after enactment, his recommendations on all aspects of the delivery of home health services under medicare, medicaid and the title XX social services program;

Technician Revision.—Clarifies existing law to insure that a power of attorney cannot be used to circumvent the prohibition against the use of "factoring" arrangements in connection with the payment of provider claims by the medicare and medicaid programs; mandates that the Secretary require the purchase of durable medical equipment where purchase would be less costly than extended rental payments; increases individual State's incentives to adopt a computerized medicaid claims processing and information retrieval system; and precludes Federal matching of State medicaid expenditures that result from State laws or contracts which exclude or limit insurance benefits because an individual is eligible for medicaid. H.R. 3—Public Law 95-142, approved October 25, 1977. (VV)

School Lunch and Child Nutrition.—Extends through September 30, 1980, the summer food service program for children with changes designed to eliminate abuses and otherwise strengthen the administration of the program; extends through September 30, 1982, the authority of the Secretary of Agriculture to purchase agricultural commodities for donation to the child nutrition programs when acquisitions under other agricultural authorities are not available; requires the Secretary to establish procedures to assure that donations of agricultural commodities to the child nutrition programs are more responsive to the problems and needs of local school districts; requires the Secretary to conduct studies of the impact and the effect on the child nutrition programs of making cash payments in lieu of commodities, and of past and present patterns of sanitary practices of commodity producers under consideration for contracts for child nutrition programs; authorizes additional funds for States administrative expenses in operating the child nutrition program; requires the Secretary to make funds available to States to help defray the cost of conducting audits; revises the special milk program to provide that in schools and institutions participating in the school lunch, breakfast, or child care feeding programs, free milk may be provided to children eligible for free school meals only at times other than the regular school lunch or school breakfast serving period; revises the school breakfast program to increase the Federal maximum reimburse-

ment for especially needy schools and requires States to establish the standards, subject to the Secretary's approval, under which schools in severe need may receive 100 percent of their operating costs; revises the authority under which equipment funds are furnished schools to give priority to schools without a food service program and schools without the facilities to prepare and cook hot meals; permits junior high and middle schools participating in the school lunch program, if approved by the governing body of the school, to refuse to accept offered foods they do not intend to eat; amends the special assistance provisions to provide (1) that these payments may be made for the school year following the year in which the children's eligibility determination is made at a school in which at least 80 percent of the children are eligible for free or reduced price lunches, and (2) for any school which elects to serve free lunches for three years and pays for the lunches from sources other than Federal funds, that special assistance payments are to be made to that school for a period of three years based on the number of children determined eligible for free and reduced priced meals; revises the authority under which States are provided administrative expenses for carrying out certain child nutrition programs to require that a specific amount (based on a percentage of the State's total costs) be made available for the 1978 through 1980 fiscal years; establishes a five-year entitlement nutrition education and information program under which grants (based on the rate of 50 cents for each child enrolled in schools or other educational institutions in each State) would be made to State educational agencies for the purpose of encouraging effective dissemination of scientifically valid information about food and nutrients to children participating in the school lunch and related child nutrition programs; and requires the Secretary to approve the competitive foods which may be offered for sale at the same time and place as school meals. H.R. 1139—Public Law 95– , approved 1977. (267)

Smith College Carillon—SSI Food Stamp Eligibility—Child Support Funding—Child Day Care Study—Medicaid Funding.—Directs the Secretary of the Treasury to admit free of duty thirty-three carillon bells, including all accompanying parts and accessories, provided by the Paccard Founderie de Cloches, Annecy, France, for the use of Smith College, Northampton, Massachusetts;

Extends through fiscal year 1978 current provisions of law relating to the method whereby SSI recipients are eligible for food stamps;

Extends from July 1, 1977, through fiscal year 1978 the Federal matching payments to States for paternity and parent locator services directed toward maximizing child support for nonwelfare families;

Extends from July 1, 1977, until April 1, 1978, the date by which HEW must submit its report on the appropriateness of the Federal Interagency Day Care Program; and

Extends for 90 days the statutory requirement whereby States must have in place regular independent evaluations of long-term patients in skilled nursing homes, intermediate care facilities, and mental hospitals to be eligible for their share of Medicaid funding. H.R. 1404—Public Law 95-59, approved June 30, 1977. (VV)

TAXATION

Distilled Spirits Excise Taxes.—Extends to distilled spirits that are imported and then packaged or bottled in the United States for export the same tax drawback benefits given under present law to domestically produced spirits that are packaged or bottled for export; allows distilled spirits to be returned to bonded premises of distilled spirits plants or to export storage facilities, with benefit of tax credit or refund, for storage pending exportation and certain other preferred dispositions; allows distilled spirits bottled in bond, or returned to an export storage facility for export, to be transferred without payment of tax to customs bonded warehouses for storage pending exportation; allows distilled spirits to be withdrawn from bonded premises without payments of tax for purposes of research, development or testing; relaxes the conditions under which bonded distilled spirits may be mingled; allows gin to be made with the extracted oils of juniper berries and other aromatics, as well as with the juniper berries or other aromatics themselves, without payment of the rectification tax; and makes the effective date of the bill the first day of the first calendar month which begins 90 days after the date of enactment. H.R. 4458—Public Law 95– , approved 1977. (VV)

Duty suspensions

Aircraft Engines—Rural Health Clinics.—Allows duty free entry of previously imported foreign-made aircraft engines used by aircraft engine repair companies or the manufacturer to temporarily replace engines they are repairing in the United States; provides coverage under part B of medicare for rural health clinic services and mandates coverage of these clinic services in State medicaid programs; and directs the Secretary of HEW to acquire the Space Center Memorial Hospital in Nassau Bay, Texas, in order to transfer the functions of the Public Health Service Hospital in Galveston to this facility and to close the Galveston facility. H.R. 422—Public Law 95– , approved 1977. NOTE: (Rural Health Clinic provisions are contained in H.R. 8422 which is in conference.) (VV)

Copying Lathes—Wool—Istle Fiber.—Suspends the duty on imports of copying lathes, and of parts for such lathes, used for making rough or finished shoe lasts (forms); suspends, until July 1, 1980, the duty on imports of certain coarse wool; and suspends the duty on imports of istle, a plant fiber used as upholstery padding and in brushes and brooms. H.R. 3093—Public Law 95– , approved 1977. (VV)

Horses—Canadian Crude Oil—Doxocrubicin Hydrochloride.—Suspends, until June 30, 1980, the duty on imports of certain horses; suspends the duty on importation of Canadian crude petroleum and crude shale oil provided that an equivalent amount of domestic or duty-paid foreign crude petroleum or crude shale oil is exported to Canada from the United States; and suspends, until June 30, 1980, the duty on imports of doxorubicin hydrochloride, an anticancer drug. H.R. 3259—Public Law 95– , approved 1977. (VV)

Intravenous Fat Emulsion—Color Couplers—Glasses—Cigarettes and Liquor Tariff Treatment.—Suspends, until June 30, 1980, the duty on imports of intravenous fat emulsion used as a source of calories and essential fatty acids for patients requiring intravenous nutrition for an extended period, and the duty on imports of color couplers and coupler intermediates used in the manufacture of color photographic paper, film, and graphic arts materials; suspends, until December 31, 1978, the duty on imports of certain field glasses, opera glasses, binoculars, and other telescopes, and eliminates the differences in the tariff treatment of cigarettes and liquor brought into the United States by nonresidents and residents for personal use or as gifts. H.R. 1904—Passed House July 18, 1977; Passed Senate amended September 21, 1977; House agreed to Senate amendment with amendment October 25, 1977. (VV)

Latex Sheets—Synthetic Rutile.—Suspends until June 30, 1978, the duty on imports of certain latex foam rubber sheets used to make mattresses; suspends until June 30, 1979, the duty on imports of synthetic rutile used to make white pigments for paint, paper, and plastic; and provides that film, strips, sheets, and plates of certain plastic or rubber must be usefully processed in a commercial sense before they can be classified as "processed" for purposes of the Tariff Schedules of the United States. H.R. 2850—Public Law 95– , approved 1977. (VV)

Mattress Blanks—Bobsleds and Luges—Private Foundation Donations.—Suspends, until June 30, 1978, the duty on imports of mattress blanks of rubber latex; permits the duty-free entry of competition bobsleds and luges; and amends the Internal Revenue Code to treat certain persons as not being "substantial contributors" under the private foundations self-dealing rules merely because of contributions made in lieu of rental payments required under leases before 1969. H.R. 2849—Public Law 95– , approved 1977. (VV)

Silk Yarns—Communications Excise Tax.—Suspends, until June 30, 1980, the duty on imports of single and plied silk yarns; and reduces the amounts of Federal excise tax on communications services by excluding from the Federal Tax base those State or local telephone taxes which are separately stated on the subscriber's billing. H.R. 3373—Public Law 95– , approved 1977. (VV)

Synthetic Tantalum—Poppy Straw—Bicycle Parts.—Suspends, until June 30, 1980, the duty on imports of: (1) synthetic tantalum/columbian concentrate, used in the production of tantalum and columbium steels for the manufacture of machinery, and oil and gas pipelines; (2) poppy straw used in producing codeine or morphine; and (3) certain bicycle parts. H.R. 2982—Public Law 95– , approved 1977. (VV)

Sick Pay Exclusion.—Delays for one year, to taxable years beginning after December 31, 1976, the changes made by the Tax Reform Act of 1976 with regard to the exclusion of "sick pay" from income; makes a similar delay of the effective date of the provisions regarding the tax treatment of income earned abroad by U.S. citizens; modifies the withholding requirement enacted in the 1976 Tax Reform Act on proceeds of wagers placed in parimutuel pools with respect to horse races; dog races, and Jai Alai requiring a 20 percent withholding tax on winnings of $1,000 or more only if the odds are 300 to one or more; extends for one year the provisions of the Internal Revenue Code to allow State legislators to treat their place of residence within their legislative district as their tax home for purposes of computing the deduction for living expenses; and waives the interest and penalties with regard to certain errors regarding underpayments of estimated tax and withholding that might be made in the tax returns for 1976. H.R. 1828—Passed House April 4, 1977; Passed Senate amended April 6, 1977; House agreed to Senate amendments with amendment which omitted the provisions regarding the treatment of income earned abroad by U.S. citizens April 6, 1977; Senate requested conference April 19, 1977. (100) (Note: Provisions included in Tax Reduction and Simplication which became Public Law 95-30).

Tax Reduction and Simplification.—Amends the Internal Revenue Code of 1954 to extend the individual and business income tax reductions enacted in 1975 and to provide tax simplification as follows:

Standard Deduction and Tax Simplification.—Permanently changes the standard deduction to $2,200 for single returns and heads of households and $3,200 for joint returns; revises the tax tables to simplify tax computation for 96 percent of all taxpayers by building into the tax tables the personal exemption, the general tax credit, and the standard deduction;

Individual and Corporate Tax Reductions.—Extends through 1978 the general tax credit of $35 per person or 2 percent of

the first $9,000 of taxable income, whichever is larger; extends the earned income credit equal to 10 percent of the first $4,000 of earned income which is phased out as income rises from $4,000 to $8,000;

Extends through 1978 the corporate tax cuts, enacted in 1975 and subsequently extended, which reduced the tax rate in the initial $25,000 of corporate taxable income from 22 percent to 20 percent and reduced the rate on the next $25,000 from 48 to 22 percent;

Filing Requirements and Withholding Changes.—Increases the income level at which a tax return must be filed from $2,450 to $2,950 for a single person and a head of household and from $3,600 to $4,700 for a joint return; requiries modification of the withholding rates to reflect the changed standard deduction;

New Jobs Credit.—Provides a new Jobs tax credit for 1977 and 1978 equal to 50 percent of the increase in each employer's wage base under the Federal Unemployment Tax Act (FUTA) above 102 percent of that wage base in the previous year; reduces the employer's deduction for wages by the amount of the credit, thereby reducing the maximum gross credit for each new employee from $2,100 to $1,806; limits the credit to no more than: (1) 50 percent of the increase in total wages paid by the employer for the year above 105 percent of total wages in the previous year; (2) 25 percent of the current year's FUTA wages; (3) $100,000 per employer; and (4) the taxpayer's tax liability with provision of carrying back credit for 3 years and carrying forward credit for 7 years; provides an additional 10 percent nonincremental credit for hiring the handicapped, including handicapped veterans, who have received vocational training;

Postponement of Changes in 1976 Act.—Postpones for one year the effective date of revisions made by the Tax Reform Act of 1976 in the tax treatment of sick pay and income earned abroad; relieves individual taxpayers for periods prior to April 16, 1977, and corporations for period prior to March 16, 1977, from additions to tax and interest arising from changes in the tax law made applicable to 1976 by the 1976 Act; relieves employers from penalties for under withholding in 1976 on remuneration which became taxable prior to January 1, 1976, as a result of the 1976 Act; lifts the exclusive use of the test in the 1976 Act for business deductions for the use of the home for day care services for children, handicapped individuals and the elderly and limits such deductible expense; extends for 1976 the election to treat a State legislator's place of residence within the legislative district he represents as his tax home for purposes of determining deductions for travel and expenses;

Minimum Tax on Intangible Drilling Costs.—Provides for taxable years beginning in 1977 that intangible drilling costs incurred in oil and gas production operations are to be subject to the minimum tax to the extent that these expenses exceed oil and gas production income;

Charitable Contributions of Conservation Easements.—Extends through June 13, 1981 the period during which deductions are allowable for charitable contributions of remainder interests in real property exclusively for conservation purposes as well as the period during which deductions are allowable for charitable contributions exclusively for conservation purposes of easements with respect to real property, if the easement is perpetual;

Work Incentive (WIN) Program.—Authorizes an additional $435 million in each of fiscal years 1978 and 1979 for employment and supportive services for welfare recipients with no requirement for State matching funds;

Child Care Facilities Amortization.—Extends through 1981 the 5-year amortization provision for expenditures relating to child care facilities for children of the taxpayer's employees;

Retirement Income Credit Elections.—Allows taxpayers over age 65 to choose between the retirement income credit as it existed before the 1976 Act and as revised by it for 1976 taxes only;

Accrual Accounting for Farm Operations.—Postpones until 1978 the effective date for requiring accrual accounting by any farm corporation if either (a) two families own at least 65 percent of the stock, or (b) three families own at least 50 percent of the stock and substantially all of the remaining stock is owned by employees or their families;

Gambling Withholding.—Modifies the 1976 requirement for withholding on gambling winnings to provide that withholding is required on proceeds of more than $1,000 from bets placed in parimutuel pools involving horses, dogs or jai alai but only if the amount of the proceeds is at least 300 times as large as the amount wagered;

Extension of Countercyclical Revenue Sharing.—Extends for 6 quarters, or until national unemployment drops below 6 percent, the current countercyclical revenue sharing legislation which expires September 30, 1977 to help State and local governments maintain services; authorizes up to $1 billion in additional funding for fiscal year 1977 for a total of $2.25 billion; authorizes up to $2.25 billion for FY 1978; requires that the most recent data be used in the allocation formula and that the national amount be determined on the basis of tenths of the unemployment percentage in excess of 6 percent rather than on half percentage points; provides that each tenth of a percentage point will generate $30 million for allocation in addition to the basic $125 million; extends the program to Guam, American Samoa, Puerto Rico and the Virgin Isands;

Other Provisions.—Amends the Social Security Act to clarify the law which provides for the garnishment of Federal payment for purposes of child support and alimony; and contains other provisions. H.R. 3477—Public Law 95–30, approved May 23, 1977. (128)

TRANSPORTATION-COMMUNICATIONS

Aircraft Insurance and Other Aviation Amendments.—Extends until September 30, 1982, the authority of the Secretary of Transportation to insure certain aircraft where commercial insurance is unavailable because of war or other hostilities in foreign countries and expands his authority to situations in which insurance against risks other than "war risks" (such as hijacking or terrorism) may be needed to permit continuance of air service; permits the Civil Aeronautics Board (CAB) to approve reduced rate fares to retired persons 60 years of age or over, all persons 65 years of age or over, and the handicapped on a space-available basis; requires CAB, within 6 months of enactment to report to Congress on the feasibility of reduced rates for persons 21 years of age or younger on a space available basis; permits airlines operating wholly within the States of California or Florida to offer through ticketing and baggage service in cooperation with interstate airlines for the better facilitation of passenger and baggage movements and permits the adoption of joint fares and rates between intrastate airlines and the CAB certificated airlines; requires airlines to give the public and the CAB 45 days of advance notice on tariff changes, air carriers to give 60 days of advance notice in changes of freight rates, and indirect carriers to give 45 days of advance notice in changes of freight rates, and requires that the CAB approve or disapprove such changes at least 15 days before the effective date of the tariff; requires the CAB to refund to two local service air carriers about $500,000 in subsidy for small community airline service withheld by the Board under an interpretation of law which was later overturned by a U.S. court of appeals; prohibits CAB from seeking to collect subsidy paid to a commuter airline who was awarded subterms of a subsidy program later invalidated by court action; eliminates a provision of law which prohibits aliens admitted for permanent residence in the U.S. and foreign corporations lawfully organized and doing business in the U.S. from registering aircraft in the United States; provides authority for the Administrator of FAA to exempt small aircraft operators from the requirement that they must at all times have an operative emergency locator transmitter (ELT) aboard their aircraft thus permitting operation of the aircraft without an ELT if it is being inspected, serviced or repaired; deregulates the all-cargo air transportation mode; and allows the city of Redmond, Oregon to dispose of surplus airport property not needed for airport purposes. H.R. 6010—Public Law 95– , approved 1977. (VV)

Aircraft Registration.—Amends the Federal Aviation Act of 1958 to permit citizens of foreign countries lawfully admitted for permanent residence in the U.S. and corporations lawfully organized and doing business under U.S. or State laws to register aircraft in the United States provided that (1) the aircraft is based or primarily used in the U.S. thus enabling the Secretary of Transportation to condition registration on reasonable inspection by FAA personnel and (2) as at present, the aircraft is not registered under the laws of any foreign country. H.R. 735—Passed House February 22, 1977; Passed Senate amended May 11, 1977. (VV).

Communications Act Amendment—Hawaii.—Amends the Communications Act of 1934, as amended, to include Hawaii within the definition of "Continental United States", thereby removing artificial restraints on the availability of telecommunications offerings, the entry of new carriers into the Hawaiian market and service integration into the mainland structure; and adds a new subsection to the Communications Act to ensure that carriers currently serving the Hawaiian market may continue to do so. S. 1866—Passed Senate August 5, 1977. (VV).

Federal Communications Commission—Interim Regulatory Reform.—Amends the Communications Act of 1934 to provide for regulatory reform with respect to the Federal Communications Commission; requires the Commission to review and recodify systematically all of the rules and regulations which it has promulgated and which are still in effect and to submit to Congress within 480 days of enactment a proposed recodification designed to (a) eliminate unnecessary, redundant, overlapping, or conflicting provisions or requirements, (b) provide timely considerations of petitions, (c) provide Congressional access to information, (d) provide representation in civil actions, (e) avoid conflicts of interest, (f) provide for appointment of the chairman by the President with the advice and consent of the Senate, and (g) provide Congressional oversight through the process of an authorization of appropriations not to exceed 4 years; provides for public comment on the proposed recodification and requires the agency to submit a final proposal within 660 days which will go into effect in 180 days unless modified by Congress; applies the conflict of interest provisions to personnel GS–16 or higher; retains the independence of the regulatory agency by not subjecting supergrade positions to OMB clearance; requires that nominees be persons who by reason of training, education or experience are qualified to carry out the function of the Commission; waives the mandatory retirement provisions giving Congress the authority to decide whether a Commissioner should continue to serve over the age of 70 at the time of his confirmation; and authorizes

therefor $70 million for fiscal 1978, $74 million for fiscal 1979, $80 million for fiscal 1980, and $82 million for fiscal 1981. S. 1536—Passed Senate June 28, 1977. (VV)

Federal Maritime Commission—Interim Regulatory Reform.—Provides for regulatory reform with respect to the Federal Maritime Commission; contains the same provisions with respect to a proposed recodification of all rules and regulations promulgated by the Commission and still in effect as contained in S. 1536; and authorizes $9.424 million for fiscal 1978, $9.7 million for fiscal 1979, $10 million for fiscal 1980 and $10.4 million for fiscal 1981. S. 1532—Passed Senate June 28, 1977. (VV)

Federal Power Commission—Interim Regulatory Reform.—Amends the Federal Power Act to provide for regulatory reform with respect to the Federal Power Commission; contains the same provisions with respect to a proposed recodification of all rules and regulations promulgated by the Commission and still in effect as contained in S. 1536; and authorizes therefor $44,549,000 for fiscal 1978, $46,410,000 for fiscal 1979, $48,373,000 for fiscal 1980, and $50,444,000 for fiscal 1981. S. 1535—Passed Senate June 28, 1977. (VV)

Federal Trade Commission—Interim Regulatory Reform.—Authorizes funds for the Federal Trade Commission for fiscal years 1978–81 for regulatory reform with respect to the Federal Trade Commission and the Consumer Product Safety Commission; requires the agencies to review and recodify systematically all of the rules and regulations which they have promulgated and which are still in effect; requires that certain impact statements be included with the agency's submission of its recodified rules; tightens the conflict of interest provisions and protects against the "revolving door" problem where employees go from regulatory agency to industry regulated by prohibiting commissioners and all employees at GS–16 and above from participating in agency matters for 2 years after leaving the agency; retains the independence of the independent regulatory agencies by not subjecting super grade positions to OMB clearance; provides that nominees to a commission be persons who by reason of training, education or experience are qualified to carry out the functions of the Commission and that Commission membership be well balanced with a broad representation of various talents, backgrounds, occupations and experience; mandates that FTC action be disposed of expeditiously by requiring that the Commission grant or deny petitions for issuance, amendment, or repeal of rules within 120 days after the date the petition is received by the Commission; prevents "forum shopping" by limiting appeals of Commission orders to the court of appeals in the circuit within which the defendant resides or maintains its principal place of business; contains language paralleling that in the Consumer Product Safety Act which insulates the Commission from political clearance for personnel; requires simultaneous transmission of budgetary and legislative recommendations to the President or the OMB and the Congress; makes cease and desist orders of the Commission effective 60 days after the issuance of such orders subject to a stay issued by the Commission or the appropriate court of appeals, or the Supreme Court when an applicable petition for certiorari is pending; and improves the Commission's ability to obtain information by compulsory process by imposing penalties for failure to reply in a timely manner with the Commission's process and providing statutory amendments reflecting decisional law on the issue of ripeness of suits to enjoin enforcement. H.R. 3816—Passed House October 13, 1977; Passed Senate amended October 20, 1977. (574)

Interim Regulatory Reform.—Provides for interim regulatory reform for the following independent regulatory agencies which are subject to the jurisdiction and oversight responsibility of the Committee on Commerce, Science and Transportation: Interstate Commerce Commission (ICC), Federal Trade Commission (FTC), Federal Power Commission (FPC), Federal Communications Commission (FCC), Civil Aeronautics Board (CAB), Federal Maritime Commission (FMC), and Consumer Product Safety Commission (CPSC); directs each agency to prepare and submit to Congress a proposed modernization, revision, and codification of all statutes and other lawful authorities administered or applied by it; and

Makes it a Federal crime to kill or forcibly assault, resist, oppose, impede, intimidate, or interfere with a U.S. judge, U.S. attorney, F.B.I. agent, or any other specified Federal official or employee while that person is engaged in, or on account of, the performance of official duties. S. 263—Passed Senate June 10, 1977. (VV)

Interstate Commerce Commission—Interim Regulatory Reform.—Amends the Interstate Commerce Act to provide for regulatory reform of the ICC; requires the Commission to review and recodify systematically all of the rules and regulations which it has promulgated and which are still in effect and to submit to Congress within 480 days of enactment a proposed recodification designed to (a) eliminate unnecessary, redundant, overlapping, or conflicting provisions or requirements, (b) provide timely considerations of petitions, (c) provide Congressional access to information, (d) provide representation in civil actions, (e) avoid conflicts of interest, (f) provide for appointment of the chairman by the President with the advice and consent of the Senate, and (g) provide Congressional oversight through the process of an authorization of appropriations not to exceed 4 years; provides for public comment on the proposed recodification and requires the agency to submit a final proposal wtihin 660 days which will go into effect in 180 days unless modified by Congress; authorizes therefor $71,216,000 for fiscal 1978, $80,474,000 for fiscal 1979, $90,935,000 for fiscal 1980 and $102,755,000 for fiscal 1981. S. 1534—Passed Senate May 20, 1977. (VV)

Interstate Highways.—Directs the Secretary of Transportation to apportion the sums authorized for fiscal year 1979 for immediate expenditure on the National System of Interstate and Defense Highways using specified apportionment factors. H. Con. Res. 282—Action complete September 30, 1977. (VV)

Maritime Authorization.—Authorizes $553,597,000 for programs of the Maritime Administration for fiscal year 1978 as follows: $135,000,000 for acquisition, construction, or reconstruction of vessels and construction-differential subsidies, $372,109,000 for payment of ship operating differential subsidies, $20,725,000 for research and development, $5,137,000 for the reserve fleet, $14,656,000 for maritime training at the Merchant Marine Academy at Kings Point, N.Y., and $5,970,000 for financial assistance to the State marine schools which includes an increased annual student subsidy from $600 to $1200; authorizes additional supplemental amounts to cover increases in salary, pay, retirement, or other employee benefits authorized by law and for certain expenses of the Merchant Marine Academy at Kings Point; adds a provision, effective 240 days after enactment, barring the payment of operating differential funds to any subsidized liner company unless its chief executive officer certifies that he has taken action to insure that no illegal rebates are being paid during the period for which the funds are received and that he will cooperate with the Federal Maritime Commission in its investigations of illegal rebating; increases from 75 to 87½ percent the amount of title XI guarantee financing available to a ferry operating solely in point-to-point transportation; and authorizes an additional Assistant Secretary of Commerce to be the principal adviser to the Secretary for Congressional relations. S. 1019—Public Law 95– , approved 1977. (VV)

National Defense Reserve Fleet.—Amends the Merchant Marine Act, 1936, to upgrade the National Defense Reserve Fleet by authorization the Secretary of Commerce to acquire Mariner class and other vessels in exchange for obsolete vessels in that fleet which are scheduled for scrapping. H.R. 7278—Public Law 95– , approved 1977. (VV)

Rail Reorganization—Office of Rail Public Counsel.—Amends the Regional Rail Reorganization Act of 1973 to authorize an additional $15 million for fiscal year 1978 to the United States Railway Association to cover litigation and other anticipated expenses involving the reorganization of the Northeast railroads, and amends the Interstate Commerce Act to authorize an additional $2 million for the Office of Rail Public Counsel which is the statutory successor to the Office of Public Counsel of the Interstate Commerce Commission. H.R. 4049—Passed House May 3, 1977; Passed Senate amended May 23, 1977. (VV)

Safe Containers.—Provides the legislative authority necessary to implement the International Safe Container Convention (Ex. X, 93d-1st); requires owners to get their new containers approved according to procedures established by the Secretary of Transportation or by the administration of any party to the Convention and to maintain all of their containers to meet the standards established by the Convention; gives owners of existing containers 5 years to submit them to the Secretary for approval, details the duties of the Secretary of Transportation who is the administrator of the Convention for the U.S.; authorizes the Secretary to initially test, inspect and approve containers in international transport to determine if they have a valid safety approval plate and do not have any significant evidence of obvious risk of safety; permits the Secretary to remove the container from service if he does not have a plate; makes it the duty of owners to pay for or reimburse the Secretary for the cost of inspections, testing and approvals; requires the Secretary to notify the owners of containers when he issues a detention or other order; establishes penalties for violations; and establishes an enforcement procedure for the Secretary of Labor against an owner who has discharged or discriminated against an employee for reporting the existence of an unsafe container or other violation. S. 1597—Passed Senate November 1, 1977. (VV)

Tanker Safety.—Amends the Ports and Waterways Safety Act of 1972 to: establish more stringent construction, design, equipment, repair, manning, maintenance, and operation standards for all tankers, regardless of flag, entering U.S. ports; provides clear authority for the Secretary of Transportation to bar substandard vessels from operating in U.S. waters; authorizes the creation of a Marine Safety Information System to identify substandard vessels and disclose the true ownership of ships; authorizes the establishment of regulations for controlling lightering (vessel-to-vessel transfer of cargo) in U.S. waters and on the high seas where a U.S.-bound vessel is involved; mandates that all self-propelled vessels of 20,000 deadweight tons or larger carrying oil in bulk be equipped by no later than June 30, 1979, with a dual radar system, a collision avoidance system, a long-range navigation aid, adequate communications equipment, a fathometer, a gyrocompass, and up-to-date charts; mandates that such vesels also be equipped, by not later than June 30, 1983, with a segregated ballast system, a gas inerting system, a transponder or other appropriate position-fixing equipment, and a

double bottom if the vessel is contracted for, or construction is actually commenced, after January 1, 1978; creates an expanded inspection and enforcement program; authorizes the promulgation of improved manning and qualification standards; specifies more stringent requirements for obtaining a Federal pilot's license; and provides for study and evaluation of shore-station monitoring systems of vessels as defined in the Fishery Conservation and Management Act of 1976. S. 682—Passed Senate May 26, 1977. (VV)

Urban Mass Transportation.—Authorizes the use of the $500 million capital grant program under the National Mass Transportation Act of 1974 for operating as well as capital assitance costs of public mass transportation service in urbanized areas (areas with less than 50,0000 population); authorizes the Secretary to make operating subsidy grants to areas other than urbanized areas; revises the method of financing the capital grant program, extends it to 1982, and adds $5.318 billion to the remaining contract authority of $3.332 billion for a total of $8.65 billion; incorporates into statute the procedures for funding major capital grants by authorizing the Secretary to announce approval of a multi-year project and an intent to obligate funds from budget authority to be made available in future years; sets aside $400 million annually from the capital grant program for obligation for equipment replacement programs; authorizes $125 million to restore the fiscal 1980 authorization for the formula grant program to its original level; expands the basic formula grant program by creating a supplemental source of funds for high impact areas with a total of $295 million available from (a) authorization of $50 million for each of fiscal years 1978 through 1980 and (b) estimated $145 million in "recycled authority"; creates a new second tier formula program financed by new authorized funds and the reapportionment of unobligated funds; permits the Secretary to develop a new formula for additional funds taking into account the needs of major urban areas; removes certain restrictive provisions for eligibility in the grant program providing fellowships for training of personnel employed in managerial, technical, and professional positions in the urban mass transportation field; expands the definition of "construction" in the capital grant program to include preliminary engineering of mass transportation capital projects; requires the Secretary to convert the two outstanding loans under the mass transit loan program which is no longer in existence into capital grants; requires the Secretary to provide by February 1, 1980, a detailed estimate of major capital grants to be made in fiscal years 1980–84 and by February 1, 1982, a similar estimate for fiscal years 1982–86; extends from March 15, 1978, to March 15, 1980, the 50 percent emergency operating assistance for commuter rail services affected by the reorganization of the Northeastern Railroads and expands the assistance in the authorization; requires assurance that service will be continued for the last 12 months of the 50 percent period; and adds a new section providing $20 million in fiscal 1978 to cover up to 50 percent of the operating deficits of rail commuter services not eligible for the 50 percent Federal subsidy. S. 208—Passed Senate June 23, 1977. (VV)

Increases the percentage of Federal contribution for the last 6 months of the existing commuter rail operating assistance program from 50 to 80 percent; deletes the requirement that any applicant for assistance must provide assurance to the Secretary of Transportation that the rail service will be continued after the section 17 subsidy program terminates; provides for a new section 18 program to provide operating assistance to rail commuter lines not eligible under section 17 of $20 million for fiscal 1979 which will be distributed under a formula to cover operating deficits of eligible commuter rail systems. H.R. 8346. Passed House Oct. 25, 1977. Passed Senate amended November 2, 1977. (VV)

Vessels Sale.—Authorizes the Secretary of Commerce to sell, within two years of enactment, at a price which is the greater of the appraised value or scrap in the U.S. market, two obsolete Navy tankers to mid-Pacific Sea Harvestors, Incorporated, for conversion and operation in the fisheries of the United States; requires that the vessels be converted in the United States and documented and operated under U.S. laws and in conformity with all international fishery agreements to which the U.S. is a party; and requires if the vessels are scrapped within five years of the date of sale, that the work be done in the U.S. S. 854—Passed Senate July 12, 1977. (VV)

TREATIES

Agreement With Canada Concerning Transit Pipelines.—Provides government-to-government assurances on a reciprocal basis so that present and future pipelines carrying all forms of hydrocarbons (including crude oil, petroleum products, natural gas, petrochemical feedstocks, and coal slurries) owned by one country across the territory of the other will be free from interference and discrimnatory taxation by Federal, provincial or state authorities particularly in regard to taxes, duties or fees unless the charge would be applicable to similar pipelines within the jurisdiction of the public authority; allows each nation to impose proper regulations for pipeline safety and environmental protection and in the case of a natural emergency, to reduce or stop the flow until the danger has passed; permits each nation to determine the route a pipeline is to take within its territory and provides that protocols may be added to apply this agreement to a specific pipeline; and contains arbitration provisions to resolve disputes which cannot be settled by negotiation. Ex. F, 95th-1st—Resolution of ratification agreed to August 3, 1977. (324)

Convention on International Civil Aviation.—Increases the membership of the Council of the International Civil Aviation Organization (ICAO) from 30 to 33 contractings states. Ex. A, 95th-1st—Resolution of ratification agreed to September 26, 1977. (407)

Protocol to Inter-American Treaty of Reciprocal Assistance (Rio Treaty).—Reaffirms the principle of "attack against one, attack aginst all" embodied in the Rio Treaty while restricting its applicability and resultant obligations; provides for the lifting of diplomatic, economic and military sanctions against a member state by a simple majority vote rather than by the two-thirds majority vote required for all other decisions; and revises Treaty procedures so as to provide specifically rather than by implication for binding decisions and for recommendations by the Organ of Consultation. Ex. J, 94th-1st—Resolution of ratification agreed to July 19, 1977. (300)

Treaty With Canada on Execution of Penal Sentences.—Allows a convicted prisoner or youthful offender accused of an offense to be returned to his native country to serve the sentence imposed by the other country; limits the transfer arrangement to prisoners convicted of offenses which are criminal under the laws of both countries, who have no pending appeals, have at least six months remaining on their fixed sentences, are not domiciliaries of the nation where they are incarcerated, and have been imprisoned on other than political, military or immigration offenses; requires the prisoner to initiate the transfer process; permits the transfer of parolees and those persons receiving suspended sentences; makes the laws regarding parole and probation of the Nation to which the prisoner is transferred apply but provides that only the transferring State can grant a pardon or amnesty; and contains provisions to protect an offender against double jeopardy. Ex. H, 95th-1st—Resolution of ratification agreed to July 19, 1977. (301)

Treaty With Mexico on Execution of Penal Sentence.—Allows a convicted prisoner, youthful offender or mentally ill person accused of an offense to be returned to his native country to serve the sentence imposed by the other country; limits the transfer arrangement to prisoners convicted of offenses which are criminal under the laws of both countries, who have no pending appeals, have at least 6 months remaining on their fixed sentences, are not domiciliaries of the nation where they are incarcerated and have been imprisoned on other than political, military or immigration offenses and have consented to the transfer; requires the country holding the prisoner to initiate the transfer process and provides that the prisoner may submit a transfer request for consideration; makes the laws regarding parole and probation of the Nation to which the prisoner is transferred apply but provides that only the transferring State can grant a pardon or amnesty; and contains provisions to protect an offender against double jeopardy. Ex. D, 94th-1st—Resolution of ratification agreed to July 21, 1977. (316)

VETERANS

American Ex-Prisoners of War, Inc.—Grants a Federal Charter to the American Ex-Prisoners of War, Inc., whose membership is comprised of former prisoners of war from the Spanish-American War, World Wars I and II, Korea and Vietnam, in order that the organization may be allowed to represent its members in Veterans Administration proceedings. S. 1590—Passed Senate October 11, 1977. (VV)

Amvets.—Amends the Federal charter of AMVETS (American Veterans of World War II) to conform with the organization's practice of admitting men and women who served in the Armed Forces of the United States in the Second World War, the Korean War and the Vietnam War by changing the name of AMVETS to "American Veterans of World War II, Korea and Vietnam" and provisions of its Federal charter, where necessary, to reflect this change. H.R. 1952—Public Law 95–98, approved August 15, 1977. (VV)

G.I. Education Benefits.—Authorizes a 6.6 percent cost-of-living increase, effective October 1, 1977, in the education assistance allowances provided under the Vocational Rehabilitation, Veterans' Educational Assistance, Survivors' and Dependents' Educational Assistance, Correspondence Courses, On-Job Training, and Education Loans sections of the G.I. bill; establishes a program of accelerated educational assistance payments for veterans and eligible persons attending a school with yearly tuition costs in excess of $700; extends for 2 years the delimiting date for education benefits to certain veterans; establishes an education loan program in connection with the accelerated benefit program; extends the period of time that a veteran with a mental or physical disability or impairment has to utilize G.I. bill benefits; contains amendments to the G.I. bill designed to improve its administration; and expands the assistance under the veterans' housing program by entitling eligible veterans to an additional $2,000 of home loan guaranty and $3,800 in direct loans to install solar heating, or combined solar heating and cooling, or to improve their homes with residential energy conservation measures; increases the work-study allowances for veteran students; and provides veterans' benefits to women pilots of World War II. H.R.

8701—Passed House September 12, 1977; Passed Senate amended October 19, 1977. (570)

Veterans' and Survivors Pension Adjustments.—Amends title 38, U.S.C., to increase the rates of disability and death pension and to increase the rates of dependency and indemnity compensation for parents; provides a cost-of-living adjustment in the rates and annual income limitations applicable to pension for non-service-connected disabled veterans and their surviving spouses, for surviving parents receiving dependency and indemnity compensation, and in the annual income limitations applicable to persons receiving pension under section 9(b) of the Veterans' Pension Act of 1959; provides an increase of approximately 6.5 percent in rates of disability and death pension under current law, including the additional amount authorized for dependents; increases by approximately 6.5 percent the rates of dependency and indemnity compensation (DIC) payable to parents; increases by the same percentage the maximum income limitations applicable to pensioners and parents entitled to DIC under current law, and to beneficiaries under the protected pension law; increases by the same percentage the amount of additional pension and DIC payable to those recipients so entitled based upon aid and attendance or household status; and increases additional allowances for recipients of wartime death compensation by the same percentage based upon need for regular aid and attendance. H.R. 7345–Passed House July 12, 1977; Passed Senate August 3, 1977; House agreed to Senate amendments with amendment September 21, 1977; Senate disagreed to House amendment September 21, 1977. (VV)

Veterans' Care in State Homes.—Amends title 38, U.S.C., to consolidate the construction grant-assistance programs under section 644 (for State home domiciliary and hospital facilities) and under subchapter III of chapter 81 (for State home nursing care facilities) and create new statutory authority for grants for the construction of new domiciliary facilities and the expansion of domiciliary and hospital facilities, and for initial equipment in both categories; increases to $15 million the annual authorization for fiscal years 1978 and 1979; removes the 3-fiscal-year limitation on the availability of sums appropriated for the consolidated programs, making the funds available until expended; makes the allowable non-veteran population of a grant-assisted State nursing home domiciliary, or hospital facility 25 percent in order to make allowance for veterans' spouses, surviving spouses, and Gold Star mothers; sets at 33⅓ percent the limit which any one State may receive in any year of the total amount appropriated for the program; includes domiciliary and hospital projects under the statutory nursing home program recapture provision; allows the Administrator to reduce the recapture period to less than 7 years in cases of expansion, remodeling, and alteration; limits recapture to not more than the amount of grant assistance provided for the project; repeals existing statutory authority for making grants for the remodeling of State home domiciliary and hospital facilities and governing the operation of this program; provides for an October 1, 1977, effective date with a savings provision for hospital and domiciliary grants made under the section to be repealed; and gives existing nursing home program grantees the right to obtain grant modifications consistent with the new act. H.R. 3695—Public Law 95–62, approved July 5, 1977. (VV)

Veterans' Disability Compensation and Survivors Benefits.—Amends title 38, U.S.C., to provide a 6.6 percent increase in: cost-of-living for disabled veterans in basic compensation rates and in the rates payable for more serious disabilities; the additional allowances for spouses, children, and dependent parents paid to veterans rated 50-percent disabled or more; dependency and indemnity compensation (DIC) benefits payable to surviving spouses of veterans whose deaths were service-connected, including the additional allowances payable for dependent children and to those in need of aid and attendance; benefits payable to the children of veterans whose deaths were service-connected, when there is no surviving spouse; benefits payable to surviving children who have become permanently incapable of self-support prior to the age of 18; and the annual clothing allowance paid to certain seriously disabled veterans whose disability tends to tear or wear out their clothing; extends eligibility for specially adapted housing grants to permanently and totally service-connected veterans with certain specified disabilities; authorizes the Veterans' Administration to cooperate with the Department of the Treasury so that benefit payments would be automatically deposited in a recipient's account if the recipient elects payment in this manner; requires the Veterans' Administration, for any month in which the first of the month falls on a Saturday, Sunday, or legal public holiday, to mail or otherwise transmit benefit payments so that they arrive on the Friday immediately preceding such Saturday or Sunday, or in the case of a legal public holiday, on the weekday (other than Saturday) immediately preceding the holiday; and reaffirms the intent of the Congress not to permit garnishment or attachment of VA employees' salaries except as authorized in 42 U.S.C. 659 (permitting garnishment for alimony and child support). H.R. 1862—Public Law 95–117, approved October 3, 1977. (VV)

Veterans' Health Care Improvement.—Amends title 38, U.S.C., to improve the quality and efficiency of health care provided to sick or disabled veterans in the Veterans' Administration health care system;

Contract Care Amendments.—Clarifies the circumstances under which the VA may furnish contract hospital care and medical services in certain cases;

Physician and Dentist Special-Pay and other Pay Amendments.—Extends and makes modifications in the Veterans' Administration special-pay program to create greater incentives for physicians and dentists in certain scarce categories to agree to fulltime service in the Department of Medicine and Surgery;

Health Care Program and Eligibility.—Provides for the establishment of a new program of readjustment professional counseling, a new program in preventive health care for veterans for service-connected disabilities, and expanded treatment and rehabilitation programs for veterans suffering from alcohol or drug dependence or abuse disabilities; and

Renames the Veterans' Administration hospital in Tampa, Florida, as the "James A. Haley Veterans' Hospital" and the Veterans' Administration hospital at Bedford, Massachusetts, as the "Edith Nourse Rogers Memorial Veterans' Hospital". H.R. 5027—Passed House April 4, 1977; Passed Senate amended September 9, 1977. (VV)

Vietnam Veterans' Discharges and Benefits.—Denies entitlement to veterans' benefits to certain persons who would otherwise become so entitled solely by virtue of the administrative upgrading under temporarily revised standards of other than honorable discharges from service during the Vietnam era; requires a case-by-case review under uniform, historically consistent, generally applicable standards and procedures prior to the award of veterans' benefits to persons administratively discharged under other than honorable conditions from active military, naval, or air service;

Precludes the granting of veterans' benefits on the basis of an upgrading under special review programs implemented after January 1, 1977; requires military Discharge Review Boards to determine whether a discharge under less than honorable conditions or a clemency discharge which had been upgraded would have been upgraded under generally applicable standards and provides that if a determination is favorable the individual would be entitled to retain his or her upgraded discharge and to receive veterans benefits; places the responsibility on the Discharge Review Boards to take the initiative in making that determination under generally applicable standards in each case unless the individual, after due notification, objects; precludes the VA from changing regulations governing the standards and procedures by which it may upgrade a discharge from giving any special advantage to veterans who may have received upgraded discharges under the Special Discharge Review Program; specifies that the Act apply retroactively to deny entitlement to benefits but precludes recovering the value of any benefits already provided; and authorizes the Administrator to provide health care, on a discretionary basis, for the treatment of any disability incurred in the line of duty during active-duty service by certain persons who might otherwise not be so entitled because they were administratively discharged or hold clemency discharges. S. 1307—Public Law 95–126, approved October 8, 1977. (351)

World War I Veterans Auto Allowance.—Amends section 1901, title 38, U.S.C., to extend to veterans of World War I and any eligible veterans who served before or after World War I those benefits entitlement to the automobile assistance allowance for the purchase of an automobile or other conveyance and provision of the adaptive equipment necessary to operate the vehicle safely. H.R. 6502—Public Law 95–116, approved October 3, 1977. (VV)

5-YR COMPARISON OF SENATE LEGISLATIVE ACTIVITY (THROUGH NOV. 2)

	1973	1974	1975	1976	1977
Days in session	151	146	149	142	162
Hours in session	871:02	908:29	944:27	1,033:01	1,102:14
Total measures passed	525	648	529	870	635
Rollcall votes	460	459	462	700	609
Rollcall votes before 12 m	36	29	41	90	45
Rollcall votes after 8 p.m	13	0	29	35	66
Public laws	146	255	123	383	151
Treaties	16	5	7	17	5
Confirmations	51,484	53,462	53,296	60,102	64,837

	1973	1974	1975	1976	1977
Senate average attendance (percent)	88.13	86.73	89.60	83.05	88.81
Sessions convened before 12 m	89	106	101	104	89
Sessions convened at noon	62	38	48	38	23
Sessions convened after noon	0	0	0	0	50
Sessions which continued after 6 p.m	26	34	35	22	35
Sessions which continued after 7 p.m	6	13	5	16	32
Sessions which continued after 8 p.m	6	2	19	27	33
Saturday sessions	6	0	2	1	3

STATUS OF MAJOR MESSAGES AND COMMUNICATIONS OF THE PRESIDENT, 95TH CONG., 1ST SESS., BY SENATE DEMOCRATIC POLICY COMMITTEE, ROBERT C. BYRD, CHAIRMAN, NOV. 2, 1977

Message or communication title, bill No.	Senate action	House action	Conference or other action	Date approved	Public Law No.
Presidential Message No. 21 (Jan. 17, 1977): Budget rescission ($452,600,000 for Nimitz-class nuclear carrier and Aegis), H.R. 3839.	Passed Senate Mar. 15, 1977	Passed House, Mar. 3, 1977		Mar. 25, 1977	95-15
Presidential Message No. 22 (Jan. 17, 1977): Top level executive, legislative, and judicial salary increases.	Senate tabled Allen, et al. amendment to S. Res. 4, disapproving pay recommendation, Feb. 2, 1977; voted Mar. 3, 1977 against repealing increase.	House twice objected to request to consider disapproval resolution, H. Res. 115, Feb. 16, 17; voted June 29, 1977, to reject amendment to H.R. 7932, 1978 legislative branch appropriations, delaying funds for March 1 increase.		Feb. 20, 1977 became effective.	
Presidential Message No. 22 (Jan. 17, 1977): Ethics Code.	S. Res. 110 (Senate Ethics Code), passed Senate Apr. 1, 1977.	H. Res. 287 (House Ethics Code), passed House Mar. 2, 1977.		House code became effective Mar. 2, 1977; Senate code became effective Apr. 1, 1977.	
Executive Communication No. 441 (Jan. 26, 1977): Emergency Natural Gas Act, S. 474 (administration bill).	Passed Senate Jan. 31, 1977	Passed House, amended Feb. 2, 1977	Conference report agreed to Feb. 2, 1977, in Senate; Feb. 2, 1977 in House.	Feb. 16, 1977	95-2
Presidential Message No. 32 (Jan. 31, 1977): Economic Recovery:					
(a) Economic stimulus appropriations (public works jobs, revenue sharing, and public service employment), H.R. 4876.	Passed Senate, amended May 2, 1977	Passed House, Mar. 15, 1977	Conference report agreed to May 4, 1977 in House; May 5, 1977 in Senate.	May 13, 1977	95-29
(b) Public works jobs ($4,000,000,000 increase), H.R. 11.	Passed Senate, amended Mar. 10, 1977	Passed House, Feb. 24, 1977	Conference report agreed to Apr. 29, 1977 in Senate; May 3, 1977 in House.	do	95-28
(c) Countercyclical revenue sharing	Passed Senate, as amendment to H.R. 3477, Apr. 29, 1977.	H.R. 6810, passed House Apr. 13, 1977	Conference report contained 1-yr extension of program instead of 5 yr as requested by President.	May 23, 1977	95-30
(d) Tax reform and simplification for individuals and business (tax rebate withdrawn), H.R. 3477.	Passed Senate, Apr. 29, 1977	Passed House, Mar. 8, 1977	Conference report agreed to May 17, 1977 in House and Senate.	do	95-30
Presidential Message No. 33 (Feb. 4, 1977): Presidential reorganization authority; S. 626.	Passed Senate, Mar. 3, 1977	Passed House, amended May 29, 1977	Senate agreed to House amendments Mar. 31, 1977.	Apr. 6, 1977	95-17
Presidential Message No. 40 (Feb. 21, 1977) and 57 (Mar. 24, 1977): Water development projects:					
H.R. 11 (public works jobs)	Senate adopted Johnston amendment expressing sense of Congress to continue funding for water projects.			May 13, 1977	95-28
H.R. 7553 (public works appropriations, 1977).	Passed Senate, amended July 13, 1977 (Senate bill funds 9 of 18 water projects opposed by President).	Passed House June 14, 1977 (House bill funds 17 of 18 opposed by President).	Conference report agreed to July 25, 1977 in House and Senate funding 9 of 18 water projects.	Aug. 7, 1977	95-96
Presidential Message No. 41 (Feb. 22, 1977): 1978 budget revisions; S. Con. Res. 19.	Passed Senate May 4, 1977	Passed House, amended May 5, 1977	Conference report agreed to with amendment May 16, 1977 in Senate; House agreed to Senate amendment May 17, 1977.	Action complete	
Presidential Message No. 42 (Mar. 1, 1977): Creates Cabinet Department of Energy, S. 826.	Passed Senate May 18, 1977	Passed House, amended June 3, 1977	Conference report agreed to Aug. 2, 1977 in House and Senate.	Aug. 4, 1977	95-91
Presidential Message No. 45 (Mar. 4, 1977): Airline deregulation.	Commerce Committee ordered an original bill which combines S. 292 and S. 689, reported Oct. 27.	Public Works Subcommittee on Aviation hearings on H.R. 8813 completed Oct. 19; committee not expected to schedule markup until 2d sess.			
Presidential Message No. 47 (Mar. 9, 1977): Youth unemployment:					
(a) $342,000,000 increase for Job Corps.				In H.R. 4876, economic stimulate appropriations, Public Law 95-29.	
(b) New Youth title to CETA, H.R. 6138.	Passed Senate, amended May 26, 1977	Passed House, May 17, 1977	Conference report agreed to July 19, 1977 in House; July 21, 1977 in Senate.	Aug. 5, 1977	95-93
(c) 1-yr extension of CETA, H.R. 2902.	Passed Senate, amended May 25, 1977	Passed House Mar. 29, 1977	House agreed to Senate amendment June 3, 1977.	June 15, 1977	95-44
Presidential Message No. 51 (Feb. 17, 1977): Foreign aid.					
(a) Multilateral development assistance (financial institutions), H.R. 5262.	Passed Senate, amended June 14, 1977	Passed House, Apr. 6, 1977	Conference report agreed to July 27, 1977 in Senate; House rejected Sept. 16, 1977 and agreed to Senate amendments with amendments; Senate agreed to House amendments Sept. 21, 1977.	Oct. 3, 1977	95-118
(b) Bilateral development assistance ($1,300,000,000)—Public Law 480 program changes, H.R. 6714.	Passed Senate, amended June 15, 1977	Passed House May 12, 1977	Conference report agreed to July 21, 1977 in House; July 22, 1977 in Senate.	Aug. 3, 1977	95-88
(c) Public Law 480 program extension, S. 275.	Passed Senate May 24, 1977	Passed House, amended July 28, 1977	Conference report agreed to Sept. 9, 1977 in Senate; Sept. 16, 1977 in House.	Sept. 29, 1977	95-113
(d) Security assistance, H.R. 6884	Passed Senate, amended June 15, 1977.	Passed House May 24, 1977	Conference report agreed to July 21, 1977 in House; July 22, 1977 in Senate.	Aug. 5, 1977	95-92
Presidential Message No. 52 (Feb. 17, 1977): Oil tanker spills.	S. 682 (tanker safety), passed Senate May 26, 1977 S. 2083 (oil pollution) on Senate calendar (Calendar No. 387).	H.R. 6803, passed House Sept. 12, 1977.			
Presidential Message No. 55 (Mar. 22, 1977): Election reform:					
(a) Voter registration	S. 1072 on Senate calendar (Calendar No. 144).	H.R. 5400 on Union Calendar (Calendar No. 162).			
(b) Public financing	Senate agreed to Allen amendment to S. 926 deleting public financing for Senate elections, Aug. 2.	Administration hearings on campaign reform completed July 12; in meeting of Oct. 25, committee deferred markup until 2d sess.			
(c) Campaign Act amendments	S. 926, passed Senate Aug. 3, 1977	do			
(d) Direct election of President	Judiciary Committee ordered S.J. Res. 1 reported Sept. 15.	H.J. Res. 33, 39, 45, 118, 144, 168, 217, 350, and 434 pending in Judiciary Subcommittee on Monopolies and Commercial Law—no action likely this session.			
(e) Hatch Act changes	Government Affairs Committee completed hearings on S. 80, Sept. 26; markup not yet scheduled.	H.R. 10, passed House June 7, 1977			

Message or communication title, bill No.	Senate action	House action	Conference or other action	Date approved	Public Law No.
Presidential Message No. 56 (Mar. 23, 1977): Drought assistance:					
(a) EDA emergency water system improvement, S. 1279.	Passed Senate May 11, 1977	Passed House May 17, 1977		May 23, 1977	95-31
(b) FHA emergency water system improvement and southwestern power assistance to irrigators on Federal Reclamation Bureau projects.				In H.R. 4877, supplemental appropriations, 1977, Public Law 94-26.	
(c) SBA drought assistance loan program.	S. 1306, passed Senate Aug. 5, 1977	Small business hearings on H.R. 6047 (administration bill) and 11 related bills Apr. 19, 22, June 9, 13, 17—no further action is planned.			
H.R. 692 (contains similar objectives).	Passed Senate, amended May 19, 1977	Passed House, Feb. 9, 1977	Conference report agreed to July 26, 1977 in House; July 27, 1977 in Senate.	Aug. 4, 1977	95-89
(d) Water bank objectives, S. 925	Passed Senate Mar. 15, 1977	Passed House amended Apr. 4, 1977	Senate agreed to House amendments Apr. 4, 1977.	Apr. 7, 1977	95-18
(f) Transfer of emergency livestock feed program.	Senate agreed to Humphrey amendment to S. 275 (farm bill) which passed Senate May 24, 1977.	H.R. 4295 in full committee. (President no longer supports because of subcommittee amendments).	Conference report on S. 275 agreed to Sept. 9, 1977 in Senate; Sept. 16, 1977 in House.	Sept. 29, 1977	95-118
Presidential Message No. 64 (Apr. 6, 1977): Agency for Consumer Advocacy.	S. 1262 on Senate calendar (Calendar No. 143).	H.R. 6805 on Union calendar (Calendar No. 183).			
Presidential Message No. 71 (Apr. 25, 1977): Health care system improvements:					
(a) Hospital Cost Containment Act	Human Resources Committee ordered S. 1391 (amended bill) reported Aug. 2; Finance Subcommittee on Health plans to expand S. 1470 to include provisions of S. 1391; hearings completed Oct. 21.	Ways and Means and Interstate and Foreign Commerce Subcommittees on Health joint hearings on H.R. 6575 complete; Ways and Means markup July 20, 27-28; Interstate and Foreign Commerce Subcommittee markup complete; pending in full committee.			
(b) Child health assessment program	S. 1392 pending in Finance Committee—no action scheduled.	Interstate and Foreign Commerce Subcommittee on Health and Environment hearings on H.R. 6706 complete; markup deferred until 2d sess.			
Presidential Message No. 74 (Apr. 27, 1977): Nuclear nonproliferation policy.	S. 897 on Senate calendar (Calendar No. 432).	H.R. 8638, passed House Sept. 28, 1977			
Executive Communication No. 1246: Energy policy.		H.R. 8444—passed House Aug. 5, 1977, allows continued control of natural gas pricing, but broadens the definition of "new gas"; approves an oil equalization tax; contains a modified gas-guzzler tax; and does not allow the administration's proposed gas tax hike.			
(1) Pricing, regulatory, and nontax, H.R. 5146 (S. 977).	(1) Coal Conversion, passed Senate, amended Sept. 8, 1977.	Passed House July 18, 1977	House agreed to Senate amendments with amendments Oct. 13, 1977 incorporating relevant provisions of H.R. 8444 as passed House; in conference.		
H.R. 5037 (S. 2057, S. 701, S. 7893).	(2) Conservation—Energy Conservation Act, passed Senate, amended Sept. 13, 1977.	do	do		
H.R. 5289 (S. 2104)	(3) Natural gas—Passed Senate amended Nov. 4, 1977.	Passed House July 18, 1977	do		
H.R. 4018 (S. 2114)	(4) Utility rates—Passed Senate amended Nov. 6, 1977.	do	do		
(2) Tax provisions (H.R. 5263)	Senate debate began Oct. 25	do			
Presidential Message No. 78 (May 3, 1977: Ethics in Government.	S. 555—Passed Senate June 27, 1977	H.R. 7401 dealing with legislative branch on Union Calendar (Calendar No. 293); Judical Committee ordered H.R. 1 dealing with executive and judicial branches reported Oct. 13; Post Office and Civil Service Committee reported H.R. 6954 Sept. 28 (H. Rept. 95-642, pt. I); Armed Services reported H.R. 6954 Oct. 17 (H. Rept. 95-642, pt. II).			
Presidential Message No. 79 (May 9, 1977): Social Security Trust Funds (draft legislation not yet received).	Finance Committee hearings on social security financing complete; markup July 26, Sept. 8, 16, Oct. 21.	H.R. 9346—Passed House Nov. 27, 1977.			
Message (May 23, 1977): Genocide convention ratification.	Foreign Relations hearings, May 24, 26	No House action needed			
Presidential Message No. 83 (May 23, 1977); Environmental protection:					
(a) Clean air, H.R. 6161	Passed Senate amended June 10, 1977	Passed House May 26, 1977	Conference report agreed to in House and Senate 1977.	Aug. 7, 1977	95-95
(b) Clean water H.R. 3199	Passed Senate amended Aug. 4, 1977	Passed House Apr. 5, 1977	In conference		
(c) FIFRA, S. 1678	Passed Senate July 29, 1977	Passed House amended Oct. 31, 1977	Senate conferees not yet named		
(d) Outer Continental Shelf	S. 9—Passed Senate July 15, 1977	H.R. 1614 on Union Calendar (Calendar No. 306).			
(e) Strip mining, H.R. 2	Passed Senate amended May 20, 1977	Passed House Apr. 29, 1977	Conference report agreed to July 20, 1977 in Senate; July 21, 1977 in House.	Aug. 3, 1977	95-87
(f) Mining on public lands	S. 1248 and S. 2133 (administrative bill) pending in Energy Subcommittee on Public Lands—no action scheduled.	Interior and Insular Affairs Subcommon Mines and Mining hearings on H.R. 9292 and 5831 Oct. 13, 14, 17, 18; field hearings will begin after adjournment of 1st session.			
(g) Urban homesteading provisions in H.R. 6655.	Passed Senate amended June 7, 1977	Passed House May 11, 1977	Conference report agreed to Oct. 1, 1977 in Senate; Oct. 4, 1977 in House.	Oct. 12, 1977	95-128
(h) Alaska Wilderness	Energy Committee hearings on S. 499, 500 and 1500 June 17, 20—nothing further scheduled this session.	Interior and Insular Affairs Subcommittee on General Oversight and Alaska Lands completed hearings on H.R. 39; staff proposal briefing completed Oct. 28; markup not yet scheduled.			
(i) Wild and scenic rivers (8 new; 20 proposed).	Referred to Research Energy, Subcommittee on Parks and Recreation—nothing further scheduled this session; (S. 1697, Upper Mississippi River).	Interior and Insular Affairs Subcommittee on National Parks and Insular Affairs—no action scheduled.			
(j) Scenic trails (2 new)	do	do			
(k) Redwood National Park extension.	Energy Committee ordered S. 1976 reported Oct. 13 (Rept. No. 95-528).	H.R. 3813 on Union Calendar (Calendar No. 343) awaiting rule.			
(l) Convention of migratory birds	Ex. K, 95-1, pending in Foreign Relations Committee—no action scheduled.	No House action needed			

STATUS OF MAJOR MESSAGES AND COMMUNICATIONS OF THE PRESIDENT, 95TH CONG., 1ST SESS., BY SENATE DEMOCRATIC POLICY COMMITTEE, ROBERT C. BYRD, CHAIRMAN, NOV. 2, 1977—Continued

Message or communication title, bill No.	Senate action	House action	Conference or other action	Date approved	Public Law No.
Presidential Message No. 86 (June 2, 1977): Extension of most-favored nation status of Romania.	Finance Subcommittee on International Trade hearing complete—no further action scheduled.	H. Res. 653 (disapproval resolution) indefinitely postponed Aug. 3, 1977.		Will continue in force for additional year.	
Presidential Message No. 95 (July 15, 1977): Reorganization Plan No. 1—Executive branch, as amended by Presidential Message No. 113 (Sept. 15, 1977).	Senate indefinitely postponed S. Res. 222 (disapproval resolution) Oct. 20, 1977.	House rejected H. Res. 688 (disapproval resolution) Oct. 14, 1977.			
Presidential Message No. 96 (July 18, 1977): Labor-management relations.	Human Resources Committee hearings on S. 1883, Sept. 20–23, 26; Oct. 31; Nov. 1, 3, 4.	H.R. 8410 on Union Calendar (Calendar No. 337).			
Presidential Message No. 97 (July 19, 1977): Rescission of $642,000,000 for B–1 bomber and $1,400,000 for SCRAM–B.	Appropriation Subcommittee on Defense mark-up complete; when Senate considers H.R. 9375, the 1978 supplemental appropriation bill, Senator Stennis will offer amendment rescinding funds.	Full Committee voted not to report H.R. 9232, therefor denying rescission of these funds.			
Presidential Message No. 103 (Aug. 2, 1977): Drug abuse (marijuana decriminalization and FDA standards).	Referred to Foreign Relations Committee; and Judiciary Subcommittee on Criminal Law—no action scheduled.	Interstate and Foreign Commerce Subcommittee on Health—no action scheduled this session.			
Presidential Message No. 104 (Aug. 4, 1977): Illegal aliens.	Referred to Judiciary Subcommittee on Immigration—no action scheduled until bill introduced.	H.R. 9531 referred to Judiciary Subcommittee on Immigration—no action scheduled.			
Presidential Message No. 105 (Aug. 6, 1977): Welfare reform.	S. 2084 (administration bill) referred to Finance Committee (no action scheduled), and Human Resources Committee (no action scheduled); Finance Committee ordered H.R. 7200 (another reform bill) reported, Sept. 29; H.R. 3387, extending through fiscal year 1978 certain provisions relating to title XX of the Social Security Act became Public Law 95– .	Ad Hoc Committee on Welfare Reform with members from Ways and Means, Education and Labor, and Agriculture Committees hearings on H.R. 9030 Sept. 19–21, 29, 30, Oct. 11, 12, 14, 31, Nov. 1–4.			
Presidential Message No. 114 (Sept. 22, 1977): Alaska natural gas transportation system "Alcan Proposal", H.J. Res. 621.	Passed Senate Nov. 2, 1977	Passed House Nov. 2, 1977			95–
Presidential Message No. 120 (Oct. 6, 1977): Public broadcasting.	S. 2235 (administration bill) referred to Commerce Subcommittee on Communications—no action scheduled.	H.R. 9640 pending in Interstate and Foreign Commerce Subcommittee on Communications—Subcommittee had full briefing by administration Oct. 19—no further legislative action scheduled this year.			
Presidential Message No. 123 (Oct. 11, 1977): Reorganization Plan No. 2, U.S. broadcasting consolidation.	Governmental Affairs Committee hearings on S. Res. 293 complete; markup Nov. 3.	Government Operations Subcommittee on Legislation and National Security hearings Oct. 18, 21.			

UNANIMOUS-CONSENT AGREEMENT—CONFERENCE REPORT OF H.R. 7555

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. MAGNUSON, I propound the following unanimous-consent request which is with reference to the Labor-HEW appropriations conference report.

I ask unanimous consent that, when the Senate considers the conference report on Senate amendment No. 82 to H.R. 7555 and motions related to that issue, debate thereon be limited to 2 hours to be equally divided and controlled by Mr. MAGNUSON, Mr. BROOKE, Mr. SCHWEIKER and Mr. HELMS. I further ask that after the conference report in disagreement is agreed to the Senator from Washington (Mr. MAGNUSON) be allowed to move to recede from the Senate amendment to the House amendment to Senate amendment No. 82 and if that motion is agreed to he then be allowed to move to concur in the House amendment with an amendment without further amendment, debate, or motion being in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 8 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 8 a.m. tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE MEETING TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Separation of Powers of the Judiciary Committee be authorized to meet until the hour of 12:30 p.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF MR. PROXMIRE ON FRIDAY, NOVEMBER 4, 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Friday, after the two leaders or their designees have been recognized under the standing order, Mr. PROXMIRE be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO HOLD H.R. 9794 AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a message from the House of Representatives on H.R. 9794 be held at the desk pending further disposition.

LEGISLATIVE PROGAM AND ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, if the distinguished minority is agreeable, that tomorrow morning after the prayer the Senator from Tennessee and I each have not to exceed 2 minutes; that the Senate then proceed to the consideration of the Labor-HEW conference report; and that upon the disposition of that conference report and all motions or amendments in relation to the same the Senate resume consideration of the unfinished business and that there be 30 minutes for debate on the then pending amendment of Mr. CURTIS to be equally divided between Mr. CURTIS and Mr. NELSON.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, there will be a rollcall vote in connection with the conference report, and that could occur, I should think, at any time after 9 o'clock, depending upon how much of the time each of the four controllers of the time wishes to take. So even though the rollcall vote has not been ordered, there will be at least one rollcall vote in connection with that conference report.

Then upon the disposition of the conference report, the Curtis amendment will be debated for not to exceed 30 minutes. There will be a rollcall vote in relation to that amendment, and there

will be additional rollcall votes throughout the day.

The Senate will stay in session tomorrow until, I would say, 6:30, 7 o'clock, perhaps.

Hopefully, action will be completed on the social security bill tomorrow. If not, the Senate will continue action on the bill Friday, and Saturday, if need be, and that is about all I can say at this point.

RECESS UNTIL 8 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate I move, in accordance with the previous order, that the Senate stand in recess until the hour of 8 o'clock tomorrow morning.

The motion was agreed to; and at 6:24 p.m., the Senate recessed until Thursday, November 3, 1977, at 8 a.m.

NOMINATIONS

Executive nominations received by the Senate November 2, 1977:

DEPARTMENT OF DEFENSE

John Arnot Hewitt, Jr., of New Jersey, to be an Assistant Secretary of the Air Force, vice Everett T. Keech, resigned.

THE JUDICIARY

Monroe G. McKay, of Utah, to be U.S. circuit judge for the 10th circuit, vice David T. Lewis, retiring.

John L. Kane, Jr., of Colorado, to be U.S. district judge for the District of Colorado, vice Alfred A. Arraj, retired.

Robert F. Collins, of Louisiana, to be U.S. district judge for the Eastern District of Louisiana, vice Alvin B. Rubin, elevated.

CONFIRMATIONS

Executive nominations confirmed by the Senate November 2, 1977:

DEPARTMENT OF STATE

Edward E. Masters, of Ohio, a foreign service officer of class one, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Indonesia.

NATIONAL LABOR RELATIONS BOARD

John Harold Fanning, of Rhode Island, to be a member of the National Labor Relations Board for the term of 5 years expiring December 16, 1982.

DEPARTMENT OF JUSTICE

G. William Hunter, of California, to be U.S. attorney for the Northern District of California for the term of 4 years.

David T. Wood, of Guam, to be U.S. attorney for the District of Guam for the term of 4 years.

Robert P. LaRoche, of California, to be U.S. marshal for the Eastern District of California for the term of 4 years.

George L. Miller, of North Carolina, to be U.S. Marshal for the Middle District of North Carolina for the term of 4 years.

DEPARTMENT OF DEFENSE

George A. Peapples, of Michigan, to be an Assistant Secretary of the Navy.

Harold W. Chase, of Minnesota, to be Deputy Assistant Secretary of Defense for Reserve Affairs.

William J. Perry, of Virginia, to be Under Secretary of Defense for Research and Engineering.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

IN THE AIR FORCE

The following-named officer under the provisions of Title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066 in grade as follows:

To be lieutenant general

Maj. Gen. John Raymond Kelly, Jr., [redacted] U.S. Air Force.

The following officers for appointment in the Reserve of the Air Force to the grade indicated, under the provisions of chapters 35, 831 and 837, title 10, United States Code.

To be major general

Brig. Gen. William J. Crisler, [redacted] FG, Air National Guard of the United States.

Brig. Gen. Billy M. Jones, [redacted] FG, Air National Guard of the United States.

To be brigadier general

Col. Jose A. Bloise, [redacted] FG, Air National Guard of the United States.

Col. Joseph M. Cheshire, [redacted] FG, Air National Guard of the United States.

Col. Calvin M. Edwards, [redacted] FG, Air National Guard of the United States.

Col. William P. Gast, [redacted] FG, Air National Guard of the United States.

Col. James C. Hise, [redacted] FG, Air National Guard of the United States.

Col. John L. Hoar, [redacted] FG, Air National Guard of the United States.

Col. Billie G. Hollowell, [redacted] FG, Air National Guard of the United States.

Col. Raymond E. Lilley, [redacted] FG, Air National Guard of the United States.

Col. Robert A. Neal, [redacted] FG, Air National Guard of the United States.

Col. Ben L. Patterson, Jr., [redacted] FG, Air National Guard of the United States.

Col. Philip W. Strope, [redacted] FG, Air National Guard of the United States.

Col. Marvin A. Thorson, [redacted] FG, Air National Guard of the United States.

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Donald Raymond Keith, [redacted] U.S. Army.

Lt. Gen. Howard H. Cooksey, Army of the United States (major general, U.S. Army) (age 56) for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 3962.

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Charles James Simmons, [redacted], U.S. Army.

The following-named Army Medical Department officer for temporary appointment in the Army of the United States, to the grade indicated, under the provisions of title 10, United States Code, sections 3442 and 3447.

DENTAL CORPS

To be brigadier general

Col. Joe Leonard Cheatham, [redacted], Army of the United States (lieutenant colonel, Dental Corps, U.S. Army)

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Richard Luther West, [redacted] U.S. Army.

IN THE NAVY

Rear Adm. Levering Smith, U.S. Navy, retired, (age 67) for appointment to the grade of vice admiral on the retired list pursuant to article II, section 2, clause 2 of the Constitution.

IN THE AIR FORCE

Air Force nominations beginning Wilfred K. Abbott, to be lieutenant colonel, and ending Carlton R. Williams, to be lieutenant colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 28, 1977.

Air Force nominations beginning John W. Adams, to be first lieutenant, and ending Lawrence A. Wright, to be second lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 17, 1977.

Air Force nominations beginning Walter L. Saur, to be colonel, and ending John R. Layman, to be lieutenant colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 25, 1977.

IN THE ARMY

Army nominations beginning Rudolph E. Abbott, to be colonel, and ending Elizabeth Stephenson, to be colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 27, 1977.

Army nominations beginning Alvin D. Aaron, to be captain, and ending Warren R. Heinemann, to be first lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 27, 1977.

Army nominations beginning Thomas Abercrombie, to be major, and ending David H. Zuelke, to be major, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 27, 1977.

Army nominations beginning Roger L. Schenck, to be colonel, and ending Lionel L. Yearwood, to be colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 7, 1977.

Army nominations beginning Roy S. Adaniya, to be lieutenant colonel, and ending Bunny C. Brogdon, to be first lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 25, 1977.

Army nominations beginning Ardis M. Caswell, to be colonel, and ending William C. Summers, to be lieutenant colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 25, 1977.

Army nominations beginning John J. Costa, to be permanent professor, U.S. Military Academy, and ending Otto F. Tidwell, to be first lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 25, 1977.

IN THE NAVY

Navy nominations beginning Mario M. Ecung, to be ensign, and ending Archie R. Traynor, Jr., to be temporary commander, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 30, 1977.

Navy nominations beginning Wallace B. Williams, to be lieutenant, and ending Ger-

ald L. Hartman, to be commander, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 7, 1977.

Navy nominations beginning Gordon B. Aaseng, to be lieutenant (j.g.), and ending Joline I. Watkins, to be lieutenant (j.g.), which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 7, 1977.

Navy nominations beginning Robert R. Abbe, to be captain, and ending Katie I. Smith, to be lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 7, 1977.

Navy nominations beginning Donald L. Abbey, to be commander, and ending Linda J. White, to be commander, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 25, 1977.

Navy nominations beginning William C. Abbruzzese, to be chief warrant officer, W-3, and ending Judith A. Robertson, to be chief warrant officer, W-2, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 25, 1977.

Navy nominations beginning Major D. Bursey, Jr., to be ensign, and ending Carl B. Zich, Jr., to be ensign, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 31, 1977.

IN THE MARINE CORPS

The nomination of Mark C. Hunt, U.S. Marine Corps, to be chief warrant officer, (W-2), which nomination was received by the Senate and appeared in the CONGRESSIONAL RECORD on September 30, 1977.

Marine Corps nominations beginning Olen S. Akers, to be lieutenant colonel, and ending William E. Zimmerly, to be chief warrant officer, W-2, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 30, 1977.

The nomination of Charles P. Erwin, to be first lieutenant in the Marine Corps, which nomination was received by the Senate and appeared in the CONGRESSIONAL RECORD on October 25, 1977.

HOUSE OF REPRESENTATIVES—*Wednesday, November 2, 1977*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Fear not, for I am with you; be not dismayed, for I am your God; I will strengthen you; yea, I will help you.—Isaiah 41:10.

Almighty God, our Father, refreshed by the rest of the night and awakened to the duties of a new day, we come to Thee praying for a clear sense of Thy presence as we face our tasks and do our work during these hours. Strengthen us to rise above the common level of life and to live in the higher sphere where dwells truth and love. When the way is rough, decisions are difficult to make, and the right is not easily discerned, grant unto us patience with ourselves and faith in Thee that we may see Thy will and seek to do it. Keep ever before us the ideal of being better leaders of a better nation in a better world. Guide us through this day and grant us peace at eventide. Amen.

CALL OF THE HOUSE

Mr. GUYER. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. RONCALIO. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 730]

Andrews, N.C.	Findley	Pickle
Archer	Foley	Rose
Armstrong	Ford, Mich.	Roybal
Bolling	Fountain	Runnels
Breaux	Giaimo	Ruppe
Brown, Mich.	Harsha	Santini
Burton, John	Heckler	Scheuer
Chappell	Hightower	Shuster
Conyers	Jones, Tenn.	Sikes
Corcoran	Jordan	Stockman
Cotter	Koch	Stratton
D'Amours	Krueger	Thornton
Derrick	Leggett	Tsongas
Diggs	McDonald	Tucker
Drinan	Marlenee	Wiggins
Edwards, Okla.	Nichols	Wolff
Evans, Ga.	Nolan	Young, Tex.

The SPEAKER pro tempore (Mr. HUBBARD). On this rollcall 383 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 4458. An act to amend certain provisions of the Internal Revenue Code of 1954 relating to distilled spirits, and for other purposes;

H.R. 7278. An act to amend section 10 of the Merchant Marine Act, 1936; and

H.R. 9019. An act to rescind certain budget authority contained in the message of the President of July 19, 1977 (H. Doc. 95-188), transmitted pursuant to the Impoundment Control Act of 1974.

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate numbered 1 and 3 to a bill of the Senate of the following title:

S. 1528. An act authorizing funds for fiscal year 1978 for programs administered under the Safe Drinking Water Act.

The message also announced that the Senate had passed a bill and a resolution of the following titles, in which the concurrence of the House is requested:

S. 1531. An act to amend the Toxic Substances Control Act to establish a program of assistance to the States for protection and indemnification of individuals injured in their business or person by chemical substances, to establish a chemical emergency response team, to increase the authorization for appropriations, and for other purposes.

S. RES. 282

Resolved, That the Senate disapproves the proposed deferral of budget authority (deferral numbered D 78-21) for acquisition, construction, and improvements by the United States Coast Guard, Department of Transportation, including funding for the Puget Sound Vessel Traffic System and follow-on work related to the Medium Endurance Cutter replacement program set forth in the special message transmitted by the President to the Congress on October 3, 1977, under section 1013 of the Impoundment Control Act of 1974.

The message also announced that the Vice President, pursuant to Public Law 89-944, appointed Mr. STAFFORD as a member, on the part of the Senate, of the Senate Office Building Commission, vice Mr. Buckley, resigned.

REGULATION Q EXTENSION

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 9710) to extend the authority for the flexible regulation of interest rates on deposits and accounts in depository institutions, to promote the accountability of the Federal Reserve System, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

On page 4, strike out lines 3 to 22, inclusive, and insert:

SENATE CONFIRMATION OF CHAIRMAN AND VICE CHAIRMAN OF BOARD OF GOVERNORS

SEC. 204. (a) The third sentence of the second paragraph of section 10 of the Federal Reserve Act (12 U.S.C. 242) is amended to read as follows: "Of the persons thus appointed, one shall be designated by the President, by and with the advice and consent of the Senate, to serve as Chairman of the Board for a term of four years, and one shall be designated by the President, by and with the consent of the Senate, to serve as Vice Chairman of the Board for a term of four years.".

(b) The amendment made by subsection (a) takes effect on January 1, 1979, and applies to individuals who are designated by the President on or after such date to serve as Chairman or Vice Chairman of the Board of Governors of the Federal Reserve System.

Mr. ST GERMAIN (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Rhode Island?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, I want to take this opportunity to commend my colleagues on both sides of the aisle, particularly the distinguished chairmen of the full committee and of the subcommittee (Mr. REUSS and Mr. ST GERMAIN) and the distinguished ranking minority member of the committee (Mr. STANTON) for the expeditious manner in which

they handled this bill. On the whole I believe this is a constructive piece of legislation, and I am particularly gratified to note that we have obtained a full year's extension of regulation Q.

Of course, many of my colleagues in this House and most of my fellow members of the committee would probably agree with me that a 2-year extension would have been preferable. The fact that our colleagues in the other body did not choose to use this bill as a "vehicle" for transporting unpalatable amendments through this House does not mean that they will not attach some "goodies" to the next extension bill. By limiting the extension to 1 year, they have assured themselves one more opportunity in this Congress to try to load up a regulation Q bill. Therefore, it is with a combination of relief and foreboding that I support this bill today.

Mr. ST GERMAIN. Mr. Speaker, if the gentleman will yield, the Senate accepted all of the House-passed version of H.R. 9710 except they struck out a provision as contained in the House-passed bill, which if enacted, would have provided for coterminous service of the chairman of the Federal Reserve Board with that of the President of the United States.

In other words, the Senate made no change in title I of H.R. 9710, which as you will recall, extended regulation Q for 1 year until December 15, 1978; nor did they make any change in title III of the bill which amends the Bank Holding Company Act of 1956 in two instances.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Rhode Island that the Senate amendment be considered as read and printed in the RECORD?

There was no objection.

The SPEAKER. Is there objection to the first request of the gentleman from Rhode Island?

There was no objection.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 643, MAKING FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1978

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 95–791), on the resolution (H. Res. 892) providing for consideration of House Joint Resolution 643, making further continuing appropriations for the fiscal year 1978, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE CONFERENCE REPORT ON H.R. 9375, SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 1978

Mr. MAHON. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a conference report on the bill (H.R. 9375) making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

APPOINTMENT OF TWO ADDITIONAL CONFEREES ON H.R. 9375, SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 1978

Mr. MAHON. Mr. Speaker, I ask unanimous consent that the Speaker may be authorized to appoint two additional conferees on the bill (H.R. 9375) making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Texas? The Chair hears none, and appoints the following two additional conferees: Mr. NATCHER and Mr. CONTE.

AUTHORIZING SECRETARY OF COMMERCE TO SELL TWO OBSOLETE VESSELS TO MID-PACIFIC SEA HARVESTERS, INC.

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries be discharged from further consideration of the Senate bill (S. 854) to authorize the Secretary of Commerce to sell two obsolete vessels to Mid-Pacific Sea Harvesters, Inc., and for other purposes, a bill identical to H.R. 7928, as reported by the Committee on Merchant Marine and Fisheries, and ask for immediate consideration of the Senate bill S. 854.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. ROUSSELOT. Reserving the right to object, I now yield to the distinguished gentleman from New York (Mr. MURPHY) to explain this.

Mr. MURPHY of New York. I thank my colleague, the gentleman from California.

Mr. Speaker, I rise in support of S. 854, a bill that authorizes the Secretary of Commerce to sell two surplus, obsolete Navy vessels to a Hawaii based corporation for use as transportation and processing ships in the fisheries of the United States.

The two vessels—the *Patapsco* (AOG–1) and the *Kishwaukee* (AOG–2)—are gasoline tankers, 310.9 feet in length, built in 1942 and 1943, respectively, at Savage, Minn. These vessels, active as fuel suppliers to bases and ships in World War II, Korea, and Vietnam, were authorized for disposal after the Navy declared them unfit for further service in June 1974. They are located at the naval inactive ship maritime facility at Pearl Harbor, Hawaii.

Under current law, the authority to sell surplus ships is limited to sales for scrapping or for nontransportation use. Thus, it is necessary to enact H.R. 7928, a noncontroversial bill, which authorizes the Secretary of Commerce to sell, within 2 years, the obsolete vessels to Mid-Pacific Sea Harvesters, Inc.

The company—Mid-Pacific Sea Harvesters, Inc.—proposes to convert the ships into so-called mother ships for transportation and processing of yellowfin and skipjack tuna, albacore, red snapper, and miscellaneous reef fish in the mid-Pacific to the west of Hawaii. The contract of sale will specify that the vessels will not be used in areas under consideration for designation as critical habitat for endangered species, or for fishing for yellowfin tuna in the area regulated by the Inter-American Tropical Tuna Commission.

The bill will cost the Federal Government nothing, since Mid-Pacific Sea Harvesters, Inc. will pay the full appraised value of these vessels. Simultaneously, the company expects to employ 60 people per vessel and, directly or indirectly, provide about 1,000 jobs. The conversion work is planned for a shipyard in Seattle, Wash.

Certain conditions are attached to the sale; namely, the sale price shall be the vessels' appraised value for operations, or as scrap in the domestic market, whichever is greater, at the date of the sale. The legislation also requires that the vessels be converted in the United States; documented and operated under U.S. law; operated in conformity with all international fishing conventions to which the United States is a party; and if scrapped, within 5 years of sale, they shall be scrapped in the United States. In addition, the Secretary of Commerce has the power to sell the vessels subject to such conditions as he deems appropriate in the national interest.

The Senate passed their bill on July 12, 1977. Our committee heard unanimous testimony in support of the bill. It is noncontroversial, and will provide jobs, while bolstering our Nation's fishing industry. I urge that the House adopt S. 854.

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, I yield to my distinguished colleague, the gentleman from California (Mr. MCCLOSKEY).

Mr. McCLOSKEY. I am glad to endorse the Chairman's statement.

Mr. Speaker, this is a simple bill which deserves the support of all Members. It authorizes the sale of two obsolete, World War II-vintage Navy gasoline tankers to a private operator, Mid-Pacific Sea Harvesters, for use in the fisheries of the United States.

It will return money to the Federal Government since each vessel is expected to be sold for about one-half million dollars. It will provide shipyard work in the United States since $1,300,000 is to be spent to convert each vessel to a fisheries "mothership," and the bill requires that any conversion be done in this country. It will provide other domestic employment since the fisheries operation made possible by the use of these ships will employ about 1,000 people. Finally, the bill protects the public interest by giving the Secretary of Commerce authority to

attach any necessary conditions to the sale of the vessels.

Legislation is required only because current law prohibits the sale of obsolete vessels for commercial operation and fishing is so regarded. The conversion work expected here, however, is so extensive that the vessels should be capable of efficient and safe operation in all respects.

This bill received a comprehensive hearing before our committee where support was received from the Departments of Commerce and Defense.

I ask for the support of my colleagues.

Mr. ROUSSELOT. Further reserving the right to object, I appreciate my colleague's explanation.

I now yield to the distinguished gentleman from Michigan (Mr. RUPPE).

Mr. RUPPE. Mr. Speaker, I join in supporting S. 854, a bill which authorizes the sale to a commercial operator of two obsolete vessels which have no military or other use to the U.S. Government. These Navy gasoline tankers which are both over 30 years old were declared unfit for further service by the Navy in 1974. However, current law prohibits their sale for commercial purposes because of a congressional policy to discourage the continued operation by commercial operators of obsolete vessels.

The intended purchaser of these vessels, however, intends to use them for an entirely different purpose—as "motherships" in the fisheries of the United States. More importantly, it intends to make a major conversion of the vessels—spending about $1,300,000 to convert each ship. The bill requires that this conversion be done in U.S. shipyards. Besides the shipyard work, the operation made possible by the purchase of these vessels is expected to, directly and indirectly, employ about 1,000 people.

The bill requires that the vessels be sold for their appraised value for operation or their scrap value in the domestic market, whichever is greater, and the ships are expected to be sold for approximately $500,000 each. The Secretary of Commerce is given authority to attach such conditions as he deems necessary to the sale.

I ask all Members to join in supporting S. 854.

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, I yield to the distinguished gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Speaker, as a member of the committee, I apologize to our chairman of the full committee, but where will these fishery ships or mother ships be operated? Will it be in the Alaskan waters or in the South Pacific, or where?

Mr. MURPHY of New York. If the gentleman will yield, these ships will be operated in waters not in the Inter-American Tropical Tuna Zone, as the gentleman is very familiar with, but in fishery areas west of Hawaii.

Mr. YOUNG of Alaska. West of Hawaii.

Mr. MURPHY of New York. That is right.

Mr. YOUNG of Alaska. I thank the gentleman from California for yielding and thank the gentleman from New York for his answer.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 854

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any other provisions of law, the Secretary of Commerce is authorized, within two years after enactment of this Act, to sell, subject to such conditions he deems as appropriate in the national interest, the two obsolete vessels AOG–1 Patapsco and AOG–9 Kishwaukee for the purpose of conversion and operation in the fisheries of the United States to Mid-Pacific Sea Harvesters, Incorporated, a corporation organized under the laws of the State of Hawaii, for their appraised value for operation or their scrap value in the domestic market, whichever is greater, as of the date of the sale: *Provided,* That (1) any conversion work shall be performed in the United States; (2) the vessels shall be documented and operated under the laws of the United States; (3) the vessels shall be operated in conformity with all international fishery conventions to which the United States is a signatory; and (4) if the vessels are scrapped within five years after the date of sale, they shall be scrapped in the domestic market.

Mr. AKAKA. Mr. Speaker, the intent of this bill is very simple. It authorizes the sale of two obsolete Navy vessels, the AOG–1 *Patapsco* and AOG–9 *Kishwaukee*, presently located at the naval inactive ship maritime facility at Pearl Harbor, Hawaii.

Mid-Pacific Sea Harvesters, a corporation organized under the laws of the State of Hawaii, wishes to acquire these ships for conversion and operation in the fisheries of the United States.

Section 203 of the Federal Property and Administrative Services Act provides that surplus vessels may be disposed of only in accordance with the provisions of the Merchant Marine Act, 1936, as amended. Section 510 of the Merchant Marine Act prohibits the commercial operation of obsolete or other vessels acquired by the Secretary of Commerce. Thus, it is necessary to enact this legislation authorizing the sale.

This measure has already passed the Senate under the sponsorship of Senator DANIEL K. INOUYE, my esteemed colleague from Hawaii.

Comments and testimony have been received from the U.S. Navy and the Department of Commerce. Neither has any objection to the intent of the legislation.

The bill specificially states that the conversion of these vessels into collecting and processing "mother ships" will be done in the United States. It further requires that they be documented and operated under U.S. laws, in conformity with all international conventions to which we are a signatory and that even their scrapping will be done domestically.

Mid-Pacific Sea Harvesters has already said that they will not be using these ships in any areas under consideration for designation as critical habitat for endangered species. Additionally, they have also been instructed by the Department of Commerce not to fish within the already heavily exploited CYRA.

The vessels in question were retired in early 1970 and placed in the inactive fleet at Pearl Harbor.

In June 1974, they were inspected and found unfit for further service. They were stricken from the Naval Vessel Register and authorized for disposal.

In August 1974, they were referred to the Maritime Administration for disposal pursuant to the previously stated statutes.

For 3 years, no one has expressed an interest in these vessels, except for scrap material. Only Mid-Pacific Sea Harvesters has sought to purchase them for use as viable, much-needed additions to the U.S. fishing fleet.

The House has long espoused the position of directing its efforts toward assisting and bolstering our Nation's fishing industry and merchant marine fleet. Here we have the opportunity to contribute to that effort.

Mid-Pacific Sea Harvesters has taken the initiative in attempting to expand operations and exploring and developing new fisheries. They will most greatly aid independent, smallboat fishermen whose crafts have limited range. By providing these fishermen with processing and refrigeration facilities, bunker fuel and provisions, a vast new field of opportunities will be opened to America's fishing industry. If we are to be true to our goals, we must support this endeavor.

We must remember that this measure will cost the Government nothing. Mid-Pacific Sea Harvesters will pay the full appraised value of these vessels. Their conversion, which will cost approximately $2.5 million, will provide employment for American workers. Their usage will be under all American laws, regulations, and agreements. The United States can only stand to gain from the approval of this sale.

We must provide the kind of stimulation, assistance, and encouragement that will ultimately help our fishing industry regain a position of world prominence. I would respectfully urge that the House pass this bill and reaffirm our commitment to support the fishermen of our Nation.

The Senate bill was ordered to be read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

A similar House bill, H.R. 7928, was laid on the table.

GENERAL LEAVE

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed, S. 854.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

APPOINTMENT OF CONFEREES ON S. 1316, AUTHORIZING APPROPRIATIONS FOR 1978, 1979, AND 1980 TO CARRY OUT STATE COOPERATIVE PROGRAMS UNDER THE ENDANGERED SPECIES ACT OF 1973

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1316) to authorize appropriations for fiscal years 1978, 1979, and 1980 to carry out State cooperative programs under the Endangered Species Act of 1973, with House amendments thereto, insist on the House amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. ROUSSELOT. Reserving the right to object, Mr. Speaker, can the gentleman from New York explain this action?

Mr. MURPHY of New York. If the gentleman from California will yield, yes. The Senate has some reservations on the House-passed language and has asked for a conference. For that reason we are asking to go to conference.

Mr. ROUSSELOT. Further reserving the right to object, could the gentleman explain to us what the reservations of the Senate are?

Mr. MURPHY of New York. If the gentleman will yield, the difference was we had a 3-year appropriation level, and the Senate asked for a 4-year appropriation level.

Mr. ROUSSELOT. Are those the only differences?

Mr. MURPHY of New York. That was one of the differences. I believe also there were some minor program differences which did conflict with the views of some of the Members of the other body, and in that program area there is not complete agreement. That is another reason for the conference.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, does the gentleman feel the House conferees will be sticking by the House position?

Mr. MURPHY of New York. It is my opinion the House always stays by the House commitments.

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, I yield to my colleague, the gentleman from Michigan (Mr. RUPPE).

Mr. RUPPE. Mr. Speaker, we do not have any argument on the bill and we support the position of the chairman.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. BROWN of California). Is there objection to the request of the gentleman from New York? The Chair hears none, and, without objection, appoints the following conferees: Messrs. MURPHY of New York, LEGGETT, AKAKA, BONIOR, GINN, RUPPE, and FORSYTHE.

There was no objection.

MRS. W. E. SHELTON, SR.

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, it is with sadness that I speak today in the House of Representatives regarding a resident of Kentucky for more than 100 years and a longtime friend of mine, Mrs. Maude Key Shelton—Mrs. W. E. Shelton, Sr.

Mrs. Shelton, who celebrated her 106th birthday last April 25, died recently in the Presbyterian Village Nursing Home in Little Rock, Ark. She had made her home in Mayfield, Graves County, for her entire lifetime until 1971 when she entered the Arkansas nursing home.

She was born just north of Mayfield, Ky., 6 years after the end of the Civil War. The daughter of the late Henry Clay Key and Virginia Anderson Key, she was a descendant of President John Adams, Francis Scott Key, and Jefferson Davis. She became the bride of W. E. Shelton, Sr. at the age of 19.

Mrs. Shelton had been a member of the First United Methodist Church in Mayfield since 1891. She was a member of the Daughters of the American Revolution all of her adult life and was a charter member of the American Legion Auxiliary of Mayfield. She is reported to have been the oldest auxiliary member in the world.

At the time of her 100th birthday, while she was residing in Paducah, Ky., she was honored at a party by her family and friends with greetings coming from then Kentucky Governor Louie B. Nunn and then President Richard Nixon. I was a Kentucky State senator at that time and had the opportunity to attend this party and present Mrs. Shelon with her commission as a Kentucky Colonel.

The Sheltons were parents of seven children of whom two survive, a son, W. E. Shelton, Jr., of Mayfield, Ky., and a daughter, Mrs. William P. Rock of Little Rock, Ark. She is also survived by 11 grandchildren, 24 great-grandchildren and 2 great-great-grandchildren.

All of us from Kentucky who had the privilege of knowing this fine lady will certainly miss her. Her family can be proud of the love and dedication she gave her family, friends and country as were evidenced by her life's activities.

JUSTICE DEPARTMENT'S HANDLING OF HELMS AFFAIRS

(Mr. DOWNEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOWNEY. Mr. Speaker, I would like to address the House to say how concerned and outraged I am by the Justice Department's handling of the Helms affair. It seems to me that the handling of this matter raises a number of serious questions that Members should take cognizance.

First. I think that the Members of this House might want to know the Justice Department's specific justification for their allowing Mr. Helms to plead to a lesser charge.

Second. We might want to find out what precedent this will set for the future testimony by members of the CIA and DIA before Members of Congress, and whether or not we are going to have a two-pronged approach to equal justice before the law for some people and more equal justice for members of the intelligence community.

I hope Members share my concern and will join with me in asking Attorney General Bell to come before the House and explain why the Justice Department acted as they did in this matter. It is certainly a complex issue, but based on the media accounts I have seen too many questions still remain unanswered.

TRIBUTE TO ESTHER PETERSON

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, some time ago Esther Peterson, the President's Special Assistant for Consumer Affairs, agreed to remain in that position until new consumer legislation was enacted. Therefore, when the House leadership decided yesterday to postpone floor consideration of that issue, it effectively extended this fine woman's tenure in the White House. For that, I am glad indeed.

As my colleagues here in the House know, while I have not been in agreement with Esther as to the best administrative approach to assure adequate consumer representation in the Federal Government, I can assure you—as I did in a letter to her yesterday—that I wholeheartedly support her goal. And I am convinced that consumers, all of us, could not have a better advocate than Esther Peterson. She has the respect of the President, of the Members of this body, and I am sure of the American people.

She has worked long and hard to bring about meaningful reform in the governmental consumer function. She is a dedicated public servant who has pursued her goal with reason, understanding, and commonsense. Even when she encounters stubborn disagreement from Members like myself, Esther Peterson has responded from reason, not from emotion. She listens and she is listened to. Those are qualities which mean success in advocacy and which will lead to change in the field of consumer affairs.

Esther Peterson has my deepest respect and admiration. In spite of our disagreements, I feel fortunate to have her as a friend and source of counsel. While I know how deeply she wants to secure enactment of new consumer legislation, if indeed she returns to private life at that point, the American public will have lost a truly remarkable public servant. President Carter, the House and the Senate, and the American people can be proud of her efforts.

AMTRAK HEAVY EQUIPMENT REPAIR FACILITY FOR NORTHEAST RAIL CORRIDOR

(Mr. EVANS of Delaware asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EVANS of Delaware. Mr. Speaker,

as you well know, Secretary of Transportation Brock Adams has before him a decision regarding the future location of the Amtrak heavy equipment repair facility for the Northeast rail corridor. Two cities—Wilmington, Del., and Readville, Mass.—are in the running for this facility.

Obviously, I happen to believe that the Wilmington site is far superior to the proposed Massachusetts location. However, what brings me to the floor today is the apparent desire of Secretary Adams to postpone announcing his decision until after the Congress goes out of session.

Federal Railroad Administrator Sullivan visited both sites in early September. The Secretary met with the two State congressional delegations, as well as the Governor of both States and other officials, on September 16—a month and a half ago. And still no decision.

During the last campaign, Mr. Carter told the American people that his decisions as President would be based on merit and not politics. This decision on the Amtrak heavy equipment repair facility will serve as the clearest test yet on whether the Carter administration plans to make their choices on the basis of facts or politics.

The political heavyweights—ranging from the distinguished Speaker of this House to Senators KENNEDY and BROOKE—are all lined up in support of the Massachusetts site, and I do not need to be a fortune teller to guess the result if Secretary Adams uses political clout as his criteria for making this selection. Yet, if the decision is based on merit, I am confident Wilmington will win out.

Secretary Adams' decision will give the whole country clear indication whether Mr. Carter's campaign rhetoric was a real commitment or just another empty promise.

I urge him to make public both his decision on this important matter and the criteria upon which he bases his decision, before Congress recesses this Friday. Close to 700 families should not be kept in suspense any longer.

AMTRAK HEAVY EQUIPMENT REPAIR FACILITY FOR NORTHEAST RAIL CORRIDOR

(Mr. KOSTMAYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOSTMAYER. Mr. Speaker, I echo the sentiments of my colleague from Delaware.

The issue of the heavy equipment repair facility is not solely related to Wilmington. Twenty percent of the jobs at the present facility in Wilmington are out-of-State—employees commute from New Jersey and Pennsylvania.

The facility has regional importance. For Pennsylvania, New Jersey, and Delaware.

A congressional delegation from the three-State area met with Secretary Adams on September 16, the day after a report was delivered to him on the merits of the two sites under consideration.

Secretary Adams promised a decision by September 30.

We will await that decision, and I urge Secretary Adams to bring this matter to an equitable resolution.

AMTRAK HEAVY EQUIPMENT REPAIR FACILITY FOR NORTHEAST RAIL CORRIDOR

(Mr. EDGAR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EDGAR. Mr. Speaker, I will not take the full minute.

I simply commend the gentleman from Delaware (Mr. EVANS) and the gentleman from Pennsylvania (Mr. KOSTMAYER) for their comments.

I have reviewed the technical studies upon which this decision is to be made and the case for locating the facility in Wilmington is overwhelming.

The total cost differential over a 20-year period may well approach $200 million.

A hghly skilled, experienced, and specialized labor force is in place in Wilmington. Financial and humanitarian factors are overwhelmingly against trying to force them to move to Boston.

Thousand of pages of technical studies unanimously recommended the Wilmington site.

The Delaware Valley area has been hit by a devastating series of federal decisions in recent months ranging from the closing of the Frankford Arsenal to the rejection of Boeing Vertol's bids for the UTTAS and LAMPS helicopter contracts.

On five separate occasions between August 1 and September 27 I have personally communicated my concern to Secretary Adams on this matter. I know that many of my distinguished colleagues on both sides of the aisle have also done so. The facts are clear: the Secretary is aware of the situation. I would hope that he will make the decision before we adjourn for our recess and will make the decision based on the merits of the documents he has before him and not from the pressure placed on him by some of the Members of the House.

FALLACIOUS ASSERTIONS ON VULNERABILITY OF THE CRUISE MISSILE

(Mr. BOB WILSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOB WILSON. Mr. Speaker, I am most disturbed by the allegations set forth in the recent Evans-Novak article titled "The Vulnerability of the Cruise Missile." I view with particular concern the fallacious assertion that the cruise missile will be incapable of penetrating Soviet defenses—an assertion apparently based primarily on the supposed "cancellation" of a live surface to air Hawk missile firing against a Tomahawk cruise missile because of fear that the Tomahawk would be shot down.

The principal allegations set forth have already been responded to by the Department of Defense. However, I wish to further point out that the relatively high survivability of significant numbers of small, low flying cruise missiles is inherent in the characteristics of such a weapon, and in the immensely expensive defensive dilemma that it presents to the Soviets. I know of no credible advocate who argues otherwise. That is not to say that 100 percent of the cruise missiles launched can be expected to survive their flights to a target. Again, I know of no credible advocate who argues that they will.

It is, however, true that a very high percentage of cruise missiles can be expected to reach their targets—an expectation apparently shared by the Soviets in light of their frequent and adamant statements regarding range limitations, and numbers of cruise missiles to be permitted.

Finally, it is important to bear in mind that the cruise missile is still in the research and development stage. It is hardly rational to tout a variation in a testing program, which by its nature must be flexible to take advantage of lessons learned on previous tests, as proof that the weapon concerned is thereby rendered ineffectual.

Changes will inevitably occur in the cruise missile testing program, as will occasional failures. It would be disappointing indeed to see every such occurrence ballyhooed as evidence that the cruise missile program itself is a failure, or that the cruise missile is not a credible weapon. Nothing could be further from the truth.

ADMINISTRATION "MOUSE TRAP" ON AID TO VIETNAM

(Mr. YOUNG of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. YOUNG of Florida. Mr. Speaker, just recently during the many debates and votes relative to our foreign aid program, the House in overwhelming numbers voted to deny any aid or reparations to Vietnam, either directly or indirectly. In order to get the House to back off from that position, the President of the United States made several promises.

One was that he would instruct our representatives in international organizations to oppose and vote against any money going to Vietnam for reparations or aid. The United Nations has just passed a Soviet-sponsored resolution that sets its policy of rebuilding of Vietnam. Of course, we will eventually end up as the largest contributor to that program.

The point is, despite the President's pledge to the U.S. House of Representatives that his representatives would oppose and vote against such activities, our representative at the U.N. did not vote against, did not oppose, and did not even ask for a recorded vote when the Soviet resolution to rebuild Vietnam passed the United Nations General Assembly.

I will provide more details for the Members in the extension of remarks later on this afternoon. Members can make up their own minds as to whether

or not we had a mousetrap play pulled on us.

AMTRAK HEAVY EQUIPMENT REPAIR FACILITY FOR NORTHEAST RAIL CORRIDOR

(Mr. SCHULZE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHULZE. Mr. Speaker, I would like to join with my colleague from Delaware and my colleagues from Pennsylvania in urging the Secretary of Transportation to make a rapid decision on the railway repair facility, just to go on the record so that he knows that the Members of this House and the members of the media are watching the decision, and are going to determine how the administration is going to move on these types of issues, and whether it is pork barrel as usual or whether we are going to deal with the facts on these issues.

This will be a prime example of pork barrel contract if it is changed from Wilmington. I want the Secretary to know that many of us are watching his decision on this issue.

ALASKA NATURAL GAS TRANSPORTATION SYSTEM

The SPEAKER pro tempore (Mr. PIKE). The unfinished business of the House is the further consideration of the joint resolution (H.J. Res. 621) approving the Presidential decision on an Alaska natural gas transportation system, and for other purposes, in the House as in the Committee of the Whole.

Without objection, the Clerk will again report the joint resolution.

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 621

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the House of Representatives and Senate approve the Presidential decision on an Alaska natural gas transportation system submitted to the Congress on September 22, 1977, and find that any environmental impact statements prepared relative to such system and submitted wtih the President's decision are in compliance with the Natural Environmental Policy Act of 1969.

PARLIAMENTARY INQUIRY

Mr. UDALL. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. UDALL. Mr. Speaker, am I correct in assuming that the joint resolution before us has been laid before the House, but is not amendable?

The SPEAKER pro tempore. The gentleman is correct.

Mr. UDALL. Am I further correct, Mr. Speaker, in assuming that under the procedure by which we are operating, the only way for a Member to gain time is to make a pro forma motion to strike the necessary number of words?

The SPEAKER pro tempore. The gentleman is correct.

It is the Chair's understanding that those who have already offered pro forma amendments on the joint resolution may do so again only by unanimous consent.

Mr. UDALL. They would not be eligible to make the pro forma motion again?

The SPEAKER pro tempore. Correct.

Mr. UDALL. Finally, am I correct in assuming that the managers of the bill would be in order at any time to move the previous question on the joint resolution?

The SPEAKER pro tempore. That is correct.

Mr. UDALL. I thank the Speaker.

PARLIAMENTARY INQUIRY

Mr. MURTHA. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. MURTHA. Would an amendment be in order if the previous question were not ordered?

The SPEAKER pro tempore. The Chair will have to state that an amendment would not be in order. Under the statute, the joint resolution is not amendable. The only effect would be to extend debate.

Mr. BROWN of Ohio. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I rise in nervous support of House Joint Resolution 621 which approves the President's decision on an Alaska natural gas transportation system.

The vote we will all have to cast on the resolution before us will be a difficult one. There is no question but that we need Prudhoe Bay's 24 Tcf of proven reserves—reserves which at today's consumption rate will constitute over a year's supply of natural gas for the United States.

The United States, and particularly the Midwest, is faced with increasing shortages of natural gas brought about by 20 years of Federal price regulation. Not since 1967 have annual additions to proven natural gas reserves in the contiguous 48 States exceeded annual production. In addition, due to declining rates of production and increasing demand for this most efficient fuel, demand for natural gas has exceeded supply since 1973, the year in which production peaked in this country. Factory layoffs and school closings have been the result of these shortages.

So the issue is not whether we need Alaskan natural gas—we obviously do. The real issue here is whether we concur with the President's recommendation of the route of the Alaskan natural gas transportation system and with the conditions that the President has negotiated with the government of Canada concerning this project.

The necessity to choose a route and system for delivery of Alaskan natural gas arose from the fact that three different groups sought to bring the gas to the lower 48 States by different routes. One was the Arctic Gas consortium, made up of nine pipeline companies, which wanted to bring the gas from Alaska east to the Canadian Arctic gas area and then south and east along the McKenzie River and through central Canada. This route had environmental, Native land and cost problems because it involved crossing designated wildlife areas, and so forth.

A second route, recommended by the El Paso Co., would be built south along the Alyeska oil pipeline through Alaska to Valdez where it would be liquefied and then pumped into ships. The ships would then bring the LNG into ports in the western United States where it would be regassified and pumped into existing natural gas pipelines. This so-called "all American route" also had cost problems which its sponsors conceded might have required loans to be guaranteed by the Federal Government.

The final proposal, put forth by the Alcan consortium—which the President recommended—would follow the Alyeska pipeline past Fairbanks where it would depart to follow the Alaska Highway into the Yukon Territory of Canada. It continues through the Yukon into Alberta, where it splits into two legs. The western leg would deliver gas to the Northwest States and to California; the eastern leg, to the Midwest.

If we approve the President's recommendation, this 4,787-mile project will be the ninth wonder of the world—if you consider the Alyeska oil pipeline as the eighth—and it will cost accordingly. The most conservative cost estimate is $9.3 billion—as compared to the original cost estimate in 1968 of $900 million for the 800 mile Alyeska oil pipeline that finally wound up costing $8 billion before it was completed in 1977. But updated estimates of the Alaskan natural gas pipeline have suggested it could cost as much as $13 to $15 billion, based on anticipated cost overruns and conservatively predictable inflation between now and the prospective 1983 completion date.

The prospective builders and operators of this pipeline have already indicated their inability to finance this amount without help from some other source of revenues than their own. Financing from private money markets in the United States or Canada may be difficult, they have indicated, because of both the size of the undertaking and the almost total dependence on the cooperation of several governments to assure the economic viability of the project.

This project will require a multitude of decisions by a variety of governmental bodies in this country and, very importantly, will need the cooperation of local, provincial and national governments in Canada. Even though this is a project designed for private enterprise, it is obvious that governments at all levels, here as well as those of a foreign country, will have a crucial impact on this project.

According to the agreement between the United States and Canada, each Government will have right-of-way and licensing controls over the building of the line in its jurisdiction, as well as the taxing and setting of tariffs over the use of the pipeline in its area when completed. Depending on the constancy of one government is risky enough, but when both United States and Canadian National Governments are included,

along with the provincial and territorial governments in Canada which are much more autonomous than the State governments in the United States, the impact of future costs that could affect the price of the gas to the consumer is almost unpredictable. I feel that the assurances in the United States-Canadian agreement in this regard are seriously deficient.

Another problem of serious concern to me is that no decisions have been made concerning allocation of the costs of conditioning North Slope gas. We heard testimony from officials of the State of Alaska that these extraordinary costs—caused, in part at least, by severe climatic conditions—could range as high as 90 cents per Mcf, as compared to costs in the neighborhood of 10 cents per Mcf in the lower 48 States.

Cost of a conditioning facility, needed to meet the rigid specifications of gas quality, temperature, and pressure, has been estimated at about $2 billion. Apparently the full costs of this system have not been included in the estimates of consumer costs by either the administration or Alcan, or assigned as a cost to producers. The magnitude of these costs, and who will pay for them, will have a direct bearing on the project. We are still waiting clarification of this from the administration.

Once again, we feel that this matter must be resolved so as to afford all parties some measure of certainty before we begin the search for financing necessary to build the pipeline system. We hope that the FERC will decide this question expeditiously and in the same manner as it would decide similar problems in the rest of the country.

The complicated question of financing this $13 million plus project most concerns me. We have heard testimony from administration witnesses and from Alcan itself that this project can be financed without Federal guarantees and without an all-events tariff, which would require the ultimate consumer to pay the costs of the project if, for some reason, it were not completed. Those assurances are comforting, but they do not answer the questions which have been raised about how completion of the project can be accomplished.

At this point, the allowable Alaskan wellhead price that will be set by the Federal Energy Regulatory Commission (FERC) is unpredictable. Gas sales contracts, which will provide the basis for financing this project, will be delayed until the regulatory status of Alaskan gas is clarified.

The President's decision suggests that private financing will be possible if the producers of the gas in the State of Alaska participate in the financing of the project "most likely in the form of debt guarantees." This suggestion flies in the face of the July 1977 report of the Attorney General to the President of the United States on the pipeline which said, on page 2:

> Participation, in any form, in the transportation system by producers . . . should be prohibited.

But by the time the President's decision was published in September, it was possible to include in it an August 9 letter to the White House energy staff from the Justice Department which stated:

> We understand that gas producer participation in financing of the selected project may be essential to the success of the project. We believe, therefore, that consistent with our recommendation, producers could be involved in the guarantee of a portion of the project debt.

At first blush this may appear to be an "easy way out" of the financing problem. But the three major producers have the same healthy mistrust of Federal Government regulation and control that other potential private financiers have, and have unanimously said they want no part of any such guarantor role—particularly since it is envisioned that they would have no say in the construction or operation of the pipeline.

In addition, two of the producers have indicated that legal or debt obligations prohibit them from carrying any more debt than they now have obligated. Spokesmen for the present administration have hinted broadly that a more generous wellhead price might be permitted if the State of Alaska—which would benefit from royalties on the gas sold—or the three corporations producing most of the Alaskan gas—Exxon, Arco, and Sohio—would undertake to guarantee the loans of the consortium of pipeline companies which wishes to build and operate the Alaskan gas pipeline.

It is obvious that these statements will "encourage" producer participation, but I am distressed that wellhead gas prices may be affected by whether producers are willing to guarantee the massive loans that will be necessary to finance this project.

It is becoming increasingly obvious that private financing may not be available unless someone guarantees the loans. If producers will not give guarantees, this leaves the alternative of letting U.S. taxpayers guarantee the loan or obtaining assurances in advance from the governments involved that the tariffs will be high enough to guarantee adequate pipeline returns.

Most of the problems facing the project sponsors are governmental in nature. With government involvement in all aspects of a project of this magnitude, it is easy to see why private investors may not be willing to undertake the financing of this pipeline.

It is also easy to see why the major producers, aside from their legal or debt obligations, and the State of Alaska are shying away from involving their stockholders and taxpayers in a project over which they will have little control. Perhaps you can also understand why I am nervous about what price our Midwest gas consumers may ultimately be asked to pay for gas delivered from this costly pipeline.

Finally, the extensive governmental involvement here is why I am concerned about the possibility of the citizens of the United States having to eventually guarantee this project because of the inability to get producer or investor guarantees. I think that all of you should know that by voting for this resolution, you may be faced later with a vote on whether or not to guarantee the financing of this project.

In my view, the Government should do everything possible to assure that the project sponsors have every possible assistance in setting a regulatory climate that will give them the best chance of success in this undertaking. To date, the Government has not provided the assurances necessary to make this project successful. This brings forth the possibility of future governmental guarantees and that is why my support for this resolution is most reluctant.

Mr. BENJAMIN. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I rise in support of House Joint Resolution 621 and take this opportunity to inquire regarding vigilant oversight on the pipeline construction to assure equity amongst all subcontractors, fairness to American working men and women, and savings to our consumers. My concern is in regard to a guarantee that Americans and Canadians will be able to compete fairly for the delivery of goods and services needed for construction of the pipeline.

Besides the treaty of August 3, 1977, regarding transit pipelines, the United States and Canada have agreed to specific principles applicable to a northern natural gas pipeline.

Paragraph 7 of that agreement states that each government will endeavor to insure that the supply of goods and services to the pipeline project will be on generally competitive terms based on price, reliability, servicing capacity, and delivery schedules.

When these objectives of competitiveness are not met, either Government may institute consultations for renegotiation of contracts or reopening of bids. In order to facilitate these remedies, each Government is to designate a senior official who may, in turn, designate additional representatives for purposes of consultation or arbitration of disputes of the treaty.

My interpretation of this agreement provision is that goods and services necessary to construction of the pipeline would be ordered on the basis of competitiveness. However, on October 11, in testimony before the Senate Committee on Energy and Natural Resources, S. Robert Blair, president of Alberta Gas Truckline Co., one of the prime Canadian contractors, indicated that the Canadian national policy mandates preference to Canadian goods and services which constitutes about 45 to 46 percent of the cost of construction of this pipeline according to our Department of Energy and 35 to 40 percent according to the Canadians. This preference amounts to a requirement that the construction in Canada use a minimum of 80 percent Canadian goods and services.

This requirement is established by the Canadian National Energy Board Act as interpreted by that Board. This would apparently mean that 28 to 36 percent of the goods and services must originate in Canada regardless of the competitiveness feature of paragraph 7.

However, the Canadian Embassy maintains that there is no such preference and that the governing provision is paragraph 7 and its requirement for competitiveness. The Embassy pointed

to the mechanism of paragraph 8 for enforcement.

The cost of this pipeline is estimated to be $10 billion to $15 billion. If the goods and services are not competitive, we can anticipate billions in overruns. If one country, towit, Canada, lays on a preference where private companies and financing are involved, sections 7 and 8 will be nullified.

Mr. Speaker, I support the President's decision on the Alaskan natural gas pipeline as embodied in House Joint Resolution 621. However, the aforementioned testimony of a Canadian prime contractor, whether valid or thought to be valid, concerns me.

Therefore, I take this time to ask the committee of jurisdiction, Interior and Interstate and Foreign Commerce, to pledge continuous oversight with particular emphasis on sections 7 and 8 of the United States-Canadian agreement. I also call on the administration to insure complete fairness to the American consumer, consideration to American working men and women and understanding to American business by demanding that section 7 of the agreement supersede and be superior to any understanding of Canadian law which would give preference to Canadian workers, producers and businesses in the construction of the pipeline in derogation of competition based on price, reliability, servicing capacity and delivery schedules. The same rules should be applied on both sides of the border.

My question to the distinguished gentlemen is whether we can contemplate oversight hearings by their committees and subcommittees to assure that the treaty and agreement entered into between the countries of Canada and the United States will be absolutely enforced and that American businesses, American working men and women, and American consumers will be assisted and considered by competitiveness guaranteed in the terms of the contracts and subcontracts for goods and services.

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. BENJAMIN. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, I thank the gentleman for yielding.

I would respond to the gentleman in a word by saying, yes, we will have oversight. It will be our intention to see to it that all aspects of the treaty, the laws, and the agreements are forcefully carried out.

I would advise the gentleman further that representation has been made to me by the administration that the steel to be used in the construction of the U.S. portion would be furnished by a U.S. steel company. It would be American steel.

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. BENJAMIN. I yield to the gentleman from Arizona, the distinguished chairman of the Committee on Interior and Insular Affairs.

Mr. UDALL. Mr. Speaker, I thank the gentleman for yielding.

Let me concur with what my friend, the gentleman from Michigan (Mr. DINGELL), has said.

The Canadians are good friends of ours. This matter has to be fair on both sides of the international border, and I know to what extent the gentleman from Wyoming (Mr. RONCALIO) and his subcommittee have been involved in this matter.

We intend to ride herd on it and hold the necessary hearings in conjunction with the committee to see that the American consumer, the American working men and women get a square deal on this. We will be keeping the heat on our administration to see that it is fair on both sides of the line.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. BENJAMIN. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Speaker, I would like to be as hopeful as my two colleagues on the other side of the aisle; but I must say that I am not, because in the treaty is a provision for competitive bids on the steel that goes into the pipeline. If it is Japanese steel, they are in Canada, I believe, under the terms of the treaty, free to buy the steel wherever they would like to buy it. The same thing, in effect, may apply to the United States.

Mr. Speaker, I would have to say to the gentleman that this treaty has been negotiated with the same kind of precision as the Panama Canal Treaty was negotiated; and I am not sure that that means that we are as adequately protected as we might be.

There are some other provisions in that treaty which provide for the possibility of the pipeline in Canada, once constructed, being taxed at whatever the local provincial tax level is. We do not control that, and the result of any such tax will be that there will be an impact on the consumers of gas in the United States, because if they jack that tax level up, our receivers of gas and consumers of that gas may very well pay those Canadian taxes in some form.

That worries me, Mr. Speaker, and I am sure that that treaty is a little loose in that regard. We had extensive testimony on the treaty, and I am sure that other Members could testify to the same concern.

Mr. DON H. CLAUSEN. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, today we consider House Joint Resolution 621, a resolution approving the Presidential decision on an Alaska natural gas transportation system. On October 19, 1977, the Committee on Interior and Insular Affairs of which I am a member, reported favorably on House Joint Resolution 621.

I believe House Joint Resolution 621 is in the national interest and heartily support its approval. However, this support is premised upon the facts and language of the President's report as submitted to us on September 22, 1977. In the financing section of President Carter's report the following sentence appears:

> Federal financing assistance is also found to be neither necessary or desirable, and any such approach is herewith explicitly rejected.

The Alaskan natural gas transportation system should be constructed, and financed within the private capital markets. Federal moneys should not be involved.

Mr. Speaker, I ask that my statement before the Committee on Interior and Insular Affairs concerning House Joint Resolution 621 be placed in the RECORD.

The statement follows:

STATEMENT BY HON. DON H. CLAUSEN

Mr. Chairman, I am grateful for this opportunity to make a few remarks concerning H.J. Res. 621, a resolution approving the Presidential decision on an Alaska Natural Gas Transportation System. Being a member of the Subcommittee on Indian Affairs and Public Lands, I have followed the progress of this resolution with great interest. Also, as ranking minority member on Special Investigations, I have kept in mind the responsibilities this Subcommittee will assume in the near future pertaining to construction aspects of the Alaskan Natural Gas Transportation System.

House Joint Resolution 621 is not a partisan issue. It is an all American issue. America needs natural gas and this project is definitely in the national interest. Simply stated, in approving the Presidential decision on an Alaska Natural Gas Transportation System we do so, not so much to benefit ourselves, but for our children and their children.

Due to the responsibilities assigned to the Special Investigations Subcommittee by Chairman Udall, we have been involved with determining the most economic and feasible transportation alternatives to distribute the West Coast surplus of Alaskan North Slope oil to all regions of the United States.

During Subcommittee hearings conducted in California, I voiced my concern on two aspects of the Sohio project. The first dealt with the need in providing Californians an appropriate amount of natural gas. The second, concerned environmental issues. At that time, I queried Douglas Robinson of the Federal Energy Administration on the possible adverse effects if the abandoned El Paso natural gas line were converted to carry Alaskan Crude.

I was greatly pleased when President Carter in announcing his decision and report on an Alaska Natural Gas Transportation System ("ANGTS") recommended the construction of a Western Leg for direct delivery of Alaskan gas to the West Coast. The President's decision in recommending a Western Leg relieves my concern regarding a potential reduction of the availability of natural gas in California. Last Friday, the Federal Energy Regulatory Commission (FERC) submitted to Congress formal comments on the President's decision and offered no objection to the Western Leg. Expeditious construction of the Western Leg as well as some Canadian facilities could conceivably make Alberta natural gas available to the West Coast in 1979.

I believe my Colleagues will agree that this Committee and Congress have learned much from the Alyeska construction experience of the Trans-Alaska Pipeline System ("TAPS"). We should look to what occurred and for once benefit from reviewing the negative aspects of that project.

We need to make every effort to assure the cost overruns and management difficulties of the TAPS do not reoccur with ANGTS. There must be more effective coordination of enforcement and oversight functions. There must be compliance with environmental (including fish and wildlife), safety and quality control standards. Lastly, there must be effective coordination among the many Federal agencies and departments involved.

The Subcommittee on Special Investigations has the following jurisdiction:

"Investigative authority of matters referred to the Subcommittee by the Chairman with

respect to the use of Federal funds, statutory compliance, organization and procedural activities of any Federal departments, bureaus, agencies, and commissions having responsibilities in or for the administration or implementation of programs within the legislative jurisdiction of the Committee."

In pursuing the mandate given the Special Investigations Subcommittee by Chairman Udall, the above authority will be utilized to the fullest. This Subcommittee intends to work closely with Guy Martin, Assistant Secretary—Land and Water Resources of the Department of Interior. Mr. Martin has been the Administration's spokesman in explaining the projected functions of the Executive Policy Board and the role of the Federal Inspector. In January, a reorganization plan should be submitted to Congress outlining the coordination process whereby existing agencies or authorities may be effectively utilized in addressing ANGTS. It is my understanding no new positions will be created, there will only be a reorganization in line authorities.

Mr. Chairman, I believe H.J. Res. 621 is in the national interest and heartily support its approval.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. DON H. CLAUSEN. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Speaker, I concur with the statement of the gentleman from California (Mr. DON H. CLAUSEN) that that is in the report. It is the same kind of thing which was involved in our legislating for the Kennedy Center.

Those kinds of assurances we had from the administration in power at that time; but as the gentleman knows, we are helping to pay for it, and that is what concerns me with respect to this matter. I would hope that those assurances will hold up. But I must say that I think we all ought to be a little nervous about it, and I am, even though I intend to support the legislation.

Mr. DON H. CLAUSEN. That is precisely the reason why I made the point on the record.

Mr. HILLIS. Mr. Speaker, will the gentleman yield?

Mr. DON H. CLAUSEN. I yield to the gentleman from Indiana.

Mr. HILLIS. Mr. Speaker, I rise in support of House Joint Resolution 621, the Alaska natural gas pipeline bill. This measure is the last step in an authorization process established by the Alaska Natural Gas Transportation Act of 1976. I supported the ANGTA and, in fact, cosponsored identical legislation to the bill which was enacted.

In retrospect, I believe we can say that the procedure established by ANGTA was a success. The purpose of ANGTA was to establish a procedure to expedite final authorization of a natural gas pipeline from Prudhoe Bay to the contiguous 48 States. As the potential supply of Alaskan natural gas became apparent, and as the demand surpassed the supply, interest in building a pipeline grew in Congress. During the 94th Congress, several measures were introduced which authorized the construction of one proposal or another. It became apparent to many of us that political considerations were beginning to overshadow the merits of any one particular route. In order to insure that the best possible route was approved, the Alaska Natural Gas Transportation Act was passed.

That law allowed the Federal Power Commission to suspend its normal proceedings and review pending pipeline proposals under new criteria. This criteria eliminated many of the delays which were retarding final disposition of any pending applications. The FPC, finally, gave its recommendation to the President, who in turn, after reviewing the FPC's decision, made his recommendation to Congress.

There were three pipeline proposals which were fully reviewed by the FPC. The Arctic Gas, the El Paso, and the Alcan routes all received consideration. After a tremendous amount of study, taking into consideration every possible environmental or economic factor, the Alcan proposal won the approval of the FPC, and later the President. The President submitted his recommendation to Congress on September 22, 1977.

The President's recommendation has been reviewed by two committees in the House, the Ways and Means Committee and the Interior and Insular Affairs Committee. Both agreed with the President that authorization of the Alcan route is in the best interest of the Nation.

I am sure that after last winter my colleagues know all too well that our supply of natural gas will not always meet our demand. The construction of the Alcan project will provide the contiguous States with a tremendous amount of natural gas, equal to 5 percent of our current supply. While this will not alleviate our need to conserve natural gas, or the need to develop alternative sources of fuel, it will give us additional supplies until alternatives become available.

I realize that many Members would have preferred one of the other proposals over the Alcan project. In fact, I would have preferred the Arctic Gas proposal myself. However, I realize that the Alcan project was approved, not because of political considerations, but because it was the best alternative in light of the Canadians' rejection of any pipeline which would pass by the Mackenzie Delta. That was the major advantage the Arctic Gas route had over the Alcan route. As chairman of the Republican Task Force on Energy which held hearings on this subject, I am convinced that the Alcan project should be approved. Disapproval of this resolution would delay the start of construction for several months, increasing the final cost of the pipeline.

There does not appear to be a great deal of objection to the Alcan project vis-a-vis the Arctic Gas or El Paso projects. The only objections I am aware of are based on the possibility that due to the tremendous cost of the project, some estimates are as high as $15 billion, the Federal Government will be forced into helping finance the construction of the pipeline. Others argue that this pipeline would not be necessary if we were to deregulate the wellhead price of natural gas.

I do not believe these arguments warrant a "no" vote on this resolution. Although I strongly favor deregulation, I doubt that there is enough support for it to override a Presidential veto which is assured if we pass a deregulation measure.

While I understand the difficulty of raising $15 billion in private investments, I have every hope that with proper management and the full cooperation of all governments involved, the pipeline will not cost anywhere near $15 billion. Construction should cost no more than $10 billion if handled properly. I do not believe the Federal Government should be forced into loan guarantees or any other form of financial assistance. I fully agree with the gentleman from Louisiana, Mr. MOORE, that the answer is less Government regulation and interference, which has always led to delays and cost overruns.

Mr. Speaker, we need the natural gas of Prudhoe Bay in order to meet our demands. The ramifications of running short of this source of heating fuel are too great not to support this measure. The only responsible vote on this legislation in a "yes" vote.

Mr. DON H. CLAUSEN. Mr. Speaker, I yield back the remainder of my time.

Mr. KOSTMAYER. Mr. Speaker, I move to strike the last word.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. KOSTMAYER. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman for yielding.

Mr. Speaker, in the debate on this bill yesterday, the gentleman from Pennsylvania (Mr. MURTHA) raised some questions about the process and the agreements that had been made, and we had a colloquy in which I pointed out that it is absolutely imperative, if we are going to get a supply of gas from Alaska to the Middle West, that we approve this proposal before us. It is the only game in town. There are no other proposals left. If we should destroy or defeat this proposal, we are going to have to start over from square one. However, as a member of the steel caucus, I am quite aware of the importance of assuring that as much as possible of the steel that goes into this pipeline be manufactured in the United States. There are Canadian laws apparently in which Canadian manufacturers have some sort of preference for a certain percentage of the steel in the part of the pipe that is built in Canada. However, what is sauce for the goose is sauce for the gander, and if it is proper under international agreements for the Canadians to have that type of preference, then, since the American people are the primary users of this pipeline and will be paying for it, I want to ask the chairman of the committee or subcommittee if it is the intent of the subcommittee and the committee that the President do everything in his power to negotiate agreements with the Canadians so that American companies will have the maximum opportunity to supply the steel for both the United States and the Canadian portions of the pipeline.

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. KOSTMAYER. I yield to the gentleman from Arizona.

Mr. UDALL. I thank the gentleman for yielding.

I would hope it might be the case, the test case laid down. The overall agreement is competitive. There was a great fear of cost overruns, and the basic idea was that we were going to build a pipeline as cheaply as possible. Within that constraint I would hope that American steel, American products, and American labor will be used wherever possible. We intend to ride herd on this thing, to continue oversight and watch it carefully. I hope there will be a lot of jobs for Americans both in the steel business and outside of it in connection with this construction.

Mr. SEIBERLING. If the gentleman will yield further, competitiveness is fine, but as I understand what the Canadians are saying as far as their percentage of the steel is concerned, it is going to be competitive as between Canadian companies. My question is, is the American portion going to be open to competition by all of the foreign companies, including Canadian, Japanese, German, and others, or are we going to be able to get some kind of agreement that, as to the portion that is not required by Canadian law to be competed for by Canadian companies, it will be offered first to American companies?

Mr. UDALL. I agree with the gentleman. There ought to be one set of rules. We are going to play by the same set of rules the Canadians play by and give the same consideration to our citizens as they do to theirs.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. KOSTMAYER. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I thank the gentleman for yielding.

I think it would be helpful at this point to read into the record the language on the "Canadian content" regulations that is in the decision report to Congress on the Alaska Natural Gas Transportation System from the Executive Office of the President dated September, 1977, in which, on pages 242 and 243, it says this, and I quote:

> It has been argued that the "Canadian content" regulations, issued by the NEB to assure that Canadian firms and workers receive the maximum economic benefits from pipeline projects in Canada, could increase costs. One part of the agreement specifically addresses this point, and commits each Government to the principle that the supply of goods and services will be on generally competitive terms. Specific remedies are included in that section of the agreement of consideration in the event that the competitive terms of supply which are sought by the agreement are not being met.

So there is a test of competition and my guess is that, since the pipeline begins in the United States in Alaska, then goes through Canada and ends in the United States, that both Governments are going to have to try to cooperate in this regard, but there might be lawsuits brought both in Canada and the United States to suggest that the best competitive bids had not been accepted because there was an effort to protect the domestic United States or Canadian industry. So we may be in trouble on that issue that would go to the treaty question.

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania has expired.

(By unanimous consent, Mr. KOSTMAYER was allowed to proceed for 2 additional minutes.)

Mr. BROWN of Ohio. Mr. Speaker, if the gentleman will yield further, I say that goes to the treaty question and how tightly drawn that treaty is with respect to possible lawsuits in both Canada and the United States. On this issue of the best competitive price, it might be of great interest to see how much of this pipeline we could get made with U.S. steel.

Mr. SEIBERLING. Mr. Speaker, if the gentleman will yield, this is a private corporation, so the Buy America Act does not apply, and of course we must adhere to the principles of our antitrust laws. That is essential if we are going to keep our free enterprise system and keep costs down.

All I can say is this. If Canadian law says the Canadian companies have a right to bid on a certain percentage of the material to the exclusion of foreign companies, then certainly American companies ought, as far as the law permits, to have a similar right. We cannot dictate to the private corporations that are going to build this line, but I am saying we ought to have the President exercise whatever authority he can exercise to try to get as much of that business as possible for American companies.

Mr. BROWN of Ohio. Mr. Speaker, if the gentleman will yield, I might say to my colleague, the gentleman from Ohio, I am sure he knows under American law the Ralph Naders of the world or any American citizen can sue to see that the lowest possible price is accepted. Under Canadian law, which is very much like the British law, such suits by individual citizens are not as possible because they rely more on regulation by the government than does the United States.

So I think this treaty protects the Canadians somewhat more than it protects Americans because of those circumstances.

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania has expired.

(By unanimous consent, Mr. KOSTMAYER was allowed to proceed for 1 additional minute.)

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. KOSTMAYER. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, I merely would like to say I do not think there will be any basis for anyone to sue the private companies except under the antitrust laws, and as long as they comply with the antitrust laws and as long as the Governments themselves stay within the law, I do not see any problem. My point was simply that, to the extent of his power to do so, the President ought to do everything he can to see that American steel manufacturers get this business.

Mr. BROWN of Ohio. Mr. Speaker, if the gentleman will yield further, I agree, the President must do everything he can and the Congress must be very watchful, but I still say the treaty favors the Canadians. It seems to have been drawn as sloppily as the Panama Canal Treaty.

Mr. LAGOMARSINO. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I rise in support of House Joint Resolution 621, Alaska natural gas pipeline bill. I might well have preferred another route and/or another system, but, as has been pointed out by other speakers, this is the only game in town. We have to get on with it and make this gas available to us in America.

I do have several reservations about the resolution. I have the reservation that we are entrusting a vital resource to what might happen in a foreign country in the future at a later time. That perhaps is a risk we should be willing to take.

I have a reservation as to the cost and whether or not the Federal Government might be called upon at a later time to put up money or guarantees. I do not favor that. Apparently the President does not either. We will have to make that decision later if called on to do so.

I have a very vital concern about the western leg. When this process was started last year the Congress specifically required that there be a western leg, and an eastern leg. I would like to bring to the attention of the chairman of the Interior Committee (Mr. UDALL) the report language on page 9 of the Interior Committee report, the third paragraph, that reads as follows:

> The decision authorizes the construction of the western leg facilities proposed by the project's sponsors. However, the proposed facilities will be subject to further review and possible adjustment prior to final certification. At the time of certification, the Secretary of Energy will make the precise determination of facility size and volume to account for changes in the facts since the President's decision.

Inasmuch as the western leg is vitally important to future gas supplies for the west coast and also, I think, something of considerable interest to the chairman, the nailing down of the western leg to make it absolutely sure that there will in fact be a western leg will be of great help in obtaining a favorable decision by the State of California with regard to the so-called Sohio project and the transportation of Alaskan oil from the west to the east coast.

Mr. Speaker, I would like to ask the chairman if the language I have just read mandates or requires there be a western leg or whether it leaves it to some future determination by the President?

Mr. UDALL. Mr. Speaker, if the gentleman will yield, my answer would be, indeed, the western leg was mandated and is still mandated and the only thing up for grabs is the size and this language spells that out.

Mr. WHITE. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I know this is virtually an accomplished fact, because I am sure that this resolution will pass by a great majority.

This mystifies me somewhat for a number of reasons. I am certainly mystified that we would turn over a very vital natural resource to a foreign country, although we have friendly relations now, that is in an unsettled state, particularly when we have a very vital and viable alternative, not to mention this is not the only game in town.

The El Paso Co., for instance, did not graciously recede until after the President had made his decision and after all these phone calls from the President to fully reinstitute and reimplement this program.

I am mystified that we have chosen now to turn away and relinquish some 750,000-man-years of labor to a foreign country at a time when our own economy is shaky, when we are hovering about the 7-percent rate of unemployment.

I am mystified that we are propelling ourselves to ignore the tremendous added costs and delays in the construction of this greatly needed and vital energy source, especially considering the Indian claims against the Canadian Government and so many other unknown factors that we have not even hinted at that could delay the project.

I am certainly mystified that we have not received a firm statement of how Alcan proposes to finance the project and how much of this financing will eventually come out of the United States Treasury.

I know I am one voice in the wilderness. I hope there will be others. I hope that my fears are not realized in the future, but I do have concern and I think I will be joined by many more as time develops.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield?

Mr. WHITE. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Speaker, I thank the gentleman for yielding.

If I may address some of the fears that the gentleman has raised, in the first place I am concerned about placing so much of our own future and our heritage in the hands of our neighbors from Canada, if only recognizing the fact that so much of our present wealth of natural gas rests in their hands. There is more natural gas drilled in Canada and shipped from Canadian sources to America than the other way around and the international gas language will show that.

Second, we have invested tens of billions of dollars every decade. Denver, Colo., which was built by men from Texas, now has two top skyscrapers that are owned by Canadians and their property will not be taxed any higher than any other citizen's in Colorado. Their agents come before us and say that their security analysts say there is no way we can do it for $10 million in the free money markets of the world and we think we can do it better. I would commend them for doing it.

Mr. WHITE. Mr. Speaker, to respond to the gentleman, I do not think that is an adequate assurance, but going further than that, the fact is that the pipeline is going to cross through Canada. I think we should learn a lesson from our recent experience in the Panama Canal.

We are turning over a very vital resource to a country, to Canada, where already we have had some problems, as the gentleman knows, with the Canadian Government and with the people. They have a separationist movement there; there is dissension there.

We had, as I said, a viable alternative that would have been strictly American. We would not have had to worry about all the quibbling of a foreign power. It could have been brought into this country. It would have been a little more expensive at the time, but it would have been implemented quickly, and would have been something that we could control ourselves.

Mr. RONCALIO. Let me one more time state to the gentleman that I do not know what more proof he can have of the friendship of the two countries than the fact that their gas line runs through our country.

Mr. WHITE. Our county is more stable.

Mr. RONCALIO. To criticize the Canadian political scene right now over the so-called separationist movement in Quebec is not to recognize that we have our separationist movements too, with Indians and others. Many people cannot get a piece of property sold. Are we to criticize the Canadians for how they treat their French-Canadians?

Mr. YOUNG of Alaska. Mr. Speaker, I move to strike the last word.

Mr. Speaker, Members of the House, I rise in support of this resolution. Many Members know that Alaska did not support this proposal, but supported the all-American, all-Alaskan route. But, as many people have said, this is the only horse left to ride.

You will need the gas. We can pump the gas and we can utilize the production of the oil field at Prudhoe Bay. I would like to go through a little history, though.

Alaska, the great land—you came to us in 1973 and asked us for our oil, and we have delivered that oil to you. You are coming to us today, in 1977, and asking for our gas. There are certain groups within this body that are also coming to us and asking for our land. I say to you, my good friends, you cannot have your cake and eat it too. The discussion today is on the route on which a gasline is to be built, but it goes far beyond that. We are talking about a small field in relative size, approximately 27 trillion cubic feet of gas, with a life expectancy of possibly 26 years.

What is being proposed today in certain committees of this great House of ours is 105 million acres of wilderness that would preclude further development of oil and gas for your consumption. Estimates have been given of 50 billion barrels of oil and 150 trillion cubic feet of gas, and I think it will behoove you to look at this legislation as it comes before us, because it directly relates to the oil line that has been built and to the gasline which we are talking about today.

If you in the Midwest and east coast felt your fannies freezing last year, and you will feel that this year, look down the road 30 years from now. In considering the legislation proposed before the committees on who will handle that Alaskan land national interest legislation, think of your children and think of their children. They will come to us, these people, proposing—this public interest group—and say, "We will develop a mechanism very much like that which brought this bill to the floor today, which will allow us to utilize those lands."

I say to you that when the time comes and that emergency is so great, there will be environmental damage that will go far beyond the dreams of any environmentalists now. I ask the Members to discuss this joint resolution and support it, because we do need the gas, but look down the road, hopefully sometime this coming spring, and when the Alaskan land legislation arrives at this floor, Members can consider what it proposes as far as depriving your people, yourselves, your constituents, of future great resources in gas and oil. Remember, you have come to Alaska for the oil, and we have provided; you have come to Alaska for the gas, and we shall provide. You are now asking for the land. If you take the land which can provide the oil and gas away from us, you are doing a great disservice not only to this Nation but to each one of your constituents.

Mr. DENT. Mr. Speaker, I move to strike the last word.

Mr. Speaker, when the Alaska oil pipeline was being discussed, I understood that it would require 42-inch pipe. Since we were not making 42-inch pipe, I wondered who would get the business of supplying the pipe. And then the word "Japanese" came into the matter. So I took a trip to Tacoma, Wash.

Mr. YOUNG of Alaska. Mr. Speaker, will the gentleman yield for a slight correction?

Mr. DENT. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. I thank the gentleman for yielding.

The gentleman mentioned, I believe, a 42-inch pipe. Now it is a 48-inch pipe.

Mr. DENT. Thank you.

I went up to Tacoma, Wash., and I watched the handling of that pipe from the transocean carriers to the coastal carriers.

The 48-inch pipe comes in because the Japanese have a policy that would have saved our steel industry and other industries if we followed the same course. They built a new plant, renovated old ones, and modernized existing plants, without paying any income taxes until that plant has been amortized. No wonder the Japanese can build a 48-inch pipe. And if we build a 48-inch pipe, they will go to 56 inches on any other new venture, or 52 inches or 54 inches.

The time has come when this Congress should realize that in this decade we may make more decisions like this, that will

prove to the world that we cannot survive as a self-sustaining nation.

One of the features no one has mentioned here—it was carried in all of the newspapers—is that the Canadians have asked, as part of this agreement, mind you, for the same kind of a deal that we gave them on the automobile pact, which has damaged the automobile industry of the United States, and which I fought on this floor. Such a deal is now being asked on all other products shipped in from Canada. Canada has had a great growth in immigration. It has been smaller, of course, than our great immigration growth from the poor countries of Europe, from Central Europe, but they are increasing their population. They are putting in new plants all over Canada.

If we would give our steel industry, or any other production industry, the same kind of a break in world trade, we would not have to worry about imports coming in.

I know that I have been called everything from a protectionist to worse—and in the minds of some people there is no "worse"—but I want to tell all the Members right now that there are going to be no jobs, not only for this generation but for future generations.

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania (Mr. DENT) has expired.

(On request of Mr. GAYDOS and by unanimous consent, Mr. DENT was allowed to proceed for 5 additional minutes.)

Mr. DENT. Mr. Speaker, I am going to make a prediction for the record.

I was in this town as a young man when the depression took place, the one that was blamed on Mr. Hoover. The Republican exodus took place, and the Democrats took over for many years. Mr. Hoover had nothing to do with it. Mr. Hoover paid the price of billions of dollars worth of imports that came into the United States from the end of World War I to 1929.

Prior to that we had never had more than a few billion dollars worth of imports in this Nation.

I say to this Congress that maybe as early as 1980, but no later than 1984, we will be driven out of this town as a party, the same as the Republicans were. But this time it is going to be our fault. No one listens to the words of anyone who is saying what people do not want to hear.

I want to tell the Members this right now: We are spending at this moment over $300 a week for each one of 46,000 recently laid-off steelworkers, and another 14,000 will be processed very shortly. No one says a word about the other 4 to 7 workers who lose their jobs when a steelworker loses his job.

Volkswagen is moving into my district. Volkswagen promised to put 5,000 automobile workers to work in my district, which would create another 30,000 new jobs in Pennsylvania. But when they laid off 46,000 steelworkers in my district and across the country, no one said anything about the other tens of thousands of people who would lose their jobs. We do not pay a sustaining rate of compensation for those other people who lose their jobs, but they are workers who are sustained by the steelworkers and now have to be provided for out of the Treasury.

I am surprised that so many educated, smart, intelligent men and women who belong to this Congress find it hard to understand that no nation can survive without production, distribution, and consumption. We have tried now, since World War II, to live as consumers until it has become a national scandal.

I am surprised that those of us who have the education, and that those of you who have the brains, cannot understand these things.

But I do know this: that what I am telling the Members is true. We are trying to live on distribution and consumption, and we count our wealth in shopping centers.

I also predict that we will soon see a new type of warfare. It will be the war of the shopping centers. They have built four new shopping centers in my district during the last half-dozen years, and there are two or three more under construction.

Do you expect that a nation of ribbon clerks can keep this country going?

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania (Mr. DENT) has again expired.

(By unanimous consent, Mr. DENT was allowed to proceed for 1 additional minute.)

Mr. DENT. Mr. Speaker, what are we doing here today? We are taking a pig in a poke. Do we think we are going to guarantee the American part of this Canadian construction? Why do we go down here, swing to the East, and then swing back to the West? We could have come straight down the line to take in all the States in the northern tier, which would get the gas to them. We would swing in from the main line destination after it comes down from Valdez.

Mr. Speaker, why not keep the gas and the jobs in this country? It is our gas, why do we not allow our American workers to build the pipeline.

Mr. FISHER. Mr. Speaker, I move to strike the requisite number of words.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield?

Mr. FISHER. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Speaker, I thank the gentleman for yielding.

I would like to state what the conclusions of the Federal Power Commission were on the implications with respect to national security in this matter.

They are as follows:

the three transportation systems proposed, there is no overriding preference for one route over another when analysis is based on military factors alone.

Mr. FISHER. Mr. Speaker, I rise in support of this joint resolution and this route for the gas pipeline. I do so in order to bring a bit of historical perspective into this picture.

It so happens, Mr. Speaker, that I spent a couple of years of my younger days in the Alaska and Yukon portion of this area, making studies for the location of the Alaska Highway and other transportation routes in this part of North America. I am very familiar with the terrain, the resources, the climate, the costs, and all of that.

Mr. Speaker, I would like to bring out a few lessons from this experience which I think are relevant.

First, the Alaska Highway route, which is roughly the same route as that for the gas pipeline, from Fairbanks on into Alberta, was chosen over several other routes because it is a protected route, not exposed to the risk of shipping by sea. It was not an all-America route, to be sure; but it proved to be no great obstacle to reaching understandings with the Canadian Government and the provincial governments quite satisfactory to this country.

I worked then for a period of time, both winter and summer, in locating a railroad line all the way from the Canadian National line at Prince George's in British Columbia to a point near Teller, Alaska, which is beyond Nome on the Bering Strait.

This line was entirely laid out, again with a protected location not the same as the route shown on the map, but through what is known as the Rocky Mountain Trench, slightly to the west of the gas pipeline route.

Again, agreements with Canada were concluded in tentative form without great difficulty, even though the line subsequently was not built.

Mr. Speaker, we have had a long record of cooperation with Canada through the International Joint Commission in the development of the St. Lawrence Waterway. In that case there were many problems, to be sure, but the international difficulties did not stand in the way of concluding arrangements necessary for this great project.

I call to the Members' attention that imported oil has long served Eastern Canada—the Province of Quebec and the city of Montreal—coming in through Portland, Maine, the in bond shipment by pipe across northern New England into Eastern Canada. Again international agreements were necessary. They were concluded, and the operation is going so easily and so successfully that most people do not even know about this.

Agreements have been made for storage of Columbia River water on the Canadian side for release for power production in the Pacific Northwest States following a long period of difficult negotiations but concluded successfully. That is another piece of the history of the relations between this country and Canada in arranging for transportation and the development of natural resources.

We are not dealing with enemies here; we are dealing with a friendly government, friendly people, and the expectation is that we can conclude amicably all the necessary arrangements to develop this pipeline. Since problems with Canada seems to be one of the main objections raised, I thought the Members would be interested in some recitation of this history, much of which I took an active part in myself.

Let me conclude by saying that in more recent years I have been involved with studies of alternative transportation routes for oil, for gas, for highways in this northwest part of the continent. I am convinced that the route proposed in this resolution is the best route for a gas pipeline. It is protected. It follows existing transportation routes, the oil pipeline from the North Slope to the vicinity of Fairbanks, and the highway from there on into the pipeline network of prairie Provinces of Canada and the United States.

Therefore, there is easy access to this pipeline route. This route goes to the heart of the Midwest, the American industrial and agricultural heartland, where gas and other fuels are much needed. Also included is a major line going down to California. The transshipment of gas from pipeline to ocean vessel and then back again is much more difficult than the transshipment of oil. The gas has to be liquefied, shipped at very low temperature and at high pressure, and then reverse processed at the other end. All of this is costly, difficult, and to some extent dangerous.

These, therefore, are the reasons I advocate this resolution specifying the Alcan protected, all-land route for the gas pipeline.

Mr. GAYDOS. Mr. Speaker, I move to strike the requisite number of words, and I rise in opposition to the joint resolution.

Mr. MURTHA. Mr. Speaker, will the gentleman yield?

Mr. GAYDOS. I yield to my colleague, the gentleman from Pennsylvania.

Mr. MURTHA. I thank the gentleman for yielding.

Mr. Speaker, I am disappointed the debate today is not more vigorous. As an early supporter of the El Paso/Trans-Alaska project, I am very sorry they have withdrawn their proposal. Today, I want to stress three points that convinced me to work for over 2 years for the El Paso/Alaska route to transport Prudhoe Bay natural gas, and that I believe still provide major problems in the proposal before the U.S. House of Representatives today.

First, Deputy Energy Secretary John O'Leary made a statement before the Interior Subcommittee of the Appropriations Committee that I believe is extremely important. Mr. O'Leary told our subcommittee this Nation could face economic disaster in 3 to 5 years if new sources of energy are not developed and conservation increased. That statement, coupled with our experience last winter, makes it essential that the Alaskan gas be developed as quickly as possible. This gas can provide 5 percent of our present gas consumption, enough to insure 1 million jobs or heat 24 million homes.

The major concern I have about the Alcan project is its potential for delay. The factors that can push its construction timetable backward include: Settlement of native claims; environmental considerations; possible delays during winter construction over new work areas. financing problems for the pipeline companies; decisions by the Canadian Government; and uncertainties within the proposed pipeline treaty.

Second, it is essential to remember the counterproductive impact of not getting this gas. We cannot afford to be without this gas for any longer period than necessary. Those of us in the Northeast last winter had individuals unemployed because companies could not obtain natural gas; we had homeowners fearful of being short of gas for heating and cooking. We cannot take any chance with having this gas delayed in reaching the lower 48 States. I believe that with the El Paso/Alaskan route there was a greater potential for not only on-time completion, but possibly accelerating the construction schedule. Too much of the Alcan proposal is outside U.S. control and subject to delays we cannot influence.

Third, I would like to mention the potential positive economic impact had the Government approved the Alaskan route. The El Paso/Alaskan project would have produced $4 billion more in economic impact into the U.S. economy than Alcan; it would have produced more taxes for U.S. governments; and it would have produced 765,000 man-years of additional jobs—three times the Alcan project—for Americans.

Another economic point which must be mentioned is that El Paso/Alaska had pledged to buy all its steel for its project from American companies. I represent an area where steelworkers have lost jobs, in part because of the import of foreign steel. Now, the President has recommended approval of an American project that is going to buy much of its steel—possibly all of its steel—from foreign manufacturers.

For those reasons, I believe the El Paso/Alaskan route held the greatest potential for getting this essential gas to the lower 48 States as quickly as possible. I believe the need for this gas demanded an accelerated, full speed ahead project. I do not believe the Alcan route holds the potential for meeting these goals.

Mr. GAYDOS. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I did have one comment to direct to the gentleman from Michigan regarding the possibility of a Buy American approach to this problem, and I would like to have one point cleared. I would like to ask the gentleman this. Was it not a possibility, was it not proper, and could it not have been done when this resolution was being fabricated and put together, to express the President's position in this matter, that we could have included in the resolution this type of "Buy American" protection? Would that not have been preferable?

Mr. DINGELL. Mr. Speaker, if the gentleman will yield to me, he has asked a series of questions. I thank the gentleman for yielding.

In answer to the first point, I have never set out or would go toward a "Buy American" amendment or proposal because that is not a legislative possibility.

In response to the second point that the gentleman raises with respect to the President's powers, and so forth, it is possible that some proposal of this sort could have been included in this measure at the time we considered the legislation which authorized the President to make the decision at that time. It was about this same time last year, so that is now past us.

I can only tell the gentleman that with respect to the U.S. leg and the approach to that, I had representations from the people who propose to build the pipeline that U.S.-made steel, American-produced steel, not U.S. steel companies, will be used. And there are assurances from the Canadians that the steel will be competitively purchased, and insofar as I am able I intend to see to it that those rules are carried out.

I would give the gentleman from Pennsylvania, my dear friend, one last assurance. I come from an area where steel is made too and I am as concerned about dumping and other matters as is the gentleman, and I have just introduced a bill with respect to steel imports, so I think the gentleman can see I am serious about it.

Mr. GAYDOS. I appreciate the gentleman's very clear enunciation of the position he took earlier. I think everybody should be cognizant of the fact that the steel caucus, made up of almost 200 members of this House, has been down to the White House to see the President on two separate occasions. The President, and his experts, have repeatedly stated he is in full support of the proposition that we should "buy American" and that he does understand the problems and he recognizes the fact that we are going to have to do something about the steel problem generally.

So I think this is a good opportunity in light of the fact that we have approximately 200 Members of the House who have expressed their interest in this matter. At the White House roughly 130 were there. I understood at that time it was the biggest delegation that left the Hill to go to the White House in the last 5 or 10 years.

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania has expired.

(By unanimous consent, Mr. GAYDOS was allowed to proceed for 1 additional minute.)

Mr. GAYDOS. I reiterate I am happy the chairman has taken and stated so clearly his position.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield?

Mr. GAYDOS. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Speaker, about 5 years ago, when we passed the Alaska oil pipeline bill, the gentlelady from California (Mrs. BURKE) had a buy American amendment. It passed the House but I recall it had a great inability to effectively guarantee the use of American labor. That illustrates the problem is most difficult only with an international pipeline.

Mr. GAYDOS. I thank the gentleman.

I am glad we have this opportunity to state for the record and for public information that the Steel Caucus does have a purpose and we are trying to help this Nation solve that steel problems.

Mr. DINGELL. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I strongly support the legislation before the House. It is the

only alternative before us to deliver the gas which will be produced in Alaska.

Extensive hearings, some 700 pages and more, were held jointly with my dear friend, the gentleman from Wyoming (Mr. RONCALIO). Our two subcommittees worked long and hard and our staff worked hard.

My colleagues will find that the questions we asked the administration were hard questions. The subcommittees considered all of the questions that have been asked today.

I would point out that last year the House passed the basic legislation imposing on the President the duty of making a decision. He has presented us with his decision, based upon studies by the Federal Power Commission and numerous other agencies. He has presented us with his decision. That decision selects the Alcan Pipeline Co., to build the line in question. The Alcan system consists of some 4,700 miles of pipeline, 700 in Alaska, 2,000 in Canada, and 2,000 inside the lower 48 States. If the project is completed, and the administration says it will be, we will have gas brought into this country at a time when gas supplies may be continuing to decline.

Mr. MEEDS. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Washington.

Mr. MEEDS. Mr. Speaker, I just would like to take this opportunity as a member of the subcommittee of the gentleman from Wyoming (Mr. RONCALIO), to express my appreciation to the gentleman from Michigan and the gentleman from Wyoming for conducting some of the finest hearings I have ever attended, for good staff work, for tough questioning by the gentleman from Michigan, particularly.

I think these hearings went in great depth. The knowledge of our staff helped us to bring out some very difficult information. I think the decision which has been made and presented to this committee today is a good one. I urge support by the entire body.

Mr. DINGELL. Mr. Speaker, I thank my good friend. The staff work was harmonious. My good friend, the gentleman from Wyoming and his subcommittee, worked closely with our subcommittee.

The chairman of the full committee, the gentleman from Arizona (Mr. UDALL) was of invaluable assistance.

Mr. Speaker, I would like to raise one point that I think is important to the legislative history of House Joint Resolution 621. The Alaska Natural Gas Transportation Act of 1976 only provides for "new facilities to the extent necessary to assure delivery of natural gas contemporaneously to points both east and west of the Rocky Mountains in the lower continental United States."

Furthermore, the President's decision only authorizes a western leg. It does not mandate the construction of any particular western leg facilities. The decision does not make an irrevocable commitment to construct new capacity that is either too small or too large for actual needs. Should additional capacity be necessary for direct delivery to the west, the President's decision provides that the western leg proposal would amount principally to looping existing facilities from Alberta to California. In addition, the President's decision does not prevent reliance on displacement to supplement and extend direct deliveries of Alaskan natural gas.

Accordingly, I would point out that the amount of construction on the western portion will probably be relatively limited in order to comply with the law requiring some direct delivery of gas to both the eastern and western United States. As we know, there is no specification to the size and extent of direct deliveries to both sides of the Rocky Mountains.

I am sure that my good friend, the gentleman from Arizona (Mr. UDALL), the chairman of the committee on Interior and Insular Affairs, who is sitting here, concurs in my judgment.

Mr. Speaker, I urge support for this legislation. I hope this legislation will be considered speedily and quickly.

Mr. WEAVER. Mr. Speaker, I move to strike the requisite number of words.

I yield to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, I would like to join the gentleman from Washington (Mr. MEEDS) in what the gentleman said about the process that the gentleman from Wyoming (Mr. RONCALIO) and the gentleman's subcommittee carried out in connection with this bill. I am not on Mr. RONCALIO's subcommittee, but because of the importance of this to the people in my State and the Midwest, I sat in on some of the hearings that he held earlier this year. The hearings were outstanding and as a result we have the soundest, most carefully thought through proposal before us. The process has sifted out the less desirable alternatives and helped materially in producing a Presidential recommendation for the proposal that is best from a technical, environmental, economic, and geographic standpoint.

Mr. Speaker, I simply want to add my commendation to the gentleman from Wyoming and to the subcommittee.

Mr. WEAVER. Mr. Speaker, I thank the gentleman from Ohio for those comments.

They were good hearings. I compliment and commend the chairmen of the committees involved.

One witness testified before the Public Lands Subcommittee, he was a petroleum engineer from Stanford University, that it is possible there will be a net energy loss from the Prudhoe Bay field because of the enormous amounts of natural gas it is necessary to take out, exactly 2 billion cubic feet, in order to amortize the pipeline.

I merely want to raise the point that in our haste to exploit the natural resources that we have, that we do it wisely and with thorough consideration, and do not make hasty decisions that will, in the long run, cost us energy.

Mr. MICHEL. Mr. Speaker, I rise in support of this resolution. Passage of this bill will help to bring an end to a long and tedious decisionmaking process and will insure delivery of Alaskan natural gas to the lower 48 States as soon as possible, and I have got to be for that.

We are all painfully aware of the energy problems facing this Nation and it is clear from recent congressional debate that there is no single approach acknowledged as the answer to our plight. But while we may not have the solution ironed out to the overall energy shortage, there can be little doubt that the discovery of a substantial reserve of natural gas at Prudhoe Bay on the North Slope of Alaska could alleviate a significant portion of the current U.S. natural gas shortage by potentially supplying as much as 1.6 trillion cubic feet annually. But we will get the most benefit from these resources only if we can get it to those places where the need is the greatest.

If we are to reap the benefits of the Alaskan natural gas fields, while maximizing the economic and energy benefits in balance with environmental concerns, we must proceed as soon as possible. The longer we delay in coming to a decision, the higher the cost of construction, of delivery, and ultimately, the costs to the consumer. I need not tell you that consumers are already hard-pressed to meet rising energy costs.

The decision to endorse the so-called "Alcan" project has not been undertaken lightly. The FPC considered the various proposals for several years. And it was more than 2 years ago that a number of us here in the Congress, after reviewing the available information, joined in a court case in favor of the former "Arctic" proposal and in fact sponsored legislation calling for that proposal to be approved. Circumstances have since made it impossible for the Arctic plan to continue, but since the Alcan proposal is a close alternative, I am fully behind this effort and urge my colleagues to approve this resolution so that construction may begin as soon as possible.

Mr. McKAY. Mr. Speaker, the Alaska Natural Gas Transportation Act established special procedures for the selection of a system to transport natural gas from Prudhoe Bay, Alaska, to the contiguous 48 States. Such procedures were established since none of the three proposed systems—Alcan, Arctic Gas, and El Paso—appeared clearly superior at the time the act was passed. It was hoped that the comments of all relevant Federal agencies and the opportunity to consult and coordinate with Canada would establish the superiority of one system beyond any doubt.

Agency reports were filed and Canada's National Energy Board issued its recommendation to the Canadian Government. The reports and this recommendation clearly established one proposal as being the project that best served the national interest: The Alcan proposal. Accordingly, I sent a letter to the President urging him to select Alcan and to expeditiously forward his decision to the Congress.

The reasons for selecting Alcan are apparent from the Federal Power Commission's recommendations, the Federal agencies' comments, and the National Energy Board's recommendation.

Briefly, the advantages of Alcan are cost of service, certainty of technology, and reliability of operation which combine to give the overland all-pipeline system significant advantage.

Canada has indicated that it will authorize construction of the Alcan pipeline system. At the same time, the National Energy Board denied an application to Arctic Gas, the other proposed overland system.

The principal advantages of Alcan can be summarized briefly:

Lower cost-of-service. The Federal Power Commission found that Alcan's cost-of-service would be $0.79 per million Btu and El Paso's $1.09 per million Btu.

Earlier deliverability of Alaskan gas. Both the FPC and Department of the Interior-Department of Transportation Report to the President on Construction Delays and Cost Overruns concluded that Alcan could become operational up to one year earlier than El Paso.

Increased imports of Canadian gas during the construction period. Canada's National Energy Board recommended increased exports of Canadian gas to the U.S. while the Alcan project is being built. Such exports, which would amount to about 400 billion cubic feet per year, could commence by 1979.

Environmental superiority. The Council on Environmental Quality, in its report to the President, found that Alcan is environmentally preferable, that the Arctic Gas proposal is environmentally unacceptable, and the many uncertainties concerning the El Paso proposal prevent a determination as to its environmental acceptability. The Interagency Task Force Report to the President on Environmental Issues also found Alcan to be environmentally preferable to El Paso and Arctic Gas.

Greater operational reliability. El Paso's crossing of seismically active areas and its reliance on highly complex LNG technology increase its risks of service interruption far beyond those of Alcan.

For these reasons I heartly endorse the Alcan proposal. I urge my colleagues to join with me and support the President's recommendation that the Alcan route be adopted.

(By unanimous consent Mr. UDALL was allowed to proceed for 3 minutes.)

Mr. UDALL. Mr. Speaker, we are going to move the previous question on our side in just a moment.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Speaker, we often hear a lot of talk about committee fights and jurisdictional problems. This is a classic example of two committees working together. Mr. DINGELL and Mr. RONCALIO, the committee chairmen, held joint hearings and developed the facts and developed a joint resolution of which we can all be very proud. I hope the Members will quickly and strongly support this joint resolution.

Mr. MILLER of Ohio. Mr. Speaker, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Ohio.

Mr. MILLER of Ohio. I thank the gentleman for yielding to me. I have a couple of questions I would like to cover.

I am wondering, under the treaty, if we have made some arrangements to use some of the area in Canada for storage fields for natural gas such as we use along the pipelines within our lower 48 States.

Mr. UDALL. I am told that is not the case.

Mr. MILLER of Ohio. We find, with a pipeline 2,700 miles long in Alaska and Canada, that it would be wise to have storage fields as we do have now within the United States. Will it be necessary to negotiate a separate treaty later with Canada for storage fields?

Mr. UDALL. The basic outline of the treaty was a general one, and later on they filled out a number of specific items. I think we all contemplate that there will be additional negotiations and additional arrangements. Things will have to be changed from time to time. If storage fields would be useful, I am sure negotiations could work that out.

Mr. MILLER of Ohio. I thank the gentleman.

There will be, as I understand, eight compressor stations along the pipeline, and they generally are powered by the natural gas from within the pipeline. They are turbine type, and many times they are very noisy. Do we have problems and can we have problems in the future with Canada because of the noise pollution from such turbine engines?

Mr. UDALL. I would think that the remoteness of the area traversed by the pipeline would not make this a major problem. Noise in population centers, obviously, would be a major problem, but I do not know that this has come up in negotiations at all. We certainly have had no testimony on it.

Mr. MILLER of Ohio. I thank the gentleman.

Mr. UDALL. Mr. Speaker, I move the previous question on the joint resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the joint resolution.

The joint resolution was passed.

DISTRICT OF COLUMBIA ARMORY BOARD FISCAL YEAR CHANGE

Mr. DIGGS. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the Senate bill (S. 1062) to amend section 441 of the District of Columbia Self-Government and Governmental Reorganization Act, and ask unanimous consent that the bill be considered in the House as in Committee of the Whole.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1062

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 441 of the District of Columbia Self-Government and Government Reorganization Act (D.C. Code, sec. 47-101) as amended by Public Law 93-395 (88 Stat. 793) is further amended by adding at the end thereof: "However, the fiscal year for the Armory Board shall begin on the first day of January and shall end on the thirty-first day of December of each calendar year.".

SEC. 2. Section 10 of the Act "To establish a District of Columbia Armory Board and for other purposes", approved June 4, 1948 (D.C. Code, sec. 2-1710), is amended by striking out "January" and inserting in lieu thereof "July".

SEC. 3. Section 10 of the District of Columbia Stadium Act of 1957, approved September 7, 1957 (D.C. Code, sec. 2-1728), is amended by striking out "January" and inserting in lieu thereof "July".

Mr. DIGGS. Mr. Speaker, I move to strike the last word.

Mr. Speaker, the purpose of S. 1062, as set forth in the committee report (H. Rept. No. 95-751), is to allow the Armory Board of the District of Columbia—which manages both the Robert F. Kennedy Stadium and the District of Columbia Armory—to operate under a fiscal year coinciding with the calendar year, rather than the October 1-September 30 fiscal year observed by other Government agencies. Such an exception would acknowledge and better accommodate the special, seasonal nature of the revenues earned by Board concerns, and would, in addition, simplify and improve the financial reporting required of that body.

BACKGROUND AND NEED FOR THE LEGISLATION

The three-member Armory Board was established by the Congress by act of June 4, 1948 (66 Stat. 339; District of Columbia Code, title 1, sec. 1202) to exercise control and jurisdiction over the District of Columbia National Guard Armory. Its authority to construct and operate the Robert F. Kennedy Stadium as well was granted by act of Congress of September 7, 1957 (71 Stat. 619; District of Columbia Code, title 1, sec. 1720).

Both the aforementioned acts provided for the Board's submission each January of annual reports on the finances of the two facilities. In the succeeding years, however, experience has indicated that the purpose of such reports—provision of a comprehensive and meaningful review of the financial status of stadium and armory—has not been well served by the present legal requirement that the Board, as an independent agency of the District government, adhere to the fiscal year—October 1-September 30—used by the city and Federal Governments, and yet file reports as of January 30.

Under this system, revenues generated in a single season by the Board's most lucrative enterprise—football at Robert F. Kennedy Stadium—are divided illogically into 2 fiscal years and must be treated accordingly, in two separate, annual reports. Thus, receipts from the first half of the autumn schedule are in-

cluded in one report, those from the second half in the next one. Such division substantially, and unnecessarily, complicates the Board's recordkeeping and reporting tasks, and can as well produce financial figures which may be misleading.

The change in the Board's fiscal year to the calendar year, as provided in S. 1062, also necessitates a corresponding shift in the filing dates for the Board's reports to Congress; namely, from January to July, when the financial statements and reports of the stadium and armory operations in the preceding calendar year, and recommendations concerning their future use and control will, by S. 1062, be submitted to Congress.

HEARING

The Subcommittee on Fiscal and Government Affairs held a hearing on S. 1062 on October 6, 1977. The General Manager of the Armory Board testified in support of the bill and requested that the Board's fiscal year be changed from the October 1–September 30 period to the January 1–December 31 calendar year. The proposal was supported by the Director of the District of Columbia Office of Budget and Management Systems. No statement or testimony in opposition was received.

COMMITTEE VOTE

The committee, on October 20, 1977, by voice vote, approved S. 1062 and ordered the same reported to the House.

Mr. McKINNEY. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I rise in support of S. 1062, a noncontroversial solution to a problem caused by the legal requirement that the Board, as an independent agency of the District Government, adhere to the October 1 to September 30 Federal fiscal year observed by other Federal entities.

The D.C. Board manages the D.C. Armory and Robert F. Kennedy Stadium and receives the bulk of its revenues during the football season. Recent experience with the new Federal fiscal year indicates that this complicates the Armory Board's reporting and increases the likelihood that the figures reported could be misleading. While the functions of the Armory Board are only indirectly related to the Federal interest, congressional action is needed because the District of Columbia Self-Government and Governmental Reorganization Act (Public Law 93–198) and the D.C. Stadium Act of 1957 (71 Stat. 619) mandate that financial reports and statements of the Board be made available to Congress on a specific date. The change in fiscal year necessitates a corresponding shift in the filing dates for the Board's reports to Congress.

S. 1062, in allowing the Armory Board to adhere to a calendar fiscal year instead of the present Federal fiscal year would accommodate the special, seasonal nature of the revenues generated in a single season by the Board's most lucrative enterprise—football at Robert F. Kennedy Stadium. In addition this bill would promote the simplification and accuracy of the Board's recordkeeping and reporting tasks.

Mr. Speaker, I urge my colleagues to support this legislation.

Mr. LUJAN. Mr. Speaker, will the gentleman yield?

Mr. McKINNEY. I yield to the gentleman from New Mexico.

Mr. LUJAN. I thank the gentleman for yielding.

Mr. Speaker, I have picked up a copy of the Senate bill, S. 1062, and it is awfully strange. It starts off with the Armory Board, and then it goes on to page 2 or page 3—maybe I have a wrong printing—but it talks about divestiture, and all kinds of other things.

Mr. McKINNEY. Mr. Speaker, it would seem that the gentleman has the wrong printing. I do not know where that came from. Some mistake has apparently been made. This is a very simple 1½ page bill. The Printing Office apparently had an overrun.

Mr. DIGGS. Mr. Speaker, I move the previous question on the Senate bill.

The previous question was ordered.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

REVENUE BONDS FOR PRIVATE COLLEGES AND UNIVERSITIES

Mr. DIGGS. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 9544) to amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the payment of certain revenue bonds issued by the Council of the District of Columbia, and ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the bills, as follows:

H.R. 9544

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 490 of the District of Columbia Self-Government and Governmental Reorganization Act, relating to revenue bonds and other obligations, is amended by adding at the end thereof the following new subsection:

"(f) The fourth sentence of section 446 shall not apply to (1) the transfer to a private college or university of funds derived from the sale of any revenue bond, note, or other obligation issued pursuant to an act under this section solely to finance, or assist in the financing of, facilities for such college or university, or (2) the payment (as to either principal or interest or both) of any such bond, note, or other obligation.".

Mr. DIGGS. Mr. Speaker, I move to strike the last word.

Mr. Speaker, the purpose of H.R. 9544, as set forth in the committee report (H. Rept. 95–749) is to amend section 490 of the District of Columbia Self-Government and Governmental Reorganization Act of 1973 (Public Law 93–198, 87 Stat. 774) to allow the proceeds of revenue bonds which have been sold under acts approved by the Council of the District of Columbia and by the Congress for the benefit of "private" colleges and universities, to be remitted to the respective entities for whom the bonds were issued without further legislative action.

NEED FOR THE LEGISLATION

The private colleges and universities in the District of Columbia, in testimony before the committee, reported a gross need for additional financing for projects they have on the drawing boards. They have been advised that with the approval of the authorization as provided in H.R. 9544, and with the possibility of the issuance of tax-exempt revenue bonds, they can get a more favorable interest rate than they now pay in the commercial market; namely, over 2½ points of interest, 6½ percent money as against 6 percent now being paid.

American University, for example, reportedly has started a library to cost $7 million, and has an overall need for additional expenditures of $12.9 million. With the possibility of the issuance of tax-exempt revenue bonds, over a 30-year period, it would save some $7.7 million in interest on a $12 million indebtedness.

Georgetown University, George Washington University, Catholic University, Howard University, and the smaller colleges are in similar situations and need additional financing.

The District of Columbia, on behalf of the members of the Consortium of Universities of Washington, D.C., is desirous of authorizing the issuance of revenue bonds which would have as their purpose the improvement of facilities of higher education in the District of Columbia. The bonds issued would be guaranteed by the institution of higher education which was receiving the benefit of the use of the funds.

LEGISLATIVE BACKGROUND

The Home Rule Act for the District of Columbia (sec. 490, Public Law 93–198; 87 Stat. 774), specifically authorizes that—

The Council may by act issue revenue bonds, notes, or other obligations (including refunding bonds, notes, or other obligations) to borrow money to finance or assist in the financing of undertakings in the areas of housing, health facilities, transit and utility facilites, recreational facilities, college and university facilities, and industrial and commercial development.

The section further provides that—

Any and all such bonds, notes or other obligations shall not be general obligations of the District and shall not be a pledge of or involve the faith and credit or the taxing power of the District, shall not constitute a debt of the District, and shall not constitute lending of the public credit for private undertakings.

The language quoted above authorizes the District of Columbia to issue revenue bonds like many States do for industrial development, college housing, and so forth.

The District of Columbia Act further provides that any and all such bonds, notes, or other obligations shall be issued

pursuant to an act of the Council without the necessity of submitting the question of such issuance to the registered qualified electors of the District for approval or disapproval.

PROVISIONS OF THE BILL

Under provisions of the Home Rule Act, all expenditures of the District government from its Treasury must have prior approval of Congress.

H.R. 9544 exempts from the approval-by-Congress-provision only: First, the transfer to a "private college or university" of funds derived from the sale of any revenue, bond, note or other obligation issued pursuant to an act under this section solely to finance, or assist in the financing of, facilities for such college or university; or second, the payment (as to either principal or interest or both) of any such bond, note, or other obligation.

The bill does not change the present law provision that such revenue bonds are not backed by the full faith and credit of the government of the District of Columbia; indeed, they are backed only to the extent of the resources of the "private" colleges and universities which may be involved.

It is the committee's intent that the provision of the bill that refers to private universities and colleges includes the independent institutions such as George Washington University, Georgetown University, Catholic University of America, American University, Howard University, Gallaudet College, Mt. Vernon College, and Trinity College. It does not include the University of the District of Columbia.

The District of Columbia government asked that the amendment contained in the legislation be made applicable to all types of revenue bonds as are quoted from the Home Rule Act above. The committee decided that this might be too broad a delegation and that it was advisable to see how the delegation worked limited solely to revenue bonds for "private" colleges and universities.

The bill does not change the home rule provisions that the Council by act must first approve the issuance of revenue bonds, and such act goes through the congressional process.

HEARING

The Subcommittee on Fiscal and Government Affairs held a hearing on this legislation on October 6, 1977, at which testimony in support thereof was presented on behalf of the District of Columbia Government by the Director of the Office of Budget and Management System, and also by a representative of the consortium of colleges and universities of the District of Columbia. No one appeared or submitted a statement in opposition to the legislation, although as indicated above, the District government's representative urged that the bill be broadened to include all types of revenue bonds. However, the subcommittee and the full committee agreed to the language of H.R. 9544 as specifically drafted and limited in coverage to revenue bonds for "private" colleges and universities.

COMMITTEE VOTE

The full committee on October 20, 1977, ordered H.R. 9544 favorably reported, by voice vote, to the House.

Mr. DELLUMS. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, the purpose of H.R. 9544 is to amend section 490 of the District of Columbia Self-Government and Governmental Reorganization Act of 1973 to allow the proceeds of revenue bonds which have been sold under acts approved by the Council of the District of Columbia and by the Congress for the benefit of "private" colleges and universities, to be remitted to the respective entities for whom the bonds were issued without further legislative action.

The Home Rule Act authorizes the District of Columbia to issue revenue bonds for college and university facilities. This recognizes, as do many States, that the institutions of higher learning are assets to the community. It also recognizes that municipal bonds are more attractive to potential investors.

The act also correctly provides that—

Any and all such bonds, notes or other obligations shall not be general obligations of the District and shall not be a pledge of or involve the faith and credit or the taxing power of the district, shall not constitute a debt of the district, and shall not constitute lending of the public credit for private undertakings.

Under provisions of the Home Rule Act, all expenditures of the District Government from its treasury must have prior approval of Congress.

Since the full faith and credit of the taxing power of the district are not at stake. H.R. 9544 exempts from the approval-by-Congress-provision only: First, the transfer to a "private college or university" of funds derived from the sale of any revenue bond, note, or other obligation issued pursuant to an act under this section solely to finance, or assist in the financing of, facilities for such college or university, or second, the payment as to either principal or interest or both—of any such bonds, note, or other obligation.

The bill does not change the home rule provisions that the Council by act must first approve the issuance of revenue bonds, and such act goes through the congressional process.

Mr. McKINNEY. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I rise in support of H.R. 9544 and urge my colleagues to pass this needed legislation. H.R. 9544 is an amended version of S. 1063 which authorizes the District government to transfer moneys received from the sale of revenue bonds for the financing of capital projects of District colleges and universities.

The other body adopted language which could be construed as appropriating language in an authorization bill. Additionally, it was not clear that only revenue bonds for private universities were being authorized. The language of H.R. 9544 is clear. The authorization is intended only for "private" colleges and universities for whom the bonds would be issued.

Testimony presented before the Subcommittee on Fiscal and Government Affairs by representatives of the private universities in the District indicated a need for additional financing for capital projects. The use of tax-free revenue bonds approved by the Council of the District of Columbia would result in as much as 2½ percent savings in interest over what is attainable in the commercial markets. However, the District's bond counsel believes that subjecting annual debt service payments to annual congressional approval as currently required by section 490 of the Home Rule Act decreases the marketability of these revenue bonds and would needlessly increase the costs of servicing the debt.

While the District government would initially authorize the issuance of the revenue bonds on behalf of the universities, it is important to emphasize that these bonds do not carry a full faith and credit guarantee either of the Federal or District Government. The bonds would be secured by the revenues generated by the private universities and are essentially private instruments.

According to the Congressional Budget Office, the enactment of this proposed legislation will involve no added costs to the District of Columbia government nor to the Federal Government.

I would also add that this legislation in no way changes the requirement that these revenue bonds would have to gain the initial approval of the Council of the District of Columbia and be subject to the 30 legislative day congressional review process.

Mr. DIGGS. Mr. Speaker, I have no further requests for time, and I move the previous question on the bill.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken.

Mr. CHARLES H. WILSON of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device. and there were—yeas 403, nays 0, not voting 31, as follows:

[Roll No. 731]

YEAS—403

Abdnor	Anderson, Ill.	Aspin
Addabbo	Andrews, N.C.	AuCoin
Akaka	Andrews, N. Dak.	Badillo
Alexander	Annunzio	Bafalis
Allen	Applegate	Baldus
Ambro	Archer	Barnard
Ammerman	Ashbrook	Baucus
Anderson, Calif.	Ashley	Bauman
		Beard, R.I.

Beard, Tenn.	Flippo	McKinney
Bedell	Flood	Madigan
Beilenson	Florio	Maguire
Benjamin	Flowers	Mahon
Bennett	Flynt	Mann
Bevill	Foley	Markey
Biaggi	Ford, Tenn.	Marks
Bingham	Forsythe	Marlenee
Blanchard	Fowler	Marriott
Blouin	Fraser	Martin
Boggs	Frenzel	Mathis
Boland	Frey	Mattox
Bonker	Fuqua	Mazzoli
Bowen	Gammage	Meeds
Brademas	Gaydos	Metcalfe
Breckinridge	Gephardt	Michel
Brinkley	Gibbons	Mikulski
Brodhead	Gilman	Mikva
Brooks	Ginn	Milford
Broomfield	Glickman	Miller, Calif.
Brown, Calif.	Goldwater	Miller, Ohio
Brown, Mich.	Gonzalez	Mineta
Brown, Ohio	Goodling	Minish
Broyhill	Gore	Mitchell, Md.
Buchanan	Gradison	Moakley
Burgener	Grassley	Moffett
Burke, Calif.	Gudger	Mollohan
Burke, Fla.	Guyer	Montgomery
Burke, Mass.	Hagedorn	Moore
Burleson, Tex.	Hall	Moorhead, Calif.
Burlison, Mo.	Hamilton	Moorhead, Pa.
Burton, Phillip	Hammer-schmidt	Moss
Butler	Hanley	Mottl
Byron	Hannaford	Murphy, N.Y.
Caputo	Hansen	Murphy, Pa.
Carney	Harkin	Murtha
Carr	Harrington	Myers, Gary
Carter	Harris	Myers, John
Cavanaugh	Hawkins	Myers, Michael
Cederberg	Heckler	Natcher
Chappell	Hefner	Neal
Chisholm	Heftel	Nedzi
Clausen, Don H.	Hightower	Nichols
Clawson, Del	Hillis	Nix
Clay	Holland	Nolan
Cleveland	Hollenbeck	Nowak
Cochran	Holt	O'Brien
Cohen	Holtzman	Oakar
Coleman	Howard	Oberstar
Collins, Ill.	Hubbard	Obey
Collins, Tex.	Huckaby	Ottinger
Conable	Hughes	Panetta
Conte	Hyde	Patten
Conyers	Ichord	Patterson
Corman	Ireland	Pattison
Cornell	Jacobs	Pease
Cornwell	Jeffords	Pepper
Cotter	Jenkins	Perkins
Coughlin	Jenrette	Pettis
Crane	Johnson, Calif.	Pike
Cunningham	Johnson, Colo.	Poage
Daniel, Dan	Jones, N.C.	Pressler
Daniel, R. W.	Jones, Okla.	Preyer
Danielson	Kasten	Price
Davis	Kastenmeier	Pritchard
de la Garza	Kazen	Pursell
Delaney	Kelly	Quayle
Dellums	Kemp	Quie
Dent	Ketchum	Quillen
Derrick	Keys	Rahall
Derwinski	Kildee	Railsback
Devine	Kindness	Rangel
Dickinson	Kostmayer	Regula
Dicks	Krebs	Reuss
Diggs	LaFalce	Rhodes
Dingell	Lagomarsino	Richmond
Dodd	Latta	Rinaldo
Dornan	Le Fante	Risenhoover
Downey	Leach	Roberts
Drinan	Lederer	Robinson
Duncan, Oreg.	Lezgett	Rodino
Duncan, Tenn.	Lehman	Roe
Early	Lent	Rogers
Eckhardt	Levitas	Roncalio
Edgar	Livingston	Rooney
Edwards, Ala.	Lloyd, Calif.	Rosenthal
Edwards, Calif.	Lloyd, Tenn.	Rostenkowski
Eilberg	Long, La.	Rousselot
Emery	Long, Md.	Roybal
English	Lott	Rudd
Erlenborn	Lujan	Runnels
Ertel	Luken	Ruppe
Evans, Colo.	Lundine	Russo
Evans, Del.	McClory	Ryan
Evans, Ind.	McCloskey	Santini
Fary	McCormack	Sarasin
Fascell	McDade	Satterfield
Fenwick	McDonald	Sawyer
Findley	McEwen	Scheuer
Fish	McFall	Schroeder
Fisher	McHugh	Schulze
Fithian	McKay	Sebelius
Seiberling	Studds	Weaver
Sharp	Stump	Weiss
Shipley	Symms	Whalen
Shuster	Taylor	White
Sikes	Thompson	Whitehurst
Simon	Thone	Whitley
Sisk	Traxler	Whitten
Skelton	Treen	Wiggins
Skubitz	Trible	Wilson, Bob
Slack	Tsongas	Wilson, C. H.
Smith, Iowa	Udall	Wilson, Tex.
Smith, Nebr.	Ullman	Winn
Snyder	Van Deerlin	Wirth
Solarz	Vander Jagt	Wright
Spellman	Vanik	Wydler
Spence	Vento	Wylie
St Germain	Volkmer	Yates
Staggers	Waggonner	Yatron
Stangeland	Walgren	Young, Alaska
Stanton	Walker	Young, Fla.
Stark	Walsh	Young, Mo.
Steed	Wampler	Zablocki
Steers	Watkins	Zeferetti
Steiger	Waxman	

NAYS—0

NOT VOTING—31

Armstrong	Fountain	Pickle
Badham	Giaimo	Rose
Bolling	Harsha	Stockman
Bonior	Horton	Stratton
Breaux	Jones, Tenn.	Teague
Burton, John	Jordan	Thornton
Corcoran	Koch	Tucker
D'Amours	Krueger	Wolff
Edwards, Okla.	Meyner	Young, Tex.
Evans, Ga.	Mitchell, N.Y.	
Ford, Mich.	Murphy, Ill.	

The Clerk announced the following pairs:

Mr. Jones of Tennessee with Mr. Badham.
Mr. Murphy of Illinois with Mr. Stockman.
Mrs. Meyner with Mr. Harsha.
Mr. Stratton with Mr. Corcoran of Illinois.
Mr. Teague with Mr. Mitchell of New York.
Mr. Wolff with Mr. Edwards of Oklahoma.
Mr. Fountain with Mr. Horton.
Mr. Ford of Michigan with Mr. John Burton.
Mr. Giaimo with Mr. Bonior.
Mr. Breaux with Miss Jordan.
Mr. Koch with Mr. Krueger.
Mr. Pickle with Mr. Tucker.
Mr. Thornton with Mr. Rose.
Mr. D'Amours with Mr. Evans of Georgia.

Mr. MANN changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. DIGGS. Mr. Speaker, I ask unanimous consent that the Committee on the District of Columbia be discharged from further consideration of the Senate bill (S. 1063) to amend the District of Columbia Self-Government and Governmental Reorganization Act, a similar bill to the bill H.R. 9544, just passed by the House, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1063

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 490 of the District of Columbia Self-Government and Governmental Reorganization Act is amended by adding the following:

"(f) Payments authorized or required to be made by or pursuant to any act authorizing the issuance of revenue bonds, notes, or other obligations for college and university facilities under this section shall be made without further authorization or approval.".

MOTION OFFERED BY MR. DIGGS

Mr. DIGGS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DIGGS moves to strike out all after the enacting clause of S. 1063 and to insert in lieu thereof the provisions of H.R. 9544, as passed.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: to amend the District of Columbia Self-Government and Government Reorganization Act with respect to the payment of certain revenue bonds issued by the Council of the District of Columbia.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 9544) was laid on the table.

GENERAL LEAVE

Mr. DIGGS. Mr. Speaker, I ask unanimous consent that all Members may be permitted to revise and extend their remarks on both the bills involving the District of Columbia.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

DISAPPROVING DEFERRAL OF BUDGET AUTHORITY RELATING TO DEPARTMENT OF ENERGY (ERDA)

Mr. BEVILL. Mr. Speaker, pursuant to the order of the House Thursday last, I call up the resolution (H. Res. 851) and ask for its immediate consideration in the House.

The Clerk read the resolution, as follows:

H. RES. 851

Resolved, That the House of Representatives expresses its disapproval of proposed deferral D78–30, relating to the Energy Research and Development Administration, Gas Cooled Thermal Reactor Program, as set forth in the message of October 3, 1977, which was transmitted to the Congress by the President under section 1013 of the Impoundment Control Act of 1974.

The SPEAKER pro tempore. The gentleman from Alabama (Mr. BEVILL) is recognized for 1 hour.

Mr. BEVILL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we are considering four resolutions desapproving deferral of budget authority for the Department of Energy. After careful deliberation, the Committee on Appropriations has recommended that these four deferrals be disapproved. This decision was not arrived at hastily. When considering deferrals or rescissions, the committee must take into consideration the same factors it takes heed of in a regular appropriation bill—the needs of

the people for various governmental programs and services must be balanced against the need for a prudent fiscal policy.

The deferral requests, which total $38.8 million in budget authority were submitted to Congress on October 3 and are contained in House Document No. 95–235. Of course, disapproving these deferrals does not increase the budget level already approved by Congress for fiscal year 1978—it merely affirms that funds already appropriated will be spent as previously approved by Congress. The President has indicated these projects would be deferred for only part of the year, but he has given no indication just when they would proceed. It is necessary that we take this action to disapprove his proposal if we want the programs to proceed in a timely manner.

I would like to give a brief explanation of the programs involved with the proposed deferrals.

Of the four deferrals which the committee recommends be disapproved, one relates to basic research and three are related to energy R. & D. While it is true that the payoff of the research being conducted in these programs may be a number of years away, that fact does not lessen the urgency of proceeding expeditiously with a vigorous R. & D. program in order to find long-range solutions to the energy crisis.

House Resolution 851 would disapprove deferral D78–30. This deferral is for $15,000,000 and is concerned with the gas-cooled reactor program. This program has as its objective the development of advanced nuclear reactors which would utilize a thorium fuel cycle. Thus this technology has the potential of lessening our consumption of uranium and enabling us to use an additional natural resource to produce electricity.

The industrial process heat generated by these types of reactors may potentially be used in steelmaking, coal gasification, coal liquefaction and production of hydrogen. Considering the severity of the energy outlook, the importance of proceeding rapidly with energy research and development and the potential of this technology, the committee felt it would be prudent to vote to disapprove this proposed deferral.

Two of the resolutions, House Resolution 852 and House Resolution 853 would disapprove deferrals (numbered D78–33 and D78–34) which relate to the fusion research and development program. Deferral D78–33 is for $7,500,000 for the fusion material test facility. Deferral D78–34 is for $11,300,000 and is for the 14 MEV intense neutron source facility. The fusion program has as its objective the development of a fusion reactor which would use a derivative of water as its major fuel source. If the research and development of fusion proves successful, it would offer the world an almost limitless source of energy. The facilities proposed for deferral by the administration are to be used to test materials which would be used in a fusion reactor. If we are to have fusion reactors, then, of course, we must know the materials which can be used in building and using these reactors.

House Resolution 854 would disapprove deferral D78–35. This project, which is commonly referred to as Isabelle, is within the high energy physics program. The goal of the high energy physics program is to explore and understand the properties and structure of energy and matter in their most basic form. The majority of the research in the high energy physics research program is conducted at four accelerator facilities and one colliding beam facility. Isabelle is to study proton matter. Its aim is to explore the high energy domain in search of the substructure of the nucleon.

America's high energy physics community strongly supports the construction of Isabelle. The administration requested $5,000,000 in fiscal year 1978 for the design of Isabelle. The Congress added an additional $5,000,000 for architect/engineering for this project and it is the congressional add-on that the administration would defer.

Now summarizing briefly, the committee is recommending that the following four proposed deferrals be disapproved.

First. House Resolution 851 (Deferral D78–30), gas cooled reactor program, $15,000,000. This program involves the development of an advanced nuclear reactor which would utilize a thorium fuel cycle.

Second. House Resolution 852 (Deferral D78–33), fusion material test facility, $7,500,000. This facility will help in testing materials which may ultimately be used in a fusion reactor.

Third. House Resolution 853 (Deferral D78–34), 14 MEV intense neutron source facility, $11,300,000. This facility will also help in testing materials for eventual use in a fusion reactor. Specifically, this facility will provide a neutronic environment similar to that anticipated in a fully operational fusion power reactor.

Fourth. House Resolution 854 (Deferral D78–35), intersecting storage ring accelerator (Isabelle), $5 million. This project is within the "high energy physics" program which conducts research to understand the properties and structure of energy and matter in their most basic form.

Mr. Speaker, I urge the Members of the House to support the Committee on Appropriations in this matter and vote to disapprove the four deferrals I have just described.

Mr. WYDLER. Mr. Speaker, will the gentleman yield?

Mr. BEVILL. I yield to the gentleman from New York.

Mr. WYDLER. A couple of these so-called deferrals really are confusing. I wonder if the gentleman can explain some of the rationale to the Members of the House. At the time that the President decided that he did not want to build the Clinch River breeder reactor because it was a plutonium reactor, he said that we should go in other directions. One of the directions he suggested that the Nation go is to the thorium reactor.

Now, as I understand it, one of these proposals of deferral by him is to defer spending money on the thorium reactor. Is that a fact?

Mr. BEVILL. Yes, this is true. The HTGR can utilize a thorium fuel cycle. That is House Resolution 851, and it is difficult to understand. I agree with the gentleman.

Mr. WYDLER. I do not understand how the President can tell the Congress on the one hand not to go ahead with the Clinch River breeder reactor because we have an alternative, and then defer spending money on the alternative. Is that consistent?

Mr. BEVILL. I agree with the gentleman, and actually the committee agrees with the gentleman because we feel that this is a long-range proposal that could really help solve the energy problem of this Nation and, perhaps, much of the world.

Mr. WYDLER. I just want to congratulate the gentleman and the committee on the actions they have taken on all of these matters. Specifically, I also want to commend them for the action they have taken on Isabelle, I think that project is one that everybody realizes is going to go ahead, and the sooner we get started on it, the better off we will be in the sense of developing for our Nation some high technology for the future.

I was particularly shocked by the President's impoundment of appropriated funds for Isabelle, a planned high energy physics facility at Brookhaven National Laboratory. The action on Isabelle is an affront to the congressional conferees and the high physics community, as well as a blow to the economic future of Long Island.

The House had authorized $10.5 million in H.R. 6796 for Isabelle, the proton-proton intersecting storage accelerator facility at Brookhaven National Laboratory. The House-Senate appropriations conference included $5.0 million for Isabelle. The House-Senate conferees on the ERDA authorization bill adopted our House Science Committee position to fund construction activity at the $10.5 million level.

Our understanding from ERDA was that the timing is right to proceed with Isabelle in fiscal year 1978. Conceptual planning has been completed and the high energy physics community has suggested that its construction begin as soon as possible. This facility is the logical next step in assembling the tools for probing the fundamental structure of matter.

This new facility will cost $180 million to build and construction activity alone should provide employment for as many as 1,500 to 2,000 people. Three to four hundred scientists, engineers, and technicians will be required to operate Isabelle as a basic research tool to prove the fundamental behavior of the atomic nucleus.

Brookhaven's continued role as a center of excellence in high energy physics will be assured with the addition of this unique facility. I urge my colleagues strongly to support this resolution to disapprove the deferral.

I sat down at the energy conference talking about how we are going to have to make the American people do with less and less of every kind of energy, and we have the President trying to cut down on

all research and development programs that could find a way out of these problems for us.

I find it most distracting, confusing, and inconsistent with practically any program that I have ever seen handled on the floor of the House.

I want to commend the gentleman and the committee for taking the action to make sure the United States of America is not just going to cut down, cut down and cut back on its energy consumption, but it is going to do something in the years ahead to produce more and more energy for the people of this country.

Mr. BEVILL. This committee feels we should give these projects very high priority.

Mr. CHARLES H. WILSON of California. Mr. Speaker, will the gentleman yield?

Mr. BEVILL. I yield to the gentleman from California.

Mr. CHARLES H. WILSON of California. I thank the gentleman for yielding.

Mr. Speaker, so there is no confusion, the Clinch River project is not before us again? It is not a part of any of these four deferrals we are considering this afternoon?

Mr. BEVILL. That is correct.

Mr. CHARLES H. WILSON of California. Second, in order to support the position of the committee, the gentleman is asking us to vote "aye" on each of these deferral resolutions?

Mr. BEVILL. Yes.

Mr. FLOWERS. Mr. Speaker, will the gentleman yield?

Mr. BEVILL. I yield to the gentleman from Alabama.

Mr. FLOWERS. I thank the distinguished chairman of the Subcommittee on Appropriations, which has this jurisdiction, for yielding, and I want to associate myself with everything the gentleman said. I support each one of these requests by the Appropriations Committee. I think that they represent the kind of forward movement that this Congress has gone on record in favor of, and I would hope that the administration would not in the future be sending these kinds of deferrals to us. This has been, as has already been stated, the logical—I would not say alternative to breeder reactor technology, but the logical method to go forward in tandem with breeder reactor technology. We must have fusion power, and we must have other advanced technologies. I think the Appropriations Committee is on the right track by submitting these resolutions to us, and I commend the gentleman and his subcommittee.

Mr. BEVILL. I thank the gentleman.

Mr. McCORMACK. Mr. Speaker, will the gentleman yield?

Mr. BEVILL. I yield to the gentleman from Washington.

Mr. McCORMACK. Mr. Speaker, I associate myself with the chairman of the Subcommittee on Appropriations, and my colleague on the Committee on Science and Technology, the gentleman from Alabama (Mr. FLOWERS).

The deferrals before us deal with vitally important ongoing energy programs, or to basic research in high energy physics.

Mr. Speaker, I have been associated with three of these projects for several years, and this year, in the Committee on Science and Technology, with all of them. I can assure the Members of the House that accepting these deferral requests of the administration, and delaying or killing these projects would do great damage to our energy and research programs. The deferrals must be rejected. Three of these projects are already underway, especially the one on the high temperature gas-cooled reactor and the work in fusion materials testing. To stop them now would disrupt activities which are underway and existing manpower arrangements at our Federal research facilities. It would also mean that information, which is absolutely vital to building a pilot fusion electric production plant in the mid-1980's, would not be available when it is needed.

Mr. Speaker, if we are serious about providing funds now to build the equipment for testing materials and providing us information that we must have to build fusion pilot facilities in the mid-1980's we must approve the resolutions before us, and disapprove the deferrals.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. BEVILL. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding.

Mr. Speaker, I am particularly interested in the Tokomak fusion project, and I wonder how that is going to fare under the proposals before us.

Mr. McCORMACK. Mr. Speaker, will the gentleman yield?

Mr. BEVILL. I yield to the gentleman from Washington.

Mr. McCORMACK. I thank the gentleman for yielding. To answer the question of the lady from New Jersey, the issue before us is whether or not we are going to determine what materials we can use for the first wall of the Tokomak.

Mrs. FENWICK. I see.

Mr. McCORMACK. At the present time we understand the theory of controlled fusion, and we expect to demonstrate scientific feasibility by about 1980. However, we do not know yet what materials to use to build that pilot plant.

We must have these facilities for testing materials in what is equivalent to a fusion neutron flux. These facilities at Los Alamos and at Hanford must be built and operated before we know what materials we can use for construction of the Tokomak.

Mrs. FENWICK. I see. So, therefore a "yea" vote on these resolutions would be valuable for the future of Tokomak?

Mr. BEVILL. Mr. Speaker, that would be in line with what the gentleman from Washington (Mr. McCORMACK) has said. It would also be in line with the committee's position.

Mr. Speaker, I yield such time as he may consume to my good friend and colleague, the ranking minority member of the subcommittee, the gentleman from Indiana (Mr. JOHN T. MYERS).

Mr. JOHN T. MYERS. Mr. Speaker, I thank the gentleman for yielding me this time.

The chairman of the subcommittee and other Members have before the House very ably presented the case this afternoon as to why we need to disapprove these four deferrals.

The first deferral, the one on the gas-cooled thermal reactor, would cut back $15 million from what the Congress passed. This would be, as the gentleman from New York has stated, really delaying a very much needed alternative that we have in the reactor program. The gas-cooled reactor is much more efficient than the conventional light-water reactor. It is 40 percent or close to 40 percent efficiency versus about 33 percent for the conventional light-water reactor. In addition, it uses, as the gentleman from New York has told us, thorium, which is a new source of energy.

Also, let me state that it is more sound environmentally than the conventional light-water reactor. On the point of efficiency, it dissipates less heat, and so as a result it is also environmentally much more sound.

The committee was unanimous in its disapproval of all four of these deferrals. These four resolutions are very much needed; they relate to alternative sources of energy that we must have.

We hope that in the future this will not have to be done, because we do not like to have to go back to the President with a disapproval of the President's deferrals.

Certainly, the Appropriations Committee has a fine track record in holding down expenditures. But as some Member has said, it is foolhardy not to make these expenditures at this time, when we are searching for alternative sources of energy.

Therefore, Mr. Speaker, the committee was unanimous in its actions on these resolutions.

Mr. BURGENER. Mr. Speaker, will the gentleman yield?

Mr. JOHN T. MYERS. I yield to the gentleman from California, who is a member of the subcommittee.

Mr. BURGENER. Mr. Speaker, I thank the ranking minority member. I wish to commend him and the chairman of the subcommittee, the gentleman from Alabama (Mr. BEVILL), for their leadership in these actions.

I just wish to mention that the gas-cooled, thermal reactor technology is really vital to future energy needs of our Nation. One of the reasons it is vital is because it shows promise for eventually using no water. That is of great interest to all of us in the Nation, and particularly to those of us in the West where water resources are so critical.

So, Mr. Speaker, there are indeed many reasons for supporting these resolutions, and I thank the gentleman from Indiana for yielding to me.

Mr. LUJAN. Mr. Speaker, will the gentleman yield?

Mr. JOHN T. MYERS. I yield to the gentleman from New Mexico.

Mr. LUJAN. Mr. Speaker, I rise in support of House Resolution 853 which recommends the disapproval of the proposed deferral of funding for the intense neutron source facility.

Both the House Appropriations Committee, which has seen fit to recommend that the House continue funding this project in the form of the resolution we are considering and the House Science and Technology Committee which is on record as supporting this technology as a viable and vital link in the area of fusion energy, unanimously voted to continue the research and development and funding of the intense neutron source.

It seems totally at odds with the administration's announced goal of increasing research in the area of fusion technology while lessening the emphasis in the area of fission to seek to discontinue a major fusion technology.

As I mentioned, the House Committee on Science and Technology has unanimously voted to continue this much needed program in the ERDA authorization for fiscal year 1978. This action has been given the full support of the Appropriations Committee which now lays before us its recommendation that the administration not be allowed to scuttle a valuable link to future energy independence.

I urge my colleagues to support House Resolution 853 because it is vital to continue to our work in fusion if we are to ever reach the point where this Nation is going to be free from dependence on foreign energy sources.

Beyond that, we must find the energy source which has the combined desirable effects on being renewable and nonpolluting. Fusion energy is that energy source and the intense neutron source is a much needed link in the fusion research program.

Mr. BEVILL. Mr. Speaker, I yield myself such time as I may consume.

Mr. AMBRO. Mr. Speaker, will the gentleman yield?

Mr. BEVILL. I yield to the gentleman from New York.

Mr. AMBRO. Mr. Speaker, I too, would like to add my voice to those who have commended the gentleman from Alabama (Mr. BEVILL) and the subcommittee for their expeditious, proper, and, I think, prudent action.

The gentleman from Washington (Mr. MCCORMACK) discussed the first three deferrals. I would like to say a word about the fourth deferral.

I believe the deferral message on this $5 million project contained the phrase that I believe was OMB inspired that the administration wanted to study the project further. It seems to me that the project has been studied ad nauseam. We have had it before us for years.

ERDA's budget submission termed this high-energy physics project one that should be given the highest priority. The scientific community, as was pointed out by Dr. Panofsky of the Stanford Linear Accelerator Center and others, says that it should be given the highest priority. The High-Energy Physics Advisory Panel said the same thing. Our subcommittee hearings also indicated that this project should be given the highest priority. The appropriations process, which in this case preceded the authorization process, funded it. The appropriations bill passed and was signed into law.

The authorization process as well has been completed. It contains $5 million for Isabelle plus and $5.5 for preparatory costs. Thus, both the appropriation and authorization bill provide $10.5 million for Isabelle. The authorization bill is tied up now on the President's desk because of Clinch River, but it as well includes this project in it. It seems to me that a project which will provide us with an understanding of the fundamental structure of matter, which, without question, will give us a number of Nobel laureates, which will serve us well in the high-energy physics or basic research area, which will restore the hegemony or the primacy of the United States in the area of research, which has been eroded over the last decade as a result of the funding in Japan, West Germany, and other places, is something that, to both myself and the members of the Committee on Science and Technology, should indeed be expeditiously forwarded.

Mr. Speaker, growing congressional sophistication in the area of energy research and development has led to direct congressional attention for projects which previously were strictly limited to discussion by academics. We have all seen that lack of long-range planning in the energy sector can create repercussions felt throughout the economy. And with this knowledge, it has become possible to actively promote those programs which will help assure continued U.S. leadership in energy supply and conservation technologies.

One such project has been under development at the Brookhaven National Laboratory for several years. It promises to greatly broaden the capabilities of U.S. research scientists and engineers by opening new avenues of exploration at the most basic, subatomic levels. Called an intersecting storage accelerator (and referred to by the acronym ISABELLE), this machine would far surpass any similar research device in the world. The importance of the device is perhaps best reflected in a recent report by the high energy physics advisory panel of ERDA which urged near-term construction of ISABELLE as well as further expansion of its capabilities.

The Committee on Science and Technology, in authorizing the project, formally reiterated that support and similarly called for examination of designs that would yield higher energies for exploration of the basic structure of matter. By doubling the current design energy levels from 200 GeV per ring to 400 GeV per ring, a technically feasible approach, even greater benefits could be realized. Simultaneously, the committee also stressed the importance of this new project to the continued prominence of the U.S. science community in this area of research.

Having personally toured the facility and followed the numerous advances made in overall particle accelerator design coming from this project, I would like to urge continued congressional support for this device through construction next year. This deferral overturn today reflects the first step toward that goal and asserts congressional support for eventual construction of this facility. It will be an invaluable resource to both current and future researchers in the energy field.

To further illustrate the importance of this project, I have attached the letters of transmittal from the chairman of the Subpanel on New Facilities, Jack Sandweiss, to Dr. Sidney Drell and also Dr. Drell's letter to the ERDA Deputy Assistant Administrator for Physical Research, Dr. James Kane.

YALE UNIVERSITY,
New Haven, Conn., June 24, 1977.

Dr. SIDNEY DRELL,
Chairman, High Energy Physics Advisory Panel, Stanford Linear Accelerator Center, Stanford, Calif.

DEAR SID: I am writing to transmit the report of the 1977 HEPAP Subpanel on New Facilities which met in Wood's Hole from June 5 to June 11, 1977.

There is little that I can add, except to say that the subpanel was unanimous in its recommendations.

With best regards.

Sincerely,

JACK SANDWEISS.

STANFORD UNIVERSITY,
Stanford, Calif., July 6, 1977.

Dr. JAMES S. KANE,
Deputy Assistant Administrator for Physical Research, Energy Research and Development Administration, Washington, D.C.

DEAR JIM: I am forwarding to you the report of the 1977 HEPAP Subpanel on New Facilities which was formed in response to the charge given to it by you at the HEPAP meeting of February 18–19, 1977 in Washington, D.C.

This report was discussed by HEPAP at its June 27–28 meeting in Washington; and the recommendations contained therein were unanimously endorsed. We urge you to take all possible steps to effect their realization.

The discoveries made in the last two years and the technical advances in the accelerator art have reenforced our view that the fundamental strategy of the approach to higher energy via development of electron-positron and proton-proton colliding beams and high energy fixed target facilities is esssential to successful investigation of the fundamental structure of matter. ISABELLE is now the critical feature in this program and its construction should begin as soon as possible.

The ISABELLE proton-proton colliding beam facility provides an increase of a factor of more than ten in the center-of-mass energy over that available in the highest energy collisions that are now possible at Fermilab and at CERN.

With this advance of the high energy frontier we expect, on the basis of present theoretical ideas, to cross the threshold for producing the massive fundamental particles that are believed to be the quanta, or carriers, of the weak forces of β radioactivity. The observation of these hypothetical particles will be a major triumph for our current concepts; and the opportunity to explore their properties will be of fundamental importance. On the other hand, failure to confirm their existence in experiments at the very high energies of ISABELLE would also have a very major impact on our understanding of elementary particle interactions. The actual energy recommended by the Subpanel and endorsed by EPAP, namely a maximum of about 400 GeV for each beam, is higher by a factor of two than that originally proposed

for the ISABELLE project. This higher energy is justified by the greatly enhanced physics potential of the facility even though an increase in cost is required. The high luminosity expected coupled with the flexible design of the interaction regions will make possible a broad and rich program of experimentation at ultra high energy. As already emphasized in previous Facilities Subpanel reports, such a facility must be a major part of our future thrust in High Energy Physics.

Since the report of the 1975 Subpanel on New Facilities was issued there have been great strides in high energy physics, highlighted by the discovery of particles exhibiting the new quantum number "charm." We are very appreciative of the considerable efforts by ERDA and the Congress which reversed previously decreasing budgets and have provided a measure of increased support to the field of high energy research. We hope that this trend will continue in the future so that, within the given budgetary guidelines, we can maintain a balanced program utilizing existing facilities and taking advantage of the technical and scientific opportunities for new exploration. With the positron-electron project (PEP) now under construction we have made a start on the three-pronged program which is essential for exploring the fundamental structure of matter. Construction of Isabelle is now the critical next step to be taken in implementing this strategy.

With best personal wishes.

Sincerely yours,

SIDNEY D. DRELL,
Chairman, High Energy Physics Advisory Panel.

APPENDIX B: PARTICIPANTS 1977 SUBPANEL ON NEW FACILITIES

PANEL MEMBERS

J. Sandweiss (Yale)[1]
B. Barish (Cal Tech)
J. Bjorken (SLAC)
T. H. Fields (ANL)
H. Frisch (Chicago)
G. Lambertson (LBL)
L. J. Laslett (LBL)
J. E. Leiss (NBS)[1]
F. E. Low (MIT)[3]
B. McDaniel (Cornell)[2]
H. Neal (Indiana)
P. Reardon (Princeton Plasma Physics Lab)
B. Richter (SLAC)
J. Rosner (Minnesota)
W. Schnell (CERN)
G. Trilling (LBL)
W. Willis (CERN)
R. Fricken (ERDA), Executive Secretary

CONSULTANTS

R. Kropschot (NBS-Boulder)
M. McAshan (Stanford)
A. McInturff (BNL)
M. Month (BNL)
J. Simpson (ANL)
L. C. Teng (Fermilab)
A. Tollestrup (Fermilab)

OBSERVERS AND VISITING PARTICIPANTS

BNL representatives:

M. Barton
H. Hahn
T. Kycia
R. Palmer
R. Rau
J. Sanford
N. Samios
G. Vineyard

Fermilab representatives:

D. Cline (Wisconsin)
T. Collins
J. Cronin (Chicago)
W. Fowler
E. Goldwasser
F. Huson
P. Livdahl
P. McIntyre (Harvard)
J. Peoples
N. Ramsey (URA)
R. Wilson

SLAC representatives:

J. Ballam
H. Wiedemann

Other:

M. Bardon (NSF)
S. Drell (SLAC, HEPAP)
D. Gould (MIT)
J. Kane (ERDA)
H. Kinney (ERDA)
D. Sutter (ERDA)
W. Wallenmeyer (ERDA)

[1] Chairman.
[2] Co-Chairman, Accelerator Subgroup.
[3] Chairman, Physics Subgroup.

Mr. Speaker, I commend the gentleman from Alabama (Mr. BEVILL) again, and I congratulate his subcommittee and the full committee for this action.

I urge favorable approval of all of these deferral disapprovals.

Mr. BEVILL. Mr. Speaker, if there are no further requests, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

DISAPPROVING DEFERRAL OF BUDGET AUTHORITY RELATING TO DEPARTMENT OF ENERGY (ERDA)

Mr. BEVILL. Mr. Speaker, pursuant to the order of the House Thursday last, I call up the resolution (H. Res. 852) and ask for its immediate consideration in the House.

The Clerk read the resolution, as follows:

H. RES. 852

Resolved, That the House of Representatives expresses its disapproval of proposed deferral D78–33, relating to the Energy Research and Development Administration, Magnetic Fusion Energy Program—Fusion Material Test Facility, as set forth in the message of October 3, 1977, which was transmitted to the Congress by the President under section 1013 of the Impoundment Control Act of 1974.

The SPEAKER pro tempore. The gentleman from Alabama (Mr. BEVILL) is recognized for 1 hour.

Mr. BEVILL. Mr. Speaker, I yield myself such time as I may consume.

As I have previously discussed here and as we have discussed on the floor, this fusion material test facility will help in testing materials which may ultimately be used in a fusion reactor.

Mr. Speaker, if there are no further requests for time, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

DISAPPROVING DEFERRAL OF BUDGET AUTHORITY RELATING TO DEPARTMENT OF ENERGY (ERDA)

Mr. BEVILL. Mr. Speaker, pursuant to the order of the House Thursday last, I call up the resolution (H. Res. 853) and ask for its immediate consideration in the House.

The Clerk read the resolution, as follows:

H. RES. 853

Resolved, That the House of Representatives expresses its disapproval of proposed deferral D78–34, relating to the Energy Research and Development Administration, Magnetic Fusion Energy Program—Intense Neutron Source Facility, as set forth in the message of October 3, 1977, which was transmitted to the Congress by the President under section 1013 of the Impoundment Control Act of 1974.

The SPEAKER pro tempore. The gentleman from Alabama (Mr. BEVILL) is recognized for 1 hour.

Mr. BEVILL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this, too, is one of the four resolutions that we have already discussed.

This resolution provides for help in testing materials for eventual use in fusion reactors.

Specifically, this facility will provide a neutronic environment similar to that anticipated in a fully operational fusion power reactor.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

DISAPPROVING DEFERRAL OF BUDGET AUTHORITY RELATING TO DEPARTMENT OF ENERGY (ERDA)

Mr. BEVILL. Mr. Speaker, pursuant to the order of the House of Thursday last, I call up the resolution (H. Res. 854) and ask for its immediate consideration in the House.

The Clerk read the resolution, as follows:

H. RES. 854

Resolved, That the House of Representatives expresses its disapproval of proposed deferral D78–35, relating to the Energy Research and Development Administration, High Energy Physics Program—Intersecting Storage Ring Accelerator, as set forth in the message of October 3, 1977, which was transmitted to the Congress by the President under section 1013 of the Impoundment Control Act of 1974.

The SPEAKER pro tempore. The gentleman from Alabama (Mr. BEVILL) is recognized for 1 hour.

Mr. BEVILL. Mr. Speaker, this is a project we have also discussed here. As a matter of fact, the gentleman from the State of New York discussed it a moment ago here on the floor. This is within the high-energy physics programs which conducts research to understand the properties and structure of energy and matter in their most basic form.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

GENERAL LEAVE

Mr. BEVILL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolutions just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

CONFERENCE REPORT ON S. 1863, DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS AUTHORIZATION ACT, 1978

Mr. PRICE. Mr. Speaker, I call up the conference report on the Senate bill (S. 1863) to authorize appropriations during the fiscal year 1978 for procurement of aircraft and missiles, and research, development, test, and evaluation for the Armed Forces, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of October 28, 1977.)

Mr. PRICE (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the statement.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. PRICE) and the gentleman from California (Mr. BOB WILSON) will be recognized for 30 minutes each.

The Chair recognizes the gentleman from Illinois (Mr. PRICE).

Mr. PRICE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference committee on S. 1863, the Defense Department Supplemental Appropriation Authorization Act of 1978, met on Thursday, October 27, and agreed to a compromise version of the supplemental authorization.

The conference report provides for a total supplemental authorization of $476.4 million. This compares with an initial House figure of $561 million and a Senate proposal of $374.47 million.

There were 12 money differences and 3 language differences in conference. I ask unanimous consent to include with my statement a table providing a breakdown of how the dollar issues were divided.

Let me briefly discuss the more important issues:

The House had added $151.6 million for procurement authorization for the F–14 aircraft. This included procurement of 4 additional aircraft in fiscal 1978 and advance procurement authorization for 24 additional aircraft in 1979. The conferees agreed to an authorization of $73.9 million providing for the procurement of four additional planes for fiscal 1978 but deleting all advance procurement.

The Senate bill had provided $15 million for study of a widebody commercial aircraft for adaptation to carry the cruise missile.

The House had added $5 million for this cruise missile carrier by floor amendment. The House recede and the conferees agreed to the Senate figure of $15 million for the cruise missile carrier.

The Senate bill contained $20 million to initiate a study of prototype development of the FB–111H, that is a stretched version of the FB–111, as a penetrating bomber. A similar amount for the FB–111H had been eliminated from the bill on the House floor. However, the House action was taken prior to the House vote on the B–1 bomber and the Senate conferees stressed that in the absence of future procurement funding for the B–1, the possibility of the FB–111H should at least be studied as a future alternative. The Defense Department supported funding for this study. The House receded and the conferees agreed to the authorization of $20 million.

The House amendment had contained $60 million for a new budget line item "ICBM initiatives" to provide for work on modernization of the land-based ICBM leg of our strategic Triad. I might say that I was the author of this addition in the House because our hearings had found that the land-based missile of the Triad will be the most vulnerable but it was also the one on which the least work had been done to provide a follow-on system.

It was the thought of the House in providing these funds that it would be used for the proposed M–X missile and the ABRES (advanced ballistic reentry system) program or such other alternatives as the Secretary of Defense might determine.

The Senate bill had provided no funds for such initiatives. The conferees agreed on an authorization of $30 million for this new budget line item.

Mr. Speaker, I will not go into all the other details of the conference report. I think we have agreed on a balanced program which allows greater confidence in working to develop the cruise missile which the President intends to rely on in place of the B–1 bomber. I think the bill also gives an important signal to the world that even though we canceled the B–1, we intend to continue to maintain the strategic capability sufficient to prevent any nation to gaining superiority over the United States.

DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATION AUTHORIZATION ACT, 1978
CONFERENCE ACTION

[In millions of dollars]

Program	Budget request	House	Senate	Conference
PROCUREMENT				
F–14		151.6		73.9
Programs not in dispute	97.0	97.0	97.0	97.0
Subtotal, procurement	97.0	248.6	97.0	170.9
RESEARCH, DEVELOPMENT, TEST AND EVALUATION				
Navy: High performance underwater vehicle		5.9		
Air Force:				
Cruise missile carrier	50.0	5.0	15.0	15.0
FB–111 H			20.0	20.0
ICBM initiatives (MX and ABRES)		60.0		30.0
Air Force:				
Strategic protective systems	7.5	2.5	7.5	5.0
Strategic bomber enhancements	19.9	19.9	17.4	17.4
Ballistic missile early warning system (BMEWS)	1.0	1.0		
Missile surveillance technology	10.47		10.47	
Perimeter acquisition radar (PAR)	10.0	10.0		10.0
Programs not in dispute	194.1	193.1	193.1	193.1
Defense agencies:				
Defense Advanced Research Projects Agency (DARPA)	15.0	15.0	9.0	15.0
Advanced manned: Penetrating bomber study			5.0	
Subtotal, R.D.T. & E	307.97	312.4	277.47	305.5
Total authorization	404.97	561.0	374.47	476.4

Mr. PRICE. Mr. Speaker, I yield such time as he may desire to the gentleman from Florida (Mr. BENNETT).

Mr. BENNETT. Mr. Speaker, I rise in support of the conference report now before us. It is a measure obviously needed in view of the administration's decision to lay emphasis on proposed alternatives to the B–1 bomber. Funds in this conference report for such purposes should be considered as being only a part of the cost that will be involved if the B–1 bomber is abandoned.

The ultimate cost of that route proposed by the President is not yet certain. It is neither certain that it will present a saving, nor certain that the proposed alternatives are workable, or equal to what is lost.

However, it is clear that all of the expenditures allowed in this measure are to add to the defense strength of our country. We have no surplus in that field; so every Member of Congress can with a clear conscience vote for this measure, regardless of what his opinion may or may not be with regard to the need for the B–1 bomber. I urge unanimous support for the measure before us.

Mr. BOB WILSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the distinguished chairman of our committee has pointed out, the conference committee has agreed to a compromise version of the supplemental authorization.

I believe the three major issues of interest to the House relate to the com-

promise on the FB–111H, the cruise missile carrier, and the budget line for "ICBM initiatives."

Our committee has, of course, consistently and strongly supported the B–1 bomber program. If we are to have a manned penetrating strategic bomber it is our belief that we should have the best bomber possible, and that bomber is the B–1.

The President has stated that he does not believe the United States needs a new manned strategic bomber, however the House did recede to the Senate position that $20 million be authorized to at least study the FB–111H, in the absence of funding for the B–1.

The President's decision to cancel the B–1 has placed increased importance on the cruise missile. The House had provided $5 million for the study of a cruise missile carrier, while the Senate had provided $15 million. The conferees agreed to the $15 million for the study of a wide body commercial aircraft for possible use as a cruise missile carrier.

The third major conference issue I believe is of special interest is the $60 million which the chairman had proposed, and which the committee and House had accepted, for "ICBM initiatives."

It is the committee's view that we must continue to maintain a triad of strategic forces and, in particular, we must retain a highly survivable ICBM. In our view, the MX program provides the most realistic way for the United States to retain an ICBM that would not be vulnerable to a Soviet surprise attack.

The conferees agreed to authorize $30 million for the "ICBM initiatives" line item. This money is intended for ABRES and in support of the proposed fiscal year 1979 full scale development of the MX program. It was our intention not to restrict the use of this authorization, but rather to allow the administration the maximum flexibility in support of its effort to enter full scale development in fiscal year 1979.

In our view, it is critical that we proceed with full scale development and we believe this authorization would help minimize the various risks and uncertainties associated with full scale development.

Mr. SIKES. Mr. Speaker, America needs a manned penetrating bomber. This need has been reiterated time and again by the Nation's top military leaders. The defenses of Europe are too sophisticated for successful attacks by the B–52 bomber. In a very few years their only effective use will be as a launching platform for the cruise missile and, unfortunately, there are strong indications that the cruise missile may be sharply limited in range and usefulness in the forthcoming SALT talks. All of this emphasizes the need for a manned penetrating bomber.

I have supported the B–1. I also support the FB–111H. Only $20 million is being authorized in this bill. We would be extremely unwise not to spend that amount of money to gain more information on the potential and the development of the FB–111H. I hope we can have both aircraft. I feel that America's need for additional weapons is such that we should welcome more than one egg in the basket. I consider the FB–111H a highly desirable manned penetrating bomber.

The FB–111H will provide this Nation needed additional flexibility in the SALT talks at low cost. We need more bargaining chips for the SALT talks. The future of the B–1 is in doubt. The cruise missile appears to have been compromised. The FB–111H will strengthen our hand and do it for less money than any other alternative.

The FB–111H will have near the range of the B–1, about 6,100 miles.

The FB–111H will incorporate many of the advanced systems developed for the B–1, including engines and avionics systems.

The FB–111H will be able to travel at a maximum speed of 1,200 miles per hour, just slightly less than the B–1—1,320 miles per hour.

The FB–111H is a low-cost option. Estimates of production costs are about $35 million per plane. We can have needed additional aircraft at a modest cost.

The FB–111H can carry a typical payload of 15 nuclear weapons, including the cruise missile, 5,700 nautical miles without refueling.

It is a proven weapons system with a survival rate in Vietnam much higher than that of the B–52. Additionally, it has been the top aircraft in SAC bombing competition for the past 2 years.

It would be a serious mistake to fail to proceed with the project.

Mr. PRICE. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 1339, ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION AUTHORIZATION ACT OF 1977 AND 1978—MILITARY APPLICATIONS

Mr. PRICE. Mr. Speaker, I call up the conference report on the Senate bill (S. 1339) to authorize appropriations to the Energy Research and Development Administration for national defense programs for the fiscal years 1977 and 1978, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

PARLIAMENTARY INQUIRY

Mr. DELLUMS. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. DELLUMS. Mr. Speaker, if a conference report is agreed to in a closed session, is that in violation of rule XXVIII of the rules governing the procedures of the House?

The SPEAKER pro tempore. If a conference report is reported in executive session without the permission of the House by rollcall vote, a point of order would lie under clause 6, rule XXVIII.

Mr. DELLUMS. Mr. Speaker, reserving a point of order, I would like to point out that in the Journal, I think, of October 27 it may have been incorrectly printed, but it was stated in the Journal on that particular date that this conference report was agreed to in closed session. I would simply like to inquire of the Chair whether that was a factual situation or whether it was not.

Mr. PRICE. The gentleman from California has asked a question as to whether or not this conference report was agreed to in closed or open session. This conference report was considered and was agreed to in open session.

The statement in the RECORD, or wherever it was, was in error.

Mr. DELLUMS. Mr. Speaker, I withdraw my reservation of a point of order.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of October 28, 1977.)

Mr. PRICE (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the statement.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. PRICE) and the gentleman from California (Mr. BOB WILSON) will be recognized for 30 minutes each.

The Chair recognizes the gentleman from Illinois (Mr. PRICE).

Mr. PRICE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conferees on the ERDA appropriation authorization bill for national security programs reached agreement with the Senate on Thursday, October 27. The conference report is printed in the RECORD for October 28 beginning on page 35693 and has, therefore, been available to the Members of the House. Since the report explains the actions of the conferees in detail, I will be as brief as possible in my explanation. I am aware that the House is very busy working on a crowded agenda.

Title I of the conference report provides an authorization for the funds appropriated to ERDA for national security programs for fiscal year 1977. The failure of the Congress to pass an authorization bill for the last fiscal year left several construction projects in an uncertain status. For this reason, and in the in-

terest of legislative completeness, the compliance with the Atomic Energy Act of 1954 and the Energy Reorganization Act of 1974, the conferees adopted general authorizing language in lieu of the line item approach taken by the Senate.

Title II of the conference report provides a total dollar authorization of $2,607.1 million. This compares with a budget request of $2,662.95 million—a reduction of $55.85 million. Reductions totaling $70.05 million were made in construction projects, which were offset by net increases of $14.2 million in operating expenses. The principal decreases were made in construction projects for which plans were not substantially complete, without prejudice to future authorization requests. The principal increase in the operating expenses category was in the ERDA laser and electron beam fusion research program.

At this point, I will insert a table illustrating the actions of the conferees:

S. 1339—ERDA NATIONAL SECURITY PROGRAMS

SUMMARY OF CONFERENCE RECOMMENDATIONS

[In millions of dollars]

	Budget request	Senate bill	House bill	Conference proposal
Operating expenses:				
Weapons activities	1,181.0	1,161.4	1,205.0	1,181.0
Nuclear explosives applications	1.0	1.0	0	0
Special materials production	416.4	416.4	416.4	416.4
Laser fusion	101.0	106.1	116.2	116.2
Naval reactors	211.7	211.7	211.7	211.7
Management and support	40.8	0	40.8	40.8
Subtotal	1,951.9	1,896.6	1,990.1	1,966.1
Plant and capital equipment:				
Construction projects:				
Weapons activities	163.1	102.1	145.6	106.05
Special materials production	129.6	129.6	113.6	120.6
Laser fusion	3.0	8.0	9.0	8.0
Capital equipment:				
Weapons activities	81.0	76.424	81.0	79.0
Special materials production	36.7	36.7	36.7	36.7
Laser fusion	13.2	13.2	13.2	13.2
Naval reactors	15.15	15.15	15.15	15.15
Management and support	.3	0	.3	.3
General plant projects:				
Weapons activities	24.0	24.0	24.0	24.0
Special materials production	12.0	12.0	12.0	12.0
Naval reactors	2.8	2.8	2.8	2.8
Construction planning and design	5.0	30.52	5.0	5.0
Subtotal	485.85	450.494	458.35	422.8
Amendments to prior year projects: Construction projects	225.2	181.9	225.2	218.2
Bill total	2,662.95	2,528.994	2,673.65	2,607.1

The conference report is $78.106 million above the Senate position and $66.55 million below the House position. While there were many differences between the House and Senate positions, none of these differences were the subject of a major dispute between the conferees. Agreement to the several compromises was unanimous.

Mr. Speaker, I believe that we have a good compromise bill which provides an adequate increment for fiscal year 1978, and which will strengthen our nuclear deterrent forces. On behalf of the House conferees, I recommend its passage.

Mr. BOB WILSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report. It is a fair and equitable settlement of the differences between the House and Senate bills. While the conferees have recommended an overall reduction in the amount to be authorized as compared with the administration's request, no program will be harmed or delayed.

The conferees on behalf of the House and those on behalf of the Senate were in unusual and unanimous agreement on the contents of the authorization. As a result of this, and under the able leadership of Chairman PRICE and Chairman STENNIS, we were able to reach a compromise promptly and without acrimony.

I will conclude these brief remarks, Mr. Speaker, by saying that this conference report provides not only for the improvement of our strategic and tactical nuclear forces, but it also provides safety, environmental and safeguards programs, in addition to basic research.

I urge the passage of the report as recommended by your House conferees.

Mr. PURSELL. Mr. Speaker, I would like to congratulate the conferees for reaching an agreement to retain the House position on laser fusion research and development. As has been noted during the past several months, this is a highly successful research program with significance in both military and civil areas.

As you know, on May 16 of this year, the Science and Technology Committee report which accompanied H.R. 6566, stated that the $9.2 million added to the laser fusion program in H.R. 6566 "addresses the interest of the committee in civilian development of the nonweapons uses of the technology"—that is, laser fusion. Further, on September 13 Mr. TEAGUE, chairman of the Science and Technology Committee, and Mr. PRICE, chairman of the Armed Services Committee, entered into a colloquy in which Mr. PRICE recognized the interest of the Science and Technology Committee with regard to civilian applications of laser fusion. On behalf of the Armed Services Committee, Mr. PRICE agreed that the $9.2 million added to the program would be directed to civilian uses.

Therefore, I would like to clarify for the record that the $9.2 million in the House version of this bill, as adopted by the conferees on S. 1339, is for the civil purposes recommended by the Science and Technology Committee and as agreed upon in earlier statements.

However, the conference report mentions the $9.2 million as a partial restoration of the $20 million reduction. This is absolutely not true and the Science and Technology Committee and the House voted for the $9.2 million to be used for civilian applications of laser fusion. Therefore the conference report to accompany S. 1339 is in obvious error. As the sponsor of the original $9.2 million, I and my committee have clearly stated our position and intent in previous actions and proceedings in committee and on the House floor. Since the report is incorrect, I voted "no" on the adoption of the report.

Mr. CHARLES H. WILSON of California. Mr. Speaker, I rise in support of the conference report.

I can say with all fairness that the House conferees were successful in defending the position taken by the House when we debated and passed H.R. 6566 on September 29. In the spirit of give and take, we have, in my opinion, reached a fair compromise.

The funds authorized by the conference report on S. 1339 amount to much less than one percent of the Federal budget for fiscal year 1978. The amounts authorized for weapons in the bill are equal to about 1 percent of the defense budget for this year.

The importance of this bill is greatly disproportionate to its cost. If we believe in the maintenance of a credible nuclear deterrent, then this conference report should be supported.

If we believe in the cruise missile or the Trident submarine as deterrents, the conference report should be supported.

If we believe that nuclear power for our surface ships and submarines is important, then the conference report should be supported.

And those Members who believe that the laser fusion principle will play a part in our future should also support the bill.

Mr. Speaker, recent intelligence reports about the continuing Soviet buildup in both conventional and strategic nuclear arms indicate to me that our nuclear deterrent forces are more important now than at any time since World War II. The maintenance and improvement of these forces is what this bill is about.

I urge the adoption of the conference report.

Mr. PRICE. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken.

Mr. DELLUMS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 336, nays 69, not voting 29, as follows:

[Roll No. 732]

YEAS—336

Abdnor	Dickinson	Johnson, Colo.
Addabbo	Dicks	Jones, N.C.
Akaka	Dingell	Jones, Okla.
Alexander	Dodd	Kasten
Allen	Dornan	Kazen
Ambro	Downey	Kelly
Ammerman	Duncan, Oreg.	Kemp
Anderson, Ill.	Duncan, Tenn.	Ketchum
Andrews, N.C.	Eckhardt	Kindness
Andrews, N. Dak.	Edwards, Ala.	LaFalce
	Eilberg	Lagomarsino
Annunzio	Emery	Latta
Applegate	English	Le Fante
Archer	Erlenborn	Leach
Armstrong	Ertel	Lederer
Ashbrook	Evans, Colo.	Leggett
Ashley	Evans, Del.	Lent
Aspin	Evans, Ind.	Levitas
Badham	Fary	Livingston
Bafalis	Fascell	Lloyd, Calif.
Barnard	Findley	Lloyd, Tenn.
Baucus	Fish	Long, La.
Bauman	Fisher	Long, Md.
Beard, R.I.	Fithian	Lott
Beard, Tenn.	Flippo	Lujan
Benjamin	Flood	Luken
Bennett	Florio	Lundine
Bevill	Flowers	McClory
Biaggi	Flynt	McCloskey
Bingham	Foley	McCormack
Blanchard	Ford, Mich.	McDade
Blouin	Ford, Tenn.	McDonald
Boggs	Fowler	McFall
Boland	Fraser	McHugh
Bonker	Frenzel	McKay
Brademas	Frey	McKinney
Breckinridge	Fuqua	Madigan
Brinkley	Gammage	Mahon
Brooks	Gaydos	Mann
Broomfield	Gephardt	Marks
Brown, Calif.	Giaimo	Marlenee
Brown, Mich.	Gibbons	Marriott
Brown, Ohio	Gilman	Martin
Broyhill	Ginn	Mathis
Burgener	Glickman	Mattox
Burke, Fla.	Goldwater	Meeds
Burke, Mass.	Gonzalez	Meyner
Burleson, Tex.	Gore	Michel
Burlison, Mo.	Gradison	Milford
Butler	Grassley	Miller, Ohio
Byron	Gudger	Mineta
Carr	Guyer	Minish
Carter	Hagedorn	Moakley
Cederberg	Hall	Mollohan
Chappell	Hamilton	Montgomery
Clausen, Don H.	Hammer-schmidt	Moore
		Moorhead, Calif.
Clawson, Del	Hanley	
Cleveland	Hannaford	Moorhead, Pa.
Cochran	Hansen	Moss
Cohen	Harkin	Mottl
Coleman	Harris	Murphy, Ill.
Collins, Ill.	Heckler	Murphy, Pa.
Collins, Tex.	Heftel	Murtha
Conable	Hightower	Myers, Gary
Conte	Hillis	Myers, John
Corman	Holland	Myers, Michael
Cornwell	Hollenbeck	Natcher
Cotter	Holt	Neal
Crane	Horton	Nedzi
Cunningham	Howard	Nichols
Daniel, Dan	Hubbard	Nix
Daniel, R. W.	Huckaby	Nowak
Danielson	Hughes	O'Brien
Davis	Hyde	Patten
de la Garza	Ichord	Patterson
Delaney	Ireland	Pattison
Dent	Jeffords	Pepper
Derrick	Jenkins	Perkins
Derwinski	Jenrette	Pettis
Devine	Johnson, Calif.	Pike
Poage	Schulze	Tsongas
Pressler	Sebelius	Udall
Preyer	Sharp	Ullman
Price	Shipley	Van Deerlin
Pritchard	Shuster	Vander Jagt
Quayle	Sikes	Vento
Quie	Simon	Waggonner
Quillen	Sisk	Walgren
Railsback	Skelton	Walker
Regula	Skubitz	Walsh
Reuss	Slack	Wampler
Rhodes	Smith, Iowa	Watkins
Rinaldo	Smith, Nebr.	Whalen
Risenhoover	Snyder	White
Roberts	Solarz	Whitehurst
Robinson	Spellman	Whitley
Rodino	Spence	Whitten
Roe	St Germain	Wiggins
Rogers	Staggers	Wilson, Bob
Roncalio	Stangeland	Wilson, C. H.
Rooney	Stanton	Wilson, Tex.
Rostenkowski	Steed	Winn
Rousselot	Steiger	Wright
Rudd	Stratton	Wydler
Runnels	Stump	Wylie
Ruppe	Symms	Yatron
Russo	Taylor	Young, Alaska
Santini	Teague	Young, Fla.
Sarasin	Thompson	Young, Mo.
Satterfield	Thone	Zablocki
Sawyer	Traxler	Zeferetti
Scheuer	Treen	
Schroeder	Trible	

NAYS—69

Anderson, Calif.	Edgar	Oberstar
	Fenwick	Obey
AuCoin	Forsythe	Ottinger
Badillo	Goodling	Panetta
Baldus	Harrington	Pease
Bedell	Hawkins	Pursell
Beilenson	Hefner	Rahall
Bonior	Holtzman	Rangel
Brodhead	Jacobs	Richmond
Buchanan	Keys	Roybal
Burke, Calif.	Kildee	Ryan
Burton, John	Kostmayer	Seiberling
Burton, Phillip	Krebs	Stark
Caputo	Lehman	Steers
Cavanaugh	Maguire	Stokes
Chisholm	Markey	Studds
Clay	Mazzoli	Vanik
Conyers	Metcalfe	Volkmer
Cornell	Mikulski	Weaver
Coughlin	Miller, Calif.	Weiss
Dellums	Mitchell, Md.	Wirth
Diggs	Moffett	Yates
Drinan	Nolan	
Early	Oakar	

NOT VOTING—29

Bolling	Harsha	Pickle
Bowen	Jones, Tenn.	Rose
Breaux	Jordan	Rosenthal
Carney	Kastenmeier	Stockman
Corcoran	Koch	Thornton
D'Amours	Krueger	Tucker
Edwards, Calif.	McEwen	Waxman
Edwards, Okla.	Mikva	Wolff
Evans, Ga.	Mitchell, N.Y.	Young, Tex.
Fountain	Murphy, N.Y.	

The Clerk announced the following pairs:

Mr. Bowen with Mr. Corcoran of Illinois.
Mr. Carney with Mr. Harsha.
Mr. Jones of Tennessee with Mr. Mitchell of New York.
Mr. Koch with Mr. McEwen.
Mr. Mikva with Mr. Edwards of Oklahoma.
Mr. Murphy of New York with Mr. D'Amours.
Mr. Wolff with Mr. Edwards of California.
Mr. Waxman with Mr. Krueger.
Mr. Rosenthal with Miss Jordan.
Mr. Pickle with Mr. Tucker.
Mr. Rose with Mr. Evans of Georgia.
Mr. Fountain with Mr. Kastenmeier.
Mr. Breaux with Mr. Thornton.

Messrs. FORSYTHE, MARKEY, OBERSTAR, DIGGS, and RAHALL changed their vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PRICE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on S. 1339 and on the conference report on S. 1863.

The SPEAKER pro tempore (Mr. FOLEY). Is there objection to the request of the gentleman from Illinois?

There was no objection.

CONFERENCE REPORT ON H.R. 6010, AVIATION INSURANCE AND REINSURANCE

Mr. ANDERSON of California. Mr. Speaker, I call up the conference report on the bill (H.R. 6010) to amend title XIII of the Federal Aviation Act of 1958 to expand the types of risks which the Secretary of Transportation may insure or reinsure, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. STUDDS. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

The Clerk will read the report.

The Clerk proceeded to read the report.

(For conference report and statement, see proceedings of the House of October 27, 1977.)

Mr. ANDERSON of California (during the reading). Mr. Speaker, I renew my request. I ask unanimous consent that the statement of the managers be read in lieu of the report.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The Clerk will read the statement of the managers.

The Clerk read the statement.

Mr. ANDERSON of California (during the reading). Mr. Speaker, I ask unanimous consent that the statement of the managers be considered as read.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. ANDERSON) will be recognized for 30 minutes, and the gentleman from Kentucky (Mr. SNYDER) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. ANDERSON).

Mr. ANDERSON of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report on H.R. 6010—before us today—is a composite of legislation—much of which has passed this House several times.

First, I will explain those items which have passed the House and second, I will address those provisions added by the Senate.

Of the 19 sections in the conference

report, all but four have been considered by the House and have been agreed to by this body.

Sections 1 through 7 involve the aviation insurance program which passed by unanimous consent on June 8. Sections 8 and 9, which were originally in H.R. 27, involve reduced air fares for the elderly and handicapped, and interlining—all except for the Senate provision involving the State of Florida—passed the House on February 22 by a vote of 403 to 0.

Sections 10, 11, and 12—which are the contents of H.R. 26—deal with advanced lead time for the consumer in the event of a fare change and with mail rate compensation and passed by a voice vote on February 22.

Section 13 would permit an experiment which occurred in the Midwest and was adopted by the House on June 8.

Section 14 of the conference report is similar to H.R. 735 which permits resident aliens to register aircraft in the country and passed this body on February 22.

Section 15 is identical to H.R. 736 which also passed on February 22 and would permit the temporary operation of an aircraft with an inoperable emergency locator transmitter.

All of those provisions—sections 1 through 15—have passed this body with virtually no opposition; the only exceptions are section 9 which includes Florida in the interline provision; and section 14 which permits a foreign corporation to register aircraft in this country.

First, on the Florida provision, this was added—it is my understanding—on the Senate side at the insistence of the two Florida Senators and is, in fact, identical to the language of H.R. 3756 which was sponsored by the Florida delegation. Thus, in conference, we believed that these were the wishes of the Florida delegation.

Second, the registration of aircraft by foreign corporations was agreed to after we learned that the administration supported this provision.

Finally, the Senate added sections 16 through 19, which were agreed to in conference.

During our 17 dyas of hearings on regulatory reform of the airlines, we considered cargo regulatory reform and the crying need for cargo regulatory reform. The Senate provision does this.

That, basically, is what the conference report is all about. It was unanimously agreed to by the members of the committee of conference.

Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. SIKES).

Mr. SIKES. Mr. Speaker, I am very grateful to the distinguished chairman of the subcommittee for his courtesy in yielding to me.

Mr. Speaker, I have grave concern for the impact of this proposal—specifically, section 9—on air transportation in my State, Florida. Frankly, this is a section which was originally endorsed by the Florida delegation. Most of us feel that we made a mistake, because of an unforeseen adverse effect, particularly on commuter airlines in our State. Presently, we in Florida have excellent service being provided by commuters and the CAB-certificated carriers. We want to help—not harm them.

Section 9 of this proposal may provide an undue advantage to one carrier to the detriment of the others and could disrupt the excellent system which has grown up over the last several years. The potential for an imbalance in the present system gives me great concern. For this reason, I would like to ask the distinguished gentleman from California, the chairman of the subcommittee, if he will give us assurance that the committee will watch this situation closely, that he will conduct hearings on this potential problem early next year, and that he will act expeditiously to avert a situation in which one carrier is given an undue advantage that could be detrimental to the traveling public, and possibly disruptive to the overall transportation system in Florida.

Mr. ANDERSON of California. I thank the gentleman and appreciate his concern for air service to all parts of Florida. I believe that he raises an excellent point and I give my personal assurance that I will call for hearings on this topic early next year so that we can determine the effect of this legislation on the situation in Florida and reverse it if necessary to preserve the overall transportation system in Florida.

Mr. SIKES. I will appreciate it if I may have the same assurance from the distinguished ranking member of the subcommittee, the gentleman from Kentucky (Mr. SNYDER).

Mr. SNYDER. Mr. Speaker, will the gentleman yield?

Mr. SIKES. I yield to the gentleman from Kentucky.

Mr. SNYDER. I would say to the gentleman from Florida (Mr. SIKES) that we thought we were doing the Florida delegation a favor in doing what they wanted to do when we wrote the language in here that they could have interlining of all baggage and ticketing.

If it is determined in the future that this practice has an adverse effect upon the air industry down there, I can assure the gentleman that he will have the full cooperation of the minority in fulfilling the commitment made by the gentleman from California (Mr. ANDERSON.)

Mr. SIKES. Mr. Speaker, I thank the gentleman for his assurance.

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of California. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Speaker, we certainly appreciate the effort made by the subcommittee in trying to provide the interlining arrangements in Florida.

The concern about it has grown up without anybody's understanding or knowledge.

It seems to me that a question still remains, and I am asking this as a question: Am I correct that the issue which remains is the case of the certificated intrastate carriers? Is that correct?

I ask that because they are not affected by this bill if they are still certificated as an intrastate carrier; they still have to go to the CAB; but an airline which is now folded in under interlining, under this amendment, does not have to do that; am I correct?

Mr. ANDERSON of California. That is correct. An interstate carrier, certificated by the CAB, must go to the Board. An intrastate carrier, operating under State authority, does not.

Mr. FASCELL. Therefore, this is an effect which none of us anticipated, frankly. If we have the assurances of the subcommittee that they are inclined to look at that problem so that we do not unwittingly do damage to a certificated intrastate carrier which is acting in good faith and is not covered by this bill, then I think we will have the right kind of assurance.

Mr. ANDERSON of California. We will give the gentleman that assurance, and we will hold hearings right after the first of the year and take a good look at it.

Mr. STUDDS. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of California. I yield to the gentleman from Massachusetts.

Mr. STUDDS. I thank the gentleman for yielding. I would like to associate myself with the remarks of the preceding two gentlemen from Florida. I hardly expected to find myself involved in a discussion on commuter airlines in Florida. However, as I indicated to the chairman earlier, Naples Airlines in Naples, Fla., is an operating division of Provincetown-Boston Airline, Inc., which is a small commuter airline serving my district. If the chairman would permit, I should like to read two or three sentences from a letter I have just received from John C. Van Arsdale, president of Provincetown-Boston Airlines, Inc., of which Naples Airlines is an operation division.

> We feel that this bill will have serious repercussions on the viability of commuter air carriers within the State of Florida, as Air Florida is becoming extremely aggressive and trying to operate over all of the routes of the commuters in Florida.
>
> Basically, this amendment will permit Air Florida to operate a DC-9 in competition with small commuters, because they will be allowed to have the interline agreements and privileges that commuters have, but will not be required to go before the Civil Aeronautics Board, as we are, to operate aircraft with greater than 30 seats. It is basically a back door method of being able to get an exemption to operate DC-9 aircraft.
>
> We feel that it is extremely unfair.

As the gentleman from Florida who just spoke indicated, as the chairman himself has indicated, he now appreciates that this provision of the bill, although it purports to be written in general terms, in fact, affects only one single, uncertificated intrastate carrier in the State of Florida, namely, Air Florida. And Air Florida, which is flying DC-9's—with which it is a little tough to compete with smaller, old-fashioned aircraft such as DC 3's—would, by the provisions of this bill, receive all the benefits of the interline agreements without having to submit itself to CAB regulations and control of routes and schedules and fares, which airlines such as Naples Airlines and Air Sunshine and other commuters in Florida have done.

I do not believe that this was the intention of the committee, and I do not believe that this was the intention of the authors in originally introducing this legislation. I would deeply appreciate it, on behalf of my own airline in the State of Massachusetts, which is associated with Naples Airlines, if the chairman could again reiterate his commitment to take a very close look at the implications of something that I rather doubt was clearly understood earlier.

Mr. ANDERSON of California. I thank the gentleman for his contribution. As I said before, I give my personal assurance we will call for hearings on the topic early next year so that we can determine the effect of this legislation on the situation in Florida and reverse it, if necessary, to preserve the overall transportation system in Florida.

Mr. STUDDS. I thank the gentleman very much.

Mr. ANDERSON of California. Mr. Speaker, the conference report before us today on H.R. 6010 represents the culmination of the efforts of many people, involving many issues and is necessary for the improvement of civil aviation and the betterment of the traveling and shipping public.

AVIATION RISK INSURANCE

Section 1 through 7 would extend the authority of the Secretary of Transportation to insure certain aircraft until September 30, 1982, and to expand the types of risks which the Secretary may insure.

The aviation war risk insurance program was authorized in 1951, and was based on the maritime war risk insurance program.

Under the present program the Secretary of Transportation issues two basic policies, premium and nonpremium. The Secretary is authorized, with the approval of the President, to provide war risk insurance for the protection of aircraft and of persons and property transported aboard them when commercial insurance cannot be obtained on reasonable terms and conditions from the insurance market. The program was designed for use by the Government to meet the needs of the United States.

The premium program is intended to provide war risk insurance for U.S. carriers in addition to other available coverage. During periods of stability in the aviation insurance market, "all risk" and "war risk" policies are available on reasonable terms. However, during periods of international crisis, policies covering certain named war risks—that is, any claim for loss or damage occasioned by war, hostilities, insurrection or acts of foreign enemies—have been terminated or otherwise made unobtainable. Under this program, premiums are set high enough so as not to discourage commercial insurance companies to reenter the market after a crisis has passed.

During hearings in July 1975, the committee became aware that commercial insurance underwriters had drafted exclusions in their "all risk" policies following certain hijacking incidents and the Saigon evacuation, including losses and damage resulting from riots, civil disorders, hijacking and other similar acts. This created the potential for gaps in air carriers' insurance coverage. The implications of U.S. carriers being unable to operate abroad due to a lack of 100 percent coverage caused the committee to include a provision in Public Law 94-90 requiring an investigation and study by the President of the need to extend present program coverage beyond the area of what was then considered "war risks."

The Presidential study received on March 22, 1976, recommended that the present program be expanded to authorize the Secretary of Transportation, after appropriate consultation with the Secretaries of State and Defense and with the approval of the President in each case, to provide interim insurance for air carriers—in addition to that for war risks—when not available elsewhere and when required by reasons of foreign policy for the continuation of a particular air service.

In February 1977, hearings were held on the 1976 Presidential study, and the new administration supported the study's recommendations. This provision accepts the premise of the study that the present program needs to be expanded to include risks not considered when the original program was enacted in 1951.

This provision contains several safeguards to carry out the fundamental policy that the Government should not provide insurance on a regular or routine basis—that commercial problems should be solved by commercial entities.

It was endorsed by the Carter administration in February. This measure would authorize the Secretary, with the approval of the President, to provide insurance against loss or damage arising out of any risk, when the Secretary determines that such insurance cannot be obtained on reasonable terms and conditions. The insurance cannot exceed 60 days, and must be necessary "to carry out the foreign policy of the U.S."

REDUCED FARES FOR THE ELDERLY AND THE HANDICAPPED

Section 8 is designed to increase the availability of air service for the elderly and handicapped. Section 8 would permit CAB to approve reduced air fares on a standby basis for persons 60 years of age or older and for the handicapped, and would require CAB to study the economic feasibility of reduced fares for youth.

This would make air transportation more widely available to the public. Every citizen needs the mobility which air transportation affords. Unfortunately, however, inflation has placed air transportation well beyond the reach of many consumers. The problem is particularly severe for the elderly and the handicapped. Members of these groups tend to have below-average incomes and, in many cases they are particularly dependent upon public transportation because they are unable to drive private automobiles.

The fares now charged for air transportation tend to exclude the elderly and the handicapped. For example, a survey by United Airlines showed that only 5 percent of its passengers were 65 years of age or over, while persons in this age bracket make up 10 percent of the general population. This disparity is largely attributable to the low-income levels of many of the elderly. For example, in 1973 the median income for elderly households in 1973 was under $4,600, compared to the national average of $10,500. Similar problems are faced by the handicapped.

An excellent report on the transportation needs of our senior citizens has been issued by the Subcommittee on Federal, State, and Community Services of the Select Committee on Aging, under the chairmanship of former Congressman and now Senator SPARK M. MATSUNAGA. The report which has been championed by Chairman PEPPER, points out that a number of Federal programs, such as the urban mass transportation program, include special provisions designed to make transportation more widely available to the elderly. In air transportation there are no programs of this nature, and under existing law the Civil Aeronautics Board is limited in its ability to authorize reduced fare transportation for deserving groups. As a consequence, there are no reduced fare programs currently in effect for the elderly.

This report also suggests that well-designed reduced-fare programs for the elderly have been highly successful. For example:

> Inter-island carriers in Hawaii . . . instituted a half-fare for persons aged 65 and over in 1967, which remained in effect until 1974. During that time one of the carriers, Hawaiian Airlines, reported a 340-percent increase in the number of senior citizens taking advantage of the fare reduction. Moreover, since the seniors were accommodated on a space-available basis, the half-fares charged more than covered the extra costs of carrying them, and returned substantial increased revenues to the carriers.

The report recommends that Congress "reaffirm the power of the Civil Aeronautics Board to permit discount standby air fares for the elderly."

Section 8 is designed to meet these needs, and to insure that similar reduced fare standby service will be available for the handicapped.

THROUGH SERVICE BY INTRASTATE CARRIERS

Section 9 should also result in improved air service for those members of the traveling public who use intrastate air carriers in California or Florida. Under present law, intrastate carriers are not permitted to offer through ticketing and baggage service for passengers who connect with interstate carriers. For example, Pacific Southwest Airlines, an intrastate air carrier, is the only carrier now serving Long Beach. If a passenger wishes to travel on PSA to San Francisco and then connect to Western Airlines to travel to Seattle, the passenger must purchase separate tickets from PSA and Western, and he must transfer his own baggage at San Francisco.

This section in California, for example, would permit PSA and Western to enter into an agreement which would permit the Long Beach-Seattle passenger to purchase a single ticket at a joint fare. The agreement could also provide that the two airlines would provide baggage transfer service.

AIR CARRIER TARIFF CHANGES

Section 10 is designed to insure that customers of airlines receive adequate notice of changes in airline fares.

Under present law, the airlines are required to file proposed fare changes with the Civil Aeronautics Board 30 days before the effective date. The CAB may act on the proposed fare change anytime before the effective date and frequently waits until the last minute to issue its decision. As a result, the public is confused, annoyed, and inconvenienced.

This provision would help avoid these problems by requiring airlines to file passenger fare changes 45 days before the effective date, and by requiring the CAB to issue its decision at least 15 days before the effective date.

Tariffs involving freight rates raise a special problem. Indirect air carriers, who consolidate goods and ship on direct air carriers, base their rates on the rates of the direct air carriers. The indirect air carriers need some period of time to respond to proposals for changes in direct air carrier rates. To meet this need section 10 requires direct air carriers to file freight rate changes 60 days in advance of the effective date and indirect air carriers to file their rate changes 45 days in advance of the effective date. In both cases CAB is required to issue its decision 15 days in advance of the effective date.

MAIL RATE COMPENSATION

The purpose of section 12 is to correct a possible inequity in the CAB's 1966 subsidy program for local service airlines. The bill affects the 1966 subsidy only, and if it is enacted, Ozark Airlines will receive a subsidy payment of $245,000 and Texas International Airlines a subsidy payment of $296,000.

Under section 406 of the Federal Aviation Act the CAB pays subsidies to eligible airlines whose operations are unprofitable if the Board finds that the airline has received honest, economical, and efficient management.

The subsidy program in effect in 1966 provided that the local service carriers were paid subsidy each month during the year, but were then required to repay the Governmnt any excess profits realized during the year.

In 1970 the CAB completed its audit of Ozark's and TXI's excess profits for 1966. In some of the years between 1966 and 1970 Ozark and TXI had incurred substantial losses. These losses had been carried back to reduce their 1966 taxes. The CAB in turn used the tax reduction to increase the carriers' 1966 profits for subsidy purposes. Ozark and TXI were required to pay back subsidy of $245,000 and $296,000 respectively. Other local service carriers also had tax-loss carrybacks for 1966 but were not required to make subsidy refunds.

Some of the carriers—Frontier, North Central, and Southern—did not have to make refunds because their audits were completed and their subsidy cases "closed" before they became entitled to tax-loss carrybacks. Other carriers—Allegheny and Hughes Airwest—did not have their audits completed before they became entitled to a tax-loss carryback, and the CAB asked these carriers to make a subsidy refund. However, these carriers challenged the CAB in court and won their cases on the grounds that CAB had discriminated between those carriers whose audits had been completed before they received tax-loss carrybacks and those carriers whose audits had not been completed until after the tax-loss carrybacks.

Ozark and TXI had also challenged the CAB in different circuit courts of appeal than Allegheny and Airwest. However, in the Ozark and TXI cases the courts upheld the CAB.

Ozark and TXI have no judicial or administrative remedies by which to obtain a subsidy refund. The Ozark/TXI cases before the CAB and the courts are closed and cannot be reopened. There appears to be no basis for Ozark and TXI to start a new judicial or administrative proceeding to challenge the inconsistent decisions of the appeals courts.

SUBSIDY REPAYMENT

This provision—section 13—simply provides explicit statutory authority for an experiment in small community air service conducted by the Civil Aeronautics Board from August 1, 1973, through July 3, 1975. The amendment has no prospective effect.

Under the terms of the experiment, Air Midwest, then a commuter air carrier operating under Board approval as a substitute carrier for Frontier Airlines in Dodge City, Great Bend, and Hutchinson, Kans., received—through Frontier Airlines—subsidy payment for performing its service obligations.

Because Air Midwest was not—at that time—a certificated air carrier, the U.S. Court of Appeals for the District of Columbia Circuit found that the CAB has inadequate statutory authority to authorize the experiment. Thus, under the terms of the Federal Claims Collection Act, the CAB is obligated to seek reimbursement from Air Midwest and Frontier the subsidy payments made during the course of the experiment.

By providing explicit statutory authority for the Frontier-Air Midwest "flow through" subsidy experiment in small community air service, the amendment will relieve the CAB of the duty to seek reimbursement for payments made to the carriers during that experiment.

The carriers involved acted in good faith in conducting the experiment. They acted according to CAB order. The obligations of the carriers during the experiment to provide effective air service to the three small communities were performed in accordance with the CAB requirements.

Therefore, the mechanical operation of the Federal Claims Collection Act, in this instance, would impose a great injustice on the affected parties.

This amendment does not authorize future "flow through" subsidy programs. It serves only to eliminate any question as to the legality of the one "flow through" experiment conducted by the CAB during 1973–75.

According to the Senate, this amendment has the support of the Civil Aeronautics Board and the U.S. Department of Transportation. The Office of Management and Budget has indicated that, from the standpoint of the administration's program, there is no objection to this measure.

ALIEN REGISTRATION OF AIRCRAFT

Mr. Speaker, the purpose of section 14 is to permit citizens of foreign countries who have been lawfully admitted for permanent residence in the United States to register aircraft in the United States. It also allows certain corporations to register aircraft in the United States.

Under present law, persons not citizens of the United States cannot register aircraft in the United States. The Federal Aviation Act of 1958 makes it unlawful for any person to operate or navigate any aircraft eligible for registration if such aircraft is not registered by its owner, or to operate or navigate within the United States any aircraft not eligible for registration. The law limits eligibility to: First, those aircraft owned by a citizen of the United States; second, those aircraft not registered under the laws of any foreign country; and third, those aircraft of the Federal Government or of a State, territory, or possession of the United States, or the District of Columbia or of a political subdivision thereof.

A foreign national can own and operate an aircraft within the United States provided it is registered in another country and provided that person complies with any permits, orders, or regulations issued by the Civil Aeronautics Board pursuant to the Federal Aviation Act of 1958. This has not been a satisfactory solution for permanent residents of the United States who wish to base their aircraft here because the aircraft must be maintained in accordance with the airworthiness requirements of the country of registry, including periodic maintenance and inspection.

It is often difficult, if not impractical, for a foreign national to contract with qualified mechanics and repair stations in the United States in order to meet the particular requirements of the country of registry.

With respect to airman licensing there is no parallel problem. A foreign national can obtain a U.S. pilot license and a Federal Communications Commission permit to operate the radio transmitters aboard aircraft. The anomaly of the present law is that a foreign national can legally fly a U.S. registered aircraft in the United States, but he or she is prevented from owning an aircraft of U.S. registry.

Section 14 would extend the eligibility to register aircraft in the United States to citizens of foreign countries who have been lawfully admitted for permanent residence in the United States, provided, as is the present case, the aircraft is not registered under the laws of any foreign country. If a foreign national loses his or her status as a resident alien, the aircraft would no longer be eligible for registration, thus subjecting the certificate of registration to suspension or revocation by the Secretary of Transportation as provided by law.

Section 14 is essentially the same language that passes the House as H.R. 735, on February 22, under suspension of the

rules. The one change involves a Senate amendment to H.R. 735 extending the U.S. registry to foreign corporations doing business under the laws of the United States of any State thereof "so long as the aircraft is based or primarily used in the United States." The language of section 14 tightens the Senate language in two respects. One, the test is no longer "either based or primarily used" but rather based and primarily used. Two, I was troubled by the Senate amendment's lack of definition of "based" and "primarily used"—I do not wish to see the U.S. registry become a flag of convenience. Therefore, the language of section 14 requires the Secretary to define, by regulation, these terms.

The Secretary should issue regulations to allow certain foreign corporate aircraft to be registered in the United States but only in those cases where the aircraft is based in the United States for operations purposes—not for some other purpose—and only when the aircraft is operated most of the time in the United States.

As indicated, the purpose of section 14 is to provide for registration of aircraft in the United States by aliens under certain specified circumstances. It is not the intention to disturb existing rules for registration by U.S. cities and corporations owned or controlled by U.S. citizens. Moreover, there is no intention to alter the present practice of registration by U.S. international airlines of aircraft which are used in the conduct of international air services, although such aircraft will obviously be operated more extensively abroad than at home.

EMERGENCY LOCATOR TRANSMITTERS

Mr. Speaker, the purpose of section 15 is to provide the Administrator of the Federal Aviation Administration increased flexibility, without compromising safety, in carrying out the law—first enacted in 1970—which required that emergency locator transmitters be installed on certain civil aircraft. The section requires the Administrator to issue regulations permitting the operation of civil aircraft—which are subject to the requirement—during any period for which the transmitter has been removed for inspection, repair, modification, or replacement.

The Federal Aviation Regulation—FAR—requiring an operable ELT on certain civil aircraft was adopted in response to a mandate from Congress—Public Law 91–596. This regulation, which carried out the intent of Public Law, 91–596, prohibits the operation of airplanes subject to the law unless there is an operable automatic type emergency locator transmitter. The mandatory date for compliance was June 30, 1974, in accordance with Public Law 93–239, which extended the original date. There was no provision made in the two statutes to permit the operation of an airplane, subject to the ELT requirement when an installed ELT becomes inoperative. The FAA, then, cannot by regulation provide for flexibility in the ELT requirement.

This lack of flexibility has caused problems.

Provisions should be made in the law that would allow the continued operation of the airplane while the ELT is being repaired, inspected, modified, or replaced. Such provision in the law as is contained in section 15 would permit the FAA to maintain an adequate level of safety and to carry out the broad intent of the statutory requirement without causing unnecessary hardship due to inflexibility existing in the present law.

The language of section 15 is identical to H.R. 736 which passed the House on February 22 under suspension of the rules.

AIR CARGO

H.R. 6010 also reforms the regulatory system governing domestic all-cargo service.

The existing regulatory system governing domestic all-cargo service has not produced desirable results for the industry or for the shipping public. With few exceptions domestic all-cargo service has been unprofitable since 1967. Between 1965 and 1976 freighter operators accumulated $210 million in pretax losses.

In the past few years, all-cargo service has been reduced substantially and cargo has moved on combination aircraft. The schedules of combination aircraft are geared to the needs of passengers who generally want to travel during daylight hours. By contrast shippers of cargo frequently desire overnight service with late evening departures and early morning arrivals.

The failure of regulated service to meet the needs of shippers has been demonstrated by the recent growth in unregulated operations. A commuter carrier, Federal Express, began operating in 1973 and has quickly grown to a $100 million a year operation. A leading air freight forwarder, Emory Air Freight Service, has found scheduled air freight service to be deficient and has contracted for charter service in major markets.

The existing regulatory system prevents air carriers from adjusting their service and fares promptly to meet the demands of the marketplace. Under existing law, Federal Express, an all-cargo commuter, has been unable to get permission to substitute large aircraft for the multiple daily flights of small aircraft it now operates between a number of cities. The substitution of large aircraft would produce lower costs for Federal Express and significant reductions in the energy it uses.

Similarly, under existing law, Flying Tiger, a certificated all-cargo air carrier, has been unable to get permission to begin service at many new cities it would like to serve.

In response to those deficiencies in the existing regulatory system, H.R. 6010 removes most regulatory restrictions governing all-cargo service. With relaxed entry, and flexibility over service and fares, air cargo service should be expanded substantially, to the benefit of the shipping public.

Under H.R. 6010, any fit applicant would be issued a certificate for all-cargo service. The certificate would not restrict the cities to be served. The level of rates for all-cargo service—and for cargo service on combination flights—would be unregulated, unless the Board found the rates were discriminatory, preferential, prejudicial, or predatory. This provision on rates overrides the recent CAB decision in the domestic air freight rate investigation to the extent that the CAB in that case sought to regulate rates on any basis other than that they were discriminatory and so forth.

This legislation only pertains to the issue of CAB economic regulation of the all-cargo industry. As such, there is nothing in this bill to affect the right of airport proprietors to exercise their traditional proprietary powers as these powers are presently defined by the courts. The airport proprietor would retain the authority to exercise local noise control options.

The deregulation of all-cargo transportation would be phased to give existing operators, who have invested in reliance upon the existing system, an opportunity to adjust their fares and marketing approach to an unregulated system.

One hundred and five days after enactment of the Act, the Board would be required to issue all-cargo certificates to applicants who have operated all-cargo service as a certificated scheduled airline. This includes carriers holding scheduled all-cargo certificates—such as Flying Tiger—and carriers holding certificates authorizing scheduled passenger and cargo service—such as American and United—but only if these carriers operated service with all-cargo aircraft from January 1, 1977, through date of enactment. Certificates would also be issued to commuter airlines who have provided scheduled all-cargo service during the 12 months prior to enactment.

One year after enactment the Board would begin considering applications by applicants who have not been operating all-cargo air service. The Board would be required to issue a decision on these applications in 180 days.

The act also establishes policy criteria to be applied by the Board in considering applications involving all-cargo air carriers under section 408 and other sections of the Federal Aviation Act, to the extent the Board decides against exempting cargo carriers from these provisions. Under these criteria the Board would be required to encourage the development of expedited cargo service and integrated transportation system.

Under the all-cargo sections of H.R. 6010, supplemental air carriers would not be eligible to receive the new scheduled all-cargo certificates in the first year of enactment. At any time after the first year supplementals could be awarded the same scheduled all-cargo rights as the "grandfather" carriers.

Although the supplemental carriers are not included in the first stages of certification—because they operate cargo charters rather than individually waybilled, scheduled cargo service—it should be recognized that the supplementals have been pioneers in the development of all-cargo equipment, most noticeably the freighter versions of the Boeing 707, the Boeing 747, and the McDonnell Douglas DC–10. Today supplementals have a substantial cargo-list capability.

H.R. 6010 allows the Board to take up to 180 days to pass on applications for all-cargo certificates filed after the first year. This period is intended to give the Board sufficient time to pass on whether applicants for a new certificate are fit, willing, and able to provide the proposed service and to comply with the Board's rules and regulations. In the case of supplementals and other carriers with established operating histories, the Board should be able to pass on their applications in much less than 180 days and I expect that the Board will do so.

In connection with H.R. 6010 it was correctly pointed out to the conference committee that the language of the proposed section 418(a)(1) precluded supplemental air carriers from applying under that provision for certificates authorizing all-cargo air cargo service, and that supplemental air carriers would, instead, have to wait 365 days after enactment of the bill to apply for such certificate under the proposed section 418(a)(3). This was an oversight as Senator CANNON indicated during the conference. We recognized that this would work to the disadvantage of the supplemental air carriers who have been pioneers in all-cargo transportation and who possess the most modern freighter aircraft, but it was agreed to retain the language as proposed because of parliamentary considerations.

In order to rectify this problem, I introduced yesterday H.R. 9851 with members JOHNSON, SNYDER and HAMMERSCHMIDT as cosponsors and I trust that this body will take prompt action on that bill.

I urge the Members to adopt the conference report.

Mr. ANDERSON of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. PEPPER).

Mr. PEPPER. Mr. Speaker, I should like to make a brief statement and then make an inquiry of the gentleman. I want to commend the able chairman of the committee for his effort to serve the public interest in this bill for the deregulation of all-cargo carriers. The able gentleman will recall that there are at the present time only three certificated all-cargo air carriers, one of which is Airlift International, Inc., with headquarters in Miami, Fla. I am sure that this distinguished committee had no intention whatsoever, certainly no design or purpose of any kind, to enact legislation which would in effect enable one competitive carrier to destroy this carrier, Airlift International, which is weaker economically than some of its competitor carriers. Moreover, this carrier of which I speak out only serves Florida, but it also serves every day Texas, Michigan, Georgia, Massachusetts, Ohio, Pennsylvania, New York, Illinois, Indiana, and California.

My proposal to the honorable gentlemen is this: This carrier of which I speak is the only one of the three certificated all-cargo carriers which has no international certificate. One of the three has Pacific operations and the other Atlantic operations. This carrier of which I speak, Airlift International, in order to survive and to continue to render the service it is rendering to these many States of our Union needs very sorely to have a certificate to operate in the international field. They have pending before the Civil Aeronautics Board an application to be certificated for all-cargo service to Latin America.

I would hope that the able gentleman and his committee would feel sympathetic to this desire of this carrier to get an international operation like its two competitors so it may continue to be strong enough to render the public service that it has been affording. I would hope that the gentleman would be willing to make some sort of statement that would be encouraging to that applicant with the hope that the CAB may find it agrees with the wisdom of this House and grant the application.

Mr. ANDERSON of California. I thank the gentleman for his contribution.

Three carriers currently hold certificates authorizing only all-cargo service. Two of these carriers, Seaboard and Flying Tiger, have foreign routes as well as domestic routes, while the third carrier, Airlift, has only domestic routes. Under H.R. 6010 Airlift may be subject to increased competition on its domestic routes and this competition could increase the financial difficulties which Airlift has experienced.

Airlift is now an applicant for international routes to Central and South America in the United States-Latin America all-cargo service investigation, CAB docket 29295. The proceeding was first instituted in May 1976.

It would be desirable for the Board to resolve this case promptly so that Airlift could begin to develop any foreign routes awarded to it and adjust its domestic system to operations in an unregulated environment.

Mr. PEPPER. I thank my distinguished colleague.

I see my distinguished colleague, the gentleman from Florida (Mr. FASCELL), on his feet, and the gentleman from Florida (Mr. LEHMAN), my other distinguished colleague here, and the gentleman from Texas (Mr. MAHON) has authorized me to say they share in my statement.

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of California. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Speaker, I certainly join my colleague in the interest he has shown and the statement he has made with respect to the problem which has arisen, but it just demonstrates one of the difficulties with respect to this whole problem. One is the fact that if we allow the certification route for international routes, and they get caught with the change which this bill makes possible without the transition period, which was one of the things considered by the committee—and I am sorry frankly that the committee dropped it, but that case has been pending since May of 1976, and it may be until May of 1979. In the meantime the very basis for consideration of the judgment by CAB, which is financial capacity, will be destroyed by the fact that they have got increased competition under deregulation because we open up the market. So we are doing good in one way and destroying in another way. Any help this airline can get I think is justified under those conditions.

Mr. ANDERSON of California. I thank the gentleman very much for his contribution.

I hope the CAB will get the message.

Mr. PEPPER. Mr. Speaker, will the gentleman yield for one more question?

Mr. ANDERSON of California. Yes, I yield to the gentleman from Florida.

Mr. PEPPER. Mr. Speaker, I understood the able gentleman and his committee were going to bring to the House floor tomorrow and ask unanimous consent for consideration of a bill that the Committee on Public Works and Transportation reported out this morning. I hope that the able gentleman and his committee would consider, agreeing to an amendment that would delay further the effective date of that bill for 1 year and give these hard-pressed carriers who are going to be overwhelmed by the stronger competitors an opportunity to make the best adjustment they can so they will have the hope of surviving. I respectfully hope the gentleman will consider that between now and tomorrow, if he is going to bring up that bill.

Mr. ANDERSON of California. I thank the gentleman.

I might say today the Public Works Committee unanimously passed out the bill, H.R. 9851, which would extend this all cargo privilege to supplementals, and tomorrow it is my intent to ask unanimous consent—I am not sure I will get it—but first I have to get unanimous consent and at that time we can give consideration to the gentleman's suggestion.

Mr. PEPPER. I thank the gentleman.

I also strongly support the provisions in the conference report authorizing reduced air fares for the elderly and handicapped.

Mr. CHAPPELL. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of California. I yield to the gentleman from Florida.

Mr. CHAPPELL. Mr. Speaker, I express my appreciation to the gentleman with respect to the comments he made with respect to the Florida situation. I do encourage the gentleman to watch this situation very closely; otherwise those carriers we thought we might be helping will be seriously injured in the overall effect that might come about by passage of this bill.

I commend the gentleman. I hope the committee will watch very closely and there will not be too many wrinkles made before the committee has an opportunity to look further into the matter.

And adding further, Mr. Speaker, we certainly trust that any air carrier or foreign air carrier will move slowly and delay entering into any interline or joint fare agreements with Air Florida, made possible by this act, until such time as hearings are held and the Congress has

had an opportunity to reverse any adverse impact created by this legislation.

Mr. ANDERSON of California. Mr. Speaker, I thank the gentleman very much for his contribution.

Mr. SNYDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from California (Mr. ANDERSON) has stated ably and well the position of the House conferees with respect to the conference report on H.R. 6010. It is important to emphasize that most provisions of this legislation have passed the House at least once, and in some cases twice, this year. Most were initiated by members of our Committee on Public Works and Transportation, both majority and minority, and we have been awaiting action by the other body for months. Finally, about 2 weeks ago, the Senate decided to proceed—and the conference report now before us is the welcome result.

I might interject here that we went through this same exercise last year on most of these very same issues—and we could not come to final agreement with our Senate colleagues. As a result, the entire package died at the end of the 94th Congress—and it was necessary for us to start again from scratch this year.

Mr. Speaker, the provisions of this conference report address specific aviation problems which require action by the Congress as follows:

First. Aviation risk insurance (H.R. 6010) extends and expands coverage of former aviation war risk insurance program to cover risks other than those arising out of war situation. (H.R. 6010) passed separately by House on May 17, 1977/388–8 roll call vote under suspension, and passed by House again on June 8, 1977 in package of miscellaneous aviation legislation/unanimous consent.

Second. (a) Reduced fares, and (b) through ticket and baggage service by intrastate carriers (H.R. 27) (a) authorizes CAB to approve reduced air farces for elderly and handicapped, and mandates CAB study of reduced youth fares; (b) authorizes California and Florida intrastate air carriers to interline tickets and baggage with interstate air carriers (H.R. 27) passed separately by House on February 22, 1977/voice vote under suspension, and language passed by House again on June 8, 1977 in package of miscellaneous aviation legislation/unanimous consent.

Three. Air carrier tariff changes (H.R. 26) requires CAB to decide proposed air fare/freight rate changes 15 days prior to effective date. (H.R. 26) passed separately by House on February 22, 1977/403–0 rollcall vote under suspension, and language passed by House again on June 8, 1977 in package of miscellaneous aviation legislation/unanimous consent.

Four. Redetermination of mail rate compensation (H.R. 2936) requires CAB to recompute Ozark-Texas International subsidies for 1966. (H.R. 2936) not passed separately by House, but language passed by House on June 8, 1977 in package of miscellaneous aviation legislation/unanimous consent.

Five. Subsidy repayment (S. 1325) permits CAB to repay Air Midwest subsidy payments for 1973–1975 when carrier was air taxi/flowthrough from Frontier. (S. 1325) not passed separately by House, but language passed by House on June 8, 1977 in package of miscellaneous aviation legislation/unanimous consent.

Six. Eligibility for aircraft registration (H.R. 735) permits aliens admitted to U.S. for permanent residence and foreign corporations with U.S. facilities to register aircraft in United States. (H.R. 735) passed separately by House on February 22, 1977/voice vote under suspension/House version was limited to individual aliens admitted to United States for permanent residence.

Seven. Emergency locator transmitters (H.R. 736) requires FAA Administrator to issue regulations to permit operation of aircraft with inoperable emergency locator transmitters (ELT's) under strictly limited conditions. (H.R. 736) passed separately by House on February 22, 1977/voice vote under suspension.

Eight. Air cargo—no bill number—substantially deregulates air cargo industry/CAB regulation only—not passed by House.

Nine. Authority to release property restrictions (S. 2100) authorizes Secretary of Transportation to release certain archaic Federal restrictions on use of land at Roberts Field, Redmond, Oregon/airport formerly owned by Federal Government. (S. 2100) not passed by House.

As for the air cargo deregulation provision, Mr. Speaker, although the Aviation Subcommittee has not reported legislation for this purpose, we have held extensive hearings—both this year and last—on the deregulation question. Although much of our time was occupied with considering the effects of deregulation on passenger service, we also devoted considerable attention to the feasibility of deregulating the air cargo industry.

Through it all, most of us have come to the conclusion that we must proceed with great care and deliberation on the passenger service side lest we take action which might result in derogation of the outstanding air service which the traveling public now enjoys and has come to expect. On the cargo service side, however, most of us believe that deregulation offers a golden opportunity to foster the development of the air cargo industry to its full and heretofore unrealized potential.

For myself, I am convinced that we must make a distinction between passenger and cargo air carriers when we consider the question of deregulation. They are entirely different subjects. The key consideration is that we simply cannot equate the handling of people with the handling of cargo. The type of service which meets the needs of cargo shippers cannot be expected to satisfy the requirements of air travelers—and my support for air cargo deregulation in no way commits me to move in the same direction when we consider the air passenger side of the coin.

I should mention, Mr. Speaker, that there is one flaw in the air cargo deregulation provision now before us. As I stated during the conference committee deliberations, the language precludes supplemental air carriers from applying immediately for new all-cargo certificates. These are carriers which have been pioneers in all-cargo transportation and operate the most modern freighter aircraft. Instead, it will be necessary for them to wait until 365 days after the enactment of this legislation to submit their applications. The conferees—both House and Senate—recognized that this exclusion will work to the disadvantage of the supplemental carriers. In fact, the chairman of the conference, Senator HOWARD W. CANNON, agreed with me and went on to state that "it was probably inadvertent on my part" that the supplementals were not included.

Because of potential parliamentary problems during floor consideration of the conference report, the conferees decided to retain the existing language of the cargo deregulation provisions—and attempt to remedy the situation confronting the supplementals at a later date. This matter can and will be resolved—either with separate legislation or with assurances of prompt action by the Civil Aeronautics Board on new all-cargo certificate applications submitted by the supplementals 1 year hence and prompt approval by the Board of section 416 exemptions to permit the supplementals to engage in deregulated all-cargo air transportation prior to issuance of their new certificates.

As far as the question of proceeding with separate legislation is concerned, I am pleased to advise that the Committee on Public Works and Transportation, just this morning, unanimously reported a bill, H.R. 9851, which specifically addresses this problem. The chairman of our committee, Mr. JOHNSON of California, promised that he would explore the possibility of calling up H.R. 9851 on the floor under unanimous consent following adoption of the conference report on H.R. 6010—I am very hopeful that such will be possible. In my view, House approval of this legislation will be followed by prompt Senate action. Thus, exclusion of the supplementals from the conference report on H.R. 6010 would be remedied almost immediately.

So, Mr. Speaker, despite the problem I have discussed involving the supplemental air carriers, I believe we are fully justified in proceeding with deregulation of the air cargo industry as proposed in the conference report. It is an idea whose time has come.

Mr. Speaker, I urge my colleagues to adopt the conference report on H.R. 6010.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. SNYDER. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding to me.

Mr. Speaker, I am interested here on the first page of the report where it says:

> . . . the term "handicapped person" means any person who has severely impaired vision or hearing, and any other physically or mentally handicapped person, as defined by the Board.

The definition of "handicapped" in the Labor Department and in the food stamp program includes both alcoholics and addicts. I wondered if that is the definition that will also be projected for this bill.

Mr. SNYDER. Let me say to the gentlewoman that I am familiar with the definition which the Labor Department and perhaps Agriculture, since the gentlewoman mentioned food stamps—I was not aware of that—have placed upon the word "handicapped," including within that definition "alcoholics" and "dope addicts." I will say to the gentlewoman that that definition is not what is intended by this Member. This Member believes that when we say in the conference report, and I quote:

For the purposes of this subsection, the term "handicapped person" means any person who has severely impaired vision or hearing, and any other physically or mentally handicapped person, as defined by the Board.

I would say that if the Board defines "handicapped" as being an alcoholic or dope addict, Mr. ANDERSON will have to lock his door because I will be banging on it hour after hour in order to get hearings to change that. I believe that the gentleman, without having discussed it with him, will say that the door will be open, that we will have hearings and have a bill in here so fast that the regulators who made such an interpretation will not know what hit them.

Mrs. FENWICK. I thank the gentleman.

Mr. WAMPLER. Mr. Speaker, will the gentleman yield?

Mr. SNYDER. I yield to the gentleman from Virginia.

Mr. WAMPLER. Mr. Speaker, I rise in support of the conference report on H.R. 6010, to amend title XIII of the Federal Aviation Act of 1958 to expand the types of risks which the Secretary of Transportation may insure or reinsure and for other purposes. The gentlemen from California, Mr. ANDERSON and Mr. JOHNSON; the gentleman from Wyoming, Mr. RONCALIO; the gentleman from Ohio, Mr. HARSHA, and the gentleman from Kentucky, Mr. SNYDER, are to be commended for their outstanding performance in representing the House during the conference on H.R. 6010.

Mr. Speaker, as the ranking minority member of the Committee on Aging, I am profoundly supportive of the provisions of section 8 which provide for reduced air fares on a space-available basis to persons 60 years of age or older and retired persons 65 years of age or older and to handicapped persons and their attendants.

A comprehensive review of this provision has been conducted during the 94th and 95th Congresses by the Subcommittee on Aviation of the Committee on Public Works and Transportation. I wish to take this opportunity to commend the distinguished chairman of the subcommittee, Mr. ANDERSON, and the distinguished ranking minority member, Mr. SNYDER, for their leadership and dedication in providing the elderly and handicapped the accessibility to long distance travel, which will be resultant from the enactment of this legislation.

The Committee on Aging's review of the transportation problems of older Americans revealed that the most expensive mode of transportation for the elderly is commercial air travel.

In today's mobile and transient society, many elderly persons find themselves isolated by great distances from the homes of their families and from specialized medical facilities. Less expensive, alternative modes of travel are often nonexistent for the elderly, especially for those residing in inaccessible rural areas. The Committee on Aging found that in Hawaii, where specialized medical care is located at various sites throughout the islands, the State attempted to respond to the transportation problems of the isolated elderly by instituting a reduced fare for those aged 65 and over on a space-available basis. One airline reported a 340-percent increase in the number of senior citizens they were able to accommodate as a result of the fare reduction. Unfortunately, this reduced air fare for the elderly no longer remains in effect because the carriers faced legal challenges to the special fare provision from the Civil Aeronautics Board.

The majority of today's retirees rely on social security benefits or pension plans for their sole source of income. In 1976, for instance, when the median income for all families was approximately $15,000 per household, the income for households headed by an individual aged 65 or older was less than $9,000 per year. Moreover, approximately 15 percent of those persons living at or below the poverty level in 1976 were aged 65 or over. Transportation represents the third largest expenditure for older persons, whose incomes are also eroded by the rising costs of food, health care, and housing. In the Committee on Aging's 1976 report, "Senior Transportation: A Ticket to Dignity," it was revealed that only about 5 percent of the passengers on a major airline were aged 65 and over, despite the fact that this group of persons represents over 10 percent of the population. The most expensive mode of transportation for the elderly is air travel, which is underutilized as a result of limited disposable income.

The recent history of congressional interest in providing reduced air fares for the elderly and handicapped suggest the need for expedient enactment of this conference report. The House passed legislation designed to provide reduced air fares on a space available basis to the elderly and handicapped on September 21, 1976 by a vote of 400 to 1 and again on February 22, 1977 by a vote of 403 to 0. The reduced air fare provision was contained in other aviation legislation packages, which passed the House on September 30, 1976 and June 8, 1977.

While I commend the Committee on Public Works and Transportation for their continuous efforts to enact this legislation, Congress must no longer postpone the final action necessary to provide reduced air fares for those who are physically isolated and economically disadvantaged. Mr. Chairman, today we have the opportunity to fulfill the promises to the elderly and handicapped for equal access to the mainstream of American life, which they have patiently awaited.

I urge adoption of the conference report on H.R. 6010, which will provide a worthwhile, cost-effective means of improving the quality of life for our Nation's elderly and handicapped.

Mr. SNYDER. Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas (Mr. HAMMERSCHMIDT).

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in support of the conference report on H.R. 6010. Here, in this one package, we have several sundry aviation bills—most of which those of us who are members of the Aviation Subcommittee have been working to enact for the past 3 years.

Most of the provisions of this conference report have passed the House four times—twice during the 94th Congress and twice this year—both as separate bills and in packages containing several of these proposals. Until recently, our colleagues in the other body were reluctant to move on this legislation—but we now have reached agreement with the Senate on the package now before us.

The provisions of the conference report cover a wide range of aviation-related subjects—and I shall discuss each of them briefly:

First. Aviation risk insurance. This provision extends (for 5 years) and expands the former aviation war risk insurance program so that it may now be employed to cover risks, other than war risks, in a world beset by terrorism and other types of activity for which commercial insurance coverage cannot be obtained. We did not specify such other risks in order to provide needed flexibility and the ability to adjust to changing conditions—but we have in mind such things as hijacking, riots, and vandalism. Although we leave it to the executive branch to determine what additional risks should be covered, we believe we have included adequate safeguards against any possible abuses—including a requirement that the President approve the issuance of each policy under this program, but only if he finds that continuation of any flights to be insured is necessary to carry out the foreign policy of the United States.

Second. Reduced fares. Of special interest to many is the provision in the conference report which authorizes the Civil Aeronautics Board to approve reduced fares for our elderly and handicapped citizens when proposed by the air carriers. During our hearings last year, we heard a variety of viewpoints on this question; also whether the legislation should include authorization for reduced youth fares. After careful consideration, we decided that there is ample justification for authorizing reduced air fares for the elderly and handicapped. As for reduced fares for those under 21, substantive questions remain unanswered, so we

thought it best to mandate a 6-month study of the question by CAB. The conference report now before us contains these provisions

Speaking also as a member of the Select Committee on Aging, I am especially pleased with the provision of the bill which, as I mentioned, would permit the Civil Aeronautics Board to approve reduced fares on a space-available basis to persons 60 years of age or older and retired, persons 65 or older, and to handicapped people and necessary attendants.

I believe this proposal is sound both as economic and social policy. At present, airlines are utilized far below their capacity with approximately 45 percent of the available seats remaining unoccupied. In Hawaii, the only State in which a policy of reduced fares for the elderly had been implemented, there were dramatic economic gains. Hawaiian Airlines, which operated this program for 5 years, reported that gross income from senior citizen travel amounted to more than $250,000. They estimated that it cost less than $70,000 for the actual expense of carrying the additional passengers which meant that more than $180,000 could be used to offset other expenses.

The benefits to the elderly and handicapped could be immeasurable. As most of you know, the median income for the elderly is less than half that for the general population. The handicapped too constitute an economically deprived group of people. The needs of these people to maintain ties with family and friends, however, are no different from the greater population. This bill could go a great distance toward alleviating the loneliness and alienation of thousands of people.

Sometimes unique health conditions of the elderly, disabled veterans and other handicapped individuals cannot be appropriately treated in their communities. This is particularly true for those who live in isolated, rural, or mountainous regions. Reduced air fare would increase the ability of the elderly and handicapped to obtain the best medical treatment available.

This proposal does not call for any subsidy by the taxpayers, nor does it increase the cost for other passengers. The provision allows the CAB some flexibility in establishing rates in response to market forces. This provides the airline industry with a mechanism to fill empty seats, while providing a valuable service to the elderly and handicapped of this Nation.

Third. Through ticket and baggage service for California and Florida intrastate air carriers. This provision of the conference report is in the nature of an experiment—to test the feasibility of permitting intrastate air carriers to provide through ticket and baggage service for those of their passengers who plan to continue their flights aboard interstate air carriers. We have studied this matter in considerable depth—and we concluded that a limited test would be a reasonable approach. If it proves successful, we can consider extending this authorization to other States which regulate the operations of intrastate air carriers. It seems to me that interlining is a convenience which the air traveler should expect—regardless of the type of air carrier involved.

Fourth. Air carrier tariff changes. This provision of the conference report is a sound and simple proposition. It provides 15 days advance public notice before air passenger fare and freight rate changes take effect—a needed reform in view of the fact that advance notice is not now required. Many of us, as well as many of our constituents, I am sure, have been caught unawares of air fare increases at the ticket counter. This can be a most disconcerting experience. Here again, I believe we are acting to improve service to the traveling public.

Fifth. Redetermination of mail rate compensation. A particularly inequitable and disturbing situation was brought to our attention last year involving subsidy payments to two of our local service air carriers. The two affected carriers—Ozark and Texas International—were accorded unfair treatment by the Civil Aeronautics Board in connection with their subsidy payments for 1966, and subsequent conflicting court decisions in different jurisdictions then served to compound the problem. This was amply demonstrated during our hearings when the CAB witness simply could not justify requiring the carriers in question to refund portions of their 1966 subsidies because of the circumstance that they received tax loss carrybacks—while six other carriers in the same situation were not required to do so. The provision in the conference report would preclude CAB from taking into account any decrease in 1966 Federal income tax liability for purposes of computing subsidy payments for that year.

Sixth. Subsidy repayment. The Senate learned of a problem involving subsidy payments to Air Midwest—now a CAB certificated air carrier, but formerly an air taxi operator. During the period 1973 to 1975—when Air Midwest was operating as an air taxi—they entered into an agreement with Frontier Airlines for Air Midwest to provide replacement service to certain points required to be served by Frontier. Included in the agreement was a provision that a portion of the subsidy for Frontier would be paid to Air Midwest. This "flow-through" subsidy was authorized by CAB, but subsequently disallowed by a court decision. The provision in the conference report permits Air Midwest to retain the subsidy payments in question—in the amounts previously authorized by the Board. Under the unique circumstances of this situation, we concluded that we could and should support the Senate proposal—and it is included in the conference report on H.R. 6010.

Seventh. Eligibility for aircraft registration. This provision of the conference report would permit aliens admitted to the United States for permanent residence and foreign corporations incorporated and doing business in the United States to register aircraft which are based and primarily used in the United States. Our research has indicated that the existing prohibition is an accident of legislative history—which elemental fairness demands be corrected. Its effect would be to permit an alien permanent resident or a foreign corporation with facilities in the United States to own an aircraft registered in the United States. In addition to the equity involved, the provision has important safety implications which have convinced us that it is essential for us to act.

Eighth. Emergency locator transmitters. Since the enactment of legislation some years ago requiring most general aviation aircraft to be equipped with emergency locator transmitters (ELT's), many pilots have been unable to move their aircraft legally whenever their ELT's have become inoperable. Some makes of ELT's have proved to be especially susceptible to corrosion and other problems, and the owners have been confronted with the necessity of arranging for the repair or replacement of their ELTs without moving their aircraft—often an extreme hardship in remote areas. To resolve this problem, the provision in the conference report requires the FAA Administrator to issue regulations permitting aircraft to be operated during any period an ELT has been removed for inspection, repair, modification, or replacement. We contemplate that such regulations would strictly limit the duration and circumstances of the operation of aircraft without an operable ELT. It is not our intent to defeat the purpose of the ELT requirement—but only to provide needed flexibility.

Ninth. Air cargo. During our hearings on airline deregulation this year and last, we considered the question of deregulating the air cargo industry—although our primary focus was on deregulation of the passenger carriers. None of our witnesses voiced opposition to deregulating the cargo side of the industry—and most of us on the Aviation Subcommittee came to the conclusion that perhaps we should proceed with cargo deregulation before deciding the passenger carrier issue. When the chairman of the Senate Aviation Subcommittee approached us recently with a proposal to include air cargo deregulation in a package of miscellaneous aviation bills passed earlier by the House, we agreed. We believe we are on firm ground because we have every reason to expect that deregulation will enable the air cargo industry to achieve the degree of utilization and success which years of CAB regulation have failed to foster.

Prior to the House-Senate Conference on this package of legislation, however, we discovered that the language adopted by the Senate excluded the supplemental air carriers from immediate eligibility for new all-cargo certificates as authorized for all other existing all-cargo carriers. Although the chairman of the Senate Aviation Subcommittee—who also chaired the conference—acknowledged that exclusion of the supplementals was inadvertent, nothing could be done in conference to correct the situation because the House had no compa-

rable provision in its package. To have included the supplementals would have gone beyond the scope of the conference because it would have added additional carriers to the Senate language. To rectify this oversight, our Committee on Public Works and Transportation, earlier today, reported a separate bill, H.R. 9851, to place the supplementals on the same footing as all other all-cargo air carriers. We are hopeful that it will be possible for our Chairman to call this bill up for Floor consideration without undue delay. So, we are nearing the final legislative hurdle in deregulating the air cargo industry—and I look for substantial improvements in all forms of air cargo service as a result of our favorable action today on this conference report.

Tenth. Authority to release property restrictions. This provision of the conference report, a Senate proposal, would authorize the Secretary of Transportation to grant releases from certain restrictions on the use of land at Roberts Field, Redmond, Oreg. This airport was conveyed to the city of Redmond under section 16 of the Federal Airport Act of 1946, and the Federal Airport Act required that restrictions be imposed on the use of airport land for other airport purposes. These restrictions effectively preclude the use of airport land for industrial and other compatible purposes. The provision in the conference report will permit the Secretary to eliminate these restrictions—but only on condition that the city of Redmond receive fair market value for any airport land which is sold or leased and that the proceeds be used for airport purposes. During the 94th Congress, six almost identical bills were enacted to authorize the release of restrictions on the use of land at six other airports formerly owned by the Federal Government. The Redmond provision is a noncontroversial proposal which is entirely consistent with our past policy and practice.

The sum total of the 10 separate subjects addressed in the conference report on H.R. 6010 is a substantial step forward for aviation. It remedies problems which have festered for years; it breaks new ground in Federal aviation policy by deregulating the air cargo industry; it represents the concerted efforts of the Members and staff of our Aviation Subcommittee, of our Full Committee on Public Works and Transportation, our colleagues on the Senate Aviation Subcommittee and its parent Committee on Commerce, Science, and Technology—as well as unnumbered representatives of the aviation community. It is legislation of which we can be proud—and I urge my colleagues to give it their full support.

Thank you, Mr. Speaker.

Mr. SNYDER. Mr. Speaker, at the present time I have no further requests for time.

Mr. ANDERSON of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Oregon (Mr. AuCoin).

Mr. AuCOIN. Mr. Speaker, my concern is that under the conference report a class of air cargo carriers—supplemental airlines—are excluded from the grandfather provision provided for scheduled and commuter airlines.

I do not know why they are excluded. But I do know that these supplemental airlines, one of which is based in my congressional district, will be placed at a severe economic disadvantage with their competitors as a result of this exclusion.

That is why I raised a point of order against consideration of his conference committee report last week. I appreciate the chairman's assurances to work to bring up H.R. 9851 to correct this oversight in this session of Congress.

Mr. ANDERSON of California. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. Johnson), chairman of our full committee.

Mr. JOHNSON of California. Mr. Speaker, I want to commend the chairman of our subcommittee, the gentleman from California (Mr. Anderson), and the ranking minority member, the gentleman from Kentucky (Mr. Snyder), for their very fine work in working out this conference with the Senate in bringing this package here to the floor.

Mr. Speaker, I rise in support of the conference report on H.R. 6010, a much needed and worthwhile legislative package. Sections 1 through 7 of the bill broaden the scope of, and extend to September 30, 1982, the aviation insurance program. The language of sections 1 through 7 is identical to language approved by the House on May 17.

This program, patterned after the maritime war risk insurance program, has served this country well in times of international stress since 1951. It has allowed the continuation of important commerce between the United States and its trade partners.

During hearings by the House Public Works and Transportation Committee in 1975 we became aware of a new trend on the part of commercial insurance underwriters to exclude certain losses from "all risk" policies which did not fall within traditional "war risk" policies. This has created the potential for "gaps" in air carrier coverage. Following these hearings the committee required a Presidential investigation and study of the need to extend the program beyond the area of what traditionally has been considered "war risks."

This bill accepts the premise of a 1976 Presidential report, supported by the incoming administration, that the present program needs to be expanded to include risks not considered when the original program was enacted in 1951.

The bill contains several safeguards to carry out the fundamental policy that the Government should not provide insurance on a regular or routine basis—that commercial problems should be solved by commercial entities. First, this remains a discretionary program—no air carrier has a right to the issuance of a policy. Second, the Secretary of Transportation, before issuing a policy, must consult with such agencies as the President directs. Third, the President must approve the issuance of each policy, and such approval can only be given if the President finds that continuation of the flight or flights to be insured is necessary to carry out the foreign policy of the United States. Fourth, policies cannot be issued for periods exceeding 60 days—reissuance requires the same Presidential finding as to foreign policy.

Sections 8 and 9 of the bill, passed as H.R. 27 on February 23, provide improved access to air transportation for elderly and handicapped persons whose lives are confined by low income and the lack of mobility.

In addition to benefiting the elderly and the handicapped, the bill will help provide improved air service for those members of the traveling public who use intrastate air carriers.

The intrastate air carriers such as Pacific Southwest Airlines and Air California, are now providing valuable service to the traveling public. In some markets, intrastate carriers provide the only service, and in other markets they provide important competitive service. The intrastate carriers operate modern jet and turboprop equipment, and frequently provide service at fares below those generally offered by interstate carriers.

Because the interstate carriers do not hold authority from the CAB, they are unable to offer through ticketing and baggage service for passengers who wish to connect from an intrastate carrier to an interstate carrier. Passengers wishing to connect to an intrastate carrier must purchase a separate ticket, generally at the airport.

Two of the intrastate carriers previously applied to the CAB for authority to enter into interline agreements, but the Board denied their application.

Sections 10–12, passed as H.R. 26 on February 22, deal with procedures for airline fare changes and with airline subsidy.

Existing rate-change procedures are a source of annoyance to millions of airline passengers and shippers. Under the present procedures, passengers and shippers frequently have to wait until the last minute to learn whether fare changes proposed by the airlines will take effect. When a proposed change does not take effect, passengers may have to make extra payments at the gate or file for refunds. Sections 10 and 11 will insure that the Civil Aeronautics Board decides whether to allow a fare charge no later than 15 days in advance of the change. This period of advance notice should reduce considerably the last minute confusion which occurs under the present system.

Section 12 eliminates an inequitable situation in the CAB's 1966 subsidy program for local service airlines. Because of the order in which CAB processed cases, two carriers were required to make subsidy refunds while six similarly situated carriers were not. Section 12 will eliminate this inequity by restoring the refund to the two disadvantaged air carriers.

Section 13 permits CAB to pay subsidy to a commuter airline, Air Midwest, for

providing unprofitable air service to small communities in Kansas during the period August 1, 1973, to July 31, 1975.

In providing this service Air Midwest replaced Frontier Airlines, which had a certificate obligation to serve the communities. Air Midwest's service to these communities was unprofitable, and it provided service with the expectation of receiving Federal subsidy. The CAB's award of subsidy was subsequently set aside by the courts on the grounds that existing law permits CAB to award subsidy to certificated airlines, but not to commuter airlines.

Section 13 would restore the subsidy which Air Midwest would otherwise be required to refund. Air Midwest should not incur losses because of CAB's erroneous interpretation of the law.

Section 14, which passed the House as H.R. 735 on February 22 will permit citizens of foreign countries who have been lawfully admitted for permanent residence in the United States to register aircraft in the United States.

The law prohibiting foreign nationals to register aircraft in the United States has been on the books since the Air Commerce Act of 1926, when aviation was in its infancy. I believe it can no longer be justified to deny individuals the right to register aircraft in the United States solely on the grounds of alienage, and I support this measure, because it ends the outmoded restriction.

A Senate amendment to H.R. 735 opened the U.S. aircraft registry to U.S. corporations owner or controlled by citizens or corporations of foreign countries whose aircraft are "based or primarily used in the United States." The House had some concern over the Senate amendment for two reasons: It could have the unintended effect of closing the U.S. registry to certain aircraft owned by corporations owned and controlled by U.S. citizens; and, because of the lack of definitions of the terms "based" and "primarily used in" could have unwittingly made the United States a "flag of convenience" for aircraft registration. The conference report contains a new provision which requires the Secretary to define the terms "based" and "primarily used," and it is intended that the regulations will be drafted in such a way that aircraft owned by corporations controlled by U.S. citizens would not be adversely affected by the change in the law.

Section 15, which passed the House as H.R. 736 in February would permit the temporary operation of aircraft, which are subject to the law requiring an operable emergency locater transmitter, while that transmitter is being inspected, repaired, modified, or replaced.

Sections 16–18 provide for reform of the regulatory system governing domestic all-cargo air service. The existing regulatory system has produced inferior service for the public and poor financial results for the industry. Sections 17 and 18 eliminate most CAB regulations of cargo, leaving the airlines free to adjust their service and fares without the approval of the Government. Less regulation and more scope for innovation and experimentation should result in improved service for the public.

Section 19 would permit the Secretary of Transportation to release restrictions on the use of certain airport property conveyed to Redmond, Oreg. The section is similar to six bills which passed the House and became law in the 94th Congress. The interests of aviation and the Federal Government are preserved since, first, under the law, the Secretary must find that the property in question is not necessary for the continued safe and efficient utilization of the airport; second, fair market value must be received for the lease or sale of the property; and third, the proceeds from any sale or lease must be used to develop, operate, or maintain the airport.

Mr. SNYDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I take this time just briefly to request of the chairman of the subcommittee if for the record the gentleman can confirm my response to the gentlewoman from New Jersey (Mrs. FENWICK) that we do not mean, under the definition "handicapped," dope addicts or alcoholics.

Mr. ANDERSON of California. If the gentleman will yield, the answer is "yes." The door will be open and we will have hearings on it right away; yes.

Mr. SNYDER. It is not our intention to include that?

Mr. ANDERSON of California. It is not our intention at all; no.

Mr. PEPPER. Mr. Speaker, I am pleased to lend my support to the conference report on H.R. 6010, a bill dealing with aviation insurance. In addition to its primary purpose, the bill as approved by the conferees includes a number of other technical changes in aviation statutes.

I am particularly pleased to note that the conferees agreed to include in this measure the provisions of H.R. 27, a bill passed earlier this year by the House, to permit airlines to offer reduced-rate standby fares to elderly and handicapped individuals. As chairman of the Select Committee on Aging, I have sponsored similar bills for the last several years, and strongly supported the passage of H.R. 27.

Commendation for the timely inclusion of this measure is due to the distinguished gentleman from California (Mr. GLENN ANDERSON) and his fellow House conferees. As chairman of the Aviation Subcommittee, the gentleman has long been interested in this proposal to permit airlines to offer to older Americans and handicapped persons such discount fares as the airlines themselves think advisable on a space-available basis.

Mr. Speaker, it has been my position that the Civil Aeronautics Board now has, and has had all along, the authority to permit airlines to offer discount fares to the elderly, in much the same way as such fares are permitted for military personnel. However, the CAB maintains that such fares are "discriminatory." Given the sharp drop in income usually experienced by most people at retirement, I question whether or not the current fare structure does not "discriminate" against our senior citizens.

Nonetheless, the enactment of the reduced-fare provisions of H.R. 6010 will settle the issue, and will, I trust, begin a new period of lower air fares for those who are often the least able to pay conventional fares.

I should note that no airline would be required to offer such a fare, nor is the size of the discount specified.

Since the fares will be for space-available travel only, both the elderly and the airlines themselves will benefit. The elderly, particularly those who have retired, have more flexible schedules than many others. They can travel at nonpeak times when seats will be more plentiful, at prices more of them will be able to afford on limited budgets. Airlines, on the other hand, will be receiving revenue for what would otherwise be empty seats.

In the only experiment where such fares have been actually tried, the intrastate airlines serving Hawaii were extremely pleased with the results, only withdrawing the low fares for the elderly in the face of strong CAB threat of opposition.

I trust, Mr. Speaker, that enactment of this provision will allow thousands of older and handicapped persons to visit distant relatives and friends and other destinations, which they are unable to do today because of the relatively high cost of air travel.

I urge the adoption of the conference report.

Mr. FRASER. Mr. Speaker, I oppose the action of the conference committee in adding deregulation of all-cargo airlines to this bill.

The Aviation Subcommittee has held extensive hearings on airline deregulation but has not yet moved to markup, let alone markup by the full committee on Public Works and Transportation. As a result there is no report from that committee to let us know their conclusions and reasoning. The transcript of hearings has not even been printed.

To tack an airline deregulation provision onto a completely different bill in conference committee violates the legislative principles of the Rules of the House. Discussion on the floor today illustrates that point.

Witnesses have urged a number of precautionary provisions for any bill changing the Federal Aviation Act—including labor protection provisions. No such provision appears in the deregulation language of H.R. 6010.

Many of us who have seen the careful development of the air transportation system of this country to the present point where hundreds of cities are receiving faster, safer, and more frequent service, hesitate to endanger the whole system at the first cry of "Free enterprise." The champions of deregulation will have to convince us that automatic entry and exit will not result in wholesale loss of air service and loss of employment to thousands of skilled career airline employees.

Mr. SNYDER. Mr. Speaker, I have no further requests for time.

Mr. ANDERSON of California. Mr. Speaker, I have no further requests for time, and I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANDERSON of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on H.R. 6010 just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 9179, OVERSEAS PRIVATE INVESTMENT CORPORATION AMENDMENTS ACT OF 1977

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, and on behalf of my colleague, the gentleman from Massachusetts (Mr. MOAKLEY), I call up House Resolution 848 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 848

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9179) to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on International Relations, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore (Mr. FOLEY). The gentleman from California (Mr. SISK) is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself such time as I may consume.

Mr. Speaker, this resolution is actually a very simple one, making in order a 1-hour open rule in connection with H.R. 9179 which, of course, amends the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation.

The Overseas Private Investment Corporation was established in 1969 to administer political risk insurance and loan guarantee programs designed to encourage U.S. investments in less-developed countries. The corporation provides insurance against expropriation and awards to American companies and loan guarantees for projects which face commercial or political risk.

Mr. Speaker, I urge the adoption of the resolution.

Mr. MOAKLEY. Mr. Speaker, the resolution provides for the consideration of the bill (H.R. 9179) to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation.

It is a simple 1 hour open rule.

The Overseas Private Investment Corporation was established in 1969 to administer political risk insurance and loan guarantee programs designed to encourage U.S. investment in less developed countries. The Corporation provides insurance against expropriation and war to American companies and loan guarantees for projects which face commercial or political risks.

The statutory authority for OPIC's operations would expire on December 31, 1977, unless the bill (H.R. 9179) is enacted prior to adjournment. The bill would extend the operating authority through September 30, 1980. This date was chosen to provide that future renewals will coincide with the new fiscal year basis established by the Congressional Budget Act of 1974.

The Committee on International Relations has expressed some dissatisfaction with OPIC's failure to coordinate its activities adequately with the objectives of U.S. foreign policy and a lack of emphasis on small business.

In addition to extending the basic law, amendments are made intended to address both of these reservations.

Mr. Speaker, I would note that there is some opposition to the bill. Several Members have expressed opposition to the bill and urge that OPIC be terminated. Their objections generally parallel the misgivings of the committee itself and I would be inclined to support this 31-month extension to see if the amendments to existing law embodied in the bill can have the desired effect.

I am aware, however, of no opposition to the rule. It provides a fair manner for the House to work its will and I urge the adoption of the resolution.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from California (Mr. SISK) has explained the resolution in detail, and I urge the adoption of the resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. SISK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SISK. Mr. Speaker, I ask unanimous consent that all Members may be permitted to revise and extend their remarks on the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF CONFERENCE REPORT ON H.R. 7555, DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE, AND RELATED AGENCIES APPROPRIATIONS, 1978

Mr. SISK, from the Committee on Rules, submitted a privileged report (Rept. No. 95–795) on the resolution (H. Res. 893) providing for consideration of the conference report on the bill (H.R. 7555) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies for the fiscal year ending September 30, 1978, and for other purposes, which was referred to the House Calendar and ordered to be printed.

INCREASING ANNUAL PREMIUM TO FEDERAL EMPLOYEES FOR PENSION BENEFIT GUARANTY CORPORATION INSURANCE

Mr. DENT. Mr. Speaker, I call up the concurrent resolution (H. Con. Res. 369) to establish a revised coverage schedule for basic benefits guaranteed by the Pension Benefit Guaranty Corporation for employee pension benefit plans which are not multiemployer plans. and ask unanimous consent that the concurrent resolution be considered in the House as in the Committee of the Whole.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 369

Whereas in accordance with section 4006 (b)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(b)(1)), the Pension Benefit Guaranty Corporation transmitted to Congress a proposed revised coverage schedule for basic benefits guaranteed by the Corporation for employee pension benefit plans which are not multiemployer plans, together with a statement of the proposed effective date of such schedule and the reasons for the proposal: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress favors the proposed revised coverage schedule transmitted to Congress by the Pension Benefit Guaranty Corporation on September 23, 1977.

Mr. DENT. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I urge the House to approve this concurrent resolution. It raises the premium for single employer pension plans from $1 per participant per year to $2.25 per participant per year.

When Congress enacted ERISA in 1974, one of its prime concerns was to insure that participants in terminated pension plans would receive a large portion of the pension that had been promised. To finance this insurance program, Congress enacted in ERISA a $1 per participant per year premium for single employer pension plans. Because

there was no experience with this program when it was initiated, it was recognized that the $1 figure might not be sufficient to adequately fund the liabilities of terminated pension plans which the Pension Benefit Guaranty Corporation would assume.

After more than 3 years of experience with this single employer termination insurance program, it is now clear that the $1 per participant annual premium is insufficient to fully and responsibly fund the single employer plan termination insurance program. By January 1, 1978, it is anticipated that the Pension Benefit Guaranty Corporation will have incurred a deficit of approximately $60 million. Without a premium increase to $2.25, it is expected that this deficit will grow by $25 million to $30 million per year.

At the request of the Education and Labor Committee and the Ways and Means Committee, the General Accounting Office reviewed the methodology and assumptions used by the Pension Benefit Guaranty Corporation in reaching the conclusion that a premium rate increase to $2.25 per participant is needed. The General Accounting Office concluded that the present annual premium of $1 per plan participant is not adequate to fully fund the program and that there is no reason to question the methodology used by the Pension Benefit Guaranty Corporation in concluding that the annual $2.25 premium per participant is appropriate at this time.

Mr. Speaker, I would like to emphasize that the cost of this rate increase to plan sponsors is extremely small. The Pension Benefit Guaranty Corporation estimates that the premium increase would require most plan sponsors to increase their annual payroll costs by only 0.01 percent, or one-fifteenth of 1 cent per hour, per employee.

The revised schedule which House Concurrent Resolution 369 approves has received the support of the administration, the Pension Benefit Guaranty Corporation, the AFL–CIO, and representatives of single employer plan sponsors.

I urge that it be approved.

Mr. ERLENBORN. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, on behalf of the minority of the Subcommittee on Labor Standards, I take this time to rise to support House Concurrent Resolution 369.

Mr. Speaker, when the Pension Benefit Guaranty Corporation was created and ERISA, the Employee Retirement Income Security Act, came into being, we provided for insurance for both single-employer and multiemployer benefit plans.

This concurrent resolution has to do with the insurance premium charged in the single-employer plan. I think most of us realize that at the time ERISA was passed, $1 per participant premium, would soon prove to be insufficient, and it has.

We have been asked now by the Pension Benefit Guaranty Corporation under the law to approve the proposed increase to $2.25. In percentage terms, that does appear to be a rather large increase, a 125-percent increase. Yet, when we consider that most plans are relatively small plans in terms of the number of participants and the premium itself, in dollars-and-cents terms, it is still relatively small.

I do not believe that this increase will be onerous; but it is certainly necessary.

I understand that there might yet be some question between this body and the other body as to what the proper figure might be. There is some sentiment for an even higher premium in the other body. In any event, however, the resolution before us I believe is justified, deserves the unanimous support of the House, and if the other body should see fit to encourage a different figure in its resolution, we can adjust our differences, if necessary, later. So I do support this resolution and hope that it will be promptly adopted.

Mr. Speaker, I yield back the remainder of my time.

Mr. GIBBONS. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, the resolution before the House authorizes the Pension Benefit Guaranty Corporation to increase the annual premium rate for single-employer defined benefits plans to $2.25 per participant.

The Employer Retirement Income Security Act of 1974 provided for the insurance by the Pension Benefit Guaranty Corporation of basic benefits under private pension plans in order to assure that the retirement income promised to employees during their working careers will actually be provided to them when they retire. The annual premium for this insurance was set by the act at $1 for each plan participant under a single-employer defined benefit pension plan. However, in order to make certain that the premium would always be sufficient to keep the insurance program on an actuarially sound footing, the act authorized the Corporation to increase premium rates with the approval of the Congress.

The Corporation's experience since the beginning of the pension insurance program has shown that an increase in the annual premium from $1 per participant to $2.25 per participant is required to permit the Corporation to continue to meet its obligations in the long run.

Although an increase from $1 to $2.25 may appear large, for an average plan it represents an additional annual expense of only about $30 and will raise payroll costs for an average employer by less than one-hundredth of 1 percent. Also, an annual premium of $2.25 for an employee is a small price to pay for assuring that basic pension benefits will be paid to American workers.

Mr. Speaker, because the premium rate increase requested is not burdensome, and because the pension insurance program is of great importance to our workers, I urge the House to approve House Concurrent Resolution 369.

Mr. STEIGER. Mr. Speaker, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Wisconsin.

Mr. STEIGER. I very much appreciate the gentleman's yielding.

Mr. Speaker, since the enactment of the Employee Retirement Income Security Act of 1974, the Pension Benefit Guaranty Corporation has acquired considerable experience in the amount of claims being made to the PBGC. Following the hearing before the Labor Subcommittee and the special task force of the Ways and Means it became quite apparent that the estimates and projections originally used to set the premium rate for this coverage of workers' pension rights are inadequate to support the funding needed for the PBGC to perform the worthy task of protecting workers' security. It is quite apparent that an increase in the premium rate is needed to keep this program viable and fiduciarily responsible.

While we do decry the tardiness of the PBGC in coming at this late date for a remedy to this situation we conclude that an increase in premiums are sorely needed and urge the members of this House to favorably approve this application by the PBGC.

Mr. PERKINS. Mr. Speaker, on September 23 the Pension Benefit Guaranty Corporation notified the Congress of the need to increase the single employer termination insurance premiums paid under title IV of the Employee Retirement Income Security Act of 1974 (ERISA).

Section 4006(a) of ERISA permits the Corporation to change the premiums for coverage of basic benefits under the pension plan termination insurance program with congressional approval. Following the procedures laid out in section 4006(b) of the act the Corporation transmitted to the Congress a proposed revised schedule of premiums for single employer plans.

That proposed schedule would increase the annual premium from $1 per participant to a new level of $2.25 per participant to be effective on January 1, 1978.

The Committee on Education and Labor and the Committee on Ways and Means have responded speedily to this proposal. We have before us today the results of the expeditious and responsible action of the two committees. I commend Chairman JOHN H. DENT, of the Subcommittee on Labor Standards and Chairman AL ULLMAN, of the Committee on Ways and Means for the speed with which they have acted to meet the need to increase premiums.

As part of its review of this proposal the Committee on Education and Labor sought the advice of the General Accounting Office on this matter. We asked them to review the proposal and the methods and assumptions used by the Pension Benefit Guaranty Corporation in reaching the conclusion that a premium rate increase to $2.25 is needed. Acting with a speed which has not always characterized its reports, the GAO responded on October 6, 1977. The GAO report indicated that the present annual premium of $1 is not adequate to fully fund the program, and that there was no reason to question the methodology used by the PBGC in arriving at the decision to recommend the $2.25 premium.

The speed and responsibility with which both committees have acted in this matter, as I indicated before, is to be commended. I would hope, however, that in the future the Pension Benefit Guaranty Corporation could anticipate with a little more leadtime the need for such premium rate increases. This would insure more adequate opportunity for the Congress to review such a proposal and may, under some circumstances, be necessary if the Congress is to act at all. I would recommend that the PBGC give serious consideration to the recommendation of the Comptroller General, Mr. Staats, that they undertake a thorough annual review of the premium rates to determine on a more regular basis whether adjustments are warranted. Such an annual review, with a report to the Congress, would provide us with better data on which to base our determinations in the future.

Mr. GIBBONS. Mr. Speaker, I move the previous question on the concurrent resolution.

The previous question was ordered.

The concurrent resolution was agreed to.

GENERAL LEAVE

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Concurrent Resolution 369.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection .

OVERSEAS PRIVATE INVESTMENT CORPORATION AMENDMENTS ACT OF 1977

Mr. BINGHAM. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9179) to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 9179, with Mr. EVANS of Colorado in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from New York (Mr. BINGHAM) will be recognized for 30 minutes, and the gentleman from Ohio (Mr. WHALEN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the first question that arises in the consideration of this legislation is what is the Overseas Private Investment Corporation? It is a self-sustaining entity which in recent years has required no appropriations. No appropriation is requested this year. Its administrative expenses and its operational expenses are paid for from premiums that are charged to the corporations which do business with it.

The operations of OPIC are based on two fundamental premises: that by providing insurance and certain other services to private concerns, American exports may be stimulated, and that the development process in the developing world may be assisted through the role of private corporations.

The fact that private business has a role to play in the development process has been recognized for over a quarter of a century. I was in this program myself back in the early 1950's when President Truman established the point IV program, and it was recognized at that time. We tried to work out ways in which we could encourage private enterprise to help in the transfer of capital and technology to the developing world.

We found that the most convenient way of doing that was to provide insurance against certain risks that companies contemplating investment overseas could not find private insurance companies to cover for them. Those risks were: the risk of expropriation; the risk of nonconvertibility of currency; and the risk of war. So such programs were established and carried on by the Government agencies under the Marshall plan, and later by AID. Then in 1969 a separate corporation was set up known as OPIC to carry out this very same work.

There were a number of reasons for setting up a separate corporation. One of them was that it was considered to be desirable to insulate the Government somewhat from the disputes that naturally arose from cases of expropriation. What happens when a private company is expropriated and the businessman turns and asks for the insurance that has been provided, is that the insuring agency then is able to go after and negotiate out the claims. This was difficult when it was the U.S. Government itself that was doing the negotiating. So it was felt better to have it done by a private corporation, and that was one of the main reasons for setting up OPIC in 1969.

OPIC was extended in 1974, and now under this bill before us it would be extended again from the end of this year—it expires December 31, 1977—for another 3 years.

This bill has received careful study in the subcommittee of the International Relations Committee which I have the honor to chair, and then was considered by the International Relations Committee itself. The introduction of the bill followed some 5½ months of intensive study by the administration itself as to what the future of OPIC should be and what changes should be made in the general setup.

I think the care with which our committee approached this subject is reflected in the unusually detailed committee report which Members have before them. I do not apologize for the length of that report. It constitutes, in our judgment, a way of carrying on the oversight functions of the committee toward OPIC, which we feel is our responsibility. So it is a detailed report.

There are a few important changes in the approach in this legislation. The main one is to remove from OPIC the strictures, which were imposed by Congress itself in 1974, requiring OPIC to turn over the insurance business to private insurance companies with certain deadlines imposed.

It was generally concluded that the experience under these provisions was very unsatisfactory. First of all, those requirements interfered with that part of OPIC's responsibilities which had to do with development, because the private insurers wanted to be included in those operations which were safe, which were carried on by the big corporations, and which were in big relatively stable countries. They did not want to take over insurance in small operations or in the more risky, that is the poorer, countries. So on the one hand while we told OPIC they should concentrate more on development and they should concentrate more on the poor countries. At the same time we told them they have to turn this whole insurance business over to private enterprise as far as they could. Mr. Chairman, those two instructions were inconsistent.

I think undoubtedly OPIC made some mistakes of emphasis along the way of trying to meet the instructions the Congress had given them that this operation had to be turned over to private enterprise.

So in this bill we have taken out that requirement. Indeed, we have limited the degree to which private insurance companies can participate, because some of the private insurance companies, frankly were kind of on the gravy train. They were getting the cream of the business. They were making a lot of money out of it and there was no real excuse for it.

We have also added a provision that no insurance claim can be collected if there has been an official finding that the company or one of its agents has been guilty of bribery.

The extension of this program, as I said, is for approximately 3 years.

The bill was reported out by our committee by a voice vote. There have since been a number of criticisms leveled against it, but I think it would be more appropriate to deal with them later in the debate, possibly under the 5-minute rule.

Mr. WHALEN. Mr. Chairman, I yield myself such time as I may consume.

(Mr. WHALEN asked and was given permission to revise and extend his remarks.)

Mr. Chairman, I would like to add my support to that of my colleague, Mr. BINGHAM, for the bill now before us, H.R. 9179, the Overseas Private Investment Corporation Amendments Act of 1977.

In considering the administration's proposed extension of OPIC's operating

authority, our committee faced a major question: should the full faith and credit of the United States, including the taxpayer's money should that ever prove necessary, be used to insure American investments abroad? Most other industrial countries believe that it is in the best interest of their particular nation to invest abroad. As a consequence there exist OPIC-type programs in countries like Germany, Japan, France, and Britain.

However, neither the Congress nor the Executive has made that basic decision as to whether investment abroad is in the best interest of the United States. In the absence of that decision, OPIC programs have been justified in the past primarily by their contribution to development in less developed countries. This objective is found in section 231 of the law which reads:

Creation, purpose and policy—to mobilize and facilitate the participation of United States private capital and skills in the economic and social development of less developed friendly countries and areas, thereby complementing the development assistance objectives of the U.S.

Has OPIC, in fact, focused successfully on this development mandate?

There is little evidence that political risk insurance plays more than a marginal role in investment decisions. Where investment climates are poor there is little that OPIC can do to overcome a company's reluctance to invest. And the poorer developing nations have been characterized in recent years by distinctly unattractive climates for foreign investment.

However, in all fairness to OPIC it should be noted that it was hampered in its development efforts during the last 3 years by a series of conflicting congressional policy guidelines. Prominent among these was a requirement to switch over from Government-backed insurance to private insurance company participation.

The Committee on International Relations has recognized the flaws of that directive. It absorbed too much of OPIC's time and energy. It achieved minimal progress toward an unfeasible objective. And it resulted in deviations from the development mandate, a mandate which if taken seriously would have made a private insurance operation much less viable if not impossible.

The subcommittee has attempted, then. in the legislation before us today, to focus OPIC's attention on its development mandate and give it a chance to make a genuine effort to accomplish it. Two of the bill's provisions are particularly relevant:

First. The elimination of any requirement for OPIC to achieve participation by private insurance companies, while allowing the Corporation to carry out joint underwriting with other organizations on equitable terms;

Second. The listing of developmental criteria which OPIC must take into account in its determinations, and the requirement that OPIC prepare in concert with AID a development impact profile of each project and submit to Congress an annual development impact report on its activities.

Development objectives are worth trying to achieve. Therefore, we have recommended a renewal of OPIC's operating authority for approximately 3 years to see if it can make a genuine contribution to development.

I hope that my colleagues will join me in voting for H.R. 9179.

Mr. BINGHAM. Mr. Chairman, I yield 6 minutes to the gentleman from California (Mr. RYAN).

Mr. RYAN. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

The CHAIRMAN. A quorum of the Committee of the Whole has not appeared.

The Chair announces that a regular quorum call will now commence.

Members who have not already responded under the noticed quorum call will have a minimum of 15 minutes to record their presence. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 733]

Anderson, Ill.	Evans, Ga.	Pease
Armstrong	Fithian	Pickle
Ashley	Florio	Pursell
Badillo	Ford, Mich.	Rangel
Beard, R.I.	Fraser	Roberts
Beard, Tenn.	Fuqua	Rose
Bedell	Harsha	Rosenthal
Biaggi	Heckler	Rousselot
Blouin	Holland	Russo
Boggs	Holt	Santini
Bolling	Ichord	Scheuer
Breaux	Jeffords	Shuster
Brown, Calif.	Jones, Tenn.	Stockman
Burton, John	Ketchum	Teague
Burton, Phillip	Koch	Thornton
Byron	Krueger	Tucker
Chappell	Lehman	Udall
Chisholm	Lujan	Ullman
Conyers	McClory	Van Deerlin
Corcoran	McCloskey	Waxman
Corman	McDonald	Wilson, C. H.
D'Amours	Martin	Wilson, Tex.
Dent	Mathis	Wolff
Diggs	Meeds	Wydler
Drinan	Milford	Yatron
Edgar	Mitchell, Md.	Young, Alaska
Edwards, Calif.	Mitchell, N.Y.	Young, Tex.
Edwards, Okla.	Murphy, N.Y.	
Erlenborn	O'Brien	

Accordingly the Committee rose; and the Speaker pro tempore (Mr. FOLEY) having assumed the Chair, Mr. EVANS of Colorado, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 9179, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 349 Members recorded their presence. a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. RYAN).

Mr. RYAN. Mr. Chairman, I must confess to having asked for that quorum call myself. I did it for the first time this year, and I did it for a very special reason. This is November now. Thanksgiving comes in about 3 weeks. I want to present the Members personally with their own turkey, because that is what this bill is.

What OPIC was and what it is, what it was designed to be and what it turned out to be, are two different things entirely. It began some years ago with the idea that since the Marshall plan at the end of World War II had some significant value in putting Europe back on its feet, it would be a good idea for the United States as part of its foreign aid program to put some money up which allowed American businessmen to take some risk by going overseas, into very poor countries overseas, and giving them a hand by putting in some kind of private enterprise which would give them a chance to lift their country economically. It would give them a chance to see what U.S. private enterprise could do for their country.

What actually developed was something different, something else entirely. Today OPIC insurance has gone primarily to such operations as ITT and TWA for Safari Lodges in Kenya, Ralston Purina for fast food chains in Brazil, Avis Rent-a-Car for rental and chauffeur services in Malaysia and Singapore, Pan Am Intercontinental Hotels in Liberia, Kenya, Indonesia, and the Ivory Coast; ITT Sheraton Hotels in India, Brazil, and Tunisia; art galleries in Haiti, and so on. That is certainly not what we had in mind when we created the idea of OPIC to help poor countries.

Furthermore, the whole idea was to take care of the small U.S. corporation doing business in a distant country that was fairly unstable from a political standpoint.

What has happened? Between 1974 and 1976 here are the top seven countries for which OPIC insurance has been issued: Brazil, that small, insignificant country, highly unstable, needing a little bit of American dollars just trying to survive—21 percent of all OPIC insurance is written in that country. The Philippines gets 10.5 percent; South Korea, that friendly neighbor country of ours, 9.2 percent; Indonesia, 8.8 percent; Taiwan, 5.8 percent; the Dominican Republic, 4.1 percent; Yugoslavia, 3.8 percent. These are the top seven.

What kind of little companies are there that are being given a chance to go to these small countries and give them a hand? How about these? The largest recipient is Dow Chemical, ranking 32 out of the Fortune 500; the W. R. Grace Co., J. P. Morgan, Celanese, General Telephone and Electronics, Getty Oil, Bank of America, Standard Oil of Indiana, Weyerhaeuser, ITT, and RCA.

The whole purpose of what OPIC was supposed to be has never occurred. We have tried on two separate occasions here in this House in the past to fix this turkey and make it work. They failed.

It only benefits the rich. For this House to continue to support legislation that helps the rich and then call it foreign aid is a travesty. The legislation should be buried.

Four years ago, shortly after I came here, I was given the opportunity of going to South America with a former Member of this body, Mr. JOHN CULVER of Iowa, as leader of our group and chairman of the subcommittee. We went through Latin America to see what OPIC was doing. OPIC was doing fine in those large countries like Brazil for big companies, but it was not doing very much at all in the way of guaranteeing them against loss which is the risk in Brazil or Argentina? Even in those countries where it goes, it does not help the poor. Foreign aid, should be to help the poor of the world. Not the rich. If it has the U.S. label on it, one would suppose it would do much to help those countries desperately in need of help. But in fact in the Dominican Republic and even in Puerto Rico it goes to make the rich richer and the poor remain just as poor.

Brazil is probably as good an example as any. Brazil has received so much aid and investment and a large share of OPIC coverage because the exposure in Brazil at the present time is $422 million, and yet it is supposed to be a model, I suppose, for other countries. The fact is that while Brazil has a gross national product that now allows a per capita of $1,000 per year in their country, there are still 43 million Brazilians existing on a per capita income in Brazil, the largest single country where OPIC exists, of less than $250 per year.

If OPIC has any value at all, what could it be? To insure what against whom? We could go on and talk about it, but it does not make much sense. The question is this: Does the United States care to be associated with and have a government operation, a kind of operation, go to foreign countries that do not need the money?

I would suggest we reject this Thanksgiving turkey and leave it here quietly when we go home after adjournment.

Mr. WHALEN. Mr. Chairman, I yield 4 minutes to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of H.R. 9179, to extend and modify the basic authorities of the Overseas Private Investment Corporation. I believe that OPIC's performance over the past several years warrants a renewal of its operating authority.

OPIC's function is to act as a Government-owned corporation to insure and in some cases finance private U.S. investment projects in less developed countries. Investors of all sizes regard the numerous political risks and uncertainties associated with less developed countries as a major obstacle to investing there. OPIC's services give American corporations, both large and small, the opportunity and incentive to invest in a country that might otherwise be a bad risk.

Let us examine OPIC's record: In the past 3 fiscal years, OPIC has encouraged and assisted 425 investment projects in 55 developing countries. Over the first 5 years of their operation, these projects will generate or save $1.3 billion in foreign exchange and provide $198 million of net revenues to their host governments. In addition, 15,000 U.S. jobs were created or supported by OPIC's projects.

The benefits to the United States from OPIC operations have been far reaching, substantial, and impressive. The examples are too numerous to list here, but one that does stand out is that of Trinidad and Tobago which purchased over $32 million of American equipment for its fertilizer plant which had been encouraged by OPIC.

Some of my colleagues have argued that OPIC is just another tool of big business, an example of excessive Government spending, and a "useless monument of good intentions gone awry." Nothing could be further from the truth. Not only is OPIC doing a good job—but it is self-sustaining and earning a profit. Today OPIC does not and will not cost the American taxpaver 1 cent. Since fiscal year 1971, when OPIC began operations, it has earned $328 million in revenues. OPIC's annual net income has risen from $21 million in 1970 to $49 million for the 12-month period ending June 30, 1977.

The "big business" label often given to OPIC by its critics is also unwarranted. OPIC has attempted and given preferential consideration to small and medium-sized businesses, with 25 percent of its insurance projects and two-thirds of its finance projects involving firms of less than Fortune's 1,000-size. True, a good number of OPIC's resources are devoted to large corporations. But, this is to be expected. Most small businesses clearly lack the resources, information, or experience to even attempt overseas investment. In fact, 90 to 95 percent of all U.S. investment overseas is made by Fortune's 500-sized companies. Therefore, I believe the attention devoted by OPIC to small businesses has indeed been commendable and a move in the right direction. Further, H.R. 9179 requires that OPIC give preferential consideration to investment projects involving small businesses.

Mr. Chairman, we would be doing our country and the less developed countries of the world a great disservice if OPIC is dissolved. When OPIC does the job without taxing our people, when OPIC earns a profit, when good is done for the United States and others—that kind of foreign assistance surely looks and is far better than the kind on which so many billions of tax dollars have been wasted. Mr. Chairman, I strongly urge my colleagues to support H.R. 9179.

Mr. BINGHAM. Mr. Chairman, I yield 2 minutes to the gentleman from Nebraska (Mr. CAVANAUGH).

Mr. CAVANAUGH. Mr. Chairman, I rise in support of this legislation which would continue the authority of OPIC. Primarily, I rise to respond to my good friend and colleague on the Committee on International Relations, the gentleman from California (Mr. RYAN). I think it is regrettable that, while the gentleman from California (Mr. RYAN) raises many of the appropriate questions that can be raised against OPIC and points out for the Members of this Congress many of the deficiencies that OPIC has undergone, the gentleman neglects both the causes and remedies and particularly neglects the very diligent work of the Subcommittee on International Relations that has dealt with this subject and attempted to address itself. and I think did address itself, quite precisely and appropriately to the deficiencies which the gentleman from California (Mr. RYAN) points out, which historically have been suffered by the OPIC program.

What the gentleman from California (Mr. RYAN) would lead us to conclude is that we should on the basis of the record discontinue the very beneficial aspects of OPIC.

There are two fundamental principles involved here in the continuation of OPIC, whether or not we wish to lead the U.S. Congress and the American people wish to continue their support and encourage U.S. investment abroad, and particularly U.S. investment abroad in the less developed countries, thereby improving business opportunities for American business, as well as providing opportunities for the less developed countries of the world to acquire access to the expertise, technological and business, that this country has to offer.

The suggestion of the gentleman from California (Mr. RYAN) to terminate OPIC would result in an absolute termination of both the business opportunities and the developmental opportunities of the less developed countries of the world. The gentleman totally ignores the fact that many of the deficiencies and concentrations of investment by OPIC resulted from the congressional mandate of 1974, requiring OPIC by 1980 to entirely turn over its portfolio to the private insurance industry.

The CHAIRMAN. The time of the gentleman from Nebraska has expired.

Mr. BINGHAM. Mr. Chairman, I yield 1 additional minute to the gentleman from Nebraska.

Mr. CAVANAUGH. Mr. Chairman, the disaster of this congressional mandate, in which the gentleman from California (Mr. RYAN) must have participated, since the gentleman was a Member of the Congress at that time, forces OPIC into excessive concentrations of projects, that is, the investment and insurance by the multinationals and in countries where OPIC was required to select the most stable and attractive country and environment in order that it could attract the privatization that Congress mandated must occur in the country by 1980.

We have eliminated that requirement, thereby returning OPIC to its original and proper purpose of being an investment tool and a development tool.

I think that if the Congress will observe that the Committee on International Relations has addressed the problems that have existed, this legislation deserves tis support.

The CHAIRMAN. The time of the

gentleman from Nebraska (Mr. CAVANAUGH) has again expired.

Mr. BINGHAM. Mr. Chairman, I yield 1 additional minute to the gentleman from Nebraska.

Will the gentleman yield?

Mr. CAVANAUGH. I yield to the gentleman from New York.

Mr. BINGHAM. I thank the gentleman for yielding to me. I think it is appropriate to note, as the gentleman has, that the criticism of the program made by the gentleman from California (Mr. RYAN) largely ignores what is in this bill. It also ignores what the administration itself has done. It happens that we do have a new administration this year.

Just the other day, for example, OPIC announced that there would be no more general guaranteeing of insurance issued for Brazil and other countries where the per capita income is over $1,000 except where the project is sponsored by U.S. small businesses or cooperatives, or for mineral exploration or development, or involving energy development in countries not members of OPEC, or if a project has exceptionally significant development benefits.

Many of the errors the gentleman from California points out have been made under previous administrations, and are corrected under this bill.

Mr. WHALEN. Mr. Chairman, I yield 5 minutes to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. I thank my colleague for yielding to me. I have some questions I hope might be answered by my colleague from Ohio or by the chairman.

I am interested in the small countries. We have heard from the gentleman from California of some of the larger countries where investments have been guaranteed, but could the gentleman tell us about any small countries?

Mr. WHALEN. Will the gentlewoman yield?

Mrs. FENWICK. I yield.

Mr. WHALEN. Most of the developing countries have received guarantees, but let me just read a partial list, which would include Botswana, Ruanda, Zambia, Liberia, Sierra Leone, in Africa; El Salvador, the Dominican Republic in the Caribbean and Central America; and Singapore in Asia.

Mr. RYAN. Will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from California.

Mr. RYAN. Perhaps we can find at the same time about how much of the percentage of the money in any given year goes to countries like that, and what it is used for.

Mrs. FENWICK. I added up the figures the gentleman from California gave us, and they seem to come to about 50 percent as the gentleman was recounting them; so that if Brazil is out, which received such a very large proportion, I gather it will now be 75 percent, or nearly, rather than 50 percent.

Mr. BINGHAM. Will the gentlewoman yield further?

Mrs. FENWICK. I yield to the gentleman from New York.

Mr. BINGHAM. Let me just point out one big distinction not generally recognized is the distinction between the insurance aspects and the very limited programs that OPIC has in the area of helping business get going—a form of guarantee, or loan if you will—very limited in amount. But in those cases where there has been some form of financial assistance, as distinct from straight insurance, the proportion that has gone to smaller countries is much higher.

There is also the point the gentleman from Ohio (Mr. WHALEN) made, that much of the emphasis on the big countries has resulted from the directive the Congress gave OPIC 3 years ago, to turn the operation over to private enterprise.

Mr. WHALEN. If the gentlewoman would yield further, in 1976 approximately 55 percent of the contracts went to the least of the less developed countries.

Mrs. FENWICK. I see.

Mr. WHALEN. About 47 percent of the dollar value of these contracts went to these countries.

Mrs. FENWICK. Mention was made earlier by the chairman that some essential materials—or metals, I think he said—were brought into the country, and that was a benefit to American industry here.

Mr. WHALEN. This is true. This is one of the concerns today that the administration has, recognizing the growing interdependence of the world. We are more and more concerned about sources of rapidly diminishing raw materials, and this is one of the functions that OPIC has played and will continue to play if its charter is extended.

A number of minerals have come from countries where projects or investments have been insured by OPIC. Cobalt from Botswana; barite from Greece; fluorspar from Kenya and Thailand; gold from the Dominican Republic and El Salvador; nickel from Botswana, Indonesia and the Philippines; tin from Thailand; and titanium from Sierra Leone.

Mr. RYAN. Mr. Chairman, will the gentlewoman yield on that point?

Mrs. FENWICK. I yield to the gentleman from California.

Mr. RYAN. I thank the gentlewoman for yielding.

Mr. Speaker, my question has to do not with the good things that is being done with using OPIC insurance, because obviously one can find things that are done that are good. My question has to do with the bad things. For example, in Haiti OPIC recently wrote insurance on a project, the hotel, which must be the most expensive hotel in the world, at $150 a day. The average annual income per capita in Haiti is about $80.

Mrs. FENWICK. I think I can answer that. They are very anxious to increase the tourist trade because their agriculture is deteriorating so rapidly.

Mr. BINGHAM. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from New York.

Mr. BINGHAM. In many of the poorest countries of the world, one of the most important opportunities they have to earn some export earnings and to provide employment as a result of tourism is to have a wonderful climate. So there is nothing wrong with providing this.

Mrs. FENWICK. I thank the gentleman for his comments.

Mr. Chairman, I want to add two things. Reference was made earlier to OPIC's comparable arrangement in foreign countries. Do governments also gauarantee investment activities in other countries? Germany, for example?

The CHAIRMAN. The time of the gentlewoman from New Jersey (Mrs. FENWICK) has expired.

Mr. WHALEN. Mr. Chairman, I yield 3 additional minutes to the gentlewoman from New Jersey.

Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from Ohio.

Mr. WHALEN. I mentioned several countries in my previous remarks.

Mrs. FENWICK. Are they government guarantees?

Mr. WHALEN. These are government guarantees. There are no restrictions. These insurance projects are not limited to investments in developing countries, as is the case in the United States It is open sesame for investments abroad. It has been determined by these countries, apparently, that foreign investment is in their best interest.

I might also point out that the rates in most instances are substantially less than those charged by OPIC.

Mrs. FENWICK. I have one further question.

I am troubled by what I have learned and what I have heard concerning the imports coming into this country and perhaps causing the loss of jobs. This is indeed a very serious matter. RCA was mentioned earlier, and I have a very large RCA plant in my district where the union membership has fallen from 1,500 to 500 people. So I am concerned with the effect on employment in this country of these activities.

Mr. WHALEN. If the gentlewoman will yield, certainly this is an area of concern of all of us. This was obviously a question raised when the OPIC charter was extended several years ago and at that time we inserted an amendment into the law that I think addresses that subject. It is section 231(m), and I would like to read it. It says that OPIC would "decline to issue any contract of insurance or reinsurance, or any guaranty, or to enter into any agreement to provide financing for an eligible investor's proposed investment if the Corporation determines that such investment is likely to cause such investor—or the sponsor of an investment project in which such investor is involved—significantly to reduce the number of his employees in the United States because he is replacing his U.S. production with production from such investment."

So I think that subject has been addressed. To put it in language other than legalese, it simply means that, in the case of a given investment, if jobs within

that particular company are lost as a result of it, OPIC will not guarantee the investment.

Mr. BINGHAM. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, to supplement what the gentleman from Ohio (Mr. WHALEN) has said, let me mention some of the areas that are sensitive.

OPIC has no programs going on in any of the major steel-producing countries of the world. We are obviously worried about steel.

OPIC has insured only 5 small steel projects, and these entities manufacture for local consumption only.

The same thing is true of shoes and footwear. It has not sought any shoe or footwear projects in other countries such as Taiwan, and so forth.

Mrs. FENWICK. How about electronics?

The CHAIRMAN. The time of the gentlewoman from New Jersey (Mrs. FENWICK) has expired.

Mr. WHALEN. Mr. Chairman, I yield 2 additional minutes to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, let me repeat my question.

How about electronics? Does the gentleman from New York (Mr. BINGHAM) have any figure as to electronics?

Mr. BINGHAM. Mr. Chairman, if the gentlewoman will yield, probably the top case of runaway industries in electronics involves Mexico. Mexico is totally banned from the program as a result. OPIC does nothing in Mexico.

They have been very conscious of the problem in electronics, as in other industries. I think this is something the record will bear out.

I have here a list of the clients that they turned down in cases where there were adverse U.S. effects, and it includes, for example, five electronics projects and two computer sales and service projects. They turn down a lot of projects on this basis.

I would just note on the case Mr. RYAN mentioned of the textile project in the Ivory Coast, that company exports exclusively to Europe, particularly France where the Ivory Coast enjoys tariff preferences as a former French colony. So you have to look at the details. A particular investment may look on the surface as if it would damage U.S. employment, but when you look at all the facts that turns out not to be the case.

Mr. GARY A. MYERS. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. Mr. Chairman, I would like to ask the chairman of the subcommittee this question: In that respect, is there at least some proportion of guarantees or is there any restrictive action? Is there any guarantee given that a job will not be lost once the protection is given? Is there any guarantee the gentleman can tell us about?

Mr. BINGHAM. Mr. Chairman, if the gentlewoman will yield further, I am not quite sure I understand the gentleman's question.

Once an insurance policy or protection is agreed to, with all the safeguards that are built into the legislation and into the policies that OPIC follows, unless there is something like bribery that occurs—and that provision is incorporated in this bill—which would vitiate the contract, they are bound to live up to their contracts.

Mr. GARY A. MYERS. Mr. Chairman, if the gentlewoman will yield further, the point is that apparently there is no assurance; if the company has this insurance and then it is proven that jobs have been lost, there is no way by which the insurance can be removed at that point?

Mr. BINGHAM. Not that I know of. But let me say this:

This program has been going on for some 20 years, and as far as I know, there is very little in the way of hard facts to indicate that any jobs have been lost.

Mr. GARY A. MYERS. Mr. Chairman, I thank the gentleman, and I thank the gentlewoman from New Jersey (Mrs. FENWICK) for yielding.

Mr. BINGHAM. Mr. Chairman, may I inquire, how much time do I have remaining?

The CHAIRMAN. The gentleman from New York (Mr. BINGHAM) has 11 minutes remaining, and the gentleman from Ohio (Mr. WHALEN) has 11 minutes remaining.

Mr. BINGHAM. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Chairman, at the very outset, I wish to commend the subcommittee chairman, the gentleman from New York (Mr. BINGHAM), and the ranking minority member of the subcommittee (Mr. WHALEN) for the work they have done on H.R. 9179.

Mr. Chairman, I rise in support of this legislation, a bill to extend the authority of the Overseas Private Investment Corporation and to improve its operations.

Mr. Chairman, as my colleagues know, when the Houses considered the original OPIC authorizing legislation, I had some serious reservations about OPIC, and indeed over the years my reservations were not entirely wiped out.

However, I must say that the importance of this bill is that it attempts to bring OPIC into conformity with the original congressional intent, and that is to promote economic progress in developing countries.

I would submit, Mr. Chairman, that if we were not to extend the authorization for OPIC for another 3 years, as this bill provides, it would be a mistake. I am fully cognizant of and certainly understand some of the concerns of my colleagues, concerning some of the foreign industries that compete with our domestic industries. But if we are going to take action which could result in retaliation against U.S. industries it would be counterproductive. Rejection of this bill could hurt those industries that export to other countries. In my opinion that would be a grave mistake.

As I said, this bill amends the law in such a way as to create conditions under which OPIC can focus on its original purpose of fostering overseas development. To further facilitate the achievement of this goal, the bill also contains a provision which will reinforce the development process.

For example, the bill requires OPIC to devote the resources necessary to determine the development impact of the projects its supports and to report those findings to the Congress.

I would disagree with those who argue that this bill would result in the export of jobs abroad. As a matter of fact, the argument can be made that OPIC helps to create jobs in the United States. For example, it has been calculated that the projects OPIC assisted during 1974–76 will, over a 5-year period, result in a net cash flow to the United States of $2.3 billion and create 37,500 man years of employment in the United States.

H.R. 9179 also contains a provision which encourages OPIC to undertake projects in mineral extraction and thereby helps meet U.S. mineral needs.

Mr. Chairman, if this bill is enacted, it will allow OPIC to carry through with its development purposes and to implement the intentions of this Congress.

I urge the Members to support this legislation. I think it would be a mistake to discontinue OPIC at this time.

Mr. WHALEN. Mr. Chairman, I reserve the balance of my time.

Mr. BINGHAM. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa (Mr. HARKIN).

Mr. HARKIN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, section 231 of title IV, which established OPIC, says in the opening sentence the following:

> To mobilize and facilitate the participation of United States private capital and skills in the economic and social development of less developed friendly countries and areas, thereby complementing the development assistance objectives of the United States, there is hereby created the Overseas Private Investment Corporation . . .

In other words, Mr. Chairman, OPIC was designed from the very beginning to complement the development assistance objectives of the United States.

I think this body, this Congress, at least in the last couple of years, has spoken quite affirmatively on at least four occasions that one of the primary objectives of our development assistance abroad has to be the promotion of human rights observance in those countries.

Yet, what we see OPIC doing is giving more and more of its money, its insurance, its guarantees to companies which invest in countries where there are serious and gross violations of human rights.

Therefore, Mr. Chairman, I am going to be offering an amendment on this bill which is basically the same human rights amendment that I have offered in a series of legislation that has passed both the House and Senate and has been made into law, as I said, on four different occasions in the last 2 years, to try to get OPIC if, in fact, this bill does pass, to

take into consideration the human rights aspects of our whole foreign policy, thereby, as the initial law said in creating OPIC, "complementing the development assistance objectives of the United States."

Another paragraph says that OPIC is to be responsive to the special needs and requirements of the economy of these development countries and shall contribute to the social and economic development of their people.

Therefore, Mr. Chairman, I would submit that the amendment I am going to offer, the human rights amendment, is in consonance with the whole law setting up OPIC; and I would think that there would not be any objection to the inclusion of this type of human rights amendment on OPIC.

Mr. BINGHAM. Mr. Chairman, I yield myself 1 minute to supplement the answer I gave before to the gentleman from Pennsylvania (Mr. GARY A. MYERS).

Mr. Chairman, I was not fully informed. The contracts that OPIC writes often contain contingency provisions. For example, a contract may prohibit more than a very small percentage of the products from an investment to be reexported back to the United States. Where there is any violation of such a condition at any time during the life of the contract, it could, indeed, be terminated.

Mr. Chairman, I have no further requests for time.

Mr. WHALEN. Mr. Chairman, I yield 2 minutes to the gentleman from Washington (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Chairman, I thank the gentleman for yielding.

I was curious to know whether the gentleman from California (Mr. RYAN) could give any hard evidence of a single American job that has been lost because of this program.

Mr. RYAN. Mr. Chairman, if the gentleman will yield, I will be glad to respond to the question. I think it is a very apt one because one of the questions involved here is whether or not this legislation is probusiness or antibusiness.

I do not know what probusiness or antibusiness consists of, but I can tell the Members about a few loans that OPIC has made overseas that certainly had an effect on domestic business in this country, as well as labor and jobs. For example, for Cluett Peabody a loan was certified on December 5, 1975—that is not quite 2 years ago—in the Ivory Coast and Thailand for the manufacture of textiles. It affects Cluett Peabody in this country, and 3,500 people in this country lost their jobs as a result of that contract.

There is an even better example as far as numbers are concerned. Kaiser Steel Corp., again in a small country called Turkey—of course that does need a great deal of help in developing—received a loan there on May 12, 1977—that is just a few months ago—which cost according to the figures I have here—the date of certification is May 12, 1977—in this country 4,215 jobs. The expansion had to do with aluminum smelters in the manufacture of electrical cable.

What I am talking about here in the limited time that the opposition has been able to get to talk against this bill—we have heard congratulations all around for almost an hour now about how good this thing is, besides which it is always going to change, when in fact it does not change because it cannot change—is in fact we keep losing these jobs. It seems to me if there is concern expressed, as there has been here by the chairman of the full committee, my good friend, the gentleman from Wisconsin (Mr. ZABLOCKI) that we are concerned about rising protectionism, of course, there is rising protectionism. A part of the reason is because we keep sending our jobs overseas, encouraging the development and growth not of industries that are basic in poor countries where you have a refrigeration plant or a fertilizer plant that really helps poor folks to do more. What we really have is assistance in highly developed countries, giving them even more help than they need to take jobs away from our own people here. And we are concerned about protectionism. That is where it comes from, and to see an American U.S.-sponsored Government agency insure that that will happen, and taking no risk whatsoever except that the United States takes a risk, that is, I think, the most terrible irony of all. So I think the gentleman's question is well taken. There are two sheets that I would like to ask unanimous consent in the House to have inserted at this point in the RECORD. They are as follows:

OPIC-INSURED COMPANIES AND LABOR DEPARTMENT CERTIFICATIONS OF WORKERS DISPLACED IN THESE COMPANIES BY IMPORTS OF RELATED PRODUCTS

COMPANY, PRODUCTS DISPLACED BY IMPORTS, NUMBER OF WORKERS CERTIFIED, AND DATE CERTIFIED

RCA, power transistors, 500, 4–17–75.

RCA, Republic of China, Brazil, manufacture of electronic components.

Singer, cable assemblies, 50, 8–29–75.

Singer, Vietnam, manufacture of sewing machines and parts.

Armco Steel, Stainless Steel Products, 1,200, 11–1–75.

Armco, Philippines, expansion, manufacture of steel bars, steel grinding balls.

Cluett Peabody, men's suits & coats; 3,500, 12–5–75.

Cluett Peabody, Ivory Coast, Thailand, manufacture of textiles.

Armco Steel, Stainless Steel Products, 2,777, 4–2–76.

Armco, Philippines.

Motorola, color TV, 1,200, 7–23–76.

Motorola, Israel, expansion-manufacture of communications equipment.

RCA, electronic tubes, 40, 5–9–76.

RCA, Republic of China, Brazil, Malaysia, manufacture of B&W TV picture tubes, manufacture of electronic components, assembly of integrated circuits.

RCA, electron tubes, 30, 5–9–76.

RCA, Republic of China, Brazil, Malaysia (see above).

Armco Steel, stainless steel tubing and plate, 70, 5–14–76.

Armco, Philippines, expansion, manufacture of steel bars, steel grinding balls.

Armco Stee (see above), 50, 5–9–76.

Armco, Philippines (see above).

Goodyear Tire, bicycle tires and tubes, 64, 7–19–76.

Goodyear, Malaysia and Morocco, manufacture of tires and related products, manufacture of rubber products.

Cluett Peabody, men's dress and business suits, 200, 6–28–76.

Cluett Peabody, Thailand, Ivory Coast, manufacture of textiles.

Dana, truck transmissions, 1,400, 8–27–76.

Dana, Republic of China, expansion—manufacture of auto driveline parts.

Rexnord, Inc., parts for rock crushers, 53, 11–22–76.

Rexnord, Brazil, manufacture of hydraulic equipment.

Fairchild, digital integrated circuits, 700, 2–28–77.

Fairchild, Korea, manufacture of electronic components.

Wolverine, work gloves, 75, 1–24–77.

Wolverine, Jordan, manufacture of leather goods.

Kaiser Steel Corp., steel products, 4,215, 5–12–77.

Kaiser, Ghana and Turkey, expansion-aluminum smelter, manufacture of electrical cable.

Armco Steel, carbon steel, 2,400, 4–14–77.

Armco, Phillipines, expansion, manufacture of steel bars, steel grinding balls wire products.

Armco Steel, billets, bars, rebars, rod angles, fastners, 50, no determination.

Armco Steel, Phillipines (see above).

RCA, power transistors, 250, 6–30–77.

RCA, Republic of China, Malaysia, manufacture of B&W TV picture tubes, manufacture of electronic components, assembly of integrated circuits.

RCA, electronic receiving tubes and mounts, N.A., no determination.

RCA, Republic of China, Malaysia, (see above).

RCA, wafer lines VHF and UHF tuners, c., B&W chassis lines, printed circuit boards, front & back control brackets, 200, no determination.

RCA, Republic of China, Malaysia, (see above).

Kaiser, bars, rods, hot rolled sheet and tin, 750, no determination.

Kaiser, Ghana, expansion-aluminum smelter.

(SOURCE.—August 1977 Trade Adjustment Assistance Calendar.)

Mr. VANDER JAGT. Mr. Chairman, I am delighted to have this opportunity to lend my support for H.R. 9179, which extends and modifies the operating authorities of the Overseas Private Investment Corporation. The OPIC programs offer a realistic and practical means of stimulating economic development in friendly, less developed countries.

OPIC makes sense because it responds directly to needs both of developing countries and U.S. business and labor, and because OPIC offers one form of foreign assistance that is not subsidized by the appropriation of tax dollars. This, I believe, is a remarkable achievement.

In the 3 years since Congress last extended OPIC's authorities, radical oil price increases and worldwide recession have compounded the need of developing countries for outside capital and technical assistance to develop their human and natural resources. U.S. industry can help fill these needs and, at the same time, strengthen our competitive position in growing international markets. Developing countries, however, remain high-risk areas because of the ever-shifting sands of political change. All but a few of our very largest companies need some form of insurance against the ma-

jor political risks if they are to invest there. After all, these corporations are the product of investment by American citizens—investors who have the right to expect that corporate executives will provide responsible management.

By insuring against expropriation, inconvertibility and war risks, OPIC helps to launch productive business ventures that provide jobs, foreign exchange, and tax revenues in poorer countries. And what types of ventures does OPIC support? It supports projects both that help to meet the basic needs of the people of the country and that employ and train a working force capable of developing an economic system less dependent on Government subsidies for its existence. Most frequently, these are projects that manufacture fertilizer, pesticides, pharmaceuticals and other chemicals essential to industry; or that produce food; or that find and produce minerals critical to industry in all countries, including the United States; or that support and develop other basic industries. And some are unusual ventures such as leather tanning, the construction and operation of hotels, which generate business and tourist revenues, or credit union interlending to people outside the credit structure. Moreover, OPIC recently started encouraging oil exploration and production in non-OPIC countries in an effort to help develop their own energy resources as well as diversifying the world's supply.

I hasten to add that OPIC supported economic development is not at the expense of U.S. jobs. This is because Congress, when it organized OPIC, recognized and provided that OPIC also be responsive to the legitimate concerns of U.S. labor. We specified that a representative or organized labor must be a member of OPIC's Board of Directors, and prohibited OPIC from assisting runaway industries. We further required the Corporation to consider the balance of payments and employment effects of every project assisted.

Thus, while some types of overseas investment are harmful to the U.S. economy, this is not so with OPIC assisted projects. The facts show that almost all of these projects actually benefit the United States in a direct and important way by purchasing U.S. made machinery, spare parts, and other production supplies, and by generating an inflow of dividends and interest. Indeed, estimated 5-year benefits of projects OPIC has assisted in the last 3 fiscal years include a net gain of some 37,500 man years of U.S. employment.

Neither are these programs a subsidy to U.S. business. To be self-sustaining OPIC must charge substantial fees for its services. Its insurance premiums are three to six times as high as those charged by comparable agencies in Germany, France, and Japan. In fact, some of our very largest companies such as Exxon, General Motors, and IBM, which have extensive operations overseas and can self insure, do not use the relatively high priced OPIC insurance.

In 1974, when the Congress last extended OPIC's operating authorities, I had the honor of serving on the subcommittee that conducted oversight hearings. My colleagues may recall that two important questions raised during those hearings have since been answered. First, some Members feared that OPIC's insurance of U.S. investments might lead to conflicts between the United States and host countries. Moreover, because OPIC then faced sizable claims in Chile, some Members also feared that Congress ultimately would be called upon for appropriations to cover OPIC losses. In both cases, the intervening years have proved these fears were wrong. OPIC's claims record has been remarkable. It now is evident that OPIC's insurance stabilizes the investment arrangements and, if a dispute occurs, enhances the prospects for avoiding the possibility of escalation into an intergovernmental confrontation. And today, OPIC's financial condition is sound. Insurance reserves have increased over 315 percent since OPIC was organized and anticipated recoveries on claims payments of $144.5 million will actually exceed the amount of payments by $32,000,000. This financial condition as well as OPIC's record of sustained growth of earnings and its ability to reach financially beneficial claims settlements provide strong evidence that it will not need any future appropriations.

My colleagues also may recall my reservations regarding provisions of the 1974 OPIC legislation that required OPIC to transfer its insurance program to the private sector. I did not believe this plan was feasible and that seeking to implement it could undermine OPIC's effectiveness as a development agency of the United States. OPIC has vigorously sought to carry out this mandate but that legislative scheme has proved unworkable.

Thus, I fully support the Carter administration and the Committee on International Relations in recognizing the weaknesses in the 1974 amendments and seeking to redirect OPIC toward its basic developmental objectives. I am confident that the bill reported by the committee—with bipartisan support—will provide the basis for maximizing OPIC's developmental effectiveness without abandoning its self-sustaining operations. I thus urge my colleagues to act favorably on bill.

The CHAIRMAN. Are there further requests for time?

Mr. BINGHAM. Mr. Chairman, I have no further requests for time.

Mr. WHALEN. I have no further requests, Mr. Chairman.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 9179

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Overseas Private Investment Corporation Amendments Act of 1977".

SEC. 2. (a) Subsection (e) of section 231 of the Foreign Assistance Act of 1961 is amended to read as follows:

"(e) to give preferential consideration in its investment insurance, financing, and reinsurance activities (to the maximum extent practicable consistent with the Corporation's purposes) to investment projects sponsored by or involving small businesses;".

(b) Section 234 of such Act is amended—

(1) in subsection (a)(2), by striking out all that follows "total project financing" through the end of the paragraph and inserting in lieu thereof a period;

(2) in subsection (a)(3) and subsection (b) by striking out "total face amount" in each place it appears and inserting in lieu thereof "maximum contingent liability";

(3) by striking out paragraphs (4) through (7) of subsection (a);

(4) by striking out the second paragraph of subsection (c) and inserting in lieu thereof the following new paragraph:

"No loans shall be made under this section to finance operations for extraction of oil or gas.";

(5) in subsection (d) by striking out *"Provided, however,"* and all that follows through "mineral." and inserting in lieu thereof the following: *"Provided, however,* That the Corporation shall not finance surveys to ascertain the existence, location, extent or quality, or to determine the feasibility of undertaking operations for extraction of oil or gas."; and

(6) in paragraph (1) of subsection (f) by striking out the period at the end thereof and inserting in lieu thereof the following: ": *Provided, however,* That such agreements and contracts are consistent with the purposes of the Corporation set forth in section 231 of this Act and are on equitable terms: *Provided further,* That the Corporation shall not make or carry out any association or risk-sharing agreement for the direct underwriting of insurance by the Corporation with others, other than or risk sharing agreement for the direct underwriting on an individual basis where such direct underwriting facilitates the purposes of the Corporation as set forth in section 231 of this Act.".

(c) Section 235 of such Act is amended—

(1) in subsection (a)(2), by striking out ", of which guaranties of credit union investment shall not exceed $1,250,000"; and

(2) in subsection (a)(4), by striking out "December 31, 1977" and inserting in lieu thereof "September 30, 1980".

(d) Section 237 of such Act is amended—

(1) in subsection (f), by striking out the period at the end of the first sentence and inserting in lieu thereof the following: ": *Provided, however,* That the Corporation may provide for appropriate adjustments in the insured dollar value to reflect the replacement cost of project assets."; and

(2) in subsection (f), by striking out the period at the end of the second sentence and inserting in lieu thereof the following: ": *Provided, however,* That this limitation shall not apply to direct insurance or reinsurance of loans made by banks or other financial institutions to unrelated parties.".

(e) Section 239 of such Act is amended—

(1) in subsection (b) by striking out the second paragraph thereof; and

(2) in subsection (d) by inserting after "section 231(c)" in the parenthetical the following: "or participation certificates in evidences of indebtedness held by the Corporation in connection with settlement of claims under section 237(i)".

(f) Section 240A of such Act is amended by striking out subsection (b) and inserting in lieu thereof the following:

"(b) Not later than September 30, 1979, the Corporation shall submit to the Congress a report on the development of private and multilateral programs for investment insurance and any reinsurance arrangements it has made with private insurance companies, multilateral organizations and institutions, or other entities.".

(g)(1) Section 231 of such Act, as amended by subsection (a) of this section, is further amended—

(A) in subsection (1) by striking out "and" after the semicolon;

(B) in subsection (m) by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new subsection:

"(n) to take into account in making its determination to provide insurance or financing for a project the specific development benefits of such project, including such factors as the ratio of capital to employment and the net impact on local employment and productivity; the transfer to local employees of basic business knowledge and skills; stimulation of local enterprise to supply or to process the output of the project; its effects on the supply and distribution of basic foodstuffs and other goods necessary to meet the basic human needs of the population; its effects on the lives of the poor, their access to their economy, and their capacity to participate in the development of their countries; its contribution to host government revenues; its effect on the foreign exchange position of the host country; its effects on the degree of concentration of the ownership of land and other productive resources; its effects on the decentralization of economic activity and the flow of resources into the small towns and rural areas; its effects on the environment; and the proposed social benefits to be offered in the community in which the project is located.".

(2) Section 237 of such Act, as amended by subsection (d) of this section, is further amended by adding at the end thereof the following new subsection:

"(l) In order to carry out the purposes set forth in subsections (f) and (n) of section 231 of this Act, the Corporation shall, in consultation with the Agency for International Development, prepare and maintain for each investment project it insures, finances, or reinsures, a Development Impact Profile consisting of data appropriate to measure the projected and actual effects of such project on development.".

(3) Section 240A of such Act, as amended by subsection (f) of this section, is further amended by adding at the end thereof the following new subsection:

"(c) After the end of each fiscal year, the Corporation shall submit to the Congress a complete and detailed Development Impact Report setting forth and analyzing both the positive and negative effects of its activities on the purposes set forth in subsections (f) and (n) of section 231 of this Act.".

(h) (1) Section 237 of such Act, as amended by subsections (d) and (g) (2) of this section, is further amended by adding at the end thereof the following new subsection:

"(m) No payment may be made under any insurance or reinsurance, which is issued under this title on or after the effective date of this subsection, for any loss occurring with respect to a project, if any Federal agency (other than the Corporation) has made a final determination, or any court of the United States has entered a final judgment, that the investor seeking payment, or an agent of such investor, is responsible for an act of bribery, substantially as defined in section 238(e) of this Act, with respect to that project.".

(2) Section 238 of such Act is amended—

(A) in subsection (c) by striking out "and" after the semicolon at the end thereof;

(B) in subsection (d) by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new subsection:

"(e) the term 'act of bribery' means an offer or promise to pay, or a payment of, any significant amount of money, or an offer or promise to give, or a gift of, anything of significant value, by an investor or an agent of such investor—

"(1) to an individual who is an official of a foreign government or instrumentality thereof for the purpose of inducing that individual to use his influence within such foreign government or instrumentality to affect any decision or other action of such foreign government or instrumentality with respect to a project of the investor for which insurance or reinsurance is issued under this title;

"(2) to any person if such investor or agent knows or has reason to know that all or a portion of such moneys or thing of value will be offered, given, or promised, directly or indirectly, to any individual who is an official of a foreign government or instrumentality thereof for the purpose of inducing that individual to use his influence within such foreign government or instrumentality to affect any decision or other action of such foreign government or instrumentality with respect to such project; or

"(3) to any foreign political party or official thereof or any candidate for foreign political office for the purpose of inducing that party, official, or candidate to use its or his influence with a foreign government or instrumentality thereof to affect any decision or other action of such foreign government or instrumentality with respect to such project.".

(3) The amendments made by subparagraphs (A) and (B) of this paragraph shall apply to acts of bribery engaged in on or after the date of the enactment of this Act.

Mr. BINGHAM (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: Page 3, strike out line 7 and insert in lieu thereof "on an individual basis where such direct underwriting".

Mr. BINGHAM. Mr. Chairman, this amendment simply corrects a typographical error in the original bill.

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 8, lines 24 and 25, strike out "subparagraphs (A) and (B) of this paragraph" and insert in lieu thereof "paragraphs (1) and (2) of this subsection".

Mr. BINGHAM. Mr. Chairman, this, too, is a technical correction.

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

AMENDMENT OFFERED BY MR. SOLARZ

Mr. SOLARZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SOLARZ: Page 8, add the following new subsection at the end of the bill:

(i) Section 231 of such act as amended by Subsection (g) of this section is further amended by adding at the end thereof the following new subsection:

"(o) to decline to issue any contract of inurance or reinsurance, or any guaranty, or to enter into any agreement to provide financing for an eligible investor's proposed investment if the Corporation determines that such investment is likely to cause a significant reduction in the number of employees in the United States."

The CHAIRMAN. The gentleman from New York (Mr. SOLARZ) is recognized for 5 minutes in support of his amendment.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to the distinguished chairman of the committee.

Mr. BINGHAM. I thank the gentleman for yielding.

I am not sure I have have the correct amendment. Is it a modification of the amendment the gentleman showed me earlier?

Mr. SOLARZ. Yes.

Mr. BINGHAM. In small type?

Mr. SOLARZ. The one which adds a new subsection (o).

Mr. WHALEN. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to the distinguished ranking minority member of the committee, the gentleman from Ohio (Mr. WHALEN).

Mr. WHALEN. Mr. Chairman, I have had an opportunity to examine this amendment and I have no objection on the minority side to what the amendment does, which is perhaps to close a loophole that might have existed in the law.

As I pointed out to the gentlewoman from New Jersey, we have in the law at this time a restriction on insuring investments where jobs within a particular corporation may be lost. This would apply to the entire sector itself.

I support the gentleman's amendment.

Mr. SOLARZ. I thank the gentleman from Ohio for his support.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to the chairman of the committee.

Mr. BINGHAM. I thank the gentleman from New York for yielding.

Mr. Chairman, I think it would be helpful to the members of the committee if the gentleman from New York would explain the amendment, because I think I would probably agree with my friend, the gentleman from Ohio, but I think it would be probably helpful if the gentleman would explain the amendment.

Mr. SOLARZ. I would be happy to, particularly because I do not think it requires a second for me to proceed. I would be delighted to do so at this time.

There are some people who claim that this bill should be defeated because of the jobs which may be lost in our country as a result of the various projects the Overseas Investment Corp. insures. OPIC takes the position that it carefully screens out any projects which would result in the loss of a large number of jobs in our country. Indeed, OPIC claims that their projects have actually resulted in an increase of 30,000 or more jobs in our own country.

This amendment is designed to clear up the confusion by prohibiting OPIC from providing insurance or reinsurance or any guarantee or entering into an agreement for financing any investment which would result in a significant re-

duction in the number of employees in the United States.

So I believe that with the adoption of this amendment the House would have made it clear that OPIC is not supposed to provide insurance or guarantees for any project overseas which would result in a significant loss of jobs in our own country. I think that this is something which is very much in keeping with the spirit of the legislation, which is after all to help create jobs overseas and not to create a loss of jobs in our own country.

I believe OPIC is already operating on this basis but in order to allay the fears of my good friend, the gentleman from California who believes they are not, this should eliminate any confusion which might be created in the future.

Finally I believe the amendment has the support of the ranking minority member of the subcommittee, our good friend the gentleman from Ohio, as well as the chairman of the subcommittee, my very good friend, the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. I thank the gentleman for yielding.

I think his amendment is constructive. I am not sure it is essential, but I think it is constructive and explains the bill perhaps better than it already was, and from our side I would have no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. SOLARZ).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. CRANE

Mr. CRANE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CRANE: Page 8, add the following new subsection at the end of the bill:

(i) Section 237 of such Act, as amended by subsection (h) of this section, is further amended by adding at the end thereof the following new subsection:

"(n) The Corporation shall not make any loan to, or guarantee or insure the obligations of, the National Finance Corporation of Panama unless the Congress adopts a concurrent resolution approving such loan, guaranty, or insurance.".

Mr. CRANE. Mr. Chairman, the purpose of this amendment is simple—to insure that, if anyone is to tell the Overseas Private Investment Corporation (OPIC) how to utilize its money, it should be Congress rather than the Secretary of State. After all, OPIC does have an 11-member board created to direct financial policy and Congress has the responsibility for granting OPIC's basic authority. In fact, one of the major provisions of H.R. 9179, which we are considering here today, is to extend that basic authority through September 30, 1980.

What brings this issue to the fore is, of course, the economic understanding that are related to, but not part of, the proposed Panama Canal Treaties. In a letter to Señor Gabriel Lewis Galindo of Panama, Secretary of State Vance wrote:

The Overseas Private Investment Corporation would guarantee borrowings of not to exceed $20 million in United States private capital by the National Finance Corporation of Panama (COFINA) for use in financing productive projects in the private sector in Panama, subject to terms and conditions as shall be agreed upon by the Overseas Private Investment Corporation and COFINA and approved by the Overseas Private Investment Corporation's Board of Directors.

Now, this $20 million is just part of some $325 million in economic assistance that has been promised—most of which will come from the so-called off-budget items—items that are not subject to the annual appropriations process. The thought occurs that one reason such aid was proposed in this manner was because there is a fear that Congress would not approve otherwise. The fact that the President is reluctant to submit the treaties to the House of Representatives as article IV, section 3, clause 2 of the Constitution, and past precedent, seem to require only lends support to this theory.

My concern, therefore, is not only that Congress should have the ultimate say in what loans OPIC guarantees, but that Congress—both Houses of Congress—fully participate in all aspects of any turnover of the Panama Canal. My amendment does not prohibit loan guarantees being made; all it does is say that if they are made both Houses of Congress must have approved of them first. That is only appropriate inasmuch as the American people have a tremendous investment in the Panama Canal and they ought to be party to any arrangement that would so drastically affect the future of that investment, an investment which adds up to almost $7 billion and perhaps more if you reckon replacement costs.

The argument will no doubt be raised that Secretary Vance's letter specifies private U.S. capital be used. However, OPIC is an independent Federal agency and attempts to fully privatize it have not yet been successful. Therefore, it cannot be said that the American taxpayer does not have an interest. Moreover, I should note that while there are no specific limitations (by nation that is) on OPIC financing, there are some of a functional nature. In fact, the bill we have before us proposes that OPIC pay no claim if the project involved has an investor who has been found guilty of bribery in connection with the project. Therefore, it is not unreasonable to add that, OPIC money—even if OPIC is self-supporting—not be used to assist in the giveaway of U.S. property without the prior approval of Congress. This is only consistent with the dictates of article IV, section 3, clause 2. And Congress, particularly the House of Representatives, should be most anxious to see that those dictates are not infringed upon either directly or indirectly.

Mr. Chairman, I should also note that those who are concerned about the question of human rights and its relationship to U.S. investment should also be concerned about this $20 million in loan guarantees to Panama. Not only is Panama a dictatorship, but its record on human rights is horrendous. As a matter of fact, Freedom House rated Panama not too long ago on human rights and found it, along with Cuba, to be the worst in the Western Hemisphere—even below Chile. The Inter-American Press Association has likewise rated Panama as "not free," and if one needs further verification one need only look at the lack of elections, the controlled press, and the comments of those who have left.

Mr. Chairman, I could go on about the implications of these proposed Panama Treaties; but rather than turn this into a test vote on the treaties themselves, let me just say that I think that at some time in the future there should be a test vote—not only of the treaties but also on the collateral agreements and any implementing language. My amendment would insure this objective, at least in one instance, and I urge its adoption.

Mr. ZABLOCKI. Mr. Chairman, I rise in opposition to the amendment.

I can understand the motivation of the gentleman in introducing the amendment nevertheless, I am constrained to rise in opposition.

This amendment, if adopted, would prejudice the outcome of the debate on the Panama Canal before the Senate, and, indeed, before the American people have had an opportunity to explore all of the ramifications of the provisions of the respective treaties.

Now, the proposed OPIC guarantee is not a provision of the treaties. It is, however, a part of an economic package which the U.S. negotiating team and the executive branch pledged its best efforts to obtain for Panama in order to promote the development of Panama's economy and its ability to operate and defend the canal.

The proposed OPIC guarantee would not require an appropriation, nor would it involve the transfer of taxpayers' dollars to the Government of Panama. The proposal would involve the OPIC guarantee of borrowings of not to exceed $20 million in U.S. private capital by the National Finance Corporation of Panama for use in financing productive projects in the private sector of Panama.

The guarantee is subject to the approval of OPIC's board of directors, which is comprised of a majority of representatives from the private sector, as required by law. So, let us permit the normal, authorized OPIC decisionmaking process to take place rather than to take the premature and, I submit, ill-timed action contained in this amendment.

Mr. Chairman, I might also inform our colleagues that the other body just last week rejected a similar proposal by a vote of 69 to 13. I should also point out that the economic assistance the United States is considering for Panama is, I must say again, not a part of the treaty, nor is acceptance of the treaty by the Republic of Panama contingent upon what economic assistance the United States gives or does not give to Panama.

What is important is that we are putting this House on record as opposing investment in Panama at a delicate period of time, when the merits of the agreement that has been reached between the President of the United States and a

foreign country are still being debated throughout the United States. I, therefore, submit that this amendment at this time is highly undesirable, and is not the way that Congress should conduct its affairs.

As I have stated to the gentleman, my judgment is that the amendment is premature. He is putting the cart before the horse. The time for the Congress to consider the implementation of the treaties and the furnishing of assistance to Panama is after the treaties have been approved—not now, and not in this bill.

U.S. investment abroad is essential to the economy of this country and if, as many observers believe, access to the Panama Canal is important to the economy of the United States, adoption of this amendment would be contrary to the economic well-being of the United States.

Furthermore, the purpose of the proposed guarantee is to help Panama develop a more viable economy—an economy which will help Panama to operate and defend the canal after the year 2000. Such a capability is equally important to the United States.

Further, I might say that the Committee on International Relations has already held hearings on the Panama Canal Treaties. We will continue those hearings if and when the Senate approves ratification. In considering the implementing legislation, the Committee on International Relations then will also look at the economic package in depth.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

(By unanimous consent Mr. ZABLOCKI was allowed to proceed for 2 additional minutes.)

Mr. ZABLOCKI. Mr. Chairman, I must restate that it is not appropriate for the House to preempt this issue before the Committee on International Relations and other committees which will be holding hearings on the implementing legislation, are given the opportunity to look into the details and give the House the benefit of their judgment and their advice.

Finally, Mr. Chairman, adoption of the amendment would prejudice our relations with Panama, and could eventually lead to a deterioration in our relationship with all the countries of Latin America. The Panama Canal Treaties are not just a matter between the country of Panama and the United States, but an issue involving all of the Latin American countries.

For these reasons, Mr. Chairman, I urge that the amendment be defeated.

Mr. CRANE. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from Illinois.

Mr. CRANE. I thank the distinguished gentleman for yielding.

Mr. Chairman, I would only say that, in connection with the rejection of Senator ALLEN'S efforts to introduce a similar amendment in the Senate, I am not sure there is a great deal of support in the other body for House participation in any alienation of the canal. So I am not altogether sure that we can depend upon the other body to agree with our actions, which are in fact, legitimate concerns and interests.

Mr. ZABLOCKI. Certainly the gentleman will agree that action on the part of the Senate last week does not indicate that there is sentiment for the gentleman's amendment.

Mr. CRANE. No, I do not mean to suggest that. I think that what was involved in that, though, if the gentleman will yield further is the question of whether the House should participate, as prescribed under article IV, section 3, clause 2, in passing implementing legislation with respect to the Panama Canal.

Mr. ZABLOCKI. Let me assure the gentleman that I fully understand and realize the sentiments of the Senate. Let me assure the gentleman that, as far as this Member is concerned, as chairman of the Committee on International Relations and as a Member of this House, I will pursue the point that this House also has an equal role in considering implementing legislation on the Panama Canal Treaties, should they be ratified.

Mr. CRANE. If I may, I want to commend the distinguished gentleman from Wisconsin, because I know of his longstanding interest and concern regarding this question. What I say is in no way intended to suggest that the gentleman will not be historically where he has been, and I am confident of that, as are all of the Members of this body.

Mr. ZABLOCKI. I thank the gentleman.

Mr. FASCELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment, for the reasons that already have been stated, and I would hope that the gentleman would reconsider and withdraw the amendment.

One of the unfortunate aspects of the amendment, as I see it, besides changing the operation of OPIC so that it becomes a part of the congressional process with respect to this one country, is the fact that the way the amendment is written is not in any way contingent upon the treaties. In other words, its effect would be immediate. And, therefore, it injects the Congress into a process which has been operating, so far as I know, perfectly adequately with respect to the business community, and it would deny them the right of investment if the Congress sees fit with respect to any particular investment no matter what the U.S. policy might be with respect to the purpose of such investments. So I do not see the necessity for that. It is not as if it is part of the treaty or treaty protocol that requires implementing legislation. The Board of Directors will have to act on this proposal if and when the treaties are ever approved. So, to come here now with an amendment which seeks to arrive at some future possibility but has an immediate alternative effect, I think is an unfortunate policy decision, and for that reason I think the amendment ought to be rejected.

Mr. BAUMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I listened closely to the well-reasoned argument, although I do not accept it, of the gentleman from Wisconsin regarding this amendment. I do not think that the amendment will in any way prejudice the pending treaties with Panama. While the gentleman makes the point that the $20 million proposed OPIC loan guaranty is not a part of the treaties, it is a part, as he readily admits, of the so-called package offered to Panama by President Carter.

Mr. Chairman, there has been a great deal of discussion in the other body—and I think it is proper for us to address the same question—as to whether the total $325 million package that the administration has proposed as part of the Panamanian negotiations ought not to be made part of the treaty and ought not to be acted upon by the House of Representatives in some form.

As I read this amendment and as I read the authorizing legislation, the suggestion made by the gentleman from Florida (Mr. FASCELL) is not well taken, because this amendment offers the only time we will have a chance to vote on this $20 million Panama loan guarantee by OPIC, because if this authorizing legislation passes, there will be no obligation ever to resubmit this issue to the House or to the Senate. It will be done in the normal course of business, and I assume, with the administration's influence on the Board of Directors of OPIC, they will indeed support it.

So the only chance that the House of Representatives is going to have to pass on this $20 million part of the package is here today on this amendment, unless the amendment passes.

As to the question of why the other body would reject a similar amendment, the answer is obvious. The other body, including many Members who may even be opposed to the Panama Canal Treaty, certainly may not feel it should concede that the House of Representatives has a part in ratifying these treaties. Well, that is too bad. That is their view.

But I think some of us ought to take note of the well-reasoned arguments put down in this RECORD and in the hearings which I attended as a member of the Committee on Merchant Marine and Fisheries chaired by the gentleman from New York (Mr. MURPHY). Those arguments show, I think, conclusively, both by Supreme Court cases and under the Constitution, that article IV grants to the House the right to act on these treaties, because they dispose of U.S. territory and property.

This is only one part of this entire treaty picture. I think we have not just a right but a duty to our constituents, not only for those of use who are opposed to the treaties but those who support them, to at least allow the option the gentleman from Illinois (Mr. CRANE) suggests. That is to come back with a concurrent resolution and then let us pass upon the proposed loans. Otherwise we will never have a chance.

Let me say something to the gentleman from Wisconsin (Mr. ZABLOCKI) about this delicate period that exists in relations between Panama and the United States. This delicate period is being used today by the Soviet Union to press all

sorts of economic advantages in Panama. The gentleman knows they have had a trade delegation there during this past summer that may well lead to agreements. There may very well be a Soviet bank, Soviet trading companies, and various Soviet industries that will compete with private American investments in Panama.

At the very least, even if a treaty were not pending, it might be well for us to have this kind of a review procedure in the House to allow us to pass upon that issue in the context of the continued increasing Soviet economic penetration in Panama and around the Panama Canal Zone.

So. Mr. Chairman, I do not think this amendment is undesirable. It is a good amendment.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Mr. Chairman, does the gentleman from Maryland (Mr. BAUMAN) maintain that we should let the Soviet Union have a free hand in trade and involvement in capital investments in the Panama Canal area?

Mr. BAUMAN. No, this gentleman does not argue that, and I do not think this amendment will in any way affect Soviet activities, as far as the broad OPIC involvement is concerned. In that context, this would not in any way prevent another Soviet trade delegation being welcomed by General Torrijos with open arms as the last one was.

Mr. ZABLOCKI. Does the gentleman know that we send trade delegations to Panama?

Mr. BAUMAN. I should think we would have a little better relations with Panama than simply sending trade delegations.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield further?

Mr. BAUMAN. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. If some of these trade delegations would be enhanced in dealing with Panama if they had an opportunity to obtain OPIC guarantee as an incentive, does the gentleman believe that such an incentive should be available?

Mr. BAUMAN. Certainly, with our review as the amendment proposes.

Mr. ZABLOCKI. Then why does the gentleman support this amendment?

Mr. BAUMAN. As I said to the gentleman, there is no reason why, if they reach an agreement, they cannot come back to the Congress and ask us to act upon this matter.

Mr. CRANE. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Illinois.

Mr. CRANE. Mr. Chairman, I would like to respond to the inquiry made by our distinguished colleague, the gentleman from Wisconsin (Mr. ZABLOCKI), and say that this does not preclude the $20 million loan. All it does is establish the first precedent that article IV, section 3, clause 2 of the Constitution will be observed, and that there will be positive action taken by the House and the Senate on the subject.

The reason I do not think it is premature, as the gentleman suggested earlier, is that we are authorizing the extension of OPIC until 1980, and presumably the present timetable calls for the possibility of ratification in the Senate as early as February or March of next year. So I think establishing the first precedent, providing that the House will participate in implementation, as required by the Constitution, is in order, and that is what the amendment would do.

In the event there is, say, ratification and there are no objections in the Congress, then the Congress can act positively by confirming the decision to make the $20 million to Panama without jeopardizing relations.

Mr. BAUMAN. I would only add, Mr. Chairman, that while this is certainly not a test amendment on the issue of Panama, I do think our constituents will be watching our vote on it.

Mr. WRIGHT. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Texas (Mr. WRIGHT) is recognized for 5 minutes.

Mr. WRIGHT. Mr. Chairman, I earnestly hope that our colleagues will reject this amendment. It is mischievous, it is wholly impractical, and it could be thoroughly counterproductive to our national purpose.

In the first place, it clearly is mischievous. Why of all the nations in the world should we single out the Republic of Panama to deny loans to private individuals who want to invest there? Quite obviously, because the gentleman from Illinois (Mr. CRANE) has a vendetta against the treaty with Panama.

This legislation does not have anything to do with the treaty. This is ongoing legislation to extend an ongoing program. Whether or not there were a treaty, it is in the national interest of the United States to permit private American investors, at their option, the opportunity to invest in the Republic of Panama.

The obvious purpose of the amendment is to embarrass the Secretary of State and the President of the United States. It would be a gratuitous slap in the face to the administration and to our State Department. It clearly is mischievous.

Second, the procedure it proposes would be wholly impractical. By the terms of the amendment, it would direct that the corporation shall make no loans or guarantee or insure any obligations unless the Congress adopts a concurrent resolution approving each such loan, guarantee, or insurance.

We are not talking about one loan to one country. We are talking about an indeterminate number of loan guarantees in the private sector.

Would it be practical for Congress to oversee every loan to every individual? Of course, it would not. It just would not work at all. There would be such a proliferation that it would render wholly unworkable and totally impractical the work of this Corporation. That is why the Corporation was created, to make these individual decisions. Congress cannot oversee every loan to every individual.

In the third place, it would be wholly counterproductive. This country has friends in Panama. We have many friends there.

A few years ago, our Ambassador to Panama was a man named Joseph Farland. He was a Republican appointee, a man from West Virginia. He was a shirtsleeves ambassador, one of the best I have ever had the privilege to know.

Instead of just catering to the creme de la creme of Panama City society, he took the chandeliers from the American Embassy and took them with him to various remote places throughout Panama and held official receptions in these smaller towns so that the private citizens could have a visit with the American Ambassador.

On one visit to a little mountain village above David, in the northern province of Chiriqui, he discovered that the women there were making cloth by rubbing threads along their outer thighs. What a primitive device. There was no other industry in this little community except for oranges which they could carry in baskets on their heads in a full day's walk down the mountains to David.

Seeing this, the Ambassador prevailed upon an entrepreneur in a small way to get a loan and sell little hand-held tools for two women working together so that they could weave 10 times the cloth that they were weaving before.

And there began a new infant industry, a cottage industry, in that little community. They were so proud of it that they invited the Amabassador there for their grand opening. He said the whole village turned out. They sang the Star Spangled Banner phonetically in English. He told me:

I have never heard it sung worse, but I have never heard it sung better.

That is the kind of thing we may be talking about—a lot of little loans, bootstrap loans, that help people meet opportunities. And they do exist in Panama. This amendment, therefore, would be contrary to the national purpose; it would be mischievous; it would be impractical. So I earnestly hope that we will reject this amendment.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to yield the remainder of my time to the gentleman from Illinois (Mr. CRANE) for purposes of debate. I would like to hear a little more about these cottage industries.

Mr. CRANE. I thank my colleague for yielding.

I would like to respond to some of the remarks made—eloquently made, I might say—by the distinguished majority leader. I think there are a couple of assumptions he is operating under that are not necessarily valid, the most important being that in the event this amendment passes, when the concurrent resolution is voted on by the House and Senate, we

would vote negatively. I have no assurance that we would do that, nor even that we would have a reason to do that.

The main thrust of this amendment is designed to guarantee into the future, starting with this first opportunity, that those provisions of the Constitution that I referred to earlier will be observed. Since this authorization goes as far as 1980, we may not have the opportunity to act on this specific part of what may be a number of provisions in subsequent legislation between now and the possibility of the treaty ratification time.

Mr. FASCELL. Mr. Chairman, will the gentleman yield just to clarify a statement, because I know the gentleman does not want to leave the record confused?

Mr. CUNNINGHAM. I yield to the gentleman from Florida.

Mr. FASCELL. There is no possible constitutional requirement that I can see with respect to a private loan under OPIC going to a corporation in Panama in the normal course of business. I really respectfully suggest there is a tremendous difference between that and what the gentleman is trying to get at.

Mr. CRANE. If the gentleman will yield to me, I think, in response to that concern registered, to the extent that there is not yet the full guarantee under OPIC that all OPIC moneys are private moneys, then there is a legitimate taxpayer concern. I think to that extent this body is accountable under article IV, section 3, clause 2.

Mr. FASCELL. Mr. Chairman, will the gentleman yield again?

Mr. CUNNINGHAM. I yield to the gentleman.

Mr. FASCELL. I frankly do not see that with respect to OPIC operations, but I will let that go as far as the gentleman's opinion as to what it is he is concerned about. But his amendment does not limit itself to those obligations. Under the protocol, his amendment does affect present ongoing possible transactions; does it not?

Mr. CRANE. If the gentleman will yield further, yes, indeed, it does. The reason I have concern on this point, though, is that this $20 million is a part of the $325 million that the negotiators with the Panamanians added to sweeten the pot with respect to the Panamanians ratification of the two treaties. To the extent that is so, I think it is in our interest here to reserve unto ourselves the power to render a judgment, as we hopefully will be making on a variety of other aspects of implementation of the treaties.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. I thank the gentleman for yielding.

I would like to inquire of some one of the leadership who knows about this bill if that quaint little enterprise that the majority leader just told us about would qualify for a loan under this bill. I am told that a small firm like that would not qualify and would not be able to function under this loan. I just would like to know what the truth is. I wonder if anybody can respond to that.

Mr. WHALEN. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from Ohio.

Mr. WHALEN. I thank the gentleman for yielding.

Yes; under the present statute, treaty or no treaty, Cofina would qualify for an OPIC loan guarantee.

Mr. YOUNG of Florida. Is that the same firm the majority leader talked about where they wove the cloth on their legs?

Mr. WHALEN. I do not know.

Mr. YOUNG of Florida. That is the firm I am talking about.

Mr. WHALEN. I am talking about Cofina which is being established to provide loans for developmental purposes in Panama, and under the present statute, they would qualify for loan guarantees from OPIC.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. CRANE).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. CRANE. Mr. Chairman, on that I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Mr. CRANE. Mr. Chairman, I will withdraw the point of no quorum if the majority will help me get a vote.

The CHAIRMAN. Ninety-eight Members are present, not a quorum.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Illinois (Mr. CRANE) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 188, noes 215, not voting 31, as follows:

[Roll No. 734]

AYES—188

Abdnor	Bennett	Cederberg
Ammerman	Bevill	Chappell
Anderson, Calif.	Brown, Mich.	Clausen, Don H.
Andrews, N. Dak.	Brown, Ohio	Clawson, Del
Archer	Broyhill	Cochran
Armstrong	Buchanan	Cohen
Ashbrook	Burgener	Coleman
Badham	Burke, Fla.	Collins, Tex.
Bafalis	Burleson, Tex.	Conable
Bauman	Butler	Cotter
Beard, Tenn.	Byron	Coughlin
	Caputo	Crane
	Carter	
Cunningham	Jones, Okla.	Risenhoover
Daniel, Dan	Kasten	Robinson
Daniel, R. W.	Kazen	Rogers
Davis	Kelly	Rose
de la Garza	Kemp	Rudd
Derwinski	Ketchum	Runnels
Devine	Kindness	Russo
Dickinson	Lagomarsino	Ryan
Dornan	Latta	Santini
Duncan, Tenn.	Leach	Sarasin
Edwards, Ala.	Lent	Satterfield
Eilberg	Livingston	Sawyer
Emery	Lloyd, Calif.	Schulze
English	Lloyd, Tenn.	Sebelius
Erlenborn	Lott	Shuster
Ertel	Lujan	Sikes
Evans, Del.	Luken	Skelton
Evans, Ind.	McDade	Smith, Nebr.
Fish	McDonald	Snyder
Fithian	McEwen	Spence
Flood	Madigan	Stangeland
Flynt	Marlenee	Stanton
Fountain	Marriott	Steed
Frenzel	Mathis	Steiger
Frey	Mazzoli	Stratton
Fuqua	Michel	Stump
Gammage	Mikulski	Symms
Gephardt	Milford	Taylor
Gibbons	Miller, Ohio	Thone
Gilman	Mitchell, N.Y.	Treen
Goldwater	Montgomery	Trible
Gradison	Moore	Vander Jagt
Grassley	Moorhead, Calif.	Volkmer
Gudger	Mottl	Waggonner
Guyer	Murphy, Pa.	Walker
Hagedorn	Myers, John	Walsh
Hall	Neal	Wampler
Hansen	Nichols	Watkins
Harsha	O'Brien	White
Heckler	Pettis	Whitehurst
Hillis	Poage	Whitley
Hollenbeck	Pressler	Whitten
Horton	Pritchard	Wilson, Bob
Hubbard	Quayle	Wilson, C. H.
Huckaby	Quie	Winn
Hughes	Quillen	Wydler
Hyde	Railsback	Wylie
Ichord	Regula	Yatron
Ireland	Rhodes	Young, Alaska
Jeffords	Rinaldo	Young, Fla.
Jones, N.C.		Zeferetti

NOES—215

Addabbo	Dellums	Jenrette
Akaka	Derrick	Johnson, Calif.
Alexander	Dicks	Johnson, Colo.
Allen	Dingell	Jordan
Ambro	Dodd	Kastenmeier
Andrews, N.C.	Downey	Keys
Annunzio	Drinan	Kildee
Applegate	Duncan, Oreg.	Kostmayer
Ashley	Early	Krebs
Aspin	Eckhardt	LaFalce
AuCoin	Edgar	Le Fante
Baldus	Edwards, Calif.	Lederer
Barnard	Evans, Colo.	Leggett
Baucus	Fary	Lehman
Beard, R.I.	Fascell	Levitas
Bedell	Fenwick	Long, La.
Beilenson	Findley	Long, Md.
Benjamin	Fisher	Lundine
Bingham	Flippo	McCloskey
Blanchard	Florio	McCormack
Blouin	Flowers	McFall
Boggs	Foley	McHugh
Boland	Ford, Mich.	McKay
Bonior	Ford, Tenn.	McKinney
Bonker	Forsythe	Maguire
Bowen	Fowler	Mahon
Brademas	Fraser	Mann
Breckinridge	Gaydos	Markey
Brinkley	Giaimo	Marks
Brodhead	Ginn	Martin
Brooks	Glickman	Mattox
Broomfield	Gonzalez	Meeds
Burke, Calif.	Goodling	Metcalfe
Burke, Mass.	Gore	Meyner
Burlison, Mo.	Hamilton	Mikva
Burton, John	Hammer-schmidt	Miller, Calif.
Carney	Hanley	Mineta
Carr	Hannaford	Minish
Cavanaugh	Harkin	Mitchell, Md.
Chisholm	Harrington	Moakley
Clay	Harris	Moffett
Cleveland	Hawkins	Mollohan
Collins, Ill.	Hefner	Moorhead, Pa.
Conte	Heftel	Moss
Conyers	Hightower	Murphy, Ill.
Corman	Holtzman	Murtha
Cornell	Howard	Myers, Gary
Cornwell	Jacobs	Myers, Michael
Danielson	Jenkins	Natcher
Delaney		Nedzi

Nix	Roncalio	Stokes
Nolan	Rooney	Studds
Nowak	Rosenthal	Thompson
Oakar	Rostenkowski	Traxler
Oberstar	Roybal	Tsongas
Obey	Ruppe	Tucker
Ottinger	Scheuer	Udall
Panetta	Schroeder	Ullman
Patten	Seiberling	Van Deerlin
Patterson	Sharp	Vanik
Pattison	Shipley	Vento
Pease	Simon	Walgren
Pepper	Sisk	Waxman
Perkins	Skubitz	Weaver
Pike	Slack	Weiss
Preyer	Smith, Iowa	Whalen
Price	Solarz	Wiggins
Rahall	Spellman	Wirth
Reuss	St Germain	Wright
Richmond	Staggers	Yates
Rodino	Stark	Young, Mo.
Roe	Steers	Zablocki

NOT VOTING—31

Anderson, Ill.	Edwards, Okla.	Rangel
Badillo	Evans, Ga.	Roberts
Biaggi	Holland	Rousselot
Bolling	Holt	Stockman
Breaux	Jones, Tenn.	Teague
Brown, Calif.	Koch	Thornton
Burton, Phillip	Krueger	Wilson, Tex.
Corcoran	McClory	Wolff
D'Amours	Murphy, N.Y.	Young, Tex.
Dent	Pickle	
Diggs	Pursell	

The Clerk announced the following pairs:

On this vote:

Mr. Roberts for, with Mr. Jones of Tennessee against.

Mr. Teague for, with Mr. Rangel against.

Mr. Breaux for, with Mr. Biaggi against.

Mr. Corcoran of Illinois for, with Mr. Dent against.

Mr. Edwards of Oklahoma for, with Mr. Murphy of New York against.

Mrs. Holt for, with Mr. Wolff against.

Mr. McClory for, with Mr. Diggs against.

Mr. Rousselot for, with Mr. Badillo against.

Messrs. CARNEY, KOSTMAYER, and HARKIN changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. RHODES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it is my understanding that the Committee will rise immediately, and right after the Committee rises it will be my purpose to ask leave to proceed for 1 minute for the purpose of inquiring of the majority leader as to the program for the balance of the week, for the balance of the month, and in fact the balance of the session.

Mr. BINGHAM. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose: and the Speaker pro tempore (Mr. ROSTENKOWSKI) having assumed the chair, Mr. EVANS of Colorado. Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 9179) to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation, had come to no resolution thereon.

LEGISLATIVE PROGRAM

(Mr. RHODES asked and was given permission to address the House for 1 minute.)

Mr. RHODES. Mr. Speaker, I take this time to inquire of the distinguished majority leader as to the program for the balance of the week and, in fact, for the balance of the first session of this Congress, if he is in a position to divulge that, and I understand that he is.

Mr. WRIGHT. Mr. Speaker, if the gentleman will yield, when we adjourn this evening, we would adjourn to meet at 10 o'clock tomorrow morning. The first item will be to consider the Labor-HEW conference report on H.R. 7555. Then we will conclude consideration of the bill which has just been under consideration, that is H.R. 9179. Then we will have 1 hour of general debate, under an open rule, on H.R. 5646, ConRail medical payments. We will then consider H.R. 5789, Office of Rail Public Counsel Authorization, under an open rule, with 1 hour of debate. We have scheduled several funding resolutions, including the resolution to fund the Select Committee on Population.

At about 2:15 p.m., the House will rise informally to receive Senator HUBERT HUMPHREY.

There will be a continuing resolution for District of Columbia appropriations.

There might be certain other conference reports ripe for consideration tomorrow.

When we adjourn tomorrow, assuming that we have concluded the business before the House, we would have only a pro forma session on Friday.

After the conclusion of this colloquy, I will ask unanimous consent for the approval of a resolution regarding our adjournment for the recess period.

Mr. RHODES. Mr. Speaker, it is my understanding that after the House receives the distinguished senior Senator from Minnesota, there will be no further business on tomorrow; is that correct?

Mr. WRIGHT. We would hope that might be correct, but I could not promise that because there may be a continuing resolution or something that needs to be accomplished that we would not have been able to achieve prior to that hour.

Mr. RHODES. So there is no hard and fast determination as to the time of adjournment on tomorrow?

Mr. WRIGHT. Mr. Speaker, I am afraid, in response to the question asked by my friend, that there cannot be. There are two or three things that simply must be done. One of them is, of course, the District of Columbia appropriations. We need a continuing resolution for that.

The other item of business is the Labor-HEW appropriation. We need either to resolve that conference committee report and that bill or also have a continuing resolution with respect to that.

Mr. RHODES. Further, it is the understanding of this Member that until we meet again, hopefully after the energy bill conferees have completed their work, there will be sessions on Tuesdays and Fridays, but they will be pro forma only.

Is that the understanding of the majority leader?

Mr. WRIGHT. Mr. Speaker, if the gentleman will yield further, that is exactly my understanding, and that is the purpose of the leadership.

Mr. RHODES. Mr. Speaker, since the order of the House provides that the House meets at 10 a.m. on Fridays, would it be the intention of the majority leader to begin the pro forma session or session at 10 a.m., or would the gentleman ask unanimous consent to meet at noon instead?

Mr. WRIGHT. Mr. Speaker, I should think that it would be as good as not to meet at noon. I have no reason to think otherwise.

Mr. RHODES. Further, may I inquire of the distinguished majority leader as to whether or not there will be notice given before the House considers any legislation? In other words, when the time comes for us to return to consider the conference report, would there be ample time given—perhaps 3 days—for the Members to be informed as to the date of reconvening?

Mr. WRIGHT. Mr. Speaker, it is the present plan that we would reconvene on November 28. Should there be any change one way or the other, Members will have at least 3 days' notice.

Mr. RHODES. And further, may I inquire as to what will happen when we do reconvene? Will it be for the purpose of taking up only the conference report on the energy bill, or will there possibly be other business which would be scheduled?

Mr. WRIGHT. Mr. Speaker, if the gentleman will yield further, the principal purpose, of course, is the consideration of the conference committee report on the energy bill. Beyond that, there may be other conference committee reports that we would want to take up or, conceivably, a funding resolution under a unanimous consent request.

But aside from that, it is the present plan of the leadership to schedule nothing except conference committee reports and unanimous consent requests.

Mr. RHODES. No new business?

Mr. WRIGHT. No new business is contemplated.

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the chairman of the Committee on Appropriations.

Mr. MAHON. Mr. Speaker, I would hope that the majority leader would bear in mind—and I am sure he does—that it could conceivably be possible that on tomorrow we would not be able to take final action on the conference report on the $7 billion supplemental appropriation bill, and then it would have to be considered, I assume, in late November or on some date around that time.

Mr. WRIGHT. Mr. Speaker, if the gentleman will yield further, that is most certainly a bill that needs to be acted upon, and if we have not been able to take up that conference committee report tomorrow—and as the committee chairman has suggested, we will probably not be able to—then, emphatically, we would want to consider that when we return.

Mr. RHODES. Is it possible for the distinguished majority leader to look in his crystal ball and inform the House as to approximately how long we might be in session after November 28 or such date as we may reconvene?

Mr. WRIGHT. Mr. Speaker, I think I need to correct something I said earlier. I believe I said we would come back on November 28.

Mr. RHODES. That is correct.

Mr. WRIGHT. Let me make a correction. November 29 is a Tuesday, and it is the plan to come back on the 29th rather than the 28th. Absent any formal advance notification of at least 3 days to the contrary we will come back on November 29. It is anticipated that we will be here 1 or 2 days, or at the very most, 3 days.

Mr. RHODES. Mr. Speaker, I thank the gentleman.

Mr. MICHEL. Mr. Speaker, if the gentleman still has the floor, would he yield to me?

Mr. RHODES. Mr. Speaker, I yield to the gentleman from Illinois.

Mr. MICHEL. Mr. Speaker, I was under the impression that the gentleman from Pennsylvania (Mr. FLOOD) would make an observation about tomorrow's scenario.

If not, I would like to ask a question or two to lay out a kind of scenario here having to do with the HEW bill if the chairman is not going to do that.

Mr. FLOOD. If the gentleman will yield, Mr. Speaker, no. I was going to ask permission to have a report printed in the RECORD.

Mr. MICHEL. So long as the minority leader yields, Mr. Speaker, let me proceed to propound another question. The other body, it is my understanding, will meet tomorrow morning at 9:30. They will take up their new language on abortion.

Mr. FLOOD. That is correct.

Mr. MICHEL. Which, from my understanding at this juncture, changes the word "serious" to "severe" with respect to physical health damage. It is my understanding also that the rape and incest section has in it the words "including treatment after the determination of pregnancy."

If the House turns down that language and does not accept it, we are obviously in the position where we have no agreement. Then, in addition to a continuing resolution involving the District of Columbia, we also have to include HEW.

Since the chairman of the Committee on Appropriations is here, is it the gentleman's view that we would then have a continuing resolution for the balance of the month which would include HEW; and if that is the case, then when we come back on the 29th, it is not only energy, but the supplemental, the conference report, and wrestling with the HEW abortion issue one more time; is that not correct?

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the distinguished majority leader.

Mr. WRIGHT. Mr. Speaker, obviously if we are not able to resolve the Labor-HEW bill, the bill which passed this House on June 15, if we are not able to finish it tomorrow or to come to an agreement, quite obviously we will have to have a continuing resolution. If that continuing resolution does not encompass a sufficiently broad period of time so as to preclude our dealing with it later in the month, then we would have to deal with it later in the month.

Mr. MICHEL. Mr. Speaker, I appreciate the response.

Mr. RHODES. Mr. Speaker, may I ask the distinguished majority leader one further question?

When the House reconvenes to consider the report of the conferees on the energy bill, it is my understanding that the legislation will be brought back in five separate packages and considered as five separate packages on the floor of the House. Is that the understanding of the distinguished majority leader?

Mr. WRIGHT. If the gentleman will yield, Mr. Speaker, no, that is not the understanding of the majority leader. No firm decision has been made, to my knowledge; but I think it altogether possible that while the Senate may wish to consider those bills in five separate installments, the leadership of the House might seek a rule permitting them to be considered en bloc. I am speaking, of course, of the legislation which was considered on the floor of the House when we passed it in August.

Mr. RHODES. I gather that the final decision has not yet been made, is that correct?

Mr. WRIGHT. I think that is a fair assumption, but I think the gentleman should be advised that there is a possibility, now under consideration by the leadership, that we may seek a rule to permit us to consider the legislation en bloc as we considered it in the House as one package.

Mr. RHODES. Mr. Speaker, I thank the gentleman.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Speaker, those on the energy conference committee just want to wish all of the Members a happy holiday and bon voyage. We ask them not to forget to write; send us cards from wherever you are.

Mr. RHODES. Mr. Speaker, I will say to my good friend, the gentleman from Ohio (Mr. BROWN), that I personally will promise every day that wherever I am at 5 o'clock I will rise, face Washington, and think kindly thoughts about the conferees on the energy bill.

PERMISSION FOR THE HOUSE TO MEET ON TUESDAYS AND FRIDAYS UNTIL FURTHER ORDER

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that from and after November 4, 1977, during the remainder of this session, the House shall meet only on Tuesdays and Fridays of each week until the further order of the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. BAUMAN. Reserving the right to object, from the date that the gentleman uses, does he contemplate a session this Friday?

Mr. WRIGHT. If the gentleman will yield, there will be a pro forma session the day after tomorrow.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

CONFERENCE REPORT ON H.R. 7555, MAKING APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE, AND RELATED AGENCIES

Mr. FLOOD submitted the following conference report and statement on the bill (H.R. 7555) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies for the fiscal year ending September 30, 1978, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 95–801)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the amendment of the Senate numbered 82 to the bill (H.R. 7555) "making appropriations for the Departments of Labor, and Health, Education, and Welfare, and Related Agencies for the fiscal year ending September 30, 1978, and for other purposes," having met, after further full and free conference, have been unable to agree.

DANIEL J. FLOOD,
WILLIAM H. NATCHER,
NEAL SMITH,
EDWARD J. PATTEN,
EDWARD R. ROYBAL,
LOUIS STOKES,
GEORGE MAHON,
ROBERT H. MICHEL,
SILVIO O. CONTE,
GEORGE M. O'BRIEN,
E. A. CEDERBERG,
Managers on the Part of the House.

WARREN G. MAGNUSON,
WILLIAM PROXMIRE,
ERNEST F. HOLLINGS,
THOMAS F. EAGLETON,
BIRCH BAYH,
LAWTON CHILES,
QUENTIN N. BURDICK,
DANIEL K. INOUYE,
JOHN L. MCCLELLAN,
EDWARD W. BROOKE,
CLIFFORD P. CASE,
RICHARD S. SCHWEIKER,
CHARLES MCC. MATHIAS, Jr.,
MILTON R. YOUNG,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the amendment of the Senate numbered 82 to the Bill (H.R. 7555) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1978, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE II—DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

GENERAL PROVISIONS

Amendment No. 82: Reported in disagreement.

DANIEL J. FLOOD,
WILLIAM H. NATCHER,
NEAL SMITH,
EDWARD J. PATTEN,
EDWARD R. ROYBAL,
LOUIS STOKES,
GEORGE MAHON,
ROBERT H. MICHEL,
SILVIO O. CONTE,
GEORGE M. O'BRIEN,
E. A. CEDERBERG,
Managers on the Part of the House.

WARREN G. MAGNUSON,
WILLIAM PROXMIRE,
ERNEST F. HOLLINGS,
THOMAS F. EAGLETON,
BIRCH BAYH,
LAWTON CHILES,
QUENTIN N. BURDICK,
DANIEL K. INOUYE,
JOHN L. MCCLELLAN,
EDWARD W. BROOKE,
CLIFFORD P. CASE,
RICHARD S. SCHWEIKER,
CHARLES MCC. MATHIAS, JR.,
MILTON R. YOUNG,
Managers on the Part of the Senate.

REPORT ON HOUSE RESOLUTION 837, AUTHORIZING THE PRINTING OF THE COMMITTEE PRINT ENTITLED "THE COORDINATION OF U.S. INTERNATIONAL ECONOMIC POLICY"

Mr. HAWKINS, from the Committee on House Administration, submitted a privileged report (Report No. 95–802), on the resolution (H. Res. 837) authorizing the printing of the committee print entitled "The Coordination of U.S. International Economic Policy," which was referred to the House Calendar and ordered to be printed.

REPORT ON HOUSE RESOLUTION 662, AUTHORIZING THE PRINTING AS A HOUSE DOCUMENT THE DEDICATION CEREMONY OF THE PORTRAIT OF THE HONORABLE PETER W. RODINO, JR., CHAIRMAN, COMMITTEE ON THE JUDICIARY

Mr. HAWKINS, from the Committee on House Administration, submitted a privileged report (Rept. No. 95–803) on the resolution (H. Res. 662) authorizing the printing as a House document the dedication ceremony of the portrait of the Honorable PETER W. RODINO, JR., chairman, Committee on the Judiciary, which was referred to the House Calendar and ordered to be printed.

REPORT ON SENATE CONCURRENT RESOLUTION 52, AUTHORIZING THE PRINTING OF ADDITIONAL COPIES OF THE BOOKLET ENTITLED "THE SENATE CHAMBER, 1810–59"

Mr. HAWKINS, from the Committee on House Administration, submitted a privileged report (Rept. No. 95–804), on the Senate concurrent resolution (S. Con. Res. 52) authorizing the printing of additional copies of the booklet entitled "The Senate Chamber, 1810–59," which was referred to the House Calendar and ordered to be printed.

REPORT ON SENATE CONCURRENT RESOLUTION 53, AUTHORIZING THE PRINTING OF ADDITIONAL COPIES OF HEARINGS ENTITLED "PANAMA CANAL TREATIES"

Mr. HAWKINS, from the Committee on House Administration, submitted a privileged report (Rept. No. 95–805), on the Senate concurrent resolution (S. Con. Res. 53) authorizing the printing of additional copies of hearings entitled "Panama Canal Treaties," which was referred to the House Calendar and ordered to be printed.

AUTHORIZING FUNDS FOR THE STANDING AND SELECT COMMITTEES OF THE HOUSE OF REPRESENTATIVES

Mr. THOMPSON. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 879) and ask unanimous consent for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 879

Resolved, That, (a) there shall be paid out of the contingent fund of the House of Representatives, in accordance with subsection (b), for the period beginning January 3, 1978, and ending at the close of March 31, 1978, such sums as may be necessary for the continuance of necessary projects, activities, operations, and services, by contract or otherwise, including payment of staff salaries for services performed by each standing or select committee established in the Rules of the House of Representatives.

(b) Each standing committee or select committee referred to in subsection (a) shall be entitled, for each month or portion of a month occurring during the period specified in subsection (a), to payments out of the contingent fund of the House of Representatives in amounts equal to one-twelfth of the total amount authorized for use by the standing committee or select committee involved during the first session of the Ninety-fifth Congress.

SEC. 2. (a) In the case of any select committee of the House of Representatives which—

(1) was established or reestablished by resolution during the first session of the Ninety-fifth Congress; and

(2) did not complete the functions assigned to it by such resolution, or any subsequent resolution, before the close of the first session of the Ninety-fifth Congress;

such select committee shall be entitled, for each month during the period January 3, 1978, and ending at the close of March 31, 1978, to payments out of the contingent fund of the House of Representatives, for the expenses and purposes specified in subsection (a) of the first section of this resolution, in amounts equal to—

(A) one-twelfth of the amount determined under subsection (b); or

(B) the total amount of expenditures made by the select committee involved during December 1977;

except that the entitlement of such select committee for the month during which such select committee is reestablished shall be prorated based upon that portion of such month during which such select committee is in existence.

(b) The amount which shall be the basis for an entitlement under subsection (a) shall be the amount which bears the same ratio to the total amount authorized for use by the select committee involved during the first session of the Ninety-fifth Congress as twelve months bears to the number of months during which such select committee was in existence during such session. For purposes of the preceding sentence, any portion of a month in calendar year 1977 which is fifteen days or more and during which any such select committee was in existence shall be considered to be a complete month.

SEC. 3. The entitlement of any standing committee or select committee of the House of Representatives to payments out of the contingent fund of the House of Representatives pursuant to the provisions of this resolution shall cease to be effective on the effective date of the primary expense resolution adopted with respect to the standing committee or select committee involved.

SEC. 4. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with law.

Mr. THOMPSON (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with and that it be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER pro tempore. Is there objection to the unanimous-consent request for immediate consideration of the resolution?

There was no objection.

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. THOMPSON) is recognized for 1 hour.

Mr. THOMPSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 879 is the continuing resolution for the second session of this Congress.

This resolution provides that committees of the House may continue with their business from the beginning of the second session of this Congress until the adoption, by the House, of their respective funding resolutions.

Mr. Speaker, this resolution is generally identical to House Resolution 11, which was passed by the House at the beginning of the first session of this Congress. This resolution specifies that House committees are entitled to continue their business in the second session at the expenditure rate of one-twelfth per month of the total amount authorized for their use during the first session.

Further, the resolution is effective only through March 31, 1978, and any funds expended under this resolution will be deducted from the committee's 1978 funding.

Mr. Speaker, this resolution is necessary so that the Committees of the House may continue their business.

I urge its adoption.

Mr. Speaker, I now yield to the gentleman from Alabama (Mr. DICKINSON).

Mr. DICKINSON. Am I correct in assuming now that this covers all standing, all special, all ad hoc, and other com-

mittees that are now in existence, or are there exceptions?

Mr. THOMPSON. If the gentleman will yield, all of the committees and ad hoc committees and select committees are covered for the second session. The select committees, as the gentleman knows, expire at the end of each Congress.

Mr. DICKINSON. Mr. Speaker, just for the record, could the chairman tell us what would happen then to the specials on January 3? Would they automatically die and have to be reconstituted?

Mr. THOMPSON. Under the resolution they may expend at the rate of one-twelfth per month of the amount authorized for the first session, but the resolution is effective only through March 31, 1978.

Mr. DICKINSON. I thank the gentleman.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON. I yield to my friend, the gentleman from Ohio.

Mr. ASHBROOK. I wonder if there is any special provision for the Special Select Committee on Intelligence, which was not instituted until later in the year. Would the one-twelfth work disadvantageously as far as that committee is concerned?

Mr. THOMPSON. I think not. The committees have a choice: the amount for December or one-twelfth.

Mr. ASHBROOK. I thank the gentleman.

Mr. THOMPSON. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING COMMITTEE ON HOUSE ADMINISTRATION TO RETAIN COUNSEL TO INTERVENE IN CASE OF ATKINS AGAINST UNITED STATES

Mr. THOMPSON. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 884) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 884

Resolved, That the chairman of the Committee on House Administration is authorized to intervene and appear as a party respondent in the pending action entitled "C. Clyde Atkins et al., plaintiff, against the United States", Nos. 41–76, 132–76, 357–76, United States Court of Claims, on behalf of the House of Representatives, to defend therein the constitutional authority of Congress to make all laws as shall be necessary and proper for executing its constitutional powers.

SEC. 2. To carry out the purposes of this resolution, the chairman of the Committee on House Administration is authorized to employ, with the approval of the Speaker, a special counsel to represent the House in all judicial proceedings relating to said action.

SEC. 3. Such expenses to employ a special counsel, not to exceed the amount unexpended on the date of enactment of this resolution of the sum specified in the contract entered into between Eugene Gressman and the United States House of Representatives on October 20, 1976, shall be paid from the contingent fund of the House on vouchers signed by the chairman of the Committee on House Administration and approved by the Speaker.

SEC. 4. The Committee on House Administration is authorized and directed to report to the House with respect to the matters covered by this resolution as soon as practicable.

SEC. 5. The authority granted herein shall expire three months after the filing of the report with the House of Representatives, but in no case later than January 3, 1979.

Mr. THOMPSON (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with and that the resolution be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. THOMPSON) is recognized for 1 hour.

Mr. THOMPSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution authorizes the House of Representatives to continue its participation in the case of Atkins against United States.

Last year 140 U.S. circuit and district court judges sued the Government in the Court of Claims to recover compensation they allege was unconstitutionally denied them by the exercising of the legislative veto provision of the Federal Salary Act of 1967.

During the oral argument on this matter, the Department of Justice conceded that the one-House veto was, in that instance, unconstitutional. Because of that concession, the Court of Claims invited the House and Senate to file amici curiae briefs with the court. Speaker Carl Albert directed that as chairman of the Committee on House Administration, I secure counsel to defend the constitutionality of the legislative veto.

On May 18, 1977, the Court of Claims held that the "one-House veto" is authorized by the Constitution and is a rightful exercise of the necessary and proper clause.

The plaintiffs in this case have now filed a petition for certiorari in the U.S. Supreme Court seeking to review the holding that the one-House veto is constitutional. Because of the strong interests in the House in preserving its major constitutional victory in the Court of Claims, the Committee on House Administration voted unanimously to report House Resolution 884, to seek authority in the House to intervene as a party before the Supreme Court. As it is unlikely that the Department of Justice will defend the decision of the Court of Claims, it is imperative that the House continue its involvement to assure the presence of adversary parties on this vital constitutional issue.

Under an existing contract with the special counsel in this case, Mr. Eugene Gressman, no more than $39,836.77 could be expended without further authorization of the House.

My friend and distinguished colleague from Georgia, Mr. ELLIOTT LEVITAS, has joined me in cosponsoring this legislation, because of his expertise in and concern for the legislative veto.

I urge my colleagues to join me in supporting this legislation.

Mr. Speaker, I yield to my distinguished friend, the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Speaker, I thank the gentleman for yielding and I commend the gentleman and the committee for taking this very important action.

I want to take this time simply to point out for the record the extreme significance of the resolution and litigation to which it relates. One very important point of significance is the fact that the Justice Department in this case has refused to defend a statute validly passed by the Congress. It is almost unheard of for the Justice Department not to defend statutes passed by the Congress of the United States. Here in this case, the Justice Department and the Attorney General not only have refused to defend the action taken by the Congress in validly adopting a statute, but conceded the statute was unconstitutional. Consequently, it became necessary for the House to obtain its own counsel, which was done, and because of the court action, but the only ruling by any court upheld the constitutionality of the one House and legislative veto provision by this body and the other body, this body especially, about asserting its constitutional power.

I commend the gentleman from New Jersey for his leadership in this regard. I hope as a result of this action the cause for constitutionality of the one-House veto will be effectively presented to the Supreme Court and once and for all upheld, so we can get on with the business of applying the one-House veto to the bureaucrats of this country.

Mr. THOMPSON. Mr. Speaker, I yield for purposes of debate only to the gentleman from Alabama (Mr. DICKINSON).

Mr. DICKINSON. Mr. Speaker, I might inquire, it is my understanding that what we are doing here costs no money. The money has already been appropriated in the past. We have already contracted with counsel. We have already performed a lot of the work. What we are doing here today is simply authorizing the House through what has already been contracted and appropriated and this is more a formality than anything else; am I correct?

Mr. THOMPSON. The gentleman is exactly correct.

Mr. DICKINSON. Mr. Speaker, I thank the gentleman.

Mr. THOMPSON. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO HAVE UNTIL MIDNIGHT, MONDAY, NOVEMBER 7, 1977, TO FILE REPORT ON H.R. 3350

Mr. KAZEN. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs have until

12 o'clock midnight, Monday, November 7, 1977, to file a report on the bill (H.R. 3350) to promote orderly development of hard mineral resources in the deep seabed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PROVIDING IMPROVED AUTHORITY FOR ADMINISTRATION OF CERTAIN NATIONAL FOREST SYSTEM LANDS IN OREGON

Mr. RONCALIO. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 7074) to provide improved authority for the administration of certain National Forest System lands in Oregon.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wyoming?

Mr. JOHNSON of Colorado. Mr. Speaker, reserving the right to object, and I do not intend to object, I wish that the gentleman from Wyoming would explain in the nature of the bill.

Mr. RONCALIO. Mr. Speaker, if the gentleman will yield, I will be delighted to give a summary.

This brings to a conclusion the controversy that has existed in the Interior Subcommittee on Public Lands for about 3 months. It stems from the management plan for the Bull Run Watershed by the city of Portland, Oreg. It represents a conflict that takes place in many, many areas of America, where the Forest Service wishes and desires to manage the forests and engage in timber cutting and where the city has a rather serious and solemn responsibility to see that the quality of the water is not endangered in large areas.

We held extensive hearings. We had a markup of several bills. We thought we were moving in the right direction, but the four Members of the delegation affected from the State of Oregon were unable really to get behind one particular bill; so what we are doing now, there has been a compromise and an agreement to which they have all agreed.

Mr. KETCHUM. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from California.

Mr. KETCHUM. Mr. Speaker, I thank my friend, the gentleman from Colorado, for yielding.

I wonder if the gentleman from Wyoming could tell me, this project that we are talking about, is that in the district of the gentleman from Oregon (Mr. WEAVER) or the gentleman from Oregon (Mr. DUNCAN)?

Mr. RONCALIO. I would yield to the gentleman from Oregon (Mr. DUNCAN) for a specific description. It affects the congressional districts of the gentlemen from Oregon, Messrs. ULLMAN, DUNCAN, and AUCOIN.

Mr. JOHNSON of Colorado. I yield to the gentleman from Oregon (Mr. DUNCAN).

Mr. DUNCAN of Oregon. The Bull Run Watershed lies in the districts encompassed by the congressional districts of Mr. ULLMAN and myself, Mr. DUNCAN.

Mr. KETCHUM. In that case I would have no objection.

Mr. JOHNSON of Colorado. Mr. Speaker, I would just reiterate what the gentleman from Wyoming has said. This is a very difficult problem. The delegation from Oregon has tried to work it out, and finally they have worked out a compromise. Those of us who are unaffected but who have watched this tedious process the gentlemen have engaged in, I think all agree that they have done a good job in trying to reconcile the different and conflicting interests. I urge that we pass the bill, and I withdraw my reservation of objection.

Mr. WEAVER. Mr. Speaker, reserving the right to object, and I shall not object but take this time to pose three questions to Mr. DUNCAN.

First, in section 2(a), in the fourth line, the word "exception" appears. To what does that "exception" apply?

Mr. DUNCAN of Oregon. If the gentleman would yield, and I speak as the draftsman. The "exception" applies, in accordance with standard grammatical construction of the English language, to the preceding clause—

In accordance with the laws, rules and regulations applicable to the National Forest System lands.

It reinforces the duty imposed upon the Secretary to administer the unit "as a watershed" and does not detract in any way from that duty. The exception gives the Secretary powers to deviate from the "laws, rules and regulations applicable to the National Forest System Lands" as may be necessary to avoid significantly adversely affecting the quality or quantity of water produced thereon.

Mr. WEAVER. I thank the gentleman. My second question is with respect to the formula for the development of water quality standards, on page 4, where the bill provides that if no data was collected in some category from 1967 through 1975 that "data collected in the first 3 years of record thereafter shall be used." My question is, To what does the word "thereafter" apply?

Mr. DUNCAN of Oregon. If the gentleman would yield, the word "thereafter" refers to the time from which the collection of that specific data commences, and continues for 3 years. It does not limit the use of data collected during the 3 years commencing in 1975, but makes a part of the standards new data collected in the first 3 years after observations were actually commenced.

Mr. WEAVER. My final question is as to the meaning of section 3(e), on page 7.

Mr. DUNCAN of Oregon. If the gentleman would yield, I believe this to be a restatement, a codification of case law traditionally applicable to cases of the type referred to against a governmental agency or official. I do not believe it expands or restricts existing law.

Mr. WEAVER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

The clerk read the bill, as follows:

H.R. 7074

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds and declares that—

(1) the city of Portland, Oregon, draws all of its water supply from the forested watershed known as Bull Run, reserved and protected as the municipal water supply for the city of Portland by Presidential proclamation in 1892, from which certain watershed lands were removed by Presidential proclamation in 1911;

(2) in 1904 Congress enacted a Trespass Act, now section 1862 of title 18, United States Code, protecting the Bull Run watershed;

(3) the reserve has been administered by the Forest Service in the Department of Agriculture since 1905;

(4) commercial timber harvesting activities commenced in the watershed in 1958 and in 1959 the Forest Service by administrative order opened to public access approximately forty-two thousand acres of the Bull Run Reserve not in the watershed's physical drainage, and in 1976, the United States District Court for the District of Oregon determined that section 1862 of title 18, United States Code, still applies to the entire original Bull Run Reserve; that the present logging program in the Bull Run Reserve does not protect the forest; and that present logging and recreation in the Bull Run Reserve are illegal;

(5) the Bull Run Reserve serves as the sole domestic water supply for approximately three hundred and seventy-two thousand four hundred and fifty people in the city of Portland and approximately two hundred and thirteen thousand four hundred people on the outskirts of the city, providing them pure and clear raw potable water;

(6) pure and clear raw potable water such as that available from a unique source such as the Bull Run Reserve is an irreplaceable resource and the provision of such water to the residents of the city of Portland and its environs at the lowest cost obtainable has priority over all other uses of the Bull Run Reserve;

(7) the existing law (18 U.S.C. 1862), governing trespass in the Bull Run Reserve, now part of the Mount Hood National Forest in the State of Oregon, does not appropriately address present and future needs and opportunities for the protection, management, and utilization of the renewable resources contained therein, and requires amendment in order to allow for enlightened protection, management, and utilization of these unique resources.

DESIGNATION OF WATERSHED MANAGEMENT UNIT

SEC. 2. (a) Subject to valid existing rights, there is hereby created a Special Resources Management Unit within the Mount Hood National Forest, State of Oregon, comprising approximately ninety-seven thousand two hundred and forty-four acres as depicted on the attached map, dated July 29, 1977, and entitled "Bull Run Watershed Management Unit, Mount Hood National Forest", the original of which is on file and available for public inspection in the office of the Chief, Forest Service, Department of Agriculture. The Special Resources Management Unit hereby created shall be known as the Bull Run Watershed Management Unit, Mount Hood National Forest (hereinafter referred to as the "unit").

(b) Neither grazing, mineral exploration, or development under the mining and min-

eral leasing laws (except for such geothermal leasing and development as may be permitted by the Secretary) nor recreational activities shall be allowed within the watershed unit.

PURPOSES AND MANAGEMENT OF THE UNIT

SEC. 3. (a) The primary purpose of the Bull Run Watershed Management Unit is the long-term production of high quality raw potable water for the city of Portland, Oregon, and its outskirts. Subject to the primary purpose of the unit, the Secretary of Agriculture (hereinafter "Secretary") shall have the right to authorize the use of the waters in the unit by the city of Portland for the production of hydroelectric energy and the transmission of such energy through and over the unit. Further the rights-of-way heretofore granted to the Bonneville Power Administration by the United States Forest Service through and over the unit are validated, confirmed, and deemed consistent with this Act.

(b) The unit and the renewable resources therein shall be administered by the Secretary in accordance with the laws, rules, and regulations applicable to the National Forest System. With the exception of the restrictions contained in section 2(b) above, the Secretary may authorize such uses and activities in the watershed unit as he shall determine—

(1) to be necessary to preserve and protect the watershed unit for its primary purpose; or

(2) to not adversely affect the primary purpose of the watershed unit; and

(3) to not adversely affect the quality and quantity of water available (taking into account normal seasonal fluctuations) to water users from the unit prior to the time of enactment of this Act; and

(4) to be consistent with the water quality standards promulgated by the city of Portland.

(c) The city of Portland, in consultation with the Federal Environmental Protection Agency, shall—

(1) establish and maintain a comprehensive system, using the best technology currently available, for monitoring and evaluating water quality within the watershed unit; and

(2) undertake (at least annually) a comprehensive review of existing and historical water quality data to determine as nearly and as scientifically as possible the quality of the water delivered from the watershed unit to the city during the preceding year and prior to the time of enactment of this Act.

After completing this review, the city shall develop and promulgate water quality standards (including viral standards) which are at least as stringent as those existing at the time of enactment of this Act and which shall be used by the Secretary to determine permissible activities within the unit. No activity shall be permitted within the unit which is incompatible with such standards.

(d) In the event the city shall fail to perform its duties and responsibilities of water monitoring and evaluation and water standard promulgation under this section, such duties shall be assumed by the Federal Environmental Protection Agency. Any assumption of such duties by the Environmental Protection Agency shall result in the forfeiture by the city of its arbitration rights under section 3(g) of this Act.

(e) The policies set forth in subsections (a), (b), and (c) shall be attained through the development, maintenance, and periodic revision of land management plans in accordance with procedures set forth in section 5 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 477, as amended; 16 U.S.C. 1604), and through supporting scientific research and facilities as the Secretary may deem necessary after consultation and in coordination with the city of Portland. In the development and revision of land management plans for the unit, the Secretary shall provide for public participation, shall consult and coordinate with appropriate officials and advisors of the city, shall consider such data and research as the city may collect through its own monitoring systems and scientific efforts, and shall meet the water quality standards promulgated by the city. Such plans shall be prepared by an interdisciplinary team; be embodied in appropriate written material, including maps and other descriptive documents; and be available to the public at convenient locations. The initial plan or plans shall be completed as soon as practicable after the enactment of this Act, but not later than September 30, 1979.

(f) The Secretary or his representative shall, upon request, and at least annually, meet with appropriate officials of the city for the purpose of reviewing planned management programs and the impact thereof on the quality and quantity of the water produced on the unit and assuring that their respective management and operational activities within the unit are appropriately coordinated and are not inconsistent with the city's water quality standards. The Secretary shall negotiate in good faith cooperative agreements with appropriate officials of the city to effectuate activity coordination.

(g) In the event there is disagreement between the city and the Secretary with respect to the impact of one or more proposed or existing programs, practices, or uses on the quantity or quality of the water produced on said unit and, therefore, with respect to the necessity for an alteration or prohibition of any such program practice or use as required in section 3(i) hereof, an arbitration board for resolving such disagreements shall be established. The Secretary and the city shall, each, forthwith appoint one member to such board and those two members shall select a third. In the event agreement cannot be reached on the third member within seven days after the appointment of the first two, the third member shall be appointed by the presiding judge of the United States District Court for the District of Oregon within seven days after being notified of such disagreement by either of the first two members. All of said members shall be qualified to make a scientific determination of the facts. The board shall forthwith consider and decide the issues in disagreement by majority vote, taking into consideration the evidence and data presented informally by the parties and such other tests and data which the board by majority vote may require and the decision of such board shall be final and binding on the parties. The Secretary and the city shall compensate their designees and share equally the compensation of the third member, and shall provide such technical and administrative support as required.

(h) Except as authorized by regulations promulgated and approved by the Secretary, public entry into the watershed shall be prohibited. The Secretary shall allow the following persons into the watershed unit, in the discharge of their duties:

(1) employees and contractors of the Secretary or the city of Portland, engaged in inspection, maintenance, construction, or improvement of the city's facilities in the watershed unit;

(2) forest rangers and other persons employed by the United States to protect the forest, or persons engaged in authorized logging or other approved activities; and

(3) Federal, State, and local government officers and employees, acting in an official capacity.

Regulations adopted pursuant to this subsection shall not prohibit ingress and egress to non-Federal lands or to valid occupancies on Federal lands within the watershed.

(i) In the management of the Bull Run Watershed Management Unit, the Secretary shall take such actions as are necessary to avoid adversely affecting the quality and quantity of water available (taking into account normal seasonal fluctuations) to water users from the unit at the time of enactment of this Act. Any activity which results in degradation of water quality shall be altered or eliminated immediately, and action shall be taken forthwith to restore water quality.

EFFECT ON OTHER LAWS

SEC. 4. (a) Nothing in this Act shall terminate any valid lease, permit, contract, patent, right-of-way, or other land use right or authorization existing on the date of approval of this Act and otherwise valid except for the provisions of section 1862 of title 18, United States Code.

(b) Nothing in this Act shall in any way affect any law governing appropriation or use of, or Federal right to, water on National Forest System lands; or as expanding or diminishing Federal or State jurisdiction, responsibility, interests, or rights in water resources development or control.

(c) Section 1862 of title 18 of the United States Code is hereby repealed.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. RONCALIO

Mr. RONCALIO. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. RONCALIO:

Strike all after the enacting clause and substitute in lieu thereof the following:

PREAMBLE

The Congress finds that an area of land in the State of Oregon known variously as the Bull Run National Forest and the Bull Run Forest Reserve is presently the source of the sole domestic water supply for the city of Portland, Oregon (hereinafter called "the city") and other local governmental units and persons in the Portland Metropolitan area, reserved for the city by a Presidential proclamation issued in 1892 and furnishing an extremely valuable resource of pure clear raw potable water, the continued production of which should be the principal management objective in the area hereinafter referred to as "the Unit"; that the said area is now managed under terms of a Federal court decree issued pursuant to turn of the century law which does not appropriately address present and future needs and opportunities for the protection, management, and utilization of the resources contained therein.

DESIGNATION OF UNIT

SEC. 1. There is hereby established, subject to valid existing rights, a special resources management unit within the Mount Hood National Forest, State of Oregon, comprising approximately 95,382 acres as depicted on a map dated April 1977 and entitled "Bull Run Watershed Management Unit, Mount Hood National Forest", which is on file and available for public inspection in offices of the Chief, and the Regional Forester—Pacific Northwest Region, Forest Service, Department of Agriculture, minor adjustments in the boundaries of which may be made from time to time by the Secretary of Agriculture (hereinafter the "Secretary") after consultation with the city and appropriate public notice and hearings.

MANAGEMENT

SEC. 2. (a) The Unit and the renewable resources therein, shall be administered as a watershed by the Secretary of Agriculture in accordance with the laws, rules, and regulations applicable to National Forest System lands except to the extent that any manage-

ment plan or practice is found by the Secretary to have a significant adverse effect on compliance with the water quality standards referred to in section 2(b) hereof or on the quantity of the water produced thereon for the use of the city, and other local government units and persons using such water under agreements with the city (and the Secretary shall take into consideration the cumulative effect of individually insignificant degradations), in which case, and notwithstanding any other provision of law, the management plan and all relevant leases, permits, contracts, rights of way or other rights or authorizations issued pursuant thereto shall forthwith be altered by the Secretary to eliminate such adverse effect by application of different techniques or prohibitions of one or more such practices or uses; *Provided, however,* That use of such water for the production of energy and the transmission of such energy through and over the Unit are deemed consistent with the purposes of this Act and the rights of way heretofore granted to Bonneville Power Administration by the Forest Service through and over the Unit are validated and confirmed and deemed consistent with the purposes of this Act.

(b) The policy set forth in subsection (a) shall be attained through the development, maintenance, and periodic revision of land management plans in accordance with procedures set forth in section 5 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 477, as amended; 16 U.S.C. 1604), through the maintenance of systems for monitoring and evaluating water quality, and through supporting scientific research as the Secretary may deem necessary after consultation and in coordination with the City. In the development and revision of land management plans for the Unit, the Secretary, except as otherwise provided in section 2(a) hereof, shall provide for public participation and shall consult and coordinate with appropriate officials and advisors of the City, and shall consider such data and research as the City may collect through its own monitoring systems and scientific efforts, if any. Such plans shall be prepared by an interdisciplinary team; be embodied in appropriate written material, including maps and other descriptive documents; shall contain water quality standards developed by the Secretary after consultation and in cooperation with the City, which standards shall be substantially based on and shall reflect a quality of water not significantly less than the quality reflected by percentile curves developed from data collected from 1967 through 1975 and, if none, from data collected in the first three years of record thereafter; and be available to the public at convenient locations. The initial plan or plans shall be completed as soon as practicable after the enactment of this Act, but not later than September 30, 1979. Current data shall be compared to historical data at least annually for the purpose of determining compliance with the standards and the significance of any deviation therefrom. Deviations occurring from operation, maintenance, alteration or construction of water storage, or electrical generation and transmission facilities, seasonal fluctuations, variations in climate, and other natural phenomena, fire, or acts of God, shall not be considered in determining the historical or current percentile curves.

(c) The Secretary or his representative shall, upon request, and at least annually, meet with appropriate officials of the City for the purpose of reviewing planned management programs and the impact thereof on the quality and quantity of the water produced on the Unit and assuring that their respective management and operational activities within the Unit are appropriately coordinated. The Secretary shall negotiate in good faith cooperative agreements with appropriate officials of the city to effectuate activity coordination.

(d) In the event there is disagreement between the City and the Secretary with respect to the development or revision of the water quality standards provided for herein, or with respect to the effect or the significance of such effect of one or more proposed or existing programs, practices, uses, regulations or boundary adjustments (except as otherwise specifically provided for herein), on the quantity of the water produced on said Unit, or on compliance with the water quality standards referred to in SEC. 2(a) and (b) hereof and, therefore, with respect to the necessity for an alteration or prohibition of any such program, practice, use, regulation or boundary adjustment as required in SEC. 2(a) hereof, an arbitration board for resolving such disagreements shall be established. The Secretary and the City shall, each, forthwith appoint one member to such board and those two members shall select a third. In the event agreement cannot be reached on the third member within seven days after the appointment of the first two, the third member shall be appointed by the presiding judge of the United States District Court for the District of Oregon within seven days after being notified of such disagreement by either of the first two members. All of said members shall be qualified to make a scientific determination of the facts. The contentions of the City and the Secretary shall be submitted to the Board in the form of written contentions of fact together with the evidence and analysis that tends to support the position being presented. The Board shall forthwith consider and decide, on a scientific basis, the issues in disagreement by majority vote, taking into consideration the evidence and data presented by the parties and such other tests and data which the board by majority vote may require. The decision of such board shall be in the form of written findings of fact and conclusions based thereon and shall be final and binding on the parties. The Secretary and the City shall compensate their designees and share equally the compensation of the third member, and shall provide such technical and administrative support as required.

(e) The Secretary is authorized, after consultation with the City, to promulgate regulations for controlling entry into the Unit by all persons including but not limited to—

(1) employees or contractors of the city engaged in the inspection, maintenance, construction or improvement of the city's facilities;

(2) (i) Federal, State, and local government officers and (ii) employees thereof acting in an official capacity;

(3)) Federal, State, and local government permittees and contractors conducting authorized activities;

(4) members of advisory groups formed pursuant to this Act or ordinance of the City in the performance of their official duties:

Provided, That no regulation promulgated pursuant to this subsection shall prohibit ingress or egress to non-Federal lands or to authorized occupancies on, or uses of, Federal lands. *Provided further,* That the Secretary may independently and directly prohibit or restrict all entry into the Unit during fire or other emergencies as he may determine.

EFFECT ON OTHER LAWS

SEC. 3(a) Nothing in this Act shall terminate or affect any lease, permit, contract, patent, right-of-way, or other land use right or authorization existing on the date of approval of this Act and otherwise valid except for the provisions of Section 1862 of Title 18 of the United States Code.

(b) Nothing in this Act shall in any way affect any law governing appropriation or use of, or Federal right to, water on National Forest System lands; or as expanding or diminishing Federal, State, or local jurisdiction, responsibility, interests, or rights in water resources development or control.

(c) Section 1862 of Title 18 of the United States Code is hereby repealed.

(d) Except as otherwise provided for herein, this Act shall take precedence over and supersede all State and local laws dealing with or affecting the subject matter of this Act.

(e) Challenge to actions taken by any governmental unit or official under the provisions of this Act shall not be sustained by any court except upon a showing of arbitrary, unreasonable, capricious, or illegal action or an absence of substantial good faith compliance with the procedural provisions hereof substantially prejudicing the rights of an interested party.

Mr. RONCALIO (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the amendment in the nature of a substitute be dispensed with and that it be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

Mr. RONCALIO. Mr. Speaker, I would take just a moment or two to again say with a little more detail to my colleagues that this represents a culmination of many, many hours of controversy resolved between the gentlemen from Oregon. Mr. ULLMAN, chairman of the Ways and Means Committee, has been very gracious and understanding of the problems raised by citizens of this area, and their concern for the water and their need to have some continuation of a forest service policy and management of the area.

The bill, I think, resolves a continuing, ongoing constitutional right of the Secretary of Agriculture in his constitutional duty with regard to the forest, but does allow the officers of the city that management right which I think is theirs to assure a continuation of water quality, water in one of the finest watersheds in America, and some of the best water quality in America.

Mr. Speaker, I urge passage of H.R. 7074.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Wyoming (Mr. RONCALIO).

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. RONCALIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

MAKING IN ORDER CONSIDERATION TOMORROW OF CONFERENCE REPORT ON S. 1131, AUTHORIZING APPROPRIATIONS FOR NUCLEAR REGULATORY COMMISSION FOR FISCAL YEAR 1978

Mr. UDALL. Mr. Speaker, I ask unanimous consent that it may be in order for the House to consider tomorrow, November 3, 1977, the conference report on the Senate bill (S. 1131) to authorize appropriations for the Nuclear Regulatory Commission for the fiscal year 1978, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 5263. An act to suspend until the close of June 30, 1980, the duty on certain bicycle parts;

H.R. 8346. An act to amend the Urban Mass Transportation Act of 1964 to revise the program of Federal operating assistance provided under section 17 of such act; and

H.R. 8499. An act to amend the Alaska Native Claims Settlement Act.

The message also announced that the Senate agrees to the amendments of the House with amendments to a bill of the Senate of the following title:

S. 106. An act to provide for furthering the conservation, protection, and enhancement of the Nation's land, water, and related resources for sustained use, and for other purposes.

EDITORIAL COMMENT ON H.R. 7700, THE POSTAL SERVICE ACT OF 1977

(Mr. HANLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HANLEY. Mr. Speaker, many newspapers around the country have endorsed H.R. 7700, the Postal Service Act of 1977, during the last few months. I think it is interesting that the support comes from all sections of the country and from all types of people.

Today I would like to ask my colleagues to read the following five editorials which I think explain the issue very well:

POSTAL SERVICE NEEDS POLITICAL HELP, FAST

The United States Postal Service has degenerated into one big mess.

In the half dozen years since the Postal Reorganization Act, taking the Post Office "out of politics" and supposedly turning it into a business-run operation, rates for all classes of mail have skyrocketed and all except local services for all classes of mail have gone down the drain.

Since the founding of this country, the postal system has been regarded as a public service, a unique and ever-increasingly efficient comunications system binding America and Americans together, in a chain which George Washington described as one "which can never be broken."

He was right in his day—but it's being broken now. The "over-night" service, the peak of mail volume, of which our country was once so proud is breaking apart at the seams. The threat now is to completely abandon that concept in the name of economy. The threat now also includes eliminating Saturday mail delivery and doing away with the smaller post offices, both of which bury the idea of the postal service being a public service. The latest we've heard in this downward trail is that the postal service has now figured out how much it will save by going to a 3-day mail delivery.

It now takes longer to get a newspaper delivered from here to the other side of the Rockies than in the days of the Pony Express! Although we still pay the full postal rates (plus buy an extra permit) we now deliver over 2,600 Monday papers direct to the Bowling Green Post Office to assure next day delivery there, to New Hartford and Curryville. To prevent a snafu in St. Louis, we do the same thing for our large number of subscribers in the Clarksville area on Thursday. There was a day not far back when we took everything to the local post office and slept well that night knowing all of our Twin Pike area subscribers would get their paper the next morning. Not now! And the situation has degenerated even worse when a month or two back they abandoned the St. Charles sectional center in favor of creating a mountain of mail in the St. Louis regional center.

There is something now, though, that the public can do to help restore the idea of the postal system being a public service. We think that concept is vital to all America, but even more so far people served by small post offices and living on rural routes. This is to urge your congressman to vote for H.R. 7700, which will be acted upon very shortly.

H.R. 7700 would overturn a Court of Appeals decision requiring the post office to go to a totally cost-based system with no regard for its public service aspect; it would increase public service appropriations to an amount equal to 15 per cent of annual Post Office expenditures; it would give Congress veto power over Postal Rate Commission decisions; and it would restore to the president the power to appoint the Postmaster General.

This would return the postal system partway back into politics. But politicians are more attuned to the needs of the public than a private commission shut off in an ivory tower.

We strongly urge our readers who feel with us that the post office is dropping off a precipice, to spend 13 cents (before the price goes up) to write to your congressman and also President Carter to work hard for passage of H.R. 7700 to help get better service in the postal system.

A deluge of letters, both to the president and to your congressman, is necessary. When first introduced, H.R. 7700 had strong congressional support because of its obvious merits. However, Bert Lance, of the Office of Management and Budget, is scheduled to testify on the bill Sept. 8; and according to published reports, he is expected to testify against the resolution. It's necessary that Carter be convinced he should ask Lance to testify for the bill instead.

You can reach Jimmy Carter by writing: President Jimmy Carter, White House, Washington, D.C.; and our congressman is Harold Volkmer, House Office Building, Washington, D.C. 20515.

Mountains of your mail, if it can be processed through the St. Louis regional center in time, are necessary to help get the Post Office back to where it is considered a public service.

POSTAL SYSTEM HEADED FOR BRINK?

Unless Congress does something to stem the tide, second-class postal rates—which have already risen more than 500 percent in the past five years (have you wondered why your subscription rates have been going up?)—will climb another 30 percent soon. In addition, the U.S. Postal Service is seeking to impose a surcharge in the amount of two cents per copy on all publications receiving "newspaper treatment" or "red tag" delivery.

Coupled with this, the Postal Service plans to further reduce basic services. Not only are there plans to eliminate Saturday delivery, but the service is now thinking about how much it could save if it went to three-days-a-week delivery.

"What has gone wrong?" asked a letter from the National Newspaper association this past week. "What has happened to the centuries-old concept of the Postal Service being a public service—an institution existing to serve the fundamental needs of the nation and its people? What has happened to the unique and universally accessible communications network which promoted and guaranteed the dissemination of news and information throughout this huge and diverse land?"

The letter suggested that the blame could be laid at many doorsteps, "but the fundamental problem is this: in its hellbent and hopeless rush to fulfill the 'self-supporting' mandate given it by the Postal Reorganization Act, the Postal Service has totally forsaken its fundamental service mission. With all public service appropriations from Congress due to cease in just a few more years, and with the court of appeals decision prodding it down the 'self-supporting' road, perhaps the Postal Service should not be condemned for its action.

"No matter who is to blame, one fact is clear: unless something is done quickly—total ruination of America's two centuries-old postal system is inevitable. Perhaps a 'self-supporting' shell of a system will remain, but the system which has served the personal, social, economic and political needs of the nation and its people so well for so long, will be gone forever."

It is our feeling that appropriations from the public treasury must be increased to maintain the basic system and to insure continuation of adequate public service.

We feel that the court of appeals decision —which endorsed the Postal Service's "business" posture and ordered the earliest possible implementation of a total cost-based rate system, with no consideration of public policy or market factors—should be overturned to insure that postal rates are not merely the product of cost accounting techniques, but also of public policy judgments and realistic market factors. We believe that the Postal Service must be restored to public accountability.

We would not want the old, political postal system restored and it's not likely to be. But Congress and the President should have a role in setting postal policy which is so closely interrelated with public policy.

There is a bill pending in the House of Representatives, one which—we are told by Northfield's Alvin Houston—has been receiving the enthusiastic support of our Congressman Albert H. Quie. Passage of H.R. 7700 would be a major step in bringing about the necessary changes—although there is still quite a bit of opposition in the Senate to the changes we feel are necessary. It had appeared that H.R. 7700 would pass—there was considerable interest in it in various quarters.

But now the National Newspaper association has learned that President Carter will oppose the bill. This despite the fact that before his election, Carter advocated abolition of the postal service character of the

Postal Service, and said that he wanted the power to appoint the Postmaster General.

Now in his desire to balance the federal budget by 1981, he opposes any increase in public service appropriations to the Postal Service. (Fat lot of good it will do to achieve a balanced federal budget if our essential services are wrecked on the way!)

The National Newspaper association believes that Carter's wish to scuttle the bill, H.R. 7700, will indeed wreck its chances of passing and predicts dire effects on the nation's periodicals.

It is our hope that the public will help us in our fight to return the Postal Service to a responsive public service. For this bill would directly affect everyone who receives pieces of mail.

YOUR ACTION IS NEEDED NOW

You are the pawn in the biggest Washington hassle ever perpetrated . . . you, as a citizen of the great U.S.A.

And if you don't do something about it more than hopefully say "it's too bad . . . but it's just another incident" you'll find out very shortly that it's a lot worse and closer home than anybody imagines.

At the same time Jimmy Carter, with the assistance of Gerald Ford and Henry Kissinger and a lot of others in high places in Washington are doing their darndest to give the Panama Canal to Panama with a bonus of $50 million dollars a year from here to eternity, plus more billions in military aid for far away places, our U.S. postal system is plunging towards the breaking point as a service for the millions and millions of American citizens.

This isn't just idle talk.

In 1971 the Postal Reorganization Act was adopted to put the "corporate" Postal Service into business to serve the people justly and fairly and eliminate the deficits of operation.

It has been an unmitigated disaster for America's mail system. Rates have skyrocketed, services have been slashed and deficits for "businesslike" postal corporation operation are counted in the billions of dollars.

Instead of cutting down on costs, the Postal Service has gone hog wild in expenditures—and more than hog wild in boosting postal rates.

Now the coming gimmick is one rate for letters written by hand and a higher rate if typewritten! How many more millions of dollars will that entail in expenditure for help in separating and collecting?

The postage on your copy of The Salem Leader or Salem Democrat has risen over 500% in the last five years. Now the Postal Service has filed a formal request to add another 30% over this already inflated base.

And in addition the powers that be seek to add another 2¢ per copy for all publications receiving "newspaper treatment"—which is supposed to help get the paper to you, as a subscriber, promptly. This means $1.04 extra postage bill per year.

Coupled with these increases is talk of five-day postal service and even cutting delivery down to three days.

Added to this is a Court of Appeals decision, endorsed by the Postal Service ordering early implementation of a "totally" cost-based rate system with no consideration of public policy or market factors permitted.

What has gone wrong? What has happened to the centuries-old concept of the postal service being a public service—an institution existing to serve the fundamental needs of people of the nation? What has happened to the unique and universally accessible communications network which promoted and guaranteed the dissemination of news and information throughout this huge and diverse land?

No matter whom we blame! Unless something is done—and done quickly—total ruination of America's two-centuries-old postal system is inevitable.

Members of Congress are aware of this—at least some of them are. A House Bill H.R. 7700, cosponsored by Reps. James Hanley, Democrat, New York and Charles W. Wilson, Democrat of California, would overturn the Court of Appeals destructive decision, and restore the power of congress and President over the postal system.

The H.R. 7700 appeared headed for successful consideration—until it became known that President Carter wants no part in the responsibility of the postal system, despite the fact that as a candidate Jimmy Carter issued a statement calling for "restoration of the public service character of the Postal Service." He advocated abolition of the Postal Rate Commission and said he wanted the power to appoint the Postmaster General.

Carter's turn-about position from his campaign promises can kill any hope of saving the postal system to serve you as an ordinary citizen as it has always been counted on in the past 200 years.

The only hope that seems to remain is for a lot of ordinary citizens to write to members of Congress, U.S. Senators and yes, and to President Carter—expressing your concern for the postal system continuity and ask support of H.R. 7700 as a move to help bring about this restoration. Consider these key points as needing consideration:

1. Need to recognize Postal Service as a public service.
2. Need for public service appropriations.
3. Need to overturn the Court of Appeals rate decision.
4. Need for public accountability.

(*You'll find names and addresses of congressmen and senators on page).

—HOWARD F. GROSSMAN.

EMPHASIS ON SERVICE

From the time of our nation's founding, back in 1776, until 1971 the United States Post Office department served the nation. Then we got the United States Postal Service. And the accent has been on anything but service. Rates have gone up at an alarming rate—in the last five years second class rates have risen 500 per cent—and the Postal Service has filed a formal request to raise rates by another 30 per cent.

Fearful of what will happen to many of the nation's newspapers, the National Newspaper Association is pushing hard for H.R. 7700, a bill which would return some of the control of the post office to Congress and put a little more emphasis on service.

In addressing itself to the problem, the NNA says: "It (Postal Service) has been regarded from the earliest days of the Republic as one of the most basic and necessary services a nation can provide its people—a unique communications network binding America and Americans together, in the words of George Washington, 'in a chain which can never be broken.'

"As we all know too well, the unbreakable chain IS breaking. The Postal Reorganization Act which put the 'corporate' Postal Service into business in 1971 has been an unmitigated disaster for America's mail system. Rates for all classes of mail have skyrocketed, services have been slashed, and the deficits for the 'business-like' postal corporation are now counted in the billions of dollars. Only emergency appropriations from Congress have saved the Postal Service from completely going under."

Going on, NNA notes that coupled with its requests for higher rates ". . . the Postal Service plans to further reduce basic services. We all know of the plan to eliminate Saturday delivery of mail early next year. Even more frightening is the section of the new rate filing in which the Postal Service relates how much money it could save by going to three-day delivery. Still another plan calls for the slowing of overnight processing of mail—the peak period of mail volume—to save money. Overnight delivery could become yet another relic of the past."

Some time ago Time Magazine had a discussion of the postal problem in its essay. After detailing how the Post Office Department went out of business six years ago to be replaced by the Postal Service. Time said:

"Postal rates have risen and are still rising so rapidly that many users will soon be priced out of the market. Major voices in America's free press, among the nearly 10,000 magazines and hundreds of mail-delivered newspapers, are threatened with extinction."

"The Postal Service," Time goes on, "which spends 85 percent of its budget on labor, now employs 700,000, making it, after the Bell System, the nation's second largest corporate employer."

And, in regard to the vast sums spent for labor, Time says: "To raise its wages to the level of private industry and also to win valuable allies against Congressional critics, the Postal Service in 1973 gave the seven postal unions an overly generous settlement: an increase that amounted to 23 per cent in wages and benefits over two years. Postal employees now earn considerably more than comparable government workers; a begining postal clerk, for example, makes $10,898, while a government clerk in a roughly similar area starts at $8.500.

"Most remarkably," Time said, "If postal workers were paid at the same rate as government employees, there would be no postal deficit this year!"

Time goes on to point out how, along with increases in expenditures, service has been markedly curtailed. The magazine concluded its essay with this:

". . . Congress must oversee its (Postal Service's) functions much more closely. In washing its hands of postal matters in 1971, Congress abdicated a responsibility for postal affairs that was set out for it in the Constitution. The lawmakers might well refer to the words of George Washington, who spoke of the Post Office as the indispensable chain binding Americans together."

It could very well be that we have reached the time when a decision will have to be made as to whether or not we have Postal Service or a separate business. All other nations regard mail as a service of government. From 1851 until 1971, according to Time, the Post Office made money in only 13 years. Before the turn of the century its subsidy was far larger in proportion to the national budget than it was in 1970. Up to 1971 postal officials were constantly seeking ways to extend, not curtail, services.

There is no way rural free delivery could be put on a pay-as-you-go basis. This is a service of government, just like the Army and Navy, police protection and fire protection. It may be argued that there are certain areas where better business practices might be followed, but the word "service" should always remain out in front.

How come, if one lives in a large city—or on a farm—the mail is brought to him for no cost but if he resides in a small town he must pay box rent? Surely it costs more to bring the mail to a farm or homeowner than to put it in a box. If these braintrusters are so worried about making everyone pay his fair share, maybe they should check this. Why should it cost 13 cents for a letter within a Post Office but only 13 cents for the same letter to get from New York to California?

It might be well, too, for the finance people to keep in mind the law of diminishing returns. Since 1969, because of high rates and poor service, the Postal Service has lost about one-third of its parcel-post business to private companies.

Several firms which have been third class

mail customers of the Postal Service have found that instead of paying 7.5 cents per piece for circulars, they can set up their own routes at about 3 cents per piece in cities and 5 cents per piece on rural routes. If postal rates go much higher this business will also be lost to the "service."

Two years ago, for the first time since the Depression, total mail volume, not just parcel post, was down. Higher rates will most assuredly make deeper inroads. You can kill the goose that laid the golden egg.

The time is here when Congress should take the bull by the horns and get back into the postal business. As Time said in its essay, responsibility for postal affairs was set in the United States Constitution for Congress. Regardless of whether or not it might at times get to be a distasteful job, a Postal Service run by Congress with the best interests of the people at heart—management directly responsive to the people—is the answer. Service to the public should be the watchword.

DISASTER FOR POSTAL SERVICE

Through no fault of people at the local level the United States Postal Service has virtually ceased to be a "service" and is slowly but surely headed down the road to disaster. The bill of particulars is well known: Soaring postal costs (e.g., second-class rates up 500% in five years and still going up), slower and slower delivery, and threats of further cuts in service—perhaps closing down to three days a week. In addition the USPS is billions of dollars in the red and only emergency appropriations from Congress have kept it operational at all.

The troubles started with the Postal Reorganization Act which put the so-called corporate Postal Service in business in 1971. What precisely went wrong in the interim is . . . well, just about everything. What would be required to restore the system to some degree of efficiency is proposed in a bill pending in the House of Representatives (H.R. 7700): Increase appropriations from the public treasury to maintain the basic system and ensure continuation of adequate public service, give Congress veto power over Postal Rate Commission decisions, and restore to the President the power to appoint the Postmaster General.

If that sounds like a step backward, it is. The old political arrangement must not be resurrected, but if the postal service is to be saved from total ruin, Congress and the President will apparently have to do it.

It is rumored, however, that President Carter has made a turn-around in policy—stated, er, ah, before his election—that he wanted to restore the public service character of the USPS. It seems he now wishes the Postal Service to rush headlong into "complete self-sufficiency," which it is obviously never going to be able to do. OMB Director Bert Lance is scheduled to testify on H.R. 7700 on Sept. 8 and according to reports will oppose it. Experts expect that to effectively kill the bill and sound the proverbial death knell for the American postal system as we have known it in the past—one based on public service.

For 200 years the nation's postal organization held a vital role in binding America and Americans together, providing the people with a basic and necessary communications link, and just incidentally helping build the American free press—so dependent on a reliable and economical "network." If this network breaks down it will affect every individual and every group in the land—adversely. It will surely mean the eventual demise of many a small magazine, newspaper and newsletter service—financially unable to find alternate means of delivery—and for a democracy the ramifications of that are nothing short of frightening.

But for now to save the USPS itself public support for H.R. 7700 is vital. Support for the public service concept, for sufficient and continuing appropriations, for reasonable rates and adequate services, and support for public accountability.

THE GOVERNMENT GIVETH AND THE GOVERNMENT TAKETH AWAY

(Mr. JOHN T. MYERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHN T. MYERS. Mr. Speaker, it never ceases to amaze me how the press perceives the Democrat Party as the advocate of the working American. I fail to realize how working class Americans rally around the flag of the party of more government, more spending, more taxes, and more inflation.

Perhaps the reason is that the Democrat majority has the unusual talent of letting people know when it is trying to help, but is able to keep things quiet when it is ripping off the people.

We have witnessed such a turn of events on the floor of this House in recent weeks and I believe it is high time the American people knew about it.

Yesterday, the President signed into law, a bill to raise the minimum wage for a few American workers from the present $2.30 per hour to $3.35 by 1981. This was hailed as a great achievement for the President, the Democrats in Congress and the working people of this country. However, the increase in wages which will be paid to these workers will not be realized in additional buying power. The House voted last week to increase the social security tax burden on working Americans and in effect, took back some of the money it gave these workers with the increase in the minimum wage. Along with that, the increase in wages puts these low-paid workers into higher tax brackets, not to mention that their buying power is further reduced by inflation.

To illustrate this point, let us look at the single person who earns the minimum wage today. At $2.30 per hour, our friend earns a gross weekly income of $92 and an annual income of $4,784. At the current 5.85 percent social security tax rate, he pays $279.86 into the social security fund each year and has a Federal income tax liability of $244. Our friend then has a net annual income of $4,260.14 which comes out to $81.92 per week and only $2.04 per hour.

In 1981, through the generosity of this Congress, our friend will earn a minimum wage of $3.35 per hour and his gross income will be $134 per week and $6,968 annually. If the social security tax bill which this House recently passed is enacted, our friend will have to pay a 6.55 percent take which will amount to $456.40 and his Federal income tax liability will be $615. Our friend's net annual income will be $5,896.60 which means he will bring home $113.40 per week and only $2.83 per hour.

In other words, Mr. Speaker, the generous $1.05 increase in the minimum wage which this Congress passed has been carefully disguised. In fact, it is only a $0.79 increase, after this Congress takes away income taxes and increased social security taxes. Add to this the massive energy taxes this House has passed and the ever present inflation which this Congress fuels through its spending practices, and our friend will be lucky if he realizes an increase in his wages at all.

When the Democrat Congress and the Democrat President sound their horn about helping the American worker, I hope those workers, like our friend, will realize, there is no free lunch.

The Government giveth, and the Government taketh away.

COMPROMISE CONSUMER BILL NO COMPROMISE AT ALL

(Mr. ANDERSON of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. ANDERSON of Illinois. Mr. Speaker, today we were to consider a bill to establish a consumer agency. We now see that this bill has been pulled from the calendar. I assume that, sometime next year, once again an attempt will be made to bring the bill up for a vote; and I have no doubt that, once again, a majority of colleagues will be prepared to vote no, as they were prepared to do today.

It is ironic that we are prevented today by the change in scheduling from putting this issue to rest once and for all.

Last week, advocates of a consumer agency were clamoring for a vote as soon as possible. They introduced legislation designed to be offered here on the House floor as a substitute for the original consumer agency legislation. They claimed that their substitute, H.R. 9718, is a significant compromise which satisfies most of the objections to consumer agency measures of a majority of the Members of this Chamber. Some of my distinguished colleagues, in good faith, accepted the word of the consumer agency advocates and signed a "Dear Colleague" letter trumpeting the supposed compromises in the substitute, before the bill had even been printed. A purported summary of the new bill came to us from the White House explaining why the new bill answered our concerns. And then, a rule quickly was granted to the "compromise" so it could be offered as a substitute on the floor of the House today.

Everything seemed to point to a consumer agency steamroller; but, advocates of the measure made one mistake: they printed the bill. And we read it.

It turned out not to be a compromise at all, but a rerun of the original that had undergone some cosmetic surgery.

The consumer agency advocates saw suddenly that their "hurry-up" legislative strategy, which they had hoped would prevent careful scrutiny of their bill, had failed.

But it is not the failure of the strategy that is to blame for denying us the chance to put this issue behind us. Nor should the heavy-handed tactics of some of the more vocal proponents of the measure be blamed; though these persons cannot be excused for grossly misrepresenting the provisions of their substitute bill in both oral and written communications with the Members of the

House. And it is not that we have more important matters to resolve before the end of this week, which in fact we do.

Rather, we do not have the consumer agency bill before us today simply because it is a bad bill which, its proponents realize, would lose, and lose bady, if we were to take a vote.

It is a bad bill which still would create a new, separate Federal agency, regardless of the cosmetic change of the name of the agency to the "Office of Consumer Representation" from the "Agency for Consumer Protection."

It is a bad bill which still would allow the officials in the new bureaucracy to unfairly act as a dual prosecutor in adjudications involving alleged violations of law.

It is a bad bill which still would allow a consumer agency bureaucracy to overturn in court the final decisions of other Federal agencies.

It is a bad bill which still would exempt labor and agriculture from the purview of the agency.

And I could go on and on.

But, the point I most earnestly want to make is that, no matter what changes the would-be progenitors of a consumer agency may make in their bill in the future, it will remain a bad bill as long as its advocates subscribe to the indolent, defeatist notion that existing agencies can't be made to work better without creating a new Federal agency. That is the easy way out of tackling the real roadblocks to better government.

And that is why I am disappointed that, after the sponsors of H.R. 9718 got what they initially wanted and succeeded in placing their bill on the schedule, we will not, after all, have the bill before us today.

We have lost a chance to dispose of one of the greatest distractions we have faced in our pursuit of the real solutions to the real problems of our Government and our country.

STATUS REPORT ON KOREAN INFLUENCE INVESTIGATION AS OF OCTOBER 31, 1977

(Mr. FLYNT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FLYNT. Mr. Speaker, I submit for inclusion in the RECORD at this point the sixth monthly report of the Committee on Standards of Official Conduct on the status of its investigation of alleged efforts by the Government of the Republic of South Korea to influence legislation in Congress.

This investigation was ordered by House Resolution 252 passed by the House on February 9, 1977.

The report, covering developments during October, is presented in keeping with the committee's promise to keep the Congress and the American public informed of the progress of the investigation.

The report follows:

STATUS REPORT ON KOREAN INFLUENCE INVESTIGATION AS OF OCTOBER 31, 1977

This is the sixth report of the Committee on Standards of Official Conduct on the status of its investigation of allegations and published reports that the Government of the Republic of South Korea, or its agents or nationals, developed a plan to attempt to influence the course of legislation in Congress.

These reports have been made monthly in keeping with the Committee's desires to keep the Congress and the American people informed of the progress of the investigation.

The investigation was ordered by the House of Representatives when it passed House Resolution 252 on February 9, 1977. It moved into the public hearing stage during October.

In preparation for the hearings, the Committee approved during October the issuance of 31 personal subpoenas and 18 subpoenas for the production of documents and other material, for a total to date of 190 and 212 respectively since the investigation began. Thirteen requests for immunity from prosecution for potential witnesses have been approved by the Committee, subject to approval by U.S. district courts.

The Special Staff under the direction of Special Counsel Leon Jaworski conducted 42 personal interviews with potential witnesses and took depositions from 9 others during October for a total of 336.

During approximately 18 hours of hearings on October 19, 20 and 21, the Committee questioned 14 witnesses, two through interpreters, and received more than 100 exhibits for inclusion in the record. The printed record of the hearings will be available in the near future.

The testimony and exhibits removed any doubt that there was in fact a carefully planned and executed program by which the Government of the Republic of South Korea hoped to win the favor of Members of Congress through gifts of money or things of substantial value either to them or to members of their families or their associates.

This program to influence legislation was, the public record shows, participated in by officials of the Government of the Republic of South Korea, by its Central Intelligence Agency known as the KCIA, and by certain Korean businessmen, particularly Tongsun Park.

That record stands unchallenged at this time, despite efforts of the Committee to obtain "the other side of the story"—if there is one—from the Government of the Republic of South Korea or others involved, including Tongsun Park.

On the basis of the facts already developed by the Committee, the allegations of yesterday have become the established truth of today.

The Committee is unable to say at this time whether any Members of Congress succumbed to the efforts to influence their official actions. It has refrained from making public the identities of any Members whose names may have been mentioned in unsubstantiated testimony or evidence.

It is unable at this time to set a date for the next series of hearings, but further hearings will be held.

The major obstacle encountered by the Committee has been the refusal of the Government of the Republic of South Korea to cooperate in the investigation. This continued refusal undoubtedly was responsible for the 407 to 0 vote by which the House on October 31 passed House Resolution 868 calling upon that Government to provide such cooperation.

Instead of cooperation, the Committee thus far has met with resistance. Despite South Korean dispatches indicating a willingness to cooperate and to allow the Committee to interview Tongsun Park in Seoul or elsewhere, the terms and conditions prescribed by the Government of the Republic of South Korea have not been acceptable because the limitations would make a farce of the responsibilities entrusted to this Committee.

This lack of cooperation will not diminish the determination of the Committee to carry out its duties, although the investigation will necessarily be incomplete without the full cooperation of those who have better access to certain facts.

As Special Counsel Jaworski noted in his statement at the opening of the October hearings "we do not consider the first phase of our investigation to be complete in every respect."

WILMINGTON SHOULD BE SITE FOR NEW AMTRAK FACILITY

The SPEAKER pro tempore (Mr. WRIGHT). Under a previous order of the House, the gentleman from New Jersey (Mr. HUGHES) is recognized for 5 minutes.

Mr. HUGHES. Mr. Speaker, I want to first commend my colleagues from Delaware and Pennsylvania on their efforts to bring the new Amtrak facility to Wilmington. The Department of Transportation will soon be deciding between Wilmington, Del., and Boston, Mass., as the site for a new Amtrak heavy repair facility.

This is one of the most important decisions which Transportation Secretary Brock Adams will have to make this year. At stake is the future viability of the rail industry in the so-called Penjerdel region, which encompasses southern New Jersey, Delaware, and Pennsylvania.

In recent years the rail industry has been in a steady decline in our region, and hundreds of skilled railroad workers are currently without jobs. The selection of Wilmington as the site for the $30 million heavy repair facility would be a tremendous boost for us, putting at least 500 unemployed rail employees back to work.

This action is also necessary to preserve the 696 jobs at the existing light repair facility in Wilmington. DOT has informed me that these jobs will be terminated if the new contract is awarded to Boston, thus adding to an already intolerable unemployment situation in our area.

The need to locate this new facility in Wilmington is quite apparent. However, there are other factors beside need which demonstrate conclusively that Wilmington would be a better location for this facility than Boston. Here are just some of these reasons:

Amtrak already owns sufficient land at the Wilmington site. Boston can only speculate that purchase of the land will not be a problem.

Wilmington already has a favorable tax system in effect which is cheaper for Amtrak. Boston can only say it intends to ease its tax laws.

Wilmington already has a skilled work force in place at the existing repair facility. Boston can only say that it will not be difficult to assimilate enough skilled workers.

Wilmington is centrally located along the northeast rail corridor. It makes more sense to locate a repair facility in the middle of the corridor than at a terminal point such as Boston.

I could cite numerous other examples. However, let me just suffice to say that DOT's own staff report, on a point-for-point scale, rates Wilmington the better site in nearly every category.

I would like to commend Secretary

Adams for the open and forthright manner in which he has conducted his review of the two sites. The Secretary has given both sides a fair opportunity to present their cases, and has removed any doubt that this would be a backroom decision.

I hope the Secretary reaches his decision as soon as possible, so we can put to rest the fears and apprehensions surrounding this issue.

At the same time, I hope Secretary Adams bases his decision exclusively on the merits of the two proposals. If he does, I am confident that Wilmington will be selected for this important new facility.

COMMENTS ON PRODUCT LIABILITY REPORT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. WHALEN) is recognized for 10 minutes.

Mr. WHALEN. Mr. Speaker, yesterday afternoon the Commerce Department released to the public the final report of the Interagency Task Force on Product Liability. As many of us in the Congress are aware, product liability insurance is a problem affecting many American firms, and I am sure that people all over this city are right now plowing through the 600-plus pages of this report.

I must confess that I have not yet had time to read and absorb all that is in the task force report. But on first examination, it appears as if the panel has done a very thorough job and its report will most assuredly be of great assistance to those who are seeking to understand and resolve the product liability insurance crisis.

As you know, I chaired an ad hoc task force of Congressmen which conducted a survey of product liability problems at the beginning of this year. In June, we introduced the Product Liability Insurance Tax Equity Act, H.R. 7711, which is intended to end Federal tax discrimination against companies and individuals who seek to self-insure against their potential liability for products or professional services. That legislation was an outgrowth of our study.

Having a certain special interest in the task force report, then, I can say that the few sections that I have read completely at this point are those that discuss the specific insurance problems of small manufacturers and the questions of self-insurance. The task force report seems to confirm our findings and also suggests the merits of our legislative initiative.

First, I would like to share with you this quote from the executive summary of the task force report, regarding the affordability of product liability insurance. The summary states:

> There has been a substantial increase in the cost of product liability insurance since 1974 in all of the Task Force's target industries. The increase in premiums appears to have been greater for small as compared to large businesses. Also, small firms appear less able to cope with affordability problems than large firms.

Later, the report considers the option of corporations creating captive self-insurance companies to provide product liability coverage. The task force finds several positive points to this idea, but notes that this is practical only for large companies. It is suggested that structured self-insurance programs are a viable alternative for some small businesses.

The following is the "Summary and conclusions" section of the task force report's chapter on "Structured self-insurance programs:"

> SUMMARY AND CONCLUSIONS
>
> While this remedy was only considered by one of our independent contractors we felt it important to discuss. First, it may assist small businesses which have insufficient capital to form a captive. Second, a number of the benefits that are alleged to arise from the use of captives (e.g., better product liability prevention techniques, greater control over litigation and settlements) would flow to individual companies which have structured self-insurance programs. Third, the remedy may prevent a situation from arising where a viable product liability claim against an uninsured small business cannot be enforced because that business has inadequate capital to satisfy a claim. Finally, the remedy may help increase the capacity of the insurance industry to provide product liability coverage.
>
> On the other hand, some have expressed concern about the Internal Revenue Code becoming a deus ex machina for all social problems. Perhaps more important than this general concern is the problem of whether the mechanics of the remedy can be developed so that it will not be subject to abuse. In that regard, the Task Force did not have the opportunity to have the Department of the Treasury undertake a full tax evaluation of this particular remedy.
>
> On balance, this remedy has the potential of providing prompt relief of the product liability problem for some businesses. It has been considered favorably by a wide variety of groups interested in the product liability problem. Therefore, it may be appropriate for the Department of the Treasury to undertake a full tax evaluation of the remedy at this time.

The executive summary provides this, more concise wrap-up of the chapter on self-insurance:

> Tax incentives that encourage the development of structured self-insurance programs may benefit small businesses which have insufficient capital to form captive insurance companies. Self-insurance programs also may encourage product liability loss prevention, increase the capacity of the insurance industry to provide product liability coverage, and prevent situations from arising where a viable product liability claim against an uninsured small business cannot be enforced. On the other hand, the mechanics of the remedy must be carefully designed in order that it will not be subject to abuse. It may be appropriate for the Department of the Treasury to undertake a full tax evaluation of alternative forms for this particular remedy.

Mr. Speaker, I am very encouraged by the above-cited sections of the final report of the Interagency Task Force on Product Liability. Armed with this additional information and moral support, I shall continue to press for enactment of legislation to bring equity to the tax treatment of those individuals and companies that seek to self-insure for all or part of their product or professional liability.

As I noted in the CONGRESSIONAL RECORD of October 27, the Product Liability Insurance Tax Equity Act currently has 55 cosponsors and is endorsed by a number of trade and professional associations. We will welcome any additional support that may come as a result of the report that was released today.

THE STEEL INDUSTRY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. HILLIS) is recognized for 20 minutes.

Mr. HILLIS. Mr. Speaker, I am sure that all of my colleagues are well aware of the growing problems of our steel industry. Recent developments, such as the closing of the Bethlehem Steel Johnstown Plant, have brought these troubles to the attention of the Congress only in the relatively recent past. However, I am sure that a great deal more time and effort on the part of this Chamber will be devoted to the steel industry before these problems are completely solved.

In order to bring the situation into perspective, I would like to bring to the attention of the House an article in the November 7 issue of U.S. News & World Report concerning a survey they conducted. That survey indicated that out of the 27 major industries, steel profits in the 3d quarter of 1977—as compared to the same quarter in 1976—fell more than any other industry. According to the survey, steel profits fell 49.1 percent. By comparison, the industry with the second greatest loss—retail-food stores—showed a decline in profits of 17.1 percent. Only seven industries showed any loss at all.

As the problems of our steel companies have been brought more into the open, several proposals to improve the industry's financial situation have been offered. Additionally, many have tried to explain why the industry is now in trouble. Just as there is no one solution to the current financial problems of the industry, neither is there a single cause. As a member of the recently formed steel caucus, I have done a tremendous amount of reading trying to determine what led to today's situation and what can be done about it.

The purpose of asking for this special order today is to share with the House the results of my efforts. I hope to explain why some of the solutions which have been offered will not work and, at the same time, examine the causes of the steel industry's problems. Finally, I will offer what I believe to be an important ingredient in any solution which we must develop.

Since the early 1950's, when many countries were attempting to get over the effects of a major World War which destroyed a tremendous amount of the world's industrial capabilities, the United States has steadily become less important as a steel producer. While at one time, the United States was the unchallenged leader in the steel industry, we are now second to the U.S.S.R. in steel production per year. It should be noted that the United States is the only developed country which is currently unable to meet its own demand for steel. We are now the

world's largest importer of steel while domestic production has only increased 9 percent above the 1950 level.

In the 1950's and 1960's, the European countries and Japan embarked on a rebuilding program which led to the development of new, modernized steel plants. Even today developing countries are attempting to build their own steel industries, which in part has reduced the exporting market for the major producers.

There appears to be no disagreement that Japan is now able to produce steel at significantly cheaper prices than U.S. companies. In a recent study which has received much attention, the Council on Wage and Price Stability estimated that it cost the Japanese $267 per ton to produce manufactured steel, compared to $328 for the United States. The largest advantage the Japanese have is lower labor costs. However, there are several other factors which have made Japanese steel sold in America less expensive than domestically produced steel.

The Japanese Government has taken every step to insure that their steel companies continue to produce a maximum amount of steel. The government also provides loan guarantees and other financial supports which allow their steel companies to operate at less than cost margins. No U.S. company could continue to operate with the indebtedness which most Japanese companies maintain.

Japan is committed to a 100-percent employment level. The effect of this commitment is that Japanese steel companies, with full support of their government, are encouraged to export steel to the United States at unreasonably low prices. In effect, the Japanese are exporting their unemployment to the United States. It is estimated that 60,000 Americans are unemployed due to unfair practices by Japanese steel companies.

In response to this situation and to the reduced demand for domestic steel, many U.S. companies are preparing to file dumping complaints with the United States Treasury Department. Several steel executives have expressed their desire to see the Carter administration aggressively enforce the anti-dumping provisions of the Trade Act of 1974. The Treasury Department has already ruled that Japanese companies have been selling at 24 percent below their actual cost.

The American Iron and Steel Institute has also filed a complaint that the bilateral agreement between the European countries and Japan restricted Japanese steel exports to Europe. According to the AISI:

> The increase in Japanese exports to the U.S. was an inevitable consequence of Japan's decision to limit delivery to EEC (the European Economic Community) while increasing production and exporting.

The act states that if foreign countries are selling at less than profit margins at home and abroad, the U.S. Treasury Department is to disregard the old standard of comparing domestic prices with export prices in order to prove a dumping claim. Instead, a new device referred to as "constructed value" is to be used. This "constructed value" is an estimate by the U.S. Treasury Department of what it costs to produce a product plus an 8 percent profit margin.

In the short-term, enforcement of our antidumping laws is a must as far as the United States is concerned. On the other hand, quotas and tariffs are protectionist devices which run the risk of retaliation and neither offers any long-term solution. Moreover, quotas are often difficult to enforce and manage, and are easily evaded. Further, they provide a guaranteed floor or level of steel imports.

It has been argued that nothing short of a tremendous worldwide boom in the demand for steel will solve the problems of the steel industry. However, the steel demand is very dependent on the level of capital formation and the level of consumer expenditures. This dependence causes cyclical demand patterns. Since we are now in a low-demand period, it should be only a matter of time before demand increases. Any restriction free trade can only reduce the possibilties for increased demand since free trade is vital to the world's economy.

Even an improved economic situation will only provide temporary assistance or relief to the industry. Imports into the United States have continued to grow steadily since World War II. It is obvious that there will continue to be "good" and "bad" years for the steel industry. It is also obvious that the "bad" years will continue to get worse while the "good" years will continue to get further apart. Unless we begin to offer some assistance to the industry, we will become more dependent on imports. During worldwide high-demand years, the United States may be unable to obtain enough steel should current trends continue.

Some administration officials have tried to argue that the U.S. steel companies are to blame for their current problems. I do not feel we should be too harsh on the U.S. companies since they have made some very sincere efforts to improve their operations. It must be remembered that there are many factors which hurt the steel industry that are beyond the control of any one company.

One argument against the steel companies has been that they have not tried to modernize their plants. The argument continues that U.S. plants are so old and inefficient by today's standards that the Japanese and Europeans are able to produce less expensive steel. I do not agree with this line of thinking. U.S. companies have spent billions of dollars trying to modernize their operations. Yet the high cost of new construction projects have not always created enough savings in operation cost to warrant the expenditure. The Council on Wage and Price Stability study recognized this problem in stating that due to the high cost involved, the U.S. steel industry cannot solve its problems just by modernizing.

Years of low capacity utilization and increased material and labor costs have eroded the available cash of steel companies. Furthermore, and something that I feel is very important, steel companies have been forced into spending millions of dollars for environmental controls mandated by Federal law. Last year alone, the steel industry had to spend $500 million to meet environmental control requirements.

Again the CWPS study stated that the "cost of environmental controls may be large enough to affect U.S. competitiveness. Moreover, the manner in which environmental standards are set and enforced provides a strong disincentive against modernization." Furthermore, the cost of complying with Federal pollution standards is expected to increase sharply in the near future.

The EPA will continue to regulate thermal pollution and the discharge of the Federal Water Pollution Control Act and the Clean Air Act. Both of these laws set stricter standards which all industries must meet during the 1980's. It is obvious that capital expenses of the steel companies will negate any increase in profits over the next few years.

Another set of Federal regulations costing the steel industry millions of dollars are those promulgated under OSHA. There are 4,000 regulations that require certain health and safety standards throughout the steel industry. Many of these regulations have great specificity. OSHA also requires that employers maintain a hazard-free place of employment. This requirement covers any area which is not covered by a specific regulation. While American industry has attempted to meet OSHA regulations, it has proven to be very expensive. There is no question that these regulations have a substantial financial impact on the steel industry.

Other problems which hinder U.S. steel companies involve a very high rate of inflation. The industry has experienced an inflation rate 33 percent higher than that of other industries in recent years. Energy costs, which account for one-third of the industry's total expenditures, have increased 166 percent since 1972. At the same time, materials have increased 100 percent and labor costs have risen by 82 percent.

If nothing else, I hope that I have communicated the complexity of the problems facing the steel industry. Due to this complexity, we cannot limit our discussions to free trade versus protectionist solutions, as the administration appears to be doing. Advocating free, open trade while hoping for economic expansion simply is not the answer, and in fact, does not address the problems.

I feel we must learn a lesson from our competitors, specifically Japan. The Federal Government must begin to help the steel industry by providing an environment which allows the steel companies to reduce their overhead. This can best be done through the use of tax incentives and reform.

As a starting point, I introduced a bill yesterday, H.R. 9866. This bill gives any businessman—at his election—the ability to immediately deduct expenses incurred in order to comply with Federal regulations or laws which do not directly improve production. H.R. 9866 is intended

to ease the burden of pollution and OSHA regulations, but also includes all Federal programs. If we expect the U.S. steel companies to begin to modernize and compete with foreign imports—even if dumping is stopped—then this measure, or a similar one, must be enacted.

We must help the steel industry. However, no Federal program that reduces our reliance on the free enterprise system should be instituted. No Government agency should attempt to make managerial decisions in an effort to help the steel industry. There can be no substitute for an economy oriented to the free market. A tax bill designed to improve the competitiveness of the steel industry maintains the integrity of the free enterprise system.

While I have limited my discussion to the steel industry, other industries are facing the same problems. The list of industries which have been hurt in recent years by foreign competition is long. Textiles, shoes, radios, and televisions come to mind first, but there are many more less well-known examples where Americans are losing jobs due to increased imports.

In closing, I feel it is vital that the President and this Congress begin to examine the effect Federal regulations are having on our business community. As I mentioned, H.R. 9866 is only a beginning. Unless we are willing to accept high unemployment and continued dependence on foreign countries for our day-to-day goods, we must reexamine the effects of our past actions which have allowed Federal agencies to promulgate burdensome regulations which are destroying the worldwide competitiveness of our industries.

I include H.R. 9866 for printing in the RECORD at this point for the benefit of those who may be interested:

H.R. —

A bill to amend the Internal Revenue Code of 1954 to allow taxpayers to treat certain federally required nonproductive expenditures as not chargeable to capital account and as currently deductible.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

"SEC. 192. CERTAIN FEDERALLY REQUIRED NONPRODUCTIVE EXPENDITURES.

"(a) TREATMENT AS EXPENSES.—

"(1) IN GENERAL.—A taxpayer may elect to treat any federally required nonproductive expenditures which are paid or incurred by him during the taxable year in connection with any trade or business as expenses which are not chargeable to capital account. The expenditures so treated shall be allowed as a deduction.

"(2) ELECTION.—An election under paragraph (1) shall be made at such time and in such manner as the Secretary shall by regulations prescribe.

"(b) DEFINITIONS.—For purposes of this section—

"(1) FEDERALLY REQUIRED NONPRODUCTIVE EXPENDITURES.—The term 'federally required nonproductive expenditures' means any amount which is paid or incurred by the taxpayer in connection with any plant or facility operated by the taxpayer and which—

"(A) is certified by the Federal certifying authority to the Secretary as being necessary or appropriate for the operation of such plant or facility to be in compliance with—

"(i) the requirements of any Federal law, or

"(ii) any State law requirements which were adopted to meet a requirement of such Federal law;

"(B) does not significantly—

"(i) increase the output or capacity, extend the useful life, or reduce the total operating costs of any property, or

"(ii) alter the nature of any manufacturing or production process, and

"(C) cannot reasonably be expected to be recovered over its useful life by reason of profits derived through the recovery of wastes or otherwise.

Such term does not include any amount paid or incurred which is allowable as a deduction without regard to this section.

"(2) FEDERAL CERTIFYING AUTHORITY.—The term 'Federal certifying authority' means the head of the Federal agency which has the primary jurisdiction over the Federal law referred to in paragraph (1)(A)(i).

"(c) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section."

(b)(1) Section 263(a)(1) of such Code (relating to capital expenditures) is amended—

(A) by striking out "or" at the end of subparagraph (E),

(B) by striking out the period at the end of subparagraph (F) and inserting in lieu thereof ", or", and

(C) by adding at the end thereof the following new subparagraph:

"(G) federally required nonproductive expenditures which the taxpayer elects to deduct under section 192."

(2) Section 1245(a) of such Code (relating to gain from dispositions of certain depreciable property) is amended—

(A) by striking out "or 191" each place it appears in paragraphs (2) and (3)(D) and inserting in lieu thereof "191, or 192", and

(By by striking out "190" in the last sentence of paragraph (2) and inserting in lieu thereof "190, or 192".

(3) Section 1250(b)(3) of such Code (relating to depreciation adjustments) is amended by striking out "or 191" and inserting in lieu thereof "191, or 192".

(4) The table of sections for part VI of subchapter B of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 192. Certain federally required nonproductive expenditures."

(c) The amendments made by this section shall apply to amounts paid or incurred after December 31, 1977, in taxable years ending after such date.

REMARKS OF HON. DON H. CLAUSEN BEFORE BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DON H. CLAUSEN) is recognized for 30 minutes.

Mr. DON H. CLAUSEN. Mr. Speaker, yesterday, the Department of Treasury's Bureau of Alcohol, Tobacco and Firearms began 3 days of hearings in San Francisco on its proposed changes to existing wine labeling regulations. As Congress is still in session, I am unable to appear personally at the hearings to present my formal views outlining the concerns that constituents in my district and I have about certain aspects of these proposals.

As many of my concerns will undoubtedly be shared by other Members of this body, particularly those representing other grape growing and wine making areas of the country, I would like at this time to take the opportunity to make my thoughts available to my colleagues:

STATEMENT OF CONGRESSMAN DON H. CLAUSEN BEFORE THE BUREAU OF ALCOHOL, TOBACCO AND FIREARMS REGARDING PROPOSED CHANGES TO THE RULES GOVERNING THE LABELING OF WINE

Mr. Davis and other members of the Bureau: Let me begin my testimony by expressing my appreciation to you, Director Davis, and your Bureau for soliciting the views of all segments of the public on the very important subject of these hearings. During the course of the hearings you will receive the considered testimony of real experts in the wine industry. As I have said many times in the past, I have worked with many of these individuals, particularly those in my District, and I can strongly vouch for their integrity, their dedicated and demonstrated record of excellence, and their concern for their fine products and the best interests of the consumer.

First, I would like to make several general observations. It seems beyond question that within the relatively short period since Prohibition, the American wine industry has made almost unbelievable progress. It is truly one of America's phenomenal success stories. Clearly, some of America's wines are among the best in the world. Some would say the best, but I would not like to debate that point here. The point I would like to make, though, is that the American success story is coincident with a relatively unregulated industry. I believe a well-educated, sophisticated wine-buying public has created a market which quickly rejects low quality, overpriced wines.

Notwithstanding this phenomenal success, we must not lose sight of the fact that the American industry is continuing to make our great wines even better. They continue to experiment to determine which grape varietals do best in a particular viticultural area. They continue to test various viticultural practices, various wine making techniques and a number of other factors which reflect on the ultimate quality of their wines. I raise these points as a precaution. The more the Government dictates conditions to grape growers and wine makers the less flexibility they are going to have to improve our already great wines.

It seems to me that many of the proposed regulations may be patterned after those that have been developed in other countries. Because the American wine industry differs in many significant respects from others, and because the industry is continuing to learn how to improve its product, we must be particularly careful to assure that the regulations we adopt are those which will best serve the American situation.

There should be significant, well-documented evidence that further controls are mandatory before new regulations are promulgated. The Bureau has the obligation to establish such a case.

A case in point is the proposal regarding brand names with geographical significance or the word "vineyard." What scientific study is available that shows that a statistically significant segment of the consuming public is misled by these types of brand names? Until such data is available there is no reason to risk the investments and equities that are in these brand names. Furthermore, the

use of an appellation of origin should dispell any confusion regarding a brand name.

This raises a related point. I question whether the government should dictate label design. Certain aspects of this proposal come close to doing just that. Wine labels have a certain aesthetic and artistic quality. Again, unless it can be positively shown that consumers are misled, the government should not dictate the size and style of type as long as the type is clearly legible. Let's not force all labels to be the same unless that is the only way to cure label abuse. Clearly, that is not the case today.

This is not to say, however, that in general your Bureau has not done a commendable job to date. You deserve high marks for your patient study of a very complex matter. Your Bureau has learned a great deal about the vineyards, the wineries, and the products which you regulate. And you must be commended for the even-handed, calm, and fair way in which you have proceeded in developing these regulations. Without the patience that you have displayed, you could have adopted regulations which could have endangered our great industry. Notwithstanding, there must not be adopted any regulation that would jeopardize or is ill-suited for the industry or the public they serve.

I would now like to raise several observations about the specifics of the proposed regulations. The adoption of viticulturally distinguishable geographical appellations will go a long way toward ending confusion in the minds of many consumers. The Bureau should not preclude, however, applications for appellations which encompass an area larger than a single county or an area made up to parts of two counties. I would hope and urge the approval of specific viticultural areas in a rapid, orderly, uncontested fashion. A long, bitterly fought, contested struggle over the boundaries of these areas would not serve either the industry or the public. Further, there is no need for two categories of appellations or use of the term "controlled appellation." The use of this term could mislead consumers by giving them the impression that the government specifies and controls the viticultural practices of the particular appellation.

Once final agreement is reached regarding what changes are required of the current regulations, the timing of the phase-in of these changes is critical. It is important to get them into use as soon as possible, yet extreme care must be exercised so that the mere timing of their implementation does not cause serious damage to various segments of the industry; for example, some wineries have large inventories of wine aging in both wood and bottles. It seems absolutely necessary that the regulations applicable at the time wine was made must apply to that wine during all phases of its production and sale. This was the position taken during the last hearings by those advocating a rapid phase-in. To treat this "old" wine otherwise would simply be inequitable and unjust.

If existing wine can be treated in this manner, then we should be able to move forward rapidly with many of the changes being proposed. During these hearings you will hear of specific concerns about certain other aspects of the phase-in. Give these concerns your careful and considered judgment.

Another of the proposed changes in the regulations relates to varietal labeling. The proposal is to increase the varietal percentage to a minimum of 75 percent and to require a varietal of less than 100 percent to state "on the label, in direct conjunction with and as conspicuous as the varietal name" the actual percentage of the varietal actually used.

Several thoughts come to mind regarding this requirement. First, will the percentage statement itself be misleading to the consumer? That is, will a wine labeled "89% Cabernet Sauvignon" be considered by many consumers superior to that labeled "81% Cabernet Sauvignon"? The possibility of such being the case is very real. I question seriously whether we should take that chance.

To avoid this phenomenon and to avoid any other adverse market pressures that might be associated with a varietal made of less than 100 percent of a particular grape, some wine makers might choose to make 100 percent varietals when in fact a superior, higher quality product could have been made by judiciously blending the main varietal with small amounts of other grape types. Everyone—the industry, the regulators and the buying public—should be concerned about this possibility.

We must all work together to assure that our current high quality levels are in no way degraded. The percentage labeling requirement, as currently proposed, could do just that. Let's not let the objectives of trying to inform the consumer actually work to his detriment.

I submit that as long as a wine maker meets the new 75 percent varietal minimum, no statement of the actual varietal percent is necessary. Conversely, if a statement of actual varietal percent is deemed to be necessary, then there is no need to raise the minimum to 75 percent. In such a case, anything over 51 percent would be satisfactory as long as the actual percent was stated on the label. I suggest that the proposal regarding this matter that the Wine Institute will make to you later during these hearings will solve this problem.

If for some reason that solution is not acceptable, then I would propose that, at the minimum, the phrase "in direct conjunction with and as conspicuous as the varietal name" be deleted from Section 4.34(b) of the proposal.

A related issue involves the appellation and varietal labeling requirements. If a wine is made from 100 percent of the varietal but a small percentage was not from the area of appellation, how must the label read? A careful reading of the regulation may not make this clear. For example, must a wine made from 95 percent Napa Cabernet Sauvignon be labeled "95 percent Napa Cabernet Sauvignon" or may it be labeled simply "Napa Cabernet Sauvignon"? Hopefully, the latter is the case. This issue must be resolved before the regulations are finally adopted.

Incidentally, before we become too entangled in the error that a higher varietal percentage means a higher quality wine, I would like to recall the technical studies conducted at the University of California that show that even professional wine makers cannot always identify a varietal wine when asked to taste the wine "blind." Simply put—the type of grape used to make a wine does not necessarily dictate the type of wine that results. There are just too many other critical variables in the wine-making process that have a significant influence on the resulting wine. Furthermore, no amount of information on a label can be an absolute guarantee that a particular consumer will like the wine in the bottle. In developing these regulations, we must not lose sight of these important facts.

The proposed regulation to show the location of the vineyard on the label is troublesome. As an alternative, I would propose that the Bureau, from time to time, publish a list of and maps locating the approved vineyard appellations. This would permit all interested parties to locate a particular vineyard in relation to all others that have been approved.

I have a concern over the proposed elimination of the concept of "Estate Bottled." Despite the fact that this term has been misused in the past and that previous BATF hearings have generated substantial testimony on this subject, I have yet to be convinced that a satisfactory, simple straightforward definition cannot be developed for this term. For example, at a minimum, such a definition might be "wine made entirely from grapes which are grown on vineyards within the same viticultural area and under common viticultural management and ownership as the winery which crushes, ferments, finishes, ages and bottles the wine at that winery within that viticultural area." I feel certain that you will consider objectively and critically all the testimony on this subject taken during these hearings before you make a final decision to ban the further use of this term.

The proposed regulations define the use of other terms such as "produced by", "blended by", etc. The term "grown by" should also be defined and included as a permitted term.

The section of the proposed regulations prohibiting the use of foreign terms needs clarification. It is my understanding that the Bureau does not propose an absolute bar on the label of foreign terms as the section specifies. For example, the brand and trade name of one of the vineyards in my district, Grand Cru' Vineyards, would not be prohibited by this section.

The last specific point I would like to discuss I raise with some reluctance, yet it must be raised because it is so germane to these hearings on wine labeling. I have received numerous complaints regarding the label approval process in Washington. While the Bureau handles a large number of label applications each year, my office receives more legitimate complaints about this aspect of the Bureau's work than any other. It is difficult to understand why a winery is not permitted to put on its label any truthful statement that the winery can substantiate. The essence of these hearings today is truth in labeling. How can wineries be told, on the one hand, that their labels must be truthful and, on the other hand, that some truthful statements are prohibited. I seriously and respectfully urge the Bureau to audit its labeling approval practices and procedures. I believe they can be significantly improved and strengthened. From the reports available to me, I believe the degree of consistency of these practices needs substantial upgrading. Previous label approvals must have some precedential value in determining whether future labels will be approved. Otherwise, all label approvals could be completely arbitrary and subject to capriciousness.

In this regard, I would offer a philosophical comment. In some quarters, there seems to be a great distrust of the grape-growing and wine-making profession. This attitude is completely unfounded. The growth of the industry generally and the improvement of its product specifically indicate the character of the thousands of people in the field. Regulation of the wine industry is not one precipitated by consumer complaints because they are largely non-existent. Regulation comes from an honest desire to make a fine product even better. We must remember that.

I do not pretend to have covered all the problem areas in this brief summary. Hopefully, however, I have conveyed my belief that there are some segments of the current proposal that must be carefully and seriously reconsidered. I urge the Bureau to consider carefully all the testimony it will receive during these hearings and to make only those changes in the current regulations which the documented evidence clearly supports.

To some my remarks may seem unduly critical. I do not intend them to be that, but I trust they will be taken as constructive. I must again commend all of those in the Bureau involved in the subject matter of

these hearings for their patient attitude and the orderly manner in which they are attempting to develop these regulations. I am confident that without that calm, understanding attitude, realistic, useful regulations would not be possible.

In conclusion, I would like to summarize my philosophy on this matter by quoting from a recent letter to me from one of the wineries in my district:

". . . good wine is not made by legislation; aside from rules to protect consumers from dangerous substances in wine, wine-makers should be allowed the freedom to make wine according to their own skills and ideals." I add to this philosophy a thought I mentioned earlier. I firmly believe that the current market quickly rejects low quality, over-priced wine. The greatest threat to grapegrowers and wine-makers should not be government regulation but should be the consuming public. Our growers and vintners should be permitted to produce a variety of wine to the best of their capabilities under the constant threat that the consuming public will reject wines that they dislike or do not prefer.

Finally, I must say that the magnificant wine produced in this country is the result of extremely talented, diligent, dedicated growers and vintners and a knowledgeable, sophisticated consuming public. We must be extremely careful not to endanger this valuable American product.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. HYDE) is recognized for 5 minutes.

Mr. HYDE. Mr. Speaker, on Monday, October 31, I was in my congressional district for essential business, and I returned too late to vote on several rollcalls, making only Rollcall No. 723, the last of the day.

However, had I been present on October 31 for the earlier votes, I would have voted as follows:

Rollcall No. 716; "yea."
Rollcall No. 717; "yea."
Rollcall No. 718; "yea."
Rollcall No. 719; "yea."
Rollcall No. 720; "yea."
Rollcall No. 721; "yea."
Rollcall No. 722; "yea."

A $15 BILLION SAVINGS WE CANNOT BE PROUD OF

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. ROUSSELOT) is recognized for 5 minutes.

Mr. ROUSSELOT. Mr. Speaker, according to the final monthly Treasury statement of receipts and outlays of the U.S. Government the Federal Government spent $401.9 billion in fiscal year 1977, approximately $15 billion less than was appropriated. The taxpayers of this country should be grateful to hear this news because it means that $15 billion of their money was not spent. This savings has many good effects: prices are lower because the Fed has not had to print money to pay for an extra $15 billion in deficit, and this lowers the inflation rate, and lowers income taxes, and raises economic growth. But Congress and the Executive can hardly take credit for this $15 billion savings. The Congress gave the Federal bureaucracy a virtual blank check and told the agencies to go out and spend as much as they could. The executive branch of the Government gave these orders to spend, and the bureaucrats obeyed. But try as they would, they still could not spend the full amount of their appropriations and almost every single part of the bureaucracy came in under their budget. So we have a $15 billion savings. But it is not a $15 billion savings we can be proud of. This savings tells us that we have been throwing our hard earned money away.

When the second budget resolution came before the House I recommended to my colleagues that we adopt a balanced budget. I said then, as I had in previous considerations of the budget, that a balanced budget goal was realistic and could be achieved—and not by cutting back Federal programs or eliminating the enormous waste that we all know exists in the Federal bureaucracy. I said that we could achieve a balanced budget by keeping the overall level of spending in fiscal year 1978 at the fiscal year 1977 level of $406 billion. Without cutting back we could achieve a balanced budget by merely freezing spending. I therefore introduced my substitute to the second budget resolution and recommended to this House that we hold the spending level to $406 billion in fiscal year 1978 the projected level of spending in 1977. It now turns out that we only spent $401.9 billion last year.

Mr. Speaker, the time has come for the Congress to abandon its reckless spending and to give the 93 million working taxpayers of this country some well deserved tax relief. As the Treasury Department figures show, the Congress can do this without making drastic cuts in Federal programs.

A TRIBUTE TO HUBERT H. HUMPHREY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. MCKINNEY) is recognized for 5 minutes.

Mr. MCKINNEY. Mr. Speaker, during the past year, my colleague from Maryland, Mr. MITCHELL, has brought vigorous leadership to the Congressional Black Caucus as he has articulately advised the Members of this House of the needs and problems facing some of our less fortunate fellow citizens. His leadership in this field is unquestioned and therefore, it is particularly appropriate that he sponsor today's special order paying tribute to Senator HUBERT HUMPHREY for if Congressman MITCHELL is the leader, Senator HUMPHREY is the champion.

I think it is fair to say that Senator HUMPHREY can be characterized as a loquacious individual, a trait that is tedious in some people, welcome in others. In the Senator's case, the latter is true but today, there is a reciprocal torrent of words, the majority of which will be in the form of admiring adjectives.

In that vein, I endeavored this morning to settle on one word which best describes how I perceive HUBERT HUMPHREY. I decided on "futuristic." Clearly, to me, this is a man of vision, one who identifies problems early on and offers workable solutions which, at times, we accept too slowly.

Perhaps, this perceptive aspect of his intellect and personality has been known to cause him pain for I am sure he has felt that if a solution he had proposed could be immediately applied, someone, somewhere would experience a little less suffering. That, to me, is the essence of HUBERT HUMPHREY, a man whose mission has always been to make life a bit better for everyone. The "politics of joy" at its best.

In mid-1968, the Senator traveled to Hartford, Conn. for a Presidential campaign stop and the ultimate destination of his bus caravan was Constitution Plaza in the city's center. According to accounts at the time, the motorcade came to a screeching, unscheduled halt in the city's east side. It seems that the then Vice President had decided to do some impromptu corner politicking and he delivered a short speech to a gathering of neighbors he found there. As he concluded, a man in the crowd handed his baby to the Senator and the child became a recipient of a kiss and a Humphrey hug. With the child safely returned, the Senator headed back for the bus and said to a group of reporters, "There is no greater honor than when a man gives you his child to hold."

I think, Mr. Speaker, that all Americans are a little bit better off today because at one time or another, HUBERT HUMPHREY has held us all in his hands.

During the past week, the Bridgeport Telegram and the Stamford Advocate, two newspapers in Connecticut's fourth Congressional District, published editorials on Senator HUMPHREY's career. I include those commentaries in the RECORD at this point. First, the Advocate:

AN AMERICAN

Hubert H. Humphrey, the senior senator from Minnesota, returned to Washington the other day. That city has been his natural habitat for 30 years, and the place hasn't seemed the same without him.

Mr. Humphrey has been one of our most hard-working and conscientious senators. To be sure, many Americans have not liked much of the legislation he has supported. He has been a big government man, and the flaws of big government have become increasingly apparent. But we think that only a few critics would say that Mr. Humphrey did not try to serve the people to the best of his ability.

He has been one of the most loquacious men who ever sat in the senate, a chamber which has been noted for 200 years for its windbags. But Mr. Humphrey is no windbag. He is an extraordinarily well-informed man.

In 1968, when he ran for the Presidency against Mr. Nixon, he preached what he called "the politics of happiness." Some people thought that Mr. Humphrey was a phony because they couldn't imagine what, given the fact that the Democratic Party seemed to be in shambles, he could find to be happy about. Nevertheless, he talked exuberantly from the beginning to the end of the campaign. Even his defeat by Mr. Nixon didn't shut him up.

Mr. Humphrey is no phony. He is a genuinely happy man. He is the quintessential American optimist, the child of the American frontier where possibilities seemed to be endless and the sky, or even beyond, was the limit.

At 67, gaunt, haggard and ravaged by terminal cancer, Mr. Humphrey is still an optimist. "I never give up and I never give in," he said the other day as he came back to Washington after two months of treatment for his malignancy. He may truly believe that the National Cancer Institute will come up with a cure for his disease that will yet save him.

There is a massive indomitability about Mr. Humphrey. There is, at a time when most men would give way to despair, a reservoir of strength that lifts his spirits. We like to think that these are among the best of American qualities. He said the other day, simply, that he was glad to be an American.

We think that other Americans should be glad that Mr. Humphrey is an American. This country will be greatly diminished by the passing of this man who seems to be instinct with a life force instead of a death force.

We hope that Mr. Humphrey beats the odds and is with us for many years to come. In his person, just by being alive and wanting so greatly to remain alive, he affirms the goodness and the worth of life in this country in which he has been a leader for so many years.

HHH'S INFLUENCE

Hubert H. Humphrey is the most influential man in the U.S. Senate today.

The love and affection his colleagues harbor for him was put on full display Tuesday afternoon when the "Happy Warrior" returned to the Capitol. He successfully battled cancer earlier this year, then he was hit again by the same disease. No operation can cut the poison which is in him.

There was a standing five-minute ovation for Mr. Humphrey when he entered the chamber he loves. He has sought no pity, insisting that he has a job to do.

Right now, Mr. Humphrey plans to campaign in behalf of President Jimmy Carter's energy program. He thinks 70 percent of it can be passed. What senator would dare to fight openly with a man who is now admired from coast to coast?

And Mr. Humphrey's employment bill will go through too, because it may be the last major piece of legislation to bear the initials HHH.

Hubert Humphrey is an inspiration to all Americans as he continues to devote his energies and talents to his senatorial task. And at this point in his career he is more powerful than ever before.

URBAN OUTDOOR RECREATION OPEN SPACE STUDY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. SEBELIUS) is recognized for 5 minutes.

Mr. SEBELIUS. Mr. Speaker, with the rapid urbanization of our Nation and resultant concentration of more and more of our people in a high density, manmade environment, too little attention is given the protection and retention of natural undeveloped open space nearby. Inevitable limitations on mobility which are bound to come upon us soon from the energy scarcity standpoint, will make it increasingly difficult for our urban-bound citizens to travel very far to "get away from it all." It has become increasingly evident through the years, for these reasons, that outdoor recreation open space, if it is to be genuinely available to most of our populace, must be provided within and immediately adjacent to our urban areas. This is plainly not occurring to a sufficient degree. The cost of retaining such nearby land as undeveloped open space is extremely high, and consequently too little is being set aside.

This situation is evolving to be one of the major issues confronting the Subcommittee on National Parks and Insular Affairs. More and more bills coming before the subcommittee argue for preservation of urban-related open space. Conventional legislative solutions and formulas of the past do not appear to adequately address the problems presented by these areas. New solutions must be found, and major action must be inaugurated promptly to address this issue.

In anticipation of this situation, the Congress enacted a provision of law last year directing the Secretary of the Interior to submit to the Congress within 1 year, a comprehensive review and report on the needs, problems, and opportunities associated with urban recreation in highly populated regions, with particular attention to outdoor open space. This report, to be prepared jointly by the Bureau of Outdoor Recreation and the National Park Service and to contain numerous alternative solutions, will be transmitted before the end of the year and will hopefully provide a catalyst for discussion and action.

I have also requested the Congressional Research Service of the Library of Congress to review this subject and provide some thoughts on it. I am pleased to say that a very helpful report on this matter was prepared by Mr. George H. Siehl of the Environmental and Natural Resources Policy Division. The report, entitled "Alternative Strategies for Providing Urban Parks," dated September 1, 1977, No. 77–188 EP, is available from the Library of Congress. Anyone interested in the subject will find the material in this report to be most helpful.

CONCERN FOR ADMINISTRATION'S PROPOSED SHIPBUILDING PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maine (Mr. EMERY) is recognized for 60 minutes.

Mr. EMERY. Mr. Speaker, as we strive to complete the pressing business with which we are faced before conclusion of this session, the executive branch is engaged in the process of developing budget requests to be presented to the Congress at the beginning of the next session. With that thought in mind, I wish to raise for my colleague's consideration, and for the attention of the executive, my very serious concerns about early reports on the administration's proposed shipbuilding program for 1979.

During oversight hearings on the 1978 shipbuilding program before the House Armed Services Committee and its Seapower and Critical Materials Subcommittee, we received extensive testimony from the Navy on the need to continue with a strong shipbuilding program during fiscal year 1978. With some minor changes and individual opinions on whether or not the program we authorized is sufficient, we did, in fact, authorize a program which is primarily in line with the Navy's request.

During the course of those hearings, on February 20, 1977, Adm. James L. Holloway, Chief of Naval Operations, urged the Seapower Subcommittee to support a 5-year shipbuilding program in order to bring greater efficiency in planning and management to the shipbuilding process and participants. That 5-year program incorporated the high-low mix philosophy, and envisioned the construction of 156 additional vessels, beginning with 22 in 1978, 29 in 1979, 37 in 1980, 36 in 1981, and 32 in 1982.

However, 6 months later on October 4, 1977, Vice Adm. James H. Doyle, Jr., Chief of Naval Operations for Surface Warfare, made a presentation to the National Security Task Force of the House Budget Committee, calling for congressional support of a 5-year shipbuilding program which appears to be at odds with Admiral Holloway's earlier projections. While presenting a 5-year chart which envisions the construction of 30 new vessels in 1979, Vice Admiral Doyle also concluded that the Navy's present construction program through 1982–83 will result in a fleet of 520 ships. Based on the 1977 fleet strength of 470 vessels, it is impossible to reasonably correlate Vice Admiral Doyle's projection of a 520-vessel fleet in 1981–82 with his estimation of 30 new ships to be constructed in 1979. Mathematically, the projection only provides for 50 new vessels to be constructed over the length of the 5-year program he has outlined. Given this disparity, it would be more reasonable to speculate that the actual level of new ship construction in 1979 will be roughly half of that projected in the current 5-year plan.

Vice Admiral Doyle's testimony provides the first official glimpse of the administration's fiscal year 1979 shipbuilding and conversion program, and I for one do not like what I see. The numbers simply do not add up to the totals the Navy is now projecting, adding support to earlier reports that the administration is seeking to severely reduce the Navy's SCN program in 1979.

I concur with Vice Admiral Doyle's belief that a firm, continuing shipbuilding program must be pursued if the Navy is to insure that its presently slim maritime superiority will not lead to "an adverse trend in the balance of maritime power." I also believe that the Navy's 5-year program concept has merit and should be pursued. However, I believe that any 5-year program must include vessels of sufficient quantity and capability to insure the protection of that margin. Clearly, any reduction in the program outlined earlier by Admiral Holloway will not meet this goal.

The responsibility for developing and maintaining a strong Navy lies with the Congress through the cooperation of the Navy and the administration. The specific means by which that responsibility can be met is subject to debate, but the need to fulfill that responsibility is unquestionable. I have no doubt that the Congress will do its job in providing for

a continued shipbuilding program which is in accordance with the national need. I have strong reservations, however, about the administration's perception of the national need, and call on the President to provide the Navy the necessary discretion for presenting Congress a 5-year shipbuilding program which can reasonably be supported. In doing so, I urge the President to apply the title of his autobiography, "Why Not the Best," to his direction for a responsible and credible shipbuilding program focused on increasing our maritime combat capability. The presently envisioned program does not seem to meet those requirements.

Mr. LOTT. Mr. Speaker, at a time when we are already in a very precarious position in terms of defense capabilities, I have grown increasingly disturbed over reports that Secretary of Defense Harold Brown is even considering a one-third reduction in Navy shipbuilding over the next 5 years.

Various newspaper accounts have reported that Secretary Brown apparently wants to reduce our shipbuilding program, much to the extreme disappointment of many Members of Congress. The Russians are particularly strong on the seas, an area which is obviously vital to our national defense and economic livelihood. Consider the following:

Comparative Soviet and American naval capacities

1976:	(1)	(2)
Submarine, nuclear:		
Ballistic missile (SSBN)	41	49
Cruise missile (SSGN)	0	40
Attack/Fleet (SSN)	64	31
Submarines, diesel:		
Ballistic missile (SSB)	0	23
Cruise missile (SSG)	0	28
Attack/Fleet (SS)	12	140
Attack carriers	14	0
Antisubmarine carriers	(4)	3
Cruisers	27	33
Destroyers	105	106
Frigates	65	109

[1] U.S.A.
[2] U.S.S.R.

As further evidence of my concern, I cite an October 20 news report from Reuter news service which reads as follows:

REPORT

(By Walter Andrews)

WASHINGTON, October 20.—Defense Secretary Harold Brown has tentatively approved a one-third cut in Navy shipbuilding plans for the next five years, government sources said today.

Earlier this year, based on a program approved by the previous Ford administration, the Navy announced a five-year plan for the building of 157 warships.

Mr. Brown has tentatively cut the five-year plan level to 101 ships, and it is possible the amount will be further cut before final Pentagon and White House approval is given, the sources said.

The new five-year plan is being prepared along with the 1979 defense budget, which will be sent to Congress in January.

Mr. Brown has tentatively approved 19 ships in the 1979 budget starting in October, 1978—considerably less than the 29 ships the Navy earlier this year said it had planned for 1979.

Still, with escalating shipbuilding costs, the budget for the 19 ships is estimated presently at near 6.9 billion dollars, about one billion dollars more than Congress approved for the present 1978 budget's 18 ships.

The sources said this has led to Navy fears that the 1979 shipbuilding request might be trimmed further before the final administration budget is sent to Congress in January.

The 1979 shipbuilding request, as tentatively approved by Mr. Brown, also does not contain money for the new CVV aircraft carrier, which was in the Navy plan earlier this year for 1979.

The Navy had planned the CVV as a new class of "mini-carriers" about one-half to two-thirds the size of the present two billion dollar, 90,000-ton Nimitz-class nuclear super carrier.

The CVVs would be able to launch both a new, yet-to-be-developed Vertical Short Take-Off or Land ((V)STOL) fighter as well as the regular catapult-launched jets.

But Congress in the spring, perplexed by the Pentagon's frequently changing position on carrier size and design, ordered a comprehensive study of the Navy's future carrier needs.

The Pentagon has therefore deferred Navy plans for the CVV until at least 1980, the sources said.

As it stands, the 1979 budget contains money for one Trident missile submarine, two 688 class nuclear attack submarines, one CGN-49 nuclear-powered strike cruiser, the first of a new class, nine non-nuclear FFG-7 frigates, two destroyer tenders, three sonar surveillance ships and a cable layer.

It is possible one of the submarines might yet be cut from the budget, the sources noted, since General Dynamics, the main builder, has been having trouble managing Navy ship orders it already has.

Todd Shipyards and Bath Ironworks have built the FFG-7s. The Navy had earlier planned to request money for 11 FFGs in with the new five-year plan. The Navy has apparently abandoned all hope of achieving its stated goal of a 600-ship fleet.

Vice Admiral James Doyle, the Navy's Deputy Chief of Operations for Surface Warfare, recently told Congress that the Navy would have to continue building 17 or 18 new ships a year to reach a fleet size of 520 ships in the the early 1980s.

The Navy presently has 464 ships in the fleet.

Surely President Carter is aware that he is weakening the defense of this country on all fronts. He has scrapped the B-1 bomber and placed a huge question mark beside the cruise missile's future. These two monumental decisions, coupled with a steadily decreasing number of ground troops and now this proposed reduction in sea power, places the United States in jeopardy.

I feel it is time for the American people to be placed on notice that if this trend continues, we very well may find ourselves in an unfortunate position in times of armed conflict.

GENERAL LEAVE

Mr. GRASSLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include therein extraneous material on the subject of the special order today by the gentleman from Maine (Mr. EMERY).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

THE U.S. STEEL INDUSTRY AND INDUSTRY AS A WHOLE—ITS PROBLEMS AND A STRATEGY FOR RECOVERY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 10 minutes.

Mr. KEMP. Mr. Speaker, it is no secret that the steel industry in the United States is in a seriously depressed state. Demand is low, unemployment is growing, profits are down, layoffs are common, plants are aging rapidly, and there is little reason to believe the situation will change in the near future unless there is a "radical" departure from current Government practices that have made U.S. steel uncompetitive on domestic and world markets.

Last week I had the opportunity and honor to discuss with the steel caucus and President Carter what I believe to be the following measures which must be taken as quickly as possible to correct this situation:

One. Reduce personal income tax rates by 30 percent in order to increase the aftertax reward to workers and investors and restore incentive to our American economy.

Two. Reduce the corporate tax rate to 45 percent.

Three. Adopt new accounting procedures from historical to replacement cost accounting which will minimize the adverse impact of inflation on business finances and allow businesses to modernize their aging plant and machinery to better compete in the world economy.

Four. Reduce the impact of compliance with environmental regulations by allowing companies to write off the costs in 1 year.

Not only is such a program critical for the revitalization of the steel industry, but for the revitalization of the entire American economy.

Bethlehem Steel is one of the more depressed situations as it relates to employment in the country, but its problems are indicative of the industry as a whole.

Recently Bethlehem announced the largest third-quarter loss ever recorded by an American corporation: $477 million. This is primarily the result of a $750 million loss suffered by the company when it severely cut back operations at its Lackawanna, N.Y., and Johnstown, Pa., steel plants, which involved the layoff of 7,300 workers.

Other steel companies recording a sharp drop in earnings for the third quarter include Wheeling-Pittsburgh, Republic Steel, and National Steel.

These recent difficulties in the steel industry, however, have been on the horizon for years. As the following table demonstrates, at least since 1966 the steel industry has consistently had a return on investment lower than other manufacturing industries, primarily because of de facto price controls imposed by successive American Presidents of both parties, and which reached the absurd point of de jure controls under President Nixon. Those ignorant economic policies of controllled prices, denied the steel industry the profits and investment capital

with which to modernize, expand and meet the competitive challenge of foreign steel.

Ratio of profits to stockholders' equity

Year	All manufacturing corporations	Iron and steel industry
1965	13.0	9.8
1970	9.3	4.3
1971	9.7	4.5
1972	10.6	6.0
1973	12.8	9.5
1974	14.9	17.0
1975	11.6	10.7
Profits per dollar of sales		
1965	5.6	5.7
1970	4.0	2.5
1971	4.2	2.5
1972	4.3	3.1
1973	4.7	4.1
1974	5.5	6.3
1975	4.6	4.9

Source: Commerce Department.

As I have mentioned, the de facto price controls, which have been enforced by every President since Harry Truman through "jawboning," have been particularly harmful to the steel industry because they have denied it the profits in peak years which would have helped stabilize the industry and generate the capital so necessary for implementation of technological advances. Consequently, the price controls have not helped alleviate inflation, but rather have added to it by reducing productivity and forcing steel companies to continue operating older, less efficient plants and ultimately lay off workers.

Of course, the problem of raising capital and modernizing plant and equipment is not confined to the steel industry. It is a nationwide problem.

Arthur Burns, Chairman of the Federal Reserve Board, recently addressed himself to this problem and concluded that after tax incomes for both workers and businesses are far too low. In this sense he would agree with the observation made by John Maynard Keynes almost 50 years ago, who said:

Unemployment exists because employers have been deprived of profit. The loss of profit may be due to all sorts of causes. But there is no possible means of curing unemployment except by restoring to employers a proper margin of profit.

At this point, of course, we must distinguish between nominal profits and real economic profits. The reason for this distinction is that inflation has distorted business finances greatly. In particular, inventories are overvalued and depreciation is undervalued, necessitating the payment of taxes on illusory profits. The result, as Burns notes, has been to raise the real tax burden on American companies:

The practical consequence of the inflationary fluff on a company's fortunes is decidedly negative, since taxes have to be paid on the "phantom" portion of profits. Quite obviously, this has lessened the ability of corporations to add to their capital investment without borrowing. The tax drain has become very large in recent years because of the enormous understatement of costs. For 1976, for example, the Commerce Department estimates that the replacement cost of inventories used up by nonfinancial corporations exceeded by $14 billion the materials expenses claimed for tax purposes. More striking still is the Department's estimate for last year of the amount by which depreciation charges based on historical cost fell short of the replacement cost of the capital assets consumed. That estimate came to nearly $36 billion, making the combined understatement of costs from these two sources $50 billion in 1976.

Thus, Burns says, corporate profits were overstated in 1976 by about $30 billion, and that this resulted in an overpayment of $10 to $12 billion in income taxes.

In the case of Bethlehem Steel, for example, its 1976 estimated replacement cost depreciation exceeded historical cost depreciation by $320 million. Had the company been using replacement cost accounting it would have saved $315 million in taxes over the last 2 years, allowing it to put that much more into new plant and equipment, improving its cash flow and, ultimately, raising the price of its stock. This would make it easier to raise new capital in the future.

At this point I should explain what I mean by replacement cost accounting:

If a company spends $1,000 on labor or materials, it deducts $1,000 from its sales income to compute the profit on which tax is paid. The company is also allowed to deduct part of the cost of its plant and machinery each year in order to be able to replace that plant and machinery at the end of its useful life. Simply put, if the company spends $1,000 on a machine that will last 10 years, it deducts $100 each year for 10 years. At the end of that period it has accumulated $1,000 to buy a new machine. But if inflation has increased the cost of new machinery, the company still depreciates on the historical cost of the machinery, rather than the real cost of replacing it. The following table shows the historical trend of the disparity between historical cost of corporate assets and the replacement cost, caused by inflation:

Year	Market value			Replacement cost of net assets			Ratio of market value to replacement cost of net assets	Ratio of real business fixed investment to real GNP
	Total	Interest-bearing debt[1]	Equity[2]	Total	Net noninterest-bearing financial assets[3]	Net stock of depreciable fixed assets and inventories[3]		
	Billions of dollars							
1960	435.6	103.8	331.8	427.0	61.4	365.6	1.020	0.090
1961	507.9	114.8	393.1	442.9	67.3	375.6	1.147	.087
1962	503.9	126.0	378.0	460.9	73.3	387.6	1.093	.089
1963	581.0	136.7	444.2	482.2	78.5	403.7	1.205	.088
1964	656.6	147.9	508.7	507.2	83.0	424.2	1.295	.093
1965	737.5	162.9	574.7	541.7	87.2	454.5	1.361	.103
1966	712.9	180.4	532.4	590.8	91.8	499.0	1.207	.108
1967	789.8	200.0	589.9	649.9	100.7	549.2	1.215	.103
1968	893.0	217.8	675.3	711.0	109.3	601.7	1.256	.103
1969	881.9	243.1	638.8	782.9	117.0	665.9	1.126	.106
1970	787.1	267.7	519.4	858.1	126.4	731.7	.917	.102
1971	934.2	296.8	637.4	925.3	135.9	789.4	1.010	.098
1972	1,093.1	330.3	762.8	1,002.5	149.6	852.9	1.090	.100
1973	1,166.1	386.1	780.0	1,126.4	166.3	960.1	1.034	.106
1974	1,106.5	428.5	678.3	1,319.8	181.8	1,138.0	.838	.106
1975	1,113.1	439.4	673.8	1,494.5	198.3	1,296.2	.745	.093
1976[4]	1,326.2	470.0	856.2	1,601.4	212.3	1,398.1	.828	.091

[1] Market value of net interest-bearing debt of nonfinancial corporations (NFC's) adjusted from face value by assuming a maturity of 5 yr and discounting a stream of coupon payments equal to the net interest paid by NFC's. The discount rate is assumed to equal Moody's Baa corporate bond yield.

[2] Dividends of NFC's divided by the dividend/price ratio of Standard & Poor's composite index of 500 common stocks.

[3] Average of year-end values.

[4] Preliminary.

Note: Detail may not add to totals because of rounding.

Source: Council of Economic Advisers (based on data from various sources).

Obviously, the distortion increases the longer the life of the asset being depreciated. This is why the steel industry and other basic industries which require heavy investment in capital and will not pay off for many years in the future are in especially bad shape. Thus a disproportionate amount of current capital investment is going into relatively short-lived capital that promises a quick return, such as trucks, office equipment and light machinery.

This explains why the stock market is doing so poorly despite record nominal profits. In real terms the Standard and Poor's Index is no higher than it was in 1956.

Investors obviously have discounted these nominal profits to adjust them for inflation, replacement costs, and the future risk from continued inflation, higher energy costs and uncertain Government policies. Thus investors are reluctant to risk their capital unless it promises a higher than normal profit.

Investors are also keenly aware of the fact that much current capital invest-

ment is not going into productive enterprise, but rather is going into unproductive compliance with government pollution and safety standards. The following table estimates the amount of these nonproductive expenditures over the last 10 years:

Gross business investment outlays for pollution abatement and worker health and safety

[Dollars in billions]

Period	Pollution abatement	Worker health and safety
1967	$1.3	----
1968	1.5	----
1969	1.9	----
1970	2.6	----
1971	3.2	----
1972	4.3	$2.5
1973	5.3	2.6
1974	5.6	3.1
1975	6.5	2.7
1976	6.8	2.4

Source: Bureau of Economic Analysis; McGraw-Hill Economics Department.

These amounts are huge, but they are small when contrasted to the money the American steel industry and American industry as a whole will have to spend in the future just to comply with environmental and safety standards already on the books. This fact may be inferred from the following examples:

Meeting EPA's 1983 water pollution standards will cost all of American industry, over the next 7 years, about $60 billion for capital equipment and another $12 billion annually in operating and maintenance costs.

Meeting noise pollution standards, as mandated by Congress and enforced by the Occupational Safety and Health Administration, will involve expenditures of over $15 billion in capital costs and $2 to $3 billion in operating costs in the years immediately ahead. If these noise standards are raised to the level recommended by the U.S. National Institute for Occupational Safety and Health—a recommendation endorsed by EPA—the capital costs will climb over $30 billion.

The Wall Street Journal recently reported that new health regulations in the cotton industry will cost some $3 billion over the next 7 years. It has been estimated by Prof. Murray Weidenbaum that American industry's costs to meet OSHA safety standards this year will be over $4 billion.

EPA is on record as calculating that industry's total capital requirements for all kinds of pollution control equipment will, in the decade 1972–81, add up to $112 billion.

The point is that vast amounts of capital are being expended by American industry on equipment which does nothing to enhance production or productivity, thereby increasing costs while reducing capacity.

The steel industry has been especially hard hit by these regulations. The Council on Wage and Price Stability recently undertook an investigation of regulations on the steel industry and discovered that there are more than 5,000 regulations and 27 Federal agencies which significantly impact on the steel industry. In announcing this study, Acting Council Director Bill Lilley said:

If the trend in regulatory intervention proceeds at the pace of the past ten years, there is no doubt in our mind that the American steel industry will become increasingly unwilling and unable to invest in new, job-creating plants and equipment. This is clearly not the desired result of either the regulations or the regulators, and indeed no single regulation could have that effect. But when each and every regulation, rule and directive is aggregated, when each and every hoop and hurtle is put in one arena, the impact is far more pervasive and overwhelming than the creators of any single regulation can imagine. It is truly a case where the whole is far greater than the sum of the parts.

In the case of Bethlehem Steel, capital commitments for environmental control represented 11 percent of its total capital expenditures for plant and equipment in the last 5 years. In 1976 such expenditures amounted to approximately 15 percent of total capital outlays. And at December 31, 1976, before the retrenchment program, the estimated cost of completing authorized projects of $1.16 billion included $246 million for environmental control: 21 percent of the total. Significantly, the bulk of the recently announced $200 million cutback in capital spending is attributed to foregone environmental spending at its two oldest plants. In addition, outlays for operation and maintenance of currently operating environmental control equipment amounted to $50 million in 1976, or about 20 percent of pretax profits before deducting such charges.

This is not to say that we ought to reduce our efforts for a cleaner and safer environment. But we should recognize the true economic nature of expenditures for pollution control and other government regulations, which do not enhance a firm's production or profitability, and realize that it is going to take vast amounts of capital to meet the goals of both a cleaner environment and a higher rate of economic growth.

Expenditures for private domestic investment are already below historically low levels. If we reduce these figures to their true level, to reflect noneconomic expenditures for pollution control equipment, we would discover that the United States is experiencing a much more serious capital investment shortage than anyone has heretofore imagined.

It is capital investment, created by foregoing current consumption for future aftertax income, which provides the means for construction of plant and equipment, housing, accumulation of inventories, discovery and development of natural resources, research and development of new products and processes, and improvements in salaries, skills, and health of workers. Take away the reward for this investment and we punish not only the working people but the consumer as well.

Other countries have recognized this fact better than the United States in recent years. Germany and Japan, for example, have put a much larger proportion of national income into capital formation than has the United States. Consequently, Germany and Japan now have some of the most moden industrial plants in the world and the highest rates of real economic growth. In Japan, worker productivity in the steel industry is now about 50 percent higher than in the United States, due to more modern and efficient plant and equipment.

Further data, compiled by the American Iron and Steel Institute, also indicates the large lead Japanese steelmakers have in technology due to higher capital investment ratios. For example, 51.4 percent of Japan's 72 blast furnaces have large inner volumes of more than 2,000 cubic meters, compared with only 2.6 percent of the 192 U.S. furnaces. In 1976, 81 percent of Japan's crude-steel output was produced in efficient, basic-oxygen furnaces, compared with only 63 percent of U.S. output. Higher cost open-hearth furnaces accounted for 18 percent of American crude-steel production, but for only 0.5 percent in Japan. Moreover, 35 percent of Japanese steel was cast last year by using the labor-saving, continuous-casting method—more than triple the U.S. level of 11 percent.

For these reasons—and the fact that Japanese taxes and production costs are considerably lower than those in the United States—the Japanese have the capability of substantiaily underselling American steelmakers. Under these circumstances it would be a serious mistake to place import quotas on foreign steel. The only result will be to hurt industries which are dependent on the lower priced steel and invite immediate retaliation by the Japanese against American products. The Nation as a whole would suffer.

As I mentioned at the outset, a proper response to the import problem should be a national strategy to make the American steel industry and American industry as a whole competitive again on domestic and world markets. This will necessitate, first, a total abandonment of de facto price controls, which have made steel companies the scapegoats for inflation; second, a review of unnecessary and overburdensome Government regulations; third, the immediate adoption of policies to insure adequate capital investment in the United States, not only for the steel industry but for all American industry; and fourth, lower income tax rates.

Such a program should start with another round of tax rate reductions, for both individuals and businesses, similar to that enacted by President Kennedy over a dozen years ago.

I have introduced such legislation, together with Senator BILL ROTH and 127 Members of the House. called the tax reduction Act (H.R. 8333), which would do the following:

First. Reduce all individual income tax rates by an average of 33 percent.

Second. Reduce the corporate tax rate by three percentage points.

Third. Increase the corporate surtax exemption to $100,000 to help small business generate the capital they need to expand and hire more employees.

I believe that such a program will increase the aftertax reward to workers and investors, increase the real rate of

savings and capital formation, reduce the tax burden on capital, restore work and investment incentives to the economy, and provide the means by which American industry—and the steel industry in particular—can expand and modernize its plant and equipment, thereby creating jobs and increasing productivity.

This is particularly necessary in light of the administration's energy proposal, which will drastically increase the cost of energy without increasing its supply, and the recently passed increase in social security taxes.

The social security tax increase is especially relevant to the steel industry. As it is designed, it hits hardest those workers in the $12,000 to $20,000 range—which is precisely where most steel workers are.

Thus, a single worker earning $12,000 per year is in the 29-percent bracket—meaning that each additional dollar he earns is taxed 29 percent—and a single worker earning $20,000 is in the 38-percent bracket. When you add to this an additional 6.45 percent tax on the worker and 6.45 percent on the employer, you find that the first worker is thrust into the 42-percent bracket and the second worker is in the 51-percent bracket. In other words, it costs their employer $1 to give the first worker 68 cents in additional take-home pay, and $1 to give the second worker 49 cents in take-home pay.

At the rate at which inflation is pushing up incomes, moreover, it will not be too many years before workers who are today earning $12,000 are earning $20,000 and thrust into the 51-percent tax bracket. And if the increase in his salary is due solely to inflation, he will be worse off than he is now because he will be paying more taxes.

This is, in fact, what has been happening for the past 10 years. The average working person, say in a New York factory, after taxes and inflation, earns fewer real dollars than he or she did in 1967.

Both the Federal Bureau of Labor Statistics and the New York State Labor Department have been calculating what wage changes have actually meant to workers in terms of actual purchasing power. The answers over the last decade range from less than nothing to nothing much.

A chart by the Federal agency says New York City factory production workers averaged $183.77 a week in gross earnings last year. This was an 80 percent rise from $101.95 10 years earlier.

To offset the effects of inflation in boosting the paycheck, the Bureau converted the earnings statistically into constant dollars, using 1957–59 as a standard.

And when social security and Federal, State and city income taxes were deducted in such equivalents, the Bureau calculated that the average worker with three dependents actually suffered a net loss in purchasing power.

In the Federal statisticians constant-dollar terms, the 1966 pay check was worth $77.88—and last year's earnings were equivalent to only $75.17.

Result: A net loss of 3.5 percent.

The State labor department calculated earnings changes for factory workers throughout the State. Their gross averaged $209.35 last year. Actual take-home pay—after deducting for social security and income taxes for the Federal and State (but not New York City) governments—was $176.58 for a worker with three dependents, $160.84 with no dependents.

Over the last decade, the statewide worker had an 88-percent increase in weekly earnings in current dollars, up $98 from $111.35 in 1966.

But when this was converted into constant dollars—the State labor department used 1967 as its base—the increase in real wages shrank to only 5 percent.

And for the statewide worker with three dependents, the increase went down to not quite 1 percent in average "real spendable earnings."

Following are State labor department figures on gross weekly earnings over the years in terms of current and constant dollars, and take-home pay similarly expressed for workers with three dependents:

[In dollars]

Year	Gross earnings		Take home	
	Current	1967	Current	1967
1954	71.50	90.16	66.48	83.83
1955	75.17	95.39	69.37	88.03
1956	78.96	98.70	72.40	90.50
1957	81.57	98.63	74.30	89.84
1958	83.07	97.50	75.53	88.65
1959	87.71	101.87	78.96	91.71
1960	89.61	102.06	79.69	90.76
1961	92.21	104.07	81.66	92.17
1962	96.02	106.93	84.57	94.18
1963	98.78	108.07	86.28	94.40
1964	102.44	110.39	91.03	98.09
1965	106.40	112.71	95.02	100.66
1966	111.35	114.32	97.72	100.33
1967	114.44	114.44	99.85	99.85
1968	121.48	116.47	104.56	100.34
1969	128.30	116.11	108.99	98.63
1970	134.59	113.96	114.94	97.32
1971	145.84	117.23	125.05	100.52
1972	157.61	121.80	135.41	104.64
1973	167.58	121.79	141.58	102.89
1974	178.48	117.04	149.62	98.11
1975	191.00	115.83	162.49	98.54
1976	209.35	120.04	176.58	101.25

Congress must also enact legislation to allow companies to follow replacement cost accounting methods in computing depreciation. As previously noted, this action alone will go a long way toward removing some of the distorting effects of inflation on business finances and save companies billions of dollars in taxes each year. I have introduced legislation which will accomplish this purpose in H.R. 9744.

Lastly, provision should be made for allowing companies to recover the cost of complying with environmental regulations as quickly as possible. To accomplish this purpose I have introduced H.R. 8944, together with Congressman JOHN MURTHA, to allow companies to write off the cost of pollution control equipment in 1 year. We believe this is both fair and constructive since such equipment does not increase production or profitability.

This is a constructive program which will not only put the steel industry on its feet again, but will create billions of dollars in capital investment and millions of new jobs in the next few years—jobs that provide tax revenues, rather than consume tax revenues.

Just as importantly, this strategy would help meet the import competition in a more effective way than by imposing protective import quotas, which are so often discussed today. A nation cannot shield itself from the economic policies of other nations through quotas and tariffs. The global economy is too interrelated and any effort to do so would lead to retaliation and a breakdown of world trade, such as that which accompanied the Smoot-Hawley Tariff in 1929 and the resultant depression.

Fortunately, President Carter and chief U.S. Trade Negotiator Robert Strauss have resisted the protectionist pressure thus far—as have my colleagues in the House in voting down the cargo preference bill last week. But this is not enough, for we must continue work toward further liberalization of existing trade restrictions in other countries to make our products and agricultural goods available to the world markets. One-sixth of all jobs in America depend on exports and as we have found out a nation that refuses to trade cannot export.

In any case, protection will not do the steel industry any long-term good. As the New York Times recently noted:

> Protectionist measures would raise steel prices, hampering efforts to expand the economy without increasing inflation. Jobs saved in tht steel industry would be more than offset by jobs sacrificed in keeping the inflation rate down. Shielding steel from the long-term discipline of competition, moreover, does nothing to eliminate the basic problem of high production costs.

We must give the American steel industry an economic environment which enables it to compete. And it can compete if Congress and State legislatures will lower both personal and business tax rates, and halt excessive regulation of this vital American enterprise.

As I told the President and members of the steel caucus last week, we need a new caucus in the Congress, a caucus that involves all 435 Members of Congress who want to restore incentive to America and who understand that profit is not a dirty word, that capital investment means jobs and productivity, and that price controls, import quotas, and excessive regulations only reduce economic growth and hurt the very people who need growth the most.

Prof. Paul Samuelson of MIT recently said:

> I suggest the effort begin soon to stretch out this recovery in the way that John F. Kennedy and Walter Heller acted successfully to make the 1960s the best epoch of the postwar period for jobs, capital formation and profits.

The core of Kennedy's program involved an expansion of economic growth through permanent reductions in individual and business tax rates. The result is that during the period from 1960 to 1965:

Real investment growth was the highest in modern history.

Inflation was the lowest in modern history.

Real industrial output growth was the greatest in any period.

Real disposable income grew the fastest.

Government spending grew the least.

This is what I advocate and I hope that Congress and the administration will adopt a similar program, because it is aimed at helping not only the worker but the saver, not only the producer but the consumer, not just the steel industry but all industries big and small regardless of geographic location.

It is not an issue of North versus South, labor versus management, Republican versus Democrat. As President Kennedy said, "A rising tide lifts all ships." I think it is time to get the economic tide of America and the world rising again.

HOSPITAL COST CONTAINMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 10 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, the issue of rising hospital costs is one that has commanded the attention of many of us during this session of Congress. The Commerce Subcommittee on Health and the Environment reported out hospital cost containment legislation earlier this month. Since mid-May, my own Ways and Means Subcommittee on Health has given intense, if periodic, consideration to the issue. Unfortunately, the need to devote attention to other high-priority legislation, as well as some dissatisfaction among members with aspects of the administration's hospital cost containment bill (H.R. 6575), have precluded my subcommittee from completing its consideration of possible solutions to the health cost escalation problem. Since the energy conference now in progress will soon focus its attention on the tax aspects of the complex bill that were developed in the House by the Committee on Ways and Means, and since it will still be necessary to go to conference on the social security financing bill, H.R. 9346, I will have to postpone further consideration of hospital cost containment until early in the next session of Congress.

I believe that the period between now and the reconvening of Congress in January can be well spent by both the administration and the hospital industry in determining the best direction to take in achieving a means of containing hospital costs. For the administration its is a time to reassess its proposal, to modify it where appropriate and to strengthen support for it both in the public and in the Congress. And because Congress has not passed legislation on the subject this year, the hospitals in this country have been given a brief grace period. With the knowledge that we will not resume consideration of the issue until early next year, hospitals have the opportunity to demonstrate that they can finally take the initiative and effectively and significantly restrain cost increases on a voluntary basis.

Furthermore, as I have stated to representatives of the American Hospital Association, the Federation of American Hospitals, and the American Medical Association, I hope the entire private sector will accept this challenge to develop a meaningful program of cost containment. Interest in the restraining of health costs is not confined solely to providers and Government payors. Insurers, business, organized labor, and taxpayers all have a major stake in the outcome of this issue.

I say this based on the conviction that Government intervention and the imposition of controls should be a last resort. In all my years in Congress, I have never been persuaded that the Federal Government could solve all of the problems of the American people. Government should intervene selectively where it can be of assistance; otherwise, the private sector should be relied upon to act on its own initiative.

In stating that the private sector should take the initiative, however, I do not seek nor am I in a position to accept unnecessary delay in consideration of the administration's proposal next year. The industry has had a cost problem but for years has not been able to deal effectively with it without Government involvement. If the industry is as confident as their representatives have indicated to me that they can effectively solve the hospital cost problem on a voluntary basis, they should be in a position to develop and begin to implement a responsible alternative before congressional debate on this issue resumes in February.

The hospital industry must understand that the American people cannot tolerate further delay. And the industry must also recognize that if it proves to be unwilling or unable to immediately address the problem it cannot responsibly object to Government initiatives.

WILMINGTON SITE EXCELLENT LOCATION FOR AMTRAK HEAVY REPAIR FACILITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. LEDERER) is recognized for 5 minutes.

Mr. LEDERER. Mr. Speaker, I wish to bring to the attention of my colleagues a serious situation with our rail service in the Northeast corridor.

For months the Department of Transportation has been studying the question of locating a major heavy repair facility to serve the Northeast rail section of AMTRAK. The selection has been narrowed down to an existing facility in Wilmington, Del., and a planned site in the Readville Yards near Boston, Mass. A decision on the site selection is expected shortly.

I believe the Wilmington site is the best for the rail system and the country. Early studies by the Transportation Department experts recommended the Wilmington site and these studies should be followed.

The Wilmington site has a facility already operating performing the needed services. There is an established work force in place which can be built up and improved. The Readville site would require construction and training over a long period to produce an operating facility. The two sites are both in areas hard hit by the economy and unemployment and could use the employment and economic stimulus brought by the new facility. The answer then comes down to which is the best for the rail system and its service.

Considering the immediate opportunities offered at Wilmington and its strategic location in the middle of the rail line, the Wilmington site is the better choice.

I call upon my colleagues to voice their opinions to the Secretary of Transportation in support of the Wilmington site. A decision is needed to allow the Wilmington workers and their families to plan their lives.

FORMATION OF NICKEL CARTEL IN CANADA WOULD HAVE DIRECT BEARING ON DEEP SEABED MINING LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana (Mr. BREAUX) is recognized for 5 minutes.

Mr. BREAUX. Mr. Speaker, a most alarming development has just occurred that I feel compelled to bring to the attention of this body. Last week, the Prime Minister of Canada divulged that his government is considering the formation of a new nickel cartel, similar to the uranium cartel in which Canada participated several years ago. This matter has a direct bearing on our action on H.R. 3350—deep seabed mining legislation now approved by two committees of the House.

The United States currently imports over 70 percent of its nickel consumption, of which about 70 percent comes either directly or indirectly from Canada. We have virtually no economic reserves of nickel in this country, a metal that is critical to the manufacture of stainless steel and almost any sophisticated metal product imaginable. Nickel can be economically recovered by American industry, however, from deep seabed nodules. These same nodules, which lie in abundance on the seabed of our oceans, also contain valuable and critical concentrations of copper, manganese, and cobalt.

If the U.S. ocean mining industry could commence its planned operations, our reliance on foreign nickel producers could be cut 50 percent by 1985. But ocean mining cannot proceed to help insulate this Nation from the actions of a Canadian-led nickel cartel, unless the Congress passes the right kind of domestic legislation.

For years, the naysayers on ocean mining bills have argued that there was no urgency in moving forward because the principal product of American seabed mining—nickel—would continue to be freely available from our Canadian neighbors. Even now, when the administration has finally come around to recognizing and supporting the need for

legislation, its new position attempts to gut the effectiveness of H.R. 3350—the investment insurance feature.

During the extensive hearings of the Merchant Marine and Fisheries Subcommittee on Oceanography, I and other members sought to determine the actual risk that the security of supplies of nickel, cobalt, copper, and manganese to American markets could be interrupted or artificially high prices imposed by other countries. We concluded that there is a significant possibility that short-term cobalt and manganese supply interruptions can occur and that attempts to form cartels in any of these markets, whether or not they are successful, can adversely impact on American consumers' economic interests.

The development of a domestic ocean mining industry would reduce the costly impact of such short-term disturbances and provide long-term price stability. Expert witnesses from Georgetown University's Center for Strategic and International Studies, the U.S. Chamber of Commerce and others supported this conclusion.

Now, we have been given hard evidence that a nickel cartel is not the figment of some doom-sayer's imagination. It is considered a realistic option by the leader of the world's largest nickel producing country.

In Senate Energy Committee hearings, the world's biggest nickel company, INCO of Canada, testified that—

> The United States has little cause to be concerned about its dependence upon nickel imports.

The testimony explains this statement, in part, by referring to Canada's "long-standing relationship with the United States." The witness stated that—

> The diverse sources of nickel render any kind of effective cartel or other restrictive action highly unlikely.

With respect to United States-Canadian relationships, he said that—

> Although there may be disagreements between the two nations from time to time, there is an undeniable spirit of trust and good will . . . the commonality of interests in political, economic, and national security efforts is such that the two nations will always be trusted allies, good neighbors and valued trading partners.

The witness concluded that—

> There are adequate and dependable supplies of nickel available through existing market channels to meet United States economic and strategical requirements.

I would now submit that it is the actions of this same company in response to world nickel market conditions that has generated the Prime Minister's comments on the possibility of creating a nickel cartel, similar to the uranium cartel that Canada initiated 5 years ago.

The important point to understand is that it is almost irrelevant whether an international nickel cartel is formally organized. When the world's dominant nickel-producing country in league with the largest nickel mining company attempt to establish such a cartel, the inevitable result will be artificially increased prices. Most other producers must necessarily fall into line.

I can only question: Do these statements form a basis for confidence in the continuing availability at reasonable prices of nickel from Canada and other foreign suppliers? Can the Congress responsibly dismiss the threat to American economic interests and ignore the national importance of developing a new, secure source on the deep seabed of not only nickel but other critical metals that we heavily import? Commonsense now dictates that the answer to this question is "No".

H.R. 3350 would provide Government investment insurance for U.S. ocean miners against the risk that a future law of the sea treaty ratified by the United States would effectively confiscate their investments. The Merchant Marine Committee's bill would establish a voluntary insurance program whereby U.S. mining companies could receive protection against actual losses of investment if they agreed to pay an annual premium to the Federal Government. This premium would be based upon a percentage of the value of the investment so protected.

The U.N. Law of the Sea Conference is developing a draft international treaty to govern deep seabed minerals that shows every sign of creating an international organization that will have the desire and the power to block ocean mining by private enterprise. U.S. negotiators decry the trend of the negotiations but continue each year to concede more and more to the intransigent position of developing countries who have little to lose, and everything to gain, from monopolizing these minerals and keeping private companies out of the deep seabed. If ocean mining companies were made subject to such a treaty after they had committed the enormous sums of capital necessary to commence mining—over one-half billion dollars each—the result would be a business disaster for them. Confronted with this risk, no prudent company can proceed with investment.

Of course, the administration can say that it would never submit a confiscatory treaty to the Senate. But that assurance is not really worth very much in a negotiation where so many other national interests—totally unrelated to seabed mining—come into play. This assurance by the administration will not convince financial institutions to lend ocean miners sizeable capital requirements in the face of this very real political risk.

H.R. 3350's investment insurance provision is designed to give the necessary assurance; it represents the clear demonstration by the Congress of the United States that it will not agree to a law of the sea treaty that does not protect the integrity of American investments previously made. Since Congress cannot bind itself not to accept a treaty without grandfather rights protection for U.S. miners, investment insurance backs up the commitment with a promise to partially compensate ocean miners for investment losses caused by a confiscatory treaty.

I have devoted considerable study to this risk insurance problem and have concluded that, without this kind of clear political assurance, there is little hope that the American ocean mining industry can move forward. With other attractive investment opportunities available, the Nation cannot expect the industry to keep spending the funds necessary to maintain its present level of effort.

It is the United States that will suffer if ocean mining capabilities are not developed. It is the American consumer that will pay the price of contemplated actions by foreign nickel and other minerals producers to restrict suppliers and control markets.

The Trudeau statements are a clear warning to this Nation and this Congress which should not be ignored. It is time that we sought to properly protect our national interests and adopt a seabed mining bill which will encourage this vital new U.S. seabed mining industry.

I am including as an addendum to this statement some newspaper articles which set forth Prime Minister Trudeau's recent remarks:

[From the Toronto Globe and Mail, Oct. 22, 1977]

TRUDEAU FLOATS IDEA OF NICKEL CARTEL, REJECTS STOCKPILING

Prime Minister Pierre Trudeau suggested yesterday a nickel cartel—like the controversial uranium cartel Canada joined five years ago—to help Canadian producers match output to world demand.

"In the field of nickel, perhaps we might try this," he told a weekly press conference. He rejected suggestions the Government buy and stockpile nickel, saying that would just depress the market further.

In the Commons, the Opposition criticized the Government for giving tax concessions to Inco Ltd. which then expanded abroad.

But Finance Minister Jean Cretien said the company's plan to cut its staff by 3,450 early next year is a result of soft world markets and Canada will just have to live with it.

He, too, rejected suggestions that Ottawa buy the nickel Inco no longer wants to stockpile.

At Queen's Park, Labor Minister Bette Stephenson said her main concern is not the town—Sudbury will survive, she said—but the workers who have lost their jobs.

Liberal Leader Stuart Smith said the province should order Inco to stop mining in Indonesia and Guatemala so it can keep men working in Sudbury and New Democrat Stephen Lewis suggested it may be time to nationalize Inco.

[From the Toronto Globe and Mail, Oct. 22, 1977]

OTTAWA CONSIDERING NICKEL CARTEL TO SAVE CANADIAN JOBS, TRUDEAU SAYS

(By Robert Sheppard)

OTTAWA.—The federal Government is considering forming a nickel cartel to stabilize world nickel prices and protect Canadian jobs, Prime Minister Pierre Trudeau told reporters at his weekly press conference yesterday.

However, the immediate problem, he said, is to find work for those being laid off, possibly through a work-sharing program.

He denied that such a program would be "spreading the misery . . . as Inco employees have not exactly been receiving miserable salaries."

Employment Minister J. S. G. Cullen told the Commons that a program to share the work among Sudbury Nickel workers is one

of the proposals he will bring to a meeting of labor and management officials of Inco Ltd. on Tuesday.

If accepted by both sides, the work-sharing program would mean nickel workers still on the job would take "a slight cut in pay" so that their 2,800 fellow workers who were laid off on Thursday could be rehired. The company's payroll would be supplemented by the amount of unemployment insurance the jobless workers would otherwise collect.

Finance Minister Jean Chretien had said in Question Period that the Government may have to form a "cartel" of nickel producers in order to get around a depressed world market for nickel brought about by a U.S. corporation's selling below the cost of production.

The comment prompted James Gillies (PC, Don Valley) to remark that if the Government wants to form a producers' agreement, "then they ought to bring it into Parliament and not do it behind everybody's backs."

Elaborating on the Finance Minister's comments, the Prime Minister said that "Canada has every often been approached for the operation of a cartel, for example in the field of uranium, also iron.

"Our position has always been that to obtain fair prices and stable arrangements, producer countries and consumer countries had to unite in order to come up with some sort of compromise. In the field of nickel, perhaps we may try this also, as we did with uranium."

The Prime Minister rejected opposition demands to stockpile nickel, which he said would lead to a further drop in prices. "Obviously buyers, if they know there are great stockpiles throughout the world, they're not going to pay as high prices for nickel as they would if there were no stockpiles."

He also rejected opposition criticism that Canada has been exporting jobs by investing abroad through the Export Development Corp. in Inco subsidiaries.

"All developed countries in society are looking abroad to see where there might be other sources of raw materials or other areas for producing with lower wages and so on. If Canada doesn't do it someone else will."

The Inco layoffs dominated Question Period in the Commons yesterday as opposition critics accused the Government of "foot-dragging" and demanded it intervene to prevent the layoffs.

Speaker James Jerome, who represents the riding of Sudbury, rejected an opposition request for an emergency debate on the layoffs, saying that it did not concern "the administrative responsibilities of the Government," as required by the rules of the House.

However, Mr. Jerome said, members would be given the floor "on a fair and proportionate basis" during the six remaining days of debate on the Throne Speech to address "this crippling blow which has been dealt to Sudbury and to the economy of Canada."

John Rodriguez (NDP, Nickel Belt) told the Commons that the extent of public investment in Inco means the Sudbury workers have "funded their own unemployment."

Mr. Rodriguez said Inco owes the Government approximately $378-million in deferred taxes—"in effect an interest-free loan,"—and was given a $10-million grant for depreciation of its reserves, which was confirmed in the Government's economic statement on Thursday.

In addition, he said, the Export Development Corp., a federal agency that makes low-interest loans to developing countries, has lent more than $70-million to Inco subsidiaries in Guatemala, Indonesia and New Caledonia.

"Inco will love the work-sharing program," Mr. Rodriguez said, because it means the people of Canada will further subsidize the company directly through the Unemployment Insurance Commission. If the work-sharing program is agreed to by labor and management it will be the first time in Canada such a scheme has been employed.

Mr. Cullen said that similar programs have worked well in European countries and this seemed like "a textbook case" where it could be made to apply.

He also said the Government is considering using emergency financing from the Canada Works program for make-work projects in the area.

But he said some workers will have to move out of Sudbury and Thompson, Man., and seek jobs elsewhere.

Inco announced Thursday it will cut jobs by about 3,450 by the middle of next year. About 2,800 jobs will be lost in Sudbury and about 650 in Thompson.

Cecil Smith, Conservative MP for the Manitoba riding of Churchill, told the minister that the people of northern Manitoba want jobs and not "stop-gap employment."

"We've just received the biggest grant of any constituency in Canada of $4.6-million under Canada Works. Is the Government just going to keep adding Canada Works projects in a country that is alive with resources?"

[From the Wall Street Journal, Oct. 24, 1977]

IDEA OF NICKEL CARTEL IS AIRED IN CANADA BY TRUDEAU, AIDE

OTTAWA.—The uranium cartel that Canada helped form back in 1972 apparently worked so well that some thought is being given here to forming an international nickel cartel.

None other than Prime Minister Pierre Trudeau said at a news conference Friday that such a cartel was "one possibility" of action to deal with the previously reported heavy layoffs in Canadian nickel mining announced recently. Mr. Trudeau's finance minister, Jean Chretien, earlier suggested the same possibility during remarks on the floor of Parliament.

He charged an unnamed U.S. company with selling nickel below production costs and depressing world prices. "Perhaps the only market," Mr. Chretien said. (Fighting unfair U.S. competitors, of course, was Canada's previously reported rationale for helping start an international uranium-producers cartel in 1972.)

Some observers saw a tongue-in-cheek character to Messrs. Trudeau's and Chretien's remarks, but the idea buzzed through the Canadian press during the weekend and by yesterday Inco Ltd., the Toronto-based giant of the nickel industry, rushed out a statement.

"The reaction in world markets to such a concept would be harmful to the Canadian nickel industry," Inco said. It threw an additional bone to the U.S. Justice Department by adding: "Inco hasn't had any discussions with anyone regarding a cartel."

Canada mined about 42 percent of the non-Communist world's nickel in 1976.

THE ARAB-ISRAEL CONFLICT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ADDABBO) is recognized for 30 minutes.

Mr. ADDABBO. Mr. Speaker, for three decades our Nation has sought a lasting resolution to the Arab-Israel conflict. This has been an honorable endeavor. It has required the application of qualities which are particularly American: ingenuity, fortitude, idealism and principle.

Now we are nearing a crossroads. At stake is the chance of a lasting peace. I believe that the United States will soon face momentous decisions about how to proceed. Already, there are indications that some would make America's policy more opportunistic. More attuned to simple dollars and cents. There are some that argue that America must be totally evenhanded. Others have suggested that this Nation pressure Israel to accept any settlement, and then assure that settlement through blanket guarantees. And there have been calls for more Soviet involvement.

Mr. Speaker, I for one believe that such a policy at this time would be ill-advised. At this crucial time, American policy should be guided by two things:

First, an awareness of our historic links to Israel.

Second, an awareness of our own national ideals.

These are not empty generalities. Rather, they are hard facts which should shape America's policy. I have grown increasingly suspect of those who argue that foreign policy requires dispassionate self-interest. I do not accept the claims of those who advocate foreign policy in which moral judgments are avoided. Nor, in my view, do the American people accept the "sophisticated" view that nations have no permanent friends, only current interests. Such attitudes conflict with our own history. They would be rejected out of hand by most Americans. And they would horrify our founders, who 200 years ago established this country to be a moral light to the world, and the energetic advocate of democracy everywhere.

In our affairs throughout the world, and in the Middle East in particular, the United States has a responsibility to state its views forthrighly. Ambiguity is the enemy—not the ally—of effective diplomacy. Nowhere is a lack of clarity about our own interests and motives more to be avoided than in the Arab-Israel dispute.

Mr. Speaker, I now make an assertion which has been made in this very chamber hundreds of times before. The fact that it now bears repeating illustrates why an Arab-Israel peace has yet to be achieved, and why recent American policy has been less than successful. My assertion is this: It is the Arab refusal to recognize Israel's right to exist in peace as a Jewish state in the Middle East which is the primary cause of the Arab-Israel dispute. This fact should be self-evident, but Arab threats and oil power have combined to make the obvious less apparent.

We should consider for a moment what Arab attitudes towards Israel are. By this I mean attitudes which are expressed every day in the Arab countries, and not tailored for Western ears. What is most striking is that Arab charges and claims first advanced three and four decades ago are still being circulated, even promoted, by many Arab governments.

Today, as in 1948, there is a belief that Israel's very existence is an unnatural thing. The Arabs, notably those in Syria and Iraq, speak of Israel as an artificial entity. This is not mere word play. Rather, it reflects a basic belief. This be-

lief, rooted in Islam, asserts that Jews are forever to be second class citizens, subordinate to the Arab Moslem majority. It is undeniable that within Islamic society there has been toleration of the Jewish people. But there has been a rejection of Jewish autonomy, and Israel's very existence is viewed as a perversion of the "natural order" of things.

Today, as in 1948, Israel is viewed as a "tool of imperialism," an "agent of the West." Israel's independence of existence is denied. Israel's rebirth in 1948 is dismissed as the result of an "international conspiracy." This attitude translates into an implacable refusal to deal with Israel face to face. We can see this reflected in the words of Egypt's President Sadat. In September 1975, after the signing of the second-stage Sinai II disengagement agreement, Sadat asserted that he had signed a purely military agreement. This, he indicated, demonstrated Egypt's refusal to engage in a political reconciliation with Israel. President Sadat also asserted that he had signed the agreement with the United States, and not with Israel. Here too was a rejection of Israel's independence and Arab respect for it. And when the Egyptian President states, as he does so frequently that the United States holds "100 percent of the cards" in the Middle East dispute, he is not saying that our Nation is the most influential. Rather, this reflects the belief—widespread throughout the Arab world—that Israel is a puppet of the United States, capable of being dictated to at any time.

American policy thus must disabuse the Arab States of these wrong perceptions. There cannot be lasting settlement until they understand that we insist on a meaningful reconciliation, based on normalized relations and true recognition. Today, as in 1948, there is a belief that if pressures are sufficient, the United States will acquiesce knowingly or unknowingly in the eventual destruction of Israel—at once or in stages. Hence the Arab perception of the Geneva talks as a fait accompli to be forced on Israel without concomitant Arab compromises. In the United Nations, in international organizations, in international trade, we can see a continuing Arab drive to isolate Israel, to weaken her from within and without. It is all too apparent that many Arab leaders take any sign of American "evenhandedness" to mean implicit approval of this policy. If that is so, and I believe it is, then current American Middle East policy should aim primarily at achieving tangible acts of Arab accommodation towards Israel.

Mr. Speaker, it is my belief that many of the current problems affecting America's Middle East diplomacy derive from a refusal by our Government to assume a clearly defined, activist posture. This is not just another conflict. We have more than a passing interest in the outcome. We are linked and involved because of the fundamental friendship which exists between the American people and the people of Israel.

It is not an accidental friendship. There is no mystery why our two nations are so closely bound. There is a long term basis for our relations, and it derives from our similarities and common ideals.

We are both nations of pioneers. In both the United States and Israel, the national outlook was shaped by the process of nation building. What we so admire in the Israeli people—independence and capability—are those same attributes shown by the first Americans.

We are both nations of immigrants. We are both havens of the oppressed. Israel, like the United States, opened its doors to untold thousands of refugees, and provided them with new lives and new self respect.

We are both democracies. Mr. Speaker, there are less than 30 true democracies in the world today. Yet the people of Israel, alone in the region, have shown a passionate devotion to open government, free elections and active popular participation in the affairs of state.

We are both nations of idealists. We are nations with a purpose. Both Israel and the United States were established to do more than simply exist. Each was founded to be an example for the world, a light of progress. In both nations, principled behavior and the advocacy of freedom have been a national responsibility.

And we are profoundly religious nations, each founded on the Bible.

We as a nation should not be afraid to make these facts known. They comprise the basis of our Middle East policy. They are recognized and understood by the American people. These facts must inevitably form the basis of Arab acceptance of the necessity and unavoidability of peace.

Mr. Speaker, I do not believe that true peace is a mysterious formula which can only be achieved by a shrouded political chemistry. The shape of peace is obvious, or should be. American policy should promote a peace which the American people themselves could accept. It is that simple.

What should be the nature of peace?

First, peace must mean, as I have stated, normalized relations and reconciliation. Peace should mean the initiation of open borders, of trade and travel, of people to people contacts.

Second, peace should mean the establishment of secure, recognized and defensible borders. I do not believe that a return to the 1967 borders will promote peace. These borders are by their very shape an inducement to Arab aggression. New borders, not just armistice lines, should be negotiated and made permanent. To limit the chance of war, demilitarized zones should be established. Moreover, with the end of belligerency should come mutual, bilateral guarantees exchanged between the Arabs and Israelis. These assurances, and not external guarantees provided by the superpowers or the U.N.. are the best means of maintaining adherence to a settlement.

Third, peace should mean a resolution of the refugee issues. There are two refugee problems in the Middle East: One Arab, the other Jewish. Israel has provided a home for more than 700,000 Jewish who left the Arab countries after 1948. Mr. Speaker, it cannot be denied that a population exchange has long since taken place. Nor can it be denied that most Arab refugees still reside in what was once the Mandate of Palestine: Jordan, Judea, Samaria, Israel, and Gaza. Nor can it be denied that an Arab State already exists in what was four-fifths of Mandate Palestine, namely Jordan. As in all other refugee problems of this century, it should be readily apparent that resettlement, not repatriation, spells the only workable solution of this difficult issue.

Mr. Speaker, if we consider for a moment the general trends in the American-Israeli relationship over the past 30 years, we can see indications of what policies are productive, and which ones are not. In my mind, the evidence demonstrates that a policy which is clearly supportive of Israel produces stability; policies which suggest an erosion of America's support ultimately produce instability and conflict.

In 1948, this country backed the establishment of the Jewish State of Israel. This was a humane and moral decision, particularly in light of the destruction of European Jewry under the Nazis. By the end of 1948, it appeared that there was some significant movement toward Arab acceptance of the fact of Israel's existence. Yet in 1949, as shown in recently declassified State Department documents, American policy turned away from Israel. It is my belief that this failure of will, caused by Arabist pressures, was a factor in the hardening of Arab attitudes observed after 1950.

In 1956, Israel responded to years of Egyptian aggression from Gaza and the continual blockage of the Straits of Tiran by invading the Sinai. Yet while Egypt's guilt was clearly established, the United States forced Israel to retreat from the Sinai with assurances of normalized relations which the Egyptians refused to accept. The short-sightedness of this policy was finally seen in 1967, when Egypt overrode American and U.N. assurances of the right of Israeli passage through the straits. Israel was forced to respond to this act of war, and the result was the stunning victory of 1967. It is interesting to note that a meaningful step toward peace was achieved later that year when the United States stood by Israel and refused to bow to Soviet pressure and Arab threats; the result was U.N. Security Council Resolution 242, still recognized as a fair and equitable basis for a lasting settlement.

In 1970, this country committed a serious error at the end of the war of attrition across the Suez Canal, We refused to assume a forthright position after massive Egyptian-Soviet violations of the cease-fire agreement. Israel's security was thus permanently damaged, and the results were seen in even greater clarity 3 years later, when Egypt attacked Israel from these same positions.

At the end of the 1973 Yom Kippur war, the United States stopped Israel from visiting upon Egypt the true costs of Egyptian aggression; the Third Army was saved by American pressure as it was

about to be destroyed. It was argued at the time that the United States must oppose Israel and protect Egypt's interests, in order to preserve Egypt's peaceful intent after the war. Yet this policy has proved to be less than satisfactory. Egypt still refuses direct, face to face negotiations with Israel. Egypt's President has said that peace must wait until the next generation. Egypt still wars against Israel in the councils of the world. Not surprisingly, the effective acts—the acts which stabilized the region—were those which reflected strong American support of Israel: The decision by the administration and the Congress to provide $2.2 billion in emergency aid prevented a renewal of Arab attacks. The insistence at the U.N. that Security Council Resolution 338 mandate immediate negotiations set the stage for the Geneva talks.

Now, in 1977, the United States finds itself having to choose again. History shows that certain trends in current administration policy will prove counterproductive. In recent weeks, we have seen a drift toward the terrorist Palestine Liberation Organization. The United States recently in effect affirmed the "legitimate rights of the Palestinians," a well-known Arab phrase or code-word meaning the destruction of Israel. The U.S.S.R., for 20 years the instigator of conflict in the region, has suddenly been brought back into the peace process without any visible compromises in its anti-Israel ideology. And in the last 6 months, Israel has been constantly sniped at by administration officials, publicly and privately.

I would ask my colleagues to consider whether the policy of the last 6 months has shown fruitful results. The fact today is that the Arab States remain committed in their refusal not to compromise with Israel over borders and territory. There is no recognition of Israel's right to exist, only a grudging acknowledgement of the fact of its existence. Arab leaders, including those described by administration officials as "moderates," as insistent upon a role for the PLO and the fulfillment of "Palestinian rights" as defined by that murderous group. And Arab States still refuse to cease their economic war, their political war, and their military threats against Israel. They still will not even sit in the same room and talk to Israelis.

Mr. Speaker, it should be apparent that the United States must clarify the thrust of its current Middle East policy. We have to stress our opposition to the PLO. Certainly, any PLO state would be a Soviet-backed base for aggression against our closest allies, Israel and Jordan.

The United States has to redouble its insistence that the primary issue is not territory—territory lost through Arab aggression—but peace. Given Israel's vulnerability within its pre-1967 borders, and 30 years of Arab hostility, it is certain that the burden of proof must be on the Arab States to demonstrate their good will.

And the United States must break out of its present mentality which broadcasts fears of oil embargo and great power confrontation if "momentum" is not continued. The United States invites blackmail and strong arm tactics from the oil states and the Soviet Union. The economic and political environments are far different today than in 1973. I do not believe that the American people would accept another act of oil blackmail without, at minimum, economic reprisals against the blackmailers. Nor do I think that the Soviet Union will make any moves toward a confrontation. They are far more conservative than some would have us believe. The fact is, Mr. Speaker, that there will be no Arab attack, no oil embargo, no confrontation with the Soviet Union, if the United States makes it abundantly clear that we are not about to abandon Israel, that we are insistent upon a meaningful, Western-style peace, and we will not be intimidated by political threats. Ambiguity now is the best assurance of failure in the future.

Mr. Speaker, there is a time for even-handedness and a time for impassioned advocacy. The time has come for the latter. In a world of expedience and cynical political maneuverings, an Arab-Israel peace can only come about if the United States asserts its own national principles as those which must form the framework of a solution. The American people would not accept a "settlement" wherein our adversaries refused to recognize our right to exist, refused to negotiate substantively, refused to begin reconciliation, refused to sit in the same room with us. The American people would never stand for such treatment, particularly with adversaries who had warred against us four times and supported terrorist acts against our civilians. What the United States would not accept for itself, it should not force upon Israel. What the United States would ask for itself as a matter of equity, we must not deny to Israel.

Peace can be achieved. It can come now. And by being true to our ideals and our democratic allies, peace can come to be, peace can grow and survive, and benefit the world.

EDUCATION AND UTILIZATION OF MEDICAL MANPOWER IN CARE FOR THE ELDERLY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 5 minutes.

Mr. PEPPER. Mr. Speaker, the quality of medical care that is provided to elderly persons, whether in acute care institutions, nursing homes, ambulatory facilities, or in the home, is of utmost importance to all who are involved in matters relating to older Americans.

The training and utilization of medical and para-medical personnel, their distribution throughout the country and the ratio of their numbers to the client population have been discussed in a paper which was prepared by Ms. Beth Schermer, who served as a summer employee with the Subcommittee on Health and Long-Term Care of the Select Committee on Aging, both of which it is my privilege to chair.

Ms. Schermer has prepared a well-documented paper, designed to stimulate discussion by the public, within the medical community and among allied health professionals, and in the Congress.

I believe my colleagues would benefit from the research and observations this paper provides, and I therefore wish to have included, at this point in the RECORD, the first of three parts of this paper, entitled, "The Education and Utilization of Medical Manpower in Care for the Elderly":

THE EDUCATION AND UTILIZATION OF MEDICAL MANPOWER IN CARE FOR THE ELDERLY

The elderly, whether living at home or within an institution, rely upon a full range of medical personnel to provide necessary life-supporting services. At present there is a dearth of both professional and allied manpower specifically trained to serve the needs of the elderly. In answer to this crisis, both federal and state agencies have recently directed money and effort into the development of a variety of geriatric and gerontological training programs spanning all levels of care. The success of these programs, however, is all too often undercut by the misutilization and maldistribution of newly trained providers of geriatric care.

Programs in geriatric care, while slowly increasing, are still rare in medical and nursing school curricula. Of the 87 respondents in a 1976 survey of the 114 American medical schools, only ten programs reported that they had a specialty in geriatrics or were in the process of creating one; 35 schools sponsored programs whereby students or interns could work in nursing homes. While these figures reveal an improvement over the situation in 1970, when no school featured or was planning to feature a geriatric specialty and only six sponsored nursing home programs, they reflect the imbalance of the present situation. Fewer than half of the current medical students will be trained in or exposed to the needs of the elderly—who will soon comprise 15 percent of our population.

The lack of special education and awareness results in unmet needs. Current programs often miss their mark; a medical bias pervades geriatric education from physician to aide. The National Center on the Black Aged has observed:

"A major problem in the quality of health care provided to older persons lies in the fact that few of the doctors and nurses who serve older persons have any training in basic gerontology or in understanding the emotional, psychological or social needs of the elderly. They no doubt understand physical and medical procedures but often have not been trained to see the older citizen as a whole person." [1]

Education is only a single thread from the tangle of problems facing those involved in care for the elderly. When educated personnel are available, they are often clustered around metropolitan research centers and large institutions. Pay is often poor and fringe benefits few. These factors, coupled with the emotionally and physically difficult nature of the work, cause high turnover rates, particularly among nurses and aides. Constant turnover requires homes and other care facilities to engage in perpetual orientation and training of new personnel; costly and repetitious, these programs vary greatly in quality from institution to institution.

Structurally, the medical, nursing, and allied health fields are ill suited at the present time to provide care for the elderly. Jobs are poorly defined and an overlap in duties, which wastes time, training, and can lead to the practice of unsafe medical procedure,

Footnotes at end of article.

is prevalent among nurses and aides. Because the majority of long-term care is ongoing, requiring prolonged and supervised care, rather than diagnostic or curative, a new pattern of personnel utilization is necessary for doctors, nurses, and aides. Tensions and professional jealousies may accompany these shifts; it is imperative that all members of the health team—as well as the consumer—accept and support the reorganized structure. Finally, there is a need for a career ladder within the field of geriatric care. The present limited vertical structure, based upon formal education as the principal qualifying factor, leaves no incentive for the allied health worker to consider geriatric care as a career, and is an inefficient use of health manpower.

Traditionally, the field of geriatric care has reflected a poor image, alluring to few medical workers. Poor employment practices are in part responsible for this problem. "The poor image associated with nursing home personnel is supported by low job satisfaction, the poor working conditions including low wages and few fringe benefits, the lack of training in geriatrics and lack of career mobility says Linda Horn." [2] The stereotype of the elderly patient compounds this poor view of geriatric care held by so many professionals. Mrs. Horn has also noted:

"People with advancing age and chronic disease have been victims of both medical and nursing bias. The professional, unless he/she happens to have a specific interest in research or geriatrics, often feels that once a person has reached the point of long-term care, there is little more that can be done for this person. Health care professionals receive satisfaction in seeing their clients improve and return home; the emphasis is cure rather than care. In addition, nursing homes are often viewed as 'second class' hospitals and attempt to follow the hospital model of a delivery system rather than assessing the kinds of services and programs needed by old people and then acting appropriately to meet those needs." [3]

All of these components, lack of education, structural inadequacies, poor working conditions, and low image, influence the chronic shortage of geriatric care personnel in the labor market. Because hiring practices reflect traditional practices rather than the needs and demands of the elderly population, the labor market has become inefficient:

"If the market for health manpower operated efficiently without artificial barriers, supply and demand would ultimately correct shortages. Institutions would act to retain or attract employees, restructure hiring standards and pay scales, institute training programs and explore new sources of recruitment. They have not moved adequately to correct nigh turnover ratio, job dissatisfaction, relatively low wage levels, and limited upward mobility. Shortages have tended to reflect budgeted positions and experience in hiring and turnover rather than the need for qualified health workers." [4]

There is a pressing need to train, utilize, distribute and organize geriatric personnel efficiently. The value of this to our population as a whole and to the elderly in particular cannot be underestimated. In the words of Dr. Robert Butler, Director of the National Institute on Aging, "Without an 'educated,' sensitized corps of doctors and service delivery personnel, no new ideas germinate; new research dries up; and our health care system stagnate." [5]

The study of geriatric medicine is a neglected topic in American medical schools. As previously discussed, the slow, steady increase in basic courses, specialty training, and clinical work in geriatric care demonstrates an awakening interest in the field. Yet internal disagreement within the medical profession and a lack of coordination hinder the development of a body of physicians knowledgeable in the area of geriatric care.

In a recent survey, 75% of medical students questioned declared a need for instruction in care for the elderly.[6] Because no organization has control over the curriculum of medical schools, each school is free to answer this newly felt need in an individual manner. In those schools which do offer training in geriatric care, the format of programs varies. At the Medical School of Duke University, geriatric teaching is part of the entire curriculum, with some part of the teaching done in nursing homes and retirement communities, while at the University of Washington School of Medicine two courses focusing upon the problems of the elderly patient are required of all students. In a field as under-explored as that of gerontology and geriatrics, a diversity of teaching methods, allowing for experimentation, improvement, and selection, may prove beneficial. Yet the multitude of techniques currently employed cannot provide a single, firm model for those medical schools wishing to institute their own programs.

The federal government has been active in encouraging and funding geriatric training. In fiscal year 1976, the Administration on Aging awarded 64 career training grants totaling approximately $7 million to 59 institutions of higher education, "to develop programs to prepare students to serve the elderly in professional career capacities." [7] At the same time, 13 "Planning Grants for Institutions of Higher Education" were awarded. Legislation has been introduced in both the Senate and House authorizing HEW to make grants to assist medical schools in establishing and operating departments of geriatrics and to provide for continuing education programs for physicians in geriatrics. One of these bills, H.R. 1114, introduced by Representative Pepper, includes funds for the training of physicians, nurses and paramedics.

Funding, however, is only a portion of the battle. There is no consensus among present medical personnel as to how the study of geriatrics is to be incorporated into the medical school curriculum; it is unclear whether geriatric medicine is best approached as a specialty, such as surgery or pediatrics, or acknowledge common to all specialties and a part of basic medical preparation.

To consider geriatrics a medical specialty is to regard the elderly as having medical problems which are generally characteristic of that age group. In our society, the status of specialization would have definite impact upon the development of geriatric care. According to Dr Theodore Sherrod, of the School of Basic Medical Sciences at the University of Illinois, ". . . having a specialty with the status of some other specialties in medicine will engender the kind of support from lay community, as well as from the institution . . . so that there will be people flocking into this area as a specialty." [8] In addition, geriatricians can serve as role models within the medical faculty: "Physician specialists are necessary for students to identify with and to help sustain their natural interests in the elderly, in the face of the negativism toward geriatrics of the traditional faculty." [9]

While a specialty in geriatrics would benefit both patient and physician, it is crucial that training be an integral part of each medical student's education. Aging is a process common to all people, and an understanding of its psychological and psyiological implications is necessary to a complete medical education. The American Medical Association, in their resolutions of 1974, recommended that geriatric care be developed as a component of current specialties rather than as a specialty itself:

"There is an urgent need for special attention to learning about geriatrics, but as an enlargement of rather than separate from the mainstream of education for the health professionals. Instead of attempting to recruit students into geriatrics as a peripheral adjunct department, it would be far better to incorporate the existing special body of knowledge about the aged into the curricula of the major medical school departments, such as Family Practice, Internal Medicine, and Psychiatry."

The incorporation of geriatric knowledge into existing specialties would be far less expensive than the establishment of an independent department in most schools. In addition, the general method provides a broader based entree for those students with an interest in the field. At present, only a minute proportion of family practice residencies have geriatric components; with the slow return of family practice and the rising interest in geriatic care, this situation may soon change.

Maldistribution of physicians is the third stumbling block hindering the development of geriatric care. In 1967, there were 60% more physicians located within the Northeastern states than in the Southern states. Specially trained geriatricians tend to cluster near large institutions—most frequently found in the Northeast. Between 1968 and 1980, the total need for physicians will increase by approximately 50%, a rate of 20,000 new doctors a year.[10] Simple expansion of medical schools is not the answer to this need. It has been observed that, "the best hope of quick, substantial improvement in the availability of medical services lies in large scale efforts to achieve more efficient use of the present supply of physicians." [11] Current medical students, with a general background in geriatric care, must be induced, through measures such as the Emergency Health Personnel Act (P.L. 92-585), supporting training in exchange of a public service commitment, to provide medical care in underserved areas—and to the underserved minority, the elderly. Post-graduate training would provide an additional means for reshaping the present medical manpower supply. Specialists, such as dentists and podiatrists, could be easily instructed and organized through workshops and seminars in answering the special needs of the elderly.

Finally, the success of geriatric care hinges upon the sensitivity which the physician demonstrates toward the particular problems of care for the elderly. Even when considered a specialty, geriatric medicine incorporates a vast range of medical fields—psychiatry, pharmacology, internal medicine. The nature of geriatric care demands a holistic approach similar to that of the general practitioner. In a society, and field, where increasing status is awarded the specialist and technician, the geriatrician must be willing to practice a broader skill.

The difficulties involved in care for the elderly require flexibility and ingenuity from the physician. Often isolated in the home or institution, some elderly persons cannot travel to the physician's office; in such cases health care must be brought to the patient. Because of the psychological and familial tensions frequently experienced by the elderly, the physician must work as doctor cum social worker. Demands upon the geriatrician will always be great, and he or she must work beyond the bounds of his office and current role.

The team approach to care for the elderly may prove the most difficult innovation for the physician. Because of the chronic, ongoing nature of the elderly's illnesses, nurses and aides undertake substantial portions of geriatric care. Yet as diagnostician and the person who esteablishes the plan of treatment, the physician traditionally heads up the health care team. It is important that all members of the care team recognize their interdependence and shift their roles

Footnotes at end of article.

to suit the needs and safety of the elderly patient, rather than blindly follow tradition-bound patterns.

FOOTNOTES

[1] National Center on Black Aged, Priorities in Health Care for the Elderly, as presented in response to HSA survey.

[2] Linda Horn, "Qualified Personnel: How Do We Get More of Them?" Symposium, *American Health Care Association Journal*, Vol. 1, No. 2, September, 1975, p. 42.

[3] Horn, p. 41.

[4] Harold M. Goldstein and Morris A. Horowitz, *Research and Development in the Utilization of Medical Manpower*, (Boston: Center for Medical Manpower Studies, Northeastern University, October, 1974), p. 6.

[5] United States Senate Special Committee on Aging, *Medicine and Aging: An Assessment of Opportunities and Neglect*, Hearing, (New York, October, 1976), p. 13.

[6] *Medicine and Aging*, p. 39.

[7] United States Department of Health, Education, and Welfare, Administration on Aging, Fact Sheet, (Washington, D.C., 1977).

[8] *Medicine and Aging*, p. 37.

[9] *Medicine and Aging*, p. 39.

[10] ———, "Doctors and Nurses: A Study in Professional Manpower Shortages," *Occupational Outlook Quarterly*, Vol. 14, No. 4, Winter, 1970, p. 5.

[11] ———, "Doctors and Nurses: A Study in Professional Manpower Shortages," p. 5.

REGARDING CHANGES IN THE MEAT IMPORT STATUTES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. BEDELL) is recognized for 5 minutes.

Mr. BEDELL. Mr. Speaker, I am introducing legislation today which will permanently close what has in the past been a glaring loophole in the 1964 Meat Import Law.

The need for this legislation arises from the calculated circumvention of the 1964 statute which occurred last year in the Foreign-Trade Zone at Mayaguez, P.R. In 1976. over 56 million pounds of imported meat entered the United States by way of the Mayaguez Foreign-Trade Zone without being counted against the import limitations then in effect. This beef and veal, primarily from Australia and New Zealand, was able to evade negotiated import levels because, when it reached Mayaguez, it was doctored into a form that no longer fit into one of the import categories specified in the statute.

Fortunately, the administration announced at the end of last year that the categories of preserved and prepared meats which had been able to evade the clear intent of the 1964 import law would be included in the 1977 voluntary restraint agreements negotiated between the United States and each of the 12 major meat exporting countries.

On September 1, 1976, in order to end this flagrant circumvention of our laws, I introduced legislation with Congressman KREBS which would have closed this loophole permanently—by statute.

The bill which I am introducing today is similar to the provisions of the 1976 Bedell-Krebs bill and it is identical as to intent. This new legislation amends the 1964 Meat Import Law by subjecting the previously evasive processed meat categories to any quota actions which might be imposed by the President under the authority of this act should total meat imports exceed negotiated levels. The bill also directs the President to include these categories in the total annual negotiated levels of the voluntary restraint agreements. I believe that it is important to note that by legislatively assuring the inclusion of these particular categories of beef and veal in the restraint agreements—an action already taken administratively by the executive branch—we will forestall any future exclusions, whether inadvertant or purposeful, which could reopen the past import law loophole.

I feel that this is a justifiable piece of legislation because while it allows our markets to remain open to the trade of meat-producing countries, it also states with unmistakable clarity that this Government will not tolerate evasions of our laws.

In my view, the American cattleman has a right to full confidence in the promise that his Government made to him 13 years ago when it passed the meat import law and thus assure him that foreign countries would not be allowed to dump their livestock products in American markets to the detriment of the American livestock industry. This bill is designed to assure that that promise remains a reality.

The pressures on the livestock producer have been great, and they continue to grow. We, in the Congress, would be remiss if we failed to permanently close this loophole which certainly remains a source of potential concern for the already overburdened cattle production industry.

Following is the text of the bill which I am introducing today:

H.R. 9908

A bill to amend the meat import law in order to limit the quantity of certain prepared or preserved beef and veal which may be imported into the United States after 1976, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of Public Law 88-482 (78 Stat. 594; 19 U.S.C. 1202 note) is amended—

(1) by amending subsection (a) by inserting "(1)" immediately after "(a)", and by adding at the end thereof the following new paragraph:

"(2) It is the policy of the Congress that the aggregate quantity of articles specified in items 107.55 and 107.60 (relating to prepared or preserved beef and veal other than cured or pickled beef and veal and beef in airtight containers) of such Schedules which may be imported into the United States in any calendar year beginning after December 31, 1977, should not exceed 11,433,000 pounds; except that this quantity shall be increased or decreased for any calendar year by the same percentage that the estimated average annual domestic commercial production of these articles in that calendar year and the two preceding calendar years increases or decreases in comparison with the average annual domestic commercial production of these articles during the years 1966 through 1975, inclusive.";

(2) by amending subsection (b) to read as follows:

"(b) The Secretary of Agriculture—

"(1) for each calendar year after 1964, shall estimate and publish—

"(A) before the beginning of such calendar year, the aggregate quantity prescribed for such calendar year by subsection (a)(1), and

"(B) before the first day of each calendar quarter in such calendar year the aggregate quantity of the articles described in subsection (a)(1) which (but for this section) would be imported in such calendar year; and

"(2) for each calendar year after 1977, shall estimate and publish—

"(A) before the beginning of such calendar year, the aggregate quantity prescribed for such calendar year by subsection (a)(2), and

"(B) before the first day of each calendar quarter in such calendar year, the aggregate quantity of the articles described in subsection (a)(2) which (but for this section) would be imported in such calendar year.

In applying paragraphs (1)(B) and (2)(B) for the second or any succeeding calendar quarter in any calendar year, actual imports for the preceding calendar quarter or quarters in such calendar year shall be taken into account to the extent that data is available.";

(3) by amending subsection (c) by—

(A) amending paragraphs (1) and (2) to read as follows:

"(c)(1) If the aggregate quantity estimated before any calendar quarter by the Secretary of Agriculture pursuant to—

"(A) subsection (b)(1)(B) equals or exceeds 110 percent of the aggregate quantity of articles estimated by him pursuant to subsection (b)(1)(A), or

"(B) subsection (b)(2)(B) equals or exceeds 110 percent of the aggregate quantity of articles estimated by him pursuant to subsection (b)(2)(A),

and if there is no limitation in effect under this section with respect to the articles concerned for such calendar year, the President shall by proclamation limit the total quantity of such articles which may be entered, or withdrawn from a warehouse, for consumption during such calendar year to the aggregate quantity estimated for such calendar year by the Secretary of Agriculture pursuant to subsection (b)(1)(A) or (2)(A), as the case may be.

"(2) If the aggregate quantity estimated before any calendar quarter by the Secretary of Agriculture pursuant to—

"(A) subsection (b)(1)(B) does not equal or exceed 110 percent of the aggregate quantity of articles estimated by him pursuant to subsection (b)(1)(A), or

"(B) subsection (b)(2)(B) does not equal or exceed 110 percent of the aggregate quantity of articles estimated by him pursuant to subsection (b)(2)(A),

and if a limitation is in effect under this section with respect to the articles concerned for such calendar year, such limitation shall cease to apply as of the first day of such calendar quarter; except that any limitation which has been in effect for the third calendar quarter of any calendar year shall continue in effect for the fourth calendar quarter of such year unless the proclamation is suspended or the total quantity is increased pursuant to subsection (d).", and

(B) by amending paragraph (3)—

(i) by striking out "the total quantity" and inserting in lieu thereof "any total quantity", and

(ii) by striking out "subsection (a)," and inserting in lieu thereof "subsection (a)(1) or (2), as the case may be,";

(4) by amending paragraphs (2) and (3) of subsection (d) by inserting "(1) or (2), as the case may be," immediately after "subsection (a)" each place it appears therein, and

(5) by adding at the end thereof the following new subsection:

"(g) Notwithstanding any other provision of law, if—

"(1) any of the articles described in subsection (a) would, if entered for consumption directly into the customs territory of the United States, be subject to any quanti-

tative import limitation established pursuant to this section, any other provision of law, or any international agreement, and

"(2) such articles are used in the production or manufacture of new articles in any foreign trade zone established under the Act of June 18, 1934 (19 U.S.C. 81a–81u), in any insular possession of the United States, or in the Trust Territory of the Pacific Islands;

then such new articles may not be entered into the customs territory of the United States unless the quantity of the articles described in subsection (a) from which such new articles are produced or manufactured is included within, or deducted from, as the case may be, the appropriate quantitative limitation so established.".

SEC. 2. The amendments made by the first section of this Act shall take effect January 1, 1978, except that the amendment made by paragraph (5) of such first section shall not apply to new articles produced or manufactured from articles which (1) are described in section 2(a) of Public Law 88–482 (as amended by such first section), and (2) were entered into any foreign trade zone, any insular possession of the United States, or the Trust Territories of the Pacific Islands before such effective date.

SEC. 3. The first paragraph of section 22(b) of the Agricultural Adjustment Act (7 U.S.C. 624(b)) is amended by striking out the period at the end thereof and inserting in lieu thereof the following: ": *And provided further,* That if any quantitative limitation is imposed under this subsection on any article specified in any of items 107.55 and 107.60, (relating to prepared or preserved beef and veal other than cured or pickled beef and veal in airtight containers) of the Tariff Schedules of the United States and any quantity of any such article is used in the production or manufacture of any new product in any foreign trade zone established under the Act of June 18, 1934 (19 U.S.C. 81a–81u), in any insular possession of the United States, or in the Trust Territory of the Pacific Islands, such quantity of such article shall be included within, or deducted from, as the case may be, the quantitative limitation so imposed.".

LEGISLATION TO IMPROVE MEDICARE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. HOLTZMAN) is recognized for 15 minutes.

Ms. HOLTZMAN. Mr. Speaker, I have today introduced legislation to assure that medicare reimburses senior citizens properly for their medical expenses.

Medicare is supposed to pay 80 percent of an elderly person's doctor bills and other covered medical expenses. Many of my constituents complained, however, that the reimbursement they actually received was much less than 80 percent of their medical bills.

I found that this was because medicare will only pay 80 percent on a "reasonable charge" for medical care, and that in the great majority of cases the "reasonable charge" for a particular service is far below the physician's actual fee. As a result, most of the time medicare patients do not receive the 80-percent reimbursement which they are led to expect and which Congress intended that they get.

This problem is severe throughout the Nation. Last year in 71.7 percent of all medicare claims nationwide, the "reasonable charge" was lower than the physician's actual fee. This resulted in reduced medicare reimbursements—underpayments—of more than $1.3 billion. The average reduced claim was underpaid by $20.51. In other words, more than 70 percent of the time, senior citizens received less than the full 80 percent reimbursement they expected from medicare, and each time this happened it cost the average patient more than $20.

The problem has grown rapidly. In 1974, 63.7 percent of claims nationwide were reduced below the amount claimed. In 1975, there were reductions in 69.2 percent of claims. As the rate of claim reductions has risen, the number of physicians willing to accept assignment of a claim—that is, willing to take the risk of a reduction themselves, rather than put it on the patient—has dropped steadily.

Reduced medicare reimbursements can have a devastating impact on the elderly, most of whom live on small, fixed incomes. I asked the General Accounting Office, as part of a study it conducted for me of the entire "reasonable charge" problem, to gage this impact in Brooklyn. GAO found that 5.9 percent of Brooklyn medicare beneficiaries—nearly 2,500 people—experienced reduction of $50 or more during a 10-month period. Reductions amounted to $400 or more for 82 persons, and according to the GAO's report, caused them to cut down on food, clothing, or furniture, to borrow from families, to spend their savings, or even to move.

The impact of underpayments is aggravated by the fact that medicare patients cannot learn in advance how much reimbursement they will receive for a particular treatment. Only after the patient has been treated and submitted the physician's bill to medicare, does he or she learn whether medicare will pay 80 percent of the bill or considerably less. Thus, for most elderly patients, reduced medicare reimbursement comes as a cruel surprise.

The legislation I am introducing today is intended to correct this intolerable situation, and assure that senior citizens are compensated fairly for their medical expenses. It responds to the legislative problems identified by GAO, after an 18-month study of medicare, as the cause of many underpayments. It should also make the program simpler, less costly to administer, and less subject to error as well.

First, my bill requires that medicare reimbursements be based on physicians' current fees rather than those charged in the past. Under present law, reasonable charges for the current fiscal year are based on physician fees during the preceding calendar year. GAO said:

> Consequently reasonable charges are based on data which is 6 to 18 months old at the beginning of the fiscal year and 18 to 30 months old at the end of the fiscal year.

Given the rampant inflation in medical costs, this system virtually assures that reasonable charges will be below the actual fees.

The use of outdated fee information penalizes the elderly for inflation. When health costs are rising rapidly it is unreasonable and unfair to reimburse a senior citizen on the basis of fees his physician charged 1 or 2 years earlier. My bill will assure that when medicare determines a physician's "customary charge" for a service, * it does so on the basis of current information.

My bill also requires medicare to allow patients to learn in advance, through their physicians, what the reasonable charge for a particular treatment will be. This would prevent surprise, provide patients with a way to detect errors, and most importantly, encourage them to avoid physicians whose fees are unreasonably high. If the purpose of the "reasonable charge" is to keep medical costs down, then allowing patients to choose among doctors on economic grounds would be of major importance in achieving the goal.

Finally, the bill directs the Secretary of Health, Education, and Welfare to conduct pilot projects in order to find better ways to determine benefits under medicare. GAO found that the present process was costly and error prone, in addition to failing to provide adequate reimbursement. In fiscal 1974, administrative costs for medicare health insurance amounted to $360 million—12 percent of program costs. This is a higher rate of administrative cost than in the medicaid, food stamp and welfare programs. In addition, GAO found computer errors in 13 percent of the surgical claims it studied in New York. This rate of error could produce more than $8 million annually in erroneous underpayments—and could also produce substantial. undetected overpayments.

Clearly a method must be found to reimburse senior citizens for their medical expenses which is less costly to administer and more effective than the present system. The pilot projects authorized by my bill should enable the Secretary of Health, Education, and Welfare to identify such a method, and thereby not only improve medicare service, but assist the Congress in planning for a national health insurance program, as well.

The 24 million elderly Americans who depend on medicare health insurance to help them meet their medical expenses have been badly served by the present "reasonable charge" method. The legislation which I am introducing today should lead to a vastly improved medicare program, which will be cheaper to administer, protect both the taxpayer and the elderly patient from artificially inflated fees, and assure that legitimate health care expenses are met.

The text follows:

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* Reasonable charge is defined by regulation as the lowest of (1) the physician's actual charge, (2) the physician's "customary charge" for the service performed, and (3) the "prevailing fee" for that service among all physicians in the area. This bill only affects the customary charge factor which, GAO found, is responsible for the majority of underpayments. By requiring current information to be used in the customary charge factor, while leaving the prevailing fee computaion alone, the bill will prevent harsh and unfair consequences in individual cases without causing areawide increases in fee schedules.

H.R. 9916

A bill to amend title XVIII of the Social Security Act to make more realistic the determination of reasonable charges under the supplementary medical insurance program, to require that patients be given advance estimates of the reimbursement they will receive for services rendered under such program, and to provide for the conduct of pilot projects to test new methods and procedures for determining reasonable charges under such program

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1842(b)(3) of the Social Security Act is amended, effective with respect to services provided after the month in which this Act is enacted, by striking out "person furnishing such services" in the first full sentence following subparagraph (E) and inserting in lieu thereof "person furnishing the particular services involved at the time such services are furnished".

SEC. 2. Section 1842 of the Social Security Act is amended, effective with respect to contracts entered into (or renewed) after the month in which this Act is enacted, by adding at the end thereof the following new subsection:

"(h) Each contract under this section shall provide that enrollees who are to receive services under this part shall be furnished with an estimate of the reasonable charge for each of the services involved prior to the receipt of such services. To the maximum extent feasible, the estimate with respect to each such service shall be made available to the enrollee through the provider of the service.".

SEC. 3. Section 1842 of the Social Security Act (as amended by section 2 of this Act) is further amended by adding at the end thereof the following new subsection:

"(i) Notwithstanding any other requirement of this section, the Secretary shall establish and carry out pilot projects, using carriers or other appropriate agents, to test methods and procedures, other than those described in the preceding provisions of this section, for determining reasonable charges. In carrying out such pilot projects, the Secretary shall seek methods and procedures which (1) assure that enrollees are properly reimbursed for their reasonable medical expenses, (2) reduce the number of instances in which the reasonable charge allowed is less than the full charge for a service, (3) provide enrollees with the incentive and opportunity to seek lower cost medical care, and (4) promote the simpler and more efficient administration of benefits under this part. The Secretary shall make such reports and recommendations, and take such other actions, as he may deem appropriate on the basis of such projects and his findings made as a result thereof.".

THE TRIPARTITE GENERAL REVENUE SOCIAL SECURITY FINANCING PROPOSAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. BURKE) is recognized for 10 minutes.

Mr. BURKE of Massachusetts. Mr. Speaker, again this year I have submitted for the consideration of my colleagues the tripartite general revenue social security financing proposal. When I first introduced this idea years ago I was looked upon as some wild-eyed radical. Many viewed my campaign in behalf of this sound concept as so much "tilting at windmills." Come 1977 I dare say, the social security windmill is in imminent danger of collapsing of its own weight—from the excessive payroll tax. Mr. Speaker, I would beg my colleagues to bear with me just a moment, for I believe a short review of social security history is instructive both with respect to the limitations of the payroll tax and the feasibility of general revenue financing.

I would direct the attention of the House of the Committee on Economic Security, which President Roosevelt appointed in 1934. It was the recommendations of this panel that became our social security system. The committee's original recommendation included a plan for general fund participation by the late 1960's. This recommendation was based on several grounds: the system was taking on an accrued liability in the form of early year retirees who had not contributed for any lengthy period; the recognition of broad national welfare interests served by a cash benefits program of a national scope; the limits to the utility of the payroll tax; and, the fact that Government participation was the prevailing public policy in other established foreign social insurance programs.

Mr. Speaker, in the final hours before the submittal to the Congress of the committee's social security legislative package in early 1935, the President had deleted from the report references to the deficits that were anticipated in the late 1960's. The Committee on Economic Security, however, had recommended that those deficits be met by general revenue contributions, eventually amounting to one-third of program costs. The 1938 and 1948 advisory councils both had the very same recommendation.

Mr. Speaker, it is my hope that my colleagues will perceive the wisdom of the early pioneers of our social security system. They warned of deficits by the 1970's—they were right. They warned of the limits of the regressive payroll tax—we must admit again they were right. They warned of a large accrued liability that all Americans properly should underwrite—they were wrong only in underestimating the size of that liability.

Mr. Speaker, I do not know how much history, how much logic, how much equity, how much unemployment will be necessary to take the blinders off those who almost by reflex turn their backs on the tripartite general revenue financing plan. I do not claim to be the genius behind the general revenue concept. The real geniuses have gone before us—and we are now beginning to rue the fact we did not heed their advice. Again, Mr. Speaker, I introduce legislation that incorporates the wise blueprints of these farsighted advisers and planners. It is an honor for me to pick up the cudgels on their behalf, for the benefits that would flow from the reduced taxes and lower unemployment would revitalize the economy and every American working family.

INTERNATIONAL EMERGENCY FOOD RESERVE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. MCHUGH) is recognized for 5 minutes.

Mr. MCHUGH. Mr. Speaker, on September 12 I introduced legislation to establish an international emergency food reserve. Since then I have reintroduced this proposal 3 times and 76 Members of the House have joined with me as cosponsors.

I am very pleased with the support that has developed for this proposal, and I am especially pleased that Senator HUBERT HUMPHREY is today introducing a companion measure in the Senate that differs in only minor details from my proposal.

Senator HUMPHREY has been the most enthusiastic and eloquent supporter of an emergency food reserve. He has worked long and hard to foster broad public support for such a reserve and his efforts, more than any others, will be instrumental in assuring its establishment.

I am privileged, therefore, to introduce Senator HUMPHREY's version of the bill in the House. As I said, it differs in only minor respects from the proposal I have introduced, and it should be considered when the House Agriculture and International Relations Committees take up this issue.

Mr. Speaker, there is no reason why this legislation should not be speedily enacted. The problem it addresses is as real today as it was 3 years ago when it was first discussed at the World Food Conference meeting in Rome. The only question that remains is whether the United States and the world community are prepared to make good on the commitments made at that conference.

Meeting in Rome in 1974, representatives of 130 nations made a commitment to bring about a world by 1985 in which "no child will go to bed hungry * * * no family will fear for its next day's bread and * * * no human being's future and capacities will be stunted by malnutrition."

Yet today, 3 years later, neither the United States nor the world community generally have a consciously defined policy to establish and maintain reserves of grains and other commodities for emergencies. We have allowed good harvests in 1975 and 1976 to lull us into complacency.

THE DANGERS OF COMPLACENCY

However, the fact is that those harvests will not assure any long-term improvement in world food security unless their fruits become part of a conscious reserve policy. Moreover, while short-run surpluses in some places at some times will very likely continue, long-run prospects are questionable at best.

Even in years of goods crops, there will continue to be hundreds of millions of people who go hungry. According to the U.S. Department of Agriculture, the trend of world food production over the next 8 years will just barely outpace population growth, to say nothing of allowing for improvement in the diets of half a billion chronically malnourished people. After 1985, food production may fall behind global human needs unless decisive remedial measures are taken between now and then.

That is why we must act now to establish an international emergency food reserve, and that is why Senator HUMPHREY and I are introducing this proposal today.

PROVISIONS OF THE BILL

Under the terms of this bill, the President would be authorized to enter into negotiations with other nations to develop an internationally coordinated system of nationally held food reserves. Pending such an agreement, however, and as an indication of our commitment to this goal, the Secretary of Agriculture would be required to build minimum stocks of food reserves of no less than 2 million tons. At any time prior to an agreement, the Secretary would be authorized to increase these stocks to a maximum of 6 million tons.

Food for the reserve would be acquired by the Commodity Credit Corporation either as a result of defaults on loans made under price-support programs administered by USDA or through purchases on the open market to the extent that sufficient quantities were not available through defaults.

This is a modest proposal, Mr. Speaker. The food reserve that would be established as an expression of our commitment is not very large. However, even relatively small reserves would be most helpful in meeting food emergency needs resulting from droughts, floods, earthquakes, and other natural disasters, as well as in helping to cover food production shortfalls.

All or most of the food drawn to meet these pressing needs could be distributed through existing Public Law 480 channels so that the only real additional costs of such a reserve would be those involved in making modest purchases on the open market if necessary, and those involved in storing relatively small amounts of food.

WHY WE SHOULD ACT NOW

As I indicated previously, Mr. Speaker, the United States was one of those 130 nations that made a commitment 3 long years ago. The time has come to begin making good on it. Moreover, there are several compelling reasons why the United States should act now to establish an emergency food reserve in addition to simply living up to our commitment.

In the first place, maintaining such reserves would assure our capacity to respond speedily to disasters and other food emergency situations, an assurance that we lack at the present time.

Second, even small reserves could be of significant help in providing adequate supplies for the humanitarian and developmental purposes of Public Law 480 in times of relatively tight supplies. In 1974, for example, U.S. food aid to the famine stricken Sahel region was actually held up until revised U.S. crop forecasts became available. Yet such aid, mostly in the form of title I concessional sales, represented only a small fraction of American commercial exports for dollars that year. This would not have occurred if an emergency food reserve had been in place, and much suffering could have been avoided.

Finally, this is the time to act, because food stocks are readily available at very moderate prices. Costs to the Government could be minimized, both through defaults on nonrecourse commodity loans and through purchases on the open market should that prove necessary. Of course, such purchases could also have a mild but beneficial effect on prices received by producers.

CONCLUSION

For all these reasons, I believe that we should act now. In addition to the support of Senator HUMPHREY and others in the Senate for the establishment of an emergency food reserve, I believe that President Carter and Secretary Bergland also support the proposition. They are committed to working out an international agreement on food reserves. Passage of this bill, or one like it, would enhance the climate needed to assure an international agreement because it would show that the United States is committed to this goal. At the same time, the bill would leave the administration with sufficient flexibility during the course of negotiations.

I am, therefore, hopeful that the Committees on Agriculture and International Relations will schedule hearings in the very near future on this legislation.

SECRETARY CALIFANO ON EDUCATION

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PERKINS. Mr. Speaker, HEW Secretary Joseph A. Califano, Jr. has recently made a number of important statements about the role of his agency—and the Federal Government in general—vis-a-vis our Nation's educational institutions and the education of children in this country. Secretary Califano's October 24 address before the College Entrance Examination Board in San Francisco speaks to two especially timely issues confronting our educational institutions today: What should be the proper role of tests to assure that students are equipped to participate fully in this democracy? And what should be the Federal role in any testing program geared toward this end?

I believe that the full text of Secretary Califano's thoughtful speech deserves the attention of all who are interested in the quality of education, and I insert his remarks before the CEEB in the RECORD at this point:

REMARKS OF JOSEPH A. CALIFANO, JR., SECRETARY OF HEALTH, EDUCATION, AND WELFARE, BEFORE THE COLLEGE ENTRANCE EXAMINATION BOARD ANNUAL MEETING

In keeping with that theme, I want to discuss two subjects with which all of you are familiar and to which those of us in government must give careful thought.

They are educational testing and educational opportunity in America. I want to ask—and suggest some answers—to these questions:

First, what are the proper uses of tests as we seek to train students in certain fundamental skills that every citizen in a democracy should possess?

Second, should we have national tests and standards?

These questions arise, amid the growing concern of our people that educational quality in America, despite the best efforts of parents, teachers and government officials, is going, not up, but down, and sharply down.

Each year from 1963 to 1976, scores on the verbal and mathematics scholastic aptitude tests went down. During those thirteen years, the overall decline was nearly 50 points on the verbal test more than 30 points on mathematics.

A survey of the national assessment of educational progress showed that in 1975, more than twelve out of every 100 17-year-old high school students were functionally illiterate; and that only ten of every hundred could calculate a simple taxi fare.

Only 34 percent of 17-year-olds could determine the most economical size of a product.

Only 53 percent knew that each state had two senators.

Only 53 percent were aware that the President does not appoint Members of Congress.

These statistics of declining competence are daily and sadly confirmed by stories we read in the news:

Last year in Washington, D.C., a high school graduate was rejected by a local university; his scores on repeated tests fell far below the minimum range for acceptable applicants. The story made headlines—because the young man was the valedictorian of his high school class.

Here in San Francisco, a young man sued school officials—because upon graduation from high school in 1972, he discovered that his reading skills were those of a fifth grader.

Amid reports of falling test scores and semi-literate high school graduates, it is no wonder that public confidence in our educational system is more often waning than waxing. In the past three years, the number of Americans rating their public schools as good or excellent has fallen almost 25 percent. And this year, 83 percent of persons polled favored a return to basics—a return to the three Rs, taught in more orderly classrooms.

There is an insistent message for all of us in this intense concern about American education: The American people—in return for the billions of tax dollars they spend on education; in return for the great hope they invest in their children's future—are demanding that a basic level of competence, a set of minimum skills, be transmitted by our elementary and secondary schools to their students.

As you know, many reasons have been suggested for the decline in test scores: The changing composition of test-taking students; insufficient classroom time on the three Rs; the erosion of academic standards; instability in family structure; the impact of television.

The explanations of declining scores may be arguable, but the result is not:

Growing concern about eduactional quality and basic skills has set off an explosion of interest in testing.

All over the nation, parents, legislators and educators are demanding more testing as a way to ensure that the schools are teaching and the students are learning. At last count, 26 states had adopted some form of competency testing program; ever other state but one was contemplating some kind of program for testing basic skills.

In the face of this passionate concern, it is important that we, as public officials and educators, exchange our views on the proper use of tests—and their limitations. And it is equally important that all of us communicate those views to the American people—who are vitally interested in basic educational competence.

To begin with, I should emphasize that

the tests I am discussing this morning—basic competency tests—are measures of basic skills like reading, writing or arithmetic: estimates, at a given moment, of achievement, of learning. They do not attempt to measure I.Q., intelligence, or native ability. Used properly, basic competency tests are diagnostic tools—not devices for labeling or stigmatizing students.

Achievement tests play a vital role in our educational system. The process of educating successive generations—of training the parents, the voters, the professionals of tomorrow—is too important to be set loose on uncharted seas, with no compass to discover whether that process is going in the right direction. I share a view which most of you hold: Testing is not the only way, but it is an important way, of getting information to point—and keep—us on the right course.

Let me indicate what I believe to be some valid uses of testing.

The first use of tests is to diagnose individual learning problems. A single test can hardly give a complete picture of how much a student has learned, but it is one indicator, to be combined with others such as classroom performance, that can help us evaluate a child's progress. The purpose is not to attach a label, but to identify students to whom teachers—and parents—should give special attention, and then ensure that achievement is brought up to par. Tests are only the beginning; the key is to have carefully crafted remedial programs ready to follow. And the earlier in schooling that the process of testing, diagnosis, and remedy starts, the more effective it will prove.

A second use of tests is to certify that students at a particular level—and high school graduates—possess certain basic abilities. Fewer than half the 18 year olds in this country go on to college. It is important for society to know that our future generations are equipped with certain basic skills. And it is important for these teenagers to have a reliable job credential. If a diploma does not signify any genuine achievement, graduates may be locked out of jobs. Unemployment of our youth remains over 15%; the rate for certain groups—black youth in our central cities, for example—is a staggering 38%. These teenagers need the chance to earn a diploma that will be regarded as evidence of achievement, not a worthless ticket to unemployment and the city streets.

The third purpose of testing is the one that has generated the greatest interest and controversy: the idea that basic skills testing will make our schools more responsive to parents and taxpayers who are vitally concerned with educational quality. Our schools must be responsive to the public; the mission of education, like the mission of government, is too important to be immune from outside scrutiny. Used properly, standardized tests can provide a view from outside; they provide one important perspective for evaluating how well students and schools are doing.

The mere fact that a school's test scores seem low, however, does not mean school officials are doing a bad job. The concern expressed by some teachers and school officials that they will automatically—and unfairly—be blamed for low test scores is a legitimate one. It is unrealistic to expect test scores in a district that is long on social ills and short on money to match those from the best and most affluent suburban schools. And tests are but one way of assessing performance.

But it is fair to ask school officials what responses to the test scores seem appropriate. For as all of you are well aware, tests are only one step in making schools responsive and, ultimately, making them better. They must be part of an effort shared by teachers, parents, and officials—to improve our schools. Testing does not educate children; it can only help us to perform that task more effectively. Even the best programs of basic skills testing will be worthless—unless we connect them with programs designed to remedy the shortcomings and capitalize on the achievements tests uncover.

Testing for basic competency can serve important purposes in our educational system. But basic competency testing will be acceptable and effective only if we stress, along with its benefits, the critical limitations and dangers of testing.

First, like other methods of assessing educational achievement, tests are far from perfect. The beguiling precision of test scores disguises many difficult questions about what tests measure and how well they succeed. Tests are tools—not magic wands. Even with the most sophisticated tests, the assessment of learning will still require sensitive judgments about a child's human development; tests can help inform such judgments; tests cannot make them.

Second, there is the issue of cultural bias. Tests can prove especially difficult for particular groups of children. A question about the stock market relates more closely to the life experiences of one cultural group than another. Clearly students whose native tongue is not English will find standardized tests more difficult. School children from poor or broken families may have faced obstacles making success in school far more difficult to attain.

But these are reasons for improving tests—not discarding them. We must continue our efforts to develop tests whose content does not place an excessive premium on cultural background. Even these will prove harder to children from deprived backgrounds or with less facility in English, but this does not make the tests unfair.

For there are some subjects—I would include the three Rs among them—that every child must know to share fully in the opportunities of American life. A low test score does not mean a student is inferior or uneducable; it means only that to date his progress in the subjects tested shows considerable room for improvement. We must identify children who lack these basic skills, so that we can help them. Not to do so would be the ultimate injustice.

The third basic limitation on the use of tests is that they measure progress toward but a few of the myriad goals we ask our schools to pursue. Not all skills are basic skills; in focusing on minimal competency, we cannot let the minimum become the maximum. We must ensure that students of ability are given the chance to develop to the fullest, and that important subjects beyond the three Rs are not overlooked.

Academic achievement is but one objective of our schools. Few of us would be happy to see high school graduates who had mastered English literature and trigonometry—but who lacked maturity, self-discipline, honesty, and judgment. Standardized tests can help us measure whether students are learning certain skills; they cannot tell us how well schools are performing other large and important parts of their jobs.

This last limitation is a clear warning which all of us must sound to the public against preoccupation with testing. The purpose of schools is not merely to produce high scores on achievement tests; it is to educate children, to help teach them to appreciate what is worthwhile, to give them the ability to extract meaning from future experiences.

To teach to the tests: To focus obsessively on test scores, would be stultifying—and unlikely in the end, to improve student achievement. Our great and urgent need goes far beyond tests and testing programs—it is to improve dramatically the whole process of education. If we do that, test scores will reflect that improvement.

In short, basic competency tests, used skillfully and sensitively, are useful and necessary—they are a limited, but very important tool for charting and improving the process of education. We need to do more testing and we need to do better testing.

Having said all this, am I advocating, on behalf of the Department I head and the Federal Government, a program of national tests, or national standards of scholastic achievement?

Absolutely not.

I believe that proposals for Federal testing programs, however well-intentioned, are misguided; that even a wholly voluntary national test or set of standards would be a step in precisely the wrong direction.

There are several reasons I oppose so strongly the idea of tests and standards imposed from Washington:

If a test is given largely because someone in Washington seems to think it is a good idea, local commitment may be wanting. The tests may end up as little more than a distracting waste of time and money, rather than part of an enthusiastic effort to spur individual educational achievement.

There is no single test that is right for every school. Basic questions about test coverage arise even in testing the three Rs: should mathematical reasoning or computation be stressed? Should a reading test measure understanding of a narrative paragraph or an advertisement? Should the examples used to test competency in arithmetic be different for farm children than for those whose experience is limited to urban streets? What kind of test best measures early basic competency in a bilingual educational situation?

There are many unanswered questions about the quality, validity, and characteristics of different tests themselves. Tests whose main purpose is individual diagnosis may be wrong for evaluating curriculum. States and localities have encountered surprising division in deciding how to design a basic competency test. In the next few years, educators and researchers will be able to test these tests and determine whether some are simply better than others—and under what circumstances. These questions do not lend themselves to national answers—certainly not at this time.

Most importantly, in this country control of curriculum has always rested with states and localities, not with Washington. Any set of test questions that the Federal Government prescribed should surely be suspect as a first step toward a national curriculum. That would not merely run counter to strongly held views about local control of education; it would stifle local experiments with a variety of approaches to learning.

In its most extreme form, national control of curriculum is a form of national control of ideas. We should be very wary of treading in that direction; the traditional role of Federal support for education has been to encourage diversity—not rigid uniformity.

It is one of the chief virtues of our Federal system that we have fifty potential laboratories for innovation in education; fifty different centers for developing ideas and programs. I believe that every state should have a program for developing and measuring basic skills that includes competency testing; but I think each of the fifty states—each of the school districts within those states—should decide how it can make most effective use of competency testing in its program. The Federal Government should support, but not direct, their efforts.

Although I oppose any program of national testing, there is an important role for the Federal Government. This Administration

can and should take some major steps to help the states and localities, and I have several to announce today:

First, educators need to know exactly what different tests measure; how they compare; what their strengths and limitations are. We will join in supporting a major new study of tests by the National Academy of Sciences. We will expand existing research efforts to evaluate not only the technical properties of tests, but also the ways they are being used in practice by different school systems.

Second, the information we develop must be communicated speedily to educators and local officials in the states. We will therefore provide broad support for organizations like the Educational Commission of the States, which runs workshops and provides technical assistance to states and localities. We will ensure that training and information are available to help state and local decisionmakers to answer a baffling array of technical and policy questions about basic competency testing.

Third, as we gain experience with basic competency testing, we must evaluate the results from the broadest possible perspective. The National Academy of Education, which can provide just that perspective, has accepted our invitation to establish a Committee on Testing and Basic Skills, which will advise us about these questions on a continuing basis.

Fourth, as part of a new emphasis on basic skills, we are establishing in HEW's Office of Education a project on fundamental skills. This will be the first time that 13 different Federal programs dealing with basic skills—programs which together spend three and one-half billion dollars annually—have been linked together. This innovation will sharpen goals, strengthen programs, and ensure better targeting of funds by HEW as we work to help states and localities develop effective plans for improving basic skills.

Fifth, I have asked the National Institute of Education to launch a major study of the reasons why students fail to perform well on tests and basic skills. We need to know *who* is not performing well, *why* they are not performing well, *how* this failure affects students' lives, and *what* we can do to improve their basic skills. The knowledge we gain will permit states and localities to design effective remedial programs as an integral part of their testing effort.

Sixth, we will support demonstration projects aimed at developing a library of educational TV and video-disk programs that could transform these modern technologies into important educational resources. Our best estimates indicate that by the time students enter first grade they have watched 3,000 to 4,000 hours of television; when they leave high school, they have spent more time in front of a television set than in the classroom. Television is often blamed for educational shortcomings. We intend to evaluate and develop its educational potential, and to build effective bridges between these new learning resources and the classroom teacher.

Seventh, we will seek to strengthen the critical role of parents in educating their children. It is easy for parents to criticize teachers. But when achievement levels are below par, parents must hold themselves equally accountable and examine what they can do to help their children. We will support model parent-teacher projects and parent advisory bodies to find new ways to keep parents informed about their children's progress, the significance of test scores, and what they can do to assist teachers. We will also support development of educational materials that parents can use with their children in the home, especially during the summer months to counteract the falloff in achievement that seems to occur during the summer vacation.

In all these efforts, let me emphasize the Federal Government will play a limited, supporting role. We want to supplement and strengthen the efforts of the states and local schools—not to supplant them. The vital energy, the commitment to design effective programs and to see that they work, must percolate up from the local schools—not trickle down from Washington.

Now, having spoken about testing as a tool for insuring excellence, I want to touch briefly on the other commitment you and I share: A commitment to fairness in educational admissions.

The striking lack of minority participation in our medical, law, graduate and other professional schools has been amply documented. Five facts illustrate the problem:

In 1950, 10 percent of our total population was Black, yet only 2.2% of all physicians were Black. By 1970, 11.1 percent of the total population was Black, yet the percentage of Black physicians remained unchanged.

The number of Black lawyers in this nation hovers just above 2 percent of the profession—a percentage which has not changed markedly in twenty years.

Less than 5 percent of all doctoral degrees awarded between 1973 and 1976 went to minority candidates.

If all the Black Ph.D's ever educated in this country were placed on our university campuses, there would be less than three per campus.

The number of women faculty members declined from 1974–5 to 1975–6.

Obviously, without special efforts to recruit and include more minority students, this glaring under-representation in the professions and the doctoral ranks will only continue.

As we go forward in our efforts to increase minority participation in higher education, we should recognize that the admissions process has never been a totally objective one. It has, with good reason, been left to the discretion of our institutions of higher learning. Through the years, graduate and professional schools—and colleges to an even greater degree—have looked to a number of factors beyond mere test scores and grades in determining fitness for admission, for example: Geographical mix; motivation; personal interests; specialized interests; extracurricular activities and work experience; whether a parent was an alumnus or alumna; whether the parent or applicant has been, or will be, a substantial contributor. The search for diversity is nothing new.

On this point, I would emphasize that we must continually seek new ways of measuring true human potential: Ways that reach beyond the traditional yardsticks. This is a task that you especially can lead. We must discover how to discount the effects of early disadvantage on the development of academic competence. We must broaden the range of talents measured in admissions tests. We must find ways to discover vital personal qualities—motivation, integrity, idealism—that bear upon aptitude and achievement.

This quest is compelled, I believe, by the humane purpose of affirmative action programs which seek, not to exclude, but to include; not to set rigid and arbitrary quotas but to establish flexible and reasonable numerical goals that operate as neither a floor nor a ceiling; not to force the unqualified upon unwilling faculties, but to bring in minority applicants who are fully qualified to pass the course of study and become responsible professionals.

Great reserves of human talent have been locked up by our national legacy of slavery and discrimination. Our mission is to ensure that this potential can be released—your mission, as leaders in educational admission, is to ensure that this potential will be recognized.

Last week, a Nobel Prize was awarded to an American woman, the medical physicist Dr. Rosalyn Yalow. In speaking of her career, Dr. Yalow recalled that when she finished college, she was told that a woman could never get into graduate school in physics. So, for a time, until she finally won an assistantship at a university in the midwest—she went to work as a typist. She was a very good typist—but an even better physicist.

Our goal, yours and mine, is a nation in which no person who has great dreams and native ability will be barred from the training he needs, or she needs, to fulfill those dreams and perfect that ability. Our goal is a nation in which the twin ideals of excellence and equity are not mere dreams, but actualities.

I believe that, with earnest effort, we can achieve that goal—and for all that you are doing to bring that achievement nearer, your nation is in your debt.

Thank you.

PERSONAL EXPLANATION

(Mr. KASTEN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KASTEN. Mr. Speaker, due to previous commitments in Wisconsin, I was unavoidably absent from yesterday's session. For the record, I wish to state how I would have voted on the various rollcall votes that occurred in my absence.

Yea on passage of H.R. 3384 which would amend the National Labor Relations Act to allow any employee of a religion or sect historically holding conscientious objection to joining or financially supporting a labor organization to not be required to do so.

Nay on adoption of House Resolution 315 which would place House beauty shop operators on the Federal payroll.

Yea on adoption of House Resolution 784 which expresses the sense of the House of Representatives that the President should establish a Commission on Domestic and International Hunger and Malnutrition.

Yea on passage of S. 1306, the Small Business Drought Disaster Loan Act.

Nay on the motion to order a second to the motion to suspend the rules and pass H.R. 9282, providing for adjustments in the pay raises for Members of Congress.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. JONES of Tennessee (at the request of Mr. WRIGHT), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GRASSLEY) and to revise and extend their remarks and include extraneous matter:)

Mr. WHALEN, for 10 minutes, today.
Mr. WHALEN, for 10 minutes, on November 3, 1977.
Mr. HILLIS, for 20 minutes, today.
Mr. MCDADE, for 5 minutes, today.
Mr. DON CLAUSEN, for 30 minutes, today.
Mr. HYDE, for 5 minutes, today.
Mr. ROUSSELOT, for 5 minutes, today.
Mr. MCKINNEY, for 5 minutes, today.
Mr. SEBELIUS, for 5 minutes, today.
Mr. EMERY, for 10 minutes, today.
Mr. KEMP, for 10 minutes, today.
(The following Members (at the request of Mr. LEDERER) and to revise and extend their remarks and include extraneous matter:)
Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. ROSTENKOWSKI, for 10 minutes, today.
Mr. LEDERER, for 5 minutes, today.
Mr. MAZZOLI, for 5 minutes, today.
Mr. MOAKLEY, for 30 minutes, today.
Mr. BREAUX, for 5 minutes, today.
Mr. ADDABBO, for 30 minutes, today.
Mr. PEPPER, for 5 minutes, today.
Mr. BEDELL, for 5 minutes, today.
Ms. HOLTZMAN, for 15 minutes, today.
Mr. MONTGOMERY, for 5 minutes, on November 3.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. SIKES, prior to the vote on the conference report on S. 1863 today.

(The following Members (at the request of Mr. GRASSLEY) and to include extraneous matter:)
Mr. YOUNG of Florida.
Mr. ANDERSON of Illinois.
Mr. CARTER in two instances.
Mr. ERLENBORN.
Mr. STEERS.
Mr. HORTON in two instances.
Mr. BOB WILSON in two instances.
Mr. DORNAN.
Mr. WINN.
Mr. FINDLEY.
Mr. KETCHUM in two instances.
Mr. ASHBROOK in two instances.
Mr. GILMAN in two instances.
Mr. PURSELL.
Mr. ROUSSELOT in four instances.
Mr. BEARD of Tennessee.
Mr. MCKINNEY.
Mr. WALSH.
Mr. KASTEN.
Mr. KEMP.
Mr. WHALEN.
Mr. DERWINSKI.
Mr. MILLER of Ohio in three instances.
Mr. MARRIOTT.
Mr. MICHEL in three instances.
Mr. LAGOMARSINO.
Mr. SYMMS in three instances.
Mr. MARKS.
Mr. FRENZEL in three instances.

(The following Members (at the request of Mr. LEDERER) and to include extraneous matter:)
Mr. BENNETT.
Mr. SISK.
Mr. HAMILTON.
Mr. WAXMAN.
Mr. YOUNG of Missouri.
Mr. TRAXLER.
Mr. SOLARZ.
Mr. DODD.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. MAZZOLI.
Mr. BRODHEAD in two instances.
Mr. GEPHARDT.
Mr. RODINO in two instances.
Mr. BRECKINRIDGE.
Mr. RUSSO.
Mr. AUCOIN in two instances.
Mr. LUKEN.
Mr. AKAKA.
Mr. LEDERER.
Mr. RANGEL.
Mr. TEAGUE.
Mr. SCHEUER in three instances.
Mr. COTTER.
Mr. WOLFF in three instances.
Mr. PEPPER in two instances.
Mr. FISHER in two instances.
Mr. BLANCHARD.
Mr. EILBERG in two instances.
Mr. VANIK.
Mr. WEISS.
Mr. ROE.
Mr. BARNARD.
Mr. MOAKLEY in two instances.
Mr. UDALL.
Mr. CHAPPELL in two instances.
Mr. MCDONALD.
Mr. CLAY.
Mr. MILFORD.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1531. An act to amend the Toxic Substances Control Act to establish a program of assistance to the States for protection and indemnification of individuals injured in their business or person by chemical substances, to establish a chemical emergency response team, to increase the authorization for appropriations, and for other purposes; to the Committee on Interstate and Foreign Commerce.

ADJOURNMENT

Mr. LEDERER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 7 minutes p.m.), the House adjourned until tomorrow, Thursday, November 3, 1977, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2633. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 2-92, the "District of Columbia Transit Fare Payment Act of 1977," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

2634. A letter from the General Counsel, Copyright Office, Library of Congress, transmitting notice of several existing and proposed new records systems, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2635. A letter from the Executive Secretary, Federal Deposit Insurance Corporation, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2636. A letter from the Assistant Secretary of State for Congressional Relations; transmitting a report on political contributions made by Edward E. Masters, Ambassador-designate to Indonesia. and by members of his family, pursuant to section 6 of Public Law 93-126; to the Committee on International Relations.

2637. A letter from the Acting General Counsel, Department of Energy, transmitting notice of two meetings related to the International Energy Program to be held November 9 and 10, 1977, in New York, N.Y.; to the Committee on Interstate and Foreign Commerce.

2638. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders suspending deportation under the authority of section 244(a)(1) of the Immigration and Nationality Act, together with a list of the persons involved, pursuant to section 244(c) of the Act (66 Stat. 214; 76 Stat. 1247); to the Committee on the Judiciary.

2639. A letter from the Administrator, National Aeronautics and Space Administration, transmitting notice of the proposed use of "Research and development" funds appropriated to NASA for fiscal year 1978 Space Shuttle research and development, to provide a process storage facility for solid rocket motor segments at the Thiokol plant in Brigham City, Utah, pursuant to section 1(d) of Public Law 95-76; to the Committee on Science and Technology.

2640. A letter from the Administrator, National Aeronautics and Space Administration, transmitting notice of the proposed use of "Research and development" funds appropriated to NASA for fiscal year 1978, to provide for the construction of an addition to building 14 for a Network Operations Control Center at the Goddard Space Flight Center, Greenbelt, Md., pursuant to section 3 of Public Law 95-76; to the Committee on Science and Technology.

2641. A letter from the Director, National Legislative Commission, The American Legion, transmitting the proceedings of the 59th annual national convention of The American Legion, the annual report, and the financial statement and independent audit of the organization (H. Doc. No. 95-253); to the Committee on Veterans' Affairs and ordered to be printed.

2642. A letter from the Acting Secretary of the Treasury, transmitting a draft of proposed legislation to provide for greater flexibility in the requirements for supervision of operations at distilled spirits plants; to the Committee on Ways and Means.

2643. A letter from the Acting Comptroller General of the United States, transmitting a report on the withdrawal of U.S. forces from Thailand (LCD-77-446, November 1, 1977); jointly, to the Committees on Government Operations, and International Relations.

2644. A letter from the Secretary of Health, Education, and Welfare, transmitting a report commenting on the recommendations of the Privacy Protection Study Commission with respect to medical records; jointly, to the Committees on Interstate and Foreign Commerce, and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, reports of committes were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ULLMAN: Committee on Ways and Means. House Concurrent Resolution 369.

Concurrent resolution to establish a revised coverage schedule for basic benefits guaranteed by the Pension Benefit Guaranty Corporation for employee pension benefit plans which are not multiemployer plans (Rept. No. 95–781, pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. SISK: Committee on Rules. House Resolution 892. Resolution providing for the consideration of House Joint Resolution 643. Joint resolution making further continuing appropriations for the fiscal year 1978, and for other purposes (Rept. No. 95–791). Referred to the House Calendar.

Mr. MAHON: Committee on Appropriations. House Joint Resolution 643. Joint resolution making further continuing appropriations for the fiscal year 1978, and for other purposes (Rept. No. 95–792). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on a citizen's guide on how to use the Freedom of Information Act and the Privacy Act in requesting Government documents (Rept. No. 95–793). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on investigation of mail opening by the Customs Service (Rept. No. 95–794). Referred to the Committee of the Whole House on the State of the Union.

Mr. SISK: Committee on Rules. House Resolution 893. Resolution providing for the consideration of the conference report on H.R. 7555. A bill making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1978, and for other purposes (Rept. No. 95–795). Referred to the House Calendar.

Mr. HANLEY: Committee on Post Office and Civil Service. H.R. 9146. A bill to provide for congressional review of proposed changes in postal services (Rept. No. 95–796, Pt. I). Ordered to be printed.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 9836. A bill to authorize the Architect of the Capitol to furnish chilled water to the Folger Shakespeare Library (Rept. No. 95–797). Referred to the Committee of the Whole House on the State of the Union.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 9851. A bill to amend the Federal Aviation Act of 1958 to improve cargo air service (Rept. No. 95–798). Referred to the Committee of the Whole House on the State of the Union.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 9881. A bill authorizing an increase in the monetary authorization for nine comprehensive river basin plans. (Rept. No. 95–799). Referred to the Committee of the Whole House on the State of the Union.

Mr. DANIELSON: Committee on the Judiciary. H.R. 1. A bill to require candidates for Federal office, Members of the Congress, and officers and employees of the United States to file statements with the Comptroller General with respect to their income and financial transactions; with amendment (Rept. No. 95–800). Referred to the Committee of the Whole House on the State of the Union.

Mr. FLOOD: Committee of conference. Conference report on H.R. 7555 (Rept. 95–801). Ordered to be printed

Mr. HAWKINS: Committee on House Administration. House Resolution 837. Resolution authorizing the printing of the committee print entitled "The Coordination of United States International Economic Policy" (Rept. No. 95–802). Referred to the House Calendar.

Mr. HAWKINS: Committee on House Administration. House Resolution 662. Resolution authorizing the printing as a House document the dedication ceremony of the portrait of the Honorable Peter W. Rodino, Jr., chairman, Committee on the Judiciary (Rept. No. 95–803). Referred to the House Calendar.

Mr. HAWKINS: Committee on House Administration. Senate Concurrent Resolution 52. Concurrent resolution authorizing the printing of additional copies of the booklet entitled "The Senate Chamber, 1810–1859" (Rept. 95–804). Referred to the House Calendar.

Mr. HAWKINS: Committee on House Administration. Senate Concurrent Resolution 53. Concurrent resolution authorizing the printing of additional copies of hearings entitled "Panama Canal Treaties" (Rept. No. 95–805). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDREWS of North Dakota:

H.R. 9890. A bill to extend the protection of section 1114 of title 18, United States Code, to officers and employees of the Indian Health Service of the United States; to the Committee on the Judiciary.

By Mr. CUNNINGHAM (for himself, Mr. EVANS of Georgia, Mr. COLLINS of Texas, Mr. BURGENER, Mr. LAGOMARSINO, Mr. KETCHUM, Mr. PRICE, Mr. CONTE, Mr. KEMP, Mr. HOLLENBECK, and Mr. ICHORD):

H.R. 9891. A bill to amend the Internal Revenue Code of 1954 to exempt certain State and local government retirement systems from taxation, and for other purposes; to the Committee on Ways and Means.

By Mr. ERLENBORN:

H.R. 9892. A bill to establish a unified program for the education of minor dependents of military and civilian personnel overseas and on certain military bases, to establish an Office of Dependents' Education in the Department of Defense to administer such program, and for other purposes; to the Committee on Education and Labor.

By Mr. FISHER:

H.R. 9893. A bill to amend the Internal Revenue Code of 1954 to increase the adjusted gross income limitation on the Credit for the Elderly, to increase the amount of such credit, and for other purposes; to the Committee on Ways and Means.

By Mr. GAYDOS:

H.R. 9894. A bill to provide for orderly trade in iron and steel products; to the Committee on Ways and Means.

By Mr. GLICKMAN (for himself, Mr. NOLAN, Mr. BLOUIN, Mr. BONIOR, Mr. GEPHARDT, Mr. GOODLING, Mr. HARRINGTON, Mr. MITCHELL of New York, Mr. PATTISON of New York, and Mr. PRESSLER):

H.R. 9895. A bill to encourage the use of alcohol in motor vehicle fuels by requiring certain retailers to make alcohol-blended fuels available for sale, by allowing the rapid amortization of facilities producing alcohol for use in motor vehicle fuels, and by exempting alcohol-blended fuels from certain requirements of the Clean Air; jointly, to the Committees on Interstate and Foreign Commerce, and Ways and Means.

By Mr. GOLDWATER (for himself, Mr. PANETTA, Mr. LAGOMARSINO, Mr. OTTINGER, Mr. EVANS of Georgia, Mr. EDGAR, Mr. BURGENER, Mr. SIMON, Mr. PRICE, Mr. HARRINGTON, Mr. QUIE, Mrs. LLOYD of Tennessee, Mr. SPENCE, Mr. HYDE, and Mr. FREY):

H.R. 9896. A bill to amend title 38 of the United States Code in order to waive the payment of premium for National Service Life Insurance by certain persons who have attained age 70; to the Committee on Veterans' Affairs.

By Mr. GOLDWATER (for himself, Mr. THONE, Mr. WALSH, Mr. PEPPER, Mr. MURPHY of Pennsylvania, Mr. DAVIS, Mr. KAZEN, Mr. MCCORMACK, Mr. COUGHLIN, Mr. KOSTMAYER, Mr. ROE, Mrs. SCHROEDER, Mr. WOLFF, Mr. CHARLES WILSON of Texas, and Mr. GILMAN):

H.R. 9897. A bill to amend title 38 of the United States Code in order to waive the payment of premiums for National Service Life Insurance by certain persons who have attained age 70; to the Committee on Veterans' Affairs.

By Mr. GOLDWATER (for himself, Mrs. BURKE of California, Mr. MARRIOTT, Mr. MOFFETT, and Mr. MURPHY of New York):

H.R. 9898. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for the purchase and installation of certain teletypewriters for use by individuals whose sight, hearing, or speech is impaired; to the Committee on Ways and Means.

By Mrs. HOLT:

H.R. 9899. A bill to amend the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 to provide emphasis within the National Institute on Alcohol Abuse and Alcoholism for families of alcohol abusers and alcoholics; to the Committee on Interstate and Foreign Commerce.

By Mr. JACOBS (for himself, Mr. STEERS, Mr. ANDERSON of Illinois, Mr. PRICE, and Mr. CHARLES WILSON of Texas):

H.R. 9900. A bill to amend the Internal Revenue Code of 1954 to provide for the nonrecognition of gain from the sale of stock in a domestic corporation engaged in a trade or business related to energy if within 90 days after the sale the proceeds are invested in stock of another such corporation; to the Committee on Ways and Means.

By Mr. KEMP (for himself, Mr. MURPHY of New York, and Mr. SYMMS):

H.R. 9901. A bill to provide for an alternative amortization period for pollution control facilities; to the Committee on Ways and Means.

By Ms. KEYS (for herself and Mr. FISHER):

H.R. 9902. A bill to amend the Internal Revenue Code of 1954 to revise tax provisions affecting family farms and for other purposes; to the Committe on Ways and Means.

By Mr. LEDERER (for himself and Mr. YATRON):

H.R. 9903. A bill to extend the Emergency Unemployment Compensation Act of 1974 for an additional year; to the Committee on Ways and Means.

By Mr. MOTTL:

H.R. 9904. A bill to provide that passenger motor vehicles must comply with certain requirements respecting inspection, insurance, and transfer of title; to the Committee on Interstate and Foreign Commerce.

By Mr. RINALDO:

H.R. 9905. A bill to curtail the illegal transportation of cigarettes in interstate commerce by increasing the Federal tax on cigarettes and providing payments to States in which State and local taxes on cigarettes do not exceed a certain limit, and for other purposes; to the Committee on Ways and Means.

By Mr. WALSH:

H.R. 9906. A bill relating to certain Indian land claims in the State of New York, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. WHITEHURST (for himself and Mr. MEEDS):

H.R. 9907. A bill to amend the Internal Revenue Code of 1954 to provide tax-saving incentives for savings accounts for the purpose of purchasing a home; to the Committee on Ways and Means.

By Mr. BEDELL:

H.R. 9908. A bill to amend the meat import law in order to limit the quantity of certain prepared or preserved beef and veal which may be imported into the United States after 1976, and for other purposes; to the Committee on Ways and Means.

By Mr. CAVANAUGH:

H.R. 9909. A bill to protect the constitutional rights of citizens of the United States and to prevent unwarranted invasions of privacy by prescribing procedures and standards governing the disclosure of certain financial information by financial institutions to governmental agencies, and for other purposes; to the Committee on Banking, Finance, and Urban Affairs.

By Mr. DUNCAN of Tennessee:

H.R. 9910. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to grant additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. DUNCAN of Tennessee (for himself, Mr. JONES of Oklahoma, and Mr. RISENHOOVER):

H.R. 9911. A bill to continue until the close of June 30, 1981, the existing suspension of duties on certain forms of zinc; to the Committee on Ways and Means.

By Mr. FINDLEY:

H.R. 9912. A bill to provide a fair and effective means for the settlement of certain emergency labor disputes; jointly, to the Committees on Education and Labor, and Interstate and Foreign Commerce.

By Mr. FISH:

H.R. 9913. A bill to amend section 1332 of title 28, United States Code, to grant jurisdiction to the district courts to enforce any custody order of a State court against a parent who, in contravention of such order, takes a child to another State; to the Committee on the Judiciary.

By Mr. GILMAN:

H.R. 9914. A bill to amend title XVIII of the Social Security Act to include dental care, eye care, and hearing aids among the items and services for which payment may be made under the supplementary medical insurance program, and to provide safeguards against consumer abuse in the provision of these items and services; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. HANNAFORD.

H.R. 9915. A bill to amend the Department of Defense Appropriation Act, 1978; jointly, to the Committees on Appropriations, and Armed Services.

By Ms. HOLTZMAN:

H.R. 9916. A bill to amend title XVIII of the Social Security Act to make more realistic the determination of reasonable charges under the supplementary medical insurance program, to require that patients be given advance estimates of the reimbursement they will receive for services rendered under such program, and to provide for the conduct of pilot projects to test new methods and procedures for determining reasonable charges under such program; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. KETCHUM:

H.R. 9917. A bill to amend the Internal Revenue Code of 1954 to provide that any trust established for the payment of medical or dental malpractice claims and related expenses shall be tax exempt, and that a deduction shall be allowed for contributions to such a trust; to the Committee on Ways and Means.

By Mr. KETCHUM (for himself, Mr. LOTT, Mr. GUYER, Mr. WHITE, Mr. EDWARDS of Oklahoma, Mr. CHARLES WILSON of Texas, Mr. MINETA, Mr. Mr. GLICKMAN, Mr. PATTERSON of California, Mr. KINDNESS, Mr. JOHN L. BURTON, Mr. YOUNG of Florida, Mr. CLEVELAND, Mr. PANETTA, Mr. FORSYTHE, Mr. BAUCUS, and Mr. BADHAM):

H.R. 9918. A bill to repeal a restriction on the availability of health care under the civilian health and medical program of the Uniformed Services (CHAMPUS); jointly, to the Committees on Appropriations, and Armed Services.

By Mr. McDADE:

H.R. 9919. A bill to authorize the Secretary of the Interior to acquire the Walnut Street Theatre, a national landmark, for inclusion as a national historic site in Independence National Historical Park, Philadelphia, Pa., and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 9920. A bill to amend section 1662 of title 38, United States Code, to provide a restricted extension of the 10-year delimiting period relating to educational assistance payments in the case of eligible veterans who begin their educational programs prior to the expiration of such period; to the Committee on Veterans' Affairs.

H.R. 9921. A bill to establish a program for repairing and replacing unsafe highway bridges; jointy, to the Committee on Public Works and Transportation, and Ways and Means.

By Mr. McHUGH:

H.R. 9922. A bill to establish an international emergency food reserve; jointly, to the Committees on Agriculture, and International Relations.

By Mr. SEIBERLING (for himself and Mr. BENJAMIN):

H.R. 9923. A bill to amend the Internal Revenue Code of 1954 to encourage the modernization of manufacturing plants by providing an additional investment credit for machinery placed in service in existing manufacturing plants or in nearby plants; to the Committee on Ways and Means.

By Mr. WEISS (for himself, Mr. ADDABBO, Mr. EILBERG. Mr. ROSENTHAL, Mr. SCHEUER, Mr. KOCH, Mr. SOLARZ, Mrs. HOLTZMAN, Mr. MARKEY, Mr. WALGREN, Mr. BEDELL, Ms. MIKULSKI, Mr. RANGEL, Mrs. CHISHOLM, Mr. BADILLO, Mr. WOLFF, and Mr. BONIOR):

H.R. 9924. A bill to amend the Hazardous Materials Transportation Act of 1974 to prohibit the transportation of radioactive materials in densely populated areas; jointly, to the Committees on Interstate and Foreign Commerce, and Public Works and Transportation.

By Mr. FASCELL:

H.J. Res. 645. Joint resolution to amend the Constitution to provide for representation of the District of Columbia in the Congress; to the Committee on the Judiciary.

By Mr. PATTERSON of California:

H.J. Res. 646. Joint resolution making continuing appropriations for fiscal year 1978, and for other purposes; to the Committee on Appropriations.

By Mr. FLYNT (for himself, Mr. FOWLER, Mr. ADDABBO, Mr. BARNARD, Mr. BRINKLEY, Mr. EVANS of Georgia, Mr. GINN, Mr. JENKINS, and Mr. MCDONALD):

H.J. Res. 647. Joint resolution to authorize and request the President to issue annually a proclamation designating the first Sunday of September after Labor Day of each year as National Grandparents Day; to the Committee on Post Office and Civil Service.

By Mr. BLANCHARD (for himself and Mr. BRODHEAD):

H. Con. Res. 393. Concurrent resolution expressing the sense of the Congress that the United States should recognize Jerusalem as the capital of Israel, and that the U.S. Embassy in Israel should be relocated to Jerusalem; to the Committee on International Relations.

By Mr. MATHIS:

H. Con. Res. 394. Concurrent resolution to denounce acts committed by the dictator Idi Amin which suppress the expression of political thought and violate the rights of the individual, and urge the President to take effective measures against the government of Idi Amin; to the Committee on International Relations.

H. Con. Res. 395. Concurrent resolution to denounce acts committed by the Government of Red China which suppress the expression of political thought and violate the rights of the individual and urge the President to take effective measures; to the Committee on International Relations.

By Mr. MOTTL (for himself and Mr. FITHIAN):

H. Con. Res. 396. Concurrent resolution expressing the sense of the Congress that the proposed toll increases on the Saint Lawrence Seaway are excessive and should not be adopted; to the Committee on Public Works and Transportation.

By Mr. KEMP (for himself, Mr. DORNAN, Mr. EDWARDS of Oklahoma, Mr. RYAN, and Mr. SYMMS):

H. Res. 894. Resolution to express the sense of the House with regard to administrative policy changes by the Internal Revenue Service; to the Committee on Ways and Means.

By Mr. MICHEL (for himself, Mr. CONTE, Mr. DERWINSKI, Mr. DORNAN, Mr. FINDLEY, Mrs. HOLT, Mr. KEMP, Mr. MCEWEN, Mr. PRESSLER, Mr. RAILSBACK, Mrs. SMITH of Nebraska, Mr. STANGELAND, Mr. WALSH, and Mr. BADHAM):

H. Res. 895. Resolution providing for the House of Representatives to determine with specific guidelines what constitutes an official expense prior to the $5,000 increase of a Member's official expenses allowance; to the Committee on House Administration.

By Mr. RHODES:

H. Res. 896. Resolution requiring joint hearings and a comprehensive study by the Committees on Interior and Insular Affairs, International Relations, Interstate and Foreign Commerce, and Science and Technology on nuclear energy; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. PHILLIP BURTON:

H.R. 9925. A bill for the relief of Ting Yee Fong; to the Committee on the Judiciary.

H.R. 9926. A bill for the relief of Antonio T. Tangalin; to the Committee on the Judiciary.

By Mr. FLOOD:

H.R. 9927. A bill for the relief of Michael Kalanevich; to the Committee on the Judiciary.

By Mr. KETCHUM:

H.R. 9928. A bill for the relief of Helen Ramirez Empleo, Alexander Ramirez Empleo, and May Empleo; to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5646

By Mr. ROONEY:

Page 2, line 6, strike out "subparagraph" and insert in lieu thereof "subparagraphs".

Page 3, strike out line 19 and insert in lieu thereof the following:

for purposes of this subparagraph, the term "railroad in reorganization" includes any railroad which is controlled by a railroad in reorganization, which conveyed substantially all of its rail properties to the Corporation pursuant to paragraph (1) of this subsection, and which, prior to the date of such conveyance, conducted operations over such rail properties

"(C) the Corporation shall be entitled to a loan pursuant to section

Page 3, beginning on line 21, strike out "this subparagraph" and insert in lieu thereof "subparagraph (B) of this paragraph".

H.R. 6805

By Mr. LEVITAS:

On page 13, line 24, of the amendment in the nature of a substitute offered by the gentleman from Texas, strike out "Federal agency shall" and insert in lieu thereof "Federal agency may".

EXTENSIONS OF REMARKS

TOWARD AN INVIGORATED RURAL DEVELOPMENT POLICY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for November 2, 1977, into the RECORD:

TOWARD AN INVIGORATED RURAL DEVELOPMENT POLICY

Americans who live in rural areas are worse off than Americans who live in the city. That is the consensus of the experts based on almost every measure of economic well-being. Less than one urban housing unit in ten is substandard, while more than one rural unit in five is substandard. Rural families still earn roughly $3000 a year less than their metropolitan counterparts, a difference that is only in part mitigated by differences in the cost of living. About 40% of the nation's poor live in rural areas, which contain only 31% of the nation's population. Nearly 30,000 small communities lack water or waste disposal facilities; many lack basic health, transportation, or recreation facilities. These same communities are also beginning to suffer more from pollution and violent crime, partially because they have not developed the institutions or financial resources to deal with problems once considered largely urban.

The Rural Development Act of 1972, the most important rural development legislation ever passed, embodied Congress' intent to bring rural America into the mainstream of the American economy. Although much good has been done by the funds spent, the Act has never been fully implemented, and has failed to live up to its promise to provide a plan for orderly rural development. Despite the directives contained in the Act, specific goals for rural development have not been set. Without such goals, governmental agencies have been unable to plan or coordinate their activities toward the same ends. Within the federal government itself, agencies and programs have worked at cross-purposes or duplicated efforts. Data on rural development programs has not been effectively gathered and analyzed, so that even the impact of many programs is in doubt.

The federal approach to rural development is sorely fragmented. Over 20,000 field offices representing numerous agencies administer U.S. Department of Agriculture (USDA) rural development programs. But about 80 percent of the funds for rural development programs do not flow through USDA agencies. Roughly 25 federal departments and agencies administer 400 identifiably separate programs in 15 distinct program areas affecting rural life. Wastewater treatment assistance provides an excellent example of the fragmentation of the federal approach to rural development. Ninth District communities with sewer needs can approach four agencies for funding.

Not surprisingly, local officials are often confused and discouraged by the process of seeking federal assistance from programs with different requirements and goals—not to mention application forms. These officials, faced with increasing demands for public services, do not have the staff, the funds, the time, or the technical background to acquaint themselves with an overwhelming array of federal programs and bring them to bear on their communities' problems in a coordinated fashion.

The failure to administer effectively and to fund fully the Rural Development Act is not the only reason for the lack of progress in rural development. An even more basic reason is that rural leaders are themselves divided over the direction development of rural areas should take. Some are convinced that industrial growth is essential to the survival of rural communities. Others take exception to this view, believing that the industrial development of the countryside is simply its urbanization; they feel that rural life will lose its distinctive character with the infusion of federal aid, modern technologies, and planning. Should the countryside fill up with homes or with industries? Or should development be concentrated in small centers, leaving maximum land in agricultural use? Should increases in population and industry be encouraged at all? Rural citizens do not agree on how they want their communities and the countryside to look in fifty years or on what kinds of lifestyle options they want their children to have. Without reaching a consensus on goals and uniting their communities behind a rural development plan, local officials cannot make effective use of federal rural development programs.

To be of maximum help to rural communities the federal government must renew its commitment to rural development, set goals for its programs, and organize to implement them. The Congress has begun by appropriating funds this year to more fully implement the programs of the Rural Development Act. The Congressional Rural Caucus has met with White House staff to urge that special emphasis be given to rural problems. The President has designated a task force to study rural programs, and the Secretary of Agriculture has designated the Rural Development Service (RDS) to become a focal point for rural development policy and programs.

It is too soon to tell whether these initiatives will lead to an invigorated national rural development policy. However, we now have five years experience with the Rural Development Act, and longer experience with numerous other programs affecting rural life; it is time to set the directions for rural development programs.

BROADCASTING: SOME REASSURANCE FROM THE CANADIAN EXPERIENCE

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. PEPPER. Mr. Speaker, as you and all the Members are aware, we recently agreed to continue broadcasting House proceedings and to extend the coverage via closed circuit television to every Member's office. This step will permit additional study of opening such broadcasting to public viewing and of the best means to implement such a decision if it should eventuate. I am referring to whether or not we would establish our own system for televising House business or if some sort of network pooling arrangement would better accomplish this end.

As the original sponsor of legislation to permit radio broadcasting of the activities of the House of Representatives and Senate back in 1944, I am very hopeful that we can overcome our doubts of our television image or fears of public reaction to the sight of empty seats in the Chamber, or even our concern for overzealous or overly impassioned debate spurred by the presence of television cameras, and eventually approve open televising. To call attention to this hope, I would like to refer to an article in the Washington Post of November 2 in which the Canadian experience with television in the House of Commons is discussed. I believe this article vindicates the idea of broadcasting the proceedings of a governing body and has shown the favorable effects on both the proceedings of a legislative body and on the revitalized lawmakers themselves.

It is my continuing belief that opening the proceedings of the House of Representatives to public viewing would be in the national interest, and I shall always feel that the people we represent have a right to see the activities of their legislators through the utilization of the most advanced media technology available. Let me say finally, Mr. Speaker, that the Canadian experience should help us view our own move to broadcasting in a favorable light, not only as a means to inform the public and arouse their polit-

ical interest, but also as a method to record the business of the House of Representatives of the United States of America, permitting future generations to witness the decisions of today. The article follows:

POLITICIANS ON TV—TELEVISING OF CANADIAN PARLIAMENT BRINGS SHARPER QUESTIONS, NEW MANNERS

(By Jack Egan)

OTTAWA.—Canada's House of Commons began televising its daily deliberations and debates only two weeks ago, but already parliamentarians who might have had reservations seem ready to declare the effort a success.

So far, only viewers in Ottawa, the capital, have been able to follow the proceedings live, and only those able to receive cable television transmissions. The country's television networks have access to the feeds from Parliament for use in their nightly newscasts, however, and Toronto coverage as are French-language radio and television networks.

Predictably there have been denials from all sides that the presence of cameras has led to much of an increase in posturing on the part of the members of Parliament. Yet, some subtle and not-so-subtle changes have, in fact, taken place in the proceedings.

The opposition's questioning of the prime minister and his Cabinet is felt to be a little sharper, and the answers more responsive. More members also want to get into the act.

Speeches are said to be shorter and more to the point. The use of "damn," the strongest expletive formerly heard in Commons, seems to have disappeared, and the dress of certain members is becoming smarter.

"I spoke the other day with a gray suit and a dark tie on, and my God, I looked like an undertaker, so I'll not wear that combination again," commented Jack Ellis, a Conservative member from Hastings, Ontario.

More substantively, Stanley Knowles, a member of the minority New Democratic Party representing North Center, Winnipeg, thinks "the speeches are better" and that Prime Minister Pierre Elliott Trudeau, among others, has been forced to be more accommodating because he knew the cameras were on him.

"In one case the prime minister was asked a question," recalled Knowles, "and he passed with a wave of his hand to a parliamentary secretary. The member got up for the second time, expressed a little annoyance, and said, 'I want the prime minister to answer this,' and the prime minister got up. I'm telling you that prior to television, he would not have bothered."

Knowles also noted jocularly that in the demonstrative desk pounding and clattering that takes place in Commons after a member makes a point in a speech, "We find that four or five of us can make just as much noise on television as 100 Liberals," the ruling party.

The most significant change seems to involve the question period, which is unique to the British-style parliamentary system. In the past the questioning has been generally limited to members of the opposition, as they demand that the Cabinet account for how it is running the country.

Normally, the so-called "backbenchers" in the ruling party, who have little say in policy matters, keep silent during the parliamentary question period.

Because the confrontational aspects of the question period also make for the best television, however, the backbenchers have started to enter into the questioning process to show their constituents that they are not silent bumps on a log.

"Television may well prompt backbenchers to do that," said Ralph Goodable, a Liberal member representing Assiniboia, Saskatchewan, and a backbencher himself, "because it's a natural tendency on the part of the media in picking up the parts of the day they want to carry to select the questioning period. It's a one-on-one confrontation and it tends to make good news."

Whatever complaints there have been so far about the presence of cameras relate primarily to technical aspects, such as the glare and heat of the lights.

Televising the proceedings, which has been going on since Oct. 17, is totally under the control of Parliament, with the technical director and cameramen employees of Parliament. There are eight cameras, two on each wall.

The Canadian Parliament, like the U.S. Congress, had considered the question of television for many years before approving it last spring.

What tipped the balance?

Fraser said that he believed it was the victory last year of the separatist Parti Quebecois in Quebec Province, and the "general desire of all sides of the House to provide a forum for the debating of this crucial matter in our public life."

"Even more important than that," added Fraser, "there was a realization that if you regard the House of Commons as the most important room in the country, which I do, that the Canadian people had a right to see what was occurring."

Congress, meanwhile, is looking again at the question of televising its proceedings and the Canadian experience might make some difference in its final decision.

On Oct. 27 the House of Representatives voted to go ahead with an experimental, closed-circuit system limited to Capitol Hill. The House has not yet decided whether to run it itself or to use a network pool arrangement. The Senate is also considering the entry of cameras into its chamber, with the upcoming debate on the controversial Panama Canal treaties mentioned as a possible starting point.

ADMINISTRATION IGNORES PLEDGE TO CONGRESS

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. YOUNG of Florida. Mr. Speaker, as I promised earlier today, I am providing a more detailed explanation of the U.N. vote to rebuild Vietnam. Now that Vietnam is a member of the United Nations, I suppose it comes as no surprise to learn that Hanoi wants economic aid on a priority basis.

The Russians, along with 13 other Socialist (mostly eastern bloc countries) originally introduced a resolution at the United Nations which would authorize the Secretary General to rehabilitate Vietnam both socially and economically. For the most part this would be accomplished through the establishment of a U.N. special fund and through programs like the United Nations development program. It is interesting to note that while the United States has contributed $200 million during the last 2 years to the UNDP, the Russians, who sponsored the resolution, have paid in only $8.4 million. This resolution was passed by the U.N. General Assembly on October 14 without a vote. Despite the strong feeling expressed in the House and despite President Carter's pledge to oppose and vote against assistance to Vietnam, our own representative to the U.N. General Assembly did not vote against the resolution or even ask for a recorded vote.

The New York Times on October 7 reported that during consideration of this resolution by a U.N. committee, Melissa Wells of the United States used "only two sentences to state the position taken by Congress and the United States stand that it did not consider itself obliged to provide aid." But she cushioned this remark by reiterating the wish to work together with the Vietnamese to "bring about a new era of peace, cooperation, and friendship."

Maybe the President did not really mean it when he told us that his administration will actively pursue the intent of Congress with regard to opposing and voting against U.S. funds going to Vietnam, or maybe he just decided to ignore that pledge. If the administration intends to simply voice a two-sentence statement in which they blame Congress for their having to oppose aid to these countries and then in another sentence say how sorry they are, then I believe Congress would be well advised to place stronger language in future foreign aid bills.

It is not only the Congress who opposes giving direct or "indirect" aid to these countries, the American people are just as adamant about this issue. They do not want their hard-earned tax dollars going to countries like Vietnam and Uganda either directly or indirectly.

Mr. Speaker, I intend to continue pursuing this issue during the coming months. The President has made a commitment to the American people and I expect him to honor it. The actions taken by the President's Representative to the United Nations during the debate on aid for Vietnam are anything but consistent with the President's commitments.

I urge our colleagues to read the attached article from the New York Times, and reread the President's pledge in his letter which I also attach:

[From the New York Times, Friday, Oct. 7, 1977]

U.N. PANEL VOTES PRIORITY ECONOMIC AID FOR VIETNAM

(By Kathleen Teltsch)

UNITED NATIONS, N.Y., October 6.—The United States and Vietnam went through the motions today of disagreeing publicly but did not dispel the impression that they were edging toward smoother relations.

Yesterday President Carter included Dinh Ba Thi, Vietnam's delegate, among the Asians invited to a luncheon. In the course of that meeting, Mr. Carter said the United States was trying to repair the damages of the war in Southeast Asia and was stertching out a "hand of friendship" to those countries with whom there had been animosity.

Today, by way of contrast, the General Assembly's 149-member economic committee, without a vote, approved postwar assistance to Vietnam, with only the United States saying that it could not participate in the deci-

sion because Congress had prohibited direct help to Hanoi.

U.S. BRIEFLY STATES ITS POSITION

Mr. Thi, aware of the dilemma, limited his response to a mild statement in which he expressed regret that the United States declined to join in.

Melissa Wells of the United States was equally brief, using only two sentences to state the position taken by Congress and the United States stand that it did not consider itself obliged to provide aid. But she cushioned this remark by reiterating the wish to work together with the Vietnamese to "bring about a new era of peace, cooperation and friendship."

According to diplomats, there was planning behind the scenes in the last few days to avoid embarrassing the United States during Mr. Carter's visit—further evidence of the better working relations.

The committee resolution had been scheduled for a vote Monday, a day before the President's arrival, but a quiet word was said to the Vietnamese who quickly acquiesced to a postponement. In view of the opposition of Congress to assistance for Vietnam, it would have been awkward to have the United Nations approve aid while the President was here, diplomats said.

TANTAMOUNT TO ASSEMBLY APPROVAL

The only attack today on the United States came from Soviet-bloc members in the committee who talked about the American bombings and said that Washington was shirking its responsibilities.

The committee action is tantamount to Assembly approval since the two bodies have identical membership. Under the terms of the resolution, Vietnam will be listed among the more than 30 countries considered "most seriously affected" by economic difficulties and qualifying for special aid from United Nations agencies and from outside sources. The Conference on International Economic Cooperation, the so-called Paris conference, has agreed to give this group preferential help.

The resolution opens the way for a fund appeal to be made on behalf of Vietnam and, significantly, for the transfer from Geneva of an office to assist in administering such aid. Diplomats regard it as a gesture from Hanoi that it prefers the office be located here.

It is not solely a matter of bringing the office here to be near other aid operations, it is a "political symbol of more normalized relations," one Western European remarked outside the committee hall.

INDIRECT ASSISTANCE IS CONTINUING

While Congress has refused direct assistance to Hanoi, American help given indirectly through international relief agencies or the World Bank has continued and will amount to $34 million this year. Congress has tried to block this avenue as well but the Administration has opposed this move.

The Communist countries have been the largest aid donors with the Soviet Union providing more than $2 billion, but diplomats say that Hanoi increasingly is trying to reduce its dependence by seeking aid from the West.

THE WHITE HOUSE,
Washington.

HON. CLARENCE D. LONG,
Chairman, Subcommittee on Foreign Operations, Committee on Appropriations, U.S. House of Representatives, Washington, D.C.

TO CHAIRMAN CLARENCE LONG: Secretary Blumenthal has informed me of your constructive efforts to achieve a successful resolution of the problems posed by the amendments to the foreign aid appropriations bill restricting the use of U.S. contributions to the international development banks.

I deeply appreciate your helpful suggestions and the role you have played thus far in steering this vitally important legislation through the House.

As I stated in our meeting last Friday, I fully agree with you and your colleagues in the House that U.S. assistance through the banks must take full account of the human rights policies of recipient countries. Accordingly, I will shortly sign into law the recently passed authorizing legislation for U.S. participation in the international development banks which require that the U.S. representatives to the banks oppose loans to gross violators (except where those loans are directed specifically to programs which serve the basic human needs of citizens of such countries).

Additionally, as we discussed earlier, I shall instruct the U.S. Executive Directors in the banks to oppose and vote against, throughout FY 1978, any loans to the seven countries mentioned in the House amendments. Our representatives will also oppose and vote against loans for the production of the three commodities where such production is for export and could injure producers in the United States. You may be certain that I shall closely watch and review the lending practices of the banks during this fiscal year.

For the longer run, I have directed the Secretary of the Treasury, in consultation with the leadership and appropriate committee of the Congress, to undertake a thorough study of how the whole range of U.S. objectives, including the type envisaged in these amendments, can best be pursued in the banks. I would expect that the results of this appraisal could help guide our efforts for FY 1979 and beyond, in partnership between the Administration and the Congress.

I would hope that these steps would enable the House to avoid adopting any of the restrictive amendments, previously passed, in the final foreign assistance appropriations bill for FY 1978.

I appreciate your support and counsel on these critically important issues confronting our foreign policy.

Sincerely,

JIMMY CARTER.

CREATING JOBS IS NOT ENOUGH—TAX BREAKS ARE NEEDED TO AIM THEM AT THE JOBLESS

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. SEIBERLING. Mr. Speaker, the problems of plant closings and outmigration, tax base deterioration, and job loss have become so commonplace in parts of the Middle West and Northeast that unless some action is taken soon to revitalize these decaying communities, their economic collapse is not an unrealistic possibility. Surely it is in the national interest to preserve the economic base of the country's older industrial centers, and President Carter has promised to come to the aid of these suffering areas.

In an article which recently appeared in the Washington Post, James L. Sundquist, director of the Brookings Institution's governmental studies program, suggested a sensible approach which the administration and Congress would do well to consider in their efforts to relieve these problems. He recommends the development of tax incentives to encourage business and industrial investment in the areas of greatest need, a course directly in line with that advocated by the 80 cosponsors of the proposed Investment Tax Credit Act of 1977. This bill would encourage older manufacturing industries to remain in established communities, rather than relocated, by providing them a doubled investment tax credit for local expansion or modernization of old industrial plants.

The full text of Mr. Sundquist's article follows these remarks:

CREATING JOBS IS NOT ENOUGH

TAX BREAKS ARE NEEDED TO AIM THEM AT THE JOBLESS

(By James L. Sundquist)

Whenever Washington officials worry about ways to inject life into an anemic economy and reduce unemployment, a vital aspect of the problem usually is ignored. The aim of national policy is not only to promote stable economic growth, difficult as that may be, but also to ensure as far as possible that new investment and job opportunities are targeted at those who need them most.

It makes little economic or moral sense, for example, for Washington to provide equal encouragement for new investment in the outer fringes of Dallas-Ft. Worth, a metropolitan area where the latest jobless rate was only 3.9 percent, and in Jersey City, N.J., where it was a devastating 11.6 percent. By what logic should the federal government do as much for an outer suburb of Chicago where there is virtually no unemployment and for San Diego, Calif., where the jobless rate was 9.4 percent?

While Washington long has had programs to provide direct aid to decaying urban and rural areas, officials have failed to use an equally—and perhaps more—promising way to help accomplish these ends through the tax system. The Carter tax program, according to authoritative reports, ultimately may contain up to $22 billion in tax reductions, some in the form of incentives to encourage business and industrial investment. By making the incentives greater if the investment is placed where the need is greatest, a portion of that investment could be channeled to distressed central cities and rural areas where unemployment has reached appalling levels.

The country has used tax incentives before as a means of directing investment according to national need. During World War II and again during the Korean war, an accelerated depreciation allowance was granted for investment in industries defined as war-related but not for others, and the system served its purpose. In principle, discrimination on the basis of geography is just as feasible as discrimination on the basis of industry group. Drawing the boundary lines between eligible and ineligible locations admittedly involves difficulty, but deciding what industries were war-related involved tough boundary decisions, too.

Indeed, discrimination between prosperous areas and those in need is accepted as a matter of course in other programs. Ever since 1961, depressed areas legislation and emergency public works programs have made funds available only to areas of high unemployment. The Appalachian Regional Development Program, and the kindred regional programs established under the Public Works and Economic Development Act of 1965, confer benefits only on regions of relative impoverishment. It is equally logical to confer higher benefits on areas of need when tax breaks are written into law.

NO EXTRA COST

The crucial importance of the tax approach is that it provides an incentive for private investment and private jobs. A shortcoming in existing programs for depressed urban and rural areas is that they are limited to public

investment and public jobs. These are useful and necessary in themselves, but they usually do not lead to self-sustaining, permanent growth. Sometimes public investment that spruces up a community makes it so attractive that private investment follows—but not often enough or quickly enough to serve the purpose.

Experience also tells us that offering loans on favorable terms to private firms—as through the proposed "urbank" that is reportedly being designed—will not do much to influence locational decisions either. Small, marginal firms may find the credit helpful, but big companies do not lack for access to normal credit markets. What is needed to lure more of their investments into distressed urban and rural areas has to be something more tangible—a direct cash benefit. The subsidy could be provided in various forms, but since the proposal about to be offered by President Carter is to give a direct cash benefit to all firms through the tax route, introducing a differential rate into that benefit would appear to be the quick, easy, simple way to do it.

This need not cost the Treasury anything extra. The present investment tax credit is 10 per cent. Whatever additional tax credit the administration concludes is necessary to spur investment can be provided either as a flat rate or as a sliding scale. To increase by half the present benefit, for instance, a flat rate of 15 per cent could be offered or a range could be established—perhaps from 12 per cent in areas of relative labor shortage to 20 per cent in areas of heavy unemployment—that would produce the same volume of additional investment at approximately the same total cost to the Treasury.

Moreover, to employ tax policy in this manner would represent an important beginning toward carrying out the intent of Congress in the Urban Growth and New Community Development Act of 1970. That law committed the United States to adopt a "national urban growth policy" that would seek to stem urban and rural decline. No specific policy was proposed by either President Nixon or President Ford, but there is every sign that President Carter is taking the statutory mandate seriously. His administration is preparing the biennial report on growth policy called for by the act, and a White House conference on balanced national growth and economic development is scheduled for late January.

All of the major industrial countries of the world—except the United States—have explicit and well-established national growth policies designed to steer investment to where it is most needed. "Take the work to the workers" is the slogan in the European countries, and direct subsidy to investors is the universal means.

This is seen as the way to preserve and restore communities, to minimize hardship on individuals and families, and indeed to serve the goals of maximum employment and production with minimum inflationary consequences.

But "taking the work to the workers" is exactly what is not happening in the United States today. Our concentrations of unemployment and underemployment are in the inner cities, in declining rural areas and in old industrial centers. But most new jobs are being created in the thriving suburbs of major metropolitan areas.

WASTE, HARDSHIP AND INFLATION

This is what happens in the absence of a national growth policy—and it is undesirable for four clear reasons.

First, such a pattern of growth is wasteful. If a new plant is put in a green field 20 or 30 miles from the center of St. Louis or Chicago or Philadelphia, a whole array of public facilities has to be created at public expense—while facilities that already exist in the center of the city or in the declining small towns of the hinterland are underutilized. The result is urban sprawl instead of compact settlement, and sprawl is synonymous with waste—waste of resources, waste of energy, waste of productive agricultural land.

Second, such a growth pattern is inhumane. It forces people to uproot themselves and move—often at great financial loss—from where they are to where the jobs are put, or to spend hopeless hours trying to commute. Housing is not necessarily available to low-income blacks and other minority group members who might seek to relocate from the cities to where the jobs are. As for interregional migration, experience both in this country and in Europe shows the great reluctance of workers to leave their native areas. When the Labor Department some years ago tried subsidizing the relocation of unemployed iron miners from northern Minnesota to steel centers of the Middle West, the experiment failed: The workers drifted back. As for commuting, the new jobs located on—and beyond—the beltways that girdle the metropolitan centers usually are inaccessible by any form of public transportation to the unemployed of the urban ghettoes, and they are beyond the commuting range of most of the rural unemployed as well.

Third, such a growth pattern is inflationary. If most of the country's growth takes place in areas of relative labor scarcity—and the outer suburban fringes of major metropolitan centers are such areas—as the economy expands, labor shortages and bottlenecks appear relatively quickly, costs rise and price increases follow. By contrast, if the jobs are taken close to where the unemployed live, labor surpluses are absorbed and the economy can move significantly closer to full employment before shortages occur and inflationary forces are set in motion.

Fourth, such a growth pattern is destructive of communities—originally the communities of rural and small-town America and now the great metropolitan central cities as well. The national interest in maintaining a viable New York or Detroit or Cleveland need hardly be argued.

THE LURE OF THE SUBURBS

So why, if there are all these consequences do investors choose the suburbs? There are many reasons. Land costs are lower than in the city. Low, rambling buildings with spreading lawns are possible. Business transportation problems may be eased. The air is cleaner, the crime rate lower, the environment more pleasant. The available labor force may be better trained or more tractable.

But the benefits to individual firms have to be weighed against the economic and social costs borne by employees, taxpayers and the country at large, and the previously noted public costs—waste, hardship, inflationary impact, destruction of communities—surely outweigh the private benefits. The object of the tax differential, then, would be to provide enough subsidy to an investing firm that takes its jobs to the workers to offset the gains it would otherwise realize by locating on the suburban fringe.

It may be, of course, that the forces that lead entrepreneurs to avoid investing in distressed areas, particularly in the most rundown central cities, would prove too powerful in most cases to be offset by the scale of the tax differential. If this proved the case, the government would have to decide whether to increase the differential, at least for the most neglected areas, or possibly abandon the objective altogether. In that case, the Treasury would have lost nothing, since there would be no extra tax breaks if firms did not bite.

Yet there is great diversity among American cities, and in all likelihood they would respond quite differently. Some probably would benefit from a differential of any size; others might be beyond rescue no matter how large the subsidy proffered. The answers to these questions cannot be known in advance. They can be learned only by enacting something and finding out what happens.

The rural areas and old industrial centers that would benefit are a diverse lot, too. Rural distress seems to have dropped out of the news of late while the South Bronx and Detroit are the centers of attention. But only a few years ago it was the poor of Appalachia and the Mississippi Delta who captured the nation's sympathy. Indeed, it was the plight of the rural areas that originally gave rise to the agitation for a national growth policy that culminated in the act of 1970, and the statute seeks rural-urban as well as city-suburban balance. "Taking the work to the workers" has to mean steering investment to wherever the unemployed and underemployed are concentrated, whether the locale be a declining metropolitan core, a New England mill town, a Pennsylvania mining center that has lost its basic industry, or a county in the Southern Black Belt.

This is not only the most equitable approach, but it is also the basis for the political coalition needed to pass such a measure. The prospects for aid on a scale necessary to turn the tide in the cities would be hard to come by if the cities and their supporters tried to go it alone. But a coalition of the cities with the rural and small town areas that are fellow sufferers could well prove irresistible. Even a good part of suburban America might support a city-rural coalition dedicated to claiming the bulk of new investment for their communities; not all suburbanites are in favor of headlong, unrestrained growth.

Two Senate votes a few years ago show both the power of the tax differential idea and the strength of the city-rural coalition.

One of those votes came in 1969. President Nixon had recommended that the 7 per cent investment tax credit then in effect for manufacturing investment be removed. This passed the House, but when it reached the Senate floor, Sen. Ted Stevens (R-Alaska) proposed an amendment to retain the tax credit for rural areas of "substantial outmigration." Even though the idea came as a surprise at that time, it carried the Senate by two votes. It was lost, however, in the House-Senate conference.

The second vote came two years later, when Nixon reversed himself and recommended that the 7 per cent investment credit be restored. Again the House supported the President, and again an amendment was offered on the Senate floor. This time, Sen. James Pearson (R-Kan.) proposed that a differential of 3 per cent be added for most rural areas, and the bill's sponsors accepted the idea. Sen. Abraham Ribicoff (D-Conn.) then demanded equal treatment for central cities with unemployment over 6 per cent. This was approved, 56 to 24, and the combined Pearson-Ribicoff amendment was adopted by the overwhelming vote of 60 to 19—better than 3 to 1. But the bill's managers refused to support it on the ground that the projected revenue loss of $750 million—the extra incentive in this case was to be placed atop the general investment credit—was more than the Treasury could stand, and the idea was again lost in conference.

No such proposal has been voted on since, but there is every reason to believe the potential for a powerful coalition still exists. This coalition, it should be noted, cuts across the current Sunbelt-Snowbelt argument. Both North and South have their areas of unemployment and underemployment that would be eligible for any special tax concession, and their flourishing metropolitan fringes that would not.

THE EUROPEAN EXPERIENCE

In time, the United States might find that tax concessions are not the simplest and most effective means for influencing the lo-

cational decisions of investors. That has been the experience in Europe.

There, tax devices were used initially when experimentation with growth policy began in earnest in the post-World War II years, But the European countries, and Canada as well, have long since shifted their emphasis to direct cash grants made by the government to the investing firms as more direct, more open, quicker and in the end less costly. The standard grant for locating an investment in an area of labor surplus seems to have settled down at 20 per cent of the cost of the investment, but gradually the countries have developed sliding scales of subsidies for different areas—a kind of zoning according to the degree of need—and the rate may range from 10 or 15 per cent to 25 or 35 per cent or even more in a few cases.

The nine countries of the European Community together are spending an estimated $17 billion a year on locational incentives. There is recurrent debate, of course, about the fine points of policy—what areas and what kinds of enterprise should be eligible, and for how much. And policies change from time to time. But on the principle itself there seems no longer to be any debate anywhere in Europe.

The consensus is that the policies have been successful. New jobs that otherwise would have been located on the fringes of London or Paris or Milan have been steered to Scotland and Brittany and the impoverished Italian South. Three independent analyses by British economists of that country's program several years ago credited investment grants and other related measures with creating 30,000 to 70,000 additional jobs a year in development areas. One of the studies concluded that the policy measures had cut the north-south migration flow within the country by half, reduced the national unemployment rate by one-half of 1 per cent and increased national output by $500 million a year.

Whatever the economic analyses show, the political judgment in Europe is that the benefits of the locational incentive systems far outweigh the costs. Every major political party in every country supports the programs. All the parties agree that it is a proper function of government to attempt to influence and guide the geographical location of investment—to put the jobs where, in the interest of the whole society, they are most needed.

CONGRESSIONAL PROBE INTO THE EXISTENCE OF OVERWEIGHT TRUCKS ON OUR NATION'S HIGHWAYS HAS BEGUN

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. DODD. Mr. Speaker, on October 28, 1977, the Subcommittee on Oversight of the House Ways and Means Committee held its first day of hearings on the highway trust fund. I wish to compliment Chairman GIBBONS and the members of the subcommittee for initiating a greatly needed investigation into the existence of overweight trucks on our Nation's highways.

At this point in the RECORD I would like to insert the text of my testimony before the Subcommittee on Oversight:

STATEMENT OF THE HONORABLE CHRISTOPHER J. DODD

Mr. CHAIRMAN: I wish to compliment you and the Members of your committee for initiating this congressional probe into our nation's investment in the Highway Trust Fund.

In the months ahead Congress will be debating whether or not the Highway Trust Fund should be extended past September 30, 1979. However, before we can determine if additional funding is needed to continue the Highway Trust Fund, we need to examine how efficiently the Highway Trust Fund has been expenaed.

In looking at the current needs and conditions of our Federal-aid and Interstate Highway Systems, I am very much aware that our highway systems are deteriorating at a faster rate than they can be replaced. According to a General Accounting Office Report issued last February, the Interstate System is wearing out 50 percent faster than it can be replaced. The General Accounting Office attributed this rapid deterioration to the age of the road, reduced state maintenance, harsh weather conditions, and damage caused by overweight trucks.

I note that Mr. John Suprano, of my home state of Connecticut, and Vice President of the National Transportation and Marketing Council, is appearing today to testify on the problems Connecticut is experiencing because overweight trucks are traveling through the state. I feel that Mr. Suprano should be commended for his perseverance in bringing this very real problem to light.

While I am concerned over the deterioration of our highways, loss of jobs, and environmental damage attributed to the lack of enforcement of existing truck weight requirements, I am deeply concerned over the high number of accidents and loss of life caused by overweight trucks on our nation's highways as well.

On the surface the issue of enforcement of truck weights appears to be a very straight forward issue. However, in close analysis it is a very complex issue.

First of all, truck weight requirements vary from state to state. The Federal-Aid Highway Amendments Act of 1974 (P.L. 93-643) established maximum standards: a maximum of 20,000 lbs. for single axle loads; 34,000 lbs. tandem, and a maximum gross weight of 80,000 lbs. These weights apply only to the Interstate Highway System, and not to other federal-aid roads. Furthermore, states which already had heavier axle weights and gross weights were permitted to retain the heavier weights. Finally, the states have the authority to establish weight requirements for state roads.

For example, in Connecticut the gross weight limitation for state highways is 73,000 lbs. In the neighboring states of Massachusetts, Rhode Island, and New York the maximum gross weight allowable is 80,000 lbs. You can quickly see why there might be a problem in transporting goods from the neighboring states through Connecticut.

Secondly, there is currently no federal support for the enforcement of state and federal truck weight requirements. As the members of this committee know, the federal government does not have the authority to directly enforce local, state, or interstate weight limitation laws. The enforcement authority is the entire responsibility of the states.

In view of this situation, I strongly feel that if we are going to approach this problem seriously, then we must put some backbone into the law. We must not set maximum federal standards and then exclude the states which supersede these standards. If we are going to enforce maximum standards, then we need to back up these standards with an enforcement arm. We must ensure that the penalties are stiff enough to dissuade an operator from violating the law. We must make it unprofitable for an operator to overload his truck.

There are many issues and possible solutions which need to be explored at this time. One apparent solution to simplify enforcement is to establish uniform maximum requirements for the Interstate, Federal-aid system, and state roads. However, there are several questions which need to be resolved before this can be attempted. A central question is the issue of state's rights. I believe that legal precedent has been established that if a state accepts federal transportation funds then the federal government has the right to impose standards that would apply to all the roads within the state. At the very least, what is precluding the federal government from establishing uniform maximum standards on Interstate and Federal-aid roads?

Another major question to be addressed is if uniform federal standards are established who will enforce these standards, and how will the enforcement provisions be carried out? Would it be necessary to establish a federal police force to see that these standards are carried out?

We also need to investigate whether the existing truck weight requirements are in keeping with the structural design and capacity of our nation's highways. Are the existing requirements energy efficient? Are they safe? Could uniform standards in all practicality be applied to all of our nation's highways?

Another alternative to our existing problem is to increase the incentives to the states to enforce existing truck weight requirements. As you are aware, the states have the task and expense of enforcing truck weight requirements on all roads within the state.

I would briefly like to expound on Connecticut's problem. A Federal/State road check in December of 1975 showed that 25% of the trucks inspected were overweight. At that time the State Police Department had just inaugurated a truck weighing program, operated by a truck squad. According to the Commissioner of the Department of State Police the effectiveness of this unit has been limited by the lack of adequate truck weighing facilities on the major truck routes, and there is a need for federal funds for the purchase of truck weighing equipment and operational funds if Connecticut is going to have an effective truck weighing program.

I hope that in your probe into this issue that a review of the action taken by the states to enforce truck weight limitations as well as the need for federal support will be conducted. I feel that a review of states' expenditures for enforcement equipment, data on road checks, and a review of the disposition of the cases for violators is essential in determining what federal support is necessary at this time.

At the same time, I feel that the Department of Transportation's certification process needs to be reviewed. As you are aware, a state is required to certify to the Secretary of the Department of Transportation before January of each year that it is enforcing all laws on federal-aid highways. However, the present certification process does not require the states to produce information on how the actual enforcement has been carried out. The penalty for failure to certify is a harsh one. Under Section 127, Title 23 U.S.C., the Secretary of Transportation shall not approve highway projects in any state which has failed to certify that it is enforcing the speed limit, and weight and size requirements.

In view of the fact that violations are occurring, I feel that a review of existing certification process should be conducted, as well as investigation to determine if the Department of Transportation has ever verified these certificates.

I am very hopeful that in the course of your hearings on the Highway Trust Fund that these issues will be explored, and recommendations to solve the overloaded truck problem will be forthcoming.

Thank you Mr. Chairman for the opportu-

nity you have given me to express my opinion on this most important matter.

NUCLEAR POWER

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. WYDLER. Mr. Speaker, there are many critics of nuclear power in our country and some who would like to see it eliminated as a source of energy. I found it most interesting that an article by Tom Wicker in the New York Times used as a basis a report of the National Ecoonmic Research Associates, Inc. Mr. Wicker used the reports of this group to attack nuclear power.

What was sent to the New York Times as an answer was a letter from the very same National Economic Research Associates, Inc., pointing out that although Mr. Wicker had some of his facts right, he did not interpret them in a proper manner. This letter never appeared in the Times, and I thought my colleagues in Congress should have the benefit of reading what those who wrote the report really think, which is that nuclear power is still our best bet.

The letter follows:

OCTOBER 3, 1977.

The EDITOR,
The New York Times,
New York, N.Y.

DEAR SIR: In a recent editorial, "Paying the Nuclear Piper—III," (The New York Times, October 2, 1977, p. E–17), Tom Wicker quotes National Economic Research Associates as indicating that "nuclear construction costs are rising at 15 percent annually, from $150 per kilowatt ten years ago to more than $400 today and a projected $950 or more in 1985". These "facts" are used to justify the conclusion that we are relying too heavily on this "costly, controversial, possibly hazardous and none-too-efficient technology".

Mr. Wicker's statement of the facts is only half right, and the inferences he draws seem to me wholly unfounded. The two nuclear plants completed in 1968 did cost only slightly more than $150 per kilowatt ($168 per kilowatt), those completed now are averaging about $400, and those completed in 1985 are projected to cost about $950. However, this represents inflation of about 10 percent, rather than 15 percent, per year. Moreover, the projected cost escalation from 1977 to 1985 is about 8.0 percent per year, not much above the general inflation rate and substantially below the 12 percent per year rate prevailing from 1967 to 1977.

Even the rise of 8.0 percent per year is not a desirable trend, but what are its implications? Irrespective of the extent of conservation or the development of alternative energy sources, there will be a substantial growth in the demand for electricity over the next several decades. A consensus of forecasts projects growth in electric demand at 4 to 5 percent per annum, and the most conservative forecasts still see growth of 3.0 percent per year. Over this period, coal and nuclear power represent the only significant sources of electric energy. Despite the significant rise in the cost of nuclear power, it is still the most economic source of electric energy. The electricity generated from a plant completed in 1985 and costing $950 per kilowatt will cost about 4.0 cents per kilowatt-hour. The cost of electricity from a comparable coal plant would be 5.0 to 6.0 cents per kilowatt-hour—or 25 to 50 percent more.

Let me put these disparities in perspective. Between 1975 and 2000, at a 4.0 percent per year growth rate, we may reasonably expect to generate 73 trillion kilowatt-hours of electricity. The difference in the costs of generating the electricity with coal as opposed to nuclear power is about $1.2 trillion. This is equivalent to the current gross national product and represents the loss to society from abandoning nuclear power.

Mr. Wicker seems to suggest that solar power represents an alternative to nuclear power. Solar is widely viewed as a potential source of space and water heating. But as one recent study pointed out, if two out of three homes built between 1975 and 2000 installed solar space and water heating, this would satisfy only 2 percent of the United States' energy needs in the year 2000. Moreover, in large measure, solar represents a substitute for oil and gas, not electricity.

Mr. Wicker's article criticizes the nuclear option on two other grounds as well. First, he argues that there are sufficient uranium reserves for only 117 1,000-megawatt power plants. However, uranium ore is not classified as reserves until a deposit has been fully explored and is ready to be mined. Consequently, much ore is known and much more is thought to exist which is not classified as reserves. Reserves plus resources (estimated supplies which have not been developed) are sufficient to fuel 500 1,000-megawatt nuclear units. This would take care of currently projected construction through the year 2000. Recycling of plutonium and uranium, more efficient enrichment procedures, development of the breeder reactor and new mining techniques could substantially expand this supply.

Mr. Wicker also criticizes the operational performance of nuclear reactors, arguing that "the amount of electricity actually produced has averaged, overall, 55 to 57 percent of full potential." These figures appear to refer to the nuclear capacity factor, which has, in fact, averaged between 54 and 73 percent for the last six years.

How is this performance to be judged? The capacity factor measures the electricity produced by a plant relative to what would be produced if it operated at full power every hour of the year. A 100 percent capacity factor, which Mr. Wicker apparently views as the "full potential" of a nuclear unit, is neither feasible nor desirable. All units require fueling and maintenance to operate safely and reliably, and these typically require full or partial shut down. Even with normal maintenance, a nuclear plant, like any other complicated piece of machinery, will experience malfunction requiring shutdown of the unit. However, the performance of nuclear units over this period is quite comparable to that of large coal-fired units. Moreover, reactor performance appears to improve with age, as manufacturers and utilities gain experience in construction and operation of large reactors. Finally, if reactors continue to perform as they have—and there is reason to expect that they will improve—nuclear power will remain the most economic source of electric generation.

Contrary to the primary thrust of Mr. Wicker's article, nuclear power has not been overly favored by governmental policy. Given the economic and environmental attractiveness of the nuclear option, the government has failed to provide adequate support for this technology. Current state and federal regulatory procedures have created an environment in which the time necessary to license a reactor has increased from one to three years and construction time has extended from five to eight years. This is the major factor behind the dramatic cost escalation for these plants and the dramatic slowdown in orders for nuclear reactors. The United States utility industry ordered 27 reactors in 1974, five in 1975, three in 1976 and two in the first half of 1977. What is needed is a reversal of these policies if the United States is not to lose its best hope of achieving energy independence while maintaining reasonably priced electricity and a clean environment.

Sincerely,

LEWIS J. PERL.

THE POSTAL SERVICE ACT

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. AuCOIN. Mr. Speaker, the ravage of the ranks of publications caused by ever-increasing postal rates is continuing. The most recent evidence has come to me from Mr. Gene Klare, editor and manager of the Oregon Labor Press.

Both Mr. Klare and I believe something can be done about this tragedy if Congress will approve H.R. 7700, the Postal Service Act prepared under the superb leadership of Chairman JAMES HANLEY and Chairman CHARLES WILSON. A good case for passage of H.R. 7700 is made in an exchange of letters between Mr. Klare and me, and under leave to extend my remarks I would like to share these letters with my colleagues:

OCTOBER 21, 1977.

Representative LES AuCOIN,
House Office Building,
Washington, D.C.

DEAR CONGRESSMAN AuCOIN: I am writing to ask your support for H.R. 7700, the Postal Service Act of 1977. This legislation has the full support of the national AFL–CIO and all of its affiliated state and city federations and labor councils. Rather than ask all of them in the state to write to you, I am sending this letter and the enclosed Legislative Fact Sheet from the International Labor Press Association, AFL–CIO, of which I am a vice-president.

I know that you do not always agree with what the labor press in general and the Oregon Labor Press in particular has to say. However, I know you will agree that the trade union movement has a right to publish its news and views. That is part of the democratic process.

The rights of publication afforded by the Constitution are being strangled by ever-increasing postal rates. The most inflationary budget item in the operation of the Oregon Labor Press is the cost of mailing the paper. On July 1 of this year the rate went up another 25 percent. It now costs more to mail one week's edition than it did to mail a month's worth, four editions, only a few years ago.

Let me cite a couple of things that have happened in the past month: In Los Angeles, the 80-year-old labor paper, the L. A. Citizen, went from one a week publication to twice a month because of rising costs, the principal one being soaring postal rates. In Tacoma, the 60-year-old Labor Advocate ceased publication.

Within the past few years the same thing has been happening all over the country. Weekly papers have reduced their frequency, monthly publications have switched to bimonthly, many have ceased publication because of the inability of non-profit labor papers to cope with rising costs, the primary one being postage.

Today, the Oregon Labor Press, established in 1900 to publish labor's news and views to its membership, remains as one of the very few labor weeklies published West of St. Louis.

Thank you for your consideration.
Sincerely,

GENE KLARE,
Editor and Manager.

WASHINGTON, D.C.,
November 1, 1977.

Mr. GENE KLARE,
Editor and Manager,
The Oregon Labor Press,
Portland, Oreg.

DEAR GENE: Your letter urging my support of H.R. 7700, the Postal Service Act, is very welcome. I strongly support this bill, and the examples you provide of serious problems confronting publications reliant on the mails add strength to arguments for the legislation.

The Postal Service simply cannot be operated as if it were a private enterprise. It was a mistake for a previous Congress to wash its hands of the operation, and to let the Postal Service sink or swim. Despite the advent of other forms of communication, the printed word is too precious to let it fall victim to the whims of an unresponsive Postmaster General and his Board of Governors.

Appointment of the Postmaster General by the President must be restored if we are to regain any level of accountability. Further, Congress must continue to take a hand in setting rates because Congress always will be called upon to determine what public services should be subsidized. Clearly it would be wrong to allow the Postal Service to continue to pile rate increases on the backs of publishers in so reckless a fashion that it stems the free flow of ideas.

Best wishes,

LES AUCOIN,
Member of Congress.

TRIBUTE TO DEBBIE PHILLIPS, A YOUNG EQUESTRIAN

HON. WILLIAM F. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. WALSH. Mr. Speaker, I would like to take this occasion to call to the attention of my colleagues the tremendous courage and perseverance of a young woman equestrian who was in Washington last week for the International Horse Show.

Her name is Debbie Phillips. She is 17 years old and hails from Binghamton, N.Y. Debbie has been showing jumpers at horse shows for the last 4 years. What makes her different than most young equestrians is that Debbie was born with a dwarfed right leg and only three fingers on her right hand. In all other respects, however, she is normal, except that she has more than the average amount of enthusiasm and competitive spirit than the average teenager.

She wears a brace on her short leg when she walks, but when she mounts uses special equipment, a leather strap attached through the stirrup to the girth that holds the horse's saddle.

Debbie's four horses are stabled at Orchard Hill Farm in Cazenovia, N.Y. Her trainer-coach, Ed Huber, who has been on crutches since last April when a pickup truck rolled over his legs and broke them, is also from Cazenovia.

"Debbie excels in everything she does", said her father, Philip, proudly of his daughter's accomplishment last week during the horse show. In addition to riding horses, Debbie has won four straight U.S. Women's Amputee ski championships and earlier this year won four silver medals while skiing in France.

Debbie should be an inspiration to us all in her drive to do her very best despite her physical limitations. She is an amazing young woman with an indominatable will, who captures the hearts of all whom she comes in contact with. I am proud to have the opportunity to pay tribute to her.

BARNETT-ADEN: A NEW AND INNOVATIVE STEP IN ART

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. RANGEL. Mr. Speaker, on Monday, October 31, the Barnett-Aden Collection previewed a series of reproductions of original art pieces. That collection, which is entitled "A Roots Series of Afro-American Art," is a unique and exciting selection of art.

Opening with its first show in October 1943, the Barnett-Aden Gallery of Washington, D.C., became the first privately owned black art gallery to be chartered in the United States.

The gallery was opened by Alonzo J. Aden, a scholar in the fine arts, and Prof. James V. Herring, who in the early 1920's founded the Art Department of Howard University.

Under the directorship of Messrs. Aden and Herring, the gallery established and has continued to adhere to Herring's objective of collecting and preserving works of art that would directly reflect the progress of black culture in America. Since the gallery's founding in 1943, the Barnett-Aden Gallery has become an archive of black culture in the fine arts.

Today the fabulous Barnett-Aden Collection of fine art records the movements and history of the black man in America. This collection, so steeped in history, education, and culture, after 35 years of collecting, has become one of the richest groupings of art works to be found anywhere in the world.

The cultural attributes and historical significance offered by the Barnett-Aden Collection has prompted the collection's director, Mr. Adolphus Ealey, to permit for the first time selected art works from the collection to be reproduced and made available throughout the United States and abroad. This is the first time that museum quality reproductions from a minority art collection have been created to fill the cultural lag in American art. It is hoped that with support, the cultural identification and educational value derived from this unique undertaking will benefit all people regardless of race, creed, or color.

It is in this concept that Mr. Ealey has proudly made available reproductions entitled "A Roots Series of Afro-American Art."

As a former chairman of the Congressional Black Caucus I commend this worthwhile enterprise.

THE KATYN FOREST MASSACRE

HON. WILLIAM R. COTTER

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. COTTER. Mr. Speaker, I would like to share with my colleagues a sermon preached by Msgr. Louis Blecharczyk on the Katyn Forest Massacre:

SERMON DELIVERED BY MSGR. LOUIS B. BLECHARCZYK

Dear Beloved in Christ: Today is the 12th Sunday of Liturgical Year; It is also a day of joy and thanksgiving for American Catholics, because it marks the canonization of Bishop John Neumann, the fourth bishop of Philadelphia as a Saint of the Universal Church. He is the first male citizen of the U.S., and the first American bishop to have been so honored by the Church. In our Country it is Father's Day, which offers us an opportunity to pay tribute to all fathers and to ask God our Father to bless them for their love and sacrifices. By official statement of Gov. Ella Grasso and by proclamation of George Athanson, Mayor of Hartford, is a Day of Remembrance of the brutal Kathyn Forest Massacre of 15,000 gallant Polish officers and scholars, prisoners of war, by the Soviet Secret Police on Stalin's order in May, 1940.

It is fitting and proper that as a nation, as a people, we unite with Post 119 of the Polish Army Veterans Association of America in paying tribute to these heroes and praying for their souls at this Mass, in the hope that the world will never again condone by silence such a shocking atrocity against God-given rights and the dignity of man.

What was their crime? What did these men do to deserve such inhuman treatment at the hands of their Soviet captors? Their only crime was that they loved their homeland and what it stood for—a thousand year old heritage of faith, an unsurpassed love of the Mother of God, Mary Queen of Poland, (which merited for Poland the coveted titles "Poland Ever Faithful" and "Poland, the Bulwark of Christianity") a heritage of fidelity to the ideas of liberty and democracy, embodied in the Polish Constitution of May 3, 1791, a document which ranks with the Magna Carta and our own American Declaration of Independence and our Constitution.

When Poland was attacked without provocation in September, 1939 by her perennial enemies, Nazi Germany on the West and Soviet Russia on the East, the flower of Polish manhood, the officers and intellectuals, whom we memorialize today, answered the call of duty to defend their homeland against the aggressors. They fought with valor, inspired by the slogan "For God and Country." When the great powers, Germany and Russia, finally overran Poland—because of superiority in numbers of men and equipment, these 15,000 men were taken captive by the Russians. Contrary to the Geneva Convention on the treatment of prisoners of war, contrary to all rules of decency and humanity,—in May, 1940 these men were led with hands bound to the Katyn Forest, Russia and brutally shot through the back of the head by the Soviet Secret Police and buried in massive pits. Why? to eliminate leaders of a potential anti-communist movement in postwar Poland. Russia denied the massacre—but an official investigation by a U.S. Congressional Committee in 1952 and

official documents of the British Government made public in 1972 prove beyond any question of reasonable doubt that the Soviet Secret Police committed the massacre in Katyn Forest near Smolensk, Russia. Thus, as Pres. Harry S. Truman stated, was perpetrated one of the most shocking events in modern history. Most of the individuals associated with crimes of genocide during the Nazi period have been brought to justice—but the perpetrators of the Katyn Forest Massacre, the Soviets Communists, have never been brought to justice for the reasons of political expediency. The world remained silent and condoned this atrocity—but Poles, wherever they are, will never forget; we will never break faith with those who died. We respect and honor them. In this Mass we memorialize them, in order to arouse the conscience of man. It is well to remind ourselves that our own freedoms are threatened by the same forces of tyranny, that have temporarily banished liberty and justice from Poland—and that only by eternal vigilance can we hope to remain free.

In today's Gospel we read these consoling words of Christ:

"Whoever would save his life will lose it, and whoever loses his life for my sake shall save it." We believe that these men, who lost their lives for their country, their tradition of faith have indeed gained eternal life. The Polish poet, Jan Kochanowski, put it beautifully "if the road to heaven is open to anyone, it is certainly open to those, who serve their country." It is ironic and tragic that Poland, the first nation to resist totalitarian aggression in World War II, never attained the freedom and independence for which it had fought so heroically—instead it found itself enslaved by a Moscow-controlled puppet Red Communist government, as a result of shameful Yalta and Teheran agreements. And yet, in spite of the weight of oppression, restriction of civil liberties and relentless religious persecution, which the Polish people have been forced to endure, the spark of liberalism and freedom has not been extinguished in the Polish soul. A millennium of history has already shown the world that to be alive in Poland is to be fighting for civil and religious freedom. A century ago, the Polish patriot and poet, Adam Mickiewicz, wrote: "Poland, you will be taken out of the tomb, because you are believing, loving, and full of hope." It is in their strong faith and devotion to the Mother of God, Queen of Poland, that the people of Poland find strength to resist the atheistic and materialistic philosophy, which the communistic regime has tried for over 30 years, and I might add, unsuccessfully, to impose upon them. Like a great block of granite, solid and pure, defiant and unbreakable, the people of Poland stand boldly and strongly, surrounded by Communism, loyal to their providential spiritual leader, Stefan Cardinal Wyszynski, and the Polish Hierarchy, which symbolizes the indomitable spirit of Poland, and they remain steadfast in the faith of their fathers. This spirit is Poland's secret weapon against totalitarian atheistic communism. The one thing the communists fear is Religion, because it is diametrically opposed to the tenets of atheistic communism. No matter what the sacrifice, no matter how long it takes, Poles everywhere and all freedom-loving people are convinced that Poland must and shall regain her rightful heritage of freedom and independence. It is not within the order of things, that wrong shall triumph over that which is right.

Faith in God and freedom never die. During this Mass let us ask God, through the powerful intercession of Mary, Queen of Poland, to hasten the day of liberation for Poland and for all oppressed peoples.

Only then shall we be able to say that the sacrifice of the victims of the Katyn Forest Massacre had not been in vain. Amen.

AN AGENCY FOR CONSUMER PROTECTION

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. SOLARZ. Mr. Speaker, there has been considerable debate lately concerning the establishment of an Agency for Consumer Protection. It seems to me that there is a great need for the consumer to be adequately represented in front of Federal regulatory agencies; a need for equal rights with industry advocates which we, as consumers, do not now possess.

In order to clarify some of the debate surrounding this issue, Mr. Speaker, I wish to share with my colleagues three articles which appeared in the New York Times and the Washington Post recently. I believe these articles more than adequately portray the tremendous discrepancies in the amount of influence enjoyed by business and industry lobbyists as compared with that of the consumer in dealings with these regulatory agencies:

[From the New York Times, Aug. 7, 1977]

SPEAKING FOR THE PUBLIC

(By Tom Wicker)

In 1976, the eleven major American airlines spent $2.8 million for outside counsel to represent airline interests in regulatory proceedings before the Civil Aeronautics Board. That same year, public interest organizations spent the grand sum of $20,000 on representation at C.A.B. proceedings.

That's one of the findings in a report about to be released by the Senate Committee on Governmental Affairs. The report will detail findings of a study showing that regulated industries usually predominate over public interest advocates in both formal and informal regulatory agency proceedings.

In more than half the formal proceedings the committee studied, there appeared to have been no public interest participation at all. In informal proceedings, there was virtually no such participation; and even when the public interest groups did enter particular cases—like that of the airlines—they were overwhelmed by the regulated industries involved.

That gives particular urgency to one bit of pending legislation to which Congress will return after its summer recess—the bill that would create an Agency for Consumer Protection. In its report, the Governmental Affairs Committee strongly supports creation of such an agency as a means of increasing public interest participation in regulatory proceedings.

That, of course, is also a major reason why business groups—particularly the Business Roundtable and the United States Chamber of Commerce—have so strongly opposed the consumer agency. This is the eighth year that the proposal has been before Congress, usually passing one or the other of the two houses, but always falling before the guarantee of a veto from Presidents Ford or Nixon.

Now, however, the Carter Administration is solidly behind the consumer agency bill. That gives the measure a chance that it's never had before, but it hasn't alleviated the powerful opposition of the business groups that have thwarted the proposal in the past. And no wonder.

The agency would be small by Washington standards—funded at $15 million the first year, $25 million thereafter—but it might well have considerable kick. Not only would it have the power to represent consumer interests before the regulatory agencies, cross-examining witnesses and examining documents, but it could appeal the decisions of those agencies to the Federal courts.

Nor would the agency's powers be purely reactive. It might, for example, petition the Food and Drug Administration to take a drug off the market if it believed the drug held some potential hazard to the public. It could act as a watchdog on, say, airline fares. It could make sure that various health and safety regulations were being complied with. And it would have a research component empowered to gather and publish information of interest to consumers.

Not unnaturally, business groups see in the proposed A.C.P. a potential threat to comfortable ways of doing business and to the cozy relationships some regulated industries have with their regulators. But the Carter Administration recently succeeded in squelching one of the long-standing arguments against the need for the agency—that it would create a costly new bureaucracy.

Budget Director Bert Lance announced that if the A.C.P. were approved, 26 separate consumer offices scattered through the Government could be eliminated, along with their 200 employees, at a savings of $11.6 million annually. Another $8.5 million would be saved, Mr. Lance said, by rescinding the "consumer representation plans" required of all Government agencies by the Ford Administration—plans Mr. Lance suggested had been meant only to forestall Congressional approval of the consumer agency.

In these savings materialize as promised, the A.C.P. actually would cost less in its first year than now is being spent on consumer "protection." Ralph Nader's organization recently generated an effective letter-writing campaign on behalf of the proposal, and polls by both Daniel Yankelovich and Louis Harris show overwhelming public support.

But in the Senate, that current master of the filibuster, Jim Allen of Alabama, is ready to do his stuff on behalf of business, so Majority Leader Robert Byrd won't even bring the bill to the floor until the House passes it. That body plans a vote in September or October—but only if the Administration and the bill's sponsors believe they have the votes to pass it. That's a big if, in a House that took ten years to pass the relatively weak legislation to control strip-mining that President Carter has just signed.

[From the New York Times, Aug. 8, 1977]

PANEL SAYS BUSINESS DOMINATES AGENCIES

(By David Burnham)

WASHINGTON, August 7.—A detailed study by a Senate committee has found that business interests almost totally dominate Federal regulatory agencies and has recommended steps to right the balance, including public funding of citizen groups and the creation of an independent consumer agency.

The findings and recommendations were approved, 14 to 0, by the Senate Governmental Affairs Committee after an extensive investigation of the operations of more than a dozen Federal agencies that regulate such important segments of the economy as communications, transportation, energy, nuclear power, the securities markets and foods and drugs.

"At agency after agency, participation by the regulated industry predominates—often overwhelmingly," the committee said in the report made public today. To support its central conclusion, the committee cited such findings as the following:

Eleven of the major airlines spent $2.8 million to have lawyers represent them before the Civil Aeronautics Board in 1976. The

major consumer organization that practices before that board, Aviation Consumer Action, spent $20,000.

The American Telephone and Telegraph Company spent $1.8 million arguing three major economic cases before the Federal Communications Commission in 1975, while there was "a total absence of any public interest representation in these proceedings."

The committee analyzed the participants involved in 60 major cases that were handled by eight agencies. In more than half of these proceedings, it found no public representation. In those cases where public groups did appear, their presentations were overwhelmed by those of industry. It is not uncommon for industry to file 10 times as many briefs as public interest groups in a case, the report said.

CONSUMER AGENCY LEGISLATION

The unusually blunt Senate report, part of broad two-year study of Federal regulatory agencies, was expected to provide new ammunition to supporters of legislation that would create an independent Government agency empowered to advocate consumer interests before the agencies and the Federal courts.

The legislation, which is awaiting action by both the House and Senate, is strongly opposed by business.

The creation of the consumer advocacy agency was one of several steps recommended by the committee to lessen industry domination of the regulatory agencies.

Another recommendation was that Congress authorize the regulatory agencies to provide funds to eligible public affairs groups that wished to collect and present evidence. A proposal for such compensation was rejected last week by the Senate Judiciary Committee.

The Governmental Affairs Committee also called for the establishment of strong, independent consumer advocacy offices within the Civil Aeronautics Board, the Federal Communications Commission, the Interstate Commerce Commission and the Federal Power Commission. The C.A.B. and the I.C.C. already have the beginings of such offices, but the committee urged that they be given greater stature and autonomy.

One of the broadest recommendations was that Congress adopt legislation making it easier for citizens and public groups to intervene in regulatory agency proceedings and obtain access to the Federal courts for review of agency decisions.

ACCESS TO FEDERAL COURTS

The committee report said greater citizen participation was important because it "checks an excessive orientation toward industry in several ways."

"First, agency decision makers are provided a greater range of alternatives and information," he report said. "Second, participation promotes agency autonomy by widening the official perspective of agencies and providing an alternative basis of support. Third, presentation of alternative viewpoints may contribute to building a record on which a court can more effectively review agency decisions."

Another part of the investigation concerned the efficiency of the Federal regulatory system, which the report said was "anything but swift in its operation."

"From start to finish, the proceedings average about 19 months for licensing. 21 months for rate making and over three years for enforcement actions."

Senator Abraham A. Ribicoff, Democrat of Connecticut, chairman of the committee, said these delays were "costing consumers and business alike tens of millions of dollars each year."

Senator Charles H. Percy of Illinois, the senior Republican on the committee, said unnecessary delay adversely affected all sides. "It hurts consumers by denying the protection and economic redress which they seek and deserve," he said. "It hurts businessmen by putting a monkey wrench into their investment and sales plans for the future. And it hurts the regulators by making them appear lazy and unconcerned."

[From the Washington Post, Aug. 7, 1977]

WATCHDOG-WATCHING

(By Jack Anderson)

Congress has provided a kennel of watchdogs—regulatory agencies with legal teeth that are menacing enough—to protect the public from predators that prey across state lines. Yet these fearsome watchdogs will sit up and beg or roll over and play dead for the friendly folks they regulate.

Accordingly, the special interests employ skilled lawyers and lobbyists, with the velvet touch, to soothe the federal watchdogs. Result: most regulatory agencies, as a matter of daily routine, cater to the corporations that are supposed to be regulated.

Sen. Abraham Ribicoff (D-Conn.) is now conducting the most exhaustive study of the regulatory agencies ever undertaken by Congress. We have had access to some of his findings, which will soon be made public. "In agency after agency," the report will charge, "participation by the regulated industry predominates—often overwhelmingly. Organized public-interest representation accounts for a very small percentage of participation before federal regulatory agencies. In more than half of the proceedings, there is no such participation whatsoever."

Here are the particulars:

The regulated industries "consistently outspend" public participants in regulatory proceedings. In every case that Ribicoff's investigators reviewed, "industry spent many times more on regulatory participation than their public-interest counterparts. In some instances, industry committed as much as . . . 100 times the resources budgeted by the public-interest participants."

Last year, Pan American spent more than $650,000 to hire a prestigious law firm to represent the airline before the Civil Aeronautics Board. Eleven top airlines spent a combined $2.8 million for lawyers to intercede for them with the board. Representing the public interest at these hearings was the Aviation Consumer Action Group, which, in contrast, spent a total of $40,000.

The Senate sleuths examined eight decisions with a "clear consumer and public impact" at the Federal Power Commission. At stake were the availability of natural gas and the amount the public should pay for it. The investigators will state: "We examined the dockets in these eight cases and found that, despite the clear and public impact which these cases involved, there was no organized public participation of any kind in six of the eight proceedings." Yet the industry's representatives thronged into the hearing rooms. At one proceeding, 47 industry participants showed up.

At the Interstate Commerce Commission, the investigators found "no evidence of any organized public participation in more than 60 per cent of the proceedings."

The Food and Drug Administration is supposed to protect citizens from ingesting dangerous substances. The Senate agents, therefore, investigated how the agency sets standards, provides public access to information and handles conflict-of-interest cases. Their findings: "There was no public-interest group participation in more than half of these proceedings."

The Ribicoff report will charge that American Telephone and Telegraph spent $1 million trying to persuade the Federal Communications Commission not to increase competition in the telecommunications industry.

The irony is that the public indirectly pays the huge legal/lobbying bills because the industries merely pass on these costs to the consumers in the form of higher prices. In other words, the consumers pay for the privilege of being skinned.

The big pressure groups, meanwhile keep their own stables of lawyers and lobbyists to influence the right people in Washington. With their financial resources, they can also afford to hire technical experts to dazzle the regulators with fancy statistics. Another effective technique has been to drag out the regulatory proceedings until the public-interest groups have exhausted their resources.

For the good of the nation, the consumers should have equal footing with the special interests before the regulatory commissions.

Footnote: The Ribicoff report will also assail the Supreme Court, charging that it "has taken an increasingly restrictive view of the standing requirements that make it difficult for citizens to obtain judicial review of allegedly unlawful government action. At present some of the Supreme Court's decisions in this area constitute a considerable barrier to citizen participation in the regulatory process."

MR. C.S.M.A.C.

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. GEPHARDT. Mr. Speaker, St. Louisans will honor a man this Sunday that has demonstrated through tireless efforts his dedication to his community and his fellow man. These efforts of Lefty Sartori have been through the Carondelet Sunday Morning Athletic Club, an organization that has done much to lift the spirit of brotherhood in St. Louis.

An article appeared recently in the Bugle that I would like to insert in the RECORD so that my colleagues will have a brief glimpse of this tireless man, Lorenz "Lefty" Sartori:

MR. C.S.M.A.C.

Friends and members of the Carondelet Sunday Morning Athletic Club will raise their glasses to toast "Mr. C.S.M.A.C.", Lefty Sartori, on Sunday, November 6th.

Although Lefty holds no official title right now, except board member and bulletin editor, he has held just about every job the club had to offer since 1945 when he attended his first meeting.

Besides Mr. "C.S.M.A.C.", Lefty's titles would have to include Coach, Resident Coordinator, Club Officer, Bulletin Editor, Building Manager, Clean-up Man, Public Relations Manager, Inventory Controller, and Old Sport.

Lefty's sporting record goes back to his younger years when he concentrated on baseball and then turned to soccer to keep busy during the off months.

Lefty played baseball for several independent and Muny League baseball teams and it was in his baseball days that he picked up the name "Lefty" because he was a left-handed hitter. His real name is Lorenz.

His soccer shoes were hung up in 1936 because of an injury.

That injury didn't slow Lefty down much, however, as his work at the club has always kept him busy. He can still be reached just about any morning at the clubhouse.

His wife, Mildred, has shared Lefty's enthusiasm for C.S.M.A.C. In fact, she was the first president of the Ladies Division.

Mildred and Lefty were married in 1928 and they have four children, and 13 grandchildren.

In honor of his 30 plus years of devotion to C.S.M.A.C., club members are planning a

testimonial dinner for him on Sunday, November 6th, at the club, 1012 Loughborough Avenue.

IN-DEPTH STUDY ON TV VIOLENCE

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. PURSELL. Mr. Speaker, in recent months, many well-known and respected organizations, who represent the concerns of the health and welfare of our citizenry, have begun campaigns to eliminate excessive violence from television. Positive action is being taken.

The National Parent-Teacher Association has held eight nationwide hearings on this issue, and the American Medical Association gave $25,000 to the National Citizens Committee for Broadcasting earmarked toward an in-depth study on TV violence.

In addition, the AMA asked 10 of TV's biggest advertisers to discontinue their commercials with the most violent programs. Two of these firms—Eastman Kodak and General Motors—immediately responded by dropping advertisements on the violent programs. Other companies joined, including Sears Roebuck & Co., General Foods, Burger King, and Procter & Gamble. These companies additionally pledged to exert great care and caution in selecting programs to sponsor. The AMA is working with other organizations by dispersing various information on the dangers of television violence to the public, in an effort to alert viewers, and to make the anonymous TV teacher accountable for its actions.

Other consumer groups working actively to improve the quality of what we view on television include the National Association for Better Broadcasting, Action for Children's Television, the Office of Communication of the United Church of Christ, Television magazine, and numerous local councils emerging in most urban areas to challenge the licenses of stations which fail to serve the public interest.

Consumers' greatest weapon is to refuse to buy the products of the companies who sponsor violent programing, and to let those companies know the the reasons for their action. The J. Walker Thompson Co., the largest advertising agency in the country, reported that an agency survey discovered 10 percent of 200 TV-watching consumers had considered boycotting a product advertised during a violent TV show. Eight percent had actually refused to buy such a product. Some 35 percent of viewers avoid violent shows altogether. This study served as a reason for Thompson's admonition to clients that sponsoring violent shows may no longer be a lucrative practice.

Further, Leo Singer, president of the Miracle White Co., should be commended for his announcement that his company will not sponsor advertisements on, or adjacent to, programs presenting violence. This includes spot announcements, which are usually left up to the discretion of local TV stations.

These examples of concerned consumers and businesspeople serve to prove positive action is being taken to prevent violence on TV. Much more can be accomplished. I do not believe the Congress should police or censor programing. However, I do believe the Congress has a serious responsibility to alert the public and promote the curtailment of violently offensive television as an obligation to act in the public and community service.

WHEN TERRORISM GROWS

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. BENNETT. Mr. Speaker, when the Christian Science Monitor in its October 28 edition editorialized on the growth of terrorism it struck at the heart of many modern-day problems. There needs to be a greater emphasis in our society on the moral values of life, not just for the individual but for society in general. Laws cannot make men good. They can only punish bad behavior. There is no such thing as mass morality, for morality is an individual achievement. As individuals achieve it their society achieves it. To me, all men and women are good; but some do bad things; and to lessen the harmful effects on society we should each of us try to perfect our own lives. We should give more credit to those who attain socially constructive inputs into society by deed and example. I guess the fact that bad behavior makes news is an indication that it is not the norm. In any event, I thought the Monitors editorial to be a good one and I republish it here as a thought-provoking piece:

WHEN TERRORISM GROWS

West German President Scheel's ardent appeal to all political leaders in the East and the West to join in a common struggle against terrorism ought to strike a responsive chord everywhere. His warning that terrorism, unchecked, "will spread like a brush fire all over the world" is timely and needed. There must be no slackening now of cooperative efforts in the United Nations and elsewhere to combat this threat to order and civilization.

Beyond human means and measures which governments can adopt, however, something more, something deeper, is needed. That is to create the moral and spiritual climate in our societies in which crime and violence cannot flourish, a climate that nourishes a respect for law and democratic values.

Recent hijackings, kidnappings and other incidents of wanton violence invite perplexity. Why, one wonders, do West German children of affluent parents join terrorist groups which want to pull down a government that has brought more wealth, freedoms and genuine democracy than ever before? Why do leftist students in Rome battle police to honor the German terrorists? Why do American communist youth protest the "massacre" in Somali when West German commandos stormed a hijacked airliner? And why do youth in Japan, Sweden and other well-off nations become anarchists?

There are no simple answers to such questions. But a basic element is the failure of these societies to imbue a sufficient sense of individual and national moral purpose. The industrialized nations have made enormous economic and social progress in the past two decades, but this progress has been accompanied by the growth of a crassly materialistic culture, with its pursuit of pleasure and self-gratification, its drug taking and sensuality. Unfortunately, while preoccupied with economic problems, we seem to give inadequate attention—in our homes, schools, even churches—to the spiritual and moral requirements of a stable, healthy society.

It should not surprise us that where there is loss of individual discipline and self-control there is also an assault on authority and institutions and a breakdown of social order. Witness in the United States the vicissitudes of the family and the churches and the blunting of integrity in government in recent years. That some voices now seek the disintegration of the democratic order itself seems only another element of this destructive trend.

The antiodote is basic. It lies in the constant spiritual renewal of our societies, in a quickening of those moral forces of honesty, selflessness, compassion, temperance that build up rather than tear down an individual's and a nation's character and identity. As we combat destructive thinking in all its forms, we will nurture a wholesome environment in which terrorism can take no root.

RICHARD RAYMOND BOGARDUS

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. FISHER. Mr. Speaker, Richard R. Bogardus, 65, a former Peace Corps and foreign aid official, died at Arlington Hospital Sunday as a result of a kidney ailment.

Born in Miami, Ariz., Mr. Bogardus began his Government career in 1935 as a civilian employee of the Army in El Paso, Tex.; Tulsa, Okla.; and St. Louis, Mo.

He moved to Washington in 1949 and went to work as a special assistant to the comptroller of the Department of State for foreign aid programs.

In 1961, when the Peace Corps was formed, he became its first director of budget and finance. He then spent 8 years as a loan implementation adviser for the Agency for International Development, retiring in 1970.

Mr. Bogardus had been active in the Masons for 20 years, serving in the International Order of Job's Daughters and the DeMolay Legion of Honor. He was a past master of Columbia Lodge 285 in Arlington. He was also a member of the Arlington-Rosslyn Lions Club and of the First Presbyterian Church of Arlington, in which he had served as both deacon and elder.

Survivors include his wife, Marguerite Davis Bogardus, of the home in Arlington; two daughters, Jacqueline Hawes, of Arlington, and Betty Butler, of Princeton, N.J.; his stepmother, Louise Bogardus, and a sister, Grace Mock, both of El Paso, Tex.; and five grandchildren.

BILL INTRODUCED TO EXTEND FSB PROGRAM

HON. RAYMOND F. LEDERER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. LEDERER. Mr. Speaker, today I am introducing a bill to provide a 1-year extension of the Federal supplemental benefits program which expired on November 1. A large number of my colleagues in the House have expressed strong support for this legislation. Indeed, it is my information that several Members of the U.S. Senate have tried to get this extension included as part of the social security financing bill.

The Federal supplemental benefits program was enacted in December 1974 (Public Law 93–572). This emergency program was in response to the sharp increases in the unemployment rate and the large number of workers who were expected to exhaust their employment benefits.

At that time, the bill provided both national and State triggers so that benefits would go to those places hardest hit by the increases in unemployment. Initially, the program provided for 13 additional weeks of unemployment compensation benefits (or a combined maximum of 52 weeks of regular, extended, and Federal benefits) in all States when the insured unemployment rate was 4 percent or higher. As part of the Tax Reduction Act of 1975 (Public Law 94–12), Congress increased the combined maximum to 65 weeks.

Public Law 94–45, enacted in June 1975, extended FSB until March 31, 1977. It extended through December 1975 the payment of up to 26 weeks of FSB on the basis of national or State triggers. Beginning January 1, 1976, the national trigger was eliminated and FSB was made payable on the basis of State insured unemployment rates.

In April of this year, under great pressure, this House extended the FSB program, in a limited form, until November 1 with a 3-month phaseout of the program. This extension limited to 13 weeks the maximum of additional UC benefits for a maximum of 52 weeks of combined benefits for States where the unemployment insured rates are 5 percent or higher.

It was felt that the program should be limited in scope because the economy was expected to improve enough to justify the simple extension of the program as requested by myself and many Members of this Congress.

At the present time, some 11 States are receiving the FSB portion of this program. Other States have fallen below the trigger required for benefits.

Mr. Speaker, we are again faced with termination of this program. There are those who will argue that this program was conceived as an emergency program and that it has already been extended on several occasions. They will claim that the economy has improved since the FSB was enacted in 1974 and that the economy will continue to improve to where UC benefits will be unnecessary.

Mr. Speaker, I cannot disagree more. It is true that this economy has shown definite signs of improvement over the last several months. Nevertheless, in some places in this country, especially the heavily populated areas of the Northeast, this improvement is still far off. For example, my home State of Pennsylvania still has an unemployment rate far in excess of the national average. Cities, like Philadelphia, New York, Newark, and others, are not improving as rapidly as we want. Hundreds of thousands of workers are still unable to find employment of any kind and welfare roles grow bigger and bigger.

Mr. Speaker, it is true that FSB was conceived as an emergency program. All I am saying is that for many Americans that emergency is still a part of their daily lives. Congress cannot turn its back on these people. A worker who will be unable to receive benefits as of November can only be bitter. He can only feel that his Government cannot provide a decent job has terminated what, in many cases, is his only means of survival.

Mr. Speaker, these people want to work; they do not want a handout. I am urging all my colleagues in this House to join with me and pass this emergency legislation. Once the economy improves and those people who want to work can find work, I will be the first to ask that we terminate this program.

REPEAL SECTION 853

HON. MARK W. HANNAFORD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. HANNAFORD. Mr. Speaker, I am introducing legislation today to repeal section 853 of Public Law 95–111, the Defense Appropriations Act of 1978. The purpose of this section is to save money. It requires that civilian technicians assigned to temporary duty away from their homes use Government quarters when available. This replaces a system of per diem expenses which were paid to allow these civilians the freedom to chose their own lodgings.

There are several things wrong with section 853. In the first place, it seems patently unfair that civilians should be forced into the military simply because they are employed by the military. Nor is it fair that this provision should be included into the law without the benefit of public hearings. The people most affected did not have the opportunity to voice their opinions; there was no consideration given to alternative methods of reducing costs; and there are no well-established estimates as to how much money, if any, would be saved by this law. In fact, there is a real possibility that the administration of this section could cost more than the modest amounts otherwise saved.

The general response to the implementation of this law has been dissatisfaction and anger. It certainly has not improved productivity or morale. I hope the legislation I am introducing today will produce a forum where the purpose, methods, and effects of section 853 can be publicly scrutinized, discussed, and amended.

PRICE FIXING

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. RODINO. Mr. Speaker, as the chairman of the House Judiciary Subcommittee on Monopolies and Commercial Law, I commend the following editorials from the Washington Post and New York Times. Both editorials support legislation Senator KENNEDY and I have jointly introduced to overrule the Supreme Court's Illinois Brick decision. Both Houses have concluded hearings and will soon begin to mark up a bill.

The Supreme Court substantially weakened antitrust enforcement by ruling that those who were actually injured by an antitrust violation may not recover their damages. It held that only the first purchaser of a price-fixed good could recover, even though the first purchaser passed on the overcharge to the consumer. Thus, only the food wholesaler, for example, and not the retailer or consumer, can recover for price-fixed bread, potato chips, or sugar. This, of course, leaves antitrust enforcement in the hands of those who were not injured, or who have an interest in retaining amiable relations with their suppliers.

Additionally, private enforcement of the antitrust laws by State and local government and the Federal Government are severely affected by the Illinois Brick decision. Our hearings revealed that the United States stands to lose nearly $205 million in single damages alone, while State and local governments, which have been at the forefront of antitrust enforcement, will, unless Illinois Brick is repealed, no longer be effective antitrust enforcement agencies. According to the testimony of State attorneys general in our hearings, over 90 percent of State purchases are indirect, and thus States may not be able to recover for their taxpayers.

Finally, the Illinois Brick decision contravenes the clear intention of the 1890 Congress, the 1914 Congress and the 1976 Congress. In last year's parens patriae legislation, the Congress clearly intended that consumers who paid an illegal antitrust overcharge could recover, even though they bought from middlemen.

In order to restore effective antitrust enforcement, I along with all the majority members of the subcommittee have sponsored Illinois Brick repeal legislation. It enjoys the wholehearted support of the Department of Justice, the Federal Trade Commission, and the National Association of Attorneys General.

I commend the following editorials to your attention:

[From the Washington Post, Oct. 31, 1977]

PURSUING THE PRICE FIXERS

The Supreme Court, in an unfortunate decision last June, suddenly created a large new obstacle to the enforcement of the antitrust laws. Even if you can prove that you are the victim of a price-fixing conspiracy, the Court said, you cannot recover damages unless you dealt directly with the fixer. In an economy as complex as this country's, with its vast networks of distributors, that is an extremely serious qualification. In many kinds of industry, it effectively eliminates any risk of damage suits over price conspiracies.

This anomaly stands out clearly in the case that the Court heard. The state of Illinois sued the Illinois Brick Co., charging that it had conspired to rig prices of concrete blocks. The state government had let construction contracts, the contractors had hired masonry subcontractors, and it was the subcontractors who actually bought the blocks from Illinois Brick. They presumably passed the price on, through the contractors, to the state.

Since it's not illegal to pass a rigged price on, the state can't sue the middlemen. Legally, the middlemen could sue the manufacturer. But these subcontractors weren't hurt by the conspiracy, if there was one, and in any case they are unlikely to undertake prolonged litigation against their supplier. For all the Court knew, it might have been the grandest conspiracy in the history of concrete blocks. But nobody, under the Court's rule, would recover anything.

How in the world did the Court arrive at that decision? Well, six of the justices got tangled up in a misconceived effort to apply the logic of an earlier, different case to this one. They were worried, for one thing, about creating multiple liabilities for price fixers if everyone down the distribution chain could sue for triple damages. But trial judges have broad authority to consolidate cases and require plaintiffs to allocate damages among themselves. That, in fact, was what happened in these cases before the Court suddenly halted them.

Fixing prices is a crime, and people who engage in it risk criminal prosecution by the Justice Department. But the Justice Department cannot monitor every price tag or pursue every complaint of conspiracy. To keep markets free and competitive, there is great public interest in encouraging a second kind of enforcement—the civil suit by the consumer. It's the consumer who has the sharpest interest in fair pricing. Consumers can be individuals or corporations or, as in the Illinois case, governments. The effect of the Court's decision, if it stands, is to make price-fixing much less dangerous to the conspirator.

Corrective legislation has been drafted under the leadership of Sen. Edward Kennedy (D-Mass.), and the Carter administration vigorously supports it. The opposition is coming, as usual, from those business organizations that celebrate free competition in theory, but find objections to every attempt at actually enforcing it. The Court's decision is an aberration, with unhappy implications for the American economy. The remedy is a simple two-page bill, and it is needed urgently.

[From the New York Times, Oct. 28, 1977]

BRICKING UP AN ANTITRUST LOOPHOLE

If an appliance store buys an air conditioner or a refrigerator or anything else and then discovers the price has been illegally fixed by manufacturers, it may sue for treble damages under the antitrust laws. But if it manages to pass the rigged price on to a consumer, the consumer is out of luck; he cannot sue.

That, in effect, is what the Supreme Court decided last June when it rejected a suit against an Illinois brick manufacturer. The brick company had allegedly fixed the price of building supplies that it sold to builders, and they in turn passed on the added cost to local governments for which they worked. As "indirect" purchasers of bricks, the Court ruled, the local governments had no right to sue for damages.

The Court's judgment was based on a fear that antitrust defendants might otherwise become liable many times over for the same offense. In a 1963 case, the Court ruled that middlemen—wholesalers, contractors—might still sue manufacturers for price-fixing damages, even if the middlemen had passed on every penny of the actual damage to consumers. Hence, Justice White argued, also to allow the indirect purchasers to sue would open the defendants to treble damage claims from several levels of product distribution.

The difficulty now is that the *Illinois Brick* decision threatens in practice to cripple antitrust enforcement, or to force the Justice Department to seek redress through criminal rather than civil suits. The best deterrent against price-fixing has been the civil suit, often by those wronged indirectly, because of the threat of treble damage payments. The Supreme Court's ruling will also be devastating to class-action suits brought on behalf of groups of consumers by state attorneys-general. About 95 percent of such pending claims (totaling about $200 million) are based on indirect purchases.

The only remedy appears to be an amendment to the Clayton Antitrust Act, now being considered by both the House and Senate Judiciary Committees. It would restore the right of indirect purchasers to initiate suits—but under safeguards to protect defendants from unfair or frivolous claims. An individual indirect purchaser—who bought the air conditioner—could sue if it seems worth the time or trouble. State attorneys-general could sue on behalf of the whole class of consumers who bought the air conditioners. But private lawyers would not be able to sue on behalf of a random group of indirect purchasers. Moreover, in response to the Court's concern, the bill would make it impossible for claimants at different levels of product distribution to collect redundant damages.

Some argue that the law as it stands goes far enough. Direct purchasers, they contend, have a powerful incentive to sue conspiring sellers, even when they are able to pass on the excess cost to consumers. But that seems a strange argument, on grounds of equity alone; Why should damages go to middlemen rather than to the people who are actually wronged? In the real world, the direct purchasers are often under pressure to let a price-fix go unprotested. They may be wholesalers who depend on manufacturers for their supplies and fear the loss of distribution rights. Sometimes the wholesalers themselves are vulnerable to antitrust complaints and thus reluctant to risk legal action.

Another argument against the proposed amendment is that it would further complicate antitrust proceedings. In the wake of the *Illinois Brick* decision, the courts need only determine the price-fixing has been proved and then assess damages. The new amendment would give the courts the extra job of dividing the damage award among direct and indirect purchasers. Few antitrust experts, however, foresee much effect on the work load of the Federal courts; dividing damages used to be a routine part of settling antitrust cases. That is not sufficient reason to tolerate a giant loophole in the Clayton Act.

We need effective antitrust laws to deny price-fixers the fruits of their conspiracies and to dampen inflationary pressures on the economy. Overturning the *Illinois Brick* decision would help to achieve those goals.

THE VIETNAM VETERAN

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. TEAGUE. Mr. Speaker, I am sure most of my colleagues have noticed that since January the Washington Post has published several editorials and columns by various individuals all describing the Vietnam veteran as unhonored, mistreated, misunderstood, and forgotten. There are many who feel that the Vietnam veteran experienced the horrors of war similar to those who served in World War I, World War II, and Korea—no more, no less.

Sunday's editorial, however, in the Washington Post entitled "A Special Debt" endorses the rhetoric that Vietnam veterans are looked upon differently from veterans of other wars. According to the editorial, the Vietnam war was different: limited in its objectives; unconventional in the way it was waged; bitterly controversial even in its early stages; eventually overwhlemingly unpopular; and in the end, unwon.

The editorial goes on to say that because of this "there is a natural tendency to walk away from the wreckage and not to tend to that part of the unfinished business that has to do with the emotional, psychological, and economic problems of hundreds of thousands of those who served in the Vietnam era."

For those who care to remember, Mr. Speaker, the editorial writer must have already conveniently forgotten the war in Korea. Those who served in Korea will tell you it was very unpopular. The Korean war was not brought to a quick, successful conclusion and served to sharply divide the Nation on most of its major aspects and did not end in glorious victory which prompted parades and celebrations upon the Korean veterans' return to the United States. I say the Korean war was much different in many ways than World War II, but it was not used as a basis to provide a different system of providing GI bill benefits and other veterans' assistance. To the contrary, Korean veterans are provided benefits on the same principle as provided for veterans of World War II—equal benefits for equal service.

In his remarks during the Veterans Day ceremony at Arlington National Cemetary on the morning of October 24, the President seemed to be echoing the same theme as the Post editorial after he made reference to his son having served in Vietnam. He said:

My son came back unappreciated, sometimes scorned by his peer group who did not join in the conflict.

I have two sons, a son-in-law and daughter-in-law who served in Vietnam. They did not feel scorned upon their re-

turn to this country. They were incensed that our Government severely restricted their ability to fight the enemy. But because their hometowns did not turn out the school band or conduct a parade in their honor, they did not feel their service in Vietnam was in vain, nor that they had been scorned and neglected.

They are proud of their service and sorry for any veteran who feels otherwise about serving the nation in military uniform. I share that emotion.

Mr. Speaker, we will never forget our veterans, especially those who incurred service-connected disabilities due to their service during war. The country has committed billions of dollars over the years to take care of our veterans. Through June 30, 1976, we have expended more than $258 billion in veterans' benefits for all wars; of this amount more than $201 billion were cash benefits. Ten years ago, the VA budget totaled approximately $7 billion. VA's fiscal year 1978 budget outlays are estimated to be approximately $20.2 billion. A large percentage of the increase is due to the liberalization of benefits for veterans who served in Vietnam. Veterans' benefits have always been paid on the principle of equal benefits for equal service.

Mr. Speaker, CBS commentator Eric Sevareid is one of the most highly respected individuals in broadcast journalism today. In his commentary during the CBS Evening News on October 24 he pointed out that the "moral casualties" of the Vietnam war cannot be repaired by the Federal Government alone. He indicated "family, friends, neighbors must do that, if it can be done." I feel Mr. Sevareid's commentary on Veterans' Day, in effect, is an excellent response to the most recent Post editorial; and I am inserting at this point in the RECORD his complete commentary:

COMMENTARY BY ERIC SEVAREID

On this Veterans' Day, the men most conspicuously on people's minds are the men who served in Vietnam. There is a new wave of concern for them—not because their physical experiences in that war were so different from our earlier soldieries, but because their psychological experience back home was so different The country had turned its back on that war and, in an unintended, impersonal way, turned its back, in effect, on the men of that war. Even the most heroic, save for those long held prisoner, were not treated as returning heroes. So, Vietnam soldiers, even those sound in body, were moral casualties of a sort, and it is hard to see just how government can repair that kind of damage. Family, friends, neighbors must do that, if it can be done.

It is in this respect, and this only, that Vietnam veterans were all alike. Otherwise, their war experiences were widely varied. What people at home saw were the pictures of action: the fighting and dying, the miserable rice paddies, the exhaustion. They were much less aware of the rear-area life, which is what most soldiers lived at any given time. And the difference between rear area and the active front is a vast difference; in comfort and safety, almost as vast as between home and the war theater. It would be hard to do too much for the families of those who died, and for those who were maimed or left with serious ailments. But much that is written today about the others among the two million-plus total is seriously misleading. They are written about as if they were all healthy, happy young men who were dragged off to war and came out psychological wrecks, lost and alienated at home, because of their war experience

But a high percentage of those so suffering today were not draftees, but volunteers. A high percentage of them never saw combat. The term of service was only one year. Quite a few, certainly among the Marines, reenlisted in order to stay there. Rear-area comforts and privileges were at least as good, if not better than in previous wars. Even combat, for those unhit and, if not too prolonged, is not psychologically damaging to the normal young man. For many, it was emotionally fortifying, the male animal being what he is.

War brutalizes some men; it ennobles others. But most come out of war essentially what they were when they went into it. It's an undocumented, but fairly safe, conjecture to say that most of those now unstable were unstable before they ever saw war. So, the painful problem for government and society is to differentiate. There are veterans, and there are veterans.

MAN OF THE YEAR

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. RUSSO. Mr. Speaker, the Knights of Columbus, Genoa Council No. 1659 in Dolton, Ill., recently celebrated its 65th anniversary. The group held their annual dinner-dance on October 22 and I was pleased to attend the event, not only because it was a most enjoyable evening, but also because it gave me the opportunity to pay tribute to the gentleman they selected as their Man of the Year, Mayor Norman MacKay of Dolton, Ill.

I have tremendous respect for Mayor MacKay, presently serving his third term as mayor of the village of Dolton. He is a man of great commitment and concern, and a very nice human being to know. The village of Dolton has fared well under his capable leadership.

In announcing the honoree and recipient of their Man of the Year Award, the Genoa Council said:

He has served the community faithfully and capably for the past several years . . . He is deeply involved in making the Village of Dolton a great place to live. We feel we couldn't have picked a finer man for this award. . . .

Mayor MacKay was elected to his third term as mayor in April 1977. He was a member of the Dolton Volunteer Fire Department for 20 years, during which he was secretary, president, and assistant fire chief; a board member of school district No. 148 for 8 years, and Dolton Village trustee for 10 years prior to being elected mayor.

The mayor is a former president of the Hammond Division of the National Management Association and retired after 38 years as an executive member of the management staff of American Steel Foundries of Hammond, Ind. He is now associated with A.M. Manufacturing Co.

A long-term resident of Dolton, Mayor MacKay wed Jean Packard there in 1942. They are blessed with four children and three grandchildren, and I know how proud they all must be of his latest achievement.

I also am proud of Mayor MacKay and count it a privilege to be his friend. I know my colleagues join me in congratulating this outstanding public servant.

A TRIBUTE TO THE LATE DR. MARION C. COLLINS

HON. B. F. SISK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. SISK. Mr. Speaker, I rise to pay tribute to a great humanitarian, a medical leader, and the life-saver for thousands, the late Dr. Marion C. Collins, founder of Medic Alert Foundation International. Medic Alert, which I am proud to advise is headquartered in Turlock, Calif., in the district I am so privileged to represent, provides emergency medical information on over 1 million individuals who wear special identification tags. This month, the Medic Alert board of directors has convened an international conference in Turlock, and it is fitting at this time to remember the man who established this life-saving service.

Dr. Collins, the son and father of a family dedicated to medicine, passed away at age 70 in Turlock in August of this year. He conceived the idea for Medic Alert in 1956 after his daughter, Linda, had a few years earlier injured herself while playing and had suffered a near-fatal allergic reaction immediately after being given a skin test for tetanus antitoxyn. Linda went into shock and coma from which she fortunately recovered. Not having been aware of her allergy until the near-fatal incident, and fearful that Linda might again suffer an allergic reaction, Dr. Collins saw to it that his daughter carried a note warning of her allergy pinned to the inside of her coat throughout her school years. When she prepared to leave Turlock to study nursing at Stanford University, Dr. Collins designed for her a sterling silver bracelet bearing her medical warning. This bracelet was the first Medic Alert bracelet and is now at the Smithsonian Institution here in Washington on permanent display.

Dr. Collins knew that many others must also have medical conditions like his daughter, and he began travels and consultation with emergency medical officials developing his idea of providing identification tags, cataloging background information on tag wearers, and establishing a telephone contact center in Turlock where anyone finding an unconscious individual wearing an identification tag could call for information about that person. Dr. Collins and his wife, Chrissie, set up a mail order program for the tags at their home and the local hospital in Turlock began receiving emergency calls for medical information on tag wearers.

Medic Alert moved from its beginnings in the Collins home to its current headquarters at 1000 North Palm Street, Turlock 95380. A staff of 50 now handles

thousands of requests for identification bracelets each week and hundreds of telephone calls seeking emergency information on individuals wearing Medic Alert identification. There are currently 1,163,000 registered Medic Alert members throughout the world with 757,000 members registered in the United States alone. Medic Alert affiliate offices operate in Cyprus, Canada, Rhodesia, the Fiji Islands, the Netherlands, South Africa, South Australia, the United Kingdom, the Republic or Ireland, West Australia, New Zealand, Mozambique, Jamaica, Zambia, and Sri Lanka.

I am sure I speak for every individual who has suffered a medical crisis and whose life has been saved through Medic Alert in voicing a heartfelt "Thank you, Dr. Collins." We also owe our gratitude to his widow, Mrs. Chrissie Collins, to his daughter, Linda Collins Maurer, and to the entire Collins family for their contributions to the health and well-being of so many.

WOMEN AND CHEMICAL DEPENDENCY

HON. DANIEL K. AKAKA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. AKAKA. Mr. Speaker, Mrs. Muriel Nellis, who in 1960 founded Ladies' Circle and served as editor and publisher of the magazine for 4 years, has long been involved in efforts to improve ways to help women alcohol and drug abusers. She also served as national coordinator of the National Alliance of Regional Coalitions on Drugs, Alcohol, and Women's Health. As the current president of the National Research and Communications Associates, Inc., she continues to inform the public of the dangerous effects of drug abuse on women. Engage/Social Action recently printed one of her articles on this subject. Because of the valuable information that it contains and the serious problem which it addresses, I include it in the RECORD.

WOMEN AND CHEMICAL DEPENDENCY

(By Muriel Nellis)

Psychologist Carl Rogers has said that we can't go forward until we confront where we are. Let's look at where we are regarding women and chemical dependency.

Due to a paucity of focused research on women's health, a critical societal problem is growing without sufficient data to command immediate remedial action. However, the following observations drawn from scientific and anecdotal information provide evidence for programmatic attention:

Over two-thirds of the adult population incarcerated have an earlier record of juvenile contact with criminal justice system.

Young women "status" offenders, over the last ten years, were detained and kept on probation for longer periods of time than young men, even for the same offenses.

Women who abuse drugs also tend to drink heavily and use at least three drugs. As adolescents they largely had been labeled delinquent for various status offenses (e.g., truants, runaways).

Of the 30,000 cases of child abuse reported last year, at least one-third may be linked to an addicted parent.

Drugs or alcohol are implicated in as many as 70 per cent of domestic violence incidences.

Most federally-funded treatment therapies are directed toward either opiate addiction or alcoholism, seldom for cross-addictions.

Funding criteria often do not accommodate therapy for affected others in the family and do not require or routinely support child-care components.

The overwhelming percentage of women who are seen by treatment facilities are unemployed in almost identical proportions, prior to and following the treatment regimen. For the employed, the disparity of wages paid to women and men for equivalent work is increasing.

Of the more than 229 million mood-altering drugs prescribed in 1975, estimates show that 80 per cent of amphetamines, 67 per cent of tranquilizers, and 60 per cent of the barbiturates/sedatives were issued to women.

More than 90 per cent of all psycho-active medications are prescribed by general practitioners, the balance by psychiatrists.

Most medical schools offer minimal course hours in pharmacology, fewer than 10 per cent require psychopharmacology, and all graduates are licensed to prescribe any of the controlled substances.

This is just a sample of documented information available to policymakers who are concerned with altering federal policy to promote a more rational approach to the problems of drug abuse. These insights should affect decisions that impact on the continuum of treatment that should be consonant with prevention initiatives.

LACK OF CONSENSUS ON ACTION

Currently, there exists an overriding absence of agreement on basic issues upon which action depends. There is only consensus that addiction is a scourge. It is variously viewed in economic costs-to-the-nation; as a disease for which a "cure" must be sought; as undisciplined, deviant behavior that should be punished. These attitudes, or variations on those themes, are value-weighted conclusions relating to peripheral issues more than to humanism.

A cursory examination of how money has been allocated for this "war on drugs" tends to support any and all of the theories posited. Appropriations are determined by arrest figures, seizures, treatment "slots," purity rates, recidivism rates, and so on. The government funds an enormous response to selected, categorical effects of drug abuse that are largely devoid of consideration for the variables of human motivation or need. In a society based on management-by-objectives, assessments must be made of the efficacy and quality of results.

An inordinate effort has been directed toward trying to understand the chemical composition of dangerous substances, their synergistic interaction and subsequent physiological and psychological manifestations. For the most part, these investigations have been genderless and without reference to culture, geography, human or quality-of-life relationship. There has been an increased investment in skill development for supply interdiction technology, basic chemical research, and treatment techniques. It is time to add the missing components of education and prevention.

It takes a collective courage to remand our resources and to take action on what we can learn from all relevant disciplines, in order to determine how our various social systems act on or interact with persons who are vulnerable to drug misuse. To promote the functional health of a national community, it is necessary to diagnose the condition of its diverse people, taking both cause and effect into account.

UNIQUE PROBLEMS OF WOMEN

The insufficiency of attention that has been given to the crisis-related health needs of women is in sharper focus, due to the activities of the Alliance of Regional Coalitions on Drugs, Alcohol, and Women's Health. Through nationwide organizational efforts, uniquely female problems are being identified in order to offer recommendations for remedy. What is emerging is a series of universally real measures for appropriate national health planning, reflecting life-centered needs.

Addicted women would be more willing to seek health services if the following minimal needs were addressed: a safe environment; a service that would promote the safety and care of their dependents; the removal of legal or social sanctions that threaten them and those others whose lives could be adversely affected; the provision or enhancement of survival skills, i.e., jobs and opportunity, general health care, the ability to cope with those responsibilities and stress inherent in human interaction, parenting, and conflict resolution; and finally, belief in inherent individual potential, urged and reinforced by a supportive network whose clear purpose is to affirm growth rather than thwart it.

The most successful programs for women consumers of existing services appears to manifest most of these qualities. These programs deal with symptoms of disability as but one aspect of a cry for help. They are critically sensitive to the need for hope.

A plan for the future is clear. The development of a sane national policy to obviate the ravages of addiction must begin with an assertion of our obligation and responsibility as a community one to the other. Assistance to individuals must be open to the diversity of need and aspiration. Helping institutions must be consonant with a singular purpose: the reinforcement of the separate and collective value of human striving and fulfillment.

The most impressive piece of truth that emerges from my experience as National Coordinator of the Alliance is that despite the overwhelming availability of mood-altering substances, despite the complexity of modern life, despite the paucity of assistance for women, the desire for self preservation can be fortified by the provision of supportive assistance and information to promote inner strength and access to needed resoures.

In seeking solutions to a growing crisis among women, a better way to remedy the pandemic addictions problem of our nation may be found. A strategy that encourages collective wisdom, common goals, individual strengths and potential as basic to public health, may lead to a greater shared responsibility for the prevention of destructive pursuits.

DRUG USE: A DEFINITION

We understand drug use to mean taking a substance responsibly in the appropriate amount, frequency, strength, and manner that is likely to result in physical, psychological, and social well-being and drug misuse to mean taking a substance irresponsibly in an amount, frequency, strength, or manner that is likely to result in damage to the user's health or impair his or her ability to function psychologically, socially, or vocationally, or proves harmful to society. The meaning of drug abuse is covered in the definition of misuse and is thus omitted, since it has generally confused rather than clarified understanding. No drug may be considered harmless, but the effects of any given drug must be judged in the light of such variables as dosage, manner of ingestion, the user's personality and disposition, and the social setting in which the drug is taken.——from

the statement on "Drug and Alcohol Concerns," adopted by the 1976 General Conference of the United Methodist Church.

DRUGS, ALCOHOL, AND WOMEN'S HEALTH

An alliance of regional coalitions has been launched as a nationwide project to help women with drug and alcohol problems. This alliance was initiated in October, 1975 at the First National Forum on Drugs, Alcohol and Women and signals a continuity of commitment made by the Program for Women's Concerns in the Office of the Director of the National Institute on Drug Abuse and in accord with the newly amended Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 94–371).

The project is designed to discover how concerned citizens in various localities, nationwide, view the particular needs of women who are vulnerable to or dependent on drugs or alcohol, and to solicit their recommendations. In pursuit of this objective, five existing regional coalitions will be strengthened to increase their organization and communication network. Each coalition has identified a regional coordinator and state captain. With the assistance of community organizations and other interested experts, they will collect information on programs, techniques, and settings which have particular promise for the increased functional health of women.—from d.a.c. bulletin, April, 1977.

ALCOHOL AND DRUG ABUSE AMONG OLDER PERSONS

According to an unpublished study of A.A. members, about 45 per cent of A.A.s aged 51 and over made their first contact with A.A. after age 50.

Because older persons must take more drugs for medicinal purposes, the use of alcohol often occurs unavoidably or inadvertently in combination with other drugs. Adults over 65 compromise 10 per cent of the population and receive 25 per cent of all prescriptions.

Currently 1 per cent of the heroin addicts enrolled in Methadone programs are over age 60.

Thirty per cent of all calls made to the Drug Hotline in Browne County, New York, were by older persons. One community survey revealed that 30 per cent of the calls to alcoholism information and referral centers came from persons over 55. Using the data from this survey as a guide, 7.5 per cent of all people over 55 are problem drinkers. As a conservative estimate, the number of older problem drinkers in the US is clearly in excess of 1 million persons.—from "Alcohol and Addiction," a study program for adults and youth, by Karl A. Schneider.

REDFORD TOWNSHIP—AWARD WINNER

HON. WILLIAM M. BRODHEAD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. BRODHEAD. Mr. Speaker, we hear a great deal today about the need to further international understanding and cooperation, to break down artificial barriers and improve communication between people. To many, this may seem an impossible task. The people of Redford Township, Mich., however, whom I represent in Congress, have turned this visionary ideal into a working reality.

Redford Township is a participant in the Sister Cities International program, which was established to help promote international understanding on a person-to-person basis. In 1974, Redford sent a delegation of citizens to its Sister City, St. Johann, Austria and was warmly received. Last year, Redford returned the favor and played host to 120 yodelers, dancers, tourists, and members of the St. Johann Municipal Band led by St. Johann's mayor, Andreas Mariacher. The event, which occurred at the height of our national Bicentennial celebration, was a festive occasion for both visitors and hosts. More than being a good time, however, it gave Americans and Austrians alike a deeper appreciation and understanding of each others' culture, institutions, and customs. In addition, it helped bring the people of Redford closer together with friends and neighbors in a common effort.

In recognition of the success of this event, Redford Township was awarded the unique honor of Best Single Project Award for a city of its size by Sister Cities International at a ceremony at Palm Springs, Calif., in August 1977. I wish to commend the people of Redford Township and those active in the sister city program for this great accomplishment. I hope that other cities throughout the country will follow Redford's lead and institute similar programs.

U.S. INFERIORITY TO SOVIET WEAPONS, NITZE SAYS

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. BOB WILSON. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

[From the Washington Star, Nov. 2, 1977]

UNITED STATES IS "LOCKED INTO" INFERIORITY TO SOVIET WEAPONS, NITZE SAYS

(By Henry S. Bradsher)

A prominent critic of strategic arms agreements with the Soviet Union charges that the United States is "locked into a position of inherent inferiority" to Soviet weapons and "we don't know how to get out of it."

Paul H. Nitze says the Carter administration is "in deep trouble" in efforts to achieve its main goals of reducing the vulnerability of the American nuclear deterrent and achieving rough equivalence with Soviet power in the current strategic arms limitations talks, SALT II.

Nitze's attack yesterday was the strongest challenge to the administration's SALT II efforts made publicly since a tentative outline for a new treaty was agreed upon with the Soviet Union in late September. There has been a rising tide of criticism of the efforts in Congress and in the Pentagon but no detailed examination of the still officially secret details comparable to Nitze's.

His attack was launched from the most complete account yet made public of those details. The main points had already leaked out of the administration.

A former senior official at both the Pentagon and the State Department as well as a SALT I negotiator, Nitze has stayed well informed on strategic relations as a private citizen. Some administration sources have suggested that he is supplied with classified information by those inside the government who oppose SALT * * * positions.

Nitze spoke at a news conference arranged by the Committee on the Present Danger. Founded last year with Nitze as a key member, the private committee argues for a stronger U.S. military posture to counter what it sees as a growing threat of Soviet military preponderance that might enable Moscow to dominate the world.

The United States lacks the negotiating leverage to seek strategic armaments equal to the Soviets in later negotiations. Nitze said. This is caused by restrictions now being accepted on future weapons' developments and a political reluctance here to push ahead with some weapons systems, he contended.

Nitze pointed out that what were supposed to be just interim arrangements in the 1972 SALT I treaty allowing the Soviet more and bigger intercontinental ballistic missiles than the United States would become permanent if the present tentative agreement on SALT II finally becomes a treaty. But the supposed American advantage in technology which made that imbalance justifiable in 1972 is disappearing.

By 1985 or possibly earlier Soviet missile warheads could have enough accuracy to destroy some 90 percent of U.S. land-based missiles in a first strike by less than half their missiles, Nitze contended. But, he said, the entire U.S. land-based missile force would be able to destroy only 60 percent of the Soviet force.

U.S. strategists have argued that the large force of American submarine-launched missiles provides more nearly equal balance, although those missiles cannot be targeted with as great accuracy as land-based ones. Nitze said the tentative agreement would leave the Soviets with an advantage in naval missiles also.

Most of his argument dealt with numbers and nuclear destructive power of land-based missiles, in which the Soviet have long had a lead. Nitze and other leaders of his committee reject the contention by some administration spokesmen that all this country needs is sufficient power to inflict unacceptable damage to the Soviet Union, which requires smaller numbers or power than equivalency.

The negotiations now under way in Geneva to try to work out details of the tentative agreement are reportedly having trouble with definitions of terms that are critical to the value of a treaty. There are also troubles in agreeing on ways to verify adherence to a new treaty.

Nitze was one of those who tried to make a public issue of contentions that the Soviet cheated on SALT I. With Secretary of State Henry A. Kissinger playing the key role, however, the Ford administration bottled up that controversy.

Nitze said yesterday some of the current problems are defining how heavy a bomber has to be before it comes under strategic limitations, how the range of cruise missiles is calculated for treaty purposes, how big is a "small" missile, and similar points.

"Even were the limitations clearly defined," Nitze said, "compliance is in many cases difficult to verify." Cruise missile ranges similarities in strategic and medium-range missiles, and other points could provide room for uncertainties.

NATIONAL BIBLE WEEK

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. WOLFF. Mr. Speaker, the week of November 20–27, 1977, marks the 37th inter-faith National Bible Week spon-

sored by the Laymen's National Bible Committee. Along with Senator PETE V. DOMENICI, I am pleased to serve as co-chairman of the Congressional Committee for National Bible Week.

The Laymen's National Bible Committee was founded in 1940 for the purpose of encouraging church, synagogue, and Sunday school attendance; promoting a better understanding among all peoples; and stimulating religious thinking. It is an organization made up of business and professional leaders of all faiths who want to promote the reading and study of the Bible. Working with the committee in its efforts are: the Greek Orthodox Archdiocese, the Jewish Committee for National Bible Week, the National Council of Churches, the U.S. Catholic Conference, the Christian Scientists, the Mormons, and Bible Societies.

The purpose of National Bible Week is to stimulate interest in the Bible as a contemporary moral resource. With the great influence the media and its popular values have on our Nation's youth, it is especially important to spark the interest of that part of the population in the values taught in the Bible. We must not forget that the Bible formed the very basis of Western humankind's legal and social values, and that these values are as important today as they were centuries ago.

I ask my colleagues to remember and celebrate National Bible Week, and to bring its observance to the attention of their constituents.

THE RECOGNITION OF FIDEL CASTRO

HON. WILLIAM M. KETCHUM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. KETCHUM. Mr. Speaker, I for one have heard quite enough concerning the resumption of diplomatic relations with Cuba. I believe that those who advocate this foolhardy step are simply refusing to acknowledge Castro's regime for what it is. At this time, I would like to share with my colleagues my analysis of the true situation, and predictions concerning the future of Cuba under Castro:

THE RECOGNITION OF FIDEL CASTRO

Voices are periodically raised in the media, in business and academic circles, and in the government itself, favoring better diplomatic relations with Fidel Castro's Cuba. Proposals to open up trade relations with the Castro regime are often predicated upon the granting of easy, long-term credit, a measure that effectively amounts to foreign aid. Fortunately, many knowledgeable and concerned Americans think otherwise. The research analysts of the Council for Inter-American Security, a non-partisan, research and educational organization, have just completed a geographically representative, nationwide survey of opinion leaders throughout the United States. The CIS analysts have asked a simple question: Should the United States extend diplomatic recognition or aid to Fidel Castro's Communist Cuba? The response was overwhelming: 23,047 said "no", and only 362 said "yes".

FIDEL CASTRO

When Fidel Castro came to power in Cuba on January 1, 1959, he was widely regarded as a "leftist-populist revolutionary", Castro's dramatic siezure of power, the capture of Havana, Cuba's beautiful Capitol, occurred almost two decades ago. After another month and another year, Castro will have dominated Cuba for 20 years, longer than any man in Cuban history.

Twenty years ago, he was surrounded with romance and mystery. He was applauded as a great liberator. But, still, there were questions. Was he a Communist? Would he betray the slogans and principles emblazoned on his banner? Would he betray the many people who rallied to his cause, the cause that brought him to power? Those were legitimate questions nineteen years ago. They are no longer legitimate.

Mr. Speaker, Fidel Castro proclaimed himself a longtime committed Communist in 1961. He confessed a commitment to revolutionary Marxism, which he said went as far back as high school days.

Amazingly, some people continue to view the personality and the regime of Fidel Castro through a veil of mystery and romance. Surprisingly, some people seem bent upon betraying their own reason to wishful thinking or fantasies. There are those who imagine that Fidel Castro will somehow change or reform. It seems that the same people who did not, or would not, see Castro for what he was twenty years ago, will not see him for what he is today. But there are no longer any reasons or excuses. Twenty years time is long enough; the repressions, the prisons, the executions, and the mass arrests are evidence enough. He is, was, and probably will always be, one of the most brutal and megalomaniacal dictators in this Hemisphere.

There are those in the media, in the business community, and in the Administration who would prefer to "normalize" relations with Castro's Cuba. But what does it mean to "normalize" your relations with another who is, and continues to be, "abnormally" hostile to everything that is precious to you? What is normal? What possibly could be "normal" under those circumstances?

Even if the United States were to grant diplomatic recognition to the Castro regime, we must continue to ask: Who benefits? The United States or Fidel Castro? Who, in the meantime, is expected to make the concessions, turn the other cheek, look the other way on those issues that divide the United States and Communist Cuba?

The answers to these new questions have been forthcoming through the words and actions of Fidel Castro himself. And again, there are no excuses for those who will not see or hear. Very recently, as reported in the Inter-American journal Diaro Las Americas on September 30, 1977, Castro sounded off on a number of topics of interest to those who are currently addressing themselves to the question of Cuban diplomatic recognition; human rights, the role of Communism, economic policy, and the future of the United States naval base in Guantanamo Bay.

Will Fidel Castro soften his ideological intransigence, his commitment to Marxist-Leninist revolutionary principles to accommodate the United States? Not at all. Quite to the contrary, Castro reaffirms his commitment to the revolutionary doctrine of Communism. In discussing the possibility of better relations with the United States, he declares, "We should shun all types of mixtures in our politics. They continue to be Capitalists and we continue to be Marxist-Leninists."

All conflicts in the international order are to be traced to the existence of capitalist society; capitalism is "inherently unjust", and that which will replace it, Communism, in Castro's view, is inherently "just". Only if the United States were to cease and desist as a system dedicated to the principles of individual freedom, free enterprise, and limited government, then and only then, would there be "true peace" in the world.

If those in the academic community, the business community or the Administration honestly believe that improved political relations with Castro, if that were possible, would result in a trade balance that is either profitable or equitable, they are sorely mistaken. Communists do not do "business as usual". Communists do not think in the same terms as do Western business, financial or banking interests. Every economic action is subordinate to a political aim. Every political aim is subordinate to an ideological goal. Nowhere is this better demonstrated than in Castro's Cuba. Cuba is an economic failure but, from the standpoint of its impact on other nations, an enormous political problem. Without even specifying the possibility of a lifting of the U.S. embargo on Cuban trade, Castro declared, "It is the policy of our government to buy in the Western countries of the world only those things which we cannot obtain from the socialist countries or the USSR. You don't think we are going to buy superfluous things. We are buying only essentials like medicines, nutriments, and fertilizers . . ." The Cuban economy is thus a revolutionary economy, an austere economy geared toward the fulfillment of Communist revolutionary ends.

Is there a cost in this? Of course there is a cost. But Castro is not alone. He knows that he can depend upon the economic assistance of the Communist world, especially the USSR. It is with that assistance that he is able to continue fighting a guerrilla war in far-away Africa. For the leadership of the Communist world realizes that Castro is their "front line" man in what they like to call the international struggle against imperialism. They know that Cuban soldiers are taking the place of Russians, Poles, Hungarians, and East Germans in the protracted war to extend the Communist sphere of influence into remote areas of the world. Castro himself is grateful for that help: "Thanks to the cooperation that we have received from the socialist countries of the world, the world economic crisis has not hit us in the terrible manner in which it is hitting other countries." Can one imagine what a "terrible" economic crisis could possibly be in a run-down, austere, economy like that of Cuba?

Castro unleashes great gusts of bombast in his long tirades against "American Imperialism", but he doesn't explain how this aggression differs from his own incursions into far away Africa. He regularly lambastes "Western militarism", but he doesn't take notice of the fact that his own military apparatus is enormous, considering the small size of his country. Nor is any Western nation sending thousands of troops to fight natives in Third World nations the way in which he is sending his troops to fight black Africans who oppose the advance of Communism in their respective nations.

Do proponents of "normalization of relations" with Castro's Cuba expect to receive any type of compensation for the expropriation of U.S. properties? They will have better luck with the Tooth Fairy. Castro has no intention of paying any indemnities to the United States for confiscated properties: "If they wish to discuss indemnities, they'd better include losses caused to our economy by years of blockade and by aggression that obligated us to maintain an army of thousands of men for a long time."

Do proponents of the "normalization of relations" think that Castro will show any greater respect for human rights than he has in the past? Quite to the contrary, Castro has plans not only to maintain the level of police repression prevailing in Cuba, but to increase it. He has plans to crack down on what he calls "general delinquency" in every

sector of Cuban society. He monitors the work of his police state anxiously, hoping that it will ensure a streamlined, obedient, totalitarian society of the type envisioned by Stalin and Hitler. Like the early French Revolutionary Committees for Public Safety, the murderous engines of the Jacobins during the French Revolution, Castro has set up his Committees for the Defense of the Revolution. He is preoccupied with what he sees as "general delinquency": "It is the work of the Committees of Defense in the future, more than to pursue counter-revolutionary delinquency, to act also against the general delinquent."

It is clear that with these new police-state repressions, Castro has every intention of consolidating his political position in Cuba, far above even the most remote threats. Along with this, he has expressed a desire to consolidate his military strength. This includes, of course, eventually forcing the United States to abandon the Naval base at Guantanamo Bay, which, he says, is "occupied by force".

Those proponents of "normalization" of relations with Cuba must face up to the fact that Cuba is abnormally hostile to the just national interests of the United States, any conception of human rights, equity in international political and economic relations, and any real relaxation of tensions around the world. The task of a sound foreign policy is to take into consideration not only our highest aspirations, but also our worst expectations. More than twenty years observations on the doing of Fidel should give us some indication of what to expect.

ESTATE TAX—AGED AND DISABLED FARMERS

HON. MARTHA KEYS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mrs. KEYS. Mr. Speaker, I am today introducing legislation to correct an oversight in the treatment of farm families made in the estate tax provisions of the Tax Reform Act of 1976. The bill is designed to insure that aged and disabled farmers as well as the minor children and retired widows of farmers are afforded the same benefits as others under the estate tax law.

The Tax Reform Act of 1976 permits farmers, whose land values have skyrocketed in recent years, to have their land taxed upon death at rates applicable to farmland and not at the higher rates applied to land used for commercial or development purposes. While this provision generally helped farmers, a quirk in the section would prevent farmers who are too old to continue farming to have their land valued at the lower rate.

In order to be eligible for "special use valuation," a farmer must meet certain requirements establishing that the farm is, in fact, a family farm and will remain in family hands. To prevent land speculators from taking advantage of these provisions, it must be shown that someone in the family "materially participated" in the operation of the farm during a specified number of years.

Under these requirements, however, the use of a farm manager to run the farm could not be considered as participation by a family member. The result was to penalize bona fide farmers and their family who, by reason of age or disability, could not run the farm themselves.

The legislation I am introducing simply expands the period during which a person is considered to have participated and takes into account the utilization of a farm manager for the aged, minor children, and the physically and mentally disabled. Thus, young widows with minor children will be able to use the services of a manager until the child is grown without being penalized. Similarly, elderly farmers or their widows will not lose their special use valuation simply because they must employ the services of another to continue operating the family farm.

This is an important measure to assist farmers in passing on their land from generation to generation, and I hope my colleagues will support it.

PENTAGON AIDES CALL CRUISE MISSILE ABLE TO PENETRATE SOVIET

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. BOB WILSON. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

[From the New York Times, Nov. 2, 1977]

PENTAGON AIDES CALL CRUISE MISSILE ABLE TO PENETRATE SOVIET

(By Bernard Weinraub)

WASHINGTON, Nov. 1—The Defense Department contends that the Soviet Union's $100 billion air defense system is vulnerable to the American cruise missile and that Moscow would have to undertake a multibillion-dollar program to offset development of the new weapon.

Pentagon experts, in a briefing for reporters, said that even with a $50 billion program over the next 5 to 10 years, the Soviet Union still would lag behind if the United States continued to improve the cruise missile, a pilotless, winged craft that can fly low to avoid radar detection.

In discussing the capacity of the cruise missile, the officials were seeking to blunt recent reports that it would not be able to pierce Soviet air defenses.

Interest in the cruise missile—both pro and con—was revived when President Carter announced in June that he would stop production of the B–1 supersonic bomber and rely on equipping the subsonic B–52 fleet with air-launched cruise missiles. He said he believed that the bomber-cruise missile combination would more than match the B–1.

Opposition to the cruise missile, which carries computerized maps, can skim above the ground at 450 miles an hour and can hit targets with great accuracy, has been generated by supporters of the B–1 bomber who contend that the missile may be vulnerable to Soviet air defense.

TWO TECHNICAL STUDIES ARE DESCRIBED

To rebut the critics, including a column on Oct. 29 by Rowland Evans and Robert Novak, Pentagon officials held an unusual 80-minute meeting with reporters.

"It's the department's view that the cruise missile, as it is presently designed, is capable of defeating the Soviet air defense system, as it is presently designed," said one of the officials.

The officials said two technical studies were conducted over the summer to determine the vulnerability of the present missile to an improved Soviet air defense system, and to test missile vulnerability to Soviet defenses of the mid-1980's.

The studies are said to have shown that the Soviet Union would have to deploy advanced surface-to-air missiles on 500 to 1,000 sites to come up with an adequate defense. Another potential Soviet response could be the production of a fighter plane with a look-down, shoot-down radar and the air-to-air missiles to go with it.

"What we don't know is what the Soviet reaction to our cruise missile is going to be," said the official. "They may elect to go on a crash program, spending $50 billion over the next 5 to 10 years to respond. I would not put that beyond the realm of possibility."

However, he said, upgrading of the cruise missile would counter any advances that the Russians would be able to make in air defense. One of the technical studies, by the Defense Science Board, made it plain that the United States would retain the edge so long as advances kept pace with the Soviet Union.

The Defense Science Board, a group of science advisers to Defense Secretary Harold Brown, asked a number of questions, according to the officials, and sought to provide the answers.

It reported that a 1980 cruise missile would be able to defeat 1980 Soviet air defenses, but that such a missile would do poorly against projected defenses of 1985 and beyond. However, it said that the cruise missile that the United States is likely to have in 1985 would again be able to defeat 1985 defenses.

"The cruise missile will win, whether you're talking about 1980, 1985 or 1990," the official said. "That is the advantage with the offense. The technological advantage is with the cruise missile rather than with the air defense."

Discussing the uses of the cruise missile in a possible attack, the official said: "The technique that the cruise missile has available to it, almost by its very nature, is what's called saturation."

This involves the use of about 200 bombers, armed with 3,000 cruise missiles, whose deployment would complicate any air defense system and result in many of the missiles piercing the defense barriers.

IN HONOR OF JAMES TRENZ

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. WOLFF. Mr. Speaker, on October 1, 1977, I had the honor and privilege to serve as an honorary chairman of a dinner-dance to pay tribute to James Trenz on the occasion of his 35th anniversary of elected union leadership.

In 1951, Jimmy Trenz's efforts in behalf of his fellow workers directly resulted in the founding of local No. 463 of the International Union of Electrical, Radio and Machine Workers, AFL–CIO. As president of local No. 463, Jimmy has worked tirelessly to build and maintain a better quality of life for the union membership and their families. No words can adequately describe his untold efforts and achievements.

The occasion to honor Jimmy Trenz also marked an historical event for local No. 463. One the first goals of the local since it was formed in 1951 was the acquisition of its own buildings and offices.

After 10 years of fundraising efforts and contributions from dedicated members, the local undertook a mortgage on what remains its building and offices. In 1977, 15 years later, this mortgage has been repaid in full, and the union can be proud to call its building its own home. This historical event was ceremoniously marked by the burning of the mortgage at the dinner dance.

Mr. Speaker, at this point I would like to insert into the RECORD the remarks of James Trenz, founder and president of local No. 463, IUE AFL–CIO, given at the 35th anniversary-mortgage burning dinner dance held on October 1, 1977:

REMARKS OF JAMES TRENZ, FOUNDER AND PRESIDENT, LOCAL NO. 463, IUE AFL–CIO, AT THE 35TH ANNIVERSARY-MORTGAGE BURNING DANCE

In 1951 when I had the high privilege of founding this Local, we operated out of a storefront and it wasn't even our own store. It was some other Local's store that they let us share with them. Then about a year after that, I suggested to the Executive Board that we set up a building fund and after much discussion as to whether or not that was a wise course to follow and whether we could really afford to do something like that, we opened a bank account for the building fund and we deposited ten dollars. That was our initial deposit in the building fund. Well, in the ten years that ensued, we ran dances to raise money for the building, and lo and behold in 1961 we had enough money and I recall Pat Ciccone, one of our charter members, located this building for us down on Parsons Boulevard. In 1962 we made the mortgage. As a matter of fact we got the mortgage from our Welfare Fund which we paid six percent interest, which, of course at that time was a fine rate of interest. Sometimes now-a-days it's not so bad either. But certainly at that time it was great. So now lo and behold 15 years later, we have paid off that mortgage and the dream to which we aspired namely owning our own Trade Union home has come to fruition. So with that now I'm going to burn this mortgage in your presence and again another dream come true. There goes the mortgage. Let's take a look at the mortgage. All right, there goes the mortgage.

Father Fox, Chairman Burnell, President Van Arsdale, Congressman Wolff, President Bywater, Honored Guests on the dais, and honored guests, all in the audience. Now you can find your name here in the seating list and you know I'm talking about you. I'm certainly very moved by this tremendous turnout, particularly in spite of this dreadful weather, and yet with all of that we've seated some 750 people, not counting the dais. We have hundreds of members here from Local 463 from the shops. Most of our employers are represented, certainly the good ones. We have hundreds of trade unionists from 43 different union organizations, and of course we have friends from business and the community. So I'm indeed grateful for this tremendous tribute and I want to thank you all.

Now in celebrating my 35th Anniversary of full time elected leadership, I was at first planning to give you a report year by year, of what I've been doing. However, I decided against that because I want you all to come back to celebrate my 50th anniversary with me. I want to thank the Borough President for his proclamation. I guess in spite of the rain any day is a great day if they name the day after you, so I'm certainly grateful. I want to thank Bill Bywater for his remarks and his promise, and I'm going to hold him to that promise. We have it on tape and there are hundreds of witnesses so we're going to expect him to deliver. My thanks to the dynamic President of the New York City Central Labor Council, Harry Van Arsdale, Jr. He has been an inspiration to me and to the entire Labor Movement, particularly in this area. I want to thank Commissioner Ross too for coming down in this weather. I'd like to thank our Dinner Committee who worked hard here tonight and our Union Staff, which did a great deal of work with respect to this Dinner. It's a tremendous undertaking. I certainly don't want to forget our Chairman, John Burnell, who's worked hard here under some adverse conditions once in a while, and Sid Lew who does all of the behind-the-scenes work, the real nitty-gritty work on these things. Thanks are also due to Congressman Wolff. His voting record in Congress, and his Committee activities, have earned him the thanks of all Americans. I certainly want to thank my fellow officers, John Connolly and Bernice Cattrell, the Membership and, of course, the Executive Board for giving this Award to me. I want to pledge to you that I'll certainly try to represent the highest ideals of the American Labor Movement to the fledging trade union movements in those underdeveloped nations of the world, those nations of the world where the multi-national employers are exploiting labor there, and also exploiting labor here. Certainly we've got to bring the message of international labor solidarity, sponsored by the AFL–CIO, to those nations so that we might have a better life for them and a better life for us here, a better life for workers all over the world.

Over these past 35 years I've been privileged to have so many fine people helping me, it's people in the shops, the Chairmen and the Stewards, and of course, the people on the Union staff over the years. Edith Hammer who was with me for 23 years, the late Guy Caputo was with me for 20 years, Fred Simeone is with me for some 19 years, Maggie Sierra has been with me for some 20 years, Myrna Messel for 12 or 13 years. Fred Thome is a relative newcomer with six years or so, and we have Yvonne Thornton. All of these wonderful people, who over the years, have helped me to carry out the mission that I'm entrusted with by this Membership to create and fight for a better quality of life for our people and their families, and that's what we're going to continue to do beyond the 35 years.

You know people have asked me, well, I guess over the 35 years, now that you're having an anniversary, I guess you enjoyed every minute of it. Well the answer is no, I didn't enjoy every minute of it. There were heartaches, disappointments, tensions, frustrations; workers very often don't appreciate what you do for them. Certainly the members of Local 463 have shown their appreciation here tonight. I'm grateful for the once-in-a-while appreciations, but I really don't do it because I expect appreciation or because I'm looking for appreciation. If I was doing what I'm trying to do just for appreciation, I'd have given it up a long time ago. No, what keeps me going is the sure and certain knowledge that every wage increase we negotiate, every improvement we make in our Pension and Welfare Plan benefits, every gain in fringe benefits, means a better quality of life for our people. To me that is the credo of the true trade unionist. I do it because I appreciate what I'm doing, because I believe that my dedication in life is to do whatever I'm able to accomplish in terms of getting people a better standard of living, better food on the table, better clothes, a better home, so their kids can go to college, that workers can have vacation homes if you please, not only their own homes. That's been my dedication, that's the legacy I will leave when I go to that great union hall in the sky, I'll leave that legacy for thousands of workers and their families for many years to come.

And of course I intend to see that when workers are too old to work and too young to die that they will have adequate pensions which will give them financial security and dignity during those golden years that they have yet left to them. To me, our Union is a defense mechanism against injustice. We must use it to fight against economic injustice in the shops, and to provide dignity and security for our members on the job. We must use our Union to fight social and racial injustice in our community and the Nation. Our Union, and its extension in the Labor Movement, is the only instrument that workers have to improve their conditions and their station in life. The job of leadership in our Union or any Union is to try to make that instrument as fine and as effective as we can, so as to achieve the goals democratically decided upon by our Membership. The leadership of the Union must be totally committed to the Membership.

Finally I want to say to you, if those of you don't know it yet, that certainly this is my dedication. To me it's not a job, it's not a profession, it's a calling, and I intend to continue to do that as long as the good Lord and the Membership give me that opportunity. Thank you again for paying me this great tribute and thank you for sharing with me this great milestone in my life.

It's an evening that I will never forget. Thank you and God bless you.

REMARKS OF BERNICE CATTRELL, SECRETARY-TREASURER, LOCAL NO. 463, IUE AFL–CIO, AT THE 35TH ANNIVERSARY-MORTGAGE BURNING DINNER DANCE

Reverend Clergy, Chairman Burnell, President Trenz, honored guests, members and friends. Anniversaries are occasions to be celebrated with family and friends. We are deeply moved to have with us tonight a fitting coalition of union, business, government, family and friends, joining with us to honor President James Trenz on 35 years in progress for electrical workers and their families. Jimmy is a little guy, but he is a giant when it involves his members. The word "can't" and "it won't happen" are not in his vocabulary, and that is why he has accomplished so many important things for members of Local 463. Ten years ago we sent Jimmy to Germany to discover his roots. Next year members of Local 463 are going to send Jimmy and Rita Trenz to Africa to help discover my roots. Those of you that are familiar with his mission to South-East Asia will know his mission to Africa will be even more successful. William Grogan, late father-in-law of Jimmy Trenz, aided and advised us many times during the years in crucial periods, especially during the critical period of the founding of this Local. The proceeds of tonight's affair will benefit the William Grogan Scholarship Fund to help all of our deserving Youths attend colleges. We are honored tonight to have the widow of William Grogan, Mrs. Molly Grogan.

And I would like to have at this time our Senior Citizens Club President and Former Vice-President, Edith Hammer, come forward and make a presentation to Mrs. Grogan.

Thank you so much, Edith. Mrs. Grogan is a wonderful deserving woman because she is the mother of Rita Trenz who is the dynamic moving force behind our Local President Jimmy Trenz.

RUSSIA'S MILITARY BASE IN CUBA

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. CARTER. Mr. Speaker, I regret to say that I was totally unaware until re-

cently that Russia has an advance military operational base in Cuba, at which approximately 24 Soviet TU-35D bombers are based. I remember well the confrontation over nuclear installations on Cuba during the administration of the late President John F. Kennedy. Perhaps it was his greatest hour when he forced Khruschev to remove the nuclear warheads from that island.

I include for the RECORD an article written by syndicated Paul Scott which appeared in the Knoxville Journal.

[From the Knoxville Journal, Oct. 28, 1977]

RUSSIA'S MILITARY BASE IN CUBA

(By Paul Scott)

WASHINGTON.—Russia's growing use of its advance military operational base in Cuba is taking on a new and alarming significance.

Since President Carter unilaterally ended all U.S. surveillance of Soviet air and naval installations in Cuba, the Russians have stepped up their activities in and operations from this strategic island located only 90 miles from the tip of Florida.

Soviet reconnaissance, and nuclear bomb carrying bombers flying from Cuba are now testing and trying to disrupt air defenses located on the Eastern and Southern coasts while photographing and mapping U.S. military installations and warships.

Their long-range objective is to develop a plan to neutralize the radar system designed to detect and alert U.S. defense forces to enemy aircraft and low flying cruise missiles launched from offshore nuclear-powered submarines.

These "offensive" type military activities, the first of their kind near the U.S. coastline, are causing deep concern among high-ranking U.S. military officers since it is taking place inside the U.S. defense perimeter for the Western Hemisphere.

In effect, the Russians gradually have turned the strategic Caribbean Island into an advance "offensive" military base for the purpose of expanding Soviet military and political influence throughout the world.

The full significance of this development can only be understood when all of Moscow's current "offensive" military operations from its advance Cuba base are examined. With little or no effective protest from the U.S., the Soviets have now accomplished what they originally set out to achieve back in the early part of 1962—the establishment of an advance strategic military base inside U.S. defenses and are using it.

Approximately two dozen Soviet TU-B5D bombers, with range of upward to 5,000 miles, are now stationed at airfields in Cuba on a rotation basis. Capable of carrying nuclear weapons, these bombers have the power to destroy one-third of the nation's industrial capacity and kill upward to 70,000,000 Americans in a surprise attack. These bombers are the modern version of those that the late President John Kennedy forced the Soviets to remove from Cuba during the missile crisis 15 years ago.

Cuban naval facilities are now available and used by a fleet of Soviet nuclear-powered submarines and missile-firing cruisers The Cuban bases permit these Russian warships to operate inside the U.S. defense perimeter for the Western Hemisphere.

In addition to these Soviet air and naval operations from Cuba, more than 10,000 Soviet and East European military advisers have turned the entire Cuban military force of 120,000 into an "offensive" force for use any place in the world.

Already, more than 30,000 of this Soviet equipped and trained Cuban force are engaged in or supporting military operations in behalf of pro-Moscow Marxist governments in Angola, Ethiopia, Mozambique and Laos. In Angola and Mozambique, the Cubans are now helping the Russians establish advance military bases for future operations in southern Africa.

Strange U.S. policy—When all the cover layers are removed, the policy of the Carter Administration since January has been to let the Russians continue their operations from this strategic base and to even protect it from any outside attacks by anti-Castro forces.

Activities of anti-Castro forces are now kept under tight surveillance by U.S. agencies under direction from the White House and this information is being passed along to Cuban officials in Havana on a regular basis. In other words, U.S. intelligence and security agencies are now working for Castro and Moscow and not against them.

The ending of U.S. reconnaissance flights over the island also permits the Russians to operate there in a secrecy comparable to the early months of 1962 when they began sending bombers and missiles to Cuba.

Because of the Carter Administration's policy of accommodating both Havana and Moscow, there is little or no possibility that the U.S. will take action to limit Soviet operations from its Cuban base unless pushed to do so by Congress and the public as Kennedy was in 1962.

Government insiders say privately that the only thing that has kept the President from lifting the Cuban embargo and establishing full diplomatic relations with the Castro government has been the opposition in Congress and around the country.

Until the Senate acts on the new Panama Canal Treaties, it is stressed, the President doesn't want to take on any new foreign policy battles that would split the country.

Senate hearings needed—With the Senate Armed Service Committee planning to hold hearings in January on the security implications of the new Panama Canal Treaties, the lawmakers should be encouraged to use these sessions to highlight the impact that the Russians' base in Cuba could have on our ability to defend this strategic waterway.

Russia's grand design for years has been to neutralize and then control the strategic waterways of the world and the Soviet's advance military operational base in Cuba fits into that strategy.

Not so clear is why the Carter Administration is assisting Moscow in its objective by (1) protecting its base in Cuba and (2) negotiating a treaty that will make it increasingly harder to politically, legally and militarily defend one of the most strategic waterways in the world.

THE 125TH ANNIVERSARY OF GOOD SAMARITAN HOSPITAL IN CINCINNATI, OHIO

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. LUKEN. Mr. Speaker, this year Good Samaritan Hospital of Cincinnati, Ohio, is celebrating 125 years of service to the Cincinnati community. I bring this event to your attention, because this hospital has made a great contribution to the quality of health care available to residents of the Cincinnati area.

Good Samaritan Hospital was founded in 1852 by the Sisters of Charity. From the time of its inception, in keeping with its goal of providing patients with the best health care possible, Good Samaritan Hospital has been a leader in introducing innovations in medical care and health education. Good Samaritan Hospital was approved for teaching interns as early as 1866, and began the first organized school of nursing in Cincinnati in 1897. Over the years, as medical technology has grown, this hospital has often been the first one in the area to provide patients with the most advanced medical treatment possible. In addition to many other outstanding health care services, in recent years Good Samaritan Hospital has begun offering patients the services of pulmonary rehabilitation and hemodialysis, a self-care unit, and a limited care dialysis center.

I am proud to have such an outstanding health care facility serving the citizens of the district which I represent, and I am pleased to share with you news of Good Samaritan Hospital's 125th anniversary at this time.

THE FOURTH DISTRICT QUESTIONNAIRE RESULTS

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. McKINNEY. Mr. Speaker, as is my custom, I have just completed a poll of Connecticut's Fourth Congressional District in which 21,000 voters expressed their opinions on a variety of important issues. I trust my colleagues will find the results as interesting and informative as I did:

THE FOURTH DISTRICT QUESTIONNAIRE RESULTS

[Percentage]

1. If the new car you want to buy does not meet minimum fuel efficiency standards, should you pay an additional federal tax?

	Yes	No
Fourth District	46.3	47.8
Bridgeport	33.0	59.4
Fairfield	42.2	53.9
Westport	54.0	39.4
Norwalk	49.1	46.0
Darien	53.8	41.3
Stamford	48.7	45.5
Greenwich	50.4	42.1

2. Do you support the President's request for a standby gasoline tax which would add 5 cents per gallon per year to the price of gasoline for each year that consumption exceeds a national target?

	Yes	No
Fourth District	31.0	63.0
Bridgeport	24.3	69.9
Fairfield	26.9	69.0
Westport	36.0	57.5
Norwalk	29.2	65.5
Darien	38.3	55.3
Stamford	31.7	62.2
Greenwich	36.8	54.9

3. Should federal/state clean air standards be relaxed to encourage the increased use of coal?

	Yes	No
Fourth District	54.6	38.6
Bridgeport	52.2	40.2
Fairfield	57.9	36.2
Westport	52.9	40.0
Norwalk	52.8	41.2
Darien	60.2	33.8
Stamford	54.7	38.6
Greenwich	53.0	38.5

4. Should the military draft be reinstituted?

	Yes	No
Fourth District	42.9	48.3
Bridgeport	50.6	40.4
Fairfield	45.6	47.9
Westport	33.4	56.0
Norwalk	42.8	49.2
Darien	43.2	48.4
Stamford	41.4	49.7
Greenwich	39.9	49.1

5. Would you accept reductions in mail home delivery (i.e., Saturday) rather than a large increase in first class postal rates?

	Yes	No
Fourth District	76.2	16.9
Bridgeport	75.9	16.7
Fairfield	79.2	15.4
Westport	75.9	17.1
Norwalk	77.1	16.4
Darien	74.6	18.7
Stamford	76.8	16.5
Greenwich	72.3	19.1

6. Do you favor a Constitutional amendment prohibiting abortion?

	Yes	No
Fourth District	20.8	73.6
Bridgeport	29.8	64.0
Fairfield	27.7	67.8
Westport	12.2	82.5
Norwalk	17.9	76.5
Darien	12.8	83.0
Stamford	19.9	74.2
Greenwich	17.0	76.4

7. Should the human rights issue (i.e., treatment of dissidents, racial policies, etc.) play a determining role in U.S. foreign policy?

	Yes	No
Fourth District	41.7	49.8
Bridgeport	42.3	47.8
Fairfield	39.7	53.4
Westport	45.2	46.6
Norwalk	47.1	45.0
Darien	33.7	57.3
Stamford	44.1	47.7
Greenwich	35.7	54.3

8. Should Federal tax dollars be used to subsidize hospitals in order to place a celing on individual health care costs?

	Yes	No
Fourth District	48.3	43.7
Bridgeport	59.8	32.1
Fairfield	48.5	44.6
Westport	43.0	47.7
Norwalk	51.5	41.4
Darien	35.4	57.2
Stamford	50.1	42.2
Greenwich	39.0	50.6

9. Would you earmark $1 on your income tax return to provide matching Federal funds for Congressional election campaigns?

	Yes	No
Fourth District	54.3	39.6
Bridgeport	51.1	41.6
Fairfield	52.0	43.4
Westport	59.2	34.5
Norwalk	55.1	39.7
Darien	56.6	38.7
Stamford	56.3	37.8
Greenwich	52.3	39.8

10. The minimum wage, now $2.30, should: (a) remain the same; (b) increase to an amount between $2.65 and $2.85; and (c) be increased to a set amount and automatically adjusted to reflect cost of living increases?

	A	B	C
Fourth District	31.3	15.9	45.5
Bridgeport	18.7	14.9	58.5
Fairfield	30.8	17.2	46.4
Westport	36.0	14.6	41.7
Norwalk	27.1	15.5	50.3
Darien	43.8	15.6	33.1
Stamford	31.5	17.1	44.7
Greenwich	40.0	14.8	35.1

11. Our defense spending program is: (a) sufficient; (b) needs to be strengthened; and (c) should be cut?

	A	B	C
Fourth District	34.6	38.4	18.3
Bridgeton	28.9	48.0	15.1
Fairfield	35.7	39.8	16.8
Westport	37.3	29.0	24.6
Norwalk	33.5	38.4	19.8
Darien	38.5	34.0	18.1
Stamford	35.2	38.2	18.4
Greenwich	35.8	34.9	18.0

BILL TO MODIFY CREDIT FOR THE ELDERLY

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. FISHER. Mr. Speaker, today I am introducing legislation to improve the structure of the income tax credit for the elderly.

The Tax Reform Act of 1976 substantially revised the retirement income credit. While the act took the positive step of increasing the amount of retirement income eligible for the credit it imposed restrictions on availability of the credit that preclude many elderly taxpayers from claiming it at all. First, an income ceiling was imposed to prevent taxpayers 65 and over from claiming the credit if their adjusted gross income exceeds a certain figure. Single taxpayers 65 and older cannot obtain any benefit from the credit if their adjusted income exceeds $12,500 and married couples may not have an income in excess of $17,500 and still benefit from the provision. Moreover, married couples 65 and over must file a joint return as a condition to claiming the credit. Strangely enough, neither requirement applies to taxpayers under 65 years of age. This quirk in the law can cause elderly taxpayers to pay a substantially higher tax bill upon attaining their 65th birthday. This result is totally unwarranted and should be changed.

To correct this inequity in the law, I am offering a bill to increase the tax benefits afforded elderly taxpayers under the credit for the elderly provision and, by expanding its coverage, to include people who were excluded by the Tax Reform Act. This legislation is similar to a bill introduced by Senator INOUYE of Hawaii.

Specifically, my bill would increase the amount of retirement income eligible for the credit from $2,500 under current law to $3,000 for single taxpayers and from $3,750 to $4,500 for a married couple filing jointly. Under my proposal, a single taxpayer 65 and over would be entitled to a maximum credit of $450 compared with $375 under present law, while a married couple filing jointly could receive a credit of up to $675 under my proposal relative to a maximum credit of $562.50 under present law.

Of greatest importance for residents of high cost-of-living areas such as northern Virginia, is a provision in my bill that would raise the income ceiling to a more realistic level. For example, a single taxpayer under my proposal could have a maximum adjusted gross income of $21,000 and still claim a portion of the credit, while a married couple could have a combined adjusted gross income of up to $26,500 and still receive some tax relief from the credit. These figures compare favorably with the current income ceiling levels of $12,500 for single taxpayers and $17,500 for a married couple. Although I would prefer an outright repeal of the income ceiling limitation, I believe that the proposed increase in the amount of retirement income eligible for the credit will serve to reduce the disparity between the tax treatment of social security recipients and that of retirement benefits received by government workers and will provide greater tax benefits for elderly government retirees. Moreover, I consider my bill to be a reasonable proposal that offers a realistic prospect for enactment.

For these reasons, I offer my bill to revise the credit for the elderly by increasing the amount of retirement income eligible for the credit and by raising the income ceiling levels that restrict availability of the credit. I am hopeful that the Ways and Means Committee will give favorable consideration to my bill as a means of providing greater tax relief to a broader group of elderly taxpayers living on a fixed income in a period of rising prices and soaring costs.

CIVIL RIGHTS REFORM

HON. ROBERT W. KASTEN, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. KASTEN. Mr. Speaker, I am pleased to join as a cosponsor of major new civil rights legislation designed to streamline and improve the laws and regulations that prohibit discrimination in our country.

The bill, prepared by the House Wednesday Group, includes reforms that are long overdue. I believe that Congress should take action early next year to improve the efficiency of our system of civil rights enforcement.

Efforts to protect the civil rights of Americans have been undermined by a maze of Federal laws and by a fragmented, chronically slow, and inefficient bureaucracy. The end result has contributed to the dissatisfaction of all parties—those being discriminated against as well as the accused who face prolonged investigation with no assurance when a final decision will be rendered.

This bill would replace 50 existing civil rights laws with a single law, and would centralize all Federal investigatory and enforcement authority within one agency, the Justice Department. Currently, 25 Federal agencies are attempting to enforce more than 50 antidiscrimination laws.

Experience has shown that this diffusion of responsibility rarely serves the interest of a speedy, fair and comprehensive resolution of discrimination cases. In too many cases, it has meant duplicative investigations and buck-passing of complaints among agencies.

This confusion has short-changed the victims of discrimination.

One comprehensive civil rights law under the jurisdiction of one agency would insure uniformity of interpretation and protection.

The bill would also set rigid timetables for the processing of discrimination cases. This is designed to reduce the growing backlog of civil rights complaints now before various Federal agencies.

If enacted, this bill would eliminate gaps and inconsistencies in coverage that are now prevalent under existing civil rights laws. It would prohibit discrimination on the basis of sex, parental status, handicap, and religious belief or affiliation, categories which are now inadequately and incompletely covered by existing laws.

Other provisions include:

An end to most "double jeopardy" problems for regulated organizations and the establishment of due process hearing procedures before sanctions are imposed;

The complete protection of complainant rights including the establishment of time frames for Government action on complaints and procedures guaranteeing the rights of complainants to fully participate in and challenge complaint-related decisionmaking;

A final sanction that solves the problem rather than punishes innocent parties and is accompanied by civil and criminal penalties for willful violations;

Mandatory involvement of State and local government in voluntary compliance processes.

If we are sincere about reorganizing the Federal bureaucracy, the myriad of civil rights laws and those agencies administering these laws must become more efficient and more effective. This legislation would accomplish that task in a manner that will hopefully contribute to our goal of removing the remaining vestiges of discrimination from our society.

LABOR LAW REFORM BILL, H.R. 8410

HON. MARC L. MARKS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. MARKS. Mr. Speaker, perhaps the major problem facing my congressional district, the 24th of Pennsylvania, is unemployment. Thus, legislation affecting employment in my district is one of my major concerns here in the Congress. It is in this context that I would like to share my thoughts on the highly controversial and emotionally charged labor law reform bill, H.R. 8410.

The votes on this bill—just like the votes on the minimum wage bill—were described in the media as a labor versus business battle. While such fireworks make for good entertainment, I do not think they do justice to either the legislation or to the issues.

I did not perceive the labor law bill as a matter of business against labor, but rather as a question of fairness for both business and labor.

The U.S. Chamber of Commerce described the bill as "an ill-advised attempt to further the interests of organized labor at the expense of individual workers' rights." After carefully studying the bill and the amendments that were offered, I concluded that such an assessment was too harsh.

The bill would, no doubt, enhance the organizing efforts of unions, especially in the "right to work" Sunbelt States. I might say in this regard that those who assert that our part of the Nation is losing industries to the Sunbelt States because of their "right to work" laws ought to find such a prospect encouraging.

Nevertheless, the bill itself does not set forth any new principles of law that would tilt the balance of power between workers and their employers. What it does do is make existing laws work more efficiently, quickly, and equitably.

In the vast majority of cases, both employers and employees voluntarily comply with the law. But the present law's lack of clear time limits and weakness of remedies have sometimes served to foster dilatory tactics and violations of the law.

The labor law revision bill streamlines the procedures of the National Labor Relations Board by speeding up its schedules for conducting union representation elections and its methods for processing complaints. The measure also stiffens the penalties for flagrant labor law violators.

While I supported the principal thrust of the bill, I also voted for several amendments which sought to insure fairness and equity for both labor and management. Let me take a few moments to go over some of the key amendments I supported which passed and were incorporated in the bill.

First, I voted for an amendment to the "equal access" section of the bill to expand "equal access" to include all elections and to assure that the employee has an equal opportunity to obtain information from both the employer and the labor organization. This means, for example, that an employer could enter the union hall to present his case before employees.

Second, I voted for an amendment to expand the time limits on elections. This changed the time limit from 15 to 25 days for elections when a majority of employees have signed cards requesting an election; and from 45 to 50 days when 30 percent to 50 percent have signed cards. The amendment also requires the NLRB to order an election within 17 days of the filing of a petition, rather than the 7 provided in the bill.

I also supported successful amendments to provide for congressional review and veto of rules or regulations promulgated by the NLRB and to provide the NLRB with the power to seek injunctive relief in the case of "stranger" picketing not authorized by a union or union employees.

In addition, I voted to strike the "debarment" provisions of the bill, which would prevent a company from receiving any Federal contracts for 3 years if they were proved guilty of gross labor law violations. Unfortunately, this amendment was defeated.

However, an amendment I supported was approved which would temper the debarment provisions by granting the Secretary of Labor the discretion of removing or reducing debarments, and restricting the debarment to the particular facility where the violation occurred or to the entity legally responsible for the violation.

As a result of these amendments, the final version of H.R. 8410 was a better bill than that originally reported from the Education and Labor Committee—and a bill I believe will ultimately benefit the employment picture in Pennsylvania.

STATEMENT OF CURRENT ASSETS AND LIABILITIES WITH RECORD OF INCOME AND EXPENSES FOR THE CALENDAR YEARS ENDING DECEMBER 31, 1975 AND 1976

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. ROUSSELOT. Mr. Speaker, inasmuch as we are coming to the close of the first session of the 95th Congress, I wish now, as it has been my practice in previous years, to submit to the House of Representatives for the public record my income and expenses records for the calendar years ending December 31, 1975, and December 31, 1976, along with statement of my current assets and liabilities. These statements, which have been prepared by my accountant, follow:

NET WORTH STATEMENT FOR JOHN H. ROUSSELOT

	Dec. 31, 1975	Dec. 31, 1976
Assets:		
Bank accounts	$9,318	$6,362
Commercial real estate (estimated fair market value)	125,000	130,000
Residence	38,500	40,000
Cash value of life insurance	11,048	12,621
Other assets	17,500	17,500
Total assets	201,366	206,483
Liabilities:		
Accounts and notes payable	9,798	15,737
Trust deeds payable on commercial real estate	40,762	33,778
Trust deeds payable on residential real estate	34,497	34,061
Lease deposits	1,050	1,050
Total liabilities	86,107	84,626
Net worth	115,259	121,857
Total	201,366	206,483

JOHN H. ROUSSELOT INCOME AND EXPENSE SUMMARY

Item	1975	1976
Congressional salary	$42,850	$44,600
Honoraria	4,850	3,950
Interest income	1,168	1,551
Net income from commercial real estate	6,493	7,446
Adjustments to income (official travel expense, etc.)	−2,194	1,304
Adjusted gross income	53,167	58,851
Itemized deductions claimed	−19,321	−26,931
Less exemptions claimed	−2,250	−2,250
Taxable income	31,596	29,670
Federal tax paid	13,103	13,009
California tax paid	3,860	3,570

CONGRESSMAN DRINAN RECEIVES AWARD

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. STEERS. Mr. Speaker, last night it was my privilege to attend an award ceremony honoring Congressman DRINAN of Massachusetts. The award was made by the John F. Kennedy Lodge, No. 2484, of B'nai B'rith, located in the Eighth District of Maryland.

The language accompanying the award states well the high principles which Father DRINAN has pursued with such vigor and dedication:

THE AWARD

The John F. Kennedy Lodge of B'nai B'rith was conceived and formed by a group of Government officials and employees early in 1964 to honor the memory of John Fitzgerald Kennedy. They hoped, through this new Lodge and within the framework of the National B'nai B'rith organization, to join in a meaningful and unique service program designed to carry on his ideals and work, and to make a contribution in achieving his goals of a better society through brotherhood and humanity—which basically is the goal of B'nai B'rith.

The "Profiles in Courage Award" is presented by the Lodge to the Person, who, by his strength of character, adherence to personal convictions, loyalty to country, and demonstration of personal courage, has exemplified the high standards displayed by the persons described in President Kennedy's book, Profiles In Courage.

PAST RECIPIENTS

1965, Edward R. Murrow.
1966, Simon E. Sobeloff.
1967, Charles L. Weltner.
1968, Paul H. Douglas.
1969, Ramsey Clark.
1970, Earl Warren.
1971, Charles Evers.
1972, Reubin Askew.
1973, Rev. Theodore M. Hesburgh.
1974, John W. Gardner.
1975, Katharine M. Graham.
1976, Daniel Schorr.

Father Robert F. Drinan, the thirteenth recipient of the John F. Kennedy Lodge's "Profiles in Courage Award," has exhibited the strength of character, adherence to personal convictions and loyalty to country, personifying those traits which exemplify the high standards displayed by those historic figures described in President Kennedy's book, Profiles in Courage.

Congressman Drinan, who represents the Fourth Congressional District of Massachusetts, was selected for the award on the basis of his personal commitment to human rights. As part of that commitment, he organized a project this spring to focus national attention on the plight of Soviet Jewish individuals or families who seek to leave Russia. The project was called "Helsinki's Unfulfilled Promise," and pertains to the human rights guarantees agreed to in the 1975 Helsinki agreement which the Soviet Union has repeatedly been accused of violating.

As part of the project, Father Drinan and 95 of his colleagues in the House of Representatives each chose either an individual or family to speak about. The Congressman selected Anatoly Scharansky, a 29-year-old computer specialist who is one of the Soviet Union's most prominent Jewish activists. Scharansky acted as the liaison to the press for Jewish people who seek to emigrate from Russia and served as a translator for Andrei Sakharov, a prominent Soviet dissident. This past spring Scharansky was arrested and charged with treason and espionage. He has been trying to leave Russia since 1973 but permission has been denied.

Father Drinan was also cited for speaking out on Russia's recent crackdown on Jewish dissidents as well as for his support of America's commitment to Israel.

In four terms in Congress, he has sponsored and strongly supported legislation to provide Israel with tangible materials and moral support that will help the nation to survive.

Prior to entering Congress, he was the Dean of the Boston College Law School (1956–1970). He is a member of the House Judiciary Committee and was one of the first to speak out against the excesses of the Watergate era.

NO "BACK DOOR" GUN CONTROLS

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. TRAXLER. Mr. Speaker, today the House of Representatives was to consider a substitute proposal, H.R. 9718, to create an Office of Consumer Representation. It was my intention to offer an amendment to this substitute which would prohibit the Administrator from taking any action with the intention or effect of restricting the manufacture, sale, or distribution of firearms, ammunition, or components. H.R. 9718 has been withdrawn from today's schedule; however, should this bill be brought to the House floor at a later date, I plan to offer my amendment at that time.

My colleagues may well recall the problem we had when the Consumer Product Safety Commission was ordered by a Federal court to consider a petition to ban handgun ammunition as a "hazardous substance." This court ruling resulted from the fact that, while the Congress had specifically excluded firearms and ammunition from the definition of a "consumer product," we had failed to exclude firearms and ammunition from the CPSC's jurisdiction when we later charged the Commission with the administration of the Hazardous Substances Act. This predicament led the Congress to take special action in 1975 when we voted overwhelmingly to prohibit the Commission from having any authority over firearms, ammunition, and components, thus resolving the CPSC controversy.

We do not want "back door" gun controls. In order to insure that the Office of Consumer Representation would not follow in the footsteps of the CPSC, we need to specifically prohibit the Administrator from taking action that would effectively result in new gun controls. The Senate Government Affairs Committee has already included such restrictions in the bill they reported to the Senate. My amendment would provide for this necessary limitation of jurisdiction and clarify the intent of the Congress.

I would hope that, should this body consider this consumer legislation at a later date, my colleagues would join me in support of this amendment. The text of my amendment follows:

On page 14, after line 14, insert at the end of section 6 of the amendment in the nature of a substitute offered by the gentleman from Texas the following new subsection:

(j) The Administrator shall not intervene or otherwise participate in any Federal agency proceeding or activity or in any civil proceeding in a Federal court, and the Administrator may not initiate any civil proceeding in a Federal court, if such intervention, initiation, or participation is intended to restrict or limit, or has the effect of restricting or limiting, the manufacture or sale of firearms, ammunition, or components of ammunition, including black powder and gunpowder.

TRIBUTE TO BEA ADAMS

HON. WILLIAM M. KETCHUM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. KETCHUM. Mr. Speaker, I rise today to pay tribute to an outstanding lady in my congressional district, Mrs. Bea Adams. A one-woman dynamo and a great credit to the profession of journalism, Bea Adams has for the past 13 years edited the McFarland Press, leading successful crusades for such worthwhile projects as a senior citizens center, the formation of a community parks and recreation district, and—her proudest achievement—the construction of badly needed low-income housing in Rosa Vista. Not only has Bea worked as editor—she has also sold advertisements, taken photographs, written stories, done the layouts, and assured that the Press' office, staffed by three other individuals, ran smoothly. Going a step further, Bea is not only recognized in the community she is also well loved and fondly remembered for her earlier efforts. Having worked as a trucking line's bookkeeper for almost two decades, Bea decided the time had come to own a trucking firm of her own: For 11 years, Bea became known for the Mary Ann Truck Line, running two diesels and three sets of doubles.

In 1956, Bea Adams decided the time had come to complete her education. So, in her forties, she sold out the trucking business and acquired a bachelor's degree in agricultural journalism, as well as a technical degree in floriculture. That out of the way, Bea taught for awhile, then operated a small gift and hobby shop, finally finding her niche when she joined the McFarland Press as social editor in 1964. One year later, she was running the show, and McFarland has surely been the better for it.

Throughout her endeavors, Bea has always found the time to contribute to her community in other ways, too: she has given selflessly of her time to the McFarland Merchants' Association, the Commission for the Parks and Recreation District, the Christmas Parade Committee, the Soroptimist Club, and the VFW Ladies Auxiliary.

This dynamic little lady has decided to retire from the newspaper business, but

I know she will certainly never retire from community contribution or crusading for a better lifestyle. Bea Adams is a great asset to every endeavor she has tackled, and I am most proud to count her among my constituents. I would like to take this opportunity, along with my colleagues in this Chamber, to express my heartiest congratulations to Bea Adams on a job well done, and my warmest wishes for prosperity and happiness in the well-earned years ahead.

PEKING'S TOTALITARIAN CONTROLS

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. ASHBROOK. Mr. Speaker, we have heard a great deal in recent years about the wondrous transformations which have occurred in Chinese society as a result of the Communist takeover in that country in 1949. Not only are we told about the economic progress which has been achieved by Peking, but the People's Republic of China is also held up as a vast experiment in social egalitarianism, worthy of emulation in other developing areas of the world. The underlying inequities, injustices, and repression which exist on the mainland today are all but ignored.

For our own best interests, it is time to disabuse ourselves of these artificially-created illusions. The press is rarely useful in this regard, since correpsondents stationed in the PRC are allowed to remain only on good behavior, and therefore are generally disinclined to write material seriously critical of the government there. Recently, however, a correspondent for the Toronto Globe and Mail, Mr. Ross Munro, completed his 2-year assignment in Peking, and has since that time written a series of highly illuminating articles on the subject of human rights in China. The articles, which appeared in the Washington Post between October 9 and 13, offer a rare insight into the quality of life and of personal liberty in the People's Republic of China today. The first article appears below:

PEKING'S CONTROLS ARE SUBTLE BUT REAL

(By Ross H. Munro)

PEKING.—About two or three times a year, a middle-aged Chinese man walks into a post office in China carrying a letter he has written to relatives who live in Japan.

Nervously he hands the letter to the postal clerks and urges them to inspect it before the envelope is sealed. "Read it," he says, "please read it." Once the postal clerks have obliged and given him a nod of approval, he pastes the stamps on the envelope, mails it and departs.

No law or regulation in China requires this man to share his personal communications with the authorities. No one has ordered him to do this. But for the past few years this man's life has been peaceful, he has been working in a decent office job and he wants to keep it that way.

In the 1950s and again in the 1960s, he lost his job during political campaigns when he was accused of being insufficiently devoted to the revolutionary cause. Relatives of his who still live in China tell this story and say he is determined that it will not happen a third time. He weighs every action now and, among other things, no one is ever going to be able to accuse him of sending counter-revolutionary letters abroad.

For the most part, the day-to-day controls over people's lives in China are not visibly heavy-handed. On the streets, the Chinese people often treat policemen with disdain. Prisons, concentration camps and secret police exist but their role is a comparatively modest one.

Yet China in many ways is the most tightly controlled nation of earth. Part of the explanation resides in history. The concept of individual freedom is weak in Chinese tradition. The concept of social and political conformity has always been strong. Parliamentary democracy, an objective code of law, an independent judiciary, the idea that there are certain unalienable human rights—these originated in the West.

But history is history. Today, communism has combined the conformist and anti-individualist tradition of the Chinese past with the techniques and organization of modern totalitarianism to create a unique system for controlling people's lives.

Chinese society itself is organized as a security system as much as it is organized as an economic or social system and control. The slogan is "politics in command" and command is supposed to extend over all of one's actions and words.

Despite the often subtle nature of the control system, the candid expression of one's true political beliefs can still mean the death sentence, as Chinese court verdicts in recent months show.

This is so in a number of other countries, Communist and non-Communist. But China has also imposed controls over areas of life that are matters of free individual choice even in many police states: the freedom to choose—or quit one's job; the freedom to start even the smallest business; the freedom to choose where one wants to live; the freedom to travel. All these freedoms—which classical Marxism dismisses as "Illusory" or "bourgeois"—are rigidly limited and largely non-existent in China.

A Communist Party functionary was recently telling a foreigner how Chinese society ideally should be organized. Everyone, he said, should live in the compound where he works. If for some reason the workplace and the home must be in different locations, he said, then people should still live in the same place as their workmates.

The worker who commutes between home and job poses a problem, the party member said. He can be two different men. At the factory, his political attitudes and work habits are known, but the party would not know how he acts around home. The party functionary said it would be a healthier political situation for the man to be among his fellow-workers 24 hours a day.

Many of the urban Chinese already live in such settings—all-inclusive units that are concerned with every aspect of the welfare and behavior of the compound's residents.

It is this level of Chinese society that foreigners find extremely difficult to penetrate and understand. For one thing, the compounds are literally behind high walls, with a single guarded gate. But because they are the preferred form of organization in China, compounds where people both live and work are often visited by foreigners on guided tours who can get at least a flavor of what compound life is like.

In a clothing factory compound in Hopei Province, a notice posted on a workshop wall declares that people going in and out of the compound must get off their bicycles at the gate and surrender all bags and packages to security workers for inspection. Except in special circumstances, the notice continues, people must be back inside the compound by 11 p.m.

The compound is the most highly developed form of the "unit" that is the basic building block of Chinese society. Except vagabonds, everybody in China is affiliated with a unit. The unit is based on the workplace; it can be a production team or brigade in a rural commune, a factory or an office. Those too young or old or sick to work are affiliated with a unit through those in their family who support them.

Unit membership in China is almost a second citizenship; when a Chinese citizen is away from his home and workplace, he is more likely to be asked "What is your unit?" than "What is your name?" It is the unit that decides whether he can have a bicycle and, in many cases, whether she can have a baby.

Officials in the No. 1 Cotton Factory in Shihchiachuang, south of Peking, were recently trying to explain to a foreign visitor how workers there buy bicycles. Each year, they said, the state allots about 250 bicycles to be distributed among the 4,000 workers and their families.

"The workers in the workshops are living together and they know everything about everybody," the foreigner was assured. "They know which families need a bicycle."

The compounds are almost selfcontained communities. Residents send their babies to the compound's nursery, their children to its schools, their sick to its clinic and their shopping lists to its stores.

All units and residential committees have a security function. The units and residential committees are a modern variation on the traditional Chinese system known as paochia—an extension of the local police force. Households were grouped together and a representative acted as a go-between with the local authorities. The representative—and through him the entire group—was responsible for maintaining security and order within the group and its neighborhood.

This is remarkably similar to how Chinese society is controlled today. The difference is that local Communist Party members, usually housewives, have the central role.

Views on how this works vary tremendously.

Some sympathetic foreign writers have described party workers at the unit level as social workers, solving minor problems, straightening out potential juvenile delinquents and patching up disputes between neighbors or spouses. Chinese refugees often describe them as nasty busybodies who relish using their power to harass, spy and inform on their neighbors.

One person with direct knowledge of how units and residential committees operate—describes the security system as inextricably women together with the web of personal relationships, both friendly and unfriendly.

"Accordingly to Mao's philosophy," he says, "you report on your friend of neighbor when he's done something wrong because it's good for him to be criticized and reformed. But usually in practice you do it because you don't like him and you want to get at him."

Many foreign observers have tried to explain the pervasive control exerted by the unit by pointing out that the concepts of privacy and individuality have never been strong in China while the urge to social conformity has always been strong. As an explanation for the current level of control in China, this is far from adequate.

Some Chinese living in Peking today, for instance, say they prefer living in apartment buildings rather than in traditional housing clustered around a courtyard because there is more privacy in apartment blocks. Party officials evidently believe the desire for privacy must be combatted because they constantly urge local party functionaries to devote more time to home visits to families in their area.

In one neighborhood in Peking last summer, in one example of mild political monitoring, party functionaries put up a huge

chart listing each household and what its members had done to help clean up after the earthquake. The chart wasn't so much an honor roll of those who had done a great deal as it was a report card for adults with blank spaces for those judged not to have done enough.

The most relaxed and independent citizens of China seem to be those whose work gives them the opportunity to escape the constant controls of their units. Cart drivers on the road all day alone with their horse-drawn wagons seem to be among the most individualistic people in China, cussing and joking as the mood moves them and apparently quite unconcerned about what anyone thinks of them.

The cantankerous and rebellious attitude of railway workers has been a problem for Chinese authorities for years. Long-distance truck drivers often make much of their income by filling their cabs with goods that are surplus in one area and selling them on the black market where they are scarce.

What the unit in modern-day China lacks but what tightly knit Chinese communities in the past or elsewhere in Asia today possess is a way out.

People are normally assigned to a work unit for life. Transfers are extremely difficult to obtain but are sometimes granted on the condition that the departing worker find someone with comparable skills and experience who's willing to switch jobs with him.

The nature of the unit and the compound in today's China worries even some sympathetic and Marxist-oriented foreigners who have come to know this country.

One such person says he fears that the compounding of Chinese society could strengthen elitist tendencies in the country at large. He suggests that the top leadership won't have to worry very much about the residents of compounds whose horizons don't extend much further than the compound walls.

JAY TURNIPSEED

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. MAZZOLI. Mr. Speaker, the enduring pleasure of my service in this House is the privilege of working with so many talented and good individuals. The recent death of Jay Turnipseed, Counsel to the Subcommittee on Administrative Law, has diminished that pleasure.

Jay was a young man of talent, and his work is adequate testimony to his talent and hard work. I certainly will miss the quality of interest and intensity which he brought to the Subcommittee on Administrative Law.

The tragedy to Jay's death lies not only in the loss of one so talented and so young but in the loss of the potential creativity and happiness which he would have brought to those fortunate enough to encounter him in his later life.

Jay's courage in continuing his work with the subcommittee in the last, painfully difficult months of his life is an inspiration to all of us. We all share in the grief and loss of his wife and child.

For Jay's own part the words of the English poet, Chidioch Tichborne, describe the tragedy of the death of one so young:

My tale was heard and yet it was not told,
My fruit is fallen and yet my leaves are green,
My youth is spent and yet I am not old,
I saw the world and yet I was not seen;
My thread is cut and yet it is not spun,
And now I live, and now my life is done.

MR. GEORGE J. FAGER

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. McDADE. Mr. Speaker, on Saturday evening, October 20, it was my privilege to attend a Citizenship Citation Award Banquet in Honesdale, Pa., sponsored by the Wayne Lodge of B'nai B'rith.

The recipient of this year's award was Mr. George J. Fager, and it was most enlightening to learn how he was selected for this honor.

Mr. Joseph Sader, president of Wayne Lodge No. 2591 of B'nai B'rith, appointed a committee of members, Mr. Samuel Shair, Mr. Henry M. Skier, and Dr. Leonard Weiss to select a committee of seven county citizens of diverse interests who would discuss and evaluate various nominees for this honor and finally, make a selection to present to Wayne Lodge. The committee was composed of Mrs. James Dalling of Waymart Knitwear; Mr. Richard McClain, principal of Newfoundland School; Mr. Frank Kelly, president of the National Bank of Hawley; Mr. Fred R. Miller, retired superintendent of the Pennsylvania Power and Light Co. and himself a past recipient of the award; Mr. Joseph J. Murray, vice president of the Wayne County Bank and Trust Co.; Mrs. Jack Southerton, community activist and volunteer leader; and Mr. Sam Rubin, the representative of B'nai B'rith.

George J. Fager was selected by this committee because of his outstanding contributions to the community through the efforts of the Honesdale Lions Club of which he is an inspired leader. He was responsible for the concept of an annual Lions Club bonanza banquet, a $100 a ticket affair to benefit local organizations as well as national Lions Club projects. This event is now in its 11th year and because of it the Honesdale Lions Club has contributed more than $50,000 to local organizations such as the Wayne County Memorial Hospital, the Honesdale outdoor recreation program, and Lions' projects such as the leader dog companions for the blind, and their crippled children's program.

Mr. Speaker, as you know, I represent northeastern Pennsylvania and it is of special interest to note that the Honesdale Lions Club contributed more to the State-wide leader dog companion program than any other Lions Club in Pennsylvania. The total amount contributed by all the Lions Clubs amounted to $105,000 and the Honesdale Lions Club was number one with their contribution of $2.500. George Fager's efforts were the basis for this.

Three speakers were chosen by the B'nai B'rith Committee to represent the community and honor Mr. Fager. Harry D. Propst, M.D., chief of staff of the Wayne County Memorial Hospital spoke of Mr. Fager's interest in all aspects of the community and noted that regardless of his own financial or health situation, George Fager always worried about making life easier for someone else. Alfred J. Howell, Esquire, spoke of the personal inspiration he had received from Mr. Fager as he had worked for him as a youngster and had become an active member of the Lions Club through Mr. Fager's guidance. Mr. Edward L. Freeman, president of the Katz Underwear Co. and past president of the Wayne County Memorial Hospital enumerated Mr. Fager's attributes as a personal friend and community inspiration. Representing the National B'nai B'rith Organization was Mr. Milton Zabitz, chairman of B'nai B'rith Adult Jewish Education for Eastern Pennsylvania. Mr. Zabitz spoke on the background of the B'nai B'rith organization and its objective in improving the brotherhood of all people.

I will say, Mr. Speaker, that the outstanding part of the evening was Mr. Fager's outstanding speech on the acceptance of this award. He spoke of his humble background; how he had come to the community of Honesdale and chosen it for his home; how he had chosen and been accepted by the lovely girl who became his devoted wife; how the community had been good to them and their lovely daughter; and how wonderful it was that he, of Lebanese roots, had been chosen for this honor by a Jewish organization.

Mr. Speaker, I have been a Member of Congress for 15 years and have attended hundreds of banquets, but none with more spirit of community warmth than this affair. I will ask why, Mr. Speaker, with all the turmoil we are aware of in the world today, cannot more localities emulate the community of Honesdale, where ethnic and religious backgrounds can be overlooked and the consideration of the quality of life for all people in a community be of the utmost importance? I am proud this noteworthy event took place in the congressional district which I represent.

LEGISLATION TO CREATE AN OFFICE OF DEPENDENTS' EDUCATION IN THE DEPARTMENT OF DEFENSE

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. ERLENBORN. Mr. Speaker, today I have introduced legislation to create within the Office of the Secretary of Defense an organizational unit to administer the schools run by the Department of Defense (DOD) for the dependents of military personnel around the world. These schools enroll approximately 150,000 students—a number so large that if that system existed within the United States it would be equivalent to the 10th largest school district in this Nation.

DOD dependent schools have been in existence since 1946. They were begun in Germany to provide an education for

the children of U.S. military personnel who were in the occupation forces after World War II. Since that time, the system has been expanding. It now covers every major part of the globe, with schools from Guantanamo Bay, Cuba; to London; to Stuttgart, Germany; to Bahrain on the Persian Gulf; to Japan and the Philippines. Regrettably, these schools have had no statutory base for their existence. They have existed at the sufferance of each year's DOD appropriation bill. As a consequence, they have suffered from a lack of specific direction and have often been subject to the whims of various military departments.

Within the past several years, the schools have begun to form a cohesive organization with good central direction under the leadership of Dr. Anthony Cardinale, the director of dependents' education.

I am concerned about the health of this system, not only because of the importance of education in general but also because of the importance of the viability of our armed services. In this day of the All-Volunteer Army, adequate educational facilities for dependent children must be of a quality that attracts people to make the armed services a career. Moreover, because of the nature of the assignment of military personnel, their children will be in and out of schools in the United States several times. Unless the system in which they enroll when they are out of the country is of a caliber equal to that found in schools in the various States, when they return to a school in this country they may find themselves educationally handicapped which could have an effect on the entire class.

In addition, a number of problems have existed with respect to the administration of some 28 schools located on military reservations around the country where the facilities are operated by one of the armed service branches under an agreement with the U.S. Commissioner of Education. Regrettably, that arrangement has made it easy for both DOD and the Department of Health, Education, and Welfare to shirk responsibility for what goes on in those schools both with respect to educational programs and quality of facilities.

The legislation I have introduced today would centralize responsibility for those schools as well in the Office of Dependents' Education. In addition, this bill provides statutory authority for the office through a number of other provisions dealing with such things as construction, the enrollment of other students on a tuition fee basis, eligibility for school lunches, and the creation of school advisory councils.

I believe this legislation will have strong bipartisan support. It is my hope that the Labor Standards Subcommittee, headed by Chairman DENT, will hold hearings on it in the near future and that it may be included in a comprehensive bill amending the Elementary and Secondary Education Act to be marked up by the Education and Labor Committee early in the second session of the 95th Congress.

A section-by-section analysis follows:

SECTION-BY-SECTION DESCRIPTION OF THE DEFENSE DEPENDENTS' EDUCATION ACT OF 1977

Section 1: This Act is cited as the Defense Dependents' Education Act of 1977.

Section 2: Requires that the Secretary of Defense establish and operate a "defense dependents' education system" that provides free public K–12 education for eligible dependents in overseas areas and for other children eligible under section 6 of Impact Aid (P.L. 874). This system is to provide high quality education to all while meeting the special needs of handicapped children, those in need of compensatory education, those interested in vocational education, gifted and talented individuals, and children of limited English-speaking ability. Eligible children of preschool age are to be provided a preschool program if one is not otherwise available.

Section 3: (a) This section provides for the establishment and administration of an Office of Dependents' Education within the Department of Defense. A director of the office will be a civilian, appointed by the Secretary of Defense, and will report to the Assistant Secretary of Manpower and Reserve Affairs.

(b) The Secretary may carry out his functions under the act, except the issuing of regulations, through the Director of the office.

(c) The duties of the Director will include establishing personnel policies for system employees, preparing a budget for each fiscal year, and performing other functions required or delegated by the Secretary or Assistant Secretary of Manpower and Reserve Affairs. The Director will have authority to transfer employees, establish local school advisory committees, and arrange inservice or other training programs.

(d) The Director is required to establish regional or area offices and must, within six months of this Act's enactment, file a report detailing the organizational structure, assignment of personnel, and personnel requirements of the Office of Dependent's Education. The Director must submit a report to Congress describing each subsequent reorganization of the Office. The Office is limited to 400 civilian employees in its central and regional offices.

Section 4: This section allows for the enrollment of non-eligible children where space is available in the education system, and requires that each such child be charged tuition which is at least sufficient to cover the cost of enrollment. The Secretary may establish regulations which identify classes of children who shall be eligible to enroll in DOD schools where space is available. The Secretary may also by regulation establish priorities among these classes or waive tuition for the children in any such class.

Section 5: The Director is required to establish procedures to assess the educational performance of the school system annually and make the results available to sponsors of children enrolled in the system.

Section 6: Construction operation and maintenance of school facilities on military installations, under section 10 of the Impact Aid Construction Act (P.L. 815), will be carried out through the military department having jurisdiction over the installation on which the facilities are located. The President shall include separate budget requests for the construction of these facilities.

Section 7: Where it is not feasible to provide defense dependents' school system services to eligible dependents in overseas areas, the Secretary of Defense may establish regulations to provide for the purchase of educational services from other schools.

Section 8: This section amends the National School Lunch Act with a new section (22) that allows the overseas portion of the DOD school system to be classified as a State and that classifies the Office of Dependents' Education as a State educational agency. The section also amends the Child Nutrition Act of 1965 to include a new section (20) for the same purpose.

Section 9: All schools constructed or provided by the Commissioner of Education in HEW under section 10 of the Impact Aid Construction Act which are located on a military installation, or any other arrangements made by the Commissioner under the Act of September 30, 1950 (20 USC 241) for the education of children residing on military installations are transferred to the authority of the Secretary of Defense.

Section 10: Public Law 874 relating to impact aid is amended by:

(a) providing that the Secretary of Defense, where appropriate, will have authority to arrange for the provision of educational services for children residing on military installations that cannot be provided for by local educational agencies.

(b) making the Defense Department Teachers Pay and Personnel Practices Act applicable to all teachers employed by the Secretary of Defense in providing such education.

(c) requiring from the Secretary of Defense an annual report to Congress on activities under the Act.

Section 11: Similarly, Section 11 amends Public Law 815 relating to the construction of school facilities in areas affected by federal activities by:

(a) providing that the Secretary of Defense, where appropriate, will have authority over the construction of minimum school facilities where necessary to provide education when local agencies are unable to provide such facilities.

(b) requiring from the Secretary of Defense an annual report to Congress on activities under the Act.

Section 12: Amends the Defense Department Overseas Teachers Pay and Personnel Practices Act by:

(a) extending coverage of the Pay and Personnel Practices Act to teachers employed under this Act in other than overseas areas.

(b) granting the Director of Defense Education all administrative authority appropriate to his office that is now held by other administrators.

(c) clearing up an incidental technicality.

Section 13: The Director is given authority to establish by regulation a formula determining the minimum allotment of funds to each school in the DOD system.

Section 14: This section requires the Director to provide for the establishment of advisory committees for each school and for central advisory committees where more than one school is operated on a federal installation. Advisory committee members are elected and serve without pay.

Section 15: This section makes provision for the establishment of a twelve-member Advisory Council on Dependents' Education within the Department of Defense to be chaired by the Assistant Secretary of Defense for Manpower and Reserve Affairs.

Section 16: A study of the entire defense dependents' education system is required by this section. The Director, in consultation with the Advisory Council on Dependents' Education will design specifications for the study and select a contractor. The analysis is to be submitted directly to Congress within one year from the enactment of this Act and is to include comments and recommendations of both the contractor and the Secretary of Defense.

Section 17: Regulations to ensure efficient organization and operation of the education system are to be issued within 180 days from this Act's enactment.

Section 18: This section defines, for the purposes of the Act, "eligible dependent", "sponsor", "overseas area", and "United States."

THE 21ST ANNIVERSARY OF HUNGARIAN UPRISING

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. HORTON. Mr. Speaker, 21 years ago the world witnessed one of freedom's greatest tragedies—Soviet tanks rumbling down the streets of Budapest, there to crush a popular uprising by the freedom-loving people of Hungary. That tragedy which came at the height of the "Cold War" remains indelibly etched upon the minds of all who seek to restore civil and human rights to the peoples of captive nations around the world.

At a time when signatories of the Helsinki Agreement are meeting in Belgrade to assess the results of its implementation by more than 33 nations, it is worth noting that Hungarian State officials continue to employ repressive measures against sectors of Hungarian society. I commend to my colleagues the following article which appeared in the French newspaper, Le Monde, reporting on alarming violations of human and religious rights:

METHODIST MINISTERS FACE TRIAL FOLLOWING CLASH WITH AUTHORITIES

A conflict which had been simmering for months has just flared up within the Hungarian Methodist Church. The dispute sets a group of 12 pastors of this faith, which numbers 2,500–3,000 members, against their hierarchy and the country's authorities.

Three pastors, Ilona Vadaszi, Gabor Ivanyi, and Gabor Draskoczy are currently waiting to be charged for "abusing the right of assembly." They risk a minimum sentence of 2 years' imprisonment. On 28 August, in the company of a few believers, they gathered in the street and prayed outside their usual place of worship, which the police had closed a few hours earlier.

The origins of this affair date back to 1973, when Mr. Frigyes Hecker, following in the footsteps of his father, Adam Hecker, was named superintendent of the Hungarian Methodist Church. The circumstances surrounding this handover of power evoked criticism from five preachers. They criticized the hierarchy for accepting the introduction into the church statutes of an amendment stipulating that in the future the annual General Assembly would not have the right to meet without the consent of the office for church affairs.

The five rebels were removed from their pastoral functions, but they disregarded this decision, which cost them a 5-month suspended prison sentence in 1975 for "abusing the right of assembly" and "falsifying official documents" (they had reinserted the title "clergyman", which the authorities had removed, in their identity papers).

There was a further development last December: The five dissenting clergymen, joined by seven others, wrote a declaration addressed to "people of good will." They proclaimed, in part: "By remaining attached to our civic and human right to pursue a collective religious life we are convinced that we are acting in accordance with our loyalty to the state."

This document, which was not made public at the time in the hope of some arrangement being reached with the hierarchy and the authorities, was sent by the rebels in mid-August to several Hungarian newspapers and various personalities, particularly Mr. Janos Kadar, first secretary of the Hungarian Socialist Workers Party. This move resulted in a tightening up: Between 17 and 22 August the police cleared the places of worship which the rebels had been using until then in Szeged, Wyiregyhaza, and Budapest. This affair contrasts with the current policy of normalizing relations with the churches pursued by the Hungarian party and government. Mr. Kadar's recent visit to the Vatican and Baptist preacher Billy Graham's very successful tour of Hungary at the beginning of this month have been the most spectacular recent signs of this desire for a loosening up.

PENTAGON'S DEFENSE OF CRUISE MISSILE'S CAPABILITY UNDERMINED BY SALT

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. KEMP. Mr. Speaker, today's Washington Post carries an Associated Press dispatch commenting on a recent column by Roland Evans and Robert Novak. The Evans and Novak column described how American cruise missiles would be able to overwhelm all known Soviet defenses save for those which the Soviets could develop in an 8-year period.

Assertion 1: That a saturation cloud of 3,000 cruise missiles at the same time 200 bombers attacked the target further complicating Soviet air defense problems.

Fact: The SALT proposals which have emerged from the Carter-Gromyko meetings in September will limit U.S. cruise missile carriers to a maximum of 120 heavy bombers capable of carrying 20 cruise missiles each for a maximum of 2,400 cruise missiles, not 3,000. The proposed strategic delivery vehicle ceiling of approximately 2,100.

Assertion 2: Defense officials—asked researchers to design a system which could defeat the cruise. They came up with one, planners said by improving the Hawk system with a bigger antenna, a larger transmitter, and a more sophisticated computer. They concluded it would take the Soviet Union at least 8 years to develop this capability.

Fact: The Congress was fed the comfortable bromide of Soviet technological backwardness in 1972 when we were assured that the Soviets would not be able to develop MIRV warheads to offset our technological lead during the period when the SALT I accords were in force. Conclusive evidence of Soviet MIRV's was established only 2 years after the ratification of SALT I, and current Soviet MIRV deployments already threaten the survivability of the land-based force. MIRV deployments permitted under the proposed SALT accords could eliminate land based ICBM's in the early 1980's. U.S. cruise missiles will be vulnerable to a combination of the prelaunch vulnerability of the cruise missile carrier, the vulnerability of the cruise missile carrier when deployed off the Soviet coast to long-range Soviet aircraft such as a Backfire bomber armed with air-to-air missiles, and the fact that SALT constraints will require that cruise missiles be limited to a rather small number making the air defense task easier, not harder for the Soviet Union, thereby weakening our ability to deter war.

ERISA

HON. DAN MARRIOTT

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. MARRIOTT. Mr. Speaker, yesterday by voice vote the House agreed to an extension on a portion of the ERISA bill. I agree with my colleagues who believe that ERISA really stands for Every Rotten Idea Since Adam. As one who has spent many years in the pension-consulting business, I am very familiar with all aspects of the pension laws. We have spent many years working in both the plan design, plan funding, and plan administration of qualified and nonqualified retirement plans.

It is with this scope and perception of the pension industry that I certainly can vote for this extension, but this is no way to solve the ERISA problem. ERISA is a program which neither the Congress, the IRS, the Labor Department, or any other branch of Government could possibly comprehend. It is not the type of legislation our businesses need in order to help secure future benefits for the hundreds and thousands of workers in this country and it is certainly not in the best interests of the small businesses who are now harrassed by countless numbers of reports and requirements, all of which are causing hundreds of plans each day to be terminated.

I would like to draw the attention of the House to the real problem of ERISA which is simply developing a meaningful, simplified program that everyone can understand.

The intent of ERISA is correct—trying to avoid future abuses and protect the benefits of workers—and I agree with that position. We must have some strong teeth in the law. But when you have a law which no one can understand, especially those who are trying to administer it, and you have a law which is having an adverse effect on the morale of employers and employees and hurting the pension industry, the only industry that can keep the cost of social security and Government welfare down, then you have a bad situation.

Therefore, I would ask the members of the Ways and Means Committee to either get on the ball and do something constructive in redesigning the ERISA package or turning it over to the Small Business Committee, of which I am a member, to do the job. I am convinced that a few people who understand the problems of ERISA, who understand the free enterprise system and the pension retirement market in particular, could solve the problems posthaste.

Therefore, I support this extension under the present bill, not because I am delighted with ERISA, but because it is necessary. But at the same time I urge

my colleagues not to let another year go by without an overhaul of ERISA.

HUMAN RIGHTS

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. ROUSSELOT. Mr. Speaker, earlier this week, I was one of 54 Members of the House to vote against a resolution denouncing South Africa for repressive policies. I did so not because I favor apartheid, which I do not, nor because I favor the suppression of a free press, but rather because it seems hypocritical to me to address violations of human rights in one country to the exclusion of others which have been guilty not only of these things but of vastly worse crimes. Our Government has been so quick to denounce South Africa and yet what have we said about Castro's Cuba, Amin's Uganda, Torrijos' Panama or Nyerere's Tanzania? Nothing. In the case of Nyerere, the President recently welcomed him with open arms.

As Patrick J. Buchanan points out in his column appearing in November 1st's Colorado Springs Sun, ". . . Jimmy Carter all but annointed him with holy oils," calling Nyerere a "superb politician who recognizes that the structure of government can be used for beneficial purposes." That is quite a compliment for a dictator who has forcibly relocated half of his peasant population, prohibited the right to strike, brought the radio station and newspapers under government control and allowed 3,000 political prisoners to rot in Tanzanian jails. This is the man whose "guidance" and "counsel" the President requested?

Mr. Speaker, Mr. Buchanan's article goes right to the heart of the issue and I want to bring it to the attention of my colleagues. Our President and our Government should speak with one voice on the subject of human rights and that voice should carry the same message to Tanzania, Uganda, Panama, and Cuba as well as the rest of the world.

I do not condone apartheid, but neither do I condone a selective, hypocritical enforcement of our human rights policies.

The article follows:

"HYPOCRISY" ON AFRICA ALLEGED

(By Patrick J. Buchanan)

WASHINGTON.—"We know no spectacle so ridiculous as the British public in one of its periodical fits of morality." So writes Thomas Babington Macauley.

Unfortunately, Baron Macauley did not live to see Jimmy Carter's White House, which just called home its ambassador to South Africa, in protest of recent events there.

Now, concedely, Ministers John Voster and Jimmy Kruger are not your garden variety liberals. Neither, for example, would run well in John V. Lindsay's old "silk stocking" district. Their arrest of several dozen dissidents, coupled with the closing of the nation's leading black newspaper, seem nicely tailored to trigger a firestorm among the occupants of the big glass house at U.N. Plaza.

But the administration's breast-beating on all this is shot through with a palpable hypocrisy which, apparently, even the President cannot see.

Here we are, ordering home for "consultations" our ambassador to Pretoria while Cy Vance and friends are trying to find the right mix of concessions to Peking which will enable us to name an ambassador to the People's Republic—where one fouled-up wall poster can get you a bullet in the ear.

And where does Jimmy Carter come off lecturing South Africa on race relations?

If any country should show humility and understanding for South Africa and her problems of race, it should be the United States. Twelve decades ago, most American blacks were in chains. Three decades ago, in the golden age of American liberalism under FDR and HST, Washington, D.C. was as rigidly segregated in its schools, restaurants, jobs, clubs and housing as any city in South Africa.

And despite the current crackdown, the economic and social conditions of blacks in South Africa are superior to those in most countries of the African continent. Yet, from listening to Carter, one would think the Department of State had failed to brief him.

Thus, several weeks ago, when one of the most repressive and self-righteous demagogues in all Africa, Julius Nyerere of Tanzania, showed up at the White House, Jimmy Carter all but annointed him with holy oils.

You are a "superb politician" who "recognizes that the structure of government can be used for beneficial purposes," Jimmy beamed; a leader "who holds the key to the future of peace and equality of treatment and opportunity and freedom in Africa as dearly and as closely as any person alive."

In short, Jimmy laid it on with a trowel. If Nyerere were not a thorough-going hypocrite, he would have been looking around the room to see who in the devil the President was talking about.

For Nyerere, as my colleague John Lofton has investigated and found, has run up a record on human rights that would embarrass most of the inmates at the D.C. jail.

Over a decade, he has forcibly relocated half of his peasant population. Many who resisted were beaten; others saw their homes burned and crops destroyed. In Tanzania, there is no right to strike; the radio station and newspapers are government controlled; 3,000 political prisoners rot in Nyerere's jails.

This is the man whose "guidance" and "counsel" the President requested. Nyerere and the rest of the hoodlums in his entourage must have laughed all the way home to Dar es Salaam.

NASSAU-SUFFOLK CHAPTER, CYSTIC FIBROSIS FOUNDATION

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. WOLFF. Mr. Speaker, on Sunday, October 23, I had the pleasure of attending the Sixth Annual Dinner Dance of the Nassau-Suffolk Chapter of the Cystic Fibrosis Foundation. It was indeed my great honor and privilege to be selected as that organization's "Man of the Year."

As my colleagues are aware, cystic fibrosis is a genetic respiratory disease and the leading cause of death among young children. There is no cure at the present time, but in recent years great strides have been made toward this goal. Not too long ago children afflicted with this dreaded disease survived only through their pre-school years. Today, many live to become young adults. Intensified research will ultimately produce a cure to insure that all who suffer from this sick[illegible]ess may live out a full and fruitful life.

The Nassau-Suffolk Chapter of the Cystic Fibrosis Foundation has worked with tireless devotion to help make the cure of cystic fibrosis a reality. We here in the Congress are indeed proud of their work as well as the efforts of the more than 300 chapters nationwide.

At this time, Mr. Speaker, I would like to honor the countless individuals who have so generously given of themselves to volunteer their services in behalf of the children stricken with this disease. I particularly wish to congratulate Mr. Joseph V. Caltabiano, president of the Nassau-Suffolk chapter for his unceasing dedication in this noble cause. Joining him in making this chapter a great success are vice presidents Mrs. Richard Calderone, Mrs. Stephen Eppner, Mrs. Melvyn Lipschitz; Mr. Irwin Stahl, treasurer; Mrs. Walter Klausner, secretary; and directors Thomas Akeson, Joseph Artale, Mrs. Alan J. Brandt, Edward J. Cohen, Mrs. James Furey, Herman Gans, Morton Kleinman, Arnold Kossoff, Mrs. John Mulhern, Mrs. Lawrence Pagano, Mrs. Joel Sieger, Mrs. Gerald Silberman, Mrs. Martin Silverman and Mrs. Irving B. Singer.

AN OFFICIAL'S NET WORTH TELLS US NOTHING

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. CHAPPELL. Mr. Speaker, over the last few years we have seen increasing attention directed toward the personal and business affairs of public officials. For one reason or another, the public seems to have adopted a lively interest in virtually every detail concerning an individual in public service. The fact has become irrelevant that many such details have no bearing on the officeholder's official duties, or how he conducts his job.

However, even among the media professionals, there is a growing feeling that some of the more zealous public disclosure requirements have gone too far. One such journalist, Ray Ruester, of the Daytona Beach News-Journal, recently published his thoughts on the issue. Mr. Ruester has built a respected reputation as a knowledgeable and objective political reporter of happenings both within Florida and at the national level. His article on public disclosure speaks for itself, and I am pleased to submit it to the attention of the membership of this House.

AN OFFICIAL'S NET WORTH TELLS US NOTHING

(By Ray Ruester)

Some officials who made full financial disclosure as required by the sunshine amendment are complaining they are being pestered by salesmen and solicitors.

Now that the net worth and the liabilities and assets of the constitutional officers have been reported, what has the public learned?

We have learned that some officials are wealthy. Some aren't. Some have liabilities nearly equal to their assets. Some have valuable possessions possibly stored or on display in their homes.

This is what opponents of the financial disclosure amendment consider to be an invasion of their privacy. And they're right.

The purpose of financial disclosure is to give the public the information it needs to determine if an official has any conflicts of interest.

The actual dollar amounts required by the constitutional amendments are meaningless.

What does a person's net worth have to do with his integrity? An honest official is no less honest whether he's worth a lot or a little. A dishonest official is corruptible whether he's rich or poor.

Does it matter whether an official has a $2,000 interest in a business or a $100,000 interest? The fact that he has a business interest is important, not the dollar amount.

The public wouldn't be losing anything if the federal courts rule that it's an invasion of privacy to require officials to make public disclosure of their net worth and dollar amounts of their financial interests.

The financial disclosure requirements fall short in one respect and go too far in another.

Potential conflicts of interest can't be detected merely by requiring officials to disclose their net worth and the dollar value of their business and property interests.

Attorneys who are members of the legislature or who serve on local legislative boards aren't required to list the clients represented by their law firms. If they represent banks or developers there could be a potential conflict of interest. But this information isn't included in the disclosure's requirements.

The same would be true of officials who are insurance executives, real estate brokers, contractors, financial consultants, mortgage brokers and accountants.

The public really needs to know only the sources of income and business interests of officials in order to determine whether there are potential conflicts of interest.

Possibly by next year the "gossip value" of the financial disclosure information will have worn off.

Much of the information disclosed by officials under the sunshine amendment is worthless to the public. Why, then, should it be widely disseminated to the public, except for gossip purposes?

Public officials admittedly live in fishbowls. Both their public and private lives should be open to public scrutiny. But only to the extent that such information may have a bearing on the officials' public duties and responsibilities.

THE LOSS OF JOBS IN WESTERN NEW YORK

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. KEMP. Mr. Speaker, since 1969 at least 87 major firms in western New York have closed their plants or cutback operations and permanently laid off workers. I believe that the situation is critical and demands immediate action by Federal, State, and local government to enact permanent tax reductions for both individuals and businesses. I suggest that we begin by lowering taxes as in the Tax Reduction Act, which currently has 128 cosponsors.

A list of Buffalo area plant closings and a tax table follow:

BUFFALO AREA PLANT CLOSINGS 1969–1977

Company; location; date; and persons affected:

S. B. Shistler & Sons, Inc., Buffalo, February 1969, 150.

Swift & Company, Buffalo, April 1969, 50.

Curtiss-Wright Corporation, Foundry, Buffalo, June 1969, 200.

Sol Lenzer Corporation, Buffalo, October 1969, 50.

American Meter, Buffalo, January 1970, 214.

Remington Rand (Eng. Sec.), North Tonawanda, January 1970, 58.

Lehigh Portland Cement Company, Buffalo, January 1970, 130.

Electric City Paper Mills, Tonawanda, February 1970, 85.

Wood & Brooks Company, Buffalo, March 1970, 160.

Ralston Purina Company (Feedmill), Buffalo, March 1970, 100.

Kistler Instrument Corporation, Buffalo, August 1970, 175.

Remington Rand, Tonawanda, August 1970, 100.

Rugby Knitting Mills, Buffalo, November 1970, 100.

Sobin Chemical, Inc., Niagara Falls, November 1970, 100.

Bond Baking Company, Buffalo, December 1970, 139.

Brown-Nu-Cut Company, Buffalo, January 1971, 29.

Birma Products, Buffalo, February 1971, 75.

B. F. Goodrich, Niagara Falls, March 1971, 50.

U.S. Corrugated Fiber Box, Buffalo, April 1971, 45.

Sitkin Smelting & Refining, Buffalo, April 1971, 100.

Fetter Steel Barrel Corporation, Buffalo, May 1971, 35.

Iroquois Brewery, Buffalo, July 1971, 100.

Moore Business Forms, Niagara Falls, September 1971, 550.

Quaker Oats Company, Buffalo, January 1972, 35.

Pillsbury, Buffalo, January 1972, 200.

Allan Gair Company, Ltd., North Tonawanda, February 1972, 60.

Cellu Products (1 Div.), Niagara Falls, May 1972, 130.

Flinkote, Lockport, May 1972, 135.

Buffalo Tool & Die Manufacturing, Buffalo, June 1972, 50.

Certain-Teed Products, Cheektowaga, June 1972, 45.

Tonawanda Iron Pt., Am. Std., Tonawanda, June 1972, 160.

Rich Ice Cream, Buffalo, July 1972, 70.

Twin Industries, Cheektowaga, August 1972, 1,000.

Millbrook Bakery, Buffalo, September 1972, 200.

G. E. Semiconductor Products, Buffalo, October 1972, 400.

Boundary Paper Mills, North Tonawanda, October 1972, 40.

Curtiss-Wright Corporation (1 Dept.), Buffalo, November 1972, 200.

Stauffer Chemical Company, Niagara Falls, December 1972, 67.

Weatherpanel, Inc., Buffalo, December 1972, 20.

Spaulding Fiber Co. (3 Depts.), North Tonawanda, February 1973, 400.

Truck Equipment Company, Buffalo, May 1973, 73.

Agrico Chemical Plant, Buffalo, June 1973, 40.

Roblin Homes, Inc., Tonawanda, June 1973, 50.

Dupont (1 Section), Niagara Falls, June 1973, 100.

Silver Creek Precision Corporation, Buffalo, August 1973, 55.

Brickford Box Corporation, Niagara Falls, September 1973, 40.

Agway, Inc., Buffalo, October 1973, 240.

Allied Mills, Buffalo, October 1973, 90.

Star Ring Company, Buffalo, February 1974, 25.

McKaig-Hotch, Buffalo, March 1974, 100.

Loblaw Bakery, Buffalo, April 1974, 90.

Hewitt-Robbins, Buffalo, May 1974, 715.

Central Foundry Company, Tonawanda, June 1974, 225.

Klinck & Schaller, Buffalo, August 1974, 35.

Cargill Electric Elevator, Buffalo, October 1974, 17.

Xcelite, Inc., Orchard Park, October 1974, 125.

Sealtest Foods, Buffalo, November 1974, 65.

Niagara Apparel Company, Buffalo, November 1974, 100.

American Standard, Inc., Buffalo, February 1975, 600.

Wurlitzer Company, North Tonawanda, March 1975, 400.

A&P Bakery, Buffalo, March 1975, 80.

Dustex, Buffalo, May 1975, 40.

Amax, Akron, August 1975, 105.

W. T. Grant Company, Buffalo, January 1976, 575.

Western Electric Company, Tonawanda, January 1976, 2,000.

Mayfair Creamery Company, Buffalo, January 1976, 12.

Loblaw, Inc., Buffalo, February 1976, 500.

Sperry Rand Corporation, North Tonawanda, February 1976, 200.

Peck & Peck, Buffalo, February 1976, 4.

K-Mart Food Stores, Buffalo, March 1976, 200.

International Paper Company, Tonawanda, March 1976, 445.

Moeller Instrument Co., Inc., Cheektowaga, March 1976.

R. A. Serafini, Inc., Tonawanda, June 1976, 30.

Quaker State Oil Refining Corp., Inc., Buffalo, July 1976, 6.

Bob Cor Automotive, Buffalo, July 1976, 9.

Western Electric (General Controls) Buffalo, October 1976, 750.

Sylvania, Batavia, November 1976, 488.

CPC International, Buffalo, November 1976, 79.

National Gypsum (Corp. Headquarters) Buffalo, November 1976.

Worthington Parts Dist., Cheektowaga, February 1977, 50.

Unicure Inc., Cheektowaga, March 1977, 45.

Houdaille (Corp. Headquarters), Buffalo, May 1977, 40.

Ward Hydraulics (Corp. office), Buffalo, May 1977, 20.

IDSI Products (Corp. office), North Tonawanda, May 1977, 23.

Dow Chemical Sales, Amherst, May 1977, 23.

Erie Scientific, Buffalo, June 1977, 150.

Bethlehem Steel, Lackawanna, August 1977, 3,500.

Total number of persons affected, 18,566.

NOTE.—This listing which affected 18,566 jobs does not include many of the smaller companies and businesses that have closed or curtailed operations in recent years.

FAMILY BY FAMILY: HOW TAXES COMPARE

[State and local taxes for typical families of 4 in 1975]

	$5,000 income		$15,000 income		$30,000 income		$40,000 income	
	Taxes	Percent	Taxes	Percent	Taxes	Percent	Taxes	Percent
New York	$1,005	20.1	$2,755	18.4	$5,716	19.1	$8,037	20.1
Boston	811	16.2	2,420	16.1	4,499	15.0	5,856	14.6
Buffalo	719	14.4	2,026	13.5	4,314	14.4	6,144	15.4
Chicago	651	13.0	1,609	10.7	2,758	9.2	3,442	8.6
Los Angeles	584	11.7	1,820	12.1	3,826	12.8	5,380	13.5
San Francisco	553	11.1	1,694	11.3	3,576	11.9	5,053	12.6
Pittsburgh	552	11.0	1,566	10.4	2,698	9.0	3,393	8.5
Indianapolis	537	10.7	1,326	8.8	2,312	7.7	2,894	7.2
San Antonio	537	10.7	1,200	8.0	1,984	6.6	2,439	6.1
Seattle	510	10.2	1,072	7.1	1,687	5.6	2,042	5.1
St. Louis	475	9.5	1,316	8.8	2,503	8.3	3,222	8.1
Philadelphia	473	9.5	1,487	9.9	2,674	8.9	3,421	8.6
Denver	459	9.2	1,251	8.3	2,505	8.4	3,250	8.1
Dallas	455	9.1	1,009	6.7	1,653	5.5	2,023	5.1
Phoenix	441	8.8	1,131	7.5	2,310	7.7	3,035	7.6
Cincinnati	441	8.8	1,144	7.6	2,248	7.5	2,978	7.4
Washington	441	8.8	1,396	9.3	2,963	9.9	4,076	10.2
Memphis	434	8.7	896	6.0	1,350	4.5	1,609	4.0
Detroit	433	8.7	1,534	10.2	3,115	10.4	4,123	10.3
Milwaukee	429	8.6	2,135	14.2	4,424	14.7	5,890	14.7
Baltimore	420	8.4	1,442	9.6	2,862	9.5	3,757	9.4
Nashville	405	8.1	834	5.6	1,245	4.2	1,477	3.7
Kansas City, Mo.	405	8.1	1,172	7.8	2,265	7.5	2,940	7.4
Cleveland	397	7.9	1,007	6.7	1,968	6.6	2,602	6.5
San Diego	395	7.9	1,312	8.7	2,918	9.7	4,226	10.6
Atlanta	393	7.9	1,245	8.3	2,670	8.9	3,571	8.9
Houston	391	7.8	868	5.8	1,414	4.7	1,723	4.3
Columbus, Ohio	366	7.3	960	6.4	1,919	6.4	2,557	6.4
New Orleans	339	6.8	1,029	6.9	1,877	6.3	2,455	6.1
Jacksonville	173	3.5	485	3.2	804	2.7	9.6	2.4
30-city average	487	9.7	1,371	9.1	2,635	8.8	3,486	8.7

Note: It is assumed that a family has 1 wage earner, 2 school-age children and lives in own home; families with $5,000 income own 1 car, others 2.

Source: District of Columbia government.

THE HANDSHAKE OR THE SWORD

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. SYMMS. Mr. Speaker, to the extent that a society limits its government to policing functions which curb the individuals who engaged in aggressive and criminal actions against others, and conducts its economic affairs on the basis of free and willing exchange, to that extent domestic peace prevails. However, when a society departs from this norm, its governing class begins, in effect, to make war upon the rest of the nation. A situation is created in which everyone is victimized by everyone else under the fiction of each living at the expense of all. Power differentials in society are increased and aggravated, popular discontent mounts, and the ruling group seeks for a device to restore "unity." Often times that device is war.

Mr. Speaker, Tom Hazlett, a student of liberty and also a graduate student in economics at UCLA wrote an outstanding article for the November 1977 issue of the Freeman, published by the Foundation for Economic Education. Tom's article clearly describes the result of government intervention in lives of free people and in their freedom of voluntary exchange under the guise of solving social problems. I commend the article to my colleagues:

THE HANDSHAKE OR THE SWORD

(By Thomas W. Hazlett)

Government action to solve social problems—whether it be the public school system, the welfare system, busines regulation, the tax system, Social Security, urban renewal, or Swine Flu inoculation—presents a real world picture of colossal failure. Yet, paradoxically, our society resorts almost spontaneously to government to attempt to cure social ills.

This urge to inject the state into every nook and cranny of our lives simply shows that people believe what they want to believe. If they can imagine some tangible, immediate benefit from government, they will nearly always grasp this "sure thing" rather than some vague social process called "economic liberty." Although it may be demonstrated clearly that the total cost of government almost invariably exceeds its total benefit, the instinct to want to believe in the pragmatic, concrete and direct attack on a problem through the coercive powers of the state is simply insurmountable nine times out of ten.

Whatever people want to believe, the fact is that government action and private action are not two sides of the same coin. The two alternative means of solving social problems (such as poverty, alienation, igncrance, prejudice, disease, unemployment) distinctly differ in two important respects, one a matter of social justice, and one a matter of economic efficiency.

The way in which government activity inevitably differs from private activity in the realm of social justice springs from the winner-loser relationship inherent in all political solutions.

That is, for every act of state, authorities must decide what group is to receive some benefit on the one hand, and what group is to provide this benefit, on the other. That every activity of the government will result in some groups being rewarded and other groups being, in effect, punished is true by the nature of state action. If everyone benefited from a particular activity there would be no need for coercion to bring it about. Such natural action and reaction is the essence of all private, voluntary relationships taking place outside the sphere of government. Professor Milton Friedman eloquently describes this arbitrary favoritism inherent in political solutions:

"A political system finds it very difficult to satisfy the needs of minority groups. It's very hard to set up a political arrangement under which, if 51 percent of the people vote one way and 49 percent vote the other way, the 51 percent will get what they want and the 49 percent will get what they want. Rather, the 49 percent will also get what the 51 percent want.

"In a market system, if 51 percent of the people vote, say, to buy American cars and 49 percent vote to buy foreign cars and the government lets their votes be effective and doesn't impose tariffs, 51 percent will get American cars and 49 percent will get foreign cars. In a market system, if 40 percent of the people vote that they want to send their children to integrated schools and 60 percent vote that they want to send their children to segregated schools, 40 percent will be able to do what they want and 60 percent will be able to do what *they* want. It's precisely because the market is a system of proportional representation that it protects the interests of minorities."—There's No Such Thing as a Free Lunch.

Economists, in attempting to improve the welfare of society, look for potential transactions in which at least one party becomes better off while no one becomes worse off. The idea is that, without imposing value judgments upon others, we can be safe only by encouraging transactions to take place which are mutually beneficial in the eyes of the participants. To go further than this cooperative trading, and to justify some activities which bring good to some only at the expense of harming others requires that we put ourselves in a dictatorial role in evaluating one man's gain versus another man's loss.

COERCIVE REDISTRIBUTION

Which brings us right back to the government. All moves that the state makes involve this trading-off of one's gain against anothers' loss. Private transactions, contrarily, are inherently just—all voluntary arrangements are mutually beneficial or else they would never have been freely created by the people involved.

This favoritism effect is remarkably easy to see in the context of any government subsidy. One group—the taxpayers—provide the means; another group—the subsidized—consume the booty. Hence, a privileged class and a peasant class emerge; and while the enormous wealth and amazing inconsistency of the welfare state tend to confuse the dichotomy, the relationship survives as a result of excessive government involvement in society.

Over time, people learn the vicious "dog-eat-dog" nature of this arbitrary government power and do battle to become the one that Big Brother Likes Best. This is seen in the gang warfare that characterizes the processes of government today. Special interest groups have been born to champion every conceivable public program. Groups to eliminate foreign competition, support the price of milk, grab welfare, promote minorities, neuter puppy dogs, burn dirty books, lend businessmen money, ad nauseum, now surround Washington, D.C. like a moat with alligators. After all, if you assume that government has a responsibility to "solve social problems," what does it take to cash in, save a good story (i.e. a good press agent) and some good friends?

That such rivalry for political candies produces a new caste system, a government-ordered hierarchy of pull, there can be no doubt. As Professor Friedrich A. Hayek has alerted us:

"When the government has to decide how many pigs are to be raised or how many buses are to be run, which coal mines are to operate or at what prices shoes are to be sold, these decisions cannot be deduced from formal principles or settled for long periods in advance. They depend inevitably

on the circumstances of the moment, and, in making such decisions, it will always be necessary to balance one against the other the interests of various persons and groups. In the end somebody's views will have to decide whose interests are more important; and these views must become part of the law of the land, a new distinction of rank which the coercive apparatus of government imposes upon the people."—The Road to Serfdom.

Professor Hayek's observation of the authoritarian nature of political decisions leads us to the second principal respect in which these alternatives are mutually exclusive. The aforementioned difference being primarily a matter of political justice, this latter is essentially economic. It revolves around the contrast between the efficiency of economic activity that is directed by a disinterested bureau from above, as opposed to activity which is directed by the interactions of numerous smaller units each of which has a personal stake in the immediate proceedings.

The chief characteristic of a private enterprise solution to a problem is that it coordinates the desires and information of all interested parties (consumers, producers, workers, and the like) and finds some point of balance in the impersonal process known as the "market." This process is impersonal only in the sense that it does not respond solely to any one party; it is responsive, generally speaking, to thousands and even millions of individual interests.

In lifting responsibility for economic activity from the shoulders of the individuals directly involved, the bureaucratic administration of social activity is losing an incredible sum of information (especially specific information of "time and place") and those special bits of knowledge involving human incentives which, almost always, are literally impossible to communicate from one person to another.

NO RELIABLE GUIDES

The meaning of this information flow is of seminal importance. In Soviet Russia, where the authorities have known no limits in their methods to force the "proper" information out of their administrators, the entire social structure is riddled with preposterous inefficiencies. The past decade has seen a vigorous battle in the USSR between the economists, pleading for decentralization, and the politicians (you know what side they're on).

The implications of this problem of government administration lead to even more severely challenging issues in a liberal democratic society. The concept of the Rule of Law, the cornerstone of Western Liberalism, says that government must treat all its citizens equally and must never arbitrarily detour from general rules established in advance of specific situations.

This notion of fairness is fundamental to what we respect as the Liberal Tradition, an idea whose merits are abundant. Yet this notion can rationally apply only to the necessary coercive powers of government (i.e. the defense of individual rights) and is absurd in an economic context. The supreme test of a social or economic system is precisely this: How well does it respond to the peculiar needs of individuals? While private transactions are incessantly tapered to unique individual demands (think of all those commercial slogans!), government solutions must not discriminate between individuals but must treat everyone alike. To abandon this precept of law is to grant the state vast prerogatives to arbitrarily use coercive powers and to create just the sort of antiliberal society Dr. Hayek warned of in his monumental "Road to Serfdom."

The claim is often made that government planning can actually provide for our well-being because it has so much *more* information than individuals possess. This appears to be a logical argument. Certainly the Bureau of Labor Statistics, the Census Bureau, the Federal Reserve Board, and the Commerce Department's *Statistical Abstracts* are impressive. Yet practical experience has belied the efficacy of government information sources. The biggest problem is to know which information is "proper" or "important." Billions of specific pieces—tiny pieces—of information are dispersed throughout the society. What factors are relevant? Which are more relevant than others? What about factors which cannot be quantified, such as risks, incentives and personal tastes? How can statistics be of any help in telling us what unpredictable surprises are just around the corner?

STATISTICAL LIMITS

Government statistics are extremely helpful in a very limited way: they can tell us the aggregate results of those things which have already taken place and which can be exactly measured (of much value to financial analysts and businessmen concerned with day-to-day changes). The important social and economic growth, however, takes place precisely in those areas of our lives that defy measurement: the risk that pays off, the invention or innovation, the new forms of social cooperation, improved culture and customs, discoveries of particular human needs, better methods of organization and production, the emergence of meritocracies.

The only reason that social problems exist is because our human knowledge is imperfect—highly imperfect. If we already knew the correct answers to our problems (or knew where to look) we would immediately cease to discuss and commence to solve our problems in "The Correct Way." But this is not our fate. We do not know what the best answers are or ought to be, and must rely almost exclusively upon trial and error. This being so, aggregate statistics are very nearly irrelevant to the basic problem which confronts us, for they necessarily tell us only what has happened and tell us nothing of the unknown, i.e., nothing of what might have happened instead or might possibly happen next.

The only way that we may strive toward an optimal solution of our journey through an indescribable world and toward a completely subjective goal is to encourage as many individuals as conceivable to use their unique circumstances and opportunities to advance the social process. In his famous essay, "The Use of Knowledge in Society," Professor Hayek elucidates:

"The peculiar character of the problem of a rational economic order is determined precisely by the fact that the knowledge of the circumstances of which we must make use never exists in concentrated or integrated form but solely as the dispersed bits of incomplete and frequently contradictory knowledge which all the separate individuals possess. The economic problem of society is thus not merely a problem of how to allocate "given" resources—if "given" is taken to mean given to a single mind which deliberately solves the problem set by these "data." It is rather a problem of how to secure the best use of resources known to any of the members of society, for ends whose relative importance only these individuals know. Or, to put it briefly, it is a problem of the utilization of knowledge which is not given to anyone in its totality."—Individualism and Economic Order

AMENABLE TO CHANGE

Herein lies the near-mystical beauty of a free market. While operating in a world of imperfection, its momentum is continuously in the direction of improvement. Using the price system, wherein prices reflect the supply and demand for commodities, every individual is rewarded for economizing on commodities which are relatively expensive to society as a whole. Conversely, within the profit system, every person is encouraged to find ways to bring more of the goods to market that are in high demand by the society as a whole. How is it possible that one administrator sitting in a Washington, D.C. executive suite—or 50,000 administrators sitting in suites all over the nation—could provide us with even a fraction of the data we need to match the responsiveness of the free market in solving our problems?

What could be a more chilling indictment of contemporary society than to focus on the real world viability of bureaucratic administration?

Picture if you will the hapless bureaucrat, surrounded by his tons of "information," completely impotent to deal with either his fellow bureaucrats or the outside world. Removed from the scene of activity and operating without aid of economic incentive, the administrator looks down at the system from on high, receiving a splendidly clear picture of the society as a whole (he has statistics!) and having little idea as to how it got that way or how it may be induced to function better.

At any point in time, however, the argument to amass the impressive powers of the state behind an indisputably important effort is most enticing. Today, for example, so-called liberals and so-called conservatives are both speeding for the pole position on a National Energy Policy. The key to this problem, as always, is lack of information. How much energy do we need? Can we conserve more energy? What is our most efficient (least expensive) source? Do we have undiscovered oil reserves? Are there other, undiscovered energy sources? Are geothermal, solar, wind, nuclear energy, and the like economically feasible?

Since we have no clairvoyant powers to extrapolate into the future and find how these questions will, in fact, be answered, we will have to draw upon history to deduce a general principle. Let us suppose that the year is 1900 and we wish to similarly provide for our energy needs in that era. It could be pointed out that world oil reserves were but 10 short years (one-fourth today's reserves) and that we had better undergo a cash program before America was dragged back into the Stone Age.

SHORT-RUN MEASURES

An emergency program could have halted all automobile production (they couldn't be mass produced and were simply wasteful playthings for the super-rich), provided government subsidies for horse stud services to increase the supply of energy-efficient and biodegradable thoroughbreds, and handed out free axes to enable even the poor people to chop their own firewood.

It is conceivable that such a policy, given the existing level of knowledge, would have provided the best immediate solution to America's energy needs in 1900. Yet, what government bureaucrat would fill out a requisition order to discover a hundred times the existing oil reserves, what planner would direct the electric car to be replaced by the internal combustion engine, what grand official would "prioritize" Henry Ford's mass-production scheme into existence? Importantly, if government planners had intervened to impose a solution based upon their limited knowledge, these incredible advances would have dropped into the file entitled: "Might-Have-Beens." And so it goes today. To impose any short-run marshaling of resources for a concrete crisis of the moment requires a transferral of power from the men who build for progress to the men who prepare the forms to be filed in triplicate

Given a world chock-full of social problems, we have to decide how best to cure them. Choosing between a government solution and a private solution is not merely a question of which method will solve the

dilemma most efficiently in the immediate future. It must be acknowledged that the alternative means of social development are essentially separate both in terms of "social justice" and in terms of utilizing the enormous amounts of information that are so vital to a highly complex society.

Our decision between these competing methodologies, then, becomes painfully crucial. An unavoidable choice with overwhelming consequences, we should take deep breaths and careful meditations in considering the relative merits of either case. And let us not stumble into the error-strewn ravine of the middle path. It is surely one or the other. Public solutions will be attempted or private solutions will be attempted. But not both. Albert Jay Nock set it straight:

"It is unfortunately none too well understood that, just as the State has no money of its own, so it has no power of its own. All the power it has is what society gives it, plus what it confiscates from time to time on one pretext or another; there is no other source from which State power can be drawn. Therefore every assumption of State power, whether by gift or seizure, leaves society with so much less power; there is never, nor can be, any strengthening of State power without a corresponding and roughly equivalent depletion of social power."—Our Enemy, The State.

While our contemporary world seems to suffer from a nasty reflex in favor of Nock's "State power," it may well be that we have mentally accepted the efficacy of "Social power"—at least subconsciously. Our language gives us away. How many times have you heard some courter of special favors denounced with the cliche: "He's just playing politics"? Or heard some scoundrel shrivel beneath the pejorative: "He's nothing but a politician!"? And we so often hear the opposite compliment: "He certainly has a business-like attitude." When people have mutual interests they exclaim: "Let's do business together." And when they roll up their sleeves to get the job done: "Let's get right down to business."

Have you ever heard a serious citizen of our age exclaim: "Let's get right down to government"?

SPECIAL TRIBUTE TO REV. ALFRED L. C. ROBBS

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. KILDEE. Mr. Speaker, I am proud to bring to the attention of my colleagues in the House of Representatives the recognition being extended this weekend in Flint, Mich., to the leadership and community involvement of the Reverend Alfred L. C. Robbs.

Reverend Robbs is the pastor of Christ Fellowship Church and is one of the Flint area's most respected and distinguished members of the clergy. He has long been regarded as one of the ablest and most effective leaders for the changes needed to help bring about social justice for the black community.

He is now affiliated with, or has been on: The Genesee County Board of Commissioners, County Law Enforcement Commission, Official Chaplain for Genesee County, Board of Human Relations, Community Civic League, Democratic Minority Caucus, Urban Coalition, Urban League, NAACP, Genesee Area Skill Center Advisory Committee, Concerned Pastors of Greater Flint, Baptist Ministers Alliance, Great Lakes District Baptist Association, Wolverine State Council for Christian Education, Indiana Congress of Baptists, and the Terre Haute, Ind., Council of Churches.

Reverend Robbs marched with the Reverend Martin Luther King in 1963 through Montgomery, Ala.; he was with Dr. King in Washington, D.C., when a million people marched for the poor. Reverend Robbs also was invited to the inauguration of President Jimmy Carter and attended that early this year.

It is with pleasure and pride that I bring this brief sketch of the leadership of the Reverend Alfred L. C. Robbs to my colleagues, and I include it at this point in the CONGRESSIONAL RECORD. I am looking forward to joining many other members of the Flint community in a special tribute to Reverend Robbs on Saturday, November 5.

ST. MATTHEW'S CATHOLIC CHURCH IN NORTHEAST PHILADELPHIA CELEBRATES 50TH ANNIVERSARY

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. EILBERG. Mr. Speaker, I am very proud of the fact the Roman Catholic parish of St. Matthew's, which lies in the Fourth Congressional District of Pennsylvania which I represent in the House, recently observed its 50th anniversary.

In this connection, the weekly publication of the archdiocese of Philadelphia, the Catholic Standard and Times, carried an excellent article recently about the growth and development of this church in northeast Philadelphia.

It is with considerable pride, Mr. Speaker, that I place the full text of this article in the RECORD:

FIFTY YEARS NOTED BY GREATER NORTHEAST CHURCH

During the second week of October, 1927, Father John McMenamin, erstwhile assistant pastor at St. Agatha's Church, alighted from a rt. 66 trolley at the corner of Frankford and Cottman aves., and looked over the empty fields of his new parish, St. Matthew.

In the 50 years that have passed since that day, the empty fields of the Greater Northeast have blossomed into one of the largest parishes in the Archdiocese.

The first parish church was a rowhouse on Cottman ave. which doubled as a rectory and in which Masses were offered for over a year.

The first church (chapel) was placed on the site of the present convent. It was a wooden building used as a barracks at Hog Island during World War I, and had served as the original church building for a budding St. Ambrose parish after the war. The first Mass was offered in the chapel on Oct. 14, 1928.

After the new church was constructed, the old chapel building was used as a school annex and finally was dismantled for the construction of the convent.

Father McMenamin remained as pastor of St.Matthew's until 1934 when he was transferred as pastor to St. Francis Xavier Church and Father James J. Rice was named pastor to replace him.

Father Rice continued the labors that the founding pastor had laid out. He constructed the school and a new permanent church. The school building was completed by the beginning of the school year, 1937 and was staffed by Sisters, Servants of the Immaculate Heart of Mary.

Ground was broken for the church in June, 1941, and the building was completed in nine months.

Father Rice died on April 30, 1946, and was succeeded by Father Laurence A. Maher. In a moving speech to his new congregation, Father Maher said: "I come amongst you, today, as your new pastor, and with the help of God, to carry on the work so well begun by Fathers McMenamin and Rice . . . I am no stranger . . . I grew up in St. Leo's."

Under Father Maher the parish came to its fullness. Buildings were completed and added to, new projects undertaken and Catholic life flourished at all levels.

However, there was one little cloud in the sky. Where would Father Maher put the terrific overload of students now coming to school. Enrollment had increased from 320 in 1937 to 750 in 1946. A school building fund was started and by October, 1948, enough money had been raised to start a new school which was completed and opened for the 1949 school year.

As the year of 1962 drew to a close—The 35th anniversary of the parish—all parish buildings were opened and in use and paid for. The work was over. Within a few months, on Feb. 15, 1963, Father Maher died.

Father John O'Melia, pastor of St. Malachy's Church in the inner-city was transferred to St. Matthew's as pastor to succeed Father Maher in 1963 and remained until his death in 1968.

Msgr. Francis Gaughan, who had been founding pastor of St. Paul in East Noriton, was appointed fifth pastor of St. Matthews in October, 1968.

Father Gaughan presided over all the changes made in the church buildings dictated by Second Vatican Council.

On March 22, 1976, recognition came to Father Gaughan. He was called to the chancery to meet Cardinal Krol and to be informed by him that Pope Paul had named him a domestic prelate with the title of Monsignor. The honor was a personal one, granted to a priest who had labored long and had produced excellent results.

With 50 years of activity in the Northeast passed, the parishioners of St. Matthew's look forward to many more years of expansion.

ROBIN HOOD AND PUBLIC BROADCASTING

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. WAXMAN. Mr. Speaker, for all its achievements over the past decade, it remains that the public broadcasting system remains woefully underfunded. The price paid by the American people because of the lack of sufficient levels of funding is an inability of the system to consistently program exciting and alternative concepts, reaching diverse audiences, in a grand manner. The entire public broadcasting system spends approximately $66 million per year on programing, while each of the three commercial networks spends $1 billion in this area. Combined network profits last year

totalled nearly $300 million—or more than four times what commercial broadcasting could commit to bringing shows to life on television.

The President's proposal to assist public broadcasting is a step toward rectifying this profound imbalance in resources. But even though the President's intiative calls for more money to be spent on public broadcasting over the next 5 years than during the last 10 combined, each yearly authorization of $200 million is only a fraction of what CBS or NBC or ABC will spend to bring us this year's new television season. There is no doubt that the demand for higher levels of funding over time—so essential if public broadcasting is to truly fulfill its potential of delivering that which is not presented by the commercial networks—will not subside.

One of the questions we must consider is whether these funds should continue to be borne primarily by taxpayers in the form of appropriations from general revenues, or whether other, potentially lucrative sources of funding should be tapped.

A parallel concern is that of insulating the system from political pressures. To the extent that public broadcasting must rely on congressional authorizations, the potential exists for bringing political pressure to bear on programing decisions. The utilization of outside funding sources would minimize the possibility of improper intrusion by the Government in this area.

It has therefore been proposed that the networks themselves make mandatory contributions from their vast income to the operation of the public broadcasting system. Perhaps a special tax formula could be devised for this purpose, or a license fee on the use of the spectrum imposed.

The National Association of Broadcasters has observed that the commercial broadcasting industry has developed into the best television system in the world "without a cent" of support from the Federal Government. But the fact is that broadcasters enjoy the use of the spectrum—which is owned by the American people—without paying a cent for it.

The issue is therefore posed whether an overriding public interest concern—the sustenance and growth of a robust and responsive public broadcasting system—should be met in part by those who are currently using a critical national resource for free.

This is one of the options I believe should be seriously considered by the House Communications Subcommittee as it continues its review of the Communications Act of 1934 and the President's proposal on public broadcasting.

Many of these questions were raised by John J. O'Connor, a television critic for the New York Times, in a recent article. I commend his article to the attention of my colleagues:

[From the New York Times, Oct. 30, 1977]

WHY CAN'T THE NETWORKS HELP SUPPORT PBS?

(By John J. O'Connor)

Public television needs money. As a second Carnegie Commission starts to examine the system's fundamental purpose and overall structure, as Congress begins dissecting President Jimmy Carter's proposed bill for Federal funding, and indeed as Lionel Van Deerlin's House Communications Subcommittee struggles on with its "review" of the Communications Act of 1934, money remains the obvious and primary key to public television's future, affecting everything from programming content to the size audience reached via stronger signals or satellites. Currently, the system provides an "acceptable" signal to only half of the population.

Undoubtedly, the sources of programming dollars should continue to be diversified to insure insulation against undue pressure from any single entity: Federal, state and local financing; foundation grants; corporate underwriting, and individual viewer donations. But other sources might also be found. One that has long been mentioned, but then neatly and almost mysteriously shelved, is the well-stocked profits pot of the commercial networks. I suggest that this quite reasonable possibility be reopened for discussion and serious consideration.

At this juncture, the networks might understandably recoil in horror from a proposal that they share their wealth. Chief executives will invoke the sanctity of the free enterprise system. Network lawyers will draw up briefs attempting to demonstrate how the very idea is unworkable. Powerful lobbyists will be unleashed in Congress to remind our elected representatives that access to air time can be invaluable to a political career. All of these points are nicely taken, and would even be convincing if broadcasting were considered analogous to, say, manufacturing jumpsuits in the garment district.

But broadcasting is not just another manufacturer. This essential fact was recognized by lawmakers in the early days of radio. It was decided that the airwaves belong to the public. In a panel discussion, no less an eminence that Richard S. Salant, president of CBS News, once referred to that contention as "empty rhetoric." Given the way that broadcasting has been allowed to develop, the almost arrogant impatience of broadcasters with irritating facts is perhaps inevitable. But Public Law No. 632, enacted in 1927, clearly spelled out that its purpose was "to maintain the control of the United States over all channels." It provided for the licensed use of those channels, "but not the ownership thereof." The guiding standard for the licensees was and is still supposed to be the "public interest, convenience or necessity." Broadcasting was perceived as a national resource. Its regulation as a "crucial conservation issue."

Returning to present-day reality, the before-tax profits last year for all of commercial broadcasting topped $1 billion (specifically $1,250,200,000) for the first time. That represented a jump of 60 percent over 1975. President Carter's proposed public broadcasting bill, which would become effective in 1981, calls for Federal funding of slightly less than $1 billion over a period of five years. Long lists of figures generally tend to confuse matters, but a brief rundown of the 1976 network totals is enlightening at this point. ABC, CBS and NBC had combined network revenues of $2,117,500,000, plus another $486,900,000 from their 15 owned stations. Network profits alone totalled $295,600,000, up to 40 percent from 1975, while owned-stations profits rose 50 percent to $159,000,000.

That is the quite incredible financial picture, recorded at a time when, in the words of one former top executive, "The system is performing at its glorious worst." Not only are profits, at an all-time high, but the networks have already begun demonstrating that they can go higher still.

Individual stations are already criticizing the networks for "poaching" on their territory through expansions of commercial time. ABC has added five minutes of commercials to each week of "Good Morning, America." NBC has done the same with the "Today" show, and has added 10 minutes to its Sunday late-night movie. All three networks are now running one-minute "news updates" in prime time (an idea filched from CBS's "Bicentennial Minutes"). Containing commercials, the "updates" come out of programming not normal commercial time. In filing before the Federal Communications Commission, the networks say they have no present plans to expand the number of prime-time commercial minutes, but, of course, they have not ruled out that possibility for the future. In other words, the networks are locked into rigid time/space forms while supplying stations with programming for 12½ hours each day. With the ever-present pressure for increasing profits, expansion has to be done horizontally within that form. And if more commercials are required, more commercials will be squeezed in.

Furthermore, the leap at ABC to top position in the prime-time audience ratings has thrown the industry into a frenzy of "lowest common denominator" competition. The ABC phenomenon is the result of good sports programming, including the Olympics, and a blatant pitch to younger and younger audiences with shows such as "Happy Days," "Laverne and Shirley," and "The Six Million Dollar Man." In broadcasting, nothing is imitated so fervently as success. One smash action/adventure show breeds 10 similar action/adventure formats. That is what disturbs many observers about ABC and its seeming preoccupation with calculating escapist entertainment. The other two networks profess loftier goals. Just before he was removed as president of the CBS network and returned to head of CBS Sports, Robert J. Wussler was charging that ABC "has taken the Saturday morning cartoon shows and moved them into prime time as live action shows—this is comic-book stuff, cartoon-style without the cartooning, and I say it's junk." A good many people would agree with Mr. Wussler. The problem is that his own network was carrying "Wonder Woman," a cartoon-style reject from ABC. And, according to usually reliable reports, CBS executives on the West Coast were wining and dining those very producers responsible for much of the "junk" on ABC. It seems that CBS, at least for the moment, simply wasn't being as persuasive as ABC in making offers the producers couldn't refuse.

Thus is the system glimpsed at its glorious worst. To pick just one of innumerable logical questions: Why hasn't each network, reveling in almost embarrassing riches, set aside only one prime time slot each week for "quality" programming efforts? Whether it be serious drama, a concert, an ambitious documentary or imaginative experimentation, the programs would be put on with no concern about blockbuster ratings. They would be presented in "the public interest." But, of course, the networks have done no such thing, at least since the "Golden Age" of the early years, when audiences were relatively smaller and supposedly more educated. And, of course, the networks will do no such thing as long as the race for profits becomes even more hectic. That is where, as in many other countries, public or "non-commerical" television comes in. And it doesn't come in easily or cheaply.

Even the British Broadcasting Corporation, long the outstanding example of a noncommercial system at its best, is experiencing serious financial difficulties in these years of joblessness and inflation. A delicate balance must be maintained. All television production is expensive. Quality television, from dramas to documentaries, is usually very expensive. ABC's "Roots" and "Washington; Behind Closed Doors" were both multi-million-dollar productions. WNET's "The Adams Chronicles" was budgeted at

around $6 million. The difference is that, under present circumstances, WNET can afford to mount that level of production only once every few years.

Admittedly, public television is hardly a paragon of flawless virtue. Despite protestations of Lawrence Grossman, president of PBS, to the contrary, the public affairs programming schedule is on the skimpy and timid side. In a recent statement to stations, Mr. Grossman attempted to pad out the "public affairs" ledger with programs such as "Nova," a science series. And the strongest documentary on his list was an acquisition from Britain covering an American story about chemicals.

There is also a serious question about public TV's priorities. Adding "some gloss" to the schedule with a mediocre Dick Cavett nightly talk-show, costing $2 million a year, would seem questionable. And the increasingly lengthy recitations of underwriter credits—in some cases not only before and after, but also in the middle of a program—are excessive.

But, whatever its faults, public television is by and large concerned with quality while the commercial networks become increasingly preoccupied with the quantity of audience numbers. That remains the most significant difference. Granted, much of the quality on public television is imported—"Masterpiece Theater," etc.—but that situation is just about unavoidable without more money being pumped into the system. And President Carter's proposed bill, its flashy $1 billion price tag notwithstanding, is far from being a sudden windfall. PBS's Mr. Grossman has described its full financial impact as "a minimal increase in what we've been getting—we need a billion dollars a year."

In terms of specific examples, it's a question of a PBS series like "American Short Stories" versus commercial television's "79 Park Avenue," of "Visions" versus "Police Story," of the MacNeil/Lehrer Report versus "cosmetic" changes in the network nightly news programs. One side doesn't necessarily cancel the other. They both deserve to exist and perhaps even flourish. But the commercial side is capable of contributing heavily to the public side. That contribution could be voluntary, cleverly leaving the networks free to pursue "lowest common denominator" saturation on a full-time basis. Or, more likely, a financing formula, devised with every concern for fairness, could be imposed on the networks. The broadcasting conscience has had to be nudged regularly by groups such as the United Church of Christ or Action for Children's Television. In this case the role might be given to the new Carnegie Commission or Representative Van Deerlin's subcommittee. Perhaps the networks, in return, could be promised a larger share of the future cable-TV pie. What is finally needed is a reaffirmation of the principle that broadcasting and the public interest are too important to be left entirely to the quest for maximum corporate profits.

CANAL TREATIES

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. CARTER. Mr. Speaker. I include for the RECORD an article by Jeffrey Hart. It clearly points out what happens in every case when the forces of the United States move out: The Soviet bloc moves in.

The article follows:

CANAL TREATIES: UNITED STATES VS. THE SOVIETS

(By Jeffrey Hart)

On Carter's Panama Canal treaties, some conservatives who should know better have been arguing as follows:

The treaties should be approved. Yes, the canal could be a test of American will, but, if so, the time is not now. The test may come some time in the future when General Torrijos or some successor tries to close or politicize the canal. At that time, the U.S.—if it has the will to do so—can enforce the neutrality clause of the treaty.

The trouble with that line of argument is that it envisages a false scenario—the U.S. vs. Panama. Of course under those conditions the U.S. could enforce the treaties. But history is not so kind. If there is to be a confrontation in Panama, it will not be with some Torrijos. It will be with the Soviet Union, and the stakes will be atomic world war.

The model to contemplate is Wheelus Air Base, the great air base in Libya, formerly under U.S. control. When the present Libyan dictator, Col. Qaddafi, seized power, Wheelus was a major U.S. installation, of great strategic importance in the entire Mediterranean area. It is now a Soviet installation. Libya is a Soviet arms depot. As a sovereign nation, Libya expelled the U.S. and invited the Soviets in.

In Panama, we can envisage the following sequence of events if the treaties are approved.

U.S. power will quickly be withdrawn from Panama. The entire business about the year 2000 is an illusion. As soon as the treaties go into effect, control of the Canal Zone in practical terms will shift to Panama. General Torrijos will visit Moscow. Various kinds of trade relations between Moscow and Panama will be instituted. Moscow and Panama will sign a military assistance agreement and Soviet personnel will arrive in Panama. There will be a gradual buildup of the Soviet presence in Panama.

At some point down the road, a political crisis will occur. It might be in the Middle East. Or, it might involve, for example, an attack upon Chile by Peru—which left-wing Peruvian nationalists have been predicting for 1979. The canal then could be the focus of a strategic confrontation.

At that point, the issue will be a direct U.S.-Soviet showdown. It will not be a question of enforcing the treaties against some 10 cent Panamanian dictator. It will be a question of World War Three, a missile confrontation, a Berlin Wall situation. At that point, the U.S. will back down.

At present, an ineluctable equation exists in the international area. When U.S. power retreats, Soviet power moves in to exploit the vacuum. The confrontation stakes rise, increasing the chance of world war.

Where Wheelus Air Base is concerned, of course we could defeat Qaddafi. But we are not confronting Qaddafi. The same is true of Cuba. Of course, we could have defeated Castro with air support at the Bay of Pigs. But, in Cuba, we are not confronting Castro but the force supporting him: Soviet atomic missiles.

If the Panama treaties are approved and U.S. power withdrawn from that situation, there will be a Soviet presence in Panama within five years. The U.S. will then face Option Impossible: either accept another major political defeat, or risk atomic war. At that point, we will take the defeat—yet another step down the road to ultimate defeat.

The treaties should be rejected.

Now, not later, is the time to assert the national will.

NATIONAL FEDERATION OF GOVERNMENT EMPLOYEES—STATEMENT ON BLUE COLLAR PAY

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. MOAKLEY. Mr. Speaker, I would like to bring to the attention of my colleagues testimony given at the Federal blue-collar wage hearings held in Boston on Saturday, October 22. These were the last in a series of hearings held throughout the Nation within the past year.

Held under the auspices of the Subcommittee on Compensation of the Committee on Post Office and Civil Service, the hearings were designed to give interested parties the opportunity to discuss possible effects of proposed changes in the Federal wage scale.

I would like to thank the gentlewoman from Maryland (Mrs. SPELLMAN) for scheduling one of these hearings in Boston. The entire House owes her a debt of gratitude for the work she has done as chairwoman of the subcommittee.

Because the hearings will not be published this year, I would like to insert in the RECORD the testimony of the National Federation of Government Employees:

POSITION STATEMENT

On January 17, 1977, the Civil Service Commission transmitted to congress a draft bill to change the operation of the Federal wage system applying to Government blue collar employees. Local 1629 strongly opposes the civil service recommendations.

The National Federation of Federal Employees, Local 1629, represents approximately 375 blue collar employees who are the backbone of the Massachusetts Army and Air National Guard. These employees are dedicated technical experts who have kept their nose to the grindstone in these trying times of rising cost of inflation. The talk of eliminating pay benefits for these employees would surely deliver a deafening blow to the morale of the employees.

The Monroney amendment has become an excellent tool to seek positions comparability for some of our employees situated in far corners of our State for valid data to be presented. To repeal this amendment would cause special and vital skills for defense of our country to seek positions elsewhere.

The Civil Service Commission recommendations that the present five step pay raise be reduced to prevailing practices in industry is again inconsistent with the question of comparability. This would leave no tangible marker for employees to advance, and again have adverse impact on morale and hence productivity. We are not dealing with production line employees but with highly skilled and efficient technicians working on complex one of a kind equipment. We cannot afford to lower the already median standard that exists today if we are to provide the level of mission readiness that is required of our technicians. In fact, some of our blue collar employees that are living in this area are on welfare, this certainly is a disgrace for other employees to witness.

Currently Government employees receive 7.5% and 10% night differential pay if the Civil Service Commission establishes rates for night work consistent with local practices it would create a maze of administrative headaches which would require perhaps,

added Civil Service Commission manpower to resolve this unstable practice. This idea is not in keeping with the streamlining process and job comparability but, to aggravate its application on a local basis.

Presently State and local governments are excluded from wage surveys by law. And rightly so, the State and local governments look to the Federal sector for position classification and pay standards. For the Federal government to look to the local government for wage setting certainly would be an inadequacy. This would result in a stalemate as to whom should lead whom and quite frankly could lead to work stoppages and strikes.

The real problem of increased salaries is due to inflation. We all have to pay for inflation, but to make the Federal workers the scapegoat or target to reduce his effectiveness and his aspirations would mutilate the present calibre of technicians that now exist.

We strongly urge Congress to avoid the counterproductive course, which will conceive but disparity among the blue collar employees by scrapping the Civil Service Commission's proposal to reduce the benefits that are currently enjoyed by blue collar Federal employees.

HON. GUS YATRON DESERVES CREDIT FOR PAPERWORK COMMISSION SUCCESS

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. HORTON. Mr. Speaker, the Commission on Federal Paperwork recently completed its 2-year study of the paperwork burden on the American people. It made 770 recommendations to reduce what has been estimated as a $100 billion cost of Federal paperwork. Today, I would like to pay tribute to one of our colleagues who deserves a great deal of the credit for the $3.5 billion in savings already achieved, and for the $10 billion in savings if all of the Commission's recommendations are adopted.

GUS YATRON of Pennsylvania could be known as one who inspired the creation of the Commission on Federal Paperwork. It was a direct result of his tireless efforts that Congress created the Commission more than 2 years ago.

For years, many of us in the House had been keenly aware of the rising chorus of complaints from our constituents about the multi-billion-dollar wall of paperwork which had been erected between them and their Government. GUS YATRON was one of those who early on committed himself to doing something about the problem. When the first entered the House in 1969, he began working on responsible ways to reduce paperwork. He recognized that it was not a simple task and that the problem was not one that could be solved simply by oratory, or a single decision by the President, or an act of Congress. He recognized that important and useful Government information requests must be differentiated from excessive, costly, and wasteful forms. He knew that this was not the sort of thing that could be quickly or easily solved.

In the 93rd Congress, he called repeatedly for a comprehensive study of the problem. He worked diligently, securing over 150 cosponsors on his bill to require such a study. His singlemined determinaation led the Government Operations Committee to hold hearings on the problem.

In the course of those hearings, Mr. Speaker, we discovered that Federal paperwork had grown to massive proportions, and that no serious, all-encompassing study had been made since the study by the Hoover Commission more than 25 years ago. With GUS YATRON's help, and the unanimous support of the Government Operations Committee, a bill was drafted to establish a strong, broadly-based, bipartisan, independent commission representing government at all levels and the major sectors of the economy. It was clearly an idea whose time had come.

The bill passed the House unanimously and was accepted by the Senate, without amendment, on a voice vote. The administrations of both Presidents Ford and Carter warmly embraced the work of the Commission. I am proud to say, having served as its chairman for the past 2 years, that GUS YATRON's vision has become a reality. An excellent study has been completed, sound recommendations have been made which will not only cut the weeds by eliminating immediate paperwork problems on specific forms, but also will go deeper to the root causes of paperwork.

GUS YATRON can be proud that the work which he helped begin resulted in the establishment of the Paperwork Committee. That Commission has completed its work on time, will return more than $1 million of its budget to the Treasury, and is one of those rare Government institutions—a temporary agency which goes out of business when its work is done.

As the Chairman of the Commission I have been mindful of his interest in the resolution of the paperwork burden and I am grateful for his inspiration that an effort could be made to successfully combat this overwhelming burden on American business and individuals.

Mr. Speaker, much work remains to be done. The Commission has completed its study and it is now up to us, in the Congress, and the President to see to it that the recommendations achieve all that they promise. I know that we can count on one indefatigable fighter to continue the battle here in the Congress—GUS YATRON.

ANDRUS STEERS INTERIOR IN NEW DIRECTION

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. SYMMS. Mr. Speaker, when Idaho Gov. Cecil D. Andrus was appointed Secretary of the Interior by President Carter, many Idahoans felt proud that a native of our State had attained a position of such importance. Since that time, many people in the West have become frustrated with the "new directions" being taken by the Department of the Interior. The Washington Post's article on Andrus and the changes in the Department of the Interior explains more accurately than anything else, the situation today and the potential for trouble in the future. I commend the article to my colleagues:

WESTERNERS ANGERED, ECOLOGISTS DELIGHTED—ANDRUS STEERS INTERIOR IN NEW DIRECTION

(By Margot Hornblower)

When Cecil D. Andrus was governor of Idaho, few men were more popular in the West. Known as the cheerful promoter of Idaho potatoes on national television, he'd won re-election with 71 percent of the vote and was serving as chairman of the National Governors' Conference.

But in nine months as Secretary of the Interior, a department that has traditionally looked after Western interests, Andrus—with more than a little help from President Carter—seems to have alienated virtually every powerful constituency in the West.

"Bad News Andrus Strikes Again," editorialized the Grand Junction, Colo., Sentinel a few weeks ago. Complaining bitterly about the secretary's plan for strict environmental controls on hardrock mining, the Sentinel fumed, "Andrus says the proposed mining law change won't make him any friends. By the same token, it isn't likely to cost him any friends either—most of the people who really care about the West are his sworn enemies."

Exaggerated, perhaps. But in the profusion of policy changes emanating from the Interior Department, Andrus has managed to delight environmentalists, while infuriating miners, Western politicians, timber companies, farmers, cattlemen and oil companies.

Some of the controversies:

He's pushing legislation to place environmental and economic restrictions on offshore drilling. Oil companies are especially angry about a provision to allow the government to do its own exploring.

He favored a strip-mining bill even stricter than environmentalists proposed, prohibiting strip-mining on prime agricultural lands. Miners strongly oppose his plan for a new hardrock mining law, claiming the environmental requirements will put them out of business.

He published proposals for a national water policy to encourage conservation. Western governors interpreted it as a federal power grab to control their most precious resource.

He's enforcing a 1902 law requiring farmers to sell any federally irrigated land over 160 acres. The regulations have enraged wealthy California farmers who could have to give up thousands of valuable acres.

He's increasing grazing fees on public lands and preparing to set aside vast roadless areas as federally protected wilderness. Cattlemen say business will suffer.

He's called for a moratorium on logging around Redwood National Park while the government enlarges it by 48,000 acres. Timber companies and unions say this would cause unemployment in Northern California.

He's proposed legislation to place more than a third of Alaska into parks and wildlife refuges. Oil and mining companies and state officials say the plan would lock up valuable minerals.

Unlike the East, which is almost entirely privately settled, vast sections of the West are federally owned—67 per cent of Idaho, for example, 87 per cent of Nevada and 90 per cent of Alaska. The Interior Department controls grazing, mineral development and forestry on 538 million acres.

"I think Westerners perceive us as their department, in a possessive sense," Andrus

explained in a recent interview. "We supply the nutrients pumped into their economic bloodstream."

The chorus of complaints from Westerners about Andrus' environmental policies has his closest aides worried. "Andrus is the main representative of the West in the Carter administration," said his press secretary, Chris Carlson. "And now he's being universally denounced in the West. Within a year and a half we have elections. The question is, politically, do we become expendable?"

It's a question which doesn't, as yet, seem to bother Andrus. If Carter were running again today, "We wouldn't carry (Western) states," he acknowledges. "But the President and I are concerned about doing what's right and the best politics in the world is being right.

"I didn't come in here to waste my time waffling, to try to be all things to all people. I came in here and told the American people exactly what I was and what I wanted to do and I've been doing it."

Tough words for a man surrounded by a storm of controversy. But Andrus can afford them. He's doing just what Jimmy Carter wants. Carter picked him to be "the environmental voice" of his administration and Andrus has filled the bill.

Indeed, the effort to cancel 30 federal dam and water projects—still a source of bitter resentment in the West—was a White House initiative. The strip-mining law, a new hardrock mining law, a national water policy, new offshore drilling legislation and Alaska parks—all were controversial policies outlined in the President's May environmental message.

Andrus, 46, is no newcomer to environmental vs. development controversies. He was first elected governor in 1970 on a platform opposing plans for a large open-pit molybdenum mine in Idaho's scenic White Cloud mountains. "People laughed and said a conservationist couldn't be elected," Andrus recalled.

"The mine company officers said, 'We'll kill you in the election.' I said I'm going out to ask your miners how they feel about having the area where they hunt and fish destroyed. Miners make a living mining, but they want a living that's worthwhile. They want to get in their campers on the weekend and go fishing."

The son of a sawmill operator, Andrus dropped out of college to serve in the Navy. He later became a lumberjack, and then production manager for a small Idaho lumber company. He was elected governor after serving in the state Senate.

Despite the controversies, Andrus, an affable man of soft-spoken wit, has charmed not only environmentalists but also his frequently jaded department bureaucrats and many of his ideological opponents. "He's one of the most personable guys I've ever met," confessed one oil company executive.

Some of Andrus' former colleagues prefer to blame the President for what they view as anti-Western policies. "We tend to feel the bad things are not Andrus' ideas," said Colorado Gov. Richard Lamm, who was distressed about the cancellation of three water projects.

But Andrus is enthusiastic about the department's new direction. "When I strolled in here the first day, the user-abuser had more control than he should have had," the secretary said. "There was a need to change from tunnel vision to a broader vision . . . So the industry side is now saying, 'what kind of kook have we got here?" They consider me an adversary because they compare me to what they had before.

"What we are attempting to do is right the wrongs of the past, and some people who will not enjoy the advantages they had in the past are not going to like me. But the department doesn't just belong to the miners and the oil companies; it belongs to the miners, the oil companies, the hunters, the fishermen, the outfitters and birdwatchers, the citizens of America."

Andrus gets mixed views from Western Congressmen, depending on their environmental views, "Andrus is still listening to special interests," complained Sen. Clifford P. Hansen (R-Wyo.). "But now the special interests are the environmentalists."

Although President Carter has assured states he does not intend to infringe on local water rights, Hansen said, "The present water plan to have the federal government exert a dominant influence in allocating water is rather frightening." Andrus is planning to recommend a broad water conservation plan to the White House next month.

Sen. Paul Laxalt (R-Nev.) is cochairman of the Western caucus, recently revived in response to the water issue. "The regulations coming out of Interior are making the states feel like colonies," he said, citing, for example, new mining rules "which would put the small producers out of business."

Sen. Lee Metcalf (D-Mont.), however, applauds Andrus' environmental initiatives, "This is the first Interior Department since Stewart Udall's that has really protected a good many of the Western interests," he said. "Andrus has come out for strong strip-mining legislation, and that is a special Western concern."

When he took office Andrus promised to tame Interior's "fiefdoms." The Bureau of Mines, which oversees mineral leasing, the Bureau of Reclamation, which builds dams, and the Bureau of Land Management, which controls grazing, had virtually run themselves in recent years, allied with powerful interests in industry, agriculture and on Capitol Hill. Frequently, they'd lobby the Hill at cross purposes with secretarial policy.

Nine months into the job, Andrus says, "I haven't won them all, but we're breaking them up."

Unlike previous Secretaries whose aides were largely chosen by the White House, Andrus had unprecedented freedom to pick his assistant secretaries and bureau chiefs. Thus they are responsible chiefly to him and not, as in previous years, to outside political sponsors.

One of his first actions was to "establish a clear chain of command by removing any autonomous authority the bureaus had, and forcing them to report directly to the assistant secretaries. Policy now comes from Andrus' office, often worked out in daily 8 a.m. sessions with all assistant secretaries and key staff.

Among Andrus' closest advisers are 10 Idahoans, referred to by oldtimers as the "Idaho Mafia." These include Solicitor Leo Krulitz, Andrus' former campaign manager; congressional liaison Gary Catron, and press secretary Carlson. Insiders say former Alaska coordinator Curtis Bohlen was fired when he ran afoul of the secretary's special assistant, John Hough, another Idahoan.

However, Andrus has hired talent from around the country, as well as many Washington environmentalists such as Cynthia Wilson of the Audubon Society and Joe Browder of the Environmental Policy Center. One controversial appointment, not yet confirmed by the Senate, has been that of San Francisco Supervisor Robert Mendelsohn as assistant secretary for policy, budget and administration. Mendelsohn has been accused of laundering campaign funds and conflicts of interest while a member of the California Coastal Commission.

Although Andrus indulges in some hardnosed rhetoric about "user-abusers," he also says, "I'm not a knee-jerk environmentalist."

Environmentalists have been reluctant to criticize him—perhaps because so many are now installed in the new administration—but a number of his decisions have gone against them. For instance, he decided to appeal two environmental lawsuits the department lost, one voiding East Coast offshore leases, another limiting coal leasing. He infuriated animal protection groups by recommending that the United States object to a ban on bowhead whale hunting by Alaskan Eskimos.

Andrus has shown himself willing to compromise on occasion. When water policy proposals enraged Western governors, he quickly set up a federal-state task force to draw final recommendations. Although he is enforcing the 160-acre limit for federally irrigated land, he plans to seek legislation enlarging the acreage under certain conditions.

"He's willing to listen even when we disagree," says Nevada Gov. Mike O'Callaghan. "As long as there's room for negotiation, its not all that bad." O'Callaghan said Andrus changed two policies in Nevada after the state complained, one dealing with water flow on a local dam, another with boating rules in a wildlife refuge.

Andrus predicts that what is now seen by some as extreme environmentalism will be viewed in the future as the restoration of balance at the Interior Department.

"We're bringing the pendulum down to the center," he said. "By midyear of 1978, you'll see the polls change. People are going to see the wisdom in what we do."

Morris Udall (D-Ariz.), chairman of the House Interior Committee and a longtime department observer, agrees. "Andrus is not doing all that well among the Western types who are used to having someone favor the timber, cattle and mining people, the people who run the big irrigation systems.

"But it's all part of the Interior Department coming of age. It isn't a little public land company anymore."

BAKKE TO THE BAR

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. DORNAN. Mr. Speaker, last month the Supreme Court began hearing the "reverse discrimination" case of Allan P. Bakke involving the University of California Medical School at Davis. This hearing focused our attention on past failures and injustices of our so-called quota system, otherwise known as "affirmative action."

Attorney Laurence B. Labovitz of Los Angeles referred to me for study a brilliant analysis of this widespread problem prepared by attorney Douglas Hallett, associate of the distinguished law firm Adams, Duque & Hazeltine of Los Angeles. I was impressed with the historical, legal, and moral arguments contained in the article published earlier this year in the highly respected legal newspaper the Los Angeles Daily Journal.

The handling of discrimination laws and regulations remains an urgent matter. As Mr. Hallett says:

> We cannot have equal opportunity for all in this country if there is privileged opportunity for some.

I offer this fascinating study for your reference and the interest of my distinguished colleagues:

REVERSE DISCRIMINATION: ONE POINT OF VIEW

(By Douglas Hallett)

In 1973, the federal government bludgeoned the American Telephone & Telegraph Com-

pany into accepting a "settlement" which gave tens of millions of dollars in back pay to minority and women employees and set up a stiff schedule for skills and jobs-upgrading which can only be achieved at the cost of similar opportunities for equally well-qualified whites. AT&T neither admitted nor was asked to admit even one act of individual discrimination against any of its employees; the settlement was based solely on a statistical comparison of its work-force with the population in which they work.

Just three years later, District of Columbia Federal District Judge Gerhard Gesell ordered AT&T to compensate a white male employee who was passed over for promotion because of the company's affirmative action program. Gesell did not criticize the program. On the contrary, he said that AT&T should comply with it. But he ordered the company to pay damages to an employee who lost a rightful job promotion because of it. In a classic Catch-22, the company was damned if it did and damned if it didn't.

In 200 years, it seems, we have come a long way from our country's foundations. Equality of opportunity was, of course, the distinguishing feature of our nascent country, the characteristic which made it the world's first truly modern state.

Our borders were open to the displaced and adventurous of every nation with only one very simple injunction: While no racial, religious, ethnic or national group would be required to surrender its racial, religious, ethnic, or national identity, there would be no separate ethnic politics. The Republic was defined in political terms. There would be no established or illegal religions, no mandated or disfavored ethnic and national traditions. Even the name chosen for the new state symbolized this openness. Whereas the names of European states were based on ethnic traditions, the name of the United States of America is geographic in derivation.

We have not always lived up to this ideal. From the beginning, blacks and women were excluded from the rights and privileges of freedom. At the end of the nineteenth century and, again, during the 1920's, quotas were imposed on the immigration of disfavored people. As recently as World War II, Japanese-Americans were deprived of their property and interned in American Concentration camps.

But the direction of our political development has traditionally run against those who would construct or compartmentalize freedom. We were willing to fight a war among ourselves to end slavery. In 1965, we eliminated the last vestiges of discrimination in our immigration policies. Much like some black revolutionaries did in the late sixties, the Irish societies of New York and Philadelphia petitioned Congress in 1818 for a land grant in the West on which to establish a separate state for their charitable dependents. They were refused. While according special status to a disfavored group might have been the easy way to solve, or at least disguise, the problem of ethnic discrimination, it was not the American way.

Or at least it was not the American way until very recently. Beginning soon after the passage of the Civil Rights Act of 1964, there came about a reconsideration of the traditionally and uniquely American view that people are individuals, neither privileged nor restricted on the basis of their sex or their racial, ethnic, or national origin. The Thirteenth, Fourteenth and Fifteenth Amendments to the Constitution after the Civil War and the Nineteenth Amendment after the women's suffrage movement extended rights to individuals.

The legislative, executive order and administrative programs endorsed, managed and countenanced by the Johnson, Nixon, Ford and now the Carter administrations in the name of eliminating discrimination have extended a special status to privileged groups. And, in doing so, these programs have betrayed the best of our historical traditions, embittered millions of decent, fair-minded Americans, and deprived the very people they supposedly serve of the full measure of dignity and self-accountability which is the birthright of every American.

The extension of special privileges to particular groups through quotas did not arise immediately upon enaction of the Civil Rights Act of 1964. On the contrary, the Act was modelled after the U.S. Supreme Court decision outlawing segregation in the school systems and embodied the philosophy behind the first Justice Harlan's often-quoted dissent in Plessy v. Ferguson, the 1896 Supreme Court decision overruled in the 1954 school desegregation case of Brown v. Board of Education. "(T)he Constitution is color-blind," Harlan had written, "(and) does not. . . permit any public authority to know the race of those entitled to be protected in the enjoyment of such rights."

"Nothing in this subchapter," wrote the drafters of Title VII, the employment section of the Civil Rights Act, "shall be interpreted to require any employer . . . (or) labor organization . . . to grant preferential treatment to any individual or to any group because of the race . . . of such individual or groups on account of an imbalance which may exist with respect to the total number of percentage of persons of any race . . . employed in comparison with the total number or percentage of persons of such race . . . in the available work-force in any community . . . or other area."

We are far from that just thirteen years later:

A Portland, Oregon ship conversion plant employed a workforce which was 15 percent black even though the population of Portland is only six percent black. It was told by the federal government that it must employ 15 percent blacks in each and every job category in the plant. To accomplish that, it had to "dump" contracts and ignore seniority rights.

One Washington, D.C. class had seven substitute teachers in three months. A qualified black was not available to fill the job, and because of orders from the federal government, the post could not be filled by the many available and qualified white teachers.

In 1973, a New York federal court approved an order requiring a Wood, Wire & Metal Lathers union local to issue 100 work-dispatches to non-whites immediately and 250 more dispatches to non-whites on a one-to-one basis with whites through 1975. The court-appointed administrator who developed the plan decided there was no way to determine how many qualified non-whites were available for these highly-skilled jobs in the surrounding area and so set up his quota so that within just three years the percentage of minority union members would equal the percentage in the community's population.

In 1974, a Boston federal judge ordered the Boston school district to hire one black for every white teacher until blacks formed 20 percent of the teaching force. The black population in Boston at the time was 16 percent; the black school enrollment was 33 percent. It did not matter that only 5.2 percent of the college graduates in Boston and only 1.4 percent in the Boston metropolitan area were black.

These perversions of the intent of the Civil Rights Act of 1964 could not have occurred without the active leadership of some of the courts. In Castro v. Beecher, a case involving alleged discrimination in hiring for the Boston Police Department, Judge Charles Wyzanski, generally considered one of the nation's most liberal jurists, argued that differences in minority groups' desires to become police personnel, legitimate qualifications differences, and individual differences in abilities to meet police requirements should lead to a discounting of discrimination claims based on mere disparities in the percentage of black policemen as compared with their percentage in the population-at-large. He was flatly overruled by the First Circuit Court of Appeals.

In Griggs v. Duke Power Company, the U.S. Supreme Court stated that "Congress has not commanded that the less qualified be preferred over the better qualified simply because of minority origins. Far from disparaging job qualifications, Congress has made such qualifications the controlling factor, so that race, religion, nationality, and sex become irrelevant." But in the very same decision, the Supreme Court held that any testing procedure which blacks and whites pass at different rates is prima facially discriminatory unless validated. And how can a test be validated?

That question leads to the second force behind the movement towards job quotas in the last ten years: the executive branch of the federal government. In outlawing discrimination in employment in the Civil Rights Act of 1964, Congress also set up the Equal Employment Opportunity Commission. And, in 1972, the Congress gave the EEOC independent power to bring suits against private employers and unions for alleged discriminatory practices.

The EEOC has issued testing standards for tests conducted by employers or unions. And it has a steadily-expanding staff of lawyers, now more than 300, ready to bring suit against anyone who does not comply with them. These were the testing standards approved in the Griggs case. What they mean effectively is that an employer or union cannot conduct a test.

Robert Guion, past president of the Industrial and Organizational Psychology Division of the American Psychological Association, has stated that even the most primitive validation, not to mention the differential validation required by the EEOC, would cost at least $40,000 to $50,000. After reviewing the standards, the Harvard Law Review concluded in a 1971 article that they "appear designed to scare employers away from any objective standards which have a differential impact on minority groups, because, applied strictly, the testing requirements are impossible for many employers to follow."

The EEOC is quite candid about what it is doing. In 1970, one Commission staff member told the Harvard Law Review: "The anti-preferential hiring provisions (of Title VII) are a big zero, a nothing, a nullity. They don't mean anything at all to us." The members of the EEOC are appointed by the President; all of the present commissioners were appointed by the hardly radical Presidents Nixon and Ford. But the EEOC is by no means the most aggressive proponent of preferential quotas. The most aggressive thrust towards quotas comes directly from two presidential executive orders. Executive Order 11246 and Executive Order 11375, which affect any government contractor. Both of these orders could be retracted today by President Carter as they formerly could have been by President Ford.

Under Executive Orders 11246 and 11375, government contractors are required to submit affirmative action programs as a prerequisite to their obtaining a government contract. These plans must contain explicit goals and timetables to which the contractor must submit, regardless of the qualifications and seniority provisions of any collective bargaining agreement he may have.

Compounding the problem is the arrogance of the officials who supervise these programs. "I don't believe there is such a thing as a

merit system," says John Buggs, a Nixon-Ford appointee at the U.S. Civil Rights Commission. J. Stanley Pottinger put it even more bluntly when he was director of the Office for Civil Rights in the Department of Health, Education & Welfare: "We have a whale of a lot of power and we're prepared to use it if necessary."

While at HEW, Pottinger used the immense club of threats to withhold federal support to universities—a potential loss of more than $70 million to the University of California, for example—to force HEW contractors to adopt what he viewed as satisfactory affirmative action programs. His efforts were looked upon so favorably by the White House that he was promoted to Assistant U.S. Attorney-General for Civil Rights, an appointment he held for four years at the sufference of the fundamentally conservative Presidents Nixon and Ford.

And what of the schools which have been targets of his efforts? HEW told the University of Arizona that it is required to consider employment factors other than "mere technical questions." San Francisco State College issued an announcement, approved by HEW, stating that "we have shifted from the idea of equal opportunity in employment." One skeptical college president was told this by a federal affirmative action official: "Let's face it—you and I know there are a lot of lousy programs and a lot of shoddiness around here. Why object to this?"

At an Ivy League university, representatives from the Regional HEW office wanted to know why there were no women or minority students in the graduate department of religious studies. When told that a reading knowledge of Hebrew and Greek was required, they advised: "Then end these old fashioned programs that require irrelevant languages. And start up programs on relevant things which minority group students can study without learning languages."

Starting with the so-called "Philadelphia Plan," the same types of compromises with legitimate qualifications standards and union contract rights have been made in federally-assisted construction and, more recently, in all employment where federal money is involved. No matter that many of the jobs affected by these programs are highly-skilled. No matter that the quality of work done for the federal government and with federal money—at a cost to each and everyone of us as taxpayers—must necessarily decline.

EEOC's presently approved standards for employing typists, for example do not allow an employer to refuse to hire minorities who are equally qualified as the employer's least qualified present typist. No matter that in many cases the actual physical safety of workers is undermined by having inadequately trained co-workers working alongside them. The important thing, in the present federal government's view, is to have its quotas enforced, whatever the cost.

But what is the state of the evidence supporting their necessity? Those who establish and countenance quota systems argue that they are necessary now, even more than earlier in our history, because we have supposedly reached an advanced stage of industrialization in which social moblity is becoming increasingly constricted. But the data shows just the opposite is the case.

A recent study by the Scientific American showed that only 10.5 percent of the current generation of big business executives were born into wealthy families; at the turn of the century, the corresponding figure was 45.6 percent and, as recently as 1950, it was 36.1 percent. Two-thirds of the 1900 generation were offspring of heads of the same corporation or independent businessmen; less than half of the current business leadership had parents similarly placed. On the other side of the ledger, not 10 percent of the 1900 generation's fathers were employees; by 1964, this figure had increased to almost 30 percent.

Groups which have traditionally been victimized by discrimination have not been left out of this progress. In 1969, the median income of black husband-wife families with heads under 35, was 91 percent of the median income of white families of the same type in the North and Far West. In 1971, it was 93 percent. In families where both husband and wife worked, the figures for the two years were 99 and 101 percent. For Southern husband-wife families under 35, the black family income was 84 percent of the white median in 1972.

Figures for black women, theoretically the most discriminated against group, showed the most dramatic improvement. Only in the last five years have quotas become fully mandated. Yet, between 1963 and 1973, well before the effect of quotas became even statistically noticeable, the percentage of the black female work-force engaged in private-household work dropped from 34.3 percent to 12.4 percent.

The fact is that poverty among blacks is increasingly concentrated in female-headed families which do not benefit from job-quota systems. The number of male-headed black families in poverty dropped from 1.3 million to 550,000 between 1959 and 1973; the number with female heads increased over the same period from 550,000 to 970,000. By 1973, female-headed families made up almost two-thirds of all black families in poverty.

Because of the levels of education prevailing in this group, the types of jobs for which they are best qualified, and, under the present circumstances, the attractions of going on welfare, it is difficult to see how the government's present and expanding array of antidiscrimination programs is helping those who would theoretically appear to be the very people for which they are designed. And if they serve simply to give an artificial advantage to people who are overcoming traditional disadvantages without benefit of special treatment, can they be justified?

The federal government's present job-quota systems are as arbitrary and capricious as the discrimination they allegedly seek to eliminate. A few years ago in San Francisco, the San Francisco schools system had to eliminate 125 administrative positions. Because of federal government guidelines, all 125 of the administrators "de-selected" for further employment were white. At a formal hearing on the dismissals, the following exchange took place between the attorney for the administrators and a representative of the school superintendent. The attorney is asking the questions:

Question: Do you know that Armenians, as well as being a minority ethnic group, have had a history of persecution and disadvantage?.

Answer: No, I never studied that.

Question: Did you ever hear of the persecution of the Armenians by the Turks?

Answer: Not as I recall.

Question: Did you ever hear of the disadvantage which Armenians in California suffered in Fresno and Bakersfield?

Answer: I am not aware of it.

Question: If the (demoted Armenian) respondent in this case says: "I am an Armenian and I want to be treated as a separate minority," what would you do with his case?

Answer: For the purposes of this, I would judge him to be "white" and put him in "white" because there is no specific Armenian classification . . .

Question: Would you consider that the Jewish people were an ethnic group?

Answer: Yes.

Question: Do you believe that there is a history of persecution and disadvantage which the Jewish people have had?

Answer: I have some remote knowledge of this.

Question: Now suppose one of the respondents in this case came to you and said: I am a member of an ethnic minority, one of the Jewish people, and I believe that by reason of our historical disadvantage that we would like to be treated as a separate ethnic group, what would your reply be?

Answer: That we have no category for you as a Jew.

But when he was asked whether affirmative action programs might, in fact, discriminate against white males, Stanley Pottinger replied: "That is balderdash. That is the biggest crock I have ever heard. It is the kind of argument one expects to hear from a backwoods cracker farmer." And, indeed, people whom Mr. Pottinger would refer to as "backwoods cracker farmers" are making this argument, and for good reason. Consider this statement from a white, third-year law student at a southern university, a young man whose parents' income barely exceeded the poverty level and whose father was illiterate:

There is another form of discrimination of which, I believe, I am a victim. As a non-member of a minority group I feel that I . . . (am) discriminated against constantly. The same admissions standards are not applied because a certain percentage of minority students must be admitted in each class regardless of their qualifications. My test score, undergraduate record, and my family (poor white) deny me admittance to Harvard because I am white. I do not say this in bitterness, but in observance of the current status of admission practices as I perceive them . . .

We cannot have equal opportunity for all in this country if there is privileged opportunity for some. The variety of disadvantages with which people in our society are afflicted are as multitudinous as our numbers. They are not restricted to blacks and women. Where there is discrimination against any individual on account of race, creed, color, religion, sex or national origin, the tools of the law should be employed to stop it. But to assume discrimination on the basis of statistical comparisons is contrary to everything this nation has traditionally represented. It can only embitter those who do not benefit from favored treatment and sap the pride of those who do. President Carter should:

1. Replace each and every appointive federal official now charged with enforcing discrimination in employment laws with officials pledged to enforce the law and not manufacture it;

2. Retract Executive Orders 11246 and 11375, and replace them with executive orders which guarantee individuals equal access to employment rather than to give certain groups a privileged access;

3. Seek passage of legislation forbidding the use of statistical comparisons as sufficient evidence to prove discriminatory practice.

Where will it end if we do not act now? Seymour Martin Lipset, the distinguished Stanford University sociologist, has speculated that ". . . if one really wishes a society in which there is not merely formal equality of opportunity, but where class background has absolutely no relation to success, one must be willing to pay the necessary price. And that price would appear to include the practical abolition of the family, the suppression of varying cultural and ethnic influences, and a rigorously-imposed uniformity in the education of the young." Is that the future we wish for our children?

If racial and sexual quotas are seen as appropriate, why should there not be political and religious ones? Conservatives and Roman Catholics may be just as underrepresented in a plant or factory as blacks and women. Should that factory be required to

hire a set proportion of conservatives and Catholics? And if the racial and sexual make-up of a university's faculty should reflect the racial and sexual make-up of the community in which it is located, should the education it offers also reflect the community's norms?

In the 1920's, the attempt of the Tennessee legislature to forbid the teaching of Darwinian evolution was regarded as reactionary. Today it would appear to be the logical extension of the programs and policies of the federal government.

There are some encouraging signs. In Washington v. Davis last year, the U.S. Supreme Court indicated that whites were a protected class under the Fourteenth Amendment. And, in Bakke v. Regents of The University of California, the nation's most liberal bench, the California Supreme Court, outlawed a minority admissions program as discriminatory. Nonetheless, these decisions still stand as exceptional. The mandates of Griggs and its successor case, Albermale Paper Company v. Moody are that discrimination is still required to eliminate discrimination.

Affirmative action programs represent the sixties' most dramatic attempt to rectify generations of discrimination against minority groups. Like the Vietnam War, they were in many ways the outgrowth of Lyndon Johnsons' desire to prove that he was no less committed to the cause of freedom, whatever the price, whatever the burden, than his slain predecessor. And, like the Vietnam War, they ended up by delimiting and constraining freedom. We cannot undo the past. But, as we did with Vietnam, we can recognize the past's failures. The advent of a new Presidency, in a new century of our nation's history, provides an ideal opportunity to make that recognition about affirmative action programs. President Carter should override the views of his HEW Secretary, Joseph Califano, and take advantage of that opportunity.

SUNSET REVIEW: BUDGET CONTROL

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. BLANCHARD. Mr. Speaker, the idea of "sunset"—a required regular review of Government spending programs— has been gaining new attention as an issue in recent weeks in Congress. The Senate Rules Committee and a House Government Operations Subcommittee have held hearings on sunset legislation, and support for the idea has again been expressed by a number of commentators and columnists. Here in the House, of course, 140 of our colleagues have joined Congressman MINETA and me in sponsoring the sunset concept.

As the principal sponsor of sunset in the House, I would like to take this opportunity to explain in plain and simple language just what sunset is all about, and how it works.

PRESENT SYSTEM

The present way in which Congress considers or reviews Federal programs has a number of shortcomings:

First, two spending programs which are aimed at the same, or similar, goals may be run by two different agencies of the Federal Government. Their funding may continue for different lengths of time, so that they are not renewed at the same time by Congress. And finally, they may be part of the assignment of two different congressional committees, so that when and if they are reviewed, the committee reviewing one is not aware of the other.

For example, the "Table of Federal Programs" prepared by the Senate Governmental Affairs Committee lists three separate disaster programs: The first is the section 406 Disaster Assistance Fund, administered by the Department of Housing and Urban Development, and assigned to the House Committee on Banking, Housing, and Urban Affairs; the second is the Small Business Disaster Loan Fund, administered by the Small Business Administration, and assigned to the House Committee on Small Business; and the third is the more well-known Disaster Relief Act Fund, administered by HUD's Federal Disaster Assistance Administration and assigned to the House Committee on Public Works and Transportation.

This is a good example, because it has recently created serious problems. Farmers in need of help are applying to the Small Business fund because it is easier for them to get money from that fund. As a result, the amount of money the fund needs is skyrocketing, and the House has recently had to allow the transfer of $700 million to it.

Second, a steadily increasing number of programs have funding which is permanent or indefinite, and therefore is really beyond the control of Congress. About 75 percent of the Federal budget is now in this category, which means that if we adjourned and went home today and did not return, about $300 billion would still be spent by the Federal Government in the next year.

Figures like these make a mockery of the fact that Congress is supposed to have the power, under the Constitution, to determine the amount of money which is spent by the Federal Government.

Third, the sheer number of programs which the Government carries on, and their baffling complexity, has resulted in Congress simply being unable, for the most part, to do a good job of review. If we were confident that the Federal agencies could do that job, we would not have to worry. But there is plenty of evidence that they are not doing it:

A 1971 study by the General Accounting Office for Congress found that there were 11 different child care service programs operating in the District of Columbia alone, and that they were run by three different departments, the Department of Health, Education, and Welfare; the Department of Housing and Urban Development, and the Department of Labor.

A 1973 HEW study found 50 Federal programs providing help to handicapped youth. Fourteen separate units within HEW operated the programs, and there was no central place within HEW where the programs were coordinated with each other.

The 1977 Catalog of Federal Domestic Assistance lists a total of 279 health programs, 197 income security programs, and on and on. Yet we find that, far from diminishing, we can expect the numbers to increase as time goes on. A recent Brookings Institution study suggests that our system has built-in pressures for growth which result in a continually increasing number of Government offices, agencies, and programs.

Surely there must be some way to try to bring some order to this chaos. As Senator ED MUSKIE of Maine, the Senate sponsor of sunset legislation, has pointed out, there is no excuse for the Federal Government to operate 15 different child nutrition programs—and yet find that there are 700,000 children in families below the poverty line who receive no help. Regardless of whether you support or oppose programs like these, there is one thing we all ought to be able to agree on. If we are going to have them, let us make them work.

WHAT SUNSET WOULD DO

Sunset is a far-reaching reform proposal aimed at organizing the way Congress reviews the budget more sensibly.

Four years ago, Congress took the first step toward logical budgeting: it divided the budget into sections based on the functions that programs serve—health, housing, employment, and so forth—rather than on which agency runs them.

This reform, coupled with a fixed schedule of dates each year when Congress must set overall spending levels for that year, has made is possible for the first time for Congressmen and Senators to begin to choose between priorities—health against highways or defense or education, and so forth—and to decide which areas should get more funds and which should receive less.

What sunset would do is to complete the new budget system, by requiring Congress to take a hard look at exactly what is being accomplished in these areas by the dollars we are already spending.

In the process, it should greatly simplify that system.

As designed in bills which are now pending before the House and Senate, sunset basically consists of five changes in present law.

First, it sets up a schedule for review of all Federal spending programs, with each program being reviewed at least once every 6 years. Currently, there is no system for regular program review, and often no review takes place until the media calls our attention to a particularly flagrant example of waste. Programs in the same budget areas—health, housing, employment—would be reviewed in the same year.

This is the central goal of the sunset concept. It will allow Congress to look at all of the vocational education programs, for example, which the Federal Government is carrying on. It will enable us to compare them at the same time, decide whether they overlap or, by contrast, if there are still persons who could use help with vocational education but who are not getting the help they need, and to make changes accordingly.

It is my firm belief that this reform alone will do more than anything else

we can come up with to make sense out of the jumble of programs and funding requests which we are asked to deal with today.

Second, sunset would require that a program be reviewed according to the 6-year schedule to get new funds. If Congress took no action on it, it would be automatically terminated.

This part of sunset has one basic purpose: To make certain that reviews are taken seriously, both by Congress and by those who run Federal spending programs. The burden is placed on programs to justify themselves—not on Congressmen to find reasons why a program which has been operating for years and years should be dropped. Hopefully, the result will be a system which is oriented toward actually producing results, rather than not rocking the boat.

Third, sunset requires that a congressional committee, when it reviews a program, answer some basic questions about the program: What its purpose is, whether any other programs are aimed at the same goal, what it is accomplishing. This section, of course, is designed to give Congress more information about the programs it is funding.

Fourth, it allows an option, under which a committee can select a given program, or group of programs, for a really thorough, in-depth analysis during a given year. Programs which are selected for this optional analysis will be examined more carefully as to what they are doing and how they fit into the overall goals of our Government, in my opinion, than any programs before Congress are examined today. And once again, these examinations will take place at the same time that similar programs are up for review.

And finally, it provides a method by which a program can continue in the event that its review is blocked by some sort of delaying tactic, such as an individual committee chairman simply refusing to conduct the review. However, the program will be limited to the same funding as it received in the previous year—no increases for inflation or proposed changes—so that there will still be a great deal of pressure for the review to take place.

That is how sunset would work, and what it would do.

Mr. Speaker, I believe there is strong support among the people of this Nation for the sunset concept. The average American is not ignorant or uncaring, as some would have us believe. I think people sense, quite rightly, that our Government has really gotten out of control, and it troubles them deeply.

It is vital that we act now to respond to their concerns. As we have learned in recent years, the sort of lame answers and excuses which have served to explain Government's failings in the past are not enough today.

Regaining "credibility" with the people we represent cannot be done by "projecting a credible image" or by other public-relations gimmicks.

It can only be done by controlling the confusing, sometimes aimless mass of Government programs we find ourselves confronted with today, harnessing their energies, making them work. That is what sunset seeks to do, and that is why I ask my fellow Congressmen and Congresswomen to support it.

SENATE COMMITTEE MEETINGS

Title IV of the Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, November 3, 1977, may be found in Daily Digest of today's RECORD.

MEETINGS SCHEDULED

NOVEMBER 4

9:00 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Mortimer L. Downey III, of Virginia, to be Assistant Secretary of Transportation for Budget and Programs; to be followed by hearings on the nominations of Frank H. Neel, of Georgia, James R. Mills, of California, Harry T. Edward, of Michigan, Charles Luna, of Texas, Anthony Haswell, of Illinois, and Ronald G. Nathan, of the District of Columbia, each to be a Member of the Board of Directors of The National Railroad Passenger Corporation.
5110 Dirksen Buliding

9:30 a.m.
Governmental Affairs
Permanent Investigations Subcommittee
To resume hearings to receive testimony concerning labor union insurance programs.
3302 Dirksen Building

Human Resources
Labor Subcommittee
To continue hearings on S. 1883 and 1855, to strength the remedies and expedite the procedures under the National Labor Relations Act.
Until 5:00 p.m. 4232 Dirksen Building

Judiciary
Antitrust and Monopoly Subcommittee
To reconsider S. 1874, to allow consumers and other parties who have not dealt directly with an antitrust violator to recover their damages under the antitrust laws.
S-207, Capitol

Human Resources
Education, Arts, and the Humanities Subcommittee
To hold hearings on S. 1753, to extend and amend the Elementary and Secondary Education Act.
6202 Dirksen Building

10:00 a.m.
Rules and Administration
To resume hearings and consideration of the nomination of John W. McGarry, of Massachusetts, and Samuel D. Zagoria, of Maryland, each to be a member of the Federal Election Commission, and other committee business.
301 Russell Building

Joint Economic
To hold hearings on the employment-unemployment situation for October.
5302 Dirksen Building

NOVEMBER 7

10:00 a.m.
Armed Services
Arms Control Subcommittee
Closed session to receive testimony from Secretary of State Cyrus Vance on the current status of SALT II negotiations.
S-407, Capitol

NOVEMBER 8

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings to receive testimony on the possible effect of recombinant DNA research on the field of scientific inquires.
5110 Dirksen Building

NOVEMBER 9

9:30 a.m.
Governmental Affairs
Governmental Efficiency and the District of Columbia Subcommittee
To resume hearings on the administration of the Federal flood insurance program.
6226 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To resume oversight hearings on U.S. monetary policy.
5302 Dirksen Building

NOVEMBER 10

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings to receive testimony on the possible effect of recombinant DNA research on the field of scientific inquiries.
5110 Dirksen Building

9:30 a.m.
Governmental Affairs
Governmental Efficiency and the District of Columbia Subcommittee
To resume hearings on the administration of the Federal flood insurance program.
6226 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To resume oversight hearings on U.S. monetary policy.
5302 Dirksen Building

Energy and Natural Resources
To hold hearings on S.J. Res. 93, to prohibit for 1 year termination of water deliveries from certain Federal reclamation projects.
3110 Dirksen Building

Judiciary
Administrative Practice and Procedure Subcommittee

To hold oversight hearings on the implementation of the Freedom of Information Act.
2228 Dirksen Building

NOVEMBER 11

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on U.S. monetary policy.
5302 Dirksen Building

NOVEMBER 14

10:00 a.m.
Select Small Business
Monopoly and Anticompetitive Activities Subcommittee
To hold hearings on drug quality, competition and government procurement of drugs.
1318 Dirksen Building

NOVEMBER 15

10:00 a.m.
Judiciary
Separation of Powers
To receive testimony on certain executive agreements associated with the proposed Panama Canal Treaties.
1114 Dirksen Building
Select Small Business
Monopoly and Anticompetitive Activities Subcommittee
To hold hearings on drug quality, competition and government procurement of drugs.
1318 Dirksen Building

NOVEMBER 16

10:00 a.m.
Select Small Business
Monopoly and Anticompetitive Activities Subcommittee
To hold hearings on drug quality, competition and government procurement of drugs.
1318 Dirksen Building

NOVEMBER 17

8:30 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of R. David Pittle, of Maryland, to be a Member of the Consumer Product Safety Commission.
5110 Dirksen Building

NOVEMBER 22

10:00 a.m.
Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To hold hearings on S. 1900, to clarify the treatment of banks and other depository institutions under State and local revenue laws.
5302 Dirksen Building

NOVEMBER 28

9:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To hold hearings on S. 2266, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 29

9:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2266, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 30

9:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2266, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

DECEMBER 13

10:00 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S.J. Res. 67, proposing an amendment to the Constitution with respect to the proposal and the enactment of laws by popular vote of the people of the United States.
2228 Dirksen Building

DECEMBER 14

10:00 a.m.
Judiciary
Constitution Subcommittee
To continue hearings on S.J. Res. 67, proposing an amendment to the Constitution with respect to the proposal and the enactment of laws by popular vote of the people of the United States.
2228 Dirksen Building

DECEMBER 15

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee.
To hold hearings on the United Nations conference on science and technology for development in 1979.
Until 5:00 p.m. 5110 Dirksen Building

SENATE—*Thursday, November 3, 1977*

(Legislative day of Tuesday, November 1, 1977)

The Senate met at 8 a.m., on the expiration of the recess, and was called to order by Hon. QUENTIN N. BURDICK, a Senator from the State of North Dakota.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O God, our Creator and Redeemer, we rejoice that according to Thy word "Day unto day uttereth speech, and night unto night showeth knowledge." Thou dost speak to us by sights and sounds and silences and in the movement of history. Keep us sensitive to Thy spirit and alert to Thy voice lest we miss Thy message for our time. May the words of our mouths and the meditations of our hearts be acceptable in Thy sight, O Lord our Strength and our Redeemer. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., November 3, 1977.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable QUENTIN N. BURDICK, a Senator from the State of North Dakota, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. BURDICK thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, Wednesday, November 2, 1977, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PRESIDENT CARTER'S MIDDLE EAST POLICY

Mr. ROBERT C. BYRD. Mr. President, bringing the various parties in the Middle East together is an exceedingly difficult and complex undertaking. Yet, the Carter administration is persevering in its endeavors to bring about the negotiations which could lead to a just and lasting peace in that troubled region.

This is a matter where the intensity of feelings is such that each word must be measured. Mutual suspicions run high. Yet, despite these difficulties and the fact that critical questions related to the negotiations remain unresolved, important steps have been taken.

We may find ourselves in disagreement with certain pronouncements which have been made by the administration. But the important factor is that President Carter is making a genuine and vital effort to establish a framework for negotiations at a reconvened Geneva conference.

I believe the President's policy, as reiterated in his positive and forceful address to the World Jewish Congress Wednesday night, is deserving of support.

As the President stated, this may be the best opportunity for a permanent Middle East peace settlement in our lifetime. We must not let it slip away. Partisanship should not prevail. We need careful and thoughtful consideration and discussion.

The President believes that serious face-to-face negotiations about real peace are within reach. Recently, Israel Foreign Minister Moshe Dayan said that his country very much wants to go to Geneva. Dayan said,

I myself think that we never had a better time to get peace.

Of course any consideration of our Middle East policy begins with recognition of our steadfast commitment to Israel. Earlier this year, Vice President MONDALE referred to our support of Israel as a "moral imperative." Last night,

President Carter spoke of our "unique relationship" with Israel.

There can be no question of this commitment, which is without parallel. Israel remains the largest recipient of American foreign assistance and has received $10 billion in military and economic aid from the United States since 1973, mostly in the form of direct grants or concessional loans. The President has pledged that such aid will continue and there should be no doubt as to the unwavering support in the Senate for the assistance necessary for Israel to maintain its military security.

What we should hope to achieve, and what the President is striving for, is real security for Israel. The continued emphasis on military security in Israel—as well as in other Middle East nations—inevitably diverts attention and resources from economic and social needs. High inflation, and high taxes and labor disruptions are among the more obvious results. We all look forward to the day when the people of Israel can live in peace and can more fully apply their great talents and energies toward further developing a nation that already stands as a model for economic development and political liberty.

A key element of any peace settlement, and one that has been stressed by President Carter, is agreement on recognized and secure borders.

Such an agreement would be consistent with United Nations Security Council Resolution 242 of 1967, which should serve as a basis for negotiations. That resolution provides for the termination of all claims of belligerency and respect for and acknowledgement of the sovereignty, territorial integrity, and political independence of every state in the area and their right to live in peace within secure and recognized borders.

The continuing refusal of the Palestine Liberation Organization to accept U.N. Resolution 242 and Israel's right to exist constitutes an obvious obstacle to the achievement of peace.

In his speech to the World Jewish Congress, President Carter pointed out some of the other problems which remain, including the establishment by Israel of civilian settlements in territories currently under occupation.

Critical to the success of the negotiations is a resolution of the difficult and tragic Palestinian question. I would agree with the administration's position that the specific nature of the resolution of this as well as other important substantive issues must be decided by the parties themselves in the course of negotiations.

The acceptance by Israel of a unified Arab delegation, including Palestinians, at Geneva is an important accomplishment. Likewise, Israel has indicated its willingness to enter the negotiations without preconditions and with all issues negotiable. Such an approach on the part of all parties is essential to successful talks.

Mr. President, it is imperative that we do all we can to help achieve a just and lasting peace in the Middle East. The administration will continue with its efforts to convene a Geneva Conference, which would provide the forum for the Middle East nations to work out a settlement in face-to-face negotiations. I support President Carter in his continuing effort to promote the process of negotiations.

I ask unanimous consent that the President's address delivered to the World Jewish Congress last evening be printed in the RECORD at this point.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS OF THE PRESIDENT TO THE WORLD JEWISH CONGRESS

I am deeply honored to receive this award. I accept it with a special sense of gratitude because of the organization from which it comes and the man for whom it is named.

For more than half a century Nahum Goldmann has been a scholar and political leader and a fighter for the rights of all people. His career is proof that a man who is outspoken and controversial can still be a brilliant and effective statesman. As the head of this organization and many others, he has played a more significant role in world affairs than many heads of state. He is stepping down from the presidency of the World Jewish Congress, but his presence will remain, for he is the kind of man whose moral authority transcends titles or offices.

The World Jewish Congress has always sought to promote human rights in a universal way. In this it is faithful to the ethical tradition from which it springs. For Jewish teaching helped to create the consciousness of human rights that is, I believe, now growing everywhere on earth.

In large measure, the beginnings of our modern conceptions of human rights go back to the laws and the prophets of the Judeo-Christian tradition. I have been steeped in the Bible since early childhood. And I believe that anyone who reads the ancient words of the Old Testament with sensitivity and care will find there the idea of government as something that is based on a voluntary covenant rather than force—the idea of equality before the law and the supremacy of law over the whims of rulers—the idea of the dignity of the individual human being and the individual conscience—the idea of service to the poor and oppressed the ideas of self-government and tolerance and of nations living together in peace despite differences of belief.

I know also that the memory of Jewish persecution and suffering lends a special quality to your commitment to human rights. This organization made a major contribution to insuring that human rights became part of the Charter of the United Nations as one of its three basic purposes, along with the preservation of the peace and social and economic progress. The principal authors of the Universal Declaration of Human Rights were Eleanor Roosevelt, an American Protestant, Charles Malik, a Lebanese Catholic. and Rene Cassin, a French Jew.

Because of their work and the work of others since, no government can pretend that its mistreatment of its own citizens is solely an internal affair. These accomplishments helped start a process by which governments can be moved toward exemplifying the ideals they have publicly professed.

Our actions in the field of human rights must vary according to the appropriateness and effectiveness of one kind of action or another, but our judgments must be made according to a single standard. Oppression is reprehensible, whether its victims are blacks in South Africa or American Indians in the Western Hemisphere or Jews in the Soviet Union or dissenters in Chile or Czechoslovakia.

The public demonstration of our commitment to human rights is one of the major goals that my administration has set for U.S. foreign policy. This emphasis on human rights has raised the level of consciousness around the world and is already helping to overcome the crisis of the spirit which has lately afflicted the West.

We are also trying to build a more cooperative international system. We have consulted closely with our allies, placed relations on a new footing in Africa, Asia, and Latin America, and searched for new areas of cooperation with the Soviet Union, especially in the area where we and the Soviets now most intensely compete—in the race for nuclear weapons. We must halt that race. At the same time we seek cooperation, we recognize that competition is also a fact of international life and we will remain capable of defending the legitimate interests of our people.

We are addressing other global problems which threaten the well-being and security of people everywhere. These include nuclear proliferation, transfers of conventional arms, and the questions of energy, food, and environment which face all nations of the world.

We are also seeking solutions to regional conflicts that can do incalculable damage if not resolved. Our efforts toward a new treaty with Panama are one example; bringing about peaceful change in Southern Africa is another. But none is more important than finding peace in the Middle East.

Sixty years ago today, November 2, 1917, the British Foreign Secretary, Lord Balfour, informed Lord Rothschild of his government's support for the establishment of a national home for the Jewish people in Palestine. At that time, the idea seemed visionary and few dared to believe that it could be translated into reality. But today Israel is a vital force, an independent and democratic Jewish state, whose national existence is accepted and whose security is stronger than ever before. We are proud to be Israel's firm friend and closest partner—and we shall stand by Israel always.

Despite its great accomplishments, however, Israel has yet to realize the cherished goal of living in peace with its neighbors. Some would say that peace cannot be achieved because of the accumulated mistrust and the deep emotions dividing Israelis and Arabs. Some would say that we must realistically resign ourselves to the prospect of unending struggle and conflict in the Middle East.

With such an attitude of resignation, Israel would never have been created, and with such an attitude peace would not be achieved. What is needed is both vision and realism, so that strong leadership can transform the hostility of the past into a peaceful and constructive future. This was the vision of the Zionist movement in the first generation after the Balfour Declaration; it can be the achievement of Israel in its second generation as an independent state.

Since becoming President, I have spent much of my time in trying to promote a peace settlement between Israel and her Arab neighbors. All Americans know that peace in the Middle East is of vital concern for our own country. We cannot merely be idle bystanders. Our friendships and our interests require that we continue to devote ourselves to the cause of peace in this most dangerous region of the world.

Earlier this year, I outlined the elements of a comprehensive peace, not in order to impose our views on the parties, but rather as a way of defining some of the elements of an overall settlement which would have to be achieved through detailed negotiations.

I continue to believe that the three key issues are: first, the obligations of peace, including the full normalization of political, economic and cultural relations; second, the establishment of effective security measures, coupled to Israeli withdrawal from occupied territories and agreement on final, recognized and secure borders; and, third, a resolution of the Palestinian question. Those questions are interrelated in complex ways, and

for peace to be achieved, all will have to be resolved.

Recently, our diplomatic efforts have focused on establishing a framework for negotiations so that the parties themselves will become engaged in the resolution of the many substantive issues that have divided them for so long. We can offer our good offices as mediators. We can make suggestions, but we cannot do the negotiating.

For serious peace talks to begin, a reconvening of the Geneva Conference has become essential. All the parties have accepted the idea of comprehensive negotiations at Geneva, and agreement has been reached on several important procedural arrangements.

Israel has accepted for Geneva the idea of a unified Arab delegation which will include Palestinians, and has agreed to discuss the future of the West Bank and Gaza with Jordan, Egypt and the Palestinian Arabs. This can provide the means for the Palestinian voice to be heard in the shaping of a Middle East peace, and this represents a positive and constructive step. Israel has also repeated its willingness to negotiate without preconditions, and has stressed that all issues are negotiable, an attitude that others must accept if peace talks are to succeed.

For their part, the Arab states involved have accepted Israel's status as a nation. They are increasingly willing to work toward peace treaties, and to form individual working groups to negotiate settlement of border and other disputes. No longer do they refuse to sit down at the negotiating table with Israel, nor do they dispute Israel's right to live within secure and recognized borders. That must be taken as a measure of how far we have come from the intransigent positions of the past.

The procedural agreements hammered out in 1973 at the first Geneva Conference will be a good basis for the reconvened conference.

Even a year ago the notion of Israelis and Arabs engaging in face-to-face negotiations about real peace, a peace embodied in binding treaties, seemed illusory. Yet today such negotiations are within reach—and I am proud of the progress that has been achieved to make this dream possible.

But to improve the atmosphere for serious negotiations, mutual suspicions must be further reduced. One source of Arab concern about Israeli intentions has been the establishment of civilian settlements in territories currently under occupation, which we consider to be in violation of the Fourth Geneva Convention.

On the Arab side, much still needs to be done to remove the suspicions that exist in Israel about Arab intentions. It was not so long ago, after all, that Arab demands were often expressed in extreme and sometimes violent ways. Israel's existence was constantly called into question. The continuing refusal of the Palestine Liberation Organization to accept UN Resolution 242 and Israel's right to exist, along with the resort to violence and terror by some groups, provides Israelis with tangible evidence that their worst fears may in fact be justified.

Differences naturally persist, not only between Arabs and Israelis, but among the Arab parties themselves. We are actively engaged in an effort to narrow these differences so that Geneva can be reconvened, and we have called on the other co-chairman of the Geneva Conference, the Soviet Union, to use its influence constructively.

We will continue to encourage a constructive solution to the Palestinian question in a framework which does not threaten the interests of any of the concerned parties, yet respects the legitimate rights of the Palestinians. The nations involved must negotiate the settlement, but we ourselves do not prefer an independent Palestinian state on the West Bank.

Negotiations will no doubt be prolonged and often difficult. But we are in this to stay. I will personally be prepared to use the influence of the United States to help the negotiations succeed. We will not impose our will on any party, but we will constantly encourage and try to assist the process of conciliation.

Our relations with Israel will remain strong. Since 1973, we have provided $10 billion in military and economic aid to Israel, of which more than two-thirds was in the form of direct grants or concessional loans. The magnitude of this assistance is without parallel in history. It has greatly enhanced Israel's economic health and her military strength. Our aid will continue.

As difficult as peace through negotiations will be in the Middle East, the alternative of stalemate and conflict is infinitely worse. The costs of another war would be staggering, in both human and economic terms. Peace, by contrast, offers great hope to the peoples of the Middle East who have already contributed so much to civilization. Peace—which must include a permanent and secure Jewish State of Israel—has a compelling logic for the Middle East. It could begin to bring Arabs and Israelis together in creative ways to produce a prosperous and stable region. The prospect of coexistence and of cooperation could revive the spirits of those who have for so long thought only of violence and the struggle for survival. Peace would lift the enormous burdens of defense, and uplift the people's quality of life.

The idea of peace in the Middle East is no more of a dream today than was the idea of a national home for the Jewish people in 1917. But it will require the same dedication that made Israel a reality and has allowed it to grow and prosper.

We may be facing now the best opportunity for a permanent Middle East peace settlement in our lifetime. We must not let it slip away. Well meaning leaders in Israel, in the Arab nations, and indeed throughout the world are making an unprecedented and concerted effort to resolve deep-seated differences in the Middle East. This is not a time for intemperance or partisanship. It is a time for strong and responsible leadership and a willingness to explore carefully and thoughtfully the intentions of others.

It is a time to use the mutual strength and the unique partnership between Israel and the United States—and the influence of you and others who have a deep interest and concern—to guarantee a strong and permanently secure Israel—at peace with her neighbors, and able to contribute her tremendous resources toward the realization of human rights and a better and more peaceful life throughout the world.

The Old Testament offers a vision of what that kind of peace might mean in its deepest sense. I leave you with these lines of Micah—lines to which no summary or paraphrase could possibly do justice:

"But in the last days it shall come to pass, that the mountain of the house of the Lord shall be established in the top of the mountains, and it shall be exalted above the hills; and people shall flow unto it.

"And many nations shall come, and say, Come, and let us go up to the mountain of the Lord, and to the house of the God of Jacob; and he will teach us of his ways, and we will walk in his paths; for the law shall go forth of Zion, and the word of the Lord from Jerusalem.

"And he shall judge among many people, and rebuke strong nations afar off; and they shall beat their swords into plowshares, and their spears into pruninghooks; nation shall not lift up a sword against nation, neither shall they learn war any more.

"But they shall sit every man under his vine and under his fig tree; and none shall make them afraid: for the mouth of the Lord of hosts hath spoken it.

"For all people will walk every one in the name of his god, and we will walk in the name of the Lord our God for ever and ever."

However we may falter—however difficult the path—it is our duty to walk together toward the fulfillment of that majestic prophesy.

SENATE SCHEDULE FROM NOVEMBER 3, 1977, TO SINE DIE ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, the minority leader and I have conferred on the Senate schedule for the remainder of the session.

The schedule we have agreed upon is as follows:

SENATE SCHEDULE FROM NOVEMBER 3, 1977, TO SINE DIE ADJOURNMENT

Today the Senate will continue consideration of the social security bill, H.R. 9346. If final action on that bill is completed today, the Senate will meet tomorrow, Friday, November 4, 1977, to consider other measures which are cleared for action and there will be no Saturday session. If final action on the social security bill is not completed today, the Senate will meet early tomorrow to continue its consideration, and if final action has not occurred by the close of business on Friday, the Senate will meet on Saturday in an attempt to conclude its action.

At the conclusion of Senate business this week, whenever that occurs, the Senate will recess until 10 a.m. Tuesday, November 8, for a pro forma session. On that day the majority and minority leaders will have 10 minutes each to make announcements respecting the Senate schedule for the ensuing weeks. The Senate will convene again, pro forma, at 10 a.m. on Friday, November 11. The Senate will convene next at 10 a.m. on Tuesday, November 15, in a pro forma session unless on Tuesday, November 8, the leadership has announced otherwise. If final disposition of the social security bill has not occurred prior to the close of business on Saturday, November 5, the Senate will convene on Monday, November 14, to continue consideration of that bill and will continue meeting each day that week until action on the bill is completed. Should the bill not be disposed of, the Senate will convene on Monday, November 28, at 10 a.m. to continue its consideration and will meet thereafter as long as necessary to conclude its deliberation with respect to the bill.

Assuming final action on the social security bill takes place this week, following the session on Tuesday, November 15, the Senate will next meet in a pro forma session at 10 a.m. on Friday, November 18, to be followed by a pro forma session at 10 a.m. on Tuesday, November 22, and next at 10 a.m. on Friday, November 25.

There will be no rollcall votes during the week of Monday, November 7, nor during the week of Monday, November 21. There may be rollcall votes during the week of Monday, November 14, and after the Thanksgiving week, beginning on Monday, November 28.

When the Senate is meeting pro forma on Tuesdays only there may be routine morning business not to exceed 3 minutes during which committees may file

reports, Members may introduce bills or resolutions and enter statements in the RECORD. In addition, during those sessions, nominations of a noncontroversial nature may be acted upon. With respect to noncontroversial nominations which may require rollcall votes and with respect to conference reports which may be controversial or on which rollcall votes are indicated, announcements will be made as much in advance as possible by the leadership to give Members sufficient notice and time to return to Washington for votes.

The leadership does not contemplate adjournment sine die until final action is taken on the five energy conference reports.

The convening date for the second session of the 95th Congress will be January 19, 1978.

Mr. ROBERT C. BYRD. Mr. President, do I have any time remaining out of my 2 minutes?

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

The Senator from Tennessee.

Mr. BAKER. Mr. President, I yield my time to the distinguished assistant minority leader.

SENATOR BAKER'S ADDRESS TO THE WORLD JEWISH CONGRESS

Mr. STEVENS. Mr. President, I ask unanimous consent to insert into the RECORD a transcript of remarks made by the distinguished minority leader before the World Jewish Congress on Tuesday, November 1, 1977. These are important remarks and they are meaningful remarks that should be kept in mind as we await further clarification of American foreign policy in the Middle East.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

REMARKS OF HOWARD H. BAKER, JR., BEFORE THE WORLD JEWISH CONGRESS

Dr. Goldman, Mr. Jacobs, and ladies and gentlemen, you are good to invite me; and I thank you for the opportunity to participate in this significant event here in Washington, and I apologize in advance for rearranging your schedule, but it's necessary as was pointed out a moment ago for me to conclude these remarks and return to the Capitol and to attend a meeting there.

The Congress is in the final throes of its adjournment procedure. Yesterday in the Senate we concluded to pass the last of five parts of the President's energy proposal, and we have sent them to conference now with the House of Representatives.

I think it might be good to begin these remarks by pointing out what I'm sure all of you know or many of you certainly know, and that is that in the American scheme of things, not only do we have the three separate and distinct departments of government, but we have a political system that requires, indeed, it *insists* that there be a political scrutiny, that there be a careful examination of the major aspects of this country's foreign and domestic problems. So, what I'm about to say should be thought about, should be heard, and should be understood in the context of our responsibility in the Congress to hear, to understand, to examine, and to criticize the several aspects of American foreign and domestic problems. And today, what I'd like to do is to discuss some aspects of the foreign policy of the United States as it relates to the interests of the American people in preserving the peace and in maintaining the American commitment to international stability and human dignity. I know that you have a particular interest in the situation in the Middle East and in recent Administration moves that seem to reflect a shift in a policy developed over thirty years by Republican and Democratic Presidents alike.

The formulation of foreign policy in the United States is related first of all to the preservation and enhancement of our national security. We are the most powerful nation in the world. With that power comes responsibility and it is essential to exercise that responsibility in ways that are consonant with America's traditional commitment to freedom and to human decency. There are too many places in the world in which foreign policy is decided by a small group of leaders who make decisions in isolation from the desires and views of their own people. But in the United States, we are obliged to shape our policy in accord with Constitutional processes that are closely related to the democratic dialogue. Foreign policy is not, cannot and should not be conducted in a vacuum. If it is to be an effective instrument of American interests . . . and that must be its ultimate aim . . . it must reflect the aspirations of the American people. In this country those aspirations are determined by the people themselves.

We Americans, some of us or all of us, may sometimes be mistaken in the decisions we choose to make. But, in a democracy, we must take the risk that democracy requires, in permitting the people of this nation to make their judgments on the fundamental matters and issues of great importance to this nation, to this generation and to others. I'm privileged to serve in the United States Congress, in the Senate.

Many years ago my father served in the other body, in the House of Representatives in the Congress. As a young man, he told me once as he agonized over a decision that had to be made on a matter of great national urgency, that his mail and comments from his constituency ran a particular way, and he was concerned about whether that was right or wrong. But, he pointed out to me, and I've always remembered this, that it's the very essence of democracy that we must listen very carefully to what the collective judgment of the people may be. And he summed it up when he said to me—speaking of his constituents and their views—he said, "Son, you can doubt their judgment, but don't you ever doubt their authority."

And so it is in the Congress of the United States. It seems to me that the fundamental, most elementary requirements of a true representative Republic in the implementation of our democratic objectives, is to hear and understand the collective wisdom and the genius of the American people and translate it into an effective government policy. And, it seems to me that during the last 30 years, the American people through five Administrations in the exercise of that genius for self-government in this country have made an authoritative decision that the survival in peace of the State of Israel is in the American interest and in the interest of simple justice.

It is true that in a country with as many interests and objectives as the United States, the making of foreign policy is riddled with complexity. It's also a fact that there are sometimes conflicts among our own objectives. But that shouldn't trouble us. Resolving those conflicts is what policy is about; and it's also what politics is about. I think we should be very clear about the role that politics plays in making foreign policy because it's an important role and it's one of which we should not be ashamed.

Most Americans share certain values and wish to see that they are perpetuated in the international arena. Most Americans are committed to stable international relationships, to orderly change when change is in order, to the reduction of the danger of nuclear war; and most Americans are committed to the survival of a strong and free Israel as a democratic bastion in the Middle East.

Almost all Americans are also committed to the projection of the American ideal of free institutions and human dignity as worthy of emulation. But among 230 million of us, there are bound to be differences of view as to how to achieve those objectives. This is a country of great cultural and geographic diversity, and we are rooted in many ancestries. Irish-Americans, Polish-Americans, Italian-Americans, Jewish-Americans, Greek-Americans, and all of the other hyphenated Americans, can't help but regard foreign policy as part of domestic policy, because so many of us have strong ties to the past that has produced this unique American experiment in self-government. It would be less than honest to say that this diversity does not sometimes complicate the conduct of foreign policy. Different constituencies have different interests, and in a Democracy, those interests must be reckoned with. That's why I have been somewhat disturbed by recent press speculation about a confrontation between the Administration and the American Jewish community, simply because the crisis in the Middle East is of particular interest to Jewish Americans and they make no bones about expressing their opinions on that question. I would be very, very unhappy if American Jews or if any other group of Americans, felt that they were under any pressure to soften their views because they did not happen to be in accord with those of the President of the United States.

I should say, parenthetically, that there are those in the executive branch of government who seriously believe that there is too much congressional "interference" in foreign policy. Those who feel that way apparently believe that the advice in "Advice and Consent" is to be whispered and the consent should be shouted from the rooftops! But I can tell you that those of us who are elected to represent our people have no intention of giving our consent without giving our advice.

It's perhaps unfortunate that the way we make foreign policy is so closely tied to its substance. But, overall, I think the results have been good. For both the President and the Congress must reflect in some degree the views of the American people and in the Middle East, those views are crystal clear. We wish to promote circumstances in which Israel can live at peace with her Arab neighbors. The American people do not wish to impose a peace. We wish the parties to negotiate their own arrangements in their own best interests. The American people expect the President and the Department of State to contribute our presence as mediators, our goodwill and whatever resources we can offer to a solution of the differences between the Arabs and the Israelis.

That has been American policy for thirty years and I believe that is what American policy should continue to be. I do not want to see the United States ever try to buy peace by sacrificing Israel on the altar of American foreign policy. I don't believe for a minute that going to Geneva or to Paris is an end to itself. Going to Geneva will be productive only if the parties to the dispute are ready to engage in a fruitful negotiation. The Geneva Peace Conference can do far more harm than good, if because of pressure from outside forces, the Arabs and Israelis arrive at the scene and then exacerbate their differences.

Geneva was designed as a stop along the road to peace. It would be an enormous tragedy if it turned into another step on the road to war. I submit that we face exactly that risk unless we are extremely careful to lay the groundwork for a meaningful and

mutually agreed on solution before we arrive at Geneva. I am particularly concerned, as a United States Senator, with the dramatic and sudden re-introduction of the Soviet Union into the negotiating process.

Only a painstaking and brilliantly executed series of negotiations between the last Administration and the individual Arab states prevented the growing Soviet power from dominating one of the most strategically important areas in the world.

The relationships Secretary Kissinger established during his tenure in office were a significant factor in the reduction of Soviet influence to a point where it is no longer regarded with trust or respect by any of the major powers in the area.

What possible advantage to the United States can there be in linking an invitation to renewed Soviet influence with the convening of the Geneva Peace Conference? The United States has been, and hopefully, still is, the only power on the world scene in which both parties to the dispute place a considerable degree of trust. But the Administration's new posture has raised doubts as to where it really stands and what it really wants.

The Soviet-American statement changes sharply the direction of American policy in the Middle East dispute. That statement, I am told, was based on an original draft by the Soviets. It reflects in considerable degree, the position of the Arab states as to the nature and shape of an ultimate settlement of the Arab-Israeli dispute. It violates the written agreement between Israel and the United States binding the two parties to consult closely as to any arrangements made in reference to the Geneva Peace Conference. Nowhere in the statement does the Administration and its Soviet partner refer to United Nations Resolution 242, which up to now has been the basis for all negotiations on the Middle East question.

It is that resolution that calls for peaceful negotiations and asserts the right of the State of Israel to exist. Until now, the United States has refused to deal with the so-called PLO because it had rejected 242 as a basis for a peaceful settlement. The Soviet-American letter calls for recognition of "the rights of the Palestinian people"... a code phrase for the establishment of a PLO state on the West Bank and the Gaza Strip.

Yet, this issue and a host of others, is exactly what the dispute is about. It has been the American position in the past, and it should be the American position today, that only the parties themselves must resolve that dispute. We have explicitly rejected an imposed solution, but the joint statement goes a long way to doing just that. The joint statement with the Soviet Union violates on its face agreements made with the government of Israel in September, 1975. When the Israelis withdrew from the Abu Rudeis oil fields in the Sinai under United States pressure, our government and the Israelis signed a memorandum of agreement stating that the United States would not recognize nor negotiate with the PLO until that organization recognized Israel's right to exist and until it accepts Security Council Resolutions 242 and 338. Most important of all, the United States and Israel agreed to consult on all questions relating to the convening of the Geneva Conference and to what governments and what other parties would participate in that conference. The fact is that the Administration failed to consult with Israel before issuing a joint statement with the USSR.

I am deeply troubled by this shift in the Administration's posture because of the uncertainty it rouses in the minds of millions of Americans who are deeply committed to the peaceful survival of Israel. But even more important than the perhaps erroneous assumption that the United States is casting aside the only Democratic state in the Middle East, is the meaning of this statement to the national interest of the United States.

I believe that we must recognize the fact of Soviet power where it exists, that we must negotiate with the Soviet Union to reduce the danger of nuclear war and that we must be prepared to match meaningful concession with meaningful concession. But, I believe even more strongly, that a Soviet presence in the Middle East will endanger the survival of Israel and the stability of the Arab states in the area. The United States cannot afford upheaval along the strategic lifelines of the Middle East. And it is the Soviet Union that has encouraged that upheaval at every opportunity. I can only hope that we have not given up the foreign policy achievements of the last Administration as a bargaining chip in the SALT talks now underway in the same city in which the Administration is pressing for a Middle East peace conference before the end of the year.

My friends, although I support the policy of convening a Geneva peace conference, I believe it should be convened when a meaningful dialogue between the parties is likely. I do not support the convening of a Geneva Peace Conference for the sake of having a peace conference now or in the future. I believe we should know in advance what we are likely to be able to do with that peace conference. I do not think we should play Russian roulette with the future peace of all mankind. I believe, that rather than push for an unrealistic piece of political theatre and arouse expectations that are bound to be disappointed if we do not fully prepare in advance, that the United States should pursue the prospects for peace in the Middle East by continuing the many-sided dialogue between ourselves and the Israelis and Arab Governments. We should go to Geneva only when there is a good reason to go to Geneva, and we should go with the expectation that a framework for peace acceptable to all of those who have interests in the area has been designed and put in place. Geneva must not become a symbol for diplomatic misadventure. The prospects for peace or war in the Middle East are obscure, and we must move with careful deliberation if we are to improve the situation. Movement for the sake of movement alone may well stir up a nest of troubles that certainly would be better left alone.

It is no news to you that we live in dangerous times. And I believe that if the United States is to meet the challenge of its obligation and to fulfill the needs of its security, we must move with care and caution. My friends, I began these remarks by expressing a great faith in the innate genius of Americans to govern themselves; and inherent in that belief and faith is the notion that America makes fundamentally right decisions as it governs itself, that the sovereign genius of the people of the United States has been remarkably right in our history, not because we've always had great leaders—although we've had more than our share—but whether the people have been right or not, they speak in shouts and in whispers and sometimes not at all. But when they do speak we must listen, those of us in government, because while we serve the exquisite balance of powers described in the Constitution, it is the fourth department of government, the political system, that sets out, that translates, and transmits to the government the collective genius of the sovereign of the people themselves. I would remind the Administration and the world that that giant genius of American self-determination is saying now that we want a skillful, cautious foreign policy in the Middle East that is reasonably calculated to serve the best interests of peace and to preserve the existence of the State of Israel.

Well, my friends, I have no apology to make for discussing foreign policy in the political sense; it is politics that is the very essence of the democratic system. Those who are here in this audience, and certainly those in the Congress and throughout the Administration, may agree in part and may disagree in part or disagree altogether with what I've said; but my friends what I have said and what you are doing contributes to the ultimate dialogue by which the people express their judgment; and I would close by reiterating what my father told me years ago about the public, about the electorate; about the genius of America in self-government. Sometimes you may doubt their judgment, but don't you ever doubt their authority.

FISHERMEN'S PROTECTIVE ACT AMENDMENT

Mr. STEVENS. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1184.

The ACTING PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the bill (S. 1184) to amend section 7(e) of the Fishermen's Protective Act of 1967, and for other purposes, as follows:

Strike all after the enacting clause, and insert:

That section 7(c) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977(e)) is amended by striking out "October 1, 1977" and inserting in lieu thereof "October 1, 1978".

Amend the title so as to read: "An Act to extend the provisions of the Fishermen's Protective Act of 1967, relating to the reimbursement of seized commercial fishermen, until October 1, 1978".

UP AMENDMENT NO. 1038

Mr. STEVENS. Mr. President, I move that the Senate concur in the amendments of the House of Representatives, with an amendment which I now send to the desk on behalf of the Senator from Oregon (Mr. PACKWOOD).

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS), in behalf of the Senator from Oregon (Mr. PACKWOOD) offers an unprinted amendment numbered 1038.

The amendment is as follows:

At the end of the bill add the following new section:

SEC. 2. The Fishermen's Protective Act of 1967, as amended, is further amended by adding the following new section at the end thereof:

"SEC. 10. (a) After July 1, 1977, the Secretary may make a loan to the owner or operator of any vessel of the United States which is documented or certified as a commercial fishing vessel if—

"(1) he receives an application for a loan under this section after such date;

"(2) he reasonably determines that such vessel, or its fishing gear, was lost, damaged, or destroyed by any vessel (or its crew or fishing gear) of a foreign nation operating within the fishery conservation zone established by sections 101 and 102 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1811); and

"(3) the amount of such loss, damage, or destruction exceeds $2,000.

Any such loan—

"(A) may be for an amount not exceeding the value of such loss, damage or destruction;

"(B) shall be conditional upon assignment to the Secretary of any right to recover for such loss, damage, or destruction;

"(C) shall bear interest at a rate not to exceed 3½ per centum per annum; and

"(D) shall be subject to such terms and conditions as the Secretary deems necessary and appropriate for the purposes of this section.

The Secretary shall use the Fishermen's Protective Fund created under section 9 for the amounts of any loan made under this section. Loans may be made for any loss, damage, or destruction occurring after July 1, 1976 for which claims are not already substantially resolved.

"(b) The Secretary, in conjunction with other agencies or departments, shall investigate each incident of loss, damage, or destruction for which a loan was made under this section. If he determines that the owner or operator who received the loan was not at fault, the Secretary shall cancel repayment of such loan and refund to such owner or operator any principal and interest payments thereon made prior to the date of such cancellation. If he determines that the owner or operator who received the loan was at fault, the loan shall not continue for its term and shall be repaid within a reasonable time as determined by the Secretary.

"(c) The Secretary, with the assistance of the Attorney General, the Secretary of State, and the claimant, shall take appropriate action, pursuant to the provisions of title 28, United States Code, to collect on any right assigned to him under subsection (a). Amounts collected under this subsection shall—

"(1) if such loan was canceled pursuant to subsection (b), be paid into the Fishermen's Protective Fund created under section 9, to the extent of the amount so canceled;

"(2) if not so canceled, be applied to the repayment of such loan; or

"(3) to the extent not used pursuant to paragraph (1) or (2), paid to the owner or operator who assigned such claim.

"(d) For the purposes of this section, the term 'Secretary' means the Secretary of Commerce.

"(e) The Secretary may from time to time establish by regulation fees to recover the cost of administering this section. Such fees shall be paid by the owner or operator making claims under this section.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion.

Mr. PACKWOOD. Mr. President, the amendment that I am offering to the Fishermen's Protective Act reauthorization, S. 1184, will alleviate a great uncertainty facing all U.S. commercial fishermen; namely, what to do if their vessels or gear are damaged by foreign fishing vessels within the new U.S. 200-mile fishing zone.

As it now stands, a fisherman who is injured by a foreign vessel or crew must enter a claim to an international recovery board, or as proposed, could submit to arbitration with the foreign country. In either case, there is a delay to the fisherman in obtaining compensation to cover his loss. In my home State of Oregon, as well as the distinguished Senator from Washington (Mr. MAGNUSON), there are fishermen who have waited months, and in some cases, over a year for some form of relief. This imposes a tremendous burden on fishermen, who frankly, have no other means of recovery and face a limited season in which to fish.

The "Fishing Claims Recovery Program" which my amendment creates will allow the Secretary of Commerce to make loans to fishermen who encounter losses due to foreign fishing vessel caused damage. However, any loan made by the Secretary would be contingent on the claimant assigning his rights of recovery against the foreigner to the Secretary. In this fashion, the tedious, diplomatic matter of recovery against a foreign country will be handled by the Federal Government, and the aggrieved fisherman will be able to get on with his business.

Mr. President, the version of this amendment has been modified in several respects to meet concerns that were expressed since it passed the Senate in May 1977.

First, the Secretary of Commerce is authorized to make loans for damages claimed in excess of $2,000 which are "reasonably" determined to have been caused by a foreign vessel or crew. This should alleviate any administrative problems that might have been caused if all claims were eligible under this program.

Second, the interest rate has been changed from 2 percent to an amount "not in excess of 3½ percent." This revised figure is the same rate charged on most Federal disaster loans and should be applicable in instances such as those covered by this program.

Third, provision has been made for the Secretary to charge administrative fees of claimants to cover the management costs that will result.

Fourth, eligibility will only be granted for claims that have not been "substantially resolved" and which occurred after July 1, 1976. This should prevent a rehearing of claims for which a resolution has already been achieved, and yet, allow the Secretary to assist if compensation is warranted.

And last, a substantial change has been made for instances in which the claimant was actually at fault in causing the resultant damage—if the Secretary determines that the claimant was at fault, then repayment of the loan will be required within a reasonable period under the circumstances. There will be no loans left outstanding if the Secretary should decide that the claimant was responsible for the resulting damage covered by a loan.

In the final analysis, Mr. President, this recovery program will enable the Secretary, when and where she or he feels it appropriate, to aid our country's fishermen against the odds of international recovery. It is not a subsidy program; we are only providing help where there is not now a feasible alternative for prompt compensation. It is not a giveaway, since any loan is granted contingent upon the rights of recovery against the foreigner being assigned to the Secretary. And, lastly, it is intended to be a self-sustaining program financially. Loans made will be repaid, and for those cases in which the Secretary determines that the foreigner should compensate the U.S. fishermen all payments will be returned to the Fisherman's Protective Fund except for excess amounts that shall be given to the aggrieved fisherman.

Mr. STEVENS. Mr. President, I delayed the consideration of this matter overnight in order to check the amendment to determine its applicability to the area off Alaska, and there was one slight modification to include an area of intermingling of United States and Russian fleets on the Continental Shelf of the Bering Sea beyond the 200-mile zone of either country under the protections involved in this amendment.

The principal reason for the passage of this legislation is to protect American fixed gear fishermen from financial loss when their gear is swept away by foreign trawlers. There is an area in the Bering Sea beyond the 200-mile zone of the United States over which the United States exercises fishery management authority for Continental Shelf resources. We have exercised this authority since 1958 when the world community agreed to the Continental Shelf Convention."

The area of the Bering Sea in question is a rich crab ground. Crab are fished with fixed gear called pots. The area is also rich in pollock which the Soviets and Japanese trawl for. There is a potential gear conflict between my crabbers and the foreign trawlers. This technical change to the Packwood amendment expands the scope of the protection offered by this bill to include my crab fishermen who fish in the Bering Sea on the U.S. Continental Shelf beyond the 200-mile fisheries zone.

The ACTING PRESIDENT pro tempore. The question recurs on the motion to concur on the House amendments with an amendment.

The motion was agreed to.

Mr. BAKER. Mr. President, is there any time remaining to me under the standing order? If so, I yield it back.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

LABOR-HEW APPROPRIATIONS, 1978—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore (Mr. BURDICK). Under a previous order, the Senate will proceed to the consideration of the conference report on H.R. 7555, which the clerk will state.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the amendment of the Senate numbered 82 to the bill (H.R. 7555) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and Related Agencies for the fiscal year ending September 30, 1978, having met, after full and free conference have been unable to agree.

The ACTING PRESIDENT pro tempore. On this measure there is a time limitation of 2 hours, to be divided four ways. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time be equally charged among all four parties.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr.

STENNIS). Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, not to be charged against either side on the conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Routine morning business transacted and additional statements submitted are printed later in today's RECORD.)

NOVEMBER LEGISLATIVE PROGRAM

Mr. BAKER. Mr. President, while we have a few moments for morning business, I should like to ask the majority leader if he has some idea of how we are going to proceed during those days when we shall be in, either in pro forma session or otherwise, after this week. What I am thinking of in particular is the announcement we made on the day before yesterday that we would be in pro forma sessions as we described in that colloquy, and that we would assure Members of the Senate that there would be no votes at certain times. On those days when we did not assure that there would be no votes, what did the majority leader have in mind to transact, what sort of business?

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader for this question. I believe it is one which ought to be clarified for the understanding of all our colleagues.

Let me begin by saying that it is anticipated that the Senate will complete action on the social security financing bill this week. In the unlikely event that that should not occur, then, on Monday, a week from this coming Monday—in other words, on November 14—the Senate would resume consideration of the unfinished business, the unfinished business being the act to amend the Social Security Act. It would work as long during that week as necessary to complete action on the bill. The distinguished minority leader and I have alerted our colleagues to the fact that there will be no business transacted during the week of Thanksgiving, but on Monday, November 28, in the unlikely event the Social Security Act has not been disposed of by then, the Senate would be back on that bill, it being the unfinished business.

I do not anticipate that kind of problem with the Social Security Act, but, inasmuch as there have been some media references to possible lengthy debate on the measure, I think we should at least be aware of possible contingencies and be prepared for them so the Senators will be informed of what could be the situation in the event that Senate action on that measure is not completed this week. In the event that action is completed this week, then we would proceed as the distinguished minority leader and I have agreed earlier, to have pro forma sessions during the week after next and during the week after Thanksgiving, but we would be prepared, at any time conference reports are available, to take them up. If they are expected to be somewhat controversial or if there are indications that rollcall votes will be desired on such conference reports, we shall jointly inform our colleagues on our respective sides as early in advance as possible so Senators can make arrangements to be here on the rollcalls.

There is one other area that I have not mentioned thus far that I think should be mentioned. That has to do with noncontroversial nominations. If there are nominations that are not controversial or that can be disposed of briefly, after a brief debate—with no controversy, but a Senator may want to say a few words on a nomination—if they can be done by voice vote, we would arrange, through our pro forma announcements, to leave a little time for the conduct of that kind of business.

If there are nominations that would require votes—which are not controversial but on which votes are asked—then we would arrange in advance to alert our colleagues that there would be votes on those nominations. But we would schedule those at times when Senators are expected to be back in town anyway for votes on conference reports.

Mr. BAKER. Mr. President, I thank the majority leader.

If I understand his statement, we are going to have no votes the week of the 6th of November and no votes the week of the 20th of November, and that if we have not finished the pending business, which is the social security bill, by the end of this week, we shall be in session to complete it the week of the 13th and the week of the 27th.

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. And that in addition to that—this is new information—from time to time, if there are noncontroversial nominations reported which can be cleared without a rollcall vote, we would propose, during some or all of our pro forma days, to dispose of those nominations; but if there are nominations which require a record vote and are noncontroversial, we would make every effort to notify our colleagues in advance of that situation.

Mr. ROBERT C. BYRD. And we would schedule those on days when our colleagues would be here anyhow for conference reports.

Mr. BAKER. And for those nominations over which there is controversy and which would require a rollcall vote, they would not be scheduled during those periods.

Mr. ROBERT C. BYRD. If there is such controversy as would require very lengthy debate on them, I would anticipate that we would not get into them.

Mr. BAKER. I thank the majority leader; that is very helpful.

Of course, I would certainly volunteer to cooperate with him in trying to identify those matters.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader.

Mr. President, I hope that good progress can be made on the social security bill today. It is my belief that we should not stay in today beyond the hour of 7 o'clock at the latest. Tomorrow, being Friday, we can come in early again and have a reasonably long day tomorrow, if necessary, and Saturday likewise.

So I believe that the Senate should be able to complete its action on this bill. It is not a complex and difficult bill. There should not be too many amendments to it. I hope the Senate can complete action on the bill by the close of business Saturday.

As a matter of fact, there is only one other measure that I have in mind, that being the redwoods bill. If it were possible to complete action on both the social security and redwoods bills by the close of business tomorrow evening, I would see no reason for a Saturday session.

The PRESIDING OFFICER (Mr. STENNIS). Would the leader yield to me for one question there? He said, "Saturday likewise," but the Senator's speaker had weakened a little when he was describing Friday. So if the Senator would go over Friday again, it will tie in.

Mr. ROBERT C. BYRD. I am sorry.

The PRESIDING OFFICER. That is all right. It was not the Senator's fault.

Mr. ROBERT C. BYRD. I said that the Senate would be in today until no later than 7 o'clock p.m. That on Friday, tomorrow, the Senate would come in early and continue its work on the social security bill, if that work is not completed today. We would go through a reasonably long day tomorrow and be in, I am sure, on Saturday in an effort to finish our work on the social security bill, if need be.

I also indicated that other than the social security bill, there is one bill, the redwoods bill, which the distinguished majority whip and the junior Senator from California have some interest in.

I would hope we could dispose of both the social security bill and the redwoods bill by the close of business tomorrow, Friday, in which case there would be no necessity for being in Saturday—otherwise we would have to be in Saturday if action on the social security bill is not completed.

The PRESIDING OFFICER. I thank the Senator.

Mr. ROBERT C. BYRD. Mr. President, I thank the minority leader.

MORNING BUSINESS

While we are in session awaiting the sine die adjournment—which must await the actions of the conferees, particularly on the energy legislation—from time to time we should perhaps allow a little morning business just for the purpose of allowing Senators to introduce bills and allowing committees to report because, in the meantime, committees may meet since the Senate would not be in session. They can continue to meet and they may have matters they may wish to report. From time to time, I think we ought to have just a little morning business in those pro forma sessions—not to transact business other than conference reports and nominations—but to allow the other routine morning business, the committees to report and Senators to introduce bills and resolutions, if they so desire.

Mr. BAKER. Mr. President, I think that is a good suggestion. I would certainly join the majority leader in sug-

gesting that we handle the pro forma days in that way and, of course, this would still fall within the purview of the statements we have made to our colleagues about the nature and type of business to be transacted at that time.

The PRESIDING OFFICER. I commend the Senators for putting into the RECORD their very complete statement just the way it will be in the days to come. I think they have worked out an amazing process there that would try to take care of all this business we have ahead of us, at the same time not any lost motion for the part of the time anyone can go to his home.

Mr. ROBERT C. BYRD. The Chair is very thoughtful, considerate, and kind.

The PRESIDING OFFICER. Who yields time?

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I have no further morning business of my own.

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

QUORUM CALL

Mr. BAKER. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time for the quorum be charged equally against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The time will be charged equally and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 2 minutes without the time being charged to anyone.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERNATIONAL FISHERY AGREEMENT WITH MEXICO

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 9794.

The PRESIDING OFFICER laid before the Senate H.R. 9794, an act to bring the governing international fishery agreement with Mexico within the purview of the Fishery Conservation Zone Transition Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second times and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be considered as having been read twice by its title, and the Senate will proceed to its consideration.

Mr. SPARKMAN. Mr. President, on August 26, 1977, the United States entered into a Governing International Fishery Agreement (GIFA) with Mexico. This agreement, which was submitted to the Congress on October 7, 1977, will permit Mexican fishermen access to a portion of the allowable catch for specified fisheries within the U.S. fishery zone where there is a surplus above the harvesting capacity of U.S. vessels. Under the provisions of the Fishery Conservation and Management Act of 1976 (Public Law 94–265), agreements of this nature enter into force after 60 days of continuous session following their transmittal to Congress. Therefore, under the normal process, this agreement will automatically come into effect sometime in February 1978.

In accordance with its responsibilities under Public Law 94–265, the Commerce Department has announced that a large surplus of various species of fish will be available for foreign fishing in 1978. From this surplus, the Department of State has provided a generous allocation to Mexico. Consequently, the Mexican Government is anxious to expedite the approval process of this agreement to gain access to U.S. surplus fish. Mexico is particularly interested in gaining access to the U.S. squid fishery which begins its season in early January.

In view of this fact, the Department of State has formally requested Congress to provide for an early approval of this agreement. I ask unanimous consent that a copy a letter from Assistant Secretary Patsy Mink be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ASSISTANT SECRETARY OF STATE,
OCEANS AND INTERNATIONAL ENVIRONMENTAL AND SCIENTIFIC AFFAIRS,
Washington, D.C., October 17, 1977.

Hon. JOHN SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washintgon, D.C.

DEAR MR. CHAIRMAN: The Governing International Fisheries Agreement between the United States and Mexico is now before your Committee for its consideration in accordance with the provisions of the Fisheries Conservation and Management Act of 1976. Under the provisions of that Act the Agreement will become effective after lying before the Congress for 60 days of continuous session. We have been informed that the 60-day period of consideration for this Agreement will end in mid-February 1978. The Government of Mexico has expressed to the Department of State its hope that it would be possible to shorten the time period required for consideration of this Agreement.

A number of Mexican vessels have applied to fish for squid in the United States fishery conservation zone during 1978. The Department of Commerce has indicated that a surplus of squid will be available for foreign fishing. We would like to make an allocation from that surplus for Mexico and to provide Mexican fishermen with fishing permits as early as possible in 1978, since the squid season begins in January.

We believe that it would be in the best interests of the United States if every effort were made to bring the Agreement into force as soon as possible. United States fishermen, for a number of years, have fished quite extensively off Mexico's Pacific and Gulf coasts. These fisheries are continuing under another Agreement, signed in November of 1976. As a matter of simple equity, we believe Mexican fishermen should be provided reasonable opportunity to fish off the U.S. coast. We also believe that encouraging this reciprocity in fishing is in the interests of U.S. fishermen who operate off Mexico in that it lead to the kind of fisheries relationship in which each country has an interest in providing continued access to fishermen from the other country.

As a general rule, we do not advocate taking measures to shorten the 60-day provision in the Fishery Conservation and Management Act. In this case, however, because of the special nature of our fisheries relationship with Mexico and the circumstances surrounding the timing of the 1978 fishing season for squid, we believe an exception is warranted. I would appreciate your taking whatever action you consider appropriate to enable Mexican fishermen to begin fishing stocks surplus to U.S. needs as soon as possible.

Very truly yours,

PATSY T. MINK,
Assistant Secretary.

Mr. SPARKMAN. Mr. President, on November 1, 1977, the Committee on Foreign Relations met to consider the agreement. At that time, the committee agreed to waive its right of referral over H.R. 9794 in order to speed up the approval process of the Mexican GIFA.

It should be noted that the Mexican Government entered into an agreement with the United States in November 1976, which grants U.S. fishermen access to surplus fish in the Mexican fishery zone. The value of these fisheries to U.S. fishermen is approximately $40 million.

It should, also, be noted that the U.S. fishing industry has no objection to Congress taking quick action on this bill. In fact, the Committee on Foreign Relations has received telegrams from the Gulf of Mexico Fishery Management Council, the Southeastern Fisheries Association, the National Shrimp Congress, and the Texas Shrimp Association—all urging early approval of the Mexican fishery agreement.

In view of the administration's request, industry's support, and the need to promote continued cooperation on fishery issues with Mexico, I urge the Senate to support the passage of H.R. 9794.

Mr. MAGNUSON. Mr. President, this is a bill designed to bring into immediate effect the recently negotiated governing international fishery agreement (GIFA) with the Government of Mexico.

The Committee on Commerce, Science, and Transportation, which has jurisdiction over the governing international fishery agreements negotiated under the Fishery Conservation and Management Act of 1976 (Public Law 94–265), has waived jurisdiction over this bill in order to expedite its approval as soon as possible.

The normal procedure is that a GIFA will not become effective prior to the close of the first 60 days of continuous session of the Congress after the date on which the President transmits the text of the GIFA to Congress. Because the GIFA with Mexico was not transmitted to Congress until October 7, 1977, it will not become effective until next year absent immediate congressional action.

The effective date of 10 GIFA's negotiated with other nations have been accelerated by congressional action through the Fishery Conservation Zone

Transition Act (Public Law 95-6, as amended 95-8). H.R. 9794 simply amends this act once again in order to include the recently negotiated GIFA with Mexico and thus bring it into immediate effect. The House Committee on Merchant Marine and Fisheries held hearings on this bill and favorably reported it, and the House subsequently passed the bill. In order to further our negotiations on fishery matters with the Government of Mexico and to bring the Mexican GIFA into immediate force, I urge the Senate to take similar immediate action and pass H.R. 9794.

UP AMENDMENT NO. 1039

(Purpose: To make certain changes with regard to officers of the National Oceanic and Atmospheric Administration.)

Mr. ROBERT C. BYRD. Mr. President, I send to the desk an amendment to that bill to make certain changes with regard to the officers of the National Oceanic and Atmospheric Administration, on behalf of Mr. MAGNUSON, Mr. HOLLINGS, and Mr. STEVENS.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), for himself, Mr. MAGNUSON, Mr. HOLLINGS, and Mr. STEVENS, proposes an unprinted amendment numbered 1039.

The amendment is as follows:

At the end of the bill add the following new section:

SEC. 3. (a) Section 15 of the Coastal Zone Management Act Amendments of 1976 (15 U.S.C. 1511a) is amended as follows:

(1) Subsection (a) of that section is amended by striking out "Associate" each place it appears therein and inserting in lieu thereof in each such place "Assistant".

(2) Subsection (b) of that section is repealed.

(3) Subsection (c) of that section is redesigned as subsection (b).

(b) There shall be in the National Oceanic and Atmospheric Administration a General Counsel appointed by the President, by and with the advice and consent of the Senate, who shall be compensated at the rate now or hereafter provided for level V of the Executive Pay Rates (5 U.S.C. 5316). The General Counsel shall serve as the chief legal officer for all legal matters which may arise in connection with the conduct of the functions of the Administration.

(c) Section 5316 of title 5, United States Code, is amended by striking out paragraph (140), and inserting in lieu thereof the following new paragraph:

"(140) Assistant Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration."

"(141) General Counsel, National Oceanic and Atmospheric Administration."

"(142) Assistant Administrators (4), National Oceanic and Atmospheric Administration."

(d) Section 2(e) of Reorganization Plan Number 4 of 1970 (relating to the National Oceanic and Atmospheric Administration) (84 Stat. 2090) is amended—

(1) by striking out "three additional officers" in the first sentence thereof, and inserting in lieu thereof "four assistant administrators";

(2) by striking out "such officer" in the second sentence thereof, and inserting in lieu thereof "such assistant administrator", and

(3) by striking out "under the classified civil service," and inserting in lieu thereof "without regard to the provisions of title 5, United States Code, governing appointments in the competitive service,".

(e) The Secretary of Commerce may, in order to carry out the functions vested in the Secretary and carried out through the National Oceanic and Atmospheric Administration, establish, fix the compensation for, and make appointments to, eight new positions within the National Oceanic and Atmospheric Administration. Such positions may be established without regard to the provisions of chapter 51 of title 5, United States Code, and the compensation therefor may be fixed without regard to chapter 53 of such title 5, except the rates of compensation for such positions shall not exceed the maximum rate established from time to time for GS-18 of the General Schedule under section 5332 of title 5, United States Code. An appointment to each such position may be made by the Secretary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and persons appointed to such positions shall serve at the pleasure of the Secretary. The positions authorized by this subsection shall be in addition to the number of positions otherwise authorized by law.

Mr. MAGNUSON. Mr. President, Richard Frank, Administrator of the National Oceanic and Atmospheric Administration, recently announced, and is seeking congressional approval of, a reorganization of his agency. On September 13, I spoke on the Senate floor of my support for the proposed reorganization. At that time I mentioned that I was particularly pleased with the establishment of the position of Assistant Administrator for Fisheries. I believe these changes are necessary for NOAA to develop into the true lead ocean agency in this Government as the Stratton Commission envisioned.

Senator HOLLINGS and I recently introduced S. 2224, a bill to establish an organic act for the National Oceanic and Atmospheric Administration. That legislation is a much more comprehensive statement of NOAA's missions and officer structure than the amendment we offer today. The amendment at hand simply accomplishes interim changes in titles of top NOAA officials and enables NOAA to add eight additional supergrades to its structure. The Senate Commerce Committee plans broadscope oversight hearings into NOAA. However, these interim changes are needed so that Mr. Frank can begin to hire his new "team".

I urge the Senate to concur in this amendment. It must be adopted this week in order for the reorganization to be completed and an orderly transition to new leadership accomplished.

Mr. HOLLINGS. Mr. President, I join my colleague from the State of Washington (Mr. MAGNUSON) in supporting this amendment to accomplish an interim reorganization of the National Oceanic and Atmospheric Administration. At the time of the change of administrations, I requested Secretary Juanita Kreps of the Department of Commerce to give consideration to strengthening NOAA. I also submitted to her and her staff some of my own ideas about NOAA and its future.

The reorganization which Mr. Richard Frank now proposes contains many of the suggestions I made to Secretary Kreps. Of key concern to me is the recognition that NOAA has been transformed from an agency dealing exclusively with science, research, and services (primarily weather) to one with important management duties, for example, fisheries and marine mammals as well as the coastal zone. Creating line responsibility for Assistant Administrators fits a management agency better than the previous staff arrangement. An Assistant Administrator for Policy would be created and this is needed. Finally, I very much approve of the proposal to create an Office of Ocean Management.

The amendment I am cosponsoring today would clear the way for this reorganization by—

First. Redesignating all Associate Administrators of NOAA as Assistant Administrators, except for one executive level IV associate;

Second. Creating the Office of General Counsel of NOAA as an executive level V position, requiring advice and consent of the Senate to reflect the important policy role played by the General Counsel;

Third. Making all Assistant Administrators (except that for administration) executive level V, and adding two new Assistant Administrator positions over and above that now allowed (for policy and for research and development); and

Fourth. Providing NOAA with eight supergrade positions to fill the new positions available.

The reorganization proposal is well outlined in a memorandum for Secretary Kreps prepared by Richard Frank. I ask unanimous consent that that memorandum and a statement of purpose and need be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REORGANIZATION OF A NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

This document describes the new organization of the National Oceanic & Atmospheric Administration (NOAA) I am asking you to approve. It reviews the process through which this organizational structure was developed, the criteria guiding the selection, and a variety of alternatives considered, and includes a point-by-point description of the proposed organizational structure.

I. DEVELOPMENT OF THE REORGANIZATION PLAN

This reorganization plan represents the culmination of many months of effort by a large number of people both inside and outside NOAA. In February 1977, Assistant Secretary Jasinowski initiated the first of a series of meetings with representatives from the National Ocean Policy Study, the Office of Technology Assessment, and members of the staff of the House Merchant Marine & Fisheries Committee. These discussions were in response to a thoughtful reorganization plan recommended by the National Ocean Policy Study staff and Senator Hollings which was considered along with reorganization proposals developed by NOAA Administrator Dr. Robert M. White and by others in the Department of Commerce. They provided the basis for a Department of Commerce Options Paper on NOAA reorganization incorporating all of the proposals and presenting a wide range of alternatives for internal, departmental, and governmental reorganization of oceans activities.

Shortly after my arrival at NOAA as Administrator-designate, I circulated the DOC Options Paper to the career management within NOAA. The Options Paper and other proposals by NOAA personnel served as the basis for two extensive group discussions within NOAA on reorganization, as well as consulta-

tions individually and in small groups. I also had extensive conversations with Dr. White and with Assistant Secretary for Science and Technology Jordan Baruch, his deputy Frank Wolek, and an expert on organizational structures.

To gather additional views, I consulted with several Senators and Congressmen and their staffs. I also met with the President's Adviser for Science and Technology, Frank Press, officials from the Office of Management and Budget, the Domestic Policy Staff, and representatives of various constituencies with an interest in NOAA, including the science community. I was particularly assisted by comments from the Chairman of the Ocean Affairs Board of the National Academy of Sciences, who had just completed a thorough and insightful evaluation of NOAA's ocean research and development programs.

These consultations revealed widespread support for a reorganization of NOAA to improve its operating effectiveness and to permit it to address newly acquired and anticipated program responsibilities. While different individuals and interest groups found various features particularly appealing and believed reorganization was advisable for differing reasons, I believe the structure proposed below will be favored by, or will at least be acceptable to, a wide range of interested groups and individuals.

II. CRITERIA FOR SELECTING THE ORGANIZATIONAL STRUCTURE

The selection of an organizational structure should be based on general principles of organizational design and on concepts about the functions the organization should fulfill. The structure should—

Place accountability with identifiable individuals for program management and policy decisions.

Have a minimum number of layers between program managers and the Administrator and clear lines of communication, both vertically and horizontally.

Create management positions that can be handled by the people who can be attracted to them, neither demanding superhuman capabilities nor creating figureheads.

Be able to absorb anticipated program growth.

Be understandable to the public, so that consumers of the organization's output will be able to identify readily those with whom they should interact.

Allow the agency head to exercise leadership by providing the necessary planning and management staff support and relieving him/her of unnecessarily detailed management responsibilities.

Achieve more efficient utilization of the resources available to produce more and better information and to bring it to bear on national problems in a more timely fashion.

Cause a minimum of disruption of existing organizational patterns consistent with achievement of other objectives.

In addition to these general criteria, certain objectives relating specifically to NOAA led to the conclusion that our structure should

Address the recent transformation of the fisheries program into a regulatory, resource management program requiring sensitive balancing of interests and often controversial policy decisions.

Establish an appropriate balance between oceanic and atmospheric aspects of the program while recognizing the fundamental interrelation of these activities.

Recognize the pervasive role of research, technology development, and environmental monitoring in NOAA's activities, and the importance of relating those activities to the larger scientific community.

Facilitate the assimilation of potential new programs such as ocean minerals regulation and development, a national climate program, and antarctic living resource management.

III. THE ALTERNATIVES

In developing this reorganization, I considered a number of alternatives that are reviewed briefly here. The starting point was an evaluation of the existing organizational structure (Chart 1). That structure, though it has been continually evolving since the creation of NOAA in 1970, still reflects the disparate elements that were brought together seven years ago. Several aspects were identified in the existing organizational structure which might be improved:

An increasingly large number of line and staff officers report to the Administrator (and the Deputy and Associate), especially with the new responsibilities inherent in the Coastal Zone Management Act of 1972 and its 1976 Amendments, the Marine Mammal Protection Act of 1972, and the Fisheries Conservation & Management Act of 1976.

A growing number of basic program activities can only be carried out through the joint efforts of two or more major line components, creating important coordination problems that can only be resolved by the agency leadership.

The Associate Administrator for Marine Resources and the Associate Administrator for Environmental Monitoring & Prediction each play a combination of operational and staff roles, often overlapping the functions of line managers.

NOAA has little policy development capacity.

Fisheries management decisions are unclearly divided between the Director of the National Marine Fisheries Service and the Associate Administrator for Marine Resources.

No single individual serves as the coordinator for research and technology development activities of the Environmental Research Labs, Sea Grant, the Office of Ocean Engineering, and the research programs of the other major line components.

The director of the Environmental Research Labs, in Boulder, Colorado, is forced to divide his time between traveling to coordinate programs with the Washington research community and NOAA service programs and developing new directions for the NOAA labs, particularly in oceans research. These tasks cannot all be handled by a single individual if NOAA's ocean and climate research programs are to advance and grow as they should.

No individual has the responsibility of interacting with the outside scientific community.

No effective mechanism exists for transferring technology from the research laboratories to the service elements.

No single office has lead responsibility for developing NOAA's ocean management capabilities, or for its developing climate program.

The alternatives considered divided into three sets of issues—the composition of the line elements, the structure of the executive administration, and certain special program concerns.

A. Line structure

Several alternative line structures were evaluated. Two alternatives involving major reshuffling of present organizational units were carefully considered but ultimately set aside. The first (Chart 2) would separate resource management and resource development functions, so that activities like fisheries, ocean minerals, and coastal zone activities would be divided into their management and development components. A more dramatic restructuring (Chart 3) would establish an operations support unit responsibilities for all of the "hardware" (ships, satellites, etc.), an information gathering and technology development unit, and a resource management and services output unit. While each of these alternatives was intriguing for several reasons and has certain advantages, and while examples of each can be found elsewhere in the Government, they had certain defects as well. They failed to provide clear program accountability below the Administrator, created difficult staffing problems, and involved the greatest disruption within the organization. These proposals did not receive widespread support from NOAA managers, and I decided not to adopt at this time a reorganization that would so disrupt NOAA's operations.

Separation of oceanic and atmospheric activities within NOAA (Chart 4), a recommendation of several outside commentators, was also debated and carefully considered. The very fact that this proposal was made had beneficial effects. It forced us to analyze the relationship between oceans and atmosphere, and to assess whether combining the two had worked to the detriment of ocean activities. While recognizing this concern, the scientific community and NOAA career managers were almost unanimous in their opposition to the separation, citing the desirability of integrated environmental analysis, the importance of ocean data to climate studies, the needed growth of marine weather and satellite activities, and the organizational disruption involved. The primary argument for separating oceans and atmosphere is to assure the ocean activities are handled aggressively and with innovation. I intend to pursue that objective vigorously, and I believe ocean activities will prosper without an organizational division at this time. This judgment will be reappraised in one to two years, and if ocean activities are disadvantaged because of the nexus, I would want to reconsider a separation.

The remaining line structure options (Charts 5, 6, 7, and 8) were quite similar. Each called for establishment of an Assistant Administrator for Fisheries (or Living Resources) to elevate the chief of the nation's fisheries program to a policy-making, politically responsive level. This Assistant Administrator would continue to be responsible for protection of marine mammals and endangered species, despite the potential for conflicts among constituent interests in this area. Each option retained an Assistant Administrator for Coastal Zone Management (or Ocean & Coastal Management, depending on where the new ocean management activity was located). They differed in the grouping of the remaining major line components, which are responsible for the research and service programs.

My choice among these options reflects a judgment that grouping services under an Assistant Administrator for Oceanic & Atmospheric Services and grouping research and development of new technology under an Assistant Administrator for Research & Development will create the most sensible and convenient working relationships. Combining the oceanic and atmospheric service components of NOAA under an Assistant Administrator will facilitate allocation of resources and permit resolution of numerous management issues at that level. Establishment of an Assistant Administrator for Research & Development conforms to the recommendation of the National Academy of Sciences that a research and development focus is essential to assure proper direction for NOAA's R&D programs, full coordination with other government research efforts, and an intimate working relationship with the scientific community. The Director of the Environmental Reesarch Labs in Boulder will then be able to give full attention to developing new oceans and climate research programs and to expanding, and upgrading the quality of, NOAA's labs to meet our growing national needs.

Experience may, of course, ultimately dictate modifications in any of the above allocations of functions, such as transfers of part of various major line components to

improve operating efficiency and program balance.

B. Executive administration

The alternatives here revolved around three issues: The scope and character of the policy office, the role of the General Counsel, and whether two deputies (or a deputy and associate) should be retained.

Proposals for the policy office ranged from a small policy development group to an office including major program development and evaluation responsibilities to a combination of those responsibilities with budget development. In favor of the broader conception (Chart 2), it was argued that policy and program development would be more effectively implemented if that office also controlled the budget process. Many persons familiar with the budget process, however, suggested that the reverse would be the case: namely, that if this office had primary responsibility for the budget, it would never find time for policy planning and program development. Further, some were concerned over the disproportionate power an office of policy and budget would have. The model of the Department of Commerce itself, where an Assistant Secretary for Policy is separate from the Office of Budget and Program Evaluation under the Assistant Secretary for Administration, provided another alternative for consideration. (Chart 3) Finally, the policy, budget, and administration activities could each be separate and report to the Administrator and the Deputy or Deputies (Chart 6). In light of the universal agreement that NOAA needs a stronger policy development capability, I have concluded that a policy and planning unit should be created. I believe that unit should be separate from the budget process for the reasons mentioned above.

The role of the General Counsel has changed dramatically over the last five years as a result of NOAA's new resource management responsibilities under the fisheries management, marine mammal, endangered species, and coastal zone legislation. The Office has grown from 11 attorneys and one field office in 1972 to over 40 attorneys and five field offices today. Resource management and enforcement policy questions have come to dominate the work of the Office, and the General Counsel has become a key advisor to the Administrator on a broad range of critical issues. In response to these developments, some commentators suggested the establishment of a separate Office of Enforcement to develop and supervise the implementation of enforcement policy. This approach reflects the experience of the Environmental Protection Agency, where the enforcement and general counsel functions, which were initially combined, have now been separated. While such a separation may eventually be necessary in NOAA, I am inclined to allow the General Counsel's Office to remain in its present organizational form, with the instruction to work with the Office of Policy & Planning and the Assistant Administrators to develop coherent and realistic regulatory and enforcement policies. I do think that the General Counsel should be an Executive Level V like the other top echelon NOAA officials and general counsels who have comparable responsibilities in other agencies, to give recognition to the key role of the Office.

The choice between one or two deputies (or a deputy administrator and associate administrator) was influenced by the variety of functions to be performed at the Administrator level in NOAA. Establishing a single deputy would avoid the problem of coordination between the two deputies and simplify the line of command. But the broad spectrum of NOAA activities, its range of constituencies, and the complexities of integrating scientific, economic, regulatory, political, and legal concerns all suggest that a deputy for day-to-day management of the organization and a second deputy for attention to special problems and to provide the additional high-level authority would make NOAA a more effective voice on oceanic and atmospheric matters. Establishment of two deputies allows for selection of one person with scientific background and one with a non-scientific background, which will bring a broader perspective to bear on critical NOAA decisions.

C. Special program concerns

In the many discussions on reorganization, four areas emerged that deserve greater attention within NOAA. In each case, recommendations were made to create a special office reporting directly to the top management. While that is not a sensible solution to all new concerns, I considered whether such a solution was appropriate in each of these cases. I am proposing some kind of new organizational arrangement for each one. Some will be implemented immediately, while others will await the selection of key personnel who should have a voice in the arrangements.

Ocean Minerals—Recent developments in Congress and the LOS negotiations make it increasingly urgent that NOAA have an effective role in guiding national policy in this area. In addition to the environmental analysis being carried out under the DOMES program and the activities in the Office of Marine Minerals (under the Associate Administrator for Marine Resources), NOAA needs to be able to analyze and develop positions on pending legislation, take an active role in formulating national positions for the LOS negotiations, and investigate the scope and character of the administrative program that will be needed to conduct the Federal program that emerges. Because the nature of the program is still so undefined, I propose to place an ocean minerals office in the policy and planning office to carry out these functions until Congress creates an operational program. If NOAA is designated to head that program, an operating office designed to implement the legislative mandate would be created at that time.

Marine Mammals and Endangered Species—NOAA currently has legal responsibility for the protection of marine mammals (such as porpoise and whales) and endangered marine species (such as sea turtles). Increased fishing activity and modern technology have made these protection programs more essential and their impact on economic activity more severe. These programs are presently administered by a division reporting to an Associate Director of the National Marine Fisheries Service (NMFS). With this arrangement, it is difficult for these issues to get the attention they deserve before they become unmanageable controversies. At the same time, the program cannot be completely separated from the fisheries because it is so heavily dependent upon the research conducted by the regional fisheries centers of NMFS. I have concluded that the best course of action is to raise the level of this program so it reports directly to the Assistant Administrator for Fisheries, and I will take that step as soon as I have reviewed the question with my selection for that position.

Climate Research.—The drought and severe winter, combined with increasing scientific concern about the climatological impact of heat, aircraft exhaust, and CO_2, have generated a growing demand for a coordinated government-wide program of climate research. NOAA is generally acknowledged as the logical focal point for such a program, and efforts are already underway in Congress and the Executive Branch to design an effective plan. NOAA has already set up an informal coordinating office. I believe that this arrangement should be formalized into a National Climate Policy Office reporting to the Assistant Administrator for Research & Development, and I propose to take that step as soon as I have reviewed the question with my choice for that position.

Ocean Management.—The most forward-looking proposal to emerge from the analyses of NOAA reorganization called for creation of an Office to assess the impact of alternative uses for intensely used ocean areas and recommend patterns of development that will result in optimum benefit for the community as a whole. At the present time no agency carries out this function because ocean use is pursued by a number of mission-oriented agencies and private enterprises. NOAA is the primary repository in the government for the information, the scientific and technical skills, the experience (under the Deepwater Port Act, the Coastal Zone Management Act, and the Fish and Wildlife Coordination Act) for making such evaluations. Although there is no formal legal authority for NOAA (or any other Federal agency) to make binding ocean use decisions, I believe that effectively articulated NOAA assessments of proposed ocean developments can have a salutory effect on the quality and foresightedness of these decisions. I was pleased to find widespread agreement with this view in my consultations on reorganization. Organizationally, this program could be located in one of several places. It should be close to the leadership of the agency because of its interdepartmental and potentially controversial functions. It could be a separate major element headed by an Assistant Administrator, an adjunct to the Coastal Zone Management program (with which it has the most affinity), or a smaller office drawing its information and advice from other parts of the agency. I propose the latter option, at least initially, until I have had an opportunity to see how the ocean management effort actually works and whether Congress or the President is willing to formalize this role for NOAA. The office would be headed by a Director and report directly to the Administrator.

IV. THE NEW NOAA ORGANIZATIONAL STRUCTURE

On the basis of the ideas discussed above, I recommend the following organizational structure for NOAA (Chart 8):

A. The line elements

The line elements of the new NOAA organization are the following:

An Assistant Administrator for Fisheries, who is responsible for all aspects of the fisheries program, including the fisheries-related activities formerly conducted by the Associate Administrator for Marine Resources and the Director of the National Marine Fisheries Service. His/her responsibilities include the marine mammal and endangered species protection programs.

An Assistant Administrator for Coastal Zone Management, who conducts the coastal zone management program and the coastal energy impact program as they are presently constituted. (The responsibilities of the Office of Ocean Management may be placed under this Assistant Administrator once the bulk of the state CZM plans have been approved.)

An Assistant Administrator for Research & Development, who has overall responsibility for internal environmental research (the Environmental Research Laboratories), ocean technology development (the Office of Ocean Engineering), and support for university research and advisory services (the Sea Grant program). This Office, which will be located in Washington, coordinates NOAA research programs with research and technology development programs of other Departments, industry, the National Academy of Sciences and similar national professional organizations, and international research programs like GARP. It promotes the transfer of research information and new technology to the other components of the NOAA organization and cordinates the development and implementation of a national climate research plan. With this arrangement, the Director of the En-

vironmental Research Labs in Boulder, Colorado, will be able to concentrate on improving the quality and direction of NOAA's in-house research effort and strengthening its ties to academia at the research level.

An Assistant Administrator for Oceanic & Atmospheric Services, who has responsibility for the National Weather Service, the National Environmental Satellite Service, the National Ocean Survey, and the Environmental Data Service, and serves as NOAA's liaison to the World Meteorological Organization. This Office integrates service programs and establishes priorities to assure the expansion of the most needed services and the elimination of those services with the least general utility. It also assures an appropriate balance between the development of oceanic and atmospheric services, as well as the utilization of the most effective technologies for performing the services provided.

An Assistant Administrator for Administration, who continues to perform the same functions as in previous organizational structure.

B. Executive administration

The Administrator's Office, staff support, and offices of general jurisdiction would be composed of the following elements:

A Deputy Administrator and an Associate Administrator, who perform much the same functions as the former Deputy Administrator and Associate Administrator, in accordance with instructions from the Administrator.

An Assistant Administrator for Policy & Planning, who has primary responsibility for developing long-range NOAA policy, designing programs to implement these policies in conjunction with the line Assistant Administrators, and coordinating policy development and implementation with the policy staff of the Department of Commerce, other Departments, the Congress, the public, and elements within NOAA. This Office includes a separate Office responsible for the Ocean Minerals policy and planning effort until such time as Congressional or executive decision creates an operating program.

An Office of Ocean Management, to coordinate and advocate NOAA's evaluation of proposals for ocean use initiated by agencies of the Federal Government or the private sector. The Office makes use of techniques currently employed by the Office of Ecology & Environmental Conservation, the Marine Assessment Division of the Environmental Data Service, the Office of Marine Resources, and the Environmental Assessment Division of NMFS. It evaluates alternative ocean uses, develops overall plans for areas of particularly intense activity, and brings NOAA's views to bear in public and interagency determinations of policy on such proposals. Although it has a program responsibility in the organization, it involves a small staff that makes use of information derived from the research and monitoring activities of other line elements. Because of the high visibility and the interagency character of its activities, this Office reports directly to the Administrator, rather than as an element of one of the other line offices. Because of its mandate, this Office will have a close relationship to the Office of Policy and Planning.

An Office of Budget & Program Evaluation, which remains as a separate entity, with greater emphasis on program evaluation than in the Programs and Budget Office.

A General Counsel, Congressional Liaison, and Director of Public Affairs, who remain as they were in the former organizational structure, except that the General Counsel will be upgraded to an Executive Level V to parallel the Assistant Administrators.

V. BUDGET AND PERSONNEL IMPLICATIONS

The primary purpose of this reorganization is to improve NOAA's capability to carry out its program objectives and play an innovative leadership role. The proposed new structure will add to NOAA's efficiency.

Several new positions will be created, some will be abolished. These changes will be needed, not because of the reorganization itself, but a need to add persons in the fields of economics, political science, resource management, law, and regulatory policy—skills NOAA needs to do its job. For this purpose I will need approximately six new nonscience supergrades.

Certain personnel-related matters will require formal action through a reorganization order of the President or through legislation:

The Associate Administrator for Coastal Zone Management is given that title by statute. In the new organization that position is parallel to positions with the title of Assisant Administrator, and it should be redesignated.

Two additional Executive Level V positions are needed to raise all of the Assistant Administrators and the General Counsel to that rank.

The Assistant Administrator positions should not carry with them career status, as they presently do, in light of the increasing policy responsibility involved.

None of the changes described above requires action before the reorganization plan can become operational.

VI. EFFECTIVE DATE AND IMPLEMENTATION

If you approve, I intend to put this reorganization plan into effect by or on October 1, 1977. In the interim, I will seek your concurrence on my selection of candidates for the positions of Deputy Administrator, Associate Administrator, and each of the Assistant Administrators. I will also begin to develop the operating procedures and accounting systems for the new organization.

STATEMENT OF PURPOSE AND NEED

Reorganization Plan No. 4 of 1970 established the National Oceanic and Atmospheric Administration to provide a focus for civilian programs of the Federal Government dealing with the oceans and atmosphere. At that time the Federal efforts in the ocean area were confined largely to scientific investigation and provision of ocean services. Over the last seven years NOAA has been assigned increasing responsibilities involving regulation, management and protection of the resources of the sea.

However, the statutes that have expanded NOAA's role, such as the Fisheries Conservation and Management Act of 1976, the Marine Mammal Protection Act of 1972, and the Endangered Species Act of 1973, did not provide authority for the Administration to modify the management structure of NOAA, particularly in view of the expanded mission of the Administration. The Associate Administrator positions established pursuant to section 2(e) of Reorganization Plan No. 4 of 1970 are in the classified civil service, on the theory that the duties of these Executive Level V positions would be scientific and technical with a minimum of policy development.

However, subsequent enactments have plunged the Administration into a wide variety of policy decisions of a sensitivity far greater than those originally contemplated such as resource management and protection decisions vitally affecting the entire U.S. fishing industry, including the tuna fleet and Indian and non-Indian salmon fishermen in the Pacific Northwest. The nature of the duties of these positions have undergone a dramatic change.

At the time the Reorganization Plan was submitted, it was acknowledged that NOAA development must be monitored and changes made in the plan as necessary. As the review of Federal ocean policy continues, it may be that significant organization changes in the Federal ocean programs wil be necessary. However, there is a need for certain less fundamental administrative changes right now to assure effective direction of existing programs. This bill provides much needed flexibility for the Secretary to appoint needed policy-level personnel to assist in the design and implementation of the invigorated programs of NOAA.

First, the bill abolishes the three existing civil service-level positions and replaces them with five new policy-level positions to assure the Administrator the flexibility to form a team capable of vigorously confronting the challenges NOAA faces. This change is in keeping with the trend exemplified in the Coastal Zone Management Act Amendments of 1976 to exempt these types of policy positions from the classified civil service. Persons occupying the present Level V positions, if not appointed to one of the new positions, would have the rights granted by Title 5 of the United States Code to persons in the classified service affected by the abolition of an existing position.

Second, the bill would make a technical change in the Coastal Zone Management Act Amendments of 1976 to change the title of head of that program to match the title of others of the same rank.

Finally, the bill would authorize the Secretary to appoint eight new positions in NOAA at pay rates not to exceed GS–18. While NOAA has been able, by virtue of special legislative provisions, to add high level scientific personnel, it is unable to add top-level career personnel with backgrounds in fields like economics, political science, resource management, law and regulatory policy. These skills are essential if NOAA is to respond to its increased responsibilities for enforcement, management and policy development under the new legislation of the last four years.

Mr. STEVENS. Mr. President, I wish to speak in regard to the amendment proposed by Mr. MAGNUSON, Mr. HOLLINGS and myself designed to add and reclassify certain positions within the National Oceanic and Atmospheric Administration.

The new Administrator of NOAA, Mr. Richard Frank, has for the last several months been working with Members of Congress to design a new reorganization for NOAA. This amendment conforms the NOAA Organic Act to the organization plan which Mr. Frank developed in cooperation with the Congress.

The new plan makes NOAA a truly self-sufficient administration. For too many years NOAA has been the stepchild of the Commerce Department without sufficient supergrade positions to oversee this Nation's ocean activities as Congress intended. Mr. President, this amendment should be viewed as correcting deficiencies in the organization of NOAA which have prevented it from living up to Congress expectations. I am confident that with these new positions and the upgrading of certain existing positions NOAA will be better able to carry out the mandate which Congress gave to it.

I am particularly heartened at the upgrading of the senior fisheries position to Assistant Administrator. Commercial fisheries work has been one of NOAA's most important functions. For too long the senior officer assigned to that task has not been awarded seniorly commensurate with his level of responsibility. The new reorganization will insure that NOAA's fisheries receive proper attention within that agency. Commercial fishing interests across the Nation should be pleased with this important change.

Mr. President, Mr. Richard Frank is the new Administrator of NOAA. He has worked closely with Congress in his efforts to upgrade the quality of work per-

formed by his agency. I think he has developed an excellent plan for improving the quality of his agency's work and I would recommend that all of my colleagues here in the Senate, support this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the distinguished Senator from West Virginia.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LABOR-HEW APPROPRIATIONS, 1978—CONFERENCE REPORT

The Senate continued with the consideration of the conference report on H.R. 7555.

The PRESIDING OFFICER. What is the pleasure of the Senate?

Mr. BAYH. Mr. President, I ask unanimous consent that Barbara Dixon and Abby Reed, of my staff, have the privilege of the floor during the consideration of the conference report which is before the Senate this morning and during votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum. I ask unanimous consent that the time be charged equally among the parties on the conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

(Mr. ROBERT C. BYRD assumed the chair.)

Mr. STENNIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded for the purpose of bringing up a conference report.

The PRESIDING OFFICER. Without objection, further proceedings under the quorum call will be rescinded.

The Senator from Mississippi is recognized.

Without objection, the time will not be charged against the time of any of the parties on the HEW-Labor conference report.

Mr. STENNIS. I thank the Chair.

MILITARY PROCUREMENT AUTHORIZATIONS, 1978—CONFERENCE REPORT

Mr. STENNIS. Mr. President, I submit a report of the committee of conference on S. 1863 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1863) to authorize appropriations during the fiscal year 1978 for procurement of aircraft and missiles, and research, development, test and evaluation for the Armed Forces, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 28, 1977.)

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I have no desire to delay the distinguished chairman of the committee, but my calendar carries a notation that the distinguished ranking minority member of the committee, Senator TOWER, wishes to be notified when this matter is presented to the Senate, and I am in the process now of trying to notify him.

Mr. STENNIS. I certainly thank the Senator from Tennessee. I had understood that the matter was cleared as of yesterday.

Mr. BAKER. I am sure it has been cleared, but since my calendar carries that notation, if the Senator from Mississippi would indulge me just a few minutes while we ask our cloakroom to see if we can remove that notation from this calendar, I think we can proceed.

Mr. STENNIS. I certainly thank the Senator from Tennessee, and if we can get this conference report approved, it will be very much in order since the Appropriations Committee is meeting now and to that end, then, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, if I could have the attention of the distinguished Senator from Mississippi, I have been able to remove the notation from my calendar and the matter is clear now for consideration.

Mr. TOWER. Mr. President, as ranking minority member of the Armed Services Committee, I rise in support of S. 1863, the fiscal year 1978 DOD supplemental appropriation-authorization conference report.

The requirement for this supplemental authorization bill was brought about by the President's decision to cancel the B–1 bomber, thereby dramatically changing our future strategic force structure. That decision was contrary to the advice of many Members of Congress, including myself, and I still believe it was a decision we could later regret. The B–1 would have guaranteed that the bomber portion of the triad would continue to be able to deliver over 50 percent of our strategic nuclear megatonnage against the Soviet Union, if required. At the same time, the B–1 would have provided a highly stable system that was completely verifiable under any arms control agreement. Despite this obvious advantage, the President made a unilateral decision that the B–1 was not required.

By his action, the President has decided that the future air-breathing portion of the triad will rely on cruise missiles, operationally, a completely untried and unproven system.

While I am confident we can eventually develop the cruise missile, we should not plan to place that much reliance on such an untried and unproven system. It was because of this concern that the Armed Services Committee in its report on the supplemental authorization bill recommended and supported a mixed air-breathing force for the future that consisted of penetrating bombers, standoff cruise missile carriers, and aircraft that launched cruise missiles and also penetrated.

Mr. President, what became apparent to the committee was the necessity to retain the option to develop a manned penetrating bomber to both complement and eventually replace our aging B–52's. Therefore, the Armed Services Committee recommendation to the Senate included $20 million to begin development of two FB–111H prototype aircraft. This stretched and improved version of the FB–111A will be able to fly as far and as fast as the B–1 and it will be able to carry the same payload as the B–52.

In the conference, the House receded to the Senate on the FB–111H and the bill contains $20 million to begin this important prototype program. I am also pleased to note that the supplemental appropriations bill passed yesterday funded the $20 million for the FB–111H.

Turning now to other major items in the conference report, the conferees agreed to authorize four additional F–14's, but only after considerable Senate resistance. However, the Senate would not yield to the House in authorizing long lead funds for 24 more F–14's in fiscal year 1979.

Another major item was the "intercontinental ballistic missile initiatives," an item not requested but added by the House. The House bill contained $60 million for this item, and the House conferees were very adamant to retain this amount. After considerable discussion, the conferees agreed to $30 million.

The last major item I would like to comment on is the cruise missile carrier. The House bill contained $5 million for the cruise missile carrier, while our bill contained $15 million. After considerable discussion, the House receded to the Senate on this item.

Mr. President, in summary, the bill accomplishes its major purpose of begin-

ning or expediting programs now required as the result of the President's decision on the B–1. It authorizes B–52 modifications, expedites cruise missile development and procurement, provides study funds for a cruise missile carrier, and begins the development of two FB–111H prototype aircraft.

I recommend the conference report be accepted by the Senate.

Mr. BAKER. Mr. President, I thank the Senator from Mississippi for indulging me the few minutes to permit me to check the calendar.

Mr. STENNIS. I thank the Senator from Tennessee. He has rendered a real service to the Senate here.

We do have another conference report that can follow this one, if it is agreeable.

Mr. BAKER. Mr. President, I understand the Senator from Mississippi may be referring to the conference report on the bill S. 1339; is that correct?

Mr. STENNIS. That is correct.

Mr. BAKER. I would advise the distinguished Senator from Mississippi at this time that that matter is clear for consideration.

Mr. STENNIS. I thank the Senator very, very much.

Mr. President, this matter is cleared now, and the conference report was signed by all members except one who, at the time, had certain reservations, the Senator from Oklahoma, and he advised me yesterday that he was satisfied now, and he was withdrawing his reservation, although we ran into a rather complicated procedure here to get a name on a conference report after it had been filed. That matter has not yet been attended to.

I make this statement here because of authorization I have, and I think the record ought to reflect it anyway.

So with that situation in hand, the conference report was agreed to by all the other Members of the House and the Senate, and I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ERDA AUTHORIZATIONS—CONFERENCE REPORT

Mr. STENNIS. Mr. President, if it is in order now, there is another conference report which is on the calendar from the same committees regarding the ERDA authorizations. It has been approved by the House and is up for consideration here now with a unanimous conferee agreement.

The PRESIDING OFFICER. Is there objection to proceeding to the consideration of the ERDA authorizations conference report in preference to proceeding with the HEW-Labor conference report?

Mr. BAKER. Mr. President, as I indicated previously, there is no objection.

The PRESIDING OFFICER. The Chair hears no objection, and the clerk will state the conference report.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1339) to authorize appropriations to the Energy Research and Development Administration for national defense programs for the fiscal years 1977 and 1978, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 28, 1977.)

Mr. STENNIS. Mr. President, in view of the situation, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STENNIS. Mr. President, I thank the Senator from Washington and I thank the leaders on each side for letting us proceed to this matter at this time.

LABOR-HEW APPROPRIATIONS, 1978—CONFERENCE REPORT

The Senate continued with the consideration of the Labor-HEW conference report.

The PRESIDING OFFICER. The Senator from Indiana is recognized. On whose time?

Mr. MAGNUSON. I yield such time as the Senator from Indiana may desire.

The PRESIDING OFFICER. Mr. MAGNUSON yields such time as the Senator from Indiana may desire.

(Mr. CLARK assumed the chair.)

Mr. BAYH. Mr. President, I suppose every young and bright-eyed Senator who comes to the Senate filled with expectation and steeped in the lore of the Senate is impressed with the tales that are told of difficult battles that were fought both on the floor of the Senate and between the House and the Senate in conferences where there were decided differences of opinion.

I confess, Mr. President, that I was one of those. I suppose I still am. I recall stories being told of Senators chasing one another around conference tables flailing away with canes. Indeed, there are a number of stories that have been told about long and difficult disagreements.

Mr. President, we have not had any physical violence either threatened or considered among the adversaries of this body on the matter that is now before us, nor have we had similar disposition to resolve our differences between the House and the Senate in that manner.

However, I would suggest that the present impasse that has dragged on arduously and heatedly at times between the House and the Senate conferees on this HEW appropriations bill will go down in history as one of the most difficult battles that has been fought.

I want to express my deep appreciation to the distinguished Senator from Washington (Mr. MAGNUSON) and the distinguished Senator from Massachusetts (Mr. BROOKE) for the tenacity and persistence they have brought into this battle. It has not been an easy one.

As I have said before on this floor whenever this matter has been discussed, the question of when, if and how funds should be utilized, or indeed whether or not we should permit even the private practice of abortion, is, perhaps, the most deeply felt philosophical, religious and moral issue I have ever confronted.

I say that as the only Member of this body who has either had the good fortune or misfortune to preside over lengthy hearings on this subject. I shall not repeat the feelings I have expressed earlier on this subject about the reservations I had personally about abortion.

In looking at the language, I would just like to bring to the Senate's attention certain matters that I think are extremely important to be resolved, and point to these areas where I feel that the Senate's position should be retained. The protection of the health of the mother is critical, and frankly, I was very reluctant to back away from the Senate's position that the health of the fetus should be considered as well.

The dramatic evidence presented on the impact on the life of a family when a Tay-Sachs child is born was persuasive to the Senator from Indiana, and I think the Senate went a long, long way—further than I would have liked—in striking the option of abortion which should be available to a family stricken with Tay-Sachs.

However, in the spirit of compromise that is necessary I do not rise to protest that concession. But I do want to emphasize the importance of maintaining a provision relative to health damage to the mother.

We have tied this down so we are talking about physical health damage. There was concern expressed that the fact that "health" was included in an original version would be a loophole which would be too broad for the House conferees. Frankly, I do not think it is too broad in that it has been tied down to physical health damage. I could even accept the new proposal of the distinguished chairman of the House Appropriations Committee, Mr. MAHON, and add "long lasting" health damage to the requirements. We are not talking about hangnails or sore toes, as the distinguished Congressman from Pennsylvania, Mr. FLOOD, seems to take great relish in orchestrating before the conference. We are talking about serious physical problems.

We are talking about a woman who is extremely ill, and who are we to sit here in the U.S. Senate, without a doctor present, and try to determine what the

criteria are for which illness is severe enough for the mother in question and the doctor in question to make the very critical, deep-felt choice about the option of an abortion?

The other matter that has been of great significance, I think, is the question of rape or incest.

I was of the opinion that certainly we could get agreement with our House conferees on the question of rape or incest, and I must say it is the ultimate in lack of understanding when one suggests that a woman, perhaps her husband, perhaps her family of several children, and the doctor in question, should be denied an abortion on the basis of the fact that "Well, there aren't very many pregnancies that result from rape or incest."

I have to say that in this country, where we still recognize and I hope always will recognize the importance of individual rights and individual problems, it is not persuasive to me to say it does not make any difference because there are only a few. If it were my mother, my daughter, or my wife, I would not care if there was not another one in the whole United States of America. To suggest that we should strike that language because of the lack of great numbers, it seems to me, is to lack understanding, patience, and compassion. I am hopeful that the Senate will stand firm, and that we will permit that alternative to be available.

How the wording can best be decided is a matter that we are presently trying to work out with the House conferees, but I think it is important for the Senate position to stand on that, and for us to get the message to the Secretary of HEW that when we are talking about treatment for the victims of rape or incest, if indeed we have to leave the word "treatment" in there, we are talking about the option being available for a women who is assaulted in that manner to resort, if she feels in her conscience the necessity, to an abortion.

Mr. President, I am hopeful that the Senate will stand fast on this. I was the one who suggested a continuing resolution last time, as an effort to walk that extra mile as far as the House conferees are concerned, and out of compassion for the employees of HEW, who are under the gun so far as salaries are concerned. But the matter that has been proposed of another continuing resolution, putting it off until the last of November sometime, I think is very ill advised. I think we ought to stay here if we do not ever go home and resolve this matter, and not continually put it off with one continuing resolution after another. This is a very controversial matter, and one that is fraught with a great deal of political liability, as I certainly am aware, but the heat is not going to get any less as time goes on. Let us have the courage to stand here and fight this one, and not put it off day after day, week after week, and month after month.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time? If no time is yielded, the time will run equally against all four sides.

Mr. BAYH. Will the Senator from Washington yield the Senator from Indiana a couple or 3 minutes?

Mr. MAGNUSON. I yield.

Mr. BAYH. Mr. President, we are working on language right now which would read as follows:

None of the funds contained in this act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term, or except for medical procedures necessary for the victims of rape or incest, or except in those instances where severe or long lasting damage to the mother would result if the pregnancy were carried to term.

As just one member of the conferees, I feel this is an acceptable compromise. It is not as I would have liked to have seen it, but it is an acceptable compromise. I want to make it very clear, as one who has been involved in this matter for a long, long time, that in the second exception, where we are talking about except for medical procedures necessary for the victims of rape or incest, we are including within those medical procedures, within the options which would be available to a woman confronted with that tragic circumstance in the event she becomes pregnant as a result of the rape or incest, the option of abortion.

Mr. President, I will cast my vote in support of the Labor/HEW conference report, even though the language dealing with the use of Federal funds for abortion is far from my position on the issue. However, I believe that the language which has been adopted by the Senate conferees goes a long way toward meeting the House half-way on the extreme differences between the two bodies on this emotional issue.

The difficulty which has faced the Senate conferees in the three conferences on this issue is that each body has voted overwhelmingly for very different positions. The Senate has consistently maintained that there should be as few restrictions as possible on the use of Federal funds for abortion and the House would prefer to have extremely restricted use of Federal moneys for this purpose.

The language facing us today would speak to the issue in four instances. First, it repeats the language which was adopted in last year's Labor/HEW appropriations bill permitting the use of Federal funds for abortion in cases when the life of the mother would be endangered if the pregnancy were carried to term. In other words, if the woman could die if the pregnancy was completed, an abortion could be performed with Federal funds.

Second, the language would permit the use of Federal funds if abortions are necessary for the treatment of the victims of rape or incest. It is the clear intent of this language to include medical procedures for victims of rape or incest after the fact of pregnancy has been established.

Third, abortions would be permitted if the woman's physical health would suffer severe or long-lasting damage if the pregnancy was allowed to continue.

Finally, the language repeats a portion of last year's conference report permitting Federal funds to be used for drugs or devices which prevent implantation of the fertilized ovum and for medical procedures necessary for the termination of an ectopic pregnancy.

Even though this language would permit more abortions than would be allowed under the language adopted last year, the Senate is making several significant concessions to the House. Reference to permitting an abortion in cases where the fetus would suffer health damage was eliminated. This particular concession is extremely difficult for me to accept. There are over 2,000 genetic diseases. Some of these disorders which result in certain death or extreme debilitation are able to be detected by the use of a process called amniocentesis. This is true in the heart-rending case of Tay-Sachs, but there still are genetic diseases such as Huntington's disease that have no foolproof test to determine if and when it is present. However, in all cases involving the possibility that the fetus will suffer a severe genetic disorder, the language adopted today will do nothing to provide a woman eligible for medicaid the option of choosing whether or not to proceed with that pregnancy.

In addition, by including the word "physical" to describe the type of health damage a woman must face in order to be eligible for Federal funds for abortion, the possibility of coverage for mental disorders has been abandoned. I would assume that the only mental disorders which would be covered by the language before us today would be those that have the additional manifestation of physical damage to the health of a woman.

We hope that the language presented to the Senate will cover abortions in situations where a woman will not necessarily die as a result of the pregnancy but will suffer some type of impairment as a result of her pregnancy being completed. Since none of us involved in the drafting of this language are doctors, we do not know exactly what illnesses and diseases are in fact covered. Hopefully, the language is such that it will allow the option of an arbortion to a woman who would have been denied one under the more extreme requirement that she must die as a result of her pregnancy but I stress we do not know for a fact what types of illnesses will be covered by the language "severe or long-lasting physical health damage."

In short, the Senate's principle that the Congress should stay out of the business of plaving doctor has been severely altered. When the Senate adopted the language in July that would have allowed for the use of Federal funds for abortions in cases of medical necessity, it was trying to remove itself from the position of determining when the medical procedure of abortion was justified. After all, abortion in an operation and as such doctors in consultation with their patients should be the ones to determine if that is the proper treatment to follow in each individual case.

It has been my position from the beginning that a prohibition on the use of Federal funds for abortion does not belong on an appropriations bill. It is clearly legislation. Further, adoption of a prohibition on the use of Federal moneys for this purpose will not put an end to abortions throughout this coun-

try. All it will do is make it difficult or impossible for poor women to be able to choose a medical procedure that the Supreme Court has decided is the right of all women. It just says if you can pay for this procedure you may elect it but if you cannot and do not fall under our exceptions you may not use Federal funds for an abortion.

The effect of such a position was tragically demonstrated last week. A woman in Texas, upon being told that she would not be eligible for Federal funds for an abortion, went to Mexico where she could afford a cheap abortion. She obtained the abortion but she also died from the complications which resulted.

Perhaps the adoption of the Senate conferee's language will save some women from that fate but there is no way of telling how many women we will drive to the desperate position of seeking an abortion performed under less than sterile conditions or perhaps attempting to abort themselves.

My vote for this language should not be interpreted by anyone as a lessening of my belief that the decision to have an abortion performed under safe conditions should be available to all American women, rich and poor. However, I am supporting the language today because I think it will lead to the saving of more lives than the language in the fiscal year 1977 bill, but it is my fervent hope that by the time the fiscal year 1979 Labor/HEW bill is considered it will not be necessary to continue to compromise the lives of poor women. They deserve better treatment by the Federal Government and I will be working to see that they finally receive it.

With the adoption of this language by the Senate, the conferees on the fiscal year 1978 Labor /HEW appropriations bill have gone as far as we can toward meeting the demands of the House and still retain some measure of the position adopted by the Senate on three separate occasions. Hopefully the House will recognize the extreme concessions being made by the Senate in this language and will also vote to approve the conference report, allowing program initiatives in the fiscal year 1978 bill to go into effect and ending the continuing uncertainty throughout the country regarding the salaries of employees covered by the Labor/HEW bill and funding for important projects in every State.

The PRESIDING OFFICER. Who yields time?

Mr. MAGNUSON. Mr. President, may I inquire if the unanimous-consent agreement limits debate on this matter to 2 hours? Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. MAGNUSON. How much time has been used thus far?

The PRESIDING OFFICER. Fifty-seven minutes have expired.

Mr. MAGNUSON. Mr. President, to get the matter in motion, I move the adoption of the pending conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. MAGNUSON. Now, Mr. President, I move that the Senate recede from its amendment to the amendment of the House to the amendment of the Senate No. 82.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. MAGNUSON. Mr. President, I will now yield such time to the Senator from Massachusetts as he wishes, or to the Senator from Pennsylvania. If anyone wants time, I will be glad to yield.

Mr. HELMS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HELMS. I believe the order of last evening stipulates a certain amount of time for the Senator from North Carolina.

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. Will the Chair advise the Senator how much time remains to the Senator from North Carolina?

The PRESIDING OFFICER. Nineteen minutes remain.

Mr. BROOKE. Will the Senator yield?

Mr. HELMS. I yield, gladly, to my friend.

Mr. BROOKE. Mr. President, if the Senator from Washington would make his next motion at this time, I would like to ask for the yeas and nays and then we can discuss the motion. Will the Senator make the motion?

The PRESIDING OFFICER. The Chair would point out that once the third motion is made, no debate is in order.

Mr. ROBERT C. BYRD. Mr. President, by unanimous consent, if the chairman wishes to proceed.

UP AMENDMENT 1040

Mr. MAGNUSON. I move that the Senate concur in the House amendment with an amendment, which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. MAGNUSON) proposes an unprinted amendment numbered 1040.

Mr. SCHWEIKER. Mr. President, we cannot give unanimous consent. I would like to have a record vote.

Mr. MAGNUSON. We will have a record vote.

The PRESIDING OFFICER. The motion can be made with the understanding that the previous debate time is in order.

Mr. BROOKE. That is the unanimous consent.

The PRESIDING OFFICER. Yes.

Mr. MAGNUSON. Mr. President, the amendment is at the desk and I ask unanimous consent that further reading of the amendment be dispensed with. We all know what it is.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. 209. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term, or except for medical procedures necessary for the victims of rape or incest, or except in those instances where severe or long-lasting physical health damage to the mother would result if the pregnancy were carried to term.

Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

The Secretary shall promptly issue regulations and establish procedures to ensure that the provisions of this section are rigorously enforced.

Mr. MAGNUSON. This is the amendment on which we want a rollcall vote. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MAGNUSON. Now, Mr. President, I yield such time to the Senator from North Carolina as he wishes.

Mr. HELMS. Mr. President, I believe time does not have to be yielded to me under the unanimous-consent order. I have time in my own right. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. I thank the Chair. Mr. President, I ask unanimous consent that Mr. Carl Anderson of my staff be granted the privileges of the floor during the discussion of this measure and any votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I yield myself such time as I may require.

Mr. President, the proposal of the Senate conferees presently being considered would mandate the expenditure of Federal taxpayers' money to pay for the performance of abortions when the life of the mother is endangered; when severe physical health damage to the mother would result; and in cases of rape and incest.

Although the Senate may decide to accept this proposal, Mr. President, it should be very clear what we are doing. This so-called compromise will not end the debate in Congress over the use of taxpayers' money for the funding of abortions. As long as the Senator from North Carolina has breath in him, this debate is going to continue, regardless of what action is taken by the Senate this morning. At best, it will simply delay this debate until consideration of the 1979 appropriations bill begins next year. This proposal is not a solution, it is simply a postponement. I want the record to be perfectly clear about that.

In the past, I have supported legislation which would bring a halt to the entanglement of the Federal Government with medicaid abortions. The language I introduced last year stated that no Federal funds would be used to promote or pay for the performance of medicaid abortions.

I am convinced that the decision of whether taxpayers' money is to be used for abortions is one which should be left to the States and the people through their local representatives.

Mr. President, I have made my position on abortion clear over the past several months. After all the slogans, after all the cliches, we come to the bottom

line in this debate, the deliberate termination of innocent human life. I am sure that none of us enjoys debating this issue time and time again, at all hours of the day and night, but this issue will continue to be with us until we recognize and live up to our responsibility as lawmakers to protect the lives of innocent human beings.

Obviously, I feel strongly on this issue, but I am willing to return this question to the States and the people. I have confidence that they will decide what is in the public interest; what is best for themselves, their neighbors and their community. I am happy to trust the people on this matter and let them decide.

Every indication convinces me that the American people do not want their Government entangled in the business of abortion. The latest nationwide poll, taken this summer for the New York Times and the Columbia Broadcasting Service show that 55 percent of the American people do not want their taxmoney spent on abortion.

So, I say again, I am content to have the people and their local representatives judge how their taxdollars should be spent.

I raise the question to the proponents of abortion: Are they willing to say the same thing?

Mr. President, I am going to ask unanimous consent that two items be printed in the RECORD in full, but I want to quote from them, because they address themselves to issues that have been raised and some obfuscations, especially concerning so-called "long lasting physical health damage to the mother." They are a mailgram and a letter from Dr. Matthew J. Bulfin of Lauderdale By The Sea, Fla. The portion I shall read is as follows:

In general the mere existence of kidney disease does not constitute a medical indication for abortion.

Parenthetically, Mr. President, so often that this is advanced by proponents of abortion-on-demand as a medical reason to terminate an innocent human life, but it is simply not so. As Dr. Bulfin says:

Thousands of women with kidney disease can successfully be carried to term and deliver healthy babies. There is no question about this. Patients whose lives are in jeopardy from severely diseased kidneys even when they are not pregnant will often miscarry when they do become pregnant. Nature solves their problems. Women with severe kidney disease who become pregnant are often not served best by an abortion operation. The death of a woman in Massachusetts in 1975 following legal abortion for severe kidney disease is described in the New England Journal of Medicine April 1, 1976.

Then Dr. Bulfin goes on to say, in response to another excuse so often advanced to justify the termination of innocent human lives:

Multiple sclerosis is a progressive disease of the nervous system characterized by remissions and exacerbations. Hundreds of women with multiple sclerosis carry their babies to term and deliver uneventfully each year in our country. Both mothers and babies do very well more often than not. One week ago in Fort Lauderdale I delivered a patient with long standing multiple sclerosis. She and her baby both are doing very well. Abortion is by no means universally recommended for the patient with multiple sclerosis.

Mr. President, I ask unanimous consent that the entire mailgram from Dr. Bulfin be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HELMS. Mr. President, in an earlier letter to me Dr. Bulfin, has this to say in part:

I personally have on file in my office in Ft. Lauderdale, Florida the case reports of 52 patients that I have seen with significant complications following their legal abortions—complications ranging from bowel resection and colostomy to irreversable infertility from far advanced pelvic abcess.

I am currently taking care of a 20 year old patient who spent 11 days in the intensive care unit of a local hospital following a septic abcess and peritonitis incurred during a lunch hour type legal abortion in the South Florida area in April of this year. This patient quite possibly would have died 10 or 15 years ago not because her abortion would have been illegal but because the new antibiotics that saved her life were not available then. Her death then could have been attributed to the "back alley butcher."

I ask unanimous consent that the entire letter dated June 27, signed by Dr. Bulfin, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. HELMS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 9 minutes remaining.

Mr. HELMS. I thank the Chair. I reserve the remainder of my time.

EXHIBIT 1

FORT LAUDERDALE, FLA.

Senator JESSE HELMS,
Russell Senate Office Building,
Washington, D.C.

As an obstetrician who is actively practicing his specialty I would like to offer the following observations regarding abortion as a solution for pregnant women with serious problems.

In general the mere existence of kidney disease does not constitute a medical indication for abortion. Thousands of women with kidney disease can successfully be carried to term and deliver healthy babies. There is no question about this. Patients whose lives are in jeopardy from severely diseased kidneys even when they are not pregnant will often miscarry when they do become pregnant. Nature solves their problems. Women with severe kidney disease who become pregnant are often not served best by an abortion operation. The death of a woman in Massachusetts in 1975 following legal abortion for severe kidney disease is described in the New England Journal of Medicine April 1, 1976.

Multiple sclerosis is a progressive disease of the nervous system characterized by remissions and exacerbations. Hundreds of women with multiple sclerosis carry their babies to term and deliver uneventfully each year in our country. Both mothers and babies do very well more often than not. One week ago in Fort Lauderdale I delivered a patient with long standing multiple sclerosis. She and her baby both are doing very well. Abortion is by no means universally recommended for the patient with multiple sclerosis.

Pregnancies from incest are usually not diagnosed until four or five months have past by when the more dangerous late abortion techniques must be resorted to.

Pregnancies resulting from rape should be non-existent with the present status of medical care. If the rape victim is given adequate treatment within 12 hours and the stilbesterol morning after pill is prescribed, pregnancy can be avoided completely.

Ectopic pregnancies must be managed by surgical removal of the affected tube, otherwise the mother will die of internal hemorrhaging. The embryo in the tube has no chance of survival either way. There is no medical or moral conflict with ectopic pregnancy. Surgery is the treatment.

The pregnant female with severe medical illness whether it be kidney disease or multiple sclerosis is often in just as much danger from the operation of abortion as she would be from delivery of a baby.

Abortion to truly save the life of the mother is a right certainly not to be denied but an obstetrician could practice a lifetime without ever seeing one instance when an abortion ever saved a patients life.

MATTHEW J. BULFIN, M.D.,
Obstetrician and Gynecologist.

EXHIBIT 2

JUNE 27, 1977.

DEAR SENATOR: Enforcement of the Hyde Amendment will not send women hurrying to back alley abortionists. What has actually happened in our country since the Supreme Court decision of January 1973 is that millions of women emboldened by the new "what is legal is right" mentality have chosen to destroy their unborn for the most frivolous of reasons. Hundreds of thousands of women have rushed headlong into quick easy lunch hour type abortions without ever consulting with a physician beforehand.

The sacrosanct privacy decision though highly espoused by the Supreme Court seemingly does not exist in the majority of instances. Most women do not see the physician until the abortion is to begin. He is merely the technician doing the operation, he is not the patients confidente, he is often not the one who sees her complications.

I personally have on file in my office in Ft. Lauderdale, Florida the case reports of 52 patients that I have seen with significant complications following their legal abortions—complications ranging from bowel resection and colostomy to irreversible infertility from far advanced pelvic abcess.

I am currently taking care of a 20 year old patient who spent 11 days in the intensive care unit of a local hospital following a septic abcess and peritonitis incurred during a lunch hour type legal abortion in the South Florida area in April of this year. This patient quite possibly would have died 10 or 15 years ago not because her abortion would have been illegal but because the new antibiotics that saved her life were not available then. Her death then could have been attributed to the "back alley butchery."

The thousands of women dying annually from the "back alley abortions" never really did occur in the inordinately high numbers so quoted. Careful studies of illegal abortion death in such states as Minnesota and Illinois during the mid to late 1960's reveal no more than 2 to 5 deaths in any one year.

The women who died from illegal abortions in those years died from sepsis, peritonitis and hemorrhage.

If the physicians who did the illegal abortions in years gone by had the same antibiotics available then that are now available many of those women who died at the hands of those "back alley abortionist" may not have died.

We as obstetricians and gynecologists do not envision any great increase in the number of maternal deaths should abortion again be declared illegal. The physicians who would continue to do abortions without legal protection would have all the life saving antibiotics available to them and their patients with serious complications would certainly not be denied good hospital care.

The number of women rushing headlong into the abortion operation would probably

stop and think twice about it when the operation would no longer have governmental sponsorship and sanction. These women might even learn to avail themselves of one of the numerous methods of birth control that are so readily available—and best of all they might even save two lives—their own and that of their unborn child.

Sincerely,

MATTHEW J. BULFIN, M.D.

Mr. BROOKE. Mr. President, I yield myself such time as I may need.

I hope that we are finally at a point where we can resolve the controversy over medicaid payments for abortion. The abortion controversy has been raging, quite literally, for months. We were fighting over this issue in June. Here we are now, still battling over abortion as we approach Thanksgiving.

This epic struggle has had far-reaching effects. It is holding up the passage of the $60 billion Labor-HEW appropriations bill, which affects just about every person in this country. The pay of hundreds of thousands of Federal, State, and local employees is threatened by this continuing controversy. For hundreds of thousands of other Americans, their health care, their education, and their other human needs are put in danger by the failure of the House of Representatives and the U.S. Senate to resolve differences and pass this vital bill.

Mr. President, the Senate conferees have been trying to do exactly that, to achieve a reasonable compromise, but also one that is humane.

I want to commend my distinguished chairman, the Senator from Washington (Mr. MAGNUSON), who month after month, week after week, day after day, hour after hour, has presided over meetings between the House and Senate conferees in a genuine attempt to draft language which would be a reasonable and humane compromise.

I personally have great admiration, respect and affection for him. I have said so on this floor many times. Each time that I work with him on matters such as this, if possible, my respect grows even more, because he has tried in his unique manner to be fair, to be equitable, to listen to both sides of this issue. And he has attempted to forge a compromise that would be workable without destroying the principles in which he so strongly believes and at the same time giving due respect to the principles which the other side so strongly believes, as well.

Mr. President, the compromise now before us is, we believe, both reasonable and humane. The substance was unanimously approved by the Senate conferees late yesterday and we have refined it still further.

In seeking this settlement of differences, the Senate has, I believe, gone more than half-way in making concessions to the House. The conferees have gone far further than I would have had them go, Mr. President—let there be no doubt about it—because I believe that our original position was the right position.

Yet I know that that position, as right as it was, was not a position which could have been accepted by the House, or would have been accepted by the House, in an effort to bring this matter to a conclusion.

The Senate has weakened its language covering abortions to protect the health of the woman. The Senate has dropped such phrases as "medically necessary"—a phrase which I inserted into the bill, and which was passed on the floor of the Senate overwhelmingly on several occasions.

The Senate has dropped "serious health damage," language which the distinguished chairman put into the bill in an attempt to make a compromise; and the Senate has acceded to a House request for the more restrictive word "severe" and the still further restrictive words, "long-lasting."

The Senate may have dropped reference to mental illness by agreeing to the word "physical" in reference to the health of the woman.

Mr. President, I will never agree that mental illness can be separated from the physical condition of a woman. The ambiguous word "physical" was part of the price for an agreement with the House, and the Senate, unfortunately, paid that price.

Mental illness is just as serious an illness as physical illness, we all know it, and there can be no justification for dropping mental illness from the coverage of this provision. The Senate again has paid the price in an effort to bring about some compromise with the House of Representatives.

The Senate was adamant in its concern for the health of the fetus, knowing that there are several thousand genetic diseases which can afflict the newborn child. The House would hear nothing of language to cover the fetus, even where an abortion was definitely indicated.

Again, the House won. The Senate dropped any direct reference to the fetus.

Oh, it did it reluctantly, but it did it again in an effort to compromise with the House of Representatives.

The House conferees did at one time make some concessions on rape and incest, and even there, they withdrew them. They returned to the harsh provisions that they had before.

For example, the House still clings to the requirement that victims of rape and incest be required to report to a law enforcement agency before they can get payment for certain medical procedures.

Mr. President, we all know that when a woman is the victim of rape, or a child is a victim of incest, that it is a stigma, that it is embarrasing, that it is humiliating and degrading, and we know that many, many cases are never reported. Families will not let their daughters go to a law enforcement agency and make a report that they have been raped, or report that a child has been a victim of incest. Yet, the House wanted to hold firm to that language, denying that child, or that girl, or that woman, an opportunity to have an abortion if she needed it if she were raped, or if she were a victim of incest, causing her to have to go to a law enforcement agency before receiving help and make a report about it.

The House would also continue to bar any assistance for underage girls who may be raped or may be assaulted by a parent and become pregnant. Their language would limit assistance to victims of "forced" rape and deny it to victims of statutory rape.

Mr. President, we know that, unfortunately, there are many cases of statutory rape. In other words, the House illogically is saying, "Oh, it's all right to help a woman above the age of consent who is raped, but if it is a child, a female child that is raped, or is a victim of incest, then that female child cannot have an abortion." That would be the effect of demanding that the word "forced" be included—unconscionably included—in the language of this bill.

Mr. President, one House concession turned out to be no concession at all.

The House announced it was abandoning its language to provide payment for medical procedures only if provided before the fact of pregnancy was established. On its face, that could be an important concession because, otherwise, it might require women to undergo unnecessary surgery or take drugs they did not need.

However, the House really was saying that in a case where there is rape or incest, only before there is a determination of pregnancy and only after there has been a report to a law enforcement agency, could the woman get a D and C, even if it later turns out that she was not pregnant and did not even need the D and C.

Think of the number of women who would have to submit to an operation. A D and C is an operation. It is easy for a man to say that it is a minor operation. That is because a man does not have to have one. Any operation like this is a major operation. Nothing of this magnitude is a minor operation.

Yet, the House consistently has stood on its position, claiming that in these cases of rape and incest, the women could have the treatment for that rape and incest through a D and C, only prior to the determination of pregnancy.

Look at the HEW ,regulation which states how the Department interprets the word "treatment." The regulation states that treatment of rape or incest victims "is limited for these purposes to prompt treatment before the fact of pregnancy is established." So it is clear that the House concession gains the Senate absolutely nothing.

Under the House language, HEW still will permit reimbursement for "treatment" only before the fact of pregnancy is established. There will be "treatment," but there will be no abortions for such unfortunate women if the House and the Department of Health, Education, and Welfare have their way.

Mr. President, the Senate cannot be this callous to the victims of rape and incest. The Senate is willing to compromise, but this goes too far. I believe that the majority of our Senate conferees—in fact, all of them present—yesterday voted to include further language to take care of victims of rape and incest. The language before us provides an exception "for medical procedures necessary for the victims of rape or incest."

Mr. President, the hour is late. As I said, I hope we can come to some compromise. This is an important bill; but no bill we pass in the Senate or in the

House of Representatives or anywhere else in this country is more important that life itself. Nowhere, under any circumstances, must we accept a compromise that jeopardizes the life of a woman, any woman, even if it is one woman; and here we are talking about literally thousands of women who may be forced back to the old back alley abortions.

Just the other day, we had a reported case of a back alley abortion in which a woman died. She had to go to Mexico to get an abortion which she could not get in her own State, because she could not receive medicaid funds. She had a medicaid card in her pocket. She died as a result of the abortion.

We talk about preserving life. We are not preserving life; we are taking life.

Mr. President, this is a compromise. I often have heard that politics is the art of compromise. Never before have I had so sharp a lesson as I have had in this case.

I do not know whether the House even will accept the language we are going to vote upon today. It is difficult for me to vote upon it, Mr. President, for obviously different reasons from those of the House. If the House does not accept this language, God save them. I do not know what they possibly could accept or possibly want.

Mr. CASE. Mr. President, will the Senator yield?

Mr. BROOKE. I yield.

Mr. CASE. Mr. President, I thank my beloved colleague for yielding. I agree with everything he has said. My sentiments with regard to voting on this compromise are identical to his. But it is a magnificent gesture. To him and to the Senator who chaired the subcommittee, Senator MAGNUSON, and to the staff on both sides of the aisle goes the most enormous credit.

Nobody ever doubted the compassion of the Senators in this matter. Nobody possibly could doubt that. A most extraordinary example of patience and fortitude and persistence has been shown in this matter, unequaled in my experience.

Mr. MAGNUSON. Mr. President, I yield myself 1 minute.

I thank the Senator from New Jersey and the Senator from Massachusetts. This has been a long, hard road, and we hope that we might resolve the matter today.

I associate myself with the remarks of the Senator from Massachusetts, who eloquently stated this morning my position in this matter.

There is a lot of irony in this matter, Mr. President. There was a group of 10 to 12 men—all men—sitting in a room, deciding probably one of the most important matters in the life of a woman. The irony, also, is that neither the House nor the Senate heard even one witness. We did not have any testimony from anyone. We did not hear any medical testimony. We do not have any figures. Yet, we had to pass on this matter, which, as I have said often on the floor of the Senate, did not belong in the bill at all.

I hope this will be the last year we have this matter. We are not through with it yet. But we did a lot of compromising. I think we went more than halfway.

As the gentleman from Texas said yesterday, in a Texas expression, "You have given away half the farm already. You better not send that fellow to the big city anymore. He'll give it all away."

I think that the House, in all fairness, should accept this amendment. As the Senator from Massachusetts has said, thousands of people are involved. Many programs are involved. I suppose that every person in the United States is involved in this $60 billion HEW bill.

I hope—and I will not take any more time, because time is running out—that the House will accept this language. If they do not, I do not know what we are going to do. It will be up to them. I think we have given them something that is more reasonable, something humane, to meet the problem, and much more than two-thirds of the Senate wanted to give to the House conferees.

So I hope we can get this matter to the House and see what they will do with it.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HELMS. I yield 1 minute of my time to the Senator from Florida.

Mr. CHILES. I thank the Senator.

Mr. President, it is my understanding that one of the provisions that the House was concerned about was sort of a compromise. We were talking about staying away from the word "permanent" and the House wanted the word "permanent."

I understand that Chairman MAHON said at one time that perhaps we could put in the words "long-lasting" in exchange for "permanent." I think we have attempted to do that. But when we say "or except in those instances where severe or long-lasting physical health damage," I am afraid that when we have the word "or" in there, we have not really given much, because you can go back to "severe" if you wish, and I think that might cause problems in the House.

I suggest that it would be more in keeping with what they were talking about if we had "severe and long-lasting."

I ask unanimous consent that we be able to modify that, to use the word "and."

I think that would be more in keeping with the compromise and would give Chairman MAHON a better provision for the substitution. I suggest that to the distinguished Senator from Massachusetts. That would be more in keeping with what Chairman MAHON was suggesting.

Mr. BROOKE. Mr. President, reserving the right to object, I will have to concede that the distinguished Senator from Florida is correct with respect to what Chairman MAHON had requested when he requested that the words "long-lasting" be included, because the House had been insisting that the physical damage to the mother be permanent. I have fought that strongly. Chairman MAGNUSON has been opposed to the word "permanent," and others of us were opposed to the word "permanent." We did not want to put "permanent" in there.

I think that Chairman MAHON, in an effort to get the House to move on this, wanted some language which would not mean that it would be of a fleeting, temporary nature and, therefore, that the language "long-lasting" be included.

The "long lasting" that I take it that he intended was not to be an either/or situation but an "and"—"severe and long lasting" rather than "either/or."

Mr. BAYH. Mr. President, will the Senator yield?

Mr. BROOKE. I yield.

Mr. BAYH. It was my understanding that "or long lasting" was specifically brought over here as the Mahon proposal.

Mr. BROOKE. That was the confusion, and it was presented to me that way also, but the Senator from Florida has talked with the chairman, and it is his opinion that it is "severe and long lasting."

And if it were not, then their position is that "long lasting" would be of no significance at all.

The PRESIDING OFFICER. The Chair will point out that all of the time of the Senator from Washington and all of the time of the Senator from Massachusetts have expired. The only Member who still has time remaining is the Senator from Pennsylvania.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that we may proceed on this matter for an additional 10 minutes.

Mr. SCHWEIKER addressed the Chair.

Mr. BROOKE. Mr. President, I had 30 minutes. I have not used 30 minutes.

The PRESIDING OFFICER. The Senator has used 30 minutes.

Does the Senator from Pennsylvania yield time?

Mr. SCHWEIKER. Yes. I yield some of my time.

How much time does the Senator wish?

The PRESIDING OFFICER. The Senator from Pennsylvania has 19 minutes remaining.

Mr. SCHWEIKER. I will yield 5 minutes.

Mr. MAGNUSON. All right.

Mr. BROOKE. We are trying to resolve that.

I cannot help the Senator from Indiana any further. I just do not know. I thought the language as we saw it that was presented this morning was "severe or long-lasting."

The Senator from Florida has now stated that chairman MAHON wants "severe and long-lasting." Of course, that is different. That puts both of them as prerequisites in this case.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. BROOKE. I yield.

Mr. BAYH. Earlier this morning we were looking at some specific language that had been referred to us, the "or long lasting," to strike "prompt" I suppose as a concession to us, and also to strike the phrase that we thought was so important and relative to after pregnancy had been discovered. Those are not the exact words.

Mr. BROOKE. Determination.

Mr. BAYH. And also the rigorous enforcement and the refinement there, of

course, I think deals with it. It gives them rigorous enforcement. It reorganizes it so that the matter of discovery of pregnancy is no longer a question. The word "treatment" was stricken, but we do have, as the Senator from Florida pointed out, the questionable language there. In my opinion, if that is all between us and the acceptance by the House, then I suppose just as one member of the conferees I would be willing to give but if not——

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. BAYH. If we are giving away another 40 acres, there is not much left but the windmill.

Mr. BROOKE. I wonder how much of the 40 acres is left.

Mr. MAGNUSON. We do not have too big a farm.

Mr. BROOKE. That is right. We turn around and another 40 acres are gone.

Mr. MAGNUSON. And we are getting no relief from Congress on our short crop these years, with the drought, and we are in bad shape.

Mr. BAYH. All you have is help to run the windmill.

Mr. BROOKE. I also point out to the Senator from Indiana and the Senator from Florida that we have no assurance even that this is going to pass the House of Representatives, that they are going to accept it.

Mr. CHILES. That is absolutely correct, that we do not have that assurance. But I think when we start talking about the crops, one of the things we are talking about is whether we can get any crop insurance or not, and the best crop insurance I know of planting a crop in the other side of the farm, the farm down at that end, is to have the chairman of the Appropriations Committee watering the crop. Now he has said he wanted the word "permanent." We said he could not take that, or we would not take that, and he came back with the word "long lasting."

Mr. BROOKE. And we gave him "long lasting."

Mr. CHILES. But we are not giving him anything if we put it in with "or" is what I am saying. If we put it in with the conjunction "or" we are not giving him anything.

Mr. BROOKE. "Long lasting" is going to appear as language in the bill so that would be one of the criteria "long lasting." It would be severe or long lasting. We gave up "serious" for "severe." Now he wants "long lasting." We are giving him "long lasting" and now he wants an "and" put in it.

We are letting the House of Representatives write our bill for us over here.

Mr. MAGNUSON. Mr. President, there is a unanimous-consent request of the Senator from Florida to add the word "and," and I understand there is going to be an objection.

The PRESIDING OFFICER. Is there objection?

Mr. BROOKE. I have to object, Mr. President.

The PRESIDING OFFICER. Objection is heard.

Mr. BROOKE. In all good faith, I say to my distinguished colleague from Florida I know what he is doing, but I feel I have to object.

Mr. MAGNUSON. The Senator from Pennsylvania wants to speak on this matter, and he has his own time. Then I hope we can vote.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SCHWEIKER. Mr. President, I yield my self 3 minutes.

Mr. President, I rise in opposition to the motion which is to concur in the House amendment with Senate amendment that is pending. The House amendment that we are changing, of course, I offered previously, and in a vote we were defeated by this body on that House language 59 to 33.

So I realize that the chairman and ranking minority member of this committee have the votes to put through this motion that is ahead of us. But I think it is important for us to be accountable for our actions, and I appreciate the opportunity to have a record vote which we are going to have on this matter.

I compliment the good faith of the other side. The chairman and ranking minority member have certainly been courteous to me as a leader of the opposition in this matter, and they have been very open and direct in what was done.

We obviously have very strong differences that are very difficult to resolve. While they made a good faith effort to resolve it, I in good conscience cannot support what they are offering here today.

But their good faith and their sincere efforts are certainly to be commended, and unlike some other conferences that have had a great deal of acrimony and bitterness, the Senate conferees, even with wide divergence of opinions, have kept some kind of good relationship.

Second, Mr. President, I compliment the distinguished Senator from North Carolina for his leadership in this field. Although he has not been on the conference, he has been a very stalwart, very articulate, and very effective proponent of the point of view which I support, and he has done a significant job in leading this effort nationally and in his own State.

I certainly concur with the points that he has made in this debate. I think we have all heard plenty of debate and discussion on this matter, so I am not going to talk very long except to say I am opposed to this motion and will vote against it as a matter of conscience. I am prepared, Mr. President, to yield back the remainder of my time if no one else wants any additional time.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER (Mr. DECONCINI). The Senator from North Carolina.

Mr. HELMS. Mr. President, I am, of course, grateful to my distinguished colleague from Pennsylvania (Mr. SCHWEIKER), I greatly admire the courageous and forthright stand he has taken on this vital question.

Equally, I have the highest respect for the distinguished chairman, Senator MAGNUSON, and the ranking minority member, my friend from Massachusetts, Senator BROOKE.

We disagree on this matter, sometimes heatedly. But the good faith on both sides, I think, has been apparent.

Having said that, Mr. President, I feel obliged to say a few words in response to the eloquent comments by the able Senator from Massachusetts with respect to victims of rape and incest.

Insofar as all of the statistical material and information available to me is concerned, this is a red herring. Perhaps there are surveys and studies about which I have no knowledge, but every scintilla of evidence available to me indicates that as a practical matter the problem of pregnancy following rape or incest is almost nonexistent.

Mr. BAYH. Mr. President, will the Senator yield for a question?

Mr. HELMS. If the Senator will let me finish my statement—

Mr. BAYH. I am just referring to the reference by the Senator.

Mr. HELMS. Studies of thousands of cases of rape in both New York State and the State of Minnesota reported not one resulting pregnancy over periods as long as 30 years. Mr. President, I repeat, 30 years, and not one pregnancy was reported as a result of rape.

Dr. Carolyn Gerster, of Arizona, observes that there are two irrefutable arguments against making an exception for rape and incest: first, pregnancy from reported medically treated rape is zero—zero, Mr. President, rendering the exception clause unnecessary.

Second, unreported rape, after all evidence has disappeared and without corroborating witnesses, cannot be proved, rendering the law exception clause unenforceable.

So I would say, Mr. President, rather than promote abortion in cases of rape we should encourage victims of rape to seek medical attention and to report the offenses.

I am the father of two daughters, whom I love dearly, and the thought of rape is just as abhorrent to me as to any other Member of the Senate. But we must not let a red herring mislead us. I hope that increased attention on this point will lead to improvements in society's treatment of rape victims. My heart goes out to these women, and I, for one, favor the continuation of capital punishment for a rapist.

A society which promotes justice as well as compassion will support the severest possible penalties for the rapist, and more humane treatment for the victims of rapists. We should not allow the unsupported claim of rape to be an excuse for abortion as this proposal does. Even assuming for a moment that in an extremely rare case pregnancy does result, can we encourage the killing of the innocent child just because he or she was conceived during the criminal act of another?

Mr. President, I shall conclude in just a moment. The distinguished chairman of the subcommittee commented on the fact that it was a group of men who sat in conference to settle this question. That is true. He implicitly wondered where the representatives of the women were. But

I would add a further question: Where were the representatives of the innocent unborn children whose lives may be terminated at the expense of the taxpayers? They, to me, are paramount, Mr. President. If there is one Senator in this body who can persuade me that abortion is not the deliberate termination of innocent human life, then the Senator from North Carolina will withdraw from the field, and there will never be another syllable uttered by him on this question. That is what we are talking about, Mr. President. We are talking about the termination of innocent human life, and using tax funds to do it.

Some time back on this floor I mentioned a visit that I made to the children's ward of Duke University Medical Center in my State. It was a Sunday morning, and I went to the intensive care unit, and I was given a white gown and a mask for my face, and I went with the highly trained physicians and nurses as they proceeded to perform their vital duties.

I saw row after row of tiny babies lying there, being sustained by the most sophisticated and expensive equipment that technology can provide, little babies, some scarcely bigger than my hand.

Then I went across the hall to a waiting room. There I saw young couples down on their knees praying that the little lives across the hall in that intensive care unit would be spared.

The very next day, Mr. President, I came back to this Senate and what did we have? We had the argument that we should use the taxpayers' money to terminate the lives of innocent human beings precisely like the little ones I had seen the day before in that hosiptal.

My heart goes out to women who become pregnant and then decided they wished they had not participated in the activity that caused it. But there are other remedies available to these women beside abortion, Mr. President.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. HELMS. I would like to finish this thought first. My time is running out. Perhaps the Senator can obtain time from a Senator who, like the Senator from Indiana, favors the use of the taxpayers' money to finance abortions.

Mr. BAYH. I wanted to help answer the question.

Mr. HELMS. Mr. President, I reiterate that it is abhorrent to me that we should have to continue to come to this floor day after day, week after week, and even debate the question of whether taxpayers' money should be used for the deliberate killing of innocent babies.

The PRESIDING OFFICER. The time of the Senator from North Carolina has expired.

The Senator from Pennsylvania has 11 minutes.

Mr. SCHWEIKER. Mr. President, I am prepared to yield back the remainder of my time.

Mr. BAYH. Mr. President, will the Senator yield me 30 seconds? I did not want to get into an argument with the distinguished Senator from North Carolina because he and I are well aware of our differences. The question goes not to our love or respect for human life. I would just suggest that anyone who wants to see the recorded record of pregnacy as a result of incest and rape perhaps should read the only hearings that Congress has ever held on this, because witnesses who came before our hearings indeed pointed out that such pregnancies not only had existed, but provided a great deal of pain for the families involved.

Mr. BARTLETT. Mr. President, will the Senator from Pennsylvania yield me a minute or two?

Mr. SCHWEIKER. I yield 2 minutes to the Senator from Oklahoma.

Mr. BARTLETT. Mr. President, I believe I was the first one to sponsor an amendment to an HEW appropriations bill that would prohibit the Federal funding of abortion.

The main issue, of course, is whether or not the citizens of this country want to pay for the abortions, and I think it is very clear that they do not.

There is an associated issue also as to just how one feels about abortions, and I know in the early days of the discussion there was a question of whether human life was involved, and the debate has gone beyond that now.

But I think the amendment that has been passed in the House does provide relief because of incest and rape for those who seek immediate attention, who are involved in those kinds of unfair, unjust, and savage attacks.

I think that the value of life in this issue must be overriding. For a Nation that wants to finance the taking of the lives of its own children on, I would say, a very promiscuous and promoted basis, as has been done, and in which the numbers are not kept, in which the figures are not made known to the general public, in which the authorization was never made by Congress, I think it is a sad commentary on this Nation to permit that to happen.

So I think that the fight that the Senator from North Carolina has made on this issue is a most commendable one, and I commend him for his stick-to-itiveness and his desire to see that human life be protected. I agree very strongly with him on this matter. I believe that this view will finally prevail, and hope that those who have opposed it will see that it is far more important for this Nation to have a high regard for human life and the dignity of life.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER (Mr. DECONCINI). The time of the Senator from North Carolina has expired.

Mr. SCHWEIKER. I yield the Senator 1 minute.

Mr. HELMS. I thank the Senator from Pennsylvania.

Mr. President, my friend from Indiana (Mr. BAYH) mentioned some statistics purportedly related to the large number of pregnancies resulting from incest or rape.

I would point out to him, as I am sure he knows, that these statistics are not an actual count, they are merely estimates. They are based on the number of rapes reported annually to the FBI. The pregnancy figures which he has called to our attention are estimates or, if you will, projections from the FBI statistics on the basis of the regular national fertility figures for normal pregnancies.

I might add that I am familiar with the hearings to which he referred and these estimates were provided by those who favor abortion and public funding of abortions. Not one actual case was cited; it was purely hypothetical arithmetic, and I reiterate that I know of no statistics showing pregnancy as a result of rape.

I thank the Senator from Pennsylvania for yielding to me.

Mr. PACKWOOD. Mr. President, unfortunately I will no longer be able to support my colleagues in their efforts to find a provision restricting Federal funds for abortion which will be acceptable to the House. It has become clear over the past few months that the House is unwilling to pass language that shows any degree of fairness, humanity or compassion for poor women. The Senate has compromised and compromised and compromised. In the language presently under consideration, I think we have carried our compromising far beyond the point at which I can in good conscience continue to lend my support.

When the issue first arose this year, I took the strong position that the Federal Government should provide funds for all medicaid abortions. When the Senate voted in disagreement with this position, I reluctantly supported the compromise which provided Federal funding only for those abortions deemed medically necessary. Since the Supreme Court defined medically necessary abortions very broadly in 1973, this language did not violate my beliefs on this issue too severely. To clerify, I do very firmly believe that abortion should be a strictly personal decision made between a woman and her doctor, and that all women, regardless of financial status, should have equal access to this medical service.

In the language being considered today, however, we harshly limit Federal assistance to only those cases where the women would suffer "severe or long-lasting physical health damage" from the pregnancy. There are many in-between cases that would be ignored by this provision, and these women would be forced to carry their pregnancies to term bearing needless suffering simply because it was neither severe nor prolonged enough according to someone else's standard.

More importantly, this provision fails to provide coverage for women suffering from mental illness. I think we are in grave error to try and distinguish mental health from physical health, for often the two are closely tied. And surely the birth of an unwanted child can be as crippling to a mentally ill woman, not to mention the child, as to a woman with serious physical problems.

The National Women's Health Organization has prepared a number of case studies on medically necessary abortions, abortions for severely disturbed and disoriented women, women who by no stretch of the imagination should be

forced into motherhood. I hope this report will help my colleagues to understand that these kind of cases are not hypothetical, they exist in all their sad and desperate reality. I ask unanimous consent that this report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

REPORTS ON MEDICALLY NECESSARY ABORTIONS

INTRODUCTION

The following case studies are gathered from more than 40,000 cases seen in the clinics listed in the years since 1973. They are representative of the kinds of cases seen as medically necessary, and cover a wide range of sociological problems seen in abortion clinics. All are documented.

MILWAUKEE WOMEN'S HEALTH ORGANIZATION, MILWAUKEE, WISC.

1. S.M., 19, Unmarried. Referred from Methadone Hospital at County Hospital. History of addiction since age 14. Severely disoriented and disturbed. Prognosis on methadone not good. Found to be 10 weeks pregnant. Threatens suicide if forced to continue pregnancy.

2. C.G. Referred from Half-Way House following release from Delinquent Girl's Home. Has been abused child, covered with cigarette burn scars, etc. Removed from home at age 12, lived in foster homes. Charged with shoplifting at age 14, ran away from home at age 14½. Picked up for prostitution, age 15. Put in Girl's Home for six months, released to half-way house. Became pregnant at age 16. History of drug abuse, heroin addiction. No way of determining the potential father.

3. H.P., 29. Mother of seven. Unmarried at this time. Severe varicose veins in legs. Had IUD inserted after seventh child to prevent future pregnancy. Pregnant with IUD intact. Physician advised that continued pregnancy would cause permanent disability. Plans are being made to place children in foster home.

4. C.L., 29 years old. Diabetic, married. Two-year old child weighted 10½ pounds at birth. Small birth canal made delivery extremely difficult. Problems with prolapsed bladder following delivery, advised by physician not to become pregnant again. Doctor refused to perform tubal ligation at that time, however, due to patient's age. He prescribed oral contraceptives, which interfered with diabetic treatment. Ceased oral contraceptives, immediately became pregnant.

5. T.P., age 14. Brought to clinic by mother. Had been sexually assaulted by step-father from whom mother is separated. T.P. is borderline IQ, 85–90.

CENTRAL FLORIDA WOMEN'S HEALTH ORGANIZATION, ORLANDO, FLA.

1. P.T., age 12—7th grade. Straight A student, had just undergone kidney surgery. 15 year old brother had had intercourse with her several times while parents were out of house. At this time, she was 5 months pregnant. Parents were professional people in community.

2. S.W., age 20, case No. 7475. Her face was bruised and swollen. She related that her husband had beaten her last night (a common occurrence) and she had left him. Her family was up North and she had had no contact with them for several years. She had no money, no place to go, and she had her 8 month old baby with her. She was 8 weeks pregnant and requested an abortion as she felt she could not cope with another child at this point in her life. A D&E was performed at no charge. She was referred by our social worker to Spouse Abuse program and to the local welfare department.

3. S.S., age 29, case No. 3673. Her husband had left her and their 2 children a year ago and she had been living on welfare since. She had never worked before, had married young due to pregnancy. She had recently enrolled in a drafting course thru HRS's Work Incentive Program and knew she would be terminated from the program if the pregnancy were continued. She had forgotten one birth control pill and was 10 weeks pregnant.

4. K.T., age 19, married, case No. 7473, pregnant for the first time. For past 6 months, K.T. has been having black-outs. Doctors have not been able to determine cause of these yet, but have done extensive x-rays and have had her on several fetal-damaging drugs. K.T. and her husband would have liked to continue pregnancy, but her doctor strongly urged her to terminate pregnancy because of the strong possibility of fetal deformity.

5. M.H., age 27, case No. 7392, mother of 2 (ages 6 and 16 months). Her husband was a schizophrenic alcoholic who had committed suicide on her birthday 3 weeks before. She had no means of support (she had recently applied for AFDC) and had moved into her mother's home. She was overwrought by her husband's death and felt she could not emotionally or financially handle a third child at this time.

6. T.O., age 19, case No. 7391, mother of 16 month old baby, came into the clinic requesting an abortion. She had married due to pregnancy at age 17, was recently separated from her husband. She had found a job as a waitress, but felt continuing pregnancy would make it impossible for her to stay off welfare.

7. C.S., age 26, No. 7776, came in requesting an abortion. She had had a previous illegal abortion in Boston in 1969. The abortion was done by a medical student who raped her before performing the abortion.

NORTH JERSEY WOMEN'S HEALTH ORGANIZATION, WAYNE, N.J.

1. B.H., 28 years, married. Patient has two children, recently separated from husband for three month period, was recently reconciled. She was raped at gun point shortly after the reconciliation. She did not press charges, as she felt that would jeopardize the reconciliation, chose abortion because she felt that this would destroy any chance of marriage.

2. D.L., 33 years. Currently being tested for lupus, and is on medication which is contraindicated for pregnancy. She was on contraceptives which failed. Pregnancy could complicate lupus treatment.

3. K.P., 19 years old. Patient severely emotionally disturbed. Has given one child up for adoption. On mood medication at present time, private physician recommended abortion, and institutional rehabilitation.

4. S.L., 22 years old. Three year old daughter, severely retarded and born microcephalic. Daughter requires 24 hour care, which she and ex-husband share. Both are extremely attached to child, and refuse to institutionalize her.

5. Y.B., age 13. Lives with mother and stepfather. Was raped by stepfather who threatened to kill her if she told her mother. Mother found out, brought her in for abortion. Y.B. very young, immature, did not seem to realize consequenzes of situation.

COLUMBUS WOMEN'S HEALTH ORGANIZATION, COLUMBUS, GA.

1. V.H., age 13, single. Has 10 month old infant, product of incest, who is retarded. This pregnancy also the result of incest. Very scarred, lacerated cervix.

2. S.C., 13, single—Dougherty County. Six weeks pregnant. Patient has no family, remained at Girl's Home in Columbus, Ga. Social worker advised that she was impossible to control and that there was fear that she would continually be taken advantage of sexually.

3. L.M., 42—Phenix City, Alabama. Deafmute, abandoned by husband. Private physician referred her for first trimester abortion as he felt mentally and physically she could not cope with full-term pregnancy. She was scheduled for hysterectomy the following week.

4. D.O., 15, single. Referred by caseworker at Regional Youth Development Center, a delinquent home. D.O. was an inmate at the Center, awaiting disposition on criminal charge.

5. T. A., age 40, single. Mother of seven children, patient related that she feels due to age and size of her family, she could not face another pregnancy. One child is victim of leukemia.

DELAWARE WOMEN'S HEALTH ORGANIZATION WILMINGTON, DELA.

1. C. K. 18 years old. Patient verbalized extreme hostility to father and fetus. Has experienced past emotional problems, and schizoid personality.

2. S. D., 36 years old. White female, who was grieving over death of her husband five months prior had become pregnant by husband's friend, who was black.

3. W. L., 35 years old. Referred by physician as she has been on excessive number of medications.

4. T. F., 17 years old. Found hiding in a barn, threatening suicide. Referred by social worker at Children's Bureau, and Department of Public Health. Poor communication with parents, is now in intensive counseling with family.

5. S. G., age 29, single. Two illegitimate children. Has college education, is playwright, but has been on welfare for four years. Boyfriend is married, and also on welfare. Threatened suicide, diagnosed paranoid schizophrenic.

JACKSONVILLE WOMEN'S HEALTH ORGANIZATION JACKSONVILLE, FLA.

1. Case No. 6881, L. H. Thirteen year old black female with long history of forced relations with stepfather. Mother brought daughter to clinic for procedure at 8–9 weeks gestation. Stepfather was arrested and presently in prison for sexually molesting a minor. Other children in home. Younger daughter, age 11, admitted to stepfather fondling her. L. H. was rather withdrawn and not mature for age. Counselled with mother. After procedure, mother and counselor discussed possibility of stepfather returning into the home. Mother feels she will seek divorce.

2. Case No. 6937, B. M. Nineteen year old white female in upper socio-economic status presenting herself at five weeks gestation under pressure by mother. History of three previous abortions, alcoholism, venereal disease, one suicide attempt. Mother accompanied patient. Patient presently involved with a man who was not the punitive father. Patient did not want abortion at this point because she, "always wanted a baby; something of her own to love." This clinic did not perform a termination on this patient as it was apparent this was not her decision. Subsequently the patient returned in two weeks seeking abortion. She had reconciled her relationship with the boyfriend who planned to marry her after the abortion since this was not his child and the natural father was not conclusive. The procedure was satisfactorily performed and the patient referred for further psychological counselling.

3. Case No. 6923, N. D. Twenty-three year old black female on Medicaid and AFDC presented herself at seven weeks gestation with severe sexual conflicts. The patient denied her sexuality and although this was her second pregnancy considered this a "virgin

birth." The patient suffers from vaginismus and could not be examined successfully. After additional counselling, the patient related that her Medicaid funds were to be discontinued in several days because she had found a job and was enrolled in a junior college program. It was the patient's goal to break the welfare cycle and improve her lifestyle. She realized that she could not accomplish this with a new baby to care for. At this point, the patient relaxed sufficiently to perform her abortion. Her decision was supported and she was referred for sexual counselling.

4. Case No. 6896, B. W. Seventeen year old white female referred by S.E.S. foster care program for termination. Patient had been in foster home situation several years and was a habitual runaway. During counselling patient stated she wanted to continue this pregnancy. The clinic made appropriate referral for pre-natal care. Contact for follow-up with her social worker revealed that the patient had run away. Subsequently the patient returned to the foster family and chose an abortion after realizing she was not equipped to become a single parent at this time. The procedure was successfully performed at seven weeks gestation.

5. Case No. 6851, J. B. Twenty-six year old white female presented herself for pregnancy termination at six weeks gestation. J. B. had a very structured religious background with many unresolved sexual conflicts. She had been divorced after a young marriage and had abstained from sexual activity for seven years. She became pregnant from her first encounter. She had many moral objections to abortion, but upon being faced with the reality of being unmarried and pregnant she had come to the clinic for termination. She had considered suicide at one point because she did not know abortion was legal. She finally made an informed decision and the procedure was successfully performed.

Mr. PACKWOOD. Finally, this provision fails to provide Federal funds for abortion for women carrying deformed fetuses. When science has mercifully taken us far enough to be able to detect and prevent such births, I think it is unforgivably heartless to deny poor women the chance to choose abortion in these cases.

Perhaps some of my colleagues are unaware of just how crippling such birth defects can be, or how pointless and cruel it is to force a woman to carry a child to term when most likely it will be stillborn. The October 1977 issue of Intercom briefly described some of the more serious physical birth defects as follows:

When a fetus has a neural tube defect, the woman's pregnancy is often uneventful, but anencephalic babies are stillborn. In spina bifida cases, there is no bony protection over an area of the spinal cord, and portions of it can protrude through the skin. Babies with open spines are born alive, but the defect can produce mental retardation, chronic illness, severe crippling, and death at an early age. Surgery is often required, and lifetime institutional care, which can cost some $40,000 a year in the United States.

A number of Stanford University Medical Center doctors recently joined together to plead for the provision of Federal abortion funds for poor women carrying deformed fetuses. All of them work with families that carry genetic conditions, and all of them have witnessed the anguish and crippling effect that such a birth can bring on an entire family. I ask unanimous consent that their letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STANFORD UNIVERSITY MEDICAL CENTER,
Stanford Calif., September 15, 1977.

Mr. BOB WEBBER,
Planned Parenthood, Western Regional Office, San Francisco, Calif.

DEAR MR. WEBBER: We are writing with regard to the need to restore to women eligible for Medicaid the right to choose to abort a fetus and have the procedure paid for with federal funds. All of the undersigned are engaged in providing professional services to families who are considering or who are in the process of having children with a variety of genetic conditions—many of which will severely incapacitate the child and make him or her completely dependent upon others for the entire span of their lives. Through our work, for example, women who are at risk for having a child born with Downs Syndrome (mongolism) or severely crippling neurological defects can take advantage of a procedure (amniocentesis) which enables us to diagnose the presence of such conditions in the fetus. If the prenatal test indicates that the fetus is affected, these families can then choose, if they wish, to have an abortion.

Families which take advangtage of these fruits of modern medical science can avoid the severe psychological anguish of giving birth to such an affected child; can avoid the payments (by themselves or society) of the enormous cost of taking care of these affected children; and can devote themselves to the care and upbringing of their other, non-affected children. We have observed that having and caring for a child with one of these avoidable crippling conditions of ten strains the family to the point of breaking and denies necessary attention to other children in the family.

The recent denial of federal funds for abortions prevents many of the families in our country from making use of the best that medicine can offer, solely because they are dependent upon Medicaid. We can say with certainty that those are the very families for whom society will have to assume the heavy burden of paying for the lifelong support and care of these children with avoidable defects. On humanitarian grounds we are placing the family unit at great risk solely because people are on Medicaid and we are using a means test to deny people the right to prevent severe suffering.

We urge you to do everything in your power to allow the use of federal funds for the termination of pregnancy, particularly for families which are medically at risk for affected children.

Sincerely,

LIST OF SIGNERS

Clifford R. Barnett, PhD., Professor of Anthropology and Pediatrics, Chairman, Department of Anthropology; Rose Grobstein, Chief, Pediatric Social Service; Luigi Luzzatti, M.D., Professor of Pediatrics, Director, Birth Defects Center; Kent Ueland, M.D., Professor of Obstetrics and Gynecology; Howard M. Cann, M.D., Professor of Pediatrics and Genetics, Director, Genetic Counseling Clinic; Paul Hensleigh, M.D., Associate Professor of Obstetrics and Gynecology; Elizabeth M. Short, M.D., Assistant Professor of Medicine, Director, Medical Genetics Clinic.

Mr. PACKWOCD. Mr. President, I have reached the point at which I can no longer compromise and remain true to my beliefs on this issue. For all the above reasons, I must vote against the language presently under consideration.

The PRESIDING OFFICER. The question is on agreeing to the motion to concur in the House amendment to Senate amendment No. 82, with an amendment. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Iowa (Mr. CULVER), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Rhode Island (Mr. PELL) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

I further announce that, if present and voting, the Senator from Arkansas (Mr. BUMPERS), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Iowa (Mr. CULVER) would each vote "yea."

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) would vote "nay."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Kansas (Mr. PEARSON), and the Senator from New Mexico (Mr. SCHMITT) are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT) is absent on official business.

The result was announced—yeas 59, nays 29, as follows:

[Rollcall Vote No. 610 Leg.]

YEAS—59

Abourezk	Gravel	Morgan
Anderson	Hansen	Moynihan
Baker	Hart	Nelson
Bayh	Haskell	Nunn
Bellmon	Hathaway	Percy
Bentsen	Hayakawa	Proxmire
Brooke	Heinz	Ribicoff
Burdick	Hollings	Riegle
Byrd, Harry F., Jr.	Jackson	Sarbanes
	Javits	Sasser
Byrd, Robert C.	Laxalt	Sparkman
Cannon	Leahy	Stafford
Case	Long	Stevens
Chafee	Magnuson	Stevenson
Chiles	Mathias	Talmadge
Church	Matsunaga	Tower
Clark	McGovern	Wallop
Cranston	McIntyre	Weicker
Eastland	Metcalf	Williams
Glenn	Metzenbaum	Young

NAYS—29

Allen	Ford	Melcher
Bartlett	Garn	Packwood
Biden	Griffin	Randolph
Curtis	Hatch	Roth
Danforth	Hatfield	Schweiker
DeConcini	Helms	Stennis
Dole	Huddleston	Stone
Domenici	Johnston	Thurmond
Durkin	Lugar	Zorinsky
Eagleton	McClure	

NOT VOTING—12

Bumpers	Inouye	Pearson
Culver	Kennedy	Pell
Goldwater	McClellan	Schmitt
Humphrey	Muskie	Scott

So the motion was agreed to.

Mr. BROOKE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. MAGNUSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the unfinished business, which the clerk will state.

The second assistant legislative clerk read as follows:

A bill (H.R. 9346) to amend the Social Security Act and the Internal Revenue Code of 1954, to strengthen the financing of the social security system, and so forth, and for other purposes.

The Senate resumed the consideration of the bill.

The PRESIDING OFFICER. The pending question is the amendment by the Senator from Nebraska (Mr. CURTIS) on which there is a 30-minute time limit.

Mr. BROOKE. Mr. President, I ask unanimous consent that Lawrence Grishom of Senator PERCY'S staff and Barbara Harris of my staff may be granted the privilege of the floor during consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I ask unanimous consent that John Napier of the staff of the Committee on the Judiciary and Hargrave McElroy of my staff be granted the privilege of the floor today and tomorrow on all matters to come before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE MEETING DURING SENATE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the Senate session today to receive a briefing by the Secretary of State, Cyrus Vance, on the SALT negotiations.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. PROXMIRE. I ask unanimous consent to be allowed to proceed for 2 minutes to get conferees appointed on bills.

The PRESIDING OFFICER. Without objection, it is so ordered.

SECURITIES AND EXCHANGE COMMISSION AUTHORIZATIONS

Mr. PROXMIRE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 3722.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H.R. 3722) to amend the Securities and Exchange Act of 1934 to authorize appropriations for the Securities and Exchange Commission for fiscal year 1978, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. PROXMIRE. I move that the Senate insist upon its amendments and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. PROXMIRE, Mr. SPARKMAN, Mr. WILLIAMS, Mr. BROOKE, and Mr. TOWER conferees on the part of the Senate.

UNLAWFUL CORPCRATE PAYMENTS ACT

Mr. PROXMIRE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 305.

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the bill (S. 305) to amend the Securities Exchange Act of 1934 to require issuers of securities registered pursuant to section 12 of such Act to maintain accurate records, to prohibit certain bribes, and for other purposes.

(The amendments of the House are printed in the House proceedings of the RECORD of November 1, 1977.)

Mr. PROXMIRE. Mr. President, I move that the Senate disagree to the amendments of the House, request a conference with the House on the disagreeing votes of the two Houses thereon and that the Chair be authorized to appoint conferees.

The motion was agreed to and the Chair appointed Mr. PROXMIRE, Mr. SPARKMAN, Mr. WILLIAMS, Mr. BROOKE, and Mr. TOWER conferees on the part of the Senate.

SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

Mr. McINTYRE. Mr. President, I ask unanimous consent that Tony Mazzaschi and Marc Scheer of my staff be granted the privilege of the floor during the consideration of the Social Security financing bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. Mr. President, I ask unanimous consent that Robert Kabel of my staff may be accorded the privilege of the floor during debate on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMPREHENSIVE RIVER BASIN PLAN FUNDING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 1½ minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 538.

Mr. BAKER. Mr. President, reserving the right to object.

Mr. STEVENS. Reserving the right to object.

Mr. DOMENICI. Reserving the right to object, it being understood that no amendments be in order on that bill.

Mr. ROBERT C. BYRD. Only a minute and a half are allowed. No amendments.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2281) authorizing an increase in monetary authorization for nine comprehensive river basin plans.

Mr. BAKER. Mr. President——

Mr. RANDOLPH. Mr. President, let us have order. I think the Senators need to know what is being considered.

The PRESIDING OFFICER. The Senator is correct. The Senate is not in order.

The Senator from Tennessee.

Mr. BAKER. Mr. President, I am not going to object to bringing this up. I told the majority leader that it is cleared on our side. But for the record, I want the opportunity to say—and that is why I reserved my right a moment ago—that this docket has been cleared on this side and we do not object. If I do not have the opportunity to say that in the future, I shall begin to object.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator is right and is within his rights. I believe he maintains his right even after the clerk has stated the title. Am I correct? The clerk states the title of the bill and then the Chair says, "Is there objection to proceeding?"

The PRESIDING OFFICER. The Chair is consulting with the Parliamentarian.

Objection would still lie.

Is there an objection to the immediate consideration of the bill?

Mr. DOMENICI. Again, reserving the right to object. It is understood that there will be no amendments to the bill. They will not be in order?

The PRESIDING OFFICER. That is correct.

Hearing no objection, the Senate will proceed to the consideration of the bill.

The Senate proceeded to consider the bill.

Mr. GRAVEL. Mr. President, this is an authorization for nine river basins for 6 months. It is a ceiling on the spending in question. This is necessary because the Senate and Congress are not able to act on the omnibus water resources legislation during this session. We hope to take it up in January. This is to hold us over until that time so we can keep these projects going.

The PRESIDING OFFICER. If there be no amendments to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read a third time and passed, as follows:

A bill authorizing an increase in the monetary authorization for nine comprehensive river basin plans.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in addition to previous authorizations, there is hereby authorized to be appropriated for the

prosecution of the comprehensive plan of development of each river basin under the jurisdiction of the Secretary of the Army referred to in the first column below, which was basically authorized by the Act referred to by date of enactment in the second column below, an amount not to exceed that shown opposite such river basin in the third column below:

Basin, Act of Congress, and amount

Alabama-Coosa River Basin, March 2, 1945, $5,000,000.

Arkansas River Basin, June 28, 1938, $1,000,000.

Brazos River Basin, September 3, 1954, $14,000,000.

Mississippi River and tributaries, May 15, 1928, $22,000,000.

Missouri River Basin, June 28, 1938, $59,000,000.

North Branch, Susquehanna River Basin, July 3, 1958, $32,000,000.

Ohio River Basin, June 22, 1936, $18,000,000.

San Joaquin River Basin, December 22, 1944, $61,000,000.

South Platte River Basin, May 17, 1950, $3,000,000.

(b) The total amount authorized to be appropriated by this title shall not exceed $215,000,000.

Mr. GRAVEL. I move to reconsider the vote by which the bill passed.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMENDATION OF THE FUTURE FARMERS OF AMERICA

Mr. HUDDLESTON. Mr. President, I ask unanimous consent to proceed for 3 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. CURTIS. Reserving the right to object, what is the pending business and what is the control of time on it?

The PRESIDING OFFICER. The pending business is the amendment of the Senator from Nebraska, with a 30-minute time limitation.

Mr. CURTIS. And this is running against the 30 minutes?

The PRESIDING OFFICER. This is not running against the 30 minutes of the Senator from Nebraska.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be discharged from further consideration of Senate Resolution 299 commending the Future Farmers of America, and that the Senate proceed to its immediate consideration.

Mr. BAKER. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. I simply want to say, Mr. President, that the distinguished Senator from Kentucky has cleared the matter on this side, as has the Senator from Texas. We have no objection to proceeding to its immediate consideration.

The PRESIDING OFFICER. The clerk will state the resolution.

The legislative clerk read as follows:

A resolution (S. Res. 299) commending the Future Farmers of America.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object to the immediate consideration of the resolution, has this been cleared with the chairman of the committee (Mr. TALMADGE)?

Mr. HUDDLESTON. The Senator from Kentucky states that it has been cleared with the chairman of the Agriculture Committee and the ranking minority member and other members of that committee.

Mr. ROBERT C. BYRD. Mr. President, I have no objection to its immediate consideration.

There being no objection, the Senate proceeded to consider the resolution.

Mr. HUDDLESTON. Mr. President, this is a resolution that was submitted by the distinguished Senator from Texas (Mr. TOWER). I ask unanimous consent, that I, along with my colleague from Kentucky (Mr. FORD) and the distinguished Senator from Pennsylvania (Mr. HEINZ) be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUDDLESTON. Mr. President, as we mentioned, this is a resolution commending the Future Farmers of America for the leadership and training they have afforded young citizens in this country since its inception.

This organization is having its golden anniversary convention next week. I thought it was appropriate that this body go on record now in support of that organization.

Mr. President, I yield at this point to the distinguished Senator from Texas, an original sponsor of the resolution.

Mr. TOWER. Mr. President, I thank the distinguished Senator from Kentucky for the expeditious way he handled this very meritorious resolution.

The Future Farmers of America have made a great contribution.

The PRESIDING OFFICER. The 3 minutes have expired.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent there be 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. The Future Farmers of America have made a great contribution to the development of leadership, not only in the agricultural community of this country, but the business community, as well.

They are to be commended. It is an outstanding example of people working together to get things done.

They have done a great deal for the young people in rural areas of the country.

Again, I thank the distinguished Senator from Kentucky for his expeditious handling of this matter.

Mr. THURMOND. Mr. President, as a former agriculture teacher, I am familiar with the work of the Future Farmers of America. I think they have done a great job. I commend them for their leadership.

Mr. President, I wish to commend the able Senator from Kentucky for his remarks and wish to associate myself with those remarks.

Mr. HUDDLESTON. Mr. President, the Future Farmers of America will be holding their annual convention November 8–11, 1977, in Kansas City, Mo.

In 1917 Congress enacted the Smith-Hughes Act which provided for the teaching of vocational agriculture in the high schools of this Nation. And since that time there has been little question that the vo-ag program called for by Smith-Hughes have been highly successful.

The Future Farmers of America is a vocational student organization and is an integral part of the vocational agriculture instructional program. This organization now has membership of over one-half million students with chapters in over 8,000 schools. FFA members have become farmers, agribusinessmen, bankers, and governmental leaders. They have truly become the backbone of American agriculture.

The resolution that is now before us commends the Future Farmers of America for the many contributions this organization has made to American agriculture. And, Mr. President, these contributions have been to both the agricultural industry and to the people of this Nation. The FFA has developed leadership and good citizenship in millions of young men and women while at the same time preparing them for careers in American agriculture.

I now yield to my colleague from West Virginia (Mr. RANDOLPH).

Mr. RANDOLPH. Mr. President, next week the Future Farmers of America will celebrate its 50th anniversary at Kansas City, Mo. In recognition of this significant event, I believe the Senate will unanimously approve Senate Resolution 299, commending the Future Farmers of America. It is our privilege to join several of my colleagues in sponsoring this resolution, introduced by the Senator from Texas (Mr. TOWER). Senator HUDDLESTON is bringing to our forum a most important resolution.

Approximately 510,000 young men and women in 8,148 high schools are engaged in FFA activities. The resolution properly commends the organization. Federal support for the teaching of vocational agriculture in high schools was established in the Smith-Hughes Act of 1917, in the following words:

. . . for the contributions it has made in sustaining our Nation's most basic industry of agriculture through developing leadership, encouraging cooperation, promoting good citizenship, teaching sound agricultural techniques and principles, and preparing our Nation's young men and women for careers in the industry of agriculture.

Mr. President, last July the FFA State President's Conference met in Washington for a full week. One day of the schedule was devoted to meeting with the Members of Congress. Representing our West Virginia was Frank Renick, president of the 7,200-member FFA organization in the Mountain State. Young Mr. Renick is a graduate of Mannington High School in Marion County.

On the day of his visit, I was chairing

a meeting on water pollution legislation in the Senate Environment and Public Works Committee. Frank sat with me, and during occasional lulls in the discussion, talked enthusiastically of the Future Farmers of America and its 75 chapters in West Virginia.

I learned that, out of a total work force of 605,000 within the State, there are only 40,505 workers engaged primarily in agriculture or agribusiness activities.

Approximately 3,500 trained farmers are needed each year to keep the farm force constant. Mr. Renick conveyed the dismaying message that less than one-fourth of that number is completing courses in agriculture which would lead to full-time farming.

I learned that only 16 percent of the needed farming skills are being filled at present. In 1974, for example, only 528 young men and women who were trained in agricultural vocational methods at the secondary and postsecondary levels, actually engaged in farming.

They are leaving the farm. At a time when it is absolutely essential that young people assure the roles of leadership and careers in the agricultural industry, the ranks are dwindling. This trend, if continued, portends problems for this Nation's efforts to provide food and fiber for the people of the United States and much of the world.

For this reason, our recognition of the role that FFA is performing in training and maintaining young peoples' interest in the land and its products, assumes an even greater importance.

It is reassuring to me to see what a talented and outstanding group of young men and women visit the Nation's Capital each year. I look forward to their fresh views and dedicated outlook. Faith is renewed in the future of America when young people such as Frank Renick help to shape that future.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the Senator from West Virginia (Mr. RANDOLPH), Senators, MCINTYRE, MCCLURE, BAKER, ROBERT C. BYRD, and DECONCINI be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

The additional 1 minute has expired.

Mr. ROBERT C. BYRD. Vote!

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 299) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

Whereas the Future Farmers of America, a vocational student organization, is an integral part of the instructional program in vocational agriculture/agribusiness;

Whereas the Smith-Hughes Act of 1917 established Federal support for the teaching of vocational agriculture in high schools across the Nation;

Whereas students of vocational agriculture prepare themselves for roles of leadership and careers in the industry of agriculture which constitute this Nation's efforts to provide food and fiber for the people of the United States and much of the world;

Whereas the Future Farmers of America provides an outlet for the energy, initiative, and expertise of nearly five hundred and ten thousand students in eight thousand one hundred and forty-eight high schools in every State of the United, Puerto Rico, and the Virgin Islands; and

Whereas the Future Farmers of America will have its golden anniversary convention November 8–11, 1977, in Kansas City, Missouri: Now, therefore, be it

Resolved, That the United States Senate commends the Future Farmers of America for the contributions it has made in sustaining our Nation's most basic industry of agriculture through developing leadership, encouraging cooperation, promoting good citizenship, teaching sound agricultural techniques and principles, and preparing our Nation's young men and women for careers in the industry of agriculture.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the Future Farmers of America.

SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

The Senate continued with the consideration of H.R. 9346.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Nebraska (Mr. CURTIS) for allowing the Senate to impose on his time. His amendment is before the Senate, and I hope we may proceed now.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. CURTIS. Mr. President, I yield myself 5 minutes.

Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. CURTIS. Mr. President, we are about to vote on a very important issue. Social security is complex. But sometimes a problem can present itself in a simple way, and it calls for a simple but straightforward answer.

We hear all sorts of scare stories. This morning I heard a commentator say that the social security system was bankrupt. I do not think that added a service to the general public, particularly to the beneficiaries.

We are collecting about $82 billion in social security every year, but this year we are going to be short a little over $6 billion. Next year it will be a little more.

In the long range, we have got some problems. It is just that simple.

Where do we get the $6 billion? I do not think that this Congress wants to lower benefits. We have got to increase income.

Yesterday, we voted overwhelmingly against dipping into the general Treasury. Now the issue is, Shall we soak the employers rather than face this problem? That is what it amounts to.

I carry no brief for employers, but I do say that this amendment will create havoc and if it becomes the law of the land the Congress will be here repealing it in less than 6 months.

To raise the base on employers only abandons the guideline of a contributory system, half by employers and half by employees.

Furthermore, when we raise the wage base clear up to $75,000, we discriminate against companies. Concerns that employ a great many high paid and skillful people will have a tremendous tax increase. Others may not.

In other words, Mr. President, it is an effort for an easy answer:

How do we propose to impose this half percent on each one? The total on the payroll of 1 percent will bring in about $8 billion in full force. We propose that beginning in 1979, and we should never make these things retroactive, this gives a year lead time after the conference acts, that in 1977 we raise the tax a simple 0.2 of 1 percent.

In the individual making $10,000, it amounts to $20.

Also, keep in mind, Mr. President, that, very properly, we have tilted the benefits in the social security in favor of the lower paid. We have also enacted the earned income credit. So the individual who has nothing but earned income and does not make more than $4,000 gets a credit that is refundable for $400. If he makes $7,000, he will still get a refund of $100, to compensate for the fact that the social security tax is a tax on the first dollar that he earns.

Now, no one likes taxes. No one likes to increase taxes. But what are we going to do? Here is a system, and, as the distinguished Senator from North Carolina said yesterday, more people depend on the social security than on any other program we have.

Mr. President, I think smart politics in this deviates from the pattern in the past of trying to avoid things, to conceal the true cost of social security and find an easy answer.

The Nation is alarmed about the situation, and I believe they are expecting the Congress to meet it forthwith and forthright.

All we are asking here is a raise in the social security tax on employees of one-half of 1 percent in two steps, and a raise of a similar amount on the employers. It will keep all of the benefits flowing. It will take care of our immediate problem. It will conform to all the guidelines that we follow.

Yesterday there was circulated in the Chamber a statement from the leading municipalities carrying a list of cities that would pay more under my proposal than under the committee proposal.

The committee would load it all on employers. I would vote half on.

Now, when does half of a sum exceed the whole? I had it checked. They admit now that they have made a mistake; but they got it mixed up; that they took part of my plan one and combined plan two with it and came up with such an answer.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CURTIS. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. CURTIS. I yield 3 minutes to the distinguished Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, in my judgment, the social security program is more important to more people than any other Federal program.

Social security was enacted in 1935. During the intervening 42 years, it has become a basic and integral part of the lives of the American people.

When social security was established, it was funded on the principle that one-half of the total social security tax would be paid by the employer and the other one-half would be paid by the employee. The employee, of course, would be the beneficiary of the total amount. The basic principle continues to this day.

What the Curtis amendment in the nature of a substitute proposes to do is to maintain this principle. I feel that that is a very important concept to maintain. The social security program is of such vital importance that I feel it unwise to depart from the fundamental concept as to financing.

The social security fund, as the able Senator from Nebraska just pointed out, can be replenished appropriately by an equal increase in the tax on employer and employee. Such a tax, I feel, would be preferable to the bill recommended by the Senate Committee on Finance.

So I shall vote for the substitute offered by the distinguished Senator from Nebraska (Mr. CURTIS).

The social security program is too important to too many people to allow the reserves to drop to dangerously low levels.

The PRESIDING OFFICER. Who yields time?

Mr. NELSON. Mr. President, is there a time limitation?

The PRESIDING OFFICER. Fifteen minutes to a side.

Mr. NELSON. Mr. President, there are several ways and combinations of ways to provide funding to secure the social security trust funds.

I will repeat what I said in the Finance Committee and what I said on the floor yesterday: The proposal of the Senator from Nebraska does levy the tax and provide the necessary funds to secure the social security fund, based upon the intermediate assumptions of the Social security trustees, through the year 2050. The proposal that the Finance Committee reported to the Senate does the same thing. Both proposals accomplish that result, based upon the intermediate assumptions, without a deficit 75 years from now. That is to say, the fund will be in balance, based upon those assumptions, in the year 2050, in both cases.

In plan No. 2—what is called plan No. 2—of Senator CURTIS, there will be a plus 0.4 percent balance of taxable payroll in the social security trust funds. Under Senator CURTIS' alternative plan, there will be a deficit of 0.27 percent of taxable payroll. Under the House bill, there would be a deficit of 1.62 of taxable payroll, which is fairly substantial. Under the Finance Committee plan, there would be a long-term surplus of 0.06 of taxable payroll.

So both the Curtis plan and the Senate Finance Committee plan finance the social security fund and insure its security for the next 75 years and beyond. This is an important objective to achieve for the purpose of assuring everybody who contributes to the fund—104 million Americans who are now contributing—and the 33 million who are now beneficiaries that their retirement is not in jeopardy, that the money will be on hand for them when they retire. It is important that we give that assurance, and there has never been any doubt in my mind that Congress would do so.

The point I am making is that both Senator CURTIS' plan and the Finance Committee plan went to great care to levy the taxes, to be sure that we could guarantee the integrity of social security all the way to the year 2050. I believe it was a wise move to do so on the part of Senator CURTIS in his plan and the Finance Committee in its plan.

As I suggested, there are several ways to finance social security, and each has a different impact. You can dramatically raise the wage base on employers and employees—that is, more dramatically than it is being raised—as the House does. The House bill places a significantly higher burden of cost on those in income brackets $20,000 and above. Social security could be financed by just increasing taxes, which places a heavier burden on the low-income groups. A combination of increased payroll taxes and increased employer and employee wage bases could finance social security. A variable employer/employee wage base, as is in the Finance Committee plan, could also be used.

The social security fund got into this declining financial situation because of three or four factors. Two of these factors were high unemployment and excessive inflation. Another factor was the double indexing of future benefits, which was not intended at the time it was adopted by Congress; this problem is resolved in the proposal before us. Eliminating double indexing solves 50 percent of the total long-term—75 years—problem in social security. The Senate Finance Committee bill provides an average replacement rate of 43 percent of a worker's earnings the year before his retirement. For the first time, everybody knows what their retirement replacement rate is going to be.

In order to take care of the short-term financing problem without placing too heavy a burden on the contributing employees, I proposed, and the Finance Committee reported to the floor, a bill which establishes a wage base of $50,000 for the employers; in 1985, it would increase to $75,000 and remain at that level until sometime after the year 2000.

In the meantime, under the current law, employees' wage bases continue to rise with increases in average wages. For example, the wage base of employees under the Finance Committee proposal goes from $16,500 in 1977 to $33,900 in 1987. It is projected to reach $75,000 by the year 2002.

On the other hand, the House bill provides for wage base jumps from $16,500 to $24,600 in that same period. Senator CURTIS' plan No. 2 has the same employee wage base on the Finance Committee plan.

Under the differential wage base in the committee bill, the employer and employee wage base will again be equal in 25 years. It is not a permanent differential on the wage base between the employer and the employee as was proposed by the Carter administration. The administration's bill that was submitted to Congress proposed that the wage base cap be taken off the employer totally, so that those who are earning $500,000, $600,000 or $900,000—the highest paid people in this country—would pay on that whole wage base on the employer's side. We did not accept that in the Finance Committee.

Instead of no limit on the employer's side, we set a limit of $50,000 and $75,000. Under current economic projections, the wage base of the employer will be at $75,000 29 years from now, and the employee wage base will have risen to $75,000. Therefore, they will be back to parity, and in the meantime, a method of meeting the short-term deficit in the social security trust fund will have been met. At the same time, there will be less of a burden upon the employee.

As to the employer, it should be pointed out that a substantial majority of all employers in the country pay less under this plan with a higher employer wage base than they would under the plan in which the wage base for employers and employees increases equally because 87 percent of all wages are already covered by the current employer wage base. As of next year, employers whose employees are earning less than $17,500 will incur no increase on their employees at all; whereas, if we levied the tax equally there would be an increase on both the employer and the employee and that would cost most employers more because increasing payroll taxes effects all employees, regardless of their salaries. Only employers of high-paid employees will be affected by the Finance Committee bill.

So, as to a substantial percentage of the employers in this country the Finance Committee proposal will cost them less money than if we levied the payroll tax equally on each side.

What is the impact on the employee of these plans?

Under this Finance Committee bill, in 1979 the increase in the tax on the employee earning an average wage of $11,655 over and above the scheduled increases, which are substantial, would be $10. Under the House bill, the additional cost is zero. Under the Senator Curtis plan No. 1, the cost is $33; and under Senator CURTIS' plan No. 2 the cost is $39.

In 1981, the increase under the Finance Committee bill is $40 on the average worker, $33 in the House bill, $78 under Curtis No. 1, and $73 under Curtis No. 2.

In 1987, the increase on the individual worker over the current scheduled increases in the law, which are the really substantial increases, is $112 a year under the Finance Committee plan, $121 under the House bill, $165 under the Curtis plan No. 1, and $177 under Curtis plan No. 2. That tells us the impact on the average worker.

Next, let us look at the impact on the annual tax payments of workers earning the maximum base. In 1977, the employee earning base is set at $16,500. The taxable earnings base will increase

to $21,000 under the Finance Committee bill in 1980. The base goes to $25,900 under the House bill and $21,000 under Curtis plan No. 2.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. NELSON. I yield.

Mr. CURTIS. Plan No. 2 is not before the Senate at this time.

Mr. NELSON. Which plan is?

Mr. CURTIS. No 1.

Mr. NELSON. I am sorry. I did not know that. As the Senator knows, we were trying to make up these charts at a time when the last proposal made by the Senator from Nebraska was plan No. 2. We researched both No. 1 and No. 2, and I thought the Senator was sticking with No. 2. But I now understand.

Mr. CURTIS. No.

Mr. NELSON. That even makes my argument look better, but that is all right.

Mr. CURTIS. For instance, the House raised the wage base by $8,400 effective a few years down the line and that would bring the cost to $529, for the highest paid employee while mine would only create an increased cost of $117.

Mr. NELSON. The maximum base for those employees earning high wages under the Finance Committee proposal in 1987 will be $33,900, compared to $31,200 under Curtis plan No. 1 and $42,600 in the House bill.

Under the Finance Committee plan, the employee earning the maximum will be paying $378 a year more than the current scheduled social security tax. Under the House bill, the maximum earner will pay $1,012 more on a maximum base of $42,600.

Under Senator CURTIS' plan No. 1, the maximum earner will pay $276 more on those earning the maximum versus $378 more under the Finance Committee plan.

Mr. President, I ask unanimous consent that the appropriate tables that we have been reading from here and others be printed at this point in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

COMPARISON OF ALTERNATIVE SOCIAL SECURITY FINANCING PLANS

1. Present law.

2. Senate Finance Committee bill as reported on November 1, 1977.

3. H.R. 9346 as passed by the House.

4. Finance Committee bill as reported, with modifications proposed by Senator Curtis (present law earnings base for both employers and employees with higher tax rates, as shown on page 1).

5. Finance Committee bill as reported, with alternative modifications proposed by Senator Curtis (employee earnings base in Finance Committee bill to apply to employers as well; higher tax rates, as shown on page 1).

COMPARISON OF FINANCING PROPOSALS

	Present law	Finance Committee (Nelson proposal)	House bill	Curtis plan 1	Curtis plan 2
Total (OASDHI) tax rate (employer and employee, each; in percent):					
1977	5.85	5.85	5.85	5.85	5.85
1978	6.05	6.05	6.05	6.05	6.05
1979	6.05	6.135	6.05	6.335	6.385
1980	6.05	6.135	6.05	6.635	6.385
1981	6.30	6.60	6.55	6.885	6.85
1982	6.30	6.60	6.65	6.885	6.85
1983	6.30	6.60	6.65	6.885	6.95
1984	6.30	6.60	6.65	6.885	6.95
1985	6.30	7.00	6.95	7.185	7.35
1986	6.45	7.05	7.10	7.335	7.40
1987	6.45	7.05	7.10	7.335	7.40
1988–89	6.45	7.05	7.10	7.335	7.40
1990–94	6.45	7.50	7.65	7.885	7.95
1995–2000	6.45	8.10	7.65	8.385	8.45
2001–10	6.45	8.70	7.65	8.785	8.85
2011 and later	7.45	9.20	7.65	9.185	9.35
75-yr average balance (percent of taxable payroll) [1]	−8.20	+.06	[2] −1.62	−0.27	+.40
Employee earnings base:					
1977	$16,500	$16,500	$16,500	$16,500	$16,500
1978	17,700	17,700	19,900	17,700	17,700
1979	18,900	[3] 19,500	22,900	18,900	[3] 19,500
1980	20,400	21,000	25,900	20,400	21,000
1981	21,900	[3] 23,100	29,700	21,900	[3] 23,100
1982	23,400	24,600	31,800	23,400	24,600
1983	24,900	[3] 26,700	33,900	24,900	[3] 26,700
1984	26,400	28,200	36,000	26,400	28,200
1985	27,900	[3] 30,300	38,100	27,900	[3] 30,300
1986	29,400	32,100	40,200	29,400	32,100
1987	31,200	33,900	42,600	31,200	33,900
Employer earnings base:					
1977	16,500	16,500	16,500	16,500	16,500
1978	17,700	17,700	[4] 19,900	17,700	17,700
1979	18,900	[4] 50,000	[4] 22,900	18,900	[4] 19,500
1980	20,400	50,000	[4] 25,900	20,400	21,000
1981	21,900	50,000	[4] 29,700	21,900	[4] 23,100
1982	23,400	50,000	31,800	23,400	24,600
1983	24,900	50,000	33,900	24,900	[4] 26,700
1984	26,400	50,000	36,000	26,400	28,200
1985	27,900	[4] 75,000	38,100	27,900	[4] 30,300
1986	29,400	75,000	40,200	29,400	32,100
1987	31,200	75,000	42,600	31,200	33,900
OASDI reserve ratio (start of year; in percent): [1]					
1977	47	47	47	47	47
1978	36	36	37	36	36
1979	27	28	31	26	28
1980	18	25	27	21	26
1981	9	24	25	21	24
1982	[5]	28	26	22	29
1983	[5]	31	28	22	34
1984	[5]	33	29	22	36
1985	[5]	35	30	21	38
1986	[5]	41	34	23	44
1987	[5]	46	37	25	51
HI reserve ratio (start of year; in percent): [5]					
1977	66	66	66	66	66
1978	55	55	55	55	55
1979	56	48	50	56	48
1980	53	46	44	53	38
1981	45	40	34	45	25
1982	50	44	42	50	19
1983	50	43	45	50	8
1984	44	36	42	44	5
1985	34	25	34	34	[5]
1986	20	16	22	20	[5]
1987	10	6	15	10	[5]

[1] Estimate for all proposals supplied by the Office of the Actuary, Social Security Administration.
[2] Preliminary estimate.
[3] Statutory increase of $600.
[4] Includes effect of statutory earnings base increase.
[5] Funds exhausted.

IMPACT ON ANNUAL TAX PAYMENTS OF WORKER EARNING AVERAGE WAGE

	Wage	Taxes under present law	Increase over present law: Finance Committee (Nelson proposal)	House bill	Curtis plan 1	Curtis plan 2
1977	$10,001	$585				
1978	10,812	654				
1979	11,655	705	$10	0	$33	$39
1980	12,486	755	11	0	73	42
1981	13,281	837	40	$33	78	73
1982	14,078	887	43	49	82	77
1983	14,888	938	45	52	87	97
1984	15,744	992	47	55	92	102
1985	16,649	1,049	117	108	172	175
1986	17,606	1,136	106	114	156	167
1987	18,619	1,201	112	121	165	177

IMPACT ON ANNUAL TAX PAYMENT OF WORKER EARNING THE MAXIMUM

	Taxes under present law	Increase over present law: Finance Committee (Nelson proposal)	House bill	Curtis plan 1	Curtis plan 2
1977	$965				
1978	1,071	0	$133	0	0
1979	1,143	$53	242	$54	$102
1980	1,234	54	333	119	107
1981	1,380	145	566	128	203
1982	1,474	149	640	137	211
1983	1,569	194	686	146	287
1984	1,663	198	731	154	297
1985	1,758	363	890	289	469
1986	1,896	367	958	260	479
1987	2,012	378	1,012	276	496

OASDI PERCENT OF TAX RATE (EACH)

	Present law	Finance Committee (Nelson proposal)	House bill	Curtis plan 1	Curtis plan 2
1977	4.95	4.95	4.95	4.95	4.95
1978	4.95	5.05	5.05	4.95	5.05
1979	4.95	5.085	5.05	5.235	5.385
1980	4.95	5.085	5.05	5.535	5.385
1981	4.95	5.35	5.25	5.535	5.70
1982	4.95	5.35	5.35	5.535	5.70
1983	4.95	5.35	5.35	5.535	5.60
1984	4.95	5.35	5.35	5.535	5.60
1985	4.95	5.65	5.65	5.835	5.95
1986	4.95	5.65	5.65	5.835	6.00
1987	4.95	5.65	5.65	5.835	6.00

HI PERCENT OF TAX RATE (EACH)

1977	0.90	0.90	0.90	0.90	0.90
1978	1.10	1.00	1.00	1.10	1.00
1979	1.10	1.05	1.00	1.10	1.00
1980	1.10	1.05	1.00	1.10	1.00
1981	1.35	1.25	1.30	1.35	1.15
1982	1.35	1.25	1.30	1.35	1.15
1983	1.35	1.25	1.30	1.35	1.35
1984	1.35	1.25	1.30	1.35	1.35
1985	1.35	1.35	1.30	1.35	1.40
1986	1.50	1.40	1.45	1.50	1.40
1987	1.50	1.40	1.45	1.50	1.40

Mr. NELSON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CURTIS. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CURTIS. Have the 15 minutes expired?

The PRESIDING OFFICER. The Senator from Nebraska has 6 minutes.

Mr. CURTIS. And no time remaining over here.

The PRESIDING OFFICER. That is what the record shows.

Mr. CURTIS. Mr. President, I would say that is a well-earned advantage. I had to listen for 15 minutes to unsound philosophy and confusing figures, and by reason of that I get 6 minutes more to respond.

Mr. President, if we raise the wage base on employers from its present $16,500 up to $75,000, even though we take it in two steps, what do you suppose we would do?

Think of your State university, an employer that has many high-paid professors, instructors, and administrators. I know what it does to the University of Nebraska. It puts $1 million a year on them. That is not meeting the situation.

The proponents of the $75,000 wage base for employers started out with $100,000. Well, there are not too many being paid more than $75,000, so the result is just about as bad.

At that time I gathered information from all across the land as to what would be the impact. These figures that I am about to insert in the RECORD relate to the $100,000 ceiling rather than the $75,000 ceiling. But I think they would be almost the same. However, I want to be fair about it. A major private university in the State of New York, it would cost them $1.3 million; a leading national rubber company, $6 million; a major trunk airline, based in the Southeast, $11 million.

Mr NELSON. Mr. President, will the Senator yield for a question?

Mr. CURTIS. Yes.

Mr. NELSON. I have not been able to get figures together, but how much will it cost these same groups based upon the Senator's proposal, how much additional taxes would that be?

Mr. CURTIS. Well, it would be very much less, very much less. I cited the figures a bit ago that the raise of the base for only $8,000 results in increased taxes of over $500, while half a percent on payroll is about $117. Here is the thing, we are trying to raise about $8 billion and you have got to have a broad base, have it reach everybody.

Mr. President, I ask unanimous consent that this list of examples I started to read be printed in the RECORD in full.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

A major private university in the State of New York: $1.3 million.

A leading national rubber company: $6 million.

A major trunk airline, based in the Southeast: $11 million.

A Nebraska-based major construction company: $2.8 million.

A Midwestern state university: $1.4 million.

A textile company in the South: $2 million.

A leading manufacturer of copymaking equipment, headquartered in Connecticut: $27 million.

Two Texas-based national oil companies: $9.1 million and $20 million, respectively.

Two Oregon educational facilities: $2 million and $693,000, respectively.

Mr. CURTIS. Mr. President, I am not overly devoted to computer projections because they depend on what you put in there. Nevertheless, there are some very well-qualified ones. One of them is by the Chamber of Commerce of the United States. They point out, and I quote, speaking of the committee's proposal, "because investment would be less and inflation somewhat higher the Senate Finance Committee substitute bill would cause the economy to grow slower by 0.8 percent by 1980, family income to be $237 lower, and 400,000 fewer jobs."

Mr. President, I hold in my hand a communication dated October 31, 1977. It is from the National Association of State Budget Officers. Now, budget officers have to deal with the figures of paying the bills of all the State institutions.

They enclose a resolution, and here is what two points in them say: One, "Equal employee and employer contributions," and the next one says, "No use of general funds for continued support of the social security system."

Mr. President, I ask unanimous consent that that resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION

A resolution requesting the Congress of the United States to consider certain concerns of the Committee on Intergovernmental Relations and the Executive Committee of the National Association of State Budget Officers during its consideration of amendments to the Social Security Act and the financing thereof.

Whereas, the Congress of the United States has now before it several proposals regarding the financing of the Social Security System, and

Whereas, state and local governments of the United States are vitally affected and concerned with these proposals, now, therefore,

Be It Resolved by the Committee on Intergovernmental Relations and the Executive Committee of the National Association of State Budget Officers:

1. That we urge the Congress to act expeditiously to assure the soundness of the Social Security System and that in this endeavor it adhere to certain principles:

a. There be no mandatory coverage for state and local units of government. Currently these units have the option of coming under the system or establishing an optional system. Many of these units have made independent provisions relating to the retirement of their employees and the mandatory coverage would be an additional and unnecessary burden on the financial resources of these units. Further, many of the benefits of these retirement systems were gained through the collective bargaining process and any enactment by the Congress of mandatory coverage would be a further benefit without any corresponding decrease in the benefits previously negotiated and covered under the local system. Further recent attempts by Congress to control wage and salary matters of state and local governments were declared unconstitutional.

b. In the event that mandatory coverage is the final action of Congress, it is suggested that the effective date be made several years in the future. This will allow for the necessary financial adjustments to be made within the state and local jurisdictions. Further, it will allow adequate time for court tests to be undertaken with reference to the mandatory coverage.

2. Further, the Committees believe the cost of participation in the Social Security System should continue to be an equal partnership between the employer and the employee. It would be unfair to require the employers, because they are fewer in numbers, to bear a disproportionate share of the increased cost of benefits. Except for the welfare component of the System, this is a retirement system and as such is and should be a substantial responsibility of the individual. An equal sharing of the cost does not seem unreasonable, as has been the history of the program since it was first enacted.

3. Further, the Committees believe General Revenue Funds should not be used on a continuing basis for support of the Social Security System. It may be necessary and

desirable in some instances to use General Revenue Funds to meet certain shortfalls in income; however, the rates should at all times be adequate to meet the benefits which Congress provides. Further, it would be desirable in some way to require the Congress by law to increase rates to meet any increased benefits. Any action which increases benefits without providing the increase in rates to finance those benefits is irresponsible and will continue to errode the public's confidence in financing the system.

4. Further, the Committee believes that in amending the Social Security Act as it relates to state and local units of government, Congress should recognize that basically the budgets of these units of government are fixed and as such are in a very poor position to respond to Congressional enactments during the year in which their budgets have already been enacted. This is very crucial to these units of government and Congress should consider the timing of these enactments and should delay the implementation date until such times as these units can respond to the appropriation of funds to meet the actions Congress has taken in this legislation.

Mr. CURTIS. Now, Mr. President, when this matter was heard before the Committee on Finance—how much time do I have left?

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. CURTIS. Mr. President, when this matter was before the Committee on Finance I asked one of the top actuaries of the United States who, for many years, was the chief actuary of the social security system, to illustrate how we had constructed the benefits schedule so it was the most generous to people of low income.

I ask unanimous consent that my question and his answer and illustrations found on pages 232 and 233 of those hearings be printed in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Senator CURTIS. As I say—I do not mention this in any way as criticism—I think that a national policy that is a social system should give preferential treatment to those people who must rely upon that solely, and the individual with rescurces and higher earnings can better be able to add things for his own retirement where many of the people cannot.

I don't want to take the time right now but, Dr. Myers, would you give, for the record, two or three illustrations both in retirement and in reference to survivors, the dollar amounts of some hypothetical cases which will illustrate that for the committee in the printed record?

Mr. MYERS. Yes, sir. I will be glad to do so, Senator.

[The following was subsequently supplied for the record:]

SILVER SPRING, MD., *June 27, 1977.*

Subject: Illustrations of social security benefits for persons at different earnings levels.

The attached table presents data on retirement and survivor benefits under the Social Security program for persons at different earnings levels. In summary, these figures indicate very considerable heavier weighting of benefits applicable to persons with low earnings.

The retirement case is for a man retiring in January 1977 at age 65, and considers only the primary benefit. An individual who had had low earnings in all years before 1977 (at least as far back as 1956) would have a benefit representing about 57 percent of his final wage. On the other hand, such an individual who had had maximum earnings in all years in the past (at least back until 1956) would have such a ratio of only 32 percent. Thus, the low-paid individual would have a relative benefit almost twice as large as the maximum-earnings case.

The lower part of the table shows survivor benefits for a widowed spouse and two eligible children. If the insured worker dies at age 35, the total family benefits are quite sizable, representing 67 percent of the final earnings for the maximum-earnings case and over 100 percent for the low-earnings case. On the other hand, if the deceased worker was older, these benefit percentages would not have been as high. Thus, for age at death 46 or older, the replacement rate would be about 57 percent for the maximum-earnings case. Thus there is again illustrated the much larger relative benefits for persons with low earnings, although the benefits are quite substantial in all cases.

The anomalous situation as to the extremely high benefits for workers dying at young ages (which would be even more if the age at death that was considered was under 30) has been pointed out at times in the past. It would be eliminated under the proposals that would decouple the benefit computations through the use of the wage-indexing method. Under such circumstances, the benefit results for all ages at death would be somewhat similar to those shown in the attached table for ages at death 46 or older.

ROBERT J. MYERS.

Attachment.

Illustrative social security benefits

Earnings category	Earnings in 1976	Monthly benefit payable	Replacement rate (percent)
Man retiring in January 1977 at age 65, primary benefit only:			
Maximum	$15,300	$412.70	32.4
Average	9,266	335.10	43.6
Low [1]	4,600	218.30	56.9
Person dying in January 1977 at age 35, family benefit for widowed spouse and 2 children:			
Maximum	15,300	856.40	67.2
Average	9,226	711.50	92.5
Low [1]	4,600	416.50	108.7
Person dying in January 1977 at age 46 or older, family benefit for widowed spouse and 2 children:			
Maximum	15,300	722.20	56.6
Average	9,266	168.60	80.5
Low [1]	4,600	328.90	85.8

[1] Assumed at $4,600 in 1976 and following the trend of the average wage in previous years.

Mr. CURTIS. As an illustration, a man retiring in 1977, age 65, if his earnings averaged $15,000, his social security benefit would be 32 percent of his earnings; if he only made $4,000 it would be 56 percent of his earnings. There are similar illustrations, but it will all show up in the record.

Mr. President, Thanksgiving is about on us. I would like to have the people of the United States, when they sit down to their Thanksgiving dinner, be thankful for the fact that Congress did not run away, that it did not try to raid the general fund or soak the people, but that they levied the tax necessary to pay these benefits.

The PRESIDING OFFICER. The Chair is advised that the Senator from Nebraska's time has expired, with 1 minute extra for Thanksgiving. [Laughter.]

Mr. CURTIS. I am sure many people are thankful that my time has expired. [Laughter.]

Mr. NELSON. No, I wish the Senator had more time.

Mr. President, I move to table the amendment, and I ask for the yeas and nays.

Mr. CURTIS. I think this is an important issue, and it should not be tabled, but the Senator has that right.

Mr. NELSON. Everybody knows the Senator is for his amendment and I am against it. If I move to table the Senator's amendment, it is an amendment I am against. If it is straight up or down——

Mr. CURTIS. The Senator is right. It carries a connotation and, for tactical reasons, it is used. It should not be used on this amendment. It is used many times, but I will not make any objection. It takes one more vote to table it than to pass it. Go ahead.

Mr. NELSON. Mr. President, with the consent of the Senator from Nebraska, I move to table and ask for the yeas and nays. [Laughter.]

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. STENNIS. Mr. President, the social security fund paid in is a trust fund for the benefit of the recipients. They have earned their payments.

Heretofore, I have voted against some of the increases in the benefits. The reason was, and I gave it at the time, that the added programs and benefits would cost more than the increase in taxes provided and the fund would become fi-

nancially unsound. This has now happened. There is no way out except to decrease benefits or increase the taxes.

Mr. President, I support the amendment by the Senator from Nebraska (Senator CURTIS). I do this because I am convinced that it would be a serious mistake for the Congress to depart from the historic concept that the burden of financing social security benefits should be shared equally by the employer and the employee.

The House of Representatives, in the social security financing bill which it adopted, increased the taxable wage base equally for employers and employees. The Senate Committee on Finance recommended that the wage base be raised higher and faster for employers than for employees. If the committee recommendation is adopted it will mark the first time in history that social security taxes have not been equal for employer and employee.

This year both employers and employees are paying taxes on the first $16,500 of earnings. Under existing law this is scheduled to rise to $17,700. Under the Finance Committee bill the maximum employer wage base would jump to $50,000 in 1979 and $75,000 in 1985. The maximum employee wage base would advance in much smaller steps, to $19,500 in 1979 and to $30,300 by 1985.

I certainly realize, Mr. President, that, with relatively fewer workers paying taxes to provide benefits for more retired Americans, higher payroll taxes are inevitable. This is the only course of action which will insure that present and future social security retirees will continue to receive their monthly checks and that the checks keep growing to offset the ravages of inflation. I have been warning for several years that the day of accounting on the solvency of the social security trust fund was approaching.

However, I believe that it would be a serious mistake for us to increase the employer wage base ceiling disproportionately and to the very high levels proposed by the committee bill. While I recognize that this approach has certain attractions, I believe that, in the long run, it would have negative, unpleasant, and unsound results. This is a matter of judgment, of course.

Mr. President, I hope that the Senate will not see fit to depart from the traditional concept that employers and employees will contribute to social security on an equal basis. I think that raising the wage base for employers more than for employees would be burdensome, unfair, and inequitable and I hope, therefore, that the amendment offered by the Senator from Nebraska will be adopted.

I wish it was possible to provide that no funds collected under these new tax schedules could ever be used to pay any benefits not provided by law through this or prior legislation. This would be a provision that could be modified by future congressional acts. I say now, however, with emphasis, that prudence dictates that future benefits should not be added unless completely new sources of revenue are also added to provide the money.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Wisconsin to lay on the table the amendment of the Senator from Nebraska. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Arkansas (Mr. BUMPERS), the Senator from Iowa (Mr. CULVER), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Kansas (Mr. PEARSON), and the Senator from New Mexico (Mr. SCHMITT) are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT) is absent on official business.

Mr. DOLE. Regular order, Mr. President.

The PRESIDING OFFICER (Mr. BAYH). The regular order has been called for, but that does not speed up the clerk's addition.

The result was announced—yeas 44, nays 45, as follows:

[Rollcall Vote No. 611 Leg.]

YEAS—44

Anderson	Hart	Metzenbaum
Bayh	Haskell	Moynihan
Bentsen	Hathaway	Nelson
Biden	Hollings	Pell
Brooke	Huddleston	Proxmire
Burdick	Jackson	Randolph
Cannon	Johnston	Ribicoff
Church	Kennedy	Riegle
Clark	Long	Sarbanes
Cranston	Magnuson	Sasser
DeConcini	Matsunaga	Stafford
Durkin	McGovern	Stevenson
Eastland	McIntyre	Weicker
Ford	Melcher	Williams
Gravel	Metcalf	

NAYS—45

Allen	Glenn	Packwood
Baker	Griffin	Percy
Bartlett	Hansen	Roth
Bellmon	Hatch	Schweiker
Byrd, Harry F., Jr.	Hatfield	Sparkman
Byrd, Robert C.	Hayakawa	Stennis
Case	Heinz	Stevens
Chafee	Helms	Stone
Chiles	Javits	Talmadge
Curtis	Laxalt	Thurmond
Danforth	Leahy	Tower
Dole	Lugar	Wallop
Domenici	Mathias	Young
Eagleton	McClure	Zorinsky
Garn	Morgan	
	Nunn	

NOT VOTING—11

Abourezk	Humphrey	Pearson
Bumpers	Inouye	Schmitt
Culver	McClellan	Scott
Goldwater	Muskie	

So the motion to lay on the table was rejected.

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from Nebraska. The yeas and nays have previously been ordered and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CURTIS. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. METZENBAUM. Mr. President, was the rollcall started?

Mr. PELL. Regular order, Mr. President.

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. May the Chair answer the point raised by the Senator from Ohio? The rollcall had started but the Chair is advised that no one had responded. The suggestion of the Senator from Nebraska is in order.

QUORUM

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Point of order, Mr. President.

The PRESIDING OFFICER. The Chair is advised the point of order will have to wait until after the quorum call.

The second assistant legislative clerk called the roll and the following Senators answered to their names:

[Quorum No. 65 Leg.]

Abourezk	Glenn	Morgan
Allen	Goldwater	Moynihan
Anderson	Gravel	Nelson
Baker	Hansen	Nunn
Bartlett	Hart	Packwood
Bayh	Haskell	Pell
Bellmon	Hatch	Percy
Bentsen	Hatfield	Proxmire
Biden	Hathaway	Randolph
Brooke	Hayakawa	Ribicoff
Burdick	Heinz	Riegle
Byrd, Harry F., Jr.	Helms	Roth
Byrd, Robert C.	Hollings	Sarbanes
Cannon	Huddleston	Sasser
Case	Jackson	Schweiker
Chafee	Javits	Sparkman
Chiles	Johnston	Stafford
Church	Kennedy	Stennis
Clark	Laxalt	Stevens
Cranston	Leahy	Stevenson
Curtis	Long	Stone
Danforth	Lugar	Talmadge
DeConcini	Magnuson	Thurmond
Dole	Mathias	Tower
Domenici	Matsunaga	Wallop
Durkin	McClure	Weicker
Eagleton	McGovern	Williams
Eastland	McIntyre	Young
Ford	Melcher	Zorinsky
Garn	Metcalf	
	Metzenbaum	

The PRESIDING OFFICER (Mr. MELCHER). A quorum is present.

The question is on agreeing to the amendment offered by the Senator from Nebraska. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Iowa (Mr. CULVER), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Iowa (Mr. CULVER) would each vote "nay."

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN), the Senator from Kansas (Mr. PEARSON), and the Senator from New Mexico (Mr. SCHMITT) are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT), is absent on official business.

The result was announced—yeas 40, nays 50, as follows:

[Rollcall Vote No. 612 Leg.]

YEAS—40

Allen	Garn	Percy
Baker	Glenn	Roth
Bartlett	Goldwater	Sasser
Bellmon	Hansen	Schweiker
Byrd, Harry F., Jr.	Hatch	Stennis
	Hatfield	Stevens
Byrd, Robert C.	Hayakawa	Stone
Chafee	Helms	Talmadge
Chiles	Laxalt	Thurmond
Curtis	Lugar	Tower
Danforth	Mathias	Wallop
Dole	McClure	Young
Domenici	Morgan	Zorinsky
Eastland	Nunn	

NAYS—50

Abourezk	Hart	Metcalf
Anderson	Haskell	Metzenbaum
Bayh	Hathaway	Moynihan
Bentsen	Heinz	Nelson
Biden	Hollings	Packwood
Brooke	Huddleston	Pell
Burdick	Jackson	Proxmire
Cannon	Javits	Randolph
Case	Johnston	Ribicoff
Church	Kennedy	Riegle
Clark	Leahy	Sarbanes
Cranston	Long	Sparkman
DeConcini	Magnuson	Stafford
Durkin	Matsunaga	Stevenson
Eagleton	McGovern	Weicker
Ford	McIntyre	Williams
Gravel	Melcher	

NOT VOTING—10

Bumpers	Inouye	Schmitt
Culver	McClellan	Scott
Griffin	Muskie	
Humphrey	Pearson	

So Mr. CURTIS' amendment (No. 1579) was rejected.

(Later the following occurred:)

Mr. BAYH. I apologize to my colleague and express my deep appreciation. Out of necessity, I have to be absent from the Chamber.

Mr. President, I ask unanimous consent that the vote I cast on the Curtis amendment which somehow or other was cast yea be changed to nay. This will not change the results. I have checked with Senator CURTIS and Senator NELSON and they have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing rollcall vote reflects the above order.)

Mr. NELSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. DECONCINI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.) The Senator from New Hampshire is recognized.

Mr. MCINTYRE. Mr. President, I shall call up my amendment.

Mr. DECONCINI. Mr. President, will the Senator yield?

Mr. CURTIS. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. MCINTYRE. I yield first to the Senator from Arizona.

Mr. DECONCINI. Mr. President, I ask unanimous consent that Lois Pfau, of my staff, be accorded the privilege of the floor during debate on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCINTYRE. I yield to the Senator from Nebraska.

Mr. CURTIS. Mr. President, I ask unanimous consent that Polly Gault, of Senator SCHWEIKER's staff, Dave Rust and Jack Miller, of the staff of the Aging Subcommittee, and Nancy Barrow, of Senator CHAFEE's staff, be accorded the privilege of the floor during consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCINTYRE. Mr. President, I yield to the Senator from Wyoming.

The PRESIDING OFFICER. The Senate will be in order.

Mr. MCINTYRE. I yield to the Senator from Wyoming.

Mr. WALLOP. Mr. President, I ask unanimous consent that Bob Reynolds of my staff, be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCINTYRE. I yield to the Senator from Ohio.

Mr. GLENN. Mr. President, I ask unanimous consent that Thomas Dougherty, of my staff, be accorded the privilege of the floor during consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MONYIHAN. Mr. President, I make the same unanimous-consent request for Dr. Finn and Miss Bardacke, of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCINTYRE. I yield to the Senator from Kansas.

Mr. DOLE. Mr. President, I ask unanimous consent that Jack Hunter, of my staff, be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, I ask unanimous consent that Mr. Gary Sellers, of Senator CRANSTON's staff, be accorded the privilege of the floor during consideration of this pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate will be in order.

The Senator from New Hampshire has the floor, and the Senate will be in order before we will proceed.

Will Senators take their seats so that the Senator from New Hampshire may proceed.

The Senator from New Hampshire.

AMENDMENT NO. 1580

Mr. MCINTYRE. Mr. President, I call up amendment No. 1580 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from New Hampshire (Mr. MCINTYRE), for himself and Mr. DURKIN, proposes an amendment numbered 1580.

Mr. MCINTYRE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert at the appropriate place the following:

VETERANS' PENSION AND COMPENSATION

SEC. 204. (a) Subsection (g) of section 415 of title 38, United States Code, is amended by adding at the end thereof the following new paragraph:

"(4) In determining the annual income of any individual who is entitled to monthly benefits under the insurance program established under title II of the Social Security Act, the Administrator, before applying paragraph (1)(G) of this subsection, shall disregard any part of such benefits which results from (and would not be payable but for) any cost-of-living increase in such benefits occurring pursuant to section 215(i) of the Social Security Act which occurs after September 1, 1978, and after the date on which such individual becomes eligible for dependency and indemnity compensation under this section.".

(b) Section 503 of title 38, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) In determining the annual income of any individual who is entitled to monthly benefits under the insurance program established under title II of the Social Security Act, the Administrator, before applying subsection (a)(6) of this section, shall disregard any part of such benefits which results from (and would not be payable but for) any cost-of-living increase in such benefits occurring pursuant to section 215(i) of the Social Security Act which occurs after September 1, 1978, and after the date on which such individual becomes eligible for pension under this chapter.".

(c) In determining the annual income of any person for purposes of determining the continued eligibility of that person for, and the amount of, pension payable under the first sentence of section 9(b) of the Veterans' Pension Act of 1959, the Administrator of Veterans' Affairs shall disregard, if that person is entitled to monthly benefits under the insurance program established under title II of the Social Security Act, any part of such benefits which results from (and would not be payable but for) any cost-of-living increase in such benefits occurring pursuant to section 215(i) of the Social Security Act which occurs after September 1, 1978,

(d) The amendments made by this section shall apply with respect to annual income determinations made pursuant to sections 415(g) and 503 (as in effect on and after June 30, 1960) of title 38, United States Code, and pursuant to section 9(b) of the Veterans' Pension Act of 1959, for calendar years beginning after September 1, 1978.

Mr. MCINTYRE. Mr. President, I ask unanimous consent that the Senator from New Hampshire (Mr. DURKIN), the Senator from Maine (Mr. HATHAWAY), the Senator from Michigan (Mr. GRIFFIN), and the Senator from Kansas (Mr. DOLE) be added as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCINTYRE. Mr. President, it is a simple amendment, and I shall try to be brief.

This amendment would make certain that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in monthly social security benefits due to cost-of-living increases.

I cannot go up to my State without hearing the veterans lament at the unfairness of the present veterans' pension program. The Congress passes a cost-of-

living increase to help social security recipients keep up with inflation, and yet the Government through the Veterans' Administration takes most of the increase by reducing the veteran's pension. Often the pensioner receives no increase. Clearly this is not what Congress intended.

Veterans' pensions, except in the cases of service-connected death or disability, are awarded in cases of great need or advanced age. The veteran's pension is equivalent to an amount which maintains his entire income at not more than $3,540. The amount of a veteran's pension is dependent on the difference between $3,540 and his total income from other sources. Since social security benefits are included in the sum of "other sources," his pension allowance is reduced by an increase in social security benefits. The social security system was established by Congress to protect citizens and their families when earnings are stopped or reduced because of the citizen's death, disability, or retirement. Benefits are paid to those who contributed a set minimum to the social security system during their working years or to their beneficiaries.

These two systems are the foundation of the Federal income insurance program in this country. Ideally, these systems, along with other social service programs such as medicare, medicaid, and veterans' medical services, should work in harmony to insure that those Americans who need assistance can obtain it. However, that is not the case today.

I know that each and every one of my colleagues has received many letters from constituents concerning this unfairness. I personally find it impossible to respond in any rational way for this unfairness. Members of the House and the Senate have introduced over 90 pieces of legislation in the 95th Congress to change this practice. There are three bills pending in the Senate Veterans' Affairs Committee that are similar to my amendment.

The Senate Veterans' Affairs Committee, under the most able leadership of Senator CRANSTON, has been wrestling with this problem for a long time. Clearly an overall reform of the pension program is in order and I know that this is the committee's No. 1 priority now that the GI Bill Improvement Act has been approved by the Senate. But even the committee cannot assure us that pension reform will pass both the House and the Senate next year. If that pension reform is approved, this amendment will most certainly be deleted in the course of its actions. But until that happens, I want to be able to tell New Hampshire's veterans the Senate realized there was an inequity in the law and that we made the law more equitable.

The Senate Veterans' Affairs Committee has not endorsed any of the bills offered by Senators DURKIN, PEARSON, and MATSUNAGA because of difficulties it sees in each. My amendment is modified in such a way as to make it more financially amenable. These bills have made the cost-of-living pass-through retroactive. My bill does not. Only cost-of-living increases after the enactment of this bill would not be counted in determining the veterans' pension. The problem of administration is simplified and the cost of my proposal further reduced by mandating that the pension of any veteran joining the veterans' pension plan after the enactment of this bill would be determined on the basis of the amount of social security benefits at the time they join the plan. However, any cost-of-living increases given after they joined the veterans' pension program would not be a cause for the redetermination of their pension level.

This amendment would add no further burden on the already overburdened social security system. This amendment would add, I admit, some cost to the veterans' pension program. However, if Congress and the Senate are sincere in their attempts to help veterans and the elderly survive inflation, the higher costs of food, rent, and especially fuel, this amendment must be passed.

Mr. President, we must put an end to this absurd system with its ravaging impact on the veterans of this Nation. Congress has tried repeatedly to increase veterans' pensions to compensate for declines caused by social security adjustments but this band-aid approach has just not worked. As the thousands of letters to Senators each year reveal, if this amendment is not adopted, many veterans' pension recipients with incomes below the poverty level will continue to lose their veterans' pensions as a result of the cost-of-living increases in social security benefits. There is no logic in the Government giving benefits with one hand and taking them away with the other, if the recipients are unable to maintain even a minimum standard of living. Mr. President, I urge the Senate to act now as they did 2 years ago to redress this wrong. I urge the adoption of my amendment.

Mr. DURKIN. Mr. President, will the Senator yield?

Mr. MCINTYRE. I yield to the distinguished Senator from New Hampshire.

Mr. DURKIN. I thank my distinguished colleague. I am pleased to join with my colleagues Senator MCINTYRE of New Hampshire and Senator HATHAWAY of Maine in sponsoring this amendment, and I am pleased to have this opportunity to address the Senate.

This amendment would insure that all veterans including World War I veterans are fairly and adequately covered. Every time I have toured or visited a senior citizens center or VA hospital in Manchester, the first thing veterans ask is, "Are we going to be victimized again or are we going to receive a small increase in our social security, and is our veterans pension going to be reduced as a result of that?"

You know we spend an awful lot of money around here. But it seems to me regrettable we have to so torment the veterans who are looking forward to social security, looking forward to maintaining their right to survive.

Earlier this year I introduced legislation which was aimed at ending this inequity by disregarding cost-of-living increases under social security when determining annual veterans pension benefits. Regrettably, we have not been able to get action in the Veterans' Committee on my bill.

The proposal before the Senate today will guarantee that actual cost-of-living increases under the social security system cannot be used to reduce the amount of a veterans pension allowance. Needy and deserving veterans who are forced to live on a veteran's pension and social security should be able to receive an income which enables them to survive at a decent standard of living.

We are not talking about the wealthy; we are not talking about those who are clipping coupons in some Florida condominium. We are talking about people who are struggling to exist, struggling to pay their oil bills, struggling to pay tneir electric bills, struggling to survive.

I think this amendment provides the wherewithal for these unfortunate citizens, these veterans who fought so hard for this country when I was still in school to have a dignified existence.

Mr. President, this amendment simply says that the Government should not give with one hand and take with the other. The purpose of social security cost-of-living increases is to keep inflation from eroding the value of these hard-earned benefits. Yet the intent of these increases has been frustrated by a system under which the benefits are reduced by any corresponding increase in monthly social security benefits.

The Congress has made a determination that cost-of-living increases are essential for those receiving benefits and attempting to live a decent life on fixed incomes. A result which takes away these increases is not only unfair to millions of veterans, but it also clearly denies the congressional purposes in allowing cost-of-living increases.

Mr. President, we have here an opportunity to end a system which unfairly deprives veterans of the full value of their benefits. I, therefore, strongly urge my colleagues to join in adopting this amendment as a means of correcting this long-standing inequity.

Mr. MCINTYRE. Mr. President, I thank my colleague for his support.

I ask unanimous consent that the distinguished Senator from Alabama (Mr. ALLEN) and the distinguished Senators from North Carolina (Mr. HELMS and Mr. MORGAN) be added as cosponsors to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from California (Mr. CRANSTON).

Mr. CRANSTON. Mr. President, this is a veterans' pension amendment, not a social security amendment. Veterans' pension benefits are related to need—they should take into account other sources of income. The amendment gives preferential treatment to veterans with social security income compared to veterans with other kinds of income, or no other income. After a few years this would result in very large differences in the adequacy of benefits without any relationship to need.

By giving significantly increased

amounts to those pension recipients with the least need, the amendment would deny the Congress an opportunity to provide substantial increases to those pension recipients who need it most—the veterans with little or no income other than their pension.

Enactment of this amendment will, in fact, render it difficult if not impossible to achieve the much needed reform of the pension program, by setting up arbitrary classes of protected pensioners.

Mr. CRANSTON. Mr. President, while I share the Senator's deep concern that needy veterans and survivors receiving pension, who also have social security income, not be deprived of the full benefit of a social security cost-of-living increase because of the lack of coordination between the social security system and the way in which veterans' pension payments are determined, I do not at all agree that the approach contained in this amendment is a constructive solution to the problem, or, indeed, a solution at all. As I have many times reiterated, a major priority of the Committee on Veterans' Affairs is the restructuring of the need-based pension program. The pension reform bill which I intend to introduce will restructure the system in a way that will coordinate the payment of veterans pension with the social security system so that no pensioner receiving pension under the new program can ever lose the benefit of even $1 of a social security cost-of-living increase. Moreover, I have directed the staff of the Veterans' Affairs Committee to investigate ways in which this problem could be solved for those persons who do not elect, or who are not eligible for, pension under the new program we will be proposing.

This amendment would substantially interfere with the goal of making the pension system more equitable, because it benefits only those who have social security income, and does nothing to assist those without such income.

There are two other very important arguments against this amendment. First, it would set up arbitrary and discriminatory classes of pensioners who had social security income. Such pensioners would receive widely varying pension amounts not because the needs or even the other income available to these pensioners differ, but only because the pensioners entered the program in different years. In other words, the pensioners who would benefit the most are those who are currently receiving pension or who begin to receive it before July 1, 1979. They would receive larger pensions than those in succeeding years who have identical social security incomes; new pensioners in each succeeding year would always be worse off than those in all the previous years. For example, a current pensioner with $250 per month of social security income, this year has $225 "countable income," as that term is used by the VA. If the CPI increases at 6 percent during the next few years, and if the Senator's amendment were enacted, the same pensioner's "countable income" in 1981 would be $219, less than it is now, because of the compounding effect of the annual cost-of-living adjustments in social security. But even worse, a new pensioner in 1982—who has equivalent social security income—would have "countable income" of $263, $44 more than the first pensioner. The first person would have a much larger pension than the second—and I repeat, the only difference between them would be the years in which they entered the pension program. Moreover, the inequity illustrated by this example would be annually compounded; and the end result woud strike at the very foundation of the need-based pension program.

Second, this would be a very costly change. A CBO estimate of the first-year cost of a nonretroactive bill similar to this amendment is $118.9 million, which would have fiscal impact in 1980. In other words, no one would benefit from this amendment until 1980. The very people intended to be helped would have to wait until 1980 before they would receive any additional pension payment resulting from this amendment. This amendment is thus a hoax in terms of real help to beleaguered pensioners. Its effective date of September 1, 1978, is totally illusory and makes a mockery of the Congressional Budget Act and process.

While it has been impossible, because of the constraints of time, to obtain an estimate of the cost of this amendment for future fiscal years, we are informed by CBO that the 5-year cost would probably be in the billions of dollars. The device of allowing future pensioners to exclude only prospective social security cost-of-living increases has very little effect on the very high cost in future years. And most significantly, the cost does not begin to go down in future years; it would rise continuously.

Mr. President, as chairman of the Veterans' Affairs Committee, I strongly oppose this amendment. It seems to deal with a very real problem, but in an inequitable and unrealistic way.

As to the effect of last July's social security 5.9 percent increase, the House and Senate have just agreed to a 6.5-percent pension increase bill, H.R. 7345, which would insure that almost all of the more than 1.7 million veterans' pensioners who also receive social security benefits will have their pension benefits increased in January, 1978, because of the change in pension rates contained in H.R. 7345, and the average annual increase will be $95.

This amendment is neither fair nor equitable. I, therefore, hope it will be tabled, and intend to move to do so in just a moment.

Mr. DURKIN. Mr. President, will the Senator yield for a question?

Mr. CRANSTON. Certainly.

Mr. DURKIN. As you know, I serve on the Veterans' Committee with my friend from California, and I commend him for his long abiding concern with veterans and their problems. He has been a leader in the Senate in helping the veterans, and I have joined him.

But why do we have to torment these poor souls while we wait for the Veterans' Committee of the Senate and the Veterans' Committee of the House of Representatives to act on a pension for them? Why can we not take care of these people now, and then address the full realm of pension reform early next year? God knows we are not going to get to it this year, and this is some Christmas present we are sending to the veterans.

They read in the paper that they are getting a social security increase, and they are happy, they smile, for about 5 minutes; and then they turn around and hear that veterans' pensions will be reduced. I, for the life of me, cannot understand why we have to wait for the congressional budget process in order to help these unfortunate souls. They cannot burn the congressional budget process and all the hallowed traditions of this place in their furnaces and oil burners. They have a pressing need which should be met right now; and while we have our hallowed halls and traditions and conferences, what do these veterans have? Why do these people have to wait?

Mr. CRANSTON. The basic problem is that while we need pension reform generally, the more we press for it now, the more difficult it will be to achieve meaningful pension reform.

Mr. DURKIN. Will the Senator yield right at that point? Are you telling me we are going to hold these poor people hostage? That is what we would be doing if we wait, holding these people hostage to some hallowed tradition in this place and I submit that is unfair.

Mr. CRANSTON. The amendment would not help anyone until 1980, so we are hardly holding them hostage, since we expect and intend to achieve pension reform before 1980.

I also stress very strongly that the amendment discriminates between and among veteran pensioners, and against veteran pensioners who do not have social security benefits.

Mr. McINTYRE. Mr. President, will the Senator yield?

Mr. CRANSTON. I yield to the senior Senator from New Hampshire.

Mr. McINTYRE. I thank the Senator from California. As I understand, this amendment would become effective and payments would be made pursuant to this amendment in 1979, not 1980.

It is my understanding that the distinguished Senator from California intends to move to table the amendment, so at this time I would like to ask for the yeas and nays on my amendment or any motion thereto.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BELLMON. Mr. President, will the Senator from California yield?

Mr. CRANSTON. I am happy to yield to the Senator from Oklahoma.

Mr. BELLMON. Mr. President, I rise in opposition to this amendment.

The McIntyre amendment has clearly been written to circumvent the budget process. There is not sufficient room in the 1978 second budget resolution to fund the full year effect of the McIntyre amendment. To delay the effective date of fiscal 1979—beyond October 1, 1978—would require a section 303 waiver. The September 1, 1978, date will result in no fiscal 1978 spending. Therefore, it is

technically consistent with the budget resolution and the provisions of the Budget Act. Such action would seriously violate the spirit of the Budget Act and distort the intent of the budget resolution by creating a substantially higher entitlement base on which fiscal 1979 spending decisions will be made than was anticipated by Congress in adopting the 1978 budget resolution.

We are going to get different figures of what this is likely to cost, but my estimates are that the first-year cost will be somewhere around $200 million.

Because of income and payment determinations which will not be made until after January 1, 1979, there will be no impact on the fiscal 1978 budget.

The unofficial estimate of the total 5-year cost of this amendment is around $1 billion; so I would join the Senator from California (Mr. CRANSTON) in opposing the amendment, and hope the Senate will give time for the Veterans' Affairs Committee and the Budget Committee to consider seriously the impact of the action that we are about to take.

Mr. CRANSTON. I thank the Senator very much.

Mr. McINTYRE. Mr. President, may I be recognized in my own right?

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. McINTYRE. I yield to my good friend from Maine.

Mr. HATHAWAY. I thank the Senator for yielding. It is a pleasure to join with him and his junior colleague in sponsoring the pending amendment.

While the amendment may not be a perfect solution to the problem, and while I believe that reform of the veterans' pension program, of course, is necessary, I agree with both of the Senators, and those who have spoken in favor of the amendment, that the veterans cannot wait. We cannot ask them to wait for 2 or 3 years more for us to correct what we believe and I think the majority in this body believe is a gross inequity. I certainly hope Congress will take action on pension reform before the provisions of this amendment are effective; but I want the Senate to pass this amendment, so that in the eventuality that the veterans pension reform is delayed once again, America's veterans will be able to keep their meager cost-of-living increase.

Mr. President, this amendment is crucial to veterans. It is crucial to Congress. In adopting this amendment, we can show the veterans throughout the country that we are not insensitive to their needs, and that we are not going to continue this absurd policy of giving with one hand and taking away with the other.

I thank the Senator for yielding.

Mr. McINTYRE. I thank my able friend from Maine.

Mr. ROTH. Mr. President, of the dozens of Government policies which make no sense, the one we are discussing now is among the worst. For years I have received mail from constituents who want to know why the Government takes away with one hand what it gives with the other. I can see no justification for continuing a system in which we vote a social security increase because elderly pensioners need more money, then automatically reduce their veterans pension because social security has risen. It is a policy which makes utterly no sense and is totally unexplainable.

I favor Senator McINTYRE's amendment because it will eliminate this system. I have discussed this problem with members of the Veterans' Affairs Committee in the past, and know that some prefer to address this problem in the context of overall pension reform. Personally, I see no need to wait. The issues involved are simple and straightforward, familiar to every Member of the Senate. There is no need to delay any further, so I urge others to also support this amendment.

The PRESIDING OFFICER. If the Senator from New Hampshire will permit the Chair to clarify a point, the Senator from New Hampshire earlier asked for the yeas and nays on his amendment or any motion in relation thereto. The Chair would state to the Senator from New Hampshire that such a motion would require unanimous consent for it to be in order. The Senator could ask for the yeas and nays on his amendment separately without unanimous consent.

Mr. McINTYRE. Mr. Presdent, the Senator from New Hampshire asks for the yeas and nays on his amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. McINTYRE. Mr. President, I yield the floor.

Mr. BELLMON. Mr. President, on behalf of myself, Mr. EAGLETON, and Mr. DOMENICI, I send a motion to the desk and ask that it be reported.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

I move to commit the pending bill to the Committee on Finance, with instructions to report the bill during the month of February 1978.

Mr. DURKIN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DURKIN. Is that motion in order?

The PRESIDING OFFICER. The motion is in order.

Mr. CRANSTON. Would the Senator mind withholding until we dispose of the pending amendment?

Mr. BELLMON. Mr. President, it would seem to me it would be advantageous to dispose of the motion before we dispose of the amendment.

Mr. President, H.R. 9436, the social security financing bill, is intended to be the major piece of social security legislation maybe the most significant we shall see for the balance of the 20th century.

It is clearly a highly significant bill and may be the most significant bill that has been considered since social security was created. It is intended to solve the financial defects of the present system for at least the next 30 years. I believe that, as Members of the Senate, we owe it to ourselves and to our constitutents to make certain that the costs and the full implications of this bill and the amendments thereto are fully understood before we vote on them. The bill, Mr. President, was taken up by the Senate the very day it was reported. Copies of the bill were not available until the middle of the afternoon yesterday.

Mr. President, does it take unanimous consent to put my motion over until after the vote on the McIntyre amendment?

The PRESIDING OFFICER. Yes, it would. The motion of the Senator from Oklahoma takes precedence.

Mr. ALLEN. Mr. President, I ask unanimous consent that the Bellmon motion be temporarily laid aside until after disposition of the McIntyre amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

Without objection, it is so ordered.

The question is on agreeing to the amendment as offered by the Senator from New Hampshire.

Mr. NELSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CAMMILLA A. HESTER

Mr. ALLEN. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1269.

The Presiding Officer laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1269) entitled "An Act for the relief of Cammilla A. Hester", do pass with the following amendment:

Page 2, line 4, strike [15] and insert: 10.

Mr. ALLEN. Mr. President, in this small relief bill, the Senate provided for an attorney's fee of 15 percent of the amount recovered. The House cut that fee down to 10 percent. I did not even know the bill provided for an attorney's fee, but I do approve of the reduction to 10 percent. It is the only thing in the House amendment.

I move that the Senate concur in the House amendment.

Mr. NELSON. What is the request, Mr. President?

Mr. ALLEN. That the Senate concur in the House amendment.

Mr. NELSON. Is that applicable to the social security bill?

Mr. ALLEN. No, Mr. President, it has nothing to do with it.

The PRESIDING OFFICER. The question is on agreeing to the motion to concur in the House amendment to the Senate bill.

The motion was agreed to.

SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

The Senate continued with consideration of the bill.

Mr. CRANSTON. Mr. President, is it in order now to ask for the yeas and nays on a tabling motion on the McIntyre amendment?

The PRESIDING OFFICER. It is. The tabling motion has not yet been made. It will take unanimous consent to ask for the yeas and nays.

The motion to table is in order. Then it would be in order to ask for the yeas and nays.

Mr. CRANSTON. I want to make one statement about the effective date and the question of whether or not we are holding anybody hostage.

The date of the first social security cost-of-living increase after September 1, 1978, is July 1, 1979. That is the first increase to be affected by the pending amendment by its own terms. It will not affect the payment of pensions until February 1, 1980. This results from the fact that even though the social security cost-of-living increase occurs in July 1979, it cannot have any effect on the pension payment until after the end of the calendar year, that is, January 1, 1980, and even then, under the law, would not affect the pension payable until February 1980, because a rate increase is only payable for the month following the month in which it becomes effective. Not one pensioner will benefit from this amendment until that time.

I move to lay on the table the pending amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Arkansas (Mr. BUMPERS), the Senator from Iowa (Mr. CULVER), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Nevada (Mr. LAXALT), the Senator from Kansas (Mr. PEARSON), the Senator from New Mexico (Mr. SCHMITT), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT) is absent on official business.

I further announce that, if present and voting, the Senator from Wyoming (Mr. WALLOP) would vote "nay."

The result was announced—yeas 20, nays 68, as follows:

[Rollcall Vote No. 613 Leg.]

YEAS—20

Bellmon	Eagleton	Moynihan
Bentsen	Gravel	Nelson
Byrd, Harry F., Jr.	Hansen	Packwood
	Hollings	Randolph
Byrd, Robert C.	Leahy	Ribicoff
Chafee	Long	Stafford
Cranston	Lugar	Stevenson

NAYS—68

Allen	Goldwater	Metzenbaum
Anderson	Griffin	Morgan
Baker	Hart	Nunn
Bartlett	Haskell	Pell
Bayh	Hatch	Percy
Biden	Hatfield	Proxmire
Brooke	Hathaway	Riegle
Burdick	Hayakawa	Roth
Cannon	Heinz	Sarbanes
Case	Helms	Sasser
Chiles	Huddleston	Schweiker
Church	Jackson	Sparkman
Clark	Javits	Stennis
Curtis	Johnston	Stevens
Danforth	Kennedy	Stone
DeConcini	Magnuson	Talmadge
Dole	Mathias	Thurmond
Domenici	Matsunaga	Tower
Durkin	McClure	Weicker
Eastland	McGovern	Williams
Ford	McIntyre	Young
Garn	Melcher	Zorinsky
Glenn	Metcalf	

NOT VOTING—12

Abourezk	Inouye	Pearson
Bumpers	Laxalt	Schmitt
Culver	McClellan	Scott
Humphrey	Muskie	Wallop

So the motion to lay on the table amendment No. 1580 was rejected.

Mr. McINTYRE. Mr. President, I move the adoption of my amendment.

The PRESIDING OFFICER (Mr. STEVENSON). The question is on agreeing to the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

Mr. McINTYRE. Mr. President, I ask unanimous consent that the order for the yeas and nays be vitiated.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. McINTYRE. Mr. Persident, I ask unanimous consent that the names of the following Senators be added as cosponsors of the amendment: the Senator from South Carolina (Mr. THURMOND), the Senator from Oregon (Mr. HATFIELD), the Senator from Idaho (Mr. CHURCH), the Senator from Montana (Mr. MELCHER), and the Senator from Kentucky (Mr. FORD).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, I wonder whether the Senator from New Hampshire will yield for a question, just for my information.

Mr. McINTYRE. I am happy to yield.

Mr. NELSON. What is the fiscal projection of the cost of this bill when the 14 million World War II veterans reach age 65?

Mr. McINTYRE. I do not know. The cost projected for 1979 would be $200 million.

Mr. NELSON. In 1979. And most of the World War II veterans have not yet reached 65. Does the Senator have any idea of what we are doing with our money?

Mr. McINTYRE. Will the distinguished Senator listen for a minute to the response?

What this amendment attempts to do is to address an inequity which has been going on for years. We all heard the distinguished Senator from California say that his pension reform bill is in the works. That bill treats all this equitably and correctly. It will be able to diminish some of the financial blow of this bill.

In the meantime, the amendment allows a year for the Veterans' Committee to come up with a pension reform bill; and if it does not do so, we think this inequity should be corrected, and that is the reason for this amendment.

Mr. NELSON. I should like to make one point on this matter.

I am sure there are inequities. I never saw the amendment until an hour ago. But I make the point that it is time that the U.S. Senate and Congress passed a rule that said that no amendment affecting pensions can be adopted without being referred to an appropriate pension committee, with a fiscal note.

I do not know how many billions we are dealing with. In the Wisconsin State Legislature, any amendment offered on the floor on a pension proposal is out of order. It has to go to the pension committee; and when the pension committee looks at the proposal and makes the appropriate fiscal note, it is the last you ever heard of the amendment because of the billions these kind of proposals cost.

Those Senators who talk fiscal responsibility to constituents and all over these Chambers ought to say, "For Heaven's sake, let us at least be honest enough to recognize that we are all cowards when it comes to giving something away—especially the Treasury."

Mr. McINTYRE. Mr. President, the amendment of the Senator from New Hampshire was at the desk as of yesterday, so the distinguished manager of this bill had ample opportunity to read it and be acquainted with it.

Mr. NELSON. I take it back. So, among all that pile of amendments, there was one at the desk yesterday, which I point out is entirely nongermane to the pending legislation.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Hampshire.

The amendment was agreed to.

Mr. DURKIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McINTYRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SILETZ INDIAN TRIBE RESTORATION ACT

Mr. HATFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1560.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 1560) to restore the Confederated Tribes of Siletz Indians of Oregon as a federally recognized sovereign Indian tribe, to

restore to the Confederated Tribes of Siletz Indians of Oregon and its members those Federal services and benefits furnished to federally recognized American Indian tribes and their members, and for other purposes.

(The amendment of the House is printed in the House proceedings of the RECORD of November 1, 1977.)

Mr. HATFIELD. Mr. President, this matter has been cleared on both sides.

It is with a great deal of pleasure that I speak once again in support of S. 1560, the Siletz Restoration Act. I hope this will be the last time I do so, for it is my hope and expectation that this body will approve the House-amended version of this legislation and send it on to the President for his signature.

Mr. President, the Confederated Tribes of the Siletz Indians were one of those tribes singled out for termination by Federal statute in the 1950's. The termination acts did not abolish the tribes themselves, but they did dissolve the special relationship that had existed between the tribes and the Federal Government, disestablished the reservations, and ended all services for the affected groups. It was hoped that this action would end the paternalistic control of the Federal Government over Indian life, and provide the impetus to assimilate Native Americans into the mainstream of the dominant culture.

As has been made abundantly clear by now in the case of all the terminated tribes, the policy did not work as planned. In fact, it was a disastrous mistake. The terminated tribes found themselves stuck between two cultures—ignored by the Government as Indians, yet lacking the economic wherewithal to successfully manage entry into the white society.

The evidence of this failure is painfully clear in the case of the Siletz Indians. They have serious medical and dental needs, their family income is deplorably low, they suffer from inadequate education, and cannot find work. The grim statistics are presented in Senate report 95–386, the Select Committee on Indian Affairs report on the version of S. 1560 passed unanimously by the Senate last August 5.

I think it is quite clear, Mr. President, that an injustice was committed against the Siletz people, and it must be corrected. By passing this bill and providing the Siletz with necessary Federal services and benefits, we will correct that injustice and give them the tools they need to become economically self-sufficient.

Unfortunately, Mr. President, this small tribe's struggle for restoration has been caught up in a larger and much more controversial debate about Indian hunting and fishing rights in the Pacific Northwest. There have been fears, largely unfounded but strongly felt, that this bill would somehow confer upon the Siletz Indians special fishing rights free of State regulation, or other rights attaching to the existence of Indian country. It has become necessary, therefore, to say what this bill does not do as well as what it does do.

First, the bill is quite explicit in section 3(c) that it "shall not grant or restore any hunting, fishing, or trapping right of any nature, including any indirect or procedural right or advantage, to the tribe or any member of the tribe."

Second, the bill does not create a reservation. Rather it establishes a procedure by which the Secretary of the Interior shall consult with all interested local parties, and those parties are listed in the bill, develop a plan for the establishment of a reservation, and submit that plan to the Congress within 2 years for consideration.

At this juncture, Mr. President, I want to point out that the bill as passed by the House does not contain the language of the Senate bill directing that the reservation plan developed by the Secretary and submitted to the Congress be given priority on the calendars of the appropriate committees of the House and Senate. The House Interior Subcommittee on Public Lands and Indian Affairs decided that since the language could not bind any future Congress, it should be deleted.

Despite this action, it is certainly my hope that the plan will be given priority, and acted upon one way or another by the appropriate committees of the two Houses as soon as possible after its delivery to Congress. Prompt action will be the most equitable procedure for all parties.

Third, in the event that a reservation is created pursuant to the plan developed by the Secretary, approved by the tribe, and approved by Congress, that act of creation will not establish any special hunting or fishing rights, as clearly stated in section 7(d)(2) of the bill, to wit:

> The establishment of such a reservation will not grant or restore to the tribe or any member of the tribe any hunting, fishing, or trapping right of any nature, including any indirect or procedural right or advantage, on such reservation.

Fourth, the bill as amended by the House makes it clear that no Siletz reservation exists now. Language was added to this effect in response to the concern that the former Siletz reservation may have somehow survived termination.

Fifth, since the bill does not create a reservation or "Indian country," no rights attaching to the existence of a reservation or Indian country are granted or restored.

Sixth, this bill will not enhance or detract from the standing of the Siletz to press a land or water claim that they may have pending at this time or in the future. Representative COHEN of Maine expressed some concern about this matter during House debate, emanating from his interest in the Maine and Massachusetts Indian land claim cases. He received assurances in the House that this bill does not alter the tribe's ability to bring such a claim one iota, and I would like to add to those assurances.

Mr. President, I hope I have made it unmistakably clear from these remarks what this bill seeks to do. We are trying here to correct an injustice, to help a tribe help itself out of the poverty and misery brought on by the misguided policy of termination. I urge the Senate to speedily approve S. 1560 as amended by the House and send the bill on to the President for his signature, so that the process can begin.

Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. MELCHER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I am delighted that the Siletz Restoration Act has passed Congress at last and is now on its way to the President for his signature.

I express my congratulations to Mr. Art Bensell, the Siletz tribal council chairman, and the other tribal leaders, whose long-suffering patience and hard work has been finally rewarded, and to Mr. Charles Wilkinson and Mr. Don Miller, lawyers for the tribe, who have been of invaluable help in drafting language responsive to the concerns of all parties.

I thank my colleagues on the Select Committee on Indian Affairs, especially the ranking minority member, Senator BARTLETT, and our chairman, Senator ABOUREZK, for their expeditious action on the bill.

Finally, Mr. President, I express my special appreciation for my Oregon colleague in the House, Representative LES AUCOIN, for shepherding the bill through the House with persistence, determination, and courage. I am very glad his efforts have been rewarded.

SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

The Senate continued with the consideration of H.R. 9346.

The PRESIDING OFFICER. The question occurs on the motion of the Senator from Oklahoma.

Mr. BELLMON. Mr. President, is it necessary that the motion be restated?

The PRESIDING OFFICER. It is not necessary. It can be done if the Senator so chooses.

Mr. BELLMON. Then for the enlightenment of the Members in the Chamber let me say that this is simply a motion to commit H.R. 9346 to the Finance Committee to report it back during——

Mr. NELSON. May we have order so we can hear the Senator?

Is this the Senator's motion to refer the social security bill to the Finance Committee?

Mr. BELLMON. That is true.

Mr. NELSON. With a report-back date of what?

Mr. BELLMON. During the month of February.

Mr. NELSON. During the month of February.

Mr. BELLMON. It gives the committee a good bit of flexibility.

Mr. President, I pretty well made my arguments.

I sum up by saying that this bill was brought out from the committee the same day it was brought to the floor. We did not have copies of it until midafternoon yesterday. The committee report was put on our desk this morning. It is 180 pages long. There are many amendments to the bill that are going to be subject to points of order unless we can somehow or other get the Budget Committee together to consider all of these amendments and try to determine what their financial impact will be.

It seems to me that there is no hurry on this legislation, that it does not go into effect until toward the end of next fiscal year. There is ample time to consider the legislation in an orderly way, and I am frankly at a loss to see what the big hurry is. I believe it would be very much in the interest of getting a better bill to commit it to the committee and give them time to consider it and then take it up in an orderly way.

Mr. President, I ask for the yeas and nays on my motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ALLEN. Mr. President, I support the motion to recommit and, in fact, I am privileged and honored to be a cosponsor of the motion.

There is no reason at all to speed this bill through the Senate, to the conference committee, and for final adoption before we adjourn here later this month, I assume.

The provisions of the bill do not become effective until October 1 of next year. Therefore, nothing will be lost by waiting until next year to give the Finance Committee ample opportunity to study this measure more carefully.

We have the matter before us. The committee report came in only this morning. Senators have not had an opportunity to study it. In addition, it seems likely that the bill is going to become something of a Christmas tree. I think in the interest of having a sound bill it would be much better if the Finance Committee had further opportunity to study this matter. Then, too, Mr. President, Congress is apparently embarking upon the largest tax-raising program in history, and this bill forms a major part of that tremendous tax increase. No one knows what the energy package is going to cost the taxpayers of this country. I would daresay, before it is over, in excess of $50 billion a year is a ball park estimate.

The distinguished manager of the bill in colloquy with me on yesterday conceded that through 1983 this bill before us would raise the tax burden on the workers of this country and their employers over and above what the present law provides and the increases provided by the present law, in just 5 years through, that is through 1983, the tremendous sum of $72 billion.

We are hopeful that Congress is going to adjourn soon and give us an opportunity to go back to talk with our constituents, talk with the people whom we represent and give them some opportunity to have some input into our deliberations. They have not had that opportunity up to now. And that is one of the main reasons why we should take a little more time to consider this matter more fully. I do not believe that the people are going to look with a great deal of favor on Congress ramming this bill through with little opportunity for individual Members to master the complexities of the legislation and to come up with sound legislation.

What is the crisis? Is there a crisis? Is there a crisis that demands action now rather than in February of next year, as the motion provides? It was established in colloquy on yesterday that there is in the social security fund at this time some $40 to $43 billion, and it is being depleted at the rate of $6 billion a year. That depletion amount really has nothing to do with it, because waiting until February will not deplete the fund 1 cent more than does action on the bill at this time, because the increases do not take effect until October 1 of next year.

So either way, acting now or acting in February, there is no difference between either form of action in the impact on the social security fund. If we are running the risk of anyone being denied his social security benefits, that would be one thing. That is not correct.

I feel that this measure, imposing this tremendous tax burden on the people, should be considered more to see if there is another angle that might be pursued. I have an amendment. I do not know whether my amendment will be ruled to be in order or not. But I want the Finance Committee to consider this if we postpone the measure until February. The bill would not stay before the Senate under this motion. It would go back to the Finance Committee where they would have ample opportunity to study it, analyze it, and then report it back in an approved fashion I would hope. But the amendment that I have to offer, if it is ruled to be in order I will certainly offer it. As we all know, the individual employees and self-employed, persons who are independent and work for themselves, cannot deduct from Federal income tax the social security payments; whereas, of course, the employer of a taxable entity is able to deduct social security taxes. But I have an amendment that would allow employees and individual self-employed persons to deduct from taxable income 50 percent of the amount they have paid in social security taxes. I think that is only fair, because the social security tax skims the money off the top of a person's earnings. He has no deductions whatsoever. He has to pay a tax on a tax, in fact, because he has to pay a tax on that income that he earns even though he pays it out in social security taxes.

My amendment would allow him to claim as a deduction—not a credit but a deduction—half of the amount he pays in social security. I think that is only fair. But that could not be acted on unless it is ruled to be not offensive to the Budget Act.

I believe we come up with a better bill. Everyone recognizes the necessity of having to do something in time, but it is a matter of timing. I do not believe there is any necessity whatsover of ramming this through at this time.

Why is this delay being provided? Well, it is being provided, as I see it—that is, the delay until October 1 of next year—to let this matter just come on the people more or less gradually, and they would not be able to put the finger on just where the increase came from.

But I believe the people are a whole lot smarter than that, and they are going to know it came from action here in the Senate right at this time, if that is what the Senate elects to do.

This will not do any violence, sending it back to the committee with instructions to report it back in February, to the bill. It will not do violence to the Committee on Finance, but it woud give us an opportunity to have a better considered piece of legislation, and I hope the Senate will agree to send the measure back to the Committee on Finance for further study and further action.

Mr. President, I ask unanimous consent that a Dear Colleague letter dated November 3, 1977, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.
November 3, 1977.

DEAR COLLEAGUE: We believe it would be a grave mistake for the Senate to hastily vote on H.R. 5322, the Social Security Financing Bill, in these last hours of this session. There are very significant economic costs and policy implications in this bill. All key effective dates in the reported bill occur in fiscal year 1979 which will not begin until next October 1. Thus. a postponement of consideration for three months, until February 1, 1978, would have no effect on the anticipated implementation of the key provisions of the bill. Postponement of consideration of the bill until February 1 will allow time to study the report on this bill and allow time for careful analysis. As you know the bill was taken up by the Senate the very day it was reported, and a printed report has only now been made available.

A more orderly consideration of this bill will have no impact on the solvency of the Social Security trust funds and will not adversely affect any recipients of Social Security benefits. On the contrary, the rushed consideration of the bill now underway is far more likely to produce unsatisfactory results, both for long-term solvency of the trust fund and the adequacy of benefits for beneficiaries of the Social Security system.

Under these circumstances, we plan to move to recommit the bill to the Finance Committee with instructions to report the bill back on February 1, 1978. Our recommittal motion will not impair consideration of this vital Social Security legislation. Rather, it assures orderly passage of the best possible bill in considered circumstances.

We hope you are able to join us in our recommittal motion.

Sincerely,

HENRY BELLMON,
BARRY GOLDWATER,
THOMAS F. EAGLETON,
JAMES B. ALLEN.

Mr. DOMENICI. Mr. President, will the Senator from Oklahoma yield? Is there any time limit on this motion?

The PRESIDING OFFICER. There is no time, there is no order entered on it.

Mr. DOMENICI. Mr. President, I thank the Senator from Oklahoma.

I am privileged to be a cosponsor of this motion to recommit the pending bill with instructions. I commend the Senator from Oklahoma for bringing this matter to the Senate for deliberation at this time.

I agree wholeheartedly with the Senator from Alabama (Mr. ALLEN) that there is no urgency to acting on this bill now. Having decided that in my own mind, I would like to discuss with the Senate a few of the serious liabilities that I see ensuing from proceeding with this bill so late in the session.

First of all, Mr. President, no one would disagree that this bill has come before us without a full and open debate across this land. It is a major tax measure estimated to raise anywhere from $50 to $70 billion between now and 1983. A tax is a tax whether it is a social security tax or an income tax.

We are talking about taking away from the American people, the middle-income, the rich, the poor, the businessmen of all types, a vast amount of money in new and higher taxes.

Why do we have to do this now before we even know whether or not Congress is going to impose higher energy taxes on the American people? If the House version of the energy tax bill is approved by the conference committee and becomes law, we are talking about $60 or $70 billion taken from the American people—out of the American economy—in the next 3 to 5 years.

Mr. President, the American people can only take so much. There is one group of Americans about whom we ought to be very concerned when we talk about social security, and that is the older, retired Americans.

Let me tell you, the American people who are working, the sons and daughters of the older Americans, want to help them. But if we want to trigger an anti-attitude among the American people with reference to social security then let us proceed to pass this bill in the waning days of this session. Hardly any options can be considered, because of budgetary constraints and the technical requirements of the Budget Act. Do we want to impose on the American people a steep increase in Social taxes and an additional $30 to $50 billion in new energy taxes as a Christmas present this year?

Do we want our people to wake up the middle of next year, the end of next year or early the following year, with an economy that is not working, because every time it begins to recover we impose new taxes so that they do not have anything to spend? Then we wonder why the economy is not growing. Heap all those tax increases on the people and you will have a taxpayers' revolt.

In addition, the genuine concern of the American people for a social security system that is stable and strong, which most of us want, will be in great jeopardy.

For those who want to make sure the social security trust fund remains solvent, I suggest we ought to do what the good Senator from Oklahoma recommends—send this bill back to committee. Let the Senators and the Congressmen go home; let the people digest and think about this issue, and then come back here in January and act responsibly. We should not act in isolation.

Let me state, Mr. President, there is another issue brewing, tax reform. I believe implicit in the construction of any tax reform is the acknowledgement that we are going to have to cut taxes for the American people. If we want the working people to keep working, the businessmen to keep investing, we are going to have to cut taxes.

Would it not be better if we knew where we were going in our overall tax policy rather than to say to the American people over this Christmas holiday, "We are going to sock it to you with about $60 million in new energy taxes and $70 billion in higher social security taxes, just because we are going out of session, and we wanted to do it right now," we are going to let the same conference, who are working on the energy bill, find a little time between now and Christmas to work on a social security tax bill.

I am just not willing to do that. I want it done in a more calm, deliberate manner. I do not believe that is what we are doing here today. We have been considering a $70 billion increase in social security taxes yesterday and today without a printed copy of the bill on its report.

I have no personal concern about the Committee on Finance. They generally do their job well. The facts of the matter are that no group of human beings, on my committee, could handle all the legislation they have handled in the last month—and do it right.

There is just no conceivable way that the members of the Finance Committee are going to handle the huge energy tax bill and this social security tax bill in an orderly manner between now and Christmas.

So I ask why rush this bill through at this time? I honestly believe the American people are concerned about the impact this bill will have on small businessman. Under the committee bill, the employer will bear two to three times the tax burden that his employees bear. Who do we think these people are who are going to bear this burden? They are the same people we are asking to crank up this economy. They are the same people we are asking to employ more people. They are the same people we are asking to invest more money so that our economy will grow.

Then we come along with this bill, right after the minimum wage increase, to be followed by an energy tax bill, and then maybe sometime next year or the year after we will look at tax reform and perhaps we will take away any incentive they have for future growth.

Mr. President, everyone knows the impact of this bill. I have stated it in overall figures, but it seems to me that individual Americans have to know the impact it will have on them. Some individuals out there who are now paying $900 in social security taxes—will be paying $2,000 or $3,000 by 1987.

I, for one, want to see the fund solvent; but I am not convinced we have explored, in a prudent and reasonable manner, all the options and alternatives. We are kind of stuck late in this session with hardly any flexibility. It is a kind of take-it-or-leave-it situation.

I will close with just one final comment.

In this Senator's opinion, it is good that the Senate stay on schedule. It is good that our leaders want us to get things done on time. But it absolutely is futile to insist that we can get this done by this Friday night, so that we will have completed something this year, so that we will have social security behind us, so that Senators can go home and say, "We have had a busy year."

That is absolute and utter nonsense, in my opinion. We do not have to do that. We have had a busy year, and we will be in conference on the energy bills for another month. I do not believe the American people will buy the argument that staying on some kind of schedule that says we have to finish this social security bill will make this a better year for our people or for Congress.

This is absolutely the wrong time and the wrong circumstances, for the American people or for individual Senators to thoughtfully review this issue. If I thought the trust fund were going to be bankrupt by February or March of next year, I would be saying, "Let us stay on another 2 weeks, and let us do it right." But that is not the case. So I commend the Senator from Oklahoma, the Senator from Alabama, the Senator from Arizona, and other Senators who have joined in this motion in urging that the Senate vote "yea" so that we can dispose of this matter properly.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. MORGAN. Mr. President, I urge my colleagues to vote "yea" on the issue, and I do so because in my own mind I believe that the social security law that was passed in the 1930's, amended in the 1950's to be extended to the rural people of America, which has helped a good many people in my State, and which has been extended at other times, is perhaps the most important single act that was ever passed by the Congress of the United States. I think it is important that it remains sound and safe, and that whatever changes we make to it be made after careful consideration and thought, to the end that the people of America may know what we are doing.

I think our distinguished colleague from New Mexico made a very good point, that the people of America are entitled to know what the debate is that is taking place on the floor of the Senate.

Yesterday morning for the first time in North Carolina the headlines of the newspapers began to carry something about the Senate provisions of the social security amendments, and the papers had hardly hit the newsstand before I began to get telephone calls. Today's newspapers carried more, and my phone has been ringing all day, with questions such as, "Senator, what are you doing in the Senate? What effect will this have? Is this going to make the program safe?" and many other questions—questions that I cannot answer, Mr. President. I cannot answer them because I do not have the answers.

Yesterday at 1:30 p.m. this 95-page bill was placed on my desk. As I said earlier, my staff assistants had been told earlier that we really did not need the bill to know whether or not we should support it, but I challenged that, because during the same colloquy yesterday, I asked the distinguished Senator from Wisconsin (Mr. NELSON), in whom I have the greatest confidence, who is one of the most enlightened and informed members of the committee, what this $400 million appropriation for fiscal relief portended. I posed that question here on the floor of the Senate, and I did not get any answer, except that this was something that Mr. MOYNIHAN and Mr. LONG had probably agreed upon.

Well, I got my answer last night about 7 o'clock, when I finally got a copy of the Senate Finance Committee report.

I know where the $400 million is going, but I do not understand why, in the name of commonsense, it is in a bill that is designed to increase the social security tax to make it sound and solvent.

Mr. DOMENICI. Mr. President, will the Senator yield for a comment?

Mr. MORGAN. Be delighted to.

Mr. DOMENICI. The Senator was talking about whether or not we all know what we were doing, or whether we even had been told what we were doing.

In a few moments, the Budget Committee will meet. I would remind my good friend that we have three or four waivers that we have to consider for this bill, to see whether or not we are going to grant waivers under the Budget Act so that certain amendments can be considered. This bill was tailored very carefully so that it would fit the Budget Act, but hardly any of the major amendments fit the Budget Act, and a Senator can hardly get his amendment considered without calling the Budget Committee to see whether it fits or not.

I assure the Senate that confusion is rampant. Nobody is going to be able to understand it, and we are not going to get a vote today.

Mr. MORGAN. I thank my distinguished colleague for raising that question. I had intended to and wanted to, because I think it is important that the Budget Committee play a role in this legislation.

The Budget Act has been talked about all across America as the one instrument of hope toward bringing some form of fiscal responsibility to the U.S. Congress. As I campaigned across my State in 1974, and as I campaigned for my colleagues in 1976, the question of deficit spending was a paramount issue on the minds of the people of my State, and I kept saying, "At long last we have the mechanism, now, whereby in a few years we are going to bring spending under control for the first time." I said, "We have a Budget Act that is going to require us to at least know what we are spending and what the income is going to be."

Yet time and time again, since the Budget Act came into effect, I have seen waivers granted. I have seen it bypassed, and even yesterday, at the luncheon table, I heard it stated, "We cannot get anybody to serve on the Budget Committee; so and so wants to get off the committee, and we cannot get anybody to serve."

Why? Because in the short span of 2 years, it has become meaningless, because we continue to bypass it.

Mr. President, I would not want to serve on a committee that is not going to have any real effect on legislation.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. MORGAN. Be happy to.

Mr. LONG. Let me say to my able friend from North Carolina, and I hope this will allay his concern somewhat: What the Finance Committee recommended was modified in order to conform to what the Budget Committee recommended.

We wanted to raise more money and raise it sooner, because the social security trust funds are in a deficit position. But the Budget Committee advised us that they felt, with their study of economics, that if we raised taxes as quickly as we thought they ought to be raised, it would have an adverse effect on the economy. So part of the reason we are not raising more money earlier is that we followed the advice of the Budget Committee. If I had my way, we would be putting the tax rate up on January 1 of next year, just a few months from now. But the Budget Committee felt that might have an adverse effect on the economy, that we ought to wait a while, so we moved the date back until January 1, 1979.

The Budget Act is complicated, and it is sometimes difficult for me to know exactly how to comply with it. But when we are told just exactly what the Budget Act does require, we comply. The able Senator from Maine is absent for health reasons; I wish he were here because he is a very great statesman and a very able leader. In his absence the committee is being ably led by the Senator from South Carolina. When the Budget Committee laid down their terms and conditions, and they laid down what we could do, we did it as they recommended; and it seems to me, with all the advice and the experts that they have, the Senator would want to know that we have gone before the Budget Committee and have complied.

As far as the budget resolution on the bill is concerned, they rejected the version we sent them. We asked them, "What do you want us to do with our resolution? Just tell us how you want us to change our resolution, and we will do it."

Several Senators addressed the Chair.

Mr. MORGAN. I yield to the Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I would only make one statement, because we are going to have a meeting on these particular waivers and requests.

It is not the Budget Committee saying what you can and what you cannot do; it is the U.S. Senate. It is the U.S. Senate and the membership itself.

I understand this is a complicated matter, the budget process, but so is the Finance Committee. I can show the Senator from Louisiana portions of the social security bill that I have had three staff men working on trying to interpret. If it is strange, that is one thing, but it is not that Budget Committee members have some strange idea of an exact pound of flesh or discipline or telling anybody what to do. It is the Senate itself trying to work into a budget process where everything is understandable and everybody knows the limitations.

Mr. LONG. The only point I am trying to make, and I hope the distinguished Senator from South Carolina will agree with this, though we have had some differences in years gone by, maybe even in months gone by, with the Budget Committee, as far as the Finance Committee is concerned, with this big bill, we are trying to help balance the budget. We are trying to raise tens of billions of dollars to make the social security system sound. It is not sound right now. That is why a lot of people in this country have reason to be concerned.

Mr. HOLLINGS. If the Senator will yield, it is not the burden or the duty or even the goal of our committee to balance the budget, but notably, this year, it is to unbalance it. We are going to be running at a $60 billion deficit, intentionally. We intentionally hope that that budget is unbalanced, because we think, in the ordering of revenues and the spending programs and the priorities of this Government, that somehow, that is the best program, fiscally, that we can present to Congress.

So, while I am a good, big, balanced-budget man just like the Senator from Louisiana, that is not the sole goal. It is trying to correlate and take the needs and demands of all the different agencies of Government itself and segments of our population and come down to where we will not hurt the economy.

That is why we are here now; we said, we need more revenues in social security; but let them not impact upon this fiscal year, because it would then cut back on the recovery of the economy itself.

Mr. LONG. All I am trying to say is that as far as we on the Finance Committee are concerned, we are in here with a big tax bill. We are asking people to vote for it. We are doing that because we think the Senate would like us to raise some money, because there is a big deficit in the social security funds and they are going to continue unless we do something about it.

Mr. BIDEN. Will the Senator yield on that?

The PRESIDING OFFICER. The Senator from North Carolina has the floor.

Mr. MORGAN. I yield without losing my right to the floor.

Mr. BIDEN. Is the Senator from Louisiana not begging the question? Surely he came to our Budget Committee and relied on our expertise. I am delighted to hear he put so much stock in our expertise. That is reassuring.

But the real question here is that we are meeting now in the Budget Committee, not based on what you sent. We are meeting now based upon all the other items that Senators who have disagree-

ment with what you sent to the Budget Committee and to the floor want to introduce. So, as a practical matter, by "letting you know"—you, the Finance Committee—that we on the Budget Committee say, yes, this falls within the budget constraints, we have opted out every other option. What we have done in responding to our duty—and as the Senator from Louisiana has skillfully pointed out—he has enabled the Senate to act on nothing else but what he has sent to us by use of the Budget Committee mechanism, because now, anyone else who wants to move in with a different, alternative, or increased tax base will have now to go through the mechanism.

The reason why I am going to vote to recommit and join the Senator from Oklahoma is not because I agree with the Senator from New Mexico, who raises all these other items. It is very simply because I do not know what in the heck this bill does. I do not know whether I am helping those dear old folks or hurting those new young beautiful people.

I am not worried about the old folks on this, quite frankly. They are going to get their check. What I am worried about is me. I am worried about my kids. I am worried about what in the devil they are going to pay. What am I committing them to pay? What am I committing them to do?

The old folks are in good shape, solvent or insolvent. The 65-year-old people sitting in the gallery do not have anything to worry about, I can guarantee them. But all of them up there who are 18, they had better watch their pockets. They had better cover them up real tight. Because I do not know what this does. Neither do most of the other people on this floor.

So I am going to vote to recommit, because I am worried about the young folks. I am going to vote to recommit because I am worried about this already having been a busy year—busy enough. We do not have to go back to the folks to tell them how busy we have been. They can look. They may not think we have been productive, but they know we have been busy.

Last, the impact of this bill: I do not know that anybody knows. In February, I may come back to ask the chairman of the Finance Committee and ask the Senator from Wisconsin, "Let me join you, you were right all along. Mea culpa, mea culpa, mea maxima culpa. How could I have not known it?"

I have not had a chance to read it. I do not know. So I am hoping to recommit, despite the brillance of the Senator from New York and the Senator from Louisiana and the Senator from Wisconsin, who may be absolutely right. But when we got this yesterday, I began to worry.

I say one last time to you, Senator, when we have a debate—and I hate debating you, because I seldom win. Whenever I get through speaking to you, I have a real warm feeling inside, but it is not until I get home that I find out what happened. [Laughter.]

I really feel like I did it. I feel like I have been a success. I tell them I went down.

My newspaper said, "Boy, he got up there and spoke." But my Lord, I never know what hit me. Sometimes I know it is good. Sometimes I find out it is bad. I want to wait and find out, and February is plenty of time.

It does not go into effect until next year anyway, and there is not an old person in America who is going to be in jeopardy of not receiving their check within the next 3 months. It is just not the case. So let us find out what we are going to do to the young folks, too, before we pass this bill. I am going to vote to recommit it.

I thank the Senator from North Carolina for yielding this time to me.

Mr. LONG. Will the Senator yield to me?

Mr. MORGAN. Without losing my right to the floor.

Mr. LONG. As far as the Senator from Louisiana is concerned, and as far as others on the Finance Committee are concerned, we voted the bill we thought appropriate. There were some other amendments we knew would be offered, like the Curtis amendment. That mustered a very strong vote in committee. We knew these amendments would be offered and, in fairness, we asked the Budget Committee to grant a waiver so those Senators could offer their amendments. We asked for a waiver on the Curtis amendment; we asked for a waiver on the Dole amendment. I am not supporting that amendment, but it lost on a tie vote in the committee. We thought since we voted on it in the committee, the Senate might want to vote on it too. That amendment would lift completely all earnings limitations so a person might be practicing law and making $150,000 a year, and still get his full social security benefit at age 65.

We said to the Budget Committee, let the Senate vote on those and other amendments, too. The Budget Committee said, "We cannot even give you a waiver on some of the things the Finance Committee agreed to. Knock those out. We don't think we can give these other Senators a waiver, either." As far as I am concerned, once the Budget Committee let us bring our bill out, I cannot complain that you turned everybody else down. But at the same time, I would say to you let your conscience be your guide, do whatever you want with the matter. But do not complain about us not doing what the Budget Committee asked. We bent our knees to the Budget Committee.

Mr. BIDEN. I am not complaining about that. I am just saying how it worked.

Mr. LONG. We prostituted ourselves—wait; excuse me. We prostrated ourselves. [Laughter.]

Mr. BIDEN. The Senator is an honest man.

Mr. LONG. We prostrated ourselves before the Budget Committee and took that to the committee. I do not know why we are fighting over that.

Mr. MORGAN. Mr. President, I believe I have the floor.

The PRESIDING OFFICER. The Senator from North Carolina has the floor.

Mr. MORGAN. I shall conclude momentarily, because my distinguished colleagues have made my arguments very ably and much more eloquently than I could.

I say to my distinguished colleague from Louisiana that he may understand all about the budget process and this present bill, but how about giving the rest of us on this floor an opportunity to study it and understand it ourselves? When I cast my vote on this bill, and when the clerk tallies that vote, it is going to look just like that of the distinguished Senator from Louisiana. I want an opportunity to know what it is that I am voting on. I do not question the fact that those of you on the Finance Committee may know, but all I am saying is, please give us an opportunity to know.

I thought the rules of the Senate were made for the purpose of enabling us to do just that. That is what I understand the 3-day rule on a committee report to be. I do not quite understand how we got on it before the report got here, except maybe we laid the House bill down and then we substituted it. We circumvented the rules. I guess sometimes I think that is what rules are for, to be circumvented.

All I am saying is please give us an opportunity to study it. There are some assumptions in this bill which I am not sure that I agree with.

My staff has been trying to work on them and to give me some advice.

For instance, as I understand it, some underlying assumptions in the entire bill have to do with economic predictions, predictions of inflation, of the birth rate. For instance, it talks about economics. The figures are assuming an unemployment rate at 5 percent per annum and an inflation rate of 4 percent and a wage increase of 5.75.

Well, we have not reached these figures yet. We do not know if we are going to or not. Until we have some opportunity to study it, I do not know whether they are realistic predictions, or not.

It talks about the birth rate of the country, using as an assumption a birth rate of 2.1 children per woman, but currently the birth rate in this country is 1.7, and has been declining for 120 years.

I can only assume that the Finance Committee took into consideration a birth rate that would normally be required to maintain a constant population, but it is well known that the birth rate has not normally increased with influence.

It talks about the mortality rate. It uses an average life expectancy to be 70.8 years for men and 79.6 years for women. Yet in some countries in Europe, we know that it is greater than that.

I come back to the $400 million fiscal relief program which, the best I can figure out from reading the report, is that it is sort of a handout to my State and to other States in an effort to ease some of the burden of carrying out the welfare programs.

I can understand the distinguished Senator from New York's concern about it, but the President has sent to the Congress a welfare reform bill that takes into

consideration this very measure. Why should this matter not be considered in the question of welfare reform rather than the question of social security financing?

Mr. MOYNIHAN. Will the Senator yield?

Mr. MORGAN. In a minute.

But I know it is going to give some money to my State. I have had welfare superintendents, or social workers, or whatever their official titles are, come up here and urge me to vote for it.

I find today it originally started out to be $1 billion. I know when word gets back home tomorrow that I am here arguing against a $7.5 million appropriation for North Carolina, some of my people will say, "Why are you doing that?"

But, Mr. President, there comes a time, if we are going to be fiscally responsible, that we simply have to take the responsibility.

I just happened, while I was waiting for this matter to come up, to clip a letter to the editor in the Charlotte Observer in which it says, "Let's Say No to Federal Expenditures."

I will read just a bit of it. It says:

I would like to challenge local and state government to refuse to accept a penny from the so-called federal largesse and replace it with realistic taxes and fees to meet their needs.

If all local and state government would agree to target 1978 as the year of divorce from dependence on federal handouts, a net savings of some 25 percent of the bill, or over $35 billion, would be realized.

It goes on to make some good arguments, and I agree with it. Maybe this is not one of those to turn down, but it is the wrong time and the wrong place and the wrong bill.

If I am wrong in these assumptions, then let us have 2 or 3 months to consider it and to study it. If I come back after doing that, and I am wrong, I will be willing to say so.

Mr. President, I urge that we adopt the motion of the distinguished Senator from Oklahoma so that whenever we do pass a bill we will not have to come back, as we are doing in this very bill, and make technical amendments for errors that were made 5 years ago, because I assure Senators that if we pass this bill this week we will be coming back correcting mistakes and errors we overlooked that we should not have.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. STONE. Mr. President, I will speak very briefly.

I had considered voting to put this bill back in committee. I had considered the concept of delay until next year. But it seems to me that this is an unpleasant, difficult task that we have to do now or we have to do it next year. We have to do it.

If the reading of the report which was available only recently slows us down so that we might have to work on into the next several weeks during some of these sessions that we have to come back to vote on, if we need more time as a full Senate to look at each provision, it seems to me that, unpleasant as it is, we better do the job.

Why will a delay hurt? I can think of one provision, at least, in which a delay will hurt.

There are old people who clip coupons and do not suffer any reduction of their social security check at all, while there are old people who have to work and if they earn at the rate of $3,000 a year, they lose their money.

They lose money and a delay of several months could lead to a delay of 6 months or a year more.

There are those people who could use some relief, whether we go for a complete removal of the cap or a lifting of this ceiling.

Those people deserve some relief now.

This is an unpleasant job that we ought to stay with until we do it properly and send this bill to conference.

That is why I am not going to vote to delay.

Mr. BELLMON. Will the Senator yield?

Mr. STONE. Yes.

Mr. BELLMON. If the Senator will look at the provisions of this act, he will find it does not offer any immediate relief to any recipient. It does not go into effect until the late fiscal year.

If we come back in February, we can deal with the question and get the relief to the people.

Mr. STONE. I think people would like the reassurance to know, and furthermore, there are some amendments that will be offered. I know the senior Senator from Arizona has one in which the Senator from Florida will join in which that relief ought to be vouchsafed and guaranteed to these folks.

I just feel we ought to stay with it. I do.

Mr. GOLDWATER. Will the Senator yield?

Mr. STONE. Yes.

Mr. GOLDWATER. The Senator mentioned a point I have noticed for many years, the fact there are some older people who clip coupons and collect social security, but they can collect the entire social security.

Mr. STONE. That is correct.

Mr. GOLDWATER. Now, the fellow that retires without any pension, without any securities, without any real estate, who cannot live, frankly, on social security, has to suffer $2 for every dollar he makes over $3,000.

Mr. STONE. That is right.

Mr. GOLDWATER. I think this is morally wrong, and I am not going to stand still and hear Mr. John Califano tell falsehoods about efforts to make it possible for American people to live.

I think it is time we do remove that earnings limitation and I am hoping the Budget Committee this afternoon will find in their good judgment to give us a waiver so that we can at least overcome that hurdle.

But I differ with my friend in that I want to vote for it, sending this back to committee. I think we have to have more time.

In fact, if we had more time, I think people downtown will begin to realize how wrong, wrong, wrong they are when they are dealing not with Federal funds, these moneys do not belong to the Treasury. These are funds that all of us have put in a trust, supposedly.

I asked the committee yesterday where the money is. They do not know. I have been here 25 years and I have not found out.

So I do not see where taking a few more months, added on to 25 years, is going to hurt anything.

I think we would come up with a piece of legislation that we could work on.

In fact, I have been amazed ever since this bill finally hit the floor to find out that it is going to amend the Tariff Act for istle—whether one speaks Spanish or English, for the edification of my colleagues, it is from the cactus and we use it in the Southwest to make baskets. I think the social security people may become a basket case. [Laughter.]

So this would be a proper place to amend it.

I thank the Senator for yielding.

Mr. STONE. I thank the Senator. We may differ on the immediate decision as to whether or not to delay, but we certainly do not differ on the inequities of the current situation and the need for reform with respect to people who need to work and are denied that by a rule which is totally arbitrary and which deserves to be changed.

I thank the Senator from Arizona.

Mr. CURTIS. Mr. President, as I understand this proposal, it is to postpone this matter until certain people understand it. That is equivalent to an indefinite postponement. [Laughter.]

Are we going to take the position that we are going to send back to the committee every intricate piece of legislation that comes from the Armed Services Committee, until we all understand about bombs and weapons and so on? Or are we going to follow the committee system, whereby matters are referred to a committee; they hold public hearings—they are public, all right; and arrive at a conclusion and bring in legislation? Are we going to recommit every proposal related to the space program, until we all get our Ph. D.'s in physics?

Let us now think about the financial condition of the social security system. In the long range, it is about 8-percent short. There is a provision in here that takes up half of that. The paragraph that describes it is less than a half page. We do not need until February to study that.

It comes about in this way: An amendment was adopted in 1972 that provides that there shall be an increase in benefits for older people automatically, because oftentimes the inflation took place and Congress was delayed in passing a bill to raise their benefits. So it is automatic in there.

It turns out that what it does is to include it twice. This automatic cost-of-living raise is given to a future retiree once, when it is woven into his benefit formula, and then after he goes on the rolls, he gets it again. The professionals refer to that as decoupling. That is corrected in this bill, which sought to be recommitted. It takes care of one-half of the deficit.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. CURTIS. I yield.

Mr. LONG. To put it in terms that the layman would understand, there is a provision in the law for an automatic cost-of-living increase that works out for the benefit of some people so that in effect they get a double dip. They get an adjustment twice for the cost of living.

Mr. CURTIS. That is right.

Mr. LONG. This was an unintended windfall for certain people. We do not propose to take it away from those who are getting it. We say that those who retire in the future will not get the double dip.

Mr. CURTIS. That is correct. That is in the bill now. It takes care of half of the deficit.

There are some welfare provisions in the bill before the Senate. One has to do with how you handle the disregard for earnings for a welfare recipient. The way the formula works now, it is very loosely drawn. It means that when individuals with rather high incomes go on the welfare rolls, it not only costs the Government a great deal of money but also embarrasses every Member of Congress who reads the paper and hears that people who are not in need are on welfare. That is taken care of in this bill.

How much will it save? $230 million annually.

Mr. President, there is a provision here that initiates some quality control and incentives to reduce erorrs in the administration of welfare. I could go on and name a great many other provisions in this bill.

Mr. BELLMON. Mr. President, will the Senator yield?

Mr. CURTIS. I yield.

Mr. BELLMON. I believe the Senator is making the point that the Senator from Oklahoma is trying to make. This may be a wonderful bill, perhaps the best bill that ever came before the Senate, but why do the job quickly? We only got it yesterday and got the report this morning. Why is the committee not willing to give the Senate time to consider what would be done and perhaps improve on the committee's handiwork? So far as the recipients are concerned, there is no reason not to wait until February. Their benefits are not going to be affected until late next year.

Mr. CURTIS. The answer is that I have nothing to do with scheduling legislation here.

Furthermore, we have worked on this matter for months. It creates more complications if the committee is required to do its work twice.

Mr. LONG. Mr. President, will the Senator yield?

Mr. CURTIS. I yield.

Mr. LONG. I ask the Senator if this also is true. In 1972, some people thought —and there was some merit to the suggestion—that we could afford more benefits than we were paying. They contended that our assumptions about prices and wages were static and that if we adopted certain dynamic assumptions, such as the fact that wages will go up and productivity will increase, we really could afford to pay 20 percent more in benefits than we were paying and the automatic cost of living increase provision would go along with it.

With the Commissioner of social security saying that this could be done and that you could afford a 20-percent increase and could afford the automatic increase feature, an amendment was offered. The Advisory Committee for Social Security recommended it, and everybody was told, with the support of the Commissioner of Social Security, that this could be afforded.

I voted for it. Subsequently, we found that the result was that we were headed for a big deficit and that eventually the fund would be insolvent.

Is it not about time that, whenever we can muster enough votes, we should vote enough revenue into that fund so that from that point forward, we would not be projecting bankruptcy or insolvency in the social security fund? Then all the people who are counting on it could have peace of mind about the matter, rather than have those people told, day in and day out, month in and month out, that the program is not solvent and eventually the fund will go broke.

Mr. CURTIS. I believe that is true. I think there is an uneasiness over the country about the $6 billion deficit yearly in our social security fund right now. That should be met and settled right now.

The long-range program is half taken care of in here, without either the tax increase on employers which Senator NELSON proposed, or the general tax relief that I proposed. It is already taken care of. With respect to welfare, the $230 million saving becomes effective immediately.

I have great respect for the Budget Committee. I am very fond of every member. But I stood on this floor, trying to get some amendments adopted to the food stamp program. They would have saved $2 billion. I never got a vote on the majority side of the Budget Committee.

I was here last week when a floor amendment was offered that cost $1 billion. But when the Budget Committee challenged the Finance Committee, they particularly exempted all of those that had been voted on on the floor.

Another thing, Mr. President: The tax proposal that I offered——

Mr. LONG. Mr. President, if the Senator will yield at that point, let me make clear that we do not have any problem with the Budget Committee on this bill.

The way I understand it, there are some Senators who wish to offer some additional amendments which the Budget Committee can either waive or not waive. I am not here to tell them what to do about that. I trust their good judgment and commonsense to do what they think is right about it.

But we on the committee are not asking for any special exception. They have given us all the latitude we need to propose this bill and they gave Senator CURTIS a right to propose his amendment which was a very good amendment. I thought it was better to do the financing the way Mr. NELSON recommended. But they gave us the authority to recommend what the committee wanted to recommend to the Senate, so that we do not really have any conflict with the Budget Committee on this bill. With regard to Senators who wish to offer additional amendments, they can do it however they want to do it. If the Budget Committee wants to give them a waiver, we do not complain; on the other hand, if the Budget Committee in its conscience feels it should not give a waiver, then, of course, the Budget Committee is within its rights.

Several Senators addressed the Chair.

Mr. MATSUNAGA. Mr. President, will the Senator yield?

Mr. CURTIS. I am going to yield the floor in just a minute, and then the Senator may have it.

Mr. President, if I thought that there would be a material increase in the courage of us all to meet this problem of social security financing by waiting a few months, it would be worth waiting. There will be the same Senators with the same ideas here in February as here now. Some of them feel no harm in taking from the social security pension. Some of them think that it is not important that we adhere to the pattern that we have had for four decades of employers paying half and employees paying half. That is not going to change. We cannot run away from this problem by sweeping it under the rug for 4 months.

Mr. President, again I remind Senators that in the long range the 8-percent deficiency in the financing is taken care of in this bill before us and in the welfare program there is a provision in here that if it is not changed on the floor will save $230 million as well as there are many items in this legislation that means a great deal to the people who fall in that particular category.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. MATSUNAGA. Mr. President, as a member of the Finance Committee, I rise in opposition to the amendment offered by the Senator from Oklahoma.

It has been said here that no one really understands the bill. As a member of the Finance Committee I, too, admit that I do not know all about the bill. Perhaps if there is anyone who knows all about the bill that is the chairman, the Senator from Louisiana. There is an old saying, "He who knows and knows he knows is wise; follow him." I am willing to follow the Senator from Louisiana. I worked with him for months on this bill. There were some differences. What we arrived at was the only bill as to which we could get a majority vote in the committee.

Little as I know, I know this for sure, that the social security program is on the verge of bankruptcy, that we must now do something about it in order to retain the confidence of the American people in that great system which has brought more security, more well-being to the elderly than any program in the history of this Nation. We cannot let it die. This year the deficit will be between $5 billion

and $6 billion. The disability funds will be exhausted by 1979. And the old age and and survivors insurance funds will be exhausted by 1983.

The Secretary of Health, Education, and Welfare testified that between 1978 and 1982, an additional—I repeat—an additional $83 billion over and above the projected income under current law will be needed to keep the program solvent.

Clearly, the social security program is on the verge of bankruptcy. It is absolutely imperative that the program be kept solvent. More than 33 million Americans, 1 out of every 7, receive social security benefits. Ninety-three percent of Americans 65 years of age and over are eligible for benefits. These benefits now exceed $100 billion a year. Millions of Americans depend on social security benefits as their only source of income. It cannot be denied that the present deficits in our social security system jeopardize the confidence of the American people in our system. In order to keep our social security program alive, we cannot lose the confidence of the American people. Many even today have the option of dropping out of the system, causing more and more to be drawing benefits but less and less putting into the system, which means what? Which means greater and greater deficits and ultimate bankruptcy.

We must act this year. We must act within the next few days and if it takes Saturday to get this bill out we must get it out.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. MATSUNAGA. In a minute.

This is the primary objective.

Second, the administration is now working on a program of tax reform. Unless we pass this bill out the administration will not have a basis on which to develop a new tax reform act. And if we pass this bill out the administration will have a much easier task in developing that new tax reform bill.

So I urge my colleagues to let us act today; if not today tomorrow; if not tomorrow, Saturday, to get this bill out.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. MATSUNAGA. I would be happy to yield to the Senator from Alabama.

Mr. ALLEN. Will the Senator explain how action this month as distinguished from action in February will contribute more to the solvency of the fund inasmuch as the bill does not provide for any additional revenue to come into the Treasury before or starting October 1 of next year? How will action now be an improvement over action in February since the bill does not start until October 1 of next year?

Mr. MATSUNAGA. Well, the Senator from Alabama reminds me of a young man who applied for a job. When he was told he would start, he was told he would need to start at the bottom, and he said, "Well, I am not concerned about that. What about next year? What about the year following? Can I look forward to a promotion and maybe some day become vice president of the firm?"

Well, what we are dealing with today is something more important than the tangible the Senator refers to. It is the intangible of the confidence in the system which we need to develop even this day because, as the Senator well knows, when you go back to your home State one of the questions asked most of us is "Is it true that our social security program is bankrupt? Is it true that I may not be able to depend upon my social security when my time comes?"

Well, if we pass this bill this week, we will regain that confidence so that we can say when we go back to our constituents, "We passed that bill. Now you can rest with confidence."

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. ALLEN. Will the Senator explain how action now is going to bring that about?

Mr. MATSUNAGA. I will yield to the wisest of the wise to answer that question.

Mr. LONG. I would just like to get in on this, if I may, because I think my contribution might help a little.

The fact is that in 1972 we received some bad advice. It was well-intentioned advice, but it proved to be unsound. The advice was that we could afford a 20-percent increase in benefits and an automatic cost-of-living provision.

Now, you cannot do any better than act on the best advice you have, but the advice was that we could afford to be more generous than was in fact the case.

For the past 3 years, this program has been projecting insolvency because there is not enough revenue to fund all the benefits.

Why did not President Ford get the thing under control while he was President? Well, the fact was that he had all the problems on his hands he could handle, and more than he could, it turned out. He was trying to get himself reelected, and he was in no position at that particular moment to come in here and recommend the sort of tax it would take to make the social security program solvent for the next 75 years, as we are seeking to do.

If anybody here could tell us that there would be some increase in political courage on the part of Senators and Members of the House during the next 3 months, or the next 4 months, then I would say by all means let us wait for the political courage to rise to meet the challenge.

But knowing what the realities of life are, I know that the nearer every Member of that House gets to election, and the nearer every Senator who is running next year gets to the election, the more difficult he is going to find it to vote for the taxes to make this program solvent and to fund these benefits, no matter how politically and fiscally responsible that may be.

So the result is that as far as making the social security program fiscally solvent and responsible is concerned, we ought to do it whenever we can. If we can do it now, let us do it. If we can do it 3 months from now, do it then.

But anytime you can muster enough votes, and those men can find enough courage to vote the taxes it takes so that the people who pay into this program will get the benefits they were promised, you ought to do it, and you ought to try to resist these efforts to say, "Oh, no, not now. I cannot vote for it right now. I am going to vote for it next year. No, no, not now. I would rather wait and think about it some other time; no, no, I would like to study it." You must resist those pressures if you can because the easy way out for the average politician, or even the average statesman, confronted with the duty of voting a big tax to do something that responsibility requires, the biggest problem is procrastination on the part of people who must seek public election. They will want to pass it off and postpone it, put it off until next year, put it off until 6 months later, and never get around to measuring up to that tough decision.

In my part of the country they have an expression that is also common in the part of the country so ably represented by my very lovable friend from Alabama, Mr. ALLEN. They talk about "come up to that lick log."

I once asked Lister Hill, "What does it mean to come up to that lick log?"

He said that when some farmers would get together to try to clear some land, cut down some huge tree before they had a bulldozer or something like that to try to haul that tree off and clear the land, they would have to cut that tree up into sections so that they could manage it and haul it away.

So those men would stand there all day chopping on that tree, cutting it up into sections. The tree might be 80 feet high. They would chop all day long, chop that tree up into manageable sizes so that they could haul the tree away with their mules. That is what they called the lick log. If some fellow wanted to stop, and he would rest against a tree while the others would be chopping, they would say, "Come up to this lick log, you lazy so and so. You have to put your licks in with the rest of us."

So basically we are calling upon Senators and upon Members of the House of Representatives to come up to that lick log. You are going to have to vote for a tax if this program is going to pay benefits for these old people, the disabled people, and the widows and orphans who were promised those benefits, and you had better do it any time you can.

If you can get the votes now, do it. If you think it would be any easier on you to wait another 5 months until you are just that much closer to the election, and all those people in the House are 5 months closer to the election, then I would say the Senator is just not the political realist some of us are. The sooner you can vote on it, the better off we all are.

Mr. MATSUNAGA. The Senator from Louisiana in a most interesting and persuasive way has just said what can be summed up in these words: What you can do today do not leave until tomorrow. I think we can do it today.

I would be happy to yield to the Senator from New York.

Mr. MOYNIHAN. I thank my distin-

guished colleague on the committee, the Senator from Hawaii.

Mr. President, I would simply like to add to the observations of our distinguished chairman. He asked a question as accurately as it could be put. I might rephrase it as follows: The question is being asked of us on the floor today, Why do we not put this job off until next year; Why do we not do it next year?

The real question, Mr. President, is, Why did we not do it last year? The social security trust fund has been insolvent for at least 4 years. We have known it. We have put it off and put it off. Last year surely it was clear. Why was it not done? It was because it was an election year. Why will it not be done next year? Because it is also an election year.

The measure of responsibility of this body as trustees for the income of 30 million aged, frequently indigent, sometimes minority Americans, the measure of our statute of men, as responsible persons capable of prudent foresight, is to act now.

We failed last year. Next year we might very well fail again. Those who wish to associate themselves with the avoidance of this responsibility today risk being considered persons not capable of responsibility.

I think the chairman and his distinguished associate from Nebraska, Senator CURTIS, are altogether right and responsible, and if there are those of us in this body who do not have the courage to lead, if there are those here who do not have the courage to lead, let us at least have the wisdom to follow.

Mr. ROBERT C. BYRD. Mr. President, I shall shortly move to table the motion to commit, but before I do so I would not want to prevent from speaking on the motion the distinguished Senator from Kansas (Mr. DOLE) who, I believe, is one of the cosponsors of the motion and, perhaps is supporting——

Mr. DOLE. I am not a cosponsor.

Mr. ROBERT C. BYRD. Does the Senator wish to speak? Mr. President, I yield to the Senator from Kansas without losing my right to the floor, with the expectation of making the motion to table the motion to commit.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

Mr. HATHAWAY. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. President, I ask unanimous consent that Charles Jacobs of Senator MUSKIE's staff may have the privilege of the floor during the debate and votes on the pending bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, could I have some understanding from the Senator from Kansas as to how long he will speak?

Mr. DOLE. I may decide to read the 180-page committee report, but the Senator from Kansas has not at this time decided.

Mr. ROBERT C. BYRD. Very well, I yield the Senator not to exceed 20 minutes, with the understanding that I retain the floor.

Mr. DOLE. Mr. President, the point that bothers the Senator from Kansas, the Senator from Texas, the Senator from Arizona, and other Senators who have not heard the news, is that a number of us have lost our waiver requests in the Budget Committee. It is fine for the chairman to stand up and say he got what he wanted, and for other Senators to stand up and say they got what they wanted. However, I have always been under the impression that in the U.S. Senate a Senator had a right to offer amendments unless they were not germane for other such reasons. Now we are told we cannot offer amendments.

I know what is happening in the Budget Committee. They are about to turn down requests for waivers for the amendment of the Senator from Kansas, the amendment of the Senator from Arizona, and the amendment of the Senator from Texas.

Mr. President, the issue is just not that simple. My remarks about the Budget Committee are not precipiated just because I happen to be the one involved in an amendment today. A number of Senators want to try to help some senior citizens in this country. It is unfortunate some members of the Budget Committee vote in a way to influence the outcome of certain legislation. In the Finance Committee the chairman indicated that we would have a chance to bring up all amendments.

We will bring up the amendments one way or the other. If the motion to recommit the bill fails, there are other ways to postpone action. They take longer, it takes more effort, but and I think I can speak for the Senator from Arizona—unless there is some agreement to bring up our amendments, then we have no recourse but to discuss this bill at length in order that the American people will understand there are some Senators concerned about the earnings income limitation. We think we ought to have an opportunity to offer an amendment on earning income. It appears the waiver will be denied by the Senate Budget Committee, because the administration is opposed.

My amendment was offered in the Finance Committee, and failed on a 9-to-9 vote. It was included in the presentation that we made to the Budget Committee, but then, in an arrangement worked out by the chairman of the Senate Finance Committee and the acting Budget Committee chairman, it was eliminated. There are several other amendments in the same situation—this amendment, the amendment of the Senator from Delaware (Mr. ROTH), and some others.

What we would hope to do by the amendment is raise the limitation on earnings as follows: to $4,000 in 1978, to $4,500 in 1979, to $5,000 in 1980, to $5,500 in 1981, and unlimited earnings in 1982.

This amendment was adopted on the House side by a vote of 268 to 149. There were no budget objections raised on the House side, but it is obvious—the Senator from Kansas has just attended the Budget Committee meeting—that there is not going to be a waiver granted by this Budget Committee, because they are opposed to the amendment. Unfortunately, it is not the Budget Act they are concerned about; they are opposed to the amendment.

The Senator from Kansas is not disposed to rush this bill. Frankly, I do not think it makes much difference whether we vote on it today, on January 17, on February 15, on Washington's Birthday. We should have an opportunity to offer our amendments. If they lose on the floor, that is fine. We should not be shut out by some budget process that is vague; my amendment is cheaper, in the first years, than what is contained in the bill. The Budget Committee did not object to what we have in the bill. In the first 10 years, the committee bill costs $24.8 billion, while the amendment of the Senator from Arizona (Mr. GOLDWATER), the Senator from Texas, and the Senator from Kansas, and other Senators, would cost $24.9 billion—a difference of $100 million in 10 years. But somehow our amendment is not to be heard on the floor.

It will be heard on the floor, but not through the regular process. We are left to our own initiative and judgment as to how we can best present this amendment to the Senate of the United States.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. TOWER. I associate myself with what the Senator from Kansas has said. If for some reason we are barred by unfavorable action by the Budget Committee, or by the raising of a point of order that is made to lie against our amendments, so that we cannot get a debate and a vote upon the amendments on their merits, then I think we have no other recourse but to keep the Senate here on this matter for the remainder of this week, all through next week, and however long it will take. So I would anticipate under those circumstances we will no doubt have a Saturday session, a Monday session, and perhaps a Tuesday session.

Mr. GOLDWATER. Mr. President, Will the Senator yield?

Mr. TOWER. Because on a matter of this great importance, when we are looking at the long-range efficacy of the social security program, since we cannot get an adequate period for deliberation by the Budget Committee on a matter of this importance, I think, rather than clear the matter just for the sake of acting on it, we had better have some extended debate on it, and extended deliberations, and see if these amendments cannot be deliberated on their merits.

Mr. NELSON. Mr. President, will the Senator yield?

Mr. TOWER. I do not have the floor.

Mr. DOLE. I yield to the distinguished Senator from Arizona.

Mr. GOLDWATER. Mr. President, I associate myself with the remarks of the Senator from Kansas and the remarks of the Senator from Texas. This earnings limitation amendment is nothing new. I have proposed it in the last three

Congresses, and have not even been given the courtesy of an invitation to appear before the committee, nor have the members of the American public who are interested in abolishing the earnings limitation. We have come out here on the floor, on an amendment like this, and I want to read from the minority views of Senators CARL T. CURTIS, CLIFFORD P. HANSEN, ROBERT DOLE, and PAUL LAXALT, the first sentence in the second paragraph:

However, action should not be precipitate or foolhardy.

But that is exactly what we are doing. This report was on my desk this morning. I have not had time to read through the whole thing. Now we have the majority leader standing up and trying to move to table a motion to recommit.

We have heard a lot of chatter on this floor this afternoon about political courage. To me, it does not take any political courage to vote for a motion to table. I wish we could do away with motions to table. Why not vote these things up or down, in a fashion our people understand?

I do not criticize the majority leader. It is certainly within his rights to move to table. It is a Senate rule. But I do not like to hear talk about political courage on the part of U.S. Senators followed by a motion—the easiest, the most cowardly way to get out of voting on a hot measure I have ever heard of—to lay on the table.

I agree with my friends from Kansas and Texas that if we are going to be denied what I consider our right to offer an amendment without having similar objections made, this Senator lives 2,200 miles away, but I can stay here till hell freezes over, and I will be glad to do it to see a decent bill passed.

Mr. THURMOND. Mr. President, will the Senator yield half a minute to get somebody on the floor?

Mr. DOLE. I yield.

Mr. THURMOND. Mr. President, I ask unanimous consent that Mr. Skip Cowan of my staff be accorded the privilege of the floor during the consideration of this measure.

The VICE PRESIDENT. Without objection, it is so ordered.

The Senator from Kansas has the floor.

Mr. DOLE. Mr. President, I will take 2 or 3 additional minutes.

First, I ask unanimous consent to add, as additional cosponsors who were original cosponsors of this proposal, the names of the distinguished Senator from Oklahoma (Mr. BARTLETT), the distinguished Senator from Alabama (Mr. ALLEN), and the minority leader, the distinguished Senator from Tennessee (Mr. BAKER).

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. DOLE. Mr. President, the Senator from Kansas has indicated what he believes to be the right course of action. Unless we can have an opportunity to present our views and our amendment, we will have no alternative. The Senator from Kansas believes this is a responsible way to proceed. Based on a conversation with the distinguished ranking Republican on the Budget Committee, who may vote against granting the waiver, I believe the waiver will not be approved. It appears the die has been cast. The Senator from Kansas thinks the Budget Committee will resolve the matter.

In any event, whether the resolution is granted or disallowed, the Senator from Kansas, in an effort to be fair with his colleagues, serves notice that unless we can offer our amendment, to discuss our amendment for a reasonable length of time—30 minutes, 45 minutes, an hour—then have a vote on the amendment, we are prepared to speak at length. The Senator from Kansas is not in a habit of such conduct, but we can learn.

Mr. NELSON. Will the Senator yield?

Mr. DOLE. Yes.

Mr. NELSON. I say to the Senator from Kansas that, as he knows, the Finance Committee did recommend that a waiver be granted on that amendment. But the most convincing thing, as far as I am concerned, was a comment by the Senator from Texas. If the Budget Committee does not issue a waiver. I am going to vote to take up the legislation, because I cannot think of anything more frightful than listening to the Senator from Texas for a whole week. So at least the Senator from Kansas has my vote, so we can be saved from that.

Mr. DOLE. We will take it any way we can get it, and that is very helpful.

If the Budget Committee disapproves the resolution, we have a right to bring that to the floor and have the full Senate act. We can make a recommendation; if they fail to grant a waiver, we can only proceed on the floor or move to discharge the committee from further consideration.

Mr. President, I hope that the Senator from Kansas has responsibly made a point. I don't want to hold up the bill and hold up the Senate of the United States.

There is about as much to be said on one side as the other on the issue of postponement. This is a very important bill. It should be fully understood. Those of us on the committee have an advantage, because we have listened to the distinguished Senator from Wisconsin. We think we understand most aspects of the bill and all the amendments based on what happens after the motion of the distinguished majority leader, we can then chart our course. I thank the distinguished Senator.

Mr. ROBERT C. BYRD. Mr. President——

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I yield, without losing my right to the floor, to the Senator from South Carolina so he may respond on the point made by the Senator from Kansas. Then I shall yield to the Senator from Connecticut.

Mr. HOLLINGS. Mr. President, I only now came to the floor to hear something about discharging the committee; that, somehow, the Budget Committee itself was either lethargic or being obstructive or otherwise.

I want to clarify the Record that the Budget Committee has been most diligent. It met all yesterday. The day before yesterday, it got together with the Committee on Finance, at that particular time, being asked for a formal waiver for not only the bill but also five or so amendments.

Under the rules, not being allowed to amend the waiver resolution, rather than acting in just a unilateral fashion, we then asked for a meeting with the leadership and with the Finance Committee. We had that meeting. We said we could recommend approval for the bill itself because the Finance Committee was doing exactly what we had requested: namely, that somehow, revenues be obtained to maintain the financial stability of the social security system in the country. But in no way could we recommend approval for all these other waivers that went into $4 billion, $8 billion, and so on, in ensuing fiscal years, without a witness, without a chance to hear or not hear or give any kind of objective consideration.

My understanding is that, somehow, the Finance Committee members were told that the Budget Committee was arbitrary and was not going to consider them individually. The fact is that we requested the distinguished chairman, with the leadership present, that we have an opportunity to review certain resolutions—not only for the bill itself, but for the five amendments.

Now, we were given back the resolution with the Curtis amendments. We have acted on those. We are prepared, as the distinguished Senator from Kansas knows, because he was just at a meeting of the Budget Committee, and it was at request of the Senator from Kansas on the Budget Committee's request that we withhold action.

Here he is talking about discharging the committee, that the committee is not doing its job, when we are frankly responding to the Senator from Kansas.

He has to smile. I wish the record would show a smile on the face of the Senator from Kansas.

He said, "Let's hold up until we act and get a vote on recommitment. Then we will poll the individual members of the Budget Committee. Once polled, then we will have reported back the official waiver resolutions as being referred to the Budget Committee." They will be back at the desk. Then they will be subject to the action of the Senate. The Senate can accept our recommendation; what it is, I am not sure. We have not acted, we have not polled the members. But the Senate, by a vote at that particular time, can accept or reject on each one of those official waiver resolutions.

So we are acting in lock step, more or less, with the leadership and with the membership, trying to fulfill our responsibility on the one hand and while trying to bring to the attention of the Senate—not as Budget Committee members telling people what they should and should not do—but telling and reminding the Senate—which has a bad memory, obviously—that we are about to spend billions and billions of bucks in the

out-years without a single witness or having any idea or chance for the committee to look and give comprehensive judgment on the total fiscal policy.

I thank the distinguished majority leader.

Mr. ROBERT C. BYRD. I promised to yield to the distinguished Senator from Connecticut for not to exceed 10 minutes without losing my right to the floor.

Mr. RIBICOFF. May I have order, Mr. President?

The VICE PRESIDENT. The Senate will be in order.

SENATOR RIBICOFF SUPPORTS PRESIDENT CARTER ON THE MIDDLE EAST

MR. RIBICOFF. Mr. President, I trust the President of the United States on the Middle East.

I trust the Vice President on the Middle East.

I trust the Secretary of State of the United States on the Middle East.

I trust them as a U.S. Senator.

I trust them as an American.

I trust them as a Jew.

Mr. President, 12 months ago 12 U.S. Senators traveled to the Middle East to discuss the prospects of a peaceful settlement. When I returned from that trip I met with President-elect Carter and Vice President-elect Mondale in December 1976 in Blair House. At that meeting and many times since then I have reviewed with them and with Secretary Vance the U.S. effort to bring peace to the Middle East.

There is no question in my mind that these men are committed and constant in their dedication to peace in the Middle East. They are equally committed to the security, independence, and well being of Israel, and they have demonstrated this commitment many times.

These past several weeks have been tense for people concerned about the Middle East. Much of the anxiety and rhetoric is tragic because what we need now are cool heads and a perspective on what is happening.

Just a few years ago we would have looked upon the present prospects for peace as unlikely. Arab countries showed no inclination to have face-to-face talks with Israel. The Israel concept of a basic, extensive peace settlement received little support. The prospect of peace treaties between Israel and her neighbors was negligible. And both the Israeli side and the Arab side were unbending and hard. They repeated the same lines again and again without showing any willingness to examine nuances and make compromises.

All of that has changed. We forget how far we have come. During the past 12 months I have met with the top leaders of Israel, Egypt, Jordan, Saudi Arabia, and Iran—and all have shared a sense of opportunity and urgency. Mr. President, we are facing an historic opportunity: Arabs and Israelis are willing to sit down and talk about the basic peace that may lead to the signing of peace treaties. We must not lose sight of our chance to achieve this enormous breakthrough.

I would like to say something about President Carter at this point. From our meetings at Blair House last December until today I have been convinced that President Carter understands the challenge he faces in the Middle East. He has been doubted, questioned, and pressured to prove his commitment to Israel—and he has repeatedly done so. At the same time he has pursued courageously this opening toward peace. President Carter deserves our support.

I think it is no mystery why American Jews and Jews everywhere are concerned about every word an American President speaks about Israel. The Israeli perspective is grounded in the origins of the State of Israel, four wars to defend its security, and the constant threat that its survival may be at stake. Israel's survival and its path to peace both lie in the United States. No country likes to have its security so dependent upon its only friend in the world.

The United States stands behind a secure, strong, and democratic friend in backing Israel. I think we forget that that commitment has remained strong despite some severe strains. Those who think that relations between the Carter administration and the Begin government are difficult should recall both the cooperation and the disagreements the United States and Israel have lived with in the past:

First. President Truman and Israeli leaders had significant splits over the Palestinian refugee issue in 1949;

Second. There was a bad strain in 1957 when President Eisenhower and Secretary of State John Foster Dulles demanded that Israel withdraw from the Sinai Peninsula after the Suez war;

Third. In 1967 after the United States supported Israel in the 6-day war it then called on Israel to return the captured territory;

Fourth. In 1973 the United States provided enormous assistance to Israel in the Yom Kippur War, but relations afterward with the Ford administration were often difficult. One specific instance was the accusation by Secretary of State Kissinger that the Israelis were blocking an agreement with Egypt in March 1975;

Fifth. The United States has remained solidly behind Israel's defense capacity and has provided over $12.7 billion in economic and military aid to date. At the same time both the Ford and Carter administrations have opposed Israeli settlements in occupied territories as harmful to the prospects for a peace settlement.

Mr. President, I cite these historical benchmarks to underscore the courageous nature of President Carter's initiative. He knew that despite unwaivering support for Israel he would be subject to criticism. He did not have to pursue the course of action which might lead to peace but which would certainly bring pressure upon him. I want to be counted as a U.S. Senator who is thankful that President Carter took the broader view and put this historic opportunity in perspective.

Mr. President, I would like to describe one specific instance of President Carter's effort to establish harmonious relations with the Government of Prime Minister Begin. When Mr. Begin arrived in the United States President Carter and Secretary Vance asked me to carry a message to him in order to establish a relationship of confidence. This message was intended to assure the new Israeli Prime Minister that President Carter was seeking a relationship of mutual confidence, and that he sought to have positive, constructive talks. I met with Prime Minister Begin at Blair House immediately on his arrival in Washington. I conveyed the President's message in detail. The Prime Minister thanked me profusely. Thereafter, on three different occasions he repeated his deep appreciation for my intervention. A relationship of mutual confidence was established and it still exists. For the sake of world peace, this relationship of mutual confidence must be preserved.

President Carter met with the General Council of the World Jewish Congress on Wednesday, November 2. During his speech he stated that "we shall stand by Israel always" and that our relationship with Israel was "one of our deepest felt commitments." These statements are consistent with what the President has said publicly and privately during the past year.

Mr. President, the question really is whether or not we seize this opportunity for peace. I am convinced that we must do it, and I applaud our President for his leadership. Peace in the Middle East is of paramount importance to the United States and to Israel and to all the nations of the region. We have had four major wars and a climate of insecurity ever since Israel was created. Do we want the next 30 years to be the same as the past 30? I doubt that the economies of the Arab states and Israel could stand it. I doubt that the social and political fabric of these nations could stand it. And I doubt that the rest of the world could withstand the dislocations such wars would bring.

President Carter has seized the opportunity and has gone right to the heart of the problem. He is talking frankly about final, recognized and secure borders, about full normalization of relations among the countries of the region; and he is talking about the Palestinian question. Simply raising these basic issues raises the level of anxiety. But it is the only honorable course for a President of principle and courage.

Mr. President, if ever there were a time to cool the rhetoric, this is the time. Let us support an American President who is doing exactly what he should be doing: affirming our commitment to Israel while working to achieve a peaceful settlement. I am behind him as I hope all Americans regardless of religious faith or political party are behind him. The negotiations at Geneva will be long and difficult. We must demonstrate our trust and our confidence in our President to make the most of this opportunity. Mr. President, I trust the President of the United States.

Mr. President, I ask for unanimous consent to have President Carter's address to the World Jewish Congress printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS OF THE PRESIDENT TO THE WORLD JEWISH CONGRESS

I am deeply honored to receive this award. I accept it with a special sense of gratitude because of the organization from which it comes and the man for whom it is named.

For more than half a century Nahum Goldmann has been a scholar and political leader and a fighter for the rights of all people. His career is proof that a man who is outspoken and controversial can still be a brilliant and effective statesman. As the head of this organization and many others, he has played a more significant role in world affairs than many heads of state. He is stepping down from the presidency of the world Jewish Congress, but his presence will remain, for he is the kind of man whose moral authority transcends titles or offices.

The World Jewish Congress has always sought to promote human rights in a universal way. In this it is faithful to the ethical tradition from which it springs. For Jewish teaching helped to create the consciousness of human rights that is, I believe, now growing everywhere on earth.

In large measure, the beginnings of our modern conceptions of human rights go back to the laws and the prophets of the Judeo-Christian tradition. I have been steeped in the Bible since early childhood. And I believe that anyone who reads the ancient words of the Old Testament with sensitivity and care will find there the idea of government as something that is based on a voluntary covenant rather than force—the idea of equality before the law and the supremacy of law over the whims of rulers—the idea of the dignity of the individual human being and the individual conscience—the idea of service to the poor and oppressed—the ideas of self-government and tolerance and of nations living together in peace despite differences of belief.

I know also that the memory of Jewish persecution and suffering lends a special quality to your commitment to human rights. This organization made a major contribution to insuring that human rights became part of the Charter of the United Nations as one of its three basic purposes, along with the preservation of the peace and social and economic progress. The principal authors of the Universal Declaration of Human Rights were Eleanor Roosevelt, an American Protestant, Charles Malik, a Lebanese Catholic, and Rene Cassin, a French Jew.

Because of their work and the work of others since, no government can pretend that its mistreatment of its own citizens is solely an internal affair. These accomplishments helped start a process by which governments can be moved toward exemplifying the ideals they have publicly professed.

Our actions in the field of human rights must vary according to the appropriateness and effectiveness of one kind of action or another, but our judgments must be made according to a single standard. Oppression is reprehensible, whether its victims are blacks in South Africa or American Indians in the Western Hemisphere or Jews in the Soviet Union or dissenters in Chile or Czechoslovakia.

The public demonstration of our commitment to human rights is one of the major goals that my administration has set for U.S. foreign policy. This emphasis on human rights has raised the level of consciousness around the world and is already helping to overcome the crisis of the spirit which has lately afflicted the West.

We are also trying to build a more cooperative international system. We have consulted closely with our allies, placed relations on a new footing in Africa, Asia, and Latin America, and searched for new areas of cooperation with the Soviet Union, especially in the area where we and the Soviets now most intensely compete—in the race for nuclear weapons. We must halt that race. At the same time we seek cooperation, we recognize that competition is also a fact of international life and we will remain capable of defending the legitimate interests of our people.

We are addressing other global problems which threaten the well-being and security of people everywhere. These include nuclear proliferation, transfers of conventional arms, and the questions of energy, food, and environment which face all nations of the world.

We are also seeking solutions to regional conflicts that can do incalculable damage if not resolved. Our efforts toward a new treaty with Panama are one example; bringing about peaceful change in Southern Africa is another. But none is more important than finding peace in the Middle East.

Sixty years ago today, November 2, 1917, the British Foreign Secretary, Lord Balfour, informed Lord Rothschild of his government's support for the establishment of a national home for the Jewish people in Palestine. At that time, the idea seemed visionary and few dared to believe that it could be translated into reality. But today Israel is a vital force, an independent and democratic Jewish state, whose national existence is accepted and whose security is stronger than ever before. We are proud to be Israel's firm friend and closest partner—and we shall stand by Israel always.

Despite its great accomplishments, however, Israel has yet to realize the cherished goal of living in peace with its neighbors. Some would say that peace cannot be achieved because of the accumulated mistrust and the deep emotion dividing Israelis and Arabs. Some would say that we must realistically resign ourselves to the prospect of unending struggle and conflict in the Middle East.

With such an attitude of resignation, Israel would never have been created, and with such an attitude peace would not be achieved. What is needed is both vision and realism, so that strong leadership can transform the hostility of the past into a peaceful and constructive future. This was the vision of the Zionist movement in the first generation after the Balfour Declaration; it can be the achievement of Israel in its second generation as an independent state.

Since becoming President, I have spent much of my time in trying to promote a peace settlement between Israel and her Arab neighbors. All Americans know that peace in the Middle East is of vital concern for our own country. We cannot merely be idle bystanders. Our friendships and our interests require that we continue to devote ourselves to the cause of peace in this most dangerous region of the world.

Earlier this year, I outlined the elements of a comprehensive peace, not in order to impose our views on the parties, but rather as a way of defining some of the elements of an overall settlement which would have to be achieved through detailed negotiations.

I continue to believe that the three key issues are: first, the obligations of peace, including the full normalization of political, economic and cultural relations; second, the establishment of effective security measures, coupled to Israeli withdrawal from occupied territories and agreement on final, recognized and secure borders; and, third, a resolution of the Palestinian question. Those questions are interrelated in complex ways, and for peace to be achieved, all will have to be resolved.

Recently, our diplomatic efforts have focused on establishing a framework for negotiations so that the parties themselves will become engaged in the resolution of the many substantive issues that have divided them for so long. We can offer our good offices as mediators. We can make suggestions, but we cannot do the negotiating.

For serious peace talks to begin, a reconvening of the Geneva Conference has become essential. All the parties have accepted the idea of comprehensive negotiations at Geneva, and agreement has been reached on several important procedural arrangements.

Israel has accepted for Geneva the idea of a unified Arab delegation which will include Palestinians, and has agreed to discuss the future of the West Bank and Gaza with Jordan, Egypt and the Palestinian Arabs. This can provide the means for the Palestinian voice to be heard in the shaping of a Middle East peace, and this represents a positive and constructive step. Israel has also repeated its willingness to negotiate without preconditions, and has stressed that all issues are negotiable, an attitude that others must accept if peace talks are to succeed.

For their part, the Arab states involved have accepted Israel's status as a nation. They are increasingly willing to work toward peace treaties, and to form individual working groups to negotiate settlement of border and other disputes. No longer do they refuse to sit down at the negotiating table with Israel, nor do they dispute Israel's right to live within secure and recognized borders. That must be taken as a measure of how far we have come from the intransigent positions of the past.

The procedural agreements hammered out in 1973 at the first Geneva Conference will be a good basis for the reconvened conference.

Even a year ago the notion of Israelis and Arabs engaging in face-to-face negotiations about real peace, a peace embodied in binding treaties, seemed illusory. Yet today such negotiations are within reach—and I am proud of the progress that has been achieved to make this dream possible.

But to improve the atmosphere for serious negotiations, mutual suspicions must be further reduced. One source of Arab concern about Israeli intentions has been the establishment of civilian settlements in territories currently under occupation, which we consider to be in violation of the Fourth Geneva Convention.

On the Arab side, much still needs to be done to remove the suspicion that exist in Israel about Arab intentions. It was not so long ago, after all, that Arab demands were often expressed in extreme and sometimes violent ways. Israel's existence was constantly called into question. The continuing refusal of the Palestine Liberation Organization to accept UN Resolution 242 and Israel's right to exist, along with the resort to violence and terror by some groups, provides Israelis with tangible evidence that their worst fears may be in fact be justified.

Differences naturally persist, not only between Arabs and Israelis, but among the Arab parties themselves. We are actively engaged in an effort to narrow these differences so that Geneva can be reconvened, and we have called on the other co-chairman of the Geneva Conference, the Soviet Union, to use its influence constructively.

We will continue to encourage a constructive solution to the Palestinian question in a framework which does not threaten the interests of any of the concerned parties, yet respects the legitimate rights of the Palestinians. The nations involved must negotiate the settlement, but we ourselves do not prefer an independent Palestinian state on the West Bank.

Negotiations will no doubt be prolonged and often difficult. But we are in this to stay. I will personally be prepared to use the influence of the United States to help the negotiations succeed. We will not impose our will on any party, but we will constantly encourage and try to assist the process of conciliation.

Our relations with Israel will remain strong. Since 1973, we have provided $10 billion in military and economic aid to Israel, of which more than two-thirds was in the form of direct grants or concessional loans. The magnitude of this assistance is without parallel in history. It has greatly enhanced Israel's economic health and her military strength. Our aid will continue.

As difficult as peace through negotiations will be in the Middle East, the alternative of stalemate and conflict is infinitely worse. The costs of another war would be staggering, in both human and economic terms. Peace, by contrast, offers great hope to the peoples of the Middle East who have already contributed so much to civilization. Peace—which must include a permanent and secure Jewish State of Israel—has a compelling logic for the Middle East. It could begin to bring Arabs and Israelis together in creative ways to produce a prosperous and stable region. The prospect of coexistence and of cooperation could revive the spirits of those who have for so long thought only of violence and the struggle for survival. Peace would lift the enormous burdens of defense, and uplift the people's quality of life.

The idea of peace in the Middle East is no more of a dream today than was the idea of a national home for the Jewish people in 1917. But it will require the same dedication that made Israel a reality and has allowed it to grow and prosper.

We may be facing now the best opportunity for a permanent Middle East peace settlement in our lifetime. We must not let it slip away. Well meaning leaders in Israel, in the Arab nations, and indeed throughout the world are making an unprecedented and concerted effort to resolve deep-seated differences in the Middle East. This is not a time for intemperance or partisanship. It is a time for strong and responsible leadership and a willingness to explore carefully and thoughtfully the intentions of others.

It is a time to use the mutual strength and the unique partnership between Israel and the United States—and the influence of you and others who have a deep interest and concern—to guarantee a strong and permanently secure Israel—at peace with her neighbors, and able to contribute her tremendous resources toward the realization of human rights and a better and more peaceful life throughout the world.

The Old Testament offers a vision of what that kind of peace might mean in its deepest sense. I leave you with these lines of Micah—lines to which no summary or paraphrase could possibly do justice:

But in the last days it shall come to pass, that the mountain of the house of the Lord shall be established in the top of the mountains, and it shall be exalted above the hills; and people shall flow unto it.

And many nations shall come, and say, Come, and let us go up to the mountain of the Lord, and to the house of the God of Jacob; and he will teach us of his ways, and we will walk in his paths; for the law shall go forth of Zion, and the word of the Lord from Jerusalem.

And he shall judge among many people, and rebuke strong nations afar off; and they shall beat their swords into plowshares, and their spears into pruninghooks: nation shall not lift up a sword against nation, neither shall they learn war any more.

But they shall sit every man under his vine and under his fig tree; and none shall make them afraid: for the mouth of the Lord of hosts hath spoken it.

For all people will walk every one in the name of his god, and we will walk in the name of the Lord our God for ever and ever.

However we may falter—however difficult the path—it is our duty to walk together toward the fulfillment of that majestic prophesy.

SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

The Senate continued with the consideration of H.R. 9346.

Several Senators addressed the Chair.

The VICE PRESIDENT. The Senator from West Virginia.

Mr. BELLMON. Mr. President, will the Senator allow the Senator from Oklahoma to make a very brief statement before the tabling motion is made?

Mr. ROBERT C. BYRD. How long will the Senator be?

Mr. BELLMON. Two minutes.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from Oklahoma for 2 minutes without losing my right to the floor.

Mr. BELLMON. Mr. President, the motion when drafted referred to H.R. 5322. That bill has now been substituted, or has had H.R. 9346 substituted for it.

I ask unanimous consent that that change in the motion be made, the motion referred to H.R. 9346.

The VICE PRESIDENT. The motion simply reads, the pending bill, and it is in the correct form.

Mr. BELLMON. I appreciate that correction.

Mr. President, I would like to try to straighten out what I am afraid is a misconception here on the Senate floor.

This action I have taken, the motion I introduced, was taken on my own initiative. It has nothing to do with the work of the Budget Committee, In fact, I have not talked with the members. I do not know how those individual members will vote.

I introduced this motion simply because I feel a bill of this importance and a bill as complicated as this is should not be considered in such a hasty manner and that the Members of the Senate need time to consider what the impact is before we vote.

I also want to say that I have no criticism for the way the Finance Committee, or the chairman of that committee, has operated as far as the Budget Committee is concerned. He was totally cooperative and everything as far as those two committees' relationship is concerned is strictly first class.

So I hope nothing I have said or done here in any way infers any criticism of the relationship between those committees.

We have enough problems, necessarily. We certainly do not need more. We do not need to bring up more.

I wanted to make that clear for the record.

The waivers that the Finance Committee requested have been granted I think in a timely way. There is no reason this matter cannot move ahead on that account.

But my reason is that I feel this process is hasty, not orderly, and a matter of this importance deserves time for the Members to fully understand what we are doing and to know what is in the bill and what is in the report.

I simply wanted to point out that I am not acting as the ranking member of the Budget Committee, but simply as the Senator from Oklahoma.

Also, I would like to point out for the information of the Members that after months of hearings the Finance Committee split 9 to 9 on a key vote on this matter. So obviously, after months, they could not make up their minds.

I do not know why they are so insistent that the Members of the Senate settle this matter in 1 or 2 days.

The reason for my motion is to give some time to consider the matter so that we come to the best possible solution.

Mr. ROBERT C. BYRD. Mr. President, does any other Senator wish to address himself to the matter before us before I move to table?

Mr. BAKER addressed the Chair.

Mr. ROBERT C. BYRD. I yield to the distinguished minority leader.

Mr. BAKER. Mr. President, I will take only a moment.

I intend to vote to table the motion to recommit. I share many of the same concerns others have expressed and I am frank to say that yesterday my view might have been very different. My view yesterday might have been to recommit, to give us an opportunity to look at this matter further. We are now almost 2 days into this measure, and for that reason I am inclined to think that we should go ahead and finish the consideration of this bill. Therefore, I will vote to table the motion to recommit.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. BAKER. I yield.

Mr. DOLE. Will the Senator from Tennessee agree that some of us who are shut out from offering our amendments should have an opportunity to offer them?

Mr. BAKER. I think the Senator from Kansas knows that I have tried my best to get the Budget Committee to grant a waiver so that the Senator can offer the amendment, of which I am a cosponsor. As a matter of fact, if this bill were recommitted, there would be no opportunity to do that.

The Senator from Kansas knows that I intend to support his amendment, and I will do so as enthusiastically as I can.

I see the Senator from Arizona here. He has a similar amendment of which I am a cosponsor, and I will support it.

The VICE PRESIDENT. The Senator from West Virginia is recognized.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. How long would the Senator like to speak?

Mr. THURMOND. Half a minute.

Mr. ROBERT C. BYRD. I yield to the distinguished Senator from South Carolina.

Mr. THURMOND. I wish to ask a question. I have an amendment to this bill. I am going to vote to act on the bill now. I think we would make a mistake to delay action. We must allay the fears of the millions of people who are on social security and assure them that something is going to be done. At the same time, it seems to me that we should have the time to offer these reasonable amendments.

I have an amendment that concerns a very small class of veterans who are caught in a peculiar situation. It is

something that should be remedied as soon as possible. All I want to know is whether I will have a chance to offer that amendment.

Mr. ROBERT C. BYRD. The answer is, "Yes," I say to the distinguished Senator from South Carolina.

Mr. THURMOND. I thank the Senator very much.

Mr. DOMENICI. Mr. President, will the majority leader yield so that I may ask a question of the minority leader? It will not take more than 10 seconds.

Mr. ROBERT C. BYRD. I yield not to exceed 2 minutes to the Senator from New Mexico for that purpose.

Mr. DOMENICI. I think the minority leader knows how much I respect him. I disagree on this issue, but I wonder what has made the difference. What has caused the difference between yesterday afternoon at 5:30 and this afternoon at 3:30? What has caused the Senator from Tennessee to tell us yesterday he would have voted to recommit and today that he will not? What happened?

Mr. BAKER. Mr. President, my good friend and distinguished colleague from New Mexico, who is such an addition to this side of the aisle and who has been in league with me on many issues, knows that I have the highest affection and regard for him.

Mr. DOMENICI. That does not have anything to do with the question. [Laughter.]

Mr. BAKER. The Senator knows that what I am about to say has no bearing on his views on this subject or my own. The reason, I say to the distinguished Senator from New Mexico, is that I changed my mind. [Laughter.]

Mr. DOMENICI. I am delighted, and I thank the Senator for his frankness.

The VICE PRESIDENT. The Senator from West Virginia.

Mr. LONG. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. LONG. Mr. President, let me say this in all good faith to those who serve on the Budget Committee and those who serve on all the other committees.

I really believe that part of the responsibility is that Congress voted to be too generous. There was a floor amendment offered here that put us in that position in 1972. Now we have to cover the unfunded part of this social security program whenever we can do it.

We can come nearer to mustering the votes now than if we wait 6 months, when one-third of the Senate and every Member of the House will be that much closer to having to run for reelection. It is a difficult thing for Congress to measure up to, but we can come nearer to doing it now than we will later.

With regard to the Budget Act, I sort of like the idea that the Budget Committee can sometimes protect the Finance Committee and help us defend against an amendment that is going to cost a great deal of money. If the motion to postpone is defeated and a motion to table carries, I believe that, in good faith, in order to get on with the business, those of us on the Finance Committee should support those who want to offer their amendments, if we must go against the Budget Committee, and let the amendments be disposed of on their merits.

In the long run, I do not think we are going to solve the problem involving the Dole amendment by just postponing it because of a technicality or denying somebody the right to have it come to a vote. It seems to me that we should cooperate, however we must, and I hope it will be on a straight up and down matter involving the resolution that the Budget Committee will report. We should cooperate, and I will do my best to cooperate, to see that every Senator has a chance to offer his amendment.

I fully realize how Senators feel when they have an amendment and believe they can muster a majority vote, and then they are told they cannot have a vote because of a technicality or because of the Budget Committee or because of something else. I will do everything in my power to see that those Senators such as Mr. DOLE who wish to offer amendments, have an opportunity to do so, and we will vote on them and do what must be done, if the Senate sees fit to go forward and fulfill its duty of trying to see that this social security program is funded. That is so important that we should try to do it any time we can; and I believe we have a better chance to do it now than 6 months from now.

Mr. BELLMON. Mr. President, will the Senator yield for a question?

Mr. ROBERT C. BYRD. I yield for that purpose.

Mr. BELLMON. The Senator raises the point that we got the social security program in this shape by hasty action in 1972. I am concerned that if we take the same kind of action now, we will regret it later.

Mr. LONG. The action we took in 1972 was not hasty action. It was thoroughly considered. But the action was ill-advised. Frankly, nobody could have done any better at the time.

At that time, the Advisory Committee on Social Security said we could afford a 20-percent increase and an automatic cost-of-living increase provision. They were advising us that we could afford what that amendment provided when it was offered on the floor by the Senator from Idaho (Mr. CHURCH), on behalf of the Committee on Aging. We went along with it, and I supported it, as did almost every other Senator here, because the Commissioner of Social Security and all those who always had been able to give us very solid and reliable predictions and cost estimates said this was something we could afford. I hate to say it, but the best experts in America proved to be in error. That is how we got into this situation.

Mr. BELLMON. It was a floor amendment, brought up on the floor, after the bill came out of committee, and was not carefully considered.

Mr. LONG. That amendment was voted on in the Committee on Finance. Many of us voted for it in the committee, but it failed. I voted for it in the committee. It was offered on the floor, but there was a lot of respectable advice—in fact, I would say the overwhelming burden of respectable advice—headed by Mr. Robert Ball, the Commissioner of Social Security, and others, to the effect that we could afford it. They said we should adopt these so-called dynamic assumptions. Those dynamic assumptions proved to be too dynamic—more dynamic than we could afford. So we found ourselves in the situation we are in today.

Mr. BELLMON. Is the Finance Committee taking Mr. Ball's advice on this bill?

Mr. LONG. On this bill, we are taking the advice of all the experts we can. We are taking the advice of everybody in the Department, including Secretary Califano, and our own experts.

I believe that if the Senator seeks the advice of his committee staff—that is, if he starts with Miss Rivlin and works his way down; if he takes the burden of the best advice that staff can muster, and he has some very fine experts, they will tell him that we must do something like this whenever we can or this program will not be solvent.

Mr. BELLMON. All we are asking is that we have time to consult those experts and find if this bill is the best we can do.

Mr. LONG. The Senator's experts have been advising us that this bill should be passed; so have our experts been advising us that this bill should be passed; and so has every expert in the Department been advising us that this bill should be passed.

All we are talking about is that Senators and Members of the House should overcome their reluctance to vote for a big tax and overcome the political burdens implicit in all that, to muster whatever it takes to vote the tax to make this program solvent.

Mr. BELLMON. Mr. President, will the Senator yield for an additional question?

Mr. ROBERT C. BYRD. I yield for that purpose.

Mr. BELLMON. Just to be sure my facts are right, I am told that the trust funds at the end of this year, December 31, 1977, the combined trust funds, will have a balance of $46.1 billion and that a year later, on December 31, 1978, those trust funds still will have a total of $43 billion remaining.

I cannot understand the reason for the rush. If the fund is going broke, certainly we should do something as quickly as possible.

We have months or even years to consider this matter before we have to move in such a hasty fashion.

Mr. LONG. Mr. President, it was a Senator from Oklahoma, the late Robert S. Kerr, who insisted that disability insurance should be a separate program and a separate fund. Shortly after the end of next year that program will go broke. A few years later, in 1983, the old age and survivors insurance fund runs out of money. The Senator says why can we not wait until then? For one thing, if we wait we are going to have a $1 billion increase in burden because of that Supreme Court decision on equal rights which is going to load a lot of people on the rolls who do not belong there—which would not happen if this bill becomes law now.

It is a $1 billion windfall that no one ever intended because of the Supreme Court decision. I am not challenging their decision now. Now that we know what it is this bill adjusts for it. That is No. 1.

No. 2, it is purely a matter of what time does the Senator think we can muster most political courage in the House of Representatives and the Senate? In the Senate one-third of our Members run for reelection next year. The nearer we get to that election, the tougher it is going to be for those Senators to vote for this bill even though they know that is a matter of fiscal responsibility.

In the House of Representatives every man over there has to seek reelection next year. There are 435 of them. And the nearer we push those men to election the more difficult it is going to be for them to vote for this bill.

My point is that we should have voted the taxes 3 years ago, we should have voted them 2 years ago, and we should have voted them last year. But for one reason or another, such as the fact that President Ford had a tough race coming up—and it proved to be a very tough race—and because of things of that sort we could not do it then.

When can we ever do it? We have a chance right now. No one right now has a tough race on his hands. Next year they will all have opponents beginning to enter the field and announcing their candidacy against many and sundry people for the jobs next year.

We could come nearer passing it right now than at any other time.

Let me ask, as a matter of political reality, can anyone here muster more courage to vote for a great big tax 6 months from now when we are 6 months closer to an election than right now?

That is as strong as reason as I can figure out why we should do it any time we can.

We could come nearer passing it right now as a matter of political reality than we can 6 months or a year from now.

Mr. NELSON. Mr. President, will the Senator yield for an observation?

Mr. LONG. I yield to the Senator for an observation.

Mr. NELSON. We have been trying to find out how much it would cost if we delayed, and the Senator was suggesting $1 billion, that it would cost $1 billion because of the Supreme Court decision, with the increase in the replacement rate that is going on, as well as the retroactive benefits. The actuaries have been working on it for some time now and estimate that if we wait until March—the resolution here is February—if we wait until March and it would probably be February before we get it through, the additional cost to the fund would be $1,200,000,000, and that alone is far too much just to postpone consideration of this bill and go back and take another look at it and pass what we started out with in the first place.

I might say this, if the Senator will allow me a moment, that there is a nice piece of irony here in the fact that many Senators have been standing up and saying, "Oh, we have to study it further; we have not had the hearing record long enough; we have not had the committee report long enough."

I have been looking down the rollcall, and I will not embarrass anyone, but an hour and a half ago on a veterans' bill that is going to cost hundreds and hundreds of millions if not billions of dollars there was no hearing at all, as there was on social security. There was no committee report at all. There was 24 hours' notice, and we passed it 68 to 20 with the same Senators who are now saying, "Send this back for more studies," being part of the 68. I must say I am proud to say I was not part of the 68. I was part of the 20.

Mr. MORGAN. Mr. President, will the Senator yield?

Mr. LONG. Mr. President, if the Senator will let me say it, this is a big tax. If you want to fund the obligation and take these dear old people, disabled people, and widows and orphans who have a right to expect that Congress is going to fulfill the promise it made to them in the Social Security Act, if you want to take them out of that place of insecurity they are in with an unfunded program and you want to put the money up as was always in the past, so that what has been promised them will be paid for out of taxes that the American people will make good, not by inflation, but by taxes to pay for the benefits, you are going to have to vote for a big tax, and there it is right there in this bill. The more you study it the tougher it is going to get and the longer you study it the tougher it is going to get. But at some point you are going to have to march up the hill and find 51 votes to pass that tax. Otherwise, this program will have to be funded by hot checks out of the Treasury where the purchasing power of the money goes down as fast as they print the money. Sooner or later we are going to have to find a way to fund what we have promised the American people. It is not going to be any easier just because you postpone that tough decision.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. MATSUNAGA. Mr. President, will the distinguished Senator yield for 30 seconds?

Mr. ROBERT C. BYRD. I yield to the Senator from Hawaii.

Mr. MATSUNAGA. Mr. President, I urge my colleagues to vote "yea" on the tabling motion.

As a member of the Finance Committee, who has had the great privilege of serving under the chairman who today is celebrating his 39th birthday for the 29th time by working for the American people, I say happy birthday, Russ.

Mr. ROBERT C. BYRD. Mr. President, I shall shortly move to table the motion to recommit. I do that for at least three reasons.

One, the problems that the system faces today have already been analyzed by the board of trustees of the social security trust fund in its 1977 report to Congress. The board has informed us that the disability insurance trust fund will be exhausted in 1979 and the old age and survivors trust fund will be depleted in 1983.

I believe that our proper course now is to act and to act now to protect the financial soundness of the social security system. The alternate course, which is one of procrastination and delay, can only contribute to a loss of faith by the American people in Congress.

The second reason why I make this motion and urge Senators to support the motion to table is the fact that the President when he considers whatever tax initiatives he wishes to present to Congress next year needs before him the impact of the social security financing measure and the impact of the energy tax bill, which has been passed by the Senate and which is in conference with the House of Representatives.

Before the President can make a reasonable judgment as to what proposals to send to Congress with reference to taxes next year, he needs both of these matters before him. He needs to know what the impact upon the economy will be. Until he has both of these measures before him, he will not be in a good position to formulate whatever decisions he feels he has to make in regard to the proposals that he will submit.

In that regard, Mr. President, I ask unanimous consent to print in the RECORD a letter which I have received from the President of the United States, dated November 3.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, D.C., November 3, 1977.

Hon. ROBERT C. BYRD,
Majority Leader, U.S. Senate,
Washington, D.C.

To SENATOR ROBERT BYRD: Enactment of a strong social security financing bill is essential this year.

To avoid unacceptably high costs to the system and unacceptably high taxes on today's workers, the legislation should retain a reasonable earned income limitation for social security beneficiaries and should include financing provisions such as the so-called Nelson compromise. I hope that the Senate will take into account my concerns in this regard.

Sincerely,

JIMMY CARTER.

Mr. ROBERT C. BYRD. Mr. President, I shall read merely the first sentence:

Enactment of a strong social security financing bill is essential this year.

Mr. President, the third reason why I shall move to table this motion lies in the fact that now is the time to act. Next February we will have the same problems that we have now except they will be compounded.

There will be those who will say, "We still have not had time enough to study." We will have more legislation than we can adequately deal with next February without this problem. We will have the Panama Canal Treaty; we will have whatever tax initiatives the President decides to send up to Congress; we will have the regular appropriation bills we have to cope with every year; we will

have to meet the same Budget Act deadlines with respect to the reporting of bills and the reporting of legislation that provide for new obligational authority; we will have all of those deadlines to meet. So we are not lessening our problem by delaying this one until next February.

I say, Mr. President, that Senator LONG has put his finger right on the crux of the matter. Next February there will be those who will be facing a filing deadline back in their States; those who have to run for reelection will be facing a filing deadline. They will want to wait until after the filing deadline before they showdown on these taxes.

After we pass the filing deadline they will want to wait until after the State primaries before they showdown on these taxes.

Then, of course, after the State primaries they will want to wait until after the fall elections because the argument will be then, "Well, the trust fund"—the argument will run like this—"Well, the trust fund, the disability trust fund, won't be exhausted until 1979, so let us wait until next year."

So, Mr. President, let us have away with this urging we have for procrastination and delay. I am one of those who often vote on legislation without having had time to study the committee report, without having had time to study the bill. Every Senator in this body is put into that position from time to time, so there is nothing unique, there is nothing new, about this particular situation.

There are those who say, "Why rush the bill?" Well, we have all of tomorrow, we have all day Saturday, and if we stay here until the close of business on Saturday on this bill, that will make a total of 4 days we will have spent on it. If Senators want to consider the bill further, the Senate has been promised by the distinguished minority leader and me there will be no floor action next week in the Senate. But no such promise was made with respect to the week of the 13th through the 19th.

I urge Senators not to commit this bill, because if we do it means we have wasted 2 whole days here in delay. Senators could have called up amendments, and we would be putting the bill back into the committee until next February. For what? For additional delay?

I would say, Mr. President, if we want some additional time to debate the bill, we can have it. We do not have to commit the bill. It is the unfinished business, and if action is not completed on it by the close of business Saturday, it will be the business before the Senate when the Senate convenes on November 14, a week from this coming Monday.

If they want additional time, and the Senate has not completed action on the bill during that week, the distinguished minority leader and I have assured Senators that the week of Thanksgiving we will have no floor action, but on November 28, Monday, this bill will still be the unfinished business. If Senators wish to continue to debate until that time they may do so. But whatever they do, the question of committal should not be decided on the point that we are rushing it through, that we are ramming it down the throats of the Senate.

There is plenty of time to debate this bill without putting it over until next February if Senators genuinely want to debate it. We do not have to close up shop Saturday night. We can continue to act on this measure. It is the unfinished business, and it will be the unfinished business until it is disposed of.

If the Senate wants to dispose of it by committing it that is one way to dispose of it. If the Senate wants to dispose of it by tabling, that is one way to dispose of it. But it will not be disposed of by virtue of the majority leader Saturday evening saying, "Well, we are just going to put it off until next year." You can just forget that.

I would hate to see tomorrow morning's headlines say, "Senate shelves social security financing bill." How many of you want to be responsible for that headline? How many of you want to respond to the letters that will come to you then?

We have a responsibility to face up to this question. The committee has faced up to the question. If we need more time we can have it. But in any event do not commit this bill; committing it means killing it. that is exactly what it means.

If we wait until next February we will be waiting until February 1979.

So, Mr. President, I yield 2 minutes, before I move to table the motion, to the Senator from Wyoming.

Mr. HANSEN. I thank the distinguished majority leader.

Mr. President, I have been tied up in a couple of conferences today, and I have not been able to be on the floor to participate like I would have liked to have done on this bill.

Let me say I voted for the Curtis amendment. Let me say I am disappointed that the Senate of the United States seems to continue in the belief, the mistaken conviction, that we can fool all of the people all of the time.

There is no question at all but what inflation is one of the very major and increasingly difficult problems facing this country. There is an uneasiness in the business community. The stock market is dropping steadily. I do not know what it has done today, but generally the attitude of the typical businessman is that this is not a very good economic climate.

We are worried about jobs. It has been pointed out earlier today, from what I have been told, that one of the things that is wrong with the approach we are now taking is that it is going to make it more difficult to employ men, to generate the kind of income that can result in more jobs.

I was not on the Committee on Finance too long before 1972, but I recall that when we were talking about the Church amendment there seemed to me to be a consensus, and I think the RECORD will reveal that a majority of us voted, against the so-called Church amendment. But there were others who did not, and it was said that one of the things that was bound to happen—and I know the distinguished Vice President at that time, as I recall, was on the Committee on Finance, and I suspect he too may recall—it was observed that the reason why the Committee on Finance ought to vote to give these extra benefits that now come back to plague us, despite the expert advice we had, was that if we did not do it in the Committee on Finance it would be done on the floor. Indeed, we did not do it in the Committee on Finance and, indeed, it was done on the floor.

I do not think the solution we are offering to the American people today is all that good. I would be inclined, if I thought that a better equilibrium could result, if a better sense of balance could occur, to postpone the decision. But I think there is a lot to what my distinguished chairman has said, that if we put it off until next spring we probably will not come up with as good a solution as we have right now.

I am not happy with it. I did not vote for it, but I am going to vote to table the motion of the distinguished Senator from Oklahoma because I am fearful, being the kind of political animals we all are, that we probably will be less inclined in February to do the honest and decent and long-range good thing that I regret we have not done until now.

So I say with a sense of sadness, with a sense of frustration, that I will support the motion to table the motion of the distinguished Senator from Oklahoma not because I do not think he is right, but precisely because I fear that come next spring we will be even more conscious of the illusion that we continue to perpetuate on Americans, that if we do not tax them, but if we continue to pay them more and more benefits, we are good guys.

I thank my leader.

THE SOCIAL SECURITY TAX BILL

Mr. CHURCH. Mr. President, I oppose this legislation. I will vote to recommit it because it provides for a huge tax increase—one of the largest in history—and a highly regressive tax, at that. The social security tax, like the sales tax, falls hardest on those less able to pay.

I recognize that the Social Security System must remain solvent. But I had hoped that it would be possible to fashion a bill that would not only meet the fiscal needs of social security, but also accomplish other objectives as well.

For example, this country needs a much-improved comprehensive medical program for the elderly, the handicapped, and the poor. We need a program that eliminates the gaps that now exist between coverage under medicare and medicaid.

I feel that medicare should be removed from the social security trust fund and financed, instead, through general revenues. Medicaid is already financed this way, and the two should be blended into a uniform system. General revenues come mainly from the income tax, so that the financing would be made progressive in nature, rather than regressive.

If we were to remove medicare from social security as part of a general overhaul, it would lift a big burden from the social security trust fund. That, in turn, would make it possible for us to lower substantially the rate increase contemplated by this bill.

Accordingly, I will cast my vote to commit this bill, and if the motion carries, I will introduce legislation designed to accomplish these objectives soon after Congress reconvenes next year.

The VICE PRESIDENT. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I move to lay the motion to commit on the table, and I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from West Virginia to lay on the table the motion of the Senator from Oklahoma to commit the bill. The yeas and nays were ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SPARKMAN (when his name was called). Mr. President, on this vote I have a pair with the Senator from Maine (Mr. MUSKIE). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Iowa (Mr. CLARK), the Senator from Iowa (Mr. CULVER), the Senator from Hawaii (Mr. INOUYE), and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

I further announce that, if present and voting, the Senator from Iowa (Mr. CLARK) would vote "yea."

Mr. STEVENS. I announce that the Senator from Kansas (Mr. PEARSON) and the Senator from New Mexico (Mr. SCHMITT) are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT) is absent on official business.

The result was announced—yeas 54, nays 36, as follows:

[Rollcall Vote No. 614 Leg.]

YEAS—54

Anderson	Haskell	Nelson
Baker	Hathaway	Nunn
Bayh	Hollings	Pell
Bentsen	Huddleston	Percy
Burdick	Humphrey	Proxmire
Byrd, Harry F., Jr.	Jackson	Randolph
Byrd, Robert C.	Javits	Ribicoff
Cannon	Johnston	Riegle
Cranston	Kennedy	Sarbanes
Curtis	Laxalt	Stafford
Dole	Long	Stennis
Durkin	Magnuson	Stone
Eastland	Mathias	Talmadge
Ford	Matsunaga	Thurmond
Glenn	McGovern	Williams
Gravel	McIntyre	Young
Hansen	Melcher	Zorinsky
Hart	Metzenbaum	
	Moynihan	

NAYS—36

Abourezk	Domenici	McClure
Allen	Eagleton	Metcalf
Bartlett	Garn	Morgan
Bellmon	Goldwater	Packwood
Biden	Griffin	Roth
Brooke	Hatch	Sasser
Case	Hatfield	Schweiker
Chafee	Hayakawa	Stevens
Chiles	Heinz	Stevenson
Church	Helms	Tower
Danforth	Leahy	Wallop
DeConcini	Lugar	Weicker

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Sparkman, for.

NOT VOTING—9

Bumpers	Inouye	Pearson
Clark	McClellan	Schmitt
Culver	Muskie	Scott

So the motion to lay on the table the motion to recommit was agreed to.

Mr. NELSON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. LONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LABOR-HEW APPROPRIATIONS FOR 1978—CONFERENCE REPORT

The PRESIDING OFFICER (Mr. MOYNIHAN). The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, with reference to the Labor-HEW conference report, which it is hoped can yet be resolved between the two houses, after consultations with various parties who have been keenly interested in the matter I make the following unanimous-consent request: I ask unanimous consent that it be in order——

The PRESIDING OFFICER. Will the Senator suspend? The Senate is not in order. Will Senators kindly take their seats and give the Senator from West Virginia the courtesy of being heard?

Mr. ROBERT C. BYRD. I thank the Chair. I ask unanimous consent that it be in order to move, without debate, to reconsider the vote by which the Senate concurred in the House amendment to the Senate amendment No. 82 to H.R. 7555 with an amendment, and that the word "or" on line 6 of the Senate amendment may be changed to the word "and" upon reconsideration.

I would modify that by striking from my request "without debate." And that there be a time limitation of 10 minutes——

Mr. PACKWOOD. Is the request to change the word or for reconsideration?

Mr. ROBERT C. BYRD. The request is to allow the motion.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, I will reiterate and reinforce what has just been said, that negotiations have been underway for a good part of the day today. I see the distinguished Senator from Massachusetts, the ranking Republican on the committee, on the floor. It is my impression that he and others have carefully considered the procedure now proposed and it is generally agreed.

I know the Senator from North Carolina is not here——

Mr. HEINZ. Reserving the right to object, and I shall not object, Mr. President, I believe this is a worthwhile motion. It is one I intend to support and I urge that the unanimous-consent request be agreed to.

Mr. BROOKE. If the Senator will yield, Mr. President, I would like to assure the Senator that this is a matter which Senator MAGNUSON, the distinguished chairman of that subcommittee, and I have worked out together with Senator HELMS and many other Senators—Senator BURDICK, Senator CASE, and others—who are interested in this matter. This is a procedural matter which will give us an opportunity to vote subsequently on a language change and send it back to the House of Representatives so that they may consider it today, hopefully, and we can come to a compromise and end the stalemate which has held us up for such a long period of time.

Mr. ROBERT C. BYRD. Would the Senator suggest any time limitation?

Mr. BROOKE. No. I would suggest there is no further debate necessary.

Mr. ROBERT C. BYRD. That there be no debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE. Now, Mr. President, I move to reconsider the vote by which the Senate concurred in the House amendment to the Senate amendment No. 82 to H.R. 7555 with an amendment.

Mr. JAVITS. Could we have it stated, Mr. President, so that we know what it is?

Mr. BROOKE. But this is still procedure.

Mr. JAVITS. No objection.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

UP AMENDMENT 1041

Mr. BROOKE. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The Chair is advised that the question will be on reconsidering the motion to concur in the House amendment to the Senate amendment numbered 82, with an amendment and with one word of that amendment changed from the prior amendment.

Will the Senator kindly send that change to the desk?

Mr. BROOKE. Yes.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. BROOKE) proposes unprinted amendment No. 1041.

Mr. BROOKE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Mr. President, I ask unanimous consent that it be in order to move to reconsider the vote by which the Senate concurred in the House amendment to the Senate amendment No. 82 to H.R. 7555 with an amendment and that the word "or" on line 6 of the Senate amendment may be changed to the word "and" upon reconsideration.

Mr. BROOKE. Mr. President, my colleagues will remember that the action taken by the Senate this morning on this legislation contained the words "severe or long-lasting damage to the mother." The intent of this amendment is to change the word "or" and substitute therefor the word "and," so the language would be "severe and long-lasting damage to the mother."

That is the only change that this amendment would make.

Mr. JAVITS. Will the Senator yield?

Mr. BROOKE. Yes.

Mr. JAVITS. Mr. President, so the amendment will now read, "or except in those instances where severe or long-lasting damage to the mother" would result?

Mr. BROOKE. Except in those instances "where severe and long-lasting damage to the mother."

Mr. JAVITS. The words "physical health" are omitted?

Mr. BROOKE. No, we are not changing that at all; we are only changing the word "or" to "and." There is no other change. It is a minor change.

Mr. President, I ask for the yeas and nays on this motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BROOKE. Mr. President, before we vote, I urge adoption of this amendment. But there will be yeas and nays.

The PRESIDING OFFICER. The question is on the motion to concur in the House amendment to the Senate amendment No. 82, with an amendment in which the word "or" on line 6 is changed to "and". The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Iowa (Mr. CULVER), the Senator from Hawaii (Mr. INOUYE), and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

I further announce that, if present and voting, the Senator from Iowa (Mr. CULVER), would vote "yea."

Mr. STEVENS. I announce that the Senator from California (Mr. HAYAKAWA), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from New Mexico (Mr. SCHMITT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT) is absent on official business.

I further announce that, if present and voting, the Senator from California (Mr. HAYAKAWA) would vote "yea."

The result was announced—yeas 62, nays 27, as follows:

[Rollcall Vote No. 615 Leg.]

YEAS—62

Abourezk	Goldwater	Metzenbaum
Anderson	Gravel	Morgan
Baker	Hansen	Moynihan
Bayh	Hart	Nelson
Bellmon	Haskell	Nunn
Bentsen	Hathaway	Pell
Brooke	Heinz	Percy
Burdick	Hollings	Proxmire
Byrd, Harry F., Jr.	Humphrey	Ribicoff
Byrd, Robert C.	Jackson	Riegle
Cannon	Javits	Sarbanes
Case	Kennedy	Sasser
Chafee	Laxalt	Sparkman
Chiles	Leahy	Stafford
Church	Long	Stevens
Clark	Magnuson	Stevenson
Cranston	Mathias	Talmadge
DeConcini	Matsunaga	Tower
Eastland	McGovern	Wallop
Glenn	McIntyre	Williams
	Metcalf	Young

NAYS—27

Allen	Ford	Melcher
Bartlett	Garn	Packwood
Biden	Griffin	Randolph
Curtis	Hatch	Roth
Danforth	Hatfield	Schweiker
Dole	Helms	Stennis
Domenici	Huddleston	Stone
Durkin	Johnston	Thurmond
Eagleton	Lugar	Zorinsky

NOT VOTING—11

Bumpers	McClellan	Schmitt
Culver	McClure	Scott
Hayakawa	Muskie	Weicker
Inouye	Pearson	

So the motion to concur was agreed to.

The PRESIDING OFFICER. (Mr. PROXMIRE). The Senator from Wisconsin is recognized.

Mr. NELSON. Mr. President, I yield to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

A RESPONSE TO DR. BURNS' CRITICISM OF CARTER ADMINISTRATION ECONOMIC POLICY

Mr. HUMPHREY. Mr. President, Arthur Burns, the Chairman of the Federal Reserve Board, recently took out his axe, whetted it to a fine edge, and went after the President and the Congress for following what he regards as short-sighted and counterproductive economic policies.

I have a great respect and affection for Dr. Burns. He is a sincere and dedicated man. He wants what is right for our country as much as I do, and as much as the President does. He is a man of deep conviction. Unfortunately, his analysis of what ails our economy is seriously defective, and his conclusions about what we should do to cure these ailments are misleading and wrong. I think it is time someone stood up and said so.

One of Dr. Burns' complaints is that the Carter administration is trying to solve too many problems at once. The business and financial community, he believes, has become confused and irritated because our President wants to move forward on the energy front, to keep our social security system from going bankrupt, to clean up the welfare mess, and to make our tax system fairer and more equitable.

The problems the President and the Congress are coming to grips with are not problems that the current administration invented. They are problems inherited from the past. They are not Republican or Democratic problems; they are bipartisan issues of critical importance to our economy and our people. And, until they are resolved, the uncertainty they create will plague our economy and prevent a return to the steady and energetic economic growth that our businesses, workers, and consumers desire and deserve.

In the first year of President Carter's term we are importing almost 9 million barrels of oil a day and it is costing us $45 billion a year. The price of oil is four times what it had been in the fall of 1973, and we are relying on imports to meet 48 percent of our domestic requirements. We do not have the luxury of solving this problem at our leisure.

When this administration took up the reins of Government, our social security system was in deep trouble. Every day that we delay in adopting measures to bolster the financing of our social security system puts us one day closer to the time when the social security trust funds will be exhausted and unable to maintain the benefit payments on which millions of older Americans depend for their livelihood. It would be unconscionable for the President and Congress to sit by passively while this social time bomb ticked away.

When the President took office last January, he inherited a welfare system that was beyond the financial capacity of many cities and States to operate, and one in which there was a vast amount of waste and cheating. He inherited an income tax system so complicated that virtually no one understands it, and so unfair that billions of dollars of income are escaping taxation, because of the loopholes that have so vastly increased in number over the past decade.

Moreover, when the new administration came to office, the economy was in a shambles. In December of 1976, the Nation's unemployment rate was stuck at a socially destructive and economically debilitating 7.8 percent, consumer prices were soaring at a 10.1-percent annual rate, and a full 20-percent of our Nation's plant and equipment was standing idle.

Of course, it is difficult and time consuming to find solutions to problems of such enormity and complexity. There is bound to be uncertainty while Congress debates the issues, considers the alternatives, and finds a consensus that represents the will of the people and the best interests of our Nation.

But what is the alternative? Does Dr. Burns really believe it is better to leave such economic ailments unattended? Should we expose our citizens to the threat that a year or two from now they may not be able to heat their homes or obtain enough gasoline to drive to work? Should America's workers and retired citizens have to live with the grim realization that a crisis in the social security system looms ahead, and without a clue as to what will be done? Should we tell the worker whose paycheck is being eaten up by rising taxes that we cannot afford to establish a rational welfare system or to move ahead to make our tax system fairer—because doing so is too complicated and too disruptive?

This great Nation of ours was not built by the timid or the faint-hearted. Our Nation has prospered because we have been willing to tackle our problems pragmatically, energetically, and with a sense of optimism. The way to gain consumer and business confidence is not to shut our eyes to festering ills, to avoid controversial issues, to live from one day to the next hoping that serious national problems will somehow go away. That course of action might buy a few months of calm—but the inevitable storm that would follow will engulf us all.

The President and Congress have not sought the easy way out. The easy way would have been to temporize—to postpone for the next administration and the next Congress the search for lasting solutions.

I applaud President Carter for his boldness and for his foresightedness. The course of action he has chosen has generated a great debate on issues of major importance to our Nation's future. The uncertainty of the policymaking process in dealing with issues of sweeping importance is uncomfortable, but it is a small price to pay for the long-run health of the economy. Congress is working steadily toward agreement in this session on energy and social security legislation, and it can then turn to sorely needed reform of our tax and welfare systems.

Solutions to such fundamental problems do not come quickly. America is a big, complex, modern nation and so are our problems. The multiplicity of economic interests, the great diversity among the regions of our Nation, and the great variety of peoples and viewpoints which are the source of America's great strength, are also the essential explanation of why solving important and complex problems in a democratic way is so difficult and time consuming. But, I ask you, who would want it any other way?

The public discussion and debate, the arguments and the compromises between the President and the Congress, may take more time than we would like, but they are indispensable in finding solutions that can be sustained for long periods of time under our political system.

Dr. Burns also believes that our economy is suffering from the effects of inflation, and what it has done to business profits and planning for the future. I agree with him. I know from personal experience that inflation can play havoc with the plans and dreams of a small businessman. I also know what inflation can do to the real value of the savings that workers put away for their retirement and what parents accumulate for the education of their children.

Perhaps we need to refresh our memories, however, on what has happened to the pace of inflation over the past 10 years.

When Richard Nixon became President in January 1968, the rate of inflation was around 4 percent. Two years later, he appointed one of the great inflation-fighters of all time—Dr. Arthur Burns—to manage monetary policy at the Federal Reserve. Mr. Nixon must have hoped that, with Dr. Burns at the money-creating machine in our country, the problem of inflation would soon be brought under control.

During Dr. Burns' tenure at the Federal Reserve, our inflation problem did not get better; on the contrary, it has become much worse. By 1974, prices were rising at an astronomical rate. Inflation had gotten completely out of control.

The aggravation of inflation in 1973 and 1974 that stemmed from rising prices of food and energy items was not, of course, the fault of the Federal Reserve.

Nor was it the kind of inflation that our monetary and fiscal policies could readily cure. Nevertheless, the Nixon-Ford administration and the Federal Reserve tried to use conventional tools to solve unconventional problems of the present and the future. They slammed on the monetary and fiscal brakes, and the consequence was the deepest recession of the entire postwar period.

The results of that recession were staggering. The unemployment rate rose to about 9 percent, the highest level since 1941. Nearly 9 million American workers were "officially" counted as unemployed and millions of others were actually without work or underemployed. At the same time, inflation raced ahead at a double-digit rate for the first time in modern American economic history. Long- and short-term interest rates for businesses, consumers, and for families borrowing to buy a home climbed to unprecedented levels. Not surprisingly, the bottom dropped out of the housing market and the number of new homes built in 1975 dropped below the 1 million mark for the first time in many years. By early 1975 with more of our industrial capacity idle than at any time in the postwar period, business profits had dropped to a dangerously low level.

The greatest tragedy of the recession was the colossal wasting of our Nation's human, natural, and capital resources that occurred. This recession cost the American people more than $600 billion in goods not produced, services never provided, and income never earned. This recession cost America's working families an average of $12,000 each.

Following the cataclysmic economic events of the early 1970's, it is hardly any wonder that America's businessmen and businessmen throughout the world are still nervous and uncertain about the future, and that business investment has not developed the dynamism it must have if we are to employ the unemployed and regain prosperity in our country and elsewhere in the world.

Confidence in the long-run health of the economy we know is a critical ingredient in businessmen's decisions to invest when they look forward to investing. That confidence cannot be purchased with economic policies that inhibit growth, reduce consumer spending, produce high unemployment, and force a large part of our industrial capacity to stand idle.

Chairman Burns has observed that the Federal Reserve must strike a "delicate balance between too much and too little money." A similar balance must also be struck between too much and too little stimulus coming from the Federal budget.

Deficits in today's underemployed economy are not inflationary. Large deficits are the result of recession and unemployment and they decline as the economy returns, as it must, to full employment. As unemployment increases and economic growth declines, deficits increase. When economic progress returns, the deficits are reduced. In 1975, for example, unemployment rose by 2.9 percentage points, the Gross National Product (GNP) actually dropped by 1.3 percent and, as a result, the Federal deficit rose by $60 billion. In 1976, on the other hand, when unemployment dropped by 0.8 percent and GNP increased by 6 percent, the Federal budget deficit declined by $16 billion.

The President and my colleagues in this Congress are committed to policies that will look forward to a balanced budget when full employment is possible. Together we have taken a number of important initiatives to move the economy toward this objective. Of course it takes time for expanded employment and training programs, new youth employment efforts, local public works projects, and the like, to make a major positive impact on the economy. These initiatives can generate expanded purchasing power and a higher level of economic activity. But, if the Federal Reserve tightens up on credit and raises interest rates whenever purchasing power expands, it can and will frustrate any attempt by the President and Congress to stimulate economic growth and reduce unemployment. We cannot have tax and budget policies moving in one direction while monetary policy moves the opposite way and expect to achieve our national economic policy goals.

I believe the President and the Congress share Dr. Burns' concern for providing adequate incentives for business investment. My colleague, Senator PERCY, and I have cosponsored a bill in this session of Congress to establish a national investment policy. The administration has given its support to that bill, and I hope the Congress will enact it. I have noted with great satisfaction that the President places the need to improve capital formation high on his list of priorities to be achieved in his tax reform proposals.

If the Federal Reserve is deeply concerned about the slow pace of business investment, I ask this question: Why did it recently begin to pursue monetary policies that have pushed up interest rates very rapidly at precisely the time when economic growth was beginning to falter? That decision by the Federal Reserve Board sent the stock market, as we know, into a nosedive and raised the cost of business financing. How much of our current economic malaise stems from this source I do not know, and I do not suppose anyone really does. But it can hardly have been a negligible factor.

I am not unsympathetic with the problems that Dr. Burns and the Federal Reserve have been facing. He knows that. Those problems are difficult.

The money supply has been growing erratically in recent months. This we know. In July, the basic measure of the money supply, M_1, rose at a 19.9-percent rate. In August it dropped to 5.6 percent, followed by 8 percent in September and 14.3 percent in October. It is easy to understand the confidence-eroding impact of such gyrations on corporate financial officers attempting to make rational investment decisions.

But do these fluctuations portend an inflationary boom that must be fought with steadily rising interest rates? If so, what is the evidence for this?

The principal economic indicators, as I read them, have been moving in the opposite direction. The unemployment rate remains stuck at about 7 percent. Industrial capacity is still low at about 82 percent where it has been since last May. The GNP grew at only 3.8 percent

in the third quarter of this year, even less than the historically stable 4 percent growth rate. Productivity increased 6.5 percent in the third quarter, the largest increase in 2 years, holding out the promise of lower rates of inflation in coming months. Finally, in the last 3 months consumer prices increased at a 4.9-percent annual rate, far less than the 6.6-percent rate since last September.

Dr. Burns' predecessor, William McChesney Martin, educated me when I first came here to this body to the view that the Federal Reserve was supposed to "lean against the economic winds." I have always understood that phrase to mean that the Federal Reserve should worry about too fast a pace of expansion in money and credit when the economy was booming and inflationary pressures were on the horizon—not when economic growth was slowing and the rate of inflation receding, as has been the case this past summer.

If the Federal Reserve has a different view of what its responsibilities are, I hope Dr. Burns will report to the committee chaired by the distinguished presiding officer at this particular moment and tell us forthrightly what that view is.

Chairman Burns urges that we take a long range view of our economic problems. I agree with him. But I suggest that the long view requires us to stand up and tackle difficult problems head-on, now, problems that beset us this moment, even at the cost of some immediate uncertainty and conflict. And while I understand the many and complex considerations that must be balanced in setting monetary dials, I suggest that the long view requires the Federal Reserve to base its monetary policies on the real needs of the economy—not to rigidly pursue monetary growth targets that may be inadequate to the realities of today's economy with a religious fervor.

Mr. President, the New York Times recently published an insightful editorial dealing with the question of business confidence and the problems which confront our economy. After commenting on the numerous steps the President has taken to bolster business confidence, and then discussing future measures he is expected to take to encourage higher levels of investment, the editorial concluded with the following statement to which I fully subscribe:

> None of this will matter much, however, if the Federal Reserve Board continues to tighten monetary policy and push up short-term interest rates. An economy can't go in two directions at once, governed simultaneously by a tax policy that is stimulative and a monetary policy that is restrictive.

Mr. President, our economy requires, and our businesses and families deserve, a consistent and coordinated national economic policy, and by that I mean monetary policy. Monetary, tax, and budget policies must be designed to reinforce each other, not to counteract each other, if this Nation is to pursue its goal of economic growth, full employment, and the restoration of a stable American prosperity.

Mr. President, I ask unanimous consent that the New York Times editorial of October 30, "A Boost to Business—and Then What?" be printed at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

A BOOST TO BUSINESS—AND THEN WHAT?

Beset by a lack of business confidence, President Carter last week postponed tax reform. Beyond that, he suggested that when it comes, it will include a hefty tax cut, to spur business outlays for investment. The President did what he had to do. Energy and Social Security legislation are still tied up in Congress. Until they are resolved, detailed tax legislation already in Congress has not only upset businessmen, it has upset Congress. Eliminating one ball—tax reform—from the legislative juggling act was not only shrewd politics but prudent economics.

The economic theory on which Mr. Carter bases his pledge is, at best, uncertain. He now apparently believes what some advisers have been telling him for months: that unless business investment plans pick up, the economy will probably fall into another recession next year. That would shatter the Administration's hopes of pushing unemployment below 5 percent and balancing the Federal budget by 1981. Economists do not really know what triggers business investment decisions. The problems that have held back investment could lie beyond the President's reach: overseas, in the oil cartel that has shaken the world since 1973 or in the increased competition of Western Europe and Japan in export markets that American business once dominated.

Mr. Carter has tried since January to boost business confidence. He ruled out wage-price controls early in his Administration—but business did not believe him. He pledged to balance the budget—and again his credibility was questioned. He canceled plans for a $50 tax rebate, as business asked. Still business grumbled.

Now Mr. Carter has decided that a major explanation for flagging business investment lies in weak profits. If investments can be made more profitable by cutting business taxes, the Administration believes, business will be more inclined to invest. Some economists, particularly Republicans, have been saying this for years. Last week, Arthur Burns, the conservative chairman of the Federal Reserve Board, called for such a tax cut. Economists across a wide spectrum believe that business is still so traumatized by the high inflation and deep recession of 1973–74 that executives must see a larger potential return on investment than ever before. Otherwise, they simply won't make major investments. The President and his Democratic advisers seem—wisely—to agree.

None of this will matter much, however, if the Federal Reserve Board continues to tighten monetary policy and push up short-term interest rates. An economy can't go in two directions at once, governed simultaneously by a tax policy that is stimulative and a monetary policy that is restrictive.

And in the end, these remain narrow concerns, bound by the traditional parameters of economic policy. Yet the United States—like other industrialized nations—may no longer operate in a traditional world. In Western Europe, some leaders are searching for new ways to link high employment and price stability. But here, the debate continues to be narrowly focused—on how much to jigger taxes, or how much to boost the money supply. The Administration's plan to cut business taxes next year is sensible. But that should be the starting point of a broad debate over economic policies—not the end of a narrow one.

Mr. HUMPHREY. Mr. President, I thank my colleagues for yielding to me.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, will Senator HUMPHREY stay in the Chamber a moment?

Mr. HUMPHREY. Yes, I am happy to.

Mr. JAVITS. I have heard the statement made by the Senator, whom I not only respect but love, about the Federal Reserve and the actions of its chairman, Dr. Burns for whom Senator HUMPHREY has very, very high regard.

I believe that the Federal Reserve was heavily at fault in what occurred. Most of us know that there are many other factors including the lower productivity of the American industrial machine as compared to other countries of the world. I believe, however, that it is only fair that Dr. Burns should have his day in court.

I, therefore, state, without engaging in a debate here, that because Senator HUMPHREY's speech was very well prepared, as is his wont, the reply should be equally well prepared. I shall submit this address to Dr. Burns and ask him to give me a reply which I will offer for the RECORD or perhaps read as Senator HUMPHREY has read his statement. May I say, too, I am just delighted, Senator HUMPHREY, that you had the spirit and the initiative to analyze this situation and to make this very thoughtful, very interesting, and very provocative speech today.

Mr. HUMPHREY. I am sure the Senator knows, as I said in the early part of my remarks, of my really deep affection for Dr. Burns.

Mr. JAVITS. I know.

Mr. HUMPHREY. That is a very sincere statement. We are good friends. But he also knows that whether I am right or wrong I have fundamental disagreements at times with him on what I call those interest rate policies. I cannot help it. I am a populist from the Midwest, and every time I see the economy moving up a little bit it seems to frighten the Federal Reserve; they get the jitters. The minute that the economy starts to cruise they say, "Put on the brakes," and the way they do it we have no control over in this body.

All they need to do is adjust the dials of the amount of money supply. But, more importantly, all they need to do is adjust the interest rate, the discount rate, and once they do that we can appropriate $20 billion here, and if they raise that interest rate by 1 percent or less, it vitiates the whole thing.

My plea is what your plea is, Senator. You and I are on the same wicket. I happen to believe, as the Senator from New York does, that we need monetary, fiscal, and budgetary policy coordinated, and that is why there is the Javits-Humphrey bill we have before this conference.

Mr. JAVITS. I thank my colleague. As I say, I do not want to engage in debate today, but I do feel that Dr. Burns should have his day in court. We all know there is very grave feeling that somehow inflation has defeated all of our conventional

means and that it has been accompanied by equally sticky unemployment.

I suppose the country might be said to be divided almost 50–50 on which is the worse curse. I happen to think unemployment is, and so does Senator HUMPHREY. But, nonetheless, this is a very big issue.

So all I am suggesting is to give the good doctor a chance to reply and, hopefully, I can get it overnight and read it into the RECORD.

Mr. HUMPHREY. May I assure the Senator that I will read it.

The PRESIDING OFFICER. The Senator from Missouri has the floor.

Mr. BENTSEN. Mr. President, will the Senator yield a couple of minutes so that I might reply to the Senator from Minnesota.

Mr. DANFORTH. I yield 3 minutes to the Senator.

Mr. BENTSEN. I thank the distinguished Senator.

I would like to say to the Senator from Minnesota that I am very appreciative of the remarks he made. What little I made is on OPM, that is other people's money, borrowed money. So I start out with a bias in favor of low interest rates.

I know how many capital spending plans and business decisions are determined by the interest rate and equity return they are going to have. Many of those plans are shelved when interest rates get up to an unconscionable level where they cannot justify that kind of an expenditure. Unreasonably high interest rates discourage capital investment in this country. Our rate of capital investment is already very low compared to other industrialized nations making us less competitive in the world, adding to our unemployment rate and increasing the deficit in our balance of trade. A lot of that is engineered by interest rates and in what the equity return will be.

I would also like to say to my distinguished friend from Minnesota we have another body on the other side of the Capitol, and I understand the Senator has helped forge another bridge to that other body in that today there was an emotional outpouring to you in that other body with the great love and affection displayed for you there, of which we share in the reflected glory and of which we are very appreciative. I do believe that is the first time a Member of this body has addressed that body. That is another first for the Senator from Minnesota.

Mr. HUMPHREY. I thank the Senator very much.

The PRESIDING OFFICER. The Senator from Missouri has the floor.

SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

The Senate continued with the consideration of H.R. 9346.

Mr. DANFORTH. Mr. President, at the appropriate time I will send to the desk an amendment which is cosponsored by Senators RIBICOFF, ALLEN, ANDERSON, BAKER, EAGLETON, FORD, LAXALT, HATFIELD, MATSUNAGA, PACKWOOD, DOLE, LUGAR, and SCHMITT.

The effect of this amendment would be to provide a 10-percent reduction in social security tax rates for State and local governments and not-for-profit employers beginning January 1980.

The reason for the beginning date in January of 1980 is to address myself to a problem with the Budget Act. I do not want to be subject to a point of order. Originally, this amendment would have provided for a refundable tax credit payable to State and local governments and nonprofit employers equal to 10 percent of their total social security liability.

But for reasons having to do with the Budget Act, I have now modified my proposal in the amendment I will send to the desk which will provide for a simple reduction equal to 10 percent of the percentage tax rate which would otherwise be applied to all those classes of employers beginning in 1980.

In 1979 this group of employers would not be subject to the tax increase, social security tax increase, which we are now considering in this particular bill.

Mr. RIBICOFF. I wonder if my distinguished colleague, Mr. President, would yield for a few questions?

Mr. DANFORTH. Certainly.

Mr. RIBICOFF. First, I want to commend the Senator from Missouri for his understanding of the seriousness of this problem and his hard work in bringing about this amendment. I am privileged to be a cosponsor with him. But there are a few questions that should be answered, it seems to me.

Would this amendment in any way reduce any taxes paid below the current obligations?

Mr. DANFORTH. The answer to that question is, no. No employer will be paying less taxes in 1979 than he did in 1978. No employer under this amendment would pay less taxes in any year after 1980 than he did in 1979.

That question was raised to me by some people who were interested in the amendment, and we have specifically drafted the amendment to absolutely provide that there is not going to be any windfall for anybody. Nobody is going to be better off than he was in 1979.

As a matter of fact, as a class, this group of employers, governmental employers, and eleemosynary employers, is going to be suffering a tremendous increase in social security tax liability between now and the decade from now.

In 1976, last year, this group of employers paid $6.6 billion in social security tax liability. That amount would be increased in 1987 to an estimated $21.6 billion or a total increase of 227 percent if we do noting. If we do agree to this amendment, instead of having the increased social security tax liability for this class of employers go up 227 percent, it would only go up 197 percent.

Mr. RIBICOFF. The Nelson amendment, which addresses the same problem, does it give the same type of relief as given other groups?

Mr. DANFORTH. I am sorry, I missed the question.

Mr. RIBICOFF. Is it not true that only a small part of the huge increase in taxes these groups will pay will remain as in the Nelson proposal?

Mr. DANFORTH. That is absolutely correct. I think this is a very, very important point to be made. Social security taxes are going up on everybody no matter what we do in this bill. If we follow the Nelson proposal the social security taxes are going up. If we follow the Curtis proposal social security taxes are going up. If we do nothing social security taxes are going up very considerably and, particularly, on this last group of employers.

If we do absolutely nothing, nothing at all, in this bill in 1979 State and local governments and not-for-profit organizations will be paying $2.9 billion in social security taxes more than they are now because of base increases and rate increases that are already programed in existing law to take place at that time.

Mr. RIBICOFF. I wonder if I could have the appraisal of the Senator from Missouri as to what happens with his particular group of employers if they have to pay this increase in social security taxes?

Mr. DANFORTH. I think that it is important to recognize that this group of employers very often is existing on a very slim margin. I think anyone who reads the newspapers understands the fact that many city governments and many school districts are having a very difficult time right now. What is happening, for example, in New York City is something that the Senate has concerned itself about in the past.

We read in last weekend's newspapers that Toledo, Ohio, which I guess fortunately for it is not part of the social security system, had to close its public schools last week.

Similarly, the YMCA here in Washington, D.C. operates at a deficit of about $50,000 a year, and has for the last 7 years.

So we have a group of governmental units and not-for-profit organizations which very frequently are operating on a very slim margin, and it is on that group of employers that, with or without this bill, we are about to impose a very large increase in liability.

Mr. RIBICOFF. Is it not true that there is a very different situation as between the private, for-profit employer and the type of employer involved in this amendment? Is there not a benefit that the private for-profit employer receives that this type employer does not receive, and will the Senator please explain the impact on both employers?

Mr. DANFORTH. Yes. If an employer is in a profitmaking enterprise and he pays social security taxes, the amount that he pays in social security taxes may be recouped from Federal income taxes by way of deductions. Social security taxes paid are a deductible expense from the income taxes of a private, profitmaking enterprise.

Obviously, this group of employers is not profitmaking and does not pay Federal income taxes, and therefore it is not able to recoup any portion of the tax increase.

It is said, "Well, it is an advantage to this group of employers that they do not have to pay income taxes."

That is absolutely true; it is a tremendous advantage that Congress, in its wisdom, has given this group of employers. But it is also true that this group of employers, as previously stated, is operating on a very thin margin, and therefore what we are about to do to this group of employers is about twice as harsh as what we are about to do to the profitmaking employers.

A profitmaking employer, if it is a corporation and makes more than $50,000 a year, has a marginal income tax rate of 48 percent. That means that for every dollar in social security taxes paid, they get a deduction which is worth 48 cents. That does not apply, obviously, to not-for-profit employers.

Mr. RIBICOFF. Mr. President, I thank the Senator from Missouri. I share his belief that it is time to provide meaningful aid to our States and localities and to nonprofit organizations. I am pleased to be a cosponsor of this amendment and I urge its adoption.

Mr. President, I believe that it is time to provide some relief from increasing social security tax burdens to our State and local governments and our charities and schools. This group of employers will suffer a tripling of their social security tax liability over the next 10 years—a $15 billion tax increase. They cannot pass this through. They cannot have the burden offset by the Federal Treasury. They must face the decision of whether to reduce services, cut back on wages and employees, or pull out of the social security system.

These are not fat organizations. We are all aware of the constant state of fiscal crisis of our cities and States. They are forced to cut back on services every day. Do we want to add to that?

Private, for-profit employers receive some offset against their social security tax liability. They do not bear the entire burden. In 1979 they will receive an estimated $23 billion in offset. The Danforth proposal would give State and local governments and nonprofits approximately $1 billion in relief.

The Nelson proposal offers some modest relief to some of these employers—but only to those with high-paid employees. The Nelson proposal does nothing at all for those cities, towns, States, charities, and other nonprofits whose employees earn less than $19,500. The Danforth amendment offers these employers relief as well.

State and local governments and nonprofit organizations have the right to pull out of the social security system. Certainly their decision is not based solely on the tax burdens, but this growing tax burden does have some impact. We want to encourage all of these employers to stay in the system—not just those with high-paid employees.

Under the Nelson proposal the relief disappears over the years. The Danforth amendment offers some permanent relief. The problems of our State and local governments and our nonprofit employers will not lessen. Our help to them should not decline just as their burden increases.

Mr. DANFORTH. I certainly appreciate the questions and the comments of the Senator from Connecticut, who served so ably on the Senate Finance Committee and who participated in hearings on this bill and in the markup on it, and is very familiar with the details of what is involved.

I think that particularly in view of a letter which was sent out by Secretary Califano last night, it is important to recognize the fact that this proposal would not create a windfall for anyone. Nobody, no employer, is going to be better off as a result of this amendment than he is now. No employer, as a result of this amendment, is going to be better off in 1980 than in 1979.

Again, as a class of employers, State and local governments and not-for-profit organizations are going to witness, in the period of a decade, a 227-percent increase in their social security tax bill. What we are saying is that 227 percent is too much. We cannot afford to do everything for them. We cannot afford to hold them absolutely harmless. But what we can do is reduce the percentage of their social security taxes by 10 percent, so that, for example, if they were paying a 7-percent social security tax, it is reduced to 6.3 percent.

The result of this move would be that over the next decade, instead of experiencing a 227-percent increase, they would experience only a 197-percent increase, which in and of itself is very substantial.

There is a temptation here to talk only in terms of aggregate employers and in terms of great generalities. When I came over to the Senate floor yesterday and engaged in a colloquy with the Senator from Wisconsin (Mr. NELSON) on this subject, he said, in essence, "Well, the value of the dollar is shrinking anyhow because of inflation, and when you consider what is going to happen 10 years from now, it really does not matter that much."

Mr. President, the fact is that it does matter that much. It does matter a great deal for this group of employers. The question is not simply what is going to be the case in the year 1987, which seems a long way away, but what is going to be the case in 1979. What is going to be the difference between the social security tax liability of specific employers between 1976, which was last year, and 1979, when what we are about to do takes effect and when increases already programed in the law take effect?

I would like to give the Senate a number of examples of what is going to happen.

The city of Kansas City, Mo., is going to experience, over a 3-year period of time, an increase in its social security tax liability of $812,104.

The city of Lincoln, Nebr., is going to have an increase in its social security tax liability of $630,000.

For Omaha, Nebr., the increase will be $398,000.

Houston, Tex., will have its social security tax liability increase $811,000.

Milwaukee, Wis., will have its social security tax liability increase, in 1979, $534,668 over what it is this year.

The story with respect to colleges and universities is even more striking; and I think anyone who has any close connection at all with colleges and universities knows the very serious financial difficulties they are in right now. I am told some 16 universities are now charging annual room, board, and tuition of $7,000 a year or more per student, which has the effect of pricing middle income families, particularly families with more than one child, out of education in those institutions.

Yet what we are now saying, as a result not just of this bill but of what is already programed in the law, is that we are going to impose a very substantial increase in social security tax liability on colleges and universities.

The University of Texas—and I see the Senator from Texas (Mr. BENTSEN) on the floor—between 1976 and 1979, will have an increase in its social security tax liability equal to $2.92 million a year.

One Midwestern university reports that its social security tax liability in 1979 will be $2,281,000 more than it was last year. Washington University in the city of St. Louis will have its social security tax liability increased by a little over $1.5 million. This is just the social security tax liability, in addition to all other problems universities are having with the increased cost of energy and inflation in general.

The University of Missouri at Columbia will have its social security tax liability in 1979 increased to a point where it will be more than $3 million more than it was in 1976.

These figures are just 1979. This is just the immediate problem. This is not the problem extended with all of the rate increases and all of the base increases that we have programed into the law between now and the year 2000. The problem will get worse, not better.

All that is being said in this amendment is that we are putting too much of a squeeze on this group of employers who have such difficulty oftentimes passing on the cost to anyone else, and who will not be able to recoup any portion of it from the general revenue by way of a tax deduction.

There has been a lot of discussion on the floor of the Senate about whether or not we should be dipping into the Treasury itself, whether or not we should be drawing upon general revenue. It was part of the administration's proposal that we should be.

My senior colleague from Missouri offered an amendment yesterday to do approximately what the administration wanted to do, to draw upon general revenue and put that into the social security trust fund.

What is not really widely recognized is the fact that right now under present law we have very substantial general revenue funds used to finance social security, and it works because of the income tax deduction. That is, when there is a tax imposed on a profitmaking employer and he pays that tax to social security, he is going to recover 48 percent from the Treasury by virtue of reduced Federal income tax payments.

What we are saying in this amendment is that that is a form of general revenue

sharing. What we hope to do now is to provide some sort of cushion, even a 10-percent cushion, which is much less than we do for the profitmaking sector. We already do provide a very substantial cushion, a 48-percent cushion, for the profitmaking sector, the corporation earning $50,000 or more per year.

Let me give some other figures to drive home what we are talking about in this amendment, the problem to which we are trying to address ourselves.

The Salvation Army, I would submit to the Senate, is not exactly a well-heeled operation. Yet the Salvation Army is going to be facing a very substantial increase in the amount of money it must pay into the social security trust fund in the very near future.

The Salvation Army in the eastern region will have its social security tax liability increased from 1976 to 1979 by $581,000 a year.

The Salvation Army in the southeast region will see its social security tax liability increased over a 3-year period of time by $219,000 a year, the annual increased payout into the social security trust fund.

In the midwest region the Salvation Army is going to be paying into the social security trust fund by the year 1979 $400,000 more than it paid in 1976.

In the western region, the Salvation Army will be paying $456,000 more in 1979 than it did in 1976.

I could go on down the list. I could stand here with examples which I have before me and read them all day, as to the effect of what we are doing and have already done in the law to not-for-profit organizations and State and local units of government.

The American Cancer Society, a national organization, is going to be paying in $593,505 more in 1979 into the social security trust fund than it paid in 1976.

That is the kind of burden we are talking about. It is not an abstract issue at all. It is a question of how much can we squeeze out of these organizations; how much can we squeeze out of a school district that is already going broke; how much can we squeeze out of New York City or Buffalo, N.Y., which are already in a very precarious financial situation; how much, quite literally, can we grab out of the pot that Santa Claus is standing beside for the Salvation Army on the corners of our cities at Christmas time?

That is what we are talking about when we offer this amendment.

Mr. President, it seems to me anomalous for us—meaning the Congress—to provide as a matter of law that the General Motors Corp. can recoup 48 percent of its social security liability from the public till, general revenue, and that the Salvation Army can recover absolutely nothing.

What this amendment would do would be to simply reduce by 10 percent the amount that the Salvation Army or any other not-for-profit or governmental unit would have to spend.

I believe it is obvious that this group of taxpayers is in very serious financial condition. This is the point Senator RIBICOFF raised in asking his questions. It is obvious that cities all over the country, particularly larger cities, are having a difficult time making ends meet.

In 1976, the city of Detroit, Mich., had to eliminate 4,100 positions and cut salaries 8 percent. It had to further cut its funds for welfare services and prisoner care by 8 percent. Still it projected a deficit in its budget of $17.6 million last year.

I am told that since 1971 more than 200 colleges in the United States were compelled to either close their doors or merge. Again, this is the very class of employers who are going to suffer this tremendous increase of social security tax liability. It is much more of a blow to them than it is to the profitmaking sector. Unless we provide for some sort of relief by way of this amendment there is going to be absolutely nothing to cushion the blow.

We talk a lot about the role of Government, the responsibility of Government to take care of the needs of the American people. I believe in that. The American people expect things from their Government. The American people expect a first-rate education for their children. They expect first-rate health care when they are sick. They expect first-rate emergency services when they need them, police protection and fire protection. They expect first-rate social services when they need them.

But it is important to recognize, I believe, that these services are not performed by us here in Congress. They are not performed even by the Department of Health, Education, and Welfare. These services of educating the children of the American people and providing health care for the American people and providing emergency protection and social services for the American people are not performed here by the Federal Government in the marble palaces of Government in Washington. Instead, they are provided by local governments in cities like Joplin and Rolla and St. Joseph, and local school districts, which educate the children, and local hospitals located in communities all over this country. They perform the service.

When there is a disaster, it is the Red Cross that steps in, and when there are people in need, it is the Salvation Army or the United Fund Campaign or other organizations that take care of those needs.

That is how we take care of our sick. That is how we educate our people. It is not by any new study group that we have here in Washington. It is out there in the communities where the job is done.

I simply want to raise for the consideration of Members of the Senate that it is there local governments and these not-for-profit organizations who are really doing the job, who are extending care to those who are helpless and providing education for our children, and rescuing children from burning buildings, and everything else that is done in local communities. It is these groups of people that really provide the service to the poor and the needy and the helpless, and that we are increasing the social security tax liability of by 227 percent.

Mr. PACKWOOD. Will the Senator yield for a question?

Mr. DANFORTH. Certainly.

Mr. PACKWOOD. Do I understand correctly that, under the bill as now written, it would be the nonprofit organizations that would receive the biggest breaks in terms of tax break——

Mr. DANFORTH. Mr. President, may we have order in the Senate, please?

The PRESIDING OFFICER. Will the Senator suspend for a moment. Will the Members please take their seats and let us have the aisles cleared? It would be helpful if the conversations could be taken from the floor of the Chamber to the cloakrooms.

The Senator from Missouri has the floor.

Mr. PACKWOOD. Those nonprofit organizations that would receive the biggest breaks would be those that have the highest salaried employees. Many of the principal foundations that exist do have people salaried at $50, $75, $100, or, in some cases, $150,000 a year. The nonprofit organizations that would be the worst off under this are the ones that perhaps middle America is more familiar with—the Goodwills, the Salvation Armies—who generally do not have paid executives in that wage category.

Mr. DANFORTH. Yes. As the Senator is aware, the bill that has been reported out of the Committee on Finance provides for an authorization for an appropriation—nothing more than that—an authorization for an appropriation for some recovery from the Treasury for social security taxes paid by governmental and nonprofit employers. However, that provision that is now in the bill is keyed to the so-called Nelson proposal and would recover 50 percent of the social security tax liability caused by the differential between the employee's wage base and the employer's wage base. Therefore, it would have several things going against it.

One is exactly what the Senator is talking about now: Namely, it would only benefit those employers who pay fairly high salaries.

For example, we canvassed various foundations, and they asked that their names not be used, but they were well known, national eleemosynary foundations with very highly paid professional staffs— people with Ph. D. degrees, and so on, working on their staffs. Under the proposal of Senator NELSON, they would recoup about 17 percent of their social security tax liability; whereas, under the proposal that Senator NELSON has put forward, the Salvation Army, in Washington, D.C., and Virginia and Maryland—this region—would recoup $7.67.

Mr. PACKWOOD. How much additional tax would they pay?

Mr. DANFORTH. The Salvation Army, in this particular area—Washington, D.C., Virginia, and Maryland—would have a social security tax liability increase of approximately $13,000 and they would recoup, under his proposal, $7.67. It is my view, very frankly, that $7.67 is not adequate; whereas a much higher payment for, say, Brookings Institution or Rockefeller Foundation or Ford Foundation is not as big a problem to them as it is to the Salvation Army or to the Boy Scouts.

The Camp Fire Girls, for example, in this area, would recoup absolutely nothing under the provision that is in the bill now.

Mr. PACKWOOD. I do not mean this in any sense to disparage the Ford Foundations or Rockefeller Foundations of this country, but the very organizations that at least touch great groups of middle American taxpayers, touch them every day directly—pick up the old clothes or collect the newspapers—the very organizations the Senator says are going to be hardest hit, are the ones that have the most difficult time raising funds and have to raise them year after year, because they are not endowed; whereas, the well-heeled foundations are endowed foundations that do not have to raise money every year.

Mr. DANFORTH. That is right. The Senator has raised a good point. There are other things that are inadequate in pegging it to the base differential. If we go to the Nelson approach and peg it to the base differential, and, after the Curtis amendment, it seems that is the way we are going—but the way the base differential is set up, it appears that over a period of years, it would phase out so that the amount to be refunded would be declining as the social security tax liability is going up.

The second thing, of course, which is unfortunate about it is that it is keyed to the base differential proposal and, therefore, if it does not survive conference—if the House bill prevails in conference rather than the Nelson proposal—there would be absolutely nothing left.

Finally, it is nothing more than an authorization.

I might say that I intend, if I am successful in my first amendment, which is nothing more, really, than a social security tax rate reduction for this class of employers, it would then be my intention to offer a second amendment which would authorize an appropriation from general revenue into the social security trust funds to recoup the amount of revenue that is lost by this method. But, of course, Members of the Senate, assuming I would prevail on this, would be able to judge that as a separate, entirely different kind of question.

Mr. PACKWOOD. Mr. President, I think the amendment of the Senator from Missouri makes eminent sense. I congratulate the Senator from Missouri on the very, very yeoman, outstanding service he has done in the field of social security. I do not think anybody, in my memory, who has come to this Senate as a freshman has made such a tremendous impact on a subject so critical to America as has the Senator from Missouri on this subject.

Mr. DANFORTH. I thank the Senator very much.

I pointed out earlier that there was one difference between profitmaking employers and not-for-profit employers. That difference, again, was that profitmaking employers can recoup a very substantial portion of their social security tax payments from the Treasury by way of deductions from Federal income tax; whereas not-for-profit employers recover nothing. So, when we increase their tax, they are suffering about twice as big a marginal burden as the profitmaking employers were.

I think it is important to point out that there is yet another difference between the profitmaking employers and the not-for-profit employers. That is that the not-for-profit employers and governmental employers have the statutory right to get out of the Social Security System. They can, by filing a notice in a period of 2 years, withdraw from social security. If we place too high an additional burden on them, they will withdraw from social security and the result is going to be counterproductive.

For example, I see the Senator from New York here. New York City, as we know, its various governmental units, filed notice to withdraw and then withdrew their notice. But were New York to withdraw from the Social Security System, the loss to the trust funds between 1978 and 1982 would be an estimated $3.1 billion. So if we increase the pinch on this group of employers, it is going to be counterproductive as far as the solvency of the trust funds is concerned.

(Mr. SASSER assumed the chair.)

Mr. JAVITS. Will my colleague yield?

Mr. DANFORTH. Yes.

Mr. JAVITS. May I say, it is always refreshing when one begins to realize that New York represents an asset to our country, rather than what some would paint it as being a liability.

But I would like to say to the Senator that having heard him and looked over his amendment very carefully, tested it out with him, and otherwise its basic hypothesis, that I am with him and I shall vote for his amendment.

I think he is rendering us all a very constructive service in the way in which he has so thoroughly and brilliantly prepared his case and presented it to the Senate.

Mr. DANFORTH. I thank the Senator very much.

I know that the Senator from New York privately asked me about the number of governmental units and employees participating in this. I do not know the answer to that. But I do know this, that because of the opting out possibilities of both State and local governments and not-for-profit organizations, and because of increased social security tax liabilities that we have already experienced, there have been a large number of governmental units, and a large number of employees represented by those units, that in recent years have been withdrawn from the social security system.

In 1977, in this present year, the Social Security Administration estimates that 147 State and local governments with 26,121 employees will terminate their social security coverage in 1977, and an additional 219 governmental units with 81,534 employees have filed notice to withdraw in 1978 and 1979.

As far as the problem of social security, when one withdraws the number of employees and employers who are contributing to the system, it impairs the solvency of the system.

Mr. JAVITS. I thank my colleague.

Mr. BENTSEN. Will the Senator yield for a unanimous-consent request?

Mr. DANFORTH. Certainly.

Mr. BENTSEN. Mr. President, I ask unanimous consent that Steve Sacher of Senator WILLIAMS staff and David Allen of my staff be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I ask the same request for Don Zimmerman of the Human Resources Committee staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, it seems to me that our role here in Washington is to try to be helpful to those governmental agencies and social service agencies throughout the country that provide meaningful services to the American people. Our role in Washington should not be to create emergencies for local government and emergencies for not-for-profit organizations and then rush in at some later date with emergency cash in order to bail them out, with all of the conditions and strings that so often are attached to that kind of a bailout situation.

Therefore, it seems to me for the sake of the health of what is going on in the rest of the country, for the sake of the health of communities all over America, we simply cannot deal them the kind of blow that we are dealing them, not just by this bill, but by changes in programs, by the law, without cushioning the blow just a little bit. What I would like to do is cushion that blow.

UP AMENDMENT NO. 1042

(SUBSEQUENTLY NUMBERED AMENDMENT NO. 1615)

(Purpose: To reduce the employment tax on States and nonprofit organizations by 10 percent of the amount of tax which such State or organization would otherwise pay.)

Mr. DANFORTH. Mr. President, for that reason, I send now to the desk an amendment and ask that it be considered forthwith.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Missouri (Mr. DANFORTH), for himself and Messrs. RIBICOFF, ALLEN, ANDERSON, BAKER, DOLE, EAGLETON, FORD, HATFIELD, LAXALT, LUGAR, MATSUNAGA, PACKWOOD, and SCHMITT), proposes an unprinted amendment numbered 1042.

Mr. DANFORTH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out section 106 and insert in lieu thereof the following:

REDUCTION IN TAX FOR CERTAIN PUBLIC AND NONPROFIT EMPLOYEES

SEC. 106. (a) Section 218(e) of the Social Security Act is amended—

(1) by innserting ", subject to the provisions of paragraphs (3), (4), and (5)," after "will pay" in paragraph (1) (A) thereof; and

(2) by adding at the end thereof the following new paragraphs:

"(3) For purposes of paragraph (1)(A)

in determining the amount of taxes which would be imposed—

"(A) for calendar year 1979, the rates of tax under such section 3111 and the contribution and benefit base (as determined under section 230) which would have applied for calendar year 1979 under the law in effect immediately before the enactment of the Social Security Amendments of 1977 shall be applied; and

"(B) for calendar years 1980 and thereafter, the amount determined under paragraph (1)(A) as the taxes which would be imposed by such section 3111 (without regard to the provisions of this paragraph) with respect to such employees shall (except as otherwise provided in paragraph (5)) be reduced by 10 percent.

"(4) Each agreement under this section shall provide that any State whose payments under the agreement are reduced by reason of paragraph (3) or paragraph (5) shall agree to pay (and any such reduction shall be made on the condition that such State pay) to any political subdivision thereof a percentage shall be equal to the percentage of the amount paid by such State under paragraph (1)(A) for which such State was reimbursed by such political subdivision.".

"(5) The amount of the reduction resulting from the application of the provisions of subparagraph (B) of paragraph (3) for a calendar year shall not be greater than the lesser of:

"(A) the amount determined under paragraph (1)(A) as the taxes which would be imposed by such section 3111 for such calendar year (without regard to the provisions of paragraph (3)); or

"(B) the amount determined for calendar year 1979 under paragraph (1)(A) as the taxes which would be imposed by such section 3111 for calendar year 1979 (after application of the provisions of subparagraph (A) of paragraph (3)).

(b) Section 3111 of the Internal Revenue Code of 1954 (relating to rate of tax on employers) is amended by adding at the end thereof the following new subsections:

"(c) Certain Nonprofit Employers.—Notwithstanding any other provision of this section, in the case of an organization described in section 501(c)(3) which is exempt from tax under section 501(a) and with respect to which the taxes imposed by this section are paid, the amount of the taxes imposed by this section with respect to employees (other than employees who are primarily employed in connection with one or more unrelated trade or businesses (within the meaning of section 513) of such organization) shall—

"(1) during calendar year 1979, be equal to the amount which would be determined if the rates of tax under section 3111 and the contribution and benefit base (as determined under section 230 of the Social Security Act) which would have applied during calendar year 1979 under the law in effect immediately before the enactment of the Social Security Amendments of 1977; and

"(2) for calendar years 1980 and thereafter, be equal to 90 percent of the amount determined under this section (without regard to the provisions of this subsection).".

(d) Notwithstanding anything herein to the contrary where the amount of taxes imposed under subsection (c)(2) above is less than the amount of taxes paid under subsection (3)(A) above, an organization described in section 501(c)(3) which is exempt from tax under section 501(a) shall pay the lesser of (i) the amount of taxes which would be imposed under this section (without regard to the provisions of subsection (d)(2)).

Mr. DANFORTH. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DANFORTH. Mr. President, that concludes any comments I have on this amendment for the moment.

I do not know if Senator NELSON would like to offer any comments, or if anyone else would like to offer any comments.

Mr. NELSON. I did not hear the Senator from Missouri.

Mr. DANFORTH. I just sent the amendment to the desk and asked for the yeas and nays. I think I pretty well have made my argument on behalf of the amendment, unless anybody has any questions or would like to express any other views.

Mr. NELSON. Is the Senator expecting the amendment vote this evening?

Mr. DANFORTH. That, to me, is not necessary. I think it is whatever suits the Senator's convenience.

We could have it this evening or we could put it over until tomorrow.

I have some other problems tomorrow morning, but it depends on when we would come in.

I am ready for a vote.

Mr. NELSON. Let me ask the Senator, I am not clear which amendment the Senator has now called up, is it the tax reduction amendment?

Mr DANFORTH. Yes.

Mr. NELSON. I have not seen that. I do not know how much the reduction is.

Mr. DANFORTH. Ten percent. It accomplishes exactly the same purpose as the amendment offered in the Finance Committee except it is couched in terms of a reduction of the social security tax rates.

Mr. NELSON. Now, it reduces the tax rate. How much does that then cost the fund and how do we restore it?

Mr. DANFORTH. All right. Here is what this amendment does.

First of all, for the year 1979, and the reason for the situation is due to the terms of the Budget Act, but for the year 1979 it would do no more than hold this group of governmental employers and eleemosynary employers harmless from any additional increase in social security tax liability caused by this bill, for 1 year.

Then, beginning in 1980, it would compute the social security tax liability for this group of employers in exactly the same fashion as for the profitmaking employers except that after that percentage tax is computed, there would be a 10-percent reduction in that percentage.

So that if we were to compute the tax rate, just as we would for a profitmaking employer, and then come up with, say, 7 percent, the social security tax applied to this group of employers would be 7 percent, less 10 percent of 7 percent, or it would come out to 6.3 percent.

Then, finally, the amendment provides that in no case will the social security tax liability in future years be less than it was in 1979, or less than the amount that it would be for a profitmaking employer, whichever is less.

So we prefer the situation where there could not be any conceivable windfall for any employer.

With respect to the possibility of making up the difference, all this amendment does is to provide for those rate reductions.

If the amendment is successful, it is my intention at that time to offer a further amendment which would recoup, by way of transfer from the general fund, an authorization for an appropriation from the general fund of an amount equal to the amount of social security tax revenues lost by the first amendment.

Mr. NELSON. Would that authorization direct that the loss to the fund from the 10-percent reduction in the tax be paid by the general fund directly, then, to the social security fund, to make up the loss?

Mr. DANFORTH. That is right, yes.

Mr. NELSON. So, basically, it is the same as the other Danforth amendment.

Mr. DANFORTH. That is correct.

Mr NELSON. In terms of cost to the general fund. It is simply a different approach to achieve it.

Mr. DANFORTH. That is correct.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I understand that the manager of the bill, Mr. NELSON, will move to table the amendment by Mr. DANFORTH.

I ask unanimous consent that Mr. NELSON be recognized at 9:45 a.m. tomorrow and that, without further debate, he may proceed to move to table the amendment by Mr. DANFORTH.

Mr. NELSON. I would like, some time this evening, 5 minutes or so, to respond to the amendment proposed by the Senator from Missouri.

Mr. DANFORTH. Mr. President, reserving the right to object, if the vote is going to be set for 9:45 a.m. tomorrow and Senator NELSON is going to respond now, I wonder whether it would be possible to hold the vote at, say, 9:55 a.m. and to have 10 minutes of debate before the vote, evenly divided between Senator NELSON and myself.

Mr. ROBERT C. BYRD. I ask unanimous consent that at 9:45 a.m. tomorrow, the Senate resume consideration of the amendment by Mr. DANFORTH; that there be a 10-minute time limitation for debate at that time, to be equally divided between Mr. DANFORTH and Mr. NELSON; and that at 9:55 a.m., Mr. NELSON be recognized to move to table the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order at this time to order the yeas and nays on the motion which Mr. NELSON will make at 9:55 tomorrow morning to table the Danforth amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on the Senator's motion to table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, the rollcall vote on the motion by Mr. NELSON to table the amendment by Mr.

DANFORTH will begin at 9:55 a.m. tomorrow.

UP AMENDMENT NO. 1043

(SUBSEQUENTLY NUMBERED AMENDMENT NO. 1618)

Mr. MOYNIHAN. Mr. President, I send to the desk an unprinted amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN) proposes an unprinted amendment numbered 1043.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out section 305 and insert in lieu thereof the following:

SEC. 305. (a) Section 402(a)(7) of the Social Security Act is amended by striking out "as well as any expenses reasonably attributable to the earning of any such income".

(b) Section 402(a)(8)(A)(ii) of such Act is amended by striking out "the first $30 of the total of such earned income for such month plus one-third of the remainder of such income for such month" and inserting instead "the first $30 of the total of such earned income for such month plus an amount equal to any expenses (subject to such reasonable limits as the State shall prescribe) which are for the care of a dependent child and are reasonably attributable to the earning of any such income plus an amount which the State shall establish in lieu of disregarding other expenses reasonably attributable to the earning of any such income (which amount shall be a per centum, applied uniformly throughout the State, of not less than 15 per centum nor more than 25 per centum of the total of such earned income for such month) plus one-third of the remainder of such income after deducting $30, plus the amount equal to any expenses (subject to the limits prescribed by the States) which are for the care of a dependent child, plus the amount established by the State in lieu of disregarding other expenses reasonably attributable to the earning of such income".

(c) Section 402(a)(8)(D) of such Act is amended by striking out "was in excess of their need" and inserting instead "was in excess of their need (after deducting from such income an amount equal to any expenses, subject to such reasonable limitations as to amount or otherwise as the State shall prescribe, which are for the care of a dependent child and are reasonably attributable to the earning of any such income plus an amount which the State establishes pursuant to subparagraph (A)(ii) of this paragraph in lieu of disregarding other expenses reasonably attributable to the earning of any such income)".

(d) The amendments made by this section shall be effective with respect to payments under section 403 of the Social Security Act for amounts expended during calendar months after September 1977.

The PRESIDING OFFICER. Does the Senator from New York ask unanimous consent to set aside the amendment of the Senator from Missouri, in order that the amendment of the Senator from New York may be considered at this time?

Mr. CURTIS. Mr. President, reserving the right to object, may we hear what the request is?

The PRESIDING OFFICER. The Chair is questioning the Senator from New York as to whether he requests unanimous consent to set aside the pending amendment of the Senator from Missouri, in order that the amendment of the Senator from New York can be considered at this time.

Mr. CURTIS. By being considered at this time, does the Senator mean voted upon?

The PRESIDING OFFICER. No. Just brought up for consideration and discussion at this time.

Mr. CURTIS. The announcement has been confirmed there will be no more votes tonight. If that is not the order of things, I wish to know.

Mr. ROBERT C. BYRD. There might be a voice vote.

Mr. CURTIS. No.

Mr. ROBERT C. BYRD. No. All right.

Mr. CURTIS. Is this the amendment that reduces the recovery of an item in the bill from $320 million in favor of the Treasury down to about $117 million or $118 million?

Mr. MOYNIHAN. The Senator is correct. I believe the figures are $230 million to $119 million, and it is my purpose to introduce the administration-backed formula for the earned income disregard as a substitute for that which has been submitted by the Senator from Nebraska.

Mr. CURTIS. I have no objection to discussing it tonight, but I do not want to dispose of it. It is over $100 million.

With the understanding that there will be no votes tonight, I just feel in fairness to my colleagues as well as the importance of the vote that we should not vote tonight.

Mr. MOYNIHAN. That is an arrangement entirely agreeable with me. I believe that there should be a vote. It need not be a rollcall vote.

But would the majority leader help us here? Would it be possible to have this vote following the vote on the amendment of the Senator from Missouri tomorrow morning?

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from New York (Mr. MOYNIHAN) asks whether or not it would be possible to have the vote in relation to his amendment occur immediately following the vote on the tabling motion, and if the tabling motion fails, immediately following the vote, then, of the amendment by Mr. DANFORTH in the morning.

Mr. MOYNIHAN. That is correct, whatever is agreeable to the Senator from Nebraska.

Mr. CURTIS. I wish to be heard on this tomorrow. As I say, it is a $100-million item, and I will be prepared to state the case against it tomorrow.

Mr. DANFORTH. Mr. President, may I suggest that perhaps this could be considered before my vote rather than afterward?

Mr. ROBERT C. BYRD. Mr. President, I think we had better let well enough alone and leave the amendment of the Senator from Missouri as it now stands. If the Senator wanted to discuss his amendment tonight, no vote would be taken on it tonight.

Mr. MOYNIHAN. That is agreeable to me and we can move forward with the business. I want this statement in the RECORD.

Mr. ROBERT C. BYRD. Yes.

Is that agreeable that we temporarily lay aside Mr. DANFORTH's amendment for a moment to allow Mr. MOYNIHAN to call up his amendment and discuss it and with the understanding there will be no vote on that amendment tonight?

Mr. CURTIS. And not foreclose discussion of it tomorrow?

Mr. ROBERT C. BYRD. Exactly.

Mr. CURTIS. That is all right.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. I thank the distinguished Senator from Nebraska.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield to me without losing his right to the floor?

Mr. MOYNIHAN. With pleasure.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. President, if I may have the attention of Senators, there are a number of budget waiver resolutions at the desk which have been reported by the Budget Committee this afternoon which would allow and which have relation to certain amendments that Senators want to offer tomorrow or at some point, and the distinguished Senator from South Carolina, who is the acting chairman of the Budget Committee, is here. He is agreeable at this time to our taking up those budget resolutions, and perhaps we could do that with some comments by the Senator from South Carolina; perhaps we could voice vote them singly or en bloc this evening, and we would have that much out of the way for tomorrow.

Will the distinguished Senator from New York allow the Senator from South Carolina to proceed on that basis?

Mr. MOYNIHAN. May I ask how long does the Senator from South Carolina expect to take?

Mr. HOLLINGS. Five minutes.

Mr. MOYNIHAN. Of course, with great pleasure.

Mr. ROBERT C. BYRD. I thank the Senator from New York.

Mr. HOLLINGS. Mr. President, I thank the distinguished leader. We shall move on. We are hopeful that this continuing resolution will be coming over from the House side. We think the SBA emergency loan disaster fund of $1.4 billion will be in there. If it is in there, we would like to be able to concur or if not at least conclude and send it back to the House before they adjourn. That is one of the things hanging around.

Mr. ROBERT C. BYRD. Still today?

Mr. HOLLINGS. Still today.

Mr. ROBERT C. BYRD. Mr. President, may I have the distinguished minority leader's attention, and still with the indulgence of the Senator from New York, the distinguished Senator from South Carolina has indicated that a continuing resolution is expected, I believe, shortly.

Mr. HOLLINGS. Shortly, that is right.

Mr. ROBERT C. BYRD. From the other body, which has to do with the District of Columbia appropriations bill.

Mr. HOLLINGS. That is right.

Mr. ROBERT C. BYRD. And the Labor-HEW.

Mr. HOLLINGS. And it has to do with the SBA disaster loan fund, $1.4 billion already approved by both Houses.

Mr. ROBERT C. BYRD. Yes, and the distinguished Senator from South Carolina wants the Senate to stay in until we can receive that continuing resolution which should be coming along shortly. I thought we better notify our respective cloakrooms.

Mr. BAKER. Mr. President, if the majority leader will yield, do we have any idea how long it will be before that happens because I think a number of our people have already gone home?

Mr. HOLLINGS. Unless there is objection I think it is a matter that could be handled by unanimous consent. I will ask the distinguished majority leader, or policy counsel, Mr. Hart, or others, since they are tracking it, do they have any idea. The House is going out tonight. If we get it back I know we can concur in it. We sort of crosswalked it twice today. It is momentarily expected right here.

Mr. BAKER. I think that is the only practical course to follow, and I have no objection.

Mr. ROBERT C. BYRD. Hopefully it can be done by voice vote.

Mr. HOLLINGS. Yes.

Mr. ROBERT C. BYRD. I thank the Senator.

BUDGET WAIVER RESOLUTIONS SUBMITTED RELATING TO THE CONSIDERATION OF H.R. 9346

Mr. HOLLINGS. Mr. President, I ask unanimous consent that we proceed to the consideration to Senate Resolutions 317, 318, 320, and 321, the waiver resolutions referred to the Budget Committee and reported back at the desk without recommendation.

I ask for immediate consideration of those four resolutions and ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Is there objection to the request of the Senator from South Carolina?

Mr. BAKER. Mr. President, if the Senator will yield, reserving the right to object, and the Senator from Kansas shall not object, I did not hear the numbers. Were they Senate Resolutions 317, 318, 320, and 321?

Mr. HOLLINGS. That is right.

Mr. DOLE. That would cover the amendments of the Senator from Kansas, the Senator from Arizona, the Senator from Texas, Senator TOWER, and the Senator from Alabama, Senator ALLEN.

Mr. HOLLINGS. That is correct.

Mr. DOLE. I thank the Senator.

Mr. HOLLINGS. Mr. President, I again renew my request.

The PRESIDING OFFICER. Without objection, the resolutions will be considered en bloc.

The resolutions will be stated.

The assistant legislative clerk read as follows:

S. RES. 317

Resolved, That (a) pursuant to Section 303(c) of the Congressional Budget Act of 1974, the provisions of Section 303(a) of such Act are waived with respect to the consideration of an amendment to either H.R. 5322 or H.R. 9346 offered by Senator Dole relating to modifications in the provisions under which benefits for certain persons under title II of the Social Security Act are reduced because of their earnings; and

(b) That waiver of such Section 303(a) is necessary in order to enable the Senate promptly to consider changes in social security financing which are provided for in this amendment to H.R. 5322, in order to assure that the program is adequately funded, and which first become effective in fiscal year 1979.

S. RES. 318

Resolved, That pursuant to section 303(c) of the Congressional Budget Act of 1974, the provisions of section 303(a) of such Act are waived with respect to the consideration of Amendment No. 1541, intended to be offered by Mr. Tower in the nature of a substitute to HR 9346, the Social Security Financing Amendments of 1977. Such waiver is necessary to permit consideration of Amendment No. 1541, which would provide certain modifications in the present Social Security financing system to allow shifting of certain trust funds, modification of the earnings limitation, changes in the dependency test solution, alleviating defective indexing provisions, and establishing an outside commission to consider permanent financing alternatives. The waiver of this section is necessary to enable the Senate to consider promptly changes in the Social Security financing system which are provided for in the bill.

S. RES. 320

Resolved, that (a) pursuant to Section 303(c) of the Congressional Budget Act of 1974, the provisions of Section 303(a) of such Act are waived with respect to the consideration of amendments to either H.R. 5322 or H.R. 9346 offered by Senator Goldwater relating to modifications in the provisions under which benefits for certain persons under Title II of the Social Security Act are reduced because of their earnings; and

(b) that waiver of such Section 303(a) is necessary to enable the Senate promptly to consider changes in Social Security financing which are provided for in these amendments to H.R. 5322 or H.R. 9346 in order to assure that the program is adequately funded in future years.

S. RES. 321

Resolved, That at the end of the bill add the following new section:

"There is hereby allowed to each individual taxpayer, who has paid Social Security taxes as an employee, as a deduction from income subject to Federal income taxes an amount equal to 50 per centum of all Social Security taxes paid by such taxpayer in the calendar year 1979 and subsequent years, such deduction to be claimed on the taxpayers' return for the year in which such Social Security taxes are paid. Self-employed taxpayers may deduct 50 per centum of that portion of Social Security taxes paid by them that they would have paid on their earnings if they had been employees."

Mr. HOLLINGS. Mr. President, it is interesting to note that the Budget Committee reported these waiver resolutions back by a vote of seven Senators voting to disapprove and seven Senators voting to approve. It shows the mixed feeling that we have on this particular score.

I happen, as the acting chairman, to appreciate the fact that at least the Senate has adhered to this extent to the budget procedures by being willing to present formal waiver resolutions to be referred to the Budget Committee so that we could at least slow down the process for some 2 days here where if nothing else we have had a little bit of a chance to stem the onrush.

There is no question that my distinguished chairman, who is still bedridden, will be filing a statement if not tomorrow in person at least for the record, and I shall be glad to do it for him, containing a very definite feeling that this is a stinking way to proceed, and he emphasizes that herein that we should have under the Budget Act some 10 days in which to consider these far-reaching spending programs that go into the years by 1982 with an impact of some $8 billion, one of them, another some $7 billion, and another a loss, let us say, of $2.3 billion.

It is very difficult for the Budget Committee, without a committee report from the Committee on Finance, without a particular assessment as to the exact financial impact upon the budget, what it contains or amounts to, and without really due time to hear any witnesses, and then put it into context as to how, if nothing else, by way of priority, where it should be placed or, more specifically, when we come and change a retirement insurance program into an annuity program by eliminating entirely the income tax limitation provisions within social security, then you begin to see the frustration of many of the Members of the Senate on both sides of the aisle.

There is a very strong feeling, a very strong undercurrent, that it should be committed and considered next year. The leadership and the Committee on Finance feel otherwise, and the Budget Committee is trying to do its level best to do a job without becoming too involved with the merits.

So in that context we voted, and it sort of brings up a happy solution. The resolutions can now apparently, by a majority vote, go ahead and be approved. There will be no point of order, and we have made our point as best we can under the circumstances.

Mr. President, the Budget Committee has reported unfavorably on four waiver resolutions which have been submitted to the Budget Committee with respect to the waiver of section 303(A) of the Budget Act to permit consideration of several amendments to be offered by the distinguished Senator from Kansas, Senator DOLE, the distinguished Senator from Texas, Senator TOWER, the distinguished Senator from Arizona, Mr. GOLDWATER, and the distinguished Senator from Alabama, Mr. ALLEN.

Mr. President, I have to make it very clear that any recommendation would not go to the merits of any of these amendments. Indeed, there are members of the committee who would vote in favor of these amendments if they reached the floor. It is the responsibility of the Budget Committee, however, to carefully re-

view any bill, resolution or amendment which would have the effect of increasing or decreasing revenues or providing new budget authority in a year for which the first concurrent resolution on the budget has not been adopted. In each case, these amendments would first become effective in fiscal 1979. The Budget Committee has begun preliminary deliberations on the first budget resolution for fiscal 1979, but that resolution will not be adopted until May 15, 1978.

The Budget Act intended that the Budget Committee and the Congress should have the opportunity to review all spending decisions and all revenue proposals prior to the consideration of legislation which would affect revenues in the new fiscal year. Without this comprehensive review, Mr. President, the Budget Committee and the Congress are left in the unenviable position of having legislation on the books which ties the hands of the committee and the Congress in formulating a comprehensive congressional budget and in setting national priorities.

Mr. President, this, our recommendation, would not be a question of equity or of the Budget Committee acting because it did not endorse the substance of the amendments. This is not the case. This has never been the case. When the Budget Committee acts with respect to waiver requests such as this, we simply look at the overall budget impact and the consequences which may result from action on these amendments. It may be claimed that the Budget Committee would be choosing sides and acting in an unfair manner. Let me be very clear, Mr. President, that is not the case.

Mr. President, as reflected in the tied committee vote the Budget Committee is extremely reluctant to recommend the adoption of resolutions waiving section 303(A) of the Budget Act. One of the major purposes of the Congressional Budget Act was to bring the Federal budget under better control. Through the adoption each year of the first and second concurrent resolution on the budget, Congress sets fiscal policy and national priorities for the fiscal year.

If legislation affecting spending or revenues for a future fiscal year is considered prior to the adoption of the first concurrent resolution on the budget for that year, to that extent Congress loses control of the spending and priority decisions for that year. However, the Budget Act recognized that in some situations it may be appropriate to consider such legislation before the adoption of the first concurrent resolution.

Mr. President, we believe that because of the unusual circumstances presented by this legislation, it is now appropriate for the full Senate to vote on these resolutions.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. HOLLINGS. I yield.

Mr. McCLURE. I thank the Senator for yielding.

I take this time only to make one very brief comment. I am not very certain I know what we have done now as a Budget Committee. Under the Budget Act we are required to make recommendations on waiver resolutions.

When the resolution of waiver comes to the Budget Committee instead of waiving the provisions of the act or failing to, refusing to, waive the provisions of the act, we send a piece of paper back without recommendation. Does that mean the Budget Committee waived the provisions of the act or does it mean the Budget Committee refused to waive the provisions of the act?

It seems to me it does neither. I am not at all certain that the precedent we are establishing, if, indeed, this is any precedent, is superior to the position that might be taken by the Budget Committee to at least say, "This is a unique condition, a unique situation, under which we will waive the provisions because of the unique situation," instead of ducking the issue completely, by saying, "We will return them, but we have neither waived nor refused to waive the provisions of the act."

This is a unique situation, and I hope the Senate and the committee will not regard the action that has been taken by the Budget Commitee as a precedent in any way.

I happen to have indicated my approval of the waivers simply because it is a very difficult situation with which the Senate is confronted, and not because I think it is particularly desirable for the Budget Committee to waive the provisions of the act, and I would not have voted that way except in the very unique situation which confronts the Senate on legislation at this time.

I think the people who objected earlier today, among them my very eloquent friend from Kansas, who was very vocal, said that the situation foreclosed any options that the Committee on Finance proposal could be approved under the Budget Act. It had no conflict with the budget resolution, but any of the alternatives to the Committee on Finance action would violate the budget resolution.

For that reason, and that reason alone, I voted to waive the provisions of the Budget Act.

But I cannot imagine what it means when a committee which is called upon to either waive the act or to refuse to waive the act simply returns the waiver resolution with no recommendation. That is not action, in my judgment. It is not discharging the committee responsibility. I hope we have not established any kind of precedent by this action.

The only way in which it can be read is meeting a very, very unique situation on the floor of the Senate in a very pragmatic way.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. HOLLINGS. I yield.

Mr. DOLE. Mr. President, first, I understand the distinguished Senator from Oklahoma (Mr. BELLMON) is on his way to the floor and would like to speak for one moment when he arrives.

The PRESIDING OFFICER. The Senate is not in order. The Senator from Kansas may proceed.

Mr. DOLE. Second, if I can just take a moment to thank my distinguished colleagues on the Budget Committee, the Senator from Kansas, being a member of the full committee, and also a member of the Committee on Finance, understands the problems the Budget Committee has, and I think probably from a technical standpoint they were absolutely right. But the facts are that in the bill wherein a waiver was granted, it contained a provision much like three of those or at least—yes, about three of those were addressed in this fashion by the Senate Budget Committee.

As the distinguished Senator from Idaho has pointed out, I am not certain as to where we are, but at least we resolved without setting a precedent the problem before the Budget Committee at the immediate time.

I would hope the Senate would approve the resolutions or whatever on a voice vote so we might proceed tomorrow to maybe complete the bill or vote up or down. So I thank my distinguished colleague from South Carolina, and I again suggest that the Senator from Oklahoma should be heard in just a second. He wanted to be here and wanted to be heard for 1 minute.

Mr. McCLURE. Mr. President, might I address a parliamentary inquiry to the Chair?

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLURE. What is the parliamentary situation? What will the Senate be acting upon if the Senate acts on anything?

The PRESIDING OFFICER. The question is on considering en bloc four budget waiver resolutions.

Mr. McCLURE. And the budget waiver resolutions are actions of whom? Are they a Budget Committee waiver?

Mr. HOLLINGS. Mr. President, if I might be recognized——

The PRESIDING OFFICER. These are resolutions which were referred to the Budget Committee and then reported from the Budget Committe without amendment or recommendation.

Mr. HOLLINGS addressed the Chair.

Mr. McCLURE. Mr. President, will the Senator withhold for just a moment? I thank the Senator for that courtesy.

I am puzzled because as I read the Budget Act the Budget Committee must waive the provisions, not vote upon or report a resolution of waiver, and that is the reason for my dilemma.

Mr. HOLLINGS. Mr. President, actually the committee can be discharged within 10 days under the Budget Act. So what we have before us are the resolutions of waiver for adoption or rejection by the Senate itself.

With respect to the Budget Committee, it has reported them back without recommendation by a 7-to-7 vote. Now we have it up for consideration by a voice vote. I see my colleague, the Senator from Oklahoma, is now here, and we could at least agree to consider them en bloc, and then I take it those who would be in favor of the waiver would move the adoption, and that would be the way to act because all we can do is waive or just not waive.

Mr. McCLURE. Might I just for the

record state the following: The act requires that the reporting committee ask for a waiver where the committee action is that which requires a waiver.

The PRESIDING OFFICER. The Chair will observe that under section 303(c) of the Budget Act, the Budget Committee cannot waive but can only recommend a waiver, and only the full Senate can act and waive the Budget Act.

Mr. McCLURE. As I say, the Chair anticipated the wrong question, that where the committee takes action that will require a waiver the committee reports a waiver resolution, and that waiver resolution is referred to the Budget Committee for action, and the Budget Committee would then take action on that waiver resolution by way of agreeing with it or disagreeing with it and, perhaps under the circumstances, reporting it back without recommendation.

This, however, is not committee action which we are asked to act upon, and therefore, there was no resolution of waiver from the committee asking us for a waiver; am I not correct?

The PRESIDING OFFICER. The Senator is correct as to the genesis of the resolutions. They were not reported from standing committees and then referred to the Budget Committee. They were introduced by individual Senators and referred to the Budget Committee, a procedure——

Mr. McCLURE. Individual Senators introduced waiver resolutions dealing with individual amendments which they hoped to offer; is that the situation?

The PRESIDING OFFICER. That is correct. There is no provision for it in the Budget Act, but——

Mr. McCLURE. Would the Chair repeat that?

The PRESIDING OFFICER. There is no provision for it in the Budget Act, the Chair is advised, but Senators have a generic right to introduce resolutions.

Mr. McCLURE. I presume that is, indeed, the situation, though maybe not quite that. The reason why I am concerned about it is that the origin of the resolutions is not provided for by the statute and is not provided for by any of the existing rules of the Senate.

It may, indeed, be a generic right of Senators, but this is a matter of first impression, as I regard it, of the Budget Act, in which, in anticipation of an amendment which might be offered on which a point of order might be raised, we have sent a resolution to the Budget Committee for action before it has ever been presented to the Senate.

I just hope, again, that this entire proceeding may not necessarily be held to be a precedent for all future actions of similar nature, because I am not certain that that is what the Senate wishes to do by way of establishing a precedent on actions that are not covered by the budget law itself.

I am not going to question the action any further than to say it is outside of the statute, and I think we need to be very careful before we establish a precedent of this kind, not only in the origin of the resolution but in the treatment of the resolution, which is not provided for by the act.

It is not the intention of the Senator from Idaho to object to this proceeding, because I believe it is a pragmatic solution to the problem with which the Senate is confronted, and does act with substantial justice to those Senators who have sought and will seek to offer amendments to the pending legislation.

The PRESIDING OFFICER (Mr. METZENBAUM). The Chair wishes to make a statement at this point.

Even though the Budget Act provides special handling for waiver resolutions reported from a standing committee relative to the action of that committee, it does not preclude individual Senators from introducing such resolutions; and since the Budget Act, in another section, specifically section 904, allows a motion to waive to be made by any Senator, the Chair believes it is consistent to permit any Senator to introduce a resolution to waive.

Mr. McCLURE. Well, now, I am sorry the Chair decided to make that announcement, because I think that is completely gratuitous, and establishes exactly the thing I was seeking to avoid in terms of a precedent being made for procedures outside of the budget law. It may be something that will work, and it may be the kind of thing that, upon reflection, the Senate will wish to adopt. But the Senator from Idaho was trying to avoid writing into the precedents of the Senate something that is not provided for by the statute but is not objected to by any Member, including the Senator from Idaho.

I hope that we may, indeed, as a Senate, upon some reflection, and as a Budget Committee with some reflection, discuss and determine whether or not this is the procedure which we want followed in the future upon amendments which may be offered in the future by any Member of the Senate.

The PRESIDING OFFICER. The Chair agrees with the Senator that this is totally a matter of the Senate's choice.

Mr. BELLMON. Mr. President, I would like to say for the record that the Senator from Oklahoma voted in favor of these waivers, and I would like to explain briefly my reasons. I would like to say the opinion I am going to give is mine alone, and is not in any way representative of other members of the Budget Committee; and also I would like to say that this is a new matter, and my own ideas on it are subject to change.

I feel that the Budget Committee has a somewhat restricted role as far as waivers are concerned. Realistically, there are some things we can do and some things we cannot do. I believe we can slow down runaway spending legislation, and make certain that the Senate fully understands the impact of what we are doing, that we have fully costed out the various proposals, and that we understand the impact, the effect, and the big word we hear so much now, the macroeconomic impact, so that we know the related economic effect in other areas.

But I doubt that the Senate expects or would long permit the Budget Committee to deny access to the floor to any Senator who has a proposition he might wish others to consider. So I doubt that it would be possible for the Budget Committee to start denying waivers and make those denials stick. I believe our proper role is the role we have tried to play here today, and that is to slow down these waivers and look at them carefully before anyone realizes their full impact.

I consider this to be a considerable contribution. It is a great improvement over the past, when multibillion-dollar amendments could be brought up on a moment's notice without prior warning, without any chance for costing to take place, and written into bills without anyone having an opportunity to understand their full impact.

The process is new. We may find that the role of the Budget Committee is considerably different than I have described it, but I feel we have met our responsibility in bringing the waivers back to the floor for the Senate's action.

Mr. ALLEN. Mr. President, I move that the resolutions be agreed to, and I ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. The resolutions are, by previous agreement, being considered en bloc.

Mr. ALLEN. I move that the resolutions be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alabama.

The motion was agreed to.

The PRESIDING OFFICER. The resolutions are agreed to en bloc.

Mr. LONG. I move to reconsider the vote by which the motion was agreed to.

Mr. ALLEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

The Senate continued with the consideration of H.R. 9346.

Mr. DOLE. Mr. President, I wonder if, with the concurrence of the distinguished Senator from New York (Mr. MOYNIHAN), we might have unanimous consent to proceed for 3 minutes with another amendment.

Mr. MOYNIHAN. I am happy to yield for that purpose.

The PRESIDING OFFICER. Is there objection to the temporarily laying aside the amendment of the Senator from New York for the purpose of calling up other amendments? Without objection, it is so ordered.

UP AMENDMENT NO. 1044

(Purpose: To clarify the tax liabilities of certain non-profit organizations.)

Mr. DOLE. Mr. President, I send to the desk an unprinted amendment in behalf of myself and the Senator from Maryland (Mr. SARBANES), and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE), for himself and Mr. SARBANES, proposes an unprinted amendment numbered 1044.

The amendment is as follows:

At an appropriate place, insert the following:

"Section 3121(k)(4)(B) of the Internal Revenue Code of 1954 (relating to the period of not less than three calendar quarters during which taxes imposed by sections 3101 and 3111 were paid) is amended by deleting the period at the end thereof and inserting in lieu thereof:

"'(iii)', or if the organization, prior to the end of the period referred to in clause (ii) of such subparagraph, had applied for a ruling or determination letter acknowledging it to be exempt from income tax under section 501(c)(3), and it subsequently received such ruling or determination letter and did not pay any taxes under sections 3101 and 3111 with respect to any employee with respect to any quarter ending after the twelfth month following the date of mailing of such ruling or determination letter and did not pay any such taxes with respect to any quarter beginning after the later of (I) December 31, 1975 or (II) the date on which such ruling or determination letter was issued'."

Mr. DOLE. I might say very quickly, Mr. President, that this amendment has been discussed by myself and the distinguished Senator from Maryland (Mr. SARBANES) with both the minority and majority side.

This is a technical amendment to clarify certain tax liabilities of a few tax-exempt organizations. All organizations which qualify under section 501(c)(3) for tax exemptions are also exempt from payment of FICA—social security—taxes unless they waive that privilege. This ability to waive the tax immunity has created an unfortunate situation for a few charitable organizations.

In the past, some 501(c)(3) organizations paid FICA taxes and inadvertently did not file a waiver. To help them, Congress passed Public Law 94–563 which provided that if an organization paid FICA taxes for three quarters, a waiver of its FICA exemption would be implied. This law applied to all tax-exempt organizations, regardless of when they received their tax exemption.

AMENDMENT IS STRICTLY LIMITED

My amendment only concerns those organizations which had applied for but not received their tax exemption. These organizations were obligated by law to pay FICA taxes until given a tax-exempt for the FICA taxes paid during the interim were then refunded by the IRS. The problem for these groups only arose after Public Law 94–563 was enacted.

Although these groups had no intention of waiving their tax exemption, a waiver is still implied by Public Law 94–563. These organizations would thus be liable for years of FICA taxes. Payment could bankrupt them.

CONSISTENT WITH CONGRESSIONAL INTENT

The original reason for exempting charitable organizations from FICA taxes was to free more money to be spent on their charitable and educational projects. My amendment would preserve this FICA exemption privilege for those organizations which desire it.

If any group that had a tax exemption pending truly intended to waive its FICA exemption, my amendment would not prevent them from filing a waiver. The only impact of this amendment would be on those few groups who inadvertently lost their FICA exemption and are faced with back taxes.

Mr. President, I believe that my amendment is in keeping with the intent of Congress to exempt charitable organizations from the obligations of paying FICA taxes. Now is the proper time for Congress to correct the mistake it made in Public Law 94–563 and I urge the adoption of my amendment.

The amendment relieves certain nonprofit organizations from being adversely affected by Public Law 94–563. It is the responsibility of the affected organizations to apply to IRS for reopening of their cases under this amendment. No obligation is placed on IRS to reopen such cases on its own motion.

Mr. President, I hope the amendment will be accepted.

Mr. LONG. Has the Senator's amendment been agreed to?

Mr. DOLE. I am waiting to see if the amendment is agreed to.

Mr. LONG. I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 1045

Purpose: To provide coverage for policemen and firemen in Mississippi.

Mr. LONG. On behalf of the two Senators from Mississippi, Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG), for himself Mr. EASTLAND and Mr. STENNIS, proposes an unprinted amendment numbered 1045.

Mr. LONG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following new section:

COVERAGE FOR POLICEMEN AND FIREMEN IN MISSISSIPPI

SEC. 130. Section 218(p)(1) of the Social Security Act is amended by inserting "Mississippi," after "Maryland.".

Mr. LONG. Mr. President, this language is in the House bill and it would permit certain policemen and firemen in the State of Mississippi to have the same election which has been provided in 21 other States and the Commonwealth of Puerto Rico. I see no objection to it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. PELL. Mr. President, I am pleased to join today with my colleagues to urge the Senate to accept an amendment to the social security bill to reextend the Federal supplemental benefits (FSB) unemployment insurance program.

This program provides 13 additional weeks of unemployment compensation benefits to unemployed workers who have exhausted their initial 39 weeks of such benefits. This section of the law expired last week, and I believe that present economic conditions cry out for it to be extended.

My State of Rhode Island is one State where this legislation will have an immediate and critically important impact. In addition, as the winter inevitably causes some work stoppages and some increases in unemployment along with fewer new job openings, the present need for this program will actually increase.

Right now, about 300 Rhode Islanders per week apply for benefits under the FSB program. If this program is reextended, it could mean that as many as 1,200 unemployed workers per month could begin these necessary benefits, and if the program is extended for 6 months as in our proposal, then 7,200 workers and their families could participate in its benefits.

I urge my colleagues to support and vote for this important program. Our national economy is simply not producing enough new jobs quickly enough for us to let this program fade away. It provides a minimal, but vital level of assistance to unemployed workers, and it deserves a renewal for another 6 months.

Mr. MOYNIHAN. Mr. President, the subject before us today is the future financing of the social security system. But it is inseparable from another set of profound social policy issues that are also embedded in the Social Security Act: those associated with aid to families with dependent children, and with President Carter's far-reaching proposal to reform that program as well as a number of other public assistance programs.

On September 12, I introduced S. 2084, the program for better jobs and income, on behalf of the Carter administration. I stated at the time, as I had when the President first announced it in August, that I agreed with its general goals and directions. I said that, "The President has, as he pledged, undertaken the great task of making this Nation's welfare system more rational, equitable, and humane, and has done so with vigor and good faith, mindful of the general proposition that most people do, can, and ought to work for their livings." "The fundamental assumptions behind the plan," I added, "are clearly praiseworthy: the concept of a national floor under cash benefits, paid for by the National Government; the attention to improved financial incentives for work; the provision of income supplementation for the 'working poor' and the conscientious effort to relieve some of the fiscal burden now borne by State and local taxpayers, particularly in those jurisdictions that have historically been most generous toward their least fortunate residents."

As we set about examining the specific legislative language of the bill, and as reactions and analyses began to flood in from many quarters, one difficulty with this proposed legislation was obvious above all others: the proposition that States and localities must wait 3 years, until the reformed welfare system was fully in operation, before realizing any of the fiscal relief that they so urgently need.

Meanwhile, in the context of another piece of legislation, the Committee on

Finance had responded to my fervent pleas for some immediate fiscal relief for hard-pressed States and localities. I asked for $1 billion, spread over 2 years, with actual State receipts in the second of those years linked to improvement in their welfare error rates.

This proposal was warmly endorsed by the Governors, by the mayors, by the county officials, and by others troubled by the heavy fiscal burden that soaring welfare costs were imposing on our State and local governments. They also urged the administration to embrace the idea of interim fiscal relief within its welfare reform plan.

On Tuesday, that happened. In a splendid decision, President Carter added greatly to the momentum for passage of his welfare reform bill in the next session of Congress by agreeing to link welfare reform to interim fiscal relief for States and localities. Indeed, he and Secretary Califano agreed to go further than we had initially proposed, and to endorse the prospect of fiscal relief in all 3 years between now and the implementation of the administration's comprehensive welfare reform plan.

The second and third installments of that interim fiscal relief will come before us later, in the form of modifications to the President's welfare reform bill now before the committees. The first installment, however, is before us today, as an integral element of the social security financing bill reported by the Committee on Finance. It provides $374 million to States and localities in fiscal year 1978, which began 1 month ago, distributed according to a formula that the Finance Committee developed, and that the administration has agreed to, under which half of each State's allocation is based on its AFDC expenditures and half is based on the formula of the general revenue sharing program. There is a further provision that these funds be "passed through" to local governments in those States where the localities share in the costs of aid to families with dependent children.

This is a reasonable amount. While it represents only a modest fraction of current outlays in this multibillion-dollar enterprise, it will confer real and substantial benefit in the current year on every one of the 50 States. And, just as importantly, it will serve as an earnest of our commitment to genuine welfare reform, and to the sizable amounts of fiscal relief that must be part of any genuine welfare reform plan.

The Committee on Finance had also proposed some other interim modifications to the current welfare system, based on the committee's strong belief that the prospect of comprehensive reform 3 years hence did not obviate the need for some easily implemented improvements in the present, jerry-built programs. Accordingly, and again with the full support of the Carter administration, three such improvements are also before us today as part of the committee's bill. A bit later, I will speak to a fourth provision, which must be altered slightly before it is entirely agreeable to the administration.

First, the States are authorized to conduct limited work demonstration projects as part of their AFDC programs. Up to three such projects can be undertaken by any jurisdiction wishing to do so. States desiring to conduct such programs must first submit them to the Secretary of HEW, who will have 45 days to consider them. If not disapproved by him in that time, the State can put its plans into effect. It is important to note that participation in such programs will be entirely voluntary from the standpoint of the individual welfare recipient.

Second, the States will be given access to social security wage records, and to unemployment insurance records, for purposes of verifying the eligibility of welfare applicants. This access will be strictly limited to the purposes of verification, and will be supervised by the Secretary of HEW. I would note that many States have been seeking this access for years. In New York, for example, State officials estimate that as much as $100 million a year may be saved by allowing the welfare agencies to consult these records as part of their review of individual applications.

Third, because a high "error rate" has been a persistent problem in the AFDC program, States will be given modest financial incentives to bring their error rates below 4 percent per annum.

The Committee on Finance, and the administration, all look upon these provisions as a "package" providing fiscal relief on the one hand and, on the other, a trio of modifications to the current AFDC program designed to make it more efficient, economical, and effective.

I cannot close these brief comments without remarking once again on the splendid boost we are now in a position to be able to give to the concept of welfare reform. While more than fiscal relief and minor program modifications are obviously required, passage of the measure before us today will signal to the entire Nation our commitment to serious reform of a system that is widely—and accurately—regarded as costly, inequitable, and confusing.

Mr. BAKER. Mr. President, Senate consideration of legislation to remedy the financing difficulties confronting the social security system is overdue, and I am pleased that we are now addressing the need to take action to insure the future fiscal stability of the system.

Since its inception, social security has evolved into a comprehensive retirement, disability, and survivors' insurance system which reaches almost every American family. While the system has its weaknesses, its mandatory nature and almost universal coverage has made it possible to provide a level of social insurance to millions which relatively few would be able to obtain for themselves. To fail to assure adequate future financing would be devastating, not only to the 33 million Americans who now rely upon social security benefits, but also to the more than 100 million now paying into the program.

The deficit facing the social security trust funds, which is calculated to be about 8.2 percent of payroll over the next 75 years, is the result of a combination of factors. About half of the deficit is the result of a defect in the formula for computing benefit increases which has resulted in benefits rising at a faster rate than wages. This flaw can be corrected by indexing future benefits to wages, as recommended by the Committee on Finance, in order to insure that the ratio of benefits to wages before retirement remains about the same. Other factors affecting the financing problem are the loss of revenues to the trust funds as a result of recent high rates of unemployment and the declining birthrate, which produces fewer workers entering into the system. In addition, the number of disability beneficiaries has increased by 1 million since 1972—an increase unanticipated by the Congress and one which is expected to deplete the Disability Trust Fund by 1979.

While the problems associated with the disability insurance program are not addressed in the legislation before us today, I was pleased to learn that the House Subcommittee on Social Security plans to review the program next year as phase II of the social security issue. I hope that this body will also examine the causes of the large increases in disability claims and devise solutions wherever possible.

The range of options available to us to respond to these problems is limited and, as is so often the case, none of them is perfect. One alternative, which has been recommended by President Carter, is to rely upon infusions of general revenues in order to make up part of the deficit. There are two strong arguments against this recommendation, however, which have persuaded me that the President's proposal would be ill-advised. First, relying upon general revenues will erode the "earned-right" nature of the social security system—an aspect of the program which, in my view, accounts in large part for the overwhelming public support the program has received throughout the years.

Second, when the financing of benefits is not directly dependent upon tax contributions of employers and employees the pressures upon Congress to further expand benefit levels and eligibility will become even more severe than they now are.

A second alternative, and one which has been rejected by the House, would be to gradually increase the retirement age to 68. While I am aware that life expectancy for Americans has improved since the retirement age of 65 was first established, it is my view that it would be a serious breach of faith for the Congress to reduce what for many elderly Americans is a very short period of retirement after long years of labor. For this reason, I have also rejected this option for coping with the deficit.

Our remaining alternative, Mr. President, is to continue to rely upon the traditional method of financing the system through employer and employee taxes. After reviewing the problems confronting us, I have concluded that this is the most realistic means of insuring the sol-

vency of the social security program and protecting the rights of future beneficiaries.

In arriving at the combination of wage-base and tax-rate increases which will be necessary to accomplish that goal I hope that we will refrain from the temptation of placing a disproportionate share of the tax burden upon middle-income wage earners who are already laboring under the severe effect of inflation on income tax rates. In addition, I would caution against deviating from the traditional parity which has been maintained between taxes on employers and employees by mandating heavy tax increases for employers. While the full economic effects of any tax increase cannot be predicted with complete accuracy, it seems clear that employers will not magically absorb such taxes but will pass them on to employees by cutting back on their labor force and on wages and benefits. Moreover, I fear that proposals to eliminate the wage base upon which employers pay social security taxes will bring on a new round of financing difficulties in future years as benefits, which are calculated upon employees' earnings subject to the tax, rise along with the wage base.

There is no doubt, Mr. President, that any increase in the social security tax will take its toll upon all workers now contributing to the system and that, depending upon how it is designed, it will affect some workers more than others. I see no choice for us, however, but to approve such an increase, for the alternative would be to abandon a program that is literally vital to millions. Accepting this fact, I believe that we can best serve the needs of the Nation by fashioning a measure which will distribute the burden as equitably as possible among classes of wage earners and employers.

As part of this effort, Mr. President, we have an opportunity to remedy some of the inequities which currently exist in the program. I am pleased that the Finance Committee has recommended increasing the earnings limitation on retirees under the age of 72. I have long supported such an increase, and I hope that we will be able to remove the limitation entirely for those who continue to work after retirement.

In addition, I support the changes which the committee has recommended to alter those aspects of the program which discriminate on the basis of sex, including those changes which have been mandated by recent Supreme Court decisions.

One of the most heatedly argued issues which has been raised in connection with the social security debate this year has been whether or not Congress should require coverage of Federal employees under the social security system. The civil service retirement system, which is mandatory for all but a few Federal employees, varies from social security in many ways—including the fact that Federal employees pay a larger tax on a larger portion of their income in order to receive higher benefits.

Thousands of retired employees, as well as those now working for the Government, rely upon this program as their sole source of retirement income. To mandate coverage of these employees under social security by a certain date without a more thorough examination than has yet been made of how the two systems would mesh would do an injustice to Federal employees, and I would oppose such proposals. If the Congress should determine that it is best to bring Federal employees into the social security program, then we should take whatever action is necessary to review the two systems and devise a method of combining them which will assure Federal employees that they will not be deprived of the retirement benefits which they have earned.

Mr. President, this legislation is one of the most complex measures which the Senate has considered this year and these remarks have touched upon only a few of the many issues which will be raised during discussion of the bill and amendments to be offered on the floor. I hope that, in the course of this debate, we will bear in mind the far-reaching impact of the actions we take today, as well as the need to restore public confidence in the social security system.

EMPLOYEE RETIREMENT INCOME SECURITY ACT

Mr. WILLIAMS. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 9378.

The Presiding Officer laid before the Senate H.R. 9378, an act to amend title IV of the Employee Retirement Income Security Act of 1974 to postpone, for 2 years, the date on which the corporation first begins paying benefits under terminated multiemployer plans.

The PRESIDING OFFICER. Without objection, the bill will be considered as having been read twice, and the Senate will proceed to its immediate consideration.

Mr. WILLIAMS. H.R. 9378 is an urgently needed bill that will defer mandatory coverage of the multiemployer pension plan termination insurance provisions of the Employee Retirement Income Security Act of 1974. It was passed by the House of Representatives on November 1, 1977. It is identical to S. 2125, which was reported favorably, with an amendment, jointly by the Committees on Human Resources and Finance, also on November 1, 1977.

When ERISA was enacted in 1974, there was some uncertainty regarding the impact of the pension plan termination insurance provisions of title IV of ERISA on multiemployer plans. So, Congress provided in the 1974 law that for the period from enactment until January 1, 1978, insurance benefit payments in the case of terminations of multiemployer pension plans would be discretionary with the Pension Benefit Guaranty Corporation, which administers title IV or ERISA. We also provided that as of January 1, 1978, this discretion would end, and insurance benefit payments would have to be made by the PBGC for an underfunded multiemployer plan which terminated on and after that date, if that plan were otherwise covered by title IV.

PBGC has reported to us that a significant number of multiemployer plans are experiencing financial hardship. In the aggregate, these plans have unfunded vested liabilities totaling $3.85 billion. With the discretionary period coming to an end and mandatory coverage about to begin, many of these multiemployer plans that are experiencing financial hardship could terminate shortly after the first of the year, possibly forcing PBGC to assume obligations far in excess of its capacity.

H.R. 9378 simply postpones the effective date of mandatory coverage for 18 months—until July 1, 1979. It also requires PBGC to report to the Congress by July 1, 1978, with a comprehensive analysis of the problems of multiemployer plans under title IV and with recommendations for any amendments to title IV that PBGC thinks are necessary to make its insurance provisions work better for multiemployer plans. That way, Congress will have time to legislate, if necessary, before the mandatory coverage comes into effect.

Mr. President, the amendment that will be offered would change the present annual premium charged by PBGC to single employer plans from $1 per participant to $2.60 per participant.

The Pension Benefit Guaranty Corporation has requested a premium increase. PBGC has found that the present premium, which was included in ERISA when it was enacted in 1974, is inadequate. PBGC now has a $41 million deficit, which is expected to climb to $160 million in a few years' time if the present $1 premium rate is maintained.

PBGC has estimated that a premium of $2.25 would be sufficient to eliminate the present deficit and to put its single employer fund on a fully funded basis by 1987. The Human Resources Committee was willing to accept this figure, but the Finance Committee has determined that the figure of $2.60 is more appropriate.

I have discussed this with Senator BENTSEN, who chairs the Subcommittee on Private Pension Plans and Employee Fringe Benefits, and who is most knowledgeable about insurance matters, and agree that $2.60 is a more appropriate premium.

The lower figure recommended by PBGC was based on several assumptions, including future unemployment rates and investment return predictions. In addition, there is currently pending certain litigation which could affect the adequacy of the premium. In light of these uncertainties, and because public policy will be served by setting a premium figure which we believe will be adequate for a number of years to come, I have concluded that it is wiser to set a higher premium rate.

PBGC has estimated that the premium figure it sought would have a miniscule impact on plan sponsors. For example, it amounted to not more than one-half of 1 percent of total annual plan contributions and to less than one-tenth of 1 percent of an employer's total annual payroll costs. The additional $0.35 we are proposing to add will raise these figures, but only very slightly.

In return, millions of employees covered under single employer, tax-qualified persion plans can rest assured that if their plan terminates, the Pension Benefit Guaranty Corporation will have sufficient assets to make good on its guaranty.

Mr. President, the Congress is now in the process of sharply increasing the social security contribution rates. We are forced to mandate a large increase to avoid bankruptcy of that system. PBGC seeks to avoid getting into a similar situation by establishing a premium rate now that will enable it to reach a fully funded basis in a relatively short time. We can benefit from our experience with the social security system by approving the $2.60 premium today.

To summarize, this amendment will mean that the premium rate payable annually to the Pension Benefit Guaranty Corporation by plans that are not multiemployer plans for basic benefit coverage under title IV of the Employee Retirement Income Security Act of 1974 is raised to $2.60 per plan participant. The new rate will apply to plan years beginning on or after January 1, 1978, and will remain in effect until revised pursuant to the existing statutory procedure in section 4006 of ERISA. The new rate will be paid in accordance with PBGC regulations and existing ERISA provisions, where they are not inconsistent with this provision.

The Senator from Texas, I know, will sponsor the amendment to which I have referred and in which I join wholeheartedly. I yield to the Senator from Texas.

UP AMENDMENT NO. 1046

Mr. BENTSEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Texas (Mr. BENTSEN), for himself, Mr. WILLIAMS, and Mr. JAVITS, proposes an unprinted amendment numbered 1046.

Mr. BENTSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 8, delete "subsection:" and insert "subsections:"

On page 3, line 2, delete "July 1, 1978."." and insert "July 1, 1978."

On page 3, line 3, insert the following:

"(e) Notwithstanding any provision of title IV of this Act to the contrary, the annual insurance premium payable to the Pension Benefit Guaranty Corporation for coverage of basic benefits guaranteed under section 4022 of this Act by plans that are not multiemployer plans shall be $2.60 for each participant in the plan. This subsection shall be effective for plan years beginning on or after January 1, 1978, and the premium prescribed by this subsection shall be deemed to be the rate imposed by title IV of this Act for nonmultiemployer plans until the rate schedule for such plans is revised pursuant to the procedure set out in section 4006 of this Act."

Mr. BENTSEN. Mr. President, as chairman of the Private Pension Subcommittee of the Senate Finance Committee, I urge the Senate to adopt H.R. 9378, which would delay for 18 months the effective date of mandatory termination insurance for multiemployer plans under the Employee Retirement Income Security Act (ERISA).

This legislation has been approved by both the Senate Finance Committee and the Senate Human Resources Committee.

ERISA established a program of private pension plan insurance—modeled after the Federal Deposit Insurance Corporation for banks—which will insure that employees will be protected in the event that their pension plan terminates before becoming fully funded. Under this program, private pension plans must pay an annual insurance premium to the Pension Benefit Guaranty Corporation (PBGC) which is located within the Labor Department. In the event that a pension plan terminates with insufficient assets to provide retirement benefits, the PBGC will guarantee pension benefits.

Mandatory termination insurance coverage under ERISA for multiemployer plans begins January 1, 1978. However, the Pension Benefit Guaranty Corporation (PBGC) has had discretionary authority since the enactment of ERISA in 1974 to insure multiemployer plans that terminate. PBGC has recommended that Congress amend ERISA to delay the effective date of mandatory multiemployer coverage but continue discretionary coverage. A multiemployer pension plan is generally a plan maintained by several employers for employees under a union agreement.

The multiemployer portion of termination insurance could face serious financial problems January 1 when mandatory coverage becomes effective. A delay in mandatory coverage of multiemployer plans would give Congress the opportunity to make appropriate statutory modifications to prevent these problems.

A recent PBGC study showed that about 2 percent of all multiemployer plans, covering about 5 percent of all participants in such plans, are experiencing extreme financial hardship, indicating a high potential for plan termination within the next 5 years. The aggregate unfunded vested liabilities of these plans in 1977 exceed $350 million.

Another 10 percent of all multiemployer plans, covering about 15 percent of all participants in such plans, are experiencing significant financial hardship which may result in plan termination, although not necessarily within 5 years. These plans currently have aggregate unfunded vested liabilities of about $3.5 billion.

In summary, approximately one-eighth of all multiemployer plans, covering one-fifth of all participants in such plans, are experiencing significant financial hardship which may result in plan termination.

The imposition of a large liability on PBGC early next year will have an adverse impact on the entire private pension system. A large liability on PBGC, with the threat of new Federal regulations or large multiemployer premiums, could increase the number of plan terminations or discourage the creation of new plans.

There are several ways to resolve this problem in the long run. However, all of these proposals require extensive analysis and hearings which can be conducted during the 18-month delay period.

If Congress delays mandatory coverage, PBGC would continue to have discretionary authority to protect multiemployer pension plan participants. A delay would not necessarily result in any lost benefits.

The Finance Committee has asked the GAO to evaluate the termination insurance program to help formulate long-term remedies. In the interim, an 18-month delay in mandatory coverage of multiemployer plans is necessary.

In addition, I urge the Senate to adopt the pending amendment to increase the insurance premium for single-employer plans from $1 to $2.60 per participant.

This modest increase is needed to reduce the deficit in the single-employer PBGC fund which will reach about $60 million by January 1, 1978. The selection of the $1 premium in 1974 was somewhat arbitrary since there was little reliable data to accurately analyze the extent of plan terminations. We have now analyzed 2 full years of actual experience under ERISA and believe an increase to $2.60 will put the single-employer termination insurance program on a sounder actuarial base. This premium increase represents a fraction of 1 percent of the costs of a pension plan. This will not be an undue burden for small plans since the typical small plan will only have to pay an additional $40 per year.

Under this amendment, the premium rate payable to the Pension Benefit Corporation by plans that are not multiemployer plans for basic benefit coverage under title IV of the Employee Retirement Income Security Act of 1974 is raised to $2.60 per plan participant from $1 per participant. The new rate shall apply to plan years beginning on or after January 1, 1978, and shall remain in effect until revised pursuant to the existing statutory procedure in section 4006 of ERISA. The new rate is to be paid in accordance with PBGC regulations and existing ERISA provisions where they are not inconsistent with this provision.

Mr. President, I urge the Senate to approve the pending bill and the amendment.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. BENTSEN. I will be glad to yield.

Mr. JAVITS. Mr. President, let us emphasize that there are two measures, both essential. One is the extension of the date for mandatory insurance coverage of multiemployer plans by the Pension Benefit Guaranty Corporation. We are putting that off for 18 months. That is the basic bill which came from the House.

The other measure has been explained by Senator BENTSEN. It is necessary that the single employer insurance fund be buttressed by increased premium rate. There are some 75,000 to 80,000 plans affected involving 23 million employees. There are billions of dollars of assets in these plans.

The amount of additional premium,

which will have an enormously salutory effect, is not large at all, even though it goes up from $1 to $2.60.

The absolute amount is not large considering what is involved.

As one of the authors of ERISA, just as my colleagues are, I strongly commend this measure to the Senate as being absolutely essential.

I want to thank the leadership for allowing us to bring it up at this point.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 9378) was passed.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. WILLIAMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WILLIAMS. Mr. President, I move to indefinitely postpone S. 2125 and House Concurrent Resolution 369.

The PRESIDING OFFICER. Without objection, the motion will be in order.

Without objection, the motion is agreed to.

VA PHYSICIAN AND DENTIST PAY COMPARABILITY ACT AMENDMENT

Mr. CRANSTON. Mr. President, I am going to make a motion now that we proceed to a different matter that has been cleared on both sides. The Senator from Maryland (Mr. MATHIAS) has cleared this on the Republican side. It has been cleared on this side.

I move that we proceed for not more than 25 minutes to the consideration of matters relating to H.R. 8175.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, on September 9, the Senate passed H.R. 5027, title 2 of which proposed to extend the VA doctors' special pay authority and to make other related amendments regarding title 38 employees. On September 12, the other body passed H.R. 8175, a bill extending that authority, subject to a uniform cutoff date for all special pay agreements entered into by the VA after September 30, 1977.

Since then, Mr. President, members of the Committees on Veterans' Affairs in the two bodies have met informally to discuss the differences between our approaches and have reached agreement on a common approach, which I shall propose be inserted as a substitute amendment on H.R. 8175.

Proceedings on this matter have been cleared on all sides, Mr. President, and I have assurances it will be rapidly accepted by the other body if accepted in this form by this body.

We can rapidly proceed with and dispose of this matter.

I ask unanimous consent that the Committee on Veterans' Affairs be discharged from consideration of H.R. 8175 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Reserving the right to object, I did not hear the explanation of the bill.

Mr. CRANSTON. It is a bill relating to VA doctors' special pay authority.

Mr. ALLEN. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 8175) to amend the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975, approved October 22, 1975, as amended, in order to extend certain provisions thereof, and for other purposes.

The Senate proceeded to consider the bill.

Mr. CRANSTON. Mr. President, I now shall make a motion in regard to when we shall vote on this matter.

We presently have scheduled a vote on the Danforth amendment to the social security bill at 9:55 tomorrow morning. I ask unanimous consent that the rollcall on either a tabling motion or on the amendment itself to be offered by Senator MATHIAS occur without further debate immediately following disposition of the Danforth amendment tomorrow morning, on which action starts at 9:55 a.m.

Mr. JAVITS. Reserving the right to object, what is this that we have no debate on?

Mr. CRANSTON. I ask the Senator from Maryland to explain to the Senator from New York what his amendment is.

Mr. MATHIAS. Mr. President, the bill pending before the Senate is to provide for special pay for physicians on the staff of the Veterans' Administration hospitals. It overlooks, however, the fact that we have some 1,500 physicians who are employed in other agencies of Government who perform essentially the same services as physicians in the Veterans' Administration, who deserve the same consideration, and who, I think, should receive the same kind of professional incentive that we are giving, very properly, to the Veterans' Administration physicians.

Mr. JAVITS. If I may, will an explanation of the details be in the RECORD tonight?

Mr. MATHIAS. An explanation of the amendment which will provide for this equity for other physicians will be in the RECORD. I do not feel that these physicians should be in the position where it is not what they know that counts, it is who they know; it is not what they do but the office in which they happen to be employed.

The amendment is really to provide equity for other doctors who perform essentially comparable services but who would be getting pay which would not in any way be comparable if they are omitted from the special pay provisions of the pending bill.

Mr. JAVITS. That is going to go on the pending bill, the bill before us?

Mr. MATHIAS. It would be added as an amendment, simply to give these doctors, who are scattered around through a variety of agencies in Government in small numbers—in fact, that is their problem; they are in such small numbers in any one agency that they have no one who can speak for them. Taken together, they are a significant body of professional talent that deserves recognition.

Mr. JAVITS. But the detail will be in the RECORD.

Mr. MATHIAS. The detail will be in the RECORD.

Mr. JAVITS. So we can vote for it in an informed way.

Mr. MATHIAS. Yes.

Mr. BELLMON. Will the Senator yield?

Mr. MATHIAS. Yes, I yield.

Mr. BELLMON. Does the legislation or the Senator's amendment cover doctors in military service as well?

Mr. MATHIAS. I suggest that the Senator from California deal with that question. My amendment will deal not with people in the military, but with people in various other agencies of Government, small numbers in each agency.

Mr. CRANSTON. What was the question of the Senator from Oklahoma?

Mr. BELLMON. The question is, Does the legislation, assuming it is amended by the Senator from Maryland, cover doctors in the military services as well as in other governmental organizations?

Mr. CRANSTON. Only the VA. It is all cleared on both sides. There is no problem. The amendment of the Senator from Maryland is on an unrelated, ungermane matter.

Mr. BELLMON. Will this matter be open to further amendment in case the Senator from Oklahoma wishes to offer an amendment tomorrow to include military doctors?

Mr. CRANSTON. Military doctors are not involved in this. We really should not get them in the bill. That is a separate question. They are covered separately. They have already been extended.

Mr. BELLMON. That is what I was curious about.

Mr. CRANSTON. Mr. President, I revise my unanimous-consent request to ask that the vote on a tabling motion or the amendment occur at 10:30 a.m., provided the Danforth matter has been disposed of at that time or, if not, immediately after the disposition of the Danforth matter.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UP AMENDMENT NO. 1047

(Purpose: To reconcile differences between the provisions of H.R. 8175 as passed by the House on September 12, 1977, and the provisions of title II of H.R. 5027 as passed by the Senate on September 9, 1977, and amend the title accordingly.)

Mr. CRANSTON. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) proposes an unprinted amendment numbered 1047.

Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Veterans' Administration Physician and Dentist Pay Comparability Amendments of 1977".

SEC. 2. Section 6(a)(2) of the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975 (Public Law 94-123; 89 Stat. 669), as amended, is amended by striking out "September 30, 1977" and inserting in lieu thereof "September 30, 1978".

SEC. 3. (a) Section 4118 of title 38, United States Code, is amended by—

(1) amending subsection (a)(1) by—

(A) striking out "he" and inserting in lieu thereof "the Administrator";

(B) striking out "of," after "duration" and inserting in lieu thereof a comma and "of"; and

(C) striking out "number of years" after "specified" and inserting in lieu thereof "period";

(2) striking out in subsection (a)(3) "pursuant to" and inserting in lieu thereof "in accordance with", and inserting at the end thereof the following new sentence: "Not later than one year after making any such recruitment and retention determination and each year thereafter, the Chief Medical Director shall make a redetermination in accordance with such regulations, and, in the event any such determination was made more than one year prior to the date of enactment of this sentence, the Chief Medical Director shall make such redetermination not later than ninety days after such enactment date.";

(3) inserting at the end of subsection (e)(1) the following new sentences: "Any physician or dentist who entered into an agreement under this section and has not failed to refund any amount which such physician or dentist became obligated to refund under any such agreement shall be eligible to enter into a subsequent agreement under this section. Notwithstanding the provisions of the preceding two sentences, no agreement entered into under this section shall extend beyond September 30, 1981, and any agreement entered into under this section after September 30, 1980, may be for a period of less than one year if the expiration date thereof is September 30, 1981."; and

(4) amending subsection (e)(2)(A) by—

(A) inserting a comma and "or such lesser period of service as provided for in the final sentence of paragraph (1) of this subsection," after "service"; and

(B) striking out "the Chief Medical Director, pursuant to the regulations prescribed under this section, determines" and inserting in lieu thereof "the Chief Medical Director determines, in accordance with regulations prescribed under subsection (a) of this section,".

(b) Prior to the execution after April 30, 1978, of any written agreement entered into with a physician or dentist under section 4118 of title 38, United States Code (as amended by subsection (a) of this section), (1) the Chief Medical Director of the Veterans' Administration shall reevaluate, in view of the executive level pay increase made pursuant to section 225 of the Federal Salary Act of 1967, effective February 27, 1977, with respect to the Veterans' Administration, the need for special-pay agreements, as authorized in such section 4118, in order to recruit and retain highly qualified physicians or dentists in each category of positions in the Department of Medicine and Surgery, and report to Congress not later than April 30, 1978, on the results of sucn reevaluation with respect to each such category; and (2) notwithstanding such section 4118, the Administrator of Veterans' Affairs, upon the recommendation of the Chief Medical Director and based upon such reevaluations, may promulgate a regulation reducing the amount of primary special pay for any such category to the extent the Administrator finds such primary special pay is not necessary to recruit and retain highly qualified physicians or dentists in such category. If a determination is made to reduce the amount of such primary special pay for any such category, the regulation promulgating the reduction shall be published in the Federal Register not less than 30 days prior to its effective date.

(c) The Administrator, not later than 30 days after the date of enactment of this Act, may enter into, under section 4118 of title 38, United States Code (as amended by subsection (a) of this section), with any otherwise eligible physician or dentist who was appointed to a position in the Department of Medicine and Surgery in the Veterans' Administration during the period beginning on October 1, 1977, and ending on the date of enactment of this Act, a special-pay agreement providing for the payment of special pay to such physician or dentist retroactive to the date such physician or dentist was appointed to such position.

SEC. 4. (a)(1) Section 4105 of title 38, United States Code, is amended by inserting at the end thereof the following new subsection:

"(c) Notwithstanding any other provision of law, no person may be appointed under section 4104(1) of this title after the effective date of this subsection to serve in the Department of Medicine and Surgery in any direct patient-care capacity unless the Chief Medical Director determines, in accordance with regulations which the Administrator shall prescribe, that such person possesses such basic proficiency in spoken and written English as will permit such degree of communication with patients and other health-care personnel as will enable such person to carry out such person's health-care responsibilities satisfactorily.".

(2) Section 4114 of title 38, United States Code, is amended by inserting at the end thereof the following new subsection:

"(f) No person may be appointed under this section after the effective date of this subsection to an occupational category described in section 4104(1) of this title or in subsection (b) of this section unless such person meets the requirements established in section 4105(c) of this title and regulations prescribed thereuder.".

(3) Notwithstanding any other provision of law, with respect to persons other than those described in subsection (c) of section 4105 and subsection (f) of section 4114 of title 38, United States Code (as added by paragraphs (1) and (2) of this subsection), who are appointed after the date of enactment of this Act in the Department of Medicine and Surgery in the Veterans' Administration in any direct patient-care capacity, and with respect to persons described in such subsections who are appointed after such enactment date and prior to January 1, 1978, the Administrator of Veterans' Affairs, upon the recommendation of the Chief Medical Director, shall take appropriate steps to provide reasonable assurance that such persons possess such basic proficiency in spoken and written English as will permit such degree of communication with patients and other health care personnel as will enable such persons to carry out their health-care responsibilities satisfactorily.

(4) The amendments made by paragraphs (1) and (2) of this subsection shall be effective on January 1, 1978.

(b) Not later than April 1, 1978, the Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a report (1) describing activities undertaken and the persons affected in order to carry out subsection (c) of section 4105 and subsection (f) of section 4114 of title 38, United States Code (as added by paragraphs (1) and (2) of subsection (a) of this section), and subsections (a)(3) and (c) of this section, and (2) providing—

(A) a description of the extent to which there are persons employed by the Veterans' Administration, on or prior to the date of enactment of this Act, in any direct patient-care capacity in the Department of Medicine and Surgery, who do not possess such basic proficiency in spoken and written English as produces the degree of communication with patients and other health-care personnel as is necessary to enable such persons to carry out their health-care responsibilities satisfactorily;

(B) data describing the characteristics and categories of positions of any such persons; and

(C) if, in the opinion of the Administrator, the description and data being provided pursuant to subclauses (A) and (B) of clause (2) of this subsection indicate that there is a problem with respect to the satisfactory performance of such health-care responsibilities arising from such lack of proficiency, a plan to promote the achievement of such proficiency as will enable the persons involved to carry out their health-care responsibilities satisfactorily as well as to deal with any need which the Administrator believes will exist to promote such proficiency on the part of persons appointed after such enactment date who the Administrator has reason to believe do not, in fact, possess such proficiency, including (i) the cost of implementing such plan in each of the succeeding five fiscal years, and (ii) the time periods in which such proficiency on the part of such persons (broken down by appropriate categories and characteristics) can be expected to be achieved.

(c) Section 5001 of title 38, United States Code, is amended by inserting at the end thereof the following new subsection:

"(h) When the Administrator determines, in accordance with regulations which the Administrator shall prescribe, that a Veterans' Administration facility serves a substantial number of veterans with limited English-speaking ability, the Administrator shall establish and implement procedures, upon the recommendation of the Chief Medical Director, to ensure the identification of sufficient numbers of individuals on such facility's staff who are fluent in both the language most appropriate to such veterans and in English and whose responsibilities shall include providing guidance to such veterans and to appropriate Veterans' Administration staff members with respect to cultural sensitivities and bridging linguistic and cultural differences.".

SEC. 5. (a)(1) The salary schedule under the heading "SECTION 4103 SCHEDULE" in section 4107 of title 38, United States Code, is amended by striking out "$36,338 minimum to $46,026 maximum" after "Director of Podiatric Service," and inserting in lieu thereof "$39,629 minimum to $50,197 maximum.".

(2) The salary schedule under the heading "CLINICAL PODIATRIST AND OPTOMETRIST SCHEDULE" in section 4107 of title 38, United States Code, is amended to read as follows:

"Chief grade, $33,789 minimum to $43,923 maximum.

"Senior grade, $28,725 minimum to $37,347 maximum.

"Intermediate grade, $24,308 minimum to $31,598 maximum.

"Full grade, $20,442 minimum to $26,571 maximum.

"Associate grade, $17,056 minimum to $22,177 maximum.".

(3) The amendments made by paragraphs (1) and (2) of this subsection shall be effective retroactive to the period beginning on October 21, 1976; and ending on October 8,

1977. Notwithstanding any other provision of law, the Administrator of Veterans' Affairs shall establish retroactively for such period intermediate rates of basic pay between the minimum and maximum pay ranges prescribed in the salary schedule under the heading "SECTION 4103 SCHEDULE" for the Director of Podiatric Service and in the "CLINICAL PODIATRIST AND OPTOMETRIST SCHEDULE" in section 4107 of title 38, United States Code.

(b) Notwithstanding any other provision of law, each person employed in the Department of Medicine and Surgery in the Veterans' Administration as a podiatrist or optometrist shall be converted from employment under part III of title 5, United States Code, to full-time employment under section 4104(1), or temporary full-time employment or part-time employment under section 4114(a)(1)(A), of title 38, United States Code, and each such conversion (including application of the applicable rates of basic pay provided for in the amendments made by subsection (a) of this section) shall be effective retroactive to October 21, 1976, or the most recent date of appointment in the Department of Medicine and Surgery of the employee concerned under such part III, whichever is the later.

Amend the title so as to read: "An Act to amend the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975, as amended, in order to extend the authority to enter into special-pay agreements with physicians and dentists; to amend title 38 of the United States Code to modify certain provisions relating to special-pay agreements; and for other purposes.".

Mr. CRANSTON. Mr. President, I ask unanimous consent that the following staff be afforded the privilege of the floor during consideration of H.R. 8175, VA special day. Jon Steinberg, Ellen Miyasato, Ed Scott, Garner Shriver, and Gary Crawford.

The PRESIDING OFFICER. Without objection, it is so orderd.

Mr. MATHIAS. I ask unanimous consent that Mr. Joseph diGenova of my staff may have the privilege of the floor during this debate.

The PRESIDING OFFICER. Without objection, it is so orderd.

Mr. MATHIAS. Mr. President, I shall send an amendment to the desk which will amend the amendment just offered by the Senator from California. Before sending it, I make the point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 9 A.M. TOMORROW

MR. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

RATES OF DISABILITY AND DEATH PENSION

Mr. CRANSTON. Mr. President, on a privileged matter, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 7345. This has been cleared on all sides.

The Presiding Officer laid before the Senate the following message from the House of Representatives:

Resolved, That the House recede from its amendment to the amendment of the Senate to the bill (H.R. 7345) entitled "An Act to amend title 38 of the United States Code to increase the rates of disability and death pension and to increase the rates of dependency and indemnity compensation for parents, and for other purposes", and agree to the amendment of the Senate to the aforesaid bill with the following

AMENDMENTS

(1) Page 3 of the Senate engrossed amendment, in the table following line 4, strike out [2,700] both places it appears, and insert: "2,800".

(2) Page 5 of the Senate engrossed amendment, in the table following line 6, strike out [2,600] under the heading "But not more than—", and insert: "3,700", and strike out the last line in such table.

(3) Page 6 of the Senate engrossed amendment, in the table following line 4, strike out [3,900] under the heading "But not more than—", and insert: "5,070", and strike out the last line in such table.

Mr. CRANSTON. Mr. President, I move that the Senate agree to the amendments of the House to the Senate amendment to the House bill.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

ORDER FOR RECESS TO 8:55 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 8:55 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEDAL OF HONOR—S. RES. 322

Mr. CRANSTON. Mr. President, I report an original resolution from the Committee on Veterans' Affairs and ask unanimous consent for its immediate consideration. It is cleared on all sides.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk read as follows:

A resolution (S. Res. 322) relating to the National Convention of the Congressional Medal of Honor Society of the United States of America to be held in San Jose, California.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the resolution be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution is as follows:

Whereas the Congressional Medal of Honor Society of the United States of America will hold its national convention in San Jose, California, November 9 through November 13, 1977, to commemorate the 116th anniversary of the establishment of the Medal of Honor by the Congress and President Abraham Lincoln; and

Whereas the Congressional Medal of Honor Society of the United States of America, whose membership is composed solely of recipients of the Medal of Honor, will also observe, at such convention, the 19th anniversary of its incorporation and establishment by Act of Congress dated August 14, 1958 (72 Stat. 597); and

Whereas it will be particularly fitting that the membership of such society will be meeting on November 11, a day for honoring America's military veterans; and

Whereas recipients of the Medal of Honor deserve public recognition and tribute for their valor, service to country, and unique contributions to the history of this Nation: Now, therefore, be it

Resolved, That the Senate expresses its best wishes to the Congressional Medal of Honor Society of the United States of America on the occasion of its national convention to be held in San Jose, California, November 9 through November 13, 1977, and expresses renewed appreciation and tribute to the individual members of the organization and to all recipients of the Medal of Honor, living and dead, for their bravery in battle and high service to country.

SEC. 2. The Secretary of the Senate shall transmit a copy of this Resolution to the Congressional Medal of Honor Society of the United States of America.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

Without objection, the Senate will proceed to the immediate consideration of the resolution.

Mr. CRANSTON. Mr. President, the resolution that I report from the Senate Committee on Veterans' Affairs today is cosponsored by all members of that committee, Senators TALMADGE, RANDOLPH, STONE, DURKIN, MATSUNAGA, STAFFORD, THURMOND, and HANSEN, and would honor especially the 286 living holders of our Nation's highest award for valor who are meeting this month as members of the Congressional Medal of Honor Society of the United States of America in San Jose, Calif., beginning on November 9. Specifically, the resolution resolves that:

"The Senate expresses its best wishes to the Congressional Medal of Honor Society of the United States of America on the occasion of its National Convention to be held in San Jose, California, November 9 through November 13, 1977, and expresses renewed appreciation and tribute to the individual members of that organization and to all recipients of the Medal of Honor living and dead, for their bravery in battle and high service to country."

Mr. President, the Medal of Honor is the highest award for bravery that can be given any individual in the United States. Given by the President in the name of the Congress it recognizes that the individual to whom it is awarded has performed a deed so valorous at the risk of his own life that it is the kind of deed that if he had not done it, he would not have been subject to justifiable criticism. It was established 116 years ago and is the first military decoration formally authorized by the American Government as a badge of valor. The history of this medal, the deeds for which it has been awarded, and the men who have earned it are of the greatest concern to the Nation they have served. All war is ugly and tragic, yet there is no question that many individuals who are called to battle display outstanding courage and valor and willingness to make sacrifices. The most supreme acts of heroism are recognized with the Congressional Medal of Honor.

Mr. President, I ask that the resolution be supported and urge that it pass.

The PRESIDING OFFICER. Without objection, the resolution is agreed to.

The preamble was agreed to.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the resolution be printed as passed by the Senate bearing the names of all cosponsors and that in accordance with section 2 of the resolution a copy of it be transmitted to the Congressional Medal of Honor Society of the United States.

The PRESIDING OFFICER. Without objection, it is so ordered .

The original cosponors are:

Mr. CRANSTON, Mr. TALMADGE, Mr. RANDOLPH, Mr. STONE, Mr. DURKIN, Mr. MATSUNAGA, Mr. STAFFORD, Mr. THURMOND, and Mr. HANSEN.

Mr. CRANSTON. Mr. President, I ask unanimous consent that immediately after the disposition of the Mathias amendment tomorrow, in accordance with the previous order, it then be in order to vote for passage of H.R. 8175.

The PRESIDING OFFICER. Does the Senator mean complete action on the bill?

Mr. CRANSTON. Yes. At that time, yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. That would be without debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, in order to show the cosponsors on the Medal of Honor resolution just adopted, I ask unanimous consent that in order to achieve that purpose the resolution be regarded as submitted today, bearing the names of the cosponsors introduced by myself with them, and be treated as if it was immediately referred to and reported back by the Veterans' Affairs Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. I thank the Chair.

ORDER FOR VOTE ON DANFORTH AMENDMENT

Mr. ROBERT C. BYRD. Mr. President, it is, of course, conceivable that the motion to table the Danforth amendment tomorrow could fail. I ask unanimous consent in that eventuality the vote on the amendment by Mr. DANFORTH occur immediately after the motion to table, if the motion to table fails, without intervening motion, debate, or amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I would modify that request to delete "or amendment."

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered?

Mr. ROBERT C. BYRD. But without intervening motion or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Is there any further business?

Mr. MATHIAS. Mr. President, we are just waiting to complete action on the amendment. I regret the delay.

Mr. ROBERT C. BYRD. No problem.

Mr. MATHIAS. The courier must be stuck in the elevator.

FOLGER SHAKESPEARE LIBRARY

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 9836.

The PRESIDING OFFICER laid before the Senate H.R. 9836, an act to authorize the Architect of the Capitol to furnish chilled water to the Folger Shakespeare Library, which was read twice by its title.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The bill was considered, ordered to a third reading, read the third time and passed.

ORDER THAT CERTAIN ACTION ON SENATE JOINT RESOLUTION 82 BE VACATED AND THAT IT BE INDEFINITELY POSTPONED

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate action in passing Senate Joint Resolution 82, the Alaska pipeline resolution, yesterday be vacated and that that measure be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

PURCHASES BY FEDERAL RESERVE BANKS

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. PROXMIRE, I ask unanimous consent that the Committee on Banking, Housing and Urban Affairs be discharged from further consideration of House Joint Resolution 611 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 611) to extend the authority of the Federal Reserve banks to buy and sell certain obligations.

There being no objection, the Senate proceeded to consider the joint resolution.

House Joint Resolution 611 would extend through April 30, 1978, the authority of the Federal Reserve banks to purchase U.S. Government obligations directly from the Treasury up to the amount of $5 billion. The authority has been in existence since 1942 and has been extended on about 20 previous occasions.

The purpose of this draw authority is to provide a backstop for the Treasury's cash management operations. It insures that the Treasury will be able to raise money quickly in emergency situations or in order to avoid disruption of the financial markets. I understand that the authority is not used very frequently but that the Treasury Department considers it a key element in its financial operations.

Owing to developments largely of a technical nature, this Treasury draw authority expired on September 30. House Joint Resolution 611, which passed the House on Monday, would provide a limited extension of the authority through April 30, 1978.

The joint resolution was ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE PROTECTIVE SERVICE

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 8992.

The PRESIDING OFFICER laid before the Senate H.R. 8992, an act to amend title 3 of the United States Code to change the name of the Executive Protective Service.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second times and that the Senate proceed to its immediate consideration.

There being no objection, the bill was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VA PHYSICIAN AND DENTIST PAY COMPARABILITY ACT AMENDMENT

The Senate continued with the consideration of the bill (H.R. 8175).

UP AMENDMENT NO. 1048

Mr. MATHIAS. Mr. President, I send to the desk an amendment on H.R. 8175.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maryland (Mr. MATHIAS) proposes an unprinted amendment numbered 1048 to the amendment of the Senator from California (Mr. CRANSTON) numbered 1047.

Mr. MATHIAS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment by the Senator from California insert:

SEC. 2. (a) Subchapter IV of chapter 59 of title 5, United States Code, relating to allowances, is amended by adding at the end thereof the following new section:

"§ 5948. Physicians comparability allowances.

"(a) A Government physician, in addition to pay otherwise due him, is entitled to—

"(1) a professional allowance—

"(A) at a per annum rate of $1,200 if he has served as a Government physician for twenty-four months or less, or

"(B) at a per annum rate of $4,200 a year if he has served as a Government physician for more than twenty-four months, plus

"(2) an allowance under any service agreement made pursuant to subsection (b) of this section.

"(b)(1) Notwithstanding any other provision of law, in order to recruit and retain highly qualified Government physicians in an executive agency, the head of such agency, subject to the provisions of this section and regulations which the Civil Service Commission may prescribe, may enter into a service agreement with a Government physician which provides (A) for such physician to complete a specified number of years of service in such agency in return for (B) an allowance in an amount not more than $5,800 per annum upon the execution, and for the duration of, such agreement.

"(2) An allowance may not be paid pursuant to this subsection to any physician who—

"(A) is employed on less than a half-time or intermittent basis,

"(B) occupies an internship or residency training position, or

"(C) is a reemployed annuitant.

"(3) The head of each Executive agency, pursuant to such regulations, may determine categories of positions applicable to physicians in such agency as to which there is no significant recruitment and retention problem. Physicians serving in such positions shall not be eligible for an allowance pursuant to this subsection.

"(4) Any agreement entered into by a physician under this subsection shall be with respect to a period of one year of service in the Executive agency involved unless the physician requests an agreement for a longer period of service not to exceed four years.

"(5) Any such agreement shall provide that the physician, in the event that such physician voluntarily, or because of misconduct, fails to complete at least one year of service pursuant to such agreement, shall be required to refund the total amount received under this section, unless the head of such agency, pursuant to the regulations prescribed under this subsection by the Civil Service Commission, determines that such failure is necessitated by circumstances beyond the control of the physician.

"(6) Any such agreement shall specify the terms under which the head of the executive agency and the physician may elect to terminate such agreement.

"(c) For the purpose of this section—

"(1) 'Government physician' means any individual employed as a physician who is paid under—

"(A) section 5332 of this title, relating to the General Schedule;

"(B) subchapter IV of chapter 14 of title 22, relating to the Foreign Service; or

"(C) pay scales or rate systems established for physicians employed by—

"(i) the Postal Service or the Postal Rate Commission;

"(ii) the Canal Zone Government or the Panama Canal Company;

"(iii) the Energy Research and Development Administration; or

"(iv) the Tennessee Valley Authority; and

"(2) 'executive agency' includes the Postal Service and Postal Rate Commission.

"(d)(1) Any allowance paid under this section shall not be considered as basic pay for the purposes of subchapter VI and section 5595 of chapter 55, chapter 81, 83, or 87 of this title, or other benefits related to basic pay.

"(2) Any allowance under this section for a Government physician shall be paid in the same manner and at the same time as his basic pay is paid.".

(b) The analysis for chapter 59 of such title is amended by adding at the end thereof the following:

"5948. Physicians comparability allowances."

SEC. . The amendments made by this Act shall apply with respect to pay periods beginning more than thirty days after the enactment of this Act.

SEC. . The amendments made by this Act shall, unless otherwise extended by Congress, expire on October 1, 1978.

Mr. MATHIAS. Mr. President, attracting and retaining the best quality physicians in the U.S. civil service system is becoming increasingly difficult because physicians' salaries in the private sector are more lucrative than in the civil service. The executive pay scale limit has placed an arbitrarily low ceiling on salaries for doctors and dentists.

To remedy this situation, a variable incentive pay system was authorized by the Congress which provides bonus pay for most of the 39,400 physicians and dentists in the Federal Government. However, approximately 1,950 physicians and dentists, 7 percent, were not covered by the variable incentive pay system, VIP. My bill is addressed to this group and simply provides for the variable incentive pay so that they will be compensated at the same level as other physicians in the Federal service.

At present, as my colleagues know, the top salary any general schedule civil servant can receive is $39,600. Without the ceiling, the GS pay schedule calls for rates up to $54,410 per year. When the variable incentive pay is added to the GS ceiling salary, the top salary can reach $53,100 for federally employed physicians.

Thus, for this small group of doctors and dentists outside the VIP, there is a difference in their salary of up to $13,500 compared with their federally employed counterparts.

These approximately 1,950 physicians who do not receive incentive pay are employed by the following agencies:

LIST OF AGENCIES

Foreign Service.
Federal Aviation Administration.
National Aeronautics and Space Administration.
U.S. Postal Service.
Commerce Department.
Interior Department.
Central Intelligence Agency.
Department of Defense.
Food and Drug Administration.
St. Elizabeth's Hospital.
Library of Congress.
D.C. Health Services.
Public Health Service.
Labor Department.
National Security Agency.
Social Security Administration.
National Science Foundation.
National Institutes of Health.
National Institute of Occupational Safety and Health.
Drug Enforcement Administration.
Bureau of Engraving and Printing.
National Bureau of Standards.
Energy Research and Development Administration.
Tennessee Valley Administration.
Canal Zone.

The physicians employed are in positions ranging from staff physician to medical director and their tenure ranges from newly employeds to 20 years of service.

Without the variable incentive pay system, the agencies I have mentioned will continue to have difficulty retaining, and particularly attracting, qualified medical personnel.

The obvious inequity of this situation was pointed up in an August 31, 1976, GAO report, which I quote:

> We found cases where differences between systems caused some employees to transfer between systems in an agency. In one PHS installation we visited, seven GS physicians transferred to the commissioned corps during fiscal year 1975 in order to receive VIP. Other GS physicians, who reportedly would have switched, had previously switched from the commissioned corps to the GS prior to the implementation of VIP because the benefits of the GS system were better at that time.
>
> We found numerous instances where physicians who were receiving VIP worked with physicians not receiving VIP because of ineligibility. This has caused bitterness among physicians and resulted in lawsuits being filed against the Federal Government by those physicians not receiving VIP.

The longer term findings and recommendations of the GAO report point out the need for one rather than three pay systems for federally employed physicians. It is my understanding that the Office of Management and Budget has agreed to submit such a comprehensive pay and benefits plan to the Congress this month. Until then, however, 7 percent of federally employed physicians continue to be treated unequally with regard to pay.

I ask for speedy consideration of this amendment.

Mr. CRANSTON. Mr. President, I oppose the amendment proposed by the Senator from Maryland and will move that it be tabled.

Mr. President, this amendment is not germane to the provisions of this bill and it comes at a time when it would, if adopted by the Senate, impede the passage of the bill by the Congress and thus severely jeopardize the Veterans' Administration's ability to recruit and retain the highly qualified physicians and dentists it needs to provide care and treatment to our disabled veterans. The VA's special-pay authority expired on October 1 of this year and it is, therefore, of the utmost importance that H.R. 8175 be enacted as swiftly as possible.

Mr. President, I do not disagree with the basic desire of the Senator from Maryland to try to provide greater uniformity in the pay of physicians employed by the Federal Government. However, even assuming that the other body would accept his amendment—which I am sure it would not—we would not achieve the carefully developed uniform system of pay which seems to be desirable by simply passing this amendment.

The General Accounting Office and the Office of Management and Budget each recently completed in-depth reports, mandated by law, on these issues. Both reports concluded that uniformity is de-

sirable and that a uniform system should be developed, at least for the civilian sector. The same conclusion was reached by the January 1976 report of a joint agency work group, comprised of the Department of Defense, the Department of Health, Education, and Welfare, the Civil Service, and the VA.

However, the establishment of a permanent, uniform system of compensation will require extensive interagency cooperation and goes beyond the issue of pay for VA physicians and dentists alone. That effort will require the cooperation of the Civil Service Commission, the agencies employing physicians under the civil service system, the Department of Defense, the Public Health Service, and the Veterans' Administration. Such an undertaking deserves considerable study and reflection; and the administration is currently working on proposed legislation that would offer a permanent resolution of these problems. In fact, the Director of the Office of Management and Budget, in a May 2, 1977, letter to the chairman of the House Committee on Veterans' Affairs, stated that the administration will, in the President's fiscal year 1979 budget, submit legislative proposals based on its review of OMB's and the Comptroller General's report. I honestly hope that we will be able to consider a comprehensive proposal, with the cooperation of the other Senate committees involved, for action in this Congress. I assure my colleagues of my very real interest in this matter. Obviously, the amount of interagency and intercommittee cooperation needed will be great, and I hope I can count on the cooperation of all Senators in giving full and fair consideration to the administration's proposal.

Meanwhile, H.R. 8175 is only a stopgap measure necessitated by the present absence of a permanent solution—just as was the recently enacted Public Law 95-114, extending for 1 year, until September 30, 1978, the authority of the armed services and the Public Health Service's commissioned corps to provide variable incentive pay.

Therefore, Mr. President, in the interests both of quality of health care for our Nation's veterans and of the development of a highly desirable, uniform pay system, I strongly urge that the amendment be tabled, and I so move.

APPALACHIAN REGIONAL DEVELOPMENT ACT OF 1965 AMENDMENTS

Mr. ALLEN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 8777, which is at the desk, and that it be considered as having been read twice.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 8777) to amend the Appalachian Regional Development Act of 1965 to permit an extension of the period of assistance for child development programs while a study is conducted on methods of phasing out Federal assistance to these programs.

Mr. BAKER. Mr. President, reserving the right to object——

The PRESIDING OFFICER. Without objection, the bill will be considered as having been read twice, and the Senate will proceed to its consideration.

Mr. BAKER. Mr. President, reserving the right to object, I do not know at what point that got in.

The PRESIDING OFFICER. The Chair heard the Senator's reservation of the right to object at the appropriate time.

Mr. BAKER. Prior to the first and second reading.

The PRESIDING OFFICER. That is right.

Mr. BAKER. I have no objection to proceeding with the consideration of this measure.

Mr. President, for the moment, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CRANSTON). Without objection, it is so ordered.

FEDERAL CROP INSURANCE ACT AMENDMENTS

Mr. ROBERT C. BYRD. Mr. President, this matter has been cleared on the other side.

I ask unanimous consent that H.R. 9704 be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House on H.R. 9704.

The PRESIDING OFFICER laid before the Senate a message from the House on H.R. 9704, an act to amend the Federal Crop Insurance Act, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second times and that the Senate proceed to its immediate consideration.

There being no objection, the Senate proceeded to consider the bill.

Mr. TALMADGE. Mr. President, H.R. 9704 would, first, amend the Federal Crop Insurance Act to increase the authorized capital stock of the Federal Crop Insurance Corporation from $150 million to $200 million; and second, require that a study of alternatives to the current Federal crop insurance system be undertaken immediately.

I introduced S. 2230, a related bill, on October 20, 1977, at the request of the administration. S. 2230 is identical to section 1 of the House bill in that it would authorize an increase in the capital stock of the Corporation from $150 million to $200 million. The Committee on Agriculture, Nutrition, and Forestry favorably reported S. 2230 to the Senate, without amendment, on October 27, 1977.

The Budget Committee, on November 2, 1977, favorably reported Senate Resolution 308, a resolution to waive section 402(a) of the Budget Act with respect to S. 2230; and the Senate has agreed to the resolution. Thus, it is in order now—from the standpoint of compliance with the Budget Act—for the Senate to consider H.R. 9704, the companion House bill to S. 2230.

Immediate action on H.R. 9704 and additional appropriations for the subscription of the stock are necessary so that the Corporation will have funds to pay the indemnity claims of farmers. The Department of Agriculture currently estimates that, as it stands now, the Corporation will run out of funds to pay indemnity claims by December 1 of this year.

To understand why the Corporation has nearly exhausted its capital, necessitating this infusion of new funds into the Federal crop insurance program to cover claims—especially since Congress just 5 months ago approved a similar administration bill to authorize the increase of capital stock from $100 million to $150 million—it is necessary to briefly review the events of the past 2 years.

During the period 1948 through 1975, the Corporation operated at a 0.92 loss ratio. This means that farmers had paid over $70 million in premiums in excess of the amount that they had returned to them in the form of indemnities. In addition, at the beginning of the 1976 crop year $90 million of the $100 million in authorized capital stock had been subscribed.

However, because of the drain on capital caused by program administration and operating costs over the last 20 years, the Corporation had only $40 million remaining in net capital at the beginning of the 1976 crop year.

During 1976, insured farmers suffered near catastrophic losses in several areas of the country. As a result, the largest dollar amount of indemnities in the history of the Corporation—over $130 million—was paid for 1976 crop losses. These payments exceeded collected premiums by close to $50 million.

It was necessary to increase the capital stock authorization to cover these losses. Public Law 95-47 was enacted on June 16, 1977, for this purpose. An additional $50 million in capital stock was authorized.

With all the authorized $150 million in capital stock subscribed and all the 1976 claims paid, the Corporation's net capital position at the beginning of the 1977 crop year was $63 million.

For a second straight year, there have been disastrous weather conditions in the major agricultural regions of the United States. The drought in the Midwest has persisted in several areas and has spread to the southeast.

I can personally attest, based on my own inspection of farms in my home State, Georgia, to the tremendous devastation caused to crops by the severe

drought in the southeast this spring and early summer.

Due to widespread crop losses, the Corporation is going to get hit very hard with claims again this year. The Department of Agriculture's current estimate is that indemnity payments for 1977 crop losses will exceed premiums by close to $70 million.

So, again, the Corporation's net capital will soon be wiped out in paying these claims, and some farmers will fail to receive timely the indemnity payments to which they are entitled.

Mr. President, it would be an injustice to deprive hard pressed farmers the indemnities rightfully due them under the insurance contracts. After all, they have paid the entire cost of the premium without Government assistance or subsidies. And, in many cases in which the disastrous weather has wiped out a farmer's entire crop and annual investment, these insurance indemnities could well mean the difference as to whether a farmer will be able to survive to plant a crop in 1978.

In addition, there are some insured 1977 crops, such as citrus, that have not yet been harvested. Unless action is taken to rebuild a capital reserve, the Corporation will simply not have the money available to cover losses if bad weather strikes these crops.

It is clear that Congress must thoroughly review the Federal crop insurance program. Changes in the law may well be necessary to avert future crisis like this. The Committee on Agriculture, Nutrition, and Forestry has already begun this task. We have started a wide-sweeping legislative review of the Federal crop insurance program and other Federal disaster assistance programs for farmers and will hold hearings next year as soon as the Senate reconvenes. The study mandated by H.R. 9704 will further our work in this area.

With respect to the current situation, however, I believe I have made clear the need for immediate action by Congress to authorize the issuance of an additional $50 million in capital stock by the Corporation. The additional capital is essental to enable the Corporation to meet its legal obligations to insured farmers who have suffered crop losses due to natural disasters during the 1977 crop year and to reestablish a capital reserve sufficient for continuation of operations in a business like manner, and I, therefore, urge the passage of H.R. 9704 by the Senate.

The bill was ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER INDEFINITELY POSTPONING CONSIDERATION OF S. 2230

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to indefinitely postpone S. 2230.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPALACHIAN REGIONAL DEVELOPMENT ACT OF 1965 AMENDMENTS

The Senate continued with the consideration of H.R. 8777.

Mr. ALLEN. Mr. President, I ask unanimous consent that H.R. 8777 be brought up and that it be regarded as having been read twice and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object at this time, I state to my colleague from Alabama that I have tried my best to obtain clearances on our side to proceed and I have not yet been able to get all of the clearances, but I suggest we go ahead and take the bill through third reading and passage. I would do this on condition that there not be a motion to reconsider the vote by which the measure was adopted nor a tabling motion.

Mr. ALLEN. I have no objection at all, but I recall to the distinguished Senator's memory that I did clear the matter with him and he originally thought it was ready to go.

Mr. BAKER. Mr. President, the Senator is entirely correct, and I express an embarrassment for noting on my calendar that we had not completed our routine clearances, so that is the reason I wish to take this precaution at this time.

Mr. ALLEN. I have no objection to handling it in that manner.

Mr. BAKER. I thank the Senator from Alabama.

I do not object to proceeding to the measure at this time.

The PRESIDING OFFICER. Without objection, the bill is considered as having been read twice.

Mr. ALLEN. Mr. President, it is imperative this bill, H.R. 8777, be passed by the Senate. Previously, I had joined my distinguished colleague, Senator HOWARD METZENBAUM of Ohio, in introducing similar legislation, S. 1984.

Continued support of Appalachian Regional Commission funding is critical at this juncture. A cutoff of these funds would in the case of Alabama result in the closing of 26 day care centers or a reduction of services providing for welfare service recipients only. In all probability working mothers of children who currently receive ARC services would be unable to secure adequate low cost child care, thus forcing them to quit work and further reduce family income.

In 1972, Alabama initiated a comprehensive ARC child development program in 22 of the 35 Appalachian counties. Five public agencies served as grantees for ARC funds and contractors for title IV–A (title XX) Social Security Act of 1967, as amended.

The initial program consisted of a system of 53 child development centers serving approximately 2,500 pre-school age children. ARC funds were combined with title IV–A funds (title XX) Social Security Act for maximum utilization of the ARC investment. This joint funding provided the financial assistance for the creation of a much needed service in Appalachian Alabama, particularly in the rural areas.

After 5 years of operation, it is felt that this system has made a valuable contribution to the children and families in Appalachian Alabama. Despite restrictive regulations and steadily increasing costs, comprehensive services have been maintained including health and nutrition, education and social services. This has been accomplished by utilizing community, county, and State resources to the fullest. The health and nutrition components provide immediate and visible results. The children in the child development centers have received sorely needed health services at a cost which has been minimal in comparison with the quality of services received. For the first time, large numbers of poor children in Appalachian Alabama have access to preprimary education; this includes developmental learning activities for children as young as 6 weeks. The programs have also provided badly needed outreach, information, and referral services to parents and families of program participants.

The comprehensive child care centers in Alabama, as currently funded, continue to provide educational, nutritional, social, and health care services for 2,060 children of low income families. Working parents pay an average fee of $12.50 to $20 per week. The average weekly cost per child to ARC is $24.

Child care services are available through title XX of the Social Security Act and all of our ARC programs do utilize title XX funds; however, title XX regulations exclude many of the working poor who desperately need child care services. Consequently, title XX funding is not the answer for the continuation of our programs. ARC programs serve nonwelfare, low income working parents, utilizing a sliding fee scale based on per capita family income. Obviously, title XX programs do not meet the need now being met by ARC programs. Should the population now being served be limited only to children and families eligible for title XX child care services, local support that we have worked for and acquired over the past five years would be lost.

Administrators of ARC programs throughout the State have sought funding from the Bureau of Education for the Handicapped, OCD, ARC, the State legislature, local governments and private industry, foundations, civic clubs, philanthropic organizations, boards of education, Department of Labor, churches, community development funds and other sources. Utilization of Head Start funds has also been investigated with no tangible results. Even though some programs have been successful in acquiring limited funds beyond the required 25 percent local match, the amounts have been small, and grantor's regulations have been extensive and in many instances, conflicting. The mechanics of fragmenting programs into components and seeking separate funding for each component requires more time, planning and administrative personnel, than is available or economically feasible. Fragmentation would also tend to disrupt the comprehensive design of ARC programs, which, unlike other public child care programs, are available to all socio-economic levels, are open 12 months a year, up to 11 hours per day and are geared specifically to the needs of the working parents.

The operating budgets of the past 5 years have added over $18,105,396 to the economy of the state and local communities with an economic impact of $126,737,772.00. Five hundred forty-seven persons are currently employed as a result of these programs, 90 percent of whom are minimum wage personnel.

To stabilize the operations and to avoid placing an unrealistic burden on the state and our local communities, it is critical that this bill be passed as a temporary measure to prevent program closures and/or reductions. Only through the passage of this bill will the State of Alabama be able to maintain the high quality and the diversity of services that the fifth year ARC child development programs now provide.

Mr. BAKER. Mr. President, I am pleased to join with the chairman of the Committee on Environment and Public Works in recommending H.R. 8777 to the Senate.

Briefly, the bill amends the Appalachian Regional Development Act to extend the child development program. Existing law allows the Appalachian Commission to fund demonstration child development programs for up to 5 years. The bill before the Senate extends the funding period up to 7 years in certain cases.

The purpose of the amendment is to allow the Commission to continue its assistance as projects initiated under the ARC authority move to other Federal, State, or local resources for continuing and permanent support.

The child development program was authorized in 1969 in response to the very serious health and education problems affecting the young people of the region. In the short time since its enactment, the program has brought many improvements throughout the region in health, nutrition, and educational services. It is an important commitment we make through this program to the most important resource of the region—our young people. We would not want to see contributing projects, which in some cases are the only services being provided, terminated by our failure to act expeditiously on this bill. The additional time will give the Commission, the Department of Health, Education, and Welfare, the affected States and local programs an opportunity to work together and arrange other funding for part or all of these services.

I underscore the chairman's remarks that this is a stopgap measure to facilitate the transition of the ARC demonstration projects to alternative funding sources. The Commission retains the final responsibility for reviewing projects and selecting those to receive continued funding.

Over the years, the Appalachian Regional Commission has been directed to undertake demonstrations throughout the region in several different fields including child development and health care. The idea is to "demonstrate" the feasibility of new and varied ways of dealing with the region's particular problems and to gain knowledge about the types, the organization, and the delivery of needed services. To carry out this mandate, the Commission was given flexibility in designing and establishing the demonstration projects, as most ongoing Federal programs were not structured or directed to undertake such activities.

The ARC program has been viewed as a learning process, to point the way that ongoing Federal or other programs could be altered to best serve the special conditions of the region. The Commission's demonstrations are not permanent, operating programs. The committee intends that the agencies—Federal, State, and local—with ongoing responsibilities in the area of child development pick up those early child development demonstration projects which have been approved. Many have long-track records and merit assistance from these sources.

I believe these projects should be viewed as ongoing projects not new undertakings by HEW when it reviews these applications. The ARC projects should not be penalized because they started several years ago under the initiative of the ARC to bring early child care services to a chronically underserved area. It would be a sad state of affairs if these worthwhile projects and years of work are allowed to fail because of procedural obstacles.

The committee will continue to work with the agencies involved in our efforts to secure proper, adequate services for the people of Appalachia.

Mr. METZENBAUM. Mr. President, I rise in support of the motion by the distinguished chairman of the Committee on Environment and Public Works for immediate consideration of H.R. 8777, a bill to authorize continued funding for the more than 325 child development centers supported by the Appalachian Regional Commission in the 13-State Appalachian region. Senators ALLEN, SPARKMAN, and GLENN joined me in introducing identical legislation in the Senate.

The child development program was created in 1969 to provide Appalachian families with a comprehensive child service system designed to improve health, nutritional and educational services. The program has been responsible for immunizing thousands of young children. It has made pre- and post-natal care available to mothers. Day care facilities established under the program have allowed over 9,000 parents to enter the work force. Infant mortality has declined sharply in the region, and, for the first time, large numbers of poor children in Appalachia have access to preprimary education. All of this has been accomplished at an annual cost to the Federal Government of $119 for each person assisted.

The child development program has provided tangible benefits to over 200,000 people in an economically depressed region at modest cost. In the long run, the human investments we have made in the children of Appalachia promise to pay back enormous dividends to the region and to the Nation as a whole.

Unfortunately, Mr. President, these valuable centers will face severe financial difficulties in the near future unless the Congress acts to maintain Federal assistance at current levels. Without help, some essential parts of the existing child service system will cease to operate.

This is so because, under current law, the Appalachian Regional Commission can fund each center for no longer than 5 years. At the end of that period, centers are expected to be financially self-supporting.

The 5-year requirement was established in 1969 and may have been quite reasonable at the time. Since 1969, however, inflation, high unemployment, soaring energy costs, and a host of other problems have placed great strain on local funds that might otherwise be available to support the centers.

In addition, ARC assistance is often necessary to permit the centers to take advantage of Federal funding sources. If ARC funds dry up, so will support from a variety of Federal programs.

In many States, for example, ARC dollars are used to meet matching requirements for Federal programs like title XX.

Similarly, medicaid and most other such third-party funding sources can reimburse the centers only after services have been delivered. ARC funds have been used to provide the working capital needed to deliver these reimbursable services in the first place. If ARC funding ends, so will ready access to working capital.

Another major problem is that no funding mechanism currently exists outside the Appalachian Regional Commission to defray the cost of providing medical services to the children of the working poor. Should ARC assistance come to an end, thousands of such children will have to be dropped from the system.

Mr. President, when I speak of reductions in essential services to the people of Appalachia, I am not speaking of hypothetical events that might take place at some time in the future. Closings and program cuts have already begun.

In Kentucky, termination of ARC funding forced one project to close its 3 day care centers and discharge 21 of its 23 employees. Another Kentucky project terminated 13 of its 22 staff members and is currently borrowing money to meet its payroll.

In Alabama, four projects which operate six day care centers have closed due to lack of funds. Ten Alabama projects are expected to close when their ARC funding runs out in January 1978. As many as 20 more may follow by September 1978.

A project director in South Carolina reports that when ARC funds terminate in June 1978, services to title XX—certified working mothers will also end.

In my own State of Ohio, an end to ARC subsidies will mean that a highly regarded clinic serving over 100 children per week will be able to serve only 20 medicaid and self-pay children per week. Over 1,800 children of working poor families will be deprived of the services this clinic now provides to them.

H.R. 8777 will provide a period of grace for the centers by extending current funding levels for 2 years. It will also direct the Appalachian Regional Com-

mission to investigate the difficulties these centers have encountered in finding alternative sources of support and to report back to the Congress on this matter within 12 months.

Some centers have been able to attain financial self-sufficiency within the prescribed period of time, but many have not. I believe that it would be better to find out why so many of these projects cannot yet phase out their ARC support than to force struggling centers to close their doors.

Mr. President, the child development program is an example of a Government project that works. I urge the Senate to act expeditiously on this legislation in order to permit the excellent start that has been made in improving the quality of life in Appalachia to continue. I can think of no area in which we can bring so large a benefit to the public for so small a price.

Mr. RANDOLPH. Mr. President, this bill, H.R. 8777, extends the child development demonstration programs administered by the Appalachian Regional Commission and authorized under section 202(c) of the Appalachian Regional Development Act from 5 years to 7 years. The bill does not authorize additional funds from the Federal Treasury; it does not authorize new programs; its authority is not mandatory. It was passed by the House on Tuesday.

Section 202(c) presently authorizes grant assistance for innovative and comprehensive child development demonstration projects, but assistance is limited by law to 5 consecutive years of operations. Dozens of these excellent child development centers in many Appalachian States have exhausted their 5-year eligibility but have been unable to achieve financial self-sufficiency. It was intended when this legislation was passed that after a demonstration period, the more successful of these projects would qualify for financial assistance under other State and Federal programs, such as title XX of the Social Security Act.

The House Committee on Public Works and Transportation, through its Subcommittee on Economic Development, held hearings on this bill on October 13, 1977. It became evident that administrative difficulties with programs that might have provided continued assistance prevented some meritorious child development centers from receiving such aid. This knowledge led our House colleagues to pass this bill to provide a transition period in the hope that appropriate State and Federal programs could be identified and adapted to provide the financial assistance for the continuation of these child development centers.

The bill has a second feature. It directs the Appalachian Regional Commission and the Department of Health, Education, and Welfare to make a full investigation of child development programs to determine the source and nature of the problems in phasing out financial assistance from the Appalachian Regional Commission. The agencies are to recommend solutions, including procedures by which financial support for these programs can be assumed by Federal-State or private agencies or a combination of them. These findings and recommendations are to be reported to the Congress not later than 1 year after enactment.

I will review precisely what the bill does. It permits the continued funding of the demonstration child development projects in Appalachia with up to 75 percent of annual operating costs for an additional 2-year period beyond the current 5-year limitation. This additional funding is available if the Appalachian Commission finds that Federal, State, or local funds are not available to continue these projects. The bill does not require the Commission to continue the projects nor does it alter current Commission policy and procedures in administering these programs. This amendment to the Appalachian Act merely extends the period of eligibility for support for up to 2 years for a maximum period of consecutive years.

The Environment and Public Works Committee recommends passage of this bill at this time because many of these projects would end before the Congress reconvenes in January.

Because of time constraints, the Committee on Environment and Public Works did not hold hearings on a similar bill introduced in the Senate. Committee members, however, have become sufficiently familiar with the activities and achievements of these centers to recommend their continuation until other funding sources can be located. We have received a great deal of mail from the people affected by these programs in Appalachia. We know they have sought funds from a variety of sources to supplement those from the Appalachian Regional Commission and to provide for continuation of the projects when the 5-year demonstration period came to an end.

For these reasons, we wish to adopt this bill immediately without further consideration by the Committee on Environment and Public Works. We know the programs; we know of their success. We know of no objection on either side of the aisle to the bill.

Mr. President, it is important to stress that this bill must is designed to protect good projects from premature termination while more permanent financing is arranged, other demonstration programs of the Appalachian program can also expect the Congress to provide additional authority when their demonstration period expires. I would oppose such requests. In my view, the timing and circumstances of the present extension of the child development program authority is unique and merits this action now.

Finally, I emphasize that the study by the Appalachian Commission and the Department of Health, Education, and Welfare of these programs and the resulting recommendations to the Congress should be given high priority by both agencies. There should be a working partnership in this effort.

I commend the able Senators from Ohio and Alabama who sponsored a version of this bill in the Senate and who have brought to our attention the consequences to disadvantaged Appalachian people if these child development centers are closed for lack of operating funds. I commend our colleagues in the House who built a convincing record on this bill and who moved it quickly to the Senate.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill (H.R. 8777) was read the third time, and passed.

UNANIMOUS CONSENT CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 528, S. 661.

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, as I previously advised the majority leader, that item is cleared on our calendar as is the next item if he cares to proceed to it, Calendar No. 529.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. President, I ask unanimous consent that the Senate also proceed to the consideration of Calendar Order No. 529.

STATUS OF CERTAIN OKLAHOMA INDIAN TRIBES

The Senate proceeded to consider the bill (S. 661) to restore Federal recognition of certain Indian tribes, and for other purposes, which had been reported from the Select Committee on Indian Affairs with amendments as follows:

On page 1, beginning with line 3, strike through and including line 4;

On page 3, beginning with line 13, insert the following:

(3) The Modoc Indian Tribe of Oklahoma shall consist of those Modoc Indians who are direct lineal descendants of those Modocs removed to Indian territory (now Oklahoma) in November 1873, and who did not return to Klamath, Oregon, pursuant to the Act of March 9, 1909 (35 Stat. 751), as determined by the Secretary, and the descendants of such Indians who otherwise meet the membership requirements adopted by the tribe.

So as to make the bill read:

S. 661

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 2. (a) Federal recognition is hereby extended or confirmed with respect to the Wyandotte Indian Tribe of Oklahoma, the Ottawa Indian Tribe of Oklahoma, and the Peoria Indian Tribe of Oklahoma, the provisions of the Acts repealed by subsection (b) of this section notwithstanding.

(b) The following Acts are hereby repealed:

(1) The Act of August 1, 1956 (70 Stat. 893; 25 U.S.C. 791–807) relating to the Wyandotte Tribe;

(2) The Act of August 2, 1956 (70 Stat. 937; 25 U.S.C. 821–826) relating to the Peoria Tribe; and

(3) The Act of August 3, 1956 (70 Stat. 963; 25 U.S.C. 841–853) relating to the Ottawa Tribe.

(c) There are hereby reinstated all rights and privileges of each of the tribes described in subsection (a) of this section and their members under Federal treaty, statute, or otherwise which may have been diminished or lost pursuant to the Act relating to them

which is repealed by subsection (b) of this section. Nothing contained in this Act shall diminish any rights or privileges enjoyed by each of such tribes or their members now or prior to enactment of such Act, under Federal treaty, statute, or otherwise, which are not inconsistent with the provisions of this Act.

(d) Except as specifically provided in this Act, nothing contained in this Act shall alter any property rights or obligations, any contractual rights or obligations, including existing fishing rights, or any obligation for taxes already levied.

SEC. 3. (a) (1) The Modoc Indian Tribe of Oklahoma is hereby recognized as a tribe of Indians residing in Oklahoma and the provisions of the Act of June 26, 1936 (49 Stat. 1967, as amended; 25 U.S.C. 501–509), are hereby extended to such tribe and its members. The Secretary of the Interior shall promptly offer the said Modoc Tribe assistance to aid them in organizing under section 3 of said Act of June 26, 1936 (25 U.S.C. 503).

(2) The provisions of the Act of August 13, 1954 (68 Stat. 718; 25 U.S.C. 564–564w), hereafter shall not apply to the Modoc Tribe of Oklahoma or its members except for any right to share in the proceeds of any claim against the United States are provided in sections 6(c) and 21 of said Act, as amended (25 U.S.C. 564(c) and 564t).

(3) The Modoc Indian Tribe of Oklahoma shall consist of those Modoc Indians who are direct lineal descendants of those Modocs removed to Indian territory (now Oklahoma) in November 1873, and who did not return to Klamath, Oregon, pursuant to the Act of March 9, 1909 (35 Stat. 751), as determined by the Secretary, and the descendants of such Indians who otherwise meet the membership requirements adopted by the tribe.

(b) The Secretary of the Interior shall promptly offer the Ottawa Tribe of Oklahoma and the Peoria Tribe of Oklahoma assistance to aid them in reorganizing under section 3 of the Act of June 26, 1936 (49 Stat. 1967; 25 U.S.C. 503), which Act is reextended to them and their members by this Act.

(c) The validity of the organization of the Wyandotte Indian Tribe of Oklahoma under section 3 of the Act of June 26, 1936 (49 Stat. 1967; 25 U.S.C. 503), and the continued application of said Act to such tribe and its members is hereby confirmed.

SEC. 4. (a) It is hereby declared that enactment of this Act fulfills the requirements of the first proviso in section 2 of the Act of January 2, 1975 (88 Stat. 1920, 1921), with respect to the Wyandotte Tribe of Oklahoma, the Ottawa Tribe of Oklahoma, and the Peoria Tribe of Oklahoma.

(b) It is hereby declared that the organization of the Modoc Tribe of Oklahoma as provided in section 3(a) of this Act shall fulfill the requirements of the second proviso in section 2 of the Act of January 2, 1975 (88 Stat. 1920, 1921).

(c) Promptly after organization of the Modoc Tribe of Oklahoma, the Secretary of the Interior shall publish a notice of such fact in the Federal Register including a statement that such organization completes fulfillment of the requirements of the provisos in section 2 of the Act of January 2, 1975 (88 Stat. 1920, 1921), and that the land described in section 1 of said Act is held in trust by the United States for the eight tribes named in said Act.

SEC. 5. The Wyandotte, Ottawa, Peoria, and Modoc Tribes of Oklahoma and their members shall be entitled to participate in the programs and services provided by the United States to Indians because of their status as Indians, including but no limited to those under the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13), and for purposes of the Act of August 16, 1957 (71 Stat. 370, 42 U.S.C. 2005–2005F). The members of such tribes shall be deemed to be Indians for which hospital and medical care was being provided by or at the expense of the Public Health Service on August 16, 1957.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–574), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE MEASURE

The purpose of S. 661 is to extend Federal recognition to four (4) Oklahoma Tribes which were adversely affected by the termination policy adopted by the United States in 1953. This bill would enable the Modoc, Wyandotte, Peoria, and Ottawa Tribes of Oklahoma to become eligible for Federal services and assistance provided to federally recognized tribes and their members.

This bill does not take any tribal or individually owned land off tax rolls or transfer any land titles to the Federal Government to be held in trust for the tribes and their members.

BACKGROUND

Termination was the official Federal Indian policy from 1953 through the late 1960's. It was a comprehensive program designed to eliminate reservations and to end the Federal-Indian relationship by subjecting Indians to State control without any Federal support or restrictions. Under this policy, Congress passed thirteen (13) legislative acts which established authorization procedures for cessation of the Federal-Indian relationship with respect to particular tribes. The four (4) tribes included in this bill were each the subject of separate legislation providing for their termination.

1. THE MODOC TRIBE

The Modoc Indians were terminated pursuant to the Act of August 13, 1954 (68 Stat. 718; 25 U.S.C. § 564) which terminated the Klamath and Modoc Tribes of Oregon. Although physically separated from the Oregon Modoc Tribe since 1873, the Oklahoma Modocs have never comprised a distinct tribe and were, therefore, technically terminated by the above 1954 Act. This bill would provide for the establishment of a new "Modoc Tribe of Oklahoma" with an identity separate from the terminated Oregon Tribe.

2. THE WYANDOTTE TRIBE

The Act of August 1, 1956 (70 Stat. 893; 25 U.S.C. § 791) provided for the termination of the Wyandotte Tribe upon the transfer or disposition of all tribal assets. However, inability of the Bureau of Indian Affairs to dispose of a tribal burial tract has prevented the termination of the Wyandotte Tribe from becoming effective. This bill would remove the statutory threat of termination.

3. THE PEORIA TRIBE

The Act of August 2, 1956 (70 Stat. 937; 26 U.S.C. § 821), provided for the termination of Federal services to, and the Federal trust relationship with, the Peoria Tribe to be effective three (3) years after enactment. However, the Act did provide for the continuance of the Tribe's charter and the Secretary of Interior's powers and responsibilities under the Tribe's constitution and bylaws until final adjudication of all the Tribe's claims pending before the Indian Claims Commission or the Court of Claims. The last of such claims are presently awaiting adjudication before the Indian Claims Commission.

4. THE OTTAWA TRIBE

The Act of August 3, 1956 (70 Stat. 963; 26 U.S.C. § 841), provided for the termination of the Ottawa Tribe to be effective three (3) years after enactment.

NEED

During the termination era, the Department of Interior was directed to establish a priority listing of tribes for whom Federal services were to be ended. While there is no record to indicate why these four (4) Oklahoma Tribes were selected for termination, it is the present position of that Department that these tribes were among the politically weaker tribes who were not able to effectively resist the termination policy. No hearings were ever held on the legislation providing for the termination of these Oklahoma Tribes, and while legislative reports on the termination Acts indicate tribal support for the legislation, present tribal leaders contend they were coerced by the Interior Department into accepting termination.

As a result of their termination Acts, these four (4) Oklahoma Tribes have been ineligible for the services and assistance provided to Federally recognized tribes and their members. S. 661 would enable these tribes to participate in Federal, State, and local Indian programs.

S. 661 is supported by the Governor of Oklahoma, Oklahoma Congressional and State representatives, other Oklahoma Tribes, and the local units of government.

LEGISLATIVE HISTORY

A similar bill, S. 2968, was introduced by Senators Bartlett, Bellmon, and Hatfield in the 94th Congress, but no action was taken by the Senate.

S. 661 was introduced by Senators Bartlett and Bellmon on February 7, 1977. A hearing was held on the proposed measure before the Senate Select Committee on Indian Affairs on September 27, 1977. Testimony was received from the Interior Department and several tribal witnesses, all of whom supported enactment of S. 661.

A similar measure, H.R. 2497, was introduced by Congressman Risenhoover on January 26, 1977. A hearing was held before the Subcommittee on Indian Affairs and Public Lands on July 14, 1977. At that hearing, representatives from the Interior Department testified in favor of the bill with amendments.

OPERATION AND MAINTENANCE CHARGES ON CERTAIN PUEBLO INDIAN LANDS

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

The bill (H.R. 2719) to authorize the Secretary of the Interior to contract with the Middle Rio Grande Conservancy District of New Mexico for the payment of operation and maintenance charges on certain Pueblo Indian lands.

The Senate proceeded to consider the bill.

Mr. ABOUREZK. Mr. President, this bill, which authorizes the Secretary of the Interior to contract with the Middle Rio Grande Conservancy District of New Mexico for the payment of operation and maintenance charges on certain Pueblo Indian lands, was passed by the House and subsequently reported unanimously out of the Senate Committee on Indian Affairs on October 7, 1977.

The Secretary of the Interior made these payments from 1935 to December 31, 1974, at which time his authority to do so expired. It was the Department of Interior's understanding that H.R. 2719 would retroactively cover the period from January 1, 1975, to the date of its enactment, as the money for these payments has already been appropriated to the Bureau of Indian Affairs, though the funds have not yet been disbursed. However, the committee has been informed by Senate legislative counsel that the Secretary of the Treasury must be specifically authorized to make payments for all periods between the date his authority expired and the date of enactment of this act.

The payments paid by the United States from 1935 through 1973 total $1,193,179.27, with current charges amounting to approximately $80,000 per year. The amount of money to be disbursed for the period 1975 through 1977 is, therefore, approximately $240,000.

The bill also needs to be technically amended to clarify the statutory citations by specifying the chapter number.

Mr. ROBERT C. BYRD. Mr. President, I understand Mr. ABOUREZK may have an amendment or amendments.

UP AMENDMENT NO. 1049

Mr. ABOUREZK. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes unprinted amendment numbered 1049.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Lines 3 through 8 of the present bill will become subsection (A). The statutory citations shall be amended by adding the chapter numbers as follows:

1. Line 3—Strike "(49 Stat. 877)" and insert "(Ch. 745, 49 Stat. 887)."
2. Line 4—Strike "(52 Stat. 779)" and insert "(Ch. 525, 52 Stat. 779)."
3. Line 5—Strike "(60 Stat. 121)" and insert "(Ch. 219, 60 Stat. 121)."
4. Line 6—Strike "(70 Stat. 221)" and insert "(P.L. 546, 70 Stat. 221)."
5. Line 6—Strike "(79 Stat. 285)" and insert "(P.L. 89-94, 79 Stat. 285)."

Insert a new subsection (B) which will be as follows:

"(B) The Secretary of the Treasury is authorized and directed to make payments under the authority of the Act amended by subsection (A) of this Act for all such periods between the date of expiration or lapse of such Act and the date of enactment of this Act."

Mr. ABOUREZK. Mr. President, the Department of the Interior fully supports these amendments.

The amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-575), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE MEASURE

The act of August 27, 1935 (49 Stat. 887) authorized the Secretary of the Interior to enter into a contract with the Middle Rio Grande Conservancy District for payment of operation and maintenance charges on Pueblo Indian lands served by that district. H.R. 2719 would eliminate the expiration clause of that act, as amended, and would remove the need for subsequent legislation to extend the Secretary's authority to contract with the district on behalf of the Pueblos.

For 40 years, the United States has paid the operation and maintenance charges assessed against Indian lands located within the external boundaries of the conservancy district. The district's non-Indian water users would have to maintain these costs should they be discontinued by the United States.

BACKGROUND

The Middle Rio Grande Conservancy District, established in 1927, is a political subdivision of the State of New Mexico created for the purpose of constructing and operating a modern irrigation and flood control project. Located within the external boundaries of the district are 6 Indian Pueblo groups whose lands were included in the district's plans in order to provide project benefits to the Indians.

Because the Indians were unable to pay the charges assessed against their lands, Congress passed the above-mentioned act of August 25, 1935, authorizing the Secretary of the Interior to contract with the conservancy district for payment of these costs. Congressional appropriations cover only newly reclaimed Pueblo lands and lands purchased by the Government for the Pueblos. No charges were assessed against Pueblo lands adequately irrigated before the project. The total amount paid by the United States from 1935 through 1973 is $1,193,179.27, with current assessments totaling $80,000 per year.

The act of August 27, 1935, only covered a 6-year period. Subsequently, additional legislation and contracts with the district enabled the Interior Department to continue these payments through 1974, when the last contract expired.

LEGISLATIVE HISTORY

A companion bill, S. 1789, was introduced by Senator Abourezk on June 30, 1977. A hearing was held before the Senate Select Committee on Indian Affairs on September 29, 1977, and testimony was received from representatives from the administration who expressed their support for the bill.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall it pass?

So the bill (H.R. 2719), as amended, was passed.

Mr. ABOUREZK. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ROUTINE MORNING BUSINESS

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

A message from the President of the United States submitting the nomination of Howard A. Heffron, of Maryland, to be Director of the Office of Rail Public Counsel, which was referred to the Committee on Commerce, Science, and Transportation.

WORLD WEATHER PROGRAM—PM 129

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

The memory of the severe winter of 1976–1977 in the eastern United States and its effects on our people and the national economy is still fresh in our minds. The continuing drought in the western United States is affecting not only agriculture and power generation but even basic community water supplies. Droughts, floods and freezes in the USSR, the African Sahel, the Indian subcontinent and Brazil in recent years have unsettled world markets and inflicted misery and often death upon untold numbers of people.

Senate Concurrent Resolution 67 of the 90th Congress dedicated the United States to participate in the World Weather Program in order to develop improved worldwide weather observations and services and to conduct a comprehensive program of research to extend our understanding and prediction of global weather and climate variations. I am pleased to transmit, in accordance with that Resolution, this annual World Weather Plan that describes significant activities and accomplishments and outlines the planned participation of Federal agencies for the coming fiscal year. The progress already achieved in this vital program demonstrates that we truly can do something to help our people anticipate and cope with the effects of the world's weather.

JIMMY CARTER.

THE WHITE HOUSE, *November 3, 1977.*

AMENDMENTS TO REORGANIZATION PLAN NO. 2—PM 130

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Committee on Governmental Affairs:

To the Congress of the United States:

I herewith transmit amendments to Reorganization Plan No. 2 of 1977, which I transmitted to you on October 12, 1977, and certain amendments to which I transmitted on November 1, 1977. Except as specifically amended hereby and by the amendments transmitted November 1, 1977, Reorganization Plan No. 2 remains unmodified.

JIMMY CARTER.

THE WHITE HOUSE, *November 3, 1977.*

MESSAGES FROM THE HOUSE

At 10:54 a.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that:

The House has passed the bill (S. 1560) to restore the Confederated Tribes of Siletz Indians of Oregon as a federally recognized sovereign Indian tribe, to restore to the Confederated Tribes of Siletz Indians of Oregon and its members those Federal services and benefits furnished to federally recognized American Indian tribes and their members, and for other purposes, with an amendment in which it requests the concurrence of the Senate.

ENROLLED BILLS SIGNED

The Speaker has signed the following enrolled bills:

S. 1142. An act for the relief of Kam Lin Cheung.

S. 2052. An act to extend the supervision of the United States Capitol Police to certain facilities leased by the Office of Technology Assessment.

H.R. 4458. An act to amend certain provisions of the Internal Revenue Code of 1954 relating to distilled spirits, and for other purposes.

H.R. 6010. An act to amend title XIII of the Federal Aviation Act of 1958 to expand the types of risks which the Secretary of Transportation may insure or reinsure, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore.

At 11:50 a.m., a message from the House of Representatives by Mr. Berry, one of its clerks, announced that:

H. Res. 851. A resolution expressing disapproval of proposed deferral D78-30, relating to the Energy Research and Development Administration, Gas Cooled Thermal Reactor Program;

H. Res. 852. A resolution expressing disapproval of proposed deferral D78-33, relating to the Energy Research and Development Administration, Magnetic Fusion Energy Program—Fusion Material Test Facility;

H. Res. 853. A resolution expressing disapproval of proposed deferral D78-34, relating to the Energy Research and Development Administration, Magnetic Fusion Energy Program—Intense Neutron Source Facility; and

H. Res. 854. A resolution expressing disapproval of proposed deferral D78-35, relating to the Energy Research and Development Administration, High Energy Physics Program—Intersecting Storage Ring Accelerator.

The House has passed the bill (S. 1269) for the relief of Cammilla A. Hester, with an amendment in which it requests the concurrence of the Senate.

The House has passed the following bills and agreed to the following resolution in which it requests the concurrence of the Senate:

H.R. 1422. An act for the relief of Julio Ortiz-Medina;

H.R. 4404. An act for the relief of Susan Spurrier;

H.R. 4535. An act for the relief of Kazuko Nishioka Dowd;

H.R. 5097. An act for the relief of Doctor Daryl C. Johnson;

H.R. 5099. An act for the relief of Brian Hall and Vera W. Hall;

H.R. 7162. An act for the relief of Stephanie Johnson;

H.R. 8159. An act to establish uniform structural requirements for intermodal cargo containers, subject to the jurisdiction of the United States, designed to be transported interchangeably by sea and land carriers, and moving in, or designed to move in, international trade, and for other purposes;

H.R. 8992. An act to amend title 3 of the United States Code to change the name of the Executive Protective Service;

H.R. 8993. An act to designate the Secret Service Training Center as the "James J. Rowley Secret Service Training Center";

H.R. 9378. An act to amend title IV of the Employee Retirement Income Security Act of 1974 to postpone, for two years, the date on which the corporation first begins paying benefits under terminated multiemployer plans;

H.R. 9704. An act to amend the Federal Crop Insurance Act, and for other purposes; and

H. Con. Res. 369. A concurrent resolution to establish a revised coverage schedule for basic benefits guaranteed by the Pension Benefit Guaranty Corporation for employee pension benefit plans which are not multiemployer plans.

At 1:10 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that:

The House agrees to the amendment of the Senate to the amendments of the House to the bill (S. 1184) to amend section 7(e) of the Fishermen's Protective Act of 1967, and for other purposes.

The House has passed the bill (H.R. 8331) to amend the Securities Investor Protection Act of 1970, in which it requests the concurrence of the Senate.

The House disagrees to the amendment of the Senate to the bill (H.R. 9794) to bring the governing international fishery agreement with Mexico within the purview of the Fishery Conservation Zone Transition Act.

The House recedes from its amendment to the amendment of the Senate to the bill (H.R. 7345) to amend title 38 of the United States Code to increase the rates of disability and death pension and to increase the rates of dependency and indemnity compensation for parents, and for other purposes; and agrees to the amendment of the Senate with amendments in which it requests the concurrence of the Senate.

At 4:12 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that:

The House has passed the bill (S. 1063) to amend the District of Columbia Self-Government and Governmental Reorganization Act, with amendments in which it requests the concurrence of the Senate.

The House has passed the bill (H.R. 7320) to revise miscellaneous timing requirements of the revenue laws, and for other purposes, in which it requests the concurrence of the Senate.

At 4:55 p.m., a message from the House of Representatives delivered by Mr. Hackney announced:

The House agrees to the amendments of the Senate to the bill (H.R. 8499) to amend section 16(b) of the Alaska Native Claims Settlement Act.

The House insists upon its amendments to the bill (S. 305) to amend the Securities Exchange Act of 1934 to require issuers of securities registered pursuant to section 12 of such act to maintain accurate records, to prohibit certain bribes, and for other purposes, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. STAGGERS, Mr. ECKHARDT, Mr. METCALFE, Mr. KRUEGER, Mr. CARNEY, Mr. DEVINE, and Mr. BROYHILL were appointed managers of the conference on the part of the House.

The House has passed the bill (H.R. 9836) to authorize the Architect of the Capitol to furnish chilled water to the Folger Shakespeare Library, in which it requests the concurrence of the Senate.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The Speaker has signed the following enrolled bills and joint resolution:

S. 854. An act to authorize the Secretary of Commerce to sell two obsolete vessels to Mid-Pacific Sea Harvesters, Inc., and for other purposes.

S. 1062. An act to amend section 441 of the District of Columbia Self-Government and Governmental Reorganization Act.

S. 1339. An act to authorize appropriations for the Energy Research and Development Administration for national security programs for fiscal years 1977 and 1978, and for other purposes.

S. 1528. An act to amend section 2 of the Safe Drinking Water Act (Public Law 93-523) to extend and increase authorizations provided for public water systems.

S. 1863. An act to authorize appropriations during fiscal year 1978, in addition to amounts previously authorized, for procurement of aircraft and missiles for the Navy and the Air Force and for research, development, test, and evaluation for the Air Force and the Defense agencies, and for other purposes.

H.R. 7278. An act to amend section 10 of the Merchant Marine Act, 1936.

H.R. 9019. An act to rescind certain budget authority contained in the message of the President of July 19, 1977 (H. Doc. 95-188), transmitted pursuant to the Impoundment Control Act of 1974.

H.R. 9512. An act to amend the Higher Education Act of 1965 to include the Trust Territory of the Pacific Islands in the definition of the term "State" for the purposes of participation in programs authorized by that act.

H.R. 9710. An act to extend the authority for the flexible regulation of interest rates on deposits and accounts in depository institutions, to promote the accountability of the Federal Reserve System, and for other purposes.

H.J. Res. 621. Joint resolution approving the Presidential decision on an Alaska natural gas transportation system, and for other purposes.

The enrolled bills and joint resolution were subsequently signed by the President pro tempore.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions which were referred as indicated:

POM-382. A resolution adopted by the National Conference of Lieutenant Governors encouraging State agencies to work closely with the United States Department of Commerce in attracting foreign investment to the United States and in the stimulation of foreign trade; to the Committee on Foreign Relations.

POM-383. A resolution adopted by the Na-

tional Conference of Lieutenant Governors urging the President and Congress to take action that may be required to provide assistance and relief to the economy as a result of the recent droughts; to the Committee on Environment and Public Works.

POM-384. A resolution adopted by the National Conference of Lieutenant Governors commending the Congress in providing funds to enable the National Science Foundation to develop a program to increase the capability of state legislators to understand and use science and technology in meeting the needs of their citizens; to the Committee on Human Resources.

POM-385. A resolution adopted by the National Conference of Lieutenant Governors urging acceleration of offshore energy exploration and development; to the Committee on Energy and Natural Resources.

POM-386. A resolution adopted by the National Conference of Lieutenant Governors recommending that the President take necessary steps to make adequate funds available for an orderly and rapid upgrading of our national rail transportation system; to the Committee on Commerce, Science, and Transportation.

POM-387. A resolution adopted by the National Conference of Lieutenant Governors enabling the NCLG's committee on National Food Policy to continue as liaison with the Congress on governmental and agricultural economies; to the Committee on Agriculture, Nutrition, and Forestry.

POM-388. A resolution adopted by the National Conference of Lieutenant Governors calling for improved services for older Americans; to the Committee on Human Resources.

POM-389. A resolution adopted by the National Conference of Lieutenant Governors reaffirming its commitment to efforts to consolidate federal tourism agencies and to create a national tourism policy; to the Committee on Commerce, Science, and Transportation.

POM-390. A resolution adopted by the National Conference of Lieutenant Governors commending Hubert H. Humphrey; ordered to lie on the table.

POM-391. A resolution adopted by the Southern Governors' Conference calling for an investigation of the growth of small cities and their place in a balanced growth policy; to the Committee on Governmental Affairs.

POM-392. A resolution adopted by the Southern Governors' Conference asking Congress to insure that American Business can compete on an equal basis in international markets; to the Committee on Finance.

POM-393. A resolution adopted by the Southern Governors' Conference requesting that the Federal government take such action as is necessary so that Puerto Rico is treated as part of Federal Region IV; to the Committee on Governmental Affairs.

POM-394. A resolution adopted by the Southern Governors' Conference urging the enactment of Title II of H.R. 7200; to the Committee on Finance.

POM-395. A resolution adopted by the Southern Governors' Conference submitting a policy statement concerning the Nation's continuing energy problem; to the Committee of Energy and Natural Resources.

POM-396. A resolution adopted by the Southern Governors' Conference urging Congress to provide substantial additional funding for the federal highway aid systems; to the Committee on Environment and Public Works.

POM-397. A resolution adopted by the Southern Governors' Conference supporting federal efforts to fund state and local corrections construction programs; to the Committee on the Judiciary.

POM-398. A resolution adopted by the Southern Governors' Conference urging support for the development of a regional jail system; to the Committee on the Judiciary.

POM-399. A resolution adopted by the Southern Governors' Conference asking that a Presidential task-force be appointed to review the long-term stability and health of America's vast food producing industry; to the Committee on Agriculture, Nutrition, and Forestry.

POM-400. A resolution adopted by the Southern Governors' Conference asking the President to designate one agency as the agency responsible for federal response to both natural and man-made disasters; to the Committee on Governmental Affairs.

POM-401. A resolution adopted by the Southern Governors' Conference asking that any revisions to the LEAA funding program implement a special criminal justice revenue sharing system; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENSON, from the Select Committee on Ethics:

S. Res. 319. An original resolution amending the Standing Rules of the Senate to establish standards for accepting certain travel expenses and to require separate reporting of those travel expenses accepted, and for other purposes (Rept. No. 95-586).

By Mr. EASTLAND, from the Committee on the Judiciary:

Without amendment:

S. 405. A bill for the relief of Chong Cha Williams (Rept. No. 95-587).

S. 432. A bill for the relief of Rosalinda Flores Vaow (Rept. No. 95-588).

S. 1401. A bill for the relief of Elvi Engelsmann Jensen (Rept. No. 95-589).

H.R. 2661. An act for the relief of Patricia R. Tully (Rept. No. 95-590).

With an amendment:

S. 1563. A bill for the relief of Do Sook Park (Rept. No. 95-591).

H.R. 3313. An act for the relief of Mark Charles Mieir and Liane Maria Mieir (Rept. No. 95-592).

S. 1052 A bill for the relief of Brian Patrick Webb and his wife, Laurene Ann Webb (title amendment) (Rept. No. 95-593).

H.R. 5555. An act for the relief of Adelida Rea Berry (title amendment) (Rept. No. 95-594).

With amendments:

S. 973. A bill for the relief of Young-Shik Kim (Sept. No. 95-595).

S. 833. A bill for the relief of Ah Young Cho (title amendment) (Rept. No. 95-596).

By Mr. ABOUREZK, from the Select Committee on Indian Affairs:

Without amendment:

H.R. 6348. An act to convey to the Ely Indian Colony the beneficial interest in certain Federal land.

With an amendment:

S. 1214. A bill to establish standards for the placement of Indian children in foster or adoptive homes, to prevent the breakup of Indian families, and for other purposes (Rept. No. 95-597).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WILLIAMS, from the Committee on Human Resources:

Livingston L. Biddle, Jr., of the District of Columbia, to be chairman of the National Endowment for the Arts.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Br. Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs:

Joseph F. Timilty, of Massachusetts, to be Chairman of the National Commission on Neighborhoods.

Donald Eugene Stingel, of Pennsylvania, to be a member of the Board of Directors of the Export-Import Bank of the United States.

Stella B. Hackel, of Vermont, to be Director of the Mint.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation:

Tyrone Brown, of the District of Columbia, to be a member of the Federal Communications Commission.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

HOUSE BILLS REFERRED

The following bills were each read twice by title and referred as indicated:

H.R. 1422. An act for the relief of Julio Ortiz-Medina; to the Committee on the Judiciary.

H.R. 4404. An act for the relief of Susan Spurrier; to the Committee on the Judiciary.

H.R. 4535. An act for the relief of Kazuko Nishioka Dowd; to the Committee on the Judiciary.

H.R. 5097. An act for the relief of Doctor Daryl C. Johnson; to the Committee on the Judiciary.

H.R. 5099. An act for the relief of Brian Hall and Vera W. Hall; to the Committee on Finance.

H.R. 7162. An act for the relief of Stephanie Johnson; to the Committee on the Judiciary.

H.R. 8159. An act to establish uniform structural requirements for intermodal cargo containers, subject to the jurisdiction of the United States, designed to be transported interchangeably by sea and land carriers, and moving in, or designed to move in, international trade, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 8993. An act to designate the Secret Service Training Center as the "James J. Rowley Secret Service Training Center"; to the Committee on Environment and Public Works.

H.R. 8331. An act to amend the Securities Investor Protection Act of 1970; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 7320. An act to revise miscellaneous timing requirements of the revenue laws, and for other purposes; to the Committee on Finance.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. STEVENSON:

S. 2282. A bill to amend the Internal Revenue Code of 1954 to provide that certain annual additions with respect to a participant in a pension plan may exceed 25 percent of the participant's compensation; to the Committee on Finance.

By Mr. PROXMIRE:

S. 2283. A bill to amend the Federal Reserve Act with respect to the role of Congress in the conduct of monetary policy; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BARTLETT:

S. 2284. A bill to amend section 3015(c) of title 10, United States Code, to require that the Chief of National Guard Bureau hold the grade of lieutenant general; to the Committee on Armed Services.

By Mr. WEICKER:

S. 2285. A bill to establish a program for the enhancement of the United States capability in manned undersea science and technology; to the Committee on Commerce, Science, and Transportation.

By Mr. HANSEN:

S. 2286. A bill providing that the excess land provisions of Federal Reclamation laws shall not apply to certain land receiving a supplemental water supply from the Shoshone Project, Wyoming; to the Committee on Energy and Natural Resources.

By Mr. BURDICK:

S. 2287. A bill to amend title VII of the Public Health Service Act to provide for the making of grants to schools of medicine to assist them in the establishment and operation of educational programs in geriatrics; to the Committee on Human Resources.

By Mr. HEINZ:

S. 2288. A bill to establish, within the medicare system, a special program of long-term care services for individuals covered under part B of medicare, receiving supplementary security income benefits, or eligible to enroll under part B of medicare; to establish special Federal, and provide for the establishment of such special programs; and for other programs; to the Committee on Finance.

By Mr. WALLOP:

S. 2289. A bill relating to the Buffalo Bill Extension, Shoshone Project, Wyoming; to the Committee on Energy and Natural Resources.

By Mr. WALLOP (for himself and Mr. HANSEN):

S. 2290. A bill to require the Administrator of Veterans' Affairs to issue a deed to the city of Cheyenne, Wyoming, for certain land heretofore conveyed to such city, removing certain conditions and reservations made a part of such prior conveyance; to the Committee on Veterans' Affairs.

By Mr. BROOKE:

S. 2291. A bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 to extend relocation assistance to persons displaced as the result of real property acquisitions by private persons for federally assisted programs or projects, and for other persons; to the Committee on Governmental Affairs.

By Mr. PACKWOOD:

S. 2292. A bill to provide for the resolution of claims and disputes relating to Government contracts awarded by executive agencies; jointly, by unanimous consent, to the Committee on Governmental Affairs and the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. STEVENSON:

S. 2282. A bill to amend the Internal Revenue Code of 1954 to provide that certain annual additions with respect to a participant in a pension plan may exceed 25 percent of the participant's compensation; to the Committee on Finance.

Mr. STEVENSON. Mr. President, I introduce a bill that would make a desirable and essentially technical amendment to section 415(c) of the Internal Revenue Code pertaining to qualified profit-sharing plans.

One of my constituents, DeKalb AgResearch, Inc., DeKalb, Ill., has brought to my attention the fact that limitations established by the 1974 ERISA legislation on employer contributions to qualified profit-sharing plans has, contrary to the law's intent of preventing qualified plans from being used to finance large benefits for higher paid employees, inequitably limited the benefits available to DeKalb's lower-paid employees under its profit-sharing plan. The proposed bill would remedy this unintended effect of the law by exempting from the limitations of section 415(c), qualified plans that provide for equal annual allocations among each participant or allocations based on hours of service, provided that the exemption would not apply to managerial or highly compensated employees. The amendment thus carries forward the purpose of section 415(c) while at the same time giving lower-paid employees the chance to obtain maximum benefits from a qualified profit-sharing plan.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2282

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (c) of section 415 of the Internal Revenue Code of 1954 (relating to limitation for defined contribution plans) is amended by adding at the end thereof the following new paragraph:

"(8) EXCEPTION FOR CERTAIN PLANS.

"(A) IN GENERAL.—Subparagraph (B) of paragraph (1) shall not apply to a participant if the plan provides that the annual addition is allocated equally to each participant or is allocated to each participant based on hours of service.

"(B) CERTAIN EMPLOYEES.—Subparagraph (A) shall not apply to any participant—

"(i) who is an officer, shareholder, or highly compensated, or

"(ii) who is an employee within the meaning of section 401(c)(1)."

(b) The amendment made by subsection (a) shall apply to years beginning after December 31, 1975.

By Mr. PROXMIRE:

S. 2283. A bill to amend the Federal Reserve Act with respect to the role of Congress in the conduct of monetary policy; to the Committee on Banking, Housing and Urban Affairs.

Mr. PROXMIRE. Mr. President, today I am introducing legislation which would greatly increase the ability of the Congress to monitor and evaluate the Federal Reserve's monetary policy plans and objectives. Since May of 1975 the Federal Reserve Board has reported to the Congress, through hearings held by the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Currency and Housing of the House of Representatives, its objectives and plans with respect to growth in the monetary aggregates pursuant to the requirements of House Concurrent Resolution 133. House Concurrent Resolution 133 has made a contribution to economic policymaking in the United States by bringing monetary policy more into the public domain where it can be discussed and debated. That resolution has been in effect for 2½ years, and it is appropriate to review its strengths and weaknesses.

Tuesday the Senate considered and passed H.R. 9710. Section 202 of that bill inserts into the Federal Reserve Act language which codifies the reporting requirements of House Concurrent Resolution 133. Those requirements are not, and have not been, sufficient to allow the Congress to make an objective analytical evaluation of the Federal Reserve's monetary policy plans for several reasons.

First, the Board is only required to report its objectives and plans for changes in the monetary and credit aggregates. These aggregates are only intermediate targets of monetary policy. The Federal Open Market Committee's main concern should be with the real economy production, employment, and prices, and its objectives and plans for the monetary and credit aggregates should be consistent with its objectives for the real economy. This legislation would require the Federal Reserve to provide the Congress with its estimates of the levels of employment, production and prices that are consistent with its monetary and credit aggregate plans and objectives. This would allow a more objective review of the Federal Reserve's policies.

Second, the current reporting procedures require the Federal Reserve to report on its objectives and plans for the upcoming 12-month period. Thus, each quarterly announcement presents growth rate ranges for the monetary aggregates which apply to a different starting and ending point in time. Given this shifting time frame and the wide variability of the monetary aggregates in the short run the current objectives and plans are in effect for only a quarter rather than a full 12 months. This short-term focus is not appropriate. Moreover, it has resulted in almost a religious cult of Fed watchers who anxiously await weekly M–1 numbers.

Third, at only one point within the year does the Federal Reserve provide its plans and objectives for a period of time that encompasses a full fiscal year. This makes the job of the congressional committees responsible for fiscal policy planning more difficult, for they must take into account the possible effects that monetary policy will have on the economy and the economic assumptions underlying the budget. This legislation would solve both these timing problems by requiring the Federal Reserve to report its plans and objectives for both the current fiscal year during which the oversight hearing is held and the upcoming fiscal year that is being considered by the Budget Committees. This would also facilitate better planning and perhaps closer coordination of monetary and fiscal policy.

At my request the Congressional Re-

search Service of the Library of Congress has prepared a description and critique of the system used for quarterly Federal Reserve reporting to the Congress. I ask unanimous consent that this study be inserted in the RECORD at this point.

There being no objection, the study was ordered to be printed in the RECORD, as follows:

[Prepared at the request of the Committee on Banking, Housing, and Urban Affairs, U.S. Senate]

THE LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C.

DESCRIPTION AND CRITIQUE OF THE SYSTEM USED FOR QUARTERLY FEDERAL RESERVE SYSTEM ANNOUNCEMENTS TO THE CONGRESS OF PROJECTED RANGES OF GROWTH FOR MONETARY AGGREGATES

(By Roger S. White, Analyst in Money and Banking Economics Division, October 31, 1977)

(Charts are not printed in the CONGRESSIONAL RECORD.)

I. INTRODUCTION

The Congress has held quarterly hearings on the conduct of monetary policy since May 1975 following procedures set forth in House Concurrent Resolution 133 of the 94th Congress. Among its provisions the resolution placed certain reporting requirements on the Federal Reserve System (FRS):

"The Board of Governors shall consult with Congress at semi-annual hearings before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Currency, and Housing of the House of Representatives about the Board of Governors' and the Federal Open Market Committee's objectives and plans with respect to the ranges of growth or diminution of monetary and credit aggregates in the upcoming 12 months."

A formalized system for reporting objectives with respect to monetary aggregate growth rates and for monitoring actual growth rates with respect to those objectives evolved very early in the life of the quarterly oversight hearings.

The reports issued under this system have received considerable attention because of their significance in introducing quantifiable statements concerning long-term FRS monetary policy objectives. Announcements of projected growth rate ranges for monetary aggregates have undoubtedly facilitated congressional oversight of monetary policy. Several legislative proposals for making the quarterly hearings, initiated under the concurrent resolution, a permanent feature of congressional oversight of monetary policy have incorporated all or substantial portions of the language of that part of the resolution which has served as the basis for the current reporting system. Although this system, in principle, has been widely endorsed, questions have been raised during legislative hearings and during some of the quarterly oversight hearings about particular features of that system and its comprehensiveness in conveying sufficient information to the Congress for its review of monetary policy.

This paper presents a critique of the reporting system, focusing on the information it conveys as it relates to congressional roles in reviewing and formulating economic policy. It is accepted as a premise of this paper that information about past and projected growth rates of various measures of the stock of money is useful in portraying the course of monetary policy. Indeed, most economists regard such growth rates as significant determinants, directly or indirectly, of changes in prices, output and employment even though economists differ among themselves in the relative importance and causal roles they ascribe to interest rates and monetary growth rates as determinants of the general course of the economy.

The primary focus of this paper is confined to the system for reporting monetary aggregates growth rate objectives, the relationship of the information it generates, projected monetary aggregate growth rates, to the full set of factors which comprise monetary policy and the effectiveness of the reporting system, given its scope, in conveying clear and informative statements to the Congress. The paper does not address proposals for reporting on additional monetary measures such as interest rates or the velocity of money.

The next section of this paper discusses the scope of monetary aggregate growth rates in relation to the full range of information pertaining to monetary policy. It indicates the limitations inherent in any reporting system confined to growth rates of monetary aggregates. The third section describes the existing reporting system noting those aspects which can be directly traced to provisions of H. Con. Res. 133 and those aspects which have evolved independently of specific resolution language. The fourth section examines the effectiveness of the reporting system in conveying timely and informative statements to the Congress concerning objectives and plans for growth rates of monetary aggregates and implications of such objectives and plans. It describes several limitations of the system and discusses examples of modifications which would overcome selected limitations.

II. THE RELATIONSHIP OF MONEY AGGREGATE GROWTH PROJECTIONS TO MONETARY POLICY

The formulation of monetary policy consists of designing strategies for transforming prevailing aggregate economic conditions, such as those reflected in levels of unemployment, the growth rate of gross national product and changes in prices, to desired conditions at some point in the future. Changes in the stock of money constitute one of the linkages in the chain of events which begin with discretionary actions of the FRS and ultimately result in influencing general economic conditions. Under the existing reporting system, the FRS has announced growth rate objectives for various measures of the stock of money. These announcements do not include similar systematic reports regarding other elements of monetary policy. Among the excluded elements are the manner in which the FRS intends to achieve monetary growth rate objectives and how and to what extent, according to the strategy accepted by the FRS, the attainment of these objectives is expected to influence general economic conditions. Some perspective on the contribution of monetary growth rate announcements in providing information about monetary policy may be gained by examining the fuller range of elements which enter into the formulation of monetary policy.

Announced growth rates for monetary aggregates implicitly includes FRS assessments regarding the course of events emanating from the direct actions of the FRS and resulting in changes in the stock of money. The principal point at which the FRS has a controlling influence in the sequence of events which lead to changes in the stock of money is determining the size of the monetary base and in setting requirements on commercial banks which are expressed in terms of the amount of monetary base assets held by banks. The monetary base consists of currency held by the public and by banks and reserve deposits held by banks with the FRS. With open market purchases (sales) of securities the FRS increases (decreases) the size of the monetary base. Also as the FRS increases its lending to banks through the discount mechanism, it increases the size of the monetary base.

Although the size of the monetary base is a principal ingredient in determining the size of the stock of money, there are other factors outside the direct control of the FRS which have an influence. The roles of the monetary base and other factors in determining the money supply are least complicated as they relate to the most narrow definition of money, M1, which consists of currency and demand deposits held by the public. Those banks which are members of the FRS face a reserve requirement constraint on the amount of deposits they can create in the process of lending or acquiring securities. Reserves for member banks consist of deposits with the FRS and cash in vault. For a given size of the monetary base, interactions of the public with banks determine how much of the monetary base is held as currency by the public as opposed to being held by banks in the form of cash in vault or as deposits with the FRS. Reserve requirements set the minimum amount of reserves member banks must hold and are expressed as percentages of deposits. The percentages vary with the aggregate amount of deposits outstanding from an individual member bank and also differ from demand deposits and various types of time and savings deposits. Variations in bank holdings of reserves in excess of requirements, without other offsetting developments, affect the relationship between the size of the monetary base and the stock of money. This relationship also changes with variations among member banks as a whole in the use of reserves to support different proportions of demand deposits and time and savings deposits or to support the growth of deposits distributed in alternative ways among banks having different sizes of aggregate deposits. In addition, this relationship is affected by changes in the distribution of the monetary base between member banks and nonmember banks. Non-member banks face reserve requirements which differ from member bank requirements and vary from State to State.

There is substantial agreement in identifying mechanisms for influencing the monetary base and the variables (not necessarily the values for these variables) entering into transforming changes in the monetary base to changes in the stock of money. The FRS faces several basic alternatives, however, in arriving at its perceptions as to how and to what extent changes in the stock of money influence general economic conditions. Among these is an emphasis on a direct impact of changes in stock of money on the level of economic activity associated with increasing the ability of the economic units to finance purchases of goods and services as opposed to an emphasis on an indirect impact through the influence of changes in the stock of money on interest rates, the cost of acquiring funds to finance the purchase of goods and services. Additional alternatives which the FRS faces include emphases on short-run versus long-run consequences of policy actions and the assignment of varying degrees of importance to the swiftness and order of magnitude of monetary aggregate or interest rate changes it allows to take place or deliberately encourages. The formulation of monetary policy also includes some estimation of the role of other factors such as fiscal policy, institutional aspects of the economy and international developments in influencing economic conditions.

III. DESCRIPTIONS OF THE REPORTING SYSTEM

H. Con. Res. 133 called for the FRS to report at quarterly intervals its "objectives and plans with respect to range of growth or diminution of monetary and credit aggregates in the upcoming 12 months." The resolution stipulated both the frequency of reporting and the period of time to be covered in the reports. Other elements of the report-

ing system were set forth in less specific terms.

The resolution did not specify particular measures or definitions for monetary and credit aggregates. Beginning with the first hearing, in May 1975, objectives with respect to monetary aggregates have been presented for three related measures of money: M1, consisting of currency in circulation plus demand deposits at commercial banks; M2, consisting of M1 plus savings and time deposits at commercial banks other than large-denomination negotiable certificates of deposit; and M3, consisting of M2 plus time and savings deposits held at nonbank thrift institutions which include savings banks, savings and loan associations and credit unions. A credit aggregate measure was used only once, at the initial set of hearings. The resolution also did not specify the size of growth rate ranges to be used in FRS statements of objectives. In practice the ranges have been between 2 and 3 percentage points for each of the three measures of money.

There are two additional elements of the reporting system which have received definition in the process of implementation rather than through resolution language. One element is the determination of what constitutes the starting and ending "points" for calculating annual growth rates. In the initial report, growth rates were specified in terms of changes in the monthly averages of daily amounts of each aggregate from March 1975 through March 1976. In subsequent reports, growth rates were set in relation to quarterly averages, for example, from the second quarter of 1975 through the second quarter of 1976.

A choice also existed in interpreting growth rate objectives as projections against which to compare actual growth rates for one year intervals as a whole or as growth rate ranges against which actual growth rates were to be compared during the course of one year projection periods. The former interpretation has achieved acceptance during the hearings.

It should be noted that the resolution provided for flexibility in the use of announced growth rate objectives in FRS accountability for actual performance of monetary aggregates. Specifically, it acknowledged that the announced objectives are not to be viewed as requirements, but called for explanations of instances in which they were not met:

"Nothing in this resolution shall be interpreted to require that such ranges of growth or diminution be achieved if the Board of Governors and the Federal Open Market Committee determine that they cannot or should not be achieved because of changing conditions. The Board of Governors shall report to the Congress the reasons for any such determination during the next hearings held pursuant to this resolution."

The FRS announcements of objectives for monetary aggregate growth rate ranges are expressed in terms of upper and lower bound growth rates for averages of monetary aggregates from the most recently completed quarter or base quarter through the same quarter of the following year. It has been accepted during the life of the quarterly hearings that the aggregates for each year as a whole rather than establishing an objective growth path for aggregates during the course of each projection year. Thus, the information contained in each quarterly announcement which conveys policy objectives pertains to the range for each aggregate at the close of the four quarter period addressed in a given announcement.

The accompanying charts plot these year-end objectives for M1 and M2 in terms of the projected upper and lower bounds for each aggregate as defined by the announced upper and lower growth rates and the size of each aggregate in the base quarter to which the growth rates apply. At any time, there are four such year-end objectives in force for each monetary aggregate. These include the objectives which had been set a year earlier for the quarter in progress and objectives which were announced subsequently for years ending with the next three quarters. Upon the passage of the current quarter, a new set of objectives for the year ahead will be announced. The upper and lower bound levels corresponding with successive year-end objectives establish a channel within which actual levels of monetary aggregates must fall if they are to meet the announced objectives. The accompanying table presents actual and projected growth rate ranges.

IV. CRITIQUE OF THE SYSTEM AND EXAMPLES OF ALTERNATIVE ARRANGEMENTS

In examining the current system for reporting monetary aggregate growth rate objectives, it is important to bear in mind that this system is used in relation to long-term monetary growth objectives. The effectiveness of this system, given its scope, may be judged in terms of its success in conveying to the Congress information in its most useful form about long-term monetary growth policy. Viewing various aspects of the system independently, several features of the system can be identified as adversely affecting the ease of properly interpreting the information the system generates and the compatibility of that information with the congressional economic policy planning horizon.

TABLE 1.—FEDERAL RESERVE SYSTEM TARGETS AND ACTUAL GROWTH RATES FOR MONETARY AGGREGATES

Monetary aggregate and year ending	Target range (percent)	Actual growth rate (percent)
M1 (currency and demand deposits):		
March 1976	5 – 7½	4.9
II quarter, 1976	5 – 7½	5.2
III quarter, 1976	5 – 7½	4.6
IV quarter, 1976	4½ – 7½	5.6
I quarter, 1977	4½ – 7	6.0
II quarter, 1977	4½ – 7	6.0
III quarter, 1977	4½ – 6½	7.3
IV quarter, 1977	4½ – 6½	
I quarter, 1978	4½ – 6½	
II quarter, 1978	4 – 6½	
M2 (currency, demand deposits and consumer type time and savings deposits at commercial banks):		
March 1976	8½–10½	9.6
II quarter, 1976	8½–10½	9.6
III quarter, 1976	7½–10½	9.3
IV quarter, 1976	7½–10½	10.9
I quarter, 1977	7½–10	10.9
II quarter, 1977	7½ – 9½	10.6
III quarter, 1977	7½–10	10.9
IV quarter, 1977	7 –10	
I quarter, 1978	7 – 9½	
II quarter, 1978	7 – 9½	
M3 (currency, demand deposits, consumer type time and savings deposits at commercial banks and deposits at thrift institutions):		
March 1976	10 –12	12.2
II quarter, 1976	10 –12	12.0
III quarter, 1976	9 –12	11.5
IV quarter, 1976	9 –12	12.8
I quarter, 1977	9 –12	12.8
II quarter, 1977	9 –11	12.3
III quarter, 1977	9 –11½	12.6
IV quarter, 1977	8½–11½	
I quarter, 1978	8½–11	
II quarter, 1978	8½–11	

Note: Actual growth rate data are based on money supply series of the Board of Governors of the Federal Reserve System as of October 1977.

Source: Prepared by Congressional Research Service. Data source: Data Resources, Inc.

This section includes separate discussions of several well-defined limitations associated with the existing system: the narrow focus of the information it generates; difficulties in identifying changes in monetary growth objectives in successive quarterly announcements; and differences in reporting periods for monetary growth objectives and for fiscal policy. In each case, an example of a modification for overcoming the limitation associated with the current reporting system is discussed. The full range of modifications which could be applied to the reporting system is considerable. Among the possibilities are changes judged to be most significant for congressional oversight or policy planning or judged to be the easiest to introduce without placing unintended constraints on policymakers. The final part of this section examines several additional aspects of the system which influence the nature of the policy information it generates for the Congress.

A. THE EXTENT OF INFORMATION ABOUT MONETARY POLICY GENERATED BY THE SYSTEM

As outlined in the second section of this paper, monetary aggregate growth rates constitute one of a number of elements which comprise monetary policy. Given the monetary measure on which the reporting system is based, monetary aggregate growth rates, the system could be altered in a variety of ways to generate more extensive information about monetary policy.

One series of possible modifications to extend the range of information conveyed in FRS announcements would arise from a requirement that the FRS report on its perceptions regarding the implications of announced growth rates for various aspects of the economy. This information could be used by the Congress in reviewing monetary policy and in formulating fiscal policy. Among various alternatives for establishing such a requirement would be to call for this information in general terms or to state more specifically the nature of information desired. Information pertaining to the extent to which announced monetary growth rates are expected to influence the economy might include projections for the growth rate of gross national product, changes in prices and the level of unemployment. Information pertaining to the manner in which monetary growth rates are expected to influence the economy might include projections for the velocity of money and interest rates together with statements regarding the manner in which such intermediate elements of monetary policy, including monetary growth rates, are expected to influence the growth rate of gross national product, changes in prices and the level of unemployment.

B. COMPARABILITY OF SUCCESSIVELY ANNOUNCED MONETARY GROWTH RATES

Each successive quarterly FRS announcement satisfies provisions of H. Con. Res. 133 by indicating plans for monetary aggregate growth rate ranges for the year beginning with the most recently completed quarter. This information, by itself, is of limited usefulness in informing the Congress about the status of FRS monetary growth objectives over time. Meaningful comparisons of growth rates announced in successive quarters are difficult to achieve and, as a result, it is not easy to detect or characterize the size and direction of changes in FRS monetary growth objectives from one quarterly announcement to another. In fact, it is even possible to misinterpret FRS intentions.

The basic problems in comparing successive growth rate ranges is that each quarterly announcement presents growth rates which apply to a different base period or starting point. With the passage of each quarter, there is a new announcement indicating growth rate ranges which extend for a one year period from the quarter most recently completed. Successive growth rate ranges, by themselves, do not convey information about values of monetary aggregates in the successive base periods to which the growth rates apply.

An illustration of the necessity of consulting both growth rates and the size of mone-

tary aggregates in base periods to determine the size and direction of changes in monetary growth objectives may be constructed as follows. Consider alternative cases in which the FRS retains the same growth rate ranges for the one year periods following two successive base quarters. If the size of the stock of money does not change in the two successive base quarters, there will be no difference in the stock of money corresponding to either the upper or lower bounds of the objective ranges for the ends of the one year periods following the two successive base quarters. If stock of money increases by 5 percent from the first base quarter to the next, there will be a 5 percent increase in the stock of money corresponding to both the upper and lower bounds of the two successive objective ranges. These results hold independently of the particular growth rates retained by the FRS in the two successive announcements. In the absence of information on changes in the stock of money between the base quarters, knowledge of the growth rate ranges would not have revealed the different implications for objective ranges for money supply in the alternative situations.

If the actual growth rates of monetary aggregates over successive quarters to which a series of projected growth rate ranges apply were stable, then the influence of changes in monetary aggregate in base quarters on relationships among successive objective ranges would be fixed. A stable growth rate of 4 percent for M1 over successive base quarters would result in increases of 4 percent in upper and lower bounds of successive objective ranges, subject to changes in projected growth rates. The actual growth rates of monetary aggregates, however, have not been stable. Since the initiation of the quarterly announcements, M1 has increased in successive quarters at annual rates ranging from 2.5 percent to 9.6 percent. The largest increases have occurred in the most recent quarters. Between the first and second quarters of 1977, M1 increased at an annual rate of 8.7 percent. In announcing the growth rate range for M1 for the period beginning with the second quarter of 1977, the FRS did not change the projected upper bound growth rate for M1 but partially offset the impact of the base period change in M1 on its newly established objective range by decreasing the projected lower bound growth rate for M1. Between the second and third quarters of 1977, M1 increased at an annual rate of 9.6 percent. Projected upper and lower bounds growth rates for the period beginning with the third quarter of 1977 have not been announced at the time of release for this paper.

One method of overcoming the difficulty of detecting the size and direction of changes in long-term monetary growth objectives associated with the current reporting system is to require that quarterly announcements include a statement indicating the relationship of each newly announced objective range to the previously announced range. This information could be expressed in terms of annualized rates of change for the upper and lower bounds of the ranges. Under such a requirement, the Congress would be directly informed about the direction and the size of change, if any, that the FRS makes in the upper and lower ends of the objective range for each monetary aggregate.

Under the current reporting system, the FRS announced its objective range for M1 for the year ending with the second quarter of 1978 in terms of the growth rate range of 4 percent to 6½ percent. With the additional reporting requirement concerning the relationship of each new objective range with the previous one, the FRS would have indicated that it was increasing the upper end of the objective range for M1 by 8.7 percent on an annual basis from the upper end of the previous objective range applicable to the first quarter of 1978. The 8.7 percent increase directly reflects the 8.7 percent annual rate of change in M1 from the previous base quarter to the new base quarter. The upper bound growth rate announced for periods beginning with these two base quarters remained unchanged and was 6.5 percent. The FRS also would have indicated that the lower end of the objective range for M1 for the second quarter of 1978 represented an increase of about 6.4 percent on an annual basis from the lower end of its objective range for the first quarter of 1978. The 6.4 percent increase reflects the 8.7 percent annual rate of change in M1 from the previous base quarter to the new base quarter and an offsetting change arising from a decrease in the announced lower bound growth rate. The rate applicable to M1 in the previous quarter was 4.5 percent and the rate applicable to M1 in the new base quarter was decreased to 4.0 percent.

C. NONCOMPATIBILITY OF PROJECTION PERIODS FOR MONETARY GROWTH RATES AND FISCAL POLICY PERIODS

The preamble of H. Con. Res. 133 indicates the general status of unemployment as well as trends in gross national product and inflation as of the time Congress adopted the resolution. It further states that "the economy's performance in part is affected by changes in the rate of growth of the monetary and credit aggregates." Fiscal policy, as established by congressional budgetary decisions on Government expenditures and revenues, also influences the performance of the economy. In fact, the Employment Act of 1946 declares that national economic objectives of the Congress include the promotion of "maximum employment, production and purchasing power."

The coordination of monetary and fiscal policies in striving toward a fully-employed stable economy may be facilitated by information generated by the existing reporting system for growth rates of monetary aggregates. Announcements regarding long-term monetary growth policy provide some insight into monetary policy intentions for a period of time extending into at least part of an upcoming fiscal year. The Congress may consult these announcements in the course of determining fiscal policy for an approaching fiscal year or in altering policies which are currently in effect. The FRS may also take into consideration available information on fiscal policies for the current and upcoming fiscal years in formulating its long-term monetary policy. The FRS has information about the fiscal policy for the year in progress, proposals under consideration, if any, for changing that policy and preliminary information on basic budgetary objectives for the upcoming fiscal year as reflected in the budget submitted to the Congress by the President and in a series of congressional budget resolutions.

Brief reference to information availability at particular points in time demonstrate variability in the nature and potential usefulness of information about monetary and fiscal policies which flow reciprocally between the two different sets of policy makers. In February 1977, the FRS announced monetary growth rates for the period beginning with the first quarter of fiscal year 1977 and extending through the first quarter of fiscal year 1978. At the time the FRS released that announcement, it had knowledge of the budget for the fiscal year in progress and proposals for changing that budget. It also had preliminary information on fiscal policy for fiscal year 1978 in the form of the budget presented to the Congress by the President. In May 1977, the FRS made the next quarterly announcement which pertained to a period extending through the second quarter of fiscal year 1978. Shortly thereafter, the Congress adopted its first budget resolution reflecting its fiscal policy planning at that stage for the full fiscal year 1978.

The congressional budget process and the reporting system for monetary rates generate information concerning the future course of monetary and fiscal policies which differs in two principal aspects having a bearing on the potential usefulness of that information for the coordination of monetary and fiscal policies. Information relating to policy in a forthcoming fiscal year, in each case, pertains to a one year period but with different commencing dates for monetary and fiscal policies. The one year periods addressed in quarterly announcements of monetary growth rates begin at different points in time with each announcement, but they are always periods which terminate before the close of an upcoming fiscal year. A second difference is that information on future fiscal policy is generated and revised during the process of arriving at a policy position for implementation in the future whereas information on monetary growth rates reflects established plans and objectives. Unlike announced monetary growth rates, information on future fiscal policy is regarded as preliminary in the sense that it is generally recognized that budget estimates become more reliable as a fiscal year approaches and reflect final agreement at some time very near the start of a fiscal year. In both cases, a policy commitment is subject to change during the year of implementation.

A requirement for specifying monetary growth rate objectives on a fiscal year basis could facilitate the coordination of monetary and fiscal policies by ensuring a common planning horizon. Such a requirement could involve several changes from practices associated with the current system. Under the current system, monetary growth rate announcements pertain to one year periods which always include one or more quarters for which fiscal policy has already been determined. If the FRS were required to report for an upcoming fiscal year, it would be setting objectives encompassing a full one year period for which information on fiscal policy would be preliminary. Accordingly, the FRS might react to the tentative nature of this information by increasing the spread between the upper and lower growth rates which define the objective range for each monetary aggregate. The FRS could, of course, narrow and otherwise reset its objective ranges for monetary aggregates in successive quarterly announcements made as an upcoming fiscal year approaches.

Under a fiscal year reporting system, there would be one set of objective ranges each year against which to monitor actual changes in monetary aggregates. Under the current arrangement, there are four such sets of objective ranges each year.

D. ADDITIONAL LIMITATIONS OF THE REPORTING SYSTEM

Additional limitations of the current reporting system in generating information about monetary growth objectives for the Congress include those which arise, in part, from factors over which the FRS does not have complete control. When the FRS announces growth rate ranges for monetary aggregates based on the most recently completed quarter, it does not know with certainty the actual size of monetary aggregates in that base quarter. The FRS revises its data on monetary aggregates as it obtains reports on monetary liabilities of non-member banks and uses this information in place of estimates. These revisions have resulted in changes of as much as two tenths of a percentage point in previously calculated one year growth rates for M1.

The size of the announced one year growth rate ranges is usually about two to three percentage points between the upper and

lower rates. Narrower ranges would provide the Congress with more precise indications of FRS objectives. It is possible that the FRS announces ranges sufficiently large to allow for some latitude for modifying its growth rate policies during each announcement period. There are other considerations, however, which may fully explain the FRS's reluctance to report narrower ranges. The FRS is not the only economic unit whose activities influence the growth rates of monetary aggregates. The behavior of depository institutions and the public affect the composition of monetary liabilities issued—currency, demand and savings deposits. With the same policy actions of the FRS, alternative choices among these monetary liabilities by financial institutions and the public result in different growth rates for the various monetary aggregates. The FRS could improve its control over the growth rate of a particular monetary aggregate by increasing its commitment to offset variability in behavior of financial institutions and the public. Implicit in such an effort to narrow an announced growth rate range is diminished FRS freedom to control other monetary aggregates or to influence interest rates.

V. SUMMARY

Following provisions of H. Con. Res. 133 of the 94th Congress, the FRS has reported "objectives and plans with respect to the ranges of growth or diminution of monetary and credit aggregates in the upcoming 12 months" at successive quarterly congressional hearings. Monetary growth rates are generally considered to be among the significant determinants, directly or indirectly, of general economic conditions. Nevertheless, they represent but one of a number of elements of monetary policy. Other elements include factors which affect the attainment of these growth rates and factors which, together with actual monetary growth rates, influence general economic conditions.

The reporting system which has evolved for FRS announcements of growth rate objectives include some specific practices for which language of the concurrent resolution gave only general guidance. These include specific definitions of monetary aggregates, the size of the spread between upper and lower growth rates used to define projected ranges, and the interpretation that announced growth ranges set year-end objectives rather than objectives for the duration of each announcement year.

Well-defined limitations of the system include its narrow focus with respect to the full range of elements constituting monetary policy, difficulties in detecting the size and direction of changes in monetary growth objectives from statements generated under the system and the use of reporting periods different from those employed in setting fiscal policy. A number of modifications addressing particular aspects of the system are possible. Examples of such modifications include introducing requirements that the FRS report on implications of announced growth rates, indicate relationships among successively announced objective ranges and announced objective ranges on a fiscal year basis.

By Mr. BARTLETT:

S. 2284. A bill to amend section 3015 (c) of title 10, United States Code, to require that the Chief of National Guard Bureau hold the grade of lieutenant general; to the Committee on Armed Services.

Mr. BARTLETT. Mr. President, today I am introducing legislation, with Senator HENRY BELLMON as cosponsor, which will require that the position of Chief, National Guard Bureau, currently assigned the rank of major general, be assigned the rank of lieutenant general.

The position, Chief of the National Guard Bureau, is a demanding one, entailing many diverse duties such as overseeing command, administration, logistics, construction, and training. The Chief is directly responsible for the preparation and continual readiness of 400,000 Army National Guard and 97,000 Air National Guard members. The full-time civil service and various State employees he directs consist of a much larger work force than that assigned to any other major general.

At the present time, the Chief of the National Guard Bureau shares the same rank, major general, as the Directors of the Army and Air Force National Guards, even though his responsibilities are in excess of theirs. In addition, all the key personnel with whom the Chief must deal on policy and budget matters are senior to the Chief, either in military grade or civilian equivalent. The Chief occupies the only reserve position that must deal directly with both the Secretary of the Air Force and the Secretary of the Army.

For these reasons, I urge the Senate to adopt legislation upgrading the position of Chief, National Guard Bureau, from the reserve grade of major general to the reserve grade of lieutenant general.

Mr. President, I ask unanimous consent that this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2284

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the third sentence of section 3015(c) of title 10, United States Code, is amended by striking out "major general" and inserting in lieu thereof "lieutenant general".

SEC. 2. The amendment made by the first section of this Act shall become effective on the first day of the second calendar month following the month in which this Act is enacted.

By Mr. WEICKER:

S. 2285. A bill to establish a program for the enhancement of the United States capability in manned undersea science and technology; to the Committee on Commerce, Science, and Transportation.

Mr. WEICKER. Mr. President, today I am pleased to introduce the "National Manned Undersea Science and Technology Act." This legislation addresses the future needs of the Nation in terms of man's capability to work, conduct research, and live in the sea efficiently and safely.

This Nation has approached a crossroad; on one side its citizens, enjoying a high standard of living, is demanding more and more of its natural resources. On the other side is the dwindling availability of these resources. Our land-based supplies of oil and minerals will be exhausted in a few years at the present rate of consumption.

The logical step for us to take is strict conservation of our remaining resources, but this only gives us a little time and is only part of the answer, we must also look to other possible sources. For the United States, the oceans are the only place to turn. I believe that the oceans can provide vast amounts of resources such as energy, food, minerals as well as becoming more and more important for recreational purposes. Submerged lands adjacent to the United States contain vast reserves of oil and gas; its fish stocks are over 10 percent of the worlds supply, and is already an important source of protein for several nations. Manganese nodules that could provide the world's needs of copper, nickel, manganese, and cobalt cover the deep seabed of the Pacific Ocean; and uranium estimated to be worth billions was recently discovered in the Black Sea.

This is just the beginning.

The oceans are virtually unexplored and we really have no idea how much resources they hold. More importantly, we still do not have sufficient knowledge to manage any of the ocean resources properly, including our fisheries which have been studied for years.

The United States, therefore, must accellerate its involvement in the oceans; exploration and marine scientific studies must increase to reveal the knowledge we will need to reap the benefits of the oceans, as well as protect its resources.

I believe that we must do all that is possible to put the United States in the lead in ocean affairs, starting with a strong national oceans policy and an appropriate organizational structure to carry out the mandates of the policy.

One area that holds great promise for increasing our knowledge of all aspects of the oceans is manned undersea activities.

Men working and studying the oceans in situ in past years have demonstrated their value and potential for increasing our understanding of such things as fish behavior, resource assessment, effects of pollutants on marine life, artificial and natural reefs, and gear research.

Submersibles have been used to study the deep ocean and help formulate modern theories on plate tectonics and continental drift.

Conventional techniques for exploring and studying the oceans, using shipboard equipment and instrumentation is the most efficient way of gaining knowledge of the sea. However, the presence of scientists that actually go beneath the surface in submarines or diving gear adds a new dimension. Men with the capability to see, touch, manipulate and think reveals the ocean environment and its resources in human terms. A case in point; an experimental net dragged through the water column from a surface ship can reveal a vast array of marine species. There is much that the scientist can learn from the life forms in the net such as species count and relative abundance but not the order of life present before the net captured the organisms. Such information as interrelationships of the organisms and their relationship to the overall ecosystem, important information for future management, could not be extrapolated from

the net. Scientists on the other hand could explain the order in which these life forms lived.

Manned undersea science was started in earnest some 25 years ago when marine biologists and oceanographers made short and shallow forays under water using simple diving gear.

Since then, sophisticated submersibles, habitats, and diving bells have been developed to extend man's capabilities in the sea.

During the early 1960's this development peaked; submersibles reached the deepest part of the ocean and divers were using new techniques to live and work on the ocean floor. Man, at this point was truly on the verge of making great strides in undersea exploration and research promising to give marine scientists powerful new tools for their work. By the end of the 1960's, however, funding started to wane. Increased costs, nationwide economic problems and poor planning most likely contributed to the slow-down in undersea activities.

The National Oceanic and Atmospheric Administration (NOAA) has been the lead civilian organization for undersea science and technology. Over the past 5 years its budget for these activities has been level funded at about $1 million per year, hardly enough to keep any of its programs alive. This level funding was in the face of substantial increases in funding for NOAA's overall oceans programs.

Even though the funding for manned undersea science and technology has been meager, much has been learned over the past few years, and many people have experienced first hand the great potential of working first-hand under the sea. No fewer than 500 people from Federal agencies, universities and foundations have now lived for periods up to 2 weeks on the ocean floor, most of these accomplishing scientific tasks while gaining experience. Much has been learned to increase the efficiency of working under the sea so that at least in warm waters scientists are now able to continuously work in moderate depths up to 10 hours per day; as much or more than the average office worker here in Washington.

Mr. President, I believe that the time has come for this Nation to expand its commitments to manned undersea activities, which will be so immensely important to us in the very near future.

The United States must be capable of completely understanding every aspect of the oceans in order to protect its interests. It must wisely utilize and conserve the ocean environment and resources.

This bill will provide the leadership and funding necessary to fill an integral part of our efforts to meet our Nation's interest in the oceans.

Mr. President, I ask unanimous consent that the text of this bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2285

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Manned Undersea Science and Technology Act".

SEC. 2. Congressional Findings and Purposes.

(a) Findings.—The Congress finds and declares the following:

(1) the living and non-living resources of the oceans are becoming increasingly important to the United States in terms of food, energy, transportation, weather prediction and recreation;

(2) the present level of knowledge of the marine environment and its resources is inadequate to properly manage the general welfare, security, and economy of the United States as required in an era of diminishing resources;

(3) present scientific and technological techniques must be advanced to effectively achieve a full understanding of the marine environment and its resources;

(4) manned undersea techniques have demonstrated usefulness as a means to acquire knowledge of the marine environment and its resources that is not obtainable by conventional techniques;

(5) a comprehensive and long-range program of development, support, coordination, safety and management of manned undersea operations on a national scale is essential to provide a focus for safe and effective undersea scientific studies and marine resource development; and

(6) a better understanding of the physiological and psychological effects of the hyperbaric undersea environment upon man is imperative to ensure safe and efficient manned undersea operations.

(b) Purposes.—It is therefore declared to be the purposes of Congress in this Act:

(1) to enhance the Nation's capability to assess, conserve, develop, manage and utilize the living and non-living resources of the oceans by the expanded use of manned undersea science and technology;

(2) to establish and implement a coordinated program for development of manned undersea science and technology involving projects with Federal, State, and local agencies, institutions, universities, and industry;

(3) to preserve the leadership role of the United States in civilian manned undersea science and technology;

(4) to develop those undersea capabilities of man necessary to further increase knowledge of the marine environment and its resources in order to support the assessment, conservation, development, use, and management of marine living and non-living resources; and

(5) to acquire and disseminate technological and scientific information related to advances in undersea capabilities.

(6) to cooperate in international manned undersea science and technology efforts when in the best interest of the Nation.

SEC. 3. Definitions

As used in this Act:

(1) "citizen of the United States" means (A) an individual who is a citizen of the United States or of one of its possessions, or (B) a partnership of which each member is such an individual, or (C) a corporation or association created or organized under the laws of the United States or of any State, Territory, or possession of the United States of which the president and two-thirds or more of the board of directors and other managing officers thereof are such individuals and in which at least 75 per centum of the voting interest is owned or controlled by persons who are citizens of the United States or of one of its possessions;

(2) "manned undersea facilities" means any structure or appurtenance used to carry or house personnel and provide life subsistence, mobility or work capability beneath the sea, including mobile submarines, mobile semi-fixed or fixed habitats, and diving bells;

(3) "person" includes an individual, a public or private corporation, a partnership or other association, or a Federal, State, or local government agency;

(4) "support facilities" means all fixed or floating platforms or other appurtenance used to support undersea activities including:

(A) vessels;
(B) barges;
(C) semi-submersibles;
(D) shore stations;
(E) structures fixed to the bottom;
(F) decompression chambers; and
(G) all related equipment.

(5) "undersea techniques" means any method specifically used to accomplish an objective related to manned undersea programs from an undersea position; and

(6) "Secretary" means the Secretary of Commerce.

SEC. 4. National Manned Undersea Science and Technology Program.

(a) The Secretary shall within 90 days after the enactment of this Act establish a National Manned Undersea Science and Technology Program to enhance the nation's capability to support marine science and marine resource development through the use of manned undersea techniques;

(b) The Secretary shall invite members of any Federal or State government, private institution, universities, and industry to participate in the preparation of guidelines for the program.

(c) Such program shall address and conform to the policies of the nation to conserve, protect, and utilize the marine environment in terms of food, energy, pollution assessment and control, transportation, recreation, minerals and other basic scientific and technical knowledge.

(d) Such program shall be long-range and shall include planning, management, coordination, financial assistance, and human performance objectives so that the following criteria are met:

(1) undersea technology developments to enhance man's capability to work in the sea;

(2) safety, efficiency and cost effectiveness of working under the sea;

(3) participation by Federal, non-Federal, industry and private organizations and persons shall be encouraged;

(4) consideration shall be given to all modes of manned undersea operations in order to accomplish the provisions of this Act: including:

(A) manned undersea facilities;
(B) self contained dividing apparatus, including rebreathing equipment;
(C) surface supplied diving apparatus;
(D) diver delivery and transportation vehicles; and

(5) undersea science techniques shall augment or supplement conventional science techniques when possible and practical.

SEC. 5. Grants and Contracts.

(a) The Secretary is authorized to grant funds and enter into contracts with any person who is a citizen of the United States in order to carry out the provisions of this Act.

(b) Such Federal grants and contracts may cover up to 100 percent of the total cost of proposed projects and programs pursuant to the provisions of section 4 and other rules and regulations promulgated by the Secretary.

(c) Federal grants and contracts shall address the following:

(1) leasing, rehabilitation, development, purchasing, testing, construction and operation of manned undersea facilities;

(2) leasing, rehabilitation, development, purchasing testing, construction and operation of support facilities;

(3) purchasing or leasing and development, testing, and operation of instrumentation and specialized equipment for activities related to undersea science;

(4) purchasing, leasing, development, testing and operation of diving equipment;

(5) studies to increase the efficiency and safety of diving, involving but not not limited to:

(A) all physiological parameters associated with diving and working under pressure;

(B) development and improvement of decompression and excursion tables;

(C) environmental constraints of working in the sea;

(D) psychological constraints of working in the sea; and

(6) purchasing, development, testing, and operation of instrumentation and specialized equipment for monitoring physiological parameters and for other purposes related to the general safety of men working in the sea.

SEC. 6. Administrative Office.

The Secretary shall designate or establish one office in the Department of Commerce to administer the provisions of this Act and any related activities of the Department.

SEC. 7. Review.

(a) The Secretary shall within 60 days after the enactment of this Act provide for a biannual review of all programs pursuant to this Act.

(b) Such review shall address the following:

(1) scientific achievement;

(2) technological advancement;

(3) cost effectiveness and efficiency of technological parameters; and

(4) safety;

(c) The Secretary shall invite marine and other scientists and engineers from Federal and State governments, private institutions, universities and industry to participate in the review process.

SEC. 8. Authorization for Appropriations.

(a) There is authorized to be appropriated to the Secretary to carry out the provisions of this Act sums not to exceed the following:

(1) $5,000,000 for the fiscal year ending September 30, 1979;

(2) $10,000,000 for the fiscal year ending September 30, 1980;

(3) $20,000,000 for the fiscal year ending September 30, 1981;

(4) $25,000,000 for the fiscal year ending September 30, 1982; and

(5) $30,000,000 for the fiscal year ending September 30, 1983.

By Mr. HANSEN:

S. 2286. A bill providing that the excess land provisions of Federal reclamation laws shall not apply to certain land receiving a supplemental water supply from the Shoshone project, Wyoming; to the Committee on Energy and Natural Resources.

Mr. HANSEN. Mr. President, I introduce legislation to exempt from the excess land provisions of Federal reclamation law the Elk Water Users' Association and the Lovell Irrigation District in the State of Wyoming.

The circumstances surrounding the origins of these two companies make a particularly good case for fashioning an exception from the 160-acre limitation.

Both entities were operating irrigation companies and had a fully developed agricultural economy before their July 13, 1965, contractual agreement with the Bureau of Reclamation. In fact, in the case of Elk Water Users' Association, the first lands were brought under irrigation with the construction of the Rhone Ditch possibly as early as 1901. A permit was granted by the Wyoming State engineer for extension of the Rhone ditch in January 1903, and in January 1904, the Elk Canal Co. was incorporated in order to take over and enlarge the Rhone ditch.

The Lovell Irrigation District had similar early development, with permits being issued around 1903, by early pioneers assisting one another without Government financial assistance or intervention in the delivery of water onto potentially irrigable lands. It was not until 1909 that the earliest units of the nearby Shoshone project were developed under the Bureau of Reclamation, 8 years after the initiation of the Elk Water Users' Association water delivery.

Long after these early developments, the Elk Water Users' Association and the Lovell Irrigation District became involved in attempts by the Bureau of Reclamation projects in the vicinity to adjudicate water rights on the Shoshone River. These neighboring projects sought to establish a water right priority dating back to the old 1899 Cody-Salsbury permit.

In negotiations among the several irrigation units to validate and establish water priorities, a contract for supplemental water was offered to Elk Water Users' Association and the Lovell Irrigation District. As an inducement to accept the Bureau's offer, Elk and Lowell were advised that if they were successful in their efforts, the Bureau projects would receive a 1925 priority date, thus causing Wyoming residents to be predated by downstream, out-of-State permits. Elk and Lovell were not only offered some right to storage water but were assured that any further development by the Bureau of Reclamation on projects along the Shoshone River would be under a priority later than their own.

The Elk Water Users' Association and the Lovell Irrigation District accepted the contract for supplemental water for 4,261 acres for Elk—of which a little less than 3,000 are actually under irrigation—and 10,300 acres for Lovell not to exceed 4.7 acre-feet per acre per year. By entering this contract, Elk and Lovell became subject to reclamation law acreage limitations which at the time of the signing of the contract had been widely disregarded.

There are not many farmers in either of the two irrigation districts who have excess acreages. Of the 118 farmers receiving delivery, only 12 to 14 would be directly affected. However, those who are affected must either dispose or agree to dispose of the excess acreages or not receive any of the supplemental water for such acreages.

While Bureau of Reclamation records indicate that the district and the association have not been in violation of the excess land provisions to date, water to serve a landowner's excess lands which must come from his natural flow rights may not be adequate to provide his requirements during some years or during certain periods of every year. Thus, if reclamation project water were used on such excess lands, such use would constitute a violation.

The point is, Mr. President, that the facilities, diversion units, canals, and structures of the Elk Water Users' Association and the Lovell Irrigation District were not built by taxpayers' money or under the Bureau of Reclamation. These were rather the product of pioneer families working together independently for their own well-being. The contract with the Bureau for excess water is for a set and determined number of acres on an "if, as, and when available basis." It should not be a concern of the Bureau which individuals own the land or how much. These lands were not developed or brought under irrigation by the Bureau and it is late in their history for the Bureau to be dictating how they should be operated.

An exemption from the excess land provisions would not affect the quantity of reclamation project water available to the association and the district under their contract, but the restriction on the use of the reclamation project water supply available to them for excess lands would be removed.

Mr. President, the Bureau of Reclamation has advised my office that, on a number of occasions, Congress has granted exemptions from the 160 acre limitation to projects with a long history of irrigation and a fully developed agricultural economy prior to the availability of a supplemental water supply from a reclamation project. To my way of thinking, Elk Water Users' Association and the Lovell Irrigation District are such projects and thus deserve the same type of exemption as granted in the past.

By Mr. BURDICK:

S. 2287. A bill to amend title VII of the Public Health Service Act to provide for the making of grants to schools of medicine to assist them in the establishment and operation of educational programs in geriatrics; to the Committee on Human Resources.

Mr. BURDICK. Mr. President, along with my colleagues, Senators INOUYE, HUMPHREY, MELCHER, RANDOLPH, LEAHY, HASKELL, CANNON, MORGAN, YOUNG, and HATHAWAY, I am pleased to introduce legislation to authorize assistance to U.S. medical schools to encourage the development of programs of geriatric medicine.

The training medical students receive in geriatric medicine today is minimal at best. Yet we are an increasingly older population, and the problems of aging are accounting for a growing portion of our medical dollars. While we cannot stop the process of aging, a more detailed knowledge of gerontology and geriatric medicine could prevent much of the needless suffering and institutionalization our elderly citizens are subject to today.

The bill we are introducing today authorizes $3 million per year to develop programs of geriatric education in our medical schools. Since physicians are an integral part of our health delivery system, the impact of improved geriatric education should be felt throughout the medical system, and result in better and more effective medical care for the elderly at all levels.

This idea is not a new one. Former Senator Frank Moss introduced similar legislation in the last Congress and the National Advisory Council on Geriatric Medical Programs, a panal of distinguished physicians, has advocated such a plan for several years. The chairman of that Council, who is also a professor

at the University of North Dakota Medical School, has asked me to introduce this measure at this time, and I am delighted to do so.

To more fully explain the need and purpose of this bill, I would like to include in the RECORD the position paper of the National Advisory Council on geriatric medical programs. This very concisely sums up the problem and explains why programs of geriatric medicine need to be encouraged. I ask unanimous consent that the RECORD include at this time the names of the founding members of the Council, their position paper, and a copy of the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2287

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 788 of the Public Health Service Act (42 U.S.C. 295g–8) is amended by adding at the end thereof the following new subsection:

"(h) (1) The Secretary may make grants to assist medical schools in the establishment and operation, within such schools, of educational programs in geriatrics.

"(2) Grants under this section shall be made to schools of medicine in an amount not less than an amount necessary to carry out such program for a period of not less than 5 years.

"(3) Any grant under this section shall be made upon such terms and subject to such conditions as the Secretary shall prescribe.

"(4) There is authorized to be appropriated to carry out the purposes of this subsection $3,000,000 for the fiscal year ending September 30, 1978, and for each of the next 4 succeeding fiscal years.".

FOUNDING MEMBERS NATIONAL ADVISORY COUNCIL ON GERIATRIC MEDICAL PROGRAMS

Robert L. Grissom, M.D., Professor of Medicine, University of Nebraska College of Medicine, Omaha, Nebraska.

Alexander Leaf, M.D., Jackson Professor of Clinical Medicine, Harvard Medical School; Chief of Medical Services, Massachusetts General Hospital, Boston, Massachusetts.

Russell V. Lee, M.D., Consultant, Palo Alto Clinic, Palo Alto, California.

Henry M. Lemon, M.D., Professor of Medicine, Head, Section of Oncology, University of Nebraska College of Medicine, Omaha, Nebraska.

Abraham Lilienfield, M.D., Professor and Chairman, Department of Epidemiology, The Johns Hopkins University School of Hygiene and Public Health, Baltimore, Maryland.

Ephraim Lisansky, M.D., Professor of Medicine, University of Maryland School of Medicine, Baltimore, Maryland.

Sherman M. Mellinkoff, M.D., Dean, School of Medicine, University of California, Los Angeles (UCLA), Los Angeles, California.

Theodore R. Reiff, M.D. (Chairman), Professor of Medicine, Head, Division of Geriatric Medicine, Director of Health Education, University of North Dakota School of Medicine, Grand Forks, North Dakota.

Eugene Towbin, M.D., Ph. D., Professor of Medicine, Associate Dean, University of Arkansas School of Medicine, Little Rock, Arkansas.

Irving S. Wright, M.D., Professor Emeritus of Medicine, Cornell University Medical College, New York, New York.

POSITION PAPER NATIONAL ADVISORY COUNCIL ON GERIATRIC MEDICAL PROGRAMS

By the end of this century there will be over 25 million people in the United States over the age of 64. Many of these will have multiple and complex interacting illnesses that require much more care per capita than younger patients. This care requires expertly trained physicians.

At the present time the medical input to a good part of the geriatric institutions in this country is quantitatively as well as qualitatively inadequate. This is not to say that there is not involvement by competent and interested physicians, but it is not an overstatement to say it is rarely sufficient.

It is generally acknowledgd that the medical care of older people in this country leaves much to be desired. Geriatric medicine is, to a large extent, a neglected area of medical education and allied health professional training.

Geriatric medicine has not received the stature it should have in this country's medical training programs. Understandably this makes it exceedingly difficult to attract physicians in training to work in this area.

Actually geriatric medicine provides an excellent opportunity for the in-depth study of human disease and for the training of physicians and allied health care personnel.

Steps to provide solutions to the inadequacy of geriatric medical care are urgently needed. Attention should be directed to developing high caliber programs in geriatric medicine that will serve as models of excellence. These programs should be of such caliber as to attract a significant body of medical students, young physicians, and allied health personnel.

Excellence in geriatric medicine, like any other clinical discipline, must rest on a solid scientific foundation. It is essential that training programs in geriatric medicine include fundamental research in the problems of the aged as well as in the process of aging.

With the National Institute on Aging established within the National Institutes of Health, the time is opportune to support the development of programs in geriatric medicine in the medical institutions of this country.

PROPOSAL

The National Advisory Council on geriatric medical programs encourages the medical schools in the United States to establish interdisciplinary programs in geriatric medicine. These programs should serve as the basis for geriatric educational experience at all levels of education and training for physicians and allied health care professionals.

Mr. HATHAWAY. Mr. President, it is my pleasure to join with my distinguished colleagues in introducing S. 2287, a bill to provide grants to medical schools for educational programs in geriatrics.

Today, one in every nine persons in the United States is 65 years of age or older. This equals some 23 million individuals, and the number is rapidly growing. Further, the older population is expected to increase 40 percent to 31 million by the year 2000.

At the same time, our senior population has been growing, our ability to assess the health needs of this population has remained limited. Our training of medical students in geriatrics is minimal at best. Many physicians and other health profesisonals are not currently equipped to handle the problems of senior citizens. What we need is accurate diagnosis, sensitive care and effective treatment. Too often, we have misdiagnosis, needless suffering and unnecessary institutionalization.

The legislation we are proposing would help to remedy the situation by encouraging medical schools to educate their students in geriatrics. This will result in greater exposure and increased sensitivity of physicians to issues related to aging. To accomplish this goal, the bill authorizes $3 million per year for 5 years for the development and operation of geriatrics programs.

The need for such training is clear. Even physicians and medical students themselves have acknowledged it. In a 1976 survey of physicians by Impact, an American Medical Association periodical, 75 percent of practicing physicians agreed that M.D.'s need greater training in geriatrics. Furthermore, the Student American Medical Association has called for the incorporation of courses in geriatric medicine within the medical school curriculum.

The effect of such training will extend beyond the doctors themselves. Physicians are such an integral part of our health system that their improved geriatric education would have a positive impact throughout the health care delivery system, resulting in better and more effective care of elderly people at all levels.

Further, courses in geriatric education will motivate students to conduct research in gerontology. If we are to have a good, responsible health delivery system, we must first have an accurate and realistic assessment of the problems. By expanding our knowledge of the aging process, we will be able to respond properly and more humanely to the problems associated with advancing age.

At the same time, we should be able to reduce the skyrocketing costs of health care for older Americans.

In 1976 we as a nation spent $140 billion on health care. Of this, approximately 50 percent went for chronic diseases. About one-third of all acute hospital beds were occupied by senior citizens. There were well over 1 million patients in nursing homes. And one-quarter of all prescriptions were purchased by the elderly. Inappropriate service delivery, resulting from inadequate knowledge and incomplete training of health professionals is indeed costly.

Proper training of physicians in geriatric medicine will help to reduce the financial burden imposed by inappropriate health care and improve the quality of life for our senior citizens. This legislation is a step in the right direction, and most worthy of our support. I shall look forward to considering the bill when it is referred to the Health and Scientific Research Subcommittee on which I serve.

By Mr. HEINZ:

S. 2288. A bill to establish, within the medicare system, a special program of long-term care services for individuals covered under part B of medicare, receiving supplementary security income benefits, or eligible to enroll under part B of medicare; to establish special Federal, and provide for the establishment of such special programs; and for other programs; to the Committee on Finance.

Mr. HEINZ. Mr. President, the legislation which I am proposing today would provide for a major overhaul of our

long-term health care system. This proposal, the Long Term Health Care Amendments of 1977, could serve as an important first step in making this Nation's health care system truly responsive to the unique needs of the elderly.

We, as a people, are growing older and increasingly dependent upon long-term health care services. Scientific breakthroughs, better diet, and improved living conditions have all served to increase the lifespan of the American people. It is now predicted that by the year 2000, which is only 23 years away, 30 million Americans—about 9 percent of our population—will be age 65 or over. This is in sharp contrast to the turn of the century, when only 1 in every 35 people lived to the age of 65. And as the life expectancy has increased, the extended family has sharply declined, forcing an ever-increasing number of older Americans to turn to alternative, often institutional, long-term health care programs.

At present, there are over 22,000 long-term care facilities in this country, with admissions exceeding 1 million, a figure expected to double within the next two decades. Over 5 percent of our elderly are now in need of institutionalized care, while another 25 percent require non-institutional alternatives, including home health and homemaker services, nutritional programs, day care, foster care, and community mental health care.

Unfortunately, current health care programs benefiting the elderly, medicare and medicaid, were never designed to provide the types of health care which so many of our elderly require. And if the demand for such services continues to rise at present rates, the current system will soon be grossly inadequate to the task of meeting the special needs of senior citizens. At present, far too many of our elderly must be near bankruptcy or severely disabled in order to qualify for adequate long-term health care. And because our health system fails to offer sufficient alternatives to institutionalized care, the one-quarter of the elderly in need of these alternatives must make the painful decision between unnecessary institutionalization or inadequate care, leading to isolation, loneliness, and despair.

Mr. President, what is urgently needed is a major review of current long-term health care programs, together with a comprehensive and coordinated long-term health care policy to meet the special needs of older citizens. It is for this reason that I am offering this legislation for your consideration to improve both institutional and noninstitutional health care services for the elderly.

My proposal would establish within medicare a major insurance program to provide integrated health services to older Americans. Specifically, my proposal would provide for the following:

First, it creates a five-man Federal Advisory Council on long-term care, whose designated Chairman is the Commissioner of the Administration on Aging and whose functions are to provide advice and recommendations to the Secretary and to approve all long-term care regulations of the Secretary before they become effective.

Second, it establishes a simplified enrollment process for the elderly which among other things, enables persons already enrolled under part B of medicare to be simultaneously enrolled under a new part D—the long-term care services program.

Third, it creates a State long-term care agency which will designate service areas within the State and assist the organization of community long-term care centers.

Fourth, it establishes a Federal long-term care trust fund. This fund would be derived from individual premiums, and general revenues of Federal and State governments—with the State contributions set at 10 percent.

Fifth, the community long-term care centers would function as providers, certifiers, evaluators, and guarantors of service. These centers would have a governing board composed of a majority of individuals who are enrolled or eligible to be in the program. This form of governance would promote local control, accountability, and the formation of a unique partnership of providers and recipients of care. The center will carry on a continuous followup with each individual who receives benefits under part D.

Sixth, the bill provides a $36-per-year increase in supplemental security income benefits which will cover the $3 per month premium established by part D.

Seventh, the bill will amend the Public Health Service Act to provide for the training of personnel, to implement this system.

Mr. President, I hope that my colleagues will join with me in supporting this legislation, a much-needed step in improving the health care of this Nation's elderly. I ask that the text of my bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2288

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Long-Term Care Amendments of 1977".

ESTABLISHMENT OF MEDICARE LONG-TERM CARE PROGRAM

SEC. 2. Title XVIII of the Social Security Act is amended by adding at the end thereof the following new part:

"PART D—LONG-TERM CARE SERVICES PROGRAM

"ESTABLISHMENT OF PROGRAM

"SEC. 1881. (a) There is hereby established a program to provide long-term care benefits in accordance with this part for aged and disabled individuals who are enrolled under such program.

"(b) The program established by this part shall be financed from premium payments by enrollees in the program together with contributions from funds appropriated by the Federal Govenment and contributions by States.

"ADMINISTRATION OF PROGRAM

"SEC. 1882. The Secretary shall administer the program established under this part through a separate organizational unit, which he shall establish for that purpose within the Department of Health, Education, and Welfare. Such separate organizational unit shall be headed by an individual designated by the Secretary and such individual shall report directly to the Secretary.

"ADVISORY COUNCIL

"SEC. 1883. (a) There is hereby established a Federal Advisory Council on Long-Term Care to consist of the Commissioner of the Administration on Aging, who shall be Chairman, and four members, not otherwise in the employ of the United States, appointed by the Secretary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The appointed members shall be persons who are especially qualified, by reason of training and experience in fields relating to long-term care, to carry out the duties of the Council.

"(b) Each appointed member shall hold office for a term of four years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and except that, of the members first appointed (and as designated by the Secretary at the time of appointment), one member shall be appointed for a term of four years, one member shall be appointed for a term of three years, one member shall be appointed for a term of two years, and one member shall be appointed for a term of one year. A member shall not be eligible to serve continuously for more than two terms, but shall be eligible for reappointment if he has not served immediately preceding his reappointment.

"(c) It shall be the duty and function of the Council to provide advice and recommendations for the consideration of the Secretary on regulations under this part and on matters of general policy with respect to this part. No regulations of the Secretary under this part shall become effective unless they have first been approved by the Council.

"(d) The Council shall meet as frequently as the Chairman deems necessary, but not less often than once a year. Upon request of the Secretary or of three or more of the appointed members of the Council, it shall be the duty of the Chairman to call a meeting of the Council.

"(e) The Secretary shall furnish to the Council an executive secretary and such secretarial, clerical, and other services as may be required to enable the Council to carry out its duties and functions.

"(f)(1) Appointed members of the Council shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Council.

"(2) While away from their homes or regular places of business in the performance of services of the Council, appointed members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government are allowed expenses under section 5703(b) of title 5, United States Code.

"(g) Section 14(a) of the Federal Advisory Committee Act shall not apply to the Council established pursuant to this section.

"ENROLLMENT FOR LONG-TERM-CARE SERVICE BENEFITS

"SEC. 1884. (a) Every individual who is or is deemed to be enrolled in the program established by part B shall be deemed to be enrolled in the program established by this part for any period, commencing on or after April 1, 1979, with respect to which such individual is or is deemed to be enrolled in the program established by part B.

"(b)(1) Every individual who is eligible to enroll in the program established by part

B, but is not enrolled nor deemed to be enrolled therein, shall be eligible to enroll in the program established by this part only in such manner and form as may be prescribed by regulations, and only during an enrollment period prescribed in or under this subsection.

"(2) No such individual may enroll under this part more than once.

"(3) In the case of individuals who first become eligible to enroll in the program established by part B before April 1, 1979, the initial general enrollment period shall begin on January 1, 1979, and end at the close of March 31, 1979. For purposes of this section, an individual shall be deemed to have first become eligible to enroll in the program established by part B on the date he first meets the applicable requirements of section 1836.

"(4) In the case of an individual who first becomes eligible to enroll in the program established by part B on or after April 1, 1979, his initial enrollment period shall begin on the first day of the third month before the month in which he first becomes eligible to enoll in such pogam and shall end 7 months iater.

"(5) There shall be a general enrollment period, after the period described in paragraph (3), during the period beginning on January 1 and ending on March 31 of each year beginning with 1980.

"(c) The period during which an individual is entitled to benefits under the program established by this part (hereinafter referred to as his 'coverage period') shall begin, in the case of an individual deemed to be enrolled hereunder pursuant to subsection (a), on July 1, 1979 or (if later) on the date such individual's coverage period under part B begins, and, in the case of any individual who enrolls pursuant to subsection (b), on whichever of the following is the latest:

"(1) July 1, 1979; or

"(2)(A) in the case of an individual who enrolls pursuant to subsection (b)(4) before the month in which he first becomes eligible to enroll in the program established by part B, the first day of such month, or

"(B) in the case of an individual who enrolls pursuant to subsection (b)(4) in the month in which he first becomes eligible to enroll in the program established by part B, the first day of the month, following the month in which he so enrolls, or

"(C) in the case of an individual who enrolls pursuant to subsection (b)(4) in the month following the month in which he first becomes eligible to enroll in the program established by part B, the first day of the second month following the month in which he so enrolls, or

"(D) in the case of an individual who enrolls pursuant to subsection (b)(4) more than one month following the month in which he first becomes eligible to enroll in the program established by part B, the first day of the third month following the month in which he so enrolls, or

"(E) in the case of an individual who enrolls pursuant to subsection (b)(5), the July 1 following the month in which he so enrolls.

"(d)(1) An individual's coverage period shall continue until his enrollment has been terminated—

"(A) by the filing of notice that the individual no longer wishes to participate in the program established by this part, or

"(B) for nonpayment of premiums.

"(2) Notwithstanding any other provision of this title, if an individual is enrolled under both part B and this part, termination of such individual's enrollment under this part shall serve to terminate such individual's enrollment under part B. Such individual's coverage period under part B shall terminate on the same date as such individual's coverage period is terminated under this part.

"(3) The termination of a coverage period under paragraph (1)(A) shall take effect at the close of the calendar quarter following the calendar quarter in which the notice is filed. The termination of a coverage period under paragraph (1)(B) shall take effect on a date determined under regulations, which may be determined so as to provide a grace period in which overdue premiums may be paid and coverage continued. The grace period determined under the preceding sentence shall not exceed 90 days; except that it may be extended to not to exceed 180 days in any case where the Secretary determines that there was good cause for failure to pay the overdue premiums within such 90-day period.

"(4) No payment may be made under this part with respect to expenses of an individual unless such expenses are incurred by such individual during a period which, with respect to him, is a coverage period.

"(e)(1) Subject to paragraph (2), the monthly premium of each individual enrolled (or deemed to be enrolled) under this part for each month shall be $3.

"(2)(A) In the case of an individual whose coverage period began pursuant to an enrollment after his initial enrollment period (determined pursuant to paragraph (3) or (4) of subsection (b)), the monthly premium, as set forth in paragraph (1), shall be increased by 10 percent for each full 12 months, in the same continuous period of eligibility (as defined in section 1839(f)), in which he could have been but was not enrolled. For purposes of the preceding sentence, there shall be taken into account the months which elapsed between the close of his initial enrollment period and the close of the enrollment period in which he enrolled. Any increase in an individual's monthly premium under the first sentence of this subparagraph with respect to a particular continuous period of eligibility shall not be applicable with respect to any other continuous period of eligibility which such individual may have.

"(B) If any monthly premium determined under the foregoing provisions of this subsection is not a multiple of 10 cents, such premium shall be rounded to the nearest multiple of 10 cents.

"SCOPE OF BENEFITS

"Sec. 1885. The benefits provided to an individual by the program established by this part shall consist of—

"(1) home health services,

"(2) homemaker services,

"(3) nutrition services,

"(4) long-term institutional care services,

"(5) day care services,

"(6) foster home services, and

"(7) community mental health center outpatient services.

"STATE LONG-TERM CARE AGENCY

"Sec. 1886. (a) The benefits provided under this part shall not go into effect in a State unless the Secretary makes a certification that such State has an agency (which shall be (i) the State agency on Aging with an adequate coordinating arrangement with the State health department and the State welfare agency, (ii) a major division of the State health department with an adequate coordinating arrangement with the State social welfare agency and the State agency on Aging, or (iii) a separate agency with an adequate coordinating arrangement with the State health department, the State social welfare agency, and the State agency on Aging (established pursuant to title III of the Older Americans Act of 1965) which—

"(1) designates service areas in the State in which community long-term care centers (as defined in section 1891 (a)) would provide the benefits covered by this part, after taking into consideration such factors as (A) demographic characteristics, (B) unusual patterns of utilization of health and community services, and (C) transportation services to the end that any such center serving a designated area will be conveniently accessible to the residents of the area; except that any service area so designated, if not coterminous with a planning and service area (as established pursuant to title III of the Older Americans Act of 1965) shall be wholly within such a planning and service area; and except that any service area so designated shall, to the maximum extent feasible, be wholly within an area designated by the Secretary under section 1152;

"(2) certifies, pursuant to standards and criteria established under regulations of the Secretary, community long-term care centers for participation in the program established by this part;

"(3) promotes and assists in the organization of new community long-term care centers in areas where they do not exist;

"(4) in any case where such a community long-term care center has not been certified for an area designated under paragraph (1), will establish a local office in such area for the purpose of performing the functions of such a center; except that such local office shall not be used for such purposes for longer than 2 years unless the Government certifies to the Secretary that additional time is needed to establish a nongovernmental community long-term care center with respect to such area;

"(5) monitors the activities of all community long-term centers in the State and reports to the Governor and to the Secretary whenever it finds that a community long-term care center either—

"(A) no longer meets the conditions of participtaion for a community long-term care center, or

"(B) is no longer effectively providing the benefits covered under this part;

"(6) certifies to the Secretary and makes payments to community long-term care centers in the State under the prospective reimbursement system required pursuant to section 1892; and

"(7) files an annual report with the Governor of the State and the Secretary on the operation in such State of the program established under this part.

"(b) The State long-term care agency shall conduct such audits as may be appropriate to assure that services furnished by providers pursuant to an arrangement with a community long-term care center are paid on the basis of reasonable charge, if the service is furnished by an individual practitioner, and on the basis of reasonable cost, if the service is furnished by a person other than an individual practitioner.

"PAYMENT OF PREMIUMS

"Sec. 1887. (a)(1) In the case of an individual who is entitled to monthly benefits under section 202 or 223, his monthly premiums under this part shall (except as provided in subsections (b)(1) and (c)) be collected by deducting the amount thereof from the amount of such monthly benefits. Such deductions shall be made in such manner and at such times as shall be prescribed in regulations.

"(2) The Secretary of the Treasury shall, from time to time, transfer from the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund to the Federal Long-Term Care Trust Fund the aggregate amount deducted under paragraph (1) for the period to which such transfer relates from benefits under section 202 or 223 which are payable from

such Trust Fund. Such transfer shall be made on the basis of a certification by the Secretary of Health, Education, and Welfare and shall be appropriately adjusted to the extent that prior transfers were too great or too small.

"(b)(1) In the case of an individual who is entitled to receive for a month an annuity or pension under the Railroad Retirement Act of 1937 (whether or not such individual is also entitled for such month to a monthly insurance benefit under section 202 or 223), his monthly premiums under this part shall (except as provided in subsection (c)) be collected by deducting the amount thereof from such annuity or pension. Such deduction shall be made in such manner and at such times as shall be prescribed in regulations by the Secretary after consultation with the Railroad Retirement Board.

"(2) The Secretary of the Treasury shall, from time to time, transfer from the Railroad Retirement Account to the Federal Long-Term Care Trust Fund the aggregate amount deducted under paragraph (1) for the period to which such transfer relates. Such transfers shall be made on the basis of a certification by the Railroad Retirement Board and shall be appropriately adjusted to the extent that prior transfers were too great or too small.

"(c) If an individual to whom subsection (a) or (b) applies estimates that the amount which will be available for deduction under such subsection for any premium payment period will be less than the amount of the monthly premiums for such period, he may (under regulations) pay to the Secretary such portion of the monthly premiums for such period as he desires.

"(d)(1) In the case of an individual receiving an annuity under subchapter III of chapter 83 of title 5, United States Code, or any other law administered by the Civil Service Commission providing retirement or survivorship protection, to whom neither subsection (a) nor subsection (b) applies, his monthly premiums under this part (and the monthly premium of the spouse of such individual under this part if neither subsection (a) nor subsection (b) applies to such spouse and if such individual agrees) shall, upon notice from the Secretary to the Civil Service Commission, be collected by deducting the amount thereof from each installment of such annuity. Such deduction shall be made in such manner and at such times as the Civil Service Commission may determine. The Commission shall furnish such information as the Secretary may reasonably request in order to carry out his functions under this part with respect to individuals to whom this subsection applies. A plan described in section 8903 of title 5, United States Code, may reimburse each annuitant enrolled in such plan in an amount equal to the premiums paid by him under this part if such reimbursement is paid entirely from funds of such plan which are derived from sources other than the contributions described in section 8906 of such title.

"(2) The Secretary of the Treasury shall from time to time, but not less often than quarterly, transfer from the Civil Service Retirement and Disability Fund, or the account (if any) applicable in the case of such other law administered by the Civil Service Commission, to the Federal Long-Term Care Trust Fund, the aggregate amount deducted under paragraph (1) for the period to which such transfer relates. Such transfer shall be made on the basis of a certification by the Civil Service Commission and shall be appropriately adjusted to the extent that prior transfers were too great or to small.

"(e)(1) In the case of a individual receiving benefits under title XVI of this Act to whom neither subsection (a), subsection (b), nor subsection (d) applies, his monthly premium shall be collected by deducting the amount thereof from the amount of such benefits. Such deduction shall be made in such manner and at such times as shall be prescribed in regulations.

"(2) Amounts deducted by the Secretary under paragraph (1) shall be deposited in the Treasury to the credit of the Federal Long-Term Care Trust Fund.

"(f) In the case of an individual who participates in the program established by this part but with respect to whom none of the preceding provisions of this section applies, or with respect to whom subsection (c) applies, the premiums shall be paid to the Secretary at such times, and in such manner, as shall be prescribed in regulations. Such regulations shall be designed to encourage and facilitate, in the case of any individual receiving periodic benefits under any retirement system (other than any of the foregoing) administered by an agency of the Federal Government, the payment of such individual's premiums under this part through automatic deductions from the individual's periodic benefit payments under such system; and, notwithstanding any other provision of law, the administrator of any such retirement system shall, when so requested by any recipient of benefits thereunder who is enrolled under this part, to deduct the individual's premiums therefrom and forward the same to the Secretary.

"(g) Amounts paid to the Secretary under subsection (c) or (f) shall be deposited in the Treasury to the credit of the Federal Long-Term Care Trust Fund.

"(h) In the case of an individual who participates in the program established by this part, premiums shall be payable for the period commencing with the first month of his coverage period and ending with the month in which he dies or, if earlier, in which his coverage under such program terminates.

"FEDERAL LONG-TERM CARE TRUST FUND

"SEC. 1888. (a) There is hereby created on the books of the Treasury of the United States a trust fund to be known as the 'Federal Long-Term Care Trust Fund' (hereinafter in this section referred to as the 'Trust Fund'). The Trust Fund shall consist of such gifts and bequests as may be made as provided in section 201(i)(1), and such amounts as may be deposited in, or appropriated to, such fund as provided in this part.

"(b) With respect to the Trust Fund, there is hereby created a body to be known as the Board of Trustees (hereinafter in this section referred to as the 'Board of Trustees') composed of the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health, Education, and Welfare, all ex officio. The Secretary of the Treasury shall be the Managing Trustee of the Board of Trustees (hereinafter in this section referred to as the 'Managing Trustee'). The Commissioner of Social Security shall serve as the Secretary of the Board of Trustees. The Board of Trustees shall meet not less frequently than once each calendar year. It shall be the duty of the Board of Trustees to—

"(1) hold the Trust Fund;

"(2) report to the Congress not later than the first day of April of each year on the operation and status of the Trust Fund during the preceding fiscal year and on its expected operation and status during the current fiscal year and the next 2 fiscal years;

"(3) report immediately to the Congress whenever the Board is of the opinion that the amount of the Trust Fund is unduly small; and

"(4) review the general policies followed in managing the Trust Fund, and recommend changes in such policies, including necessary changes in the provisions of law which govern the way in which the Trust Fund is to be managed.

The report provided for in paragraph (2) shall include a statement of the assets of, and the disbursements made from the Trust Fund during the preceding fiscal year, an estimate of the expected income to, and the disbursements to be made from, the Trust Fund during the current fiscal year and each of the next 2 fiscal years, and a statement of the actuarial status of the Trust Fund. Such report shall be printed as a House document of the session of the Congress to which the report is made.

"(c) It shall be the duty of the Managing Trustee to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act are hereby extended to authorize the issuance at par of public debt obligation for purchase by the Trust Fund. Such obligations issued for purchase by the Trust Fund shall have maturities fixed with due regard for the needs of the Trust Fund and shall bear interest at a rate equal to the average market yield (computed by the Managing Trustee on the basis of market quotations as of the end of the calendar month next preceding the date of such issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of 4 years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 percent the rate of interest on such obligations shall be the multiple of one-eighth of 1 percent nearest such market yield. The Managing Trustee may purchase other interest-bearing obligations of the United States or obligations guaranteed as to both principal and interest by the United States, on original issue or at the market price, only where he determines that the purchase of such other obligations is in the public interest.

"(d) Any obligations acquired by the trust fund (except public debt obligations issues exclusively to the trust fund) may be sold by the Managing Trustee at the market price, and such public debt obligations may be redeemed at par plus accrued interest.

"(e) The interest on, and the proceeds from the sale or redemption of, any obligations held in the trust fund shall be credited to and form a part of the trust fund.

"(f) There shall be transferred periodically (but not less often than once each fiscal year) to the trust fund from the Federal Old-Age and Survivors Insurance Trust Fund and from the Federal Disability Insurance Trust Fund amounts equivalent to the amounts not previously so transferred which the Secretary of Health, Education, and Welfare shall have certified as overpayments (other than amounts so certified to the Railroad Retirement Board) pursuant to section 1870(b) and amounts equivalent to the amounts made nonpayable under section 1896(b). There shall be transferred periodically (but not less often than once each fiscal year) to the trust fund from the railroad retirement account amounts equivalent to the amounts not previously so transferred which the Secretary of Health, Education, and Welfare shall have certified as overpayments to the Railroad Retirement Board pursuant to section 1870(b).

"(g) The Managing Trustee shall pay from time to time from the trust fund such amounts as the Secretary of Health, Education, and Welfare certifies are necessary to make the payments provided for by this part.

"(h) The Managing Trustee shall pay from time to time from the trust fund such amounts as the Secretary of Health, Education, and Welfare certifies are necessary to make the payments provided for in sections 1892 and 1895(c).

"(i) In order to assure that there will be sufficient moneys available for the administration of the insurance program established by this part during the early months of its operation, and to establish a contingency reserve, there is authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, to remain available through the calendar year 1980, for repayable advances (without interest) to the Trust Fund, such sums as may be necessary for such purpose.

"FUNCTIONS OF COMMUNITY LONG-TERM CARE CENTERS

"SEC. 1889. (a)(1) The functions which a community long-term care center must perform in order to meet the conditions of section 1891(a)(4) shall be those described in paragraph (2).

"(2) A community long-term care center shall—

"(A) provide (directly or through arrangements with other persons) the items and services lised in section 1885 to each individual (i) who is eligible for benefits under this part; (ii) who resides in the area served by such center (as determined under section 1885(a)), and (iii) who is certified as requiring such services as determined under subparagraph (B); except that such a long-term care center shall not provide directly any long-term institutional care services, nor shall any such center provide directly any other items and services unless they cannot be provided through arrangements with others or unless such center is able to provide them more economically than would be the case if they were provided under arrangements with others;

"(B) evaluate and certify (through a team composed of individuals with the skills necessary for such evaluation and certification) the long-term care needs of each individual, who is entitled to services under this part and applies to such center for an evaluation of his needs, and develop for such individual a plan of care and services designed to promote optimal health and to assist such individual to maintain maximum independence and physical, mental, and social function;

"(C) maintain a continuous relationship with (and periodically evaluate not less than annually) each individual who is receiving any of the items and services listed in section 1885 (including institutional services provided to inpatients) in order to assure (i) that such individual has access to the services provided found to be required pursuant to subparagraph (B), including the provision of assistance in connection with any problems such individual may have in the course of reeciving such services, (ii) that such services are sufficient in quantity and quality to meet the objectives of the care plan, and (iii) that such center is continuously informed about the status of such individual and the need for any changes in the services being received by such individual;

"(D) in carrying out its function under subparagraphs (B) and (C), provide full opportunity for such individual and his family to participate in the determinations and functions under such subparagraphs;

"(E) provide an organized system for making its existence and location known to all individuals in its service area (as defined in section 1886(a)) who are eligible for benefits under this part, and for making known to such individuals the method or methods by which they (or persons interested in them) may most efficiently obtain and use the services which it makes available) including services not listed in section 1885);

"(F) provide appropriate assistance designed to assure that individuals, who are eligible for benefits under this part and who are in need of a particular service for which payment may be made under this part, actually are furnished the services which they need; and

"(G) perform such other functions as the Secretary may by regulation prescribe in order to have such center most effectively carry out the purposes of this part.

In carrying out its functions under subparagraph (B), a community long-term care center shall not certify the need for inpatient institutional services for an individual unless a determination has been made that the needs of such individual cannot, with equal effectiveness, be met through the provision of the noninstitutional services covered under section 1885 or other community resources available to such individual.

"(b) In the case of any service which a community long-term care center furnishes through arrangements with others, such services shall, if provided by an individual practitioner, be paid for on the basis of reasonable charge, and if provided by other than an individual practitioner, be paid for on the basis of reasonable cost.

"PAYMENT TO STATES FOR REIMBURSEMENT OF COMMUNITY LONG-TERM CARE CENTERS

"SEC. 1890. (a) From sums in the Federal Long-Term Care Trust Fund, the Secretary shall pay to each State which has a State long-term care agency certified under section 1886, for each quarter beginning with the quarter commencing July 1, 1979, an amount equal to—

"(1) the total amount expended during such quarter as payment to community long-term care centers in such State under the applicable provisions of this part, minus.

"(2) 10 percent of such total amount.

"(b)(1) Prior to the beginning of each quarter, the Secretary shall estimate the amount to which a State will be entitled under subsection (a) for such quarter. Such estimates will be based on (A) a report filed by the State containing its estimates of the total sum to be expended in such quarter in accordance with the provisions of this part, and (B) such other investigations as the Secretary may find necessary.

"(2) The Secretary shall then pay to the State, in such installments as he may determine, the amount so estimated, reduced, or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this section to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection.

"DEFINITION OF TERMS USED IN THIS PART—

"COMMUNITY LONG-TERM CARE CENTER

"SEC. 1891. (a) The term 'community long-term care center' as used in this part means an organization (or a

"DEFINITION OF TERMS USED IN THIS PART

"(1) is primarily engaged in providing (directly or through arrangements with other persons) the items and services listed in section 1885 (other than the direct provision of institutional services furnished to inpatients) to individuals residing in its service area (as designated pursuant to section 1886);

"(2) has policies, established by a group of professional personnel (associated with such organization) and concurred in by the governing board (as defined in subsection (b)) of such organization;

"(3) maintains medical and other records on all individuals receiving any of the items or services listed in section 1885 (including institutional services);

"(4) performs the functions described in section 1889;

"(5) has in effect an overall plan and budget which (under regulations of the Secretary) places the organization in a position to participate effectively and efficiently in the prospective reimbursement system required under section 1892;

"(6) is located so as to be easily accessible to individuals residing in its service area;

"(7) meets such other conditions of participation as the Secretary may find necessary in the interest of the health and safety of individuals who are furnished services by or through such organization; and

"(8) agrees not to impose any charges with respect to items or services furnished to an individual during such individual's coverage period for which such organization is paid under this part;

except that such term shall not include any nonpublic organization which is not a nonprofit organization exempt from Federal income taxation under section 501 of the Internal Revenue Code of 1954 (or any subdivision of such an organization); and except that such term shall not include any organization which has not been certified by the State agency referred to in section 1886 as meeting the requirements of this subsection.

"Governing Board

"(b) For purposes of subsection (a), the term 'governing board', with respect to any community long-term care center, means a body of at least eleven individuals—

"(1) more than half the members of which are individuals enrolled or eligible to be enrolled under section 1884 who reside in the service area of such center, and who have been elected (under terms set forth in regulations) to such membership by individuals enrolled or eligible to be enrolled under section 1884 who live in such service area, and the remainder of whom have been selected by the members so elected with the concurrence of the principal local elected governmental official (as determined by the Governor of the State in which such service area is located) having authority over or with respect to such service area,

"(2) which changes its entire membership at least as often as every 6 years, and

"(3) which does not have members who have served more than 2 terms.

"Nutrition Services

"(c) The term 'nutrition services' for purposes of this part shall include only—

"(1) meals on wheels and similar programs for the delivery of meals to individuals in their place of residence;

"(2) food services (and nutritional information services) furnished to individuals in their place of residence by a community long-term care center or by another agency or organization having an arrangement with such center under which such services are furnished to individuals in need thereof who are insured under this part; and

"(3) services provided in the place of residence of such individual by a professional nutritionist (but only if the need for such services has been certified to by such individual's physician).

"Homemaker Services

"(d) The term 'homemaker services' for purposes of this part shall include—

"(1) services provided in the home of an individual designed to maintain the home (not including the structure of the home) in a condition which supports the objectives of enabling such individual to continue living at home, and

"(2) preparing and serving meals in the home of an individual.

"Institutional Services

"(e)(1) The term 'institutional services' for purposes of this part means (A) extended care services as defined in section 1861(h),

(B) intermediate care services as defined in paragraph (2), and (C) institutional day care services as defined in paragraph (3).

"(2) The term 'intermediate care services' for purposes of paragraph (1) means any of the following items and services furnished to an inpatient of an intermediate care facility (as defined in subsection (i)) and (except as provided in subparagraphs (C) and (F)) by such intermediate care facility—

"(A) nursing services;

"(B) bed and board;

"(C) physical, occupational, or speech therapy furnished by the intermediate care facility or by others under arrangements with them made by the facility;

"(D) social services certified as necessary (in the individual case) by the community long-term care center responsible for the care of such individual;

"(E) drugs, biologicals, supplies, appliances, and equipment, furnished for use in the facility for the care and treatment of inpatients;

"(F) medical services provided by an intern or resident in training of a hospital with which the facility has, in effect, a transfer agreement (meeting the requirements of subsection 1961(l)) under a teaching program of such hospital approved as provided in the last sentence of subsection 1861(h); and

"(G) such other services necessary to the health or well-being of the patients as are generally provided by intermediate care facilities.

"(3) The term 'institutional day care services' for purposes of paragraph (1) means intermediate care services (other than items or services, except meals, described in subparagraphs (B) and (E) of paragraph (2)) which are provided to outpatients.

"Home Health Services

"(f) The term 'home health services' for purposes of this part shall have the meaning given it in section 1861(m).

"Day Care; Foster Home Care

"(g)(1) The term 'day care' for purposes of this part means care (other than care with a primary objective of providing medical or physcial services) provided to an individual, on a regular (but less than 24-hour-a-day) basis, in a place other than such individual's usual place of abode, by a person or institution licensed or approved by the State long-term care agency, but only if such care is part of the services certified by the community long-term care agency under section 1889.

"(2) The term 'foster home care' for purposes of this part means placement of an individual on a full-time basis in a family setting, except that such term shall not include care in a foster home which is not licensed or approved by the State long-term care agency or which has more than four individuals unrelated by blood or marriage to such family.

"Community Mental Health Center Outpatient Services

"(h) The term 'community mental health center outpatient services' for purposes of this part means outpatient services provided by community mental health centers as defined in the Community Mental Health Centers Act.

"Intermediate Care Facility

"(i) The term "intermediate care facility' for purposes of this part means an institution which—

"(1) is licensed under State law to provide, on a regular basis, health-related care or other services to individuals who do not require the degree of care and treatment which a hospital or skilled nursing facility is designed to provide, but who because of their mental or physical condition require care and services (above the level of room and board), over and above the noninstitutional items and services listed in section 1885, which can be made available to them only through institutional services;

"(2) meets such standards provided by the Secretary as he finds appropriate for the proper provision of such care;

"(3) has adequate arrangements for handling medical emergencies; and

"(4) meets such standards of safety, health, and sanitation as are established under regulations in addition to those applicable to such facility under State law. The term 'intermediate care facility' also includes any skilled nursing home or hospital which meets the requirements of the preceding sentence. The term 'intermediate care facility' also includes a Christian Science Sanitorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts, but only with respect to institutional services. The term 'intermediate care facility' also includes any institution which is located on an Indian reservation and is certified by the Secretary as meeting the requirements of this subsection.

"PAYMENT METHOD FOR COMMUNITY LONG-TERM CARE CENTERS

"SEC. 1892. (a) The Secretary, after consultation with organizations representing the chief executives of the various States, and other interested parties, shall develop and make available to community long-term care centers one or more methods of obtaining payment for the benefits covered under this part on a prospective basis. Once a community long-term care center elects a particular prospective method, it may not alter its election without the prior approval of the Secretary. Whenever the Secretary finds that the number of community long-term care centers electing a particular prospective payment method promulgated in accordance with this section is not sufficient to provide an adequate basis for either the operation or evaluation of that method, the Secretary shall withdraw that method and allow the community long-term care centers which have elected such method to select another method within 30 days of notice of such withdrawal.

"(b) Whenever the Governor of a State certifies to the Secretary a method of prospective payment other than those promulgated under subsection (a), the Secretary shall make available the method certified by the Governor to community long-term centers situated in such State, but only if the Secretary finds that the use of such method will not increase the costs of the program established under this part over what the costs would be if such method were not so available.

"(c) Prospective payment methods authorized under this part shall include provisions for (1) financial incentives for efficiency and effectiveness equal to the potential difference between the prospective rates or amounts and the amounts actually incurred by a community long-term care center, and (2) maintaining independent management discretion and responsibility in community long-term care centers.

"(d) Any payment method which the Secretary promulgates under this section shall not be modified once established with respect to a community long-term care center, during any accounting period, except under the circumstances specified in regulations of the Secretary.

"(e) Following publication of final regulations governing the method or methods of determining prospective rates or amounts under this part; each community long-term care center shall have a period of 60 days within which to elect to participate in one of the prospective payment methods made available during the first fiscal year beginning more than 120 days after the end of such 60-day period.

"MISCELLANEOUS PROVISIONS

"SEC. 1893. (a) Notwithstanding any other provisions of this part, any item or service which is covered under part A or B of this title shall not be a covered service under this part.

"(b) The Secretary shall pay to any State long-term care agency certified under section 1886, in advance or by way of reimbursement, amounts equal to 90 percent of the costs incurred by such agency in carrying out the functions described in such section (and may make adjustments in such payments on account of overpayments or underpayments previously made).

"(c) The provisions of paragraphs (2), (3), (4), (5), (8), (10), (11), (12), and (13) of section 1862(a) shall apply with respect to this part to the same extent as they apply with respect to parts A and B.

"(d) Notwithstanding any other provision of this title no payment shall be made under this part for or on account of any service furnished by any nonpublic institution, agency, or organization, unless it has on file with the State long-term care agency (designated pursuant to section 1886) current information which makes (in accordance with regulations prescribed by the Secretary) full and complete disclosure as to the ownership and control of such institution, agency, or organization. Such State agency shall make public any and all such information filed with it pursuant to such regulations.

"DETERMINATIONS AND APPEALS

"SEC. 1894. (a) The determination of whether an individual is entitled to benefits under this part shall be made by the Secretary in accordance with regulations prescribed by him.

"(b) Any individual dissatisfied with any determination under subsection (a) as to (1) whether he is eligible to enroll or has enrolled pursuant to this part, or (2) the amount of his benefits under this part (including a determination where such amount is determined to be zero), shall be entitled to a hearing thereon by the Secretary to the same extent as is provided in section 205(b) and to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g).

"REGULATIONS TO ASSURE HIGH QUALITY OF SERVICES

"SEC. 1895. (a)(1) In order to assure that homemaker services and nutritional services provided hereunder are of high quality, and are appropriately furnished, the Secretary shall by regulation prescribe standards respecting such services and the provisions thereof as may be necessary; and, with respect to other services provided hereunder, the Secretary is authorized to establish by regulation such additional standards as may be necessary to assure high quality and the protection of the health and safety of recipients of such services under this part.

"(b) Nothing contained in subsection (a) or in any other provision in this part shall be construed to limit any State, by law or regulation pursuant thereto, from establishing additional, or more stringent, standards and conditions which shall be applicable to the provision of services authorized to be provided under this part.

"STATE AGENCIES TO CERTIFY PROVIDERS

"SEC. 1896. No community long-term care center shall enter into any contract or other arrangement with any other person under which such other person will furnish services to individuals who are insured therefor under this part unless such person shall have been approved by the appropriate State agency as meeting the applicable standards imposed by this part and the regulations promulgated under this part.".

MISCELLANEOUS PROVISIONS

SEC. 3. (a) Section 1861 of the Social Security Act is amended by striking out "title"

the first time it appears and inserting in lieu thereof "parts A, B, and C of this title".

(b) Section 1611(e)(1)(B) of such Act is amended by inserting "or under part D of title XVIII" immediately after "under a State plan approved under title XIX".

(c) Section 1870(g) of such Act is amended by striking out "or under section 1837" and inserting in lieu thereof ", under section 1837, or under section 1884".

(d) Section 201(i)(1) of such Act is amended by striking out "and the Federal Supplementary Medical Insurance Trust Fund" and inserting in lieu thereof "the Federal Supplementary Medical Insurance Trust Fund, and the Federal Long-Term Care Trust Fund".

INCREASE IN SUPPLEMENTAL SECURITY INCOME BENEFITS

SEC. 4. Section 1617 of the Social Security Act is amended by—

(a) inserting "(a)" immediately after "SEC. 1617.", and

(b) adding at the end thereof the following new subsection:

"(b) With respect to months after June 1977, each of the dollar amounts (referred to in subsection (a)) in effect for any month, as determined without regard to this subsection, shall be deemed to be equal to the amount so determined plus $36; except that such $36 shall not be taken into account under subsection (a) in determining the amount of any increase pursuant thereto.".

EFFECTIVE DATE

SEC. 5. (a) The amendment made by section 2 of this Act shall be effective upon the enactment of this Act; except that no payment shall be made for services covered under the program established by part D of the Social Security Act (as added by such amendment) which are furnished before July 1, 1979.

(b) The amendments made by section 3 of this Act shall be effective on July 1, 1979.

LONG-TERM CARE TRAINING PROGRAMS

SEC. 6. (a) Title VII of the Public Health Service Act is amended by inserting after section 796 the following new section:

"LONG-TERM CARE TRAINING PROGRAM

"SEC. 797. (a) The Secretary may make grants to and enter into contracts with institutions otherwise eligible under this part to assist in meeting the cost of training programs in the techniques and methods of providing long term health care for persons eligible for assistance under part D of title XVIII of the Social Security Act.

"(b) No grant or contract may be entered into under this section unless an application therefor has been submitted to and approved by the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

"(c) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated such sums as may be necessary.".

(b) Section 792(c)(2) of the Public Health Service Act is amended by—

(1) redesignating subparagraphs (F) and (G) as (G) and (H); and

(2) inserting after subparagraph (E) the following:

"(F) developing, demonstrating, or evaluating programs for training geriatric services specialists;".

(c) Section 330(b)(1) of the Public Health Service Act (42 U.S.C. 254c) is amended by—

(1) redesignating subparagraphs (E) and (F) as (F) and (G); and

(2) inserting after subparagraph (D) the following:

"(E) geriatric services;".

By Mr. WALLOP:

S. 2289. A bill relating to the Buffalo Bill extension, Shoshone project, Wyoming; to the Committee on Energy and Natural Resources.

Mr. WALLOP. Mr. President, today I introduce a bill to make the first substantial improvements to a water resources project which was constructed 70 years ago, between 1905 and 1910. When first constructed, the Buffalo Bill Dam, in northwest Wyoming, was the highest dam in the world, and was named a national engineering landmark. Situated at the confluence of the North and South Forks of the Shoshone River, in Park and Big Horn Counties, its drainage area totals about 1,500 square miles in the high mountains of the Absaroka Range.

Its original purpose was to store water for use on irrigable lands in the Shoshone project. Power production was added as a function of the project with the construction of the Shoshone powerplant near the base of the dam in 1922. Another powerplant, the Heart Mountain powerplant, was constructed about 3 miles downstream in 1948. Both plants are integrated into the western division power system of the Pick Sloan Missouri Basin program.

This bill seeks to modernize and improve this 70-year-old project, to make use of modern technology and the underutilized potential of this site. The height of the dam would be raised by 25 feet, permitting the storage of water which would normally be released. This would increase active conservation storage by over 250,000 acre-feet, to not only provide additional water for irrigation, but a firm yield of 74,000 acre-feet for municipal and industrial uses as well. First in priority however, would be additional water to provide for minimum downstream flows necessary to provide for the maintenance of a balanced population of fish, the protection and propagation of wildlife, and the enhancement of recreation opportunities. In addition to downstream uses, the enlarged reservoir will increase the fishery habitat within the reservoir. To control the increased pool created by the addition, dust control dikes and a low saddle dike will be constructed.

The heightened dam and enlarged reservoir are one part of the increased utilization of the existing facilities. The construction of a visitors' center on the left abutment of the dam will serve the large number of tourists who stop annually at the damsite. The dam's location, in a narrow granite gorge between the city of Cody and Yellowstone National Park, make it a natural stopping off point for visitors. The structure's registry as a national engineering landmark makes it of special interest. I should mention that the extension of the existing structure, and the construction of the visitors' center may be done in such a way as to not detract from the architecture of the original structure, or from its spectacular setting in the gorge.

The complete plan for expansion contains one more important element; the modernization of the hydroelectric generating equipment presently located at the site. The existing 5-megawatt powerplant is obsolete and is expected to be abandoned in the near future. The new 20-megawatt plant will increase power production to 21 million kilowatt hours annually. It is important to note that the raising of the dam will itself increase the production potential of the new equipment by 17 percent.

Each of the elements of this plan, standing alone, not only make use of a previously underutilized resource, but each possesses a positive cost-benefit ratio.

Increased power production, visitor's facilities, and benefits associated with minimum streamflow and increased flexibility in reservoir operation, will be immediately realized upon completion of the project. Other benefits, consumptive and other out-of-stream uses of water, will come later. A benefit which may be impossible of precise measurement is that of mitigation of the effects of future droughts. The economic losses of this year's drought, and the infusion of Federal funds which was necessary to prevent disaster, are detriments which can be avoided thorough the wise and efficient use of the resources which we have at hand. I believe that this project will allow and provide for just such an efficient use of our water resources.

In addition to authorizing the construction of project works, this bill establishes priorities for the use of "new" water stored by the project. Of primary importance is the provision for minimum streamflows necessary to enhance downstream environmental values. As a general proposition, I do not believe that the Federal Government should be in the business of mandating the location and extent of minimum streamflows to the States. Often times, the establishment of minimum streamflows would amount to confiscation of previously vested private water rights perfected under State law, or would preempt the State's ability to allocate future water supplies. This poses a difficult conflict, but one in which I would come down on the side of the State's right to determine the need for minimum streamflow, with regard to its other obligations to provide water to its citizens and neighboring States. However, in this case, where the Federal Government is storing previously unappropriated water at Federal expense, I must come down on the side of a Federal prioritization which protects these environmental values from the start. In this way, later conflicts between conservation and consumption can be avoided, and water users will not only have additional water at their disposal, but the assurances that their use of that water will not detract from important instream values. A stable economic climate may thus be created, in which water users will know that they will not later be called to task for their out-of-stream uses.

The second priority of use is for irrigation and other beneficial uses in Wyoming. The third is for beneficial uses elsewhere. While this may seem provincial, it only seeks to recognize previous agreements between Wyoming and downstream States as to relative rights to the uses of water in the upper Missouri River Basin.

Repayment contracts must of course be executed before water deliveries may be made from new water created by the

Buffalo Bill extension. The provisions of reclamation law shall apply, but shall be waived upon full repayment by the State or by water users, of those portions of the cost of the project which are allocated to irrigation. This will only be effective so long as individual irrigators receive no more than 5 percent of the water allocated for use in irrigation. Regardless of the applicability of the payback provision, acreage limits shall not be applied without regard to land quality and climate. Equivalency shall be provided as determined by the Secretary of Interior. Mr. President, I believe this project will result in benefits in the form of increased energy production, the enhancement of environmental values, and the realization of the full potential of the natural resources of the area. I encourage its consideration and adoption.

By Mr. WALLOP (for himself and Mr. HANSEN):

S. 2290. A bill to require the Administrator of Veterans' Affairs to issue a deed to the city of Cheyenne, Wyo., for certain land heretofore conveyed to such city, removing certain conditions and reservations made a part of such prior conveyance; to the Committee on Veterans' Affairs.

Mr. WALLOP. Mr. President, the best laid plans of men and local governments are often frustrated by well-intentioned acts of Congress which did not, and indeed could not have, taken into account the special circumstances and necessity of our moment. One such act was Public Law 89–345, which authorized the transfer of a rather smallish tract of land from the Administrator of Veterans' Affairs to the city of Cheyenne, Wyo. This land was transferred subject to the condition that it be used only for park and recreation purposes, and herein lies the problem.

The city of Cheyenne is now in the planning stages of a project that will reroute Converse Avenue in the city. It is felt that rerouting the avenue is necessary to accommodate the increased flow of traffic that Cheyenne will have in the future due to increased development on the north side of the city. However, that new route lies down the edge of that property which was to be used only for parks and recreation purposes.

The Veterans' Administration has no objection to the city of Cheyenne rerouting Converse Avenue through the property and is in basic agreement with the plan. However, the Veterans' Administration's general council informs the city that because of the reverter clause in the present Public Law 89–345, road construction would cause the property to revert back to the administration, regardless of the administration's lack of objection.

Senator HANSEN and I met with Mayor Don Erickson, of Cheyenne, earlier this year. Mayor Erickson briefed us on the city's plans, and made a convincing argument for the need for this legislation.

Mr. President, this bill would protect the interests of the United States and would not interfere with the peaceful or efficient operation of the Veterans' Administration center. But it would allow one American city to implement its plans to cope with growth in an orderly manner, and to provide its citizens with needed access to their homes and places of business.

By Mr. BROOKE:

S. 2291. A bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 to extend relocation assistance to persons displaced as the result of real property acquisitions by private persons for federally assisted programs or projects, and for other persons; to the Committee on Governmental Affairs.

Mr. BROOKE. Mr. President, I am today introducing a bill to clarify the scope of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. This bill would apply to situations where Federal funding is responsible for displacement of individuals or businesses, but where the displacement is caused by nongovernmental entities using Federal funds. It would provide that all persons who are displaced from their homes or businesses by programs undertaken with Federal funds are entitled to receive the benefits under the act.

The goal of Congress as stated in the declaration of policy of the Uniform Relocation Act was to establish a uniform policy providing relief for all persons displaced as a result of Federal or federally assisted programs. However, recent court decisions have narrowly construed this intent by denying assistance to those persons who were displaced by a federally assisted project undertaken by a nongovernmental entity. These courts have determined that entitlement to benefit is based upon the recipient of Federal funds—whether it is a governmental or nongovernmental agency—rather than the effect of the displacement on the person suffering injury.

A person is no less injured by the fact that the entity which brings about the displacement is a private institution rather than a governmental agency.

This bill would redress the inequity which has resulted from judicial interpretations of the current law. In addition, this bill would allow persons already displaced by private institutions using Federal funds to submit a claim with the Attorney General to recover the relocation costs dating back to the enactment of the statute in 1970. These persons would have 3 years from the date of enactment of this bill to submit a claim.

Mr. President, I urge rapid consideration of this bill so that this serious inequity may be remedied.

By Mr. PACKWOOD:

S. 2292. A bill to provide for the resolution of claims and disputes relating to Government contracts awarded by executive agencies; jointly, by unanimous consent, to the Committee on Governmental Affairs and the Committee on the Judiciary.

Mr. PACKWOOD. Mr. President, today I am introducing legislation which would greatly facilitate the resolution of disputes between private contractors and the Federal Government. This legislation is the product of a consensus reached by experts in the field of Government litigation. It was prepared jointly, and approved by, the Government contracts and litigation division of the District of Columbia Bar and the public contracts section of the American Bar Association.

Congressman JOE FISHER, who has a large number of Government contractors in his Virginia district, is introducing a similar bill on the House side. We feel that the maturation process of resolving Government contract disputes has lagged far behind the massive growth of Government procurement of recent years. The legislation we are introducing today will end many of the procedural inequities and inconveniences currently being experienced by the contractor who feels he has been wronged by his Government.

On the other hand, this bill is not intended to be a one-sided or contractor-oriented bill. Litigation is expensive for the Government as well, and anything we can do to expedite the resolution of disputes helps reduce this unnecessary expenditure. In addition, we have included a provision to allow the Government to appeal a question of law it feels will create a bad precedent.

I will try to be brief, but I would like to explain some basics of the current contract resolution process and the changes proposed by this bill.

There are presently 13 administrative boards of contract appeals located in the executive agencies. Two of these boards are in the Department of Defense. One is the Armed Services Board which hears and decides appeals arising under contracts awarded by the military departments and the Defense Logistics Agency. The other is the Corps of Engineers Board which hears and decides appeals arising under contracts awarded by the corps for civil works projects. Seven of the other Administrative Boards of Contract Appeals are located in the Departments of Energy, Agriculture, Transportation, Labor, Commerce, Interior, and Housing and Urban Development. Finally, there are also administrative boards of contract appeals in the General Services Administration, the Veterans' Administration, the National Aeronautics and Space Administration, and the U.S. Postal Service.

Some of these boards hear and decide appeals under contracts awarded by other agencies pursuant to delegations of authority. For example, the Armed Services Board (ASBCA) handles cases arising under contracts awarded by the Department of State and Health, Education, and Welfare. The Department of the Interior Board handles cases arising under contracts awarded by the Environmental Protection Agency.

There are approximately 70 members of these administrative boards of contract appeals. Most are called administrative judges. About six to eight are administrative law judges. Except for six paid at GS–16, and two at GS–17, all board members are paid at the GS–15 level.

These administrative boards of contract appeals cumulatively handle approximately 2,000 appeals per year. About half of these are settled. The remainder are decided by judicial type

written opinions each containing findings of fact and conclusions of law. About 5 percent of the decided cases are appealed each year to the Court of Claims or the Federal district courts. The dollar amounts in controversy vary from a few hundred dollars to hundreds of millions of dollars in large weapons systems or ship construction contracts.

In all cases processed by an administrative board of contract appeals, the contractor has the right to an oral hearing if he so desires. In some cases, the parties waive oral hearing and submit the appeal for decision on the documentary record. Contractors may be represented by counsel, but legal counsel is not required. Many contractors appear for themselves and if there is an oral hearing, they are permitted to tell their story uninhibited by the particularities of the rules of evidence.

In order to minimize expense to the parties, particularly the contractor, the administrative boards of contract appeals hold most of their hearings where the parties or their witnesses are located. In years 1976 and 1977, for example, the ASBCA, the largest of the boards, held approximately 65 percent of its hearings outside the Washington, D.C. area.

Where the optimal accelerated procedure is elected, which covers about 10 to 20 percent of all appeals, the contractor is uniformly afforded a hearing in the city where he is located if he so desires. By board rule, "accelerated procedure" cases are decided within 30 days from the date they become ready for decision. If the claim is $5,000 or less, the board member is authorized to rule from the bench following an oral hearing.

Hearings before the administrative boards of contract appeals are judicial in nature, involving examination and cross-examination of witnesses. In appeals involving substantial dollar amounts, the contractor is usually represented by competent legal counsel. There are several law firms which specialize in public contract law. The Government agencies are uniformly represented by counsel.

The jurisdiction of these boards is contractual, that is, it is based upon the terms of the "disputes" clause included in virtually all Government contracts. This disputes process provides for appeals by the contractor to the head of the department or executive agency, or his authorized representative. By delegation, the administrative board of contract appeals is the authorized representative of the department or agency head. However, over the years, and by virtue of certain Supreme Court decisions—for example, *United States* v. *Carlo Bianchi & Co.*, 337 U.S. 709 (1963)) these administrative boards have become, in effect, the trial courts on contract disputes, with the Court of Claims and Federal District Courts becoming appellate courts.

The bill I am introducing today is intended to strike a balance between aspects of contract disputes litigation which should be processed administratively and those which should be pursued by the courts.

I will explain by briefly discussing some of the substantive benefits of each section of the bill. In section 4, the new disputes settlement authority would eliminate virtually all dismissals based on lack of jurisdiction on matters deemed arising "outside" the contract. Without sophisticated counsel, contractors now sometimes have difficulty distinguishing between matters arising under or outside the contract and choose the wrong forum. Section 4 would eliminate this problem.

Section 5 would require prompt and definitive rulings on claims, and eliminate many problems contractors now have in obtaining decisions at the contracting officer level.

Section 6, "the settlement review conference" section, contemplates regulations requiring settlement conferences at appropriate levels. The intent is to avoid unnecessary, expensive litigation.

Section 7 extends the appeal period to 90 days from the present 30. Small contractors now frequently miss the 30-day period due to mistakes, clerical errors, or a need felt by some contractors to get legal advice or information from subcontractors. As a result they have no remedy. The 90-day period would substantially eliminate these problems.

Section 8 would place agency contract appeal boards on statutory footing providing independence and giving board members appropriate salaries needed for recruitment and retention. Such independence would enhance fairness of decisions. Also, the statutory minimum five-person boards would eliminate inefficiencies now exhibited in some of the smaller boards, resulting in savings to taxpayers.

Section 9, the codification of the requirement for expedited small claims procedure, is of definite advantage to small contractors. Each board of contract appeals would have a special procedure to resolve claims of under $25,000 in less than 120 days.

Section 10 would allow contractors to go to court directly if they choose. Where an important question of law is involved, early Court of Claims decision is desirable. It would also allow the court reviewing a board decision to receive additional evidence on matters not litigated before the board, thereby avoiding time consuming remands and appeals.

Section 11 provides the administrative boards greater subpoena power by compelling the attendance of witnesses and requiring the submission of evidence through deposition and discovery techniques. These procedures will, in turn, aid the contractor in developing his case.

Section 12 would require Federal agencies to pay interest on claims finally resolved in the contractor's favor.

I urge the early consideration of this legislation in Senate committee hearings. I also ask that my colleagues seek the views of their contractor constituents.

I think they will find a great deal of support for this bill, specifically, as well as other efforts we can make to reduce the unreasonable burdens of Government regulation, paperwork, and delay.

I ask unanimous consent that the text of the Contract Disputes Act of 1977 be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Contract Disputes Act of 1977".

DEFINITIONS

SEC. 2. As used in this Act—

(1) the term "agency head" means the head and any assistant head of an executive agency;

(2) the term "executive agency" means an executive department as defined in section 101 of title 5, United States Code, an independent establishment as defined by section 104 of title 5, United States Code (except that it shall not include the General Accounting Office), a military department as defined by section 102 of title 5, United States Code, a wholly owned Government corporation, the United States Postal Service, and the Postal Rate Commission;

(3) the term "contracting officer" means a Goverment officer or employee who is a properly designated contracting officer; and

(4) the term "contractor" means a party to a Government contract other than the Government.

APPLICABILITY OF ACT

SEC. 3. Unless otherwise specifically provided herein, this Act applies to any express or implied contract (including those of the nonappropriated fund activities described in 28 U.S.C. 1346 and 1491), governed by the laws of the United States, entered into by the United States for the procurement of property other than real property in being, for services, for the construction, alteration, repair, or maintenance of real property or for the disposal of personal property. It shall also apply to any other contract or agreement with the United States, which by its terms is expressly made subject to the provisions of this Act.

CLAIMS AND DISPUTES SETTLEMENT AUTHORITY

SEC. 4. Each executive agency is authorized to settle, compromise, pay, or otherwise adjust any claim by or against, or dispute with, a contractor relating to a contract entered into by it or another agency on its behalf, including claims based on breach of contract, mistake, misrepresentation, or other cause for contract modification or rescission, but excluding a claim or dispute for penalties or forfeitures prescribed by statute or regulation which other agency is specifically authorized to administer, settle, or determine.

DECISION BY THE CONTRACTING OFFICER

SEC. 5. (a) All contract disputes claims submitted by a contractor against the Government or by the Government against a contractor shall be in writing. After the submission of a contract claim if the claim is not resolved by mutual agreement, the contracting officer shall issue a decision in writing stating the reasons for the decision reached. Specific findings of fact are not required, but, if made, shall not have binding or collateral estoppel status in any subsequent proceeding. A copy of the decision shall be mailed or otherwise furnished to the contractor and shall include a description of the method or procedure by which the finality of the decision may be avoided as provided in this Act.

(b) Absent fraud, the contracting officer's decision on the claim shall be final and conclusive and not subject to review by a forum, tribunal, or Government agency, unless an appeal or suit is timely commenced as authorized by this Act, in which event the proceedings in such an appeal or suit shall be de novo.

(c) A contracting officer shall issue a decision on any submitted claim promptly after he determines that a resolution of the

claim by mutual agreement is not feasible; but, in any event, he shall issue a decision within sixty days from his receipt of a written notice from the contractor stating the contractor's determination that resolution by mutual agreement is not possible. Any failure by the contracting officer to issue a decision on a contract claim within the period required will authorize the commencement of the appeal or suit on the claim otherwise provided in this Act upon the issuance of the decision by the contracting officer.

INFORMAL ADMINISTRATIVE CONFERENCE

SEC. 6. (a) It is the policy of the Congress that contractor claims should be resolved by mutual agreement, in lieu of litigation, to the maximum extent feasible. Accordingly, a contractor shall be afforded the opportunity to have informal conferences with the agency involved for the purpose of considering the possibility of disposing of the claim by mutual agreement. Such conferences may be held before, as well as after, a contracting officer's decision pursuant to section 5.

(b) The Administrator of the Office of Federal Procurement Policy shall issue regulations requiring executive agency establishment of procedures for such informal conferences at appropriate levels of authority within each such agency.

CONTRACTOR'S RIGHTS OF APPEAL

SEC. 7. Within ninety days from the date of receipt of a contracting officer's decision under section 5, or as otherwise provided in section 5, the contractor may

(a) appeal such decision to an agency board of contract appeals, as provided in section 8; or

(b) file with the executive agency a notice of intention to bring a court action as provided in section 10.

AGENCY BOARDS OF CONTRACT APPEALS

SEC. 8. (a) An agency head may establish within his agency a board of contract appeals when the volume of procurement by the agency justifies a full-time Board of at least five members. The members of an executive agency's boards of contract appeals shall be selected and appointed to serve as hearing examiners under the Administrative Procedure Act, and shall be designated as administrative law judges, *provided*, that such members shall have had (1) not fewer than five years experience in public contract law, and (2) two or more years of litigation experience, and *provided further*, that members of boards of contract appeals serving as such on the effective date of this Act shall be considered qualified. The Chairman of each Board shall be designated by the agency head from members so appointed.

(b) The Chairman of each Board having greater than ten members will receive the same compensation as a GS–18, the Vice Chairmen, GS–17, and all other members, GS–16. The Chairman of each Board having ten or fewer members will receive the same compensation as a GS–17, and all other members, GS–16. Such positions shall be in addition to the number of positions which may be placed in GS–16, GS–17, and GS–18 under existing law.

(c) If the volume of procurement is not sufficient to justify a board of contract appeals under sub-section (a) or if he otherwise considers it appropriate, an agency head shall arrange for appeals from decisions by contracting officers of his agency to be decided by a board of contract appeals of another executive agency or may, by agreement with the head(s) of one or more other executive agencies, establish a joint board. In the event an agency head is unable to make such arrangements, he shall submit the case to the Office of Federal Procurement Policy for placement with an agency board.

(d) A board of contract appeals, established under this section shall have jurisdiction to decide any appeal authorized under section 7 of this Act, (1) under a contract made by its agency, and (2) under a contract made by any other agency when such agency has designated the board to decide the appeal.

(e) A board of contract appeals, acting by one or more members in accordance with rules and regulations adopted by the board, shall issue a decision in writing or take other appropriate action on each appeal submitted and shall mail or otherwise furnish a copy of the decision to the contractor and the contracting officer.

(f) The decision of a board of contract appeals shall be final and conclusive unless it is fraudulent or—

(1) within one hundred and twenty days from the date of the contractor's receipt of a copy of the board's decision, the contractor files suit, under 28 U.S.C. § 1346(a)(2) in a United States district court or under 28 U.S.C. § 1491 in the United States Court of Claims to obtain judicial review of such decision, or

(2) within one hundred and twenty days from the date of the agency's receipt of a copy of the board's decision, the agency head, if he determines that an appeal should be taken, and with the prior approval of the Attorney General, transmits the decision of the board of contract appeals to the United States Court of Claims for judicial review, under 28 U.S.C. § 2510, as amended herein.

(g) In any action seeking judicial review pursuant to this section, notwithstanding any contract provisions to the contrary, the decision of the agency board on a question of law shall not be conclusive, but the findings of fact made by the agency board shall be final and conclusive and shall not be set aside unless such findings of fact are fraudulent or capricious or arbitrary or so grossly erroneous as necessarily to imply bad faith, or are not supported by substantial evidence.

SMALL CLAIMS

SEC. 9. (a) The rules of each board of contract appeals shall include a procedure for the expedited disposition of any appeal where the amount in dispute is $25,000 or less.

(b) The small claims procedure shall be applicable at the sole election of the contractor.

(c) It is the intent of this section that appeals under the small claims procedure shall be resolved, whenever possible, within one hundred and twenty days from the date when the contractor elects to utilize such procedure.

(d) The small claims procedure shall provide for simplified rules of procedure to facilitate the decisions of any appeal thereunder within the one-hundred-and-twenty-day period set forth in paragraph (c) of this section 9. Such appeals shall be decided by a single member of the board with such concurrences as may be provided by rule or regulation.

SUIT IN COURT AND JUDICIAL POWERS

SEC. 10. (a) In lieu of appealing a final decision of a contracting officer to an agency board of contract appeals, a contractor, within twelve months from the date of receipt of such final decision, or from completion of the contract, or from acceptance where required, whichever is later, may bring an action on the claim in a United States district court or the United States Court of Claims.

(b) Where, on judicial review of an agency board of contract appeals decision pursuant to section 8(f) of the Act, the reviewing court determines that additional evidentiary proceedings must be conducted, the court may remand the matter to the Board, pursuant to Public Law 92–415 (28 U.S.C. § 1491) for the conduct of such proceedings: *Provided*, That where further evidentiary proceedings deemed necessary by the court are limited solely to the amount of recovery, the court itself may, in its discretion, conduct such proceedings.

(c) In any suit filed by a contractor under subsection (a) hereof, the court shall have jurisdiction over any setoff, counterclaim, or other claims or demand whatever by the United States.

(d) To provide an entire remedy and to complete the relief afforded by any judgment rendered pursuant to this Act, the Court of Claims may, as an incident of and collateral to any such judgment, issue such orders and grant such relief as the district courts may issue and grant in civil cases against the United States over which they have original jurisdiction.

(e) Except as otherwise provided in this Act, and notwithstanding any statute or other rule of law, or any contract provision, every claim founded upon the same express or implied contract with the United States, shall constitute a separate cause of action for purposes of any suit in a court of competent jurisdiction, and such court may, in its discretion, consolidate separate claims for purposes of decision or judgment, or delay acting on one claim pending action on another claim.

(f) If two or more suits arising from one contract are filed in different district courts, for the convenience of parties and witnesses, in the interest of justice, the district court wherein suit was first filed may order the consolidation of such suits in that court or transfer any such suit to any district or division where it might have been brought or to the Court of Claims. If two or more suits arising from one contract are filed in the Court of Claims and one or more district courts, for the convenience of parties and witnesses, in the interest of justice, the Court of Claims may order the consolidation of such suits in that court or transfer any suits to or among the district courts involved.

(g) In any suit filed pursuant to this Act involving two or more claims, counterclaims, cross-claims, or third-party claims, and where a portion of one such claim can be segmented for purposes of decision or judgment, and in any such suit where multiple parties are involved, the court, whenever such action is appropriate, may enter a partial final judgment as to one or more but fewer than all of the claims, portions thereof, or parties.

SUBPENA, DISCOVERY, AND DEPOSITION

SEC. 11. A member of a board of contract appeals may administer oaths to witnesses, authorize depositions and discovery proceedings, and require by subpena the attendance of witnesses, and production of books and papers, for the taking of testimony or evidence by deposition or in the hearing of an appeal by the board. Persons acting in response to such subpenas shall be entitled to the same fees and allowances as are allowed by statute for witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpena by a person who resides, is found, or transacts business within the jurisdiction of the United States district court, the court, upon application of the board, shall have jurisdiction to issue to such person an order requiring him to appear before the board or a member thereof, to produce evidence or to give testimony, or both. Failure of any such person to obey the order of the court may be punished by the district court as a contempt thereof.

INTEREST

SEC. 12. Interest at the rate established by the Secretary of the Treasury pursuant to Public Law 92–41 (85 Stat. 97), for the Renegotiation Board, shall be paid to the contractor from the date the claim under section 5(a) accrues until payment under a final decision of the board of contract appeals, or a final decision of the court

of competent jurisdiction, or prior settlement thereof.

APPROPRIATIONS

SEC. 13. (a) Any final judgment against the United States on a claim under this Act shall be promptly paid in accordance with the procedures provided by section 724(a) of title 31, United States Code.

(b) Any final monetary award to a contractor by a board of contract appeals shall be promptly paid in accordance with the procedures contained in section (a) above: *Provided further*, That section 724(a) of title 31, United States Code, be amended by adding after the words "title 28" in line 11 thereof, the words "and decisions of boards of contract appeals".

(c) Payments made pursuant to sections (a) and (b) shall be reimbursed to the fund provided by section 724(a) of title 31, United States Code, by the agency whose appropriations were used for the contract out of available funds or by obtaining additional appropriations for such purposes.

(d) There are hereby authorized to be appropriated such sums as may be necessary to carry out this Act.

AMENDMENTS

SEC. 14. (a) There shall be added to subsection (c) of section 5108 of title 5, United States Code, a paragraph (17) reading as follows:

"(17) the head of an executive department or agency in which a board of contract appeals is established to conduct quasi-judicial administrative proceedings for the independent determination of contract disputes may place the position of Chairman of such board in GS–18, the Vice Chairman (or Vice Chairmen) of such board in GS–17, and the positions of all other civilian members of such board in GS–16: *Provided, however*, That for a board of contract appeals comprising membership of ten or fewer, a department or agency head may place the position of Chairman of such Board in GS–17, and the positions of all other civilian members of such board in GS–16.".

There shall be added to sub-section (d) of section 5108 of title 5, United States Code, a reference to sub-section (c)(17) wherever said sub-section (d) refers to sub-section (c) (8) and (9), to read as follows:

"(d) When a general appropriation statute authorizes an agency to place additional positions in GS–16, GS–17, and GS–18, the total number of positions authorized to be placed in these grades by this section (except sub-section (c)(8), and (9) and (17)) is reduced by the number of positions authorized by the appropriation statute unless otherwise specifically provided. The reduction is made in the following order:

"first, from any number specifically authorized for the agency by this section (except subsection (c) (8) and (9) and (17)); and".

(b) Section 2510 of title 28 of the United States Code is amended as follows: The title of the section is amended by adding the words: "OR THE HEAD OF AN EXECUTIVE DEPARTMENT OR AGENCY".

The present text iis amended by inserting "(a)" at the beginning.

There is added to the section the following:

"(b) The head of any executive department or agency may, with the prior approval of the Attorney General or his designee, transmit to the Court of Claims for judicial review pursuant to the standards set out in sections 321 and 322 of title 41, United States Code, any final decision rendered by a board of contract appeals pursuant to the terms of any contract with the United States awarded by his department or agency, which the said head of any department or agency has concluded is not entitled to finality pursuant to the review standards set forth in the said sections: *Provided*, That any such referral must be made within one hundred and twenty days of the agency's receipt of a copy of the final appeal decision."

"The Court of Claims shall proceed with judicial review on the administrative record made before the board of contract appeals on matters so referred as in other cases pending in such court, shall determine the issue of finality of the appeal decision, and shall, as appropriate, render judgment thereon or remand the matter pursuant to the authority specified in section 1491 of title 28, United States Code."

(c) Section 2517(a) of title 28, United States Code, is amended by striking the period and adding: ", unless the judgment is designated a partial judgment, in which event only the matters described therein shall be discharged.".

SEVERABILITY CLAUSE

SEC. 15. If any provision of this Act, or the application of such provision to any persons or circumstances, is held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

EFFECTIVE DATE OF ACT

SEC. 16. This Act shall apply to contracts entered into after the effective date of this Act. Notwithstanding any provision in a contract made before the effective date of this Act, the contractor may elect to proceed under this Act with respect to any claim pending then or initiated thereafter.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill introduced by Mr. PACKWOOD relative to resolution of claims and disputes relating to Government contracts be referred jointly to the Committee on Governmental Affairs and the Committee on the Judiciary.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL COSPONSORS

S. 1214

At the request of Mr. ABOUREZK, the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of S. 1214, the Indian Child Welfare Act of 1977.

S. 1315

At the request of Mr. DECONCINI, the Senator from Kansas (Mr. DOLE) was added as a cosponsor of S. 1315, to provide more effectively for the use of interpreters in courts of the United States.

S. 1728

At the request of Mr. ANDERSON, the Senator from New Hampshire (Mr. MCINTYRE) was added as a cosponsor of S. 1728, the Domestic Violence Prevention and Treatment Act.

S. 2036

At the request of Mr. STEVENS, the Senator from California (Mr. HAYAKAWA) was added as a cosponsor of S. 2036, to promote amateur athletic activity in the United States.

S. 2187

At the request of Mr. METCALF, the Senator from Wyoming (Mr. WALLOP) was added as a cosponsor of S. 2187, to authorize certain construction at existing water projects.

S. 2193

At the request of Mr. ANDERSON, the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 2193, to amend the Communications Act of 1934.

S. 2204

At the request of Mr. GRAVEL, the Senator from Nevada (Mr. LAXALT) was added as a cosponsor of S. 2204, to amend the Internal Revenue Code.

SENATE RESOLUTION 242

At the request of Mr. HATCH, the Senator from Georgia (Mr. TALMADGE) was added as a cosponsor of Senate Resolution 242, relating to proposed changes in IRS policy toward fringe benefits.

SENATE JOINT RESOLUTION 97

At the request of Mr. MATHIAS, the Senator from Oklahoma (Mr. BARTLETT) was added as a cosponsor of Senate Joint Resolution 97, to continue appropriations for fiscal year 1978 for employees' salaries of the Departments of Labor and Health, Education, and Welfare.

SENATE CONCURRENT RESOLUTION 60

At the request of Mr. SPARKMAN, the Senator from California (Mr. CRANSTON) and the Senator from Idaho (Mr. CHURCH) were added as cosponsors of Senate Concurrent Resolution 60, dealing with South Africa.

AMENDMENT NO. 1554

At the request of Mr. HATCH, the Senator from Kentucky (Mr. HUDDLESTON) and the Senator from New York (Mr. MOYNIHAN) were added as cosponsors of amendment No. 1554 to be proposed to S. 2159, regarding U.S. foreign medical students.

AMENDMENT NO. 1581

At the request of Mr. GOLDWATER, the Senator from Alabama (Mr. ALLEN) and the Senator from Delaware (Mr. ROTH) were added as cosponsors of amendment No. 1581, to be proposed to the bill (H.R. 9346) the Public Assistance Financing Amendments of 1977.

RESOLUTIONS SUBMITTED RELATING TO THE CONSIDERATION OF H.R. 9346

Mr. DOLE submitted the following resolution which was referred to the Committee on the Budget:

S. RES. 317

Resolved, That (a) pursuant to Section 303(c) of the Congressional Budget Act of 1974, the provisions of Section 303(a) of such Act are waived with respect to the consideration of an amendment to either H.R. 5322 or H.R. 9346 offered by Senator Dole relating to modifications in the provisions under which benefits for certain persons under title II of the Social Security Act are reduced because of their earnings; and

(b) That waiver of such Section 303(a) is necessary in order to enable the Senate promptly to consider changes in social security financing which are provided for in this amendment to H.R. 5322, in order to assure that the program is adequately funded, and which first become effective in fiscal year 1979.

Mr. TOWER submitted the following resolution which was referred to the Committee on the Budget:

S. RES. 318

Resolved, That pursuant to section 303(c) of the Congressional Budget Act of 1974, the provisions of section 303(a) of such Act are waived with respect to the consideration of Amendment No. 1541, intended to be offered by Mr. Tower in the nature of a

substitute to H.R. 9346, the Social Security Financing Amendments of 1977. Such waiver is necessary to permit consideration of Amendment No. 1541, which would provide certain modifications in the present Social Security financing system to allow shifting of certain trust funds, modifications of the earnings limitation, changes in the dependency test solution, alleviating defective indexing provisions, and establishing an outside commission to consider permanent financing alternatives. The waiver of this section is necessary to enable the Senate to consider promptly changes in the Social Security financing system which are provided for in the bill.

Mr. GOLDWATER submitted the following resolution which was referred to the Committee on the Budget.

S. RES. 320

Resolved, That (a) pursuant to Section 303(c) of the Congressional Budget Act of 1974, the provisions of Section 303(a) of such Act are waived with respect to the consideration of amendments to either H.R. 5322 or H.R. 9346 offered by Senator Goldwater relating to modifications in the provisions under which benefits for certain persons under Title II of the Social Security Act are reduced because of their earnings; and

(b) that waiver of such Section 303(a) is necessary to enable the Senate promptly to consider changes in Social Security financing which are provided for in these amendments to H.R. 5322 or H.R. 9346 in order to assure that the program is adequately funded in future years.

Mr. ALLEN submitted the following resolution which was referred to the Committee on the Budget:

S. 321

Resolved, That at the end of the bill add the following new section:

"There is hereby allowed to each individual taxpayer, who has paid Social Security taxes as an employee, as a deduction from income subject to Federal income taxes an amount equal to 50 per centum of all Social Security taxes paid by such taxpayer in the calendar year 1979 ad subsequent years, such deduction to be claimed on the taxpayer's return for the year in which such Social Security taxes are paid. Self-employed taxpayers may deduct 50 per centum of that portion of Social Security taxes paid by them that they would have paid on their earnings if they had been employees."

SENATE RESOLUTION 319—ORIGINAL RESOLUTION REPORTED TO AMEND THE SENATE RULES—REPORT NO. 95-586

(Placed on the calendar.)

Mr. STEVENSON, from the Select Committee on Ethics, reported the following resolution:

S. RES. 319

Resolved, That the Standing Rules of the Senate are amended by adding at the end thereof the following new rule, which shall be a part of the Senate Code of Official Conduct:

"RULE LI—ACCEPTANCE AND REPORTING OF TRAVEL EXPENSES

"1. For purposes of this rule, the term—

"(1) 'travel expense' means transportation, lodging, food, beverages, and entertainment used, consumed, or furnished while in a travel status, and other services and facilities incidental to travel;

"(2) 'reportable travel expense' means any travel expense furnished by, paid for, or reimbursed by any person other than—

"(A) the individual incurring such travel expense or the spouse, a dependent, or a relative of such individual;

"(B) the United States Government or any agency or instrumentality thereof;

"(C) a foreign government (as defined in section 7342(a) of title 5, United States Code), if a statement therefor is filed under section 7432 (c) of such title; or

"(D) in the case of a travel expense incurred by the spouse or a dependent of an individual, by the employer of such spouse or dependent in connection with the performance of service as an employee or in recognition of the service provided by such spouse or dependent;

"(3) 'dependent' has the meaning set forth in section 152(b) of the Internal Revenue Code of 1954;

"(4) 'relative' has the meaning set forth in paragraph 7(j) of rule LXII;

"(5) 'person' includes a government and an agency or instrumentality of a government;

"(6) 'employee of the Senate' includes any employee or individual described in paragraphs 2, 3, and 4(c) of rule XLIX; and

"(7) the supervisor of an individual shall be determined under paragraph 12 of rule XLV.

"2. (a) Except as provided in paragraph 4, an officer or employee of the Senate and the spouse or a dependent of any such officer or employee, may not incur any reportable travel expense unless the supervisor of such officer or employee has approved in advance the incurring of such expense.

"(b) A Member may incur a reportable travel expense and may approve the incurring of a reportable travel expense by his spouse and dependents, and the supervisor of an officer or employee may approve the incurring of a reportable travel expense by such officer or employee or by the spouse and dependents of such officer or employee, if such Member or supervisor is of the opinion that incurring such expense would not violate any law or any rule of the Senate or reflect discredit upon the Senate.

"3. (a) Except as provided in paragraph 4, whenever any Member, officer, or employee of the Senate, or the spouse or a dependent of any such Member, officer, or employee, incurs a reportable travel expense, a report thereon shall be filed with the Secretary of the Senate within 30 days after the termination of the travel during which such expense was incurred. In the case of a reportable travel expense incurred by a Member, officer, or employee, the report shall be filed by that Member, officer, or employee. In the case of a reportable travel expense incurred by the spouse or a dependent of a Member, officer, or employee, the report shall be filed by that Member, officer, or employee. All reportable travel expenses incurred by a Member, officer, or employee, and by his spouse and dependents, in the course of the same travel may be included in one report.

"(b) Each report filed under subparagraph (a) shall be made in such manner as the Select Committee on Ethics may prescribe and shall include—

"(1) the dates and itinerary of the travel;

"(2) the purpose of the travel;

"(3) the person or persons who furnished, paid for, or reimbursed the reportable travel expenses;

"(4) the type or types of transportation used;

"(5) a brief description of the reportable travel expenses, including—

"(A) lodging provided and the dates;

"(B) dates on which meals were provided; and

"(C) entertainment provided.

"4. (a) Paragraphs 2 and 3 shall not apply with respect to any reportable travel expense incurred by the spouse of an individual if such individual and his spouse are separated and living apart.

"(b) Paragraph 3 shall not apply with respect to any reportable travel expense incurred by an individual if the amount or value of such expense, when added to the amount or value of al otiher reportable travel expenses incurred by the individual in the course of the same travel, does not exceed $100.

"5. Each report filed under paragraph 3 shall be made available to the public in the same manner, subject to the same conditions, and for the same period as reports filed under rule XLII.

"6. (a) A Member, officer, or employee of the Senate, and the spouse or a dependent of any such Member, officer, or employee, may participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization if such participation is not in violation of any law and if the Select Committee on Ethics has determined that participation in such program by Members, officers, or employees of the Senate, is in the interests of the Senate and the United States.

"(b) Any Member who accepts an invitation to participate in any such program, or approves the acceptance of such an invitation by his spouse or a dependent, shall notify the Select Committee in writing of such acceptance or approval. A supervisor who approves the acceptance of such an invitation by an officer or employee under his supervision, or by the spouse or a dependent of such an officer or employee, shall notify the Select Committee in writing of such approval.

"(c) No Member, officer, or employee, and no spouse or dependent of a Member, officer, or employee, may accept funds in connection with participation in a program permitted under subparagraph (a) if such funds are not used for necessary travel expenses of the Member, officer, employee, spouse, or dependent.".

SEC. 2. (a) Paragraph 7(f) of rule XLII of the Standing Rules of the Senate is amended by striking out "or" before "(4)" and by inserting before the semicolon at the end thereof the following: ", or (5) a gift of reportable travel expenses (as defined in paragraph 1 of rule LI)".

(b) Rule XLIII of the Standing Rules of the Senate is amended—

(1) by striking out "or" before "(7)" in paragraph 2(a) and by inserting before the semicolon at the end of such paragraph the following: ", or (8) a gift of reportable travel expenses (as defined in paragraph 1 of rule LI)"; and

(2) by striking out paragraph 4.

(c) Paragraph 1 of rule XLVI of the Standing Rules of the Senate is amended—

(1) by striking out "and" at the end of subparagraph (c);

(2) by inserting after "expenses" in subparagraph (d) the following: "(other than expenses to which subparagraph (e) applies)";

(3) by striking out the period at the end of subparagraph (d) and inserting in lieu thereof "; and"; and

(4) by adding at the end thereof the following new subparagraph:

"(e) funds received as reimbursement for reportable travel expenses (as defined in paragraph 1 of rule LI).".

SEC. 3. The amendments to the Standing Rules of the Senate made by this resolution shall take effect on the day after the day on which this resolution is agreed to, and shall apply only with respect to travel expenses incurred on or after such day.

AMENDMENTS SUBMITTED FOR PRINTING

SUPPLEMENTAL APPROPRIATIONS, 1978—HOUSE JOINT RESOLUTION 643

AMENDMENT NO. 1613

(Ordered to be printed and to lie on the table.)

Mr. HOLLINGS. Mr. President, I am submitting an amendment to the continuing resolution permitting the Small Business Administration to draw not to exceed $1,400,000,000 under the authority of the resolution for disaster loans. This amount is identical to the sum approved by both Houses of Congress in the Supplemental Appropriations Act, 1978 now in conference to resolve differences in other items. It is now clear that the Supplemental Appropriations Act, 1978, will not be finally approved for several weeks. On October 31, 1977, the Small Business Administration announced that all available funds had been exhausted and that there were 11,000 applications on hand amounting to $946,800,000. It is imperative that this vital assistance be resumed to our drought-devastated farmers, and other disaster victims. In accordance with the usual procedure, obligations under this emergency authority will be charged to the appropriation when the Supplemental Appropriations Act is enacted.

And, Mr. President, joining me in submitting this amendment as cosponsors are Senators TALMADGE, NUNN, THURMOND, CHILES, STONE, and MAGNUSON.

CAPITATION GRANTS TO MEDICAL SCHOOLS—S. 2159

AMENDMENT NO. 1614

(Ordered to be printed and to lie on the table.)

Mr. MATHIAS (for himself, Mr. EAGLETON, Mr. HELMS, and Mr. BUMPERS) submitted an amendment intended to be proposed by them to the bill (S. 2159) to amend section 771 of the Public Health Service Act to require an increase in the enrollment of third-year medical students in the school year 1978–79 as a condition to medical schools receiving capitation grants under section 770 of such act.

PUBLIC ASSISTANCE AMENDMENTS—H.R. 9346

AMENDMENT NO. 1616

(Ordered to be printed and to lie on the table.)

ANNUAL RETIREMENT TEST

Mr. CHILES. Mr. President, I am submitting an amendment to change the monthly earnings test to an annual test for purposes of determining whether an individual is retired and thus eligible for social security benefits.

I think we should encourage older people to keep working to the degree that they are still physically able to. More than any economic considerations, the work situation provides a valuable social support that prevents the loneliness and isolation which so many of the elderly suffer. I have long supported increasing the level of allowable retirement earnings in order to encourage continued employment, and I congratulate the Finance Committee for providing significant increases in this bill.

At the same time, I believe it is necessary to be as fair as possible in how we calculate the earnings limit. One flaw in the current law is that it allows an individual to be retired in 1 month, working in another, and so on, without regard to how much is earned in the working months. Many people can regulate their flow of income by reasons of self-employment or ownership of a business. Thus, they can earn $100,000 in 3 months of the year, then "retire" and draw social security benefits for the rest of the year. They can then go back to work again the next year and repeat the pattern. Social security is for them just a bonus piece of income. At the same time, we tell a salaried employee that we will reduce his benefits 50 percent for any earnings over $3,000. This is obviously unfair and discriminates against the salaried workers who tend to have lower incomes. The Social Security Administration estimates that about 80,000 persons currently avoid the earnings limitation by this mechanism.

My amendment would correct this flaw by calculating the earnings limit on an annual basis. This improvement was recommended by President Carter in his 1978 budget. It was also recommended by the previous administrations in their budgets. It has also been recommended by the Social Security Advisory Commission, an independent body that is appointed by the Secretary of HEW to oversee the soundness of the system.

It was included in the House passed version of the bill. Now that we have a bill to make major changes in social security financing and increase the earnings limit, it is a good time to correct some of the flaws which have been draining the trust fund. This amendment will save $174 million in fiscal year 1978, $234 million in 1979 and more in later years. If we can cut down on a lot of these flaws in the benefit structure, we can minimize the tax increases necessary to keep the system solvent and pay a decent level of benefits to our retirees.

Mr. President, in order to make sure that the effects of this amendment would not have any negative effects on low income workers, I asked the Social Security Administration to calculate the number of persons at each income level who would have their earnings reduced. I ask unanimous consent to insert a table showing the results in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE I.—*Percent of workers with reduced benefits under annual retirement test, by income (data from 1975)*

[In percent]

Annual earnings:	*Workers with reduced benefits*
Less than $3,900	1
$3,900–$5,400	6
$5,400–$8,400	20
$8,400–$11,400	26
$11,400–$14,100	14
More than $14,100	32
All workers (total not add due to rounding)	100

Mr. CHILES. Mr. President, it is clear that no more than 1 percent of the affected workers earns less than the expanded earnings limit of $3,900. That is, 99 percent are using this mechanism to avoid the limits we are imposing on low income workers who work every month of the year. Even assuming an increase in the earnings limit to $6,000 as provided in the Finance Committee bill, 93 percent of the affected workers would be exceeding the annual limit by means of the monthly computation.

I hope my colleagues will join me and support this amendment so that we can keep social security retirement benefits directed to those who really need them.

AMENDMENT NO. 1617

(Ordered to be printed and to lie on the table.)

MINIMUM BENEFIT AMENDMENT

Mr. CHILES. Mr. President, I am submitting an amendment to freeze the minimum benefit at the level of $121 which it is expected to reach on January 1, 1979. This is the same provision which passed the House without controversy last week. It includes a provision to improve the special minimum benefit for workers with more than 10 years of covered employment at low wage levels.

The minimum benefit is a classic example of the need for "sunset" legislation. It was a good idea when first adopted, but it has outlived its purpose. The original intent of the minimum was to provide a floor for low-wage workers and to keep the Social Security Administration from having to write checks for very small amounts. Several events have eliminated these needs. In 1972 Congress created a special benefit structure for persons with many years of work at low wages, thus meeting the primary need for a floor on benefits. At the same time we created the supplemental security income program which takes care of low income elderly, including those persons with only a few years of work history. Benefits under both of these provisions greatly exceed the social security minimum benefit. Finally, the age of computers makes it easy to apply the benefit computation formulas at any level and issue an appropriate check.

As conditions and benefit structures have changed, two types of individuals have emerged as recipients of the minimum benefit. First, we have individuals who work most of their adult life in Government jobs which are not covered by social security. Since their jobs are not covered, they do not contribute to trust funds. However, many Government pension systems, including the Federal one, have generous provisions for early retirement. As a result, Government workers may retire while they are still active and healthy, work a few years in private jobs covered by social security, then qualify for the minimum benefit. In these cases, the individual receives a benefit greatly exceeding what he would get based on his actual earnings and contribution to the trust fund. Of course he is also "double dipping" by drawing down his Government pension in addition to the $1,400 a year in social security. While I think we should encourage older workers to keep working if they are healthy

and active, we ought not to burden the system with paying benefits to persons who have not made an appropriate contribution.

Mr. President, I believe we really ought to freeze the minimum benefit for current beneficiaries and eliminate it for future retirees. The future recipients are not those who have put in long years of work and contributed to the trust fund in the expectation of receiving a specified level of social security benefits. However, when Mr. CORMAN offered that as an amendment in the House, it was defeated. I am therefore offering the same provision as in the House bill, which provides a very gradual transition, simply letting the value of the minimum benefit erode by excluding it from the provision that automatically increases benefits to match price changes.

I think the House was also wise to increase the special minimum benefit from $9 to $11.50 per covered year. In contrast to the regular minimum benefit, the special minimum only covers persons with over 10 years of covered employment. It is thus protected against double-dipping or from providing benefits to persons with a minimal attachment to the work force. The $9 multiplier has not been updated for inflation since the original amendment was adopted in 1972. However, since the House provision would not take effect until 1979, it would be out of order under the Budget Act. I feel very strongly that we should not be circumventing the budget process by passing future benefits that have not competed against other needs and priorities in the deliberations on the first budget resolution. I have therefore omitted that provision from my amendment and hope that we will be able to adopt it next year.

Mr. President, I hope my colleagues will join me in adopting this cost-saving improvement.

AMENDMENT NO. 1619

(Ordered to be printed and to lie on the table.)

Mr. ALLEN submitted an amendment intended to be proposed by him to the bill (H.R. 9346), the Public Assistance Amendments Act of 1977.

NOTICES OF HEARINGS

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

Mr. PROXMIRE. Mr. President, the Committee on Banking, Housing and Urban Affairs will hold oversight hearings on the New York City Seasonal Financing Act on December 14, 15, and 16, 1977.

The hearings will examine, among other things:

New York City's progress toward meeting its borrowing needs in the private credit markets, both in the current year and after June 30, 1978, when the Federal loan program expires;

The prospects for the city's achieving a balanced budget in fiscal year 1978 and in subsequent fiscal years; and

The findings of the Securities and Exchange Commission's Staff Report on Transactions in Securities of the City of New York.

Anyone who wishes further information regarding these hearings should contact Ms. Elinor B. Bachrach, room 5300, Dirksen Senate Office Building, 202–224–7391.

NATIONAL INSTITUTE

Mr. BAYH. Mr. President, the Subcommittee on the Constitution of the Committee on the Judiciary will hold 2 days of hearings, December 13 and 14, on the constitutional amendment to allow for the use of the initiative process at the national level, Senate Joint Resolution 67. The hearings will commence at 10 a.m. on both days and will be held in room 2228 Dirksen.

Anyone wishing to submit testimony for the record, contact Mary K. Jolly, staff director of the subcommittee, 102B, Russell Senate Office Building, Washington, D.C. 20510.

ADDITIONAL STATEMENTS

THE PANAMA CANAL GIVEAWAY

Mr. FORD. Mr. President, a distinguished Kentuckian and good friend of mine, Judge Guthrie Crowe, recently provided me with a long and thoughtful essay on why the United States should not relinquish control of the Panama Canal.

Judge Crowe recently completed a 25-year tenure as Federal district court judge for the Canal Zone, a position he had held since his appointment in July 1952 by President Harry Truman.

Judge Crowe is a native of LaGrange, Ky. He is a lawyer and a former member of the Kentucky House of Representatives. He was the first commander of the Kentucky State Police, a department which was organized under his direction.

I have the highest respect for Judge Crowe and feel that my colleagues would benefit from reading his views on the Panama Canal Treaties. I ask unanimous consent that this article by Judge Crowe be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE PANAMA CANAL GIVEAWAY

(By Guthrie Crowe)

OPENING

In my job as Judge, I had a ringside seat at the struggle by Panama for the Panama Canal. In fact, I had to try some cases and rule upon some matters that arose out of the problems between the U.S. and Panama.

A new treaty or treaties have been drafted as a result of the pressure from Panama, the U.S. Department of State, American banks and corporations like the 220 or more U.S. firms doing business in Latin America that have organized the Council of the Americas. Sympathy for the Third World also enters into the picture, for this is the era of the dissolution of the empires of the West and the U.S. position there has been stamped with the stench of colonialism.

The charge of colonialism is completely false, but it is like the communist lie: If you say it often enough, it will be believed.

The U.S. occupation of the Canal Zone is anything but colonialistic. There is no private ownership of real estate. The sole purpose to which the Zone is devoted is the operation of the canal. The U.S. citizens and all others who work there are required to leave the Zone upon retirement. The only private enterprise permitted has to do with shipping, except for a few limited services for the physical and spiritual welfare of the workers. There are churches, YMCA's, 3 or 4 dentists, tailors and shoe repairmen and private clubs, but nothing else. These services are strictly controlled by the C.Z. Government and have rental agreements or land leases that can be terminated by the Governor at will. Congress made one exception in that it granted to the Sojourners' Masonic Lodge in Cristobal, title to the land on which its lodge building stands.

The Zone was not acquired by invasion as was the wont of the governments that participated in empire building, but it was bought and paid for and our entry was at the behest of the people of Panama who looked upon the Americans as saviors who could wrest victory out of the French failure and would do as has been done—give to Panama a flood of gold, employment and success that she so desired.

Presently, the two-headed complex entitled the Canal Zone Government and the Panama Canal Company which own and operate the canal and the zone, employ about 3,500 Americans and about 12,000 Panamanians. The Panamian employees receive excellent wages and are participants in U.S. retirement programs. It has been the policy for years for these entities to give preference to Panamanians in employment in all but certain security jobs, although most of the top jobs are held by Americans because of their technical expertise and seniority.

Careful studies show that millions of U.S. dollars flow into the economy of Panama annually from the relationship and the U.S. is a very benign and helpful partner. Our military also spends millions of dollars there and employs many Panamanians in posts of responsibility and good pay. These employees are like all people in that they are organized and make additional demands for better pay and working conditions but, generally speaking, they are contented and know full well that when Panama gets control, they may lose their jobs and those that are retained will be kept at a lower wage and with the loss of other benefits.

Panama's money is backed by the U.S. and is kept on a parity with the U.S. dollar and she has over seventy banks in Panama City that deal in international exchange. Recently, there has been a great deal of construction and the faces of her cities have changed markedly and belie the assertion that Panama is the victim of U.S. colonialism and that we have appropriated from her her greatest asset.

Actually, the canal is no longer paying its own way. The tolls for years were kept at a minimum and it was the pride of the U.S. that ships went through the canal paying the same rate of tolls that they did at the time it was opened. These tolls remained unchanged for a period of 60 years, although there was a good deal of belt-tightening done to accomplish this. Canal Zone workers who had received many free benefits were forced to pay for them and overseas differentials to the U.S. workers were reduced.

In 1973, for the first time in history, the canal lost money and tolls were increased.

In 1963, in the Panamanian newspaper "El DIA", a prominent and much read columnist of Panama wrote that he took a dim view of the U.S. leaving the canal for Panamanian operation. He said he could not forget what happened to the U.S. base at Rio Hato in Panama after it was abandoned, at Panama's insistence. Everything was stripped from it and nothing left, despite plans and avowals to make use of the installation.

Gen. Omar Torrijos, the dictator, himself

said from his hammock as reported by Washington Post correspondent, Marlise Simons, from Mexico City and carried in the Miami Herald on June 4, 1977, "There will be a vast political vacuum we will have to fill. I am thinking a lot about that. We will no longer have the gringos to blame." She reported further that while "international trade increased 10 percent last year, Panama's own gross national product registered no growth. This has brought new taxes, a total halt in the recently booming construction and high unemployment." She wrote, "The Government has been forced to cut back on deficit spending as commercial banks have become reluctant to increase the country's foreign debt."

The American Legion National Security and Foreign Relations Bulletin of July–August 1977 reported, "Banks and bankers have a way of influencing presidents and nations. United States and their foreign branches' banks have invested 2.77 billion in the Torrijos' Government. No one but Torrijos and his bookkeepers know the full extent of his Government's indebtedness to banks other than the U.S. Could the total indebtedness run to $5 billion?"

SEPARATION OF POWERS

The U.S. House of Representatives has taken the position by resolution and there is strong concurrence by some members of the Senate, that the Canal Zone is territory of the United States and cannot be disposed of except with the concurrence of both Houses of the Congress. The provision of the Constitution relied upon in assuming this position is Article IV, Section 3, Clause 2 which states:

"The Congress shall have the power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States."

I had the honor of testifying before a Subcommittee of the Senate Committee on the Judiciary in July with Senator James Allen of Alabama as Chairman, on the question of separation of powers and it was the sense of the testimony that this is the law.

I don't know exactly what would happen if the President and the Senate approve a new treaty and fail to seek a concurrence of the Lower House. Any attempt on the part of Congress to seek judicial relief would, of course, take place in our own Federal court system and any decision would be unilateral in its effect and would not in any sense be binding on Panama.

TITLE IN THE UNITED STATES?

Does the U.S. or Panama own the canal? This question has been bruited about by legal scholars and politicians so much that anything I say will, of course, be repetitious to some ears. I personally believe that the U.S. has a good title that could be defended in any courts that base their thinking on the English laws of Real Property and its historical precedents.

We are bound by the intentions of our leaders at the time of the acquisition of the Canal Zone in 1903 and we should insist that the people of Panama be bound by the intent of their leaders and people at the time.

First, let us turn to the basic document that gave rise to the construction of the canal, the Act of Congress called the "Spooner Act" of June 28, 1902, 32 U.S. Stat., 481. Section 2 of the Act is in part as follows:

"That the President is hereby authorized to acquire from the Republic of Colombia, for and on behalf of the United States, upon such terms as he may deem reasonable, *perpetual* control of a strip of land, the territory of the Republic of Colombia, not less than six miles in width, extending from the Caribbean Sea to the Pacific Ocean, and the right to use and dispose of waters thereon, and to excavate, construct, and to maintain, operate, and protect thereon a canal, of such depth and capacity as will afford convenient passage of ships of the greatest tonnage and draft now in use, from the Caribbean Sea to the Pacific Ocean, which control shall include the right to *perpetually* maintain and operate the Panama railroad . . . ."

The Act goes on to say in Section 4 that if the President is unable to obtain for the U.S. control of the necessary territory from Colombia, he should obtain "perpetual" control by treaty of the necessary territory from Costa Rica and Nicaragua.

It might be just as well at this point to recite what the United States did in payment for the Canal Zone.

(1) The Spooner Act provided that the U.S. should pay $40,000,000 for all of the property "real, personal, and mixed, of every name and nature, owned by the New Panama Canal Company, of France, on the Isthmus of Panama . . . including all the capital stock of the Panama Railroad Company" and this was paid in full.

(2) Under Article 14 of the Hay-Bunau-Varilla Treaty of 1903 (which will be discussed more in detail later, the U.S. agreed to pay to the Republic of Panama $10,000,000 in gold coin and also an annual payment of $250,000 in gold coin beginning nine years after the date of ratification. This was paid and the $250,000 payments were greatly increased during the administrations of Franklin D. Roosevelt and Dwight D. Eisenhower.

(3) Article 5 of the Treaty sets up a plan for a joint commission composed of people appointed by the "Governments of the United States and the Republic of Panama" to assess damages and appraise damages to private land holders in the area of the Canal Zone. This commission acted and titles to the private lands were acquired by the United States, which paid approximately $5,000,000 for the deeds and bills of sale; and

(4) In view of Colombia's unhappiness with the situation and her claims of injury, a treaty between the U.S. and that country "for the settlement of their differences arising out of the events which took place on the Isthmus of Panama in November" was signed at Bogota on April 6, 1919 and ratified March 1, 1922. This treaty provided that the title to the interoceanic canal and the Panama Railway" is now vested entirely and absolutely in the United States of America, without any encumbrances whatever", and that the U.S. would pay to the Republic of Colombia at the city of Washington the sum of $25,000,000 which was done.

Many who would espouse the demands of Panama have claimed that our position there is only a limited one; that we have merely a leasehold or what is known in English and American law as a defeasible fee; that nothing can be in perpetuity, therefore, the language "in perpetuity" is self-defeating. Legal scholars know this is just not so. The general warranty deed which expresses in no uncertain terms that the buyer of the land is to have and to hold the land forever with covenant of general warranty, is the commonest of transactions in the conveyance of real estate and in English and American law it means just what it says. Congress, in the Spooner Act, mandated the President to obtain the Canal Zone in perpetuity and the treaty of 1903 was drafted in compliance with that demand so it would be approved by the President and the Senate.

The disputed parts of the 1903 Treaty are Articles 2 and 3. The language of Article 2 that has caused so much controversy is the following:

"The Republic of Panama grants to the United States in *perpetuity* the use occupation and control" . . . of the area in dispute and further,

"The Republic of Panama further grants in like to the United States in *perpetuity* all islands within the limits of the zone . . .".

Article 3 states in full:

"The Republic of Panama grants to the United States all the rights, power and authority within the zone mentioned and described in Article 2 of this agreement and within the limits of all auxiliary lands and waters mentioned and described in the said Article 2 which the United States would possess and exercise if it were the sovereign of the territory within which said lands and waters are located to the entire exclusion by the Republic of Panama of any such sovereign rights, power or authority."

Those who support the position of Panama have placed great emphasis upon the language in Article 3 stating, "if it were sovereign", which they read to be a denial of the fact that it is sovereign and therefore the United States does not have title. In doing this, those interpreters ignore the subsequent language, "to the entire exclusion by the Republic of Panama of any such sovereign rights, power or authority." Language that is any more certain of divestiture can hardly be imagined.

Maybe the Treaty shouldn't have used the words, "which the United States would possess and exercise if it were the sovereign." It would only have deprived the Nationalists of Panama of a part of their ammunition for they claim that no matter what, we took advantage of Panama in a weak period and they want their canal "back", even though it means invasion of the Zone and loss of life by their people.

The only time that the Supreme Court of the United States has made any determination of the question of title to the Canal Zone was in the case of Wilson v. Shaw, Secretary of the Treasury, decided on January 7, 1907 and reported in 204 U.S. at Page 24. This was a suit to restrain the Secretary from paying out money in the purchase of property for the construction of a canal at Panama. The Court denied the relief sought and Mr. Justice Brewer wrote the opinion of the Court, and said:

"It is hypercritical to contend that the title of the United States is imperfect and that the territory described does not belong to this nation because of the omission of some of the technical terms used in ordinary conveyances of real estate.

"Further, it is said that the boundaries of the Zone are not described in the Treaty; but the description is sufficient for identification, and it has been practically identified by the concurrent action of the two nations alone interested in the matter. The fact that there may possibly be in the future some dispute as to the exact boundary on either side is immaterial, such disputes not infrequently attend conveyances of real estate or cessions of territory. Alaska was ceded to us forty years ago, but the boundary between it and the English possessions east was not settled until the last two or three years. Yet no one ever doubted the title of this Republic of Alaska."

This decision should have great influence on the attitude of our nation toward its ownership of the area but, strange to relate, our Department of State has consistently chosen to adhere to a policy of recognizing Panama as the "titular sovereign", whatever that means.

The 1903 treaty was ratified after it had been unanimously approved not only by the commissioners of Panama but by all of the municipalities and elective bodies of the Republic and by the votes of its citizens as well, as stated by Charles E. Hughes, Secretary of State to Ricardo J. Alfaro, Minister of Panama, at Washington on October 15, 1923. U.S. Foreign Relations (1923), Vol. II, pp. 648–675.

The statement by Gen. Torrijos that any new treaty will this time be submitted to the people carries with it the implication that the 1903 treaty was adopted without the

voice of the people. This is merely a ploy to the ones ignorant of the true facts.

ATTITUDE OF PANAMA AT TIME OF 1903 TREATY NEGOTIATIONS

At the time of the reovlution against Columbia, the governing authority in Panama was called the "La Junta Revolucionaria" or "Proceres de la Independencia." These gentlemen made a report in Spanish to the "Convencion Nacional Constituyente" on January 15, 1904 which was signed by J. A. Arango, Tomas Arias and Federico Boyd and translated is as follows:

"It is an essential condition of the Treaty, The obligation perpetual that the U.S. has accepted of guaranteeing the independence of our country. That agreement on a point of such vital importance since it is related with the very existence of the nation, that lacking such a guarantee would see itself exposed to external aggressions whose fear would maintain us obligated to remain in a constant state of defense, is evident proof of the good faith and of the spirit of justice that animate that friendly people that have extended to us a generous hand. The Treaty, appreciated with strict judgment, can seem unfavorable to us in certain aspects, but estimating it as are estimated the works calculated to change the face of nations, considering it at least as the seed of incalculable benefits that must favor the most remote posterity, the Treaty realizes very noble and elevated aspirations."

This statement, contemporary with the Treaty, far more truthfully reflects the feeling of the era in which it was drafted and signed than does the Monday morning quarterbacking of today's writers and diplomats.

The people of Panama had been bitterly disappointed by the French failure and their golden dreams had been shattered. The U.S. came along and offered them, not only rescue from defeat but protection from their powerful neighbor, Colombia, that had kept them under subjection for so many years. To say that the U.S. stole the Canal Zone is not only completely untrue but absurd.

Statutes of the Junta Revolucionaria adorn certain parks in Panama for they were once in high repute, but in recent years it has not been unusual to learn that they have been damaged and to hear demagogues revile them in their speeches.

During the period that the U.S. has had the Canal Zone it has eliminated the dread yellow fever and malaria, creating a healthful, beautiful area. The people are industrious and keep their yards full of flowers and plants. The ships of all nations have gone through the canal like clockwork with a brief delay only once caused by labor problems between the pilots and management.

It is interesting to note at this time that very few Panamanians actually worked in the construction of the canal. The powerful physiques of the West Indian Black men formed the great bulk of the work force and the engineering and management was done by U.S. citizens. Panama had a population of only about 300,000 people at the time, so with half being women and the exclusion of the children and the old from the males, there was only a small force available. Many of those continued to work their farms and conduct their private businesses, so their contribution was minimal.

Hon. George Westerman, former Ambassador to the U.N. from Panama has written an excellent book on the subject and researched it exhaustively.

AMERICAN BUSINESSMEN AND SHIPPERS

It may surprise some that American shippers have not voiced opposition to a transfer of the canal as it would place their ships in transit, subject to the whims and vagaries of a one-man regime. These companies are in many instances properties of conglomerates who have wide interests in Central and South America and they are willing to take their chances with Panama rather than "rock the boat." They are also beneficiaries of government subsidies and do not wish to projudice this by opposition. Any increased tolls can also be passed on to the consumer, American taxpayer, in the form of increased shipping charges.

The businessmen of Panama who receive the benefit of millions of dollars spent by the Canal Zone governmental agencies and the employees, are horrified by the possibility of the loss of this trade but they are afraid to speak out for fear of reprisals.

COMMUNIST DICTATOR IN CONTROL

Panama is a dictatorship with many communists holding prominent positions in her government. The Canal Zone Non-profit Public Information Corporation reports that Torrijos and every person in control of government offices today is identified with the Communist Party.

Recently Torrijos and several plane loads of his leaders spent a number of days with Castro in Cuba and there is a regular airline running between the two countries. The Embassy of Cuba in Panama City is large and luxurious and responsible people tell me that there are Cuban mercenaries in the interior.

In the "Miami Herald" of July 2, 1977 the UPI with Washington Dateline stated that four retired Chiefs of Naval Operations appealed to President Carter not to give up control of the Panama Canal. The four admirals "Thomas Moorer, Arleigh Burke, George Anderson and Robert Carney described the waterway as a 'vital portion' of U.S. naval assets and 'absolutely essential to free world security.' "

The admirals argued that the canal is increasingly important to the U.S. because of the reduced size of our fleet. The passage from the Atlantic to the Pacific permits quick repositioning of U.S. ships from one ocean to another, particularly in time of crisis.

A few aircraft carriers cannot transmit the canal, but the day of the carrier is past. The nuclear submarine with its deadly missiles can pass through the canal with consumate ease. If Torrijos or a similar successor controls the canal, movements of U.S. warships would be subject to his dictates when requesting passage no matter what the treaties contain and Castro and his Soviet henchmen would have a strong voice in canal policies.

The oil from Alaska is of such chemical content that it cannot be refined in the refineries of the West Coast. This means that great quantities must transit the canal to the East Coast. If the Panamanian dictatorship can control this flow of energy that is vital to the commerce and welfare of the U.S., we will be placed in a position of beseeching alms from a person who has constantly rattled the saber in his rambling speeches throughout Panama and Central America and has given evidence of harboring a deep grude against us that would make reasonable dealings impossible. As the looters in the New York blackout, he would justify mistreatment of the U.S. by claiming that she was guilty of years of oppression and abuse toward Panama and it was therefore her day to retaliate toward the colossus of the North who had wrested from her her most valuable asset.

The present Panamanian government was established by a military coup when a democratically elected president, Arnulfo Arias, was ousted from office by the Guardia Nacional, Panama's army, because he planned to name a general of his own choosing as its head. There was no uprising of the people, and no anger against the existing government or its form. In fact, the people were happy with the election of their hero, who had been elected by them twice before.

The so-called "revolucion" was nothing but a power play by a group of men who had all of the guns and who just decided to take over the reigns of government and establish a dictatorship for their own benefit. Many of these men have become very rich and have unlimited power.

Just how President Carter can harmonize his advocacy of "Human Rights" by attempting a transfer of the canal to a government that has deprived its citizens of democratic rights, has eliminated freedom of the press, exiles native-born citizens and incarcerates its citizens without fair trials is beyond comprehension. I believe that he is the victim of a great deal of misinformation and is overpersuaded by his zeal to curry favor with the other southern countries and avoid conflict.

A recent report by Jack Anderson, political columnist is strongly indicative of the type of mentality that controls Panama's affairs. Anderson said, "There is disturbing evidence that Panama's strongman, Omar Torrijos, has struck a secret deal with Libya's wildman, Muammar Quaddafi, to give the Arab extremist a foothold in the Americas and to cooperate with the Arab boycott against the Jews. The erratic Kaddafi is regarded as one of the world's most irresponsible rulers.

He has armed radical terrorist groups, tried to purchase nuclear weapons, subsidized Uganda's zany Idid Amin and engaged in various harum-scarum intrigues." The article dated June 6, 1977 said further that two months ago Torrijos and Qaddfi pledged allegiance to each other and recent antisemitism has been reported in Panama. All this because Torrijos is so badly in need of funds to run his government that he might turn against the Jews in return for Arab petrodollars.

CANAL NOT OBSOLETE

The tales indulged in by those who would surrender the canal are to the effect that it is obsolete and no good anymore for the world's ships are too large for it. Nothing could be further from the truth says David McCullough. In his recent best seller, "The Path Between the Seas," he wrote that the supertankers that can't go through represent a tiny fraction of the ships at sea. "If there is a problem with the canal, it's that too much traffic wants to go through it. There are 14,000 to 15,000 ships a year going through the canal today. Far more than ten years ago and less than will be ten years from now."

Canal Zone's Gov. Harold Parfitt said at a recent hearing of a subcommittee of the U.S. Senate, about 92% of the ships of the world can transit the canal. This certainly gives the lie to those who prate of the antiquity of the "big ditch."

SECURITY OF UNITED STATES

It is interesting to see that President Carter and his negotiators are stressing the fact that the new treaties will benefit the security of the U.S. This is one of the imponderables that the propagandists would thrust upon us.

We now have full control in perpetuity.

We have our troops there who can be armed, massed and used at our discretion. Our technicians, our engineers, our pilots and other U.S. citizens are there to insure the safe operation of the canal. Our police and our courts are in control of law enforcement. Lt. Gen. McAuliffe, Commanding General of the Southern Command in his testimony before the Senate Subcommittee July 22, 1977 said that with a few more men he could defend it.

As publicized, under the new treaties Panama will have much control in 3 years and she will have control of 70% of the land immediately. This land has long been considered vital to the operation of the canal and the safety and security of the people living in the Zone. Millions of dollars will be paid out to Panama as loans and grants and as a part of the tolls when the canal is already losing money.

How in the world can anybody in his right mind think that our security is insured with these changes and with a Communist-minded dictator in control of the government receiving these benefits.

The dictator has been rattling the saber in every speech he has made about the canal. He has constantly threatened the Zone with invasion and promised to lead this generation to take the canal by force. Now we would turn it over to him and pay him great sums of money in protection and our leadership talks of increased security.

Already certain Panamanian factions are disgruntled because the canal will not be completely surrendered immediately. They are grousing because our troops will be left in certain territories and there are words in the treaties that would let the U.S. perpetually protect the neutrality of the canal after Panama gets full control.

I was in Panama the time of the Remon-Eisenhower Treaty of 1955 and the ink was not dry before dissident factions were shouting against the U.S. and the same will happen this time. Our people apparently will never learn to cope with the communist-type mentality that is never satisfied and constantly clamors for more and more and more.

There is only one way to deal with people of this kind and it is not in the payment of protection money nor in the ceding of rights. The only way is by a strong position that will be respected. The constant assumption of guilt, the tearful cries that we have mistreated Panama over the years and admissions to false charges of colonialism that have been accepted by our State Department are not the methods to guarantee our security. We will not only endanger our position but we will lose the respect of the nations of the world. They know we bought it, built it, and should continue to operate it unhampered for our benefit and theirs.

COLONIALISM AND TREATY OUT OF DATE

Those sponsoring a new treaty with Panama label the opposition as red-necked chauvinists who are clinging to a relic of the colonial period of the U.S. and who would mistreat a friendly little country.

In the language of our liberal press, those who feel that a relinquishment of the canal would endanger the security and welfare of the U.S. are "jingoistic demagogues" who in some unknown but positively malicious and vicious manner hope to realize personal gain from their position. They write that the 1903 treaty is antiquated and that its provisions are archaic and a revision is long overdue.

Well, a few of those charged with chauvinism are the four retired chiefs of Naval Operations I have named, Admirals Moorer, Burke, Anderson and Carney. Another suffering the same charge is Herman Phleger, one of the most distinguished lawyers in the country, legal advisor to the Department of State under Eisenhower and architect of the far-reaching Antarctic Treaty. His position, well taken, that the U.S. operated under duress.

Those who would gain materially are not the little so-called "red necks" but the big American banks that have loaned millions to the dictator and need to be bailed out as he is on the verge of bankruptcy. The big businessmen that feel they stand to lose by being ejected from Panama and sympathetic countries, also view new treaties as opportunities to improve their positions.

For those bleeding hearts that say solemnly that the treaty "drafted in 1903 is badly outdated" have just failed to read their diplomatic history. Panama and the U.S. have been negotiating almost without interruption since the original treaty was signed.

A "Claims Convention" adjusting claims between the citizens of the two countries was celebrated in 1926 and modified in 1932.

Another Claims Convention was celebrated in 1950 and an arrangement for customs and space was celebrated in 1960 with an addendum in 1962.

In 1942 there was an agreement for the lease of defense sites which had to do with roads, airbases, lands, buildings, etc.

In 1904 there was a treaty for the mutual extradition of criminals which was amplified in 1906.

Also in 1904 there was a monetary agreement celebrated between the countries wherein the U.S. agreed to keep the monetary units of Panama at a parity with the U.S. dollar and that agreement was negotiated and amended in 1930, 1931, 1936, 1946, 1950, 1953 and 1962.

In 1936 a "General Treaty of Friendship and Coorperation" which was motivated by the "desire to strengthen further the bonds of friendship and cooperation between the two countries", was celebrated.

In 1942 they celebrated the "General Relations Agreement."

In 1955 with much ceremony and publicity was celebrated the "Treaty of Mutual Understanding and Cooperation" abrogating and changing many points of difference in the treaty of 1903.

After the riots and border incidents of January 9, 1964 the parties began another series of negotiations and in 1967 the negotiators had agreed. When this three-part treaty was made public there was a general roar of opposition voiced by the vocal elements in Panama and as a consequence it was never ratified.

TEDDY ROOSEVELT'S STATEMENT

Many who attack the U.S. control point to statements made by Teddy Roosevelt before Congress or in the heat of a political campaign when it was popular for us to have undertaken the tremendous effort to build the canal, when he was reputed to have said, "I took the Isthmus" or "I took Panama." They scornfully state that such statements were an indication of "big stick" tactics and that now we should humbly make reparations and apologize.

In Roosevelt's autobiography which describes the faithlessness of J. M. Marroquin, the dictator of Colombia at the time and the impossibility of completing a treaty with that country, he says,

"No one connected with the American Government had any part in preparing, inciting, or encouraging the revolution, and except for the reports of our military and naval officers, which I forwarded to Congress, no one connected with the government had any previous knowledge concerning the proposed revolution, except such as was accessible to any person who read the newspapers and kept abreast of the current questions and current affairs. By the unanimous action of its people and without the firing of a shot, the State of Panama declared themselves an independent Republic."

I choose to believe the autobiographic statement made in an atmosphere of reflection, as to what actually occurred rather than polemic declarations made during the violent discussions that were the order of the day when Teddy was running for office.

FRIENDLY NEGOTIATIONS?

We are told by the Department of State and the American negotiators that we should do justice to a friendly little country and that the proposed treaties have been negotiated in an atmosphere of friendly cooperation. We then learn that Sr. Romulo Escobar Bethancourt, chief negotiator for Panama, has said to a group of government officials in a speech since agreement has been declared, that if the U.S. Congress rejects the treaty the Panamanians will "take the road to violence" and he said further, "Omar Torrijos has tried to get the negotiations to work out because we did not want on our conscience the deaths of our youths." These are naked threats quite obviously made to incite the Panamanians and to frighten the U.S. Congress.

Panama is small with less than 2 million people but it has a well-armed, well-trained fighting force skilled in the arts of guerrilla warfare and sabotage. These threats are made by a group of ruthless opportunists who not only are demanding the surrender of U.S. property but have the monstrous gall to demand that the U.S. pay them to take it. It is reported that Castro urged Torrijos to scale down his demands and accept what the American negotiators offered. So much for our naivete.

The canal has always been vulnerable to sabotage but wrecking it would certainly not be to Panama's advantage. If attempts at sabotage are in mind, a treaty that delays full control to Panama for 20 or more years will not deter the radical saboteurs.

The dictator and his crew are engaging in psychological warfare when they threaten invasion and hoping that an America sickened by Vietnam will weaken to avoid a similar tragic mess. The obvious answer is that Panama has no such size or resources and no neighbors willing to support her.

Panama needs tourist trade and foreign investments and to develop a situation of guerrilla activity like in Ireland and other parts of the world would be most destructive to her and her people and would soon overthrow Torrijos and sue for peace.

UNITY OF CENTRAL AND SOUTH AMERICAN COUNTRIES IN SUPPORT OF PANAMA

Torrijos would have us believe that the Central and South American countries are united behind Panama in her demands and the U.S. negotiators hold over us the specter of loss of trade opportunities and rapport with those countries in the event we fail to cede. Nothing could be further from the truth. At a recent meeting in Colombia to express solidarity only five leaders were present: Colombia, Costa Rica, Venezuela, Panama and Mexico.

Anyone familiar with the history of Central and South American countries with their border wars and revolutions knows that all is not sweetness and light between them and their leaders will do exactly what they think is right for themselves. Unity between them is a myth that should be given no credence by responsible men.

Marilyn Guardabassi, who writes "A Woman's View" stated in her column of Aug. 22, 1977:

"Carter's insistence that Latin American countries are in favor of our relinquishing the canal or that such a move would enhance our image is false. Three quarters of all Latin American countries wholeheartedly support our maintaining our sovereignty, particularly those located on the Pacific Coast, for they realize that American control is their only guarantee that the canal will remain open to world shipping. This giveaway, and especially under duress from a two-bit dictator, makes us look ridiculous, not only in this hemisphere, but in the eyes of the world."

Dr. George W. Fontaine, Director of Latin American studies at Georgetown University in an article opposing the treaties written for the Wall Street Journal on Aug. 22 states:

"Yet even though no Latin American regime publicly supports the United States, the depth of pro-Panamanian feeling varies considerably from country to country. It is strongest in Venezuela, Colombia and possibly Mexico; it is weakest in the southern cone of South America. For example, Brazilians, heavy users of the canal, have privately expressed deep misgivings over Panamanian control."

Latin Americans are highly intelligent people. Many are internationalists, educated in Europe, the U.S. and other parts of the world. Each nation is separate and distinct, and proud of its own culture and traditions.

Many customs have been handed down from the "Mother Country, Spain", but they have developed their own dances, music, art and literature. Some say that their national sport is revolution.

They cannot be lumped together as they have different climates, ethnic groups and geography and they must be dealt with individually. Nicaragua is a great friend of the U.S. but I can remember when we sent Marines there to protect our interests and we were thoroughly hated. Costa Rica was a short time ago our great friend but now she has been weaned away and although she and Panama once had a border "war" she now sides with Panama against us.

Brazil was once against us and she is now a good friend, Chile and Peru were once our friends and now they are not nor are they friendly to each other.

All of the countries have their individual economic problems that are frequently competitive and they are looking for markets and opportunities. If they feel that the U.S. will serve them better in the Canal Zone they will be for U.S. retention although some of their demagogues and radical elements will give lip service to Panama.

I am minded of the statement about Europe that the Italians hate the Germans and the Germans hate the Italians. The English hate the French and the French hate everybody. An analysis of the Central and South American countries would reveal a comparable situation.

CONCLUSION

Our President has been badly advised by a group of State Department officials and emissaries of banks and big business. He is desirous of forming a new relationship with the Central and South American countries and he believes that the proposed new treaties will effectuate an era of friendship and cooperation. He is to be commended for his desires as a great deal must be done in this hemisphere.

There was a time when American products led the way. Asiatic and European automobiles, appliances and products have captured the markets, not because of the canal problem but because they are cheaper, of good quality and are just outselling our products. There has never been any great love in Panama for the Asiatics but they are going great today.

Communist countries are constantly seeking footholds in the great South American continent with its tremendous natural resources and population explosion. If we lose the canal they will have acquired a great position of vital importance.

Weakness is not the answer and as publicized the present proposals are weak. They will only whet appetites for additional concessions tomorrow.

The talk of a sea level canal is smoke screen and the present treaties are not binding upon Panama to permit us preference that could be enforced except by some military intervention and it would be hard to imagine the U.S. going into Panama with an army to build a sea level canal.

Our country spent 17 million dollars exploring the possibility of constructing such a canal and suggested that it could be done in the rugged area of Panama near the Columbian border with nuclear devices but Panama was horrified at the thought. Suggestions that such a canal could be built with conventional digging equipment were equally unwelcome as it would cause the death of the terminal cities of Panama City and Colon. The present lock canal provides those cities with great commerce from the ships that stop enroute through the locks and a sea level canal located anywhere would kill that trade.

The ecologists are up in arms about such a canal for the dangers to the great fishing industries. The present canal is a body of fresh water that successfully prevents mixing of the flora and fauna between the oceans. What would happen if a sluice way of salt water were to be opened between them is a matter of great concern to scientists and engineers.

The U.S. owns the canal and the surrounding lands. Why not keep them? Panama should probably receive additional benefits because of the overtures made by our government and our desire to retain her friendship but the people of the U.S. must recognize that as long as we have a presence there of any kind there will be outbreaks of hostilities. When she was part of Colombia Teddy Roosevelt recites that there were 53 revolutions in 57 years.

During my 25 years in office there were 2 strong attacks on the C.Z., 1959 and 1964, and there were many abortive attempts on the part of students and communists. Also, there were, of course, internal problems with the assassination of President Remon and the coup which put the present dictator in power.

We should not place the security and commerce of our nation in the hands of a hard drinking, meagerly educated, communist-leaning dictator who is threatening the U.S. with "give us the canal or else." This man lives by the sword and could die by the sword and a new leader could regard any treaty as just so much paper.

There is the possibility of bloodshed under the present arrangement as there is under any new arrangement. History has demonstrated that such is the way of life in Panama.

There is no honor in appeasement and blackmail leads only to violence.

JIM RICE

Mr. THURMOND. Mr. President, the major league baseball season recently concluded with a flurry of excitement. Reggie Jackson accomplished the unprecedented feat of hitting three home runs on three consecutive pitches in the sixth game of the World Series to give the New York Yankees their first world championship in 13 years.

It was entirely fitting that the World Series should end in such an exciting way, for this was a year of outstanding individual accomplishment in both leagues. One of the finest performances in baseball this season came from a constituent of mine, someone who is as fine a man as he is an athlete. I refer to Jim Rice, the designated hitter for the Boston Red Sox.

Jim Rice excelled in every category of offense this year. His statistics are truly exceptional. To begin with, he won the American League home run championship with 39. He finished third in runs batted in with 114. He finished sixth in batting with an average of .320. He was one of only three American Leaguers to make 200 hits. He was one of a slightly larger group to score over 100 runs. Moreover, he played in all but one of his team's games. He provided the leadership, day in and day out, that helped the Red Sox to fight the talented and wealthy Yankees on even terms right to the end of the season. As a result, he is one of the leading candidates for Most Valuable Player in the American League.

Mr. President, Jim Rice hails from Anderson, S.C. It was there that he first began to develop the skills which have brought him to the summit of the baseball world. Despite the fame and the honor that have come to him, Jim Rice remains a loyal son of South Carolina. He still makes his home in Anderson during the offseason. There he lives with becoming modesty and humility, a responsible citizen and a good friend and neighbor.

The people of Anderson and of my entire State are justly proud of this fine man and his rare accomplishments. On behalf of them and of myself, I offer sincere congratulations and all best wishes for the future.

The Anderson newspaper recently carried an editorial in honor of Jim Rice. I know that we have a number of baseball fans in the Senate, and I thought they might like to see the article. Even those who are not fans will be able to appreciate this testimonial to a native son who has made good, in a far off arena, amid formidable competition. Accordingly I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

CONGRATULATIONS JIM

Andersonians are proud of Jim Ed Rice who is the first designated hitter ever to be named to the American League's All-star team.

It is quite an honor to be named to the team. Making it a first as a DH makes the honor even more impressive.

Rice, who learned his elemental baseball skills on the school and American Legion Junior baseball fields in Anderson, has been a credit to his home town and the game all the way. He naturally has spread his area of influence considerably since joining the Boston Red Sox.

Even though he is a star, he has not behaved like one. He has not been spoiled by success. He has not followed the lead of some of the other outstanding players in the majors who are prone to temperamental outbursts and unreasonable demands. He has simply done the job the Red Sox have asked him to do and done it well.

He has shown the warm spot he has in Anderson and its people by building his home here where he plans to spent most of his off season time.

Congratulations Jim. May you have many more successful seasons and continue to reflect credit on yourself and your home town.

VETERANS' BENEFITS

Mr. MOYNIHAN. Mr. President, I had the privilege Tuesday evening, along with my distinguished senior colleague from New York, to address the Stony Brook Foundation of the State University of New York at Stony Brook. I thought it a good occasion to remark on the most recent developments concerning the GI Bill Improvements Act of 1977, which this body unanimously passed 2 weeks ago today. The attention paid the veterans by the news media, especially the Washington Post, is of long standing and has been commendable. I should like to offer my remarks and the editorials and columns of which I am aware, for the consideration of the Senate, and ask unanimous consent that they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

We gather here tonight due to a common interest in higher education. And we gather

at a moment when higher education in our State and our region is faced with a serious and damaging setback in Congress, which is now considering changes in the GI bill. It is to this situation which I would like to address some brief remarks.

No educational assistance program in history can begin to match in scope the GI bill, in all its incarnations over three decades. Yet since 1952 the structure of the bill has contributed directly to an increasing imbalance in this country, both geographically and institutionally, in the use by veterans of their benefits under the bill. The structure of the bill since 1952—by allotting a set monthly payment to all veterans enrolled in education, regardless of their differing costs—has thwarted the intent of the bill, which was at its inception and remains that of assisting veterans equally to obtain an education. The facts, however, give a different picture from that original and, as I say, continuing conception of purpose.

Just after the Second World War, in 1948, the proportion of eligible veterans enrolled in 2- and 4-year colleges in New York and in California was almost equal—16 and 17 percent respectively. Most recently, this ratio has altogether changed in California's favor, and today, fewer than a third of eligible veterans in New York are enrolled while more than half are enrolled in California. For an entire generation of young men in New York, these statistics reveal a significant limitation of educational opportunities, with obvious and damaging effects on their futures and on that of our state.

In 1948 the ratio of veterans attending private institutions of higher education to those in public institutions was 50–50. Today it stands at 4–1 in favor of public institutions. These indicators hold true not only for a few states, but across the nation, with the entire northeast and midwest falling far behind the west and south in participation.

Hundreds of thousands of veterans in the northeast and midwest have failed to use their educational benefits. It would be absurd to suggest that these veterans had less desire or capability to further their educations than do their counterparts in the south and west. The fact is that the GI bill payments go a good deal further in some places than in others. The single veteran here at Stony Brook needs approximately $3,400 per school year to meet educational and living expenses; his counterpart at California State University in San Diego needs $2,650. Both receive from the VA $2,628 per term if they are full-time students. We could look further, at the married veterans at Stony Brook and San Diego, who need respectively $7,100 and $5,400 per term and who receive the same $3,123. Is it any wonder, then, that only 600 of Stony Brook's more than 16,000 students are veterans, while there are 3,000 veterans among the 30,000 students at San Diego? Do these figures attest to an equal opportunity to seek an education? It is all quite straightforward: Costs vary, and so should assistance.

Less than two weeks ago, Senator Javits and I led a fight on the floor of the Senate to bring the structure of the GI bill more in line with its purpose. We did not obtain all we sought, but we were quite pleased and felt our efforts to have been rewarded when the Senate, by the overwhelming vote of 91 to 0, passed the GI Bill Improvements Act of 1977.

The act provided, for the first time since 1952, that veterans may receive assistance beyond their set monthly payments, at rates varying according to their tuitions. We were pleased that the act furthered the principle that the benefit to be equally conferred on veterans is not a monthly check but is the opportunity to an education. We were pleased that the act provided its assistance in meaningful amounts to veterans. And we were delighted that the sense of the senate on these points was unanimous.

You can imagine, then, our dismay upon learning, only yesterday, that there were no plans for a Senate-House conference on the act and that, in fact, the act was being quietly emasculated in private discussions between the staffs of the Senate and House veterans affairs committees. This, to an act directly affecting nearly two million veterans this year, and in the face of a unanimous Senate vote and of support by over 200 House members for a concept similar to that passed by the Senate. You can image, too, our perplexity at the administration's continuing silence on these matters despite President Carter's well-publicized and no doubt sincere commitment to bettering the lot of veterans.

I address this matter tonight because the outcome remains undetermined. To institutions of higher education in the northeast, and to thousands of veterans who live here, this is a matter of first importance. I know that the concern Senator Javits and I have will be shared by this audience, and I urge you to lend us your assistance in ensuring that the GI bill treats veterans equitably. President Carter has spoken of the "special debt of gratitude on the part of the American people to those . . . who served in Vietnam, because they have not been appreciated enough." In my view and in that of Senator Javits, they deserve appreciation and assistance no less because they choose to live in New York and to further their educations in the distinguished institutions, such as Stony Brook, which are found here.

[From the Washington Post, Jan. 9, 1977]

THOSE WHO SERVED

"In the area of the country where I live, defecting from military service is almost unheard of. Most of the young people in my section of Georgia are quite poor. They didn't know where Sweden was, they didn't know how to get to Canada, they didn't have enough money to hide in college. They preferred to stay at home, but still they went to Vietnam. A substantial disproportion of them were black. They had never been recognized for their service to the country. They had often been despised, characterized as criminals, they were never heroes and I feel a very great appreciation to them. They were extraordinarily heroic, serving their country in great danger even if they didn't have the appreciation of their fellow citizens and even if they felt the war was wrong. It's very difficult for me to equate what they did with what the young people did who left the country. . . .

"But I think it is time to get the Vietnamese war over with. I don't have any desire to punish anyone. I'd just like to tell the young folks who did defect to come back home with no requirement that you be punished or that you serve in some humanitarian capacity or anything. Just come back home, the whole thing's over."

That's how Jimmy Carter explained, in an interview with editors and reporters of this newspaper last March, what he was to describe in a speech to the American Legion in August as "the single hardest decision I have had to make during the campaign"—his decision to grant a blanket pardon to draft evaders in his first week in office as President, and to deal with Vietnam deserters on a case-by-case basis. Performance on this campaign promise is not going to be popular among many Americans. Those who resisted the war and joined the protest against it are not likely to be satisfied unless Mr. Carter does his pardoning in a way that suggests the "defectors" were right and that the war was wrong. And those who engaged in the war or supported it and who care most deeply about its hundreds and thousands of victims—the dead, the wounded, the drug-addicted, the men with bad conduct discharges, the unemployed—are going to resent any suggestion that those who served were wrong.

So it has the look of a no-win proposition for Mr. Carter, when you look at it in the narrow and inflammatory terms of a pardon for "defectors," which is the way most people have been impelled to look at it by the nature of the campaign debate on this issue, by the sharp focus on draft evaders and deserters as the unfinished business of Vietnam, and by Mr. Carter's own emphasis on "the young people who left the country." But it becomes a far more palatable and promising proposition if you approach it in the context of the Vietnam legacy in its totality and of what the new administration can do about those hundreds of thousands of victims of the war who never left the country—or left it to serve the country in Vietnam.

We have no clear indication of how Mr. Carter is looking at it right now. But the deadline for the President-elect's decision is drawing closer. So we would like to draw attention today to that larger problem—to the totality of the wreckage—and to suggest some ways to deal with *that*. And we would take as our text some other things that Jimmy Carter said in his American Legion speech that did not receive quite as much attention as his controversial commitment to a "blanket pardon" for the draft evaders now in exile in Sweden and Canada:

"We must recognize that, in far too many cases, the Vietnam veterans have been a victim of governmental insensitivity and neglect. Large bureaucracies of the federal government have often been incompetent, inefficient, and unresponsive in their fulfillment of responsibilities to veterans. . . . Each month, thousands of veterans are plagued with later delivery of badly needed benefit checks. Hundreds of millions of dollars of benefit payments have been improperly computed. . . . In 1973 and 1974 Congress passed legislation requiring special consideration of veterans in public service jobs, in training programs, for jobs with federal contractors, and for jobs in the federal government. None of these requirements has been fully or effectively carried out. . . . The record of placement in private sector jobs and training is no better. . . . Last month [July 1976] there were still $31,000 Vietnam veterans who had no jobs. . . .

"The Vietnam veterans are our nation's greatest unsung heroes. . . . a lot of them came back with scarred minds or bodies, or with missing limbs. Some didn't come back at all. They suffered under the threat of death, and they still suffer from the indifference of fellow Americans."

We recite these campaign statements by Mr. Carter not to suggest any lack of support for his pledge to pardon the draft evaders and deal with the deserters case by case, but simply to put that pledge in its proper perspective as a part of the unfinished business of Vietnam—but only a very small part, and to our mind, by no means the most important part. To put it in its simplest terms, the Vietnam war was a *generational* calamity. Leaving aside for the moment the private citizens who agonized over it and the taxpayers who paid for it and the next of kin of those who served or resisted, it has been calculated that there was a "Vietnam generation" of draft-age men numbering 26,800,000, and it is probably fair to say that, one way or another, the war touched the lives of most of them. Some of the brightest and best educated took refuge in higher education, or found other grounds for avoiding the draft. Roughly 570,000 were draft offenders. Nearly 9,000 draft offenders were convicted. Three thousand more draft offenders are thought to be still at large. From these two groups, it is estimated that about 5,000 are now expatriates, unable to return to the United States.

On the other side of the ledger, almost 11 million draft-age men served in the military, of whom only about 2 million can be classi-

fied as Vietnam veterans—those who actually served at one time or another in Indochina. Of these, about 52,000 died, 270,000 were wounded, and 70,000 received "bad paper" discharges under other than honorable circumstances. Another 180,000 young Americans who did not go to Vietnam received bad discharges, a handful for failure to report for Vietnam duty (7,000) and the great majority for other offenses. Astonishingly, of the bad discharges awarded to Vietnam veterans, only 24 were awarded for desertion under fire. 2,000 were awarded for those who went absent without leave in the combat zone and the great majority (68,000) were for other offenses.

Now "other offenses" covers a multitude of things, including such "civilian" crimes as assault, homicide, and theft, as well as violations of military codes and regulations. But when you consider that the overwhelming majority of those who got caught up in the draft were poor, undereducated and the least qualified for military service, do you not have to include them, in a certain sense, among the victims of the war? It is estimated that at least one quarter of the 200,000 Vietnam-era veterans who received "undesirable discharges" or bad conduct discharges got into trouble *after* serving honorably in Vietnam. Yet their "bad paper" discharges severely damage their employability and will dog them the rest of their lives. Once you start talking about pardons, the numbers and the number of categories of potential candidates boggles the mind. What, for example, of those war resisters who stayed home to protest and were convicted of non-violent offenses under federal law? The point is simply that the problem only begins with the estimated 6,000-or-so self-exiled draft evaders and deserters in Sweden, Canada or elsewhere.

There are other measurements, equally devastating, and even more difficult to calculate, of the full legacy of Vietnam: the drug-addicted, the psychiatrically disturbed (some of whom committed crimes of one sort or another after the service), the unemployed. The jobless rate in the 20- to 24-year-old category is almost twice as high for Vietnam veterans whose employability has been marred two ways: directly, by drug addiction, psychiatric problems and service-connected physical disability; and indirectly by the popular image of Vietnam veterans as unstable and violence-prone.

President-elect Carter, we think, is on the right track—and never mind the semantical confusion he has created by his misuse of the strict meaning of "pardon" as opposed to "amnesty." He is proposing to deal with draft evasion and desertion (under some circumstances) as offense to be forgotten and in a sense forgiven, without respect to the rightness of the act or the wrongness of the war. This is a welcome first step beyond President Ford's clemency program, which demanded a penalty for those who evaded the draft—which said, in effect, that *they* were wrong and that the war, by implication, was right. But if that is all Mr. Carter intends to do, he will not put Vietnam behind us. For he will be picking up only a small piece of the Vietnam wreckage. The rest of it—the biggest part of it—is also the hardest part. But if Jimmy Carter really wants to be able to proclaim that "the whole thing's over" he is going to have to make good on some of those other promises he made to the American Legion. He is going to have to do something about the wreckage of those who served.

Among those reflecting upon the meaning of Memorial Day, we would assume, are approximately eight million veterans of the Vietnam years. For many of them, it comes as one more painful reminder that this country still lacks a comprehensive program to deal with their needs and entitlements. It cannot have escaped their notice that a nation capable of prolonged discussion and strong emotion on the merits of amnesty for no more than 10,000 young, men who did not serve—by evading the draft—is strangely incapable of dealing equitably with those who served, including two and a half million who actually went to Vietnam and 400,000 who suffered wounds. To examine some of the current attitudes about Vietnam-era veterans is to see graphically why so many of them feel ignored or frustrated. It is also to understand why those who are trying to help them are finding it so difficult.

There is, to begin with, the GI Bill itself. At the moment, many of the most needy veterans are denied meaningful access to educational assistance. The GI Bill was inadvertently structured to provide benefits to veterans with access to low-cost public institutions. The problem is that many states and cities have few, if any, of these institutions. Sen. Alan Cranston, chairman of the Veterans Affairs Committee, has spoken of this unfairness and has pledged to "explore the matter and to come up with a remedy." Unfortunately, the leadership of the House Veterans Committee and, surprisingly, the new administrator of the Veterans Administration, Max Cleland, have not made a similar commitment. Another group with limited access includes some veterans who are married and have children; for them, the GI Bill's allowances are too low to be meaningful. Veterans with less than high-school educations are often left out also. Still another group is the one comprised of veterans who fought during the years 1966 to 1972; they were discharged at a time when benefits in many states were effectively so low that the most needy could not afford to go to school.

A second problem is the lack of attention given to the personal adjustment problems of Vietnam veterans, especially the disabled. Many came home unthanked and unnoticed for their sacrifice. Being forgotten became one of the heaviest emotional burdens, particularly as South Vietnam collapsed and the country's leaders were content, as President Ford urged, to put Vietnam behind us. One of the government's failures is that it hasn't conducted the research to learn how widespread the emotional problems may be. One unofficial VA estimate holds that one out of five new veterans suffers serious and prolonged readjustment problems.

From these examples alone—and there are others—it is clear that, despite the efforts of a few public officials as well as some of the more alert veterans groups, there is no coherent national policy for dealing with the problems of returned service personnel. It is not as though solutions are unknown, or that teachers, counselors and others are unwilling to work individually with the veterans. An article on the opposite page today tells the story of a few people involved in programs that are as worthwhile on the local level as they are deserving of support from higher levels.

In other words, it can be done—it just isn't being done enough.

At the moment, Congress is considering an across-the-board increase in GI benefits. This approach, as a recent report to the National League of Cities and the U.S. Conference of Mayors notes, is far from ideal: It may overcompensate those veterans who already are receiving too much, while others will remain without access to schooling. Rep. Lester Wolff (D-N.Y.), along with 75 cosponsors, has introduced legislation that would accelerate the availability of GI Bill benefits. This bill and another—providing tuition equalization—deserve immediate attention.

Evidence suggests that the veterans have a number of supporters scattered throughout Congress. But it is the responsibility of the President to pull together that support, as well as coordinate the energies of his own administration. In January, the Secretary of Labor, with considerable fanfare, announced a $1.3 billion program to provide more jobs for veterans. Four months later, unemployment among veterans remains high with veterans groups still awaiting signs of effective followup. One issue that has aroused the anxiety of these groups is that the mandatory veterans quotas—ones assuring that the jobs go to veterans rather than others—have been dropped from the administration's bill now on its way through Congress .

The President has spoken movingly of the plight of the Vietnam veterans. But his actions—the efforts to provide a form of amnesty for deserters and veterans with "bad paper" discharges, the hastily assembled jobs program—fall short of the sort of comprehensive, high-priority approach that is needed. Today, as always, we salute those who served and suffered in all wars—and, above all, those who gave their lives. But our urgent concern is with the veterans of the Vietnam years—and with the unfinished business of that war.

[From the Washington Post, May 30, 1977]

WHO IS CARING FOR THE VIETNAM VETERANS?

(By Colman McCarthy)

Peggy Nolan, an English teacher in the Veterans Upward Bound program at Prince George's Community College, received a surprising phone call the other evening from Bill White, one of the 15 Vietnam veterans in her course. He couldn't get to the next class, White explained, but he wanted to get the assignment so he could keep up. What amazed Mrs. Nolan was that the call came from Tulsa. "I knew Bill liked the course," she said, "but I was touched that it meant so much that he would go to the expense of calling long distance."

The veterans in Mrs. Nolan's class have been studying the basics of English grammar. Some had reading and writing skills well below eighth-grade level. Few had ever been exposed to advanced grammar, much less the delights of literature. But one motivation was common to them: Learning English was a survival skill; if they didn't grasp it now they could expect to remain in the exile that has been the fate of so many Vietnam veterans.

America's mistreatment of its Vietnam-era veterans is a well-known story: The inadequacy of the GI Bill, high unemployment rates, shifting and often stringent VA guidelines, neglected or dropped veterans' programs, job-offer runarounds—these are among the complaints heard by a reporter when he met recently with Mrs. Nolan's class.

But aside from the anguish of grown men who are blessed with street-wise intelligence but who struggle and sweat to learn simple English, another reality came through: In Mrs. Nolan, and the others in the Prince George's Upward Bound program and its supporting English Department, the veterans had finally met people who cared about them. The significance of that should not be dismissed. A few years ago, Rep. Silvio Conte of Massachusetts, one of the Vietnam veterans' more reliable friends in Congress, said that "somebody has got to take these guys by the hand and help them decide what to do. We've got to let them know that somebody cares."

The congressman didn't say where these "somebodies" are to be found. But the lesson from Prince George's is that they do exist.

The Veterans Upward Bound program at Prince George's is one of the few remaining out of the 60 in operation across the country five years ago. These programs are said to attract zealous teachers like Mrs. Nolan, who confesses that "I had the deepest sense of fulfillment I've ever had in any school, because of the veterans' needs and motivations." Another effort is the Veterans Cost of Instruction Program (VCIP), HEW's pro-

gram that provides 1,200 colleges with funds to counsel and help veterans, particularly the poor, jobless and uneducated. In classrooms and counseling offices that these programs have set up, the invaluable one-to-one work is done.

Although VCIP and Upward Bound are small programs that serve only a portion of the eight million Vietnam-era veterans, their success serves notice that effective ways of reaching and educating the neediest veterans are known. Instead of expanding a program like VCIP, however, it appears that the results of federal decisions subject local directors and staff workers to one frustration after another.

At Prince George's Community College, Dave Borchard, director of veterans' affairs, tells of having to cut two people from his five-member staff last year. VCIP funds were reduced from $72,000 to $52,000. Borchard says that "decisions at high levels are made haphazardly without an effort at really finding out what is happening on campus. We kept hearing from lower- and middle-level officials in HEW that this was a good program. But this information never made its way to the top."

The communications problem has always been present. When $25 million was appropriated by Congress in 1972, the National Association of Concerned Veterans had to sue the Nixon administration to get the impounded money spent. During the Nixon years, no funding requests were made to Congress. Owing to the pushing of a few members of Congress, the program received its money. Because it was backed by Congress but not the administration, VCIP was a stepchild at HEW. In the field among the program's administrators, worries about funding became a major distriction.

At the moment, the Carter administration has included VCIP in its budget—for $23.5 million. The irony is that at the same moment the program is receiving some mild support at HEW, a new threat appears: Under the terms of the legislation, a school must maintain its veterans enrollment at its qualifying levels or face at the least a reduction in funds and possible termination. Some dropoffs are occurring as veterans graduate. The National Association of Veterans Program Administrators is now trying to amend the Higher Education Act, so that it takes into account the large numbers of veterans still needing the program, despite the decline. This is the new fight.

One of those planning to wage it is Robert Martinez, the VCIP director at HEW. In a recent issue of the Chronicle of Higher Education, he said that "the commitment of the colleges to the disadvantaged students, including veterans, is only as deep as the dollars to assist them. Without programs like VCIP, the ones who are most in need of help will be cut off and left to fend for themselves. I think it's a shabby way to treat these guys. Talk to veterans now and you'll find that they are tired, frustrated, apathetic. No one is listening to them."

The larger entity of which VCIP and Upward Bound are the smaller parts is the GI Bill itself. In 1966, with Vietnam heating up, an educational-benefits bill was passed by Congress, but the veto threats of President Johnson held its payments to $100 a month. That was less than the Korean-war level of $110 a month. That low base has penalized veterans ever since. Any increase from that, in percentage terms, looked large, although for many—particular the poor and the schools serving them—the money has been meager compared to the generous levels of World War II.

Another complication was the Johnson administration's policy of recruiting an army from mostly the poor and lower middle class. This meant that many of those who served in Vietnam went with the idea that after the war "a grateful nation" would at least come across with the promised educational benefits that otherwise would have been out of reach.

On returning, though, these veterans found themselves victimized by the traditional powerlessness of the poor and lower middle class. In a recent report on the GI Bill to the National League of Cities and the U.S. Conference of Mayors, detailed examination was made of veterans educational programs in Nashville. The report concludes:

"From this overview of a part of Tennesee, it is possible to see a reflection of the national picture. The GI Bill—and the Vietnam-era veterans it is intended to serve—has been burdened by a string of problems which seems to lengthen as the war recedes from public consciousness. The problems are varied, complex and at times contradictory. Costs have risen sharply to the highest level in the history of the Bill. Over-payments have reached into the hundreds of millions of dollars. The VA has been first to lax and then too rigid in the administration of the program. Some colleges and universities have been inhospitable to veterans, others indifferent, still others too aggressively exploitative. Some veterans have abused the Bill. . . . Presidents Johnson, Nixon and Ford, under whose administrations the war was fought, showed something less than enthusiasm for extending full educational benefits to all those who fought it for them."

The discouraging situation outlined by the report was articulated in a recent letter from the veterans coordinator at Highline Community College, Midway, Washington. Steve White wrote to his fellow administrators of the VCIP program that he was quitting because he could stomach no more frustration from above. "When I began we were all involved in helping other veterans accomplish some educational goals in their lives. We bent rules, broke through red tape, and anything else we could to assist our school's veteran population. Each of us in our own way did one hell of a job. For many veterans it was the first time anyone helped them in an individual way since that historic induction day took place in each of our lives. The first time that anyone really cared about them, and gave a damn! Without a doubt, my first year or two saw many battles against VA bureaucracy won by each of us. . . . [But now] years of work and efforts on the part of VCIP coordinators are being destroyed by this state's institutions knuckling under the VA threats."

A few months ago, veterans' groups became guardedly optimistic when a new administration took over. President Carter's appointment to the VA of Max Cleland, a triple-amputee Vietnam veteran, was welcomed. "I think my appointment," Cleland said, is an indication that [the President] is extremely sensitive to the problems of young veterans."

If that sensitivity is to mean anything, the first test is whether it can be expanded not only to Cleland's own agency, but also to HEW—which runs VCIP and Upward Bound—and the Labor Department. Last January, the latter trumpeted a new jobs program for Vietnam veterans, but four months later several veterans' groups complained bitterly that neither Labor nor Congress was following through. Meanwhile, in April, 474,000 veterans in the 20–34 age group were unemployed, a rise of 32,000 from March.

At the moment, the government's veteran policy is suffering from formlessness. Bits and pieces of the whole—programs like VCIP and Upward Bound—have proven their worth. But rather than being supported by those in power, they are allowed to remain fragmented. Thus, as one part of the government goes after unemployment, another seeks to rouse the VA. And education remains someone else's concern. At the least, the veterans deserve the kind of whole care and attention from the powerful that they are receiving from the Peggy Nolans, Dave Borchards and Steve Whites in the classrooms and counseling offices. If there is a light at the end of the tunnel, it should be shined by those in power who may be out of the dark themselves but who haven't brought many Vietnam veterans with them.

[From the Washington Post June 28, 1977]

VETERANS OF A LOST WAR

(By Colman McCarthy)

At hearings last Wednesday before the Senate subcommittee on veterans affairs, John P. Wilson, a psychologist from Cleveland State University, offered some staggering findings on how life is going for a group of 346 veterans from the Cleveland area. Wilson's study, funded by the Disabled American Veterans Association, sought to discover the personal impact of the war among a sampling a combat and non-combat veterans who were white and black and from all economic groups.

Wilson's study, called the "Forgotten Warrior Research Project on Vietnam Veterans," supplies some new information, however unsettling, to those in the old-line veterans groups, and their boosters in Congress, who believe that Vietnam was no different from earlier wars. When Wilson sought modest grant money—$20,000—for his research from the American Legion and the Veterans of Foreign Wars, he had no success.

He told Cleveland Magazine: "It was obvious that the subject was one that did not appeal to the interest of these groups. I think some may have guessed what we would come up with. . . . More than anything else this study will show the American public what happened in Vietnam. They have no idea of the human toll it took. By facing the reality of what the war did to the men who served there we can learn about society itself. My suspicion, at this time, is that we as a society feel ashamed, embarrassed and guilty about the war. Perhaps the Vietnam veteran is the scapegoat who gets blamed for our collective guilt. All we want to do is forget, and in the process we ignore everything associated with the conflict, most of all the men who fought it."

Reporting that the typical soldier in Vietnam was a late adolescent or young adult still in "the development period of identity formation," Wilson shows how that formation has been progressing since the war. Among black combat veterans, unemployment is 48 per cent; among whites, 39 per cent. Thirty one per cent of black, and 22 per cent of white, combat veterans are divorced. Forty one per cent of both groups have alcohol problems. Forty five per cent report poor family relationships. Fifty nine per cent of the blacks, and 67 per cent of the whites, have drug problems.

With these excesses of turmoil and tragedy in veterans' postwar lives, the answers to some of the "attitude" questions are not surprising. When asked, "If there were another Vietnam tomorrow, would you serve in the military?" 95 per cent of the combat veterans stated "absolutely not." More than 90 per cent do not trust the government. Wilson reports that "most of the men currently believe that the war was fought for economic purposes and that they were exploited by political leaders." If the men have bitter feelings about being duped by those who sent them into Vietnam, they also suffer from what Wilson calls "negative self-esteem." Thirty seven per cent of the black combat veterans, and 28 per cent of the whites, have negative attitudes about themselves.

The statistics tell, still again, that the burdens of readjustment have fallen more harshly on the black veterans. Wilson concludes that "for the lucky veteran, typically a white middle-class person with some college education and family support to help pay for higher education, the process of identity integration and finding a niche in society was not as difficult as it was for the poor black veteran without these benefits or

opportunities. For the black veteran, life since Vietnam has been one hassle after another. A vicious cycle of Catch 22s has been the rule."

As an example Wilson cited the GI Bill. It is, he said, "inadequate to subsist on and simultaneously raise a family." Without additional job training for education, he said, the black veteran finds only menial jobs available—or none at all. Without education and good employment they are refused commercial credit to purchase houses. In turn, "lack of employment and a decent standard of living generate psychological stress that then spins off into interpersonal conflict, drug use and crime."

Readjustment from the Vietnam War thus leads to either battles against society or, if those can be contained, personal battles against the self. Earlier studies on readjustment problems suggest that the inner effects of war are prolonged and surface randomly. Vietnam veterans constitute 9 per cent of the Veterans Administration hospital population, but 20 per cent of the suicides in those hospitals. Another survey found that Vietnam veterans "have a higher rate of single-car, single-passenger fatalities than any other group in the U.S."

Despite the studies and statistics, it appears that many in Congress and the country don't want to be told the Vietnam experience was something special, because that obliges them to reflect on *why* it was special. And the answer to that, of course, is not just that it was the nation's longest, most expensive and second largest war, but also that, after all that effort, the war was ignominiously lost. With the exception of eight Vietnam-era veterans, all war veterans in Congress are from World War II or the Korean War. Because their perceptions were shaped by their own readjustment periods—they returned as heroes to a grateful nation ready to reward them—many members see little need for passing legislation to provide more and broader services to Vietnam veterans and to be large-minded about their eligibility. Rep. C. V. (Sonny) Montgomery (D-Miss.) said, "I do not see the difference between the Vietnam war, the Korean war or World War II. They are all wars. The persons fighting the wars cannot tell any difference." Such an attitude, grounded either in ignorance or callousness, can only further alienate and depress the Vietnam veterans.

But it can't silence them. Ralph C. Thomas III, a Vietnam veteran and director of the discharge review division of the Harvard Law School Committee on Military Justice, told the House Committee on Veterans Affairs yesterday that he and his comrades had a stark awareness that this war was different.

During the Vietnam years, Thomas said, "the war's morality and even legality were questioned daily [and] debated on the floor of Congress as well as editorialized in the news media. . . . Such a climate couldn't endure without affecting the morale of the servicemen both within and without the country of Vietnam. We began questioning our own morals and principles and I can assure you that our political discussions were not less heated in the hills of Vietnam than yours were in the halls of Congress.

I observed arguments concerning the validity of the Vietnam war that brought GI's to the brink of fisticuffs with one another. Such disagreements often led to a serviceman's demise. An unpopular political opinion to the wrong superior officer was usually the beginning of the wheels' being set in motion for a less than honorable discharge—regardless of the individual's competency or job performance. It is probably safe to say that during the Vietnam era more bad discharges were sparked by political considerations than during any other American war.

In the Winter 1975 issue of the Journal of Contemporary Psychotherapy, Victor DeFazio wrote that "the psychological climate of the war, the public's response to [veterans'] homecoming, the fact that most entered the armed forces during late adolescence, their moral doubt and the survival experience seem to account for [the Vietnam veterans'] unique difficulties and attitudes." Still to be explored are the psychological problems created by the newest obstacle to healthy and quick readjustment: politicians like Montgomery who are now as indifferent to the war's messy aftermath as once they were passionate for its escalation.

[From the Washington Post, July 19, 1977]

VIETNAM VETERANS AND THE GI BILL

The Congress is discovering, and rightly so, that the unfinished business having to do with equity and reasonable opportunity for the veterans of the Vietnam era cannot be wished away. The other day we talked about the efforts of sensitive and responsible members of Congress to rescue the administration's program for speedier review of less-than-honorable discharges. Today, as the Senate Veterans Affairs Committee begins to debate amendments to improve the GI Bill, we would like to take note of another effort by those in Congress who recognize the importance of working for fair and humane solutions to the particular problems confronting the veterans of Vietnam as a consequence of the particular nature of that conflict.

Sens. Alan Cranston (D-Calif.), John Durkin (D-N.H.), Jacob Javits (R-N.Y.) and Hubert Humphrey (D-Minn.) are aware of the flaws in the current provisions of the GI Bill. But doing repair work on this legislation is not one of the appealing pursuits in Congress. For one thing, the GI Bill is perhaps the best known of the veterans' programs, which means that its failures receive the most publicity. For another, when Vietnam veterans are involved in the failures, a kind of general, anti-Vietnam prejudice sets in. A few years ago, when abuses involving Vietnam veterans began to be reported—overpayments, payments to those who didn't attend classes, creation of training courses that had no substance—the critics seemed not to remember that similar abuses occurred after World War II and Korea; only the glowing successes of those programs were well remembered. That almost nobody seemed to remember any *successes* of the GI Bill for Vietnam veterans may have something to do with a general inclination on the part of politicians as well as the public not to want to be be reminded about anything having to do with the first war America lost.

In any case, Sens. Cranston and Durkin have set out, first of all, to correct some of the abuses that have come to light. This is expected to be handled without great difficulty by balancing the needs of the schools with a prudent use of federal funds. Other problems will not be resolved so easily. For example, the GI Bill as it is now operating favors veterans in states that have educational systems providing low cost schools—unlike the World War II program, which gave all veterans equal amounts to live on. An example of this, as Stuart Feldman has pointed out in a report to the National League of Cities and the U.S. Conference of Mayors, is that "a veteran at Temple University, the public college in Philadelphia, would have to pay $1,498 for tuition fees and books. A veteran attending San Francisco State would have only to pay $200 tuition. When coupled with expenditures for average book and supply costs, this means that the California vet, who may have served in the same company with the Philadelphia vet, has to spend only 15.1 per cent of his yearly GI Bill benefits for education costs—while the Philadelphia vet has to spend 57 per cent of his benefits. The California vet has $122 more per month to apply to his living expenses."

Sen. Cranston would take a step toward correcting these inequities by allowing veterans whose tuition is more than $1,000 a year to use their benefits at a faster rate to cover the differences. This is the "acceleration provision," which was part of the World War II GI Bill. It has has the support of the VFW and American Legion. An alternative, which also has merit and which passed the Senate in 1974, is being offered by Sens. Javits and Humphrey. It would pay 80 per cent of a veteran's tuition between $400 and $1,400. The Javits-Humphrey proposal would help veterans who are now locked out of high cost schools that may be the only ones in their area. A third alternative, favored by the Veterans Administration, is to provide a five per cent increase in educational benefits. But this does little to affect the geographical inequities.

Another proposal, offered by Sens. Cranston and Durkin, would allow veterans whose benefits have run out to pick them up again so they can complete their training or schooling. This would extend the delimiting period that cut off benefits to veterans whose time has or will run out 10 years after eligibility began.

Although the GI Bill legislation is in only the markup period in the Senate, it is important that a strong bill emerge now. In the past, the leadership of the House Veterans Committee has resisted such proposals as the tuition-equalization plan, accelerated payments and delimiting-date removal. The President has an obvious role to play in the debate. In his campaign, he spoke out in behalf of Vietnam veterans. He now has the opportunity to involve his administration in ensuring that the money that it has already committed goes to those legislative approaches that promise to serve veterans with the greatest need.

[From the Washington Post, Sept. 15, 1977]

RENEWING THE GI BILL DEBATE

As the debate on the GI Bill continues in Congress, the overriding issue still needing to be resolved is the disparity in benefits. As Rep. Albert Quie (R-Minn.) has explained, "the present veterans benefit system has evolved to the point where a large number of GI Bill recipients receive more than their total educational benefits and other thousands of veterans have to go into debt to get comparable education." Despite positive moves by the Senate Veterans Committee, however, neither the House Veterans Committee nor the Carter administration seems prepared to act decisively to offer relief to the hundreds of thousands of veterans involved.

In previous testimony, the administration proposed an across-the-board increase in benefits. But this does little more than maintain the current inequities. Veterans in Texas, for example, whose number slightly exceeds those in Pennsylvania, used $318 million in GI benefits in fiscal 1976, while the Pennsylvanians used only $156 million. The lack of fairness is obvious. But these payments represent more than money; they represent the educational opportunities that can change veterans' lives.

Other approaches recently offered in the House and Senate strike us as better solutions. One would assist veterans by paying 80 per cent of their tuition costs between $400 and approximately $1,600. This measure seeks to ensure that veterans have more or less equal amounts of money to live on and that all can afford at least public education in their region. A second approach, already in the Senate bill, would allow veterans to use their benefits at a faster rate to cover higher costs. Both approaches were taken in legislation following World War II.

House hearings today offer President Carter an opportunity to stand with Vietnam-era veterans whose chances for equitable benefits are fast running out. As an Annapolis graduate who knows the value of a federally sponsored education, President Carter can

align his administration with policies that realistically aid veterans where most needed. It has been argued that veterans who choose to attend high-cost schools should not expect more GI Bill assistance. But what of those many veterans from areas that offer no choice but high-cost colleges or technical schools?

Until lately, Reps. Ray Roberts (D-Tex.) and Olin Teague (D-Tex.) have dominated the GI Bill debate in the House. Others are now coming forward who are more in touch with the actual needs of veterans hoping to educate themselves. It remains for the rest of the House, especially the leadership, to take the broader approach.

[From the Washington Post, Sept. 27, 1977]

VIETNAM VETS: WHO LISTENS TO THEM IN WASHINGTON?

(By Colman McCarthy)

In earlier trips this year to Washington, Jim Bombard brought along some fellow Vietnam veterans to help tell his story. He is the director of veterans' affairs at Queensborough Community College, Bayside, N.Y. Last spring, he and three of his students had a meeting with an official in the White House's public liaison office. In June, Bombard came down from Queens with one student to testify at hearings before the Senate. Both occasions were used to make the case that veterans are being victimized by unfair provisions in the GI Bill, that unemployment among them is severe, and that they are demoralized and embittered. Bombard and his veterans pleaded with Washington—the Carter administraiton and Congress—to wake up to the injustices and suffering being endured by large numbers of the nine million Vietnam-era veterans.

On his most recent visit to the Capitol—Sept. 15, to testify before the House subcommittee on education and training—Bombard came alone. He said that he couldn't go through the heartless routine again: bringing veterans to Washington, seeing their hopes rise as they made the rounds but then going home to seethe at the inaction that inevitably followed. Vietnam veterans, Bombard says, are worn out and talked out. They are frustrated by what they see as a lack of response to their problems from the Carter administration and by only a few in Congress sticking with them.

Veterans need no search parties to uncover the indifference. At the subcommittee's hearings on two bills to increase the GI Bill, fewer than half of its 11 members were on hand; weeks earlier, when the subcommittee discussed denying benefits to dishonorably discharged veterans, nearly everyone came. The full House also had its chance to reveal its priorities: On Sept. 12, when two pieces of veterans legislation came to the floor for debate, fewer than 30 members appeared. As for the White House, Bombard left behind a detailed memo on veterans' problems. An official in the liaison office promised a substantive reply, but all that ever came was a brief note saving the material was being passed along. And that was that.

The hearings on Sept. 15 involved two proposals to broaden the GI Bill. Most of the witnesses—from a university president to a veteran in a wheelchair—found it shameful that all the Carter administration and the leadership of the committee could offer was an across-the-board increase that would continue the inequities of overpaying veterans in some states and underpaying them in others. Instead, the witnesses argued for proposals that would create fairness by taking into account the varying costs of tuition. One situation to be corrected was described by John R. Silber, president of Boston University: "The higher the tuition price in a state or region, the lower the use by eligible veterans." Rep. Albert Quie (R-Minn.) said that "the current program seems to be built on the notion that an equal amount of dollars to all veterans is the same as equal education opportunity. . . . I disagree. That is almost like saying that the average shoe size for all military personnel is size 9½ and therefore everyone will get size 9½."

Silber and Quie addressed their thoughts to subcommittee chairman Olin Teague (D-Tex.), the House's most decorated war veteran. His colleagues call him "Tiger," in honor of his past war valor, which is regularly praised by witnesses appearing before him. Teague is a favorite of veterans' organizations whose members go back to World War II and Korea. He socializes with them and attends their conventions. They, in turn, back Teague's legislative proposals.

From Vietnam-veteran groups, however, Teague receives the weakest of salutes, if any at all. He is seen as being so out of touch as not to understand even the obvious; that Vietnam was a different war that led to different readjustment problems in a different America. Teague is resented as being one of those who supported the war in Vietnam but who now refuses to support those who fought or were shattered by it. Recently, he was able to bring his legislation (the across-the-board increase approach) to the floor under a suspension of the rules. That meant no amendments and limited debate. The bill passed. But then, with his own plan home free, Teague held hearings three days later on the two bills that he opposed. Because the House had already passed legislation, the hearings had all the urgency of a parade rest.

As if that weren't enough to people like Jim Bombard—who dismisses an across-the-board increase as irrelevant to the lives of the veterans he sees every day—Teague inflicted still another wound. Several times during the hearings, he asked why he seldom heard from individual veterans about their views on legislation. For Teague, the silence suggested that all was well: No letters, no problems.

Following the hearings, several veterans spoke with a reporter to express discouragement about Teague's thinking. One said that veterans are so cynical about the government, after being burned so often, that writing a letter is an act of hope far beyond them. Another said that Teague was blaming the vets for their problems, as if to say that since they weren't lobbying and exerting pressure, why should anyone else get excited? A third said that Teague has a case of vanity gone wild: Unless his subjects beg him for relief, he ignores them. But the veterans are long past begging. It has gained little, so why continue?

Any gains made now, at least politically, will have to come from the President, the Democratic leadership and all those in Congress who actually benefited from the GI Bill following World War II or Korea. The issue is not generosity to the veterans—though a case can be easily argued on that ground—but fairness. Congress may not want to look over its shoulder at the senselessness that was the lost war in Vietnam, much less at its own enthusiasm for the war as it got going. But it does have to confront the young men who survived those years between 1961 and 1975. For many veterans, a chance at college or training school is still playing a long shot that an education can make a difference in resuming normal living. But to be given no chance at all—because one lives in the "wrong" state where education is costly—is to aggravate the pain, that for many veterans, began in Vietnam.

[From the Washington Post, Oct., 17, 1977]

EQUALIZING VETERANS EDUCATION

The disparity in education benefits to veterans continues to hamper, and even suppress in many cases, the educational goals of ex-servicemen. A recent study by a congressional coalition of Northeast and Midwest members found that, since 1968, an equal number of veterans in the South and West have received nearly $12 billion in benefits, against $8 billion for veterans in the Northeast and Midwest. The difference is in the lower tuition costs in the Sunbelt, where more low-cost public education is available; many eligible veterans simply can't afford the higher tuitions in the Northeast and Midwest, even with the GI Bill's help. Those who drafted the current GI Bill may not have wished to put veterans in some parts of the country at a disadvantage, but that is much the way it has worked out.

The question is what to do about it. One approach, advanced by the Veterans Administration, is an across-the-board increase in education benefits. Legislation passed by the Senate Veterans Affairs Committee offers a 6.6 percent increase. As generous as this may appear, it serves to continue the inequities that make it easier for veterans in one area of the country to get an education than it is for veterans in other areas.

A second approach, advanced by Sen. Alan Cranston (D-Calif.) and also contained in the committee's bill, would allow veterans whose tuitions exceed $1,000 to use their 45 months worth of benefits at a faster rate. That makes it easier to pay high tuitions but it also means that the money runs out sooner. Although this approach is better than the straight 6.6 percent across-the-board increase, it still leaves a number of problems unsolved. In helping veterans whose tuition goes beyond $1,000, the Cranston approach doesn't eliminate the disadvantage of veterans in colleges in Michigan, Ohio, New York or other Midwestern or Northeastern states. They still have almost $1,000 less to live on than their California counterparts, because the latter have little tuition to pay.

To remedy this, Sens. Jacob Javits (R-N.Y.) and Daniel P. Moynihan (D-N.Y.) are offering an amendment that would reduce the 6.6 percent increase to four percent and apply the savings of $200 million (according to estimates by the Congressional Budget Office)- toward easing the tuition burden of veterans in colleges and technical schools in many more states. This strikes us as addressing the issue from a broader perspective—which is to say that more veterans are likely to be served. It also promises to be a better use of federal funds because it focuses the available money on those most needing it.

A second possible outlet for money saved by reducing the across-the-board increase is an extension of time during which veterans can take advantage of their benefits. From 1966 to 1972, benefits were much too low to be of much use by many veterans who served in Vietnam. Extending the eligibility period would allow these veterans to avail themselves of an educational opportunity that, for all practical purposes, was closed to them.

Either Sen. Cranston's approach or the Javits-Moynihan plan would assuredly be more positive than the across-the-board increase adopted by the House. With a conference committee struggle likely to occur, the Carter administration has an opportunity to move forcefully from its narrow position to one that will distribute whatever funds are available to more veterans—more equitably.

The time for the administration to move is now, while the bill is still before the Senate. And the argument for doing so is all the stronger in the light of the President's recent refusal to veto a bill that severely weakens his program to help veterans, principally those of the Vietnam war, to "upgrade" other-than-honorable discharges and this restore their entitlements to GI benefits, and improve their chances of getting jobs. The principal beneficiaries of the increased education benefits, its should be emphasized, would also be veterans of Vietnam. We are talking, in other words, about still another

part of the unfinished business of the Vietnam war.

[From the Washington Post, Oct. 24, 1977]

THE CONTINUING NEGLECT OF OUR NEWEST VETERANS

(By Colman McCarthy)

As the government pauses today to observe Veterans Day, ten months have passed since the Carter administration committed itself to stand with the newest and worst-treated veterans—Vietnam's. Enough has happened for a few patterns to be discerned and a few judgments to be made. Compared with the policy of indifference that the Nixon and Ford administrations inflicted on what Jimmy Carter called "our unsung heroes," Vietnam veterans may be better treated now. But not much better.

No question exists that last January the President understood the anguish that many of the nation's 9 million Vietnam-era veterans were enduring. He had criticized the "incompetent, inefficient and unresponsive" federal agencies that dealt with them. His son Jack left college to serve in Vietnam; upon return, Carter said, "he and the uniform he wore were all too often greeted with scorn and derison." Max Cleland, a triple amputee Vietnam vet, was appointed to head the Veterans Administration. One of Carter's first presidential decisions, both substantive and symbolic, was to direct the Labor Department to launch an ambitious program to "help eradicate this blight on the nation's conscience." Another program sought to upgrade the status of vets with other than honorable discharges and open the way for them to get benefits. As for the GI Bill, both the Vice President and the new director of the VA were known to support restructuring the program in a way that would end the inequities of overpaying some veterans while underpaying others.

For all of the zeal and purpose, little evidence exists to suggest that special exertions have been made to fulfill the early promises. For example:

The Labor Department's job program, announced with a flourish, has had little effect. According to the Bureau of Labor Statistics, Vietnam veterans are actually *worse* off nine months after the program began. At the end of this year's first quarter, the unemployment rate in the group ages 20 through 34 was 7.1 per cent; at third quarter's end, it was 7.8 per cent. The percentage of unemployed vets in the 20–24 age group in the first quarter was 16.5; by third quarter it had risen to 17.9. As the picture darkened for Vietnam veterans it brightened for workers as a whole: Unemployment declined from 7.3 per cent in January to 6.9 per cent in September.

In January Labor Secretary Ray Marshall promised that "the President will also give early consideration to the appointment of a Deputy Assistant Secretary of Labor for Veterans Affairs." Months passed before an appointee, Roland Mora, was named, and only in September was he sworn in. A former Carter advance man and organizer for Cesar Chavez, Mora had no experience with problems of veterans' unemployment.

When the President's discharge-review program aroused the wrath of a few congressmen, the White House did little either to explain its intentions or to lobby for its views. When the Secretary of the Army, Clifford Alexander, testified before a House committee that included two of Congress's more powerful overseers of veterans matters, he gave only a tepid defense of the Carter program. Only the weakest of challenges was made to Rep. G. V. Montgomery's (D-Miss.) unfounded and vindictive claim that Vietnam was no different from America's other wars. Shortly after, when Rep. John Murtha (D-Pa.), in a passionate floor speech, spelled out the differences and why they had led to unique postwar problems, the administration had a new opportunity to advance its program. But it let the moment pass. Noting the timidity, Congress passed its own bill. Rather than veto it, as many in the administration wished—because the bill opposed the spirit of "forgiveness ahd compassion" Carter spoke of when he began his own program—the President signed the bill. This lame ending was in keeping with the results of the President's weakly run program: In six months, only 16,000 of the eligible 161,000 vets received the upgrading they could have had.

Many of those in Congress and among veterans' groups seeking to correct the inequities of the GI Bill believed the Carter administration would lead the way. In 1974, as a senator, Walter Mondale said that "with respect to educational opportunities, the Vietnam veteran is a prisoner of peace." Mondale forcefully backed legislation that would have ended the disparity in tuition payments that keeps many veterans in Midwest and Northeast states from attending college or training school. Another supporter of the tuition plan was Max Cleland, now of the VA. He was the author of such a bill in the Georgia legislature and testified last March: "I have in the past and I would personally favor some form of tuition assistance now."

But when tuition-equalization bills were introduced in Congress this year, the administration opposed them. It aligned itself with Texas Democratic Reps. Olin Teague and Ray Roberts, who advanced an across-the-board increase that kept the inequities intact. In Senate debate last Wednesday, when Sens. Jacob Javits (R-N.Y.) and Daniel Moynihan (D-N.Y.) proposed giving more tuition assistance to veterans, the White House offered no support.

One possible explanation for the disarray and failure is that the White House has no one working full time on veterans policy. The person responsible for veterans issues—a member of Stewart Eizenstat's staff—also deals with welfare, Social Security and other matters that usually take precedence. In ten months, only one meeting with the President and Vietnam veterans' groups has taken place. Although it can be debated whether a full-time veterans person in the White House would make a difference, the means to avoid the current formlessness would surely be present. It is less a matter of policy than advocacy. In Congress, many of those who supported the discharge-review program or the tuition plan found themselves stranded when the White House chose not to come forward.

The White House's failure to advocate veterans causes is part of the pattern seen in other backoffs and turnabouts, from nuclear policy to energy. One congressman, speaking of veterans issues as well as others, noted that "the President isn't willing to come up here and use his power to struggle for what he wants. A lot of us who are willing to support him aren't really sure what he wants. If he isn't sure, how can his friends be?"

Other friends thrown into doubt, as well as disillusionment, include some of the veterans' groups that only a few months ago had high hopes. Norman Hartnett of the Disabled American Veterans, says that "this administration is definitely not pro-veteran. I just can't believe it. I don't know why it's happening." Tom Wincek of the National Association of Veterans Programs Administrators says that "the priorities announced by the President have not filtered down to the local level. The substance of programs such as an adequate GI Bill [and] employment opportunities has thus far proved to be an exercise in executive-branch rhetoric."

Today when the President goes to Arlington Cemetery for a wreath-laying ceremony, the traditional words of gratitude to veterans will be spoken. But for many of those of the Vietnam era, the marking of this day is little more than another reminder of their joblessness, lack of access to schooling or benefits, or inadequate health care. Rather than standing tall with survivors from other wars, the Vietnam veterans may share the feelings expressed by a Cleveland vet to a congressional committee in 1973: "Most people treated me like a psycho, a probable drug addict or just a dummy for fighting in a dumb war. It got so that I hid the fact that I was a veteran."

[From the Washington Post, Nov. 2, 1977]

A FULL DEBATE FOR THE GI BILL

Representatives Margaret Heckler (R-Mass.), Lester Wolff (D–N.Y.) and Robert Cornell (D-Wis.) are trying to alert the members of the House Veterans Affairs Committee that the committee's leadership is about to take into its own hands what rightly belongs in the hands of the full committee and the whole Congress. The issues is whether pending legislation to correct the GI Bill should be debated by a Senate-House conference committee, in view of the public and those veterans whose lives will be affected by the outcome of the debate, or whether it should be worked out at the staff level in informal discussions. Mrs. Heckler and at least 13 other committee members are asking—correctly, in our view—that Chairman Ray Roberts (D–Tex.) convene a special meeting of the full committee to discuss the reasons for requesting a conference with the Senate. A vote would occur in such a meeting.

The Senate has passed a bill with a number of useful proposals. These include an accelerated payment plan by which a veteran could use his benefits at a faster rate to meet high tuition costs for college and technical training. It extends benefits for two additional years to veterans whose eligibility began about a decade ago when payments were actually lower than World War II benefits. Thanks to an amendment by Sen. Barry Goldwater (R–Ariz.), it would also end the long-standing discrimination against some 800 members of the World War II WASPs (Womens Airforce Service Pilots) by making them eligible for veterans' benefits. The fear expressed by many observers is that Chairman Roberts and Rep. Olin Teague (D–Tex.) (the latter is the bill's floor manager) may attempt today to bring legislation to the House floor on the consent calendar. This means that not only has the House committee not participated but also there will be limited debate and no amendments on the floor.

This isn't the first time that the Roberts-Teague tandem has used this legislative maneuver to impose upon the House its particular perception of the needs of America's veterans. In September the pair engineered the passage of a bill that called for an expensive and wasteful cost-of-living GI Bill increase. Mr. Teague might have grounds for his no-debate approach if all along he had shown a full understanding of the complex problems faced by Vietnam veterans.

He persisted in arguing, for example, to the full House that the GI Bill "has always treated veterans on an equal basis." In fact, today's GI Bill overpays some veterans and puts others at an unfair disadvantage. Last week, Mr. Teague said that "under our present program, a veteran can go to virtually any state school and have money left over." According to figures from a survey made by the College Entrance Board, the high costs of many state colleges would leave veterans with significant deficits if they relied solely on their GI Bill.

Mr. Teague's thinking has alarmed many in the Congress; Mrs. Heckler and 13 others on the committee have asked for a conference meeting. One more supporter is needed for a majority. Because the legislation involves the expenditure of close to $7 billion in the next several years, and because the futures

of hundreds of thousands of Vietnam veterans are involved, we think an open and full discussion of this measure is called for.

INACCURACIES IN ARTICLE ON CRUISE MISSILE VULNERABILITY

Mr. GOLDWATER. Mr. President, on the 29th of October there appeared in the Washington Post a column written by Mr. Evans and Mr. Novak which made some rather strong allegations against our cruise missile. Knowing that this article was filled with inaccuracies I asked the proper people in the Pentagon to put together a point paper for me which would answer the statements. I ask unanimous consent that the point paper on the article of Saturday, the 29th of October, be printed in the RECORD together with the breakdown of the various statements.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

POINT PAPER ON EVANS-NOVAK ARTICLE OF SATURDAY, 29 OCTOBER, ON CRUISE MISSILE VULNERABILITY

A Summer Study which addressed the capability of the cruise missile to penetrate future Soviet surface-to-air missile (SAMs) systems was sponsored by the Director of Defense Research and Engineering. However, the article is probably not referring to this study which had no connection to the planned cruise missile test program.

The thrust of the article relates to the cancellation of live HAWK intercepts against the cruise missile. The live HAWK test against the cruise missile has been planned and remains in the schedule for February 1978. This data is tentative since the schedule has not been firmed at this point, but it has not been cancelled as indicated in the article.

The article also comments on the ability of the current Soviet SAMs to counter U.S. cruise missiles. While current Soviet SAM or air defense capabilities were not a specific topic of the DDR&E study, intelligence data on these systems indicate that these defenses would have a very limited effectiveness against the cruise missile.

Although the capability of the current HAWK to counter cruise missiles was not examined (a significantly improved HAWK was), it is believed that HAWK would have only a very small lethal radius. The basic issue is not "can a system intercept a cruise missile" but "over what radius is a system lethal to the cruise missile?" A small anti-aircraft gun can have a lethal radius, but it is very small (perhaps a half mile) and therefore the gun does not represent an effective defense system. The situation is similar to that of intercepting an ICBM. Although SAMs may have some capability against an ICBM, the lethal radius is so small and the performance so erratic, that they are not viewed as effective defense weapons.

The article further states the HAWK is similar to the SA-3 Soviet SAM system. The technologies are vastly different and the SA-3 is not an effective weapon against the cruise missile.

The overall tenor of the article is that the U.S. cruise missile is highly vulnerable to the current Soviet SAM systems. We do not agree.

The article states that the SA-10 is now guarding the Russian homeland. This is not the case.

ARTICLE

Secret computer studies show that the existing U.S. cruise missile would not have a chance of penetrating the Soviet Union's sophisticated defense system, a revelation acutely embarrassing to President Carter and threatening to the prospective SALT II agreement.

COMMENT

1. There have been several studies which have examined the capability of cruise missiles to penetrate the defense of the Soviet Union. Even the most pessimistic results do not support a statement that cruise missiles would not have a chance of penetrating the Soviet Union's defense system.

ARTICLE

The studies, conducted jointly over the summer by a private contractor and the Pentagon, found that a scheduled "live" test: would result in the Tomahawk cruise missile's being shot down by U.S. defenses. Consequently, the Defense Department some two weeks ago canceled the "live" test and substituted a "dead," or simulated, test. That was intended to sidestep severe embarrassment for the weapon that became strategically crucial when Carter shelved the B-1 bomber.

COMMENT

2. Summer studies were conducted which addressed the general topic of cruise missile survivability with the purpose of examining how cruise missiles could be made even more survivable than they are presently. This problem was approached by examining methods of improving counter cruise missile defense systems. These summer studies did not address any scheduled "live" test. No "dead" or simulated test has been substituted for a "live" test for any reason. Thus the issue of side-stepping severe embarrassment is moot.

ARTICLE

But word has filtered out of the Pentagon, giving ammunition to Capitol Hill critics of the Carter defense policy. The new strategic arms limitation agreement that is being negotiated in Geneva becomes more vulnerable than ever to criticism that it gives the Soviet Union a dangerous advantage.

ARTICLE

A Defense Department spokesman told us there was no computer study made and that there will be "live" tests of the Tomahawk. But our sources at the Pentagon reaffirmed in detail the story of the cruise missile crisis.

COMMENT

4. The Pentagon spokesman responded to a question about a "computer simulation" of an Improved Hawk against a cruise missile. Computers have been used as an aid to predict detection, acquisition, and tracking performance of the Improved Hawk and other SAM systems against a cruise missile. However, there have been no computer simulations of a complete firing sequence. Tests including live firings of the Improved Hawk were and still are planned for the cruise missile survivability test program. There is no cruise missile crisis.

ARTICLE

The President's unexpected decision against B-1 production transformed the cruise missile from a theater to a global weapon. The Tomahawk, the only existing cruise missile, was developed as a sea-launched weapon but eventually will be launched from heavy bombers. In this manner, it has become a critically important U.S. strategic weapon.

COMMENT

5. The cruise missile has been conceptually a global weapon since its inception long before President Carter's B-1 cancellation decision. No decision has been made to select the Tomahawk as the cruise missile to augment the capabilities of our heavy bombers. A flyoff competition will be conducted between the AGM-109 (a Tomahawk variant built by General Dynamics) and the AGM-86B (built by Boeing) to determine which is more suitable as an air launched cruise missile.

ARTICLE

The Tomahawk was to be tested beginning Dec. 6 at Nellis Air Base in Nevada against the U.S. Hawk air defense system on a "live" basis—the surface-to-air missile actually sent against the cruise missile (which would be launched from a slow-flying aircraft). But the computer studies showed that the Hawk radar would locate the Tomahawk and a surface-to-air Hawk missile would shoot it down.

COMMENT

6. No live firing of any surface to air missile was ever scheduled against the Tomahawk in Dec. 1977. However, a Tomahawk flight test has been scheduled for that time-frame to assess the capability of the Improved Hawk to acquire and track a cruise missile without an actual firing. This testing is directed at gathering information that will be helpful in structuring "live firing" tests scheduled at a later date. This test will take the following general form:

a. A Tomahawk will be launched from a jet aircraft.

b. The Tomahawk will transit fly-past a test site.

c. Located at that test site will be various components of the Improved Hawk missile system.

d. Those Improved Hawk components will be employed to attempt to acquire the track the Tomahawk on radar.

e. If firing conditions are met, (i.e., proper tracking time and relative position) an Improved Hawk flyout trajectory will be computed to determine an estimated miss distance.

ARTICLE

The implications are unnerving. The Hawk is similar to the Soviet SA-3 system, which the Russians consider obsolete and peddle to their client countries. If the Tomahawk cannot get past the SA-3, what chance would it have against the far more advanced Soviet SA-10 that is now guarding the Russian homeland?

COMMENT

7. Neither the Hawk nor Improved Hawk is similar to the SA-3 system. The Improved Hawk to be used in the cruise missile survivability test program is superior to the SA-3. The SA-10 is in development and is not "now guarding the Russian homeland." It will be a number of years before the SA-10 will be operational in significant numbers.

ARTICLE

The decision was made to scrub the "live" test, firing the Tomahawk but not actually dispatching the Hawk surface-to-air missile—thereby saving the glamour weapon the indignity of being shot down. Instead, the test will be simulated by computer in a "dead" test.

COMMENT

8. No decision was made to scrub a "live" test nor is there conclusive evidence that such a test would shoot down a cruise missile. The test scheduled in December is not a "dead" test, but the same test that is frequently run against manned aircraft. This test will include the capability of the Improved Hawk system to detect, acquire and track a cruise missile.

ARTICLE

Rep. Jack Kemp of New York, an important Republican voice on defense, plans to take to the House-floor to accuse the Defense Department of "rigging" a test. At the least, experts believe, a simulated test always poses the temptation of self-deception.

COMMENT

9. With the exception of actually firing the Improved Hawk, the tests are real. Simula-

tions of missile firings can be deceptive and could favor either the cruise missile or the Improved Hawk. That is the reason "live firing" tests have been programmed as a part of the cruise missile test program.

ARTICLE

Actually, there have been precursors of the Tomahawk's vulnerability. The radar of the F-15 has picked up a Tomahawk in flight. Testing of the Tomahawk against radar aircraft scheduled through next April at the China Lake and Point Mugu naval test sites in California now becomes the source of apprehension at the Pentagon.

COMMENT

10. The author is misinformed. The F-15 has never been employed in a Tomahawk flight test. Future flight tests of Tomahawk against radar-equipped aircraft are programmed.

ARTICLE

Although the cruise missile team has boasted that its weapon presents radar a cross-section the size of a seagull, that may be too big. Further reducing the cross-section or increasing the missile's speed would require major changes. Nor is there room on the cruise missile for anti-radar countermeasures; the miniaturized motor and warhead take up all the limited space.

COMMENT

11. If a requirement is determined by these flight tests, considerable latitude exists in current cruise missile designs to improve survivability.

ARTICLE

"I'm very much afraid," one technical expert told us, "that the cruise missile is about one-weapon generation away from being able to penetrate Soviet defenses." Other experts believe a swarm of Tomahawks could overrun Soviet air defenses, but that would require thousands of cruise missiles, a number neither planned for production nor permitted under the proposed SALT II treaty.

COMMENT

12. The Navy continues to believe that a reasonable number of cruise missiles will be highly effective in the face of Soviet defenses.

ARTICLE

Yet, without a B-1 bomber, Soviet superiority in heavy missiles would provide all the more lopsided a strategic advantage if the cruise missile cannot penetrate Soviet defenses. Therefore, even though it lost the fight for the B-1, the Air Force is desperate for a penetrating bomber and is pushing for a remodeled FB-111 (the old TFX) as a substitute.

COMMENT

13. The Secretary of Defense, in his statement to Congress, affirmed the requirement for both cruise missiles and penetrating bombers.

ARTICLE

In the absence of a penetrating bomber, the Tomahawk's ability to get by even obsolete U.S. defenses is of the most intense interest. If it cannot pass a "live" test, the credibility of the entire U.S. strategic-arms policy is in doubt.

COMMENT

14. Projected force structure retains a penetrating bomber force, thus the cruise missile will not be operating in isolation.

PANAMA PLEBISCITE: A DEMOCRATIC RATIFICATION AND A RATIFICATION OF THE DEMOCRATIC PROCESS

Mr. CRANSTON. Mr. President, the final results of the plebiscite in Panama on the new Panama Canal treaties were announced at an official ceremony on October 28, 1977. We had known from informal reports that Panamanians had voted 2-to-1 in favor of the treaties. The official tally, certified by the Provincial Polls Committee to the National Electoral Tribunal was 766,232 total votes cast; 506,805 "yes" votes and 245,117 "no" votes—better than 2-to-1 for the treaties. Of the total, 14,310 ballots were voided.

I was impressed with both the results of the plebiscite and with the successful exercise of the plebiscite itself as an instrument of the democratic process.

First, the Panamanian Government took active measures to inform Panamanian citizens about the treaties. Open and free debate on the treaties was permitted and encouraged. Thorough procedures for verifying the vote were followed. These factors combined give great credibility to the better than 2-to-1 vote in favor of the treaties by Panamanians.

Second, I am greatly encouraged that this democratic process was successfully carried out in Panama. I am confident that the United States will use its improved and renewed ties with Panama—the result of signing, and, hopefully, ratifying the new Panama Canal treaties—actively to encourage such democratic procedures and institutions in Panama. The fact that this vote was conducted in Panama is a constructive consequence of the effort of our country and theirs to work out a treaty beneficial to all concerned. The development and use of democratic practices and procedures in Panama will only enhance the recognition and protection of basic human rights in Panama.

Mr. President, the Panamanian plebiscite is the counterpart to our ratification procedure. But obviously, it is a different system and unfamiliar to many Americans. To provide a better understanding of the plebiscite system under Panamanian law, I ask unanimous consent that some questions and answers on the treaty plebiscite be printed in the RECORD. These questions and answers are based on information provided by the U.S. Embassy in Panama.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

QUESTIONS AND ANSWERS ON THE PANAMA CANAL TREATIES PLEBISCITE

1. Who was eligible to vote in the plebiscite on October 23, 1977?

All Panamanian citizens who were at least 18 years of age and who had not lost citizenship rights (e.g. for conviction of a criminal offense) and who were in Panama on that day. The Panamanian Government announced that there were approximately 788,000 eligible voters. Voting is not compulsory.

2. What had the Panamanian Government done to ensure that voters were well informed about the treaties?

The Panamanian Government coordinated an information program regarding the significance of the treaties and detailing what changes the treaties would mean for Panama. Full texts of the treaties and the related documents were published as separate supplements by the Government and distributed with two daily morning newspapers and one afternoon daily. Also, members of the Panamanian negotiating team and other Government officials appeared at many public meetings in Panama to explain the treaties.

3. Were groups and individuals opposed to the treaties free to present their views to the public?

The Panamanian Government announced that public discussion of the treaties would be completely free. The Government appears to have fulfilled this pledge of open debate, even to the extent of assisting groups opposed to the treaties in publishing their message. Students organizations against the treaties and against the economic policies of the Panamanian Government received full-page donations in three Government daily newspapers. Their ads urged Panamanian voters to vote against and used strong language to condemn the treaties, and, by implication, the Government which negotiated them. The Government appeared not to have censored the content of these ads. Many newspaper columns criticized the terms of the treaties, and accounts of meetings by political and professional groups opposed to the treaties appeared frequently. However, in the last ten days before Plebiscite day, groups opposed to the treaties complained of difficulty in obtaining radio and TV time and newspaper coverage.

4. What is the method of voting in a plebiscite?

The voter appears at the polling place, presents his or her national identity card to the Poll Committee, and signs his or her name and identity card number on a Precinct Register. The voter is then handed a plain manila envelope and then goes into a private voting booth. In the booth are two stacks of ballots: "yes" ballots are of one color and "no" ballots are of another color. On each ballot is printed either "yes" or "no" and the following words: "I am in agreement with the new Panama Canal treaty, the Treaty on Permanent Neutrality of the Canal and the Operation of the Canal, the Appended Agreements and Annexes Signed between the Governments of Panama and the United States on 7 September 1977." The voter selects either a "yes" ballot or a "no" ballot, places it in the manila envelope leaves the booth and deposits the envelope, in a sealed ballot box. The box is on a table where the three members of the Poll Committee sit. The voter then puts a thumb print by his or her name on the voting register, and a voting official perforates the voter's national identity card to prevent multiple voting by the same person.

5. How are the ballots counted and what measures are taken to ensure an accurate count?

When the polls close, the sealed ballot boxes are publicly opened and envelopes counted. The number of envelopes must not exceed the number of names on the list of persons who voted. If there are more envelopes than recorded voters, the difference is eliminated by discarding at random enough envelopes to equalize the number of envelopes and voters. The ballots are then removed from the envelopes and the number of "yes" and "no" votes tallied. A report of the vote result is sent to the National Electoral Commission as well as to a District Polls Committee. The District Committee also received all the voted ballots and is required to check the accuracy of the reports of the individual Precinct Poll Committees. Then the District Committee makes a report to the Provincial Polls Committee which further certified the vote results of the various Precincts in its Province and issues a final report to the National Electoral Tribunal.

6. What provisions were made for independent poll watchers?

Panamanian law authorizing the plebiscite does not specifically provide for independent poll watchers. But of the three members of each Precinct Committee, one is a citizen appointed by the National Electoral Tribunal from a list of names submitted by a local community board, and the second members are chosen by the Tribunal from lists of educators, students and professional, civic,

cultural and religious groups. The third is selected by the Tribunal directly. The Panamanian Government also invited university rectors from North and South America to observe the plebiscite. Erik Suy, United Nations Undersecretary-General and legal counsel, represented the N.H. Secretary-General at the plebiscite. Additionally, many members of the international press were in Panama on Plebiscite Day to observe the voting process.

In conclusion, Mr. President, knowledge of the democratic plebiscite procedure gives me greater confidence that Panamanian sentiment on the treaties has been fairly measured after open and free debate. The plebiscite in Panama thus stands not only as a democratic ratification of the treaties, but I am hopeful that it is a large step in the ratification and adoption of the democratic process by the Government and for the people of Panama.

RADIO FREE EUROPE—RADIO LIBERTY

Mr. DOLE. Mr. President, one of the finest institutions for preserving the world's access to information is Radio Free Europe/Radio Liberty. On a typical day RFE reaches an audience of 13 million people in Eastern Europe in 6 major languages, and RL between 3 and 4 million in the U.S.S.R., broadcasting in 16 languages spoken in Russia. Although RFE/RL operates with public moneys, it is not a Government organization. Rather, RFE/RL reports news and activities free of censorship and control.

A Washington Post editorial summarized RFE/RL programing: "What both stations attempt to do is tell the people of Eastern Europe and Russia news about themselves and their own countries which their governments don't want them to hear. They do their job professionally, responsibly and effectively."

Mr. Sig Mickelson, president of RFE/RL, Inc., recently delivered an inspiring address before the Boston World Affairs Council wherein he discussed the mission of these broadcasts, reactions to the programs and challenges in the future.

I request unanimous consent that Mr. Mickelson's remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

THE SOVIET THREAT TO VOICES FOR DETENTE

Today I want to discuss an idea that stirred emotions in Boston more than two centuries ago. It spread throughout the American colonies, became a part of our Constitution and was adopted by many other great nations.

Of course, I speak of our right to communicate openly, to express ideas freely and to hear all sides of an issue.

The founding of the Boston Gazette in 1719 provided a nucleus around which were developed many of the ideas which were later to shape the American Revolution. The newspaper, even though in constant danger of suppression by the Crown, became the mouthpiece of such colonial patriots as the Adams brothers, Joseph Warren, Josiah Quincy, Samuel Cooper and James Otis. As a result it played a significant role in galvanizing support for freedom that eventually led to independence. Otis resigned in 1751 as Advocate General, declaring that acts of the British Crown which violated the "natural rights" of colonials were null and void. As head of the Massachusetts Committee of Correspondence, he proposed an inter-colonial meeting which became known as the Stamp Act Congress. We know well what followed.

I speak of Otis not just to flatter you by praising a Bostonian. Instead I invoke his name and that of the Boston Gazette to warn that one principle which grew out of those historic days, the free flow of information, is now in jeopardy. Widespread distribution by the Gazette of Otis's stand and of the issues which prompted it helped create a tradition which this country has followed to this day.

America's experiment, we must remember, was unique in the world a short time ago. The right to obtain facts and opinions, even though they might be contrary to the government's position, was unparalleled in history. It was given legal status for the first time by a New York court which in 1735 acquitted John Peter Zenger, a New York printer, of a charge of printing and publishing seditious libel. The Defense based its case on the theory that truth constitutes a legal defense. This principle has since become a foundation stone of American communications law.

The right to a free press has become so sacred to us that perhaps we now have more faith in it than in our government itself. We have seen governments fail—but the free flow of information continues as though from a refreshing spring.

We make mistakes—but our errors are ones of judgment. Information is available to make sound decisions. We know that our government is imperfect. It's never totally free from abuse by individuals or institutions—but we have the facts to make corrections through our legislative and judicial process.

Indeed, our access to information in the United States is even increasing. The Freedom of Information Act and other recently enacted measures now make available almost every government document that previously remained secret.

We are the prime example of what Alexandr Solzhenitsyn meant when he declared, "publicity and openness, honest and complete, that is the prime condition for the health of any society."

Perhaps because this stream of information flows so deeply in our system, we fail to see what is occurring in the rest of the world. We fail to see that barriers are being constructed to cut the flow to a trickle.

Radio Free Europe and Radio Liberty have become a window for us in recent years. Not only do the two radios provide a way for East Europeans to look out—but also for us to look in.

My view through that window is both heartening and frightening. Never before have so many persons within the Soviet Union and its Warsaw Pact countries been so well informed about events in their own countries and the western world. But, perhaps as a result, freer communication is now under a massive attack and is in jeopardy worldwide.

The objective of the attack is not solely to halt communication from the West to the peoples of Eastern Europe and the Soviet Union. The attack also is directed toward curtailment of media activities in almost every continent.

The attack is so massive that it now must be considered as a direct threat to each person in the free world. And unless we parry this Soviet thrust, much of our progress during the last two centuries surely will be lost.

The threat comes in several forms.

Radio Liberty and Radio Free Europe have become focal points of an intensive Soviet campaign to halt broadcasts to East European and Soviet listeners about events in their own countries. Efforts to silence these twin voices of local news will peak next month at the Belgrade Conference, attended by 35 signatory nations of the Helsinki Agreement. Then, of course, we have the continuing problem of Soviet jamming of our broadcasts to prevent knowledge of events in those countries. And the third is a move in UNESCO to obtain international endorsement of national censorship.

I'll address each of these threats. But first, let me put Radio Free Europe and Radio Liberty in the proper perspective.

The two radios are now tied into one administrative structure and financed primarily with public funds, although we do still depend on some private financial support. Our objective is based on this Congressional declaration: "Open communications of information and ideas among the peoples of the world contribute to international peace and stability—the promotion of such communications is in the interest of the United States."

Radio Liberty broadcasts in 16 languages spoken in the Soviet Union. Despite extensive jamming it reaches three to four million people daily. Radio Free Europe broadcasts in six of the major Eastern European languages, reaching 13 million listeners daily. Only Romania and Hungary do not jam its broadcasts.

The Soviets, themselves, have penetrated others' air space unhindered for many years. For instance, they beam ten hours of shortwave broadcasts at us daily in English, and 240 hours in some 80 other languages targeted toward every continent.

Radio Liberty and Radio Free Europe have different program objectives from the Voice of America and western government radios. The others promote understanding of the sponsoring country. We stress the thesis that peace is best served where people know what is happening both at home and abroad. Much of our broadcast time is devoted to news of that area where our beam is targeted. We attempt to serve as their *local* radio stations.

During an interview in Moscow in 1972, Alexandr Solzhenitsyn commented on our effectiveness. He said, "If we hear anything about events in this country, it is through them—the Radio Liberty broadcasts."

A recent Jewish emigrant, Alexander Tiemkin, related an experience about his daughter, Marina, who was prevented from leaving the USSR:

"I stood one Saturday outside a Moscow synagogue and two unknown young men stood nearby. One of them told the other the whole story of my daughter. He said he heard it a day or two before on Radio Liberty. That was good news to me. If a person knew that the case of someone in trouble was broadcast on Radio Liberty, that was considered in a way, a sure sign that there was hope for that person."

Broadcasts frequently are taped and circulated widely into regions where jamming makes our radios impossible to hear. We broadcast "samizdat" or uncensored writings by Soviet authors. Tapes of these broadcasts—avidly sought within the audience area by hundreds of thousands—include the works of those such as Solzhenitsyn, Sakharov, and Bukovsky.

There has been a notable increase in the number of samizdat documents brought to our stations in Munich. More than one third defended human rights. There are many petitions by Soviet citizens in behalf of individual persons and causes, such as those opposing persecution of Crimean Tatars and those defending the right to emigrate.

These were broadcast by Radio Liberty in the appropriate languages to provide Soviet citizens news about fellow citizens. (I might add that we have a regular program in yiddish, a broadcast with a small but vitally interested group of followers.)

Our success is possible with a relatively small budget. Our current budget of $53.3 million can pay for far less than in the past because of erosion through inflation and the sagging value of the dollar in Germany where 80 percent of our funds are spent. In fact, it has been necessary to decrease the number of RFE/RL employees by 31 per cent to 1,785. It has been difficult to maintain morale in the face of this constant financial pressure.

On the other side, however, Soviet expenditures to jam our broadcasts have increased many fold. They now spend several times more to jam our broadcasts than we spend to make them.

Soviet liberalization of policies in recent years toward the flow of information, toward dissent, many western observers see as the direct result of RFE/RL's ability to inform their citizens about events in their own countries and the West.

Public opinion in the Soviet Union has become a force with which their leaders must now reckon.

The official censors are now letting items past that would have been forbidden ten or twenty years ago. It is clear though that they are not easing up with their blue pencils out of any recently discovered reverence for free communications. They are simply responding to the fact that certain information is going to reach their people anyway so they might as well let their own media reveal at least a part of the story.

Without our efforts, the Soviet Union could have maintained even more of an isolated society, as witness their traditional attitude towards news coverage.

A little more than 20 years ago, as the Chief Executive Officer of CBS News, I spent a few days in Moscow visiting Dan Schorr who was then representing our organization in the Soviet capital. At that time the American press corps was limited to a handful of U.S. news agencies, including the wire services, New York Times, the Baltimore Sun, the Christian Science Monitor and CBS News. Freedom to cover the news was sharply limited—limited largely to reading Soviet newspapers and periodicals, provided you were assigned a competent translator by the Soviet government.

On one occasion, I went along with Dan to the Central Telegraph Agency in Moscow for his 90-second contribution to CBS World News Roundup—to be specific it was on May Day 1957. He prepared his copy in his limited quarters at the Metropole Hotel. At the Central Telegraph Agency he placed his proposed broadcast in a slot below a carefully shuttered window where it was withdrawn by an unseen functionary of the Agency.

After a few minutes of sitting on a hard bench in the anteroom, we saw the copy returned through the slot with a number of excisions. Dan carried it with him to what looked like a telephone booth but was actually a broadcasting cubicle. At the appropriate time he was given a verbal goahead and proceeded to read his copy as it had been edited for him by the phantom censor. There was no opportunity to argue the case for inclusion of the deleted items or ask for reasons or clarification. It was simply a matter of putting the piece on the air as edited or forget it.

Conditions have changed, if not dramatically, at least considerably. The number of American correspondents in the Soviet Union has grown by at least three times. The invisible censor has now vanished. Contracts with Soviet officials and citizens, though hardly free by western standards, are at least possible in increased volume. Travel, while not assumed to be a correspondent's right, is not as tightly restricted. This is hardly a foreign correspondent's notion of Utopia. He still runs the risk of expulsion or even of imprisonment as witness the case of Bob Toth of the Los Angeles Times but certainly progress has been made no matter what the motivation or the degree of change.

And western radio broadcasters, particularly those of Radio Liberty, can claim much of the credit. The Soviet leadership is smart enough to know if the news is coming in anyway, some concessions must be made in order to avoid looking ludicrous.

From the Kremlin point of view, it apparently makes much more sense to relax censorship a little now while at the same time making every effort toward destroying Radio Liberty and Radio Free Europe. They are putting pressure on the governments of the countries in which we operate and using the Helsinki Agreement, or I should say, more precisely, their interpretation of the Helsinki Agreement, as a weapon to drive us out of business. If they should ever be successful, you can bet that the phantom censor will materialize once again and take his place once more behind the now closed slot at the Central Telegraph Agency.

At Belgrade, the Warsaw Pact representatives are expected to focus strongly on Radio Free Europe and Radio Liberty in an effort to restore their total control over information. Their charges again will be that we violate principle six of the Helsinki Agreement by interfering in the internal affairs of nations.

However, the seventh principle of the Agreement was developed specifically to protect international communications. It specifies that the signatories should abide by the United Nations' Universal Declaration of Human Rights which states: "Everyone has the right of freedom of opinion and expression; this right includes freedom to hold opinions without interference, to seek, receive, and impart information and ideas through any media and regardless of frontiers."

Just as Soviet effort to abrogate the agreement is contrary to world treaties, their jamming violates the spirit and often the letter of a raft of international declarations, beginning with a U.N. General Assembly resolution on December 1950.

In the same vein, the Soviets and a number of Third World nations have begun a concerted effort in UNESCO to obtain international agreement supporting what amounts to national censorship. They advocate a plan wherein nations could force all media working within that country to write only supportive material about that country and government.

This would effectively halt the flow of information from virtually every totalitarian regime in the world. Our people and those elsewhere in the free world no longer would obtain information upon which to make sound judgments.

In effect, the Soviets would be able to "jam" the flow of information to us on a worldwide scale—just as they now jam our broadcasts to the Warsaw Pact peoples.

And so today we face the threat of a worldwide tyranny just as the colonialists two centuries ago faced the oppression of the Crown.

Some today might say that they comprehend how stopping the flow of information from elsewhere in the world poses a direct threat—but that jamming of RFE/RL and the Belgrade conference offer no immediate threat to the United States.

I believe that this attitude provides our biggest obstacle to preserving this freedom.

I cite our belief in the fundamental right to decide issues freely, with knowledge. When one person is denied this right, others are threatened because that person acts on uninformed judgments. He builds decisions on a false foundation. His judgments, when multiplied across the breadth of a nation of 250 million, form national policy about domestic and foreign matters.

When individual judgments have a faulty base, national policies can only move toward misconceived objectives. Thus, when a nation fails to permit the flow of information, all nations must face the consequences of a warped rationale. Thus, it is now with the Soviet Union and its totalitarian allies. In this way the jamming of RFE/RL facilitates the Soviet thrust to block candid reporting, and give rise to a perspective which in turn becomes a threat to each of us.

Here are Solzhenitsyn's words in his Nobel Prize speech: "Suppression of information renders international signatures and agreements illusory. Within a muffled zone it costs nothing to reinterpret any agreement—even simpler, to forget it as though it had never really existed."

I wish to reiterate that one thought in concluding. The denial of any person's access to the truth is a threat to all mankind—just as it was perceived here in Boston two hundred years ago.

Censorship precedes tyranny just as surely as wind precedes rain. America's refreshing flow of unhindered information is not necessarily a self-renewing natural asset. It is a perishable flow—one easily damned by the Soviet Union and those who share their convictions.

We must preserve the world's access to information—or face the loss of our own.

A PERSONAL TRIBUTE TO SENATOR HUMPHREY BY DR. ALBERT SAUNDERS

Mr. ANDERSON. Mr. President, on October 20 I attended a dinner held by the Minnesota State Society to honor my colleague and fellow Minnesotan, Senator HUBERT H. HUMPHREY.

Senator HUMPHREY has been the object of a rare outpouring of public honors and affection. Of all the splendid and touching tributes that analyze this man's special role in history and in the hearts of persons of every social rung and political persuasion, none is more eloquent and sensitive than the invocation that opened that night's program, and translated a personal portrait into a message for each of our lives.

Some of those present knew that Dr. Albert Saunders spoke from intimate knowledge and conviction. Besides being an ordained Presbyterian minister, he has served for years as Senator HUMPHREY'S legislative director.

No tribute is finer than that of persons who share our daily routine, and can reconcile the essence with the image of a public figure.

Mr. President, I ask unanimous consent that this sincere and illuminating tribute by one of Senator HUMPHREY'S staff be printed in the RECORD.

There being no objection, the tribute was ordered to be printed in the RECORD, as follows:

INVOCATION

God of our fathers; Lord of generations yet to be; Creator and Redeemer of our present living—

We honor a public man who enriches our private lives by showing us how:

To learn from the fear and despair of deprivation, and so to use privilege and advantage to help others look to the future with hope;

To live life to its utmost, and so to make each day a new beginning;

To fight discrimination in all its self-destructive forms, and so to treasure human dignity and strengthen the social fabric;

To work, and so to grasp hold of the impossible and unpopular task;

To promise, and so to establish a new commitment to be fulfilled;

To think, and so to seize and refine an idea that challenges common wisdom;

To demand, and so to mold a better opportunity for others;

To strive, and so to marry the limits of power with the strengths of responsibility;

To believe in people, and so to make them believe in themselves;

To be tested, and so to deal patiently and firmly with adversity and defeat;

To face pain, and so to share the deep knowledge of joy;

To weep, and so to feel, and to know ourselves;

To love, and so to exercise discerning compassion;

To dream, and so to create a new possibility for mankind;

And to hope, and so to confront wonder;

As he so many times has made today's unformed thought or unanswered question become tomorrow's national priority,

So may we be lifted from our common pursuits to try the untried, to perceive and yet to cut through the complex, and to make the life that surrounds us a little better for our having been part of it.

And as he has unhesitatingly both grasped the hand of the powerful and embraced the crippled body of the disadvantaged,

So may we put aside our vanity, pretensions, prejudices, and self-gratification, and find beauty and possibility in all your people for whom you have called upon us to be servants.

Our Father, as you look upon him and each of us, your children:

Let us share an increased measure of your patience, your wisdom, your anger to oppose what is wrong, and your love to create what is right;

Let us not despair over what might have been, but rather be deeply thankful for what is and can yet be;

Let us not be troubled by the possibilities of tomorrow, but rather face the problems and seize the opportunities of today by which our futures are molded;

Let us open our hearts and minds to your truth and your hope for what ought to be;

And let us celebrate this moment by thanking you for the opportunity of knowing this man and saying straight-out;

We love him.—Amen.

TESTIMONY OF AMERICAN LEGION COMMANDER ON THE PANAMA CANAL

Mr. THURMOND. Mr. President, one of the most convincing cases against ratification of the Panama Canal treaties was made by American Legion National Commander Robert Charles Smith in his testimony before the Senate Foreign Relations Committee on October 14, 1977.

Commander Smith spoke for 4 million members of the American Legion and American Legion Auxiliary. As he eloquently stated before the Committee, the Legion represents ". . . a composite and microcosm of the United States."

Every Member of the Senate should be aware of the American Legion position. Their position is unequivocal and farsighted, and as usual, the result of many years of careful research and study. After an issue is debated in committees and on the floor of their national convention, the organization adopts an official position.

In his testimony before the committee, Commander Smith presented the official position of the Legion.

The committee also benefited from Commander Smith's personal background. He has long been active in civic and business affairs, and knows the pulse of our country.

As a manager of financial and administrative services for International Paper Company in Springhill, La., he was able to evaluate the economic ramifications if the Senate ratifies the treaties.

Mr. President, in order to share this excellent statement with my colleagues, I ask unanimous consent that a biography of Commander Smith and a copy of his statement be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BIOGRAPHICAL SKETCH

A 31-year member of The American Legion, Robert Charles Smith, Springhill, La., was elected National Commander of The American Legion at the closing session of the 59th National Convention in Denver, Colorado, August 25, 1977.

He will serve through the 1978 National Convention to be held Aug. 18–24, 1978, at New Orleans, La.

Smith, a veteran of World War II, is manager of financial and administrative services for the International Paper Company's Springhill mill.

Long active in Legion affairs, Smith has served his local post, Banks-Strong Post No. 166, Springhill, La., as finance officer and commander. He was active many years on the department (state) level of the Legion and was Louisiana Legion Commander in 1954–55. He has served the National Organization as a National Vice Commander, as a member of the National Americanism Commission and The American Legion Endowment Fund Corporation. Prior to his election as National Commander, Smith served as Louisiana's National Executive Committeeman. The National Executive Committee is one of the policy-making bodies of the organization.

In addition to his activities in The American Legion, Smith has been named "Young Man of the Year" by the Springhill Jaycees and has served in many civic positions of responsibility. He has been a member of the local park board, an advisory member of the selective service system and a director and president of the Springhill Chamber of Commerce.

Commander Smith has also served as a member and chairman of his Parish (county) Welfare Board, the president of the Louisiana Tech University's alumni association, a Member of the executive committee of the alumni association's foundation, chairman of the United Givers Fund for the parish and as a member of the taxation committee of the Louisiana Manufacturers Association.

He is an active member of the Springhill United Methodist Church and was honored in 1966 by the Ruston District as "Layman of the Year" and in 1973 by the Norwela Council, Boy Scouts of America when they presented him the Silver Beaver Award.

Smith is also a member of the Board of directors of Springhill Bank & Trust Co., and First Federal Savings & Loan Association of Springhill, La.

A graduate of Louisiana Tech University with a degree in accounting, Smith is a member of Kappa Sigma Fraternity, the National Association of Accountants, Data Processing Management Association and Beta Alpha Psi Accounting Fraternity.

A native of Springhill, La., Smith continues to reside there with his wife, the former Lucille Wooster. They have three daughters and two sons.

STATEMENT OF ROBERT CHARLES SMITH

Mr. Chairman and Members of the Committee: It is a distinct pleasure for me to appear before you today representing The American Legion. Needless to say, we are each aware of the thousands of inches of newsprint and the hours of television coverage which have been devoted to the proposed Panama Canal Treaty in the past month. My reason for appearing before you is two-fold: first, to represent the viewpoint and position of The American Legion as adopted by our recently concluded 59th National Convention, and to spell out—objectively and dispassionately—what our concerns are and why we object to this specific treaty.

With me this morning is our Chairman of The American Legion's Foreign Relations Commission, Dr. Robert P. Foster, who for the past 14 years has served as President of Northwest Missouri State University located in Maryville. Dr. Foster has visited Panama and, along with Commission members, has examined the Panama situation for quite some time. During this time, he has discussed the matter with treaty proponents and opponents, including both U.S. and Panamanian negotiators. He will be available for questions from the Committee following my statement.

Today, I have come to speak for our four million members of The American Legion and the American Legion Auxiliary. We represent miners in West Virginia; grain growers in Illinois and Iowa; energy producers of Texas; machinery manufacturers in New York; and shipping industry of all states where rivers and harbors open to the sea . . . altogether we represent a composite and microcosm of the United States. For most of us in The American Legion and all our citizens are either buyers or sellers of commodities passing through the Panama Canal.

Moreover, all of us are dependent on the protection of the U.S. Navy to control the seas surrounding our country in the center of the Western Hemisphere. Quite frankly, the main thrust from every Legion Post has been the same deep apprehension about the proposed Treaty with Panama. Not the least concerned were our Legion Posts in the U.S. Canal Zone. Did the United States really intend to abandon its citizens to a dictatorship? If so, what did the United States stand to gain from such a giveaway?

What our Legion people do not understand is why is it necessary to have a new treaty. Have we, the people of the United States, been unfair, unjust or dishonorable with the Panamanians? I think not. We have lived up to our agreements of 1903, and subsequent revisions of that Treaty. No one has accused the U.S. Government with inefficiency. In fact, the contrary is true.

There are suggestions that the discovery of Alaskan oil by our space satellites in the early '60s brought about sudden realization by the oil industry that the U.S. Canal Zone, a U.S. Government reservation, was not the ideal type of property for the shipment of large tonnage of crude oil. Perhaps some type of commercial arrangement, even with a foreign country, was preferable for a booming international business.

Witnesses before this Committee from the U.S. Canal Zone told our staff that one major oil company is already building a large oil pipeline across the Republic of Panama. The tree line is cut and the pipes are being unloaded. One of the Canal pilots told us he was on board the S. S. Pennsylvania Sun and S. S. Cove Trader when bargaining was going on inside the U.S. Canal Zone between Panamanian customs officials and the ships officers. The Canal pilot, Capt. Leonard E. Bell, heard the full story and it sounded like tales from the Barbary Pirates of another century.

There are suggestions that a few large in-

ternational bankers saw the possibility for placing large loans with Torrijos, either because Torrijos offered high interest rates, improved Panamanian management with lower labor costs, or some of the profits from the crude oil flowing from the north slope. In any case, the bankers must have seen the possibility of profits. We know that numerous U.S. and international banks have loaned billions to the Torrijos government and to Panamanian addresses.

There have been suggestions that Communist subversion started in the mid-50s from Prague inciting people to oppose U.S. ownership in the Canal Zone. This may have had a profound effect. The Washington Evening Star ran a story from Bonn, Germany on September 13, 1956 that "international communism has opened an agitation campaign in Latin America against U.S. control of the Canal Zone." Of one thing we can be sure, it was not U.S. national security interests that brought about these new treaties.

There are political considerations and military considerations to this treaty. There are economic and environmental problems of considerable magnitude for the United States, the Western Hemisphere and the entire world.

From a political standpoint, I think our firm consideration must be the belief and convictions of the people of the United States. Within the last two years, we have seen numerous polls to determine the attitude of U.S. citizens. Those polls have shown that from 50–90% of Americans oppose the proposed Treaties which were signed on September 7, 1977 by President Carter and Gen. Omar Torrijos.

We in The American Legion believe under our system of government that the will of the people is very important. The knowledge, the will and the dedication of our people provide the amperage to our national life.

At the Legion's National Convention in Denver, we heard the pros and cons of the proposed Treaty. We heard from Ambassador Sol Linowitz as pro-Treaty, and we heard anti-Treaty viewpoints from expert witnesses, including those of Senator Hatch. In our American Legion Magazine, we invited Panama's Foreign Minister Gonzalez Revilla's pro-Treaty and Congressman Daniel Flood's anti-Treaty to give their positions.

When it came time to vote on our Foreign Policy resolution at the Convention, we deliberately set the Panama Resolution, No. 445, aside so we could offer each Department from each State the opportunity to vote. The pressure to vote was so strong from the thousands of convention delegates that we could not take a roll call vote by state. Support of The American Legion's Resolution 445 which opposes the Treaty was unanimous. The silence of pro-treaty support seemed even more persuasive than did the unanimous vote against the Treaty. (A copy of this resolution is attached for your perusal.)

I will now discuss the reservations and objections which we have to this proposed Treaty. The first is the strategic and military importance of continued U.S. control of the Canal and the Canal Zone. At the onset, we realize that the United States has a one-ocean Navy with a global responsibility.

Today all but 13 of the ships in the U.S. Navy—the exception being the large aircraft carriers—can pass through the Canal. Moreover, we, along with the Congress, must be "forward looking" and long-range prognosticators regarding the true effects now and in the future of the proposed Treaty. As each of you are aware, we have made a national commitment to the "mini-carrier" concept. And, when they come on line in 3–5 years, I have been assured by the Navy that they can transverse the Canal, making the Canal even more important in a military sense in the years ahead.

Hanson Baldwin has recently written: "It is ironic, indeed, that in an era when the U.S. Navy needs the Canal to a greater degree than at any time since the end of World War II, Washington is considering its abandonment. The Navy today is in the same strategic bind it was in prior to World War II: It is a one-ocean Navy (in size and power) with two-ocean responsibilities. We are outnumbered in submarines and surface ships by the Soviet Union, and, more than at any period since 1945, the Navy must have a quick transfer capability between Atlantic and Pacific in order to meet sudden crises.

"General V. H. Krulak, USMC (Ret.), writing in the summer 1975 issue of Strategic Review, summarized the Canal's naval importance: 'In truth the Panama Canal is an essential link between the naval forces of the United States deployed in the Atlantic and in the Pacific. It is only because of the waterway that we are able to risk having what amounts to a bare-bones, one-ocean Navy.'

"During the Vietnam War about 98 percent of all supplies for our forces were shipped by sea; of this total, approximately 33 percent were loaded in East and Gulf Coast ports and transited the Canal. The volume of military-sponsored cargo in the four years from 1964 to 1968 increased, for dry cargo, by some 640 percent and for petroleum products by about 430 percent. And the number of U.S. Government vessels (chiefly naval) transiting the Canal increased from 284 in 1965 to more than 1,500 in 1968."

Within the military community, and among the retired and active military, there is great diversity of opinion. In addition to the letter of four distinguished Chiefs of Naval Operation, including the former Chairmen of the Joint Chiefs, Admiral Thomas H. Moorer, saying that the proposed Treaty is contrary to the security interests of the United States, we are hearing from many military leaders and the majority of these opinions, like the majority of our citizens, are opposed to the give away of the Zone and the Canal.

As you are aware, Admiral Moorer forcefully reaffirmed his views to this Committee earlier this week and clearly stated the indispensible strategic importance of the Canal.

From a military viewpoint, a commander never gives away strategic territory which he may have to fight to regain. The U.S. Canal Zone is strategic territory. All the military, both active and retired, agree on that point.

From an economy perspective, the Canal is vital to United States interests. In 1975, approximately 14,000 ships transited the Canal of which 45 percent originated in the United States and 23 percent were bound for the United States. No other nation even approaches the invaluable, economic stake which we have in the Canal. However, the Canal is important to all maritime commercial nations since 96 percent of the world's merchant fleet can transit it.

The Canal is just this year assuming an additional commercial importance to the United States as Alaskan oil begins to flow. When the Alaskan pipeline reaches its full capacity, it will yield 1.2 million barrels of oil a day. The west coast of the United States can accommodate only 700,000 barrels a day. This means that approximately 500,000 barrels a day cannot be used on the west coast, and must be transported to the east. No pipeline has yet been constructed across the United States, and the trip around the Horn, as has been demonstrated, is not economically feasible. Unhindered use of the Panama Canal is critical until an adequate pipeline can be constructed.

From an over-all economic perspective, should the tolls go up another 25-30 percent as projected by Ambassador Sol Linowitz, and the tolls since 1973, have already gone up about 50 percent, many of our exports will be priced out of the world market. The grain producers and dealers, for example, frequently depend on a fraction of 1 percent as their profit margin.

You may have read in the Journal of Commerce, September 20, 1977, where the New Orleans Port Director, Mr. Edward S. Reed stated: "Since grain exports are the United States' best source of balance of payments loans, I think it is incumbent upon the Federal Government to closely scrutinize the possible effects of canal toll increases on the farm commodities exported from the United States." Mr. Reed's comments would pertain to all farmers, farm commodities, shippers and port facilities involved in our U.S. agricultural exports.

In the same Journal of Commerce article, the President of Lykes Brothers Steamship Company, Mr. W. J. Amoss, Jr., expressed his opposition to the Treaty because of its adverse impact on Canal users. Mr. Amoss, who had previously supported the Treaty, said the proposed Treaty spelled sheer disaster for operators east of the Canal and going westbound through the canal.

I stress the economic impact that United States commercial interests will suffer because this starts the day the Treaty is ratified, Ambassador Linowitz has stated the tolls will immediately go up 25 to 30 percent. And just what are the economic facts for such port and shipping centers as Boston, New York, Baltimore, Hampton Roads, Charleston, Mobile, Houston and New Orleans?

I mentioned New Orleans last because Louisiana is my home state. People living along the bayou are genuinely concerned about the ramifications of this proposed Treaty on our trade, jobs and general economic conditions.

I do not wish to overstate the dangers we foresee for Louisiana and the Gulf States but 38 percent of all water-borne commerce, over $30.0 billion in world trade, move from the Gulf ports. Over one-half of all the grain exported from the United States moves from the Gulf ports and about one-third of these grains pass through the Panama Canal. The Port of New Orleans is the nation's number one importer of iron and steel products. Eighty-seven percent of these products arrive via the Panama Canal.

We could spotlight other ports and jobs threatened by toll increases. Hampton Roads for example is the world's largest coal port. Over half of the 32 million tons of coal leaving Hampton Roads goes through the Panama Canal. It is my understanding that over 300,000 jobs in Virginia are either directly or indirectly affected by the Hampton Roads port complex.

I noticed in a letter to the Editor of the Washington Post on 7 October 1977 that the Port of Baltimore has a vital interest in the Panama Canal. Seventeen percent of all Baltimore's foreign commerce utilizes the Canal. The letter also stated that Maryland's State Senate and House of Delegates had by unanimous vote supported Resolution 34 calling for the United States to retain sovereignty over the U.S. Canal Zone and the Canal.

Moreover, at the present time, the United States has an over-all investment in Panama of $7 billion. By the year of our total evacuation under the terms of the Treaty, that interest will have grown to $9.3 billion. To add insult to injury, the Treaty proposes that we pay some $50.0 million per year, plus $350.0 million in economic and military aid to have the Torrijos group take over the territory and property.

In short, all these elements of economic benefits which I have mentioned in structures, payments and loans for developments will in 23 years amount to the sum of $2.262 billion. This is compared to what Panama

would receive under the current Treaty during that same period, which would be the ridiculous amount of $52 million.

Contrary to popular argument, control of the Canal by the United States serves the best economic interests of the people of Panama. In 1976, U.S. agencies purchased over $29 million worth of goods in Panama, and we paid over $108 million in wages to non-U.S. citizens. United States private investments amount to 50 percent of the capital investment in Panama; and U.S. employees spent $39 million there.

In the Preamble to The American Legion Constitution, we pledge to "safeguard the principles of justice, freedom and democracy"—in 1977 terms this translates into human rights. As this Committee is aware, Panama is a dictatorship, or in the words of Ambassador Bunker before Congressman Murphy's committee, an "authoritarian" government.

The aspect of the Torrijos government which is most significant, is that it is a repressive dictatorship. Freedom House, the respected organization which ranks countries on the basis of human rights, gives Panama the lowest rating in Latin America. Panama received the same 1977 rating on political and civil liberties as the Soviet Union and was rated even lower than Cuba.

Gen. Torrijos came to power in Panama by a coup and is governing without the consent of the people. The truth is that since Gen. Torrijos participated in the overthrow of Panama's constitutional government by gunpoint in 1968, 1.6 million people have lost their human rights. There is no recognized party except the Communist Party, called the People's Party, El Partito del Pueblo. Furthermore, the monies from Panama Canal annuities do not go directly to the people, the money goes to the Torrijos power group.

As we are all aware, the Panamanian constitution requires a plebiscite vote of the people for ratification of any new Treaty, which will be held on October 23. The sad irony is that the controlled and censored Panama press—"guided" in the terms of our chief negotiator—will never give a full and objective account of the Treaty to the Panamanian people.

Another concern which we have is the political association and economic stability of the government in Panama. On the economic side; under Gen. Omar Torrijos, Panama's national debt has grown from $167 million to $1.5 billion. The debt service alone will consume 39% of that country's budget this year. Panama's Department of Planning indicates that to refinance loans coming due, together with the $139 million deficit, a total of $323.6 million will be required. Obviously, Panama cannot financially afford to have the Treaties rejected either.

Politically, Torrijos has also busied himself with making closer political and commercial ties with the Soviet Union. Again, according to the U.S. Information Agency, top officials from the Soviet Politburo and Central Committee of the Soviet Communist Party visited Panama last June. Almost immediately after the Soviet Politburo team left Panama, a Soviet commercial delegation headed by Nikolai Zinoviev arrived and concluded a major Soviet-Panama commercial agreement with the Torrijos regime. This agreement, according to news reports in the Torrijos-controlled newspaper Critica, could result in the opening of a Soviet bank to run Soviet commercial activities throughout Latin America as well as a series of other multi-million-dollar-trade and construction projects with Panama.

Whether it was a Treaty of intent or a pact of infinite promise, we don't know. The treaty was signed by Omar Torrijos' brother-in-law, Marcelino Jaen, and Soviet leader Nikolai Zinoviev who is also listed as a KGB agent. After the signing, Panama's Jaen declared the Soviet treaty ". . . is an event of deep historic signing, not only for our country, but for the American continent as well, who are always facing strong forces that represent a philosophy that is contrary to the represent a philosophy that is contrary to the destiny of Latin America."

with Fidel Castro and Cuba. Cuba under Castro continues to aggressively export and pursue communist domination and control of other nations. Several weeks ago, the New York Times reported that 4000 more Cubans were sent to Angola recently to "stabilize the nation's most serious crisis since the 1976 civil war." The 4000 Cuban troops would increase Cuban troop strength in Angola to 19,000. This to me clearly indicates that Castro hasn't backed off one inch from his declared goal of communist domination of the Western Hemisphere and the world.

Also of concern is the reliability of the Panamanian dictator to live up to what he signs. Panama has violated the present Treaty at least 11 times during the past two years. These violations included such militant acts as the Panamanian National Guard taking up positions in December 1975 within the U.S. Zone; attempting to arrest and actually shooting a citizen in the U.S. Zone in January 1976; setting off bombs and explosions in the U.S. Zone in October 1976, and capturing a vessel, the Sea Wolf, which was operating inside Canal Zone waters and burning and desecrating the United States flag.

Our Ambassador, whose official car was shamelessly destroyed several days ago, has protested such lawless Treaty violations, but one must question the wisdom of appeasing and making further concessions to a government whose recent history is pockmarked with deliberate violations of the current Treaty. If our current Treaty with Panama is being violated on a routine basis, where is the logic that such attitudes and behavior will improve between 1977 and 1999, the magic year when Torrijos is supposed to get everything, lock, stock and barrel?

I would like to turn now to the question of United States sovereignty. Many of the arguments for the switch in sovereignty and much of the conscious or subconscious motivation for it stem, in part, from ignorance or distortion of the manner in which the Panama Canal territory was acquired by the United States and of the wording of the original Treaty of 1903.

Contrary to these assertions from public officials who should know better, we did not steal the Canal, nor does Panama have residual, titular, or any other kind of sovereignty over it. The United States bought the Canal territory—a strip across the Isthmus of Panama some 50-miles long and 10 miles wide—at a cost to the American taxpayer that far exceeded the cost of the Louisiana Purchase, the Mexican cession, the Florida Purchase, the purchase of Alaska, or any other territorial acquisition.

Despite current contentions by the State Department that the 1936 Treaty revisions recognized Panama's sovereignty over the Canal Zone, it is clear that in both wording and intent the Treaty actually re-emphasized the sovereignty, in perpetuity, of the United States.

History and the law appear to indicate in no uncertain terms that there is no merit whatsoever to the concept that the Treaty of 1903 vested so-called titular sovereignty or residual sovereignty in Panama.

The wording is clear and unequivocal: "The Republic of Panama grants to the United States in perpetuity the use, occupation and control" of the Canal Zone. "The Republic of Panama grants to the United States all the rights, power and authority within the zone mentioned . . . which the United States would possess and exercise if it were the sovereign . . . to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority."

One cannot transfer sovereignty unless one has it. The United States has, and will retain until Congress decides otherwise, complete sovereignty and control over the Canal Zone in perpetuity.

Even Gen. Torrijos in his remarks following the formal signing acknowledged United States sovereignty and I quote: "What nourished the hopes of Panamanians for the *recapture of their sovereignty* was the feeling that the North American people fundamentally harbored no colonial aspirations," (emphasis added).

I will now turn to the Treaties and the accompanying Annex and Protocol. This analysis is based upon the limited time in which these Treaties have been available to this layman and I urge each member of this Committee to scrutinize these documents.

(1) Sovereignty is the crucial factor in the new Treaties. Both the Prologue to the Canal Treaty, and at least six other times in the document, Panamanian sovereignty over the U.S. Zone and the Canal is acknowledged. As I stated earlier, once Torrijos is granted sovereignty all other questions are irrelevant.

(2) According to our analysis of the Treaty, should Panama abrogate the Treaty, the United States would have no legal basis in international law to maintain its position in the former Canal Zone.

(3) Article II, Section 1, of the Canal Treaty specifies that it should "be subject to ratification in accordance with the constitutional procedures of the two parties." However, it would appear that the Executive Branch is seeking ratification of the treaties without seeking enabling legislation from the House of Representatives to transfer real properties, appropriation of funds and perhaps other legislation which is not spelled out, as required by the Constitution of the United States. This by-passing of the House of Representatives appears to be an usurpation of legal powers which is clearly conveyed to the House by the Constitution.

(4) Article XII, Section 2(b), states that "during the duration of this Treaty the United States of America shall not negotiate with third states for the right to construct an inter-oceanic canal on any other route in the Western Hemisphere, except as the two parties may otherwise agree." In plain terms, the United States has surrendered its rights to negotiate for a competing canal elsewhere in the Western Hemisphere unless it has Panama's consent.

(5) Article V of the Canal Treaty directs that employees of the Panama Canal Company, their dependents and other American nationals should "abide by the laws of the Republic of Panama and abstain from any activities in competition with the spirit of this Treaty." This Article also directs that they abstain from any political acts in the Republic of Panama. As I stated earlier, there are American Legion Posts in the Canal Zone and I am deeply concerned about forcing American citizens to submit to a dictatorship and their surrender of rights as Americans.

(6) Article XIII relates to payments to Panama for the right to operate the Canal. One such payment of $10 million per year from profits is cumulative which means there is a possibility that we could, over the 23-year period of the Treaty, end up owing the Panama government $230 million.

Additionally, I have strong reservations and objections to the Neutrality Treaty: (1) Only Article IV of this Treaty bears upon U.S. responsibility concerning the neutrality of the Canal and the entire document is so vague as to be virtually meaningless. In my lay reading of the entire Neutrality Treaty, I find no assurance that the United States can intervene to assure the neutrality of that vital area.

(2) Article III(e) states that "vessels of war and auxiliary vessels of all nations shall

at all times be entitled to transit the canal." This statement assures the passage of warships through the canal of nations which may be at war with the United States.

(3) Article VI, Section 1, states that vessels of war and auxiliary vessels of the United States and the Republic of Panama "will be entitled to transit the canal expeditiously." The exact meaning of the word "expeditiously" is vague at best. Even more confusing is the interpretation placed on the word "expeditiously," by the Chief Panamanian negotiator, who said that the United States would not be given "preferential rights."

In Louisiana we regard a contract as no better or no worse than the intent and interpretation of this contracting parties. Treaties are actually a form of international contracts where nations agree to abide by the terms specified. As this Committee knows, we are getting a wide variety of interpretations on such matters as the right of intervention, the right of priority passage for U.S. warships. Escobar Betancourt has recently told Panamanian audiences that the United States wanted but did not get "priority or privileged passage." This information was later authenticated in a "confidential" cable released by Senator Dole which quotes Lopez Guevara that Article IV on neutrality urges U.S. officials to stop using the word intervention. Intervention is prohibited by international law.

It would be unwise at best to even further consider ratification of any treaties in any form until serious differences in U.S. and Panamanian interpretations are clearly and unquestionably resolved.

In brief summary, an evaluation of the facts about the Treaty have brought us to the day of the signing, September 7, 1977 . . . a bad day for the United States.

United States military and national security losses alone are sufficient to reject the treaty. We are giving up our naval fleet flexibility at a time when we have fewer than 400 ships in the entire United States Navy. Economic losses of the United States are difficult to calculate, but logic dictates that U.S. consumers and exporters are going to pay the toll increases. Additionally, the cost to the U.S. taxpayer is in the billions. The Torrijos government is living on borrowed money and borrowed time.

Politically, human rights under Torrijos are no better than they were under Hitler during the 1930s and yet by supporting this Treaty, our United States Government is propping up a dictatorship. Worse yet, our government is forcing Americans to live under totalitarian rule and abide by its laws and decrees. That's what World War II was all about.

The pressures the White House can bring are enormous as all of us know. The resources at the President's disposition almost defy our collective imagination. The Treaty signing festivities on September 7 were an example of Presidential style and substance. We in the Legion, while recognizing the awesome power of the Presidency and the Executive bureaucracy, also believe that the ultimate power in the United States resides with the people . . . with people like our members.

I will close with one question: if this Treaty is basically good for the United States, why does the Administration have to make such an effort to prove to Americans that it is in our national interest? Those of you in the Senate must know what the people are thinking. You know the Legion Posts and grass roots opinion runs about 80 percent against the giveaway.

We believe this proposed Treaty will ultimately be decided by the people. We believe this is one defeat the United States can avoid. It is a loss we need not accept and you can count on The American Legion Posts to stand firm.

RESOLUTION No. 445

Committee: Foreign Relations.
Subject: "Panama Canal".

Whereas, the United States is the rightful and legal owner of the U.S. Canal Zone and the Panama Canal, having acquired this U.S. property through court tested treaties and agreements and mutually agreed upon payments to Colombia, Panama and the individual land and property owners; and

Whereas, the United States Supreme Court has ruled that the United States is legally entitled to sovereignty and ownership of the U.S. Canal Zone for the purpose of building, operating, protecting and maintaining a canal across the Isthmus; and

Whereas, the United States has lived up to its obligation under the Treaty to the letter of the law; and

Whereas, the political, economic and the military factors offer conclusive evidence that it is in the vital national interest of the United States to retain sovereignty and ownership of the U.S. Canal Zone and Canal; and

Whereas, over three-fourths of our American citizens consistently voice their opposition to any kind of "giveaway" or dilution of U.S. sovereignty over this territory; and

Whereas, the United States as leader of the free world has a moral obligation to remain fair, firm and strong when faced with political blackmail; and

Whereas, surrender of the U.S. Canal Zone would be tantamount to a major military defeat with enormous consequences for evil; now, therefore, be it

Resolved, by The American Legion in National Convention assembled in Denver, Colorado, August 23, 24, 25, 1977, that we reiterate and reaffirm our continuing and uncompromising policy in opposition to any new Treaties or Executive Agreements with Panama, relating to the U.S. owned Panama Canal and its protective frame of the U.S. Canal Zone as expressed and set out in separate resolutions adopted consecutively at each annual American Legion National Convention since the Miami Convention in 1960; and, be it further

Resolved, that we strongly urge all elected members in the U.S. Congress to oppose any new treaty with the government of Panama which: (a) in any way dilutes full U.S. sovereignty, ownership and control; (b) cedes U.S. territory or property; (c) surrenders any jurisdiction and control which would threaten the economic and security interests of the United States; and, be it further

Resolved, that The American Legion rejects the actions of the Executive agencies of the federal government in attempting to by-pass the Constitution of the United States, and we fully support Article IV, Section 3, Clause 2, of the Constitution which provides that only the Congress has the authority to dispose of U.S. Territory.

THE CANAL TREATIES: OTHER CONSERVATIVE VIEWS AND VOICES

Mr. BAYH. Mr. President, as the Senate prepares to consider the Panama Canal Treaties, I think it is important to point out that many traditionally conservative spokesmen have expressed their approval for these pacts. Columnist William F. Buckley, Jr. and actor John Wayne have indicated their support of these treaties. I might also add that the editor of the Indianapolis News, Mr. Harvey Jacobs, wrote a column for his newspaper on August 27 discussing the disadvantages of continuing the present treaty relationship with Panama.

Mr. President, I ask unanimous consent that this material be printed in the RECORD. I think this is evidence that hard thinking Americans regardless of ideological persuasion realize that the Panama Canal Treaties serve our Nation's interest.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Indianapolis News, Aug. 27, 1977]

CHOOSING UP SIDES ON PANAMA

(By Harvey Jacobs)

Take it from a military man who spent several years in Panama that the Americans who ran the Canal were a separate enclave who looked down their noses at the Panamanians.

He said it before the Canal treaty was even a gleam in Ellsworth Bunker's eye: "Sometime we'll pay the price of segregation in Panama, too."

This man left Panama several years ago; perhaps the attitude changed after his departure. But at least one man was not proud of our "ugly American" image in that place.

Now the chickens may be coming home to roost again. The Panamanians have risen up in rebellion on several occasions and Brig. Gen. Omar Torrijos Herrera, Panama's military leader, has threatened to let loose the force of Panama's terrorists if the Senate does not ratify the treaty negotiated for the Carter administration.

It is easy to fall in line and say we are "giving the Canal away," or "we're paying Panama to take it away from us." It's also a simple analysis to say that "we built it—we'll keep it" or "the Panamanians could sell us the Brooklyn bridge."

At the other end of the axis it is interesting to learn how the Panama negotiators are "selling" the new treaty to their people. Dr. Romulo Escobar Bethancourt, chief of the team, has been as busy as President Carter and Gerald Ford trying to reassure his constituency that he didn't "sell out" his homeland. He said candidly in one address, "the treaty is good for us in some basic aspects, bad in others and ugly in others still."

He said his government was too responsible to seek a bloody confrontation with the U.S. "The massacre of the best of our youth would bring more setbacks in the development of our country" was his answer to the extremists.

The Panama government is being attacked by both leftists and nationalists for yielding to Washington the right to intervene to make the Canal "neutral" after the new treaty expires in 2000 and for "legalizing" U.S. military bases already in Panama. These bases were not authorized by the famous treaty of 1903 under which the United States received control of the Canal "in perpetuity."

Therefore, there is a significant American gain in this new treaty over what was officially granted in 1903.

That treaty has become an international eyesore, exploited to the limit by communists around the world and especially in South America. It is common knowledge that President Theodore Roosevelt directed an "insurrection" in the Isthmus of Panama against the Republic of Colombia. U.S. warships at either end of what was to become the Canal Zone blocked Colombian forces while the local fire brigade in Panama City was designated as the Army of the new Republic of Panama.

Such actions were accepted in 1903 as a logical part of the Doctrine of Manifest Destiny. But the Doctrine does not help us build friendship today in any part of the world.

Reduced to pure self-interest, the Panama Canal is not worth very much. It's too small for supertankers or aircraft carriers. The Navy used it for warships only 17 times last

year, 22 times in 1975 and 12 times in 1974. A small bomb in the hands of a terrorist could paralyze it for months. With all our power, we probably could not defend it against a determined terrorist.

What hurts most in the treaty is our pride. It is humiliating to negotiate with a terrorist, leftist dictator such as Torrijos and to dignify his regime as being sufficiently responsible to accept and operate what the American people have invested in for three-quarters of a century. It is distasteful business, too, to know that the long shadow of Fidel Castro is hovering over the table.

On the other hand, fear is not in our vocabulary—and the whole world knows this. We would gain some international stature if we demonstrated that the powerful can also be humble and truly a good neighbor. We would also blunt the most potent tool in the communist arsenal of the "hate America" campaign. The debate will go on, as it should, for there is substance in both sides of the argument.

[From the Washington Star, Aug. 16, 1977]

THE CASE FOR THE PANAMA TREATY

(By William F. Buckley Jr.)

Panama.—There seems to be only one substantive objection to the new treaty, and that is its provenance. Lobbyists for it particularly disdain Mr. Ronald Reagan because they view his arguments as amounting to nothing more than warmed-over chauvinism. In fact his objections are shared by critics whose turn of mind is not that of, say, the Veterans of Foreign Wars. The distinguished Mr. Herman Phleger, legal adviser to the Department of State under President Eisenhower, and architect of the far-seeing, far-reaching Antarctic Treaty, heatedly denounces the new Panama treaty—on the same ground as Reagan, namely: The United States negotiated under duress.

The other arguments against revising the treaty are frail. It is conceded by our military that the Panama Canal is simply not defensible against sabotage or missile-bombing. Protecting it against sabotage would take Panamanian cooperation and even with it, a saboteur with an explosive in a cargo vessel could put the Canal out of action for a while.

Guarding sea and air approaches to the Canal is the only defense, if there is one at all. This we have done, this the Panamanian government is prepared in a separate protocol to charge us to continue to do; and this we can do under our own initiative after the turn of the century when the Canal is turned over fully to the Panamanians.

Respecting the economic point, the Panamanians undertake to guarantee passage to all shipping at nondiscriminatory rates. As to the subsidy, we commit ourselves to a flat 50 million dollars rental, which is reasonable, plus an unspecified jolt of economic aid to the new operators—which is not unreasonable.

Now to the Reagan-Phleger position: One's instinct is to resent bargaining under duress. Especially so in the current situation inasmuch as the Panamanians, rather than merely asking the United States kindly to reconsider arrangements entered into in 1903 with less than a scrupulous regard for the presumptions of nationhood, launched a sloppy, eristic campaign to discredit the plain fact that the United States exercises sovereign rights over the Panamanian Zone.

But the point (I have stressed it before) is that it is becoming to a mature and self-confident nation to waive, where it is appropriate to do so, such formal considerations. Besides, we can hardly be impatient with rioting youth in the fever swamps of Panama considering the number of rioting youth we indulged in the fever swamps of Berkeley and Columbia. Even if we grant (as I do), that our title to the Panama Canal is morally and historically secure, we should not fail to understand Panamanian resentment. Even if we had in our hand a record that showed that every Panamanian in 1903 had voted to grant the U.S. in perpetuity the rights we have enjoyed in the area, still there is the shifting perspective between what was permissible and even welcome in 1903, and what is permissible and welcome in 1977.

It is fashionable beyond the limits of common sense to deplore the colonialism of ages past. My own notion is that colonialism was far preferable to much that now goes on. But our colonial obligations in Panama haven't done very much for the people there. They live, for the most part unhappily, under a dictator who deals with dissidents by imprisoning them, exiling them, and confiscating their property. We do not even have the excuse, in Panama, that we have succeeded in keeping such as Torrijos from coming to power. No, we concern ourselves only with the Canal Zone.

But now that the military inform us that our presence in the zone is unnecessary to such security as is achievable, the reasons for staying reduce merely to the question: Are we going to satisfy our pride by rejecting anti-historical Panamanian demands?

That would not appear to make sense. It is as much United States policy to avoid involving itself unnecessarily in the affairs of other countries as at the turn of the century it was American policy to involve ourselves, in Wilsonian exurberance, in these matters. The Canal's military and economic importance to us is slight; its operation is a net economic drain; we have retained the right to deploy our military in such a way as to discharge responsibilities of primary interest to our Latin American neighbors. We should be large enough, as we were in the Philippines, to walk out, with true, self-confidence.

STATEMENT REGARDING PANAMA CANAL TREATY

(By John Wayne)

My interest in Panama goes back to the 40's. I have friends on both sides of their political spectrum. As a matter of fact, my first introduction to the Panamanian situation was in the 30's when Harmodio Arias was president. He was probably the best liked figure in all of South America and one of the very few presidents who has ever completed a term up to and since that time. His wife and his son Tito, then about 12 years old, visited me in California. Another son Tony was Godfather to one of my daughters. I am only going into these personal things to show you that I have had reasons to give attention to our relationships down there.

I have followed the Panamanian situation since the time the State Department insured us losing good relationships with Panama by changing their policy and charging extremely high prices for tuition for the children of several Panamanian families to go to Canal Zone schools. These families were continually involved in the leadership and administration in Panama. I think it would have been quite obvious with their children attending our schools that they would have our point of view. I wrote a letter to our Administration at that time to apprise them of this situation. Nothing was done.

You say that it is a blow to you to learn from the press that I favor the surrender of the Panama Canal. I certainly did not. I was appalled when General Eisenhower did just that and gave the sovereignty of the Canal away by allowing the Panamanian flag to fly there; but at that time, neither Congress, nor the press, nor the conservatives uttered any kind of cry. I did, but it was a voice in the wilderness.

In checking to find the reason for President Eisenhower's actions, I found out that although we had the rights to the ownership and jurisdiction of the Canal that Panama had not surrendered sovereignty of same. I also found out that the United States in the Arias-Roosevelt Treaty of 1936, ratified by our Congress in 1939, recognized the sovereignty of Panama in the Canal Zone as it was originally stated in the 1903 agreement.

Under negotiations during the Kennedy Administration, it was further agreed that any place within the civil area that the American flag flew, there must be a Panamanian flag raised.

Our people in the Zone tried to avoid this by removing flag poles. This started irrational actions by both sides. During those student riots which took place in 1964, our then president, Lyndon B. Johnson told the world that there would be a gradual return of the Canal to Panamanian possession. There were still no outcries from the people who are now complaining, but the above acts plus common decency to the dignity of Panama demanded a re-evaluation of our Treaty.

Now, let's take the Treaty for what it is. We do not give up one active military installation for the next quarter of a century. We do transfer to Panama in the civil Canal area such governmental activities as police and fire protection, civil administration, post offices, courts, customs, garbage collection, and maintenance of certain areas which are not necessary to manage the Canal. The Canal will continue to be run by an American agency. The Board of Directors of that entity will be comprised of nine members—five members of the Board, American—and four Panamanians who will be selected by the United States from a list proposed by Panama. This Board of Directors will not have any authority on our military bases which we will have there for a quarter of a century to insure this Treaty.

The Treaty insures all American citizens working in the Canal their continuing jobs to retirement and the continued uses of their rented homes at the present rate which averages around $150 per month including all their utilities, garbage collection, sewerage, upkeep of the grounds and maintenance including gardening lawns and painting of buildings. This is guaranteed to each until retirement or completion of their contracts.

When the Canal Company transfers these responsibilities to Panama, they will transfer $10,000,000 a year of the toll charges to take care of them. I doubt if this will cover the costs. So does our government. Therefore, this United States Canal Company Agency which will still be running the Canal for the next 20 years will be instructed to raise the toll charges 30 cents per ton or about 1/100 of a cent and a half per pound to be given to Panama to cover such contingencies as inflation and to insure the above responsibilities plus rental for the 120,000 acres which these United States will continue to hold for its military installations and also the use of a 4,000 square kilometer water shed as a water reservoir to take care of our civil and military needs in the area. This added toll charge could amount to $40,000,000 in the years to come; but not one cent of it will come out of our pockets.

None of this will cost the American taxpayer one cent. We will not be required to pay $1 to Panama when this Treaty is put into effect.

I explained to the press when I was interrogated that I am only one of 200,000,000 private citizens of the United States and that I am not presuming to establish our foreign policy. I suggested that perhaps the facts as I have presented them to you might be put in a more enlightening manner to our citizens.

Regarding Communism, quite obviously, there are some Communists in General Torrijos' administration as there have been and probably still are in ours. Back in the days

of McCarthy, it was proven that a great number of people in our government were Communists. For his high-handed manner with the use of the Committee, he was censored; but the truth of his findings were never questioned.

There will always be accusations and counter-accusations in this area. General Torrijos has never followed the Marxist line. Even in his speech when he visited Cuba, he stated that Castro had insured schooling and developed a system of feeding his people but at a high social cost. Because of this he stated that what was aspirin for Cuba was not necessarily the right medicine for Panama which is putting it about as plainly as possible when you are visiting in a foreign country that you are not agreeing with their methods.

Such rumors and accusations mushroom to a degree that it is hard for anyone to defend themselves. General Torrijos' government has not followed the Marxist line. He does have his Escobar Bethancourt as we have our Andrew Young, neither of whom were elected by either populus. A quarter of a century from now—when and if this agreement is carried out to the letter of the law—and we decide that it is proper to remove military installations, Escobar Bethancourt will be an old and forgotten character; and Young will probably be relegated to some posh job in our civil service from which he cannot be fired or taken care of by some liberal foundation as was Hiss.

I hope that the pragmatic view that I have of this situation is understandable. I have carefully studied the Treaty, and I support it based on my belief that America looks always to the future and that our people have demonstrated qualities of justice and reason for 200 years. That attitude has made our country a great Nation. The new Treaty modernizes an outmoded relation with a friendly and hospitable country. It also solves an international question with our other Latin American neighbors, and finally the Treaty protects and legitimates fundamental interests and desires of our Country.

ADVANCED MANNED PENETRATING BOMBER STUDY, NOVEMBER 1977

Mr. BARTLETT. Mr. President, the original Senate version of this supplemental defense authorization bill contained an authorization of $5 million to fund the study of the role of manned penetrating bombers in our Nation's strategic forces after the aging B–52 bombers are retired. That study would also have examined the various means by which a replacement for the B–52 could be obtained.

With respect to manned bombers, current plans keep the B–1 bomber in the research and development phase, ready to go into production if the President should change his mind about the B–1 in the next 2 years. Today, the Congress is also considering an experimental stretch of the FB–111, the so-called FB–111H, to see if that aircraft might serve as a penetrating bomber after the B–52's are no longer able to survive in Soviet airspace. Some people have advocated a new bomber more advanced than the B–1, a B–2, and others have suggested that the United States will never again need a manned penetrating bomber.

The amendment, requiring an advanced manned penetrating bomber study with language worked out among the members of the Armed Services Committee, was carefully designed not to prejudice the outcome of this study. Nevertheless, the study was deleted in conference. Eventually however, the defense establishment will have to come to grips with the question of whether or not to retain a capability to modernize our penetrating bomber force.

No fact has emerged more clearly from testimony before the Research and Development Subcommittee than that of the superiority of a "mixed force" of penetrating bombers and stand-off cruise missile launchers over a "pure force" of either penetrating bombers or cruise missile carriers. Bombers and cruise missiles create different problems for enemy air defenses and work well together in overcoming those defenses. While changes in tactics and technology might someday dictate that a "pure force" is more cost effective than a "mixed force", more likely such changes will simply alter the relative importance of penetrating bombers and cruise missiles within a mixed force.

Therefore, the United States must insure that concepts exist for maintaining a mixed force of manned bombers to complement cruise missile launchers after the B–52's are no longer able to penetrate successfully. The study proposed in the original Senate bill would have investigated the means by which the United States could retain a force of manned penetrating bombers into the 21st century, if that should prove necessary. In short, the study was designed to insure that the bomber leg of the triad will not become a pure cruise missile force simply because no alternatives have been developed. The $5 million authorized—a normal expenditure for a major study—matched the $5 million originally recommended by the Senate Armed Services Committee for study of a follow-on, wide-body cruise missile carrier. The continuous development of advanced bomber concepts will provide a focal point for the continued development of related technologies such as electronic countermeasures, offensive avionics, aerodynamics, fuels, navigation, communications, and the like. Also, advanced bomber studies would provide a hedge against Soviet breakthroughs in advanced aeronautics or in air defenses.

In a mixed force, however, the importance of the manned bomber is determined not only by its own ability to penetrate, but also by that of the cruise missile. And evidence is growing that the first generation cruise missiles are less ready and more vulnerable than previously thought. Furthermore, severe restrictions on the range of cruise missiles and the number of launchers seem eminent at the SALT talks. If the United States intends to permit these restrictions on cruise missiles, then it must remain in a position to upgrade its manned penetrating bomber force. That was the purpose of the advanced manned penetrating bomber study.

CONCERN OVER SOUTH AFRICA—A CASE OF HUMAN RIGHTS

Mr. PROXMIRE. Mr. President, I am deeply upset over the situation in South Africa. Specifically, I am upset by the infringement on human rights as evidenced by the closing of major black newspapers and the arrest of black leaders. The best known example of this is the banning of the major black newspaper, the World, and the arrest of its editor, Percy Qoboza.

South Africa is a country of distrust and hatred. A first step toward solving these problems is an exchange of ideas and perceptions between peoples.

Yet, the South African Government has clearly shown that it feels that suppression of human rights rather than discussion and compromise will "make the problem go away." By taking away black peoples' ability to vocalize their concerns, the South African Nation's problems are not solved, only aggravated.

Reassuringly, President Carter has protested the present situation in South Africa. The South African Government has responded by calling the protest "irrelevant."

What can the Senate do to support the President's stance on human rights? Ratifying the Genocide Treaty would be one important step. It is true that the Genocide Treaty could do nothing directly to correct the situation in South Africa. Yet, Senate ratification of this treaty would provide moral consistency to the U.S. stance on human rights. It is time for the Senate to make this important contribution to the support of human rights.

On October 21, 1977, the New York Times reprinted excerpts from a paper by Percy Qoboza, the editor of the World and frequently cited as a leader and spokesman of black views, which eloquently express Mr. Qoboza's view of his people's role in South Africa. I am impressed by Mr. Qoboza's views of the South African situation and his outlining of possible solutions. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 21, 1977]

IN SOUTH AFRICA, BLACK MISERY . . .

(By Percy Qoboza)

I have not to date come across any responsible black leader who has advanced the theory that whites are expendable and must be thrown into the sea. We have, on the contrary, over the years emphasized that whites are South Africans and have the right to exist in a common fatherland; and that all of us, around a conference table, must devise a formula acceptable for future coexistence.

Our country is full of noble black men who have been silenced under the security laws for advancing just these types of ideas. Many are called Communists simply because they believe in the dignity of man. Many have been labeled agitators simply because they call for a society where merit and not color is the criterior by which man must be judged.

Indeed, all those with whom the Government should be talking in the black community have been subjected to punitive actions. The danger is that the time may well come when the authorities are forced to talk to somebody, and there will be nobody to talk to. When that happens, our troubles will indeed have started.

Against this background then, I can but express concern and alarm that present dis-

cussions about the future of the country which are going on in Government, academic and business circles do not involve black people. We find it more expedient and easier to go on expeditions to Vienna, London and Washington, at considerable national cost, when we could have a more dramatic and effective impact by going to Soweto.

What we must ultimately realize is that all those trips in which we try to sell unsellable policies are an exercise in futility unless the backing of black people has been obtained.

Our isolation will continue unabated until the world is convinced that black and white South Africans are on the brink of a new dawn of brotherhood and are seriously engaged in the formulation of a new and dynamic political dispensation.

We must come to accept that we are a house tragically divided at a time when divisions of this nature are a luxury we cannot afford in the dangerous world we live in. No one can afford not to be distressed when we see on the one side white South Africans regarding Ambassador Andrew Young as an enemy, and on the other side black South Africans welcoming him as a friend. How can one take comfort in seeing white South Africans angry and disgusted at attacks on South Africa at the United Nations, while the blacks of the same country rejoice at the event?

One of the greatest cries in South Africa today is directed at overseas nations, calling on them to help generate a new economic life in South Africa, to enable the country to afford its social commitments to the majority of its peoples. How can one not be distressed that this cry has become meaningless to black people, who watched as whites enjoyed an unprecedented economic boom, building luxurious houses with swimming pools, while black people were wallowing in extreme poverty and children were dying in the hundreds from malnutrition and the dreaded kwashiorkor [a nutritional disease of infants and children]?

What confidence have you generated in my people with regard to the free-enterprise system, when that system stands for white privilege and black denigration?

These, and more, are the types of questions urban blacks are preoccupied with. We are now told that we must develop patriotism. But how can one develop a patriotic black population in a country that denies blacks even the God-given right of owning their own properties in urban areas?

I mean, places they can call their own—the kind of thing that makes a man feel he has a stake in his country, and the kind of thing that has inspired men throughout history to take up arms and defend with their lives what is legitimately theirs.

Black people around our urban areas have nothing they can call theirs, and they have nothing to defend with their lives. What type of patriotism are we speaking about?

South Africans speak very fondly about how they died for their country defending the highest principles of democracy in World War II. What they never tell you is that fighting along with them were hundreds of blacks who laid down their lives to eradicate—once and for all—Hitler's brand of racism.

I myself had two uncles who never returned. They had paid the supreme price in destroying racism once and for all, and their sacrifices could have been in vain because I, their nephew, became the victim of a new brand of racism. What kind of patriotism are people asking of us?

Let me hasten to assure you that our people love South Africa. The last thing they would like to see is this beautiful country which the Almighty has given to us, with the resources to help us provide for the happiness of all its peoples, torn down by strife and confrontation.

This is why we developed patience over the years, with the hope that people will realize the folly of their ways. In the face of extreme indignity, we could still afford to smile and extend our hand of friendship, which has been rejected. History will one day record that the human endurance displayed by blacks in South Africa was unprecedented. But the good will that led the late General Smuts to conclude that we have the patience of a donkey is unfortunately beginning to be filtered away.

Yet I still have faith that we have not reached the point of no return. I am optimistic, and convinced that we can still turn frustration into hope. We can still douse the flames of anger and bitterness that raged through Soweto and other parts of South Africa, and replace them with genuine brotherhood and understanding.

It is never too late to do the right thing. It is never too late to transform the might of South Africa into the might of justice and dignity for all. It is never too late to build a South Africa where people of all races can live together in mutual respect. Respect and tolerance.

We have the power and the resources to transform this unjust and racist society into a just and nonracist one. There is is no short cut to achieving this. It is not going to be easy. It is not going to be easy to dismantle 300 years of white domination and replace it with South African domination. A domination that will know no color.

We will not have begun doing this if we are still occupied with the exercise of identifying those things that divide us, instead of emphasizing those things that unite us. I keep hearing people hammering away at the cultural differences that exist between black and white, and I want to ask you what cultural differences you have detected in me that make me distinctly different from you, and that merit me to be caged in the ghettos of South Africa.

People who keep on repeating these things are merely compounding our problems, and eventually they will have to stand the harsh judgment of history. Eventually they will have to face the tragic accusing finger as the men who let down South Africa in its hour of need.

Finally, I will not lie to you that I have answers to South Africa's problems, because I do not. But what I do know is that if we together can sit around that conference table, we will find the answers to the problems facing our nation today. Together we built South Africa to what it is today, and together we have the moral responsibility to insure that it remains intact, with the possibility of making this an even greater nation.

PANAMA CANAL TREATIES COMMENTARY

Mr. THURMOND. Mr. President, the U.S. Industrial Council recently asked Mr. Egon Tausch, a former Army officer and teacher at West Point, to prepare a firsthand analysis of the Panama Canal situation.

Mr. Tausch visited Panama and has prepared an excellent report which should be of interest to all Members of the Senate. In his report, he pays particular attention to the issue of defending the canal and the unique problems of the Canal Zone residents.

Mr. President, I ask unanimous consent that a column on this subject by the distinguished author, Anthony Harrigan, and a short version of the report as published by the U.S. Industrial Council be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEFENSE OF THE CANAL

(By Anthony Harrigan)

One of the principal arguments used by supporters of the Panama Canal treaties is that the United States will find itself embroiled in a guerrilla war if the canal and its zone aren't surrendered to Panama. The truth is that the tactical advantages are with the United States if it keeps the entire zone in American hands.

This point is made in a hard-hitting, firsthand report from Panama written by Egon Tausch, a writer who served with distinction as an Army officer in Vietnam and later taught at West Point.

In a study report prepared for the United States Industrial Council, Tausch says:

"As long as the Zone is controlled by the U.S. few military men fear Panamanian guerrillas. Although large parts of Panama are jungle, the population is concentrated in the two major cities. Panama has never fought a war. The Guardia Nacional, which serves as both the army and the police of Panama, is 8,000 strong, but almost all of it is stationed in downtown Panama City, for political uses only. The Guardia doesn't like the jungle. The most committed fighters Gen. Torrijos has are the thousands of leftist professional students, and these do better in romantic street demonstrations than in individual acts of sabotage or concerted struggles. The 'martyrs' of the famous riots of 1964 were killed when a department store they were looting caved in."

The Tausch report continues:

"Panamanians could be trained to fight—the U.S. Army has been trying to do this in jungle warfare schools in the Zone for years—but the probability, if war broke out, would be that Cubans would do all the fighting. This is true whether the treaties are rejected, or are ratified with U.S. retention of military bases but without the Zone.

"The analogy with Vietnam is valid, but not the way treaty supporters think it is.

"The crippling difficulty faced by the U.S. military in Vietnam was that geographic territory was irrelevant in that war. Fortifying towns or hilltops, though easy, was pointless; Vietnam remained a war of movement because the U.S. and Saigon forces had to maintain the offensive tactically in order to maintain political control. In the few instances when American installations were assaulted directly, the Vietcong and North Vietnamese attackers were slaughtered.

"The Canal Zone, on the other hand, is only about fifty miles long and ten miles wide. Perimeters can be established and fortified. There are no foreign 'hearts and minds' to be won; only Americans live there. There are no Panamanian villages within the Zone to worry about, nor any reason why the frontier should not be cleared of vegetation for fields of fire. Gen. Torrijos knows all of this. Difficulties would arise if and when the Zone was abandoned before the Canal was surrendered, and this is precisely what the new treaties propose to do.

"Tausch notes in his report that the idea that the Canal itself, within an American Zone, is vulnerable to sabotage by dissidents or guerrillas is based on ignorance of the physical structure of the Canal and on underestimation of 1910 technology. 'The Canal,' he explains, 'is not a complex, delicate mechanism. It consists of two lakes, three sets of locks in two channels, and a few locomotives. The lakes are filled by rain run-off. The locks are merely chambers built of solid concrete, with holes in the bottom through which the water passes by gravity when the valves are open. No pumps are used; each chamber is adjusted by the release of water out of the chamber above it or into the one below. The gates are steel, pivoting on posts, and locking under the pressure of the water.

Each chamber has duplicate gates for emergencies. Damaged sets can be removed by the floating crane, the largest in the world, without interrupting Canal operation. The machine parts are simple, solid steel and brass, and every piece is manufactured in workshops on the banks'."

If the American people are acquainted with these facts, they will realize that defense of the Canal against land attack would be a simple matter. Nothing is more absurd than the notion that the Canal can be disabled by dropping a few hand grenades in a lock.

REPORT FROM PANAMA: THE AMERICANS WHO OPERATE AMERICA'S CANAL

(By Egon Tausch)

(Editor's Note: The author of this article is an author and attorney who spent his formative years in Latin America. Mr. Tausch served as an officer in Vietnam, taught at West Point, and has published in National Review and other journals. He recently visited the Panama Canal Zone to gather material for this report.)

One factor in the Panama Canal controversy which has been deliberately ignored by both the State Department and the media is the problem of the Canal Zone residents, or "Zonians."

There are about 34,000 U.S. citizens living in the zone, most of whom are directly connected with Canal operations. It is a remarkably stable population, made up for the most part of children, grandchildren, and great grandchildren of Canal workers. Many have married Panamanians and others are naturalized U.S. citizens themselves. There is no labor-management dissension, unemployment, welfare, race issue, or crime problem in the Zone.

The Zone is not a duty assignment for its residents; it is their home which they have quite rightly believed would always be part of the United States. For obvious reasons, the State Department would like to forget about them.

Much has been made of the fact that the Canal will be turned over to Panama gradually; the Panamanians will not have full control until the year 2000. This has obscured the fact that the Zone itself, as distinct from the Canal, will be turned over within 30 days after the treaty is ratified. The Zonians have lived next door to the Panamanian police state and do not relish the thought of living under it. Their attitudes must be taken into consideration before ratifying the treaties: Any timetable for the transition to Panamanian control of the Canal depends entirely upon the willingness of Zonian employees to stay and work after the Zone is under the jurisdiction of the Guardia Nacional. If they won't, the Canal will close down quickly and disastrously, regardless of any agreements to the contrary that U.S. and Panamanian negotiators might have made.

The Zonians have no intention of being ignored. They were the victims of the 1964 riots, sporadic violent incidents since then, including the bombings of American automobiles in November, 1976, and harassment by the Panamanian Guardia Nacional and secret police.

Now they find themselves an embarrassment to the U.S. Embassy in Panama, which has refused to permit the rights of these American citizens to strain relations with the Panamanian dictatorship.

"When we go into Panama to use their airport—we aren't allowed to use our own military field anymore—and get detained by the *Guardia*, we're all alone," says Mrs. James Fulton, president of the Pacific Civic Council in the Zone. Patrolman William Drummond adds, "If we get into any kind of trouble, we now know better than to call on our own embassy. We call the British. They don't have to pretend we don't exist."

Drummond, president of the Police Union and legislative chairman of the Central Labor Union and Metal Trades Council, had his two automobiles bombed in the terrorist attacks of 1976. The incident was attributed to the G–2, the intelligence arm of the Panamanian secret police. The U.S. Embassy in Panama speculated publicly that Drummond might have bombed his own cars to gain sympathy for the plight of the Zonians, a charge proven false when the other bombs went off and the terrorist notes were discovered. The Embassy never apologized to Drummond.

On February 11, 1977, Drummond was arrested by the G–2 at the Panama airport when he was on his way to testify in Washington on union business. He was detained and questioned in downtown Panama City for three hours. His release was obtained only because the arrest was reported by the protocol officer from the embassy, who had happened to witness it. The Ambassador decided not to make a point of such arrests for fear of endangering the treaties.

Shortly before the negotiators completed the treaties they authorized Gov. H. R. Parfitt of the Canal Zone to release a list of fifteen "assurances" to U.S. citizens in the Zone—points that were to be in any proposed treaty.

Among them was the following assurance concerning criminal justice: "In connection with offenses arising from acts of omission punishable under the laws of the Republic of Panama, United States Citizen employees and their dependents will be entitled to specific charges, cross-examination of witnesses and legal representation of choice.

Also, the State Department announced, a status-of-forces agreement would be included in the treaty, which would permit U.S. civilians to be tried by their own courts as is done by the military in other foreign countries. These assurances were repeated by every level of government and were even incorporated into a Department of Defense directive to the military.

In reality, the State Department negotiators were aware that Torrijos had consistently refused to consider any such assurances. These clauses had already been omitted from the early draft treaty at Torrijos' insistence.

The final treaty gives all authority over criminal justice—procedural and substantive, crimes of commission and crimes of omission—directly to Torrijos, with no safeguards for U.S. citizens, other than the right to serve their sentences in America if Panama agrees at a later date.

In the face of his repeated failure to get Panamanian agreement on these points, Ambassador Bunker continues to push the treaties by promising that a status-of-forces agreement will be forthcoming, somehow.

The residents of the Canal Zone feel a personal sense of betrayal by the U.S. government. They can vote only in presidential general elections, so their interests are centered on one issue—foreign policy. Secretary of State Henry Kissinger was profoundly disliked in the Zone, and the last television debate between Carter and Ford led the Zonians to believe that Dr. Kissinger's policies would be reversed by a Democratic administration. The Zone went solidly for Jimmy Carter. Now the President's representatives encounter only hurt hostility from the residents.

The Zonians have held rallies protesting the proposed treaties. More than 2,600 appeared at the last one before the treaties were signed. If any Zonians favor the treaties, they have yet to speak out. Despite their expert knowledge of Canal operations and of conditions in the Zone, the residents have not been interviewed by the major U.S. news media. The Canal Public Information Office complains that it gives a representative list of Zonians to every reporter who calls on the office, but none bother to visit the locals.

Some of the American reporters have resorted to denouncing the Zonians' stilt bungalows and commissaries-without-discounts as "unfair" luxurious living. Unlike other Americans, the Zonians are expected by the press to live a Spartan existence, in return for the privilege of working on the Canal.

In actuality, the architecture and scenery of the Zone differs from that of Panama only in that it is kept clean and in good repair. The attack on Zonians is reflected in Time Magazine's report of a Canal pilot who "refuses to work for a dictator." The quote is preceded by the magazine's categorical opinion: "The Zonians' basic objections to the treaty range from chauvinistic to sentimental to mercenary."

State Department officials counter Zonian opposition to the treaties by calling the U.S. citizens "colonialists" or "racists," a charge which labor leader Drummond refers to as the last ditch effort of desperate bureaucrats. He like many Zonians, is married to a Panamanian national.

Speculation about the evacuation of the Zone continues, without evidence of U.S. concern for keeping the Canal going.

Federal District Clerk Doris McClellan feels protective of her courthouse in the Zone. The daughter of Sen. John McClellan (D-Ark.) knows her way around Washington. "What right," she asks, "does the State Department have to abolish or give a federal court over to a foreign jurisdiction? We're under the Justice Department, not Foggy Bottom!" A Southern lady of the traditional mold, she gets angry when she envisions the future of her beloved courthouse under the rule of Gen. Torrijos and his henchmen of the Guardia. Indeed, the general will have little use for a court of justice within a governmental system which recognizes no civil rights whatever.

Miss McClellan is taking no chances with the historical honesty of the future occupiers of the Zone—she is sending all the deed records which prove ownership of the land, north for safekeeping.

Washington seems in no hurry to appoint a new federal judge for the Canal, making do with visiting judges in an obvious ploy to prepare for the turnover in case the treaties are ratified.

"What do they think they'll do with us? Send us home? Where is our home, if not here?" asked William Benny, a control house operator on the Canal. He and his wife were born in the Zone, and have no ties with other parts of the U.S. Benny will have to make his own plans for his family, and they won't be based on a timetable prepared in Washington.

The Governor of the Canal Zone and President of the Panama Canal Company is an Army general on leave of absence. The Zone Government and the Canal Company both operate under the general supervision of the Secretary of the Army. After completing his term, Gov. Parfitt will return to active duty, with a promotion if he hasn't made waves. He is prevented by his office from voicing Zonian complaints about the State Department or taking any position in regard to the proposed treaties. Nevertheless, his testimony before Congress during earlier hearings must have been unwelcome to those among his superiors who favor a gradual Panamanian takeover of the Canal.

Gov. Parfitt is painfully aware that the Canal must be closed if there are not enough U. S. employees who are willing to remain at a temporary job in a place that is no longer to be their home, under a repressive foreign regime, and with little or no support from their own embassy. The Governor testified that fear of the future was affecting the work force even before the treaty agreement was reached. Since the 1974 Kissinger announcement of the Joint Statement of Principles, resignations have increased by 60%.

Although the number is not of such magni-

tude as to cause great concern, what we are concerned about is the trend—the fact that this could snowball and ultimately seriously affect our ability to perform the Canal's mission . . . Prospective employees are wary in seeking employment with the Panama Canal when doubt exists as to the future security and tenure of their positions and the conditions which might prevail under a new treaty.

Even if other Americans were paid enough to induce them to move to Panama, they would require extensive training to become familiar with the 1910 technology of the Canal, simple as it is. And they would have to be integrated slowly into the regular workforce. If the treaties are ratified, there won't be a regular workforce to ease them in to.

The U. S. Civic Councils, organizations of Canal Zone community representatives, polled 285 U. S. citizens about their plans. 62.8% said that they would not consider remaining if the Zone is given to Panama. "Many of our people now tell us that 'the day that the Canal Zone Police go, we go,' and also, more alarmingly, 'when the U. S. workers see the day getting closer that jurisdiction will be handed to Panama, you can expect to see the Canal shut down.' "

The only labor trouble that the Canal ever faced was a "sick-out" in March of 1976, which was a response to rumors of a new Canal treaty. As the Civic Councils reported, "Morale at that time was extremely low; this year we have to say honestly that our people are so demoralized that they are ready to give up and quit—a shutdown of the Canal, if it occurs, will not happen over a labor issue. It will result from apprehensive employees, who in their fear for their physical security, will simply leave their jobsites, go home and pack their suitcases . . ."

"The trouble with the State Department," concludes Pat Fulton of the Pacific Civic Council, "is that they want a new treaty as a 'symbol'. But the Canal is a thing!" Ideology and nationalism will not change the fact that if the Americans leave, the Canal will be dependent on Panamanian mechanical skills.

The Canal mechanism is simple, but it requires upkeep. There is no regular maintenance system in Panama. Pride is based on acquisition; maintenance is work performed for no visible result. The elaborate daily lake dredging and cleaning and lubricating procedures employed on the Canal are objects of amazement, and sometimes derision, among Panamanian visitors.

For years the United States has given preference in hiring, training, and promotion to Panamanian nationals. At the present time only two of the ship pilots are Panamanians, and not many others of that nationality have risen above menial labor positions. Far fewer than the quota provided for by the program apply for training; fewer still complete it.

Recently the United States acceded to Panamanian requests and gave up control of Bayano Dam, a source of energy and a necessary control valve on the lake which supplies the locks with water. The daily inspections of the dam ceased immediately after Panama took possession. Within a few months the dam became inoperable. Torrijos could find no Panamanians with the knowledge and skills to repair it and was forced to fly in a team of Yugoslavian engineers and mechanics. Since the repair of the dam, new cracks have appeared.

Panama has never conquered the problems of mechanical and administrative efficiency. The garbage collection system in Panama is practically nonexistent; heaps of refuse rot in the tropical sun. Modern buildings have no hot water systems built in. Torrijos bought a new fleet of buses from Germany, but made no arrangements for mechanics or replacement parts. A year later, less than one-third of the buses were still running; the others were cannibalized for their parts and the bodies left abandoned along the streets.

The treaty negotiators could not entirely ignore the possibility of Zonian flight and the lack of skilled Panamanians to replace the American employees.

Consequently, the U.S. Embassy in Panama contracted the services of Mr. John L. Jackle to do a study of the impact of a new treaty on Canal Zone residents and how they might be convinced of its benefits. The political branch of the embassy worked with Mr. Jackle. The final report indicates that the methods of the Panamanian dictatorship are not completely alien to the State Department: "a lot of good press would be essential for success: in this situation we would make good use of the controlled press situation on the Isthmus. If it does not work, no propaganda will sell it. But it can be given at least an initial breath of promise through skillful manipulations of the available media."

Later the report adds, ". . . we would have to work closely with the Government of Panama to insure that their share of the participation would be handled with our goals in mind. We would not want a Government of Panama speaker who is going to rant about how glorious Panama's demands are; we would want someone who could communicate on a low-key level and who would be very reassuring."

Even such sophisticated Madison Avenue techniques might not work with Bill McConaughy, Senior Control House Operator and a highly respected mechanic. McConaughy has worked on the Canal all his adult life, as have his two brothers, their father, their grandfather, and their great-grandfather, who helped build the Canal and whose Theodore Roosevelt Medal the descendants treasure. Bill's pride in the Canal is second only to his pride in America for having created it.

"Short of working on the Moonshot there's nothing I'd be prouder to do than what I'm doing here. We all feel that way, and it doesn't wear off with time." After thinking a moment, he adds, slowly, "As long as the Canal is American."

S. 794, JUVENILE DELINQUENCY IN THE SCHOOLS ACT

Mr. ANDERSON. Mr. President, S. 794, the Juvenile Delinquency in the Schools Act, is a bill of significance which should be given prompt, favorable attention.

Since becoming a cosponsor of this measure, I have received considerable response from teachers, principals, and administrators urging its passage.

I must say, however, that some principals and school administrators have taken exception to a newspaper article on school violence which I submitted to the RECORD in August.

The article describes the problem of teachers being harassed and assaulted by juvenile delinquents in the classroom. The newspaper piece indicates that in some instances teachers have had less than enthusiastic support from principals in handling these matters.

I have been assured by many of our Minnesota school principals that they are very committed to protecting teachers in the classroom and that they are most willing to back up their teachers when it comes to administering appropriate discipline.

Given the support which many of our Minnesota school principals have shown for S. 794, I believe them. I look forward to their help when the bill becomes law.

This measure envisions a cooperative effort among teachers, principals, and administrators. It in no way is intended as a rebuke to either principals or administrators without whose active assistance the program established by S. 794 cannot work.

THE NEED TO FREE FREE ENTERPRISE

Mr. TOWER. Mr. President, if the free enterprise system is to survive the onslaughter of overregulation, attacks on the bigness of business and the inexorable movement toward central planning, the business community must improve our Nation's understanding of economics and the workings of the free enterprise system. This is the prescription given in a thought-provoking article by Robert Cizik, chief executive officer of Cooper Industries of Houston, Tex. in an article appearing in the October 1977 issue of Finance magazine.

In spite of the fact that our economic system has brought the American people the highest standard of living in the world, the current trend is to attack bigness in business as an evil in itself. This overlooks the fact that the purpose of an enterprise is to grow, according to Mr. Cizik. He points out that in our current reformist mood, we have neglected the judgment needed to legislate wisely.

The multitude of Government regulations imposed on business is now absorbing more and more of our time, our capital, and our freedom to seek new ways to satisfy our consumers demands. Laws are being proposed which would dismantle our Nation's largest industries, not because they have abused their economic power, but because they are big. This is substituting centralized planning and control for the free market mechanisms.

Although big business generally has been able to endure this legislative onslaught, small business has not and is being legislated into oblivion.

Mr. Cizik continues that the cost of the staggering regulatory onslaught is borne by big business, small business, and the general public. He gives as an example General Motors' estimate that Government regulation has cost it $3.25 billion in the 3-year period from 1974 through 1976. He cites a recent study done by the Government Accounting Office which found that regulation on airlines were costing the passengers between $1.4 and $1.8 billion a year.

Costs in Government regulation may be seen in a decline in our productivity placing us at a disadvantage in international markets. The author attributes much of the slow rise in capital investment to uneasiness created by Government interference.

Mr. Cizik recognizes that there needs to be some Government regulation to protect against the abuses of economic power. However, he cautions legislators to balance the social benefits against the cost of regulation.

Three programs are suggested to reverse this trend:

First, we need to improve our Nation's understanding of economics and the free enterprise system.

The second program is to stimulate a greater dialog between an economically literate populous and our elected representatives.

And, finally we must limit the scope of problems addressed by Government action.

Mr. President, because of the pertinency of Robert Cizik's remarks to measures now pending before this body to further regulate the free enterprise system, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE NEED TO FREE FREE ENTERPRISE

(By Robert Cizik)

H. L. Mencken once said that the businessman "is the only man above the hangman and the scavenger who is forever apologizing for his occupation."

This is an extraordinary observation in view of the American businessman's role in developing the most humane and affluent society in history. Nevertheless, it is true that we businessmen are constantly on the defensive, though not to the degree Mencken opined. The animosity and distrust that we so often sense, however, have recently begun to transcend the personal and to threaten the entire fabric of our free enterprise system.

I think there is a measure of hope in this development. The defense of an idea always inspires the most passionate and popular commitment, and I think it is time that the businessman educated the public about what is at stake and called on the support of his natural allies—the beneficiaries of our economic system.

Our economic system, call it what you will, whether free enterprise, market economy, competitive economy, or profit economy is, without question, the most successful in history. We have produced for our citizens the highest standard of living the world has ever known. It is a system that has enabled thirteen independent colonies, 90 per cent of whose people were in poverty in 1776, to become the greatest industrial and agricultural power in the world. Consider for a moment the conceit of a country that now defines poverty at a level of income that is higher than the average income level in the world's second most powerful nation.

We have made technological advances undreamed of by our founding fathers. The growth of our medical knowledge is evidenced by our life expectancy, which has increased from an average of 35 years in 1800 to over 70 years today. Our social progress includes the reduction of our average workweek from 72 hours in 1840 to less than 40 hours now. In education, science, and art, our achievements have been truly remarkable.

During much of our early development, the mood of our country was one of optimism and great expectations. This mood was natural at a time when we were still learning the extent of our abilities and the magnitude of our wealth, when growth was evident in all our undertakings, and when we lacked much of the knowledge and sophistication which we have today—in short, when we as a nation were young and the future was ours to shape.

Today, we are in a different stage of development. As a nation we appear to be taking the posture of "disillusioned youth." We are rejecting out of hand our established ways and rushing pell mell to correct the perceived evils of our society. In this exercise, we have the classic advantage of the young reformer—enormous energy to change current practice and existing custom. But we also have concurrent and equally classic disadvantages. We are impatient and often too willing to accept short-range solutions to long-range problems. At times, it appears we pursue change purely for the sake of change, with no reliable index of its ramifications. We lack the wisdom of maturity and are all too anxious to overturn institutions without replacing them with, in the words of Robert Ruark, *Something of Value*.

The current trend in our nation to seek immediate reform and instant answers is coinciding with the return of a basic American attitude—our distrust of big business. Throughout history, the American people have feared big business. We have tolerated it during brief periods when we had a job to be done which required a concentration of power. One of those jobs was the construction of our basic industries—the steel mills, railroads, and oil refineries. When these tasks were completed, we reverted to our old attitudes and established antitrust laws to protect ourselves from the abuses of concentrations of economic power.

The Second World War and the needs of the reconversion period which followed produced another hiatus in our nation's distrust of big business. That period lasted from the early 1940s to the mid 1960s. As witnessed by the oft-quoted polls, we are once again returning to our basic distrust of big business. The polls show, for example, that public confidence in major companies' management declined from 55 per cent in 1966 to 21 per cent in 1975.

The distrust which Americans feel for big business is also felt for big government. It is, in fact, a general fear of concentrations of all forms of power that emanate from bigness—economic, military, or political—because of their potential for abuse.

The current attitude that bigness in business is an inherent evil that requires legislative correction can, however, have dangerous consequences. The goal of all business is to grow. Growth is our measure of success, our measure of how well we are doing our job of providing the goods and services which consumers want and need. In the free competitive system, there are winners and losers. If growth is punishable, there is no incentive to take the very real risks necessary to produce that growth. Without the willingness to take risks, we cannot have a system of free enterprise.

Accordingly, the job of preventing possible abuses of concentrations of economic power should be viewed as one that requires a great deal of judgment and reason. Our primary concern should be to protect ourselves against possible flaws in our system without endangering the system itself. Free enterprise is now, and always has been, supported by the American people. A poll taken several years ago showed that 93 per cent of Americans expressed their willingness to make personal sacrifices, if necessary, to preserve the free enterprise system. This system includes all business, large and small.

In our current reformist mood, however, we have neglected the judgment needed to legislate wisely. We have forgotten that laws already exist to protect our country from many economic abuses. Indeed, we seem to have forgotten that it is the abuses and not the system that the laws should attack. Some lawmakers act as though they have a mandate to legislate against business, and this imagined mandate is producing a tyranny of regulation that is enormously wasteful and destructive to initiative, innovation, efficiency, and productivity.

The multitude of government regulations imposed on business is absorbing more and more of our time, our capital, and our freedom to seek new ways to satisfy our consumers' demands. Laws are being proposed which would dismantle our nation's largest industries, not because they have abused their economic power, but because they are big. More and more of our free market mechanisms are being destroyed and replaced with central planning and control.

Thus far, big business generally has been able to endure the legislative onslaught. However, the large number of smaller enterprises that have found themselves incapable of meeting the plethora of regulatory requirements and have consequently been forced to close their doors—is a poignant indication of how lofty legislative goals can go awry. While big business is condemned for its very size, the increasing degree of government intervention is permitting only the larger enterprise to survive, and one of the cornerstones, indeed the foundation, of our free enterprise system—the small business—is being legislated into oblivion.

Let me be more explicit about the degree of government regulation. In his 1977 Economic Report to Congress, former President Ford stated that there were 1,200 federal organizations alone having significant regulatory powers. Direct federal outlays for the regulatory activity are expected to reach $3.5 billion in 1977, a 21 per cent increase over the 1976 level. But the overall cost of the expanding network of regulation is staggering. Estimates range from $40 to $130 billion a year.

This cost is borne by big business, small business, and the general public. For example, General Motors estimates that government regulation has cost it $3.25 billion in the three-year period from 1974 to 1976. This does not include the cost of equipment installed in GM products to comply with federal standards or taxes or workers compensation. It also does not include, GM has noted with exasperation, the cost of "lost opportunities, misplaced priorities, and misused resources."

In addition, a recent study done by the Government Accounting Office found that regulations on airlines were costing the passenger between $1.4 and $1.8 billion a year. The American Council on Education reported in 1975 that federal regulations had increased the cost of running the nation's colleges by the equivalent of from 5 to 18 per cent of total tuition revenues; the total cost may be as much as $2 billion a year.

It is ironic how steadily and quietly government has been growing during the sporadic and clamorous debates on bigness in business. According to one expert, the size of the federal government has grown from 75 to 100 per cent faster than the private sector in the past 150 years. If the current rate continues, by the year 2000, the government will tax away about 50 per cent of GNP and employ about 25 per cent of the labor force; by 2075, the government will tax all GNP and employ everyone.

Government is now involved in every step business takes. When a company hires an employees, it must make sure it adheres to the rules of the Equal Employment Opportunity Commission and applicable state Human Rights Commissions. That employee must work and be paid under the Wage and Hour Law. If the company has a federal contract, it has to file an affirmative action program and must comply with the Davis-Bacon Act, the Walsh-Healy Act, or the Service Contract Act. The employee's work and work surroundings must be in accordance with the Federal Occupational Safety and Health Administration and various state industrial codes. If his employer offers a pension plan, it is governed by the Employee Retirement Income Security Act. (However, recent IRS figures indicate that as many as 30 per cent of the nation's 500,000 private pension plans may have been terminated because of the rigid financial and reporting requirements of this act.) And, of course, every company must act as tax collec-

tor for the employee's social security and income tax.

The product that the company makes are regulated under the Consumer Product Safety Commission, which has the power to ban them unless the company can prove that they meet the Commission's standards. While making the product, the company must satisfy the requirements of the Environmental Protection Agency. In addition, special agencies operate in selected industries, such as the Federal Communications Commission in radio and television, the Civil Aeronautics Board in airlines, and the Interstate Commerce Commission. The oil industry, from wellhead to pump, is now involved with more than 60 regulatory and licensing agencies.

There are now so many legislated restraints on effective use of capital and human resources that our international advantage in productivity is declining. The economic climate is so uneasy due to government interference that the current rise in capital investment is now about half what it has been in comparable periods of economic recovery, and some have predicted an investment shortfall of $500 billion over the next ten years. At the present rate, it is entirely likely that in our own lifetimes, we will begin to suffer serious shortages in the goods and services that we have so long taken for granted and that are a critical source of individual and national well-being.

I do not mean to suggest that there should be no government regulation of business. We have long since passed the laissez-faire principles described by Adam Smith in his book *The Wealth of Nations*. Government should, of course, take action against abuses of economic power. Many laws have already been established to protect the American people against such abuses. If a company violates the law, it should be prosecuted. If current laws are not sufficient to deal with today's problems, they should be strengthened.

I submit that reasoned judgment needs to be applied in determining how much regulation we need to have. The criterion for that judgment should be the social benefits to be derived from such regulation, balanced against its cost—not only the dollars and cents cost which must be borne by you and me today, but also the cost of the erosion of our free enterprise system which must be borne by future generations.

Overregulation, attacks on the bigness of business, and the inexorable movement toward central planning are trends which must be reversed if free enterprise is to survive. Many programs could be suggested which would help to reverse these trends. I would like to suggest three.

First of all, we need to improve our nation's understanding of economics and the free enterprise system. That need was expressed very well by William Simon:

"Today we have reached a point where, although the free enterprise system works, and works better than any other economic system in effect anywhere in the world—feeding, clothing, and housing more people more humanely than any other while allowing them the enjoyment of our basic freedoms—it is losing the semanitic war to an alien philosophy of government control that has never worked but somehow has managed to preserve an aura of idealism, altruism, and ethical soundness—at least when viewed without detailed knowledge and from a considerable distance.

"So the first part of the challenge for American capitalism is clear. We must get across the human side of capitalism, the fact that free enterprise has been and continues to be a force for human good and, in its correct application, an extension of much that is finest in our Judeo-Christian spiritual tradition."

We cannot expect reasoned trade-offs involving our economic system without first of all winning the war against economic illiteracy. We must educate the people about how the system works and the peculiar benefits that apply.

The second program is to stimulate a greater dialogue between an economically literate populace and our elected representatives. We must let them know of our concern for the long-term costs and implications of the programs they enact. If we are getting bigger and bigger government, it must be because that is what our legislators believe we want. If that is not what we want, we should let them know.

In the third major area, we must limit the scope of problems addressed by government action. Over the years, government has proven its effectiveness in endeavors that cannot be undertaken by private insititutions—national security for example. But in many areas, government action cannot be as effective as other mechanisms. Government is not a panacea. It cannot solve all our problems today nor will it do so in the future. What we must have is a return to a balance of roles among all our great institutions—sound and responsive government to be sure, but within an environment of free enterprise, coupled with the essential contributions of religion and a sound educational system. As to the role of business, the marketplace can, if allowed to do so, regulate through freedom of choice, many of the problem areas which we are attempting to control through burgeoning bureaucracies. This will be particularly true if we reestablish profits as an essential and desirable part of our economic system.

The period in which we are living is a critical one for our nation's future. We are facing major problems—inflation, energy shortages, high unemployment, national security, and crime control. If we are able to apply our energies to the solution of these problems, the future benefits will be great. If, on the other hand, we pursue misguided goals which weaken our free enterprise system, we will find a future devoid of the strength which has supported all of our past advances. You and I pay the costs of our nation's mistakes. We should work to avoid those mistakes. The key to preserving free enterprise is involvement—involvement in our educational system and our political system. It is time to become involved.

In closing, I would like to quote W. Allen Wallis, Chancellor of the University of Rochester, who created a vivid image of the American economy as an enormous and vigorous giant being felled by deceptively debilitating forces:

"I am referring to regulatory commissions, tax laws and regulations, non-discrimination laws and regulations, licensing requirements, and so on. Each of these, even the worst, is trivial in comparison with the size and vigor of the American economy. But so are bacteria trivial in comparison with the size of an elephant that they can kill, not by butchering it, but by impairing one after another of the organs whose functions are essential to its life and health. Because we take these multifarious interventions for granted, and because we assume that even though they may be obnoxious they are petty, we fail to note their magnitude and aggregate effects."

Their aggregate effect will be the ultimate destruction of the free enterprise system and the political and social freedom it supports. For the individual, this destruction will translate into reduced challenge and opportunity and deprivation of the high rewards due excellence in a free economy—at the very least. The prospect of all that we stand to lose is too overwhelming not to inspire wholehearted dedication to the goal of freeing the free enterprise system.

AN ENERGY BILL FOR BUREAUCRATS

Mr. HOLLINGS. Mr. President, I am sure that my colleagues saw David Broder's column in yesterday's Washington Post entitled "An Energy Bill for Bureaucrats." This article is of special interest, not because it treats the state of the President's energy package, but because of Broder's flagging of the Energy Department's efforts to undermine the coastal zone management program by calling for the Secretary of Energy to approve or disapprove State coastal zone management plans.

Some brief background on the coastal zone management program may prove helpful in considering what exactly is at stake here with a provision of this kind.

The effort to establish a coastal zone management program goes all the way back to 1969 and the 91st Congress, when Senator MAGNUSON and I introduced the first coastal management bill. The legislation was based upon the blue-ribbon Stratton Commission report, "Our Nation and the Sea", which recommended a national management plan for our fragile coastal areas which were experiencing tremendous growth pressures from haphazard development. We encountered strong opposition from the Nixon administration and were not successful in getting a bill to the President's desk during that Congress. We came back in the 92d Congress, however, and I introduced a coastal management planning bill again. This time we were successful, and the Coastal Zone Management Act of 1972 became Public Law 92–583.

Administration of the program was placed within the Department of Commerce, in the National Oceanic and Atmospheric Administration. To do so was not a hasty decision. The entire program was premised upon a very flexible and water-oriented management concept. Because the National Oceanic and Atmospheric Administration was already deeply involved in coastal areas, and because of its capability to assist State and local governments, NOAA was purposefully chosen, along with the Department of Commerce, to carry out the law.

The fight was not over then, however, as we soon discovered. In spite of the fact that President Nixon had signed the bill, active funding was withheld by the administration until 1974. We finally won that one too, and in 1975 went on to extend the authorization period for the program.

In 1975 also, I introduced extensive amendments to the Coastal Zone Management Act as a result of the energy problem we were experiencing. We struggled with the Ford administration on that one, but we succeeded and saw those amendments signed into law on July 26, 1976, in the Rose Garden of the White House.

I believe two conclusions can be drawn from this brief history. First, Senator MAGNUSON and I fought long and hard to establish this legislation in exactly the form it is in today; we have a deep

commitment to it and are beginning to see the fruit being borne. Second, we always overcame the opposition that lay in our path.

Now it appears that the brandnew Department of Energy thinks, at least in draft form, that it can administer the coastal zone management plan better than the department and agency which has invested 4 years in doing so, and has all the expertise necessary for doing so. That, in effect, is what the impact would be of the provision contained in the draft bill on licensing nuclear powerplants.

I have a great deal of respect for the Secretary of Energy, Dr. James Schlesinger. I recall a public statement he made some time ago that he was going to be absolutely certain that energy development occurred in an environmentally sound manner, or words to that effect.

The National Ocean Policy Study (NOPS), first under my leadership and now under the leadership of Senator MAGNUSON, has been studying reorganization and administration in the executive branch for 3 full years. NOPS has gotten past everyone's primitive urge to move boxes around to where they look good, and has done a healthy amount of work in public administration theory, among other things. We have learned something very important from this: To put it simply, you do not set the fox to guard the chickens. Now if Secretary Schlesinger will think about this, I think he may agree. In order to preserve the public process and open decisionmaking, and in order to develop the kind of balanced decisionmaking process that is necessary when dealing with conflicting uses, a decided amount of dynamic tension must exist in the process itself. In this way, most necessary information can be forced out into the open on all sides of an issue, and the best-informed conclusion can be reached. There are several ways to do this. One way not to do it, however, is to give the department with the most motivation and responsibility, and the most at stake, in energy development more than an equal say in balancing the environmental and economic benefits and harm.

If the draft bill referred to in the article is introduced in the Senate with a provision affecting the coastal zone management program, I will have to seek referral of that bill to the Committee on Commerce, Science, and Transportation.

I ask unanimous consent that the David Broder article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AN ENERGY BILL FOR BUREAUCRATS

(By David S. Broder)

The best costume award at one Washington Hallowe'en part went to the fellow who opened up some more seams and tore some new holes in an old suit and came as the Carter energy plan. This late in a session of Congress, a sight gag like that can seem funny.

The wearer was an old Democrat who knows that many of the important parts of the Carter plan are in far less trouble than press accounts of the last two weeks would suggest. He's also a fellow who has defended most of the plan from the start and who has no doubt that there is a world energy crisis.

What we had, in short, was a defector who still takes the energy crisis seriously but who is beginning to have trouble doing the same with the administration's efforts to deal with it. And for those who cared, he had an interesting explanation of his urge to defect.

It seems that a bill designed to streamline the licensing process for nuclear power plants has been circulating in town for some weeks. It is now in its fourth draft and is scheduled to be taken up in hearings next week by Sen. Gary Hart (D-Colo.).

There is some question whether the bill gets to the heart of the problem. People who want many more nuclear power plants—and, obviously, not all supporters of the Carter program do—tend to doubt that construction delays can be cut down simply by changing the licensing process. Slow deliveries of parts, erratic demand, high construction costs and high interest rates are also part of the problem.

Licensing delays are serious, but people at the Nuclear Regulatory Commission who deal with licensing every day say the new process might cut only six months out of a lead-time for nuclear plants that now averages 12 years.

A much more puzzling aspect of the bill is that it blunders headlong into a delicately negotiated agreement between the states and Washington about how and where to build power plants, refineries and other energy-related facilities along the U.S. coastline.

The last page of the draft bill proposes to amend the Coastal Zone Management Act, which sets the terms of federal-state decisions on coastal energy facilities in 31 seaboard and Great Lakes states.

Neither the act nor its regulations are matters of front-page news, but that does not mean they are unimportant. The basic premise of the coastal acts is that beaches and wetlands and estuaries are national resources that can be destroyed for generations if developers are careless about where they put their condominiums and harbor facilities and power plants.

The coastal act creates a partnership arrangement between Washington and the states for these decisions. There are grants from Washington to the states to help them zone their coastlines, to select sites for development and to protect areas that should be preserved.

Once the federal government approves a state's zoning plan, it also binds itself to abide by its terms in any development involving federal money or licenses. That's where the energy problem enters.

Under the present law, the Secretary of Commerce can grant an exception to the state zoning law for a federal project only if it is found to be "in the national interest" or necessary for "national security." Now "national interest" is a slippery concept. It means one thing to an oil company trying to bring a pipeline ashore in California, and it means something else to an environmental protection agency. But so far, the negotiations between the states and the Commerce Department have been civil and muted and have not done violence to federal-state regulations.

But the administration draft bill would change all of this by giving Secretary of Energy James Schlesinger sole authority to decide whether a state plan should be accepted or rejected. He—not Commerce's Juanita Kreps—would review all proposed coastal plans, compare their provisions with his blueprint for the national energy blitz and, presumably, send them back if they threatened to interfere with any part of his department's program.

During his campaign, President Carter seemed to understand clearly that the mood of the people was resentful of Washington's instinct for dictatorial bureaucracy. But now, the energy plan is all-important to him and Schlesinger.

Certainly, it is important. But to the people who live there or earn their living there, so is a beach in upper Michigan or a port in lower Florida. Those conflicts deserve to be negotiated—not ruled on arbitrarily by the bureaucrats in the energy agency.

That, said the party guest, is the abstract problem with the draft bill. The concrete problem is this: The drafter and protectors of the Coastal Zone Act are Sens. Warren G. Magnuson (D-Wash.) and Ernest F. Hollings (D-S.C.). Neither is the kind of fellow Carter needs to be picking a fight with at this moment. Not if he's smart.

It was enough to make a good Democrat go tear holes in his suit.

"THE NEED FOR BETTER PROFITS"

Mr. THURMOND. Mr. President, on Wednesday of last week, the distinguished Chairman of the Board of Governors of the Federal Reserve System, Dr. Arthur F. Burns, delivered a speech at Gonzaga University which should be required reading for all who are concerned about the economic health of this country. In this speech, entitled "The Need for Better Profits," Dr. Burns convincingly argues that reasonable and reliable profits are essential to the proper functioning of the free enterprise system. It is business expansion that creates new jobs, and it is the expectation of profit that prompts businessmen to expand.

Unfortunately, Government policy has not reflected adequate concern for the profitability of business in recent years. As a result, business has not nearly achieved its potential for expansion. Unless there is a dramatic change of attitude, Dr. Burns suggests, our economy will continue to perform erratically and unsatisfactorily. In plain, simple, layman's language, our persistent indifference toward the profitability of business has brought us to the verge of killing the golden goose.

Mr. President, I shall not attempt further recapitulation of the opinions of Dr. Burns. I would simply urge all of my colleagues to give his opinions their careful attention. To that end, I ask unanimous consent that his address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

THE NEED FOR BETTER PROFITS

(By Arthur F. Burns)

It is a pleasure for me to be here on the campus of Gonzaga University to participate in this celebration of Founder's Day. I am also pleased to be able to join you in honoring a great teacher of economics, Dr. Graue. It is eminently fitting that Dr. Graue's contribution to economic understanding should be noted today not only by festivity but also by serious economic discussion.

In consonance with that, I would like to address a feature of our current economic environment which, as long as it persists, could well prove an insurmountable barrier to the achievement of full employment in our country. I refer to the fact that the profits

being earned by American business are at an unsatisfactory level.

It is both striking and disturbing, I believe, that profits get relatively little attention these days from economists. I have the impression that the economics profession has almost forgotten that ours is still predominantly a profit-motivated economy in which, to a very large extent, whatever happens—or doesn't happen—depends on perceived profit opportunities. Certainly, the preoccupation in the Nation's capital tends to be with other matters.

The slightest hint, for example, of emerging trouble for the economy will promptly unloose a flood of fiscal and monetary proposals, virtually all predicated on the notion that what is crucial is governmental manipulation of aggregate demand. Seldom does anyone pause to ask what should be a compellingly obvious question—namely, whether lack of confidence in profit opportunities on the part of our profit-oriented businessmen and investors may not be the essential cause of difficulty.

My own judgment is that a deep-rooted concern about prospective profits has in fact become a critical conditioner of economic performance in our country. If I am right in thinking so, actions taken in Washington to enlarge the already huge budget deficit in the interest of more consumer spending are likely to be of little sustained benefit in reducing the level of unemployment. That was a principal reason why I felt no lasting benefit could flow from the $50 rebate that was under consideration early this year.

If poor profitability is adversely affecting economic performance, we should expect business firms to exercise great caution in embarking on capital-investment projects. No businessman is likely to add to his plant or equipment if the promise of a decent return is not present. The current expansion of the over-all economy, while otherwise generally satisfactory, has been marked by notably weaker investment spending than was characteristic of previous recoveries. In the two-and-a-half years of this expansion, real capital outlays have increased only half as much as they did, on average, over like periods in the previous five expansions. The shortfall has been especially marked in the case of major long-lived industrial construction projects, and it has occurred even in industries—such as paper and basic chemicals—in which the rate of utilization of industrial capacity is well advanced.

Unless the willingness of businessmen to invest in new plant and equipment increases decisively, the expansion of economic activity now under way will continue to lack balance. And that, I need hardly add, will make it more uncertain whether the expansion is going to continue at a sufficient pace to bring unemployment down significantly, or—for that matter—whether the expansion itself will long continue.

The weakness of profits in recent years is not the only cause of investment hesitancy, but it is unquestionably a very important cause. To be sure, many people have a contrary impression about the general level or the trend of profits. In fact, the most commonly cited profits figures—the so-called book profits that business report to their stockholders—have risen spectacularly in the last few years, and in total are currently running just about double their level a decade ago. But these raw profit figures are misleading and they should never be taken at face value.

In actuality—as the more sophisticated observers of corporate finances know—raw profit numbers have become virtually meaningless as a guide to corporate affairs because of the way in which inflation distorts the calculation of profits. Under historical cost accounting—the method used widely for inventory valuation and universally for capital-asset valuation—the true costs of producing goods in an ongoing business are far from fully captured. Rather, they are significantly understated with respect to both the drawdown of materials from inventory and the consumption of capital assets. And when costs are understated on an accounting basis, profits of course are overstated; that is to say, the reported total of profits contains an element of inflationary fluff that in no sense enlarges a firm's ability to pay dividends or add to retained earnings.

The practical consequence of the inflationary fluff on a company's fortunes is decidedly negative, since taxes have to be paid on the "phantom" portion of profits. Quite obviously, this has lessened the ability of corporations to add to their capital investment without borrowing. The tax drain has become very large in recent years because of the enormous understatement of costs. For 1976, for example, the Commerce Department estimates that the replacement cost of inventories used up by nonfinancial corporations exceeded by $14 billion the materials expenses claimed for tax purposes. More striking still is the Department's estimate for last year of the amount by which depreciation charges based on historical cost fell short of the replacement cost of the capital assets consumed. That estimate came to nearly $36 billion, making the combined understatement of costs from these two sources $50 billion in 1976.

The huge understatement of costs that arises because of inflation cannot be ignored by anyone seriously concerned with corporate earnings. Once account is taken of the distortions wrought by inflation—and when an offsetting adjustment is also made to allow for the changes over time in Treasury depreciation rules—we find that the level of corporate profits was overstated in 1976 by about $30 billion, and that this resulted in an overpayment of some 10 to 12 billion dollars in income taxes. True economic profits of corporations are thus very different from reported book profits.

Just how poor the trend of profits has recently been is clearly indicated by the fact that in each year from 1958 through 1975 the after-tax "economic profits" of nonfinancial corporations from domestic operations were, in the aggregate, consistently below the levels reached during 1965–1967. A new high level of these profits was indeed reached during 1976, but even that achievement is decidedly unimpressive when profits are expressed as a rate of return on the amount of equity capital in use. So far in the inflation-riddled 1970's, the after-tax rate of return on stockholders' equity has averaged only about 3¼ per cent when the tangible assets portion of equity capital is valued, as it should be, on a replacement cost basis. That figure is lower by two percentage points than the average rate of return for the 1950's and 1960's. Despite a sizable recovery from the recent recession, the rate of return on the equity investment in our corporations appears to be running currently at a level not significantly different from the depressed average so far this decade.

Anyone who wonders why capital spending has been so halting or why stock prices have behaved so poorly for so long would be well advised to study this dismal record of what American business has been earning. Historically, there has been an impressively close correlation between the rate of return on stockholders' equity and the rate of real investment. The linkage between the rate of return on equity and the behavior of equity prices is looser, but it still suggests that professional investment managers are no longer being deceived by the inflationary fluff in profit numbers. The stock market, by and large, has not been behaving capriciously; instead it has been telegraphing us a message of fundamental importance.

At any given point in time, investment activity and stock market behavior are conditioned, of course, by much more than current profit readings. What is ultimately decisive in determining the behavior of investors and businessmen is not the rate of return currently earned on past investments but rather expectations about future earnings. Very often current earnings are an excellent proxy for expectations about future earnings; sometimes they are not. My judgment is that businessmen and investors at present have a sense of doubt and concern about the future that is even greater than would be justified by the low level of true economic profits.

One telling piece of evidence that this is so is the pronounced hesitancy of businessmen in going forward with capital-spending projects that involve the acquisition of long-lived assets. The investment recovery that we have experenced so far in this cyclical expansion has been heavily concentrated in relatively short-lived capital goods that promise quick returns—trucks, office equipment, and light machinery, for example. Major investment projects that cannot be expected to provide payback for many years encounter serious delays in getting management's approval. Indeed, the decline of industrial construction that set in during the recent recession continued through the first quarter of this year—two years after general economic recovery got under way—and has not yet turned around decisively enough to establish a clear trend.

Many businessmen have a deep sense of uncertainty about what the longer future holds and, as a consequence, are discounting expected future earnings more heavily than they ordinarily would in their investment calculations. The special degree of risk that businessmen see overhanging new undertakings means that they often will not proceed with a project unless the prospect exists for a higher-than-normal rate of return. This is not only skewing investment toward short-lived assets; it is also fostering an interest in mergers and acquisitions—something that does not require waiting out new construction undertakings. There has been a noticeable pickup in merger activity recently, but such activity generates neither additional jobs nor additional capacity for our Nation's economy.

The reasons why businessmen appear to be assigning special risk premiums to major investment undertakings are complex, and I certainly cannot deal with them exhaustively today. But I would like at least to touch on the conditioning influences that seem most important—beyond, of course, the critical fact that current corporate earnings, properly reckoned, are discouragingly low.

My frequent discussions with businessmen leave little doubt in my mind that a strong residue of caution in businessmen's thinking has carried over from the recession of 1974–75. I think it is fair to say that the present generation of business managers had developed an inordinate degree of faith in government's ability to manage and sustain economic expansion. When they discovered that that faith was not justified, the experience was sobering—particularly for the not inconsiderable number of businessmen who had imprudently expanded debt in the froth of the earlier prosperity. Moreover, the lingering sense of unease produced by the severity of the recession has been deepened by the sluggishness of the subsequent recovery in much of the world economy outside the United States. In contrast to the widely-shared conviction of just a few years ago that the business cycle had been mastered, a surprising number of businessmen are now seized by concern that the world economy may have entered a downphase of some long cycle. One factor sparking such speculation is apprehension that the quantum jump in energy prices may be affecting the world's

growth potential to a more serious extent than was originally thought likely.

More troublesome still, the specter of serious inflation continues to haunt the entire business community. The fear that inflation will not be effectively controlled is indeed a key reason for the high risk premiums that businessmen nowadays typically assign to major investment undertakings. Increasingly, businessmen understand the severity of the burden they are carrying on account of the taxation of "phantom" profits. They also have learned the hard way—from the frenetic conditions of 1973–74—that inflation is totally inimical to a healthy business environment. Having little basis for projecting how inflation will affect their enterprises and fearful that government may in time resort to direct controls once again, they feel bewildered in attempting to judge their future costs or their future selling prices. Because of that, they yearn for some solid piece of evidence that inflation will be tamed. They are troubled because no such evidence is yet at hand.

Added to these concerns is the fact that businessmen have had great difficulty in evaluating the implications of the major policy initiatives that are being considered this year. Businessmen cannot at this juncture confidently judge what kinds of energy will be available in the years ahead. Nor do they yet have any firm basis for assessing what kinds of tax incentives or disincentives may apply to particular energy uses.

They are concerned that innovations in Social Security financing now under consideration may end the traditional rule under which employer and employee taxes have been the same and, as a consequence, lead to multi-billion dollar increases in the Social Security levies they have to pay. They suspect, moreover—as do many others—that the revamping of welfare programs will prove much more expensive than is now being estimated and that still additional taxes on businesses will be imposed as a means of financing reform. And the daily rumors about impending tax reform, among which ending of preferential treatment of capital gains is frequently emphasized, have contributed to a mood of unease in both corporate board rooms and the stock exchanges. So too has the expectation that a serious campaign for a costly undertaking in national health insurance may start next year.

I strongly suspect that the ability of businessmen to assimilate new policy proposals into their planning framework has now been stretched pretty far. In fact, I seldom talk with a businessman these days who does not, in one way or another, voice concern about his inability to make meaningful projections of corporate costs and earnings for the years immediately ahead.

The implications of the matters on which I have been dwelling—the behavior of profits and the state of mind of the business community—appear to have escaped a good many people. Economic analysts who insist, for instance, that capital spending will automatically catch fire as capacity margins diminish are, in my judgment, thinking too mechanically. Much will depend on the process by which the economy reaches more intensive utilization of resources—especially on government's role in that process.

I also think that analysts endeavoring to assess capital-spending prospects—and indeed prospects for the economy generally—may be neglecting a sensitive cyclical development. I refer to the fact that, whereas prices charged by business generally advanced more rapidly than did the costs incurred by business in the early stages of this expansion, that is no longer the case. This, of course, means that profits per unit of output have stopped rising and may indeed have begun to fall—a development typical of the more advanced stage of business-cycle expansions and one that is certainly not conducive to vigorous capital-investment activity. I know enough about business-cycle behavior to avoid at this time the inference that a sustained profits squeeze is emerging. We have here, nevertheless, an incipient imbalance in the economic situation that ought to concern us. And it is one more compelling reason to ask if national policy does not need to be more explicitly oriented to the strengthening of profitability and the encouragement of capital formation.

The last time business investment in fixed capital was as weak as it has been since 1973 was in the late 1950's and early 1960's. I believe there are some policy lessons we can profitably draw from that period. There was a great deal of concern at that time that a phase of deep-seated economic malaise had set in, with worry voiced that sluggishness in business investment might well prevent the economy from attaining full employment. The parallels with today— both in objective fact and in assessment—are close in many respects, the major differences being that profit rates were not as low then, nor was inflation comparably troublesome.

A bold policy approach—predicated on the need for stimulation of capital investment—was then developed, with one of President Kennedy's early messages to Congress calling for enactment of an innovative tax device, namely, the investment tax credit. The Revenue Act of 1962 brought the tax credit into being. That same year witnessed a reinforcement of investment incentives in the form of significant liberalization of Treasury depreciation rules. This investment-oriented thrust of policy was followed, moreover, by recommendations for broadly based income tax reductions for both businesses and individuals, and they ultimately were embodied in the Revenue Act of 1964. Taken together, those actions of the early 1960's were sensitively responsive to conditions that have many similarities to the situation in which we now find ourselves. And what is particularly worth recalling, those actions soon had the consequence of strengthening dramatically both investment activity and the general economy.

If we were able to launch a policy response now that was just as unambiguously positive in its implications for profitability, I for one would have little doubt about our economy's capacity to shake off its malaise. As every recent study of our Nation's investment needs has emphasized, we are confronted with an enormous capital-formation challenge for the years ahead. If we have the good sense to create hospitable conditions for saving and investing, I truly believe ours could become an age of sustained progress in employment and well-being.

The doubts and uncertainties that now prevail in the business and investing community reflect, in large part, irritation or annoyance at what is viewed as governmental myopia. They must not be interpreted as being indicative of business timidity. That enormous vitality and dynamism still exist in our business system is attested by the extraordinary fact that, despite the weakness of profits in recent years and the cumulating anxieties about the future, our economy has actually generated nearly seven million jobs since the spring of 1975—nearly all of them, I should add, in private industry.

The practicality of so many initiatives in this Administration's first year is arguable, but the President's leadership also bespeaks a seriousness of purpose that in the end may bring lasting benefits to our Nation. We have been through a year of animated policy debates—a year, I think, of useful growth in the perception of how plausible but divergent objectives can be practically blended. The basic reform this country now needs is the creation of an environment with many new job opportunities for our people. I expect the dust of controversy to settle and that constructive legislation will follow.

I do not mean to suggest that encouragement of investment through a bold tax policy is all that is needed. Such encouragement is vital, to be sure, and it will undoubtedly make a difference in the willingness of businessmen to invest in new plant and equipment. But the effort at eliminating the high risk that now attaches to investment must be of broader reach. It must go to the array of concerns of the business community about energy policy, about environmental codes, about governmental regulations at large, and—above all—about inflation.

I cannot overstate the important of unwinding the inflation that is continuing to plague our economy. There is a paramount need for avoiding new cost-raising measures by government, of which the recently legislated increase of the minimum wage is only the most recent very troublesome example. Fiscal and monetary policies need to be conducted in ways that will quiet rather than heighten inflationary expectations. On the fiscal side, this means that great caution will have to be observed both in giving up tax revenues and in program initiatives entailing new expenditures.

As a practical matter, expenditures on some existing programs may therefore have to give away. We simply dare not take steps that would result in any appreciable enlargement of our already swollen budget deficit. That could only excite unease in the business and financial community.

On the monetary side, I want to assure you that we at the Federal Reserve fully appreciate the critical linkage between money creation and inflation. We have no intention of letting the money supply grow at a rate that will add fuel to the fires of inflation. On the contrary, we are determined to bring about a gradual reduction in the rate of money expansion to a pace compatible with reasonable price stability. That cannot be done quickly because of the powerful inflationary pressures that have become embedded in our economic life over so many years; but I assure you that it will be done if the Federal Reserve retains—as I expect it will—the independence from political pressures on which the Congress has so wisely insisted across the decades. That does not mean that the Federal Reserve is preoccupied with the objective of monetary firmness. Our obligation to foster financial conditions that favor the expansion of job opportunities is clear and I assure you this is very much on our minds. We constantly keep probing for that delicate balance between too much and too little money.

The increase of short-term interest rates that has occurred since late April has served to check what would otherwise have been an explosion of the money supply. By taking measures to check the growth of money, we have demonstrated that we remain alert to the dangers of inflation. As a consequence, long-term interest rates, which nowadays are extremely sensitive to expectations of inflation, have remained substantially stable. Had we not taken steps to bring the money supply under control, I have little doubt that fears of inflation would now be running stronger, and that long-term interest rates, which play such a significant role in shaping investment decisions, would therefore now be higher than they in fact are. In that event, of course, the continuance of economic expansion would be less secure.

We at the Federal Reserve always welcome advice on how best to proceed. Ours, however, is the responsibility to act in the monetary area, and we intend to exercise that responsibility in ways that promote the long-run as well as the immediate interests of this Nation.

THE SECOND ANNUAL CONVENTION OF THE MINORITY TRUCKING-TRANSPORTATION DEVELOPMENT CORPORATION

Mr. GLENN. Mr. President, today is the first day of the second annual convention of the Minority Trucking Development Corp., an organization dedicated to achieving greater minority participation in the national transportation industry. This convention will have as participants representatives of many of the Nation's leading businesses as well as important Government officials, such as Interstate Commerce Commission Chairman Daniel O'Neal.

I had expected to participate in an opening session this morning, but was unable to do so due to a meeting of the Senate Foreign Relations Committee.

I ask unaimous consent that my prepared remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR JOHN GLENN

I am very pleased to join you this morning and to offer my complete support for your efforts to increase minority business participation in the Transportation Industry as well in all other sectors of our economy.

As you know, I will soon be holding hearings on S. 607, our proposal to upgrade and strengthen the federal minority business assistance effort by creating an office of Assistant Secretary for Minority Business Development in the Commerce Department. This bill cleared our Intergovernmental Relations subcommittee by an 8-0 vote last year only to die in the rush to adjourn prior to the Presidential elections. This year we already have 18 co-sponsors and firmly believe that S. 607 can be a significant vehicle for major progress in minority business development as it would bring together, under one strong roof, many of the separate and competing federal programs that aid minority business. I will continue to push to enact this important bill, that for the first time, will give legislative authority to the areas and duties now covered by the Office of Minority Business Enterprise.

There are other issues of vital importance to minority truckers that I would like to briefly outline and comment upon.

MINORITY TRUCKERS' PETITION EX PARTE NO. MC 107

I am in complete support of Congressman Parren Mitchell and the minority truckers' petition which seeks greater participation by minorities and economically-disadvantaged persons in the transportation of the estimated $12 billion worth of regulated traffic that is spent annually by the Government. I urge the Administration and the ICC to encourage agencies of government to increase utilization of minority firms for the transport of government cargo. I am hopeful that Chairman O'Neal of the ICC will take further positive steps to increase the numbers of licensed minority carriers.

REGULATORY COMPLEXITY: THE IMPACT ON THE SMALL AND MINORITY-OWNED BUSINESS

I am pleased that ICC Chairman O'Neal has taken steps to simplify the ICC regulatory process and to meet the special needs of small businesses. There is no group in our society more vulnerable to the costs and burdens of complicated regulations and paperwork requirements than the small and minority-owned businessman who lacks both time and resources to devote to meeting these burgeoning requirements. I support Chairman O'Neal in his efforts and I am happy to join Senator Gaylord Nelson as a co-sponsor of S. 1974 which seeks to empower and encourage federal regulatory agencies to bring regulations and regulatory requirements into conformity with the size of those businesses being regulated.

MINORITY REPRESENTATION AT THE POLICY-MAKING LEVEL

Finally, let me urge you to keep up your struggle for proper representation at all levels of government. In 1977, there is no longer any tolerable excuse for the absence of minorities on our regulatory bodies, in key agency offices, in Congress, on Congressional staffs, committee staffs, or anywhere else. I have and will continue to be active in this area in the Senate as a member of the Governmental Affairs Committee.

Congratulations again on your convention. I plan to announce it today in the Congressional Record for the benefit of my colleagues.

THE FIGHT FOR REASONABLE LUMBER PRICES

Mr. PROXMIRE. Mr. President, the Committee on Banking, Housing, and Urban Affairs held a hearing on October 21 to examine why lumber prices have climbed sharply in recent months. Lumber is essential for homebuilding today, and its price is a significant element in the cost of housing. The committee is deeply concerned about the rising cost of housing, and is now studying several aspects of this problem.

In the course of the hearing on lumber prices, the committee heard from the Senator from Idaho (Mr. MCCLURE), from officials of the homebuilding industry, and from the industry that produces lumber and wood products. In addition, the committee received testimony from the Chief of the U.S. Forest Service and received a new study of lumber prices just completed by the Council on Wage and Price Stability.

The Council on Wage and Price Stability reported that lumber prices have, in fact, climbed sharply. In the years since 1970 the prices for softwood lumber and plywood increased by 14 percent per year, or twice as fast as other nonfarm products. This spring, wood prices surged even higher, increasing by more than 25 percent over the previous year. Homebuyers and homebuilders from all parts of the country wrote to members of the committee, protesting these sudden, large increases.

Fortunately, it now appears that prices peaked in late August, and there has been some relief since then. Observers foresee, in the winter months immediately ahead, a stabilization of lumber prices.

But the longer run outlook is very different. The Council on Wage and Price Stability found that, "The longrun problem of rising lumber prices remains and may become more serious in the coming decade." The Forest Service testified that, "demand for timber products has been increasing more rapidly than timber supplies." Their projections show that demands "are likely to continue to grow in the decades ahead," while "timber supplies, if our forests continue to be managed as they were in the 1960's show very little increase." According to the Forest Service, the price trend for lumber is up, and each cycle is expected to produce even higher peak prices.

These projections are sobering for all of us who are concerned with expanding housing and employment opportunities. A continuing increase in the relative price of lumber products could threaten both the achievement of our national housing goals and the health of our housing industry which plays such a vital role in stimulating production and employment in all kinds of industries in all parts of the country.

While the outlook is sobering, it is not without hope. The excellent testimony prepared by our witnesses, and other statements we have received, contain a wealth of suggestions for what we can do to avoid the adverse consequences that would result from an unchecked spiral in lumber prices.

I would like to indicate some of these, because I am convinced that most of us—in the Congress and in the executive branch, in the industries that produce and the industries that use wood, and as citizens concerned about the environment, the economy, and the many social values that are affected—have been derelict in taking appropriate action to insure that the Nation's supply of timber products will be adequate for meeting the Nation's housing needs.

All of the witnesses pointed to the need for better management of our commercial timber lands. It is generally conceded that commercial forest land in the United States could produce a greater supply of wood if intensified forestry practices were utilized on both private and public lands. With appropriate thinning and cutting; roadbuilding; insect, disease, and fire controls; and reforestation practices, future harvests could be increased significantly, it is contended, without sacrifice of multiple purpose forest values. The greatest untapped resource, a number of experts assert, is the almost 300 million acres of private, nonindustrial land which has commercial forest-growing qualities.

Many witnesses also pointed to the need for better utilization of the available timber supply. The committee received information that billions of board feet of wood are lost each year as a result of inefficient logging and milling operations.

Increased research could, it is widely believed, increase the supply of timber products by improving yields, and conserve its use by developing new wood products, new uses for underutilized species and more efficient techniques for utilizing wood. Additional research could also point the way toward greater use of nonwood substitutes.

Industry representatives, particularly, urged actions to accelerate the inventory and review of the Nation's roadless areas now being conducted by the Department of Agriculture. Uncertainties about the future designation of these areas, it is argued, is inhibiting planning by the communities and industries affected by the temporary withdrawal of roadless areas from multiple-purpose use.

The committee also heard recommendations that Congress insure, through providing adequate appropria-

tions and authorization for increased Forest Service manpower, that harvesting levels for Federal timber lands reach the allowable cuts recommended under the Resource Planning Act. Witnesses pointed out that actual timber cuts have been falling significantly below recommended ceilings for several years, largely because of shortages in Forest Service manpower.

These suggestions, and others, indicate that, if we are to head off a greater scarcity of lumber and timber products in the years ahead, we must now give more attention and probably more of our financial resources to the care of forested areas. Wood is still the most important single product in our houses. It is a renewable resource. But unless we as a nation learn to cultivate it and conserve it adequately, we shall find, in light of the many and growing demands we place upon it, that our opportunities for enjoying adequate shelter, recreation and environment will deteriorate drastically.

Our lumber hearings have shown, I believe, that we must more carefully review the policies and practices we have adopted with respect to our timberlands. And we must encourage greater efficiency in using timber products.

The cost of our housing and the health of our economy are at stake.

H.R. 5263—ENERGY PRODUCTION AND CONSERVATION TAX INCENTIVE ACT

Mr. STEVENSON. Mr. President, during consideration of H.R. 5263, the Energy Production and Conservation Tax Incentive Act, I was necessarily absent from the Senate during certain rollcall votes occurring on October 28, 29, and 31.

Had I been present, I would have voted in favor of the Hart amendment No. 994 (rollcall No. 589); against the McIntyre amendment No. 995 (rollcall No. 590); to table the motion to recommit the bill by Senator DOLE (rollcall No. 591); against tabling the Appropriations Committee amendment No. 1000 (rollcall No. 592) and in favor of that amendment (rollcall No. 593); against tabling the Kennedy amendment No. 1467 (rollcall No. 594); to table the Allen amendment No. 1001 (rollcall No. 595); in favor of the Kennedy amendment No. 1467 (rollcall No. 596); to table the Durkin amendment No. 1540 (rollcall No. 597); against tabling the Percy amendment No. 1495 (rollcall No. 598); against the Roth amendment No. 1533 (rollcall No. 599); to table the Roth amendment No. 1534 (rollcall No. 600); against tabling the Dole/Kennedy amendment No. 1010 (rollcall No. 601); and to table the Kennedy amendment No. 1013 (rollcall No. 602).

INDEPENDENT CONSUMER PROTECTION AGENCY

Mr. DECONCINI. Mr. President, legislation authorizing the establishment of an independent Consumer Protection Agency has been reported from the responsible committees in both Houses of Congress. In the course of congressional consideration of these two measures, a number of misconceptions grew up concerning both the character of the Agency and the nature of the forces supporting and opposing its creation.

One of these concerns the posture of the business community. The popular perception is that the business community is unanimously and vehemently antagonistic to the creation of an agency whose primary mission is to protect and promote the interests of consumers. It is my experience that this is a mistaken impression and I would like to call the attention of my colleagues to two full page statements endorsing the formation of such an agency; these appeared in the Washington Post and were sponsored by large retail business firms.

I ask unanimous consent that these statements be included in the RECORD.

Moreover, it should be noted that these two firms are by no means exceptional. I have here a partial list of businesses and corporations that have so far gone on record in favor of a Consumer Protection Agency, and I ask unanimous consent that it, too, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AN OFFICE OF CONSUMER REPRESENTATION: WE NEED IT!

An Office of Consumer Representation—in this age of consumerism—you'd think everyone would support it.

But it's hard to think of a more controversial issue.

Most business people are against it.

We're for it.

We believe in our free marketplace. Our economy is like a three-legged stool. The legs are business, labor, and consumers. If the economy is to function as it should, all three legs should be in balance.

Business and labor have departments in the Federal Government to look after their interests. Consumers have no counterbalancing voice.

We think they should have one.

The proposed Office of Consumer Representation will have no regulatory power. Its only power will be to speak on behalf of consumers within the Federal Government.

Frankly, we've had some reservations. But the new bill takes care of them. We don't see why business is still so alarmed. We've seen all the arguments—and we think the Office of Consumer Representation is an idea whose time has come.

The House of Representatives will probably consider the bill establishing an Office of Consumer Representation in the coming weeks. Why not exercise your prerogative as a citizen and let your Congressman know how you feel about this issue?

MYRON D. GERBER,
Chairman of the Board.
MILTON L. ELSBERG,
President.

WE SUPPORT H.R. 9718—THE OFFICE OF CONSUMER REPRESENTATION

WHY WE THINK IT IS IMPORTANT

At Giant we have always believed that the consumer viewpoint should be represented in business. We also believe that it is equally important for consumers to be represented before our federal government. That is why we strongly support H.R. 9718 which will establish an Office of Consumer Representation.

This is a change from our previous position because we feel this new bill provides a better balance between consumer, industry and government interests.

H.R. 9718 represents a compromise that was hammered out in the best democratic tradition. Although the bill still exempts some components of labor and agriculture, we are confident it is a step in the right direction. We hope the House will pass this bill, and that the Senate will agree on the same legislation.

WHAT WILL HAPPEN WHEN THE BILL PASSES?

An independent and nonregulatory office will be established to give consumers a voice in federal agencies and the courts.

A complaint clearinghouse will be set up to assist in the resolution of consumer complaints.

Existing consumer functions in other federal agencies will be consolidated into this office, saving money and cutting down on government bureaucracy.

Consumer information and education materials will focus on key consumer issues.

This bill will accomplish President Carter's desire to give consumers a stronger voice in the marketplace . . . and we think that's good.

Robert R. Nathan Associates, Washington, D.C.; National Patent Development Corporation, New York City; The National State Bank, Trenton, New Jersey; North Jersey Suburbanite, Englewood, New Jersey.

Oakland Consolidated Corporation, Maitland, Florida; Optical Systems Corporation, Burlingame, California; Outdoor Enterprise, Inc., Summerville, West Virginia.

Pennsylvania Power & Light Company, Allentown, Pennsylvania; Phillips-Van Heusen, New York City; Piedmont Industries, New York City; Pioneer Systems, Inc., Manchester, Connecticut; M. Polaner & Sons, Inc., Roseland, New Jersey; Polaroid Corporation, Cambridge, Massachusetts; Professional Insurance Agents, Washington, D.C.; Puritan Fashions Corporation, New York City.

Ratner Clothes Corporation, San Diego; The Record, Hackensack, New Jersey; Redwood & Ross, Inc., Kalamazoo, Michigan; REVCO, Twinsburg, Ohio; Rice's Department Store, Norfolk, Virginia; Rob Roy Company, Inc., New York City; The Rouse Company, Columbia, Maryland; Royal Transmission, Las Vegas, Nevada.

Scottish Inns of America, Knoxville, Tennessee; Security Title Guaranty Company, Salt Lake City; Sentinel Bag & Paper Company, Brooklyn; Alfred P. Slaner, trustee Dupan Corporation, New York City; Peter Solomon, director Lehman Brothers, New York City; Star Market Company, Cambridge, Massachusetts; The Stop & Shop Companies, Boston; Stratford Town Fairs, Stratford, Connecticut; Stride Rite Corporation, Boston.

TDK Electronics Corporation, Garden City, New York.

Warner Communications, New York City; Weissman, Mackta & Company, Morristown, New Jersey.

Barnett Zaffron & Associates, Highland Park, Illinois.

Gamble Corporate Buying, New York City; General Instrument Corporation, New York City; Gentech Industries, Englewood Cliffs, New Jersey; Giant Food, Inc., Landover, Maryland; Greenbelt Consumer Services, Inc., Silver Spring, Maryland; Grossman Paper Company, Irvington, New Jersey; Group 70, East Orange, New Jersey.

Hamburgers, Baltimore, Maryland; Hang Ten International, San Diego, California; Harper Systems, Little Rock, Arkansas; Harris & Frank, Inc., Los Angeles; Hechinger Company, Washington, D.C.; Henhouse Interstate, Inc., St. Louis; Hill Publishing Company, Westport, Connecticut; Holiday Universal, Inc., Towson, Maryland; Hydro Med Sciences, Inc., New Brunswick, New Jersey.

IK Information Systems, Irvington, New Jersey; Imperial Packaging Corporation, Bal-

timore, Maryland; Industrial Designers' Society of America, McLean, Virginia; International Creative Management, New York City; International Group Plans, Washington, D.C.; International Seaway Trading Corporation, Cleveland, Ohio.

Joseph & Feiss Company, New York City.

Robert Kahn & Associates, Lafayette, California; Kennedy Associates, Westport, Connecticut; Kennedy Group, Westport, Connecticut; Kennedy's, Boston; K-Mart Apparel Corporation, North Bergen, New Jersey; Kobacker Stores, Inc., Brilliant, Ohio; Kings Super Markets, Inc., Irvington, New Jersey.

Levi Strauss, San Francisco; Lloyd Shopping Centers, Inc., Middletown, New York; L. S. Good & Company, Wheeling, West Virginia; Dan Lufkin, New York City; Luskin's Inc., Baltimore, Maryland.

MCA, Inc., Universal City, California; Mackey Travel, New York City; Magnetic Video Corporation, Framington, Michigan; Emily Malino Associates, Inc., Washington, D.C.; Marshall Doty Associates, Hagerstown, Maryland; Maxwell Corporation of America, Moonachie, New Jersey; Media Sound, New York City; Mobil Oil Corporation, New York City; Monogram Industries, Inc., Santa Monica, California; Montgomery Ward & Company, Chicago; Myers Brothers, Springfield, Illinois.

Business supporters of HR 9718, The Consumer Representation and Reorganization Act of 1977.

Advanced R&D, Inc., Orlando, Florida; Aldi-Benner Company, Burlington, Iowa; American Income Life Insurance Company, Waco, Texas; American Sound Corporation, Warren, Michigan; AMIVEST Corporation, New York City; Applikay Textile Process Corporation, Passaic, New Jersey; Atlantic Richfield Company, Los Angeles.

Bantam Books, Inc., New York City; The Bergen Record, Hackensack, New Jersey; Big Smith, Inc., New York City; Blake's, Springfield, Massachusetts; Blue Cross Association, Chicago; Bonne Bell, Lakewood, Ohio; Boulder National Bank, Boulder, Colorado; Brands Mart, Long Island City, New York.

Cardinal Pictorial Outdoor Advertising, Atlanta, Georgia; The Cas Taylors, Cumberland, Maryland; Certron Corporation, Beverly Hills, California; Chain Store Systems, Ltd., Burlington, Iowa; Chief Auto Supply, Cerritos, California; Cinema 5 Ltd., New York City; Coffee Associated Food Enterprises, South Windsor, Connecticut; Condamatic Company, Warren, Michigan; Consumer Concepts, Milwaukee; Consumers Cooperative Society, Palo Alto, California; Consumers Cooperative of Berkeley, Richmond, California; Consumers United Insurance Company, Arlington, Virginia; Country Gal, Westport, Connecticut; Cummins Engine Company, Inc., Columbus, Indiana.

Daily News Record, New York City; Dreyfus Corporation, New York City; Drug Fair, Alexandria, Virginia; Dyna Day Plastics, Inc., Madison Heights, Michigan; Dyson-Kissner Corporation, New York City.

Equitable Bag Company, Inc., Long Island City, New York; Executive Life Insurance of New York, Jericho, New York.

Factory Equipment Corporation, Los Angeles; Fairchild Publications, New York City; Federation of Cooperatives, Inc., New York City; Feuer Precision Gauges, Inc., Forest Hills, New York; Fishing Unlimited, New York City; Florida Investors Mortgage Company, Gainesville, Florida; Francis Chevrolet, Irvington, New Jersey; Frankel Carbon & Ribbon Company, Denver, Colorado.

SOUTH AFRICAN GOVERNMENT'S SUPPRESSION OF POLITICAL DISSENT

Mr. HUMPHREY. Mr. President, the Foreign Relations Committee has approved a resolution introduced by Senator CLARK, which I cosponsored, that condemns the South African Government for its recent repressive measures against its press and moderate organizations and individuals opposed to apartheid. I have been deeply disturbed by the trends in South Africa, and the latest events reveal the obduracy of the South African Government in the face of legitimate demands of its black citizens for participation in the political process.

Mr. President, I expressed my concerns on this issue in a letter to the chairman of the Foreign Relations Committee, and I ask unanimous consent that it be printed in the RECORD, together with recent articles from the New York Times on South Africa.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C., October 31 1977.

Hon. JOHN SPARKMAN,
Chairman, Committee on Foreign Relations, Washington, D.C.

DEAR MR. CHAIRMAN: I wish to express my support for Senator Clark's concurrent resolution condemning the recent actions of the South African Government in suppressing political dissent. In the last two months, South Africa has taken a series of repressive actions against the press and peaceful opponents of its apartheid system that have been universally condemned by the rest of the world. The tragic death of Steve Biko, while in detention, shocked us all. Senator Clark and others who met him agreed that he was a potential national leader committed to justice for his people.

The South African Government chose to respond to the pressure for change which intensified following Biko's death by closing down the World, the largest black newspaper in South Africa, and by banning and arresting the leadership of moderate groups, black and white alike, who advocate peaceful change. Thus the South African Government has closed virtually the last door to the peaceful expression of dissent and has itself begun to dismantle its cultural ties of freedom of thought and expression by which it claimed it was bound to the free world.

Our own Subcommittee staff, recently in southern Africa, met some of those leaders banned and arrested. They were men of decency and principle in the same tradition as our own citizens who fought so long to overcome the barriers of racism in this country. While we recognize that the lessons of the American civil rights struggle cannot be applied uncritically to the South African situation, we also know that if all peaceful avenues to change are closed, the only alternative becomes violence. This is where South Africa is now poised by the actions of its own government.

Organized racism is intolerable in today's world and does genuinely constitute a threat to world peace and stability. No litany of wrongs in the rest of the world can erase the repressive actions of the South African Government.

We have tried gentle reproaches in the past and supported the South African Government by our veto in the United Nations. We have hoped that economic growth, spurred by American investment, would open new economic opportunities for blacks leading to political reform. None of these measures has worked.

The time has come for a stronger stand by the U.S. bilaterally and in the United Nations. The South African Government argues that it can stand alone, but no nation can cut itself off completely from the rest of the world. It is important to convince the South African Government that we are serious in our commitment to change there and that our government feels that their present policies will lead to a racial war, with untold harm to themselves and the rest of the world.

I support this resolution and urge the President to take effective measures to register the strongest disapproval of South Africa's move toward repression.

Sincerely,

HUBERT H. HUMPHREY.

SOUTH AFRICA, A LONER

Where South Africa is concerned, protest is easy, effective protest is not. This seemed to be the Carter Administration's thinking last week when it announced its response to South Africa's latest suppression of dissent. The United States, President Carter said, will support United Nations sanctions against the sale of weapons to South Africa but not the total trade embargo demanded by black African nations.

In practical terms, the announcement did not really advance United States policy; although Washington has always vetoed arms sanctions against South Africa it has voluntarily enforced a weapons embargo since 1963. But by supporting the arms sanctions now, the Administration, and the other four Western members of the Security Council, believe that they can soften demands for a blanket embargo on trade.

Washington opposes trade sanctions against South Africa for a variety of political and economic reasons. It also doubts how effective sanctions would be.

Economics.—The United States and its allies carry on extensive trade with South Africa. Britain, South Africa's largest trading partner, would have particular difficulty withstanding the financial loss.

Politics.—With a strong black caucus in Congress and an outspoken Ambassador in the United Nations and a new policy emphasizing closer ties with black African states, the Administration had to react strongly to South Africa's actions. But other political considerations dictated a more moderate response. South Africa has been a go-between for the United States and Britain with Rhodesia. It has also been negotiating with Western countries a plan for the independence of South-West Africa, a territory it governs in defiance of United Nations resolutions. As the object of trade sanctions, South Africa could hardly be expected to follow Western advice on South-West Africa, Rhodesia, or anything else.

Effectiveness.—Trade embargos imposed in the past have often accomplished little and sometimes backfired. Rhodesia, under United Nations sanctions since 1966, had a flourishing economy until recently. Cuba, blockaded by the United States in the early 1960's, only became more dependent on Soviet aid.

The South African Government would of course like the world to believe that condemnations, sanctions and any other form of protest will have no effect on its racial policies. Pieter W. Botha, the Defense Minister, said that with or without an arms embargo his country could meet any threat short of a United States or Soviet attack.

Other experts support that view. But although an arms embargo in itself would pose no great difficulty for a country that is already largely self-sufficient in weapons production, there is some apprehension. Senior ministers have described the action as the beginning of the ultimate challenge to the survival of white South Africans as masters of their redoubt. However, this belief has produced no sign of change, only an angry determination, even among those previously disposed to improving the lot of the blacks.

"War has been declared on us," said Roelof F. Botha, the Foreign Minister and previously one advocate of change. "We are not retreating."

But foreign condemnation, along with lo-

cal concern articulated by the vigorous English-language press, may have been a factor in South Africa's decision last week to open an inquest into the death in police custody of Stephen Biko, the black protest leader. Although the Government has not yet published a complete autopsy report, it has confirmed what many of its opponents suspected, that the primary cause of Mr. Biko's death last month was brain damage resulting from head injuries.

APARTHEID, AS REAL AND PAINFUL AS EVER

(By John Darnton)

JOHANNESBURG.—Mymoena Salie, a bathing beauty from Cape Town, recently became the first black woman to win a multiracial beauty contest in South Africa. It was, in no small way, evidence of where the country stands today in its race relations. But not as convincing evidence as what soon ensued. Miss Salie found herself unable to accept her prize—a two-week seaside vacation—because the hotel did not admit blacks.

This incident, and the thousands of other unpublished ones that are a daily feature of South African life, have convinced many of the country's 18.6 million blacks that the Government representing the 4.3 million whites is disingenuous in its promise, now three years old, to move away from petty discrimination. (When it comes to serious discrimination, which consigns the races to both a separate and unequal life, the Government is making no promises.)

"It's like trying to go up that escalator," said a black hotel worker, pointing to the belt moving downward. "Every time I'm told I've taken a step up, I look around and everything I see—my job, my house, the school for my boys—it all tells me I'm moving backward."

On the surface, there have been some changes, but they are superficial indeed. In the major cities, a handful of hotels are now classified as "international" and so can legally accommodate blacks. But their prices place them out of reach for almost the entire black population. The signs for whites and non-whites, which used to jolt foreign visitors arriving at Jan Smuts airport, have been removed from the restroom doors in the international arrivals lounge. But in the domestic departure lounge, they are still there.

Some theaters, churches and sporting clubs have taken cautious steps in violation of the law, to mix blacks and whites. The Government, aware of these steps, has turned a blind eye and the liberal English-language press, by unspoken consent, does not publicize them. But as soon as a citizen registers a complaint, the experiment in integration is swiftly ended.

The crazy-quilt manner in which some of the most petty forms of discrimination have been lifted—the fact that some park benches have been desegregated while some footbridges have not—mirrors divisions and confusion within the Afrikaner-based National Party, which over its 30 years in power has spread the doctrine of racial separation and white supremacy into every facet of national life.

Some Government officials favor easing "unnecessary" discrimination as a means of blunting black protest and regaining a measure of international rsepectability. Others argue strongly for their retention, on the theory that if a single stone is removed, the entire edifice of white rule could come crumbling down. Almost no whites, and certainly none in power, talk about granting blacks broader political rights or doing away with the bed-rock forms of segregation in housing, education and jobs.

Officially, "apartheid" is dead. The Government has abandoned that term, which holds noxious connotations overseas, in favor of the more antiseptic "separate development" or, even, "plural democracy." The new terminology is more than just a new euphemism, however, for it signals an accelerated push toward the scheme of grand apartheid, whose foremost ideologue was the former Prime Minister, Hendrik F. Verwoerd. Under it, the black population is consigned to nine rural homelands, where they are to exercise self-rule and eventually gain independence. The whites, Asians, and persons of mixed blood, known here as coloreds, own and occupy the remainder. The remainder, as specified by law, is 87 percent of the land.

Because black labor is required to run the white economy, however, total separation of the races is impossible. From this quintessential dilemma flows the elaborate web of laws that tell a black where he may live, work, eat, sleep, travel, play games and go to school. The laws are justified, according to party philosophy, because the blacks are essentially transitory visitors in "white areas," and so totally without rights. M. C. Botha, the Minister of Bantu Administration and Development, ruled several months ago that businessmen could not hire black shop managers and insisted that in so doing he was in no way discriminating against blacks. They are simply "secondary to whites" in white areas, he said, just as whites would be "secondary" to blacks in the homelands (though in fact whites do manage stores in the homelands).

For nonwhites in South Africa, laws govern every movement. The Group Areas Act specifies where the racial groups may live. There are different ones for whites, blacks, the 2.4 million coloreds, and the 750,000 Asians. The system is as rigid as the country's criteria for racial classification, and the two sometimes combine to pull a family apart. If a colored woman and black man have children, for example, the offspring are classified as black and as such cannot legally live with their mother.

The most despised part of the system is "influx control," devised to keep blacks from migrating at will to white areas. It is maintained through the notorious passbook, which every black over the age of 16 must carry at all times and produce on demand for the police. It lists his tribal group, where he may live and work, his employer, his tax payments. It is the basic control document, "our badge of slavery," said one teenager from Soweto, the ghetto outside Johannesburg.

Much of the anguish of urban blacks stems from "Section 10," a provision of the Bantu (urban areas) Consolidation Act. Under it, it is illegal for a black to remain in any urban area, such as Soweto, for more than 72 hours unless he can prove that he has lived there continuously since birth or has worked there continuously with one employer for at least 10 years. Wives, unmarried daughters, and sons under 18 are permitted to remain with legitimate residents. The hidden intent of the law is to keep the unemployables in the homelands. Thus, if a man loses his job, or a wife is widowed, they are liable to be "endorsed out," sent to the homelands which, in many cases, they have never seen before.

Blacks are allowed to leave the homelands as migrant workers on fixed contracts, to labor in the mines or on the farms. When they do, they reside in single-sex Government hostels, sometimes 16 to a room, and are not allowed to bring wives or family members with them. They must return when the contract expires. That there are 3 million such migrants every year is testimony to the difficulty of earning anything more than a subsistence living in the homelands.

There are countless more laws that regulate the black man's working life, laws that prevent him from organizing into unions, from occupying any one of 100,000 skilled jobs reserved for whites, from holding down positions of supervision over whites, and from receiving equal pay.

But a striking feature of the influx laws, and sometimes even the labor laws, is how poorly they work. They are impossible to police. It is estimated that of the 8.7 million blacks living in the "white" areas, some 2 million are there illegally. The population of Soweto, officially 904,000, is thought to be larger than that by half. The number of violations of the pass laws, 250,000 last year, is almost half the annual average of several years ago, partly because enforcement and prosecution is such an expensive and sensitive matter.

The segregation laws do work effectively, and they are rigidly enforced in schools, hospitals, sports facilities, movie theaters, bars, restaurants, beaches, public washrooms, buses, taxis and trains. Although thousands of black workers stream into Johannesburg by train every morning and occupy the city until it turns white again at dusk, there are fewer than 30 eating houses and 161 public toilets open to them in the central city.

The inconvenience and humiliation this causes are commonly voiced. Said one Soweto resident: "If I'm caught short in some parts of Johannesburg, I still have to relieve myself up a lane or at the back of a building. There's nowhere I can go to suit my pocket for a cup of coffee or a meal in pleasant surroundings."

"Where do I eat?" another demanded of a reporter from The Rand Daily Mail. "In one of those disgusting Bantu eating houses run by a white who is likely to insult me in broken English and call me a bloody Kaffir? Ever been to a black cinema? Don't. Some of them show films so old it's a wonder they're not curled at the edges."

Segregation is so implanted in the minds of many people—black and white—that sometimes it extends beyond the law. Several months ago, the white and nonwhite signs were taken off the elevators in an ancient medical building here, but the black attendant insisted on enforcing "lift apartheid" on his own. Now, a taxi fleet owner is pressing a campaign to employ black drivers. The Government has said he is perfectly free to do so, but none of the applicants he has sent to the city's licensing department has passed the tests.

An interracial couple wanted to get married and sought to escape from the country's mixed marriages law, which expressly forbids any such union. They migrated to the Transkei, a homeland that was given its independence last year and is now nominally black-ruled and discovered that the prohibition exists there to.

WATERWAY USER CHARGES: MORE FICTION AND FACTS

Mr. DOMENICI. Mr. President, a number of recent misstatements and misrepresentations concerning the issue of waterway user charges have come to my attention recently. Because of the significance of the issue that will be before the Senate when it considers H.R. 8309—balanced transportation for the future—I believe it may be helpful to my colleagues to show how this issue has been distorted by some of the advocates of the barge industry. While I welcome a debate on issues and facts, I truly regret a debate that is built upon misstatement.

One of the more obvious examples occurred recently in a sheet of paper circulated to Members of the Senate by the National Committee on Locks and Dam 26.

FICTION

The National Committee on Locks and Dam 26 says that my amendment would increase all waterway costs by a flat 1 percent of the commodity's value, no

matter how long or short the shipment. It warns that the waterway user fee on a 15-mile movement of fuel oil in Minnesota would be $2,950.

FACT

This overstates the actual impact by a mere 8,700 percent. After the decade-long phase-in of my amendment—in 1990—it is possible that my amendment might add as much as 75 cents to the cost of shipping 1 ton of commodities for 1,000 miles, based on cost estimates prepared by various economists. Since 66⅔ tons of goods shipped for 15 miles, the distance in the Minnesota example cited by the National Committee on Locks and Dam 26, would equal 1,000 ton-miles, 66⅔ tons shipped 15 miles might require a user fee of as much as 75 cents in 1990. Thus, a 3,000-ton fuel barge, moving 15 miles, would produce 45,000 ton-miles of traffic. That means the user charge on such a shipment would run $33.75 as a likely maximum in 1990. Is $33.75 really comparable to the barge industry's $2,950?

I might add that the 1 percent cap in my amendment was offered and adopted by the Senate as a protection for farmers, at the suggestion of several farm-State Senators. It is a cap, not a charge. A simple reading of the Senate bill in June and my amendment No. 1460 to H.R. 8309 shows that clearly.

In addition, I would note that the key to my amendment is that it is related to the level of expenditures. The actual level of user charges will be determined entirely by the level of spending requested and supported by the barge industry itself.

FICTION

A spokesman for the barge industry recently testified before the Senate Finance Committee. Regrettably, his statement was woven with misinformation. He said waterway user charges would produce a severe decline in barge traffic. Another barge representative, Harry M. Mack, president of the Ohio Valley Improvement Association, Inc., has even described my amendment as something that would gravely threaten water transportation on the Ohio.

FACT

Not a single study exists that shows any decline in traffic whatsoever due to a proposal such as contained in my amendment. In fact, under the worst case estimate of the impact of my amendment, barge traffic will grow 41 percent during the decade-long phase-in of user charges.

FICTION

This same spokesman for the barge industry also says that user charges set a precedent for new financing approaches for all parts of the multipurpose water resources management programs, not just navigation.

FACT

This is dead wrong. All other types of identifiable beneficiaries of Federal water resources—those using Federal hydropower as well as irrigation and community water supply projects—contribute significantly toward the repayment of the costs of the project, based on the actual costs of building and operating the project. The sole exception is navigation. And even if my amendment is adopted, navigation would remain more heavily subsidized than hydropower and water supply.

FICTION

Next, this hearing spokesman argues that waterway user charges will cripple the ability of the waterways industry to invest in needed new equipment.

FACT

This is not possible for one very clear fact: the industry now enjoys a special Federal subsidy by which vessel purchases are guaranteed by the Maritime Administration. At last report, the Maritime Administration had some $285,000,000 in guaranteed loans outstanding for the inland barge industry, covering the purchase of 1,207 barges and 94 river tugs. My amendment would not alter this subsidy at all.

FICTION

The spokesman goes on to estimate the net profits of the barge industry at $80,000,000.

FACT

This figure appears to be grossly understated. Just one company, Texas Gas Transmission Co., with less than 10 percent of the Nation's barge business, noted in its 1976 annual report that its Inland Waterway Services Division had an aftertax profit of about $35,000,000, riding the crest of a 24 percent compounded annual rate of profits growth during the preceding 5 years. The problem in obtaining more precise profits on the barge industry is that many of the major barge companies—U.S. Steel, Exxon, Cargill, and Ashland Oil—bury these barge profits in more general categories in their annual reports, making barge profits as such impossible to identify.

FICTION

Then our spokesman goes on to add this:

Obviously cost increases amounting to a third or more of total revenues would have devastating effects and could easily wipe out the barge lines and render useless the federal investment in navigation already made.

FACT

What is heavy about a charge that after 11 years might, in unusual instances, equal 1 percent of the delivered price of a commodity, and by statute could not be more than 1 percent? What is devastating about charges that will allow growth of at least 41 percent over the next decade?

FICTION

Another item is a press release from the American Waterway Operators, Inc., out of Pittsburgh. It starts off by declaring its conclusions are based on a study by the Economics Department of the University of Pittsburgh and the Greater Pittsburgh Chamber of Commerce.

FACT

Yes, indeed, it was sponsored by the chamber, but it was done by an assistant professor at the university, Edward Malloy, in his spare time and does not carry the endorsement of the university or the department. According to the department's chairman:

It is specifically not endorsed by the University. It carries the name of Malloy.

By the way, the Malloy study that I have seen also includes the following quotation, which was somehow excluded from the barge press release:

Such a (waterway users') tax is equitable, since the parties using the public good pay for their use, and the rest of the population (those not using the good) are freed from supporting something they don't need.

FICTION

Another statement I have come across was one that I might best describe as entertaining. It is from a Mr. Frank T. Stegbauer, the chairman of the American Waterway Operators, Inc. Let me quote just a few lines from his statement:

FICTION

"We are a relatively small industry . . ."

FACT

Exxon, United States Steel, Ashland Oil, et cetera.

FICTION

Mr. Stegbauer warns that user charges are intended to reimburse the Government for the moneys spent on improvements to our rivers over the last 150 years and the funds appropriated yearly to maintain them.

FACT

That is dead, flatout wrong. My proposal now, and always has, dealt only with costs in the future.

FACT

But there is one statement buried in Mr. Stegbauer's assessment, with which I totally agree. It is this:

Opposition to a waterways user tax is a difficult position for this industry to take because it lays us open to the charge of selfishness and wanting a "free ride".

No comment.

TARGETING ON UNEMPLOYMENT

Mr. WILLIAMS. Mr. President, this past weekend, the Washington Post carried a most provocative editorial entitled "Creating Jobs Is Not Enough" which I would like to bring to the attention of my colleagues. Written by Mr. James L. Sundquist, director of the Brookings Institution's governmental studies program, the editorial points out that Federal policies aimed at promoting new job opportunities and business investment must focus most heavily on those areas where the need is the greatest. Mr. Sundquist argues that we must revise Federal policies that encourage a scatter-gun approach to economic development, or which permit the suburbs to prosper at the expense of inner cities and declining rural areas. He urges adoption of Federal initiatives that "take the work to the workers," and he proposes a more creative use of the tax code to accomplish this objective. Since the Carter administration is putting the finishing touches on its tax reform package which it will submit to Congress, Mr. Sundquist's editorial is particularly timely. The targeting of tax incentives to economically depressed areas, as well as the nature of the tax incentives themselves, should hold an important place in the consideration of tax reform proposals. Equally important, the role of the Tax Code in a

comprehensive national growth strategy demands careful scrutiny. Mr. President, Mr. Sundquist's article furnishes much food for thought, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CREATING JOBS IS NOT ENOUGH

(By James L. Sundquist)

Whenever Washington officials worry about ways to inject life into an anemic economy and reduce unemployment, a vital aspect of the problem usually is ignored. The aim of national policy is not only to promote stable economic growth, difficult as that may be, but also to ensure as far as possible that new investment and job opportunities are targeted at those who need them most.

It makes little economic or moral sense, for example, for Washington to provide equal encouragement for new investment in the outer fringes of Dallas-Ft. Worth, a metropolitan area where the latest jobless rate was only 3.9 per cent, and in Jersey City, N.J., where it was a devastating 11.6 per cent. By what logic should the federal government do as much for an outer suburb of Chicago where there is virtually no unemployment and for San Diego, Calif., where the jobless rate was 9.4 per cent?

While Washington long has had programs to provide direct aid to decaying urban and rural areas, officials have failed to use an equally—and perhaps more—promising way to help accomplish these ends through the tax system. The Carter tax program, according to authoritative reports, ultimately may contain up to $22 billion in tax reductions, some in the form of incentives to encourage business and industrial investment. By making the incentives greater if the investment is placed where the need is greatest, a portion of that investment could be channeled to distressed central cities and rural areas where unemployment has reached appalling levels.

The country has used tax incentives before as a means of directing investment according to national need. During World War II and again during the Korean war, an accelerated depreciation allowance was granted for investment in industries defined as war-related but not for others, and the system served its purpose. In principle, discrimination on the basis of geography is just as feasible as discrimination on the basis of industry group. Drawing the boundary lines between eligible and ineligible locations admittedly involves difficulty, but deciding what industries were war-related involved tough boundary decisions, too.

Indeed, discrimination between prosperous areas and those in need is accepted as a matter of course in other programs. Ever since 1961, depressed areas legislation and emergency public works programs have made funds available only to areas of high unemployment. The Appalachian Regional Development Program, and the kindred regional programs established under the Public Works and Economic Development Act of 1965, confer benefits only on regions of relative impoverishment. It is equally logical to confer higher benefits on areas of need when tax breaks are written into law.

NO EXTRA COSTS

The crucial importance of the tax approach is that it provides an incentive for private investment and private jobs. A shortcoming in existing programs for depressed urban and rural areas is that they are limited to public investment and public jobs. These are useful and necessary in themselves, but they usually do not lead to self-sustaining, permanent growth. Sometimes public investment that spruces up a community makes it so attractive that private investment follows—but not often enough or quickly enough to serve the purpose.

Experience also tells us that offering loans on favorable terms to private firms—as through the proposed "urbank" that is reportedly being designed—will not do much to influence locational decisions either. Small, marginal firms may find the credit helpful, but big companies do not lack for access to normal credit markets. What is needed to lure more of their investments into distressed urban and rural areas has to be something more tangible—a direct cash benefit. The subsidy could be provided in various forms, but since the proposal about to be offered by President Carter is to give a direct cash benefit to all firms through the tax route, introducing a differential rate into that benefit would appear to be the quick, easy, simple way to do it.

This need not cost the Treasury anything extra. The present investment tax credit is 10 per cent. Whatever additional tax credit the administration concludes is necessary to spur investment can be provided either as a flat rate or as a sliding scale. To increase by half the present benefit, for instance, a flat rate of 15 per cent could be offered or a range could be established—perhaps from 12 per cent in areas of relative labor shortage to 20 per cent in areas of heavy unemployment—that would produce the same volume of additional investment at approximately the same total cost to the Treasury.

Moreover, to employ tax policy in this manner would represent an important beginning toward carrying out the intent of Congress in the Urban Growth and New Community Development Act of 1970. That law committed the United States to adopt a "national urban growth policy" that would seek to stem urban and rural decline. No specific policy was proposed by either President Nixon or President Ford, but there is every sign that President Carter is taking the statutory mandate seriously. His administration is preparing the biennial report on growth policy called for by the act, and a White House conference on balanced national growth and economic development is scheduled for late January.

All of the major industrial countries of the world—except the United States—have explicit and well-established national growth policies designed to steer investment to where it is most needed. "Take the work to the workers" is the slogan in the European countries, and direct subsidy to investors is the universal means.

This is seen as the way to preserve and restore communities, to minimize hardship on individuals and families, and indeed to serve the goals of maximum employment and production with minimum inflationary consequences.

But "taking the work to the workers" is exactly what is not happening in the United States today. Our concentrations of unemployment and underemployment are in the inner cities, in inclining rural areas and in old industrial centers. But most new jobs are being created in the thriving suburbs of major metropolitan areas.

WASTE, HARDSHIP AND INFLATION

This is what happens in the absence of a national growth policy—and it is undesirable for four clear reasons.

First, such a pattern of growth is wasteful. If a new plant is put in a green field 20 or 30 miles from the center of St. Louis or Chicago or Philadelphia, a whole array of public facilities has to be created at public expense—while facilities that already exist in the center of the city or in the declining small towns of the hinterland are underutilized. The result is urban sprawl instead of compact settlement, and sprawl is synonymous with waste—waste of resources, waste of energy, waste of productive agricultural land.

Second, such a growth pattern is inhumane. It forces people to uproot themselves and move—often at great financial loss—from where they are to where the jobs are put, or to spend hopeless hours trying to commute. Housing is not necessarily available to low-income blacks and other minority group members who might seek to relocate from the cities to where the jobs are. As for interregional migration, experience both in this country and in Europe shows the great reluctance of workers to leave their native areas. When the Labor Department some years ago tried subsidizing the relocation of unemployed iron miners from northern Minnesota to steel centers of the Middle West, the experiment failed: The workers drifted back. As for commuting, the new jobs located on—and beyond—the beltways that girdle the metropolitan centers usually are inaccessible by any form of public transportation to the unemployed of the urban ghettoes, and they are beyond the commuting range of most of the rural unemployed as well.

Third, such a growth pattern is inflationary. If most of the country's growth takes place in areas of relative labor scarcity—and the outer suburban fringes of major metropolitan centers are such areas—as the economy expands, labor shortages and bottlenecks appear relatively quickly, costs rise and price increases follow. By contrast, if the jobs are taken close to where the unemployed live, labor surpluses are absorbed and the economy can move significantly closer to full employment before shortages occur and inflationary forces are set in motion.

Fourth, such a growth pattern is destructive of communities—originally the communities of rural and smalltown America and now the great metropolitan central cities as well. The national interest in maintaining a viable New York or Detroit or Cleveland need hardly be argued.

THE LURE OF THE SUBURBS

So why, if there are all these consequences, do investors choose the suburbs? There are many reasons. Land costs are lower than in the city. Low, rambling buildings with spreading lawns are possible. Business transportation problems may be eased. The air is cleaner, the crime rate lower, the environment more pleasant. The available labor force may be better trained or more tractable.

But the benefits to individual firms have to be weighed against the economic and social costs borne by employees, taxpayers and the country at large, and the previously noted public costs—waste, hardship, inflationary impact, destruction of communities—surely outweigh the private benefits. The object of the tax differential, then, would be to provide enough subsidy to an investing firm that takes its jobs to the workers to offset the gains it would otherwise realize by locating on the suburban fringe.

It may be, of course, that the forces that lead entrepreneurs to avoid investing in distressed areas, particularly in the most rundown central cities, would provide too powerful in most cases to be offset by the scale of the tax differential. If this proved the case, the government would have to decide whether to incerase the differential, at least for the most neglected areas, or possibly abandon the objective altogether. In that case, the Treasury would have lost nothing, since there would be no extra tax breaks if firms did not bite.

Yet there is great diversity among American cities, and in all likelihood they would respond quite differently. Some probably would benefit from a differential of any size; others might be beyond rescue no matter how large the subsidy proffered. The answers to these questions cannot be known in advance. They can be learned only by enacting something and finding out what happens.

The rural areas and old industrial centers that would benefit are a diverse lot, too.

Rural distress seems to have dropped out of the news of late while the South Bronx and Detroit are the centers of attention. But only a few years ago it was the poor of Appalachia and the Mississippi Delta who captured the nation's sympathy. Indeed, it was the plight of the rural areas that originally gave rise to the agitation for a national growth policy that culminated in the act of 1970, and the statute seeks rural-urban as well as city-suburban balance. "Taking the work to the workers" has to mean steering investment to wherever the unemployed and underemployed are concentrated, whether the locale be a declining metropolitan core, a New England mill town, a Pennsylvania mining center that has lost its basic industry, or a county in the Southern Black Belt.

This is not only the most equitable approach, but it is also the basis for the political coalition needed to pass such a measure. The prospects for aid on a scale necessary to turn the tide in the cities would be hard to come by if the cities and their supporters tried to go it alone. But a coalition of the cities with the rural and small town areas that are fellow sufferers could well prove irresistible. Even a good part of suburban America might support a city-rural coalition dedicated to claiming the bulk of new investment for their communities; not all suburbanites are in favor of headlong, unrestrained growth.

Two Senate votes a few years ago show both the power of the tax differential idea and the strength of the city-rural coalition.

One of those votes came in 1969. President Nixon had recommended that the 7 per cent investment tax credit then in effect for manufacturing investment be removed. This passed the House, but when it reached the Senate floor, Sen. Ted Stevens (R-Alaska) proposed an amendment to retain the tax credit for rural areas of "substantial out-migration." Even though the idea came as a surprise at that time, it carried the Senate by two votes. It was lost, however, in the House-Senate conference.

The second vote came two years later, when Nixon reversed himself and recommended that the 7 per cent investment credit be restored. Again the House supported the President, and again an amendment was offered on the Senate floor. This time, Sen. James Pearson (R-Kan.) proposed that a differential of 3 per cent be added for most rural areas, and the bill's sponsors accepted the idea. Sen. Abraham Ribicoff (D-Conn.) then demanded equal treatment for central cities with unemployment over 6 per cent. This was approved, 56 to 24, and the combined Pearson-Ribicoff amendment was adopted by the overwhelming vote of 60 to 19—better than 3 to 1. But the bill's managers refused to support it on the ground that the projected revenue loss of $750 million—the extra incentive in this case was to be placed atop the general investment credit—was more than the Treasury could stand, and the idea was again lost in conference.

No such proposal has been voted on since, but there is every reason to believe the potential for a powerful coalition still exists. This coalition, it should be noted, cuts across the current Sunbelt-Snowbelt argument. Both North and South have their areas of unemployment and underemployment that would be eligible for any special tax concession, and their flourishing metropolitan fringes that would not.

THE EUROPEAN EXPERIENCE

In time, the United States might find that tax concessions are not the simplest and most effective means for influencing the locational decisions of investors. That has been the experience in Europe.

There, tax devices were used initially when experimentation with growth policy began in earnest in the post-World War II years. But the European countries, and Canada as well, have long shifted their emphasis to direct cash grants made by the government to the investing firm as more direct, more open, quicker and in the end less costly. The standard grant for locating an investment in an area of labor surplus seems to have settled down at 20 per cent of the cost of the investment, but gradually the countries have developed sliding scales of subsidies for different areas—a kind of zoning according to the degree of need—and the rate many range from 10 or 15 per cent to 25 or 35 per cent or even more in a few cases.

The nine countries of the European Community together are spending an estimated $17 billion a year on locational incentives. There is recurrent debate, of course, about the fine points of policy—what areas and what kinds of enterprises should be eligible and for how much. And policies change from time to time. But on the principle itself there seems no longer to be any debate anywhere in Europe.

The consensus is that the policies have been successful. Now jobs that otherwise would have been located on the fringes of London or Paris or Milan have been steered to Scotland and Brittany and the impoverished Italian South. Three independent analyses by British economists of that country's program several years ago credited investment grants and other related measures with creating 30,000 to 70,000 additional jobs a year in development areas. One of the studies concluded that the policy measures had cut the north-south migration flow within the country by half, reduced the national unemployment rate by one-half of 1 per cent and increased national output by $500 million a year.

Whatever the economic analyses show, the political judgment in Europe is that the benefits of the locational incentive systems far outweigh the costs. Every major political party in every country supports the programs. All the parties agree that it is a proper function of government to attempt to influence and guide the geographical location of investment—to put the jobs where, in the interest of the whole society, they are most needed.

TRIBUTE TO ALLEN GARLAND

Mr. JAVITS. Mr. President, the death last week of Allen Garland, a veteran trade policy official in the Department of Commerce and the Office of the President's Special Representative for Trade Negotiations, has not gone unnoticed.

Words have been placed in the public record to the effect that his career in Government, his service to America, is a quiet and effective answer to those who question this honorable occupation.

Allen Garland was a Washingtonian; Government service came naturally to him. He started early in a modest civil service job. World War II made him an infantryman, where he served his Government in the front lines of Europe.

Then the great American postwar effort to revitalize world trade occupied his energies through the 1950's and 1960's and until his retirement. Allen Garland was instrumental in training a whole generation of trade specialists—among them Jacques Garlin of my staff—who are serving today in key positions both in and out of government.

Today's open trading system is mute testimony to the efforts of Allen Garland and others like him in many countries who labored diligently to break down the barriers to the international flow of goods. We do well to take note of that as we extend our sympathy to his loving family and his many friends.

ASSISTANT AID ADMINISTRATOR ABELARDO VALDEZ' VIEWS ON UNITED STATES-LATIN AMERICAN RELATIONS

Mr. HUMPHREY. Mr. President, in a recent speech in San Antonio, Tex., Mr. Abelardo L. Valdez, Assistant Administrator for Latin America at the Agency for International Development, outlined some of the major issues affecting U.S. relations with Latin America. In my judgment, this is one of the most articulate and refreshing presentations that I have seen in recent years on the state of our relations with our Western Hemisphere neighbors. Accordingly, I commend this speech and accompanying press article to my colleagues.

Mr. President, I ask unanimous consent that the speech and news article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ADDRESS BY ABELARDO L. VALDEZ

Thank you very much for that warm introduction.

I am very happy to be here in San Antonio today and to have this opportunity to meet with you. As some of you may know, I was born in Floresville, just 30 miles down the road, so this is something of a homecoming for me.

It is a pleasure to be speaking in Congressman Henry Gonzalez' district. I know he would like to be with us today—he has always had a deep interest in activities that would increase communications with our neighbors and produce the kind of economic progress that would help people on both sides of the border. Unfortunately, duties in Congress made it impossible for him to come.

It is also a pleasure to participate in such a well-conceived and well-organized conference. I think those who have worked so hard to organize it, Joe Bernal and Rick Bela and many others, deserve a salute for their tireless and productive efforts.

I think it's very appropriate that this kind of conference be held in South Texas. People down here still have that old rural understanding of the importance of neighbors. We know you have to get along well with your neighbors and that sometimes you have to depend on them.

I think President Carter, who also comes from a rural tradition, understands that well. I believe it's one of the reasons he's put a new emphasis on our relations with our close neighbors, with Mexico and the other nations of Latin America and the Caribbean. If we can't get along well with nations close by, we can't expect to be trusted by those farther away.

We've got so much in common—the United States and Latin America. That's a fact which struck me with particular force last month when I traveled to Mexico and the Caribbean with Andrew Young, our Ambassador to the United Nations. In Santo Domingo, the capital of the Dominican Republic, we visited the home of Christopher Columbus' son, and the church where Columbus himself was once buried. I had to marvel at the spirit of those first explorers, and I thought of the ones who, a few years later marched through Texas and the Southwest to forge a new civilization out of the merger of the Spanish and Indian peoples.

Now almost five centuries later, there are

at least 16 million citizens of Hispanic descent in the United States, and by the end of the century it is predicted we will constitute the largest minority group in the country. The United States is already the fourth largest Spanish-speaking nation in the hemisphere.

In this rich cultural resource, we have a natural bridge for understanding and cooperation with Latin America. The hispanic community in this country is just now beginning to play what I think will soon become a very significant role in making the foreign policy of the United States, not only toward Latin America, but toward the rest of the world as well.

In our nation's relations with Latin America, however, the Hispanic community offers a special quality. We are the heirs of that Hispanic civilization first established in the new world over four centuries ago.

It was a civilization which always had a hemispheric vision, which saw unity despite the boundaries of rivers and mountains and vast spaces. From colonial days, through Simon Bolivar's plans for federations to the founding of such institutions as the Pan American Union and the Organization of American States, up to the ideas of present-day statesmen like President Daniel Oduber of Costa Rica, President Carlos Andres Perez of Venezuela, the vision of hemispheric cooperation and harmony has never disappeared.

I think we in the United States are now rediscovering the importance of that vision. This conference in San Antonio comes at a moment which, in retrospect, could mark an historic departure—a new day—for the United States in our relations with our Western Hemisphere neighbors.

I would like to speak to you for a few minutes about the shape that new day might take, and why I think it is overdue. For several years now, our government has largely ignored Latin America, unless we perceived some threat to our interests there. When we did, we sometimes sought to intervene in ways that ran counter to our own traditions and values, thereby giving credence to the charges of our worst critics. The result has been a growing cynicism about the motives of our policy both in Latin America and among our own people. Under the Carter Administration, we are now seeking to change that.

The first item of business on our new agenda with Latin America is the Panama Canal. When President Carter signed that treaty earlier this month, he capped 13 years of efforts by Americans and Panamanians to arrive at a just and fair solution to a problem that has festered for three quarters of a century. This treaty applies to our foreign relations the lessons of our domestic experience. Our political and economic system has survived and prospered because we have generally kept it sufficiently open to all segments of American society. In the new treaty, I think we guarantee the security of the Canal by an arrangement which insures the Panamanians have an important stake in its operation. But this treaty has an importance that goes beyond our relations with Panama. The peoples of the hemisphere are watching to see how we handle this issue. They see it as the touchstone of our relations with them. It can, therefore, be the foundation for a new relationship with Latin America. Or it can be the stone over which we stumble. I'm confident that the people of the United States and their representatives will support the ratification of the treaty. There are other ways we can build in addition to the treaty. The strong interest in cooperation with Mexico which this conference symbolizes is a significant part of a rediscovered vision embracing our relations with Latin America.

Let me briefly refer to two aspects of the economic relationship between the United States and Latin America. Then I would like to sketch, from my viewpoint as the Administrator of our government's foreign assistance efforts in Latin America, the elements of U.S. policy I think necessary for the new era in relations with our hemispheric neighbors which we are now entering.

Our economic and trade interests in Latin America are very significant. There is a true interdependence among ourselves and our southern neighbors. Latin America and the Caribbean provide many of the most vital resources we import. Our primary source of bauxite and a substantial source of our oil lie within this hemisphere. Our neighbors send us copper, coffee, sugar, lumber, and countless other products crucial to our economy.

Latin America, in turn, is the third largest market in the world for our exports.

Our exports to Latin America have increased dramatically in recent years. Between 1968 and last year, they more than tripled, from $5 billion to $17 billion annually. We now export more of our goods to Latin America than to the rest of the developing world combined, and almost as much as we export to the European Economic Community.

The value of our direct private investment in Latin America is over $20 billion, which represents almost 70 percent of our investment in the entire developing world. Earnings on our investment in Latin America return more than $2 billion annually.

While those figures are impressive, they pale beside the tremendous potential of the future. A developed and prosperous Latin America would be an almost limitless market for American goods and services. It is, therefore, very clearly in our interest to assist Latin America toward that future goal.

For the present, we are bound together as much by problems as by promise. The problems of underdevelopment, of unemployment and lack of opportunity which ravage many Latin American and Caribbean societies spill over into our own society. There has been great concern recently about the undocumented workers who come to this country, not only from Mexico, but from other Latin American nations and the Caribbean as well. If this is a controversial and emotional issue in this country, it is perhaps even more so in those. I was in Mexico last month shortly after President Carter's proposals on illegal immigration were announced. There and in other countries, the press and the political leaders displayed great interest in our plans for dealing with the immigration question. To a significant extent, the future path of their nations will be affected by how we handle the issue. For many of these countries, migration of the poor is a safety valve, easing social and economic pressures at home. There are serious fears that if migration were closed off, domestic social upheavals would soon follow. Unemployment in some of these countries runs 30 percent and higher.

The question of undocumented workers then is not solely a domestic police problem. It is a foreign policy problem and it is a problem of underdevelopment—the lack of opportunity for employment in the rural and urban areas the undocumented workers are fleeing. Their migration to the United States in search of work will continue until there is a greatly-spurred development of rural and urban areas in Latin America and the Caribbean. It will continue unless there is a more equitable distribution of income in those countries, and unless there is better access to the markets of the developed countries for Latin America and Caribbean products.

During his visit to Washington earlier this year, President Lopez Portillo said that the United States had the choice of importing either Mexican goods or Mexican labor. Unless Mexico's balance of trade situation improves (and in 1975 its trade deficit was over $3.5 billion), we can expect that the number of undocumented workers coming to the United States will increase.

We need to encourage more opportunities for trade and investment. I don't believe that most people, if they had a choice, would want to leave their own country. But unless they can find work, there really is no choice.

For those reasons, I believe we must find ways to cooperate ever more closely with Mexico, our nearest neighbor and the source of approximately 60 percent of the undocumented workers who cross our borders each year. I believe our two governments should consider jointly-financed capital investments that would have a direct job-creating impact in the areas of northern and central Mexico from which most of the undocumented workers come.

Investment in the infrastructure of rural areas, particularly irrigation, would produce labor-intensive projects that provide significant numbers of jobs. In addition, according to the World Bank, each billion dollars of investments in village and rural industries could create between 100,000 and 200,000 permanent jobs.

In expanded trade and expanded investment lie the long-term solutions to the problems of poverty, and lack of opportunities not only in Mexico, but throughout the hemisphere. But there is another necessary component. We must make sure that a significant part of our foreign assistance program, whether bilateral or multilateral, is directed to those areas which need it most. The benefits of trade and investment generally take too long to reach those who suffer most from underdevelopment, and will only marginally assist the poor unless national policies encourage both economic growth and equitable distribution of income.

We have seen in our own experience with programs of foreign economic assistance the need to more carefully target our efforts. For many years, we relied on a trickle-down theory of economic assistance. We thought that if we helped build a dam or a modern highway, the benefits would find their way down to the poor, the unemployed and underemployed. We have now concluded that the benefits of our assistance in fact too often stayed at the top of the social structure, and even widened the gap between rich and poor.

The challenge of reaching the poor through development in Mexico are not unique. We have seen apparent progress in most Latin American countries as measured by such traditional indicators as per capita income. But rather than balanced development, what has happened in Latin America is the creation of islands of development in a sea of poverty.

Located in industrial areas, these islands have done very little to improve the lives of the rural, and even the urban poor. Forty percent of the population of Latin America, at least 115 million human beings, are forced to exist on less, often substantially less, than $500 a year.

The evidence tells us that there has actually been a growing imbalance in the distribution of the benefits of the growth Latin America has enjoyed in recent decades. Massive poverty and malnutrition, and inadequate health, education and employment opportunities continue to exist in Northeast Brazil, the Andean highlands, the urban slums of many Latin American cities, and in most of the rural areas throughout the hemisphere. As measured by income, employment, caloric intake, infant mortality, life expectancy, debilitating disease, literacy and fertility rates, almost half of the Latin American population has enjoyed very little, if any, of the benefits of national economic growth. The gap between rich and poor has grown wider, not more narrow.

In such a situation, repression too often follows. As the poor are driven to protest, to seek some more equitable distribution of the benefits of growth, they are met with harsh responses. Much of Latin America is now

governed by stern military regimes and in several countries there have been systematic violations of the human rights of their citizens. The connection is clear between the economic imbalance many nations display, and a pattern of human rights violations which serve to repress protest about those imbalances.

Out of this grim and unfortunate experience has come a new direction to our foreign assistance efforts. In 1973, Congress gave the Agency for International Development a clear mandate to work directly with the poor and to make sure the benefits of our assistance got to them. Our programs are now concentrated in three key areas—food and nutrition, family planning, and health, education and human resources, and most of our programs are focused in the rural areas which have been neglected in the race to industrialize.

Under the Carter Administration, there is a renewed determination that our assistance should be provided directly to the people most in need of help, and that we give priority to assisting those nations which are committed to helping their poor.

The countries which receive our assistance are encouraged to formulate development policies which benefit the majority of their citizens who are poor, rather than the few who are well off.

By encouraging such efforts, we hope to increase the commitments of governments in Latin America to strategies of economic development which guarantee equity. The United States cannot solve the problem of absolute poverty in Latin America. It must be done by the people of Latin America themselves, and by their governments. But if we can encourage and support those governments which make growth with equity a commitment, then the goal of satisfying at least the minimal human needs of Latin America by the year 2000 may be within reach.

At the same time, we are striving toward the parallel great goal of the protection of human rights, not only in Latin America but around the world.

A concern for human rights is clearly one of the major hallmarks of the Carter Administration. In the past, leadership on this issue came from Congress, from groups of concerned citizens across the country, from churches and international organizations.

Now that concern is echoed forcefully in the White House. Jimmy Carter, during the presidential campaign, touched a yearning among the American people that this nation stand again for honorable causes in the world. He came to office with a moral commitment to the protection of human rights.

That commitment is a permanent one. It cannot be just a fad, the issue of the year, to be replaced next year by something else. I am confident that the concern for human rights which has characterized the first nine months of this Administration will continue to be its hallmark, and will justify the faith President Carter has kindled among the American people.

We see a very clear connection between our assistance programs and human rights. Our conception of human rights must not be limited to political rights—it should include the rights to be free from hunger, disease and unrelenting poverty as well as from political repression.

I don't think any of these rights—either political or economic—can really be achieved unless there is some movement away from dictatorial governments and towards some form of government where the people participate in the economic and political decisions which affect their lives.

Human rights, both political and economic, cannot be guaranteed by international pressure. In the long run, they can only be defended by the citizens of a country who have a voice in how that country is governed. Dictators can announce reforms in the face of international pressure. But reforms introduced by a dictator's word may be revoked by another word. We are pleased to see any progress on human rights, but I think we hope to see something more than a momentary easing-up, something more than a strong man changing the name of his secret police force. Our ultimate hope should be to see a turn away from dictatorship.

For these reasons, I see the goals of human rights, economic development, and a political voice for the people as inseparably linked. That perception should guide the foreign policy of our nation.

The forging of these basic alloys of human freedom into a tempered tool for social progress, has challenged other men in other times, but at no moment in our history as neighbors have the voices of our people cried out with more urgency. Never have their aspirations so challenged our talents. Never has their need so humbled us in its magnitude.

As the leaders of commerce and of government, we must now respond to the clear mandate given us by our people on both sides of the fabled Rio Bravo who, in spite of some difference in language, speak in similar accents when they ask us for freedom in this hemisphere—freedom of action . . . freedom from want . . . and the freedom to shape the conduct of their nation's affairs more consistently with their own well-defined concepts of basic justice and of fair and generous dealings among their people and among the nations of the Americas.

Simon Bolivar, whose yearning for unity and brotherhood in this hemisphere I earlier invoked, would surely have challenged us to no less an undertaking.

Muchas Gracias.

Thank you very much.

AT LAST: REFRESHING VIEW ON LATIN AMERICAN POLICY

(By Ben F. Meyer)

WASHINGTON.—One of the best, down-to-earth outlines of President Carter's U.S.-Latin American policy has emerged from an unexpected source. Aberlardo L. Valdez, who administers the U.S. government's aid programs from Latin America, speaks with refreshing candor of that area's failures and ours in dealing with problems south of the border.

"Our government largely ignored Latin America for years but we are now entering a new era in our relations with the region," he says.

And Latin America, without a program of balanced development, "has created islands of development in a sea of poverty."

Nor does it make any sense to express dislike of a regime by cutting off economic aid for the poverty-stricken. "Help for the poor should be one of the last cords to be cut, not the first."

He doesn't hesitate to mention problem countries by name. In a thrust at Chile: "We like to see progress on human rights but we hope for something more than a strong man changing the name of his secret police force."

Valdez questions the value of the "trickle-down theory of economic assistance. Too often, the benefits stay at the top and even widen the gap between the rich and poor. Forty per cent of Latin America's population, or about 115 million people, are forced to exist on less than $500 a year."

As for dictator regimes: "The connection is clear between economic imbalances and a pattern of human rights violations which serve to repress protest about those imbalances."

Not surprisingly, he considers an agreement on the Panama Canal issue "the first item on our new agenda with Latin America."

Latin America's poverty cannot be solved by the United States," but by the people of the area and their governments. We can encourage those governments which are trying."

What about Valdez, the man? Born in Floresville, Texas, of Mexican descent, he is far from the cartoonists' version of a backward fellow in a huge sombrero, dozing against an adobe hut. He is described as one of the brightest young men (34) in government, and one of the best educated—Harvard and Baylor (law), Texas A and M (civil engineering) an expert on international trade, commodity law and hemisphere affairs. He writes for scholarly journals.

President Lyndon B. Johnson apparently discovered his talents early and brought him, as a young lieutenant, to the White House as a military aide, took him with him to LBJ's summit conference in Uruguay in 1967. Valdez later served with distinction but not much public notice on legal staffs of U.S. development agencies.

The Carter administration rediscovered him while Valdez taught a seminar at Harvard early in 1977 on critical issues of U.S.-Latin American relations.

Valdez is proud of his origins and of the role of 16 million U.S. citizens of Hispanic origin, says that by the year 2,000 they will become the largest minority group in the country.

As for Latin America, he considers it now of great importance to the United States, the third largest market in the world of our exports, an important source of many vital imports and a growing region with future potentials so great they are hard to imagine.

U.S. direct investment in Latin America is over $20 billion, or "almost 70 per cent of our investment in the entire developing world. Earnings on our investment in Latin America return more than $2 billion annually. While those figures are impressive, they pale beside the possibilities of the future." Even if viewed only selfishly, "it is very clearly in our interest to assist Latin America toward that future goal."

STATEMENT OF SENATOR WENDELL H. FORD, DEMOCRAT, OF KENTUCKY, REGARDING HOME INSULATION

Mr. FORD. Mr. President, one of the key components of our national energy plan is to provide for an adequate level of insulation in 90 percent of American homes by 1985. Clearly, this is a very ambitious goal that can be met only if Government agencies, business, and consumer groups join together to prevent homeowners from being victimized by shoddy workmanship, unsafe product and materials, and unfair and deceptive energy-saving claims.

On September 15 and 16 of this year, I held 2 days of hearings on this subject. The wide variety of witnesses who testified at those hearings were unanimous in the belief that our national energy conservation goals will not be met unless consumer confidence is maintained at a high level. The Consumer Product Safety Commission is presently considering a petition filed by the Metropolitan Denver District Attorney's Consumer Office requesting mandatory safety standards for home insulation. I recently advised Chairman Byington of the CPSC that if the Commission fails to act to protect

the public from unsafe insulating products, I will introduce specific legislation directing the Commission to so act. In light of the fact that the CPSC's own Denver field office advised the Commission in June of 1975 that improperly treated cellulose insulation posed a fire hazard, I believe that Commission action is long overdue.

Mr. President, on a more encouraging note, Chairman Michael Pertschuk of the Federal Trade Commission recently advised me that the FTC is preparing to move on several fronts to protect consumers from being victimized when purchasing home insulation. I heartily congratulate the Federal Trade Commission for its quick and decisive action on this most urgent problem. I ask unanimous consent that Chairman Pertschuk's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

FEDERAL TRADE COMMISSION,
Washington, D.C., October 28, 1977.

Hon. WENDELL H. FORD,
U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR FORD: I think it important to alert you to three related actions in the energy area the Commission decided to pursue this week. All three are designed to deter acts or practices that take unfair advantage of heightened consumer concern with energy conservation.

The first involves a rule to assure that consumers receive adequate useful information about the performance of insulating materials. The proposed rule, which will be the subject of hearings in the near future would require manufacturers of insulation (and certain other sellers) to tell consumers how effectively their products insulate, based upon a simple performance feature—the "R-value". While there is much to be learned in the rulemaking process, and different issues to be resolved, I am pleased that the Commission is moving with relative speed to address this problem of national importance.

The other two actions are enforcement-related. In the first, the Commission will use Section 5(m)(1)(B) of the Federal Trade Commission Act (Sec. 205 of the Magnuson-Moss Act) to notify over 300 manufacturers and retailers of insulation of certain prior Commission determinations that it is an unfair or deceptive act or practice to exaggerate the likely energy savings from insulation to make any energy related claims without adequate substantiation, or to fail to disclose latent safety hazards associated with the installation of a particular type of insulation. The Commission will use its compulsory process authority to determine if those prior determinations are being violated. If they are we intend to seek civil penalties in federal district court.

The third energy initiative involves false and misleading energy savings claims in advertising for appliances and other devices. We have directed staff to watch these claims closely to subpoena substantiation materials from advertisers where questionable claims are being made. Where we have reason to believe that seriously misleading claims are being made, we intend to seek injunctions, under Section 13(h) of the Act, as well as administrative complaints against those advertisers.

I welcome your comments on any of these three initiatives. In particular I invite your participation in the rulemaking proceedings. Any questions or inquiries you may have can be directed to me, or directly to the Bureau of Consumer Protection, which is handling the proceeding.

Sincerely,

MICHAEL PERTSCHUK,
Chairman.

PROPOSED ARMS SALES

Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask unanimous consent to have printed in the RECORD, the notification I have just received. A portion of the notification, which is classified information, has been deleted for publication, but is available to Senators in the office of the Foreign Relations Committee, room S-116 in the Capitol.

There being no objection, the notification was ordered to be printed in the RECORD, as follows:

DEFENSE SECURITY ASSISTANCE AGENCY AND DEPUTY ASSISTANT SECRETARY (SECURITY ASSISTANCE), OASD/ISA,
Washington, D.C., November 2, 1977.

In reply refer to: I-9791/77ct.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding under separate cover, Transmittal No. 78-4, concerning the Department of the Army's proposed Letter of Offer to Israel for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $10.6 million and support costs of $1.2 million for a total estimated cost of $11.2 million.

Sincerely,

H. M. FISH,
Lieutenant General USAF, Director, Defense Security Assistance Agency and Deputy Assistant Secretary (ISA), Security Assistance.

TRANSMITTAL NO. 78-4

(Notice of proposed issuance of letter of offer pursuant to section 36(b) of the Arms Export Control Act)

(i) Prospective purchaser: Israel.
(ii) Total estimated value:

	[in millions]
Major defense equipment*	$10.6
Other	1.2
Total	11.8

(iii) Description of articles or services Offered:

[Deleted] rounds of 81mm (M374A3) ammunition, [deleted] rounds of 81mm (M301A3) ammunition, and [deleted] rounds of 60mm (M83A3) ammunition.

(iv) Military department: Army.
(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.
(vi) Date report delivered to Congress: November 2, 1977.

*As included in the Munitions list, a part of the International Traffic in Arms Regulation (ITAR).

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary.

Joseph N. Novotny, of Indiana, to be U.S. marshal for the northern district of Indiana for the term of 4 years vice James W. Traeger.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Thursday, November 10, 1977, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

INITIATIVE CONSTITUTIONAL AMENDMENT

Mr. ABOUREZK. Mr. President, several members of Initiative America, the public citizen group dedicated to the adoption of the initiative process at the national and State levels, recently returned from a 6-week, 5,000-mile tour of the Midwest. They traveled in a newly renovated school bus, which is fully equipped with a printing press, law library, and all the material necessary to carry out a public education campaign on the initiative process.

The bus visited Ohio, Illinois, Wisconsin, Missouri, Kentucky, and Indiana. Their purpose was to publicize the issue and educate the public. Their hope is that the 27 States that presently do not have the initiative process will choose to adopt it. They also hope to encourage grass roots support for the National Initiative.

This trip was the first of many and the press response to it indicates the popularity of this issue. Initiative America is ready to go out and help people around the country win this reform of our political process.

I have chosen a sample article of the many that were written about the bus tour. It should give an indication of the enthusiasm that was generated.

Mr. President, I ask unanimous consent that the text of this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Columbus (Ohio) Dispatch, October 22, 1977]

TOUR IS PROMOTING RIGHT OF CITIZENS TO PASS LEGISLATION

(By Robert Albrecht)

When a legislature fails to act, citizens themselves must have the power to act, ac-

cording to a spokesman for a Washington, D.C., group seeking the right of federal initiative.

John Forster, director of Initiative America, said citizens ought to be able to propose and pass national legislation.

His group, formed in February, is promoting a federal constitutional amendment that would bring that right into the hands of the public.

The device works out well on the state level, Forster said. He said 22 states have the lawmaking ability and it is "used in great moderation."

Questions on the use of steel leghold traps and instant voter registration on the Nov. 8 Ohio ballot are examples of the way statewide initiative works, Forster said.

In a similar way, the national initiative would provide the public with drect access to federal lawmaking, an element that is missing from federal governmental process now, he said.

Forster said it was his group that approached U.S. Sens. James Abourezk, D-S.D., and Mark Hatfield, R-Ore., last spring and asked them to introduce the proposal to Congress, which the two senators did in July.

The Senate Judiciary Subcommittee on Constitutional Amendments will hold hearings on the proposal (Senate Joint Resolution 67) in December, Forster said.

He was in Columbus on the last stop of a 5,000-mile, seven-state tour in an old schoolbus outfitted with office equipment.

"This is the beginning of a growing national movement. In the months to come we intend to reach millions of Americans with our Initiative Bus," he said.

His group has members in 42 states who have supported Initiative America with contributions, Forster said. Their only purpose is to increase public awareness of the initiative process at all levels of government.

In March, the city government of Washington, D.C., approved a bill for initiative, referendum and recall. The people will vote on it in November, and if the charter amendment is approved, the Congress will have to consider it, Forster said.

If the citizenry approves the proposal it will be difficult for Congress to reject it. And if the Congress goes along with the expected citizen approval, Forster said, the body will be on record as favoring the concept when discussion of the national question arises.

"It has worked well in practice. The public can be trusted. The public remains an untapped resource for common sense solutions to national issues," Forster said.

PUBLIC SECTOR INVESTMENT—AN ESSENTIAL COMPONENT OF A NATIONAL DOMESTIC DEVELOPMENT BANK

Mr. HUMPHREY. Mr. President, on October 4 and 5, Congressman WILLIAM MOORHEAD chaired hearings of the Economic Stabilization Subcommittee of the House Committee on Banking, Finance and Urban Affairs on the need for a National Domestic Development Bank. I have been arguing for the past 10 years that our municipalities are in serious need of such a mechanism and I applaud Congressman MOORHEAD'S initiative in launching legislative hearings on this important issue.

One witness, Eugene Foley, former Assistant Secretary of Commerce, outlined the need for a National Domestic Development Bank in order to increase economic activity in both urban and rural areas. What is important to understand is that private investment is essential to assist declining areas, but the burden of growth cannot be put totally on the business sector. A simultaneous public investment is needed to maintain and upgrade the public infrastructure. What Mr. Foley emphasizes is that without investment by the public sector, even by giving direct cash grants to the business community, economic development would not be initiated. Without essential public services, that is, roads, sewers, utilities, what good will constructing a building do?

Private investment decisions are strongly influenced by public investment and any measures that will aid public capital investment will likely lead to economic development. In that the municipal bond market has not been an effective source of funds for the public sector, an alternative source must be created. It is for this reason that the development of the bank is proposed. It would be an effective alternative source of funding. Mr. Foley states,

Our cities and municipal governments, whether large or small, should have a place to go for funds, just as the countries of the world can go to the World Bank. Our local and state governments should have the choice of issuing bonds or borrowing from a financial institution set up to deal with their needs and problems.

What should be realized is that this sort of financing has been effective for international development and thus could be a viable institution for domestic development.

It is for these reasons that I see the creation of the National Domestic Development Bank as an effective institution which would aid in alleviating the increasing problems of urban and rural areas. Sincere effort should be made to create the bank as soon as possible.

Mr. President, I ask unanimous consent that Mr. Foley's testimony be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

STATEMENT OF EUGENE FOLEY

Mr. Chairman, and other distinguished members of the Subcommittee, it is my pleasure to appear before you this morning to speak about a bill to create a National Domestic Development Bank. As we all know, this is a piece of legislation conceived by my very dear friend Senator HUBERT HUMPHREY. A fine legislator who has a habit of anticipating needs and problems and devising sensible governmental procedures and institutions to deal with needs and problems. It may take some time to get these legislative solutions adopted, but eventually his thoughts and ideas have been accepted. It seems to me that the time has come for the idea of a National Domestic Development Bank.

It is my pleasure to support the concept embodied in this bill, which I understand you Mr. Chairman have introduced here in the House. I formerly served as the Assistant Secretary of Commerce with responsibility for administration of the Economic Development Administration and so I have had considerable experience in economic development projects and problems. In my experience with large development projects in Oakland and Brooklyn, I found that it is absolutely necessary to work with a broad perspective and with a broad variety of tools—not all of which are limited to traditional "economic development" or "assistance for private enterprise" tools. This bill provides a broader look, a broader attack on the problems of economic development because it provides for assistance to public capital investment as well as private investment. Then too it provides a location for technical assistance that will make investment decisions and development decisions by local governments and state governments more realistic and efficient.

Successful economic development of a city or a rural area or of a declining area, whether urban or rural or for that matter suburban, depends on the presence of a number of factors. The availability of credit is only one factor. Equally as important, perhaps more so, is an appropriate (and educated) workforce; a rapid, comprehensive, and well maintained transportation network; a functioning system of water and sewer treatment; adequate electrical and other utility service; a functioning communications system; now days, we often require a functioning pollution control system; and finally, also, a tax system which is not confiscatory. You will notice that these factors for the most part relate to public investment, not directly to the ability to raise capital for private facilities.

What I am trying to get at Mr. Chairman, is that a program which only provides a method of raising capital to build a building for a business at low cost to the business, is not sufficient. Because if you put that building in an area lacking a workforce with appropriate skills, lacking roads, lacking water, sewer and utilities, no economic activity of lasting significance would be generated. Even if you gave the businessman a direct cash grant, so that he had no capital costs, under these circumstances you would get no economic development.

These deficits in factors vital to economic development exist in a variety of geographical areas and regions throughout this country. Not only in cities, not only in rural areas, but in small towns and even in rapidly growing bedroom suburbs.

This is another virtue of the National Domestic Development Bank legislation, because it is not restricted to urban areas, it is not restricted to only the areas with the most severe problems. It recognizes the wide need throughout the country for economic prosperity.

I have some expertise in the measures the government can and has taken to encourage private economic development. Perhaps we can discuss some specific examples of successful stimulus. We have had some successes. But before we do that, I want to again emphasize that private investment decisions depend on public investment. Virtually any measure which will aid public capital investment will aid economic development. The reduction of interest costs associated with public facilities, whether through a subsidy, or merely because the municipal market is stabilized, will aid private economic development. The fact that more types of investors can be attracted to public investment will aid, ultimately, private economic development.

Let me comment on one aspect of reduced annual costs to municipalities—the term of the debt. As the debt is lengthened, the annual yearly cost goes down. Our local governments have a relatively short debt structure. This is true even for capital projects. We can lengthen the term of the debt without serious consequences because the facility will last 40 years—probably much longer. A 10 year term for a 60 year facility is not sound developmental financing.

Finally Mr. Chairman, I want to suggest that the National Domestic Development Bank is needed, if only to do equity for our local governments. Our cities and municipal governments, whether large or small, should have a place to go for funds, just as the cities of the world can go to the World Bank. Our local and state governments should have the choice of issuing bonds or borrowing from a

financial institution set up to deal with their needs and problems. We should not disadvantage our own population in comparison to the rest of the world. And conversely, if international developmental financing works, our domestic developmental financing should work.

Again Mr. Chairman and members of the Subcommittee, I want to thank you for giving me this opportunity to appear before you.

CONFEREES AGREE TO PROTECTION OF CHILDREN AGAINST SEXUAL EXPLOITATION ACT OF 1977

Mr. BAYH. Mr. President, I am pleased to report that the House-Senate conferees met to discuss their differences in the Senate- and House-passed versions of S. 1585, the Protection of Children Against Sexual Exploitation Act of 1977. After a full and extensive conference, the House and Senate agreed to report favorably back to our individual bodies for further consideration and favorable passage of this important and needed legislation which will fill several voids in current Federal law. There is currently no Federal statute that prohibits the use of children in the production of materials that depict explicit sexual conduct. The conference bill would prohibit the production of such materials for this purpose if the materials involved were to be mailed or otherwise transported in interstate commerce.

Similarly, there is presently no Federal statute prohibiting interstate trafficking in boy prostitutes. The conferees would extend the Mann Act provisions against juvenile female prostitution to include juvenile males.

The conference bill will strengthen present obscenity statutes to provide much more severe penalties for the distribution and sale of obscene materials that depict sexual conduct by children.

The conference bill will prohibit the transportation, sale, or distribution for sale of material depicting sexual exploitation of minors, when such materials are obscene.

Mr. President, today we are considering S. 1585 as reported from the House-Senate conference. As a cosponsor and conferee on this legislation, I wish to urge my colleagues to vote in favor of its immediate passage. This legislation would be the most effective Federal response to the problem of sexual exploitation of our children. The bill is tough and effective. But most importantly, it is clearly constitutional. S. 1585 can be upheld by the courts and can serve as the basis of successful prosecutions resulting in the reduction of sexual exploitation of children.

Pornography and obscenity statutes have been the subject of heated debates for many years. Recently, there has been an increased focus on the use of children in live performance and in the production of pornographic materials depicting sexually explicit conduct. This is an area of great personal concern to me.

Problems regarding the prohibiting of the publication, sale, or distribution of pornographic materials involve serious constitutional questions of our first amendment right of freedom of speech and the press. We must be ever watchful that in our efforts to control the most offensive pornography we do not infringe on these important constitutional rights. However, I condemn the sexual exploitation of children for any purpose, including commercial purposes and strongly urge that existing criminal laws prohibiting child abuse and contributing to the delinquency of minors be more vigorously enforced.

To the extent that additional legislation is required, however, S. 1585 has my strong support.

Mr. President, as I had reported on another occasion to the Senate, recently a most reprehensible and despicable activity has been initiated in my State of Indiana. I refer to the nationwide promotion of "Mr. and Miss Nude Teeny Bopper Pageant" at the Naked City Nudist Camp in Roselawn, Ind. This sordid "event" was scheduled for August 27, 1977. I was utterly repulsed at the idea of this contest which was to feature nude children between the ages of 8 to 16. Parents were to be paid $10 to enter their children, $170 was to be given out in prize money, $10 was to be given to each contestant and spectators—for an admission price of $15—were solicited to take pictures of the nude children. Thousands were expected to attend.

On first being notified of this sordid enterprise, I immediately contacted the offices of the State attorney general and the Newton County prosecutor to express my grave concerns about this particularly gross form of child abuse. I am pleased to relate that the attorney general asked the judge of the Newton Circuit Court to issue an injunction restraining this activity. A preliminary injunction order was issued restraining the owner of Naked City from displaying these nude children before an adult paying audience and specifically enjoined the party from holding this contest until a hearing was held. Presently, a hearing is scheduled in Jasper County at which time an attempt will be made to amend the temporary restraining order to a permanent restraining order so that no further activities of this sort can be held. It was argued that the challenged activity constitutes a public nuisance and outrages the public decency at large. I cannot agree more with this argument. Thousands of Indiana residents have joined in signing petitions aimed at launching another legal challenge.

A contest of this sort panders to those interested in child pornography and sex and is exploitive of children and potentially damaging to their mental health—I can imagine the trauma a young girl or boy might experience while parading naked in front of a crowd of leering strangers. The nude contest would also seem to provide an excellent opportunity for child pornographers to meet potential stars. The question comes to mind—if a parent would make a child participate in a nude contest for a chance of winning $100 (or just for the $10 that any participant receives) what would they have the child do if the stakes were higher?

It is clear that freedom of expression and the right to privacy are among our citizen's distinctive attributes and nudists should be permitted to indulge in their pastime in privacy. Naked City is not, as ads I have seen, a traditional family nudist colony—run in the proper sexual atmosphere. Naked City events in the past have drawn criticism by publicizing their events nationwide and inviting outsiders—who are not nudists and who remain clothed while at Naked City—to pay their way into the camp to view and film the nudists. In the past years many of the participants in the Naked City contests have reportedly been models and strippers looking for publicity. The advertisements for Naked City are blatantly sexual and suggestive of orgies and, while adults have the right to sexual freedom, this is hardly the appropriate atmosphere for a young child.

I cannot help but feel that, if this event took place, many of the children would be unwittingly exploited to satisfy the appetities of spectators.

Mr. President, regrettably State and local laws which cover this type of conduct often cannot be enforced. Such live performances constitute a particular form of child abuse and should be prohibited. Conduct associated with live performances extends beyond State or local jurisdictions and involves widespread use of the mails, television, newspapers, radio, and telephones for promotion and solicitation of a potential audience and participants.

My amendment to S. 1585, which passed this body unanimously, prohibited certain activities relating to live performances using minors in sexually explicit conduct. The House version contained no comparable provisions. However, the House version of the Mann Act contained provisions which would have overlapped with my amendments, and as such I agreed with the conference majority that in light of the fact that the conference substitute provisions contained language that the conferees agreed in most cases would cover the sexual exploitation of minors in live performances as embodied in my amendment, I would withdraw my specific language which would be incorporated in the Mann Act provision. Thus, whoever transports, finances in whole or part the transportation of or otherwise causes or facilitates the movement of any minor in interstate or foreign commerce, or within the District of Columbia or any territory or other possession of the United States with the intent: First, that such minor engage in prostitution; or second, that such minor engage in prohibited sexual conduct, if such person so transporting, financing, causing, or facilitating movement knows or has reason to know that such prohibited sexual conduct will be commercially exploited by any person, shall be guilty of an offense under this section and shall be fined not more than $10,000 or imprisoned not more than 10 years, or both.

Mr. President, I consider it a privilege to be a member of the Juvenile Delinquency Subcommittee—being its former chairman for 7 years—and to follow the leadership of the new chairman, the Senator from Iowa.

This particular problem, of using minors in live performances exhibiting sexually explicit conduct, is designed to

be dealt with by my amendment as incorporated into the Conference Mann Act provisions.

Mr. President, one particular concern that created my desire for these amendments involved a nudist colony in northwestern Indiana.

I, frankly, guess I am old-fashioned, but I cannot understand why adults wish to frolic around together in large numbers in their birthday suits. But, inasmuch as some of them do, and if they do that privately, the Constitution protects their right to do so.

But the promoter of this nudist colony, interestingly enough called Naked City, in northwestern Indiana, decided that he was going to conduct a nude beauty contest in which the participants would be boys and girls ages 6 to 16. Their parents would be paid for letting them parade in front of a paying audience of spectators with cameras. The winner would receive $100. The advertising went across State lines.

Now, this particular amendment is designed to get at that particular kind of conduct, where we are talking about the sexually exploitive conduct for commercial gain of boys and girls in the nude under the age of 16 in live sex shows.

Mr. President, at this point in the RECORD I would like to ask unanimous consent to put into the RECORD a colloquy that Senator CULVER and I had during the debate of S. 1585 in the Senate on October 10, 1977, when my live performances amendment was unanimously adopted.

There being no objection, the colloquy was ordered to be printed in the RECORD, as follows:

Mr. BAYH. I would like my colleague, the floor manager of this bill, to help me resolve a question or two I have about the proper language.

I do not want to get into an area that is unconstitutional. I do not want to reach protected expression, but I want to make certain that the Senator, as a principal floor manager of this bill, shares my belief that the wording that is used here of "sexually explicit conduct" would cover the type of situation that I am referring to that is occurring up in Naked City at that nudist colony.

Is it the Senator's understanding that according to the court's interpretation "sexually explicit conduct" includes, by definition, the lewd display of genitals or the pubic area of a person under the age of 16.

Mr. CULVER. That is correct.

Mr. BAYH. Is it the Senator's understanding that if a hawker or promoter attempts to promote a live performance in interstate commerce in which boys and girls under the age of 16 are paraded and displayed nude, where adults are asked to come and take pictures, that would be a lewd display of the genital and pubic areas, and that thus it comes within the sexually explicit conduct definition under section 2251 of this bill?

Mr. CULVER. That is correct.

Mr. BAYH. Am I correct in my understanding that in the definition section of the bill, commercial gain is tied into the definition of "promoting" to include "advertising for pecuniary profit?"

Mr. CULVER. That is correct.

Mr. BAYH. Mr. President, extensive hearings have been held by the Senate Subcommittee to Investigate Juvenile Delinquency on the problems of child pornography and the conferees have presented to our bodies a measure designed to deal with it. I think it is clear that we now have a measure that will go a long way toward eliminating an abuse that no society—but least of all our society—should tolerate. I wish to urge my colleagues to vote in favor of its immediate passage so that we can present the President with this legislation before the end of the 95th Congress, 1st session.

Mr. President, Federal, State, and local law enforcement efforts must maintain a delicate balance in order to curb child pornography. The legislation I cosponsored, and which we will vote on today, will fill a void in Federal law and will attack the production of materials depicting children in sexually explicit conduct and further, my amendment will curb the use of minors in live performances exhibiting sexually explicit conduct as a form of child abuse and exploitation. I believe this legislation will help to arouse our collective conscience, which will in turn lead to policies and behavior more sensitive to our child victims. We must have a regard for the general tone of our society and be especially watchful and discourage events that tend to lower that tone.

DEFENDING THE CANAL IN THE AGE OF TERRORISM

Mr. HUMPHREY. Mr. President, my support for the new Panama Canal treaties is predicated upon my belief in the need for the United States to make the necessary mature adjustments to the realities of the modern-day world. In other words, if our policies are such that they encourage cooperation, why risk the prospects for confrontation, particularly when such confrontation would involve high costs to this country?

The debate over the new Panama Canal treaties is fraught with considerable emotion and much misinformation. It is time we come down to earth and realistically assess what these treaties give us and the potential costs we avoid by the Senate gving its advice and consent to ratification.

Therefore, it was with considerable interest that I read a column in the November 1 Baltimore Sun, written by Arthur S. Collins, Jr., a retired general whose last field assignment was as Deputy Commander in Chief, U.S. Army in Europe. General Collins also served a tour in Panama during his military career.

Entitled "Defending the Canal in the Age of Terrorism," the article by General Collins places the debate over the new treaties in its proper perspective. I think it is particularly relevant to note General Collins' following perception:

Consider how a few dozen terrorists confounded and tied up a strong, economically healthy West Germany; examine the cost to the British of trying to enforce a peace in Northern Ireland; recall the destruction in Lebanon when terrorists and guerrillas got out of control. From a military point of view, none of these situations compares to the problems the United States would encounter if it had to defend the Panama Canal unilaterally.

This is the era of the extremist, the terrorist, the guerrilla. Extremists with terrorist tendencies abound in the Free World and the Third World. Defeat of the treaty would provide the cause and the slogans they need to create conflict in Panama where there is a strong sense of nationalism. Guerrillas would be easy to recruit and the local populace would be sympathetic and provide sanctuary, support, and good intelligence . . .

General Collins goes on to point out what would be in store for the United States should we continue a presence in the Panama Canal Zone in the absence of acquiescence of the Government of Panama and the people of Panama.

If nothing else should have been learned from our experience in Indochina, it is that if one does not have the full support of the populace, disaster is inevitable.

Yet, the sloganeering surrounding the debate on the new treaties does not serve the best interests of the United States nor the taxpayer. Who will pay the price should the treaties fail in the Senate? It is the average American—the average taxpayer. It is the average American whose son could be called upon to serve in a senseless conflict that could have been avoided. And what will we accomplish by this measure of last resort? The end result could be the same as it was in Vietnam.

I urge my colleagues to give careful consideration to the analysis of General Collins. Is this the scenario we really want to bring home once again to the American people? Or do we avoid confrontation and in the process gain the cooperation of the Panamanian people to assist us in protecting an important asset?

Mr. President, I ask unanimous consent that the column be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DEFENDING THE CANAL IN THE AGE OF TERRORISM

(By Arthur S. Collins, Jr.)

WASHINGTON.—Consider how a few dozen terrorists confounded and tied up a strong, economically healthy West Germany; examine the cost to the British of trying to enforce a peace in Northern Ireland; recall the destruction in Lebanon when terrorists and guerrillas got out of control. From a military point of view, none of these situations compares to the problems the United States would encounter if it had to defend the Panama Canal unilaterally.

This is the era of the extremist, the terrorist, the guerrilla. Extremists with terrorist tendencies abound in the Free World and the Third World. Defeat of the treaty would provide the cause and the slogans they need to create conflict in Panama where there is a strong sense of nationalism. Guerrillas would be easy to recruit and the local populace would be sympathetic and provide sanctuary, support, and good intelligence. Cuba would almost surely offer these "democratic freedom fighters" training cadres and light weapons from Soviet arsenals.

The Canal Zone is 10 miles wide, about 51 miles long, and covers an area of 647 square miles. Defense of so small an area appears to be a minor problem for a world power. However, the realities of geography, international agreements, and today's world make it most difficult to defend this area and respect the rights of Panama. A dense jungle with triple canopy growth covers much of the Zone and makes surveillance of the open and unobstructed Canal Zone borders ineffective. Trails are few, and numerous

streams and water obstacles make troop movement difficult. This is an ideal area for guerrilla activities. So much for the area of operations. How about the most likely enemy?

Small, lightly armed forces, operating from just outside the Zone, could suddenly emerge from the jungle to attack canal facilities or ships in the canal. From the Canal Zone borders to any target in the Zone—a set of locks, school, housing area, power plant, or whatever the target might be—is at most five miles. Hostile groups could strike from either side of the Zone so selection of targets and timing of attacks would be made easy for guerrillas operating from secure bases in Panama. Ammunition, arms, radios and other equipment could be hidden in the small villages that dot the borders of the Canal Zone.

Portable rockets and mortars would complement the small groups attacking U.S. installations. Locks and maintenance and support facilities would be key target areas and all are within range of these weapons; attacks would be frequent. A rocket hitting a school, fuel farm, or tanker could be devastating.

A determined terrorist organization would plan attacks on Madden Dam and Gatun Dam. Damage to these dams would create serious problems in maintaining enough water in Gatun Lake to permit passage of ocean-going ships, but they are difficult targets for ambush and booby traps.

Canal Zone installations can all be defended if enough manpower is assigned to the task; there are, however, so many historical examples of well defended facilities destroyed by small, well trained raiding parties, that any planned defense of the canal must recognize the reality. It is difficult and costly to be always on the defensive and always on the alert. The United States as a nation does not respond well to prolonged aggravating situations which are not quickly resolved. Day-in and day-out, U.S. troops and civilians will suffer a few casualties, and the numbers will mount.

In brief, a small well directed hostile group would have an enormous capacity for inflicting damage on U.S. citizens and embarrassing the United States. Their attacks would be disruptive, sometimes damaging, often deadly, and most difficult to stop.

Such a situation would be less likely to occur if the Panamanian government had a direct hand in the continued operation of the canal. They could stop these attacks far better than a "gringo intruder" from the north. In fact they would have to, because if the canal is closed Panama will lose the revenues from tolls provided for in the treaty, and many Panamanian citizens would be out of work. If the treaty is not ratified, however, the Panamanian government might not have much control, nor much interest.

Patriotism is not unique to the United States; emotions run strong in small nations too, and resentment of the United States is long standing. So it is not unlikely that the government of Panama would stand back; after all, it wouldn't be their property under attack.

This is the critical fact: Without the active support of the Panamanian people and government, the only way guerrilla and rocket attacks could be curtailed—curtailed, never eliminated—would be for U.S. Forces to invade Panama's territory to drive guerrillas away from the zonal borders and thereby make them less effective. The resulting military venture would be a nasty chore for which the American people are not suited by temperament or inclination.

Various estimates have been made on the size of U.S. forces required to protect the canal if the treaty is not ratified. These estimates are dependent on the degree of support the United States could expect from Panama. Realistically, we should assume that if the treaty is not approved, the United States can expect little support from Panama or its people.

If hostilities erupt, the most likely scenario would be a series of small attacks continuing over a period of several years, with the unpleasant duty of defending the canal falling on U.S. troops. Under these conditions, the *smallest* number of troops for a minimally effective defense of the zone would be 100,000. If Panama were invaded it would take a lot more.

There is no need to belabor the point. The canal could be defended, but its continued operation could not be assured. The jungle is not a healthy place to be and for troops always on the defensive, not knowing friend from foe, it is a corrosive and frustrating environment. U.S. troops will suffer casualties and world opinion will be against them.

Like Vietnam there will be no heroes. Both the nation and the armed forces, especially those on the ground, will pay a bill that will include large, hidden economic and psychological future payments.

Even were the treaty ratified, terrorists could still commit acts of terrorism. However, in that case, the Panamanian government would use its police, security agencies, and armed forces to oppose the terrorists. The Panamanian people would not long have sympathy for those who have put them out of work by closing their canal.

If Panama asked for U.S. military help it would be gladly given and gratefully received. If the canal were closed by hostile action, world opinion almost certainly would be on the side of the Panamanian government. These are all important advantages that flow from Panama's active involvement in defense of the canal.

It is time those determined to "save" the canal set aside their emotion, study the treaty, consider the alternatives, and decide from whom and for what they are "saving" the canal.

PROPOSED INTERIOR DEPARTMENT REGULATIONS FOR THE SALE OF EXCESS LANDS IN RECLAMATION PROJECTS

Mr. ABOUREZK. Mr. President, the South Dakota Farmers Union has long been in the forefront in the fight to preserve the family farm. The president of the South Dakota Farmers Union, Ben Radcliffe, has been an effective and tireless fighter for this goal.

Recently, Mr. Radcliffe wrote to me on behalf of the South Dakota Farmers Union to urge me to support the proposed regulations for the sale of excess land in Federal reclamation projects. In fact, the South Dakota Farmers Union, as well as the National Farmers Union, would like to see even stricter regulations. The National Farmers Union, for instance, has endorsed a bill, introduced by myself along with Senators HASKELL, NELSON, and METCALF, which would comprehensively reform reclamation law. The bill would also do something the regulations cannot—create an acreage equivalency formula so that farmers with poor land can be allowed a larger acreage limitation than those with good land.

Ben Radcliffe's letter is an important one, for it shows, contrary to what some people have been saying, that the acreage limitation is consistent with family farming, and is supported by people who believe in and represent family farmers.

I ask unanimous consent that the text of the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SOUTH DAKOTA FARMERS UNION,
Huron, S. Dak., October 24, 1977.

Senator JAMES ABOUREZK,
New Senate Office Building,
Washington, D.C.

DEAR JIM: As you know, there has been considerable controversy surrounding Secretary of Interior Cecil Andrus' ruling enforcing the 160-acre limitation in federal water projects.

As the leading voice of family agriculture here in South Dakota, I want you to know that the South Dakota Farmers Union stands firmly behind Secretary Andrus' position. This position has been an important part of our policy program for many years and was one of the most crucial facets of our continued support for the Oahe Irrigation Project.

Our position on the 160-acre limitation is as follows: We urge the strict enforcement of the 160-acre limitation per individual or 320 acres for man and wife in governing the use of water in federal irrigation projects.

The position of National Farmers Union is similar to that of the South Dakota Farmers Union, although NFU urges some increase in the acreage limitations for family farm units that are not entirely on Class One lands.

The original intent of the 1902 Reclamation Act was to increase farm production in the Western states and at the same time foster growth of family farming in that area. We believe that new family farms established in federal irrigation districts in California and other western states is highly desirable and will be of great benefit to rural communities.

It is important that you realize that much of the acreage affected by the Secretary's ruling is not now in the hands of family farmers. It is owned by corporations such as Standard Oil and the Southern Pacific Railroad. Very few if any individuals who could be classified as family farmers will be adversely affected by this ruling.

I am greatly distressed that the American Farm Bureau—which claims to represent the interests of its farmer members—has seen fit to come out in opposition to this ruling. What bothers me even more is the misinformation now being spread by Farm Bureau spokesmen here in South Dakota and elsewhere.

Contrary to what Farm Bureau has been saying—this ruling will not limit a family farm to just 160 acres or even 320 acres. The ruling as explained by Bureau of Reclamation Chief Keith Higginson would allow a man and wife to own 320 acres of land in a federal irrigation district. In addition they could own another 160 acres for each child in their family and could lease an additional 320 acres. That means that a family of six could operate a 1280 acre irrigated farm. That's more than needed for a family farm in either South Dakota or the Central Valley of California.

The members of Farmers Union urge you to support continued enforcement of the 160 acre limitation. This move is a progressive step toward putting the Federal Government on the side of family farmers and we don't think it is a step which we should retreat from.

With best regards,
Sincerely,

BEN H. RADCLIFFE,
President.

THE FOREST SERVICE AND CITIES

Mr. HUMPHREY. Mr. President, one of nature's greatest gifts is trees. Trees are among our most important resources

for shelter and fuel. They grace the Earth's landscape with beauty that changes with the seasons. One cannot help but be impressed by their quality of enhancing the physical and spiritual welfare of mankind.

The Forest Service is the institution within our Government charged with protecting this most important resource. As the members of this Chamber know, this agency has exercised its duties with the highest professionalism. The Forest Service is challenged with protecting 187 million acres of trees, a job that it has done well since its establishment in 1905.

The Forest Service's excellence is virtually unparalleled throughout the world. While this expertise is well established, it simply is not effectively utilized in areas where it is most needed, namely America's cities.

On April 29, National Arbor Day, the senior Senator from New York (Mr. JAVITS) took a long step toward remedying this imbalance by introducing the Urban Trees Act of 1977, S. 1426. I am a cosponsor of this legislation, which would authorize the Secretary of Agriculture to make grants to urban areas for tree planting and general arboricultural activities. These grants would match 100 percent of what cities may receive in tree planting contributions from their residents and others and 50 percent of the public funds allocated by cities for the planting of trees. This bill would authorize $10 million for these grants.

Mr. President, if this bill becomes law, we will have taken a major step down the road toward improving the environment of American cities. This bill will not only provide urban Americans a more beautiful environment, but one with cleaner air and less noise, two of the many effects of trees in cities.

While S. 1426 makes resources available, the Senate has wisely taken another step to assure that the knowledge and expertise of the Forest Service become more accessible to cities and towns. Congress made this approach a matter of national policy in 1972 by amending the Cooperative Forestry Management Act of 1950 to provide assistance to cities. Unfortunately, this farsighted provision was not adequately funded until this spring when I amended an appropriations bill to provide essential funds for technical assistance. For fiscal year 1978, the Congress appropriated $3.5 million to carry out this provision.

This 1972 amendment provides authority to the Forest Service to match funds provided by local and State governments for technical services related to urban forestry needs. The Forest Service is emphasizing the need for local governments to do effective planning. However, to a lesser degree, funds provided through this authority will be useful in eradicating insects and in combating disease. This is particularly important in my home State of Minnesota which is losing large numbers of elm trees as a consequence of the dreaded Dutch Elm disease.

Funding of this amendment has facilitated assistance from the Forest Service to local governments with urban tree programs. This will strengthen the ability of local governments to intelligently integrate new tree planting programs in America's cities as well as successfully protect those trees that remain, thereby improving the lives of city dwellers. Trees, as we should know, are complex botanical organisms with complex requirements for growth and survival. Knowledge of which trees to plant and what these trees require is vital to effective urban tree programs.

Mr. President, I am looking forward to favorable Senate action on S. 1426 early in the next session of Congress. By that date we should also have before us strong evidence concerning the success of activities carried out according to the technical assistance provision. With both, Mr. President, the Congress will have the fundamentals of a promising urban forestry program.

PROMISES: WHICH WAY WILL JIMMY TURN NEXT?

Mr. McCLURE. Mr. President, some very serious questions are quite properly being asked by the American public about the validity of so-called campaign promises. Indeed, many of us in the Senate have addressed ourselves to this question from time to time.

I am concerned that a double standard is emerging, in that there is a difference between a promise and a campaign promise, the latter to be dismissed as a mere bartering token by which one purchases votes. I totally shun that notion, and I firmly believe that a promise made during a campaign is a statement of position to be taken to mean that a candidate will stand behind that statement and do everything within his or her power to see that the promise is fulfilled.

I doubt there were ever so many campaign promises as those which we all heard during the last Presidential election. Many of the campaign promises made by our current President were certainly considered, at the time, to be valid statements of position. Now many Americans are beginning to wonder what to believe and what not to believe.

I think this is a very serious matter, and one that affects the very basics of our representative form of government. I am happy to see that in my home State, members of the news media are giving this some attention.

I would like to call the attention of my Senate colleagues to a recent newspaper column in the Idaho Statesman. Mr. Steve Ahrens, who I personally regard as a very thorough, fair, professional journalist, has taken some effort to place this whole question of campaign promises by our President in perspective. I ask unanimous consent that Mr. Ahrens' article of October 30 be printed in the RECORD, and call it to the attention of my colleagues.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PROMISES: WHICH WAY WILL JIMMY TURN NEXT?

(By Steve Ahrens)

News item: Jimmy Carter has promised that the federal government will not try to usurp control of Western water by the individual states.

Let's see now, I want to make sure I have this straight.

The man we are depending on to safeguard the economic life blood of the West is the same man Labor was depending on to push through the Humphrey-Hawkins employment bill that was so crucial to their interests, through higher price supports, and the same man who told voters in natural gas-producing states he would support deregulation of natural gas prices—right?

Jimmy Carter's campaign promises have not been something voters in the words of TV's Baretta, "can take to the bank."

If Carter treats this promise like some of his campaign promises, maybe we should post armed guards along our irrigation ditches.

Because the man who told voters "I'll never lie to you" has compiled a greasy record of broken campaign promises, lack of support for congressional leaders working on his programs, and switches on controversial issues.

There's a maxim in politics that you criticize the act, not the man, I would not lightly break that rule, because it's a good one. Most politcians are working sincerely toward goals they and their supporters believe in—whether you agree with those goals or not.

And I rarely criticize a political philosophy, because its practitioners have as much right to their beliefs as the supporters of any other political "faith."

But I draw the line at politicians who, face-to-face with a voter, make promises to win support—then go to Washington and violate those promises. This is a moral, not a philosophical, objection.

Throughout the 1976 campaign, Carter promised tangibles like retaining control of the Panama Canal, a balanced budget within his first term, support for deregulating natural gas prices, and increased farm price supports "equal to at least the cost of production."

But once in office, he supports treaties relinquishing control of the Canal, has opposed deregulation, proposed lower farm supports, and submitted the usual deficit budget.

He promised intangibles like more effective government, a more moral government, more honesty and honor.

Whether Carter has "broken" these promises is much more a matter of opinion, but the actions of his administration in the Bert Lance affair, Jody Powell's attempt to "get" a senatorial opponent, phony vouchers for staff travel that never took place, the president's free rides in Lance's bank airplanes, and his highly selective promulgation of "human rights" for some humans, but not for others—all these cast a shadow over his pledge of governmental purity.

Pardon some Carter critics if they see little difference between his actions and the actions of other politicians whom he castigated throughout the campaign.

He made a lot of other promises, too—promises to balance the budget, cut the unemployment rate to about 3 per cent, reduce inflation, pass national health insurance, and establish a separate Department of Education. It's too early to give up these goals or to say he "lied" in making those promises, but it's not at all too early to say that he stands little chance of achieving most of them.

His campaign boast that he could, within his first four years, balance a federal budget that has been out of kilter for four decades displayed shocking naivete in a presidential candidate. It's a laudable goal, one nearly all of us fervently support, but a man qualified to be President of the United States ought to realize the difficulties—both practical and economical—of such a sudden turn-around.

I'm willing to accept the probability he honestly wanted to balance the budget, and

therefore was not "lying" when he promised to do so. But it is pointless to argue whether it is worse to be a liar or a fool.

It is not Carter's philosophy that I criticize. He has the same right to that as any other Democrat or Republican or Libertarian. My objection is to his use of campaign promises as legal tender to "buy" his election, then his desertion of those stands.

Voters are accustomed to hearing politicians make promises, even empty promises. But it's entirely different for a candidate to completely turn his back on a campaign pledge, as Carter did on the issue of deregulating the price of natural gas, or raising farm support prices.

As a contrast, it was interesting to compare Carter to Sen. Frank Church during the 1976 presidential campaign. Church offered a record in government which you could accept or reject on the basis of your assessment of his 20 years in the Senate. Ever the consummate orator, he clearly and understandably outlined his ideas about what the U.S. President ought and ought not to do.

His promises were within the realm of the possible, and I have no doubt he would have worked hard to carry out those promises. Most important, he judged what he wanted to accomplish in the light of what he could expect to accomplish, and did not indulge in political daydreaming that deluded voters earnestly looking for better government.

The next Carter turn-around may be on the controversial B1 bomber. Candidate Carter opposed it, President Carter shot it down—but now there are reports he is changing his mind about the strategic value of the bomber. He could request funding to convert the F111 into the role the B1 would have filled, or he might resurrect the B1 itself.

In either case, more of his supporters feel he has misled them on this issue.

The only way a candidate can convince conservatives he is a conservative, and liberals he is a liberal, is to promise someone something he can't deliver. Carter is paying the price for these broken or ignored promises, as evidenced in the latest Harris Poll which shows a steady decline in public confidence in his ability to handle most key issues facing the country—especially economic, foreign relations and energy issues.

The criticism of Carter is by no means confined to his political opponents. The polls show deep concern and disappointment amongt both Republicans and Democrats.

But not even those opponents can take more than passing satisfaction in his problems, because the last thing the country can afford is a vacillating, ineffectual president.

OPEC SPECIAL FUND CONTRIBUTIONS TO THE UNITED NATIONS DEVELOPMENT PROGRAM

Mr. HUMPHREY. Mr. President, last month a little noticed, but highly important, event took place with the announcement that the OPEC special fund had made a special contribution of $20 million to finance four United Nations development program projects.

In past years, Congress has been critical of the lack of financial support provided by OPEC to UNDP. Therefore, I think it is highly appropriate to call to the attention of my colleagues this latest effort at attracting OPEC funds into multilateral development efforts.

What is particularly unique about the OPEC special fund contribution is that it will fund four projects in four different regions of the world. Briefly, the projects are as follows:

To the Central American Energy Programme, which consists of five countries, $1.5 million.

For the development of the Niger River Basin, linking nine West African countries in efforts to exploit the hydrological potential of the seventh largest river in the world, $5 million.

In technical support for regional offshore prospecting in East Asia, designed to increase technical and scientific knowledge of mineral potentials in near-shore, offshore and adjoining oceanic areas, $2 million.

For the development of Red Sea and Gulf of Aden fisheries, intended to upgrade fishery operations and insure effective exploitation of the area's marine resources, $4.2 million.

In my estimation, UNDP Administrator Brad Morris, as well as the contributors to the OPEC special fund, are to be commended for this highly significant development. It is a tribute to the ability of UNDP to carry out vitally important development projects that the Director-General of the OPEC special fund selected this multilateral development agency to implement these programs.

Mr. President, I ask unanimous consent that the announcement of the OPEC special fund contribution for these UNDP projects be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OPEC SPECIAL FUND PROVIDES $20 MILLION FOR UNDP-SUPPORTED PROJECTS

(Agreement Signed Today Includes Financing of Four Projects for Energy and Food Development.)

Under an agreement signed in New York today, the OPEC Special Fund is providing a grant of up to $20 million for projects carried out by groups of co-operating countries in all developing regions with support from the United Nations Development Programme (UNDP).

Announcing the agreement, the Director General of the OPEC Special Fund, Dr. Ibrahim F. I. Shihata, said this was the first time that the OPEC Special Fund had channelled funds through the United Nations Development Programme.

Mr. Bradford Morse, Administrator of UNDP, signed the agreement with Dr. Shihata on behalf of UNDP.

Four regional projects designed to increase energy and food production will be the first to benefit from the OPEC Special Fund grant, accounting for $12.7 million out of the $20 million total. Other inter-country or global projects will be identified in the future to receive the balance of $7.3 million.

The four selected projects involve a total of some 30 countries across the world—in Central America, in West Africa, in East Asia, and in Arab countries. They were chosen from a list of projects in need of financing which UNDP submitted to the OPEC Special Fund earlier this year. UNDP will contribute approximately $3.2 million toward their implementation. In addition, the four projects will receive support from the Governments involved and, in some cases, supplementary financing from bilateral and/or other multilateral sources.

The four projects and the amounts they will receive from the OPEC Special Fund through UNDP are as follows:

Central American Energy Programme, which assists five countries in defining joint policies and actions for their co-operative energy programme ($1.5 million);

Development of the Niger River Basin, linking nine West African countries in efforts to exploit the hydrological potential of the seventh largest river in the world ($5 million);

Technical Support for Regional Offshore Prospecting in East Asia, designed to increase technical and scientific knowledge of mineral potentials in near-shore, offshore and adjoining oceanic areas, and to augment national prospecting capabilities ($2 million);

Development of the Red Sea and Gulf of Aden Fisheries, intended to upgrade fishery operations and ensure effective exploitation of the area's marine resources ($4.2 million).

In signing the agreement at the New York offices of UNDP today, Mr. Shihata commented as follows on the significance of the new arrangements:

"Through the facilities of UNDP, the OPEC Special Fund is helping to build new kinds of partnership, in several ways:

"First, all four projects so far selected for financing involve regional technical co-operation among the participating countries, within an established framework for their continuous joint consultation and action.

"Second, each project is working to achieve shared use of valuable common natural resources—including energy resources in three of the projects—which offer high promise of a better life for the millions of people of the 30 or so countries concerned.

"Third, this agreement represents an important link between the OPEC Special Fund as a development finance institution and the UNDP as a main instrument of the United Nations system for co-operation with groups of countries to identify and meet their development needs. In this respect, the UNDP with its network of over 100 country offices and its collaboration with all operating agencies of the United Nations system is unparalleled as an organization for development programming and technical co-operation".

In reply, Mr. Morse stated that:

"The OPEC Special Fund is itself an important instrument of international co-operation, combining the financial contributions of its member developing countries for the benefit of development in other developing countries.

"To help make best use of the OPEC Special Fund grant, the services of the UNDP have been mobilized first to propose and now to help carry out the selected projects. The regional groups of countries participating in the projects have also joined forces, in some cases for several years already, to seek common development objectives in the sectors concerned.

"This kind of 'triangular co-operation'—between a financing source, a source of technical advice, and regional or national development authorities—offers much potential for future technical co-operation among developing countries".

All four of the regional projects the OPEC Special Fund has selected for support will help to further technical co-operation among developing countries (TCDC). TCDC refers to programmes and/or actions undertaken by two or more developing countries, independently or with support from international organizations or developed countries, for the purpose of contributing to their mutual development. Increasingly endorsed by developing countries as a key means through which they can build collective self-reliance, and figuring prominently in the UN General Assembly's 1975 Programme of Action on the Establishment of a New International Economic Order, TCDC is to be the subject of a United Nations Conference in August-September 1978 in Buenos Aires. Mr. Bradford Morse is the Secretary-General of the Conference.

Locating and managing new sources of energy and jointly developing shared natural resources are prime examples of TCDC actions which developing countries are taking at the regional level, with UNDP support.

The OPEC Special Fund was set up by

OPEC Member countries in January 1976 to extend financial assistance on concessional terms to developing countries. Its secretariat, headed by Dr. Shihata, is in Vienna.

The UNDP, the world's largest source of multi-lateral pre-investment and technical assistance aid, works with 150 governments and 25 international agencies to foster economic growth and improve the standards of living in developing countries. It currently supports some 8,000 national, regional and global projects in agriculture, industry, education, power production, transport, communications, health, public administration, housing, trade and related fields. UNDP costs for these activities, which are met from the voluntary contributions of participating governments, currently average $400 million a year.

(Details on the four projects thus far selected to benefit from the OPEC Special Fund contributions are attached).

CENTRAL AMERICAN ENERGY PROGRAMME

The Central American Energy Programme involves Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua, along with the Permanent Secretariat of the Central American Integration Treaty (SIECA), the Central American Bank for Economic Integration (CABEI), and UNDP, in association with the United Nations Office of Technical Cooperation. Its purpose is to provide technical support to the Central American Energy Commission, established by the countries concerned, to assess their energy resources, draw up national and regional plans, and then put these into action.

Becoming more self-sufficient in meeting their energy needs is a major priority of the Central American republics where imported petroleum provides 93 per cent of their primary energy requirements. The rest is supplied by hydroelectric plants or by recently developed geothermal stations.

With energy consumption in Central America increasing at an annual rate of 9 per cent, the value of oil imports for the countries in the region nearly tripled from $73.3 million in 1971 to $310.5 million in 1974. To find ways to lessen the disruptive effect of increased capital outlay for imported energy, a UNDP-organized mission visited Central America in 1974. The Central American Integration Secretariat (SIECA) and the office in Mexico of the Economic Commission for Latin America (ECLA) also participated.

The mission, suggested immediate action in the following areas:

Establishment of a Central American Energy Commission;

The setting up of a basic energy information system;

The analysis of energy demands and supplies;

Energy legislation;

The exploration of geothermal resources;

The exploitation of hydroelectric resources;

The inter-connexion of electrical grids;

The training of human resources in energy matters;

Energy conservation in transportation and industry;

For the longer term, the mission recommended increased efforts to develop primary sources of energy—petroleum, hydropower, geothermal energy and coal, and the substitution of local energy for petroleum.

Because of limitations in funding, UNDP was only able to finance two of the suggested projects: the regional development of geothermal energy initiated in 1977, and the study of the interconnexion of electrical grids begun in 1975. At the end of the first stage of this latter study, it was shown that more than $500 million out of a total investment of $2,500 million could be saved by the countries in the region between 1980 and 2000 through the interconnexion of their electrical grids.

During this time the Central American Energy Commission was created as a technical and consultative body of the integration scheme, with its Secretariat at SIECA. One national Energy Commission was also set up.

The OPEC contribution to the UNDP-supported regional project will enable Costa Rica, El Salvador, Honduras, Guatemala and Nicaragua to expand their co-operative energy programme. Its main elements are development of geothermal energy; realization of the region's hydroelectric potential; the interconnexion of national electrical grids; petroleum exploration; developing coal and begetal energy resources; formulating energy investment policies; creating an energy information system and joint ventures in energy production and marketing.

DEVELOPMENT OF THE NIGER RIVER BASIN

The Development of the Niger River Basin project involves nine West African countries: Benin, Chad, Guinea Bissau, Ivory Coast, Mali, Niger, Nigeria, United Republic of Cameroon, Upper Volta—six of them designated as "least-developed" by the United Nations. Back in 1963, these countries signed a joint agreement on navigation and economic cooperation, establishing the River Niger Commission (RNC) to encourage, promote and co-ordinate studies and programmes concerning exploitation and development of the river basin's resources.

Exploitation of the hydrological potential of the Niger, the seventh largest river in the world, is the key to development of its 1.9 million square mile catchment, inhabited by some 40 million people.

With assistance from the UNDP, the RNC has carried out studies on flood control, set up a documentation centre and made first attempts to draw up a comprehensive development Plan for the River Basin as a whole. At multi-donor meetings held in late 1976 and early 1977 to refine these achievements a five-year estimated $26 million joint Action Programme was approved. The Programme involves increased support for the RNC, studies in such fields as hydro-meteorology, hydro-geology, soils and land use surveys, hydro-electric potential, and demographic and socio-economic studies.

The OPEC Special Fund contribution of $5 million brings to $18 million the funds thus far mobilized for the Five-year Joint Action Programme, for which UNDP is providing $2 million and other donors, $11 million. The first phase of the programme will involve a complete diagnosis of development constraints in the Niger River basin.

OFFSHORE PROSPECTING

Technical Support for Regional Offshore Prospecting in East Asia involves Indonesia, Republic of Korea, Malaysia, Papua New Guinea, the Philippines, Singapore, Thailand, Republic of Vietnam, and the Trust Territory of the Pacific Islands, as well as UNDP, the United Nations, and mining and geological services departments and/or state oil companies of the countries concerned.

The countries involved are all members of the Committee for Co-ordination of Joint Prospecting for Mineral Resources in Asian Offshore Areas (CCOP). UNDP has been assisting them with offshore prospecting since 1972, with a project designed to increase regional technical and scientific knowledge of mineral potentials in near-shore, offshore, and adjoining oceanic areas of East Asia and to augment national capabilities to carry out offshore surveys and investigations.

The project has undertaken joint surveys and research programmes, introduced new techniques of exploration to the area, provided advisory services and trained national personnel. It has also published and disseminated technical information on survey results and compiled sea-floor maps. The deep-sea drilling operations have discovered potential mineral and petroleum-bearing areas, some with highly significant economic implications, and the project has played a catalytic role in mobilizing bilateral and multilateral aid for complimentary surveys and other activities.

In order to proceed with their increasingly complex tasks, the CCOP member countries need additional and highly specialized advisory services, as well as advanced training for their personnel. The OPEC Special Fund contribution of $2 million will enable UNDP to extend its assistance through 1981. Future work will include special geological studies; seminars and meetings; joint training programmes; and actions to combat marine pollution.

RED SEA AND GULF OF ADEN FISHERIES

The Development of the Red Sea and Gulf of Aden Fisheries, a new project, will involve a number of countries in this area, UNDP, FAO and the Indian Ocean Fishery Survey and Development Programme (IOP).

Surveys have found that the fisheries of the Red Sea and Gulf of Aden are underdeveloped and underexploited. While the total fishery yield from the waters of the area is currently about 190,000 metric tons, the potential annual yield is estimated at 500,000 metric tons—an increase of some 300,000 tons annually. Development and expansion of the fisheries would provide additional supplies of fish as an alternative protein food for the people of the countries concerned, create new employment opportunities, and improve the living standards of the fishermen. This would both preserve the existence of active fishing communities and promote greater diversification of national economies.

At present the waters of the Red Sea and Gulf of Aden are exploited primarily by artisanal fishermen using traditional small wooden craft and primitive fishing gears. Shore facilities, associated support services and marketing and distribution systems are extremely poor and quite inadequate, even for the current low levels of fishing effort and production.

The three-year project will concentrate on increasing the effort of the present fisheries. First emphasis will be on small-scale fishery and the use of fishing vessels, gear and methods commensurate with the manpower and skills available in the area. Second emphasis will be on achieving significant gains in output in the short run.

Longer range objectives will be to build up the efficiency of the fisheries for effective exploitation of the marine resources of the area, with increase in production of fish for domestic use and possible export.

The regional project will enable a co-ordinated approach to ensure that each country's fisheries are exploited in a rational and safe manner for the benefit of all countries in the region. It will also provide common methods of survey, analysis and evaluation, open up free exchange of knowledge, information and experience in all aspects of fisheries development. There will be joint training programmes, pooling of technical facilities and personnel, and work to identify possible joint venture operations between member countries in fishing, processing, marketing and distribution.

SOVIET MOBILE MISSILE

Mr. THURMOND. Mr. President, at various times in the past few months, the Defense Department has revealed significant Soviet arms initiatives which serve to destabilize United States-Soviet relations.

In the November 3, 1977, issue of the New York Times, there appeared an article entitled "Pentagon Aides Say Moscow Has Mobile Missiles Able To Reach United States."

This article confirms early warnings by many of us here in Congress that the

Soviets could deploy on short notice a strategic mobile missile capable of striking U.S. targets. This missile, like the cruise missile, is not subject to current verification procedures.

This confirmation by the Defense Department follows earlier admissions that the Soviets had developed a satellite killer, and had under development four or five new land based missiles plus a new ballistic missile submarine in the Trident size class. The new submarine has been labeled the Typhoon.

While the Soviets continue to surge ahead in various weapons programs, U.S. policymakers continue to promote restraint in even more areas of research and development.

Moreover, the Carter administration is finalizing a SALT II agreement which is filled with dangers. This is especially so when our own defense posture vis-a-vis the Soviets is coming into greater question.

While the United States has unilaterally terminated the B–1 bomber program, ended Minuteman III production, and slowed M–X development, the Soviets are continuing to accelerate their strategic programs.

Our policy of unilateral restraint in weapons development in the face of these documented developments is a grave mistake for which we may pay dearly.

However, it is reassuring to read in the press an increasing number of articles on these subjects which indicate the media, if not the administration, recognize the dangers toward which we are headed. A recent example of these writings is an editorial which appeared in the November 1, 1977, issue of the Wall Street Journal entitled "Inviting a Crisis."

Mr. President, I ask unanimous consent that the New York Times and the Wall Street Journal articles, referred to earlier in my comments, be printed in the RECORD.

There being no objection, the articles are ordered to be printed in the RECORD, as follows:

PENTAGON AIDES SAY MOSCOW HAS MOBILE MISSILES ABLE TO REACH U.S.

(By Bernard Weinraub)

WASHINGTON, November 2.—The Soviet Union, in a potentially disturbing strategic advance, is producing mobile missiles capable of reaching the United States, according to Pentagon sources

Within the last 18 months, the sources said, the Soviet Union has produced at least 100 of these missiles, which are designed to be launched from trucks, and have a range of at least 2,400 miles.

Although the Pentagon and Administration officials insist that the Soviet Union is not deploying its mobile missiles, the Soviet decision to produce the weapons, and store them in warehouse and bunkers, has placed the Soviet Union far ahead of the United States in mobile-missile capability. Defense Secretary Harold Brown recently approved development funds for an American mobile-missile system, and a decision on production of the weapon, known as the MX missile, is set for the mid-1980's.

ADDED RANGE INTRODUCED

Development of the Soviet missile, called the SS–16, was essentially completed by the end of 1975, and the weapon has undergone various tests within the Soviet Union. "Serious production" of the mobile missile began more than a year ago, the sources said, although details about the production rate and planned use of the missles remain somewhat obscure.

The Soviet Union has already deployed a medium-range mobile missile—called the SS–20—capable of reaching Europe or China. By adding a third stage to that missile, sources said, the Soviet Union has now produced a mobile missile with intercontinental range but has stopped short of deploying it.

Production of the new missile is expected to complicate talks on limiting strategic arms, partly because the problem of verifying how many missiles each side deploys are compounded with development of new mobile weapons that can be readily moved and hidden.

Moreover, a proposed three-year arms agreement involving a ban on testing and deployment of mobile intercontinental ballistic missiles seems, to several Pentagon officials, somewhat academic in view of the Soviet Union's production of a mobile missile. The proposed ban on mobile missiles is included in an agreement now being negotiated with the Soviet Union.

There is some disagreement within the Pentagon and the Administration about the reasons for Soviet production of the missile and its strategic importance. The mobile missile is less powerful than other intercontinental ballistic missiles now deployed by the Soviet Union, and is generally viewed as primarily a retaliatory weapon in the event of attack.

"We are not particularly frightened by this," one Pentagon official said, "because the 16's are not threatening, compared to the others, and there are constraints on the accuracy of this weapon. What's unclear is why they're doing this."

But another official said: "If we deployed, it would be clearly troublesome, it would have a destabilizing effect. Bringing a new system in always does have a destabilizing effect."

Although Pentagon officials asserted that the new mobile system was not being deployed, knowledgeable defense sources said that the weapon could probably be removed from warehouses, placed on vehicles and deployed quickly, probably in a matter of days. Pentagon officials speculated that the reason the Soviet Union had not deployed the weapon was because of potentially strong American reaction.

President Carter, at a news conference in February, urged the Soviet Union to halt deployment of the SS–20 mobile missile, and noted that the weapons were "very difficult to pinpoint" because of their mobility. The President said that continued development of Soviet mobile missiles "would put a great pressure on us to develop a mobile missile of our own."

Harold Brown, in a speech two months ago, expressed concern about the Soviet Union's accelerating defense programs, and cited the "continuing work on the SS–16, their mobile ICBM."

"Exactly why the Soviets are pushing so hard to improve their strategic nuclear capabilities is uncertain," said Mr. Brown.

INVITING A CRISIS

Even as President Carter tries to reassure the nation he has no new initiatives up his sleeve, he is stumbling into a battle likely to dwarf energy, Panama and the rest of his current troubles. Indeed, the emerging strategic arms agreement is likely to provoke the sharpest treaty battle since the epic bitterness over the League of Nations.

While the Soviets are trying to squeeze out a few more drops of blood in the current talks at Geneva, the concessions they won in the Carter-Gromyko bargaining a month ago already insure major opposition in the Senate. The concessions go far beyond anything the Russians would have dreamed of winning from former Secretary of State Kissinger. The draft provisions are open to a whole series of objections, any one of them serious enough to call for a treaty's defeat.

Crucial limitations would be utterly impossible to verify, for instance, allowing the Soviets to cheat with impunity. The terms already agreed to would limit the American cruise missile so sharply the promising weapon might not even be worth developing. The treaty would undercut the administration's commendable efforts to revitalize the NATO alliance, instead insuring the further demoralization of our European allies. It would guarantee the Soviets an advantage in missile throw weight on the order of 10–1, posing a severe threat to the American Minuteman missile while precluding substitutes such as the proposed MX missile. Each of these points deserves extended discussion.

The most immediately worrisome aspect of the new agreement, though, is the message it conveys to the Soviets about Mr. Carter and his administration. Last March the administration offered what it regarded as sensible arms control measures. The Soviets rejected these proposals out of hand. The administration's response was to go limping back again and again with new and successively weaker proposals. On the most important issues on the table, the Soviets stonewalled for six months while the Americans caved.

Take, for example, the issue of heavy missiles. The Soviets have 308 heavy missiles, each about seven times the payload of a Minuteman. The U.S. has no such huge missiles, and under the treaty would be prohibited from building any. Since it's difficult to see the utility of such weapons for any purpose except a first strike against the other side's missiles, the Carter administration set out in March to get some limit on this threat in return for concessions on the cruise missile.

In March the U.S. asked for a limit of 150 Soviet heavy missiles, asking them to tear down half the force. By May, the U.S. was willing to allow them to keep the whole force, provided only 190 heavy missiles carried multiple warheads (MIRV). Since this is about the current number of heavy missiles with MIRV, the U.S. in essence asked for a freeze on heavy missiles. When the Soviets rejected the 190 number, the U.S. tried a heavy MIRV limit of 220. With that rejected, it tried 250. Finally, when Mr. Gromyko arrived in town, the U.S. dropped the whole idea.

Similarly, in March the U.S. insisted on specific treaty provisions on how the Soviets could use their Backfire bomber, which they insist is not an intercontinental weapon though it can fly from the Soviet Union over the U.S. to Cuba without refueling. By September the U.S. agreed to keep Backfire out of the treaty if the Soviets would make a separate promise not to increase its production rate, even though they refuse to say what the current production rate is.

To buy the limits on heavy missiles and Backfire sought last March, the U.S. offered a cruise-missile concession limiting the range of air, land and ground-based cruise missiles to 2,500 kilometers. Bombers carrying cruise missiles would not have been counted against the agreed number of MIRV missiles. In the September agreements, if the U.S. builds more than about 120 such bombers it must tear down Minuteman or submarine MIRV missiles. And land-based and sea-based cruise missiles would be limited to a practically useless range of 600 kilometers. In return for scrapping the concessions asked of the Soviets, the Americans are giving larger concessions of their own.

The March proposals were in themselves open to serious question, so the September agreements are drawing serious opposition as they are explained to the Senate. But putting aside the effect on the strategic pos-

ture in 1985, the collapse of the American negotiating position raises dangers in 1977. The lack of resolution Mr. Carter displayed to the Soviets between March and September invites them to try pushing him around throughout the world.

DR. IRA NORTH

Mr. SASSER. Mr. President, October 23 marked a significant anniversary in the life of one of our country's foremost religious leaders. On October 23, Dr. Ira North observed his 25th anniversary as minister of the Madison Church of Christ in Madison, Tenn.

Dr. North is respected and loved not only across the State of Tennessee, but throughout the Nation as well. He is a humane and compassionate minister to the needs of mankind—particularly the little children. His church has taken the lead in providing shelter, sustenance, and love for many homeless and deprived children. Not the least of his many accomplishments are his lovely wife, Avone, and his two splendid sons, Steve and Phillip, who are a credit to their family and their community.

Dr. North's personal dedication to strengthening the strong moral fiber of our Nation is well known, and I feel that we can all learn from his example. Under his leadership, the Madison Church of Christ has grown to be one of the great churches of this country. The church now has 3,679 members with 1,926 families, and a regular church attendance of 4,879. The church is among the largest Churches of Christ in the country. Twenty-five years ago Dr. North preached to 553 members of his bible school. Now, in two sessions, over 3,000 people hear his lesson every Sunday.

The physical demands of Dr. North's position are difficult to imagine. He tends a 3,000-seat auditorium and an array of buildings covering a city block in Madison, a suburb of Nashville. Excavation has begun for a new million dollar education and activities building to meet the ever-increasing demands of the members of the Madison Church of Christ. Additionally, the church is the first in Metropolitan Nashville to have a million dollar budget.

Dr. North is not content to rest on his laurels, though. In January 1978, he will become editor of the Gospel Advocate, the oldest and largest publication serving the Churches of Christ.

I commend to the attention of my colleagues the energy and devotion of my friend Dr. Ira North. Surely his "light shines before men."

RAOUL BERGER CALLS PANAMA CESSION A LANDMARK IN PROGRESSIVE ATTRITION OF CONGRESSIONAL POWERS

Mr. HELMS. Mr. President, this morning the distinguished constitutional authority, Prof. Raoul Berger of the Harvard Law School, appeared in testimony before the Separation of Powers Subcommittee of the Judiciary Committee to discuss the Panama Treaties in the light of article IV, section 3 of the U.S. Constitution. Dr. Berger needs no introduction; he is the leading authority on American constitutional law, the author of many books on the U.S. Constitution, including the well-known Executive Privilege which had such great impact on the constitutional questions presented during the Watergate controversy.

Dr. Berger appeared before that subcommittee at the request of its distinguished chairman, the Senator from Alabama, Mr. ALLEN. He was asked to comment on the significance of the Panama Treaties—treaties which have been initiated at the will of the Executive—in the light of the constitutional mandate which gives Congress the authority to dispose of U.S. territory and property.

This is a matter of great interest to me, since I am presently party to a suit filed October 13 before the U.S. Supreme Court as HELMS, et al., against Carter, seeking a declaratory judgment on that very question. In that suit, I am joined by our distinguished colleagues, Mr. THURMOND, Mr. MCCLURE, Mr. HATCH, and our colleague in the House, Mr. FLOOD. In addition, five States, Idaho, Iowa, Louisiana, Nebraska, and Indiana are associated with the suit, four as States plaintiffs, and one in the person of the attorney general of that State.

We filed this suit precisely because we felt that the unprecedented action of the executive branch, in claiming the right to dispose of U.S. territory and property by treaty, without authorization from Congress, constituted a precedent on great magnitude.

It was gratifying, therefore, to find that Professor Berger is of the same opinion with regard to what he calls the "Panama cession."

Dr. Berger states as follows:

The effect of these hearings ranges beyond the Panama treaty. The Panama cession will constitute a landmark which, should the State Department prevail, will be cited down the years for "concurrent jurisdiction" of the President in the disposition of United States property. Acquiescence in such claims spells progressive attrition of Congressional powers; it emboldens the Executive to make even more extravagant claims. I would remind you that Congressional acquiescence encourages solo Presidential adventures such as plunged us into the Korean and Vietnam wars. Congressional apathy fostered the expansion of executive secrecy. Then as now the State Department invoked flimsy "precedents," for example, the pursuit of cattle rustlers across the Mexican border, to justify presidential launching of a full scale war. If Congress slumbers in the face of such claims it may awaken like Samson shorn of his locks.

Mr. President, this is pretty strong language. But Dr. Berger backs it up with a detailed legal analysis of the pretentious claims of the executive branch, tearing to shreds the fallacies of the executive branch claims. This is a matter of extreme importance, which ought to be made available to every Senator before the beginning of the nonlegislative period.

Mr. President, I ask unanimous consent that the statement of Prof. Raoul Berger be printed in the RECORD at the conclusion of my remarks.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY PROF. RAOUL BERGER

You have invited me to comment on the relation between the Article IV, Section 3(2) power of Congress to dispose of property of the United States and the treaty power, in light of the statements respecting the relation by Herbert J. Hansell, Legal Advisor, Department of State,[1] and Ralph E. Erickson, Deputy Assistant Attorney General.[2] Although I am in favor of the Panama Canal Treaty, I share your solicitude for the preservation of constitutional boundaries and your concern lest the function committed to Congress be diminished. I have long held the conviction that all agents of the United States, be they Justices, members of Congress, or the President, must respect these boundaries. No agent of the people may overlap the bounds of delegated power. That is the essence of constitutional government and of our democratic system.

Long experience has led me to be skeptical of arguments by representatives of the Executive branch when they testify with respect to a dispute between Congress and the President, for they are then merely attorneys for a client, the President. It was for this reason that Justice Jackson dismissed his own prior statements in the capacity of Attorney General as mere advocacy, saying, a "judge cannot accept self-serving press statements for one of the interested parties as authority in answering a constitutional question, even if the advocate was himself."[3] The Hansell-Erickson testimony did not serve to diminish my skepticism.

The effect of these hearings ranges beyond the Panama treaty. The Panama cession will constitute a landmark which, should the State Department prevail, will be cited down the years for "concurrent jurisdiction" of the President in the disposition of United States property. Acquiescence in such claims spells progressive attrition of Congressional powers; it emboldens the Executive to make ever more extravagent claims. I would remind you that Congressional acquiescence encourages solo Presidential adventures such as plunged us into the Korean and Vietnam wars. Congressional apathy fostered the expansion of executive secrecy. Then as now the State Department invoked flimsy "precedents," for example, the pursuit of cattle rustlers across the Mexican border, to justify presidential launching a full scale war.[4] If Congress slumbers in the face of such claims it may awaken like Samson shorn of his locks.

Earlier judicial statements that this or the other executive practice has been sealed by long-continued Congressional acquiescence[5] need to be reexamined in light of more recent judicial opinions, more conformable to the Constitution, that Congress may not abdicate its powers,[6] and a fortiori, it cannot lose them by disuse,[7] that usurpation can not be legitimated by repetition.[8] Senatorial insistence on respect for constitutional boundaries will warn the Executive against encroachments on Congress' powers; it will alert foreign nations to the fact that treaties for the cession of United States property must be subject to the consent of the full Congress.

Mr. Erickson, addressing himself to the question whether Article IV, Section 2(3), "pursuant to which Congress has the power to dispose of property of the United States is an exclusive grant of legislative power to the Congress or whether the Congress and the President and the Senate, through the treaty power, share that authority," handsomely states that "the answer to this question is not simple and altogether free from doubt."[9] That doubt counsels against encroachments on a power explicitly conferred on Congress; a clear case for establishment of "concurrent jurisdiction" is needed in the teeth of that express grant.

In support of the claim that the President and Senate enjoy "concurrent power" to dis-

Footnotes at end of article.

pose of United States property, Messrs. Hansell and Erickson invoke a melange of dicta, without weighing even stronger statements that Congress' disposal power is "exclusive." Thus the Supreme Court declared that Article IV "implies an exclusion of all other authority over the property which could interfere with this right or obstruct its exercise." [16] Echoing such judicial statements, an opinion of the Attorney General stated in 1899 that "The power to dispose permanently of the public lands and public property in Puerto Rico rests in Congress, and in the absence of a statute conferring such power, can not be exercised by the Executive Department of the Government." [11]

Such statements respond to two cardinal rules of construction. First there is the rule that express mention signifies implied exclusion, which the Supreme Court has employed again and again: "When a statute limits a thing to be done in a particular mode, it includes the negative of any other mode." [12] The rule was invoked by the Founders; for example, Egbert Benson said in the First Congress, which sat many Framers and Ratifiers, that "it cannot be rationally intended that all offices should be held during good behaviour, because the Constitution has declared [only] one office to be held by this tenure." [13] The fact, emphasized by Hansell, that "The property clause contains no language excluding concurrent jurisdiction of the treaty power" is therefore of no moment. Having given Congress the power to dispose of public property, it follows that the President and Senate were "impliedly excluded" therefrom. Second there is the settled rule that the specific governs the general:

"Where there is in an act a specific provision relating to a particular subject, that provision must govern in respect to that subject as against general provisions in other parts of the act, although the latter, *standing alone*, would be broad enough to include the subject to which the more particular provision relates." [14]

In terms of the present issue, the specific power of disposition governs the general treaty provision.

Under these rules it is of no avail that, according to Hansell, "there is no restraint *expressed* in respect to dispositions" in the treaty power itself. For this Mr. Hansell relies on *Geofroy* v. *Riggs:*

"The treaty power, as *expressed* in the Constitution, is in terms unlimited *except* by those *restraints which are found* in that instrument against the action of the . . . departments. . . ." [15]

Only the treaty power is "expressed"; Geofroy does not call for express *restraints*—it suffices that they can be *found* in the Constitution. The "implied exclusion" is "found" in the Constitution by virtue of the express grant of disposal power to Congress under the rule of express mention, and of the fact that the general treaty power is limited by the special Congressional power of disposition. These principles are reflected in the Supreme Court's statement in *Sioux Tribe of Indians* v. *United States:*

"Since the Constitution places the authority to dispose of public lands exclusively in Congress, the Executive's power to convey any interest in the lands must be traced to Congressional delegation of its authority." [16]

To this the State Department responds that *Sioux Tribe* "did not deal with the relation between the treaty power and the Congressional power under Article IV, Section 3, cl.2;" Hansell labelled it "dicta." [17] By this test the Hansell-Erickson collection of dicta falls to the ground, for almost all were not uttered in the context of that relation.

The Executive branch employs a double standard—what is dictum when the language is unfavorable to it becomes Holy Writ when the dictum reads in its favor. Erickson, for example, tells us that—

"Jones against Meehan is cited as an example by reason of the quote and the language there, which it seems to me is of significance, irrespective of the particular facts involved." [18]

Messrs. Erickson and Hansell cannot have it both ways. In truth, dicta carry little weight when a particular issue has not been decided. Chief Justice Marshall dismissed his own dicta in *Marbury* v. *Madison* when they were pressed upon him in *Cohens* v. *Virginia*, 19 U.S. 264, 399 (1821), on the ground that dicta do not receive the careful consideration accorded to the question "actually before the court." The statements here quoted respecting "exclusivity" carry weight because they reflect traditional canons of construction. The foregoing considerations should suffice to dispose of a number of other Hansell-Erickson arguments for "concurrent jurisdiction," but I shall conside them for the sake of completeness.

To escape from the exclusivity of Congress' disposal power Mr. Erickson argues:

"To begin with, Article IV, Section 3, clause 2, uses the same terminology, "Congress shall have power," as Article I, Section 8, which in our opinion, permits treaty provisions relating to such matters to be self-executing [i.e., without Congressional action], at least to the extent that the inherent character of the power or other constitutional provisions do not make the power exclusive to Congress." [19]

Erickson's qualification is a concession that some Article I powers can not be concurrently exercised by the President. The Department of State concedes that "treaties may [not] impose taxes." [20] Why is that power more "inherently" exclusive than such other Article I, Section 8 powers as the power to establish post offices, to provide and maintain a navy, to declare war, to coin money, etc., all of which manifestly can not be exercised by treaty. Erickson proves too much.

Second, he urges:

"Article IV, Section 3, clause 2, is included in a portion of the Constitution which deals with the distribution of authority between the Federal and State governments. It does not purport to allocate powers exercisable by Congress or pursuant to treaty." [21]

But Section 3(2) unmistakably does "allocate powers exercisable by Congress": "The Congress shall have power to dispose of . . . property belonging to the United States." Hansell argues that the *placement* of the property article in clause 4 . . . provides *strong* evidence that the property clause does not restrict the treaty power." [22] That the "placement of a power in one or another Article is without significance for its scope is readily demonstrable: (a) "Congress shall have power to declare the punishment of treason" is located in the Judiciary Article III; (b) Congress' powers to make "exceptions and regulations" respecting the Supreme Court's appellate jurisdiction is lodged in Article III, Section 2; (c) the provision that "Congress may determine the time of choosing the electors" is placed in the Executive Article II, Section 1 (4).

Does this authorize the President by treaty to declare the punishment of treason, to regulate the Court's appellate jurisdiction, or to interpose in the choice of electors? Whether located in Article I or Article IV, "Congress shall have power" means one and the same thing—the power resides in Congress, not in the President. It needs constantly to be borne in mind that the President has circumvented Senate participation in treaty-making by affixing the label "Executive Agreements" to treaties, without constitutional warrant,[23] so that claims made on behalf of the Senate and the President can be turned to his own advantage.

Mr. Hansell also attaches significance to the close linkage between the Article IV "power to dispose" and "the power to make all needful rules and regulations" respecting the Territory or other property belonging to the United States, and cities *Geofroy* v. *Riggs* for the proposition that "the treaty power can be used to make rules and regulations governing the territory belonging to the United States, even in the District of Columbia." [24] *Geofroy* presented the question whether a citizen of France could take land in the District of Columbia by descent from a citizen of the United States. Local law withheld the right, but in keeping with national solicitude for protection of citizens abroad, a treaty provided for reciprocal rights of inheritance in such circumstances for citizens of both signatories. In consequence the treaty overrode the local provision; but this hardly stretches to the "making of rules and regulations" by treaty for the District of Columbia. Were this true, the President could by treaty take over the governance of the District of Columbia, in spite of the Article I, Section 8 (17) provision that "The Congress shall have power to exercise exclusive jurisdiction in all cases whatever over such district." Assume notwithstanding that the treaty power does indeed comprehend the "making of rules and regulations governing the . . . District of Columbia," does the "close" linkage with the "power to dispose" comprehend a disposition of the White House by treaty? Such arguments verge on absurdity.

Messrs. Hansell and Erickson have cited a string of cases in support of "The power to dispose of public land . . . by treaty." [25] Some such as *Holden* v. *Joy*, 84 U.S. 211 (1872), and *Jones* v. *Meehan*, 175 U.S. 1 (1899), have frequently been cited in your hearings. Let me begin with Hansell's citation of *Missouri* v. *Holland*, 252 U.S. 416 (1920), for it quickly illustrates how far-fetched are the State Department's interpretations. *Missouri* v. *Holland* arose out of a State challenge to the treaty with Great Britain for the protection of migratory birds which annually traversed parts of the United States and of Canada. Justice Holms, addressing the argument that the treaty infringed powers reserved to the States by the Tenth Amendment, stated:

"Wild birds are not in the possession of any one, and possession is the beginning of ownership. The whole foundation of the State's rights is the presence within their jurisdiction of birds that yesterday had not arrived, tomorrow may be in another State, and in a week a thousand miles away." [26]

Consequently the State could assert no "title" in migratory birds. By the same token, the United States could lay no claims to "ownership" of the birds, and *Missouri* v. *Holland* is therefore wholly irrelevant to the power by treaty to dispose of property belonging to the United States.

Holden v. *Joy* and *Jones* v. *Meehan* will repay close analysis because they involve Indian treaties which constitute one of the pillars of the argument, to quote Erickson, that "the United States can convey its title by way of self-executing treaty and that no implementing legislation is necessary." [27] To begin with *Jones*, both Hansell and Erickson quote: "It is well settled that a good title to parts of the lands of an Indian tribe may be granted to individuals by a treaty between the United States and the tribe, without any act of Congress, or any patent from the Executive authority of the United States." [28] The treaty had "set apart from the tract hereby ceded [by the tribe] a reservation of six hundred and forty acres . . ." for an individual Indian; and the issue was what kind of title did he take. The Court quoted from an opinion of Attorney General Roger Taney, destined before long to succeed Chief Justice Marshall:

"These reservations are *excepted* out of the grant made by the treaty, and *did not there-*

Footnotes at end of article.

fore pass with it; consequently the *title remains as it was* before the treaty; that is to say, the lands reserved are still held under the original Indian title." [29]

The Court held that "the reservation, unless accompanied by words limiting its effect, is equivalent to a present grant of a complete title in fee simple." [30] That explanation presumably responded to the fact that tribal lands were generally held in common; individual titles were all but unknown, so that such title had to be secured through the machinery of the treaty. But that is far from a disposition of government land because, as Taney explained, the "reserved" title remained in the Indians. Many, if not most, of the cases of Indian treaties involve just such "reserve" provisions.[31]

The quotation from *Holden* v. *Joy*, Erickson acknowledges, is dictum; notwithstanding Hansell relies on its as "a clear statement of the law": [32]

"It is insisted that the President and the Senate, in concluding such a treaty, could not lawfully covenant that a patent should be issued to convey lands which belonged to the United States without the consent of Congress, which cannot be admitted. On the contrary, there are many authorities where it is held that a treaty may convey to a grantee a good title to such lands without an act of Congress, and that Congress has no constitutional power to settle or interfere with rights under treaties, except in cases purely political." [33]

What bearing the last clause has on Congress' "power to dispose" of public lands escapes me; this Delphic utterance surely does not overcome the clear terms of Article IV. As to the "many authorities," the Court's citation could hardly be farther afield.

To avoid cluttering this statement with a minute analysis of each case cited by the Court for the assertion that "a treaty may convey to a grantee a good title . . . without an act of Congress," I have abstracted them in an appendix attached hereto, so that you may see for yourself that half of the cases thus cited are altogether irrelevant, and that the rest concern "reserves" under which, as Taney observed, no title had passed to the United States but remained in the given Indiana. In considering such dicta, it is well to bear in mind Chief Justice Taney's statement that the Court's opinion upon the construction of the Constitution is always open to discussion when it is supposed to have been founded in error, and that its judicial authority should hereafter depend altogether on the force of the reasoning by which it is supported.[34]

By that standard the *Holden* dictum is no authority at all.

The inappositeness of *Holden* is underscored by the facts. In May, 1828, and February, 1833, "the United States agreed to possess the Cherokees of seven million acres of land west of the Mississippi." It "was the policy of the United State to induce Indians . . . to surrender their lands and possessions to the United States and emigrate and settle in the territory provided for them in the treaties," so an exchange of land was provided. But a third treaty, that of December, 1835, proved necessary, whereby the Indians ceded their lands to the United States in consideration of $5,000,000 to be invested in the manner stipulated. The Indians considered that the prior treaties, confirmed by the new, did not contain a sufficient quantity of land, so the United States agreed to convey an additional tract in consideration of $500,000 to be deducted from the $5,000,000.[35] This may be viewed either as a purchase and sale or an exchange: "the Cherokees were competent to make the sale to the United States and to purchase the lands agreed to be conveyed to them . . . "And the transaction was authorized by the Act of 1830, which empowered the President to set aside land west of the Mississippi for the reception of such tribes as chose to emigrate, and to "exchange" such lands with any tribe.[36] The 1830 act served to ratify the Act of 1828, and "ratification is equivalent to original authority" [37]: "It is well settled that Congress may . . . 'ratify . . . acts which it might have authorized' . . . and give the force of law to official action unauthorized when taken." [38] Although the subsequent 1833 and 1835 treaties differed in some particulars from the authorization, the purpose was the same—"to induce the Indians . . . to emigrate and settle in the country long before set apart for that purpose." [39] When, therefore, the Court, speaking to the contention that the President and the Senate "could not lawfully covenant that a patent should issue to convey lands which belonged to the United States without the consent of Congress," stated that "a treaty may convey to a grantee a good title to such lands without an act of Congress conferring it," it was making a statement that was unnecessary to the decision, because Congress *had* authorized the conveyance.

As to other treaties, Hansell tells us, "the precedents looks two ways." Some have been "contingent upon congressional authorization." The "precedents supporting the power to dispose of property by treaty alone," he states, "can be found in the boundary treaties with neighboring powers, especially in the treaties between the United States and Great Britain of 1842 and 1846 for the location of our northeast and northwest boundaries . . ." [40]

Settlement of boundary disputes are not really cessions of United States property. The Oregon boundary dispute proceeded from an inflated claim: "Fifty-Four Forty or Fight"; the British, on the other hand, claimed land down to the forty second parallel. Only when the dispute was settled by treaty—at 49 degrees—could either party confidently assert that it had title.[41] Consequently, as Samuel Crandall, a respected commentator, stated, "A treaty for the determination of a disputed line operates not as a treaty of cession, but of recognition." [42]

Among other examples of alleged treaty transfers of property, Hansell instances the return to Japan of the Ryukyu Islands.[43] By Article III of the 1951 Treaty of Peace with Japan, the United States received the right to exercise "all and any powers of administration, legislation and jurisdiction over the territory and inhabitants of those islands . . ." While Japan renounced, in Article II, "all right, title and claim" to various territories, it made no similar renunciation with respect to the Ryukyus.[44] Quoting the Legal Advisor of the State Department, that "sovereignty over the Ryukyu Islands . . . remains in Japan . . .", a District Court stated that "Sovereignty over a territory may be transferred by an agreement of cession," but it concluded that there had been no cession.[45] The Fourth Circuit Court of Appeals quoted a statement by Ambassador John Foster Dulles, a delegate to the Japanese Peace Conference, that the aim was "to permit Japan to retain residual sovereignty," and held that the treaty did not make "the island a part of the United States, and it remains a foreign country for purposes of" the Federal Tort Claims Act.[46]

"In the history of transfers of property to Panama," Hansell tells us, "we have had a mixed practice." [47] By the 1903 Panama Convention, Panama granted to the United States "all the rights, power and authority within the Zone . . . which the United States would possess *if* it were the sovereign of the territory . . . to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power, or authority . . ." [48] The words "*if* it were sovereign" signal an intent to stop short of a cession of sovereignty. That is confirmed by an *Opinion of the Attorney General*. Considering the Tariff Act levy of duties on articles imported "into the United States or into any of its possessions," he stated that "the Canal Zone is not one of the possessions of the United States within the meaning of that term as used by Congress in the tariff act, but rather is a place subject to the use, occupation, and control of the United States for a particular purpose." [49] In *Luckenbach S.S. Co.* v. *United States*, Chief Justice Taft stated, "Whether the grant in the treaty amounts to a complete cession of territory and dominion to the United States or is so limited as to leave titular sovereignty in the Republic of Panama, is a question which has been the subject of diverging opinions," which he found it unnecessary to decide,[50] and is therefore still open.

Instead he relied on a "long continued course of legislation and administrative action [that] has operated to require that the ports in the Canal Zone are to be regarded as foreign ports within the meaning" of the Act governing the transport of "mail between the United States and any foreign port," [51] itself a hint that the Panama Treaty is no more a cession than the Japanese Treaty respecting the Ryukyus.

It does not follow, however, that the interests of the United States do not constitute "property of the United States." The grant of "use and occupation . . . in perpetuity" constitutes "property" no less than the familiar lease of realty for 99 years. Then there are the installations that cost billions of dollars. Disposition of these no less requires the consent of Congress than does that of territory. In 1942, the President by Executive Agreement promised to transfer certain installations to Panama subject, however, to Congressional approval.[52] A similar provision is to be found in the Treaty of 1955.[53] These are executive constructions that speak against Messrs. Hansell and Erickson.

In sum, Messrs. Hansell and Erickson have failed to make out a case for "concurrent jurisdiction" with Congress in the disposition of United States property. If the President is to fly in the face of the express "power of Congress to dispose" it must be on a sounder basis than the arguments they have advanced. In my judgment, the Panama Treaty should contain a provision making it subject to approval of the Congress.

FOOTNOTES

[1] Hearings on the Panama Canal Treaty before the Senate Subcommittee on Separation of Powers (95th Cong. 1st Sess.) Part II, p. 3 (July 29, 1977), hereafter cited as Hansell.

[2] Hearings before the House Subcommittee on the Panama Canal on "Treaties Affecting the Operations of the Panama Canal," (92 Cong. 2d Sess.) p. 95 (December 2, 1971), hereafter cited as Erickson.

[3] *Youngstown Sheet & Tube Co.* v. *Sawyer*, 343 U.S. 579, 647 (1952), concurring opinion.

[4] R. Berger, *Executive Privilege: A Constitutional Myth* 75–88 (1974).

[5] Congress "uniformly and repeatedly acquiesced in the practice." "It may be argued that while the facts and rulings prove a usage they do not establish its validity. But government is a practical affair intended for practical men. Both officers, law-makers and citizens naturally adjust themselves to any long continued action of the Executive Department—on the presumption that unauthorized acts would not have been allowed to be so often repeated as to crystallize into a regular practice." *United States* v. *Midwest Oil Co.* 236 U.S. 459,471 (1915). But as Justice Frankfurter later declared, "Deeply embedded traditional ways of conducting a government cannot supplant the Constitution or legislation . . ." Youngstown Sheet, supra, n.3 at 610, concurring opinion.

[6] *Panama Refining Co.* v. *Ryan*, 293 U.S. 388, 421 (1935).

[7] *United States* v. *Morton Salt Co.*, 338 U.S. 632, 647 (1950).

[8] "That an unconstitutional action has been taken before surely does not render that same action less unconstitutional at a later date." *Powell* v. *McCormack*, 395 U.S. 486, 546–547 (1969). *Zweibon* v. *Mitchell*, 516 F. 2d 594, 616 (D.C. Cir. 1975): "there can be no doubt that an unconstitutional practice, no matter how inveterate, cannot be condoned by the judiciary." *United States* v. *Morton Salt Co.*, 338, U.S. 632, 647 (1950): "nonexistent powers can [not] be prescripted by an unchallenged exercise . . ."

[9] Erickson 97.

[10] *Wisconsin Cent. R.R. Co.* v. *Price County*, 133 U.S. 496, 504 (1890); see also *Swiss Nat. Ins. Co.* v. *Miles*, 289 Fed. 571, 574 (App. D.C. 1923).

[11] 22 Op. Atty. Gen., 544, 545 (1899). 2 J. Story, *Commentaries on the Constitution of the United States*, Section 1328, p. 200 (4th ed. 1873): "The power of Congress over the public territory is clearly exclusive and universal . . ." Cf. *Osborne* v. *United States*, 145, F. 2d 892, 896 (9th Cir. 1944).

[12] *Botany Worsted Mills* v. *United States*, 278 U.S. 282, 289 (1929); *T.I.M.E.* v. *United States*, 359 U.S. 464, 471 (1959): "we find it impossible to impute to Congress an intention to give such a right to shippers under the Motor Carrier Act when the very sections which established that right in Part I [for railroads] were wholly omitted in the Motor Carrier Act."

[13] *1 Annals of Cong.* 505 (2d ed. 1836) (print bearing running head "History of Congress"); and see Alexander White, id. 517.

[14] *Swiss Nat. Ins. Co.* v. *Miller*, 289 Fed. 570, 574, (App. D.C. 1923) *Ginsberg & Son* v. *Popkin*, 285 U.S. 204, 208 (1932): "General language of a statutory provision, although broad enough to include it, will not be held to apply to a matter specifically dealt with in another part of the same enactment." *Buffum* v. *Chase Nat. Bank*, 192 F.2d 58, 61 (7th Cir. 1951). In this light, the fact, stressed by Hansell, that the Framers contemplated that a treaty could affect "territorial" rights, Hansel 5, is not decisive, for the treaty would yet be subject to the special Congress "power to dispose." There is no evidence in the records of the Convention that the Framers intended in any way to curtail that power, or to give the President a share in it. Were the matter less clear, we should yet "prefer a construction which leaves to each element of the statute a function in some way different from the others" to one which causes one section to overlap another. *United States* v. *Dinerstein*, 362 F. 2d 852, 855–856 (2d Cir. 1966).

[15] Hansell 4; 133 U.S. 258, 267 (1890), emphasis added. One might with equal force argue that no limitation on Congress' "power to dispose" is "expressed" in Article IV.

[16] 316 U.S. 317, 326 (1942). *Turner* v. *American Baptist Missionary Union*, 24 Fed. Cas. (No. 14, 251) 344, 346 (C. Ct. Mich. 1852): "Without a law the president is not authorized to sell the public lands . . . The [Indian] treaty, in fact appropriated the above tract of 160 acres for a particular purpose, but, to effectuate that purpose, an act of Congress was passed."

[17] Hansell 27, 22.

[18] Erickson 105.

[19] Id. 97.

[20] Hansell 25.

[21] Erickson 97.

[22] Hansell 4–5, emphasis added.

[23] Berger, supra, n. 4 at 140–162.

[24] Hansell 5.

[25] Id.; Erickson 97.

[26] 252 U.S. at 434.

[27] Erickson 97.

[28] Hansell 6; Erickson 97.

[29] 175 U.S. at 12, emphasis added.

[30] Id. 21.

[31] See infra Appendix.

[32] Erickson 97; Hansell 22.

[33] Quoted by Hansell 5–6; 84 U.S. at 247.

[34] *The Passenger Cases*, 48 U.S. (7 How.) 283, 470 (1849), dissenting opinion.

[35] 84 U.S. at 237, 238, 241.

[36] Id. 245, 238–239.

[37] *Wilson* v. *Shaw*, 204 U.S. 24, 32 (1907).

[38] *Swayne & Hoyt, Ltd.* v. *United States*, 300 U.S. 297, 301–302 (1937).

[39] 84 U.S. at 240.

[40] Hansell 6.

[41] S. E. Morison, *Oxford History of the American People* 538, 546–547 (1965).

[42] S. Crandall, *Treaties, Their Making and Enforcement* 226 (2d ed. 1916).

[43] Hansell 6.

[44] 3 U.S.T. 3169, 3172, 3173.

[45] *United States* v. *Ushi Shiroma*, 123 F. Supp. 145, 149, 148 (D. Hawaii, 1954).

[46] *Burna* v. *United States*, 240 F. 2d 720, 721 (4th Cir. 1957).

[47] Hansell 7.

[48] Quoted Hearings, supra n. 1, Part I, p. 5. emphasis added.

[49] 27 Op. Atty. Gen. 594, 595 (1909).

[50] 280 U.S. 173, 177–178 (1930).

[51] Id. 178.

[52] "When the authority of the Congress . . . shall have been obtained therefore . . ." Agreement of May 18, 1942, 59 Stat. (Pt. 2) 1289.

[53] Agreement of January 25, 1955 6 U.S.T. 2273, 2278.

APPENDIX

I

Holden v. *Joy:* its citations for treaty power to dispose of property.

A. "Reserve" cases (title remains in Indians):

(1) *United States* v. *Brooks*, 51 U.S. (10 How.) 442 (1850).

Indian cession to United States; supplement to treaty provided that Grappe's representatives "shall have their right to the said four leagues of land reserved to them . . ." (450, 451). Held: treaty "gave to the Grappes a fee simple title to all the rights the [Indians] had in these lands . . ." (460).

(2) *Doe* v. *Wilson*, 64 U.S. (23 How.) 457 (1859). Indian treaty ceded land to United States, making reservations to individual Indians. "As to these, the Indian title remained as it stood before the treaty was made; and to complete the title to the reserved lands, the United States agreed that they would issue patents to the respective owners." (461–462).

(3) *Crews* v. *Burcham*, 66 U.S. (1 Black) 352 (1861). Cession by Indians with reserves (355). "The main and controlling questions involved in this case were before this court in the case of *Doe* v. *Wilson*, 23 How. 457 . . ." (356).

(4) *Mitchel* v. *United States*, 34 U.S. (9 Pet.) 711 (1835). Prior to the Spanish cession of Florida to the United States, the Indians had made a cession to Spain, "reserving to themselves full right and property" in certain lands (749). Held: "by the treaty with Spain the United States acquired no lands in Florida to which any person had lawfully obtained" title. (734, 756). Issue: title of purchasers from Indians to reserved lands.

(5) *The Kansas Indians*, 72 U.S. (5 Wall.) 737 (1866). Treaty exchange of lands; Indians reserved lands for each individual (739, 741). Issue: was such land taxable by Kansas.

B. Irrelevant Cases:

(1) *Meigs* v. *McClung*, 13 U.S. (9 Cranch) 11 (1815). Held: land claimed from defendants did not lie within territory ceded to the United States by the Indians. (17).

(2) *Wilson* v. *Wall*, 73 U.S. (6 Wall.) 83 (1967). Treaty provided that certain Indians would be entitled to 640 acres for self, and additional acres, roughly speaking, for each child. (84). Issue: whether an Indian held land governed by the latter clause in trust for his children. (86). Court said "Congress has no constitutional power to settle the rights under treaties except in cases purely political," (89) the clause quoted in *Holden* v. *Joy*. The reason, it explained, was that "The Construction of them is the peculiar province of the judiciary . . ." *id.* In other words, interpretations of treaties is for the courts.

(3) *American Insurance Co.* v. *Canter*, 26 U.S. (1 Pet.) 511 (1828). Insurer brought a libel in the District Court, South Carolina, to obtain restitution of 356 bales of cotton carried by ship that was wrecked on the Florida coast. A Florida territorial court had earlier awarded 76⅔ salvage to salvers, who sold the Canter. (540). Issue: did the territorial court have jurisdiction. No mention of grant by United States.

(4) *Worcester* v. *Georgia*, 31 U.S. (6 Pet.) 515 (1832). Worcester, a white missionary was convicted of residing within Indian territory without a State license. The treaty with the Indians placed them under the protection of the United States, gave it the sole right of "managing all their affairs." Held: the Georgia act can have no force in the Indian territory. (561).

(5) *Foster* v. *Neilson*, 27 U.S. (2 Pet.) 253 (1829). Re grants made in the ceded territory by Spain prior to January 24, 1815, the article provides "that those grants shall be ratified and confirmed like Indian reserves . . . the ratification and confirmation which are promised must be by the Act of the Legislature," i.e. Congress. (314–315).

II

Some additional Hansell citations for power to dispose by treaty.

(1) *Reid* v. *Covert*, 354 U.S. 1 (1957). Military Code provided for trial by court martial of "all persons . . . accompanying the armed forces" of the United States in foreign countries. Wife of Army Sergeant convicted by court martial in England of his murder. Held: Bill of Rights requires jury trial after indictment.

(2) *Asakura* v. *Seattle*, 265 U.S. 322 (1924). Seattle ordinance restricted pawnshop license to United States citizen. (339–340). Japanese attacks as violation of treaty provision: citizens or subjects of each signatory "shall have liberty . . . to carry on trade, wholesale and retail . . . upon the same terms as native citizens or subjects. . ." (340). Held: can't deny the Japanese equal opportunity. (342).

(3) *Santovicenza* v. *Egan*, 284 U.S. 30 (1931). Italian subject dies in New York, leaving no heirs or next of kin. (351). Italian consul claims under "most favored nation" treaty clause. Held: The treaty-making power is broad enough to cover "the disposition of the *property of aliens* dying within the territory of the respective parties. . ." Any "conflicting law of the State must yield." (40).

III

Some additional Erickson citations for self-executing treaty conveyances.

(1) *Francis* v. *Francis*, 203 U.S. 233 (1906) Indian treaty ceded land to United States, but reserved certain tracts for use of named persons. (237). Quotes *Jones* v. *Meehan*; when treaty makes "a reservation of a specified number of sections of land ... the treaty itself converts the reserved sections into individual property . . ." (238). It was in these circumstances that the Court said, "a title in fee may pass by treaty without the aid of an act of Congress, and without a patent," (241–242) the reason being that title to the reserved land remained in the Indians.

(2) *Best* v. *Polk*, 85 U.S. (18 Wall.) 112 (1873). By Indian treaty "reservations of a limited quantity [of land] were conceded to them. (113). One section "had been located to an Indian." (113, 116). Thereafter, the United States issued a patent to James Brown. Held (117), "the Indian reservee was held to have a preference over the subsequent patentee."

ADDENDUM TO STATEMENT BY RAOUL BERGER

The statement by Attorney General Griffin B. Bell (hereafter cited as A. G.) before the

Senate Foreign Relations Committee, September 29, 1977, reached me on Saturday afternoon, October 29, 1977, too late for inclusion of my comments in the body of my statement. Only three points made by the Attorney General seem to me to call for additional comment, and of these I shall speak in turn.

I

The Percheman case

The Attonrey General cites *United States* v. *Percheman*, 32 U.S. (7 Pet.) 511, 88–89 (1833) to prove that "the Court held self-executing certain clauses of the Florida Treaty with Spain which related to the regulation of property rights in newly acquired territory." A. G. at p. 10. At the cited pages it appears that Article 8 of the treaty provided;

"All the grants of land made before the 24th of January, 1818, by his Catholic Majesty . . . in the said territory ceded by his Majesty to the United States, shall be ratified and confirmed to the persons in possession of the lands". . .

This Article, Chief Justice Marshall remarked; "must be intended to stipulate expressly for that security of private property which the laws and usages of nations would, without express stipulation, have conferred . . . Without it (Article 8), the title of individuals would remain as valid under the new government as they were under the old . . . the security of (pre-existing) private property was intended by the parties". . .

In short, the treaty provided that prior Spanish grants to *private* persons should be ratified and confirmed, a provisio far removed from presidential "regulation" of *public* territory. Moreover, *Foster* v. *Neilson*, 27 U.S. (2 Pet.) 253, 314–315 (1829), a case cited by the Attorney General (A.G. at p. 3), held with respect to the self-same provision that "the ratification and confirmation which are promised must be by the Act of the Legislature," i.e. Congress. The citation to *Percheman* illustrates why I approach an Attorney General's statement with something less than awe.

II

Remarks in the legislative History of the Costitution

(1) The Attorney General asserts that "the members of the Convention were fully aware of the possibility that a treaty might dispose of the territory or property of the United States," (A.G. a p. 5). He begins with the remark of George Mason in the Constitutional Convention: "The Senate by means of a treaty might alienate territory etc. without legislative sanction." A.G. at 6; 2 Farrand 297. This was during a debate on a resolution that "Each House shall possess the right of originating bills," when Mason seconded Strong's motion to "except bills for raising money for the purposes of revenue, or for appropriating the same." The Senate, said Mason, "could already sell the whole Country by means of Treaties," plainly an extravagant overtstatement, made at a time when the treaty was not under discussion. His "alienate territory" remark may merely represent a strategic retreat from his untenable "sell the whole country" remark.

There follow a group of utterances that have reference to boundary disputes, i.e. conflicting claims to ownership to be settled by treaties of peace.

(2) When the treaty power was under discussion, Williamson and Spaight moved "that no Treaty of Peace affecting territorial rights should be made without concurrence of two thirds of the [members of the Senate present]." A.G. at p. 6; 2 Farrand 543. Similarly, Gerry, speaking for a greater proportion of votes on "treaties of peace", said that here "the dearest interests will be at stake, as the fisheries, territories, etc. In treaties of peace also there is more danger to the extremities of the Continent of being sacrificed than on any other occasion."

A.G. at p. 6; 2 Farrand 541. The "extremities of the Continent" has reference to boundary disputes which do not really involve territory owned by the United States.

(3) "Sherman and Morris proposed but did not formally move," the Attorney General states, "the following proviso:

"But no treaty (of peace) shall be made without the concurrence of the House of Representatives, by which the territorial boundaries of the United States may be contracted" . . .

A.G. at p. 6; 4 Farrand 58. Farrand adds that "The subject was than debated, but the motion does not appear to have been made." *Id.* Why was the motion not made after debate? Presumably, the matter was postponed for consideration when Article IV, Section 3(2) would come up for discussion. During this subsequent discussion of "The Legislature shall have power to dispose of . . . the territory . . .", it is singular that no mention was made of an exception for disposition under the treaty power. 2 Farrand 466. Nonmention is the more remarkable because such an exception would carve out an area of undefined magnitude from the power conferred, a matter which would affront the democratically minded who placed their faith in the House.

It seems more reasonable to infer from the history that Article IV, Section 3(2) was designed to set at rest the fears that territory might be ceded without the concurrence of the House.

(4) The Attorney General cites an amendment proposed by the Virginia Ratification Convention as exhibiting the "awareness of the Founding Fathers that the Constitution authorizes self-executing treaties disposing of the territory and property of the United States":

"No commercial treaty shall be ratified without the concurrence of the members, of the Senate [not merely of those present]; and no treaty ceding, contracting . . . the territorial rights or claims of the United States . . . shall be made, but in cases of extreme necessity; nor shall any such treaty be ratified without the concurrence of three-fourths of the whole number of the members of both Houses respectively."

A.G. at p. 7; 3 Elliot, Debates on the Federal Constitution 660. The Attorney General's reading paradoxically transforms Virginia's anxiety to have greater safeguards, i.e. three-fourths of *both* Houses rather than the bare majority that satisfies Article IV, into an argument for excluding the House altogether. Like the earlier remarks, the Virginia proposal testifies to the importance that the Founders attached to the disposition of territory—no cession except "in cases of extreme necessity"—and it counsels against reading the equivocal "treaty-making" to encroach upon the "power to dispose" that requires the vote of both Houses, not merely the Senate. In any event, it may be asked, should the post-Convention view of one State be permitted to override the plain terms of Article IV.

(5) Hugh Williamson, a delegate to the Convention, wrote to Madison some nine months after its close, to recall to him:

"A Proviso in the new Sistem which was inserted for the express purpose of preventing a majority of the Senate . . . from giving up the Mississippi. It is provided that two-thirds of the members present in the Senate shall be required in making treaties."

A.G. at p. 7–8; 3 Farrand 306–307. The Mississippi presented a gnawing boundary question which threatened the expansion of the West and was only settled by the Louisiana Purchase. Boundary treaties do not really involve the disposition of territory or property of the United States but the adjustment of conflicting claims, even when some believe their claims to be more valid than those of the opposing party.

To my mind, the history is at best inconclusive; the remarks quoted by the Attorney General are confined to adjustment of boundary disputes, with one exception, by treaties of peace. Treaties of peace present special problems, and such citations do not add up to general concurrent jurisdiction over the disposition of government territory or property. To go beyond such territorial adjustments collides with the rationale of *Pierson* v. *Ray*, 386 U.S. 547, 554–555 (1967). With respect to the common law immunity of judges from suit for acts performed in their official capacity, the Court declared,

"We do not believe that this settled principle was abolished by Section 1983, which makes liable 'every person' who under color of law deprives another of his civil rights . . . we presume that Congress would have specifically so provided had it wishes to abolish the doctrine."

Thus, the all-inclusive "every person" was held not to curtail an existing common law immunity in the absence of a specific provision. The more equivocal treaty-making power demands an even more exacting standard. Before it be concluded that it in any way diminishes the explicit grant to Congress of "power to dispose" of territory, a clearly expressed intention to do so is required. That requirement is not satisfied by the random remarks collected by the Attorney General.

The Attorney General concedes that—

"the specific power granted to the House of Representatives and Congress in fiscal matters (Article I, Section 7, clause 1 and Article I, Section 9, clause 7, money bills and appropriations power) preclude making treaties self-executing to the extent that they involve the raising of revenue or the expenditure of funds. Were it otherwise, President and Senate could bypass the power of Congress and in particular of the House of Representatives over the pursestrings."

A.G. at p. 4–5. Now, sections nine and seven are couched in quite dissimilar terms. One, Section 9(7), is framed in terms of flat prohibition: "No money shall be withdrawn from the Treasury but in consequence of appropriations made by law . . . ." Section 7(1), on the other hand, merely provides that "All bills for raising revenue shall originate in the House." Yet, the Attorney General reads Section 7(1) to preclude the President and Senate from "bypass[ing] the power of Congress and in particular of the House of Representatives over the pursestrings." What is there that distinguishes "All bills . . . shall originate in the House" from "The Congress shall have power to dispose . . . ."? The impalpability of the distinction is underlined by the State Department's concession that "treaties may [not] impose taxes." Nothing in this Article I, Section 8(1) "The Congress shall have power to lay and collect taxes" distinguishes it from the Article IV "The Congress shall have power to dispose . . . ."

If the President may not by treaty "bypass" the power of the House to originate revenue-raising bills, or the power of Congress to tax, no more may he "bypass" its "power to dispose" of the territory and property of the United States.

A UNIQUE MEAT MARKETING CONCEPT IN FORT PIERRE, S. DAK.

Mr. McGOVERN. Mr. President, oftentimes a small businessman with an innovative idea and a better approach to manufacturing or processing does not receive the recognition he deserves. On a recent trip to South Dakota, I came upon an efficient meatpacking operation owned and operated by J. Tibbs Hamilton in Fort Pierre, S. Dak. On the modest scale of a small businessman, Mr. Hamilton has developed a thoroughly integrated meat system that takes cattle

"from the gleam in the bull's eye, to birth, weaning, finishing, slaughter, and sales."

Mr. Hamilton is by profession a rancher, but through self-education designed and constructed his own slaughtering and packing plant in Fort Pierre and now is highly competitive in distributing meat of high and reliable quality in a defined trade area.

Mr. Hamilton's father, P. C. Hamilton, operates a successful cattle feeding operation near his son's business which I also had the privilege of visiting on my recent trip to my home State.

South Dakota, a magazine published quarterly by the industrial division, department of economics and tourism development, a division of State government, carries an excellent article on Mr. Hamilton's operation which is known as Cedar Breaks Beef, Inc. The article is entitled "Unique Beef Marketing Concept at Cedar Breaks Beef." As a tribute to Mr. Hamilton's personal ingenuity and for the information of Senators, I ask unanimous consent that the text of the article to which I have referred be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

UNIQUE BEEF MARKETING CONCEPT AT CEDAR BREAKS BEEF

Rancher J. Tipps "Tip" Hamilton likes to solve a problem by defining it, studying it, then grabbing it by the horns to wrestle out a solution. He's one of a small army of South Dakota entrepreneurs who are swelling the state's growing industrial scene.

Hamilton's specialty is beef marketing, his firm is Cedar Breaks Beef, Inc., Ft. Pierre, and he's bringing much hard thought to better and more efficiently produced, high quality, reasonably priced beef for the retail and hotel/restaurant trade. At present his production and sales are modest, but he's going about building his business with dedication. It is difficult to imagine him failing in his venture, though not many small producers survive in the teeth of the fierce competition of large packers.

Hamilton has given his concept about how beef should be produced, finished, slaughtered, aged and marketed in untold hours of concentrated thought, time and energy. He's now at the stage where his brainchild will receive the tough testing of the marketplace.

For three years Hamilton has been marketing his beef, bred and produced on his northeast Haakon County ranch called Cedar Breaks, direct to central South Dakota residents. His is a totally integrated operation, or as he says, "We take our cattle from the gleam in the bull's eye to birth, weaning, finishing, slaughter and sales." (This takes an estimated 39 months or more than three years before a steer is ready for market.) Until his new plant was put in operation last April, his critters were custom slaughtered for him by Public Lockers in Kadoka. Now that he has his own slaughter and packing plant, Hamilton has complete control of his operation, and says he prefers it that way.

How did he get started in this integrated beef marketing business anyway? Hamilton says it came out of his philosophy that there should be a definite link between cow-calf production and the consumer. Besides looking to improve his product beginning with breeding, or as he says, "genetic input", Cedar Breaks Beef is about as integrated as an operation of its kind can be. And, as a closed corporation, Hamilton retains complete control to keep it that way, or as he says, "to better produce meat for the consuming public."

What of the market in central South Dakota—is it there? In market studies, Hamilton came up with figures that indicated he needed a population base of 50,000 within an 80-mile radius of Pierre to be successful. Though the population base within Hamilton's 80-mile radius doesn't quite reach that figure, he feels that with his type of operation he can still effectively compete with the larger packers supplying the area. And he does fill orders as far as 100 miles away—in Eagle Butte for example. Plus this, he aggressively advertises and promotes his retail outlet at the Ft. Pierre "home office" in a continuing effort to open up new sales areas.

Hamilton's Cedar Breaks Beef is small by some standards. Its capabilities are the slaughter of an average of six head of cattle a day—or 30 a week. At present his slaughter is about 20 head a week, or something like 7–8,000 pounds of finished beef to be sold at retail on a weekly basis.

Hamilton, who is building his own demand base, says that his plant is designed to expand to a goal of 100 head per week, but does not foresee this amount in the immediate future.

A visitor going through Hamilton's brand new $200,000, 4,800 square foot building sees a packing plant quite unlike what one would expect to find. It doesn't "look like one" is about the best description that comes to mind. The office and retail areas have a subdued western motif featuring natural rough wooden wall paneling, which tends to give the atmosphere of some business venture other than a meat market—insurance or real estate was meant to look that way.

But the heart of Cedar Breaks Beef is the slaughter floor, cutting rooms, aging lockers and chilled storage areas. The building is basically Hamilton-designed, with "technical help from outside architects", he says. Before building he looked at plants all over the country—big and small—to incorporate their good features and, of course, to eliminate the outmoded or inefficient aspects. A Hamilton innovation was the use of prestressed concrete slabs in the wall and roof construction, which also took into account Environmental Protection Administration (EPA) guidelines and those of state regulations in the design.

(An interesting sidelight is that Hamilton has had no trouble with OSHA or other governmental watchdog agencies on his building design, or present operation. He is the first to say some of the rules that had to be followed are "a pain in the neck", but quickly amends this to say, "the rules are reasonable and fair, and no one has made any arbitrary rulings concerning Cedar Breaks Beef." While Hamilton feels governmental controls are slightly on the strict side, he is more than willing to abide by them.)

As could be expected, there was some apprehension among the citizens of Ft. Pierre when word got around that a cattle slaughtering facility was being planned for their town. Hamilton went so far to allay these fears by flying the mayor and a city councilman to Ovid, Colorado to inspect a similar packing plant there. There have been no complaints on "packing house odors" since he has started his operation. Hamilton explains this by saying they place very heavy emphasis on sanitation and "keeping the bacteria count down." No germs, no smell.

What about the final product? Cedar Breaks Beef is not U.S. Government graded, but Hamilton says his product (which does meet rigid state health and inspection requirements) is equivalent to USDA Choice. And, while there are a number of areas where Hamilton cannot compete with the big packers, there are a number of areas where the big boys can't compete with him. Also, Hamilton feels that under his present operating conditions, he can still look for growth potential and stay competitive. As he says, "You've got to work for controlled growth. We can do that and remain very much in the ball game."

He can't compete, for example, with the large packing firms in merchandising and selling the so-called "primal cuts." These are the first large cuts that are made, and sold to food chains and large supermarkets for them to finish cutting into such items as steaks and roasts to their own specifications.

However, Hamilton has a competitive edge because of his firm's "smallness" and its resulting ability to fill special orders, on price, and on the individual attention he can give to the restaurant trade. (As an example of the latter, Hamilton can give them a better "inventory count" on what they purchase from him. Where larger outfits bill on pounds sold, Hamilton can actually bill by number, for example; "50 eight-ounce steaks." This allows for a much tighter inventory control—restaurants also suffer from pilferage.)

In line with following the federal and state regulations to the letter, Hamilton is a stickler for safety. Recently, a reporter taking a tour of the plant had a white technician's coat handed him, and a hardhat clapped on his head. Hamilton smiled and said, "You never know when an inspector will show up," in a way that suggested strongly that he follows all safety rules, inspector on the premises or not. A further safety precaution is that his meat cutters wear special wire lined safety gloves—fine honed boning knives maimed or severely lacerated many cutters in the old days.

In a business such as Cedar Breaks which requires large amounts of capital outlay, cost consciousness becomes second nature. The "hide-puller" that Hamilton installed is a good example of this. Where commercial hide-pullers cost in the neighborhood of $10,000, Hamilton engineered and designed his own for about one-fifth that cost, and it is already paying dividends. Where the old commercial varieties pull off the hide from the bottom to top, Hamilton's works just the opposite—from top to bottom. At the end of the operation, the meat is much cleaner to start with, and it takes significantly less water to wash—conservation that also saves money.

As with many South Dakota small businessmen, Hamilton looks at his ten employees as part of a team and treats them accordingly. While none are yet paid journeyman's wages, Hamilton says as they become more proficient, he fully expects to pay above going rates. People are where the profits are, he says, and he is prepared to share with the help. He also runs his own training program, and morale appears high, with everyone tending to the business at hand.

The central South Dakota consumer who buys meat from Cedar Breaks, is probably well acquainted with Hamilton's wife Marcelyn or "Mort" as she is known to her many friends in the area. Besides being a mover and shaker in her own right, Mort is constantly active in various community projects, plus putting in a "good day's work" at the office. She handled many of the research details that were needed early in the young firm's life, and concentrates heavily on customer relations.

Mort works with retail sales, tends the shop in the plant, and when occasion demands, takes her turn on the delivery truck. She could easily be classified as the chief cook and bottle washer of the front office—while Hamilton would carry that title for the production end of things.

It is doubtful that Hamilton has ever read Upton Sinclair's muckraking expose of the Chicago meat packing industry, "The Jungle", which was written at the turn of the century. To him it is inconceivable that such

seamy conditions could exist, and in no way could he relate them to his own Cedar Breaks Beef. Or as he has observed, "When you have a potentially good thing going, the last thing you do is run a shoddy operation."

CANCELLATION OF GOVERNORS ENERGY CONFERENCE

Mr. DOLE. Mr. President, a number of times during the last month you have heard me say that the President has chosen to solve our energy problem by overworking one-half of the solution and completely ignoring the other half of the solution. He has chosen to treat conservation as the cornerstone of his policy, taxes as the centerpiece, and increased production as though it did not exist.

When we, in the Senate, have dared to suggest that increased production might equally well help us decrease our need for foreign oil, the President has lashed out—at the Senate, at the producers, and at anyone else who might suggest that his program was anything less than "comprehensive".

Up to this point I have been merely disappointed. This hard-line approach, in my opinion, ignored many of the facts that we tried to bring to his attention. While I have disagreed with the President, I nevertheless believe that the dialog of the last months has been invaluable for the American people. I think the American people deserve to hear arguments on both sides of every issue. We have aired our differences so that the public can form an opinion and can, in turn, make their own judgments known to us.

Today I am disturbed. I have learned that the President has actively attempted to avoid an open discussion of energy issues for fear that the airing of such issues at this time might somehow endanger his energy package. This is a time when it is indeed crucial that all sides of the energy issue be heard.

Let me give you a short history of what has transpired over the last couple of months.

JULY 1977

Back in July, you remember that the members of the National Governors Conference came to Washington to discuss energy with the President. After that meeting some of the Governors were disappointed that the President did not discuss production as part of his approach to solving this Nation's energy problems. At the urging of the Governors, the President agreed to a second conference expressly to discuss production, but even then some of the Governors believed the President was delaying the conference until their views would have had no impact. I quote from a statement issued by the Midwestern Governors Conference during their August meeting.

> We applaud President Carter's willingness to convene a conference of the administration and the Governors to assess energy production needs and issues. However, that conference must be convened immediately if it is to serve any useful purpose. To delay it to late September—as it is now proposed—will guarantee that its results have no impact upon Senate deliberations on the energy legislation. Moreover, we believe that key congressional leaders should be involved in the conference.

After further delays, the President finally did schedule the conference, for November 3d and 4th—after all the legislation had been debated by both Houses of Congress.

CONFERENCES CANCELLED

On Friday, October 28, the Governors received a telegram from the White House again postponing the conference. The telegram reads in part—

> Because of the necessity for the President, members of his cabinet, White House staff, and other administration officials to devote substantial time to the matters now being debated in the Congress, and because the final shape of the energy legislation has yet to be determined, the President has regrettably found it necessary to postpone the energy conference previously set for November 3rd and 4th.

Obviously he wants his legislation passed without any assistance from those most qualified to tell him what the effects of his program will be. This can only be interpreted as an attempt to avoid both justifiable criticism of his energy package, and a refusal to listen to suggestions that could improve his program.

For one, the Governor of the State of Kansas, Robert Bennett, has responded strongly to the President's latest move. While the States and local communities will be left to deal with the economic impacts of the energy legislation, the Governor voices concern that the program would affect the ability of the States to solve their energy problems.

The Governors have a vital interest in this legislation and deserve to be heard before, not after, the energy bills are enacted into law. The energy bills are now in conference and there is still time. I call upon the President to reconsider and to meet with the National Governors Conference before the House and Senate conferees make their final decisions on the energy bills.

HUD REORGANIZATION

Mr. WALLOP. Mr. President, as many of my colleagues know, the Department of Housing and Urban Development is about to implement a reorganization plan that will serve to centralize many HUD functions in regional offices. Senate Resolution 302, which I have cosponsored, asks that the implementation of the reorganization be delayed until the Congress can hold hearings on it.

In a letter cosigned by several Senators from region VIII, I have asked the Secretary of HUD to postpone implementation of the reorganization until such time as the Congress can solicit local responses and evaluate the proposals with complete data available. It should be noted that this letter goes beyond asking for hearings; it demands that HUD produce specific data supporting its position.

Mr. President, I have nothing against HUD's efforts to reorganize, but I am concerned about the approach that the Department took regarding this reorganization. The briefings provided by HUD officials at the request of several Senators have convinced us that when the Department planned their reorganization, its effects on particular regions were never considered nor was input requested from those regions. All of the Department's efforts were confined to the national level: national lobbying organizations were solicited for comment; national averages and national sums were used for their working figures; and national gains are spoken of as the end result of the reorganization. I am worried that those gains, if they do materialize, will come only at heavy expense to certain regions, specifically region VIII.

HUD admits that region VIII is unique. This is evidenced by the fact that only in Denver is the regional office and the area office colocated. HUD cites this fact again and again in trying to "prove" that they are not trying to force the Rocky Mountain west into an east coast mold. When pressed for substantive data on the region, however, HUD says that they do not have it available at this time. Logic would indicate that if the reorganization were truly designed to fit the needs of different regions, that data would have been available at the time the reorganization plans were drawn up.

HUD has attempted to compensate for the lack of statistical data on this reorganization by offering statements that contractors, who must deal with the agency, approve of the reorganization. On the contrary all of the evidence I have seen suggests that contractors throughout Wyoming are universally opposed to the reorganization. By working only with national organizations such as the National Association of Home Builders, HUD failed to receive adequate input from those that will be most directly affected by the reorganization—the local contractors themselves. In letters to my office, those contractors have expressed shock about the reorganization and universal opposition to it. For the benefit of my colleagues, I ask unanimous consent that five of these letters be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WALLOP. Mr. President, even a cursory reading of these letters will indicate that contractors in Wyoming are happy working with the local HUD office in Casper. The people in that office are knowledgeable, helpful, and friendly, and contractors throughout Wyoming have built good working relationships with the folks in the Casper office. Contractors see no reason to take their multifamily business, which requires the completion and processing of lengthy, complex forms, to Denver which is hundreds of miles and, at the very least, several hours away. Frankly, I understand and sympathize with their feelings.

In any case, I cannot permit a reorganization of this proportion to occur when the Department involved does not even have specific regional figures available to demonstrate that increased efficiencies will result. Until those figures can be produced and considered by this body, I will continue to demand that implementation of the reorganization be postponed. I would hope that in their delib-

erations on Senate Resolution 302, the Senate Committee on Governmental Affairs will share this point of view and I urge them to report the resolution favorably.

EXHIBIT 1

OCTOBER 25, 1977.

Senator MALCOLM WALLOP.

We have worked with the Federal Housing Administration throughout the 1970's in our capacities as a contractor, realtor, and developer. We have found the Casper office to be of outstanding assistance to us. They have been most professional and helpful.

Despite several cutbacks in staff, they have struggled to be of help.

To attempt to obtain these services in Denver means a distance of over 400 miles and makes the usefulness almost impossible for us.

ADDISON E. WINTER,
President, Stylhomes, Inc., Stylco Development, Inc., Empire Developers, Inc.

CHEYENNE, WYO.,
October 28, 1977.

Hon. MALCOLM WALLOP,
Federal Building,
Casper, Wyoming

DEAR SENATOR WALLOP: We are at an extreme loss, as a builder and developer in the Wyoming area, to see any constructive purpose for moving any portion of the central Wyoming HUD office to Denver.

We have operated as home buliders since 1959 and in that period have used the FHA and VA programs exclusively. We have witnessed a greater need for these services in the past few years and fail to understand how we, or our buyers, could be served to a greater advantage by centralization.

In the recent past, we had our Cheyenne HUD office close, with centralization in Casper and have experienced delays in inspections and now can only see additional delays in subdivision evaluation, appraisals, commitments and inspections.

Our buyers, as tax payers, are entitled to the best quality of service and should not be penalized by increased costs due to increased construction interest costs which we would be assessed due to such delays. As a Colorado builder and developer, we too have had experience with the Denver Regional Office and after several years of lack of cooperation, unacceptable valuations, delays and indifferent attitude, we, along with other Colorado builders, took all of our business to the Veterans Administration.

In closing, we reiterate, under the present increased demand for services in Wyoming, that we feel the Casper office strength should be increased rather than a consideration of centralization.

Very truly yours,

R. J. ROHN,
Vice-President.

RAWLINS, WYO.,
October 26, 1977.

Re: Federal Housing Administration's Casper Office.

Hon. MALCOLM WALLOP,
U.S. Senator,
Federal Building,
Casper, Wyo.

DEAR SENATOR WALLOP: As a housing contractor in Rawlins, Wyoming, I was shocked to hear that HUD's Casper FHA Insuring Office may possibly be moved to Denver. This move would seem completely incongruent with the increasing demand for federally insured housing in the State of Wyoming.

I have worked with the Casper Insuring Office during the past two years in several areas: 2 subdivision approvals; FHA single family home loans for customers; and presently, with a 221D4–FHA insured multi-family apartment project—Heatherway Apartments. Each of these contacts with the FHA Casper office would have been almost prohibitive if contact had to be made in Denver. The number of contacts with the office via telephone, conferences in Casper and conferences and inspections in Rawlins have been numerous and are hard enough with Casper being 120 miles away. These projects require the sponsor and/or builder to work very closely with the FHA staff. The office change would greatly hinder my company's ability to provide housing for Rawlins and this area.

The staff in Casper has been very receptive, efficient, and understanding of the unique problems facing Wyoming in light of the energy impact. Ralph Ham, John Cregor, Maurice Everaert, and Karleen Ratcliffe have shown a great deal of expertise in handling the Federal Housing projects being processed by them now. We communicate very effectively with them and can't over-emphasize the importance and the need that Rawlins' people and the State of Wyoming have for the FHA office in Casper.

Having Wyoming residents working in our Federal Housing office is very important. Because of their interest in our state and their accessibility to correct information, Wyoming government officials and workers can serve us better than any other people. People living out of the state just cannot realize the significant impact that the energy development is bringing to the state in the form of huge population increases, lack of sorely-needed housing projects, and the cost prohibitiveness of conventional financing—thus the need for more Federal Housing insured loans.

With our multi-family project in Rawlins—Heatherway Apartments—we have obtained inspections from the Casper Office in a timely manner once we have notified them. They have always tried their hardest to get to Rawlins when necessary. This timely manner has been slowing down lately, however, because of their understaffed office. The Casper office is now expected to do much more work than should be possible because of this understaffing. It is my recommendation that the Casper office not be eliminated and moved to Denver; but rather, the Casper office should have its staff increased because of the growing workload.

Energy Housing owns a tract of land south of Rawlins on which it has plans for several FHA projects in the multi-family area. We have been looking forward to working with the Casper staff in planning these projects. If the FHA insuring office is moved to Denver, these plans will have to be strongly reconsidered. Communication with the FHA office is extremely important, not only in the planning stages of projects such as these, but all through the project's life. Management reviews must continually be made by the government office and rental reviews must be conducted. These reviews would not be clearly understood by Denver because of their extended relationship with Wyoming. The continual communique with the management people in Casper will be very necessary to our project's well-being.

As a representative of the people of Wyoming, I certainly hope you will be able to express my feelings on the matter to the people in charge of such a move with the Casper Federal Housing Office.

Thank you for your time.

Sincerely,

JAY C. GRABOW.

JACKSON, WYO.,
October 25, 1977.

Hon. PATRICIA HARRIS,
Secretary, Dept. of Housing and Urban Development, Washington, D.C.

DEAR MRS. HARRIS: We have been advised that the Dept. of Housing and Urban Development is considering closing their Casper Regional office in Casper, Wyoming.

As apartment developers, familiar with housing needs in Wyoming, such an action would tremendously hamper housing development in Wyoming. As you are aware, Wyoming is experiencing acute housing shortages in areas that have become impacted because of the energy crisis. The Casper Regional office is extremely sensitive to these housing needs, and if developers are required to channel their projects through Denver needless delays will result.

At a time when Wyoming is experiencing such rapid growth, it seems incomprehensible that such an action is even considered, when in effect it should be the contrary, with the Casper office staff being increased.

It can not be exaggerated, the drastic result this decision will leave on housing in Wyoming. Since the nation is depending on us for energy, it will indirectly effect that production.

We appeal to your office to keep the Casper Regional office in operation. In our opinion their performance is exemplary, and it would be a loss to the state and the nation if it were closed.

Sincerely,

M. E. MILES.

CHEYENNE, WYO.,
October 25, 1977.

Senator MALCOLM WALLOP,
Federal Building, Casper, Wyo.

SENATOR WALLOP: In regards to the re-organization of HUD, I feel that our HUD office in Casper should remain open. We now have four apartment complexes in Wyoming being assisted by the Federal Housing Administration in Casper.

Mr. Bud Currah and Mrs. Dorothy Mills of the HUD office in Casper have been very beneficial in helping us with various projects such as maintaining our complexes and improving our buildings to benefit our tenants. Mr. Currah and Mrs. Mills keep us informed on all new rules of Federal Housing and have also had two work shops which have benefited us on government regulations.

We have one complex in Colorado and have not had as good a response to our problems and needs because of the work load that Federal Housing already has in Colorado.

We are also involved in several new projects to be constructed throughout Wyoming and we feel that it is essential to have the local state office in order to get these new projects started.

Sincerely,

M. V. FEDERER,
President.

U.S. SENATE,
Washington, D.C. October 31, 1977.

Hon. PATRICA R. HARRIS,
Secretary, Department of Housing and Urban Development, Seventh Street, N.W., Washington, D.C.

DEAR SECRETARY HARRIS: In a letter of October 18, we asked you to provide detailed facts on the effects of and reasons for the proposed H.U.D. reorganization. In response we were offered a briefing on October 25 which representatives of many Senators and Congressmen attended. Unfortunately, that briefing failed to provide definitive answers to the five specific questions we had asked you to address, and it served to strengthen our belief that the H.U.D. reorganization must be stopped at once so that the Congress can evaluate it before its implementation.

As the briefing proceeded, it became quite clear that when H.U.D. formulated its reorganization plans, it based them on national totals, national averages, and the input of national organizations. In response to specific questions about Region VIII, we were given answers such as, "We have not broken down the figures by region," or "We do not know how much the processing time will be reduced in your region," or "We did not talk

to any contractors in Casper; we went to the National Association of Home Builders in Washington, D.C."

H.U.D. admits that Region VIII is unique. This is evidenced by the fact that only in Denver will the regional and area offices be colocated. During the briefing Assistant Secretary Medina cited this fact again and again to "prove" that H.U.D. is not trying to force the Rocky Mountain west into an east coast mold. When pressed for substantive data on the region, however, the Assistant Secretary could only say that it was not immediately available. Logic would indicate that if the reorganization was truly designed to fit the needs of different regions, that data would have been available long ago.

Because substantive regional data is not available, and because many individuals who deal with H.U.D. on a day-to-day basis are opposed to the reorganization, and because at this time it is not clear that the reorganization will save either time or money, and because it appears that adequate consideration was not given to regional differences and anomalies, we hereby ask that H.U.D. postpone implementation of the reorganization plan until such time as the Congress can solicit local responses and evaluate the proposals with complete data available.

Sincerely,

GEORGE MCGOVERN,
JAMES ABOUREZK,
JAKE GARN,
MILTON R. YOUNG,
MALCOLM WALLOP,
CLIFF HANSEN,
ORIN G. HATCH.

SENATOR ABOUREZK DEFINES THE NATURAL GAS ISSUE

Mr. MCGOVERN. Mr. President, although some time has elapsed since the Senate ended its debate over natural gas pricing, that issue will be coming before House and Senate conferees in the next weeks. I think it would be appropriate for us to recall just what the fight in the Senate turned on, both with regard to the meaning of deregulation, and with regard to the close division of sides over the issue itself.

My colleague, JIM ABOUREZK, who was a leader in the fight to preserve regulation, has provided us with an excellent summary of the debate in an article appearing in the New York Times of October 9. I ask that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NATURAL GAS AND THE FILIBUSTER

(By JAMES ABOUREZK)

WASHINGTON.—Filibuster is an extended debate, generally in the United States Senate, which, because of its rules, allows unlimited debate for those who can count votes well enough to know that their side will lose should a vote be taken on an issue. Historically, filibusters have been the exclusive province of Southerners who have sought to prevent or to weaken civil rights legislation and, more recently, improvements in antitrust laws.

Why then would a northern Senator, supposedly in his party's majority, filibuster to prevent a vote on the deregulation of natural gas? This must be answered in light of the criticism lodged against use of the filibuster. When debate on the gas bill began, Senator Howard Metzenbaum, Democrat of Ohio, and I were told that even if the Senate did vote for deregulation, the House conference committee would stand firm against it—and, if it didn't, the President would veto the bill.

By stacking those arguments the gesture might, on the surface, appear to be Quixotic. The commitment to undertake a filibuster must be one of major proportions. In addition to the physical punishment, it is a severe emotional drain because it is designed to exhaust the other side in order to weaken its commitment to an all-out position. But exhaustion is not limited to the other side. Even one's own supporters become impatient at the imposition on their time, and at the chaos rained upon orderly procedures necessary to the Senate's normal operation.

In the natural-gas filibuster, the leadership, both Democratic and Republican, made every effort to direct our peers' anger against us. The issue itself was submerged in what eventually became a battle over Senate rules, traditions and personalities. One must wonder then what is at stake in legislation dealing with natural-gas pricing that requires a resort to such methods?

Five years ago, the Federal Power Commission, which regulates the sale of gas sold across state lines, had set a ceiling price for gas at the wellhead of 26 cents per 1,000 cubic feet.

In its most recent pricing decision, the F.P.C. raised the ceiling to $1.40 per 1,000 cubic feet—a staggering 500 percent increase. Yet during that period of rapid escalation in price, both production of natural gas and the amount of proved reserves actually decreased. Although industry arguments have always hammered at the concept that higher prices would produce more gas for the United States, behind the propaganda the claims were utterly false.

An early effort to deregulate natural-gas prices was stopped cold when the gas industry attempted to bribe a South Dakota Senator, Francis Case, in 1956. The bribe, and its attendant publicity, hampered further efforts until 1973, when the Senate defeated, 45 to 43, an amendment by James L. Buckley, then Republican of New York, that would have lifted the lid on gas prices.

Encouraged by promises from an F.P.C. appointed by President Nixon that deregulation was just around the corner, the industry made withholding of natural-gas reserves a basic part of its strategy in order to create artificial shortages and to save its reserves for the day deregulation would come.

Taking advantage of the air of crisis that surrounds the energy problem, Senators Lloyd Bentsen, Democrat of Texas, and James B. Pearson, Republican of Kansas, offered another deregulation amendment in 1975. The first Pearson-Bentsen bill passed the Senate, 50 to 41. The House refused to go along with total deregulation, but by then the industry had established its running game. This year, Senate passage of the bill was aided by fears from last winter's gas shortages, which, incidentally, were created by an unusually severe cold wave and inadequate gas-transmission facilities.

Natural gas is used to heat 60 percent of the homes in the United States. It is used almost exclusively to bake bread, as an ingredient for agricultural fertilizers, in oil refineries and throughout industry as a boiler fuel.

Deregulation—total removal of price ceilings—will have a direct cost to natural gas users of $160 billion by 1990, over and above even the Carter plan. What cannot be measured is the enormous cost to the economy of what ripples outward in the form of higher prices for food, for synthetics and industrial goods.

In my state, South Dakota, pensioners who receive only a couple of hundred dollars a month from the Social Security Administration would have difficulty buying food or paying rent after gas companies had exacted their tribute.

Deregulation would deal a more serious blow to our economy than did the drastic oil-price increases in 1973 and 1974. I seriously question whether we could recover from such a blow in the near future.

If such a staggering price increase could be shown to be of commensurate benefit to the public, perhaps the point could be reasonably debated. But as a Congressional Budget Office study has shown, total deregulation would increase our natural-gas production by no more than 5 percent.

Once the price of natural gas rises high enough, production of synthetic gas from coal becomes economically feasible. As firms with finite resources, oil and gas companies have a gigantic stake in extending their grip on energy resources to include synthetic fuels made from coal. Already, the Senate Finance Committee, under the chairmanship of Senator Russell B. Long, Democrat of Louisiana, is considering resurrecting the Rockefeller plan to establish a multibillion dollar Government fund that would allow the industry to "develop" synthetic fuels, among other things.

The price is too high for the public to pay.

Thus, even though the oil and gas interests have succeeded in convincing a slim majority of the Senate to legalize this plunder of the public's purse, I can see no valid reason to roll over and play dead for an industry that operates solely on the basis of greed.

Reliance on a small Congressional committee or on a Presidential veto is much too risky considering the amounts involved, especially since the oil and gas people are now talking about forcing on the conference committee a majority that supports deregulation.

Although President Carter has announced this year that he would veto a deregulation bill, last year he promised to support the industry's efforts to deregulate.

In light of all of this, Senator Metzenbaum and I agreed between ourselves to undergo what was necessary to delay a final vote on deregulation as long as we were able. It seemed to us that the discomfort to both our colleagues and ourselves was outweighed by the danger deregulation poses to the economy. Although the Carter Administration, which at first claimed to support our position, eventually teamed up with the Senate leadership to break the back of the filibuster, part of our goal has been accomplished. Without the extensive press coverage that came in response to the filibuster, the Senate would have quietly approved deregulation with no one the wiser until after the economic damage had been done.

While those on our side were accused of abusing the rules, the Administration and the leadership succeeded in actually brutalizing Senate procedures to bring about a final vote.

The puzzle went beyond the display of raw power exercised by Vice President Mondale and the majority leader, Robert C. Byrd of Virginia. It included a startling reversal of position by the Administration on the issue—a shock to nearly everyone involved. But that in itself may have accomplished something the gas and the oil industry had not anticipated: the stark realization by many Senate members of the injustice of both the industry's position on deregulation and of the tactics used to achieve it.

Defeating deregulation by filibuster was the end strategy, with the hope that public exposure of the issue would work to that end. We lost, 46 to 50, because during the 13-day debate not enough votes were switched to change the final outcome. But another unintended result has, I think, been realized: Senate liberals, who have been beaten down and who have felt a sense of defeat in past years because of the growing conservative trend in the Senate, came to life during the often bitter debate. One can now detect an uplifting of those whose spirits incline toward protection of a vulnerable and unorganized public.

The battleground in 1977 and for the years

to come will be centered on the basic issue of who actually runs the economy and in whose interest. Most Americans accept the characterizations of the energy problem that is brought to them by the oil industry. They may not accept the industry's conclusions, but they consider the issue too complicated to impose their own ideas.

At the same time, the industry uses other methods to create the same acquiescence in Congress. During consideration of the natural gas bill, oil lobbyists openly boasted to the press of their computerized bill-analysis services and other "capabilities" available outside the Senate chamber.

The incessant repetition of the theme that American life as we know it will end unless more and more money is funneled into the oil companies has paralyzed serious debate about real policy alternatives.

The natural-gas-pricing issue was the scene of the first battle in a fight that will determine whether our national energy policy is to be established by 20 oil companies in the sole interest of profit, or by 200 million American people in the interest of the nation as a whole.

INVESTMENTS OVERSEAS AND UNEMPLOYMENT AT HOME

Mr. PELL. Mr. President, the impact on the U.S. economy of increasing imports in a wide range of materials and products is becoming a matter of increasing concern to more and more Americans.

The U.S. textile industry, our footwear industry, our steel industry and our electronics products industry, to name only a few, have been hard hit by rapidly increasing imports, with a staggering loss of jobs for American workers.

I think nearly everyone agrees international trade benefits both our Nation and our trading partners overseas if the international trade is conducted in a fair and equitable manner.

All too often, however, we find that the United States is conducting international trade according to the rules while with increasing frequency we find that other nations, while demanding access to our markets, resort to a wide variety of trade barriers to prevent American-made products from competing effectively in their own markets.

Spokesmen for the American labor movement have been in the forefront of those who protest against U.S. participation in one-sided international trading agreements, and they should protest because it is the American worker who stands to lose his job and his livelihood through unfair international trade practices.

One of the most effective and eloquent statements of labor's view on our international trade policies was delivered yesterday in Washington by William W. Winpisinger, International President of the International Association of Machinists and Aerospace Workers at the National Invester Relations Institute.

Mr. President, I am one who believes in the principles of free trade, but I believe Mr. Winpisinger's remarks should be read closely by everyone, and particularly by those who are ready to excuse any and all international trade transactions, agreements, and arrangements, in the name of free trade regardless of how unbalanced and unfair, or how damaging to American workers those transactions and agreements might be.

I ask unanimous consent that the text of Mr. Winpisinger's remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

INVESTMENTS OVERSEAS AND UNEMPLOYMENT AT HOME

I welcome this opportunity to meet with you today because I mean to use it to tell you how working men and women are faring under this nation's trade, tariff, tax and foreign investment policies. The news I bring is not good. So far as the working people of America are concerned their jobs (and thus their stake in the private enterprise system) are being destroyed by policies of unrestricted overseas investment and trade. Though these policies are deeply embedded in both tradition and law, they are slowly but surely transforming the United States from a highly developed to an industrially underdeveloped nation.

If you think this is an overstatement, let me refer you to a definitive study of multinational corporations which was written a couple of years ago and which is entitled "Global Reach." In it the authors, Ron Muller and Richard Barnet, defined an underdeveloped country as "one that exports raw materials to maintain its balance of payments while it imports finished goods to maintain its standard of living."

That is a good description of what's happening to the United States. The 200 largest corporations that control two-thirds of this nation's productive capacity have been steadily transferring production and jobs to low-wage areas of the world. And because of unthinking acceptance and reverence for the economic dogmas of 19th century economists, our government has done absolutely nothing to prevent this internal subversion of the nation's industrial base. In fact, it has done just the opposite.

The wholesale export of American jobs and technology has been actively encouraged by tax, trade, tariff and investment policies that make it more profitable for a U.S. company to operate in Indonesia than in Illinois.

As a result, the United States must now export its grain, cotton, timber, wool, coal and other raw materials in order to pay for cameras, TV sets, radios, tools, shoes, clothing, glassware, textiles, typewriters and a host of other finished products. Between 1960 and 1970, the annual rate at which American capital was invested overseas rose by 400 percent. And this outflow continues. While the business community demands new and bigger investment tax breaks to encourage capital expansion, last year U.S. companies made 25 percent of their total capital investments overseas!

This investment is not only being made in places like Taiwan, Hong Kong, Malaysia, Singapore, Haiti and the Dominican Republic. After 30 years of cold war, during which American workers were conditioned to view Communism as the devil incarnate, American corporations are now rushing to build factories, complete with advanced American technology, behind the Iron Curtain. American capitalists can hardly wait to get at all that good, cheap, state-controlled Communist labor.

These corporations that are destroying America's industrial base, by closing down factories here and opening them overseas, include some of America's largest employers and defense contractors.

They include American Can, Chrysler, Firestone, General Foods, Honeywell, IT&T, Singer, Union Carbide, Warner-Lambert, General Electric and Westinghouse.

To visit one of America's major centers of industrial production, you no longer have to confine your travels to the United States. You can go to Taiwan and find American-owned firms producing pharmaceuticals, electrical equipment, textiles, toys, chemicals, machinery, food, clothing and scores of other products for American markets. Even a partial list of the companies that have gone to this dictator-controlled island, in order to exploit women and children with 30¢ an hour wages and 12-hour workdays, reads like a who's who of American industry. It includes such good old American brand names as Admiral, Bendix, RCA, Arrow Shirts, Mattel Toys, Dow Chemical, Dupont and Singer.

Anyone who doubts the connection between the export of capital and the export of jobs need only look at the extent to which the electronics work force has been decimated in recent years. Zenith is only the latest to give up on an attempt to compete against foreign, low-wage imports. Zenith was the last of the U.S.-based TV manufacturers, and I give them a lot of credit for trying. The Machinists Union represents many of the thousands of workers whose jobs are now going to be exported. And Zenith made it clear to us that they were not leaving because of any lack of productivity and workmanship. They found they simply could not compete against companies taking full advantage of every tax, tariff, trade and investment incentive that our government gives corporations who produce overseas for resale back into American markets. Zenith can save itself by leaving. As every economist knows capital is mobile but labor is not. Thus thousands of skilled workers in Sioux City, Chicago, Philadelphia and elsewhere will be reduced from economic assets to social liabilities.

Unfortunately the electronics industry is only the tip of a very large iceberg. Between 1962 and 1970, the ratio of exports to imports in rubber manufacturing went from a 100 percent surplus to a 10 percent deficit. In the apparel industry, the ratio of imports to sales has doubled in recent years. In one four-year period, from 1969 to 1973, a $22 billion rise in manufactured imports caused a direct decline of 346,000 jobs in U.S. factories.

Today 20 percent of all cars, 40 percent of all glassware, 60 percent of all sewing machines, calculators and cassettes, 95 percent of all radios and a high proportion of shoes, clothing and other manufactured goods sold in the United States are produced abroad, mostly by American-owned factories.

Unrestricted overseas investment is not only eroding the jobs of American workers but their rights under the law of the land. Specifically, I am referring to the right to bargain collectively.

American workers gained this right forty-two years ago when Congress recognized that the best way to give workers a stake in the free enterprise system was to establish a mechanism through which they could negotiate a fair share of the wealth produced by their labor. U.S.-based multinationals are systematically destroying that stake by exporting the jobs that workers need to support their families.

A further effect of unrestricted overseas investment is the draining away of the nation's technology for the greater profit of a relatively small number of multinational corporations.

Some years back the government solicited organized labor's support for trade policies which would make it even easier for other countries to sell in the United States. I might say, incidentally, that even since the end of World War II we have had the most liberal trade policies in the world. But this liberality has not been reciprocated. Other countries seem to be able to erect all kinds of barriers against our products. When workers questioned further liberalization, they were assured that American labor would not be undercut by coolie labor because of our

long lead in technology. A fact to note about this technology, which is now being sold out from under us, is that it results from research and education which are mainly supported by the taxes of the American people. Between two-thirds and three-fourths of all basic research and development is publicly funded. The engineers, scientists, craftsmen and other personnel that industry needs are all trained at public expense. What I am saying, in essence, is that America's technology has really been bought and paid for by the tax dollars of the American people. That includes the working people. Therefore, this technology really belongs to all of us. But multinational corporations have expropriated it to themselves and have been exporting it as fast as it's been developed. Moreover, in their pursuit of the fast buck, they've been selling off our technology at fire sale prices. During the 1960's Japan alone got $10 billion worth of America's industrial know-how, including advanced steel-making and aerospace technology, for which they paid only $1 billion. For 10 cents on the dollar, they got one of the greatest bargains in history.

When we go to Congress to protest corporate exploitation and profiteering on a resource that properly belongs to all of us, the experts come in from the other side and piously proclaim that there must always be a free flow of technology between nations. Unfortunately, during the debate on the latest trade bill passed in 1974, Congress bought this free flow of technology argument. In rejecting the Burke-Hartke bill, which labor supported, they left multinational corporations free to loot the nation's technological resources.

Some day our government may wake up and realize that technology is a commodity of commercial value with an investment cost that can be measured, a dollar value that can be computed and a clear market value for those who possess it. I agree that everyone benefits from the free flow of technology. Everybody would also benefit if Saudi Arabia gave away its oil and Japan gave away transistor radios. But the fact is they don't. Those who denounce labor for suggesting that the U.S. Government has a responsibility to its own work force conveniently overlook the fact that in other nations, whether industrialized or underdeveloped, the first priority is the protection and maintenance of job opportunities for their own work force.

In the 1974 trade legislation, Congress not only refused to consider even minimal safeguards against further export of technology and investment, but, at the urging of the business community, made it even easier and more attractive for American firms to move overseas. They did this by setting lower tariffs on goods produced in underdeveloped countries. This is, of course, an open invitation to American corporations to go to these underdeveloped countries and produce solely for sale in U.S. markets. Because so many are accepting this invitation, city after city in the United States is becoming littered with empty factories.

To the extent that overseas investment generates unemployment at home, it also contributes to the skyrocketing costs of social welfare. Because Americans cannot get jobs we are spending $40 billion a year for public assistance and $20 billion a year for unemployment benefits. If national policies were designed to discourage, rather than encourage the export of technology, capital investment and jobs, Americans would be cashing more paychecks and fewer welfare checks.

By creating high levels of unemployment here at home, multinational corporations have harmed America in still another way. Sociological studies in areas of high unemployment show that the rising tide of joblessness has been paralleled by rising levels of violence, family breakups, child abuse, crime, alcoholism and suicide.

Many of the problems that afflict our society have been caused or aggravated by companies that take every advantage America has to offer but which no longer identify themselves with America's future. A few years ago, a vice president of the Ford Motor Company stated, and I quote, "We . . . look at a world map without any boundaries. We don't consider ourselves basically an American company. We are a multinational company." If the Ford Motor Company, doesn't consider itself American, who does? Certainly not the president of the Motorola Corporation when he was asked why he was abandoning plants in the United States while opening them in South Korea. He said, and again I quote, "We can train Korean girls to do the same job as American workers. They are hungrier and more motivated. They will work harder for less."

Of course these hungry Korean girls can't afford to buy the products they are making. Those products are aimed straight at the American market. Forgotten is the fact that as more and more jobs are exported, fewer and fewer consumers will be left to buy Motorolas or Fords or anything else in the United States. You simply can't go on milking a cow without feeding it indefinitely.

But instead of recognizing this elementary fact of economic life most of our political, business and academic leaders seem to believe that the fault lies not in our trade, tax, tariff and foreign investment policies but in our work force.

Fortunately a few Congressmen, especially in areas that have been hardest hit, are beginning to question the validity of 19th century economic doctrines in a 20th century world.

One of these is Congressman Joseph Gaydos of Pennsylvania. As he so aptly pointed out in a speech to the House of Representatives, "The unschooled girls of Taiwan can do just as well assembling complex TV components as the high school graduates of New Jersey. The untrained workers of Africa and Asia can be taught to produce complex products ranging from tiny transistors to giant turbines, as readily as the skilled workers of Pennsylvania and the West Coast. The depressed inhabitants of the most squalid slums of the Far East can be taught to make speciality steel products just as well as the experienced workers of Pittsburgh."

The point is we are no longer talking about unskilled jobs in low wage industries. We may have started out by exporting the jobs of shoe, textile, leather and electronic workers. But now we are losing out in high technology industries. I can best illustrate the point by describing an example that directly affects members of my own union. We happen to be the largest union of aerospace workers in the world. In addition to those employed in the manufacture of the big commercial and military planes, thousands of our members produce light aircraft for companies like Beech, Cessna and Piper. For many years Brazil was the number one importer of these light planes. But then, some years ago, the Brazilian Government decided to create more jobs for their own work force by developing their own light aircraft industry. They did this in two steps. First they levied prohibitive taxes on the importation of light planes. Second, since they had no light aircraft industry of their own, they invited an American manufacturer, Piper, to come down there and produce with Brazilian workers. As a result Brazil is not only taking care of its own markets, with the help of American capital and technology, but is now taking over traditionally American markets throughout the rest of South America. And to add insult to injury they are even selling Brazilian-made planes back into the United States.

While more Brazilians now have jobs, more Americans have joined the ranks of the unemployed. We can chalk up one more casualty to our government's devotion to 19th century doctrines of free trade. We contend there is nothing free about trade when other countries close their markets to us, import our industry, and then demand open access to our markets. There is nothing free about trade in which Brazil can sell planes to us, but we cannot sell planes to Brazil.

The proponents of our free and easy trade, tax, tariff and investment policies admit that while these policies may hurt workers, they benefit consumers. And this is one of the biggest fallacies of all. In the first place workers *are* consumers. But more significantly, the lower costs of foreign production are not necessarily reflected in the market place. They are more likely to be diverted into bigger profits for the manufacturers and middlemen. A few years ago, for example, the Washington Post carried a report on two pairs of shoes. They were identical in every way except that one pair was made in Italy and one pair in Mississippi. The labor cost of the Italian shoes was less than half that of the Mississippi shoes. And God knows in Mississippi wages are low enough. But in the stores, the retail price was exactly the same. Since the difference went to higher profit margins, the wholesalers and retailers quite naturally pushed the Italian-made shoes over the American-made brand.

The proponents of our present policies also claim that when American workers are hurt, the answer is not to restrict overseas investment, but to compensate such workers with what they call "adjustment assistance." This is a form of supplemental unemployment benefits which neither adjusts nor assists. After this concept was adopted, in the early 1960's, we took case after case to the Tariff Commission. But it took us seven years to finally get them to agree that a group of our members had lost their jobs not because of an act of God but because of an act of Congress. Our experience since then has convinced us that adjustment assistance is one of the biggest frauds ever perpetrated on the American work force.

Finally, the advocates of unrestrained overseas investment say it really doesn't matter if we lose our manufacturing base because we'll become what economists call a "rentier" economy. That means most people will live off overseas investments while the rest go into service trades. Quite frankly, it's my opinion that anyone who believes this also believes in the tooth fairy. The fact is that 60% of all corporate stocks and virtually all corporate bonds are owned by a small and wealthy elite consisting of no more than 4.4% of the population.

That 4.4% can live off investments. But the rest of us have to work for a living. And because we do, policies that make it more profitable for U.S. firms to operate in Malaysia than in Maryland, can only end in tragedy for the work force and thus for the nation.

We are already well down a perilous path. Chronic unemployment has been growing decade by decade. In the 1950's anything over a 4% rate of joblessness was considered unacceptable. By the end of the 1960's it was 5%. For the past few years it has been ranging between 7 and 8% and there are signs it is going to get worse.

In demanding that this nation's trade, tariff, tax and investment policies be brought in line with economic realities, the labor movement is not seeking a retreat to economic isolationism. We only ask that we be allowed to play by the same rules that others have adopted. If other countries want to sell to us, that's fine. But they should be willing to let us sell to them. If American corporations want to go to Taiwan and South Korea, fine. But they should not be allowed to take advantage of incentives that have been set up to help so-called underdeveloped nations. They should not be permitted to take our technology, largely developed at the expense of American tax-

payers, out of the country and then use it to bat the American work force into poverty. As long as a shortage of investment capital exists in the U.S., they should not be permitted to make 25% of all their new investments overseas.

In conclusion let me say that some of you may be included in that fortunate 4.4% who can live off their investments. If you may think you don't have to worry about what happens to the American work force, at least not until the overseas holdings of American companies are expropriated. But let me suggest that you look around at the rest of the world. Look at those countries in which a fortunate few at the top live in the lap of luxury while the overwhelming majority suffer the squalor of horrendous poverty. These are the countries in which the long term outlook for investment is most unfavorable. These are the countries in which terrorism and Communism can barely be held at bay by even the most brutal repression. A nation cannot build nor maintain a stable society upon a foundation of "trickle down" economics. Prosperity must begin with that overwhelming majority that works for wages. To sum it up investors cannot prosper unless America prospers. And America cannot prosper unless working people prosper.

SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

The Senate continued with the consideration of H.R. 9346.

Mr. ROBERT C. BYRD. Mr. President, the first vote will occur tomorrow morning at 9:55 a.m.

ORDER FOR RECOGNITION OF SENATOR DOLE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow morning after Mr. PROXMIRE has been recognized under the previous order Mr. DOLE be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 8:55 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 8:55 a.m. tomorrow.

The motion was agreed to; and at 6:55 p.m., the Senate recessed until Friday, November 4, 1977, at 8:55 a.m.

NOMINATIONS

Executive nominations received by the Senate November 3, 1977:

OFFICE OF RAIL PUBLIC COUNSEL

Howard A. Heffron, of Maryland, to be Director of the Office of Rail Public Counsel for a term of 4 years (new position).

HOUSE OF REPRESENTATIVES—*Thursday, November 3, 1977*

The House met at 10 o'clock a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Because Thou art my God, Thy gentle spirit shall lead me into the way of life.—Psalms 143: 10.

O God, our Father, we thank You for the gift of a new day fresh from Your hand and we pray that You will help us to use it to live cleanly, to labor industriously, to love wisely, and to keep our spirits lifted to high levels of thought. May we have the strength to overcome our difficulties, the courage to carry our responsibilities with honor and the faith to live with loyal hearts.

Sustain us in our efforts to make a better world and to bring good will to all Your children. In the midst of the day's work assure us of Your presence and let the light of Your wisdom fall upon our pathway. Amen.

CALL OF THE HOUSE

Mr. BAUMAN. Mr. Speaker, under clause 1, rule I of the rules of the House, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. MONTGOMERY. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 735]

Ambro	Conable	Giaimo
Andrews, N.C.	Conyers	Gibbons
Archer	Corcoran	Goldwater
Armstrong	Cornwell	Guyer
Ashley	Crane	Hagedorn
Badillo	D'Amours	Hall
Beard, Tenn.	Dent	Harris
Bedell	Diggs	Harsha
Beilenson	Dodd	Heckler
Bolling	Drinan	Holland
Brooks	Edwards, Ala.	Holt
Brown, Calif.	Edwards, Okla.	Huckaby
Burke, Mass.	Fithian	Ireland
Burton, John	Ford, Mich.	Jacobs
Chappell	Fraser	Jones, Okla.
Chisholm	Gammage	Jones, Tenn.
Cochran	Gaydos	Koch
Collins, Tex.	Gephardt	Krueger
Lloyd, Calif.	Nolan	Sikes
Long, La.	Pike	Solarz
Lott	Preyer	Stockman
McClory	Pursell	Teague
McCloskey	Quie	Thompson
McCormack	Rhodes	Tucker
McDonald	Roberts	Udall
McKay	Rogers	Vander Jagt
McKinney	Roncalio	Whalen
Marlenee	Rose	White
Mathis	Rostenkowski	Wilson, Tex.
Mazzoli	Rousselot	Wolff
Mollohan	Russo	Yatron
Moss	Satterfield	Young, Tex.
Murphy, Ill.	Scheuer	
Nichols	Shuster	

The SPEAKER. On this rollcall 334 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill and joint resolution of the House of the following titles:

H.R. 9512. An act to amend the Higher Education Act of 1965 to include the Trust Territory of the Pacific Islands in the definition of the term "State" for the purpose of participation in programs authorized by that act; and

H.J. Res. 621. Joint resolution approving the Presidential decision on an Alaska natural gas transportation system, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1339) entitled "An act to authorize appropriations to the Energy Research and Development Administration for national defense programs for the fiscal years 1977 and 1978, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1863) entitled "An act to authorize appropriations during the fiscal year 1978 for procurement of aircraft and missiles, and research, development, test, and evaluation for the Armed Forces, and for other purposes."

The message also announced that the Senate agrees to the amendment of the House with an amendment to a bill of the Senate of the following title:

S. 1184. An act to amend section 7(e) of the Fishermen's Protective Act of 1967, and for other purposes.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2501. An act to provide for the amendment of the public survey records to eliminate a conflict between the official cadastral survey and a private survey of the so-called Wold Tract within the Medicine Bow National Forest, Wyoming; and

H.R. 9794. An act to bring the governing international fishery agreement with Mexico within the purview of the Fishery Conservation Zone Transition Act.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 1678) entitled "An act to amend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended," agrees to a conference requested by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. TALMADGE, Mr. EASTLAND, Mr. ALLEN, Mr. STONE, Mr. LEAHY, Mr. DOLE, Mr. HAYAKAWA, and Mr. LUGAR to be the conferees on the part of the Senate.

REQUEST FOR PERMISSION TO APPOINT CONFEREES ON H.R. 9346 AT ANY TIME HOUSE IS IN SESSION

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that on any day when the House is in session and a message has been received from the Senate returning the bill H.R. 9346 with Senate amendments thereto, it shall be in order to take from the Speaker's table the bill H.R. 9346, with the Senate amendments, disagree to the Senate amendments, and request a conference or agree to the conference requested by the Senate and that the Speaker be authorized to appoint House conferees without intervening motion.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

Mr. ANDERSON of Illinois. Mr. Speaker, reserving the right to object, would the distinguished chairman of the Committee on Ways and Means explain what this bill involves?

Mr. ULLMAN. Mr. Speaker, if the gentleman will yield, the Senate presently is in consideration of the social security bill. It is a matter of great urgency that the conferees work on it during the intervening time. If the Senate should get it in time to vote and go to conference this afternoon, we would do so; but it is anticipated that probably will not happen. In that event, we are asking unanimous consent that conferees can be appointed on any day that the House is in session so we can move into conference on the bill.

Mr. ANDERSON of Illinois. Mr. Speaker, I withdraw my reservation.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, the gentleman's request did not say germane amendments. It is the habit of the other body to load down legislation with almost anything they can load on, particularly those that have some political usefulness.

Mr. Speaker, if the gentleman would amend the request to say nongermane amendments, I would not object; but I think otherwise it is a very broad request for the Speaker, without concurrence of the House.

Mr. ULLMAN. Mr. Speaker, if the gentleman will yield, let me say that the House conferees will do everything in their power to stay with the germane amendments and with the House bill; but I think there is no way that we could handle that matter in this request in the way suggested by the gentleman from Maryland.

Mr. BAUMAN. The gentleman could handle it very easily by amending the request to ask for this power if the bill comes over with germane amendments.

Mr. ULLMAN. Let me say to the gentleman that the House will be fully protected on any nongermane amendments. There are procedures that allow for separate votes on those matters under the rules. I think it would be very unwise of this body to tie the conferees up in the manner suggested, but I just want to assure the gentleman that the conferees are going to do everything in their power to hold to the House position and hold to germaneness.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

Mr. KETCHUM. Mr. Speaker, reserving the right to object, I would like to ask the chairman of the Ways and Means Committee this: What the gentleman is asking is unanimous consent to appoint conferees at any time that the social security bill might be passed by the other body?

Mr. ULLMAN. At any time that there a pro forma session of the House, and after the papers have been returned, I am asking unanimous consent that conferees can be appointed so we then can go to conference on the social security bill.

Mr. KETCHUM. Further reserving the right to object, in other words, if the other body were, by some stretch of the imagination, to pass the social security bill tomorrow or today, then next Tuesday—if that is the first pro forma session—the gentleman could then ask to go to conference?

Mr. ULLMAN. That is the purpose of the request, that the conferees be named and that we go to conference with the Senate.

Mr. KETCHUM. In other words, we would go to conference like next Tuesday or next Wednesday?

Mr. ULLMAN. It would be the intention of the chairman of the Ways and Means Committee to make the request as soon as the Senate passes the social security bill and we get the papers over here. Then, the first meeting thereafter, the chairman of the Ways and Means Committee would make the request.

Mr. KETCHUM. Further reserving the right to object, what I am trying to determine is, does the gentleman mean that if the conferees were appointed by next Tuesday, the first pro forma session, then they could presumably go to conference before Thanksgiving?

Mr. ULLMAN. Oh, it would be my hope that we could meet immediately when the conferees are appointed.

Mr. KETCHUM. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

APPOINTMENT OF CONFEREES ON H.R. 5263, SUSPENDING DUTY ON CERTAIN BICYCLE PARTS

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5263) to suspend until the close of June 30, 1980, the duty on certain bicycle parts, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

Mr. ANDERSON of Illinois. Mr. Speaker, reserving the right to object, it is my understanding that H.R. 5263 is, in fact, a bill dealing with tariffs to be imposed on bicycle parts; that this is the legislation that went over to the other body, and to which have been attached a great many amendments that deal with the energy program, H.R. 8444, the bill which passed this body on August 5.

My question of the distinguished chairman of the Ways and Means Committee, who is, of course, also a senior member of the Ad Hoc Energy Committee of this body, is: We are now involved in a conference on the nontax portions of H.R. 8444, with conferees appointed by the other body. I have heard some speculation in recent days that if the gentleman's request just made is granted and conferees are appointed, that it is the intention of the leadership of this House and of the other body to conduct parallel negotiations, or so-called dual-track negotiating sessions, of the conference on the energy bill.

There are a number of questions that arise, therefore, in my own mind as to how such a conference would operate, because we have members of the Ad Hoc Energy Committee who are also members of the Ways and Means Committee.

We have members of the Ad Hoc Energy Committee, such as myself, who are not members of the Committee on Ways and Means. To what extent would our participation be in either or both of those conferences, and how would we proceed to do it simultaneously?

These are some of the questions that arise in my mind concerning the gentleman's request.

Mr. ULLMAN. If the gentleman will yield further, the House has specified procedures for conference action, and it is my full understanding that we will follow the orderly procedures under the House rules.

Obviously, a great deal of staff work is going to have to be done and study by Members in attempting to develop some kind of a solution that will be acceptable to the conferees. So there will be a great deal of work going on in developing possible compromises that may come to the conference. Clearly, the conferees duly appointed will be the ones who will make the decisions in the orderly way in this conference.

Mr. ANDERSON of Illinois. Mr. Speaker, further reserving the right to object, as the gentleman well knows, we passed one bill in this body. The Senate, in contrast, just completed action on the fifth and final bill which deals with the same subject matter incorporated within H.R. 8444.

Do I understand the gentleman then to say that we are going to proceed, as we have been doing for approximately the last 2 weeks, to consider seriatim each one of the five bills with the Senate, and that the conferees on the part of the House, with respect to each of those bills, will be the members of the Ad Hoc Committee on Energy heretofore appointed?

Mr. ULLMAN. If the gentleman will yield further, let me say that we have a given time to accomplish all of the conference work. It is a tremendous job,

as the gentleman knows, and there has been a lot of work already. It has been slowed down far beyond what seems to me to be necessary; but again I would respond by coming back to my statement, that, whereas an awful lot of work is going to have to go on simultaneously with the activities of the conference on the other jurisdictional matters, the conference itself will be making the decisions with respect to the tax matter.

Mr. ANDERSON of Illinois. Further reserving the right to object, the gentleman seems to be telling me that there would, in effect, not be simultaneous formal conferences on the various parts of this whole energy program, as broken down in the five Senate bills, that there might be informal negotiations going on between the various staffs.

Mr. ULLMAN. Let me say at this point that I would not rule that out. We have to somehow get the whole job done. But that, the minority would be a party to the decision. There has been no decision made, certainly, at this point. I would not rule dual sessions out. I think I would give the leadership and the minority leadership some flexibility in handling this matter. But, certainly, as of this time, there is no such understanding. I would not want to rule it out. I think it would be unwise to rule it out. We must consider all possibilities for moving the matter ahead.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I thank the gentleman for yielding.

Mr. Speaker, what I think I have just heard from the gentleman from Oregon (Mr. ULLMAN) is that those of us who are on the ad hoc committee and who had no part in the establishment of that procedure—because that was a decision by the leadership of this body on the majority side, and it operated as if it were their decision when the ad hoc committee considered the legislation before it came to this body the first time—will not all be in on all the issues to be conferenced. I think I am hearing that some of us who are on the ad hoc committee are not quite as equal as others.

And what the gentleman is apparently telling us is that there will be some degree of resolution of these complex tax provisions without participation of all House conferees, if the gentleman's unanimous consent request is not objected to, and that the decision will be presented to us in the conference committee for our confirmation or our rejection.

My question to the gentleman from Oregon (Mr. ULLMAN) is this: Since I have such great respect and affection for him, does this mean that I will miss the gentleman from the House conferees from the ad hoc committee while he is settling the tax provisions? And what about the two Members who are on the Ways and Means Committee out of the eight from the minority who are on the conference committee from the House ad hoc committee? Where will they be? Will they be with us in making our decisions on the general conference committee, or will we be voting their proxies because they will be resolving the tax matters in a separate conference committee?

Mr. Speaker, I do not really understand what the gentleman is proposing.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Oregon so he may reply, if he wishes.

Mr. ULLMAN. Mr. Speaker, my friend, the gentleman from Ohio (Mr. BROWN) is not correct. There is no such thing as a double standard here among the conferees. The full conference will be making the decisions.

There is not any attempt here to bypass orderly procedures, but there is an attempt to find some mechanism for carving through the very, very difficult areas we have to work out in order to come before the full conference with reasoned proposals and alternatives that we can debate and vote up or down.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman from Illinois yield further?

Mr. ANDERSON of Illinois. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Speaker, I assume that if there were an objection and this request is denied, it would still be possible for conference members who are also members of the House Committee on Ways and Means to sit down at a deductible luncheon with members of the Senate Finance Committee and informally work out the details in these matters, and then present them to us in any event.

But I am concerned about this walking away, if that is a fair way to describe it, from this unique ad hoc procedure that was devised by the Democratic House leadership for the consideration of this bill, because it seems to me there will be decisions made by the House Ways and Means and Senate Finance conference committee on the tax portions of the bill, the fifth part of the energy bill that will merely be presented to us for ratification.

What would be the ultimate purpose of a separate conference on this part of the bill, since it is going to be a conference of all the House ad hoc members of the conference?

Mr. ULLMAN. Mr. Speaker, the orderly procedures of the conference require that the full conference make the decisions. There is no effort here to bypass the orderly procedure.

Mr. BROWN of Ohio. Then why do we need a separate conference, if that is the case?

Mr. ULLMAN. Mr. Speaker, the chairman of the Committee on Ways and Means is not a party to any kind of an agreement that there will be a separate conference. I have no such understanding.

All I said was that if at some time it becomes evident that the whole problem is bottlenecked and we have to develop agreements simultaneously, then certainly there would be some understanding worked out with the minority and the majority that would allow us to do that. But certainly at this point there is no such understanding, and all we are saying is that we need some flexibility in making future decisions so that we can work out the details of the problem.

Mr. BROWN of Ohio. Mr. Speaker, let me make one other point, if the gentleman will yield further.

Mr. ANDERSON of Illinois. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Speaker, if I should object as an individual Member of Congress, not to say as a member of the Ad Hoc Energy Committee, in conference who is going to stay here and work on this energy problem in conference—and I would like, therefore, to be a full part of the process, since it is my obligation to be here—what would then be the step that the gentleman from Oregon (Mr. ULLMAN) would take?

Mr. ULLMAN. Well, the gentleman would obviously be forced to follow the alternative provided by the House rules.

Mr. BROWN of Ohio. Which is what?

Mr. ULLMAN. Mr. Speaker, we would have to get the Committee on Ways and Means together, and we would have to approve a motion authorizing me to move the matter on the floor; then we would come back and so move the question. It would then be up to the House to decide.

I would hope that the gentleman from Ohio (Mr. BROWN) would not put us through that kind of a torturous operation. This request is being presented in an effort to save time. There is no understanding, and there is nothing going on behind the scenes that I know about that is contrary to the rules.

Mr. BROWN of Ohio. So in effect the gentleman has said that he will just go ahead and do it the way he wants to anyway, no matter what?

Mr. ULLMAN. The way we want to do it is in the manner specified by the rules of the House. We are not trying to get an agreement to do something that does not follow the orderly procedure.

Mr. BROWN of Ohio. Mr. Speaker, we share the gentleman's objective to follow the orderly procedure. I frankly do not share the gentleman's interpretation of what is a worthy objective in this event, but faced with no choice but to accept what the gentleman refers to as orderly procedure, whether I object or not, I would guess that there is no point in objecting.

However, I must say that I, in a personal sense, find it objectionable.

Mr. ANDERSON of Illinois. Mr. Speaker, I have listened very carefully to the assurances that have been given on the floor by the chairman of the Committee on Ways and Means and to the colloquy between the gentleman from Oregon (Mr. ULLMAN) and the gentleman from Ohio (Mr. BROWN).

I interpret the remarks of the gentleman from Oregon to mean that the motion which he has made for the appointment of conferees on H.R. 8263 is in no way intended to subvert the authority of the members of the Ad Hoc Committee on Energy to negotiate with the other body the differences between the bill which passed this body on the 5th of August and the five separate pieces of legislation that have passed the other body.

Is that a correct interpretation?

Mr. ULLMAN. That is correct.

Mr. ANDERSON of Illinois. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

Mr. WYDLER. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries.

VETERANS AND SURVIVORS PENSION ADJUSTMENT ACT OF 1977

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 7345) to amend title 38 of the United States Code to increase the rates of disability and death pension and to increase the rates of dependency and indemnity compensation for parents, and for other purposes, recede from the House amendment to the Senate amendment thereto and concur in the Senate amendment with further amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendment.

The SPEAKER. The Clerk will report the House amendments to the Senate amendment.

The Clerk read the House amendments to the Senate amendment, as follows:

In the table appearing after line 4 on page 3 of the Senate engrossed amendment, strike out "2,700" both places it appears and insert in lieu thereof "2,800".

In the table appearing after line 2 on page 5 of the Senate engrossed amendment, insert "of" after "For each $1".

In the table appearing after line 6 on page 5 of the Senate engrossed amendment, strike out "2,600" under the heading "But not more than—" and insert in lieu thereof "3,700";", and strike out the last line of such table.

In the table appearing after line 4 on page 6 of the Senate engrossed amendment, strike out "3,900" under the heading 'But not more than—" and insert in lieu thereof 5,070';", and strike out the last line of such table.

Mr. MONTGOMERY (during the reading). Mr. Speaker, I ask unanimous consent that the House amendments to the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

Mr. HAMMERSCHMIDT. Reserving the right to object, Mr. Speaker, and I do not plan to object, I would like to yield to the gentleman from Mississippi (Mr. MONTGOMERY) to explain what his unanimous-consent request is.

Mr. MONTGOMERY. Mr. Speaker, on July 12, the House, by a vote of 403 to 0 passed and sent to the Senate H.R. 7345, the Veterans and Survivors Pension Adjustment Act of 1977. There were two principal provisions of the bill. It provided for a 7 percent across-the-board cost of living increase for veterans, widows and children drawing pension benefits and for needy parents of veterans who died of service-connected causes. It also provided, in addition to the 7-percent rate increase, a 25-percent increase in pension rates for eligible widows 78 years of age or older. In other words, the total increase for these needy widows would have been about 32 percent.

On August 3, the Senate amended our bill and returned the measure to the House. The Senate reduced the cost of living increase from 7 percent to 6.5 percent based on the latest Congressional Budget Office inflation factor for the calendar year. In addition, the Senate deleted the additional 25-percent increase for the needy widows.

On September 21, the House returned the measure to the Senate, accepting the reduction in the cost of living increase but inisisting on the additional 25 percent increase for the aged widows.

The Senate has again rejected the increase for widows and returned the measure to the House. Mr. Speaker, in view of the strong sentiment of the House to do more for World War I veterans and their survivors, I am at a loss to understand the position of the other body in rejecting the additional increase in pension rates for widows. Of all the people who are most in need and who deserve additional benefits, it is our aged veterans and their dependents and eligible survivors. The additional add-on we requested would have cost only $35 million in fiscal year 1978 and would have relieved to a large degree the additional burdens placed on these individuals by the ever-increaisng cost of living. We have tried every way possible to get the Senate to keep this provision in the bill, but I have been personally told by the chairman of the Committee of Veterans' Affairs in the Senate that it is not acceptable to their members.

Therefore, I am reluctantly agreeing to recede from the amendment of the House to the Senate amendment and agree to the Senate amendment. We must, however, send the measure back to the other body because of a couple of errors in the rate structure made by the other body when it reduced the pension rate increase from 7 percent to 6.5 percent. The technical flaws go to the formula for paying pension to widows alone and DIC to two groups of needy parents. The deviation in the formula could mean a few hundred of these beneficiaries would not get an increase in pension. What is more important, it could mean a few cents less money in pension even though there is no increase in other income. We do not want this to happen.

I can tell you the other body is anxious for us to make these technical corrections.

Mr. Speaker, it is imperative that this legislation be passed today. Otherwise some 2.5 million veteran, widow, and orphan pensioners stand to suffer reduced pensions or loose their pensions altogether on January 1. I urge your support.

Mr. HAMMERSCHMIDT. Mr. Speaker, further reserving the right to object, I would like to add my somewhat reluctant concurrence to this unanimous consent request regarding H.R. 7345. I concur, because I am committed to seeing our pensioners receive a cost-of-living increase promptly at the beginning of the new year. To continue debate on some of the points of disagreement would jeopardize this prospect. I do so reluctantly because the other body rejected our attempts to provide a 7-percent cost-of-living increase, in favor of a 6.5-percent stipend raise for our veteran pensioners, and because the other body has twice rejected our attempts to provide widow pensioners with a 25-percent pension increase once they become 78 years of age. This increase is already given to veteran pensioners. It is a modest boost to help cover the many costs, often medically related, that accompany the aging process, and I am sorry to see that the other body has not agreed that women have many of the same problems as men. I view this action as lamentable in light of the demonstrated needs of our elderly, as expressed so vociferously by many Membres during debate on the so-called Anderson amendment, and it is my hope that this disparity is eliminated in the near future.

I speak of the future because I view this legislation as a mere stopgap, pending our thorough review of the pension system that will take place once the Veterans' Administration provides us with their comprehensive recommendations, which have been due for more than a month, now.

With these reservations and qualifications, Mr. Speaker, I recommend the support of my colleagues' unanimous consent request.

Mr. WYLIE. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the distinguished ranking member of the subcommittee, the gentleman from Ohio (Mr. WYLIE).

Mr. WYLIE. I thank the gentleman for yielding.

Mr. Speaker, I personally regret the 25-percent differential provision for widows 78 years of age and over was removed by the Senate. The House passed a provision which would provide for them, as the gentleman from Mississippi mentioned, but that was not

retained by the Senate. The House insisted on its position, but the Senate also insisted on its position. We need to pass this bill before we go on recess. I think the bill must be passed today to provide this 6.5-percent increase in pension benefits. It is a little less than the House passed.

I would just like to make the observation also that the Veterans' Administration was mandated by Congress to do a comprehensive analysis of the whole pension program for us by October 1, and we have been waiting for that comprehensive study. It has not been forthcoming, and I would admonish here on the House floor the Veterans' Administration to get that comprehensive study of the whole pension program to us in the very near future.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. I thank the gentleman for yielding.

Certainly I want to commend the gentleman from Ohio, who is the ranking minority member of the Subcommittee on Compensation, Pension, and Insurance of the Committee on Veterans' Affairs. He makes a very strong point about the World War I windows, plus the Veterans' Administration by law should have had up here on October 1 to the Congress a recommendation to the Congress of how we can improve the total veterans' pension program. The Veterans' Administration has not sent that report to us and are in violation of the law. Soon as we get this report the Congress should study and act on the recommendations to improve the veterans' pension program.

Mr. HAMMERSCHMIDT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

Mr. EDGAR. Mr. Speaker, reserving the right to object—and I will not object—I just want to commend the chairman of the Subcommittee on Compensation, Pension, and Insurance for his work and also to commend him for his eagerness to include some benefit for World War I widows. I would hope that when the Veterans' Administration brings their pension report to us that we would hold immediate and extensive hearings on the issue of total reform of the pension system. I commend the gentleman for bringing this bill up.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. EDGAR. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. I thank the gentleman for yielding.

I appreciate the gentleman's comments. He also serves on the Subcommittee on Compensation, Pension, and Insurance.

Mr. EDGAR. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

Mr. MILLER of Ohio. Reserving the right to object, Mr. Speaker—and I will not object—I would like to know from the gentleman from Mississippi (Mr. MONTGOMERY) what would be the cost of the bill for the widows of World War I who would have received a 25-percent increase. Could we have that for the record, what the total cost would be? It would be my estimate that this cost would be a very small amount in comparison to what we truly owe the families of those who defended our country during World War I.

Mr. MONTGOMERY. If the gentleman will yield, the cost would be $35 million to give a 25-percent add-on to these World War I widows as they move into their twilight years.

The testimony that we have had is that as these persons get into the upper years this additional money is certainly needed. We have 800,000 veterans of World War I still living. I am sorry the actuarial table shows that around 100,000 a year will leave us.

Mr. MILLER of Ohio. I thank the gentleman from Mississippi for expressing that for the record.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi to dispense with further reading of the House amendments to the Senate amendment?

There was no objection.

Mr. ABDNOR. Mr. Speaker, I rise in support of H.R. 7345. I must say, however, that I am very sorry that the Senate has seen fit to deny the widows of our World War I veterans with an additional 25-percent pension which the original House bill called for. I am, however, going to support this measure because of the provisions which have been left in the bill. The 6.5-percent cost-of-living increase, plus the increase in the earnings limitation, will be most welcome to our veteran pensioners and their eligible dependents.

The Veterans and Survivors Pension Adjustment Act of 1977 is very important for several reasons. The first, of course, is the cost-of-living increase, which will be important to all of our pensioners. The mere fact alone that the VA pension program is a needs-based one is justification alone. I would be remiss if I did not expand a bit more on my disappointment with the decision made by the Senate to delete the pension add-on for widows upon reaching their 78th year. Last Congress, we approved a 25-percent add-on for the veteran upon reaching the age of 78. It seems to me that extending this additional assistance to widows is most definitely the obvious next step.

Our committee hearings showed, and I think commonsense shows, that the financial impact on our older citizens is a critical one. If one qualifies for a needs-based pension, I think the fact of the impact is even more obvious. When a woman reaches the age of 78 and has lost her husband, as well as living near the poverty level, that is very conclusive, I believe. But unfortunately the Senate sees it another way. I do not know the reasoning behind their decision. It most certainly could not be the cost. The 25-percent add-on would amount to only $34.5 million in fiscal year 1978. At the rate the Senate likes to add to money bills that does not even make a drop in the bucket. It is truly unfortunate. So, with reluctance, I urge all of the Members to support this measure so that those pensioners will receive the cost-of-living increase, which they so definitely need.

The SPEAKER. Is there objection to the first request of the gentleman from Mississippi?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered, H.R. 7345.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

AMENDMENTS TO REORGANIZATION PLAN NO. 2 OF 1977—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95-254)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Government Operations and ordered to be printed:

To the Congress of the United States:

I herewith transmit amendments to Reorganization Plan No. 2 of 1977, which I transmitted to you on October 12, 1977, and certain amendments to which I transmitted on November 1, 1977. Except as specifically amended hereby and by the amendments transmitted November 1, 1977, Reorganization Plan No. 2 remains unmodified.

JIMMY CARTER.

THE WHITE HOUSE, *November 3, 1977.*

DAVID W. JAYNE III

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, on September 23, David W. Jayne III, 40, a senior producer of "The ABC Evening News," was killed in an airplane crash in Amman, Jordan.

Harry Reasoner said:

If you made a list of all the people you could maybe afford to lose, David Jayne's name would never have come up. We have lost one of the brighest lights in the busi-

ness. I mean that both professionally and personally.

Jayne, who graduated from Williams College and the Columbia University Graduate School of Journalism, joined ABC in 1961. In his memory his friends have organized the David W. Jayne III Memorial Trust. Cochaired by Harry Reasoner and Barbara Walters, the trust will provide for the education of Jayne's four children, establish an honorary award in his name at Williams College and establish a special award in journalism in his honor at Columbia. His widow, Elizabeth B. Jayne, will serve as one of trust's trustees.

In his eulogy, Reasoner said that Jayne was "as good at his work as anyone I have ever known." Those of us in Government know the importance of good news people. Because of this, his death is not only a great loss to those who knew him, but also to those of us who were affected by his work.

THE PANAMA CANAL TREATY

(Mr. WIGGINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WIGGINS. Mr. Speaker, at the close of business today we will be going home. We will be talking with our constituents, and surely a major item of discussion will be the Panama Canal. In the strongest terms that I can possibly muster, I urge my colleagues not to become locked in to a position against this treaty. Keep your options open. In all events, do not trade short-term political advantage at the expense of the long-term interests of this country.

The period of our recess, Mr. Speaker, is an opportunity for enlightened debate and discussion and we owe a duty to our constituents to lead that debate and to contribute to its enlightenment. We must not pander blindly to the unreasonable demands of the crowd.

Reasonable men and women may honestly differ as to the adequacy of guaranteed rights of American access to the Canal and its defense after the year 2000; but there can be no doubt whatsoever about the consequences of the rejection of this treaty in the year 1978. We will be handing to the Soviet Union and to its Western Hemisphere surrogate, Fidel Castro, an enormous political victory, the results of which will plague this country for generations.

I urge my colleagues, do not become an unwitting tool of Fidel Castro in the aid of his designs for the Western Hemisphere by knee-jerk opposition to the treaty.

THE PRESIDENT AND ISRAEL

(Mr. FINDLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FINDLEY. Mr. Speaker, I was pleased to see in the Washington Post today a report on the President's address to the Jewish gathering here in this city which indicated clearly that, in my judgment, he said the right things and was received warmly by the group.

I was dismayed a few days ago when our representative at the U.N. abstained from voting on the West Bank question; but now I am reassured by the President's remarks last night that the administration still continues on what I perceive to be the proper course in the Middle East settlement.

I hope that the leaders of the Republican Party in this city and elsewhere in the country will see fit to add their words of encouragement to the President, inasmuch as he is pursuing a policy consistent with that followed by his Republican predecessors, Presidents Gerald Ford and Richard Nixon.

INTERNATIONAL FISHERY AGREEMENT WITH MEXICO

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 9794) to bring the governing international fishery agreement with Mexico within the purview of the Fishery Conservation Zone Transition Act, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 2, after line 8, insert:

SEC. 3. (a) Section 15 of the Coastal Zone Management Act Amendments of 1976 (15 U.S.C. 1511a) is amended as follows:

(1) Subsection (a) of that section is amended by striking out "Associate" each place it appears therein and inserting in lieu thereof in each such place "Assistant".

(2) Subsection (b) of that section is repealed.

(3) Subsection (c) of that section is redesignated as subsection (b).

(b) There shall be in the National Oceanic and Atmospheric Administration a General Counsel appointed by the President, by and with the advice and consent of the Senate, who shall be compensated at the rate now or hereafter provided for level V of the Executive Pay Rates (5 U.S.C. 5316). The General Counsel shall serve as the chief legal officer for all legal matters which may arise in connection with the conduct of the functions of the Administration.

(c) Section 5316 of title 5, United States Code, is amended by striking out paragraph (140), and inserting in lieu thereof the following new paragraph:

"(140) Assistant Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration."

"(141) General Counsel, National Oceanic and Atmospheric Administration."

"(142) Assistant Administrators (4), National Oceanic and Atmospheric Administration."

(d) Section 2(e) of Reorganization Plan Number 4 of 1970 (relating to the National Oceanic and Atmospheric Administration) (84 Stat. 2090) is amended—

(1) by striking out "three additional officers" in the first sentence thereof, and inserting in lieu thereof "four assistant administrators";

(2) by striking out "such officer" in the second sentence thereof, and inserting in lieu thereof "such assistant administrator"; and

(3) by striking out "under the classified civil service," and inserting in lieu thereof "without regard to the provisions of title 5, United States Code, governing appointments in the competitive service,".

(e) The Secretary of Commerce may, in order to carry out the functions vested in the Secretary and carried out though the National Oceanic and Atmospheric Administration, establish, fix the compensation for, and make appointments to, eight new positions within the National Oceanic and Atmospheric Administration. Such positions may be established without regard to the provisions of chapter 51 of title 5, United States Code, and the compensation therefor may be fixed without regard to chapter 53 of such title 5, except the rates of compensation for such positions shall not exceed the maximum rate established from time to time for GS–18 of the General Schedule under section 5332 of title 5, United States Code. An appointment to each such position may be made by the Secretary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and persons appointed to such positions shall serve at the pleasure of the Secretary. The positions authorized by this subsection shall be in addition to the number of positions otherwise authorized by law.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. FORSYTHE. Mr. Speaker, reserving the right to object, I regret that this very important piece of legislation that is in such vital interest of this country, being the first nation with which we have fishing concerns for our own fishermen, comes back with an amendment that really should have an opportunity for discussion in this House rather than to be presented to us in this fashion. The reorganization of NOAA is an important consideration, but to have to handle it under this kind of a procedure, I think, is just unfortunate. We must find a better procedure to deal with this matter.

Mr. BREAUX. Mr. Speaker, will the gentleman yield?

Mr. FORSYTHE. I yield to the gentleman from Louisiana.

Mr. BREAUX. I respect the gentleman's opinion on this. It is indeed a very important matter which the Oceanography Subcommittee, as well as the full Merchant Marine and Fisheries Committee, is vitally interested in. I think the action that the Senate has taken is absolutely essential if we are going to have a better-run organization over at NOAA. I wonder how the gentleman would feel if our committee was able to have, say, a day of hearings, a complete day of hearings just on this proposal, perhaps doing it sometime in November, if that would be possible, and have it fully discussed? Would the gentleman feel disposed still to object, or would he be more inclined to have the Congress work its will at that time?

Mr. FORSYTHE. Well, I would have to respond by saying that I think under the schedule that we now have before us for this House, that it will be impossible. If we do not object at this point of time, we will be foreclosed from dealing with the subject before it is actually passed. It seems to me that what the

gentleman says, that our subcommittees, both the committee the gentleman is chairman of and the committee I am ranking minority member of, do have a deep interest in this, as well as the full committee. We should have the opportunity for rational discussion before something becomes law.

Mr. BREAUX. If the gentleman will yield, the point I am making is, if it is possible for us to have a day of hearings, for instance, on this specific proposal, would the gentleman at that time, after the day of hearings, and if they do in fact justify what we are attempting to do, would the gentleman at that time be in a position at least to support legislation if we have a way in which it could be brought up before the next session of Congress?

Mr. FORSYTHE. Well, I think that is reasonable, but I do not want to see the Mexican GIFA, which is the primary function of this bill, held hostage. The only way is, unfortunately, to separate those issues.

Mr. BREAUX. Will, if we can separate the issues and can have a complete hearing on the proposal, if it is separate from any other legislation, would it be possible for the gentleman at that time to support it if hearings in fact justify it?

Mr. FORSYTHE. I am not sure just what procedure the gentleman is recommending. Having agreed to separate the issues as the gentleman has, yes, I am open to any way of trying to arrive at a concensus on the reorganization for NOAA.

Mr. BREAUX. I thank the gentleman for yielding to me.

Mr. MURPHY of New York. If the gentleman will yield, I might say that this reorganization plan was carefully laid before the ranking minority Member in a lengthy discussion with the Administrator of NOAA, and it was pretty well agreed to, through members of the committee, that there was necessity for this reorganization and the type of reorganization in NOAA in order to better fulfill its expanding mission.

Mr. FORSYTHE. Well, my only response would be that I agree that I went over the NOAA reorganization plan with the director, and as I indicate, I support the fact that this is needed—but I did not contemplate that this was the method that we would accomplish it, under unanimous consent, where we have no opportunity for debate, let alone amendment, either at the committee or at the House level.

Therefore, Mr. Speaker, I am constrained to object.

The SPEAKER. Objection is heard.

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 9794) "to bring the governing international fishery agreement with Mexico within the purview of the Fishery Conservation Zone Transition Act" with a Senate amendment thereto, and disagree to the Senate amendment.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

A motion to reconsider was laid on the table.

FISHERMEN'S PROTECTIVE ACT OF 1967 EXTENSION

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1184) to amend section 7(e) of the Fishermen's Protective Act of 1967, and for other purposes, with a Senate amendment to the House amendments thereto, and concur in the Senate amendment to the House amendments.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendment to the House amendments, as follows:

Page 1, after line 4, of the House engrossed amendments, insert:

SEC. 2. The Fishermen's Protective Act of 1967, as amended, is further amended by adding the following new section at the end thereof:

"SEC. 10. (a) After July 1, 1977, the Secretary may make a loan to the owner or operator of any vessel of the United States which is documented or certified as a commercial fishing vessel if—

"(1) he receives an application for a loan under this section after such date;

"(2) he reasonably determines that such vessel, or its fishing gear, was lost, damaged, or destroyed by any vessel (or its crew or fishing gear) of a foreign nation operating within the fishery conservation zone established by sections 101 and 102 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1811); and

"(3) the amount of such loss, damage, of destruction exceeds $2,000.

such loan—

"(A) may be for an amount not exceeding the value of such loss, damage, or destruction;

"(B) shall be conditional upon assignment to the Secretary of any right to recover for such loss, damage, or destruction;

"(C) shall bear interest at a rate not to exceed 3½ per centum per annum; and

"(D) shall be subject to such terms and conditions as the Secretary deems necessary and appropriate for the purposes of this section.

the Secretary shall use the Fishermen's Protective Fund created under section 9 for the amounts of any loan made under this section. Loans may be made for any loss, damage, or destruction occurring after July 1, 1976 for which claims are not already substantially resolved.

"(b) The Secretary, in conjunction with other agencies or departments, shall investigate each incident of loss, damage, or destruction for which a loan was made under this section. If he determines that the owner or operator who received the loan was not at fault, the Secretary shall cancel repayment of such loan and refund to such owner or operator any principal and interest payments thereon made prior to the date of such cancellation. If he determines that the owner or operator who received the loan was at fault, the loan shall not continue for its term and shall be repaid within a reasonable time as determined by the Secretary.

"(c) The Secretary, with the assistance of the Attorney General, the Secretary of State, and the claimant, shall make appropriate action, pursuant to the provisions of title 28, United States Code, to collect on any right assigned to him under subsection (a). Amounts collected under this subsection shall—

"(1) if such loan was canceled pursuant to subsection (b), be paid into the Fishermen's Protective Fund created under section 9, to the extent of the amount so canceled;

"(2) if not so canceled, be applied to the repayment of such loan; or

"(3) to the extent not used pursuant to paragraph (1) or (2), paid to the owner or operator who assigned such claim.

"(d) For the purposes of this section, the term 'Secretary' means the Secretary of Commerce".

"(e) The Secretary may from time to time establish by regulation fees to recover the cost of administering this section. Such fees shall be paid by the owner or operator making claims under this section.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

A motion to reconsider was laid on the table.

OVERSEAS PRIVATE INVESTMENT CORPORATION AMENDMENTS ACT OF 1977

Mr. BINGHAM. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 9179) to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation.

The SPEAKER. The question is on the motion offered by the gentleman from New York (Mr. BINGHAM).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 9179), with Mr. EVANS of Colorado in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Wednesday, November 2, 1977, all time for general debate had expired. The bill had been considered as having been read and open for amendment at any point.

Are there any further amendments?

AMENDMENT OFFERED BY MR. RYAN

Mr. RYAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RYAN: Page 8, add the following new subsection at the end of the bill.

(j) Title IV of chapter 2 of Part I of the Foreign Assistance Act is amended by adding at the end thereof the following new section:

"240B. TERMINATION.—The Corporation shall terminate on September 30, 1980. The President shall take the steps necessary to insure the orderly termination of the functions of the Corporation and the President shall transfer all obligations of the Corporation to an appropriate agency or officer of the United States. All unexpected balances of appropriations or other funds available

to the Corporation shall revert to the Treasury of the United States on such termination date." .

Mr. RYAN. Mr. Chairman, let there be no mistake about this legislation. I am opposed to the continuation of OPIC for 1 more day, and I am therefore opposed to this legislation. However, in the event that the bill does pass, I believe this amendment is useful.

What the amendment does is to provide for the orderly dissolution of OPIC as of September 30, 1980. It gives all interested corporations seeking or contemplating application for OPIC insurance proper notice of termination.

It provides the President with the power to take whatever phaseout steps are required, and it allows for existing obligations of OPIC to continue to their expiration dates.

I think one of the most important elements in this particular legislation and this particular amendment is the fact that there is, I think, an assumption on the part of the proponents of this legislation that OPIC is necessary to the survival of foreign aid or to the survival of private investment by corporations in the rest of the world. That is not true.

There has been testimony offered already which would indicate that, for instance, Reynolds Metals was denied an investment guarantee by OPIC, and that company still invested $8 million in a bauxite mining plant in Jamaica. The multinational corporations still have the capacity to invest abroad for profit, whether they have OPIC insurance or not.

Why should we put the U.S. Government stamp of approval on private corporate enterprises, some of which have a dubious value to the economic and social growth of poorer countries?

To give the Members an example, let us take Puerto Rico. There is $5½ billion in U.S. investment there, while 60 percent of the island's arable land today lies fallow and Puerto Rico has to import $800 million in food from the mainland each year. If the investments in Puerto Rico do not help the economy any more than the use of OPIC, I submit to the Members, as a kind of guarantee of U.S. investment is misdirected to say the least.

I would like, if I may, in closing my remarks on this particular amendment, praise the work of the gentleman from New York (Mr. BINGHAM) and the other members of the subcommittee who have had this particular legislation before them. I am pretty well convinced myself that if it were not for their vigorous support and defense of this particular agency, the agency could not survive. Their talent is what keeps it alive.

I would like to use, for example, the kind of litmus test I have employed on occasion in trying to decide whether or not to vote for legislation concerning an agency that is already in existence. If this agency were not in existence today and if this were a bill to create the agency, I doubt if it would get more than 50 votes on this floor, because it simply is not necessary any longer. It does not do the job. While it is a good idea, it simply has not worked out in practice, as we have witnessed over the last 7 years, and there is simply no reason to continue it.

This amendment would stop the work of this agency by September 30, 1980. An orderly termination of this particular agency is a good idea.

Mr. Chairman, if there were ever a reason to get rid of an agency or to cut back in Government, this is a good place to begin, and I ask for the aye votes of the Members on the amendment.

Mr. BINGHAM. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I have just seen this amendment. It was given to us only a few minutes ago.

This agency would, of course, be subject to review by the Congress in 1980 anyway. Under our bill the Congress will be reviewing the future of OPIC in 1980, and it seems ridiculous for us now to try to prejudge what the Congress in 1980 will be deciding. We cannot bind that Congress. In a way, I welcome this, because at least by that time we will know more about the kinds of changes that have been made by OPIC under the new administration and the approaches that will be taken under this legislation.

But, Mr. Chairman, it seems to me ridiculous now to say that 3 years from now we are going to terminate the program. We are simply extending it for 3 years, and that is the normal way of viewing these matters.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, I concur in the views expressed by the gentleman from New York (Mr. BINGHAM). OPIC serves a useful purpose, and I see no need for this termination amendment. I hope the amendment will be defeated.

Mr. BINGHAM. Mr. Chairman, I thank the gentleman.

Mr. Chairman, let me make a couple of points. First, I think this amendment would raise complications if it were carried through. If and when OPIC is terminated, there are a lot of contracts which would have to be serviced. They are 20-year contracts, and they are binding obligations. They will require the retention of reserves. It would not be possible to eliminate those reserves, and it would possibly be unconstitutional to require that to be done.

Finally, let me say this in regard to the gentleman's comments about Puerto Rico. Yesterday I alerted the Resident Commissioner of Puerto Rico, the gentleman from Puerto Rico (Mr. CORRADA), that there might be some adverse comments made about the results of private investment in Puerto Rico within the last 15 or 20 years. The gentleman was quite prepared to respond to those comments in a very vigorous way and to defend the impact upon Puerto Rico's economy by the private investments that have taken place there. Unfortunately, the gentleman is not on the floor at the moment.

Let me just mention one or two figures. From 1950 through 1976, net income per capita in Puerto Rico increased from $279 to $1,989.

Mr. Chairman, we know there are distortions in the islands' economy. The islands have difficulties; but if there is any question in anybody's mind as to whether Operation Bootstrap, which was an operation to attract private investment in Puerto Rico, has benefited the island or hurt it, I refer them to the distinguished Resident Commissioner of Puerto Rico.

Mr. Chairman, I ask for a negative vote on the amendment.

Mr. CARTER. Mr. Chairman. I move to strike the requisite number of words, and I rise in support of the amendment offered by the gentleman from California (Mr. RYAN).

Mr. Chairman, I want to point to a letter received from an interreligious task force on food policy, and I want to point particularly to what they have to say about OPIC, so-called OPIC. I think it would be very interesting for the Members of the House to know what they say. Their statement follows:

> While the developmental objectives of OPIC are clear, the Agency in practice has written insurance for projects such as the Habitation Leclerc Hotel in Haiti, where $150 per day room charges contrast starkly with the average Haitian's per capita annual income level of less than $150. Since 1974, OPIC insurance has covered Sheraton hotels in India, Ralston-Purina fast food chains in Brazil, a game lodge in Kenya owned by Chase International, and Avis Rent-A-Car operations in Malaysia. OPIC insurance has been heavily concentrated in a few middle-income countries, many of which have been identified as consistent violators of basic human rights. Companies on the Fortune 500 list and banks and utilities on the Fortune 50 list have been the main recipients of OPIC insurance. We question whether official U.S. policy should be aligned with such investment projects, and whether businesses such as these could not and should not be self insuring.

Mr. Chairman, I certainly question this policy, too; and I support the amendment offered by the gentleman from California (Mr. RYAN).

Mr. CAVANAUGH. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I will not take 5 minutes.

I will just briefly respond to my colleague, the gentleman from Kentucky (Mr. CARTER). The gentleman raises two issues that have been raised before in this debate about OPIC. The fact that OPIC insures the investments of large, multinational corporations and that it has engaged in insuring and providing loan guarantees for various tourist businesses in less developed countries.

Mr. Chairman, tourism is an area in which American business expertise is well recognized; and certainly tourism is not injurious to the economies of less

developed countries. Indeed, in many instances, and especially in the instance of Haiti, the most beneficial natural resource that those particular countries have is tourism. The price paid for a hotel room by a tourist coming into that country is money being injected into that local economy and can only serve to assist those depressed economies and developing economies by injection of foreign capital, which is certainly beneficial to the developmental purpose and is also beneficial to American business interests which have that expertise and are willing and able to share it with developing countries, but would not be willing and able to share this expertise in the absence of availability of insurance to protect their investments in countries whose political situations and economic situations are tenuous.

Mr. Chairman, the purpose of OPIC is to provide opportunity for American business as well as to provide the developmental opportunities for those developing countries.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. CAVANAUGH. I yield to the gentleman from Kentucky.

Mr. CARTER. I thank the gentleman for yielding.

I take it that the gentleman thinks it appropriate that we should support investment by Fortune 500 companies, Fortune 50, GM, and Avis.

Since 90 to 95 percent of all U.S. investment overseas is made by Fortune 500-sized companies, these are the primary users of OPIC's insurance. Some very large companies, such as Exxon, GM, or IBM are able to self-insure, but most companies require insurance to offset the risks peculiar to investment in LDC's. No individual investor may hold more than 10 percent of OPIC's insurance. Presently, the largest users of OPIC insurance are Dow Chemical Co.—3.6 percent of the total—Kaiser Aluminum & Chemical—3 percent—and Reynolds Metals—2.5 percent.

Is this statement correct?

Mr. CAVANAUGH. I would certainly concede that the Fortune 500 companies are most likely able to meet their own investment desires with their own resources and would not need this assistance. However, I do not believe that we could have a viable insurance program by precluding OPIC from serving large corporations in order that they may share the risk of the smaller companies.

Mr. BINGHAM. Mr. Speaker, will the gentleman yield?

Mr. CAVANAUGH. I yield to the gentleman from New York.

Mr. BINGHAM. I thank the gentleman for yielding.

Let me point out to my friend, the gentleman from Kentucky, that the very largest corporation are self-insuring in foreign investments. The very largest corporations do not use the facilities of OPIC, but the middle-sized corporations and the large ones do, and they are prepared to pay for it with substantial premiums. The premiums run from 1½ percent to 3 percent of the investment, which for a $10 million investment is a large sum of money. Those businesses do not pay out that kind of money unless they feel there is some protection there that is valuable to them. They would not do it if it was unnecessary, I can assure the gentleman of that. The operations of any company overseas are complicated. They require lawyers. They require resident managers. They cannot do it successfully with a very small enterprise—a medium-sized enterprise, yes, but a very small one, no.

Mr. CAVANAUGH. I would reclaim my time to make one final point, because I think it is the essential point in evaluating the proposal of the gentleman from California, Mr. RYAN, to terminate OPIC's authorities in 1980. The defect in the gentleman's proposal is that it provides no alternative for small American businesses or to the developing countries that OPIC now serves. The uncontradicted testimony before the Committee on International Relations by the insurance industry, by GAO, by OPIC, and the Department of the Treasury was that no private insurance companies would take over the function OPIC is now providing. The private insurance industry is not interested or willing to provide for the insurance needs of American business—seeking to make investments in the less developed countries of the world. Therefore, acceptance of the gentleman's amendment would result in precluding many American businesses from the opportunity of investing in the less developed countries of the world.

Mr. RYAN. Mr. Speaker, will the gentleman yield?

Mr. CAVANAUGH. I yield to the gentleman from California.

Mr. RYAN. I thank the gentleman for yielding.

I guess the arguments that the gentleman uses regarding the need for large corporate investments are exactly what is wrong with this agency, as I see it.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. RYAN, and by unanimous consent, Mr. CAVANAUGH was allowed to proceed for 1 additional minute.)

Mr. RYAN. If the gentleman will yield further, if we need to have heavy participation by large corporations, giant corporations, in safe countries in order to provide a little bit of gamble in a few small countries, that is precisely why I believe the purpose of OPIC is ideal. But what we wind up doing is putting 20 percent of the total investment in the last couple of years in Brazil, for example, which does not have an unstable government. In fact, it is too stable. They do not even let you vote down there any more.

Mr. CAVANAUGH. That was the result of the 1974 congressional mandate for privatization, which H.R. 9179 rescinds.

Mr. RYAN. Precisely, but if we go back the other direction away from privatization, as the gentleman calls it, which simply means we do not allow the safe companies to take insurers, we ask for more risk than we are going to have, more losses, and then OPIC asks, "Why do I have losses?" The answer is, "Of course, you went to unstable countries with unstable companies to give them a little bit of assistance." That is the essential problem OPIC will always have, it seems to me, if we are going to give foreign aid to a company

Let us just give more foreign aid to the country or individual instead of doing it this particular way, using it to help support these large international organizations.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. RYAN).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. RYAN. Mr. Chairman, I demand a recorded vote and, pending that, I make the point of order a quorum is not present.

The CHAIRMAN. Obviously a quorum is not present.

Mr. BINGHAM. Mr. Chairman, if the gentleman from California will withhold the point of order, we will give him the recorded vote he asks for.

The CHAIRMAN. The Chair has already announced that a quorum is not present.

Mr. BINGHAM. May the gentleman not withdraw his point of order?

The CHAIRMAN. The Chair cannot withdraw his count and observation of the absence of a quorum. The Chair would inform the gentleman that once the Chair has made the statement that a quorum is not present, there is no alternative but to proceed with the quorum call.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The committee will resume its business.

The pending business is the request of the gentleman from California (Mr. RYAN) for a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LONG of Maryland: Page 1, strike out lines 5–11 and insert in lieu thereof the following:

SEC. 2. (a) Section 231 of the Foreign Assistance Act of 1961 is amended—

(1) by striking out subsection (e) and redesignating subsections (f) through (m) as subsections (e) through (l) respectively; and

(2) by adding at the end thereof the following new paragraph:

"The Corporation shall provide to United States small business (as defined by the Small Business Administration) at least 50% of all insurance, reinsurance, guaranties, financing, or other financial support authorized by section 234 of this Act".

Mr. LONG of Maryland. Mr. Chairman, OPIC's original purpose was to encourage small business to invest in developing countries. It has, in fact, provided the overwhelming proportion of its insurance to large multinational corporations, not to U.S. small businessmen.

My amendment is very simple. It would require that at least 50 percent of all OPIC activity go to U.S. small businesses. The committee bill simply requires that OPIC give preferential consideration, but does not require that any particular amount of guarantees and insurance go to small businesses. The committee bill does not hold their feet to the fire. That is what my amendment would do.

Without this amendment, there is no assurance that small businesses will benefit from OPIC activities. The chairman said a little while ago that the program's purpose is mainly to benefit medium-sized businesses. If he means that small businesses are not a part of the business community, that, of course, is a complete reversal of the original idea of OPIC. I would like to ask whether the following are medium-sized businesses: American Can Co., Armco Steel, Bank of America, Celanese Corp., Chase International, Dow Chemical, B. F. Goodrich, and G. T. International.

Are these the medium-sized firms? The list is one of mostly big corporations whose investments have been guaranteed by U.S. taxpayers.

Left to itself, OPIC may actually hurt U.S. businesses. In fact, according to OPIC's national annual report, one of OPIC's beneficiaries in fiscal year 1976 was the Philippine steel industry, which benefited from a $5 million investment insured by OPIC.

And we all know what trouble the steel industry is in, in this country. The United States has loaned or participated in loans for steel production of over $1,900,000. This foreign aid for steel has increased imports into this country of steel. It has dried up our export market. It has dried up our investment capital, which is in great shortage in this country right now. Capital is our greatest shortage. The capital shortage has thrown workers out of work, and now we do not even help small businessmen. OPIC insures companies against various risks. OPIC's total liability for expropriation alone is over $3½ billion. That means that if Communists took over some countries in Latin America—and that seems to be what lots of people are afraid of, so it is not a nightmare thought up by CLARENCE LONG—if the Communists were to take over a large number of corporations in various countries, the taxpayer would be out billions and billions of dollars. Since the U.S. taxpayers can be required to pay millions of dollars to reimburse companies whose assests are expropriated, surely it is legitimate for the Congress to see that OPIC serves the public interest, to see that U.S. small businesses are benefited by an OPIC program, which is a goal that serves the public interest. I hope the Members will support my amendment to help small business get its share of overseas investment and end the monopoly which big business has on OPIC guarantees.

Mr. Chairman, I urge support of my amendment.

Mr. BINGHAM. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, just before discussing the amendment specifically, let me respond to some of the comments and the names of the big companies which have been tossed around here as receiving OPIC insurance. Of course, we have had big companies buying this insurance, but, as I said in a colloquy a few minutes ago, they do it because they think it is good business. They pay substantial fees, and that is what makes OPIC self-sustaining. But here is a list of companies taken from one page of OPIC's annual report for 1976, of companies that have also been getting cooperation from OPIC. I doubt if any one of the Members of the House has ever heard of more than one or two of them.

Nile Investments, Inc.; North Jersey Secretarial School, Inc., a secretarial school in Haiti; Olinkraft, Inc.; PPG Industries, Inc.; Raymond International; Richardson-Merrell; Robintech Western; Rohm & Haas Co.; George L. Small, for expansion of a cattle ranch in Kenya, $58,000; Cecil Albert Stone, for a farm in Belize, $540,000; Tea Importers, Inc., in Rwanda, one of the smallest and poorest countries in Africa; Tiger Leasing Group, Inc.

These are not the very small businesses.

What is totally impractical about the amendment offered by the gentleman from Maryland is that it limits it to small business as defined by the Small Business Administration. Do the Members know what that means? That means something only a little bigger than a mom and pop store. Ten million dollars in assets. That is the definition. How in the world is a company of that size going to engage in putting up a factory in some overseas country, with all of the risks, expenses, the lawyers, and the travel involved? Would anyone advise a small business to go into that kind of operation?

Mr. Chairman, I was just discussing this matter with the chairman of the Subcommittee on Small Business, the gentleman from Iowa (Mr. SMITH). He said he has never had the slightest expressed interest from the small business associations for help in investing overseas.

What they need is help right here at home.

To reserve 50 percent of OPIC's operations to companies of this size would be, if you will, to make the program utterly unworkable. If OPIC is limited to 50 percent and cannot get enough small businesses of the limited size defined in the amendment to take an interest in investing overseas, then they cannot operate at all.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. Mr. Chairman, I think the gentleman has just made the most damning indictment of the OPIC program that I have heard yet. The gentleman says that there is no room in overseas business or in the overseas market for small business.

What could be worse than that?

Mr. BINGHAM. Mr. Chairman, I did not say that.

Mr. LONG of Maryland. Mr. Chairman, let me make one other point.

Mr. BINGHAM. Mr. Chairman, let me reclaim my time, and then the gentleman from Maryland (Mr. LONG) can get time from some other Member.

I did not say there was no room for small business. I said there was no interest on the part of very small businesses with a capitalization of $10 million or less in assets. They are not interested, and they should not be, because this is much too complicated and it is much too expensive an operation and much too risky an operation at the present time for small businesses to enter this field.

OPIC is directed in our bill to give preferential consideration to small business, but this is in fact something that is larger than what Small Business Administration defines as "small business."

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. LONG of Maryland. Mr. Chairman, if the gentleman will yield, may I ask him a question that I am afraid he cannot answer?

Mr. BINGHAM. I am sure the gentleman from Maryland (Mr. LONG) can get time later.

I yield to my friend, the gentleman from Florida (Mr. FASCELL).

Mr. FASCELL. Mr. Chairman, the gentleman's amendment, it seems to me, would have an adverse, contrary effect with respect to what he proposes to do.

At the present time there is no limitation in law with respect to the opportunities for small business, is there?

Mr. BINGHAM. No.

Mr. FASCELL. The entire authorization could be used for that purpose; is that not correct?

Mr. BINGHAM. That is correct.

Mr. FASCELL. What the gentleman's amendment would do would be to restrict it to 50 percent. That is what the gentleman says. Am I correct?

Mr. BINGHAM. Mr. Chairman, I am not sure that would be the proper in-

terpretation of the amendment. However, my point is that businesses that are this small are too small to properly engage in overseas investment.

Mr. FASCELL. Looking at it either way, if the amendment says, "at least 50 percent," it means they have to go to the level of 50 percent, and if there is no interest by small business, that means we would have unused authorization, and that seems rather crazy to me.

Mr. BINGHAM. That is correct.

Mr. LONG of Maryland. Mr. Chairman, since my name was mentioned, will the gentleman yield to me?

Mr. BINGHAM. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. Mr. Chairman, let me point out that I have had firms from my district come into my office—and they are in many cases a good bit smaller than the $7½ million guideline in this bill—asking how they could get into the market through foreign aid.

The CHAIRMAN. The time of the gentleman from New York (Mr. BINGHAM) has expired.

(By unanimous consent, Mr. BINGHAM was allowed to proceed for 3 additional minutes.)

Mr. BINGHAM. Mr. Chairman, I think what the gentleman from Maryland (Mr. LONG) will find, if he will examine those cases further, is that they are interested in export markets. Yes, small business companies are interested in export markets. The gentleman from Iowa (Mr. SMITH), the chairman of the Committee on Small Business, just told me so.

But that is an entirely different thing from embarking on the putting up of a plant in some foreign country and going through all the necessary complications.

Mr. Chairman, I have asked for additional time so that I may yield to the gentleman from Iowa (Mr. SMITH). First, may I ask the gentleman from Iowa (Mr. SMITH), what in his opinion is the practicality of limiting 50 percent of OPIC's operations to small business, as defined by the Small Business Administration?

Mr. SMITH of Iowa. Mr. Chairman, if the gentleman will yield, let me say to the gentleman that I have not made any specific study of this matter, but I do know this: that trade associations and small business organizations usually come in during the year, and sometimes on many and various questions. For example, many have expressed a desire for a graduated income tax rather than the present abrupt surtax. They want a number of things and when they have a particular problem, I usually hear about it.

None of the trade associations nor any of the organizations have mentioned to me that they have been denied the opportunity to participate in the program. If they needed it, I would be all for it. What I am saying is that none of them has expressed a need for this and I know of no evidence small business is being denied insurance. To hold larger business to a dollar for dollar match would cut the total program to about 10 percent of what it has been. Those opposed to the entire program would favor this amendment because it really guts the bill, but I do not believe its adoption will increase opportunities for small business overseas since many small businesses are subcontractors with those who are sending skeleton products overseas as a result of this program, it could reduce small business opportunities.

Mr. BINGHAM. Mr. Chairman, I thank the gentleman.

Mr. FINDLEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, it may be that the amendment is motivated by the notion that there is only so much money that can be guaranteed or otherwise provided under OPIC and, therefore, in view of this supposed finite limit on the amount of money that can be provided under OPIC, a certain potion of it ought to be reserved for small business activity.

If that assumption were sound, there would certainly be some considerable merit to the gentleman's amendment.

However, it simply is not sound. There is no limitation on the extent to which OPIC can expand its coverage of investment abroad; and it would certainly serve no interest of small business. Therefore, to have this amendment passed would simply hamper OPIC in its activities.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I thank my colleague for yielding.

I was disturbed by the suggestion earlier that this program was costing the taxpayers money.

How long has it been in effect, and how much has it cost?

Mr. FINDLEY The OPIC activity began in 1969, and the information I have, which I believe is correct, indicates that the total revenues from all sources during this period since 1969 comes to $233 million. The total pay out comes to $123 million, which shows a favorable balance of $110 million.

To be sure, there are certain Federal funds tied up as operating capital for OPIC. These come to something over $200 million, but there has been no additional appropriation for OPIC. There is none contemplated, and this working fund, I am sure, will not be enlarged. Therefore, it has an excellent financial status.

Mr. RYAN. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from California.

Mr. RYAN. Mr. Chairman, does it not say in part of the language of the bill before us today that OPIC is backed by the full faith and credit of the United States Treasury, I would ask the gentleman?

Mr. FINDLEY. I would hope that would be the case. Otherwise it would be virtually a nullity as a public institution.

Mr. RYAN. That is what I am after.

Mr. FINDLEY. Mr. Chairman, I yield back the balance of my time.

Mr. RYAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

The CHAIRMAN. The gentleman from California (Mr. RYAN) is recognized for 5 minutes.

Mr. RYAN. Mr. Chairman, I would like to read from a publication entitled "Committee on Foreign Relations and International Relations, volume 1, February 1977, Joint Committee Print," beginning on page 29, "Overseas Private Investment Corporation, Creation, Purpose, and Policy."

Mr. Chairman, I skip down to the next paragraph and read as follows:

> In carrying out its purpose, the Corporation, utilizing broad criteria, shall undertake . . .

Mr. Chairman, I skip now to the paragraph lettered (e) on page 30, where it says:

> To give preferential consideration in its investment insurance, financing, and reinsurance activities (to the maximum extent practicable consistent with the Corporation's purposes) to investment projects involving businesses of not more than $2.5 million net worth or with not more than $7.5 million in total assets.

Mr. Chairman, what this amendment really does is to change the emphasis that OPIC has now to say in effect, "You either do the trickle-down theory"—which is what this bill does now or what OPIC is now—"or you do it in a different way, which is the way I would like to see it."

Mr. Chairman, let us take Habitation Leclerc Hotel in Haiti, where a room costs $150 a day.

Surely, it provides jobs for Haitians, jobs for janitors and hotel maids. At best that is better than nothing. However, is it not better to have those people occupied in jobs which would give them some kind of pride and some kind of chance to take care of themselves without becoming, in effect, simply servants of the rich folks who come from other countries to use their land as they do now?

That is where we get back to such companies as Avis Rent-A-Car. Mr. Chairman, I do not think that the U.S. Government should be in the position of supporting those companies which want to engage in that kind of activity. Those companies ought to be able to do it on their own. I do not say that they should not be doing it, but they ought to be able to do it on a private-enterprise basis, without the full faith and credit of the Treasury behind them in case they go broke.

What I am after, Mr. Chairman, is simply a total change of emphasis which OPIC has not been able to get to attain in the years of its existence. That is precisely why I think this agency should be terminated; and if not terminated, we certainly should support this kind of amendment which the gentleman from Maryland (Mr. LONG) has offered. Without it, this bill is a travesty, and the result would be that we would be supporting the large corporations while not even taking care of our own small business-

men, who could be given much more opportunity to do business and to provide jobs for people in our own country.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. RYAN. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. Are we not simply saying to OPIC, in quantitative terms, what the Committee on International Relations has already said in general terms, that they should be putting more emphasis on small business, which they have not been doing?

Mr. RYAN. From the very beginning, the ambition of OPIC was to do it in the way in which the gentleman's amendment would do it. It has not been done either in theory or practice. This amendment should be adopted because it is reasonable.

Mr. LONG of Maryland. If the gentleman will yield further, let us give small business a chance to get in on this business. Then if it does not work in a year or so, we can take another look at it. But let us give small businesses a chance.

I might also point out that labor is against this bill and is fighting it because it has been shown to export jobs overseas and it has not done anything for small business. If we put something in this bill to protect small business, it might even help keep the bill from going down the drain today.

Mr. RYAN. Precisely.

Mr. LONG of Maryland. I thank the gentleman.

Mr. PATTEN. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment. I yield to the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. I thank the gentleman for yielding.

Let me just say that the provisions which the gentleman from California quoted are provisions which were in the statute. They are different from the amendment in that they required OPIC to give preferential consideration to businesses of that size. After careful consideration and hearings, the committee decided that this was impractical because businesses of that size have no interest in putting up factories or plants overseas, as we have heard the gentleman from Iowa, the chairman of the Small Business Committee, say. In addition to that, the gentleman from Maryland's amendment is mischievous in that it does not limit the direction to preferential consideration, but there is a hard and fast requirement that 50 percent of the total amount of OPIC business goes to such small businesses. However the gentleman would characterize $7½ million or $10 million, the fact of the matter is—and I think that the chairman of the Small Business Committee has confirmed this—that that is not large enough to warrant a small business going into the inevitably risky, inevitably difficult, inevitably complex problem of coping with foreign laws, coping with problems of foreign labor, and all of the rest of it that goes into private investment abroad. The type of corporation which is now being encouraged by OPIC under the press release that I was reading from yesterday, under the new policies adopted by the Carter administration, and under this proposed bill, are corporations that are smaller than the so-called Fortune 1000 corporations. They are the kind of corporations that I mentioned a few minutes ago. But they are not small businesses in the usual sense in which we speak when we speak of the Small Business Administration.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. PATTEN. I yield to the chairman of the Foreign Operations Subcommittee of the Committee on Appropriations.

Mr. LONG of Maryland. I thank the gentleman for yielding.

The gentleman from New York has talked as though the insured business had to be a manufacturing firm, and, of course, when we think of that, $7½ million does not go very far in setting up a factory. But let me point out that many of the loans guaranteed by OPIC are not for manufacturing at all. I am reading right here from the annual report: Avis Rent-a-Car, Safari Lodge, $361,000; Avis Rent-a-Car, Car Rental Service, $44,000. I could go through here naming numerous other loans that are well below the figures we are talking about. The gentleman has set up a strawman. There are all kinds of businesses small firms can get into—markets abroad—if we give them a chance. Let us give them that chance. This is the purpose of my amendment.

Mr. PATTEN. May I add, there was one firm that had the protection of this bill that opened a project in an underdeveloped country in Africa. The project was a good one but the government ordered them to take all local help, and it was fatal.

Mr. LONG of Maryland. If the gentleman will yield again, I can read here pages of items, loans which have been made to large corporations in small amounts for this stuff overseas. These are for far less than $1 million, way below the $7.5 million we are talking about.

The gentleman from New York has raised a point which is disingenuous. There are markets for small firms to get in on. They are not being given any kind of help by the OPIC. We want to force OPIC to put its money where its mouth is. OPIC has not been doing that.

Mr. CARTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think it is interesting to note that of those who are involved in OPIC, 90 to 95 percent of them are from Fortune's 500. It is interesting to see some of my good friends backing these huge companies, these multinational companies which are able to insure themselves. Among this group. of course, are Exxon, GM, IBM—some of the largest companies we have in the United States. Dow Chemical Co. is one of the largest companies insured or has the largest insurance of any other company, and, of course, it is capable of insuring itself. We have Kaiser Aluminum and Chemicals, Reynolds Metals, and the remaining 90 percent of these practically all are out of Fortune's 500. They are not small business at all, but we are backing the companies which are capable of insuring themselves.

As explained, OPIC is largely a vestige of the now discredited trickle-down approach to governments, an approach which stressed large-scale transfers of capital to poorer nations in order to achieve rapid industrial growth.

OPIC clearly has not been operating within the spirit of the new direction guidelines of foreign assistance which Congress mandated in 1973 and reaffirmed in 1975 and again this year. While OPIC's legislative mandate differs from that of the U.S. AID, OPIC has by all accounts insured projects which directly confront rather than complement or help the development goals of AID. Hence we believe that OPIC's legislative authority should be allowed to lapse when it expires this year.

Mr. CAVANAUGH. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from Nebraska.

Mr. CAVANAUGH. Mr. Chairman, I am confused by the gentleman's statement. First of all I do not believe it is accurate to say 95 percent of CPIC's activities, whether it be insurance, loan guarantee, or direct loans, is consumed by Fortune's 500.

Mr. CARTER. All right. I reclaim my time.

Mr. CAVANAUGH. Would the gentleman concede to me that 95 percent of U.S. foreign investment is accounted for by Fortune's 500?

Mr. CARTER. I want to reclaim my time, Mr. Chairman.

I take this directly from the report which I have here which states that since 90 to 95 percent of all U.S. investment overseas is made by Fortune's 500-size companies, these are the primary users of OPIC's insurance.

Mr. CAVANAUGH. If the gentleman will yield again, I think that answers the Chairman's point that all OPIC can do is to service the American businesses which are investing abroad.

Mr. CARTER. Mr. Chairman, I reclaim my time.

Mr. HILLIS. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from Indiana.

Mr. HILLIS. I thank the gentleman for yielding. I am interested in the point the gentleman is making about the size of the American corporations involved in this program overseas. But is it not also a fact that many of the products we see flooding the American market right now and putting our domestic people out of work—TV parts, steel, leather goods, garments—are produced by foreign factories that really are insured by this program?

Mr. CARTER. I have to concede that point, that much of the steel is coming from Japan and Germany. I regret this very much. I think we must support the

steel industry, and the agriculture in the gentleman's area and in my area must be supported because the produce right now has reached an all-time low.

Our good farmers are in serious trouble, as are the labor people and our industries.

The CHAIRMAN. The time of the gentleman from Kentucky has expired.

(At the request of Mr. HILLIS, and by unanimous consent, Mr. CARTER was allowed to proceed for 1 additional minute.)

Mr. HILLIS. Mr. Speaker, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from Indiana.

Mr. HILLIS. Mr. Chairman, I appreciate the gentleman's comments very much. I just wanted to conclude with the statement that I am one who supported this legislation when it was originally passed a few years ago; but in seeing how it has worked, I cannot support it further.

Mr. CARTER. Mr. Chairman, I thank my distinguished friend from Indiana, and the gentleman is a friend.

The CHAIRMAN. The time of the gentleman from Kentucky has again expired.

(At the request of Mr. LONG of Maryland, and by unanimous consent, Mr. CARTER was allowed to proceed for 1 additional minute.)

Mr. LONG of Maryland. Mr. Speaker, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. Mr. Speaker, we have heard a great deal, as the gentleman knows, about the difficulties the U.S. steel industry is in.

Mr. CARTER. Yes, sir.

Mr. LONG of Maryland. I released information the other day showing we have loaned at least $2 billion to 42 different countries producing steel in the world that are drying up our steel markets and causing a great increase in our steel imports.

I have additional information that Armco Steel has three OPIC guarantees for steelmaking in the Philippines; OPIC has gone to Armco Steel, a big firm, and guaranteed loans to build steel facilities in the Philippines.

These steel facilities are usually big. They are not very efficient. They are usually subsidized by the government. Once in place, they produce steel and these countries stop buying from the United States.

Mr. CARTER. And they further depress our market, I regret to say.

It is said that when we rebuilt steel plants in Germany and Japan under the Marshall plan, we should have at the same time rebuilt our own plants throughout the country.

The CHAIRMAN. The time of the gentleman from Kentucky has again expired.

(At the request of Mr. CAVANAUGH, and by unanimous consent, Mr. CARTER was allowed to proceed for 1 additional minute.)

Mr. CAVANAUGH. Mr. Chairman, will to strike the requisite number of words. the gentleman yield?

Mr. CARTER. I yield to the gentleman from Nebraska.

Mr. CAVANAUGH. Mr. Speaker, I feel I must correct the record of the gentleman from Maryland (Mr. LONG), and the gentleman in the well.

The record will show that OPIC has insured only five small steel projects manufacturing for local consumption within the countries in which they are located. OPIC is not involved at all in Germany or Japan, which are the primary producers of steel providing the competition to the U.S. steel industry.

Mr. CARTER. Mr. Chairman, I have to reclaim my time to say that I did not say that. I did not mention Japan or Germany as OPIC nations, except that I conceded the point of the gentleman from Indiana, that imports from Germany and Japan were depressing the markets here. These countries certainly are not OPIC nations.

Mr. CAVANAUGH. Which are clearly not involved in OPIC or in this legislation.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. Mr. Chairman, with respect to the remark of the gentleman from Nebraska that these steel facilities were built for local consumption, let me say the United States used to have very substantial steel exports. When we build steel plants in other countries, they stop buying U.S. steel and start buying their own. It is as simple as that.

Mr. FASCELL. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to this amendment.

Mr. Chairman, there is no reason in the world that a restriction which would take 50 percent of the authorization and earmark it for the purposes the gentleman from Maryland wants to do. As has been pointed out, there are no restrictions now. Any small business which can make a deal with the bank, and wants to pay for the insurance can get an overseas deal, if it is otherwise eligible and the board approves the guarantee. There is no evidence that small business has been unfairly treated by OPIC. If there are turndowns, the turndowns are based on the criteria laid in the law by the Congress to protect U.S. industry; which otherwise would have an adverse effect on the economy of the United States; or otherwise do not meet the developmental criteria laid down in the law.

So there is a strawman here. The strawman is that small business is not being fairly treated. As a matter of fact, when this issue rose once before some years ago, the Moss program was actually put into OPIC. It was directed to small business.

We wrote into the law the guaranty to financial institutions of their loan portfolios, as long as the loan went to individuals or business borrowing $10,000 or less. OPIC administered that program. It was subsequently transferred to AID where it is now being administered.

If there was really evidence that small business was being discriminated against in this program, then one might want to shackle the hands of the board of OPIC by saying, "You have to take 50 percent of your authorization and make it available only to small business under the definition."

Do the Members know what will happen? That authorization will not be used. So, in effect, we will just be cutting the authorization in half. If Members do not like the program, they say, "That is good." If Members happen to believe that this program is useful, however, they would not do that. It would be far more honest just to vote against the whole program than to do it at this point, to do what the gentleman from Maryland wants to do.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. The gentleman has indicated that my work on appropriate technology——

Mr. FASCELL. Is good work, and we have supported the gentleman.

Mr. LONG of Maryland. Right, but let me point out that there is a difference between that program and this one.

Mr. FASCELL. Yes. The only point I was making is that the gentleman is a leader in the field, and a recognized one.

Mr. LONG of Maryland. I thank the gentleman very much for the business.

Mr. FASCELL. I was not giving the gentleman the business.

Mr. LONG of Maryland. What I am trying to do here is to help small business in the United States, and on the export——

Mr. FASCELL. The gentleman is, under the present program.

Mr. LONG of Maryland. The appropriate technology program which I sponsored and helped get funded is to help small business in underdeveloped countries. These are two different things.

Mr. FASCELL. I understand what the gentleman is doing, but let me assure him that if his amendment is not adopted, OPIC will still be helping small business in this country.

Remember, the deal here is made by a private entrepreneur who is able to go to a bank and interest a bank in financing his particular project in a third country. The only time the U.S. Government comes into it is when the bank says, "I think you better buy insurance for expropriation, convertibility or riot and war risk." Otherwise, if the project is not salable to the bank in the first place, that businessman is never going to get the insurance.

Mr. LONG of Maryland. What the gentleman is saying is that a small business firm can always get a loan without a guarantee, but a big firm needs a guarantee.

Mr. HARKIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment. I am sorry that I was absent from the Chamber when the initial debate took place, but I was hoping that someone would point out some of the history of how we tried to get small businesses involved in investment overseas through OPIC, and what really has happened, and why this amendment really is needed at this time.

When the initial law was passed, subsection (e) of section 231 of title IV read as follows:

(e) To utilize, to the maximum practicable extent consistent with the accomplishment of its purpose, the resources and skills of small business and to provide facilities to encourage its full participation in the programs of the Corporation.

That is, the programs of OPIC.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman.

Mr. BINGHAM. That provision was added in 1974, and we have discussed it at some length in this debate.

Mr. HARKIN. No, that was how it formerly read. It was amended in 1974. The Chairman might correct me if I am wrong, but I am reading from the amendment added to the bill in 1974:

To give preferential consideration in its investment insurance, financing, and reinsurance activities (to the maximum extent practicable consistent with the Corporation's purposes) to investment projects involving businesses of not more than $2,500,000 net worth or with not more than $7,500,000 in total assets; . . .

That is the amendment that was added in 1974.

In other words, we start out with the bill saying, "Look, we want to get small business involved"—what I just read for the Members. They did not do it. So in 1974, Congress came back and said, "Since you are not doing it, then we are tying you down a little bit more, and we are saying that you will have to give your preferential consideration to businesses of not more than $2,500,000 net worth or with no more than $7,500,000 in total assets." That is 1974. Well, what happened since then? From 1974 until 1976, a full 41 percent of OPIC insurance went to Dow Chemical, W. R. Grace, J. P. Morgan, Celanese, General Telephone & Electronics, Getty Oil, Bank of America, Standard Oil of Indiana, Weyerhaeuser, ITT, and RCA. So again they are still not following what Congress told them to do either in the initial legislation or in the amendments that were added in 1974. So if they are not going to do it, then we have to do what the gentleman from Maryland (Mr. LONG) has proposed in his amendment, specifically say that at least 50 percent of their funds have to go to the small businesses that are defined in the Small Business Administration Act. So I think if we look at the history, we will see why this amendment is needed.

One last thing, in terms of jobs. Someone raised the point in debate earlier about the steel plants, that the steel plants were small steel manufacturing plants in other countries. Well, they may have been small, but I was just adding up the total number of workers who are certified in those plants, and it comes to about 2,500 workers.

Mr. RYAN. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from California.

Mr. RYAN. I thank the gentleman for yielding.

Mr. Chairman, on the first page of the bill it says, in section (e),

To give preferential consideration in its investment insurance, financing, and reinsurance activities (to the maximum extent practicable consistent with the Corporation's purposes) to investment projects sponsored by or involving small businesses.

The difficulty is that the amendment offered by the gentleman from Maryland (Mr. LONG) says, and the gentleman in the well and I say, that we do not believe they understand the words "to the maximum extent practicable."

Mr. HARKIN. Obviously, they do not understand it. If we look at the wording of the previous legislation they have been operating under, and if we look at the history of what they have done, they do not even understand what a business with a net worth of $2,500,000 or with not more than $7,500,000 in total assets is.

Mr. RYAN. If the gentleman will yield further, the amendment offered by the gentleman from Maryland (Mr. LONG), simply says this is the maximum extent practicable, and it simply establishes what the intent of the bill is now.

Mr. HARKIN. That is right. We simply have to tie them down.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from New York.

Mr. BINGHAM. I thank the gentleman for yielding.

Mr. Chairman, I would like to point out, as we discussed at length yesterday, the provision the gentleman referred to in the 1974 law was nullified by a provision pushing for privatization of the OPIC programs, which meant that to the extent they could, they would have to get private insurance. The private insurance companies preferred to work with big companies and in countries big, stable countries.

The gentleman was not here when our colleague, the gentleman from Iowa (Mr. SMITH), the chairman of the Subcommittee on Small Business, indicated there is, so far as he knew, no interest in the very small businesses that are covered by this definition of the Small Business Act in investing abroad. For exporting abroad, yes; not for investing.

Mr. HARKIN. I know of two companies in Iowa which have operated under OPIC. One of them is a company owned by one of my colleagues, the gentleman from Iowa (Mr. BEDELL).

Certainly he is a small businessman. He received the Small Businessman Award of the Year when President Johnson was in office. So I know there are some small businesses that would be interested.

The CHAIRMAN. The time of the gentleman from Iowa has expired.

(On request of Mr. CAVANAUGH and by unanimous consent, Mr. HARKIN was allowed to proceed for 1 additional minute.)

Mr. CAVANAUGH. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from Nebraska.

Mr. CAVANAUGH. Mr. Chairman, I have asked the gentleman to yield on 2 points. First, the gentleman from Iowa (Mr. HARKIN) surprises me that he would come to the support of this amendment.

First of all, his example was that our dear colleague, the gentleman from Iowa (Mr. BEDELL), had access to the resources of OPIC and to the services of OPIC, as indeed do all small businesses in this country.

This amendment would only preclude the resources of OPIC and limit it to 50-percent access to small business.

Mr. HARKIN. No, it says, "at least." I believe the gentleman will note that it says, "at least." If I am not mistaken, it says, "at least 50 percent"; it does not say "not more than 50 percent."

Mr. CAVANAUGH. The fact remains that there is no small business in America today that is being precluded from access to the services of OPIC.

Mr. HARKIN. I respectfully disagree with the gentleman. They are being precluded, because most of the funds are going to the big businesses. The small businesses are effectively being precluded.

Mr. CAVANAUGH. Mr. Chairman, I do not believe the gentleman can submit to this Congress one instance in which a small business has been denied the services of OPIC or has been denied the opportunity to purchase insurance for its operations abroad.

Mr. YOUNG of Florida, Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, in reviewing our various assistance programs, especially those that are involved overseas, it seems as though we have adopted the theory that "bigger is better." In fact, some of the criticism many of our colleagues have made of our entire foreign assistance program is that sometimes they get too big. Sometimes the biggest and the most powerful people are the ones who get the biggest and the most powerful share of all our assistance programs.

The majority leader very melodiously yesterday strummed our heartstrings with his parable of the 2 ladies who rubbed the straw against their legs to weave something or other, and he used this as an argument for this particular piece of legislation. I think it might have convinced a lot of us that it was good legislation, and that it was really going to be finally of some help, and that some of this help would go into the hands of the small, less powerful people.

That is just not the way it is working out. Despite the very persuasive arguments of the majority leader on yesterday, that is just not what this legislation

is designed to do, and it is not what it does.

At least with the adoption of this amendment, we can take one step in the direction of recognizing that everything does not have to be big in order to be good.

As a matter of fact, the record of some of the OPIC loans has established just that. If we look at the record of some of the companies which have borrowed money in these various foreign countries, we will find a lot of the loans are very small anyway. The gentleman from Maryland (Mr. LONG) made this point, but I am afraid it got glossed over. The fact is that many of the loans are small. So why not cut in the smaller businesses for some of this pie?

Mr. Chairman, I want to compliment the gentleman from Maryland (Mr. LONG) on the introduction of this amendment. The gentleman has been doing a very fine job as chairman of the subcommittee of the Committee on Appropriations dealing with OPIC, as well as with other foreign assistance programs. He has called to our attention on many occasions examples of how the appropriate technology has not been applied to solve a problem, again because everybody thought we ought to do it as big as we can. He has given us several examples.

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. Certainly, I will be happy to yield to the gentleman from Iowa.

Mr. HARKIN. Mr. Chairman, I was interested in what the gentleman said in terms of many of these loans being small, even though they go to the big multinationals.

I was looking at the annual report for 1976, and the gentleman is exactly right. For example, Citibank, which is obviously not one of our smaller businesses, got a loan for $450,000, and there are loans for $675,000 and $299,000.

So the gentleman is right. The loans go to big businesses, but some of them are in fact small loans.

Mr. YOUNG of Florida. Mr. Chairman, the gentleman makes a very good point. He makes it better than I did, and I appreciate that.

I want to leave just this one thought with the Members: that "big" is not necessarily "better" in cases of aiding and assisting development.

As I mentioned before, the distinguished gentleman from Maryland (Mr. LONG), who chairs the Subcommittee on Foreign Operations of the Committee on Appropriations, has established time after time that many of our assistance programs have not applied the appropriate technology. He has given us examples of instances where actually the assistance needed might have been shovels, rakes, and hoes in some of these completely undeveloped countries, and yet they were given tractors that they did not even know how to operate.

We really ought to pay attention to applying the appropriate technology in these assistance programs. Just because it is big does not necessarily make it better.

Mr. Chairman, I think this is a good amendment, and I hope the House will approve it.

Mr. KINDNESS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will be brief. I have been amused by some of the debate that I have heard here during the last half hour.

I rise for two purposes: One, to say a word or two about one of the companies that is headquartered in the district I represent in Ohio, and that is Armco Steel, which has been mentioned several times here. The point that was sought to be made about Armco is that it is a large company, and that the investment in the Philippines for which it received a guarantee is somehow deterring from U.S. employment.

That is not the fact, and I think we ought to look a little bit beyond our noses in discussing this situation because it is not necessarily just the first step that means employment for people in the United States.

When local needs can be met by some investment in the Philippines by a U.S. company, which does receive the services or aid of OPIC, that leads to a market situation in which U.S. products become more favorably received in that market, products that are made and manufactured, in some cases, in the district I represent.

The same thing is true with, let us say, an Avis rental location in some other country. What kind of automobiles are they going to use? The disposition is likely to be U.S. automobiles. Certainly they have to look at the economics of it; but if we make automobiles in the United States, that provides jobs here in the United States in the manufacturing of automobiles, and small businesses manufacture parts for those automobiles and are very much a part of the automobile industry.

Therefore, Mr. Chairman, I think we ought to look a little bit beyond just that first step.

The purpose of OPIC services to investors in foreign countries is to assist them to make the investments that might not otherwise have been made and, in most cases, would not otherwise be made.

Mr. Chairman, we have to be realistic about who is able to make such investments and how frequently it is going to be the small businessman who does it.

Right now there has been nothing presented in this debate that indicates that small businesses are, in fact, being discriminated against. Therefore, we are talking only conjecturally. We ought to be talking about fact. If we are going to back an amendment such as this which says that 50 percent of the program might be killed, we must remember that we are talking about jobs in the United States as well as investments in foreign countries.

I would urge, Mr. Chairman, that we remember those jobs in the United States, in terms of the efficacy of this program. Disturbing it to the extent of a potential 50 percent would detract from U.S. jobs.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. Mr. Chairman, let me point out to the gentleman that I do not know whether he has talked with the steelworkers in his area who work for Armco or whether he has talked to the Armco people; but the workers are tremendously concerned that American capital is being used to create steel production solely overseas instead of in the United States. The steel companies keep complaining to me—and I wonder whether they complain to the gentleman—that they cannot get enough capital here in the United States to improve our own steel facilities. We have an awful lot of antiquated rust pots in the United States.

Where is there any Federal guarantee here in the United States for a steel industry to improve its production facilities so that it can compete with imports from overseas or that it can better sell its product in the overseas export market?

Mr. KINDNESS. If I may reclaim my time, Mr. Chairman, I point out to the gentleman that this Congress is responsible for placing all of that burden on U.S. industries which deprive them of the capital that would otherwise be available to provide new job opportunities. Therefore, we had better look at what we are doing right here, ourselves, in a great many programs passed by this Congress and enhanced by this Congress every day, placing a burden on the capital availability in this country. Let us look a little more seriously at that fact. Let us look at what our tax structure is doing to American industries and jobs.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. KINDNESS) has expired.

(On request of Mr. VOLKMER and by unanimous consent, Mr. KINDNESS was allowed to proceed for 2 additional minutes.)

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Missouri.

Mr. VOLKMER. The gentleman made the statement during his discussion that I would like to follow up on, if I may. That was that without the OPIC guarantee, many of the investments would not be made—is that correct—or words to that effect?

Mr. KINDNESS. Approximately.

Mr. VOLKMER. And that some would not be, others may not be. All right, assuming that some would not be, this means that there is capital, and that goes back to what we just mentioned before. This is what bothers me about the whole thing. We have the availability of so much capital for investment. That capital is going to be somewhere; it is not going to sit; we know that.

Mr. KINDNESS. I think the gentleman is overlooking a point here. If some capital is going to be put into some facilities in some foreign country, and it can be done by a U.S. investor, that helps to

create a favorable market situation, and other U.S. products will enter into that market more readily.

Mr. VOLKMER. That is the gentleman's argument, but my question is, and what I am sincerely concerned with is, the fact that we are taking capital away from investment here and putting it somewhere else for the indirect promotion of the consumption of American goods, other goods.

Mr. KINDNESS. Well, if the gentleman wants to look no farther than the end of his nose, that is a good argument.

Mr. VOLKMER. I do not look just as far as my nose.

Mr. KINDNESS. If he wants to look at the development of markets abroad for U.S. products, including the materials, machinery, and equipment that went into the mill facilities in the Philippines, look and see where that comes from and the jobs that those tools, machinery, and equipment provide.

Mr. VOLKMER. But if that machinery and equipment was put right here in this country, it would still be there, so that is no argument.

Mr. KINDNESS. If we had that choice, that would be great, but there is not always that choice. Those facilities are going to be constructed by someone else in some other country to enhance their economy.

Mr. BINGHAM. Mr. Chairman, I wonder if we might have some limitation of time on the debate. It has proceeded over an hour. I ask unanimous consent that the debate on this amendment terminate in 5 mintues.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. GARY A. MYERS. Mr. Chairman, I reserve the right to object.

Mr. BINGHAM. Mr. Chairman, I ask unanimous consent that the debate on this amendment terminate in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. GARY A. MYERS. Reserving the right to object, I simply would like to see if we can get an accounting of some of the people who want to speak. I assume some of the people who have already spoken would like to claim time again, but I would like to get some accounting.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. LONG of Maryland. Reserving the right to object, I will withdraw my reservation of objection if the manager will not object to a recorded vote on this amendment.

Mr. BINGHAM. If the gentleman will yield, I will abide by the rules with regard to a recorded vote.

Mr. LONG of Maryland. That is not acceptable.

Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. GARY A. MYERS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to ask a few questions of the gentleman from Iowa. I would like to ask the gentleman from Iowa in the amendment what is the description of a small business?

Mr. HARKIN. Mr. Chairman, if the gentleman will yield, this is not my amendment.

Mr. GARY A. MYERS. The gentleman spoke rather firmly for it. I would like to ask some questions concerning your remarks.

Mr. HARKIN. If the gentleman will yield, I just want the gentleman to understand it is not my amendment, but I will be glad to respond to his question. It is a small business as defined by the Small Business Administration. That is what is in the amendment.

Mr. GARY A. MYERS. All right. Does the gentleman know what the limitations are? The gentleman spoke of some specific investment sizes, and he spoke strenuously in favor of allowing small businesses to take over those investments. I would simply like to know what is the limiting factor in the criterion determining a small business under this amendment.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield to permit me to respond to that?

Mr. GARY A. MYERS. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. I thank the gentleman for yielding.

I looked it up. It is a firm with about $7 5 million of assets, $2.5 million on net worth.

Mr. GARY A. MYERS. I thank the gentleman. I would like to draw perspective to the point the gentleman from Iowa is making. He mentioned several investments, many of which approached a million dollar investment, six hundred some thousand dollars, eight hundred some thousand dollars—I forget what it was—but if one takes a real look at the limit of what a small business is, he is asking us to adopt an amendment which would limit 50 percent of our funds to those firms that would have to be willing to commit about 10 percent of their total assets to a foreign investment to fulfill those investment requests. There is a high degree of risk, and that is the reason for the insurance. We must not ignore that. I do not know very many businessmen who are willing to risk that percentage of their assets, and I think that we should not confuse our small business people back in our communities by saying we are out here speaking for them. A lot of them have assets substantially less than that, less than a million dollars, and if there are needs in some of the developing countries for investment approaching a million dollars, they are not going to be met by the hardware store owner or a merchant down the street, or main street's small businessmen.

They just simply are not going to be met by the smaller businesses.

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from Iowa.

Mr. HARKIN. I understand the thrust of the gentleman's question then. I was only pointing out the size of certain insurance guarantees to very large banks. However, in the OPIC investments, let me tell the gentleman the size of some of the guarantees: $250,000; $92,000; here is a guarantee of $450; here is another for $173,000; and here is another guarantee for $60,750; so we can see it ranges all over the spectrum. I was only pointing out some of the smaller guarantees going to some of these very large businesses.

Mr. GARY A. MYERS. I can agree if we get down into the few thousands of dollars and even hundreds of dollars, there is no reason why the small businesses cannot compete. Often the size is $100,000, which represents nearly 100 percent of his total capitalization, and he would not in any way want to risk that in some developing country, even if he had the opportunity for some insurance.

We have to look at this program in realistic terms, and whether or not we are trying to meet a mission. I thought our mission was an attempt to encourage private capital to help developing nations. If we thwart that thrust by limiting 50 percent of the funds, we cut out one of the legs of the program. I understand no businessman who wants to have a guarantee has been denied it simply because of its asset total. That is the critical point.

We are just throwing around terms of large business versus small business. I think large businesses are some of the ones who are able to take these risks, and if they lose, they lose.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I thank the gentleman for his contribution. It was very useful.

Let me just point out there has been a casual use of the word "loans," but the list the gentleman was reading from deals with insurance against certain risks, not loans. The total amount of OPIC's activity in the loans field is very small. Most of what they do is insurance.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. LONG).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. LONG of Maryland. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Seventy Members are present, not a quorum.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the request of the gentleman from Maryland (Mr. LONG) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 285, noes 111, not voting 38, as follows:

[Roll No. 736]

AYES—285

Abdnor	Edwards, Ala.	Mazzoli
Addabbo	Eilberg	Meeds
Allen	Emery	Michel
Ambro	English	Mikulski
Ammerman	Ertel	Mikva
Anderson, Calif.	Evans, Ga.	Miller, Calif.
	Evans, Ind.	Miller, Ohio
Andrews, N.C.	Fary	Mineta
Andrews, N. Dak.	Fish	Minish
	Fisher	Mitchell, Md.
Annunzio	Fithian	Mitchell, N.Y.
Applegate	Flippo	Moakley
Archer	Flood	Moffett
Armstrong	Florio	Mollohan
Ashbrook	Flowers	Montgomery
Aspin	Flynt	Moore
AuCoin	Foley	Moss
Badham	Ford, Mich.	Mottl
Bafalis	Ford, Tenn.	Murphy, Ill.
Baldus	Fountain	Murphy, N.Y.
Barnard	Fowler	Murphy, Pa.
Baucus	Fuqua	Murtha
Bauman	Gammage	Myers, John
Beard, R.I.	Gaydos	Natcher
Bedell	Gibbons	Neal
Benjamin	Gilman	Nichols
Bennett	Ginn	Nix
Bevill	Glickman	Nolan
Blanchard	Gonzalez	Nowak
Blouin	Gore	O'Brien
Boggs	Grassley	Oakar
Boland	Gudger	Oberstar
Bonior	Hamilton	Obey
Bonker	Hammer-schmidt	Panetta
Brademas		Patterson
Breaux	Hansen	Pepper
Brinkley	Harkin	Perkins
Brodhead	Harris	Pickle
Brooks	Harsha	Pike
Broomfield	Hawkins	Poage
Brown, Calif.	Heckler	Pressler
Brown, Ohio	Hefner	Price
Broyhill	Hightower	Quie
Buchanan	Hillis	Quillen
Burgener	Hollenbeck	Rahall
Burke, Calif.	Holtzman	Rangel
Burke, Fla.	Hubbard	Regula
Burke, Mass.	Hughes	Reuss
Burleson, Tex.	Ichord	Richmond
Burton, John	Ireland	Rinaldo
Byron	Jenkins	Risenhoover
Carney	Jenrette	Robinson
Carter	Jones, N.C.	Rodino
Chappell	Jones, Okla.	Roe
Clausen, Don H.	Jordan	Rogers
	Kasten	Roncalio
Cleveland	Kastenmeier	Rooney
Cohen	Kazen	Rosenthal
Coleman	Ketchum	Roybal
Conte	Keys	Rudd
Cornell	Kildee	Runnels
Cornwell	Kostmayer	Russo
Cotter	Krebs	Ryan
Crane	LaFalce	Santini
Cunningham	Latta	Satterfield
Daniel, Dan	Le Fante	Sawyer
Daniel, R. W.	Leach	Scheuer
Danielson	Lederer	Schroeder
Davis	Lehman	Schulze
de la Garza	Levitas	Sebelius
Delaney	Livingston	Seiberling
Dellums	Lloyd, Tenn.	Sharp
Dent	Long, Md.	Shipley
Derrick	Lujan	Shuster
Derwinski	Luken	Simon
Devine	Lundine	Sisk
Dickinson	McDonald	Skelton
Dicks	McEwen	Slack
Dodd	McFall	Smith, Nebr.
Dornan	McHugh	Snyder
Downey	Mahon	Spellman
Duncan, Oreg.	Mann	Spence
Duncan, Tenn.	Markey	Staggers
Early	Martin	Stangeland
Edgar	Mattox	Steed
Steers	Ullman	Winn
Stokes	Vento	Wirth
Studds	Volkmer	Wright
Stump	Waggonner	Wydler
Symms	Walsh	Yates
Taylor	Wampler	Young, Alaska
Teague	Weaver	Young, Fla.
Thone	Weiss	Young, Mo.
Thornton	Whitley	Young, Tex.
Traxler	Whitten	Zeferetti
Tucker	Wilson, Bob	
Udall	Wilson, C. H.	

NOES—111

Akaka	Gephardt	Myers, Michael
Alexander	Giaimo	Nedzi
Anderson, Ill.	Goodling	Ottinger
Ashley	Gradison	Patten
Beilenson	Hanley	Pattison
Biaggi	Hannaford	Pease
Bingham	Harrington	Pettis
Bowen	Horton	Preyer
Breckinridge	Howard	Pritchard
Brown, Mich.	Hyde	Quayle
Burlison, Mo.	Jacobs	Railsback
Burton, Phillip	Jeffords	Ruppe
Butler	Johnson, Calif.	Sarasin
Caputo	Johnson, Colo.	Skubitz
Carr	Kelly	Smith, Iowa
Cavanaugh	Kemp	Solarz
Cederberg	Kindness	St Germain
Chisholm	Lagomarsino	Stanton
Clawson, Del	Leggett	Stark
Clay	Lent	Steiger
Cochran	Lott	Stockman
Collins, Ill.	McCloskey	Stratton
Conyers	McCormack	Treen
Corman	McDade	Trible
Coughlin	McKay	Tsongas
Dingell	McKinney	Van Deerlin
Drinan	Madigan	Vander Jagt
Edwards, Calif.	Maguire	Vanik
Erlenborn	Marks	Walgren
Evans, Colo.	Marlenee	Walker
Evans, Del.	Marriott	Waxman
Fascell	Metcalfe	Whitehurst
Fenwick	Meyner	Wiggins
Findley	Milford	Wilson, Tex.
Forsythe	Moorhead, Calif.	Wylie
Fraser		Zablocki
Frenzel	Moorhead, Pa.	
Frey	Myers, Gary	

NOT VOTING—38

Badillo	Hall	Rhodes
Beard, Tenn.	Heftel	Roberts
Bolling	Holland	Rose
Collins, Tex.	Holt	Rostenkowski
Conable	Huckaby	Rousselot
Corcoran	Jones, Tenn.	Sikes
D'Amours	Koch	Thompson
Diggs	Krueger	Watkins
Eckhardt	Lloyd, Calif.	Whalen
Edwards, Okla.	Long, La.	White
Goldwater	McClory	Wolff
Guyer	Mathis	Yatron
Hagedorn	Pursell	

Messrs. WAGGONNER, ABDNOR, MARTIN, EDGAR, and HUGHES changed their vote from "no" to "aye."

Mrs. MEYNER and Messrs. STEIGER, SARASIN, and LOTT changed their vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. HARKIN

Mr. HARKIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HARKIN: Page 8, add the following new subsection at the end of the bill:

(i) (1) Section 237 of such Act, as amended by subsection (h) of this section, is further amended by adding at the end thereof the following new subsection:

"(n) The Corporation may not provide any insurance, reinsurance, guaranty, financing, or other financial support authorized by section 234 of this Act for any project in a country the government of which engages in a consistent pattern of gross violations of internationally recognized human rights, as described in section 116(a) of this Act, unless (1) the Secretary of State determines that such project will directly benefit the needy people in such country, and (2) the Coordinator for Human Rights and Humanitarian Affairs established by section 624(f) of this Act determines that such project does not violate the basic human rights of the citizens of such country.

(2) Section 240A(a) of such Act is amended by adding at the end thereof the following new sentence: "Such report shall include a description of any project for which the Corporation (1) refuses to provide any insurance, reinsurance, guaranty, financing, or other financial support, on account of violations of human rights referred to in section 237(n), or (2) notwithstanding such violations, provides such insurance, reinsurance, guaranty, financing, or financial support, on the basis of a determination that the project meets the criteria set forth in paragraphs (1) and (2) of such section.".

Mr. HARKIN. Mr. Chairman, I hope that I am not coming to the well once too often on my human rights amendment, but I think it is very important, especially as it affects this bill which we have before use.

The amendment which was just read is basically the same amendment as I offered in the legislation on our economic assistance program, our bilateral aid program, and also on our multilateral aid program, on the program affecting the international financial institutions. It is also similar to the one on our military aid program.

OPIC is just another conduit to fund either U.S. aid or U.S. development assistance to the lesser developed countries. However, OPIC differs and is new in one substantial sense, and that is that OPIC benefits corporations primarily. That is true, that OPIC is set up basically to provide assistance to private companies.

However, Mr. Chairman, I will read the legislation covering OPIC and show why it is more than just that.

For example, section 231 of title IV says that the purpose of OPIC is to complement the development assistance objectives of the United States.

As I said yesterday, this body has taken the position several times in the last couple of years that one of the primary development objectives of this country is to promote human rights around the world.

Paragraph (f) of the same section says that OPIC is "to encourage and support only those private investments in less developed friendly countries and areas which are sensitive and responsive to the special needs and requirements of their economies, and which contribute to the social and economic development of their people."

Therefore, Mr. Chairman, in the legislation setting up OPIC we say that we do, in fact, recognize that there are certain objectives in this agency to meet the social and economic development of the people and to complement the development assistance objectives of the United States.

If private corporations want to invest abroad, that is all right with me, but I will submit that they invest in those countries not for developmental purposes, but basically to make a profit.

Again that is fine, but if we are going to cloak and drape over these private investments the mantle of the full faith and credit of the United States, then the United States becomes very heavily involved in what those private companies are doing abroad, because then after we do put this cloak of the full faith and credit of the United States over these companies, the venture is identified as a U.S. venture, and under the clauses of OPIC agreements, the United States becomes an intervener in the economic sovereignty of the foreign nations because of the subrogation clauses that are involved in OPIC agreements with other countries. So if this were an entirely private venture, I would not be in the well offering this amendment. But we see that the U.S. Government is very heavily involved in OPIC and in what OPIC is doing.

I believe that title I applies to OPIC since OPIC is under title I of the Foreign Assistance Act. Thus, I believe that Section 116, which is the human rights section, applies to OPIC. This is the position that is taken by many of the people at the Department of State whom I have talked with personally, but I also know that individuals in OPIC are saying, no, that section 116 of title I does not apply to OPIC.

I have a letter here dated March 23, 1977, signed by Mr. Cecil Hunt, Acting General Counsel of OPIC. Let me read a part of the last paragraph. It says, and I quote:

> With respect to the human rights issue, OPIC will continue to look to the Department of State for policy guidance.

That is fine and good. So here is the situation that we have right now, and let me make it very clear. OPIC comes under title I. Section 116, which is the human rights section, applies to title I. State Department officials are saying, yes, section 116 does in fact apply to OPIC. OPIC officials are saying, no, it does not apply; it does not apply because there is certain language in there that says "to governments," and since they are private, that section 116 does not apply. State Department officials are saying that because of the enacting legislation of OPIC, which says that they are to assist in and complement the development assistance objectives abroad, that it does in fact apply. Then I have this letter from OPIC saying that they will look to the State Department for policy guidance on human rights.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. HARKIN was allowed to proceed for 3 additional minutes.)

Mr. HARKIN. So OPIC is saying they will go to the State Department for policy guidance on human rights. The State Department has given them that policy and guidance, and they are arguing against it.

What my amendment really does is to state very clearly in the law that section 116, the human rights section of title I, does in fact apply to OPIC. Therefore, the Department of State in carrying out the policy guidance that we have set down for them, and in telling OPIC to follow certain policy guidance on human rights, will have the clear backing of this Congress, and there will not be this contention between OPIC officials and the Department of State.

Let me just close by saying that in all candor I do fully intend to vote against this bill on final passage. I have some problems with OPIC and the way it is operating and what it is doing. But even if one is going to vote for the continuation of OPIC, I hope he or she will support this amendment. If the bill does carry, I would want to see that OPIC does in fact know and are certain that they are covered by section 116 of title I, the human rights section.

Mr. Chairman, the following is a report on OPIC prepared by the Center for International Policy. I do feel the report is professionally prepared and raises serious questions about OPIC.

OPIC: INSURING THE STATUS QUO

The Overseas Private Investment Corporation, a little known agency of the U.S. government, insures the investments of American multinational corporations in the Third World. Through its insurance and financing programs, OPIC facilitates investments in developing countries by covering them against losses caused by war, revolution or insurrection, expropriation or currency inconvertibility. The agency, in effect, guarantees that a host government will not change the terms of the corporation's initial investment for the life of the OPIC contract (usually 20 years). If a foreign government does interfere with the assets or, in some cases, even the profitability of the multinational, OPIC will step into the dispute to protect the interests of the U.S. corporation.

OPIC was established for the purpose of promoting development in the Third World. Critics, however, argue that during its seven year history the agency has benefitted principally the largest multinational corporations at home and the most repressive developing nations abroad. The agency has aroused the ire of U.S. labor unions, who claim that it hastens the export of jobs to low-wage areas. In addition, OPIC-insured investments have brought the U.S. government into conflict with foreign nations over matters of economic sovereignty.

Originally conceived of as an adjunct to foreign aid, the Overseas Private Investment Corporation was created in 1969 by an amendment to the Foreign Assistance Act. OPIC's enabling legislation directs the agency:

> To mobilize and facilitate the participation of United States private capital and skills in the economic and social development of less developed friendly countries and areas, thereby complimenting the development assistance objectives of the United States. . ."[1]

OPIC's two major programs, political risk insurance and investment financing, are intended to achieve those ends. Political risk insurance provides coverage against the risks of expropriation, currency inconvertibility and war, revolution, or insurrection. Investment financing provides loan guarantees and direct loans (in dollars and foreign currencies) to U.S. investors, as well as cost-sharing for pre-investment surveys. All of OPIC's obligations are backed by the "full faith and credit" of the U.S. Treasury.

Government insurance for overseas investment originated under the 1948 Economic Cooperation Act to rebuild post-war Europe. In 1959 the program was limited to developing countries, and was administered by the Agency for International Development. A strategy to promote development and restore stability which had proved successful in the already industrialized countries of Europe was transferred to traditional societies. In less developed countries, however, economic development is often destabilizing, and local institutions and enterprises may not be sufficiently developed to cope with the economic and political power of large foreign firms.

WHO BENEFITS?

The rationale for government insurance of private overseas investment assumes that such investments promote development. This assumption is by no means undisputed, and even the Organization for Economic Cooperation and Development (OECD), in its 1976 publication Development Cooperation, stated:

> "Generalizations concerning the benefits from foreign investment for overall sectors or countries are not useful. Individual project circumstances are governing and each must be assessed on its merits."[2]

Moreover, the 1974 United Nations report on transnational corporations identified a major problem associated with foreign investment in underdeveloped countries:

> "Multinational corporations, although powerful engines of growth, tend to accentuate rather than reduce inequalities in the absence of proper government policies and, where necessary, social reforms."[3]

OPIC's contribution to development must thus be regarded in light of the agency's principal beneficiaries, both abroad and at home.

Between 1974 and 1976, a full 60 percent of the dollar volume of OPIC insurances went to only six countries: Brazil, the Philippines, South Korea, Indonesia, Taiwan, and the Dominican Republic.

TABLE 1.—*OPIC's largest beneficiaries by company—1974–76*

[In millions of dollars]

	Fortune 500 rank[1]	Insurance issued
Company		
Dow Chemical	32	181,107
W. R. Grace	47	69,638
J. P. Morgan	B5	49,316
Celanese	108	48,858
General Telephone and Electronics	U2	42,494
Getty Oil	61	42,492
Bank of America	B1	36,497
Standard Oil of Indiana	13	34,580
Weyerhaeuser	72	28,150
ITT	10	28,103
RCA	34	28,097
Total	--	589,332

[1] B denotes bank, U denotes utility.

Source: Department of Treasury.

It appears to be no coincidence that the main beneficiaries of OPIC insurance are countries ruled by authoritarian regimes which consistently deny their citizens' basic human rights. Each of these countries maintains a level of political stability and labor discipline attractive to multinational corporations and to OPIC. However, the cost of achieving a "good investment climate" is often the disregard for citizens' basic economic, social, and political rights. Amnesty International, a well-respected independent human rights organization, has compiled extensive documentation of human rights violations in each of the top six countries receiving OPIC insurance.

OPIC, whose legislative mandate comes under Chapter 1, Part I, of the Foreign Assistance Act, is covered by the 1975 Harkin

Footnotes at end of article.

Amendment that requires termination of bilateral aid to "gross and consistent violators of human rights." To date OPIC has not acted to implement this legislation claiming that it is the responsibility of the State Department to issue policy directives to OPIC regarding human rights.

In 1974 Congress instructed OPIC to direct its programs increasingly toward the least developed countries (those defined by Congress as having yearly per capita GNP's of $450 or less). From 1974 to 1976, only 40 percent of the number of insured projects and only 36 percent of the dollar volume of insurance went to projects in countries classified as least developed. Four countries—Indonesia, the Philippines, Thailand, and India—received 57 percent of the number and 61 percent of the dollar volume of OPIC insurance to least developed countries.

Rutherford Poats, OPIC's acting president, in testimony before the House Subcommittee on International Economic Policy and Trade on June 21, 1977, acknowledged OPIC's rather limited progress in directing its programs away from a small number of middle and upper income Third World countries: "There has been only a moderate dispersion of the overall concentration of OPIC's insurance by dollar volume."

However, Mr. Poats assured the subcommittee that greater efforts will be made to give preferential consideration to projects in the least developed countries. Furthermore, Mr. Poats said, ". . . the recent Executive Branch reviews concluded that, with certain exceptions to be approved by the OPIC Board, OPIC programs should no longer be generally operative in the upper income and economically dynamic developing countries."

That OPIC's concentration in middle to upper income countries was part of a conscious policy decision is suggested in testimony by former Secretary of State Henry Kissinger during a surprise appearance before a Senate Subcommittee, on August 4, 1977:

"I think it is clear that countries such that I would call for these purposes sort of a middle class of countries, that are not the poorest and that are not yet fully developed, serve our national interests in a number of ways. . . . First, they serve as an example of what can be achieved by a combination of proper international policies and national commitments. Secondly, the foreseeable international dialogue will involve, inevitably, as one of its central elements, a North-South discussion of issues of development and other issues. I think it is against the national interest of the United States to polarize the world between the haves and have-nots, between a small group of rich countries and a large group of countries that are so resentful of the existing system that they support any radical attack on the existing system."

Kissinger concluded, "A middle class group of countries can act as a bridge between the industrialized countries and the developing countries, sharing some of the problems of each of them and can in any case play a useful mediating role."

OPIC's finance programs have shown a stronger orientation toward the least developed countries. Between 1974 and 1976, 59 percent of the number and 82 percent of the dollar volume of OPIC's financing went to these areas. The four largest recipients—Indonesia, Sudan, Ghana, and Liberia—together received 65 percent of the dollar volume of OPIC's financing assistance.

Domestically, however, the greatest beneficiaries of OPIC's programs have continued to be the largest multinational corporations. From 1974 to 1976, OPIC insurance was increasingly concentrated in firms from Fortune's top 500 corporations and top 50 banks, utilities, and transportation firms or their subsidiaries. Between 1974 and 1976, a full 41 percent of the insurance issued by OPIC went to the following eleven corporations, in descending order: Dow Chemical, W. R. Grace, J. P. Morgan, Celanese, General Telephone and Electronics, Getty Oil, Bank of America, Standard Oil of Indiana, Weyerhaeuser, ITT, and RCA.

TABLE 2.—*OPIC's largest beneficiaries by country—1974–76*

[In millions of dollars]

	Percent of OPIC total	Insurance issued
Company		
Brazil	21.0	306,788
Philippines	10.5	151,378
South Korea	9.2	133,957
Indonesia	8.8	127,124
Taiwan	5.8	83,638
Dominican Republic	4.1	59,380
Yugoslavia	3.8	54,294
Total	63.2	-------

Source: OPIC.

In 1974, 49 percent of the number of OPIC-insured investors could be found on Fortune's lists; in 1975 that figure was 62 percent, and by 1976, fully 68 percent went to Fortune's largest. Furthermore, the dollar volume of insurance has become increasingly concentrated in the top ten companies receiving insurance. In 1974, the top ten firms received 57 percent of the dollar volume of insurance; by 1976 that figure was 71 percent.

The increasingly large concentration of insurance going to those companies raises further questions regarding the necessity of the program. First, the insured corporations, all with annual sales above $1.9 billion, may well be capable themselves of absorbing losses now guaranteed by the U.S. government. Second, these enterprises are not incapable of risk management schemes of their own design; the 1973 Senate hearings revealed that government subsidization of risk led to more lax behavior abroad on the part of some companies than would otherwise have been the case. Third, to the extent that OPIC's reserves are limited there exists the possibility of a U.S. taxpayer bailout of the largest multinationals. Because OPIC's obligations are backed by the "full faith and credit" of the U.S. Treasury, this potential remains. Finally, developing countries themselves have shown great sensitivity to the penetration of key sectors of their economies by large foreign multinationals.

THE IMPACT ON DEVELOPMENT

In 1973 the House International Relations Subcommittee on Foreign Economic Policy reported that:

This subcommittee does not view OPIC as a competitive tool to encourage U.S. exports or gain control of overseas markets; OPIC should be primarily development oriented.[4]

OPIC's effectiveness as a tool of U.S. aid policy may, however, be limited by the criteria it uses in defining development and by its monitoring procedure. In practice OPIC does not initiate investments, rather it facilitates them, and all OPIC contracts must have the approval of the host government.

Whether the needs of the investing enterprise are compatible with rational development in the host country is open to question. The reasons for which a corporation invests abroad do not usually include a central concern for development of the host country. Firms expand overseas to increase their markets, to jump tariff walls, to exploit cost differentials (lower wages), etc.

In the past three years, OPIC has granted insurance for the following projects:

ITT and TWA safari lodges in Kenya

Ralston Purina fast food chains in Brazil

Avis Rent-a-Car rental and chauffeur services in Malaysia and Singapore

Pan Am Intercontinental hotels in Liberia, Kenya, Indonesia, and the Ivory Coast

ITT Sheraton hotels in India, Brazil, and Tunisia

Art galleries, plus hotels, and secretarial schools in Haiti

Gulf and Western hotels in the Dominican Republic

Such investments certainly do not help the U.S. image among impoverished peoples, and suggest that OPIC has become more of a service to U.S. business than an instrument of aid policy.

OPIC relies on information supplied by the investing firm to determine the developmental impact of a given project. In its lengthy application form, OPIC requires an interested firm to outline the developmental benefits to the host country, as well as the impact on the U.S. economy. Such variables as balance of payments, sources of capital, tax revenue, employment, and tariff protection are considered. However, no formal category exists to describe social or cultural dislocations, the income distribution effects of a given investment, or the host government's policies regarding the use of resources generated by the investment.[5]

Ongoing developmental impact data is also supplied by the investing firm, supplemented by United States embassy evaluations, and only occasional onsite visits by OPIC officials. The variables OPIC considers in measuring a project's performance often do not include important, and deleterious, social consequences.

In Western Samoa an OPIC-insured lumbering venture by the Potlatch Corporation upset traditional patterns of communal land ownership. Western Samoans may pay in farm land shortages and depleted government revenues as scarce national resources are diverted to Potlatch facilities.

Another example is Brazil, where in accordance with the host government's policy of promoting agricultural exports, OPIC in 1973 offered Cargill Corporation $2.5 million in financing for the growing and processing of soybeans. The increase in soybean production for export displaced traditional food bean crops. As a result, the price of beans for domestic consumption has tripled and nutritional standards for the Brazilian poor have been lowered significantly.[6]

Because Brazil has received so much U.S. aid and investment as well as a large share of OPIC coverage, it deserves special attention. Total OPIC exposure in Brazil is $422.6 million. During the 1974–1976 period 21 percent of OPIC's new insurance ($306.8 million) was issued in Brazil, more than twice as much as the second-ranked Philippines.

TABLE 3.—*OPIC compared to investment insurance programs of other developed countries*

[In millions of dollars]

	Total investment[1]	As percent of U.S. total
Company		
United States	2,985.8	----
Japan[2]	1,075.5	36.0
Germany	406.0	13.6
Canada	44.6	1.5
Switzerland	42.7	1.4
United Kingdom	30.1	1.0
France	17.3	0.6

[1] Under cover Dec. 31, 1974.

[2] Japan's program includes insurance coverage in developed countries also.

Source: OECD, Investing in Developing Countries, 3d ed., Paris, 1975.

Footnotes at end of article.

For many years Brazil was promoted as a model for other Third World countries to follow, an economic success story. Yet, it has become painfully obvious that development involves more than merely increasing a country's GNP. While Brazil's GNP has grown at an impressive rate and per capita income now exceeds $1,000 a year, its high per capita income obscures the fact that there are still 43 million Brazilians existing on per capita incomes of $250 or less per year.

The poor in Brazil have not shared its economic boom, and, in fact, their share of the national income has actually declined. In 1960, according to the World Bank, the poorest 20 percent of Brazil's population received 3.5 percent of the national income. By 1970 the poorest 20 percent's share had shrunk to only 2.8 percent of Brazil's national income. Meanwhile the richest 20 percent of the population increased their share of the national income from 62.1 percent in 1960 to 67.3 percent in 1970.

Since 1946 the United States alone has provided Brazil with over $3 billion in direct bilateral economic aid. In the Third World only India has received more multilateral aid than Brazil. Brazil also leads the Third World in loans from U.S. commercial banks. Multinational corporations have invested more money in Brazil than in any other Third World country.

The obvious question: After all the money and effort our aid programs have lavished on Brazil, why has the per capita income of Brazil's poor majority remained so miserably low?

OPIC bases its claim to be "development oriented" on the premise that multinational corporations promote the type of development that improves the lot of needy people. Multinational corporations, however, including those insured by OPIC, are primarily responsible to their shareholders and have as their goal to maximize profits. Multinational corporations and needy people in the Third World have different, often conflicting interests, priorities and needs, a reality unaltered by the existence of the OPIC program. In the Third World, as well as in the United States, the beneficiaries of the OPIC insurance and finance programs appear to be not poor people, but rather the local elites and the managers and shareholders of multinational corporations and banks.

OPIC AND U.S. FOREIGN POLICY

Despite OPIC's representations to the contrary, OPIC exists chiefly to create an identity of interest between the U.S. government and American corporations abroad. The relationship may deter host governments from expropriating U.S. property for fear of government reprisals, or may even encourage expropriation by militant nationalists as a direct blow to the U.S. government. A 1971 State Department report on nationalization concluded that most expropriatory actions were political, not economic, in motivation.[7]

Inherent in the nature of OPIC contracts is the potential for confrontation between the United States and a host government. Virtually all OPIC contracts are written for a period of 20 years. Third World governments change much more frequently. Yet, what OPIC insures is that over the long run, host governments will not change the terms of the initial investment in a manner adverse to a U.S. corporation.

Two factors assure the inherent instability of OPIC contracts. First is the rapid social and political change taking place as Third World nations modernize economically. Second is the shift in "bargaining power" between corporation and host government, as the latter gains knowledge and expertise in managing the investment.

Through OPIC, the U.S. government may find itself protecting the status quo interests of U.S. business often against the wishes of the host government and its people. The case of Revere Copper and Brass in Jamaica vividly illustrates this point.

In 1974 Prime Minister Michael Manley, who had been elected two years earlier, passed new bauxite taxes. He renounced earlier agreements, and declared Jamaica's sovereignty over its most important natural resource. Of the six companies mining bauxite on the island, only one, Revere, closed down, charging that the bauxite levy rendered its operation "uneconomical." Revere, who had OPIC insurance, filed a claim for $64.2 million, on the grounds that Manley's tax constituted "creeping expropriation."

OPIC's enabling legislation defines expropriation as:

"'. . . any abrogation, repudiation, or impairment by a foreign government of its own contract with an investor with respect to a project, where such abrogation, repudiation, or impairment is not caused by the investor's own fault or misconduct and materially adversely affects the continued operation of the project."

The Jamaican government, however, did not seize Revere's property or assets. It raised bauxite taxes and redefined a contract under a previous administration. OPIC has contested Revere's claim, saying the Jamaican bauxite levy "isn't the type of government action against which OPIC insures." At issue is the Jamaican government's sovereign right to tax.

Other questions of economic sovereignty have also been raised in regard to OPIC. OPIC will not issue an insurance contract until the host government has signed a bilateral treaty ensuring OPIC's right to subrogation. This refers to the U.S. government's right to assume the assets (and liabilities) of a company that has been expropriated after OPIC has paid the company's insurance claim. The bilateral treaty also requires that investment disputes be submitted to international arbitration, rather than be litigated in courts of the host country.

The Andean Code of 1969 illustrates that these provisions are no longer acceptable to some developing countries. (The Andean Group consists of Bolivia, Ecuador, Peru, Venezuela, and Colombia.) Article 51 of this regional development code provides,

". . . that no instrument relating to foreign investment or technology transfer may contain clauses allowing subrogation by States of their national investor's rights or removing possible disputes from the jurisdiction of the recipient country."[8]

Because of this clause, OPIC has not issued any insurance in any Andean Group countries since 1969. The suspension of insurance underwriting illustrates OPIC's difficulty in adapting to changing conditions in the developing world, especially when initiatives for change come from the developing countries themselves.

TABLE 4.—*Net private direct investment in less developed countries—1973–75*

[In millions of dollars]

U.S.	4,580.6
Germany	767.9
Japan	746.6
U.K.	686.7
France	266.9
Canada	206.0

Source: OECD.

In early 1977 Chile withdrew from the Andean Group and OPIC, which has 22 applications for insurance in Chile, is involved in the negotiation of a new bilateral treaty. One senior OPIC official, however, has said, ". . . issuing contracts in Chile would ruin us in Congress." OPIC, while prepared to do business in Chile, is apparently holding back because of opposition in the State Department and in Congress. International unions such as the International Confederation of Free Trade Unions and the World Confederation of Labor have also protested the reactivation of the Chile program.

RUNAWAYS AND THE WORK FORCE

United States labor has been against OPIC since the program's inception. The largest unions have claimed that OPIC is part of the package of tax incentives and subsidies that encourage corporations to move production to low-wage areas in the Third World. Labor-intensive industries and stages of production in shoes, textiles, and electronics have been especially hard hit by foreign imports.

Largely as a result of pressure from organized labor, OPIC's 1974 legislation included a provision that OPIC refuse to issue contracts to investors,

"if . . . such an investment is likely to cause such investor . . . significantly to reduce the number of his employees in the United States because he is replacing his United States production with production from such investment which involves substantially the same product for substantially the same market. . . ."[9]

TABLE 5.—INSURANCE BY COUNTRY, 1976[1]

[In millions of dollars]

Country	Expropriation	Inconvertibility	War, revolution, and insurrection
Jamaica	453.7	45.2	452.1
Brazil	422.6	393.1	174.1
South Korea	390.9	387.0	387.3
Dominican Republic	325.4	313.1	310.9
Indonesia	231.4	216.7	180.5
Philippines	229.4	234.0	165.2
Taiwan	147.2	127.0	132.7
India	117.7	140.2	92.5
Guinea	92.9	98.3	64.6
Argentina	79.2	156.2	57.5
Ghana	76.2	70.1	57.1
Singapore	73.4	35.5	71.7
Trinidad and Tobago	65.8	83.3	72.2
Iran	62.1	83.0	57.8
Colombia	58.8	57.4	47.4
Thailand	58.3	65.9	46.1
Kenya	55.2	59.2	53.7
Greece	51.8	51.5	48.8
Liberia	46.0	30.2	15.7
Venezuela	44.5	44.7	34.7
Israel	40.1	33.9	52.4
Chile	38.3	56.3	35.7
Malaysia	35.8	33.6	35.0
Panama	34.7	31.3	28.1
Costa Rica	29.6	39.6	15.3
Turkey	26.4	35.4	10.8
Jordan	25.8	21.9	16.8
Pakistan	24.6	22.3	21.5
Yugoslavia	23.9	51.4	20.9
Vietnam	20.9	NA	20.5
Honduras	20.4	17.0	14.7
Ecuador	18.8	16.1	12.4
Nicaragua	15.1	9.0	11.1
Morocco	13.3	10.2	10.4
Zaire	13.0	13.9	11.7
Ivory Coast	12.7	12.3	9.5
Botswana	11.8	NA	NA
Sierra Leone	11.4	12.3	23.9
Other	97.7	106.2	47.4

[1] Total outstanding portfolio.

Source: OPIC.

Footnotes at end of article.

TABLE 6.—KENYA, OPIC INSURED PROJECTS, 1974-76

[Dollar amounts in thousands]

Investor	Fortune 500 rank [1]	Type of product	Size of insured investment	Largest single maximum coverage
1974				
CPC International	68	Maize processing	$432	$864
Del Monte	162	Pineapple processing	7,750	12,777
TWA Hilton International	T1	Game lodges	1,200	1,924
TWA	T1	Hotel expansion	254	507
1975				
Chesebrough Ponds	278	Manufacture toiletries	214	428
CPC International	68	Maize processing	393	393
First National City Overseas Investment	B24	Commercial bank	1,260	1,260
Gillette Co	148	Manufacture razor blades	$249	$498
1976				
Avis Rent-a-Car		Safari lodge	362	674
Chesebrough Ponds	278	Manufacture toileteries	300	300
Continental Ore Corp	157	Expand mining and milling	156	312
Fonville Enterprises		Expand cattle ranching	57	114
Gillette Co	148	Manufacture razor blades	391	391
Pan Am Intercontinental Hotels	T9	Expand hotel	274	547
Nile Investments		Manufacture plastic pipe	252	391
George L. Small		Expand cattle ranch	59	71

[1] T denotes transportation company, B denotes bank.

Source: OPIC Annual Reports, 1974, 1975, 1976.

Although OPIC has undertaken to implement this legislation, several problems with OPIC's procedure suggest that the interests of U.S. workers are not adequately protected.

First, OPIC's application process relies wholly on information supplied by the interested investor. OPIC cannot monitor U.S. job or export displacement other than through the representations of the firm involved.

Second, OPIC's "runaway" clause is worded to cover only intrafirm transfers of work, that is, the shifting of one firm's U.S. production to production abroad by the same firm. Often, however, transfers of work are indirect, involving numerous companies which either 1) stop buying from a U.S. supplier and begin purchasing from an overseas producer, or 2) subcontract a stage of production to an overseas plant, instead of using U.S. labor. In both cases, there may be a loss of U.S. jobs in labor-intensive stages of production.

The Commerce Department often aids OPIC in determining the effects on domestic employment and on the U.S. trade balance of a given investment. Occasionally, OPIC and Commerce will endorse insurance to companies that ship a major portion of their overseas production back to the United States. OPIC and Commerce argue that such insurance is justified on the grounds that a firm, to remain competitive, must subcontract stages of its production to lower-wage areas.

For example, Fairchild Camera and Semiconductor acquired OPIC insurance for a maximum of $17.3 million for two electronics components investments in Korea in 1975, and in Indonesia in 1974. The Indonesian plant exported nearly all of its production back to the United States, and the Korean operation sent back roughly half of its output.

Meanwhile, between 1974 and 1976, approximately 22,400 U.S. electronics workers applied for, and were granted, Trade Adjustment Assistance from the Department of Labor. This office, created under the Trade Reform Act of 1974, provides limited financial compensation to U.S. workers whose jobs have been lost due to competition from imports. One hundred and thirty of the workers receiving assistance were from Fairchild itself.

Fairchild's investments abroad were not considered runaways because the long-term effects on the U.S. economy, as defined by the investing firm, OPIC, and Commerce were considered positive. However, none of the governmental, and only one of the private sector members of OPIC's eleven-member Board represent organized labor. The bargaining scale in this situation is clearly tipped away from those workers and unions who cannot match the international mobility of large multinational corporations.

OPIC erodes the bagaining power of U.S. labor in additional ways. The six countries which have received the most OPIC insurance from 1974 to 1976 are all governed by authoritarian regimes which to a large extent deny basic trade union freedoms. For example:

In Brazil workers have no right to strike or to demand collective bargaining;

In South Korea workers have no right to strike, and the Federation of Korean Trade Unions is tightly controlled by the government;

In Indonesia strikes are forbidden in "essential industries" and civil servants and government employees are prohibited from forming unions;

In Taiwan the Labor Disputes Act of 1943 prohibits strikes and shutdowns during "periods of public emergency" which have existed since the 1949 Communist victory on mainland China; and

In the Dominican Republic the government has created numerous "free zones" where the right to strike or form unions is prohibited.

U.S. workers cannot compete when repressive foreign governments assure American corporations of a docile and cheap labor force abroad.

Efforts to draft codes of conduct for multinational corporations have met with only limited success. The OECD guidelines recommend that enterprises: "respect the right of their employees to be represented by trade unions and other bonafide organizations of employees . . ." [10]

Similarly, the International Confederation of Free Trade Unions declares that: "multinational companies shall follow the laws, the rules and the practices of the host country regarding the labor market only if these are not inferior to the standards of the ILO in which case those of the ILO shall be followed." [11]

However, such provisions are currently unenforceable and are undermined when official agencies such as OPIC condone their violation by insuring investors in repressive countries. Already, the European Trade Union Council of the European Economic Community has adopted resolutions calling for the termination of government insurance to countries violating trade union freedoms.

SHOULD OPIC'S LEGISLATIVE MANDATE BE RENEWED?

Congress is being asked to renew OPIC's legislative mandate for another four years. In reviewing OPIC's record, Congress should consider the following questions:

Who have been the main beneficiaries of OPIC coverage?

Why has 60 percent of the dollar volume of OPIC insurance between 1974 and 1976 gone to just six countries: Brazil, the Philippines, South Korea, Indonesia, Taiwan, and the Dominican Republic?

Why is it that these same top recipients of OPIC insurance are all countries which are documented human rights violators and which place severe restrictions on or outlaw completely labor unions?

Why has 41 percent of OPIC insurance issued between 1974 and 1976 gone to just eleven of the largest U.S. multinational corporations?

What is OPIC's impact on jobs in this country?

What kind of development is OPIC fostering in the Third World? And finally,

Does the identity of interest that OPIC forges between the U.S. government and U.S. multinational corporations interfere with the higher goals that must guide U.S. foreign policy?

A review of OPIC's record in these areas indicates that it has not accomplished its stated purpose but has benefitted a few of the largest corporations. Further, it is clear that OPIC has failed to follow the many directives that Congress amended to OPIC's 1974 legislative renewal bill including directives to reduce its country concentration and to give preferential treatment to small businesses.

Of all the 1974 congressional directives, however, the one that has most worried OPIC's management is an amendment introduced by Senator Frank Church which OPIC is now asking Congress to repeal. It directed OPIC to turn its insurance business over to private, commercial insurance companies by 1980. OPIC has succeeded in enlisting Lloyds of London and a few U.S. insurance companies to share part of "first loss" risks in expropriation policies, but the private companies have demanded high premiums and refused to write policies of more than one year's duration.

OPIC issues policies for 20 years, in effect guaranteeing that host governments will not change the terms of a multinational corporation's initial investment for that period. Given the riskiness of insuring the economic status quo in the Third World, private insurers are unwilling to take such a gamble. It is the U.S. taxpayer who is left to guarantee the safety of the foreign investments of U.S. multinational corporations, although few taxpayers have even heard of the OPIC program, fewer still benefit from it.—Cynthia Arnson and William Goodfellow.

PARADISE LOST: OPIC AND POTLATCH IN WESTERN SAMOA

Western Samoa, a group of tiny islands in the Western Pacific, has all the elements of an island paradise: mild tropical climate, spectacular physical beauty and a natural abundance of tropical fruits and coconut trees. It also has large tracts of primary tropical rain forests containing marketable hardwoods.

Footnotes at end of article.

In 1968, after lengthy negotiations with Samoan legislators, the Potlatch Corporation, a large U.S. multinational lumber company, started construction of a sawmill and port facilities to harvest and market over a dozen species of Western Samoa's hardwoods, to be used for furniture and veneers. In 1974 the Overseas Private Investment Corporation extended $3 million of insurance to Potlatch to cover its Western Samoan operation, primarily a sawmill and veneer plant.

The impact of Potlatch's investment on the lives of the 155,000 Western Samoans, and on the economy and ecology of the islands, is illustrative of many of the problems large investments by multinational corporations create in underdeveloped societies. The following account is based on an article that appeared in the October 1975 issue of Natural History magazine:

Negotiations between Potlatch and Western Samoa were initiated in 1965 by the regional director of the United Nations Development Program in Western Samoa, who was subsequently hired by Potlatch to act as a Potlatch lobbyist in the Western Samoan Parliament. Western Samoa's Prime Minister was flown to the United States to view Potlatch's operations, and on his return to Samoa became one of the most enthusiastic advocates of the corporation's plan.

In 1967 the Western Samoan Parliament approved Potlatch's proposal to invest about $6 million in a milling operation and a tree-farming project that would involve leasing between 14 percent and 23 percent of the entire land of Western Samoa. For its part, the Western Samoan government agreed to 1) act as a land broker on Potlach's behalf; 2) be solely responsible for carrying out a tree replanting program to replace trees harvested by Potlatch; 3) provide Potlatch with a moratorium on taxes and with customs exemptions, as well as foreign exchange privileges; 4) lease land to Potlatch for its sawmill; 5) build a wharf and dredge the harbor for Potlatch's use.

Potlatch's need to lease such an enormous land area brought the corporation into direct conflict with the Samoan communal land law, which prohibited the sale or lease of Samoan land to anyone, even other Samoans.

According to Natural History, "Under [the communal land system] extended family units in each village hold title over various plots of land that are owned through use. When not in use or fallow, the land may revert to the village as a whole or to other families who will use it." A 1962 law made certain exceptions, allowing some land to be leased for commercial purposes. The Potlatch proposal, however, was of a completely different scale.

In the end the wharf and harbor cost the government almost five times the projected initial figure. Foreign engineers had failed to examine the harbor bottom, which was solid coral. It took over four years of blasting to open a shipping channel. The repayment of loans used to finance the unexpectedly large outlays necessary to build the wharf and dredge the harbor cut deeply into revenues the Samoans anticipated from Potlatch. Thus the project's contribution to Western Samoa's balance of payments is small.

Potlatch officials point out the fact that their operations provide employment for 300 people. However, as Natural History noted, ". . . in the context of an underdeveloped economy like Western Samoa's, it is important to understand that these new Potlatch employees were not necessarily unemployed when they were hired by the corporation. What Potlatch did was shift employment opportunities, through training programs, from agriculture, civil service, and light industry to forestry; this can be viewed as an upgrading of the labor force. At the same time, though, by leasing enormous tracts of land Potlatch will, at a certain point, create a situation in which Samoan peasants may not have sufficient land on which to carry out peasant agriculture, and given the scarcity of land, coupled with population growth, Potlatch may be contributing to unemployment in peasant agriculture while creating employment in forestry."

Also effected by Potlatch's project in Western Samoa is the ecology of the island nation. Large scale cutting of Western Samoa's forests is almost certain to cause at least some increase in erosion, as the thin layer of topsoil on the floor of the rain forest is disturbed. Further, since the Potlatch agreement delegated full responsibility for the reforestation program to the government of Western Samoa, it is quite beyond the power of the Potlatch Corporation to guarantee that new seedlings will be planted.

Natural History concludes, "When all the economic, social and ecological changes which could affect the people of Western Samoa due to Potlatch's presence are considered, it is apparent that the Western Samoans are taking a larger gamble than is the corporation. Potlatch can measure its successes and losses by calculating the financial return on its investment; no such clear-cut standard can be applied to these people or their islands."

OPIC PROGRAM PROFILE

Political risk insurance is by far the largest of OPIC's programs. As of December 31, 1976, OPIC was administering contracts having a combined face value of $9,547.5 million. (A large portion of this total was inherited from OPIC's predecessor, AID.) This figure includes $3,135.8 million for inconvertibility, $3,550.3 million for expropriation, and $2,861.4 million for war, revolution, and insurrection. Firms pay a premium of 1½ percent for coverage under all three categories, with slightly higher fees for "large and sensitive projects" in areas such as mining.

OPIC's exposure on a yearly basis is significantly less than the combined total of contracts it has issued under all three categories of insurance. OPIC maintains that its obligation to an investor is limited to the largest single category of coverage. In OPIC's existing portfolio, expropriation is the largest single category. In addition, a firm can annually choose to carry the full amount of insurance it has contracted with OPIC, or it can place a portion of that on "stand-by." Current coverage for expropriation and war risk must, however, at least equal the amount of investment at risk.

Thus, in 1976 OPIC's current potential liabilities consisted of $947.5 million for inconvertibility, $2,558.1 million for expropriation, and $2,085.2 million for war, revolution, and insurrection.

OPIC's finance program is considerably more modest in scope. In 1976 OPIC issued $28 million in loans and guarantees, compared with $1.2 billion in insurance. By the end of fiscal year 1976 OPIC's loan program had total outstanding commitments of $231.2 million, consisting of $200.2 million in loan guarantees, and $31 million in direct loans.

OPIC is authorized to issue up to $750 million in loans, but must hold a minimum of 25 percent of its outstanding portfolio in its reserves. The current reserve is 35 percent of outstanding loans. OPIC's insurance authorization extends up to $7.5 billion, with no similar requirement for minimum reserves.

The legislation creating OPIC in 1969 granted it the authority to borrow up to $100 million from the Treasury in the event that claims payments ever exceeded reserves. In addition, congressional appropriations (all before 1974) have totalled $108 million. Because the "full faith and credit of the U.S. government" is behind all OPIC obligations, further congressional appropriations would be necessary if claims exceeded reserves.

For example, the large-scale nationalizations by the Allende government in Chile resulted in claims against OPIC totalling $389.0 million; OPIC's insurance reserve in 1973 was only $142.6 million. Only the willingness of the military junta that overthrew Allende to settle with OPIC prevented the agency from having to seek additional appropriations from Congress.

In accordance with the 1974 congressional mandates to privatize and to adhere to principles of sound risk management, OPIC has entered into risk-sharing schemes with the private sector. The Overseas Investment Insurance Group, formed in 1975, now consists of OPIC and 21 private insurance companies. The private insurers now subscribe to 25 percent, or $10.2 million, of a $40 million-per-country, and $80 million worldwide, first loss pool on new contracts for expropriation and inconvertibility. Lloyd's of London has also reinsured a portion of OPIC's existing portfolio for these two coverages.

Private companies, however, have been unwilling to underwrite directly or reinsure war risk policies. OPIC has formed a War Risk Insurance Recipocal, in which insured firms insure each other's risks; the Reciprocal covers 40% of a $25 million-per-country, and $125 million worldwide, first loss, with OPIC responsible for the remainder.

OPIC is now asking Congress to repeal the 1974 statutory requirement that OPIC withdraw entirely from writing expropriation and inconvertibility insurance by 1979 and of war insurance by 1980, due to the unwillingness of private insurers to assume OPIC's risks.

FOOTNOTES

[1] Title IV, Section 231, Foreign Assistance Act of 1961.

[2] Organization for Economic Cooperation and Development, *Development Cooperation*, 1976, p. 27.

[3] United Nations, Department of Economic and Social Affairs, *The Impact of Multinational Corporations on Development and on International Relations*, 1974, p. 29.

[4] United States House of Representatives, Committee on Foreign Affairs, *The Overseas Private Investment Corporation*, 93rd Congress, 1st session (Washington, D.C., 1973), p. 25.

[5] This latter consideration was judged crucial by Fred Bergsten, *The Impact on Development of U.S. Policy Toward Foreign Direct Investment: A Report to AID*, Brookings Institution, May 1976, p. 9.

[6] Erik Eckholm and Frank Record, "The Two Faces of Malnutrition," Worldwatch Institute, Washington, D.C., December 1976, p. 50.

[7] United States Department of State, Bureau of Intelligence and Research, "Nationalization, Expropriation, and Other Takings of U.S. and Certain Foreign Property Since 1960," November 1971, p. 2.

[8] United States Senate, Committee on Foreign Relations, Hearings: Multinational Corporations and U.S. Foreign Policy, 93d Congress, 1st session (Washington, D.C., 1973), p. 145.

[9] Title IV, Section 231(m), Foreign Assistance Act of 1961.

[10] Organization for Economic Cooperation and Development, *International Investment and Multinational Corporations*, 1976, p. 16.

[11] International Confederation of Free Trade Unions, *Multinational Charter*, Brussels, Belgium, 1975, p. 45.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. Mr. Chairman, the gentleman's amendment simply undertakes to make sure that the gentleman's amendment which applies to foreign aid will also apply to OPIC.

Opponents are arguing OPIC is not foreign aid; if it is not foreign aid, I

would like to know what it is doing coming before my committee, which handles foreign aid.

I compliment the gentleman for his amendment, and I support the gentleman's amendment.

Mr. HARKIN. I thank the gentleman from Maryland.

This amendment will complement what this Congress has done on our aid, whether bilateral or multilateral or military aid. Let us make sure that this foreign aid abroad conforms to our foreign policy and complements our foreign aid.

AMENDMENT OFFERED BY MR. BINGHAM AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. HARKIN

Mr. BINGHAM. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. BINGHAM as a substitute for the amendment offered by Mr. HARKIN: Page 4, line 8, strike out "and".

Page 4, line 13, strike out the period and insert in lieu thereof "; and".

Page 4, immediately after line 13, insert the following new paragraph:

(3) by adding at the end thereof the following new subsection:

"(i) The Corporation shall take into account in the conduct of its programs in a country, in consultation with the Secretary of State, all available information about observance of and respect for human rights and fundamental freedoms in that country and the effect the operation of such programs will have on human rights and fundamental freedoms in such country. The provisions of section 116 of this Act shall apply to any insurance, reinsurance, guaranty, or loan by the Corporation with respect to a project in which a government ineligible for assistance pursuant to such section 116 participates financially.".

Mr. BINGHAM. Mr. Chairman, the gentleman from Iowa has established a well-recognized position as a leader in the human rights fight and to have human rights incorporated as a part of our foreign policy, and section 116 of the Foreign Assistance Act is primarily to his credit.

All that my substitute would do would be to make clear that section 116 applies to dealings with governments and not to dealings with private American corporations.

We just adopted an amendment that clearly indicates the desire of this House that these insurance contracts and loan contracts should go in very large part to very small enterprises. It seems almost preposterous to me that we would say that type of activity should be limited by a kind of restriction that we impose on aid programs extended to governments.

We are dealing here, so far as the bulk of OPIC's activities is concerned, with insurance against three risks: The risk of expropriation, the risk of nonconvertibility, and the risk of war. And that is all.

The companies pay full premiums for this insurance. They pay good premiums for the insurance.

Now should we extend the principle that such operations are limited to those countries where there are not violations of human rights? I would suggest that in many of the least developed countries, many of the poorest countries which we want to help the most, their standards of human rights simply do not come up to what we in the West regard as adequate.

While there is an argument that can be made, and certainly the gentleman from Iowa (Mr. HARKIN) has established this fact, that where Government aid to those countries is concerned we should look at the human rights aspects, I would submit to the Members that, where we are talking about only the service provided by American companies that want to engage in investment abroad and would like to have protection against some of these risks, we should not apply the same type standard.

So the amendment says very clearly that the provisions of section 116, that is the Harkin amendment, should apply to any insurance, reinsurance, guarantee, or loan by the Corporation with respect to a project in which a government—a government ineligible for assistance pursuant to section 116 participation financially—in other words, if the government involved is a part of the operation, and in many cases this is the case—then section 116 applies. In other cases the prohibition is not absolute.

OPIC, acting under the direction of the Secretary of State, has actually terminated all activities in some countries such as Chile, but that is not something we can lay down a hard and fast rule about, and that is why I suggest that this should be limited to government operations.

Mr. HARKIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have not had a chance to read this until just a couple minutes ago, but I have been trying to absorb the amendment of the gentleman from New York. In reading it over, perhaps I should have consulted with the gentleman from New York earlier on this whole area. I know the gentleman from New York feels much the same as I do on the whole human rights question. Perhaps we could have reached some kind of agreement on this.

I see some problems in the amendment, so I would like to address some questions to the proponent thereof. For example, the gentleman says that the corporation shall take into account in the conduct of its programs all available information, but it does not say what they have to do once they take it into account. I guess that what I am referring to here is that there is really no reporting requirement about what they do after they do take it into account.

For example, I just stated the argument going on now between OPIC and the State Department officials whether section 116 applies. So they take it into account. What do they do then? There is no reporting requirement.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, there are a number of provisions in the OPIC legislation which require OPIC to take into account certain factors. U.S. foreign policy as interpreted by the Secretary of State is one of the factors. If the Secretary of State decides there should be no OPIC business carried on with respect to particular countries, that will be observed. It does not require a hard and fast application of section 116. A small business that would like, for example, to put up a plant to manufacture school supplies in one of the small African countries. Section 116 should not necessarily apply to that situation.

Mr. HARKIN. I would think we would want to have some type of reporting or something about how they have taken this into account. They can just move ahead with it, but we cannot hold their feet to the fire later on in our oversight functions of this body.

I do not mind taking those items into account and I want the gentleman to know full well that I have never been so hard and fast in my proposing human rights amendments that I was not willing to compromise and see that other people may make beneficial changes to my amendment.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, if the gentleman would like to incorporate into my amendment some reporting requirement similar to that which is in the gentleman's amendment, I would be perfectly happy to do that.

Mr. HARKIN. I thank the gentleman and I think I will.

I have one other problem. The gentleman says that the provision of section 116 shall apply. That is fine and good. I think it does already, anyway; but the gentleman says with respect to a project in which a government ineligible for assistance pursuant to such section 116—that is fine—participates financially. There is the problem.

Let us take country "X." The government is a very repressive government. There is a project in which OPIC wants to participate. The government may not be financially involved in that project, but they sure as heck may want that project. They may want that project to go ahead and they will pave the way for this company to come in and do that and give them all the benefits they can give them; but the government itself may not be financially involved in that project.

Does the gentleman see what I mean?

Mr. BINGHAM. Mr. Chairman, if the gentleman will yield further, I understand. In most cases involving insurance, the projects come to OPIC from the businesses with plans pretty well developed. These differ from projects that involve OPIC financing. They may come from private entities in the host country to OPIC, or be stimulated by OPIC. But they do not come from the government.

Mr. HARKIN. But before they can go, they have to have the approval of the host government. They have to approve of that first, and so what the gentleman is doing is, he is going to a government that is a very repressive government and getting its okay.

The CHAIRMAN. The time of the gentleman from Iowa has expired.

Mr. HARKIN. Mr. Chairman, I ask unanimous consent to proceed for 5 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

Mr. SEBELIUS. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. HARKIN. Mr. Chairman, I ask unanimous consent to proceed for 3 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. HARKIN. So, what we have is the government approving of it, but maybe not putting in a cent of money, but doing a lot of other things such as spending money on bureaucrats, on whatever is necessary to pave the way for that project to go ahead. So, what we would have is section 116 only applying where a host government is financially invoked.

I dare say—I do not know the figures—but I think that is probably a very small fraction of the total projects that go on under OPIC.

Mr. BINGHAM. I cannot give the gentleman a percentage, but I understand it is a very common arrangement, to have the host government participate financially.

Mr. HARKIN. Again, I do not know the total figures. I do know that they could get around it by doing a lot of other things. I take the gentleman's word for it, but they can do a lot of other things that would not involve that.

Mr. MOFFETT. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from Connecticut.

Mr. MOFFETT. Sure, they can get around it, with all due respect to the gentleman from New York, and they do obviously get around it by putting just a tiny bit of money in—one-half of 1 percent or one-fourth of 1 percent—and under the gentleman's substitute they qualify and are off the hook.

Mr. HARKIN. I say that it is a definite problem. I would like to amend the amendment to put the report in.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield to me for just a moment?

Mr. HARKIN. I yield.

Mr. BINGHAM. I think the gentleman from Connecticut has introduced a confusing note. I think he misinterprets my amendment. What I am saying is that section 116 should apply if the host government has a financial interest in the project. What the gentleman seemed to be saying was that it would be easy for the host government to acquire one-fourth of 1 percent or one-half of 1 percent, and then be off the hook.

I think quite the reverse is true, that section 116 would apply where, in a sense, OPIC is dealing with a prospect that is involved with the government.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. The amendment offered by the gentleman from Iowa (Mr. HARKIN) has two very ample loopholes in it to give the administration room to turn around, to maneuver. The thing I object to about the Bingham amendment is that it is all loophole. It is just one gigantic loophole. One might as well say we should vote no and be done with it rather than support the substitute amendment offered by the gentleman from New York. So, I oppose the substitute and support the amendment offered by the gentleman from Iowa.

Mr. HARKIN. I oppose the substitute also. If I had some time to work with the gentleman to work out some language to take care of the two problems, I think I would support it, but because we do not have the time and I do not have the time to get an amendment ready to amend the substitute, I will have to oppose it and ask that the substitute amendment be defeated.

Mr. FINDLEY. Mr. Chairman, I move to strike the last word, and I rise in opposition to the Harkin amendment.

Mr. Chairman, it is very obvious, from the proceedings here this afternoon, that we legislate by labels. We just had an amendment before this committee which had the term "small business" in it. Now, everyone is very solicitous of small business. I have a small business back home, and I know what it is to try to meet a payroll, to try to get business income, and to try to keep the enterprise afloat. All of us have many such enterprises in our districts which are very vocal and keep communicating with us.

Therefore, with Mr. LONG's amendment, which had "small business" before us, those swarming in the doors voted for it in droves. The effect could very well be contrary to the interests of small business but we often vote by labels.

Now, we have two amendments pending before us. Fortunately, we have two, not just one. Both involve the same label, human rights.

Both, in my view, ill serve the cause of human rights.

The lesser evil, I would say, is the Bingham amendment. I would wish that we had nothing dealing with the question of human rights in this OPIC bill. But we do have the choice of two amendments dealing with human rights. As we consider which of these human rights amendments we ought to vote for, I would hope that we would keep in mind that this OPIC program really does not give us leverage upon the policies of a foreign government. There is no subsidy involved, no grant, no concessional terms whatever. This is an insurance program similar to that which is provided by other large industrial countries to facilitate investment abroad by companies large and small. It is just about as close to being a private, self-financing sound insurance enterprise as anything within the Federal domain. In fact, I am surprised that the private sector has not moved in to take over this insurance function. And if this bill goes down, I dare say that some private enterprise may move in. But it has served a useful purpose over the years it has been in operation, and I would hope we would not hobble it any more than necessary, with encumbrances such as the small business amendment just approved, which was offered by the gentleman from Maryland, (Mr. LONG). The amendment offered by the gentleman from New York (Mr. BINGHAM) has shortcomings, in the eyes of the gentleman from Iowa (Mr. HARKIN), one of them being the lack of reporting requirements. I would point out that the President is required to report annually to the Congress on the steps he has taken to carry out the provisions of section 116. So there is a reporting requirement already in the legislation, which I think will suffice to meet the concerns of most Members, if not the gentleman from Iowa (Mr. HARKIN). Therefore, I express the hope that we will support the amendment offered by the gentleman from New York, (Mr. BINGHAM) as an amendment to the amendment offered by the gentleman from Iowa (Mr. HARKIN). Thus, we can vote for human rights in this bill, as I am sure we will be doing, in a fashion that will do the least actual harm to the interest of human rights in the countries that are involved.

Mr. MOFFETT. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Bingham amendment and in support of the Harkin amendment.

I will briefly make the statement that I dare say—and I do not think this is too extreme an appraisal—that, with regard to the language of the Bingham amendment, that the corporations shall take into account all available information and respect the human rights and fundamental freedoms in those countries and the effect such a program will have on human rights in such countries, there is nothing, virtually, in the history of this or any other program or in corporate investment in the various third world countries to show the corporations have in fact put this at anywhere near the top of their priority list. One might say that they are there to make money and they are there for investment purposes, and so forth. But the fact of the matter is that they surely do not take human rights into consideration, whether it is in Chile, or whether, when the ties with Cuba are firmed and they go into Cuba, it is in that country, or whether there is a left wing or right wing dictatorship. There is no consciousness about human rights. And that is one of the many things wrong with the Bingham amendment. One might say, as the gentleman from Illinois just said, that in fact you are voting for human rights by voting for this particular piece of legislation. I have respect for the gentleman and I understand that point of view is one that is sincerely felt. But I do think that when we look at the record and we find these gigantic corporations—and fully 60 percent of this insurance is going for projects in the most repressive countries in the third world—it indicates that we are not really voting for human rights.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. I yield to the gentleman from Illinois.

Mr. FINDLEY. But these corporations pay a fee in order to get the insurance. They pay for the insurance. And this service is operated on a basis that is profitable to the U.S. Treasury.

Mr. MOFFETT. I understand that.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. I yield to the gentleman from New York.

Mr. BINGHAM. Could I ask if the gentleman will support the bill if the Harkin amendment is adopted?

Mr. MOFFETT. I am in opposition to the bill whether the Harkin amendment is accepted or not, because I am in opposition to the program.

Mr. BINGHAM. I think it is significant that the principal amendments, the amendment offered by the gentleman from Maryland (Mr. LONG) and the amendment now offered by the gentleman from Iowa (Mr. HARKIN) are offered by people who are opposed to the whole program.

They want to kill the program.

So I say, if we want to preserve the program and put it in shape as a useful program backed by the administration and backed by Senator HUMPHREY and others, we should vote for the substitute and vote down the Harkin amendment.

Mr. MOFFETT. Mr. Chairman, if I might reclaim my time, I would ask this: Why should this not be subject to the same rules as the rest of our foreign aid?

In fact, there is something of a case to be stated for making it subject to the same rules as those which guide our foreign aid program. The gentleman from New York (Mr. BINGHAM) has a great record for the support of human rights in that regard.

AMENDMENT OFFERED BY MR. HARKIN TO THE AMENDMENT OFFERED BY MR. BINGHAM AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. HARKIN

Mr. HARKIN. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. HARKIN to the amendment offered by Mr. BINGHAM as a substitute for the amendment offered by Mr. HARKIN:

Add a new subsection at the end of the amendment to read as follows:

Section 240A(a) of such Act is amended by adding at the end thereof the following new sentence: "Such report shall include a description of any project for which the Corporation (1) refuses to provide any insurance, reinsurance, guaranty, financing, or other financial support, on account of violations of human rights referred to in section 237(n), or (2) notwithstanding such violations, provides such insurance, reinsurance, guaranty, financing, or financial support, on the basis of a determination that the project meets the criteria set forth in paragraphs (1) and (2) of such section.".

And strike all after the word "Corporation" the last time that word appears in the substitute.

Mr. HARKIN. Mr. Chairman, what my amendment to the substitute does basically is something with which the chairman of the subcommittee would agree, at least as to one part of it, and that is that it adds the reporting requirements. I believe the gentleman indicated agreement on that aspect of it. So I would take it that we would have no problem with that.

The other part of my amendment basically strikes part of the last sentence. The last sentence of the substitute now reads as follows:

The provisions of section 116 of this Act shall apply to any insurance, reinsurance, guaranty, or loan by the Corporation with respect to a project in which a government ineligible for assistance purusant to such section 116 participates financially.

I raise the issue that these governments will get around that by not participating financially. They would probably do something else.

So all I am doing is to rewrite that one part and saying basically what I said in my initial remarks and that is that section 116 does in fact apply to OPIC and to the insurance, reinsurance, guaranty or loan by the corporation.

I do not mind the inclusion of the rest of the language in the gentleman's substitute, but I think that with these two provisions, then the amendment does in fact conform to section 116 and makes the human rights section the same for this as it does for any other U.S. foreign assistance program, bilateral or multilateral.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. Yes, I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, will the gentleman please repeat the two things that this amendment does?

Mr. HARKIN. Yes. First of all, it adds the reporting requirements, and the gentleman from New York (Mr. BINGHAM) said he really did not object to that anyway. That refers to reporting on how they conform to this language.

The second thing the amendment does is that it takes out that language that speaks about their participating financially. My amendment just puts a period after the word, "Corporation," so it just says that the provisions of section 116 of this act, which I have been talking about—and that is the human rights provision—"shall apply to any insurance, reinsurance, guaranty, or loan by the Corporation."

That is the position that individuals in the State Department have been taking, and I think that is the position we should want to take here, too. It just clarifies the position, because it is the one the OPIC people have been saying does not apply to them.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, as the gentleman has indicated, I have no objection to the first part of the amendment, but I believe the second part of it takes us right back to his original amendment, so I do not see anything to be gained by further discussion of the amendment. I oppose the amendment.

Mr. Chairman, since we have to leave this Chamber within 10 minutes, I hope we can dispose of this amendment before that.

Mr. HARKIN. Mr. Chairman, I understand the gentleman's position. I would hope that my amendment to the substitute will carry.

As the gentleman said, the amendment does basically conform to what I initially offered.

Mr. Chairman, I urge the adoption of my amendment to the substitute.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. HARKIN) to the amendment offered by the gentleman from New York (Mr. BINGHAM) as a substitute for the amendment offered by the gentleman from Iowa (Mr. HARKIN).

The question was taken; and on a division (demanded by Mr. BINGHAM) there were—ayes 29, noes 13.

So the amendment to the amendment offered as a substitute for the amendment was agreed to.

Mr. RYAN. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The gentleman from California (Mr. RYAN) is recognized for 5 minutes.

Mr. RYAN. Mr. Chairman, I have at least one more amendment here. The gentleman from Florida (Mr. GIBBONS) would have liked to have been here but could not. The amendment would strike the full faith and credit clause, because I think that what the gentleman from Illinois (Mr. FINDLEY) said a little while ago in referring to this agency as being self-sustaining is correct.

POINT OF ORDER

Mr. BINGHAM. Mr. Chairman, I have a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. BINGHAM. Mr. Chairman, I think the pending business is the substitute amendment offered by me, as amended by the amendment offered by the gentleman from Iowa (Mr. HARKIN).

The CHAIRMAN. The Chair will inform the gentleman that debate is still in order.

Mr. BINGHAM. Yes, Mr. Chairman, but I understood that the gentleman was offering a new amendment.

Mr. RYAN. No, Mr. Chairman, I am not going to offer a new amendment.

The CHAIRMAN. The Chair will state that the gentleman from California (Mr. RYAN) moved to strike the last word.

The gentleman from California (Mr. RYAN) is recognized.

Mr. RYAN. I thank the Chair.

Mr. Chairman, I think probably this is the last amendment—unless I offer a further amendment that I have—which the gentleman from Florida (Mr. GIBBONS) would have offered.

What I am about to say has to do with this amendment of the gentleman from Iowa (Mr. HARKIN), with the substitute amendment. More importantly, I think it is necessary to point out the fact, because I join with the gentleman from New York in trying to get as much of this done as we can before we decide to recess, that this legislation, even though it has been fixed to some extent, still has as its basic thrust almost the opposite of what it was designed to be when it was first created some years ago.

The legislation still has the same basic flaw as it had before. It places the American flag and the American Government in a position of insuring that which

should be allowed only in the private sector.

Mr. Chairman, I advocate and support the effort of private enterprise anywhere in the world to do whatever they can in any kind of constructive way to provide jobs in other countries as such. But it is a very different thing for this country to support those kinds of efforts which, in effect, put the U.S. flag in the position of being a kind of overlord rather than a participant in those kinds of businesses in various foreign countries, where there should be an effort to allow other peoples to lift themselves up.

Mr. Chairman, we can do that, as I said at the beginning, through this legislation by allowing small companies in small countries, in poor countries, to help lift themselves up one step at a time to achieve some better kind of life.

I do not think that is true where we have U.S. car-rental agencies in a big city in a foreign nation, supplying chauffeurs for American tourists. I do not think it is true where we have some kind of gigantic hotel which employs the people of the country as their lowest kind of servants, without giving them a chance to participate in the profits, as such.

Mr. Chairman, this is properly the business of private enterprise and private business, but not of public sponsorship by the United States through agencies like OPIC.

As a consequence, Mr. Chairman, I am opposed to the Bingham substitute amendment and I am opposed to the bill as a whole.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield for a question?

Mr. RYAN. I am glad to yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, the gentleman is very concerned about small businesses having a chance to operate in these countries.

May I ask him what will happen to their chance of operating in these countries if the services offered by OPIC in the nature of insurance and, in some cases, loans are not available because the legislation is killed.

Mr. RYAN. Mr. Chairman, the answer to that is very clear from the testimony which the gentleman has had in his own committee, wherein businessmen themselves have said they would be prone to go into the country itself whether OPIC was there or not.

OPIC is not that necessary. This particular agency as such is simply an unnecessary appendage to a government already grown too large.

For that reason I very much am opposed to the agency and very much am opposed to this bill. I believe it is unnecessary. As I say, the litmus test ought to be on any legislation in this House that if the agency were not in existence now, would this House seek a new bill to create this agency and vote in favor of it? I think not. I think they would not do so by a very large margin.

The CHAIRMAN. The question is on the amendment, as amended, offered by the gentleman from New York (Mr. BINGHAM) as a substitute for the amendment offered by the gentleman from Iowa (Mr. HARKIN).

The amendment offered as a substitute for the amendment, as amended, was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa, as amended.

The amendment, as amended, was agreed to.

Mr. BINGHAM. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore, Mr. NATCHER, having assumed the chair, Mr. EVANS of Colorado, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 9179) to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation, had come to no resolution thereon.

AMENDING THE ALASKA NATIVE SETTLEMENT ACT

Mr. RONCALIO. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 8499) to amend the Alaska Native Claims Settlement Act, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 2, after line 7, insert:

SEC. 3. (a) Subsection (b) of section 12 of the Act of January 2, 1976 (Public Law 94–204), as amended by the Act of October 4, 1976 (Public Law 94–456), is hereby amended to add at the end thereof the following new paragraphs:

Any provision of law to the contrary notwithstanding, if the Region, the Secretary, and/or the Administrator of General Services do not complete the nomination of lands referred to in subparagraphs (5) and (6) of this subsection by the dates set in subparagraphs I(C)(1)(b) and I(C)(2)(a) of the document referred to in this subsection, then, and in that event, these dates shall hereby automatically be extended by operation of this subsection for eighteen months. If these dates are hereby extended, the Secretary shall report to Congress at least thirty days prior to the occurrence of each such date as extended concerning the need for further remedial legislation.

Any provision of law to the contrary notwithstanding, the United States shall accept upon tender the State Deed of Title, including the State's legal descriptions, for lands to be reconveyed to the Cook Inlet Region, Incorporated, pursuant to subsection (a)(1) of this section without requiring further survey prior to acceptance. Unless the boundaries of such lands have been specifically identified in a survey approved by the State or Federal Government, such lands shall be described by a metes and bounds description, or by aliquot parts of the Federal rectangular survey system, based wherever possible upon the Federal surveys initially performed to effect transfer and patent of said lands to the State of Alaska. Upon acceptance of a State Deed of Title said lands are hereby withdrawn from entry under the public land laws. Within sixty days the Secretary shall, without adjudication, issue conveyance to said lands of the interests conveyed by the State subject to any lawful reservations of rights or conditions contained in such State conveyance, as provided in the Terms and Conditions document, to Cook Inlet Region, Incorporated, with patent to issue thereafter immediately following approval of survey. The Secretary is authorized hereby to identify and reserve within two years after initial conveyance any easement he could have lawfully reserved prior to conveyance, and to issue immediately thereafter a revised conveyance reflecting such reservation, subject to the agreement of January 18, 1977, between the Secretary of the Interior, Cook Inlet Region, Incorporated, and certain of the villages contained therein. The Secretary may initiate such easement identification and reservation procedure before the tender of the State Deed of Title, but initiation of such procedure shall not affect the timely issuance of conveyance by the Secretary as provided hereby.

(b) If any provision of this Act or the applicability thereof is held invalid, the validity of the remainder of this Act, of section 12 of the Act of January 2, 1976 (Public Law 94–204), as amended, of the document referred to in section 12(b) thereof, and the duties and obligations of the Secretary of the Interior, the State of Alaska, and Cook Inlet Region, Incorporated, with respect thereto, shall not be affected thereby.

Page 2, after line 7, insert:

SEC. 4. The Alaska Native Claims Settlement Act (85 Stat. 688), as amended (43 U.S.C. 1601), is further amended by adding a new section at the end thereof:

"SEC. 31. (a) Notwithstanding the provision of section 3477 of the Revised Statutes, as amended (31 U.S.C. 203), the Secretary is authorized to recognize validly executed assignments made by Regional Corporations of their rights to receive payments from the Alaska Native Fund. Such assignments shall only be recognized to the extent that the Regional Corporation involved is not required to distribute funds pursuant to subsection (j) or (m) of section 7 of this Act.

"(b) The Secretary shall not recognize any assignment under this section which does not provide that the United States reserves the right to assert against the assignee and successors of the assignee, any setoff or counterclaim which the United States has against the assignor Corporation.

"(c) No stockholder of any Regional or Village Corporation shall have any claim against the Secretary or the United States as the result of any assignment duly recognized by the Secretary pursuant to this section.".

Mr. RONCALIO (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the Senate amendments be dispensed with and that they be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wyoming?

Mr. BAUMAN. I reserve the right to object, Mr. Speaker.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Missouri for an inquiry at this point.

Mr. VOLKMER. I thank the gentleman for yielding.

My inquiry is that we have just completed the action in the Committee of the Whole and came into the House on the bill which was just before us in the Committee of the Whole. Is it the proposal of the Speaker to finish the unanimous consent requests and then go back to that bill and have a vote on that bill?

The SPEAKER pro tempore. The Chair would like to advise the gentleman from Missouri that would take place after the recess.

Mr. VOLKMER. After the recess. I thank the Speaker very much.

Mr. BAUMAN. Further reserving the right to object, Mr. Speaker, I do so only so the gentleman from Wyoming might explain the legislation.

Mr. RONCALIO. I would be delighted to, if the gentleman will yield.

The gentleman from Alaska (Mr. YOUNG) is wholeheartedly in favor—and his staff is here—of the two Senate amendments made to the Alaska Native Claims Settlement Act providing for the Southeast Archipelago Alaska Regional Corporation. These amendments were made to a bill that passed the House here on the Consent Calendar on Monday, and the gentleman from Alaska has no objection to them.

Mr. BAUMAN. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

A motion to reconsider was laid on the table.

PARLIAMENTARY INQUIRY

Mr. MOFFETT. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. MOFFETT. I would ask the Chair, since we have had over the course of better than a day debate on a very important issue if there is any way under the rules by which a final vote on the OPIC debate, which has just taken place, could be had before we adjourn?

The SPEAKER pro tempore. The Chair would like to advise the gentleman that the Committee of the Whole has not reported the bill back to the House.

PARLIAMENTARY INQUIRY

Mr. RONCALIO. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. RONCALIO. Mr. Speaker, it is my understanding that the House of Representatives has concurred in the Senate amendments to H.R. 8499.

The SPEAKER pro tempore. The gentleman is correct.

PARLIAMENTARY INQUIRY

Mr. RYAN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. RYAN. Mr. Speaker, I inquire, along with the gentleman from Connecticut, with regard to the status of the bill which suddenly disappeared from this floor. We spent several hours yesterday and today on this legislation, and the purpose of my parliamentary inquiry is to find out where the bill stands and when and if at any time it will be brought up again. We ought to have a chance to bring this bill to the vote today. We are just about to adjourn and we will come back on the 29th and for a couple of days then. Will there be the opportunity then for the leadership to bring this up again?

The SPEAKER pro tempore. The Chair would like to advise the gentleman from California that when a motion is made to go back into the Committee of the Whole, for further consideration of H.R. 9179, further action on that bill would take place.

Mr. RYAN. But what I am trying to find out is the status or condition of this bill in the House, and whether the House is capable of taking that legislation up again today or when we come back tomorrow or on the 29th. When is it legal under the rules which have already been adopted by unanimous consent, when is it proper to bring this bill up again in this House for final passage?

The SPEAKER pro tempore. As the gentleman from California well knows, by previous order of the House the House will recess at 2:15 today. Following the recess, after 3 o'clock a motion to resolve into the Committee of the Whole would be in order. That would be after the recess takes place.

Mr. RYAN. In the event it does not take place today, is it possible to take that legislation up tomorrow?

The SPEAKER pro tempore. That would be a matter to be determined by the leadership and by the House.

Mr. RYAN. And under the rules already adopted by this House for recess purposes, would it be possible to take that bill up during the time we are scheduled to come back, after the 29th of November?

The SPEAKER pro tempore. Following the recess, is that what the gentleman has in mind?

Mr. RYAN. Yes.

The SPEAKER pro tempore. The Chair could recognize the manager of the bill for that purpose.

GENERAL LEAVE

Mr. WALKER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the bill H.R. 8499.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 5263, SUSPENDING DUTY ON BICYCLE PARTS AND ENERGY PRODUCTION AND CONSERVATION TAX INCENTIVE ACT

Mr. ULLMAN. Mr. Speaker, pursuant to clause 1, rule XX, I move to take from the Speaker's table the bill (H.R. 5263) to suspend until the close of June 30, 1980, the duty on certain bicycle parts, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The gentleman from Oregon (Mr. ULLMAN) is recognized for 60 minutes.

Mr. ULLMAN. Mr. Speaker, the unanimous-consent request to go to conference on the energy bill was objected to and the committee has instructed me as the chairman to move that we go to conference and that the Speaker appoint the conferees.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Chair appoints the following conferees: Messrs. ULLMAN, ASHLEY, STAGGERS, BOLLING, FOLEY, ROSTENKOWSKI, VANIK, CORMAN, WAGGONNER, RANGEL, DINGELL, ROGERS, ECKHARDT, SHARP, MOFFETT, CHARLES WILSON of Texas, REUSS, ARCHER, STEIGER, ANDERSON of Illinois, BROWN of Ohio, HORTON, WYDLER, BROWN of Michigan, and COLLINS of Texas.

STATUS OF SOCIAL SECURITY LEGISLATION

(Mr. BURKE of Massachusetts asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURKE of Massachusetts. Mr. Speaker, I take this opportunity to ask the chairman of the Ways and Means Committee to give the House some information about the status of the social security bill that is now in the Senate and what the House membership expects to do in the way of a conference on that.

Mr. ULLMAN. Mr. Speaker, if the gentleman will yield, because the Senate has not concuded action and probably will not conclude action on the social security bill before we leave, it will not be possible to follow the orderly procedures and get conferees appointed probably prior to the time that we recess; however, it certainly, I think, should be understood by everybody that the Committee on Ways and Means, the chairman, the Speaker and everybody, is totally committed to moving the social security bill before Congress adjourns this year. There are procedures for this and certainly as soon as we come back we would expect to appoint conferees. I think by that time we could expeditiously take care of the matter. We fully intend to move to conference and establish and pass the bill before this Congress adjourns this year.

Mr. BURKE of Massachusetts. Mr. Speaker, I thank the gentleman for his assurance.

CALL OF THE HOUSE

Mr. FASCELL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 737]

Andrews, N.C.	Carney	Duncan, Tenn.
Archer	Cederberg	Eckhardt
Armstrong	Collins, Ill.	Edwards, Calif.
Ashley	Collins, Tex.	Edwards, Okla.
Badillo	Conable	Emery
Beard, Tenn.	Conyers	Fish
Bingham	Corcoran	Florio
Bolling	Corman	Foley
Brown, Calif.	Crane	Forsythe
Brown, Mich.	D'mours	Fuqua
Buchanan	Diggs	Gibbons
Burton, John	Drinan	Goldwater
Burton, Phillip	Duncan, Oreg.	Guyer

Hagedorn	Marlenee	Skubitz
Hall	Mathis	Steed
Harsha	Metcalfe	Steiger
Holland	Mikva	Symms
Holt	Mitchell, Md.	Thompson
Horton	Nolan	Tucker
Huckaby	Pursell	Watkins
Jones, Okla.	Quillen	Whalen
Jones, Tenn.	Reuss	White
Kindness	Rhodes	Wiggins
Koch	Roberts	Wilson, C. H.
Krueger	Rose	Wilson, Tex.
Lloyd, Calif.	Rosenthal	Wolff
Long, La.	Rostenkowski	Yatron
McClory	Rousselot	Young, Alaska
McCloskey	Santini	
McKay	Scheuer	

The SPEAKER. On this rollcall 346 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

MAKING IN ORDER RECESS TODAY TO RECEIVE INFORMALLY SENATOR HUBERT H. HUMPHREY

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that when the House recesses today to receive informally Senator HUBERT HUMPHREY, it stand in recess subject to the call of the Chair.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate disagrees to the amendments of the House to the bill (S. 305) entitled "An act to amend the Securities Exchange Act of 1934 to require issuers of securities registered pursuant to section 12 of such act to maintain accurate records, to prohibit certain bribes, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. PROXMIRE, Mr. SPARKMAN, Mr. WILLIAMS, Mr. BROOKE, and Mr. TOWER to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 3722) entitled "An act to amend the Securities Exchange Act of 1934 to authorize appropriations for the Securities and Exchange Commission for fiscal year 1978," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. PROXMIRE, Mr. SPARKMAN, Mr. WILLIAMS, Mr. BROOKE, and Mr. TOWER to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 2281. An act authorizing an increase in the monetary authorization for nine comprehensive river basin plans.

RECESS

The SPEAKER. Pursuant to the order of the House of November 1, 1977, and November 3, 1977, the House will now stand in recess subject to the call of the Chair. The Chair expects that the informal session will start within a matter of minutes.

Accordingly (at 2 o'clock and 19 minutes p.m.), the House stood in recess subject to the call of the Chair.

RECEPTION OF SENATOR HUBERT H. HUMPHREY BY THE HOUSE OF REPRESENTATIVES

The SPEAKER. The Members will be in order.

This will be a memorative meeting.

We are privileged, my colleagues, to have with us in the chamber a great American, an outstanding public servant, who for nearly 30 years has used his oratory skills and keen intellect to advance the general welfare of our Nation.

HUBERT HUMPHREY, you are the most genuine liberal this country has ever produced.

[Applause, the Members rising.]

The SPEAKER. Throughout your public service career you have stood in the forefront of progressive issues. Often, you have stood alone, as in 1948, when you were the first standard bearer for civil rights of black Americans.

[Applause, the Members rising.]

The SPEAKER. HUBERT HUMPHREY, you have always stood for principles, and you have never given up. You have continually maintained your enthusiastic optimism and unstoppable determination, until your progressive ideals have won acceptance and have become an American consensus.

As the spokesman for the less privileged of this country, your dictum is reflected in your own words, which I quote:

> . . . To push and shove a little, prod and maybe ask a little more than the times and conditions will permit. Unless you push, and prod and ask, you're apt not to get even what you ought to get.

As a champion of the workingman, HUBERT HUMPHREY, you have been the little man's greatest friend.

You played a dramatic role in shaping the final product resulting from every major legislative initiative that has become law in 25 years.

Now, in your last term, as you say, in the Senate, my dear friend HUBERT, you are continuing to challenge all of us in public service to be more active, innovative, and farsighted. Those of us who serve in public life are greatly inspired by your energy and sincere dedication to the goodness that is America.

As Speaker of this great body, I want to tell you that your presence here today brings to this Chamber honor, pride, and distinction.

As Speaker, I extend to you and to your lovely wife Muriel a hearty welcome on behalf of our colleagues in the House.

[Applause, the Members rising.]

The SPEAKER. The Chair is going to recognize the majority leader and the acting minority leader to yield time to several Members who have asked to speak. In view of the time frame within which we are operating, Members should limit their remarks to approximately 2 minutes.

At this time the Chair recognizes the gentleman from Texas (Mr. WRIGHT), the majority leader.

Mr. WRIGHT. HUBERT, old friend, we asked you here so we could tell you we love you. [Applause.]

Mr. HUMPHREY. Thank you. Thank you.

Mr. WRIGHT. HUBERT, you are a friend to most of us, which does not place us in any particularly exclusive society because throughout your life you have been a friend of the human race.

To us in the lawmaking business you are a particular inspiration.

You are not the youngest one among us, but you are the most energetic and the most enthusiastic and the most irrepressible among us. [Applause.]

You are not exactly the newest Member of this Congress, but you do have the freshest ideas—and the most indestructible ideals.

You are the only one of us I know who has never once allowed success to spoil into conceit, nor an occasional failure to produce the faintest taint of bitterness.

When the annals of our time are written, I believe the name of HUBERT HUMPHREY will stand for all that was best in American society.

Throughout this remarkable American's career, his clear calls to the national conscience have been a comfort to the afflicted, and occasionally an affliction to the comfortable. [Applause.]

In 1948, as the Speaker has said, when many would cover over the scars of racial injustice with cosmetic salve, he was the hair shirt to our complacency.

In 1968 when the Nation and his own political party were split in a bitter division, he calmed the tumult with the prayer of Francis of Assissi.

And in 1977 in the weekly meetings of the President and the congressional leadership at the White House, more often than not it is HUBERT HUMPHREY who provides the well of inspiration from which we all drink, and his wisdom which leads us on to higher planes of thought.

So HUBERT, old friend, take care of yourself.

Mr. HUMPHREY. I will do my best.

Mr. WRIGHT. We all have need of you, and there is work for you to do. [Applause.]

Mr. HUMPHREY. Thank you.

Mr. WRIGHT. Mr. Speaker, I yield to the distinguished minority whip, the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, it is a pleasure for me to join in the welcome of Senator and Mrs. Humphrey to this Chamber.

Senator, you did not have all the advantages of an education here in the House since you went directly from your home State to the other body; but be that as it may, you have built a successful and in many ways an enviable career, thereby showing what disadvantaged politicians can do when they put their mind to it.

Senator, as a man of few words, you admittedly use those few words to a degree and extent hitherto unknown even in the other body, but your words have made an impression upon the political and social life of this country for

many years, and candor compels me to admit that there have been times—I would say most of the time, in fact—when I have disagreed with certain positions you may have taken. Perhaps the fact that our limit on debate over here does not give me time enough to grasp the complexities and nuances and profundities of the higher economics that you have raised to an art form.

The differences we may have had on policy have never stopped me from admiring your courage, your candor, your optimism, patriotism and the sheer exuberance that exude.

If anyone could find a way to discover what makes HUBERT HUMPHREY so energetic, I am so sure we could solve this energy crisis within 5 minutes.

I make just one other personal reference. Senator, in 1968, I cochaired the Republican truth squad with Senator CURTIS. You Democrats called us something else, as I recall. At any rate I had a change to learn a little about you as you campaigned, and needless to say by the time the campaign was over there was much more I wanted to say about your speeches, but time had run out. Today, 9 years later, all the questions and insights and skepticism I brought to bear on the Humphrey policies have long gone. What remains is the vision of a man dedicated to his country and his party, a man who has had but one gap in his education: He never has learned the meaning of the word "quit."

Senator and Muriel, it is wonderful to have you come over and visit with us.

Mr. WRIGHT. Mr. Speaker, I yield to the gentleman from Minnesota (Mr. FRASER).

Mr. FRASER. Senator, I want you to know that we have not had so many Members in the Chamber since the official photograph.

I also want to note that two of your very closest friends, John Blatnik and Secretary Bob Bergland, are here to join us in honoring you and Muriel today.

Senator, I know I speak for all of us when I say your presence today brings new light and new warmth to our Chamber.

Those of us from Minnesota have been particularly fortunate because you have touched our lives so directly. My own political career began with your first campaign for the U.S. Senate in 1948 and it has been my generation and successive generations of political Minnesotans who continue to look to you for inspiration.

Over the years the stature of HUBERT HUMPHREY has risen steadily in the eyes of the American people. HUBERT, you have known great triumphs and defeats. Rarely has the character of a man been more tested by the vicissitudes of American politics than the man we honor today. But throughout it all, he never looked back.

His political philosophy springs from a well of faith in people, and an optimism about the future which inspires all of us who come under the spell of his extraordinary rhetoric. In our State he has inspired citizens to review participation in the political life of our Nation as a high calling. His leadership within Minnesota's Democratic Farmer Labor Party, the party he helped to found, has been unique, for he has refused to impose decisions upon others based on the power that flows from public office. Instead he has offered a kind of intellectual and personal leadership which has enobled the idea of public service.

It is especially fitting that many of his friends have decided to honor him by endowing the Hubert H. Humphrey Institute of Public Affairs at the University of Minnesota. All of his life HUBERT HUMPHREY has been a teacher, both in political as well as academic life. He will go on teaching us about decency, about compassion, and about justice in ordering the affairs of our Nation and the world, and he will do this because he himself is a decent, deeply compassionate man who seeks both hope and justice for all.

I am honored to join in this very warm welcome to our good friend and to his loyal and devoted wife Muriel.

We are delighted that you are with us.

Mr. WRIGHT. And now, Mr. Speaker, the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, Senator HUBERT HUMPHREY, it is my particular pleasure and pride today to represent the minority leader, the distinguished gentleman from Arizona (Mr. JOHN RHODES), who is unavoidably absent today. His remarks will, of course, appear in the record of these proceedings, but I would also like to say a few things for myself, HUBERT.

It is not often, in fact, this is unprecedented in my short history here, that we have welcomed the representative of a foreign body like the U.S. Senate to this Chamber. We do so only because of the remarkable nature of you and your services.

JOHN RHODES wanted to express for himself, and he wanted me to express, the great admiration, respect, and affection—no, not affection—love, that we hold for you. For those emotions cross the political, the partisan, the geographical, the philosophical boundaries. It may come as a great surprise to you to know that Republicans can love anybody, but I want to assure you that we love you.

So on this particular day, all of us in the House, and particularly those of us from your native State, have been made proud. You have given to your neighbors and all of your countrymen a proud day and we congratulate you.

Mr. WRIGHT. And now, Mr. Speaker, the gentlewoman from California (Mrs. BURKE).

Mrs. BURKE of California. Mr. Speaker, I join my colleagues in paying tribute to this great American, the senior Senator from Minnesota, and his gracious lady, Muriel.

Senator HUMPHREY, you have won a place in our hearts, the hearts of millions of Americans, but particularly the hearts of minority Americans. You have fought so hard to make this country recognize that every citizen must enjoy the rights of our country.

Our Speaker and our majority leader have referred to that 1948 Democratic Convention, the pleas that were made by Senator HUMPHREY, and I want to say that there are many who remember and enjoy the results of those pleas. I would like to share with this body the words that were said on that occasion:

> There are those who say to you we are rushing into this issue of civil rights. I say we are 172 years late.
>
> There are those who say this issue of civil rights is an infringement on States rights. The time has arrived for the Democratic Party to get out of the shadow of States rights and walk forthrightly in the bright sunshine of human rights.

Senator HUMPHREY, you fought and you championed again and again for human rights; in 1964, for the Civil Rights Act; in 1965, for the Voting Rights Act; and the results of that Voting Rights Act increased not only the voting rights of people all over this Nation, but today there has been a threefold increase in black and minorities who hold elective office.

You fought for Johnson's Great Society and that society addressed the economic needs of our country.

Well, today you and my colleague from California, Congressman AUGUSTUS HAWKINS, have a piece of legislation that seeks to address the whole question of the unemployment of millions of Americans and I know that you will keep going forward in that fight.

Now, my colleagues have called you a moving force, never ending in your pursuit of happiness and equality for all. Your ideals have challenged us. They have challenged us as individuals. They have challenged us as a Nation. They have challenged us as Members of Congress to meet each piece of legislation that comes before us with open minds, recognizing the needs of all for equal justice and fairness.

So I join in paying tribute, expressing my heartfelt thanks and gratitude, and I say welcome back. We need you and we missed you.

Mr. WRIGHT. Now, Mr. Speaker and HUBERT, another good neighbor from Minnesota (Mr. QUIE).

[Applause.]

Mr. QUIE. Mr. Speaker and Senator HUMPHREY, Muriel, good friends, when John Blatnik left the House, that made me the dean of the Minnesota congressional delegation, so I speak as dean, but also as a friend of yours. It is certainly a privilege for us to welcome you to this House as a man this Nation respects and loves so much.

We have known you a long time in Minnesota, especially those of us in the Republican Party—one of the reasons for our weakened condition—but knowing you all of that time, I have learned a great affection and love for you. That came from an experience when we were together one time, when you really showed the humor and greatness of yourself when you said, "The only thing I don't like about QUIE is, he gets too many votes."

But, no matter what our politics, we Minnesotans have long admired HUBERT H. HUMPHREY for his vision, his compassion, and his leadership. These are the qualities that have permitted him to be an unusually effective public servant.

As has been mentioned before this afternoon, human rights, fair employment, ending racial discrimination, which have been the slogans of the six-

ties and seventies, were championed by Senator HUMPHREY long before—in fact, two decades before, and this came to the Nation's attention while he was mayor of Minneapolis.

I have noted, in dealing with you, Senator HUMPHREY, that when we would talk about the matters with which we were deeply concerned, we would not ever get into the question of, how does Minnesota get the most amount of money, but how can we get to the problem of helping the disadvantaged child, the needy, and how we can help that individual.

So I know myself something you used as a slogan several years ago in the campaign when you came back to the Senate, "You know he cares"

Most people never fully use the powers they possess to advance the good that exists in themselves or others. But HUBERT H. HUMPHREY has a special capacity to bring out the good that is in us. And he has wisely used this capacity to push for programs that have nourished the hungry, improved incomes of the poor, cared for the sick, educated the young, raised the spirits of the old, restored faith in the minorities and proclaimed worth in the handicapped.

Frankly, it would take a Humphrey-like speech to list all the accomplishments, but let me say this: HUBERT H. HUMPHREY is loved by millions because he has an unbridled bundle of energy motivated by a desire to act not for himself, but for others.

The author of Proverbs must have had the "Happy Warrior" in mind when he wrote, "He that has mercy on the poor, happy is he."

[Applause, the Members rising.]

Mr. WRIGHT. And now the gentleman from Arizona, a fellow sojourner on the campaign trail, MORRIS UDALL.

Mr. UDALL. HUBERT, you have done a miracle today. You know, we are suspicious and jealous of the 100 of you down on the other side of this building in that exclusive club called the Senate. There is not a one of them who could come in here in the afternoon, any afternoon, and fill this Chamber, and that is a great tribute to you, my friend.

I am going to analyze you a little bit and try to figure out how this has occurred. It is not because of that sharp mind everybody is talking about that cuts through like a buzz saw. It is not your contribution to brevity in political oratory which has been mentioned here. I once gave him an award, the Hubert Humphrey Loving Cup for verbal continuity.

[Applause.]

And I am not just going to praise you. I indict you, because there are millions of your fellow taxpayers who sat through 60-minute speeches that Muriel knew ought to be 25 minutes. We have all kidded about your oratory. The plain fact is that this man is the premier political stump orator of this generation.

[Applause.]

A Hubert Humphrey speech always made you feel good. You laughed a little bit, you cried, and you felt good about yourself and good about your country. But that does not explain this outpouring here today, and I am going to try to analyze it. And I think there are two or three threads. I can start with this enthusiasm. You really practice the politics of joy. HUBERT really believes you can help people. I remember one person who observed a brash, freshman Senator HUMPHREY charging around and introducing bills, and in every debate and he said, "HUBERT has more solutions than there are problems."

That enthusiasm is part of it I guess. But part of it is that he cares.

I measure a politician by what he cares about, what he cares enough about to run risks. What does he really care about?

He cared about the old widow in a nursing home, and the family who had a son off at war, and a farmer who had to close up, because he was going broke on the family mortgage and he had to go back to the city, and he cared about the black kid in the ghetto and the family with a handicapped child, and all of these people. That is a key part of his appeal to all of us here today.

I think another thread in this remarkable career is his unprecedented capactiy for friendship and love for his fellow man. There is not a mean bone in his body. I have never heard him say a mean thing about anybody. We had a little struggle last year in our party, and during the course of that, the man who finally won had some not very magnanimous things to say about HUBERT. Instead of coming back up here and throwing roadblocks, he appoints himself manager, he is a friend, he is going to get his programs through. He destroys his enemies with love.

Lincoln was once chided, HUBERT, because he did not destroy his enemies. "Why aren't you mean? Why don't you destroy your enemies?"

He said, "Do I not destroy my enemy when I make him my friend?"

That is the way HUBERT HUMPHREY operates.

I suppose there is one other thread in this pattern. This is a day of macho when grown men are not supposed to cry or show emotion. One of the standing jokes in the Washington press corps was that HUBERT HUMPHREY had shed enough tears to cure the drought in Minnesota. He does take time to be gentle, and perhaps he gets that from Muriel or it was learned from his mother out on the plains of South Dakota where he grew up.

I remember seeing HUBERT HUMPHREY not long ago on television when he went back and met some of his labor friends in Minnesota. He received a warm welcome, and he choked up. When he recovered, he said something that we all ought to write down. He said, "A man who has no tears has no heart."

Well, HUBERT HUMPHREY has a heart, and its as big as the plains of South Dakota—this guy we are honoring here today.

As I stand here, I think of Will Rogers, who said, "I never met a man I didn't like." Well, I never met a man or woman who did not like HUBERT HUMPHREY.

[Applause.]

I am almost through. Senator HUMPHREY does not like this; but he waves me to go on, so I will.

It would take all the paper in Minnesota to list the names of his friends, and if he has any enemies, you could put all their names on the back of a calling card.

HUBERT, the Almighty did not make very many men like you. He ought to make some more. We love you. We want you around. We hope you come back often.

Thanks so much.

Mr. WRIGHT. Finally, Mr. Speaker, let me introduce the gentleman from Illinois, Mr. PAUL SIMON, who is a close, long-time, personal friend of our honoree. [Applause.]

Mr. SIMON. Mr. Speaker, my colleagues in the House, Senator HUMPHREY, and Muriel:

First, let me give you a little historic footnote. As far as I know, in the long history of this House, from the first Speaker, Muhlenberg, to Speaker O'NEILL, this is the first time the House has stood in recess and gathered on an occasion like this to honor a U.S. Senator. I thought you would be interested in that minor footnote. [Applause.]

Everything has been said already, but let me add one little story. We all have Humphrey stories.

In the 1968 campaign, when he came through Illinois, I would get a chance to hop on the plane and go around with him a little bit. We always got behind schedule. Somehow the candidate for President always spoke longer than the schedule called for. I remember that in Rockford the PA system went out, but it did not bother you for one moment. You went right on talking.

But on this already delayed Presidential campaign trip, once he got through speaking and officials tried to rush him along so we could catch up with our schedule. But all of a sudden, behind a barrier, HUBERT HUMPHREY spotted a little 11- or 12-year-old retarded girl and he stopped and went over and shook hands and chatted with her.

That really symbolized HUBERT HUMPHREY for me. He was always reaching out for the disadvantaged, whoever they are, wherever they are—the retarded, the hungry, the unemployed, those who are oppressed for whatever reason. That is HUBERT HUMPHREY. He is not only your friend and my friend, he is a friend of all humanity.

Now, Mr. Speaker, knowing full well the dangers of what I am about to do, I yield as much time as he wishes to consume to the distinguished Senator from Minnesota.

[Applause, the Members rising.]

Mr. HUMPHREY. Mr. Speaker, you will recall the other evening at the White House when the President was kind enough to have us in for supper, the leadership of the House and the Senate.

He said, "We will adjourn these meetings at 9 o'clock." He went around the table and asked each participant, including each Senator, if he had any comments and any advice or any counsel. I was the last to be asked, and it was 3 minutes to 9.

I will never be more grateful to your distinguished Speaker and my beloved friend, TIP O'NEILL, who said, "Mr. President, HUBERT can't say 'Hello' in such a short time."

I could not help but remember that I missed at least five of these leadership meetings, and I felt I was entitled to compensatory time, so I proceeded to take it.

Mr. Speaker and Members of this great body of representatives of people of the United States, this is an honor which I never believed could happen. I never expected it to happen. It is far beyond any dream I ever had, and I am a great dreamer. But let me tell you something: It is an experience that I shall never forget, and I shall be eternally grateful to each and every one of you for the warmth of your reception and for the manner in which you have brought Mrs. Humphrey and myself into your fellowship.

Thank you very, very much.

[Applause, the Members rising.]

Mr. HUMPHREY. Mr. Speaker, I have gone through quite a few of these sentimental occasions; and I have heard about the tears that I am capable of shedding. With true modesty, let me tell you that it is not an easy matter, at least after what I have heard; and of course, I have loved every word of it. I appreciate the fact that you have abandoned objectivity and have tried to be just friendly.

I hope you will forgive me. It is one of the great virtues to forgive, and I thank you for indicating that you have forgiven HUBERT HUMPHREY for his many transgressions.

However, what has bothered me—and I say that to my fellow Democrats—is the incredible humor of the Republicans in this Chamber.

[Applause, the Members rising.]

Mr. HUMPHREY. Mr. Speaker, I am glad that I did not know about this earlier or I would not have been able to go around calling my Republican friends stuffy and all that sort of thing. I hope that you will revert to the stereotype ascribed to you by Democrats because if BOB MICHEL and BILL FRENZEL and AL QUIE and others like them get out on the stump and exhibit the kind of humor and light touch which they have here today, woe unto us Democrats unless we get MO UDALL to get in there and campaign in every district.

Mr. Speaker, I am going to come back to Mo in just a few minutes.

I first want to say thank you to the majority leader, who has been a longtime friend of mine, JIM WRIGHT, a great friend. My thanks also to DON FRASER and to PAUL SIMON, of course.

DON has told you the truth. He started his politics with me when I was a very young man as mayor, and he was very much younger. As I recollect, I think he was at meetings with a mimeograph machine turning out resolutions which we were trying to concoct to save the world.

I must also say that PAUL SIMON has been a very special friend, one who is just so loyal and so willing to be helpful that you really have to kind of weigh his words and take them with a grain of salt when he talks about me.

PAUL, I am grateful to you. It meant a lot to me that you should kind of tie up the ceremonies here before I got to speak.

I also want to say a word about YVONNE BURKE. We campaigned together in California, and it was great fun, I will tell you. I like talking about it, as you may know.

I notice GLENN ANDERSON here today. He is a good personal friend of mine. All of us disciples have worked together. I thought it was very impressive today to be called a genuine liberal and have my Republican friends just applaud. I guess the word has lost its meaning.

MO UDALL, you are something. You really just scared the living daylights out of all of the contenders in 1976. That is what I kept doing. I kept scaring them, but it was not quite enough, I am afraid. You got up here with the kind of act that is impossible to follow. But I want to make a correction because, as much as I admire Mo, his vision has somehow been limited. He said that I had more solutions than there were problems. That is not true. I just foresaw the many problems that were coming.

All of you know that I thought that if you are going to be in politics, you ought to enjoy it, because there is plenty of heartache, as you know, many sacrifices, and, of course, there are many rewards—and we know that. But I have always enjoyed public life, and I like to speak. There is not any doubt, as you have said, about the fact that on occasion, like most of our kind, I speak a little longer than certain parts of the anatomy can take. But I have to tell you one of the reasons why I never ran for the House. I had planned on running for the House, as a matter of fact, but one reason I did not is that I found that the House had either a 2-minute or a 5-minute rule, and I said, that would drive me into utter frustration. So I gave it a run for the Senate, and I want to tell you we have wonderful rules. I have never thought that my speeches were too long; I have enjoyed them.

I remember one time Muriel said to me after a meeting—and this, regrettably, is true—after I asked, "What did you think of the talk?" she said, "It was good, but," she said, "You know, your speeches don't have to be eternal to be immortal."

I do not know whether that was supposed to be said as a matter of admonition or just one of humor, but it has gotten around, so I thought I would repeat it once more.

Now, dear friends, in a more serious vein, I said it was a very high honor, and I believe it is an incredibly unusual experience for a Member of the Senate of the United States to come to this body and to have this opportunity. I think I should say in some jest but also in some truth, because before the reality is the dream, I had always dreamed of flying on Air Force One. As I said to the Senate the other day, I finally got the chance just once. As you know, the President stopped out in Minnesota and picked me up. I spent 20 years trying to get command of that plane, and finally I got on.

Now where am I standing?

I am standing where the President of the United States gives the State of the Union address. My goodness!

So you see, the age of miracles is not over. Things can happen. And I am singularly honored that this is happening to me. It is very comfortable here, you know. One stands a little higher.

You know, we get a lot of criticism of Congress. I suppose a good deal of it we deserve. Congress is a very human institution, and I mean not only the House of Representatives but also that other body. But we are humans; we are mortals; we are what we are from our background, our experience, our families, and our life style. We are Americans. We are not elite.

We have not been appointed by some great authority that can pick out only the wise and the prudent and the good. We come from the people, and I think in a very real sense we represent the people. This bothers some people. We have people today who feel that, well, Congress dillydallies around and does not get anything done; they argue, and they debate, they carry on and offer all kinds of foolish amendments and bills.

I have been around here long enough to know that that just does not happen. That is because of the constituencies that we represent and the views that come from our own experiences, our own life, our own value systems—and I think that is the way it ought to be.

I have always believed that when it came right down to it, there was no form of government that was better in the long-run for the people than majority rule with respect for and protection for minority rights. That is what we mean by government of the people, by the people, and for the people.

I can only paraphrase what the great Winston Churchill said, but he said something like this: "You know, democracy is the worst possible form of government except all others that have been tried from time to time." If you just ponder that, what he is really saying is that we are a human institution, we are fragile, we are tempted, we are ignorant, we are also strong. We are informed, and at times we are not informed and literally ignorant of some of the problems and needs. But this is it. No other form of government so clearly represents the needs of people.

It is amazing that in this country with a heterogeneous population—not a homogeneous population—in this country that grew in a little over a century to be a major power and in two centuries to be a super power, in this country in which they are the sons and grandsons and daughters and granddaughters of immigrants, over 100 different races, creeds, and nationalities, that we have been able to hold together representative government, that we have not been torn apart.

Yes, once, over the issue of slavery we had the bloodiest war in our history, and now do we not remember how long it took to bind up those wounds? Even to this day we are working at it, but we have survived, and not only have we survived, we have also prospered.

We are prone to be very self-critical. That is good. Only the strong dare admit their weakness. It is the weak who are the braggadocios, the bullies.

I always hope that America will be willing to engage in self-analysis. We need opposition. I have said that I do not want too much personally, but I mean it. We do need it. We need the advocates,

and each of us in our own way is an advocate.

I guess I have mellowed enough to know that I have no monopoly on either virtue or wisdom. None of us has. And what we should strive for above all at a time when democracy is an endangered species is to make this one experiment of American democracy work, to bind up our wounds, to be able to bring people into closer communication; not to expect them to agree with each and everything that we want; to respect their cultures, to respect the races, to respect the religions, and to respect the political views, but at the same time to constantly preach and live by the doctrine that once we have had our say, that once we have been able to make our position clear, that what the majority of the people vote as a majority in any given election, that shall be the ruling power until the next election.

I think you know this better than I do, because you come up every 2 years. As Members of the House, and you are so close to your people, it is all right for us to joke a little bit about our institutions, but I am here to tell this body that there is no parliament in the world, none, that is as open, that is as free, that is as dynamic, that is as truly representative of all the many peoples as the House of Representatives of the United States of America and the Senate of the United States. We are the supreme example of government of the people, by the people, and for the people. That is our great strength.

I have a problem you see. I guess I like to lecture. One of the reasons we are going to have what we hope will be a great educational institution at the University of Minnesota, the Hubert Humphrey Institute of Public Affairs at the University of Minnesota, is that it will represent the many different disciplines on government, community action, economics, and social science. We need to know more about our country. We need to know more about our world.

We are all children of one God. We live on a very small planet, but so far as we know, it is the only planet that sustains life. Therefore, apparently we have been selected for an unusual and a special purpose. I believe that purpose is to try to demonstrate that the power of understanding and reason and love can prevail. It is not easy and there are many times we want to give up, but you have to have spirit. You have to have faith. There are times when we lose faith in the institutions of our government as we almost did. We all do; but dear friends, it was restored.

I want to say to you on the platform what I said privately to Gerald Ford. His name will go down in history because he restored to American Government integrity and decency.

I am not worried about the fact that I did not agree with his economics, but he gave us something, a man from your midst. How important that is.

We may very well one of these days almost stand alone, because the tide of events whirls over us. It appears it is harder and more difficult year by year for freedom to survive; so, therefore, we must be extra strong, not only in our military might, because that we can take care of. We in the Congress do that; but also, individually we must be strong. We must be strong in our commitment to human freedom and justice. We must be strong in our commitment to opportunity and equal opportunity. We must be strong in our commitment to the care of the needy and the sick and the handicapped and in the maintenance of an economic system and a political system that will make it possible for us to care for those who are less fortunate. It all goes together.

Well, Mr. Speaker, I took 1 more minute than I took at the White House, but I have always thought Congress—well, not always, but more recently, I have thought Congress deserved more attention.

I want to thank you very much from the bottom of my heart.

[Applause, the Members rising.]

At 3 o'clock and 22 minutes p.m., Senator HUBERT H. HUMPHREY, accompanied by his party, retired from the Hall of the House of Representatives.

The SPEAKER. The House will stand in recess until 3:45 o'clock p.m.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 3 o'clock and 45 minutes p.m.

PRINTING OF PROCEEDINGS HAD DURING THE RECESS

Mrs. BOGGS. Mr. Speaker, I ask unanimous consent that the proceedings had during the recess be printed in the RECORD, and that all Members may have permission to revise and extend their remarks.

The SPEAKER. Is there objection to the request of the gentlewoman from Louisiana?

There was no objection.

Mr. RHODES. Mr. Speaker, I am pleased to join my colleagues in the House in paying tribute to a man of great personal courage, a man who has devoted his life to public service, Senator HUBERT HUMPHREY.

He is across the political aisle, and his philosophy of government differs from mine, but he certainly has earned the admiration and respect of all of us who serve in Congress, and I think of him as a warm personal friend. He has been forthright and vociferous in espousing the causes in which he believes, but he has avoided pettiness and invective in giving enthusiastic support to the proposals in which he has been involved.

It is fitting that the House pay deserved recognition to the "Happy Warrior," who has been an example for us all in his refusal to yield to a physical challenge of great severity. He is a credit to the Congress, and I join my fellow House Members in saluting this man who has become a symbol of determination and dedication during his decades of service to the American people.

Mr. STUMP. Mr. Speaker, I would like to add to the many tributes that have been given here today regarding our friend, HUBERT H. HUMPHREY. I have observed for many years the Senator's enthusiasm in which he attacks legislative problems. He is a public servant of the first magnitude, as well as a formidable legislator. Senator HUMPHREY has that unusual quality which enables him to bring Members of both Houses together to support important legislation. Much of the Senator's proposed legislation, although controversial at the moment, has been passed and signed into law. HUBERT HUMPHREY is a man years ahead of his time.

I became interested in politics when Senator HUMPHREY was first elected to the Senate; and, although we sometimes hold different views, he will always have my utmost respect for his integrity, decisiveness, and dedication for America's best interests.

Senator HUMPHREY is blessed with a richness of personal qualities that make great men greater—qualities that find a permanent home not only in the hearts of his fellow citizens, but also among people who know him everywhere.

Unimpeachable character and integrity, great depth of sincerity, love of liberty and country, and devotion to the service of the common good are among the shining percepts of the personal coat of arms for this man.

Mr. NOLAN. Mr. Speaker, Senator HUMPHREY likes to say that there are two kinds of people in public life today. There are mechanics who work the levers and probe the intricacies of the legislative process and there are the artists, the ones who carry the message, the ones who reach out and touch the deepest chords and light the fires of progress and purpose that turn ideas and ideals into unstoppable social movements.

There have been many mechanics in the history of this country and many artists. Few individuals have been both. But they have come—one or two in every century—when we have needed them the most. Lincoln during the Civil War. William Jennings Bryan at the turn of the century. Franklin Roosevelt when our country was on the verge of revolution and economic collapse. And today, in our time, HUBERT HUMPHREY.

HUBERT HUMPHREY, the mechanic who gave us the civil rights bill as legislation, the artist who made us see the terrible waste and the injustice of segregation to our country and to the human spirit.

HUBERT HUMPHREY, the mechanic who gave us the Peace Corps and the food for peace program as legislation, the artist who made us see that we are all human beings in need and that we must help each other.

HUBERT HUMPHREY, the mechanic who put together the first nuclear test ban treaty, the artist who made us see that we are all in a struggle for existence together on this very small planet.

HUMPHREY, the mechanic who gave us the student loan program and new Federal aid to education as legislation, the artist who showed us that if we are ever to meet the great challenges of this age, we must do it with an educational system which gives every individual, the privileged and the underprivileged, the able and the disabled, the opportunity to live up to full potential.

HUBERT HUMPHREY is the mechanic

who carefully and courageously moved and shaped the greatest leap forward in human progress and human development of this century and he is the artist who has shown us, by his own example, the very best we can expect from ourselves and the very best we can look forward to as a Nation.

On his 71st birthday Mark Twain made an observation which applies so well to HUBERT. He said:

> You know, in the last year, I have received hundreds of letters from all conditions of people . . . men, women, and children . . . and there have been in them compliments, praise . . . and above all there has been a note of affection. Compliments are well. Praise is well. But affection . . . that is the best and most precious reward anyone can win.

And with HUMPHREY, it is more than affection. It is love and the absolute triumph of human spirit and courage.

Mr. KASTENMEIER. Mr. Speaker, HUBERT HUMPHREY'S visit to this Chamber a few moments ago has given us all a perceptible lift. Whether you agree with him philosophically or not, his boundless energy, endless good will, and warmth of spirit, somehow always leaves you feeling better for having been in his presence.

Those of us from Wisconsin have a particular fondness for HUBERT HUMPHREY. For years he was often referred to as "Wisconsin's third Senator," not only because he fought for those interests shared by the States of Minnesota and Wisconsin, but also because he embodied a progressive spirit akin to that progressivism of which Wisconsinites are fiercely proud. During the early part of the 1950's our own Senators lacked that spirit, and HUBERT HUMPHREY became an adopted son of Wisconsin progressives.

Look to all of the major issues involving social and economic justice over the last 30 years and you will find HUBERT HUMPHREY. He was there more often than not before the time was ripe, and often persisted long after the battle seemed hopeless. Civil rights, the Peace Corps, food for peace, medicare, full employment, Head Start—the list goes on and on.

His concern for the future of mankind has been reflected in his endless pursuit of arms control. I was privileged to work closely with him back in 1960 and 1961 to gain adoption of legislation to establish the Arms Control and Disarmament Agency, one of the first commitments to somehow halt the mindless pursuit of potential worldwide destruction.

Mr. Speaker, Henry James once wrote:

> Ideas are, in truth, forces. Infinite, too, is the power of personality. A union of the two always makes history.

Clearly the force of HUBERT HUMPHREY'S ideas and personality have assured him his place in history. But, perhaps more important, he has assured his place in the hearts not only of those of us who have been honored and privileged to know him personally, but those millions of people whose hearts and minds he has touched by being an indefatigable champion of all that is good and just.

Mr. GILMAN. Mr. Speaker, I am pleased and honored to join my colleagues in paying tribute to and welcoming back to a remarkable man and a preeminent statesman; one who has been at the heart of our Nation's leadership for over 30 years: the senior Senator from Minnesota, HUBERT H. HUMPHREY.

In the past several weeks, Senator HUMPHREY'S absence has brought home to us all how much we have depended upon his leadership, his sage counsel and his extraordinary dedication to duty and to public service.

I have had the pleasure of working with Senator HUMPHREY and his staff in the past, from issues ranging from accounting for our American servicemen missing in action or prisoners of war in Indochina to establishing a Presidential Commission on World Hunger and Malnutrition, and have been highly impressed with his intelligence, his grasp of the issue at hand and his sincere dedication to doing the best job possible, no matter how arduous the task or how long it may take.

I remember visiting Senator HUMPHREY, along with, President Ford, we dropped by his hospital room in New York City during last year's presidential campaign. I did not come away with the impression of a man who was ill or just recovering from a serious operation, but rather, I came away impressed by a man with a vast store of energy, enthusiasm and an unquenchable vitality.

I know all of us have had the same experience in working with Senator HUMPHREY, whether during his years as Mayor, as a U.S. Senator or as Vice President, as he championed one cause after another. Whether Republican or Democrat, whether we have agreed or disagreed in the past, none of us can deny that the Senate and the House of Representatives bear the indelible stamp of this great man's character and commitment, his special vision and his knowledge. Senator HUMPHREY has used his unique talents to enhance our form of government, to make us all more aware of the special and diverse needs of the people and nation we seek to represent. But perhaps most importantly, he has set an example for each of us to follow: he has altered history, not for personal gain nor for glory, but for the benefit of us all.

I know all my colleagues join me in welcoming back to the Congress a man of deep perception, compassion and spirit: a man of reason, understanding and love, . . . an exemplary human being . . . an inspiring leader—one we can only hope to emulate.

Mr. ZABLOCKI. Mr. Speaker, as you have so eloquently stated, it is indeed a special privilege and honor to welcome Senator HUMPHREY and his devoted wife Muriel to this body.

Senator HUMPHREY has graced us today by his visit to the House, giving us this opportunity to show our love and admiration and affection for one of the great Americans of all time.

In the history books on America after World War II, the name of HUBERT HUMPHREY will be written large in such fields as politics, and government, social and economic legislation, international affairs, and elsewhere in the central fabric of our society.

As a Democrat, I count the nominations of HUMPHREY to be Vice President, and then to be President, as among the finest hours of the Democratic Party. Yet, as tributes from Republicans show, HUMPHREY is just too broad in stature to practice his political leadership in a narrow, partisan way.

Domestic legislative monuments to HUMPHREY span the causes of the wide range of Americans who need government help. His hand is in statutes and programs in the fields of civil and human rights, employment, medical care, education, agriculture.

In foreign affairs, where I have been privileged to work most closely with my friend and neighbor from Minnesota, I know that he has been an architect of many of our most worthwhile efforts. To name some: The Arms Control and Disarmament Agency, the Peace Corps, the food-for-peace program, and foreign assistance legislation.

Above and beyond all this is the spirit of the man himself.

He loves his country. He loves his fellow man; and we love him.

He is the indomitable champion of the disadvantaged, of the oppressed and the powerless, of the poor, the sick, the jobless, of the farmer and of the urban dweller.

He sees joy in life; and his energetic and tireless leadership has moved us to greater efforts for the good of others.

I say thank you, Senator, and may we continue to be inspired by your example. To you and your loved ones we pray God's choicest blessings.

Mr. ADDABBO. Mr. Speaker, HUBERT HUMPHREY has been so much involved in American public life over the last 30 years that it is hard for me to think of an issue he has not been involved with. As well, he has fought so hard for so many causes with such effervescence and unfailing good cheer—as well as with untold millions of words—that he has become for so many of us serving in this Chamber today the shaper and molder of our public philosophies.

HUBERT HUMPHREY is as trusted and comfortable to the American people as the warm hearth of home on a winter's night. He is as "old shoe" as a favorite uncle, and we smile even as we benefit from the endless ideas, proposals, suggestions, urgings, and appeals to do better that bubble forth from that productive and innovative mind.

Yes, Mr. Speaker, if there has ever been an American who deserves our admiration and respect, that man is Senator HUBERT HUMPHREY.

There are two sides to this remarkable gentleman: The public servant and the man. It is to his credit that, for all the world to see, the one is indistinguishable from the other.

At the forefront of the struggle for civil rights, Senator HUMPHREY was never deterred from the quest for racial equality. From his efforts to include a rights amendment in the 1948 Democratic platform through the movement of the 1960's, it was he, more than anyone else, who instilled in us as a nation, the moral imperative to wipe out the

evils of racism and uphold the inalienable rights of all Americans. By doing so, he laid the groundwork for the human rights struggle that engages our consciences today. He gathered us together and taught us to "get out of the shadow and walk forthrightly into the bright sunshine of human rights." These stands, made in the face of adversity, are not surprising coming from a man who has always held the integrity and dignity of the individual so highly; and this sense of justice and love permeates all he touches.

This is a formidable achievement, in and of itself, but it is only one of the many instances where he has led us into the sunshine. As an unceasing laborer in the interests of the worker and the unemployed, a creator of opportunities in education, a foe of poverty and a bearer of peace, Senator HUMPHREY stands above all others as a giving, loving man with great concern for the plight of others. He is a man who has done well, but who wishes others still better.

And yet there is more. Mr. HUMPHREY, the candidate, has always exhibited the best of American traditions. The boundless energy, the untiring devotion to great causes, the warm smile and humor, the heartfelt sincerity, these are the things we remember. He may have lost his bids for the Presidency, but on these human qualities he stands victorious. Through the ups and downs of his struggles, both political and personal, this leader's leader has never been one to quit, dwell on self-pity or lose faith in his ultimate goals. This strength will be his legacy to many generations yet to come.

If you think of all the good man can do, you might still fall short of the stature of the gentleman we honor today. For each one of us who follows him out of the shadows, the Senator's stature grows at least a foot more. But regardless of the heights he soars, he will never move beyond the reach of the people he loves the most. What can we say to a man such as this? To borrow from the Great Bard, I can only answer thanks, and thanks, and ever thanks.

And one last note, for it is her day as well as his. Muriel Humphrey has stood shoulder to shoulder with HUBERT through the good times and the bad for as long as he has been in public life.

She has devoted her life to him and his work and has added her own good commonsense to his flow of ideas to better them. As we honor HUBERT HUMPHREY, let us also honor Muriel, for without her, he would have been less than we have known.

Mr. HARRIS. Mr. Speaker, as the House of Representatives honors today one of the greatest Americans of all time—HUBERT HUMPHREY—I would like to share with my colleagues a tribute to my friend, the Senator from Minnesota, by CBS commentator Eric Sevareid who sums up my feelings quite eloquently.

HUBERT HUMPHREY is back in the Senate, but the Senate will not be what it was, because HUMPHREY is not what he was. The Senate caved in to a vested interest yesterday, one it usually resists—the claims of the human heart. It surrendered to a touch of love, to the knowledge that there has been only one commandment from on high: that we love one another, and we'd better practice it once in awhile.

It was a long time ago that we sat at a dinner table with the newly arrived Senator HUMPHREY. He was uncharacteristically morose. The Senate seniority system was smothering his every effort. He said:

Hell, you don't have to be smart to get things done in the Senate, you just have to live. I'm 39. What can I do?

He lived, and he was smart, and so he did a great deal. He became a kind of second Roosevelt, operating from the weaker end of the avenue. He showed more imagination and originality in the uses of government on behalf of ordinary people than anyone to hit town since Roosevelt.

But it was not for his legislative accomplishments that the Senate turned yesterday into Humphrey Day. Half the Senators there probably disagree with half of those accomplishments. It was for the spirit of the man, his courage, but more than that—his bedrock belief in America at a time of national self-doubt, his selflessness at a time of organized greed. He has been honored with a Government building bearing his name, and there will be a Humphrey Institute at his State university, but he knows, and the other Senators know, that what counts for a man, as his career winds down, are not honors, but honor—an old-fashioned concept, perhaps, but it has a way of enduring.

HUMPHREY told the Senate that he had advised President Carter to be patient, to persevere. Things take time. But he clearly meant his message also for the press and the people. This President has run into his first difficulties, and dozens of writers leap immediately into print with dark projections of a failed Presidency. Because he's been around a long time, the Senator from Minnesota knows how wildly premature this reaction is. He knows that his own first failures were what he built upon. The President, too, has got to live awhile. The "Happy Warrior," now in his last battle, never made it to the Presidency himself; he did not become the leader of the Government; he became something rarer than that; he became the conscience of the Government.

Mrs. COLLINS of Illinois. Mr. Speaker, I rise in tribute to a great man, a great Senator, a great statesman, and a great American. All Americans are blessed that HUBERT HORATIO HUMPHREY is one amongst them; truely he is a man of and for the people. His golden voice has resounded many times in the halls and ante-rooms of this Capitol—with words of compassion and human dignity—bringing light where the darkness of special interests and special privilege sought to obscure the course of events.

HUBERT HUMPHREY has been more than a distinguished Senator. HUBERT HUMPHREY has been more than an able Vice President. HUBERT HUMPHREY is the product of his labors. His labors have been to protect the poor and disadvantaged of this country! His labors have been to put new life into the decaying and dying centers of American cities. His labors have been directed at securing decent working conditions and a living wage for the American wage earner. His labors have been targeted at providing a good job for every American who wants to work. His labors have been concentrated on providing the means and using the resources that would guarantee each and every American, regardless of income, adequate health care. His labors have been focused on the underhoused, undernourished, underemployed, undereducated, underrated, underprivileged American.

The recitation of his labors is a litany of the progressive and humanistic legislation that has passed through both Houses of this Federal Government and is benefiting the people we represent from our several States. His labors continue to bear upon us. The many questions he has raised in a lifetime of public service are an able inspiration to the unfinished tasks before us. The challenges he has accepted over the years in the name of the people of the United States are the challenges that every great warrior accepts in the service of God and country: To faithfully serve with the unflinching desire that the good of the people always be secure.

This man is indeed a warrior: a warrior in the cause of righteousnes and social justice, a warrior for those who have been and in many ways continue to be defenseless. He is their strong arm; he is their voice. Everyday that he serves his country he continues to create a legacy that we, his fellow legislators are so beneficently disposed to emulate. That tradition which is so unmistakably his is that, while he is always the zealot for the cause he proffers; he is never less the Christian in his urgings. His compassion for his opponents has never been abated by the ardor of his arguments.

In the heat of the most impassive and perhaps impassioned debate, no cause he has championed has ever prompted an ad hominem attack on the poor benighted soul unable to grasp the profundity of his philosophy or the wisdom of his point. He has conducted his campaigns as a noble spirit being first to remember that divine admonition we could all follow with little question, "Love thy neighbor as thyself." His labors over three decades have not gone unnoticed or unheeded. The name HUMPHREY attached to proposed legislation serves to instantly create a following even in these days when suspecting leaders is a national fetish.

Of those who disagree with him few doubt his motives, fewer still can remember another who has pressed the burning issues of our time with more vigor.

In those dark days before the 1964 Civil Rights Act, before the voting right bill, before the marches and the demonstrations that attest to the great struggle in this Nation for full equality for all citizens, yes in those dark days HUBERT HUMPHREY championed the unpopular causes—because they were right. He supported the full concepts of freedom and justice espoused in the Declaration of Independence and enunciated in the

Constitution of this great land. His support has never waned; no just cause was ever so unpopular that he feared to be counted, no constitutional principle of individual freedom was ever so ignored that he feared to bring it to the benefit of one oppressed.

For nearly 30 years, HUBERT HUMPHREY has been both the heart and conscience of the Congress. He has drawn the lines of moral commitment and has had the intestinal fortitude to hold his ground when fierce opposition has been wrong.

This Nation has had many good men, some wise men, and a few brave men, but all too rare has it been our good fortune to have a man, a longstanding leader, who is all three. HUBERT HUMPHREY is that rare man and I gladly take the opportunity to give these more than deserved accolades to him. When I think of our Senator HUMPHREY I am reminded of the great Roman senator, Cicero, and of his challenge to men of public affairs in his treatise "On Duties" more than 20 centuries ago:

> There is not a shadow of doubt that man has the power to be the greatest agent both of benefit and of harm towards his fellowmen. Consequently it must be regarded as a vitally important quality to be able to win over human hearts and attach them to one's own cause. The advantages that our life derives from inanimate objects . . . may be classed under the heading of mere functional activities. But to gain the goodwill of our fellow human beings, to convert them to a state of active readiness to further our own interests, is a task worthy of the wisdom and excellence of a superman.

Such wisdom and excellence has been our gift from Senator HUMPHREY.

Mr. PRICE. Mr. Speaker, a free and democratic country such as ours thrives on creative and progressive thought; it is the very air we as a nation breathe. Without it the democratic process would slowly suffocate in a stifling, regimented, bureaucratized atmosphere.

Senator HUBERT HUMPHREY of Minnesota has, like Thomas Jefferson, Woodrow Wilson, and a precious few others, led the advancement of creative and progressive thought in our American Government and in the world at large during almost four decades of public service. As statesman, Senator, author, professor, Vice President, and Presidential candidate, this remarkable man has led us to a greater understanding of a higher world order.

I would like to take this opportunity to pay tribute to Senator HUMPHREY and to commend him in particular for his substantial contribution to our national security and the cause of peace.

During the past few decades while the United States has sometimes been excessively nationalistic in security and economic policy, HUBERT HUMPHREY has brought to us new and innovative thought on international relations, championing arms control and promoting responsible international action through recognition of world interdependence. His efforts while Vice President, and during his 21 years in the Senate have brought us many steps closer to world peace, for which we and generations to come are indebted.

He has played a major role in the formation of the Arms Control and Disarmament Agency, the Limited Test Ban Treaty, the formation of the Disarmament Subcommittee in the Senate Foreign Relations Committee, the International Security Assistance and Arms Export Control Act, and has acted as Senate spokesman for strengthening the U.S. position in the strategic arms limitation talks. Among his many efforts, he led a 14-member Senate delegation to Moscow to discuss arms control and other pertinent issues with the Supreme Soviet.

Senator HUMPHREY has often said that the conditions for international security go far beyond arms limitations and strategic balance. Those conditions encompass the broader issues of economic stability, respect for human rights and a world free of want and hunger.

In furtherance of his ideals toward improving the human condition, he has provided sustained leadership in the food for peace program, the foreign assistance program, the world food action program, the Peace Corps, the African Development Fund, the Inter-American Development Bank, the World Food Conference, the UNESCO Paris Conference and countless other programs with similar aims.

I join my distinguished colleagues in paying tribute to HUBERT HUMPHREY, whose sustained superior performance in exceedingly important national and international organizations and issues has been an inspiration to us all and an example of public service virtually unparalleled in our time.

Mr. MANN. Mr. Speaker, we are all particularly pleased to have this rare opportunity to pay tribute to Senator HUBERT H. HUMPHREY, a great and unselfish man who has performed countless deeds over many years which have endeared him to his family, his friends, his colleagues, and his countrymen. What new can be said about him that has not already been written in Time, Newsweek, and U.S. News & World Report? Truly, he has been a guiding spirit in this Capitol.

From the very start of his political service as mayor of Minneapolis, you could tell HUBERT HUMPHREY by his unending dedication. For him it does not matter whether or not an issue is popular. HUBERT will support it for one reason: He thinks it is the right thing to do. Of course, what he thinks is right and what others think is right are sometimes two different things. But whatever our philosophies, we can all agree, HUBERT HUMPHREY is a man governed not by political expediency, but by principle from within. He championed popular causes long before they became popular, and in so doing, has worked to build this Nation's greatness and improve its democratic society. His untiring labor in areas such as civil rights have earned him the love and respect of many people. For inevitably, this distinguished Senator has fought for those who could not win the fight alone, for those most in need, and for those less fortunate than himself.

In much of this, he has worked alone, against great odds and against powerful men. But HUBERT has always persevered and, in the end, because his spirit held out, he has emerged the winner. The great heart of HUBERT HUMPHREY has been dedicated to this Nation and its people. It is true that he is a marvelous politician, but what is more important, he is uppermost a wonderful human being. Since he never stops to think of himself, it is a special privilege for us to stop and think of him. By this day, HUBERT, we hope that in some small way, we have helped to demonstrate the love and gratitude of an entire nation for the honor of having enjoyed your service. We are all grateful to count you as our friend and as an American and to have personally benefited from your presence.

Mr. ROSTENKOWSKI. Mr. Speaker, I am pleased to join my colleagues on both sides of the aisle in tribute to a great statesman and a sensitive human being, HUBERT H. HUMPHREY.

The career of the senior Senator from Minnesota has been marked by energy, drive, determination, and most importantly courage. He has been the champion of a massive number of major issues over the last 30 years. And over those years, he has not been one to let political appeal be his guiding light. HUBERT HUMPHREY has never been afraid to stand alone for what he believes is right.

But how can his distinguished career be characterized? When one mentions civil rights, protection for the laboring man, a viable farm policy, a healthy environment, progressive education policy, the Humphrey name comes forward as being in the vanguard on all these fronts. It is remarkable when one notes the wide variety of causes where HUBERT HUMPHREY has been the leader. Very simply, he has borne a sensiitvity to the wide range of human suffering. It is this deep sensitivity that is the HUMPHREY trademark.

There is one personal instance that immediately comes to mind which illustrates that trait. Following a personal political setback, HUBERT was quick to pen a note offering me words of encouragement. What made his concern all the more important was that it came on the heels of his own disappointment at the 1968 elections. Here is a man who while enduring his own suffering was still sympathetic to those similarly afflicted.

I wish HUBERT well as he continues on his distinguished career. I know he will provide vigor and enthusiasm to our political process for a long, long time to come.

Mr. REUSS. Mr. Speaker, HUBERT's back in town, and what a joy it is.

Of him it can more truly be said than of any other American, he went about doing good. For some reason, doing good has never seemed to the Senator anything to be ashamed of, and he is not likely to change.

It is his way in the great things—civil rights, health care, education, disarmament, the Peace Corps, human rights. It is his way, too, in the little things. About the first thing I heard of HUBERT HUMPHREY almost 30 years ago was from a dear lady in northern Wisconsin—not his State at all—for whom this freshman Senator from Minnesota was endeavoring to get help from the National Cancer

Institute when she had her problems. So shines a good deed in a naughty world.

Like a modern Ben Franklin, HUMPHREY enbodies old fashioned virtues. Be loyal to your friends. Bear the slings and arrows of public life with fortitude. Never bear a grudge. Make friends of your enemies. Never feel sorry for yourself. Always be optimistic.

HUBERT and Muriel, you have given us the most inspiring hour this House has seen.

Mr. FOUNTAIN. Mr. Speaker, I rise to pay tribute to Senator HUBERT H. HUMPHREY, one of the ablest and most memorable men ever to serve in the Congress of the United States—since the founding of our country.

First, though, I would like to associate myself with the remarks of others who have risen to praise this remarkable man. And I would like to commend those who arranged for this occasion this afternoon. It is eminently appropriate for the House of Representatives to afford its Members the opportunity to speak from the heart about the distinguished Senator from Minnesota.

The names of men writ large upon the pages of American history are few in number, but Senator HUMPHREY's is one of the few. When students of history examine their books at the time of the Nation's tricentennial, and later, they will surely find the initials H.H.H. many times in the pages.

From the time when Senator HUMPHREY first appeared like a flash on the national political scene to the present day, his opinions have been heard. They have been news. They have been filled with sincerity. They have been well considered. Personally, I have at times differed with his views, but whether one agrees with his positions on every issue or not, everyone needs to listen to what the Senator has to say. Fortunately, he has never been loathe to let the Nation know his precise feelings on issues of great national concern.

There is no need for me to attempt to recount his career in my remarks this afternoon. Others have taken care of that. I simply want to add my voice to those of so many others here today in saying to Senator HUMPHREY that we admire him, we respect him, and we appreciate what he has done for his State and Nation—indeed for the whole world.

We are grateful to Senator HUMPHREY for what he stands for and for the example he sets of dedication to country, of responsible statesmanship, of enlightened leadership, of dogged determination in the face of adversity, of tough resiliency, of high intellectual capacity, of genuine understanding, of compassion, and of wisdom.

We say a heartfelt thank you to Senator HUMPHREY, not only for what he has accomplished in a lifetime filled with accomplishment, but also for what he is.

AUTHORIZING ARCHITECT OF CAPITOL TO FURNISH CHILLED WATER TO FOLGER SHAKESPEARE LIBRARY

Mr. MINETA. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 9836) to authorize the Architect of the Capitol to furnish chilled water to the Folger Shakespeare Library.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. WALSH. Mr. Speaker, reserving the right to object, and I will not object, I take this time to permit the gentleman from California the chairman of the subcommittee to discuss this bill. I think it is one of the unique opportunities we have in this Chamber for the Government to do something without any cost. In fact, if everything goes well, the Government may make a few dollars on this project. So I would ask the chairman to explain it.

Thank you, Mr. Chairman. Mr. Speaker, I withdraw my reservation.

Mr. MINETA. Mr. Speaker, will the gentleman yield?

Mr. WALSH. I yield to the gentleman from California.

Mr. MINETA. Mr. Speaker, H.R. 9836 would authorize the Architect of the Capitol to furnish chilled water for air-conditioning from the Capitol Power Plant to the Folger Shakespeare Library on a cost-reimbursable basis.

Since 1954, pursuant to authority contained in Public Law 663, the Architect of the Capitol has been furnishing steam from the Capitol Power Plant to the Folger Library, on a cost-reimbursable basis. The Architect of the Capitol states there will be ample capacity for the Capitol Power Plant to supply the chilled water requirements for the Folger Library upon completion of the current modifications and enlargement program at the plant. That program is scheduled to be completed during calendar year 1979.

The Folger Library is being renovated and an addition is planned for the facility. As a part of this program, the library contemplates a completely new air-conditioning system which is urgently needed both for material conservation and user comfort. The Folger Library will bear all cost of the necessary connections and the Government will be reimbursed at rates, not less than cost, as determined by the Architect of the Capitol, for all chilled water supplied to the library.

I urge passage of H.R. 9836.

Mr. WALSH. Mr. Speaker, I thank the gentleman for his explanation, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 9836

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Architect of the Capitol, under the direction of the House Office Building Commission, is authorized after the date of enactment of this Act to furnish chilled water for air-conditioning from the Capitol Power Plant to the Folger Shakespeare Library. Such chilled water shall be furnished only on condition (1) that the United States be paid for such chilled water at rates, not less than cost, determined by the Architect of the Capitol with the approval of the House Office Building Commission, and (2) that such building is connected with the Capitol Power Plant chilled water lines without cost to the United States and in a manner satisfactory to the Architect of the Capitol and the House Office Building Commission. Any amounts received in payment for chilled water so furnished shall be covered into the Treasury of the United States as miscellaneous receipts.

Mr. JOHNSON of California. Mr. Speaker, I rise in support of H.R. 9836, which would authorize the Architect of the Capitol to furnish chilled water to the Folger Shakespeare Library.

The Folger Shakespeare Library is a privately supported cultural institution three blocks from the Capitol of the United States and across the street from the Library of Congress. It was founded by Henry Clay Folger in 1932 and is administered by the trustees of Amherst College, his alma mater. The chairman of the Folger trustees is the Honorable W. Willard Wirtz, former Secretary of Labor.

For several years the Folger has been working on plans for renovation and expansion of its building. The basic purpose of these plans is to improve conservation and security for the library's collection and enlarge space for readers. The need for greatly improved conservation and security is urgent since the present facilities are far below minimum standards. The collection is suffering from unacceptable variation in temperature and humidity and is exposed to unacceptable risks from fire and theft.

Since 1954, the Architect of the Capitol has been furnishing steam from the Capitol Powerplant to the Folger Library on a cost reimbursable basis. The Capitol Powerplant is currently being modified to enlarge the capacity at the plant. The Architect of the Capitol has stated that there will be ample capacity for the Capitol Powerplant to supply the chilled water requirements for the Folger Library upon completion. On the basis that there would be no cost to the Federal Government since the Folger Library will bear all costs associated with making the connection, including the construction of a tunnel under Second Street SE., I urge passage of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MINETA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

APPOINTMENT OF CONFEREES ON S. 305, FOREIGN CORRUPT PRACTICES ACT

Mr. ECKHARDT. Mr. Speaker, I ask unanimous consent to take from the Speaker's table Senate bill (S. 305) to amend the Securities Exchange Act of

1934 to require issuers of securities registered pursuant to section 12 of such act to maintain accurate records, to prohibit certain bribes, and for other purposes, with a House amendment thereto, insist on the House amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Texas? The Chair hears none, and appoints the following conferees: Messrs. STAGGERS, ECKHARDT, METCALFE, KRUEGER, CARNEY, DEVINE, and BROYHILL.

REQUEST FOR CONSIDERATION OF H.R. 9851, FEDERAL AVIATION ACT OF 1958 AMENDMENTS

Mr. ANDERSON of California. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 9851) to amend the Federal Aviation Act of 1958 to improve air cargo service.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. SNYDER. Mr. Speaker, reserving the right to object, let me state that I do not intend to object. However, I understand there are some Members who probably will.

I take this time to say that I do support the action of the chairman of the subcommittee, the gentleman from California (Mr. ANDERSON), in attempting to correct an error that was explained in some detail on yesterday when we took up the conference report dealing with several aviation matters. It was explained on the floor what the error was. The error was that we had failed to include the supplementals in the cargo deregulation provision.

In answer to several inquiries by the Members on the floor, the gentleman from California (Mr. ANDERSON) did indicate that he would make this request today. I support him in his request, although I understand there are perhaps some other Members who do not.

Mr. Speaker, I fully concur with the request of the gentleman from California (Mr. ANDERSON) in support of the pending bill, H.R. 9851. This legislation simply corrects a flaw in the air cargo deregulation provision of the conference report on H.R. 6010 which the House adopted yesterday.

As I stated during our conference committee deliberations on H.R. 6010, and again on the floor yesterday during consideration of the conference report, the Senate language in the cargo deregulation provision precluded supplemental air carriers from applying immediately for new all-cargo certificates. These are carriers which have been pioneers in all-cargo transportation and operate the most modern cargo aircraft. They are not fly-by-night operators. Instead, it will be necessary for them to wait until 365 days after the conference report on H.R. 6010 is signed by the President to submit their applications. The conferees recognized that this exclusion will work to the disadvantage of the supplementals. In fact, the chairman of the conference, Senator HOWARD W. CANNON, agreed with me that our intent was to apply the cargo deregulation provision uniformly to all categories of existing all-cargo air carriers—and he went on to state that "it was probably inadvertent on my part" that the supplementals were not included.

Because inclusion of the supplementals in the conference report would have gone beyond the scope of the conference (no House provision on cargo deregulation), the conferees decided to retain the existing language of the cargo deregulation provision—and attempt to remedy the situation confronting the supplementals at a later date.

In this connection, just yesterday, the Committee on Public Works and Transportation unanimously reported the pending bill, H.R. 9851, which specifically addresses this problem. In my view, House approval of this legislation today will be followed by prompt Senate action. Thus, exclusion of the supplementals from the conference report on H.R. 6010 would be remedied almost immediately.

Mr. ANDERSON of California. Mr. Speaker, will the gentleman yield?

Mr. SNYDER. Mr. Speaker, under my reservation of objection, I yield to the gentleman from California.

Mr. ANDERSON of California. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, in the statement of the gentleman from Kentucky (Mr. SNYDER), he is exactly right. Yesterday we had agreed to bring this matter up today under unanimous consent, because inadvertently the supplemental airlines were left out of the first stage of the new all-cargo program established by H.R. 6010.

H.R. 9851 makes one limited change in H.R. 6010 which has been passed by the Senate and was passed by the House yesterday. H.R. 6010 established a program for regulatory reform of air cargo service. The bill I am now presenting, H.R. 9851, would modify the cargo program to permit supplemental air carriers to participate in the first stages of the program rather than requiring these carriers to wait 1 year.

The early participation of supplementals in the new program for air cargo will improve service to the shipping public. Supplemental carriers have been pioneers in the development of all-cargo equipment and have a substantial cargo lift capability which they can use to provide scheduled all-cargo service under the new program. Exclusion of the supplementals from the first stage of the program could have an adverse economic impact on these carriers since they would be subject to new competition from scheduled carriers, but would not have the opportunity to compete by instituting new scheduled all-cargo service. H.R. 9851 resolves these problems by permitting supplementals to participate in the first stage of the cargo program.

Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to extend their remarks on this matter.

Mr. SNYDER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

Mr. ANDREWS of North Dakota. Mr. Speaker, reserving the right to object, the problem with this bill is that if we keep nibbling more and more away at the scheduled airlines in the thinly populated areas that some of us represent, there is no way these scheduled airlines can continue to serve the small towns and cities in these areas, the towns of 15,000 and 20,000 population which the railroads have abandoned and no longer serve. The airlines cannot continue to serve these towns unless they also receive revenue from other sources such as cargo carrying.

For this reason, Mr. Speaker, I object.

The SPEAKER. Objection is heard.

GI BILL IMPROVEMENTS ACT OF 1977

Mr. TEAGUE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 8701) to amend title 38, United States Code, to increase the rates of vocational rehabilitation, educational assistance, and special training allowance paid to eligible veterans and persons, to make improvements in the educational assistance programs, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert: That this Act may be cited as the "GI Bill Improvement Act of 1977".

TITLE I—GI BILL RATE INCREASES

VOCATIONAL REHABILITATION

SEC. 101. The table contained in section 1504(b) of title 38, United States Code, is amended to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Type of training	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional:				
Full-time	$241	$298	$351	$26
Three-quarter time	181	224	263	19
Half-time	120	149	176	13
Farm cooperative, apprentice, or other on-job training:				
Full-time	210	254	293	19".

VETERANS' EDUCATIONAL ASSISTANCE

SEC. 102. Chapter 34 of title 38, United States Code, is amended by—

(1) striking out in the last sentence of section 1677(b) "$270" and inserting in lieu thereof "$288";

(2) amending the table contained in paragraph (1) of section 1682(a) of title 38, United States Code, to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional:				
Full-time	$311	$370	$422	$26
Three-quarter-time	233	277	317	19
Half-time	156	185	211	13
Cooperative	251	294	334	19";

(3) striking out in section 1682(b) "$292" and inserting in lieu thereof "$311";

(4) amending the table contained in paragraph (2) of section 1682(c) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Basis	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Full-time	$251	$294	$334	$19
Three-quarter-time	188	221	251	15
Half-time	126	147	167	10";

(5) striking out in section 1692(b) "$65" and "$780" and inserting in lieu thereof "$69" and "$828", respectively; and

(6) striking out in section 1696(b) "$292" and inserting in lieu thereof "$311".

SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE

SEC. 103. Chapter 35 of title 38, United States Code, is amended by—

(1) striking out in section 1732(b) "$235" and inserting in lieu thereof "$251"; and

(2) striking out in section 1742(a) "$292", "$92", "$92", and "$9.76" and inserting in lieu thereof "$311", "$98", "$98", and "$10.40", respectively.

CORRESPONDENCE COURSES, ON-JOB TRAINING, AND EDUCATION LOANS

SEC. 104. Chapter 36 of title 38, United States Code, is amended by—

(1) striking out in section 1786(a)(2) "$292" and inserting in lieu thereof "$311";

(2) amending the table contained in paragraph (1) of section 1787(b) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Periods of training	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
First 6 months	$226	$254	$277	$12
Second 6 months	169	197	221	12
Third 6 months	113	141	164	12
Fourth and any succeeding 6-month periods	56	84	108	12";

and

(3) striking out in paragraph (3) of section 1798(b) "$292" and inserting in lieu thereof "$311".

VETERAN-STUDENT SERVICES

SEC. 105. Subsection (a) of section 1685 of title 38, United States Code, is amended by—

(1) striking out in the second sentence "in the amount of $625" and inserting in lieu thereof "in an amount equal to either the amount of the hourly minimum wage in effect under section 6(a) of the Fair Labor Standards Act of 1938 times two hundred and fifty or $625, whichever is the higher,"; and

(2) striking out the third and fourth sentences and inserting in lieu thereof the following: "An agreement may be entered into for the performance of services for periods of less than two hundred and fifty hours. The amount of the work-study allowance to be paid under any such agreement shall be determined by multiplying the number of hours of work performed by the veteran-student under such agreement times either the hourly minimum wage in effect under section 6(a) of the Fair Labor Standards Act of 1938 during the period the work is to be performed or $250, whichever is the higher. A veteran-student shall be paid in advance an amount equal to 40 per centum of the total amount of the work-study allowance agreed to be paid under the agreement in return for the veteran-student's agreement to perform the number of hours of work specified in the agreement.".

TITLE II—ACCELERATED PAYMENT AND DELIMITING PERIOD EXTENSION

ACCELERATED PAYMENT

SEC. 201. (a) Chapter 34 of title 38, United States Code, is amended by inserting after section 1682 the following new section:

"§ 1682A. Accelerated payment of educational assistance allowances

"(A) The Administrator shall, in accordance with the provisions of this section and section 1798(f) of this title and regulations which the Administrator shall prescribe under such sections, accelerate the payment of educational assistance allowances (hereinafter in this section referred to as 'accelerated payment') to an eligible veteran who makes application and is eligible therefor. An accelerated payment shall be made by increasing the amount of the educational assistance allowance otherwise payable to such veteran for any school term and proportionally reducing the educational entitlement of such veteran under section 1661 of this title.

"(b) An eligible veteran who makes application for accelerated payment shall be eligible for such payment only upon the satisfactory completion of the school term for which such accelerated payment is to be made and only if—

"(1) such veteran was enrolled as a full-time student during such school term;

"(2) such veteran was entitled to an educational assistance allowance under section time student during such school term;

"(3) such veteran has received a loan from the Veterans' Administration for such school term pursuant to section 1798(f) of this title;

"(4) the tuition and fees of the educational institution in which such veteran was enrolled are in excess of $700 for such school term;

"(5) such application was filed with the Administrator within 30 days after the beginning of the school term for which such accelerated payment is to be made;

"(6) the educational institution in which such veteran was enrolled has certified to the Administrator that such veteran satisfactorily completed such school term; and

"(7) the educational institution in which such veteran was enrolled has certified for such school term that less than 35 per centum of the total number of students enrolled in such institution were students receiving educational assistance benefits from the Veterans' Administration under this chapter or chapter 31, 35, or 36 of this title.

"(c)(1) An eligible veteran enrolled in an institution of higher learning shall, if otherwise eligible under this section, be entitled to an accelerated payment for—

"(A) the number of months equal to the number of months of entitlement such veteran may have in excess of the number of months necessary to complete a program of education leading to a standard undergraduate college degree, if such veteran has not successfully completed such a program, or

"(B) the number of months equal to the number of months of entitlement such veteran may have remaining in excess of the number of months necessary to complete the veteran's program of education, if such veteran has successfully completed a program of education leading to a standard undergraduate college degree.

"(2) An eligible veteran enrolled in an educational institution which is not an institution of higher learning shall, if otherwise eligible under this section, be entitled to an accelerated payment for—

"(A) the number of months equal to the number of months of entitlement such veteran may have remaining in excess of the number of months necessary to complete such veteran's program of education, or

"(B) nine months, whichever period is the lesser.

"(d)(1) In no event may the amount of accelerated payment for any school term exceed (A) an amount equal to the educational assistance allowance to which such veteran was otherwise entitled under section 1682 of this title for such school term, or (B) an amount equal to 66⅔ per centum of the amount by which the expenses of tuition and fees are in excess of $700 for such school term, whichever is the lesser.

"(2) In no event may the number of months of entitlement accelerated by a veteran for any school term exceed one-half the total number of months of entitlement the veteran may accelerate under this section unless such veteran can reasonably be expected to complete the program of education being pursued during the school term for which accelerated payment is to be made.

"(e) As used in this section, the term 'school term' means—

"(1) in the case of an institution of higher learning operating on a quarter system, three such consecutive quarters;

"(2) in the case of an institution of higher learning operating on a semester system, two such consecutive semesters; or

"(3) in the case of an educational institution not an institution of higher learning, or, in the case of an institution of higher learning not operating on a quarter or semester system, any time division approved by the Administrator of a program of education within which segments of the program are completed.".

(b) Chapter 35 of title 38, United States Code, is amended by inserting after section 1737 the following new section:

"§ 1738. Accelerated payment of educational assistance allowances

"An eligible person shall be entitled to an accelerated payment of educational assistance allowances pursuant to the provisions of section 1682A of this title."

(c)(1) The table of sections at the beginning of chapter 34 of such title is amended by inserting

"1682A. Accelerated payment of educational assistance allowances."

below

"1682. Computation of educational assistance allowances.".

(2) The table of sections at the beginning of chapter 35 of such title is amended by inserting

"1738. Accelerated payment of educational assistance allowances."

below

"1737. Education loans.".

(d) The Administrator of Veterans' Affairs shall, not later than sixty days after the date of enactment of this Act, notify each appropriate educational institution that accelerated payments (as provided for in subsection (a) of this section) are available for certain students enrolled at such institutions, specifying the full conditions and procedures governing such payments.

(e) Notwithstanding the provisions of section 1682A or section 1738 of title 38, United States Code, as added by subsections (a) and (b) of this section, eligible veterans and eligible persons entitled thereunder shall for a semester or two consecutive quarters beginning after January 1, 1978, and ending prior to August 1, 1978, be entitled to accelerated payment of educational assistance allowances upon application therefor, but the amounts of such accelerated payment which may be paid for any such semester or quarters, the number of months by which such veteran's or person's entitlement shall be reduced, and any quantifiable eligibility criteria shall be appropriately prorated by the Administrator of Veterans' Affairs.

EDUCATION LOAN ELIGIBILITY IN CONNECTION WITH ACCELERATED PAYMENT

SEC. 202. Section 1798 of title 38, United States Code, is amended by—

(1) inserting in subsection (e)(3) a comma and "separately for loans made under subsection (a) and subsection (f) of this section" atfer "institutions"; and

(2) inserting at the end thereof the following new subsection:

"(f)(1) Notwithstanding the requirements of paragraphs (1) and (2) of subsection (c) of this section, each eligible veteran (for purposes of this subsection 'eligible veteran' includes 'eligible person' as defined in section 1701(a)(1) of this title) entitled to a loan under the provisions of subsections (a) and (b) of this section who, pursuant to section 1682A of this title, has applied and will be eligible for an accelerated payment under such section upon the satisfactory completion of the school term for which such payment is to be made is entitled to a loan under this subsection.

"(2) At the time of application for such loan in connection with such accelerated payment, the eligible veteran shall assign to the benefit of the Veterans' Administration the amount of the accelerated payment for which such eligible veteran is entitled for the school term for which such veteran has applied.

"(3) Unless the Administrator finds there are mitigating circumstances, an eligible veteran who fails to complete satisfactorily any school term for which a loan has been received under this subsection is not eligible for receipt of any accelerated payment under such section 1682A until such time as such eligible veteran has repaid in full the principal amount of and interest due on such loan.

"(4) Notwithstanding the provisions of subsection (b)(3) of this section, an eligible veteran entitled to a loan under this subsection shall be entitled to a total loan amount equal to the amount of accelerated payment for which such eligible veteran is entitled for the school term for which such veteran has applied for such payment.

"(5) Payment of a loan made under this subsection shall be drawn in favor of the educational institution in which such veteran is enrolled. Such institution shall deliver such payment to the eligible veteran as soon as practicable after receipt thereof. Upon delivery of such payment to the eligible veteran, such educational institution shall promptly submit to the Administrator a certification, on such form as the Administrator shall prescribe, of such delivery, and such delivery shall be deemed to be an advance payment under section 1780(d)(5) of this title for purposes of section 1784(b) of this title.".

DELIMITING PERIOD EXTENSION

SEC. 203. (a) Section 1662 of title 38, United States Code, is amended by striking out the period at the end of subsection (a) and inserting in lieu thereof a semicolon and "except that, in the case of any eligible veteran who was prevented from initiating or completing such veteran's chosen program of education within such time period because of a physical or mental disability or impairment which was not the result of such veteran's own willful misconduct, such veteran shall, upon application, be granted an extension of the applicable delimiting period for such length of time as the Administrator determines, from the evidence, that such veteran was prevented from initiating or completing such program of education.".

(b) Section 1662 of title 38, United States Code, is amended by inserting "(1)" after "(a)" and inserting at the end of such section the following new paragraph:

"(2)(A) Notwithstanding the provisions of paragraph (1), any veteran shall be permitted to use any of such veteran's unused educational entitlement under this chapter after the delimiting date otherwise applicable to such veteran, as provided in paragraph (1), if such veteran was pursuing an approved program of education at the time of the expiration of such veteran's eligibility and such veteran was—

"(i) enrolled on a full-time basis, or

"(ii) on a part-time basis if such veteran was (aa) employed in a public safety occupation, (bb) receiving educational benefits, a loan, or compensation under any program provided for in the Omnibus Crime Control and Safe Streets Act of 1968, and (cc) enrolled under this chapter on not less than a half-time basis in a program of education appropriately related to such veteran's public safety occupation.

"(B) Notwithstanding any other provision of this chapter or chapter 36 of this title, any veteran whose delimiting period is extended under this paragraph—

"(i) may continue to use any unused entitlement under this paragraph as long as the veteran continues to been enrolled on a full-time basis (or on a part-time basis, but in no event less than a half-time basis, if such veteran was a part-time student at the time of expiration of such veteran's eligibility and was permitted to continue using such veteran's unused entitlement under the provisions of clause (ii) of subparagraph (A) of this paragraph) in pursuit of the approved program of education in which such veteran was enrolled at the time of expiration of such veteran's eligibility until such entitlement is exhausted, until the expiration of two years, or until such veteran has completed the approved program of education in which such veteran was enrolled at the end of the delimiting period referred to in paragraph (1), whichever occurs first;

"(ii) shall be entitled in the eleventh year of eligibility to an educational assistance allowance equal to one-half the amount of educational assistance allowance authorized for an eligible veteran whose delimiting period has not expired or been extended by this paragraph; and

"(iii) shall be entitled in the twelfth year of eligibility to an educational assistance allowance equal to one-third the amount of educational assistance allowance authorized for an eligible veteran whose delimiting period has not expired or been extended by this paragraph.".

(c) Section 1712 is amended by redesignating subsection (f) as (g) and inserting after subsection (e) the following new subsection:

"(f) Any eligible person shall be entitled to an additional period of eligibility beyond the maximum period provided for in this section pursuant to the same terms and conditions set forth with respect to an eligible veteran in section 1662(a)(2), except that the tenth year of eligibility for purposes of this subsection for such person shall be the last year of such person's period of eligibility and the eleventh and twelfth years shall be the first and second years, respectively, following such last year.".

TITLE III—OTHER EDUCATION AND TRAINING AMENDMENTS

CITATION OF AUTHORITY

SEC. 301. Section 210(c)(1) of title 38, United States Code, is amended by inserting at the end thereof the following new sentence: "Any rules, regulations, guidelines, or other published interpretations or orders, or any amendment thereto, issued pursuant to the authority granted by this subsection or any other provision of this title shall contain, immediately following each substantive provision of such rules, regulations, guidelines, or other published interpretations or orders, or any amendment thereto, citations to the particular section or sections of statutory law or other legal authority upon which such rule, regulation, guideline, or other published interpretation or order is based or, in the case of any amendment thereto, upon which such amendment and the rule, regulation, guideline, interpretation or order being amended is based.".

COUNSELING SERVICES AND PRE-DISCHARGE EDUCATION PROGRAM REPORT ELIMINATION

SEC. 302. Chapter 34 of title 38, United States Code, is amended by—

(1) amending section 1663 by—

(A) striking out the first sentence and inserting in lieu thereof "The Administrator shall make available to any eligible veteran, upon such veteran's request, comprehensive counseling services, including but not limited to, vocational and educational counseling and testing."; and

(B) inserting at the end thereof the following new sentence: "The Administrator shall carry out an effective outreach program to acquaint all eligible veterans with the availability and advantages of such counseling."; and

(2) striking out in section 1698(b) "and periodically thereafter submits progress reports with respect to the implementation of such plan," after "report),".

STATE APPROVING AGENCY REIMBURSEMENT AND REPORT

SEC. 303. Section 1774 of title 38, United States Code, is amended by—

(1) amending subsection (b) to read as follows:

"(b) The allowance for administrative expenses incurred pursuant to subsection (a) of this section shall be paid in accordance with the following formula:

"Total salary cost reimbursable under this section	Allowable for administrative expense.
$5,000 or less	$660.
Over $5,000 but not exceeding $10,000	$1,188.
Over $10,000 but not exceeding $35,000	$1,188 for the first $10,000 plus $1,100 for each additional $5,000 or fraction thereof.

STATE APPROVING AGENCY REIMBURSEMENT AND REPORT—Continued

Over $35,000 but not exceeding $40,000	$7,189.
Over $40,000 but not exceeding $75,000	$7,189 for the first $40,000 plus 952 for each additional $5,000 or fraction thereof.
Over $75,000 but not exceeding $80,000	$14,256.
Over $80,000	$14,256 for the first $80,000 plus $831 for each additional $5,000 or fraction thereof.

and

(2) inserting at the end thereof the following new subsection:

"(c) Each State and local agency with which the Administrator contracts or enters into an agreement under subsection (a) of this section shall report to the Administrator on September 30, 1978, and annually thereafter on the activities in the preceding twelve months carried out under such contract or agreement, summarizing services performed and the determinations made in conjunction with ascertaining the qualifications of educational institutions in connection with this chapter and chapters 32, 34, and 35 and in supervising such institutions.".

CORRESPONDENCE-RESIDENCE COURSES, REPORTING FEES, INSTITUTIONAL ATTENDANCE REQUIREMENTS, AND VOCATIONAL COURSE MEASUREMENTS

SEC. 304. Chapter 36 of title 38, United States Code, is amended by—

(1) amending section 1780 by—

(A) inserting at the end of subsection (a)(5) and as a part thereof the following new sentence: "Notwithstanding the provisions of this clause, the Administrator may, in accordance with such regulations as the Administrator shall prescribe, approve a combination correspondence-residence course not meeting the 6-month requirement of this clause where the Administrator finds, based upon evidence submitted by the educational institution, that there is a reasonable relationship between the charge for each segment of the course (including the cost to the institution for providing each segment of the course) and the total charge made for the course.";

(B) striking out "and" at the end of clause (B) of paragraph (3) of subsection (d), striking out the period at the end of clause (C) of such paragraph and inserting in lieu thereof a semicolon and "and", and inserting at the end of such paragraph the following new clause:

"(D) in clear and simple language, the period of time between the date of the advance payment and the scheduled date of the first monthly payment of educational assistance allowance."; and

(C) inserting at the end of paragraph (6) of subsection (d) the following new sentence: "The Administrator shall include with the advance payment a notice informing the veteran in clear and simple language of the period of time between the date of the advance payment and the scheduled date of the first monthly payment of educational assistance allowance.";

(2) amending section 1784(b) by—

(A) striking out "$5" and "$6" in the second sentence and inserting in lieu thereof "$10" and "$15", respectively;

(B) inserting after the second sentence the following new sentence: "Each of the amounts of reporting fees prescribed in the preceding sentence shall be increased by $5 for each veteran or eligible person enrolled in a program of education as a full-time student under this chapter or chapter 34 or 35 of this title, who satisfactorily completes a school term (as defined in section 1682A of this title) during the calendar year for which such reporting fee has been paid."; and

(C) inserting at the end thereof the following new sentence: "No reporting fee payable to an educational institution under this subsection shall be subject to offset by the Administrator against any liability of such institution for any overpayment for which such institution may be administratively determined to be liable under section 1785 of this title.";

(3) amending section 1785 by—

(A) inserting in the first sentence a comma and "except as otherwise provided in section 1784(b) of this title," after "recovered"; and

(B) inserting at the end thereof the following new sentence: "Nothing in this section or any other provision of this title shall be construed as requiring any institution of higher learning to maintain daily attendance records for any course leading to a standard college degree."; and

(4) amending section 1788(a) by—

(A) inserting in clause (1) "and not more than 5 hours of supervised study" after "two and one-half hours of rest periods";

(B) striking out in clause (1) "27" and inserting in lieu thereof "22";

(C) inserting in clause (2) "and not more than 5 hours of supervised study" after "net of instruction" the first time it appears; and

(D) striking out in clause (2) "22" and inserting in lieu thereof "18".

OPERATION PERIOD WAIVER, EDUCATIONAL INSTITUTION ADMINISTRATIVE PROCEDURES, AND ADVISORY COUNCIL

SEC. 305. (a)(1) Section 1789 of title 38, United States Code, is amended by—

(A) inserting "(A)" in clause (2) of subsection (b) after "years," and striking out the semicolon at the end of such clause and inserting in lieu thereof a comma and "or (B) if the Administrator determines in the case of a course with a vocational objective that the institution offering such courses has demonstrated its effectiveness in achieving the successful completion of courses and the employment of persons who completed courses offered by such institution in the occupational category for which the course was designed to provide training, and, after consultation with Secretary of Labor, that there is a clear need to train persons for employment in such occupational category in order to meet urgent national priorities;"; and

(B) adding at the end of subsection (c) the following new sentence: "The Administrator may waive the requirements of this subsection, in whole or in part, if the Administrator determines, pursuant to regulations which the Administrator shall prescribe, it to be in the interest of the eligible veteran and the Federal Government.".

(2) Section 1673(d) of title 38, United States Code, is amended by—

(A) inserting in the second sentence a comma and "pursuant to regulations which the Administrator shall prescribe," after "determines"; and

(B) inserting at the end thereof the following new sentences: "The provisions of this subsection shall not apply to any course offered by an educational institution (1) where the number of veterans and persons receiving assistance under this chapter and chapters 31, 32, 35, and 36 of this title who are enrolled in such institution equals 35 per centum or less of the total student enrollment at such institution (computed separately for the main campus and each branch or extension), except that the Administrator may apply the provisions of this subsection with respect of any course in which the Administrator has reason to believe that the enrollment of such veterans and persons is in excess of 85 per centum of the total student enrollment in such course, and (2) where the course is a residential course not located in a State.".

(3) The Administrator of Veterans' Affairs shall, in consultation with the Commissioner of Education, Department of Health, Education, and Welfare, conduct a study to examine the need for computing, under section 1673(d) of title 38, United States Code, the percentage of those students enrolled in courses at educational institutions who are in receipt of grants from any Federal department or agency, and the problems of such institutions in making such latter computations, and shall, not later than August 1, 1978, submit a report to the Congress indicating whether such computations are needed and prescribing in detail an adequate system for making such computations. Until the expiration of six months after the date of submission of such report, the Administrator shall not apply the provisions contained in section 1673(d) of title 38, United States Code, requiring educational institutions in determining compliance with such subsection to compute the numbers of students in receipt of Federal grants other than from the Veterans' Adminisration.

(b)(1) The Administrator of Veterans' Affairs, in consultation with the Commissioner of Education, Department of Health, Education, and Welfare, the Comptroller General of the United States, the Council on Postsecondary Accreditation, State approving agencies, and other appropriate bodies, officials, and persons, shall conduct a study into specific methods of improving the process by which postsecondary educational institutions and courses at such institution are and continue to be approved for purposes of chapters 32, 34, 35, and 36 of title 38, United States Code. In recognition of the importance of assuring that Federal assistance is made available to those eligible veterans and persons seriously pursuing and making satisfactory progress toward an educational or vocational objective under such chapters, such study shall also investigate the need for legislative or administrative action in regard to sections 1674 and 1724 of title 38, United States Code, as amended by sections 206 and 307, respectively, of Public Law 94–502, and the regulations prescribed thereunder. The report of such study, together with such specific recommendations for administrative or legislative action as the Administrator deems appropriate, shall be submitted to the President and the Congress not later than August 1, 1978.

(2) In accordance with applicable law and procedure, the Administrator shall make available from funds appropriated to the Veterans' Administration such sums as are necessary, but not in excess of $500,000, for the purpose of carrying out paragraph (1) of this subsection.

(3)(A) During the period required to make the study required by paragraph (1) of this subsection, the Administrator shall suspend implementation of the amendments to sections 1674 and 1724 of title 38, United States Code, made by sections 206 and 307, respectively, of Public Law 94–502, in the case of any accredited educational institution which submits to the Administrator its course catalog or bulletin and a certification that the policies and regulations described in clauses (6) and (7) of section 1776(b) are being enforced by such institution, unless the Administrator finds, pursuant to regulations which the Administrator shall prescribe, that such catalog or bulletin fails to state fully and clearly such policies and regulations.

(B) The Administrator shall, in appropriate instances, bring to the attention of the Council on Postsecondary Accreditation and the appropriate accrediting and licensing bodies

such catalogs, bulletins, and certifications submitted under subparagraph (A) of this paragraph which the Administrator believes may not be in compliance with the standards of such accrediting and licensing body.

(c)(1) Where an educational institution—

(A) has in its possession veterans' or eligible persons' benefits checks made payable to a veteran or eligible person and mailed to such educational institution for a course offered (i) under the provisions of subchapter VI of chapter 34 of title 38, United States Code, or (ii) at a location not in a State under the provisions of section 1676 of title 38, United States Code, and which course was commenced by such veteran or eligible person prior to December 1, 1976, and completed not later than June 30, 1977; and

(B) holds a power of attorney executed by the veteran or eligible person prior to December 1, 1976, authorizing the educational institution to negotiate such benefit check, the Administrator may, where the Administrator finds there is undue hardship on such educational institution, provide such relief as the Administrator determines equitable pursuant to regulations which the Administrator shall prescribe.

(2) Where an accredited correspondence school—

(A) has in its possession veterans' or eligible persons' benefit checks made payable to a veteran or eligible person and mailed to such school for lessons completed by the veteran or eligible person under section 1786 of this title and serviced by the school prior to January 1, 1977; and

(B) holds a power of attorney executed by the veteran or eligible person prior to December 1, 1976, authorizing the school to negotiate such benefit check,

the Administrator may, where the Administrator finds that (i) there is undue hardship on such educational institution and (iii) the courses were taken by veterans or eligible persons residing in a State, provide such relief as the Administrator determines equitable pursuant to regulations which the Administrator shall prescribe.

(d) Section 1792 of title 38, United States Code, is amended by—

(1) inserting in the last sentence "on a regular basis" after "shall"; and

(2) striking out in the last sentence "from time to time" and inserting in lieu thereof "(which shall meet at least semiannually)".

TERMINATION OF ASSISTANCE REQUIREMENTS

SEC. 306. Section 1790(b) of title 38, United States Code, is amended by—

(1) inserting "(1)" after "(b)", and inserting at the end thereof the following new paragraph:

"(2) Any action by the Administrator to suspend or terminate assistance provided to any eligible veteran or eligible person under this chapter or chapter 31, 32, 34, or 35 of this title shall be based upon clear evidence in the possession of the Administrator that the veteran or eligible person is not or was not entitled to such assistance. Whenever the Administrator suspends or terminates any such assistance, the Administrator shall concurrently provide written notice to such veteran or person of such suspension or termination action and that such veteran or person is entitled thereafter to a statement of the reasons for such action and an opportunity to be heard thereon.".

VOCATIONAL REHABILITATION STUDY

SEC. 307. The Administrator of Veterans' Affairs, in consultation with the Commissioner of Rehabilitation Services, Department of Health, Education, and Welfare, shall conduct a study in regard to the provisions of chapter 31 of title 38, United States Code. The report of such study shall include, but not be limited to, (1) the Administrator's recommendations for legislative or administrative changes in such chapter, (2) the Administrator's recommendations with regard to the need for the services of vocational rehabilitation specialists to provide chapter 31 trainees with appropriate job development and job placement assistance, and (3) the Administrator's recommendations for utilizing the veterans education programs provided by chapters 32, 34, 35, and 36 of this title to meet the needs of disabled veterans eligible for assistance under chapter 31 and such other chapters. Such report shall also include a description and analysis of the scope and quality of vocational rehabilitation assistance provided under chapter 31 in comparison with vocational rehabilitation services provided under the Rehabilitation Act of 1973, as amended (Public Law 93-112). The report of such study shall be submitted to the President and the Congress not later than March 1, 1978.

VETERANS READJUSTMENT APPOINTMENTS REPORT

SEC. 308. Section 2014(b) of title 38, United States Code, is amended by inserting at the end thereof the following new sentence: "The Chairman of the Civil Service Commission shall submit to the President and the Congress, not later than six months after the date of enactment of the GI Bill Improvement Act of 1977, a report on the need for the continuation after June 30, 1978, of the authority for veterans readjustment appointments contained in this subsection.".

TECHNICAL AMENDMENTS

SEC. 309. (a) Chapter 1 of title 38, United States Code, is amended by striking out in section 101(29) "such date as shall thereafter be determined by Presidential proclamation or concurrent resolution of the Congress" and inserting in lieu thereof "May 7, 1975".

(b) Chapter 41 of title 38, United States Code, is amended by striking out in section 2007(c) "2001" and inserting in lieu thereof "2004".

VETERANS COST-OF-INSTRUCTION TRANSFER AUTHORITY

SEC. 310. Notwithstanding any other provision of law, (1) the Administrator of Veterans' Affairs is authorized to administer the conduct, pursuant to an interagency agreement or a delegation of authority, of the programs carried out under the provisions of section 420 of the Higher Education Act of 1965, as amended; (2) the Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, is authorized to enter into such interagency agreement or to delegate to the Administrator his or her functions, powers, and duties under such section; and (3) pursuant to any such agreement or delegation of authority, funds appropriated to such Department or the Office of Education in such Department for the purpose of carrying out such section will be transferred from the Department to the Veterans' Administration for use for the purposes for which such funds are authorized and appropriated. Any such agreement or delegation of authority shall provide for all appropriate technical and support assistance to be provided by the Commissioner to the Administrator for the purposes of facilitating the effective conduct of the programs under such section in institutions of higher learning.

HOUSING SOLAR ENERGY AND WEATHERIZATION

SEC. 311. (a) Section 1810 of title 38, United States Code, is amended by inserting at the end thereof the following new subsection:

"(d) Notwithstanding any other provision of law, the amount of guaranty entitlement available to a veteran under this section shall be increased by $2,000, less such entitlement as may have been used previously under this subsection, but only if such additional entitlement is used solely to improve a dwelling or farm residence which is to be or is owned and occupied by the veteran as the veteran's home by either installation of solar heating, solar heating and cooling, or combined solar heating and cooling, or application of a residential energy conservation measure. As used in this subsection, the terms 'solar heating', 'solar heating and cooling', and 'combined solar heating and cooling' shall be defined as defined in clauses (1) and (2) of section 3 of the Solar Heating and Cooling Demonstration Act of 1974 (42 U.S.C. 5502) and shall, in addition, include a passive system based on conductive, convective, or radiant energy transfer; the term 'passive system' includes, but is not limited to, window and skylight glazing, thermal floors, walls and roofs, movable insulation panels (in conjunction with glazing), portions of a residential structure which serve as solar furnaces so as to add heat to residences, double pane window insulation, or other components designed to enhance the natural transfer of energy for the purpose of heating or heating and cooling a residence as determined by the Administrator; and the term 'residential energy conservation measure' means—

"(1) caulking and weatherstripping of all exterior doors and windows;

"(2) furnace efficiency modifications limited to—

"(A) replacement burners, boilers, or furnaces which devices are designed to reduce the firing rate or to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency,

"(B) devices for modifying flue openings which will increase the efficiency of the heating system, and

"(C) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

"(3) clock thermostats;

"(4) ceiling, attic, wall, and floor insulation;

"(5) water heater insulation;

"(6) storm windows and doors; and

"(7) such other measures as the Administrator may by regulation identify for purposes of this subsection.".

(b) Section 1811(d)(2) of such title is amended by inserting at the end thereof the following new subparagraph:

"(C) Notwithstanding any other provision of law, the amount of direct loan which an eligible veteran may obtain under this section shall be increased by $3,800, reduced by the amount of direct loan which may have been used previously under this subparagraph, but only if such entitlement is used solely to improve a dwelling or farm residence which is to be or is owned and occupied by the veteran as the veteran's home by either installation of solar heating, solar heating and cooling, or combined solar heating and cooling, or application of a residential energy conservation measure, as those terms are defined in section 1810(d) of this title.".

TITLE IV—WOMEN'S AIR FORCES SERVICE PILOTS

SEC. 401. (a) Section 106 of title 38, United States Code, is amended by adding at the end thereof a new subsection as follows:

"(f) Service as a member of the Women's Air Forces Service Pilots (a group of Federal civilian employees attached to the United States Army Air Force during World War II) shall be considered active duty for the purposes of all laws administered by the Veterans' Administration. Any person who served as a Federal employee in the Women's Air Forces Service Pilots shall be deemed to have been discharged or released from active duty on the date her Federal employment as a pilot in such organization terminated, as determined by the Administrator after consultation with the Secretary of the Army.".

(b) No benefits shall be paid to any person for any period prior to the date of enactment of this title as a result of the amendment made by subsection (a).

TITLE V—EFFECTIVE DATES

SEC. 501. The provisions of this Act shall become effective on the first day of the first month beginning 60 days after the date of enactment, except that the provisions of title I and section 304(2) (A) and (B) shall be effective retroactively to October 1, 1977, the provisions of sections 201 and 202 shall become effective on January 1, 1978, the provisions of section 203 shall be effective retroactively to May 31, 1976, the provisions of sections 301, 302(2), 304(3), 304(2)(C), 304(3), 305(a)(2), 305(a)(3), 305(c), 305(d), 306, 307, 308, 309, and 310 and the provisions of title IV shall be effective upon enactment.

The Clerk read the House amendment to the Senate amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: That this Act may be cited as the "GI Bill Improvement Act of 1977".

TITLE I—GI BILL RATE INCREASES

VOCATIONAL REHABILITATION

SEC. 101. The table contained in section 1504(b) of title 38, United States Code, is amended to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Type of training	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional:				
Full-time	$241	$298	$351	$26
Three-quarter-time	181	224	263	19
Half-time	120	149	176	13
Farm cooperative, apprentice, or other on-job training:				
Full-time	210	254	293	19"

VETERANS' EDUCATIONAL ASSISTANCE

SEC. 102. Chapter 34 of title 38, United States Code, is amended by—

(1) striking out in the last sentence of section 1677(b) "$270" and inserting in lieu thereof "$288";

(2) amending the table contained in paragraph (1) of section 1682(a) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional:				
Full-time	$311	$370	$422	$26
Three-quarter-time	233	277	317	19
Half-time	156	185	211	13
Cooperative	251	294	334	19";

(3) striking out in section 1682(b) "$292" and inserting in lieu thereof "$311";

(4) amending the table contained in paragraph (2) of section 1682(c) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Basis	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Full-time	$251	$294	$334	$19
Three-quarter-time	188	221	251	15
Half-time	126	147	167	10";

(5) striking out in section 1692(b) "$65" and "$780" and inserting in lieu thereof "$69" and "$828", respectively; and

(6) striking out in section 1696(b) "$292" and inserting in lieu thereof "$311".

SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE

SEC. 103. Chapter 35 of title 38, United States Code, is amended by—

(1) striking out in section 1732(b) "$235" and inserting in lieu thereof "$251"; and

(2) striking out in section 1742(a) "$292", "$92", "$92", and "$9.76" and inserting in lieu thereof "$311", "$98", "$98", and "$10.40", respectively.

CORRESPONDENCE COURSES, ON-JOB TRAINING, AND EDUCATION LOANS

SEC. 104. Chapter 36 of title 38, United States Code, is amended by—

(1) striking out in section 1786(a)(2) "$292' and inserting in lieu thereof "$311";

(2) amending the table contained in paragraph (1) of section 1787(b) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Periods of training	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
First 6 months	$226	$254	$277	$12
Second 6 months	169	197	221	12
Third 6 months	113	141	164	12
Fourth and any succeeding 6-month periods	56	84	108	12";

and

(3) striking out in paragraph (3) of section 1798(b) "$292" and inserting in lieu thereof "$311".

VETERAN-STUDENT SERVICES

SEC. 105. Subsection (a) of section 1685 of title 38, United States Code, is amended by—

(1) striking out in the second sentence "in the amount of $625" and inserting in lieu thereof "in an amount equal to either the amount of the hourly minimum wage in effect under section 6(a) of the Fair Labor Standards Act of 1938 times two hundred and fifty or $625, whichever is the higher,"; and

(2) striking out the third and fourth sentences and inserting in lieu thereof the following: "An agreement may be entered into for the performance of services for periods less than two hundred and fifty hours. The amount of the work-study allowance to be paid under any such agreement shall be determined by multiplying the number of hours of work performed by the veteran-student under such agreement times either the hourly minimum wage in effect under section 6(a) of the Fair Labor Standards Act of 1958 during the period the work is to be performed or $2.50, whichever is the higher. A veteran-student shall be paid in advance an amount equal to 40 per centum of the total amount of the work-study allowance agreed to be paid under the agreement in return for the veteran-student's agreement to perform the number of hours of work specified in the agreement.".

TITLE II—ACCELERATED PAYMENT AND DELIMITING PERIOD EXTENSION

ACCELERATED PAYMENT

SEC. 201. a) Chapter 34 of title 38, United States Code, is amended by inserting after section 1682 the following new section:

"§ 1682A. Accelerated payment of educational assistance allowances

"(a) The Administrator, in accordance with the provisions of this section and section 1798(f) of this title and regulations which the Administrator shall prescribe under such sections, shall accelerate the payment of educational assistance allowances (hereinafter in this section referred to as 'accelerated payment') to an eligible veteran who makes application and is eligible therefor and proportionally reduce the educational entitlement of such veteran under section 1661 of this title.

"(b) An eligible veteran who makes application for accelerated payment shall be eligible for such payment in connection with each school term for which such veteran applies for such accelerated payment only if—

"(1) such veteran was enrolled as a full-time student during such school term;

"(2) such veteran was entitled to an educational assistance allowance under section 1661 during such school term;

"(3) such veteran has received, after the date of enactment of this section, a loan for such school term pursuant to section 1798 of this title;

"(4) the combined amount of tuition and fees of the educational institution in which such veteran was enrolled was in excess of $700 for such school term;

"(5) the educational institution in which such veteran was enrolled has certified to the Administrator that such veteran has satisfactorily completed the program of education and attained the predetermined and identified educational, professional, or vocational objective which such veteran has been pursuing and has on such basis been awarded by such institution the appropriate educational degree, diploma, or certificate signifying such completion and attainment;

"(6) such application was filed with the Administrator within 180 days after the date (A) on which the degree, diploma, or certificate described in clause (5) of this subsection has been awarded to such veteran, or (B) on which the appropriate State or local governmental unit establishes a program described in clause (8) of this subsection, whichever date is the later;

"(7) the educational institution in which such veteran was enrolled has certified for such school term that 35 per centum or less (or such other per centum as the Administrator prescribes pursuant to section 1673(d) of this title) of the total number of students enrolled in such institution (computed separately for the main campus and any branch or extension of such institution pursuant to regulations prescribed by the Administrator under section 1673(d) of this title) were students receiving educational assistance benefits under this chapter or chapter 31, 32, 35, or 36 of this title; and

"(8) the State (or local governmental unit with jurisdiction over the geographical area, or both such State and such unit) in which is located the educational institution in which such veteran was enrolled pays to the Veterans' Administration (for deposit in

the Veterans' Administration Education Loan Fund established by section 1799 of this title) on such veteran's behalf an amount not more than the amount of accelerated payment which the Administrator is authorized to make on behalf of such veteran under this section, pursuant to a program established, within five years after the date of enactment of this section, by such State (or unit or both) to match the maximum or a lesser amount of the accelerated payment which the Administrator is authorized to make to any eligible veteran under this section, except that such State (or unit) may limit such program to veterans who are bona fide residents of such State (or unit).

"(C) Accelerated payments made under this section by the Administrator and matching amounts paid to the Administrator by a State or local governmental unit, as described in subsection (b)(8) of this section, shall constitute a collection of principal on loans made under subchapter III of chapter 36 of this title and shall be deposited in the Veterans' Administration Education Loan Fund established by section 1799 of this title. The Administrator shall promptly notify each veteran on whose behalf such a principal collection and deposit has been made of the amount by which such collection and deposit reduces the principal repayment obligation of such veteran.

"(d) In no event may the amount of accelerated payment made by the Administrator in connection with any school term exceed (1) an amount equal to the educational assistance allowance to which such veteran was otherwise entitled under section 1682 of this title for such school term, (2) an amount equal to 33⅓ per centum of the amount by which the expenses of tuition and fees are in excess of $700 for such school term, (3) an amount equal to 33⅓ per centum of the amount by which the amount of the outstanding obligation of such veterans under any loan made pursuant to section 1798 of this title is in excess of $700, or (4) the amount which the State (or local governmental unit or both) concerned pays to the Administrator to match the accelerated payment to be made by the Administrator on behalf of such veteran, whichever is the least amount.

"(e) As used in this section, the term 'school term' means—

"(1) in the case of an institution of higher learning operating on a quarter system, three such consecutive quarters;

"(2) in the case of an institution of higher learning operating on a semester system, two such consecutive semesters; or

"(3) in the case of an educational institution not an institution of higher learning, or in the case of an institution of higher learning not operating on a quarter or semester system, any time division, approved by the Administrator, of a program of education within which segments of the program are completed.".

(b) Chapter 35 of title 38, United States Code, is amended by inserting after section 1737 the following new section:

"§ 1738. Accelerated payment of educational assistance allowances

"An eligible person shall be entitled to an accelerated payment of educational assistance allowances pursuant to the provisions of section 1682A of this title.".

(c)(1) The table of sections at the beginning of chapter 34 of such title is amended by inserting

"1682A. Accelerated payment of educational assistance allowances."

below

"1682. Computation of educational assistance allowances.".

(2) The table of sections at the beginning of chapter 35 of such title is amended by inserting

"1738. Accelerated payment of educational assistance allowances."

below

"1737. Education loans.".

(d) The Administrator of Veterans' Affairs, not later than 60 days after the date of enactment of this Act shall notify each appropriate educational institution that accelerated payments (as provided for in subsection (a) of this section) may be available for certain students enrolled at such institutions, specifying the full conditions and procedures governing such payments, and, not later than 90 days after such date of enactment, shall publish in the Federal Register, and notify each State of, the rules and regulations governing the accelerated payment program.

(e) Notwithstanding the provisions of section 1682A or section 1738 of title 38, United States Code, as added by subsections (a) and (b) of this section, eligible veterans and eligible persons entitled thereunder shall, in connection with a semester or two consecutive quarters beginning after January 1, 1978, and ending prior to August 1, 1978, be entitled to accelerated payment of educational assistance allowances upon application therefor, but the amounts of such acccelerated payment which may be made in connection with any such semester or quarters, the number of months by which such veteran's or person's entitlement shall be reduced, and any quantifiable eligibility criteria shall be appropriately prorated by the Administrator of Veterans' Affairs.

EDUCATION LOAN ELIGIBILITY

SEC. 202. Section 1798 of title 38, United States Code, is amended by—

(1) striking out in subsection (b)(3) ", 500" and inserting in lieu thereof "$2,500";

(2) amending subsection (c) by—

(A) striking out the semicolon at the end of clause (1) and inserting in lieu thereof a comma and "except that the Administrator may waive the requirements of subclause (B) of this clause, in whole or in part, if the Administrator determines, pursuant to regulations which the Administrator shall prescribe, it to be in the interest of the eligible veteran and the Federal Government; and"; and

(B) striking out clause (2) and redesignating clause (3) as clause (2);

(3) inserting in subsection (e)(3) a comma and "separately with respect to loans made under this section the repayment of which is accelerated under section 1682A of this title and loans made under this section the repayment of which is not so accelerated" after "institutions; and

(4) inserting at the end thereof the following new subsection:

"(f)(1) At the time of application by any eligible veteran for a loan under this section, such veteran shall assign to the benefit of the Veterans' Administration (for deposit in the Veterans' Administration Education Loan Fund established under section 1799 of this title) the amount of any accelerated payment to which such eligible veteran may become entitled from the Administrator and any matching contribution by a State or local governmental unit pursuant to section 1682A(b)(8) of this title in connection with the school term for which such veteran has applied.

"(2) Payment of a loan made under this section shall be drawn in favor of the eligible veteran and mailed promptly to the educational institution in which such veteran is enrolled. Such institution shall deliver such payment to the eligible veteran as soon as practicable after receipt thereof. Upon delivery of such payment to the eligible veteran, such educational institution shall promptly submit to the Administrator a certification, on such form as the Administrator shall prescribe, of such delievery, and such delivery shall be deemed to be an advance payment under section 1780(d)(5) of this title for purposes of section 1784(b) of this title.

"(3) For purposes of this subsection, the term 'eligible veteran' includes eligible person as such term is defined in section 1701(1) of this title.".

DELIMITING PERIOD EXTENSION

SEC. 203. (a)(1) Section 1662 of title 38, United States Code, is amended by striking out the period at the end of subsection (a) and inserting in lieu thereof a semicolon and "except that, in the case of any eligible veteran who was prevented from initiating or completing such veteran's chosen program of education within such time period because of a physical or mental disability which was not the result of such veteran's own willful misconduct, such veteran shall, upon application, be granted an extension of the applicable delimiting period for such length of time as the Administrator determines, from the evidence, that such veteran was prevented from initiating or completing such program of education.".

(2) Section 1712(b) of title 38, United States Code, is amended by—

(A) inserting "(1)" after "(b)",

(B) redesignating clauses (1) and (2) as clauses (A) and (B), and

(C) adding at the end thereof the following new paragraph:

"(2) Notwithstanding the provisions of paragraph (1) of this subsection, in the case of any eligible person (as defined in section 1701(a)(1)(B), (C), or (D) of this chapter) who was prevented from initiating or completing such person's chosen program of education within such period because of a physical or mental disability which was not the result of such person's own wilfull misconduct, such person shall, upon application, be granted an extension of the applicable delimiting period for such length of time as the Administrator determines, from the evidence, that such person was prevented from initiating or completing such program of education.".

(b)(1) Section 1662(a) of title 38, United States Code, is further amended by inserting "(1)" after "(a)" and inserting at the end thereof the following new paragraph:

"(2)(A) Notwithstanding the provisions of paragraph (1) of this subsection, any veteran shall be permitted to use any of such veteran's unused entitlement under section 1661 of this title for the purposes of eligibility for an education loan pursuant to the provisions of subchapter III of chapter 36 of this title after the delimiting date otherwise applicable to such veteran under such paragraph (1), if such veteran was pursuing an approved program of education on a full-time basis at the time of the expiration of such veteran's eligibility.

"(B) Notwithstanding any other provision of this subchapter or chapter 36 of this title, any veteran whose delimiting period is extended under subparagraph (A) of this paragraph may continue to use any unused loan entitlement under this paragraph as long as the veteran continues to be enrolled on a full-time basis in pursuit of the approved program of education in which such veteran was enrolled at the time of expiration of such veteran's eligibility (i) until such entitlement is exhausted, (ii) until the expiration of two years after the date of enactment of this paragraph or the date of the expiration of the delimiting date otherwise applicable to such veteran under paragraph (1) of this subsection, whichever is later, or (iii) until such veteran has completed the approved program of education in which such veteran was enrolled at the end of the delimiting period referred to in paragraph (1) of this subsection, whichever occurs first.".

(2) Section 1712 of title 38, United States Code, is amended by redesignating subsection (f) as subsection (g) and inserting after subsection (e) the following new subsection:

"(f) Any eligible person (as defined in section 1701(a)(1)(B), (C), or (D) of this chapter) shall be entitled to an additional period of eligibility for an education loan under subchapter III of chapter 36 of this title beyond the maximum period provided for in this section pursuant to the same terms and conditions set forth with respect to an eligible veteran in section 1662(a)(2) of this title.".

TITLE III—OTHER EDUCATION AND TRAINING AMENDMENTS

CITATION OF AUTHORITY

SEC. 301. Section 210(c)(1) of title 38, United States Code, is amended by inserting at the end thereof the following new sentence: "Any rules, regulations, guidelines, or other published interpretations or orders, or any amendment thereto, issued pursuant to the authority granted by this subsection or any other provision of this title shall contain, immediately following each substantive provision of such rules, regulations, guidelines, or other published interpretations or orders, or any amendment thereto, citations to the particular section or sections of statutory law or other legal authority upon which such rule, regulation, guideline, or other published interpretation or order is based or, in the case of any amendment thereto, upon which such amendment and the rule, regulation, guideline, interpretation or order being amended is based.".

COUNSELING SERVICES AND PRE-DISCHARGE EDUCATION PROGRAM REPORT ELIMINATION

SEC. 302. (a) Section 1663 of title 38, United States Code, is amended by—

(1) striking out the first sentence and inserting in lieu thereof "The Administrator shall make available to any eligible veteran, upon such veteran's request, counseling services, including such educational and vocational counseling and guidance, testing, and other assistance as the Administrator deems necessary to aid such veteran in selecting (1) an educational or training objective and an educational institution or training establishment appropriate for the attainment of such objective, or (2) an employment objective that would be likely to provide such veteran with satisfactory employment opportunities in light of such veteran's personal circumstances"; and

(2) inserting at the end thereof the following new sentence: "The Administrator shall take appropriate steps (including individual notification where feasible) to acquaint all eligible veterans with the availability and advantages of such counseling services.".

(b) Section 1698(b) of title 38, United States Code, is amended by striking out "and periodically threafter submits progress reports with respect to the implementation of such plan," after "report),".

STATE APPROVING AGENCY REIMBURSEMENT AND REPORT

SEC. 303. Section 1774 of title 38, United States Code, is amended by—

(1) amending subsection (b) to read as follows:

"(b) The allowance for administrative expenses incurred pursuant to subsection (a) of this section shall be paid in accordance with the following formula:

"Total salary cost reimbursable under this section	Allowable for administrative expense
$5,000 or less	$630.
Over $5,000 but not exceeding $10,000	$1,134.
Over $10,000 but not exceeding $35,000	$1,134 for the first $10,000 plus $1,050 for each additional $5,000 or fraction thereof.
Over $35,000 but not exceeding $75,000	$6,862.
Over $40,000 but not exceeding $75,000	$6,862 for the first $40,000 plus $908 for each additional $5,000 or fraction thereof.
Over $75,000 but not exceeding $80,000	$13,608.
Over $80,000	$13,608 for the first $80,000 plus $793 for each additional $5,000 or fraction thereof.";"

and

(2) inserting at the end thereof the following new subsection:

"(c) Each State and local agency with which the Administrator contracts or enters into an agreement under subsection (a) of this section shall report to the Administrator on September 30, 1978, and periodically, but not less often than annually, thereafter, as determined by the Administrator, on the activities in the preceding twelve months (or the period which has elapsed since the last report under this subsection was submitted) carried out under such contract or agreement. Each such report shall describe, in such detail as the Administrator shall prescribe, services performed and determinations made in connection with ascertaining the qualifications of educational institutions in connection with this chapter and chapters 32, 34, and 35 of this title and in supervising such institutions.".

REPORTING FEES, INSTITUTIONAL ATTENDANCE REQUIREMENTS, AND VOCATIONAL COURSE MEASUREMENT

SEC. 304. (a) Chapter 36 of title 38, United States Code, is amended by—

(1) amending section 1784(b) by—

(A) striking out "$5" and "$6" in the second sentence and inserting in lieu thereof "$7" and "$11", respectively; and

(B) inserting at the end thereof the following new sentence: "No reporting fee payable to an educational institution under this subsection shall be subject to offset by the Administrator against any liability of such institution for any overpayment for which such institution may be administratively determined to be liable under section 1785 of this title unless such liability is not contested by such institution or has been upheld by a final decree of a court of appropriate jurisdiction.";

(2) amending section 1785 by—

(A) inserting in the first sentence a comma and "except as otherwise provided in section 1784(b) of this title," after "recovered"; and

(B) inserting at the end thereof the following new sentence: "Nothing in this section or any other provision of this title shall be construed as requiring any institution of higher learning to maintain daily attendance records of any course leading to a standard college degree."; and

(3) amending section 1788(a) by—

(A) inserting in clause (1) "and not more than 5 hours of supervised study" after "two and one-half hours of rest periods";

(B) striking out in clause (1) "27" and inserting in lieu thereof "22";

(C) inserting in clause (2) "and not more than 5 hours of supervised study" after "net of instruction" the first time it appears; and

(D) striking out in clause (2) "22" and inserting in lieu thereof "18".

(b)(1) The Administrator of Veterans' Affairs, in consultation with the Advisory Committee formed pursuant to section 1792 of title 38, United States Code, shall provide for the conduct of an independent study of the operation of the programs of educational assistance carried out under chapters 34 and 36 of title 38, United States Code. Such study shall include a detailed examination and analysis of the extent to which eligible veterans (A) have utilized their entitlements (broken down by State, type of program, and post-Korean-Conflict-pre-Vietnam-era and Vietnam-era service patrols, including the extent to which they have successfully completed their programs of education or attained their educational or vocational objectives; and (B) have readjusted successfully to civilian life in terms of employment achievement and satisfaction and family and other interpersonal relationships. A report of such study shall be submitted to the President and the Congress not later than September 30, 1979.

(2) For the purposes of carrying out paragraph (1) of this subsection, there are authorized to be appropriated $2,000,000.

OPERATION PERIOD WAIVER, EDUCATIONAL INSTITUTION AND ADMINISTRATIVE PROCEDURES

SEC. 305. (a)(1) Section 1789 of title 38, United States Code, is amended by—

(A) inserting at the end of subsection (b) immediately below clause (6) the following new sentence:

"The Administrator may waive the requirements of clause (6) of this subsection, in whole or in part, if the Administrator determines, pursuant to regulations which the Administrator shall prescribe, it to be in the interest of the eligible veteran and the Federal Government."; and

(B) adding at the end of subsection (c) the following new sentence: "The Administrator may waive the requirements of this subsection, in whole or in part, if the Administrator determines, pursuant to regulations which the Administrator shall prescribe, it to be in the interest of the eligible veteran and the Federal Government.".

(2) Section 1673(d) of title 38, United States Code, is amended by—

(A) inserting in the second sentence a comma and "pursuant to regulations which the Administrator shall prescribe," after "determines"; and

(B) inserting at the end thereof the following new sentences: "The provisions of this subsection shall not apply to any course offered by an educational institution if the total number of veterans and persons receiving assistance under this chapter or chapter 31, 32, 35, or 36 of this title who are enrolled in such institution equals 35 per centum or less, or such other per centum as the Administrator prescribes in regulations, of the total student enrollment at such institution (computed separately for the main campus and any branch or extension of such institution), except that the Administrator may apply the provisions of this subsection with respect to any course in which the Administrator has reason to believe that the enrollment of such veterans and persons may be in excess of 85 per centum of the total student enrollment in such course.".

(3) The Administrator of Veterans' Affairs, in consultation with other appropriate departments and agencies, shall conduct a study to examine the need for computing, under section 1673(d) of title 38, United States Code, the percentage of those students enrolled in courses at educational institutions who are in receipt of grants from any Federal department or agency, and the problems of such institutions in making such latter computations, and shall, not later than September 30, 1978, submit a report to the Congress indicating whether such computations are needed and prescribing in detail an adequate system for making such computations. Until the expiration of six months after the date of submission of such report and until such time as the Administrator

shall determine, based on such report, that there is an adequate and feasible system for making such computations and that it is desirable and necessary to make such computations, the Administrator shall not apply the provisions contained in section 1673(d) of title 38, United States Code, requiring educational institutions in determining compliance with such subsection to compute the numbers of students in receipt of Federal grants other than from the Veterans' Administration.

(b)(1) Sections 1674 and 1724 of title 38, United States Code, are amended by inserting a comma and "or within such other length of time (exceeding such approved length) as the Administrator determines to be reasonable in accordance with regulations" before the period at the end of the second sentence in each section.

(2) The Administrator of Veterans' Affairs, in consultation with appropriate bodies, officials, persons, departments, and agencies, shall conduct a study to investigate (A) specific methods of improving the process by which postsecondary educational institutions and courses at such institutions are and continue to be approved for purposes of chapters 32, 34, 35, and 36 of title 38, United States Code; and (B) in recognition of the importance of assuring that Federal assistance is made available to those eligible veterans and persons seriously pursuing and making satisfactory progress toward an educational or vocational objective under such chapters, the need for legislative or administrative action in regard to sections 1674 and 1724 of title 38, United States Code, and the regulations prescribed thereunder. A report of such study, together with such specific recommendations for administrative or legislative action as the Administrator deems appropriate, shall be submitted to the President and the Congress not later than September 30, 1979, except that the portion of the report of such study described in clause (B) of the preceding sentence shall be submitted not later than September 30, 1978.

(3) For the purpose of carrying out paragraph (1) of this subsection, there are authorized to be appropriated $1,000,000.

(4)(A) Until such time as the Administrator submits the report required under the second sentence of paragraph (2) of this subsection, the Administrator shall suspend implementation of the amendments to sections 1674 and 1724 of title 38, United States Code, made by sections 206 and 307, respectively, of Public Law 94–502, in the case of any accredited educational institution which submits to the Administrator its course catalog or bulletin and a certification that the policies and regulations described in clauses (6) and (7) of section 1776(b) are being enforced by such institution, unless the Administrator finds, pursuant to regulations which the Administrator shall prescribe, that such catalog or bulletin fails to state fully and clearly such policies and regulations.

(B) The Administrator shall, where appropriate, bring to the attention of the Council on Postsecondary Accreditation and the appropriate accrediting and licensing bodies such catalogs, bulletins, and certifications submitted under subparagraph (A) of this paragraph which the Administrator believes may not be in compliance with the standards of such accrediting and licensing body.

(c)(1) Where an educational institution—

(A) has in its possession veterans' or eligible persons' benefit checks made payable to a veteran or eligible person and mailed to such educational institution for a course offered (i) under the provisions of subchapter VI of chapter 34 of title 38, United States Code, or (ii) at a location not in a State under the provisions of section 1676 of title 38, United States Code, and which course was commenced by such veteran or eligible person prior to December 1, 1976, and completed not later than June 30, 1977; and

(B) holds a power of attorney executed by the veteran or eligible person prior to December 1, 1976, authorizing the educational institution to negotiate such benefit check,

the Administrator may, where the Administrator finds there is undue hardship on such educational institution, provide such relief as the Administrator determines equitable pursuant to regulations which the Administrator shall prescribe.

(2) Where an accredited correspondence school—

(A) has in its possession veterans' or eligible persons' benefit checks made payable to a veteran or eligible person and mailed to such school for lessons completed by the veteran or eligible person under section 1786 of this title and serviced by the school prior to January 1, 1977; and

(B) holds a power of attorney executed by the veteran or eligible person prior to December 1, 1976, authorizing the school to negotiate such benefit check,

the Administrator may, where the Administrator finds that there is undue hardship on such educational institution and the courses were taken by veterans or eligible persons residing in a State, provide such relief as the Administrator determines equitable pursuant to regulations which the Administrator shall prescribe.

TERMINATION OF ASSISTANCE REQUIREMENTS

SEC. 306. Section 1790(b) of title 38, United States Code, is amended by inserting "(1)" after "(b)", and inserting at the end thereof the following new paragraph:

"(2) Any action by the Administrator under paragraph (1) of this subsection to discontinue (including to suspend) assistance provided to any eligible veteran or eligible person under this chapter or chapter 31, 32, 34, or 35 of this title shall be based upon evidence that the veteran or eligible person is not or was not entitled to such assistance. Whenever the Administrator so discontinues any such assistance, the Administrator shall concurrently provide written notice to such veteran or person of such discontinuance and that such veteran or person is entitled thereafter to a statement of the reasons therefor such action and an opportunity to be heard thereon.".

VOCATIONAL REHABILITATION STUDY

SEC. 307. The Administrator of Veterans' Affairs, in consultation with the Commissioner of Rehabilitation Services, Department of Health, Education, and Welfare, shall conduct a study in regard to the provisions of chapter 31 of title 38, United States Code. The report of such study shall include (1) the Administrator's recommendations for legislative or administrative changes in such chapter, (2) the Administrator's recommendations with regard to the need for the services of vocational rehabilitation specialists to provide chapter 31 trainees with appropriate job development and job placement assistance, and (3) the Administrator's recommendations for utilizing the veterans education programs provided by chapters 32, 34, 35, and 36 of such title to meet the needs of disabled veterans eligible for assistance under such chapter 31 and such other chapters. Such report shall also include a description and analysis of the scope and quality of vocational rehabilitation assistance provided under such chapter 31 in comparison with vocational rehabilitation services provided under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.). The report of such study shall be submitted to the President and the Congress not later than March 1, 1978.

VETERANS' READJUSTMENT APPOINTMENTS REPORT

SEC. 308. Section 2014(b) of title 38, United States Code, is amended by inserting at the end thereof the following new sentence: "The Chairman of the Civil Service Commission shall submit to the President and the Congress, not later than six months after the date of enactment of the GI Bill Improvement Act of 1977, a report on the need for the continuation after June 30, 1978, of the authority for veterans readjustment appointments contained in this subsection.".

TECHNICAL AMENDMENTS

SEC. 309. (a) Section 101(29) of title 38, United States Code, is amended by striking out "such date as shall thereafter be determined by Presidential proclamation or concurrent resolution of the Congress" and inserting in lieu thereof "May 7, 1975".

(b) Section 2007(c) of title 38, United States Code, is amended by striking out "2001" and inserting in lieu thereof "2004".

VETERANS COST-OF-INSTRUCTION TRANSFER AUTHORITY

SEC. 310. (a) Notwithstanding any other provision of law, (1) the Administrator of Veterans' Affairs is authorized to administer, pursuant to an interagency agreement, the programs carried out under the provisions of section 420 of the Higher Education Act of 1965; (2) the Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, is authorized to enter into such interagency agreement to transfer to the Administrator the functions, powers, and duties of the Commissioner under such section; and (3) pursuant to any such agreement, funds appropriated to such Department or the Office of Education in such Department for the purpose of carrying out such section shall be transferred from the Department to the Veterans' Administration for use for the purposes for which such funds are authorized and appropriated. Any such agreement shall provide, for such period of time as may be agreed upon by the Commissioner and the Administrator, for such appropriate technical and support assistance by the Commissioner as the Commissioner and the Administrator agree are necessary to facilitate the implementation of this section.

(b) Effective on the date on which the Commissioner of Education transfers to the Administrator of Veterans' Affairs, under authority of subsection (a) of this section, all functions, powers, and duties assigned to the Commissioner under section 420 of the Higher Education Act of 1965 such section is superceded and chapter 3 of title 38, United States Code, is amended by—

(1) inserting after section 245 the following new section:

"§ 246. Veterans' cost-of-instruction payments to institutions of higher learning

"(a)(1) During the period beginning on July 1, 1972, and ending on September 30, 1979, each institution of higher learning shall be entitled to a payment under, and in accordance with, this section during any fiscal year if—

"(A) the number of persons who are veterans receiving vocational rehabilitation under chapter 31 of this title or veterans receiving educational assistance under chapter 34 of this title, and who are in attendance as undergraduate students at such institution during any academic year, equals at least—

"(i) 110 percentum of the number of such recipients who were in attendance at such institution during the preceding academic year, or

"(ii) 10 per centum of the total number of undergraduate students in attendance at such institution during such academic year and if such number does not constitute a per centum of such undergraduate students which is less than such per centum for the preceding academic year; and

"(B) the number of such persons is at least 25.

"(2) During the period specified in paragraph (1) of this subsection, each institu-

tion which has qualified for a payment under this section for any fiscal year shall be entitled during the succeeding year, notwithstanding such paragraph (1), to a payment under and in accordance with this section, if the number of persons referred to in such paragraph (1) equals at least the number of such persons who were in attendance at such institution during the preceding academic year or equals at least the minimum number of such persons necessary to establish eligibility to entitlement under such paragraph (1) during the preceding academic year, whichever is the lesser. Each institution which is entitled to a payment for any fiscal year by reason of the preceding sentence shall be deemed, for the purposes of any such year succeeding the year for which it is so entitled, to have been entitled to a payment under such paragraph (1) during the preceding fiscal year.

"(b)(1) The amount of the payment to which any institution shall be entitled under this section for any fiscal year shall be—

"(A) $300 for each veteran receiving vocational rehabilitation under chapter 31 of this title, or educational assistance under chapter 34 of this title, who is in attendance at such institution as an undergraduate student during such year; and

"(B) in addition, $150, except in the case of a veteran on behalf of whom the institution has received a payment in excess of $150 under section 419 of the Higher Education Act of 1965 for each veteran who has been the recipient of educational assistance under subchapter V or subchapter VI of chapter 34 of this title and who is in attendance at such institution as an undergraduate student during such year.

"(2) In any case where a veteran on behalf of whom a payment is made under this section is enrolled in an institution on less than a full-time basis, the amount of the payment on behalf of such veteran shall be reduced in proportion to the degree to which such veteran is not enrolled on a full-time basis.

"(c)(1) An institution of higher education shall be eligible to receive the payment to which it is entitled under this section only if it makes application therefor to the Administrator. An application under this section shall be submitted at such time or times, in such manner, in such form, and containing such information as the Administrator determines necessary to carry out the functions assigned to the Administrator under this section, and shall—

"(A) meet the requirements set forth in clauses (A) and (B) of section 419(c)(1) of the Higher Education Act of 1965;

"(B) set forth such plans, policies, assurances, and procedures as will ensure that the applicant will make an adequate effort—

"(i) to maintain a full-time office of veterans' affairs which has responsibility for veterans' outreach, recruitment, and special education programs, including the provisions of educational, vocational, and personal counseling for veterans,

"(ii) to carry out programs designed to prepare educationally disadvantaged veterans for postsecondary education (I) under subchapter V of chapter 34 of this title, and (II) in the case of any institution located near a military installation, under subchapter VI of such chapter 34,

"(iii) to carry out active outreach (with special empasis on educational disadvantaged veterans), recruiting, and counseling activities through the use of funds available under federally-assisted work-study program (with special emphasis on the veteran-student services program under section 1685 of this title), and

"(iv) to carry out an active tutorial assistance program (including dissemination of information regarding such program) in order to make maximum use of the benefits available under section 1692 of this title.

Notwithstanding clause (B) of the preceding sentence, an institution with less than 2,500 students in attendance which the Administrator determines, in accordance with regulations jointly prescribed by the Administrator and the Commissioner of Education, Department of Health, Education, and Welfare, cannot feasibly itself carry out any or all of the programs set forth in subclauses (i) through (iv) of clause (B) of the preceding sentence, may carry out such program or programs through a consortium agreement with one or more other institutions of higher education, and shall be required to carry out such programs only to the extent that the Administrator determines, in accordance with regulations jointly prescribed by the Administrator and the Commissioner of Education, is appropriate in terms of the number of veterans in attendance at such institution. The adequacy of efforts to meet the requirements of such clause (B) shall be determined by the Administrator, in consultation with the Commissioner of Education, based upon criteria established in regulations jointly prescribed by them.

"(2) The Administrator shall not approve an application under this subsection unless the Administrator determines that the applicant will implement the requirements of clause (B) of paragraph (1) of this subsection within the first academic year during which such institution receives a payment under this section.

"(d)(1) The Administrator shall pay to each institution of higher learning which has had an application approved under subsection (c) of this section the amount to which it is entitled under this section. Payments under this subsection shall be made in not less than three installments during each academic year and shall be based on the actual number of veterans on behalf of whom such payments are made in attendance at the institution at the time of the payment.

"(2) The maximum amount of payments to any institution of higher learning, or any branch thereof which is located in a community which is different from that in which the parent institution thereof is located, in any fiscal year, shall be $135,000. In making payments under this section for any fiscal year, the Administrator shall apportion the appropriation for making such payments, from funds which become available as a result of the limitation on payments set forth in the preceding sentence, in such a manner as will result in the receipt by each institution which is eligible for a payment under this section of first $9,000 (or the amount of its entitlement for that fiscal year, whichever is the lesser) and then additional amounts up to the limitation set forth in the preceding sentence.

"(e) Not less than 75 per centum of the amounts paid to any institution under subsection (d) of this section in any fiscal year shall be used to implement the requirement of clause (B)(i) of paragraph (1) of subsection (c) of this section, and, to the extent that such funds remain after implementing such requirements, funds limited by such 75 per centum requirement shall be used for implementing the requirements of clauses (B)(ii), (iii), and (iv) of such paragraph (1), except that the Administrator may, in accordance with criteria established in regulations jointly prescribed by the Administrator and the Commissioner of Education, waive the requirement of this subsection to the extent that the Administrator finds that such institution is adequately carrying out all such requirements without the necessity for such application of such amount of the payments received under this subsection.

"(f) The Administrator, in carrying out the provisions of this section, shall seek to assure the coordination of programs assisted under this section with programs carried out by the Commissioner of Education pursuant to the Higher Education Act of 1965, and the Commissioner shall provide all assistance, technical consultation, and information otherwise authorized by law as necessary to promote the maximum effectiveness of the activities and programs assisted under this section.

"(g) The program provided for in this section shall be administered by an identifiable administrative unit in the Veterans' Administration."; and

(2) inserting in the table of sections at the beginning of such chapter

"246. Veterans' cost-of-instruction payments to institutions of higher learning."

below

"245. Report to Congress.".

HOUSING SOLAR ENERGY AND WEATHERIZATION STUDY

SEC. 311. In accordance with the national policy to conserve energy and promote the maximum utilization of solar energy, the Administrator of Veterans' Affairs, in consultation with the Secretary of Energy and the Secretary of Housing and Urban Development, shall conduct a study to determine the most effective specific methods of using the programs carried out under, or amending the provisions of, chapter 37 of title 38, United States Code, in order to aid and encourage present and prospective veteran homeowners to install in their homes solar heating, solar heating and cooling, or combined solar heating and cooling, and to apply residential energy conservation measures. The report of such study shall include a description of plans for administrative action to carry out such national policy as well as such recommendations for legislative action as the Administrator deems appropriate, and shall be submitted to the President and the Congress not later than March 1, 1978.

TITLE IV—WOMEN'S AIR FORCES SERVICE PILOTS

SEC. 401. (a)(1) Notwithstanding any other provision of law, the service of any person as a member of the Women's Air Forces Service Pilots (a group of Federal civilian employees attached to the United States Army Air Force during World War II), or the service of any person in any other similarly situated group the members of which rendered service to the Armed Forces of the United States in a capacity considered civilian employment or contractual service at the time such service was rendered, shall be considered active duty for the purposes of all laws administered by the Veterans' Administration if the Secretary of Defense, pursuant to regulations which the Secretary shall prescribe—

(A) after a full review of the historical records and all other available evidence pertaining to the service of any such group, determines, on the basis of judicial and other appropriate precedent, that the service of such group constituted active military service, and

(B) in the case of any such group with respect to which such Secretary has made an affirmative determination that the service of such group constituted active military service, issues to each member of such group a discharge from such service under honorable conditions where the nature and duration of the service of such member so warrants.

Discharges issued pursuant to the provisions of the first sentence of this paragraph shall designate as the date of discharge that date, as determined by the Secretary of Defense, on which such service by the person concerned was terminated.

(2) In making a determination under clause (A) of paragraph (1) of this subsection with respect to any group described in such paragraph, the Secretary of Defense may take into consideration the extent to which—

(A) such group received military training and acquired a military capability or the service performed by such group was critical to the success of a military mission,

(B) the members of such group were sub-

ject to military justice, discipline, and control,

(C) the members of such group were permitted to resign,

(D) the members of such group were susceptible to assignment for duty in a combat zone, and

(E) the members of such group had reasonable expectations that their service would be considered to be active military service.

(b)(1) No benefits shall be paid to any person for any period prior to the date of enactment of this title as a result of the enactment of subsection (a) of this section.

(2) The provisions of section 106(a)(2) of title 38, United States Code, relating to election of benefits, shall be applicable to persons made eligible for benefits, under laws administered by the Veterans' Administration, as a result of implementation of the provisions of subsection (a) of this section.

TITLE V—EFFECTIVE DATES

SEC. 501. The provisions of this Act shall become effective on the first day of the first month beginning 60 days after the date of enactment of this Act, except that the provisions of title I and section 304(a)(1)(A) shall be effective retroactively to October 1, 1977, the provisions of section 201 and 202 shall become effective on January 1, 1978, the provisions of section 203 shall be effective retroactively to May 31, 1976, and the provisions of sections 301, 302(2), 304(a)(1)(B), 304(a)(2), 305(a)(3), 305(a)(3), 305(b)(2), 305(b)(3), 305(b)(4), 305(c), 306, 307, 308, 309, and 310 of title IV shall be effective upon enactment.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. EDGAR. Mr. Speaker, reserving the right to object, I do so to inquire of the distinguished chairman how this language that is before us at this moment differs from the language of the bill which passed the House.

Mr. TEAGUE. If the gentleman will yield, Mr. Speaker, I cannot tell the gentleman in detail what the difference is; but it differed in about 35 different ways.

Our sessions lasted all week, almost all day every day, until 4 o'clock this morning, during which time the staffs of the committee, the different members of the committee, and their staffs have been involved in trying to work out the exact language we could all agree on.

I have the exact language in my hand. I did not get a printed copy until a short time ago, about a half hour. Here is a copy for the gentleman.

Mr. EDGAR. Further reserving the right to object, Mr. Speaker, what was the reason for not setting up a conference committee on the differences so that they could be discussed in a more orderly fashion?

Mr. TEAGUE. We are trying to adjourn. It was merely the thought that we could work out our differences and agree on something, and we have worked out a compromise I think will be agreeable to the leadership of the committee, to the White House, to the Veterans' Administration, and to veterans groups.

Mr. EDGAR. Further reserving the right to object, Mr. Speaker, I have some compliments and some complaints to share with the distinguished chairman. I compliment the committee that finally the committee has recognized the need to include in this language the very proper language relating to the WASP program. But I think there are some problems in the language that was delivered to my office early this morning, and I find it very difficult to legislate when we look at these very important issues so quickly.

I am concerned that as we move toward enactment of this particular piece of legislation that we do not act in haste and put something into place which is simply unworkable.

I commend the gentleman for his hard work and his energy in this matter, but I would just like to suggest to the gentleman that in the future it would be helpful if we in the committee and those who are in the leadership could be kept informed. Particularly, we should know the details in advance of issues as they relate to the GI education bill. We have a number of Vietnam era veterans who need help, and the program suggested here perhaps will help them; but it is difficult for us to know the impact of this legislation unless we have the time and ability to review it and to analyze it and understand it in detail.

Mr. TEAGUE. I appreciate the gentleman's comments.

Mr. EDGAR. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. FORD of Michigan. Reserving the right to object, Mr. Speaker, I, too, would like to compliment the committee on taking some action with respect to veterans' education.

While I am not a member of the Committee on Veterans' Affairs, I have probably heard more complaints about the present status of veterans' education in this country than anyone else in the House during the past year. As the chairman of the Subcommittee on Higher Education of the Committee on Education and Labor I have heard those complaints. As a matter of fact, earlier in the year we provided a forum for the complainers and for people in the administration to make their answers in an attempt to bridge the gap of misunderstanding, and give them a chance to straighten out some of their difficulties.

Like the gentleman from Pennsylvania, I am happy to see that the Veterans' Committee has dealt to some degree, although not as far as I am sure the education community would like to go, with the 85–15 rule as it is called. I am afraid that in their zeal to move quickly, they continue to persist in not talking to the education community. Both the gentleman from Minnesota (Mr. QUIE) and I have expressed concern about this in the past, and what they are doing in this measure is buying a new package of trouble to replace the old package of trouble. I would have hoped that if they had gone to conference where there are Members of the other body on the conference who also serve on the Higher Education Committee, in that body, they might have been able to work this out with them.

The other improvement that has been made is to deal with the 2-year rule, which has colleges and universities very upset and veterans very upset, by permitting the Administrator of the Veterans' Administration to provide waivers when he believes that this is consistent with good education policy. He heretofore has not had that power. The experience of our committee with Max Cleland, the Administrator of the Veterans' Administration, indicates to us that he is very anxious and willing to meet the problems that are being articulated by veterans and by institutions of higher education across the country. Given this new latitude by the committee bill, I am confident he will respond to it and do well.

Very frankly, Mr. Speaker, we find ourselves now in the position where we endanger the legislation by objecting to the gentleman's request. There are those who have suggested that this request is a devious tactic, but as one who asks unanimous consent for legislation around here once in awhile. I do not subscribe to that. I would simply like to serve notice, however, Mr. Speaker, that if the problems that we see still existing here are going to continue, then after the first of the year the Committee on Education and Labor is going to have to get together with the Committee on Veterans' Affairs, because if we are going to be asked to clean up their mess continually and respond to the unhappiness in the education community that is being created by their repeated confrontation with that community, we would like to have them be a little bit more cooperative than they have been up until now in dealing with the problems of higher education for veterans, who are fully entitled to them.

I am saddened by the fact that on its face this piece of legislation, which will now pass, I am sure, because of the 6-percent increase that is involved, if for no other reason, is in fact going to be perceived by the veterans who are the age of my son as an "anti-Vietnam-era veteran" bill, and I have to say for the record, Mr. Speaker, I think they are right. The attitude that is being expressed repeatedly by this House through its Veterans' Committee toward the Vietnam-era veteran is going to cause continued bitterness that is going to redound to the disadvantage of all of us who are veterans and the organizations to which we belong. I think the veterans organizations, in putting so much pressure on the Veterans' Committee to tighten the reins on education with some belief that somehow that will improve conditions for a different veteran from a different generation, are shortsighted in the extreme and will not serve the best interests of all veterans of all ages over the near- and far-reaching future of this country.

Mr. Speaker, as a matter of fact, because of the very high respect and deep regard that I have for the gentleman from Texas (Mr. TEAGUE) in spite of the unhappiness and the discomfort that I feel in doing this, I withdraw my reservation of objection and hope that we will be able to work together in the future so that this will not happen again.

Mr. TEAGUE. Mr. Speaker, I appreciate the gentleman's remarks, and I guarantee to this House that we will work all day and all night with the gentleman

from Michigan (Mr. FORD) whenever he gets ready.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. QUIE. Mr. Speaker, reserving the right to object, I am glad that the committee recognizes the need to give an opportunity to a student, who is going to have some higher costs of an institution, to get a better break than is presently the case.

The way it is now, as the committee understands the figures, in a couple of the States most of the money that is received by the GI can be used for his own subsistence for board and room. In others the tuition fees are much higher, especially in private institutions. For example, in San Francisco, a veteran attending San Francisco State University would only have to spend 15 percent of his annual benefits for tuition. By contrast, a veteran is attending Temple University in Philadelphia, which receives State aid would have to spend 57 percent of his benefits for tuition. The situation is even worse if the veteran choses a private school like Bucknell, whose tuition alone could exceed benefits by several hundred dollars.

The thing that bothers me in the proposal the gentleman has made is that it would depend on the States to put up the one-third of the amount of money so that the student can borrow up to $2,500 per year. Some States have constitutional reasons within the State which will prohibit them from putting up money for the students to go to private institutions. That means we are foreclosed from assisting students in those States.

I imagine the reason why we put in that State requirement is that a few States have such low support for their own institutions that we think some of those ought to help in the same way. But the benefit for the GI is something that has always been of Federal importance, Federal concern, and Federal responsibility, because this was service performed in defense of our country.

I would say this was my greatest concern. I am torn in this dilemma. I was hoping the committee would go to conference and try to work this out with the other body. What I look for is at least an expression of concern for the GI who chooses to go to a higher cost institution. But because of the necessity to move ahead with the legislation, even though we have this disparity, I am not going to object at this time. However, I would say to the chairman of the subcommittee that this is a concern I have. My hope is that after we have done this today we can still go back and try to arrange a fairer program similar to that which some of us benefited from after World War II. A program that a GI would be able to use to attend a private institution, as I did, and still have a decent amount of money left to pay for room and board. That is the big concern I have and the bill before us today is still unfair and inequitable. The law must be changed to give the veteran equal access to all postsecondary schools.

Mrs. HECKLER. Mr. Speaker, reserving the right to object, I should like to ask the distinguished chairman of the subcommittee to describe for the body the substance of the amendment. I am asking the distinguished chairman of the Subcommittee on Education and Training of the Committee on Veterans' Affairs to summarize for the body the substance of the amendment which we are now considering.

Mr. TEAGUE. Mr. Speaker, the chairman would like to be sure what the gentlewoman is asking about. Is she asking about the increase in the money?

Mrs. HECKLER. I am asking for a brief summary of the entire amendment.

Mr. TEAGUE. Mr. Speaker, on September 12, 1977, the House passed by a vote of 397 to 0, H.R. 8701, the GI Bill Improvements Act of 1977.

The bill provided a 6.6-percent cost-of-living increase in GI bill educational assistance allowances. The increase would have provided approximately 1.6 million veterans and eligible dependents going to school under the GI bill with about $500 million in additional increases effective October 1, 1977.

In addition, the House-passed bill responded to a number of complaints and criticisms by the educational community with regard to some tightening provisions of Public Law 94–502, which was enacted to curb abuses and exploitations of the GI bill.

On October 19, 1977, the Senate returned the bill to the House with major amendments. The cost of the Senate proposal was estimated to be about $1.036 billion dollars in fiscal year 1978, more than double the cost of the House measure.

The Senate bill included many provisions not in the House-passed bill.

Among these were:

First. A 2-year extension of the delimiting period;

Second. A new accelerated benefits program designed to provide additional assistance to veterans going to school in States where low-cost public education is not readily available; and

Third. The granting of veterans' benefits to any person who served as a Federal civilian employee in the Women's Air Forces Service Pilots during World War II.

Title III of the Senate bill generally would amend a number of administrative provisions of the GI bill program.

Mr. Speaker, in an attempt to get a meaningful bill enacted prior to the adjournment of the Congress so that every veteran enrolled in school this fall would get an increase in his or her monthly checks, we are proposing the following amendment to the Senate amendment:

First. Provide for a 6.6-percent cost-of-living increase for all veterans and eligible dependents. The amendment would increase from $292 per month to $311 per month the amount a veteran without dependents would receive in institutional training on a full-time basis. Benefits for a veteran with one dependent would be increased from $347 to $370 per month. The rate for a veteran with two dependents would be increased from $396 to $422 per month.

Mr. Speaker, if enacted, these increases will mean that a single veteran shall be entitled to $13,995 dollars to assist him in getting his education even though he served no more than 18 continuous months of active duty in the military service. It will provide a married veteran with $16,650 toward meeting expenses for his education and for the veteran with a wife and one child, $18,990 in cash assistance.

Second. The proposed amendment would modify the accelerated entitlements program of the Senate bill as follows:

Any veteran, subject to other limitations, would be eligible to borrow up to $2,500 per school year (presently limited to $1,500 per school year), as follows:

Veteran would be required to qualify for such loan on the basis of need;

Veteran would not be required to have sought loans from other suorces; and

Veteran enrolled in a course leading to a standard college degree or courses not meeting the 6-month requirement (not presently eligible for the VA education loan program) could qualify for the expanded loan program upon an exception granted by the Administrator.

When the veteran completes the program of education in which enrolled (for example, obtains the degree he is seeking) he or she—subject to the accelerated program computation limitations regarding the 45 months of entitlement—will, if a full-time student, be eligible for cancellation of up to two-thirds of the total loan under a combined Federal-State program as follows: For each dollar which the State in which the veteran was enrolled in the program of education matches up to one-third of the total loan amount, the VA will cancel a dollar of the total loan amount (up to one-third of the total loan amount). The amount against which the 66⅔/33⅓ discharge provision would apply is the amount by which tuition and fees exceed $700 per school term.

Third. The proposed amendment would provide for a limited extension of the delimiting period in lieu of that passed by the Senate.

Under current law, a veteran is eligible for a VA education loan only to the extent he or she has entitlement (maximum of 45 months) and is within the 10-year delimiting period.

Under the proposed compromise, a veteran enrolled on a full-time basis at the time the delimiting date passed would (to the extent he or she had monthly loan entitlement remaining) be eligible for a VA loan of up to $2,500 during each of the 11th and 12th years provided such veteran continued in full-time training in that course until that program is completed.

Such veteran would have to qualify on the basis of need, but would not be required to meet the "turndown rule" or be excluded if they were in violation of the standard college degree or 6-month requirements currently applicable to the loan program. All the provisions of the liberalized loan program would be applicable to loan entitlement in the 11th and 12th years.

In addition, the compromise would extend the period of time a veteran has to utilize his or her GI bill benefits when the veteran has a mental or physical disability, not the result of his or her own

misconduct, which the Administrator finds prevented the veteran from initiating or completing a course of study.

Fourth. Based on the record established during recent House hearings on pending legislation to grant veterans' benefits to any person who served as a civilian Federal employee in the Women's Air Forces Service Pilots during World War II, the proposed amendment would provide that service as a member of the WASP shall be considered active duty for the purposes of all laws administered by the Veterans' Administration provided that the Secretary of Defense, after a full review of historical records and all other available evidence, determines on the basis of judicial and other appropriate precedents, that the service of such group constituted active military service, and on the basis of such determination, issues to such a member, a discharge from such service under honorable conditions. In addition, the Secretary would be required to review and make such a determination with respect to the service of each other similarly situated groups who rendered service in a civilian capacity. Based on the evidence of record of our hearings, and recent communications we have had with the Department of Defense and the White House, I have no doubt the Secretary is willing to make such determinations, not only for members of the WASP, but the World War I Signal Corps Women and many other similar groups.

At this point I submit for the RECORD a copy of a recent letter brought to my attention as to the Defense Department's position on this issue:

THE DEPUTY SECRETARY OF DEFENSE,
Washington, D.C., October 21, 1977.

Mr. JAMES T. MCINTYRE, Jr,
Acting Director, Office of Management and Budget, Old Executive Office Building, Washington, D.C.

DEAR JIM: I would like to review with you the Department of Defense position on H.R. 3277 and similar bills to provide recognition to the Women's Air Force Service Pilots (WASPs).

The previous position of the DoD was to defer to the Veterans Administration as the executive agency with principal responsibility. Recently, a historical review of the WASP program revealed certain facts and arguments that appear to us to warrant support of the WASPs legislation. This would not only correct past inequities, but would also represent a strong symbolic statement of this Administration's commitment to equality and the All Volunteer Force.

The Department of Defense supports recognition of the WASPs service to their country during World War II. We believe their service should be treated as active duty in the Armed Forces of the United States for purposes of laws administered by the Veterans Administration.

Sincerely,

C. W. DUNCAN.

Finally, we would propose to amend a number of administrative provisions of the GI bill program. The proposed changes are designed to address the concerns expressed by various schools, organizations, and individuals who testified during several days of hearings earlier this year by our Subcommittee on Education and Training.

A. 6.6 PERCENT EDUCATION AND TRAINING RATE INCREASE

Mr. Speaker, as I indicated previously, the House-passed bill provides for a 6.6-percent cost-of-living increase. It was believed that the increased rates outlined in H.R. 8701 would be identical to the 6.6-percent cost-of-living increase provided in H.R. 8701 as amended by S. 457. It was discovered in a number of instances in rounding out the increased amounts that the Senate rates are $1 more than the proposed rates in H.R. 8701. Therefore, the amended H.R. 8701, which we are returning to the Senate, contains increased rates identical to the rates in S. 457 as incorporated in H.R. 8701.

Because of the increased amounts of $1 in a number of instances, the cost of H.R. 8701 is now estimated to be $510 million in contrast to the estimated cost of the increased rates initially outlined in H.R. 8701 as passed by the House, which was $483 million.

The administration recommended only a 5-percent increase; however, the committee was advised that the actual cost-of-living increase for tuition, fees, books, supplies, and living allowances has increased by 6.6 percent since the last increase which went into effect October 1, 1976. Based on this information, the committee recommended and the House approved a 6.6-percent increase when H.R. 8701 was passed on September 12.

Mr. Speaker, the Veterans' Administration administers a number of education and training programs for veterans and their dependents. Generally, the focus of attention has been on the GI bill which trains and educates the great majority of Vietnam veterans. However, during the Vietnam war there were more than 300,000 who were wounded in action in Southeast Asia. Many of these veterans are receiving compensation from the Veterans' Administration and in addition, suffer vocational handicaps because of their service-connected disabilities. Under the vocational rehabilitation training program for disabled veterans, there is provided, in addition to the cost of the training and education, a subsistence allowance. Presently, the amount of subsistence for a veteran with no dependents is $226 and with one dependent, $280. Under the proposed 6.6-percent increase, the subsistence for a single veteran would be increased to $241 and to $298 for disabled veterans training under the vocational rehabilitation program.

The Veterans' Administration also administers a program authorized by Congress which is referred to as the survivors and dependents education assistance program. Under this program certain spouses and children of veterans with a permanent and total disability and the surviving spouses and orphans of a veteran killed in action or who died of service-connected causes are entitled to monthly educational assistance allowances at the same rate that is provided veterans under the GI bill. The rates for survivors and dependents will also be increased by 6.6 percent in H.R. 8701.

Mr. Speaker, the education and training program which receives most of the attention is the GI bill. Generally, under the GI bill a veteran can receive education and training to attain a vocational, educational, or professional goal whereever education and training is provided by an approved institution. Many of these training programs are specialized training or below college level. The education and training rates for veterans using these programs are different than the education and training assistance provided for veterans attending the traditional higher education courses offered by colleges and universities. For example, under the GI bill veterans can train in cooperative training programs, farm cooperative programs, flight training, correspondence training, and apprenticeship and on-the-job training. The rates for these education and training programs will be increased by 6.6 percent in H.R. 8701.

It is estimated that almost 2 million veterans and their dependents will receive educational assistance under one of these programs authorized by Congress for veterans who served during the Vietnam conflict or if deceased or totally and permanently disabled, their spouses and children. In other words, approval of H.R. 8701 will add $510 million to the monthly checks of Vietnam veterans and their dependents during this fiscal year effective October 1.

EDUCATION AND TRAINING AMENDMENTS

The House-approved H.R. 8701 contained a number of provisions to improve the administration of the GI bill. The 94th Congress adopted a number of tightening provisions as provided in Public Law 94–502. Many of these provisions were strongly objected to by the educational community. During the past year the committee has been working closely with the Veterans' Administration to make the regulations implementing the tightening provisions workable and fair to both the veteran and the educational institution. For example, the initial instructions as contained in a VA circular which implemented the 85–15 rule was met with a storm of protest by the educational community. Working with the educational community the VA, under the authorization by Congress to waive the 85–15 rule when in the interest of the veteran and the Federal Government, the instructions on the 85–15 rule have been changed on a number of occasions. First the Veterans' Administration postponed counting HEW grant assistance; namely, BEOG's and SEOG's to June 30, 1977 (subsequently, the VA has again postponed counting BEOG's and SEOG's to June 30, 1978).

In helping the school ease the burden on reporting on the 85–15 rule, the VA has provided in its regulations that schools which have 35 percent or less veteran enrollment do not have to report the number of veterans on a course by course basis except in those instances where there is a heavy concentration of veterans in the courses. The VA has informed the committee that about 95 percent of the schools do not have a veteran population of over 35 percent on a schoolwide basis; and therefore, they do not have to report to the VA on the 85–15 requirement.

A provision in the House-passed bill would have repealed the statute that BEOG's and SEOG's be counted as part

of the 85–15 rule. In repealing the 85–15 rule as it applies to BEOG's and SEOG's H.R. 8701 continues the waiver authority of the VA to make exceptions to the 85–15 rule when a course of training is in the interest of the veteran and the Federal Government.

Another provision of Public Law 94–502 extended the so-called 2-year rule to branches and extensions of educational institutions which had previously been exempt. Extending the 85–15 and the 2-year rules to previously exempt courses for veterans reflected the concern of Congress of the sharp increase in abuses of the veterans' education and training programs during recent years. Information reaching the committee, however, indicates that the extension of the 2-year rule to branches and extensions is accomplishing the purpose of Congress to curb and reduce identified abuses and exploitation of the GI bill. At the same time, however, information also indicates that the requirement that a course must have been in operation for 2 years or more may not be equitable in all circumstances. There may be exceptions where a course which has been in operation only a short period of time could meet the standards of quality education and be in the national interest to train veterans for the goals or vocations provided by courses which do not meet the 2-year rule. A provision in H.R. 8701 would authorize the Veterans' Administration to exempt from the 2-year rule branches or extensions where the Administrator finds it to be in the interest of the veteran and the Federal Government.

A proposed change in H.R. 8701 as approved by the House relates to courses offered outside the United States on or adjacent to military bases under contract by the Department of Defense. Under current law attendence is restricted to these courses to active-duty military personnel and/or their dependents. The committee was informed that there are American civilians stationed outside the United States who desire to take courses which are now limited to active-duty military personnel and their dependents. It was advocated to be in the national interest to permit American civilians who are working outside the United States to have the opportunity to take these specialized courses which are presently limited to servicemen who are entitled to educational assistance under the GI bill and their dependents.

H.R. 8701, as passed by the House on September 12, also contained a provision which allows the Administrator to determine the circumstances under which an extension may be granted to the approved length of time for satisfactory progress. The purpose is to provide the Veterans' Administrator with more flexibility in carrying out the satisfactory progress provision as amended by Public Law 94–502. The committee has worked closely with the VA on the satisfactory progress requirement to make sure that the best interests of the veteran are being served but at the same time, not adding to the overpayment and abuse problem traceable to satisfactory progress requirements which existed prior to Public Law 94–502.

Two other provisions of the House-passed H.R. 8701 include a 5 percent increase in the reimbursable administrative expenses paid to State approving agencies and a definition of a disabled veteran for employment purposes in the Department of Labor programs to be a veteran disabled at 10 percent or more rather than the present 30 percent.

As I indicated previously, the Senate has amended H.R. 8701 to add a number of provisions which were not in the House-passed bill and have also amended some of the provisions which were approved by the House on September 12 by a vote of 397 to 0. At this time I will discuss some of the new provisions and the compromise which we have agreed to.

Mr. Speaker, there has been criticism of H.R. 8701 with regard to the failure of the committee to recommend to the House provisions which would, if accepted, depart from the long-established principle of equal benefits for equal service rendered by the veteran. H.R. 8701 proposes a straight across-the-board increase. How this money is to be used is left to the judgment of the veteran to best fit his circumstances. It was argued that the present program, for example, is inadequate particularly when compared to the assistance provided veterans of World War II. Some have advocated tuition assistance or a tuition equalizer. A basic underlying argument for additional money for veterans attending high-cost schools is the difference in tuition and fees charged by postsecondary institutions in one region of the country as opposed to other regions. Our committee took a long, hard look at these issues; and I can assure the House that the present educational assistance available to Vietnam veterans is comparable and in many respects better than veterans of World War II.

During the committee hearings, a number of witnesses indicated that the GI bill rates do not compare favorably with the assistance which was provided veterans in previous wars. As stated previously, it is clearly the intent of Congress that the GI bill benefits is to meet in part the expenses of tuition, books, fees, supplies, subsistence, and other education related costs. However, there are other education related costs. However, there are other sources of educational assistance available to Vietnam veterans to help defray the remainder of his or her expenses, not available to World War II veterans.

First. Monthly assistance allowance.—The reported bill would increase from $292 per month to $310 per month the amount a veteran without dependents would receive in institutional training on a full-time basis. Benefits for a veteran with one dependent would be increased from $347 to $369 per month. The rate for a veteran with two dependents would be increased from $396 to $421 per month.

Second. Loan program.—Public Law 93–508 authorized an education loan program for eligible veterans. Under the program an eligible veteran may obtain a loan if he or she pursues training in a State and need is established. Initially the maximum loan for a regular academic school year was $600. Public Law 94–502 increased the amount to $1,500. Latest statistics indicate there has been an increase in the number of loans since the maximum was raised to $1,500. The Veterans Administration revised its regulations this year so that the procedures for obtaining a loan is much simpler and easier for the veteran.

A compelling reason for raising the maximum loan amount last year was to provide additional assistance to veterans attending higher cost institutions to help meet higher education and living expenses at those institutions.

Third. Work study program.—Veteran-students enrolled as full-time students may agree to perform services and receive an additional allowance. A student who agrees to work 250 hours receives $525. A student who agrees to work a lesser number of hours gets a proportionately lesser amount. If 100 hours or more are agreed to be worked, the amount of $250 is paid in advance (proportionately less if less than 100 hours are to be performed). The hours are to be worked during or between enrollment periods during a semester or other applicable enrollment period. The benefits are paid by the Veterans Administration, but the student's work may be performed at a VA office or at the school.

Fourth. Tutorial assistance.—Veterans or service personnel in post-secondary (above high school) training at educational institutions on a half-time or more basis, who need tutorial assistance may qualify for tutorial payments not to exceed $65 (increased to $69 under the reported bill) a month for a maximum amount of $780 ($828 under the reported bill) with no charge against basic entitlement.

Fifth. Special assistance for the educationally disadvantaged.—Special assistance is available to educationally disadvantaged veterans to encourage and assist such veterans who have academic deficiencies to attain a high school education or its equivalent in order to pursue postsecondary education. Under this program a monthly educational assistance allowance of $292 presently, and $310 under the reported bill, is provided without charge to any period of entitlement the veteran may have earned. Thus, the veteran may complete his high school education receiving his monthly assistance, and then continue his education under this program for the maximum additional 45 months.

Sixth. Assistance under other Federal programs.—The Federal Government also provides educational assistance to veterans and other students through five programs administered by the Department of Health, Education, and Welfare. The basic educational opportunity grant program (BEOG) makes funds available to eligible students attending approved colleges, community/junior colleges, vocational schools, technical institutes, hospital schools of nursing, and other post-high school institutions. The amount of grants under this program is calculated by the school and is based on determination of eligibility and the cost of attendance at the school.

Grants are also available under the supplemental educational opportunity grant program (SEOG) which may range between $200 and $1,500 per year, but may not exceed $4,000 for a 4-year course or $5,000 for a 5-year course. These grants are available to undergraduate or vocational students who can demonstrate exceptional financial need.

HEW also has a college work-study program which provides jobs for students who have great financial need and who must earn a part of their educational expenses. Under this program, a student may work up to 40 hours per week with a salary at least equal to the current minimum wage.

Two additional loan programs are available through HEW to provide educational assistance. The national direct student loan program (NDSL) and the guaranteed student loan program (GSLP) provide immediate assistance with the repayment deferred until at least 9 months after termination of training. Loan amounts under NSDL are limited depending on the program being pursued but may not exceed $10,000 in any case. The loan limit under the GSLA program is $15,000.

The Federal Government also provides educational assistance through a wide variety of other programs. Many federally backed scholarship programs are available through Government agencies (e.g.—National Science Foundation) and through enactment of public laws (e.g.—Harry S. Truman Memorial Scholarship Program). Other federally supported programs through which veterans may obtain education assistance include the law enforcement education program, the nursing student loan program, and the health professions student loan program.

ADEQUACY OF THE PROGRAM

The latest VA statistics indicate that all veterans who are in training under chapter 34 of the GI bill who have one or more dependents is 75.4 percent. Under the proposed increases in the bill, a veteran with one dependent would be entitled to receive $369 a month for a total of $3,321 which together with a VA loan of $1,500, would be a total of $4,821 for a school year. For a veteran with two dependents, a veteran under the proposed increases in the bill would be entitled to receive $3,789 in education assistance, which together with an additional $1,500 VA loan would be a total of $5,289. It is readily apparent, therefore, that veterans under the proposed rates in this bill who also utilize the VA loan program would have sufficient educational assistance for tuition, books, and fees and living expenses in the great majority of educational institutions throughout the Nation.

In further regard to the adequacy of the present VA education assistance program, a study conducted by the Veterans' Administration authorized by Public Law 93–508 on education tuition assistance indicated that tuition cost was not the principal factor in the selection of a school for over 90 percent of Vietnam veterans training under the GI bill. The main reasons given for selection of a school were geographic location of the school and the field of study. Again the increased rates proposed in this bill should be adequate for the great majority of veterans with the VA educational loan making it possible for most veterans to meet the cost of tuition, fees, and living expenses at almost all schools.

Our subcommittee also examined carefully the argument that the GI bill should provide more money for those attending a high-cost school than a veteran who does not.

It is clearly the intent of Congress to legislate for the veteran rather than for the benefit of specific educational institutions. In this regard, the committee has consistently looked to the average expenses incurred and adjusted the benefit rates accordingly. The over-riding objective has been to provide equal benefits for equal service and to provide benefits consistent with the goal. Thus, the committee feels that it should be up to the individual veteran to determine which educational institution would best suit his readjustment needs and to allow him the freedom of choice to make this decision.

Another yardstick used to measure the effectiveness of the GI bills is the number who have participated. For example, out of a total of 15.4 million veterans of World War II, 7.6 million did not use 1 day of entitlement under that program. Under the Korean conflict GI bill, out of a total of 5,727,000 veterans 3,327,000 did not use any education and training assistance. From a percentage standpoint 50.5 percent of the veterans of World War II trained under the World War II GI bill, and 43.4 percent trained under the Korean GI bill. To date, even though the Vietnam-era GI bill will not terminate until December 31, 1989, more than 64.3 percent of Vietnam-era GI bill eligibles have participated. At this point, I am making part of my remarks a list of trainees by State under each of the three GI bills based on their residence at the time the veterans applied for benefits followed by a comparison of the participation rates of the three GI bills.

3 GI BILLS—EDUCATION AND TRAINING: STATE PARTICIPATION BY PERIOD OF SERVICE

[In thousands]

State	World War II			Korean conflict			Peacetime post-Korean conflict			Vietnam era		
	Veteran population [1]	Total trained [2]	Participation rates (percent)	Veteran population [1]	Total trained [2]	Participation rates (percent)	Veteran population [1]	Total trained [2]	Participation rates [3] (percent)	Veteran population [1]	Total trained [2]	Participation rates [3] (percent)
Grand total	15,440	7,800	50.5	5,509	2,391	43.4	3,077	1,396	45.4	8,533	4,745	55.6
U.S.—State total	15,315	7,757	50.6	5,456	2,345	43.0	3,041	1,383	45.5	8,436	4,717	55.9
Alabama	253	171	67.6	86	61	70.9	45	27	59.4	120	85	70.5
Alaska	(*)	6	NA	7	2	28.0	6	2	32.4	16	8	50.8
Arizona	74	40	54.1	46	17	37.0	31	21	67.5	92	69	75.3
Arkansas	156	104	66.7	36	23	63.9	25	12	47.1	73	42	57.5
California	1,187	581	48.9	651	245	37.6	334	208	62.3	966	683	70.7
Colorado	147	87	59.2	61	30	49.2	40	23	57.0	118	81	68.3
Connecticut	224	89	39.7	89	30	33.7	47	17	35.9	125	55	43.6
Delaware	34	15	44.1	14	4	28.6	10	4	40.7	25	14	57.2
District of Columbia	107	99	92.5	29	35	NA	11	10		24	47	
Florida	289	171	59.2	175	71	40.6	109	51	46.5	318	189	59.5
Georgia	290	191	65.9	100	66	66.0	70	30	42.3	204	119	58.4
Hawaii	(*)	19	NA	15	8	53.3	12	5	44.9	34	29	85.3
Idaho	57	33	57.9	17	8	47.1	11	6	50.8	31	18	57.4
Illinois	936	444	47.4	306	120	39.2	158	61	38.4	416	206	49.4
Indiana	400	162	40.5	141	51	36.2	79	29	37.0	220	95	43.2
Iowa	228	111	48.7	75	33	44.0	41	17	41.8	108	53	49.2
Kansas	188	88	46.8	60	23	38.3	32	13	40.4	89	50	56.4
Kentucky	245	115	46.9	73	34	46.6	43	17	39.4	116	62	53.8
Louisiana	238	156	65.5	80	47	58.8	46	22	46.9	125	74	58.8
Maine	82	39	47.6	26	8	30.8	15	7	46.0	41	24	57.5
Maryland	242	123	50.8	110	30	27.3	65	26	39.4	185	86	46.4
Massachusetts	522	247	47.3	168	75	44.6	89	41	45.9	245	107	43.7
Michigan	681	276	40.5	229	79	34.5	129	57	44.2	353	188	53.2
Minnesota	300	144	48.0	104	53	51.0	61	28	45.3	179	91	50.9
Mississippi	165	119	72.1	40	28	70.0	23	9	40.2	61	36	59.8
Missouri	388	228	58.8	128	63	49.2	71	31	43.9	196	110	56.1
Montana	57	30	52.6	19	8	42.1	12	5	40.4	29	18	61.5
Nebraska	122	66	54.1	40	23	57.5	22	11	47.9	60	36	59.9
Nevada	17	8	47.1	14	2	14.3	11	5	49.4	27	16	57.5
New Hampshire	57	23	40.4	20	6	30.0	14	6	43.6	37	18	48.7
New Jersey	559	211	37.7	203	55	27.1	110	37	34.0	280	109	39.0
New Mexico	71	37	52.1	30	14	46.7	15	9	57.6	40	31	77.9
New York	1,609	790	49.1	495	202	40.8	237	101	42.6	603	310	51.5
North Carolina	344	198	57.6	109	62	56.9	68	31	46.0	190	129	67.8
North Dakota	46	23	50.0	14	10	71.4	8	4	52.5	18	17	96.2
Ohio	855	384	44.9	297	96	32.3	157	57	36.5	434	195	44.8
Oklahoma	221	135	61.1	67	41	61.2	40	19	46.7	121	171	58.5
Oregon	168	77	45.8	54	21	38.9	37	18	49.0	112	59	52.9

3 GI BILLS—EDUCATION AND TRAINING: STATE PARTICIPATION BY PERIOD OF SERVICE—Continued
[In thousands]

State	World War II			Korean conflict			Peacetime post-Korean conflict			Vietnam era		
	Veteran population [1]	Total trained [2]	Participation rates (percent)	Veteran population [1]	Total trained [2]	Participation rates (percent)	Veteran population [1]	Total trained [2]	Participation rates (percent) [3]	Veteran population [1]	Total trained [2]	Participation rates (percent)
Pennsylvania	1,180	588	49.8	334	144	43.1	173	65	37.6	472	204	43.3
Rhode Island	96	33	34.4	27	12	44.4	15	10	63.5	43	23	54.3
South Carolina	164	102	62.2	55	31	54.3	36	17	47.8	107	73	67.9
South Dakota	59	27	45.8	18	12	66.7	9	6	70.1	19	17	87.4
Tennessee	298	203	68.1	94	52	55.3	57	26	45.3	159	95	60.0
Texas	783	453	57.9	273	140	51.3	168	77	45.5	484	279	57.6
Utah	74	46	62.2	30	20	66.7	17	11	62.4	52	28	53.3
Vermont	32	16	50.0	12	4	33.3	8	2	25.1	20	7	36.6
Virginia	301	118	39.2	120	35	29.2	70	23	33.3	205	111	54.1
Washington	233	111	47.6	95	40	42.1	63	31	48.5	193	119	61.9
West Virginia	195	73	37.4	46	22	47.8	22	10	43.4	61	35	56.9
Wisconsin	313	132	42.2	113	43	38.1	64	29	45.6	175	88	50.5
Wyoming	28	15	53.6	11	3	27.3	5	2	44.2	14	8	60.3
Outside United States, total	125	43	34.4	53	45	84.9	36	13	35.1	97	28	29.2

[1] Estimates of veteran participation are based upon net separations from the Armed Forces and therefore includes some persons not eligible for training under the GI bills.
[2] Estimates of State distribution of trainees are based upon location of training facility for World War II and Korean conflict veterans and on State of residence at time of original application for post-Korean and Vietnam era veterans. Trainee counts for World War II and Korean conflict are as of end of program while those for later service periods are as of April 1977.
[3] Based on unrounded data.
* Less than 500.
Note: Column totals may not add due to rounding.

CITATION OF AUTHORITY

A Senate amendment would add a new requirement that the Administrator, in the promulgation or issuance of any rule, regulation, guideline, or other published interpretation of title 38, United States Code, or any amendment thereto, to provide a citation or citations to the particular section or sections of statutory law or other legal authority upon which it is based.

In implementing the laws, the Veterans' Administration issues a number of procedural guidelines, bulletins, and other interpretations which are not substantive in nature. There have been a number of instances where procedures to implement a new statute have contained substantive interpretations. The Senate amendment would require that there be citations to the particular section or sections of the law or other legal authority upon which each VA rule, regulation, or guideline or similar instruction and interpretation is based. Such requirements contemplate facilitating the work of service officers of veterans organizations and others who represent veterans and their dependents before the Veterans' Administration. Since most experienced veterans' service officers are experts in the field of research and interpreting VA laws and regulations, a requirement that citations and authorities be mandated under this provision may be superfluous.

Notwithstanding, there are many who participate in the administration of the education and training programs, such as school officials, who are not familiar with VA laws, regulations, rules, and bulletins. For these reasons the House concurs with the Senate amendment requiring in the future citation of authorities for the basis of a regulation, instruction, circular, or bulletin.

COUNSELING

The House concurs with the amendment to section 1663 of title 38 to provide eligible veterans with more extensive VA education counseling services. The amendment agreed to by the House effectively carries out an amendment to the counseling program introduced by Mr. TEAGUE and Mr. HAMMERSCHMIDT in bills pending before this Committee. Presently, a comprehensive education counseling service is available to veterans by the VA under current law. It has been charged that many veterans are not aware of the counseling service which is available. This section of the law would be amended to require the administrator to carry out an effective outreach program to aquaint all eligible veterans with the availability and advantages of educational counseling and to place greater emphasis on obtaining a job or employment.

STATE APPROVING AGENCIES

The Senate agrees with the House provision that the amount of money which State approving agencies are reimbursed for expenses be increased by 5 percent. The State approving agencies under the contractual agreement with the VA approves educational courses for purposes of GI bill enrollment. The House agrees with the Senate amendment which would require the SAA to periodically report to the Administrator on the specific activities, approvals, and disapprovals during the preceding year.

REPORTING FEE

Under present law a reporting fee of $5 is paid to educational institutions to reimburse the institution for the cost incurred in filing with the Veterans Administration required reports on veterans and eligible persons enrolled in such institutions. Schools participating in the advance payment program are paid $7, or an additional $2. Under the amendment approved by the House, the reporting fee would be increased from $5 to $7 and from $7 to $11 for schools participating in the advance payment program.

NO OFFSET OF REPORTING FEES FOR OVERPAYMENT LIABILITY

A number of schools have been assessed for overpayment liability of VA educational payments to veterans as prescribed by present law. While there is no evidence that the Veterans Administration has reduced school overpayment liability by the amount of the reporting fee the institution is entitled to receive, there has been some apprehension that this may be done in the future. The House concurs in the amendment which would prohibit the administrator from attempting to collect any administratively determined institutional liability for overpayments under section 1785 of title 38, by offsetting the amount of reporting fees to which an institution may be entitled under section 1784(b), unless such liability is not contested or not upheld by an appropriate court of jurisdiction.

RELIEF FOR CERTAIN EDUCATIONAL INSTITUTIONS HOLDING GI BILL CHECKS

Public Law 94–502 terminated the cashing of checks under a power of attorney executed by the veteran when attending certain schools. An unfortunate V.A. general counsel's interpretation of the absolute prohibition in section 38 U.S.C. 3101 regarding the nonassignability of Vietnam veterans' benefits required the Congress to terminate a practice which had become widespread among certain institutions authorizing the educational assistance allowances to be mailed to an attorney-in-fact at the veteran's or serviceman's address coupled with a power of attorney giving the attorney-in-fact the authority to cash the check. This practice is no longer permitted under a provision of Public Law 94–502. A number of educational institutions in accredited correspondence schools received educational assistance allowance checks made payable to veterans for courses which began before the cut-off date of December 1, 1976, specified in Public Law 94–502. These checks, which have never been cashed, were in the main for courses which had been taken or in the process of being taken by the veteran, received by the school before December 1, 1976, and not cashed before that date or were received by the school subsequent to December 1, 1976, and, therefore, not cashable under Public Law 94–502. Many of these checks represent training provided under the PREP program, which was terminated by another provision of Public Law 94–502. The Senate has added an amendment to which the House agrees, which spells out the criteria which must be made for the institution holding these nonnegotiable checks. The VA favors this provision to provide equitable relief for educational institutions having in their possession valid GI bill benefit checks. It is believed that in equity and good conscience this provision will bring to a satisfactory conclusion the problem created by these institutions because of the termination of the power to cash the

checks as authorized by the aforementioned unfortunate VA decision regarding assignability of VA checks.

VOCATIONAL REHABILITATION STUDY

A cornerstone of all veterans programs is assistance and benefits for the service-connected disabled. Since World War I, Congress has authorized vocational education and training for those citizens who were so disabled while in the service that they suffered a vocational handicap as a result of their disabilities. Beginning with World War II, the vocational rehabilitation program has been available to help disabled veterans overcome their handicaps and obtain employment in their chosen field of study and education. Notwithstanding the noble purpose of the Vocational Rehabilitation program, to assist service-connected programs, there have been a number of very seriously disabled veterans from World War II who have not successfully been rehabilitated to date. A provision of Public Law 94–502, for example, has extended the authority of the Veterans' Administration to extend the time required for seriously disabled veterans whose conditions have worsened to be provided additional vocational rehabilitation.

The Vietnam war witnessed a number of seriously disabled veterans with the most crippling injuries in the history of medicine. The use of helicopters and other developments in military medicine were a basis for saving the lives of thousands of Vietnam veterans who would have perished on the battlefield in previous wars. The vocational rehabilitation program has remained essentially the same in its scope and purpose since World War II. The leading advocate for overhauling the vocational rehabilitation program is the PVA whose members include some of the most seriously disabled veterans of all our wars. For these reasons, therefore, the House concurs in the Senate amendment which calls for the Veterans' Administrator to make a thorough, in-depth study of the vocational rehabilitation program with a report to include recommendations for changes in the program.

There are a number of other amendments added by the Senate to which the House has no objection. I am referring to the Senate amendments which would reduce the number of clock hours which an accredited institutional trade or technical course must offer to assure that the veterans enrolled therein are eligible for full-time GI bill benefits—where classroom and theoretical instruction predominates, the required instructional hours are reduced from 22 to 18; and where classroom and theoretical instruction does not predominate, from 27 to 22 hours. In addition, it would limit to 5 the number of hours of supervised study which nonaccredited institutional trade or technical courses are allowed to count in determining compliance with the required clock hours provision, 30 and 25, respectively for theoretical and nontheoretical instruction.

The House recedes from its amendments regarding the definition of a disabled veteran for employment purposes from a required 30 percent disability or more to 10 percent or more. It was argued that veterans with 30 percent or more disability are the group most in need of employment assistance. To include veterans with lesser disability would dilute the effort of the Department of Labor's programs while at the same time make the Department of Labor statistics in helping veterans gain employment misleading as far as seriously disabled veterans are concerned.

85–15 RULE

The Subcommittee on Education and Training held oversight hearings on all provisions of Public Law 94–502. As indicated, the House-passed bill would repeal the statute requiring the counting of BEOG's and SEOG's as part of the 85–percent requirement. However, the House has agreed with the Senate amendment and other requirements regarding the 85–15 rule as follows:

(A) exempt any institution with an enrollment of veterans which comprises 35 percent or less, or such other per centum as the Administrator prescribes in regulations, of the total student enrollment (with main campuses and extensions computed separately) from the requirement of course-by-course computation of the rule, except that, where the Administrator has cause to believe that the GI Bill enrollment in particular courses may exceed 85 percent of the total course enrollment, the Administrator can require computation for the particular course and enforce the rule;

(B) require the Administrator, in consultation with appropriate departments and agencies, to conduct a study and submit to the Congress, by September 30, 1978, a report examining the need for including in the 85–15 computation those students in receipt of grants from any Federal department or agency and the problems of such institutions including such a computation of those students in receipt of grants from any Federal department or agency other than the Veterans' Administration; and

(C) make inapplicable, until the expiration of 6 months after the date of the filing of such report and until such time thereafter as the Administrator shall determine that there is an adequate and feasible system for making such computations and that such computations are desirable and necessary, the provisions contained in the rule requiring the inclusion of the number of students in receipt of Federal grants when determining compliance by educational institutions with the rule.

SATISFACTORY PROGRESS

This is an area of widely varying practices and definitions from one school to another. The hearings in the 94th Congress indicated that veterans could attend class after class, term after term, and never make a passing grade, but be considered to be making satisfactory progress. The educational community is sensitive with regard to requirements by the Federal Government regarding veterans which they believe impugns the integrity of the educational community. Congress has been very careful to legislate in behalf of veterans. If the veteran does not meet certain standards and requirements, no allowance is paid to the veteran. Under the agreed compromise the following is authorized regarding the satisfactory progress rule.

Regarding the satisfactory-progress rule:

(A) Provide the Administrator the authority, in accordance with prescribed regulations, to approve a length of time for course completion exceeding the approved length of the course as certified to the VA by the educational institution.

(B) suspend, during the period of time required to make the study described in item (D) below, the implementation of the satisfactory progress amendments contained in sections 206 and 307 of Public Law 94–502 for any accredited educational institutions submitting to the Administrator catalogs or bulletins which the Administrator determines are in compliance with the provisions of section 1776(b)(6) and (7) of title 38;

(C) require the Administrator, in appropriate instances, to bring to the attention of the Council on Postsecondary Accreditation—or other appropriate accrediting or licensing bodies—any course catalogs or bulletins submitted to the Administrator which the Administrator believes may not be in compliance with the standards of the accrediting or licensing body; and

(D)(i) mandate the Administrator, in consultation with appropriate bodies, persons, officials, department, and agencies to conduct a study of specific methods of improving the process by which postsecondary education institutions and courses at such institutions are and continue to be approved for the purposes of the GI Bill; (ii) require that such study include the need for legislative and administrative action in regard to certain revelant provisions—including the "seat-time" requirement—of title 38, and regulations prescribed thereunder; (iii) such study shall be submitted to the President and the Congress by September 30, 1978, except that that portion of the report in regard to satisfactory progress shall be submitted on or before September 30, 1978; and (iv) authorizes $1 million to be appropriated to the Veterans' Administration for the conduct of the study.

2-YEAR RULE

Regarding the 2-year rule, the Senate has concurred with the House provision that the administration may waive the 2-year rule when in the interest of the veteran and the Federal Government with amended language which contemplates providing the Veterans' Administration with authority to waive certain provisions for exemptions with regard to certain schools under contract with the Department of Defense. The provision relating to the Department of Defense is a substitute for the House provision which would simply have authorized the VA to permit civilians to attend courses outside the United States in addition to veterans and their dependents as provided under the GI bill.

Mr. Speaker, My Subcommittee on Education and Training held 2 days of hearings on tuition assistance bills, one by Congressman AL QUIE of Minnesota and accelerated entitlement bills by Mr. WOLFF of New York a member of my subcommittee.

The first day both Mrs. HECKLER and Mr. WOLFF were present. However, on the second day, when very important witnesses including representatives of the Veterans' Administration, the Disabled American Veterans, a former Veterans' Administration Administrator and the Veterans of Foreign Wars testified, neither Mrs. HECKLER, Mr. WOLFF nor Father CORNELL were present.

Following the hearings, I sent to Mrs. HECKLER, Mr. WOLFF, Father CORNELL, and Mr. QUIE a list of questions to be made a part of our hearing record on tui-

tion bonus proposals before the subcommittee. I have not gotten an answer yet. When members of the committee are not interested enough to be present at a hearing held at their request and refuse to answer important questions regarding changing the program along the lines of their bills, I wonder what their motivation is on this issue. Apparently, it is to help educational institutions since they were not present as members of the subcommittee to hear the veterans organizations who strongly oppose these measures. I am enclosing a copy of of the questions, which have remained unanswered, that were sent to them.

OCTOBER 17, 1977.

Hon. MARGARET M. HECKLER,
U.S. House of Representatives, Washington, D.C.

DEAR MARGARET: This is in further reference to the hearings on September 15 and 16 by the Subcommittee on Education and Training with regard to bills which propose tuition assistance and accelerated entitlement under the GI Bill.

Please find enclosed a number of questions with regard to tuition assistance proposals. It would be appreciated if you would respond to these questions at your earliest convenience so that your answers may be made a part of the hearing record.

Sincerely,

OLIN E. TEAGUE,
Chairman, Subcommittee on Education and Training.

Enclosure.

OCTOBER 3, 1977.

Hon. LESTER L. WOLFF,
U.S House of Representatives, Washington, D.C.

DEAR LESTER: As you know the hearings on your accelerated entitlement bill, H.R. 2231, and a tuition assistance proposal, H.R. 8419, were continued on September 16. I was disappointed that you were unable to attend because the Subcommittee was most fortunate to hear from outstanding witnesses who provided a very convincing argument in opposition to these proposals.

In that regard, I am enclosing a statement of the Veterans Administration spokesman, Andrew Thornton, Director of the Education and Rehabilitation Service, former Administrator of the Veterans Administration, William Driver, and the National Commander of the Disabled American Veterans and former staff director of this Committee, Oliver Meadows.

In addition, I am enclosing a copy of a statement by Russell Thackery, a longtime executive director of the National Association of State Universities and Land Grant Colleges, who has responded to the editorial on September 15 in the *Washington Post* entitled "Renewing the GI Bill Debate."

After you have had an opportunity to read these statements, I would appreciate your comments and response to them.

Sincerely,

OLIN E. TEAGUE,
Chairman, Subcommittee on Education and Training.

Enclosures.

OCTOBER 12, 1977.

Hon. ROBERT J. CORNELL,
U.S. House of Representatives, Washington, D.C.

DEAR BOB: I have your "Dear Colleague" letter of October 4 in which you advocate the approval of Mr. Quie's tuition assistance bill, H.R. 8419, which was the subject of hearings by our Subcommittee on Education and Training on September 15 and 16.

I am sorry that you were unable to be present on September 16 since the hearings were continued for the purpose of providing the Members with the views of some very outstanding witnesses in the field of education and veterans' programs. In addition, I have received a statement from a very outstanding educator who was a longtime executive director of the National Association of State Universities and Land Grant Colleges, Mr. Russell Thackeray. He has responded to an editorial in the *Washington Post* on September 15 with regard to tuition supplements under the GI Bill.

I, therefore, am enclosing a copy of statements by Russell Thackeray, Oliver E. Meadows, former staff director of this Committee who is now national commander of the Disabled American Veterans, and the Veterans Administration all of whom were opposed to tuition assistance. In addition, I am enclosing a number of questions which I would like to have you answer as soon as possible so that your replies can be made a part of the hearing record.

Sincerely,

OLIN E. TEAGUE,
Chairman, Subcommittee on Education and Training.

Enclosures.

SEPTEMBER 30, 1977.

Hon. ALBERT H. QUIE,
U.S. House of Representatives, Washington, D.C.

DEAR AL: This is in reference to the hearings by the Subcommittee on Education and Training on your bill, H.R. 8419. Because of the long list of witnesses, it was impossible to hear them all on the first day; and the hearings were conducted beginning at 8 a.m. on September 16.

Because of time limitations, I did not have an opportunity to ask you a number of additional questions. Accordingly, I am enclosing a list of these questions, and I would appreciate your answers to them at your earliest convenience. Further, I am also enclosing a statement by a longtime executive director of the National Association of State Universities and Land Grant Colleges, Russell Thackeray, who responded to the Washington Post editorial on September 15 entitled "Renewing the GI Bill Debate," a copy of which is enclosed.

I would appreciate your responding to the statement of Mr. Thackeray as it relates to those states who have shortchanged their youth so far as providing low-cost education as opposed to some states in the so-called Sun Belt.

With kind personal regards, I am

Sincerely,

OLIN E. TEAGUE,
Chairman, Subcommittee on Education and Training.

Enclosures.

LIST OF QUESTIONS

1. There appears to be evidence that smaller private colleges are having a hard time financially and that providing a tuition supplement would be a "saving grace" for these institutions. However, the status of educational institutions is not the motivating factor for any legislative action by this Committee. We are concerned with veterans and their readjustment to civilian life. Do you have any indication that our veterans would be able to "readjust" better going back to a tuition supplement program than under the present system?

2. Exactly who do you intend benefits by this program, the veteran or the educational institutions?

3. Do you feel that our veterans are receiving an *inferior* education because they are attending state colleges and universities rather than the more prestigious private institutions?

4. It has been claimed that the present program is providing "unequal benefits for equal service" based on State residence. Yet, if we provide a tuition supplement to those veterans attending high-cost institutions it seems to me that we will be providing "extra" benefits to "some" veterans who go to expensive schools and not give veterans attending State schools or other educational institutions the same advantage. Would you care to comment on this?

5. I assume that you are familiar with the problems which occurred during the World War II program. How would you propose avoiding these same abuses if a tuition supplement program was enacted?

6. Testimony has been given that there is a strong presumption that veterans living in states without highly developed low-cost public educational systems benefit less from the GI bill because they cannot meet the combined costs of education and subsistence. However, I fail to see how "equity" would be restored by any form of either tuition supplement or accelerated entitlement. This would create far more problems than the one it is designed to overcome. It definitely would be inconsistent with the approach that is generally applicable in the dispensation of veterans' benefits based on active military service.

The intent of the law is not to purchase a complete education for an eligible veteran but to provide him with a measure of assistance while he is in training. Thus, the monthly amount of educational assistance is the same for similarly circumstanced veterans during the period that each is in training. This is in keeping with the philosophy of the program that educational assistance is designed to help a veteran meet, *in part*, his educational expenses, and not to serve as a tuition grant. The variations in the cost and accessibility of education from State to State are not the responsibility of this Committee. The conclusion on the part of many Members of Congress that some form of tuition assistance would restore equity is not necessarily valid because it would not solve the problems of accessibility or entrance requirements.

Further, reverting to such a system would lower total benefits to the majority of veterans and increase them to a smaller number of veterans enrolled in the higher priced institutions. Finally, chasing after today's ever-climbing gap between private and public school costs might result primarily in driving up tuition charges by the latter institutions.

Since we have only limited resources available to this Committee, which program do you think we should eliminate in order to be able to afford your supplemental tuition proposal?

7. Do you have a break-down of the educational institutions in your district which would benefit from your bill?

8. How much correspondence have you received from *veterans* compared to *educational institutions* concerning your bill? This Committee has received considerable mail from private colleges and universities, but virtually none from veterans themselves who seem pretty satisfied with the present program.

9. Are you familiar with the VA survey which concluded that veterans prefer the present system over the tuition supplement approach?

10. Some of the foremost educators have testified on previous occasions that students should make contributions to their education. Under our present program a veteran can go to virtually any State school and have money left over. If he wants to go to a more expensive school, he has to make up the difference himself. Do you see any objection to a man contributing something now if he wants to go to a very expensive school?

11. Do you basically interpret the GI Bill as a readjustment benefit, or as a reward, or just how do you look at the whole program?

12. It is my position and the position of this Committee, that the GI Bill is a program of educational benefits for students

who are veterans. It is not designed to aid the colleges or universities or proprietary schools. It may result in strengthening legitimate educational institutions, but that result is incidental to the primary purpose. The basis of the program is justice to the veteran-restoration of his lost educational opportunity. Therefore, the relationships to be established are and should continue to be between the individual veteran and the Federal government, without any intermediaries. The veteran should have his monthly entitlement certified directly to him and should draw his benefits directly. He then has the freedom of choice to attend any educational institution to which he is accepted and can pursue his studies in accordance with institutional standards. To deviate from this procedure would be a dramatic departure from a successful program which has fulfilled a Congressional intent. Would you like to comment on this?

13. Legislative history of Public Law 94-502 shows that it was the intent of Congress that a greater emphasis be placed on the VA direct loan program for those veterans attending higher cost institutions and for this reason we increased the amount a veteran can borrow. Under the present program, a single veteran can receive $2,628 per school year, plus $625 annually under the work-study program and $1,500 loan. This is almost $4,200 per year. This seems more than adequate. Would you care to comment?

14. Have you any statistic concerning the relationship of the amount of money a person has and the school he goes to? Do all the wealthy boys go to the expensive schools and all the poor boys to inexpensive schools? It has been my understanding that the amount of money we give a veteran does not necessarily determine which school he attends. In other words, if he wants to be a doctor, he will take the money he has and go where he wants to go and where he can get in.

15. As I said earlier, under the present GI Bill, a veteran is eligible for over $13,000 in GI bill benefits, plus an additional loan program of up to $1,500 annually, as well as the work-study program of $625 per year. This is the only program that I know of where the government pays practically the entire cost of a person's academic career. Do you know of any other scholarship program quite so generous?

16. In looking over the GAO report, the following abuses were prevalent under the World War II program:

Colleges increase tuition 300 percent or more.

University collects double tuition.

Nonresident rate of tuition paid for resident veterans.

Tuition payments by VA result in cash refunds to students.

Payments by VA to land-grant colleges duplicate payments by other Federal agencies.

Tuition paid subsequent to date of last attendance; tuition paid after veteran's entitlement . . . had been exhausted; payments of tuition where veterans had registered but did not attend classes; payments obtained through collusion and fraud; tuition paid for veterans attending school under scholarships; payments of tuition based on erroneous or excessive cost and payments of fees apparently not contemplated by statutes.

Since human nature seems not to have changed a great deal, how could we avoid these abuses occurring again?

17. A lot of testimony has been given regarding "pricing veterans out of a good education." I feel that a good student can do well and acquire a very good education almost anywhere. The test of this is the measure of the student. The education is available. Would you like to comment on this?

18. In examining the present program in light of the World War II program, the recurring theme seems to be lack of comparability. If we were to adopt some sort of tuition supplement, be it a direct supplement to the student or an accelerated benefits approach, should we not also include a limitation on earnings and provisions for charges against entitlement if tuition exceeds a certain level, similar to these provisions in the World War II program? In other words, since the present payment is meant to include a stipend for tuition, fees and books, if we adopted a separate tuition payment, should not the current payment be revised?

In addition, Mr. Speaker, I am also submitting for the RECORD copies of correspondence with the editorial page editor of the Washington Post with regard to tuition assistance bonus payments for veterans:

AUGUST 1, 1977.

Mr. PHILIP GEYELIN,
Editor, Washington Post,
Washington, D.C.

DEAR MR. GEYELIN: I have read your editorial of July 25th entitled "The House and the G.I. Bill." You will be invited up before the Veteran Affairs Committee to testify.

I would suggest before you testify, that you do your homework, which obviously you have not done.

You will be notified when the hearings will take place, probably the latter part of September.

With best regards, I am,

Sincerely,

OLIN E. TEAGUE,
Member of Congress.

THE WASHINGTON POST,
Washington, D.C., August 5, 1977.

OLIN E. TEAGUE,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN TEAGUE: Thank you for your letter of August 1, 1977. I detect from your back-handed reference to the homework "obviously . . . not done" on the editorial of July 25th that you have some quarrel with it; the insinuation is that it is, in fact, in error. If that is the case, we would welcome a letter from you setting out the errors as you see them. We will almost certainly feel called upon to discuss this subject in editorials in the next few weeks and I am sure you would not wish us to continue to mislead our readers—as you apparently think we are doing—for lack of at least a minimal effort on your part to present the truth.

I appreciate the high honor of a prospective invitation to appear as a witness before the Veterans Affairs Committee, but I must ask you to spare yourself the trouble. As Editor of the Editorial Page of The Washington Post, I am responsible for the institutional expression of that newspaper's editorial comments. I have no other official capacity and The Post has no editorial opinions other than those expressed in editorials. In short, everything we think worth saying we print. As for my *unofficial* capacity, I talk to many experts and specialists and read what many of them—yourself included—have to say. But not being a specialist, I would obviously not be your best witness at so important an event as your Committee's hearings.

Sincerely,

PHILIP L. GEYELIN.

Mr. PHILIP L. GEYELIN,
Washington, D.C.

DEAR MR. GEYELIN: I have just returned from Texas, and received your letter of August 5th. Mr. Geyelin, in no way, form or fashion was I trying to be facetious or funny about your editorial. I certainly recognize your power as an editorial writer. I only wish I had as much power as a Member of Congress to influence the thinking of people in our country.

I assumed that to write an editorial such as you did that you would have studied all the history pertaining to the question, and there is plenty of history. You did attack me personally, but I would question whether any Member of Congress this year or any other year has given as much thought to trying to work out a GI Bill that is best for the GI, best for the country, and best for the colleges as I have.

When we rewrote the bill some twenty odd years ago, we made a very, very careful study, with a great deal of assistance from the U.S. Office of Education. Prior to enactment of the GI Bill, the proportion of students going to private colleges versus public colleges was approximately fifty-fifty. Under the World War II bill, that proportion became approximately sixty-forty. In our study, it was reported that the cost of going to a school was second or third down the list when the veteran was determining what school he wanted to attend. The bill was not written casually. It was written after very careful study and debate.

I again would like to renew my invitation to you to testify before our Committee. Obviously, from your editorial, you have given a lot of thought to this problem, and it is a problem.

Your editorial makes a blanket indictment of the leadership of the House Veterans' Affairs Committee and singles out by name the Chairman, Ray Roberts of Texas, and myself as the villains who have helped steer through the Committee a six percent cost-of-living increase while at the same time in effect working to block accelerated entitlement proposals, either in our Committee or in the future as provided in the Senate veterans' education bill, since ordered reported to the Senate.

As I am the author of the Korean GI Bill, the War Orphans Scholarship Program, a House sponsor of the Vietnam Veterans' Education Program, I have more than a passing interest in keeping these programs fair, equitable and functioning properly. I think most veterans and their families and the public believe that a scholarship of $13,950 for a single veteran based on 18 to 24 months of service is a fair and substantial contribution by the Federal government. Your editorial conjures up a bleak picture of those who cannot make it on the $13,950 proposed in the House reported bill, H.R. 8701. Accelerated entitlement is needed to pay for the schooling they can't get, your editorial alleges.

First, a provision in the Senate bill would permit accelerated entitlement only for veterans attending a high-cost school. A high-cost school is one whose tuition and fees exceed $1,000 for a school year. Such a provision would give additional money to the veteran who chooses a high-cost school, yet deny opportunity to the poorer veteran attending a low-cost community college who is faced with problems other than tuition costs. It escapes me how this Senate provision is going to remove any of the undefined "structural inequities found in many parts of the GI Bill" which, according to the Post, are serving to keep a million veterans from using their GI Bill assistance.

Although our Subcommittee on Education and Training has held a number of hearings this Congress over a period of months on the veterans' education program, as well as the previous Congress which focused on educational overpayments and abuses in the program, your editorial nevertheless leaves the impression that the Committee rushed through our cost-of-living increase without any attention to accelerated entitlement proposals such as Congressman Wolff's bill with a first-year cost of $2.5 billion and a five-year cost of $7.5 billion. The fact of the

matter is Congressman Wolff offered an amendment to add $800 million to our Committee budget resolution last March to be earmarked for education. His amendment was defeated, which has precluded my Subcommittee from taking up Mr. Wolff's measure or any other proposal beyond the cost-of-living increase as approved by our Committee and the Congress.

In constant dollars, we are spending more money for each Vietnam veteran in training than we spent on veterans of the two previous wars. In addition, mindful of special problems of some Vietnam veterans, Congress has created a series of special benefits that were not available to veterans of Korea or World War II. For example, there is available to the Vietnam veteran a VA low-cost education loan for each year of $1,500 in addition to the veteran's basic monthly payment, a work-study program of up to $625 per year with $250 paid in advance, a tutorial assistance program of $65 a month up to $780 a year, free high-school education with no charge against the veteran's entitlement, a longer period of training with no requirement for prompt initiation of the training required of World War II veterans. Most important, a Vietnam veteran is entitled to a maximum of 45 months of entitlement to educational benefits if he served as little as 18 months.

The previous Congress authorized a new position in the Department of Labor, a Deputy Assistant Secretary for Veterans' Employment, to help veterans obtain job counseling and jobs under programs administered by the Department of Labor. One of the President's first announcements was a number of programs to assist unemployed and disabled Vietnam veterans. These programs, called HIRE, a Labor Department funded program to provide jobs and training for veterans in private employment, Disabled Veterans Outreach Program (DVOP) to help disabled veterans find jobs and job assistance and earmarking up to 35 percent of CETA funds for veterans in public service employment jobs, are well underway. The position of Deputy Assistant Secretary for Veterans' Employment has been filled, and the Congress is hopeful that these Department of Labor programs will help to sharply reduce unemployment among Vietnam veterans.

These are some of the reasons I resent the contention of your editorial that some Vietnam veterans are not being treated fairly and that the GI Bill is not helping them. To imply that some veterans have not used the GI Bill because it is inadequate, is not only misleading to veterans and the public, but indicates a blind acceptance of the propaganda of self-serving groups who have been lobbying on this issue around Capitol Hill for a number of years.

Sincerely,

OLIN E. TEAGUE,
Chairman, Subcommittee on Education and Training.

Mr. Speaker, although the Washington Post has on a regular basis published editorials critical of the current GI educational program, it has not seen fit to publish my response and does not seem to care about ascertaining the facts as to what the current program is all about.

Mr. Speaker, if any reasonable and knowledgeable individual takes time to review the current GI program, such individual will find that we have a very good program. On balance, the Veterans' Administration has done an outstanding job of administering the program. Compared with some of the programs administered by the Office of Education, the Veterans' Administration's record compares most favorably. I want to applaud those who labor so hard to do a good job in VA's Office of Education and Rehabilitation Service under the direction of Mr. Andrew H. Thornton. I also want to commend Mr. Grady Malone, Assistant General Counsel, and his very able staff for their dedicated service.

Finally, Mr. Speaker, I want to thank the very able chairman of our committee, the Honorable RAY ROBERTS, and the ranking minority member, the Honorable JOHN PAUL HAMMERSCHMIDT, for their cooperation and assistance in getting this compromise worked out. I wish to express my very sincere appreciation to the Honorable RON MOTTL of Ohio for the many hours of time he devoted to the Subcommittee on Education and Training while holding 10 full days of hearings on VA's various education and training programs resulting in this legislation. I offer my sincere thanks to the assistance provided by Hon. LESTER WOLFE of New York. Hon. ROBERT CORNELL of Wisconsin, Hon. MARK HANNAFORD of California, Hon. CLIFFORD ALLEN of Tennessee. Hon. DOUGLAS APPLEGATE of Ohio, Hon. BILL HEFNER of North Carolina, Hon. MARGARET HECKLER of Massachusetts—the ranking minority member of the subcommittee—Hon. CHALMERS WYLIE of Ohio, and Hon. WILLIAM WALSH of New York. Without their tremendous help, this legislation would not have been before the House today.

Mr. Speaker, I realize that many are not happy with the compromise we have worked out with the other body, but I believe it is a fair compromise and I urge that the proposed amendment to the Senate amendment be adopted.

Mrs. HECKLER. Mr. Speaker, I thank the gentleman from Texas for his explanation.

I would like first to speak with regard to the substantive provisions of H.R. 8701 as amended. Title III contains many administrative provisions which correct or improve Public Law 94–502, the Veterans Education and Employment Assistance Act of 1976. Title III suspends the controversial standards of progress provision which has disrupted the education of so many veterans and has threatened to violate the sacred and honored concept of academic freedom. The application of the 85–15 rule has been suspended and we are likely to never see it applied again. The 2-year operation requirement includes a waiver provision, thus providing more flexibility in its application and the Veterans' Administration must now publish a full accounting of its use of its waiver authority with respect to 85–15 and the 2-year operation requirement.

Mr. Speaker, I am most delighted to say that title IV provides that the Women's Air Force Service Pilots of World War II—a courageous dedicated group of women—can be recognized as active duty personnel. We grant the Secretary of Defense authority to review their case and to grant honorable discharges to the gallant members of this unit who were wronged grievously during the war when their militarization bill fell victim to the powerful political lobbies who opposed incorporating this crack flying unit into the Army air forces. This is a tremendous victory, not just for these ladies and all women everywhere, but for justice and equality for all citizens in our society. I especially commend my distinguished colleague from Texas (Mr. TEAGUE) for his leadership during the past several days in assisting to develop agreement on this issue among the many diverse interests which were involved. I commend him for his open-mindedness and leadership.

Now I would like to speak about two provisions of this bill which deserve special mention—the accelerated entitlement question and the proposed extension of the delimiting date by which time eligible veterans may utilize their educational readjustment benefits.

Vietnam veterans groups and the higher educational community from all parts of the country have registered some objection to the utilization of the loan provision in both these measures. Of special concern is the requirement that the States contribute toward the forgiveness of the loan which would be taken by the veteran in order to meet the high cost of tuition which exists in many areas of the country.

An important and critical philosophical and policy question stands before us for consideration and debate in the State-participation provision of accelerated entitlement. The readjustment training of veterans has always been a Federal responsibility. The new and unprecedented involvement of the States in this responsibility is another major development with regard to the GI bill of rights. In addition, the practical question arises as to whether and how many States are in a fiscal position which would enable them to participate in the tuition assistance program. Because of these questions we must look ahead to the possibility of oversight hearings during the next session of this Congress.

Mr. Speaker, as you know, this bill—H.R. 8701 as amended—has been the subject of a great deal of discussion and debate. The substantive provisions in this proposed legislation have been discussed and debated on a daily basis during most of this session of the Congress. Extensive hearings have been held by both bodies in an attempt to determine how best to provide sorely needed educational and employment adjustment assistance to our Vietnam-era veterans. I shall speak to these substantive provisions in a moment.

But I need also mention that—again for the first time in recent memory—the procedures used to develop this legislation on the GI Bill Improvement Act of 1977—also has become the subject of intense discussion and consideration.

For the second consecutive year, members of this distinguished body have been presented veterans educational and employment assistance legislation during the closing moments of the Congress. Last year Public Law 94–502, the Veterans Educational and Employment Assistance Act was presented to this body as the doorkeeps were readying their keys to lock the doors and douse the lights for the final time. That legislation made significant and major intrusions into higher education which have af-

fected veterans across this country drastically and adversely.

The predictable result, Mr. Speaker, was legislation which stood in need of substantial revision and correction. Moreover, that legislation was devised, in its final form, not by a conference involving Members of both bodies, but by staff acting in the name of only a handful of Members. We had to choose between delaying action in favor of more knowledgable and thoughtful consideration of this final measure—with which we were largely unfamiliar—or voting the measure so as not to delay a pending and needed cost-of-living increase to our Nation's veteran-students. We did provide cost-of-living increases. But we also produced legislation which created disruption to veterans in their pursuit of their educational objectives and to the higher educational community in its efforts to educate our veterans.

And, once again, Mr. Speaker, we are presented with a similar situation. No formal conference has been held on the bill which is before us. The large majority of members of the Committee on Veterans' Affairs have not been consulted on how best to resolve critical differences between the two bodies on how best to resolve the critical differences between the two bodies regarding veterans' programs of education and employment assistance. Members of the Senate Committee on Veterans' Affairs have.

Discussion on compromise approaches to significant differences has been the province of selected committee staff and certain members. As ranking minority member of the Subcommittee on Education and Training I was one of the few members of this committee who was consulted—indirectly, however, through staff. Most members cannot make even this statement.

The fact remains, however, that the process by which veterans' education and employment assistance bills are developed and reported in their final stage is in need of drastic improvement. Nearly a majority of the members of this committee, including myself, have circulated a letter to Chairman ROBERTS requesting consideration of a formal conference. Had we obtained a majority, a conference would have been mandated. Nonetheless, for all practical purposes, half of the committee has expressed their will that members be given an active voice in the final deliberations of this committee regarding such bills and that the voice of the people of this country be heard.

The important and central point that emerges from this development, Mr. Speaker, is that the old days and ways are past. No longer will members of this committee remain silent and passive.

Let me say most emphatically that this committee respects our leadership and that we as a committee stand united in our absolute commitment to the veterans of this country—those who, in Lincoln's words, "have borne the battle," and we are totally committed to look after the veteran, his widow, and his orphan. Let no one mistake or misjudge the extent of our commitment as a committee to this purpose and goal—it is total, complete, and absolute.

In summary, Mr. Speaker, questions remain regarding some substantive provisions of H.R. 8701 and with regard to the procedures which have been utilized to report it during its final stages of development. This bill contains many good and necessary provisions which reflect the fact that this committee and this Congress remain attuned to the concerns and needs of veteran-students and the higher educational community. The Women's Air Force Service Pilots are now destined to obtain their long-overdue recognition and reward for honorable and faithful service. But not all controversy has been removed from this bill. Questions regarding some provision of this bill have been answered. Questions of policy and philosophy remain. I am certain, however, that, as always, reasonable men and women can develop reasonable and mutually agreeable approaches which will lead to the resolution of outstanding issues.

Once again, I would like to commend and compliment the floor manager of this bill, the distinguished chairman of the Subcommittee on Education and Training, Mr. TEAGUE, for his willingness to seek compromise approaches to differences surrounding this bill and for his foresight in improving the veterans educational readjustment assistance program. Mr. TEAGUE, as we all know, is known throughout our Nation as "Mr. GI Bill." His commitment to veterans is well known. His leadership remains respected and his work honored. I look forward to continuing to work with him in behalf of our Nation's veterans.

Mr. Speaker, further reserving the right to object, I would like to ask the gentleman if he believes the compromise wording in regard to the WASP's gain recognition and rightful benefits and that these will be expedited through this legislation?

Mr. TEAGUE. Mr. Speaker, if the gentlewoman will yield further, we have, and I am sure the gentlewoman has seen a copy of a letter from the Deputy Secretary of Defense, Mr. Charles Duncan, to the Acting Director of the Office of Management and Budget, saying the Department of Defense supports recognition of the WASP's service to their country during World War II, and that the Department believes their service should be treated as active duty.

Mrs. HECKLER. Mr. Speaker, would you not agree that this legislation will give the Secretary of Defense the authority he needs to make a determination that their, the WASP's, service constituted active duty in the Armed Forces of the United States?

Mr. TEAGUE. If the Secretary believes their service should be treated as active duty in the Armed Forces, which the Deputy Secretary of Defense has apparently already confirmed, there is no question the proposed legislation gives him that authority.

Mrs. HECKLER. I should like to say to the gentleman that I support many provisions of this legislation. I feel that it is the final culmination of the fight for the WASP's which has been a very righteous struggle.

I think it is unfortunate that so many of our veterans' benefits in the educational field, largely due to the Senate, have been prolonged to the waning days of a session of Congress when full deliberation has not been possible; but I do respect the gentleman for his history of long service to our veterans. I believe the gentleman has tried to keep an open mind on the issues presented to him.

I ask for further dialog so that justice can be achieved.

Mrs. FENWICK. Mr. Speaker, will the gentlewoman yield?

Mrs. HECKLER. I would be happy to yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Speaker, I would like to commend my colleague from Massachusetts. Perhaps this is not as specific and full as we might have wished, but I commend the gentlewoman for her long and earnest struggle for these WASP's. If anyone has championed their cause, it has been the distinguished Representative from Massachusetts and we all congratulate the gentlewoman for what she has accomplished.

I would like to ask one question of the chairman, if I may. Did I understand correctly that the change would entail an additional $500 million per month?

Mr. TEAGUE. Mr. Speaker, will the gentlewoman from Massachusetts yield?

Mrs. HECKLER. I yield to the gentleman from Texas.

Mr. TEAGUE. Mr. Speaker, the proposed amendment would provide about $510 million in additional benefits during the next year.

Mrs. FENWICK. Mr. Speaker, if the gentlewoman will yield further, but not additional every month?

Mr. TEAGUE. The additional costs would be about $45 million a month, something like that.

Mrs. FENWICK. Not $500 million?

Mr. TEAGUE. The total additional cost of this piece of legislation is estimated to be $510 million during the next fiscal year.

Mrs. FENWICK. A month?

Mr. TEAGUE. Not a month, no.

Mrs. FENWICK. Does the gentleman mean for the year?

Mr. TEAGUE. Yes.

Mrs. FENWICK. Over what period of time?

Mr. TEAGUE. During the next fiscal year—between October 1, 1977, and September 30, 1978.

Mrs. FENWICK. A number of years?

Mr. TEAGUE. It would cost an additional $510 million during the next fiscal year.

Mrs. FENWICK. For 1 year?

Mr. TEAGUE. For 1 year.

Mrs. FENWICK. Because I misunderstood earlier; I thought the gentleman said $510 million a month.

Mr. Speaker, I thank the gentleman from Texas.

Mrs. HECKLER. Mr. Speaker, I would like to thank the gentlewoman from New Jersey for her fine remarks.

I would also like to clarify this a little bit. I believe the success of the WASP program is not attributable to just one

person. There has been much help from the gentlewoman from Louisiana (Mrs. BOGGS), the gentleman from California, (Mr. CLAUSEN); from Senator GOLDWATER leading the fight in the Senate for the WASP's and for justice in their cause; Colonel Arnold; and Assistant Secretary of the Air Force Mrs. Toni Chayes, who lead the debate in the Veterans' Committee. Today's success is attributable to no one Member of Congress.

Mr. DON H. CLAUSEN. Mr. Speaker, will the gentlewoman yield?

Mrs. HECKLER. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Speaker, I rise in support of the proposal before the House which would provide a process by which service as a WASP shall be considered active duty for purposes of veterans benefits. It is my understanding that benefits will be paid for the period beginning after enactment.

My colleague from Massachusetts (Mrs. HECKLER) has played a key role on the committee and has certainly championed this effort to bring about a degree of equity and justice for these gallant and capable women who served with such great distinction.

I commend the chairman of the House Veterans' Affairs Committee, Mr. ROBERTS, the chairman of the Subcommittee on Education and Training, Mr. TEAGUE, and my colleagues on the committee for their willingness to cooperate and agree to this compromise.

Recognition and credit should also be given to the distinguished Senator from Arizona (Mr. GOLDWATER) for his role in offering an amendment to the legislation on the Senate side which has given us the vehicle upon which to develop this compromise. In my discussions with his office, they have been extremely helpful in keeping us posted on the progress being made on the Senate side.

I have also been pleased with the discussions which have taken place between the chairman, Mr. ROBERTS, and the leading advocates of veterans benefits for the WASP's, the gentlewoman from Massachusetts (Mrs. HECKLER) and the gentlewoman from Louisiana (Mrs. BOGGS).

As a cosponsor of legislation to grant veterans benefits to the WASP's, I am extremely pleased with the progress we have made today toward reaching a reasonable and realistic solution.

Mr. GILMAN. Mr. Speaker, will the gentlewoman yield?

Mrs. HECKLER. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I want to commend the gentlewoman from Massachusetts and the gentlewoman from New Jersey for their efforts to bring this to the floor and take care of a problem that is long overdue in giving the proper benefits to women who gave so much for our Nation.

I would like at this time to request the gentleman from Texas if he would be kind enough to answer a question?

Mr. TEAGUE. Mr. Speaker, the gentlewoman from Massachusetts has the time.

Mrs. HECKLER. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, in the event that a veteran elects to increase his loan and finds that the State has not endorsed the program, what is the position of that veteran with regard to the discharge of that portion of the loan? I am talking about the extended loan limitation program.

Mr. TEAGUE. I would not say for sure, but I do not think we addressed that question in this bill at all. I am informed that unless he cashes it, unless the State puts up the money, that part of the money, that none of it shall stay.

Mr. GILMAN. Is there any mandate upon the State to put the money into this program under this extension?

Mr. TEAGUE. No, there is not.

Mr. GILMAN. I thank the gentleman.

Mr. Speaker, I would like to commend my esteemed colleague from Mississippi (Mr. MONTGOMERY) on his worthy legislation which was passed by the House on July 12, by a vote of 403 to 0, the Veterans and Survivors Pension Adjustment Act of 1977. On August 3, the Senate amended this legislation, returning it to the House with several major changes. These changes are not, in my mind, acceptable, and not consistent with the intention of Mr. MONTGOMERY's bill which was to assist survivors of veterans in meeting the demands imposed upon them by today's economy, and to increase their pension payments to reffect the commitment that our Government has to our loyal veterans and to their survivors.

Congressman MONTGOMERY's legislation called for a 7-percent across-the-board cost-of-living increase for veterans, widows, and children, and for needy parents of veterans who have died, because of service-related causes. In addition, the bill granted a 25-percent increase in pension rates for eligible widows 78 years of age or older. This increase would have totaled 32 percent for these widows, or in dollars, would have represented an increase of $35 million.

Senate amendments reduced this increase to 6.5 percent, eminating the 25-percent increase for widows. Eventually, after House rejection of this cut, and after the House returned this bill to the Senate, the cost-of-living increase was restored, but the 25-percent increase remained deleted.

I am certain that my colleagues have heard many sad complaints from World War I widows concerning the burdens placed upon them, and how they struggle daily to make ends meet. This substantial cut by the Senate means that our widows will not be receiving the additional living expenses that they deserve. In a measure which entails a $9 billion appropriation, it is ludicrous and unfair to eliminate this 25-percent increase.

I support Mr. MONTGOMERY in urging that this version of the bill be accepted, because of the other important and necessary provisions included, and accepted by the House and the Senate. We are most hopeful that this conference report will be signed into law as soon as possible. Let me express, though, my sincere regret that the Senate did not see fit to include the increase adopted by the House in their version. Mr. MONTGOMERY's assurance that he will address this problem in the Veterans' Affairs Committee when the Congress reconvenes in January, is encouraging to those of us who are distressed that the Senate has deleted these widow's benefits. I certainly hope that this increase can be restored at a later date, and that the Senate will find this increase acceptable at that time.

Mrs. BOGGS. Mr. Speaker, will the gentlewoman yield?

Mrs. HECKLER. I yield to the gentlewoman from Louisiana.

Mrs. BOGGS. Mr. Speaker, I would like to thank the gentlewoman for her most gracious and generous remarks. I would also like to join with the gentlewoman from New Jersey in saluting the gentlewoman from Massachusetts for her magnificent efforts. I am especially grateful to the chairman, the gentleman from Texas (Mr. TEAGUE), and to the gentleman from Texas (Mr. ROBERTS) for having worked out the problems with us.

We would like for the House to know that on this day justice and equity has come to some very brave women, who served our country so well.

Mrs. HECKLER. I thank the gentlewoman for her kind remarks. I would like at this point in the proceedings to insert two documents relating to the WASP's. One is a certificate of service issued to a WASP in 1944 which indicates that the individual "honorably served in active Federal service in the Army of the United States;" and which lists the "military record" of the particular WASP. The second document is a telegram from Gen. "Hap" Arnold, who was commanding general of the Army Air Forces during World War II, to WASP Loraine Zillner stating that it is "probable" the WASP's will be militarized and instructing her, on that basis, to decide if she wished to join the unit. The documents are proof of the intent and promise to militarize the WASP's and proof of active military service in the Armed Forces of the United States. The documents are as follows:

I would like to include also a page from an Army orientation manual which was issued to new WASP inductees during the war, titled, "WASP mathematics workbook." The page further documents the military service of the WASP's. The document is as follows:

ARMY OF THE UNITED STATES—CERTIFICATE OF SERVICE

This is to certify that Helen B. Porter, C52460, WASP, Strother Field, Winfield, Kansas, honorably served in active Federal Service in the Army of the United States from 9 September 1943 to 21 November 1944.

MILITARY RECORD

Army Specialty: Pilot.

Character: Excellent.

Released from duty with Women Airforce Service Pilots (WASP) due to deactivation of WASP program.

Given at Strother Field, Winfield, Kansas, 21 November 1944.

D. E. MEADE,
Colonel, Air Corps.

[Wire]

AUGUST 31, 1943.

Brig. Gen. DAVID N. W. GRANT,
Air Surgeon, Headquarters, Army Air Forces, Washington, D.C.

Am entering Women's Flying Training Sweetwater Texas. Understand this group becomes strictly army. Will this affect status of Civil Service entree. If eliminated from pursuance flying instruction does entree retain civilian status or automatically be subject to WACS or ground crew. Rumor circulating. to this effect. Please clarify immediately.

[Telegram]

CHICAGO, ILL.

LORAINE ZILLNER:

Impossible to answer questions you raise but it is probable WASP's will be militarized if you are not prepared to follow through. In this event do not report at Sweetwater on 6 Sept. Please let us know your decision immediately, so we may replace you if necessary.

COCHRAN.

[WASP Mathematics Work Book*]

YOUR RESPONSIBILITIES

You are now embarking on a career in the Army of the United States. Even more important, you have chosen to pursue training leading to a commission and wings in a very important branch of that Army, the Army Air Forces. You have set a high objective for yourselves and must, in consequence, put out much effort if you are to reach that objective. The way will be far from easy. You will find a marked difference between your former life as a civilian and your life in the Army. In the Army, you are, of necessity, bound more rigidly by rules and regulations, discipline is stricter, you are less free to do as you please much of the time.

We cannot offer you an easy path toward your high objective. We can give you the opportunity; after that, it is up to you to succeed. What you get out of your career as cadets will depend almost entirely on what you yourselves put into it.

You are training to be an officer and a pilot. As such, your responsibilities will be great. To prepare you to meet these later responsibilities, you will take on certain responsibilities now. You are to be responsible for your conduct in classes and out; you are responsible for the work that is given you to do; you are responsible for your personal appearance, for the appearance of your living quarters and all property you may be issued for use. Above all you are expected to have a high code of honor. This means no suspicion of cheating in any form. Live up to these responsibilities now and you have a greater chance of succeeding in the future.

The objective of this Preflight School in which you are now starting your Army career is to prepare you for the intensive flight training which you will undergo as cadets. To reach this objective, you will take training in three departments, namely, the Tactical Department, the Ground School and the Physical Training Department.

Your Ground School consists, with other subjects, of twenty hours of mathematics. This mathematics course is not too difficult, provided you do the daily preparation as assigned by your instructor. During the course you will be given three examinations. To successfully complete the course, you must make an average of 70 on these three tests. If you average below 70 on the three mathematics tests, you will be given an additional hour of review and re-examined over the course. Remember that this course in mathematics is the basis for your advanced work at Primary, Basic and Advanced Schools.

*This page was the introduction to the Mathematics Work Book used by WASP during ground school. It was published by the Academic Department, — Army Air Forces Preflight School, San Antonio Aviation Cadet Center.

Mrs. HECKLER. Mr. Speaker, I withdraw my reservation of objection.

Mr. BRINKLEY. Mr. Speaker, I strongly support the House amendment to the Senate amendment to H.R. 8701, the GI Bill Improvements Act of 1977.

I commend the distinguished chairman of the Subcommittee on Education for developing this bill and being able to bring to the floor a reasonable and fair compromise measure to assist over 1.6 million veterans and eligible dependents attending school under the GI bill this fall to receive about $500 million in increased educational benefits effective October 1, 1977.

I realize that there were many complex issues to be resolved between the House and Senate bills. However, considering the time constraints within which we must act, the compromise measure is both reasonable and equitable.

In addition, Mr. Speaker, I wish to express my particularly strong support for the House amendment to the Senate amendment concerning the direct and guaranteed home loan programs.

The House amendment would require the Administrator to conduct a study into the specific means by which chapter 37 of title 38—or amendments thereto—can be used to aid or encourage present and prospective veteran homeowners to install solar heating, solar cooling, or solar heating and cooling systems and to apply residential energy conservation measures. The Subcommittee on Housing, of which I am chairman, held oversight hearings on September 28, 1977, to receive testimony from the Veterans' Administration concerning VA authority, under current law, to make direct loans and to guarantee loans for the purchase and installation of solar residential systems. The VA discussed their concerns regarding potential problems in their determination of reasonable values of homes equipped with solar systems and other energy conservation measures. We also received testimony from the Solar Energy Industries Association concerning the status of the industry and their proposal for establishing a mechanism by which the veteran can be assisted to equip his or her home with solar systems.

Mr. Speaker, the Subcommittee on Housing began its review and analysis of methods for adapting energy conservation measures, including solar systems, to the VA home loan programs early in the 2d session of the 94th Congress. Recognizing the need for further study, I asked, early in this Congress and the full committee agreed, that $500,000 be allocated under the budget for the purpose of directing the Administrator of Veterans' Affairs to conduct a study to determine the economic feasibility of providing loan incentives and/or matching grants for the installation of solar systems through the VA home loan programs.

As a result of hearings already completed by my subcommittee, I believe that there are additional issues to be resolved before enacting legislation on this subject and I plan to conduct additional hearings early in the next session.

Mr. ABDNOR. Mr. Speaker, I rise to support H.R. 8701 as amended. I have a keen interest in veterans' education, as we all do of course, but I feel it is extremely important because it has allowed many millions of veterans to receive an education which would have been extremely difficult to achieve if it were not for the GI bill. The return on the country's investment has been immeasurable. In recent weeks there have been several strong attacks on the way that the Veterans' Committee has handled the bill that we are discussing today. The stories and remarks have concluded that the committee does not have the best interest of the Vietnam veteran in mind when it is dealing with him. They have attacked the chairman of the subcommittee, saying that his motives and actions are contrary to good legislation. I would like to at this time make it clear that I believe that Mr. TEAGUE is synonymous with veterans' education. His motives have always been and always will be to provide the best possible educational, as well as other benefits, available to our Nation's veterans. There are many in this body who feel that we have not gone far enough in assisting the Vietnam veteran; that we are hindering the ability of our higher educational institutions to provide services to the veteran or that we are assisting veterans in one part of the country more than we are assisting veterans in other parts of the Nation because of regional education costs. All of these are legitimate questions that must be answered if we are to have a good GI education program. I submit that the questions are very easy to ask, but the answers are not nearly so available. This bill provides an increase of 6.6 percent above the current entitlement; it provides for a larger loan assistance program; it provides counseling, which is badly needed by many veterans so that they can achieve their potential; it assists institutions in serving veterans, and it rectifies many problems which were caused by the enactment of Public Law 94–502. All of these are needed improvements. They might not answer all the questions or solve all of the problems which have arisen, but the bill certainly will provide assistance toward resolving the problems. I would urge all of my colleagues in joining me in supporting this measure.

Mr. HAMMERSCHMIDT. Mr. Speaker, I thank the gentleman from Texas for his explanation. Members should be aware of the fact that the distinguished former chairman of the Committee on Veterans' Affairs, the gentleman from Texas, has, despite his pressing duties as chairman of the Science and Technology Committee, labored diligently in perfecting this important measure.

I shall support the unanimous consent request, Mr. Speaker, because it permits this body to approve a compromise that began as two entirely different pieces

of legislation with almost complete polarization of views on both sides of the Capitol. The compromise, which I understand the Committee on Veterans' Affairs in the other body has endorsed, preserves the principles contained in the measure approved initially by this body on September 12. At the same time, it embraces the best provisions of the Senate bill. The result, Mr. Speaker, is a measure that improves benefits for veterans, makes administration of the educational program less complicated for both schools and the Veterans' Administration and, most important, contains sufficient controls to insure that the taxpayers' dollar is being wisely spent.

Mr. Speaker, the 6.6 percent cost-of-living increase in monthly educational allowances approved originally by this body is preserved in this measure.

The bill also contains provisions that permit veterans attending high tuition schools to accelerate their entitlement by receiving Government loans for the excess tuition. Upon completion of the student's educational objective, two-thirds of the loan would be forgiven. The amount of the loan thus discharged would be shared jointly by the State and Federal Government.

The 10-year period during which educational programs must be completed is extended for those who suffer disability during their eligibility period by a period equal to the period of disability. Provision is also made to extend education loans up to $2,500 per year for 2 years to those full-time students who, but for the expiration of their 10-year delimiting period, would have completed their educational program with their remaining entitlement.

I am especially pleased, Mr. Speaker, that the bill authorizes an expanded educational and job counseling program and requires the Administrator, where feasible, to notify each eligible veteran of the availability and advantages of this needed service.

Mr. Speaker, this measure will eliminate or simplify some of the administrative burden imposed upon educational institutions, and yet it imposes new requirements upon both schools and State approving agencies.

In recognition of the increased workload by these institutions and agencies, this measure will increase the administrative reporting fees for educational institutions from $5 per student per year or $6 in those cases wherein the school handles the advance pay procedure, to $7 and $11, respectively. The formula for reimbursing State approving agencies for expenses incurred in carrying out their responsibilities under the veterans educational program is also increased by 5 percent.

Finally, Mr. Speaker, the bill contains provisions that will permit service in the Women's Air Force Service Pilots and other similarly situated groups to be considered active duty for the purpose of Veterans' Administration benefits if the Secretary of Defense determines that such service constitutes active military service and issues an honorable discharge therefor.

I am satisfied, Mr. Speaker, that we have negotiated a fair and equitable compromise with the other body that will inure to the benefit of the veteran in school and other types of training. I urge its approval.

Mr. GOLDWATER. Mr. Speaker, I fully support the effort to grant active duty veterans status to the Women's Air Forces Service Pilots, who so valiantly served our country in World War II. I do not stand alone in my support. Over 150 Members of the House have sponsored, cosponsored or announced their support for WASP legislation. There are approximately 31 cosponsors in the Senate.

Mr. Speaker, these ladies have proved beyond a doubt that they are entitled to be called veterans.

Although they volunteered for service as civilian pilots with the Army Air Corps, they were for all practical purposes, a part of the military service.

These women were trained to be military officers. Their training included no less than 66 hours in military instruction. This special training was extended to 137 hours in 1944.

Army regulations provided that these women had to meet the same physical standards as male pilots. As cadets, they received about the same compensation as male students, with the exception of insurance benefits. After being assigned to operational duties, women pilots received less than a second lieutenant flight officer did. They paid for their own quarters and meals, and did not enjoy any right to advancement in pay depending on their length of service.

WASP's were comparable to military officers in many other respects. They were sworn in with the same oath of office. They stood formal inspection. They could not leave base without a pass. And, they were on duty 24 hours a day.

Women pilots performed every kind of flying operation possible. They served with the Air Transport Command where they flew 77 types of airplanes, including the multiengined B–26 and B–29 Super Fortress.

They towed targets for ground troops and planes to shoot at. They were used in the weather wing. They did tracking and searchlight missions, simulated strafing, smoke-laying, radio control flying, basic and instrument instruction, and engineering test flying.

In fact, the ferrying done by women pilots was more dangerous than that of male officers. The official history of women pilots in the Air Transport Command states:

> That throughout their career, the women ferry pilots, for a variety of reasons, concentrated on types of ferrying essentially more hazardous than done by their male colleagues.

The WASP specialized in delivery of types of aircraft which were especially dangerous to operate. Thirty-eight WASP's lost their lives serving their country.

Today, you need not be in any war, but merely in the service for 6 months to get veterans benefits. These women pilots who served in wartime at dangerous work are not entitled to veterans benefits because of a technicality, the fact that they were women. This situation does not make any sense to me, and we should give these women the status they earned in wartime.

In closing, I would like to remind my colleagues that just last year we passed H.R. 71, a bill which extended to any citizen of Poland or Czechoslovakia who fought on the Allied side during World War II, and who has been a citizen of the United States for the preceding 10 years, veterans benefit coverages.

It will be a sad, sad commentary on this body if we fail to treat our women, American patriots of World War II, in the same way.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TEAGUE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous matter on the subject of this bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PRINTING OF HOUSE DOCUMENT ENTITLED "BLACK AMERICANS IN CONGRESS"

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the concurrent resolution (H. Con. Res. 182) providing for the printing as a House document of the pamphlet entitled "Black Americans in Congress," with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the concurrent resolution.

The Clerk read the Senate amendments, as follows:

> Page 3, lines 4 and 5, strike out "two hundred and thirty-eight thousand six hundred" and insert "one hundred eighty-nine thousand two hundred".
>
> Page 3, line 7, strike out "sixty-one thousand eight hundred" and insert "twelve thousand four hundred".

Mr. HAWKINS. Mr. Speaker, this and five other resolutions I shall call up in order have previously been approved by this House. The action of the Senate in amending these resolutions will reduce considerably the cost of the resolutions, as they will call for some reduction in the number of copies that will be distributed.

The SPEAKER pro tempore (Mr. McKAY). Is there objection to the request of the gentleman from California?

There was no objection.

A motion to reconsider was laid on the table.

PRINTING OF BROCHURE ENTITLED "HOW OUR LAWS ARE MADE"

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the concurrent resolution (H. Con. Res. 190) to provide for the printing of a brochure entitled, "How

Our Laws Are Made," and a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the concurrent resolution.

The Clerk read the Senate amendment, as follows:

On page 2, after line 3, insert section 2: There shall be printed for the use of the Senate 36,400 additional copies of the document specified in section 1.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

A motion to reconsider was laid on the table.

AUTHORIZING PRINTING OF REVISED EDITION OF "OUR FLAG"

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the concurrent resolution (H. Con. Res. 204) to authorize the printing of a revised edition of "Our Flag" as a House document, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the concurrent resolution.

Th Clerk read the Senate amendments, as follows:

Page 1, line 6, strike out "two hundred and seventy-six thousand" and insert "two hundred fifty thousand two hundred and fifty".

Page 1, line 9, strike out "fifty-one thousand five hundred" and insert "twenty-five thousand seven hundred and fifty".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

A motion to reconsider was laid on the table.

PRINTING OF REVISED EDITION OF "OUR AMERICAN GOVERNMENT"

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table a concurrent resolution (H. Con. Res. 205) to authorize the printing as a House document a revised edition of "Our American Government," with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the concurrent resolution.

The Clerk read the Senate amendments, as follows:

Page 1, line 7, strike out "five hundred and fifty-six thousand" and insert "five hundred and five thousand".

Page 1, line 10, strike out "one hundred and three thousand" and insert "fifty-two thousand".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

A motion to reconsider was laid on the table.

PRINTING OF REVISED EDITION OF "THE CONSTITUTION OF THE UNITED STATES OF AMERICA"

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table a concurrent resolution (H. Con. Res. 217) to provide for the printing of a revised edition of "The Constitution of the United States of America," with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the concurrent resolution.

The Clerk read the Senate amendments, as follows:

Page 1, line 7, strike out "two hundred and ninety-eight thousand" and insert "two hundred seventy-six thousand eight hundred".

Page 2, line 1, strike out "fifty-one thousand five hundred" and insert "thirty thousand three hundred".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

A motion to reconsider was laid on the table.

PRINTING OF REVISED EDITION OF "THE CAPITOL"

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table a concurrent resolution (H. Con. Res. 222) to authorize the printing of a revised edition of "The Capitol," as a House document, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the concurrent resolution.

The Clerk read the Senate amendments, as follows:

Page 1, line 6, strike out "five hundred and seventy-five, thousand" and insert "five hundred forty-four thousand eight hundred".

Page 1, line 9, strike out "one hundred and three thousand" and insert "seventy-two thousand eight hundred".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. AuCOIN. Mr. Speaker, due to compelling business in my district last Thursday, October 28, 1977, I was unable to be present for Rollcalls No. 705 and No. 706. Had I been present, I would have voted "no" in both instances.

PRINTING COMMITTEE PRINT ENTITLED "THE COORDINATION OF U.S. INTERNATIONAL ECONOMIC POLICIES"

Mr. HAWKINS. Mr. Speaker, by direction of the Committee on House Administration, I call up (H. Res. 837) and ask unanimous consent for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 837

Resolved, That there shall be printed for the use of the Committee on International Relations one thousand copies of the committee print entitled "The Coordination of United States International Economic Policy".

The resolution was agreed to.

A motion to reconsider was laid on the table.

PRINTING DEDICATION CEREMONY OF THE PORTRAIT OF HON. PETER W. RODINO, JR.

Mr. HAWKINS. Mr. Speaker, by direction of the Committee on House Administration, I call up (H. Res. 662) and ask unanimous consent for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 662

Resolved, That the transcript of the proceeding in the Committee on the Judiciary of May 12, 1977, incident to the presentation of a portrait of the Honorable Peter W. Rodino, Junior, to the Committee on the Judiciary be printed as a House document with illustrations and suitable binding.

SEC. 2. In addition to the usual number, there shall be printed three thousand two hundred copies of such document, of which two hundred copies shall be casebound, for the use of the Committee on the Judiciary.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PRINTING OF ADDITIONAL COPIES OF "THE SENATE CHAMBER, 1810–1859"

Mr. HAWKINS. Mr. Speaker, by direction of the Committee on House Administration, I call up the Senate concurrent resolution (S. Con. Res. 52) authorizing the printing of additional copies of the booklet entitled "The Senate Chamber, 1810–1859," and ask unanimous consent for its immediate consideration.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 52

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Commission on Art and Antiquities of the United States Senate fifty thousand additional copies of the booklet entitled "The Senate Chamber, 1810–1859".

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

PRINTING OF ADDITIONAL COPIES OF HEARINGS ENTITLED "PANAMA CANAL TREATIES"

Mr. HAWKINS. Mr. Speaker, by direction of the Committee on House Administration, I call up the Senate concurrent resolution (S. Con. Res. 53) authorizing the printing of additional copies of hearings entitled "Panama Canal Treaties," and ask unanimous consent for its immediate consideration.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 53

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Senate Committee on Foreign Relations two thousand five hundred additional copies of each part of its hearings entitled "Panama Canal Treaties".

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

LAND AND WATER RESOURCES CONSERVATION ACT OF 1977

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the Senate bill (S. 106) to provide for furthering the conservation, protection, and enhancement of the Nation's land, water, and related resources for sustained use, and for other purposes, with Senate amendments to House amendments thereto, and concur in the Senate amendments to House amendments.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendments to House amendments, as follows:

(1) Page 2, line 20, of the House engrossed amendments, strike out [framework] and insert: set of guidelines

(2) Page 8, after line 20, of the House engrossed amendments, insert:

(b) Commencing with the fiscal year ending September 30, 1982, the President shall, not later than thirty days after the submission of the budget for each fiscal year, prepare and transmit to Congress a report expressing in qualitative and quantitative terms the extent to which the programs and policies projected under the budget meet the statement of policy submitted under subsection (a) of this section. In any case in which the budget recommends a course which fails to meet the statement of policy, the President shall set forth in his report under this subsection the reasons for requesting Congress to approve the lesser program or policies presented in the budget.

(3) Page 8, line 21, of the House engrossed amendments, strike out (b) and insert: (c)

(4) Page 10, of the House engrossed amendments, strike out lines 1 and 2 and insert:

SEC. 10. The provisions of this Act shall terminate on December 31, 1985.

Mr. DE LA GARZA (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments to House amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I wonder if the gentleman from Texas (Mr. DE LA GARZA) will explain to us what the Senate has done to this glorious legislation?

Mr. DE LA GARZA. I would be very happy to explain, if the gentleman will yield.

Mr. BAUMAN. I yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Speaker, the Senate accepted the House amendment which passed this House by a vote of 365 to 16, with three minor amendments which are the source of this request.

The first one is this: We added a sunset provision to the legislation. The Senate has amended it so that it will fall into a 5-year cycle, and that is agreeable to the authors of the amendment, the gentleman from Florida (Mr. KELLY), and the gentleman from Texas who is speaking.

The second amendment is one on which there is a request that the President submit a report of the appraisal to the Congress, and in order to satisfy certain problems that might accrue constitutionally, it has been reworded to say that the President shall send to the Congress his budget request, and that if his budget request does not equal the appraisal, he give us a reason as to the difference, which ordinarily he does in his budget message anyway.

The third amendment was included at the request of OMB. Our legislation said, "within the framework of the soil and water conservation program." They requested that we use the word, "guidelines."

Those are the three amendments. With those exceptions, it is the same legislation that passed the House.

Mr. Speaker, I would like to make one thing clear for the benefit of the Members as to the legislation. There was some question as to the possibility of land use being included in this bill, also that it might expand somehow the existing authority of the Soil Conservation Service.

I would like to make it a part of the legislative history that this legislation does not extend any of the existing authority of the Soil Conservation Service, and in no way shall it be used for any form of land use, inasmuch as we have a part of the legislation which says that none of the practices therein shall at any time be used except at the request of the landowner. This would clarify forever the intent that anything that is done would be solely at the request of the landowner.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman for his explanation and his assurances, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas to dispense with further reading of the Senate amendments to House amendments?

There was no objection.

The SPEAKER pro tempore. Is there objection to the first request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

PROVIDING FOR EXPENSES OF INVESTIGATIONS AND STUDIES TO BE CONDUCTED BY SELECT COMMITTEE ON POPULATION

Mr. DENT. Mr. Speaker, I ask unanimous consent for the immediate consideration of the resolution (H. Res. 843) to provide for the expenses of investigations and studies to be conducted by the Select Committee on Population.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I do so only for the purpose of allowing the gentleman from Pennsylvania (Mr. DENT) to give us a brief explanation, if he will do so.

Mr. DENT. Mr. Speaker, I will be glad to explain the resolution.

This resolution calls for a study of population growth, and it has been approved by the Committee on House Administration's Subcommittee on Accounts as well as the full Committee on House Administration. We have gone over it rather thoroughly.

The first request was for approximately $70,815. Of this request, the Subcommittee on Accounts recommended a 10-percent cut. The committee discussed the matter very seriously on three different occasions and decided to fund it at a lower per month allocation rate for the balance of the year and then have them come back next year with their request and give us a better accounting of how that particular figure was reached.

As the resolution before us indicates, they will be given $63,733 for the balance of the year, which ought to get them sufficient funds for staffing. That will give us some idea of what type of staffing they feel they need when we go into the study next year of their appropriation.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman for his explanation, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 843

Resolved, That effective November 1, 1977, the expenses of investigations and studies to be conducted by the Select Committee on Population not to exceed $70,815, including expenditures for the employment of investigators, attorneys, and clerical, and other assistants, and for the procurement of services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72(i)), shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Not to exceed $6,700 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House; and the chairman of the Select Committee on Population shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. The authorization granted by the resolution shall expire immediately prior to noon on January 3, 1978.

SEC. 4. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

COMMITTEE AMENDMENT

The SPEAKER pro tempore. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment:

Resolved, That effective November 1, 1977, the expenses of investigations and studies to be conducted by the Select Committee on Population not to exceed $63,733, including expenditures for the employment of investigators, attorneys, and clerical and other assistants, and for the procurement of services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)), shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Not to exceed $6,700 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202 (i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House; and the chairman of the Select Committee on Population shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. The authorization granted by the resolution shall expire immediately prior to noon on January 3, 1978.

SEC. 4. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. DENT (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The committee amendment was agreed to.

Mr. DENT. Mr. Speaker, I move the previous question on the resolution, as amended.

The previous question was ordered.

The resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

INCREASING MONETARY AUTHORIZATION FOR NINE COMPREHENSIVE RIVER BASIN PLANS

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 2281) authorizing an increase in the monetary authorization for nine comprehensive river basin plans.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. DON H. CLAUSEN. Reserving the right to object, Mr. Speaker, and I do not intend to object, the chairman has cleared this matter with the minority. It is intended to expedite the action so that the comprehensive river basin plans, as authorized by the committee, can go forward.

Mr. Speaker, I yield to the chairman, the gentleman from California (Mr. JOHNSON), for any further response.

Mr. JOHNSON of California. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the Senate bill, S. 2281, provides additional authorizations for appropriations for water resources projects of the Corps of Engineers in nine river basins. The projects to which the authorization apply are underway, and funds have been appropriated for them for fiscal year 1978. However, because the appropriations limitations for these basins—which are also expenditure limitations—are exhausted or are nearing exhaustion additional authorizations are needed to insure that construction will not be stopped.

Earlier this year the House passed H.R. 5885 which authorized additional appropriations sufficient to carry affected river basins through fiscal year 1979. That bill was amended by the Senate and returned to the House. Since one of the Senate amendments concerned imposition of waterway user charges, a revenue raising measure which is required by the Constitution to originate in the House, no further action was taken on that bill. Instead, the House passed H.R. 8309 containing its own version of a waterway user fee. Senate action on that bill, including the addition of river basin authorizations, has not yet occurred. H.R. 9881 will provide the necessary authorizations to insure that construction will not be stopped on any projects pending Senate action on H.R. 8309 and resolution of differences by House and Senate conferees.

I urge passage of this urgently needed bill.

Mr. DON H. CLAUSEN. Mr. Speaker, I withdraw my reservation of objection.

The Clerk read the Senate bill, as follows:

S. 2281

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in addition to previous authorizations, there is hereby authorized to be appropriated for the prosecution of the comprehensive plan of development of each river basin under the jurisdiction of the Secretary of the Army referred to in the first column below, which was basically authorized by the Act referred to by date of enactment in the second column below, an amount not to exceed that shown opposite such river basin in the third column below:

BASIN, ACT OF CONGRESS, AND AMOUNT
Alabama-Coosa River Basin, March 2, 1945, $5,000,000.
Arkansas River Basin, June 28, 1938, $1,000,000.
Brazos River Basin, September 3, 1954, $14,000,000.
Mississippi River and tributaries, May 15, 1928, $22,000,000.
Missouri River Basin, June 28, 1938, $59,000,000.
North Branch, Susquehanna River Basin, July 3, 1958, $32,000,000.
Ohio River Basin, June 22, 1936, $18,000,000.
San Joaquin River Basin, December 22, 1944, $61,000,000.
South Platte River Basin, May 17, 1950, $3,000,000.

(b) The total amount authorized to be appropriated by this title shall not exceed $215,000,000.

Mr. ROBERTS. Mr. Speaker, I rise in support of the bill, S. 2281, which provides additional authorizations for appropriations for water resources projects of the Corps of Engineers in nine river basins.

Monetary authorizations were first put into effect by the Flood Control Acts of 1936 and 1938. They limit authority to appropriate and expend funds within specified basins or specified major projects to levels below the total costs of the authorized project or basin development. In this way, they give the Congress the opportunity to review and control the rate of accomplishment of the basin plans and major projects to which they apply.

In these plans, the Congress has approved an entire plan for development of a river basin in the interests of flood control, navigation, power, and allied water uses, but limited the amount of funds to anticipated appropriations for a specified period of years, allowing accomplishment of only part of the plan. When the monetary authorization limit of a plan is approached, legislation is required to provide additional authorization so that appropriations can be made to permit the plan to continue. If such legislation is not forthcoming when needed, construction of projects in the basin plan cannot proceed even if funds have been included in appropriation acts for this purpose.

The projects covered by S. 2281 are underway, and moneys have been appropriated for them for fiscal year 1978. H.R. 5885, passed earlier this year by the House, contained authorizations for appropriations to carry these and other projects through fiscal year 1979. That bill, however, was amended by the Senate to include, among other things, the imposition of a waterway user charge. Since this is a revenue raising measure, which the Constitution requires to originate in the House, no further action was taken on that bill. The House subsequently passed H.R. 8309 containing the House version of a waterway user charge, and sent it to the Senate where it was anticipated that river basin authorizations would be added along with other provisions which the Senate had added to H.R. 5885. However, the Senate has not yet had an opportunity to act on this bill. In the meantime, some river basins have reached or will soon reach their expenditure ceiling and work on projects in these basins will have to stop unless legislation is passed raising the ceilings. S. 2281 provides sufficient authorizations to cover projects, which otherwise would be stopped, through March of next year. This will provide time for the Senate to act on H.R. 8309 and for the House and Senate conferees to resolve their differences.

Mr. Speaker, I urge passage of this extremely important bill.

The Senate bill was ordered to be read a third time, was read the third time,

and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 9881) was laid on the table.

GENERAL LEAVE

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks announced that the Senate agrees to the report of the committee on conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7555) entitled "Ar. act making oppropriations for the Department of Labor, and Health, Education, and Welfare, and Related Agencies for the fiscal year ending September 30, 1978, and for other purposes," and the Senate agreed to the amendment of the Senate to the amendment of the Senate numbered 82 with an amendment to the foregoing bill.

The message also announced that the Senate agrees to the amendment of the House to bills of the Senate of the following titles:

S. 1269. An act for the relief of Camilla A. Hester; and

S. 1560. An act to restore the Confederated Tribes of Siletz Indians of Oregon as a federally recognized sovereign Indian tribe, to restore to the Confederated Tribes of Siletz Indians of Oregon and its members those Federal services and benefits furnished to federally recognized American Indian tribes and their members, and for other purposes."

PROVIDING FOR CONSIDERATION OF H.R. 5646, AMENDING THE REGIONAL RAIL REORGANIZATION ACT OF 1973

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 632 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 632

Resolved, That upon the adoption of this resolution it shall be in order to move, section 401(b)(1) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5646) to amend the Regional Rail Reorganization Act of 1973 to require ConRail to make premium payments under certain medical and life insurance policies, to provide that ConRail shall be entitled to a loan under section 211(h) of such Act in an amount required for such premium payments, and to provide that such premium payments shall be deemed to be expenses of administration of the respective railroads in reorganization. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment recommended by the Committee on Interstate and Foreign Commerce now printed in the bill notwithstanding section 401(b)(1) of the Congressional Budget Act of 1974 (Public Law 93-344). At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Massachusetts (Mr. MOAKLEY) for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT), pending which I yield myself such time as I may use.

Mr. Speaker, House Resolution 632 provides for the consideration of the bill (H.R. 5646) to amend the Regional Rail Reorganization Act of 1973 to require ConRail to make premium payments under certain medical and life insurance policies, to provide that ConRail shall be entitled to a loan under section 211(h) of such act in an amount required for such premium payments, and to provide that such premium payments shall be deemed to be expenses of administration of the respective railroads in reorganization.

This is a 1 hour open rule. It waives points-of-order under section 401(b)(1) of the Congressional Budget Act of 1974. This section of the act prohibits consideration of any new entitlement authority taking effect before the first day of the fiscal year which begins in the calendar year in which the bill is reported. A waiver was included in the rule in anticipation that the House would act prior to October 1. Since the new fiscal year has now begun, the waiver is unnecessary.

Mr. Speaker, the bill (H.R. 5646) will entitle ConRail to continue premium payments for certain medical and life insurance programs for retired employees of bankrupt Northeast railroads. The bill specifically requires that these payments will be counted against the value of the estates of the railroads in reorganization.

The Rail Transportation and Improvements Act of 1976 was intended to insure continued medical and life insurance coverage for those retired workers. The failure of the Special Court to correctly interpret congressional intent requires more specific legislation. The committee is to be commended for its prompt action in reporting this legislation.

Mr. Speaker, I am aware of no controversy over the bill. I believe the rule provides a fair and orderly procedure for consideration and I urge its adoption.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Massachusetts has explained the provisions of this 1 hour, open rule providing for the consideration of H.R. 5646, legislation requiring ConRail to make premium payments under certain medical and life insurance plans. Section 401(b)(1) of the Congressional Budget Act is waived in the rule resolution, since the bill contains new spending authority which is to become effective in fiscal year 1977. Finally, the rule makes in order the consideration of the amendment recommended by the Committee on Interstate and Foreign Commerce now printed in the bill notwithstanding section 401(b)(1) of the Congressional Budget Act.

The purpose of the legislation is to require ConRail to assume the obligations of the estates of certain insolvent railroads for medical and life insurance coverage of employees who retired prior to the date the assets of such railroads were transferred to ConRail. The coverage is to be funded by a loan to ConRail from the U.S. Railway Association. ConRail will have claims against the estates of the railroads in the amount of the loan.

I am advised that no costs to the Federal Government are anticipated at this time.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding.

I am so happy to see this bill. I have two cases that have come to my attention in my district, two most pitiful, pitiful cases. This is going to be a good day for them. I congratulate the committee.

Mr. LOTT. Mr. Speaker, I have no further requests for time.

Mr. MOAKLEY. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 5798, AUTHORIZATION FOR OFFICE OF RAIL PUBLIC COUNSEL FOR FISCAL YEAR 1978

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 633 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 633

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5798) to amend the Interstate Commerce Act to authorize appropriations for the Office of Rail Public Counsel for fiscal year 1978. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto

to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. MOAKLEY) is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT), pending which I yield myself such time as I may consume.

Mr. Speaker, this resolution makes in order consideration of the bill (H.R. 5798), authorization for the Office of Rail Public Counsel for the fiscal year 1978. It is a straight 1-hour open rule with no special provisions.

Mr. Speaker, the Rail Revitalization and Regulatory Reform Act established the Office of Rail Public Counsel as an autonomous office within the Interstate Commerce Commission. The purpose of this Office is to assure that traditionally underrepresented segments of the public, such as communities and users of rail service, could be represented by qualified counsel as parties before the ICC. The Office is also authorized to initiate actions before the ICC and to seek judicial review of ICC decisions.

This Office can also represent the public before other agencies in matters related to rail transportation.

In its report, the committee notes that consideration might be given to transferring the functions of this Office to the Agency for Consumer Protection when legislation creating the Agency is enacted. I would like to commend the committee for this position. It is important to note that this is a good example of how the proposed agency is likely to reduce Federal spending by consolidating the public representation functions throughout the Government in a single agency.

Mr. Speaker, prior legislation authorized $500,000 for fiscal year 1976 and $2 million for the current fiscal year. The bill (H.R. 5798) is a simple 1-year extension which authorizes $1 million for fiscal year 1978. The authorization makes no changes in existing law.

There is no controversy over the bill or the rule.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as stated by the gentleman from Massachusetts, House Resolution 633 is a 1-hour, open rule providing for consideration of H.R. 5798, authorizing appropriations for the Office of Rail Public Counsel for fiscal year 1978.

It is my understanding that the Railroad Revitalization and Regulatory Reform Act of 1976 established the Office of Rail Public Counsel as an independent office affiliated with the Interstate Commerce Commission. The office is charged with presenting the public's views and representing the public interest with respect to rail transportation matters subject to ICC jurisdiction. This bill authorizes $1 million for the Office of Rail Public Counsel for fiscal year 1978.

Mr. Speaker, I know of no objections to the adoption of this rule, but certainly have some reservations about the bill.

Mr. Speaker, I have no further requests for time.

Mr. MOAKLEY. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR AMENDMENT OF PUBLIC SURVEY RECORDS WITHIN MEDICINE BOW NATIONAL FOREST, WYO.

Mr. RONCALIO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2501) to provide for the amendment of the public survey records to eliminate a conflict between the official cadastral survey and a private survey of the so-called Wold Tract within the Medicine Bow National Forest, Wyo., with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Strike out all after the enacting clause and insert:

That, notwithstanding any other provision of law, the Secretary of Agriculture is authorized and directed, subject to the provisions of section 2, to convey, without consideration, by quitclaim deed, all right, title, and interest of the United States in and to the following described lands, totaling 4.264 acres, more or less:

(1) Beginning at a point on the right-of-way line of State Highway Numbered 230 which bears north 89 degrees 36 minutes west 66.0 feet from the center section 4, township 12 north, range 78 west, sixth principal meridian, Wyoming, as set by the Bureau of Land Management survey of 1964; thence north 89 degrees 36 minutes west a distance of 1,250.0 feet to a point which is referenced by a brass cap set 1.58 feet south; thence, from said point north 0 degrees 16 minutes west a distance of 51.0 feet to the old corner as set; thence north 88 degrees 09 minutes east, along the property line as originally staked a distance of 1,264.8 feet to a point on the west right-of-way line of State Highway number 230; thence in a southerly direction along the west right-of-way line of State Highway Numbered 230 through a 3 degree curve to the left a distance of 1,000.8 feet to the point of beginning. Said tract contains 2.19 acres, more or less.

(2) Beginning at a point which bears north 43 degrees 46 minutes west a distance of 54.65 feet from the northeast corner of the southwest quarter northwest quarter of section 4, township 12 north, range 78 west, sixth principal meridian, Wyoming; thence from said point of beginning south 87 degrees 57 minutes west a distance of 1,168.0 feet; thence south 89 degrees 51 minutes east a distance of 1,169.0 feet; thence north 1 degree 56 minutes east a distance of 40.0 feet to the point of beginning. Said tract contains 0.536 acres more or less.

(3) Beginning at the old corner (iron pipe) which bears south 24 degrees 26 minutes west a distance of 80.75 feet from the new brass cap at the northwest corner of the southwest quarter northeast quarter of section 5, township 12 north, range 78 west, sixth principal meridian, Wyoming; thence from said point of beginning north 87 degrees 57 minutes east a distance of 33.0 feet to a point on the west line of the southeast quarter northeast quarter of said section 5; thence south 0 degrees 11 minutes east a distance of 1,250.3 feet to the southwest corner of the southeast quarter northeast quarter of said section 5; thence north 88 degrees 50 minutes west a distance of 1.7 feet; thence north 1 degree 37 minutes west a distance of 1,251.0 feet to the point of beginning. Said tract contains .0498 acres, more or less.

(4) Beginning at the quarter corner common to sections 4 and 5, township 12 north, range 78 west, sixth principal meridian, Wyoming; thence south 88 degrees 13 minutes west a distance of 1,320.0 feet; thence north 1 degree 37 minutes west a distance of 68.4 feet; thence south 88 degrees 50 minutes east a distance of 1.7 feet to the Bureau of Land Management sixteenth corner; thence south 88 degrees 50 minutes east a distance of 1,320.66 feet to the point of beginning. Said tract contains 1.04 acres, more or less.

SEC. 2. The Secretary of Agriculture shall convey, to each owner of record whose lands adjoin any of the lands described above, that portion of the lands described above were included in that owner's deed to the adjoining lands as a result of the erroneous survey conducted in 1954 by W. E. Zipfull (or Zipfel).

Amend the title so as to read: "An Act to eliminate a conflict between the official cadastral survey and a private survey of the so-called Wold Tract within the Medicine Box National Forest, State of Wyoming.".

Mr. RONCALIO (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the Senate amendments be dispensed with and that they be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wyoming?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I yield to the gentleman from Wyoming for a brief explanation.

Mr. RONCALIO. Mr. Speaker, the ranking member of the committee, the gentleman from Colorado (Mr. JOHNSON), does not wish to leave the conference downstairs, but he has authorized me to state that he has no objection to these proceedings and is pleased to concur therein.

Mr. BAUMAN. Mr. Speaker, it is my understanding this is merely a change in the boundary as described in the original legislation.

Mr. RONCALIO. This is correct.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 7555, DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE, AND RELATED AGENCIES, FISCAL YEAR 1978

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 893 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 893

Resolved, That immediately upon the adoption of this resolution it shall be in

order to consider, clause 2 of rule XXVIII to the contrary notwithstanding, the conference report and the amendment reported from conference in disagreement on the bill (H.R. 7555) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1978, and for other purposes.

The SPEAKER pro tempore. The gentleman from California (Mr. SISK) is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT), pending which I yield myself such time as I may consume.

Mr. SISK. Mr. Speaker, House Resolution 893 provides for the consideration of the conference report and the amendment reported from conference in disagreement on the bill H.R. 7555, the Departments of Labor and HEW Appropriation Act for fiscal year 1978.

The rule waives clause 2 of rule XXVIII which requires conference reports to be available for 3 calendar days prior to consideration. The waiver is necessary so that the House may consider this important issue prior to adjournment for the recess.

The actual matter to be considered by the House is language concerning the amendment in disagreement regarding funds for abortions under the medicaid and medicare programs. There has been compromise language proposed in conference, but the conferees have yet to reach final agreement.

Mr. Speaker, I urge my colleagues to adopt House Resolution 893 so that we may proceed to debate on this important matter.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the gentleman from California just explained, the rule makes it in order to consider the conference report to accompany H.R. 7555, the Labor-HEW appropriations bill for fiscal year 1978, and the amendment reported in disagreement. The resolution also waives clause 2, rule XXVIII, which requires that conference reports be filed in the House 3 calendar days before their consideration on the floor.

There was no objection to this rule in the Rules Committee.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I wonder if anyone could inform the House exactly when this conference report will be brought up? If, in fact, this rule is to be passed, if it is to be the next order of business, it might be the disposition of the gentleman from Maryland to get a vote on this resolution, because I think all Members ought to be here to hear any debate on the conference report.

The gentleman is aware that a Member cannot make a point of order of no quorum except at the sufferance of the Chair.

Mr. SISK. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from California.

Mr. SISK. It is my understanding that if this resolution is adopted, the committee is here and will immediately take up the matter and debate the issues under consideration.

Mr. BAUMAN. I thank the gentleman.

Mr. LOTT. Mr. Speaker, I have no further requests for time.

Mr. SISK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 361, nays 9, not voting 64, as follows:

[Roll No. 738]

YEAS—361

Abdnor	Carter	Foley
Addabbo	Cederberg	Ford, Mich.
Akaka	Chappell	Ford, Tenn.
Alexander	Chisholm	Forsythe
Allen	Clausen, Don H.	Fountain
Ambro	Clawson, Del	Fowler
Ammerman	Clay	Fraser
Anderson, Calif.	Cleveland	Frenzel
Anderson, Ill.	Cochran	Frey
Andrews, N.C.	Cohen	Gaydos
Andrews, N. Dak.	Coleman	Gephardt
Annunzio	Collins, Ill.	Giaimo
Applegate	Conable	Gibbons
Archer	Conte	Gilman
Armstrong	Conyers	Ginn
Ashbrook	Corman	Glickman
Ashley	Cornell	Gonzalez
Aspin	Cornwell	Gore
AuCoin	Coughlin	Gradison
Badham	Cunningham	Gudger
Bafalis	Daniel, Dan	Hamilton
Baldus	Daniel, R. W.	Hanley
Barnard	Danielson	Harkin
Baucus	Davis	Harrington
Beard, R.I.	de la Garza	Harris
Beard, Tenn.	Delaney	Harsha
Bedell	Dellums	Hawkins
Bellenson	Derwinski	Heckler
Benjamin	Devine	Hefner
Bennett	Dickinson	Heftel
Bevill	Dicks	Hightower
Biaggi	Diggs	Hollenbeck
Bingham	Dingell	Holtzman
Blanchard	Dodd	Horton
Blouin	Dornan	Howard
Boggs	Downey	Hubbard
Boland	Drinan	Hughes
Bonior	Duncan, Oreg.	Hyde
Bonker	Duncan, Tenn.	Ichord
Bowen	Early	Ireland
Brademas	Eckhardt	Jacobs
Breaux	Edgar	Jeffords
Breckinridge	Edwards, Ala.	Jenkins
Brodhead	Edwards, Calif.	Jenrette
Brooks	Eilberg	Johnson, Calif.
Broomfield	Emery	Johnson, Colo.
Brown, Calif.	English	Jones, N.C.
Brown, Mich.	Erlenborn	Jordan
Brown, Ohio	Ertel	Kasten
Broyhill	Evans, Colo.	Kastenmeier
Buchanan	Evans, Del.	Kazen
Burgener	Evans, Ga.	Kelly
Burke, Fla.	Evans, Ind.	Kemp
Burke, Mass.	Fary	Keys
Burleson, Tex.	Fascell	Kildee
Burlison, Mo.	Fenwick	Kindness
Burton, John	Findley	Kostmayer
Burton, Phillip	Fisher	Krebs
Butler	Fithian	LaFalce
Byron	Flippo	Latta
Caputo	Flood	Le Fante
Carney	Florio	Leach
Carr	Flowers	Lederer
	Flynt	Leggett
		Lehman
Lent	Nowak	Smith, Nebr.
Levitas	O'Brien	Snyder
Livingston	Oakar	Solarz
Lloyd, Tenn.	Oberstar	Spence
Long, Md.	Obey	St Germain
Lott	Ottinger	Staggers
Lujan	Panetta	Stangeland
Luken	Patten	Stanton
Lundine	Patterson	Stark
McCloskey	Pattison	Steed
McCormack	Pease	Steers
McDade	Pepper	Steiger
McEwen	Perkins	Stockman
McFall	Pettis	Stokes
McHugh	Pickle	Stratton
McKay	Pike	Studds
Maguire	Poage	Stump
Mahon	Pressler	Taylor
Mann	Preyer	Thone
Markey	Price	Thornton
Marks	Pritchard	Traxler
Marlenee	Quie	Treen
Marriott	Rahall	Trible
Martin	Rangel	Tsongas
Mattox	Regula	Tucker
Mazzoli	Reuss	Udall
Meyner	Richmond	Ullman
Michel	Rinaldo	Van Deerlin
Mikulski	Risenhoover	Vanik
Mikva	Robinson	Vento
Milford	Rodino	Volkmer
Miller, Calif.	Roe	Waggonner
Miller, Ohio	Rogers	Walgren
Mineta	Roncalio	Walker
Minish	Rooney	Walsh
Mitchell, N.Y.	Rose	Wampler
Moakley	Rosenthal	Waxman
Moffett	Roybal	Weaver
Mollohan	Runnels	Weiss
Montgomery	Ruppe	Whitehurst
Moore	Russo	Whitley
Moorhead, Calif.	Santini	Wiggins
Moorhead, Pa.	Satterfield	Wilson, Bob
Moss	Sawyer	Wilson, C. H.
Mottl	Scheuer	Winn
Murphy, Ill.	Schroeder	Wirth
Murphy, N.Y.	Schulze	Wright
Murphy, Pa.	Seiberling	Wydler
Murtha	Sharp	Wylie
Myers, Gary	Shipley	Yates
Myers, John	Shuster	Young, Alaska
Myers, Michael	Sikes	Young, Fla.
Natcher	Simon	Young, Mo.
Nedzi	Sisk	Young, Tex.
Nichols	Skelton	Zablocki
Nolan	Slack	Zeferetti
	Smith, Iowa	

NAYS—9

Bauman	Hansen	Quayle
Crane	Lagomarsino	Rudd
Grassley	McDonald	Symms

NOT VOTING—64

Badillo	Hannaford	Quillen
Bolling	Hillis	Railsback
Brinkley	Holland	Rhodes
Burke, Calif.	Holt	Roberts
Cavanaugh	Huckaby	Rostenkowski
Collins, Tex.	Jones, Okla.	Rousselot
Corcoran	Jones, Tenn.	Ryan
Cotter	Ketchum	Sarasin
D'Amours	Koch	Sebelius
Dent	Krueger	Skubitz
Derrick	Lloyd, Calif.	Spellman
Edwards, Okla.	Long, La.	Teague
Fish	McClory	Thompson
Fuqua	McKinney	Vander Jagt
Gammage	Madigan	Watkins
Goldwater	Mathis	Whalen
Goodling	Meeds	White
Guyer	Metcalfe	Whitten
Hagedorn	Mitchell, Md.	Wilson, Tex.
Hall	Neal	Wolff
Hammer-schmidt	Nix	Yatron
	Pursell	

The Clerk announced the following pairs:

Mr. Thompson with Mr. Collins of Texas.

Mrs. Burke of California with Mr. Edwards of Oklahoma.

Mr. Fuqua with Mr. Ketchum.

Mr. Mitchell of Maryland with Mr. Madigan.

Mr. Teague with Mr. Pursell.

Mrs. Spellman with Mr. Quillen.

Mr. Koch with Mr. Whalen.

Mr. Badillo with Mr. Corcoran of Illinois.

Mr. Dent with Mr. Skubitz.

Mr. Hannaford with Mr. Rousselot.

Mr. Lloyd of California with Mr. Fish.
Mr. Long of Louisiana with Mr. McKinney.
Mr. Rostenkowski with Mr. Watkins.
Mr. Roberts with Mr. Sebelius.
Mr. Whitten with Mr. Goldwater.
Mr. Wolff with Mr. Vander Jagt.
Mr. Yatron with Mr. Sarasin.
Mr. Nix with Mr. Goodling.
Mr. Neal with Mr. Hall.
Mr. Mathis with Mr. Hammerschmidt.
Mr. Jones of Tennessee with Mr. Guyer.
Mr. Huckaby with Mr. Hillis.
Mr. Holland with Mrs. Holt.
Mr. Cotter with Mr. Jones of Oklahoma.
Mr. D'Amours with Mr. Krueger.
Mr. Gammage with Mr. McClory.
Mr. Cavanaugh with Mr. Derrick.
Mr. Brinkley with Mr. Charles Wilson of Texas.
Mr. Meeds with Mr. Railsback.
Mr. Metcalfe with Mr. Ryan.
Mr. White with Mr. Hagedorn.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Pennsylvania (Mr. FLOOD).

Mr. FLOOD. Mr. Speaker, pursuant to the resolution just agreed to, I call up the conference report on the amendment of the Senate to the amendment of the House to the amendment of the Senate numbered 82 to the bill (H.R. 7555) making appropriations for the Departments of Labor and Health, Education, and Welfare, and related agencies for the fiscal year ending September 30, 1978, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. The Clerk will read the report.

The Clerk read the report.

(For conference report and statement, see proceedings of the House of November 2, 1977.)

AMENDMENT IN DISAGREEMENT

The SPEAKER pro tempore. The Clerk will report the amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 28: Sec. 209. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term, or except for medical procedures necessary for the victims of rape or incest, or except in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term.

Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

The Secretary shall issue regulations and establish procedures to ensure that the provisions of this section are rigorously enforced.

PREFERRED MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. MAHON moves that the House concur in the amendment of the Senate to the amendment of the House to the amendment of the Senate numbered 82.

The SPEAKER pro tempore. The gentleman from Texas (Mr. MAHON) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. MICHEL) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. MAHON).

Mr. MAHON. Mr. Speaker, at least once in the life of every session of Congress there comes a moment to decide highly emotional issues, urgent emotional issues, difficult issues; and that moment has arrived on this evening of the final days of this session.

Back in June we passed the Labor-HEW appropriation bill. We were not dealing with moral questions and issues. We brought up a bill to provide for the Department of Health, Education, and Welfare, a $61 billion bill. It passed the House, it passed the Senate, and now for 3 months the House and the Senate have been trying to come to agreement with respect to one question in the provisions of that bill, and that is the question of abortion.

The House in its version of the bill said, "No abortion." The Senate in its version of the bill said, more or less, "Abortion on demand."

That is where we have been for the last 3 months, and here we are tonight to decide this issue.

Mr. Speaker, as chairman of the committee, I have the unpleasant duty of making this motion because we must establish the fact that our system of government can operate and that the Speaker and the leader and the committees and the Members of Congress can carry on the business of the session. Therefore, we have to make some concessions.

My credentials are good with respect to the so-called Hyde amendment. I voted for the Hyde amendment all down the line, but I am a realist. We have to adjourn this Congress. We cannot impose on Federal employees a payless payday. We have to do something about that issue today. There is no way for the House to completely have its way.

There is no way for the Senate to completely have its way. If we are intelligent enough to be spokesmen for the people of the United States, we have got to deal in some degree of compromise in order to make our American system work. During the last week some concessions have been made by the other body, and some concessions have been made by the House. Now we have the new language which relates to abortions. Let me read it to the Members. I think we can live with it.

"None of the funds contained in this act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term,"—of course, the doctor who was not too scrupulous could say in almost any case that the life of the mother would be in danger, and the next phrase says, and this is very important to all Members—"or except for medical procedures necessary for the victims of rape or incest."

Then paragraph 3 is just about the same as paragraph 1. Paragraph 3 says this, and it was agreed to by the Senate by a vote this afternoon within the hour, a vote of 62 to 27—no abortion can be financed by the Federal Government "except in those instances where severe and long-lasting physical health damage"—severe and long-lasting physical health damage—"to the mother would result if the pregnancy were carried to term."

In other words, that just about says what we are saying in paragraph 1, that the life of the mother must be in danger, seriously in danger, and of a long lasting nature. That is what it says here. So that is the situation in which we find ourselves. That is the language that the Senate would not accept. The Senate in an earlier version today passed a resolution saying "except in those instances where severe or long-lasting physical health damage to the mother would result."

We said we cannot accept that, so the Senate within the hour has upon the request of the House reconsidered, and the Senate has agreed to the language, "or except in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term."

Then in the House we proposed something further. We said if these provisions are administered in the spirit in which they are enacted, they will be effective and will be reasonably acceptable to reasonable men and women. So we included this paragraph:

The Secretary shall promptly issue regulations and establish procedures to insure that the provisions of this section are rigorously enforced.

If the Secretary of HEW carries out the mandate of Congress and we adopt this language, then we will have a quite restrictive program of federally funded abortions. This was the best that could be worked out. The Members want to go home. The Members want these educational programs which they have supported to be carried out. The educational community is concerned that there has been so much delay.

We have been harassed by people through fear that there will be a payless pay day, and we have all manner of problems. This solution is not satisfactory to the House; it is not satisfactory to the Senate; it certainly is not satisfactory in every respect to GEORGE MAHON; but we have the problem of trying to come to an agreement and settle this issue, because we cannot go on endlessly with the present situation.

So with the Senate having modified its language within the hour, we consented, I consented to make the preferential motion and to present this matter to the House.

In our conference we almost came to an agreement a couple of days ago. The vote was 6 to 6. But that fell apart and we were not able to make that decision. So both sides have made concessions. We have done the best we could with a difficult situation and I think we just have to tell our folks at home what we have done. They will not all be happy, some will not be happy if we adopt this and some will not be happy if we do not. But something has to be done to make available the money we have provided in this

Health, Education, and Welfare and Labor Department appropriation bill.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman from Texas for yielding.

I would like to ask a question. Was it the intent of the conferees that physical health includes mental health?

Mr. MAHON. The other body insisted for days that abortions be allowed if the mother would suffer mental health problems unless an abortion were performed. But we rejected that totally because it would open a loophole that would be so big that it would make the legislation ridiculous, so we did not go along with that.

Mr. SEIBERLING. My question however is this: Is "severe and long lasting" something else than just damage to health?

Mr. MAHON. We leave that up to the administrators of the program and their rules and regulations.

Mr. SEIBERLING. But if schizophrenia were to be aggravated by having a child, would that be severe and long lasting damage?

Mr. MAHON. I am not able to answer all the technical questions that might be asked about this. I am simply saying to the House if we want to solve this problem, this is the best approach we have to solve it. And if we do not want to solve it, then we can stay tomorrow and Saturday and Sunday and next week. That is why I have taken this move in order to give the House an opportunity to work its will on this matter.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman for yielding.

The gentleman in his remarks made a statement that we had to do something to avoid payless paydays for Government employees and to do something to continue the many programs contained in this appropriation bill. Earlier this afternoon the gentleman from Texas, the majority leader (Mr. WRIGHT), said we would either have to act upon this language or we would pass a continuing resolution.

I think the gentleman will admit that we are not under any extreme time pressure, that we are going to be back here at the end of this month, and we could very well pass a continuing resolution and afford more time for this debate.

Mr. MAHON. We could pass a continuing resolution, but we would have to deal in that continuing resolution with the abortion issue, and we have been warned by the other body that they might tie on this language or other language to the resolution, and we would have this in controversy all the way and we do not know what the situation would be. So we could not necessarily have an easy, quick continuing resolution as a solution.

Mr. BAUMAN. But that would be a possibility, to have a continuing resolution?

Mr. MAHON. We could have that, and then we would have the problem of what we are going to say about abortion in that resolution. There is no guarantee whatever that this issue could be settled by a continuing resolution.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, in the language it says "except for medical procedures necessary for the victims of rape or incest." Would the medical procedures necessary for the victims of rape or incest include abortions? Would they necessarily include abortions?

Mr. MAHON. This language excludes abortions "except for medical procedures necessary for the victims of rape or incest." That language it seems to me is a little bit fuzzy and at the same time not too bad.

Mr. VOLKMER. Is the gentleman telling the House that it would not include abortions?

Mr. MAHON. It could possibly include abortions, but the regulations would have to be promulgated and rigorously enforced by the HEW.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Wisconsin.

Mr. OBEY. Let me just say in answer to the gentleman's question, there is no one here who can honestly answer that question. The fact is what that language means, in the end specifically what it means will be determined by the regulations which are established by HEW, and they will determine whether or not there will or will not be abortions under that language. The gentleman in the well cannot tell us definitely that.

Mr. VOLKMER. I would like to ask the gentleman that.

Mr. MAHON. If I may continue, of course we have cases of pregnancy on the part of 11-year-old children or 14-year-old children or 15-year-old children, and the issue there of abortion is one of course of a great deal of difficulty.

Of course, we have what we call statutory rape and all these issues that are involved, but this is the best that could be worked out under the circumstances.

In paragraph 1 it says that none of the funds contained in this act shall be used to perform an abortion except where the life of the mother would be in danger.

In paragraph 3 it says that except in those instances where severe or long-lasting physical health damage to the mother would result if the pregnancy were carried to term.

It is not what many people in the House prefer. It is not what I prefer. It is the best that could be worked out. You can take it or leave it, but we have to make a decision in regard to this very important matter.

I am going to support this language and I hope a majority of the House will do so. We have carried on this controversy now for more than 3 months and the time for decision is at hand.

Mr. MICHEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there are times when I take this floor and I am so convinced of the rightness of my position backed up with facts and/or figures to support it that I can summon up all the fervor that is within me to press my case but tonight I cannot be all that sure of myself.

As the chairman has said, we have gone over and over the same ground, hemming and hawing, trying to pull together acceptable language. I really said in frustration one day, we need the junior Senator from California, a professor in semantics in the room, to help us with our choice of words.

I think in the final analysis here I am going to have to vote no; but I am not going to be persuading Members to go one way or another, because it is in the end up to your own individual conscience. I can only tell you what I think I have to do to satisfy my conscience and it is not for me to judge the other Members on their vote.

The first part of the language is acceptable and the last part is acceptable. It is in that middle area where we have problems concerning rape, incest, and physical health of the mother.

The Senate language does not include the words "forced rape," and thus could be interpreted to allow abortions on demand in cases of statutory rape. A number of States have statutory rape laws which, in effect, define any pregnancy outside of marriage under the age of consent, normally 18 years, as rape. The latest compromise language offered by the House conferees included the words "forced rape or incest reported to a law enforcement agency." This language was designed to prevent utilization of rape to achieve abortion on demand.

The Senate language pertaining to the health of the mother lacks the restrictiveness necessary to prevent physicians from being able to use it as a framework for performing abortions on demand. Here again, the House compromise language, by using the words, "grave physical permanent health damage," was intended to tighten it up very significantly to prevent abortions simply for the sake of social convenience.

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Texas.

Mr. MAHON. Mr. Speaker, of course, the House insisted on the word "permanent." We were not able to recede.

Mr. MICHEL. All right; then there is another area where the Senate gave in and backed away. That had to do with including the fetus. Here in my judgment it would have been absolutely wrong for us, particularly in a bill like this, to try to make that individual determination on the status of the fetus. That is just outside the realm of our jurisdiction. We would be getting into so many gray areas, euthanasia and whatnot, and we forced the Senate to back down.

On the question of mental health that has been alluded to, we said it has to be physical damage. It has got to be, there can be no mental exception; so there has been some give and take.

I think there has been movement on both sides. If we come here to the conclusion of this session, as I said, I am going to have to vote against the language, but with no recommendation to

any other Members of this body, because I think we have done the best we can. If we do not resolve it today, we will have to go to a continuing resolution until at least the end of November.

Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Speaker, first of all I want to compliment every one of the conferees, who have worked on this long and agonizingly; and whether they have supported my position or they have opposed it, I think everyone has worked with great dedication, in the highest traditions of a legislative body. No one in the world is more anxious than I that this cup should pass, because I can tell the Members that I have felt the pressure just as much, and I suggest significantly more than most.

But nevertheless, this is a matter of high principle, and it is something that I must speak about and share my views with the Members. First of all, I think we have to bear in mind that the existing law is what the Senate wants to change. We are accused of being unyielding; we are accused of being obstreperous and obstructionist, but the language in the law today was accepted by the Senate last year. And by the way, the world has not come to an end. That language was in the bill last year. They accepted it; they want to change the law, and so if there is any burden of being obstructionist I do not think it rests with this House. I think that point ought to be made.

There is no one in the world that I dislike disagreeing with more than I do the distinguished gentleman from Texas, the chairman of this committee. But, he said, "I think this is language we can live with." I do not think it is language that the unborn can live with, and that is what this discussion is about.

The first paragraph is fine; that is the existing law. Do not think there was not compromise in that, because we did not say, "No abortions unless the life of the mother is going to be forfeit." We permit an abortion, if in carrying the fetus to term the life of the mother would be endangered.

Endangered—a judgment call by a doctor. So, there was compromise there that does permit, in my judgment, some abortions. Not so unyielding; not so inflexible.

But the next paragraph in this proposal language about rape or incest, invites massive fraud. It does not say "prompt." It says "medical procedures necessary for the victims of rape or incest."

This could be 6 months after the occurance; 4 months after the occurance.

And then, I heard the gentleman from Wisconsin say the details of this will be worked out by the bureaucrats in HEW. What an abdication of responsibility on a question of life and death! We talk about the bureaucrats running too much of our society; we are consigning to them a question as to how many months after a woman is pregnant, and if she claims that she was raped, she gets an abortion.

Do the Members not know they are giving a financial inducement to someone to report a crime, and these will have to be investigated by the police? But, this is such an invitation to fraud. It seems to me that they could have put the words "prompt treatment" in there at least; put that in!

But then we have the next paragraph: "Or except in those instances where severe and longlasting physical health damage to the mother would result."

That trades a human life for a judgment call about the health of the women. That is trading, if I may say, chickens for horses. The trade-off is hardly equal, because this doctor must make a judgment as to what is severe and what is longlasting. Is bronchial asthma? Does an intractable cough that results from the swelling in the woman's womb from the baby that will not go away until she has the baby? What about allergies? Are they severe, longlasting? What about diabetes? There are many, many conditions that are unrelated to pregnancy, but may result while the woman is pregnant or even because of pregnancy. Why should not the doctor treat the condition and save the baby?

So, we have this giant loophole that trades a human life for a health condition.

A life for a life, OK. But a life for diabetes, a life for bronchial asthma, for allergies, no, I cannot do that.

The Members have read in the wire services, I am sure, over the weekend about a young woman who lost her life due to an illegal abortion in Mexico. Her death is tragic. We all agree with that. All abortion deaths are tragic, whether it is the unborn or whether it is the pregnant woman. What about the 1½ million unborn a year who die as a result of abortion?

The SPEAKER pro tempore. The time of the gentleman from Illinois (Mr. HYDE) has expired.

Mr. MICHEL. Mr. Speaker, I yield 1 additional minute to the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, I just want to submit to the Members that maternal deaths as a result of abortion have risen because of legalized abortion. There are massive increases in the numbers of these operations that are performed. This year the Center for Disease Control reported 14 maternal deaths as a result of abortion. Every one of them but one was as a result of a legal abortion.

I am simply saying to the Members that we are trading a human life for a judgment call by a doctor.

I wish this issue were over. I wish it were not here. But I will not sell out, for my own convenience or my political advantage or to be comfortable or to avoid being vilified further, simply because the Senate will not move. They are sorry they took the language last year, and they want new language this year. I cannot support funding for the homicide of innocent preborn life.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the gentleman's statement today. I associate myself with the remarks of the gentleman, and I commend him on the long and hard struggle he has waged. I also commend the conferees for having stuck with it over some months.

Mr. MICHEL. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, regretfully, I rise once again to oppose this Senate language. Although some of the language would be acceptable to the House; and, in fact, some of it has been voted out favorably by the House, the crucial phrase, "Where severe and long-lasting physical health damage to the mother would result if the pregnancy is carried to term" is just not acceptable. Mr. Speaker, this is nothing more than the "medical necessity language" in disguise. It is true that the language does limit health damage to physical effects, but that does not resolve the question as to "What is severe and long-lasting damage?" This terminology invokes the same kind of subjective determination as the term "whenever medically necessary." And because it is such a subjective, ambiguous standard, I have no doubt it will lend itself to the same kind of abuse. What would be the standard for severity? Obviously it is something short of endangering the life of the mother, but what would be the minimum standard? It is clear to me that there would be no standard. What would be considered severe to one physician would not necessarily be considered severe to another.

And what does long lasting mean? A year, 5 years, 6 months? The uncertainties posed by this language require its defeat. I hope my colleagues can see through to the defects of this language. It would allow abortions under medicaid for convenience, if the right doctor is found.

Mr. Speaker, there is another problem with this language. The physical damage to the mother does not have to be both severe and long lasting. A physician could determine that the physical health damage to the mother was severe but only temporary, and that would be sufficient grounds for a medicaid abortion. In contrast, the earlier language presented by the Senate required that the health damage be permanent.

Mr. Speaker, the Senate language once again weakens the House position on rape and incest by eliminating the reporting requirement, by the inclusion of statutory rape and by eliminating any requirement that the treatment be prompt.

In light of all of these facts, there is no doubt in my mind, Mr. Speaker, that the House should stand firm in its position and overwhelmingly reject this Senate amendment.

Mr. MICHEL. Mr. Speaker, I yield 5 minutes to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. Mr. Speaker, I thank my colleague for yielding.

I think all of us know that this has been a long, hard struggle and that we deeply respect and admire the chairman, who carried the burden of the difficult discussions. It is not a happy topic. Nobody wants to talk about such a tragic thing. It should be a happy moment in the life of everybody. It should be a glorious moment in family life. But I can only tell the Members, from wide experi-

ence in the world, that that is not the way it is.

I was in Chile once, when abortions were absolutely forbidden, where no legal abortion could be performed. I went through the hospitals with the head of the hospital services of Santiago. What did I find? Wards full of women. I said:

Why are there so many women? In Bellevue Hospital in New York, the men's wards are the ones which are full.

And he said:

Thirty-five percent of all the hospital beds in the country of Chile are full of women who are recovering or dying from infection or hemorrhage from self-induced abortion.

We speak of the number of abortions which are now counted. How can we count them?—because they are legal. But what happens to the ones which are not legal, self-induced, for those who cannot even afford the motel butcher? In a case in my own State, a child went to her mother and explained what happened. The mother said:

Don't worry, we will stick together.

Abortion was not legal in those days. They did not have much money, anyway, not enough money to go to Puerto Rico and do what is necessary in a proper hospital.

They went to a motel in Philadelphia, Pa., and the child died. The mother was held as an accessory to a murder.

This is what we are talking about—the despair of people. As for the Members in this room who keep voting this way, I am honestly sure they do not understand the desperate feeling that makes somebody do such things. Some of these people are mothers trying to protect their children. They are young married women with three or four children, the husband not making much money, or any money, and they are trying to work out some kind of a solution to a difficult life.

Then the doctor says:

Look, you are going to have permanent kidney damage.

That is one of the great dangers of childbearing: permanent, crippling kidney damage.

What is the answer of the Members of this House? The language of the amendment is danger of severe and long-lasting physical health damage. I will ask the gentlemen in the House, can they not understand that?

Suppose this is abused by one or two? Is that not better than having butchery in the back alleys? Is that not better than having desperate, self-induced abortions? Is that not better than permanent health damage to a mother of children, severe, long-lasting, physical health damage?

We are not talking of light things here. We are not Almighty God, and we really cannot decide so lightly issues that lead to the agonies and suffering of other people.

Mr. Speaker, I really do hope that we will vote for this motion, and again I ask for mercy from the Members of this House.

Mr. SEIBERLING. Mr. Speaker, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, the gentlewoman from New Jersey (Mrs. FENWICK) has made a very fine and eloquent plea. I am prepared, with great reluctance, to vote for this compromise.

I consider physical health to be inseparable from mental health and, therefore, as far as this Member is concerned, that is my intent when I vote for this motion.

I think if the majority of the Members of this House were women, the Hyde amendment would never have gotten off the ground. That is because this is not a simple issue of right versus wrong, but right versus right, as are many basic issues in human affairs. The right of people who do not believe that abortion is proper to prevent their tax money from being spent for abortions is being asserted here in such a way as to impinge on the liberty of other people to do as they wish with their own body.

Last year we held exhaustive hearings before the Subcommittee on Civil and Constitutional Rights of the Committee on the Judiciary. We heard testimony from clergy, doctors, lawyers, health people, and sociologists; we ran the gamut.

One thing was clear from the testimony, and that is that any effort to restrict abortions by law has tremendous sociological, legal, and medical ramifications. Yet the Hyde amendment treats this complex issue as though it comes down to one simple question of whether people should be allowed to prevent tax money from going to somebody else to pay for an abortion. I can think of no better example of the inappropriateness of using the appropriations process to enact social policy.

Mrs. FENWICK. Mr. Speaker, I ask the Members of the House to vote for this motion.

Mr. MAHON. Mr. Speaker, I yield 4 minutes to the gentleman from Wisconsin (Mr. OBEY), a member of the subcommittee.

Mr. OBEY. Mr. Speaker, I very much envy any Member on this floor who is absolutely certain about how this language ought to read. I honestly do not know how it should read.

Except in extenuating circumstances I do not want the Government to pay for abortions, but since the conference began, I have offered, either with the House conferees alone present or with the Senate and House conferees present, some 27 different versions, trying to find some kind of agreement, some kind of language upon which rational people may agree, even though none of them are happy with it.

I am not happy with this language. I am not happy with the rape section, and I am not happy with another section. I am frank to admit that an issue like this tears my guts out, because all I want to do is to do the right thing. Part of determining what the right thing is, is to determine what kind of language will let us pass a bill which is—more than any other bill we pass during each session—the social document that defines what this country is all about. That is what the Labor-HEW appropriation bill is. It sets our human priorities.

I would urge every Member who cares about the programs in this bill to set aside any individual differences they may have with this language and support it.

I support it in spite of several differences, because I think it is an honest effort, it is a huge effort to attempt to balance rights, to attempt to balance the right of the fetus against the right of the mother. I do not know if that balance has been correctly achieved here, but I think we should understand some of the history of this language.

Mr. Speaker, the Senate today passed language—and this may not seem important, but we have debated for days over it in conference—which made an exception where "severe or long-lasting physical-health damage to the mother" would result. The House conferees said:

No, Senate, we will not accept that because that is too wide open.

In an extraordinary procedure the Senate vacated its past action and changed the language which they originally sent over here at the insistence of the House conferees, including the chairman of the House Committee on Appropriations, so that it read "severe and long-lasting physical-health damage to the mother."

I give him great credit for that. And I have great respect for the gentleman from Illinois (Mr. HYDE), because it is not politically popular for anybody to be out in front on the abortion issue, on any side. I have far more respect for him than I do for a number of people in this Chamber who know what they want to do but are afraid to do what their hearts dictate they do.

And I would ask them to please simply recognize some facts.

To those Members who say that this does not go far enough in terms of giving a woman the right to control her own body, I would simply ask you to remember that there is no way you can turn a minority into a majority by wishing. You simply do not have the votes in this House to go any further than this language already goes.

To those Members who feel that this language does not go far enough in protecting the right of the fetus, I would say that the Senate has voted 13 times. The most recent vote was 62 to 27. There is no way that we can turn a minority into a majority in the Senate just by wishing either.

Mr. Speaker, the time has come for us to try to compromise so that we can finally pass the most important bill that we deal with during every session.

Mr. Speaker, I urge a "yes" vote.

Mr. MICHEL. Mr. Speaker, I yield 5 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I am weary. We are all weary. We want to go home. It is supposed to be adjournment night.

I do not know how many times in the 25 years I have served here either as a Congressman or as a staff member that I have heard the speech made by the distinguished gentleman from Texas. I have a great deal of admiration for him, but weariness is no reason for retreat on this most important of all issues.

It is traditional that when we come down to the legislative crunch on a major issue, when we do not know what else to do, someone suggests we go back

and tell our folks, "We had to do something. We were at the end, and so I voted that way. I switched. We had to do something to break the deadlock." But that line of excuses will not be acceptable on the right-to-life issue.

I know there is that feeling among us tonight and that we are at that point when the weak seek compromise. However, the gentleman from Wisconsin (Mr. OBEY) is right. This issue is fundamental. The issue has been argued throughout our deliberations on two planes. One is the obvious moral plane. The other is political.

I know that many of us in this House—and I respect their view—believe that abortion is not murder, that it is the excising of tissue that is not yet a human being. We know that the Supreme Court has viewed that position with some agreement. That is what gave rise to this entire battle.

You know that we who support the right to life feel just as strongly that abortion is, indeed, murder, that it is the killing of a human being, and surely, the death of one child unborn is just as important as the life of one mother who does not want the child.

So I say, Mr. Speaker, that I cannot change the mind of others on this moral issue if their view is as dearly held as my own.

I cannot, obviously, after all this time, change you to believe as I do. But I know there are a great many people in this House who do not view abortion as a moral issue. But consider a moment and think of it in a different context. We all have to run for office. We all have to represent our people.

Not 2 or 3 hours ago HUBERT HUMPHREY stood at this rostrum and told us about the quality of representation in this House, how we are the people's body. We run every 2 years, and we must be close to what the people are thinking.

What is it that the people are thinking in your districts and in this Nation? And why is it that some of you who have no moral attachment to this issue have voted repeatedly for the right to life? Maybe you do not really believe abortion is murder, but you do have a sense of what your district wants. What is it the people are thinking all across this Nation, when the school textbooks their children use are taken out of their hands and control, so that they are taught things their parents do not believe in? What do parents feel when their children are taught it is all right to legalize drugs and use marihuana in small amounts; when they are told they cannot pray in school; when contraceptives are made readily available to children so they will eventually use them? When they are told to be permissive and if a problem occurs abortion is readily available? What do they believe when they are taught that lesbians should teach in schools and homosexuals should have the right to adopt children? What do your people think when this whole era of permissiveness comes crashing down on them, and finally they focus on one issue and this is the most horrible of all? What happens to the family when parents are told it is all right to murder your children? That is why people are upset—Fundamentalists, Protestants, Jews, Catholics, people who do not believe in a God but who believe in a moral order, all are rightly upset. Because life is at stake.

The Senate—the other body as we are to call it by our rules—has refused repeatedly to compromise on this issue—a handful of Senators. Two of them—and the rules will not allow me to name them—have sat there with paper proxies and would never permit a compromise to preserve life.

I have not addressed myself to this pending language. You read it. You comprehend it. It is no different than that presented in the past which this House has repeatedly rejected. We have voted on similar language before. It is the most permissive ever presented to us. If it becomes law it will allow wholesale slaughter.

I appeal to you, if you believe in the right to life, stand firm on this issue. Stand firm for the 300,000 babies that are being killed each year with your taxpayers' funds. That is my belief. You may not share it; do not hiss me, though. I am sincere, and I accept your sincerity. If moral belief does not prompt you, think of the political consequences. Eight times for life and change now? Yes, this issue is political, and it is moral, and whichever way it goes, make your decisions carefully. Stand again as the majority of this House has in the past for the right to life.

Mr. MAHON. Mr. Speaker, the members of the subcommittee, headed by the gentleman from Pennsylvania (Mr. FLOOD) and the gentleman from Illinois (Mr. MICHEL) on the other side, have worked long and hard on this issue. They have really sacrificed in an effort to try to do something about it and present something here that the House can approve. But we have not been successful in securing our objectives. I just want to compliment, particularly the gentleman from Pennsylvania—who is one of my warmest friends and who has been all of these years, and with whom I have enjoyed the best rapport and relationship. I want to compliment him on his efforts to bring this matter forth and handle this matter successfully. He has done the best he could under difficult and almost impossible circumstances.

Mr. MICHEL. Mr. Speaker, I yield 3 minutes to one more gentleman who I had no idea wanted to be heard, the gentleman from California (Mr. DORNAN).

Mr. DORNAN. Mr. Speaker, I have never been prouder to be a Member of this body than today. The ceremony honoring our beloved former Vice President, Senator HUMPHREY showed me again the depth of feeling in this House, the sensitivity of Members to human emotion. I was moved to tears as were most Members in this body.

I know absolutely that no Member has a right to claim his or her position is felt more deeply or is the only moral judgment worth listening to.

I have been advised by some of the more senior and wiser men and women in this body that the most offensive thing any Member can do in this well is to take a holier-than-thou position particularly on a subject that touches on morality. True and I am also proud to be a Member of this body, because I have seen precious little or none of that.

I do not want to fall into that offensive holier-than-thou attitude myself, and I do want to respect that viewpoint that says quality of life is more important than just life itself. But the judgmental word "unwanted" applied to human life is dangerous and wrong. Please let me try to explain my depth of commitment to unborn living human beings.

I want to associate myself with the remarks of the gentleman from Illinois (Mr. HYDE) and the gentleman from Maryland (Mr. BAUMAN). I admire their steadfastness and courage. To me it involves a great deal of political courage to continue to take a stand that media opinion in this Nation is running more strongly against with each passing day. However, I also concede political courage with the proabortion position taken by those of you in districts where there are very active prolife groups and where you know you are going to get passionate mail against you and where in town hall meetings you must face citizens, people who feel a deep commitment to life being preserved at any cost, and who associate you with killing.

I concur with the gentleman from Wisconsin (Mr. OBEY) when he says that this is the toughest issue we will ever discuss here. I felt a lack of political courage on my part not to come into the well the last two times we faced this issue. It is hard to go against the forces of big media. The eight major media sources in this country all editorialize for abortion. All three major papers, the three networks, Time and Newsweek, all oppose what is called the prolife position.

But may I point out that we are not discussing a prolife position as opposed to easy abortion. We are not discussing the morality of abortion in 1977, but whether citizens who consider it killing must pay for it with their tax dollars.

In my first term in this House the debate has swirled around the tax rights of people who believe abortion is destructive to our very existence as a nation or as a civilized society.

We have seen the discussion come down to an "or" or an "and," a single conjunctive word, a discussion as to whether one word will fling open the doors to the nightmare of unlimited abortion on demand.

I address those of you in this House who are on the opposite side of this critical issue from me. I know you also believe in this motto up here above our speaker: "In God We Trust." But God will not be mocked. We cannot continue to kill millions of innocent preborn children each year. Human beings with an immortal soul and their entire genetic code in place.

I beg you, my colleagues, to reject this vague compromise, this retreat from fairness, and stand tough against the other body's arrogance.

Mr. MICHEL. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. STEERS).

Mr. STEERS. Mr. Speaker, I am not here to repeat all the arguments we have

heard, but I will say that in all honesty I think fully 90 percent of what has been said this afternoon in a sense is irrelevant.

We are not here to argue about what is legal. The Senate amendment does not permit one abortion that is not totally legal now. The only question is whether or not a rich woman shall have a privilege that a poor woman cannot have.

Remember, the abortions that are covered by this amendment, however, we interpret these words, nobody disputes that they are now legal under current law, and I, therefore, urge that we adopt this amendment rather than to discriminate against poor women who simply cannot afford to have legal abortions.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. STEERS. I yield to the gentleman from Missouri.

Mr. VOLKMER. I would like to ask the gentleman this. The Hyde amendment did not prevent poor women from having abortions. It just said that taxpayers' dollars would not be used.

Mr. STEERS. That is correct.

Mr. VOLKMER. That does not deprive the gentleman or anybody else, it does not deprive any doctor who performs an abortion from doing it for free and it does not prohibit any charitable organization if they wish to do so from paying for them. Does it?

Mr. STEERS. That is absolutely correct.

Mr. VOLKMER. The Hyde amendment did not actually say no poor woman could have an abortion either.

Mr. STEERS. As a practical matter, when we do not give a poor woman the money to have an abortion, she cannot have one. So I repeat that this amendment does not allow anything that is not perfectly allowable by law and I speak to the Members as one who many times has called abortion an evil in my campaign last year. I still feel it is an evil, but I do not believe we should prevent poor women for lack of money from having an abortion.

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. STEERS. I will.

Mr. LEVITAS. Mr. Speaker, I would like to commend the gentleman for defining the issue that is before us about who is entitled to abortions and not whether it is legal or not. I do not believe in abortion on demand and I think that the gentleman agrees with that proposition; but if it is a question, as my colleague from Missouri points out, I would like to remind the Members of this body that during the recent Vietnam war there were those who happened to believe that war was immoral and that there were murders involved in that engagement, and although I didn't agree with them, it was not a question of whether tax money was going there. It was a matter of what national policy would fund. It was a matter of law. The same thing is involved here.

Mr. MAHON. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. MILLER).

Mr. MILLER of California. Mr. Speaker, I want to commend the gentleman in the well for focusing on the issue and I think focusing on to the hypocrisy. What is this rhetoric about taxpayers' dollars being used for poor women's abortions? Any of your wives can have an abortion. They can go into the best hospitals in the country and it is all deductible. What are you talking about?

The Federal Government picks up half the premiums on your health insurance. The taxpayers do that, so I think we also ought to amend the IRS Code. We ought to amend who pays for our health premiums. Let us lay it out right there. That is what we are talking about. We all know abortions are legal. It is a question of who has the privilege.

What you are really saying, there is an absolute prohibition for some people who are poor, but if you are not poor we still believe in the law that says you can go have them upon demand and the Supreme Court has said that is OK.; but if you are poor, one part of our society is saying that is prohibited to you, because you are poor; but if you are rich, you can go to the Methodist Hospital in Houston, you can go to U.C. Hospital in San Francisco, you can go to Bethesda and you can have flowers in your room and you can charge the whole thing off to the taxpayers at 50 percent or 70 percent. That is what you are really endorsing and that is what has to be stopped. That is the issue, and to say that somehow this is equated with whether or not gays can speak in our schools or whether or not lesbians can teach or be in the legislature is so wrong. Is that what we are going to do, prohibit gays from having jobs, the right to earn an income, is that where we are going next, so that a minority or majority can visit that upon people who cannot defend themselves in this body, in this body of very wealthy people by the national standards?

Mr. MAHON. Mr. Speaker, earlier I made reference to the distinguished chairman of the subcommittee. I now yield 5 minutes to the gentleman from Pennsylvania (Mr. FLOOD).

Mr. FLOOD. Mr. Speaker, I am so clear about the knowledge and the understanding and the hearts of the Members of this body that I am not going to take the 5 minutes.

I, as chairman of the subcommittee, wish that I could vote for this motion. Its adoption would send the Labor-HEW appropriations bill, in which I have more than a passing interest, to the President for his signature.

We have gone on month after month, hour after hour, for days and weeks, working toward that goal. No one is more anxious than I to see this bill enacted and become law; but, unfortunately, I am not able to support this Senate amendment that is before us now. I simply believe under all the arguments that you have heard and you know in your hearts that the Senate proposal is not restrictive enough. I know how this House voted and you in this House have voted time and again, and will probably vote again that way.

Now, regardless of congressional intent, I am afraid that this Senate language might be interpreted by physicians, by bureaucrats, and by the courts, in a way that would open the door to payments for many, many abortions. How many, I do not know and nobody in this body knows.

I wish the Senate could have sent some language here that we could accept.

Mr. Speaker, since they have not done so, this is a mere piece of paper to summarize their original arguments.

You have heard all of the arguments. I chaired this subcommittee, and I sat through these meetings. This Senate proposal is not a compromise. It is not this kind of bill; it is not that kind of language. There is no compromise here at all.

I call upon you, who have been so sound and so faithful to your traditions and your beliefs, to again be that way. This is the House, thank God, and vote against this motion.

Mr. MAHON. Mr. Speaker, the Secretary of Health, Education, and Welfare has upon more than one occasion declared himself in opposition to abortion. This proposal includes this language: "The Secretary shall promptly issue regulations and establish procedures to insure that the provisions of this section are rigorously enforced."

And, this proposal includes the statement, ". . . the life of the mother would be endangered if the fetus were carried to term." In that instance, an abortion would be permitted.

In paragraph 3, it states: "Or except in those instances where severe and long-lasting physical-health damage to the mother would result if the pregnancy were carried to term."

Under those circumstances, I would think that the law would be administered in a conservative and helpful spirit from the standpoint of the American populace.

Mr. NEAL. Mr. Speaker, I have been listening carefully for some months now to the debate on the question of Federal funds for abortion. A number of thoughts have occurred to me which I would like to share with my colleagues.

Central to any discussion of abortion is the question of when life begins. The arguments of my distinguished colleague from Illinois, Mr. HYDE, when this matter was last debated, centered on the premise that life begins with conception. If I accepted that postulate, I, too, would feel compelled to work to end abortion—whenever and however possible. But that very question has never been resolved in my mind.

In considering Mr. HYDE'S comments further, I began to wonder, "What are the opinions of various religious leaders in the United States on this issue?" I did some research into the matter, studying the statements of some of the denominations most prevalent in North Carolina's Fifth Congressional District. I was struck by the fact that even our churches, for the most part, have been unwilling to say to their members, "This is when life begins. At this point, what before had the potential for human life, suddenly is human life."

The answer to the question, then, is not agreed upon even by our spiritual leaders. I certainly do not think the Government should be in the business of making such moral decisions, but by denying medicaid funds for abortion, we are, in effect, making that very same judgment for many citizens of the United States. We are eliminating the choice, and by that, denying the women affected the right to choose an abortion which the Supreme Court has ruled is included in the right to privacy.

Frankly, I am surprised at some of my colleagues for their position on this issue. Many of them in the past have been among the most articulate and effective Members in advocating less Government interference in the lives of our citizens. I share their concern in this area. And yet, they now would have the Federal Government make this decision for poor women, and on a question which has divided even our most respected spiritual leaders.

I would like to share with my colleagues some of the statements from religious organizations which are active in North Carolina. First of all, because it illustrates so well the basic point which concerns me, I would like to quote from the "Proposal for Action" adopted by the Eighth General Synod of the United Church of Christ in 1971:

Although a form of life exists in the sperm and the unfertilized ovum, a new kind of life emerges at the moment of their union. Many regard conception (up to 72 hours after coitus), others implantation (7 days), as the beginning of an inviolable life. But while such life is human in origin and potentially human in character, the integration of bodily functions and the possibility of social interaction do not appear until later. Alternative candidates for the beginning of significantly human life are the final fixing of the genetic codes (3 weeks), the first central nervous system activity (8 weeks), brain development and cardiac activity (12 weeks). Some time after the twelfth week "quickening" occurs; that is, the mother can feel the arm and leg movements of the fetus. "Viability" in the present stage of technology begins between the 20th and 28th week, and the fetus has a chance for survival outside the womb.

The Pilot Mountain Baptist Association in my own Fifth Congressional District had these comments in February of 1974:

Abortion in most cases is the choice of the lesser of two evils. Abortion generally testifies to the violence, the excessiveness and the growing permissiveness of our time and society. Although sometimes permissible, it should never be done frivolously or in haste and is always mournfully regrettable....

There must be a wholesome balancing of rights, wherein the mother, the father, the fetus *and* our society are given due and deliberate consideration (recognizing that under some circumstances abortion may be an agonizing necessity.)

The Southern Baptist Convention also went on record in June of last year:

. . . we call on Southern Baptists and all citizens of the nation to work to change those attitudes and conditions which encourage many people to turn to abortion as a means of birth control . . . we also affirm our conviction about the limited role of government in dealing with matters relating to abortion, and support the right of expectant mothers to the full range of medical services and personal counseling for the preservation of life and health.

The Episcopal Church—at its 65th General Convention—stated:

That the position of this Church, stated at the 62nd General Convention of the Church in Seattle in 1967 which declared support for the "termination of pregnancy" particularly in those cases where "the physical or mental health of the mother is threatened seriously, or where there is substantial reason to believe that the child would be born badly deformed in mind or body, or where the pregnancy has resulted from rape or incest," is reaffirmed. Termination of pregnancy for these reasons is permissible.

The Presbyterian Church of the United States passed the following resolution in June of 1970:

Induced abortion is the willful destruction of the fetus. Therefore, the decision to terminate a pregnancy should never be made lightly or in haste.

The willful termination of pregnancy by medical means on the considered decision of a pregnant woman may on occasion be morally justifiable. Possible justifying circumstances would include medical indications of physical or mental deformity, conception as a result of rape or incest, conditions under which the physical or mental health of either mother or child would be gravely threatened, or the socio-economic condition of the family. The procedure should be performed only by licensed physicians under optimal conditions and with appropriate medical consultation and ministerial counseling, preferably by her own Minister.

Medical intervention should be made available to all who desire and qualify for it, not just to those who can afford preferential treatment.

In 1976 the General Conference of the United Methodist Church resolved that:

Our belief in the sanctity of unborn human life makes us reluctant to approve abortion. But we are equally bound to respect the sacredness of the life and well-being of the mother, for whom devastating damage may result from an unacceptable pregnancy... We support the legal option of abortion under proper medical procedures ...a decision concerning abortion should be made after thorough and thoughtful consideration by the parties involved, with medical and pastoral counsel.

And in June of 1970 the Lutheran Church in America said:

Since the fetus is the organic beginning of human life, the termination of its development is always a serious matter. Nevertheless, a qualitative distinction must be made between its claims and the rights of a responsible person made in God's image who is in living relationships with God and other human beings... On the basis of the evangelical ethic, a woman or couple may decide responsibly to seek an abortion.

Mr. Speaker, regretfully, I urge my colleagues to accept this compromise. Let us not put this Congress in the position of making further medical decisions—as well as moral decisions—for the poor women of the United States.

Ms. HOLTZMAN. Mr. Speaker, I support the privileged motion by the gentleman from Texas (Mr. MAHON) to agree to the Senate language on abortion. Let me begin by noting that the Senate language is, in my judgment, unfortunately restrictive—it allows medicaid to pay for abortions only in cases where the mother's life is endangered, where the mother would suffer severe and long-lasting physical damage, or where rape or incest occurred. The alternative to this language, however, is even worse—it is the Hyde amendment which would permit medicaid abortions only when the mother's life is endangered.

We literally sit here holding the fate of poor women and girls in our hands. As a result of the actions of the House in restricting medicaid abortions, a woman has already died. An unmarried mother of a 4-year-old girl who was too poor to afford a safe medical abortion crossed the border into Mexico to obtain an unsafe abortion. She died in a hospital in McAllen, Tex., just a few days ago. Hundreds, if not thousands, of other women will suffer the same fate.

And those who claim to speak for the unborn, how do they face the 4-year-old child of this woman who has been left an orphan? What will they say to all the other children whose mothers will die or suffer irreparable damage as a result of the failure of the House to provide funds for safe medical abortions? What do we say to the 55 women who have already been hospitalized as a result of back alley or self-induced abortions to which they were forced to resort as a result of the Hyde amendment.

I urge the Members of the House to support the Senate amendment.

Mr. WEISS. Mr. Speaker, I wish to offer my support for this compromise. I do so however, with the greatest reluctance.

Four months ago, during the original House debate on the Hyde amendment, I expressed my reservations at a clearly unequal system of health care. Abortion in this country is legal; this is an established right as decided by the Supreme Court. The Court's ruling made it a woman's constitutional privilege to choose to end a pregnancy in its early stages. Thus, the intent of the Hyde provisions are to deny to one group of our people something that is readily accessible to those with the money to pay for it.

Mr. Speaker, I respect life as much as every other person in this room. But that reverence extends to concern for the living, something which seems to be overlooked too often. Realistically, what will happen to those women who cannot afford privately funded abortions? As a result of the actions of this House, a woman has already died. Lacking the money to pay for a safe abortion in this country, she crossed the border into Mexico. There she obtained unsafe and unscrupulous care and died in a hospital in McAllen, Tex. just a few days ago. Will this occurrence become a tragic precedent?

The House has repeatedly demonstrated its intent on this issue. Therefore, although the language which is before us today is by no means to my liking, it is nevertheless something which I will support. I urge my colleagues to join me in breaking a four month stalemate by voting for this compromise.

Mr. MAHON. Mr. Speaker, I have no further requests for time.

Mr. Speaker, I move the previous question on the preferential motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the preferential motion offered by the gentleman from Texas (Mr. MAHON).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. MAHON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 172, nays 193, answered "present" 1, not voting 68, as follows:

[Roll No. 739]

YEAS—172

Addabbo	Fascell	Milford
Akaka	Fenwick	Miller, Calif.
Alexander	Findley	Mineta
Allen	Fisher	Moffett
Anderson, Calif.	Flippo	Mollohan
	Flowers	Moorhead, Pa.
Anderson, Ill.	Foley	Moss
Andrews, N.C.	Ford, Mich.	Obey
Ashley	Ford, Tenn.	Ottinger
Aspin	Forsythe	Panetta
AuCoin	Fountain	Patterson
Baucus	Fowler	Pattison
Bedell	Fraser	Pease
Beilenson	Frenzel	Pettis
Bingham	Giaimo	Pickle
Blanchard	Gilman	Pike
Bowen	Ginn	Preyer
Brademas	Glickman	Pritchard
Breckinridge	Gonzalez	Rangel
Brodhead	Gudger	Reuss
Brooks	Hammer-schmidt	Richmond
Brown, Calif.		Risenhoover
Brown, Mich.	Harkin	Rogers
Broyhill	Harris	Roncalio
Buchanan	Hawkins	Rose
Burlison, Mo.	Hefner	Rosenthal
Burton, John	Heftel	Roybal
Burton, Phillip	Hollenbeck	Ryan
Butler	Holtzman	Santini
Carr	Horton	Scheuer
Carter	Howard	Schroeder
Chisholm	Hughes	Seiberling
Clay	Jacobs	Sisk
Cleveland	Jeffords	Slack
Cohen	Jenrette	Solarz
Collins, Ill.	Johnson, Calif.	Spellman
Conable	Jones, N.C.	Stark
Conyers	Jordan	Steed
Corman	Kastenmeier	Steers
Cornwell	Keys	Stockman
Coughlin	Kostmayer	Studds
Daniel, R. W.	Krebs	Thornton
Danielson	Leach	Tsongas
Davis	Leggett	Tucker
Dellums	Lehman	Udall
Dicks	Levitas	Ullman
Diggs	Long, Md.	Van Deerlin
Dingell	Lundine	Vanik
Dodd	McCloskey	Walgren
Downey	McCormack	Waxman
Drinan	McFall	Weaver
Duncan, Oreg.	Maguire	Weiss
Eckhardt	Mahon	Whitley
Edgar	Mann	Wiggins
Edwards, Ala.	Martin	Wilson, C. H.
Edwards, Calif.	Mattox	Wirth
Evans, Colo.	Meyner	Wright
Evans, Del.	Mikulski	Yates

NAYS—193

Abdnor	Bonior	Cornell
Ambro	Bonker	Crane
Ammerman	Breaux	Cunningham
Annunzio	Broomfield	Daniel, Dan
Applegate	Brown, Ohio	de la Garza
Archer	Burgener	Delaney
Ashbrook	Burke, Fla.	Derwinski
Badham	Burke, Mass.	Devine
Bafalis	Burleson, Tex.	Dickinson
Baldus	Byron	Dornan
Barnard	Caputo	Duncan, Tenn.
Bauman	Carney	Early
Beard, R.I.	Cavanaugh	Eilberg
Beard, Tenn.	Cederberg	Emery
Benjamin	Chappell	English
Bennett	Clausen, Don H.	Erlenborn
Bevill		Ertel
Biaggi	Clawson, Del	Evans, Ga.
Blouin	Cochran	Evans, Ind.
Boggs	Coleman	Fary
Boland	Conte	Fish
Fithian	Marks	Ruppe
Flood	Marlenee	Russo
Florio	Marriott	Satterfield
Flynt	Mazzoli	Sawyer
Frey	Michel	Schulze
Gaydos	Miller, Ohio	Sharp
Gephardt	Minish	Shipley
Gibbons	Mitchell, N.Y.	Shuster
Goldwater	Moakley	Sikes
Gore	Montgomery	Simon
Gradison	Moore	Skelton
Grassley	Moorhead, Calif.	Smith, Iowa
Hamilton		Smith, Nebr.
Hanley	Mottl	Snyder
Hansen	Murphy, Ill.	Spence
Harsha	Murphy, N.Y.	St Germain
Hightower	Murphy, Pa.	Staggers
Hubbard	Murtha	Stangeland
Hyde	Myers, Gary	Stanton
Ichord	Myers, John	Steiger
Ireland	Myers, Michael	Stratton
Jenkins	Natcher	Stump
Kasten	Nedzi	Symms
Kazen	Nolan	Thone
Kelly	Nowak	Traxler
Kemp	O'Brien	Treen
Kildee	Oakar	Trible
Kindness	Oberstar	Vento
LaFalce	Patten	Volkmer
Lagomarsino	Perkins	Waggonner
Le Fante	Poage	Walker
Lederer	Pressler	Walsh
Lent	Price	Wampler
Livingston	Quayle	Whitehurst
Lloyd, Tenn.	Quie	Wilson, Bob
Lujan	Rahall	Winn
Luken	Regula	Wydler
McDade	Rinaldo	Wylie
McDonald	Robinson	Young, Alaska
McEwen	Rodino	Young, Fla.
McHugh	Roe	Young, Mo.
McKay	Rooney	Young, Tex.
Madigan	Rudd	Zablocki
Markey	Runnels	Zeferetti

ANSWERED "PRESENT"—1

Johnson, Colo.

NOT VOTING—68

Andrews, N. Dak.	Hillis	Pepper
	Holland	Pursell
Armstrong	Holt	Quillen
Badillo	Huckaby	Railsback
Bolling	Jones, Okla.	Rhodes
Brinkley	Jones, Tenn.	Roberts
Burke, Calif.	Ketchum	Rostenkowski
Collins, Tex.	Koch	Rousselot
Corcoran	Krueger	Sarasin
Cotter	Latta	Sebelius
D'Amours	Lloyd, Calif.	Skubitz
Dent	Long, La.	Stokes
Derrick	Lott	Taylor
Edwards, Okla.	McClory	Teague
Fuqua	McKinney	Thompson
Gammage	Mathis	Vander Jagt
Goodling	Meeds	Watkins
Guyer	Metcalfe	Whalen
Hagedorn	Mikva	White
Hall	Mitchell, Md.	Whitten
Hannaford	Neal	Wilson, Tex.
Harrington	Nichols	Wolff
Heckler	Nix	Yatron

The Clerk announced the following pairs:

On this vote:

Mr. Stokes for, with Mr. Roberts against.

Mr. Harrington for, with Mr. Nichols against.

Mr. Lloyd of California for, with Mr. Huckaby against.

Mr. Bolling for, with Mr. Hall against.

Mrs. Burke of California for, with Mr. Jones of Tennessee against.

Mr. Badillo for, with Mr. Long of Louisiana against.

Mr. Thompson for, with Mr. Holland against.

Mr. Hannaford for, with Mr. Wolff against.

Mr. Mitchell of Maryland for, with Mr. Rostenkowski against.

Mr. Johnson of Colorado for, with Mr. Armstrong against.

Mr. Metcalfe for, with Mrs. Holt against.

Mr. Sarasin for, with Mr. Corcoran of Illinois against.

Mr. Koch for, with Mr. Hagedorn against.

Until further notice:

Mr. Cotter with Mr. Gammage.

Mr. Brinkley with Mr. Whitten.

Mr. Dent with Mr. White.

Mr. D'Amours with Mr. Jones of Oklahoma.

Mr. Fuqua with Mr. Krueger.

Mr. Derrick with Mr. Charles Wilson of Texas.

Mr. Mikva with Mr. Mathis.

Mr. Meeds with Mr. Nix.

Mr. Neal with Mr. Pepper.

Mr. JOHNSON of Colorado. Mr. Speaker, I have a live pair with the gentleman from Colorado (Mr. ARMSTRONG). If he were present he would have voted "nay." I voted "yea." I withdraw my vote and vote "present."

Mr. JOHNSON of Colorado changed his vote from "yea" to "present."

Mr. BEARD of Tennessee and Mr. WAGGONNER changed their votes from "yea" to "nay."

So the preferential motion was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FLOOD moves that the House disagree to the amendment of the Senate to the amendment of the House to the amendment of the Senate numbered 82.

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. FLOOD) is recognized for 30 minutes.

Mr. FLOOD. Mr. Speaker, the House has just voted down the preferential motion on the Senate amendment, and in order to move along with this bill and send it back to the Senate, I have offered this motion, which accomplishes that purpose.

Mr. Speaker, I urge the adoption of the motion.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. FLOOD).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. HOLTZMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

So the motion was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 1131, NUCLEAR REGULATORY COMMISSION AUTHORIZATION, FISCAL YEAR 1978

Mr. UDALL. Mr. Speaker, pursuant to the unanimous-consent request granted yesterday, I call up the conference report on the Senate bill (S. 1131) to authorize appropriations for the Nuclear Regulatory Commission for the fiscal year 1978, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. FLOWERS. Reserving the right to object, Mr. Speaker, and before propounding a point of order, if I could engage the distinguished chairman in a

colloquy here, I hope we can dispose of this problem.

I talked with the gentleman from Arizona (Mr. UDALL), and I know he is aware of the two different sections with which we have a problem, based upon the jurisdiction of the Committee on Science and Technology. Some of the language that is contained on pages 2 and 3 of the conference report is involved.

Mr. Speaker, could I call the gentleman's attention to the language on page 2 which has to do with subsection (e), which reads as follows:

(e) In the event that the license application is withdrawn or funding for the continuation of the Clinch River Breeder Reactor project is not authorized or appropriated, the total authorization in subsection (a) shall be reduced by $2,700,000.

Mr. Speaker, from previous discussion with the gentleman from Arizona, I would ask him if I am correct in interpreting the position of him and of his committee to the effect that there is no intent here to circumvent the wall of the Congress on the continuation of the Clinch River project by any diminution of the authorization to the NRC; is that correct?

Mr. UDALL. If the gentleman will yield, Mr. Speaker, the gentleman is exactly correct. The statement of the managers says that the conference report is completely neutral on Clinch River. The Clinch River project is funded. The language agreed upon by the conferees in section 1(e) would not in any way restrict activities relating to the licensing of the Clinch River Breeder reactor.

Mr. FLOWERS. I thank the gentleman.

In other words, our concern is that the President might veto an authorization bill; and that, in and of itself, would stop the project. Although the language as contained in this section reads "is not authorized or appropriated," it is not the intent of the distinguished chairman of the Committee on Interior and Insular Affairs that this language or that this action by the Congress in approving this conference report should be interpreted by the Nuclear Regulatory Commission as being anything other than neutral on the Clinch River project; is that correct?

Mr. UDALL. The gentleman is entirely correct.

Mr. FLOWERS. I have one other question. If the gentleman will respond to this, I think we will be through very shortly.

On page 3, under section 4(a), improved safety systems research, I understand there was an error in the typing or in the completion of the conference report. It is my understanding that there was a typographical error in that on the line which reads "for the development of new or improved systems for nuclear power plants," it should have read "new or improved safety systems for nuclear power plants."

Mr. UDALL. The gentleman is entirely correct, and in about 1 minute, if the conference report is adopted, we have a concurrent resolution which will insert "safety" back in where it should have been all long.

Mr. FLOWERS. I thank the gentleman for his comments.

Mr. Speaker, I would like to withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of November 1, 1977.)

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

Mr. SKUBITZ. Mr. Speaker, I rise in support of conference committee report 95–788 and commend the efforts of the conferees in arriving at this rational compromise. As many of my colleagues know, I have kept careful watch over the activities of the Nuclear Regulatory Commission since its inception in 1974 as I did with its predecessor the Atomic Energy Commission in the past. I believe the approach taken by the Interior Committee in "breaking out" the programs and funding for these programs is the proper approach as compared to the original version which was essentially a "lump sum" approach to authorizing appropriations for the NRC.

I believe that by taking the approach that we in the Interior Committee took, which is still intact coming out of conference, it will greatly enhance our oversight responsibilities relative to the activities within the NRC. I do not mean to infer that a lump sum appropriation would provide the NRC with the means to deceive Members of Congress as to their activities. I am perhaps apprehensive of NRC's activities based on my past experience with its predecessor the Atomic Energy Commission in my own State of Kansas and how that organization conducted its activities there.

I am confident, however, that with the able leadership of Chairman UDALL of our committee that my apprehension regarding NRC's activities will be lessened greatly.

Mr. BAUMAN. Mr. Speaker, I rise in support of the conference report on S. 1131. However, I would like to comment upon two important aspects of this report—NRC funding support for reprocessing and breeder technology development.

I regret that the conference report remains neutral toward the President's policy of indefinite deferral of commercial reprocessing and recycling of spent nuclear fuel as well as his opposition to the timely construction of the Clinch River breeder reactor. Ironically, I find the White House policies to be in direct contradiction to the cornerstone of President Carter's proposed national energy plan: Conservation and Improved Energy Efficiency.

The energy crisis we face today was brought about in part by the prodigious and often wasteful use of oil and natural gas to the point where we now face declining production and eventual depletion of these fossil resources. Uranium, like oil and natural gas, is a finite and depletable resource. Therefore, we must do everything we can to conserve uranium and improve its energy efficiency.

Both the reprocessing and breeder plants are intended specifically to do just that—conserve and improve energy efficiency of a vital domestic fuel—uranium.

More specifically, the Barnwell plant is designed to reprocess nuclear fuel so that it can be recycled to produce more electric power. Reprocessing and recycling is not unique to the nuclear industry; we currently reprocess and recycle paper, glass, aluminum, and other metals. What is unique is that during the course of electrical generation, nuclear plants produce another fuel—plutonium—as a byproduct. This byproduct is recoverable through reprocessing operations such as at Barnwell. For every 1,000 pounds of nuclear fuel sent to a reprocessing plant, uranium amounts to 951 pounds, plutonium 9 pounds, and nuclear waste 40 pounds. A lot has been said and written about the alleged hazards associated with the use of plutonium. But do plutonium's opponents address these hazards—real or imaginary—in terms that can justify the abandonment of reprocessing and recycling? To put it in the venacular, will we as a Nation throw the baby out with the bath water? I think we will if we take the road advocated by some within the administration.

By reprocessing and recycling nuclear fuel, we can reduce the uranium fuel requirements for nuclear plants by up to 35 percent, thus conserving uranium. A recent ERDA study (ERDA–76/121) shows that reprocessing and recycling can conserve 400,000 tons of uranium by the year 2000 which amounts to two-thirds of our present known domestic reserves of uranium. This conservation of uranium would result in a direct benefit to consumers by lowering the cost of electricity produced in nuclear plants. The same ERDA study estimates that the savings to consumers from reduced electric bills will amount to $16.6 billion (undiscounted) by the year 2000.

With these enormous benefits, what are the arguments against reprocessing and recycling which justify its abandonment or indefinite deferral. Critics argue that plutonium is the most deadly substance known to man and that it lasts for hundreds of thousands of years, therefore in case of an accident we would be subjecting ourselves and future generations to an intolerable hazard. The truth of the matter is that plutonium is no more dangerous than any other heavy metal or poison found commonly in the American industrial economy. Mercury, lead, arsenic and cyanide, like plutonium, also last for hundreds of thousands of years. During the atmospheric weapon testing days approximately 4 to 5 tons of plutonium were released into the atmosphere without any discernible effect on human health.

Critics are quick to point out that reprocessing and recycling will significantly increase the risks of nuclear proliferation. President Carter has indefinitely deferred reprocessing and has asked other industrialized nations of the world to do the same. To date, these

nations have indicated that they do not enjoy the same luxury of abundant supplies of uranium and other indigenous fuels as does the United States and therefore these nations must eventually reprocess and recycle their nuclear fuel. Japan, for example, has just started the operation of its Tokai Mura reprocessing plant to assure that its option will be preserved.

Since the other industrialized nations will inevitably reprocess and recycle as evidenced by recent developments, the United States should assume a leadership role. The Barnwell facility could be ideally suited to become the first international fuel reprocessing center. Systems for international controls and safeguards (as well as alternative fuel cycles) could be developed and tested at the Barnwell facility. For these reasons and for the need to conserve our domestic uranium resource, the United States should move ahead with reprocessing and recycling.

President Carter has also proposed cancellation of Clinch River breeder reactor. I find this action also contrary to the national energy plan and against the best interests of the United States. The Clinch River breeder reactor is a demonstration project designed to test the feasibility of a technology which greatly increases the energy efficiency of uranium. Proliferation concerns about a small research and development project are ill-founded.

If proved successful, breeder reactors could increase the energy value of our uranium resources up to a factor of 70 times. In fact, breeder reactors could use the residual "waste" uranium—called tails—from conventional reactor fuel to produce energy. If the current inventory of tails material were used in breeder reactors, the energy produced would be equivalent to at least three times the total OPEC oil resources or our total unmined coal resources. This energy could fuel this Nation for the next 165 years at our present rate of total energy use.

In times like these, we cannot afford to turn our back on an energy resource of this potential magnitude. If the energy crisis is truly the moral equivalent of war, then we must proceed in developing breeder technology. The Clinch River breeder reactor is the first step in demonstrating this promising technology. Therefore, I strongly believe that the construction of the project should continue without further delay.

Mr. UDALL. Mr. Speaker, I would like to comment briefly on the history and the key provisions of this report. On September 12, the House enacted H.R. 3455 by a vote of 396 to 2. Subsequently this passage was vacated, and S. 1131, a similar Senate-passed bill, was passed in lieu thereof after being amended to contain the language of the House bill as passed.

The report would authorize for fiscal 1978 appropriations of $297,740,000 in accordance with section 261 of the Atomic Energy Act of 1954 and section 305 of the Energy Reorganization Act of 1974. The report would provide funds as follows:

Nuclear reactor regulation	$41,480,000
Standards development	12,130,000
Inspection and enforcement	33,050,000
Nuclear material safety and safeguards	22,090,000
Nuclear regulatory research	148,900,000
Program technical support	10,180,000
Program direction and administration	29,910,000

In its consideration of the Nuclear Regulatory Commission authorization bills passed by the House and Senate, the conferees agreed on the following major points:

They accepted the House line item breakdown of the authorization in lieu of the lump-sum authorization which appeared in the Senate bill.

They agreed on seven budget categories rather than the nine which were specified in the House bill.

They agreed to House provisions establishing new programs concerning research on new safety systems and resolution of common safety issues. They agreed to delete specific amounts authorized for these programs by the House bill.

They agreed to delete specific funding provided in the House bill for increased funds to support activities of the Office of Inspection and Enforcement.

They agreed to House provisions establishing a fellowship program under the aegis of the Advisory Committee on Reactor Safeguards.

They agreed to House provisions for a report on reactor safety research and a slight modification of a House requirement for a report on the Commission's equal opportunity program.

They agreed to delete the House requirement for reduction in the number of staff at grade GS-16 and above.

They agreed to delete the House provision requiring the Commission to prepare a plan for consolidation of its offices. They substituted instead comments in the statement of managers. The comments expressed concern about the Commission's dispersal of staff and noted progress by the General Services Administration in bringing about a consolidation of offices at a single site.

A further point requiring some explanation is the conflict of interest provision contained in the conference report. This provision is identical to that contained in the House amendment. It requires that the NRC develop conflict of interest guidelines which would be applicable in its contracting arrangements. During the floor discussion prior to passage of the House bill, the gentleman from Michigan (Mr. DINGELL) suggested that these conflict of interest provisions be made more specific, and that they be made to conform to those the Congress had made applicable to the FEA and ERDA. I said at that time that I would seek to have the conference adopt the language proposed by the gentleman from Michigan. Subsequently, however, we learned that the proposed change would violate the rules of the House. The conferees nevertheless did agree on the substance of the gentleman's proposal. They thereupon specified in their statement that the conflict of interest guidelines the Commission was required to adopt should be modeled on those which Congress had previously adopted for the FEA and ERDA.

I have promised the gentleman from Michigan that I would undertake to insure that his proposal is incorporated in the NRC's fiscal year 1979 authorization which will be before us early next year and I am including in the RECORD a letter I have written the gentleman in which I explain the situation:

WASHINGTON, D.C.,

HON. JOHN D. DINGELL,
Rayburn House Office Building,
Washington, D.C.

DEAR JOHN: As you recall, during floor discussion of the NRC authorization for fiscal year 1978, I said that I would seek in conference to revise conflict of interest provisions in accordance with your suggestions. Unfortunately we were then informed by the Office of the Parliamentarian that adoption of such language by the conference would violate the rules of the House. Thus final approval of your proposed conflict of interest provision was not achieved although there is every indication that barring the procedural problem it would have been.

Because there was agreement to the substance of your proposal, the conferees decided that the House language (which required the NRC to adopt conflict of interest guidelines) be left standing and that the statement of managers specify that the guidelines adopted by the NRC could be modeled after those that you recommended. The statement of managers includes your conflict of interest proposal to be used as a model upon which the NRC is to base its guidelines under the statutory mandate.

I am sorry that we were unable to meet fully the concerns you expressed during House consideration of the NRC authorization legislation. I will undertake to insure that your proposal is incorporated in the fiscal year 1979 authorization bill next year.

Sincerely,

MORRIS K. UDALL,
Chairman.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on the Senate bill S. 1131.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FLOOD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on H.R. 7555, making appropria-

tions for the Departments of Labor, and Health, Education, and Welfare.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

AUTHORIZING A CORRECTION IN THE ENROLLMENT OF S. 1131, AUTHORIZING APPROPRIATIONS FOR NUCLEAR REGULATORY COMMISSION

Mr. UDALL. Mr. Speaker, I send to the desk the concurrent resolution (H. Con. Res. 397) to correct the enrollment of the bill S. 1131, and ask unanimous consent for its immediate consideration.

The Clerk read the concurrent resolution as follows:

H. CON. RES. 397

Resolved by the House of Representatives (the Senate concurring), That the Secretary of the Senate, in the enrollment of the bill (S. 1131), to authorize appropriations for Nuclear Regulatory Commission for the fiscal year 1978, and for other purposes, shall make the following correction:

In section 4, change "improved systems" to "improved safety systems".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1978

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 892 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 892

Resolved, That upon the adoption of this resolution it shall be in order, clause 2(1)(6) of rule XI to the contrary notwithstanding, to consider the joint resolution (H.J. Res. 643) making further continuing appropriations for the fiscal year 1978, and for other purposes, in the House.

The SPEAKER pro tempore. The gentleman from California (Mr. SISK) is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT), pending which I yield myself such time as I may consume.

Mr. O'NEILL. Mr. Speaker, will the gentleman yield?

Mr. SISK. I yield to the distinguished Speaker.

Mr. O'NEILL. I thank the gentleman for yielding.

I asked the gentleman to yield just so that I may get an idea as to the schedule for this evening. This is the rule on the continuing resolution. Following the adoption of the rule, the continuing resolution will be taken up. Then after its passage, it will be taken to the Senae, and we will have to await the Senate to see what action they take, if they accept our continuing resolution.

After the continuing resolution is out of the way, we have the saccharine conference report and Senate amendments to a railroad bill, and an urban mass transit bill. We will be standing by awaiting whatever action is taken by the Senate.

I do hope that we can adjourn this evening, but for anyone who has made plans, it appears to me we are apparently going to be here for at least a couple more hours, and I would like the Members to know that.

Mr. SISK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 892 provides for the consideration of House Joint Resolution 643, making further continuing appropriations for fiscal year 1978. This continuing resolution pertains specifically to appropriations for the District of Columbia.

The rule waives points of order against the joint resolution for failure to comply with the provisions of clause 2(l)(6) of rule XI, requiring that reports on bills and resolutions be available for 3 calendar days prior to their consideration. The waiver is necessary so that the House may act on the continuing resolution prior to adjournment for the recess.

The joint resolution simply provides continuing authority for programs and activities funded under the District of Columbia appropriations bill through November 30, 1977, or until the bill is enacted, whichever occurs first. A previous continuing resolution expired on October 31, 1977.

Mr. Speaker, I urge my colleagues to adopt House Resolution 892 so that we may proceed to consideration of House Joint Resolution 643.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the rule makes in order the consideration of House Joint Resolution 643, a measure making further continuing appropriations for the District of Columbia for fiscal year 1978. Clause 2(l)(6) of rule XI, the 3-day rule, is waived.

The continuing resolution which expired on October 31, 1977, had provided interim funding for the current fiscal year programs included in the District of Columbia appropriations bill for fiscal year 1978. Since final conference action still has not been concluded on this bill, House Joint Resolution 643 is necessary to provide for the orderly continuation of the programs contained in the appropriation legislation until the conference report is approved.

The joint resolution continues the funding levels of fiscal year 1977 through November 30, 1977, or until the bill is enacted, whichever occurs first. The only exception is that the Advisory Neighborhood Commissions are provided for at a rate not in excess of $500,000. The reason for this exception is that last year these Commissions were appropriated $900,000, and this year's conference has not completed action on this portion of the bill, which has the Senate appropriating $500,000 and the House appropriating nothing. Therefore, $500,000 appears to be the maximum compromise figure in conference, and it is less than the Advisory Neighborhood Commissions' funding for fiscal year 1977.

Mr. Speaker, I know of no controversy regarding the passage of this rule.

Mr. Speaker, I have no request for time.

Mr. SISK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MILLER of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 344, nays 5, not voting 85, as follows:

[Roll No. 740]

YEAS—344

Abdnor	Clay	Gephardt
Addabbo	Cleveland	Giaimo
Akaka	Cochran	Gibbons
Alexander	Cohen	Gilman
Allen	Coleman	Ginn
Ambro	Collins, Ill.	Glickman
Ammerman	Conte	Goldwater
Anderson, Calif.	Conyers	Gonzalez
Andrews, N.C.	Corman	Gore
Annunzio	Cornell	Gradison
Applegate	Cornwell	Grassley
Archer	Coughlin	Gudger
Ashley	Daniel, Dan	Hamilton
Aspin	Daniel, R. W.	Hammer-schmidt
AuCoin	Danielson	Hanley
Badham	Davis	Hansen
Bafalis	de la Garza	Harkin
Baldus	Delaney	Harris
Barnard	Dellums	Harsha
Baucus	Derwinski	Hawkins
Bauman	Devine	Hefner
Beard, R.I.	Dickinson	Heftel
Beard, Tenn.	Dicks	Hightower
Bedell	Diggs	Hollenbeck
Bellenson	Dingell	Holtzman
Benjamin	Dodd	Horton
Bennett	Dornan	Howard
Bevill	Downey	Hubbard
Biaggi	Drinan	Hughes
Bingham	Duncan, Oreg.	Hyde
Blanchard	Duncan, Tenn.	Ichord
Blouin	Early	Ireland
Boggs	Eckhardt	Jacobs
Boland	Edwards, Ala.	Jeffords
Bonior	Edwards, Calif.	Jenrette
Bonker	Eilberg	Johnson, Calif.
Bowen	Emery	Johnson, Colo.
Brademas	English	Jones, N.C.
Breaux	Erlenborn	Jordan
Breckinridge	Ertel	Kasten
Brodhead	Evans, Colo.	Kastenmeier
Brooks	Evans, Del.	Kazen
Brown, Calif.	Evans, Ga.	Kelly
Brown, Ohio	Evans, Ind.	Kemp
Broyhill	Fary	Keys
Buchanan	Fascell	Kildee
Burgener	Fenwick	Kindness
Burke, Fla.	Findley	Kostmayer
Burke, Mass.	Fish	Krebs
Burleson, Tex.	Fisher	LaFalce
Burlison, Mo.	Fithian	Lagomarsino
Burton, Phillip	Flippo	Le Fante
Butler	Flood	Leach
Byron	Florio	Lederer
Caputo	Flowers	Leggett
Carney	Flynt	Lehman
Carr	Foley	Lent
Carter	Ford, Mich.	Levitas
Cavanaugh	Ford, Tenn.	Livingston
Cederberg	Forsythe	Lloyd, Tenn.
Chappell	Fountain	Long, Md.
Chisholm	Fowler	Lott
Clausen, Don H.	Fraser	Lujan
Clawson, Del	Frenzel	Luken
	Frey	Lundine
	Gaydos	

McCormack	Patterson	Smith, Nebr.
McDade	Pattison	Snyder
McEwen	Pease	Solarz
McFall	Perkins	Spellman
McHugh	Pettis	Spence
McKay	Pickle	St Germain
Madigan	Pike	Staggers
Maguire	Poage	Stangeland
Mahon	Pressler	Stanton
Mann	Preyer	Steed
Markey	Price	Steers
Marks	Pritchard	Steiger
Marlenee	Quayle	Stockman
Marriott	Quie	Stratton
Martin	Rahall	Studds
Mattox	Rangel	Stump
Mazzoli	Regula	Thone
Meyner	Reuss	Thornton
Mikulski	Rinaldo	Traxler
Miller, Calif.	Risenhoover	Treen
Miller, Ohio	Robinson	Trible
Mineta	Rodino	Tsongas
Minish	Roe	Tucker
Mitchell, N.Y.	Rogers	Ullman
Moakley	Roncalio	Van Deerlin
Mollohan	Rooney	Vanik
Montgomery	Rose	Vento
Moore	Rosenthal	Volkmer
Moorhead, Calif.	Roybal	Waggonner
	Rudd	Walgren
Moorhead, Pa.	Runnels	Walker
Mottl	Ruppe	Wampler
Murphy, Ill.	Russo	Wayman
Murphy, N.Y.	Ryan	Weaver
Murphy, Pa.	Santini	Weiss
Murtha	Satterfield	Whitehurst
Myers, Gary	Sawyer	Wiggins
Myers, John	Scheuer	Wilson, Bob
Myers, Michael	Schroeder	Wilson, C. H.
Natcher	Schulze	Winn
Nedzi	Seiberling	Wirth
Nolan	Sharp	Wright
Nowak	Shipley	Wydler
O'Brien	Shuster	Wylie
Oakar	Sikes	Yates
Oberstar	Simon	Young, Fla.
Obey	Sisk	Young, Mo.
Ottinger	Skelton	Young, Tex.
Panetta	Slack	Zablocki
Patten	Smith, Iowa	Zeferetti

NAYS—5

Crane	McDonald	Symms
Edgar	Stark	

NOT VOTING—85

Anderson, Ill.	Heckler	Pepper
Andrews, N. Dak.	Hillis	Pursell
	Holland	Quillen
Armstrong	Holt	Railsback
Ashbrook	Huckaby	Rhodes
Badillo	Jenkins	Richmond
Bolling	Jones, Okla.	Roberts
Brinkley	Jones, Tenn.	Rostenkowski
Broomfield	Ketchum	Rousselot
Brown, Mich.	Koch	Sarasin
Burke, Calif.	Krueger	Sebelius
Burton, John	Latta	Skubitz
Collins, Tex.	Lloyd, Calif.	Stokes
Conable	Long, La.	Taylor
Corcoran	McClory	Teague
Cotter	McCloskey	Thompson
Cunningham	McKinney	Udall
D'Amours	Mathis	Vander Jagt
Dent	Meeds	Walsh
Derrick	Metcalfe	Watkins
Edwards, Okla.	Michel	Whalen
Fuqua	Mikva	White
Gammage	Milford	Whitley
Goodling	Mitchell, Md.	Whitten
Guyer	Moffett	Wilson, Tex.
Hagedorn	Moss	Wolff
Hall	Neal	Yatron
Hannaford	Nichols	Young, Alaska
Harrington	Nix	

The Clerk announced the following pairs:

Mr. Stokes with Mr. Roberts.
Mr. Harrington with Mr. Nichols.
Mr. Lloyd of California with Mr. Huckaby.
Mrs. Burke of California with Mr. Hall.
Mr. Badillo with Mr. Jones of Tennessee.
Mr. Thompson with Mr. Long of Louisiana.
Mr. Hannaford with Mr. Holland.
Mr. Mitchell of Maryland with Mr. Wolff.
Mr. Metcalfe with Mr. Rostenkowski.
Mr. Koch with Mr. Brinkley.
Mr. Cotter with Mr. Dent.
Mr. D'Amours with Mr. Fuqua.
Mr. Mathis with Mr. Mikva.
Mr. Derrick with Mr. Meeds.
Mr. Nix with Mr. Gammage.
Mr. Pepper with Mr. Whitten.
Mr. White with Mr. John Burton.
Mr. Teague with Mr. Jenkins.
Mr. Jones of Oklahoma with Mr. Krueger.
Mr. Moffett with Mr. Milford.
Mr. Moss with Mr. Neal.
Mr. Richmond with Mr. Udall.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. MAHON. Mr. Speaker, pursuant to the rule just adopted, I call up the joint resolution (H.J. Res. 643) making further continuing appropriations for the fiscal year 1978, and for other puposes.

GENERAL LEAVE

Mr. MAHON. Mr. Speaker, I ask unanimous consent that all Members speaking on this resolution may have 5 legislative days in which to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, the information is that the other body has recessed until 8:55 tomorrow morning. I wonder if the gentleman can tell us, then, what is the situation, as far as the program? Are we to be here tomorrow to conclude the consideration?

Mr. MAHON. If the gentleman will yield, I have not conferred with the Speaker, but now that the Senate has adjourned it will be necessary for the House to meet tomorrow, I would think.

Mr. BAUMAN. I yield to the Speaker on my reservation.

The SPEAKER. The answer is that there will be a session tomorrow, at 10 o'clock. The Senate has adjourned for the evening. I would hope that we would be able to get this legislation over there, and then we would have to await the action of the Senate. So instead of there being a pro forma session, there is a great possibility of a business session.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the title of the joint resolution.

The Clerk read the joint resolution, as follows:

H.J. RES. 643

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1978, namely:

SEC. 101. Such amounts as may be necessary for continuing projects or activities which were conducted in the fiscal year 1977, and for which appropriations, funds, or other authority would be available in the District of Columbia Appropriations Act, 1978 (H.R. 9005) as passed the House of Representatives or the Senate, but at a rate of operations not in excess of the current rate: *Provided,* That the Advisory Neighborhood Commissions shall be contained at an annual rate of not to exceed $500,000.

SEC. 102. Appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from November 1, 1977, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) November 30, 1977, whichever first occurs.

SEC. 103. Appropriations and funds made available or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in 31 U.S.C. 665(d)(2), but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 104. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 105. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 106. No appropriation or fund made available or authority granted pursuant to this joint resolution shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1977.

SEC. 107. All obligations incurred in anticipation of the appropriations and authority provided in this joint resolution are hereby ratified and confirmed if otherwise in accordance with the provisions of this joint resolution.

The SPEAKER. The gentleman from Texas (Mr. MAHON) is recognized for 1 hour.

Mr. MAHON. Mr. Speaker, Members need to understand what our problem is at the moment. In view of the fact that final action has not been taken on the District of Columbia appropriation bill and on the Labor-Health, Education, and Welfare bill, we have to have a continuing resolution. I would like to explain the present plan of the committee to the House. I have here before me House Joint Resolution 643, which is a continuing resolution providing financing authority for the District of Columbia until November 30. I shall offer an amendment to include operating authority for the Departments of Labor, and Health, Education, and Welfare. The amendment will also carry another provision concerning the Small Business Administration.

I will read the amendment which I propose to offer. I will yield for questions only and not for purposes of an amendment. I shall offer the following amendment:

On page 2, line 6, strike the period and insert the following: ": *Provided further,* That the rate of operations for the Disaster Loan Fund of the Small Business Administration contained in said Act shall be the rate as passed the Senate.".

Such amounts as may be necessary for projects or activities provided for in the Departments of Labor, and Health, Education, and Welfare, and Related Agencies Appropriation Act, 1978 (H.R. 7555), at a rate of operations, and to the extent and in the manner, provided for in such Act as modified

by the House of Representatives on August 2, 1977, notwithstanding the provisions of Sec. 106 of this joint resolution.

In other words, the Labor and Health, Education, and Welfare programs would proceed not at the current rate which is the fiscal year 1977 rate, but at the modified rate as represented by the conference agreement. This would be a departure from the continuing resolution which recently expired.

With respect to the disaster loan programs of the Small Business Administration, the amendment would provide authority to approve loans to the extent that would be provided by the Senate amendment to the District of Columbia bill, that is $1.4 billion. Now the supplemental appropriations bill which is now in conference would actually appropriate $1.4 billion to SBA for disaster loans. An appropriation will still be required at some point but the amendment which I will offer will provide authority to make loans up to $1.4 billion.

These loans that will be approved pursuant to the authority in the amendment will eventually be charged to the regular appropriation once it is enacted in accordance with sections 104 and 105 of House Joint Resolution 643. The important point is that disaster victims will be able to receive loans by virtue of this amendment. The gentleman from Iowa (Mr. SMITH) and others have expressed concern about this matter and I felt I should make this explanatory statement.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the distinguished gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Speaker, the amendment to provide funds to the Small Business Administration to operate its disaster loan program is urgently needed. I do not believe that Congress, in good conscience, can go home without providing money to aid the thousands of disaster victims who have sought loans from SBA.

Both the House and the Senate have overwhelmingly voted within the past month to provide $1.4 billion for this purpose. The House action occurred on October 20 as an amendment to the general supplemental bill, H.R. 9375, and the Senate subsequently also approved this amount on November 1; however, the conferees have been unable to resolve the differences in this bill in order to present a conference report to both bodies for approval prior to this week's adjournment.

Earlier the Senate had amended the District of Columbia appropriation's bill, H.R. 9005, to provide the same amount, $1.4 billion to SBA's disaster loan fund; however, other differences in that bill have not been resolved by the conferees and no conference report is anticipated prior to this week's adjournment.

SBA central office has completely exhausted its disaster loan fund and unless additional money is appropriated this week thousands of disaster victims will go without assistance.

Specifically, I have been advised by SBA that as of 1977, they have received some 11,003 applications for a total of $946.8 million and that they have no money to fund any part of these applications.

The amendment under consideration very simply appropriates to SBA the same amount previously approved by both the House and Senate. Adoption of this amendment would permit SBA to make loans up to the entire amount of the $1.4 billion which they need. The nature of SBA's disaster loan program is such that the Agency would not be subject to any apportionment of the amount appropriated by the Senate act; SBA would be permitted to use the entire amount, if necessary, under the provisions of this amendment.

Mr. CEDERBERG. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield, for debate purposes, to the gentleman from Michigan.

Mr. CEDERBERG. Mr. Speaker, I do not have a question, but I do have an observation to make.

It would seem to me that this matter should be understood by every Member at the present time, and if it is not understood by now, it is too late. I would hope that we do not take any more time on this, and that we get it over with.

Mr. MAHON. Mr. Speaker, I am in complete accord with the gentleman's suggestion.

Mr. CEDERBERG. Mr. Speaker, I thank the gentleman for yielding.

AMENDMENT OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MAHON: On page 2, line 6, strike the period and insert the following: ": *Provided further*, That the rate of operations for the Disaster Loan Fund of the Small Business Administration contained in said Act shall be the rate as passed the Senate.

"Such amounts as may be necessary for projects or activities provided for in the Departments of Labor, and Health, Education, and Welfare, and Related Agencies Appropriation Act, 1978 (H.R. 7555), at a rate of operations, and to the extent and in the manner, provided for in such Act as modified by the House of Representatives on August 2, 1977, notwithstanding the provisions of Sec. 106 of this joint resolution.".

Mr. MAHON. Mr. Speaker, I shall presently move the previous question, but before doing so, I would like to emphasize that this continuing resolution will go to the other body after House action. The other body, as the Speaker has indicated, has already adjourned for the evening and will resume tomorrow morning at 8:55 a.m. It is impossible to predict what the other body will do with this continuing resolution with respect to the District of Columbia and with respect to the Departments of Labor and Health, Education, and Welfare.

It is impossible to predict what amendments might be added, but it is not impossible to predict what will happen if we do not finalize the continuing resolution in the House and Senate and send it to the President. What would result is this: There would be payless paydays between now and November 30.

It is absolutely urgent that we find a way to get this continuing resolution acted upon by the Congress tomorrow, since we cannot do it tonight. It is imperative that we get through the Congress a continuing resolution on tomorrow and send it to the President. Otherwise there will be some very serious problems.

Mr. Speaker, I move the previous question on the amendment and the joint resolution to final passage.

The previous question was ordered.

The amendment was agreed to.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MAHON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolution just passed.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

CONFERENCE REPORT ON S. 1750, SACCHARIN STUDY AND LABELING ACT

Mr. ROGERS submitted the following conference report and statement on the Senate bill (S. 1750) to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act, as amended, to conduct studies concerning toxic and carcinogenic substances in foods, to conduct studies concerning saccharin, its impurities and toxicity and the health benefits, if any, resulting from the use of nonnutritive sweeteners including saccharin; to ban the Secretary of Health, Education, and Welfare from taking action with regard to saccharin for 18 months, and to add additional provisions to section 403 of the Federal Food, Drug, and Cosmetic Act, as amended, concerning misbranded foods:

CONFERENCE REPORT (H. REPT. NO. 98-810)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1750) to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act, as amended, to conduct studies concerning toxic and carcinogenic substances in foods, to conduct studies concerning saccharin, its impurities and toxicity and the health benefits, if any, resulting from the use of nonnutritive sweeteners including saccharin; to ban the Secretary of Health, Education, and Welfare from taking action with regard to saccharin for eighteen months, and to add additional provisions to section 403 of the Federal Food, Drug, and Cosmetic Act, as amended, concerning misbranded foods, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

SECTION 1. This Act may be cited as the "Saccharin Study and Labeling Act".

SEC. 2. (a)(1) The Secretary of Health, Education, and Welfare (hereinafter in this Act referred to as the "Secretary") shall ar-

range, in accordance with subsection (b), for the conduct of a study, based on available information, of—

(A) current technical capabilities to predict the direct or secondary carcinogenicity or other toxicity in humans of substances which are added to, become a part of, or naturally occur in, food and which have been found to cause cancer in animals;

(B) the direct and indirect health benefits and risks to individuals from foods which contain carcinogenic or other toxic substances;

(C) the existing means of evaluating the risks to health from the carcinogenicity or other toxicity of such substances, the existing means of evaluating the health benefits of foods containing such substances, and the existing statutory authority for, and appropriateness of, weighing such risks against such benefits;

(D) instances in which requirements to restrict or prohibit the use of such substances do not accord with the relationship between such risks and benefits; and

(E) the relationship between existing Federal food regulatory policy and existing Federal regulatory policy applicable to carcinogenic and other toxic substances used as other than foods.

(2) The Secretary shall arrange, in accordance with subsection (b), for the conduct of a study to determine, to the extent feasible—

(A) the chemical identity of any impurities contained in commercially used saccharin,

(B) the toxicity or potential toxicity of any such impurities, including their carcinogenicity or potential carcinogenicity in humans, and

(C) the health benefits, if any, to humans resulting from the use of nonnutritive sweeteners in general and saccharin in particular.

(b)(1) The Secretary shall first request the National Academy of Sciences (hereinafter in this section referred to as the "Academy"), acting through appropriate units, to conduct the studies, required by subsection (a), under an arrangement whereby the actual expenses incurred by the Academy directly related to the conduct of such studies will be paid by the Secretary. If the Academy agrees to such request, the Secretary shall enter into such an agreement with the Academy.

(2) If the Academy declines the Secretary's request to conduct any such study under such an arrangement, then the Secretary shall enter into a similar arrangement with another appropriate public or nonprofit private entity to conduct such study.

(3) Any arrangement entered into under paragraph (1) or (2) of this subsection for the conduct of a study shall require that such study be completed and reports thereon be submitted within such period as the Secretary may require to meet the requirements of subsection (c).

(c)(1) Within 12 months of the date of the enactment of this Act the Secretary shall report to the Committee on Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives (A) the results of the study conducted pursuant to subsection (a)(2) (including supporting data and other materials provided by the entity which conducted the study), and (B) any action proposed to be taken on the basis of the results of the study.

(2) Within 15 months of the date of the enactment of this Act the Secretary shall report to the Committee on Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives (A) the results of studies (including supporting data and other materials provided by the entity which conducted the study) conducted pursuant to subsection (a)(1), (B) the recommendations, if any, of such entity for legislative and administrative action, and (C) such recommendations for legislative action as the Secretary deems necessary.

(d) For purposes of this section and section 3, the term "saccharin" includes calcium saccharin, sodium saccharin, and ammonium saccharin.

SEC. 3. During the eighteen-month period beginning on the date of the enactment of this Act, the Secretary—

(1) may not amend or revoke the interim food additive regulation of the Food and Drug Administration of the Department of Health, Education, and Welfare applicable to saccharin and published on March 15, 1977 (section 180.37 of part 180, subchapter B, chapter 1, title 21, Code of Federal Regulations (42 Fed. Reg. 14638)), or

(2) may, except as provided in section 4 and the amendments made by such section, not take any other action under the Federal Food, Drug, and Cosmetic Act to prohibit or restrict the sale or distribution of saccharin, any food permitted by such interim food additive regulation to contain saccharin, or any drug or cosmetic containing saccharin,

solely on the basis of the carcinogenic or other toxic effect of saccharin as determined by any study made available to the Secretary before the date of the enactment of this Act which involved human studies or animal testing, or both.

SEC. 4. (a)(1) Section 403 of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end thereof the following new paragraph:

"(o)(1) If it contains saccharin, unless, except as provided in subparagraph (2), its label and labeling bear the following statement: 'USE OF THIS PRODUCT MAY BE HAZARDOUS TO YOUR HEALTH. THIS PRODUCT CONTAINS SACCHARIN WHICH HAS BEEN DETERMINED TO CAUSE CANCER IN LABORATORY ANIMALS'. Such statement shall be located in a conspicuous place on such label and labeling as proximate as possible to the name of such food and shall appear in conspicuous and legible type in contrast by typography, layout, and color with other printed matter on such label and labeling.

"(2) The Secretary may by regulation review and revise or remove the requirement of subparagraph (1) if the Secretary determines such action is necessary to reflect the current state of knowledge concerning saccharin.".

(2) The amendment made by paragraph (1) shall apply only with respect to food introduced or delivered for introduction in interstate commerce on and after the 90th day after the date of the enactment of this Act.

(3) The Secretary shall report to the Committee on Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives any action taken under section 403(o)(2) of the Federal Food, Drug, and Cosmetic Act.

(b)(1) Section 403 of the Federal Food, Drug, and Cosmetic Act is amended by adding after paragraph (o) the following new paragraph:

"(p)(1) If it contains saccharin and is offered for sale, but not for immediate consumption, at a retail establishment, unless such retail establishment displays prominently, where such food is held for sale, notice (provided by the manufacturer of such food pursuant to subparagraph (2)) for consumers respecting the information required by paragraph (o) to be on food labels and labeling.

"(2) Each manufacturer of food which contains saccharin and which is offered for sale by retail establishments but not for immediate consumption shall, in accordance with regulations promulgated by the Secretary pursuant to subparagraph (4), take such action as may be necessary to provide such retail establishments with the notice required by subparagraph (1).

"(3) The Secretary may by regulation review and revise or remove the requirement of subparagraph (1) if he determines such action is necessary to reflect the current state of knowledge concerning saccharin.

"(4) The Secretary shall by regulation prescribe the form, text, and manner of display of the notice required by subparagraph (1) and such other matters as may be required for the implementation of the requirements of that subparagraph and subparagraph (2). Regulations of the Secretary under this subparagraph shall be promulgated after an oral hearing but without regard to the National Environmental Policy Act of 1969 and chapter 5 of title 5, United States Code. In any action brought for judicial review of any such regulation, the reviewing court may not postpone the effective date of such regulation.".

(2) The amendment made by paragraph (1) shall apply with respect to food which is sold in retail establishments on or after the 90th day after the effective date of the regulations of the Secretary of Health, Education, and Welfare under paragraph (p)(4) of the Federal Food, Drug, and Cosmetic Act.

(z) Section 201 of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end thereof the following:

"(2) The term 'saccharin' includes calcium saccharin, sodium saccharin, and ammonium saccharin.".

(c) The Secretary may by regulation require vending machines through which food containing saccharin is sold to bear a statement of the risks to health which may be presented by the use of saccharin. A regulation under this subsection shall require such statement to be located in a conspicuous place on such vending machine and as proximate as possible to the name of each food containing saccharin which is sold through such machine. Any food containing saccharin which is sold in a vending machine which does not meet any applicable requirement promulgated under this subsection shall, for purposes of the Federal Food, Drug, and Cosmetic Act, be considered a misbranded food.

(d) The Secretary shall (1) prepare information respecting the nature of the controversy surrounding the use of food containing saccharin, and (2) provide for the distribution of such information for display by retail establishments where such food is sold but not for immediate consumption. The Secretary may review and revise such information if he determines such action is necessary to reflect the current state of knowledge concerning the risks to health presented by the use of saccharin.

SEC 5. (a) Section 204(d) of the National Research Act (Public Law 93-348) is amended by striking out "36-month period" each place it appears and inserting in lieu thereof "42-month period".

(b) Section 211(b) of such Act is amended by striking out "January 1, 1978" and inserting in lieu thereof "November 1, 1978".

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the Senate bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the amendment of the House to the title of the Senate bill, insert the following: "An Act to require studies concerning carcinogenic and other toxic substances in food, the regulation of such food, the impurities in and toxicity of saccharin, and the

health benefits, if any, resulting from the use of nonutritive sweeteners; to prohibit for eighteen months the Secretary of Health, Education, and Welfare from taking certain action restricting the continued use of saccharin as a food, drug, and cosmetic; to require certain labels and notices for foods containing saccharin; and for other purposes.".

And the House agree to the same.

HARLEY O. STAGGERS,
PAUL ROGERS,
DAVID SATTERFIELD,
RICHARDSON PREYER,
JAMES J. FLORIO,
TIM LEE CARTER,
Managers on the Part of the House.

EDWARD M. KENNEDY,
HARRISON A. WILLIAMS, Jr.
CLAIBORNE PELL,
WILLIAM D. HATHAWAY,
DON RIEGLE,
JACOB JAVITS,
RICHARD S. SCHWEIKER,
JOHN H. CHAFEE,
S. I. HAYAKAWA,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1750) to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act, as amended, to conduct studies concerning toxic and carginogenic substances in foods, to conduct studies concerning saccharin, its impurities and toxicity and the health benefits, if any, resulting from the use of nonnutritive sweeteners including saccharin; to ban the Secretary of Health, Education, and Welfare from taking action with regard to saccharin for eighteen months, and to add additional provisions to section 403 of the Federal Food, Drug, and Cosmetic Act, as amended, concerning misbranded foods, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SHORT TITLE

The Senate-passed bill provided that the legislation be cited as the "Saccharin Study, Labeling, and Advertising Act". The House amendment contained no comparable provision.

Under the conference substitute, the legislation would be cited as the "Saccharin Study and Labeling Act".

DEFINITION OF SACCHARIN

The Senate-passed bill contained a provision, not included in the House amendment, which defined saccharin for the purposes of the legislation to include saccharin, calcium saccharin, sodium saccharin, and ammonium saccharin.

The conference substitute defines saccharin to include calcium saccharin, sodium saccharin, and ammonium saccharin.

EFFECTIVE DATE

The Senate-passed bill provided that the effective date of the proposed legislation is the date of its enactment. The House amendment contained no comparable provision.

The conference substitute does not include the provision of the Senate-passed bill.

ASSESSMENT OF INFORMATION RESPECTING FOOD ADDITIVES

Both the Senate-passed bill and the House amendment contained provisions requiring the Secretary of Health, Education, and Welfare to arrange for the conduct of a study, based on available information, of our technical capabilities to predict carcinogenicity or other toxicity in humans of substances which have been found to cause cancer in animals; the direct and indirect health benefits and risks to individuals from foods which contain carcinogenic or other toxic substances; the means of evaluating the risks to health from the carcinogenicity or other toxicity of such substances, the existing means of evaluating the health benefits of foods containing such substances and the existing statutory authority for, and the appropriateness of, weighing such risks against such benefits; instances in which currently the requirements to restrict or prohibit the use of substances do not accord with the risk-benefit ratio; and the relationship between existing Federal food regulatory policy and existing Federal regulatory policy applicable to toxic and carcinogenic substances used as other than foods. In addition, both bills require an assessment of information respecting the chemical identity of any impurities contained in saccharin, the toxicity of any such impurities and the carcinogenicity in humans, and the health benefits, if any, to humans resulting from the use of nonnutritive sweeteners in general and saccharin in particular. The Senate-passed provision and the House amendment differed in four substantive respects.

First, the Senate-passed bill amended the Public Health Service Act to provide for the study. The House amendment provided the authority for the study as a free-standing requirement. The conference substitute conforms to the House amendment.

Second, the Senate-passed bill required that two studies be undertaken, one of information respecting food additives in general and one of saccharin information. The House amendment provided for the conduct of one assessment which was to include the assessment of saccharin information. The conference substitute conforms to the Senate-passed bill.

Third, the Senate-passed bill required that the Secretary first ask the National Academy of Sciences acting through the Institute of Medicine or other appropriate units of the Academy to undertake the studies. The House amendment required that the Secretary first ask the Institute of Medicine of the National Academy of Sciences to undertake the assessment.

The conference substitute requires the Secretary to first ask the National Academy of Sciences, acting through appropriate units, to conduct the studies. It is the conferees' intent that negotiations surrounding the formal agreement between the Secretary and the Academy (or other entity, in the event the Academy declines the Secretary's request) not be protracted. In view of the short time frame within which the assessment must be completed, the conferees expect the agreement to be formalized within sixty days of the date of enactment of the proposed legislation and would urge the two parties to reach agreement within a month of the date of enactment.

Fourth, the Senate-passed bill required that the studies be completed within one year of the date of enactment and be submitted within 30 days by the Secretary of Health, Education, and Welfare to the Senate Committee on Human Resources and House Committee on Interstate and Foreign Commerce, together with reports on such studies and any recommendations for legislative and administrative action. The House amendment required the Secretary to report the results of the assessment of saccharin information within one year of the date of enactment and the results of the assessment of food additives in general within eighteen months of the date of enactment.

Under the conference substitute, the Secretary is to report to the two committees, within one year of the date of enactment, the results of the study with respect to saccharin and any action proposed to be taken as a result of such study. Within fifteen months of the date of enactment, he is to report the results of the other study, any recommendations of the entity which conducted that study for legislative and administrative action, and any legislative recommendations of the Secretary. The Secretary, at the time he makes such reports, is to provide the two committees with supporting data and other material provided by the entity which undertook the studies.

EXCEPTION TO PROHIBITIONS ON DEPARTMENTAL ACTION

The Senate-passed bill authorized the Secretary to take action to prohibit or restrict the sale of saccharin or saccharin containing products under certain circumstances. Under the Senate-passed bill the Secretary could act if, on the basis of its carcinogenic effect as determined by any data reported to him after the date of enactment, he determines that saccharin presents an unreasonable and substantial risk to the public health and safety. The Senate-passed bill further provides that in making this determination, the Secretary could take into account the cumulative significance of all existing data, including data reported to Secretary prior to the date of enactment of the proposed legislation. The House amendment did not prohibit the Secretary from acting on the basis of new information in that it only prohibited him from acting *solely* on the basis of information made available to him before the date of enactment.

The conference substitute conforms to the House amendment, except that it makes it clear that the Secretary's new authority with respect to labeling and retail signs is not to be construed, for purposes of the ban on departmental action, as restricting or prohibiting the sale or distribution of saccharin.

LABELING REQUIREMENTS

The Senate-passed bill contained provisions requiring each food product containing saccharin to bear a statutory warning label, requiring vending machines in which saccharin containing food products are offered for sale to bear the statutory warning label, and requiring retail establishments to post consumer information. The effective date of the requirements was 90 days after the date of enactment. The House amendment did not limit the Seceratry's authority under the Federal Food, Drug, and Cosmetic Act to prescribe labeling for saccharin containing products, and, further, it authorized the Secretary to require the posting of warning notices in retail establishments where food containing saccharin is offered for sale. The provisions of the Senate-passed bill, the House amendment, and the conference substitute are described below in detail.

Labeling of products containing saccharin

The Senate-passed bill amended section 403 of the Federal Food, Drug, and Cosmetic Act to provide that a food containing saccharin would be considered misbranded un-

less its label and labeling bear the following statement: "Warning: This Product Contains Saccharin, Which Causes Cancer in Animals. Use of This Product May Increase Your Risk of Developing Cancer." It further required that the statement be located in a conspicuous place on the label and labeling in conspicuous and legible type in contrast by typography, layout, and color with other printed matter thereon. The Secretary was required to review the statement periodically and revise it if necessary to make sure that it accurately conveys the current state of knowledge concerning saccharin. Under the Senate-passed bill, the Secretary was to prescribe the methods by which the statement was to be affixed to such label and labeling and to take into consideration whether or not the manufacturing process had been completed by the effective date of the provision (90 days from the date of enactment). Finally, it did not preclude the Secretary from prescribing alternative methods, such as sticker labels or warning notices in retail stores, for communicating the statement to consumers with respect to food products for which manufacturing was completed on the effective date of the provision.

The House amendment did not restrict the Secretary's authority to prescribe labeling but gave him no new authority in that respect.

The conference substitute amends section 403 of the Federal Food, Drug, and Cosmetic Act to provide that a food containing saccharin would be misbranded unless its label and labeling bear the following statement: "Use of This Product May Be Hazardous to Your Health. This Product Contains Saccharin Which Has Been Determined to Cause Cancer in Laboratory Animals." The statement is to be located in a conspicuous place on such label and labeling as proximate as possible to the name of such food and shall appear in conspicuous and legible type in contrast with other printed matter on such label or labeling, and may by regulation be revised or removed if the Secretary determines such action is necessary to reflect the current state of knowledge concerning saccharin. If the Secretary takes any action to revise or remove the statutory labeling statement, he is to notify the Committee on Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives. Finally, the conference substitute provides that the requirement for the warning label shall apply only with respect to food introduced or delivered for introduction in interstate commerce on or after the 90th day after the date of enactment of the legislation.

The label and labeling requirements of the new section 403(o) of the Federal Food, Drug, and Cosmetic Act are self-executing. Thus, the Food and Drug Administration is not required to promulgate regulations for such requirements to take effect. The conferees, however, urge the Food and Drug Administration to prescribe guidelines within 30 days from the date of enactment of the legislation to assist manufacturers in meeting such requirements so that they will have ample opportunity to comply with the clear statutory requirement that all food products containing saccharin introduced or delivered for introduction into interstate commerce on or after 90 days have elapsed from such date must bear the statutory label.

If food is delivered for introduction into interstate commerce before the expiration of such 90-day period and then after the expiration of such period it is introduced into interstate commerce, it will be covered by the requirement. The conferees urge manufacturers to take such action as may be necessary to meet the requirements before the expiration of the 90-day period to minimize controversy as to the application of the requirements.

The conferees recognize that, in some instances, the realities of the manufacture and distribution of food products containing saccharin may make sticker labeling the feasible method of locating the statement as proximate as possible to the name of such products.

Signs in retail establishments

The Senate-passed bill amended section 403 of the Federal Food, Drug, and Cosmetic Act to provide that a food containing saccharin which is offered for sale not for immediate consumption at a retail establishment would be considered misbranded unless the retail establishment has prominently displayed a notice of conspicuous and legible type at a place of reasonable proximity to such food which includes information on the nature of the controversy surrounding saccharin including evidence of its carcinogenicity. In prescribing the form, text, and manner of display of the notice, the Secretary would be required to afford an opportunity for the submission of views from the public but would not be required to comply with the requirements of the Administrative Procedure Act or with any provision of the National Environmental Policy Act. In any suit for judicial review, the decision of the Secretary was to be sustained unless found to be clearly unreasonable or in excess of statutory authority.

Under the House amendment, the Secretary was authorized, but not required, to require, during the eighteen month period beginning on the date of enactment, that retail establishments where saccharin or any food containing saccharin is held for sale prominently display a notice of the risks to health which may be presented by the use of saccharin. The provisions of section 553 (c) and (d) of title 5, United States Code (provisions of the Administrative Procedure Act relating to submission of data, views or arguments and requiring that a substantive rule may not be made effective less than thirty days after its publication) and section 102(2)(C) of the Environmental Policy Act of 1969 (relating to the requirement to prepare an environmental impact statement) are waived with respect to the promulgation of regulations. Saccharin or any food containing saccharin sold in a retail establishment which did not display a notice required by the new authority would be deemed to be misbranded for purposes of the Federal Food, Drug, and Cosmetic Act.

The conference substitute amends section 403 of the Federal Food, Drug, and Cosmetic Act to provide that a food containing saccharin offered for sale at a retail establishment, not for immediate consumption therein, would be misbranded unless such establishment displays prominently notice to consumers respecting the information required to be placed on the label of such foods. The conference substitute provides that the manufacturers of such foods are responsible for providing such notices to retail establishments offering the manufacturers' products for sale; this requirement is enforceable under sections 301 (b) and (c) of the Federal Food, Drug, and Cosmetic Act. Regulations prescribing the form, text, manner of display and actions to be taken by manufacturers to provide notices to retail establishments are to be promulgated after an oral hearing but without regard to the National Environmental Policy Act of 1969 and chapter 5 of title 5, United States Code, and the effective date of the regulations may not be postponed in any action for judicial review. As in product labeling, the Secretary may by regulation review and revise or remove the requirement that retail establishments display warning notices if he determines such action is necessary to reflect the current state of knowledge concerning saccharin. In addition, the conference substitute provides that the retail establishment requirement is to apply to food which is sold in such an establishment on or after the 90th day after the effective date of the implementing regulations.

The conferees concur in the language of the House Report (H. Rpt. 95-658) accompanying the House amendment and recognize that it may be difficult for owners of retail establishments to know precisely, and on a daily basis, the existence in their establishments of each product offered for sale which contains saccharin. To require that each type of product be accompanied by a separate notice would probably be unworkable. Thus, the conferees would expect that if a store displayed one, two or three easily readable signs, depending upon the size of the establishment and volume of sales, listing the products or types of products which contain saccharin as well as any warning required by regulations, the retailer should be deemed to have satisfied the requirements of the law. The conferees believe that it would be appropriate to require that, if more than one notice were required to be posted in a retail establishment because of its size or volume of sales, notice be posted proximate to high concentrations of saccharin-containing products such as diet sodas or dietetic foods.

Finally, the conference substitute requires the Secretary to prepare information respecting the nature of the controversy surrounding the use of food containing saccharin and to provide for the distribution of such information for display by retail establishments where such food is sold not for immediate consumption. The Secretary is authorized to review such information and revise it if he determines that such action is necessary to reflect the current state of knowledge concerning the risks to health presented by the use of saccharin.

The conferees emphasize that none of the provisions with respect to signs in retail establishments are to apply to restaurants or similar food service esatblishments.

Notice on vending machines

The Senate-passed bill amended section 403 of the Federal Food, Drug, and Cosmetic Act to provide that a food containing saccharin which is sold through a vending machine would be considered misbranded unless the vending machine bore the statement required to be placed on the product label. The statement was required to be located in a conspicuous place or places as proximate as possible to the name of each product containing saccharin sold through such machine and in conspicuous and legible type in contrast typography, layout, and color with the name of each product. The House amendment contained no comparable provision.

The conference substitute authorizes, but does not require, the Secretary to require, by regulation, vending machines through which food containing saccharin is sold to bear a statement of the risks to health which may be presented by the use of saccharin. It specifies that any such statement is to be located in a conspicuous place on the machine as proximate as possible to the name of each food containing saccharin. If the Secretary promulgates regulations implementing this provision, saccharin containing products offered for sale in vending machines which do not meet the requirements of the regulations would be considered misbranded for purposes of the Federal Food, Drug, and Cosmetic Act.

MISCELLANEOUS PROVISIONS

Rights of persons affected by the usage of saccharin

The Senate-passed bill contains a provision, not included in the House amendment, that stated that it is not the intention of the Congress that the enactment of the

proposed legislation, the promulgation of regulations under the proposed legislation or compliance therewith should be considered to in any way reduce or effect the common law or statutory rights or remedies of any person affected by the usage of saccharin.

The conference substitute does not include the Senate provision.

Commission for the Protection of Human Subjects

The Senate-passed bill contained provisions, not included in the House amendment, which (1) extended the life of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research for an additional six months (to June 30, 1978), and (2) postponed the effective date of the establishment of the National Advisory Council for the Protection of Subjects of Biomedical and Behavioral Research from January 1, 1978 to November 1, 1978.

The conference substitute conforms to the Senate-passed bill.

HARLEY O. STAGGERS,
PAUL ROGERS,
DAVID SATTERFIELD,
RICHARDSON PREYER,
JAMES J. FLORIO,
TIM LEE CARTER,
Managers on the Part of the House.

EDWARD M. KENNEDY,
HARRISON A. WILLIAMS, JR.,
CLAIBORNE PELL,
WILLIAM D. HATHAWAY,
DON RIEGLE,
JACOB JAVITS,
RICHARD S. SCHWEIKER,
JOHN H. CHAFEE,
S. I. HAYAKAWA,
Managers on the Part of the Senate.

Mr. ROGERS. Mr. Speaker, I ask unanimous consent to call up the conference report on the Senate bill (S. 1750) to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act, as amended, to conduct studies concerning toxic and carcinogenic substances in foods, to conduct studies concerning saccharin, its impurities and toxicity and the health benefits, if any, resulting from the use of nonnutritive sweeteners including saccharin; to ban the Secretary of Health, Education, and Welfare from taking action with regard to saccharin for 18 months, and to add additional provisions to section 403 of the Federal Food, Drug, and Cosmetic Act, as amended, concerning misbranded foods.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that the statement of the managers be read in lieu of the report.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see prior proceedings of the House.)

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of gentleman from Florida?

There was no objection.

The SPEAKER. The gentleman from Florida (Mr. ROGERS) and the gentleman from Kentucky (Mr. CARTER) will be recognized for 30 minutes each.

The Chair recognizes the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I called up for consideration the conference report on S. 1750, to provide for the conduct of studies concerning saccharin; to prohibit the Secretary of the Department of Health, Education, and Welfare from taking action with regard to saccharin for 18 months; to add additional provisions to the Federal Food, Drug, and Cosmetic Act, with respect to the labeling of saccharin and the display of signs in retail stores concerning saccharin products sold there; and to authorize the Secretary to require warnings on vending machines.

This conference agreement retains the central provisions of the House amendment. It provides for an 18-month moratorium on action by the Food and Drug Administration to restrict the use or sale of saccharin and saccharin products. This provision ensures that such products will remain available to the American people during this 18-month period.

The conference agreement further provides for studies to be conducted by the National Academy of Sciences with regard to current information on saccharin, toxic and carcinogenic substances in foods in general, and the health benefits, if any, resulting from the use of nonnutritive sweeteners including saccharin. The information which these studies are expected to provide will be vitally important to both the Congress and the American people. The findings of this highly respected scientific body will assist the Congress in developing a future solution to this complex problem. In addition, the information from these studies will insure that the American people know and understand the reasons for any future action which this body may take.

The conference report resolves the differences between the labeling provisions of the House amendment and the Senate-passed bill, in what is, in my view, a fair and equitable way. The conference substitute provides a careful compromise which amends the Federal Food, Drug, and Cosmetic Act to require that food products containing saccharin bear the following label: "Use of this product may be hazardous to your health. This product contains saccharin which has been determined to cause cancer in laboratory animals," and which further provides that any product, which 90 days after enactment, is introduced into interstate commerce, and which does not bear the label notice in the manner prescribed by the Secretary of Health, Education, and Welfare would be deemed misbranded under the terms of the Federal Food, Drug, and Cosmetic Act.

The conference report further amends the Federal Food, Drug, and Cosmetic Act to require that retail establishments which offer food products containing saccharin for sale for consumption off their premises display notices conveying the same information required on the product label. The statement of managers reiterates the sentiment expressed by the House in the committee report which accompanied the House amendment, that if an establishment displayed one, two, or three easily readable signs, depending upon the size of the establishment and volume of sales, listing the product or types of products which contain saccharin as well as the warning required by the regulation, the retailer should be deemed to have satisfied the requirements of the law.

The conference substitute authorizes, but does not require, the Secretary of Health, Education, and Welfare to require vending machines through which food products containing saccharin are sold to bear a statement of the risks to health which may be presented by saccharin. If the Secretary so desires, any such food sold through a vending machine which does not bear such statement would be deemed misbranded for the purposes of the Federal Food, Drug, and Cosmetic Act.

The conference substitute further requires the Secretary of Health, Education, and Welfare to prepare information respecting the nature of the controversy surrounding the use of food containing saccharin and provide for the distribution of such information for display by retail establishments where such food is sold for consumption off the premises.

The balanced compromise represented by these conference substitute provisions regarding food product labels, the posting of signs in retail establishments, and the placement of signs on vending machines, insures that the American public will be aware of the controversy surrounding the use of saccharin and insures that each individual will have an opportunity to evaluate pertinent information and make an informed decision about what products he or she wants to buy and use.

Finally, the conference report provides for an extension of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research until June 10, 1978, and postpones the effective date of the establishment of the National Advisory Council for the Protection of Subjects of Biomedical and Behavioral Research to November 1, 1978.

It is my belief that the conference report is a fair and thoughtful balancing of the House and Senate positions, that it maintains the intent of the House amendment, and that it provides a workable solution to a complex problem. It is my belief that this is what the American people have requested of this body, and I recommend it to you without reservation.

Mr. MARTIN. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from North Carolina.

Mr. MARTIN. Mr. Speaker, I thank the gentleman for yielding.

There are several questions I would like to raise to assist us in understanding the consequences of the conference report.

Let me first commend the gentleman from Florida (Mr. ROGERS), Mr. Speaker, for his patience throughout this legislation, because of the very difficult job that we have had in trying to bring it to the point where we are today.

Let me ask the chairman, if I may, first, with regard to the preparation of guidelines for the labels that will be used—and I am speaking of the typography, the size of type, the color, contrast, and so forth—would that involve normal rulemaking procedures?

Mr. ROGERS. No. That would not be required.

Mr. MARTIN. Let me ask the chairman, in preparing the information that would be displayed on the vending machines, would that require normal rulemaking procedures?

Mr. ROGERS. Yes; it would require the normal administrative procedures. However, in the case of retail signs, there is an expedited procedure.

Mr. MARTIN. With regard to the labels again, although an oral hearing is not required prior to the promulgation of the guidelines for those labels, would the chairman agree that it would be permissible and desirable for the Food and Drug Administration to conduct an oral hearing so that people could express their views with regard to that matter?

Mr. ROGERS. Yes. I would agree with the gentleman. I think that an oral, legislative-style hearing would be advisable, although one is not required under the conference report.

Mr. MARTIN. If the gentleman will yield further, Mr. Speaker, let me ask him about the specific label that would be required under the conference report. It is not the specific language that the Senate had insisted on earlier, is it?

Mr. ROGERS. No; it is not.

The Chairman had indicated to me earlier that he did not think such a label was necessarily wise but that the legislative situation, with time running out in Congress, necessitated the acceptance of a warning label as insisted upon by the Senate conferees. Is that essentially correct?

Mr. ROGERS. That is correct.

Mr. MARTIN. Then during the conference am I also correct that an alternative label, that is, alternative language for a label was offered by the gentleman from Ohio (Mr. DEVINE), which would have the effect of cautioning the public that excessive consumption as distinct from normal consumption might be hazardous to health?

Mr. ROGERS. Yes.

Mr. MARTIN. Is it true that the chairman, the gentleman from Florida, expressed general agreement with me that such a warning label would be preferable and more accurate and consistent with the scientific evidence, if we had our way and if time were not running out?

Mr. ROGERS. May I say what ultimately was adopted was not the House's original position. The gentleman from Ohio (Mr. DEVINE), did offer the language you described—and I compliment him on that—but in the spirit of compromise we had to work out language that the Senate would accept, and the product we have brought back to the House represents a compromise on the part of both bodies.

Mr. MARTIN. I thank the Chairman for clarifying that. I have one other puzzle I would like to take up with him. This is with regard to the mechanism that would provide for labeling to be affixed to food products. Specifically, I want to probe with the gentleman the meaning of the interstate commerce provisions of the language in the conference report. Let us say since saccharin generally is manufactured in Cincinnati, Ohio, that if bulk saccharin, sodium saccharin, calcium saccharin, whatever, were manufactured in Cincinnati, Ohio, and then were sold and shipped to Charlotte, N.C., in my district, there to be added to a food product, then that bulk shipment would not be required to have a warning label?

Mr. ROGERS. The label is designed to inform consumers. Thus, it would make no sense to require that the label be required on containers of bulk shipments of saccharin which is later to be added to food.

Mr. MARTIN. I thank the chairman. Then as a legal matter under this proposal, if that bulk saccharin is then in Charlotte, N.C., added to water or to a diet drink, or to another food product, and that food product is then sold within the State of North Carolina, as a legal requirement of this bill, the label would not have to be imposed?

Mr. ROGERS. That is correct, because it would not then be in interstate commerce for purposes of the labeling requirement.

Mr. MARTIN. I thank the chairman. Then one final point: If that food product were to be sold in South Carolina, after having been mixed with saccharin in North Carolina, it would then have to have the label?

Mr. ROGERS. The gentelman is correct.

Mr. MARTIN. Then it is a practical question for the manufacturer, whether to utilize two differently labeled cans, or for simplicity to affix the warning labels to all cans whether or not he intends to ship them in interstate commerce. But what I have described does represent the correct legal situation, I ask the chairman of the subcommittee?

Mr. ROGERS. That would be correct.

Mr. MARTIN. I thank the chairman for yielding to me and for clarifying the legal requirements of the bill. The language required to be on the warning label is certainly not what I want as a scientist or former scientist. I do not believe anything more than the language offered by the gentleman from Ohio (Mr. DEVINE) is defensible in light of the available scientific evidence.

Mr. ROGERS. I understand that.

Mr. MARTIN. I understand the position the chairman was in in having to bring out a bill so that saccharin would not be banned.

Mr. ROGERS. I thank the gentleman and thank him for his interest and help to the committee in the development of this legislation.

I also want to commend the gentleman from Kentucky (Mr. CARTER), the ranking minority member, who was so cooperative in trying to work this out, as well as the gentleman from Ohio (Mr. DEVINE) and the chairman of our full committee, the gentleman from West Virginia (Mr. STAGGERS), who has helped all the way through the legislation, as well as the other members of the subcommittee, and particularly the staff of the subcommittee.

Mr. Speaker, I reserve the remainder of my time.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. DEVINE) is recognized for 30 minutes.

Mr. DEVINE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do not intend to take the full time here, but I think there are a few elements that should be pointed out, and perhaps a little bit of legislative history made so that we can reduce the amount of confusion that is bound to follow legislation as controversial and as emotional as this.

I am pleased that consumers will be freed from the oppressive grip of the Food and Drug Administration respecting saccharin for the 18-month period provided in this provisional moratorium period.

Mr. Speaker, this conference report provides an 18-month relief at a pretty high price. For example, this legislation mandates a specific label the words of which in my opinion are unduly inflammatory, unnecessary, inaccurate, a copout to bureaucracy, and a sellout to overregulation. These are the words that have been mandated, Mr. Speaker, on every food product that contains saccharin, and I will quote:

> Use of this product may be hazardous to your health.

That is really enough, but it goes further and says:

> This product contains saccharin.

Then it adds this inflammatory language:

> Which has been determined to cause cancer in laboratory animals.

They are going to try to spook the American public by just using the word "cancer," because understandably everybody is fearful of that disease. But we did not require the word "cancer" on cigarettes and the Surgeon General's report specifically pointed out that cigarettes were hazardous to human beings.

I can well imagine the problems this may cause in our complicated manufacturing process.

Mr. Speaker, if I may have the attention of the gentleman from Florida (Mr. ROGERS), the chairman, for just a moment I would like to make an inquiry and perhaps write a little legislative history that could prevent a lawsuit possibly.

My understanding of the wording in the conference report that appears on page 8 is that this label provision shall apply only with respect to food introduced or delivered for introduction in interstate commerce on and after the 90th day after the date of the enactment of this Act.

Mr. ROGERS. The gentleman is correct.

Mr. DEVINE. Am I accurate in interpreting these words to mean this: My understanding of the wording in the conference report is that the labeling provisions apply only to food introduced or delivered into interstate commerce on or after 90 days following enactment of this bill. Is that accurate?

Mr. ROGERS. That is correct.

Mr. DEVINE. Would the gentleman also assume from this wording that products containing saccharin, that is food products, of course, already on the shelves or in the hands of retailers or distributors prior to that time are not subject to this label?

Mr. ROGERS. The gentleman is correct.

Mr. DEVINE. I thank the gentleman very much. I am glad to know that.

In addition to that Mr. Speaker, the manufacturers of food products are responsible for sending notices conveying the information required to be on the food labels and labeling to the retail establishment which must display notices. The manufacturer of course has no idea what retail establishments are involved in many cases because often the distributing system involves many middlemen.

There is also a discretionary authority vested in the Secretary of Health, Education, and Welfare to require vending machines to bear warning labels next to each food product containing saccharin. One can imagine on these vending machines over at the end of our subway containing Coca-Cola and Diet Cola and Pepsi's and Diet Pepsi's and orange juice, they will have so many labels they will probably scare everybody away from drinking all soft drinks.

Also there is a requirement for the Secretary to provide information respecting the nature of the controversy surrounding the use of food containing saccharin, and the retail establishment shall display a warning, presumably on some bulletin board.

This legislation provides at considerable expense in money and effort information to those who already have it. I do not know of anything that has been more widely publicized than the results of so-called Canadian study that has spooked every diabetic in this country about the possible hazards of products containing saccharin.

One thing in this country that people understand crystal clear is that the FDA thinks a controversial and disputed finding of a Canadian study alleges that saccharin causes cancer in rats.

We tried to get them to change that wording, changing "rats" to "animals," but they did not want to do that, undoubtedly fearing the ridicule that would deservedly promote. Here we are, so we must not allow this temporary moratorium to obscure the fact that during the next year and a half we should address the risk/benefit question inherent in the controversy itself.

I was a conferee. Aside from the obvious overregulation, I did not sign the conference report for the reason that I think the inflammatory wording is inaccurate. I think it sets a double standard. We do not use the word "cancer" on cigarettes. Maybe it is because the cigarette lobby is more influential than the saccharin lobby.

Mr. Speaker, I would urge we adopt the conference report for the single reason that if we do not, the Food and Drug Administration has an open invitation to do whatever they want.

Mr. Speaker, I yield such time to the gentleman from Kentucky (Mr. CARTER) as he may consume.

Mr. CARTER. Mr. Speaker, I support the major objective of this legislation, S. 1750, namely, to postpone for 18 months the Food and Drug Administration's proposed ban on saccharin.

It was clear to our committee—after extensive hearings and testimony from various experts in the field—that there was no conclusive evidence linking cancer in humans to the use of saccharin. The scientific community is still divided as to whether or not saccharin is a carcinogen for humans—and whether or not it should be banned.

Moreover, we heard from a number of experts who challenged the validity of the Canadian rat study and the more recent Canadian human study—and the implications for humans.

We heard summaries of several studies on humans which have found no association between saccharin use and cancer in humans.

For example, in a study of 519 bladder cancer patients and an equal number of controls, Dr. Irving Kessler of Johns Hopkins University found no correlation between use of artificial sweeteners and bladder cancer.

In another study by Ernst Wynder of the American Health Foundation—no significant relationship between bladder cancer and saccharin consumption was found.

Moreover, examination of mortality rates from bladder cancer in Britain, by Professors Armstrong and Doll, has revealed no increase that might be attributed to saccharin consumption. Diabetics in Britain showed no excess mortality from bladder cancer though they used saccharin much more than the average person.

In contrast to these negative epidemiological findings, the recent Canadian study on humans did find a positive relationship between use of artificial sweeteners and risk of bladder cancer for men. However, in the case of women, there was actually a decreased risk of 40 percent. This result raises serious questions about the validity of the study, since no nonhormonal carcinogen in man is known to affect only one sex.

Mr. Speaker, since the evidence on saccharin's carcinogenity for humans is far from conclusive at this time—and because of saccharin's beneficial use to millions of diabetics, weight watchers, and other Americans, I believe the 18-month moratorium proposed by this legislation is indeed warranted. The additional time will allow consideration of all the scientific evidence on saccharin as well as the public policy issues surrounding the ban on carcinogenic substances.

While I strongly support the 18-month ban, and required studies, I do have some reservations about the wording of the warning label which has been included in the bill. It is not as accurate as it should be.

As you know, the Senate bill required a specific warning statement, and the House bill left all requirements up to the discretion of the Secretary.

In an attempt to resolve the differences in our bills, the conferees agreed to select language for a warning label which, to the best of our ability, reflected the current state of scientific knowledge regarding the saccharin controversy.

I regret that the final wording which was adopted is not as accurate as it could be.

The statement "This product contains saccharin which has been determined to cause cancer in laboratory animals" is misleading, because it overstates the current scientific evidence with respect to animals.

While it is correct that many animal studies have been done to determine saccharin's carcinogenic potential, the results have been conflicting and inconclusive, until the recent Canadian rat study, the principal basis for FDA's proposed ban.

A few years ago the Academy of Sciences reviewed all major studies on saccharin and issued a report in December 1974. The report's primary conclusion was that the data then available had "not established conclusively whether saccharin is or is not carcinogenic when administered orally to test animals."

In my view, the warning label would be a more accurate reflection of current scientific knowledge if it read as follows:

Use of this product may be hazardous to your health. This product contains saccharin which the Food and Drug Administration has determined has caused bladder cancer in second generation male rats which were fed saccharin as five percent of their diet.

Mr. Speaker, language along this line was suggested to me by Dr. Kurt Isselbacher, a respected physician, and an investigator in the field of cancer research, who is also chairman of the department of medicine at Harvard Medical School. If any label were to be mandated, he preferred to refine the language of the Senate bill, to emphasize that the significant results were on second generation male rats which were fed saccharin at very high doses, and that the cancer they developed was bladder cancer, not other forms.

If we are going to provide information to the public, I believe it should be as accurate as possible. That is why I still have some reservations about the language of the warning label.

However, because I believe it is imperative to postpone the saccharin ban, and require further scientific study of these issues, I have signed the conference report, and I am urging favorable consideration of this legislation.

Thank you, Mr. Speaker.

Mr. MARTIN. Mr. Speaker, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from North Carolina.

Mr. MARTIN. Mr. Speaker, I am reminded of the football team that completed a pass from its end zone that was carried for a touchdown, only to have it called back on a passing violation result-

ing in a penalty assessed within its own end zone, thus resulting in a safety with 2 points awarded to the other team. That is the situation in which the House finds itself. Knowing the invalid, scientifically unsupportable language of the type of label being prescribed here, the House earlier had refused to require any warning label on food products. Now instead of scoring points for a touchdown we end up with a penalty awarding 2 points to those who insist on an inaccurate warning label.

It is clearly absurb to impose any label saying that saccharin causes cancer in laboratory animals, without acknowledging that only with excessive dosage from the moment of conception and daily thereafter is there any statistically significant increase in cancer in the rats. In fact, even with a massive dose of 1 gram per kilogram of body weight, throughout that extended lifetime, there was no significant incidence of cancer. Thus even that massive dose was harmless.

The only warning label justified by the scientific evidence would be: "Excessive consumption of products containing saccharin may be harmful to your health."

Nevertheless, there are those who insist on stronger language than is reasonably, scientifically valid. Do they believe that any food product containing any ingredient which causes cancer in laboratory animals should be labelled with a cancer warning? If that is their position, then why stop with saccharin, the last of the artificial sweeteners?

Would they require a similar label on foods containing sodium nitrate and nitrite? How would they affix the label to all those vegetables which naturally contain nitrate?

Would they require the same label on foods containing aflatoxin and other mycotoxins? Then they must get those labels on most grains, nuts—including peanuts, fish, and many other natural foods.

Would they impose a similar label on foods containing calcium salts which are known to be carcinogenic at excessive doses? Think twice about natural foods before answering that one.

Would they require similar labels on foods that contain tryptophan, the essential amino acid? Then they must label all protein as a carcinogenic hazard to your health, even though tryptophan is no more nor less a factor than saccharin.

And do we label essential vitamin A as a cancer risk? It is not at normal exposure, which is also true of saccharin. It does cause cancer in test animals at extremely, ridiculously, absurdly high overdose, which is the worst that you can say about saccharin.

If you really, conscientiously believe that saccharin products present a risk of cancer and should be labeled accordingly, then you must also be intellectually committed to such a label on most natural foods to alarm the public to the presence of naturally occurring carcinogens even if they are harmless at the levels present in those foods. If not, why impose a greater burden on saccharin?

With all these observations, the bill must nevertheless be enacted. The alternative is a ban on saccharin.

If the Food and Drug Administration continues to try to circulate the false alarm that modest use of saccharin might cause 1,200 additional bladder cancers each year, at least the constitutional guarantee of free speech will allow others to advertise the phony mathematics upon which this exaggeration was based. Food manufacturers will still be able to expose and ridicule any warning label or other FDA claim that is unwarranted. They might start with the warning label that we impose today.

The bill must pass. Then a public, informed about the real meaning of the evidence, can continue confidently to use moderate amounts of products sweetened with saccharin.

Mr. STAGGERS. Mr. Speaker, I am happy to join with my colleague from Florida in recommending to my colleagues this conference report. As the gentleman stated, the conference report retains the basic purposes of the House amendment. First, it provides for an 18-month delay in the proposed ban on saccharin. Second, there will be a thorough scientific study of all of the issues surrounding this controversial subject, including a study of whether there should be a benefit-risk ratio included in Federal regulatory policy with respect to foods containing cancer causing substances. Third, it provides for a study to determine whether it is saccharin itself or impurities in saccharin that cause bladder tumors in animals and to determine the health benefits to humans resulting from the use of non-nutritive sweeteners. Fourth, the conference report insures that adequate information will be made available to the American public so that they will be able to make up their own minds with respect to the use of saccharin while these important and significant studies are going on.

Included in the conference report are requirements respecting a statutory label much like the label currently found on cigarettes; requirements that retail establishments display signs containing information with respect to foods sold in those establishments that contain saccharin; requirements that the Food and Drug Administration make available to retail establishments consumer bulletins that will for the first time provide clear and accurate statements by the FDA with respect to the controversy surrounding saccharin; and, the authority for FDA to require notices on vending machines.

This conference report represents a fair and effective compromise with the Senate. It will accomplish the purposes of the House-passed bill and is a report that, I believe, the American people want. I commend it to you without reservation.

Mr. VOLKMER. Mr. Speaker, I am pleased that action was taken in both the House and the Senate in passing the conference report on saccharin. As a cosponsor of a saccharin amendment in the House, I feel the conference report is an important piece of legislation that will give us a commonsense approach to this problem.

This conference report would delay for 18 months any action by the Department of Health, Education and Welfare in enforcing the proposed Food and Drug Administration ban on saccharin. It would also provide for studies concerning the toxic and carcinogenic substances in foods and studies concerning the toxicity and health benefits resulting from the use of nonnutritive sweetners including saccharin.

This action by Congress means that people with diabetic problems will be able to continue their use of saccharin while further testing is done by the Federal Government to resolve the conflicting evidence that saccharin is harmful to humans. It will also give Congress a chance to review the law on which the FDA based their restrictions on the use of saccharin.

Mr. DEVINE. Mr. Speaker, I have no further requests for time. I reserve the balance of my time.

GENERAL LEAVE

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this conference report.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. ROGERS. Mr. Speaker, I have no further requests for time. I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The conference report was agreed to.

A motion to reconsider was laid on the table.

REGIONAL RAIL REORGANIZATION ACT AMENDMENTS

Mr. ROONEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4049) to amend the Regional Rail Reorganization Act of 1973 to authorize additional appropriations for the United States Railway Association, with Senate amendments thereto, and concur in the Senate amendments with amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments as follows:

Strike out all after the enacting clause and insert: That section 214(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(c)) is amended to read as follows:

"(c) ASSOCIATION.—For the fiscal year ending September 30, 1978, there are authorized to be appropriated to the Association for purposes of carrying out its administrative expenses under this Act such sums as are necessary, not to exceed $15,000,000. Sums appropriated under this subsection are authorized to remain available until expended.".

(b) Section 27(6) of part I of the Interstate Commerce Act (49 U.S.C. 26b(6)) is amended by deleting the word "and" where it appears, by deleting the period at the end thereof, and by inserting immediately after "September 30, 1977" the following: ", and not to exceed $2,000,000 for the fiscal year ending September 30, 1978.".

Amend the title so as to read: "An Act to amend the Regional Rail Reorganization Act of 1973 to authorize additional appropriations for the United States Railway Association, and to amend part I of the Interstate Commerce Act to authorize additional appro-

priations for the Office of Rail Public Counsel.".

The Clerk read the House amendments to the Senate amendments, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment to the text of the House bill, insert the following:

That section 214(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(c)) is amended to read as follows:

"(c) ASSOCIATION.—For the fiscal year ending September 30, 1978, there are authorized to be appropriated to the Association for purposes of carrying out its administrative expenses under this Act such sums as are necessary, not to exceed $23,000,000. Sums appropriated under this subsection are authorized to remain available until September 30, 1979.".

SEC. 2. Section 202(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 712 (e)) is amended—

(1) by striking out "ANNUAL REPORT.—The" and inserting in lieu thereof "REPORTS.—The";

(2) by redesignating clauses (1) through (7) thereof as clauses (A) through (G), respectively; and

(3) by adding at the end thereof the following new paragraph;

"(2) For the fiscal year beginning October 1, 1977, and ending September 30, 1978, the Association shall transmit to the Congress and the President, not later than 30 days after the end of each quarter of such fiscal year, a comprehensive and detailed report on all expenditures and use of funds during the preceding fiscal quarter, including an assessment of the status of projects for such preceding fiscal quarter and a projection of activities proposed for the next fiscal quarter.".

SEC. 3. Section 209 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 719) is amended by adding at the end thereof the following new subsection:

"(h) SPECIAL MASTERS.—(1) The special court may appoint and fix the compensation and assign the duties of such special masters as it considers necessary or appropriate to conduct hearings, receive evidence and report thereon to the special court, and perform such other acts as the special court may require. The special court may employ such special masters by contract or otherwise, without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5) or part III of title 5 of the United States Code, on such terms and conditions as it may determine. Such special masters shall not be deemed to be employees of the Federal Government or any department, agency, or instrumentality thereof. The special court may also appoint employees in such number as may be approved by the Director of the Administrative Office of the United States Courts, and may procure such administrative services as may be necessary for it or the special masters to complete their assignments expeditiously.

"(2) There are authorized to be appropriated such sums as are necessary to carry out the purposes of this subsection. Sums appropriated under this subsection are authorized to remain available until expended.".

SEC. 4. Section 303(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(d)) is amended by striking out "entered pursuant to subsection (c) of this section" and inserting in lieu thereof "entered by the special court pursuant to subsection (c) of this section or section 306 of this title".

In lieu of the matter proposed to be inserted by the Senate amendment to the title of the House bill, insert the following: "An Act to amend the Regional Rail Reorganization Act of 1973 to authorize additional appropriations for the United States Railway Association, and for other purposes.".

Mr. ROONEY (during the reading). Mr. Speaker, I ask unanimous consent that the House amendments to the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. ROONEY. Mr. Speaker, last May, the House passed H.R. 4049 authorizing additional appropriations for fiscal year 1978 for the United States Railway Association in the amount of $13 million. The Senate passed the USRA authorization in the amount of $15 million, sending it back to the Speaker's table where it sits today.

As you are aware, the association, in cooperation with the Departments of Justice and Treasury, has the primary role of representing the Government in the massive and complex litigation stemming from the reorganization of the Penn Central and other bankrupt railroads under the Regional Rail Reorganization Act of 1973. It is a landmark case. The stakes for the taxpayer are enormous, since the claims asserted by the trustees of the bankrupt estates against the Government aggregate in the many billions of dollars.

The Association's task in the litigation has been extensive. Meeting the special court's requirements for documentation regarding the valuation of thousands of parcels of property has proved more timely and costly than anticipated. The court, on October 12, 1977, handed down a major decision in the case regarding the values placed on the properties transferred to ConRail and others. In that opinion, the court adopted, in principle, the position briefed and argued by the association; namely, that the estates are entitled to values which relate to the amounts which would be realized either by liquidation of all properties for nonrail use, or alternatively, by sales of property for rail use assuming that the Government had not stepped in and restructured the bankrupt railroads.

The association effort in the litigation area, together with an accelerated monitoring program on ConRail has caused the association to reanalyze its budget requirements for fiscal years 1978 and 1979. Thus, the association must substantially increase its preparation efforts for fiscal year 1978 to defend its position and carry forward the next phases in the litigation. It is for these reasons that this substitute bill contains an authorization for an appropriation amounting to $23 million. This represents an increase of $8 million over the amount authorized by the Senate. Of this amount, $6 million is needed to prepare defensible property valuations in greater detail than previously contemplated. These valuations will be made by independent professional real estate appraisers. The remaining $2 million is needed to increase USRA's efforts to adequately discharge its assigned responsibilities of continuous oversight over the on-going operations of ConRail.

Also, as a result of the recent events and the special court decision, two technical amendments to the Regional Rail Reorganization Act of 1973 are required. The first would amend section 209(b) of the act to provide authority for the special court to appoint masters, fix their compensation and assign their duties, and to provide administrative and support personnel and services through the Administrative Office of the U.S. Courts. The proposed amendment will cure an oversight and provide the special court with an invaluable judicial tool to complete its assigned role under the act. Apparently all of the interested parties support this amendment, including the presiding judge of the special court. He wrote me explaining the necessity for the amendment and requested we enact it promptly.

The second technical provision would amend section 303(d) of the act to provide for direct appeal of decisions of the special court made pursuant to section 306 of the act to the Supreme Court in the same manner as appeals currently made pursuant to section 303(c). The decisions recently handed down by the special court contain findings and determinations pursuant to both sections. Under current statutory authority, it may prove impossible to pursue these appeals simultaneously before the Supreme Court. The adoption of the proposed amendment would correct this situation.

Finally, we are including a provision previously proposed and adopted by the committee requiring the Association to transmit to the Congress and the President, comprehensive quarterly reports on its use of funds, current assessment of the status of projects and activities.

For these reasons, Mr. Speaker, we are urging passage of this clean bill by both bodies before adjournment in order to further assist the Association in its primary role of representing the Government in the massive and complex litigation. H.R. 4049 is designed to give the Association an authorization of $23 million for fiscal year 1978. Since only $10 million has thus far been appropriated for fiscal year 1978, the Association will appear before their respective appropriations committees early next year to justify their needs for a supplemental appropriation of up to $13 million.

The distinguished ranking minority member of my subcommittee, Mr. SKUBITZ, is also in favor of H.R. 4049 and together we urge its adoption.

Mr. Speaker, I yield to the gentleman from Illinois (Mr. MADIGAN).

Mr. MADIGAN. Mr. Speaker, I support the amendment of the chairman of the subcommittee and would add only a couple of remarks to those already given by my distinguished colleagues on the minority side.

First of all, I think that everyone should be aware of the fact that we cannot afford to waste money when it comes to rail transportation. Several weeks ago, the chairman of the subcommittee, myself, and Mr. SKUBITZ met with representatives of the General Accounting Office for the purpose of getting them to conduct a full-fledged investigation of Amtrak. Amtrak started out as a modest Government program and has become a multi-million dollar annual expense. We do not seem to be getting what we

wanted from Amtrak and I have encouraged the GAO to thoroughly investigate what is wrong.

We have been assured that GAO will report to our committee not later than February 28 of next year. From that report, I know that my colleagues on the committee and the distinguished chairman of the subcommittee, Mr. ROONEY, will move forward to see that dollars are not wasted when it comes to Amtrak. Likewise, we must encourage USRA to increase its vigilance over Conrail's use of tax dollars. Considerable belt-tightening must take place if we are to succeed in having a viable railroad reorganization in the Northwest.

The final remark that I want to make concerning the amendment, Mr. Chairman, relates to H.R. 5646,which we have acted upon. As you know, when that bill was reported from the committee, Mr. COLLINS filed minority views which were directed at the bad precedent established in the practice of permitting loans under section 211(h). It is clear that under normal bankruptcy procedure, claims such as those under H.R. 5646 would be routine busines transactions and not entitled to have the highest claim against the asset. I support this provision because I feel strongly the retired individuals involved should not suffer. However, I believe that the drafting difficulties in this legislation should be noted and it should be made clear that the Congress has no intention to unconstitutionally erode the estates.

Mr. Speaker, I support the passage of this legislation.

Mr. SKUBITZ. Mr. Speaker, I support the amendment of the chairman of the Subcommittee on Transportation and Commerce, Mr. Rooney. The purpose of his amendment is simply to consolidate two bills reported by our committee and to clarify existing law.

The consolidation involves two items. First is a bill authorizing money to U.S.R.A. and containing certain technical amendments. Secend is a bill authorizing $1 million for the Office of Rail Public Counsel at the Interstate Commerce Commission.

Mr. Speaker, I never was a big fan of the Office of Rail Public Counsel. I must say that my enthusiasm has not increased, particularly since the job has not been filled since we created it in February of 1976. Today there continues to be an office without a leader. The other body has had the name of a nominee, but has taken no action. I understand there is considerable question about the qualifications of the nominee since he has not had any experience with either rail management, rail labor, or shippers, I have about reached the point where I would be happy if the office were either abolished or the job filled by almost anyone. When the Congress enacts a law, I think it is reasonable for us to expect the executive branch to carry out the law. In this particular area, there has been much dragging of feet. The $1 million authorization gives the executive branch the last chance to fill a job wanted by few and apparently needed by fewer still.

Mr. Speaker, the U.S.R.A. authorization is another matter. The authorization is $23 million and is needed if we are to protect the investment of the United States in the reorganization of the bankrupt railroads of the Northeast. As you know, the trustees of the various bankrupt railroads in the Northeast have brought a court case to claim compensation from the Federal Government for the properties which were originally theirs. The U.S.R.A. in the final system plan estimated that the value of the properties taken to form Conrail was in the vicinity of $600 million. The bankrupt estates have claimed the value of the property in the $10 to $14 billion range. While the original U.S.R.A. estimate may have been too low, the expectations by the lawyers of the bankrupt railroads is far too high.

The court has determined that the property in question must be assessed and given a value. That assessment and valuation will cost a great deal of money. About a third of the $23 million being requested by U.S.R.A. will be used for that valuation. Most of the additional money will be used to defend the United States in court and to oversee the operations of Conrail.

Mr. Speaker, the operations of ConRail require considerable overseeing. The United States has a considerable investment in ConRail and that investment was made to insure that ConRail would remain in the private sector. ConRail management on the other hand seems determined to make another Post Office out of their business. It often seems that ConRail spends more time and effort using its Washington office to woo and placate Congress than time devoted to a businesslike management of its gigantic railroad properties.

Mr. Speaker, I am very concerned about the financial condition and the prospects of ConRail. Many of their problems are beyond their control. The hard winter last year, for example, created additional costs for ConRail and was something over which neither ConRail nor the Congress had any control.

An area over which ConRail does have control is its basic attitude toward its own character and transportation role. I think ConRail has a bad attitudinal problem if it wants to survive as a private company. At the present time, too many decisions are made by its Washington Office for Governmental Affairs and too few decisions are made by management personnel brought up with good business practices. I think ConRail pampers both Congress and rail labor. Some of my colleagues may not like what I am saying, but if we in Congress do not leave ConRail alone, we shall surely turn it into another Amtrak. On ConRail's part, it should give up its habit of always seeking political compromise and begin acting like a business that must make hard decisions if it is to become profitable. One place ConRail might want to start improving its performance is with the abolishment of its Washington Office for Congressional Affairs. It would seem to me that U.S.R.A., the ICC, and the Department of Transportation have enough people already engaged in supervising ConRail's activities so that ConRail does not need to have its own employees engaged in lobbying. In short, we have the resources to find out what is going on at ConRail and too often, Washington representatives tend to be used as expediters for political logrolling. Let us get the politics out of ConRail and keep it out.

ConRail's loss for its first 12 months of operations was $664 million on an ICC accounting basis and $413 million on a depreciation accounting basis. In real terms, let me point out that ConRail drew down $667 million in Government funds. Those $667 million are tax dollars under anybody's accounting system. In short, ConRail has been incurring net losses in excess of the projections outlined in the final system plan. While the severe winter weather may have accounted for a portion of this loss, the primary reasons are a critical shortage of certain freight car revenue cars, the lack of an adequate costing system, and ConRail's inability to generate new sources of freight revenues. ConRail's ratio of transportation expenses to operating revenues was 47.9 percent in 1976 compared to 39.6 percent for all class 1 railroads. In short, this suggests that ConRail might well start trimming track and personnel in order to have a better ratio.

Car utilization by ConRail in its first year of operation actually deteriorated over the car utilization by the old Penn Central. The quality of service provided by ConRail was found by the ICC to have been inadequate for small shippers. The ICC concluded that ConRail "seems to be neglecting this business in favor of servicing higher rated and longer haul customers." In short, the ICC concluded that major problems at ConRail exist in the operational, revenue generation, and cost control areas.

Mr. Speaker, this authorization for USRA will help in providing some surveillance of ConRail operations. I must add, however, that ConRail itself must begin to measure up to its responsibilities if we are to have reliable rail transportation in the Northeast which remains in the private sector. None of us want to see ConRail become another Post Office or another Amtrak.

I urge my colleagues to use self-restraint in their demands on asking for postponement of necessary actions by ConRail in order to improve their revenue/cost ratio. I ask ConRail to begin thinking like a business instead of a political entity.

I urge my colleagues to support the amendment by Mr. ROONEY and the prompt passage of the bill as amended.

The SPEAKER pro tempore. Is there objection to the first request of the gentleman from Pennsylvania?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROONEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the measure just considered.

The SPEAKER pro tempore. (Mr. BRADEMAS). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

AMENDING URBAN MASS TRANSPORTATION ACT OF 1964 TO REVISE PROGRAM OF FEDERAL OPERATING ASSISTANCE

Mr. HOWARD. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 8346) to amend the Urban Mass Transportation Act of 1964 to revise the program of Federal operating assistance provided under section 17 of such act, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

SECTION 1. Section 17 of the Urban Mass Transportation Act of 1964 is amended—

(1) by striking out "50 percent" in subsection (d)(4) and inserting in lieu thereof "80 percent";

(2) by striking out "and" at the end of subsection (d)(3);

(3) by striking out the period at the end of subsection (d)(4) and inserting in lieu thereof "; and";

(4) by inserting the following new paragraph after subsection (d)(4):

"(5) 50 percent for the 24-month period succeeding the period specified in subparagraph (4) of this subsection.";

(5) by striking out the last sentence of subsection (d); and

(6) by striking out "$125,000,000" in the first sentence of subsection (f) and inserting in lieu thereof "$185,000,000" and by amending the second sentence of such subsection to read as follows: "There are authorized to be appropriated for liquidation of the obligations incurred under this section not to exceed $40,000,000 by September 30, 1976, $95,000,000 by September 30, 1977, $125,000,000 by September 30, 1978, $155,000,000 by September 30, 1979, and $185,000,000 by September 30, 1980.".

SEC. 2. The Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new section:

"SEC. 18. (a) The Secretary shall provide financial assistance annually for the purpose of reimbursing States, local public bodies and agencies thereof for the cost of financially supporting or operating rail passenger service provided by railroads designated as class I.

"(b) Financial assistance under subsection (a) of this section shall not be available to support (1) intercity rail passenger service provided pursuant to an agreement with the National Railroad Passenger Corporation under section 403(b)(2) of the Rail Passenger Service Act of 1970, as amended (45 U.S.C. 562(b)); and (2) rail passenger service required by section 304(c)(4) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744(c)).

"(c) The Secretary shall distribute financial assistance authorized by subsection (a) pro rata on the basis of the passenger-miles attributable to each eligible rail passenger service, except that (1) for the purposes of such apportionment in no case shall any State, local public body or agency thereof supporting or operating rail passenger service eligible for assistance under this section be credited with more than 30 per centum of the total passenger miles eligible for such assistance for the calendar year ending immediately prior to the commencement of the Federal fiscal year for which the distribution is made, and (2) no Federal grant for the payment of subsidies for operating expenses shall exceed 50 per centum of the total operating losses of such service.

"(d) Financial assistance authorized by subsection (a) may be applied to the payment of operating expenses or programs to correct deferred maintenance within the meaning of section 304(e)(5)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744(c)), but in no case may it exceed the total of the amounts applied by the grantee from its own funds to the payment of operating expenses and programs to correct deferred maintenance for the same fiscal period.

"(e) Financial assistance provided pursuant to subsection (a) of this section shall be subject to such terms, condition, requirements, and provisions as the Secretary may deem necessary and appropriate.

"(f) To finance assistance under this section, the Secretary may incur obligations on behalf of the United States in the form of grants, contract agreements, or otherwise, in such amounts as are provided in appropriations Acts, in an aggregate not to exceed $20,000,000. There are authorized to be appropriated for liquidation of the obligations incurred under this section not to exceed $20,000,000 by September 30, 1979, such sum to remain available until expended.".

Mr. HOWARD (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER pro tempore. Is there objection to the first request of the gentleman from New Jersey?

Mr. SHUSTER. Mr. Speaker, reserving the right to object, and I do so to engage in colloquy with the distinguished chairman of the subcommittee, and it is not my intention to object, but some of us have been concerned with the procedure here, the procedures imposed upon the House by the Senate. It certainly is no doing of the majority or the minority.

We recognize further that while we are unhappy with the procedure, it would be irresponsible of us to block this report on that basis, because the people in 10 States would be significantly and seriously adversely affected.

I wonder if the chairman of the subcommittee would comment?

Mr. HOWARD. If the gentleman will yield, on October 25, 1977, the House by a vote of 308 to 106 passed H.R. 8346. That bill amended section 17 of the Urban Mass Transportation Act. Without authorizing any new funds, it increased the Federal matching ratio from 50 percent to 80 percent for the 6-month period ending in September 1978. It also removed an eligibility requirement that, if retained, would have impeded local participation in the program. The purpose of the bill is to retain much needed rail commuter service.

The bill went to the Senate. The Senate took the House bill, and it substituted its amendment. That amendment incorporated the provisions of the House bill and added several new provisions. First, it extended the program for 2 years, and it authorizes Federal assistance at a level of $30 million per year for each of those years—fiscal years 1979 and 1980. The Federal matching ratio is 50 percent.

It also adds a new section 18 to the Urban Mass Transportation Act. Basically, this provides $20 million for rail commuter services not covered by section 17 of the act.

The new authorizations provided for in this legislation do not violate the requirements of the Budget Control and Impoundment Act because the new money made available is for fiscal years 1979 and 1980. The committee is acutely aware of the need for maintaining and improving rail commuter service throughout the Nation. Enactment of this bill will do much to accomplish that purpose, and, in the meantime, it will prevent the termination of these very necessary services.

Mr. SHUSTER. I thank the distinguished chairman, and I withdraw my reservation of objection.

Mr. JOHNSON of California. Mr. Speaker, I rise in support of the bill, H.R. 8346, as amended by the Senate.

This measure originated in the House Public Works and Transportation Committee as a simple bill to alleviate what otherwise might be a serious problem for several northeastern and midwestern States, and represented minor adjustments to the working of an emergency program—adjustments which had become necessary because problems had occurred since the inception of the program which needed immediate attention. The House recognized the urgency of the problem and overwhelmingly passed the bill last week, 308–106.

H.R. 8346, as it comes back from the Senate is somewhat changed, however. It retains our emergency adjustments, but also extends and broadens the program by adding new authorizations for fiscal years 1979 and 1980, and including other commuter rail lines not covered by the present section 17.

The committee's intent had been to consider these new provisions in more comprehensive legislation next year, and I believe that that will still be necessary. But the fact remains that the pressing need addressed in our original bill still exists and we cannot ignore it. I urge, therefore, a favorable vote to accept the Senate amendments and pass the bill.

Mr. LEDERER. Mr. Speaker, I join with my colleague, JIM HOWARD of New Jersey, in support of H.R. 8346 as amended by the Senate.

It is imperative that we accept this bill as amended in that it provides emergency adjustments vitally necessary to the northeastern and midwestern sections of the country.

One of the major aspects of this bill is that it provides new authorizations for fiscal years 1979 and 1980 and also $20 million for rail commuter services.

Since the Congress is presently putting together a comprehensive energy package including incentives for industry and homeowners alike to use less oil, I feel the support of our railroad system can only reaffirm our pledge to reduce energy consumption.

Railroad service is an integral part of the economy in the northeast. Without this system, countless businesses, especially small businesses, will be faced with economic disaster. The heavily populated areas in the northeast are well served by the railroad. It is hardly in keeping with the promise this Congress has made to encourage economic growth and stability for us to now turn our backs on this essential ingredient to that growth and stability.

It is, therefore, with a great sense of urgency that I urge my colleagues in the House to accept the recommendations of the distinguished Member from New Jersey, Mr. HOWARD, and support H.R. 8346 as amended.

The SPEAKER pro tempore. Is there objection to the first request of the gentleman from New Jersey?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HOWARD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill H.R. 8346.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

ANNUAL WORLD WEATHER PLAN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Science and Technology:

To the Congress of the United States:

The memory of the severe winter of 1976–1977 in the eastern United States and its effects on our people and the national economy is still fresh in our minds. The continuing drought in the western United States is affecting not only agriculture and power generation but even basic community water supplies. Droughts, floods and freezes in the USSR, the African Sahel, the Indian subcontinent and Brazil in recent years have unsettled world markets and inflicted misery and often death upon untold numbers of people.

Senate Concurrent Resolution 67 of the 90th Congress dedicated the United States to participate in the World Weather Program in order to develop improved worldwide weather observations and services and to conduct a comprehensive program of research to extend our understanding and prediction of global weather and climate variations. I am pleased to transmit, in accordance with that Resolution, this annual World Weather Plan that describes significant activities and accomplishments and outlines the planned participation of Federal agencies for the coming fiscal year. The progress already achieved in this vital program demonstrates that we truly can do something to help our people anticipate and cope with the effects of the world's weather.

JIMMY CARTER.

THE WHITE HOUSE, *November 3, 1977.*

TRIBUTE TO HON. HENRY B. GONZALEZ

(Mr. KAZEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. KAZEN. Mr. Speaker, recently a colleague of ours was honored by an organization of small business trade and professional associations, the Small Business Legislative Council. The council consists of more than 400 national, regional, and State associations and represents in excess of 760,000 small business firms.

Because I know that HENRY GONZALEZ' colleagues want to join in congratulating him for his hard work and service to the small business community through the Committee on Small Business. I would like to insert into the RECORD at this point the text of the award that was presented to Mr. GONZALEZ by the Small Business Legislative Council:

IN GRATEFUL APPRECIATION TO HON. HENRY B. GONZALEZ, DISTINGUISHED MEMBER OF COMMITTEE ON SMALL BUSINESS

We honor you because in a time of crisis you rallied forces in Congress to protect small business by turning back attacks on a basic anti-price discrimination statute, the Robinson-Patman Act. Without your efforts as Chairman of the Ad Hoc Committee on Antitrust, the Robinson-Patman Act, and Related Matters, the Robinson-Patman Act today may have been repealed or in any event emasculated.

We recognize you because we know the amount of sacrifice you, the other distinguished members of the Ad Hoc Committee, and the House Small Business Committee staff made to this cause.

We salute you because your determined and effective efforts demonstrated first-hand to the opponents of the Robinson-Patman Act your strong feelings that agencies of government are frustrating the antitrust policy of this country, as duly established by Congress.

We thank you for your dedication and commitment to the small business cause. We need a Congress with the same commitment and dedication so that small business may grow and prosper as a vital, dynamic and helpful force in a diversified American economy.

For the Small Business Legislative Council John F. Grant, Chairman; John E. Lewis, Executive Director.

American Association of Nurserymen.
Association of Diesel Specialists.
Association of Steel Distributors.
Automotive Warehouse Distributors Association.
Building Service Contractors Association.
Christian Booksellers Association.
Electronic Representatives Association.
Food Merchandisers of America, Inc.
Independent Bakers Association.
Independent Sewing Machine Dealers of America, Inc.
Local and Short Haul Carriers National Conference.
Machinery Dealers National Association.
Manufacturers Agents National Association.
Menswear Retailers of America.
Narrow Fabrics Institute, Inc.
National Association for Child Development & Education.
National Association of Black Manufacturers.
National Association of Brick Distributors.
National Association of Catalog Showroom Merchandisers.
National Association of Independent Lumbermen.
National Association of Men's and Boys' Apparel Clubs.
National Association of Plumbing/Heating/Cooling Contractors.
National Association of Realtors.
National Association of Retail Druggists.
National Association of Trade and Technical Schools.
National Beer Wholesalers of America, Inc.
National Building Material Distributors Association.
National Candy Wholesalers Association.
National Concrete Masonry Association.
National Electrical Contractors Association, Inc.
National Family Business Council.
National Fastener Distributors Association.
National Federation of Manufacturers Representatives Association.
National Home Furnishings Association.
National Home Improvement Council.
National Independent Dairies Association.
National Independent Meat Packers Association.
National Insulation Contractors Association.
National Office Machine Dealers Association, Inc.
National Office Products Association.
National Paper Trade Association, Inc.
National Patent Council, Inc.
National Precast Concrete Association.
National Small Business Association.
National Tire Dealers and Retreaders Association, Inc.
National Tool, Die & Precision Machining Association.
Printing Industries of America, Inc.
Small Business Service Contractors Association.
National Association of Home Manufacturers.

OMNIBUS INDIAN JURISDICTION ACT OF 1977 AND ADJUDICATION OF WATER RIGHTS FOR INDIANS

(Mr. MEEDS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MEEDS. Mr. Speaker, a fair and workable national policy toward American Indians seems an elusive goal. In my dissenting views to the report of the American Indian Policy Review Commission I stated:

The American Indian has a very rich and unique culture. He should be given every right to practice that culture. But the American Indian is also an American citizen. He lives among American citizens. Ways can be found to prevent the collision of his uniqueness as an Indian and the rights of other Americans, including Indians, under the Constitution.

I am today introducing legislation that I feel will help prevent that impending collision.

This legislation is needed because of the shifting policy of our Government toward the American Indian. When the first white man "conquered" some portion of the New World, blithely assuming it was his for the taking, he started a chain reaction of injustice to native

Americans. As a nation, we have tried to respond to that chain of events with policies toward Indians as varied as extermination, isolation, assimilation, termination and, now, self-determination.

These shifts of policy have left in their wake a body of law that is confused and conflicting. It is small wonder that the relationship between American Indians and other American citizens is frustrating and increasingly difficult. Within this chaotic policy one group tries to expand its rights and jurisdiction within the framework of some legal interpretations while the other resist, relying on other precedents to try to limit those rights severely.

This state of affairs exists largely because Congress—over the decades—has failed to legislate in this complex and emotional field. And that failure to establish any transcendent policy has left the fate of the American Indian totally subject to the vagaries of fickle contemporary action.

This creates confusion and uncertainty at best. Often it causes angry resentments in the hearts of Americans, Indian and non-Indian alike.

For example: Even with the widest tolerance for judicial legislation, not all areas of potential dispute can be addressed. A court can hardly be expected to waive tribal sovereign immunity from suit. But the presence of such sovereignty is a bar to recovery of damages from an injury caused by negligence of tribal officials or a breach of contract by a tribe—whether by an Indian or a non-Indian.

Perhaps more serious are the problems created by uncertainty on the issue of tribal authority. Present practice can fly in the face of the most basic of all the concepts of our republican form of government—the principle that the power to govern is derived from the consent of the governed.

Because of the diversity of the judicial decisions spanning two centuries and embracing even more different national policies than I have mentioned, some people hold the view that tribal government has authority and jurisdiction over non-Indians in "Indian country." Under this view some tribal authorities assert governmental powers over all persons living within reservation boundaries—even though some are not members of the tribe and live on their own land which no longer belongs either to the tribe or to individual tribal members. Yet, because they are not members of the tribe, these residents have no voice in electing representatives to that government. Thus, decisions are made which seriously affect their lives, but which they have no method of influencing. This is contrary to the most basic premise of our form of government.

One obvious illustration of this is when a tribal government imposes taxes on nonmembers residing on the reservation. That is simply taxation without representation.

What Congress has permitted to develop by failing to spell out the jurisdictional rights of American Indians is a direct conflict between Indian tribal aspirations and the constitutional rights of American citizens.

I believe where tribal aspirations collide with constitutional principles, the tribe's interests must yield. This in no way interferes with the authority of tribal governments over members who do have the right to vote for those who exercise that authority.

Mr. Speaker, the basic tenet of the legislation I propose is to assure that Indian tribal government is self-government; that tribes have the power to regulate only their members and the property of their members.

Here is a brief explanation of this legislation.

First. Extend the civil aspects of Public Law 280 to all States. This will provide a forum for deciding all civil matters even though they arise in "Indian country."

Second. Provide a waiver of tribal government immunity. This would allow suit to be brought against tribes for negligence, breach of contract, et cetera.

Third. Governmental powers to regulate, and to hear and determine, would be:

Outside of "Indian country" Indian tribal governments would have no jurisdiction. The word jurisdiction is used broadly to mean both the power to regulate and the power to hear and determine legislative, administrative and judicial issues.

Within "Indian country" tribal governments would have jurisdiction over tribal members. The State would have jurisdiction over others and the existing judicial "infringement test" would be abolished.

Fourth. Hunting and fishing jurisdiction as follows:

Outside of Indian reservations, the State would regulate both members and nonmembers.

Within reservations, the State would regulate nonmembers and the tribe would regulate members. However, the tribe would have proprietary power over the resource and could exclude nonmembers.

States would have the power, for conservation purposes only, to regulate both members and nonmembers.

Fifth. Criminal jurisdiction in Indian country:

All major crimes by members—Federal.

All crimes by nonmembers and all crimes by members against nonmembers which are not covered by the Major Crimes Act—State.

All crimes committed by members against members or by members where there is no victim and which are not covered by the Major Crimes Act—tribal.

Mr. Speaker, if there are some problems that will disappear when they are left alone, the problem of an unsound American Indian policy is not one of them. We have waffled and wavered for most of our history and the problem grows worse.

The legislation I propose is bound to be controversial. These issues are fundamental and feelings run strong. A lot of reasonable people will disagree. Many people may lose hold of a rational approach. These may be the reasons Congress has failed to tackle this matter before.

But it is past time to do it.

We must clear away uncertainty and define a sound policy that lets all Americans know what rights and jurisdictions do in fact belong to native Americans.

My bills avoid extremes. Some might wish tribes to have nearly total authority. Others would even abolish tribal government altogether. At various times in our history we have tried both of these approaches and neither has worked.

This legislation seeks a middle ground—a responsible policy where both the constitutional rights of all citizens and the uniqueness of Indians have the best chance to flourish.

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Speaker, I want to congratulate the gentleman from Washington (Mr. MEEDS) on his outstanding contribution in this area. I think he has done a great deal of work here and deserves a great deal of credit. I support him completely.

Mr. MEEDS. I thank the gentleman from Washington (Mr. DICKS) for his remarks and I thank him for his cosponsorship along with that of others.

Mr. PRITCHARD. Mr. Speaker, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from Washington (Mr. PRITCHARD).

Mr. PRITCHARD. Mr. Speaker, I compliment the gentleman from Washington (Mr. MEEDS) for his work in this area. This Congress and this country are going to have to face up to some very difficult Indian problems. I think the gentleman from Washington (Mr. MEEDS) has made a great contribution and I join in complimenting him for his work.

Mr. MEEDS. I thank the gentleman from Washington (Mr. PRITCHARD) for his remarks and his cosponsorship.

Mr. Speaker, the bill I referred to is as follows:

H.R. —

A bill to allocate civil and criminal jurisdiction among the United States, the States, and Indian tribes, and to define the limits of State and tribal regulatory power

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Omnibus Indian Jurisdiction Act of 1977".

CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY

SEC. 2. (a) The Congress finds that its policy of permitting reservation Indians to govern themselves and order their own internal affairs, and the concomitant congressional insulation of reservation Indians from the application of most of the laws of the State of which they are citizens while on the reservation, have created great uncertainty over the limits of State and tribal power, and constitute barriers to the effective administration of justice.

(b) In order to allow Indian tribes to choose to preserve their unique cultural identities, it is the policy of Congress to allow to Indian tribes a limited power of self-government over affairs on the reserva-

tion among their members. It is not the policy of Congress that tribal powers of self-government be expanded to include power over nonmembers. Subjection of nonmembers to the powers of Indian tribes is not warranted by the fundamental Federal policy of allowing reservation Indians to control their own affairs, nor is it consistent with basic American principles of democratic control of governmental power. Rather, nonmembers are to be subject only to the laws of the United States and of the States. It is the purpose of this Act to resolve jurisdictional anomalies, gaps, and uncertainties according to these principles.

TITLE I—CRIMINAL LAW AND JURISDICTION

DEFINITIONS

SEC. 101. (a) Section 1151 of title 18, United States Code, is amended by striking out the title of the section and inserting in lieu thereof "Definitions.", by inserting "(a)" immediately before the first sentence thereof, and by adding at the end thereof the following:

"(b) For purposes of sections 1152, 1153, and 1161, and sections 1166 through 1170, the term—

"(1) 'tribe' has the meaning given the term 'Indian tribe' in section 201(1) of the Act entitled 'An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes", approved April 11, 1968 (82 Stat. 77; 25 U.S.C. 1301(1)),

"(2) 'Indian' means (A) any individual of substantial Indian blood who is validly enrolled or recognized by an Indian tribe and the United States as a member of the tribe, and (B) any corporation or other entity formed or existing under the law of an Indian tribe if all its members, shareholders, and equity owners are validly enrolled in or recognized as members of the tribe under whose law the corporation or entity is formed or exists,

"(3) 'member' means any individual Indian whose domicile is within the boundaries of the Indian country of the tribe in which he is enrolled or recognized as a member and any Indian corporation or other entity which is formed or exists under the law of the tribe with respect to which reference is made, and

"(4) 'State' means any State of the United States and any political subdivision of a State; when reference is made to the laws of a State, the laws of political subdivisions of a State are included."

(b) The analysis preceding chapter 53 of title 18, United States Code, is amended by striking out "1151. Indian country defined." and inserting in lieu thereof "1151. Definitions."

FEDERAL CRIMINAL JURISDICTION

SEC. 102. (a) Section 1152 of title 18, United States Code, is amended to read as follows:

"§ 1152. Assimilative crimes in Indian country.

"Section 13 of title 18, United States Code, is applicable in Indian country only where the offense is (1) one committed by a member and (2) not within the jurisdiction of the courts of the State in which the offense is committed as provided in sections 1166 through 1169, or of the United States under section 1153."

(b) The analysis of chapter 53 of title 18, United States Code, is further amended by striking out "1152. Laws governing." and inserting in lieu thereof "1152. Assimilative crimes in Indian country."

(c) Section 1153 of title 18, United States Code, is amended by striking out the term "Indian" the first place that term occurs and inserting in lieu thereof "member", and by striking out "another Indian or other" and inserting in lieu thereof "any".

(d) Section 1161 of title 18, United States Code, is amended to read as follows:

"§ 1161. Application of Indian liquor laws.

"The provisions of sections 1154, 1156, 3113, 3488, and 3618 shall not apply within any area that is not Indian country, nor to any act or transaction within any area of Indian country provided such act or transaction is in conformity both with the laws of the State in which such act or transaction occurs and with regulations promulgated by the Secretary of the Interior with the advice and consent of the governing body of the tribe which occupies the affected Indian country. Administration and enforcement of such regulations shall not be delegated to any Indian tribe."

STATE CRIMINAL JURISDICTION

SEC. 103. (a) Chapter 53 of title 18, United States Code, is amended by adding at the end thereof the following new sections:

"§ 1166. Exclusive State jurisdiction over nonmembers.

"Every State shall have exclusive criminal jurisdiction over all crimes committed in Indian country by persons not members of the tribe or tribes occupying said Indian country to the same extent that such State has jurisdiction over offenses committed elsewhere within the State, and the criminal laws of such State shall have the same force and effect against such persons within Indian country as they have elsewhere within the State.

"§ 1167. Additional exclusive State jurisdiction.

"Except where the offense is within exclusive Federal criminal jurisdiction under section 1153, every State shall have exclusive criminal jurisdiction over all crimes committed in Indian country by members of the tribe occupying said Indian country against those who are not members of the tribe occupying said Indian country, to the same extent that such State has jurisdiction over offenses committed elsewhere within the State, and the criminal laws of such State shall have the same force and effect against such members within Indian country as they have elsewhere within the State.

"§ 1168. Application of State traffic laws.

"Every State shall have the same authority to enforce its motor vehicle traffic laws against all persons on patented land, rights-of-way, and easements running through Indian country held by the State and used for motor vehicle transportation as it has elsewhere within the State.

"§ 1169. Prior grants of State jurisdiction preserved.

"Nothing in sections 1166 and 1167 shall narrow the jurisdiction granted States pursuant to sections 1162 and 3243, the Act entitled "An Act to confer jurisdiction on the State of New York with respect to offenses committed on Indian reservations within such State", approved July 2, 1948 (42 Stat. 1224; 25 U.S.C. 232), or any other statute, treaty, or law which grants to the courts of a State criminal jurisdiction over offenses committed in Indian country by members of an Indian tribe."

(b) The analysis of chapter 53 of title 18, United States Code, is further amended by adding at the end thereof the following:

"1166. Exclusive State jurisdiction over nonmembers.
"1167. Additional exclusive State jurisdiction.
"1168. Application of State traffic laws.
"1169. Prior grants of State jurisdiction preserved."

TRIBAL CRIMINAL JURISDICTION

SEC. 104. (a) Chapter 53 of title 18, United States Code, is amended by adding after section 1169 (as added by section 103) the following new section:

"§ 1170. Tribal criminal jurisdiction.

"(a) Except for offenses over which there is exclusive Federal criminal jurisdiction pursuant to section 1153, and except for offenses against nonmembers, Indian tribes shall have criminal jurisdiction over all offenses committed in Indian country by members of the tribe.

"(b) No Indian tribe shall have criminal jurisdiction over nonmembers of the tribe.

"(c) Nothing in this section shall be construed to exempt members from the laws of the United States or, where expressly authorized by law, of the State in which the Indian country is located.

"(d) The jurisdiction granted Indian tribes by this section shall be concurrent with that granted to the United States under section 1152 where jurisdiction is otherwise granted to the United States by that section."

(b) The analysis of chapter 53 of title 18, United States Code, is amended by adding at the end thereof the following: "1170. Tribal criminal jurisdiction."

TITLE II—CIVIL LAW AND JURISDICTION

DEFINITIONS

SEC. 201. In this title, the term—

(1) "tribe" has the meaning given the term "Indian tribe" in section 201(1) of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes", approved April 11, 1968 (82 Stat. 77; 25 U.S.C. 1301(1)),

(2) "Indian" means (A) any individual of substantial Indian blood who is validly enrolled or recognized by an Indian tribe and the United States as a member of the tribe, and (B) any corporation or other entity formed or existing under the law of an Indian tribe if all its members, shareholders, and equity owners are validly enrolled in or recognized as members of the tribe under whose law the corporation or entity is formed or exists,

(3) "Indian country" means Indian country as defined by section 1151 of title 18, United States Code,

(4) "member" means any individual Indian whose domicile is within the boundaries of the Indian country of the tribe in which he is enrolled or recognized as a member and any Indian corporation or other entity which is formed or exists under the law of the tribe with respect to which reference is made, and

(5) "State" means any State of the United States and any political subdivision of a State; when reference is made to the laws of a State, the laws of political subdivisions of a State are included.

WAIVER OF TRIBAL IMMUNITY FROM SUIT

SEC. 202. Indian tribes shall be subject to suit in the courts of the United States or any State, where jurisdiction is otherwise proper.

CIVIL GOVERNMENTAL POWER OF STATES

SEC. 203. (a) Every State shall have the same civil governmental power, including judicial power, over all persons outside of Indian country as it has within its territory generally.

(b) Except as otherwise provided by this Act or other Federal law, States shall have no civil governmental power over persons, conduct, or property of Indian tribes or their members within their Indian country.

(c) Except as provided in paragraph (3), every State shall have the following powers within Indian country, as well as such other powers as may be allowed to the State under the Constitution, treaties, statutes, or other laws of the United States:

(1)(A) Except as provided in subparagraph (B), every State shall have the same civil governmental power, including judicial power, in Indian country, including land use, taxing, and other regulatory power, over

the persons, conduct, and property, including interests in restricted or trust lands, of every person other than members within the Indian country of their tribe as that State has outside of Indian country, whether or not the exercise of such power by the State affects the self-government of the tribe.

(B) The State land use regulatory power granted under subparagraph (A) shall not authorize any State to prohibit a use of a nonmember's interest in restricted or trust lands where—

(i) such use was made of the nonmember's interest on the date of enactment of this Act, or

(ii) such use of the interest was made by a member before the interest was acquired by the nonmember, unless (I) the use was changed by the member to a use not permitted by the appropriate State land use regulatory authority with knowledge or intent that such interest be transferred to a nonmember and (II) such change of use was in fact financed by the nonmember regardless of the form of the financing transaction.

(2) Every State shall have civil governmental power, including judicial power, over the persons, conduct, and property of members and of Indian tribes in Indian country to the extent such power is necessary and incidental to the effective enforcement of State laws applicable therein.

(3) Nothing in this subsection shall authorize the alienation, liening of record, or taxation by a State of any interest of an Indian or Indian tribe in real or personal property, including water rights, which is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; or shall authorize regulation by a State of the use of such interest by an Indian or Indian tribe in a manner inconsistent with any Federal treaty or statute or with any regulation made pursuant thereto concerning the use of such interest by an Indian or tribe; or shall confer jurisdiction upon a State to adjudicate, in probate proceedings or otherwise, the ownership or right to possession of such property except under claim of a lease, easement, right-of-way, or grant of any nature made under Federal treaty or statute to any person or entity other than a member or a tribe.

STATE CIVIL JURISDICTION IN ACTIONS TO WHICH INDIANS ARE PARTIES

SEC. 204. (a) Except as provided in the succeeding sentence, every State shall have jurisdiction over civil causes of action arising in Indian country between or against members or Indian tribes to the same extent that such State has jurisdiction over other civil causes of action. Nothing in this section shall authorize the alienation, liening of record, or taxation by a State of any interest of an Indian or Indian tribe in real or personal property, including water rights, which is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; or shall authorize regulation by a State of the use of such interest by an Indian or Indian tribe in a manner inconsistent with any Federal treaty or statute or with any regulation made pursuant thereto concerning the use of such interest by an Indian or tribe; or shall confer jurisdiction upon a State to adjudicate, in probate proceedings or otherwise, the ownership or right to possession of such property except under claim of a lease, easement, right-of-way, or grant of any nature made under Federal treaty or statute to any person or entity other than a member or a tribe.

(b) Except as provided in the succeeding sentence—

(1) in civil actions brought under this section, State rules of decision shall be applicable;

(2) notwithstanding section 203(c)(3) and the second sentence of section 204(a), the public and private nuisance law of the State shall be applicable to the use, the users, and the owners, other than the United States, of restricted or trust land in any action between the users or owners of such land and any nonmember or user or owner of lands other than restricted or trust lands the use or ownership of which occasions the claim of nuisance, and the United States need not be joined in any such action; and

(3) any otherwise valid tribal ordinance or custom adopted by an Indian tribe in the exercise of any authority it may possess, if not inconsistent with any applicable civil law of the State, shall be given full force and effect in the determination of civil actions wholly arising within the Indian country of the tribe if (A) nonmembers of the tribe are not prejudiced thereby, (B) all parties to the claim are members of the tribe whose ordinance or custom is sought to be applied, and (C) the party who intends to raise the ordinance or custom gives notice in his pleadings or other reasonable written notice.

Nothing in this subsection shall authorize any civil action by or on behalf of a State or by any person claiming under a State against a member or an Indian tribe to assert a duty within the Indian country of the tribe, except under clause (2) of the preceding sentence, or under the laws of the State under which laws private persons generally are protected, or the laws of the United States, or the laws of the tribe.

CIVIL GOVERNMENTAL POWER OF TRIBES

SEC. 205. (a) Every Indian tribe shall have civil governmental power over the conduct and property of its members to the extent that such property is located in or such conduct occurs in the Indian country of the tribe, and over the interest a former member no longer domiciled in the Indian country of the tribe may have in restricted or trust lands or in the communal property or funds of the tribe within the Indian country of the tribe, except as otherwise limited by Federal or tribal law.

(b) No Indian tribe shall have any civil governmental power over the persons, conduct, or property, including interests in restricted or trust lands, of any nonmember other than over the interest a former member no longer domiciled in the Indian country of the tribe may have in restricted or trust lands or in the communal property or funds of the tribe within the Indian country of the tribe.

(c) No Indian tribe shall have any governmental power over its members in connection with their conduct or property outside the Indian country of the tribe.

(d) No Indian tribe shall have the power to exclude from the Indian country of the tribe or from any other place any State law enforcement officer or other State official executing the laws of the State otherwise applicable within the Indian country of the tribe if such officer or official is entitled to enter similar public and private places under the law of the State.

JURISDICTION OF INDIAN TRIBES

SEC. 206. (a) Indian tribes shall have such jurisdiction over civil actions as established by Federal statutes, treaties, or regulations or by the governing body of the tribe with the approval of the Secretary of the Interior except that:

(1) No Indian tribe shall have jurisdiction in any civil action over the person or property of any nonmember other than over the interest a former member no longer domiciled in the Indian country of the tribe may have in restricted or trust lands or in the communal property or funds of the tribe within the Indian country of the tribe unless such nonmember shall expressly consent to such jurisdiction in writing after the cause of action upon which suit is brought has arisen.

(2) No Indian tribe shall have jurisdiction over any action against an employee, officer, or agent of the United States or of a State for any matter arising out of his performance or non-performance of his official duties or for any matter in the course and scope of his employment by the United States or a State.

(b) The records and judicial proceedings of Indian tribes or copies thereof, authenticated in the manner provided in section 1738, title 28, United States Code, shall have the same full faith and credit in every court within the United States and its territories and possessions as they have by law or usage of the Indian tribes from which they are taken, except that the subject matter and personal jurisdiction of the Indian tribe to entertain the proceedings shall be reexamined in any court in which the proceedings are sought to be enforced.

HUNTING, TRAPPING, AND FISHING

SEC. 207. (a) The regulation of hunting, trapping, or fishing and the removal of game, peltries, fish or wildlife on lands other than those described as Indian lands in section 1165, title 18, United States Code, including those places off the reservation where a tribe is entitled to hunt, trap, fish, or remove game, peltries, fish or wildlife pursuant to treaty, shall be within the exclusive power of the State in which such lands exist, except to the extent that a statute of the United States grants exclusive or concurrent power to the United States, except that nothing herein shall authorize a State to impose upon members at those places off the reservation where a tribe is entitled to hunt, trap, fish, or remove game, peltries, fish or wildlife pursuant to treaty, any fish, game or trapping license or permit fee. Regulation for conservation purposes or otherwise under this section must apply equally to all persons regulated without regard to their status as Indian or non-Indian except that nothing in this sentence shall apply to enlarge, restrict or confirm the rights of any Indian tribe under judgments final before the enactment of this Act.

(b) The regulation of hunting, trapping, or fishing and the removal of game, peltries, fish or wildlife on lands described as Indian lands in section 1165 of title 18, United States Code, by members of the tribe occupying such lands shall be within the exclusive power of the tribe, except as provided in subsection (d) of this section and except to the extent that a statute of the United States grants exclusive or concurrent power to the United States or a State.

(c) Pursuant to section 1165 of title 18, United States Code, an Indian tribe may withhold from nonmembers of the tribe authority or permission to hunt, trap, or fish and remove game, peltries, fish or wildlife on lands described in such section, or it may condition such authority or permission upon payment of a fee; but if it grant such authority or permission to hunt, trap, or fish hunting, trapping, or fishing or the removal of game, peltries, fish or wildlife on such Indian lands by nonmembers of the tribe shall be within the exclusive power of the State in which the lands exist, except to the extent that a statute of the United States grants exclusive or concurrent power to the United States.

(d) Notwithstanding subsection (b), the State in which Indian lands described in section 1165 of title 18, United States Code, are located shall have the power to regulate or prohibit hunting, trapping, or fishing or the removal of game, peltries, fish or wildlife on such lands by any person to the extent necessay to preserve any species of wildlife or fish or to ensure that the opportunity

of all persons to hunt, fish, or trap outside such lands are not seriously and substantially infringed.

TITLE III—MISCELLANEOUS AND CONFORMING PROVISIONS

EFFECT OF STATE LAW

SEC. 301. (a) Any provision of any State enabling act which is inconsistent with any provision of this Act is hereby repealed.

(b) Each State shall have the powers granted to that State under this Act notwithstanding any inconsistent provision of State law. If, notwithstanding the application of the preceding sentence, any State is precluded by any provision of the constitution of that State from exercising any of the powers granted to that State under this Act, the consent of the United States is hereby given to the repeal of such State constitutional provision in any manner authorized under the law of that State.

CONFORMING PROVISIONS

SEC. 302. (a) Section 1360 of title 28, United States Code, is hereby repealed.

(b) Nothing in this Act shall limit the powers or the jurisdiction granted to the State of New York under the Act entitled "An Act to confer jurisdiction on the courts of the State of New York with respect to civil actions between Indians or to which Indians are parties", approved September 13, 1950 (64 Stat. 845; 25 U.S.C. 233), and nothing in such Act shall limit the powers of jurisdiction granted the State of New York under this Act.

(c)(1) Section 401(b) of the Act entitled "An Act to provide penalties for certain acts of violence or intimidation, and for other purposes", approved April 11, 1968 (82 Stat. 78; 25 U.S.C. 1321(b)) is amended to read as follows:

"(b) Nothing in this section shall authorize the alienation, liening of record, or taxation by a State of any interest of an Indian or Indian tribe in real or personal property, including water rights, which is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; or shall authorize regulation by a State of the use of such interest by an Indian or Indian tribe in a manner inconsistent with any Federal treaty or statute or with any regulation made pursuant thereto concerning the use of such interest by an Indian or tribe; or shall confer jurisdiction upon a State to adjudicate, in probate proceedings or otherwise, the ownership or right to possession of such property except under claim of a lease, easement, right-of-way, or grant of any nature made under Federal treaty or statute to any person or entity other than a member or a tribe."

(2) Section 402 (25 U.S.C. 1322) of such Act is hereby repealed.

(3) Section 403(a) (25 U.S.C. 1323(a)) of such Act is amended by striking out "or civil", by striking out ", or both,", and by striking out "section 1360 of title 28 of the United States Code,".

(4) Section 404 (25 U.S.C. 1324) of such Act is hereby repealed.

(5) Section 406 (25 U.S.C. 1326) of such Act is amended by striking out "with respect to criminal offenses or civil causes of action, or with respect to both,".

ABATEMENT OF ACTIONS

SEC. 303. The provisions of this Act shall not deprive any court of the United States of jurisdiction to hear, determine, render judgment, or impose sentence in any criminal action instituted against any person for any offense committed before the date of the enactment of this Act, if the offense charged in such action was cognizable under any law of the United States at the time of the commission of such offense. For the purposes of any such criminal action, the provisions of this Act shall take effect on the day following the date of final determination of such action.

Mr. Speaker, there is another area of great uncertainty and confusion relating to Indian Americans. This has to do with their water rights.

Under the judicially created winters doctrine, when the United States reserves land from the public domain, it implicitly reserves water to satisfy the purposes for which the Indian reservation was intended.

But how much water is that? That question has given rise to much litigation. Even so, the matter is confused and infused with uncertainty.

This uncertainty has worked to the detriment of Indians and non-Indians alike, and it leads to conflict. There are those who will contend this reservation guarantees any amount of water a tribe wishes to use at any time in the future without regard to the effect on others. Others believe it should be restricted to the amount of water needed to serve the reservation as it was originally established.

The only thing certain is that as long as there is no quantified right established, the confusion, litigation and conflict will continue.

What is needed is a just method of quantifying the water reservation for each tribe. Once an amount of entitlement is established, the tribes will be much better able to do long-range planning and development. Likewise, non-Indians will understand far more about their entitlements.

This legislation preserves to the Indian tribes the right to use water they are now using with a priority date of the document by which the Federal Government established their reservation. But it goes further and establishes a mechanism for determining the quantity of water to which each tribe has rights.

That quantity will be determined this way: The tribe will have rights to water in a quantity equal to the highest actual annual permissible use in any of the 5 years preceding January 1, 1977. "Permissible use" is very broadly interpreted to include any reasonable and benefical use.

Generally speaking, the bill will preserve to Indian tribes the water which they are now using. This will permit Indian tribes and non-Indian users of water to rely on known rights. This will allow all citizens associated with these water rights a greater ability to plan and to manage this scarce natural resource more effectively.

Here is a general explanation of what the bill would accomplish:

The bill will preserve to Indian reservations the right to use of the water with a priority date of the Federal reserving document, but at the same time require quantification of that right in the amount of the highest annual actual permissible use in any of the 5 years preceding January 1, 1977. Changes in permissible use and sources will be permitted so long as no harm to others results. Additionally, there is provided a mechanism for permitting Indian reservations to use water on a temporary basis in excess of the quantified right, as long as no harm results to others. The bill applies both to surface and to most ground waters, leaving the remainder subject to State law. Federal reserved rights to the use of water for lands other than Indian reservations are not affected. An important aspect of the bill is that it does not abrogate or otherwise interfere with any existing water usage a tribe may have pursuant to Federal treaty or statute. Since it is the United States which reserved the right for the Indian reservation, it is within the authority of Congress to define that which it reserved.

Mr. Speaker, we are also dealing in a controversial area with this proposal. There are no easy answers to a problem which has been allowed to grow more controversial year by year. Our failure to act in the past has fueled that controversy.

This bill outlines what I believe is a just and workable solution. Others may draw the lines somewhat differently and we must listen to those ideas as well.

But, I hope this bill will serve as a starting point—a place from which the Congress can begin to deal with this problem. We must act soon. We must start now.

Mr. Speaker, under unanimous consent I have obtained I insert the text of the bill at this point:

H.R. —

A bill to require adjudication and quantification of all claims to rights to the use of water based upon Federal reserved rights for Indian reservations

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Quantification of Federal Reserved Water Rights for Indian Reservations Act".

CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY

SEC. 2. (a) The Congress finds that the Federal reserved water rights doctrine, as applied to Indian reservations, has created great uncertainty over rights to the use of water. Lack of certainty jeopardizes established expectations to the continued use of water and precludes effective planning for the development, management, and use of a scarce natural resource. Lack of quantification, in conjunction with a prior right, is the cause of uncertainty. The Congress further finds that the uncertainty inherent in unquantified rights to the use of water has worked to the detriment of Indian and non-Indian users and to the public which has an interest in the wise use of the Nation's waters.

(b) It is the policy of the Congress to accord to Indian reservations the right to the use of water with the priority date of the Federal reserving document, but at the same time to quantify that amount of water to which the reservation is entitled under that right, in order to remove the barrier of uncertainty to effective water resource use.

DEFINITIONS

SEC. 3. For purposes of this Act, the term—

(1) "Federal reserved rights to the use of water" means rights to that water then unappropriated which the United States has reserved from the public domain for the use and benefit of Federal reserved lands;

(2) "Federal reserved rights to the use of water for Indian reservations" means Federal reserved rights to the use of water for the use and benefit of Indian reservations;

(3) "rights to the use of water acquired under State law" means rights to the use of water acquired under the law of a State;

(4) "claims to aboriginal rights to the use of water" means claims by Indian tribes or

Indians to the use of water based upon aboriginal possession of lands.

(5) "water" means both surface and ground water;

(6) "surface water" and "ground water" have those meanings attributed to these terms under the laws of a State.

CERTAIN RIGHTS NOT AFFECTED

SEC. 4. Rights to the use of water acquired under State law by the United States or any Indian tribe shall not be affected by any provision of this Act.

CLAIMS TO ABORIGINAL RIGHTS TO THE USE OF WATER

SEC. 5. All claims to aboriginal rights to the use of water are hereby extinguished.

LIMITATION OF TIME FOR PRESENTING CLAIMS

SEC. 6. All claims by any Indian tribe or any person to rights to the use of water based upon Federal reserved rights to the use of water for Indian reservations, including claims under existing decrees which are subject to modification, shall be filed under the provisions of this Act not later than five years after the date of the enactment of this Act. All such claims not filed within such period are hereby extinguished, and no such claims may thereafter be submitted to any court or administrative agency for consideration, nor will such claims thereafter be entertained by the Congress.

ADJUDICATION AND QUANTIFICATION

SEC. 7. (a) Jurisdiction and Venue.—(1) The United States district courts shall have jurisdiction over adjudication and quantification of all claims to water or the use of water based upon Federal reserved rights to the use of water for Indian reservations without regard to diversity of citizenship of the parties or jurisdictional amount. Where all or substantially all of a water source exists in one district, exclusive venue shall be in that district. In all other cases, the Judicial Panel on Multidistrict Litigation may consolidate and transfer with or without the consent of the parties, for both pretrial purposes and for trial, any action brought under this Act.

(2) The jurisdiction of State courts shall be concurrent where otherwise appropriate under sections 208 (a) through (c) of the Act of July 10, 1952, known as the "McCarran amendment", (66 Stat. 560; 43 U.S.C. 666).

(3) No Indian tribe, court, or forum exercising powers of self-government shall have jurisdiction to adjudicate claims to Federal reserved rights to the use of water for Indian reservations under this Act or otherwise, except that no such Indian tribe, court, or forum shall be precluded by this subsection from allocating its quantified rights among its members.

(b) Parties.—Claimants under this Act shall join as parties, all water users and owners of land entitled to use water of the watershed of which the water source is a part, but prayer for relief may be made for an adjudication of only the claimant's rights, except in cases under such McCarran amendment, in which case each of the respective rights shall be adjudicated. Consent is given to join the United States as a party to any action brought under this Act.

(c) Procedure.—Upon the filing of a complaint, the Court may refer the matter for adjudication and quantification to a master, which may include that agency, if any, of the State which is charged with the administration of rights to the use of water acquired under State law, and the report of the master shall be reviewed by the court according to applicable rules with respect to referrals to a master.

STANDARD FOR QUANTIFICATION

SEC. 8. (a) All claims to Federal reserved rights to the use of water for Indian reservations, including claims under existing decrees to the extent they are subject to modification, shall, if proven, be quantified in the amount of highest annual actual permissible uses, as defined in section 9, in any of the five years preceding January 1, 1977. The quantified amount shall have the priority date of the Federal reserving document upon which the right is based.

(b) Except as provided in subsection (a) and section 6, final judgments on the merits by a court of competent jurisdiction adjudicating in fact or by merger or bar Federal reserved rights to the use of water for Indian reservations, entered prior to the date of the enactment of this Act, shall not be disturbed by this Act. Claims to Federal reserved rights to the use of water for Indian reservations in proceedings pending on the date of enactment of this Act shall be adjudicated and quantified under this Act.

(c) Nothing in this Act shall prevent an Indian tribe from purchasing rights to the use of water acquired under State law or acquiring rights to the use of water under State law. Lands purchased by an Indian tribe or by the United States for the benefit of an Indian tribe pursuant to any lawful authority for the purpose of providing additional water shall not constitute additions to existing Indian reservations or Indian country.

PERMISSIBLE USES

SEC. 9. Quantification under section 8 shall be permitted for the following permissible uses, and no others:

(1) domestic and municipal;
(2) irrigation for agriculture;
(3) grazing of livestock;
(4) fishing;
(5) industrial; and,
(6) any other reasonable, necessary, and beneficial use which would support a claim to rights to the use of water acquired under applicable State law.

WATER SOURCES

SEC. 10. Water sources from which Federal reserved rights to the use of water for Indian reservations may be withdrawn, diverted, or used shall be limited to those water sources which arise on or under or about the reserved lands from which actual water withdrawals, diversions, or uses were made for permissible uses during the five years preceding January 1, 1977.

LEASE OR SALE OF LANDS OR OF FEDERAL RESERVED RIGHTS TO THE USE OF WATER FOR INDIAN RESERVATIONS

SEC. 11. (a) Sale, lease, or other conveyance of Indian reservation land by Indian tribes or the United States on behalf of Indian tribes shall convey the Federal reserved rights to the use of water for Indian reservations quantified, unless otherwise provided by the conveyance.

(b) Sale, lease, or other conveyance of Federal reserved rights to the use of water for Indian reservations by Indian tribes or the United States on behalf of Indian tribes shall be permitted, but in an amount no greater than the amount quantified.

RIGHTS ADJUDICATED SUBJECT TO LIMITS OF INTERSTATE RIGHTS

SEC. 12. All rights to the use of water adjudicated and quantified are subject to the limitations imposed or to be imposed on the State in which a water source exists under (1) interstate compact, (2) statute, or (3) decree under a doctrine of equitable apportionment.

CHANGES IN EXISTING USE

SEC. 13. (a) Changes in use of quantified Federal reserved rights to the use of water for Indian reservations within the scope of permissible uses as defined in section 9 shall be permitted to Indians or Indian tribes only upon petition for such change in use to the court which entered the original adjudication and quantification decree of that Federal reserved right.

(b) A petition under this section filed in the United States district court shall be subject to the provisions of section 7. The petition, wherever filed, shall be granted for change in use only if it is established by a preponderance of the evidence that any such change in use will not impair either other Federal reserved rights to the use of water or rights to the use of water acquired under State or Federal law from the source of the quantified Federal reserved right, including those water rights junior to the quantified Federal reserved right but acquired prior to the date the petition under this section is filed.

(c) Nothing in this section shall authorize or permit any increase in quantified Federal reserved rights to the use of water for Indian reservations.

CHANGES IN WATER SOURCES

SEC. 14. (a) Any Indian tribe whose Federal reserved rights to the use of water for its Indian reservation have been adjudicated and quantified may, at any time after the date of the adjudication, petition the appropriate United States district court under sections 7 and 8 for temporary change in the water source from which the quantified Federal reserved right may be withdrawn, diverted, or used.

(b) The petition under this section shall be granted only if the petitioner establishes by a preponderance of the evidence that any such change in source will not impair either other Federal reserved rights to the use of water or rights to the use of water acquired under State or Federal law from the new source, including those water rights junior to the qualified Federal reserved right but acquired prior to the date the petition is filed.

(c) If the petitioner cannot satisfy the requirements of subsection (b), the district court may allow the petitioner to utilize as a source of the quantified Federal reserved right the nearest practicable source of Federal reserved rights to the use of water, if any exists, but only if the petitioner establishes by a preponderance of the evidence that such utilization will not impair the water uses and needs of the other Federal reserved lands or rights to the use of water acquired under State or Feedral law from the Federal reserved water right source, including those water rights junior to either (1) the Federal reserved rights to the use of water, or (2) the quantified Federal reserved rights to the use of water for Indian reservations acquired prior to the date of the petition under this section is filed.

(d) Nothing in this section shall authorize or permit any increase in Federal reserved rights to the use of water.

TEMPORARY INCREASES

SEC. 15 (a) Any Indian tribe whose Federal reserved rights to the use of water for its Indian reservation have been adjudicated and quantified may, at any time after the date of the adjudication, petition the appropriate United States district court under sections 7 and 8 to temporarily withdraw, divert, or use, as provided in subsection (b), for permissible uses as defined in section 9, additional specified quantities of water greater than the Federal reserved right quantified.

(b) The district court shall allow the petitioner to utilize, as a source for the requested additional specified quantity of water greater than the Federal reserved right quantified, the nearest practicable source of Federal reserved rights to the use of water, if any exists, if the petitioner establishes by a preponderance of the evidence that such utilization will not impair the water uses and needs of any other Federal reserved lands or rights to the use of water acquired under State or Federal law, including those water rights junior to either the Federal reserved right to the ues of water or the quantified Federal reserved rights to the use of water for Indian reservations.

(c) Nothing in this section shall authorize or permit any increase in any Federal reserved rights to the use of water.

GROUND WATER

SEC. 16. (a) All claims to rights to the use of ground water arising from Federal reserved rights to the use of water for Indian reservations, which would otherwise be subject to a doctrine of prior appropriation under the law of the State in which the ground water is withdrawn, shall be adjudicated and quantified as required by this Act.

(b) All claims to rights to the use of ground water for Indian reservations, other than those claims referred to in subsection (a), shall be determined according to the law of the State in which the ground water is withdrawn and shall not be subject to any other provision of this Act other than section 18.

NOTICE

SEC. 17. (a) As soon as practicable after the date of enactment of this Act, the Secretary of the Interior shall send a copy and written explanation of this Act to the recognized head of each Indian tribe and to any other identifiable group of American Indians existing as a distinct entity, residing on Indian reservations within the territorial limits of the United States.

(b) As soon as practicable after the filing of any written claim or petition under this Act, the claimaint or petitioner shall serve a notice of the filing of the claim or petition, approved by the court, upon the Attorney General of the State in which the water source affected is located and upon that agency, if any, of the State in which the water source affected is located which is charged with the administration of rights to the use of water acquired under State law. Proof of service shall be made.

(c) In addition to the requirements of subsection (b), any claimant or petitioner filing a written claim or petition under this Act shall, at his expense, publish a notice, approved by the court, of the filing of the claim or petition at least once a week for three consecutive weeks, commencing within 20 days after the date of filing of the claim or petition, in a newspaper having a general circulation and published in the State or district wherein the claim or petition has been filed. Proof of such publication by the claimant or petitioner shall be filed with the court by the claimant or petitioner within 60 days after the date of the filing of the claim or petition. Proof of publication shall be made.

(d) The notice required by subsections (b) and (c) shall specify, where applicable, all of the following:

(1) The court in which the claim or petition has been filed, and the cause number assigned.

(2) The name and address of the claimant or petitioner.

(3) The date of filing of the claim or petition with the court.

(4) The date of the Federal reserving document upon which the claim or petition is based.

(5) The specific source or sources of the Federal reserved right to the use of water for Indian reservations claimed.

(6) The amount of water claimed.

(7) The season of withdrawal, diversion, or use of the water claimed.

(8) The location of the place of withdrawal, diversion, and use of water claimed.

(9) The use to be made of the water claimed.

(10) The date of approval of the notice of the claim or petition by the court.

(11) Such other information as the court deems necessary.

(e) The court shall dismiss without prejudice any claim or petition for failure of the claimant or petitioner to file proof of service or publication in accordance with this section.

(f) The notice requirements of this section shall be in addition to any requirements for the service of process upon any person or other entity which must be joined as a party to the claim or petition under section 7(b) or under other provisions of law.

LIMITATIONS OF ACTIONS FOR DAMAGES

SEC. 18. All claims for damages arising out of Federal reserved rights to the use of water for Indian reservations other than those arising out of rights to the use of waters quantified in actions filed within the time period provided in section 6 are hereby extinguished. All other claims for damages arising out of rights to the use of water on Indian reservations shall be subject to the limitations provided for similar claims under the law of the State in which the reservation is located.

BING CROSBY WAS BORN IN TACOMA, WASH.

(Mr. DICKS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DICKS. Mr. Speaker, I wish to share today a few little known facts about Harry Lillis "Bing" Crosby, who was born in a part of my district: Tacoma, Wash., on May 3, 1903.

His "roots" began in Tacoma, where he and his three brothers and two sisters lived on 1112 No. J Street, in a big house which still stands across the street from St. Patrick's Catholic Church, where he was baptized on May 30, 1903.

Some Tacoman's say that Crosby received his famous "Bing" nickname from his sidewalk games of chasing make-believe Indians with make-believe guns and shouting: "Bing. Bing." Other biographers note he acquired "Bing" from a popular comic strip of the time, "Bingville Bugle."

Bing's mother was the former Katherine H. Harrigan. She was born in Minnesota and came to Tacoma as a girl with her parents, Dennis and Katherine Harrigan. Her father worked as a pioneer building contractor and the family was well-known around St. Patrick's parish.

Bing's paternal grandfather, Nathaniel Crosby, was born in County Cork, Ireland, and came from a long line of ship captains.

Bing's mother and father-to-be met in Olympia, Wash., a city about 30 miles south of Tacoma. Harry L. Crosby played in a band, Katherine appeared in amateur musicals.

Bing's parents probably influenced his musical inclinations. When the family moved to Spokane, Bing got his first real taste of show business by working as an assistant in the prop department of the Auditorium Theater after school. It was here he rubbed shoulders with touring headliners such as Al Jolson and the George White Scandals' cast.

Later, after Bing was a headliner, another Tacoman crossed his life. Burt McMurtrie, a long-time Tacoma radio personality, was program director for the CBS radio show "The Woodbury Soap Hour."

During that show, at Christmas time in 1935, Burt and pianist Lennie Hayton gave Bing a list of songs to sing for the special Christmas program. Bing noted that "Silent Night" was on the list, but he refused to sing it. Burt McMurtrie demanded that Bing sing it. Bing persisted in saying "no". Finally though, Burt won out and "Silent Night" became one of Bing's most successful songs, probably second only to "White Christmas."

Bing made a special tape recording for Tacoma's new Bicentennial Pavillion just last year. In closing out these remarks, Mr. Speaker, I would like to share Bing's remarks about his native city.

> . . . I can recall the clean, sharp and slightly fishy smell of the (Puget) Sound . . . the clambakes and outings to Point Defiance and American and Steilacoom lakes.
>
> In the summer the Puget Sound area is one of the most beautiful places in the world . . . I still come up there quite often.

"I really have only one beef," Bing concludes as only a homeowner could, "They took away Mount Tacoma's name and made it Rainier. Tacoma is a lovely name, an Indian name. I hope some day it can be changed back to Tacoma."

Incidentally, for the benefit of my distinguished colleagues, "Tacoma" means in Indian: "The mountain that was God."

THE STEEL CRISIS

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker, last week, 125 Members of the Congress met with President Carter seeking his leadership in achieving solution to the steel crisis. Thus far we have seen very little action even though the Presidential powers for protecting American interests are extensive. As a member of the Steel Caucus I presented to President Carter a research paper outling possibilities for Presidential action. These include:

First. The President possesses inherent power to enter into voluntary arrangements, also known as orderly marketing agreements, to regulate steel imports. This power, utilized in 1969, has been sustained by the courts.

Second. The national security provision of the Trade Expansion Act delegates to the President broad powers to meet threats to the domestic economy resulting from excessive imports. The Supreme Court confirmed the broad scope of delegated power in Federal Energy Administration against Algonquin, Sng., Inc.

Third. The Trading With the Enemy Act vests the President with enormous economic powers available in both war and peace, including the power to regulate imports. For example, a 10-percent import surcharge on imported oil was imposed under the authority of the Trading With the Enemy Act and affirmed by the Court of Customs and Patent Appeals.

Fourth. The dumping law exists to give relief to U.S. firms in cases of unfair competition. An investigation leading to the imposition of special dumping duties

can be initiated by Government officials, as well as injured firms.

The need for Presidential action is well illustrated by the fact that while the United States is estimated to be facing a deficit balance of payments of $30 billion for 1977, Japan is headed for an estimated surplus balance of payments of $7 billion. Steel imports to the United States in 1976 contributed $4 billion to our deficit and will probably be much greater in 1977.

I would urge my colleagues to stress the need for action by the President to provide leadership in protecting American jobs. He has the necessary legislative and constitutional tools.

EDITORIAL COMMENT ON H.R. 7700

(Mr. HANLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HANLEY. Mr. Speaker, yesterday, I spoke about five editorials from around the country supporting H.R. 7700, the Postal Service Act of 1977. Today, I would like to share five more representative editorials.

These are from the Fowlerville Review, Fowlerville, Mich.; the Sequin Gazette, Sequin Tex.; the Southeast Georgian, Kingsland, Ga.; the Herald News, Passaic, N.J.; and the Daily Camera, Boulder, Colo.

[From the Fowlerville (Mich.) Review, Aug. 24, 1977]

It is unusual for this newspaper to run a front page editorial, but residents of Livingston and Western Oakland counties are now confronting an extraordinary situation of the utmost urgency.

We speak of the nation's postal system.

For 200 years, the system has served this complex, diverse nation in many and varied ways. It has played a vital role in building America, and an equally vital role in building America's free press.

It has been regarded from the earliest days of the Republic as one of the most basic and necessary services a nation can provide its people—a unique communications network binding America and America, Michigan and its residents, and our counties and their folks together.

As we all know too well, the Postal Service has been deteriorating badly since the Postal Reorganization Act put the corporate mail service into business in 1971. The Act has been an unmitigated disaster for America's mail system.

Rates for all classes of mail have skyrocketed, services have been slashed, and the deficit for the business-like postal corporation are now counted in the billions of dollars.

Only emergency appropriations from Congress have saved the Postal Service from completely going under.

The situation is becoming increasingly grave for readers who rely heavily on the mails for delivery of their newspapers and magazines. Second-class postal rates have already risen over 500 percent in the last five years. And now, the Postal Service has filed a formal request to raise rates by another 30 percent over this already inflated base.

Also, for the first time, the Postal Service is now seeking to abolish the traditional uniform rate for editorial matter, and "zone" it just as the rate for advertising material is zoned. In addition, again for the first time, the Postal Service is now seeking to impose a surcharge in the amount of 2 cents per copy for all publications receiving "newspaper treatment" or "red-tag" delivery.

Coupled with these rate increases are the Postal Service's plans to further reduce basic services.

We all know of the plan to eliminate Saturday delivery of mail by early next year.

Even more frightening is the section of the new rate filing in which the Postal Service relates how much money it could save by going to three-day delivery.

Still another plan calls for the slowing of overnight processing of mail—the peak period of mail volume—to save money.

Overnight delivery could become yet another relic of the past.

The rush to disaster has been even more accelerated by a decision last December of the U.S. Court of Appeals in Washington which endorsed the Postal Service's "business" posture, and ordered the earliest possible implementation of a totally cost-based rate system, with no consideration of public policy or market factors permitted.

What has gone wrong? What has happened to the centuries-old concept of the postal service being a public service—an instiution existing to serve the fundamental needs of the nation and its people? What has happened to the unique and universally accessible communications network which promoted and guaranteed the dissemination of news and information throughout this huge and diverse land?

Blame can be laid on many doorsteps. But the fundamental problem is this: In its hellbent and hopeless rush to fulfill the "self-supporting" mandate given it by the Postal Reorganization Act, the Postal Service has totally forsaken its fundamental service mission.

With all public service appropriations from Congress due to cease in just a few more years, and with the Court of Appeals decision prodding it down the "self-supporting" road, perhaps the Postal Service should not be condemned for its actions.

No matter who is to blame, one fact is clear: unless something is done—and done quickly—total ruination of America's two-centuries-old postal system is inevitable.

What can be done? Change must be grounded upon the recognition of the one fundamental principle: The Postal Service is a public service. Flowing from this are three basic needs:

1. Appropriations from the public treasury must be increased to maintain the basic system and ensure continuation of adequate public service.

2. The Court of Appeals decision must be overturned, to ensure that postal rates are not merely the product of cost accounting techniques, but also the public policy judgments and realistic market factors.

3. The Postal Service must be restored to public accountability. The old, political postal system will never be restored, but Congress and the President should have a role in setting postal policy, which is so closely interrelated with public policy. Congress should have some say in major rate and service matters, and the President should have some mechanism for input into basic management of the postal system.

These goals are attainable. There is a bill pending in the House of Representatives which would achieve these objectives and restore the postal system to its rightful role in our society. The bill is H.R. 7700, cosponsored by Representatives James Hanley (D-NY) and Charles H. Wilson (D-CA).

H.R. 7700 would overturn the Court of Appeals decision, increase public service appropriations to an amount equal to 15 percent of annual Postal Service expenditures, give Congress veto power over Postal Rate Commission decisions and restore to the President the power to appoint the Postmaster General.

Until the last few days, it appeared H.R. 7700 would be passed by the House this year. The bill has generated broad support from all quarters in the House, because of its obvious merit, and its obvious necessity. Now, however, it appears all may be lost, and the Postal Service will be permitted to continue down the road to disaster.

For the past several weeks, the Carter Administration has been formulating its postal policy. Now, they are ready to speak. On Sept. 8, Office of Management and Budget Director Bert Lance will testify on H.R. 7700. And, accordance to published reports (e.g., Wall Street Journal; July 29) at the present time he plans to oppose H.R. 7700. This, effectively, will kill the bill.

The President's basic posture on postal policy—despite the grim facts we have outlined—appears to be "business as usual."

Three days before his election, then-candidate Jimmy Carter issued a statement calling for restoration of the public service character of the Postal Service. He advocated abolition of the Postal Rate Commission, and said he wanted the power to appoint the Postmaster General. President Carter, it now appears, has done a complete about-face.

According to reports, the President plans to oppose any increase in public service appropriations for the Postal Service, evidently because of his desire to balance the federal budget by 1981. He also will oppose any move to give him the power to appoint the PMG, evidently for political reasons, because power means responsibility, and responsibility means potential blame. The President's only substantive proposal, evidently, will be the extremely controversial "citizens' rate" 13 cent first-class stamp—a proposal which has already generated a massive volume of charges that it is nothing more than transparent political gimmickry. A call to the President's Press Secretary's office last Thursday indicated that President Carter has the problem under study. That means he is still open to public opinion and feedback.

In our opinion, announcement of the President's "status quo" policy would be the death knell for the traditional American postal system—final, total abandonment of the concept that the Postal Service is a public service.

Once the Administration "goes public" with its policy on Sept. 8, there will be no turning back. The President must be convinced within the next two weeks to change his mind and take a broader look at the ramifications of his intended policy.

We urge you to write immediately to the President, to Lance, and to our U.S. Senators and Representatives asking their support for the principles and positions we have espoused here. Special letters should also be sent to representatives Hanely and Wilson thanking them for their efforts thus far and urging them to push ahead with H.R. 7700.

Express your support for the public service concept, for sufficient and continuing appropriations, for reasonable rates and adequate services, and for public accountability. If you agree, express your support for H.R. 7700.

Most importantly, express your opposition to doing nothing.

[From the Sequin (Tex.) Gazette, Sept. 8, 1977]

FORMULA FOR RUIN: INCREASED RATES; DECREASED SERVICES

Your country's postal system is headed for total disaster if you, the voting public, don't wake up!

Most people are already concerned by the continuing increase in rates and decrease in services and efficiency that's strapping it on the public.

But it's not the fault of the working postman. Your Gazette learned during a recent

experience that local postal workers are being falsely accused of the breakdown. They're taking a bum rap while delivering more and heavier pieces of mail than they've ever done in the past.

It's the system itself, Washington's formula for failure of something for nothing, that's falling apart.

And now the Postal Service plans to further reduce its basic service.

We all know of the plan to eliminate Saturday delivery of mail by early next year. Even more frightening is the section of the new rate filing in which the Postal Service relates how much money it could save by going to three-day, that's right, 3-day delivery.

Still another plan calls for the slowing of overnight processing of mail—the peak period of mail volume—to save money. Overnight delivery could become yet another relic of the past.

And the rush to disaster has been even more accelerated by a decision last December, 1976, of the U.S. Court of Appeals in Washington which endorsed the Postal Service's "business" posture, and ordered the earliest possible implementation of a totally cost-based rate system, with no consideration of public policy or market factors permitted.

It's long been too obvious that the Postal Reorganization Act which put the "corporate" Postal Service into business just six years ago in 1971 . . . has been an unmitigated disaster for America's mail system. Every good postal employe in Seguin and everywhere else is concerned.

Rates for all classes of mail have skyrocketed, services have been slashed, and the deficits for the "business-like" postal corporations are now counted in the billions of dollars.

Only emergency appropriations from Congress have saved the Postal Service from completely going under.

Considering just our own situation, newspapers and magazines during the past five years alone have seen those particular postal rates increase over 500 per cent. And the Postal Service now wants still another 30 per cent jump, along with a few other additionals . . . all of which would have to be handed down to you, the subscriber, the public.

What has gone wrong?

What has happened to the centuries-old concept of the postal service being a public service—an institution existing to serve the fundamental needs of the nation and its people? What has happened to the unique communications network which promoted and guaranteed the distribution of news and information throughout this huge and diverse land?

HERE'S WHAT HAPPENED

Well, the basic problem is that in its hopeless endeavor to fulfill the "self-supporting" mandate given it by the Postal Reorganization Act, the Postal Service has totally forsaken its fundamental service mission . . . becoming more self-enriched through its government-protected power as a monopoly.

But with all public service appropriations from Congress due to cease in just a few more years, and with the Court of Appeals decision prodding it down the "self-supporting" road, perhaps the Postal Service shouldn't be overly-criticized for its action.

However, no matter what or who should be blamed, one fact is clear:

"Unless something is done, and done quickly, total ruination of America's 200-year-old postal system is inevitable," as was announced quite bluntly by the National Newspaper Association recently in its Washington, D.C. headquarters.

What can be done?

Well, first we must readopt three basic principles including:

1. Appropriations from the public treasury must be increased to maintain the basic system and ensure continuation of adequate public service,

2. The Court of Appeals decision must be overturned, to ensure that postal rates are not merely the prdouct of cost accounting techniques, but also the public policy judgments and realistic market factors and

3. The Postal Service must be restored to public accountability. The old, political postal system will never be restored, but Congress and the President should have a role in setting postal policy, which is so closely interrelated with public policy. Congress should have some say in major rate and service matters, and the President should have some mechanism for input into basic management of the postal system.

CAN BE MET

These goals can be met!

First, our U.S. Congressmen could adopt House Bill 7700, which would overturn the Court of Appeals decision regarding the system's "business" posture, and increase public service appropriations to an amount equal to 15 per cent of annual Postal Service expenditures, and give Congress VETO power over Postal Rate Commission decisions and restore to the President the power to appoint the Postmaster General.

We now hear that President Carter plans to oppose any increase in public service appropriations for the Postal Service, evidently because of his desire to balance the federal budget by 1981. He also wants no hand in appointing a Postmaster General, perhaps because such power means responsibility and this leads to the sharing of blame.

The President's "status quo" policy could be the death knell for the traditional American postal system, according to some who emphasize ". . . final, total abandonment of the concept that the Postal Service is a public service."

Outcome of this issue will touch every individual in this country. So let your elected officials in Washington, D.C. know how you feel about it.

Congressman Abraham Kazen and Senators Lloyd Bentsen and John Tower are reasonable men who themselves know of the situation. You might write and support their feelings on the matter.

The Gazette has done just that through this editorial. Now the elected officials will be waiting to hear your reaction to this plea.

[From the Southeast Georgian, July 28, 1977]

YOU CAN HELP SAVE POST OFFICE SERVICES

(By Cathy Shattles Lipsett)

Once again, if the Carter administration has its way, citizens may be paying more money for postal services but enjoying fewer benefits and sloppier service as a result.

Kingsland is already feeling the cut back in service since the postal employees have been cut to only the postmaster in the afternoon, and with much less help than before in the morning hours. As a result of this cut back in help, the box at the corner of Highway 40 and 17 has been removed.

We have been very fortunate in Kingsland, to have such a super postmaster as Joe Rush. But even as efficient a man as Mr. Rush cannot work the kind of miracles the postal authorities or US government, whichever is responsible, seems to demand.

If you, as a box holder, wonder why your mail may not be put into box until afternoon, and would like to do something about this cut back of service please write your congressman. It is not a lack of efficiency but a lack of adequate help that causes this delay in mail service.

With the government talking about ending more and more services and talking once again about increasing the cost of postage, it is time the average citizen voiced a complaint. Believe me, if enough people will complain, something will be done. The politicians are too much afraid of losing your vote on election day not to listen to the voice of the community. But people must not just sit back and complain. They must do something.

Even if an increase is not made on your personal first class postage, if it is applied to businesses as has been proposed by some, the cost will have to be passed on to the consumer in order for businesses to continue to operate. Contrary to some popular opinion, all businesses do not put away vast amounts of profit that allows them to absorb such cost increases without raising their prices. It is the "profit" or amount above actual cost of an item, that pays for such things as postage, electricity, and other utilities and operating cost. Real profit is often very small.

If the cost of mailing newspapers goes up as has been proposed, publishers will be unable to keep the cost of the weekly newspaper at a reasonable cost. We would like to keep our subscription cost at the same rate as last year, but if our mailing cost doubles we will be unable to do so. So protect your own rights as a consumer and write your congressman.

Perhaps the postal system should begin with some cost cutting at the top first before cutting out much needed services from the rural community. Just because Camden County is fortunate enough to have efficient postmasters, doesn't mean we should make them work in place of three people as is being done in Kingsland.

It is time we, the average citizen, had a voice. Write to your congressman and suggest that he do something to give our community its money's worth for its postage and that he work to stop any increases in postage, first class or second class, which is what newspapers pay.

Address your letters to your congressman for Camden County to:

Congressman "Bo" Ginn, Suite 508, Cannon House Office Bldg., Washington, D.C. 20515

Suggest that the 13 cent first class postage remain for business and personal mail, that second class postage not be increased, that Saturday mail service continue, and that the staff of the post office not be cut to one person at any time of the day.

Do this NOW without delay. There is a bill coming before the congress soon, H.R. 7700, that would protect citizens somewhat from unjustified cuts in service by the post office. Suggest that your congressman study this bill closely and support it if it will help provide better postal services at a lower cost or even at present cost.

If you want to help with this postal problem but don't know what to write to your congressman, just send him a copy of this column with a signed note asking him to please read it and act on the suggestions.

Now is the time for all good citizens to take a little action. We're counting on YOU.

[From the Passaic (N.J.) Herald News. Aug. 24, 1977]

MAIL SERVICE CRISIS

The buffeted U.S. Postal Service faces a hurdle Sept. 8 which could slow or even reverse its headlong rush to self-destruction. The occasion will be a hearing on a postal reform bill at which Budget Director Bert Lance will give the administration's view. Lance's testimony is expected either to give the cause of improved postal service the coup de grace, or to offer a new breath of life. Reportedly the administration leans to the coup de grace.

As everyone knows the mail service is becoming ludicrously bad. The price of sending a first-class letter skyrockets, and a further deterioration in service follows. Everyone has his own story to match that of the Passaic woman who mailed a note from her home on Howe Avenue to a friend some blocks away in the Hill section. The letter took eight days to make the trip.

A bill currently before Congress, H.R. 7700, would (1) overturn last December's federal Court of Appeals decision affirming the postal system's "business posture" and requiring a totally cost-based rate system, (2) increase federal appropriations to an amount equal to 15 per cent of annual postal service expenditures, (3) give Congress veto power over Postal Rate Commission decisions, and (4) restore to the President the power to appoint the postmaster general.

President Carter issued a statement three days before his election last November calling for restoration of the public service character of the postal service. Now, however, the expectation in Washington is that Lance will oppose H.R. 7700, effectively killing the bill. We respect the administration's desire to balance the federal budget by 1980, but in this case they're off on the wrong foot. The postal service must be continued and improved. It is not a luxury but a public necessity. Letters to President Carter and to one's representative and senators are definitely in order.

[From the Boulder (Colo.) Daily Camera, Aug. 30, 1977]

POSTAL SERVICE MUST BE IMPROVED

Let's face it. The Postal Service has been a failure as far as its pay-as-you-go goal is concerned. When the old Post Office Department was replaced by the Postal Service, the intent was for the revamped agency to operate on a businesslike basis, eventually to arrive at a break-even status. This promise was eminently preferable to the continuously growing deficit piling up in the mail service.

But the deficit has grown bigger and bigger, while mail delivery has deteriorated, despite drastic raises in postage rates. First-class rates have increased about every two years. Second-class rates have gone up more than 500 per cent in five years, and services in that category have decreased by about the same percentage.

Now it is being proposed that Saturday deliveries be dropped. And rate increases are expected to be proposed again this fall. President Carter suggests unequal treatment of first-class mailers by setting a lower postage rate for "citizen" mail than for business mail, a plan that would be virtually impossible to enforce. He also endorses the present policy opposing "public service" appropriations.

Public service appropriations are among the solid, time-proved traditions of postal operations. These appropriations facilitate the distribution of books, periodicals and other information at rates permitting the widest practicable circulation of informative material in the public interest. Religious, charitable, educational and other non-profit organizations get special postage rates for specified types of mailed matter.

The public service appropriations are intended to serve the general public interest, and the public in general has traditionally approved them. They are, however, a significant part of the postal deficit, a part of the deficit that can readily be justified, in principle, for congressional appropriation.

Still, the present postal set-up is supposed to operate in a pay-as-you-go basis, each class of service paying its full way. This obligation would be virtually impossible to meet equitably because of the great variations in distances, terrain, locales and other factors. If it costs 13 cents to deliver a letter from coast to coast, does it cost the same to deliver one across town? Does it cost the same to carry a letter on a city route as on a rural route?

In the face of all that, a federal court has ruled that the Postal Service continue toward full implementation of a totally cost-based rate system.

Is there any way out of the dilemma? Perhaps not entirely. But House Resolution 7700, which may come before Congress in September, offers some positive steps for improvement of the service with reasonable financing. The measure would:

Overturn the court decision.

Increase congressional public service appropriations to a figure equal to 15 per cent of postal expenditures.

Give Congress veto power over rate commission decisions.

Restore to the President accountability through the Postmaster General appointment.

These measures won't solve all the postal problems. But they would help keep the service from further deterioration, and they would establish recognition of the public service role and provide for public financing of that role. There are various government agencies that cannot be and are not expected to pay their own way. The Postal Service is one of them, and it affects the life of just about every citizen.

If you want to write your congressmen about this, here are their names and addresses: Rep. Tim Wirth, 516 Cannon House Bldg., Washington, D.C. 20515; Sen. Floyd Haskell, 452 Russell Senate Bldg., Washington, D.C. 20510; and Sen. Gary Hart, 6327 Dirksen Senate Bldg., Washington, D.C. 20510.

DEFECTS IN TAX CODE HINDER HEW EFFORT TO ENCOURAGE HOSPITAL SAVINGS

The SPEAKER pro tempore (Mr. BRADEMAS). Under a previous order of the House, the gentleman from Ohio (Mr. WHALEN) is recognized for 10 minutes.

Mr. WHALEN. Mr. Speaker, defects in our present tax laws appear to be jeopardizing an effort by the Department of Health, Education and Welfare to encourage a reduction in health care costs and to aid in alleviating malpractice insurance problems.

In the time available, I will briefly outline the history and nature of this problem and then discuss a relatively simple solution.

HISTORY

I do not think it is necessary to recount here the difficulties the health care industry has encountered in obtaining and paying for adequate malpractice insurance. A rapid rise in professional liability insurance premiums is, in part, accountable for the upward trend in medical costs in this country.

In an effort to stem the surging cost of commercial coverage for professional liability, a number of hospitals have explored the idea of self-insuring for all or part of their risk. And, in several instances, State hospital associations have formed insurance pools for their members.

By all accounts, most hospitals that have turned to self-insurance have found that they are saving money, which means savings to their patients or to those who are paying the patients' bills. Of course, in many instances, it is the Federal Government that is paying the bills.

Until this year, the medicare program would reimburse hospitals only for allocated malpractice and professional liability insurance costs that arose as a consequence of purchasing commercial insurance coverage. No reimbursement was provided for payments made into self-insurance funds. That meant that the hospitals either billed the patients personally for the full cost of self-insurance or else they disregarded the lower-cost option of self-insurance entirely, so that they could be reimbursed in full.

In April of this year, though, the Bureau of Health Insurance changed its position and issued new regulations. The Medicare Provider Reimbursement Manual was revised to permit Federal payment to hospitals for the allocated costs of contributions to malpractice and professional liability self-insurance funds or pools.

Before drifting off into the bureaucratic language of rulemaking, the BHI announcement gave this relatively lucid explanation of its new policy allowing medicare reimbursement of self-insurance costs:

Prior to the recent escalation of medical malpractice insurance costs, providers seeking protection against malpractice losses have generally purchased insurance with nominal deductibles from commercial sources. Medicare has reimbursed the reasonable cost of such coverage recognizing traditional forms of commercial malpractice insurance as an acceptable feature of a total insurance program required by providers of services (see §§ 2160 and 2161). However, providers have been exploring alternative ways of protecting themselves against malpractice losses or of protecting themselves at a lower cost. Some providers, individually or in groups, have resorted to various ways of insuring against this risk including self-insurance, the establishment of limited purpose insurance companies (often known as captive insurance companies), and, in some instances, the purchase of insurance with a variety of front-end noninsured deductible provisions supplementing the actual insurance coverage.

Sections 2162ff., Provider Costs for Malpractice and Comprehensive General Patient Liability Protection, has been prepared in response to this development. The Medicare program reimbursement requirements have now been modified to be compatible with a number of alternatives which providers may find to be economically preferable to obtaining commercial malpractice and comprehensive general patient liability insurance coverage. Thus, the program will allow reimbursement for its share of the reasonable cost a provider incurs in protecting itself against malpractice and comprehensive general patient liability losses where the provider chooses a form of liability protection other than traditional commercial insurance. Depending on the manner in which the provider seeks to protect itself against malpractice losses, the program will reimburse the provider for the appropriate share of the net reasonable costs incurred for premiums on a commercial insurance policy, premium payments to a limited purpose insurance company, payments set aside for a self-insurance plan, or for actual claims paid arising out of reasonable deductible provisions. . . .

PROBLEM

Now we get to the problem. That is that the Federal tax code inhibits self-insurance. This is a problem I have spoken about frequently this past year, particularly in regard to products liability, but I will now address my remarks to the particular problem of professional liability or malpractice insurance as it relates to hospitals.

In the case of investor-owned hospitals, the 1,000 or so hospitals that are operated for a profit, the tax code prevents them from taking a cost of busi-

ness tax deduction for contributions to self-insurance reserves. Thus, they would lose the substantial tax advantage offered by commercial insurance premiums, which would otherwise be the more expensive option.

Also, they face the problem of having to build self-insurance reserves with after-tax dollars; commercial insurance premiums are paid for with before-tax money. Moreover, once a reserve is built up, it faces possible severe penalties from IRS if it is deemed to be an unreasonable accumulation of capital. So, most investor-owned hospitals are forced to go the more costly route of relying solely on commercial insurance.

A different problem faces the nonprofit hospitals. The above-described problems generally do not apply to the nonprofits, because they are tax exempt.

What troubles the not-for-profit hospitals is that they are finding that it is often most efficient to form insurance pools with other hospitals. But as those pools build up and the funds start earning interest, the nonprofit hospitals are becoming fearful for their tax status. The concern is that the IRS will consider their participation in the interest-earning pools as engaging in profitmaking enterprise.

So, again, the Tax Code is discouraging hospitals from taking full advantage of the cost-saving device of self-insurance for all or part of their professional liability costs. At a time when we are struggling to find ways to reduce the costs of health care, I think it is unfortunate that we allow these expensive defects in the Tax Code to remain.

SOLUTION

There is a simple solution to this problem. That would be enactment of H.R. 7711, the Product Liability Insurance Tax Equity Act. Despite its misleading title, that legislation also pertains to professional liability, including medical malpractice.

PLITE, as the legislation is called, provides for the creation of qualified self-insurance trust funds, which could be maintained by single entities or by groups. The principal and interest earned would be tax exempt, and contributions would qualify as a tax deductible cost of doing business. The jeopardy to the tax status of nonprofit hospitals would be removed.

Mr. Speaker, at this point in the RECORD, I wish to insert two items. The first is a letter from Mr. Robert Atkins, the insurance agents for the Louisiana Hospital Association Trust Fund. The second is a letter from the Federation of American Hospitals. Both endorse H.R. 7711.

ALL RISK CORPORATION OF LOUISIANA,
Baton Rouge, La.

CONGRESSMAN CHARLES W. WHALEN,
U.S. House of Representatives, Washington, D.C.

DEAR CONGRESSIONAL WHALEN: I am the service agent for the Louisiana Hospital Association Trust Fund. The Louisiana Hospital Association Trust Fund is a group of hospitals in Louisiana which have formed a self-insurance trust fund for self-insuring Hospital Professional Liability and Patient Injury losses.

Currently we have a serious problem regarding the Internal Revenue Service rulings as respects other similar organizations.

It appears, we are advised, that the Internal Revenue Service will declare that we are either a partnership or a mutual insurance company and will be forced to pay income taxes on those monies that we are, in fact, holding as reserves to pay losses. Under this group, any money not distributed for losses would be redistributed to the membership. Our membership of 44 hospitals is comprised of all public or nonprofit hospitals except one for profit hospital.

We are a recognized item of allowable Medicare expense and to tax an organization such as ours severely restricts our ability to accumulate reserves for payment of losses and would, of course, increase our cost to Medicare.

I very strongly support H.R. 7711 to give tax exempt status to funds established by individual hospitals for a group of hospitals or other professionals for payment of Professional Liability losses.

In addition to the 44 hospitals in Louisiana, we have a very similar trust fund in the State of Florida which is comprised of 32 hospitals. Those 32 hospitals are almost entirely public or nonprofit hospitals.

Please let me know what I can do to gain support for your bill.

Sincerely,

ROBERT B. ATKINS.

FEDERATION OF AMERICAN HOSPITALS,
Washington, D.C.

Hon. CHARLES WHALEN, Jr.,
Longworth House Office Building, Washington, D.C.

DEAR CONGRESSMAN WHALEN: I thought that you would be interested in knowing that the Board of Directors of the Federation of American Hospitals, following the recommendations of its Executive and Legislative Committees, has endorsed the legislation which you introduced on product liability claims (H.R. 7711). The Federation is the national trade association representing over 1,000 investor-owned hospitals with approximately 111,000 beds.

Our interest in this legislation stems from the continuing escalation of costs in the medical liability area. Our membership shares the view held by most provider associations that the medical malpractice problem should be addressed at the state level of government. Although some progress has been made since 1975 by a number of states, it would appear that federal leadership is still necessary to assure some type of uniformity of coverage.

As tax paying institutions, our hospitals could contain malpractice insurance costs by establishing self-insurance reserves provided payments to such trusts were tax deductible. Your bill would provide a tax incentive for hospitals to adopt such cost effective measures. For that reason, we are encouraged to see the initiative that you have taken in attempting to come to grips with a matter of continuing concern to providers of medical services.

Should there be hearings on H.R. 7711, we will, of course, submit a statement in support of your legislation.

Sincerely,

MICHAEL D. BROMBERG,
Director, National Offices.

TARDINESS OF VA REPORTS IS HAMPERING EFFORTS OF VETERANS' AFFAIRS COMMITTEE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. MONTGOMERY) is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, over the years the Committee on Veterans' Affairs has experienced difficulty in obtaining information and data from the Veterans' Administration necessary for the committee to carry out its oversight and legislative responsibilities. Every effort has been made to get the agency to place a higher priority on various studies and surveys directed by the Congress and designed to give us data so essential for the conduct of our affairs. For unknown reasons, response by the VA has not been good; and it would appear things may be getting worse.

My colleagues will recall that for the past 2 years there has been much discussion in reference to the veterans' pension program, and the view held by some Members on the need to review the adequacy of the program. In order to have the basic data and information necessary to determine what needs to be done in this area, last year the Congress directed the Administrator to conduct a study and to submit to the Congress no later than October 1, 1977, the results of the study that would include, among other things, the income characteristics of veterans and survivors currently in receipt of non-service-connected pension; actual and anticipated long-term financial characteristics of pensioners including those veterans and survivors (and their families) who may be potentially eligible for benefits under the non-service-connected pension program during the next 25 years, and other vital information.

The committee received assurance from the Administrator that the report would be received on schedule. Nonetheless, we are now told that it will be at least November before any information is received and that it could be as late as January before receiving the major results of the study.

Unfortunately this is not an isolated case. Many of you may be aware that the National Academy of Science report directed to be conducted by law was only received by June 3, 1977, more than 8 months late. The VA was supposed to have responded no later than 90 days after that date. The agency's response was late.

Public Law 94–433 required the Administrator to conduct a scientific study to determine if there is a causal relationship between the amputation of an extremity and the subsequent development of cardiovascular disorders. That study was due on June 30, 1977. Results of the study have not yet been received.

Public Law 94–433 also required the Administrator to complete and forward to Congress a thorough and detailed study of the dependency and indemnity compensation program by October 1, 1977. Results of the study have not been received.

Mr. Speaker, the committee continues to encounter problems in getting copies of the agency's testimony at least 24 hours prior to our hearings; we have problems in getting agency comments and reports on legislative initiatives subject to hearings, and numerous other delays.

The problem may be with the Office of Management and Budget, although I am not certain of that. I am rapidly coming to the conclusion that our only recourse will be to conduct open hearings in order to determine where the problem lies. I hope the Administrator will give

his attention to this matter, and I urge the Office of Management and Budget to be a little more responsive.

THE PLIGHT OF THE INDITSKY FAMILY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Massachusetts (Mrs. HECKLER) is recognized for 5 minutes.

Mrs. HECKLER. Mr. Speaker, the opening of the Belgrade Conference has focused world opinion on the intensification of the Soviet Union's campaign to crush political dissent. Deep concern has been expressed for Alexander Ginzburg, Anatoly Sharansky, and other prominent Soviet dissidents; however, there are many Soviet citizens who have applied for permission to emigrate, and Soviet officials have repeatedly refused their requests.

A case which has been brought to my attention is the Inditsky family of Moscow. Solomon Inditsky, his wife Khana, their daughter, Isabella Novikova, and their 13-year-old grandson, Mark, applied to emigrate 6 years ago. They were denied then and have been denied on four subsequent applications. Solomon Inditsky and his daughter are electrical engineers and his wife is a pediatrician; all lost their jobs when they applied to emigrate. Reasons for refusal have varied from technical excuses to "you'll be here for a long time."

I join with the pleas of their family that the Inditsky's be allowed to emigrate and join their relatives in Israel.

MINIMUM MANDATORY SENTENCES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Montana (Mr. MARLENEE) is recognized for 5 minutes.

Mr. MARLENEE. Mr. Speaker, I am today introducing three bills providing for minimum mandatory sentences for persons found guilty of illegally manufacturing and distributing narcotic drugs, for persons using a firearm in the commission of a felony and for repeat offenders of violent crimes.

Specifically, one bill would require a minimum sentence of 5 to 10 years for the first conviction for a felony committed with a gun and a minimum sentence of 10 years on the second conviction. This sentence would be in addition to the punishment provided for the commission of the felony.

For unlawful distribution of narcotic drugs the minimum penalty called for is 5 years on the first conviction and 10 years for the second conviction. For attempting to manufacture or distribute narcotics or conspiring to manufacture or distribute narcotics, the minimum sentences for first and second convictions would be 3 to 6 years, respectively. Currently there are no minimum sentences for these offenses.

The third bill I am introducing would impose a minimum sentence of 10 years for persons with prior felony convictions who have been found guilty of murder in the second degree, rape, robbery, bank robbery, burglary, and aggravated assault. The penalty would be in addition to the sentence given for the felony itself.

All three bills provide that the court may not suspend the sentence, grant probation, or allow the defendant to plead guilty to a lesser charge. It may be argued that these are harsh sentences but these are violent crimes and stiff penalties are needed.

The problem of crime is complex and cannot be solved by the sentencing process alone. But a major step is to make punishment a certainty with definite minimum terms of imprisonment. The current indefinite sentence structure often leads to disparate and inequitable sentences being imposed for the same crime under similar circumstances. This system yields little justice for the criminal and no reasonable assurance of public safety.

Increased certainty of punishment and sentences that must be applied to all offenders will serve both to deter potential criminals and to keep convicted offenders off the streets.

THE RURAL COMMUNITY DEVELOPMENT ACT OF 1977

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. GRASSLEY) is recognized for 10 minutes.

Mr. GRASSLEY. Mr. Speaker, when the House considered the Housing and Community Development Act earlier this year, we agreed to an amendment I offered which would guarantee that at least 25 percent of all action grant funds go to smaller communities. I was particularly pleased by the overwhelming support for that amendment, for it reinforced my belief that many Members are dissatisfied with the way Federal assistance programs are continually designed to deal specifically with the problems of large, metropolitan areas, to the detriment of smaller communities.

Congress must recognize that the needs of smaller communities, particularly those in rural areas, and large cities are not always the same, and that their ability to deal with their problems cannot always be dealt with through, single, all-encompassing pieces of legislation. Therefore, I am today introducing a rural community development bill which, I believe, addresses the unique problems smaller communities face, while decreasing the paperwork burden which accompanies their application for Federal funds under the current community development law. I am especially pleased to note that Mr. NOLAN, chairman of Family Farms and Rural Development Subcommittee, has agreed to cosponsor.

The Rural Community Development Act of 1977 is addressed specifically to communities of under 20,000 in nonmetropolitan areas. The act would provide just over $1.2 billion over a 3-year period for the funding of a wide range of community development activities, ranging from the elimination of blight, to the attraction of jobs, to the improvement of facilities where social services are delivered. Our legislation would shift administration of the Nation's community development effort for those communities from HUD to the Department of Agriculture, in recognition of Agriculture's long history of administering programs in rural areas.

However, it should be noted that the Rural Community Development Act would not replace or eliminate any existing USDA programs. Rather it would supplement them, as does the current law.

The Rural Community Development Act offers smaller communities applying for funding a choice. These communities may apply either for multiyear funding, or for single project funding, depending on their particular needs. A plan detailing the needs of a particular community, and proposals for how to meet those needs would be required from each, although the Secretary could waive such a requirement. For communities seeking multiyear funding, such a plan would have to include a provision for low-income housing. For communities seeking either multiyear or single project funding, maximum feasible priority in the plan must be given to activities which would benefit low- and moderate-income families, aid in the prevention of slums or blight, or aid in providing new, or maintaining present employment opportunities. However, unlike under current law, a separate, complex housing assistance plan would not be required. In addition, communities of under 10,000 could qualify for special grants to assist with the application process, which often involves substantial planning efforts.

The Rural Community Development Act would in no way affect funding for hold-harmless communities, scheduled to be phased out in fiscal year 1980. Nor would it affect that provision in the Housing and Community Development Act which insures that 25 percent of action grant funds go to smaller communities.

In conclusion, I believe this legislation is an important first step toward recognizing that seldom can one piece of legislation successfully address the needs of both large, metropolitan cities and smaller, rural communities. It recognizes that smaller communities simply lack the staff or resources to persistently seek Federal assistance for community development efforts and that, therefore, their paperwork burden should be minimized. I hope all Members of the House, whether they represent a rural or an urban district, will support this legislation.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. FISH) is recognized for 5 minutes.

Mr. FISH. Mr. Speaker, because of a long standing commitment I had to fulfill in my home State, I was absent for part of October 31, 1977, and missed six rollcall votes. Had I been present:

I would have voted "aye" on rollcall No. 716 to suspend the rules and pass the bill H.R. 6782, raisin marketing provisions.

I would have voted "aye" on rollcall No. 717, to suspend the rules and pass H.R. 9710, regulation Q extension.

I would have voted "aye" on rollcall No. 718 to suspend the rules and agree to the House Joint Resolution 611, Federal Reserve Bank Authority extension.

I would have voted "aye" on rollcall No. 719, to suspend the rules and agree to House Resolution 871, Select Committee on Ethics extension.

I would have noted "aye" on rollcall No. 720, to suspend the rules and agree to House Resolution 868, urging Korean Government cooperation.

I would have voted "aye" on rollcall No. 721, to suspend the rules and agree to House Concurrent Resolution 388, expressing concern about recent acts of repression by the government of the Government of the Republic of South Africa.

PRIVACY LEGISLATION—NEW PROPOSALS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GOLDWATER) is recognized for 10 minutes.

Mr. GOLDWATER. Mr. Speaker, with the introduction of three new privacy bills today, my colleague ED KOCH and I will have completed one phase of a task jointly undertaken more than 4 years ago.

As many of our congressional colleagues know, we have had the honor and privilege to have served on the Privacy Protection Study Commission for the last 2 years. The commission submitted its report and legislative recommendations to the Congress and the President in mid-July. Congressman KOCH and I introduced 10 bills, consecutively numbered from H.R. 3279 through H.R. 8288, based strictly on the commission's recommendations on July 13. Because of technical drafting problems, we did not introduce bills applying to the areas of educational records privacy and the creation of a Federal Information Practices and Privacy Board. We have today introduced bills on these two subjects. In addition, a medical records privacy bill, which slightly modifies our earlier bill H.R. 8283, and which has been drafted in cooperation with the administration and specifically the Department of Health, Education, and Welfare, has been introduced today as well.

Congressman KOCH will address his remarks to the privacy board and medical records privacy bills, and I will confine my remarks to the educational privacy proposal.

Before doing so, there are several comments that are required to be made now. ED and I have not introduced, nor do we intend to introduce bills applying to the areas of employee-employer informational relationships, mailing lists, and one or two other areas. The commission, after extensive study and inquiry, determined that at this time Federal legislation was either not needed or not warranted. We concur completely in the recommendations of the commission that no legislation be sought in these areas. We earnestly encourage our colleagues to respect the recommendations of the commission in these subject areas. As a practical matter, the proposals currently before the Congress—those proposed by Congressman KOCH and myself and those proposed by many of our colleagues—constitute a substantial, complex and difficult legislative task. They are, in my opinion, more than sufficient to occupy us for some time to come. And, it is my expectation that as the Congress considers the pending proposals it will find that the commission's recommendations not to legislate in certain areas are justified.

For myself, and I think I can speak for my colleague from New York City as well, I have felt obligated to give legislative expression to the recommendations of the Privacy Protection Study Commission. The 12 bills we have introduced are intended to be as literal a legislative translation of the recommendations of the Privacy Commission as is possible. That we have introduced these bills does not mean that we necessarily agree with every provision, policy, or punctuation mark. It does mean that we fully continue our commitment to the protection and reasonable enhancement of the personal privacy of Americans and that we do feel that Federal legislation is needed in many areas.

Regarding the bill amending the Family Educational Rights and Privacy Act (FERPA), also known as the Buckley amendment, a few general explanatory statements are in order. The bill accepts the commission's position that the statutorily unique "self-enforcement" of the FERPA law is generally effective and should be continued. The commission found that in the main, confusion and uncertainty in the educational community is, in part, due to unintended murkiness in the current law. The bill tries to clarify the law and at the same time protect the necessary freedom of the educational community. I urge all who are interested in this subject matter to remember that this bill is a proposal. It is not the bell, book, and candle on the subject. I hope it will be thoroughly looked at and debated—before the Congress begins to formally consider it. For not only is a full debate essential to a healthy legislative process but also it is essential to balancing the protection of personal privacy with our society's need for freedom of information.

Specifically, the bill contains the following provisions:

(1) Affirmative, explicit policies and procedures must be established regarding the handling of personal information by educational institutions and governmental agencies.

(2) The waiver option on letters of recommendation and statements of evaluation shall be eliminated.

(3) After Jan. 1, 1978, no institution or agency may deny access to such information, but information collected before that date for which the access right was waived will be protected.

(4) Specific procedures designed to insure the relevance, accuracy and completeness of records must be established.

(5) Opportunity for contesting record contents and for filing differing views must be provided.

(6) The standardized testing community shall be covered by the FERPA law.

(7) Information may be used for statistical purposes when it is not disclosed in an individually identifiable form unless specifically required by law or where there is an affirmative agreement between the institution or agency and the individual.

(8) Applications for admission to an institution shall be covered by the FERPA law and shall be destroyed after 18 months if the prospective student does not matriculate or is not accepted.

(9) Information can be made available to legitimate criminal justice authorities but only after a detailed record is made covering the nature of the request, intended uses, and the justification for the release. This provision also applies to situations involving the health and welfare of a student.

There are other provisions in the bill but they are of a technical nature.

I am pleased to have the opportunity to present this proposal to my colleagues and hope you all will have the opportunity to review it.

As with all previous privacy proposals, both ED KOCH and I would appreciate receiving any comments, suggestions or criticisms you may have regarding this or any of the other bills we have proposed.

AMERICAN STEEL FOR ALASKAN CRUDE PIPELINES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DON H. CLAUSEN) is recognized for 15 minutes.

Mr. DON H. CLAUSEN. Mr. Speaker, this morning the Committee on Interior and Insular Affairs of which I am a member, reported favorably H.R. 9203, a bill which provides the means for selection of, and to expedite Federal permits and developments of, transportation systems to move Alaskan North Slope crude oil to Northern Tier and other inland States.

As you are aware, Congress, when enacting the Trans-Alaska Pipeline System Act in 1973, made it clear that Alaskan crude would be equitably shared by all regions of the United States. This intent has not been carried out due to the fact that many west coast refineries are unable to process the high sulphur content of Alaskan crude.

Therefore, a surplus of Alaskan crude is building up on the west coast.

Mr. Speaker, H.R. 9203 tells the executive branch that Congress believes it is in the national interest that the various pipeline alternatives to transport the west coast surplus of Alaskan crude to other regions of the United States should be reviewed expeditiously.

I supported H.R. 9203 in the committee and believe, in view of our present economy, and particularly the problems facing our domestic steel industry, that these American pipelines should be built by American construition crews with the pipe manufactured in America.

Mr. Speaker, I submit my statement before the Committee on Interior and Insular Affairs concerning H.R. 9203 for inclusion in the RECORD.

The statement follows:

STATEMENT BY HON. DON H. CLAUSEN

Mr. Chairman, I am grateful for this opportunity to make a few remarks concerning H.R. 9203, a bill introduced by you which provides the means for selection of, and to expedite federal permits and developments of, transportation systems to move

Alaskan North Slope Crude Oil to Northern Tier and other inland States.

When Congress enacted the Trans-Alaska Pipeline System Act ("TAPS Act") in 1973, many of us wanted it to be perfectly clear that Alaskan crude would be available to all regions of the United States. In view of this concern, section 410 was included within the TAPS Act. Section 410 entitled "Equitable Allocation of North Slope Crude Oil" reads as follows:

"The Congress declares that the crude oil on the North Slope of Alaska is an important part of the Nation's oil resources, and that the benefits of such crude should be equitably shared, directly or indirectly, by all regions of the country. The President shall use any authority he may have to insure an equitable allocation of available North Slope and other crude oil resources and petroleum products among all regions and all of the several States."

Unfortunately, this Congressional intent has not seen fruition.

Since the TAPS became operative four months ago, approximately 50 million barrels of oil have traversed the 800 mile pipeline from Prudhoe Bay to the ice free Port of Valdez. The average daily throughput has been in a range of 720,000 barrels to 725,000 barrels. (In only a matter of months Pump Station 8 damaged by an explosion in July should be back on line and the throughput will reach 1.2 million barrels per day.) Alaskan oil is expeditiously tankered to the west coast, but due to the high sulphur content, only certain refineries are able to process the oil. This situation has led to the so-called "glut" or "surplus" on the west coast. Compounding the problem is the fact that no pipeline routes exist from the west coast to other regions of the United States. The only viable transportation alternative presently available and I might add an expensive alternative is transshipment to the Gulf and east coasts via the Panama Canal.

I believe it is in the national interest that Congress place in a priority category the various pipeline alternatives to transport this west coast surplus of Alaskan crude to other regions of the United States. H.R. 9203 is definitely an appropriate bill in advising the executive branch that we in Congress realize there is a distribution problem.

Surprisingly enough, it appears the Executive Branch agrees with a number of us in realizing a need exists for some type of Federal legislation. On October 6, 1977, Douglas Robinson, Alaskan Oil Project Coordinator for the Department of Energy appeared before our Subcommittee on Energy and the Environment and in part testified:

"While legislation can do much to expedite the Federal process and to coordinate Federal and State permitting procedures, not all potential obstacles to the expeditious construction of a northern pipeline system from the West Coast can be eliminated through Federal legislation. For example, litigation in the State courts with any State or local decisions regarding these projects could cause delay . . .

"Although it is possible that these processes that are beyond Federal control could substantially delay or prevent the construction of any of the northern projects, we believe it is appropriate for the Federal Government to do all it can to eliminate the potential for delay in those processes which it can control."

As the Ranking Minority Member on the Special Investigations Subcommittee, I believe the Northern Tier Pipeline Co. proposal should be expeditiously reviewed. Subcommittee hearings will be conducted in Seattle, Washington some time during the recess on this matter.

Lastly, while we are discussing domestic pipeline route proposals, something should be said about pipeline construction crews and materials. Mr. Chairman, some Ivy-Leaguers would probably call me "parochial". I describe it as "All-American". Due to our present economy and particularly the problems facing our domestic steel industry, these American pipelines should be built by American construction crews with the pipe manufactured in America.

Recently, 5,000 steel employees have been laid off in Youngstown, Ohio, by the Youngstown Sheet and Tube Company and 600 employees of Armco Steel Corporation workers in Youngstown and Pittsburgh have been laid off. In addition, 3,000 workers in the Inland Steel South Chicago Plant and 4,000 at Bethlehem's Lackawanna, New York plant fall into the same category. Also, 2,400 members of the United Steelworkers Union at Kaiser Steel's Fontana, California mill have been collecting Federal cash awards after the Department of Labor found increased steel imports contributed significantly to the unemployment of domestic steelworkers. All of this action is a direct result of steel importation to America's shores.

Mr. Chairman, these pipeline routes we're considering could serve as a shot in the arm by helping our economy and American workers who need jobs. I'm highly supportive of H.R. 9203, but must emphasize these pipelines should be constructed by American crews of American steel.

TODAY'S DEPARTMENT OF LABOR STATISTICS REPORT THAT AS WORKERS' INCOMES GO UP, THEIR REAL EARNINGS ARE DOWN OVER A YEAR AGO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 5 minutes.

Mr. KEMP. Mr. Speaker, figures released by the Department of Labor this morning show that although nominal incomes for most workers have gone up since 1 year ago, their real earnings have gone down because of inflation. What's worse is that their higher nominal incomes have put them in higher tax brackets, so it is twice as bad given our outrageous tax code.

Moreover, if you compare real incomes today with 10 years ago the same situation exists as workers real incomes after taxes and inflation are below what they were in 1967.

Though working people are running twice as fast they are not getting anywhere. In New York State this is especially true.

Both the Federal Bureau of Labor Statistics and the New York State Labor Department have been calculating what wage changes have actually meant to workers in terms of actual purchasing power. The answers over the last decade range from less than nothing to nothing much.

A chart by the Federal agency says New York City factory production workers averaged $183.77 a week in gross earnings last year. This was an 80-percent rise from $101.95 10 years earlier.

To offset the effects of inflation in boosting the paycheck, the bureau converted the earnings statistically into constant dollars, using 1957–59 as a standard.

And when social security and Federal, State, and city income taxes were deducted in such equivalents, the bureau calculated that the average worker with three dependents actually suffered a net loss in purchasing power.

In the Federal statisticians constant-dollar terms, the 1966 pay check was worth $77.88—and last year's earnings were equivalent to only $75.17.

Result: A net loss of 3.5 percent.

The State Labor Department calculated earnings changes for factory workers throughout the State. Their gross averaged $209.35 last year. Actual take-home pay—after deducting for social security and income taxes for the Federal and State (but not New York City) governments—was $176.58 for a worker with three dependents, $160.84 with no dependents.

Over the last decade, the statewide worker had an 88-percent increase in weekly earnings in current dollars, up $98 from $111.35 in 1966.

But when this was converted into constant dollars—the State Labor Department used 1967 as its base—the increase in real wages shrank to only 5 percent.

And for the statewide worker with three dependents, the increase went down to not quite 1 percent in average "real spendable earnings."

Following are State Labor Department figures on gross weekly earnings over the years in terms of current and constant dollars, and take-home pay similarly expressed for workers with three dependents:

Year	Gross earnings		Take-Home	
	Current	1967	Current	1967
1954	$71.50	$90.16	$66.48	$83.83
1955	75.17	95.39	69.37	88.03
1956	78.96	98.70	72.40	90.50
1957	81.57	98.63	74.30	89.84
1958	83.07	97.50	75.53	88.65
1959	87.71	101.87	78.96	91.71
1960	89.61	102.06	79.69	90.76
1961	92.21	104.07	81.66	92.17
1962	96.02	106.93	84.57	94.18
1963	98.78	108.07	86.28	94.40
1964	102.44	110.39	91.03	98.09
1965	106.40	112.71	95.02	100.66
1966	111.35	114.32	97.72	100.33
1967	114.44	114.44	99.85	99.85
1968	121.48	116.47	104.65	100.34
1969	128.30	116.11	108.99	98.63
1970	134.59	113.96	114.94	97.32
1971	145.84	117.23	125.05	100.52
1972	157.61	121.80	135.41	104.64
1973	167.58	121.79	141.58	102.89
1974	178.48	117.04	149.62	98.11
1975	191.00	115.83	162.49	98.54
1976	209.35	120.04	176.58	101.25

I believe that this situation calls for an immediate 30-percent across-the-board tax rate reduction, to increase the aftertax income of all Americans and restore the incentive to work, save, and invest.

Such a tax rate reduction could be modeled on that proposed by President John F. Kennedy in the early 1960's, which made that period one of the best in American history for jobs and real income growth.

Let us get the country moving again by lowering the tax burden of America's workers, savers, and investors.

THE 59TH ANNIVERSARY OF POLISH INDEPENDENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, 59 years ago the proud and courageous people of Poland, determined to obtain and preserve a free and united nation, announced their independence. November 11, 1918, will continue to be appropriately honored by Poles and their descendants as Polish Independence Day.

Prior to 1918, however, the people of Poland were faced with both triumph and disappointment. A successful attempt to establish a constitutional government in the late 1700's demonstrated the Polish desire to become a self-governing nation, and its capability of self-determination. Unfortunately, however, the powerful Russian army destroyed this form of government following only 1 year of existence, and soon divided this small country with Prussia.

Poland, a nation that took great and justifiable pride in its long and glorious history, disappeared from the map of Europe in the latter part of the 18th century when three partitions by Austria, Prussia, and Russia eventually robbed it of all its territory. It was not to become free again for almost a century and a quarter in spite of many brave and determined uprisings against despotic foreign rule.

Germany and Austria-Hungary fought against Russia during World War I, which meant that Poles fought on both sides, brother against brother. The collapse of Russia in March 1917, and the final defeat of the central powers a year and a half later gave Polish patriots, who had been busy behind the scenes, their opportunity to reestablish the nation whose people had suffered so much from their oppressors.

Poland declared its independence on November 11, 1918, a declaration that was recognized the following summer by the Treaty of Versailles. No longer were Poles to be referred to as Austrian Poles, German Poles, and Russian Poles. They were Poles, no more and no less, citizens of a free country.

Poland enjoyed the blessings of independence for only one generation. In 1939 the Nazis and the Communists divided its territory, the fourth partition of Poland. Naziism was destined to be defeated after 5½ years of bitter fighting, but communism remains firmly entrenched today and unhappy Poland is one of the many colonies that make up the farflung Soviet empire.

Mr. Speaker, although the years of renewed liberation and self-government were shortlived for these courageous people, their struggle to be free continues. It is, therefore, particularly appropriate that we, in the United States, acknowledge this great accomplishment. I proudly join Americans of Polish descent in my own 11th Congressional District of Illinois, which I am proud to represent, the city of Chicago, and all over the Nation as they pay special tribute to Polish Independence Day.

LEGISLATION TO PROVIDE DROUGHT RELIEF

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. NOLAN) is recognized for 5 minutes.

Mr. NOLAN. Mr. Speaker, my colleague, Mr. STANGELAND, and I introduce a bill to provide drought relief for our hard-pressed farmers on their 1977 crops.

The bill will allow farmers to transfer allotments from crops that they normally would grow to crops they were forced to grow, because of insufficient subsoil moisture. For example, if drought conditions forced a farm with no wheat allotment to plant wheat instead of crops normally planted on another allotment, the producer would be eligible for deficiency payments under the wheat program on acres actually planted to wheat in 1977.

The severity of the drought, which lasted in Minnesota for 3 years and still lingers in the West, and which recently has spread to parts of the South and East, has led Congress and the administration to recognize that additional effort must be made to assist those who have been victimized by prolonged natural disasters. The law should not inadvertently penalize farmers who were forced to alter their 1977 planting patterns because of drought conditions.

The bill I am introducing applies only to the 1977 crop year—a period of Depression-level low farm prices. Drought has further reduced farm income. I believe the Secretary of Agriculture should have the authority to provide existing farm program benefits to farmers for the crops they were forced to plant because of drought.

Mr. Speaker, I wish to call my colleagues' attention to the fine statement made by Senator ANDERSON in support of this same bill, which he introduced in the Senate on November 2, 1977. Senator ANDERSON's statement, which follows, in part, explains the need for additional drought relief for farmers. As Senator ANDERSON said, this bill is an attempt to treat our farmers equitably by taking "reasonable steps to solve a problem over which many farmers simply had no control."

Senator ANDERSON's statement, in part, follows:

STATEMENT BY SENATOR ANDERSON

Mr. President, one of the most important features of the Food and Agriculture Act of 1977 (Public Law 95–113) is the provision permitting farmers to receive deficiency payments on the basis of planted rather than allotted acres.

This was a long overdue reform. We have eliminated an outdated allotment system which has unduly restricted farmers in their planting decision. By making this reform, we are finally providing our farmers the flexibility to respond to changing market conditions.

Unfortunately, this welcome change does not become effective until the 1978 crop year. This reform does not aid farmers who have just harvested crops for which they have no allotment. As we know too well, these farmers face an extremely depressed market offering prices well below the cost of production. In my home State of Minnesota, for example, farmers are receiving a dollar less than the cost of production for a bushel for wheat. The situation is almost as serious for feedgrains.

Mr. President, if I believed that I could offer legislation that could pass the Congress and would change this standard from allotted to planted acreage this year, I would introduce such a bill. But, I am aware of the fact that many farmers prefer an allotment approach and that the 1977 crop year began with all parties aware of the Department of Agriculture's policies concerning allotments. So, if this approach is not feasible, we can at least grant relief to those farmers who were, in effect, forced to plant without an allotment by circumstances beyond their control. That is the purpose of S. 2274.

The fact is that drought, which is now mainly blistering the South and West, has been a fact of life for other parts of the Nation since 1974. This has meant a serious depletion of the subsoil moisture that is so necessary for growing most crops. In many cases farmers were forced to plant crops needing relatively little subsoil moisture if they were to have any crop at all in 1977.

Mr. President, the problem is that these farmers have been forced to forgo planting the crops for which they have an allotment, and instead have had to plant a crop for which they do not have an allotment. For example, farmers in drought areas who have corn or other feed grain allotment determined that there was simply not enough soil moisture to give these crops a fighting chance to survive. And so they planted wheat, even though they had no wheat allotment. These farmers now must dispose of their wheat crop without the benefit of the $2.90-per-bushel target price which can now be claimed by farmers who had a wheat allotment.

S. 2274, which I am introducing along with Senator HUMPHREY, attempts to remedy this problem. The bill instructs the Department of Agriculture to make deficiency payments to a farmer on planted crops for which he had no allotment in 1977, provided that the farmer possessed an allotment for another crop which could not be planted because of inadequate subsoil moisture conditions within his county. The Secretary, through the Agricultural Stabilization and Conservation Service (ASCS), will determine which counties had subsoil moisture deficiencies during the 1977 planting season.

Mr. President, Congress has acted to meet drought problems with alacrity and fairness during these past several drought years.

What we are proposing in S. 2274 is that farmers forced to plant a crop without an allotment be given the same fair treatment as other drought-stricken farmers. We are not reopening issues settled in the 1977 farm bill. We are asking that Congress take reasonable steps to solve a problem over which many farmers simply had no control.

Mr. President, I am saddened that S. 2274 will not help all farmers who do not have sufficient allotment acreage. I recognize the hardship they are enduring in this very bleak year of depressed prices. But for the moment S. 2274 appears to be the only proposal which has even the slightest chance of receiving favorable consideration in the next several months. I urge the Senate to give this proposal its most serious attention.

H.R. 9910

A bill to authorize deficiency payments for certain farmers who were unable to produce in 1977 acreage allotment commodities because of insufficient moisture

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Notwithstanding any other provision of law and subject to the provisions of section 2 of this Act—

(a) The Secretary of Agriculture shall pay to producers on a farm who, because of insufficient subsoil moisture to produce a commodity for which the farm has an acreage allotment, plant for harvest in 1977 another commodity in lieu of the acreage allotment commodity an amount equivalent to the payment the Secretary would be required to pay the producers under any price support program in effect for 1977 for the commodity actually planted if (1) a farm acreage allotment had been in effect for such commodity

and (2) the producers are otherwise eligible for payments on such commodity.

(b) The amount of the payment made for any farm under this Act shall not be computed on any acreage in excess of the acreage allotment that the producers were unable to produce.

SEC. 2. (a) Payments under this Act may be made only with respect to the 1977 crop of any commodity.

(b) Producers shall not be eligible for payments under this Act unless the county in which their farm is located is designated by the Secretary of Agriculture as a county in which producers were unable to plant for harvest, because of insufficient subsoil moisture, the 1977 farm acreage allotment for a commodity for which payments were authorized under a price support program in effect for the 1977 crop of such commodity.

SEC. 3. The Secretary of Agriculture is authorized to issue such rules and regulations as may be necessary to carry out the provisions of this Act.

SEC. 4. The Secretary of Agriculture shall carry out the program authorized by this Act through the Commodity Credit Corporation.

LEGISLATION TO AMEND CERTAIN ASPECTS OF THE GI EDUCATIONAL BENEFITS PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. BEDELL) is recognized for 5 minutes.

Mr. BEDELL. Mr. Speaker, I am today introducing legislation which would correct an inequity in the law which currently denies GI education benefits to certain veterans who wish to participate in farm management cooperative programs.

At the present time, veterans or their survivors must receive or expect to receive 100 percent of their income from current agricultural employment in order to qualify for educational assistance under the GI bill while enrolled in farm management cooperative programs. Agricultural employment, as defined by VA regulations, does not include employment in the many supportive industries which serve agriculture, such as the processing, marketing, and sale of agricultural products. Consequently, only those veterans who are already employed as full-time farmers are eligible to receive education benefits for participation in a farm management cooperative program, and many deserving veterans are thus denied this needed assistance.

It seems to me that we are faced with a curious paradox. The intent of the GI bill is to help veterans further their education and enrich their lives. Yet, the effect of existing VA regulations governing farm management cooperative programs is to discourage their participation in these programs. I believe that while the programs' broad curriculum covering all facets of crop and livestock production, farm mechanics, and general management practices does, indeed, have much to offer the established farmer, it also holds great promise for veterans who are just starting out in agriculture. In my view, such veterans should be afforded the opportunity to participate in the program, and my proposal is designed to provide it to them.

I think that is is important to point out that beginning or aspiring farmers often find it necessary to supplement their income with outside jobs in order to raise the significant amount of capital required to start a farming operation today. This decision, born out of current economic necessity, certainly does not indicate a less than total dedication to farming, and it should not be viewed as such.

Additionally, those presently employed in the many supportive industries which serve agriculture, such as feed and chemical distribution, grain elevator operation, and the marketing and processing of farm products, can benefit greatly from farm management cooperative programs. They could, for example, increase their capability to serve the needs of the farmer by utilizing the program to obtain a fuller understanding of the complex nature of the modern farming operation. There is no logical reason to deny them education assistance to participate in these programs.

Mr. Speaker, I believe that it is most unfortunate—and wrong—that current VA regulations exclude many deserving veterans from participation in farm management cooperative programs. I think that this situation should be changed, and my bill would do that by allowing veterans who are employed in the agricultural industry to receive GI education benefits for farm cooperative program enrollment.

Following is the text of the legislation I am introducing today:

H.R. 9929

A bill to amend title 38, United States Code, to provide that agricultural employment required for eligibility for educational assistance under the GI Bill for a person enrolled in a farm cooperative program need not be full-time employment or the principal expected source of income of such person and may include employment in establishments engaged in the processing, distribution, or sale of agricultural products

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1682(c) of title 38, United States Code, relating to computation of educational assistance allowances, is amended—

(1) by inserting after the first sentence in paragraph (1) the following new sentence: "Such standards shall be prescribed by the Administrator without regard to whether such agricultural employment is engaged in on a full-time basis or less than full-time basis or whether such agricultural employment is expected to be the principal source of income of a veteran so employed."; and

(2) by adding at the end thereof the following new paragraph:

"(3) For purposes of this subsection, the term 'agricultural employment' means—

"(A) employment on a farm or other agricultural establishment where the basic activity is the cultivation of the ground or the feeding, breeding, and managing of livestock (including poultry); and

"(B) employment in an establishment which is engaged primarily in the distribution or sale of agricultural products to an establishment described in subparagraph (A) or in the processing of agricultural products for such distribution or sale.".

SEC. 2. Section 1732(c) of title 38, United States Code, is amended—

(1) by inserting after the first sentence of paragraph (1) the following new sentence: "Such standards shall be prescribed by the Administrator without regard to whether such agricultural employment is engaged in on a full-time or less than full-time basis or whether such agricultural employment is expected to be the principal source of income of an eligible person so employed."; and

(2) by adding at the end thereof the following new paragraph:

"(4) For purposes of this subsection, the term 'agricultural employment' means—

"(A) employment on a farm or other agricultural establishment where the basic activity is the cultivation of the ground or the feeding, breeding, and managing of livestock (including poultry); and

"(B) employment in an establishment which is engaged primarily in the distribution or sale of agricultural products to an establishment described in subparagraph (A) or in the processing of agricultural products for such distribution or sale.".

BRITISH DUMPING STEEL AND UNEMPLOYMENT ON AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

Mr. VANIK. Mr. Speaker, during the September 20 hearing of the Ways and Means Subcommittee on Trade, I requested the General Counsel of the Treasury Department to provide me with a sampling of the prices of British and Japanese steel imports being landed on the United States west coast and elsewhere.

I have just received a response from Treasury which indicates that generally the British are slightly underselling the Japanese.

I do not believe that there is a steel expert anywhere in the world who believes that the British can produce steel cheaper than the Japanese. U.S. Government studies have concluded that the Japanese are the world's most efficient steel producers and are aggressive in their pricing policies. There is no way that the old, inefficient, overstaffed British Steel Corporation can, consistent with fair trade practices, undersell the Japanese. The only way that the British Steel Corporation has managed to survive at all is through gross state subsidies. Recently there was sworn testimony before the U.S. International Trade Commission that—

During the 1975–1976 fiscal year, British Steel posted a shocking deficit of over $541 million. The deficit for the 1976–1977 fiscal year was considerably less, i.e. only $166 million. However, . . . according to the company's Chairman, Sir Charles Villiers, . . . the deficit for the current fiscal year could approach the 'dreadful' sum of $500 million again.

In other words, in 3 years the British Government spent $1.2 billion propping up British Steel. Needless to say, American corporations could never survive with operating losses of this magnitude.

The data indicates that the British are selling plate steel at prices starting slightly below the Japanese prices—yet this is the same type of steel that on September 30 the Treasury Department

found the Japanese to be selling in our markets at margins equal to 32 percent below Japanese home market prices. In other words, the price of Japanese plate should be one-third higher.

If this is the situation with Japanese imports, it is a prima facie case that the price of British steel should be at least one-third higher—especially when one considers that the British are shipping all the way to the west coast. If these data prove correct, the British are subsidizing their steel mills and dumping their production in the United States to maintain full employment in England. They are thereby creating unemployment in the United States and depression in the Mahoning Valley.

This practice must be investigated and if proved out, stopped immediately. As chairman of the Subcommittee on Trade of the Committee on Ways and Means, I am announcing oversight hearings on the administration of the antidumping laws.

GENERAL COUNSEL OF THE TREASURY,
Washington, D.C., October 20, 1977.
Hon. CHARLES VANIK,
Chairman, Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: At the recent hearings before the Trade Subcommittee of the House Ways and Means Committee concerning the steel industry, you inquired about prices of steel imported from Japan and the United Kingdom. I am enclosing a table containing information obtained from the Customs Service concerning the July/August 1977 quotations of steel prices on the West Coast of the United States from those two countries.

Sincerely,

ROBERT H. MUNDHEIM.

STEEL IMPORT PRICES

Tape of steel	British terms of sale	Range of British prices (hundredweight)	Japanese terms of sale	Range of Japanese prices (hundredweight)
1 Cold rolled steel sheet	Duty paid, U.S. dock.	$14.50–$17.85	Duty paid, U.S. dock.	$16.60–$19.60
2 Hot rolled steel sheet	Duty paid, U.S. pier.	12.80–13.50	Warehouse, Philadelphia.	12.80–13.30
3 Steel plate, ASTM, A–36	c.i.f., duty paid.	12.45–14.20	c.i.f., duty paid.	12.95–14.10
4 (a) Wide flange shapes [1]	C. & E., Houston.	10.38–11.13		
(b) beams [1]			c.i.f., Houston	11.32–11.32
5 Galvanized sheet, ASTM 527: [2]				
(a) Group 1	c.i.f., duty paid.	18.75–19.90	c.i.f., duty paid	19.40–20.80
(b) Group 2	do	20.75–22.10	do	20.80–22.00
(c) Group 3	do	19.45–20.75	do	20.90–21.55

[1] 4 (a) and (b) are believed to be comparable products.

[2] 5 (a) Group 1, 0.17×24 coil through 0.023×36×coil; (b) Group 2, 0.014×36×coil through 0.019×48×120; (c) Group 3, 0.017×36×96 through 0.024×36×96.

INVOCATION AT DEDICATION OF NEW RIVER GORGE BRIDGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia (Mr. STAGGERS) is recognized for 5 minutes.

Mr. STAGGERS. Mr. Speaker, another "Wonder of the World" was dedicated recently in the Second Congressional District of West Virginia. The New River Gorge Bridge dedication was a fulfillment of many years of study and work—and opened up another transportation route benefiting so many.

This historic event officially opened the world's longest steel arch bridge. The main span is 1,700 feet and is erected 876 feet above the New River. This is the highest bridge east of the Mississippi and second highest in the United States, being 325 feet higher than the Washington Monument.

During the dedication of this man-made masterpiece, Rev. Billy Reed Wickline, minister of the Fayetteville United Methodist Church in Fayetteville, W. Va., gave what I consider a most meaningful invocation. In fact, I was so impressed with Reverend Wickline's words, I feel compelled and would appreciate bringing them to the attention of my colleagues. The invocation follows:

INVOCATION

O Almighty God, praise be unto Thee from the heights, for this glorious day as we consider the heavens the works of Thy fingers and hear the sculptured mountains and everlasting hills break forth into singing, and the trees in the forest of gold, crimson and scarlet clap their hands in adoration and exaltation. Open now our hearts to the joy and beauty that surrounds us and the occasion called forth in celebration.

We thank Thee, O God, for this bridge, founded upon the sheer ledges of gaunt rocks, arching the stalwart oaks, towering pines and white waters, raised above the earth that the winds may chant in her beams and trusses Thy creative skill. Standing beside her massive structure, she appears as a rainbow of promised prosperity and progress; downward from the sky above, it appears as a gigantic steel band, vicing and clamping the mountains together, embracing the people and communities as a family of one household. To view her from the earth beneath, the bridge spans the gorge like an altar in the sky; but to stand upon it is to be upon holy ground and humbly viewed as an instrument of service, a gift and tribute of God's favor and man's genius.

We bow in awe and reverence before Thee for this abounding life and invoke Thy blessings upon those who prophesied this projection; those who have labored and witnessed its construction and now all who will enjoy its convenience and service. Gracious Father, continue to pour forth Thy favor upon all whose dream is this day fulfilled and whose work has ended. We give thanks unto Thee for the artists, architects and engineers for the drafting of their dream, laying the plans, and for all laborers who readied the ledges, forged the steel, mixed the mortar, poured the foundations, welded and riveted the joints; for those who walked the girders in confidence and others who have taken the risks and suffered the abuse when schedules were interrupted; for those families who have ached in separation and loneliness. We thank Thee, Our Father, for those persons who have given their homesteads and sacrificed what to them was sacred, for this greater shrine. We remember this day those who were thrilled by its promise but have not lived to celebrate its completion. Look upon any injured in the process and comfort those left, of the life which was lost. We beseech Thy grace upon the yet unborn who shall receive this gift as an inheritance for their generation in ministry to their need.

Forbid that any among us shall be so heedless and unseeing so as to be without gratitude and thanksgiving, but guard us from viewing this accomplishment to make of it a tower of Babel; instead, let it be the travelers' temple, a symbol of the spirit of cooperation and concord where each man's labor and every man's task is the offering of his skill with dedication to fulfill his calling and the extending of his life, to bridge nature's barrier and every human rift.

Our Father, grant, we beseech Thee, an unfaltering return to our homes and reward our days with the strength to work without weariness or complaint. Equip us with thankful enthusiasm for this day and the future before us, that our spirit shall be continuous praise, through Jesus Christ our Lord.—Amen.

CONSUMER NEEDS AN ADVOCATE IN GOVERNMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. HARRIS) is recognized for 5 minutes.

Mr. HARRIS. Mr. Speaker, as a cosponsor of H.R. 9718, the revised bill to establish an office in the Federal Government to represent consumers, I hope the House will be able to act on this legislation during the 95th Congress. I believe we must provide consumers with the representation they need and deserve in Government proceedings so important to the purchasing public. Business interests can afford to retain attorneys and support trade associations to represent them before the Government, but the average person lacks the money to adequately voice his or her concerns.

AN OFFICE OF CONSUMER REPRESENTATION COULD SAVE CITIZENS' DOLLARS

Every day Government agencies make decisions that affect the price, quality, and safety of the products and services available to consumers. I believe the following examples of agency actions vividly demonstrate the need for someone to represent the citizen's point of view in Government proceedings:

In 1975, State Department officials negotiated an International Coffee Agreement which permitted coffee prices to rise to over $5 a pound.

In 1975 and 1976, the Federal Communication Commission approved A.T. & T.'s requests for $500 million in annual long distance telephone rate increases, which you and I ended up paying.

The ICC regulations, which require trucks to return empty from delivery, to make mandatory often out-of-the-way stops, and to allow companies to cooperate in rate-setting, have been estimated to cost consumers several billion dollars yearly. The trucking industry has little incentive to argue with the ICC, because it passes these costs on to consumers who have no representation in ICC ratemaking.

This past winter Americans underwent one of the harshest winters in memory, with substantial shortages of natural gas. According to studies by the Federal Power Commission, the Library of Congress, and the Subcommittee on Oversight and Investigations of the House Commerce Committee, the Department of Interior did not exercise its statutory authority over holders of Federal off-shore natural gas fields. A study by the House Subcommittee on Oversight and Investigations recently discovered that in just two fields in the Gulf of Mexico ½ trillion cubic feet of natural gas was available for production. The actual winter shortage was less than 1.5 trillion cubic feet.

In the summer of 1976, the Federal Energy Administration removed price and allocation controls from home heating oil. Despite evidence that decontrol would cause prices to soar, FEA assured the public that the cost of heating oil would increase only 2 cents to 3 cents per gallon. However, after controls were removed, the price of home heating oil rose by 5 cents to 8 cents per gallon costing energy consumers at least an additional $800 million.

In the area of health care, it has been estimated that unnecessary hospitalizations cost about $10 billion every year, and unnecessary surgeries cost over $4 billion per year. For years HEW, which could help reduce substantially some of this waste, has not vigorously pressed for waste-trimming measures, such as requesting second surgical opinions and preadmission testing, two possible methods of reducing health care costs without sacrificing the quality of care.

AN OFFICE OF CONSUMER REPRESENTATION COULD REPRESENT SMALL BUSINESS

Through its role as an advocate, the OCR could also represent the interests of small business. Like consumers, small businessmen often do not possess the financial resources and expertise to adequately represent their interests. The Office of Consumer Representation would possess neither mandatory interrogatory powers nor greater rights of judicial review from a Federal agency decision than any business entity. Additionally; the OCR would see that consumer complaints are referred to the appropriate government agency and/or business and insure that consumer information and education materials are made available to citizens.

AN OFFICE OF CONSUMER REPRESENTATION COULD ELIMINATE GOVERNMENT WASTE

I believe that, if Congress is going to establish a new consumer agency, it only makes sense to eliminate existing duplicative functions and to create a single, identifiable representative for consumers. Under this bill, the current consumer representation activities of the Federal Government would be consolidated by transferring to the new OCR 26 existing consumer programs now costing $11.6 million. Further, the Office of Management and Budget is directed to cut an additional $8.5 million consumer-related spending from the fiscal year 1979 budget. This amounts to a net savings of $5 million for the taxpayer.

Government agencies that regulate private industry, such as the FPC, FCC, and ICC, must take into account the impact of their decisions on the family budget. I believe a strong OCR would fill the void in the current decisionmaking process and could be a vigorous watchdog for the average citizen, insuring that the cost, quality, and safety of the goods and services we all need are in the best interests of the people.

BRONX CENTER HELPS TROUBLED FAMILIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. BINGHAM) is recognized for 5 minutes.

Mr. BINGHAM. Mr. Speaker, we have often heard over the past few years that the institution of the family in America is in danger of disintegration. We have heard that it is this weakness in the fiber of the family which is in large part responsible for the high crime rate, the loose morals and ethics, the runaway children and the despair of parents, teachers, the clergy, law enforcement officials, and the country in general. As the noted child-raising expert Dr. Urie Bronfenbrenner wrote:

> At a time when our nation more than ever needs a public-spirited and enlightened young, and when the best new research is pointing to the critical role of the family, our nation pays little attention to the family as a key social unit, and there are mounting indications that the American family as we know it is falling apart.

This is a subject which is only just beginning to be studied and discussed, and we have yet to develop a national policy on it. However, even as this discussion and debate goes on, there is an organization in the Bronx, using Federal funds, which is attempting, with considerable success, to deal constructively with this problem. The group is called the North Bronx Family Service Center.

The North Bronx Family Service Center was established in 1976 with funds from the Law Enforcement Assistance Administration, channeled through the Division of Criminal Justice Services of New York State and the Criminal Justice Coordinating Council of New York City. It is the newest part of the family and child care efforts of the Pius XII School in New York City and operates under the general auspices of Catholic Charities and the Archdiocese of New York.

The services of the center are organized around family support and provide programs under the major areas of counseling, recreation, and education. The center tries to identify problem areas early and provide intensive, coordinated services to help resolve them.

Membership in the center begins with formal registration including an explanation of some simple and direct program requirements and an agreement by each member to follow them.

The center has an extensive outreach program and works cooperatively with the courts, police, schools, churches, and other community agencies. It has been in operation for 1 year, from 9 a.m. to 9 p.m. six days a week, and now has over 200 families involved in its programs.

The center is located in a large private house in the University Heights-Fordham area of the Bronx. Its service area, which covers major parts of the central and northern parts of the Bronx, is totally urban, with large apartment buildings and dense population. This area is undergoing a total transformation of its racial, economic, and institutional character with black and hispanic groups moving in and the older white residents moving out. All social services are strained because a large percentage of the new population is poor, unemployed, or underemployed, not rooted in the community, and many do not speak English.

The area is undergoing all the strain that comes with economic decline, racial tension, and reduced public social services. Family support systems such as day-care and community centers have been closed. Massive cuts have been made in school system personnel and services, and an already depressed labor market has been aggravated by the city's financial crisis. A steadily increasing percentage of the population is receiving welfare assistance.

As the center points out, the range of problems and the lack of supports have put the family under tremendous pressure, and the problems of the young person often reflect the life of the family itself. Yet there are very limited resources available to help the family. Further, while the problems of youth may be family related, many services do not consider them in this context. Often the problems of youth are seen as outside of and separate from the context of the family and the community. It was in response to this need and these conditions that the North Bronx Family Service Center was created. It has attempted to meet these problems with services which are preventive in nature and which support positive development.

The program offered by the North Bronx Family Service Center is described by the center itself as follows:

THE NORTH BRONX PROGRAM

> The total program at the North Bronx is based on the attempt to respond to three specific needs:
>
> 1. Need for Community Based Services:
>
> Traditionally, the community's response to an increasing rate of deviant behavior among its younsters has been to call for corresponding increased use of official intervention by the juvenile justice system. However, official intervention is rapidly losing popularity as a rehabilitative measure for most individuals. The movement toward the expanded use and development of alternatives to the traditional juvenile justice system is spurred by observations that the

system is both excessively costly and ineffective as a rehabilitative tool. Not only has it been shown that official intervention does not effectively rehabilitate or deter, but the actively destructive potential of most official programs has frequently been emphasized.

Community based services recognized the importance of working with the individual in his home community or (near it) where his ties with family and friends can be used to advantage in his rehabilitation. It recognized that rehabilitation must take place in an environment that includes personal attention provided by persons of similar background and experience who understand the individual's problems and who can communicate with him. In these problems, treatment is reinforced by the constructive elements which exist in the community.

2. Need For Coordinated Effective Services:

The web or network of persons, institutions and relations which provide the structure for healthy growth has been, as was seen in the description of the area, under severe pressure over the last few years.

It seems clear that, in the face of such a massive social process only very directed and focused programs can hope to have an impact. Service to the youth offender and "risk population" has not been characterized by this approach and, as was seen, has been further weakened by budget cuts. The current "system" tends to deliver services late rather than early, weakly rather than strongly, and in a fragmented rather than a coordinated manner.

"Coordinated Services" in the case of the North Bronx refers both to the programs within the center itself—in house programs that work closely together toward a specified purpose with a complimentary effect—and programs within the community which are involved in a relation of mutual support. Services delivered in this manner are able to increase their individual effect by creating a climate of support and consistency which is essential in implementing change. This approach is seen as all the more essential in a time of shrinking resources when it is necessary to avoid duplication of services and make the fullest use of available resources. The intent of the program organization and program directions of the North Bronx has been to provide a coordinated network of support and service to youth and families in trouble, or at risk, and mesh these services into the fabric of the community.

This coordinated effort does not become effective, however, unless these organized services address themselves to the needs of the youths and their families. The problem is more than simply producing programs in counselling, education, vocational development, or recreation. These areas are always critically involved in delinquency prevention and diversion. Specific programs must be formulated in these areas but then they have to be implemented in such a way that they are accessible to the population they serve.

This accessibility is a critical factor since so many of the youths and families are out of touch with the mainstream of community life. Programs then must be available in a style, in a language, at a time, and with an organization which will find, attract, and hold those they are trying to serve. Early intervention must replace late remediation, focused programs must replace isolated attempts and coordinated services must replace fragmented treatment.

3. Need for Positive Youth Development:

At the heart of positive youth development is the cultivation and fostering of a sense of competence, a sense of usefulness, a sense of influence and a sense of belonging. This approach to youth which is called the youth development strategy in its formulation by the Dept. of Health, Education, and Welfare sees the growth of these senses in youth as essential for healthy development. It means the elimination of negative labeling, excessive dependence, lack of positive roles and feelings of powerlessness and alienation. The individual or family who is involved in the positive sense is, in effect, being constantly strengthened and supported. Those who are involved in the negative sense are seen as restricted, isolated, and increasingly, frustrated.

The formulation of focused coordinated community based programs offer opportunities and possibilities regarding the development and enhancement of these positive social roles. This process is not an automatic one since programs too can perpetuate negative labeling and foster dependent relations (delinquency treatment and prevention programs also face the possibility of being labeled themselves). Nevertheless, when there is program control an environment can be developed in which these social senses can be strengthened. This can be a very significant process especially in an environment where these social senses are not being nourished and developed.

These goals—community based, coordinated, effective services, and positive youth development—have guided the development of the Center's programs and its services to and for the families it serves. The Center has tried to orient itself toward youth and families who were becoming involved with the juvenile justice system, or who were at risk of becoming involved. It is the Center's goal to involve itself in the lives of youth and families at an early stage to offer both preventive services as well as diversion from the police and the courts. It lists its objectives as follows:

1. To divert at least 250 youngsters annually from the traditional child welfare/juvenile justice system by providing early intervention, assessment, and treatment of disruptive elements in the life of the youth, his family, and his community.

2. To curtail recidivism and the weakening of family and community ties by providing alternatives to detention and external institutionalization with community care and follow-up mechanisms.

3. To provide in-house services, such as casework and groupwork services, psychiatric and psychological services, tutorial services, recreational services and general social services to community residents.

4. To make maximum utilization of and take part in strengthening existing community services for the youngster and his family in the areas of health, education, employment and drug therapy.

5. To identify and to seek to play a major role in the coordination of existing and needed community services.

6. To promote a public education program leading to a public awareness and involvement in the juvenile justice system.

7. To encourage the involvement of local residents as volunteers in order to bring greater appreciation of the complexity of child welfare/juvenile justice problems, thereby engendering the sense of public responsibility that financial support of programs requires.

The North Bronx Family Service Center, while concerned with the individual and the family, is also involved with the community in an attempt to develop resources for and toward the awareness of the needs of troubled youth and families. To this end the Center has done the following:

1. Developed the numerous referral links previously described.

2. Publicized its services throughout the community through hand-outs and notices.

3. Joined and participated in the association of West Bronx Agencies, Bronx Council of Advocacy for Children and Youth, and the Association of Youth Diversion Projects.

4. The North Bronx has made staff presentations to: the Association of West Bronx Agencies, the probation intake staff of Bronx Family Court. Community Planning Board #5, the faculties of Holy Spirit School, Tollentine School, teachers board of P.S. 91, Parent's Association of P.S. 91, Guidance personnel and teachers of P.S. 26, P.S. 46 and J.H.S. 118.

These presentations concern the nature of the service of the North Bronx and the need for community based services and resources to meet the normal context of the school and to try and avoid suspension or transfer out of the community.

5. The North Bronx has developed a leadership development and tutoring program which has been given in Holy Spirit School and is being repeated in Tollentine. Holy Spirit, located in an exceptionally poor area, had eight of its teenagers trained to teach 8 needy younger children. Training consisted of seven one hour sessions concerning youth and learning problems, ways to help, role of parents, etc. Tutors have been monitored weekly and this program also joined other North Bronx services. The school now has a corps of trained tutors and is also referring "problem children" to counselling.

The success of this program has resulted in increased demand for service and a new training has now begun at Tollentine School with 38 eighth grade students receiving training.

The North Bronx has helped developed a "family life rap group" for Junior High School. This course consists of family life information and themes and is given to a group of "identified problem" youth in the school. This service has strengthened the school program and permitted the absorption of this type of youngster in the regular school program. The group currently consists of 16 youngsters ages 12–15 both boys and girls (JHS 118).

7. The North Bronx has involved the American Red Cross in the problems of young mothers of the area and offered a sewing course in cooperation with the Red Cross at their facility. Seven residents participated for three weeks at two hours per session.

8. The North Bronx co-sponsored a drama workshop for teenagers in cooperation with the University Heights Presbyterian Church and the New York City Parks Department. The workshop met for six sessions with ten teenagers participating. Topics included theater skills, staging presentation and communication.

9. The North Bronx has distributed youth oriented health information to its service population concerning immunization, testing services, and venereal disease.

10. The North Bronx has recruited and trained a group of volunteers who have become a critical and important part of the centers program. Over twenty five persons have been trained and organized to work in the education programs.

The North Bronx Family Service Center has accomplished much in its brief existence. It has provided a broad range of services to youth and their families, and has reached out to the community as a whole in order to educate, guide, train and provide whatever services are needed. Under the stewardship of Claire Kaltner, Director of New York City Services, Pius XII School; and Jim Marley, Project Director, the Center has helped youth and their families to better understand their problems and how to handle them. It has helped youth and their families understand their individual potentials, and to develop them so that they can be productive members of our society. This is a great accomplishment indeed, and I am proud to see federal funds being put to such effective use.

CONSUMERS SHOULD HAVE ACCESS TO MATERIAL ON POTENTIALLY HAZARDOUS PRODUCTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. Moss) is recognized for 5 minutes.

Mr. MOSS. Mr. Speaker, on October 26, 1977, the Consumer Product Safety Commission (CPSC) took action on an issue

of great importance to over 5 million residents throughout this country. CPSC filed a complaint in the U.S. district court to declare "old technology" aluminum wiring an imminent hazard. The complaint filed by the Commission contains information which suggests that at least 2 million homes may be in imminent danger of catching fire as a result of installation of dangerous aluminum wiring between 1965 and 1973.

The complaint filed by the CPSC contains a document which clearly explains the dangers of "old technology" aluminum wiring and provides directions on how to safely determine if a homeowner has this problem and what can be done to correct it. Despite the fact that this document is freely available from the district court (*CPSC* v. *The Anaconda Co. et al.*, No. 77–1843 D.D.C.), the Consumer Product Safety Commission has been ordered by the court not to disseminate it.

I believe consumers should have immediate and free access to materials that can alert them to the dangers of this potentially hazardous product.

I include the booklet in the RECORD in order to bring to your attention, Mr. Speaker, as well as our colleagues the details of the potential hazard posed by aluminum wire systems. I hope Members will be alerted to these dangers and begin to disseminate this information to their constituents so that this imminent hazard can be eliminated.

DO YOU HAVE AN ELECTRICAL SYSTEM WITH ALUMINUM WIRING?

HAZARDS OF ALUMINUM WIRE SYSTEMS

A fire hazard may exist in your home if it is wired with 15–20 AMP. aluminum wire. On April 28, 1974, two members of a family died when their home in Hampton Bays, New York burned. Local fire officials determined that a faulty aluminum wire system caused the fire. Since this tragic incident, government officials have investigated numerous complaints from homeowners throughout the nation whose houses have aluminum wire electrical systems. Many of these complaints involved electrical outlets burning, smoking, or glowing. Investigation by the government in one county showed that a large percentage of homes using aluminum wire systems have outlets with dangerously high temperatures. As a result of these Investigations the Consumer Product Safety Commission, an agency of the U.S. Government, has filed an action requesting that aluminum wire electrical systems used in homes be declared imminently hazardous consumer products.

THE PROBLEMS WITH ALUMINUM WIRE SYSTEMS

Dangerous overheating may occur where aluminum wire connects to outlets or switches. This can happen on normal household circuits of 15 and 20 amperes and may make switches or outlets glow or smoke. When this happens, fire is a possibility. House wiring to appliances such as dishwashers, room air conditioners, and refrigerators may also share the same problem.

If your home or apartment has a 15 and 20 Amp. aluminum wire system there may be a fire hazard. Signs of trouble are:

Cover plates on switches and outlets which are warm or hot to the touch.

Smoke coming from outlets or switches.

Sparks or arcing at switches and outlets.

Strange odors, especially the smell of burning plastic, in the area of outlets or switches.

Lights which flicker periodically (in some cases, faulty appliances or other unrelated causes may result in light flickering.).

Outlets, lights, or entire circuits which fail to work.

Train your family to recognize these signs

Although you may not find these trouble signals in your home or apartment, the danger of fire may still be present. It can even occur at an outlet which has nothing plugged into it. This happens because some electrical circuits can pass current through several outlets and junctions to an outlet at the far end of the circuit. When an appliance plugged into that outlet is turned on, the current passing through each of the outlets on the same line may cause one of those to overheat. In addition, even if you have lived in your house for several years and have had no trouble with your wiring, a fire hazard may later arise. This happens because the condition which causes aluminum wire to become dangerous can take a long time to develop.

What homes are in danger.—

If your home or apartment was built before 1965, there is little chance that aluminum wire is present.

Property built between 1965 and 1973 or any additions to homes made during that time may very well have aluminum wire. One estimate shows that up to two million homes may be involved.

If you added or replaced wiring in your home between 1965 and 1973, aluminum wire may have been used.

In 1972, manufacturers altered both aluminum wire and switches and outlets to make aluminum electrical systems safer. If your house was built after 1972, this does not mean that the system in your home has the newer equipment, since the sale of the old types of wire, outlets, and switches continued after 1972.

If you think that your home may have aluminum wire.—

If you think that your home may have aluminum wire, you should follow these steps:

Do not remove cover plates on switches or outlets.

Do not try to check the wiring in electrical panels or boxes.

Do not try to check the wiring on your appliances.

You may receive a dangerous or even fatal shock

If there are areas in the basement, attic or garage where the wiring is open to view, check to see if the letters AL or the word aluminum is printed or stamped every few feet on the outside jacket of the wire insulation.

If neither of these is used, the wire is probably not aluminum.

Since some houses are partly wired with aluminum and partly with copper wire, be alert for signs of trouble described above, even if you do not find either marking.

If no wiring is visible, call the electrical contractor who wired your home, and ask him if the wiring is aluminum.

The builder of your home may be able to supply the name of the contractor.

You can also find out if you have aluminum wiring by having a qualified electrican come to your home to make a visual inspection.

If you live in an apartment, ask the resident manager or maintenance man if the unit has aluminum wire.

What to do if you have aluminum wiring and see any trouble signs.—

Call an electrician. If your home has aluminum wire, you should have a qualified electrician check and repair the wiring. This is especially important since skill and proper tools are needed to hook up aluminum wire correctly and to tighten terminal screws to the right torque. If these repairs are not done properly, the hazard of fire may still remain. Please give the electrician this booklet when he arrives. The last three pages contain step-by-step instructions for professional use showing how to repair an aluminum wire system.

Do not try to make repairs yourself.—

Do not try to inspect or adjust the wiring in switches and outlets or to make any electrical repairs.—You could receive a serious or fatal electric shock.—You could void the fire insurance on your home. Instead seek an electrician's help.

What the electrician can do.—

The electrician may have to replace switches and outlets with new ones specially designed for use with aluminum wire. These are known as CO/ALR devices.

The electrician may have to "pigtail" or splice a piece of copper wire to the aluminum wire with a special connector, and then connect the copper wire to a switch, outlet, or appliance.

In all cases, the electrician should check and, where necessary, tighten all terminal screws in the service panel.

The electrician should also check all light fixtures, permanently wired appliances (such as dishwashers, garbage disposals, furnace blowers), and junctions on household circuits where 15 and 20 AMP. aluminum wire is attached.

What you can do yourself.—

If a circuit or outlet shows signs of a problem:

Turn off the power to that circuit at the circuit breaker or fuse box in your home. To do this, turn the circuit breaker switch to "OFF" as shown on the next page. If you have a fuse box instead of a circuit breaker, unscrewing the fuse turns off the electricity in the circuit controlled by the fuse.

Make sure that you have turned off the electricity in an outlet. To do this, plug in a lamp which you are sure is working properly and turn it on. If the lamp goes on, the wrong circuit breaker was probably shut off or the wrong fuse removed. Go back to the service box and switch on the circuit breaker that was turned off or replace the fuse that you removed. Turn off the power in another circuit by removing another fuse or switching off another circuit breaker. When the lamp goes off, the power in that circuit is also off.

All homes especially these with aluminum wire systems, should have smoke detectors and fire extinguishers. Make sure you have an extinguisher designed for use against electrical fires handy. Dry chemical or carbon dioxide extinguishers can be used for this purpose. Move any furniture or fabric which might burn (beds, sofas, curtains) away from outlets. Never store any flammable products like gasoline, charcoal lighter, or cleaning fluids near these areas.

What is being done to eliminate the fire hazard in aluminum wire systems.—

The government is continuing to study the hazards of aluminum wire systems and ways for making such systems safe. One method under study employs a special connector used in aircraft wiring. Until the skill and tools needed for this method become available to residential electricians, the repair program suggested in this booklet should be followed.

ALUMINUM WIRING: RECOMMENDATIONS FOR ELECTRICIANS—NOT FOR USE BY PERSONS WITHOUT ELECTRICAL TRAINING

Reminder: Turn off electrical power in the circuit being serviced to avoid serious or fatal shock.

Never use unmarked devices or old stock devices marked AL/CU.

Never use "push-in" connections or other "quick-wiring" or "back-wiring" techniques with aluminum wire.

Connect aluminum wire only to wrap-around wire binding terminal screws on receptacles and switch marked CO/ALR.

For a CO/ALR device to be effective, it must be installed correctly following the directions below:

Remove the wire insulation to obtain a fresh surface of wire without nicking the wire.

Wrap the wire the proper distance and direction around the terminal screw.

Use the proper torque to tighten the terminal screw.

Reposition the wires within the outlet box to avoid loosening the new terminal connections.

Follow these directions to connect aluminimum wire to CO/ALR devices.—

A. Connect aluminum wire only to binding screw terminals on switches and outlets marked CO/ALR. A CO/ALR device may also be used with copper or copper clad wire.

B. Always strip the wire far enough back so that it can be wrapped at least ¾ of the way around a terminal screw. Do not strip the wire so far that it can overlap when wrapped around the terminal screw.

C. When stripping, be careful not to nick the wire. Use the right size stripping tool to avoid nicks.

D. Wrap the stripped, unnicked end of the wire ⅔ to ¾ of the distance around a terminal screw. Wrap the wire clockwise and do not let the end overlap.

E. If you use a screw driver that gives torque readings, tighten the terminal screw to 12 inch pounds.

F. If you do not use a torque reading screw driver,

(a) tighten the screw until the wire is snugly in contact (1) with the bottom of the screwhead and (2) with the contact plate on the CO/ALR wiring device.

(b) To make firm contact, tighten the screw an additional ½ turn to flatten the wire between the screwhead and contact plate.

G. Position the wires behind the wiring device to prevent the problem of terminal screws loosening when the CO/ALR device is fitted into the outlet box.

NOTE: Although not universally recommended, some jurisdictions require that a method called "pigtailing" be used to repair aluminum wire connections. Pigtailing involves connecting a short piece of insulated copper wire with a special connector between the aluminum wire and the contact screws of a switch or outlet. Check your local electrical code to determine whether "pigtailing" is required.

Caution fire hazard

Follow these instructions carefully. Dangerous overheating and fire can result from an improper connection.

NANCY HANKS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS) is recognized for 5 minutes.

Mr. BRADEMAS. Mr. Speaker, last month Nancy Hanks left the National Endowment for the Arts after having served 2 terms and a total of 8 years as its Chairman.

Mr. Speaker, as chairman of the Subcommittee on Select Education, with responsibility in the House of Representatives for legislation affecting the National Endowment for the Arts and as a long-time friend of Nancy Hanks, I should like to take this opportunity to pay her warm tribute for the outstanding contribution she has made to the enrichment of our Nation's cultural life.

Nancy Hanks leaves an impressive legacy. When she became Chairman of the Endowment in 1969, it was a fledgling agency with a budget of only $12 million. It made 711 grants in that year. This year the National Arts Endowment has a budget of $114 million and will make over 5,000 grants. This remarkable growth is in large measure due to Nancy Hanks' skill and commitment as an advocate for the arts.

But, Mr. Speaker, the numerical guideposts only begin to tell the story of Nancy Hanks' impact on American cultural life. The arts are flourishing across the Nation at the grassroots. Under Nancy Hanks' leadership the Endowment has made our cultural resources available to an ever increasing number of Americans. Arts activities supported by the Endowment have generated enthusiasm and understanding for the arts throughout the United States. In addition, the Arts Endowment has forged a strong partnership between the Federal Government and the arts councils in each of the States.

Perhaps Nancy Hanks' most significant achievement is that she has helped to make the arts more popular without encouraging mediocrity. She has never lost sight of the importance of both making the arts available to more Americans while at the same time nurturing artistic excellence.

Nancy Hanks leaves the National Endowment for the Arts on a strong foundation as an institution. But her contribution to America will live most enduringly in the smiles of delight of young children hearing "Peter and the Wolf," the rapture of audiences at "Swan Lake" and the tears, laughter, and reflectiveness of all those who are stirred by the arts. All Americans whose lives are touched by the arts owe Nancy Hanks a debt of appreciation.

Mr. Speaker, I am sure that in voicing my own personal regard and affection for Nancy Hanks, I speak for all my colleagues on both sides of the aisle who have come to know her.

And, Mr. Speaker, I am confident that whatever Nancy Hanks now undertakes to do, she will carry with her the lasting gratitude of us all.

PRIVACY LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KOCH) is recognized for 10 minutes.

Mr. KOCH. Mr. Speaker, I join Representative BARRY GOLDWATER, JR., today in introducing the last two bills implementing the recommendations of the Privacy Protection Study Commission. As we stated when introducing the previous 10 bills on July 13, 1977, neither of us believe the precise language to be sacrosanct. Rather we see these bills as containing the fundamental ideas and providing a focus for national and congressional discussion and debate.

I would like to provide a brief description of the Federal and Information and Privacy Board Act of 1978 to complement Representative GOLDWATER'S description of the bill on educational records and privacy. In addition I have a few comments on H.R. 8285, which was incorrectly described on July 13, 1977, and on a slightly amended version of H.R. 8283 that we are reintroducing today.

The Federal Information and Privacy Board Act of 1978 establishes the Federal Information Practices Board, FIPB for short, to review and report on fair information and privacy practices of governmental and nongovernmental entities. The Board will consist of five fulltime members, appointed by the President and approved by the Senate, who may serve only one 4-year term; the Board should include persons knowledgeable in law enforcement, business, computer and communications technology, civil rights and liberties, and information security. Besides these five members and an executive director and a general counsel, the Board's staff may consist of no more than 50 persons.

One of the Board's main functions will be to continually review the effect of governmental and business information practices on individuals' and their privacy. Specifically the Board will monitor compliance with Federal fair information practices laws such as the Privacy Act of 1974, the Freedom of Information Act, the Fair Credit Reporting Act, and others, as well as monitoring the privacy implications of transnational data flows, electronic funds transfer, criminal history information, and census activities.

The Board will assist individuals by providing them with a clear statement of their rights and remedies under the applicable law and by identifying the persons responsible for administering the law. In addition the Board may assist any requesting Federal agency in formulating rules and regulations, and the Board must be consulted prior to the publication of any proposed rule implementing a Federal fair information practices law.

An annual report must be submitted to the President and Congress reporting on the year's activities, reviewing new information technologies, and making recommendations for executive and legislative action.

To fulfill these functions the Board will have access to any information or data in the possession or control of any officer or entity of the Federal Government, regardless of any other provision of law, but the Board and its employees, once they have the information, will be subject to the restrictions on disclosure of the applicable laws. In addition to any penalties for improper disclosure under these laws, the Board's members and employees will be subject to a $5,000 fine and 2 years imprisonment for improper disclosure.

The right of access to federally maintained information is buttressed by subpena power and the ability of the Board to represent itself, except in the Supreme Court. Non-Federal information may be subpenaed only if a Federal officer or entity does not have the information in substantially the form sought by the Board.

Medical privacy is a subject of paramount importance to every American. The Congress and the administration came to realize this during the debate this summer and fall over H.R. 3. As a result of this debate the Department of Health, Education, and Welfare was prompted to do an intense study of the recommendations of the Privacy Protection Study Commission on medical records and privacy. This study generally supports the recommendations of the Privacy Commission.

The Privacy Commission recommendations were issued on July 13, 1977, and at that time Representative GOLDWATER and I introduced H.R. 8283. Dis-

cussions with HEW and the administration during the debate over H.R. 3 have led us to make some technical amendments and add some clarifying language. We hope that this revised bill will provide a focus for hearings and congressional action next spring. At this point I insert a detailed section-by-section analysis:

SECTION-BY SECTION ANALYSIS

Section 1181(a). A medical care institution to receive Title XVIII or Title XIX funds must:

(1) develop a plan in accordance with § 1182 to protect the privacy of all personal medical information in its possession;

(2) provide regular assurances of compliance, which

(3) surveys must be available for public inspection.

(b)(1) "Medical-care institution" defined.

(2) "Personal medical information" defined.

Section 1182(a). PATIENT ACCESS.—

(1)(A) Individual or his responsible designee has a right to see, copy, and obtain a reasonable explanation.

(B) If institution determines inspection by individual would have an adverse effect, the institution may limit right to individual's responsible designee.

(2) Parent's have access rights except with respect to (A) venereal disease, (B) family planning or abortion, (C) alcohol or drug abuse, (D) mental health services "sought by or provided to" the minor.

(3) A reasonable fee, not to exceed fee charged insurers and other third parties, may be charged for copying only.

Section 1182(b). PATIENT ACCESS—Upon request for change institution must:

(1)(A) make the change, if it would make the information more accurate, relevant, timely, or complete, and

(B) notify any person, who previously received the info from the institution, designated by the individual;

(2)(A) inform individual of:

(i) refusal to change

(ii) reason for refusal

(iii) available appeals procedure;

(B) permit individual to file concise statement of his reasons for requesting change;

(C) provide concise statement to

(i) any person, who previously received the info, designated be the individual

(ii) any person receiving info after concise statement is filed

along with institution statement of why no change made.

Section 1182 (c). DISCLOSURE.—(1) Institution must provide written notice, upon creation of personal medical information, of (a) eight disclosures that may be made without express written authorization and (b) the right to see the accounting kept of most disclosures.

(2) Notice is required only once a year.

Section 1182(d)(1). Disclosure is limited to info "necessary to accomplish the purpose for which the inspection or disclosure is made."

(2) Disclosure limited to a properly identified individual whose "legitimate duties require use or inspection of specific information in the information."

Section 1182(e)(1). An express authorization is needed for disclosure except as specified in (e)(3), (e)(4), and (f).

(2) Institution may not require a blanket authorization as a precondition of entrance.

(3) Institution may notify appropriate officials of an individual's suspected violation of criminal law.

(4) Routine use for nurses, technicians, etc., to extent needed to fulfill function in providing medical care.

Section 1182(f)(1). CONSULTATION.—With permission of the individual.

(2) Compelling circumstances involving person's health and safety: institution must promptly

(A) notify individual or last known address of individual and

(B) accounting must be kept.

(3) Audits, evaluations, and biomedical and epidemiological research:

(A) Institution must determine, except in case of audits or evaluations:

(i) "disclosure in individually identifiable form does not violate any limitation under which the information was collected"

(ii) disclosure in individually identifiable form "is sufficiently necessary to perform the research project" and "the purpose of the research project is sufficiently important so as to warrant the risk of exposure of personal medical information to a person not expressly authorized to inspect it"

(iii) auditor or researcher will provide "adequate safeguards (including removal of individual identifiers)" against any redisclosure in individually identifiable form.

(B) Accounting must be kept, which includes what is disclosed, to whom, reasons for determination under (A)(ii), and the name of the audit or research project.

(4) Public reporting statutes: where required by law institution may report:

(A) vital statistical info

(B) diagnosis to public health authority or specific info to law enforcement authority but must promptly notify individual of such disclosures in an appropriate manner.

(5) Admission and health status information: only if:

(A) institution has provided notice to individual under (c)(1) and

(B) individual has not notified institution of an objection to disclosing the info.

(6) Lawful judicial or administrative process: institution must retain process with info and individual has right to inspect.

Section 1182(g). CONTENTS OF AUTHORIZATION FORM.

(1)(A) in writing and dated.

(B) signed by individual or lawfully authorized representative, except only minor may authorize disclosure of info relating to V.D., family planning or abortion, alcohol or drug abuse, mental health services sought by or provided to the minor.

(C) must be specific as to info to be disclosed, persons to whom disclosed, purpose for which disclosed, and period of time (not to exceed one year); if disclosure occurs, institution must retain authorization form with info and permit individual to inspect. Individual may revoke authorization at any time with respect to info not yet disclosed.

(2) Accounting must be kept with the authorization of:

(A) the date, nature, and purpose of each disclosure

(B) the person to whom disclosed with right of individual to inspect and copy.

(1)(3) Effective date of sections 1181 and 1182 is January 1, 1979.

Finally, Mr. Speaker, I wish to clarify what H.R. 8285, on commercial credit and privacy, does. It does not apply to commercial credit granting. It applies to commercial reporting services.

The bill implements the Privacy Commission's recommendations that where a credit grantor makes an adverse decision against a business based on information received from a commercial reporting service, the credit grantor must provide in writing to the business the name and address of the commercial reporting service. Then upon application by the business the commercial reporting service must allow the business to see and copy any information in the service's files on the business, except the identity of sources. The business has the right to a reinvestigation of disputed material, and if this does not resolve the dispute, the business may file a concise statement setting forth its view, which statement must be supplied with any subsequent report by the commercial reporting service. If inaccurate information is found and deleted, the business may require the commercial reporting service to report this to specifically designated persons who have received a report within the last 6 months.

This bill may more properly be known as the Small Businesses' Right to Due Process Act. Large businesses have no problem in obtaining credit or finding out what triggered an adverse decision. On the other hand small businesses lack sufficient economic clout and must be guaranteed the fundamental due process right to confront the adverse information. Only actual seeing and copying insures that this right may be effectively exercised.

DESIGN AND CONSTRUCTION DELAYS ON NUCLEAR POWER PLANTS

(Mr. PRICE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PRICE. Mr. Speaker, a review of the time it now takes to carry out a major construction project, such as a nuclear powerplant, with how long it took only a few decades ago is a very disturbing experience. Furthermore, comparing our design and construction leadtimes with those being experienced in other leading industrial nations further emphasizes the problem we have in staying competitive. Citing only a few examples from our nuclear weapons and nuclear power programs will quickly drive this point home:

The decision to build our first full-scale diffusion plant for enriching uranium was made late in 1943. At that time no one knew how to make the critical item of the process and plant—the barrier. In less than 3 years this plant was designed, built, and placed in operation. This is one of the largest production plants in the United States covering over 40 acres. This plant, which was built over 30 years ago, is still in daily operation.

The first commercial nuclear power station, the Shippingport Plant near Pittsburgh, Pa., was completed in less than 4 years. This plant, involving the first full-scale commercial application of nuclear power, was completed 20 years ago and is still in operation delivering energy to the electrical network.

What is the comparable situation today? Now it takes 10 years to build a duplicate of a nuclear powerplant of which dozens have been previously built. As the President said in his April 20 address to the Congress on the subject of energy,

It only takes 3 years to license, design and build a plant in a country such as Japan.

Fundamentally, this Nation cannot continue to tolerate such extended leadtimes with the price we have to pay for the loss of production and greatly increased financing costs attendant to such delays.

I would like to emphasize that the much shorter leadtimes involved in the past did not involve sacrifices of health and safety. These earlier plants are still being operated safely, with completely acceptable environmental effects.

Obviously, our ways must be changed. One area which requires streamlining is the licensing and regulatory area. The President recognized this and stated as his objective the goal of establishing reasonable licensing criteria. I certainly support him in his objective and have already provided the administration with specific comments and suggestions toward the attainment of this goal. We should have before us very soon a legislative proposal to streamline the licensing process for nuclear facilities.

We must all cooperate to cut out wasteful steps in the licensing process. Our growing dire need for energy and the need to cut down the enormous additional costs that come from delays must be accommodated to assure our continued security and welfare.

A very interesting and informative paper on the leadtimes for carrying out large and complex technical projects and construction plants has been prepared by a fine engineer and former staff member of the former Joint Congressional Committee on Atomic Energy, Mr. Ed Heller. This paper, which I am including at the end of my remarks, provides development, design, and construction times for major projects both in peacetime and wartime. It covers an assortment of projects ranging from the first iron warship, the *Monitor*, through the synthetic rubber plants of World War II and the first breeder reactor.

This data is pertinent to the energy problem we now face. As Ed comments in the opening paragraphs of his paper, once we make up our minds and agree on a plan to solve our growing energy dilemma, we must design and build the energy generating facilities to supplement and replace our depleting sources of energy fuels. As Ed further comments, the history of past first-of-a-kind projects provides us a guide for what can be done to get the plants on the line. For this reason, I commend Ed Heller's paper, which follows, to the attention of all of my colleagues:

THE GOOD OLD DAYS

(By Edward Heller)

As America watches the door close on the age of cheap fuel and enters a decade of shortages and high cost energy, there is heated debate in public and private circles. Dozens of plans are advocated to solve the problem. Each has its advocates and detractors. Unfortunately, words do not substitute for fuel; and we must eventually turn to the construction of new energy facilities to replace our depleted oil and gas supplies. Uranium and coal are two great sources available to fill the gap in this century.

As to the time it will take us to reach a decision on a national plan to solve our energy problem, history is no guide. But on the question of how long it will take to carry out the construction and get the plants on line, it is interesting to recall the time required for a wide variety of major projects undertaken within the last century. Most were the first of a kind. Many involved major public policy decisions. All reflect a great credit on the skill and daring of their builders. As such, they indicate what could be done to solve the present energy problems given a similar urgency and determination.

WORLD WAR II

World War II provided the type of incentive needed to get the United States to fully extend its technical capabilities. In the thirties the country drifted through the great depression, and many people lost faith in the ability of the United States to take great forward strides. However, faced with a direct threat to the existence of the country, the nation rose to the challenge. Our mottoes became: 1. "The difficult we do immediately, but the impossible takes a little longer," and 2. "Behold the turtle. He only makes progress when his neck is out." In three years we had raised and superbly equipped a fighting force of twelve million men, and were fighting in Europe and Asia on a vast scale, supplying not only our own troops but a major portion of our allies' needs throughout the world.

THE SYNTHETIC RUBBER PROGRAM

Up until World War II, U.S. industry looked to Southeast Asia for its entire supply of rubber. Synthetic rubber was a small specialty product representing about two percent of our rubber uses. After the war broke out in Europe in 1939, knowledgeable people in the United States Government and in industry began to worry about the fact that 90 percent of the world's rubber supply was concentrated in one small area half a world away. By the summer of 1940, plans to stockpile 100,000 tons of natural rubber were activated and a government program to build 100,000 tons per year of synthetic rubber plant capacity was developed. A year later, the government's goal was cutback to 40,000 tons and industry started to build 30,000 tons per year of synthetic rubber capacity.

The Pearl Harbor disaster occurred on December 7, 1941, and in the face of a Japanese threat to cut the United States off from natural rubber, the United States synthetic rubber goal was increased ten fold to 400,000 tons of annual capacity. With the fall of Singapore on February 15, and the capture of all of Southeast Asia by Japan on March 2, 1942 the natural rubber embargo became total and the United States Government raised its synthetic rubber capacity goal to 800,000 tons per year. On August 6, 1942, in an effort to speed up the program, President Roosevelt appointed Bernard M. Baruch to be Chairman of the Rubber Survey Committee and charged him with recommending steps to conserve rubber and speed up the synthetic rubber construction program.

A month later the committee made its report and its recommendations were put immediately into effect. There was strict rationing of gasoline and tires, and a 35 mile per hour national speed limit to conserve oil and natural rubber. To speed up the plant construction plan, they recommended the consolidation of all government and industry programs under one head. Bradley Dewey, a hard-nosed chemical company president, became the rubber director at the War Production Board in September, 1942. By the spring of 1945, forty-nine companies had completed 51 synthetic plants in nine states with a total capacity of 1,000,000 tons of synthetic rubber per year.

The following table tells the story better than words:

United States synthetic rubber production

[In tons]

1939	1,700
1940	2,500
1941	8,000
1942	22,000
1943	240,000
1944	800,000
1945	870,000
1946	790,000

THE ATOMIC BOMB PROJECT

The Atomic Bomb Project is a classic example of an all-out technical effort which was successful. When one realizes that less than seven years elapsed from the time that nuclear fission was discovered by the scientific community until two atomic bombs were used to bring about the surrender of Japan, the dimension of this success story becomes obvious. In a word, from fission to "bang," it took six years and seven months.

MANHATTAN ENGINEER DISTRICT

Scientific interest in and study of the possibility of making a uranium bomb or power plant began in the spring of 1939 among a small group of foreign scientists working in the United States. This interest was triggered by the discovery of uranium fission in January, 1939. The matter was brought to President Roosevelt's attention in the fall of 1939 and he set up the Uranium Committee which included university scientists, military representatives, and government scientists. This group came under the National Defense Research Council in 1940, and the scientific work continued to grow, financed by the military and the National Research Council.

After Pearl Harbor, the effort was greatly increased and in the fall of 1942, the Manhattan Engineer District was set up to produce the atomic bomb. General Leslie R. Groves was placed in charge of the Manhattan Engineer District, on September 17, 1942 and immediately the pace of the project accelerated greatly.

OAK RIDGE

On September 19, General Groves ordered the acquisition of the Oak Ridge site for the construction of plants to produce U–235, a fissionable material. Four facilities were built at Oak Ridge: (1) The X10 Pile to serve as a pilot plant for the Hanford Reactors and chemical recovery plants. (2) The Y–12 Electromagnetic Separation plant for separating U–235 from natural uranium. (3) The K–25 Gaseous Diffusion plant for separating U–235 from natural uranium. (4) S–50 the Thermal Diffusion plant for slightly enriching a natural uranium feed in the U–235 isotope. This slightly enriched material was then fed to the electromagnetic separation plant. Oak Ridge was a typical backwoods area in Eastern Tennessee. Roads, utilities, and a town had to be provided in order to build and operate the plants. Three years later all these production facilities and a large research facility were in operation, several bombs had been supplied with U–235, and two had been used to end the war with Japan.

X10 PILE COMPLEX

February 2, 1943 construction started at the X10 site. X10 is a large air-cooled pile designed to produce plutonium. It included a chemical plant designed to separate pure plutonium from the irradiated natural uranium slugs. A graphite fabrication plant completed the facility. X10 was the semi-works for the Hanford Works to be built by DuPont. By November 4, 1943 the pile went critical and several days later was at full power some nine months after the start of construction. By December 20, the first batch of slugs went to the separation plant, and by March 1, gram quantities of Pu were being delivered.

Y–12 THE ELECTROMAGNETIC SEPARATION PLANT

The Electromagnetic Separation Plant design was developed by E. O. Lawrence at the Berkeley campus of the University of California in 1941 and 1942. On November 5, 1942 General Groves authorized construction of a plant to produce U–235 by this method at Oak Ridge, Tennessee. Design of the first units was immediately frozen and ground was broken February 18, 1943. By November, 1943 the first units started operation. Four months later the first shipment of bomb grade U–235 was made to Los Alamos. The U–235 used in the early bombs all came from Y–12. These units were the first production accelerators ever built and there was a strong body of scientific opinion which stated that

they would never produce a gram of product. "Doubting Thomases" are a hardy breed and no project is without them.

K–25 GASEOUS DIFFUSION PLANT

On December 10, 1942 the decision was made to build a full scale gaseous diffusion plant at Oak Ridge although no one knew how to produce an acceptable barrier material at the time. Without acceptable barrier material, the process would not work, and it was late in 1944 before barrier production was successful.

The first nine months of 1943 were spent in designing the plant; and in September, construction started. By April, 1944 the first six stages were ready for test. By August, 1945 the plant was complete. Thus, one of the country's largest product facilities, covering some 46 acres and using an untried process, was designed, built, and put into operation in less than three years. K–25 is still in daily operation 30 years later supplying fuel for nuclear power plants throughout the world.

K–27

The K–27 plant was authorized in March, 1945, and went on-stream in February, 1946. This plant was designed to increase capacity in the lower stages of K–25 and was built in ten months at the end of World War II.

S–50 THERMAL DIFFUSION PLANT

This plant was designed to produce low enrichment U–235 to feed to Y–12 in an effort to increase output at Y–12. The contract for the plant was let in late June, 1944, with a 120–day completion date. Production began in late October on schedule. This plant operated for 10 months, but did not prove economically competitive with K–25 so it was shut down in September, 1945, after the Japanese surrendered. Soon thereafter, it was dismantled.

HANFORD

In order to increase the chances of success of the bomb production program, General Groves decided to put into effect the proposal of the Office of Scientific Research and Development to build a plutonium production facility. This gave the bomb project two sources of fissionable material, U–235 from X–12 and K–25, and plutonium from the piles at Hanford. Because of the hazards of plutonium, General Groves decided to place the facility to produce it at a remote site in the West.

In December, 1942, a team of Army and DuPont engineers toured the West Coast looking for sites for the plutonium production facilities. This data was reviewed in late January by General Groves and Colonel Nichols at the DuPont offices where design work on the facility was underway. On February 22, orders were issued to acquire the 500,000-acre Hanford, Washington site. Early in April, 1943 work started on B pile area. One year later B pile was completed in August, 1944, followed by D pile in mid-December, 1944, and F pile in February, 1945. The time required from start of initial fuel loading of B pile, the world's first production reactor, to full power operation was two weeks. Dr. Enrico Fermi personally directed the operation.

The Hanford complex, like the Oak Ridge complex, involved starting with a raw desert area of 500,000 acres. A town site with roads and utilities to house 25,000 workers was built, and a fuel slug canning facility was built and debugged. Three 1000 MWt graphite water cooled production piles were built in fourteen months elapsed time. The piles included three water works with a total capacity capable of serving a city of 1,000,000 people with an extremely pure product. Three large separation buildings were built and equipped to separate the plutonium from irradiated slugs produced in the piles.

None of the processes had been fully proven when construction started. The original Fermi pile at Stagg Field in Chicago went critical on December 2, 1942, and the X–10 pile went critical on November 4, 1943 one month after site work on B pile at Hanford got underway and 11 months after Fermi's classic experiment. The total elapsed time for the Hanford project from the start of site acquisition to full production was three years. As the No. 1 slogan indicated, "the impossible took a little longer."

ATOMIC ENERGY COMMISSION PROGRAM

After a long and searching debate, Congress approved the Atomic Energy Act of 1946; and on August 1, 1946, President Truman signed it into law. This law transferred all research and production concerning fission from military to civilian control. Five civilian commissioners took over from General Groves and a Joint Congressional Committee on Atomic Energy was set up to act as a watch dog for the nuclear energy effort of the nation. The new AEC officially took over on January 1, 1974.

HANFORD

Reactors

By the summer of 1947 the AEC realized the production piles at Hanford were having difficulty due to swelling of the graphite, and it was decided to replace D pile with a new pile to be called DR.

In February, 1948 work started on the DR reactor. This pile was completed in March, 1949 or in a little over one year.

To provide more Pu to meet military requirements, the new H reactor complex started construction in March, 1948, and was completed in approximately 18 months or the summer of 1949. The C reactor complex was started June 6, 1951, and began operation November 4, 1952. It is interesting to note that the three original piles were extensively rebuilt in the early fifties and continued in operation for many years. The D reactor was finally decommissioned in December, 1970, or 26 years after start-up.

Redox

The original chemical separation plants at Hanford used a chemical process which produced pure plutonium but left the uranium and fission products mixed together as a waste product. The Redox process, which was originally designed by Dr. Glenn Seaborg in 1944, had been fully developed by GE at Hanford; and with the uranium ore shortage of 1949, it was decided to build the Redox process which would separate Pu and uranium chemically and extract the fission products from the uranium by a solvent extraction process. Construction of the Redox plant was started early in 1950 and production started in August, 1951, 18 months later. The process operated well from the start. The Redox Plant is a canyon building 450 feet long with a silo 13 stories high at one end.

Oak Ridge—Paducah and Portsmouth

Expansion at Oak Ridge picked up steam rapidly after the first Soviet weapon test August 29, 1949. K29 and K31 doubled the production capacity of Oak Ridge when K31 went into operation in December, 1951.

Based on the new Russian nuclear capability and the U.S. experience in the Korean War, the military greatly increased their weapons requirements in 1952 and the President and Congress ordered a major increase in AEC production capacity. The K33 plant at Oak Ridge, the Paducah and Portsmouth plants, which operate in tandem with Oak Ridge are all part of the U235 production complex.

The Paducah, Kentucky site was an Army Arsenal closed after World War II. From start of construction to full operation required three years and nine months. At the same time a giant electric power plant to supply Paducah was being built by the industry just across the river in Indiana. The Portsmouth, Ohio plant was built on a new site in Southern Ohio in 1952. This huge plant was completed in three years and eight months under peacetime conditions. Today we estimate seven to ten years to build a gaseous diffusion plant, an interesting commentary on 1952 versus 1975.

Savannah River

To expand plutonium production, the AEC decided in addition to building new reactors at Hanford, to build a new reactor facility. Savannah River, South Carolina was chosen as the site. Five production reactors chemical separation facilities, a fuel element plant and laboratory research buildings were built on a 240,000 acre site on the Savannah River between Aiken and Barnwell, South Carolina. This facility was designed, built, and is operated by the DuPont Company. DuPont accepted this assignment at the written request of President Truman dated July 25, 1950, and after obtaining approval of the Joint Committee on Atomic Energy for the use of the standard DuPont salary and personnel policies. The AEC and DuPont signed a letter contract October 17, 1950. For technical assistance in designing the reactors, DuPont worked closely with Walter Zinn and the Argonne National Laboratory. Construction started in January, 1951, and all five reactors were in production by July, 1956, five and a half years after the start of construction. The plant cost well in excess of one billion—1950 dollars and employed 25,000 at its peak.

Brookhaven Research Reactor Complex

In January, 1947, the AEC voted to build a research reactor of the X10 type and a hot laboratory to be located at a deactivated Army Camp at Brookhaven, Long Island, New York. The laboratory was to be operated by Associated Universities, a corporation of nine universities in the Northeast. By August 11, 1947, design of the reactor and hot lab had progressed to the point where construction started. The facility was completed in August, 1950 a period of three years. Engineering design and construction were carried out by the H. K. Ferguson Company under contract with the AEC. The reactor complex forms the heart of the Brookhaven National Laboratory.

Experimental breeder reactor I

On November 10, 1948, the AEC approved Dr. Walter Zinn's proposal to design and build an experimental breeder reactor for the generation of electric power. Zinn and his staff at Argonne had been working on this design since 1946. By the fall of 1949, the Idaho test site had been selected and construction on EBR–I got under way in November. Bechtel finished the construction on the building April 10, 1951. Installation of the sodium potassium heat exchange system and the reactor started immediately. The approach to criticality started in late May. The plant reached full power generation of 45KW December 20, 1951. For a period of time in 1952, EBR–I supplied some electric power to the little town of Arco, Idaho, adjacent to the test site. Thus, the world's first successful power breeder reactor was built in 19 months and required only seven months to reach full power. All this during normal times and without high priority or military urgency.

Nuclear submarine Nautilus

Work on a submarine power plant got under way in a small way at Argonne National Laboratory in the summer of 1948. On October 19, 1948, the commission approved the Navy-Argonne submarine program. On December 10, 1948, Westinghouse signed a contract with the Navy and the AEC to undertake the construction of a thermal submarine reactor propulsion plant. By 1950, work on the land based prototype was under way at Idaho. The keel of the submarine Nautilus, the world's first nuclear powered

submarine, was laid by President Truman at Groton, Connecticut, June 14, 1952. On January 17, 1955, Admiral Rickover was able to report the Nautilus was "under way on nuclear power." The total elapsed time for this project from conception to sea trials was 6½ years, thereby meeting the Navy's original goal set in 1948.

Earlier milestones

Lest one conclude that the rapid design and building of machines and facilities based on new technologies was unique to the 1940–1955 period, a few accomplishments of the past 100 years are described in the following paragraphs. The history of the United States contains literally hundreds of such examples.

Some Pre-World War II Projects:

U.S.S. Monitor—1861

This vessel, the first of a new breed of iron warship in the U.S. Navy, was designed and built in five months at Brooklyn, New York, in 1861–1862 by John Ericsson. Following fifteen days of sea trials, it sailed on March 6, for Newport News, Virginia, with three escorts and arrived March 8th. Next morning it fought its famous battle in Hampton Roads and saved the Union Fleet. Its success silenced its critics and changed naval warfare.

Armored river gun boats—1861

James B. Eads contracted to build for the Union Navy seven river gun boats equipped with suitable armor at a cost of $89,000 each in the fall of 1861. The first boat was delivered fully equipped and ready for combat in 69 days. The rest followed at seven day intervals. These boats were a major factor in General Grant's successful campaign to open the Mississippi River and seal the fate of the Confederacy.

The Brooklyn Bridge—1870

The bridge was authorized by the New York State Legislature in 1867. Work started in June, 1869. The two stone towers were completed by July, 1876. The cable spinning was completed in 26 months and the bridge opened on May 24, 1883. At the time of its opening, it was considered one of the eight wonders of the world. It employed the first deep caisson foundations, the first steel cables, and by far, the greatest span up to that date. It is still in daily use with its original towers and cables.

Hoover Dam—1928

Congress authorized the project in the spring of 1928. Fixed price bids were received by the Bureau of Reclamation on March 4, 1931, and the award was made to the Six Companies on April 20, 1931. The price was $49 million. Work started May 12, 1931, and was completed in September, 1936, well ahead of schedule. It included construction of a railroad and a highway to the remote site; a town to house the construction workers, and later the operating personnel; four huge diversion tunnels to handle the maximum flow of the Colorado River, and what was at that time the world's largest concrete arch dam and power house. As a construction first, it ranks with the Brooklyn Bridge and the Manhattan Engineer District in World War II. Not only was the work finished ahead of schedule, but the job was very profitable to the builders.

CONCLUSIONS

The energy crisis of 1975, like the atomic race and the Civil and World Wars, presents a great challenge to the people of the United States. With a 30-year supply of oil, a 60-year supply of shale oil, a 120-year supply of coal and a 20–1000-year supply of uranium, not to mention the possibilities of fusion power and solar power, we have the means and the know how to assure our children an adequate supply of energy. Time is marching on, however, and if we do not mount a major effort on an urgent basis, our economy could well be crippled by a too little, too late solution. Certainly, if we wait to answer the worries of all "Doubting Thomases", our children and our children's children will pay a high price for our lack of foresight. Compared with our resources and technical skill, developing the will to do the job should be easy. We have but to decide that we want to have an ample supply of energy for the next 100 years and get to work to assure it. In doing it we will have done no more than our fathers and forefathers did in their day.

JUDI ANN MASON, LOUISIANA PLAYWRIGHT—A SOUTHERNER AND PROUD OF IT

(Mr. WAGGONNER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. WAGGONNER. Mr. Speaker, contributions to American literature by Southern writers have enriched the world with a unique perspective since the earliest days of the Republic. The South has always been a source of inspiration to playwrights, poets, and novelists. Louisiana can point with pride to such writers as George Washington Cable, Kate Chopin, Lafcadio Hearn, Lyle Saxon, Shirley Ann Grau, and many, many more who have added their stories, books, and plays to the world of literature.

Louisiana's rich heritage has left a lasting impression on many writers who lived there during their formative years, such as Tennessee Williams, William Faulkner, and Truman Capote.

I am proud to say that another Louisianian has joined the ranks of American writers who have drawn on their backgrounds in the Bayou State as a source of inspiration. Miss Judi Ann Mason of Bossier City is a prize-winning playwright whose play, "A Star Ain't Nothin' But a Hole in Heaven," opens this week at the Back Alley Studio in Washington. It was twice winner of the American College Theater Festival. She is currently working as a staff writer for Norman Lear's hit television comedy series, "Good Times."

Not only is Miss Mason a southerner, but she is proud of that fact and does not hesitate to let the world know she takes pride in her heritage. As a fellow southerner, it was with a great deal of understanding that I read Miss Mason's article entitled, "I Don't Wish I Were in Dixie, But I Do Wish You Would Leave Dixie Alone," in the October issue of Glamour magazine. In this very personal statement of pride in her region, background and cultural heritage, Miss Mason eloquently expresses situations that many southerners who leave the South have also faced, an unfortunate lack of understanding by peoples of other regions about the South:

I seem to spend most of my time explaining that my reason for coming to this city was not out of destitution, fear or contempt for the South. There were no hooded Klansmen chasing me to the airport, I didn't leave an overweight mammy crying by the steps of an old, wooden church, and yes, they do sell the same magazines back home that grace the newsstands here.

I have been begged for morbid stories of racial prejudice. You know, the ones about how I worked from sunup to sundown in the sugarcane fields only to be given a buffalo nickel for my hard work. And the look of sheer amazement when I speak—void of the long, drawn-out twang expected of most southerners.

When Judi Ann Mason says, "I am a full-blooded southerner and I am mighty proud of it, too," she sounds a familiar note for many people from the South. Her views of her native region are not simply blind allegiance. She looks beyond the faults and shortcomings to find something greater in the South. She says:

True southerners, though our number is small, take pride in the lifestyle we left behind. Our reasons for leaving have much more to do with professional curiosity than with escapism. I left Louisiana with an open mind. I came ready to walk among the Romans and do what the Romans do. But that doesn't mean I'll forsake my southern heritage in the process.

The people of the Fourth District of Louisiana and the South have an outstanding ambassador of goodwill in this talented, outspoken young lady. She is a true daughter of the South.

I include the full text of Miss Mason's article following my remarks.

I DON'T WISH I WERE IN DIXIE, BUT I DO WISH YOU WOULD LEAVE DIXIE ALONE

(By Judi Ann Mason)

I am from Louisiana—complete with pelicans, magnolia trees, swamps, bayous, creole cooking, voodoo, jazz and Mardi Gras. I was born in Shreveport, reared in Bossier City, attended college in Grambling and was baptized (wasn't everybody?) in a muddy river on a bright Sunday morning in Elm Grove.

Does that make me immune to the intelligence, brightness and swift thinking accredited to my northeastern counterparts? Most of the people I have met in New York City seem to think so. I won't say it has angered me—yet. But I have thought of climbing a Manhattan skyscraper, hooking up a loudspeaker and yelling to the world, "Yes, yes, yes, I am a full-blooded southerner and I'm mighty proud of it, too!"

I seem to spend most of my time explaining that my reason for coming to this city was not out of destitution, fear or contempt for the South. There were no hooded Klansmen chasing me to the airport, I didn't leave an overweight mammy crying by the steps of an old, wooden church, and yes, they do sell the same magazines back home that grace the newsstands here.

I have been begged for morbid stories of racial prejudice. You know, the ones about how I worked from sunup to sundown in the sugarcane fields only to be given a buffalo nickel for my hard work. And the look of sheer amazement when I speak—void of the long, drawn-out twang expected of most southerners. It seems as though I have robbed them of the ultimate thrill, the southern drawl, ya'll. I feel like a leper every time I deprive someone of the chance to ask, "You're from the South, aren't you?" I don't hide my accent, nor have I tried to change it, but it gets tiring being asked to repeat myself because of all the accents up *here*.

On one occasion recently, a woman asked my opinion of the cuisine of this city in comparison to the "dull, unimaginative meals" of the South. And one man friend insisted I could break down a jammed door because I was accustomed to lifting bales of hay when I was "down on the farm." Imagine!

To set the record straight, I think the simple originality of southern dishes is delectable to the most exotic palates, and I've never in my life lifted any hay or lived down on a farm (although I've picked cotton in

my day, which is considerably lighter). My town of fifty-four thousand might seem small, but the last time I checked, the people there breathe air, eat three meals a day and use keys to open doors like other normal Americans.

A large portion of the bias has come from other southerners who have chosen to shove their south-of-the-Mason-Dixon skeletons into the closet. These are the ones who insist that no one eats red beans and rice except me and the "folks down home." Cute statements meant to be hints ("when my family left North Carolina, we left everything in the South *in* the South") are thrown into conversation unsparingly. According to most, we have no legitimate theaters or museums within those great southern hills.

The fact that President Carter hails from the South should be an indication that we grow more than peanuts and sugarcane. There are writers, actors, teachers, electricians, doctors, lawyers, engineers, interior designers and musicians. No lids are put on our learning capacities either. I can read, for heaven's sake, and as long as there was a library, I had the knowledge of the universe at my disposal (that's how I learned about astronomy). And contrary to what you may think, when Walter Cronkite says, "And that's the way it is, October 1, 1977," believe me, it's not July 10, 1965 in the South.

I left Louisiana with an open mind. I had a few preconceived notions about New York, but I have never forced them on native New Yorkers. I came ready to walk among the Romans and do what the Romans do. But that doesn't mean I'll forsake my southern heritage in the process.

Spare me the sarcastic remarks about how slowly I talk—it's called enunciation in most places. Don't preach to me about my love for meat and potatoes—when I was growing up, it was a blessing to have them.

True southerners, though our number is small, take pride in the lifestyle we left behind. Our reasons for leaving have much more to do with professional curiosity than with escapism. My less glamorous background has proven to be quite an advantage in this bustling environment. I'm watching, listening and waiting. Give me a chance, my eastern and northern friends, and I promise you, one day I shall overcome my ignorance of modern city life, and I'll "shaine foath laik the settin' sun ovuh the aidge of the bayou jest norf of the Swanee rivuh, suguh pie."

"BIG SPENDERS!"

(Mr. DEVINE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DEVINE. Mr. Speaker, U.S. News & World Report several weeks ago saw fit to reprint an excellent commentary by Warren T. Brookes written in the Boston Herald American.

The message is of such quality I feel it should be included in the RECORD and perhaps some of our wild, radical big spenders might just possibly stop to think what they are doing to our once great country.

THINK "POSITIVE"?

During the past few years, it has become fashionable in the media, generally, to refer to any politician who votes against major spending programs as "negative," or "lacking in compassion."

Similarly, politicians who regularly vote for vast government social enterprises are regarded as "positive" or "compassionate" or "liberal" (i.e. "for the people").

What is "positive" about a government that runs annual deficits of over 50 billion dollars—and prints money to finance them?

What is "positive" or "compassionate" about a constant inflation rate of nearly 7 per cent—a rate at which half of your life savings are destroyed every 10 to 12 years?

What is "positive" about a government whose regulations now cost consumers more than 100 billion dollars a year?

What is "positive" about government health programs that have singlehandedly driven the nation's spending on health care from 5 per cent of the GNP to nearly 9 per cent, in just 10 years?

What is "positive" or "liberal" about a Social Security System that is now taking more from the taxpayers than they can ever get back—and is still going bankrupt?

What is "positive" about a public education system that now spends over $1,500 a year per student—and doesn't teach them how to read, write, or do arithmetic?

What is "positive" or "compassionate" about a welfare system that is turning millions of Americans into helpless wards of the state, and encouraging millions of others to choose dependency instead of work?

What is "positive" about a government whose total accumulated long-term debt and obligations are over 5 trillion dollars—more than the total worth of the economy?

What is "positive" about a government energy policy that succeeds only in putting millions of people out of heat and work in the middle of a severe winter?

What is "positive" about more than 4 billion dollars in known welfare abuse, error and fraud?

What is "positive" about a nation where there are nearly 85 full-time dependents or employes of government for every 100 productive private taxpayers?

What is "positive" or "compassionate" about government housing and urban-development programs that have only accelerated urban decay, and isolated the poor in bleak warehouses?

What is "positive" about a government which is printing money at a rate more than twice as fast as the nation's economy is growing?

What is "positive" or "liberal" about asking government bureaucrats to make decisions for you, which you are better able to make for yourself—and at much lower cost?

What is "positive" about government policies that first create energy shortages, and then demand billions in new taxes to "solve" them, that creat a crisis, and demand even more power and control to "alleviate" it?

In short, what is "positive" or "compassionate" or "liberal" about big government, with all its trappings of bureaucratic power, waste and arrogance, with all its constant threats to individual freedom, privacy and expression?

We think we know what Thomas Jefferson would have said to these rhetorical questions. In 1801 he wrote:

"Every man wishes to pursue his occupation and to enjoy the fruits of this labors and the produce of his property in peace and safety, and with the least possible expense. When these things are accomplished, all the objects for which government ought to be established are answered."

LAW AND HUMAN RIGHTS IN THE SOVIET UNION

(Mr. FASCELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. FASCELL. Mr. Speaker, as the Belgrade Conference to discuss implementation of the Helsinki accord was opening a month ago, the U.S.S.R. Supreme Soviet was adopting a new constitution, whose authors laid stress on the document's guarantees of human rights. President Brezhnev, for example, told the body which adopted the constitution unanimously that—

The critics of the new Soviet constitution have found themselves in an unenviable position. They cannot escape the fact that the draft Soviet constitution defines the social, economic and political rights and freedoms of citizens and the specific guarantees of these rights more widely, clearly and fully than ever and anywhere else.

All of us, I believe, can share the hope that those "definitions" will prove to be more than words on paper. Recently, however, I received a communication from one renowned critic, Vladimir Bukovsky, raising grave doubts about the actual impact of the new constitution on civil and political liberties. Mr. Bukovsky, who has more than earned his credentials as an analyst of Soviet legality by spending 11 of his 34 years in Soviet prisons, camps, and mental institutions for breaking the law by speaking the truth, gave eloquent testimony to the Helsinki Commission last February on the need to press for "détente with a human face."

According to him, changes from the old to the new constitution "represent a clear defiance by the Soviet authorities of both the spirit and the letter of the Helsinki agreements." The thought-provoking analysis he sent me has appeared in several European papers and was published in the October 13, 1977, edition of the New York Review of Books. I believe all of us can benefit from reading the full text of his appeal:

AN APPEAL TO THE HEADS OF STATE AND GOVERNMENT OF THE 35 COUNTRIES THAT SIGNED THE HELSINKI AGREEMENTS

(By Vladimir Bukovsky)

As the representative abroad of the Soviet Committee to monitor the fulfillment of the Helsinki Agreements, and as a citizen of the USSR, I regard it as my duty to draw attention to the violation of the Human Rights of the Soviet citizen which is the intention of the Soviet leadership under the recently published new Soviet Constitution. If ratified as expected toward the end of this year, it will be tantamount to a coup d'état.

The new Soviet Constitution under Articles Two and Six openly formulates and institutionalizes the dictatorship of the Communist Party—neither elected by the people nor accountable to any elected Parliament—as the organ of power. For the first time it is openly stated that the Communist Party from now on shall determine "the general long-term development of society, and the foreign and domestic policy lines of the USSR." Article Forty-four of the published Constitution places outside the law all citizens whose political convictions diverge from the general lines of the Communist Party. These citizens are thereby excluded from the principle that all citizens are equal before the law. Moreover, although the same Article provides for equality before the law for all citizens regardless of their attitude to religion, the freedom to practice that religion is not written into the Constitution and therefore could be held to place such citizens also outside the law.

Under Article Twelve any citizens who, acting in accordance with their political or religious convictions, are held to have used their property or personal possessions to harm the interests of society (as defined by the Com-

munist Party) will have their property and possessions seized by the State. For the first time under Article Sixty-six the compulsory education of children in Communist doctrine is established with a penalty that can include the removal of children from their parents in the event of noncompliance. At the same time Article Twenty-five establishes a single system of education throughout the country for the declared purpose not of improving education but for the "inculcation of Communism." Article Thirty-nine automatically deprives all dissenting citizens of their Human Rights and Liberties, in so far as the use of such rights is judged to be detrimental to the interests of Communist society. The threat to the rights of Soviet citizens contained in Article Fifty-nine is particularly menacing for, under this, anyone who in the view of the Communist Party fails to "bear with dignity the high calling of citizen of the USSR" is to be deprived of his constitutional liberties.

Under Articles Forty-six and Forty-seven scientific, technical, and artistic work is only permitted if it is judged to be in accordance with the aims of Communism and—in defiance of international treaties and agreements—all sources of education, information, and culture are held to be illegal, except those received within the framework of formal inter-State exchanges sanctioned by the Communist Party. Article Fifty-one forbids all social organizations whose aims are at variance with the construction of Communism, and Article Sixty-five imposes police duties on all Soviet citizens. In order to make more severe the persecution of people who send abroad truthful information about injustices within the USSR, the Soviet leadership proposes to amend the Constitution under Article Sixty-two to enable them to treat all actions regarded as undermining the authority of the USSR as state treason. State treason is punishable by death in the Soviet Union. In defiance of international agreements, Article Thirteen does not exclude the use of forced labor.

The majority of these provisions, though carried out de facto and in defiance of the Russian Constitution, never formed part of it. The fact that they did not gave dissenters in the USSR a clear-cut position on Human Rights, and this position was reinforced by the creation of a Civil Rights Movement in support of the Constitution, which allowed dissenters to remain citizens of the USSR. Thus, under the old Constitution, the reprisals carried out by the Soviet authorities against Civil Rights campaigners were unconstitutional.

Evidently it has been a paramount aim of the Soviet leadership to strip Soviet citizens of all constitutional and legal bases for any dissent or variance from the line laid down by the Communist Party. The new draft Constitution, by creating a constitutional coup d'etat and by the formal usurpation of authority by the Communist Party, makes it legally impossible for those citizens of the USSR who are non-Communist by conviction to retain their citizenship. Consequently, if the new Constitution is ratified in its present form, I shall be obliged to renounce my citizenship of the USSR.

These moves represent a clear defiance by the Soviet authorities of both the spirit and the letter of the Helsinki Agreements. Far from extending Human Rights within the Soviet Union as was undertaken by Mr. Brezhnev at Helsinki, the citizens of the Soviet Union are now to be openly stripped of rights that had previously been theirs, though the enjoyment of them was restricted. I appeal to all the signatory governments of the Helsinki Agreements, in the name of my comrades still behind barbed wire and deprived of all voice, to condemn this flagrant action by the Soviet leadership against the Human Rights of the 250 million citizens of the USSR. These countries should also take note that the new Soviet Constitution threatens not only the citizens of the Soviet Union, but every country in the world, for under Article Twenty-eight Soviet foreign policy is defined as an instrument for interference in the internal affairs of other states on the side of "the forces of world Socialism."

THE STATE OF SCHOOL FINANCING

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PERKINS. Mr. Speaker, the House Subcommittee on Elementary, Secondary, and Vocational Education conducted several days of hearings in September on the state of school financing throughout the country. During those hearings two general conclusions were reached by almost all the witnesses.

The first conclusion is that wide disparities in spending among school districts within States still exist, and that these disparities are growing instead of lessening. The other conclusion is that the Federal Government must make some effort if States are to succeed in reducing these disparities. Regarding the second conclusion, the witnesses suggested a wide range of options, including those which involve almost no Federal expenditures (such as requiring the publication annually of statistics showing the variations in spending among school districts in States) and other which involve the expenditure of many billions of Federal funds to assist in decreasing these disparities.

For the information of the members and the general public, I would like to include in the CONGRESSIONAL RECORD today a chart which was supplied by the Education Commission of the States pursuant to a request made at those hearings. That chart shows the enormous differences existing among the States in the amounts which their school districts have available to them for education. In my own State of Kentucky for instance, 87.9 percent of the school districts in 1974–75 spent less than $900 a pupil while in other States no school district spent less than $1,100 a pupil; and in fact some States had almost a quarter of their school districts spending over $2,000 a pupil. The mean expenditure difference between Kentucky and the highest spending State was $675 in Kentucky as compared to $1,650, an almost 3-to-1 difference. And Kentucky is not the lowest State.

The table also shows the degree of variation within the States on their expenditures per pupil. For instance, in Colorado about 31 percent of the school districts spend less than $1,100 per pupil while 22 percent of the school districts spend $1,500 or more a pupil. In Utah 31.5 percent of the districts spend less than $900 a pupil and 27 percent of the districts spend more than $1,300 a pupil.

Perhaps even more distressing is the fact that this situation has not improved over the past few years, despite the efforts of many States to reform their school finance systems. Over the period of 1970–75, 20 States passed school reform legislation. Yet during this 5-year period, only 15 States showed clear evidence of reduced disparities between the highest and the lowest spending districts. Indeed, in 19 States, there is no clear evidence of change in these disparities, and in 15 States these disparities actually increased. Among the 20 so-called school finance "reform" States, only eight showed evidence of substantial reductions in disparities.

Mr. Speaker, I believe that our testimony and these statistics show clearly that there is need for a Federal role in assisting the States to equalize their expenditures for education. The impetus for reform cannot come from the local level, since local receipts are so largely dependent on resources within that district, and wide variation in taxable resources are at the root of these disparities. Local districts are already providing 48.6 percent of total elementary and secondary school finances. States are likewise picking up 43.6 percent of these costs, and the Federal Government only 7.8 percent. This Federal share has not increased during the past 10 years, and in general, there has been a slowdown in educational expenditures at all levels.

It is my hope that during the coming months there will be an extensive debate over the proper Federal role, with the result being that Congress will enact legislation early next year as part of the Education Amendments of 1978 setting forth this Federal role.

The table follows:

TABLE 6.08.—PERCENTAGE DISTRIBUTION OF SCHOOL DISTRICTS, BY CURRENT EXPENDITURES PER PUPIL, 1974–75

State	Under $700	$700 to $899	$900 to $1,099	$1,100 to $1,299	$1,300 to $1,499	$1,500 to $1,799	$1,800 to $1,999	$2,000 and over	Median expenditure
Alabama	68.1	30.0	1.9						$663
Alaska						14.1	14.1	71.8	2,345
Arizona		35.4	14.7	28.1	2.7	18.8		.4	1,099
Arkansas	46.6	40.8	9.3	3.2					722
California		11.7	29.7	26.7	15.0	9.2	2.2	5.4	1,163
Colorado		12.6	18.6	24.1	23.7	6.9	5.6	8.5	1,261
Connecticut		4.2	25.0	39.6	19.4	11.1	.7		1,228
Delaware		3.8	50.0	34.6	3.8	3.8	3.8		1,078
District of Columbia						100.0			1,552

Footnotes at end of table.

TABLE 6.08.—PERCENTAGE DISTRIBUTION OF SCHOOL DISTRICTS, BY CURRENT EXPENDITURES PER PUPIL, 1974–75—Continued

State	Under $700	$700 to $899	$900 to $1,099	$1,100 to $1,299	$1,300 to $1,499	$1,500 to $1,799	$1,800 to $1,999	$2,000 and over	Median expenditure
Florida		1.4	42.5	44.3	11.8				1,116
Georgia	5.7	77.9	12.3	4.1					801
Hawaii				100.0					1,106
Idaho		30.4	52.0	13.7	3.9				997
Illinois		19.9	31.6	28.8	11.6	7.3	.5	.4	1,080
Indiana	1.4	61.4	34.1	2.8	.3				859
Iowa		1.1	72.9	26.0					1,054
Kansas	.3	5.4	30.0	27.4	14.4	21.0	1.5		1,213
Kentucky	55.9	32.0	4.3	7.7					675
Louisiana	1.4	49.8	37.6	11.3					895
Maine	11.4	51.9	21.4	3.7	11.6				855
Maryland		4.2	20.8	62.5	8.3	4.2			1,126
Massachusetts		2.0	23.6	50.9	13.8	5.8	2.6	1.4	1,219
Michigan		9.9	39.7	22.7	10.5	16.4	.8	.2	1,082
Minnesota		1.0	17.6	44.5	28.6	8.1		.2	1,211
Mississippi	46.6	52.0	1.4						704
Missouri	5.6	24.5	42.4	25.7	1.4		.1	.3	968
Montana	2.0	22.0	8.0	30.4	11.8	12.8	7.1	6.0	1,265
Nebraska	15.6	22.7	22.6	9.3	10.2	7.1	4.3	8.1	1,024
Nevada			32.5	39.0	28.4				1,140
New Hampshire		52.5	25.0	14.8	6.0				887
New Jersey	.2	6.4	19.9	23.9	18.7	25.9	2.0	3.0	1,339
New Mexico		20.2	30.2	12.0	14.8	22.7			1,109
New York				4.5	14.6	47.4	9.0	24.6	1,650
North Carolina		40.8	55.6	3.5					914
North Dakota	8.6	11.0	45.4	26.3	5.8	2.9			1,026
Ohio	4.8	55.9	29.3	5.6	2.6	1.0	.2	.5	840
Oklahoma	19.7	45.0	14.1	7.7	.6	1.8	11.0		802
Oregon		3.2	27.5	19.8	37.4	11.4	.7		1,295
Pennsylvania		2.6	56.2	30.4	7.2	2.6	.9		1,066
Rhode Island			11.7	59.8	23.9	4.7			1,238
South Carolina	45.3	52.2	2.5						714
South Dakota	.4	16.0	51.6	16.0	11.0	2.7		2.3	998
Tennessee	66.4	22.7	8.4	1.7	.8				666
Texas	10.1	44.8	25.2	4.2	7.5	8.3	.1		895
Utah		29.1	32.5	11.4	27.0				1,032
Vermont	5.4	22.0	43.6	12.2	10.8	3.4	2.4		986
Virginia		71.5	20.5	5.6		.8	1.6		854
Washington		3.4	13.1	59.7	19.4	1.3	3.2		1,174
West Virginia	3.4	57.4	39.2						858
Wisconsin		.9	24.8	50.3	15.9	6.5	1.5		1,205
Wyoming			29.5	23.0	13.1	21.3	1.6	11.5	1,383

Source: U.S. Department of Health, Education, and Welfare, National Center for Education Statistics, "Education Directory, 1974–75: Public School Systems," and preliminary data.

HON. HUBERT H. HUMPHREY

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PERKINS. Mr. Speaker, I want to join my colleagues in welcoming back from his recent illness our valiant friend, HUBERT H. HUMPHREY.

They say a Member of Congress develops a special affinity for those elected at the same time he was. HUBERT HUMPHREY and I were both elected in 1948—but that is only one reason for the affection I have long held for him.

To me, he represents the very best of our American political system. And in saying that, I am simply saying that he represents the very best of the American people, for our system does respond to the collective character of the citizens.

His has always been the positive, optimistic approach. It would be absolutely unthinkable for him to espouse any cause or position that does not meet the test of the public weal.

Because he is human, I know there must be somewhere in his makeup something that sends out signals to press for his own personal interest, to identify things that would be best for HUBERT HUMPHREY. But if there is such an entity in him, it is certainly the best hidden secret in American politics. If there ever was a selfless man in politics, it is HUBERT HUMPHREY.

I say these things not as one who has only observed him from afar, or who has merely had a handshaking picture taken with him, or sat with him on a platform before the party faithful on the campaign trail.

I say them as one who has sat with him in conferences late into the night, trying to work out differences, trying to improve legislation, trying to solve problems, trying if you please to make things better than they are.

Over a period of 29 years, you would be surprised how many times we have worked together on programs and policies. It just happens that his interests and mine happened to lie in the same fields—education, vocational training, help for the poor and the sick and the handicapped, and expanding employment opportunities so that all Americans can be the vigorous, self-supporting, contributing members of a prosperous and happy society.

And I can say that in those 29 years I have known him, not once has he wavered in his dedication to the well being of the people. Not once has he taken a negative stand. Not once has he failed to look for the bright and the good.

In speaking of HUBERT HUMPHREY, it would be completely uncharacteristic of him to look back with regret. But I somehow do not feel it is subversive of his principles today to look back with regret on the November day in 1968 when the American people failed—by such a tiny margin—to elect him as their President. How different would have been the recent history of our country. Years of national anguish could have been avoided, and the energy which was wasted upon self-destructive controversy could have been turned loose upon the problems of peace. What we missed, HUBERT HUMPHREY. What we all missed.

It was a disappointment that would have crushed and warped lesser men. But Mr. Speaker, what American ever heard one word of regret spoken by HUBERT HUMPHREY? When the election was over, he accepted the verdict and went on his cheerful, optimistic way—confident that somewhere there was a role for him, a job for him that involved making things better for America. And the first thing we knew, there he was back in the Senate. And there we were back in meetings and conferences, working on problems of education, welfare, and jobs again. The old principles of decency and honor and dedication to the public good were still working—and at what a pace. Is it any wonder that HUBERT HUMPHREY is our best loved American?

The other night on national television, Eric Sevareid said of him that he never became the leader of his country, but he became something even greater: He became the conscience of his country.

That is a high tribute to HUBERT HUMPHREY, and one he deserves.

I am glad he is well enough to return to his duties at the Capitol, and take special pleasure in welcoming this happier warrior home.

THE PLASTIC PROBLEM AND ELECTRONIC SHOCK—CONSUMERS BEWARE

(Mr. ANNUNZIO asked and was given permission to extend his remarks at this

point in the RECORD and to include extraneous matter.)

Mr. ANNUNZIO. Mr. Speaker, on August 4, I introduced H.R. 8753. This legislation not only provides the first comprehensive consumer protections for electronic funds transfer (EFT) payment systems, it also contains significant protections for credit card users. H.R. 8753 was drafted in response to actual consumer problems. It offers a means of correcting those existing problems and of preventing developments in EFT from repeating the catastrophies of the early credit card system.

Electronic funds transfers and credit cards are a complicated area. Consequently, I have repeatedly stated that this legislation is not going to be rushed through Congress without proper consideration. The National Commission on EFT has now released its final report. The subcommittee will be holding field hearings on the provisions of this credit card and EFT bill to allow consumers across the country to voice their opinions.

I am also waiting for industry representatives who have been critical of the provisions of H.R. 8753 without being constructive, to come forward with genuinely helpful suggestions. Industry now is using computer technology for its needs. It can just as successfully use it to meet consumer needs as well. Some merchants are already doing so. I would like to see industry take a positive approach to these consumers' problems. Doing so will be in the best interest of industry and consumers.

During the 8 days of hearings on H.R. 8753, before the Consumer Affairs Subcommittee, support for this legislation was expressed by consumer groups, State representatives, EFT and credit card experts, and even the Federal Reserve Board. I am proud of the American Express Co. American Express was the only industry representative brave enough to openly state its support for H.R. 8753. Spencer Nilson, a well-informed publisher of an industry credit card newsletter, also voiced strong support for the legislation.

I have been told that the industry views H.R. 8753 as "Protections in Search of a Problem." On the other hand experts have characterized EFT as a "Technology in Search of a Market" and "King Kong in Search of a Trainer." While slogan swapping might be fun, the simple fact is that the need for this legislation is clear.

The very nature of the criticism leveled at the bill justifies the concern I feel in allowing the present situation to persist. Some witnesses have suggested that EFT should be allowed to develop freely until abuses occur which would generate legislation. Yet EFT systems are already being used without liability loss limitation leaving consumers vulnerable to loss of all their savings. Waiting for complete development of EFT before enacting consumer protections would only be a viable alternative if the past and present situations indicated that banking actions warranted consumer trust. However, the past does not teach us to trust. If we remember the early credit card era, banks, as well as consumers, suffered from the frantic race by banks to issue unregulated credit cards. In Chicago thousands of unsolicited credit cards were distributed and through confusion and theft many losses were suffered by consumers and banks. The present does not offer any more reason to trust that banks are attempting to protect consumers. Glaring examples exist of abuses suffered by credit card consumers and this system has some protection provided through truth in lending.

In recent months I have repeatedly demonstrated how credit card issuers are changing the rules of the game in midstream now that consumers are safely hooked into the system. Credit cards were marketed as a free service, but within the last year issuers have used various methods to add additional charges. Some of these methods are so subtle that the consumer is not even aware that he is paying more for the service. I have attempted in H.R. 8753 to prohibit these new additional charges.

Strong criticism of these provisions was heard at the hearings on H.R. 8753. Criticism came from bankers who insisted that we were attempting to "price fix" and drive the credit card companies out of business. They also insisted that because competition exists in the industry, consumers could shop around for the best deal. The bankers have argued that we are driving them out of business with every consumer protection law we have passed, but it is a fact that the consumer credit industry is healthier today than at any time in history.

Competition only exists if the consumers realize they have a choice. Robert Krughoff, president of the Washington Center for the Study of Services, confirmed my assertion that consumers are confused about existing credit card competition. In testimony before the subcommittee he stated that:

> Many of our readers have said they were surprised to see that there are differences among cards.

As the new charges have been added to credit card plans, the issuers have not candidly disclosed those changes to consumers. Testimony has shown that the disclosure statements are designed to confuse rather than enlighten. Robert Krughoff said:

> I think the systems for computing finance charges are so complicated that most consumers could not comprehend even the best disclosure statement or perceive the subtle difference among cards revealed by these statements.

Mr. Krughoff conducted a study of Washington banks and tried to verify the calculation methods disclosed against a sample account. His experience revealed that the finance charges could not be verified from reading the disclosures. He then contacted bank employees and managers and asked for a verbal description of calculation methods. He found that only the employees actually handling the computer software could understand the calculation method.

> We were not surprised that the employees had a hard time explaining their billing formulas. The formulas are simply hard to explain but we were surprised that they did not even understand the formulas well enough to apply them to a sample account.

> More surprising.
>
> We found that many bank personnel knew little more than the consumer knew . . . we often found we could call a bank three or four times or call three or four branch offices of the same bank and get a different answer each time.

Krughoff indicated that even high bank officials' responses to questions and samples were not always correct.

In H.R. 8753 the card issuer would be required to explain in simple language the changes which would be going into effect as well as their significance to the consumer. John Quinn, director of Maine's Bureau of Consumer Protection, explained that:

> Reviewing the notices sent to card holders to "inform" them of the increased charges, it became apparent that few, if any, card holders would even be able to decipher the bank's legalese explanation of the increase in charges.

He gave an example of a disclosure notice that—

> . . . stated in part that: "Important revisions which you should read are contained in paragraphs 3 and 4. In particular, under the amended agreement, the finance charge for merchandise purchases begins on the date each purchase is posted to your account, subject to your option to avoid certain finance charges as described in paragraph 4 of the amended agreement."
>
> The bank thus informed the customer to expect increased charges which might be avoided by an understanding of paragraphs 3 and 4 of the agreement. However, the bank was careful to avoid any possibility that its customers might somehow understand the new system.
>
> Those customers with sufficient courage to wade into sections three and four of the agreement came face to face with what we have come to regard as a classic example of the scholarly art of verbal maze construction. There buried within the recesses of paragraph 4 resided an explanation of how the purchaser could avoid these additional charges by having a zero balance.
>
> It read as follows: "The Finance Charge balance will not include the average daily balance of purchases previously billed or posted during the billing period if Holder has paid Holder's previous balance in full within 20 days from the previous billing date or if Holder's previous balance was zero or a credit balance."
>
> With references to four different types of balances scattered throughout this sentence, the bank quite effectively eliminated any possibility that its customers might perceive what the bank intended to actually accomplish.

The charges that this legislation would impose price fixing on the credit card industry are false. This legislation merely requires credit card issuers to continue to charge consumers in the same way they have been and in the same way that the cards were marketed to the consumers. We are only asking the card issuers to stand behind their advertising. This is especially important as it relates to the development of the electronic funds transfer systems. If we allow them to do this on credit cards, they are certainly going to play the same trick on consumers as the EFT systems develop. Secondly, maintaining reasonable costs for credit cards is vital if consumers are

to be able to retain alternative payment systems as EFT develops.

The additional charges that credit card issuers are imposing can add millions to the finance charges collected each year by credit card issuers. One specific problem which H.R. 8753 addresses is the use of the average daily balance (ADB) method with current charges. Under the bill this method of computing interest would be prohibited. One consumer who wrote to the subcommittee expressed simply the unfairness involved in this method:

So, if you owe, let's say, $5 from last month, and you purchased $995 worth of merchandise on the current statement, your finance charge will be $13. This means that if you had paid the $5 during last month's cycle, there would be no finance charge. By owing $5 for 1 month, however, the finance charge is $13, an interest rate of 260 percent a month. And it could be higher if you had purchased more merchandise during the current billing cycle.

One consumer wrote in complaining about the ADB with current charges method. He had a balance of $630.36 and by mistake had sent in a check for $630. The 36-cent remaining balance resulted in a $5.20 finance charge to the consumer because of this balance method. The card issuer itself acknowledged the unfairness involved by removing the finance charge after the consumer protested it.

H.R. 8753 would require card issuers to return to the practice of country club billing. That means that they would be required to include actual receipts or copies of transaction receipts with monthly statements. During the credit card hearings, the retailers and credit card industry expressed their strongest criticism of H.R. 8753 in regard to this provision. The biggest complaint was that the cost of returning to country club billing would put them out of business. They gave statistics to show that consumers found fewer errors with descriptive billing than with country club billing. I contend that the difficulty of identifying errors in a descriptive billing method keeps the consumer from registering complaints.

Consumers encounter problems which could be avoided by having credit card companies return copies of sales receipts. For example, one consumer wrote to the subcommittee that the present descriptive billing system, " * * * does not guarantee the adequacy of identification." He mentioned an instance in which his monthly statement contained a charge for lodging which listed the incorrect name of the business concern, gave the wrong location, and also had the transaction listed as occurring a month before it actually did. Needless to say, the charge was next to impossible to identify and required much correspondence and several telephone calls to straighten out. Another consumer encountered a problem which could have been avoided if the credit card company had used country club billing. This consumer had been recently divorced and was willing to pay for any charges which had been incurred by either him or his former wife. However, he had no way of determining if the charges were valid since the originals were never in his possession and the bank in question refused to supply him with copies of the sales drafts. If country club billing were used, this man's problem could have been avoided.

Another consumer requested transaction receipts in order to identify gasoline charges which were described as originating in cities the consumer had not visited. In response the card issuer sent a reply that those charges may have been processed at an accounting center, not in the actual State where the purchase was made. They included with the letter a long form disclosure in accordance with the Fair Credit Billing Act and offered to send copies of the sales receipts if further requested to do so. This delay amounted to months of confusion for the consumer, who might end paying for those copies if he pushes the matter.

When the Fair Credit Billing Act was enacted, many card issuers replaced country club billing with descriptive billing. Presumably there were massive savings to issuers comparable to the amounts they claim it would cost to return to country club billing. I am not aware that any of these savings were passed on to consumers. Descriptive billing actually has become another method to extract charges from consumers because some card issuers charge a fee for supplying a consumer with a copy of his sales receipt.

One consumer wrote:

As I'm sure you know by now, the original transaction paper between the seller and myself is no longer enclosed with the end of billing period statement. Instead I got a listing of charges made against my account and if one is strange or unfamiliar (or I have lost the tissue copy) and ask for verification there is a charge of $2.50 if it is actually my charge. So effectively the burden of verification is shifted directly to the user. He must save every tissue copy or be forced to speculate about a charge that looks vaguely familiar but may or may not be his . . . In fact, when I was visited to accept the Master Charge card one of the sales points was the fact that I would have an original transaction record to substantiate business deductions. Where are they now?

Under the Fair Credit Billing Act consumers are not required to pay disputed charges or finance charges on those amounts until the error is resolved. Now that bankers are assessing finance charges on current purchases, a difficulty for the consumer has arisen. The carryover of the disputed amount might result in the consumer paying finance charges on the current purchases because he is in a rollover situation.

I am not trying to bankrupt the industry. For some unkown reason, the industry has offered no alternatives to the descriptive billing method. They pay a lot of lipservice to their concern for consumers, but if the industry is genuinely interested, let us see them come up with some new way of billing, something that gives consumers the information they could get from country club billing, but which utilizes modern technology.

Another example of the problems consumers have with credit card companies is the use of delayed charges. One consumer complained that a certain credit card company provides a special revised total column that allows merchants to conveniently add delayed charges. He stated that if this column is crossed out, the establishment just erases the lines on its copy and enters the higher amount. Moreover, written and initialed withdrawals of authorization to fill in delayed charges are ineffective. Delayed charges were even added to receipts that had not been signed. The consumer's major problem with this system is that he has no idea what the delayed charge might be for. Other credit card companies also make use of this practice. H.R. 8753 would stop the use of such revised total columns.

It is not fantasy that there exists mass confusion today among bank cards. Since BankAmericard changed its name to VISA and banks are now allowed to offer both VISA and Master Charge cards, the large banks in the country are tumbling over each other to capture the market.

An example is Citibank of New York which has begun a mass solicitation of VISA customers across 25 States before the local banks had a chance to explain to their customers about the name change. Those local bankers have charged Citibank with purposely trying to confuse consumers and capture the lion's share of the bank card distribution. Given these existing problems and abuses which consumers are subject to with credit cards which are regulated, one can well understand the concern I have with EFT being allowed to develop without any regulation.

The merchants being signed up for VISA cards are providing a good market base for future electronic funds transfer systems. Spencer Nilson stated during the hearings that the only sane rationale Citibank could have for its mass solicitation of VISA customers across 25 States would be that they are using this distribution as a means of providing a base for a national EFT system.

This is not so far fetched. Acting Assistant Attorney General, John Shenefield, said, before the national bank card convention in September, that the Justice Department is beginning to watch bank-issued credit cards closely because the lines between credit cards and EFT are becoming blurred. Bankers at last year's bank card convention revealed that they are purposely dropping credit from the title of those cards. They want consumers to look on the bank card as a convenience card or all purpose transaction card.

Consumers are already confused. Consumer groups began studying debit cards after receiving consumer complaints that they were receiving credit cards without solicitation, which is against the law. Those cards turned out to be debit cards, but looked like credit cards so the mistake was an easy one to make. Most consumers are using debit cards assuming there exists a $50 liability limit as on credit cards. Actually there is no liability for loss limit on these EFT cards. The consumer could lose everything.

This mass confusion is an ominous sign for the future if provisions of H.R. 8753 are not passed to provide clear liability limits for users of debit cards. The National Commission on EFT has based its recommendations for debit cards on an assumption that the debit card is similar to a check, not a credit card. While I cannot view the debit card as either check or credit card, I urge that they each be treated uniquely and yet be similarly regulated when the particular function warrants.

For example, we would be purposely setting up confusion if we adopted the commission's recommendation of a check model for liability for debit card use. One card with a credit card and a debit card capacity, but two different liability standards would be very confusing. It must be noted that the transaction card is not a fiction of the remote future.

Many cards are in circulation now which are considered hybrid cards, that is, a debit card when used to withdraw money from a checking account using an automated teller machine, but also a credit card when that withdrawal results in the use of overdraft. Under existing laws those credit transactions would be protected, but no protection exists for the debit transactions. H.R. 8753 provides that debit cards and credit cards will have the same liability limits.

If the EFT Commission's recommendations were followed and the debit functions were treated as checks and yet the credit transactions were treated differently, a continuing state of confusion would be generated. If the card were lost, it seems, the consumer would be liable for the $50 limit if that stolen card were used for a credit transaction and have no responsibility for losses if the card were used for a debit transaction, unless the consumer had been negligent and negligence is a difficult concept in regard to EFT.

Banks are marketing EFT by stressing convenience or offering incentives, but making no attempt to enter into a contractual agreement with the consumer, or educate him on the proper use of the system, or his responsibility to the institution. This omission has been particularly detrimental to the consumer who finds himself responsible for losses because he has been negligent—without knowing what negligence is.

Industry and some bank regulators and the EFT Commission gave, as an easy example of negligence, when a consumer writes his secret number on his debit card. A recent survey of consumers revealed that over 50 percent of them wrote their secret number on their debit cards. Under common law interpretation of negligence, if over 50 percent of the people do something, this would not be a negligent act.

Perhaps the most crucial issue in the development of EFT is the need for consumers to be protected from the loss of all their funds. Today they have no protection, yet Donald Scantlebury, director of Financial and General Management Studies Division of the General Accounting Office, testified at our hearings that—

I would like to emphasize at the outset that we believe that computer security is so significant that it demands top attention. The potential results of poor security can be catastrophic . . . As I discuss our study results, I think you will see why we are so concerned about the potential for future fraud, theft, misuse and loss of assets through the use of a computer system. Their ultimate impact will be a cost to the consumer.

Mr. Scantlebury further testified on the ease with which a computer system could be cracked. He said in part:

Have you ever heard of tiger teams? They use teams put together to try to crack a computer. I don't know of any computer that has been assaulted by a tiger team that has won. The tiger team always wins.

Computer fraud will likely involve counterfeiting the debit cards and compromising the secret numbers and the use of false audit trails. These factors will result in it being extremely difficult, if not impossible, for a consumer to prove that a removal of funds was unauthorized. So long as consumers are held responsible for any losses as they are today, the industry will have no incentive to improve its security measures. Yet it is the industry that is pushing EFT on consumers and has the technology to improve the security.

Computer fraud is not just a potential threat. The Mitre Corp. has documented hundreds of cases of computer fraud and these are only the ones that have been discovered. The amount embezzled through these crimes is usually in the thousands and some million dollar cases have been uncovered. Most of the fraud can extend over many years before the criminal is detected. The detection is almost invariably by happenstance.

The banking industry complains that it is too early to put a law on the books that will protect consumers when they use automatic or electronic banking. Yet it has been estimated that credit/debit card fraud losses will amount to one and a half billion dollars in the year 1985. If bankers are willing to suffer these losses, that is their business. However, I feel that it is not too early to make sure that consumers will not be the ones to lose out because of inadequate security systems. It is the responsibility of Congress to keep up with new developments. If we do not, we may wake up one morning to find a new electronic banking system on the scene that has none of the consumer protections that we have today with checks and credit cards.

If card issuers are allowed to continue and expand distribution of unsolicited debit cards, there is great possibility for fraud and consumer loss. Industry, anxious to cover their EFT losses by any means by increasing the number of cardholders, ignores the lax security and many possibilities for fraud and mistake with the issuance of unsolicited cards. Thomas Taylor, testifying for the Comptroller of the Currency at our hearings, commented that—

As a further observation—and this is strictly just my personal observation—it is that I think that any large bank that issues plastic on an unsolicited basis is going through a rather fruitless and expensive exercise. I think that's a lesson they have to learn themselves.

Doris Pote, chairman of the Consumers' Council, in Boston, Mass., had even harsher comments for unsolicited debit cards. She felt that issuing unsolicited debit cards would create grave difficulties in the consumer proving that he had not accepted a card, and that since a consumer would be unaware that a card had been issued there would probably be much delay in detection of unauthorized use of the debit card. Importantly, she felt that the bank would have no incentive to quickly correct any dispute as to unauthorized use of the debit card. This might result in the consumer's money being tied up. Also, if a large unauthorized transfer occurred, it could cause otherwise legitimate checks to bounce, unfairly harming a consumer's credit rating. Ms. Pote added—

. . . it is my opinion that, when a bank unilaterally issues an unsolicited debit card capable of assessing the consumer's bank account, it commits an irresponsible breach of trust. For these reasons I believe that the distribution of unsolicited EFT debit cards is unfair, unwise and unjustified.

Another problem is the way the debit card for point of sale transactions are currently being marketed. Now they do not provide the consumer with any method to reverse or stop a transaction if a consumer has received shoddy or defective goods. This is unlike checks where a consumer has the right to stop payment and credit cards where the consumer has the right to charge back.

Industry sees an opportunity to get an unfair advantage over consumers by not providing stop payment capacity as debit cards are developed. Their claims of chaos for the merchant if a payment is not final do not square at all with reality since the situation would not differ at all from payment by check or credit card. This is illustrated by the fact that the State of Wisconsin has an administrative rule that provides consumers the right to stop payment on an EFT transaction, and the bankers there have publicly taken the position that stop payment is not a major burden. The Michigan Governors Commission which included banking representatives took a similar position. One should note that there is no technological problem with providing stop payment.

As much as I disagree with specific recommendations of the EFT Commission, their report is now in and they strongly urge that consumer protections in EFT must become law without further delay. This commission recommendation for prompt action contradicts the claims of banks that this legislation is premature. I think we must now gather in further input from consumers. State officials and industry representatives. Then we should go forward with this legislation so that credit card abuses will be halted and EFT disasters avoided.

RHODESIA BRACES FOR CHANGE

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, Rhodesia, increasingly plagued by guerrilla warfare, under pressure from abroad, being hurt by sanctions, is preparing for a change to black government.

Prime Minister Ian Smith's government is seeking settlement of the one-man, one-vote problem by a gradual transfer of power to his country's black moderates. Britain and the United States want a more drastic change, but realize the danger to Rhodesia's future that could come from civil war among black factions. They know that Russia is waiting in the wings to pick up the pieces, as they did in Angola and Mozambique, if the Western powers mishandle the efforts for a change in the government structure.

Communist weapons and training are the mainstay of support for two factions which are vying for top position in Rhodesia. Both have their headquarters in adjoining black countries and receive the support of those nations. They are conducting terrorist operations in Rhodesia. Leadership of the two other black factions is now in Rhodesia and these appear in more favorable position to negotiate with the present Rhodesian Government for control. Britain and the United States have shown a greater indication of interest in the foreign-based black factions, seeming to ignore Russian influence and support for their efforts.

The Republic of South Africa maintains a closer contact with Rhodesia than any other power and is in a position to exercise more influence in the difficult period of transition. The United States is walking a tightrope; opposing the policies of the South African Government while seeking that government's help in Rhodesia.

Rhodesia has enjoyed an unusual rate of development and, from an economic standpoint, has been one of the brighter pictures of the African continent. However, the white populace of 270,000 is outnumbered many times over by 6,520,000 blacks. Government has been almost exclusively in the hands of the whites and it is this situation which has aroused black African nations and brought about the support of Britain and the United States for a transition to black government.

Rhodesia has been beleaguered for years by Britain, which is seeking a change from white to black control, and the United States has followed suit. The British have refused to recognize Rhodesia's claim for independence and has sponsored trade sanctions which were approved by the United Nations. Most nations, other than Britain and the United States, have ignored the sanctions. Nevertheless, continued pressure and growing guerrilla belligerency are now taking their toll. Rhodesia has lost important markets in black African nations and has been denied the use of some of their ports which are important to Rhodesia's trade. South Africa provides the only consistently available outlet. The trade picture is the bleakest since sanctions were imposed. White Rhodesians are leaving the country at the rate of nearly 1,000 per month because of fear of a massacre or the takeover of white-owned property. The latter has been the practice in many African nations.

The toll in lives from terrorist tactics by the guerrilla forces is steadily growing. The Rhodesian Government realizes they are confronted by a one-way street and that they cannot win a long drawn out conflict at home. They now seek to avoid eventual collapse.

A change is inevitable either by negotiations or by bullets, and vigorous efforts are needed to avert the latter. Delay simply means additional bloodshed and growing economic chaos.

There is a measure of similarity between the Rhodesian problem and what took place in Angola. In that country, the Portuguese simply walked out, leaving control of Angola up for grabs. The Portuguese were tired of the mounting costs of growing guerrilla conflict, and of increasing unrest in the homeland. In Angola and Rhodesia the insurgents were financed and trained in large measure by the Communists. As soon as the Portuguese left, civil war broke out among three black factions. The effort by the United States to give moderate support to one of these was aborted by Congress. The Russians imported Cuban forces to insure a takeover by a faction which they had actively backed. Soon afterwards nearly all of the whites were killed or driven out and their property seized. There is still conflict between the dissident factions despite the presence of 15,000 Cuban troops who, according to most accounts, have not distinguished themselves in their handling of Angola's problems, or in combat. However, by weight of numbers they have been able to keep in power the government picked by Russia. A repetition of this situation in Rhodesia is greatly to be feared.

PERSONAL EXPLANATION

(Mr. MIKVA asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MIKVA. Mr. Speaker, legislative matters prevented me from voting yesterday, November 2, on the conference report on S. 1339, the ERDA-national security authorization (rollcall No. 732.) Had I been present, I would have voted "no."

TESTIMONY GIVEN AT FEDERAL BLUE COLLAR WAGE HEARINGS

(Mr. MOAKLEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MOAKLEY. Mr. Speaker, I would like to bring to the attention of my colleagues testimony given at the Federal blue collar wage hearings held in Boston on Saturday, October 22. These were the last in a series of hearings held throughout the Nation within the past year.

Held under the auspices of the Subcommittee on Compensation of the Committee on Post Office and Civil Service, the hearings were designed to give interested parties the opportunity to discuss possible effects of proposed changes in the Federal wage scale.

I would like to thank the gentlewoman from Maryland (Mrs. SPELLMAN) for scheduling one of these hearings in Boston. The entire House owes her a debt of gratitude for the work she has done as chairwoman of the subcommittee.

Because the hearings will not be published until some time next year, I would like to insert in the RECORD the testimony submitted at the hearing:

STATEMENT OF CHARLES A. MAHER, DIRECTOR, BOSTON REGION, U.S. CIVIL SERVICE COMMISSION

Members of the Subcommittee, thank you for the opportunity to appear before you and present the views of the Civil Service Commission on the need for legislative reforms to the Federal Wage System. With me today is Mr. Frank Lattanzi, Senior Wage Policy Officer in the Commission's Bureau of Policies and Standards.

The Federal Wage System is based on the legislated principle that, consistent with the public interest, the pay of Federal employees in trade, craft, and laboring occupations should be related to rates prevailing for comparable work within a local wage area. The comparability principle further calls for: (1) equal pay for substantially equal work within a local wage area; (2) relative differences in pay within a local wage area for recognizable differences in job skills; and (3) a level of pay to attract and retain a quality work force. The Civil Service Commission firmly believes that this is a sound and workable principle upon which to base Federal blue-collar pay.

The Civil Service Commission is responsible for maintaining and improving the operation of the Federal Wage System. Based upon our experience with its nearly five years of operation, we believe the Federal Wage System has proven to be a workable and equitable system. However, we agree with the conclusions reached by the General Accounting Office and the 1975 President's Panel on Federal Compensation in their independent studies of the system—several legislative reforms to the Federal Wage System are needed in order to bring Federal blue-collar pay into closer comparability with pay for blue-collar employees in the non-Federal sector.

Enactment of the Administration's legislative proposal to reform the Federal Wage System would carry out the recommended reforms by repealing or modifying those features of the current law which require the system to deviate from its own underlying comparability principle.

INDEFINITE PAY RETENTION

Before I speak to the specific features of the legislative proposal. I would like to point out the pay saving provisions which would be made at the time of implementation of the proposed reforms. It is possible that wage rates will increase only very slightly at the time of the first wage survey in an area which implements the changes provided in the legislative proposal. However, we want to emphasize that any lower rates would apply only to individuals who are hired after that first schedule adjustment. Current employees would receive no pay cuts and they would be guaranteed at least a three percent increase in pay at the time of the first pay adjustment after the legislation is effective.

In addition, indefinite pay retention is provided for employees who would otherwise lose pay due to implementation of any provision of the legislative proposal. Employees receiving indefinite pay retention will receive one-half of subsequent pay increases until they become entitled to a higher rate of pay by normal operation of the wage system.

MONRONEY AMENDMENT

One of the most serious conflicts of the present law with the local prevailing rate principle is the so-called Monroney Amendment. The Administration's legislative proposal would repeal this provision. The Monroney Amendment requires that private industry outside of the local wage area be surveyed when private industry data comparable to certain kinds of Federal blue-collar jobs are not found in sufficient quantities within the local wage area. These outside wage rates are used to construct wage schedules for all regular schedule wage employees in the area to the extent that they produce higher rates than those produced by the wage survey data obtained from within the local area. By importing data from outside a local area and using these data to establish Federal rates only if they produce rates higher than the local industry data we are ignoring the local wage structure and are creating an unfair competitive advantage for the Federal Government.

The Monroney Amendment is based on the false assumption that it is necessary to find significant local industry employment directly comparable to specialized Government jobs in order to establish equitable wage rates for them. This simply is not so. It is only necessary to find a reasonable sample of local industry rates for jobs at the same levels of difficulty as are found in the Goverment and relate them to comparable levels of work in the Federal grade structure in order to establish an equitable wage schedule. The fact that the "Monroney jobs" are specialized and have few or no counterparts in private industry in a particular local area does not mean that they are unique as to level of difficulty of work performed. Adequate pay rates can be established for these jobs on the basis of data obtained within the local area for work of similar level of difficulty.

REQUIREMENT FOR FIVE STEPS WITH A PAYLINE FIXED AT STEP TWO

Under the present law, the prevailing rate, as measured by the wage surveys, is set at the second step of each grade. The first step is set at 96% of the rate while the third, fourth, and fifth step-rates are set at 104%, 108%, and 112% respectively. As of June 1977, approximately 50 percent of the nonsupervisory wage employees were in the fifth steps of their grades—rates which are 12 percent above average industry rates.

This requirement causes a serious departure from prevailing practice in private industry in two respects. First, our studies show that most nonsupervisory blue-collar employees in the private sector are paid under single rate schedules. Thus, five steps in each grade for Federal blue-collar employees is excessive in terms of private industry practice. Further, the requirement that the payline be set at step two means we cannot take into consideration the distribution of Federal employees among the five steps in the rate range when we establish wage schedules. This insures that the fifth step is always 12 percent above local average industry rates.

The proposed legislation would eliminate the statutory step-rate and payline requirements. This would enable the Commission to establish step-rate structures more nearly consistent with prevailing practices in industry and to establish a payline structure which would adjust wage schedules on the basis of comparisons between average rates in industry and average pay rates being paid to Federal wage employees.

FULL-SCALE WAGE SURVEYS

Based upon questions which have arisen in the past, there appears to be some confusion as to the effect of the administration's proposal to modify the statutory requirement for full-scale wage surveys. Currently, the law requires full-scale wage surveys at least every two years. The intervening surveys are conducted under a much more simplified survey process which measures the wage changes which have occurred since the preceding full-scale, or job matching survey. The wage change surveys are done in less time, at less administrative cost to the Government, and at less time and expense to the cooperating employers. The legislative proposal would modify these provisions so that two of these wage change surveys, rather than only one as at present, could be conducted between full-scale surveys. That is, full-scale wage surveys would be done only every third year. It is important to understand that under the proposed modification to the survey requirements wage schedule adjustments will continue to be made in each wage area every year. It is just that schedule adjustments will be based on these simplified wage change surveys in two years of each three-year cycle.

This change in the survey requirements is being proposed because, based upon the surveys that have been conducted over the past five years, we can accurately measure prevailing rates with fewer full-scale wage surveys. If this legislative proposal is enacted we would still retain the flexibility to conduct full-scale wage surveys more frequently than every third year in any area in which significant changes in the survey universe or in the Federal work force suggest changes in the survey specifications.

NIGHT SHIFT DIFFERENTIALS

The Federal Wage System statute requires that Federal blue-collar employees be paid their scheduled rate of basic pay plus a 7.5 percent differential for second shift and a 10 percent differential for third shift work. Private sector practices with respect to night shift differentials vary substantially from area to area as to type and amount of differentials paid. The General Accounting Office review of the Federal Wage System concluded that Federal shift differentials are substantially above prevailing industry differentials in many areas. The Administration's proposed legislation would eliminate the requirement to pay nationally uniform night shift differentials and would instead permit them to be based on the practice prevailing in each wage area.

WAGE SURVEY UNIVERSE

The final provision in the Administration's proposed legislation would permit expansion of the wage survey universe for Federal Wage System surveys. The present law restricts surveys to private industry. Under the Coordinated Federal Wage System, predecessor to the present system, State and local governments were surveyed in some areas and the data were used in constructing wage schedules. In several areas, a State or local government employs significant numbers of blue-collar employees, and has a proportionate impact on the level of rates in the area. Exclusion of these large employers from local surveys contradicts the prevailing rate principle. Although we do not propose to survey them in every area, the administration's legislative proposal would provide much needed flexibility to use State and local government rates when warranted.

RELATIONSHIP BETWEEN FWS AND GS

In closing, I would like to briefly discuss the changing relationship between the Government's white-collar and blue-collar pay systems. Rates under the General Schedule are based on comparability with similar private sector jobs on a nationwide basis, as opposed to the Federal Wage System rates which are based on local comparability. In recent years, Federal Wage System pay has been rising faster than pay under the General Schedule. This has resulted in a changing relationship between the two pay systems. Whereas the Federal Wage System has been a traditional source of recruitment for some General Schedule jobs, blue-collar employees are no longer willing to move to the General Schedule jobs in many localities because the rates of pay are lower. In some areas, General Schedule supervisors are earning less than their Federal Wage System subordinates.

To a large extent, the changing relationship between the Government's white-collar and blue-collar pay systems reflects similar changes in the private sector. We also believe that the features of the current Federal Wage System law which I have discussed today distort the relationship by requiring us to pay rates to Federal blue-collar employees which are higher than those prevailing in local areas. Although we do not claim it will solve all of the problems, enactment of the Administration's legislative proposal to reform the Federal Wage System should ease some of the pressures.

Thank you again for the opportunity to address the subcommittee on the Administration's proposal to reform the Federal Wage System. We look forward to testifying at the hearings in Washington, D.C., on November 22. Mr. Lattanzi and I would be most happy at this time to answer any questions you may have.

TESTIMONY OF CHARLES H. SANDERS, JR., CHARLESTON METAL TRADES COUNCIL, CHARLESTON, S.C.

I, Charles H. Sanders, President, Federal Employees Metal Trades Council of Charleston, desire to testify in the presence of this Subcommittee and in behalf of the Wage Grade Employees of the Charleston Naval Shipyard supporting the now existing Federal Wage System.

The only recommendation by said council would be absolute enforcement of all provisions and factors that are to be implemented by The Department of Defense Wage Fixing Authority in carrying out the established policy that now exists.

The prevailing rate system, in conjunction with Public Law 92-392 and the Monroney Amendment, has undergone considerable attacks by its opponents and has proved to be an equitable method of determining Blue Collar wages when properly applied in accordance with the provisions therein.

To this extent, I wish to appear before said committee in opposition to proposed changes that would totally destroy all efforts dedicated by the Congress in establishing a fair and equitable pay system for those employees mainly responsible for the readiness of our Defense Forces of this nation today.

STATEMENT ON BLUE COLLAR FEDERAL WAGE SYSTEM

We wish to thank you for this opportunity to appear today and comment on the proposed changes in the Federal Blue Collar Wage System and to point out the adverse effect these changes would have upon the employees covered by this system.

The Federal Employees Metal Trades Council, AFL-CIO, represents the majority of the Blue Collar employees in the Portsmouth, N.H. wage area, we are testifying on behalf of the 4,000 plus blue collar employees in the area.

We take strong exception to the Rockefeller Pay Panel Report as it attempts to downgrade the Blue Collar employees pay system and destroy pay comparability but at the same time increases pay rates of the Executive Schedule substantially. The current pay system is a fair system for both the Blue Collar employees and the Government in that both the Labor Unions and Management obtain the data in the local wage area for pay comparability.

In discussing specific proposals in the Rockefeller Pay Panel Report, we would like

to first discuss the proposed elimination of the Monroney Amendment. There are those who claim that the Monroney Amendment is contrary to the principle of pay comparability based on the prevailing rates in wage survey areas. This is false, as the Monroney Amendment is only used when there is an inadequate basis for determining comparable prevailing rates in a given locality. The Monroney Amendment assures the principle of equal pay for equal work.

In actual application of this Monroney Amendment for the Portsmouth, N.H. wage area, the pay data from Boston is compared with our own survey data and two jobs benefit. A total of 79 employees get a higher rate of pay, WG–01 gets .16 and WG–02 gets .08. The only reason that Boston data is used is that the dominant industry is Shipbuilding and the Portsmouth area doesn't have any other shipbuilding jobs other than the Portsmouth Naval Shipyard. The Monroney Amendment is only applied when there are no comparable positions in the local wage area. We at the Portsmouth Naval Shipyard repair Nuclear submarines, and where else could we go for comparable shipbuilding data. Approximately one third of the survey companies in the Portsmouth Wage Area are shoe shop companies. Yet, over 1,700 employees are in the Shipfitter; Shipwright; Marine Machinist; Pipefitter (ship) and Electrician (ship), we are not competing with private industry in these pay rates, as these jobs don't exist in our wage area. Only by the Monroney Amendment do we compare the wage information in the Shipbuilding industry in Boston, where these jobs do exist.

The Rockefeller Pay Panel also recommends that we revert back to the old system of night shift differential pay, as we had prior to Public Law 92–392. The old system left a lot to be desired as it depended on the local wage area and some companies paid all employees (white and blue collar) the same pay differential and not many companies had work on all three shifts. We seem to have two problems in this area, one is the pay comparability and the other is equal pay for equal work. The General Schedule employees get ten percent night differential across the board by law, and if equable treatment for all federal employees is sought, it is reasonable to have night shift differential pay the same for Blue Collar and White Collar employees.

The five-step federal wage system ranges from 96% of comparability to a 112% of comparability for senior employees and has proven to be a sound workable system for Blue Collar employees. In comparison, the other Federal pay systems such as the General Schedule has a ten step pay system and the Postal system has a twelve step pay system for most grades and ten steps for the highest three grades. These pay systems are nationwide in scope and are applied equally throughout the country regardless of locality. The five step system is not a bonus or extra as the Rockefeller Pay Panel suggests. Most of the large companies that we survey have as many as ten pay steps and are for longevity and expertise. Wage grade employees start at step one which is a lesser rate than the average base rate and even the Rockefeller Pay Panel suggests that the first step in-hire rate may be a disadvantage to the government in recruiting. It takes six months in step one to advance to step two, then eighteen months in step two before advancing to step three, than two years to step four and two years to step five. As in most private industries, blue collar employees are being paid for longevity and job expertise.

We also question the recommendation of the Rockefeller Pay Panel to include only the State and Local Government pay rates in our wage surveys. If the Rockefeller Pay Panel really wanted true comparability, the Building Construction Trades, Job shops and the Postal Service would be included in our pay rate wage survey. Two show compatible work to our blue collar employees, the Building Construction Union Pay rates should be surveyed as most of this work is identical to our work. Most State and Local government workers are retired employees of the Federal Government or private industry.

In closing, We again thank the committee for allowing us the time to testify and the last comment that we have is that we at Portsmouth repair Nuclear Submarines for our Nations defense and our skilled journeymen should not be downgraded or money taken from them, instead we should be paid comparable rates to our counterparts in the Building and Construction trades.

STATEMENT BY COET COMBS, DISTRICT REPRESENTATIVE, IAM AND AW, REPRESENTING TIDEWATER VIRGINIA FEDERAL EMPLOYEES METAL TRADES COUNCIL, AFL–CIO

(Also present Richard F. Lake, president, TVFEMIC; Bernard W. White, Sr., vice-president; Otis A. Allison, rec. secretary; Tommy E. Ezzell; representatives from all affiliated local unions of TVFEMTC, AFL–CIO; before Subcommittee on Compensation and Employee Benefits of the House Post Office and Civil Service Committee on the Federal Prevailing Wage Rate, October 22, 1977.)

We wish to thank you for this opportunity to appear today and comment on certain proposed changes in the Federal Wage System and to point out the adverse effect these changes would have upon the workers covered by this system.

The Tidewater Virginia Federal Employees Metal Trades Council, AFL–CIO, and District 74, International Association of Machinists and Aerospace Workers, (IAM & AW), represent the majority of the blue collar workers in the Tidewater, Virginia, area. We are testifying on behalf of 20,000 plus blue collar workers in the area.

My testimony today is directed toward those recommendations of the Rockefeller Panel, specifically:

1. Repeal the Monroney Amendment.
2. Eliminate or reduce the five automatic step pay increases.
3. Change the current night shift differentials
4. Include state and local government pay scales in wage data used to determine prevailing local rates.

Under Needed Improvements beginning on page 109 of the Rockefeller Panel Report, we agree that the system in general is based upon a sound basis and requires no drastic alteration or revision.

The Rockefeller Panel has taken exception to several features of the system which, in our opinion, were specifically designed to achieve true comparability with a broad spectrum of private firms; and for this Subcommittee and the Congress to adopt the Rockefeller recommendations would destroy the comparability principle now embodied in the system.

The Rockefeller Panel wants to eliminate all survey data obtained under the Monroney Amendment supposedly because its use and application is unfair to local employers and distorts the local wage structure. This is absolutely not true. This specific amendment was enacted into law after many months of study by the Congress and many hours of debate by those in opposition who are now again attempting to distort the true picture.

They are claiming that use of the Monroney Amendment results in rates above the local rates for a given level of job in the area. Its use is alleged to be inflationary and also that the work may be contracted out cheaper. This is simply not so. The application of the Monroney Amendment is used only in instances where no comparable position exists in the immediate local wage survey area. Therefore, it is not in competition with local rates since no comparable jobs exist upon which a survey may be made. There is simply no way a pay rate for a specific type of job can compete with a nonexistent job in the area. This simple fact was the very basis for the Monroney Amendment in the first place. In many instances military installations are located in remote areas, and there are no jobs within the basic area with which to compare duties and responsibilities and rates of pay paid comparable workers in the same type of industry or trade skill. Specifically, in our area of Tidewater Virginia, there is the big Naval Air Rework Facility employing more than 4,000 Civil Service employees which completely overhauls, modifies and repairs the Navy's newest and most complex multimillion dollar fighter aircraft. Many of those jobs consist of extremely highly skilled mechanics, machinists, tool and die makers, technicians, computer programmers and etc. Most of such jobs are unique and of such complexity that no comparable jobs are located in our wage survey area or even in the State of Virginia. Therefore, we are fully persuaded that either the Rockefeller Panel or some private employer is yelling "Wolf" when, in reality, there is no wolf.

To remove or modify the Monroney application as suggested by the panel, woud not only result in inequity, but would result in loss to the Government of critically needed skills to maintain mission capability as skilled technicians would seek more worthy employment as pay disparities grew from year to year. We would no longer have the concept of equal pay for equal work, and it surely would discourage younger employees from learning or going into the critical skills, trades, and crafts, many of which are specialized to the military establishments especially, where secret and more sophisticated weaponry is concerned and is vital to the very security of our great nation.

In the Tidewater, Virginia, area there is no comparable private sector aircraft industry, and a survey is, therefore, conducted in the nearest area (Philadelphia, Pennsylvania) which has similar industry and job matches. Thus, the degree of comparability can only be maintained by picking up rates for key jobs in a similar but contiguous area and averaging such rates into the local rates which, even then, does not in many instances result in actual comparability for these specialized critical jobs but approaches it when averaged into the various classifications and pay levels used by the Federal Government. Nationwide, we strongly support the Monroney provisions on the basis of the principle that it is one guarantee of insuring equal pay for equal work.

The panel also recommends a change in Shift Differentials and, in essence, suggests we revert to the old system of picking up various local rates ranging from a cent per hour to percentage rates which may be practiced by the various firms. It should be pointed out that such was the practice prior to enactment of P. L. 92–392 and was found to be wanting in many respects. First, the local establishments had varying systems as well as rates which could not be reconciled without difficulty and detailed computation, only to find that in the overall picture the average would come out to the percentages arrived at as now set by law. Moreover, the classified or graded employees had the differential already set by law; and if equity of treatment was to be accorded Federal employees, it was reasonable to treat night differentials on an equal footing for all Federal personnel. It made little sense to pay employees working side by side, on the same project, working the same hours, a different night differential simply because one was classified as graded and his co-worker ungraded.

In past testimony on the Federal prevailing wage rate system, it has been shown that many private sector firms pay the same night shift differentials for both white- and blue-collar workers. For this reason, and because of the vast difference in the range and number of firms surveyed in the Tidewater area and the possibility that some firms have very little night shift work while their Federal counterparts may have a great amount of night shift work, it was deemed most appropriate to have a uniform night shift differential. No doubt, there may be certain areas where payment of a national night differential may be a bit above an average local rate, but by the same token, it may well be the same or less in other areas, not to mention the many inequities which would exist as found in the old system to which the panel seeks to return. The Congress had studied the system then prevailing in considerable detail and rightfully found the mechanics of P. L. 92-392 to be uniform and equitable in its treatment for Federal employees on a nationwide scale. Had the Congress found otherwise, it would not have enacted P. L. 92-392 into law. No system yet devised can be perfect, and we are not saying that improvements cannot be effected. In fact, labor seeks to correct and refine the system in a number of respects primarily in the mechanics of the system and much of this can be accomplished through its role on the Prevailing Rate Advisory Committee of the Civil Service Commission as set forth in the law.

However, refinement may not take place by going backward and dismantling legislation piecemeal simply because parties in office at a given time do not like certain aspects of the law. The Congress, in passing P. L. 92-392 sought to bring stability as well as equity to the Federal system for compensation. Prior to the enactment of the law, Federal pay systems were a hodge podge of inequity with each agency paying a different wage and a different level for the same job classification. There was no uniformity of treatment in classification or pay. While some disparity may yet exist in some few areas, we now have the means and machinery to keep refining the system which we believe the Congress intended.

The Panel also recommends a step backward in the Step Rate structure of the present law currently calling for five (5) steps. Prior to enactment of P. L. 92-392, the structure was only three (3) steps and thus inequity existed in progression steps between classified (Graded) and Wage Board employees. The Classified and Postal employees had grade progression steps and calls for ten (10) steps in the progression. Wage grade workers had only three (3) steps and the law now provides five (5) steps under the system in efforts to achieve some parity among Federal employees especially where grades and levels overlap between the system. These steps were not "extras" or "bonuses" as the panel implies. The step structure goes back some in history not just in Federal service, but in private industry as well and represented not merely tenure of service, but progressive expertise as well. In the majority of cases the private sector offers a range of rates which exceed the 96-112% spread authorized by statute (P. L. 92-392). Many of the major companies in our wage area do have this spread, and the data indicates that it exists in industry as a whole. You take the giant Newport News Shipbuilding and Drydock Company in our wage survey area which employs more than 20,000 people. Many of their trades and crafts have five (5) or more steps and in some cases as many as thirteen (13) steps.

It would be inconsistent and incorrect to argue that in the blue collar area alone, a single or two-step system is valid when Postal Corporation employees and Federal white collar employees have multiple step systems. In fact, the GS schedule provides ten steps while the postal system provides 12 steps for most grades and ten steps in the highest three grades.

Clearly, an experienced worker became more knowledgeable and proficient in the operation of the work, his plant, and the system in general. In addition, prior to enactment of Pay Comparability Acts covering graded and ungraded employees; legislation, Administrative Action or both were necessary to raise employees base pay. Such action was relatively infrequent and inconsistent and employees waited years in some instances to get raises. Federal employees were soon and often outdistanced by their counterparts in the private sector. This fact, coupled with retention and recruitment problems led to legislation now in existence. Even under current law, time lags due to making surveys and other administrative action leave many Federal workers behind the current market rates. Then too, it must be borne in mind that Federal pay scales are not necessarily the market rate at the time of the survey but a composite of "average" rate due to averaging and classification levels for jobs as set forth by job standards. To "fit" about 2½ million workers into 15 or 18 grades leaves considerable room for disparity in itself. Finally, the panel cited studies which are not truly representative in that it allegedly studied 1944 firms and 172 firms respectively, which is hardly representative especially when chosen on a selective basis to suit their purposes and objectives of the last Administration. Even these studies showed where firms had multiple steps, the average was 3.88 or realistically four (4) steps. Thus, we see no reason to now change the Step Rate Structure.

For similar reasons, we must oppose the suggested change of the panel to alter the fixed payline step. The panel cities that most employees would be in steps four and five. As with any systems change, senior employees would be likely to fall under step four or five because of the many years held in the previous step three of the former system. However, as the older employees retire, new employees would not be paid at these step rates and the average step rate line would average out in time and in step with turnover rate. Newly hired employees start at Step one which is a lesser rate than the average base rate. The Panel suggests the first step in hire rate may be a disadvantage to the Government in recruiting. This is simply not so. Private industrial plants also have in most instances a new hire rate and only move the employee to the going rate after a probationary, or break-in period.

Moreover, the system was patterned from private industrial plant practices, a basic fundamental fact the study panel seems to have overlooked. As stated earlier, the Government "fits" all classifications into 15 wage and 18 graded levels and hence only "benchmark" job categories are surveyed and composite findings are averaged. In addition, many jobs, even like jobs, are not included where pay rates are considered above average. Therefore, private industry also has pay categories which the Government considers excessive. With all the specialized skills required in Federal plants lumped into 15 base levels, each divided into five steps, it is certainly equitable when compared to the wide range of job categories found in private industrial plants. The real truth of the matter is that the Federal pay system is inequitable to the Federal employee. The panel conveniently failed to point out the many exclusions which are not presently considered in area surveys. For example, the additional holidays, bereavement pay, fully paid insurance such as health, life, dental and additional overtime bonus payments which have been negotiated into private industry collective bargaining agreements, are not included in the local wage surveys. Other examples are Construction rates and job shop rates. If these exclusions, and there are many, were to be incorporated into area survey findings, it would show the Federal employee to be underpaid despite his "four" or "five" step rate which is only earned after years of service.

Finally, the panel recommends the inclusion of State and Local government rates to be weighted and averaged into the system. We must also reject that recommendation for a number of reasons. First of all, governments do not lead but follow private industry practice and to achieve some reasonable equity the law, therefore, specifically provided that rates be paid based upon wages paid by private employers in the wage area. Rates would never be really comparable if there were little or no private industry from which to draw pay samplings. Secondly, states and local municipal rates vary widely according to the size and nature of the township, city, county, or state. Some of these smaller municipalities operate on part time basis and often on voluntary basis such as volunteer fire departments and so forth. Many Tidewater city and county employees are retired personnel from both the military and the private sector. It is, therefore, impractical and inequitable to survey such rates.

In summary, we must oppose, and reject out of hand, the recommendations made by a panel whose findings and conclusions, were specifically biased and actually tailored to the whim and philosophy of a past Administration. The legislation now on the books was specifically passed to bring some system and order to the Federal pay system and included machinery for the resolution of disputes and inequities, and permits of necessary changes to the system when warranted or required by technological change. The Advisory Committee is composed of representatives of labor and management and chaired by an independent Chairman. We now have a new Administration and a new Congress, and we believe it to be a step backward to adopt recommendations to dismantle the Federal pay system by an Administration now past and which the electorate has rejected. Changes, if any are in fact warranted, should come after thorough and careful review by this new Administration and Congress, and only following proper input and consultation with labor representatives. It should be noted by the Committee that the Pay Panel had no labor representation whatsoever, and was organized solely for the purpose of dismantling legislation designed to bring a measure of uniformity and equity to Federal employees.

We appreciate this opportunity to appear before your subcommittee and make our views known. We trust and pray that this Subcommittee and Congress will reject the Panel Recommendations for the reasons stated.

STATEMENT OF CARL W. CLEWLOW, DEPUTY ASSISTANT SECRETARY OF DEFENSE, CIVILIAN PERSONNEL POLICY

The Department of Defense employs about 350,000 employees under the provisions of the Federal Wage System. We share with each member of the Subcommittee a deep concern that each and every one of those employees is paid fairly and equitably in accordance with the principles and policies enunciated in current law. That is:

There will be equal pay for substantially equal work within the same local wage area.

There will be relative differences in pay within a local wage area when there are substantial or recognizable differences in duties, responsibilities, and qualification requirements among positions.

The level of pay will be maintained in line with prevailing levels for comparable work within a local wage area.

The levels of pay will be maintained to attract and retain qualified employees.

The purpose of the administration's legislative proposal is not to deny our employees, whose services we value most highly, anything to which they are entitled under the legislatively mandated precepts of comparability. Instead, the administration's proposal will correct major costly legislation deviations from the comparability principle which have been identified independently by separate organizations including the General Accounting Office and the 1975 President's Panel on Federal Compensation.

The position of the Department of Defense on each of the proposed legislative changes was presented by Rear Admiral Weber and by Brigadier General Brown in earlier testimony on this subject. My request to submit a statement for the record is based on my belief that repetition at this time of earlier testimony serves no real purpose. However, the Department would be remiss if it failed to bring to the attention of the Subcommittee members some of the fallacies associated with the arguments of those who have opposed the administration's proposal more on emotional grounds than supportable facts. Such points, along with a discussion of certain of the issues which need further clarification will therefore be covered in this statement. The absence of coverage in this statement of any of the several reform proposals should not be construed as an indication of a lesser degree of support for such proposals.

Despite the statements which the Subcommittee has heard over and over again at the public hearings so far conducted, the proposed legislation will not result in cutting any current employee's pay—only new hires would be paid at the lower and more proper rates. In addition to having their pay rates protected during the transition, employees also would continue to receive pay increases. For many employees, the increases would not be as large during the transition period following the new legislation as they would have been under current law. The proposed legislation, however, provides for a minimum 3% increase in the first transition schedule in each area. Thereafter, employees whose rates of pay are already above the rates justified under the reformed system would receive one-half of any increases until the pay schedule catches up with their pay rates. At that time, they again would receive the full increases justified through the wage survey process.

FULL SCALE SURVEYS EVERY THREE YEARS

The record of the last hearings indicated a serious misunderstanding of the administration's legislative proposal to amend the full scale wage survey requirement to at least every three years rather than every second year. Contrary to statements made in testimony at these earlier hearings, wages would continue to be reviewed annually and adjusted in each area in the intervening years through wage change surveys. However, the proposal of a full scale wage survey every three years would provide more flexibility in scheduling surveys, would reduce annual survey costs for the Government and would lessen the burden on non-Federal employers who provide pay rate data. It would not, however, as the opponents contend, eliminate the current annual review of wages in each wage area. Nor would this change preclude more frequent full scale wage surveys if such surveys are needed.

STEP RATES

Opponents of the administration's legislative proposal consistently continue to allege that the rate range for blue collar workers in private industry justifies the 16% rate range between minimum and maximum rates for each grade. This argument is inconsistent with the requirements of comparability. This principle of comparability requires a decision on the specific point in the private sector pay universe with which, on the average, Federal pay should be equated. Many possibilities exist, for example, the upper quartile, the middle, or perhaps some other segment of the universe. In the case of the Federal Wage System and its predecessors, a studied judgment resulted in a decision that the Federal Government should match the "middle" of the universe, and that the measurement of the "middle" would be accomplished through use of the "mean." That is, the pay rate data for an occupation used in the construction of the pay line would be the weighted average of all data collected for that occupation. This decision to equate with the middle of the universe was made with full knowledge that, in so doing, the Federal Government would pay its employees more than many of the employees in the private sector survey sample of the local area and less than many other employees in that survey sample.

Opponents of the legislative proposal support their contention that multiple step rates are warranted on the basis of this same band of rates within which our policy requires us to pay in the middle of the range. This is not a valid basis for determining step rate structures. This wide band of rates has no significance for step rate purposes. In fact, to give the band such significance gives a new additional weight to a factor which has already been given full weight in computing the pay line, thus counting the same factor twice. If taken to a logical conclusion the arguments offered suggest that Step 1 should be equated to the lowest rate found on wage surveys of local private establishments; the last step of the step rate structure equated to the highest rate surveyed; and the average of Federal rates equated to the average of the private sector rates.

What is important in establishing the Federal step rate practices is the step rate practice in the private sector; that is, the range of rates paid by each individual employer. It is the prevalence and extent of rate range practices of individual employers that is controlling. The number of step rates that are paid to Federal workers cannot logically be used to balance high and low company averages of occupational data found in local surveys.

Summarized for the record in the attachment is the step rate practices of the companies included in the 1976 full scale survey of the Boston, Massachusetts area. Company data were obtained for survey key jobs in 628 cases. In 378 of these cases, 60.1%, a single occupied rate was reported. In 114 cases, 18.2%, two occupied rates were reported. In 136 cases, 21.7%, three or more occupied rates were reported. Thus, in more than 78% of the 628 cases, a maximum of two occupied rates were reported.

More comprehensive studies of establishment step rate practices have also revealed that overall the number of steps paid to blue collar workers in private industry is very small. Similar studies have shown that the number of steps paid to white collar workers is much greater, thereby firmly supporting differences in step rate practices for blue and white collar workers.

Since the valid method of determining step rate practices is by relating Federal steps to industry step rate practices, in spite of statements to the contrary, there is little doubt that the present five steps for blue collar workers are excessive.

AVERAGE TO AVERAGE

Opponents of the administration's proposal seem unwilling to recognize the fact that pay of Federal blue collar workers consistently exceeds the average level of rates found in the private sector, as is now the case. This phenomenon results from the legal requirement that the pay line rate be fixed at the second step, regardless of the distribution of Federal employees among the five step rates in the range. The General Accounting Office has pointed to this particular requirement as a legislative restraint to achieving comparability and has recommended that private sector average rates be equated with Federal average rates. In other words, the average pay rate of the private sector, the pay line, should be realted to the average pay rates of Federal blue collar employees rather than the predetermined Step 2. A change which would permit this equation would insure consistent treatment of blue and white collar employees and would recognize the fact that private sector wage data represent neither an entry rate nor a final rate, but a rate earned by persons who averaged an unknown number of years' experience and an unknown number of step increases corresponding to Federal within-grade increases.

To make this point more clear, let us turn our attention specifically to the step rate distribution of employees at activities in the Boston, Massachusetts area. The most recent study of step rate distribution of nonsupervisory and leader employees shows the following:

DISTRIBUTION OF EMPLOYEES BY STEP

	1	2	3	4	5	Total	Average step
Nonsupervisory	65	139	225	254	861	1,544	4.11
Percent of total nonsupervisory	4.2	9.0	14.6	16.5	55.7	100	.....
Leader	.....	3	9	21	38	71	4.32
Percent of total leader	4.2	12.7	29.6	53.5	100	.....	
Total	65	142	234	275	899	1,615	4.12
Percent of total	4.0	8.8	14.5	17.0	55.7	100	.....

The table shows with an average step rate of 4.12 and a requirement for Step 2 as the pay line rate, the Department of Defense is paying blue collar nonsupervisory and leader employees in the Boston area on the average 8.5% above their counterparts in the private sector.

Under an average to average policy, this overpayment would have been avoided. To illustrate, the following table compares for Wage Grade 10 (WG–10) current rates in Boston with those which would result from application of an average to average principle:

STEP RATES

	1	2	3	4	Average step (4.12)	5
Current WG–10	$6.36	[1] $6.62	$6.88	$7.15	.....	$7.41
Average to average grade–10	5.86	6.10	6.34	6.59	[1] 6.62	6.83
Percent relationship between steps	96	100	104	108	108.5	112

[1] Pay line rate.

The minimum rate for the grade would be $5.86 compared to the current minimum of $6.36; the maximum rate would have been $6.83, compared to the current maximum of $7.41. One can only conclude that the almost 740 employees in the Boston area paid at Wage Grade 10 are paid between 50¢ and 58¢ hourly more than that which their private industry counterparts, on the average, are paid. Those who firmly believe in a comparability principle have no alternative except to support and urge elimination of the legal requirement to equate the pay line with Step 2 so that this inequality with private sector pay can be corrected.

In conclusion, it is again emphasized that the Department of Defense continues its concern for the well-being of a loyal work force. In addition, the fact that there would be no reductions in pay for employees on-board should the proposed legislation become effective must be restated. Employees hired after the effective date would, of course, be paid rates appropriate under the reformed system.

BOSTON, MASS., SUMMARY OF COMPANY OCCUPIED RATE PRACTICES FOUND IN 1976 FULL SCALE WAGE SURVEY

Job title	Total number established units providing data	Established units with single occupation rate		Established units with 2 occupation rates		Established units with 3 or more occupation rates	
		Number	Percent of total	Number	Percent of total	Number	Percent of total
Janitor (light)	41	27	65.9	6	14.6	8	19.5
Janitor	53	35	66.0	9	17.0	9	17.0
Material handler	34	16	47.1	5	14.7	13	38.2
Maintenance laborer	6	3	50.0	3	50.0	0	0
Packer	20	10	50.0	4	20.0	6	30.0
Helper (trades)	12	8	66.7	3	25.0	1	8.3
Warehouseman	49	34	69.4	9	18.4	6	12.2
Fork lift operator	37	25	67.6	7	18.9	5	13.5
Truckdriver (medium)	27	25	92.6	2	7.4	0	0
Truckdriver (heavy)	27	23	85.2	2	7.4	2	7.4
Machine tool operator II	15	5	33.3	4	26.7	6	40.0
Machine tool operator I	20	8	40.0	2	10.0	10	50.0
Carpenter	36	29	80.6	5	13.8	2	5.6
Electrician	53	29	54.7	16	30.2	8	15.1
Automotive mechanic	35	18	51.4	10	28.6	7	20.0
Sheet metal mechanic	22	11	50.0	5	22.7	6	27.3
Pipefitter	17	11	64.8	3	17.6	3	17.6
Welder	24	16	66.6	4	16.7	4	16.7
Machinist	50	19	38.0	11	22.0	20	40.0
Electronics mechanic	4	3	75.0	0	0	1	25.0
Toolmaker	29	17	58.7	3	10.3	9	31.0
Aircraft mechanic	8	6	75.0	0	0	2	25.0
Electrician, ship	3	0	0	1	33.3	2	66.7
Shipfitter	3	0	0	0	0	3	100.0
Shipwright	3	0	0	0	0	3	100.0
Total number of cases	628	378	60.1	114	18.2	136	21.7

Note: Includes only those jobs for which data were provided by more than 2 companies.

STATEMENT OF RICHARD A. SILVER, DIRECTOR, VA HOSPITAL, BROCKTON, MASS., BEFORE THE SUBCOMMITTEE ON COMPENSATION AND EMPLOYEE BENEFITS, HOUSE COMMITTEE ON POST OFFICE AND CIVIL SERVICE IN BOSTON, MASS., OCTOBER 22, 1977

I appreciate the opportunity to appear before the Subcommittee on Compensation and Employee Benefits to provide the views of the Veterans Administration on the need for certain reforms in the Federal Wage System. I am Director of the VA Hospital in Brockton, Massachusetts. With me today in support of the VA position on this matter are Directors of our other Boston area VA hospitals: Dr. Richard M. Ryan, Jr., West Roxbury; Mr. Carlton M. Smith, Boston; and Mr. Michael J. Kane, Bedford. Also present is Mr. Andrew B. Smith, Chief, Wage Survey Division, Office of Personnel, VA Central Office in Washington, D.C.

Before I speak to the specific areas involving the FWS which are in need of modification—because they are inconsistent with the prevailing rate concept—let me talk briefly about our role under the Federal Wage System and the Veterans Administration in general.

Of the 135 different geographic areas covering appropriated fund employees under the Federal Wage System, VA has wage survey and pay-fixing responsibility for 22. Surveys under this system are carefully planned and conducted to ensure that they are made at the proper time and produce accurate levels of prevailing rates for Federal blue collar employees. These surveys are scheduled at a time in each area when the major private employers have effected new contract settlements or wage adjustments. The significance of this timing, of course, is that we are able to translate current industry pay to current Federal pay with a minimum time lag.

Also of considerable importance is the quality of the survey program itself. We have taken steps in VA to secure the best possible leadership in local surveys through an intensive managerial and technical training program for individuals responsible for the conduct of such surveys. As a result, we are confident that the surveys are of a high quality and are producing accurate measures of prevailing rates—neither more than the local industry average, nor less.

With respect to the VA generally, we employ more than 220,000 workers in a variety of occupations. Of this total, almost 200,000 work in the Department of Medicine and Surgery in our health care facilities throughout the country. These include 171 hospitals, 16 domiciliaries, 89 nursing home care units, and 219 outpatient clinics. Employees in these facilities have an important role in providing health care to the nation's veterans. On any given day more than 91,000 veterans receive inpatient medical treatment in a health care facility, and another 55,000 visits are made on an outpatient basis. Of our total employment, nearly 40,000 Federal Wage System employees in VA are paid under the prevailing rate system. VA has health care facilities and thus FWS employees in 101 of the 135 Federal Wage System areas. Many of these employees are housekeeping aids and food service workers performing vital tasks for the well-being of our patients. Since 1970, wages for the FWS employees have increased on an average of more than eight annually.

The Department of Medicine and Surgery in VA employs about 25,000 nursing assistants, 7,800 licensed practical and licensed vocational nurses, 5,000 medical technicians and technologists and 2,000 x-ray technicians. All of these employees are in direct patient care and work in support of our physicians, dentists and nurses, and they are paid under the nationwide General Schedule. The annual average increases of the General Schedule since 1970 has been slightly over five percent.

The change in traditional pay relationships and between GS and FWS employees has had and is causing critical morale problems among our GS health care personnel. Our hospital directors have reported many instances where skilled blue collar employees are receiving more pay than GS employees responsible for major hospital program areas. There have been occasions where highly qualified professional employees have transferred to lesser skilled wage positions because of more favorable pay. However, our primary problem lies in the nursing care area. As an illustration, a relatively inexperienced and unskilled housekeepng aid in a VA hospital is paid a higher wage than an experienced and higher skilled nursing assistant, licensed practical nurse, or other health care worker with responsibility for direct patient care. A study made in December 1976 showed that a nursing assistant hired at the normal entry level of GS–2 would receive less pay under the current General Schedule than a housekeeping aid, food service worker, or laundry worker hired at the normal entry level of WG–1 in 95 of the 101 Federal Wage System wage areas.

We believe that a large part of the pay problem is due to inconsistencies in the current FWS prevailing rate law, which was enacted in 1972. The basic comparability principle, as legislated under section 5341, Title 5, United States Code, is a concept which I and the VA support. This principle calls for (1) equal pay for substantially equal work, (2) relative differences in pay within a local area for recognizable differences in job skills, (3) maintenance of pay in line with that prevailing in a local area, and (4) a level of pay sufficient to attract and retain a quality work force. With these policies as the foundation of a sound comparability system, it is difficult for us to understand and accept a system which is fragmented with either conflicting statutory provisions or inconsistent practices with industry, such as the Monroney Amendment, the use of five-steps, uniform night differentials, and the limitation to include only private establishments in wage surveys. These are requirements which we strongly believe need to be reformed in order to achieve greater comparability in the Federal Wage System and are matters on which I wish to address your subcommittee today.

MONRONEY AMENDMENT

One of the most serious conflicts is the statutory requirement that Federal wage employees be compensated under the comparability principle of prevailing rates and at the same time, under certain circumstances, be compensated on the basis of data from outside the local area in which they are employed. The Monroney Amendment in effect creates a double statutory standard, which forces agencies to acquire wage data often from remote areas to fulfill an unjustified need to establish pay rates for so-called principal types of Federal positions when such positions are not found in the local area.

A basic requirement of the Federal Wage System is to measure and determine the prevailing level of wages in the private sector by defined geographic areas. The system's design obviates the need to secure data on all Federal jobs which exist in an area. There must only be a need to have an adequate base for determining wage levels through representative job coverage in the private sector which reflects the skill levels found in the Federal government. The additional need required by the Monroney Amendment thus creates pay inequities within local labor markets and results in unwarranted payroll costs for FWS employees in these areas.

Application of the Monroney Amendment is required in 4 of the 22 areas for which VA has lead agency responsibility under the Federal Wage System. Of the 4 areas, the Monroney Amendment's impact is only significant in the Birmingham, Alabama locality, where it produces payline rates that are, on an average, 8½% higher than local prevailing rates. Most of the 760 Federal wage

employees in the area are employed by VA, but because approximately 25% of the employment is from Defense aircraft activities, we are required to use aircraft wage data from Atlanta, Georgia in combination with local wage data obtained in the Birmingham area to satisfy the above statutory provision. We view the effect of this legal requirement as a gross inequity in Birmingham as well as in other areas where it is applied. Repeal of the so-called Monroney Amendment would restore this aspect of the comparability principle which we believe is most desirable and critically needed.

STEP RATES

Another serious conflict with the comparability principle and outside practices is the legal requirement that each Federal Wage System grade of the nonsupervisory schedule have five step rates, with the second step used as the prevailing payline or the base rate. The first step is set at 96% of this rate, while the third, fourth, and fifth step rates are set at 104%, 108%, and 112%, respectively. Some proponents of the Federal Wage System are of the opinion that this step-rate provision is insufficient. They believe there should be additional steps, perhaps as many as ten, such as the General Schedule system provides. These same proponents contend that a multi-step-rate structure should be used because of the significant variance of wages paid among different companies for the same job in an area. Experience has shown that this variance does exist, essentially because all companies simply do not pay, for example, an electrician the same rate of pay due to the extent of area collective bargaining agreements, employment conditions, profits, or other economic factors. In one locality, therefore, rates paid by different companies for an electrician could range from as much as $4 to $8 per hour. In another locality, this range could be as little as $6 to $7 per hour. We do not believe, in any event, that this kind of difference is a valid measure upon which a step-rate structure should be established. Rather, such a structure must be measured by the practice established by most companies in an area for their employees, and it is this practice that our wage system should follow. Civil Service Commission studies on such practices show that the principal method used in the private sector is a single rate structure, rather than multiple. The current provision of law for five steps results in almost half of our wage employees (46.6%) being paid 12% above the prevailing payline rate. Significantly, 77.8% of VA employees are in steps 3, 4, and 5. On an overall basis, the average step rate in VA is 3.8. These employees will continue to receive rates of pay of up to 12% higher than the going rate over and above their annual wage schedule adjustments as long as the 5-step practice is continued.

To put this point in a local perspective, I would like to illustrate the current employee step rate distribution in the five VA hospitals and clinics in the Boston area.

STEP DISTRIBUTION

	1	2	3	4	5	Total	Average step
Number of employees	47.0	154.0	133.0	155.0	476.0	965	3.9
Percent of total	4.9	15.9	13.8	16.1	49.3	100	

This pattern shows clearly that, with an average step of 3.9, the VA is paying its blue collar employees in Boston an average of almost 8 percent more than the prevailing area wage level.

No sound basis exists for a five-step system, nor does a basis exist for the fixed payline step. The use of a fixed payline presupposes that industry follows such a practice. CSC studies, however, do not support this kind of practice. True comparability in this respect can only be achieved by relating average pay for private sector employees to average pay for Federal workers. This, we believe, would be fair to the employees affected and fair to the taxpayers of the United States.

NIGHT SHIFT DIFFERENTIALS

Another requirement of current law which is in conflict with the comparability principle is the provision for nationwide night shift differentials of 7½ percent and 10 percent for the second and third shifts, respectively. Experience under this system prior to enactment of the current law showed that such differentials differed from area to area, depending on local practices. Most significantly, the principal industry practice was to pay these differentials in cents per hour amounts rather than on a percentage basis. We believe this statutory requirement must be eliminated in order to reflect true prevailing practices under the comparability principle.

EXCLUSION OF STATE AND LOCAL GOVERNMENTS

Current law requires that wage surveys be limited to private industry establishments. State and local governments, therefore, cannot be surveyed. State and local governments employ a significant proportion of the Nation's labor force, upwards of 12.5 million employees—December 1976. The exclusion of such a sizable employment segment raises doubts in many areas as to whether our pay determinations are truly representative of prevailing rates. This is especially significant in areas where the regularly surveyed industry base is limited and State and local governments are important employers. The restriction of surveys to private industry establishments must be removed in order to include these entities where it is necessary to obtain adequate job samples and a broader base upon which pay determinations are made.

LEGISLATIVE PROPOSAL

The legislative proposal submitted by the Civil Service Commission, which was endorsed by President Carter, would improve the operation of the Federal Wage System by removing the above-cited provisions of current law which are inconsistent with the basic principle of comparability. The proposal would accomplish the transition in an orderly and equitable manner, as indefinite pay retention is provided in the bill for employees who otherwise would be adversely affected. A 3-percent minimum increase also is guaranteed for each employee paid from wage schedules adjusted pursuant to the first survey ordered after legislative enactment. Any employees paid retained rates thereafter would receive one-half of future wage adjustments until later entitlement provides higher rates of pay through normal operation of the Federal Wage System.

I am most appreciative to have had the opportunity to express the VA's views on the Federal Wage System today and would be glad to respond to any questions you have.

STATEMENT BY PHILLIP J. O'DONNELL, NATIONAL VICE PRESIDENT 1ST DISTRICT, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

The American Federation of Government Employees welcomes Mrs. Spellman and her Subcommittee to Boston, and to our 1st District. AFGE represents several thousand blue-collar employees in the New England area. World-wide AFGE represents some 230,000 Appropriated and Non-Appropriated Fund employees or some 53 percent of all Prevailing Rate employees eligible to be represented under Executive Order 11491.

We're very appreciative of this chance to be heard. We would like to take this opportunity to thank Mrs. Spellman for her recent efforts in blocking those who would have short-circuited the legislative process. The opponents of this system would have imposed a number of regressive unilateral changes in the Federal Wage System by means of last minute limitations inserted in the Department of Defense budget.

We want to say at the outset that the present Federal Wage System is a good system. It has worked very well from the start.

It is also a fair system for both workers and government, indeed the only really fair system labor now has, insofar as both labor union participation in the wage-setting process and the process itself are concerned.

We do not want to see this system changed in such a way as to destroy either its' workability or its' fairness. We think the proposed changes would do both.

We also wish to clear up some misleading and erroneous impressions which have been circulated recently by those who would deliberately destroy the comparability of the federal prevailing rate system.

I'm sure you'll only have to ask the group assembled here today to get a very clear indication of how they feel about this effort to destroy their pay system and their financial security!

THE 5 STEP SYSTEM

The current law calls for a five-step pay system that takes six years to advance from step 1 to step 5 with step 2 of the system based on a payline drawn from the average of rates paid comparable private sector jobs in the area. The attached chart shows the range of rates by grade found in the last Boston Full Scale Survey. Overlaid on these rates are the rates paid wage employees in this area at steps 1, 2, and 5. As you can see, at most grades the range of rates paid private sector employees far exceeds the 16 percent range of Federal Wage System rates. These ranges of private sector rates may or may not exist in any one firm in the area, but the chart does show they exist in the area overall.

These who would do away with the 5 step system charge that the Government enjoys a 12 percent advantage in competing for employees, this is not true. Many fringe benefits, such as: paid dental, health, and life insurance benefits are not included in the area surveys. Plus, they would have us believe the Government fills jobs at step 5, when they are really filled at step 1, where the rate is only 96 percent of the payline. If we were to only look at the rates for private employees who had been in the same job with the same firm for six years, then their rates would be very comparable to those paid the Federal Wage System employee at step 5.

I'll briefly touch on some of the other points as AFGE has already presented its' position on these issues several times, and I know you're really interested in getting the views of the local people during the question and answer session.

IMPORTATION OF RATES

The provisions of the system dealing with the so-called Monroney Amendment were first placed in law in 1968. Then, Senator Mike Monroney introduced this legislation to improve the system used then, in an effort to obtain truly comparable Prevailing Rates from outside of a wage area when they couldn't be found inside. This principle was reaffirmed and restated in the law by Congress after it had been in effect for 4 years and it became a part of the Federal Wage System in 1972.

These provisions came about because of Civil Service Commission and Agency inflexibility in designing or defining wage areas and their failure to recognize the simple fact that you cannot have comparability, if com-

parable private sector jobs cannot be found or their rates cannot be measured in the existing wage areas.

If these provisions can be criticized they should be criticized for what they do not do, not for what they do. The Federal Wage System survey jobs are supposed to be representative of the Federal work force job skills, and grades. Some of these survey jobs represent as few as a thousand Federal employees. Whereas; the aircraft mechanic is the single largest populated job in the Federal blue-collar system, yet it is not even surveyed as a normal part of the system. It is our feeling the so-called Monroney provisions could be improved, but they should be strengthened and improved and not used as lever to attack the other parts of the system.

NIGHT SHIFT DIFFERENTIAL

Long before the Federal Wage System and the Coordinated Federal Wage System many agencies paid a uniform percentage Night Shift Differential. Most private firms pay the same Night Shift Differential to their blue and white collar employees. General Schedule employees, for years, have received a uniform percentage Night Shift Differential. It's our view that the current practice should be continued with Night Shift Differential paid as a uniform benefit the same as other uniform premium and differential pays, such as; Environmental Differential Pay, overtime, Sunday, and holiday pay.

INCLUSION OF STATE AND LOCAL GOVERNMENT IN WAGE SURVEYS

It's our feeling that this issue has been raised by the opponents of the system to cloud the real issue. State and Local Governments were surveyed under the Coordinated Federal Wage System and really had little effect in all but 11 or 12 areas, benefiting some, hurting others. In most cases, they would neither help nor hurt, and we feel they are not needed in the Federal Wage System surveys.

NON-APPROPRIATED FUND EMPLOYEES

We feel it's very strange and very wrong that after all of the studies, proposals, and recommendations made regarding the Federal Wage System, that no one on the management side has looked at the plight of the Non-Appropriated Fund employees, both those covered, and those not covered by the system. AFGE has long fought to have these employees treated fairly; first to be covered by the minimum wage and later for them to be included under the Federal Wage System. Unfortunately, we still have a long way to go. These employees work under a system which has the same grade structure, the same job standards and work on the same installations as the Appropriated Fund employees. Yet, even for those covered by the Federal Wage System their pay, in most areas, is so far below their Appropriated Fund counterparts, you wonder if we even have a system.

Let me give you a few examples: the system-wide average for an Appropriated Fund employee Grade 1, Step 2, is $4.45, while for a Non-Appropriated Fund employee, Grade 1, Step 2, it's only $2.57. In reality, for most Non-Appropriated Fund employees at Grade 1 their pay is really set by various minimum wage provisions and not through surveys.

At the higher grades the Appropriated Fund, Grade 10, Step 2, system-wide rate is $6.94 while for the Non-Appropriated Fund, Grade 10, Step 2, it's $4.81. This roughly $2.00 per hour difference is unjustified when you consider the only meaningful difference in these people's employment is where their pay comes from. It hardly meets the "equal pay for equal work" provision of the law.

One final point, one most important aspect of the Federal Wage System is that providing for labor participation at all levels of the pay setting process. It's the real key to the success and acceptance of the system. Somehow in the implementation of the Federal Wage System the so-called A.S. (Administrative Support) and P.S. (Patron Service) employees were denied this very basic right under the law. As a result, they are given no voice in their survey and pay setting process and very little, if any, participation.

AFGE, over the past five years, has expended thousands of staff and member man hours in an effort to build the Non-Appropriated Fund pay system to a point where it could fairly be considered a parallel counterpart to the Appropriated Fund system. Although progress has been made, this goal has just not been reached. Our 1976 Convention voted that we move to abolish the present Non-Appropriated Fund system with its' separate so-called Craft and Trade Administrative Support, Patron Service, and Universal Annual Systems and provide for payment to these employees the appropriate Prevailing Rate for their job as established through either the regular Federal Wage System or General Schedule system. We feel only then will these employees be properly treated and paid.

THE FAILURE OF THE FAA'S CONCORDE TESTING AT DULLES

(Mr. SCHEUER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SCHEUER. Mr. Speaker, back on September 15, before the administraiton announced its decision on supersonic aircraft, I wrote the President and the Secretary of Transportation outlining some objections to the way in which the administration has made its decision on Concorde.

In particular, I was concerned with the integrity of the Concorde tests at Dulles International Airport. Clearly, if these tests were conducted properly, they might have prevented the necessity of any test at all in Kennedy International Airport in my own congressional district. In fact, Jerrold Fadem, the prominent Los Angeles noise attorney, is currently suing the FAA for conducting a needless test at Kennedy because all the data that needs to be collected can be gathered at Dulles.

My concern was registered in an 11-page memo to Brock Adams listing 82 questions I developed concerning the testing of Concorde at Dulles Airport. As of today, more than 1½ months after I wrote the letter, I have received no answers to my questions. In fact, until I wrote Secretary Adams a note on October 18, I had not even received an acknowledgment to my carefully prepared letter and memorandum. Following my note on October 18, my staff received a phone call from congressional liaison apologizing and explaining that a response would be in the mail soon. Two weeks after that conversation I still have received no answer.

Mr. Speaker, I think our colleagues will find my questions on the testing of Concorde at Dulles Airport interesting and informative. When the Department of Transportation answers these questions I shall place them in the RECORD, but, since the recess is coming up quicking, I have appended my letters to President Carter and to Secretary Adams to this statement:

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 15, 1977.

Hon. JIMMY CARTER,
The President, The White House,
Washington, D.C.

DEAR MR. PRESIDENT: As you know, my congressional district in New York includes John F. Kennedy International Airport and all of the small communities perched on the edge of the airport: Howard Beach, Lindenwood, Laurelton, Rosedale, Cambria Heights, Broad Channel, and the entire Rockaway Peninsula. Any decision the Department of Transportation and your administration makes concerning Concorde operations in the United States is inextricably tied to the health of the five hundred thousand residents of my community.

I know that events are moving fast to a conclusion with an announcement expected from Secretary Adams sometime before September 26, the conclusion of the test period for Dulles Airport. Before you act on any Department of Transportation recommendation, I would hope that you would carefully consider the following two items.

First, I have enclosed copies of a set of correspondence between 18 members of the House, the General Accounting Office, the Department of Transportation, and the National Aeronautics and Space Administration. In the August 4, 1977 letters, we asked the General Accounting Office to facilitate and coordinate an inter-agency study group to examine just one type of noise emanating from Concorde—something called low frequency vibration—rattle noise.

Dr. Karl Kryter, one of the world's foremost authorities on noise and the Port Authority of New York and New Jersey's consultant, has argued convincingly in a 300 page report that low frequency noise is what distinguishes the Concorde from all other airplanes. He also believes that additional study is required to quantify the effects of this particular type of noise.

Two meetings were held between all of the parties involved on August 11 and August 16. The first was chaired by me in my office and the other was chaired by Henry Eshwege of the GAO at the Department of Transportation building. On August 18, the Comptroller General Elmer Staats corresponded with all of the agencies involved, requesting comment on the Kryter Report by this Friday, September 16. Specifically, he was concerned with whether or not additional studies on low frequency rattle-vibration noise characteristics of Concorde were necessary.

Mr. President, as we understand it, the Department of Transportation intends to proceed with its proposed rule making proceeding before September 26 regardless of the findings by Mr. Staats and the GAO. Mr. Eshwege, in sworn testimony before Congressman Leo Ryan's Government Operations Subcommittee on September 7, acknowleged under my questioning that it would be incumbent on the Department of Transportation to withhold their report on Concorde for some reasonable amount of time if the GAO determined that additional study of Concorde's low frequency rattle vibration noise was necessary.

This is not a minor, unrelated issue, on the fringe of the Concorde controversy. Roughly 30 percent of the citizen complaints at Dulles airport related to rattle-vibration. And a federal decision, whether it be conscious or unintended, to ignore low frequency rattle-vibrations could irreparably damage the Port Authority's case in the U.S. Court of Appeals scheduled for hearing on September 19.

Therefore, I urge you to review carefully the Comptroller General's findings on the submissions by NASA, DOT, and EPA *prior* to approving release of any proposed rule-making. These submissions, as stated above,

are due to be filed with the GAO by September 16, and all of the agencies involved (EPA, FAA, DOT, NASA), have stated their intention to comply with that deadline.

The second item which bears directly on your decision on Concorde concerns the very integrity of the Dulles testing and the previous Administration's decision making processes *prior* to the testing. I have also enclosed a copy of a letter I have sent today to Secretary Adams including a long list of detailed questions on Concorde.

Most of these questions have been asked before by interested citizens, Congressmen, Senators, and public interest groups. Yet time and again the Department of Transportation has either refused to answer them or has answered them imprecisely or incompletely. The hallmark of your campaign was a promise to the American people that you would make government more open and more responsive. Taken together, these queries strike at the very integrity of our governmental process and require answers.

This concern with the integrity of the Dulles testing is not new. Immediately following Secretary Coleman's decision on February 6, 1976, more than fifty Congressmen joined me in introducing a resolution calling for an investigation of the entire decision making process. And in June, 1976, my proposal to have an ad hoc study panel made up of three renowned scientists to monitor the FAA tests at Dulles was endorsed by numerous Congressmen and public interest groups including Senator Jacob Javits and the Sierra Club.

Mr. President, it may well be of little import whether the Secretary of Transportation answers these questions to my personal satisfaction. However, what is important is that, prior to the issuing of any decision on Concorde, these questions should be answered to your satisfaction, and to the satisfaction of the American public.

I am eager to discuss these issues with both you and Secretary Adams.

With every warm best wish,

Yours,

JAMES H. SCHEUER, M.C.

HOUSE OF REPRESENTATIVES,
Washington, D.C. September 15, 1977.

Hon. BROCK ADAMS,
Secretary of Transportation, Department of Transportation, Washington, D.C.

DEAR BROCK: As you know, my congressional district in New York includes John F. Kennedy International Airport and all of the small communities perched on the edge of the airport: Howard Beach, Laurelton, Rosedale, Cambria Heights, Broad Channel, and the entire Rockaway Peninsula. Any decision the Department of Transportation makes concerning Concorde operations in the United States is inextricably tied to the health and welfare of the five hundred thousand residents of the communities I represent.

Appended to this note is a comprehensive list of questions concerning the integrity of the testing operations the Federal Aviation Administration has conducted at Dulles Airport over the past fifteen months. Succinctly put, I have grave personal doubts that the testing at Dulles, as reported in the FAA's monthly reports, was of the caliber of professionalism and level of credibility that those of us in Congress had expected.

This concern with the integrty of decision making processes and the carrying out of the results of those decision making processes is not new. Immediately following Secretary Coleman's decision, on February 6, 1976, more than fifty Congressmen joined me in introducing a resolution calling for an investigation of the entire decision making process. And in June, 1976 my proposal to have an ad hoc study panel made up of three renowned scientists to monitor the FAA tests at Dulles was endorsed by numerous Congressmen, Senators, and public interest groups including Senator Jacob Javits and the Sierra Club.

Brock, the chickens have now come home to roost. These questions require serious thought and forthright responsive answers. In other circumstances I would not insist on a prompt reply to all of these questions, but most of them have been posed before by other Congressmen, interested citizens, and public interest groups and still remain unanswered. Therefore, I would urge you to answer all of these questions to your own satisfaction prior to making any recommendation to the President.

I am of course eager to meet with you to discuss these serious issues. I look forward to hearing from you.

With every warm best wish,

Yours,

JAMES H. SCHEUER, M.C.

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 15, 1977.

MEMORANDUM

To: The Honorable Brock Adams, Secretary of Transportation.
From: James H. Scheuer, M.C.
Subject: Questions on Concorde testing at Dulles.

PRIOR BIAS IN THE DECISION MAKING PROCESS

Those of us who have been following this issue closely for the past few years, and especially in the past three years, have at times been made aware of specific facts which seem to indicate that the basic decision to allow Concorde into the United States is being made behind closed doors. Most of the allegations concern the previous administration.

1. A November 27, 1972, White House memo indicated that the British had acknowledged that the Concorde would not meet subsonic aircraft noise standards and had asked for an informal exemption from those standards. In April, 1975, Mr. K. G. H. Binning at the British Department of Industry said before the FAA that "we have never sought any waivers or special privileges to avoid the (noise) regulation and we are seeking none today." How do you expain this contradiction?

2. I request copies of the November 27, 1972 memo and any correspondence flowing from this memo such as the documents which led its author to claim that the British had informally asked for an exemption.

3. On January 19, 1973, President Nixon wrote Prime Minister Heath and promised him that ". . . the FAA will issue its proposed fleet noise rule in a form which will make it inapplicable to the Concorde. . . ." To the best of your knowledge, what were the prior and/or subsequent commitments made by Mr. Nixon to the British and French on Concorde?

4. An October 6, 1975 letter from Henry Kissinger to Secretary Coleman conveyed the obvious, albeit unstated, presumption that Coleman's decision would be favorable to the Concorde by terming Coleman's decision as "the Administration's initial decision." The justification for Kissinger's involvement in this issue was the diplomatic effect any decision on Concorde would have. How important are diplomatic constraints on your decision?

5. What are the important diplomatic concerns generated by Concorde which weigh heavily with you?

6. What documents exist detailing the diplomatic importance of this decision? I request copies of them.

7. In October, 1976, the FAA prepared a United States proposal for the International Civil Aeronautics Organization allegedly based on the Dulles testing, recommending exemption of all Concordes from United States noise standards until 1984. Why did the FAA, after only four months of testing, make such a recommendation?

8. In November, 1976, the FAA promised District Court Judge Barrington D. Parker, during a suit by the Environmental Protection Agency joined by New York, Massachusetts and Illinois, that the FAA would not exempt any first-generation Concordes produced subsequent to the nine already in operation from FAR-36 standards. Do you intend to adhere to that promise made in court last year?

9. A letter dated September 2, 1977, from Thomas Alexander of the Neiman Marcus Corporation to the Sierra Club claims that approval for a Concorde flight into Dallas/Fort Worth Airport in the middle of October has been gained by the city of Dijon. Is this true?

10. If so, isn't such approval a direct violation of the Coleman decision which precluded further airport openings until a new impact statement was filed?

11. There is currently an options paper circulating around the administration which has a classification of "secret". Can you explain why this document is classified as "secret", a classification reserved for documents whose disclosure would damage the national security?

12. I request a copy of that options paper.

INSTRUCTIONS

It seems logical to assume that Secretary Coleman gave some instructions to the FAA and that the FAA, in turn gave some instructions to both the Dulles airport operators and to the various technicians concerning the Dulles testing.

13. What were the precise instructions Secretary Coleman gave to the FAA for the monitoring of Concorde operations at Dulles?

14. What were the instructions that the FAA passed on to the Dulles Airport personnel and to the technicians monitoring the flights?

15. What were the instructions given to the contractor running the complaint center?

16. I request copies of any written instructions, memos, and contracts involved with the Concorde testing at Dulles.

LOCATION OF RADAR TRACKING SITE

It is my understanding that the location of a radar tracking site has significant bearing on the accuracy of that machine's capability to follow an aircraft.

Peter R. Clapper of the FAA conceded on August 22, 1977 in a letter to Mr. Robert Thurston of Herndon, Virginia, that the radar tracking for the first four months of testing at Dulles was in Suitland, Maryland despite the fact that Charles Foster of the FAA had stated in a letter dated May 16, 1977 that the radar tracking was done at Dulles. Furthermore, by tracking at Suitland, the FAA was not able to track the final approaches of the Concorde's landing.

17. Why was the radar tracking done at Suitland instead of at existing radar sites at Dulles that could have picked up the final two to four nautical miles of approach?

18. If there was a good reason for tracking at Suitland, why did the FAA switch to on-site tracking radar on October 28?

LOCATION OF MONITORING SITES

Obviously, the results of the testing at Dulles are highly dependent on where the monitoring sites are located. A test of the highest integrity would have attempted to test in populous areas around Dulles and to test at distances from the runway that would correspond to populous areas around other airports.

19. The FAA's Concorde Monitoring Six Months Report: May–November, 1976 states that most noise measurements were taken "in populated areas." However, close exami-

nation shows that the FAA tried to take more noise measurements at FAR–36 sites which are mostly within the airport's boundaries and far removed from populous areas. Why did the FAA primarily use FAR–36 sites for noise measurements rather than sites inside the communities surrounding Dulles?

20. Why didn't the FAA attempt to set up monitoring sites at points that would replicate the densely populated area surrounding Kennedy Airport?

21. Practically all North and West arrivals fly directly over monitoring sites N6 and S7. Why has the FAA taken so few noise measurements at these two sites?

22. Leesburg, Virginia (Site 08) is the area with the second highest volume of pain complaints from Concorde noise. Most southern departures fly right over site 08. Why has the FAA taken very few noise measurements at site 08 and almost none after November, 1976?

23. Sites 04, 08, 06, and 03 are permanent, automatic monitoring sites and are supposed to record instantly the noise and altitude of all plane flights. Why has the FAA failed to report the noise levels of all Concordes flying over these and other permanent testing sites?

24. I request all of the results from these four sites during the 16 month testing period at Dulles.

25. Analysis of the early FAA monthly reports clearly shows Concorde noise to be louder than other aircraft noise over the communities three to five nautical miles from the airport even though Concorde noise may be roughly equivalent to other aircraft noise over the FAR–36 monitoring sites. For example, on July 18, 1976, the Concorde on arrival was 6.7 dBA louder than a 707 three miles away from the airport but 0.4 dBA quieter than a 707 at the FAR site one mile from touchdown. Why did the FAA generally omit, or fail to record, noise measurements of subsonic jets for comparison to the Concorde at sites in the communities three to twenty miles away from the airport after November, 1976?

26. How do you explain the fact that Concorde is so much louder than a 707 three miles from touchdown and quieter than a 707 one mile from touchdown?

27. It it possible that one explanation for this phenomenon is that the British and French pilots have been cutting their engines as they fly over the FAR–36 markers removed from populous areas to ensure that they do not exceed noise standards at those points?

MOBILE MONITORING SITES

In order to mitigate some of the problems with fixed testing sites, the FAA also used mobile tracking units to determine noise levels of the Concorde.

28. I understand that the FAA reduced the number of mobile monitoring sites from five to four to three. When and why did this occur?

29. Why didn't the FAA deploy their mobile noise monitoring teams to communities with an especially high volume of citizen complaints such as Poolsville (N9), Sugarland Run (N6), and Herndon-Reston (S7)?

THE ACTUAL RUNNING OF THE TEST

Since the implementation of the Coleman decision and the inauguration of tests at Dulles, numerous questions have been posed concerning the testing itself at Dulles Airport.

30. Secretary Coleman's February 4, 1976, decision on Concorde states that the trials may be stopped "immediately in the event of an emergency deemed harmful to the health, welfare or safety of the American people." In a March 12, 1976, meeting, Coleman explained that ". . . if the plane on landing or takeoff created such noise which was injurious to the health of the people. . . ." that would be grounds for suspending the tests. What is the amount of pain or damage which must result to how many people for the tests to be suspended?

31. At the beginning of the test period the monitoring equipment was being operated by Virginia Community College students. What were their qualifications for performing these complicated tests?

32. Do Community College students continue to operate mobile monitoring equipment?

33. In industry, no worker is permitted to be subjected to any duration of noise above 115 dBA. According to the FAA monthly reports, through May 1977 the Concorde noise levels exceeded 115 dBA on at least 22 occasions. How can the FAA even consider granting the Concorde additional landing rights since its noise levels exceed maximum allowable levels for full-time workers in industry?

34. Has the FAA commissioned any study by agencies such as the National Institutes of Health, the National Aeronautics and Space Administration, the National Academy of Sciences, the Environmental Protection Agency or the National Science Foundation into the health hazards created by these noise levels?

35. Secretary Coleman's decision allowed both Air France and British Airways each to have two Concorde operations per day (about 120 per month). However, operations during the 12 months of data accumulation averaged less than 40 per month. I understand that there has been a steady increase of flights during the test period. I request a breakdown of the number of Concorde operations each month for the full 16 month test period.

36. What are the future plans of Air France and British Airways with respect to the projected number of operations?

37. Do you intend to make explicit in your report the fact that the Dulles data (noise and citizen response) was based on a monthly pattern of flights only one-third the size allowable under the Coleman decision?

38. Has either the Department of Transportation or the FAA set up any procedures or provided any funds for noise insulation of homes surrounding the airports at which Concordes are tentatively scheduled to operate?

39. What provisions, if any, has the federal government made for reimbursement, compensation or payment of medical or recovery costs for any injuries or structural damage caused by Concorde noise and vibrations?

40. In order to provide a standard of comparison of noise levels of all planes for the full daily spectrum of noise, the mobile teams should take noise measurements for long periods of time before and after Concorde operations so as to take account of the base level of noise. Yet such data is not reported in the monthly reports. Were such measurements taken? If so, I request compilations of them. If not, why not?

41. According to the FAA's aircraft sound descriptive system, more than two minutes of aircraft noise duration exceeding 85 dBA in one day is equivalent to more than 35 NEF (noise exposure forecast) or the accepted level of noise above which single family homes should not be built. The NASA August 7, 1976, tests of Concorde takeoffs showed a noise duration of 60 seconds of 85 dBA 12 miles from the airport for just one takeoff. Thus, just two Concorde takeoffs in one day will place homes 12 miles from an airport in a 35 NEF region where single family homes should not be built. How can a decision to allow Concorde additional operating rights be justified with these facts?

THE NASA REPORT OF AUGUST 1976

The FAA August monthly report cited a special NASA study on Concorde noise that took place at three homes whose occupants had complained about Concorde noise in previous months. The monthly report simply stated that the Concorde was shown to be noiser than other aircraft.

42. Why didn't the FAA include the full NASA report in the monthly report as they had done for previous more favorable NASA studies?

43. It is my understanding that the NASA report showed that the noise level of these departures at up to 38 miles from takeoff averaged well over 90 EPNL with a high of 113 EPNL at 12 miles (compared to 70–75 EPNL for a subsonic jet), a high of 106.4 EPNL at 17 miles (compared to 60–70 EPNL for a subsonic jet), and a high of 104 EPNL at 38 miles (compared to 40 EPNL for a subsonic jet). Is this true?

44. Based on this noise data as opposed to the EIS data, how many additional homes would fall in the 35 NEF noise area at Kennedy Airport as a result of four Concorde operations daily in New York?

45. Aren't these figures much higher than either the EPA or the DOT environmental impact statement predicted?

46. How do you explain these high figures?

LOW FREQUENCY NOISE

A 300 page report by Dr. Karl Kryter, the Port Authority's noise consultant expresses the strong opinion that low frequency vibration-rattle may be the single most damaging type of Concorde noise.

47. Dr. Kryter claims on page 71 of his report that ". . . the house vibration factor looms as a higher, probably greater, source of annoyance from the Concorde noise, especially during approach to landing, than from the noise of the 707, DC–8, VC–10 or other present day aircraft." Fully 30 percent of the complaints registered at Dulles concern vibration impact of Concorde. What exactly has the FAA done to study the vibration impact of Concorde?

48. I request copies of all memos and documents which have a bearing on the low frequency vibration-rattle effect of Concorde.

49. Dr. Kryter also states on page 71 of his report that "proper consideration of this vibration factor would require additional information about the low frequency content of the aircraft noise than that provided in present noise footprints." In making your determination as to the number of additional people that would be affected by Concorde noise at Kennedy Airport, for example, aren't you using those standard noise footprints?

50. How do you plan to take account of the low frequency vibration rattle which, according to Dr. Kryter, cannot be adequately measured in standard noise footprints?

51. Do you plan to withhold your final report on Concorde until after the Comptroller General and the General Accounting Office make their finding as to whether or not enough research has been done on low frequency rattle vibrations?

52. If the GAO determines that more research needs to be done on low frequency rattle vibration noise, wouldn't it be irresponsible for the FAA to issue its "final" report on the Dulles testing of the Concorde before such additional research and evaluation were completed?

SAFETY

It is my understanding that the FAA has still not licensed the Concorde as safe and, therefore, the plane cannot be flown by U.S. carriers.

53. As of today, does Concorde meet all safety standards for the issuance of a United States type certificate?

54. Which safety standards does the Concorde fail to meet?

55. Does it meet all standards pertaining to fuel tank fires and explosions?

56. Is it accurate to state that because the Concorde's fuel is at an elevated temperature during supersonic flight there is an

increased risk of fire and explosion in the fuel tanks and venting system?

57. Can the Concorde meet the safety standards governing a high altitude decompression accident which have to be met prior to U.S. certification of the plane?

58. If an American carrier applied to the FAA today to purchase and operate a Concorde would they be barred from such action because of safety reasons?

CITIZEN COMPLAINT APPARATUS

An additional stipulation of the Coleman report was that citizen reaction to the Concorde should be carefully monitored and reported in the monthly reports.

59. During the year before Concorde, how many complaints were received concerning noise from airplane operations?

60. In the one year of Concorde testing, how many complaints have been registered?

61. Have the number of complaints tapered off at all?

62. Has the FAA conducted any study of whether or not the complaints resulted from noise exposure or from the media coverage of the Concorde?

63. What were the results of those studies?

64. In the letter published in the *Washington Post* of December 11, 1976, then FAA Administrator McLucas stated that "the FAA is not relying solely on citizen complaints of Concorde operations at Dulles in judging public acceptance of this aircraft." What else is the FAA using to judge citizens reaction towards the Concorde?

65. What have been the results of these other tests, if any?

66. Of the total number of complaints registered, how many did the FAA follow up and investigate?

67. What are the FAA's standard operating procedures for following up complaints registered around Dulles airport?

68. I request copies of all of the complaints.

69. If, because of freedom of privacy requirements, I canont be provided with actual copies of the complaints, may I have FAA's analysis of the complaints including the number of people who registered each type of complaint?

70. Why doesn't the FAA include the actual number of pain or injury complaints each day instead of simply noting "ear pain" or "head pain" in the "other" column of the monthly reports?

71. I request the actual number of pain complaints on a day-by-day basis for all months of testing.

72. Were other agencies, such as the National Institutes of Health, involved in evaluating the importance of these pain complaints?

73. Did the FAA consider the results of the NASA survey of residents of Poolesville, Barnsville and Clarksburg, Maryland in their community opinion reports?

74. When did the complaint number first get listed in the phone book?

75. Why wasn't it listed under Dulles Airport instead of under U.S. Government?

76. Why was the number selected (703-661-8555) a toll call for many of the people living around the Dulles Airport? Why wasn't a toll free "800" number selected?

77. Isn't it possible that if the number was better publicized, if the number had appeared in the Directory from the beginning, if the number was under Dulles International Airport in the Directory, and if the number was a local call, more complaints would have been registered?

AFTER HOURS OPERATION OF CONCORDE

Secretary Coleman's order granting the Concorde landing rights at Dulles and Kennedy Airports for 16 months contained the stipulation that no Concorde operations could take place after 10:00 p.m.

78. Why did the FAA permit mechanics to test the engines of the Concorde by blasting them at full power while the plane sat on runway 30 until 2:00 a.m. on August 4, 1977?

79. On September 4, 1977, an Air France arrival touched down at Dulles at 11:07 p.m. On December 31, 1976, another Air France arrival touched down at Dulles at 2:06 a.m. And on April 14, 1977, a third Air France arrival touched down at 1:58 a.m. Aren't all three of these landings a direct violation of the Coleman order?

80 Should these flights have been permitted to take off, prior to departure time, officials realized that they would land following Coleman's curfew?

81. What punitive actions, if any, were taken against Air France for these three operations?

82. How many other violations of the Coleman curfew have there been?

HOW THE PORT AUTHORITY MANAGED TO LET THE CONCORDE INTO KENNEDY AIRPORT

(Mr. SCHEUER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SCHEUER. Mr. Speaker, for the past 2 years I have witnessed in my own congressional district the harm and inconvenience which a public agency can inflict on a large population through simple dereliction of duty.

Since the beginning of 1976 the Port Authority of New York and New Jersey, under two separate chairmen, has dilly dallied endlessly and delayed taking action on setting a new noise standard for Kennedy International Airport. The net result of this obfuscation is that on November 22, 1977, barring any successful legal action, the Anglo-French Concorde, the world's noisiest airplane, will set down at Kennedy Airport, the world's most noise sensitive community. The only noise which will come close to challenging the shriek of the Concorde's engines is the angry roar of my constituents.

Leaving 1976 for others to talk about, I would like to discuss my dealings with the Port Authority since June 1977. Taken together, the Port Authority's actions display a continuous pattern of indifference to and contempt for the public welfare.

On June 28 the port authority called a public meeting to gage the community's views on Concorde. Many public officials including me took the time to testify at that hearing. The meeting was a farce. There was no report of any kind, and no action followed.

On September 29, following a court of appeals directive to the port authority to promulgate a noise standard, I drafted a memorandum to Alan Sagner, chairman of the port authority, suggesting four types of reasonable and workable standards. Less than 2 weeks later the port authority issued its own three standards which have been universally denounced in the legal and technical field, as either totally unworkable, transparently unconstitutional, or pitifully ineffective. Obviously, my workable suggestions were ignored.

I have continuously recommended to the port authority that it undertake any one of a variety of legal actions which have not yet been explored. In fact, I wrote a memorandum to Judah Gribetz, legal counsel for the Governor of New York, four such legal actions. Yet, to date, no constructive legal initiatives of any kind have been pursued by the port authority.

Finally, after the announcement of the proposed port authority noise standards, a new public hearing was convened on October 17. Again I testified along with many other public officials. This time I presented a fully drafted proposed noise regulation which has received near unanimous support from both noise attorneys and noise technicians. In fact, I sent a memorandum to Governor Carey detailing the reasons how and why my proposed standard would solve the Kennedy community's problems with noise.

Mr. Speaker, the time is drawing very close when the port authority will either have to adopt a new nondiscriminatory noise standard or step aside and allow the Concorde to fly into Kennedy Airport. The latter will occur on November 22—unless the port authority takes some action before then.

The only way for the port authority to redeem itself from its utterly bankrupt performance of the past 2 years is to approve rapidly a new noise regulation.

I have appended to this statement my memorandums to the Governor, to Judah Gribetz, and to the port authority. I commend them to our colleagues' attention:

HOUSE OF REPRESENTATIVES,
Washington, D.C., October 27, 1977.

Memorandum to: Hugh L. Carey, Governor of New York.

From: James H. Scheuer, Member of Congress.

Re: Concorde and aircraft noise at JFK Airport.

The attitude of the Port Authority personnel and its commissioners towards longstanding and insistent community demands for a reduction in aircraft engine noise at JFK has been one of studied indifference.

The battle over the entry of the SST into JFK is a case study in Port Authority imperiousness, deceit and contempt for the concerns of the people living in the communities surrounding JFK and for those of us elected to represent them in public office.

The result of the series of charades by the Port Authority is a further diminution of respect and confidence in public authorities and public officials. The Port Authority has debased its own public commitments and public assurances to our JFK communities and in that process, it has demeaned all of us in public life who joined in the public hearings by the Port Authority in what we naively thought was a sincere effort to develop a joint Port Authority and JFK community standard for quieter aircraft at JFK, and in the surrounding areas.

The actions of the Port Authority have sharply reduced the credibility of public officials—city, state and federal alike. The New Post, in its October 18th editorial, summarizes the inexcusable conduct of the Port Authority. The Court of Appeals noted in its decision that: "To this day, the Port Authority has demonstrated total resistance in responding to the airline's desire to secure a fair test of their aircraft in New York. Moreover, it is plain from its public statements that the Authority has no intention to resolve this critical issue in the foreseeable future. We cannot countenance such abdication." And referring to the Supreme Court

decision not to review a Port Authority appeal, the Post wrote: "It also climaxes a dismal chapter of indefensible ineptitude and evasion at the Port Authority."

My own experiences have been particularly illustrative of the hidden game plan of the Port Authority.

Item: Despite my repeated urging to Port Authority Chairman Alan Sagner that outside Counsel with special expertise in aircraft and airport noise litigation be engaged for the court test of the Port Authority's position on the Concorde, the suggestion was ignored and the Port Authority never raised all of the legal issues relevant to this case. This repetitive effort was climaxed with a detailed memo from me to Judah Gribetz suggesting ways to intervene in the legal picture. Four alternative legal routes were outlined in this memo.

Item: The Port Authority held a public hearing on June 28th to gauge the community's views on Concorde. I testified at that hearing and submitted a very extensive analysis of the issues effecting the JFK area. So did many other public officials and community people. The hearing was a farce: no action followed and there was not even a report of findings. In fact, from my discussions with Port Authority staff and the Chairman, it's clear that no one even bothered to read our laboriously prepared and documented presentations.

Item: Following the Court of Appeals decision on September 29th, I again took a great deal of time to draft a detailed memorandum listing four alternative noise standards. I flew to New York at the invitation of Alan Sagner and presented that memorandum to representatives of the Port Authority. I was assured that it would be fully considered. And then the Port Authority issued its three proposed standards. I shall discuss the dismal failure of the Port Authority to come to grips with the legal and technical issues of noise below.

Item: The Port Authority engaged the distinguished attorney Orville Schell to hold a public hearing on October 17th to consider new noise standards for JFK Airport.

Port Authority Chairman Alan Sagner was the first witness at that hearing. He stated: "I would like to begin by stating my conviction that these hearings are of extreme importance. The serious noise problem at the metropolitan airports is the focus. The question of Concorde landings at Kennedy, which has been such a dominant concern for more than two years, is still only part of the overall noise problem we face in this densely populated metropolitan area. Today we are addressing these issues in this broader perspective. And for the first time, all interested parties have the opportunity to present their views and suggestions."

Once again, I prepared very specific and carefully researched recommendations, including my own proposed draft standards. Yet by October 24th, the New York Times was quoting Alan Sagner as saying only ". . . that if passenger flights do start, the Concorde will not come in without some nondiscriminatory restrictions on its noise."

Clearly then, the statement of Chairman Sagner on October 17th about the "broader perspective" has now become inoperative.

This shabby Port Authority performance has brought us back to the very noisy square one of several years ago with one exception—JFK now has the noisest airplane in the world poised for landings and takeoffs. The Port Authority has managed to hand us a net loss over where we were years ago in efforts to control and reduce JFK aircraft noise.

I am enclosing copies of my memo to Judah Gribetz on possible legal actions, my testimony for the June 28th hearing, my memo to Alan Sagner on possible noise regulation, and my newest proposed standard. And it is this last issue which is of prime importance today. The standard which I proposed last week to Mr. Schell has received near universal approval from noise experts and noise attorneys around the country. Every objection raised to the standard has been answered to the satisfaction of the individual who raised the particular objection.

At this point an explanation of my standard is in order.

This explanation is broken down into two major sections. The first section critiques the three proposed rules promulgated by the Port Authority last Saturday. The second section explains my new regulation.

I. CRITIQUE OF PORT AUTHORITY RULES

The Port Authority's proposed rules can be summarized as follows:

Proposal One implements FAR–36 immediately except that planes flying into Port Authority airports prior to October 1, 1977 are given until December 31, 1977 to comply.

Proposal Two implements FAR–36 immediately except that planes flying into Port Authority airports to October 1, 1977 are given until January 1, 1985 to comply.

Proposal Three implements FAR–36 effective January 1, 1985 except that Concorde operations will be permitted for a test period of at least three months to determine whether or not the Anglo/French plane can meet the Port Authority's current 112 PNdB noise standard and to determine whether or not the Concorde presents any unique and significant vibration problems.

Standard One seems unworkable since it would have the effect of immediately disqualifying roughly 65% of the operations at Kennedy. While this might be desirable from a noise policy standpoint, the economic effects on New York would be disastrous. Retrofit kits or engine replacements require at least a six to eight month lead period, and even then, total compliance with FAR–36 in anything less than 30 months is judged to be impossible.

Standard Two is blatantly discriminatory. Because it is obviously structured to catch the Concorde and no other noisy planes in violation of FAR–36 or of the 112 PNdB standard, it seems extremely likely that the Courts would rule it discriminatory, especially in the current legal climate. Critical to my point on this standard is that the Port Authority staff has continuously said that it believes that such a standard is discriminatory. Thus, it is not a realistic point of view from the Port Authority's perspective.

The third proposed standard is thus the only one which the Port Authority could reasonably be expected to adopt. This standard, however, paves the way for Concorde operations at Kennedy and, as we have noted in the past, the "foot in the door" is not an inconsequential step in this entire process.

What is important to note here is that the Port Authority has failed to toe the admittedly narrow line between a standard which discriminates against Concorde and a standard which is non-discriminatory. Proposed standard three in my memo to Alan Sagner is similar to the Port Authority's second proposed standard. Yet, my drafting of the standard's framework does a much better job of toeing the line between reasonableness and discrimination than the Port Authority's attempt. This is so because I've set a date of January 1, 1968 in defining "new category type aircraft" so that planes other than Concorde (such as the newer 747's and the new DC–10's) also fit into the category. Now, admittedly, the other planes meet FAR–36 so that the effect of the two standards are the same. But, by setting an October 1, 1977 date, the Port Authority has challenged the Court to close its eyes to the blatant discrimination of the standard.

Jerry Fadem, the prominent Los Angeles noise attorney, is convinced that our proposed standards (all four of them) are non-discriminatory. His inclination is that our standard three, which has already been adopted by MassPort, is the best of the four. But the Port Authority's attempt at promulgating that standard in its own form was pitiful and counterproductive.

II. A NEW ALTERNATIVE

The final draft of the proposed standard I developed is appended to this memo. I have since consulted with the General Accounting Office, Legislative Counsel, Jerry Fadem, and noise experts and legal counsel for the House Committees on Science and Technology and Public Works and Transportation.

The standard has four parts. In non-legal terms:

The first part requires all planes using Kennedy Airport to be in compliance with FAR–36 by January 1, 1981.

The second part provides a short exemption (on the order of a week or two) for all planes to file with the Port Authority proof of the existence of a technology which, when applied, would reduce each aircraft type's noise levels below FAR–36 restrictions. Any planes which could not demonstrate such a technology would be banned from the airport on a date roughly a week following adoption of this rule.

Part three of the regulation is the twist. It states that between now and January 1, 1981, no plane can land at or take off from Kennedy Airport until its operator demonstrates two things. First, the operator must demonstrate that the technology exists to bring each plane into conformity with FAR–36 standards. Second, and this is the critical one, it mandates the airlines to produce a signed contract for retrofit or other alterations, with a firm commitment for completion of such work prior to January 1, 1981.

The fourth part of the proposed regulation consists of a phase-in period to ensure that the airlines will not be black-mailing the Port Authority in 1981.

It forces each operator to bring certain percentages of its Kennedy fleet into compliance with FAR–36 each year of the plan: 33 percent the first year, 66 percent the second year, and 100 percent the third year.

The key to my proposed regulation is the third part, Part C. This is our solution to the problem of treading between reasonableness and discrimination. Instead of distinguishing the Concorde as a type of plane from the 707 (as Part B of the regulation does in the short run), make a distinction based on each plane's capability to comply with FAR–36 and the airlines' firm plans to bring each plane into compliance.

This notion is best explained as follows: My new standard cuts both ways while my old third standard and the Port Authority's second standard excludes only the Concorde. Under the new standard, the oldest Boeing 707's would not be permitted to fly into Kennedy. The airlines could demonstrate the technological ability to retrofit them, but they would be unwilling to sign a contract for a retrofit kit for them since they allege that it is uneconomical; the airlines would rather wait and retire the planes out of the fleet. Furthermore, some subsonics like the VC–10 cannot technologically be retrofitted and would therefore be barred from Kennedy as well.

The new standard would bar the Concorde. But it would also bar subsonic planes such as the VC–10's and some of the older 707's, 720's and DC–8's which the airlines don't want to retrofit for economic reasons. A standard which cuts two ways cannot be discriminatory.

As I said, Part C of the new regulation is the key. The other parts have relatively simple purposes which are explained as follows:

Part A simply sets the deadline on violations of FAR–36 at Kennedy Airport. We

chose a three-year deadline since it is our judgment that compliance with the rule could be achieved in three years without undue hardship on the airlines.

Part B is designed to allow the airlines time to contract with retrofit companies and the airline manufacturers for replacement engines. If we put Part C into effect immediately, almost no planes could come into Kennedy since it would take a while to sign contracts with the retrofit firms and with the plane manufacturers.

Part D provides the phase-in period. The reasons for this are two-fold. First, it allows us to legislate some noise reduction from current levels on a faster timetable. And second, it stops the airlines from not doing any retrofit at all and then in January, 1981, telling the Port Authority that it can either close down the airport or allow their planes in even though they are in violation of FAR-36.

The following are my answers to questions which have been raised to me:

(1) The FAA has mandated retrofit on an eight-year time-table ending in 1985. Why should Kennedy be allowed to have a three-year time-table ending in 1981. Isn't this discriminatory? The FAA has to act for the entire nation. Airport noise problems are not equal across the U.S. In two separate noise reports, the FAA has cited Kennedy Airport and its surrounding communities as the most noise sensitive areas in the country. The eight-year time-table is designed to meet a national average of noise problems. The three-year time-table is designed to meet the crisis at Kennedy.

(2) What planes can be retrofitted to meet FAR-36? All domestically-produced 2, 3, and 4 engine jets can be retrofitted. However, the standard is not discriminatory since other subsonics like the VC-10 cannot be retrofitted and because the older 707's, even though they can be retrofitted, will not be able to fly into Kennedy.

(3) Won't the phase-in periods unfairly hurt American airlines? Not necessarily. Currently, roughly 35% of the total Kennedy fleet is in compliance with FAR-36. Thus, the January 1, 1979 deadline calling for 33% of each airline's Kennedy fleet to be in compliance with FAR-36 should not be at all burdensome. Furthermore, as the airlines comply with the federal retrofit order issued last November, they could probably meet the Kennedy standards with little or no additional investment by shifting flights of quieter planes and planes newly retrofitted into Kennedy.

(4) The Port Authority's proposed standards call for the same rule at all "Port Authority air terminals" including Kennedy, LaGuardia, and Newark airports. Why does the standard only refer to Kennedy? This standard is written as a standard for a set of communities beleaguered by aircraft noise. Clearly, it would be more difficult for the airlines to comply with the regulation if it were to apply to all Port Authority airports. However, if the Port Authority desired to apply this standard to all of its airports, I would not oppose such a move.

It is critical to our very credibility as public officials that the Port Authority not be permitted to shirk its responsibilities. Final adoption of any one of their proposed standards would be tantamount to total dereliction of duty.

Standard one could close the airport.

Standard two would be thrown out in court.

Standard three would allow the Concorde in by simply restating existing federal regulations.

I urge you to take the ball and run with it. We have developed a workable standard which would have the effects of lowering the level of noise at Kennedy Airport. What possible reason could the Port Authority have for not adopting it?

POSITION PAPER PREPARED BY CONGRESSMAN JAMES SCHEUER ON CONCORDE

We the undersigned members of the New York City Congressional Delegation demand that the Port Authority promulgate immediately and without any further delay a reasonable and non-discriminatory noise standard for application to the Concorde at Kennedy Airport. In consultation with noise experts in the legal and scientific field, we have developed the following four potential standards. We urge the Port Authority to choose one of these with whatever improvements they deem appropriate.

(1) The Port Authority should strictly enforce their current noise standards. To ensure compliance with these standards, a systematic upgrading of the Kennedy noise monitoring system is also required.

Note: The effect of this regulation might be to snare a few 707's and DC 8's in the ban as well; however, the Concorde almost definitely would be excluded. The Port Authority has been afraid to admit how poor their monitoring has been at Kennedy because of the potential for millions of dollars in damage suits against them since the Port Authority currently permits planes to fly into the airport that are in clear violation of its own noise standards.

(2) The Port Authority should ban all civilian and military supersonic flights into and out of Kennedy Airport.

Note: This type of ban could be justified in court on the ground that the rattle-vibration characteristics of supersonic planes can be demonstrated to be unique.

(3) The Port Authority should promulgate a standard which holds that all "new category type aircraft" (defined as those aircraft which have no flying time prior to January 1, 1968) must meet the noise requirements laid out in FAR-36 or else be banned from landing at Kennedy.

Note: MassPort, the Port Authority's counterpart in Massachusetts has adopted a similar standard. This type of standard would have the effect of banning the Concorde since its first prototype's flight took place February 28, 1968. Other newer planes like the 747's and the DC 10's would not be affected since they are in compliance with FAR-36.

(4) The Port Authority should promulgate a standard banning all aircraft which cause a certain intensity at a certain frequency level.

Note: This type of standard would get at the low frequency noise of the Concorde. There is technical precedent on the side of such a standard since the EPA has acknowledged that low frequency noise is a unique Concorde characteristic. Apparently, enough knowledge exists to promulgate such a standard today. Admittedly, the standard would be broad brush compared to a low frequency noise standard which could be developed in several years with millions of dollars of research funds.

OCTOBER 18, 1977.

Memorandum to: Judah Gribetz.
From: James H. Scheuer.

We have consulted with Jerrold Fadem, the California lawyer whose firm has done most of the aircraft noise litigation that we are aware of, and he has provided us with four ideas for litigation to keep out the Concorde, which he believes are not foreclosed by the litigation to date.

These are, in the order of his opinion as to their chances of success:

1. The FAA Act of 1969 (49 USC § 431) requires the establishment of a standard to ". . . afford present and future relief and protection . . . from aircraft noise . . ." No such rule has been promulgated for the SST. The FAA therefore is in violation of this statute and no SST should be permitted into the U.S. until the FAA obeys section 1431.

2. The September 1975 EIS entitled Concorde Supersonic Transport Aircraft Final Environmental Impact Statement, is the only final EIS which could be used to justify permitting the Concorde into JFK. It is stale and outmoded by both the passage of time and the greater knowledge of the Concorde's characteristics achieved by the Dulles experiment. Until a final EIS is adopted considering the current state of knowledge, permitting the Concorde into U.S. airports should be banned.

3. The April 1977 draft Environmental Impact Statement for noise regulation and type certification for the SST is an inadequate EIS, as it considers only limited SST operations. Until that draft is converted into a final which considers unlimited operations, no new entry of the SST into U.S. ports should be permitted.

4. Section 1431 can be construed as requiring one standard for all aircraft noise. If so construed, the attempt of the FAA to create a separate, less stringent, standard for the SST, is violative of section 1431.

Mr. Fadem advises us that these proposals have not been the subject of thorough legal analysis but that he feels that collectively, they offer ample support for a credible legal effort.

INDIAN BASIC EDUCATION ACT

Mr. BLOUIN. Mr. Speaker, last week, my colleague from Minnesota, Congressman QUIE, and I, introduced the Indian Basic Education Act, H.R. 9810. Its purpose is to improve the delivery of educational services for Indian children. The original draft bill (H.R. 9157 has been widely discussed within the Indian community, because it makes some very major changes in the delivery of educational programs for Indian students. In view of the fact that there are over 400 federally recognized tribes in the United States and a sizeable number of educators who are keenly interested in this legislation, and because of the interest expressed by many of my colleagues in both that bill and any proposed changes, I wish, Mr. Speaker, if there are no objections, to include the text of the bill for the RECORD, both for the many groups interested in the bill, as well as for the attention of my colleagues.

Text of the bill follows:

H.R. 9810

A bill to amend Public Law 874, Eighty-first Congres, to provide for the basic education of Indian children, to provde improvements in the delivery of other educational services for Indians, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Indian Basic Education Act".

AMENDMENT TO PUBLIC LAW 874, EIGHTY-FIRST CONGRESS

SEC. 2. (a)(1) Effective with respect to fiscal years beginning on or after the date of the enactment of this Act, section 3 of the Act entitled "An Act to provide financial assistance for local educational agencies in areas affected by Federal activities, and for other purposes" (Public Law 874, Eighty-first Congress; 20 U.S.C. 238) approved September 30, 1950, is amended by redesignating subsection (f) as subsection (i) and inserting after subsection (e) the following:

"Entitlements for Indian Children

"(f)(1) In lieu of that portion of entitlements authorized by section 3(a) which is attributable to Indian children determined for purposes of this section, the Commissioner shall, subject to paragraphs (2) and (3), make a payment for each fiscal year to each local educational agency which is located on or in close proximity to an Indian reservation in an amount equal to the product of the average per pupil expenditure of such agency for such year multiplied by the number of Indian children who—

"(A) were in average daily membership at the schools of such agency,

"(B) resided on Indian lands as described in clause (A) of section 403(1), or on land held by an Indian tribe and which is exempt from State or local taxation, except where the land is so exempted by State or local action, while in attendance at such schools, and

"(C) were provided a free public education by such agency during such year.

"(2)(A) Payments under this subsection shall be made only to local educational agencies which have submitted, within one year after the date of the enactment of the Indian Basic Education Act, or, where local educational agencies are formed after such date of enactment, within one year after their formation, a plan of basic education for Indian students which has been approved in accordance with subparagraph (C) and which operate such plan. The Commissioner shall have the authority to waive this one-year limit where he finds good cause.

"(B) Nothing in this subsection shall be interpreted as encouraging the creation of separate or segregated programs for the basic education of Indian students, except that Indian students shall be permitted to enroll in bilingual programs to the extent required by need.

"(C) The Commissioner shall approve any plan of basic education for Indian students submitted by a local eduactional agency eligible under paragraph (1) only if such plan—

"(i) provides education for Indian children which is not less than the standard education program of the State and the school district in which the agency is located for students of the same age and grade level,

"(ii) provides such services as the Commissioner determines to be necessary, including transportation, counseling, and health care, which are at least equivalent to those provided to non-Indian children by the State and the school district in which the agency is located,

"(iii) provides, in a manner to be determined by regulation, for active solicitation by the agency of the views of the Indian community to be served by the plan with respect to the needs of the Indian students to be served,

"(iv) is formulated with the participation of the designated representative of each tribal council of any Indian tribe whose children are to be served by the plan, and has not been formally rejected by any such designee, and

"(v) to the extent determined by the Commissioner through regulations, covers a period of not more than three years and, in the determination of the Commissioner, affords adequate opportunity for periodic review by all parties.

"(D) The Commissioner shall make payments under this subsection only upon an application therefor at such time and in such manner as the Commissioner shall by regulation require, which—

"(i) provides assurances that any extension of the geographical area or student population served by any school district of the local educational agency into areas where Indian students were previously served by a Bureau of Indian Affairs school shall be made only with the approval of the governing body of each Indian tribe which will be affected by such extension.

"(ii) is made by (I) a school board (or its legal equivalent) of which a majority of the members are Indians, or (II) in cases where only one Indian tribe is involved, is signed by the entity designated by the tribal council of such tribe for this purpose, or, in cases where more than one such tribe is affected, has been, under regulations of the Commissioner in consultation with the Assistant Secretary for the Bureau of Indian Affairs, adequately considered and influenced by those tribes, and

"(iii) in those cases where the entity designated by the tribal council does not sign the application of a local education agency, the governing body of the tribe concerned shall review this action.

"(E) The Commissioner in consultation with the Assistant Secretary for the Bureau of Indian Affairs shall by regulation establish such procedures as the Commissioner determines to be adequate in order to provide each tribal council of an Indian tribe whose children are served by a plan approved under subparagraph (C) with reasonable opportunities for the evaluation of such plan.

"(F) The Commissioner shall carry out a program of evaluation of any plan approved under subparagraph (C), and shall report the results of such evaluation to the Congress as a part of the annual evaluation report under section 417 of the General Education Provisions Act and shall, within a maximum of thirty months after the date of enactment of the Indian Basic Education Act, submit to the Congress a detailed report on this program, along with recommendations for improvement.

"(G) In those instances where the tribe or tribes to be served by the public school shall formally reject the plan of basic education adopted by such school, the Commissioner shall—

"(i) within one month after the date of such rejection, require the parties involved to submit to him, in writing, statements of their respective positions,

"(ii) within six months after receipt of these statements, attempt to negotiate a plan agreeable to both parties, and

"(iii) in instances where the education of Indian students would be adversely affected, allow the local public school to receive funds for the education of the Indian students in a program which meets the requirements of subparagraph (C)(i).

"(H) If no negotiated plan is adopted within the period of time required under subparagraph (G), after such negotiations begin, the Indian tribe or tribes concerned may, within one month after the end of that period, at their option, elect to—

"(i) have such educational services provided by a school operated by the Bureau of Indian Affairs, or

"(ii) operate a school for their own students under the provisions of title II of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 455–458e), in contract with the Bureau of Indian Affairs.

"(I) In the event that there is no agreed upon plan of basic education after the negotiation period referred to in subparagraph (G) and after the period allowed under subparagraph (H), if the tribe has not exercised either of its options, the Commissioner shall, after consultation with all parties, determine the plan of basic education to be adopted.

"(J)(i) In those instances where the tribe or tribes affected exercise either option under subparagraph (H), the tribe or tribes affected shall notify, in writing, the Bureau of Indian Affairs of their intention to so contract or to have the Bureau provide such services, within six months after the date of the election of that option. Letting of a contract under this authority or commencement of provision of services, as the case may be, shall occur within two years after the end of the six-month notice period. In cases where all parties are in agreement, and where there is no construction involved, the contract may be entered into, or the Bureau may commence to provide services, for any school year which begins not less than one year after the end of the six-month notice period. In cases where construction must take place, the construction shall not begin until after the end of the two-year period which follows the six-month notice period, and such construction shall be completed, if possible, by the end of the first fiscal year which begins after the end of such two-year period.

"(ii) in the event that an Indian tribe has exercised either option under subparagraph (H) and has established a school, or is having the Bureau of Indian Affairs provide education services, any public school which has been affected by withdrawal of students resulting from the exercise of that option may submit an amended count of the number of students for which it is eligible to receive funds under this Act at such time as the Commissioner shall determine by regulation, if such time determined will provide adequate opportunity to reflect student population changes that result from students' electing to continue in the local educational agency program or from students' electing to return to the local educational agency program from the program operated under subparagraph (H).

"(iii) In any case where a local educational agency has been affected by a tribe exercising either option under subparagraph (H), that agency shall be exempt from the provisions of this subsection requiring tribal concurrence in the education program to be offered for the students of that tribe, except that, in multitribal situations, opportunity shall be provided for tribal concurrence for those tribes who have not exercised an option.

"(iv) The President shall submit (by March 31 of each year) a budget amendment to Congress which will transfer program moneys affected by a tribal exercise of its option under subparagraph (H) from the Department of Health, Education, and Welfare to the Department of the Interior.

"(v) Nothing in this subparagraph or subparagraph (H) shall be deemed to preclude any tribe or tribes which have exercised either option under subparagraph (H) from thereafter electing to return their students to the local educational agency, except that, in such a case, notice of such election shall be given to the Bureau of Indian Affairs not less than five years in advance, and, in any such case where construction, has taken place, such notice shall be given not less than ten years in advance.

"(g) Notwithstanding paragraph (2) of section 5(d) of this Act, funds made available under this subsection may be considered as local resources in the calculation of the amount of State aid to a local educational agency for purposes of equalization, except that such funds may be so considered only in proportion to the share that local revenues covered under a State equalization program (whether or not such program otherwise qualifies for purposes of section 5(d)(2)) are of total local revenues.

"(h) Nothing in subsections (f) and (g), which are based upon the special relationship between the United States and Indian Nations, shall be deemed to relieve any State of any duty with respect to citizens of that State.".

(2) Effective with respect to fiscal years beginning on or after the date of the enactment of this Act, section 3 of such Public Law 874, Eighty-first Congress, is further amended by adding at the end thereof the following new subsection:

"(k) For purposes of subsection (f), the term—

"(1) 'average per pupil expenditure' means the aggregate current expenditure, during the second fiscal year preceding the fiscal year for which the computation is made, of the local educational agency divided by the aggregate number of children in average daily attendance for whom such agency provided free public education during such second preceding fiscal year;

"(2) 'Assistant Secretary' means the Assistant Secretary of the Bureau of Indian Affairs;

"(3) 'Indian reservation' has the meaning given that term under regulations of the Bureau of Indian Affairs established for purposes of the Act entitled 'An Act authorizing appropriations and expenditures for the administration of Indian Affairs, and for other purposes'; approved November 2, 1921 (42 Stat. 208; 25 U.S.C. 13; commonly referred to as the 'Snyder Act');

"(4) 'Average daily membership' means the average daily number of students officially enrolled during the school year; and

"(5) 'plan of basic education' means a plan for educational studies which best fulfill the academic, vocational, and social growth requirements of the majority of students in attendance at schools of the local educational agency.".

(b) Effective with respect to fiscal years beginning on or after the date of the enactment of this Act, section 5(c)(1) of such Public Law 874, Eighty-first Congress is amended—

(1) by striking out "which is entitled to a payment under section 2" and inserting in lieu thereof "which is entitled to a payment under section 2 and section 3(f)"; and

(2) by striking out "under that section for such fiscal year" and inserting in lieu thereof "under either such section for such fiscal year".

STANDARDS FOR THE BASIC EDUCATION OF INDIAN CHILDREN IN BUREAU OF INDIAN AFFAIRS SCHOOLS

SEC. 3. (a) The Assistant Secretary, in consultation with the Assistant Secretary of Health, Education, and Welfare for Education, shall, through the National Institute of Education and National Center for Education Statistics carry out such studies and surveys, making the fullest use possible of other existing studies, surveys, and plans, as are necessary to establish standards for the basic education of Indian children attending Bureau schools or schools operated under contract with the Bureau and establish a set of such standards. Such standards shall be established within eighteen months after the date of the enactment of this Act, and shall apply to schools of the Bureau of Indian Affairs, and may also serve as a model for education programs for Indian children in public schools.

(b) Such studies and surveys shall be conducted in such a manner as to provide an opportunity for organizations concerned with Indian interests to participate therein, shall take into account such factors as the academic needs of such Indian children, local cultural differences characterizing such children, the type and level of language skills of such children, the geographical isolation of such children, and appropriate teacher-student ratios for such children, and shall be directed toward the attainment of equal educational opportunity for such children.

(c) Not later than the beginning of the first school year which follows the date of issuance of the standards for the basic education of Indian children established under subsection (a) but no less than six months following such date of issuance, the Bureau of Indian Affairs shall implement such standards in all schools operated by the Bureau. The Assistant Secretary, through the contracting procedures, shall assist school boards of Indian-controlled schools under contract with the Bureau in the implementation of these standards.

(d) The Assistant Secretary shall alter the standards formulated under this section, where necessary, so that the programs of each Bureau operated school shall be no less than the minimum standards required for accreditation of schools in the State where the school is located.

(e) The head of the Bureau of Indian Affairs may alter the standards for the basic education of Indian children established under subsection (a) as he deems appropriate, in order to take into account the needs of individual tribes as expressed through the governing bodies of those tribes in cases where the academic standards are not lower than those established under subsections (a) and (d). The head of the Bureau of Indian Affairs may also alter said standards to take into account the needs of Indian controlled schools under contract with the Bureau, as expressed by their school boards, under the same restrictions.

(f) There are hereby authorized to be appropriated such sums as may be necessary for academic program costs, in order to bring the schools referred to in subsection (a) up to the level required by the standards for the basic education of Indian children as required by subsections (a) and (d).

NATIONAL CRITERIA FOR DORMITORY SITUATIONS

SEC. 4. (a) The Assistant Secretary, in consultation with the National Institute of Education or by contract, shall, within eighteen months after the date of enactment of this Act, conduct a comparative study of the costs applicable to boarding arrangements for Indian students provided directly by the Bureau of Indian Affairs or provided under contract with the Bureau, and shall establish, based on the results of such study, national criteria for such dormitory situations. Such criteria shall include requirements as to adult-child ratios, needs for counselors (including special needs related to off-reservation boarding arrangements), space, and privacy. Within one year after the date of establishment of the criteria under this subsection, the Assistant Secretary shall submit to Congress a detailed plan for meeting these criteria in all Bureau schools and Indian controlled schools under contract with the Bureau. Such plan shall include, but not be limited to, cost estimates for meeting such criteria, predictions for relative need for such boarding facilities in the future, and timelines for completion of the compliance plans.

FACILITIES CONSTRUCTION

SEC. 5. (a) The Bureau of Indian Affairs shall bring all schools, dormitories, and other facilities operated by the Bureau in connection with the education of Indian children into compliance with all applicable Federal or State health and safety standards, whichever provide greater protection, and with section 504 of the Vocational Rehabilitation Act (29 U.S.C. 31).

(b) The Bureau of Indian Affairs shall submit to Congress, and shall have published in the Federal Register, the system used to establish priorities for school construction projects. The Bureau of Indian Affairs shall also, at the time the budget is presented, cause to be printed in the Federal Register and included in the Budget request a current list of all construction priorities.

(c) There are hereby authorized to be appropriated such sums as may be necessary to carry out subsection (a).

INDIAN ELEMENTARY AND SECONDARY SCHOOL ASSISTANCE ACT

SEC. 6. Notwithstanding any other provision of law, any Indian tribe which operates any school for its children shall be deemed to be a local educational agency for purposes of section 303(a) of the Indian Elementary and Secondary School Assistance Act (title III of Public Law 874, Eighty-first Congress) if each such school, as determined by the Commissioner, operated by that tribe provides its students an educational program which meets the standards established under section 3 for the basic eduaction of Indian children or is a school operated under contract by that tribe in accordance with the provisions of section 3(f)(2)(G)(ii) of Public Law 874, Eighty-first Congress.

REGULATIONS

SEC. 7. The Assistant Secretary shall establish such regulations as are necessary to carry out sections 3 and 4 within eighteen months after the date of the enactment of this Act.

BUREAU OF INDIAN AFFAIRS EDUCATION FUNCTIONS

SEC. 8. (a) The functions of the Bureau of Indian Affairs (hereinafter in this Act referred to as the "Bureau") with respect to the daily direction, supervision, and expenditure of Federal funds for the purpose of education are hereby vested in the Office of Indian Education Programs of the Bureau (hereinafter in this Act referred to as the "Office") and the exercise of such functions shall be governed by the provisions of this Act, any other provision of law to the contrary notwithstanding. Nothing within this Act shall be construed as affecting, diminishing, or altering the authority of the Assistant Secretary in any way, and all ultimate authority in Indian education matters administered by the Department of the Interior shall remain with the Assistant Secretary and the Secretary of the Interior.

(b) The Director of the Office shall direct and supervise the operations of all personnel within the Bureau who are solely involved in education functions, whether or not such personnel are located within the Office or in another division of the Bureau. Area offices of the Bureau shall not exercise any functions with respect to matters directly involving Indian education, except that education personnel located in such area offices, who are under the direction and supervision of the Director of the Office in accordance with the preceding sentence, shall provide necessary technical assistance to schools assisted by the funds described in subsection (a) of this section and shall coordinate the education functions of the Office with other services provided by the Bureau.

(c) Education personnel located in agencies under the Bureau, who are under the direction and supervision of the Director of the Office in accordance with the first sentence of subsection (a), shall—

(1) monitor and evaluate education programs assisted by the funds described in subsection (a),

(2) provide assistance in connection with personnel actions relating to such programs, and

(3) provide technical and coordinating assistance in areas related to such programs such as procurement, contracting, budgeting, and curriculum.

However, in the case of boarding schools located off reservations operated by the Bureau, education personnel located in area offices of the Bureau shall, if the Director of the Office so determines, provide such services, under the direction and supervision of the Director of the Office.

(d) In the case of personnel whose sole responsibility is not education, the Assistant Secretary shall institute procedures for supervisors which adequately reflect divisions of time and responsibility.

IMPLEMENTATION

SEC. 9. Within six months after the date of the enactment of this Act, the Assistant Secretary shall, after consultation with the Director of the Office and such other personnel of the Bureau as are appropriate, establish and publish in the Federal Register the

policies and procedures which are necessary to implement the transfer of functions made by section 8 of this Act, and shall establish permanent procedudes for communication between the Director of the Office and the heads of other divisions within the Bureau, for the purpose of achieving such transfer with a minimum disruption of services and insuring that the Office receives all support services required to carry out the functions so transferred to the Office.

ALLOTMENT FORMULA

SEC. 10. (a) The Director of the Office shall establish by regulation adopted in accordance with section 20 a formula for determining the minimum allotment necessary to sustain each Bureau or Indian-controlled contract school. Such formula shall take into consideration, but not be limited to considering, the following factors:

(1) number of Indian students served and size of the school;

(2) special cost factors, such as—

(A) isolation of the school;

(B) need for special staffing, transportation, or educational programs; and

(C) food and housing costs; and

(3) the cost of providing academic services which are at least equivalent to those provided by public schools in the State in which the school is located.

(b) Notwithstanding any other provision of law, Federal funds administered by the Bureau used to assist Bureau and Indian-controlled contract schools shall be allotted in accordance with the formula established under subsection (a), except that, in the case any such school which is located in a school district of a local educational agency which receives from Federal funds an average payment per Indian child attending public school in that district which is higher than the amount which would be received by such Bureau or Indian-controlled contract school under such formula for each Indian child attending that school, the payment to be received by that school for each such child shall be equal to such average payment for an Indian child in public school in that district.

(c) The Assistant Secretary shall by regulation establish a fund in the Office which shall be under the control of the Director of the Office and which shall serve the purpose of providing funds in cases of emergencies, unforeseen contingencies, or budget shortfalls in connection with Federal funds for the purpose of educational plans administered by the Bureau. Use of such fund shall be in the discretion of the Director of the Office, except that, in connection therewith, the Director shall consult with, and consider the recommendations of, the superintendents for education of the various agencies under the Bureau.

UNIFORM DIRECT FUNDING AND SUPPORT

SEC. 11. (a) (1) Within six months after the date of enactment of this Act, the Office shall establish by regulation adopted in accordance with section 20 a system for the direct funding and support of all Bureau schools and all Indian-controlled contract schools. Such system shall allot funds, in accordance with section 10, and shall provide each affected school with notification of its approximate allotment not later than the end of the school year preceding the year for which the allotment is to be made. Such system shall distribute funds on the basis of local financial plans which shall be prepared by local school administrators, and the local school board for each school shall have the authority to ratify or reject such financial plan, and expenditures thereunder, and, on its own determination or in response to the supervisor of the school, to revise such financial plan to meet needs not foreseen at the time of preparation of the financial plan. Each financial plan prepared for an Indian-controlled contract school shall be prepared in such manner as to ensure local participation.

(2) The funds to be distributed under this section shall not be subject to the band analysis of programmatic budgetary prioritization of any tribe. However, nothing in this Act shall be construed as prohibiting the governing body of any tribe from stipulating that funds that are on the band analysis shall augment the funds provided by this section.

(3) A local school board shall have financial plan authority under paragraph (1) unless the tribe affected (or, in the case of a school serving several tribe affected (or, in the case of a school serving several tribes, all the affected tribes), by formal action of tribal governing body, determines that such board shall not have such authority. In the case of such a determination, the Assistant Secretary shall investigate the causes of such determination and take such steps as may be necessary to remedy such causes.

(b) Funds under the Self-Determination Grants of the Indian Self-Determination Act (5 U.S.C. 3371; 25 U.S.C. 450f–450n; 42 U.S.C. 2004b, 4762; 50 U.S.C. app. 456) shall not be used for providing technical assistance and training in the field of education by the Bureau unless such services are provided in accordance with a plan agreed to by the tribe or tribes affected and the Bureau, under which control of education programs will be transferred to such tribe or tribes within a specific period of time negotiated under such agreement.

(c) In the exercise of its authority under this section, a local school board may request technical assistance and training from the Director of the Office, and the Director shall, to the extent possible, provide such services, and make appropriate provisions in the budget of the Office for such services.

POLICY FOR INDIAN CONTROL OF INDIAN EDUCATION

SEC. 12. It shall be the policy of the Bureau in carrying out the functions of the Bureau to foster Indian control of Indian affairs in all matters relating to education.

EDUCATION PERSONNEL

SEC. 13. (a) Chapter 51 of title 5, United States Code, relating to classification of civil service employees, shall not apply to educators or to education positions.

(b) (1) Not later than six months after the date of the enactment of this Act, the Assistant Secretary shall prescribe regulations to carry out this section. Such regulations shall govern—

(A) the establishment of education positions,

(B) the establishment of qualifications for educators,

(C) the fixing of basic compensation for educators and education positions,

(D) the appointment of educators,

(E) the discharge of educators,

(F) the entitlement of educators to compensation,

(G) the payment of compensation to educators,

(H) the conditions of employment of educators,

(I) the length of the school year applicable to education positions,

(J) the leave system for educators, and

(K) such other matters as may be appropriate to carry out the purposes of this section.

(2) In prescribing regulations to govern the appointment and qualifications of educators, the Assistant Secretary shall require that—

(A) each educator meet the certification standards of the State in which such educator will serve (except that the Assistant Secretary may make such exceptions as are necessary to carry out the purposes of this Act),

(B) lists of applicants for education positions be maintained at the local area, and national levels, and

(C) hiring of educators be done at the lowest local level consistent with good management policy.

It shall not be a prerequisite to the employment of an individual in an education position at the local level that such individual be on a list maintained under subparagraph (B).

(3) The regulations to be prescribed by the Assistant Secretary under paragraph (1) shall become effective on such date as the Assistant Secretary shall prescribe, but not later than the ninetieth day following the date of issuance of such regulations.

(c) (1) Subject to paragraphs (2) and (3) and except as otherwise provided under regulations prescribed pursuant to subsection (b) (2) (C)—

(A) educators employed in a school (other than the supervisor of the school) shall be hired by the supervisor of the school.

(B) each school supervisor shall be hired by the superintendent for education of the agency office of the Bureau in which the school is located, and

(C) educators at the agency level in the Bureau shall be hired by the superintendent for education of the agency.

(2) (A) Before any individual may be employed in an education position at the local level, the appropriate local school board shall be consulted. Subject to subparagraph (B), a determination by such school board that such individual should or should not be so employed shall be followed by the hiring authority prescribed under paragraph (1).

(B) (i) The supervisor of a school may appeal to the appropriate agency superintendent for education any determination by the local school board for the school that an individual be employed, or not be employed, in an education position in the school other than that of supervisor. Upon such an appeal, the agency superintendent for education may sustain the recommendation of the supervisor with respect to such individual if he determines, in writing, that there is good cause for such action.

(ii) The superintendent for education of an agency office of the Bureau may appeal to the Director of the Office any determination by the local school board for a school that an individual be employed, or not be employed, as the supervisor of the school. Upon such an appeal, the Director of the Office may sustain the recommendation of the agency superintendent if he determines, in writing, that there is good cause for such action.

(3) (A) Before any individual may be employed in an education position at the agency level, the appropriate agency school board shall be consulted. Subject to subparagraph (B), a determination by such school board that such individual should or should not be so employed shall be followed by the hiring authority prescribed under paragraph (1).

(B) The superintendent for education of an agency office of the Bureau may appeal to the Director of the Office any determination by the agency school board that an individual be employed, or not be employed, in an education position in such agency office other than that of superintendent for education. Upon such an appeal, the Director of the Office may sustain the recommendation of the superintendent for education if he determines, in writing, that there is good cause for such action.

(d) (1) The supervisor of a Bureau school may discharge for cause (as determined under regulations prescribed by the Assistant Secretary) any educator employed in such school. Upon giving notice of discharge to an educator, the supervisor involved shall immediately notify the local school board for the school of such action, and the local school board shall have the right to appeal

such action to the superintendent for education of the appropriate agency and to the Director of the Office.

(2) Each local school board for a Bureau school shall have the right (A) to recommend to the supervisor of such school that an educator employed in the school be discharged, and (B) to recommend to the superintendent for education of the appropriate agency and to the Director of the Office that the supervisor of the school be discharged.

(e) Notwithstanding any other provision of law, the local school board for a Bureau school shall have the authority to waive the preference of Indians required by law for appointment to positions related to Indian affairs with respect to education positions in such school.

(f) Subject to the authority of the Civil Service Commission to determine finally the applicability of chapter 51 of title 5, United States Code, to specific positions and employees in the executive branch, the Director of the Office shall—

(1) determine the applicability of such chapter to positions and employees in the Office; and

(2) establish the appropriate annual salary rate in accordance with this section for each such position and individual to whom such chapter is determined to be inapplicable.

(g)(1) The Director of the Office shall fix the basic compensation for educators and education positions at rates comparable to the rates in effect under the General Schedule for individuals with comparable qualifications, and holding comparable positions, to whom chapter 51 is applicable.

(2) Each educator employed in an education position in Alaska shall be paid a cost-of-living allowance equal to 25 per centum of the rate of basic compensation to which such educator is entitled.

(3) The Director of the Office may pay a post differential on the basis of conditions of environment or work which warrant additional pay as a recruitment and retention incentive. Such a post differential may not exceed 25 per centum of the rate of basic compensation.

(h) Any individual—

(1) who on the date of the enactment of this Act is holding a position which is determined to be an education position and who elects under subsection (n)(2) to be covered under the provisions of this section, or

(2) who is an employee of the Federal Government or the municipal government of the District of Columbia and is transferred, promoted, or reappointed, without break in service, from a position under a different leave system to an education position,

shall be credited, for the purposes of the leave system provided under regulations prescribed pursuant to subsection (b)(1)(J), with the annual and sick leave to his credit immediately before the effective date of such election, transfer, promotion, or reappointment.

(i) In any cases in which the amount of sick leave which is to the credit of any individual under a different leave system immediately before the date on which he becomes subject as an educator to the leave system provided by this section and which is included in the leave provided for under regulations prescribed pursuant to subsection (b)(1)(J) is in excess of the maximum amount of accumulated leave allowable under such regulations, such excess shall remain to the credit of such individual until used, but the use during any leave year of an amount in excess of the aggregate amount which shall have accrued during such year shall reduce automatically the maximum allowable amount of accumulated leave at the beginning of the next leave year until such amount no longer exceeds the maximum amount allowable under such regulations.

(j) Any annual leave remaining, upon his separation from the service, to the credit of an individual within the purview of this section shall be liquidated in accordance with sections 5551(a) and 6306 of title 5, United States Code, except that leave earned or included under such regulations shall not be so liquidated.

(k) In the case of any educator who is transferred, promoted, or reappointed, without break in service, to a position under a different leave system, the annual leave, and any other leave earned or credited under such regulations, which is to his credit immediately before such transfer, promotion, or reappointment, shall be transferred to his credit in the employing agency on an adjusted basis in accordance with regulations which shall be prescribed by the United States Civil Service Commission.

(l) In the case of any educator employed in an education position described in subsection (m)(1)(A) who—

(1) is so employed at the close of a school year,

(2) agrees in writing to serve in such a position for the next school year, and

(3) is employed in another position in the recess period immediately preceding such next school year, or during such recess period receives additional compensation referred to in subsection (g)(2) or (g)(3),

section 5533 of title 5, United States Code, relating to dual compensation, shall not apply to such educator by reason of any such employment during a recess period of any such receipt of additional compensation.

(m) For the purposes of this section—

(1) the term "education position" means a position in the Bureau the duties and responsibilities of which—

(A) are performed on a school-year basis principally in a school operated by the Bureau and involve—

(i) classroom or other instruction or the supervision or direction of classroom or other instruction, or

(ii) any activity (other than teaching) which requires academic credits in educational theory and practice equal to the academic credits in educational theory and practice required for a bachelor's degree in education from an accredited institution of higher education; or

(iii) any activity in or related to the field of education notwithstanding that academic credits in educational theory and practice are not a formal requirement for the conduct of such activity; or

(B) are performed at the agency level of the Bureau and involve education-related programs of the Bureau;

but such term does not include the position of superintendent for education at the agency level of the Bureau; and

(2) the term "educator" means an individual whose services are required, or who is employed, in an education position.

(n)(1) This section shall apply with respect to any individual hired after the date of the enactment of this Act for employment in an education position and to the position held by such individual. Subject to paragraph (2), the enactment of this Act shall not affect—

(A) any education position existing immediately before the date of the enactment of this Act,

(B) the compensation attached to such position, or

(C) any incumbent of such a position, his appointment to such position, or his right to receive the compensation attached to such position.

(2) Any individual described in paragraph (1)(C) may make an irrevocable election to be covered under the provisions of this section.

MANAGEMENT INFORMATION SYSTEM

SEC. 14. The Secretary of the Interior shall establish within the Bureau, within one year after the date of the enactment of this Act, a computerized management information system, which shall provide information to all agency and area offices of the Bureau, and to the Office. Such information shall include—

(1) student enrollment;
(2) curriculum;
(3) staff;
(4) facilities;
(5) community demographics; and
(6) student assessment information.

BUREAU EDUCATION POLICIES

SEC. 15. Within one hundred and eighty days after the date of the enactment of this Act, the Office shall develop and submit to the field offices and agencies of the Bureau, the tribal governments, and the appropriate committees of the Congress a draft set of education policies, procedures, and practices for education-related actions of the Bureau. The Director of the Office shall, within one year after the enactment of this Act, provide that such uniform policies and procedures shall be finalized and promulgated. Thereafter, such policies and procedures, and their periodic revisions, shall serve as the foundation for future Bureau actions in education.

UNIFORM EDUCATION PROCEDURES AND PRACTICES

SEC. 16. The Assistant Secretary shall cause the various divisions of the Bureau to formulate uniform procedures and practices with respect to such of the concerns of those divisions as they relate to education, and shall report such practices and procedures to the Congress.

RECRUITMENT OF INDIAN EDUCATORS

SEC. 17. The Assistant Secretary shall cause to be instituted within the Office a recruitment policy with respect to qualified Indian educators and a detailed plan to promote employees from within. Such plan shall include opportunities for acquiring work experience prior to actual work assignment.

ANNUAL REPORT

SEC. 18. The Assistant Secretary shall submit to each appropriate committee of the Congress a detailed annual report on the state of education within the Bureau and any problems encountered in the field of education during the year. Such report shall contain suggestions for improving the Bureau educational system and increasing local Indian control.

EFFECT ON BUREAU FUNDING

SEC. 19. Nothing in this Act shall be interpreted to deny the Bureau funding from any present source.

REGULATIONS

SEC. 20. Regulations required to be adopted in accordance with sections 8 through 18 of this Act shall be deemed rules of general applicability prescribed for the administration of an applicable program for the purposes of section 431 of the General Education Provisions Act and shall be promulgated, submitted for congressional review, and take effect in accordance with the provisions of such section.

STUDIES

SEC. 21. Up to $1,000,000 of the sums appropriated under the Act entitled "An Act authorizing appropriations and expenditures for the administration of Indian affairs, and for other purposes"; approved November 2, 1921 (42 Stat. 208; 25 U.S.C. 13; commonly referred to as the "Snyder Act"); for any fiscal year may be used to carry out the studies conducted under section 3(a) and section 4.

DEFINITIONS

SEC. 22. For the purpose of this Act—

(1) the term "local educational agency" means a board of education or other legally constituted local school authority having administrative control and direction of free public education in a county, township, independent, or other school district located within a State, and includes any State agency which directly operates and maintains facilities for providing free public education;

(2) the term "average per pupil expenditure" means the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made, of the local educational agency divided by the aggregate number of children in average daily attendance for whom such agency provided free public education during such second preceding fiscal year;

(3) the term "Commissioner" means the Commissioner of Education;

(4) the term "local school board", when used with respect to a Bureau school, means the advisory school board of that Bureau school; and

(5) the term "Assistant Secretary" means the Assistant Secretary of the Bureau of Indian Affairs.

A BILL TO INCREASE AUTHORIZATION FOR ELLIS ISLAND NATIONAL MONUMENT

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the RECORD, and to include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, I am today pleased to join my colleague ED KOCH in introducing a bill to raise the authorization level for the Ellis Island national monument from $6 million to $50 million. We are taking this action because it has become apparent that the $6 million ceiling adopted in 1965 is woefully inadequate for any serious restoration effort. Over $2.6 million has already been appropriated and virtually all of it has been used for the repair and stabilization necessary before visitors could safely disembark on the island.

I have long been interested in Ellis Island. One of my first acts upon taking office in 1965 was to introduce legislation authorizing the designation of Ellis Island as a national site. At that time the island had been abandoned for over a decade and the various structures were gutted and slowly crumbling. In May 1965 President Lyndon B. Johnson designated the island as a national monument and the Congress passed my bill authorizing the $6 million ceiling. The island was first opened to visitors in 1976 and is remarkably popular. In the 12 months since the island was opened, over 50,000 visitors have traveled to it by ferry.

Unfortunately a visitor's experience on the island must be a very limited one. Only one building is open to visitors, the Great Hall, where immigrants were once processed by the thousands each day. The building is today cavernous, dusty, and stripped of all furnishings save a few benches. There is nothing there which might help re-create the immigration experience—few photos, no film or slides, no recordings of the recollections of former immigrants.

Visitors tread from room to room to constant words of caution from the fine Park Service staff who warn them about shaky floors and dangerous stairways. As they leave the great hall they see the sunken remains of the ferry that was once used to bring the immigrants back and forth to the island. It lies submerged next to a rotting pier.

Nevertheless the thousands of tourists who have visited the island since 1976 have been very enthusiastic about their visits. Park Service questionnaire responses demonstrate that most people leave the island moved and very anxious to see a fully restored island. Such is the power and drama implicit in Ellis Island that, despite all the inconvenience and the few amenities, virtually all visitors indicate strong support for the project. This really should not surprise us. There probably are few other national park sites in the United States that touch so many people. It has been estimated that over 100 million Americans living today either passed through Ellis Island or are descendants of people who did. For each and every one of those 100 million, Ellis Island is—or could be—a very special place.

ED KOCH and I believe that Ellis Island merits a full restoration. The National Park Service has provided us with figures estimating the cost of simple rehabilitation at $37 million. This sum would allow the restoration of the great hall, the removal of miscellaneous structures, dock improvement, landscaping, and dredging of the ferry basin. According to the Park Service, this estimate represents a compromise between basic stabilization costs and full-scale development and rehabilitation. We support a $50 million figure which would permit a full-scale rehabilitation.

A fully restored island could become one of the major tourist attractions in the United States—a place of great interest to Americans and people from other lands alike. Ellis Island is located just off lower Manhattan. In addition to its historical significance, it is graced with cool ocean breezes and a truly magnificent view of Manhattan Island and the Statue of Liberty. I would like to see Ellis Island become a national center for the study and appreciation of the immigrant experience.

The Restore Ellis Island Committee, a group of private citizens which has worked energetically and effectively for the restoration of the island, has suggested that the National Archives transfer to Ellis Island microfilms of immigration records that are currently stored in Washington. The descendant of an immigrant who passed through the island could then obtain specific data about his ancestor's arrival in the United States and thus begin a search for "roots" at the point of entry. I would also like to see a project where surviving immigrants are interviewed on tape and film about their own experiences for presentation on the island. This type of oral and visual history could be of invaluable assistance to future historians and the interested public alike. We could also open the entire 27-acre island to picnics, sporting events, and the "ethnic" festivals that are so common in New York. The people of New York City desperately need open space for all forms of recreation. Ellis Island could serve as a unique focus for many different outdoor and indoor activities.

I look forward to rapid House action on this bill. Certainly when the Interior Committee and Members of the House itself learn of the continuing deterioration of this designated national shine, they will join in the effort to gain full funding. I look forward to the day, not too far in the future, when Ellis Island will be enjoyed and appreciated by hundreds of thousands of people from throughout this Nation and the world. Ellis Island will then stand as a living reminder of that massive immigration that made the United States of America the unique nation it was and is.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. WHITE (at the request of Mr. WRIGHT), for today, on account of official business.

Mr. LLOYD of California (at the request of Mr. WRIGHT), for today, on account of medical reasons—knee surgery.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. WALKER) to revise and extend their remarks and include extraneous material:)

Mrs. HECKLER, for 5 minutes, today.
Mr. MARLENEE, for 5 minutes, today.
Mr. GRASSLEY, for 10 minutes, today.
Mr. FISH, for 5 minutes, today.
Mr. GOLDWATER, for 10 minutes, today.
Mr. PRITCHARD, for 20 minutes, today.
Mr. DON H. CLAUSEN, for 15 minutes, today.
Mr. MCCLOSKEY, for 30 minutes, today.
Mr. KEMP, for 5 minutes, today.

(The following Members (at the request of Mr. KILDEE) to revise and extend their remarks and include extranematerial:)

Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Ms. HOLTZMAN, for 60 minutes, today.
Mr. MOAKLEY, for 30 minutes, today.
Mr. KASTENMEIER, for 5 minutes, today.
Mr. NOLAN, for 5 minutes, today.
Mr. BEDELL, for 5 minutes, today.
Mr. VANIK, for 5 minutes, today.
Mr. BALDUS, for 5 minutes, today.
Mr. STAGGERS, for 5 minutes, today.
Mr. HARRIS, for 5 minutes, today.
Mr. BINGHAM, for 5 minutes, today.
Mr. MOSS, for 5 minutes, today.
Mr. BRADEMAS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. MEEDS, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is

estimated by the Public Printer to cost $1,369.

Mr. PRICE, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $885.50.

Mr. MOAKLEY, notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $2,173.50.

Mr. SCHEUER, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,127.

Mr. SCHEUER, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $966.

Mr. BLOUIN, to extend his remarks in the body of the RECORD notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $1,368.50.

Mr. HARKINS, and to include extraneous matter, on H.R. 9179 in the Committee of the Whole today.

Ms. HOLTZMAN, to extend her remarks on conference report on H.R. 8518 previously adopted.

(The following Members (at the request of Mr. WALKER) and to include extraneous matter:)

Mr. JOHN T. MYERS in four instances.
Mr. GILMAN in two instances.
Mr. STEERS.
Mr. MCKINNEY.
Mr. ERLENBORN.
Mr. ASHBROOK in four instances.
Mr. CAPUTO.
Mr. RUPPE in three instances.
Mr. CUNNINGHAM.
Mr. DERWINSKI in two instances.
Mr. FISH in two instances.
Mr. COHEN in two instances.
Mr. STOCKMAN in two instances.
Mr. LEACH in two instances.
Mr. SPENCE in two instances.
Mr. DUNCAN of Tennessee.
Mr. EVANS of Delaware.
Mr. MICHEL in two instances.
Mr. FINDLEY in two instances.
Mr. CARTER.
Mr. DEL CLAWSON.
Mr. STANGELAND in two instances.
Mr. VANDER JAGT.
Mr. YOUNG of Florida.
Mr. BEARD of Tennessee.
Mr. MARLENEE.
Mr. MCCLOSKEY.
Mr. LAGOMARSINO.
Mr. JOHNSON of Colorado.
Mr. YOUNG of Alaska.

(The following Members (at the request of Mr. KILDEE), and to include extraneous matter:)

Ms. OAKAR in four instances.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. KILDEE in two instances.
Mr. NIX.
Mr. PEASE.
Mr. ROSENTHAL.
Mr. ROONEY in three instances.
Mr. FARY in three instances.
Mrs. BURKE of California.
Mr. MINETA in two instances.
Mr. WAXMAN.
Mr. MITCHELL of Maryland.
Mr. FORD of Tennessee.
Mr. PEPPER in five instances.
Mr. KOCH in three instances.
Mr. SCHEUER in five instances.
Mr. FUQUA in five instances.
Mr. KASTENMEIER.
Mr. MOTTL.
Mr. MCDONALD in 10 instances.
Mr. BRINKLEY.
Mr. CORMAN in five instances.
Mr. HANNAFORD.
Mr. RICHMOND.
Mr. COTTER in 10 instances.
Mr. SEIBERLING in 10 instances.
Mr. SKELTON in two instances.
Mr. FITHIAN in two instances.
Mr. GAMMAGE.
Mr. HAWKINS.
Mr. RYAN in five instances.
Mr. MOORHEAD of Pennsylvania in three instances.
Mr. WOLFF in two instances.
Mr. BRECKINRIDGE in two instances.
Mr. LAFALCE.
Mr. MURPHY of New York.
Mr. FISHER.
Mr. LUNDINE in two instances.
Mr. OTTINGER.
Mr. EDWARDS of California.
Mr. PATTISON of New York.
Mr. BRADEMAS in five instances.
Mr. BALDUS.
Mr. LEGGETT in two instances.
Mr. LEDERER in two instances.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 854. An act to authorize the Secretary of Commerce to sell two obsolete vessels to Mid-Pacific Sea Harvesters, Inc., and for other purposes;

S. 1062. An act to amend section 441 of the District of Columbia Self-Government and Governmental Reorganization Act;

S. 1142. An act for the relief of Kam Lin Cheung;

S. 1339. An act to authorize appropriations for the Energy Research and Development Administration for national security programs for fiscal years 1977 and 1978, and for other purposes;

S. 1528. An act to amend section 2 of the Safe Drinking Water Act (Public Law 93–523) to extend and increase authorizations provided for public water systems;

S. 1863. An act to authorize appropriations during fiscal year 1978, in addition to amounts previously authorized, for procurement of aircraft and missiles for the Navy and the Air Force and for research, development, test, and evaluation for the Air Force and the Defense agencies, and for other purposes; and

S. 2052. An act to extend the supervision of the U.S. Capitol Police to certain facilities leased by the Office of Technology Assessment.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 4458. An act to amend certain provisions of the Internal Revenue Code of 1954 relating to distilled spirits, and for other purposes;

H.R. 6010. An act to amend title XIII of the Federal Aviation Act of 1958 to expand the types of risks which the Secretary of Transportation may insure or reinsure, and for other purposes;

H.R. 7278. An act to amend section 10 of the Merchant Marine Act, 1936;

H.R. 9019. An act to rescind certain budget authority contained in the message of the President of July 19, 1977 (H. Doc. 95–188), transmitted pursuant to the Impoundment Control Act of 1974;

H.R. 9512. An act to amend the Higher Education Act of 1965 to include the Trust Territory of the Pacific Islands in the definition of the term "State" for the purposes of participation in programs authorized by that act;

H.R. 9710. An act to extend the authority for the flexible regulation of interest rates on deposits and accounts in depository institutions, to promote the accountability of the Federal Reserve System, and for other purposes; and

H.J. Res. 621. Joint resolution approving the Presidential decision on an Alaska natural gas transportation system, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills of the House of the following title:

On November 2, 1977:

H.R. 1403. To authorize the Secretary of the Interior to convey the interest of the United States in certain lands in Adams, County, Miss., notwithstanding a limitation in the Color-of-Title Act (45 Stat. 1069, as amended; 43 U.S.C. 1068);

H.R. 2527. To authorize the Secretary of Agriculture to convey certain lands in the Sierra National Forest, Calif., to the Madera Cemetery District;

H.R. 2849. To suspend until July 1, 1978, the rate of duty on mattress blanks of latex rubber, and for other purposes;

H.R. 3387. To extend certain Social Security Act provisions, and for other purposes;

H.R. 3373. To extend for an additional temporary period the existing suspension of duties on certain classifications of yarns of silk, and for other purposes; and

H.R. 3461. For the relief of Chin-Ho An.

On November 3, 1977:

H.R. 4458. To amend certain provisions of the Internal Revenue Code of 1954 relating to distilled spirits, and for other purposes; and

H.R. 6010. To amend title XIII of the Federal Aviation Act of 1958 to expand the types of risks which the Secretary of Transportation may insure or reinsure, and for other purposes.

ADJOURNMENT

Mr. KILDEE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 42 minutes p.m.), the House adjourned until tomorrow, Friday, November 4, 1977, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2645. A letter from the Secretary of Housing and Urban Development, transmitting a report on her determination that the operation of the national flood insurance program would be assisted materially by the Federal Government's assumption of part of the operational responsibility for the program, pursuant to section 1340(b) of Public Law 90–448; to the Committee on Banking, Finance and Urban Affairs.

2646. A letter from the general manager, Washington Metropolitan Area Transit Authority, transmitting the Authority's semiannual report dated July 1977; to the Committee on the District of Columbia.

2647. A letter from the Assistant Secretary of State for Congressional Relations; transmitting notice of a 2-day delay in the submission of a report from the President on Korean Government cooperation with the investigation of the Department of Justice into allegations of improper activities in the United States by agents of the Republic of Korea, required by section 28 of the International Security Assistance Act of 1977; to the Committee on International Relations.

2648. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to Israel (transmittal No. 78–4), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on Government Operations. Interim report on the standardization and interoperability of NATO military equipment (Rept. No. 95–806). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on improving internal auditing in the Department of the Army (Rept. No. 95–807). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANLEY: Committee on Post Office and Civil Service. H.R. 7700. A bill to amend title 39, United States Code, to establish congressional review of postal rate decisions, to increase congressional oversight of the U.S. Postal Service, to abolish the Board of Governors of the U.S. Postal Service, and for other purposes; with amendment (Rept. No. 95–808). Referred to the Committee of the Whole House on the State of the Union.

Mr. FISH: Committee on the Judiciary. House Joint Resolution 489. Joint resolution granting the status of permanent residence to certain aliens; with amendment (Rept. No. 95–809). Referred to the Committee of the Whole House.

Mr. STAGGERS: Committee of conference. Conference report on S. 1750 (Rept. No. 95–810). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BEDELL:

H.R. 9929. A bill to amend title 38, United States Code, to provide that agricultural employment required for eligibility for educational assistance under the GI bill for a person enrolled in a farm cooperative program need not be full-time employment or the principal expected source of income of such person and may include employment in establishments engaged in the processing, distribution, or sale of agricultural products; to the Committee on Veterans' Affairs.

By Mrs. BURKE of California (for herself, Mr. DELANEY, Mrs. HECKLER, and Mrs. SCHROEDER):

H.R. 9930. A bill to provide for the establishment of Multipurpose Service Centers for displaced homemakers, and for other purposes; to the Committee on Education and Labor.

By Mr. BUTLER (for himself, Mr. BEDELL, Mr. CONTE, Mr. MARRIOTT, Mr. HYDE, Mr. LEACH, and Mr. VANDER JAGT):

H.R. 9931. A bill to require the preparation of small business impact statements in connection with Federal agency rules, and for other purposes; to the Committee on Small Business.

By Mr. DELANEY (for himself, Mr. HARRINGTON, Mr. PATTEN, Mr. HANSEN, Mr. BREAUX, Mr. THONE, Mr. FORD of Tennessee, Mr. COCHRAN of Mississippi, Mr. ANDERSON of Illinois, Mr. ICHORD, Mr. KELLY, and Mr. SCHEUER):

H.R. 9932. A bill to amend the Internal Revenue Code of 1954 to allow a taxpayer to deduct, or to claim a credit for, amounts paid as tuition to provide an education for himself, for his spouse, or for his dependents; to the Committee on Ways and Means.

By Mr. DENT:

H.R. 9933. A bill to provide for orderly trade; to the Committee on Ways and Means.

H.R. 9934. A bill to provide for orderly trade; to the Committee on Ways and Means.

By Mr. DINGELL (for himself, Mr. DAN DANIEL, Mr. MOTTL, Mr. KILDEE, Mr. PURSELL, Mr. MOLLOHAN, Mr. BEVILL, and Mr. FARY):

H.R. 9935. A bill to reduce unemployment, stimulate fair and free competition in world steel trade, provide temporary relief from unfair trading practices for the domestic steel industy, and for other purposes; to the Committee on Ways and Means.

By Mr. DRINAN (for himself, Mr. ANDREWS of North Dakota, Mr. BRADEMAS, Mr. CARR, Mr. CORRADA, Mr. FASCELL, Mrs. FENWICK, Mr. HUCKABY, Mr. LEACH, Mr. LE FANTE, Mrs. LLOYD of Tennessee, Mr. MARKS, Mr. MITCHELL of Maryland, Mr. MOTTL, Mr. NOLAN, Mr. NOWAK, Mr. OTTINGER, Mr. PATTISON of New York, Mr. PEASE, Mr. PEPPER, Mr. RYAN, Mrs. SPELLMAN, Mr. STUDDS, Mr. THOMPSON, and Mr. WEISS):

H.R. 9936. A bill to provide additional assistance to small business concerns in acquiring procurement information and contracts from the United States; to the Committee on Small Business.

By Mr. FAUNTROY (for himself, Mr. BARNARD, Mr. EVANS of Delaware, Mr. LEACH, Mr. MATTOX, Ms. OAKAR, and Mr. PATTISON of New York) (by request):

H.R. 9937. A bill to amend the One Bank Holding Company Act of 1970; to the Committee on Banking, Finance and Urban Affairs.

By Ms. MIKULSKI (for herself, Mr. BALDUS, Mr. CLAY, Mr. CORRADA, Mr. DOWNEY, Mr. EDGAR, Mr. GOODLING, Mr. FRENZEL, Mr. HAWKINS, Mr. HOLLENBECK, Mr. HOWARD, Mr. HUGHES, Mr. MAZZOLI, Mr. OTTINGER, Mr. PANETTA, Mr. RICHMOND, Mr. ROE, Mr. TUCKER, and Mr. WEISS):

H.R. 9938. A bill to establish programs for the prevention and treatment of family violence; to the Committee on Education and Labor.

By Mr. MILFORD:

H.R. 9939. A bill to incorporate the Gold Star Wives of America; to the Committee on the Judiciary.

By Mr. NOLAN (for himself, and Mr. STANGELAND):

H.R. 9940. A bill to authorize deficiency payments for certain farmers who were unable to produce in 1977 acreage allotment commodities because of insufficient moisture; to the Committee on Agriculture.

By Ms. OAKAR (for herself, Mr. NOLAN, Mr. YOUNG of Missouri, Mr. CORNWELL, Miss MIKULSKI, Mr. ROYBAL, Mr. BLOUIN, Mr. MURPHY of New York, Mr. JENRETTE, and Mr. WAMPLER):

H.R. 9941. A bill to amend the Older Americans Act of 1965 to provide that the Commissioner of the Administration on Aging may make grants to assist older persons adversely affected by natural disasters, and for other purposes; to the Committee on Education and Labor.

By Mr. OTTINGER:

H.R. 9942. A bill to provide Federal financial assistance to employers, labor organizations, or consortiums thereof, or other groups or individuals, to establish and operate occupational alcoholism programs for the diagnosis and treatment of alcohol abuse and alcoholism in employed persons, including managerial personnel, and their dependents, and for other purposes; to the Committee on Education and Labor.

H.R. 9943. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to provide for Federal participation in the costs of the old-age, survivors, and disability insurance program and the medicare program, with appropriate reductions in social security taxes to reflect such participation, and without any ceiling on the amount of an individual's annual earnings which may be counted for benefit and tax purposes; to the Committee on Ways and Means.

By Mr. PEPPER:

H.R. 9944. A bill to amend the Public Health Service Act to provide financial assistance to medical facilities for treatment of certain aliens; to the Committee on Interstate and Foreign Commerce.

By Mr. QUILLEN:

H.R. 9945. A bill to amend the act creating the Indian Claims Commission to repeal the provision limiting the activities of Commissioners during the 2 years following their terms of office; to the Committee on Interior and Insular Affairs.

By Mr. ROBINSON:

H.R. 9946. A bill to repeal the carryover basis provisions added by the Tax Reform Act of 1976; to the Committee on Ways and Means.

By Mr. RUPPE (for himself and Mr. FORD of Michigan):

H.R. 9947. A bill to amend the Toxic Substance Control Act to establish a program of assistance to the States for the protection and indemnification of individuals injured in their business or person by chemical substances, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ST GERMAIN:

H.R. 9948. A bill to amend the tax laws of the United States to encourage the preservation of independent local newspapers; to the Committee on Ways and Means.

By Mr. TSONGAS (for himself, Mr. AKAKA, Mr. ANDERSON of Illinois, Mr. BEDELL, Mr. CORCORAN of Illinois, Mr. CORNWELL, Mr. DERWINSKI, Mr. DOWNEY, Mr. EDWARDS of California, Mr. EILBERG, Mr. FITHIAN, Mr. HARRINGTON, Ms. HOLTZMAN, Mr. LAFALCE, Mr. LUNDINE, Mr. MARKS, Mr. MCCLORY, and Mr. NOWAK):

H.R. 9949. A bill to recognize the executive branch of the Government by consolidation of functions and to increase efficiency and coordination in the area of disaster assistance, emergency preparedness, mobilization readiness, and for other purposes; to the Committee on Government Operations.

By Mr. MEEDS (for himself, Mr. FOLEY, Mr. PRITCHARD, Mr. BONKER, Mr. CUNNINGHAM, Mr. DICKS, Mr. MCCORMACK, Mr. HANSEN, Mr. STANGELAND, and Mr. ABDNOR):

H.R. 9950. A bill to allocate civil and criminal jurisdiction among the United States, the States, and Indian tribes, and to define the limits of State and tribal regulatory power; jointly to the Committees on Interior and Insular Affairs, the Judiciary, and Merchant Marine and Fisheries.

H.R. 9951. A bill to require adjudication and quantification of all claims to rights to the use of water based upon Federal reserved rights for Indian reservations; to the Committee on Interior and Insular Affairs.

By Mr. UDALL (for himself, Mr. ANDREWS of North Dakota, Mr. BADILLO, Mr. CHAPPELL, Mr. COCHRAN of Mississippi, Mr. COUGHLIN, Mr. DAN DANIEL, Mr. DRINAN, Mr. FUQUA, Mr. HARRINGTON, Mr. KILDEE, Mr. LAFALCE, Mr. LEHMAN, Mr. LENT, Mr. LUNDINE, Mr. MARKEY, Mr. NOWAK, Mr. OBERSTAR, Mr. PATTISON of New York, Mr. PEASE, Mr. PRITCHARD, Mr. RAILSBACK, Mr. RICHMOND, and Mr. RISENHOOVER):

H.R. 9952. A bill to amend the tax laws of the United States to encourage the preservation of independent local newspapers; to the Committee on Ways and Means.

By Mr. UDALL (for himself, Mr. RUNNELS, Mr. RYAN, Mr. SEBELIUS, Mr. SEIBERLING, Mr. SIMON, Mr. THOMPSON, Mr. THONE, Mr. TREEN, and Mr. WHITEHURST):

H.R. 9953. A bill to amend the tax laws of the United States to encourage the preservation of independent local newspapers; to the Committee on Ways and Means.

By Mr. WEISS (for himself, Mr. DELANEY, Mr. ROSENTHAL, Mr. ADDABBO, Mr. BADILLO, Mrs. CHISHOLM, Ms. HOLTZMAN, Mr. KOCH, Mr. LE FANTE, Mr. RANGEL, Mr. RICHMOND, Mr. SOLARZ, and Mr. WOLFF):

H.R. 9954. A bill to provide that the Secretary of Housng and Urban Development may not approve any application for rental increases in federally assisted housing unless the amount of such increase is permitted under State and local law; to the Committee on Banking, Finance and Urban Affairs.

By Mr. WINN (for himself, Mrs. FENWICK, Mr. FRASER, Mr. VAN DEERLIN, Mr. BEILENSON, Mr. EDWARDS of Oklahoma, Mr. HARRINGTON, Mr. NOLAN, Mr. BROWN of California, Mr. RODINO, Mr. MOORHEAD of Pennsylvania, Mr. MCCLOSKEY, Mr. MIKVA, Mr. BADILLO, Mr. OTTINGER, Mrs. PETTIS, and Mr. HARKIN):

H.R. 9955. A bill to authorize the establishment of the Tallgrass Prairie National Park and the Tallgrass Prairie National Preserve, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. ANDERSON of California:

H.R. 9956. A bill to amend the Department of Defense Appropriations Act, 1978; jointly, to the Committees on Armed Services and Appropriations.

By Mr. ANDERSON of California (for himself, Mr. STUMP, and Mr. FLORIO):

H.R. 9957. A bill to amend title 38 of the United States Code in order to provide for the payment of service pensions to veterans of World War I and for certain surviving spouses and certain children; to the Committee on Veterans' Affairs.

By Mr. BALDUS (for himself, Mr. ROE, Mr. LEVITAS, Mr. WIRTH, Mr. LLOYD of California, Mr. PRESSLER, Mr. MURPHY of New York, and Mr. FOWLER):

H.R. 9958. A bill to authorize the Small Business Administration to make grants to support the development and operation of small business development centers in order to provide small business with management development, technical information, product planning and development, and domestic and international market development, and for other purposes; to the Committee on Small Business.

By Mr. BEDELL (for himself, Mrs. LLOYD of Tennessee, Mr. LAGOMARSINO, Mr. OBERSTAR, Mr. VENTO, Mr. WINN, Mr. SIMON, Mr. KINDNESS, Mr. BLOUIN, Mrs. SPELLMAN, Mr. FRASER, Mr. HALL, Mr. PANETTA, Mr. PATTISON of New York, Mr. GLICKMAN, Mr. HUCKABY, Mr. CORNELL, Mr. HARRINGTON, Ms. HOLTZMAN, Mr. HUGHES, Mr. PEASE, Mr. ROE, Mrs. FENWICK, Mr. CHARLES WILSON of Texas, and Mr. MCHUGH):

H.R. 9959. A bill to provide that housing benefits available to a veteran, under title 38 of the United States Code, shall not be considered in determining, under title 5 of the Housing Act of 1949, whether such veteran is able to obtain credit for housing from sources other than the Farmers Home Administration; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BREAUX:

H.R. 9960. A bill to amend the Federal Food, Drug and Cosmetic Act; to the Committee on Interstate and Foreign Commerce.

By Mr. BROWN of Ohio (for himself, Mr. ROE, Mr. COUGHLIN, and Mr. BUTLER):

H.R. 9961. A bill to amend the Federal charter of the Boy Scouts of America; to the Committee on House Administration.

By Mr. BYRON (for himself, Mrs. HOLT, Mr. ROBINSON and Mrs. SPELLMAN):

H.R. 9962. A bill to increase the distance which officers and members of the Metropolitan Police force and the Fire Department of the District of Columbia are authorized to reside from the United States Capitol Building from 25 miles to 50 miles; to the Committee on the District of Columbia.

By Mr. BYRON:

H.R. 9963. A bill to amend title XIX of the Social Security Act to make certain that individuals otherwise eligible for medicaid benefits do not lose such eligibility, or have the amount of such benefits reduced, because of increases in monthly social security benefits; to the Committee on Interstate and Foreign Commerce.

By Mr. BURLISON of Missouri:

H.R. 9964. A bill to require the Secretary of the Army to acquire approximately 2,500 acres of land to be used to mitigate certain adverse impacts which will result from the St. Johns Bayou and New Madrid Floodway, Mo., flood protection project; to the Committee on Public Works and Transportation.

By Mr. BYRON:

H.R. 9965. A bill to amend the Department of Transportation Act and the Regional Rail Reorganization Act of 1973 to extend the eligibility for financial assistance under the rail service assistance programs, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 9966. A bill to amend title 5, United States Code, to provide for grade retention benefits for certain employees whose positions are reduced in grade, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. CARTER:

H.R. 9967. A bill to designate a segment of U.S. Highway 27 as the "Wilburn Kirby Ross Highway"; to the Committee on Public Works and Transportation.

By Mrs. CHISHOLM:

H.R. 9968. A bill to amend title I of the Elementary and Secondary Education Act of 1965, and for other purposes; to the Committee on Education and Labor.

By Mr. COTTER (by request):

H.R. 9969. A bill to create the Energy Corporation of the Northeast and to authorize the Secretary of the Treasury to provide guarantees for the obligations of such corporation and other financial assistance to such corporation; jointly, to the Committees on Interstate and Foreign Commerce, Banking, Finance and Urban Affairs, and the Judiciary.

By Mr. DRINAN (for himself, Mr. AUCOIN, Mr. BENJAMIN, Mr. CORNELL, Mr. EDGAR, Mr. EILBERG, Mr. HARRINGTON, Ms. HOLTZMAN, Mr. HUGHES, Mr. KASTENMEIER, Mr. LUNDINE, Mr. MOSS, Mr. SEIBERLING, and Mr. WATKINS):

H.R. 9970. A bill to provide additional assistance to small business concerns in acquiring procurement information and contracts from the United States; to the Committee on Small Business.

By Mr. DUNCAN of Tennessee (for himself and Mrs. LLOYD of Tennessee):

H.R. 9971. A bill to amend the Department of Energy Organization Act to provide that full-time temporary personnel of the Technical Information Centers of the Energy Research and Development Administration who are transferred under such act shall have the same rights of conversion to permanent full-time status as apply with regard to full-time temporary personnel of the Energy Research; and Development Administration to the Committee on Post Office and Civil Service.

By Mr. EDWARDS of California:

H.R. 9972. A bill to amend subchapter II of chapter 3 of title 38, United States Code, in order to provide additional benefits to employees of the Veterans' Administration serving at offices in the Republic of the Philippines, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. EDWARDS of California (for himself, Mr. BUTLER, Mr. SEIBERLING, Mr. DRINAN, Mr. VOLKMER, Mr. BEILENSON, and Mr. MCCLORY):

H.R. 9973. A bill to amend the Internal Revenue Code of 1954 to conform it to changes in the bankruptcy law, and to amend title 11, United States Code, to expand special tax provisions to cover Federal taxes; to the Committee on Ways and Means.

By Mr. EVANS of Delaware:

H.R. 9974. A bill to amend the Internal Revenue Code of 1954 to allow a credit for amounts paid by certain individuals over age 65 for qualifying real property taxes and rent constituting real property taxes with respect to such individual's principal residence; to the Committee on Ways and Means.

By Mr. FISHER:

H.R. 9975. A bill to provide for the resolution of claims and disputes relating to Government contracts awarded by executive agencies; to the Committee on the Judiciary.

By Mr. FLIPPO:

H.R. 9976. A bill to authorize the Secretary of Agriculture to establish a program to promote the development of aquaculture in the United States, and for other purposes; to the Committee on Agriculture.

H.R. 9977. A bill to amend title XIX of the Social Security Act to provide that future increases in social security benefits, railroad retirement benefits, veterans' benefits, or any other benefits of a similar nature which are payable under a Federal or federally assisted retirement or disability program shall be disregarded in determining an individual's income for purposes of medicaid eligibility; to the Committee on Interstate and Foreign Commerce.

By Mr. GILMAN (for himself, Mr. HUGHES, Mr. CORNWELL, Mr. LAGOMARSINO, Mr. ERTEL, Mr. PATTISON of New York, and Mr. BEDELL):

H.R. 9978. A bill revising repayment schedules and eligibility requirements for emergency loans; to the Committee on Agriculture.

By Mr. GILMAN (for himself, Mr. BADHAM, Mr. DERWINSKI, and Mr. SKUBITZ):

H.R. 9979. A bill to provide for the termination of all American assistance to any country which fails to take adequate steps to control illegal trade in narcotics; to the Committee on International Relations.

By Mr. GILMAN (for himself, Mr. EILBERG, Mr. MURPHY of Pennsylvania, and Mr. GOODLING):

H.R. 9980. A bill to regulate commerce and to prohibit unfair or deceptive acts or practices in commerce, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. GILMAN (for himself, Mr. WEAVER, Mr. O'BRIEN, Mr. DORNAN, and Mr. FREY):

H.R. 9981. A bill to amend title 38, United States Code, in order to entitle veterans to 54 months of educational assistance for all educational programs under chapter 34 of such title, to eliminate the time limitation within which educational assistance must be used, and to restore on behalf of certain veterans educational assistance benefits previously terminated; to the Committee on Veterans' Affairs.

By Mr. GOLDWATER (for himself and Mr. KOCH):

H.R. 9982. A bill to amend the Family Educational Rights and Privacy Act (20 U.S.C. 1232) to provide for the protection of the privacy of personal information, and for other purposes; to the Committee on Education and Labor.

By Mr. GRASSLEY (for himself and Mr. NOLAN):

H.R. 9983. A bill to establish a separate community development program for units of general local government which have a population of 20,000 or fewer individuals and are located in nonmetropolitan areas; jointly, to the Committees on Agriculture, and Banking, Finance and Urban Affairs.

By Mr. JOHNSON of Colorado:

H.R. 9984. A bill to direct the Secretary of Agriculture to conduct a study to determine the probable economic effects of a cessation of Federal assistance which serves to promote tobacco production and the manufacturing and marketing of tobacco products for human consumption; to the Committee on Agriculture.

By Mr. KEMP (for himself, Mr. ADDABBO, Mr. AUCOIN, Mr. BADHAM, Mr. BURGENER, Mr. DERWINSKI, Mr. DICKS, Mr. DORNAN, Mr. DUNCAN of Tennessee, Mr. GILMAN, Mr. HARRINGTON, Mrs. HOLT, Mr. HUGHES, Mr. KINDNESS, Mr. LOTT, Mrs. LLOYD of Tennessee, Mr. MARKS, Mr. MURPHY of Pennsylvania, Mr. RYAN, Mr. SCHULZE, Mr. SKUBITZ, Mr. SPENCE, Mr. WALSH, Mr. WHITEHURST, and Mr. WINN):

H.R. 9985. A bill to amend the Internal Revenue Code of 1954 to provide a credit against income tax for amounts contributed to certain organizations the primary purpose of which is the support of the arts and humanities, and to allow an additional deduction for certain charitable contributions; to the Committee on Ways and Means.

By Mr. KOCH (for himself and Mr. GOLDWATER):

H.R. 9986. A bill to establish a Federal Information Practices Board to review and report on fair information and privacy practices of governmental and nongovernmental entities; to the Committee on Government Operations.

By Mr. KOCH (for himself, Mr. MINETA, and Mr. STARK):

H.R. 9987. A bill to authorize the Secretary of Transportation to make grants for the construction of bikeways; to the Committee on Public Works and Transportation.

By Mr. KOCH (for himself, Mr. BONKER, Mr. BOWEN, Mr. EDWARDS of California, Mr. EILBERG, Mrs. HOLT, Mr. JENRETTE, Mr. KOSTMAYER, Mr. LEACH, Mr. LE FANTE, Mr. LONG of Maryland, Mr. MARKS, Mr. MITCHELL of New York, Mr. MOORHEAD of California, and Mr. ZEFERETTI):

H.R. 9988. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; and to remove rate inequities for married persons where both are employed; to the Committee on Ways and Means.

By Mr. KOCH (for himself and Mr. GOLDWATER):

H.R. 9989. A bill to amend the Social Security Act to provide for the protection of the privacy of personal medical information maintained by certain medical care institutions; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. LAFALCE:

H.R. 9990. A bill to amend the Small Business Act to provide small business with increased management assistance; to the Committee on Small Business.

H.R. 9991. A bill to clarify the treatment of banks and other depository institutions under State and local revenue laws; jointly, to the Committees on Banking, Finance and Urban Affairs, and the Judiciary.

By Mr. LAGOMARSINO (for himself, Mr. CHARLES H. WILSON of California, Mr. RONCALIO, and Mr. LEGGETT):

H.R. 9992. A bill to provide rental assistance under section 8 of the United States Housing Act of 1937 for owners of mobile homes who rent the real property on which their mobile homes are located; to the Committee on Banking, Finance and Urban Affairs.

By Mr. LOTT:

H.R. 9993. A bill to authorize the expansion of the Gulf Islands National Seashore by approximately 600 acres; to the Committee on Interior and Insular Affairs.

By Mr. MONTGOMERY:

H.R. 9994. A bill to amend title 38 of the United States Code to provide that the survivors of a veteran who was rated totally and permanently service-connected disabled for a period of at least 10 years would be entitled to dependency and indemnity compensation as though the veteran had died from a service-connected disability; to the Committee on Veterans' Affairs.

By Mr. MARLENEE:

H.R. 9995. A bill to amend the Controlled Substances Act to provide mandatory minimum sentences for certain drug offenses; to the Committee on Interstate and Foreign Commerce.

H.R. 9996. A bill to amend section 924(c) of title 18 of the United States Code to increase the mandatory minmium penalties applicable to certain firearms offenses; to the Committee on the Judiciary.

H.R. 9997. A bill to amend title 18 of the United States Code to provide mandatory minimum sentences for repeat offenders; to the Committee on the Judiciary.

By Mr. MURPHY of New York (for himself, Mr. LEGGETT, Mr. BIAGGI, Mr. TRIBLE, Mr. ANDERSON of California, Mr. DE LUGO, Mr. ZEFERETTI, and Mr. AKAKA):

H.R. 9998. A bill to provide for the regulation of rates or charges by certain State-owned carriers in the foreign commerce of the United States, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. OBERSTAR (for himself, Mr. MOTTL, Mr. NOWAK, and Mr. LAFALCE):

H.R. 9999. A bill to restructure the financing of the activities of the Saint Lawrence Seaway Development Corp.; to the Committee on Public Works and Transportation.

By Mr. ROONEY:

H.R. 10000. A bill to examine the delivery of medical eye care services to the general public and to expand and modernize comprehensive medical care centers throughout the United States; to the Committee on Interstate and Foreign Commerce.

By Mr. PANETTA (for himself, Mr. BROWN of California, Mr. JOHN L. BURTON, Mr. MCCLOSKEY, Mr. PATTISON of New York, Mr. MOAKLEY, Mr. HUGHES, and Mr. WEISS):

H.R. 10001. A bill to amend section 2 of the National Housing Act to provide for a guaranteed loan program designed to encourage the acquisition and installation of water conservation equipment and systems in dwelling units; to the Committee on Banking, Finance and Urban Affairs.

H.R. 10002. A bill to require that certain consumer products achieve minimum water efficiency standards, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 10003. A bill to require that certain consumer products be labeled to specify the rate of water consumption of the consumer products, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. PANETTA (for himself, Mr. JOHN L. BURTON, Mr. MCCLOSKEY, Mr. PATTISON of New York, Mr. MOAKLEY, Mr. HUGHES, and Mr. WEISS):

H.R. 10004. A bill to establish an Office of Water Management within the executive branch to coordinate Federal water authorities; to establish an Independent Water Project Review Board within the executive branch to advise the President and the Congress; and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. PANETTA (for himself, Mr. BROWN of California, Mr. JOHN L. BURTON, Mr. MCCLOSKEY, Mr. PAITISON of New York, Mr. MOAKLEY, Mr. HUGHES, and Mr. WFISS):

H.R. 10005. A bill to establish minimum water efficiency standards for public buildings and to provide for the procurement and installation of efficient water supply and removal equipment in public buildings; to the Committee on Public Works and Transportation.

H.R. 10006. A bill to amend the Federal Water Pollution Control Act to include the reduction of unnecessary water consumption as a part of the national policy for the control of water pollution, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. PANETTA (for himself, Mr. KINDNESS, Mr. WHITLEY, Mr. HUGHES, Mr. CARR, Mr. TREEN, Ms. HOLTZMAN, Mr. PATTISON of New York, Mr. BAUCUS, Ms. MIKULSKI, Mr. GEPHARDT, Mr. EDGAR, Mr. OTTINGER, Mr. WALKER, Mr. DERWINSKI, Mr. VENTO, Mr KOCH, Mr. BEDELL, Mr. LAFALCE, Mr. STOCKMAN, Mr. AKAKA, Mr WEISS, Mr. GLICKMAN, and Mr. BADILLO):

H.R. 10007. A bill to amend the Congressional Budget Act of 1974 to provide for a 2-year budgeting cycle, to provide for separate and timely consideration each of authorizing legislation, budget resolutions, and appropriations, and for other purposes; to the Committee on Rules.

By Mr. PANETTA (for himself, Mr. JOHN L. BURTON, Mr. MCCLOSKEY, Mr. PATTISON of New York, Mr. MOAKLEY, Mr. HUGHES, and Mr. WEISS):

H.R. 10008. A bill to assure more adequate supplies of water to the Nation and for

other purposes; jointly, to the Committees on Interior and Insular Affairs, and Public Works and Transportation.

By Mr. PATTERSON of California:

H.R. 10009. A bill to establish a program to provide assistance to local governments for solid waste disposal programs; to the Committee on Interstate and Foreign Commerce.

By Mr. PEPPER:

H.R. 10010. A bill to amend title XVIII of the Social Security Act to authorize payment under the medicare program for services provided in a rehabilitation facility for the blind, and for services furnished to blind individuals by mobility therapists and rehabilitation teachers; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. PICKLE:

H.R. 10011. A bill to delay the effective date for the generation-skipping provisions of the Tax Reform Act of 1976 until August 5, 1976, which is the date on which such provisions were first acted on by either House of the Congress; to the Committee on Ways and Means.

By Mr. ROSE (for himself, Ms. MIKULSKI, Mr. EDWARDS of California, Mr. HUGHES, Mr. GEPHARDT, Ms. SPELLMAN, Mr. LE FANTE, Mr. KOCH, and Mr. RYAN):

H.R. 10012. A bill to amend title 18, United States Code, to make a crime the use, for fraudulent or other illegal purposes, of any computer owned or operated by the United States, certain financial institutions, and entities affecting interstate commerce; to the Committee on the Judiciary.

By Mr. ROSENTHAL:

H.R. 10013. A bill to amend the Tariff Schedules of the United States by repealing item 807 of schedule 8, part 1, subpart B; to the Committee on Ways and Means.

By Mr. RUPPE:

H.R. 10014. A bill to amend the Mineral Leasing Act, and for other purposes; jointly, to the Committees on Interior and Insular Affairs, Interstate and Foreign Commerce, and Public Works and Transportation.

H.R. 10015. A bill to amend the Coastal Zone Management Act of 1972 in order to provide financial assistance to Great Lakes States to enable the States to implement erosion management measures, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries and Public Works and Transportation.

By Mr. THORNTON (for himself, Mr. ALEXANDER, Mr. COLEMAN, Mr. JENRETTE, Mr. MADIGAN, Mr. MOORE, Mr. RICHMOND, Mr. SEBELIUS, Mr. STEED, Mr. TUCKER, Mr. VOLKMER, Mr. WEAVER, Mr. WHITE, and Mr. CHARLES WILSON of Texas):

H.R. 10016. A bill to amend the Packers and Stockyards Act of 1921; to the Committee on Agriculture.

By Mr. TRIBLE (for himself, Mr. CARR, Mr. EMERY, Mr. EDGAR, Mr. HARRINGTON, Mr. PEASE, Mr. WALKER, and Mr. BONKER):

H.R. 10017. A bill to amend the Internal Revenue Code of 1954 to further restrict the allowance as a deduction of entertainment, amusement, and recreation expenses; to the Committee on Ways and Means.

By Mr. TRIBLE (for himself, Mr. AKAKA, Mr. BEVILL, Mr. BROWN of Ohio, Mr. DORNAN, Mr. EILBERG, Mr. FASCELL, Mr. GAMMAGE, Mr. KILDEE, Mr. LAFALCE, Mr. LEVITAS, Mr. VENTO, Mr. BYRON, and Mr. MATTOX):

H.R. 10018. A bill to amend the Internal Revenue Code of 1954 to allow individuals to compute the amount of the deduction for payments into retirement savings on the basis of the compensation of their spouses, and for other purposes; to the Committee on Ways and Means.

By Mr. UDALL (for himself, Mr. SIMON, Mr. STEERS, Mr. LUJAN, Mr. CORRADA, Ms. HOLTZMAN, Mrs. FENWICK, Mr. BRECKINRIDGE, Mr. BLANCHARD, Mr. MCHUGH, Mr. MOSS, Mr. PEASE, and Mr. DELLUMS):

H.R. 10019. A bill to amend title 5, United States Code, to promote proper and efficient activities of the Government, and to protect Federal employees disclosing situations in which such activities are not proper or efficient; to the Committee on Post Office and Civil Service.

By Mr. ERTEL (for himself, Mr. ROBERTS, Mr. FLOOD, Mr. BEILENSON, Mr. KEMP, Mr. EILBERG, Mr. LUNDINE, Mr. WALGREN, Mr. JENRETTE, Mr. MARKS, Mrs. SPELLMAN, Mr. MURTHA, Mr. GEPHARDT, Mr. EDGAR, Mr. BALDUS, Mr. CONTE, Mr. HUCKABY, Mr. EDWARDS of Oklahoma, Mr. ROE, Mr. HEFTEL, Mr. AKAKA, Mr. FRENZEL, Mr. MCHUGH, Mr. CHARLES WILSON of Texas, and Mr. RAILSBACK):

H.R. 10020. A bill to amend the Flood Control Act of 1970 to provide that, in determining the need for a local flood protection project, the Secretary of the Army shall consider the impact on the economy and social well-being of the local area and certain surrounding areas if flood protection is not provided, to specify the factors to be evaluated in considering such impact, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. FITHIAN:

H.R. 10021. A bill to amend the Railroad Revitalization and Regulatory Act of 1976 to require that steel materials acquired for 5 years using financial assistance given under that act shall be produced in the United States and to establish regulations respecting such acquisitions; to the Committee on Interstate and Foreign Commerce.

H.R. 10022. A bill to amend the Regional Rail Reorganization Act of 1973 to require that steel materials acquired for 5 years by the Consolidated Rail Corporation shall be produced in the United States and to establish regulations respecting such acquisitions; to the Committee on Interstate and Foreign Commerce.

H.R. 10023. A bill to amend the Rail Passenger Service Act to require that steel materials acquired for 5 years by the National Railroad Passenger Corporation shall be produced in the United States and to establish regulations respecting such acquisitions; to the Committee on Interstate and Foreign Commerce.

H.R. 10024. A bill to amend the Urban Mass Transportation Act of 1964 to require that steel materials acquired for 5 years using financial assistance given under that act shall be produced in the United States and to establish regulations respecting such acquisitions; to the Committee on Public Works and Transportation.

By Ms. HOLTZMAN (for herself, Mr. BRODHEAD, Mr. BADILLO, Mrs. BURKE of California, Mr. PHILLIP BURTON, Mr. CONYERS, Mr. CORMAN, Mr. CORRADA, Mr. D'AMOURS, Mr. DIGGS, Mr. DRINAN, Mr. EDGAR, Mr. FAUNTROY, Mr. GEPHARDT, Mr. GILMAN, Mr. HARRINGTON, Mr. KILDEE, and Mr. LEDERER):

H.R. 10025. A bill to amend the Equal Credit Opportunity Act to prohibit discrimination against any applicant for credit on the basis of the geographical location of the applicant's residence; to the Committee on Banking, Finance and Urban Affairs.

By Ms. HOLTZMAN (for herself, Mr. LEGGETT, Mr. MCCLOSKEY, Mr. MAGUIRE, Mr. MAZZOLI, Mr. MITCHELL of Maryland, Mr. MOAKLEY, Mr. MURPHY of New York, Mr. OTTINGER, Mr. ROE, Mr. ROYBAL, Mr. SCHEUER, Mr. SEIBERLING, Mr. SIMON, Mr. TRIBLE, Mr. VENTO, and Mr. WAXMAN):

H.R. 10026. A bill to amend the Equal Credit Opportunity Act to prohibit discrimination against any applicant for credit on the basis of the geographical location of the applicant's residence; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BRADEMAS (for himself, Mr. QUIE, Mr. PERKINS, Mr. JEFFORDS, Mr. THOMPSON, Mr. DENT, Mr. HAWKINS, Mr. FORD of Michigan, Mr. CLAY, Mr. BIAGGI, Mr. BLOUIN, Mr. SIMON, Mr. BEARD of Rhode Island, Mr. ZEFERETTI, Mr. MILLER of California, Mr. MICHAEL O. MYERS, Mr. MURPHY of Pennsylvania, Mr. LE FANTE, Mr. WEISS, Mr. HEFTEL, Mr. CORRADA, and Mr. KILDEE):

H.J. Res. 648. Joint resolution to authorize the President to call a White House Conference on the Humanities; to the Committee on Education and Labor.

By Mr. BRADEMAS (for himself, Mr. THOMPSON, Mr. JEFFORDS, Mr. PERKINS, Mr. QUIE, Mr. DENT, Mr. HAWKINS, Mr. FORD of Michigan, Mr. CLAY, Mr. BIAGGI, Mr. BLOUIN, Mr. SIMON, Mr. BEARD of Rhode Island, Mr. ZEFERETTI, Mr. MILLER of California, Mr. MICHAEL O. MYERS, Mr MURPHY of Pennsylvania, Mr. LE FANTE, Mr. WEISS, Mr. HEFTEL, Mr. CORRADA, and Mr. KILDEE):

H.J. Res. 649. Joint resolution to authorize the President to call a White House Conference on the Arts; to the Committee on Education and Labor.

By Mrs. BURKE of California:

H.J. Res. 650. Joint resolution to designate March 12 to 18, 1978, as National Community Health Week; to the Committee on Post Office and Civil Service.

By Mr. KOCH (for himself and Mr. BINGHAM):

H.J. Res. 651. Joint resolution to increase the authorization provided for the development of Ellis Island as part of the Statue o Liberty National Monument; to the Comm tee on Interior and Insular Affairs.

By Mr. MATTOX:

H.J. Res. 652. Joint resolution to authorize the President to call a White House Conference on the Arts; to the Committee on Education and Labor.

H.J. Res. 653. Joint resolution to authorize the President to call a White House Conference on the Humanities; to the Committee on Education and Labor.

By Ms. OAKAR (for herself, Mr. ADDABBO, Mr. SCHULZE, Mr. GINN, Mr. THONE, Mrs. CHISHOLM, Mr. FOUNTAIN, Mr. LOTT, Mr. HANLEY, Mr. CARNEY, Mr. JACOBS, Mr. ANDERSON of California, Mr. HALL, Mr. SHARP, Mr. HAMMERSCHMIDT, Mr. PEASE, and Mr. MURPHY of New York):

H.J. Res. 654. Joint resolution designating the American rose as the National floral emblem of the United States of America; to the Committee on Post Office and Civil Service.

By Mrs. COLLINS of Illinois (for herself, Mr. DODD, Mr. STOKES, Mrs. MEYNER, Mr. RANGEL, Mr. MARKEY, Mr. SIMON, Mr. NIX, Mr. HAWKINS, Mrs. CHISHOLM, Mr. DOWNEY, Mr. STARK, Mr. RICHMOND, Mr. PEASE, Mr. BINGHAM, Mr. BEILENSON, Mr. MOFFETT, Mr. NOLAN, Mr. LUNDINE, Mr. SEIBERLING, Mr. CAVANAUGH, Mr. ROSE, Mr. PHILLIP BURTON, Mr. SOLARZ, and Ms. MIKULSKI):

H. Con. Res. 398. Concurrent resolution to condemn the Government of South Africa which has most recently evidenced its irresponsibility as a member of the international community by engaging in massive violations of the civil liberties of the people of South Africa; to the Committee on International Relations.

By Mrs. COLLINS of Illinois (for herself, Mr. TSONGAS, Mrs. SCHROEDER, Mr. MAGUIRE, Mr. CONYERS, Mr. FRASER, Mr. HARKIN, Mr. DELLUMS, Mr. DIGGS, Mr. KILDEE, Mrs. BURKE of California, Mr. MITCHELL of Maryland, Mr. MAZZOLI, Mr. WAXMAN, Mr. TRAXLER, Mr. BEDELL, Mr. CLAY, Mr. FAUNTROY, Mr. STUDDS, Mr. DRINAN, Mr. ROSENTHAL, Mr. BROWN of California, Mr. STEERS, Mr. CARR, and Mr. METCALFE):

H. Con. Res. 399. Concurrent resolution to condemn the Government of South Africa which has most recently evidenced its irresponsibility as a member of the international community by engaging in massive violations of the civil liberties of the people of South Africa; to the Committee on International Relations.

By Mrs. COLLINS of Illinois (for herself, Mr. WEISS, Mr. FORD of Tennessee, and Mr. MINETA):

H. Con. Res. 400. A concurrent resolution to condemn the Government of South Africa which has most recently evidenced its irresponsibility as a member of the international community by engaging in massive violations of the civil liberties of the people of South Africa; to the Committee on International Relations.

By Mrs. COLLINS of Illinois (for herself, Mr. DIGGS, Mr. BUCHANAN, Mr. SOLARZ, Mr. BONKER, Mr. WHALEN, Mr. MCKINNEY, Mr. BRADEMAS, Mr. ANDERSON of Illinois, Mr. BENJAMIN, and Mr. ROE):

H. Con. Res. 401. Concurrent resolution expressing concern about the recent acts of repression by the Government of the Republic of South Africa; to the Committee on International Relations.

By Mr. HANSEN (for himself, Mr. RHODES, Mr. TREEN, Mr. ALEXANDER, Mr. BEVILL, Mr. EVANS of Georgia, Mr. SIKES, Mr. BURKE of Florida, Mr. GRADISON, Mr. BIAGGI, Mr. ANDERSON of California, Mr. BOWEN, Mr. ANDREWS of North Dakota, Mr. APPLEGATE, Mr. LEGGETT, and Mr. BARNARD):

H. Con. Res. 402. Concurrent resolution expressing the sense of the Congress with regard to the disposition by the United States of any right to, title to, or interest in the property of the Canal Zone agencies and any real property located in the Canal Zone; to the Committee on Merchant Marine and Fisheries.

By Mr. MILFORD (for himself, Mr. STUMP, Mr. MOTTL, Mr. BADHAM, Mr. NICHOLS, Mr. LAGOMARSINO, Mr. DORNAN, Mr. KINDNESS, Mr. EDWARDS of Oklahoma, Mr. CUNNINGHAM, Mr. KETCHUM, Mr. MCDADE, Mr. WALSH, Mr. SIKES, Mr. BAFALIS, Mr. BURGENER, Mr. DUNCAN of Tennessee, Mr. MCDONALD, Mr. DICKINSON, Mr. COLLINS of Texas, Mr. HALL, Mr. GUYER, Mr. ABDNOR, Mr. KELLY and Mr. HARSHA):

H. Con. Res. 403. Concurrent resolution expressing the sense of the Congress regarding the sovereign rights of the United States in the Canal Zone; to the Committee on Merchant Marine and Fisheries.

By Mr. MILFORD (for himself, Mr. GRASSLEY, Mrs. HOLT, Mr. SEBELIUS, Mr. BYRON, Mr. HUBBARD, Mr. SPENCE, and Mr. WHITE):

H. Con. Res. 404. Concurrent resolution expressing the sense of the Congress regarding sovereign rights of the United States in the Canal Zone; to the Committee on International Relations.

By Mr. VANDER JAGT:

H. Con. Res. 405. Concurrent resolution relative to the rights of the Baltic Nations; to the Committee on International Relations.

By Mr. ANDERSON of Illinois (for himself, Mr. BEDELL, Mr. BURGENER, Mr. CEDERBERG, Mr. COHEN, Mr. HUGHES, Mr. LEACH, Mr. SPENCE, and Mr. CHARLES WILSON of Texas):

H. Res. 897. Resolution to establish a select committee to be known as the Select Committee on the Committee System; to the Committee on Rules.

By Mr. ANNUNZIO:

H. Res. 898. Resolution authorizing payment of compensation to certain additional employees with respect to official reporters of debates and official reporters to committees; to the Committee on House Administration.

By Mr. BRECKINRIDGE:

H. Res. 899. Resolution providing for the printing as a House document of a compilation of a series of articles appearing in the Congressional Record; to the Committee on House Administration.

By Mr. DENT:

H. Res. 900. Resolution concerning impact of imports upon unemployment evaluation; to the Committee on Education and Labor.

By Mr. FITHIAN:

H. Res. 901. Resolution to support the American steel industry against unfair competition and to promote fair trade by affirming the principles of the Buy America Act for any governmentally financed steel purchases by encouraging Federal, State, and local governments to purchase steel and steel products of domestic origin only; to the Committee on Government Operations.

H. Res. 902. Resolution expressing the sense of the House that the President direct the Special Representative for Trade Negotiations to negotiate orderly marketing agreements with Japan and with the European Community reducing the export of steel and steel products to the United States; to the Committee on Ways and Means.

H. Res. 903. Resolution reaffirming support for the vigorous enforcement of laws designed to protect American industries from unfair competition by foreign industries; to the Committee on Ways and Means.

By Mr. FITHIAN (for himself, Mr. GAYDOS, Mr. STRATTON, Mr. MATHIS, Mr. MCDADE, Mr. BEVILL, Mr. ROSTENKOWSKI, Mr. RAHALL, Mr. PRICE, Mr. O'BRIEN, Mr. BENJAMIN, Mr. BEDELL, Mr. ERTEL, Mr. EDGAR, Mr. EILBERG, Mr. DUNCAN of Oregon, Mr. WALGREN, Mr. SHARP, Mr. PERKINS, Mr. MURPHY of Pennsylvania, Mr. BUCHANAN, and Mr. REGULA):

H. Res. 904. Resolution to require Amtrak, the Urban Mass Transportation Administration, and Conrail to purchase domestic steel and steel products; to the Committee on Government Operations.

By Mr. KEMP (for himself and Mr. FISH):

H. Res. 905. Resolution to reaffirm the use of our national motto on currency; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MANN (for himself, Mr. AKAKA, Mr. BEARD of Tennessee, Mr. BONIOR, Mr. BURGENER, Mr. CLAY, Mrs. COLLINS of Illinois, Mr. CONTE, Mr. DICKS, Mr. EDGAR, Mr. FLORIO, Mr. FORD of Tennessee, Mr. FOWLER, Mr. GEPHARDT, Mr. GORE, Ms. HOLTZMAN, Mr. HOWARD, Mr. LE FANTE, Mr. LLOYD of California, Mr. MICHEL, Mr. MILLER of California, Mr. MITCHELL of Maryland, Mr. MURPHY of Illinois, Mr. NIX, and Mr. WHITE):

H. Res. 906. Resolution relative to customs duties on textile, apparel and fiber products; to the Committee on Ways and Means.

By Mr. MANN (for himself, Mr. AMMERMAN, Mr. LEHMAN, Mr. LUNDINE, Mrs. MEYNER, Mr. YOUNG of Alaska, and Mr. MARKEY):

H. Res. 907. Resolution relative to customs duties on textile, apparel and fiber products; to the Committee on Ways and Means.

By Mr. MICHEL (for himself and Mr. CAPUTO):

H. Res. 908. Resolution providing for the House of Representatives to determine with specific guidelines what constitutes an official expense prior to the $5,000 increase of a Member's official expenses allowance; to the Committee on House Administration.

By Mr. QUAYLE:

H. Res. 909. Resolution amending the Rules of the House of Representatives to require the Clerk of the House to call the roll on the vote on final passage of any bill or resolution affecting any compensation of any Member or ex-Member of the House and to record such vote; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BREAUX:

H.R. 10027. A bill for the relief of David Jerem; to the Committee on the Judiciary.

By Mr. JEFFORDS:

H.R. 10028. A bill for the relief of Bong Kil Yun, Yong Su Sou, and Su Myong Kim; to the Committee on the Judiciary.

By Mr. JOHNSON of Colorado:

H.R. 10029. A bill to direct the Secretary of the Interior to convey certain lands in Clear Creek County, Colo., to Harold and Doris Harlan; to the Committee on Interior and Insular Affairs.

By Mr. SNYDER (by request):

H.R. 10030. A bill for the relief of Vinu Ambalal Patel; to the Committee on the Judiciary.

By Mr. WATKINS:

H.R. 10031. A bill for the relief of Young Hyon Kim; to the Committee on the Judiciary.

FACTUAL DESCRIPTION OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House Rule X. Previous listing appeared in the CONGRESSIONAL RECORD of October 20, 1977 (page 34761).

H.R. 6300. April 19, 1977. Interstate and Foreign Commerce. Subjects to liability for harm caused by the use of a product any individual engaged in interstate commerce who manufactures or sells a product which is in a defective condition or fails to warn against a dangerous condition in the use or misuse of the product.

Allows any person harmed by a product who is a reasonably anticipated user or consumer of the product to bring an action in "product liability" against the manufacturer or seller of the product.

H.R. 6301. April 19, 1977. Ways and Means. Amends the Internal Revenue Code to allow limited, nonrefundable income tax credits for specified higher education expenses, including tuition, fees, books and supplies, incurred by the taxpayer for himself and any dependents.

H.R. 6302. April 19, 1977. Judiciary. Amends provisions of the Gun Control Act of 1968 which impose additional sentences for using or unlawfully carrying a firearm during the commission of a Federal felony to (1) increase minimum sentences for second or subsequent convictions, (2) prohibit suspended and probationary sentences for first as well as subsequent, convictions, and (3) deny parole to persons convicted of such a violation.

H.R. 6303. April 19, 1977. Judiciary. Replaces Title I of the Speedy Trial Act with provisions setting time limits for making certain pretrial motions in Federal criminal cases and for bringing defendants charged with Federal offenses with the use of a firearm to trial.

H.R. 6304.—April 19, 1977. Ways and Means. Amends the Internal Revenue Code to allow an income tax credit for 30 percent of the first $500 spent by an individual between March 17, 1975 and January 1, 1978, for insulating a residence in existence on March 17, 1975.

H.R. 6305. April 19, 1977. Judiciary; Public Works and Transportation. Directs the Attorney General to provide for the construction of a correctional center in Los Angeles County, California, such facility to be capable of accommodating at least 500 Federal detainees.

H.R. 6306. April 19, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to include tobacco products within the definition of food as contained in such Act, thereby subjecting such products to the same regulation as food under such Act.

H.R. 6307. April 19, 1977. Interstate and Foreign Commerce. Revises the warning label on cigarette packages and requires the inclusion on such packages of a label bearing a statement of the tar and nicotine content.

H.R. 6308. April 19, 1977. Judiciary. Amends the Immigration and Nationality Act to eliminate from the classes of excludable and deportable aliens those aliens who: (1) are anarchists; (2) are opposed to organized government; or (3) are members or advocates of the Communist or a totalitarian party.

Amends the Subversive Activities Control Act of 1950 to remove the prohibition against the application by a member of a Communist organization for U.S. passport, and the issuance of a passport to such a member.

H.R. 6309. April 19, 1977. Ways and Means. Amends the Internal Revenue Code to substitute a health protection tax on cigarettes manufactured in or imported into the United States for the present tax. Sets forth graduated tax rates based on the tar and nicotine content of each cigarette. Directs the Federal Trade Commission to determine the tar and nicotine content of each brand of cigarette manufactured in or imported into the United States.

H.R. 6310. April 19, 1977. Interstate and Foreign Commerce; Public Works and Transportation. Prohibits smoking in specified areas of Federal facilities and in interstate passenger carrier facilities. Requires the separation of smokers from nonsmokers in specified areas of such facilities.

H.R. 6311. April 19, 1977. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to authorize the Civil Aeronautics Board to grant exemptions from the requirements of such Act for all-cargo operations in interstate air transportation pending consideration of an application for initial certification under such Act if such exemption is in the public interest.

H.R. 6312. April 19, 1977. Education and Labor. Amends the National School Lunch Act to extend the commodity distribution program.

Directs the Secretary of Agriculture to carry out one or more pilot projects to determine more efficient ways of operating school lunch programs.

Establishes procedures of the Secretary to follow in providing assistance to States to insure (1) local and State input; (2) cost review; (3) technical assistance; and (4) properly timed deliveries.

H.R. 6313. April 19, 1977. Education and Labor. Repeals the Occupational Safety and Health Act of 1970.

H.R. 6314. April 19, 1977. Education and Labor. Amends the Occupational Safety and Health Act to exclude from coverage under such Act employers with less than 25 employees during any consecutive six-month period in the most recent fiscal year.

H.R. 6315. April 19, 1977. Government Operations. Requires all rules proposed by any Federal agency to be submitted to Congress together with an estimate of the costs to be incurred by the Federal Government, State and local governments, nongovernmental entities, and individuals affected by such proposed rule. States that such rule shall become effective not sooner than 60 days after submission to Congress unless, within such period, either House disapproves such rule.

H.R. 6316. April 19, 1977. Interstate and Foreign Commerce. Suspends for two years with regard to regulations involving saccharin the operation of the proviso in the Federal Food, Drug, and Cosmetic Act which prohibits regulatory approval of a food additive found to cause cancer.

H.R. 6317. April 19, 1977. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to authorize the Federal Communications Commission to grant broadcast licenses and license renewals for five-year terms.

Revises the Act to allow certain appeals from orders or decisions of the Commission to be brought in the United States court of appeals for the circuit in which the broadcast facility is, or is proposed to be located.

Requires the Commission to examine its broadcast license renewal procedure to determine how it can be simplified.

H.R. 6318. April 19, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to deem a food additive safe if the Secretary of Health, Education, and Welfare (1) makes a finding that the public benefit from permitting the use of such additive would exceed the public risk resulting from such use; (2) gives notice in the Federal Register of such a finding and opportunity for public comment; and (3) issues a final order not earlier than 120 days from such publication.

Specifies factors that must be taken into consideration when evaluating a food additive.

Deems saccharin a safe food additive unless the Secretary declares it unsafe under the provisions of this Act.

H.R. 6319. April 19, 1977. Judiciary. Amends the provision of the Gun Control Act of 1968 imposing additional sentences on persons committing Federal felonies while carrying, or with the use of, a firearm to (1) increase the penalties thereunder, (2) encompass State crimes and (3) prohibit a suspended, probationary or concurrent sentence with respect to a first conviction.

H.R. 6320. April 19, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the taxpayer's age requirement (65 years) and the dollar limitation on the adjusted sales price ($35,000) for the exclusion from gross income of gain realized on the sale of the taxpayer's principal residence.

H.R. 6321. April 19, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to increase the increment by which an individual's old-age benefits shall be increased because of delayed retirement beyond age 65.

H.R. 6322. April 19, 1977. Ways and Means. Amends the Internal Revenue Code to permit individuals to deduct contributions to a qualified fund, where the beneficiary is a dependent of the taxpayer, and where the distributions from the fund are to be made only to defray the cost of room, board, and tuition at an institution of higher education.

H.R. 6323. April 19, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to extend coverage to include expenses incurred in providing a papanicolaou test for the diagnosis of uterine cancer, if the individual receiving the test has not had such a test on a routine basis during the preceding six months.

H.R. 6324. April 19, 1977. Judiciary; Rules. Requires all rules proposed by any Federal agency, except emergency rules, to be submitted to Congress before becoming effective. Permits such rules to become effective 60 days after submission to Congress if not disapproved by either House within such period.

Exempts from publication requirements notice of rule making proceedings for agency rules dealing with emergency or routine matters or ones which have an insignificant impact. Sets other maximum and minimum time limits during which public comment is to be accepted regarding proposed agency rules.

H.R. 6325. April 19, 1977. Ways and Means. Amends the Internal Revenue Code to provide honorably discharged veterans of the Vietnam War a refundable, $500 income tax credit for taxable years ending between 1976 and 1980.

H.R. 6326. April 19, 1977. Post Office and Civil Service. Limits the number and salaries of persons employed by the Vice President and the President. Requires the President to report expenditures for presidential entertainment and travel to the Comptroller General annually.

Abolishes the Domestic Council six months after the enactment of this Act.

H.R. 6327. April 19, 1977. House Administration. Requires the President pro tempore of the Senate and the Speaker of the House of Representatives to install telecommunication devices to enable deaf persons and persons with speech impairments to engage in toll-free communications with Members of Congress.

H.R. 6328. April 19, 1977. Judiciary. Amends the Immigration and Nationality Act to make it unlawful to knowingly hire an alien not lawfully admitted into the United States. Requires that employees of the Department of Health, Education, and Welfare disclose the names of illegal aliens who are receiving assistance under the Social Security Act.

Makes punishable by a fine or imprisonment the making of false border crossing cards, alien registration receipt cards, and other documents used for entry into the United States.

Permits the Attorney General to adjust the status of specified illegal aliens to that of aliens lawfully admitted for permanent residence.

H.R. 6329. April 19, 1977. Ways and means. Revises Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to: (1) eliminate the five-month waiting period for disability benefits; (2) permit adopted children to qualify for benefits without regard to time of adoption; (3) eliminate the reconsideration stage in benefit determinations; (4) provide for the issuance of duplicate benefit checks where the initial checks are lost or delayed; and (5) provide for expedited benefit payments to disability beneficiaries.

Increases the amount of outside earnings which an individual may earn without a deduction in benefits under such title II of the Social Security Act.

H.R. 6330. April 19, 1977. Judiciary. Imposes a duty to report certain information to tax authorities of specified States upon a person selling or transferring for profit cigarettes in quantities exceeding 4,000 if the purchaser or transferee is not a distributor licensed or located in the States into which the cigarettes are transported.

Requires a person transporting more than 4,000 cigarettes to possess liability for applicable State taxes.

Makes it a Federal offense to transport more than 4,000 cigarettes into a State in violation of State tax law.

H.R. 6331. April 19, 1977. Ways and means. Amends the Internal Revenue Code to repeal the taxpayer's age requirement (65 years) and the dollar limitation on the adjusted sales price ($35,000) for the exclusion from gross income of gain realized on the sale of the taxpayer's principal residence.

H.R. 6332, April 19, 1977. Agriculture. Amends the Food Stamp Act of 1964: (1) to require the Secretary of Agriculture to establish uniform national eligibility standards for participation in the Food Stamp program; (2) to define household income limits and the amount of household assets which will be permitted in determining eligibility; (3) to stipulate the conditions under which unemployment or underemployment will disqualify an applicant; (4) to establish regulations for the redemption of coupons; and (5) to set the value of a household's coupon allotment and the amount the household must pay therefor.

H.R. 6333. April 19, 1977. Agriculture. Amends the Food Stamp Act of 1964: (1) to require the Secretary of Agriculture to establish uniform national eligibility standards for participation in the Food Stamp program; (2) to define household income limits and the amount of household assets which will be permitted in determining eligibility; (3) to stipulate the conditions under which unemployment or underemployment will disqualify an applicant; (4) to establish regulations for the redemption of coupons; and (5) to set the value of a household's coupon allotment and the amount the household must pay therefor.

H.R. 6334. April 19, 1977. Education and Labor. Amends the National School Lunch Act to authorize appropriations through fiscal year 1982 for assisting States in providing nonprofit food services for children in the summer food service program.

Establishes eligibility criteria for participating local sponsors of such program.

Requires States wishing to participate in the summer food service program to submit a management and administrative plan.

Imposes criminal penalties for certain abuses of the program.

Amends the Child Nutrition Act of 1966 to provide additional payments for free or reduced breakfasts at schools in severe need. Directs States to establish eligibility standards for such assistance.

H.R. 6335. April 19, 1977. Interior and Insular Affairs. Amends the Reclamation Project Act of 1939 to prohibit the Secretary of the Interior from contracting through the Bureau of Reclamation, or otherwise, for water supply for irrigation purposes unless the intent of the Secretary to let such a contract is published in newspapers of general circulation in the region which may be affected by such contract and interested persons are given an opportunity to present their views at a public hearing on the matter.

H.R. 6336. April 19, 1977. Education and Labor. Amends the Older Americans Act of 1965 to allow States to distribute Federal funds for the establishment of projects to provide home-delivered meals to qualified homebound elderly persons.

Directs the Commissioner of the Administration on Aging to conduct a demonstration project involving at least three States to determine the feasibility of using the meals system designed by the National Aeronautics and Space Administration for the elderly as a component of, or substitute for, regular nutrition projects assisted under such Act.

H.R. 6337. April 19, 1977. Education and Labor. Home-Delivered Meals for the Elderly Act—Amends the Older Americans Act of 1965 to establish a program for the elderly which would provide one hot, balanced, home-delivered meal five days a week. Provides for a needs assessment of individuals receiving aid under such program. Directs the Commissioner of the Administration on Aging to develop minimum efficiency standards for furnishing home-delivered meal services.

Limits the amount that may be spent on administration of a State plan for nutrition programs for the elderly to five percent of the funds allotted.

H.R. 6338. April 19, 1977. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to set the term of a television broadcast station license, or renewal, at four years and for a radio or other class of station at five years.

Revises such Act to allow certain appeals from orders and decisions of the Federal Communications Commission to be brought in the United States court of appeals for the circuit in which the broadcast facility is, or is proposed to be, located.

H.R. 6339. April 19, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 6340. April 19, 1977. Government Operations. Authorizes the Administrator of General Services to renegotiate the amount of rent paid by the Government for real property leased by the United States which is under the authority or supervision of the Administrator in order to compensate the lessor of such property for increased utility costs incurred in operating such premises.

H.R. 6341. April 19, 1977. International Relations: Post Office and Civil Service. Amends the Foreign Service Act of 1946 with respect to (1) compensation for an officer serving as chief of mission, (2) alien employee programs, (3) compensation for alien employees who are imprisoned as a result of such employment, (4) the repeal of the ten-year citizenship requirement for Foreign Service officers, (5) establishment of a Career Candidate program, (6) retirement procedures for Foreign Service officers, (7) the personnel status of Foreign Service officers who receive Presidential appointments, and (8) death gratuities for alien employees of the Foreign Service.

H.R. 6342. April 19, 1977. Education and Labor. Amends the Headstart Follow Through Act to extend the follow through program for one year.

H.R. 6343. April 19, 1977. Interstate and Foreign Commerce. Requires franchisors to give franchisees 90-days notice, with limited exceptions, of intent to cancel, or failure to renew, a franchise agreement. Allows such cancellation or failure to renew only for certain specified reasons. Requires a franchisor to compensate a franchisee for the value of the franchisee's business when the franchisor, for a legitimate business reason, fails to renew the franchise. Sets forth the judicial remedies available to a franchisee for a violation of this Act by a franchisor.

H.R. 6344. April 19, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to eliminate all the deuctibles, coinsurance, and time limitations presently applicable to benefits thereunder. Eliminates medicare taxes as the method of financing hospital insurance benefits and premium payments as the method of financing supplementary medical insurance benefits. Includes within the coverage of Title XVIII eye care, dental care, hearing aids, prescription drugs prosthetics, one physical checkup a year, preventive care, diagnosis of breast cancer, services of clinical psychologists, and services of registered nurses. Establishes a system of administrative and judicial review of claims which arise under the supplementary medical insurance program.

H.R. 6345. April 19, 1977. Interstate and Foreign Commerce. Amends the Railroad Retirement Act of 1974 to reduce the age at which railroad employees and their spouses become eligible for annuities under such Act.

H.R. 6346. April 19, 1977. Post Office and Civil Service. Prohibits collective bargaining agreements between the United States Postal Service and labor organizations recognized as exclusive bargaining representatives for their respective postal employee units from containing procedures which would preclude employees from being represented in grievance and adverse actions arising under such agreements by representatives of their own choosing.

H.R. 6347. April 19, 1977. Interstate and Foreign Commerce. Authorizes the Secretary of Health, Education, and Welfare to (1) make loans to certain cities and counties for the establishment and initial operating costs of clinics for the spaying and neutering of dogs and cats, and (2) make grants for the establishment of courses to train paraprofessionals in the anaesthetising and spaying and neutering of dogs and cats.

H.R. 6348. April 19, 1977. Interior and Insular Affairs. Conveys the beneficial interest in specified Federal land to the Ely Indian Colony, Nevada.

H.R. 6349. April 19, 1977. Education and Labor. Amends the Comprehensive Employment and Training Act of 1973 to establish specified employment, training, and guidance programs for youths through prime sponsors under such Act, including a Youth Community Service opportunity in private enterprise, and occupational information and career guidance programs.

Authorizes the Secretary of Labor to establish a National Occupational Information and Career Guidance Service.

Requires each prime sponsor to establish an Education Work Committee within its planning council.

Directs the Secretaries of Agriculture and of the Interior to establish a National Conservation Corps.

Increases the amount authorized to be appropriated annually to the Job Corps.

H.R. 6350. April 19, 1977. Post Office and Civil Service. Requires appointments to the position of postmaster at post offices serving a delivery area with a resident population of 5,000 or less to be made from a list of qualified applicants who have resided in the area for at least one year unless no such individual has applied for the position.

H.R. 6351. April 19, 1977. Judiciary. Prohibits the sexual exploitation of children by making it unlawful for any individual to (1) cause or permit a child to be photographed or filmed engaged in a sexual act prohibited under this Act; (2) photograph or film a prohibited sexual act; (3) knowingly transport a film or photograph depicting a prohibited sexual act; or (4) receive for sale or sell any such film or photograph, if such individual knows or should know such film or photograph has or may be transported in such a manner as to affect interstate or foreign commerce.

Imposes criminal penalties for violations of this Act.

H.R. 6352. April 19, 1977. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to require the Civil Aeronautics Board to rescind the authority of any air carrier to provide non-stop service between two points if such authority is not exercised for any continuous one-year period. Authorizes the Board to grant such authority to another carrier with or without a hearing.

H.R. 6353. April 19, 1977. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to direct the Civil Aeronautics Board to adopt time limitations for decisions regarding applications for certificates of public convenience and necessity to engage in interstate air transportation. Requires the Board, if it does not act within such period, to issue the certificate as requested unless it, by order entered within the specified time period, finds that the public interest or extraordinary circumstances justify delay for a period of time specified in the order.

H.R. 6354. April 19, 1977. Armed Services. Entitles members of the uniformed services in pay grades E-4 or below to travel and transportation allowances and dislocation allowances.

H.R. 6355. April 19, 1977. Ways and Means. Amends the Trade Act of 1974 to prohibit the President from designating a country as a beneficiary developing country, for purposes of tariff preferences (under the President's authority to confer such designation when he determines it to be in the national economic interest), when such country has participated, or is participating, in withholding supplies of any vital commodity resource from international trade.

H.R. 6356. April 19, 1977. Ways and Means. Amends title II (Old-Age, Survivors and Disability Insurance) of the Social Security Act by removing the limitation upon the amount of outside income which an individual may earn while receiving benefits.

H.R. 6357. April 19, 1977. Science and Technology. Authorizes appropriations to the Energy Research and Development Administration for fiscal year 1977 for nonnuclear, nuclear, and environmental research programs.

Establishes an Energy Extension Service in the Energy Research and Development Administration to assist in the development of energy conserving practices.

Establishes criteria for the development of State energy conservation implementation plans. Directs the Administrator of the Energy Research and Development Administration to develop energy conservation plans for Federal programs.

H.R. 6358. April 19, 1977. Agriculture. Designates the Meat Animal Research Center located near Clay Center, Nebraska, as the "Roman L. Hruska Meat Animal Research Center."

H.R. 6359. April 19, 1977. Interstate and Foreign Commerce. Amends the Uniform Time Act to establish the starting date of daylight savings time as Memorial Day, and the ending date as Labor Day.

H.R. 6360. April 19, 1977. Ways and Means. Amends the Internal Revenue Code to qualify services performed by a surviving spouse as consideration for purposes of excluding portions of jointly held property from a decedent's taxable estate.

H.R. 6361. April 19, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 6362. April 19, 1977. Agriculture. Establishes within the Department of Agriculture an Advisory Committee on Timber Sales Procedures to study the methods by which the Forest Service sells timber and to make independent recommendations with respect to establishing procedures for such sales.

Repeals the provision of the National Forest Management Act of 1976 which directs the Secretary to take appropriate action to obviate collusive practices in bidding for trees, portions of trees, or forest products from National Forest System lands.

H.R. 6363. April 19, 1977. Post Office and Civil Service. Amends the Federal Salary Act of 1967 and the Legislative Reorganization Act of 1946 to specify when an adjustment in the rate of pay for Members of Congress proposed during any Congress shall take effect.

H.R. 6364. April 19, 1977. Banking, Finance and Urban Affairs; Judiciary. Prohibits any United States entity or representative from obtaining copies of, or access to, information contained in the financial records, toll records, or credit records of any customer of a financial institution, communication common carrier, credit card issuer, or consumer reporting agency. Lifts such prohibition if: (1) the records are described with sufficient particularity; and (2) the customer has authorized disclosure, the disclosure is obtained in response to an administrative subpoena, search warrant, or judicial subpoena, or disclosure is in compliance with specified provisions of the Fair Credit Reporting Act. Restricts the use of mail covers and the interception of wire and oral communications for purposes of supervisory observing by communication common carriers and others.

H.R. 6365. April 19, 1977. Banking, Finance and Urban Affairs. Amends the National Housing Act to permit the Secretary of Housing and Urban Development to insure mortgages and loans with varying rates of amortization corresponding to anticipated variations in family income on a regular basis.

Amends the Internal Revenue Code to establish tax-exempt savings accounts which would be available to first-time home buyers, known as individual housing accounts.

H.R. 6366. April 19, 1977. Judiciary. Permits a party to a civil action to join the United States where (1) the United States has or asserts a lien under the internal revenue laws on the claim involved or proceeds arising from such claim and (2) any judgment would not be binding on the United States or if it otherwise appears that satisfaction of any judgment would extinguish the obligations of such party to the United States.

Allows the United States to remove any action in which it is so joined to Federal court.

H.R. 6367. April 19, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to the Orange County (Calif.) Water District in full satisfaction of all its claims against the United States arising out of a cooperative agreement between them regarding the demonstration of seawater desalting technology.

H.R. 6368. April 19, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 6369. April 19, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States.

H.R. 6370. April 20, 1977. Ways and Means. Amend the Tariff Act of 1930 to authorize appropriations for the United States International Trade Commission for fiscal year 1978, and for each fiscal year after 1977 such additional amounts as necessary for employee benefit increases.

Revises the qualifications for commissioners. Revises the procedures for the appointment of the terms of, the chair and vice-chair of the Commission.

Prohibits a commissioner from engaging in any outside business, vocation, or employment.

Amends the Tariff Act of 1930 to authorize the Secretary of the Treasury, the Secretary of Commerce, and the United States International Trade Commission to establish the comparability of statistics on imports with programs for international harmonization of trade statistics.

H.R. 6371. April 20, 1977. Ways and Means. Amends the Tariff Schedules of the United States to repeal the duty imposed on articles assembled abroad with components produced in the United States.

H.R. 6372. April 20, 1977. Ways and Means. Amends the Internal Revenue Code to prohibit the treatment of organizations dedicated to memorializing former Presidents as private foundations.

H.R. 6373. April 20, 1977. Merchant Marine and Fisheries. Amends the Merchant Marine Act, 1936, to extend the age limitation before which passenger ships delivered on or after December 1, 1952, can qualify for operating differential subsidies from 25 to 30 years.

H.R. 6374. April 20, 1977. Post Office and Civil Service. Changes the organizational structure of the United States Postal Service by: (1) transferring the authority of the Board of Governors to the Postmaster General; (2) revising the procedures for adjustment of rates and services; (3) creating a procedure for review of proposed capital investments; and (4) requiring the Postal Rate Commission to submit to the President a separate annual budget.

H.R. 6375. April 20, 1977. Ways and Means. Amends the Tariff Schedules of the United States to repeal the duty imposed on: (1) articles assembled abroad with components produced in the United States; and (2) certain metal articles manufactured in the United States and exported for further processing.

H.R. 6376. April 20, 1977. Public Works and Transportation. Amends the Federal Water Pollution Control Act to prohibit the sale or distribution of phosphate-based laundry detergents and cleaning agents in eight States in the Great Lakes Region. Specifies maximum allowable concentration of phosphorus in laundry detergents, machine dishwashing detergents, and other cleaning agents.

Directs the Administrator of the Environmental Protection Agency to enforce the prohibitions of this Act and to study the feasibility of applying such restrictions on a nationwide basis.

H.R. 6377. April 20, 1977. Public Works and Transportation. Authorizes the Secretary of the Army, acting through the Chief of Engineers, to undertake the design, memorandum phase of the navigation improvement project of Grays Harbor, Chehalis River and Hoquiam River, Washington.

H.R. 6378. April 20, 1977. Interstate and Foreign Commerce. Prohibits refiners or distributors of petroleum products from cancelling franchises without prior notice. Prohibits distributors and refiners from cancelling petroleum franchises without cause.

H.R. 6379. April 20, 1977. Science and Technology. Authorizes the establishment of a nonprofit National Center for Long-Term Environmental Research to identify, develop, and recommend long-term alternative research priorities and policies for dealing with environmental problems.

H.R. 6380. April 20, 1977. Science and Technology. Requires the President to establish a National Climate Program for research, collection, analysis, forecasting, modeling, and dissemination of data concerning climate and its variations, and for the assessment of the impact on human activities for climatic changes. Requires that the head of a Federal agency, to be designated by the President, establish within such agency a National Climate Program Office to administer the Program.

Requires the establishment of a Management Council and an Advisory Council for the Program.

H.R. 6381. April 20, 1977. Post Office and Civil Service. Declares that specified persons previously appointed as temporary hearing

examiners under the Supplemental Security Income program of the Social Security Act shall be considered appointed to career-absolute positions as hearing examiners.

H.R. 6382. April 20, 1977. Ways and Means. Amends the Internal Revenue Code to allow as a credit against the income tax a limited amount of specified higher education expenses, including tuition, fees, books and supplies, incurred by the taxpayer for himself and any dependents.

H.R. 6383. April 20, 1977. Ways and Means. Amends the Internal Revenue Code to create the World Peace Tax Fund and a Board of Trustees to administer the Fund and to make gants for research and other projects aimed at achieving world peace.

Permits persons conscientiously opposed to participation in war to designate his or her income, gift, or estate taxes to be paid into the Fund.

H.R. 6384. April 20, 1977. Ways and Means. Amends the Trade Act of 1974 to provide Federal reimbursement to States for certain amounts of unemployment insurance benefits paid to workers eligible for adjustment assistance.

H.R. 6385. April 20, 1977. Interstate and Foreign Commerce. Amends the Clean Air Act to revise carbon monoxide and nitrogen oxide emission standards for light-duty motor vehicles. Extends interim emission for hydrocarbons and carbon monoxide through model year 1979. Extends interim standards for nitrogen oxide through model year 1981. Authorizes revisions or waivers of nitrogen oxide standards in subsequent model years.

Authorizes nondisclosure of emission data to the public where deemed necessary to preserve trade secrets. Establishes procedures for public participation in hearings on proposed motor vehicle emission standards.

Authorizes appropriations to carry out the Act through fiscal year 1980.

H.R. 6386. April 20, 1977. Banking, Finance and Urban Affairs. Amends the Federal Reserve Act and the Federal Deposit Insurance Act to extend the two year prohibition on employment of bank regulations by insured banks and member banks to include bank holding companies.

H.R. 6387. April 20, 1977. Government Operations. Limits Congressional members of the Advisory Commission on Intergovernmental Relations to single two-year terms.

H.R. 6388. April 20, 1977. Rules. Amends the Employment Act of 1946 to prohibit any Member of Congress from serving as a member of the Joint Economic Committee during more than two Congresses in any period of five successive Congresses beginning after 1978.

H.R. 6389. April 20, 1977. Interior and Insular Affairs. Amends the Wild and Scenic Rivers Act to designate the section of the Escatawpa River in Alabama and Mississippi described in this Act as a wild and scenic river.

H.R. 6390. April 20, 1977. Ways and Means. Amends the Internal Revenue Code to provide that life insurance contracts shall not be denied treatment either as variable annuity contracts or as contracts with reserves based on a segregated asset account merely because they permit persons to direct the investment of assets in segregated accounts, or because those accounts may be established with persons other than the issuers.

H.R. 6391. April 20, 1977. Judiciary. Grants a Federal charter to the United States Submarine Veterans of World War II.

H.R. 6392. April 20, 1977. Public Works and Transportation. Directs the Secretary of Transportation to establish mandatory operating procedures to reduce noise, conserve fuel, and improve the operational safety of civil turbojet aircraft operating within the United States.

Specifies certain operating procedures for aircraft which shall be included in such regulations. Directs the Secretary to study the advisability of requiring the use of new flight instruments in the landing operations of civil turbojet powered aircraft to reduce noise and increase the safety for landing operations and to report the results of such study to Congress.

H.R. 6393. April 20, 1977. Veterans' Affairs. Requires that all Federal, and ten percent of all non-Federal public or private, retirement or annuity payments be disregarded in determining annual income under the veterans' pension laws.

H.R. 6394. April 20, 1977. Veterans' Affairs. Denies veterans' benefits to an individual whose discharge from military service during the Vietnam era under less than honorable conditions is administratively upgraded, under temporarily revised standards, to discharge under honorable conditions; but only when such veteran's claim for benefits is based solely on such upgraded discharge.

H.R. 6395. April 20, 1977. Merchant Marine and Fisheries. Amends the Merchant Marine Act, 1936, to make Federal ship mortgage insurance available for obligations for fishing vessels which do not exceed 87½ percent of the actual or depreciated cost of such vessel.

H.R. 6396. April 20, 1977. Merchant Marine and Fisheries. Amends the Merchant Marine Act, 1936, to make Federal ship mortgage insurance available for obligations for fishing vessels which do not exceed 87½ percent of the actual or depreciated cost of such vessel.

H.R. 6397. April 20, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to authorize payment for specified services performed by chiropractors, and physical examination, and related routine laboratory tests.

H.R. 6398. April 20, 1977. Veterans' Affairs. Denies veterans' benefits to an individual whose discharge from military service during the Vietnam era under less than honorable conditions is administratively upgraded, under temporary revised standards, to discharge under honorable conditions; but only when such veteran's claim for benefits is based solely on such upgraded discharge. Requires the Secretary of the Army to supply a complete list of individuals receiving an upgraded discharge to the Administrator of Veterans' Affairs.

H.R. 6399. April 20, 1977. Education and Labor. Amends the provision of the Fair Labor Standards Act of 1938 which prohibits wage differentials based on sex with respect to jobs requiring equal skill and responsibility to disallow economic profitability of the goods worked on in such jobs as a permissible basis for such a differential.

H.R. 6400. April 20, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title IV (Aid to Families with Dependent Children), Title XVIII (Medicare), and Title XIX (Medicaid) of the Social Security Act to provide that the Federal matching rate for purposes of reimbursement to States under the programs of aid to needy families with children and medical assistance shall be set at 75 percent.

H.R. 6401. April 20, 1977. Merchant Marine and Fisheries; Public Works and Transportation. Amends the Deepwater Port Act of 1974 to authorize appropriations not to exceed $2,500,000 for fiscal years 1978, 1979, and 1980, respectively for administration of such Act.

H.R. 6402. April 20, 1977. Appropriations. Appropriates $25,000,000 for fiscal year 1978 for the purpose of making grants to increase and improve museum services pursuant to the Museum Services Act.

H.R. 6403. April 20, 1977. Interior and Insular Affairs. Amends the Wild and Scenic Rivers Act to designate a specified segment of the Delaware River as a component of the National Wild and Scenic Rivers System.

H.R. 6404. April 20, 1977. Public Works and Transportation. Amends the Urban Mass Transportation Act of 1964 to extend the period during which Federal emergency operating assistance is available for rail passenger service under such Act. Increases the Federal share for the provision of such service during specified time periods. Authorizes appropriations in such amounts as may be necessary for each of the fiscal years following fiscal year 1978 to liquidate obligations incurred by the Secretary of Transportation in financing such assistance.

H.R. 6405. April 20, 1977. Merchant Marine and Fisheries. Amends the Endangered Species Act of 1973 to revise the requirements necessary for State programs to be deemed adequate and active programs for the consideration of endangered species and to qualify for Federal assistance under the Act.

Authorizes the appropriation of funds for the period covered by fiscal years 1978 through 1981 for State cooperative programs under the Act.

H.R. 6406. April 20, 1977. Banking, Finance and Urban Affairs; Education and Labor. Directs the President, through the Secretary of Labor, to carry out a program of projects, by means of contracts with public and private employers and institutions of higher education, to: (1) increase employee participation in decision-making and gains due to increased productivity; and (2) demonstrate programs and guidelines to maintain employment levels and improve the quality of working life.

Establishes a Human Research Resources Advisory Council to furnish advice and assistance in the administration of such projects.

H.R. 6407. April 20, 1977. Agriculture. Amends the Consolidated Farm and Rural Development Act to make operating and real estate loans under such Act available to private domestic corporations and partnerships engaged in farming or ranching.

Provides for congressional authorization of program levels under such Act.

H.R. 6408. April 20, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize the Secretary of Health, Education, and Welfare to make grants, contracts, and loan guarantees for the planning, initial development, and initial operation costs for comprehensive medical practices.

Directs that studies be made of health care delivery systems. Authorizes the Secretary to fund training and research projects related to support services, management, and education for comprehensive medical services.

H.R. 6409. April 20, 1977. Merchant Marine and Fisheries. Amends the Marine Mammal Protection Act of 1972 to require the establishment of progressively lower quotas for the taking of marine mammals incidental to commercial tuna fishing.

Requires the Secretary of the Treasury to ban the importation of fish and fish products from foreign nations causing the incidental killing of or serious injury to marine mammals in excess of standards set by this Act.

H.R. 6410. April 20, 1977. District of Columbia. Establishes three retirement funds encompassing: (1) District of Columbia firefighters and police officers; (2) District of Columbia teachers; and (3) District of Columbia judges.

Establishes the District of Columbia Retirement Board to manage the retirement funds created by this Act.

Details provisions relative to the administration of such funds and revises provisions relating to specified retirement and disability benefits under the retirement programs of such personnel.

H.R. 6411. April 20, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security

Act to include within the services to be provided under such Act medically required outpatient rehabilitation services.

H.R. 6412. April 20, 1977. Post Office and Civil Service. Allows any Federal employee or Member of Congress who was a Japanese-American World War II internee to credit, for civil service retirement purposes, the period during which such individual was detained or interned in a camp or similar facility.

H.R. 6413. April 20, 1977. Post Office and Civil Service. Allows any Federal employee or Member of Congress who was a Japanese-American World War II internee to credit, for civil service retirement purposes, the period during which such individual was detained or interned in a camp or similar facility.

H.R. 6414. April 20, 1977. Post Office and Civil Service. Allows any Federal employee or Member of Congress who was a Japanese-American World War II internee to credit, for civil service retirement purposes, the period during which such individual was detained or interned in a camp or similar facility.

H.R. 6415. April 20, 1977. Banking, Finance and Urban Affairs. Amends the Export-Import Bank Act of 1965 to require consideration of human rights in the extension of credit. Restricts credit for certain nuclear exports. Requires the Secretary of State to report to Congress and to the Export-Import Bank violations of certain nuclear safeguard agreements and standards.

Directs the Bank to seek agreements with other government agencies to reduce government-supported export financing.

Extends the authority of the Bank to September 30, 1978.

H.R. 6416. April 20, 1977. Judiciary. Makes it a Federal crime to rob a controlled substance from a pharmacy.

H.R. 6417. April 20, 1977. Post Office and Civil Service. Designates the anniversary of Martin Luther King Junior's birth, January 15, as a legal public holiday.

H.R. 6418. April 20, 1977. Armed Services. Makes permanent the special pay provisions for enlistment and re-enlistment bonuses in the uniformed services. Stipulates that under regulations prescribed by the Secretary of Defense, or the Secretary of Transportation with respect to the Coast Guard, the entitlement of an individual to such a bonus shall terminate when the individual is no longer technically qualified in the skill for which the bonus was given or fails to complete the term of enlistment, re-enlistment or extension period for which the bonus was paid.

H.R. 6419. April 20, 1977. Banking, Finance and Urban Affairs; Ways and Means. Establishes the Federal Municipal Bond Guarantee Administration to guarantee municipal bonds.

Designates as taxable income interest on specified government obligations.

H.R. 6420. April 20, 1977. Banking, Finance and Urban Affairs. Amends the United States Housing Act of 1937 to authorize the Secretary of Housing and Urban Development to make contributions to enable public housing agencies to enter into security arrangements designed to prevent crimes and insure the safety and well-being of tenants.

H.R. 6421. April 20, 1977. Banking, Finance and Urban Affairs. Authorizes the Federal Energy Administrator to make grants to States and localities for the construction, purchase, and installation of solar energy systems in public buildings. Directs the Secretary of Housing and Urban Development to prescribe standards governing the operation of such equipment.

H.R. 6422. April 20, 1977. Banking, Finance and Urban Affairs. Authorizes the Federal Energy Administrator to make grants to States and localities for the construction, purchase, and installation of solar energy systems in public buildings. Directs the Secretary of Housing and Urban Development to prescribe standards governing the operation of such equipment.

H.R. 6423. April 20, 1977. Ways and Means. Amends the Internal Revenue Code to exempt nonprofit volunteer firefighting or rescue organizations from the excise tax on sales of special fuels, automotive parts, petroleum products, and communication services.

H.R. 6424. April 20, 1977. Agriculture. Prohibits the importation of beef or dairy products for one year and, thereafter, until the Secretary of Agriculture certifies that such imports do not pose a danger to the economic well-being of domestic producers or the health standards of consumers.

H.R. 6425. April 20, 1977. Government Operations. Permits the head of a Federal agency administering any Federal assistance program under which assistance is apportioned on the basis of a standard metropolitan statistical area (SMSA) to modify the geographic boundaries of such area in order to include within the area only (but all) areas which are essentially metropolitan upon request of the Governor of the State in which such area is located.

H.R. 6426. April 20, 1977. Judiciary. Amends the Voting Rights Act of 1965 to repeal the prohibitions against voting qualifications, prerequisites, test, or devices which abridge the right of a citizen to vote who is a member of a language minority.

Repeals the requirement that States and other political subdivisions make available registration and voting materials and voting assistance in languages other than English.

H.R. 6427. April 20, 1977. Judiciary. Directs that United States district courts shall have original jurisdiction, concurrent with the Court of Claims, over civil actions against the United States based upon a contract of guarantee under the Emergency Livestock Credit Act of 1974.

H.R. 6428. April 20, 1977. Judiciary. Amends the Bankruptcy Act to prevent the discharge in bankruptcy of debts becoming due within five years of filing in bankruptcy on specified educational loans provided for in Federal loan programs.

H.R. 6429. April 20, 1977. Judiciary. Prohibits disclosure of information identifying or tending to identify a person as a present or former participant in United States foreign intelligence operations if (1) the information has been designated by statute or Executive order as requiring some degree of protection or (2) the person disclosing the information knows or has reason to believe that such disclosure may prejudice the safety or well-being of the person identified.

H.R. 6430. April 20, 1977. Judiciary. Imposes life imprisonment, when no death results, for (1) damaging, destroying, or disabling, any civil aircraft; (2) damaging, destroying, disabling, or placing any destructive substance near any aircraft part with the intent to damage, destroy, or disable any such aircraft; (3) damaging, destroying, disabling, or placing any destructive substance in or near any aircraft facility with such an intent; or (4) incapacitating a crew member of an aircraft with such an intent.

H.R. 6431. April 20, 1977. Judiciary. Amends the provision of the Gun Control Act of 1968 imposing additional penalties for using or unlawfully carrying a firearm during the commission of a Federal felony to (1) increase the sentences authorized and (2) prohibit a suspended or probationary sentence with respect to a first as well as with respect to a subsequent, conviction.

Classifies a person unlawfully carrying or using a firearm in the commission of a Federal felony as a dangerous special offender.

H.R. 6432. April 20, 1977. Public Works and Transportation. Establishes an emergency federally funded bridge replacement program for bridges located on rural non-Federal aid system public roads. Specifies the method by which the Secretary of Transportation shall apportion funds to the States for such program.

H.R. 6433. April 20, 1977. Ways and Means. Directs that the benefits received by an individual pursuant to a Federal plan or program, or a plan or program of a State funded by Federal funds, shall not be reduced as a result of a general increase in monthly social security benefits.

H.R. 6434. April 20, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 6435. April 20, 1977. Ways and Means. Amends the Internal Revenue Code to increase from $1,000,000 to $10,000,000 the maximum size of small issues of industrial development bonds on which the interest qualifies for a tax exclusion.

H.R. 6436. April 20, 1977. Ways and Means. Interstate and Foreign Commerce. Amends Title XVIII (Medicaid) of the Social Security Act to extend coverage to include expenses incurred in providing diagnosis of uterine cancer, if the individual receiving the test has not had such a test on a routine basis during the preceding six months.

H.R. 6437. April 20, 1977. Government Operations. Establishes a Consumer Protection Agency within the executive branch to represent the interests of consumers before Federal agencies, to receive and act upon consumer complaints, to perform research on consumer products, and to gather and disseminate information on consumer products and services.

Requires Federal agencies considering policies or regulations which may affect the interests of consumers to notify the Agency, and to consider the interests of consumers.

H.R. 6438. April 20, 1977. Education and Labor. Directs the Secretary of Labor to make financial assistance available for the establishment and operation of service, employment, and redevelopment centers. States that such centers shall offer classes specifically designed to assist disadvantaged unemployed and underemployed Spanish speaking persons. Specifies additional education, employment, and training services to be included in the service, employment and redevelopment program.

H.R. 6439. April 20, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 to abolish automatic cost-of-living adjustments in the salaries of Members of Congress.

H.R. 6440. April 20, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to allow medical facilities to be reimbursed by the Federal Government for emergency medical treatment given aliens unlawfully in the United States if such aliens are unable to pay the cost of such treatment or can pay only a part of the cost and the aliens or medical facilities which provided such treatment are not eligible under any public assistance program for payment of or reimbursement of such cost.

H.R. 6441. April 20, 1977. Judiciary. Amends the Immigration and Nationality Act to eliminate the limit on the number of alien children which may be adopted.

H.R. 6442. April 20, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to provide that the remarriage of a widow, widower, or parent shall not terminate his or her entitlement to widow's, or

widower's, or parent's insurance benefits or reduce the amount thereof.

H.R. 6443. April 20, 1977. Interior and Insular Affairs. Authorizes the Secretary of the Interior to amend a repayment contract of the Mirage Flats Irrigation District, and to supply electric power to the district.

H.R. 6444. April 20, 1977. District of Columbia. Grants a Federal Charter to the Daughters of Union Veterans of the Civil War, 1861–1865.

H.R. 6445. April 20, 1977. Ways and Means. Amends the Internal Revenue Code to allow as a credit against the income tax a limited amount of specified higher education expenses, including tuition, fees, books and supplies, incurred by the taxpayer for himself and any other individual.

H.R. 6446. April 20, 1977. Ways and Means. Authorizes and directs the Secretary of Labor, through the Bureau of Labor Statistics, to prepare, as part of the Consumer Price Index, the Consumer Price Index for the Aged and Other Social Security Beneficiaries designed to reflect the relevant price information for individuals, as a group, who are 65 years of age or older or are otherwise entitled to monthly benefits under the program of Old-Age, Survivors, and Disability Insurance of the Social Security Act.

H.R. 6447. April 20, 1977. Ways and Means. Authorizes and directs the Secretary of Labor, through the Bureau of Labor Statistics, to prepare, as part of the Consumer Price Index, the Consumer Price Index for the Aged and Other Social Security Beneficiaries designed to reflect the relevant price information for individuals, as a group, who are 65 years of age or older or are otherwise entitled to monthly benefits under the program of Old-Age, Survivors, and Disability Insurance of the Social Security Act.

H.R. 6448. April 20, 1977. House Administration. Entitles congressional candidates meeting certain criteria and agreeing to comply with specified spending limits and reporting requirements to campaign payments on a matching basis.

Directs the Secretary of the Treasury to establish a separate Congressional General Election Payment Account in the Presidential Election Campaign Fund to finance such payments.

Raises the General election spending limit for Presidential candidates who are eligible to receive public funds.

Provides an alternative method for determining the amount of funds to which candidates in a general Presidential election are entitled.

Permits Presidential candidates to receive additional contributions from small contributors.

H.R. 6449. April 20, 1977. Armed Services. Stipulates that a National Guard technician who: (1) has completed ten years of service in a position in which Guard membership was required; (2) is involuntarily separated from the Guard under honorable conditions; and (3) who continues to meet specified physical fitness standards shall not be required to be a member of the Guard as condition of employment.

H.R. 6450. April 20, 1977. Veterans' Affairs. Designates service as a member of the Women's Air Forces Service Pilots as active duty for the purposes of all laws administered by the Veterans' Administration.

H.R. 6451. April 20, 1977. Agriculture. Directs the Secretary of Agriculture to coordinate all research, extension, and teaching activity in the food and agricultural sciences conducted or financed by the Department of Agriculture and other agencies of the executive branch of the Federal Government. Authorizes the Secretary to cooperate with and assist the States in carrying out programs of animal disease research. Establishes competitive grants and teaching assistantship programs to help carry out the purposes of this Act.

H.R. 6452. April 20, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to deem a food additive unsafe to be marketed if it is found to induce cancer in man or animal when ingested in reasonable quantities, or found in appropriate tests to induce cancer in man or animal when ingested in reasonable quantities.

H.R. 6453. April 20, 1977. Merchant Marine and Fisheries. Directs the Secretary of the Interior to make a comprehensive study of the wolf for the purposes of developing adequate conservation measures.

Establishes a moratorium on all killing of wolves except as game in areas not protected under the Endangered Species Act, pending the results of such study.

H.R. 6454. April 20, 1977. Rules. Amends the Congressional Budget Act of 1974 to require economic impact statements for every bill or joint resolution reported in Congress and for each rule proposed by any Federal agency to show the effects of such proposed law on specified sectors of the economy. States that statements pertaining to agency rules shall disclose the effects of such proposed rule on State and local governments, small business, and low- and middle-income families.

H.R. 6455. April 20, 1977. Ways and Means. Amends the Internal Revenue Code to provide that property used in, or related to, the taxpayer's trade or business, and which the taxpayer acquired without cost, shall not qualify as a capital asset.

H.R. 6456. April 20, 1977. Ways and Means. Amends the Internal Revenue Code to provide a deduction for State and local taxes imposed on the furnishing or sale of electrical energy, water, sewage disposal services, gas, or telephone services.

H.R. 6457. April 20, 1977. Judiciary. Prohibits the use of appropriated funds or funds made available to a wholly owned government corporation to pay for any communication to influence any member of any State electorate to favor or oppose, by vote or otherwise, any legislation or legislative issue in the ballot in such State unless expressly authorized by Congress.

H.R. 6458. April 20, 1977. Government Operations. Amends the Public Works Employment Act of 1976 to direct the Secretary of Commerce to make payments to the governments of Guam and the Virgin Islands to coordinate actions by such governments with Federal Government efforts to stimulate economic recovery.

H.R. 6459. April 20, 1977. Merchant Marine and Fisheries. Authorizes the Secretary of Commerce, upon request by the chief executive officer of a noncontiguous State or territory which has been affected by an interruption in essential maritime transportation for more than five days, to: (1) activate and direct vessels of the national defense reserve fleet to provide such transportation; (2) request any officer, department, or instrumentality of the Federal Government to make available personnel, services, or facilities for use in providing such transportation; or (3) commence a civil action in the appropriate Federal court to terminate such interruption.

H.R. 6460. April 20, 1977. Ways and Means. Repeals provisions of the Internal Revenue Code of 1954 and of Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act which exclude from the definition of covered employment under the Social Security Act services performed in Guam by a resident of the Philippines while in Guam temporarily as a nonimmigrant alien.

H.R. 6461. April 20, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 6462. April 20, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 6463. April 20, 1977. Judiciary. Stipulates that certain United States oil and gas leases shall be held not to have been terminated by operation of law.

H.R. 6464. April 21, 1977. Ways and Means. Amends the Internal Revenue Code to deny tax-exempt status to certain organizations if such organizations hold farm real property purchased after the date of enactment of this act and the holding of such property is not substantially related to the charitable or educational purpose which would otherwise make the organizations tax-exempt.

H.R. 6465. April 21, 1977. Judiciary. Divides the eastern judicial district of New York into two new districts: the Northeastern District comprised of Nassau and Suffolk Counties, and the Southeastern District, comprised of Kings, Queens, and Richmond Counties.

H.R. 6466. April 21, 1977. Judiciary. Amends the Internal Security Act of 1950 to prohibit entrance into the United States or the granting of United States citizenship to any person who has been convicted of, participated in, or advocated any crime of terrorism. Makes it unlawful for any person subject to United States jurisdiction to participate in any way in any phase of terrorist activities.

Grants the United States a civil right of action to impose a constructive trust upon all property which has been acquired by violation of any Federal criminal statute unless such property is found to have been acquired by a good faith purchaser.

H.R. 6467. April 21, 1977. Judiciary. Amends provisions of the Gun Control Act of 1968 imposing additional sentences for using or unlawfully carrying a firearm during the commission of a Federal felony to (1) increase minimum additional sentences and (2) permit the Government to appeal a suspended or probationary sentence given with respect to a first conviction under such provisions.

H.R. 6468. April 21, 1977. Science and Technology; Small Business. Amends the Small Business Act to authorize the Small Business Administration to make loans to small businesses engaged in the acquisition of solar energy or other energy-conserving equipment. Amends the Federal Nonnuclear Energy Research and Development Act of 1974 to establish an Office of Invention and Innovation in the Energy Research and Development Administration to encourage the development of energy-related inventions. Stipulates that a specified amount of funds appropriated to the Administration shall be to assist small businesses and individual inventors.

H.R. 6469. April 21, 1977. Rules. Terminates budget authority for all Federal programs. Requires Congress to consider whether any such programs merit continuation on the same, a greater, or a lesser level, or termination.

Requires the Comptroller General to identify inactive or inefficient programs.

H.R. 6470. April 21, 1977. Public Works and Transportation. Authorizes the Secretary of Transportation to make financial assistance available to States to rehabilitate unsafe highway bridges. Establishes the Federal share of a bridge replacement of rehabilitation project. Amends the Highway Safety Act of 1976 to authorize appropriations from the Highway Trust Fund for bridge replacement and rehabilitation projects.

H.R. 6471. April 21, 1977. Interstate and Foreign Commerce.

Amends the Natural Gas Act to terminate Federal Power Commission authority to regulate sales of new natural gas and sales of natural gas to certain high priority customers.

Directs the Commission to prohibit the curtailment of natural gas supplies for essential agricultural purposes. Restricts the use of natural gas as boiler fuel.

H.R. 6472. April 21, 1977. Interstate and Foreign Commerce.

Amends the Federal Food, Drug, and Cosmetic Act to allow the use of a food additive found to induce cancer in animals if the Secretary of Health, Education, and Welfare determines that such food additive does not present a significant risk to human health.

Directs the Secretary to consider certain factors in making such a determination.

H.R. 6473. April 21, 1977. Public Works and Transportation.

Declares that the lake referred to as "Laurel River Lake" on the Laurel River, Kentucky, shall hereafter be known as the "John Sherman Cooper Lake," and that the dam forming such lake shall hereafter be referred to as the "John Sherman Cooper Dam."

H.R. 6474. April 21, 1977. Judiciary.

Amends the Omnibus Crime Control and Safe Streets Act of 1968 with respect to the duties of the Office of Community Anti-Crime Programs.

Specifies anticrime projects for which the Office is authorized to provide assistance to nonprofit private community organizations and agencies.

H.R. 6475. April 21, 1977. Government Operations; Rules. Prohibits the expenditures of Federal moneys, not otherwise provided for by law, which are not made pursuant to procedures providing for a voucher describing to payee and items or services for which payment is being made. Requires all appropriations, not made under a law which provides otherwise, to provide for voucher requirements for expending such moneys appropriated.

Requires the Comptroller General to audit all programs subject to this Act.

H.R. 6476. April 21, 1977. Government Operations; Rules. Prohibits the expenditure of Federal moneys, not otherwise provided for by law, which are not made pursuant to procedures providing for a voucher describing to payee and items or services for which payment is being made. Requires all appropriations, not made under a law which provides otherwise, to provide for voucher requirements for expending such moneys appropriated.

Requires the Comptroller General to audit all programs subject to this Act.

H.R. 6477. April 21, 1977. Armed Services. Repeals the Military Selective Service Act.

H.R. 6478. April 21, 1977. Ways and Means. Establishes the Internal Revenue Administration in the executive branch of the Federal Government for the purpose of administering and enforcing the Internal Revenue Code.

Transfers all present functions, instructions, rules, or regulations which were promulgated or administered by the Secretary of the Treasury or his delgate with respect to the enforcement of the Internal Revenue Code to the Internal Revenue Administration.

H R. 6479. April 21, 1977. Veterans' Affairs. Permits certain veterans with a service-connected disability totally disabling, who are retired members of the uniformed services, to receive compensation concurrently with retired pay, without deduction from either.

H.R. 6480. April 21, 1977. Veterans' Affairs. Reduces by 50 percent the premiums for United States Government Life Insurance or National Service Life Insurance charged to persons who have attained age 65 and whose annual income does not exceed $10,000.

H.R. 6481. April 21, 1977. Interstate and Foreign Commerce. Amends the Fair Packaging and Labeling Act to require that packaged consumer commodities be labeled to show their total selling price.

H.R. 6482. April 21, 1977. Judiciary; Interstate and Foreign Commerce. Increases penalties and imposes mandatory minimum sentences for the commission of certain crimes involving narcotic drugs.

Sets forth procedures and standards for: (1) pretrial and posttrial release of persons charged with or convicted of certain crimes involving drugs; and (2) pretrial release and treatment of narcotics addicts charged with noncapital Federal crimes.

H.R. 6483. April 21, 1977. Judiciary; Interstate and Foreign Commerce. Increases penalties and imposes mandatory minimum sentences for the commission of certain crimes involving narcotic drugs.

Sets forth procedures and standards for: (1) pretrial and postrial release of persons charged with or convicted of certain crimes involving drugs; and (2) pretrial release and treatment of narcotics addicts charged with noncapital Federal crimes.

H.R. 6484. April 21, 1977. Judiciary; Interstate and Foreign Commerce. Increases penalties and imposes mandatory minimum sentences for the commission of certain crimes involving narcotic drugs.

Sets forth procedures and standards for: (1) pretrial and posttrial release of persons charged with or convicted of certain crimes involving drugs; and (2) pretrial release and treatment of narcotics addicts charged with noncapital Federal crimes.

H.R. 6485. April 21, 1977. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to authorize the Federal Communications Commission to grant broadcast licenses and license renewals for five-year terms.

Revises the Act to allow certain appeals from orders or decisions of the Commission to be brought in the United States court of appeals for the circuit in which the broadcast facility is, or is proposed to be located.

Requires the Commission to examine its broadcast license renewal procedure to determine how it can be simplified.

H.R. 6486. April 21, 1977. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to authorize the Federal Communications Commission to grant broadcast licenses and license renewals for five-year terms.

Revises the Act to allow certain appeals from orders or decisions of the Commission to be brought in the United States court of appeals for the circuit in which the broadcast facility is, or is proposed to be located.

Requires the Commission to examine its broadcast license renewal procedure to determine how it can be simplified.

H.R. 6487. April 21, 1977. Veterans' Affairs. Provides for the payment of pensions to certain veterans of World War I and their widows.

H.R. 6488. April 21, 1977. Judiciary. Amends the Immigration and Nationality Act to eliminate the limit on the number of alien children which may be adopted.

Repeals the provisions of the Act which require alien children adopted by United States citizens to reside in the United States for two years in the legal custody of such citizen before being eligible for United States citizenship by naturalization.

H.R. 6489. April 21, 1977. Ways and Means. Amends the Internal Revenue Code to provide a $5,000 tax exclusion from gross income for any amount received as an annuity, pension, or other retirement benefit.

H.R. 6490. April 21, 1977. Ways and Means. Amends the Trade Act if 1974 to prohibit the President from designating a country as a beneficiary developing country, for purposes of tariff preferences (under the President's authority to confer such designation when he determines it to be in the national economic interest), when such country has participated, or is participating, in withholding supplies of any vital commodity resource from international trade.

H.R. 6491. April 21, 1977. Judiciary. Amends the Federal Rules of Evidence with respect to the introduction in cases of rape or assault with intent to rape of evidence of a person's past sexual behavior.

H.R. 6492. April 21, 1977. Agriculture. Provides, under the Consolidated Farm and Rural Development Act, that emergency loans shall be made available in any area of the United States, Puerto Rico, or the Virgin Islands which the Secretary of Agriculture has designated an emergency area due to a labor dispute, in which farmers are not participants, but which has prevented the production, processing or sale of products produced by farming, ranching or aquaculture operations.

H.R. 6493. April 21, 1977. Armed Services. Sets forth procedures which the Secretary of Defense or the Secretary of a military department must follow before a military base or installation is closed or the number of civilian personnel positions at such a facility is reduced below a specified level.

H.R 6494. April 21, 1977. Ways and Means. Amends the Internal Revenue Code to impose an excise tax penalizing automobiles with poor fuel efficiency. Exempts automobiles which meet certain fuel economy standards from the emission standards of the Clean Air Act. Amends the Automobile Information Disclosure Act to require certain information regarding the fuel efficiency tax to appear on a label affixed to automobiles held for sale.

Directs the Administrator of the Environmental Protection Agency to issue regulations necessary to effectuate this Act.

H.R. 6495. April 21, 1977. Post Office and Civil Service. Ways and Means. Declares that specified persons previously appointed as temporary hearing examiners under the Supplemental Security Income program of the Social Security Act shall be considered appointed to career-absolute positions as hearing examiners.

H.R 6496. April 21, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 to prohibit any cost-of-living adjustments to the salaries of Senators and Representatives which take effect after October 1, 1978.

H.R. 6497. April 21, 1977. Ways and Means. Amends the Medicare program of the Social Security Act to authorize the President to enter into agreements establishing reciprocal arrangements between such program and the program of any foreign country under which health services are provided.

H.R. 6498. April 21, 1977. Judiciary. Authorizes the Administrator of the Law Enforcement Assistance Administration to provide grants and technical assistance to certain units of local government having populations of at least 250,000 for the establishment and operation of programs designed to identify and expedite the prosecution of career criminal offenders. Sets forth requirements for grant applications and limits on payments to any single local government

H.R. 6499. April 21, 1977. Agriculture. Amends the Food Stamp Act of 1964: (1) to require the Secretary of Agriculture to establish uniform national eligibility standards for participation in the Food Stamp program; (2) to define household income limits and the amount of household assets which will be permitted in determining eligibility; (3) to stipulate the conditions under which unemployment or underemployment will disqualify an applicant; (4) to establish regulations for the redemption of coupons; and (5) to set the value of a household's coupon allotment and the amount the household must pay therefor.

EXTENSIONS OF REMARKS

INTRODUCES BILL TO END CRIPPLING TRANSPORTATION STRIKES

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. FINDLEY. Mr. Speaker, a recent strike at gulf ports has caused costly delays in the flow of harvested grain from midwestern farms. For 2 weeks dockworkers refused to load grain, even though their only complaint was against the increased use of containerized shipping. That has nothing to do with shipment of bulk agricultural commodities. Yet farmers were the ones to suffer when the prices for their produce fell.

One of the most important aspects of grain harvesting is transportation. Ask the farm wife who leaves her kitchen at this time each year to drive truckload after truckload of grain from her husband's combine to the grain elevator. She knows she must quickly bring that truck back to the field ready for another load, else the combine will fill to capacity and force the harvest to a halt.

Harvest economics work the same way on a national scale. As the grain piles up on the docks, grain movement delays back up through the system and market prices decline. Farmers find their family standard of living directly and adversely affected by a strike to which they are not a party and over which they have absolutely no control.

Hardships from prolonged strikes are shared by everyone—the families of workers on strike, management, stockholders, the local community, and ultimately the entire Nation. Third parties are directly affected but have little, if any, way to influence the settlement.

The dockworkers strikes are prime examples of heavy losses suffered by the entire Nation when labor-management disputes continue for an extended period. In 1972, for instance, a similar dock strike resulted in direct loss to the Nation's grain farmers of $1 million each day the strike continued. Several foreign importers diverted ships from our shores to make their purchases of grain in Mexico and Canada. Customers once lost are hard to win back.

Japan, our leading overseas argicultural market, asked other nations to increase grain production. It sought to lessen its dependence on American exports.

Grain farmers of the Midwest and particularly my home State Illinois sold much of their corn crop for 10 cents per bushel below the price normally received and their soybeans for 25 cents per bushel below normal prices, and in some cases below production costs. These losses were never recovered. Farmers had no choice but to tighten their belts.

An independent survey of Illinois farmer attitude toward the dock strike showed that 88 percent were certain that the dock strike lowered their grain prices. The same thing happened this year.

Farmers feel the Federal Government should take decisive action to prevent such strikes. Of those polled, 43.5 percent favored legislation requiring management and labor to submit differences to compulsory arbitration, 13.5 percent favored stopping the strikes afer 30 days, and 41.5 percent favored complete prohibition of these strikes.

The impact of the 1972 dock strike was felt throughout the Nation. According to the U.S. Department of Agriculture the loss to farmers producing tobacco was $1 million just to recondition tobacco for export.

There was a similar loss in fruits, vegetables, and perishables. In July and August approximately $215 million in export sales were lost through west coast port strikes. About $40 million in fresh fruit and vegetables was totally spoiled.

In the Pacific Northwest more than $55 million in wheat export sales were lost.

In Ohio 1.5 million bushels of corn had to be dumped on the ground without proper storage because of the dock strike. In Illinois 4 million bushels were stored on the ground. In Oregon the wood products industry lost shipments of $5 million a week due to the dock strike.

Even this year's much shorter grain shipment delay took its toll. By the end of the 2-week shutdown at gulf ports and the resulting backup in grain transportation, the price of corn paid to farmers had dropped from 6 to 8 cents a bushel below what would normally be expected during harvest time.

This meant, for instance, that a farmer with 500 acres in corn producing 125 bushels an acre, lost over $4,000 just because of a 6-cent a bushel decline.

The Taft-Hartley Act has proven effective in many strikes. But it has not provided the necessary means for settling strikes affecting the shipping and transportation industries. Most transportation strikes are not settled during the 80-day cooling-off period provided by a Taft-Hartley injunction, and that is not good enough when the strikes cause so much hardship to the public.

Unfortunately, Congress has done little to ease the hardship caused when transportation workers and their employers cannot reach agreement on wages and working conditions.

In an attempt to present an alternative legislative approach to the problem of strikes in the transportation industry, I am introducing today the Transportation and Labor-Management Disputes Act of 1977.

This legislation provides the President with new effective tools for settling actual or potential transportation strikes. At the same time, the bill recognizes the legitimate interests of both labor and management.

Here is how this act will operate. In any case where an actual or threatened strike or lockout imperils the health or safety of the Nation or a substantial part, or could deprive any section of the country of essential transportation services, the President is authorized by this bill to appoint a board of inquiry to study the issues, file a public report and submit to the President a recommendation for settlement of the strike. Upon receipt of the board of inquiry's report, the Secretary of Labor may take one or more of the following steps:

First. Order the unions back to work for 30 days.

Second. Call for partial operation of struck facilities.

Third. Order both labor and management to submit a list of resolved and unresolved issues, together with their final offers for settlement of the strike.

Fourth. Appoint a three-member panel empowered to select the final offer from those submitted and make it binding upon all parties for 18 months.

The bill leaves untouched the provision in the Taft-Hartley Act authorizing the President to seek an 80-day cooling-off period during strikes which imperil the national health or safety. But it does add other remedies for strikes which may not be national in scope, or fit the exacting criteria of Taft-Hartley. Such strikes can adversely affect millions of people and cost many millions of dollars.

This legislation is badly needed. It will prevent the great losses and hardships long-term transportation strikes often cause.

THE WITTY BIRD GETS THE AMUSING WORM

HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. MILFORD. Mr. Speaker, last weekend I experienced one of life's great, but rare, pleasures.

I picked up the Sunday Dallas Morning News, braced for the onslaught of misery and doom the front page brings us daily.

I found it, but I also found a truly bright, pointed but witty, little satire so good that it even made this Congressman laugh at himself.

The article entitled "Texas Birds To Leave Bills Behind" was written by John Geddie, Washington bureau chief of the News, and I would like to have it appear in the RECORD.

There is one bird John neglected to mention in his article—the tattle tail squawker bird who is sometimes forced to supplement his normal diet of winged news moths by scratching for slow-day worms.

On this day, John scratched up a good one:

TEXAS BIRDS TO LEAVE BILLS BEHIND

(By John Geddie)

WASHINGTON.—The leaves are turning gold and dropping from the trees. The birds are heading south.

Each year, and particularly during election season, they leave their nesting places in Washington and lift into the gentle blue sky toward Texas.

Oh the joy of spotting one during these rare visits.

Two points to the first person to see the Democratic fence-walker, a hard bird to pin down. Although his vocabulary is extensive, he has thus far refused to say "Panama Canal." Richly colored, he ranges all over the state.

He is not to be confused with the vested fence-mender, of conservative stripe. Considered by some an endangered species, he will be seen running as fast as his little legs will carry him. As his enemy, the Shakespearean warbler, he often is found near oil slicks.

Fewer points for these:

The horn-rimmed naysayer, who disapproves of his Washington nest but keeps returning every season.

The rock-ribbed unionizer, a younger bird who would like to lead the whole flock.

The fussy duck-billed weather-bird, a first-class flyer.

The big-bellied back-slapper, usually seen in the evenings around reception lines.

The red-nosed rounder, never seen around water.

The web-footed womanizer, also known as the secretary bird.

The horned timber thrush, often attracted to the city lights.

Texas is fortunate in having a large number of these birds scattered throughout the state. When they are in Washington, they are not scattered and often create confusion.

Although they love their comfortable Washington homes, a compelling force—possibly fear—causes them to migrate annually. In addition to Texas, they also range as far as Europe and the Orient during off years.

They generally are intelligent and friendly and those purchased as pets are loyal and hard working. However, they have a tendency to flock together in self-protection and when any member is threatened, they may not talk. At other times they chatter worse than the birds of Virginia.

Watch for them around factory gates, beauty contests, ribbon cutting and baby kissings. To gain their attention, say "League of Women Voters" or "redistricting."

To make them talk, say "deregulation." This is not recommended, however. Neither is pouring salt on their tails.

Some may be attracted by bright coins.

TRIBUTE TO FRANK GILL

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. ANDERSON of California. Mr. Speaker, on a March day in 1968, the SS *Queen Mary* was to be moved from a temporary mooring site to its permanent berth in the Port of Long Beach, although a labor dispute with the Marine Cooks and Stewards Union was in progress. However, the great ship was unable to move when a single picket leaped into the water in front of it, forcing a temporary delay in the relocation.

One need not be familiar with the details of the dispute to marvel at the audacity, dedication, and strength of purpose of that lonely swimmer. Those qualities have been the hallmark of Frank Gill's long career in the labor movement, and undoubtedly contributed to his spectacular plunge that day.

And because of that total dedication toward the benefit of his fellow workers, Frank Gill will be honored at a banquet on November 15, 1977 for his many contributions—not only to the labor movement, but to the health and benefit of the U.S. maritime industry as well.

Born in Brownsville, Tex. on May 31, 1927, Frank spent his early years in that State, selling papers and shining shoes for a time in Camp Bowie near Brownwood, Tex. By the time he was 12 years old, Frank was working as a cook in a small restaurant. When he was 16, his father took him to work in the cotton fields as a picker, a career which lasted about 2 hours. Frank hitchhiked to New Orleans, attended a maritime academy there, and began to work as a cook aboard various ships. After joining the merchant marine in 1944, he sailed in various ratings during World War II and the Korean conflict. It was also in 1944 that Frank made his home in San Pedro, Calif.

On March 8, 1951 Frank married the lovely Monica Dorothy Deanda in San Antonio, Tex. He returned to San Pedro, having joined the Marine Cooks and Stewards Union, and served for several years as a porter aboard the great white steamship SS *Catalina*.

Frank became an official for the union in July of 1962, and has performed in that capacity since, in his usual competent and enthusiastic way. A business agent and organizer, he has worked as Seafarers International Union representative in the southern California organizing drive of the military sea transportation vessels; the Seafarers International Union representative in the Las Vegas drive to organize gaming employees; and as organizing director for the Marine Cooks and Stewards Union on the SS *Queen Mary*.

In addition, Frank is a delegate for the Mexican-American Club, serves on the hiring panel of NAPP (Neighborhood Adult Participation Project), and is active in the Boy Scouts of America programs. A former boxer, he is cofounder of the Golden State Boxers Association, which is dedicated to aiding destitute and disabled boxers and securing a pension plan for them. Frank is also an active member of AMVETS Post No. 33 in Wilmington.

Mr. Speaker, men like Frank Gill are hard to find, but they enrich the lives of all of us who are fortunate enough to know them. In addition to his many duties as a labor official, he has been an active participant in many community and political affairs, and his generosity and good humor are appreciated by many.

My wife, Lee, joins me in taking this opportunity to congratulate Frank Gill for the many achievements which have led to the testimonial dinner in his honor. Most certainly, he is deserving of the awards he will receive.

Frank's wife, Monica, and their children, Victoria, Roberta, Frank, Becky, and Ricardo must be justly proud of their father's fine career.

MORE ACTION NEEDED TO STOP CHILD ABUSE

HON ROBERT A. YOUNG

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. YOUNG of Missouri. Mr. Chairman, a child was beaten to death in St. Louis recently, just 2 weeks after relatives called to warn that he might be in danger.

Another child must be fed and diapered each day for the rest of his life because he was permanently injured by one of his parents. That child had a chance to recover and still lead a normal life after his case was first reported. But a city juvenile court sent the boy back to his parents—and he will suffer for the rest of his life.

Both of these tragic incidents are described by reporter Dana L. Spitzer in a remarkable series of articles on child abuse which appeared in the St. Louis Post-Dispatch from July 12–15, 1977.

Recently, the House of Representatives passed the child abuse prevention and treatment amendments, which represent a valuable step forward in the effort to solve the problems of child abuse. But I feel that the Congress must continue its research into this growing dilemma.

For this reason, I would like to bring excerpts from Mr. Spitzer's series to the attention of my colleagues. These articles show the need for more day care centers, regional homes, social workers, and parental training programs to help prevent child abuse:

[Excerpts From Mr. Spitzer's Series on Child Abuse]

Two years after Missouri began keeping track of children who are severely beaten or neglected, authorities say that the problem has reached epidemic proportions, with thousands of children suffering permanent injury and an unknown number ending up dead.

But the professionals in the medical, social work and legal fields who are trying to cope with the situation are only beginning to make their first tentative efforts to reduce the problem of treatment and prevention.

In the meantime, a Post-Dispatch investigation has found, some parents are brutalizing and occasionally killing their children at will, largely immune from the criminal justice system—and with little assurance that they will not repeat their offenses even when brought to the state's attention.

Dr. Armand Brodeur, of Cardinal Glennon Memorial Hospital for Children, who is a nationally-recognized expert on the problem, says that abuse and neglect affect more children than any other single malady, including disease or accident.

Abuse is physical injury, with resulting emotional trauma, inflicted on a child by a parent or guardian. Its most common forms are severe beatings, burns, biting and sexual molestation.

Neglect is the failure to provide a child with the basic necessities of life—food, clothing and shelter—and love, concern and guidance.

In general, abuse and neglect are not isolated incidents, but reflect a pattern of behavior by some parents toward their children. The longer the pattern continues, the more serious the child's injuries are likely to be.

The effect of the law in Missouri, as in other states where similar legislation was enacted in the wake of the Child Abuse Act, a 1974 federal law, was to bring child abuse out of the dark closet of ignorance and neglect. Historically, the problem had languished out of sight and out of mind. Only in the last decade has it become a concern in the medical community. The first book on the subject, "The Battered Child," by Dr. C. Henry Kempe, a pioneer in the field, was published as recently as 1968.

For the first time in Missouri, child abuse was defined in law two years ago as a social disease to be identified, measured, analyzed, treated and prevented.

One result of the new law is that sexual abuse of children is being discovered in greater numbers than expected. Unlike beatings or emotional and physical neglect, which doctors and social workers knew to be widespread, incest and sexual abuse had been considered rare.

The prevailing attitude among professionals who work in this field is that parents who beat their children should not be punished and that parents who neglect their children should not have their children taken away.

The people in public and private agencies who are making policy decisions on how to cope with child abuse are firmly committed to the idea that parents who abuse their children can be influenced to change their behavior and become loving, concerned parents.

Studies of such parents indicate that they are often lonely, immature adults. They have almost no social or family ties in the community and have difficulty coping with many of life's trials. At a particularly stressful moment, they may release their frustrations by lashing out at a child. In other cases, a parent may be so busy trying to keep bills paid or keeping or finding a job, that children are virtually ignored for long periods of time.

Some parents feel their children are nuisances and a burden. They let their children know those feelings through verbal and physical abuse, or by simply ignoring them. Many parents never learned any other way of disciplining children than hitting them. In a small number of cases, parents are guilty of premeditated cruelty to their children.

In most cases, treatment consists of periodic visits by a state social worker to the parents of an abused child. Generally, these are made once or twice a month.

With the help of federal funds, the state has begun a new program in which psychological counseling will be more available for abusive parents and their children. But the program is still several months away, officials say. Even when it becomes available, there won't be nearly enough money to go around, says, Dwain Hovis, Missouri's deputy director of social services.

Ann Dandurant, who heads the state's program on child abuse and neglect, is more optimistic than many of her colleagues. She is hoping that state and federal funds will become available in sufficient amounts to provide a variety of services that might help parents change their behavior and remove some of the stress in their lives.

If that happens, the state's social worker would not provide the counseling and services alone, but could arrange for such things as treatment of family financed counseling centers and day care. A fully financed program, she says, would also provide aids to visit homes and emergency crisis centers where mothers unable to cope with screaming children could simply drop them off for a few hours until the tension subsides.

Some of these services are now available from private agencies in the community, she says. Efforts are being made to make some of them available through the state.

Where child abuse has occurred, effective intervention into the family is necessary if the abuse is to be prevented from happening again, Ms Dandurant says.

She pointed out that one study of abused children who were returned home from hospitals with no follow-up services showed that 60 per cent returned within a year. Of those, 20 per cent died and 30 per cent had brain damage.

On the other hand, she said, "when there is intervention, studies show there is a significant decline in recidivism."

Child abuse is not likely to be reduced, say public officials and professional juvenile workers, until a grass-roots political movement is generated by persons who want to stop it.

Doctors, social workers and lawyers interviewed by the Post-Dispatch said that the state needed:

More social workers in the field of child-abuse prevention with higher pay and better training.

New local or regional homes where battered, neglected or abandoned children could be cared for in a family setting after they are removed from their parents by a juvenile court.

Day centers for abused children, staffed by nurses, counselors, and others who would help the abused children, their parents and brothers and sisters. The centers should be able to draw on the services of doctors, psychiatrists and lawyers when necessary.

Centers at major hospitals such as Children's and Cardinal Glennon hospitals here for training in the detection and treatment of child abuse.

Parental training programs in local hospitals run by nurses or social workers, who could familiarize expectant parents with some of the realities of rearing children. Parents would be taught ways of disciplining children other than beating them.

WANDA L. WIEDMAN NAMED ONE OF DAYTON DAILY NEWS TOP 10 WOMEN OF 1977

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. WHALEN. Mr. Speaker, I am very pleased to learn that the Dayton Daily News has selected my district representative, Mrs. Wanda L. Wiedman, as one of its top 10 women of 1977.

As a member of my staff since I first took office in January 1967, Mrs. Wiedman has met her responsibilities the only way she knows how—with complete dedication. I view her not as an employee but as a friend and one whose assistance over the years has been invaluable. And I know that my view is shared by thousands of my constituents who have come to her for assistance over the years. Intelligent, resourceful, compassionate, Wanda Wiedman has been the very model of a district representative. The demands of her position are substantial since she is on the firing line every hour of every day. When a problem begins to develop in the district, she usually will know of it first since those affected by it will contact her directly in our downtown district office.

Wanda also is a public figure in her own right and acquired the status of a civic leader before becoming associated with me. To say that she is ideally suited to relating to the community is to understate her very considerable abilities in this regard.

Wanda has endured the strains of her duties with the patience and strength typical of her Germanic ancestors. For her consistently effective performance, I am truly grateful and always will be. That the Dayton Daily News has seen fit to recognize her at this point as one of the outstanding women in the greater Dayton area no doubt pleases her greatly as it does me.

I, therefore, wish to congratulate Wanda Wiedman, Mr. Speaker, and to insert at this point in the RECORD Jean Kappell's story about her:

WANDA WIEDMAN HONORED

(By Jean Kappell)

Wanda Wiedman, Congressman Charles Whalen's district representative and constituent problems-solver, is one of The Dayton Daily News Ten Top Women of 1977.

She was named for having repeatedly proven the power of the average citizen to sway public decision-making, beginning with her organization of one of Dayton's first neighborhood pressure groups, South Park.

"Probably no one in the past 20 years has played a greater part in shaping Dayton's present or in steering the city toward its future," wrote Ombudsman Bonnie Macaulay "and others" in nominating the East Dayton housewife-activist for the award.

Mrs. Wiedman is quick to put down the claim, looking back on what she couldn't avert: "The three greatest sins Dayton has committed are letting Routes 4 and 69 bissect the northeast community, letting Route 35 bisect the southeast community and letting the I–75 expressway split what was left."

It was the Route 35 alignment that hit her where she lived—"Taking 10,000 people, hundreds of homes, draining away buying power from local businesses, destroying the bases of much good deep-rooted neighborhood life."

Once 35 had nosed its way into the city limits from the east in 1962, however, her major battle became to get the agony over and the highway completed without further delay. This one she fought through the statehouse, the Congress, clear up to the White House, "with a lot of help from City Hall along the way."

With a lot of help, too, from Whalen in getting a 1964 bond issue passed to finish the job, making her an instant ally when he declared for Congress in 1966.

The former Wanda Strochele is self-described as "East Dayton all the way." She is the daughter of a painter whose parents "met on the boat coming over," grew up on Hobart St., went to St. Mary's parochial school, then Wilbur Wright, then Stivers when the family moved to Dunckel Ave.

Looking back on her marriage to Bill, a Frigidaire night shift foreman, Mrs. Wiedman counts her luck "that he was on 3 to midnight even back then, and never changed."

"Had he worked days I'd not have had the freedom to move in the directions I have. Most men are reluctant to allow their wives so much liberty. They want you home when they're there.

It was in 1958, that Mrs. Wiedman adopted a cause and girded for "my first Hootenanny," as she calls it—civic combat against fast Oak St. traffic, a peril to neighborhood children including her three. With her Irish ire up, backstopped by her German thoroughness, she researched all possible solutions, then led a broomstick brigade against City Hall.

Triumph: The city blocked Oak Street by putting in a park.

Meantime, urban renewal and highway condemnations were ripping up "the good East Dayton neighborhood where my parents were born and reared, Bill's parents were, I was, he was, and where we wanted to raise our own family."

While others chose to flee, "We stuck around, trying to pick up the pieces, fighting alongside urban renewal to keep this a decent place in which we could stay." Mrs. Wiedman spent uncountable volunteer hours representing South Park on the East Dayton Community Council until she became its director.

Today Mrs. Wiedman has city-wide clout, serving on the Dayton Plan Board, Mayor's Committee on Economic Development, Sister City Committee; on the boards of the Dayton Fund for Home Rehabilitation, Central and East Dayton YWCA, East Dayton Profile, United Fund, Family Service Association.

The Wiedman's live on Firwood St., their oldest son and daughter next door, their married daughter three blocks away, their youngest, Theresa, a junior at Alter, still at home.

"City living in Dayton is really living, close to the hub," she says. "Besides, when a city's been good to you, and roots grow as deep as ours, you just stay."

When her volunteer commitments have been met and her day's work is done at the Federal Building, Mrs. Wiedman, locally rumored to have invented a 28-hour day, often carries right on with "shaping the present and steering the future" over a beer at a nearby cafe.

Here there usually gathers around her a entourage of friends and admirers, among them lawyers, social workers, precinct workers, journalists, court officials, graduate students, now and then a professor of political science, a city commissioner, a judge.

"Who, me?" Mrs. Wiedman throws up both hands as if to physically fend off praise for her trouble-shooting here and on long-distance to Washington; for helping people unravel passport, food stamp, son-in-service, retirement pay, death in the family, housing, trash collection or (in her phrase) "you name it" problems that threaten their welfare or peace of mind.

"All it ever takes is to treat people the way you'd like to be treated in the same circumstances," she says, almost gruffly.

"Everybody who works for the public ought to handle situations the same way."

CIVIL SERVICE COMMISSION STATEMENT ON BLUE-COLLAR PAY

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. MOAKLEY. Mr. Speaker, I would like to bring to the attention of my colleagues testimony given at the Federal blue-collar wage hearings held in Boston on Saturday, October 22. These were the last in a series of hearings held throughout the Nation within the past year.

Held under the auspices of the Subcommittee on Compensation of the Committee on Post Office and Civil Service, the hearings were designed to give interested parties the opportunity to discuss possible effects of proposed changes in the Federal wage scale.

I would like to thank the gentlewoman from Maryland (Mrs. SPELLMAN) for scheduling one of these hearings in Boston. The entire House owes her a debt of gratitude for the work she has done as chairwoman of the subcommittee.

Because the hearings will not be published this year, I would like to insert in the RECORD the testimony of Charles A. Maher, Director of the Boston Region of the U.S. Civil Service Commission:

STATEMENT OF CHARLES A. MAHER

Members of the Subcommittee: thank you for the opportunity to appear before you and present the views of the Civil Service Commission on the need for legislative reforms to the Federal Wage System. With me today is Mr. Frank Lattanzi, Senior Wage Policy Officer in the Commission's Bureau of Policies and Standards.

The Federal Wage System is based on the legislated principle that, consistent with the public interest, the pay of Federal employees in trade, craft, and laboring occupations should be related to rates prevailing for comparable work within a local wage area. The comparability principle further calls for: (1) equal pay for substantially equal work within a local wage area; (2) relative differences in pay within a local wage area for recognizable differences in job skills; and (3) a level of pay to attract and retain a quality work force. The Civil Service Commission firmly believes that this is a sound and workable principle upon which to base Federal blue-collar pay.

The Civil Service Commission is responsible for maintaining and improving the operation of the Federal Wage System. Based upon our experience with its nearly five years of operation, we believe the Federal Wage System has proven to be a workable and equitable system. However, we agree with the conclusions reached by the General Accounting Office and the 1975 President's Panel on Federal Compensation in their independent studies of the system—several legislative reforms to the Federal Wage System are needed in order to bring Federal blue-collar pay into closer comparability with pay for blue-collar empoyees in the non-Federal sector.

Enactment of the Administration's legislative proposal to reform the Federal Wage System would carry out the recommended reforms by repealing or modifying those features of the current law which require the system to deviate from its own underlying comparability principle.

INDEFINITE PAY RETENTION

Before I speak to the specific features of the legislative proposal, I would like to point out the pay saving provisions which would be made at the time of implementation of the proposed reforms. It is possible that wage rates will increase only very slightly at the time of the first wage survey in an area which implements the changes provided in the legislative proposal. However, we want to emphasize that any lower rates would apply only to individuals who are hired after that first schedule adjustment. Current employees would receive no pay cuts and they would be guaranteed at least a three percent increase in pay at the time of the first pay adjustment after the legislation is effective.

In addition, indefinite pay retention is provided for employees who would otherwise lose pay due to implementation of any provision of the legislative proposal. Employees receiving indefinite pay retention will receive one-half of subsequent pay increases until they become entitled to a higher rate of pay by normal operation of the wage system.

MONRONEY AMENDMENT

One of the most serious conflicts of the present law with the local prevailing rate principle is the so-called Monroney Amendment. The Administration's legislative proposal would repeal this provision. The Monroney Amendment requires that private industry outside of the local wage area be surveyed when private industry data comparable to certain kinds of Federal blue-collar jobs are not found in sufficient quantities within the local wage area. These outside wage rates are used to construct wage schedules for all regular schedule wage employees in the area to the extent that they produce higher rates than those produced by the wage survey data obtained from within the local area. By importing data from outside a local area and using these data to establish Federal rates only if they produce rates higher than the local industry data we are ignoring the local wage structure and are creating an unfair competitive advantage for the Federal Government.

The Monroney Amendment is based on the false assumption that it is necessary to find significant local industry employment directly comparable to specialized Government jobs in order to establish equitable wage rates for them. This simply is not so. It is only necessary to find a reasonable sample of local industry rates for jobs at the same levels of difficulty as are found in the Government and relate them to comparable levels of work in the Federal grade structure in order to establish an equitable wage schedule. The fact that the "Monroney jobs" are specialized and have few or no counterparts in private industry in a particular local area does not mean that they are unique as to level of difficulty of work performed. Adequate pay rates can be established for these jobs on the basis of data obtained within the local area for work of similar level of difficulty.

REQUIREMENT FOR FIVE STEPS WITH A PAYLINE FIXED AT STEP TWO

Under the present law, the prevailing rate, as measured by the wage surveys, is set at the second step of each grade. The first step is set at 96 percent of the rate while the third, fourth, and fifth step-rates are set at 104 percent, 108 percent, and 112 percent respectively. As of June 1977, approximately 50 percent of the nonsupervisory wage employees were in the fifth steps of their grades—rates which are 12 percent above average industry rates.

This requirement causes a serious departure from prevailing practice in private industry in two respects. First, our studies show that most nonsupervisory blue-collar employees in the private sector are paid under single rate schedules. Thus, five steps in each grade for Federal blue-collar employees is excessive in terms of private industry practice. Further, the requirement that the payline be set at step two means we cannot take into consideration the distribution of Federal employees among the five steps in the rate range when we establish wage schedules. This insures that the fifth step is always 12 percent above local average industry rates.

The proposed legislation would eliminate the statutory step-rate and payline requirements. This would enable the Commission to establish step-rate structures more nearly consistent with prevailing practices in industry and to establish a payline structure which would adjust wage schedules on the basis of comparisons between average rates in industry and average pay rates being paid to Federal wage employees.

FULL-SCALE WAGE SURVEYS

Based upon questions which have arisen in the past, there appears to be some confusion as to the effect of the administration's proposal to modify the statutory requirement for full-scale wage surveys. Currently, the law requires full-scale wage surveys at least every two years. The intervening surveys are conducted under a much more simplified survey process which measures the

wage changes which have occurred since the preceding full-scale, or job matching survey. The wage change surveys are done in less time, at less administrative cost to the Government, and at less time and expense to the cooperating employers.

The legislative proposal would modify these provisions so that two of these wage change surveys, rather than only one as at present, could be conducted between full-scale surveys. That is, full-scale wage surveys would be done only every third year. It is important to understand that under the proposed modification to the survey requirements wage schedule adjustments will continue to be made in each wage area every year. It is just that schedule adjustments will be based on these simplified wage change surveys in two years of each three-year cycle.

This change in the survey requirements is being proposed because, based upon the surveys that have been conducted over the past five years, we can accurately measure prevailing rates with fewer full-scale wage surveys. If this legislative proposal is enacted we would still retain the flexibility to conduct full-scale wage surveys more frequently than every third year in any area in which significant changes in the survey universe or in the Federal work force suggest changes in the survey specifications.

NIGHT SHIFT DIFFERENTIALS

The Federal Wage System statute requires that Federal blue-collar employees be paid their scheduled rate of basic pay plus a 7.5 percent differential for second shift and a 10 percent differential for third shift work. Private sector practices with respect to night shift differentials vary substantially from area to area as to type and amount of differentials paid. The General Accounting Office review of the Federal Wage System concluded that Federal shift differentials are substantially above prevailing industry differentials in many areas. The Administration's proposed legislation would eliminate the requirement to pay nationally uniform night shift differentials and would instead permit them to be based on the practice prevailing in each wage area.

WAGE SURVEY UNIVERSE

The final provision in the Administration's proposed legislation would permit expansion of the wage survey universe for Federal Wage System surveys. The present law restricts surveys to private industry. Under the Coordinated Federal Wage System, predecessor to the present system, State and local governments in some areas and the data were used in constructing wage schedules. In several areas, a State or local government employs significant numbers of blue-collar employees, and has a proportionate impact on the level of rates in the area. Exclusion of these large employers from local surveys contradicts the prevailing rate principle. Although we do not propose to survey them in every area, the administration's legislative proposal would provide much needed flexibility to use State and local government rates when warranted.

RELATIONSHIP BETWEEN FWS AND GS

In closing, I would like to briefly discuss the changing relationship between the Government's white-collar and blue-collar pay systems. Rates under the General Schedule are based on comparability with similar private sector jobs on a nationwide basis, as opposed to the Federal Wage System rates which are based on local comparability. In recent years, Federal Wage System pay has been rising faster than pay under the General Schedule. This has resulted in a changing relationship between the two pay systems. Whereas the Federal Wage System has been a traditional source of recruitment for some General Schedule jobs, blue-collar employees are no longer willing to move to the General Schedule jobs in many localities because the rates of pay are lower. In some areas, General Schedule supervisors are earning less than their Federal Wage System subordinates.

To a large extent, the changing relationship between the Government's white-collar and blue-collar pay systems reflects similar changes in the private sector. We also believe that the features of the current Federal Wage System law which I have discussed today distort the relationship by requiring us to pay rates to Federal blue-collar employees which are higher than those prevailing in local areas. Although we do not claim it will solve all of the problems, enactment of the Administration's legislative proposal to reform the Federal Wage System should ease some of the pressures.

Thank you again for the opportunity to address the subcommittee on the Administration's proposal to reform the Federal Wage System. We look forward to testifying at the hearings in Washington, D.C., on November 22. Mr. Lattanzi and I would be most happy at this time to answer any questions you may have.

THE ELDERLY'S NEED FOR HEARING AIDS, EYEGLASSES, AND DENTURES

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. GILMAN. Mr. Speaker, today I am introducing legislation providing for eyeglasses, hearing aids, and dentures to eligible medicare recipients. This bill is designed to assure that our Nation's elderly can obtain these medical appliances essential to their physical well-being, and crucial for providing that special sense of dignity of which our senior citizens are so rightfully deserving.

In testimony last year before the Subcommittee on Health and Long Term Care, chaired by our distinguished colleague from Florida, Mr. PEPPER, spokesmen from groups concerned with providing these medical devices to the elderly, described, in gripping terms, the extent of the present crisis facing many of our senior citizens who are without the means to purchase hearing aids, eyeglasses, or dentures.

Dr. Robert B. Lytle of the American Dental Association opined that:

If we are lucky, we will all grow old. But how frightening to grow old and not be able to see clearly, hear distinctly, or be able to eat properly because we cannot afford the necessary medical appliances to aid our failing faculties.

Mr. Nelson Cruikshank, president, National Council of Senior Citizens provided the following illustration of senior citizens faced with alternatives, each of which is fraught with devastating consequences:

They pay but not in dollars. They pay in the quality of life. Some cut down on food requirements. Some go without the proper type of shelter. Some cut off their social life. Many just do without (eyeglasses, hearing aids, and dentures) and fall back into more and more seclusion and live a restricted life because these appliances are not available to them as they should be.

The legislation I am proposing is a comprehensive package which would begin to fill the needs of the more than 22.4 million elderly Americans who are dependent on one or more medical appliances. To assure maximum success toward achieving this goal, the bill also enumerates procedures whereby: First, the elderly would be afforded greater protection from deceptive and fraudulent consumer practices; Second, more in depth information would be disseminated concerning medical appliance rates and specifications; and Third, the Secretary of Health, Education, and Welfare would submit a report to Congress analyzing the extent to which the cost of medical appliances could be reduced and the freedom of choice of consumers could be preserved.

So many of our elderly are confronted with the realization that the debilities concomitant with growing old—such as impaired hearing and vision, and chronic dental problems—could often be remedied if access to professional examination and the means to obtain prescribed medical appliances were provided them.

Currently, however, great numbers of our senior citizens, unable to obtain these services and what have become basic remedial medical devices, are often forced into abject dependence upon others. Involuntarily relinquishing a part of their independence and the potential of their productivity, the elderly are faced with continually declining health and unavoidable losses in self-esteem that result from these correctable physical impairments.

At that time in their lives when increased age often makes eyeglasses, hearing aids, or dentures—and attendant medical examinations—such an unquestionable necessity for the elderly, limited, fixed incomes all too frequently place these basic medical appliances out of their reach. Increased Federal assistance in this area is imperative if we are to assure that millions of older Americans can obtain those basic medical appliances so vital to their good health and general well-being.

Accordingly, I urge my colleagues to give consideration to the unmet needs of our Nation's senior citizens and to support this legislative remedy that I am proposing providing our elderly with the essential medical appliances so many of them are now unable to obtain.

At this point in the RECORD, I request the insertion of the full text of this legislation:

H.R. 9914

A bill to amend title XVIII of the Social Security Act to include dental care, eye care, and hearing aids among the items and services for which payment may be made under the supplementary medical insurance program, and to provide safeguards against consumer abuse in the provision of these items and services

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1861(s)(8) of the Social Security Act is amended—

(1) by striking out "(other than dental)"; and

(2) by striking out "including replacement of such devices" and inserting in lieu thereof "including dentures (or other devices replacing teeth or structures directly supporting teeth), eyeglasses, and hearing aids, and including replacement of any such devices".

(b) Section 1861(s) of such Act is further amended—

(1) by striking out "and" at the end of paragraph (8);

(2) by striking out the period at the end of paragraph (9) and inserting in lieu thereof a semicolon;

(3) by redesignating paragraphs (10) through (13) as paragraphs (13) through (16), respectively; and

(4) by inserting immediately after paragraph (9) the following new paragraphs:

"(10) eye examinations for the purpose of prescribing, fitting, or changing eyeglasses, and procedures performed (during the course of an eye examination) to determine the refractive state of the eyes;

"(11) examinations for hearing aids; and

"(12) services in connection with the care, treatment, filling, removal, or replacement of teeth or structures directly supporting teeth.".

(c) Section 1862(a)(7) of such Act is amended to read as follows:

"(7) where such expenses are for routine physical checkups and immunizations;".

(d) Section 1862(a) of such Act is further amended—

(1) by adding "and" after the semicolon at the end of paragraph (11); and

(2) by striking out paragraph (12) and redesignating paragraph (13) as paragraph (12).

(e) Section 1864(a) of such Act is amended by striking out "paragraphs (10) and (11)" and inserting in lieu thereof "paragraphs (13) and (14)".

(f) The amendments made by this section shall apply with respect to items and services furnished on and after the first day of the month following the month in which this Act is enacted.

SEC. 2. (a) The Congress finds that there is widespread abuse of consumers in the merchandising of hearing aids, eyeglasses, dentures, and similar health aids (hereinafter in this section referred to as "medical appliances"), particularly in the form of overpricing and in the sales promotion of unneeded items, and that the amendments made by the first section of this Act cannot be truly effective for their intended purpose without the enactment of adequate safeguards against these practices. It is the objective of this section to provide such safeguards.

(b) The Secretary of Health, Education, and Welfare should take more effective action to eliminate medical appliance expenditures under the medicare program which are unnecessary or excessive, including submitting a report to the Congress with respect to the extent to which costs of medical appliances could be reduced and the freedom of choice of consumers could be preserved.

(c) The Federal Trade Commission should provide for continued and increased scrutiny of the medical appliance industries in the interest of consumer protection, including—

(1) investigations of unreasonable charges in those industries, and other actions to eliminate any anticompetitive activities and antitrust violations which may exist; and

(2) actions to eliminate price advertising bans on medical appliances in the various States, in order to promote consumer access to information and restore competition in pricing.

THE FAILURE OF U.S. IMMIGRATION POLICY

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. SCHEUER. Mr. Speaker, last Saturday's New York Daily News printed a story illustrating the perversions of a bureaucracy out of control. The article told the story of a 10-year-old child desperately in need of a rare open-heart surgical procedure available only in the United States who was denied a visa by a consular official in Pakistan. This decision was made the same day that anywhere from 2,500 to 5,000 illegal aliens crossed the Mexican border into the United States.

Shakila Razak is a 10-year-old Pakistani girl dying because the valves to her heart are not functioning properly. She has been promised a free operation by the Deborah Heart and Lung Center in Browns Mills, N.J., and free air transportation by the Salvation Army and Pakistani International Airlines. The only roadblock barring Shakila Razak from living a normal life is a consular official's baffling finding that she might use the temporary visa as a way to obtain permanent residence in the United States.

Through a quirk of the McCarren Act of 1952 no one in the State Department here in the United States, and not even the President of the United States, could overrule this consular official's decision to deny a visa. It is simply inconceivable to me that the majesty and might of our Government are being directed toward keeping this child out of the United States while 1 to 2 million illegal immigrants cross our Mexican border each year.

Government leaders and demagogs in the developing world are going to have a field day when this news dispatch hits the world press. They will argue that despite our grandiose statements of concern for the problems of the developing world, when it comes to saving the life of a 10-year-old girl, we hide behind our concern for illegal immigration and deny her a visa. They will correctly point to the open sieve we call our Mexican border and demand to know our rationale for doing nothing about millions of illegal immigrants while we prevent the issuance of temporary visas for the medically needy.

If we in the House were to follow in Senator PROXMIRE's footsteps and establish an award known as the bureaucratic blunder of the month, this denial of a visa to Shakila Razak would have to be this month's landslide winner.

Printed below is a text of the Daily News story. I commend it to my colleagues' attention.

[From the New York Daily News, Oct. 29, 1977]

DENY VISA, CHILD'S CHANCE TO LIVE

(By Donald Singleton)

In Karachi, Pakistan, a 10-year-old girl named Shakila Razak is dying of a condition involving damaged valves in her heart.

The child's case came to the attention of the Deborah Heart and Lung Center in Brown Mills, N.J., which offered to perform without charge the open-heart operation that could make it possible for the girl to live a normal life.

The Salvation Army and Pakistan International Air Lines offered to provide free transportation to New York for Shakila and an accompanying adult.

Everything was set, until Shakila's parents went to the U.S. Consulate in Karachi and applied for a temporary visa for their daughter. A consular official denied the request, reportedly on the grounds that he feared the child would use the temporary visa as a way to obtain permanent residency in the United States.

Shakila's aunt, Joan Aziz, of 90–12 63d Ave., Rego Park, Queens, contacted Leon Wildes, a member of the Association of Immigration and Nationality Lawyers, and asked him to help in the case—Wildes was John Lennon's lawyer in recent deportation litigation, and Mrs. Aziz figured he would be the man to help Shakila.

Wildes agreed to do it for free.

"I checked with Dr. Jay Eldridge, chief of pediatric cardiology at the Deborah hospital, and he told me that any delay in treatment could have tragic results," Wilde asid.

From his investigation, Wilde could find no reason to justify the rejection of Shakila's visa application. It would have been an easy case to plan, except for one fact—through a quirk of the McCarren Act of 1952, no one, not even the President of the United States, can overrule a visa rejection by a consular official.

Wilde presented his case to the State Department last week, and officials in Washington cabled the consulate in Karachi, requesting a review of Shakila's case.

"The review was to have been made on Tuesday," Seton Stapleton, deputy chief, said yesterday. "We have heard from the child's family that the visa was denied again. But we still haven't received any official word on it—we're expecting the cable momentarily."

"It would be tragic if this child does not receive the operation she needs," said Wilde. "In the name of humanity, I hope that man in Pakistan changes his mind before it is too late."

PROSPECTS FOR WESTERN EUROPE

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following column by my constituent Gen. Henry Huglin. General Huglin is a retired Air Force brigadier general and syndicated columnist. He comments on the future of Western Europe and the NATO Alliance:

PROSPECTS FOR WESTERN EUROPE

(By Henry Huglin)

On returning from a six-week, five-country trip in Europe, a friend asked, "Is Europe going down the drain?" He meant, of course, is it going to go Communist.

I readily answered, "no, it is not," because there really seems to be little prospect that any of the nations of western Europe will, by choice of their people, go Communist in the foreseeable future.

But, in the long term, whether the western European nations might be subverted, overrun, or coerced into the Soviets' orbit, as were the countries of eastern Europe, depends, as it has for a generation, on how effectively we continue to play our superpower role to counterbalance the Soviets. In this, we need to do better.

* * * * *

Most western European nations do have many troubles. Some of them—as in Italy and Portugal—are very serious.

Their troubles stem from a number of causes. One is too much welfare-statism. Others are over-socialization and too-high income taxation, which have greatly eroded incentives for hard work and entrepreneur-

ship, on which dynamic economies are built and sustained. Another is the quadrupled price of imported oil that has been a crippling economic blow to most of the nations. And then there are residual class systems which perpetuate feelings of "them against us" between management and labor, rich and poor, privileged and deprived, far more than in our country.

The effects of these and other causes of malaise vary, of course, from country to country, as do the ways in which governments are trying to cope with them.

Yet, for all the troubles and pundits dire speculations, it is remarkable how, through democratic processes, the problems are being faced up to and dealt with—often not conclusively, but at least tolerably for the majority of the people.

As examples: Italy, which a year ago seemed to be in hopeless shape, now is somewhat on the rebound. Portugal has clearly rejected a strong Communist bid for power and is struggling hard to cope with her grave economic conditions. Spain is making a remarkable transition from 40 years of dictatorial rule to democracy.

France, which not long ago seemed destined to vote into power next spring a coalition of the Socialist and Communist parties, now is not likely to do so, as those parties are quarreling and breaking up their fragile and unsound alliance.

And Britain, which has systemic troubles, has a reprieve, through the North Sea oil bonanza, from the crunch she should have been facing up to. This reprieve may give the British a decade or so to make the really major economic and social adjustments their society needs to rejuvenate itself.

* * * * *

Sensational headlines about hijackings and other terrorism, rise of Eurocommunism, strikes, unrest, etc. create a distorted impression.

Mostly ignored, as a major factor for hope for peaceful, beneficial evolution, is the functioning democratic process in all of the western European nations.

Another factor is the prodding and catalytic role the European Community plays. The influence this supranational institution has on the economies and, in turn, on the politics and policies of its nine member states—and on Greece, Portugal, and Spain who want to join—is highly important and beneficial.

* * * * *

In addition to their own efforts, what the western Europeans clearly need is continued reassurance of the stability provided by our military strength and will—linked to Europe through NATO and our troops being stationed there.

NATO's success for 28 years, backed by our strategic military superiority over the Soviets, has provided the air of confidence under which the western European nations have rebuilt from the devastation of World War II and prospered.

But threat of attack or of coercion by the Soviets is mounting, with their startingly strong arms buildup in eastern Europe. This buildup is now causing increasing concern in western Europe, in great part because our country's response has been equivocal—due to our trauma over Vietnam, much head-in-the-sand wishful thinking, and the soporific effects of an illusory detente.

And the western Europeans simply do not have the capability to counter the Soviets without our leadership, continued strong military capability, and diplomatic dynamism.

The Carter Administration's direction so far has not helped the situation much. Some of the rhetoric has been reassuring. But some of the actions—such as the cancellation of the B–1 bomber with no comparable Soviet cutback—are signalling to the Europeans, and the Soviets, continued equivocation and potential lack of will.

So, if good leadership will keep rising in the western European nations to cope with their internal problems and challenges, and if we will again play our unavoidable superpower leadership role effectively—which are big ifs—the western European nations will remain democratic, economically viable, and invaluable geopolitical partners of ours.

THE PRESIDENT'S BROKEN PROMISE

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. FRENZEL. Mr. Speaker, today our colleague, JOHN RHODES made the following statement before the Senate Committee on Rules and Administration concerning the nomination of Sam Zagoria to the FEC. I invite the attention of all Members to his remarks.

He, like myself, is not critical of Mr. Zagoria, but he correctly points out that a promise has been broken and the Federal Election Commission will be unbalanced if he is confirmed.

TESTIMONY OF THE HONORABLE JOHN RHODES

Thank you, Mr. Chairman, for the opportunity to testify before this Committee on the nomination of Mr. Sam Zagoria to be a member of the Federal Election Commission. I have requested this time because I believe this nomination, and the selection process which led to it, carry the gravest implications for the future integrity and viability of our political and electoral system, and for the health of our two party system.

My concerns have less to do with Mr. Zagoria than with the process by which this nomination was arrived at and sent to the Senate. Let me say that my testimony in no way should be construed as a personal attack on Sam Zagoria. I have met him and he appears to be a very able gentleman.

However, I wish to draw to the attention of this Committee two very important factors which I believe bear heavily upon this nomination, or for that matter, any nomination to the Federal Election Commission.

First, I believe this nomination fails to take into consideration the very clear Congressional intent as to the bi-partisan nature of the F.E.C., and the importance of it having a truly bi-partisan membership.

Second, the manner in which this nomination was arrived at violates an agreement reached by the Senate Minority Leader and myself with the President on February 23, concerning the very position this nomination is to fill.

The Commission, as you know, was created originally under the provisions of the Federal Election Campaign Act of 1974 to enforce the new regulations governing campaign contributions and expenditures that were established by the Act.

In recognition of the very critical and sensitive role the new FEC would play in the electoral process—its ability to affect the outcome of a campaign through its powers to investigate complaints and issue rulings and opinions—the language pertaining to the Commission was very explicit as to the manner in which its members should be chosen.

The question of campaign financing was the subject of extended discussion throughout the Nation and here in the Congress. As I recall, the Senate devoted nearly three weeks, from March 21 to April 11, to consideration of S. 3044, the bill reported out by this Committee. There were numerous amendments introduced to change various aspects of contributions and expenditures.

But, and I consider this very significant, nowhere in any of the pages of the Record do I find any amendments that differ as to the makeup and selection process for the Commission. Even Senators Clark and Dole, who introduced widely differing and comprehensive amendments, used virtually identical language in the sections of their respective measures concerning the selection and makeup of the commission.

That language, as well as the language in S. 3044, said that the Commission should include two members to be named by the President Pro Tempore of the Senate, upon the recommendation of the Senate Majority Leader and the Senate Minority Leader, and two members to be named by the Speaker of the House, upon the recommendation of the House Majority Leader and the House Minority Leader.

In all of the thousands of words of debate on S. 3044, I have been unable to find a single question raised as to the bi-partisan nature, and the bi-partisan selection process for the members of the Commission. In other words, it was so obvious to all that both the Majority and the Minority should participate in selecting the members of this highly sensitive Commission that it required no discussion. It went without saying.

After President Ford signed the bill into law, he appointed the Commission members upon the recommendations made pursuant to the legislative requirements. However, as we all know, the Supreme Court later ruled that the selection process violated the Constitutional doctrine of separation of powers. The legislative result was to make the President solely responsible for nominating the Commission members, subject to the advice and consent of the Senate, and with the requirement that no more than three of the six members could be affiliated with the same party. I should note here that to further buttress the importance Congress attached to the bi-partisan nature of the Commission, it required that the chairman and vice-chairman could not be affiliated with the same party.

The debates in 1976 on the legislation to reconstitute the FEC in conformance with the Supreme Court ruling also took virtually for granted the bipartisan question. To the extent it was addressed, it was to reinforce the need for fairness and for strict compliance with the intent of Congress. For example, House Majority Whip John Brademas, in addressing the House on March 30, 1976, said in part, and I quote:

"It needs hardly to be emphasized that the election process is the keystone of the American democracy. It is, therefore, imperative that the laws governing our elections be administered and enforced with unquestionable fairness and in strict compliance with the intent of Congress."

Even though President Ford was left with virtually a free hand in nominating the Commission members, he nevertheless honored the clear intent of the Congress to have the Majority and Minority Leaders participate in the selection process by simply reappointing the previously recommended members.

When Senator Baker and I met with the President last February 23, it was principally for the purpose of discussing the Republican vacancy on the Commission that would fall due on April 30th. We discussed the critical and sensitive role of this Commission, which would have virtual power of life and death over candidates for federal office. We described the selection process developed by the Congress.

We noted that President Ford had honored the intent of Congress by accepting—even after the Supreme Court ruling—the recommendations of the Majority Leaders of the House and Senate as to Democratic members of the Commission. We requested of the President that he afford the Minority Leaders the same courtesy of accepting our recommendations to this very important position.

The meeting ended with an agreement that Senator Baker and I would submit jointly a list of names to the President and that the nominee to fill the Republican vacancy would be selected from that list. On March 23, we forwarded to the President a list containing the names of two individuals we considered to be the best qualified for the position in terms of their experience in the law and their understanding of the responsibilities to be discharged by this Commission.

On May 20, the President responded with a request for an additional ten or more names and appended a set of criteria which had not been part of the February 23 discussion or agreement. The pertinent paragraph from that letter, which I request be made a part of this hearing record, reads as follows:

"I also expect that all of my nominees to the FEC will be generally sympathetic to the aims of the FEC and the concepts which it is charged with administering, particularly financial disclosure and report requirements and public financing."

The President was now demanding a Republican nominee who was sympathetic to public financing of federal elections. Apart from the fact that there are serious divisions on this question, not only among Republicans, but among Democrats too, I also submit that this criterion is irrelevant to the present mandate of the Commission. The question of public financing remains very much an unresolved public issue.

On June 7, Senator Baker and I responded in a letter which I also would like to make a part of this hearing record. In our letter we noted that the President appeared to be placing additional conditions on the nomination beyond those which we understood had been agreed to at the February 23 meeting

As we wrote to the President, "Our agreement, we believe in its entirety, was that because of the unique special partisan role to be played by the Republican member of the Election Commission, that the Minority Leaders of the House and Senate would submit such nominations for your special consideration. There were no conditions."

We urged the President to give further consideration to the recommendations we had previously made. However, when it became apparent that the President would not entertain those recommendations—neither individual was even interviewed by the White House—I later submitted a third name for consideration. I should note here that Sam Zagoria was not among the three individuals whose names were submitted.

On June 17, the White House acknowledged receipt of our letter of June 7. That acknowledgement included an assurance that Senator Baker and I would be notified when the matter was discussed. That acknowledgement was the last communication we received from the White House on the nomination of a Republican member to the Federal Election Commission.

After an agreement with the President that the Republican member would be selected from a list of candidates submitted by Senator Baker and I, and after being assured that we would be notified when the matter was discussed, we learned of the nomination of Sam Zagoria by reading it in the Washington Star of October 19.

I cannot speak for Senator Baker, but I certainly was never officially informed that Mr. Zagoria was being considered for this position. I have no idea where, or with whom, his nomination originated. I presume that he is a registered Republican and I understand that he served for a time as an aide to Senator Case. But, I am not aware that he has ever been an active participant in the Republican party, although he may have worked for individual Republicans.

I am not here to question the sincerity or the integrity of Sam Zagoria. However, I see nothing in his record that indicates the familiarity with federal campaign law that is so essential, both to a proper discharge of the Commission's responsibilities, and to the adequate protection of the interests of Republican candidates and campaign workers who will be affected by the Commission's rulings.

The Democratic members of this Commission should be hard-working, card-carrying, dedicated members of the Democratic Party. And, I expect that Jimmy Carter will, in his nominations to fill Democratic vacancies, ensure that they are. However, the Republican party is entitled to receive no less dedication from the members who are designated to represent the interests of its candidates.

Both the Senate and the House recognized the importance of this matter by clearly spelling out a selection process that included participation by the Majority and Minority Leaders of both bodies. The Supreme Court ruling in no way invalidates the intent of Congress that this Commission be truly bipartisan in its makeup, and in the outlook of its members.

As matters now stand, however, we are confronted with the prospect of having the President, who is the leader of the Majority Party, make the determination of who shall be a very important spokesman and advocate for the Minority Party. It belies all concepts of fair play.

Considering that President Carter will be sending up yet another nomination to fill a Republican vacancy in 1979, today's nomination, if permitted to stand, also will establish a precedent with very serious implications for the future of our two party system.

Unless steps are taken to persuade the President to reconsider this nomination, we will be witnessing the flouting of very clear intent on the part of the Senate and the House, and the first steps towards the improper politicization of this Commission. This would be a long step toward the imposition of one-party rule in this country.

AN INTENSIFIED CAMPAIGN FOR MORE JAZZ ON TV AND RADIO

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. CLAY. Mr. Speaker, as cochairman with my colleague LOUIS STOKES, Democrat of Ohio, of the Congressional Black Caucus Communications Subcommittee, I am appalled by the lack of attention paid to minority viewers, by commercial television.

Television has greater influence upon our Nation than perhaps any other communications form—including our schools. Young children are weaned on the "boob tube" rather than on their mother's breasts.

Yet, I can think of no minority role model, currently on the commercial networks, that we would want our children to emulate. I can think of no program, currently on the commercial networks, that describes, with any degree of accuracy, either the heritage of the societal contributions of any minority group.

An example of this gross programming vacuum, is in the only solely American art form—jazz. On no commercial network can one find a television series devoted either wholly or primarily to jazz. Are we not proud of the only art form that was created by Americans? Do we not believe that our television audience is interested enough in jazz for it to take a place in our weekly viewing?

Since June of this year, I have been working closely with Berkeley musician Joel Dorham, in attempting to remedy this lamentable situation. The following article, from the Oakland newspaper, World, well describes our efforts in this endeavor. I commend it to you for your attention.

AN INTENSIFIED CAMPAIGN FOR MORE JAZZ ON TV AND RADIO

When Trumpeter Kenney Dorham, one of the bop pioneers, died almost five years ago, his younger brother, Berkeley musician Joel Dorham, was shocked by the virtual absence of notice in the press of Kenny's death, and intensified a campaign to get jazz more exposure where it seems to count the most: On radio and television.

He began writing letters to the networks, the newspapers, Harry Reasoner and Walter Cronkite and, eventually, to the Federal Communications Commission, only to find, he says, a Catch-22 run-around. "The networks tell you, 'If you don't like what we're doing, file a complaint with the FCC. The FCC tells you it can't regulate program content, it only grants licenses, and you have to take your complaints to the networks."

Early this year, not coincidentally following the immense popularity of the ABC–TV documentary, "Roots," Dorham decided to try another tack. Forming an ad hoc committee including Freddie Hubbard, John Handy, Jackie McLean and Nancy Wilson, he sent a letter under all their names to the Congressional Black Caucus in Washington, D.C., with copies to presidents of the three major networks. The letter noted "there has never been a regular scheduled jazz program on commercial television" and observed "there are from 35 to 50 million blacks who are inheritants of jazz" and "a large American population in addition to black Americans that are also being deprived of this cultural experience."

It called the FCC's hands-off policy on program content "unacceptable," stated that "Congress can show leadership by using its power to regulate interstate commerce" to influence national network programming and requested that the caucus "initiate hearings or pass legislation that would require all the television networks to air programs, such as jazz, that would reflect the makeup of the national population."

Naturally, Dorham, heard nothing from the networks right away, but in June, Representative William Clay of Missouri, cochairman of the black caucus's subcommittee on communications, issued official letters to the three network heads, enclosing a copy of Dorham's letter and urging "prompt and favorable consideration of increasing the diversity within your network's programming in order to reflect more of the black American heritage."

Over the summer, support for the goals of Dorham's committee came from various sources.

Gradually, replies from the three networks arrived back at the Congressional Black Caucus's Washington office. Rather predictably, they pointed to their respective records of accomplishment in "ethnic" programming in general—ABC's "What's Happening" and "Redd Fox Show"—and sporadic excursions into jazz programming in particular (CBS cited its Newport Festival highlights, NBC referred to B. B. King); as far as general policy was concerned, all more or less echoed the point stated by ABC President Elton H. Rule, that the appeal of straight jazz programming would be "too limited and specialized to justify a regular network exposure. We have come to the same conclusion about a number of other art forms such as ballet, opera and even certain styles of rock music."

CBS additionally pointed to the "long history of involvement in black music" on the part of CBS Records, and emphasized—"To allow one individual or group to override public tastes and impose their own wishes on the majority of people could hardly be considered in the public interest."

In response to these replies, Rep. Clay—interviewed by phone from Washington last week—promised that "there will be a follow-up. When the black Caucus meets here (this weekend) there's going to be a workshop on communications and we'll try to devise a strategy. It all showed that they (the network spokesmen) don't even understand what jazz is."

These happenings are set forth here in some detail because they raise a number of issues which, as all too often occurs when a situation becomes politicized, it seems to me, are being far too glibly expressed or passed over. Especially so soon after Watergate, I find it frightening that anyone, with whatever good intentions, should purpose governmental intervention in regulating the content of any of the media.

The stylized choreography of pressure-group politics has become a weary way of attempting to manipulate public opinion and policy. Even in terms of its own goals, by formulating its objectives within the framework of "black music" and ethnic representation, the committee may end up simply getting more Redd Foxx hours and perhaps a Marvin Gaye show where the real need is for greater exposure to every kind of serious art on network television and/or radio.

Last, but not of least importance, is the tendency on the part of so many people in the music business to think of the entire matter in terms of P.R.—with its attendant inclination to think in terms of quantity over quality. TV has a propensity to kill most of what it touches with over-saturation—take the money and run—and it would accomplish little if jazz and other art forms were to be converted into simply more grist for the commercial mill.

Yet who can deny that TV has been grossly negligent in giving exposure to the most vital expressions of American culture—ironically, the visual arts have been neglected perhaps even more conspicuously than others? They talk about the wishes of "the majority," but one of the tests of a democratic government is the manner in which the rights of minorities are respected, most of us have tended to sit back far too long and let the country's minority groups of various kinds do most of the fighting for the freedoms all of us enjoy.

I'm not sure what the moral to this is, unless it is write a letter to the networks, and otherwise make your feelings known. Meanwhile, a highly promising new series of weekly radio broadcasts—"Jazz Alive"—is beginning October 7 on the one network that the public does have some control over, National Public Radio. Produced by Tim Owens, with help from Michael Cuscuna and Billy Taylor, the series begins with a show featuring Ella Fitzgerald (joined in a duet with Stevie Wonder) and will continue each week (at 10 p.m. Fridays on KQED–FM).—Thomas Albright.

MEXICAN TERRORISTS USING THE UNITED STATES AS A HAVEN

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. McDONALD. Mr. Speaker, the 23d of September Communist League—Liga Comunista 23 de Septiembre (LC–23)—a Mexican terrorist organization with a 4-year record for bloodthirsty slaughter unequalled by any other Mexican Marxist group, has turned up operating in the Southwestern United States. Following the abortive attempt to kidnap the sister of the President of Mexico last summer, the LC–23 has been under considerable pressure from Mexican security forces. In light of the virtual destruction of the U.S. Federal and local law enforcement intelligence agencies, the LC–23 clearly has decided that it is "safe" to organize a refuge and logistical base in the United States from which to mount operations.

The LC–23 has been visibly active in organizing among Mexican citizens in cities along the U.S. border such as Juarez. There the LC–23 has been particularly active in supporting illegal entry into the United States, and has organized large concerted "border invasions" by gangs of illegal immigrants. LC–23's "political work" has ranged from leafletting in the barrios through a raid on a Juarez electronics plant in which a young engineer was deliberately shot down as an "example" to the workers who were then subjected to a long Marxist harrangue by the terrorists.

In August the LC–23 again demonstrated its actual contempt for the working people of Mexico by shooting two workers outside a factory when they refused to take copies of an LC–23 publication.

Now the 23d of September Communist League has surfaced among Trotskyite Fourth International circles in southern California and Texas. The U.S. official section of the Fourth International, the Socialist Workers Party (SWP) which has claimed in lawsuits against the U.S. Government not to support terrorism, is now mounting a defense campaign for a Mexican national apprehended attempting to illegally enter the United States and who is wanted by the Mexican authorities for terrorist acts he committed as a member of the LC–23.

The details of this new development in international terrorism are contained in the following article from the Information Digest, a biweekly newsletter that for the past 10 years has taken the lead in reporting on terrorist movements affecting the United States.

The article follows:

MEXICAN TERRORISTS EXPAND TO U.S. BASES

Mexico's most active and notorious revolutionary terrorist organization, the Liga Comunista 23 Septiembre (LC–23) [23rd of September Communist League] appears to have moved some of its operations to the U.S. Southwest, apparently finding the U.S. political climate more conducive to its clandestine armed struggle.

The LC–23 was formed in 1973 as an amalgam of several earlier student and New Left revolutionary groups of Trotskyite, Maoist and Castroite/Guevarist ideologies. By concentrating on terrorist "military activity" in order to provide a "focus for popular dissent" in the building of the mass revolutionary workers movement, the LC–23 has been able to hold together these diverse ideological strains.

In 1976, Mexican authorities estimated the LC–23 had some 600 members, armed militants and members of the logistical support apparatus, in some half dozen Mexican cities. In the first half of last year, the LC–23 had killed over 100 Mexican police officers in ambushes and shootouts, not counting civilians and soldiers also killed. Typical LC–23 operations have included the machinegunning of police officers standing at morning roll call outside their stations, machinegunning coffeeshops and restaurants frequented by police and other civil servants, bank robberies or "expropriations" in which the tellers and customers were mowed down to eliminate witnesses, the attempted kidnapping of the sister of Mexican President Portillo during the 1976 election campaign, the December 1976 raid on a small electronics plant in the Juarez industrial park one mile from the U.S. border in which a young plant engineer was shot to death as an "example," and the mid-September wave of coordinated bombings in Mexico to disrupt national holiday celebrations.

The LC–23's antecedents are believed to include a "Maoist" splinter group from the Communist Party of Mexico (PCM) which tried to trigger a national uprising with a 1967 attack on a Chihuahua army post on that date in 1967, a "Trotskyite" group active in 1968 called the 23rd of September Movement, and the Revolutionary Student Committee (CER). Mexican authorities have charged that there are ties between the LC–23 and the Partido Revolucionario de los Trabajadores (PRT)—Revolutionary Workers Party—the Mexican section of the Fourth International (FI), the Brussels based principal international coordinating body for Trotskyist communist parties.

Formed earlier this year as the result of mergers of several Trotskyist parties sympathizing with the Fourth International, the PRT reflects the healing of a factional quarrel within the FI as to whether mass political organizing or terroristic "armed struggle" should have priority. As outlined in confidential FI documents made available via the Socialist Workers Party (SWP), the U.S. section of the Fourth International, the compromise solution is that both types of activities will be carried out in a "disciplined" manner with the "party-building" advocates like the SWP performing increased logistical support work for the terrorist "armed struggle" cadres.

The LC–23's training manual, dated 1977 and entitled "Algunas Experiencias sobre Tactica y Technica Militar"—Some Experiences about Military Tactics and Techniques—is currently being circulated among Trotskyist circles in the Los Angeles area.

Produced in the form of notes on the theory of revolutionary "armed struggle," the bulk of the manual concerns directions for firing a variety of rifles and handguns,

for reconnoitering targets for attacks, establishment of communications networks, making a "meet," and other "technical" matters. The manual, signed by the Red Brigade of the LC–23, is dedicated to four of the group's fallen comrades. The manual is offered "to the proletariat in general and revolutionary comrades in particular" in the expectation that increased proficiency in carrying out "political-military duties" will lead to the "overthrow of bourgeois domination and the consolidation of the revolutionary dictatorship of the proletariat."

An 8-page Prologue follows in a highly rhetorical vein citing Lenin and earlier LC–23 documents on the need to carry out political struggle among the workers as well as to engage in acts of terroristic "armed struggle." There is considerable information on the LC–23 Red Brigade's internal struggle against "pretty bourgeous charlatan opportunism" of those who prefer the political organizing to becoming personally involved in terrorist violence.

The Prologue cites the LC–23's "Forms of Struggle" document on the need to develop bases of "tactical and strategic support" as well as a repertory of "military operations" that range from "crashing a roadblock through the kidnapping of police officials to combat." The "military" tasks the terrorists are to learn specifically include the "liquidation" of any government official or person aiding the government such as "agents, informers, etc." in order to disrupt the operations of the internal security forces against the organization. Other "military" tasks specified are "liberating captured revolutionaries" and "expropriation" of money, arms and equipment needed by the organization.

The Prologue commentaries on the internal "struggle against opportunism" in the LC–23 are of interest in that they parallel a major factional dispute in one of the Fourth International groups in Mexico which merged into the PRT on August 28, 1977, the former Liga Socialista (LS). LC–23's Brigada Roja described the "signs of opportunism" as including "almost no military activity that clearly aids the mass struggle;" insufficient "expropriations" of weapons; a very limited development of the program of assassinations of officials (almost none, according to the Red Brigade, in recent months); and over concentration with logistics and finances which even so was not enough to really develop the armed struggle. The LC–23 Red Brigade bluntly characterized their opposition's concentration on study groups and training seminars in street terminology as "bastante 'jodidos.'"

The manual then gets down to basic firing positions, target practice, tactics for brief skirmishes, the use of light machineguns and related basic military techniques.

The LC–23 manual includes a "basic bibliography for the development of the military agenda" which lists twenty works by Lenin, fourteen articles and essays by Mao, General Vo Nguyen Giap's chapters on the conduct of "people's war," Engels, Von Clausewitz and Che Guevara.

A large delegation of Mexican Trotskyists from the PRT and LS attended the Socialist Workers Party national convention in August. Following the convention the SWP has greatly expanded its concentration on working with U.S. Mexican-American radical groups and with the PRT of Mexico.

At its August 25–28 convention in Mexico City attended by some 700 persons, the PRT voted to endorse and participate in the National Chicano/Latino Conference on U.S. Immigration and Public Policy being held in San Antonio, TX, October 28–30, 1977. The conference call was issued by Havana-traveling La Raza Unida Party leader Jose Angel Gutierrez. A PRT spokesman appeared in a support rally for the San Antonio conference held on October 15 at the Arizona State University campus in Tempe. SWP National Committee member Peter Camejo also spoke. Peruvian Trotskyist and terrorist leader Hugo Blanco currently touring the U.S. is also slated to attend the conference.

Early in October, the SWP commended a major campaign to prevent the exclusion of Hector Marroquin Manriquez, 24, taken into custody by the U.S. Border Patrol as he tried to enter the United States at Eagle Pass, TX. Marroquin's public record of association with violence-oriented revolutionaries commences in January 1972, when his roommate at Monterrey's Nuevo Leon Autonomous University was killed in a shootout with police attempting to arrest him on charges relating to a series of bank robberies. In March 1973, Marroquin became a founding member of the Comite Estudiantil Revolucionario—Revolutionary Student Committee—which following the suspension and expulsion of its leaders after campus disturbances moved to advocacy of "armed struggle" and became a founding member of the LC–23.

In January 1974, following the murder of a university librarian by terrorists in Monterrey, Marroquin's photo appeared in a Monterrey newspaper naming him as one of the suspects wanted by the police. Mexican authorities claim they wounded Marroquin during a shootout in June 1974, but that he escaped. He is also wanted for participation in an LC–23 attack on a Monterrey business in August 1974, and his photo was again published among the "wanted" terrorists in a Monterrey newspaper. Marroquin states he entered the U.S. (illegally) in April 1974, and was thus not involved with the LC–23. He is described as having been active in the anti-deportation movement. He was detained after he had voluntarily returned to Mexico in September "to consult a lawyer."

He is serving a three month illegal entry sentence in Maverick County Jail in Eagle Pass. The SWP and its front group, the U.S. Committee for Justice to Latin American Political Prisoners (USLA) are organizing an appeal campaign to gain political refugee status for Marroquin and forestall his reutrn to Mexican authorities.

THE CARTER ADMINISTRATION'S SALT PROPOSALS—AN ANALYSIS AND ATTEMPTS TO SUPPRESS INDEPENDENT AND CRITICAL ASSESSMENTS

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. SYMMS. Mr. Speaker, our colleague the Honorable ROBIN BEARD of Tennessee, a member of the House Armed Services Committee and chairman of the House Republican Task Force on National Defense, of which I am a member, revealed today that the Carter administration is attempting to suppress independent and critical assessments of the administration's SALT II proposals, currently in the final negotiating stages.

Congressman BEARD has just made public an administration memorandum, signed by David Aaron, Deputy Assistant to the President for National Security Affairs, and sent to the Deputy Secretary of State, Deputy Secretary of Defense, Director of Arms Control and Disarmament, the Chairman of the Joint Chiefs of Staff and the Director of the CIA.

The Aaron memorandum stated:

In order to assure that data and analyses provided to the Congress on strategic forces and programs of both the U.S. and the Soviet Union are consistent and represent the best judgment of the Executive Branch, all responses to requests from the Congress for such material should be cleared through the SALT Working Group.

Beard charged the Aaron memorandum was an attempt to stifle independent and objective assessments of the Carter Administration's SALT II proposal and prevent Congress from gaining access to any dissenting viewpoints.

Beard said a central requirement for Congressional approval of a SALT II treaty is an agreement which would diminish the growing Soviet first strike against the silo-based U.S. ICBM.

However, he said, neither the Administration's comprehensive March SALT proposal nor the presently negotiated terms of the proposed SALT II treaty would be able to "freeze" ICBM technology.

The Soviet ICBM systems, because of their accuracy and yield of their warheads, are on the verge of gaining the ability to neutralize the U.S. Minuteman force in a surprise attack, Beard said.

Present Soviet ICBM systems (the SS–17, 18 and 19) inherently are effective silo killers. The accuracy improvement programs for these systems are of such a nature that they can be accomplished with sufficient confidence in ways that could not be verifiably restricted through SALT, he said.

Beard charged the Administration efforts to suppress internal dissenting opinions "only served to illustrate the Administration's lack of confidence in its own SALT II negotiated treaty" which, he predicted, will be submitted to the Senate soon for ratification.

He also claimed the Administration would like to kill the MX program and "only strong Congressional support for the program is keeping it alive."

The MX program is of critical importance and offers the United States the only meaningful way to maintain a survivable land-based ICBM and redress the growing Soviet strategic threat, he said.

Mr. Speaker, Congressman BEARD delivered a very detailed and indepth analysis of the Carter SALT proposals before the American Security Council. I would like to commend Congressman BEARD's analysis to our colleagues in Congress and to the American people in the hope that they will insist that President Carter take a much stronger position in the SALT negotiations.

Today, I will include in my remarks the first part of the Beard analysis which discusses the preliminaries and background of the SALT negotiations. Tomorrow I will discuss Congressman BEARD's analysis in detail of the new Carter SALT proposals.

The analysis follows:

NATIONAL SECURITY POLICY UNDER THE CARTER ADMINISTRATION

The President's recommendation to cancel the B–1 bomber production and terminate the Minuteman III ICBM production line—without retaining those elements of the line which would be used to modernize the Minuteman II force, the publicity surrounding tne Administration's resultant ongoing review of U.S. strategic policy, and the recently publicly revealed terms of the proposed SALT agreement have been some of the issues of particular concern. The Chairman of the House Armed Services Committee took the unprecedented step of arranging for the

Members of the Committee to visit the Strategic Air Command. That visit focused on a review of the SIOP[1] and the adequacy of present and projected U.S. strategic forces to meet prescribed policy requirements and objectives. Additionally, under the Chairman's directive, the Committee began a major review of U.S. strategic requirements and capabilities. We expect to conclude these hearings prior to the submission of the FY 1979 defense budget and, therewith, will define the major issues which the House Armed Services Committee will consider in FY 1979.

One result of these hearings was the introduction of an amendment by the Chairman of the Committee to the President's FY 1978 supplemental budget request for $60 million, under the heading of "ICBM Initiatives".

That the Chairman of the Committee would take the initiative to personally offer the amendment is significant. The amendment had a twofold interrelated purpose.

A primary U.S. effort at SALT has been to deny the Soviets the capability to destroy a large portion of the U.S. silo-based ICBM force in the next decade. Yet no matter how laudatory this objective is, we have found no responsible person of technical background who believes our SALT proposals would accomplish this objective. On the contrary, we were greatly concerned that our technical community was not having adequate impact on U.S. SALT proposals, and the amendment was designed to ameliorate this problem. For this reason, a part of the $60 million authorization was proposed for ABRES,[2] a triservice R & D program. It is the feeling of a majority of the Committee that ABRES, which represents a significant portion of U.S. investment and expertise on advanced ICBMs, could meaningfully contribute to the U.S. SALT negotiation position. Additionally, the Committee felt that increased funding in advanced ICBM technology would reduce the risk associated with the proposed fiscal year 1979 full scale development of the MX missile. The mobile MX ICBM, or more accurately, the multiple aim point system, offers the United States the present most realistic way to assure a survivable land-based ICBM system against the existing and projected Soviet threat.

Since the American Security Council has distributed to you today an article in which I broadly outline an alternate view to the Carter Administration's strategic and arms control policy, I will confine my present remarks to the issues surrounding what appears to be an imminent SALT–II treaty.

In this context, I would like to express my hope that the Carter Administration would not circumvent the intent of Section 33 of the Arms Control and Disarmament Act which provides the right of both Houses of Congress, through affirmative legislation, to act on arms control and disarmament policy. While the responsibility of treaty ratification rests with the Senate, Executive arms control-related agreements fall under the purview of both Houses of Congress. Given the importance of arms control and disarmament policy, and the responsibility of the House, not only the Senate to provide for an adequate U.S. national defense posture, it would, in my view, be shortsighted in the extreme if the Carter Administration attempts to deny the House the opportunity to consider the SALT-II agreement. The House did consider SALT-I because of the nature of the accompanying agreements with the Treaty, and it is already clear that the SALT-II Treaty will be accompanied by Protocol and an Agreement of Principles.

[1] The SIOP is the Single Intergrated Operational Plan for the employment of U.S. strategic forces.

[2] ABRES is the acronym for Advanced Ballistic Reentry Systems.

SALT-I

As you well know, SALT-I, as it dealt with offensive strategic forces, was an interim agreement of five years duration. The Soviets were permitted a numerical superiority because of the so-called U.S. technological edge. The perceived imbalance of the terms of the agreement in Soviet favor resulted in the U.S. Senate ratifying the Treaty only after adopting an amendment offered by Senator Jackson, which provided that the United States would not be limited to inferiority in any future agreement. The adoption of this amendment insured approval of the treaty, but it also illustrated that Congress expected any future, more permanent SALT treaty to provide strategic equivalence between the United States and the Soviet Union.

I emphasize this point because a major Administration argument in support of SALT-I and the Vladivostok Accord was that it was necessary to put a so-called "cap" on the arms race to restrain Soviet strategic developments. If we could first formalize some broad agreement, then, the Administration argued, we could move towards a more lasting and equitable agreement.

The Soviet military force development and deployment program since that time has accurately been described as staggering in its intensity and scope, as unprecedented in history.

U.S. SALT OBJECTIVES

The lesson from this experience should be clear. No SALT agreement can or will rectify existing strategic imbalances. The United States must secure those forces it believes necessary for its own security, as the Soviets are doing. Through SALT we may attempt to codify some strategic force structure, but we cannot expect the Soviets to show any restraint in weapons' development, and if we are to maintain any technological edge we might have—to counter the sheer mass of Soviet forces—we must pursue an active and intensive R & D program of our own.

I make this point because Secretary of Defense Harold Brown recently took the opportunity to make public a fact that has been well known for at least a year, and that is that the Soviets have yet a new generation of ICBMs under development. Why would he make this publicly known now—not, I hope, to support a SALT-II treaty that the Congress might consider inequitable, and using the rationale of another Administration, that the agreement is necessary to restrain the Soviet strategic force development. We swallowed that argument once before; we cannot afford to swallow it again.

NEW SOVIET ICBMS

Why the Soviets would be developing yet another generation of strategic missiles, I do not know. The tremendous throw weight advantages they already enjoy, and the inherent improvement capability of those systems, provide the Soviets with all the capabilities they could ever want to use.

If I were a Soviet General, I might be interested in following-on programs for the SS–17, 18 (both of which are cold launch systems), and 19, and a Mod–4 program for the SS–11.

The programs for the 17, 18, and 19 could be designed to provide higher performance characteristics; in particular, give the missiles more thrust, increased range, and enhanced footprints for the buses.

The new Soviet strategic missile systems represent potentially significant problems for the U.S. because they could use the buses of these systems, place them on existing systems, and we would have no way of verifying whether they had single RVs or whether they were MIRVed.

All of these developments would be impressive; they could certainly enhance Soviet strategic capabilities. But let us, for a moment, examine present Soviet strategic capabilities and the consequences of proposed efforts to constrain these capabilities through SALT.

SALT–II

Ladies and gentlemen, I submit to you that the SALT–II agreement which the Carter Administration has negotiated, and will shortly submit to the Senate for ratification, represents a consistent retreat from the SALT proposals made in March. Without exception, we have withdrawn from every single position advanced by the Carter Administration. We have conceded on every point, and I submit, without exception, we have received not one significant Soviet concession in return.

Now you do not have to take my word for this claim, merely lay aside by side the Administration's Comprehensive March SALT Proposal, the U.S. proposal made at Geneva in May, and the negotiated SALT–II package and the evidence will speak for itself.

The Comprehensive March Proposal was, of course, widely applauded and heralded. I have made available the terms of this proposal, with a critique. In brief, however, the crux of this agreement was at first the prohibition, and later, only restrictions, on ICBM modernization, including a limitation on flight tests, and a significant reduction in MIRVed ICBM systems. As originally proposed, there was to have been a MIRVed ICBM limit of 550, of which 150 could only have been the Modern Large Ballistic Missile, the size of the SS–18, of which the U.S. has none

The purpose of this provision was to eliminate the Soviet first-strike capability against the U.S. silo-based Minuteman. However, laudatory this objective, the regrettable truth is that even this far-reaching March proposal would not have been able to accomplish the desired objective; moreover, the critical provisions were essentially unverifiable.

Even the March proposal would have permitted the Soviet MIRVed ICBM force something on the order of five million two-hundred thousand pounds of throw weight—a four to one Soviet advantage over the U.S. Translating throw weight into capability, the Soviets would have been permitted more than double the number of U.S. MIRVed ICBM reentry vehicles, with yields five times greater than the yield of U.S. warheads.

The Administration was apparently willing to accept this imbalance because of the belief that we would be "freezing" ICBM technology, thus preventing the Soviets from threatening U.S. silo-based ICBMs. This rationale was widely accepted and never seriously questioned. Let me, therefore, take this opportunity to dispell one very significant myth:

The proposed U.S. comprehensive March SALT package could not in any verifiable way have frozen Soviet ICBM technology. Present Soviet ICBM systems (the SS–17, 18, and 19) inherently are effective silo killers. The accuracy improvement programs for these systems are of such a nature that they can be accomplished with sufficient confidence that they could not be verifiably restricted through SALT. Moreover, had this proposal been accepted, the U.S. would have lost its most important way of discerning the status and development of Soviet strategic missile programs.

Now I had other criticisms of this March proposal, which I have made available to you, but I wanted to emphasize this particular aspect because of what the actual terms of the SALT–II agreement will be, and hence what the Soviet ICBM capabilities permitted under SALT–II will be.

The SALT–II agreement will have a three-tiered structure, consisting of the treaty, a protocol, and an agreement on principles

outlining the major issues to be addressed in SALT–III.

TREATY

The treaty will establish:

1. An aggregate ceiling on strategic nuclear delivery vehicles (SNDV) of something between 2,160 to 2,250.

2. Within the overall aggregate there will be a ceiling of 1,320 MIRVed systems. Included in this MIRV ceiling will be the United States' air-launched cruise missile carriers.

3. Another sublimit in the overall aggregate ceiling provides that there will be a limit of 1,200 on the number of MIRVed ICBMs and SLBMs.

4. Yet another limit within the aggregate ceiling provides that no more than 820 MIRVed ICBMs will be permitted.

PROTOCOL

The protocol will run for three years, from October 31, 1977 until October 3, 1980. It will include provisions which would:

A. Ban testing and/or deployment of armed cruise missiles with a range greater than 2,500 kilometers;

B. The deployment of armed cruise missiles with a range greater than 600 kilometers on other than "heavy bombers" would not be permitted.

C. Testing or deployment of ground or sea launched cruise missiles with ranges exceeding 600 kilometers will not be permitted.

D. Testing or deployment of any strategic submarine missiles other than the United States' Trident I and the Soviet SSNX–18 would be prohibited.

PRINCIPLES

The statement of principles defining the objectives for a post SALT–II agreement would include:

1. Restrictions on the development and testing of new strategic missile systems.

2. Reductions in the total SNDV aggregate, on the order of 1800 to 2000.

3. A reduction in the total MIRV limit, from 1320 to about 1100.

4. Further reductions in the MIRV ICBM sublimit, including a reduction in the number of modern heavy ballistic missiles permited the Soviets under SALT–II.

THE LEVITAS BILL

HON. DOUG BARNARD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. BARNARD. Mr. Speaker, when the House adjourns in another week or two, we will be able to look back with pride on a very productive session. It has been exceptionally busy and has dealt with a great many issues of national importance.

Surely, one of the most far-reaching bills to pass will revamp the social security system, and it was greatly enhanced by the amendment originated by my colleague and fellow Georgian, ELLIOTT LEVITAS.

Joined by Mr. JENKINS of Georgia's Ninth District who offered the amendment both in the Ways and Means Committee and on the floor, Mr. LEVITAS was able to finish a job he started several years ago and has been working on steadily since: The mandating of a comprehensive social security study by an independent nongovernmental commission. Such a study is overdue, and upon it may hang the future health of the system.

I commend ELLIOTT LEVITAS for his perseverance and foresight in a matter affecting millions nationwide, and I insert an editorial from the Atlanta Journal lauding him to be printed as an extension of my remarks:

THE LEVITAS BILL

When far-reaching legislation is before Congress the only way to take it is one step at a time, particularly when there are those who don't care and are not interested in making any changes in the system.

That's what is involved with any move to alter the complex Social Security system. Congress created it, but Congress took care to exempt itself—and federal employees—from its provisions. So Congress, as we saw in the House last week, would just as soon keep on raising taxes on those of us who are not exempt from the Social Security system.

But as Georgia's Rep. Elliott Levitas so aptly put it, raising the taxes resembles moving furniture around on the deck of the Titanic.

It has been more than two years since Levitas proposed legislation which called for a nongovernmental commission to review the troubled Social Security system. And at long last it was passed by the House last week as an amendment to the bill which would drastically increase Social Security taxes in the coming years.

But as we noted, you take these things one step at a time. There is no certainty that the Senate will accept the Levitas amendment. To reiterate, Congress took care to exempt itself from the onerous Social Security taxes.

And if the Senate leaves off the Levitas amendment, it is an open question whether a joint committee of the House and Senate which would resolve differences in the legislation would hold onto the Levitas amendment.

But at least it has finally passed the House. It is legislation with appeal and merit for those of us affected by Social Security. And having taken the step through the House, it at least has a chance of taking one more step—the one through the Senate.

As a postscript, credit is also due Rep. Ed Jenkins of Georgia's 9th Congressional District. Although Rep. Al Ullman, chairman of the House Ways and Means Committee, opposed the Levitas amendment, Jenkins, a freshman committee member, fought for it and won approval. And that was the step that got it to the House floor.

THE RIGHT TO WRITE

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. UDALL. Mr. Speaker, surprisingly few people ever write their Congressman. Perhaps 90 percent of our citizens live and die without ever taking pen in hand and expressing a single opinion to the man or woman who represents them in Congress—a person whose vote may decide what price they will pay for the acts of Government, either in dollars or in human lives.

This reluctance to communicate results from the typical and understandable feelings that Congressmen have no time or inclination to read their mail, that a letter probably will not be answered or answered satisfactorily, that one letter will not make any difference anyway. Based on my own 16 years' experience, and speaking for myself, I can state flatly that most of these notions are wrong. On several occasions a single, thoughtful, factually persuasive letter did change my mind or cause me to initiate a review of a previous judgment. Nearly every day my faith is renewed by one or more informative and helpful letters giving me a better understanding of the thinking of my constituents.

Mail to today's Congressman is more important than ever before. In the days of Clay, Calhoun, Webster, and Lincoln Congressmen lived among their people for perhaps 9 months of the year. Through daily contacts in a constituency of less than 50,000 people—I represent 10 times that many—they could feel rather completely informed on their constituents' beliefs and feelings. Today, with the staggering problems of Government and increasingly long sessions, I must not only vote on many more issues than early-day Congressmen but I rarely get to spend more than 60 days a year in Arizona. Thus my mailbag is my best "hot line" to the people back home.

SOME FUNDAMENTALS

Here are some suggestions that apply to all congressional mail:

Address it properly: "Hon. ————, House Office Building, Washington, D.C. 20515." Or "Senator ————, Senate Office Building, Washington, D.C. 20510." This may seem fundamental, but I once received a letter addressed like this: "Mr. Morris K. Udall, U.S. Senator, Capitol Building, Phoenix, Arizona. Dear Congressman Rhodes . . ."

Identify the bill or issue: About 20,000 bills are introduced in each Congress; it's important to be specific. If you write about a bill, try to give the bill number or describe it by popular title ("clean air," "minimum wage," etc.).

The letter should be timely: Sometimes a bill is out of committee, or has passed the House, before a helpful letter arrives. Inform your Congressman while there is still time to take effective action.

Concentrate on your own delegation: The representative of your district and the senators of your State cast your votes in the Congress and want to know your views. However, some writers will undertake to contact all 435 Members of the House and 100 Senators, who cast votes for other districts and other States. If you happen to be acquainted personally with a Member from Nebraska, he might answer your letter, but there is a "congressional courtesy" procedure which provides that all letters written by residents of my district to other Congressmen will simply be referred to me for reply, and vice versa.

Be reasonably brief: Every working day the mailman leaves some 150 or more pieces of mail at my office. Tomorrow brings another batch. All of this mail must be answered while I am studying legislation, attending committee meetings and participating in debate on the

House floor. I recognize that many issues are complex, but your opinions and arguments stand a better chance of being read if they are stated as concisely as the subject matter will permit. It is not necessary that letters be typed—only that they be legible—and the form, phraseology and grammar are completely unimportant.

In the course of my years in Congress I have received every kind of mail imaginable—the tragic, the touching, the rude, the crank; insulting, persuasive, entertaining, and all the rest. I enjoy receiving mail, and I look forward to it every morning; in fact my staff people call me a "mail grabber" because I interfere with the orderly mail-opening procedures they have established. Whatever form your letter takes I will welcome it. But to make it most helpful I would suggest these "do's" and "don't's".

DO'S

Write your own views—not someone else's: A personal letter is far better than a form letter or signature on a petition. Many people will sign a petition without reading it just to avoid offending the circulator; form letters are readily recognizable—they usually arrive in batches—and usually register the sentiments of the person or lobbying group preparing the form. I regret to report that form letters often receive form replies. Anyway, I usually know what the major lobbying groups are saying, but I don't often know of your experiences and observations, or what the proposed bill will do to and for you. And I often am not fully aware of new conditions and developments in Arizona. A sincere, well-thought-out letter from you can help fill this gap.

Give your reasons for taking a stand: Statements like "Vote against H.R. 100; I'm bitterly opposed" don't help me much. But a letter which says "I'm a small hardware dealer, and H.R. 100 will put me out of business for the following reasons . . ." tells me a lot more. Maybe I did not know all the effects of the bill, and your letter will help me understand what it means to an important segment of my constituency.

Be constructive: If a bill deals with a problem you admit exists, but you believe the bill is the wrong approach, tell me what the right approach is.

If you have expert knowledge, share it with your Congressman: Of all the letters pouring into a Congressman's office every morning, perhaps one in a hundred comes from a constituent who is a real expert in that subject. The opinions expressed in the others are important, and will be heeded, but this one is a real gold mine for the conscientious Member. After all, in the next 9 to 10 months I will have to vote on farm bills, defense bills, transportation bills, space, health, education, housing, and veterans' bills, and a host of others. I can't possibly be an expert in all these fields; many of my constituents are experts in some of them. I welcome their advice and counsel.

Say "well done" when it's deserved: Congressmen are human, too, and they appreciate an occasional "well done" from people who believe they have done the right thing. I know I do. But even if you think I went wrong on an issue, I would welcome a letter telling me you disagreed; it may help me on another issue later.

DON'TS

My list of "don'ts" would include these:

Don't make threats or promises: Congressmen usually want to do the popular thing, but this is not their only motivation; nearly all the Members I know want, most of all, to do what is best for the country. Occasionally a letter will conclude by saying, "If you vote for this monstrous bill, I'll do everything in my power to defeat you in the next election." A writer has the privilege of making such assertions, of course, but they rarely intimidate a conscientious Member, and they may generate an adverse reaction. He would rather know why you feel so strongly. The reasons may change his mind; the threat probably won't.

Don't berate your Congressman: You can't hope to persuade him of your position by calling him names. If you disagree with him, give reasons for your disagreement. Try to keep the dialogue open.

Don't pretend to wield vast political influence: Write your Congressman as an individual—not as a self-appointed spokesman for your neighborhood, community, or industry. Unsupported claims to political influence will only cast doubt upon the views you express.

Do not become a constant "pen pal": In a newsletter appealing for more constituent mail I do not want to discourage letters, but quality, rather than quantity, is what counts. Write again and again if you feel like it, but do not try to instruct your congressman on every issue that comes up. And do not nag him if his votes do not match your precise thinking every time. Remember, he has to consider all his constituents and all points of view. Also, keep in mind that one of the pet peeves on Capitol Hill is the "pen pal" who weights the mail down every few days with long tomes on every conceivable subject.

Do not demand a commitment before the facts are in. If you have written a personal letter and stated your reasons for a particular stand, you have a right to know my present thinking on the question. But writers who "demand to know how you will vote on H.R. 100" should bear certain legislative realities in mind:

On major bills there usually are two sides to be considered, and you may have heard only one.

The bill may be 100 pages long with 20 provisions in addition to the one you wrote about, and I may be forced to vote on the bill as a whole, weighing the good with the bad.

It makes little sense to adopt a firm and unyielding position before a single witness has been heard or study made of the bill in question.

A bill rarely becomes law in the same form as introduced. It is possible that the bill you write me about you would oppose when it reached the floor.

The complexities of the legislative process and the way in which bills change their shape in committee is revealed by a little story from my own experience. One time a few years ago I introduced a comprehensive bill dealing with a number of matters. I was proud of it, and I had great hopes for solving several perennial problems coming before Congress. However, after major confrontations in committee and numerous amendments I found myself voting against the "Udall bill."

CONCLUSION

It is now November 1977, approaching the half-way point of the 95th Congress. Before 1978 is history the House clerk will record my votes on more than 450 issues. But in a very real sense these will not be "my" votes alone; they will be yours too. There are more than 500,000 Americans in the Second Congressional District of Arizona but when the clerk calls the roll he calls only my name. Thus these 250 votes I cast will speak for you in the decisions our country must make in the next 2 years.

I need your help in casting these votes. The "ballot box" is not far away. It is painted blue and it reads "U.S. Mail."

HANDICAPPED BOY SCOUTS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. GILMAN. Mr. Speaker, I take this opportunity to offer my sincere admiration for a very special group of people—America's handicapped Boy Scouts and I would like to share with my colleagues, and to bring to their attention, the admirable tasks that boy scouting performs for our physically and mentally handicapped youngsters. Permit me to add a special word of praise for William McCahill, the chairman of the National Advisory Committee on Scouting for the Handicapped (NACOSH).

Bill McCahill has heightened my awareness of the wonderful work that NACOSH does for our younger handicapped citizens, by including them in the mainstream of American life, by affording them the opportunities which are available to all American boys—the opportunity to join one of the most popular and most significant organizations in America today, the Boy Scouts. We are all aware of the outstanding work, the sound preparation that the Boy Scouts of America have provided for our young men, and how this organization, with its high principles and expectations, has molded our younger population into upstanding, morally responsible citizens.

Chairman McCahill has lived and worked by the motto which he often quotes in reference to the mission of the Committee on Scouting for the Handicapped:

Emerson said so well that if you treat a person as he is he will probably remain as he is, but if you treat him has he could be, he will very possibly rise to achieve and become what he should be.

In his dedication to the aims of this worthy organization, Mr. McCahill has indeed given so many of our handicapped youngsters a new lease on life.

The Boy Scouts of America is an organization which is nearly 70 years old, and its chief function has been to prepare boys from all walks of life to face the challenges of modern American existence, by offering examples of fraternity, independence, and interdependence.

By recently including the handicapped in all of the programs available to American boys in the Boy Scouts, this organization has provided both the handicapped and the able-bodied opportunities to learn from each other, and to experience the companionship and fraternity that has come to mean so much to all of our Scouts.

In sharing with my colleagues some of the activities that the Handicapped Boy Scouts participate in, you will see that there is very little difference between their activities and the activities of the able bodied Scouts. Handicapped Scouts have the opportunity and more often than not, the abilities to earn merit badges, to camp, to hike, pitch tents, and participate in the moral training which is at the base of all Scouting activities. With the motto "Do a good turn daily," the Boy Scouts of America have succeeded in erasing the stigma and prevalent attitudes towards the handicapped which so many Americans harbor. A statement by a scoutmaster in North Brunswick, N.J. reflects the concern and brotherhood which characterizes the Boy Scout organization:

> Let's not neglect the best and most frequently available Good Turn of all—helping the Guy next to you. For a handicapped boy who has been on the receiving end of the help most of his life, Scouting may be the first chance he's ever had to help somebody else and thus feel needed and useful, which is so important psychologically. The kid with brain damage or a bum arm can push the kid who lives in the wheelchair. The kid in the wheelchair can direct the brain damaged kid in setting up his tent or building his fire. The beauty of this is that such personal Good Turns happen extemporaneously and constantly, without contrivance, and because of actual need. . . ."—from Scouting for the Physically Handicapped.

It is indeed rare in this day and age of technology and disregard for individuality and personal needs, that an organization such as this one, truly exhibits the care and concern which is so necessary if all Americans are to "be prepared."

SELECTIVE HUMAN RIGHTS POLICY

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. DERWINSKI. Mr. Speaker, when the House passed House Concurrent Resolution 387, it reaffirmed the U.S. commitment to human rights, and it clearly represented the overwhelming opinion in the House. However, we must note that national policy is carried out by the executive branch, and it is necessary for us to analyze the real record of the Carter administration on human rights.

At the outset of this administration, human rights appeared to be the centerpiece of its foreign policy. Hardly a day went by without the President publicly underscoring his commitment to a strong human rights policy. Of late, however, we see a weakening of that commitment, and it is obvious that the President is now letting such international political considerations as détente with the U.S.S.R. preempt his human rights concerns to the point that he is now selectively articulating his human rights advocacy.

Initially, the administration was very outspoken, and rightfully so, in its criticisms of the Soviet Union and its Eastern European satellites for constantly violating, on a massive scale, the various rights of their citizenry. But now that criticism has been softened so significantly, questions are being raised as to the genuineness of the administration's human rights policy.

I acknowledge that the human rights factor is one element, among many, in the foreign policy equation. Consequently it must be weighed and balanced against those other components which also must be included and addressed in any foreign policy formulation. In recognition of that fact of life, I can understand why the administration might have been taken aback by the strong reaction of Soviet and East European leaders to its criticism of their human rights practices. But a policy that claims to be based on moral principles is especially vulnerable when it seems to be inconsistent and selective.

The Belgrade Conference offers the administration a forum for espousing its human rights policy. The underlying principle of the Helsinki agreements is that a given nation's internal practices are of international concern. As signatories to that agreement, the Soviets and their East European allies are obliged to abide by that principle and allow their cosigners to the Helsinki accords to scrutinize, and constructively criticize the way they treat their citizens.

I urge Ambassador Goldberg and the other members of the U.S. delegation to the Belgrade Conference not to be timid in their condemnation of human rights violations of any country that has signed the Helsinki accords. We must voice our strong disapproval of the behavior of the Soviet Secret Police who employ very harsh measures to squelch anyone who dares speak out against the Soviet system. That means we must be critical of the Government of Czechoslovakia for similarly intolerable actions against its political dissidents. Finally, that means also that we remind the Yugoslavs that they too are guilty of infringing upon the human rights of their citizenry in the same manner as their fellow Communists are doing elsewhere in Eastern Europe.

Mr. Speaker, House Concurrent Resolution 387 was drafted with all of the above thoughts in mind and represents a reaffirmation of this country's commitment to seek full compliance with the human rights provisions of the Helsinki Accords. In addition, it recognizes the importance of our human rights policy being universally applied around the world and, in this context, pledges the Congress full support of the President's efforts to advance the cause of human rights throughout the international community.

It is my judgement that Congress must continue to insist that the administration maintain its original human rights position. Not only does the American public expect it, but also the millions who suffer under Communist tyranny, look to the United States to champion the cause of human rights.

ABOUT HUMAN RIGHTS

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. CHAPPELL. Mr. Speaker, as a citizen of the freest Nation in the world, I strongly support human rights for all citizens of every nation. I express that support at every meaningful opportunity.

However, when we in the Congress put this Nation on record regarding human rights—or any other issue—certainly we should do so evenhandedly, with consistency. That is, if we are going to openly deplore the abuse of human rights in one country, then we should deplore that abuse as it exists in all countries. When we take a stand on human rights, let us apply it uniformly—or at least as much to our adversaries as to our friends.

We have evidence of gross abuse of individual freedom by governments all over the world. We know the citizens of many nations are suffering from restrictions that we, as Americans, can scarcely imagine. Many of these governments could hardly be considered as close friends of the United States, yet, curiously, we have been officially selective in criticizing their domestic policies—although we find some of those policies abhorrent. Specifically, I have in mind Cuba, Vietnam, Cambodia, Uganda, the Soviet Union, and the People's Republic of China—to name a few.

Earlier this week, in this Chamber, we put ourselves on record to condemn South Africa, a nation that has been, for many years, a steadfast supporter and active economic partner. I did not support House Concurrent Resolution 388, because I felt that not only would support be inconsistent and somewhat hypocritical, but harmful to our necessary dealings with South Africa.

The United States is the major supplier of goods imported by South Africa, and we are the second largest investor in the economy of that nation. Moreover, South Africa is rare in being one of the few nations to purchase more of our goods than they export to us. One cannot dispute that, for its size, South Africa has made a significant contribution to Western commerce and economic relations.

We are all aware, Mr. Speaker, that the Government of South Africa is presently facing a serious threat to national domestic security and possibly the complete disruption of the existing governmental structure. The leaders of that

government view the situation as a threat to national survival itself.

Were the United States faced with similar circumstances, I would doubt that our Government would be particularly receptive to outside comment, or pay much attention to it. One, unfortunately, need not look too far back in time for parallel incidents in our own history.

It may be sobering to recall, for example, our incarceration of thousands of Japanese-Americans during the early 1940's. We clearly violated the human rights of American citizens, without so much as even feigning the formalities of proper legal procedures.

I ask my colleagues, Mr. Speaker, to imagine themselves confronted with the same situation today, and to imagine, as well, their reaction if the Government of South Africa were to pass a resolution deploring our domestic policies.

Obviously, Mr. Speaker, for us to issue unsolicited and interfering statements about the domestic policies of another nation—particularly a nation that has been a longtime friend—can, at best, serve only to hinder necessary diplomatic and trade relations between our two governments.

It may be entirely true that the Government of South Africa has overreacted to perceived internal danger by instituting unduly harsh restrictions on its citizenry. Our best way of helping them to resolve their problems, however, is not to flail away with extremist criticism and condemnation—by offending that government, we only erode our opportunities to correct problems.

What South Africa needs instead is our steadying hand, understanding, counsel, and guiding friendship. Only in this way can we keep communications open and use our considerable influence to encourage moderation and progress in South Africa and throughout the Third World.

CONGRESSIONAL SALUTE TO THE REVEREND MONSIGNOR JOSEPH J. GALLO RECIPIENT, DISTINGUISHED COMMUNITY LEADER AWARD, FEDERATION OF ITALIAN SOCIETIES

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 2, 1977

Mr. ROE. Mr. Speaker, on Sunday, November 6 the residents of my congressional district, State of New Jersey will join with the Honorable Anthony DeSopo, president, and other officers and members of the Association of Italian Societies, to honor a most esteemed clergyman, exemplary adviser, community leader and good personal friend, the Very Reverend Monsignor Joseph J. Gallo, revered pastor of the Blessed Sacrament Church of Paterson, N.J., for his outstanding service to the Italian-American community, in particular, and his lifetime of good works willingly and unselfishly dedicated to God and to our people in general, which have truly enriched our community, State, and Nation.

Mr. Speaker, Monsignor Gallo has ministered to the spiritual needs of our people with the highest standards of excellence since his ordination to the priesthood over three decades ago. There is so much that can be said of the love, affection, and reverence with which he is held by all who have had the good fortune to know him.

The monsignor was born on December 20, 1920 in Madison, N.J. He is the son of Anna Rose Gallo and the late Joseph Gallo. He attended St. Vincent Elementary School, Madison High School, Seton Hall University, Immaculate Conception Seminary and Catholic University where he received a Licentiate in sacred theology.

Monsignor Gallo was ordained to the priesthood for the Diocese of Paterson on June 15, 1946 at St. John's Cathedral, Paterson, N.J. His first assignment was as assistant pastor at St. Michael's Paterson, where he remainded until 1960. He was then named pastor of St. Joseph Parish in Newton, N.J. In 1964, he became pastor of Blessed Sacrament Parish, Paterson, where the quality of his leadership and richness of his wisdom have nourished and nurtured the minds and hearts of the congregation, young and adults alike, developing strength of character and a reservoir of knowledge that has surely endowed our educational and cultural heritage.

Mr. Speaker, his personal commitment to the Almighty and to our people has enabled him to achieve the deepest respect and esteem of all of us. On July 29, 1958 Pope Pius XII appointed him to the revered post of Papal Chamberlain with the accompanying title of very reverend monsignor. He was renamed Papal Chamberlain on December 19, 1958 by Pope John XXIII. He was further elevated to the most distinguished position of Domestic Prelate on September 12, 1963 by Pope Paul VI.

The monsignor's leadership position in our community was manifested by his many accomplishments as a parish priest, pastor, and many other official positions in the Diocese of Paterson. He has conducted Pre-Cana and Cana Conferences for 20 years. He was the assistant moderator of the Deaf Society for 20 years. He was moderator of the clergy conference since 1953, Board of Examiners of Clergy since 1954, Associate Visitor General for Religious Communities in the diocese since 1954 and secretary to the Diocesan Commission for Ecumenism since 1964. In 1965 Monsignor Gallo was named as Vicar for Religious and in 1966 he was named a member of the Board of Diocesan Consultors. He was elected by his fellow priests as a member of the Priest's Senate in September of 1967 and served as president of that body from 1967 to 1971.

Mr. Speaker, these are but the highlights of the personal attention and care that Monsignor Gallo has lavishly bestowed upon each and every citizen who called upon him in their hour of need. He was always there to give comfort and aid to the sick and the impoverished. This coming Sunday his many, many friends will join together to attest to the vastness of the warmth of his friendship and the magnificence of his achievements.

I appreciate the opportunity to call your attention to the contribution that Monsignor Gallo has made to the quality of our way of life in America and I know you will want to join with the Federation of Italian Societies in saluting him and all of his good works. We do indeed salute the Very Reverend Monsignor Joseph J. Gallo, esteemed Papal Chamberlain, Domestic Prelate, outstanding educator, community leader, and great Italian-American.

ELECTRONIC FUND TRANSFER: THE CONSUMER'S VIEW

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 3, 1977

Ms. OAKAR. Mr. Speaker, with the recent publication of the National Commission on Electronic Funds Transfer Final Report, there will undoubtedly be an increase in congressional attention to this complex and important issue.

The advent of electronic banking can offer many public benefits, but the route of development is strewn with pitfall and stumbling block. As we in the Congress embark on the path to comprehensive and efficient EFT legislation, let us be mindful of the consumer's stake in this technological advance.

The current issue of Savings Bank Journal carries a very provocative and insightful article by Ms. Kathryn H. Humes on the issue of EFT and the American consumer. Ms. Hume was charged with the management of the consumer program for the National Commission.

Article from Savings Bank Journal, October 1977, follows:

CONSUMER ACCEPTANCE OF EFT—IT WON'T COME EASILY

(By Kathryn H. Humes)

Gaining broad public acceptance for electronic funds transfer will not come inexpensively or easily for the banking industry, even through a growing number of consumers are interested in and are using EFT services. The plain fact is that consumers are pragmatic about accepting new services and some are even suspicious about new EFT services. This "show-me-it-works-before-I'll accept-it" attitude on the part of consumers will require an intensive educational program on the part of bankers to replace fears and misconceptions about EFT with familiarity and security.

A major consumer concern is that under EFT they might forfeit many of the rights and protections they now have under the check and credit system. Therefore, acceptance of the system will depend upon the legal establishment of consumer rights and responsibilities that will protect consumers in an EFT environment that emerges. Ingrained consumer mistrust of "machines" and consumers has surfaced time and time again in testimony and letters received by the National Commission on Electronic Fund Transfers during its deliberations on "EFT and the Public Interest," and this mistrust particularly concerns the issues of privacy protection and consumer liability for computer error and fraud.

PRESENT SYSTEM WORKS WELL

To some extent, acceptance of EFT has been slow because the consumer is well served by the current payments system. The checking account is a viable, familiar and convenient transaction medium that seems economical to the consumer; in short, the system works quite well. Indeed, the paper-based system works better now than it did five years ago, mainly because of extensive automation of the check processing system, as exemplified by the Fed's recent installation of regional check processing centers. The paper-based system also has drawn new life from many of the EFT-related services financial institutions are offering their customers, such as on-line check guarantee and verification, telephone bill-paying, automated teller machines and cash dispensers, and direct-deposit of payroll checks. In short, consumers feel safe using the paper-based system, and many feel that electronic banking systems will not afford them the privacy or the control over their funds that they now have.

In this environment, educating the consumer to accept EFT will not be easy. While EFT should eventually lower the cost of financial transactions, vis-a-vis paper-based systems, the start-up costs will be substantial. For example, in addition to costs for promotion, marketing, and consumer education, there will be costs associated with:

Heightened competition from all depository institutions to provide the consumer with financial transaction services;

Increased pressure to unbundle services and to explicitly price bank products and services;

Liability for erroneous, unauthorized or fraudulent use of EFT accounts, except when account-holder negligence can be demonstrated; and

Development of in-bank capabilities and software to provide adequate transaction records and to establish adequate audit trails to preserve the integrity of computerized records.

While financial institutions face considerable difficulties in fostering consumer acceptance of EFT, legislators also have the considerable responsibility to provide the necessary legal framework to assign responsibilities and liabilities among the participants in EFT transactions. Consumers will only accept electronic banking services when they are confident that their rights are legally protected.

LETTERS NOT FAVORABLE

Some idea of the job bankers have on their hands in trying to sell EFT to the consumer can be found in the almost 6,000 letters received at the National Commission over the past 18 months. These letters were spontaneous reactions of consumers both to the issue of EFT and the coverage commission hearings and testimony received in the press. Authors of the letters were, for the most part, those people the bankers must sell on EFT benefits—the non-users of electronic banking services. Under 50 of these 6,000 letters were supportive of a national EFT system and services.

Generally speaking, the common concern of the letter writers was a fear of the unknown, a fear of handing their money over to the impersonal care of a machine. They reasoned that the machine always will be regarded as right and they would have little satisfaction in contesting an erroneous transaction.

These attitudes draw attention again to the level of consumer misunderstanding and misinformation about EFT. As Richard J. Francis, commissioner of financial institutions in Michigan, said in 1976 testimony before the Senate Banking Committee: "There is a pervasive economic illiteracy among consumers, some of whom do not understand the basic nature of everyday financial transactions, as well as their rights and responsibilities in dealing with financial institutions. They do not understand the reasons for denial of credit or the impact of their failure to pay debts. Special attention must be given to helping the consumers understand the implications of their practical everyday financial dealings." How much more complicated will consumer dealings be in the future world of EFT?

Also, many consumers have expressed to the commission a fear that the "bad experiences" they have had with credit cards will be repeated if they use EFT services. Their apprenhension is compounded by the fact that the funds in question will be their own, rather than money extended to them through a line of credit they have either applied for or received. Some consumers even fail to understand the difference between using a plastic card in an EFT system to access their own funds in a checking or savings account, and drawing on an established line of credit; they equate plastic cards with having extra financial muscle, even though no overdraft privileges may be attached to the card.

In the early days of credit cards, mass card distribution techniques led to fraud, unwarranted liabilities assumed by both consumer and bank, and tremendous billing problems that also affected both. Many consumers still carry the scars of this early encounter with plastic cards. Assuming that there is a willingness on the part of the public to learn about EFT, it will be the job of financial institutions to dispel these misconceptions and to clearly outline the consumer's rights, responsibilities, and liabilities under an EFT system.

SELLING CONSUMER BENEFITS

Right now, there are two areas of EFT services that financial institutions are developing that should be the focus of educational efforts: (1) The use of plastic cards in terminal-based systems to access checking and savings accounts, and provide identification for check verification and guarantee, and the use of these systems for telephone transfers, bill paying, and for account balance inquiries; and (2) The electronic direct deposit of recurring payments, such as Social Security checks, payroll deposits to customer accounts and recurring customer payments such as mortgage payments through automated clearing houses.

These are new services that will have the most profound impact on the consumer in the early stages of EFT development, and thus they should be a showcase of EFT's consumer benefits.

In planning EFT-service education programs, consideration must be given to the two main pockets of consumer resistance to electronic transfer of funds—the loss of "float" and "stop-payment" privileges.

Float is a by-product of the present payments system; it is not a legal right of the consumer, but rather it is a characteristic, of our paperbased system. The commission has not been able to determine the extent of consumer need or desire for float. Certainly, numerous consumer surveys suggests that consumers frequently do not have sufficient funds in their accounts to cover the amount of checks they write. But the degree of consumer attachment to float is not clear. For example, would the consumer refuse an alternative electronic transaction service that could provide greater banking convenience in order to maintain his float "privilege?"

There are alternatives to float that could be offered to consumers as an enticement to try EFT. Value dating is one such float alternative in that it would allow the consumer to defer payment, with the prior approval of the creditor, by specifying a future date on which a payment is to occur. Value dating, in effect, would parallel a post-dated check, and around it a bank could build service options for consumers that would make EFT more acceptable.

Also, a number of consumers and consumer advocates have expressed opinions that under EFT the stop-payment privilege currently available to checking account customers would be lost. But, as Norman Penney, professor of law at Cornell University and a member of the Permanent Editorial Board of the Uniform Commercial Code, told the commission: "If payments are to be 'final' in the EFT context in a shorter time than in the current 'paper world,' it may be necessary to make some provision to permit customers to reverse charges to their accounts in a way similar to stop payment even after 'final payments.' This may be required in order to satisfy consumer advocates and to gain wider acceptance on marketing the system to the public."

"SAFETY" IS CONSUMER CONCERN

While financial institutions must pursue a consumer EFT education program that covers both benefits and liabilities, broad-based consumer acceptance of EFT will come about only if consumers feel safe in use of the system. And making the consumer feel safe is a job not only for financial institutions, but for state and federal regulators and lawmakers, as well.

In its deliberations on the impact and implications of the proliferation of EFT, the commission has addressed the question of whether state and federal consumer protection legislation should be enacted before or after large-scale EFT systems become operative. Arguments were voiced in favor of postponing such legislation for a period of five years or so to permit a better evaluation of EFT's practical effects on the consumer. However, after much deliberation, the commission concluded that some standards, or rules of the game, must be established before you start to play.

If, indeed, legislation is enacted in advance of further EFT development, it would reduce a great deal of consumer concern, particularly in the areas of maintaining control over funds and privacy. Adopting groundwork rules would not mean that all EFT problems will be anticipated or solved, but it would mean that minimum standards of conduct would be established and responsibilities assigned among the various parties in advance. The current payment system has such rules; users of EFT services demand similar protection.

The basic premise recommended by the commission for the initial EFT legislation is that the consumer must have at least the same level of protection when he uses EFT that he does under the present payments system. The relationship between the consumer and his depository institution should be exactly the same, whether he is accessing his account by check, passbook or plastic card. The depository institution must remember it is acting on instructions of the consumer with respect to his funds, regardless of how those instructions are delivered.

In recommending areas for legislative attention, the commission took into account three critical consumer concerns—freedom to choose among the various payment services offered, privacy, and legal rights and responsibilities. Actually, consumers share a concern about freedom of choice in EFT with retailers and bankers. For example, retailers do not want to be restricted to offering the electronic banking services of just one financial institution, and bankers do not want to be excluded from a potential market because their institution could not afford to develop its own EFT system.

CONSUMERS VIEWS PRIVACY ISSUE

Recognizing the consumer's concerns about forced participation in EFT, the commission has opted to recommend that participation in a particular depository institution's EFT

system cannot be mandated as a condition of purchase of services, employment, or receipt of benefit. In other words, the Social Security Administration could not compel the recipient of benefits to have his check deposited automatically through an ACH, and an employer could not compel an employee to have his paycheck directly deposited at a certain bank.

Regarding the critical concern of the consumer about the privacy or confidentiality of his accounts and financial transaction information in an EFT environment, some feel that this is the single most important problem to be solved via consumer legislation. Recent technological advances in computer science have sharpened the interest of consumer groups because of the potential for abuses afforded by centralized information files, and techniques for data collection and dissemination. The threat to consumers is that violations of privacy could be easier and less expensive to accomplish and, therefore, more tempting. Also, from the consumer's point of view, the privacy issue does not relate to the technical security of a financial institution's data base. A secure data base may help control access, but it is not part of the privacy issue.

Privacy is a social policy issue, and financial institutions must treat it as such in their dealings with legislators and consumers. Privacy is a value decision; it is a matter of deciding what customer information should be obtained, for what purposes, under whose control and to whom it will be available.

The privacy problem is exacerbated by two factors—the Bank Secrecy Act and the Supreme Court decision last April in the *United States* v. *Miller* case. Specifically, the challenge to consumer privacy under EFT comes in the amount of personal financial transaction information that must be stored by banks under the Bank Secrecy Act and the increased volume of data that could be collected and possibly required in an EFT environment. Cash transactions require less record keeping by a financial institution than any other type of financial transaction. Thus, for each cash transaction replaced by an EFT transaction, records would be created that currently do not exist. It is a real possibility that the record-keeping requirements of the Bank Secrecy Act could be extended to EFT transactions exceeding $100.

In addition, audit, verification and control requirements associated with EFT transactions could result in the generation of more records than do checking account transactions. Currently, checks written in amounts under $100 are not subject to the extensive reporting required by the Bank Secrecy Act. Depository institutions have found that in practice it is easier to routinely copy and store all transactions, rather than sort transactions by amounts. And under EFT, records of all transactions indeed would have to be maintained for control purposes, regardless of the transaction size.

STRONGER MEASURES REQUIRED

The present payment system includes both paper and electronic processing, and storage of personal financial transaction data. While the consumer may not understand the intricacies of banking operations in this processing and storage, he does recognize that for the most part a complete transaction profile of his personal account cannot be readily accessed at the touch of a button, thus giving him some protection.

In *U.S.* v. *Miller*, the Supreme Court denied that an individual has a standing right to contest the dissemination of information about his financial transactions to the government. The court ruled that the information contained in bank records was provided freely by the consumer, as part of his financial relationship with the depository institution in exchange for the services to be provided. Thus, the information belongs to the bank and not to the consumer, the court ruled.

In view of this decision, the commission believes that the consumer requires stronger protective measures to safeguard the privacy of financial information. Therefore, it has recommended to Congress that legislation be passed to provide the consumer with the necessary legal status to contest governmental access to his financial records, and to provide him prior notification of any subpoena or summons for those records. This would give consumers the opportunity to fight for their right of privacy in court, and it would remove a major obstacle to EFT acceptance by consumer advocate groups.

Although national legislation to safeguard the privacy of financial transaction records is still to be passed, some states have already moved in this direction. For instance, California and Maryland have passed comprehensive financial privacy laws. Moreover, the California Supreme Court, in *Burrows* v. *Superior Court*, held that a search of a customer's bank records without the benefit of legal process, particularly specified and with notice, constitutes "unreasonable government intrusion."

Another category of potential legislation that would affect consumer acceptance of EFT involves personal liability of the individual account holder for unauthorized withdrawals or debits made against his funds. Considerable testimony has been heard and letters received by the commission about the consumers' fear of "computer crime" and "computer error," and the difficult time anticipated by the consumer in resolving a loss of his funds through either. The consumer is also concerned about losing control over his money when depositing it in a machine or authorizing the machine to conduct a debiting transaction involving his account.

Certain levels of responsibility and liability have been established in our present payments system, and the consumer, by and large, feels comfortable with them. For example, his credit card liability is limited and unless he can be proven negligent in use of his checks, he assumes no liability for their fraudulent use. This is a protective blanket that the consumer is accustomed to in his dealings with financial institutions, and it is one that he is not likely to give up for EFT. In short, consumer acceptance of EFT will require that the liability for errors and fraud must remain with the depository institution.

LAWMAKERS ROLE IS DEFINED

Creating the necessary legal framework for EFT is the job of state and federal lawmakers and regulators. Ideally, legislation addressing this issue should make protection a cooperative undertaking between the depository institution and the consumer, with the initial and primary responsibility for detecting error and fraud resting with the consumer after the institution provides him with adequate statements and records.

Actually, EFT is entering its third stage of development, having first gone through the early euphoria of promising an exciting new service delivery system, and then through the disillusionment of not being able to immediately fulfill its promise. Now, EFT is in a stage of evolution in which both consumers and the institutions who provide the EFT services are looking at the economics of the situation—the tangible and intangible benefits. And, there is a steady and measurable increase in activity as more and more consumers put their plastic cards to work.

Some observers see the course of consumer acceptance of EFT running parallel to that when credit cards first appeared. One major bank marketed a credit card three different times, under three different names, before it was able to generate the consumer acceptance it wanted. It did not stop trying because of initial resistance, and was rewarded for its efforts. As with the credit card, the consumer will come to accept and use EFT only when he becomes familiar with and confident that it offers him new advantages or benefits.